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Congressional Record

United States
of America

PROCEEDINGS AND DEBATES OF THE 100th CONGRESS, FIRST SESSION

HOUSE OF REPRESENTATIVES—*Friday, December 11, 1987*

The House met at 10 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

At a time during this holy season when we are specially conscious of our religious freedoms, our hearts and prayers go out to those people who know not the blessings we enjoy. We are grateful, O God, that believers can worship as they wish and can practice their faith through words and teaching and good works. We remember, in this our prayer of intercession, those people who are limited in their expression of faith even as we offer our appreciation for our tradition of freedom. May Your message of peace, O God, touch every person so our world will be filled with words and songs of praise and thanksgiving from every land and every faith. Amen.

THE JOURNAL

The **SPEAKER**. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. SENSENBRENNER. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The **SPEAKER**. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. SENSENBRENNER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The **SPEAKER**. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 236, nays 102, not voting 95, as follows:

[Roll No. 476]

YEAS—236

Ackerman
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
AuCoin
Bartlett
Bateman
Bates
Beilenson
Bennett
Berman
Bevill
Bilbray
Boggs
Boland
Bonior
Bonker
Borski
Bosco
Brennan
Brooks
Broomfield
Bruce
Bryant
Bustamante
Campbell
Carper
Carr
Chappell
Clarke
Clinger
Coats
Coelho
Coleman (TX)
Collins
Combest
Conte
Cooper
Coyne
Darden
de la Garza
DeFazio
Derrick
Dicks
Dingell
Donnelly
Dorgan (ND)
Downey
Durbin
Dymally
Dyson
Early
Eckart
Edwards (CA)
English
Espy
Evans
Fascell
Fazio
Feighan
Flake
Flippo
Florio
Foglietta
Foley
Frank
Garcia
Gejdenson
Gibbons
Gilman
Glickman
Gonzalez
Gordon
Grandy
Grant
Gray (PA)
Gunderson
Hall (TX)
Hamilton
Hammerschmidt
Harris
Hastert
Hayes (IL)
Hayes (LA)
Hefner
Hertel
Hochbrueckner
Holloway
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Jeffords
Jenkins
Johnson (CT)
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kaptur
Kasich
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kostmayer
LaFalce
Lancaster
Leath (TX)
Lehman (FL)
Leland
Lent
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Lloyd
Lowry (WA)
Lujan
MacKay
Manton
Markey
Martin (NY)
Martinez
Matsui
Mavroules
McCloskey
McCollum
McCurdy
McDade
McHugh
McMillen (MD)
Mfume
Mica
Michel
Miller (WA)
Mineta
Moakley
Mollohan
Montgomery
Morella
Morrison (CT)
Mrazek
Myers
Nagle
Natcher
Nelson
Nowak
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Panetta
Patterson
Penny
Pepper
Perkins
Petri
Pickett
Pickle
Price (IL)
Quillen
Rahall
Rangel
Ravenel
Ray
Regula
Richardson
Rinaldo
Robinson
Rodino
Roe
Rose
Rostenkowski
Rowland (GA)
Russo
Sabo
Saiki
Savage
Sawyer
Scheuer
Schneider
Schulze
Schumer
Sharp
Shaw
Shumway
Sisisky
Skaggs
Skelton
Slattery
Slaughter (NY)
Smith (IA)
Smith (NE)
Smith (NJ)
Solarz
Spratt
Staggers
Stallings
Stenholm
Stokes
Stratton
Studds
Swift
Synar
Tallon
Tauzin
Torres
Torricelli
Towns
Traficant
Udall
Valentine
Vento
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Coleman (MO)
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Dickinson
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Dreier
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Emerson
Fawell
Fields
Gallegly
Gallo
Gekas
Goodling
Hefley
Henry
Herger
Hiler
Hopkins
Hyde
Ireland
Konnyu
Kyl
Lagomarsino
Latta
Leach (IA)
Lewis (FL)
Lightfoot
Livingston
Lukens, Donald
Madigan
Marlenee
Martin (IL)
McCandless
McGrath
McMillan (NC)
Meyers
Miller (OH)
Molinari
Moorhead
Morrison (WA)
Nielson
Packard
Parris
Pashayan
Porter
Pursell
Rhodes
Roberts
Rogers
Roth
Roukema
Rowland (CT)
Saxton
Schaefer
Schuette
Sensenbrenner
Shays
Sikorski
Skeen
Slaughter (VA)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
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Stangeland
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Wolf
Young (FL)

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Barnard
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Boehlert
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Byron
Callahan
Cardin
Chapman
Cheney
Clay
Conyers
Craig
Crockett
Daniel
Daub
Davis (MI)
Dellums
Dixon
Dowdy
Dwyer
Edwards (OK)
Erdreich
Fish
Ford (MI)
Ford (TN)
Frenzel
Frost
Gaydos
Gephardt
Gingrich
Gradison
Gray (IL)
Green
Gregg
Guarini
Hall (OH)
Hansen
Hatcher
Hawkins
Horton
Howard
Hunter
Inhofe
Jacobs
Kemp
Kolter
Lantos
Lehman (CA)
Lewis (CA)
Lott

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Lowery (CA)
Luken, Thomas
Lungren
Mack
Mazzoli
McEwen
Miller (CA)
Moody
Murphy
Murtha
Neal
Nichols
Oakar
Oberstar
Oxley
Pease
Pelosi
Price (NC)
Ridge
Ritter
Roemer
Roybal
Schroeder
Shuster
Smith (FL)
Smith (TX)
St Germain
Stark
Sweeney
Tauke
Thomas (GA)
Traxler
Volkmer
Walgren
Williams
Wortley
Yatron
Young (AK)

□ 1015

So the Journal was approved.

The result of the vote was announced as above recorded.

HUD PROHIBITION AGAINST RELIGIOUS ORGANIZATIONS DISTRIBUTING HOMELESS SHELTER FUNDING

(Mr. GLICKMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GLICKMAN. Mr. Speaker, an estimated 2 to 3 million Americans are homeless, more than any time since the Great Depression. Families with children account for one-third to one-half of all homeless people. But imagine this, the Department of Housing and Urban Development has refused to make its homeless shelter funding available to religious organizations that aid the homeless, citing separation of church and state.

Mr. Speaker, this was brought to my attention by the Salvation Army in Wichita, KS, who could not provide funds to aid the homeless, a lot of them who were designated through HUD because they are "a religious organization." This is the most ridiculous rule by this administration in at least the last 30 days.

By and large, it is the churches and other religious institutions that serve the homeless. Why they are applying it in this case, I do not know. Most surplus commodities from the Department of Agriculture are distributed through church organizations, through Methodist, Episcopal, Catholic, Jewish, Salvation Army, other organizations. So what we are doing this holiday season is not allowing homeless people to be able to get aid through some ridiculous interpretation of the Constitution by an administration that I am not sure understands this particular provision of this document.

So the gentleman from California [Mr. PANETTA] and I are going to offer a letter, which we ask our colleagues to sign early next week, that would be sent to the President and to the Secretary of Housing and Urban Development saying release those funds to the charitable organizations so that they can help the hungry and the homeless in this country.

□ 1030

FREE TRADE BETWEEN THE UNITED STATES AND CANADA

(Mr. SCHULZE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCHULZE. Mr. Speaker, as you know, the United States and Canada recently initialed a free-trade agreement in hopes of tearing down the barriers which impede the flow of goods and services between us.

An agreement aimed at providing for a freer flow of goods and services between the two countries which comprise the world's greatest trading partnership is a laudable goal. To become so obsessed, however, with attaining this goal that we overlook the fact that many of the pact's provisions stand to benefit Canadian interests at the expense of our own is an imprudent and ill-advised course of action. Regrettably, we did follow such a course of action. In fact, our preoccupation with getting an agreement became so great that we essentially have substituted process for results.

Lest we forget that while haste may give us an agreement, it won't give us open markets. And after all, which of the two are we really after?

THE AFTERMATH OF THE SUMMIT TALKS

(Mr. SCHUMER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCHUMER. Mr. Speaker, Mr. Gorbachev has gone home. The hoopla, the parties, and the self-congratulations have subsided, and in a world where image seems to mean so much more than substance, everyone is happy. But look at substance we must.

On arms control, the elimination of 2,000 intermediate-range missiles is a start, but it is more important for the future progress that it may indicate than the past progress already made.

On human rights, there has been nothing. While he was shaking hands and singing songs here, back home Mr. Gorbachev's KGB thugs were beating up the peaceful protesters of his harsh new emigration policy.

Unfortunately, Mr. Gorbachev has won our good will for about the price of a smile. We will have to wait for real peace and good will until the Soviets truly address the state of human rights in their own country. Until there are clear signs that Soviet citizens can exercise their God-given freedoms and emigrate when they wish.

Mr. Speaker, I hold in my hand a book listing the names of thousands of Soviet refuseniks. In a communique signed by Mr. Gorbachev and President Reagan, there were two scant lines on human rights.

Mr. Gorbachev, we are still waiting.

MANY AMERICANS MAY LOSE SOCIAL SECURITY DISABILITY BENEFITS

(Mr. CLINGER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CLINGER. Mr. Speaker, on December 31, thousands of Americans who are fighting to retain their Social Security disability benefits will automatically lose them.

Under present law, people already on the Social Security rolls who are ruled no longer eligible are allowed to retain their benefits until an appeal has been heard. The law providing for this will expire in 21 days and leave up to 20,000 Americans in a state of unjust hardship.

Normally, an appeal can take up to 7 months, and two-fifths to one-half of those originally classified as ineligible have their benefits restored. And those who remain ineligible are required to pay back the benefits they received.

If we allow the law providing for just protection to thousands of Americans to expire, we will be doing a great disservice to those in our country who need the help of Congress and the law.

Presently, we in the House have passed an extension as part of the budget reconciliation bill. The other body has not included this in their package, indeed, a point of order prohibits them from doing so. Their solution is an individual bill which would just extend the law.

Now there is disagreement over which way is the correct one for an extension. I say to you today, it does not matter. We must stop our endless discussions. Either the House must accept a free standing bill or the other body must change its rules and allow this provision to be included in their reconciliation package. The citizens of the Nation who are depending on us deserve quick action.

EXTENDING CONGRATULATIONS TO THE PRESIDENT ON THE SUCCESS OF THE SUMMIT

(Mr. WELDON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WELDON. Mr. Speaker, I rise today to say thank you to President Reagan. Eight years ago, candidate Ronald Reagan told us that the way to achieve lasting peace with the Soviet Union was through a position of strength. Many of the pundits told us that if President Reagan were to be elected, we would in fact end up in some type of nuclear confrontation or some type of a confrontational situation with the Soviets.

For 6 years President Reagan led us to a position of improving our military strength so that we could in fact negotiate with the Soviet Union from a position of strength. Almost 2 years ago, in Reykjavik, President Reagan was on the verge of an agreement. The Soviets at the last minute changed the terms of that agreement. He walked away and was criticized for walking away.

But the President told us that we must negotiate on our terms. Mr. President, yesterday you have proven that you were correct. We have an agreement, and we have an agreement because of what you laid out for us, and that was a position of negotiating with the Soviets from a position of strength and on our terms.

Mr. Speaker, I congratulate the President for his leadership and for his efforts on behalf of peace in the world.

NEW TRADE DEFICIT FIGURES POINT UP NEED FOR STRONG TRADE LEGISLATION

(Mr. JONTZ asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. JONTZ. Mr. Speaker, the recent announcement that our Nation's trade deficit for the month of October was a record $17.6 billion was further evidence of the need for Congress to pass a strong trade bill. This record trade deficit comes at the very time when our dollar is at a record low with regard to the yen.

This is clear evidence that our monetary policy by itself is not going to solve our Nation's trade problems. Originally it was our goal to have a strong trade bill on the President's desk by the end of 1987, but that is something which has not been possible because of the time involved in dealing with another important problem facing our Nation, our budget deficit.

We are fortunate that our leadership has indeed identified strong trade legislation as frontburner legislation for 1988, and it is imperative that this Congress act strongly when we come back after the first of the year to see that strong trade legislation is passed and American jobs are protected.

AIR CRASH

(Mr. DINGELL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DINGELL. Mr. Speaker, for a couple of years now, we have known about the ineffectiveness of our existing airport security system. Many of us have been calling for serious efforts to improve that system, with better detection equipment and with better trained and more highly paid employees to operate that equipment. There are others, however, who miss the point altogether who are calling for more controls on firearms.

The possibility that the air tragedy in California was actually a mass murder carried out because of our shoddy security system is scathing criticism of how the FAA has fiddled while disaster was smoldering, ready to blaze. This tragedy did not occur because someone was able to smuggle a small lightweight steel gun aboard the aircraft. This tragedy did not occur because someone smuggled aboard a plastic undetectable gun. It occurred because a .44 magnum was brought onto the aircraft—past a security system that is intended to prevent such actions. Are we now to believe that a firearm weighing nearly 3 pounds is "not readily detectable?"

Legislation—to ban so-called plastic guns—pending in the House would, according to experts, make our security systems even weaker by creating a false sense of security. Its main sponsor has even said he is more concerned with banning some guns than with improving airport security. I disagree and would call upon this body to pass legislation improving our airport security system and not to divert attention from this threat to our lives with legislation aimed at problems that do not exist.

THE NEW SONG—FREE TRADE-FREE DOLLARS

(Mrs. BENTLEY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BENTLEY. Mr. Speaker, graduate business schools one and all sing of free trade. Economists and politicians have joined the chorus. Free trade fosters competition—or so the song goes.

But they have only been looking at some of the lyrics—such as "the price is right," and not as "I owe my soul to the company store"—which is now Japan.

Free traders sang for devaluation of the U.S. dollar or "five coins in the fountain," but sang not for reciprocity to U.S. goods or "let my products in."

We were serenaded in dulcet tones that the strong dollar was the source of the trade deficit. The dollar was devalued 60 percent vis-a-vis foreign currencies. And the deficit grew larger. Last month it skyrocketed to a record of $17.6 billion.

But the chorus sings we can drop the dollar lower. And maybe, the Japanese can watch "Name that Tune" on the single American TV exported to Japan by the last United States manufacturer of TV's. Yet, in that country the average price of a TV still exceeds $1,000.

We can drop the dollar until it's free; then, the world can line up and buy U.S. assets with free dollars. And, maybe we can lease the country from the new owners.

But again I ask what if the rent is in yen, and then will the song of the nineties be: "Hey mister, can you spare a yen?"

CONFORMITY MODIFICATION PROVISION URGED FOR CPA'S AND TAXPAYERS

(Mr. McCLOSKEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McCLOSKEY. Mr. Speaker, I rise today in support of fairness for the American taxpayer and our Nation's beleagured accountants.

Yesterday, the other body passed their budget reconciliation package, but neglected to include an important House-approved provision. The so-called yearend conformity modification provision would assist our Nation's certified public accountants who play a vital role in assisting taxpayers.

This provision would allow S corporations, partnerships, and other similar entities to utilize a fiscal year. Without change, many CPA's will be forced to work under great personal and financial stress throughout the upcoming tax filing season for no legitimate reason. This shouldn't happen to Ebenezer Scrooge or Bob Cratchett.

The modifying provision is revenue neutral. It has 191 House cosponsors and 45 Senate cosponsors. It demands our attention before the yearend. CPA's and taxpayers must plan accordingly; next year is not soon enough.

I urge House conferees to firmly hold their ground and retain this vital provision in the final reconciliation bill.

SUSPENSION OF MFN STATUS FOR YUGOSLAVIA URGED

(Mr. CRANE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CRANE. Mr. Speaker, on December 4, UPI released a story regarding an Iranian-Libyan arms exchange, the effect of which could put ships in the Persian Gulf in an even more dangerous position than they already are. Iran received acoustic mines as their part of the deal from Libya. These acoustic mines are much more sophisticated than any other mines Iran had prior to this weapons swap.

I find it shocking and repulsive to note where Libya obtained these mines—they were purchased from Yugoslavia. Yet, Yugoslavia is one of only two Eastern bloc nations which enjoys unrestricted most-favored-nation trading status from the United States. I cannot think of a stronger reason to change our trading agreement with Yugoslavia. To continue to give Yugoslavia MFN status when they "do business" with terrorists such as Colonel Qadhafi is madness.

I rise today to urge my colleagues to suspend most-favored-nation trading status to Yugoslavia by cosponsoring H.R. 3577. We should not allow a nation that builds bombs which will eventually be used in attempts to blow up our ships to benefit from MFN trade status. Let's stop hurting ourselves and treat Yugoslavia as it should be treated.

"BUY AMERICA" AMENDMENT SCRAPPED

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, Japan will spend $60 billion on public works projects in the next 10 years. That is good news. The bad news is that American companies will not be allowed to bid. Japan said they are going to keep the money and the jobs in Japan for the Japanese people. How does that grab you free traders?

Keep in mind that in 1985 Japan got 2 billion dollars' worth of American public works projects. The Pentagon 2 years ago bought 5,000 Japanese trucks. Just last month they bought a $30 million computer. The Senate recently threw out my "Buy America" amendment. They said it was too protectionist for the defense bill. Japan lobbied against it.

Today I am introducing a bill that will prohibit Japanese companies from bidding on any American contract for 10 years. That would cover any contract. I think it is time that we get their attention, and I think it is time the American Congress starts lobbying on behalf of the American people.

APPOINTMENT OF CONFEREES ON H.R. 3030, AGRICULTURAL CREDIT ACT OF 1987

Mr. de la GARZA. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 3030) to provide credit assistance to farmers, to strengthen the Farm Credit System, to facilitate the establishment of secondary markets for agricultural loans, and for other purposes, with a Senate amendment thereto, disagree to the Senate amendment, and agree to conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from Texas? The Chair hears none, and appoints the following conferees:

From the Committee on Agriculture, for consideration of title I of the House bill, and titles I through IV, and VIII (except section 801) of the Senate amendment, and modifications committed to conference: Messrs. de la Garza, Jones of Tennessee, Tallon, Evans, Stallings, English, Penny, Nagle, Stenholm, Jontz, Johnson of South Dakota, Madigan, Coleman of Missouri, Gunderson, Jeffords, Morrison of Washington, and Holloway.

In addition:

For consideration of title I (except sections 103 through 105) of the House bill, and titles II, III, and VIII (except section 801) and section 101 of the Senate amendment, Mr. Grandy is appointed.

For consideration of section 103 of the House bill, and section 402 of the Senate amendment, Mr. Marlenee is appointed.

For consideration of section 104 of the House bill, and title IV (except section 402) of the Senate amendment, Mr. Schuette is appointed.

For consideration of section 105 of the House bill and title I of the Senate amendment, Mr. Combest is appointed.

From the Committee on Agriculture, for consideration of title II of the House bill, and titles V and VI (except section 611) and section 801 of the Senate amendment, and modifications committed to conference: Messrs. de la Garza, Jones of Tennessee, Tallon, Evans, Stallings, English, Penny, Nagle, Stenholm, Jontz, Johnson of South Dakota, Madigan, Coleman of Missouri, Marlenee, Jeffords, Morrison of Washington, and Holloway.

From the Committee on Agriculture, for consideration of title III of the House bill (except insofar as section 301 would add a new section 5.90 (a) through (c) to the Farm Credit Act of 1971), and title VII (except insofar as section 702 would add a new section 8.12 (a), (b), (c) (1) and (4) to the Farm Credit Act of 1971), and section 611 of the Senate amendment, and modifications committed to conference: Messrs. de la Garza, Jones of Tennessee, Tallon, Evans, Stallings, English, Penny, Nagle, Stenholm, Jontz, Johnson of South Dakota, Madigan, Coleman of Missouri, Jeffords, Morrison of Washington, Gunderson, Schuette, and Holloway.

From the Committee on Agriculture, for consideration of Title IV of the House bill, and modifications committed to conference: Messrs. de la Garza, Jones of Tennessee, Tallon, Evans, Stallings, English, Penny, Nagle, Stenholm, Jontz, Johnson of South Dakota, Madigan, Coleman of Missouri, Gunderson, Schuette, Combest, Grandy, and Jeffords.

As additional conferees from the Committee on Banking, Finance and Urban Affairs, for consideration of section 301 (except insofar as that section would add a new section 5.90 (a) through (c) to the Farm Credit Act of 1971) of the House bill, and title VII (except insofar as section 702 would add a new section 8.12 (a), (b), (c) (1) and (4) to the Farm Credit Act of 1971) of the Senate amendment, and modifications committed to conference: Messrs. St Germain, Gonzalez, and Hubbard, Ms. Oakar, Messrs. Vento, Barnard, Frank, Lehman of California, Morrison of Connecticut, and Schumer, Ms. Kaptur, and Messrs. Wylie, Leach of Iowa, Shumway, Dreier of California, Bereuter, Roth, and McMillan of North Carolina.

From the Committee on Energy and Commerce, solely for consideration of section 301 of the House bill (insofar as it would add a new section 5.90 (a) through (c) to the Farm Credit Act of 1971), and for section 702 of the Senate amendment (insofar as it would not add a new section 8.12 (a), (b), (c) (1) and (4) to the Farm Credit Act of 1971), and modifications committed to conference: Messrs. Dingell, Markey, Bruce, Lent, and Rinaldo.

□ 1045

CP—CHILD PORNOGRAPHY

(Mr. DORNAN of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DORNAN of California. Mr. Speaker, in opening, I was very proud of you in front of the White House this morning. You did not let Sam Donaldson rain on your parade—excellent remarks.

Mr. Speaker, in 1986 I had a Dornan amendment passed by voice vote to the Treasury and Post Office appropriations bill. All of us try to do some good in this House, but rarely do we get to see the fruits of our labor in concrete form.

This Dornan amendment gave civil forfeiture authority to postal inspectors in an area called CP. Those of you with military background might think that CP means command post, but we have a new acronym—CP—child pornography.

Yesterday I went up to the main post office division here in Washington and met with postal inspectors. Bob Northrupp, an excellent young man, took me out and showed me confiscated automobiles and video tape equipment used in the production and transportation of CP, as well as the child pornography itself.

Of all the disgusting things in modern European, Japanese, and American life, this horror of child pornography has to be the very dregs of hell itself. I could not believe this heterosexual and homosexual material involving 3- and 4- and 5-year-old girls, 10-, 11-, 12-, 15-, and 17-year-old young boys, the most vile, putrid stuff I have ever seen. Yesterday, as I was reading about Mr. Gorbachev asking this Nation, from what moral plane do we lecture to them about human rights or anything else, I had that one sad moment there where I thought, yes; for all of the shortcomings of terror in the police state called the Soviet Union the one horror that they do not have that seems to come with freedom is this disgusting, vile problem of child pornography.

I hope the post office inspectors with civil forfeiture rights wipe out this horror, this blight on American life.

THE OCTOBER TRADE DEFICIT

(Ms. KAPTUR asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. KAPTUR. Mr. Speaker, yesterday we awaited the trade deficit figures for October, only to learn that the monthly deficit had reached a national record of $17.6 billion more imports coming into the United States than our exports going abroad.

Today, with apprehension we await the continued fallout in the stock market and in the value of the dollar, not only in our own country, but in Japan, in Taiwan, in West Germany, and so on.

Administration officials expressed surprise, even shock, at the worsening deficit. But why the surprise? It is painfully evident that we cannot continue to rely on the falling dollar to cure our trade woes. This ill-fated policy continues to let our Nation teeter on the edge of economic collapse, reacting month to month to the fluctuations in our Nation's trade deficit.

The administration's 33-month stall to see the declining value of the dollar reverse the trade deficit must come to an end. This year we will witness another increase in our trade deficit, as much as $20 billion more over last year's figures.

The swift adoption of budget deficit reduction measures here is the first step. Then this Congress must turn its attention to sending the President a strong trade bill early next year, a bill that will put our Nation back in the driver's seat in our international markets.

Mr. President, please join the Congress in these important efforts to pass an effective trade bill.

RESERVE CALLUP A SUCCESS

(Mr. MONTGOMERY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MONTGOMERY. Mr. Speaker, the Department of Defense conducted a selected reserve callup test October 24 through 26. The callup was a total success. It involved 15,450 Reserve National Guard component personnel in 120 units.

In the Army, Navy, Air Force, Marines, and Coast Guard—the number of personnel reporting was outstanding. The overall reporting rate was 94 percent. The no-show rate was only 1.5 percent.

Mr. Speaker, this exercise served three purposes. It showed the effectiveness of the callup system, and it was a reminder to the members of the Reserve components that they have a big role to play in this Nation's total force.

The callup also showed the American people that our citizen-soldiers are ready and willing to move on short notice to assume their responsibilities to defend this country.

NOTICE OF HEARINGS ON PEACE TREATY BY FOREIGN AFFAIRS COMMITTEE

(Mr. FASCELL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FASCELL. Mr. Speaker, I want to add my commendation to many others for the President's great role in negotiating a treaty with the Soviet Union, which I believe we can say is a new opening for reduction of tensions and for benefit both to our country and the Soviet Union and the world. I hope we can build on that because we need it and the world needs it.

I suggested to the President at a recent meeting with the Cabinet there that while the responsibility for ratification and advising and consenting of the INF Treaty will be in the other body, that it would be extremely important for the House of Representatives to also very carefully scrutinize this treaty. We will do that, even though we have no formal responsibility in providing advise and consent. So I want to let my colleagues know that the Committee on Foreign Affairs will conduct a series of hearings, briefings, and seminars with regard to the treaty just as if the House were to vote on it and all our colleagues are invited to attend those meetings which will start next week and continue next year.

I want to express my appreciation also, Mr. Speaker, because in a true bipartisan spirit a foreign aid bill was passed last night which provides security and economic assistance around the world to our friends and allies in the very vital national interests of the United States. It was done with the largest bipartisan vote, to my knowledge, in the history of our security and economic assistance programs.

□ 1100

It is that kind of spirit that we are going to have to have in order to continue to solve our problems. So I want to express my appreciation to the leadership for supporting this bill and for the fantastic job which they did—the Speaker, the majority leader, the majority whip, and his staff for their superb job and the entire whip organization. They all worked splendidly.

The Foreign Affairs Committee whip organization, led by the gentleman from California [Mr. BERMAN], worked extremely hard and did an outstanding job, as evidenced by the decisive vote.

My deep appreciation to the gentleman from Oregon [Mr. AuCOIN] for his super leadership and fairness over the 4 days he served as presiding chairman during consideration of the bill. During sometimes confusing and even raucus debate on amendments, he facilitated the consideration of the bill for which I and my colleagues are deeply appreciative. On the Republican side, we had the same kind of cooperation and bipartisan spirit, which made it possible to get more votes on the Republican side, even without support from the administration—more votes than on any prior foreign aid bill in my recollection. Finally, let me extend my most sincere appreciation to all my colleagues on the committee for their cooperation and support for this bill. From start to finish, their support was essential to the passage of this bill with such a decisive vote. We have sent that bill to the other body. We have had good debate. We have tackled all the tough issues. The American people had a chance to see what the House can do.

THE FUTURE OF ARMS CONTROL

(Mr. DICKS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DICKS. Mr. Speaker, I rise today as a House observer to the arms control talks to applaud the recent signing of the INF Agreement with the Soviet Union. Our negotiators did a fine job and Ambassador Matlock and his staff deserve special credit. Much work remains to be done.

First, the other body must ratify the agreement, Congress and the Department of Defense must also take steps to improve our conventional forces, our conventional force structure in Europe and around the world, and most importantly, the United States and NATO must adopt a position on conventional arms control in order to negotiate with the Soviets on that important subject.

On START, progress was made on more subceilings but an impasse still remains on how to deal with the ABM Agreement. Congress has made it clear that we want testing and development conducted under the traditional interpretation of the ABM Agreement. The President has signed the defense authorization bill that adopted that position.

Mr. Speaker, flimflam will not work. We must keep our word. A treaty is a contract. If the contract is to be changed it must be done on a mutual basis. The action on arms control now shifts back to Geneva where we are very capably represented and I for one hope that the momentum achieved this week will continue and that we will get a 50-percent reduction on strategic arms with the Soviet Union this year.

THE IMPORTANT WORK OF IMPLEMENTING THE INF TREATY

(Mr. DURBIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DURBIN. Mr. Speaker, Washington is absolutely euphoric over the recent visit of General Secretary Gorbachev to the United States and the signing of the INF Treaty that really hopes to bring to at least a halt the development of the nuclear arms race as to certain nuclear weapons. The President's approval rating is at its highest since the Iran-Contra affair. The American people in overwhelming numbers support this treaty, and it appears now that in this state of euphoria we may forget that there is a price to pay and more to follow. After the Christmas ornaments have all been boxed and the memory faded of this visit by Secretary Gorbachev, the Senate must then address the whole subject of whether or not this treaty will be approved.

Equally important was the fact that came out this week, the disclosure of the new trade deficit, and new information about the decline of the value of the dollar abroad. I hope that as we consider the impact of this treaty we will also consider the impact of economic reality on the NATO allies. The expense of the U.S. commitment to NATO increased this week because of the decline in the value of the dollar.

As we seek to reduce the budget deficit we are also going to have to look very realistically at the cost of our commitment to the NATO alliance. I think we should stand foursquare behind that commitment but we certainly should be asking our NATO allies to be paying their fair share for the defense of Europe.

Of course the same holds true for Japan.

The euphoria of this moment should be valued, especially in this holiday season, but the important work of implementing it is still ahead.

CONGRATULATING THE ADMINISTRATION ON THE SIGNING OF THE INF TREATY

(Mr. SCHEUER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCHEUER. Mr. Speaker, every responsible American appreciated the President's achievement in negotiating a verifiable INF Treaty with General Secretary Gorbachev. It is the first step this administration has taken to reduce the nuclear threat since taking office 7 years ago. All of us on both sides of the aisle in both Houses of Congress should congratulate the administration.

But, Ironically, the loudest and most vitriolic criticism of the President during the summit came from the far right of the Republican Party, which up to now has been the greatest source of his support. Those extremists on the far right seem to think that their erstwhile hero has sinned in daring to allow reality to intervene in their unrelenting cold war against the "evil empire."

Stripped of the protection of the President's teflon image, the foreign policy of the far right has been exposed as simplistic and couterproductive red-baiting.

The far right's impetuous and obstructive behavior during the past few days shows it is out of step with the American people. I know the vast majority of Americans join me in congratulating the President and the Secretary of State on a magnificent job well done.

WORLD CONTRACT BRIDGE CHAMPIONS

(Mr. STANGELAND asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STANGELAND. Mr. Speaker, for the third time in 50 years of World Contract Bridge Championships, the open team and women's team titles went to the same country. At the final ceremonies Saturday, October 24, 1987, in Ocho Rios, Jamaica, the United States was presented with the Bermuda Bowl and the Venice Trophy.

The only precedents for this are the world championships in Budapest, Hungary, in 1937 when the Austrians were double winners, and an Italian double victory in the 1972 world championships in Miami, FL.

Five Americans—Chip Martel, Lew Stansby, and Hugh Ross, from California, Bobby Wolff and Bob Hamman from Texas—retained the open team championship this year that they won 2 years ago in Sao Paulo, Brazil. The sixth winner was Mike Lawrence from California. The team was captained by Dan Morse from Texas.

The Americans winners of the Venice Trophy for the women's title were Captain Carol Sanders from Tennessee, Lynn Deas, Juanita Chambers, and Judi Radin from New York, Beth Palmer from Maryland, Cheri Bjerkan from Illinois, and Katherine Way from Texas.

In addition, Mrs. Way, chairman of the board of the Falcon Shipping Group, won the Goren Award sponsored by the International Bridge Press Association for Bridge Personality of the Year. Mrs. Way is an Asian-American and the second Asian to win the award. It was awarded to Deng Xiaoping, senior leader of the People's Republic of China in 1981.

Apart from having won the Venice Cup with her partner, Mrs. Radin, Mrs. Way has won two other gold medals representing the United States. By winning their third gold medal, they have achieved the highest ranking status in bridge—that of world grand master.

CONSERVATIVES CONGRATULATE THE PRESIDENT FOR STANDING TOUGH

(Mr. WALKER asked and was given permission to address the House for 1 minute, to revise and extend his remarks, and to read from papers.)

Mr. WALKER. Mr. Speaker, there are a number of people who have commented on the fact that conservatives in some instances have criticized the President for some of his negotiations in recent days.

I think there are many conservatives who also want to congratulate the President for a lot of what was accomplished over the last several days.

First of all, the President needs to be congratulated for standing tough, for being someone willing not just to give in but to truly negotiate from the standpoint of our national interests.

The left in this country would have frozen us at a level of 200 missiles that will now be dismantled had we listened to them just a few months ago. We have an agreement that is going to dismantle a generation of missiles, and that is because the President stood tall and stood tough.

The President also worked to preserve the strategic defense initiative. I hope the left in this country will stand with the President when it comes to testing and implementation of SDI because that is an important component part of our system for the future.

So that is an important thing that the President achieved in these negotiations and kept for this Nation.

Finally, the President dealt from the standpoint of realism that we get realistic agreements with the Soviet Union, that we do things that are in our own national interest, because that is what the Soviets respect.

I think that conservatives congratulate the President for standing tough, for keeping SDI in place, and for getting realistic agreements under way with the Soviet Union.

PRESIDENT REAGAN'S TRIUMPH FOR THE UNITED STATES

(Mr. COUGHLIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COUGHLIN. Mr. Speaker, despite all of the hoopla over Soviet Communist Party General Secretary Gorbachev's public relations, the summit in Washington this week and signing of the Intermediate Nuclear Forces Treaty was in reality President Reagan's triumph for the United States.

It was President Reagan who moved the United States into a strong position from which to bargain, both by improving United States defense capabilities and by forging ahead with the deployment of NATO missiles in Western Europe in the face of strong domestic opposition and a Soviet diplomatic offensive.

It was President Reagan who first proposed the zero option to eliminate all intermediate-range missiles from throughout Europe and Asia, daring to suggest an actual reduction in nuclear weapons—as opposed to a freeze—much to the derision of his opponents.

It was President Reagan who stuck with a tough bargaining position—one which the Soviets finally accepted after 6 long years of resistance to the idea—even when it meant he had to return emptyhanded from Reykjavik.

And it was President Reagan and his negotiating team whose patience, persistence, and attention to detail forced concessions to create a treaty that is in the best interests of the security of the United States.

Finally, it was President Reagan who set the agenda of the summit with Mikhail Gorbachev, moving beyond the issue of nuclear weapons to the vital issue of human rights. In the past week both the President and the American people have returned again and again to this issue, impressing upon Gorbachev its central importance to United States-Soviet relations. I believe the General Secretary got the message.

Let us not forget Mrs. Reagan's contribution to the success of this summit. Her graciousness and loyalty were abundantly evident.

All of us owe President and Mrs. Reagan our deepest gratitude and respect.

PRESIDENT NEGOTIATED FROM A POSITION OF STRENGTH

(Mr. EMERSON asked and was given permission to address the House for 1 minute and to revise and exend his remarks.)

Mr. EMERSON. Mr. Speaker, I think it is necessary to point out here that the President achieved what he did in the negotiations that are just concluded because he was dealing from a position of real strength and of realism.

If we had gone the route of the unilateral nuclear freeze that some on the other side were advocating just several years ago, we would not today have the agreement which is being so roundly applauded and for which the President because of his patience, endurance, and strength may indeed take credit.

CONGRATULATING THE PRESIDENT ON BEING A TOUGH NEGOTIATOR

(Mr. LAGOMARSINO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LAGOMARSINO. Mr. Speaker, I recall back in 1979 when I was in the Kremlin talking about matters of defense and so on, the Soviets told me and my colleagues that were there that they did not believe in unilateral disarmament. Neither does President Reagan.

President Reagan hung tough, he did negotiate, he came up with what appears to be a good agreement, and I remember not so many years ago when President Reagan proposed zero-zero, many in this Chamber and around this country assailed President Reagan and said that this shows that he is not interested in arms control because he has proposed something that the Soviets will never accept.

Mr. Speaker, they did accept it. We have this agreement on the books, at least it is signed and I hope the Senate will speedily act to confirm and ratify the agreement.

PROVIDING FOR CONSIDERATION OF H.R. 1467, ENDANGERED SPECIES ACT AMENDMENTS OF 1987

Mr. WHEAT. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 328 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 328

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 1467) to authorize appropriations to carry out the Endangered Species Act of 1973 during fiscal years 1988, 1989, 1990, 1991, and 1992 and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and the amendment made in order by this resolution and which shall not exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Merchant Marine and Fisheries, the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Merchant Marine and Fisheries now printed in the bill as an original bill for the purpose of amendment under the five-minute rule, each section shall be considered as having been read, and all points of order against said substitute for failure to comply with the provisions of clause 7 of rule XVI are hereby waived. An amendment striking lines through 21 on page 4 of said substitute shall be considered as having been adopted in the House and in the Committee of the Whole. It shall be in order to consider the amendment printed in the report of the Committee on Rules accompanying this resolution if offered by Representative Roberts of Kansas, and all points of order against said amendment for failure to comply with the provisions of clause 7 of rule XVI are hereby waived. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

□ 1115

The SPEAKER pro tempore (Mr. KANJORSKI). The gentleman from Missouri [Mr. WHEAT] is recognized for 1 hour.

Mr. WHEAT. Mr. Speaker, for purposes of debate only, I yield 30 minutes to the gentleman from Missouri [Mr. TAYLOR], pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 328 is an open rule providing for the consideration of H.R. 1467, the Endangered Species Act Amendments of 1987. The resolution provides for 1 hour of general debate to be equally divided and controlled between the chairman and ranking minority member of the Committee on Merchant Marine and Fisheries and makes in order an amendment in the nature of a substitute recommended by the Committee on Merchant Marine and Fisheries, now printed in the bill. The substitute shall be considered for amendment under the 5-minute rule and each section shall be considered as having been read.

All points of order against the substitute for failure to comply with clause 7 of rule XVI, that is the rule which prohibits consideration of nongermane amendments, are waived. The bill, as originally introduced, made changes in program authorization levels. The amendment in the nature of a substitute made in order by the rule, includes policy changes a well as changes in authorization levels. According to House precedent, this constitutes a violation of clause 7, rule XVI and a waiver is necessary.

The rule further provides that an amendment contained in the rule, striking subsection c of section 5 of the bill, shall be considered as having been adopted in the House and in the Committee of the Whole. Subsection c of section 5 violates section 302(c) of the Budget Act. Section 302(c) of the Budget Act prohibits consideration of a committee's legislation providing new budget authority, new spending authority or new credit authority until the committee has filed a report which complies with section 302(b) of the Budget Act. Section 5 of the legislation increases the civil and criminal penalties for violation of this act. Subsection c of section 5 authorizes the Secretary of Interior to use moneys collected for violations to implement recovery plans as specified by section 4(f) of this act. This constitutes a violation of section 302(c) of the Budget Act. To remedy this violation, the rule strikes subsection (c) of section 5 from the legislation.

An amendment, by and if offered by Representative ROBERTS of Kansas, is made in order under the rule. All points of order against the amendment for failure to comply with clause 7, rule XVI, against the rule prohibiting consideration of nongermane amendments, are waived.

Finally, Mr. Speaker, H.R. 1467 provides for one motion to recommit, with or without instructions.

H.R. 1467 authorizes funds to carry out the Endangered Species Act for 5 years. The bill continues the protection of threatened and endangered species and includes several changes to legislation enacted in 1982. Revisions include an expansion of current protections for endangered plants; a requirement for the monitoring of species that are candidates for endangered and threatened status but have not been listed as such by the Fish and Wildlife Service; a program which provides for sea turtle protection and conservation and a 2-year delay in the implementation of regulations requiring turtle excluder devices for the "inshore waters" of the Atlantic and Gulf of Mexico.

Mr. Speaker, House Resolution 328 provides for full and open debate on a matter of concern to us all. I urge that we adopt the rule so that we may proceed to consideration of this measure.

Mr. TAYLOR. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 328 is an open rule under which the House will consider authorizing $305 million over the next 5 years for protection and preservation activities under the Endangered Species Act of 1973.

The bill made in order by this rule, H.R. 1467, authorizes appropriations to the Department of the Interior, the Department of Commerce and the Department of Agriculture to carry out their primary responsibilities under the Endangered Species Act.

Under this rule, an amendment in the nature of a substitute reported from the Committee on Merchant Marine and Fisheries will be the original text for the purpose of amendment, under the 5-minute rule. The committee substitute is now printed in the bill, and each section will be considered as read.

Mr. Speaker, the rule waives points of order under clause 7 of rule XVI, the germaneness rule, against the substitute because the Committee on Merchant Marine and Fisheries expanded scope of the bill as introduced.

The committee added provisions delaying for 2 years an Environmental Protection Agency requirement that sea turtle excluder devices be placed in shrimping nets used in in-shore waters, and increasing the penalties for both civil and criminal violations of the Endangered Species Act.

Mr. Speaker, the rule also provides that upon its adoption, section 5(c) of the substitute is stricken from the bill. That section authorizes the Secretary of the Interior to use sums received as penalties, fines and forfietures to implement recovery plans. The section violates section 302(f) of the Budget Act, and rather than include a waiver, the Committee on Rules decided to cure the violation by striking the provision.

Mr. Speaker, perhaps the most significant provision of the rule is the amendment to be offered by the gentleman from Kansas [Mr. ROBERTS]. The rule specifically makes the amendment in order, and provides a necessary waiver of germaneness. The language of the Roberts amendment is included in the report on the rule.

The Roberts amendment, which I strongly support, provides for a more orderly implementation of the EPA's controversial new pesticide labeling program.

The amendment requires an information and education program about existing or proposed pesticide labeling requirements and is crucial to the future of American agriculture. It seeks to correct an almost overwhelming problem faced by American farmers as they prepare for planting of next years crops. That problem is a lack of accurate information.

There are literally hundreds of thousands of food and fiber producers in this Nation who will be affected by the new labeling requirements, some of whom might be put out of business.

Mr. Speaker, in order to comply with the Endangered Species Act, the EPA recently announced a program requiring changes in pesticide labels, specifically identifying prohibited use areas. Labeling conformance is required by February 1 of next year for shipped pesticides, and by February 1, 1989, for all pesticides.

The new requirements affect over 125 commonly used pesticides in over 900 counties across this Nation, and agriculture producers need to know if they face an outright ban on the use of pesticides and herbicides, or if they can modify their application methods to avoid harm to endangered species.

Twenty-nine counties in Missouri are currently on EPA's list, including 12 in the 7th Congressional District. The agency claims that various endangered species, such as the Ozark cave fish and the Niangua darter, are found in these counties.

The problem is no one knows for sure if these endangered species actually exist in these areas, or whether the pesticides will actually harm them, even if they do exist.

Mr. Speaker, there are over 20 large orchards located on over 3,500 acres of land in the heart of the Missouri Ozarks. One of these orchardmen is Mr. John Vollenweider, of Exeter, MO, who produced over 400,000 bushels of apples last year.

He and other orchardmen need to know as soon as possible whether they can order pesticides for use on their trees next spring.

Under the Roberts amendment, the Administrator of EPA is required to clearly identify the pesticides affected by label changes, clearly identify each county affected by label changes, and clearly identify the particular endangered species in an area within a county where the label change will restrict, prohibit, or otherwise limit the use or application of a specific pesticide.

Mr. Speaker, the Roberts amendment also requires the Administrator of EPA to conduct an investigation and study of the economic impact that may result from the implementation of the endangered species pesticide labeling program, including any benefits.

The required study is to be conducted jointly with the Secretary of Agriculture and the Secretary of the Interior, and it must include an examination of the effectiveness of the information and education program required elsewhere in the amendment.

In addition, the required study must investigate the validity of the species currently listed as endangered, and the program for purifying the endangered species list.

The investigation required by the amendment must also include the validity of the EPA's establishment of critical habitats for species it lists as endangered, and the program, if any, for further refinement of these critical habitats.

The investigation must also include an examination of the alternative courses of action, and any initiatives conducted by EPA in administering the requirement of the Endangered Species Act.

The amendment requires an interim report from the three agencies on January 1, 1989, and a final report on January 1, 1990. These two reports must contain findings and conclusions, as well as recommendations for improvements in existing programs and new programs concerning producers of food and fiber.

Mr. Speaker, I strongly support this rule because it gives the House an opportunity to consider the Roberts amendment. The future of American agriculture may well hang in the balance.

Mr. Speaker, I yield 3 minutes to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Speaker, I thank the gentleman for yielding me this time.

I want to thank both gentlemen from Missouri for the 50-cent version of both of their remarks, so we got the full thing today and it was great.

Mr. Speaker, I rise in support of the rule. That is something I do not usually do, but there are a number of things I think in this rule that are moving us a step in the right direction. First of all, it is an open rule. We have not had a lot of those in this Congress, and I think that is exactly the way the House ought to proceed. As we found yesterday, when we were debating the foreign-affairs bill, we in fact got to points where without an open rule it caused real problems in terms of getting things done that the House recognizes need to be done. So having an open rule in this case I think is a step in the right direction.

Second, I am most pleased by the self-enacting amendment which is in this particular bill. The amendment that strikes lines 13 through 21 on page 4 of the bill I think is precisely a step in the right direction, because it is my understanding that what this did was assure that this rule would not have to have a budget waiver in it. As a result of striking that provision from the bill, the bill then comes in compliance with the Budget Act and prevents us from having to have a Budget Act waiver in this particular rule. That is something which I think is a very good step in the right direction. I hope it is something that we will continue to do where we find provisions that need to be waived in bills as they come out of the authorizing committees or the appropriation committees that the Rules Committee ought to take the responsibility to bring them in compliance with the Budget Act rather than allow those bills to come to the floor under budget waiver. So I think this is a very good provision and I hope that what it signals is that the Budget Act waivers are themselves becoming an endangered species.

With that, I do say that I will support this rule and I congratulate the gentleman for bringing it to the floor.

Mr. WHEAT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we thank the gentleman from Pennsylvania for his kind comments. The Rules Committee does endeavor to bring out open rules as often as possible and as often as the procedures of the House will allow. We appreciate his kind words in regard to this rule, and we will endeavor to have him support more of the rules that come out of the committee.

Mr. Speaker, for purposes of debate only, I yield 5 minutes to the gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. Mr. Speaker, I too want to associate myself with the remarks of the gentleman from Pennsylvania [Mr. WALKER]. I may not necessarily agree with him on all occasions, but I think we have an open rule here, we should support it, and it is refreshing to see it and hear it. Second of all, it is compliant with the Budget Act, and I support the bill.

I think we are discussing important items today, and I do not mean to be flippant in the comments that I am about to make. I am very concerned about the snail darter, the turtle, the grey wolf, the Concho River snake, and all of these items, and I am going to support this bill and most of the amendments.

I would like to take a little bit of time to talk about a couple of endangered species in America maybe not being addressed in the bill. That is the American worker and the crime problems in America. With 90,000 Americans murdered last year, 20,000 murdered by juveniles, I think seniors, kids, and women may be on the endangered species list, and Congress should be looking at that.

In addition to that, with some of the things that are happening with overseas trade, with a $17 billion trade deficit, maybe the American job is becoming an endangered species. Maybe the American auto industry is becoming an endangered species. Ladies and gentlemen, in October 1985, 31 percent of all cars sold in America were made overseas, and in November 1985 it was 35 percent.

So I support the rule, I support the bill, and I believe that all of these endangered species from the grey wolf down to the Concho River snake must get our full attention, and we had better protect them and we had better save them.

As far as the other things I talked about, if anybody could find some benign gestures in their heart that might help with the crime problem and the trade problem, I too would appreciate that, because my district I think is an endangered species with 50,000 out of 270,000 at or below the poverty level. That is an indictment. It is a shame we could not include people in this bill today.

So I say to the gentleman from Pennsylvania [Mr. WALKER], this is a revelation. As many times as I have disagreed with the gentleman and found some of his arguments to be ridiculous and disgusting, today I say bravo and right on. I support the gentleman 100 percent.

I thank the gentleman for yielding me this time.

Mr. TAYLOR. Mr. Speaker, I yield 5 minutes to the gentleman from Missouri [Mr. EMERSON], a member of the Agriculture Committee and the Interior and Insular Affairs Committee.

Mr. EMERSON. Mr. Speaker, I thank my dear friend and colleague from Missouri for yielding me this time.

Mr. Speaker, I rise in support of the rule and of the Roberts amendment, vital and key amendment in the bill.

The amendment to be offered by our colleague from Kansas on his behalf and a number of others of us is a common sense amendment designed to resolve beforehand what is certain to be a backlash in the country over this labeling program. The EPA tells me that five counties in my district are affected by the pesticide restrictions—the primary threat being to fresh water mollusks. Admittedly, I don't have any passionate feelings one way or the other about freshwater mollusks, but make no mistake about it, as farmers suddenly learn some Government bureaucracy in Washington is dictating their use of chemicals which they've been using for years, we may be faced with a tremendous compliance problem.

Farmers aren't any different from anyone else. As responsible citizens, they recognize the need to engage in the use of pesticides to protect the land they farm. They also want to know what their medicine will be before they swallow it.

The Roberts amendment is a good one because it does not delay startup of the program, but it addresses one of the most important aspects for a successful government program to work on the farm—the "need to know" or the education factor.

Second, there is a legitimate concern that the Pesticide Labeling Program could have a negative economic impact on producers who are unable to find suitable substitutes for the pesticides they've been using. It's important that EPA take this impact into account when implementing the program with local and State authorities. The requirement for an economic impact assessment study addressed that concern.

I would urge all my colleagues to support the Roberts amendment if you truly want to see this program work. Common sense should tell us that by addressing the concerns of endangered farmers, we'll be protecting our endangered species.

□ 1130

Mr. WHEAT. Mr. Speaker, for purposes of debate only, I yield 5 minutes to the gentleman from Oklahoma [Mr. WATKINS].

Mr. WATKINS. Mr. Speaker, I thank the gentleman for yielding this time to me.

Mr. Speaker, I, too, would like to rise and express my support for this rule to the chairman and members of the Rules Committee and to all my colleagues in this body. I think it is appropriate that we have an open rule, and I really appreciate the willingness of the Rules Committee and the chairman of the committee to allow my particular amendment to be made in order. With this open rule, it truly makes all of our amendments in order.

Like a lot of miracles that seem to be happening this week, I would like to think that maybe this would be the week that my colleagues would join me in remedying a problem that primarily affects my district, and that is the removal from the endangered species list a fish species called the leopard darter.

Let me state, I will talk a great deal about this later on in the general debate or when the amendment comes before the House. This is a mutation of the snail darter, which is a mutation of the black darter. The black darter—the parent darter—itself is not on the endangered species list, but the leopard darter has been put on the list.

Nine years ago, I brought that little rascal right here on the floor in a jar of water so people could see it.

Many times I have supported the Office of Endangered Species, so I am not a radical about this situtation. But let me say to my colleagues in the Chamber and who are watching on television that I have had personal experience with the leopard darter. Growing up as a kid in southeast Oklahoma, we used to go what we called skinny-dipping, in all the creeks and rivers and lakes in that area after working on the farm or working cattle all day. This little fish is in all of the tributaries. It is not an endangered species, not at all. It is growing even in impounded water.

So let me say to my friends in the Office of Endangered Species that their conclusions on the leopard darter are wrong. That is why I am asking today to remove the leopard darter from the endangered species list because of a principle. It is the principle of the matter, and I would like to ask my colleagues to join me in helping to do what I think is truly right which is to remove the leopard darter from the endangered species list.

Mr. Speaker, I appreciate the support of my colleagues very much, and again I thank the Rules Committee and the chairmen of this particular subcommittee and the full committee for allowing my amendment to be offered. I think they realize also that it is a very important amendment, to me at least.

Mr. WHEAT. Mr. Speaker, for purposes of debate only, I yield 5 minutes to the gentleman from New York [Mr. SCHEUER].

Mr. SCHEUER. Mr. Speaker, I rise strongly to support the passage of this bill.

Our conduct in relationship to our environment—and that includes our natural environment, our furred friends, our fish and finney friends, and a whole host of biological diversity—and our conduct in relation to the global village that God gave us has been shameful and shocking.

For example, the rhinoceros has been around for 60 million years, yet it is likely to become extinct on our watch if we do not take definitive action.

Sea turtles have been on this Earth for over 100 million years. Six of the eight living species of sea turtles are listed as endangered or threatened under the Endangered Species Act. Yet, we are causing the deaths of over 11,000 of these endangered turtles each year as they drown in shrimp nets off the Southeastern United States.

The National Marine Fisheries Services has devised turtle excluder devices or TED's that keep turtles out of the shrimp nets. They not only keep out 97 percent of the turtles, but also keep out some of the fish that the shrimpers do not want. Every single controlled test, in thousands of hours of testing by the National Marine Fisheries Service, show that these turtle excluder devices do not reduce the catch. In fact, because they keep out unwanted fish, they may actually increase the value of the catch.

Soon there will be an amendment proposed by my distinguished and respected friend, the gentleman from Texas [Mr. ORTIZ]. While I rise to support the bill, I must ask my colleagues to defeat his amendment. I say this with great affection and respect for my colleague, who has a splendid environmental record. But there seems to be no justification for trying to suspend the applicable date for the regulations requiring the use of the turtle excluder devices. These regulations have been in force for two months in the waters off Cape Canaveral and are scheduled to go into effect in the Gulf of Mexico on March 1 of next year.

The National Marine Fisheries Service has been working on this problem for years. They have developed five devices that will keep the turtles out of the shrimp catch; four of these have been developed by the shrimpers themselves. These devices have been developed, they have been tested, they have been monitored, and they work. Small shrimp boats do not have to use these devices. They are merely required to limit the length of time their nets are in the waters so that turtles can be removed before they drown.

Mr. Speaker, the Endangered Species Act works.

The development of TED's and the promulgation of regulations are excellent examples of how this act can protect our wildlife.

Mr. Speaker, I hope very much that my colleagues will support this bill and vote against the amendment that would suspend for several years the regulations carefully developed by the National Marine Fisheries Service.

Mr. WHEAT. Mr. Speaker, for the purposes of debate only, I yield 5 minutes to the gentleman from Texas [Mr. ORTIZ].

Mr. ORTIZ. Mr. Speaker, I plan to offer an amendment to this bill, and I rise in support of that amendment. I think it is a good amendment.

Mr. Speaker, my amendment is very simple. It provides a 2-year delay in the implementation of regulations reguiring the use of turtle excluder devices, commonly called TED's, by shrimpers in the Gulf of Mexico. It is an extension of a delay that has already been provided for those shrimping in inshore waters.

I strongly believe that a 2-year delay in the enforcement of the TED regulations in the Gulf of Mexico is both fair and necessary. Passage of my amendment by this House is the only acceptable and equitable solution for a problem that has been brewing for the shrimp industry for the last year and a half.

Many of you are familiar with regulations issued this past summer by the National Marine Fisheries Service which require shrimpers in the Gulf of Mexico and the South Atlantic to use equipment called turtle excluder devices or TED's. These devices are designed to protect endangered sea turtles from being incidently caught in shrimp nets.

The shrimp industry is adamantly opposed to these regulations at this time and for many good reasons.

These regulations, which could cost the shrimping industry millions of dollars and completely put them out of business, are based on assumption and extrapolation.

Opposition to immediate implementation of the TED regulations stem from concern that the regulations will have a devastating impact on the shrimping industry without being fully justified.

Shrimpers contend that TED's are unsafe for crew and will cause up to a 30-percent loss of catch. This loss in catch alone translates to a loss in gross catch revenue of $30,000 to $45,000 per vessel. This is a matter of great concern since these regulations, which could cause a multimillion dollar economic loss in Gulf States, were issued on the basis of data that is incomplete and sketchy at best.

Additionally, I am concerned about the added enforcement burden these regulations will place on the Coast Guard, the inadequate assessment of actual endangered sea turtle populations in offshore waters of the Gulf of Mexico, increased unemployment in already depressed areas, a potential increase in our Nation's trade deficit, and lack of consideration of other sea turtle mortality factors.

The Merchant Marine and Fisheries Committee recently adopted an amendment offered by the chairman of the committee to delay for 2 years the implementation of TED regulations for inshore waters. This delay was considered necessary because of lack of adequate research regarding sea turtles and the use of TED's and the need for additional TED testing during actual shrimping operations.

These same inadequacies are overwhelmingly apparent for offshore waters in the Gulf of Mexico. The situation is no different in the inshore waters than it is in many areas of the Gulf of Mexico.

There have been limited studies of sea turtle biology in the offshore waters of the Gulf of Mexico, there has been inadequate and inconclusive testing of the TED, and there has been no NMFS TED testing conducted in the Gulf of Mexico under actual shrimping conditions with TED's in all nets. I ask you. What is the difference?

Let me say that in conversations with representatives from the National Marine Fisheries Service, I have been informed on more than one occasion that there are no real or accurate estimates of any of the sea turtle populations in the Gulf of Mexico. Furthermore, NMFS reports state that stranding data can not be accurately used to determine sea turtle population because of contradictory evidence.

This is particularly distressing since the regulations were issued on the basis of extrapolated data that assumed that sea turtles are found in uniform quantities throughout the Gulf of Mexico. Sufficient studies have not been conducted to determine the actual rate of occurrence of the endangered sea turtle in inshore or offshore waters of the Gulf of Mexico. Because current patterns, bottom conditions, and food supply vary greatly in the gulf, it should not be assumed that sea turtles occur with the same frequency throughout that body of water.

Furthermore, in 16,785 observer hours in the Gulf of Mexico, only three endangered sea turtles were found drowned in shrimp trawls. We are not certain that those three turtles were actually killed by shrimpers. No cause of death studies were done and it is entirely possible that the turtles were already drowned by the time they were picked up in shrimp nets. This is especially conceivable considering that well over half of stranded sea turtle deaths are attributable to plastic ingestion.

In many areas of the gulf, not one endangered sea turtle was caught or found drowned. In waters off the coast of my congressional district, NMFS documented over 1,000 observer hours and caught a grand total of zero drowned endangered sea turtles. Requiring shrimpers in these areas to pull TED's without further research is not justified. The current statistics simply do not prove the assumption that many thousands of endangered sea turtles are killed each year by drowning in shrimp trawls.

The estimates of sea turtles mortality due to shrimp trawling cannot be substantiated on the basis of actual data. Supporters of the regulation state that the extrapolations used to determine the impact of the shrimp industry on the endangered sea turtle are accurate and well founded. Supposedly, the extrapolated figures were computed in the best scientific manner. And yet NMFS confidence in its estimates does not appear to be too high. The numbers are certainly not precise. A good example is NMFS statistics on the hawksbill turtle.

Out of the nearly 17,000 observer hours in the Gulf of Mexico, one hawksbill turtle was caught in a shrimp trawl. It was released alive. And yet NMFS estimates that 125 hawksbills are killed in the gulf each year, plus or minus 250. Maybe based on these extrapolated figures we should conclude that shrimpers save 125 turtles a year. That is just as reasonable a conclusion.

Supporters of the regulations often claim that NMFS has been working on TED's for the shrimp industry for over 10 years and have been extensively tested in most offshore areas of the gulf. That is simply not correct.

Despite allegations to the contrary, TED testing by NMFS has been inadequate. There have been zero hours of testing of the NMFS TED in more than half of the 21 statistical zones in the entire gulf where bottom conditions vary greatly. Furthermore, NMFS has conducted less than 100 total hours testing of the other four certified TED's for turtle exclusion, and zero hours of testing for performance on shrimp boats under actual fishing conditions.

In my congressional district, which is home to one of the largest shrimping fleets in the Nation, NMFS conducted zero hours of TED testing of any kind. I do not believe it is fair to require these shrimpers to use devices that have not ever been tested in their shrimping grounds.

In addition to inadequate testing of all certified TED's, crew safety is of paramount concern. Officials of the marine insurance industry have testified that the proposed metal TED's create a hazard to the fishermen that cannot be justified by the alleged efficiency of the device. Furthermore, in a time of skyrocketing insurance costs for the fishing industry, at least one insurance surveyor from my congressional district believes that P&I losses could, and no doubt will, arise if the TED becomes a required portion of the trawling array.

Supporters of the regulation often endorse the new soft webbing TED's to circumvent safety concerns. However, these soft TED's have been found to create other problems such as gilling of fish, sharks, and other marine life. Evidence submitted by shrimpers privately testing the soft TED demonstrates extreme clogging of the soft TED by debris and marine life, gilling of the popular bull redfish, and no reduction in bycatch. These problems, along with crew safety and insurance rate increases, were not adequately addressed by NMFS when drafting the regulations.

The implementation of the NMFS TED regulations will put many shrimpers out of business due to anticipated loss in catch with the use of a TED. They cannot sustain the estimated $45,000 per vessel loss in gross catch revenue. With approximately 13,000 shrimp vessels and boats operating in the Gulf of Mexico, even the most simple calculations indicate astronomical losses to the area. The economic loss in Texas alone due to the use of TED's has been conservatively estimated to be over $400 million in the first year. The loss gets worse when you add the totals for other Gulf States.

Contrary to popular opinion, TED's are not cheap. The cost of the least expensive installed soft TED is approximately $250. The NMFS TED, on which most testing has been conducted, will cost about $550 per TED to be installed.

On small boats which trawl with two nets, four installed TED's are required per boat. The larger gulf vessels require eight installed TED's. Based on these figures, the initial capital cost associated with purchasing the TED for all shrimpers in the Gulf of Mexico can range from a low of $18 million to a high of $40.7 million. Replacement costs of an equal level can be expected at regular intervals.

Furthermore, 34,438 people are directly employed by the gulf shrimp industry on board boats and vessels. This figure does not include indirect employment derived from unloading houses, processing plants, wholesalers, retailers, door and net shops, ice plants, supply houses, shipyards, machinery and equipment suppliers, repair shops, and fuel docks.

In States with relatively high unemployment rates already hard hit by the drop in oil prices, the decline in agriculture and various other fiscal problems, it does not make sense to cause further economic decline on the basis of incomplete and unsubstantiated data.

The economy in the States that border the Gulf of Mexico cannot sustain the loss of the shrimping industry.

I feel at this time that I am obligated to refute some of the erroneous information that I know that many of you have received in the last few days in opposition to my amendment.

First and foremost, let me say that I have never and will never attempt to deliberately mislead any of you. I have long been a supporter of protection of endangered species and would not have taken this fight on if I had in any way believed that the shrimp industry is the primary cause of the decline in the endangered sea turtle population.

Just last year, I received the Texas Conservationist Legislator of the Year Award for my work on behalf of endangered species in south Texas. My commitment has not changed. However, the shrimp industry is not the main problem.

Just this week I received a flyer entitled "Eight Reasons To Oppose the Ortiz Amendment to the Endangered Species Act."

No. 1 reason was that shrimp trawls kill endangered turtles. It is documented that the primary cause of the decline in the endangered sea turtle is loss of habitat and widespread poaching of nesting grounds. The shrimp industry is not the primary cause. That assertion cannot be proved.

No. 2 reason to oppose my amendment was that NMFS has the right solution which produces benefits for shrimp fishermen. I have not ever heard one shrimp fisherman support the TED. From coast to coast there is universal opposition by the industry.

The shrimp industry is the most innovative fishery in the United States. In the last 30 years it has risen to the height of the most valuable fishery in the United States without one red cent of Federal money. If TED's were the solution, this highly advanced fishery would not so adamantly and universally oppose the TED.

The third reason stated to oppose my amendment was the allegation that TED's are already successfully in use. According to supporters of the regulation, in the first area where TED's have been required, they have been an unqualified success. To that, I say no way.

I have received a letter from a shrimp fisherman out of Cape Canaveral, FL, indicating major problems with the TED in that area.

One fisherman stated, and I quote, "I do a lot of shrimping off the Cape Canaveral area for white shrimp until this year. Knowing of the clogging problems, with the Morrison 'soft' TED with shell, tree stumps, plastic, and fish gilling in the webbing, made a believer out of me. I knew I could not survive white shrimping, so I regeared my trawler for rock shrimping where TED's are not required."

The shrimpers using TED's are having problems, don't be fooled.

The fourth objection to my amendment was based on the statement that TED's do not affect shrimp catch rates and that TED-equipped nets actually caught 7.2 percent more shrimp.

Who are we kidding. If TED's caught more shrimp, the shrimpers sitting in the gallery today hoping that you will grant them the opportunity to survive would be at home right now trying to catch that 7.2 percent additional shrimp with the TED.

Testing conducted by shrimpers in my congressional district indicates a great shrimp loss. The following results were recorded after 60 days of testing of soft TED's installed on three test vessels by Sydney Herndon of Herndon Marine Products of Aransas Pass and Corpus Christi, TX.

According to his report, tests showed that the three standard nets all caught within 1 pound of each other. The soft TED equipped net lost between 10 and 20 percent each tow depending on the poundage caught. It was observed that as the poundage of the catch increased the higher the percentage of shrimp loss in the TED equipped net. The percentage of shrimp loss decreased as the poundage of the catch decreased. I quote Mr. Herndon who said, "The losses we see now will lead to the complete destruction of the U.S. shrimp industry."

Point No. 5 of the supporters of TED use is that TED's are inexpensive. I've already talked to you about the costs ranging up to $40 million in initial outfitting of the boats and vessels with TED's. If you know where the shrimpers in the gallery can purchase a $12 TED, I am sure they would like you to let them know. It can't be done.

TED's save fuel and valuable fisheries. Says who? The soft TED destroys the popular bull redfish, the choice of the sports and commercial fishermen. Other bycatch claimed to be eliminated by the TED such as flounder is used to feed hungry fishermen families in my district. Inedible bycatch is used to supply food to other species in the ecosystem.

Supporters of the TED regulations say that TED's are safe. I have already read a part of a letter to you from an insurance company in my district indicating that safety is a problem and that insurance costs will definitely increase. Just because a soft TED has been invented does not mean it will work and does not mean it will be used. Even the soft TED's bulk and extra weight can cause a problem on board a shrimping vessel in the frequently choppy waters of the gulf.

Opponents of my amendment say that TED's have been extensively tested in the Gulf of Mexico. I have already told you of the statistics. I don't know about you, but I don't think zero hours of TED testing in my district translates into extensive testing.

The final reason listed by those in opposition to my amendment is that program-specific amendments are harmful to the Endangered Species Act and all the necessary mechanisms for exemptions and consideration of public needs are provided. If that were so, we would not be here today. I bet there are few of you who have not encountered problems associated with the Endangered Species Act. If shrimpers needs had been taken into full consideration, this Chamber would not be involved in this debate.

This should not be an industry versus environmentalists debate. The shrimpers are environmentalists. They are also small, mostly family owned and operated businesses trying to survive.

My amendment is very simple. It is actively supported by the leadership of the Texas, Louisiana, Mississippi, Alabama, and western Florida congressional Members. It is supported by the State and local governments of the Gulf States. We can't all be wrong.

A vote in favor of my amendment is a vote for jobs, a vote for safety, a vote for consumers, a vote for small business, a vote for labor, a vote for minority employment, a vote for our Nation's balance of trade, and most importantly, a vote for fairness.

A 2-year delay in TED regulations for shrimpers in the Gulf of Mexico is all we ask.

I urge a "yes" vote on the Ortiz amendment.

Mr. TAYLOR. Mr. Speaker, I yield 5 minutes to the gentlewoman from Rhode Island [Miss SCHNEIDER], a member of the Committee on Merchant Marine and Fisheries.

Miss SCHNEIDER. Mr. Speaker, I rise in support of the reauthorization of the Endangered Species Act. Let me say that as a member of the Committee on Merchant Marine and Fisheries and also as a member of the Committee on Science and Technology and as a ranking member of the Subcommittee on Fisheries and Wildlife Conservation and the Environment, I have had the opportunity to look closely at some of the activities that have been involved insofar as the endangered species are concerned.

It is interesting to note that this week the eyes of the world have been focused on Washington, and many of the leaders of the two most important and most powerful nations in the world have met to better the prospects of human survival. Journalists, commentators, and camera crews from all across the globe have come to witness and record this historic event. But what is interesting is that at the same time another drama of survival is taking place with very little notice and very little fanfare, but with similarly vital consequences for our future well-being.

I am referring to the alarming and accelerating loss of the world's biological diversity. Scientists believe that never in all of human history has the rate of extinction been as rapid as it is today. Human activity may be wiping out yet another species everyday, whereas perhaps only one a century disappears through natural causes.

We cannot be indifferent to this unprecedented destruction of Nature's bounty, because living plants and animals have, through the centuries, evolved the means of assisting humans with the capacity of coping with disease, with drought, with predation, and with a myriad of other threats. Understanding scientifically how they do so enables us to improve the pest and drought resistance of crops, discover new medicines for the conquest of disease, and make other advances vital to our welfare.

□ 1145

Living wild species are very much like a library of books still unread. Our heedless destruction of them is akin to burning that library without ever having read the books in it and gained the knowledge that they contain. We can avoid complicity in that senseless destruction by casting a vote for the reauthorization of the Endangered Species Act.

I will say that insofar as the number of different amendments are concerned, we will have the opportunity to hear conflicting views on a variety of different amendments.

I am particularly concerned with the amendment that is being introduced by my colleague, the very able Representative from Texas, Mr. ORTIZ, in his proposal to delay requirements for 2 years on the implementation of regulations requiring the use of turtle extruder devices by shrimpers in offshore waters of the Gulf of Mexico.

My chairman from the Science and Technology Committee, the gentleman from New York [Mr. SCHEUER] very ably outlined the concerns that are involved in the Ortiz amendment. I, too, Mr. Speaker, will be speaking at a later time to elaborate on some of the specifics, but I would like to say at this time, there are a number of very clear studies that have been conducted in order to provide that we can have both. It is possible to increase and maximize the potential of the shrimping industry and at the same time preserve the sea turtles.

A study that was done in terms of 1,500 hours of testing aboard commercial shrimp boats in the gulf itself has been documented by the National Marine Fisheries Service and also by Sea Grant that trawls with TED's did not show significant shrimp loss in comparison to those without TED's. That study has been documented by the 1986 Texas Sea Grant Report, a National Marine Fisheries Service Publication.

Most recently there has been another study that has been conducted by the Mississippi Sea Grant Advisory Service saying that TED-equipped nets caught 7.2 percent more than nets without the TED's. This was documented in the Mississippi Sea Grant Newsletter of 1987.

Interestingly enough, a third study since October 1, TED's Regulations have been in effect in the Cape Canaveral area of Florida and the shrimp catches have not been diminished and fishermen are complying with the regs without any safety or other problems.

So there are certaintly enough arguments that we will elaborate upon later on where TED's were tested for 1,500 hours on commercial shrimp boats themselves in the gulf.

They were tested in the western gulf off of Mexico. They were tested in the eastern gulf off Florida. They were also tested in the northern gulf off Louisiana, and off of Mississippi and Alabama also.

It is not really necessary to test the TED's in every conceivable location in the gulf, but the range of areas that have already been tested is indicated to be scientifically sufficient to conclude that if special problems did exist in the gulf, then they would have been evident.

I might also point out that the National Marine Fisheries Service has the responsibility to do this kind of testing, and I feel they have done a very able job.

I will be happy to comment further on the Ortiz amendment, but I urge my colleagues to support the Endangered Species Act without any amendments.

Mr. WHEAT. Mr. Speaker, for purposes of debate only, I yield 5 minutes to the gentleman from Texas [Mr. STENHOLM].

Mr. STENHOLM. Mr. Speaker, I rise in strong support of this rule today, and that is unusual coming from my lips over the last several months as we have appeared in this well in opposition to rule after rule that waives the Budget Act.

This rule and this bill conforms to the Budget Act in a way that I fully support. Lo and behold, this time those of us who have wanted to attempt to begin to have a little more of a commonsense application to our Endangered Species Act through the Roberts amendment we were granted a waiver of the germaneness rule so that this very important rule could be considered in the spirit in which it will be considered, not in an antienvironment spirit, but in one of trying to bring some common sense to a very important law for this country.

The waiver of germaneness for the Roberts amendment we appreciate, because we believe that it will allow us to get into the real meat of the debate that should occur on this particular act in bringing some common sense to the enforcement of the Endangered Species Act.

Now, I have an amendment that I will offer at the appropriate time that deals with a species by the name of Nerodia Harteri Paucinaulata, or better known as the Concho watersnake.

Now, to those of you who enjoyed 10 years ago the saga of the snail darter and Tellico Dam, I want to assure you that you are going to enjoy the saga of the Concho watersnake, because contrary to those who have in fact been saying that the current law is adequate with the changes implemented from what we learned from the Tellico Dam and the snail darter. I am here to tell you and will at the appropriate time prove that the changes are not adequate, unless we can bring some common sense to the Endangered Species Act.

My message to the environmental community, all of you out there who are opposing any changes whatsoever, take a good look at what you have done to the people of west Texas by your absolute desire to see that the Stacy Reservoir would not be built because of the Concho watersnake being on the Endangered Species Act. Take a look at the millions of dollars that you have caused to be spent when anybody with any sense, any common sense, could have known and admitted from the word go that the Concho watersnake should never have been listed in the first place. He has got a second cousin doing quite well on the Brazos River. The same arguments that were used there were used again regarding the Cordo watersnake. For 10 years, the environmental community said over and over, "The Concho watersnake is endangered. You shouldn't build a dam. You should spend untold millions of dollars piping the water in," when a little bit of common sense brought into this law in its application would have told all of us, everyone, including the environmentalists, and to my colleague, the gentleman from Ohio, who spoke of his concern for the Concho watersnake, I know I am in danger when I say this, but I am for the critter. I like the snake. I think we ought to have more of them. We have argued for more of them for 10 years, because something tells me when you put a commonsense application to this question, if you have a watersnake and you are wanting to provide more water, you might be going to get more watersnakes.

Now, if this sounds funny, and it is, it is hilarious, and you are going to enjoy more of this before we get through over these next several hours, but the botton line is this. Common sense caused the people of west Texas to spend millions of dollars and untold delays in trying to provide water for 500,000 people of west Texas, and water in west Texas, I submit, is more important than any snake. if that were the basic decision, but that never was the basic concern.

The snake is there. In fact, we are identifying the little critter. We are finding more of them than anybody thought was possible out there. We are giving them individual little name bracelets with their names on them and we have got a little deal on the bracelet that when you go out and you find them, you count them, and when you find this bracelet, you can count it because in fact it beeps; so we know we are not counting the same snake over and over. We are proving it over and over the Concho watersnake is not endangered.

Now, does this sound ridiculous? You bet it is. It is why the American people have a lot of difficulty with a lot of the laws that we pass and then later get enforced by people who do not use common sense.

Let me close on this. This is a good rule, no budget problems. It allows us to begin to talk about some common sense, and hopefully a message will evolve from our deliberations and discussions out there to the environmental community, get off your high horse and admit that there are folks like CHARLIE STENHOLM, a farmer, who is truly interested in the environment, and that it is time we put a little common sense in this and quit causing people to spend in this case, $3.7 million, not of Federal dollars, but of the dollars of the people of west Texas who are going to drink the water, $3.7 million that we had to spend to give this little snake a swimming pool, a place that he can do the double backstroke going up and down the river, because the environmentalists decided that he had to have ripples. He could not have a lake, a swimming pool if you please but has to have ripples.

Now, obviously he is not a diver. He has got to be a backstroker, but that is what we have got to spend unless in fact we can de-list the Concho watersnake and in fact put some common sense back into the application not only for this law, but other instances like this in which we let common sense get out of line.

Support the rule and let us get on with the debate and put a little common sense into what otherwise is a very, very good law.

Mr. TAYLOR. Mr. Speaker, I yield 3 minutes to the gentleman from Virginia [Mr. PARRIS].

Mr. PARRIS. Mr. Speaker, I am not a member of the committee from whence this legislation comes. I am not against this rule as such. I am not sure I am against the bill.

All thoughtful people support the environment and endangered animals in this great country of ours, but I rise to make sure that we all understand the provisions of this legislation.

For the first time, section 3 of this bill would make it a Federal criminal offense to remove or maliciously damage endangered plants, not animals, but plants, not only on Federal property, but on State or private property.

Now that to me, Mr. Chairman, creates some very, very serious concerns about the sensitive nature of its enforcement.

Let me just suggest to you that to have a criminal offense, in my view, you ought to have two elements of that; knowledge, number one. I ought to know I am doing something that is against the law if I am going to be criminally prosecuted for it, and intent. I ought to intend to do something criminal before I am prosecuted for a criminal act.

Now, this bill has in it the words, "To engage in malicious and willful misconduct," and so forth. I understand that, Mr. Speaker, but it also provides that the amendment to section 3 of this bill for the very first time in the history of this Nation would make it unlawful to remove, damage, or destroy any endangered species on any other area other than Federal land, and that means private property, on any other area if you are in violation of the course of a State criminal trespass law.

Now, in Virginia we have got a law that says you have to have written permission of the landowner to come on my property to hunt and fish and that sort of thing, and I think that is a reasonable requirement. That is a special trespass law which would not be the violation of a general criminal trespass law under this act.

You can see where I am coming from, Mr. Chairman. We are getting pretty detailed. We are talking pretty complicated stuff here, right?

Now, if in fact the trespass law was a violation against the general public and I went on private property and engaged in the unseemly act of doing something against an endangered plant, I would have been doing a criminal act.

□ 1200

Mr. Speaker, I am not an agronomist, I think most of the people in this Nation are not knowledgeable of what is an endangered plant, and my question then, Mr. Speaker, to those who are intimately involved with this legislation is that section 3 prohibits malicious damage or destruction of plants on Federal lands to protect endangered plants against willful acts of vandalism.

I understand that if one were to go to the redwood forests in California with an axe and start chopping on the redwood trees, that that is clearly a violation of something, and if it is not, it ought to be.

Mr. Speaker, what happens, I submit, when the State of Idaho under this provision has determined that in Idaho the dandelion ought to be endangered and if I go on a private ranch in Idaho and pick a dandelion, I have now violated Federal criminal statutes even without the knowledge that in Idaho at least dandelions are endangered. This may sound a little extreme to some of those who are not attorneys, who do not understand, as the gentleman from Texas [Mr. STENHOLM] has suggested that in the application in the real world of these statutes sometimes we have a kind of a bizzarre result as it applies to real people in the real world.

My question, Mr. Speaker, is very simply, do I or any other citizen of this great Nation have to have knowledge of what wild flower it is that I have just picked off the side of the road before I have engaged in a criminal act?

Mr. TAYLOR. Mr. Speaker, I yield 5 minutes to the gentleman from New York [Mr. LENT], a member of the Committee on Merchant Marine and Fisheries.

Mr. LENT. Mr. Speaker, I rise in strong support of H.R. 1467, the bill to reauthorize appropriations for the Endangered Species Act of 1973. The bill authorizes a total of $305.7 million for 5 fiscal years to the Departments of the Interior, Commerce, and Agriculture. This authorization bill makes a number of amendments that are supported by national conservation groups and were unanimously approved by the House Merchant Marine and Fisheries Committee.

I am pleased to support this important legislation today. In the last Congress when I was the ranking minority member of the full Merchant Marine and Fisheries Committee we worked very hard to get a similar bill passed by the House of Representatives. However, for a number of reasons, that bill was not acted on by the Senate and consequently the authorization for this important law expired.

In this Congress, the Merchant Marine and Fisheries Committee again studied the program very carefully and came up with a new authorization bill that refines a number of key provisions of the law adding additional protection for those species of fish and wildlife and plants that are determined to be either endangered or threatened.

H.R. 1467 addresses the problem which has surfaced in recent years of commercial shrimp fishermen inadvertently catching endangered sea turtles in their shrimp trawls. I believe that the bill, as approved by our committee, treats this issue in the proper fashion and I oppose any further amendments to this part of the legislation.

Mr. Speaker, I want to applaud the efforts of my colleagues on the Merchant Marine and Fisheries Committees, Chairman Walter Jones of North Carolina; Mr. Studds, chairman of the subcommittee; Mr. Davis of Michigan, ranking Republican; Mr. Young of Alaska, ranking subcommittee member for coming up with a good piece of legislation to reauthorize this landmark law which is one of the cornerstones of our national environmental program.

Mr. TAYLOR. Mr. Speaker, I yield 3 minutes to the gentleman from California [Mr. Herger], a member of the Committee on Merchant Marine and Fisheries.

Mr. HERGER. Mr. Speaker, I rise in support of the Roberts amendment which would assist in bringing some additional understanding to this Nation's environmental laws. There have been a number of occasions where we have ignored the impact that such legislation could have on our constituents. While I certainly understand and support the need to preserve and protect our important species, I am quite concerned with the continued damage that this law can have on our local economies.

Mr. Roberts' amendment is not antienvironment. Indeed, those in the agricultural community are dependent upon a healthy environment for their livelihood and, therefore, have a vital interest in protecting our natural resources. Mr. Roberts' admendment simply asks for better dissemination of information regarding pesticide programs and the methods used to determine labeling. It does not say that such labeling should not take place, rather it would suggest that such a labeling program be based on all available evidence regarding the location of and risk to each species and that that information be shared with those who have to work with the program on a daily basis.

I believe that it is important to point out that many times in the past the EPA has failed to consider the reasonable needs of the agricultural community. Indeed, the EPA has not yet even accepted input from many of the very groups that will be directly affected by the labeling of pesticides. In addition, many of the maps that could be used to designate areas where certain pesticides would be restricted may be inaccurate and, therefore, could result in situations where entire counties could be prevented from using pesticides even though the endangered species may be located only in a small portion of that area.

Coming from a rural agricultural district in northern California I know full well the difficulty facing the EPA. But we have to ask if it is reasonable to continue moving forward with future programs without a complete understanding of the ramifications that these programs could have on those that they are designed to regulate. It is for this reason that I strongly urge that my colleagues support the Roberts amendment.

Mr. TAYLOR. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. Packard].

Mr. PACKARD. Mr. Speaker, I am in support of the Endangered Species Act. I am in support of this refreshing open rule. I am not here to ask for anything to be removed from the list of the endangered species. In fact, it is almost revolutionary but I am here to ask that my colleagues add to the endangered species list.

I have met with EPA not too long ago and there is nowhere in the provisions of this act that will allow human life and the protection of human life to be considered in the formula or in the consideration of any program or highway project or projects.

Human life and protection of human life has not been permitted as a consideration, and they say the act does not allow them to consider human life.

I am simply asking that we be allowed under this rule to include the consideration and the protection of our children and our neighbors as a part of the formula in addressing our environment. We have projects around this country that will save human lives, and I have one in my district, and yet we cannot consider the protection of our children and human life as a part of the formula that will allow us to protect our endangered species.

I want to express my thanks again for this open rule. I commend those who have made it possible, and I will support the bill and I will have an amendment that will include some consideration for the protection of human life.

Mr. TAYLOR. Mr. Speaker, I yield 2 minutes to the gentlewoman from Nebraska [Mrs. Smith], a member of the Subcommittee on Agriculture of the Committee on Appropriations.

Mrs. SMITH of Nebraska. Mr. Speaker, I rise in support of this rule.

I would like to take this time to bring the attention of my colleagues to an amendment that will be offered by Mr. Roberts.

The Environmental Protection Agency [EPA] has made it clear it intends to move ahead with undue haste to enforce a labeling program that threatens widespread disaster to farmers and ranchers.

The EPA has announced that it intends to ban or render ineffective the use of 52 reliable and widely accepted pesticides and herbicides in 900 agricultural counties nationwide.

These include 24 of the most important farming and ranching counties in the State of Nebraska. In fact, Nebraska would be one of the most heavily impacted States.

Nevertheless, the EPA has asked the States to develop plans to implement the rules by February 1, 1988.

Mr. Speaker, this is simply unacceptable.

There is not enough time for the agency to obtain the understanding and cooperation of the farmers and ranchers and others who will be directly impacted.

There has been no careful study of the economic impact on the people and State governments affected by these proposed rules.

And there is not enough time for all of the agencies involved to reach a consensus on effective enforcement plans.

Our amendment would not stop the EPA from complying with the law, but it will ensure that agriculture has the right to a voice in implementing the law.

We should not let the EPA rush headlong into implementing the law in a manner that will discourage rather than encourage the cooperation of the American farmer.

Many farmers in my district were caught by suprise by the EPA's announcement to unilaterally restrict the use of many essential agricultural pesticides beginning in February for the 1988 crop year.

This action has already reinforced my farmers fears that the Government blindly goes about destroying their livelihoods. It does not matter to them if the law had good intentions or not.

Although the EPA appears to have become more concilatory in its approach to enforcing these proposed new rules in recent weeks, there is still a great deal of confusion and concern regarding the February 1 implementation target date.

Farmers are just as concerned with the environment and endangered species as any other group, but the EPA's regulations are going to backfire if they are hurried along with the economic disincentives now in place.

I believe the amendment that will be offered by me, my good friend and colleague, the gentleman from Kansas [Mr. ROBERTS], and the gentleman from Texas [Mr. STENHOLM] would provide for a more reasonable, workable approach to the problem of protecting endangered species.

Mr. Speaker, I urge the Members here to consider and support our amendment to the Endangered Species Reauthorization Act when it comes up for consideration.

Mr. TAYLOR. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I strongly support this rule because it does give the House the opportunity to consider the Roberts amendment which in my opinion is the linchpin of this legislation. It puts common sense into the requirement in providing information for farmers and for producers and for coordination with State agencies, and I think that it is imperative that we pass the Roberts amendment. It is very important to the future of American agriculture. In fact it may well hang in the balance pending the success of the Roberts amendment.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. WHEAT. Mr. Speaker, for purposes of debate only, I yield 1 minute to the gentleman from Louisiana [Mr. TAUZIN].

Mr. TAUZIN. Mr. Speaker, I also want to congratulate the Committee on Rules for this open rule and I rise in support of the rule. I particularly want to thank the Committee on Rules for allowing us to take the Ortiz amendment up which is an amendment to simply place a 2-year moratorium on the imposition of the turtle excluder devices as a means of protecting endangered sea turtles.

I want to make it clear that the Ortiz amendment will not in any way amend the act nor will it make the endangered sea turtle less protected.

Anyone catching and destroying an endangered sea turtle will be subject to the full force and effect of the act.

The Ortiz amendment will simply give us a chance in 2 years' time to get the research done, discover whether these TED devices really work in all of the waters in which they are being imposed. The TED's have been tested only in some waters and in some waters they have not been tested. They were supposed to be employed in inshore waters when no tests were done at all. We have succeeded in the Committee on Merchant Marine and Fisheries in getting a 2-year exemption for the inshore waters. We are asking for the same relief for onshore waters so we can test them and determine if they are the best way to protect the sea turtles.

Let me suggest sea turtle hatcheries. Supported by the shrimping industry, sea turtle hatcheries might be a better option. Think for a moment if there would be any chickens left in America if we did not have chicken factories? Colonel Sanders would have wiped them out a long time ago.

Hatcheries might be the way to go. Give us this 2-year period to find the best answer. Give us the Ortiz amendment.

Mr. WHEAT. Mr. Speaker, I yield 1 minute to the gentleman from Massachusetts [Mr. STUDDS], the chairman of the Subcommittee on Fisheries and Wildlife Conservation and the Environment.

Mr. STUDDS. Mr. Speaker, I take this time not to prolong the debate on the substance of the rule or the bill but to inform Members as best we can tell of the situation we face at this point and for the balance of the day. I believe it was announced earlier that it is the intention of the leadership once we have gone into the Committee of the Whole for consideration of this bill, that at any time the appropriate papers may arrive from the other body making in order in this body the appointment of conferees on reconciliation. At that point the Committee of the Whole will rise wherever we may be in the course of our deliberations.

□ 1215

It is, as I understand it, the best guess of those knowledgeable in these matters, who would not for obvious reasons wish to be further identified, that that is most likely to happen at approximately 1 o'clock. I will refrain from speculating as to whether or not these are the same people who told us the boys would be home by Christmas. But in any event, that is the current guess.

I would notify Members there will be a vote on the rule. There is then 1 hour of general debate. It is the intention of the committee as best we can to use the entirety of that hour. At that point or prior to that point if the papers are here, we will rise, and that will be the conclusion of further deliberations today on this bill. If, however, those papers have not arrived yet, we will proceed until they do, we think. That is the condition we now face, for the benefit of Members.

Mr. WHEAT. Mr. Speaker, it is clear there is a great deal of interest on this important measure. The rule allows for full and open debate of all of the provisions.

Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore (Mr. KANJORSKI). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. SENSENBRENNER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 343, nays 0, not voting 90, as follows:

[Roll No. 477]

YEAS—343

Ackerman
Anderson
Annunzio
Anthony
Applegate
Archer
Armey
Aspin
Atkins
AuCoin
Baker
Ballenger
Bartlett
Barton
Bateman
Bates
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bliley
Boggs
Bonior
Bonker
Borski
Bosco
Boulter
Brennan
Brooks
Broomfield
Brown (CO)
Bruce
Bryant
Buechner
Bunning
Burton
Byron
Campbell
Carper
Carr
Chandler
Chappell
Cheney
Clarke
Clinger
Coats
Coble
Coelho
Coleman (MO)
Coleman (TX)
Collins
Combest
Conte
Cooper
Coughlin
Courter
Coyne
Crane
Dannemeyer
Darden
Davis (IL)
Davis (MI)
DeFazio
DeLay
Dellums
Derrick
DeWine
Dickinson
Dicks
Dingell
DioGuardi
Donnelly
Dorgan (ND)
Dornan (CA)
Downey
Dreier
Durbin
Dymally
Dyson
Early
Eckart
Edwards (CA)
Edwards (OK)
Emerson
English
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Flake
Flippo
Foglietta
Foley
Ford (MI)
Frank
Gallegly
Gallo
Garcia
Gejdenson
Gekas
Gibbons
Gilman
Glickman
Gonzalez
Goodling
Gordon
Grandy
Grant
Gray (IL)
Gray (PA)
Guarini
Gunderson
Hall (TX)
Hamilton
Hammerschmidt
Harris
Hastert
Hatcher
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hiler
Hochbrueckner
Holloway
Hopkins
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Jeffords
Jenkins
Johnson (CT)
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kaptur
Kasich
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Latta
Leath (TX)
Lehman (FL)
Leland
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Lowery (CA)
Lowry (WA)
Lujan
Lukens, Donald
Lungren
MacKay
Madigan
Markey
Marlenee
Martin (IL)
Martin (NY)
Martinez
Matsui
Mavroules
McCandless
McCloskey
McCollum
McCurdy
McDade
McGrath
McMillan (NC)
McMillen (MD)
Meyers
Mfume
Mica
Michel
Miller (WA)

Mineta
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Myers
Nagle
Natcher
Neal
Nelson
Nielson
Nowak
Oakar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Packard
Panetta
Parris
Pashayan
Patterson
Pease
Pepper
Perkins
Petri
Pickett
Pickle
Porter
Price (IL)
Pursell
Rahall
Rangel
Ravenel
Ray
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rogers
Rostenkowski
Roth
Roukema
Rowland (CT)
Rowland (GA)
Russo
Sabo
Saiki
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schneider
Schuette
Schulze
Schumer
Sensenbrenner
Sharp
Shaw
Shays
Shumway
Sikorski
Sisisky
Skaggs
Skeen
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solarz
Solomon
Spence
Spratt
Staggers
Stallings
Stenholm
Studds
Stump
Sundquist
Swift
Swindall
Synar
Tallon
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Upton
Valentine
Vander Jagt
Vento
Visclosky
Vucanovich
Walker
Watkins
Waxman
Weber
Weiss
Weldon
Wheat
Whittaker
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wyden
Wylie
Yates
Young (FL)

NAYS—0

NOT VOTING—90

Akaka
Alexander
Andrews
Badham
Barnard
Biaggi
Boehlert
Boland
Boucher
Boxer
Brown (CA)
Bustamante
Callahan
Cardin
Chapman
Clay
Conyers
Craig
Crockett
Daniel
Daub
de la Garza
Dixon
Dowdy
Duncan
Dwyer
Erdreich
Florio
Ford (TN)
Frenzel
Frost
Gaydos
Gephardt
Gingrich
Gradison
Green
Gregg
Hall (OH)
Hansen
Hawkins
Horton
Howard
Inhofe
Ireland
Jacobs
Kemp
Kolter
Konnyu
Lantos
Leach (IA)
Lehman (CA)
Lott
Luken, Thomas
Mack
Manton
Mazzoli
McEwen
McHugh
Miller (CA)
Miller (OH)
Moody
Murphy
Murtha
Nichols
Oberstar
Oxley
Pelosi
Penny
Price (NC)
Quillen
Roemer
Rose
Roybal
Schroeder
Shuster
Skelton
Smith (FL)
Smith (TX)
St Germain
Stangeland
Stark
Stokes
Stratton
Sweeney
Udall
Volkmer
Walgren
Wortley
Yatron
Young (AK)

☐ 1230

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

ENDANGERED SPECIES ACT AMENDMENTS OF 1987

The SPEAKER pro tempore (Mr. KANJORSKI). Pursuant to House Resolution 328 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 1467.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 1467) to authorize appropriations to carry out the Endangered Species Act of 1973 during fiscal years 1988, 1989, 1990, 1991, and 1992, with Mr. LEVIN of Michigan in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the first reading of the bill is dispensed with.

Under the rule, the gentleman from North Carolina [Mr. JONES] will be recognized for 30 minutes, and the gentleman from New York [Mr. LENT] will be recognized for 30 minutes.

The Chair recognizes the gentleman from North Carolina [Mr. JONES].

Mr. JONES of North Carolina. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise today to urge my distinguished colleagues to vote for H.R. 1467, a bill to amend and extend the Endangered Species Act. This bill is the result of many months of hard work by members of my committee, and I would like to extend special thanks to the distinguished chairman of the Subcommittee on Fisheries and Wildlife Conservation and the Environment, Mr. GERRY STUDDS, as well as my thanks to my good friends and colleagues Congressmen BOB DAVIS and DON YOUNG, for their crucial contributions to this effort.

The Endangered Species Act of 1973 was passed in response to a growing concern about the number of species of fish, wildlife, and plants that had become, or were in danger of becoming, extinct as a consequence of man's activities. The act provides broad protection to species that are listed by regulation as endangered or threatened. It is generally recognized as the most important piece of wildlife conservation legislation ever passed by Congress.

The bill as introduced authorized appropriations of $56 million in fiscal year 1988, and thereafter gradually increased the authorization over the next 4 years to $65 million in fiscal year 1992.

The bill was reported out of my committee by a voice vote, and with bipartisan support. The only controversial issue which surfaced during our consideration of H.R. 1467 concerned certain sea turtle conservation regulations recently issued by the Department of Commerce. The regulations would require the shrimp fishing industry to use what are known as turtle excluder devices or TED's in the shrimp nets in order to avoid the drowning of sea turtles.

I offered an amendment which would delay for 2 years the implementation of the TED's requirements for inshore waters along the Atlantic and Gulf of Mexico coasts. Congressman ORTIZ offered an amendment to my amendment which would have extended the 2 year delay to offshore waters of the Gulf of Mexico. The amendment offered by Mr. ORTIZ was rejected and my amendment was adopted.

In addition, H.R. 1467 as reported includes a number of changes dealing with specific issues associated with the Endangered Species Act. These changes would:

Provide additional protection to endangered and threatened plants;

Direct the U.S. Fish and Wildlife Service to monitor species which have been identified as candidates for listing as endangered or threatened;

Allow for an additional 5 years the continued sale of existing inventories of scrimshaw that were acquired before the passage of the ESA; and

Increase the penalties under the ESA in order to account for inflation.

In addition, Mr. ROBERTS has an amendment on the EPA rule about labeling pesticides in areas where endangered species are found.

Furthermore, regarding EPA's endangered species pesticide labeling program, I would especially like to thank my friend KIKA DE LA GARZA for his efforts to bring the EPA, Interior and Agriculture Departments together to foster greater cooperation among the agencies in working on this program, and for helping EPA to comply with the ESA while seeking to minimize impacts on agriculture. Much progress has been made in improving EPA's endangered species program, due in great measure to Mr. DE LA GARZA's efforts.

Mr. DE LA GARZA has also been very helpful regarding the TED's controversy and offered his assistance to attempt to resolve the TED's issue in a manner which would protect the threatened and endangered sea turtles while minimizing the impact on shrimp fishermen.

In summary, I believe that H.R. 1467 is a reasonable bill that makes only modest changes to the Endangered Species Act. I know that some amendments may be offered which would propose to delist various endangered or threatened species. I would urge my colleagues to reject any such amendments which I believe would establish a very bad precedent under the act. As chairman of the Merchant Marine and Fisheries Committee, I strongly urge the passage of H.R. 1467 to amend and extend the Endangered Species Act—one of our Nation's most effective and important conservation laws.

Mr. Chairman, I yield such time as he may consume to the chairman of the subcommittee, the gentleman from Massachusetts [Mr. STUDDS].

Mr. STUDDS. Mr. Chairman, I rise today to speak in support of H.R. 1467, the reauthorization of the Endangered Species Act. The Endangered Species Act is landmark legislation that embodies goals that I believe are widely supported by Congress and the public. Preserving our natural heritage and natural diversity is of first priority to ourselves and those who come after us. Through the provisions of the Endangered Species Act, we have given ourselves the ability to achieve that goal.

If enacted, this bill will revitalize the endangered species listing and recovery processes and bring far closer to fulfillment the goals of the original act. During the hearing process, the committee heard convincing testimony about the importance of a vigorous program to rescue our wildlife from the threat of extinction. We heard over and over again of the crucial role that obscure species of plants and animals have played in medical discoveries. The preservation of all forms of life is of no less value to agriculture, industry, and science.

H.R. 1467, as introduced, would reauthorize the act through 1992. Several amendments to the act were also adopted by the committee which strengthen and improve the endangered species program. Chairman JONES has described them in his statement, so I will forgo additional comments on them, noting only that I believe they deserve the full support of the House.

I understand that an amendment will be offered to exempt offshore shrimpers from requirements to use what have come to be termed turtle excluder devices or TED's to keep sea turtles from drowning in shrimp trawls. I also anticipate that other amendments will be offered to remove specific species from the endangered species list or to exempt certain projects from the prohibitions of the act. I intend to oppose these amendments, and while I will reserve my specific comments on them until they are before the committee, I want at this time to offer a cautionary note on what I believe our primary responsibility is as legislators.

I believe that our primary responsibility is to ensure that the goals and policies articulated by the act are proper, and that the procedures we have established in it function as we intend them. If the basic rules established by the act or the procedural mechanisms crafted to implement them are flawed either in concept or in execution, let us examine them and change them. As chairman of the subcommittee with responsibility for the act, I give my commitment to any Member to discuss any shortcomings in the act and to explore improvements to it.

We are less qualified, however, to render the technical judgments required to implement these policies on a case-by-case basis. Many of the amendments that may be brought before us today involve highly specific issues relating to species that I submit few of us—if any at all—have ever heard of. How many of us today are qualified to judge whether the bald eagle or any other species is endangered? I submit very few indeed. I therefore urge Members to recognize our roles as legislators and not as regulators, to forgo the urge to intervene in those regulatory matters in which we are wholly unsuited, and to oppose those amendments that would force us to judge that which we are not qualified to judge.

□ 1245

Let me just observe again, Mr. Chairman, if I may, that series of amendments that may be offered to delist individual species set an extraordinarily bad precedent; that the Congress has never before done such a thing; that there are within the statute administrative mechanisms for the delisting of species and to point again that endangered species delisting should be left to the Federal agencies with biological expertise in those spheres.

I also would ask, Mr. Chairman, if I may, for a dose of humility on the part of all of us as we debate an act which seeks more than any other statute crafted by this Congress to protect the biological diversity of life on this planet. None of us knows where in that chain of life we as human beings fit. We remember earlier during debate on the rule, mentioned that perhaps human beings ought to be considered in this act.

Well, my obvious response to that is that the act seeks to protect entire species which may be threatened or endangered, and while given the events of the summit in Washington this week one might well argue that our race is amongst the endangered, individual projects are not going to endanger that human species; however, it is entirely possible that a species about which none of us knows anything could have arose somewhere in the chain of life, which indeed would have a direct bearing upon us and upon all other entities in that chain.

It is with that humility, Mr. Chairman, notwithstanding the ease with which one can make light sometimes of what sounds like strange Latin names and other things that we approach this with the seriousness and as I say the humility which I think the subject deserves.

Let me again emphasize in closing the importance of the endangered species program and the need for reaffirming at this point our commitment to it. I urge my colleagues to support the bill and to oppose any amendments, no matter how appealing on the surface, that would serve to undermine the overall integrity of that act and of the intention of the Congress in enacting it in the first instance.

Mr. LENT. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, as my colleagues, the chairman of the committee, the gentleman from North Carolina [Mr. JONES] and the gentleman from Massachusetts [Mr. STUDDS] have mentioned, today we proceed with the reauthorization of the Endangered Species Act of 1973.

I would like to pay particular commendation to both those gentlemen for their leadership in crafting this legislation and also to the ranking minority member of the full committee, the gentleman from Michigan [Mr. DAVIS], and also the ranking member of the subcommittee, the gentleman from Alaska [Mr. YOUNG] as well.

This act is among the world's strongest laws in preventing species extinction. It does this through a variety of methods designed to bring species back to a point where protection is no longer needed. These include: listing as endangered or threatened, designation and acquisition of critical habitat, trade controls, State/Federal and international cooperation, and the regulation of Federal agency activities.

Perhaps the legislation's most important provision is that it requires listing and/or delisting of a species to be based solely on biological grounds; only the best scientific and commercial data available may be used in making this decision, not economic considerations.

During the last Congress, the House of Representatives adopted legislation that would have reauthorized the act only to see our efforts die in the Senate.

H.R. 1467 reauthorizes the Endangered Species Act through 1992. As reported by the Committee on Merchant Marine and Fisheries, the bill provides more effective protection for endangered plants, requires efforts to monitor the status of species that are candidates for future listing under the act, and increases monetary penalties for certain violations of the act. The bill also reflects the committee's concern for the conservation of endangered sea turtles and the use of turtle excluder devices in the shrimp fishery. The authorization levels are similar to those adopted by the House during the last Congress.

We have come a long way since the Endangered Species Act was passed in 1973. Hundreds of species have been protected and over 900 species have been listed on the endangered species list. This legislation does not focus on the processes of natural selection, but rather on the work of man, whose development, technology, and growth must not be permitted to erase entire species from the face of the Earth.

Our intent today is not designed to weaken the Endangered Species Act but to make it work better. I believe that the legislation the Merchant Marine and Fisheries Committee has developed under the leadership of Chairman Jones, Chairman Studds, and the ranking minority members, the gentleman from Michigan [Mr. Davis] and the gentleman from Alaska [Mr. Young] provides a piece of legislation we can all be proud of.

I understand though that there will be several amendments offered that will address: First, the issue of conservation of endangered sea turtles, specifically the use of turtle excluder devices—or TED's—in the offshore shrimp industry; second, EPA's pesticide label change; and third, efforts to legislatively delist species. The Merchant Marine and Fisheries Committee held a lengthy debate on the TED amendment when it was raised by Congressman Ortiz at the full committee markup. I did not support the amendment that was offered by Congessman Ortiz at the markup and I do not support his effort today. I am sure that there will be time for considerable debate on the merits of these issues and will address my reasons for opposition at the appropriate time.

Mr. JONES of North Carolinia. Mr. Chairman, I yield 3 minutes to the gentleman from California [Mr. Anderson].

Mr. ANDERSON. Mr. Chairman, I rise in strong support of H.R. 1467, a bill that I am pleased to cosponsor. I urge my colleagues to support this bill and to oppose any attempt to weaken it or to delay conservation measures under the Endangered Species Act.

Over the years, we have reviewed the Endangered Species Act several times. In 1969 for instance, I had the pleasure to participate in improving the 1966 Endangered Species Preservation Act, the predecessor of today's act. We improve the 1966 act by instructing the Secretary of the Interior to draw up a worldwide list of species threatened with extinction. This body made it clear to the Secretary then that the protected list was to include both reptiles and amphibians, such as the sea turtles that are the subject of some controversy today.

At that time, it was clear that we had to do something about the decline of many species of wildlife. For example, we probably had a few thousand Kemps Ridley sea turtles left in existence when we knew there had been as many as 40,000 on one beach in 1947. So, in the 1969 act we called for an expanded effort that would include an international treaty to protect wildlife from extinction.

In 1973 we implemented that treaty and others with an endangered Species Act that not only made it a Federal violation to kill any endangered species, but also established the commitment that no action of any agency of this Government should jeapordize the continued existence of any listed species. We attempt to reaffirm that commitment in H.R. 1467 today.

Since the adoption of the 1973 Endangered Species Act, we have made necessary adjustments. We have created an exemption process and other ways to make this a very practical and flexible act that would not impose unnecessary burdens on human and economic activity. I am convinced that this country's taxpayers would support H.R. 1467 because it shifts some of the burden off the taxpayers and onto those who intentionally violate the act by raising the fines for those violations to keep up with inflation and by using those fines to help repair the damage that's been done. This is unquestionably a sensible approach to protecting species and their habitat.

Mr. Chairman, we currently have many different species that are threatened or endangered. The list of such species will continue to increase unless this body demonstrates leadership on the issue of endangered species. Passage of H.R. 1467 would surely demonstrate this leadership.

Today, we have a way to save endangered and threatened species and by doing so, ensure that human and economic activity will coexist with nature. That is what the Endangered Species Act is all about. I believe that the Merchant Marine and Fisheries Committee has done a very good job in developing a reasonable and effective bill that deserves the support of my colleagues today.

Mr. Chairman, I urge support for the committee bill. It is a good bill that does not need any further delays or weakening amendments that may be offered today.

Mr. LENT. Mr. Chairman, I yield 5 minutes to the gentleman from Massachusetts [Mr. Conte], the distinguished ranking member of the Committee on Appropriations.

Mr. CONTE. Mr. Chairman, I want to thank my dear and beloved friend, the gentleman from New York [Mr. Lent] for giving me this time.

Mr. Chairman, I rise today in support of H.R. 1467, to reauthorize appropriations for the Endangered Species Act of 1973.

I would also like to commend my good friend, the gentleman from Massachusetts [Mr. Studds], Congressman Jones with whom I have worked over so many years, and the gentleman from New York [Mr. Lent], and the gentleman from Michigan [Mr. Davis], and the rest of the committee for their dedication and hard work in drafting this legislation.

When I saw all the players in this act, I was not sure whether I was going to speak on the Endangered Species Act or the Coast Guard users fees. I go to that committee quite often and I see all these actors on the main stage and I see them here today.

Oftentimes, when we think of endangered species, we think of exotic animals like the elephant and panda in remote regions of the world such as China and Africa. However, it wasn't all that long ago that the symbol of this Nation, the bald eagle, was rapidly vanishing from its natural habitat and in danger of going extinct.

Had it not been for the Endangered Species Act, today we might very well be talking about the bald eagle in terms of the past, not unlike the passenger pigeon.

As everyone knows, I spend a great deal of my time in the outdoors, either fishing or hunting. I have been going to Alaska fishing for the last 20 years and I have seen that evolution of the bald eagle up there in the streams when I am out there fishing for salmon. Twenty years ago I would be lucky to see one bald eagle a day or a week and now I see them by the dozens waiting for a dead salmon to come up that was killed by sea gulls or something else, and then come down and get a little lunch, so I have had a lot of great times out there in those streams, in the creeks and other places, and Kodiak with the bald eagle. I have had lunch with them and martinis and enjoyed ourselves out there in the outdoors.

However, because we acted in time the success of the Endangered Species Program can be seen nationwide as well as in my district in Massachusetts, where a pair of nesting eaglets have been reintroduced to Quabbin Reservoir after nearly a 90-year absence.

I think it's important to point out that in speaking about the success of this legislation, we realize there are still 947 species of plants and animals currently on the endangered species list with 447 native to the United States. And believe me, these figures don't even begin to tell the story as more than 5,000 species are under consideration for the listing.

Let me finish by adding, Mr. Chairman, that I believe the committee has done a good job in crafting this legislation which reauthorizes the act through 1992. This bill also provides more effective protection for endangered species and increases penalties for violations of the act.

Let's recognize an effective Federal program when we see it. For 20 years the Endangered Species Act has made a significant impact on our wildlife and environment. Let's keep this program intact and pass it without weakening amendments. Thank you.

□ 1300

Mr. JONES of North Carolina. Mr. Chairman, I yield 3 minutes to the gentleman from Florida [Mr. HUTTO].

Mr. HUTTO. Mr. Chairman, I rise in strong support of the Endangered Species Act reauthorization. The Endangered Species Act is one of the most important pieces of environmental protection legislation enacted. I have consistently supported the goals of this legislation to protect endangered species from extinction.

I appreciate the good work that our Committee on Merchant Marine and Fisheries has done. I support protection of the sea turtle, and I hope that Members will listen and will support the Ortiz amendment which is completely reasonable. This would delay the implementation of the National Marine Fisheries Regulations requiring the use of turtle excluder devices, or TED's, by shrimpers in the offshore waters of the Gulf of Mexico for 2 years to allow for further testing of these devices. This delay is necessary to allow NMFS the opportunity to test the TED fully in the Gulf of Mexico which has dramatically different bottom conditions than the Atlantic Ocean where the device is currently being used.

The impact of these regulations on the shrimping industry should also be more accurately defined. In half of the 20 statistical zones in the Gulf of Mexico there have been zero hours of testing of this device. For example, NFMS has not conducted any TED testing off the coast of my district in Florida. The astronomical claims of estimated endangered sea turtle drownings in the Gulf of Mexico due to the shrimping industry are based on little or no hard data.

In 16,785 observer hours in the Gulf of Mexico over a 12-year period, only three endangered sea turtles were found to have drowned in shrimp trawls.

We should not do this to the shrimp industry.

In addition, NMFS is charged with enforcement of TED regulations. They do not have any ships or planes, therefore, the Coast Guard which is short on funding already will have another mission added to it.

Without the Ortiz amendment we are hurting a lot of people.

As chairman of the Subcommittee on Coast Guard and Navigation, I am deeply aware of the serious funding problems we have and the possible enforcement problems. Let us make one thing clear, we are not trying to remove sea turtles from the endangered species list. We want to protect them. This does not delist the sea turtle. It merely gives a little more time for the shrimpers to work with NMFS to develop a better TED device.

Let us do what is right, let us do the reasonable thing, vote for the Ortiz amendment.

Mr. LENT. Mr. Chairman, I yield 2 minutes to the gentlewoman from Hawaii [Mrs. SAIKI], a member of the Committee on Merchant Marine and Fisheries.

Mrs. SAIKI. Mr. Chairman, I rise today in support of H.R. 1467, the reauthorization of the Endangered Species Act.

We, in Hawaii, know very well the importance of protecting endangered plants and animals. The State of Hawaii is known among natural resource managers as the endangered species capital of the United States. Over half of Hawaii's native birds are either endangered or extinct. Hawaii's native plants are equally jeopardized. Although many of Hawaii's plants are not yet protected by law, approximately 250 to 300 native Hawaiian plants are in peril of extinction and are endangered species candidates.

The Endangered Species Act protects the vital natural resources of Hawaii and the Nation. It does much to help States improve the effectiveness of their own endangered species programs.

I urge my colleagues to support this measure to reauthorize this act and support provisions which reinforce its intent to maintain the diversity of life on our planet.

Mr. LENT. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania [Mr. WELDON], a member of the Committee on Merchant Marine and Fisheries.

Mr. WELDON. Mr. Chairman, I rise today in strong support of reauthorizing the Endangered Species Act. Since its enactment in 1973, the Endangered Species Act has become a household word for many Americans. My constituents, correctly so, associate it with the comeback of the bald eagle or the recovery of the American alligator.

Despite the law's successes, we still face an uphill battle in our fight to preserve the Nation's wildlife. Earlier this year, the Washington Post reported on the difficulties the Fish and Wildlife Service has had in keeping up with the growing number of endangered species. Some animals have actually disappeared while waiting for bureaucrats here in Washington to process information on them. During markup, members of the Merchant Marine Committee worked hard to address this problem and several others associated with the law.

During the committee process, we also heard legitimate complaints about how the law was being implemented. Some of my colleagues testified on highways being stopped or expensive lifts being put into dams to accommodate exotic subspecies.

Although these complaints are well-founded, they are no reason to prevent this law from being reauthorized. The Endangered Species Act sets an important environmental standard for us to adhere to in this age of development. After all, we owe our children the opportunity to see a wild bald eagle or a humpedbacked whale. I urge my colleagues to support this legislation and to vote against weakening amendments.

Mr. LENT. Mr. Chairman, I yield 5 minutes to the gentlewoman from Rhode Island [Miss SCHNEIDER], a member of the Committee on Merchant Marine and Fisheries.

Miss SCHNEIDER. Mr. Chairman, I rise in strong support of H.R. 1467, the Endangered Species Reauthorization Act, and I also am very firmly opposed to amendments that would weaken the act. The Endangered Species Act began 14 years ago this month and it has been instrumental in helping accelerating loss of wildlife, plants, and animals, and that has been the goal that has been enjoyed by widespread public support when the Endangered Species Act was first passed and which continues today.

This act which our committee has reauthorized is to protect the entire ecosystem upon which endangered species, and threatened species depend, and to provide a program for the conservation of these endangered and threatened species.

We have also indicated the authority to list species as endangered or threatened as residing exclusively with the Secretary of the Interior except in those species under the authority of the Secretary of Commerce.

The determination for listing is based solely on the basis of the best scientific and commercial data available.

The Committee on Merchant Marine and Fisheries has amended the entire act and the authorization levels include the Department of the Interior, Department of Commerce, and Department of Agriculture.

I might also add that section 9 of the current act prohibits both the taking of endangered species in virtually all commerce in such species including importation, exportation, interstate transportation, and possession of species taken in violation of the Endangered Species Act. However, these protections are inadequate with regard to plants. Under current law anyone who captures, kills, or otherwise harms an endangered animal commits a violation of the act for which substantial criminal and civil penalties may be imposed. By contrast anyone can dig up, cut, or destroy an endangered plant with impugnity unless the offense is committed on Federal land and even on Federal land there is no violation of the act unless the plant is removed from the area of Federal jurisdiction.

The committee has been informed of instances of deliberate vandalism or collecting of listed plants on private lands and recognizes the need for additional protection. Our particular bill now prohibits the removal of endangered or threatened plants from State lands or from private property where State laws prohibit removal, or where removal occurs in the course of criminal trespass. Our bill also gives the Fish and Wildlife Service concurrent authority with the Department of Agriculture to enforce restrictions on the importation of endangered and threatened plants, and also taking emergency action if the populations are found to be decreasing.

The bill also increases the penalties, but I regret to say that we had hoped that the fines that would be collected would be used to fund the species recovery plans but regrettably that was not possible to include in this provision.

This delays for 2 years the requirement that shrimp fishermen use turtle excluder devices or restrict fishing in in-shore waters.

Regrettably, as we review the challenges to various endangered species we often fail to recognize the value beyond the aesthetic value of various plants and animals. But there is economic value to we here in this country if we merely recognize that one out of every four prescription drugs finds its origin in germ plasm as can be found oftentimes in the tropical forests. I think we need to pay closer attention to the value to many of these plants.

I might add that the African clawed frog which does not happen to be here related to the Endangered Species Act, but it is just an example of the pharmaceutical value that can be understood in recognizing the various uses.

The African clawed frog, like the white mouse and also the fruit fly, is one of those animals that could have been made with laboratories in mind. This very mundane frog became extremely valuable because earlier this year Dr. Michael Zasloff of the National Institute of Child Health and Human Development in Washington, DC, asked himself how frogs that had recently been cut open managed to avoid developing infections when they swam around in water that was teeming with microbes. His curiousity paid off. Eventually he isolated some new antibacterial substances, which he called magainins. What is interesting is that magainins have also been found in various other types of peptides in various insects. So there are still many questions that remain to be answered but both the frog and the insect have potential medical value as alternatives to antibiotics. As alternatives to antibiotics, they would be well suited to treating patients with wounds or burns that have disrupted the body's natural defense mechanisms.

Mr. JONES of North Carolina. Mr. Chairman, I yield 3 minutes to the gentleman from California [Mr. Bosco].

Mr. BOSCO. Mr. Chairman, I think we can all be grateful for the hard work of the gentleman from North Carolina [Mr. Jones], the chairman of the Committee on Merchant Marine and Fisheries, and the gentleman from Massachusetts [Mr. Studds], the chairman of the Subcommittee on Fisheries and Wildlife Conservation and the Environment, and the gentleman from New York [Mr. Lent] and others on both sides of the aisle who have worked on this important legislation.

Since 1973, the Endangered Species Act has been the strongest, single most important protection of species to be enacted anywhere in the world. We are all very proud of it. Considering the strong support that it has achieved among the American people, one would not think that there would be any controversy at all over the Endangered Species Act. Most of the controversey that we have seen has had to do with which species should be included and which should not be.

However, there is also a controversy as to which human beings should have to enforce the act and which should not. I would like to speak to that controversy today.

□ 1315

There are a small number of Native Americans in the country who have claimed, under right of treaty or other rights, that the Endangered Species Act does not apply to them. This has resulted in the taking of bald eagles, black panthers and other species that are strictly prohibited from taking under the act.

I want to make it clear that Congress has always intended that there are not two classes of Americans, one entitled to take endangered species and another obligated to protect them. The court system, fortunately, has gone along with this. Originally the eighth circuit ruled that neither the Endangered Species Act or the Bald Eagle Protection Act applied to Native Americans. However, the Supreme Court reversed that decision and said that the Bald Eagle Protection Act does apply to all citizens of this country. The Court, however, did not speak to the question of whether the Endangered Species Act applies.

Other Federal courts have struggled with this issue, however, and have come to the conclusion that the Endangered Species Act is a legitimate conservation effort on the part of Congress and therefore does and must by its nature apply to all citizens.

Our committee considered this matter. It has been a matter of contention for several years, but the committee believes, I believe without exception, that the Endangered Species Act clearly applies to all Americans.

We know that if we all work together to save these species that they will be around for the benefit of future generations, and no one could contest the value of that. If we protect these species, then some of them can be taken off the list, which has actually happened and which is our hope, that this act provides only a temporary need to protect species until such time as they propagate and can be taken off the list again. When that happens, we can allow the taking of them, but until then, not.

Mr. LENT. Mr. Chairman, I yield 2½ minutes to the gentleman from Washington [Mr. Miller], a member of the committee.

Mr. MILLER of Washington. Mr. Chairman, I thank my distinguished colleague from New York for yielding the time to me. I want to express my appreciation to the gentleman from North Carolina [Mr. Jones], chairman of the full committee, and the gentleman from Massachusetts [Mr. Studds], chairman of the subcommittee, for their work on this bill, and particular appreciation to my colleague, the gentlewoman from Rhode Island [Miss Schneider], who spoke earlier and has played such an important role in this legislation over the years.

Mr. Chairman, I rise in support of H.R. 1467. This is the bill the Committee on Merchant Marine and Fisheries has reported to the House. It reauthorizes the Endangered Species Act for 5 years. It improves and strengthens this important act, and I believe the House should pass this bill without any weakening amendments.

This act goes back to 1973. It was passed then in response to a concern that various species of fish, wildlife, and plants had become or were in danger of becoming extinct as a consequence of human activity. That concern is and should still be with us.

Under the act, the protection is provided to species listed as endangered or threatened, and I have to say coming from the Northwest, and having traveled down the Skagit River in January, and looked up for the bald eagle, we from that part of the country are particularly appreciative of the protection given to that species.

The listing carries with it a broad range of protective measures, the most wide ranging, effective, and controversial of which requires Federal agencies to ensure that any project does not further endanger a listed species. Is that too much?

We have heard the horror stories about a project stopped by some small creature no one has ever heard of. But the truth is, those cases are very, very rare.

What this law has taught us to do as a society is to look for the alternative or modification which enables that project and that creature to coexist. We get the benefit of both the project and the benefit of preserving for the next generation the plant or animal.

Today we are going to be asked to vote on several amendments which propose to weaken the act. And as a member of the subcommittee and the full committee, I participated in the hearings and the markup sessions which led to this bill. It is a good bill. It is environmentally responsible. It should be passed.

Mr. Chairman, I urge my colleagues to defeat the weakening amendments and support the committee bill.

Mr. LENT. Mr. Chairman, I yield 5 minutes to the gentleman from Nebraska [Mr. BEREUTER].

Mr. BEREUTER. Mr. Chairman, I hope to take a few minutes to explain a particular situation that involves the Missouri River and a number of States adjacent to the Missouri River, and perhaps then have a colloquy with the leadership of the committee here so that it will not be necessary for me to offer an amendment.

The studies or demonstration effort I want to talk about is currently being conducted by the Corps of Engineers regarding the nesting habitat and nesting preservation for two endangered species of birds, the piping plover and the least tern, on a stretch of the Missouri River between Gavins Point Dam near Yankton, SD, the last of the mainstream dams on the Missouri River, and South Sioux City, NE.

I want to say first of all I strongly support this legislation, the Endangered Species Act, and I am certainly supportive of preserving these two species.

I also support the preservation study and implementing demonstration projects by the corps on the Missouri River. There are many responsibilities that the Corps of Engineers have in managing water flows in the Missouri River. It is a very tough job they have to pursue. But while they have a supportive responsibility as does any Federal agency, in carrying out the Endangered Species Act, they of course have a primary responsibility for protecting people and property from flooding and for providing stable navigation on the Missouri River.

Because of the unusual flooding which has occurred downstream on the Missouri River in recent years, I have reason to believe that the Corps of Engineers has been regulating the flow of water from the Gavins Point Dam to accommodate certain nesting enhancement and preservation studies of the piping plover and the least tern, in a fashion that, I believe, inadvertently increases the prospect for downstream flooding on the Missouri River.

My colleague, the gentleman from Missouri [Mr. COLEMAN] and my colleague, the gentleman from Iowa [Mr. LIGHTFOOT] and I have cosponsored a meeting in Nebraska City, NE, trying to deal with interests of downstream and farmers who are continually having difficulties relating to flooding, and of course we have also been told of problems relating to the flooding of sanitary treatment facilities, a situation which is quite dangerous.

I believe it is possible to accommodate these interests. We are having a confrontation developing between people who believe it comes down to a choice between preserving birds and protecting the safety and public health of men. That is not the case. I believe that an adjustment in the way the corps is implementing this nesting demonstration study, and assurances for related consultation can avoid problems between the welfare of birds and men.

My amendment provides guidance to the Corps of Engineers which would:

First, instruct the Corps of Engineers that in carrying out any study of the nesting habitat and nesting preservation activities for the piping plover and the least tern, the Corps of Engineers should regulate the flow of water from the Gavins Point Dam in such a manner that it does not increase flooding, or the likelihood of flooding which could risk harm to the life or property of the people downstream on the Missouri River.

Second, instruct the Corps of Engineers that it take every step possible to conduct its study of the nesting habitat and nesting preservation activities for the piping plover and the least tern on stretches of the Missouri River above the Gavins Point Dam.

Third, instruct the Corps of Engineers to consult with riparian organizations and interests along the Missouri River on a regular and frequent basis to inform and discuss with them of the actual, desirable and projected releases of water from the Gavins Point Dam.

In no way is this amendment meant to impede any study of the piping plover and the least tern. I support the preservation and study of these birds which are listed species under the Endangered Species Act of 1973.

However, with regard to the operation of the Gavins Point Dam, I strongly believe the Corps of Engineers should conduct its nesting and preservation studies in a manner that first and foremost insures that people and property downstream on the Missouri River are not threatened or endangered by flooding. The location of the study below the Gavins Point Dam, and the failure of the Corps of Engineers to adjust upward early water releases from the dam to accommodate much lower water releases later during the nesting season followed by necessarily larger post-nesting period releases should not cause or contribute to flooding on the Missouri River.

So as the distinguished leadership knows, my amendment has three parts to it. I would be quite satisfied if committee report language would take the first element in the proposed amendment, as printed in the RECORD, which looks at the flood-water release patterns, and the consultation arrangements for endangered species matters with organizations and interests described in the third element for the report language. Then I would be willing to leave it up to the discretion of the committee leadership, consulting with their resources, including the Fish and Wildlife Service, whether or not they want to accept the second element. I would be interested in seeing if there are any comments on my suggestions.

Mr. STUDDS. Mr. Chairman, will the gentleman yield?

Mr. BEREUTER. I am pleased to yield to the distinguished gentleman from Massachusetts [Mr. STUDDS], the chairman of the subcommittee.

Mr. STUDDS. Mr. Chairman, I thank the gentleman for yielding. I think I understand his concerns, and their source.

Let me say to the gentleman at this point that first of all I appreciate his willingness to work with us and not to burden the process at this point with another amendment. I would be more than agreeable, and I know I speak for the chairman of the full committee and our members and other members, to work with the gentleman and the Fish and Wildlife Service and the Corps of Engineers, and to the extent that committee jurisdiction may require, with colleagues in the Public Works and Transportation Committee as well, to ensure that the corps examines modifications on its releases of water from the Gavins Point Dam in order to minimize damage to life and property downstream.

Mr. BEREUTER. I thank the gentleman very much for that statement and for his assurances. I certainly think that any consultation language under the third element of the proposed amendment would have to be related to the Endangered Species Act so that there would not be a committee or agency jurisdictional problem. Furthermore, I do not want to do anything that sets an unfortunate statutory precedent. That is why I am certainly willing to accommodate to such report language and avoid statutory language.

Mr. Chairman, I would be pleased to yield to the distinguished gentleman from New York [Mr. LENT] if he has any reactions to the report language suggestions I have made.

Mr. LENT. Mr. Chairman, will the gentleman yield?

Mr. BEREUTER. I yield to the gentleman from New York.

Mr. LENT. Mr. Chairman, I would concur in the remarks of the gentleman from Massachusetts [Mr. STUDDS].

Mr. BEREUTER. I thank the gentleman from New York and the gentleman from Massachusetts for those assurances. I will thus not find it necessary to offer an amendment.

Mr. JONES of North Carolina. Mr. Chairman, I yield 2 minutes to the gentleman from Delaware [Mr. CARPER].

Mr. CARPER. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I rise today in strong support of this bill to reauthorize the Endangered Species Act for the next 5 years. Contrary to the arguments of the act's detractors, the bill has an effective tool in the necessary battle to protect endangered and threatened species.

In a handful of cases, the clash between development and the act has indeed been dramatic. As a rule, however, that is not the case. In the vast majority of instances, the best interests of developers and the best interests of endangered species have indeed been met.

In short, development and the preservation of the species can and usually are compatible.

Through the years, the endangered species program has been fine-tuned. Responsible rules have been put into place. A system has been created that allows technical people to make technical decisions, decisions about what animals should and should not be on the list, for example.

This bill comes to us under an open rule. A number of our colleagues will offer amendments to this act. We should carefully consider what they have to say.

Having said that, though, I would caution Members not to rush to judgment on amendments that may be offered to this bill to delete one animal or another. We have established the rules to handle these technical issues. Let us consider very carefully any requests to second-guess the decisions our technical people have made. Previous Congresses have been reluctant to do that second-guessing. As a result, no species have ever been added to or deleted from the endangered-species list by Congress.

We have a good bill here. I hope we can stick with it, and let us carefully weigh the impact of any amendments to this bill that will be offered today.

In conclusion, I again urge the adoption of this legislation.

Mr. LENT. Mr. Chairman, I yield 2 minutes to the gentleman from Virginia [Mr. PARRIS].

Mr. PARRIS. Mr. Chairman, I take this time again on this legislation to suggest to my colleagues that all of us want to support this bill. I think it is a good bill. I think clearly the endangered-species concept is a valuable one to preserve and protect.

But I am troubled again, Mr. Chairman, by section 3 of this bill. I might say to the chairman of the committee that my proposed amendment, which is gaining support by the minute, might not be necessary if in fact we looked carefully at that section, section 3 of this legislation.

What that section does, Mr. Chairman, for the very first time is extend the protections of the Endangered Species Act to plants, not animals, but to plant life that is found on private property.

I have created a scenario that I have taken to the staff since the discussion of the rule.

□ 1330

If in fact any citizen of this Nation is driving his or her car down the highway in any State—let us take Montana, for instance—and you stop at a roadside picnic area and you look across the fence at a private property, and here is this very attractive purple flower, the chances are you do not know this purple flower from any other purple flower; I certainly do not, and I suggest a majority of Americans do not either. Let us say you reach across the fence or perhaps crawl under the fence and pick the flower. You have now maliciously and criminally destroyed an endangered species flower on private property. If you know that it is an endangered species flower, that will get you up to 1 year in jail, and if you do not know it is an endangered species flower, you will only get a fine of $500 as a criminal or civil penalty.

Mr. Chairman, that disturbs me somewhat. There should be, and I think there is, in most criminal statutes two fundamental elements, and those are intent and knowledge.

In my scenario, I intended to pick the flower. That is the willful and malicious part of it under this law, but I did not have knowledge that it is endangered. I think that is a deficiency in the bill, and it should be corrected if we are going to adopt it.

Mr. JONES of North Carolina. Mr. Chairman, I yield 1 minute to the gentleman from Washington [Mr. LOWRY].

Mr. LOWRY of Washington. Mr. Chairman, I rise to compliment the distinguished committee chairman, the subcommittee chairman, and those on the ranking minority side for an excellent job on this bill. We are here, of course, reauthorizing a real success story, a bipartisan approach of our Government that has gone forward to really protect something that I think all Americans want, and that is protecting that part of our country which is such a very important part, the important species of wildlife that are involved in the Endangered Species Act.

Mr. Chairman, I rise in strong support of this act and in opposition to amendments that would set a terrible precedent to the Endangered Species Act by having Congress step forward and reverse or manipulate that process the biological scientists and experts have determined as to which species should be on the endangered species list. If we pass some amendments like that to be offered by our distinguished friend and colleague, the gentleman from Texas, we would really be setting a terrible precedent for the Endangered Species Act. As it is, this act does give a 2-year delay on the implementation of the NMFS regulations.

Mr. Chairman, at the end of that time, we need to protect the sea turtles.

Mr. LENT. Mr. Chairman, I yield the balance of my time to the gentleman from South Carolina [Mr. RAVENEL].

The CHAIRMAN. The gentleman from South Carolina [Mr. RAVENEL] is recognized for 3½ minutes.

Mr. RAVENEL. Mr. Chairman, when I was in the State Senate in South Carolina, I was the State senate's designee to the Heritage Trust which administered the endangered species money that is provided in this bill. Of all the things that I enjoyed doing back home in our general assembly, the one I enjoyed was serving on the Heritage Trust which comes under the aegis of our Wildlife Department.

When the funds started flowing to South Carolina from up here in Washington, our eagles were down to nine nesting pairs, our red-cockaded woodpecker was in desperate plights, we did not know there were woodchucks nesting in the State. It was seldom that we ever saw an alligator. Also the swallow-tailed kites were very much down in their numbers.

Then, when the money came in, we were able to employ the special agents and do the special things that protect these endangered species. I am happy to report now that last year we had 39 nesting pairs of eagles in South Carolina. We have more eagles in South Carolina than in any other State in the Union east of the Mississippi River. The red-cockaded woodpecker in the Francis Marion National Forest has been stabilized. We discovered woodcocks nesting in Colleton County, which is in my district. That is just a marvelous, marvelous thing to have discovered. The swallow-tailed kites that nest up and down the Santee River are slowly increasing in numbers and we are up to our ears in alligators, so much so that in fact we are having problems with them on the golf courses and we are having to move them to other places.

Mr. Chairman, I strongly support this legislation, and I certainly hope that Members will not support any of the amendments.

As for the species that are having the most problems now, I will get into that later on when the amendment to be offered by my most honored friend, the gentleman from Texas [Mr. ORTIZ], is brought up, and I refer to the loggerhead turtle. Probably very few Members have ever seen a loggerhead turtle. When I have more time in these proceedings, I will tell the Members something about them, the problems they have had, and how their situation has been improved by the turtle excluder devices which the shrimpers along our entire 200-mile coast have been using.

Mr. JONES of North Carolina. Mr. Chairman, I yield 2 minutes to the gentleman from New Jersey [Mr. HUGHES].

Mr. HUGHES. Mr. Chairman, first I want to congratulate our distinguished chairman, the gentleman from North Carolina [Mr. JONES], for his yeoman work. He and the gentleman from Massachusetts [Mr. STUDDS] have done an outstanding job, as has our colleague, the gentleman from New York [Mr. LENT], who is the ranking minority member.

Mr. Chairman, I rise in support of H.R. 1467. The Endangered Species Act of 1973 is one of our country's most effective conservation laws. It was passed in response to a growing concern about the number of species of fish, wildlife, and plants that had become or were in danger of becoming extinct as a consequence of man's activities.

Indeed, we were essentially oblivious to the fragile balance so essential to our environment and ecosystem. This act was a landmark effort to try to address the great damage that was done to the fish, wildlife, and critical habitat.

The act is administered by the U.S. Fish and Wildlife Service and the National Marine Fisheries Service. The act provides protection to species listed as endangered or threatened under section 4. The listing carries with it a broad range of protective measures.

One important measure requires that each Federal agency, in consultation with the appropriate secretary, insure that any action authorized, funded or carried out by that agency is not likely to jeopardize a listed specie or result in an adverse impact on the habitat. Other provisions prohibit the taking of any endangered species and virtually all commerce in such species.

H.R. 1467 reauthorizes the Endangered Species Act for 5 years and authorizes $56 million in fiscal year 1988, increasing to $65 million in fiscal year 1992, based upon a 4.3-percent cost-of-living price index. The bill also increases the penalties under the act in order to account for inflation.

Furthermore, the bill provides for additional protection and improved law enforcement for endangered and threatened plants. The bill also directs the U.S. Fish and Wildlife Service to monitor species which have been identified as candidates for listing as endangered or threatened.

I am aware of concern that has been raised regarding the sale of scrimshaw. H.R. 1467 allows for the continued sale of existing inventories of scrimshaw that were acquired only before the passage of the Endangered Species Act.

H.R. 1467 is a good bill and it is worthy of support. I urge my colleagues to support this legislation.

Mr. LIGHTFOOT. Mr. Chairman, I want to join the gentleman from Nebraska [Mr. BEREUTER] in his remarks regarding the regulation of flowage from Gavins Point Dam on the Missouri River.

The section of the Missouri River to which the gentleman refers borders the entire western side of my congressional district in Iowa. Flooding in this area along the Missouri River has become increasingly severe in recent years, causing hundreds of thousands of dollars in property damage each year.

The gentleman from Nebraska and I, along with other Members from districts bordering the Missouri River, have been working with our constituents and the Army Corps of Engineers in an attempt to determine how this flooding could be minimized through better flowage regulation. As a result of these discussions, it became clear that it would help to increase flows from Gavins Point Dam during the late fall or winter months. This would increase the dam's capacity to control the snow melt and heavy rains that occur during the spring months, making it easier to control flowage during this critical period. This approach appeared to be the best way to balance the various interests along the river, including recreation, barge transportation, protection of wildlife, and flood problems affecting property owners and agricultural interests.

When presented with this plan, however, the corps stated it could not accept it—primarily because of two birds on the endangered species list, the least tern and the piping plover. As a result of the Endangered Species Act, the sole consideration has become whether or not water levels will encourage the birds to nest in areas where they might be flooded later on. In fact, last spring the southwest corner of the district was struck by a 25-year flood that resulted in a Presidential disaster declaration for a four-county area. Despite the millions of dollars that were being lost, caused by this flood, the corps had to continue letting the water rage down the river at high flowage rates so that these two birds would not be encouraged to nest in the wrong area on the river's sand bars.

The amendment originally proposed by the gentleman from Nebraska is aimed at restoring some common sense to our priorities in regulating this flowage. The amendment preserves the Endangered Species Act's priority on protecting the least tern and the piping plover—it simply requires that they regulate flowage in a way that will accommodate other interests.

Mr. Chairman, Mr. BEREUTER'S proposal is a reasonable approach to solving this problem and, the amendment having been withdrawn, I join him in his request to have this matter addressed in report language.

Mr. DE LA GARZA. Mr. Chairman, the Endangered Species Act is an important piece of legislation which has served to protect the diversity of this Nation's abundant natural resources. Many years ago when this Chamber first approved the act, it was with the realization that animal life in many of its forms could no longer flourish nor survive merely on its own fortunes. Our intervention was necessary—and this remains so.

The Endangered Species Act reflects the degree to which this Nation has become enlightened about the role of plants and animals in contributing to the stability of our natural resources. It is an important conservation measure which warrants the continued support of this body.

I would like to address two issues that have arisen regarding the reauthorization of the Endangered Species Act. They are a new pesticide labeling program being implemented by the Environmental Protection Agency to bring the pesticide program into compliance with the Endangered Species Act and the required used of turtle excluder devices [TED's] by shrimpers in the Gulf of Mexico.

EPA is now attempting to bring its pesticide program into compliance with the Endangered Species Act by requiring changes in the labels of certain pesticides that may be harming endangered species. Labels on pesticides whose use may harm a federally listed endangered species will be modified to include information on the counties in which the product's use would be restricted to avoid affecting the species of plant or animal. The label would direct the pesticide user to refer to additional information on the specific areas where the pesticide's use would be restricted in the county. Information, including maps specifying where the species is located, would be available where the pesticides are purchased.

EPA is reviewing the pesticides in groups or clusters according to their use and has identified certain pesticides used on agricultural crops, range and pasturelands, forests, and mosquito larvacides that would be affected. These clusters were chosen because the majority of endangered species jeopardy opinions received by EPA are for pesticides associated with these uses. Approximately 900 counties nationwide are likely to be affected by this program. Texas is one of four states that has more than 50 counties affected.

When this program was first announced, there was a great deal of confusion and frustration, particularly on the part of farmers and forest landowners whose operations were located where endangered species appeared to reside. However, during the past few months, we have made great progress in clarifying how and when the program will be implemented and in obtaining assurances that EPA will work with USDA and the Fish and Wildlife Service to conduct this program in a reasonable and efficient manner.

EPA had intended to fully implement this program effective February 1, 1988, however the agency has now backed off this target date and is instead requesting that affected States provide EPA with a timetable for implementing the program in their States. In several meetings with officials of EPA, USDA, and the Fish and Wildlife Service, I have received assurances that the States will be afforded the opportunity to develop their own endangered species/pesticides programs and that the Federal agencies affected will coordinate their efforts to assist the States and individuals in complying with the Endangered Species Act. In fact, at my insistence, these officials briefed concerned members of the Committee on Agriculture and the Committee on Merchant Marine and Fisheries on how they would work together to put this program in place.

As a result of that meeting, high-level discussions with senior policy officials of the Fish and Wildlife Service, USDA, and EPA are continuing. I was just informed yesterday that EPA expects that significantly less that 50 percent of the planned program will be ready for field implementation in 1988. In fact, a decision may be made to place a complete hold on the program for 1988.

EPA has also committed that they will not implement any portion of the program that has problems, particularly regarding the accuracy of county maps designating areas where pesticide uses may be restricted. EPA continues to work with interested and affected parties to work out details of the program.

At present, the Fish and Wildlife Service has convened a staff group to resolve problems and inconsistencies with the biological opinions related to pesticide impacts on endangered species. This is to ensure that the information EPA is working with is consistent and scientifically sound.

Working with USDA, EPA is also examining alternatives to prohibition of the use of certain pesticides in areas containing endangered species. This effort is intended to minimize the economic impacts of program implementation on agricultural producers—a concern that I and a number of my colleagues have raised with EPA on a number of occasions. I am extremely pleased to see that progress is being made in this regard.

In order to expand public understanding of the endangered species pesticide labeling program, EPA is also expanding its public outreach program and has committed to publish a Federal Register Notice by the end of this year to invite public comment and to announce a public meeting on the program to be held in Washington, DC. I am encouraging EPA to expand this effort to include a series of public meetings in various regional offices throughout the country so that those who may be affected can have a chance to voice their concerns.

Mr. Chairman, I am pleased with the progress that has been made to slow implementation of this program down to a pace that will ensure that EPA can fulfill its responsibilities for protecting endangered species while doing so in a way that will minimize any negative effects on agricultural producers.

The other issue I wish to address today is particularly contentious—the National Oceanic and Atmospheric Administration requirement that shrimp trawlers use turtle excluder devices [TED's] and in this connection I would wish to go back a number of years to explain my own perspective.

Although the plight of endangered sea turtles has come quickly to the forefront as a major conservation question of 1987, my personal involvement extends back many years—to February 1984.

At that time, the administration had requested elimination of a very modest budget item for the National Marine Fisheries Service [NMFS]. The appropriation in question amounted to just less than $1 million in the NMFS budget used to operate a unique Head Start Program with endangered Kemps Ridley sea turtles.

In early 1984, one constituent of mine in south Texas wrote of her concern for sea turtle preservation, and that is when I began to examine the NMFS budget figures which the administration had recommended.

In conjunction with the normal appropriations processes, I worked as best I could to advocate on behalf of continued funding for this turtle program in Galveston, TX, and we turned the tables around on the administration and ever since 1984 the tiny budget for turtle headstarting has been secured.

During late 1984 we visited the NMFS laboratory in Galveston where each year several thousand Kemps Ridley turtles are given the opportunity of reaching maturity in controlled captivity before being released into the Gulf of Mexico. I have for nearly 4 years maintained close contact with both NMFS and the private Houston support group for the Head Start Program, an organization called HEART [Help Endangered Animals—Ridley Turtles].

This cooperative NMFS-HEART Program to acquire Ridley eggs from Rancho Nuevo in Mexico and to headstart the turtle hatchings in Galveston represents the best current hope for preservation of Kemps Ridley turtles which are among the most endangered of the several sea turtle species. In my own thinking there is no conflicting issue here—the sea turtles are an integral part of the marine life system and they must, they will, survive. If they are lost as a species, they are lost forever.

Perhaps it is this fear of losing another precious form of life that has given rise to the current debate over the role of the shrimp trawl in sea turtle mortality figures.

We are, in effect, debating today the future of two, not one, endangered species. The Nation's shrimp harvesting industry has been facing economic troubles during this decade as it attempts to compete with foreign imports, fuel oil costs, and exorbitant marine insurance bills—just to name a few of the factors hitting hard on the shrimpers.

It is my feeling that sea turtle preservation and shrimp industry success are not conflicting objectives—we do not need to choose between the two in our actions this day.

We have before us a plan to delay the use of TED's on shrimp trawls and those who adamantly oppose this delay are those who believe that shrimpers are responsible for significant turtle mortality. This word "significant" is key to our work today. The yeas and nays may hinge on the extent to which the mortality data can convince us beyond any shadow of doubt.

This Congressman recognizes the conflicting numbers on net captures and mortality that have been issued, and in this connection a delay in the use of the TED which has been suggested today might give our marine science community and the relevant Federal regulators the opportunity to issue forth a set of statistics that can win the confidence of all connected with sea turtle preservation and shrimp industry health.

We are aware of many factors that contribute to the decline of sea turtles: habitat destruction, poaching on turtle nesting beaches, oil drilling platform removal by dynamite—and others. It is important to realize that shrimpers should not be singled out as the principal cause of sea turtle decline. The data are ambivalent on this question, and those who have collected this data readily avow the use of statistical extrapolation in reaching certain conclusions.

As I mentioned to NOAA in my written commentary on the TED proposal, we simply cannot wholeheartedly support something based not on hard numbers, but only on mathematical projections.

Our marine science community can easily make a case for habitat destruction as the primary cause of turtle and other marine life mortality. So in the fall of this year, I vigorously supported H.R. 940 to prohibit plastics dumping in the territorial waters of the United States as a way of addressing this issue of habitat degradation.

It is a beginning. We will do more in that vein. But I ask this Chamber to assist the other endangered species, the shrimpers, so that they may continue to earn their livelihood and put food upon our tables. The sea is their livelihood. It is not in the nature of those who live on the sea to wish her any abuse.

The shrimpers do not want to snag turtles in their nets—and I want to very clearly say that my own long association with the Texas shrimp industry has proven to me that these men and women have a full understanding of the critical need to preserve the marine habitat as a way of preserving their own livelihood.

The proposed delay in TED usage has as its rationale the need to develop a consensus on how to address all factors that contribute to sea turtle mortality. Let us avoid the temptation to lay the first blame at the doorstep of those whose very incomes and fortunes depend on the health of the oceans and the creatures which inhabit them. It is a temptation I would hope we resist.

The purposes of the Endangered Species Act will be better served by a more concerned effort at developing sea turtle statistics that can be supported by all involved. The purposes of the act will not be wisely served by asking our shrimpers to do something that is clothed in numerical controversy, uncertainty and equivocation. We can do better than this for both the shrimper and the turtle. It behooves us to determine more precisely what it is that will directly affect the future of the sea turtle whose survival is in all our interests.

Mr. GREEN. Mr. Chairman, I rise to speak in opposition to the Ortiz amendment to H.R. 1467. This amendment postpones unnecessarily the implementation of regulations requiring the use of turtle excluder devices [TED] in the offshore areas of the gulf. This amendment undermines one of the primary functions of the Endangered Species Act—to prevent the killing of endangered species. The use of TED's provides a practical and reasonable solution to the incidental killing of endangered sea turtles without adversely impacting the shrimping industry.

There is no question that sea turtles will benefit significantly from the use of TED's. The National Marine Fisheries Service estimates that more than 47,000 turtles are captured in the nets of U.S. shrimpers annually, of which more than 11,000 drown. The five certified TED designs all reduce the capture of sea turtles in shrimp nets by 97 percent.

TED's have been in use, as required by regulations, in the Cape Canaveral area of Florida since October 1. They have been an unqualified success. Shrimp catches have not been diminished, fishermen are using TED's without safety problems and, most importantly, turtles are no longer being caught accidentally and drowned.

Despite the success of TED use in Florida, much misinformation about TED's continues to be advanced. The facts, however, speak for themselves. After thousands of hours of testing aboard commercial shrimp boats in both the Gulf of Mexico and the Atlantic, there is no evidence to suggest that the use of TED's reduces shrimp catches. In fact, a recent test conducted by the Mississippi Sea Grant Advisory Service determined that TED equipped nets caught 7.2 percent more shrimp than nets without TED's.

TED's are not expensive. The soft TED popular with shrimpers in the Cape Canaveral area costs less than $50. In addition, TED use has the incidental effect of reducing fuel costs. By reducing bycatch such as sharks, stingrays, jellyfish, and commercially and recreationally valuable finfish, net drag is decreased. This reduced drag lowers fuel costs and results in a better quality shrimp catch because the shrimp are not battered by the bycatch.

There have been complaints that the use of TED's will increase insurance costs. there is no evidence, however, to support this claim. The regulations permit fishermen to choose from among five different TED designs. Four of these approved designs were developed by fishermen themselves and were used off the coasts of Louisiana, Texas, and the Carolinas well before the promulgation of regulations and without affecting insurance premiums. There is no reason to suppose that the use of these same devices now will increase insurance costs.

Mr. Chairman, by refusing to postpone the implementation of TED regulations, Congress will show the American public that it is serious about permitting the implementation of substantive measures designed to protect endangered species. The price paid to save the lives of 11,000 turtles per year is virtually nonexistent. I urge my colleagues to join me in defeating this unnecessary amendment.

Mr. LENT. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. JONES of North Carolina. Mr. Chairman, I yield such time as he may consume to the gentleman from Georgia [Mr. THOMAS].

Mr. THOMAS of Georgia. Mr. Chairman, I rise in support of H.R. 1467.

Mr. Chairman, I would like to read from the House's own report on the Endangered Species Act produced in 1973, and I would suggest to Members here on the floor and those in their offices to take just a moment to listen to this, because as well as anything I have read or could imagine, what I am going to read spells out the importance of this piece of legislation and points to all of us as living human beings the responsibility that we bear and must bear in the preservation of the resources of this planet.

Throughout the history of the world, as we know it, species of animals and plants have appeared changed and disappeared. The disappearance of a species is by no means a current phenomenon, nor is it an occasion for terror or panic.

It is however, at the same time an occasion for caution, for self-searching and for understanding. Man's presence on the Earth is relatively recent, and his effective domination over the world's life support systems has taken place within a few short generations. Our ability to destroy, or almost destroy, all intelligent life on the planet became apparent only in this generation. A certain humility, and a sense of urgency, seem indicated.

From all evidence available to us, it appears that the pace of disappearance of species is accelerating. As we homogenize the habitats in which these plants and animals evolved, and as we increase the pressure for products that they are in a position to supply (usually unwillingly) we threaten their—and our—genetic heritage.

The value of this genetic heritage is, quite literally, incalculable. The blue whale evolved over a long period of time and the combination of factors in its background has produced a certain code, found in its genes, which enables it to reproduce itself, rather than producing sperm whales, dolphins or goldfish. If the blue whale, the largest animal in the history of this world, were to disappear, it would not be possible to replace it—it would simply be gone. Irretrievably. Forever.

One might analogize the case to one in which one copy of all the books ever printed were gathered together in one huge building. The position in which we find ourselves today is that of custodians of this building, and our choice is between exercising our responsibilities and ignoring them. If these theoretical custodians were to permit a madman to enter, build a bonfire and throw in at random any volume he selected, one might with justification suggest that others be found, or at least that they be censored and told to be more careful in the future. So it is with mankind. Like it or not, we are our brother's keepers, and we are also keepers of the rest of the house.

From the most narrow possible point of view, it is in the best interest of mankind to minimize the losses of genetic variations. The reason is simple: they are potential resources. They are keys to puzzles which we cannot solve, and may provide answers to questions which we have not yet learned to ask.

To take a homely, but apt, example: one of the critical chemicals in the regulation of ovulation in humans was found in a common plant. Once discovered, and analyzed, humans could duplicate it synthetically, but had it never existed—or had it been driven out of existence before we knew its potentialities—we would never have tried to synthesize it in the first place.

Who knows, or can say, what potential cures for cancer or other scourges, present of future, may lie locked up in the structures of plants which may yet be undiscovered, much less analyzed? More to the point, who is prepared to risk being those potential cures by eliminating those plants for all time? Sheer self-interest impels us to be cautious.

Mr. Chairman, there are obviously streets of deadends for evolution, and species do pass by nature's own judgment, but where we must bear the responsibility is that the passing of many of the species is mankind's doing himself. Here is where the great responsibility of that decision rests, and it rests within this body.

Mr. Chairman, I encourage my friends to support this legislation, and I support my chairman and commend him for his great work in this effort.

Mr. Chairman, I would like to take this opportunity to speak on behalf of H.R. 1467, the reauthorization of the Endangered Species Act.

The Endangered Species Act of 1973 is important in that it is perhaps the world's strongest law providing for the protection of imperiled animal and plant species. The act was passed in response to a concern that far too many species of fish, wildlife, and plants had become, or were in danger of becoming, extinct as a result of man's development activities and economic growth.

When any ceases to exist, the potential of that species continuing to contribute to the intricate web of life on this planet vanishes. Such a loss cannot be overstated.

One only has to look to the bipartisan list of supporters of this bill to see how important this matter is. H.R. 1467 was introduced by, and enjoys the support of, both the chairmen and ranking minority members of the full committee and subcommittees that have jurisdiction over the issue.

The ultimate goal of all activities under the act is, of course, to restore listed species to the point where protective measures are no longer needed for their survival. Unlike so many bills that are passed in Congress, we have already seen some of the goals of this legislation realized, such as the recovery and delisting of the alligator, once considered endangered.

The bill is, in essence, a life raft for the nearly 1,000 species that are still afloat today despite grave threats to their survival.

Today, the process begins anew.

I join Chairman WALTER JONES and subcommittee Chairman GERRY STUDDS in supporting reauthorization of this bill. It is a straightforward bill that is not species-specific or overly burdened by special exemptions. This is a strong, clean bill, and it deserves our support.

Once in a long while we in the Congress have the opportunity to cast our vote on a measure that will have a powerful impact for the good of this Nation and world. This is one of those rare, fine opportunities. I urge my colleagues to vote "yes" for this bill and resist any efforts to weaken it.

Mr. STUDDS. Mr. Chairman, will the gentleman yield?

Mr. THOMAS of Georgia. I yield to the gentleman from Massachusetts.

Mr. STUDDS. Mr. Chairman, I simply want to commend the gentleman from his eloquence and for his hard work on this subject.

I know he has come here not feeling well himself to participate in this debate, given the importance he attaches to it.

To all Members, particularly when we get into the amending process and are greeted, as we perhaps inevitably will be, with some light hearted observations, as I have said in earlier remarks, making light-hearted fun of some strange sounding Latin names, I would at that point commend in particular the eloquent remarks of the gentleman from Georgia with respect to the humility called for when we approach the subject of this legislation.

Mr. THOMAS of Georgia. Mr. Chairman, I thank the subcommittee chairman.

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the committee amendment in the nature of a substitute now printed in the reported bill shall be considered as an original bill for the purpose of amendment, and each section shall be considered as having been read.

Further, an amendment striking lines 13 through 21 on page 4 of said substitute is considered as having been adopted.

The Clerk will now designate section 1.

The text of section 1 is as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DEFINITIONS.

Paragraph 15 of section 3 of the Endangered Species Act (16 U.S.C. 1532(15)) is amended by inserting "also" before "means the Secretary of Agriculture".

The CHAIRMAN. Are there any amendments to section 1?

If not, the Clerk will designate section 2.

The text of section 2 is as follows:

SEC. 2. LISTING.

(a) CANDIDATE SPECIES.—Subparagraph 4(b)(3)(C) of the Endangered Species Act of 1973 (16 U.S.C. 1533(b)(3)(C)) is amended by adding at the end thereof the following clause:

"(iii) The Secretary shall implement a system to monitor effectively the status of all species with respect to which a finding is made under subparagraph (B)(iii) and shall make prompt use of the authority under paragraph 7 of this Subsection to prevent a significant risk to the well being of any such species.".

□ 1345

AMENDMENT OFFERED BY MR. STENHOLM

Mr. STENHOLM. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. STENHOLM: Page 2, between lines 17 and 18, insert the following:

(b) EXCEPTION TO LISTING.—On or after the date of the enactment of this subsection, the species Nerodia harteri paucimaculata (Concho water snake) may not be considered to be an endangered species or a threatened species under the Endangered Species Act of 1973.

Mr. STENHOLM. Mr. Chairman, today I rise to introduce an amendment that addresses the human side of the Endangered Species Act, a side that I feel has been neglected up to this point. My amendment deals with just one aspect of the complications which result due to the narrow interpretation of this act, and the resulting disregard for the needs of our own citizens.

My amendment would delist from the threatened or endangered species list the species Nerodia Harteri Paucimaulata, better known—and with good reason—as the Concho River water snake. This move would release a local water district which I represent, the Colorado River Municipal Water District, from needless and oppressive requirements placed upon it by the U.S. Fish and Wildlife Department.

Before I continue, I would like to be on record as a supporter of our environment and of all the beautiful and wonderful plants and animals our good Lord placed on this Earth. I recognized the need for conservation and preservation of our natural resources. As a farmer who has worked with the soil, I know the importance of ecology and man's relationship with the environment. I am not here to dismantle a very carefully constructed piece of legislation. On the contrary, I believe if you'll listen to my presentation you will agree that this could be an even better law that protects both the environment and our citizens.

Unfortunately, given the way the act is currently interpreted, only the environment is considered when making a decision, even if it drastically and negatively affects our citizens and communities. As the representative body of the people, shouldn't the Congress consider their needs also? Don't we look out for our citizens? I want to. I'm certain most of you want to, too.

I am concerned that—despite its good intentions—this act's priorities are currently askew. I am not opposed to legislation that protects the environment. I am opposed to legislation that is implemented without proper research, consultation, and due process. Current law acts under a very dangerous premise: You are guilty until proven innocent. If a listing is nominated, even without sufficient proof, then we the people become the offenders. Due process in this country guarantees rights to the innocent until proven otherwise. Please let me cite my personal, frustrating case as a specific example. Some of you may be acquainted with the Concho snake episode. If not, simply substitute the snake with the snail darter and Tellico Dam. Remember that Federal fiasco of 10 years ago? We still haven't lived that down.

Out of nowhere, the Federal Government intervenes and claims that the habitat of an obscure animal happens to be located the same place a badly needed water project is scheduled to be built. The project is put on hold because once a species is placed on the list, all other considerations go out the window. The entire basis for policy determination reverts to the well-being of the supposed, endangered species, no matter how much—or really how little—research has been done on the status of that species.

So the project is delayed. The benefits of the new water facility are prolonged. Construction costs go up. Because of this edict, the alleged endangered breed get immediate priority. In the meantime, someone actually takes a pencil and paper and starts looking and counting the species. And what do you know? Lo and behold, the animal pops up here and there. It is not only found in one river, but two, then three, and so forth. It is soon evident that the species isn't endangered, it is thriving.

Sound familiar? Well, folks, the scenario I just recounted wasn't the snail darter's of a decade ago. It is the scene involving the Concho snake and it is happening in my district right now. Some people like sequels. If you're one of them, then welcome to Tellico Dam II. To me the whole thing has been more of a horror movie.

In my case, the project in question is the Stacy Reservoir, which will someday serve the water needs of 500,000 people in west Texas, where water is already a scarce commodity. The Colorado River Municipal Water District began its attempt to build Stacy Dam 10 years ago. The biggest stumbling block was acquiring a permit to begin construction because of the purported scarcity of this snake.

Because of the way the law is written, every decision was based on the assumption that this slimy reptile was endangered. The water district was forced into agreement protecting this snake as its only means of gaining that construction permit. It agreed to hire a herpetologist and build costly, alternative habitats. It now has to spend

$3.7 million over budget to protect a snake.

But you know what? This summer the snake population was actually counted. Its habitat was actually researched. And what we have found is that the population of this snake isn't vanishing. It's being found in more abundance than ever. It's being found 100 river-miles away. It's being found in areas where the Government said it could not reproduce.

The Concho snake should never have been listed. It should have never been listed. That water district should never have been forced to spend millions to comply with Federal regulations that had no substance. This is a major flaw in the act. There must be a means, like the Roberts amendment we will consider later, that implements legitimate measures before a listing takes place.

Because of the act's current narrow interpretation, no one has to prove the Government's claim that a species is endangered. This mandate goes out without factual basis. There is no reason for this. It's because of actions like these, and examples like Stacy and Tellico Dam, that this act has a credibility problem. Is it any wonder that people out there question what we do in Washington? In our overzealousness to be good, to protect, we sometimes act without thinking.

This project could have been a textbook example of meeting the future water needs of this country which, I warn, will affect more and more of you in years to come. It could have been a model for other communities to follow. Here we had an independent agency acting to meet a regional problem without the help of Government grants or Federal hand outs.

I am very proud of the folks in Big Spring, Abilene, San Angelo, Ballinger, and Coleman. They took the initiative to help themselves. We need more of that independent spirit if we are ever going to stem Federal spending and balance the budget. But the Federal Government just couldn't resist getting involved. They had to intervene. Enter legislation and bureaucratic guidelines; exit the fine determination of these people. I just can't agree with this happening.

I know my colleagues on the other side of this issue will claim that after the Tellico Dam incident, provisions were made to correct this problem. If this is so, why am I here? They will say a committee was formed 10 years ago to review such cases and that it does a competent job. But if that's the case, why are we saving snakes that don't need saving. Is this competent? We don't need another committee, we need a better benchmark to begin enforcement of this law.

Do you think a committee of citizens, taken from anywhere in this country, would have difficulty deciding which should take priority—people or reptiles? I would say in most cases, people are less contemptible than snakes. Although, I'll admit right now, I would have a tough time with that question if these bureaucrats were involved.

Why don't we inject some common sense into our laws? We need someone to prove that a species is threatened or endangered before it is listed.

The CHAIRMAN. The time of the gentleman from Texas [Mr. STENHOLM] has expired.

(On request of Mr. JONES of North Carolina, and by unanimous consent, Mr. STENHOLM was allowed to proceed for 2 additional minutes.)

Mr. STENHOLM. Mr. Chairman, let us have a basis for action. Is that too much to ask? We need to research and study before we burden our people with environmental regulations and unnecessarily push millions of dollars unnecessarily onto the backs of our taxpayers. It is painfully evident that this law does not require the Government to do its homework.

This amendment will not weaken the Endangered Species Act, as some will claim. Our whole process allows us to protect people, not just snakes. An injustice was done and needs to be rectified. I ask my colleagues to please join me in bringing some fairness and common sense to this issue by voting "yes."

Mr. STUDDS. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I do not wish to discuss the particular snake in question, not having, to my great relief, ever met it, but I would like to address a general observation or two, as I did earlier in response to the gentleman's amendment.

This is the first of what will in all likelihood be a series of proposals to delist, to remove from the endangered or threatened list, specific species.

Let me suggest to Members that regardless of the creature involved and regardless of the merits or demerits of any particular case, that in my judgment it would be unwise and extreme for the Congress to adopt any such procedure.

In the first instance, it seems to me it would set an extraordinarily bad precedent. This Congress has never by statute removed a species from the endangered or threatened list during the 14 years of this act.

Second, Members should know that there are under the act administrative mechanisms for delisting species when that is in order or when people feel that it may be in order. Federal endangered species listing regulations currently allow anyone to file a petition to delist a species where it is claimed that that species is fully recovered, or where the original biological data supporting the delisting is alleged to have been in error.

The delisting of the American alligator referred to earlier in the debate is a case in point where such a petition was effective and was granted.

Members should know that endangered species delistings are best left—this is a judgment, but I think one most of us would share—are best left to the Federal agencies with the biological expertise to make those judgments. Determining the biological status of an endangered species is a complex and a highly technical scientific matter that ought to be left to the Federal fish and wildlife agencies with expertise in this area.

The Congress has been accused of many things, but one of the things that we have not, to my knowledge, yet been accused of is having expertise, and most particularly not scientific and biological expertise.

Members should also know that to the best of my knowledge none of the species which may be covered by an amendment of which we are aware for delisting have been the subject of a recent petition filed with the U.S. Fish and Wildlife Service to delist that species.

I think a strong case can be made that those who want the delisting of a particular species ought first to pursue existing regulatory administrative remedies before coming, if they come at all, to the Congress for relief.

For context finding, may I say to those who fear that at some point they may see a project somehow stalled here, a recent GAO study on the impact of this act on water resource development projects shows that out of 3,200 such consultations required under the act on separate proposed water projects, only six were actually stopped in the final analysis by this statute. So it seems to this Member that the act is working pretty much as the Congress intended that it work and I would urge with respect to the amendment offered by the gentleman from Texas and also for the same general reason with respect to amendments which may subsequently be offered concerning other species that we not for the first time involve ourselves in the business of by legislation and by statute making what ought to be clearly scientific and technical judgments.

Mr. STENHOLM. Mr. Chairman, I move to strike the last word.

The CHAIRMAN. Without objection, the gentleman from Texas is recognized for 5 minutes.

There was no objection.

Mr. STENHOLM. For the purpose of clarification, I would like to address the chairman of the Merchant Marine and Fisheries Committee if I may.

May I ask the gentleman from North Carolina [Mr. JONES], the residents of my district are being unduly burdened by the Endangered Species Act. As a result of a recent biological opinion by the Fish and Wildlife Service, the Colorado River Municipal Water District will have to spend $3.7 million to protect the Concho water snake. This was required in order to get the Army Corps of Engineers to issue the Federal permits needed to construct the Stacy Dam.

Since this action was taken, new information has come to light that indicates that the snake is more abundant than once thought. Given this new information, shouldn't the Fish and Wildlife Service reinitiate consultation with the Corps of Engineers on the costly requirements which were placed on the water district to protect the snake?

Mr. JONES of North Carolina. The gentleman knows that new information on a species can be reason enough to reinitiate consultation on the project. I have a letter here to the gentleman from Director Dunkle that indicates a strong willingness to work with the water district and the Corps of Engineers to review this new information in an effort to reduce the costs of protecting the Concho snake. I would like to submit that letter for the RECORD:

FISH AND WILDLIFE SERVICE,
Washington, DC, December 9, 1987.

Hon. CHARLES W. STENHOLM,
House of Representatives, Washington, DC.

DEAR MR. STENHOLM: Thank you for your November 17 letter concerning the Stacy Reservoir Project in west Texas and attendant Concho water snake conservation efforts. I am pleased that the U.S. Fish and Wildlife Service (Service) and U.S. Army Corps of Engineers (Corps) were able to work with the Colorado River Municipal Water District (District) in developing an agreement that provides for the conservation of the Concho water snake along with construction of the Stacy Project. The Service will continue to work with the Corps and the District as new information becomes available that will allow positive adjustments in the Concho water snake conservation agreement.

The Service is working within the spirit of the Memorandum of Agreement signed by all three parties to discover and use the most up-to-date information to implement the reasonable and prudent alternatives contained in the biological opinion. I am encouraged that efforts by the District to implement the agreement have resulted in new information on snake distribution, indicating that the guidelines set down by the agreement are functioning as designed. Future studies will increase our knowledge of distribution, habitat requirements, and threats to the subspecies. Implementation of the agreement will result in habitat improvements that will enable the snake to survive the impact of the Stacy Reservoir.

The District's discovery of Concho water snakes inhabiting Spence and Moonen Lakes is an encouraging sign that the snake may respond well to reservoir-specific conservation alternatives recommended in the biological opinion. This new information does not suggest, however, that study and monitoring efforts should be abandoned; monitoring, studies, and habitat improvements should continue. It would be premature to conclude that reservoir populations can significantly add to survival prospects of this subspecies, but this possibility should be thoroughly studied.

As you know, despite the new information, the Concho water snake has one of the most restricted ranges of any snake in the United States. The Service believes that conservation efforts should continue on those reaches of the Colorado and Concho Rivers that have been altered by water development projects. It is equally important to maintain populations in naturally occurring, unaltered habitats; therefore, a strong conservation focus should remain on Elm Creek.

It is conceivable that the overall costs of implementing the specified reasonable and prudent alternatives could end up significantly less than the $3.7 million that the District originally estimated. Time, cautious planning, and continued research and monitoring will reveal whether this is possible. I am committed to lend our very best efforts to provide the best possible conditions for this species at the lowest possible cost to the District. The Service will be pleased to meet with the Corps and the District in pursuing any appropriate changes to the conservation agreement that can be biologically justified and that will benefit the citizens of Texas.

Your interest in this matter is appreciated. If I can be of any further assistance, please let me know.

Sincerely,

FRANK DUNKLE,
Director.

Mr. STENHOLM. I have received the letter the gentleman referenced, Mr. Chairman, but I am concerned whether the Fish and Wildlife Service is really committed to using the flexibility you say the agency has to implement the Endangered Species Act. Does the gentleman believe that the Fish and Wildlife Service has sufficient authority to aid in substantially reducing the cost of protecting the Concho water snake?

Mr. JONES of North Carolina. Yes, I do.

Mr. STENHOLM. Does the gentleman believe that they are willing to use that authority?

Mr. JONES of North Carolina. Yes. In fact, I will write Director Dunkle to encourage the Fish and Wildlife Service to do exactly what they have promised to do.

Mr. STENHOLM. With that commitment, Mr. Chairman, I am willing to withdraw my amendment.

The CHAIRMAN. The gentleman from Texas asks unanimous consent that he be allowed to withdraw his amendment.

Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. STUDDS. Mr. Chairman, at this point I ask unanimous consent that the remainder of the committee amendment in the nature of a substitute be printed in the RECORD and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Massachusetts?

Mr. WATKINS. Reserving the right to object, Mr. Chairman, I will not take the full 5 minutes. I reserve the right to object because I am in section 2, but I understand the chairman's desire to complete action as a couple of noncontroversial amendments. So I will not offer my amendment at this time. I think it would be to my advantage to go ahead and push for a vote on my amendment, but I know time is of the essence. Let me say this to my chairman, I have a great deal of respect for the tremendous work and the task he has to try to do to satisfy the great diversity of this body. However, just because there has never been a species removed by Congress is not a reason why we should not do it.

I think we have rights as Congressmen to be able to tell the bureaucracy when we think they are wrong.

Let me tell you about the Office of Endangered Species. We are saying that they are 100 percent pure, that they have done nothing wrong, that they did not make mistakes when species were originally listed.

Let me tell you, they have made mistakes and we have the responsibility and the right to correct them when we think they are wrong.

I know for a fact that the leopard darter is not threatened. It exists in the creeks, the brooks, the tributaries, the rivers and the lakes. They are growing and thriving, but yet they are on the threatened species list, Mr. Chairman.

Now, they do have a procedure that you as a Member of Congress or anyone else can petition for removing a species that is listed. However, let me tell you what has happened. There have been 21 petitions since 1978. The Office of Endangered Species has removed only one species as a result of petition. They have only removed 1 out of 21 species petitioned.

There are definitely problems with the procedure. I hate to be critical because I have tried to be supportive from time to time on what the Office of the Endangered Species wants.

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Let me say to my colleagues that this office is saying for us to yield all our rights and our responsibilities to that agency and I think they are wrong. As Members of Congress we should be allowed to move in the direction of trying to remove these species which we know personally should not have been listed. As I have said to my colleagues, as a kid I used to go skinny dipping in those areas, so I know the leopard darter is there and thriving.

I know we are waiting on the reconciliation bill to come back over after the other body appoints conferees, and I know there are a couple of noncontroversial amendments that might be accepted while we are waiting.

I want to be cooperative, I want to be helpful, but I plead with my colleagues for us to not subordinate ourselves to an agency because they say they do not want to do this or that, this would set the wrong policy for this Nation. I say it is the wrong policy if we do not stand up and speak up when we find an agency that is committing a wrong to our people.

Further reserving the right to object, Mr. Chairman, I yield to the gentleman from Montana [Mr. MARLENEE].

Mr. MARLENEE. Mr. Chairman, I would like to associate myself with the remarks of the gentleman from Oklahoma [Mr. WATKINS]. I think that is one of the most excellent statements. I think we need to pursue a course of reasonableness. We find the same thing with the wolf in the State of Montana and elsewhere where reintroduction has been attempted and the wolf has grown in numbers. There are a lot of wolves in Canada, a tremendous number, right across the border. On that side they are hunted for a bounty, on this side they are an endangered species.

We must pursue a course of reasonableness with respect to this act.

Mr. Chairman, I commend the gentleman from Oklahoma [Mr. WATKINS] for his statement. I wish to be associated with his remarks.

Mr. WATKINS. Further reserving the right to object, Mr. Chairman, we do not have the balance that I think is deserved by the American people.

Mr. Chairman, further reserving the right to object, I yield to the gentleman from Massachusetts [Mr. STUDDS].

Mr. STUDDS. Mr. Chairman, I thank the gentleman from Oklahoma for yielding me this time, and for his forbearance, and if the leopard darter in question is endowed with one little iota of the gentleman's own vigor, then perhaps he can make a compelling case that it is not threatened.

Mr. WATKINS. It has all the vigor in the world, Mr. Chairman.

Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The text of the remainder of the committee amendment in the nature of a substitute is as follows:

SEC. 3 PROTECTION OF PLANTS.

Subparagraph 9(a)(2)(B) of the Endangered Species Act (16 U.S.C. 1538(a)(2)(B)) is amended to read as follows:

"(B) remove and reduce to possession any such species from areas under Federal jurisdiction; maliciously damage or destroy any such species on any such area; or remove, cut, dig up, or damage or destroy any such species on any other area in violation of any law or regulation of any State or in the course of any violation of a State criminal trespass law;".

SEC. 4. SCRIMSHAW.

Subparagraph 10(f)(8)(A) of the Endangered Species Act of 1973 (16 U.S.C. 1539(f)(8)(A)) is amended to read as follows:

"Any person who holds a valid certificate of exemption which was renewed after October 13, 1982, may apply to the Secretary for one additional renewal of such exemption for a period not to exceed five years beginning on the expiration date of such certificate.".

(b) Subparagraph 10(f)(8)(B) of the Endangered Species Act of 1973 (16 U.S.C. 1539(f)(8)(B)) is amended by deleting "original" and inserting "previous".

(c) Paragraph 10(f)(8) of the Endangered Species Act of 1973 (16 U.S.C. 1539(f)(8)) is amended by adding at the end the following subparagraph:

"(D) No person may, after January 21, 1984, sell or offer for sale in interstate or foreign commerce, any pre-Act finished scrimshaw product unless such person holds a valid certificate of exemption issued by the Secretary under this subsection, and unless such product or the raw material for such product was held by such person on October 13, 1982.".

(d) Subparagraph 10(f) of the Endangered Species Act of 1973 (16 U.S.C. 1539(f)) is amended by deleting paragraph (9).

SEC. 5. PENALTIES.

(a) Paragraph 11(a)(1) of the Endangered Species Act (16 U.S.C. 1540(a)(1)) is amended by deleting "$10,000" and inserting in lieu thereof "$25,000", and by deleting "$5,000" and inserting in lieu thereof "$12,000".

(b) Paragraph 11(b)(1) of the Endangered Species Act (16 U.S.C. 1540(b)(1)) is amended by deleting "$20,000" and inserting in lieu thereof "$50,000", and by deleting "$10,000" and inserting in lieu thereof "$25,000".

SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

Section 15 of the Endangered Species Act of 1973 (16 U.S.C. 1542) is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS"

"SEC. 15. (a). IN GENERAL.—Except as provided in subsections (b), (c), and (d), there are authorized to be appropriated—

"(1) not to exceed $35,000,000 for fiscal year 1988, $36,500,000 for fiscal year 1989, $38,000,000 for fiscal year 1990, $39,500,000 for fiscal year 1991, and $41,500,000 for fiscal year 1992 to enable the Department of the Interior to carry out such functions and responsibilities as it may have been given under this Act; and

"(2) not to exceed $5,750,000 for fiscal year 1988, $6,250,000 for each of fiscal years 1989 and 1990, and $6,750,000 for each of fiscal years 1991 and 1992 to enable the Department of Commerce to carry out such functions and responsibilities as it may have been given under this Act; and

"(3) not to exceed $2,200,000 for fiscal year 1988, $2,400,000 for each of fiscal years 1989 and 1990, and $2,600,000 for each of fiscal years 1991 and 1992 to enable the Department of Agriculture to carry out its functions and responsibilities with respect to the enforcement of this Act and the Convention which pertain to the importation or exportation of plants.

"(b) COOPERATION WITH STATES.—For the purposes of section 6, there are authorized to be appropriated not to exceed $12,000,000 for fiscal year 1988, $13,000,000 for each of fiscal years 1989 and 1990, and $14,000,000 for each of fiscal years 1991 and 1992.

"(c) EXEMPTIONS FROM ACT.—There are authorized to be appropriated to the Secretary to assist him and the Endangered Species Committee in carrying out their functions under section 7(e), (g), not to exceed $600,000 for each of fiscal years 1988, 1989, 1990, 1991, and 1992.

"(d) CONVENTION IMPLEMENTATION.—There are authorized to be appropriated to the Department of the Interior for purposes of carrying out section 8A(e) not to exceed $400,000 for each fiscal years 1988, 1989, and 1990, and $500,000 for each of fiscal years 1991 and 1992, and such sums shall remain available until expended.".

SEC. 7. TECHNICAL AMENDMENTS.

(a) In section 2 of the Endangered Species Act (16 U.S.C. 1531), strike "(G) other international agreements." and insert "(G) other international agreements; and".

(b) In section 10(c) of the Endangered Species Act (16 U.S.C. 1539), strike "notice," in the second sentence and insert "notice, of".

(c) In section 10(e)(3)(ii) of the Endangered Species Act (16 U.S.C. 1539), strike "lacking," and insert "lacing,".

SEC. 8. TURTLE EXCLUDER DEVICES.

(a) The Secretary of Commerce, in cooperation with appropriate State agencies, the Office of Sea Grant, commercial shrimp fishermen, conservation groups and other appropriate parties, shall conduct a comprehensive investigation of sea turtle biology and conservation in inshore areas.

(b) The investigation shall continue the testing and, if necessary, the further development of turtle excluder devices and additional measures that will provide an acceptable level of protection to endangered or threatened sea turtles, as required by the Endangered Species Act, an that will minimize shrimp loss, bycatch, and safety hazards to the shrimp fishing industry.

(c) On or before December 1, 1989, the Secretary of Commerce shall report to Congress on the findings of the studies required by this section.

(d) The Secretary of Commerce shall delay until May 1, 1990, the implementation of regulations promulgated on June 29, 1987, relating to sea turtle conservation in inshore areas, with the exception that regulations already implemented in the Canaveral area of Florida shall remain in effect. The Secretary shall implement the regulations for the inshore areas beginning May 1, 1990, unless the Secretary determines that other conservation measures are proving equally effective in reducing sea turtle mortality by shrimp trawling. If the Secretary makes such a determination he shall modify the regulations accordingly.

(e) There are authorized to be appropriated to the Department of Commerce $1,500,000 through fiscal year 1989 to carry out this section.

AMENDMENT OFFERED BY MR. ROBERTS

Mr. ROBERTS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ROBERTS: On page 8, after line 8, insert the following new section:

SEC. . EDUCATION, STUDY AND REPORT.

(a) The Administrator of the Environmental Protection Agency in cooperation with the Secretary of Agriculture and the Secretary of the Interior, promptly upon enactment of this Act, shall engage in a program to fully inform and educate persons engaged in agricultural food and fiber commodity production of the existent or proposed programs or requirements that are currently, or may be, imposed by the Administrator in compliance with the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.). The Administrator shall also publish in the Federal Register, within 30 days after enactment of this Act, any pesticide label change requirements to be effective on or after January 1, 1988 based on compliance with the Endangered Species Act, including (but not limited to) the clear identification of pesticides affected by such label changes, a clear explanation of the limitation or restriction by the label change on the user or applicator of the pesticide; a clear identification of each county affected by the label changes for each pesticide; and a clear identification of the particular endangered species correlated to the area within the county wherein the label change will restrict, prohibit, or otherwise limit the use or application of a pesticide.

(b) The Administrator of the Environmental Protection Agency, jointly with the Secretary of Agriculture and the Secretary of the Interior, shall conduct an investigation and study of the economic impact, including benefits, that may result from the implementation of the endangered species pesticides labeling program administered by the Administrator pursuant to the Endangered Species Act of 1973 and make a report as provided in this section. Such investigation and study shall include an examination of the effectiveness of the information and education program undertaken by the Administrator as provided in subsection (a), an investigation of the validity of species currently listed as endangered and threatened species under the Endangered Species Act of 1973 and the program, if any, for purifying such list; an investigation of validity of the establishment of critical habitats for threatened as well as endangered species and the program, if any, for further refinement of such critical habitats; an investigation of the alternative courses of action; initiatives, if any, conducted by the Administrator in administering the Endangered Species Act of 1973 and an examination of the effectiveness of such program.

(c) The Administrator of the Environmental Protection Agency in cooperation with the Secretary of Agriculture and the Secretary of the Interior shall submit an interim report on January 1, 1989, and a final report on January 1, 1990, concerning all of the elements of the investigation and study directed to be conducted under subsection (b), to the chairman of the Committee on Merchant Marine and Fisheries, United States House of Representatives, the chairman of the Committee on Agriculture, United States House of Representatives, the chairman of the Committee on Environment and Public Works, United States Senate, and the chairman of the Committee on Agriculture, Nutrition, and Forestry, United States Senate. Such reports shall contain findings and conclusions relating to investigation and study conducted to that date, recommendations for new programs and improvements that may be adopted in existing programs, and changes effected in existing programs, procedures and regulations as of the date of the report that improve the administration of the Endangered Species Act of 1973 as it concerns agricultural food and fiber commodity producers and other affected pesticide users and applicators.

Mr. ROBERTS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from Kansas?

There was no objection.

Mr. JONES of North Carolina. Mr. Chairman, would the gentleman yield?

Mr. ROBERTS. Mr. Chairman, I am delighted to yield at this point to the chairman of the Committee on Merchant Marine and Fisheries.

Mr. JONES of North Carolina. Mr. Chairman, I say to the gentleman from Kansas [Mr. Roberts], do your perfecting amendments also clarify that the study of the economic impacts of the endangered species pesticide labeling program under no circumstances alleviate the EPA's need to comply with the Endangered Species Act?

Mr. ROBERTS. Yes, it is not the purpose of this amendment to discourage the Environmental Protection Agency from complying with the mandate of the Endangered Species Act.

Mr. JONES of North Carolina. If the gentleman would continue to yield, then I have no objection to the amendment. With your statement, I have no objection to your request.

Mr. ROBERTS. Mr. Chairman, it is my further understanding that the gentleman from Massachusetts [Mr. Studds], the chairman of the Subcommittee on Fisheries and Wildlife Conservation and the Environment, would like to enter into a colloquy with the gentleman from North Carolina [Mr. Jones], chairman of the Committee on Merchant Marine and Fisheries, and I am happy to yield to him for that purpose.

Mr. STUDDS. Mr. Chairman, I was trying to figure out how to do this. Perhaps I, through the gentleman from Kansas [Mr. Roberts], could address a question to the gentleman from North Carolina [Mr. Jones].

Mr. ROBERTS. Yes, I would be delighted.

Mr. STUDDS. Unless it is a question in the third degree and therefore outlawed. I am not sure.

Mr. ROBERTS. I do not think it would be.

Mr. STUDDS. Is it your understanding, I say to the gentleman from North Carolina [Mr. Jones] that in accepting the amendment it in no way implies that economic considerations affect the obligation of an agency to comply with the Endangered Species Act?

Mr. JONES of North Carolina. If the gentleman would yield, absolutely not.

Mr. STUDDS. If the gentleman would yield further, I thank the gentleman for that clarification.

Mr. Chairman, I thank the gentleman from Kansas [Mr. Roberts] for his double yielding.

Mr. ROBERTS. Mr. Chairman, I thank my colleagues for their responses.

Mr. Chairman, I rise today for the purpose of explaining my amendment, which is made in order by the rule for H.R. 1467.

I first want to state, that under no circumstances does my amendment delay, or lessen the need for the EPA to fulfill their responsibilities under the Endangered Species Act [ESA]. Specifically, the amendment will not delay the implementation of the endangered species pesticides labeling program. However, following several meetings with this Member and others, EPA has already committed publicly to providing farmers, ranchers, foresters, and the States, with the necessary time needed to smoothly implement the program, and in order to make that program work, we should assist in that commitment.

Mr. Chairman, the intent of my amendment is to offer clarity, formality and workability to the endangered species pesticides labeling program, and ultimately to maximize the acceptance of the program by affected user groups and pesticide applicators.

First off, the amendment provides that EPA, in cooperation with USDA and the Department of the Interior, will promptly engage in a program to inform and educate persons affected by the labeling program, including a requirement that the essential elements of the program be published in the Federal Register.

Second, the amendment requires an economic assessment of the program's impact and expected benefits, as well as the study and investigation of the development and implementation of the program. Finally, the amendment requires two reports which will include recommendations for changes and improvements.

The problem with this program is not the desire, and need, to comply with the Endangered Species Act. It is the manner in which the program has been developed and is to be implemented, without due consideration to alternative methods of compliance. My amendment will encourage sensitivity to the needs of production agriculture, and the development of acceptance alternatives for complying with the ESA.

The first part of my amendment calls for a program to educate and to make available information for persons engaged in the production of food and fiber, that are, and may be, affected by the Environmental Protection Agency's endangered species pesticides labeling program. This program to educate and inform will be conducted jointly by EPA's Administrator, the

Secretary of Agriculture, and the Secretary of the Interior. Since the endangered species pesticides labeling program is the responsibility of EPA, the responsibility to dedicate resources and effort to the development of the education and information program should be on that agency. However, the U.S. Department of the Interior and the U.S. Department of Agriculture have unique resources and talents that can assist greatly in the development and implementation of the education effort. I would expect in particular, that the Department of Agriculture could contribute greatly due to its naturally extensive relationship to the agriculture community, and other affected pesticide users.

For this program to work we must indicate in a timely way impending events related to the endangered species pesticides labeling program. For this reason, and to reduce the level of uncertainty among affected, and potentially affected, pesticide users, commodity producers, and landowners, the provision requiring notice in the Federal Register was included. EPA should promptly publish in the Federal Register accurate detailed information regarding the affected pesticides under the endangered species pesticides labeling program, as well the restrictions imposed on the user or applicator, a geographical identification of the prohibition or restriction to include a listing of impacted counties, and unless determined otherwise by the Secretary of the Interior, a subcounty description of the restrictions or prohibitions, and identification of the relevant of endangered or threatened species. Obviously, if these restrictions are to work, they should be published prior to their implementation.

The amendment calls for the Administrator of EPA jointly with the Secretary of Agriculture, and the Secretary of the Interior, to jointly conduct investigations and studies of the development and implementation of the endangered species pesticides labeling program. Of particular interest is the translation of biological data and jeopardy decisions, rendered by the Department of the Interior, into pesticide restrictions by EPA, and their ultimate implementation.

One of the most crucial aspects of the amendment is the requirement of a study of the economic impact and anticipated benefits. The EPA has provided no information regarding actual, expected, or potential economic impacts of the endangered species pesticides labeling program. Without this kind of information it is impossible for this Congress, or other Federal agencies, to lessen any economic blow this program may generate. It is my hope that we may be able to modify or expand existing programs administered by the Department of Agriculture, or the Department of the Interior, or EPA, so that adversely affected pesticide users, and landowners in particular, can accommodate the impending necessary pesticide changes. For example, the Conservation Reserve Program may be expanded to prioritize enrollment of affected landowners, or perhaps affected lands could be prioritized for acquisition by Federal land management agencies. These and certainly many other ideas should be explored and evaluated for their merits.

Specific items that the study on economic impacts should examine include the increase in affected industry and user costs, production losses, changes in valuation of affected range lands, pasturelands, timberlands—and timber, or crop lands that may result due to increased risks, costs, and losses in production as a result of imposed pesticide restrictions. Furthermore, the economic impact study should examine the costs States will incur, or can expect to incur, if they should customize EPA's endangered species pesticides labeling program to their own special needs. Also, EPA, the Department of Agriculture, and Department of the Interior should indicate the costs attendent to developing and implementing the program as well as the costs that EPA's program will impose upon their operations.

There is also a requirement to study and report on the benefits derived from the implementation of the endangered species pesticides labeling program. The study of benefits should focus on those benefits expected to accrue to the recovery of endangered and threatened species. We should not expect the Department of the Interior, or any other agency, to attempt to quantify the economic benefits, or value, of protecting endangered species, but some attempt should be made to examine, document, and explain what benefits the endangered species pesticides labeling program will generate. The EPA has consistently indicated that the rationale for imposing the new pesticide restrictions are driven by legal vulnerabilities. We should instead justify the program on the basis of advancing and protecting endangered or threatened species.

The EPA, the Department of Agriculture, and the Department of the Interior, shall conduct an investigation into the fundamental processes by which the endangered species pesticides labeling program was developed and implemented. The accuracy and validity of the county bulletin maps which designate the geographical locations of the pesticide restrictions also need study and improvement. Special attention should be given to the extent that the maps which detail the locations of the restrictions, fully conform to the habitat of the endangered and threatened species. The maps should not include territory beyond the area of the habitat of the endangered or threatened species requiring explicit protection from exposure to pesticide applications, simply for the purpose of administrative convenience.

The amendment also requires an investigation into alternative courses of action initiatives that EPA has implemented or should consider. A flaw in the development and implementation of the endangered species pesticides labeling program, is the lack of attention and resources provided for the consideration and development of alternative methods of compliance. Many pesticide labels provide a range of application rates for a particular crop to treat a certain type of infestation. The decisions rendered by the Department of the Interior regarding the level of risk posed by a pesticide do not attempt to find the threshold of exposure that poses an acceptable risk. As the Agency responsible for regulating pesticides, EPA should work with the Department of the Interior and the Department of Agriculture to investigate alternative methods of restricting pesticide applications. Such alternatives may include consideration of banded versus broadcast applications, reduced rates of application, temporal restrictions, and also, reconsideration of the assumptions used to render decisions regarding the level of risk posed by the relevant pesticides.

The EPA, the Secretary of Agriculture, and the Secretary of the Interior shall submit two reports regarding the results of their studies and recommendations. Congress will anticipate receipt of the first, interim, report on January 1, 1989, and the final report will be due January 1, 1990. These reports should address all elements of their investigations, as well as the inclusion of recommendations to modify and improve programs to make more efficient the implementation of the endangered species pesticides labeling program.

Mr. Chairman, my amendment is a fair amendment. Under no interpretation can the required reports be construed to mandate a delay in the implementation of the endangered species labeling program. The intent of the studies, investigations, and subsequent reports, is to strengthen the endangered species pesticides labeling program with input from outside of the EPA and to encourage more flexibility and creativity. Under current law, only the Administrator of the EPA has the authority to delay, and or allow for flexibility in the implementation of the endangered species pesticides labeling program. This amendment will provide the information and support needed to intelligently administer the pesticides labeling program.

Mr. Chairman, I urge the adoption of this amendment.

Mr. STUDDS. Mr. Chairman, will the gentleman yield?

Mr. ROBERTS. Mr. Chairman, I yield to the gentleman from Massachusetts.

Mr. STUDDS. It is my understanding that the gentleman from Kansas [Mr. ROBERTS] had intended, upon introducing his amendment, to do so with certain modifications and amendments to it which we had earlier discussed.

Mr. ROBERTS. That is correct.

Mr. STUDDS. If the gentleman will continue to yield, it is my understanding, and I would ask the Chair if those modifications are not at the desk? Although the gentleman from Kansas may not have intended, they as such have not been introduced.

The CHAIRMAN. That is correct. The modifications are not yet in the possession of the Clerk.

Mr. ROBERTS. It is my understanding those will be forthcoming, Mr. Chairman, in the immediate future.

MODIFICATION TO AMENDMENT OFFERED BY MR. ROBERTS

Mr. ROBERTS. Mr. Chairman, I offer a modification to my amendment.

The Clerk read as follows:

Modification offered by Mr. ROBERTS to the amendment offered by Mr. ROBERTS: On page 8, after line 8, insert the following new section:

"SEC. . EDUCATION, STUDY AND REPORT.

"(a) The Administrator of the Environmental Protection Agency in cooperation with the Secretary of Agriculture and the Secretary of Interior, promptly upon enactment of this Act, shall engage in a program to fully inform and educate persons engaged in agricultural food and fiber commodity production of the existent or proposed programs or requirements that are currently, or may be, imposed by the Administrator in compliance with the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.). The Administrator shall also publish in the Federal Register, any pesticide label change requirements to be effective on or after January 1, 1988 based on compliance with the Endangered Species Act, including (but not limited to) a clear identification of pesticides affected by such label changes and a clear explanation of the limitation or restriction by the label change on the user or applicator of the pesticide; a clear identification of each county affected by the label changes for each pesticide; and, an identification of the endangered species along with a general description of the areas in which such species are located wherein the label change will restrict, prohibit, or otherwise limit the use or application of a pesticide, unless the Secretary of Interior determines that the disclosure of such information may create a substantial risk of harm to such species or its habitat.

"(b) The Administrator of the Environmental Protection Agency, jointly with the Secretary of Agriculture and the Secretary of Interior, shall conduct an investigation and study of the economic impact, including benefits, that may result from the implementation of the endangered species pesticides labeling program administered by the Administrator pursuant to the Endangered Species Act of 1973 and make a report as provided in this section. Such investigation and study shall include an examination of the effectiveness of the information and education program undertaken by the Administrator as provided in subsection (a), an investigation of the accuracy and validity of the county maps developed by the Administrator; an investigation of the alternative courses of action initiatives, if any, implemented and conducted by the Administrator in complying with the Endangered Species Act of 1973 and an examination of the effectiveness of such program.

"(c) The Administrator of the Environmental Protection Agency in cooperation with the Secretary of Agriculture and the Secretary of Interior shall submit an interim report on January 1, 1989, and a final report on January 1, 1990, concerning all of the elements of the investigation and study directed to be conducted under subsection (b), to the chairman of the Committee on Merchant Marine and Fisheries, United States House of Representatives, the chairman of the Committee on Agriculture, United States House of Representatives, the chairman of the Committee on Environment and Public Works, United States Senate and the chairman of the Committee on Agriculture, Nutrition, and Forestry, United States Senate. Such reports shall contain findings and conclusions relating to the investigation and study conducted to that date; information on the implementation of new programs and program improvements that have been or are being implemented as a result of the study to the date of the report; recommendations for new programs and recommendations for changes that may be effected in existing programs, procedures and regulations after the date of the report regarding the administration of programs to comply with the Endangered Species Act of 1973 as it concerns agricultural food and fiber commodity producers and other affected pesticide users and applicators.".

Mr. ROBERTS (during the reading). Mr. Chairman, I ask unanimous consent that the modification to the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Kansas?

There was no objection.

Mrs. SMITH of Nebraska. Mr. Chairman, I am pleased to rise in support of the amendment offered by my good friend and colleague, Mr. ROBERTS of Kansas on behalf of myself and Mr. STENHOLM of Texas.

This amendment we are offering would allow the Endangered Species Act as it applies to agriculture to be implemented in a much more reasonable manner. I don't need to tell you, the EPA's notification that it would add new labeling requirements to more than 100 pesticide products, and simultaneously restrict, or eliminate, their use in 900 counties nationwide, came as quite a shock.

Beginning this February, the EPA's labeling program would require agricultural chemical suppliers to change the label on their products to notify users that the products they have been using for years—Dyfonate, Lorsban, Furadan, Banvel, to name a few of the popular name brands—may be subject to strict limitations.

As late as this August, it was impossible to get specifics on the program. State officials and university specialists weren't even briefed on the program. Farmers themselves had no idea such a major change was in the wind.

In addition, the EPA's label restriction program was implemented in violation of the Federal Insecticide, Fungicide, and Rodenticide Act which requires that any pesticide use restrictions based on adverse environmental effects must be published in the Federal Register and afforded public comment.

Our amendment would simply require the EPA's labeling program to adhere to the rules provided by FIFRA and other commonsense operating procedures.

It would formalize the education and dissemination of information regarding the EPA's endangered species label changes, and would execute these activities jointly with the U.S. Department of Agriculture and the U.S. Fish and Wildlife Service.

In the future, this amendment would require the EPA to publish future label changes in the Federal Register.

Second, our amendment requires a General Accounting Office investigation of the development and implementation of the EPA's endangered species pesticide labeling program.

And finally, our amendment requires the USDA and the EPA to work jointly to assess the economic impact of the EPA's pesticide labeling program.

These three items are only guidelines the EPA should have followed in the first place before placing the livelihoods of our farmers at jeopardy.

Mr. ROBERTS, Mr. STENHOLM, and myself are not seeking an exemption for agriculture in protecting endangered species. After all, you will find that farmers and ranchers are very much in favor of minimizing the impact of agricultural activity on wildlife and the environment.

Farmers and ranchers are the stewards of 90 percent of this Nation's natural resources, and it will be important to gain their cooperation if we are to have an effective environmental policy.

Given the right information, the farmer will make the right environmental choices. But with less than 2 months before the EPA's target date in implementing this program, there is as yet no consensus between the EPA, State agricultural and wildlife agencies, and ag chemical users that the information the EPA is using is even accurate.

I can state one perfect example in my own district. The EPA is determined to save blowout penstemen, a grassy plant that grows in blowouts on sandy pastureland. But there is little agreement that the restricted pesticides are even endangering the blowout penstemen.

The Fish and Wildlife Service cited in the Federal Register that conservation measures in Nebraska's Sandhills that reduce the wind erosion causing blowouts in the first place are contributing to the reduced habitat of the blowout penstemen. It appears that as other vegetation is established, the penstemen is unable to compete.

Stockmen in my district are going cross-eyed. One of the stockgrowers approached me with this question: "Are we suppose to have more blowouts now so that we can have more penstemens?"

The Fish and Wildlife Service concluded just what that cattleman knew all along, "that designation of critical habitat for this species would be neither practical nor beneficial to its conservation and therefore is not prudent."

All farmers are asking is to be consulted. After all, farming is a business and the EPA's pesticide restrictions are going to alter the way many farmers do business. And ultimately, it is the farmer, not the environmentalist, who will bear the costs and carry the responsibility of seeing the regulations carried out.

The Food and Agriculture Organization of the United Nations estimates that one-half of the world's crop production is lost annually to pests and disease. That is a frightening statistic to me, and is a reminder of why we have agricultural chemicals in the United States.

To quote the National Cotton Council, "If this Endangered Species Act is promulgated and enforced, it has the potential for bringing agriculture to its knees more than any other law. * * *"

When the productive capacity of the farmland is reduced, its value is likewise reduced. That reduces the producer's equity and earning potential, and that's not healthy for any business. The effect pesticide restrictions could have on land values also affects the tax base of local governments and school districts that rely heavily on property tax revenues.

I am deeply concerned that the EPA's restrictions may cause inequities between neighboring farms. You can well imagine the competitive disadvantage faced by a farmer who is restricted in the use of pesticides when the neighbor across the fence is not.

The EPA hadn't even looked at the fact that the farmer has to abide with State weed control laws. The new EPA herbicide restrictions eliminate the only reliable means the farmer has at his disposal to comply. We are telling the farmer on one hand he better keep weeds under control, but in the same breath, telling him not to ruffle a feather of a piping plover in the process.

Mr. Chairman, we are offering this amendment because there is much more at stake here than the well-being of endangered species. Our amendment provides for a more careful approach to the problem of protecting endangered species that will help build grassroots support for what the EPA is attempting to achieve.

The EPA's regulations are going to backfire if they are hurried along with the economic disincentives now in place, and if they are based on severely flawed information and little public education. Agriculture is willing to help protect endangered species, but we ask that we be involved when regulations of the magnatude the EPA has imposed are developed.

I urge the adoption of this amendment.

Mr. STENHOLM. Mr. Chairman, I rise in strong support of the Roberts amendment to H.R. 1467. As Mr. ROBERTS so eloquently explained, this amendment simply brings about a commonsense approach to the Endangered Species Pesticides Labeling Program implementation.

After closely reviewing the amendment there should be no doubt as to its intent. It does not delay or lessen the need for the Environmental Protection Agency [EPA] to satisfy their responsibilities under the Endangered Species Act [ESA]. Thankfully, EPA has already committed publicly to provide farmers, ranchers, and the States the necessary time to realistically and properly implement the program. Such a decision was both sound and farsighted.

However, due to a recent firsthand experience in dealing with the compliance provisions of the ESA within my congressional district, I have concerns with the lack of sensitivity to the needs of production agriculture, and the development of acceptable alternatives for complying with the ESA.

Therefore, I believe an economic impact and anticipated benefits study, which this amendment provides, makes eminent good sense. Furthermore, I applaud the amendment's provision providing for a program to adequately inform and educate persons affected by the ESA labeling program.

Mr. Chairman, as I mentioned earlier, this amendment represents a commonsense approach in addressing a well-intended yet highly complex Federal law.

I urge my colleagues to support the Roberts amendment.

Mr. CHAIRMAN. The question is on the amendment, as modified, offered by the gentleman from Kansas [Mr. ROBERTS].

The amendment, as modified, was agreed to.

Mr. STUDDS. Mr. Chairman, I move to strike the last word.

Mr. Chairman, as I think Members understand, it is our hope, it remains our hope not to take up an amendment at this point that would almost certainly lead to a recorded vote given the number of Members who are absent and who are probably heading for airports as we speak. We are very close, in fact we are, if I may say just in the unlikely chance that someone with any knowledge of this matter is now watching, we are some 10 minutes beyond the point where we were assured that it was possible for us to rise and consider the appointment of conferees on the reconciliation bill.

There three amendments remaining, two would almost certainly lead to a recorded vote, that of the gentleman from Oklahoma [Mr. WATKINS], and that of the gentleman from Texas [Mr. STENHOLM].

The other one is that of the gentleman from Montana [Mr. MARLENEE].

It is my understanding, based on the conversations with the gentleman a moment ago, that he does not wish at this point to offer that amendment.

Mr. WATKINS. Will the gentleman yield?

Mr. STUDDS. I yield to the gentleman from Oklahoma.

Mr. WATKINS. Mr. Chairman, in case the leadership is watching, some of us have deferred our amendments to a later date in an effort to be cooperative. I know we are trying to work with the debate on this bill in order to take action when we get the reconciliation measure back from the other side. If that will happen and we can get by without having any more votes that would jeopardize some of our colleagues who are trying to meet other obligations. I know our colleagues would be grateful. Some of us have decided not to push our amendments today to be helpful, so maybe we can get that resolved.

Maybe the reconciliation bill will get here and we can move forward.

Mr. STUDDS. May I say to the gentleman from Oklahoma [Mr. WATKINS] that I particularly appreciate his willingness to be cooperative as we try to respect the rights of Members who are absent and will not have a chance to record themselves on important questions.

Mr. WATKINS. If the gentleman will continue to yield, I am checking my votes, and I know how many I have for it and against it, so we may want to call a vote quickly. We have enough Members supporting this measure, but most of them are leaving for home so let me ask if it will be Tuesday or Wednesday when we will probably have it on the floor again?

Mr. STUDDS. We are still here. Please do not give up yet. This gentleman is in no position to state when the leadership may choose to continue the bill once we discontinue today. My best information, for what it is worth, is Wednesday of next week. Like most things around here, that is subject to change several times between now and then.

Mr. MARLENEE. Mr. Chairman, will the gentleman yield?

Mr. STUDDS. I yield to the gentleman from Montana.

Mr. MARLENEE. If it were acceptable, would it be in order at this point to offer my amendment?

Mr. STUDDS. Indeed it would.

AMENDMENT OFFERED BY MR. MARLENEE

Mr. MARLENEE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MARLENEE: Under Section 2 of the Endangered Species Act Amendments of 1987, add the following new subsection:

"(b) EXCEPTION TO LISTING.—Upon enactment of this subsection of this Act, the gray wolf, Canis Lupus, shall not be considered an endangered or threatened species under the Endangered Species Act of 1973."

Mr. MARLENEE. Mr. Chairman, my amendment is simple and straightforward. It merely removes the gray wolf from the endangered species list and thereby allows the state fish and wildlife agencies to manage the gray wolf without interference by the Federal Government, without interference by the courts, and without interference from litigious environmental groups.

Mr. Chairman, rejection of my amendment means that if the gray wolf is introduced into Yellowstone National Park or other areas, Congress is not willing to recognize or deal with the problems created by introducing a federally protected predator which is very aggressive and which will kill thousands of moose, elk, deer and other species.

Rejection of my amendment means that this Congress refuses to deal with the confusion which the Federal courts have created about what can or cannot be done with an endangered or a threatened species such as the wolf. It means that this Congress explicitly finds that environmental groups should be allowed to continue to use the endangered act species to stop State fish and wildlife agencies from wisely managing all of the wildlife within the State.

Mr. Chairman, we should have the guts to recognize that the State fish and wildlife agencies, have the expertise and ability to manage all wildlife and allow them to do their job without interference.

At the turn of the century in Montana, there were only handfuls of elk, deer, moose, and big horn sheep. Exploitation, lack of understanding, and uncontrolled predators wiped out thousands of these animals. With careful management by the State we now have abundant and diverse wildlife throughout the State. The same is true for my neighbors in Idaho and Wyoming.

However, we cannot expect the State fish and wildlife agencies to continue to produce world famous big game populations if we do not give them control over such aggressive predators as the wolf. The wolf does not kill by itself. Rather it hunts in packs of 5 to 10 wolves which consume 20 to 30 elk or nearly 100 deer. And that is only 1 pack. A small population of 20 packs could kill 400 to 500 elk or 2,000 deer. What will happen to Montana's hunting opportunities when the big-game populations are reduced by 50 percent because of wolves? The way it stands now, Montana would be forced to close its hunting season rather than control the wolf.

In British Columbia, just north of Montana, thousands of wolves have killed so much wildlife that the Government has placed a bounty on the wolf. And yet when the wolf crosses the border into Montana it becomes magically endangered. Does this Congress wish to perpetuate such nonsense?

Mr. Chairman, rejection of my amendent means that the courts and environmentalists who oppose hunting will continue to interfere with State wildlife management decisions.

The defenders of wildlife and the Sierra Club successfully sued to stop a wolf trapping season in Minnesota. The court pointed out that the wolf, a threatened species in Minnesota, could only be taken in the "extraordinary case" where population pressures within the wolf's ecosystem cannot otherwise be relieved. And the taking can only be done after showing "strong evidence that the wolf is exceeding the population limits of its ecosystem." Where the wolf is endangered, the court found that the endangered species act forbids the taking of the wolf under any circumstances.

Mr. Chairman, this Congress must have the guts to stop groups like the defender's of wildlife and the Sierra Club from preventing reasonable wildlife management by the State agencies which are at the local level and understand what kind of management is needed and when. We must have the common sense to stop Federal bureaucrats in Denver or Washington, DC from second guessing State decisions on wildlife management.

□ 1415

The CHAIRMAN. The time of the gentleman from Montana [Mr. MARLENEE] has expired.

Mr. MARLENEE. Mr. Chairman, there is another problem with the wolf, and that is predation on agricultural animals. In British Columbia it is not only agricultural animals, but it is also towns, small towns. In Whitehorse in the Yukon the wolves were attacking and eating the pets on the edge of town, and they had to go in there and control the wolf in some fashion. The same thing can happen if we continue to say that the wolf is a threatened and endangered species, the same thing can happen in the small towns in the West.

The grizzly bear, for instance, is on the edge of some of our small towns and right in the outskirts of these small towns. It is a threat to human life. Not that the wolf would be, but they certainly can erode the security that a family feels in the small towns and villages.

The predation on agricultural animals is best explained by a columnist by the name of Gwen Petersen, and it is called the compensation game. These groups say we will compensate the agricultural producer if the wolf kills some of his agricultural products. Let me read this to my colleagues:

> The compensation game. The mare nuzzles her offspring. It is her colt, a blood bay with dark stockings. The morning sun spills golden across the meadow. The mare nickers, and the colt, on long, springy legs, easily keeps up with its mother.
>
> From the brooding timber bordering the pasture, the wolf pack watches. Perfect killing machines, they are beautiful creatures. The biggest, a gray-muzzled animal with black markings, gives a silent command to the rest of the pack. They circle. They close in. The mare calls to her baby, and they race away, but the wolves drive in, in tireless relays.
>
> Powerful jaws rip and tear the colt's soft underbelly and hindquarters. It stands, quivering, for a fleeting moment, long pieces of gut and muscle pulled away from belly and bone. Then it drops, and the wolves, being wolves, pay no attention to its final screams.
>
> But the rancher is compensated for his "loss."
>
> When the wolf pack finds the sheep, it is easier work. Once a sheep feels the jaws of death, it gives up and waits to die, but the throaty death-moans of lambs being torn apart are quieter.
>
> And the rancher is compensated for the loss.
>
> When a single wolf tries to take Bessie, the milk cow, she gives it a bloody wound with her horns, but not before the wolf tears open her bag. The rancher puts Bessie out of her misery--but he is compensated for her loss.
>
> How much payment makes it swell to endure the horror of watching your livestock ripped apart and eaten, often while still breathing?

This is a picture of a live animal that has been partially eaten in the udder and the back hindquarter section. I would hope that all of my colleagues would realize that the wolf is in fact a very vicious killing machine and needs to be controlled.

The CHAIRMAN. The time of the gentleman from Montana [Mr. MARLENEE] has again expired.

Mr. PARRIS. Mr. Chairman, will the gentleman yield?

Mr. MARLENEE. I yield to the gentleman from Virginia.

Mr. PARRIS. Mr. Chairman, I thank the gentleman for yielding and very much appreciated his comments on the antisocial behavior of these animals. What we are really talking about here, as I understand it, is the reintroduction of this species of animal into Yellowstone Park. That is the bottom line of this issue, and if that is not correct, I wish the gentleman would inform me.

Second, where is the State of Montana in all of this? The gentleman represents two-thirds of the State of Montana roughly on the eastern side. Why cannot the State of Montana control, as they do every other nonendangered game, this particular species of animal in the best interest of the State of Montana? For instance, is there a reason for that?

Mr. MARLENEE. Generally it is well known that the State of Montana opposes the reintroduction of the wolf into Yellowstone Park, and also the wildlife sportsmen organizations oppose this, including the Montana Wildlife Federation opposes the reintroduction into Yellowstone Park of the wolf.

Mr. PARRIS. If the gentleman will yield for one additional moment, but for the extraordinary complications of endangered species limitations, the State is inhibited from managing this species, is that correct?

Mr. MARLENEE. The gentleman is correct.

Mr. OWENS of Utah. Mr. Chairman, I rise in opposition to this amendment.

Mr. Chairman, I would respond to my colleague, the gentleman from Montana, in the following fashion: I visited Minnesota, where the only known wolfpack in this country, except for Alaska, exists, some 3 weeks ago to study the issue of predation of domestic cows and sheep and of the deer herd, and find that 1,200 wolves in northern Minnesota, about 10 times, incidentally, the number that would be acceptable naturally in Yellowstone, if the bill I have introduced to reintroduce them into Yellowstone is passed, about 1,200 wolves in Minnesota coexist quite well with 250,000 cows and 90,000 sheep, and they only kill somewhere between 20 and 25 cows in a year and some 50 to 60 sheep.

If one of those cows is Bessie, I apologize. But it is a very, very minuscule impact, and the farms and the stockmen and the wolves live in blissful coexistence, except for a very few instances.

Now the wolf has had a bum rap in this country. He has very bad press. But wolves do not attack people, and ordinarily do not attack domestic animals if they have a shot at wild animals.

I am trying to get the wolf back into this country where nature and God placed them until man, in his predaceous moods, removed them 50 to 60 years ago. I think that the Yellowstone ecosystem, which is overabundant with elk and bison, really needs the wolf, the predator, to complete the cycle of life. A maximum of 120 wolves into Yellowstone Park is all that the system could tolerate and would be of some slight assistance because they do not kill that many animals, slight assistance in preserving this natural ecosystem. But in fact they ought to be there so that the ecosystem is complete.

The Endangered Species Act only will cover the wolf so long as the wolf is in danger, and where it becomes a serious problem in terms of wildlife or in terms of domestic, in other words too many for its natural boundaries, and wolves do establish their own natural boundaries, and do control the number themselves, where that condition exists, Mr. Chairman, the Endangered Species Act itself has the procedures for delisting them. But it is endangered. It is a vital part of the American heritage, a vital part of a complete ecosystem, and I strongly urge my colleagues to resist this amendment.

Mr. Chairman, the wolf has been the victim of bad press. Over the years there has developed an irrational fear of this fascinating animal that seems to be based on myths and fables portraying the wolf as a vicious and insatiable antagonist. Largely as a result of this notion, man has spent much time and effort waging a war against the wolf.

During the early part of this century, the U.S. Government carried out a systematic eradication of the gray wolf. Now the wolf is virtually absent from every ecosystem in the continental United States, except in Minnesota where there is a wolf population that is listed as threatened. In order to bring the wolf back from the brink of extinction, the Fish and Wildlife Service developed a wolf recovery plan which called for the natural recovery in Idaho and Montana, and for the reintroduction of the wolf in Yellowstone National Park. This plan was initially approved by Fish and Wildlife, and received strong support from the National Park Service, but was abandoned after considerable political opposition arose. And like the more general fear of the wolf, this opposition was a result of the negative press which the wolf has received.

Some of my esteemed colleague's Montana constituents do not like the wolf. The fact is, even if the wolf recovery plan were wildly successful, the vast majority of the people of the Western United States would never see this creature, or even know he was there. If a visitor were lucky, he or she might, on some night in Yellowstone, hear a wolf howling in the distance. But the wolf is a timid animal that instinctively avoids man. In fact, there is no documented case of a healthy wolf ever attacking a human being in the history of North America.

Perhaps the concern is not so much for the human population, but for the livestock industry in the West. Although this is a concern that is easy to understand, it is not one that is based on the facts, or on a sound understanding of wolf biology. The wolf prefers natural prey, and as long as natural prey is available, will not prey to any great degree on cattle or sheep. Yellowstone National Park, which offers a large elk herd of over 30,000 animals, and a bison herd of 12,000, will provide more than adequate prey.

I recently visited the wolf range in Minnesota to study the issue of wolf predation on livestock. Minnesota has approximately 1,200 wolves occupying an area where nearly one-quarter million cattle and 90,000 sheep are present during the grazing season. During the period of 1979–81, there were verified losses to wolves of about 20 head of cattle and 56 sheep per year. This equals approximately 5 head of cattle per 10,000 grazed, and 12 sheep per 10,000 grazed. In fact, only about 40 of the 12,000 farms in the Minnesota wolf range report wolf-related losses each year.

What my colleague should know, is that the wolf recovery plan has foreseen even this small problem, and provides for the control of wolves which prey on livestock. They will be trapped and removed. It also provides for a privately funded compensation system for ranchers who lose livestock to the wolf—paid by private organizations which are anxious to see the wolf return to its natural habitat.

Mr. Chairman, the strength of the Endangered Species Act is that it allows biologists, those with expertise, to decide which species are in need of protection. They have made the decision that the gray wolf is in such a situation. It would be very unwise for this body, which has almost no expertise in biology, to make the decision that any one species, in this case the wolf, should be removed from the endangered species list. I urge my colleagues to defeat this amendment.

Mr. VENTO. Mr. Chairman, I move to strike the last word and I rise in opposition to the amendment.

Mr. Chairman, the timber wolf has been listed under the Endangered Species Act since the act's passage in 1973. Originally classified as "endangered" this classification was changed to "threatened" in 1978.

Northern Minnesota represents the last region in the continental United States with a viable wolf population. There are about 1,200 timber wolves in northern Minnesota, and this population has been stable since 1975. As a Representative from the only State with a viable wolf population, and as chairman of the National Parks and Public Lands Subcommittee, I have closely followed the debate over wolf protection for a number of years, both as a State legislator and Member of Congress. I can say based on our Minnesota experience that the wolf population does not pose a threat and that the Endangered Species Act is doing its job, protecting and conserving this wolf wildlife resource.

The wolf once roamed over wide areas of the Eastern United States, but has declined because of intensive human settlement, direct conflict with domestic livestock, a lack of understanding about the animal's role in the environment and overzealous, irrational programs designed to actually exterminate the wolf. From 1849 to 1965, a bounty program was in effect on wolves in Minnesota. Fortunately we have moved from this barbaric "war on wolves" into a more enlightened period, where professional scientific management policies are used to protect this threatened population.

The debate over wolves today echoes the debate that has gone on over wolves throughout history. Too often emotion and fear have ruled over reason in the formulation of policy. It would be a shame and great loss if changes were made to the Endangered Species Act only to satisfy political and emotional appeals without regard to the facts. The current Fish and Wildlife Service plan both protects the timber wolf and safeguards the interests of our citizens in the areas with wolf populations.

Some proponents of this amendment may cite livestock kill rates as a reason for delisting the wolf. In Minnesota, the 20-million-acre wolf range contains 234,000 head of cattle and 91,000 sheep. Minnesota's annual livestock loss amounts to about 5 head of cattle per 10,000 and about 12 sheep per 10,000. Farmers who have lost livestock receive compensation for their losses, and agents control areas where livestock kills have occurred. Scientific study by biologists such as David Mech and others have pointed out the fact it's time that we utilize that information.

Minnesota Department of Natural Resources and the Department of Interior have sought to have control of the wolf turned over to the State. In 1984 the Minnesota Department of Natural Resources planned to allow private trappers to take 50-60 wolves each year. Environmental coalition filed suit against the Department of Natural Resources to stop it, and Judge Lord and Eighth Circuit Court of Appeals ruled to block this proposed trapping hunting activity. Judge Lord ruled that hunting could threaten the existence of the wolves and was indeed a violation of Endangered Species Act. By turning over the management of wolves to the States, this amendment would give State agencies overly broad national powers which would restrict and reduce the threatened wolf populations, a unique national wildlife resource.

The amendment would certainly interfere with the Fish and Wildlife Service recovery plan for the natural recovery of the wolf in Montana and Idaho and perhaps the reintroduction of the wolf into Yellowstone National Park as has been proposed by the Director of National Parks Services.

The amendment was not offered in committee or subcommittee, no hearings have been held and no evidence or justification has been provided for this major change in law which could dramatically affect the future of this threatened species.

Mr. MARLENEE. Mr. Chairman, will the gentleman yield?

Mr. VENTO. I am happy to yield to my colleague, the gentleman from Montana.

Mr. MARLENEE. Mr. Chairman, I appreciate the gentleman from Minnesota, chairman of the Subcommittee on Public Lands and the ranking member for yielding. I have a great deal of respect for the gentleman from Minnesota.

Mr. Chairman, I wish to point out to those who spoke of Minnesota, we have a letter from the Minnesota Department of Natural Resources which states, and I quote:

> On May 19, 1986, a study by Carnes and Mack has documented the effect of wolves in northeastern Minnesota as a limiting factor on the recovery of deer herds.

□ 1430

Mr. Chairman, I wish to make that point, and, second, on the point livestock and the wolf living together in Minnesota, that is apples and oranges. In Minnesota we have a situation where most of the farms are small and the livestock is contained. In Montana, in the free-ranging areas, there is no possible way to monitor all of the livestock, to bring them in and protect them from the wolves, from the predators. We need a reasonable amount of discretion when we are dealing with the wolf in various areas of the United States.

That is what I plead for. The gentleman from Oklahoma and I have both pleaded for that.

Mr. VENTO. Mr. Chairman, reclaiming my time, I would just suggest that there are arguments pro and con. Actually the moose and other species are more natural to northern Minnesota than the white-tailed deer, which really is an introduced species and one that was almost raised there.

I suggest that we should leave this to the scientists like Dave Mech in northern Minnesota, who is doing such a great job.

Mr. JONES of North Carolina. Mr. Chairman, will the gentleman yield?

Mr. VENTO. I am happy to yield to the chairman of the committee.

Mr. Chairman, I rise in opposition to the amendment to delist the gray wolf. First, as I have stated, none of us that I know of in this Chamber have the professional background to make the complicated scientific value judgment necessary to determine what species are endangered and which are not. Furthermore, a formal mechanism to allow individuals to petition for delisting already exists under the current act. Let's not delist by statute.

Mr. MARLENEE. Mr. Chairman, will the gentleman yield?

Mr. VENTO. I yield to the gentleman from Montana.

Mr. MARLENEE. Mr. Chairman, if the gentleman from Minnesota, the chairman of the committee, and the other members of the committee will in fact work with this gentleman from Montana, I would be happy to withdraw the amendment. I think that we need to address this problem. If the leadership is ready to come to us with a message, I will ask unanimous consent to withdraw the amendment.

Mr. JONES of North Carolina. Mr. Chairman, if the gentleman will yield, I will say to the gentleman from Montana [Mr. MARLENEE] that he will have the full cooperation of this Committee to assist him on this problem.

Mr. MARLENEE. Mr. Chairman, I thank the chairman of the Committee for his assurance, and therefore, I ask unanimous consent that I be permitted to withdraw my amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Montana?

There was no objection.

Mr. JONES of North Carolina. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker having resumed the chair, Mr. LEVIN of Michigan, chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 1467) to authorize appropriations to carry out the Endangered Species Act of 1973 during fiscal years 1988, 1989, 1990, 1991, and 1992, had come to no resolution thereon.

APPOINTMENT OF CONFEREES ON H.R. 3545, BUDGET RECONCILIATION ACT OF 1987

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that if and when the Clerk receives a message from the Senate indicating that that body has passed the bill H.R. 3545, with an amendment, insisted upon its amendment, and requested a conference with the House, the House be deemed to have disagreed to the amendment of the Senate and agreed to the conference asked by the Senate, and that the Speaker be deemed to have appointed conferees without intervening motion.

The SPEAKER. Is there objection to the request of the gentleman from Washington? The Chair hears none, and appoints the following conferees:

From the Committee on the Budget, for consideration of the House bill (except title X), and the Senate amendment (except subtitle B of title IV), and modifications committed to conference: Messrs. GRAY of Pennsyvania, DERRICK, JENKINS, WILLIAMS, OBERSTAR, LATTA, MACK, GOODLING, and DENNY SMITH.

From the Committee on the Budget, for consideration of title X of House bill, and subtitle B of title IV of the Senate amendment, and modifications committed to conference: Mr. JENKINS and Mr. LATTA.

From the Committee on Agriculture, for consideration of title I of the House bill, and title VIII and sections 3001 and 9005 of the Senate amendment, and modifications committed to conference: Messrs. DE LA GARZA, JONES of Tennessee, ROSE, HUCKABY, GLICKMAN, STENHOLM, PANETTA, MADIGAN, STANGELAND, ROBERT F. SMITH, LEWIS of Florida, and HERGER.

From the Committee on Armed Services, for consideration of section 5001 of the Senate amendment, and modifications committed to conference: Mr. ASPIN, Mrs. BYRON, and Mr. DICKINSON.

From the Committee on Banking, Finance and Urban Affairs, for consideration of title II of the House bill, and sections 9006, 9007, 9010, and 9012 of the Senate amendment, and modifications committed to conference: Messrs. ST GERMAIN, GONZALEZ, and ANNUNZIO, Ms. OAKAR, and Messrs. GARCIA, KLECZKA, WYLIE, LEACH of Iowa, SHUMWAY, and PARRIS.

From the Committee on Banking, Finance and Urban Affairs, for consideration of title X of the Senate amendment, and modifications committed to conference: Mr. ST GERMAIN, Ms. OAKAR, and Mr. WYLIE.

From the Committee on Education and Labor, for consideration of title III and subtitle E of title IX of the House bill, and part VI of title IV, title VI and sections 4111, 4112 and 9011 of the Senate amendment, and modifications committed to conference: Messrs. Hawkins, Ford of Michigan, Gaydos, Clay, Williams, Kildee, Owens of New York, Jeffords, Goodling, Coleman of Missouri, and Mrs. Roukema.

From the Committee on Energy and Commerce, for consideration of subtitles A, B, and C of the title IV, parts 2 through 4 of subtitle C of title IX and sections 1052 and 9602 of the House bill, and subparts II through V of part A, subparts I (except sections 4086 and 4091) and II of part B of subtitle A of title IV and sections 4001(q), 4002(b) and 4002(c), 4051, and 4111 through 4113 of the Senate amendment, and modifications committed to conference: Messrs. Dingell, Waxman, and Scheuer, Mrs. Collins, and Messrs. Synar, Wyden, Slattery, Lent, Dannemeyer, Whittaker, and Tauke.

From the Committee on Energy and Commerce, for consideration of sections 4301, 5001, and 6201 of the House bill, and subtitle A of title II and title III (except section 3001) of the Senate amendment, and modifications committed to conference: Messrs. Dingell, Sharp, Swift, Leland, Cooper, Slattery, Lent, Moorhead, Dannemeyer, and Fields.

From the Committee on Energy and Commerce, for consideration of section 9033 of the House bill, and section 4583 of the Senate amendment, and modifications committed to conference: Messrs. Dingell, Thomas A. Luken, Florio, Tauzin, Sikorski, Boucher, Slattery, Lent, Whittaker, Tauke, and Bilirakis.

From the Committee on Energy and Commerce, for consideration of section 3001 of the Senate amendment, and modifications committed to conference: Messrs. Dingell, Waxman, Thomas A. Luken, Hall of Texas, Bruce, Slattery, Lent, Tauke, Dannemeyer, and Whittaker.

From the Committee on Interior and Insular Affairs, for consideration of sections 4301 and 5001 of the House bill, and sections 2001 through 2009, and 3010 of the Senate amendment, and modifications committed to conference: Messrs. Udall, Miller of California, Markey, Murphy, Rahall, Vento, Young of Alaska, Lujan, Lagomarsino, and Marlenee.

From the Committee on Interior and Insular Affairs, for consideration of sections 5002 through 5004 of the House bill, and sections 2101 through 2113, and 9009 of the Senate amendment, and modifications committed to conference: Messrs. Udall, Miller of California, Sharp, Markey, Murphy, Rahall, Young of Alaska, Lujan, Lagomarsino, and Marlenee.

From the Committee on Interior and Insular Affairs, for consideration of section 5005 of the House bill, and sections 2201 through 2203, and 2301 of the Senate amendment, and modifications committed to conference: Messrs. Udall, Miller of California, Sharp, Markey, Gejdenson, Vento, Young of Alaska, Lujan, Lagomarsino, and Marlenee.

From the Committee on Merchant Marine and Fisheries, for consideration of title VI of the House bill, and sections 1002, 2008, and 3001 of the Senate amendment, and modifications committed to conference: Messrs. Jones of North Carolina, Anderson, Studds, Lowry of Washington, Hutto, Tauzin, Davis of Michigan, Young of Alaska, Lent, and Shumway.

From the Committee on Post Office and Civil Service, for consideration of title VII of the House bill, and Title V (except section 5002) of the Senate amendment, and modifications committed to conference: Messrs. Ford of Michigan, Leland, Ackerman, Taylor, and Horton.

From the Committee on Public Works and Transportation, for consideration of subtitle A of title VI of the House bill, and section 3001 of the Senate amendment, and modifications committed to conference: Messrs. Howard, Roe, Mineta, Oberstar, Nowak, Rahall, Hammerschmidt, Shuster, Stangeland, and Gingrich.

From the Committee on Public Works and Transportation, for consideration of section 3003 of the Senate amendment, and modifications committed to conference: Messrs. Howard, Anderson, Roe, Mineta, Oberstar, Nowak, Hammerschmidt, Shuster, Stangeland, and Gingrich.

From the Committee on Government Operations, for consideration of sections 5002 and 9003 of the Senate amendment, and modifications committed to conference: Mr. Brooks, Mr. Conyers, Mrs. Collins, Messrs. English, Waxman, Weiss, Horton, Walker, Clinger, and McCandless.

From the Committee on Veterans' Affairs, for consideration of title VIII of the House bill, and title VII of the Senate amendment, and modifications committed to conference: Mr. Montgomery, Ms. Kaptur, and Mr. Solomon.

From the Committee on Ways and Means, for consideration of titles III, subtitle A of title IV and IX of the House bill, and subtitle A of title IV (except subpart V of part A and subpart II of part B) and subtitle A of title VI and section 8309 of the Senate amendment, and modifications committed to conference: Messrs. Rostenkowski, Gibbons, Pickle, Rangel, Stark, Jacobs, Downey of New York, Frenzel, Schulze, Gradison, and Thomas of California.

From the Committee on Ways and Means, for consideration of title X of the House bill, and subtitle B of title IV of the Senate amendment, and modifications committed to conference: Messrs. Rostenkowski, Gibbons, Pickle, Rangel, Stark, Jacobs, Downey of New York, Duncan, Archer, Vander Jagt, and Crane.

From the Committee on Ways and Means, for consideration of title X of the Senate amendment, and modifications committed to conference: Messrs. Rostenkowski, Downey of New York, and Duncan.

As additional conferees, for consideration of the House bill (except title X) of the House bill, and the Senate amendment (except subtitle B of title IV), and modifications committed to conference: Mr. Foley and Mr. Cheney.

GENERAL LEAVE

Mr. JONES of North Carolina. Mr. Chairman, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 1467, the bill just considered.

The SPEAKER. Is there objection to the request of the gentleman from North Carolina.

There was no objection.

□ 1445

LEGISLATIVE PROGRAM

(Mr. MICHEL asked and was given permission to address the House for 1 minute.)

Mr. MICHEL. Mr. Speaker, I have asked for this time for the purpose of inquiring of the distinguished majorty leader the program for the balance of the day and next week.

Mr. FOLEY. Mr. Speaker, if the distinguished Republican leader will yield to me.

Mr. MICHEL. I am happy to yield to the distinguished gentleman from Washington.

Mr. FOLEY. We intend to conclude the legislative program for today following this announcement and any unanimous consent request and, of course, special orders will follow that.

The House will adjourn to meet on Monday, December 14, at noon to consider nine bills under suspension of the rules:

H.R. 1860, Federal Land Exchange Facilitation Act of 1987;

H.R. 2370, to establish an economic development plan for the Northwestern Band of the Shoshoni Nation;

H.R. 2683, Nuclear Safety and Security Improvements Act of 1987;

H.R. 2628, Imported Vehicle Safety Act of 1987;

H.R. 3399, to develop a National Alternative Motor Fuels Policy;

H.R. 2790, Public Buildings Act of 1987;

H.R. 3712, to designate the U.S. Livestock Insects Laboratory in Kerrville, TX, as the "Knipling-Bushland Research Laboratory";

H.R. 3435, Charitable Assistance and Food Bank Support Act of 1987; and

H.R. 1777, conference report on State Department authorization.

The intention will be to postpone any recorded votes which are ordered on any of these suspensions until the conclusion of debate on all the suspensions, but I should caution Members that the possibility of conclusion by the other body of action on the continuing resolution may bring about a motion to go to conference on that earlier in the day, so we cannot assure that there will not be rollcall votes shortly after the meeting of the House on Monday.

Other votes on suspensions, as I said, will be postponed until the end of debate on Monday. There will be recorded votes on Monday.

On Tuesday, December 15, the House will meet at noon and consider H.R. 1720, the Family Welfare Reform Act of 1987, under a modified rule with 4 hours of debate.

On Wednesday and the balance of the week, December 16, 17, and 18, the House will meet at 10 a.m. and consider H.R. 1467, the Endangered Species Act for fiscal years 1988, 1989, 1990, 1991, and 1992.

As I have indicated, conference reports may be brought up at any time and further action may be announced later.

Next week we anticipate as the last week of the session, and not only should Members assume Monday votes, but should assume that there will be rollcall votes throughout the week, including the possibility of Saturday, the 19th of December.

There is no likelihood of any kind that the House will have any days next week without votes, and Members should understand that their attendance will be expected on every day of next week.

We would, or course, be delighted if the House can conclude its business by Friday, the 18th of December, but realistically one should assume the possibility of Saturday, the 19th.

Mr. MICHEL. If I might inquire, the continuing resolution expires on the 16th. What would the gentleman see in his crystal ball if per chance by the 16th we do not have a final resolution of a continuing resolution by the 16th when the current one expires?

Mr. FOLEY. Well, we hope that the conferees on a continuing resolution may be appointed as early as Monday, if the other body concludes its activities and the debates and action on that bill. It is the hope that the full continuing resolution and conference report might be considered before the midnight December 16 deadline.

Mr. MICHEL. If per chance that is not possible, because the gentleman made mention that Members ought to be prepared to be here Friday and conceivably Saturday, for whatever reason if we need that kind of time, would it be presumptuous on my part to assume there will be another temporary, very, very short-term extension of the CR to get us through say Friday?

Mr. FOLEY. Well, we would hope that we would not have to engage in another short-term extension of the continuing resolution, but if the full legislation is not available for conference report action by the House, that could be a possibility.

Mr. MICHEL. And I would make mention of that because, frankly, if we were to run into a buzz saw of some kind and another short-term resolution were to run into the next week, then that just practically assures us of being here well into that next week.

My personal preference is recognizing the problem that we have got to deal with, no longer than Friday, and then that puts the pressure on, even if sometime Friday there is not a resolution, there is a weekend before anything kicks in to give us problems. I think all the Members are pretty much unanimously agreed that it is best that we leave at that time if we want to get home for Christmas.

I am reminded that the FHA authorization expires also on the 16th. Do we have anything in the works on an extension of that, at least in a temporary way; if not, at least the raising of the question might very well be worthwhile.

Mr. FOLEY. I am not able to advise the distinguished Republican leader on that at this time, but we will make inquiry and we will advise the gentleman subsequently.

Mr. MICHEL. Mr. Speaker, I thank the gentleman.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday next.

The **SPEAKER.** Is there objection to the request of the gentleman from Washington?

There was no objection.

ADJOURNMENT TO MONDAY, DECEMBER 14, 1987

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at noon on Monday next.

The **SPEAKER.** Is there objection to the request of the gentleman from Washington?

There was no objection.

PERSONAL EXPLANATION

(Mr. MILLER of Washington asked and was given permission to address the House for 1 minute.)

Mr. MILLER of Washington. Mr. Speaker, yesterday I was unavoidably detained so as not to be present for five votes, two in the morning due to a medical appointment and three in the afternoon due to my presence at the departure of General Secretary Gorbachev.

If I had been present, Mr. Speaker, I would have voted "aye" on rollcall No. 466; "aye" on rollcall No. 467; "no" on rollcall No. 470; "no" on rollcall No. 471; and "aye" on rollcall No. 472.

Mr. Speaker, I ask that the RECORD reflect my statement.

THE EUROPEAN CONVENTIONAL ARMS IMBALANCE: THE NEXT NEGOTIATING FORUM

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from New York [Mr. SOLARZ] is recognized for 60 minutes.

Mr. SOLARZ. Mr. Speaker, the signing earlier this week of a Soviet-American accord eliminating intermediate-range nuclear missiles [INF] has focused renewed attention on the imbalance between NATO and Warsaw Pact conventional forces in central Europe.

Such an examination is long overdue.

Eighteen months ago, the Warsaw Pact unveiled a new proposal—the so-called Budapest appeal—which dealt with both nuclear and conventional arms in Europe.

The Budapest appeal called for substantial troop reductions from the Atlantic to the Urals.

Moreover, as an intriguing corollary to these manpower cuts, it also proposed reductions in nuclear weapons, air power, and other conventional armaments.

We in the West have been shamefully slow in responding to this Warsaw Pact initiative.

A number of Western analysts and officials have, to be sure, begun to explore the underlying issues raised by the Budapest appeal and the conventional imbalance in Europe—including the chairman of the Senate Armed Services Committee, SAM NUNN; his House counterpart, Congressman LES ASPIN; and two past heads of the United States negotiating team at the mutual and balanced force reductions negotiations, Robert Blackwell and Jonathan Dean.

But NATO has yet to formulate a realistic Western response, either to the Budapest appeal or to the more fundamental problem of the European conventional imbalance.

Just last week, for instance, press reports suggested that the United States Government has developed a negotiating approach that would require the Warsaw Pact to make substantial cuts in its forces without at the same time calling for any reductions in western forces.

Moscow is hardly likely to treat such a proposal seriously.

It seems patently obvious that the West must be prepared to give up something in order to obtain something from the East in return.

But without a realistic negotiating position, we can hardly go to the negotiating table to try to redress the political and security problems the European conventional imbalance has created.

To be sure, some analysts have said that the existing conventional balance, from the Western point of view, is not nearly as dire as the conventional wisdom would have it.

Certainly much more needs to be taken into account in gauging that balance than simply raw numbers.

Morale, training, alliance cohesion, equipment quality, and a host of other unquantifiable factors all need to be considered.

Still, it would clearly be imprudent to cavalierly dismiss the judgment of our professional military, as well as the great majority of Western analysts, that the Soviets currently possess the ability to establish overwhelming force ratios of up to 8 to 1 at critical points along the central European border dividing East and West.

I shall attempt today to summarize the security concerns that will confront us in the wave of an INF accord.

Having done so, I shall then set forth a negotiating approach or strategy for responding to the challenges posed by Warsaw Pact conventional superiority in central Europe.

For only with a realistic and comprehensive negotiating strategy will we then be able to fashion a response to the European conventional imbalance that will significantly contribute to the political and military stability of Europe while simultaneously sustaining the public support all Western policy must ultimately command.

With or without the elimination of all European intermediate-range missiles, the Warsaw Pact retains a clear numerical superiority over NATO in most categories of conventional forces and armaments in central Europe.

Western estimates on the extent and military significance of the pact's advantage vary widely.

All agree, however, that the Eastern bloc enjoys numerical superiority in both men and material.

According to the respected International Institute for Strategic Studies, for instance, the Warsaw Pact deploys three times as many active divisions in central Europe as NATO, 63⅔-20⅓.

The pact, this same source informs us, currently has more then 29,000 tanks stationed in central Europe, while NATO has fewer than 9,000.

The Eastern bloc enjoys similar advantages in ground attack fixed-wing aircraft—1,656 versus 945; armed helicopters—2,085 versus 714; short-range missiles—896 to 165; and indeed, in most other weapons systems.

Geographical asymmetries between the two alliances only exacerbate these numerical asymmetries.

As a simple glance at the map will show, the Soviet Union, with its massive military power and imposing resource base, is part of the European continent and has relatively easy access to Western Europe.

The United States, on the other hand, lies an ocean away, its population and resources far removed from the area of potential conflict.

Among other advantages, this geographical asymmetry gives the Soviet Union an ability to reinforce its positions in central Europe far more rapidly than the United States in the event of war.

Why should we be concerned about a conventional imbalance in Europe between the two alliances?

For several reasons.

First, inamuch as a nuclear war is likely to come about from a conventional war that escalates out of control, it is essential that we do whatever we can to reduce the chances of a conventional conflict.

And at a moment of crisis, Soviet planners would be far more tempted to resort to a sudden attack against NATO if they believed they possessed conventional superiority in Europe than if rough parity existed between the two alliances.

Second, if worse came to worse and war did break out in Europe, the Warsaw Pact could mass its forces at critical points along the front, enabling it to achieve ratios of as much as 8 to 1, which might then enable it to break through Western defenses.

Under such circumstances, NATO might well be faced with the choice between going nuclear and going under.

It follows, therefore, that we need to do something about the conventional imbalance in order to raise the nuclear threshold in Europe.

Finally, its conventional superiority could give Moscow additional leverage in a political crisis, in much the same fashion as occurred in 1962, when the overwhelming United States military superiority over the Soviets forced Chairman Khrushchev to back down at the time of the Cuban missile crisis.

In short, as the Soviet Union has achieved strategic nuclear parity with the United States, the nuclear deterrence upon which the West has relied to prevent war has lost some of its credibility, rendering the conventional balance that much more important.

Indeed, many commentators contend that in a post-INF world, NATO will need to redouble its efforts to beef up its conventional strength.

Nor is it simply the conventional imbalance per se that is worrisome.

Many Western analysts believe that Warsaw Pack forces are deployed, equipped, and trained in a manner that gives the pact the ability to mount an attack on Western Europe with very little warning time.

It is this "surprise attack" potential that is especially destabilizing, both politically and militarily.

Essentially, the West has two ways of countering the conventional superiority now enjoyed by the Warsaw Pact.

We can unilaterally build up our own forces.

Or we can multilaterally negotiate down in a way that reduces the pact's advantage and provides for the establishment of a more acceptable balance of conventional military power between the two alliances.

The first alternative—involving dramatic unilateral action to improve the East-West conventional balance—does not, however, appear very likely.

Political, economic, and demographic constraints all severely limit the extent to which the NATO countries are likely to build up their conventional strength in the coming years.

Politically, most Western publics no longer view the Soviet Union with the fear and anxiety common a generation ago.

The passage of time—and a skillful public relations campaign by Mr. Gorbachev—has muted the old cold war hatreds.

Few voters in either Western Europe or the United States are enthusiastic about channeling increasingly scarce resources into the defense sector at a time when the perception of the threat posed by Moscow is declining.

The completion of an INF agreement, moreover, will reinforce this reluctance to accept the sacrifices a conventional buildup would inevitably require.

Economically, budgetary pressures in virtually every NATO country have forced officials to consider ways to control defense spending.

In our own country all of us are painfully familiar with the competition between the military and the civilian sectors for Government revenues that seem to stretch less far each year.

The situation among our NATO friends is roughly analogous, and in the absence of an economic turnaround literally no one expects, is likely to become even more difficult in the years ahead.

Furthermore, at a time when many of our military allies are experiencing double-digit unemployment, it is not likely that they can be persuaded to shift substantial resources from domestic to defense programs.

Finally, the NATO countries—and most importantly, West Germany, which supplies the bulk of NATO's ground forces—will have substantially less manpower available for military service over the next decade.

West Germany presently has the lowest birthrate in the world, and a number of other NATO countries are in a similar if less dramatic position.

The FRG's Bundeswehr, for instance, could shrink by as much as 40 percent over the next decade because of manpower shortages.

Holland's draftable age-cohort will decline from its current size by 39 percent by 1995.

In the United Kingdom the comparable figure is 34 percent.

And as the available manpower pools dwindle, it will be increasingly difficult even to maintain the current strength of NATO forces, to say nothing of building up that strength.

By contrast, this demographic decline will barely touch the Warsaw Pact countries.

Only East Germany faces manpower shortages in the near future.

The population levels of other pact countries will either grow substantially for the remainder of the century or remain fairly constant.

Taken together, these constraints make it highly unlikely that the West will, in the foreseeable future, close the numerical gaps between NATO and Warsaw Pact conventional forces.

Indeed, if anything, the imbalance is likely to get worse than it is at present.

The conclusion appears both logical and inescapable.

Even as we continue to upgrade our conventional forces, the alternative of unilaterally building upward to match pact strength—even were the Soviets to allow us to do so, which of course is most improbable—appears unlikely to achieve widespread support in the West.

So that leaves us with our second alternative: to negotiate down.

Unfortunately, recent history does not lend encouragement to the conclusion that such a negotiation can succeed.

To the contrary, the frustrations of more than a decade point out the difficulties in such an approach.

For 14 years negotiations on mutual and balanced force reductions [MBFR] have been going on in Vienna between members of the two alliances.

For 14 years NATO negotiators have sought to eliminate the Warsaw Pact's superiority in military power located in central Europe by pushing for asymmetrical reductions in the forces of each side.

And for 14 years talks between the two sides have failed to produce an accord.

The Western approach in these negotiations has been based on the premise that asymmetrical manpower reductions are required in order to achieve rough parity in the troop strengths of the two alliances in the central European theater.

Pact negotiators, on the other hand, have argued that approximate parity already exists between the two alliances, and have held out for equal manpower reductions, which of course would maintain and even legitimize current pact superiority.

Behind this difference of opinion as to whether symmetrical or asymmetrical force reductions should be applied lies an equally fundamental disagreement over how many troops the Warsaw Pact maintains in central Europe.

And after 14 years of talking, these disputes over data and verification remain unresolved.

Clearly a new approach is called for.

Even the most sanguine have been forced to concede that a negotiating strategy which focuses on manpower levels, as the MBFR talks have done, is unlikely to produce an acceptable balance of conventional forces in Europe.

Fortunately, an alternative approach lies readily at hand.

Were we to focus instead on reducing and constraining equipment—especially those weapons systems and capabilities that lend themselves to offensive operations—this might allow negotiations to bypass the apparently intractable manpower problem while concentrating on a more relevant and significant element in each alliance's order-of-battle.

Many of the experts believe that equipment levels are easier to verify through nonintrusive national technical means of inspection than manpower levels.

This in itself is a good reason to focus on material rather than manpower.

Zeroing in on equipment, however, possesses an even more attractive advantage.

Lacking certain types of equipment, Warsaw Pact military units would have only a limited ability to initiate and sustain an offensive, and especially a short-warning attack, against the West.

Even if equipment that supports offensive operations were not totally removed from central Europe, its reduction would significantly increase Western security.

Stated another way, one of NATO's principal concerns is the Warsaw Pact's capability for rapid offensive warfare.

Removing equipment or otherwise creating constraints on its use is the most direct and immediate way to reduce the East's offensive combat power.

Moreover, specific types of equipment can be targeted for reduction on the grounds that, as offensive weaponry, they are particularly destabilizing.

Few, for instance, would dispute that armored warfare is the cornerstone of Warsaw Pact offensive doctrine, or that were its tank force trimmed back substantially, the pact would have a considerably reduced offensive capability.

Other conventional weapons crucial to rapid offensive operations include self-propelled artillery, armed helicopters, and short-range missiles.

Eliminating or even substantially reducing the number of these missiles would be especially important, since this would significantly lessen the threat to the relatively vulnerable ports and airfields necessary for reinforcement from the United States.

No longer possessing the capability to destroy these facilities at the outset of a conflict (short of using strategic nuclear weapons), Warsaw Pact planners would almost certainly find a surprise attack far less tempting.

Nor must weapons systems be the only kind of equipment slated for reductions.

Without bridging equipment, the rivers of West Germany could present the Warsaw Pact with significant obstacles to a rapid advance.

The withdrawal or destruction of this equipment would markedly enhance Western security without substantially reducing the pact's defensive capabilities.

I am not ruling out eventual manpower reductions.

Such reductions could in fact accompany this proposal.

But they are not central to its purpose of eliminating, or at least of significantly limiting, the ability of the Warsaw Pact to mount a surprise attack against NATO.

Should Moscow nonetheless decide on such an attack, the violation of arrangements put into place by an agreement to reduce and/or eliminate weapons specifically suited for offensive uses would provide a clear warning that the Warsaw Pact was about to take aggressive actions against West Europe.

This would give us time to bolster our defenses, including the redeployment of our own withdrawn or stockpiled equipment.

Of even greater importance, this additional time would afford the diplomats on each side an opportunity to resolve the crisis politically before a military confrontation takes place.

In short, this proposal seeks to enhance military stability in central

Europe, and thereby to reduce military tensions throughout the continent.

While allowing each alliance to maintain an adequate defensive posture, this approach attempts to carry us beyond the current impasse in conventional arms and make meaningful conventional arms control a reality.

I do not expect all of this to come to pass in a matter of weeks or months.

It may not be possible to attain all our objectives even after years of negotiations.

Profound differences divide East and West.

NATO members disagree among themselves.

And beyond these differences in interests and perspectives, the negotiation of conventional arms agreements is an extraordinarily complex undertaking—even more difficult than nuclear arms control, given the greater variety of weapons and forces involved.

But the goal of European military stability is simply too important for us to tolerate continued impasse.

If it proves impossible to work out a comprehensive accord in the short term, we could nonetheless move toward a safer conventional balance through incremental steps.

A series of building block agreements on portions of this package could provide military stability in the near term and contribute to the significant reductions and constraints I am proposing for the long run.

Let me now try to lay out the key components of this proposal.

Initially it would concentrate on a reduction area reaching out from both sides of the line dividing Western and Eastern Europe.

This area would include, on the west, West Germany, Belgium, The Netherlands, and Luxembourg.

In eastern Europe it would encompass East Germany, Czechoslovakia, Poland, and the western military districts of the Soviet Union.

This proposal would require that each side dismantle a portion of its tanks, including mine sweeping tanks, and place this disassembled equipment in designated storage areas within the reduction area.

Self-propelled artillery, armed helicopters, and bridging equipment would be similarly mothballed, with the Warsaw Pact storing substantially more than NATO.

It would, furthermore, require the removal and destruction of many, although not all, of the United States and Soviet short-range nuclear missiles from the Central European reduction area, including the western portions of the Soviet Union.

Eventually NATO should strive to achieve a low-level parity in these weapons, leaving perhaps 100 missiles for each side.

Given the uneasiness which the double zero has produced in some members of the Western Alliance, it would be a mistake to press for a triple zero.

Even so, under the arrangements I am proposing, NATO would be forced to give up most of its Lance missiles.

Moscow for its part would be required to destroy many of its Frog 7, SS-21, and Scud B missiles.

At the same time, all air defense weapons and all antiarmor missiles would remain, since these systems are largely defensive in nature.

On the Western side these would include Hawks, Chaparrals, Patriots, and Rapiers, while the Pact would be allowed to retain its SA-11, SA-12A, and SA-14 Sams, as well as certain handheld systems such as the SA-14 and SA-16.

Finally, this proposal envisions a broader Atlantic to the Urals constraints zone as well as a central reduction zone.

Constraints on deployment in the broader region would be required in order to insure that restrictions on deployment in the reduction zone are not circumvented or undermined by force deployments outside the central European reduction area.

Given the relative proximity of the Soviet Union to central Europe, a simple withdrawal of United States and Soviet forces to their respective home territories would create an unacceptable imbalance in the ability of each side to redeploy forces to central Europe in a crisis.

Soviet forces under this proposal would have to be withdrawn sufficiently far eastward so that it would take approximately as long for Moscow to move its troops back to central Europe as it would to bring ours over from the United States.

If these withdrawals bought us only a few extra days, it would, of course, not much matter what we did.

But we are not talking here simply of a few days.

To the contrary, the Soviets would face significant—and time consuming—problems moving troops and equipment back to central Europe because of differences in railroad track gauge between the Soviet Union and the other bloc countries, as well as a paucity of switching points in eastern Europe.

The mothballing envisioned by this plan is also designed to overcome this problem of geographical asymmetry.

Equipment storage would not overcome the problem of redeploying personnel across the Atlantic, but personnel do not present as great a transportation difficulty as heavy equipment.

By permitting us to mothball equipment rather than requiring its removal from the reduction area altogether, we minimize what otherwise would be a staggering challenge of ferrying withdrawn equipment back across the Atlantic in a time of crisis.

And because it would take weeks to demothball the dismantled tanks and other equipment in sizable numbers, storing this material in designated areas would insure the West ample warning if Moscow were suddenly to begin reactivating this equipment.

Mothballing possesses yet another attraction.

Currently NATO has large POMCUS [prepositioning of organization material configured in unit sets] sites housing equipment for units which in the event of conflict would deploy to Europe from the United States.

At present these storage sites offer inviting targets for a surprise strike by the Warsaw Pact.

If, however, pact equipment were mothballed in POMCUS-like sites, Soviet equipment would be as vulnerable as our own—each serving in effect as a hostage.

Finally, an initial agreement to mothball rather than destroy certain equipment would not preclude the possibility at a later time of an agreement to destroy it outright.

Once confidence on both sides has increased, perhaps we and the Soviets could come to more sweeping agreements.

In any event, permanent international inspection teams would be assigned to each storage area to ensure compliance.

As with any treaty into which we enter with the Soviet Union, we must insure that we have an independent capability to determine that Moscow is fully abiding by all provisions of the accord.

And what would be the result of reductions under such a plan?

Of course the specific numbers will be subject to intense bargaining.

Even so, we can already envision the contours of an agreement negotiated in this fashion.

Right now, for instance, NATO has 8,981 tanks in central Europe, compared to the Warsaw Pact's 29,270.

Let us assure for the moment that Moscow accepts the 5-1 reduction ratio suggested by a recent Rand Corp. study, a ratio Western experts generally deem essential.

Under this proposal, then, these figures could drop to 7,981 tanks for NATO as opposed to 24,270 for the pact—still a substantial bloc advantage, but somewhat less lopsided than is now the case.

Stated another way, the Pact would deactivate perhaps 15 divisions, NATO 3-4 divisions—reducing the Pact's divisional advantage from 99-36⅔ to roughly 84-33.

Of course these figures are merely illustrative; conceivably the reductions could go deeper.

For instance, instead of mothballing 1,000 tanks, suppose we were to place 3,000 tanks—9-12 divisions—in storage.

Again assuming a 5-to-1 reduction ratio, this would deactivate 45-50 Pact tank divisions and reduce the Pact's tank advantage to 14,270 versus our 5,981—leaving the East bloc with a divisional advantage on the order of 50-27.

But no matter the level of the cuts, they would all have to come from active duty units stationed in the central European reduction area.

Reserve units in the rear would be frozen, thereby insuring that the 5-to-1 reductions would move us toward tank parity in active duty units along the critical line dividing East and West.

Armed helicopters and nuclear missiles would also be reduced toward parity.

At present, the West deploys 714 armed helicopters in the proposed reduction area, while the East has 2,085 helicopters of a similar capability.

Under this proposal, those numbers could fall to 614 versus 1,585, or 514 versus 1,085.

Or again, take missiles.

At the moment the balance heavily favors the pact, perhaps by a 4-to-1 margin.

But there is no reason why we can't reduce this imbalance to something closer to approximate parity.

Two points bear special emphasis:

First of all, from the perspective of the defense of Western Europe, the weapons and equipment ratios generated under this approach, while not eliminating the pact's superiority, would be far more favorable than the existing ratios.

Second, although no reduction of any individual system will of itself make a surprise attack against the West impossible, as a component in this overall package of reductions and constraints, each reduction will constitute a significant step in this direction.

We will never be able to ignore the presence of tens of thousands of pact tanks ranged across central Europe, even if an East-West accord somewhat reduces their numbers.

But if the bridging equipment, short-range missiles, and other systems which would render their use as offensive weapons more likely are removed, the threat those tanks pose to NATO countries would be substantially reduced.

I should also emphasize that the terms of this proposal would not prevent either NATO or the Warsaw Pact from making improvements in their more defensively oriented systems.

No restrictions would be placed on antitank missiles, air defense weapons, fighter-interceptor aircraft, towed artillery, mine fields, fortifications, or antitank obstacles.

Nor would we in the West be required to reduce equipment levels to a point where a flexible response policy no longer remains possible.

Any agreement negotiated under the framework I have in mind would be based upon the assumption that NATO must of necessity maintain the viability of its doctrine of flexible response.

To repeat the underlying assumption behind this entire approach: By focusing upon equipment reductions and the removal of weapons systems from central Europe, we can substantially diminish the destabilizing effect of a surprise attack, while simultaneously avoiding the negotiating difficulties inherent in an approach that focuses on manpower rather than material.

Once the measures envisioned by this proposal have been implemented, a decision by the Warsaw Pact to attack Western Europe would require extensive advance preparations that would provide clear and unambiguous warning to the West.

This would give NATO members precious time to prepare for an attack.

Equally important, it would buy time to defuse the crisis and prevent hostilities altogether.

There remains, of course, the matter of the practicality of such a strategy.

Not even the most well-reasoned proposal will advance us beyond the current impasse on conventional forces if the Soviets are not prepared to consider it.

So the question becomes: Is there any likelihood that Moscow might actually be interested in an agreement along the lines I have set forth?

Naturally we cannot assume that the Soviets would immediately embrace such an agreement.

But there is some reason to believe that for both political and military reasons they might find an accord of this nature acceptable.

Most analysts agree that Gorbachev's top priority for the foreseeable future will be to revitalize the sagging Soviet economy.

The Soviet leader has called for sweeping economic and political restructuring, which is likely to take many years, if it can be done at all.

In order to have even a chance at success, Gorbachev needs at least a temporary relaxation of international tensions so that he might reallocate resources from the military to the civilian sector.

He would probably desire increased trade, technology transfer, and credits from the West as well, all more readily obtainable in an atmosphere of détente.

Major conventional arms reductions in Europe would help ease international tensions and slow the tempo of the arms race, thereby reducing the urgency of military claims on Soviet resources.

In other words, Gorbachev, in order to pursue his domestic agenda, might find a proposal along these lines very attractive.

Moreover, the kind of asymmetrical reductions envisioned by this proposal will not impair the pact's defensive capabilities.

In fact, insofar as they also reduce the West's striking power, they would enhance pact defenses.

Kremlin officials should find this a compelling argument in favor of an accord.

If the Warsaw Pact is solely a defensive alliance, as Moscow routinely claims, we would not be asking the Soviets to give up any advantages they wish to use.

After 14 years of failure at the MBFR talks recent developments have brought new hope that it might actually be possible to break out of this deadlock and come to some sort of significant agreement with the Soviet Union on European conventional forces.

For instance, Moscow has recently acknowledged that asymmetries do exist between NATO and Warsaw Pact forces in Europe, a concession that might enable Soviet negotiators to accept uneven reductions.

Second, the MBFR talks envisioned a reduction area only in central Europe.

Moscow and its allies, however, have now agreed that European negotiations should cover the entire Atlantic to the Urals region.

Given the geographical asymmetries faced by the two alliances, no meaningful improvement in the military balance could be achieved without including forces stationed in the western portions of the Soviet Union in any agreement.

This Soviet concession now opens the door for precisely this sort of agreement.

Some analysts believe that the Soviet Union has never—certainly not in the postwar era—taken as serious an approach to arms control as it is now taking under Gorbachev's leadership.

This new seriousness, they suggest, has been demonstrated in Moscow's far more flexible approach to the monitoring required to verify compliance with arms control agreements.

For instance, in this week's INF accord, the Soviets accepted extensive challenge inspections of missile basing, production, and support sites on their territory.

The Kremlin's willingness to remove its historic opposition to onsite inspections has opened the way to far more extensive conventional arms control agreements than were previously thought possible.

There have been other modifications in previously inflexible Soviet positions as well.

Soviet officials are now speaking of being content with military sufficiency rather than the superiority which has been their apparent objective in the past.

They have also indicated that they would move toward greater openness in exchanging information on military doctrine and expenditures.

In addition, in accepting a global double zero INF Treaty, Moscow has abandoned its earlier insistence that British and French missiles be counted in any such agreement.

None of this "proves" that Moscow is prepared to accept asymmetrical reductions in its European conventional forces.

But it does suggest that the Kremlin may be willing to consider concessions that in the past would have been rejected out of hand.

It goes without saying, of course, that in order to get the Soviets to agree to asymmetrical reductions that will reduce or eliminate their advantage in conventional forces, we must offer them something they would deem attractive enough to warrant relinquishing this advantage.

But at the same time, we cannot handicap our ability to maintain a strong Western defense posture.

As the Soviets know well, Western technology holds the potential for producing significant breakthroughs that could offset existing Warsaw Pact numerical advantages.

This technological promise is perhaps the greatest incentive Moscow might have for agreeing to asymmetrical reductions and, conversely, the greatest source of Western leverage in the negotiations.

Moscow would very likely find attractive the possibility of erecting constraints on U.S. deployment in the next decade of an improved version of the Lance missile and the new highly accurate short-range ATACOMS missile.

Moreover, this negotiating strategy might require the West to abandon deployment plans for many of the emerging technologies now being considered to implement NATO's follow-on-forces-attack [FOFA] doctrine.

Were we required to limit our plans for deep interdiction against Warsaw Pact forces, perhaps the pact would be willing in return to surrender much of its ability to mount offensive operations against the West.

In thinking through these problems, we must be both realistic and maximalist.

It would serve no useful purpose to ask the Soviets for concessions they clearly are not prepared to offer.

But by the same token, we must not be too modest in our expectations either.

It would represent a tragic failure of imagination were we to forgo what may be a unique opportunity for an historic agreement with the Soviet Union by formulating a proposal that did not go as far as Moscow was prepared to go.

This is, therefore, preeminently a time for diplomatic and strategic creativity.

Mr. Gorbachev has proposed that the two sides sit down to talk about military doctrine.

We in the West have the most to complain about on this count, since NATO's doctrine, unlike the pact's, is not offensive-minded.

Thus we should respond to Mr. Gorbachev's offer by seeking discussions not just on abstract military doctrine, but on the way that the pact's offensive doctrine, equipment, force structure, and training contribute to political and military instability in Europe.

An opening discussion along these lines could lead naturally to Western proposals aimed at implementing our package in a step-by-step fashion, if the Soviets were unwilling to move more boldly and comprehensively from the beginning.

The process could start, for example, with limits on the deployment of bridging equipment in central Europe.

Such restrictions would not strike at the heart of NATO or pact military capabilities but would create momentum toward constraints on offensively oriented equipment.

The two sides might also agree to move major ammunition and fuel storage areas back from the East-West dividing line in central Europe.

Such incremental steps could be accompanied by appropriate inspection measures.

In this way a verification regime could also be built up over time.

The development of such an East-West cooperative regime could help build confidence in the peaceful intentions of the two sides and facilitate agreement on more far-reaching measures.

It seems to me that the approach I have just laid out contains a number of benefits for the West, both for the short term and the longer run.

For the immediate future, these proposals:

Promise to enhance stability enormously on the central front in Europe by reducing and perhaps even eliminating the possibility of a surprise conventional attack by the Warsaw Pact.

Buy added delay that in a time of crisis would give the diplomats a chance to work out a peaceful settlement.

Raise the nuclear threshold in Europe.

Make it less likely that a Third World conflict could spill over into Europe.

In the longer run, this approach seems to promise additional benefits:

With sufficient reductions in equipment levels, it could lead to actual manpower cutbacks as well.

The combination of equipment and manpower reductions could eventually result in substantial cost savings.

It could lead to the eventual establishment of a more acceptable military balance in central Europe between the two alliances.

It could encourage the Warsaw Pact to shift from its current offensive doctrine toward one more defensive in nature.

And finally, by reducing the chances of a surprise attack, it would clearly lead to a lessening of tensions in central Europe.

Skeptics no doubt will raise objections to this approach.

Some will say that such a plan would damage NATO's capacity for conventional defense.

This argument, however, misses the entire point behind this negotiating strategy.

We in the West are already confronted with an unfavorable military balance in Europe.

It is true that under the approach I have set forth, NATO would be called upon to retire some of its weapons, and to forgo deployment of others currently contemplated.

But given the asymmetry in the stocks of equipment to be mothballed or destroyed by the two sides, NATO, although suffering a decline in absolute capability, will be relatively better off vis-a-vis the pact—far so, in fact—once such a package is implemented.

Others may worry that this plan threatens to decouple the United States from the defense of western Europe.

Nothing could be further from the truth.

We will unavoidably—and quite properly—retain substantial forces in Europe for the foreseeable future.

At the moment the more than 300,000 American troops now stationed in Europe constitute a convincing manifestation of the American commitment to the defense of western Europe.

Even if the American military presence in Europe were somewhat reduced, this would remain the case.

Some will tell us that our NATO allies will never go for such a plan.

It will be necessary, of course, to work closely with our alliance partners to insure that any agreement reached with the Warsaw Pact properly addresses European concerns.

Our allies, however, favor a decisive shift away from the MBFR objective of manpower reductions to more manageable and more easily verified formulas that concentrate upon constraining the pact's ability to mount a standing-start attack.

Manfred Woerner, the West German Minister of Defense, has bluntly stated that the West's first objective in negotiations on conventional forces must be to reduce the pact's superiority in "main weapons systems" in such a way that the East will be able to wage only a "defensive" war.

Similarly, officials in both France and the United Kingdom have called for increased attention to imposing constraints upon Warsaw Pact tanks, artillery, and assault bridging equipment as a means of avoiding the negotiating stalemate of the past.

Still others will note that it would run counter to 70 years of Soviet history and centuries of Russian tradition for Moscow voluntarily to surrender even a fraction of its military advantage.

Such skeptics will also contend that the Soviets will never accept the asymmetrical reductions in such a plan.

Indeed, it is true that we do not actually know if the Soviet Union is prepared to accept militarily significant asymmetrical reductions in Europe.

But if Gorbachev, for reasons having to do with his plans for reform and restructuring in the Soviet Union, really wants to reduce East-West tensions, and if he is able to bring the party and the Soviet military along with him, it may well be that meaningful progress in addressing the conventional force imbalance is possible.

Gorbachev has already surprised Western specialists with a number of dramatic concessions on issues long thought to be nonnegotiable.

For us blindly to assume that he is incapable of further flexibility is to abandon all hope of improving the present unsatisfactory military balance.

Finally, some will complain that this approach does not go far enough because it does not eliminate all nuclear weapons from Europe.

The acceptance by the Soviets of such a proposal would, to be sure, leave the West with a European-based nuclear deterrent consisting of battlefield nuclear weapons, short-range nuclear missiles, and nuclear-capable F-111's.

Indeed, we would not want to completely de-nuclearize the European theater.

We would do well to recall that however unimaginably horrible nuclear war would be, a prolonged conventional conflict would also bring death on a vast scale.

After all, 55 million people lost their lives during the Second World War.

Moreover, in view of the enormous improvements since 1945 in the firepower of modern weaponry, another conventional global war would undoubtedly result in even greater losses.

Our objective, therefore, is not just to prevail should war break out, but to prevent war altogether.

So long as the Warsaw Pact continues to enjoy a substantial conventional superiority in Europe, we will require nuclear weapons to help deter a pact attack.

Moreover, a complete de-nuclearization of Europe would probably be impossible to verify—and the consequences of Soviet cheating on an agreement calling for the renunciation of all nuclear weapons are far greater than the consequences of violating an agreement which reduces the number of nuclear weapons while still leaving intact significant nuclear forces on both sides.

So, while further reductions of nuclear weapons are indeed desirable, the total denuclearization of Europe is neither possible nor desirable.

Lest there be any confusion, let me summarize exactly what this proposal does and does not do.

It does not redress the present imbalance in European manpower levels, although as equipment stockpiles decline, logic would seem to dictate that the manpower to use that equipment would also be withdrawn.

This proposal does not solve the problem posed by chemical weapons in Europe.

Eliminating chemical weapons would surely contribute to a more acceptable European balance of power, not to mention the humanitarian desirability of removing such ghastly weapons from the arsenals of all countries.

Yet the future of these weapons is already being addressed in a separate forum where considerable progress has been made, and it is probably better to leave it where it is, rather than to start all over in an entirely new negotiating context.

Implementation of such an approach would not, at least initially, save us vast sums of money, though in the long term it may result in substantial savings.

Finally, an agreement based upon this negotiating strategy would not eliminate the danger of either nuclear or conventional war.

Even in the context of such arrangements, war would inevitably remain an unwelcome possibility.

These are the plan's limitations; allow me to reiterate what I see as its many advantages.

It provides a framework for breaking the 14-year deadlock in the MBFR talks.

It builds in disincentives for a Warsaw Pact surprise attack against Western Europe by reducing substantially the ability of the pact to attack NATO forces with little or no warning time.

Were such an attack to occur nonetheless, this approach would complicate the pact's task of moving reinforcements rapidly to the front, thereby giving the West a greater capability to defend itself.

It raises the European nuclear threshold.

Finally, the strategy I have outlined focuses in the short term on stability, initiating a process where discussion of doctrine, force posture, and equipment could lead to modest reductions and constraints, which in turn could encourage the development of the confidence needed for a series of increasingly substantial accords.

At the present time we may be approaching one of those decisive moments in history when the shape of events for many years to come is determined.

Chairman Gorbachev has given tantalizing hints of an interest in easing East-West tensions, even if this necessitates a greater openness toward the West and the acceptance of measures heretofore out of the question.

It is incumbent upon us to challenge the limits of this seemingly new Soviet attitude.

In doing so, we are obligated to recognize legitimate Soviet security concerns.

But having taken these concerns into account, we must also test Gorbachev's seriousness by putting forward bold and constructive proposals.

Only in this fashion will we serve both the interests of the Western alliance, and those of world peace.

□ 1545

I apologize to my distinguished colleagues who have remained on the floor who may be waiting to share their own wisdom with those who are watching this on closed circuit television and throughout the country, but I did feel particularly in the wake of the discussions that have just taken place in Washington on the INF agreement which was signed a few days ago that the time has come for us to much more seriously address this question of the conventional military imbalance in Europe, and having devoted a good deal of thought and time to this question over the course of my years in the Congress, it seemed to me this was an appropriate moment to share my thoughts on the subject with those of my friends who were good enough to stay and those of them who may be watching in their offices or their homes throughout this great land.

Mr. MILLER of Washington. Mr. Speaker, will the gentleman yield?

Mr. SOLARZ. I yield to my good friend, the gentleman from Washington.

Mr. MILLER of Washington. First of all, Mr. Speaker, it has been a pleasure to listen to the gentleman's remarks. The gentleman from New York is known as a leader in foreign affairs in the House and a student of East-

West negotiations. He has obviously engaged in an extensive study and produced a very thoughtful proposal.

A couple questions come to mind and I wonder if the gentleman from New York would indulge me further.

The first question is just one of fact. I was very interested in the gentleman's presentation. The gentleman commented on the imbalance between the NATO forces and the Warsaw Pact forces when it comes to artillery and tanks, and that is certainly well known, but he also mentioned the difficulties of negotiating troop reductions because of the imbalance in troops.

Recently, I believe it was the morning newspaper in this town, had a report of an Institute of Strategic Studies, a London document, and some charts which purported to show that while there was a 3-to-1 edge in artillery and 2-to-1 edge in tanks, that when it came to active duty personnel the numbers between NATO and the Warsaw Pact was relatively equal. Is that an error or is there some other explanation?

Mr. SOLARZ. The gentleman's point is well taken. He is, as always, a keen observer not only of the press, but of the events.

I think the reason for this is that in the tooth to tail ratio of both alliances, the Warsaw Pact is more teeth and less tail and we have fewer teeth and more tail. Consequently, even though both alliances are not that far apart in terms of manpower strength in the Central European theater, the Soviets do have considerably more materiel in terms of tanks, artillery and various forms of aircraft and the like.

Mr. MILLER of Washington. Is there perhaps a troop imbalance near the dividing line between East and West that is different from the overall troop balance?

Mr. SOLARZ. Well, my recollection is that in the MBFR talks we assumed the Soviets had something like 150,000 more troops in the Warsaw Pact than they claim, and our inability to resolve that problem over the data base was one of the main reasons we were never able to reach an agreement with them in the MBFR talks, which went on successfully for 14 years.

One of the advantage of the proposal that I put forth is that it is easier to verify materiel than manpower. Therefore, it lends itself more readily to an agreement.

Mr. MILLER of Washington. Mr. Speaker, if the gentleman will yield further, I know that the gentleman from New York deliberately chose to make this presentation in this historic week where we have just concluded or there has been a signing of the INF Treaty, and certainly based on the discussions at the summit it appeas there are going to be continued negotiations on long-range streategic missile reductions.

The gentleman from New York commented that he did not expect his proposal would be adopted in the next few days or months. Does the gentleman envision this kind of proposal being linked to the long-range missile reduction negotiations?

In other words, would the gentleman see the United States concluding such a long-range missile reduction agreement without an agreement such as what the gentleman has outlined on conventional forces?

Mr. SOLARZ. I think it would be very desirable to get a comprehensive agreement involving not only strategic nuclear forces, but conventional forces and into which might also be included a simultaneous resolution of each of the regional conflicts around the world. If we could do that, and also get the Soviets simultaneously to agree to let any Soviet citizen who want to emigrate do so, this would be desirable. I do not think, however, the millenium is around the corner. Therefore, in my judgment it is better to get agreement on one or more of these problems, even if you cannot simultaneously get agreement on all of them, than getting agreement on none because you cannot simultaneously get an agreement on all.

I would not hestitate if the Soviets were prepared for a strategic nulcear arms reduction agreement that we believed was in our interest and which we believed was verifiable, I would not hestitate to go forward with that agreement even if we were unable simultaneously to conclude a conventional arms agreement, just as I would prepare to go forward with a conventional arms agreement, particularly on the lines I have just described where there would be asymmetrical reduction where the Soviets would withdraw five tanks for every one we withdrew, or five artillery pieces for every one we withdrew to establish more acceptable balances, even if we were not simultaneously able to get an agreement reducing strategic nuclear forces; so if we can do both together, fine; but if we can only do them one at a time, it is better than not doing anything at all.

Mr. MILLER of Washington. Mr. Speaker, if the gentleman will yield for one last question, has the gentleman presented his proposal or gotten any reactions from those negotiating in Vienna on mutual force reductions or from those in Washington, DC, in charge of such negotiations, and if so, what has been the reaction?

Mr. SOLARZ. Let me say first to the gentleman that my good friend, the gentleman from Washington, is the first person in my presence to hear the public presentation of the proposal, so I am eager to get the gentleman's reaction and response; but I cannot tell the gentleman in the process of putting this proposal together that I consulted very widely with many people who are extremely knowledgeable about this whole area. I do not want to embarrass any of them by imputting responsibility to them for my ideas; but I can tell the gentleman that some of the highest officials of the Pentagon, both currently and in the past, have been shown drafts of this proposal. I have shared it with some of the leading strategic thinkers in Europe, with former NSC advisers and Secretaries of State and the like. What I have given is the end result of a long process of careful consideration. Some of seminole ideas for this proposal, I might say, initiated with the Library of Congress, which I asked to conduct a study for me about it.

The SPEAKER pro tempore (Mr. Beilenson). The time of the gentleman from New York [Mr. Solarz] has expired.

Mr. MILLER of Washington. Mr. Speaker, would the Speaker just yield me 1 minute?

The SPEAKER pro tempore. The Speaker does not control the time. The gentleman from New York controls the time, but his time has expired.

Does the gentleman ask unanimous consent to address the House for 1 minute?

Mr. MILLER of Washington. Yes, Mr. Speaker.

A FURTHER RESPONSE TO SPECIAL ORDER BY CONGRESSMAN SOLARZ

(Mr. MILLER of Washington asked and was given permission to address the House for 1 minute.)

Mr. MILLER of Washington. Mr. Speaker, I just wanted to respond. I think that a presentation such as my distinguished colleague, the gentleman from New York [Mr. Solarz], has presented does call for thought and for questions. That is why I rose to ask those questions, to get further elaboration.

I think it is the first time, of course, as the gentleman said, that it has been presented and it struck me as a very thoughtful and far-reaching proposal. I think that our colleagues on the Foreign Affairs Committee and in the House and the administration, and I hope those in NATO and the Warsaw Pact, will give this proposal the extensive consideration that it deserves.

ONE OF THE LEADING HUMAN RIGHTS ISSUES—FACT SHEET ON ROMANIA'S MOST-FAVORED-NATION TRADING STATUS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Virginia [Mr. WOLF] is recognized for 60 minutes.

Mr. WOLF. Mr. Speaker, one of the growing leading human rights issues in the country today and in the world is what is happening in the country of Romania where the Ceausescu administration is doing so much to repress its people.

In 1975, under Public Law 93-618, it was enacted to provide trade relations with countries not currently receiving preferential trading status as a means for improving fundamental human rights and freedom of emigration. Based on their human rights record, a foreign country could have what is known as "most-favored-nation" status [MFN] renewed annually by the President of the United States. This statute, commonly referred to as "Jackson-Vanik" opened trade relations with several Communist nations, including Romania.

For the past 12 years, Romania's MFN has been renewed despite administration reservations and congressional concerns about Romania's human rights record. Now, Mr. Speaker, as we know, the House went on record, as did the Senate, to suspend the MFN Treaty, the MFN arrangement that we currently have with Romania because of the oppressive nature of what it is doing in the area of human rights and emigration. The Romania regime, under President Nicolae Ceausescu, has violated basic human rights, converting bibles into toilet paper, bulldozing churches and synagogues, while parishoners were still on the premises, persecuting Hungarians and other ethnic minorities, political dissidents and religious believers, including the torture, harassment, and beatings which led to the death of a Catholic priest, Father Palfy, after he stated publicly that Christmas should be a national holiday. As we are approaching Christmas, it is important that we know in Romania it is not considered a national holiday, and yet when Father Palfy asked that it be a national holiday, he was beaten to death by the secret police in Romania.

And yet we continue to give the Romanian Government special trade rights.

Emigration was expected to improve under MFN, however Jewish emigration prior to MFN was 300,000. Since MFN, that total has dropped to 23,000. Those who were allowed to emigrate did so at a price per person, a clear violation of the "free emigration" premise on which MFN was founded.

A former high ranking intelligence officer who defected to the West reported extensively of Romania's ties with the Palestine Liberation Organization, the PLO, and Yasir Arafat, Lybia, and has pointed out that Romania has provided training and arms to these groups.

Trade imbalance is an issue that we talk about with regard to other foreign countries. Let me tell you what our trade imbalance is with Romania. The United States has a higher trade deficit ratio with Romania than with any of the other trading partners, including Japan. Over the past 3 years, the trade deficit has averaged 3.9 to 1, and includes the importation from Romania of textiles, and I think all my colleagues who are trying to pass the textile bill ought to know this, shoes, pork products, petroleum products, and we know how the Southwest is now being hurt with regard to the price of oil, petroleum products, and wood and furniture. Many of these industries are hurting and yet we will still bring in trade products from Romania, even though they oppress their people and they have a trade greater with us than does Japan.

□ 1600

Why is Romania bad and why should we cut off most-favored-nation status to Romania?

The Helsinki Watch calls Romania one of the most egregious offenders of human rights in East Europe, and we all know how respected Helsinki Watch is.

Our own State Department country report on human rights practices for 1986 says the party through the government continues to limit and often deny the right to freedom of speech and freedom of assembly and association, and to apply restrictions to religious practice.

In January 1987 the United States revoked the generalized system of preferences status for Romanian goods due to the lack of internationally recognized worker rights in Romania. The Government of Romania continues to harass and repress religion.

Last summer, just this last summer of 1987:

After MFN was renewed, the last remaining sephardic synagogue in Eastern Europe, Bucharest's Spanish Synagogue, and Bucharest's main Adventist Church were bulldozed. Other churches have been razed for building code violations and zoning laws.

A shipment of Hungarian-language Bibles from the United States-Hungarian Reformed community destined for ethnic Hungarian worshipers in Transylvania was turned into toilet paper at a Romanian paper and pulp mill in Braila in 1985.

The Romanian Government attempts to manipulate churches through the licensing of pastors. By denying official recognition to certain congregations, the Government makes these churches illegal and subject to fines and other harassment.

In 12 years of MFN, little real improvement in human rights has occurred in Romania. Despite a moderate image cultivated in the West by the regime, Romania remains one of the most repressive Stalinist-type Communist countries in Eastern Europe.

I want this body to know, and the people of the United States to know that on April 30 of last year the House voted by a 232-to-183 vote to temporarily suspend for 6 months MFN to Romania based on its dismal human rights record.

I think the American people can be proud of its Congress. I know many of the people who were on the other side that voted "no" really voted "no" not because they were not with us for the issue, because how could one not be with us on this issue, but they were concerned with regard to the procedural process.

On June 26, the Senate voted 57 to 36 to suspend Romania's MFN status for 6 months. By a vote of 53 to 44, on July 15, the Senate reaffirmed its position.

Despite congressional opposition, the President renewed MFN to Romania on June 2, stating "MFN has also enabled us to have an impact on Romania's human rights practices and to help strengthen the conditions for religious observance there."

That was what was in the message and yet since MFN has been renewed human rights violations have continued. What has taken place since we have just renewed it again?

Five churches have been demolished, the Holy Friday Church, built in 1644, was torn down, with 3,000 protestors present, 13 days after MFN was renewed.

The Old St. Spiridon Church, built in 1746, was destroyed in mid-August, only days before a visit by a Helsinki Commission congressional delegation.

The Holy Trinity Church, built in 1803 in the Bucharest suburb of Dudsti was demolished on October 9, 1987.

The Bradu Sdaicu Church, of Bucharest was built in 1740. The church was also bulldozed on October 9, 1987.

The Olteni Church, built in 1722 one of the older churches in Bucharest was also destroyed in the last few months.

I will not take the time of this body to document each and every one, but let me give my colleagues a few examples.

Victor Opris, a Pentecostal minister along the Hungarian border of Romania, was sentenced in July to 9 years, 9 years in prison for distributing Bibles.

I hope the administration knows that. Nine years for distributing Bibles. Now he has been put in prison.

Duimitru Mircescu, author of "Memoirs from Prison," was put in a psychiatric hospital during the visit of Soviet General Secretary Gorbachev in May. His wife mysteriously plunged to her death from the balcony of their Bucharest apartment shortly thereafter.

Yet all of this happened after the Reagan administration extended most-favored-nation status for Romania.

Yasser Arafat, the leader of the PLO, Arafat visited Bucharest to meet with President Ceausescu. Romania has a record of financing and providing arms and training for the PLO terrorists.

The Romanian administration is financing and providing arms and training to the PLO.

A former military officer, Lt. Gen. Ion Mihai Pacepa, wrote a book in which he described these matters. The general defected several years ago from Romania. He probably knows more about Romania than any man in the West, and in his latest book called "Red Horizons, Chronicles of a Communist Spy Chief," he wrote an exposé of unchecked power inside Romania and the Eastern bloc.

When I visited President Reagan along with Senator ARMSTRONG of Colorado and Senator HELMS of North Carolina, I gave the President a copy of this book so that the President would have this information as he made up his mind.

The general points out in his book at page 17 that "Moscow is helping the PLO build muscles. I am feeding its brain." That is on page 17.

Ceausescu said, "You, Brother Yasser, were here in 1972, and you are here now. You can see for yourself that nothing has changed in Romania in that time. We are still the same Communist country, where private property is not only prohibited—it is a disgrace. But the West now loves me." That is on page 23.

My goodness, how in the name of goodness can we continue to give this country most-favored-nation status, special trade status which is taking away American jobs when we now have the record of what has gone on in this administration in Romania?

Mihai Botez in an essay on United States-Romanian relations smuggled out of Romania has said the following, and this deals with the plight of the Romanian people. Mr. Botez is the leading human rights activist in Romania. In an essay on United States-Romanian relations he said "The ordinary Romanian is less and less inclined to hope for support from those in whom he had placed his hopes before; namely, the Americans, but who are 'betraying' him now by allying themselves with his oppressors * * * the paradoxical feeling crept into the Romanians' soul is that in their confrontation with the oppressive regime in Bucharest they must look for friends and supporters not in the West, where their liberal and democratic convictions would have urged them to look, but as a consequence of the political context, in the East."

It is not surprising therefore to hear reports describing the belief of many Romanians that a return under the direct control of Moscow might be indeed beneficial to them.

I would tell the administration and the Department of State, and the President and everyone in this Government who is interested in human rights that it is a disgrace that we continue to give Romania MFN and are developing a situation whereby the Romanians are perceiving that United States policy, contrary to the interests of the Romanian people, insofar as the United States Government, our Government, the United States Government is helping the hated regime that Ceausescu maintains his grip on the people through.

Where did we develop a policy that the Romanian people are so oppressed that they look to support from the East, from the Soviets, because they see the United States Government as supporting the Ceausescu administration which administration is oppressing the people?

I say to the President, this has to change and there is one way that it can be changed and that is by suspending MFN for the Romanian Government.

We are all interested, as the last speaker spoke about the latest treaty that has been signed, and the newspapers have been filled with stories about Gorbachev coming to the United States, but I think the American people should know and I know the State Department must now know that Soviet leader Mikhail Gorbachev is aware of President Ceausescu's record. In fact when I listened to the television today, it pointed out how General Secretary Gorbachev had returned to East Berlin to report to the Warsaw Pact and the Eastern bloc, and all of the leaders of the Warsaw Pact were there to hail Mr. Gorbachev except for one, and that one was Mr. Ceausescu. He did not show because he had "a conflict."

Mr. Speaker, as I said, Mikhail Gorbachev is aware of President Ceausescu's record and during his recent visit to Romania, Gorbachev told a group of Romanian citizens:

> Even if you tell me everything is fine in the country and in the family, I would not believe you.

Gorbachev knows that things are bad in Romania, and yet people in our own administration do not seem to have that understanding.

The Helsinki Commission stated on June 10, 1987, in its report:

> Overall Romanian actions even during the MFN review period, raised certain serious questions about the country's willingness to find common ground with either western human rights advocates or its own citizens. There has been no improvement in the situation of the Hungarian minority since the last MFN review. Ceausescu's brand of rabid nationalism is taking a toll on the Hungarians.

There are so many things that we could deal with, but I do not want to take this body's time too much more because I know there is another gentleman who wants to speak, but just recently it came out that Romanian families are allowed only 35 kilowatts of electricity per month. This amounts to less than one light bulb worth of energy, one light bulb worth of energy per family per month.

As a result of this and so many other terrible things that have happened, there have been riots in Romania in the last 2 weeks. Workers in many villages have rioted. In one village workers marched down the street and even knowing they were risking their freedom, did it anyway.

Mr. Speaker, I include for the RECORD an article from Time magazine which I will include at the end of my special order.

□ 1615

Mr. Speaker, I would like to submit for the RECORD an article at the end of my statement from Time magazine detailing that.

The Wall Street Journal of Monday, November 30, ended up by saying:

> Those in Romania who are finally resisting Ceausescu tyranny are facing a long, difficult and dangerous task. But their plight has hardly been noticed by the world's human rights champions. We can't help wondering why that is so.

Mr. Speaker, why is it so that in our own Government we are not responding to the cries of the Romanian people?

In another editorial in the Wall Street Journal they went on to ask the question, they said "Experience with the Soviets has shown that it's important not to let transgressions pass," and we should commend President Reagan for being tough with the Soviets, because by being tough and being strong he was able to bring Mr. Gorbachev to the table whereby they were able to reach an agreement earlier this week. "On Romania, there is no reason why President Reagan should continue to leave the high road on this issue to Congress. He has the right under existing law to suspend Romania's most-favored-nation status, as he had the right to act on Poland's trade status. He does not have to wait for the trade bill to reach him. Indeed, the President can follow his own precedent of 1983 when he stared down Mr. Ceausescu over Romanian plans to impose an 'education tax' on emigrants. The lesson of Mr. Gheorge's tragic fate lends urgency to resolute action."

Then he went on to say in another editorial early this year:

> We all know the rest. Mr. Ceausescu is razing synagogues and churches, persecuting Hungarians, bartering Germans and

Jews and is making life in general in Romania about as miserable as possible. Notwithstanding the U.S. policy of somehow differentiating between Messrs. Gorbachev and Ceausescu, Romania continues its efforts to achieve the status of least-favored nation.

We should give it the status of least-favored nation, not the most-favored-nation status.

Then in an op-ed piece of Monday, June 8, 1987, in the Washington Post, Jeri Laber, who is the executive director of the Helsinki Watch, which is a nongovernmental organization that monitors compliance with the human rights provisions of the 1975 Helsinki Final Act, says "It's time to rein in Romania's tyrant." In ending the article he said:

> It would be a great mistake if the United States government were to seize upon hints of a Gorbachev-Ceausescu rift to further its own "friendship" with Romania. Instead, we should outmatch the Soviet leader's reproaches to Romania by suspending Romania's MFN status until it improves its human rights practices. Ceausescu's policies have proved offensive even to his Soviet allies. He should certainly be no friend of ours.

In closing, Mr. Speaker, I just hope that the State Department and Secretary Shultz, a very fine man, and the State Department is made up of fine people, the White House, the National Security Adviser, Colin Powell, and all of the people who surround the President and advise the President on these matters, as well as the President of the United States will think in terms of 23.5 million people who are being persecuted, and think that by suspending MFN all of the good they can do.

I will quote and end on a final quote:

> In the 1930's in Germany, Rev. Martin Niemoeller said:
>
> "When they came for the Communists I didn't speak up because I wasn't a Communist.
>
> "When they came for the Jews I didn't speak up because I wasn't a Jew.
>
> "When they came for the trade-unionists I didn't speak up because I wasn't a trade-unonist.
>
> "When they came for the Catholics I didn't speak up because I was a Protestant.
>
> "Then they came for me and by that time there was no one to speak."

Mr. Speaker, the Romanian people really have no one to speak for them. They cannot hire massive law firms and they cannot hire public relations people. But they count on this country to be their spokesman.

The House has spoken, the Senate has spoken, all of the leading human rights groups have spoken. We are now waiting for the administration to speak.

The articles referred to follow:

[From Time magazine, Dec. 7, 1987]

RUMANIA: BLACK DAYS AT THE RED FLAG

On a three-day state visit to Cairo last week, Rumanian President Nicolae Ceausescu played his favorite role, that of a world statesman pursuing an independent foreign policy. Ceausescu announced a $200 million economic development loan to Egypt and was duly feted by Egyptian President Hosni Mubarak at an elaborate state banquet. He also hailed the recent Amman summit, which ended Egypt's eight-year diplomatic isolation in the Arab world, for having made peace with Israel, a nation that Ceausescu, alone among East bloc leaders, fully recognizes.

The road show in Cairo must have been a welcome reprieve for the 69-year-old leader who has ruled Rumania for 22 years. Only a week before Ceausescu arrived in Cairo, the worst rioting in a decade had broken out in the central industrial city of Brasov (pop. 350,000). Hundreds of army troops and special police units were called in to quell the violence: two soldiers reportedly were killed. Then, two days after Ceausescu's return from Egypt, a statement calling the Brasov riot a "crisis" for the Communist Party was issued to Western news media by Sylviu Brucan, a venerable party member and former ambassador. The government, said Brucan, should come to terms with the "legitimate grievances" of the protesting workers. Those words revealed an unprecedented behind-the-scenes division in the party.

According to eyewitnesses, the Brasov riots erupted when some 5,000 workers at the Red Flag truck and tractor factory became enraged over the announcement of pay cuts as the result of the unit's failure to meet production quotas. Shouting "We want bread!" and "Down with the dictator!," the crowd marched through the streets to city hall. Storming the building, the demonstrators hurled armloads of files into the street and lighted a bonfire. The three-hour rampage was the worst bout of violence in Rumania since 1977, when 30,000 coal-mine workers in the Jiu Valley went on strike over the withdrawal of some job benefits.

The cries for bread in Brasov were a shorthand reference to the extreme food shortages that have afflicted the country for the past several years, including long lines even for potatoes and the virtual disappearance of meat. Strict rationing has been applied to heating fuel and electricity as well. One result: the normal indoor temperature during Bucharest's harsh winters is below 50° F, and deaths from lack of heat have been reported. The enforced shortages enable the government to export huge quantities of goods in return for hard-currency credits that have been used to help repay $10.5 billion in foreign debt run up in the late 1970s. Ceausescu has managed to cut that total by nearly half, but at the cost of impoverishing his countrymen.

Ceausescu can usually ignore popular discontent because he runs the most repressive regime in Eastern Europe. "The only real surprise is that it hasn't happened sooner," says Jeri Laber, executive director of Helsinki Watch, the human rights group based in New York City. Ceausescu seems in no danger of losing his grip over the country, but the Brasov outburst illustrates the unhappiness of its citizens.—By William R. Doerner. Reported by Angela Leuker/Vienna.

[From the Wall Street Journal, Nov. 30, 1987]

"ROMANIANS, ROMANIANS, AWAKE"

Romania's dictator, Nicolae Ceausescu, has finally exhausted the legendary capacity of his countrymen to endure hardship. We now will learn whether he will treat a budding popular rebellion with customary harshness and, if so, whether the world will display its customary indifference.

Consider for a moment what a recent visitor to Romania observed:

No lights: Cluj-Napoca, the gloriously beautiful Transylvanian city by day, becomes sinister after sunset as tens of thousands of people bump along homeward on the pitch-black boulevards and avenues.

No heat: From bureaucrats and hotel clerks to students, everyone sits around all day long in overcoats from October through April.

No food: Everything from milk to rice is rationed, but long lines and limited supplies mean people often wind up with only a ration ticket on the dinner table—some people could show you whole crocks filled with expired cupons.

No water; no electricity; no candles: If you visited friends in one of those concrete-panel apartment complexes in Oradea, your hosts probably let you wash your hands in a bucket of water dipped from the tub, which is filled every second or third day, when service is turned on briefly. Between 6 p.m. and 8 p.m. in Cluj people take naps; that's blackout time.

Now, however, Romanians are awakening from their nap. In the first serious sign of resistance since coal strikes 10 years ago in the Jui Valley, as many as 6,000 took to the streets in the city of Brasov week before last, chanting: "Romanians, Romanians, Awake," "We want Bread" and "Down With the Dictator." They burned some official files and propaganda posters. As many as 2,000 were pulled in for questioning.

Silviu Brucan, 72, Romanian ambassador to the U.S. and United Nations in the 1960s, told Reuters by phone from Bucharest Friday that an overwhelming majority of party members opposed repression of the rioters. But he predicted a harsh crackdown nonetheless, presumably by Mr. Ceausescu.

"The Brasov riot signals that the cup of privation is now full. The working class no longer accepts being treated like an obedient servant," Mr. Brucan said.

The country's economic problems result in part from the waste of resources on ill-conceived industrial and public-works projects. An example is the Danube-Black Sea Canal, which in its third season is operating at only a tenth of capacity and is carrying mostly raw materials to domestic construction sites. Authorities hail the $2 billion (cheap because of the use of forced labor), 13-year project for having excavated more earth than the Suez and Panama canals. The idea was to create an international inland waterway by linking up to the nearly completed Rhine-Main-Danube Canal, resulting in 80 million tons of traffic for Romania. But sailing time from Rotterdam to the Black Sea is about a third as long and is far cheaper, because sea-route cargoes can be much larger and tolls and transshipment charges much lower.

The country's single efficient enterprise is the securitate, a political police force with a large chunk of the population on its payroll. Romanian citizens, particularly persecuted minorities of Hungarian or German extraction, face constant "secu" snooping.

Those in Romania who are finally resisting Ceausescu tyranny are facing a long, difficult and dangerous task. But their plight has hardly been noticed by the world's human-rights champions. We can't help wondering why that is so.

[From the Wall Street Journal, July 16, 1987]

THE ROMANIA PROBLEM

On May 29 in the early evening hours at the three-way border of Romania, Yugoslavia and Hungary, a 28-year-old Romanian citizen. Lionte Gheorge, was fleeing Premier Ceausescu's communist rule. He first crossed to Yugoslavia and thence to Hungary. A Romanian mounted border guard pursued Mr. Gheorge and on Hungarian soil shot him to death. According to the Hungarian daily Nepszabadsag, "appropriate Hungarian authorities were investigating the incident, coordinating their efforts with the Romanian and Yugoslav authorities."

Despite numerous other alleged human-rights violations, President Reagan has continued to follow the State Department's pro-Romanian policy. On June 3, he recommended continuation of Romania's most-favored-nation tariff status for another 12 months. This unnecessarily puts the administration at odds with its own party. On April 30 the House voted 232 to 183, and on June 26 the Senate voted 57 to 36 to suspend Romania's most-favored-nation status for six months. The bipartisan measure got strong Republican backing.

The legislation would amend the omnibus trade bill, which is probably headed for a much-deserved presidential veto. Supporters of the Romanian measure, however, say the only way the effort will be dropped is if the Romanians do something dramatic to improve their rights record. To regain full access to U.S. markets the amendments would require Romania to sharply decrease religious persecution; improve conditions for ethnic minorities, specifically Hungarians; and meet the tests of the Jackson-Vanik amendment on freedom of emigration.

What America does has implications for European governments. At the Vienna meeting on the Helsinki accords, Romanian policies have come under increasingly harsh criticism from Britain, Switzerland, Canada and the Netherlands.

The reason the White House finds itself tangled up in the crossfire of the Romanian problem is the manner in which the State Department has been pursuing its policy of "differentiation." This notion seeks to turn East Bloc totalitarian regimes toward the West with trade and credit incentives. Now we certainly have no problems with efforts to try to woo countries away from Moscow's orbit. Differentiation has a noble purpose, and in some instances—Deng Xiaoping's China comes to mind—one could argue that gains are possible. But the gains in Romania have been grudging and minor, while in important ways the country has grown worse. In Romania the policy has failed.

Experience with the Soviets has shown that it's important not to let transgressions pass. On Romania there is no reason why President Reagan should continue to leave the high road on this issue to Congress. He has the right under existing law to suspend Romania's most-favored-nation status, as he had the right to act on Poland's trade status. He does not have to wait for the trade bill to reach him. Indeed, the president can follow his own precedent of 1983, when he stared down Mr. Ceausescu over Romanian plans to impose an "education tax" on emigrants. The lesson of Mr. Gheorge's tragic fate lends urgency to resolute action.

[From the Wall Street Journal, May 29, 1987]

"CEAU-SES-CU! GOR-BA-CHEV!"

Mikhail Gorbachev finally swallowed hard and got on the plane this week for Bucharest. It was the last visit in his tour of the Eastern European allies and the first to Romania by a Soviet leader since 1976.

Now it is well known that Mr. Gorbachev, the most outward looking leader in Soviet history, does not like a lot of fuss on these trips. So what did a fun-loving strong man like Nicolae Ceausescu do? He ordered out crowds to chant "Ceau-Ses-Cu! Gor-Ba-Chev!" while bearing flags and waving posters that make the aged Romanian look younger than the Russian.

Less than thrilled, Mr. Gorbachev retaliated when he waded into a crowd for a bit of repartee that was carried on Soviet, but not Romanian, television. To Romanian citizens, who have for years endured heatless winters, meatless diets and ruthless oppression, he said this: "Even if you tell me everything is fine in the country and in the family, I wouldn't believe you."

The mutual enmity goes deep. Mr. Ceausescu has for some time been critical of the Gorbachev reform initiatives, lashing out at decentralized management and limited autonomy.

It's ironic that Romania, once a thriving land, should now have almost the lowest standard of living in Europe and be a country that in Mr. Gorbachev's eyes gives communism a bad name. Part of the reason for this state of affairs has been Mr. Ceausescu's longtime resentment over Soviet designs to make Romania a food and raw-material producer for the Warsaw Pact. So two decades ago Bucharest embarked on breakneck industrialization—ill-conceived, mismanaged and by now obsolete in every significant respect.

The most notable byproduct of the program has been an enormous amount of hard-currency borrowing. So Mr. Ceausescu is now squeezing all vitality from his economy in a brutal austerity program to pay the debt.

Concurrent with its insane industrialization, Bucharest began to distance itself from Moscow over some foreign-policy issues. Most notably, it declined to participate in the invasion of Czechoslovakia; it declined to make its soil available for Warsaw Pact exercises, and it alone in the bloc maintained diplomatic relations with Israel.

Flashy moves, but of no meaningful consequence. The changing image did however pose a problem for the West: how to take advantage of such apparent divisions within the East Bloc. A U.S. State Department scheme called "differentiation" resulted. Under the policy, the U.S. denied trade advantages to the Soviet Union because of its expansionist adventures, while rewarding Romania with most-favored-nation tariff treatment for playing the maverick.

We all know the rest. Mr. Ceausescu is razing synagogues and churches, persecuting Hungarians, bartering Germans and Jews and is making life in general in Romania about as miserable as possible. Notwithstanding the U.S. policy of somehow differentiating between Messrs. Gorbachev and Ceausescu, Romania continues its efforts to achieve the status of least-favored nation.

[From the Washington Post, June 8, 1987]

IT'S TIME TO REIN IN ROMANIA'S TYRANT

(By Jeri Laber)

Both the Soviet and the U.S. governments have recently indicated a growing exasperation with the megalomaniacal policies of Romania's president, Nicolae Ceausescu. If the two superpowers were both to turn their criticisms into concrete actions, they might defeat Ceausescu at his game of playing off the United States and the Soviet Union against each other and, in the process, help lessen the misery of the Romanian people. Congress has an opportunity right now as it begins its annual review of Romania's most favored nation trade status.

For some years now Romania has taken independent foreign policy positions that depart from those of the Warsaw Pact, while maintaining the most closed and repressive society in Eastern Europe. Its maverick foreign policy has lured the United States into an unsavory courtship of Romania, one that has continued despite egregious human rights offenses. On the other hand, Romania's ability to keep its population under firm control had won support in Brezhnev's U.S.S.R. despite its refusal to go along with such Soviet policies as the nonrecognition of Israel, the 1968 invasion of Czechoslovakia and the participation of Warsaw Pact countries in joint military maneuvers.

Mikhail Gorbachev made a break with previous Soviet attitudes during his recent visit to Romania. Demonstrating glasnost in action, he touched on many of Romania's most delicate problems—economic hardships, nepotism, the repression of minority rights—and refused to accept the Potemkin village of domestic tranquility that President Ceausescu had erected in his honor. "Even if you tell me that everything is all right in the country . . . I wouldn't believe you. There are problems," Gorbachev told a group of Romanians shortly after his arrival.

Gorbachev's criticisms of Romania came just a few weeks after the U.S. House of Representatives had approved an amendment to the trade bill that would suspend Romania's MFN trade benefits for a six-month period pending an improvement in its deplorable human rights record. The Senate has yet to take action. President Reagan, voicing concern about human rights violations, nevertheless went ahead and approved the extension of MFN to Romania for another year. The State Department apparently persists in the fantasy that Romania can be weaned away from its communist allies.

Three policies, all Ceausescu-created, have resulted in making Romania one of the poorest and most oppressed countries in Europe: the creation of a highly sophisticated police state that exercises total control over a terrorized population; the decision to use most of Romania's resources to pay off its huge international debt, thereby impoverishing the Romanian people; and the escalation of a Ceausescu "cult of personality" unrivaled since the days of Joseph Stalin.

There is no trust in Romania, where it is generally assumed that as much as one third of the population is working directly or indirectly for the secret police. Everyone is aware of an unpublished Decree, No. 408, which requires Romanian citizens to report to the police within 24 hours any conversation with a foreigner. Romanians cannot meet in groups, circulate writings, or even discuss with others their thoughts, suspicions and hopes. There can be no underground press in a country where the use of duplicating machines is tightly restricted and citizens are obliged each year to register with the police the type face of their typewriters. Ethnic minorities in Romania, especially the 2½ million Hungarians in Transylvania, suffer from cultural as well as political repression.

In addition, Romanian citizens must tolerate unbelievable economic hardships. Severe shortages have led to worthless currency that is giving way to a system of barter. Drastic cutbacks on heat and electric power have caused suffering and many deaths. Romania, once the "breadbasket" of Europe, is paying the price for Ceausescu's unsuccessful efforts at breakneck industrialization. Among Ceausescu's other extreme policies is his determination to double the birthrate; to this end he has ordered compulsory monthly gynecological examinations for women of childbearing age in order to prevent unauthorized abortions. At the same time, elderly people who have "outlived their usefulness" are being moved out of the cities and denied medical and social services. While the people suffer, however, the president is razing large portions of historic Bucharest to build a $1.2 billion civic center that will be another of his personal monuments.

Ceausescu, who is intent on perpetuating his family's reign, indulges himself in all the luxuries and privileges of royalty. "Glory to the great Ceausescu" read signs along country roads outside of Bucharest. A large wing of the Museum of National History in Bucharest is devoted exclusively to a Ceausescu-inspired iconography—portraits and tapestries glorifying the president and his wife—while another floor displays photographs of Ceausescu with every world leader he has ever met.

It would be a great mistake if the United States government were to seize upon hints of a Gorbachev-Ceausescu rift to further its own "friendship" with Romania. Instead, we should outmatch the Soviet leader's reproaches to Romania by suspending Romania's MFN status until it improves its human rights practices. Ceausescu's policies have proved offensive even to his Soviet allies. He should certainly be no friend of ours.

(The writer is executive director of Helsinki Watch, a nongovernmental organization that monitors compliance with the human rights provisions of the 1975 Helsinki Final Act.)

PROSECUTORIAL ABUSE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Tennessee [Mr. FORD] is recognized for 10 minutes.

Mr. FORD of Tennessee. Mr. Speaker, I recently encountered an article by Robert H. Jackson which was printed in volume 24 of the 1940 Journal of the American Judicature Society. The article, entitled "The Federal Prosecutor," is as relevant today as it was 47 years ago. It addresses the tremendous discretion afforded prosecutors by our judicial system. Prosecutors have the power to place Government force behind their individual actions, to "strike at citizens" by ordering arrests, by presenting cases to grand juries in secret sessions, and by causing indictments on the basis of their biased presentations of the facts. We are plagued by a system enabling prosecutorial discretion which allows the grand jury to serve as a private tool of intimidation and abuse, rather than an independent instrument of justice protecting the innocent against malicious and oppressive prosecution. I was a victim of prosecutorial intimidation when I was indicted after being denied the opportunity to confront Government witnesses and testify on my behalf.

I have attached a letter dated April 24, 1987, from my attorney, Abbe David Lowell, to Associate Attorney General Steven S. Trott, indicating my willingness to cooperate fully with the U.S. Department of Justice. As the letter demonstrates, I have been willing, since the initial stage of the investigation, to grant an interview with the U.S. attorney's office. I have been amenable to providing information of every kind. I have offered to take a polygraph examination to prove my innocence. In short, I have been eager to do anything in my power to rebut the testimony of a convicted felon who testified against me. And yet, my pleas to be heard were ignored.

Despite my attempts to cooperate, I was indicted on the basis of a personal vendetta carried out by special U.S. assistant prosecutor, Dan Clancy. As a result, I have suffered at the hands of an overzealous prosecutor and it is for this reason that I wish to share this article with you today.

The material follows:

BRAND & LOWELL,
Washington, DC, April 24, 1987.

STEVEN S. TROTT, Esq.,
Associate Attorney General, Department of Justice, Washington, DC.

DEAR MR. TROTT: I appreciate very much the time you gave us this morning to bring to your attention various issues involving the investigation of Congressman Ford. You raised the issue of whether or not the Congressman or I ever refused an interview. I explained at the time the sequence of the investigation, the narrowing of issues, and our willingness to have the Congressman interviewed at the appropriate point. I can send you copies of memoranda to the file written at the time which indicate this willingness.

Our last substantive meeting with the United States Attorney's office occurred in May 1986. We fully expected at the time that there would be follow-up information requested. Indeed, when the United States Attorney requested financial information we arranged for the interview of the accountants at Coopers & Lybrand. Similarly, when the office requested information about the funeral's home debt, we arranged for the interview of the Congressman's father, N. J. Ford. We fully expected, having narrowed the issues and having provided that information, that an interview with the Congressman would be arranged, if it was still desired.

Since being notified of the United States Attorney's decision to move forward two or three weeks ago, we repeatedly have offered to produce Congressman Ford for an interview. Mr. Keeney was candid at our meeting this morning to state that "our facts" and "your facts" do not agree. It appears, therefore, that the Department must weigh the strength of the evidence and the credibility of the witnesses. I would, therefore, formally request that the Department of Justice attorney's in Washington reviewing this case interview Congressman Ford. As is the standard practice, that interview could be on the record. We would then be willing to have Congressman Ford appear before the grand jury. Our willingness to do so, however, depends upon the Congressman's testimony being reviewed by impartial attorneys at the Department who would also then evaluate the quality of the contrary evidence. Moreover, we would readily submit Congressman Ford at a polygraph examination on any of the issues relevant in the investigation. I realize that the polygraph is not the ultimate fact-finding device, but the Department has routinely used it as just one vehicle to determine the strength of allegations against public officials.

I realize that the hour is late, but the Department cannot provide the in-depth review that it has promised and cannot discharge its responsibility when a public official's reputation is involved unless it provides the interview requested.

We appreciate the consideration which has been given thus far, and pledge our further cooperation in ensuring that an unjust charge is not brought.

Sincerely,

ABBE DAVID LOWELL.

[From the Journal of the American Judicature Society, June 1940]

THE FEDERAL PROSECUTOR

(By Robert H. Jackson) *

"The qualities of a good prosecutor are as elusive and as impossible to define as those which mark a gentleman. And those who need to be told would not understand it anyway."

It would probably be within the range of that exaggeration permitted in Washington to say that assembled in this room is one of the most powerful peace-time forces known to our country. The prosecutor has more control over life, liberty, and reputation than any other person in America. His discretion is tremendous. He can have citizens investigated and, if he is that kind of person, he can have this done to the tune of public statements and veiled or unveiled intimations. Or the prosecutor may choose a more subtle course and simply have a citizen's friends interviewed. The prosecutor can order arrests, present cases to the grand jury in secret session, and on the basis of his one-sided presentation of the facts, can cause the citizen to be indicted and held for trial. He may dismiss the case before trial, in which case the defense never has a chance to be heard. Or he may go on with a public trial. If he obtains a conviction, the prosecutor can still make recommendations as to sentence, as to whether the prisoner should get probation or a suspended sentence, and after he is put away, as to whether he is a fit subject for parole. While the prosecutor at his best is one of the most beneficent forces in our society, when he acts from malice or other base motives, he is one of the worst.

These powers have been granted to our law-enforcement agencies because it seems necessary that such a power to prosecute be lodged somewhere. This authority has been granted by people who really wanted the right thing done—wanted crime eliminated—but also wanted the best in our American traditions preserved.

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* This address by the Attorney General of the United States was delivered at the Second Annual Conference of United States Attorneys held in the Department of Justice Building, Washington, on April 1, 1940.

Because of this immense power to strike at citizens, not with mere individual strength, but with all the force of government itself, the post of federal district attorney from the very beginning has been safeguarded by presidential appointment, requiring confirmation of the senate of the United States. You are thus required to win an expression of confidence in your character by both the legislative and the executive branches of the government before assuming the responsibilities of a federal prosecutor.

Your responsibility in your several districts for law enforcement and for its methods cannot be wholly surrendered to Washington, and ought not to be assumed by a centralized department of justice. It is an unusual and rare instance in which the local district attorney should be superseded in the handling of litigation, except where he requests help of Washington. It is also clear that with his knowledge of local sentiment and opinion, his contact with and intimate knowledge of the views of the court, and his acquaintance with the feelings of the group from which jurors are drawn, it is an unusual case in which his judgment should be overruled.

Experience, however, has demonstrated that some measure of centralized control is necessary. In the absence of it different district attorneys were striving for different interpretations or applications of an act, or were pursuing different conceptions of policy. Also, to put it mildly, there were differences in the degree of diligence and zeal in different districts. To promote uniformity of policy and action, to establish some standards of performance, and to make available specialized help, some degree of centralized administration was found necessary.

Our problem, of course, is to balance these opposing considerations. I desire to avoid any lessening of the prestige and influence of the district attorneys in their districts. At the same time we must proceed in all districts with that uniformity of policy which is necessary to the prestige of federal law.

Nothing better can come out of this meeting of law enforcement officers than a rededication the spirit of fair play and decency that should animate the federal prosecutor. Your positions are of such independence and importance that while you are being diligent, strict, and vigorous in law enforcement you can also afford to be just. Although the government technically loses its case, it has really won if justice has been done. The lawyer in public office is justified in seeking to leave behind him a good record. But he must remember that his most alert and severe, but just, judges will be the members of his own profession, and that lawyers rest their good opinion of each other not merely on results accomplished but on the quality of the performance. Reputation has been called "the shadow cast by one's daily life." Any prosecutor who risks his day-to-day professional name for fair dealing to build up statistics of success has a perverted sense of practical values, as well as defects of character. Whether one seeks promotion to a judgeship, as many prosecutors rightly do, or whether he returns to private practice, he can have no better asset than to have his profession recognize that his attitude toward those who feel his power has been dispassionate, reasonable and just.

The federal prosecutor has now been prohibited from engaging in political activities. I am convinced that a good-faith acceptance of the spirit and letter of that doctrine will relieve many district attorneys from the embarrassment of what have heretofore been regarded as legitimate expectations of political service. There can also be no doubt that to be closely identified with the intrigue, the money raising, and the machinery of a particular party or faction may present a prosecuting officer with embarrassing alignments and associations. I think the Hatch Act should be utilized by federal prosecutors as a protection against demands on their time and their prestige to participate in the operation of the machinery of practical politics.

There is a most important reason why the prosecutor should have, as nearly as possible, a detached and impartial view of all groups in his community. Law enforcement is not automatic. It isn't blind. One of the greatest difficulties of the position of prosecutor is that he must pick his cases, because no prosecutor can even investigate all of the cases in which he receives complaints. If the department of justice were to make even a pretence of reaching every probable violation of federal law, ten times its present staff would be inadequate. We know that no local police force can strictly enforce the traffic laws, or it would arrest half the driving population on any given morning. What every prosecutor is practically required to do is to select the cases for prosecution and to select those in which the offense is the most flagrant, the public harm the greatest, and the proof the most certain.

If the prosecutor is obliged to choose his cases, it follows that he can choose his defendants. Therein is the most dangerous power of the prosecutor: that he will pick people that he thinks he should get, rather than pick cases that need to be prosecuted. With the law books filled with a great assortment of crimes, a prosecutor stands a fair chance of finding at least a technical violation of some act on the part of almost anyone. In such a case, it is not a question of discovering the commission of a crime and then looking for the man who has committed it, it is a question of picking the man and then searching the law books, or putting investigators to work, to pin some offense on him. It is in this realm—in which the prosecutor picks some person whom he dislikes or desires to embarrass, or selects some group of unpopular persons and then looks for an offense, that the greatest danger of abuse of prosecuting power lies. It is here that law enforcement becomes personal, and the real crime becomes that of being unpopular with the predominant or governing group, being attached to the wrong political views, or being personally obnoxious to or in the way of the prosecutor himself.

In times of fear or hysteria political, racial, religious, social, and economic groups, often from the best of motives, cry for the scalps of individuals or groups because they do not like their views. Particularly do we need to be dispassionate and courageous in those cases which deal with so-called "subversive activities." They are dangerous to civil liberty because the prosecutor has no definite standards to determine what constitutes a "subversive activity," such as we have for murder or larceny. Activities which seem benevolent and helpful to wage earners, persons on relief, or those who are disadvantaged in the struggle for existence may be regarded as "subversive" by those whose property interests might be burdened or affected thereby. Those who are in office are apt to regard as "subversive" the activities of any of those who would bring about a change of administration. Some of our soundest constitutional doctrine were once punished as subversive. We must not forget that it was not so long ago that both the term "Republican" and the term "Democrat" were epithets with sinister meaning to donate persons of radical tendencies that were "subversive" of the order of things then dominant.

In the enforcement of laws that protect our national integrity and existence, we should prosecute any and every act of violation, but only overt acts, not the expression of opinion, or activities such as the holding of meetings, petitioning of congress, or dissemination of news or opinions. Only by extreme care can we protect the spirit as well as the letter of our civil liberties, and to do so is a responsibility of the federal prosecutor.

Another delicate task is to distinguish between the federal and the local in law-enforcement activities. We must bear in mind that we are concerned only with the prosecution of acts which the congress has made federal offenses. Those acts we should prosecute regardless of local sentiment, regardless of whether it exposes lax local enforcement, regardless of whether it makes or breaks local politicians.

But outside of federal law each locality has the right under our system of government to fix its own standards of law enforcement and of morals. And the moral climate of the United States is as varied as its physical climate. For example, some states legalize and permit gambling, some states prohibit it legislatively and protect it administratively, and some try to prohibit it entirely. The same variation of attitudes towards other law-enforcement problems exists. The federal government could not enforce one kind of law in one place and another kind elsewhere. It could hardly adopt strict standards for loose states or loose standards for strict states without doing violence to local sentiment. In spite of the temptation to divert our power to local conditions where they have become offensive to our sense of decency, the only long-term policy that will save federal justice from being discredited by entanglements with local politics is that it confine itself to strict and impartial enforcement of federal law, letting the chips fall in the community where they may. Just as there should be no permitting of local considerations to stop federal enforcement, so there should be no striving to enlarge our power over local affairs and no use of federal prosecutions to exert an indirect influence that would be unlawful if exerted directly.

The qualities of a good prosecutor are as elusive and as impossible to define as those which mark a gentleman. And those who need to be told would not understand it anyway. A sensitiveness to fair play and sportsmanship is perhaps the best protection against the abuse of power, and the citizen's safety lies in the prosecutor who tempers zeal with human kindness, who seeks truth and not victims, who serves the law and not factional purposes, and who approaches his task with humility.

THE HOUSTON POLICE ACTIVITIES LEAGUE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas [Mr. FIELDS] is recognized for 60 minutes.

Mr. FIELDS. Mr. Speaker, I wish that I could be in Houston, TX, right now because tonight I was asked to speak to the Police Activities League, and I consider that a great honor. That particular group set their event at least twice to accommodate my schedule, and I am sorry to report that I still have not been able to make that particular event. I just hope my friends in Houston will realize that the House schedule was such that we were supposed to have adjourned for a recess on October 23, and then we were told that we were going to adjourn the week of Thanksgiving, then we were told we would probably adjourn the week after Thanksgiving, then we were told we were going to adjourn sometime around December 6. Now we are told that the House will in all likelihood adjourn sometime a few days before Christmas. I would have made it there tonight if we had not adjourned today so late.

But also another thing happened today, Mr. Speaker, that I hope the people in Houston will appreciate, and that is I was named a conferee to the reconciliation conference. I am a conferee on the portion of the bill dealing with nuclear waste deposition, the repository. In Texas we have a great interest in that because one of the sites that is being considered is a site in Deaf Smith County, and many of us in Houston have been concerned that if this site were chosen that perhaps one of the modes of transportation of nuclear waste to a particular site would be through the Port of Houston. So I am very happy to report that I will be on that particular conference, and will certainly have a keen interest not only concerning Deaf Smith County up in the panhandle, but also I am very concerned about how that waste will be transferred whenever a final site is characterized, and there is a final selection by the Department of Energy.

I must say that if I had been in Houston tonight, one of the first things I would have done was to congratulate the police chief of Houston, Lee Brown, because Chief Brown has been a motivating force, as I understand, in supporting the Police Activities League, a group of people who give of their time and their money and make a great effort to go out into the neighborhoods and to participate with young people, to be positive role models, to try to influence people, particularly away from any type of criminal enterprise or activity.

Also if I had been there tonight I would have congratulated Mayor Whitmire, because it is my understanding that she has been very supportive of this particular outreach program.

And if I had been there, I would have only reported one disappointment, and that disappointment would have been that I had not been asked to go out and participate in some of the sporting endeavors. So let me just, if I could, report that if I get asked by the Police Activities League to participate, particularly in one-on-one basketball games, I am going to be available for hopefully the last week in December and much of the month of January. So if I can participate with the league in going out in their community program I would be honored and look forward to such participation.

I realize that the purpose of the Police Activities League is to try to preempt crime, particularly among juveniles. But I think it is very important to look at the scope of crime in a national sense. The FBI has a crime clock. For 1986 it was reported that there was one crime index offense once every 2 seconds. There was one violent crime every 21 seconds, there was one property crime every 3 seconds, there was one murder every 25 minutes, one forcible rape every 6 minutes, one robbery every 58 seconds, one aggravated assault every 38 seconds, one burglary every 10 seconds, one larceny theft every 4 seconds, one motor vehicle theft every 26 seconds. That is the scope of the criminal problem in a national sense.

If my colleagues look at Houston, TX, and break it down, our total crime index for 1987 was 82,389 different crime indexes. There were 152 murders in Houston in 1987 thus far, 570 rapes in Houston thus far this year, 4,527 robberies thus far this year in Houston, 3,558 aggravated assaults thus far this year, 36,434 burglaries thus far this year, 36,434 larceny thefts thus far this year in Houston, 15,403 auto thefts this year, and 881 cases of arson reported thus far this year.

This demonstrates that Chief Lee Brown and other people in law enforcement have a very difficult task and they deserve our support. They deserve our support in intercepting those who commit crimes, but they also deserve our support in trying to go out and be the positive role model to preempt crime in our neighborhoods.

Let us focus just a little bit and look at what has happened nationally in terms of juveniles, and I am going to take my information from a publication that is called "Children in Custody." This was begun in 1971, the "Children in Custody" series, and it is designed to provide biennial information, which means once every 2 years information on both public and private residential facilities holding juveniles in custody across the country and on the juveniles that they hold. This report tells us that on February 1, 1985, which was the last reporting date for this particular biennial period, there were 49,322 juveniles who were being held in 1,040 public detention, correctional, and shelter facilities. This was a 1-percent increase in the number held on the same date in 1983.

Another 34,000 juveniles were housed in some 2,000 private facilities in 1985.

Of those in public facilities, about 93 percent were accused of or had been found to have committed acts that would be criminal offenses if they had been adults. About 19 percent were held for murder, for rape, for robbery, or aggravated assault. Five percent of the juveniles in custody were status offenders such as truants, runaways, or curfew violators. About 18 percent of the public facilities which held about 45 percent of the juveniles in public custody held more residents than they were designed for.

At the time of the juvenile facilities census, 86 percent of the juveniles were male, 61 percent were white, 37 percent black, and 2 percent other races.

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About 82 percent of the juveniles were between 14 and 17 years old. That is frightening, and it is staggering. Nationally, 185 juveniles per 100,000 juvenile population were in custody. This is 5 percent higher than in 1983.

The West and the South have the highest concentration of juveniles. The average cost of housing a resident 1 year in a public juvenile facility was $25,000 nationally, and $22,700 in the South. In 1984, 521,000 juveniles were admitted to the public facilities, and 515,000 were discharged. Juveniles detained pending adjudication, disposition, or placement stayed an average of 12 days in custody. Those committed by court authorities stayed an average of 163 days. Those who are voluntarily admitted stayed an average of 32 days.

This report says that there are three reasons juveniles were detained or committed to public facilities. First, they have been accused of or they have been adjudicated delinquent for acts that would be crimes if committed by an adult; second, they have been accused of or found to have committed status offenses such as running away, truancy, curfew violations, possession of alcholic beverages, acts that are not criminal offenses if committed by adults; or third, they have been placed in the care or custody of the State because of dependency, neglect, abuse, or for other reasons.

The overwhelming majority, 93 percent of the juveniles in public custody, were being detained pending adjudication for a criminal offense or had been committed after a finding of delinquency for a criminal offense. Nearly one-fifth of the juveniles held for delinquent behavior were detained or committed for the specific crimes of murder, forcible rape, robbery, or aggravated assault. Almost half of those, 48 percent, were being held for delinquent behavior, or were detained or committed for property offenses, and most of those were for the crimes of burglary, arson, larceny theft, or motor vehicle theft.

So, Mr. Speaker, this is not just a local problem in Houston, TX; it is a national problem. It is one that is crying out for an answer. So the obvious question is: What is the answer?

Mr. Speaker, I think part of the answer is the eradication in our society of the idea that crime can pay, that if you can get a good enough lawyer, somehow you are going to get off and there is not going to be any punishment. I am a Christian, and I grew up under the principle that if parents spare the rod, then the child is spoiled. I never had the rod spared. Those of us who grew up in southeast Texas probably felt the little switches on bare legs that I felt, and believe me, that was a deterrent and it was a punishment that had meaning. It kept me from being a repeat offender.

I think in our society we have to make people understand that there is punishment when a crime is committed.

I see that one of our biggest problems today is our Federal judiciary. I have introduced an amendment, as I have before since I have been in Congress, that would limit Federal judges to 10 years, because I think over the last 40 years—we have seen what was intended by our forefathers when they were creating an independent Federal judiciary—erode. If I understand our constitutional history, our forefathers wanted Federal judges to interpret laws that people like myself make to make sure that what we do in this body and to make sure that what the Members of the Senate and the President in the executive branch do comports with the Constitution. That is why they were insulated from the political process, so they could interpret laws without fear of some type of public or political persecution.

But in the last 40 years we have seen our Federal judiciary not only interpret but make law, and we have seen our people in law enforcement not only have to give warnings orally but have to read warnings, and they have to be fearful every time they make an arrest, every time they make a seizure, and we have an idea ingrained in our society today that if you have a good attorney, somehow your attorney can find an exception for any crime that is committed. But that was not what our forefathers intended.

So to get to the root of the problem, the idea that somehow you can get off if you commit a crime, I think, has got to be fundamentally changed in our judiciary.

I think groups like the Action League can certainly play a major role in addressing that particular problem. But if you really want to get to the real answer to this problem with juveniles, particularly as it is related to the concept of crime, the real answer is a three-letter word, and that is "you"—y-o-u, the people of America, the people of this particular group who want to get involved. They are the ones who can make a difference, people like Joe DeCecco. And Joe, if he were here, would probably tell me that I am not pronouncing his name correctly. But Joe is a perfect example, because Joe is an individual who has a profession, but he believes that he can make a difference. So it is my understanding that without even having children, he has gotten involved in this particular Police Activities League and is making a difference by giving some of his time and his money to go out and be a positive role model.

He is doing exactly what Andrew Jackson said. Andrew Jackson said, "One person with courage makes a majority." One person who is willing to go out and give of his or her time can make a difference and be a positive role model to the youth of America.

I have been in Congress 7 years now, and I have learned that the U.S. Government does not make America great. America is great not because of Government; America is great because of our people, people who are willing to work one on one.

When I was in high school, I attended a seminar one time for leaders and was told that there are two types of leaders; there are good leaders and then there are leaders for good. I think in this particular instance there are good people, and there are people working for good.

We just had General Secretary Gorbachev leave Washington after a very historical meeting with President Reagan, and we had an opportunity to really focus on the Soviet Union and its people. One thing that really stood out and really glared as far as I was concerned was the lack of freedom that the people in the Soviet Union have.

I was very fortunate several years ago to go with the Army on what they call a quick-look program, when they put you on a regularly scheduled C-5 transport plane and you see 10 bases in 48 hours in Western Europe. So I had an opportunity to understand what the real problem is in terms of our NATO forces and what they would face if ever there is major invasion. I was taken to a base that is called the Alpha Base, because it sets right on the border between East Germany and West Germany. It sets on what is called the Fulda Gap, which is the traditional invasion route from East to West. We have a base there, and it is called the Alpha Base, because if there ever is an invasion, we will lose the young people who are there who are our forward watching eyes and ears. They are there to tell us what is coming.

When I was taken to that base the first thing I saw was a fence that stretched in two directions, a fence that was about 10 feet tall. It had explosive charges every 50 yards. You touch the fence, and the entire fence explodes. There were concrete bunkers on the eastern side of the fence. The fence was set about 100 or 200 yards within East Germany. It was done that way so the East Germans could come on the western side of the fence and keep it mowed, keep the grass mowed, so if someone somehow got through the fence, there would be a clear shooting path where that person would be shot.

As I was standing there looking at that fence and at our observation tower, I looked down and I saw two little wooden crosses inside our fence, and I asked the commander what those two little wooden crosses represented. When he told me they represented an older gentleman and his daughter who had somehow gotten through the fence and were running and then machinegunned at the last moment just as they reached our border, reaching for freedom, I understood what America really meant at that point. And as I looked across the fence and I saw the white towers stretching about every half mile down the perimeter of that fence, with two sets of guards, one set of guards to shoot anyone trying to escape and another set of guards to shoot the guards that did not shoot, I really understood what we enjoy in this country and what words like "freedom" and "self-determination" and "liberty" really mean.

The point I would make to the Police Activities League, if I was in Houston tonight, would be that we have the maximum freedom and capacity to go out and do whatever we please. If we want to go to church on Sunday, we can do so. If we want to go to a Rotary Club meeting, we can do so. If we want to go to the Gallery and spend large sums of money for Christmas, we can do so, that is, if there are any large sums of money left in Houston. Or we can spend our time in going out and working with disadvantaged young people in a sports environment to be a positive role model.

If I were there, I would congratulate the Police Activities League and say that I was honored to have been asked to address their particular group and honored to have the opportunity to share a few brief thoughts. Then finally, if I were there, I would say that I would look forward to going one on one, not only with some of the people in the Police Activities League but also the kids, and I would hope that I could be the same positive influence that they are being as they are devoting their time and their energies to this worthwhile cause.

UNITED STATES-SOVIET SUMMIT: DECEMBER 8-10

The SPEAKER pro tempore (Mr. BEILENSON). Under a previous order of the House, the gentleman from Florida [Mr. FASCELL] is recognized for 15 minutes.

Mr. FASCELL. Mr. Speaker, the just concluded summit between President Reagan and General Secretary Gorbachev, the first United States-Soviet summit in 14 years on United States soil, provided an historic opportunity for the United States and the Soviet Union to reduce the nuclear threat, achieve greater understanding, and improve relations between the United States and the Soviet Union.

President Reagan deserves our praise for concluding an INF Treaty with the Soviet Union, thereby eliminating all long- and short-range intermediate nuclear forces. Hopefully, as we assess the success of the summit, it will prove to pave the way for more far-reaching reductions in the strategic nuclear arsenals of both superpowers.

The INF Treaty, as well as other issues raised at the summit, and the implications raised by the summit for the future of superpower relations, will require careful review by the Congress. Accordingly, the Foreign Affairs Committee will be the first to hold hearings on this subject. Next week, the committee plans to hold two hearings, one with private witnesses on December 16 and one with administration witnesses on December 17 on the full range of issues including arms control, regional disputes, and human rights.

The summit has now demonstrated that we have a Soviet leader who appears willing to move well beyond the traditional bounds of possible cooperation in a number of areas of superpower relations. It is equally clear that the Reagan administration needs to develop a clear policy toward internal political and economic changes occurring in the Soviet Union and the best means to advance United States foreign policy and national security interests. The hearings will enable us to examine these critical issues in full detail.

A number of issues were discussed at the summit and will be assessed at the committee hearings next week. Let me first describe my initial observations of the summit in the arms control area.

The INF Treaty eliminates an entire class of nuclear weapons—859 United States long- and short-range INF missiles and 1,752 Soviet long- and short-range INF missiles. This includes 1,200 Soviet warheads on the SS-20 alone. This is indeed a positive development for U.S. and allied security interests.

Furthermore, the treaty contains unprecedented verification measures that will require hundreds of inspectors to inspect 100 facilities in the United States and the Soviet Union. We will have the right to conduct over 100 onsite, short-notice inspections of key Soviet facilities over the next 13 years. Following my remarks, is a memorandum from the ranking Republican on the Foreign Affairs Committee, Representative BROOMFIELD and myself that describes the key positive features of the INF Treaty, including its unprecedented verification measures.

In addition, with the signing of the INF Treaty, the Soviets have accepted the principle of asymmetrical reductions for every one missile we eliminate, the Soviets eliminate approximately four missiles. Hopefully, this will pave the way for Soviet acceptance of asymmetrical reductions in the conventional field as well.

Such acceptance is vital because the elimination of intermediate- and short-range nuclear missiles highlights NATO/Warsaw Pact conventional asymmetries that must be addressed and raises a number of defense and security issues. It is clear that the United States and Western Europe will have to reexamine defense requirements and responsibilities in the aftermath of the INF Treaty.

Prospects for meaningful conventional reductions should be enhanced when the new 23-nation talks on conventional stability in Europe get underway in 1988. This new larger forum which will include all the NATO and Warsaw Pact countries will be asked to establish significantly lower conventional forces from the Atlantic to the Urals. This forum, as well as the existing CSCE—Conference on Security and Cooperation in Europe—mechanism for developing confidence and security-building measures will seek to eliminate disparities in conventional forces and eliminate the capability of launching a large-scale surprise attack.

While, in my judgment, the INF Treaty is an important one, it underscores the need for a strategic reductions agreement. The point is that without a strategic reductions agreement, reductions in theater nuclear weapons could be offset by additonal deployments of strategic weapons. I support administration efforts to achieve 50-percent reductions in United States and Soviet strategic nuclear arsenals if such efforts result in reducing Soviet first-strike capabilities. In this regard, hard negotiations between the two superpowers are necessary to reconcile the various sublimit proposals on strategic offensive weapons that are currently on the table in Geneva.

Many in the Congress have raised the desirability and the propriety of submitting an agreement on strategic reductions to the Congress as an executive agreement, thereby requiring a majority vote in both Houses of Congress.

Unlike the INF Treaty and the ABM Treaty, which are indefinite, permanent duration, an agreement on 50 percent strategic reductions would be an interim agreement—one step in a process of achieving even deeper reductions. Because of its interim nature, there are those who support the view that an agreement on 50 percent reduction should be sent to the Congress as an executive agreement—as was the SALT I Interim Agreement to Limit Strategic Arms, which was of a 5-year duration.

Whatever the nature of the strategic reductions agreement reached between the United States and the Soviet Union, a number of arms control experts and former administration officials have cautioned, in testimony before the committee, that reductions in strategic nuclear weapons make the most sense in conjunction with maintaining the restrictions on strategic defenses contained in the ABM Treaty. Otherwise, we face the folly of trading the old arms race—in strategic offensive weapons—for a new arms race—in strategic defensive weapons.

I hope that in the aftermath of the summit, President Reagan and General Secretary Gorbachev can be flexible in their arms control positions, with an eye toward not only reducing their offensive capabilities, but toward avoiding a new arms race in defensive weapons in space.

We should bear in mind that before progress can be made at the next round of arms control talks in Geneva, several still very obvious questions will have to be answered, including the following:

How will the administration reconcile reductions in strategic offensive weapons with the potential deployment of the SDI?

How much SDI is too much? At what stage in its development, does the SDI become counterproductive to United States interests, by encouraging the Soviets to accelerate their defensive efforts?

What options have we explored with the Soviets to strengthen the ABM Treaty and clarify its ambiguities?

What elaboration have the Soviets provided on their recently tabled proposal to establish a list of tests that can be conducted in space? What is our evaluation of their proposal?

Would such a list be consistent with the traditional interpretation of the ABM Treaty, or would it supersede it?

As virtually every negotiator of the ABM Treaty has confirmed, the traditional interpretation of the treaty—which prohibits the development and testing of space-based ABM systems and components—is the correct, legal interpretation of the ABM Treaty. It does not serve our interests to pretend that the administration's broad interpretation of the treaty is the correct interpretation. Congress has wisely insisted on the traditional interpretation of the treaty and such an interpretation is vital if a strategic offensive weapons agreement is to be achieved.

In the area of nuclear testing, the administration needs to actively pursue its negotiations with the Soviets on nuclear testing limits which began this past November in Geneva. The Congress will continue to monitor both superpowers' efforts at these negotiations and will urge that neither lose sight of the overall objective of achieving a comprehensive test ban.

In the area of chemical weapons, continued progress toward a ban on chemical weapons use and production is possible in 1988. By following congressional directives to not spend billions of dollars on the production of a new generation of flawed chemical weapons and to negotiate additional Soviet concessions in the support of a verification regime, a chemical arms control agreement is not only desirable, but doable.

Unfortunately, positive developments in arms control have not been paralleled in the human rights area. While glasnost has enhanced the arms control process, it is unfortunate that it has yet to significantly change the human rights situation in the Soviet Union.

The recent resolution of long-standing divided family and refusenik cases, the release of some political prisoners, and the increase in emigration rates, although very positive and welcome developments, should not overshadow the fact that Americans are still forcibly separated from their Soviet spouses, fiances, and family members.

Thousands of Soviet Jews have been, and continue to be, denied the right to emigrate, and, under repressive legislation enacted earlier this year, many thousands of others are prohibited from even applying to emigrate. While 7,000 Soviet Jews have been allowed to emigrate so far this year, 400,000 still seek permission to leave the Soviet Union, and close to 400 political prisoners remain incarcerated in the Soviet Union.

The summit offered a unique opportunity for the administration, the Congress and the American people to send the Soviet leadership a strong signal of our unwavering and unequivocal support for the promotion and protection of internationally recognized human rights. It provided the Soviet Union with the opportunity to make dramatic progress in this area by releasing all political prisoners, resolving favorably all outstanding emigration cases, and increasing significantly the rate of emigration from the Soviet Union by adopting a permanent policy of liberalized emigration. These actions would be in compliance with the Soviet Union's international human rights commitments, would remove, once and for all, a contentious issue from the bilateral agenda between our two countries, and would improve the Soviet Union's standing in the community of nations.

Conflict in third areas has always been an enduring and destructive point of contention between the superpowers. Soviet policy in the Third World, particularly in Ethiopia, Afghanistan, Kampuchea, and other areas has in the past been militant, opportunistic, and destabilizing. The projection of Soviet power into the Third World has been pursued with the intention of advancing Soviet influence without sufficient regard for the effects on regional stability and the level of tensions that are aggravated by Soviet military actions. President Reagan was fully justified in making regional issues and the possible resolution of such issues a major point of discussion at the summit.

Soviet policy in the Third World under Gorbachev is undergoing a major reevaluation, perhaps out of a realization that past policy has been flawed, that policy successes in the Third World are sometimes temporary and that a zero-sum approach to policy, which sees every American setback as a Soviet victory, is not sustainable in the long run and provokes an American reaction in the short term. While the summit was not able to reach an agreement on regional issues, such as a timetable for a withdrawal of Soviet troops from Afghanistan, it appears that the Soviets find increasingly attractive the concept of superpower cooperation to resolve regional issues where fundamental interests are not in conflict such as in the Persian Gulf. The summit helped elevate and enhance the superpower dialog on regional issues, and will hopefully lead to informal understandings and cooperation that help avoid policy miscalculations which could lead to an unforeseen or unanticipated escalation in superpower relations.

Progress was made at the summit, both in signing the INF Treaty and improving relations generally. However, much work needs to be done. The following guidelines for action in 1988:

Seek strategic reductions in conjunction with maintaining the constraints on strategic defenses contained in the ABM Treaty.

Initiate talks on the NATO/Warsaw Pact conventional balance with the understanding that the Soviets will have to accept asymmetrical reductions in their forces.

Seek adoption by the Soviet Union of a policy of liberalized emigration and establish channels for the routine resolution of human rights cases.

Intensify the pattern of discussion with the Soviet Union on regional issues in an effort to establish and expand areas of possible cooperation and coordinated action to reduce regional conflict in the Third World.

In conclusion, the substantive agenda of relations between the United States and the Soviet Union remains long and contentious. The recently concluded Reagan-Gorbachev summit has helped to advance that agenda in a positive direction, particularly on the critical questions of nuclear arms control. As events proceed, both the administration and the Congress will have to work closely to help bring about additional progress in advancing the critical foreign policy and national security interests that are a central element and objective of relations with the Soviet Union. I pledge my full cooperation in that effort.

COMMITTEE ON FOREIGN AFFAIRS,
December 9, 1987.

MEMORANDUM

To: Members, House Foreign Affairs Committee; Members, House Observers to Geneva Arms Control Talks.

From: Dante B. Fascell, Chairman; William S. Broomfield, Ranking Republican.

Subject: Outline of United States-Soviet INF Treaty.

The following is a description of the United States-Soviet INF Treaty signed at the United States-Soviet summit meeting December 8–10.

The information in this outline is based upon material taken from open sources (i.e. newspaper accounts and public statements made by administration representatives) and therefore represents the best efforts of our staff to present a detailed description of the INF Treaty. The information in the outline is subject to change as final details are released to the public by the administration.

As described below, the INF Treaty contains unprecedented verification measures. The Treaty establishes an on-site inspection regime for 13 years which includes mandatory, challenge, short-notice inspections of key United States and Soviet facilities.

I. KEY ELEMENTS OF U.S.-SOVIET INF TREATY

Total LRINF and SRINF Systems to be Eliminated:

United States	Soviet
859 deployed and nondeployed missiles	1,752 deployed and nondeployed missiles.
429 deployed warheads	1,687 deployed warheads.

A. Elimination of LRINF (Long-Range Intermediate Nuclear Forces)

Elimination of all long-range INF missiles (1,000–5,500 kilometer = 600–3,000 miles) on a global basis. This includes:

United States	Soviet
Pershing 2's—108 missiles, 108 warheads; plus approximately 12 spares.	SS–20's, SS–4's. SS–5's—470 missiles, over 1,300 warheads (SS–20's = 400 missiles and 1,200 warheads).
GLCM's (Ground-launched cruise missiles)—309 missiles, 309 warheads.	
Total—429 missiles, 429 warheads	Total—470 missiles, over 1,300 warheads.
Nondeployed GLCM's—260 missiles	Nondeployed missiles—356 (70 percent or 250 are SS–20's).
Total LRINF to be eliminated: 689 missiles, 429 deployed warheads.	Total LRINF to be eliminated: 826 missiles, over 1,300 deployed warheads.

B. Elimination of SRINF (Short-Range Intermediate Nuclear Forces)

Elimination of SRINF missiles (500–1,000 kilometers = 300–600 miles) on a global basis.

United States	Soviet
None deployed in Europe	SS–12/22's and SS–23's, 387 missiles.
170 old Pershing 1A missiles stored in United States will be eliminated.	539 nondeployed SRINF to be eliminated.
Total SRINF to be eliminated, 170 missiles.	Total SRINF to be eliminated, 926 missiles.

C. Schedule for Dismantlement and Destruction

LRINF missiles are to be destroyed within 3 years.

All United States and Soviet LRINF missiles must be eliminated 15 days prior to the end of the overall 3 year elimination period.

SRINF missiles are to be destroyed within 18 months.

The 72 West German Pershing 1A launchers and warheads (not technically included in the INF agreement) are to be destroyed at least 15 days before the overall 3 year deadline has expired.

Upon Treaty signature, the United States will suspend Pershing 2 and GLCM deployments.

D. No Commission of Missiles

Destruction of all eliminated missiles. None of the missiles will be converted to other types of missiles or transferred to other countries.

E. Modernization Ban

Ban on INF missile modernization, production and flight tests.

F. Warhead Removal

Before a missile is destroyed, the reentry vehicle or vehicles (warheads) will be removed, the nuclear explosives and guidance system will be returned to national authorities, the remaining RV's will be eliminated under agreed procedues.

G. West German Pershing 1As

There will be no provisions in the INF Treaty regarding elimination of the West German Pershing 1As. Chancellor Kohl of West Germany has announced that his government will dismantle the Pershing 1As with the elimination of the United States and Soviet INF missiles.

All United States and Soviet missiles must be eliminated 15 days prior to the end of the overall period of elimination (3 years).

During the final 15 days, the U.S.-owned reentry vehicles released by the elimination of the West German Pershing 1As will be destroyed.

H. Resolution of Disagreements

A verification commission will be established to resolve disputes arising from implementation of the INF Treaty. Should a dispute arise, either side can call a meeting of the commission and it is mandatory that the other side attend. The commission will not meet on a regular basis as does the Standing Consultative Commission (SCC) established under the ABM Treaty.

I. Treaty Abrogation

The INF Treaty will include procedures for abrogating the Treaty upon 6 months notice, for national interest reasons, similar to the ABM Treaty withdrawal clause.

J. General Verification Provisions

Verification provisions include: data exchanges, on-site monitoring of elimination of missiles and on-site inspection of remaining missiles until eliminated, including associated facilities. (See detailed verification section below.)

II. KEY VERIFICATION PROVISIONS OF THE INF TREATY

A. Data Exchange and Baseline Inspection

A detailed exchange of data, updated as necessary, on deployed and non-deployed facilities, including the location of missile support facilities, and missile operating bases, the number of missiles and launchers at those facilities and bases and technical parameters of those missile systems.

All INF missiles and launchers will be geographically fixed in agreed upon areas or in announced transit between such areas during the reductions period.

The United States and the Soviet Union have already exchanged data. Upon entry into force of the INF Treaty, the data exchange will be updated and each side will have 60 days to conduct a baseline inspection to ensure (along with National Technical Means—NTM—of verification) that the data provided is accurate. The baseline onsite inspection is designed to verify the number of missiles and launchers at declared missile support facilities and missile operating bases.

Notification of movement of missiles and launchers between declared facilities.

On-site inspection to verify the destruction of missiles and launchers.

B. Short-Notice Inspection of Declared Facilities

Follow-on, short-notice inspection of declared facilities during the three year reductions period to verify residual levels until all missiles are eliminated.

Short-notice, mandatory challenge inspection of certain facilities in the United States and the Soviet Union at which illegal missile activity could be carried out (i.e. formerly declared sites). Under such challenge inspections, notification of which facility either side wanted to visit would not be made until the inspectors arrived in that country.

Specifically, the Treaty calls for: 20 challenge inspections per year in the first 3 years; 15 challenge inspections per year in the next 5 years; and 10 challenge inspections per year in the next 5 years.

Separate "close-out" inspections during the first 3 years to ensure that when a site is deactivated and removed from the list of declared facilities, it has indeed ended INF-associated activity.

C. U.S./Soviet On-Site Inspection at Key Facilities

U.S. inspectors will be positioned outside a Soviet SS-20 final assembly facility at Votkinsk, west of the Urals for 13 years.

SS-25's long-range mobile, single warhead missiles—are also assembled at this site. The first two stages of the SS-25's three stages are identical to the SS-20. The U.S. wants to inspect this facility to ensure that the Soviets are not producing and stockpiling SS-20's there.

Soviet inspectors will be positioned outside a Pershing 2-related plant in Utah for 13 years.

Under this arrangement, each side's inspectors will remain outside the facility and will monitor what goes in and out of the facility.

TIME TO AMEND THE McCARRAN-FERGUSON ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York [Mr. LAFALCE] is recognized for 10 minutes.

Mr. LAFALCE. Mr. Speaker, the time has come for us to reexamine the McCarran-Ferguson Act which grants a broad antitrust immunity to the insurance industry. It is almost unbelievable that this industry, which contributes 8 percent of our gross national product—over $310 billion a year—can operate with virtually no Federal oversight and generally ineffective regulation at the State level.

Therefore, I am introducing a bill today to modify the Federal antitrust exemption for the insurance industry under the McCarran-Ferguson Act. The intent of this legislation is not to preempt State regulation or taxation of the insurance industry. I want to make it clear that removing a Federal antitrust exemption does not constitute the establishment of Federal regulation of the insurance industry. Rather my legislation would make the existing regulatory process work more effectively.

STATEMENT OF PROBLEM

The States have primary responsibility for regulating the insurance industry due to the McCarran-Ferguson Act enacted by Congress in 1945. Each State has an insurance regulatory agency with responsibilities to license companies and insurance agents; maintain a system of financial and trade practice regulation; and ensure that insurance rates are not excessive, inadequate, or unfairly discriminatory.

In order to better understand why I am calling for the examination and modification of the McCarran-Ferguson Act, it is useful to look at how regulation of this industry has developed historically, as well as the reasons for the enactment of this act by Congress in 1945.

During the early 1800's in the United States, insurance companies were usually put into operation through a legislative charter. Companies were primarily required to provide periodic reports to the public on the financial condition of the company, so that individuals could determine the soundness of the company for themselves.

Beginning with New Hampshire in 1851, the States created boards of insurance commissioners to examine the financial security of the companies; and in 1859, New York was the first State to create a separate administrative agency headed by a single superintendent who was given broad licensing and examination powers over the insurance companies operating in that State.

Thus, insurance regulation developed under the jurisdiction of the States. This fact was reaffirmed by the Supreme Court case of Paul versus Virginia (1868) in which the Court held that "issuing a policy of insurance is not a transaction of commerce" and, therefore, the insurance business would not come under the commerce clause of the U.S. Constitution. As a result of this decision, the insurance industry was subsequently shielded from the jurisdiction of Federal antitrust laws, which were enacted near the turn of the century. This enabled the companies to share information on risk and loss experience, to make statistical predictions, and to limit competition within the industry.

This 1868 Supreme Court decision prevailed until 1944 when the Supreme Court issued another landmark decision in United States versus South-Eastern Underwriters Association. In this decision, the Supreme Court overturned its 1868 holding and declared that the business of insurance was indeed interstate commerce. This decision threw the industry and State insurance regulators into turmoil. If insurance was considered interstate commerce, then regulation of the industry could fall under Federal regulatory powers; and the industry would no longer be exempt from Federal antitrust laws. Thus, this Supreme Court ruling cast doubt on the ability of State regulators to license, tax, and regulate insurance companies. In order to emphasize their concern, many insurance companies refused to pay State taxes in the States in which they were domiciled and also threatened to cancel insurance policies.

The incipient state of chaos led President Roosevelt to ask Congress for legislation to give the insurance industry a few years in which to adjust to the Court decision. The result was that Congress enacted the McCarran-Ferguson Act in 1945 which declared that "the continued regulation and taxation by the several States of the business of insurance is in the public interest." This legislation left the regulation of the insurance industry to the States, but with the following caveats:

First, neither Congress nor the President gave the insurance industry total immunity from Federal antitrust laws. In President Roosevelt's statement on signing McCarran-Ferguson into law, he said that "it is clear from the legislative history and language of this act, that Congress intended no grant of immunity for boycott, coercion, or intimidation."

Second, Congress did not intend to permit private rate-fixing by the industry. This point was made quite clear by President Roosevelt who stated that "Congress did not intend to permit private rate-fixing, which the Antitrust Act forbids, but was willing to permit actual regulation of rates by affirmative action of the States." Thus, the intent of Congress was to promote competition within the industry.

Third, the act granted the insurance industry a moratorium from the application of Federal antitrust laws only until 1948, after which time the antitrust laws would be applicable in full force, according to President Roosevelt, "except to the extent that States have assumed responsibility and are effectively performing that responsibility."

The key issue in the interpretation and application of McCarran-Ferguson is what constitutes "effective regulation." In the absence of any statutory definition or legislative history that explains the intent of Congress, the courts have generally ruled that even the mere presence of State regulation is sufficient to exempt the industry from antitrust laws.

As a result, it has been left to each of the 50 States to make their own way, which has led to various problems with regard to the effective regulation of the insurance industry. As we might expect, there is a tremendous disparity in the level of resources and expertise available at the State level to regulate the industry. Over one-half of the States do not even have an actuary on their State insurance staffs, which makes it extremely difficult for State regulators to analyze whether the rates charged by insurance companies are fair or whether the industry's loss reserves are adequate. If the majority of States lack this expertise, it is practically impossible for States to effectively regulate the industry.

Over the past 2 years, I have conducted 10 congressional hearings on this subject and have received testimony from State regulators from both small and large States. For example, the State attorney general from West Virginia testified that his State did not have the necessary resources, expert staff, or authority to adequately or effectively regulate this industry, and the State commerce commissioner from Minnesota stated that "State regulation is not effective and does not work." The testimony of State regulators such as these has raised Congress' attention and concern over whether we now need to find a way to assist the States in carrying out their mandate to effectively regulate the insurance industry.

Problems associated with the interpretation of McCarran-Ferguson have led to a variety of proposals to repeal or amend this act. For example, in 1978, the Federal Trade Commission recommended a strict narrowing of the McCarran-Ferguson Act exemption. The FTC recommended that only two insurance activities should be exempt from the antitrust laws: Joint collection and use of statistics on loss experience, and joint action to provide coverage for large risks and reinsurance.

The National Commission for the Review of Antitrust Laws and Procedures recommended to the President and the Attorney General in 1979 that McCarran-Ferguson should be repealed outright and replaced with more narrowly drawn legislation that would allow only a limited number of essential insurance collective activities under the antitrust laws.

In addition, the General Accounting Office issued a major study on the effectiveness of State regulation of the insurance industry which found a number of problems. For example, most State insurance departments did not have systematic procedures to determine whether consumers were being fairly treated with respect to matters such as claims payments, rate setting, and protection from unfair discrimination. Many of these problems still exist today at the State level due to lack of insurance data, lack of actuarial and other expertise, and lack of resources.

SUMMARY OF BILL AND ITS MAJOR BENEFITS

The purpose of my proposed legislation is to enable more effective regulation of the insurance industry. It is based on discussions with Justice Department officials, insurance industry representatives and analysts on the structure and operation of the insurance industry; and congressional hearings on various proposed solutions to the recent insurance crisis, such as the modification of McCarran-Ferguson.

Based on these discussions and further examination of the issue, I now propose the modification of McCarran-Ferguson, through a narrowing of the current antitrust exemption that is granted to the insurance industry, rather than an outright repeal of the act.

A bill to repeal this act outright has been introduced in the House this year, of which I am an original cosponsor. While I still believe that the insurance industry would be able to carry out its essential collective activities under Federal antitrust law, I recognize the reality that the enactment of such a repeal may lead to a temporary transition problem with regard to what insurance activities would be considered legitimate.

For example, there are potentially significant costs associated with an outright repeal of McCarran-Ferguson. These costs might include an impact on the manner in which States would regulate insurance; and creation of some uncertainty within the insurance industry with respect to the bounds of legitimate joint insurer activities.

In order to diminish any possible costs associated with the outright repeal of the industry's antitrust exemption, the bill which I am introducing today delineates categories of activities which would still be allowed under Federal antitrust. It also states explicitly that the nothing in this legislation is to be construed to preempt State regulation of the insurance industry.

My proposed legislation to modify McCarran-Ferguson would:

A. Apply Federal antitrust laws to the business of insurance, except for the following activities which shall be exempt from antitrust to the extent that they are regulated by the laws of the State: First, collection and dissemination of historical loss data; second, preparation, dissemination, and filing of policy forms, endorsements, classifications, and terms of coverage; third, preparation or dissemination of rate data based on losses, which includes historical data, but does not include trended data; fourth, participation in joint underwriting pools, including but not limited to, residual market mechanisms; fifth, participation in research, surveys, audits and inspections for classification purposes; sixth, collection or dissemination of information regarding fraudulent claims and practices.

B. Make clear that nothing in the act would convey antitrust immunity to boycotts, coercion or intimidation.

C. State that nothing in this act would preempt State action with respect to certain insurance activities in which the State clearly articulates an anticompetitive policy and actively supervises any private conduct involved.

The major benefits to be achieved by enacting a modification of McCarran-Ferguson are:

A. Clarify, once and for all, the intent of Congress to require this industry to function competitively and fairly.

B. Strengthen State regulation of the industry.

C. Increase the protection of consumers by ensuring that the industry does not engage in unfair or noncompetitive trade practices.

D. Help ensure, in conjunction with other approaches, that a precipitous liability insurance crisis would not occur again.

ARGUMENTS IN SUPPORT OF MODIFYING MC CARRAN-FERGUSON

Four major arguments in opposition to the modification or repeal of the antitrust exemption have been presented by insurance industry representatives in congressional hearings in recent years. I would like to briefly refute these four arguments.

The first argument is that the industry does not engage in any illegal or collusive activities, such as price-fixing and, therefore, Federal antitrust laws are not necessary to regulate the industry. In other words, if nothing is wrong, don't fix it.

I believe that the burden of proof should rest with the insurers to show why they should continue to have total exemption from Federal antitrust laws. In fact, Charles Rule, Assistant Attorney General, testified before my committee that if such an exemption from Federal antitrust was requested today by the insurance industry, that request would be denied.

However, let us assume for the moment that proponents of change must carry the burden of proof to demonstrate that the insurance industry may have engaged in activities which would violate Federal antitrust laws. Is there any evidence that this has occurred?

One of the problems we face as legislators in attempting to answer this question is that the Federal Trade Commission and the Justice Department have not been able to carry out any such investigations of the industry's activities due to McCarran-Ferguson. Daniel Oliver, Chairman of the FTC, stated in congressional testimony that:

> The McCarran-Ferguson Act protects all manner of price fixing. Agreements among insurers to limit consumer options by using only certain policy forms and classification plans are also safe. Likewise, the Act allows insurers to divide customers and territories among themselves, and to impose uniform terms upon agents.

Mr. Oliver noted, for example, that a number of cases dismissed on McCarran-Ferguson grounds have involved allegations of anticompetitive activities lacking any redeeming social benefit. While he did not know if the plaintiffs could have proven antitrust violations, the McCarran-Ferguson Act denied them even the chance to try.

Thus, it is extremely difficult to examine whether the industry has engaged in any collusive activities during the recent cycle. While Assistant Attorney General Rule testified that the Insurance Services Offices' [ISO's] advisory rates would not be considered collusive by definition, he did state that some areas of ISO's activities are of concern to him—such as the use of certain loading factors for expenses and overhead in the development of advisory rates.

These examples show that there is at least a prima facie case that the insurance industry should be subjected to the Federal antitrust laws.

The second argument that is presented in opposition to the modification or repeal of the Federal antitrust immunity is that the application of these laws would adversely impact the effectiveness of State regulation and the interests of the insurance-buying public. This is a disingenuous argument because it is difficult to negatively impact State regulation when it is not effective anyway; and it would be difficult to show how insurance consumers could be harmed even more than they have been during the recent crisis.

The application of antitrust laws is in no way inconsistent with either desirable industry cooperation or effective State regulation. Indeed, by requiring the industry to be subject to these laws, states would be able to more effectively regulate it. If insurers violate the antitrust laws, the States would be able to challenge those violations. On the other had, if any States desire to allow the industry to engage in an anticompetitive activity, it can establish regulations regarding such activity, which would provide the insurance industry with an affirmative defense to Federal antitrust suits.

Perhaps the real concern for the insurance industry is whether Federal regulation might eventually supplant State regulation. I see little support for such a proposal; and it would not be politically viable, given the States' incentives to maintain control over the taxing and licensing of insurance companies.

The third argument against modification is that the insurance industry is unique and, therefore, requires an antitrust exemption in order to operate effectively. Take this exemption away, and the insurance industry would not be able to operate.

This is, of course, an argument that most major industries in the country would like to make. However, it is simply not true. Federal antitrust exposure will not prevent insurers from engaging in legitimate cooperative activities. As Chairman Oliver has stated, "enforcement agencies and courts are well aware that some forms of joint action enhance rather than restrict competition, and are quite sophisticated at distinguishing harmful from beneficial agreements." Therefore, the insurance industry would still be able to carry out certain essential collective activities even under Federal antitrust law.

However, as I have previously stated, I do recognize the reality that any change in the industry's antitrust exposure might lead to changes in its perception with regard to how it can operate; and temporary transition problems might occur as a result. Therefore, this bill modifies the McCarran-Ferguson Act rather than outright repealing it.

The fourth argument against modification is that this issue is not related to the liability insurance crisis, therefore, subjecting the industry to Federal antitrust laws would not resolve the crisis. This argument has been presented by the National Assocations of Insurance Commissioners [NAIC], among others, which has stated that "repeal or modification of McCarran is not even a partial solution to the lack of affordable and available liability coverage. The issues are fundamentally unrelated."

I agree with part of this argument because I do not believe that modification or repeal of the antitrust exemption would, in and of itself, resolve the liability insurance crisis. However, I do believe that it is important to subject the insurance industry to the same Federal antitrust laws as other industries face.

Subjecting the industry to Federal antitrust would require it to function more competitively and more fairly—and this requirement is directly linked to the liability insurance crisis. When proponents and opponents of the repeal discuss whether the industry would become more or less competitive as a result of the application of antitrust laws, the arguments on both sides of the issue become convoluted. These opposing forces debate whether the industry was too competitive or too uncompetitive during the period of 1979 to 1984, without defining what they mean by competitive.

Most insurance analysts agree that the industry engaged in massive cash-flow underwriting during this period. The industry drastically underpriced its premiums during the late 1970's and early 1980's in order to obtain more dollars to invest at high interest rates; and consequently, raised prices when interest rates fell in 1984. From the insurance industry's viewpoint, the industry was wildly competitive with massive price-cutting carried out in order to maintain marketshare. From the consumer groups' viewpoint, the industry was not competitive enough because the industry appeared to first drop its prices and then raise its prices in concert.

I would argue that both sides are missing the main point. Regardless of whether the industry was too competitive or too noncompetitive during the recent cycle, the point is that subjecting the industry to Federal antitrust laws would address both of these problems because it would create a more level playing field. It would allow the Justice Department and the Federal Trade Commission to analyze industry practices to determine whether they are fair and in the public interest. Thus, these laws would define the type of competition that would be allowed, and would protect the interests of consumers more widely than they have been protected in the past.

Admittedly, the modification of the antitrust exemption would not by itself resolve future crises. That is why I am also calling for the consideration of other approaches, such as the Federal collection of insurance data on the relationship between the civil justice system and the cost of liability insurance.

I am not alone in calling for the review and modification of the McCarran-Ferguson Act. Groups that support this effort include the White House Conference on Small Business, the Federal Trade Commission, the National Association of Attorneys General, and a broad coalition of consumer groups and trade organizations, including the American Association of Retired Persons, AFL-CIO, American Bankers Association, Consumer Federation of America, National Insurance Consumer Organization, and many others.

All of these efforts evidence a growing impetus for action to modify the insurance industry's antitrust exemption under McCarran-Ferguson. I intend to continue my efforts to investigate the insurance industry and to push for passage of this legislation which would establish more effective regulation of this industry.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. Hutto (at the request of Mr. Foley), after 1:30 p.m. on Friday, December 11, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. Gray of Illinois) to revise and extend their remarks and include extraneous material:)

Mr. Annunzio, for 5 minutes, today.

Mr. Ford of Tennessee, for 10 minutes, today.

Mr. Fascell, for 15 minutes, today.

Mr. LaFalce, for 10 minutes, today.

Mr. Gaydos, for 60 minutes, on December 15 and 16.

(The following Members (at the request of Mr. Grandy) to revise and extend their remarks and include extraneous material:)

Mr. Fields, for 60 minutes, today.

Mrs. Bentley, for 30 minutes, today.

Mrs. Bentley, for 60 minutes, on December 15, 16, and 17.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. Stenholm, prior to the vote on the Roberts amendment to H.R. 1467 in the Committee today.

Mrs. Smith of Nebraska, prior to the vote on the Roberts amendment to H.R. 1467 in the Committee today.

Mr. Marlenee, prior to the vote on the Roberts amendment to H.R. 1467 in the Committee today.

(The following Members (at the request of Mr. Grandy) and to include extraneous matter:)

Mr. Bilirakis.

Mr. Sundquist.

Mr. Gunderson.

Mr. Pursell.

Mr. Courter.

Mr. Henry.

Mr. Dornan of California.

Mr. Broomfield.

Mr. Ritter.

Mr. Schuette.

(The following Members (at the request of Mr. Gray of Illinois) and to include extraneous matter:)

Mrs. COLLINS.
Mr. FEIGHAN.
Mr. RANGEL.
Mr. FLORIO.
Mr. ROYBAL.
Mr. WAXMAN.
Mr. LAFALCE.
Mr. KANJORSKI.
Mr. FASCELL in two instances.
Mr. DYSON.
Mr. RICHARDSON.
Mr. RAHALL.
Mr. SAWYER.
Mr. DE LA GARZA.
Mr. BENNETT in two instances.

ADJOURNMENT

Mr. FIELDS. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 4 o'clock and 42 minutes p.m.), under its previous order, the House adjourned until Monday, December 14, 1987, at 12 noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2545. A letter from the General Counsel, Department of Defense, transmitting the views of the Department on Section 308 of H.R. 2714, 100th Congress, the legislative branch appropriations bill for fiscal year 1988; to the Committee on Appropriations.

2546. A letter from the Director, the Office of Management and Budget, transmitting the cumulative report on rescissions and deferrals of budget authority as of December 1, 1987, pursuant to 2 U.S.C. 685(e) (H. Doc. No. 100-145; to the Committee on Appropriations and ordered to be printed.

2547. A letter from the Director, Defense Security Assistance Agency, transmitting notification of the Department of the Army's proposed letter of offer to Turkey for defense articles estimated to cost $50 million or more (Transmittal No. 88-05), pursuant to 10 U.S.C. 118; to the Committee on Armed Services.

2548. A letter from the Director, Defense Security Assistance Agency, transmitting notification of the Department of the Navy's proposed letter(s) of offer to Spain for defense articles estimated to cost $50 million or more (Transmittal No. 88-09), pursuant to 10 U.S.C. 118; to the Committee on Armed Services.

2549. A letter from the Deputy Assistant Secretary of Defense (Comptroller Administration), transmitting the Navy's determination and findings indicating the necessity to exclude the clause concerning examination of records by the Comptroller General from a proposed contract with the United Kingdom Government for the jointly funded and managed products support program for the Pegasus engines, pursuant to 10 U.S.C. 2313(c); to the Committee on Armed Services.

2550. A letter from the Deputy Assistant Secretary of Defense (Comptroller Administration), transmitting notification of the Defense Logistics Agency's decision to exercise the provision for exclusion of the clause concerning examination of records by the Comptroller General from a proposed contract with the Government of Oman for aviation A-1 jet fuel, pursuant to 10 U.S.C. 2313(c); to the Committee on Armed Services.

2551. A letter from the Secretary of Energy, transmitting a draft of proposed legislation to authorize the Secretary of Energy to sell the Government's ownership interest in the Naval Petroleum Reserve numbered 1 or 3, or both, and to establish the conditions for the sale, to establish the defense petroleum inventory, to assure the timely completion of the strategic petroleum reserve, and for other purposes; jointly, to the Committees on Armed Services and Energy and Commerce.

2552. A letter from the Chairman, U.S. Commission on Civil Rights, transmitting a copy of the report on Federal enforcement of equal employment requirements, to the Committee on Education and Labor.

2553. A letter from the Secretary of Energy, transmitting the Department's quarterly report of the strategic petroleum reserve during the period July 1, 1987, through September 31, 1987, pursuant to 42 U.S.C. 6245(b); to the Committee on Energy and Commerce.

2554. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notification of the Department of the Army's intent to issue letter(s) of offer for certain defense articles and services to Turkey estimated to cost $60 million or more (Transmittal No. 88-05), pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

2555. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notification of the Department of the Navy's intent to issue letter(s) of offer for certain defense articles and services to Spain estimated to cost $120 million or more (Transmittal No. 88-09), pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

2556. A letter from the Assistant Secretary of State for Legislative and Intergovernmental Affairs, transmitting notification of a proposed manufacturing license agreement for upgrading AN/UGC-74B(V)3 teleprinters for the Government of Australia (Transmittal No. MC-6-88), pursuant to 22 U.S.C. 2776(d); to the Committee on Foreign Affairs.

2557. A letter from the Chairman, Commission for the Study of International Migration and Cooperative Economic Development, transmitting a report on the First International Consultative Mission to Mexico, November 30 to December 4, 1987, concerning the problem of illegal Mexican migration to the United States, pursuant to Public Law 99-603, title VI, section 601(c) (100 Stat. 3444); to the Committee on Foreign Affairs.

2558. A letter from the Administrator, Environmental Protection Agency, transmitting the semiannual report on the activities of the Agency's inspector general covering the period April 1, 1987 to September 30, 1987, pursuant to 5 U.S.C. app. (Inspector General Act of 1978) 5(b); to the Committee on Government Operations.

2559. A letter from the Chief Financial Officer, Paralyzed Veterans of America, transmitting the organization's annual audit report for the fiscal year ended September 30, 1987, pursuant to 36 U.S.C. 1166; to the Committee on the Judiciary.

2560. A letter from the Board of Governors, U.S. Postal Service, transmitting the semiannual report on the civil misrepresentation activities of the U.S. Postal Service for the period April 1, 1987 through September 30, 1987, pursuant to 39 U.S.C. 3013 (97 Stat. 1317); to the Committee on Post Office and Civil Service.

2561. A letter from the Director, Office of Management and Budget, transmitting a determination that additional amounts are necessary to maintain the authorized level of operation of RFE/RL, Inc., because of adverse fluctuations in foreign currency exchange rates, pursuant to 22 U.S.C. 2877(a)(2); jointly, to the Committees on Appropriations and Foreign Affairs.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. HOWARD: Committee on Public Works and Transportation. H.R. 2790. A bill to improve the efficiency and effectiveness of management of public buildings; with an amendment (Rept. 100-474, Pt. 1). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. CARDIN (for himself, Mrs. BENTLEY, and Mr. MCMILLEN of Maryland):

H.R. 3746. A bill to authorize the expansion of the National Air and Space Museum at Baltimore-Washington International Airport or Washington Dulles International Airport; jointly, to the Committees on House Administration and Public Works and Transportation.

By Mr. DE LUGO (for himself, Mr. LAGOMARSINO, Mr. SUNIA, and Mr. BLAZ):

H.R. 3747. A bill to provide the governance in insular areas, and amend Acts relating thereto; to the Committee on Interior and Insular Affairs.

By Mr. DOWDY of Mississippi:

H.R. 3748. A bill to establish a program to assist fiscally distressed local governments in the provision of essential services, and for other purposes; to the Committee on Government Operations.

By Mr. LAFALCE:

H.R. 3749. A bill to amend the McCarran-Ferguson Act to limit the Federal antitrust exemption, with respect to the business of insurance, to certain enumerated insurance activities regulated under State law, and for other purposes; to the Committee on the Judiciary.

By Mr. McHUGH:

H.R. 3750. A bill to provide for futher participation by the United States in the International Development Association, the Asian Development Fund, and the African Development Bank, for membership for the United States in the Multilateral Investment Guarantee Agency, for United States acceptance of the merger of the capital resources of the Inter-American Development Bank, for United States approval and acceptance of a proposed amendment to the Articles of Agreement of the International

Bank for Reconstruction and Development, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

H.R. 3751. A bill to provide for further participation by the United States in the International Development Association, the Asian Development Fund, and the African Development Bank, for United States acceptance of the merger of the capital resources of the Inter-American Development Bank, for United States approval and acceptance of a proposed amendment to the Articles of Agreement of the International Bank for Reconstruction and Development, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

By Mr. ORTIZ (for himself and Mr. de la Garza):

H.R. 3752. A bill to provide for the establishment of a new Veterans' Adminstration medical facility in south Texas; to the Committee on Veterans' Affairs.

By Mr. RANGEL (for himself, Mr. Gilman, Mr. Stark, Mr. Scheuer, Mr. Akaka, Mr. Guarini, Mr. Fascell, Mr. Fauntroy, Mr. Towns, and Mr. Traficant):

H.R. 3753. A bill to authorize the appointment of an Assistant Attorney General for State and Local Law Enforcement Matters, and for other purposes; to the Committee on the Judiciary.

By Mr. RITTER (for himself, Mr. Madigan, Mr. Clinger, Mr. Boehlert, Mr. Hall of Texas, and Mr. Richardson):

H.R. 3754. A bill to amend the Internal Revenue Code of 1986 to allow individuals a credit against Federal income tax for amounts paid or incurred for maintaining a household for a dependent of the taxpayer who has attained age 65 and for amounts contributed to a health care savings account, and to amend title XVIII of the Social Security Act to provide for a high deductible and protection against catastrophic medical care expenses for individuals who have established such accounts and to provide protection against such expenses under the medicare program, and for other purposes; jointly, to the Committees on Ways and Means and Energy and Commerce.

By Mr. Schuette (for himself, Mr. Dyson, Mr. Pursell, Mr. Upton, Mr. Traxler, Mr. Dingell, Mr. Broomfield, Mr. Davis of Michigan, and Mr. Wolpe):

H.R. 3755. A bill to extend the eligibility of producers for emergency loans due to disasters or emergencies during the 1987 crop year who did not have crop insurance in effect and to refund the insurance premiums paid by producer-borrowers who did have insurance coverage; to the Committee on Agriculture.

By Mr. Traficant:

H.R. 3756. A bill to prohibit the procurement of goods and services by Federal agencies from Japanese sources, and for other purposes; to the Committee on Government Operations.

Mr. de la Garza:

H.J. Res. 423. Joint reolution to designate the third week in June 1988 as "National Dairy Goat Awareness Week"; to the Committee on Post Office and Civil Service.

By Mr. Bereuter (for himself, Mr. Coleman of Missouri, Mr. Courter, Mr. Leach of Iowa, Mr. Miller of Washington, and Ms. Snowe):

H. Con. Res. 229. Concurrent resolution expressing the sense of the Congress concerning economic assistance from Western European countries to the Sandinista regime in Nicaragua; to the Committee on Foreign Affairs.

MEMORIALS

Under clause 4 of rule XXII,

249. The SPEAKER presented a memorial of the Senate of the Commonwealth of Massachusetts, relative to the need for additional OSHA inspectors; to the Committee on Education and Labor.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 637: Mr. Martinez.

H.R. 955: Mr. Ritter.

H.R. 1555: Mr. Jeffords.

H.R. 1726: Mr. Holloway.

H.R. 2025: Mrs. Lloyd and Mr. Ford of Tennessee.

H.R. 2091: Mr. Lott.

H.R. 2213: Mr. Foglietta, Mr. Moakley, Mr. Durbin, Mr. Gallo, Mr. Sensenbrenner, Mr. Gejdenson, Mr. Cooper, Mr. Clarke, Mr. DeFazio, Mr. Panetta, and Mr. Fawell.

H.R. 2260: Mr. Hall of Texas, and Mr. Ireland.

H.R. 2487: Mr. de Lugo, Mr. Davis of Michigan, Mr. Lott, Mr. Moakley, Mr. Hutto, Mr. Gekas, and Mr. Lent.

H.R. 2532: Mr. Sawyer.

H.R. 2609: Mr. Martinez.

H.R. 2699: Mr. Lott.

H.R. 2717: Mr. Rahall, Mr. Sabo, Mr. Bonker, and Mr. Weiss.

H.R. 2762: Mr. Coleman of Texas, Mr. Hochbrueckner, Mr. Espy, Mr. Waxman, Mr. Martinez, and Mr. Wheat.

H.R. 2776: Mr. Buechner and Mr. Lancaster.

H.R. 2879: Mr. Kolbe.

H.R. 2883: Mrs. Kennelly, Mr. Swift, Mr. McMillan of North Carolina, Mr. Valentine, Mr. Dellums, Mr. Ballenger, Mr. Bennett, Mr. Markey, Mr. DioGuardi, Mr. Dymally, Mr. Clay, Mr. Roybal, Mr. Shays, Mr. McHugh, Mr. Gingrich, Mr. Miller of Washington, Mr. Hutto, Mr. Atkins, Mr. Johnson of South Dakota, Mr. Clinger, Mr. Ravenel, Mr. Nielson of Utah, Mr. Hall of Texas, and Mr. Badham.

H.R. 2983: Ms. Oakar and Mr. McEwen.

H.R. 3119: Mr. Borski and Mr. Owens of New York.

H.R. 3224: Mr. Barton of Texas and Mr. Dowdy of Mississippi.

H.R. 3332: Mr. Sabo, Mr. Bonker, Mr. Brooks, Mrs. Boxer, and Mr. Dellums.

H.R. 3336: Mrs. Collins.

H.R. 3343: Mr. Owens of New York and Mr. Guarini.

H.R. 3383: Mr. Holloway.

H.R. 3445: Mr. Henry, Mr. Madigan, and Mr. Upton.

H.R. 3490: Mr. Dreier of California.

H.R. 3517: Mr. Barnard, Mr. Roe, and Mr. Armey.

H.R. 3619: Mr. Rodino and Mr. Schaefer.

H.R. 3712: Mr. Grandy.

H.J. Res. 386: Mr. Bliley, Mr. Coats, Mr. Conte, Mr. Dornan of California, Mr. Gephardt, Mr. MacKay, Mrs. Meyers of Kansas, Mr. Moody, and Ms. Slaughter of New York.

H. Con. Res. 189: Ms. Pelosi, Mr. Mrazek, Mr. Owens of New York, Mr. Lowry of Washington, Mr. Kastenmeier, Mr. Fauntroy, Mr. Towns, Mr. Savage, Mr. Hayes of Illinois, Mr. Flake, Mr. Lewis of Georgia, Mr. Dorgan of North Dakota, Mr. Ackerman, Mr. Akaka, Mr. Clarke, Mr. McCloskey, Mr. Rangel, Mr. Markey, Mr. DeFazio, Mr. Dixon, Mr. Garcia, Mr. Ford of Michigan, Mr. Martinez, Mr. Studds, Mr. Brown of California, Mr. Morrison of Connecticut, Mr. Atkins, Mrs. Collins, Mr. Berman, Mr. de Lugo, Mr. McHugh, Mr. Foglietta, Mr. Hawkins, Mr. Mfume, Mr. Sabo, Mr. Ford of Tennessee, and Mr. Torricelli.

PETITIONS, ETC.

Under clause 1 of rule XXII.

103. The SPEAKER presented a petition of The New Philippine Movement For U.S. Statehood, New York, NY, relative to statehood for the Philippines; which was referred to the Committee on Interior and Insular Affairs.

SENATE—*Friday, December 11, 1987*

(*Legislative day of Tuesday, December 8, 1987*)

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by the Honorable KENT CONRAD, a Senator from the State of North Dakota.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

And ye shall know the truth and the truth shall make you free.—John 8:32.

Father in heaven, this week has been one of extreme testing of truth and trust. Trust in the summit has depended upon whether or not truth was spoken. Trust and truth are inseparable. We do not trust another if we do not believe the other speaks the truth. Criticism, distrust, no confidence was placed in the summit conference to the extent that truth was questioned. Gracious God, keep us mindful of this fundamental reality, that truth is a fortress; falsehood is a house of cards. Truth is to build on a rock; falsehood is to build on sand. Contracts not built on truth collapse and great is their ruin. Save us, righteous Lord, from the relativism which destroys trust. We pray in the name of Him who is the way, the truth and the life. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. STENNIS].

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, December 11, 1987.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable KENT CONRAD, a Senator from the State of North Dakota, to perform the duties of the Chair.

JOHN C. STENNIS,
President pro tempore.

Mr. CONRAD thereupon assumed the chair as Acting President pro tempore.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business for not to extend beyond the hour of 9:15, with Senators permitted to speak therein for not to exceed 5 minutes each.

A STUDY THAT ZEROS IN ON THE REAL COST OF SDI

Mr. PROXMIRE. Mr. President, recently the Council on Economic Priorities has issued an invaluable book that discusses the economic consequences of the strategic defense initiative [SDI] or star wars. This council is nonaligned, independent, and nonprofit. It is highly expert. It also is distinctly critical of SDI. The study reported in this book comes at a critical time for our economy. Every Member of the Congress is aware of the profound effect the series of enormous Federal Government deficits is expected by most observers to have on the American economy. Most observers also argue that the Congress should hold down or reduce Federal spending. This is especially true not just for the next year or two but over the next 10 or 15 years.

The next 10 or 15 years, however, is precisely the time when the Congress will be called on to sharply increase spending for SDI. If the Congress is serious about funding SDI, Congress will have to appropriate beginning about 1994 tens of billions of dollars every single year for years to come. And even when the SDI project has been completed expert testimony before the Senate Defense Appropriations Subcommittee foresees spending of between $100 and $200 billion each and every year, year after year in perpetuity to operate, maintain, and modernize SDI. So if the Congress proceeds with the President's SDI dream we will be called on to fund the most costly project in the history of this or any other country. Isn't it prudent, under these circumstances to consider the blockbuster economic consequence of this mammoth project? This is what the Council on Economic Priorities begins to do in a limited, preliminary way in its book "Star Wars—the Economic Fallout."

The Council on Economic Priorities limits its study to the consequences for our economy of the relative modest preliminary spending for SDI in the next 5 years or so. The economic consequences while SDI remains a comparatively limited program will be far less than it will if and when the Congress proceeds sled length with an SDI Program designed to protect the American people in addition to our nuclear deterrent. Nevertheless in the next 5 years the SDI Program specifically requested by the administration will be very costly in dollars. It will have a severe impact on the technological resources of our country. Consider—with the present early pace of the program 9,000 scientists and engineers now work for SDI. Between the years 2005 and 2010, the Council on Economic Priorities finds that between 130,000 and 183,000 scientists and engineers will be working for SDI. If these expert professionals were coming from all scientific disciplines in about equal proportion the effect of the scientific SDI drain would be difficult but perhaps manageable. So what happens when they come overwhelmingly from the fields of electrical engineering, mathematics, computer science, and aeronautical engineering? What happens is that the SDI drain will slam a particular and vital part of American industry very hard. This will not only hit the American economy in its critical technological breadbasket, it will also smack non-SDI military technologies like a sledge hammer.

How devastating is this drain of scientists into SDI? Consider: Already 84 percent of the recent increase in national research dollars going to all scientific endeavors in this great country is going to SDI. With the enormous increase in SDI research expenditures expected in the next few years and the great pressure to hold down Government spending what will be the result? The result will be that our country's research in general scientific areas will certainly suffer a painful squeeze.

Now how about the military and civilian spinoffs from SDI research? Would this explosion in SDI activity have a constructive spinoff effect in American technology across the board? The answer is almost certainly: "No." There are at least two reasons why the spinoffs would be meager. First, much of the SDI research is rightly classified. The scientific community will not and cannot be told about the breakthroughs that give our country a sharp military advantage over our Soviet adversary. Second, the kind of research done in connection with SDI will have only an indirect and peripheral effect in other military areas. It will have only a rare, haphazard effect on our civilian technology. For example, the benefits to the American steel or chemical industry from research devoted perfecting SDI weapons will vary from slight to none.

In the long run the adverse effect on our economy from the immense drain of this country's scientific genius from American commerce and industry to SDI may be even more damaging for

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

America's economic future than the colossal dollar cost of SDI.

Mr. President, I yield the floor.

TRAIL OF TEARS

Mr. FORD. Mr. President, the Senate, on December 3, completed all congressional action of S. 578 to designate the Trail of Tears as a National Historic Trail. I have no reason to believe that the President will not sign the legislation into law. This will please me no end.

Mr. President, the December 1987, issue of the Rural Kentuckian has a timely and moving article on the Cherokee's journey in Kentucky while on the Trail of Tears.

I ask unanimous consent that this article by Joan Gilbert be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From Rural Kentuckian Magazine, December 1987]

KENTUCKY'S TRAIL OF TEARS

(By Joan Gilbert)

It had once been theirs, the land that became Kentucky; the Ohio River was their Northern boundary. But in the winter of 1838-39, Kentucky was but part of a seven-state, 1,200-mile trek they called "the trail where we cried." Their destination was government land in Oklahoma. Behind them, in the Carolinas, Tennessee and Georgia, lay their carefully tended farms and homes, their 60 towns and villages. They were almost the last Native Americans to be "removed" from their ancestral lands for the white man's convenience.

Before the trip was completed, approximately a fourth of the Cherokee Nation would be dead. They traveled mainly on foot in an unusually severe winter, many without adequate clothing and accompanied by illness. Night shelter was minimal—blankets on the ground for most, or if they were very old, very young or ill, in or under a wagon. Most had left their homes in shock at the sudden uprooting, and the loss of cherished belongings. Some were separated from family members in a hasty round-up by government troops. All saw relatives and friends die in holding stockades or on the trail.

Several books have been written about the Trail of Tears, and more are likely to follow in 1988, the 150th anniversary of the tragedy.

It's hard to know how many days the Cherokee spent in Kentucky, but it must have taken at least 13 weeks for all to pass through. There were 13 detachments, each of 1,000 or so people, whose departures were staggered by a week or two. There is the record of one group that seems to have taken at least eight days.

It includes the following account: "Reached Graves on October 31, 1838. Buried Duck's child and passed on to Hopkinsville. On third day reached Princeton and two days later, Salem. Three days later at Berry's Ferry on the Ohio River opposite Golconda, Illinois, but high winds prevented crossing until the next day."

Among those who passed through Kentucky was Whitepath, a revered Cherokee chieftan, who was at least 75 years old. "His history," it was later written, "is the history of the nation." He was among the leaders when the second detachment left Rattlesnake Springs near present-day Charlotte (some say Charleston), Tennessee on October 4, 1838.

Whitepath had fought the Creeks at Horseshoe Bend under Andrew Jackson in 1814. A conservative and a traditionalist, he had, years before the removal, protested the Cherokee decision to adopt white ways of government. With other influential chiefs, he had tried to insist that old Cherokee ways be retained. They were outnumbered, however, and what tribesmen called "Whitepath's Rebellion" quickly ended.

Whitepath became one of the strongest supporters of the man he had opposed, John Ross. The much younger Ross, who was one-eighth Cherokee, led the tribe in changes that made them unique among Native Americans. He also led their stubborn resistance to the order to emigrate. Whitepath was arrested in 1835 with other Cherokee leaders and held without charge in a government effort to destroy Ross' following. At least once and probably more often, Whitepath went with delegations to Washington hoping to persuade legislators to protect Native American rights. Once they took a petition signed by almost 16,000 Cherokee.

When all efforts failed and there no longer was any way to avoid relocation, Whitepath served on the committee that managed the emigration. Though in fragile health, he insisted on riding his own pony in view of his people, for what encouragement it might give them.

Whitepath was able to contribute in this way for only about three weeks, however. From near the Kentucky-Tennessee border, Elijah Hicks, leader of the second detachment, wrote to Ross that his first wagon master had died and Whitepath "is in the last stages and cannot last but a few days. He is helpless and has to be hauled." A few days later, Hicks told Ross the beloved old man was gone.

Near Hopkinsville on the Nashville Road, the Cherokee stopped to dig Whitepath's grave. They protected it with a white wooden box over which they raised a white flag so other detachments would know who lay there. The groups that followed would pause at the site to rest, to pray, and to remember their departed leader.

On November 13, when a detachment of 1,200 Cherokee camped near Hopkinsville, it is recorded that "citizens made generous donations for their comfort." Surprisingly, such help is not mentioned often, though both Methodists and Baptists had done extensive missionary work with the Cherokee. Perhaps a lack of good communications at the time prevented congregations from knowing whether or when the Cherokee would be in their areas. There surely was motivation to help them; so many had converted that they were known as "the Christian tribe."

The Cherokee also had been eager for the white man's education, which the missionaries offered. Their leaders had supported schools unreservedly with their money and their influence. As a result, the Cherokee were quite literate, their rate of literacy higher, on average, than that of the white settlers living near them. There were 18 Cherokee schools, one with a library of a thousand books, an impressive number for that time.

A Cherokee named George Gist (native name, Sequoyah) had devised a syllabary of the Cherokee language that was easier to learn than English, and most of the younger Cherokee read and wrote both. *The Cherokee Phoenix*—another uniqueness, no other tribe had a newspaper—was printed in parallel columns of Cherokee and English. It had subscribers as far away as England, Germany and the Netherlands.

During the long journey, some of the young Cherokee men rode as "pony soldiers" or "light horse." It isn't clear what their function was, since they had no power to protect their people. Probably it was hoped their mere presence would deter some of those who began at once to harrass and exploit the travelers. Tolls were demanded for crossing land, exorbitant prices charged for essential supplies. Animals and vehicles were confiscated and sometimes the privilege of burying the Cherokee dead was denied.

Maybe the young men were supposed to help with lame animals or broken wagons; maybe they were there just to keep the column moving. At any rate, Hicks reported from within Kentucky that some of the pony soldiers were drunk and disorderly and had to be driven along in chains.

It is hardly surprising that they would seek escape from their depression and stress, or that liquor would affect them disastrously. Persons not conditioned to alcohol often process it poorly. The pony soldiers no doubt recovered in a few days and resumed their duties. But in every state, liquor sellers were a problem. Some of the marchers would trade their most needed belongings for it, then starve or freeze. Government soldiers did not always protect the Indians from exploiters. Their role was only to make sure they continued on to Oklahoma.

The most detailed descriptions of the Cherokee on the Trail of Tears were written in Kentucky. The first such report was by a man who identified himself only as "A citizen of Maine traveling in the Western country." His account was carried by the New York Observer and other papers picked it up, bringing sympathy, if little practical help, to the Cherokee. His description of "two thousand Indians with horses and mules" included the following:

"The forward part of the train was just pitching their tents for the night, and though some thirty or forty wagons were already stationed, we found the road literally filled with the procession for about three miles in length. A great many ride on horseback and multitudes go on foot. Even aged females, apparently ready to drop into the grave, were traveling with heavy burdens attached to the back on the sometimes frozen ground and sometimes muddy streets, with no covering for the feet except what nature had given them. We learned from inhabitants on the road where the Indians had passed that they buried fourteen or fifteen at every stopping place and that they will not travel on the Sabbath. Then they must stop and not merely stop, they must worship. As a whole, they carry in their countenances everything, but the appearance of happiness. Some have a downcast, dejected look, others a wild frantic expression. Most of them seemed intelligent and refined. Several missionaries were accompanying them to their destination."

The writer told of one woman riding in a nice carriage with her husband, but holding a dying child of about three years: "I turned from the sight with feelings which language cannot express and wept like childhood then." He quoted one of the Cherokee, a man who had lost his entire family: "One each day and all are gone. Women cry and make sad wails. Children cry and many men cry but say nothing, just put heads down and keep on West."

The other writing from Kentucky was by Private John G. Burnett, who had been involved with the removal since its start and was much affected by what he had seen. He wrote in reaction to President Van Buren telling Congress in December, 1838, that the removal "had been completed with praiseworthy humanity * * * with the happiest effects," the Indians having gone "with no apparent reluctance."

Burnett knew that the first detachment had not yet reached Oklahoma and wished the President could have been with him in Kentucky that day. "Many of the aged Indians were suffering extremely from the fatigue of the journey. Several were quite ill, and one aged man in the last struggles of death."

In Kentucky, the Cherokee only began to taste the bitterness of their fate. The farther they went, the worse things got: the weather, the scarcity of supplies, the failure of their shoes, their animals and vehicles, the very trail itself. One journalist described the trail as a trench dug by so many wheels, hooves and feet, that in wet weather was a morass or a running stream.

At Paducah, John Ross, principal chief of the Cherokee, took his family and left the next-to-last detachment. He had decided by that time that his wife, Quatie, could not stand any more of the overland travel and had to be put on a boat.

Ross and his brother, Lewis, were from a prosperous family of Scottish descent. Their one Cherokee great grandmother and life among her people had given them such love and respect for the Cherokee that they had chosen to live as members of the tribe. The brothers had been educated at Eastern colleges, as had many Cherokee. Both had married Cherokee women.

Quatie Ross was among the Cherokee women one writer described as no more fit than the most gently reared white woman for wintertime travel by wagon and horseback. She was middle-aged by then, the mother of several children, accustomed to quiet homelife in what was termed "a mansion," helped by many slaves and servants. She had been under great emotional strain for years because of what her husband was going through and the physical danger it brought to all of them. A year or so before the march began, she had lost her home through a state lottery, one of the ways the government was "building a fire under the Indians," as Andrew Jackson had suggested.

Ross returned from a trip to Washington to find his house occupied by the strangers who had won it. His wife and children had been crowded into one small room, which is all they were allowed until he could move them. With Cherokee property confiscated by the state government, all he could find on short notice was a log cabin with a dirt floor.

Quatie no doubt shared the stockade experience of her people, and her stay would have been longer than most, because Ross was among the last to leave. The stockades, where Cherokee were imprisoned until the march started, became so infected with disease that each was set on fire as it was vacated.

On the trail, Quatie developed pneumonia, and Ross delegated his duties in order to take her aboard the river boat Victoria. It was too late; she died as they reached Little Rock. Some say she was buried on the riverbank, others in the town cemetery. She later was honored with a monument by the Daughters of the American Revolution.

The Cherokee suffered for the same reason many have suffered throughout history—greed. They lived in an exceptionally desirable area, richly fertile, well-watered, and beautiful with a kind climate. They had a great deal of it under cultivation and had built good roads through it. In addition, gold was discovered there, making settlers and land speculators even more covetous.

The Cherokee held out longer than most Native Americans. They had sent observers to where the government wanted them to move and knew the land was entirely different from and much inferior to what they were used to. They knew that tribesmen who had obediently moved there at the government's first request had fared badly.

Most Cherokee could read for themselves what the Constitution said about liberty and justice for all. With Ross, they assumed this applied to them, and that they had only to remind the government in a reasonable way and wait patiently. They repeatedly told Washington that having treatied away all but a fraction (43,000 square miles) of what had once been theirs, they had a right to stay with this remnant of "the scenes of our childhood and the graves of our ancestors." They reminded lawmakers that they had adopted white ways and were acknowledged by all to be "a civilized tribe," that had long ago taken a resolution never to make war again. They sent letter after letter, eloquent and touching in the trusting way they appealed for justice and mercy. One asked, "What is our crime? Have we invaded anyone's rights? Have we violated any article of our numerous treaties?"

But the Trail of Tears happened, and the Cherokee did what they had to do to live on land that was often unresponsive to their labor. Some managed to regain the security and even the wealth they had before. Others put their children in position to do so. Many more could never do either. Still they survived, and in time they multiplied. Today, there are approximately 67,000 in the Cherokee Nation of Oklahoma, centered at Tahlequah. About 5,000 more live in and around Cherokee, North Carolina. They are descendants of people who burned their own homes and took to the hills and caves to escape removal. In Missouri and Arkansas there probably is an equal number. More than 2,000 are enrolled as Northern Cherokee, descendants of those already living in the North in 1838, or who settled there after escaping from the march or being left behind in sick camps.

Cherokee still live in Kentucky, too, many in towns and villages their ancestors named, where their neighbors have little idea of what went on 150 years ago.

LEADERSHIP AMENDMENT TO FISCAL YEAR 1988 BUDGET RECONCILIATION BILL

Mr. CHAFEE. Mr. President, last evening we helped address what remains the No. 1 domestic challenge facing the Nation—reduction of the Federal deficit.

During the last few years many here in the Senate have attempted to confront the deficit problem in a forthright fashion. We have met with some success, bringing the deficit down to $148 billion in fiscal year 1987 from a level of $221 billion in the previous fiscal year. But the deficit is certain to climb again unless action is taken to keep it on a downward path.

We in the Senate were joined in this effort by the President and bipartisan leaders of the House of Representatives. At long last, those whose cooperation is essential are united in attempting to attack the deficit and preserve our economic recovery.

Earlier this year Congress adopted a budget resolution which sought to achieve deficit reduction through a combination of defense and nondefense spending cuts and increased revenues.

But the administration has been reluctant to support this approach, arguing that it relies too heavily on revenues and that it cuts military spending too severely.

The divergent priorities of many in the administration and in Congress seemed to be standing in the way of any budget agreement. Absent such an agreement, we are faced with the prospect of an across-the-board sequestration under the Gramm-Rudman-Hollings balanced budget law.

I joined with the majority of Members of Congress from both parties in supporting the Gramm-Rudman law in 1985 because it was clear that without a framework for spending restraint, Congress and the administration were unlikely to bring down the skyrocketing deficits. The law has brought about greater discipline in spending, largely because of the prospect that across-the-board cuts could be triggered if the deficit targets are not met.

Our challenge has been to craft budgets which get the job done, in order to avoid the automatic reductions. Indeed, the usefulness of the across-the-board mechanism has been to galvanize us to act.

The so-called leadership amendment before us embodied the terms of the compromise budget agreement reached by the President and House and Senate leaders of both parties. I support the amendment because it will put us on a 2-year path of deficit reduction achieved through a generally evenhanded package of spending cuts and some additional revenues.

This plan would result in $30 billion in savings in the next fiscal year; $5 billion would come from savings in military spending, representing the smallest increase for military spending in the last several years; $2.6 billion would result from savings in domestic discretionary accounts.

Four billion dollars would be achieved through savings in entitlement programs such as Medicare and farm price supports. Over $7 billion in savings would result from asset sales and changes in other programs, and $9 billion would result from new revenue increases. Full cost-of-living adjustments for recipients of Social Security and other Federal retirement programs would be provided under this agreement.

During the past few years we have attempted to reduce the deficit almost exclusively through cuts in spending. I believe if we are realistically going to get the job done, some new revenues will be required. The revenues called for in the leadership agreement total about half the amount initially sought by Congress this year.

The bill raises a little over $9 billion in new revenues in fiscal year 1988 and a little over $14 billion in fiscal year 1989. It does so by a variety of changes in the Tax Code, virtually all of which affect business, as opposed to individual taxpayers.

Frankly, if I had my choice as to how to meet the $9 billion target, I would have chosen other revenue sources. For example, I was extremely disappointed that we did not increase the cigarette excise tax in order to meet these goals. While I have always been reluctant to advocate increases in excise taxes generally because of their regressive nature, the cigarette tax is in a different category altogether.

Many of you have heard my speeches on this subject, so I will be brief, but it is clearly absurd for us to continue the increased levels of the telephone excise tax—which we do in this bill—while failing to touch the cigarette tax. The telephone tax is clearly a tax on what has become in this society a necessity.

Cigarettes are not merely a discretionary luxury, they are a health hazard that is causing a loss of lives and a tremendous increase in health care and insurance costs. Telephone taxes are clearly regressive, but some seem to have no problem continuing the increase on them.

I also think the cigarette excise tax would have been a better choice than the increased payroll taxes which are included in this bill. The bill extends the FUTA tax increase which was due to expire at the end of this year and it expands the FICA taxes to include, among other things, all cash tips.

Payroll taxes are the most burdening taxes to small businesses. Most small businesses are labor-intensive and the taxes they find most troublesome are taxes on labor—payroll taxes.

During debate in the Finance Committee over the original budget reconciliation bill, I offered to delete the telephone excise tax and substitute an increase in the cigarette tax. When the committee developed this proposal which we are considering here today, I offered the cigarette excise tax as a substitute for the increased payroll taxes. In both instances, I was unsuccessful, and at this point I have decided not to try again on this bill.

I must also mention two other disappointments I have faced with regard to this legislation. First, the original reconciliation bill passed by the Finance Committee contained the technical corrections to the 1986 Tax Reform Act. The bill we considered does not contain the technical corrections bill. Failure to pass that technical corrections bill will impose unnecessary taxes and expenses on countless innocent taxpayers, and I think it is a shame we could not include that in this bill. Second, we previously had included in the reconciliation bill a provision to help the hundreds of small accounting firms all over the country cope with tax reform provisions which require millions of businesses to adopt a calendar year end for tax purposes. This provision had been worked out and agreed to by the Treasury Department and it was virtually "revenue neutral." It did not lose any money for the Treasury.

However, on a positive note this version of the bill does not contain a number of questionable provisions which were in the original reconciliation bill. I am pleased to say that upon reconsideration, the committee decided to drop the provisions further repealing the completed contracts method of accounting; the proposal to repeal the health insurance wage base cap; and the provision that would have repealed the amortization of customer base intangibles.

This package also makes changes in the spending programs under the jurisdiction of the Finance Committee—Medicare and Medicaid. Many of those changes will reduce the deficit, but overall I believe that we were also able to balance most of the spending reductions with good health care policy.

I would like to describe some of the changes which are included in this bill which will help those in need of better or more comprehensive health care services.

The bill includes numerous provisions which will address the needs of the elderly. These provisions will improve the care nursing home residents receive. The amendments will go a long way toward ensuring that elderly individuals have a good quality of life and receive high quality care in their advanced years. In addition, we increased the amount of money that those living in a nursing home can keep by $5 each month. We also established a National Commission on Long-Term Care.

We made a number of changes in the Medicare home health benefit which will assist in alleviating many of the ambiguities and problems home health care providers face in attempting to receive reimbursement from Medicare for the services they provide to the elderly.

In a further effort to improve home health care services for the elderly, the committee included a provision I proposed to allow demonstration projects designed to improve the delivery of health care services to Medicare beneficiaries outside of institutional settings. This provision provides a predetermined payment to community nursing organizations designed to deliver the services Medicare beneficiaries need to fully recover from an illness. Community nursing organizations will also help more Medicare beneficiaries live independently longer by providing in-home assistance to help prevent institutionalization.

We also addressed the health care problems children face. This package includes another small step forward in improving the health care services for young children, infants, and pregnant women. This continues our efforts over the last 5 years to ensure that our health care system provides access for the very poor—especially children.

The bill also includes the establishment of a National Commission on Children which was advocated by the chairman of the Finance Committee which I wholeheartedly support.

We also attempted to address some of the problems individuals with disabilities face in the Medicare Program. The committee included a provision I advocated which will eliminate disincentives to work for those with disabilities. For any disabled individual who has qualified for SSDI and Medicare the bill provides permanent extended eligibility if the individual has to discontinue work for reasons of the same disability.

The committee provision which is part of this bill will increase funding for title 20 Social Services Block Grant Program by $50 million. The SSBG is the major Federal source of direct support for child care for low-income working families and for parents enrolled in training programs who seek to be self-sufficient. It is also the key source of funds for protective services and foster care for children suffering from abuse and neglect. Finally, SSBG is a primary source of noninstitutional community-based services for the disabled.

The Secretary of Health and Human Services will be prohibited in this bill from counting "in-kind" benefits as income to individuals who receive AFDC or SSI benefits. As some of my colleagues will remember, this issue came up earlier this year, when the administration proposed counting such benefits when determining whether an individual would meet the means test requirements for these programs. I found that proposal to be very troubling and am pleased we were able to address it in this package.

This package also contains spending reductions in the Medicare Program. I will say that I do not agree with some of these reductions; however, they are more moderate than those originally proposed by the administration and by the Senate Budget Committee earlier this year.

The cost of the Medicare Program is still increasing at an unacceptable rate and we will continue to look at how the program can be changed to slow these increases down. However, these changes must be based on good health care policy decisions. It is my hope that those who are conferees will make a strong effort to ensure that the final changes in the program are fair and represent good health care policy.

The budget compromise which forms the basis for this amendment envisions that the savings called for in domestic discretionary programs will be made through the appropriations process when we take up the continuing resolution. This is intended to leave room for priority-setting. Thus, the compromise plan, as carried out in both the reconciliation bill and the continuing resolution, will be the product of some thoughtful discussion in the committees, on the floor, and in the conferences of the House and Senate.

This is not the most responsible way for us to be crafting the budget for the U.S. Government. The amendment is therefore far preferable to proposals to freeze spending. A budget freeze such as has been proposed by Senator KASSEBAUM and others would hold defense and nondefense spending at last year's levels and would reduce cost-of-living adjustments for most entitlement programs including Social Security. A freeze would hit domestic discretionary programs especially hard. I am especially concerned about high-priority domestic programs such as education, health, and nutrition programs, particularly those serving disadvantaged Americans. Adoption of the leadership amendment will give us the opportunity to preserve these priority programs. A budget freeze would treat all programs equally.

Finally, Mr. President, it is important that the leadership amendment be approved in order to avoid the triggering of across-the-board cuts under the Gramm-Rudman law. Automatic cuts could result in sharp reductions in a number of important areas of the budget. In addition, the triggering of such cuts would signify the failure of this Nation's leaders to thoughtfully shape a blueprint for Federal spending.

There is no such blueprint which could please all the Members to this body. But the leadership package provided us with a framework both for cutting the deficit and protecting priority programs. For that reason I vote for its adoption and am pleased it was approved.

EXECUTIVE SESSION

DEPARTMENT OF LABOR

NOMINATION OF ANN DORE MC LAUGHLIN, OF THE DISTRICT OF COLUMBIA, TO BE SECRETARY OF LABOR

The ACTING PRESIDENT pro tempore. Under the previous order, the hour of 9:15 having arrived, the Senate will now go into executive session to consider the nomination of Ann Dore McLaughlin, to be Secretary of Labor.

The clerk will report the nomination.

The legislative clerk read the nomination of Ann Dore McLaughlin, of the District of Columbia, to be Secretary of Labor.

The Senate proceeded to consider the nomination.

Mr. HATCH. Mr. President, as a member of the Committee on Labor and Human Resources and its ranking member, I am very pleased to join in recommending that the Senate consent to the President's nomination of Mrs. Ann Dore McLaughlin to be the next Secretary of Labor.

I believe President Reagan has made an outstanding choice. Mrs. McLaughlin has already demonstrated her managerial skill as well as her commitment to public service. During her nomination hearing before the Labor Committee, she spoke with honesty and sincerity about the issues facing American workers today and indicated her willingness to work with the Congress in developing sound policies and solutions which will help our country meet our competitive challenges.

For example, Ann McLaughlin understands the twofold reasons for effective Federal efforts in job training and retraining. Not only must our Nation have a well-trained and highly skilled labor force, but also we must provide opportunities for the disadvantaged and the unemployed to get back on their feet. She also realizes the delicate balance which must be struck under the Job Training Partnership Act between Federal guidance and State and local governance of programs. JTPA is a partnership program—the Federal Government cannot overplay its role nor can it fail to provide proper technical assistance and enforcement.

Also, Ann McLaughlin recognizes the tremendous burdens placed on working families due to the lack of child care. Her testimony before the Labor and Human Resources Committee indicated her desire to make this key work and family issue one of her priorities as Labor Secretary. In addition to Federal legislation, there is certainly much that can be done to encourage the private sector in this regard, including dissemination of innovative program models. I am gratified that the next Secretary of Labor shares my concern for the welfare for the children of our Nation's workers.

I really feel that child care should be one of the top priorities of not only this Congress but of our Congress next year. In my opinion, it is a big problem. It is one we have to solve and we should do it in an innovative, creative way that does not break the budget. And fashioning such a solution is really a difficult thing to do.

Mrs. McLaughlin is committed to help try to find the way to resolve those problems, and I know that both the majority and the minority intend to work with her to see what can be done.

Mrs. McLaughlin also acknowledges the concern of the committee for strict enforcement of existing laws, including those governing labor standards, health, and safety. I was especially pleased that she gave such a strong commitment to the committee to continue Secretary Brock's efforts to overhaul the Mine Safety and Health Administration. While that process has begun, what happens this coming year will be critical to our effort to provide miners with the safety protections they so desperately need.

While some have suggested that any new Cabinet member taking office at this point would be relegated to a caretaker role, we cannot put the enforcement of labor laws on hold for an entire year, nor should we waste time that should be spent developing solid solutions to workplace problems. I believe that Ann McLaughlin will be a Secretary of Labor who can lead us down the stretch.

Bill Brock is indeed a tough act to follow, but I am confident that Mrs. McLaughlin is the best person for this job at this time, and I will be delighted to work with her. Being Secretary of Labor in 1988 will be one of the most difficult and thankless jobs in Washington. Most of us recognize that it is very likely Congress will be taking up in the next session a variety of legislative items on organized labor's agenda. While some of these have merit, many do not. I am confident that Mrs. McLaughlin can provide the strong and effective leadership we will need in the coming months.

I hope my colleagues will unanimously support this nomination, and I encourage them to do so. I recommend that we vote for this excellent woman who I think will make a great Secretary of Labor and with whom I look forward to having the pleasure of working.

I know that Members of the majority support her as well. She is a noble woman, and will add a lot to this particular position at a time when the Department faces many, many problems.

Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HATCH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. HATCH. Mr. President, I had neglected to mention some of Ann McLaughlin's accomplishments. She has been at the University of Pennsylvania, Wharton School of Business, from June 1987 right up to the present. She has a BA from Marymount College in Tarrytown, NY, and went to the University of London, Queen Mary College. She also did college preparatory work at the Academy of St. Elizabeth.

She has won numerous awards and honors. Let me just mention a few.

In 1965, she was considered one of the Outstanding Young Women of America. In 1984, she won the Alexander Hamilton Award for Distinguished Service for the Department of Treasury.

In 1987, she won the President's Public Service Award for Nature Conservancy.

I can mention others, but I think that is good enough.

She has been a member of the Marymount Alumnae Association, Who's Who In America, Who's Who In American Women, the Women's Forum of Washington, DC, Business Partners', Inc., and of course the City Club in Washington, DC.

She is a visiting lecturer at the Public Policy Department of the Wharton School of Business at the University of Pennsylvania in Philadelphia, PA, and at present has been a CSIS consultant right here in Washington, DC.

She has also had extensive travel and other extensive experience in her work and education life.

I should add that she has been chairman of the President's Commission on Executive Level Compensation. She was the former Under Secretary at the Department of the Interior and has been Assistant Secretary of the Department of Treasury. She was a Director of the Office of Public Affairs of the Environmental Protection Agency. In sum, she has widespread experience, executive experience and public policy experience.

Ann McLaughlin has done a terrific job wherever she has been, and she has won the respect of those with whom she has worked wherever she has worked as well.

She is, indeed, an ethical and decent person and, of course, being married to John McLaughlin, they are one of the most noted couples in this town; and I think with good reason. They are both excellent, intelligent, outstanding, patriotic, decent and energetic people.

I commend this woman for all that she has done. She is a terrific human being. She has been a friend of mine for a number of years and I just do not know of anybody who, at this time, could do a better job in the position of Secretary of Labor than Ann Dore McLaughlin. I support her very strongly, as anybody can easily see.

With that, Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, I am pleased to recommend the confirmation of Ann Dore McLaughlin to be the Nation's 19th Secretary of Labor. Mrs. McLaughlin appeared before the Labor Committee on Tuesday, and yesterday her nomination was reported to the full Senate unanimously.

Mrs. McLaughlin brings to this position a strong commitment to public service, including a distinguished record as Under Secretary of the Interior and an equally distinguished record in the private sector.

In her confirmation hearing, Mrs. McLaughlin demonstrated a sensitivity to the issues facing workers today and the challenges which lie ahead.

I am hopeful that she will carry on the great tradition of Frances Perkins, the only woman to hold this high office until now.

I look forward to working with Mrs. McLaughlin on vital legislation that will come before the 100th Congress. Key proposals are pending to increase the minimum wage, to require employers to offer health insurance to their employees, to provide parental and medical leave, and to improve conditions of health and safety in the workplace.

As we debate ways to tackle the Federal budget deficit, we cannot forget that a great deal can be done to improve the welfare of workers within those constraints.

I urge my colleagues to support Mrs. McLaughlin's nomination so that the Department of Labor will have the leadership it needs to fulfill the mandate established when the Department was created in 1913—"to foster, promote, and develop the welfare of the wage earners of the United States, to improve their working conditions, and to advance their opportunities for profitable employment."

I urge the Senate to confirm Mrs. McLaughlin and I look forward to working with her in the months ahead.

Mr. McCAIN. Mr. President, I rise today in support of Ann Dore McLaughlin to be Secretary of Labor.

I must say I find it somewhat refreshing to find a major administration nominee who has enjoyed as easy a confirmation process as Mrs. McLaughlin. Her confirmation hearing lasted less than an hour, and the Labor Committee confirmed her unanimously. I think that is a testament to the strong bipartisan support she enjoys and the confidence most of my colleagues have in her abilities to excel at the Labor Department.

There is no question that Mrs. McLaughlin has compiled an impressive record of public service. She has served with distinction as an Assistant Secretary of the Treasury, as Under Secretary of the Interior, as Director of Public Affairs at EPA, and in a host of other government and private sector public relations positions.

In those capacities, she has earned a firm reputation as a good manager and a conscientious public servant.

She also clearly shares many of the same goals and priorities regarding labor-management relations as President Reagan. As she asserted during her confirmation hearing, Mrs. McLaughlin prefers nonregulatory approaches to solving some of the problems in business-labor relations, and she supports the concept of free and fair trade.

Mr. President, I believe Mrs. McLaughlin will do an excellent job at the Labor Department, and I wholeheartedly support her nomination.

The ACTING PRESIDENT pro tempore. Under the previous order, the hour of 9:30 having arrived, the Senate will now proceed to vote on the nomination.

The question is, Will the Senate advise and consent to the nomination of Ann Dore McLaughlin, of the District of Columbia, to be Secretary of Labor? On this question, the yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. BYRD. I announce that the Senator from North Dakota [Mr. BURDICK], the Senator from California [Mr. CRANSTON], the Senator from Tennessee [Mr. GORE], the Senator from Illinois [Mr. SIMON], and the Senator from Colorado [Mr. WIRTH] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from Wyoming [Mr. WALLOP] is necessarily absent.

I further announce that, if present and voting, the Senator from Wyoming [Mr. WALLOP] would vote "yea."

The PRESIDING OFFICER (Mr. GRAHAM). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 94, nays 0, as follows:

[Rollcall Vote No. 408 Ex.]

YEAS—94

Adams
Armstrong
Baucus
Bentsen
Biden
Bingaman
Bond
Boren
Boschwitz
Bradley
Breaux
Bumpers
Byrd
Chafee
Chiles
Cochran
Cohen
Conrad
D'Amato
Danforth
Daschle
DeConcini
Dixon
Dodd
Dole
Domenici
Durenberger
Evans
Exon
Ford
Fowler
Garn
Glenn
Graham
Gramm
Grassley
Harkin
Hatch
Hatfield
Hecht
Heflin
Heinz
Helms
Hollings
Humphrey
Inouye
Johnston
Karnes
Kassebaum
Kasten
Kennedy
Kerry
Lautenberg
Leahy
Levin
Lugar
Matsunaga
McCain
McClure
McConnell
Melcher
Metzenbaum
Mikulski
Mitchell
Moynihan
Murkowski
Nickles
Nunn
Packwood
Pell
Pressler
Proxmire
Pryor
Quayle
Reid
Riegle
Rockefeller
Roth
Rudman
Sanford
Sarbanes
Sasser
Shelby
Simpson
Specter
Stafford
Stennis
Stevens
Symms
Thurmond
Trible
Warner
Weicker
Wilson

NAYS—0

NOT VOTING—6

Burdick
Cranston
Gore
Simon
Wallop
Wirth

So the nomination was confirmed.

The PRESIDING OFFICER. Under the previous order, the motion to reconsider the vote is laid on the table, the President will be immediately notified of the confirmation of the nomination, and the Senate will return to legislative session.

FURTHER CONTINUING APPROPRIATIONS, FISCAL YEAR 1988

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of House Joint Resolution 395, which will be stated by title.

The legislative clerk read as follows:

A joint resolution (H.J. Res. 395) making continuing appropriations for the fiscal year 1988, and for other purposes.

The Senate proceeded to consider the joint resolution, which had been reported from the Committee on Appropriations, with amendments, as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets, and the parts of the bill intended to be inserted are shown in italics.)

H.J. Res. 395

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

[Section 1. In order to achieve the levels of deficit reduction agreed to in the Economic Summit by the President and the Joint Leadership of Congress, notwithstanding any other provision of this resolution, the levels for defense spending (budget function 050) for fiscal year 1988 shall not exceed $292,000,000,000 in budget authority and $285,400,000,000 in outlays and the levels for discretionary non-defense domestic spending for fiscal year 1988 shall not exceed $162,900,000,000 in budget authority and $176,800,000,000 in outlays, and individual accounts within this resolution shall be adjusted to meet the requirements of this sentence.

[In order to carry out the levels agreed to in the Economic Summit, the Committee on Appropriations shall take such steps as are necessary to apportion these levels among the various subcommittees and shall make such recommendations in the conference report on this resolution as ensure that these levels are not exceeded.]

The following sums are hereby appropriated, out of any money in the Treasury not otherwise appropriated, and out of applicable corporate or other revenues, receipts, and funds, for the several departments, agencies, corporations, and other organizational units of the Government for the fiscal year 1988, and for other purposes, namely:

[Sec. 101. (a) Such amounts as may be necessary for programs, projects, or activities at the rate for operations and to the extent and in the manner provided for in H.R. 2763, the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1988, as passed by the House of Representatives on July 1, 1987.]

Sec. 101. (a) Such amounts as may be necessary for programs, projects, or activities at the rate for operations and to the extent and in the manner provided for in H.R. 2763, the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1988, as passed by the Senate on October 15, 1987: Provided, That discretionary domestic budget authority shall not exceed $10.43 billion and that discretionary domestic outlays (excluding prior year outlays) shall not exceed $8.03 billion: Provided further, That discretionary international affairs budget authority shall not exceed $3.74 billion and that discretionary international affairs outlays (excluding prior year outlays) shall not exceed $2.77 billion.

[(b) Such amounts as may be necessary for programs, projects, or activities at the rate for operations and to the extent and in the manner provided for in H.R. 3576, the Department of Defense Appropriations Act, 1988, as reported to the House of Representatives on October 28, 1987.]

(b) Such amounts as may be necessary for programs, projects, or activities at the rate for operations and to the extent and in the manner provided for in S. 1923, the Department of Defense Appropriations Act, 1988, as reported to the Senate on December 4, 1987: Provided, That defense budget authority shall not exceed $276.11 billion and that defense outlays (excluding prior year outlays) shall not exceed $162.44 billion.

[(c) Such amounts as may be necessary for programs, projects, or activities at the rate for operations and to the extent and in the manner provided for in H.R. 2713, the District of Columbia Appropriations Act, 1988, as passed by the House of Representatives on June 26, 1987.]

(c) Such amounts as may be necessary for programs, projects, or activities at the rate for operations and to the extent and in the manner provided for in H.R. 2713, the District of Columbia Appropriations Act, 1988, as passed by the Senate on September 30, 1987: Provided, That discretionary domestic budget authority shall not exceed $560 million and that discretionary domestic outlays (excluding prior year outlays) shall not exceed $550 million.

[(d) Such amounts as may be necessary for programs, projects, or activities at the rate for operations and to the extent and in the manner provided for in H.R. 2700, the Energy and Water Development Appropriations Act, 1988, as passed by the House of Representatives on June 24, 1987.]

(d) Such amounts as may be necessary for programs, projects, or activities at the rate for operations and to the extent and in the manner provided for in H.R. 2700, the Energy and Water Development Appropriations Act, 1988, as passed by the Senate on November 18, 1987: Provided, That discretionary domestic budget authority shall not exceed $9.31 billion and that discretionary domestic outlays (excluding prior year outlays) shall not exceed $5.91 billion: Provided further, That defense budget authority shall not exceed $7.75 billion and that defense outlays (excluding prior year outlays) shall not exceed $5.04 billion.

[(e) Such amounts as may be necessary for programs, projects, or activities at the rate for operations and to the extent and in the manner provided for in H.R. 3186, the Foreign Operations, Export Financing and Related Programs Appropriations Act, 1988, as reported to the House of Representatives on August 6, 1987.]

(e) Such amounts as may be necessary for programs, projects, or activities at the rate for operations and to the extent and in the manner provided for in S. 1924, the Foreign Assistance, Export Financing and Related Programs Appropriations Act, 1988, as reported to the Senate on December 4, 1987: Provided, That discretionary international affairs budget authority shall not exceed $13.04 billion and that discretionary international affairs outlays (excluding prior year outlays) shall not exceed $5.32 billion.

[(f) Such amounts as may be necessary for programs, projects, or activities at the rate for operations and to the extent and in the manner provided for in H.R. 2783, the Department of Housing and Urban Development-Independent Agencies Appropriations Act, 1988, as passed by the House of Representatives on September 22, 1987.]

(f) Such amounts as may be necessary for programs, projects, or activities at the rate for operations and to the extent and in the manner provided for in H.R. 2783, the Department of Housing and Urban Development-Independent Agencies Appropriations Act, 1988, as passed by the Senate on October 15, 1987: Provided, That discretionary domestic budget authority shall not exceed $40.87 billion and that discretionary domestic outlays (excluding prior year outlays) shall not exceed $18.46 billion: Provided further, That defense budget authority shall not exceed $350 million and that defense outlays (excluding prior year outlays) shall not exceed $280 million.

[(g) Such amounts as may be necessary for programs, projects, or activities at the rate for operations and to the extent and in the manner provided for in H.R. 2712, the Department of the Interior and Related Agencies Appropriations Act, 1988, as passed by the House of Representatives on June 25, 1987.]

(g) Such amounts as may be necessary for programs, projects, or activities at the rate for operations and to the extent and in the manner provided for in H.R. 2712, the Department of the Interior and Related Agencies Appropriations Act, 1988, as passed by the Senate on September 30, 1987: Provided, That discretionary domestic budget author-

ity shall not exceed $9.79 billion and that discretionary domestic outlays (excluding prior year outlays) shall not exceed $6.66 billion.

[(h) Such amounts as may be necessary for programs, projects, or activities at the rate for operations and to the extent and in the manner provided for in H.R. 3058, the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1988, as passed by the House of Representatives on August 5, 1987.]

(h) Such amounts as may be necessary for programs, projects, or activities at the rate for operations and to the extent and in the manner provided for in H.R. 3058, the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1988, as passed by the Senate on October 14, 1987: Provided, That discretionary domestic budget authority shall not exceed $38.26 billion and that discretionary domestic outlays (excluding prior year outlays) shall not exceed $19.20 billion: Provided further, That discretionary international affairs budget authority shall not exceed $5 million and that discretionary international affairs outlays (excluding prior year outlays) shall not exceed $1 million.

[(i) Such amounts as may be necessary for programs, projects, or activities at the rate for operations and to the extent and in the manner provided for in H.R. 2714, the Legislative Branch Appropriations Act, 1988, as passed by the House of Representatives on June 29, 1987.]

(i) Such amounts as may be necessary for programs, projects, or activities at the rate for operations and to the extent and in the manner provided for in H.R. 2714, the Legislative Branch Appropriations Act, 1988, as passed by the Senate on September 30, 1987: Provided, That discretionary domestic budget authority shall not exceed $1.77 billion and that discretionary domestic outlays (excluding prior year outlays) shall not exceed $1.56 billion.

[(j) Such amounts as may be necessary for programs, projects, or activities at the rate for operations and to the extent and in the manner provided for in H.R. 2906, the Military Construction Appropriations Act, 1988, as passed by the House of Representatives on July 14, 1987.]

(j) Such amounts as may be necessary for programs, projects, or activities at the rate for operations and to the extent and in the manner provided for in H.R. 2906, the Military Construction Appropriations Act, 1988, as passed by the Senate on October 27, 1987: Provided, That defense budget authority shall not exceed $8.50 billion and that defense outlays (excluding prior year outlays) shall not exceed $2.37 billion.

[(k) Such amounts as may be necessary for programs, projects, or activities at the rate for operations and to the extent and in the manner provided for in H.R. 3520, the Rural Development, Agriculture, and Related Agencies Appropriations Act, 1988, as reported to the House of Representatives on October 20, 1987: *Provided,* That with respect to the line items for which monies are appropriated in the paragraph under the heading:

[CORPORATIONS

[COMMODITY CREDIT CORPORATION

[OPERATING EXPENSES

in title I of such bill, any monies otherwise available to the Commodity Credit Corporation not otherwise obligated (including the proceeds of repayments of price support loans made on the 1987 or previous crops and any proceeds of sales of commodities from Commodity Credit Corporation stocks) may be transferred to such line items or may be used to reimburse the Commodity Credit Corporation during fiscal year 1988 for net realized losses sustained, but not previously reimbursed (pursuant to the Act of August 17, 1961)—

[(1) if the Secretary of Agriculture determines such transfer or use is necessary to ensure the efficient and effective implementation of the programs under the Food Security Act of 1985, and

[(2) the Secretary provides advance notice of the transfer or use to Congress.]

(k) Such amounts as may be necessary for programs, projects, or activities at the rate for operations and to the extent and in the manner provided for in S. 1800, the Agriculture, Rural Development, and Related Agencies Appropriations Act, 1988, as reported to the Senate on October 16, 1987: Provided, That discretionary domestic budget authority shall not exceed $15.11 billion and that discretionary domestic outlays (excluding prior year outlays) shall not exceed $6.33 billion: Provided further, That discretionary international affairs budget authority shall not exceed $1.06 billion and that discretionary international affairs outlays (excluding prior year outlays) shall not exceed $1.35 billion.

[(l) Such amounts as may be necessary for programs, projects, or activities at the rate for operations and to the extent and in the manner provided for in H.R. 2890, the Department of Transportation and Related Agencies Appropriations Act, 1988, as passed by the House of Representatives on July 13, 1987.]

(l) Such amounts as may be necessary for programs, projects, or activities at the rate for operations and to the extent and in the manner provided for in H.R. 2890, the Department of Transportation and Related Agencies Appropriations Act, 1988, as passed by the Senate on October 29, 1987: Provided, That discretionary domestic budget authority shall not exceed $10.52 billion and that discretionary domestic outlays shall not exceed $9.18 billion.

[(m) Such amounts as may be necessary for programs, projects, or activities at the rate for operations and to the extent and in the manner provided for in H.R. 2907, the Treasury, Postal Service, and General Government Appropriations Act, 1988, as passed by the House of Representatives on July 15, 1987.]

(m) Such amounts as may be necessary for programs, projects, or activities at the rate for operations and to the extent and in the manner provided for in H.R. 2907, the Treasury, Postal Service, and General Government Appropriations Act, 1988, as passed by the Senate on September 25, 1987: Provided, That discretionary domestic budget authority shall not exceed $8.49 billion and that discretionary domestic outlays (excluding prior year outlays) shall not exceed $6.94 billion: Provided further, That defense budget authority shall not exceed $15 million and that defense outlays (excluding prior year outlays) shall not exceed $15 million.

[(n) Such amounts as may be necessary for continuing the following activities, not otherwise provided for in this joint resolution, which were conducted in the fiscal year 1987, under the terms and conditions provided in applicable appropriations Acts for the fiscal year 1987, at the current rate: *Provided,* That no appropriation or fund made available or authority granted pursuant to this subsection shall be used to initiate or resume any project or activity for which appropriations, funds, or authority were not available during fiscal year 1987:

[activities authorized by the Older Americans Act;

[dislocated worker assistance programs authorized by title III of the Job Training Partnership Act;

[activities authorized by titles III, V, X, XVII, XIX, and XX of the Public Health Service Act and the Anti-Drug Abuse Act of 1986;

[Work Incentives (WIN) activities authorized by title IV of the Social Security Act;

[child abuse and adoption opportunities activities authorized by the Child Abuse Prevention and Treatment Act, as amended, title II of Public Law 95-266, and by sections 402-409 of Public Law 98-473;

[activities authorized by the Family Violence Prevention and Services Act;

[activities authorized by the Developmental Disabilities and Assistance and Bill of Rights Act;

[activities authorized by the Native American Programs Act;

[activities of the United States Mint in the Department of the Treasury; and

[activities of the White House Conference on Drug Abuse and Control in the Executive Office of the President.]

(n) Notwithstanding any other provision of this joint resolution, the levels for defense spending (budget function 050) for fiscal year 1988 shall not exceed $292.0 billion in budget authority and shall be $285.4 billion in outlays and the levels for discretionary nondefense spending shall not exceed $162.9 billion in budget authority and $176.8 billion in outlays, and individual accounts within this resolution shall be adjusted to meet the requirements of this subsection.

SEC. 102. Unless otherwise provided for in this joint resolution or in the applicable appropriations Act, appropriations and funds made available and authority granted pursuant to this joint resolution shall be available from November 20, 1987, and shall remain available until (a) enactment into law of an appropriation for any project or activity provided for in this joint resolution, or (b) enactment of the applicable appropriations Act by both Houses without any provision for such project or activity, or (c) September 30, 1988, whichever first occurs.

SEC. 103. Appropriations made and authority granted pursuant to this joint resolution shall cover all obligations or expenditures incurred for any program, project, or activity during the period for which funds or authority for such project or activity are available under this joint resolution.

SEC. 104. Expenditures made pursuant to this joint resolution shall be charged to the applicable appropriation, fund, or authorization (including a continuing appropriation for the full year) whenever a bill in which such applicable appropriation, fund, or authorization (including a continuing appropriation for the full year) is contained is enacted into law.

SEC. 105. Section 1515 of title 31 of the United States Code is amended by striking subsection (a) and inserting in lieu thereof the following:

"(a) An appropriation required to be apportioned under section 1512 of this title may be apportioned on a basis that indicates the need for a deficiency or supplemental appropriation to the extent necessary to permit payment of such pay increases as may be granted pursuant to law to civilian officers and employees (including prevailing rate employees whose pay is fixed and adjusted under subchapter IV of chapter 53 of title 5) and to retired and active military personnel.".

SEC. 106. The provisions of appropriations Acts within the purview of this joint resolution, and the provisions of appropriations Acts within the purview of the following joint resolutions making continuing appropriations (section 101(c) of Public Law 96-86 (93 Stat. 657), section 101(f) of Public Law 98-151 (97 Stat. 973), section 101(b) of Public Law 98-473 (98 Stat. 1837), section 101 (a) and (c) of Public Law 99-190 (99 Stat. 1185, 1224), and section 101 (g), (i), and (l) of Public Laws 99-500 and 99-591 (100 Stat. 1783-242, 1783-287, 1783-308, 3341-242, 3341-287, 3341-308)), shall (to the extent and in the manner specified in the pertinent section of any such joint resolution) be effective as if enacted into law. Those provisions are effective on the date of enactment of the pertinent joint resolution except to the extent a different effective date is specified in the joint resolution or pertinent appropriations Act.

SEC. 107. Amounts and authorities provided by this resolution shall be in accordance with the reports accompanying the bills as passed by or reported to the [House] *Senate.*

[SEC. 108. In addition to any sums otherwise provided herein, there is appropriated $500,000 to the United States Information Agency, "Educational and Cultural Exchange Programs", which shall be made available to the Seattle Goodwill Games Organizing Committee for cultural exchanges of persons and other exchange-related activities associated with the Goodwill Games to be held in 1990 in Seattle, Washington.

[SEC. 109. Section 210(d) of the Immigration and Nationality Act is amended by inserting the following new paragraph:

["(3) No application fees collected by the Immigration and Naturalization Service (INS) pursuant to section 210(b) of the Immigration and Nationality Act (INA) may be used by the INS to offset the costs of the special agricultural worker legalization program until the INS implements the program consistent with the statutory mandate as follows:

["(A) During the application period as defined in section 210(a)(1)(A) of the INA the INS shall not exclude from entry or deport any alien and shall grant, where applicable, admission to the United States, work authorization, and provide an "employment authorized" endorsement or other appropriate work permit to any alien who presents a nonfrivolous application for adjustment of status subsection (a).

["(B) During the application period as defined in section 210(a)(1)(A) of the INA the INS shall permit any alien who presents a nonfrivolous application for adjustment of status under subsection (a) to file an application for adjustment of status within the United States as provided for in section 210(b)(1)(B) or outside the United States as provided for in section 210(b)(1)(B) and, specifically, under the procedures contained in 8 CFR § 210.6.

["(C) 'Nonfrivolous' application is defined as a declaration by the alien under penalty of perjury that the alien has in fact worked the required number of man-days, that identifies the type or nature of documentation the alien intends to later produce in conjunction with a complete application, that identifies current or immediate past employer(s), if known and that acknowledges that false statements concerning eligibility constitute a violation of title 18, United States Code, and/or as an application defined in 8 CFR § 210.6(c).".

[SEC. 110. No funds appropriated in this or any other Act may be used to deport or otherwise require departure from the United States of an alien who either is the spouse of a legalized person through a marriage entered into before November 6, 1986, or was the child of a legalized person as of November 6, 1986: *Provided,* That the terms "child" and "spouse" have the meanings given such terms in section 101 of the Immigrant and Nationality Act, and the term "legalized person" means an alien who has been granted lawful resident status under section 210 or 245A of the Immigration and Nationality Act.

[SEC. 111. In addition to any sums provided under this joint resolution, there is appropriated $1,000,000 to the Commission on the Bicentennial of the Constitution for a grant to the We The People 200 Committee.

[SEC. 112. None of the funds made available under this joint resolution or any subsequent appropriations Act for fiscal year 1988 for the Small Business Administration shall be used for the implementation of section 921 of Public Law 99-661 and section 921 of Public Law 99-591 prior to September 30, 1988.

[SEC. 113. The Secretary of the Army, acting through the Chief of Engineers, is directed to continue with planning, design, engineering and construction of the Des Moines Recreational River and Greenbelt project in accordance with the General Design Memorandum dated September 1987 and Public Law 99-591 using funds heretofore, herein, or hereafter appropriated.

[SEC. 114. PROJECT MODIFICATION.—The project for flood protection on the Lower San Joaquin River, California, authorized by section 10 of the Flood Control Act approved December 22, 1944 (58 Stat. 901), is modified—

[(1) to authorize the Secretary of the Army, acting through the Chief of Engineers, to perform, in connection with the clearing and snagging authorized to be performed on such river from Stockton, California, to Friant Dam as part of such project by the Supplemental Appropriations Act, 1983 (97 Stat. 310)—

[(A) clearing and snagging in the area of the North Fork of the Kings River in Mendota Pool from the southernly boundary of the James Reclamation District Number 1606 to Mendota Dam;

[(B) fish and wildlife mitigation; and

[(C) such rip-rapping in the area of the clearing and snagging on such rivers as may be necessary to prevent erosion from such clearing and snagging; and

[(2) to increase the estimated cost of the clearing and snagging on the Lower San Joaquin River, including the activities authorized by paragraph (1), from $5,000,000 to $8,000,000.

[SEC. 115. Notwithstanding any other provision of law, none of the funds appropriated under this Act or any other Act shall be used by the Department of the Interior to implement a reorganization of the Bureau of Reclamation.

[SEC. 116. (A) The McGee Creek Project of the Bureau of Reclamation shall not be deemed completed until such time as construction of all authorized components of the project are completed, including access roads and recreation areas.

[(B) The Bureau of Reclamation shall not transfer title of the project to any other entity or require repayment of the project or permit refinancing of the project until such time as the project is completed according to the terms of (A) above.

[SEC. 117. From within funds available for Energy Supply, Research and Development Activities, $8,500,000 shall be made available as a grant for the Loma Linda University Medical Center Proton-Beam Demonstration Cancer Treatment Center and shall remain available until expended.

[SEC. 118. From within funds available for Energy Supply, Research and Development Activities, $2,000,000 shall be made available as a grant for the Center for Physical and Environmental Science at East Central University, Ada, Oklahoma, and shall remain available until expended.

[SEC. 119. The Federal Energy Regulatory Commission is authorized to extend the time period required for commencement of construction of Project No. 4506 for an additional two years upon application by the licensee to the Federal Energy Regulatory Commission if the Federal Energy Regulatory Commission determines that an additional extension is warranted under the standard set forth in section 13 of the Federal Power Act and is in the public interest, taking into consideration the comprehensive review requirements of the Federal Power Act.

[(RESCISSION)

[SEC. 120. Of the funds made available in fiscal years 1985 and 1986 for expenses necessary to enable the President to carry out the provisions of section 23 of the Arms Export Control Act, $64,000,000 which was allocated for the Republic of Korea and which remains as uncommitted balances is rescinded.

[SEC. 121. In addition to the provisions of section 101(e) for Foreign Operations, Export Financing and Related Programs Appropriations Act, 1988 insert the following:

["(a)(1) Notwithstanding any numerical limitations specified in the Immigration and Nationality Act, the Attorney General may admit aliens described in section (b) to the United States as immigrants if—

["(A) they are admissible (except as otherwise provided in paragraph (2)) as immigrants, and

["(B) they are issued an immigrant visa and depart from Vietnam during the 2-year period beginning 90 days after the date of the enactment of this Act.

["(2) The provisions of paragraphs (14), (15), (20), (21), (25), and (32) of section 212(a) of the Immigration and Nationality Act shall not be applicable to any alien seeking admission to the United States under this section, and the Attorney General on the recommendation of a consular officer may waive any other provision of such section (other than paragraph (27), (29), or (33) and other than so much of paragraph (23) as relates to trafficking in narcotics) with respect to such an alien for humanitarian purposes, to assure family unity, or when it is otherwise in the public interest. Any such waiver by the Attorney General shall be in writing and shall be granted only on an individual basis following an investigation by a consular officer.

["(3) Notwithstanding section 221(c) of the Immigration and Nationality Act, immigrant visas issued to aliens under this section shall be valid for a period of 8 months.

["(b)(1) An alien described in this subsection is an alien who, as of the date of the enactment of this Act, is residing in Vietnam and who establishes to the satisfaction of a consular officer or an officer of the Immigration and Naturalization Service after a face-to-face interview, that the alien—

["(A)(i) was born in Vietnam after January 1, 1962, and before January 1, 1976, and (ii) was fathered by a citizen of the United States (such an alien in this subsection referred to as a 'principal alien');

["(B) is the spouse or child of a principal alien and is accompanying, or following to join, the principal alien; or

["(C) subject to paragraph (2), either (i) is the principal alien's natural mother (or is the spouse or child of such mother), or (ii) has acted in effect as the principal alien's mother, father, or next-of-kin (or is the spouse or child of such an alien), and is accompanying, or following to join, the principal alien.

["(2) An immigrant visa may not be issued to an alien under paragraph (1)(C) unless the principal alien involved is unmarried and the officer referred to in paragraph (1) has determined, in the officer's discretion, that (A) such an alien has a bona fide relationship with the principal alien similar to that which exists between close family members and (B) the admission of such an alien is necessary for humanitarian purposes or to assure family unity. If an alien described in paragraph (1)(C)(ii) is admitted to the United States, the natural mother of the principal alien involved shall not, thereafter, be accorded any right, privilege, or status under the Immigration and Nationality Act by virtue of such percentage.

["(3) For purposes of this subsection, the term 'child' has the meaning given such term in section 101(b)(1) (A), (B), (C), (D), and (E) of the Immigration and Nationality Act.

["(c) Any alien admitted (or awaiting admission) to the United States under this section shall be eligible for benefits under chapter 2 of title IV of the Immigration and Nationality Act to the same extent as individuals admitted (or awaiting admission) to the United States under section 207 of such Act are eligible for benefits under such chapter.

["(d) The Attorney General, in cooperation with the Secretary of State, shall report to Congress 1 year, 2 years, and 3 years, after the date of the enactment of this Act on the implementation of this section. Each such report shall include the number of aliens who are issued immigrant visas and who are admitted to the United States under this Act and number of waivers granted under subsection (a)(2) and the reasons for granting such waivers.

["(e) Except as otherwise specifically provided in this section, the definitions contained in the Immigration and Nationality Act shall apply in the administration of this section and nothing contained in this section shall be held to repeal, amend, alter, modify, effect, or restrict the powers, duties, functions, or authority of the Attorney General in the administration and enforcement of such Act or any other law relating to immigration, nationality, or naturalization. The fact that an alien may be eligible to be granted the status of having been lawfully admitted for permanent residence under this section shall not preclude the alien from seeking such status under any other provision of law for which the alien may be eligible.".

[SEC. 122. Section 17(d)(4)(G) of the United States Housing Act of 1937 is amended by striking "36 months" and inserting "48 months".

[SEC. 123. Any cooperative bank established under the law of any State which was directed by the State banking authority of such State to obtain Federal deposit insurance between January 1, 1985, and January 1, 1987, shall be deemed to be an insured institution described in section 21(f)(4)(F) of the Federal Home Loan Bank Act.

[SEC. 124. No funds shall be expended for the purposes of preparing necessary documentation for and issuance of a special use authorization permitting land use and occupancy and surface disturbing activities for any project to be constructed on Lewis Fork Creek in Madera County, California, at the site above, and adjacent to, Corlieu Falls bordering the Lewis Fork Creek National Recreation Trail until both of the following conditions are met:

[(1) A joint study is completed and submitted to the Congress by the United States Forest Service and the California Department of Parks and Recreation regarding the project's impact on the aesthetics of Corlieu Falls, together with a finding that the Lewis Fork Creek project will not substantially impact the flow at Corlieu Falls.

[(2) A study is completed and submitted to the Congress by the United States Forest Service concerning the project's impact on the Chukchansi Indian Tribe, together with a finding that there will be no impact on the tribe's adjacent sacred hot springs.

[SEC. 125. Hereafter, the Secretary of Agriculture is authorized, except for urban rodent control, to conduct activities and to enter into agreements with States, local jurisdictions, individuals, and public and private agencies, organizations, and institutions in the control of nuisance mammals and birds and those mammal and bird species that are reservoirs for zoonotic diseases, and to deposit any money collected under any such agreement into the appropriation accounts that incur the costs to be available immediately and to remain available until expended for Animal Damage Control activities.

[SEC. 126. Section 144(g)(2) of title 23, United States Code, shall not apply to the Virginia Street Bridge in Charleston, West Virginia.

[SEC. 127. For 80 percent of the expenses necessary to carry out a highway bypass project in the vicinity of Petoskey, Michigan, that demonstrates methods of improving economic development and regional transportation, there is authorized to be appropriated $28,000,000, to remain available until expended, of which $500,000 is hereby appropriated, to remain available until expended: *Provided*, That all funds appropriated under this head shall be exempt from any limitation on obligations for Federal-aid highways and highway safety construction programs.

[SEC. 128. Funds made available to the United States Postal Service pursuant to section 2401(a) of title 39, United States Code, shall be used hereafter to continue full postal service to the people of Holly Springs proper, including upgrading, remodeling, and improving the United States Post Office building located at 110 North Memphis Street, Holly Springs, Mississippi.

[SEC. 129. (a) None of the funds made available by this or any other Act with respect to any fiscal year may be used to make a contract for the manufacture of distinctive paper for United States currency and securities pursuant to section 5114 of title 31, United States Code, with any corporation or other entity owned or controlled by persons not citizens of the United States, or for the manufacture of such distinctive paper outside of the United States or its possessions. This subsection shall not apply if the Secretary of the Treasury determines that no domestic manufacturer of distinctive paper for United States currency or securities exists with which to make a contract and if the Secretary of the Treasury publishes in the Federal Register a written finding stating the basis for the determination.

[(b) None of the funds made available by this or any other Act with respect to any fiscal year may be used to procure paper for passports granted or issued pursuant to the first section of the Act entitled "An Act to regulate the issue and validity of passports, and for other purposes", approved July 3, 1926 (22 U.S.C. 211a), if such paper is manufactured outside of the United States or its possessions or is procured from any corporation or other entity owned or controlled by persons not citizens of the United States. This subsection shall not apply if no domestic manufacturer for passport paper exists.

[SEC. 130. INTEREST ON BACK PAY FOR FEDERAL EMPLOYEES.—(a) IN GENERAL.—Section 5596(b) of title 5, United States Code, is amended—

[(1) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively; and

[(2) by adding after paragraph (1) the following:

["(2)(A) An amount payable under paragraph (1)(A)(i) of this subsection shall be payable with interest.

["(B) Such interest—

["(i) shall be computed for the period beginning on the effective date of the withdrawal or reduction involved and ending on a date not more than 30 days before the date on which payment is made;

["(ii) shall be computed at the rate or rates in effect under section 6621(a)(1) of the Internal Revenue Code of 1986 during the period described in clause (i); and

["(iii) shall be compounded daily.

["(C) Interest under this paragraph shall be paid out of amounts available for payments under paragraph (1) of this subsection.".

[(1) GENERALLY.—Except as provided in paragraph (2), the amendments made by subsection (a) shall take effect on the date of the enactment of this Act, and shall apply with respect to any employee found, in a final judgment entered or a final decision otherwise rendered on or after such date, to have been the subject of an unjustified or unwarranted personnel action, the correction of which entitles such employee to an amount under section 5596(b)(1)(A)(i) of title 5, United States Code.

[(2) EXCEPTION.—

[(A) CASES IN WHICH A RIGHT TO INTEREST WAS RESERVED.—The amendments made by subsection (a) shall also apply with respect to any claim which was brought under section 5596 of title 5, United States Code, and with respect to which a final judgment was entered or a final decision otherwise rendered before the date of the enactment of this Act, if, under terms of such judgment or decision, a right to interest was specifically reserved, contingent on the enactment of a statute authorizing the payment of interest on claims brought under such section 5596.

[(B) METHOD OF COMPUTING INTEREST.—The amount of interest payable under this paragraph with respect to a claim shall be determined in accordance with section

5596(b)(2)(B) of title 5, United States Code (as amended by this section).

[(C) Source.—An amount payable under this paragraph shall be paid from the appropriation made by section 1304 of title 31, United States Code, notwithstanding section 5596(b)(2)(C) of title 5, United States Code (as amended by this section), or any other provision of law.

[(D) Deadline.—An application for a payment under this paragraph shall be ineffective if it is filed after the end of the 1-year period beginning on the date of the enactment of this Act.

[Sec. 131. The Administrator of the General Services Administration shall initiate the planning process necessary to design and construct a facility for the Social Security Administration in Wilkes-Barre, Pennsylvania, pursuant to section 115 of Public Law 99-591.

[Sec. 132. Pay Increase for Federal Employees.—(a) 3 Percent Increase.—Notwithstanding any other provision of law, in the case of fiscal year 1988, the overall percentage of the adjustment under section 5305 of title 5, United States Code, in the rates of pay under the General Schedule, and in the rates of pay under the other statutory pay systems, shall be an increase of 3 percent.

[(b) Effective Date.—Each increase in a pay rate or schedule which takes effect pursuant to subsection (a) shall, to the maximum extent practicable, be of the same percentage, and shall take effect as of the first day of the first applicable pay period beginning on or after January 1, 1988.

[(c) Funding Limitation.—Notwithstanding any other provision of law, amounts appropriated in order to provide for the adjustment described in subsection (a) in fiscal year 1988 shall cover not to exceed 35 percent of the increase in total pay for such fiscal year.

[(d) Definitions.—For purposes of this section—

[(1) the term "total pay" means, with respect to a fiscal year, the total amount of basic pay which will be payable to employees covered by statutory pay systems for service performed during such year;

[(2) the term "increase in total pay" means, with respect to a fiscal year, that part of total pay for such year which is attributable to the adjustment taking effect under this section during such year; and

[(3) the term "statutory pay system" has the meaning given such term by section 5301(c) of title 5, United States Code.

[Sec. 133. (a) Notwithstanding any other provision of this Act or any other law, no adjustment in rates of pay under section 5305 of title 5, United States Code, which becomes effective on or after October 1, 1987, and before October 1, 1988, shall have the effect of increasing the rate of salary or basic pay for any office or position in the legislative, executive, or judicial branch or in the government of the District of Columbia to a rate exceeding the rate (or maximum rate, if higher) of salary or basic pay payable for that office or position as of September 30, 1987, if, as of that date, such rate (or maximum rate) is—

[(1) fixed at a rate which is equal to or greater than the rate of basic pay for level V of the Executive Schedule under section 5316 of title 5, United States Code, or

[(2) limited to a maximum rate which is equal to or greater than the rate of basic pay for such level V (or to a percentage of such a maximum rate) by reason of section 5308 of title 5, United States Code, or any other provision of law or congressional resolution.

[(b) For purposes of subsection (a), the rate or maximum rate (as the case may be) of salary or basic pay payable as of September 30, 1987, for any office or position which was not in existence on such date shall be deemed to be the rate or maximum rate (as the case may be) of salary or basic pay payable to individuals in comparable offices or positions on such date, as determined under regulations prescribed—

[(1) by the President, in the case of any office or position within the executive branch or in the government of the District of Columbia;

[(2) jointly by the Speaker of the House of Representatives and the President pro tempore of the Senate, in the case of any office or position within the legislative branch, or

[(3) by the Chief Justice of the United States, in the case of any office or position within the judicial branch.

[Sec. 134. None of the funds in this or any other Act shall be used to promulgate or otherwise implement the notice of proposed rulemaking on foreign repair stations (14 CFR Parts 135 and 145) that was published by the Department of Transportation and the Federal Aviation Administration in the Federal Register on November 24, 1987.

[Sec. 135. Extension of Attainment Deadlines.—(a) Nonattainment Areas for Ozone or Carbon Monoxide.—No restriction or prohibition under section 110(a)(2)(I), section 176(a) or (b), or section 316 of the Clean Air Act shall be enforced in any State before August 31, 1988, by reason of the failure of any State to attain the national primary ambient air quality standard under the Clean Air Act for photochemical oxidants (ozone) or carbon monoxide (or both) by December 31, 1987, the failure of any State to adopt and submit to the Administrator an implementation plan which meets the requirements of part D of title I of that Act and provides for attainment of such standards by December 31, 1987, the failure of any State to implement such a plan, or any combination of the foregoing. If any such restriction or prohibition took effect in any State before the enactment of this Act by reason of any such failure, the enforcement of that restriction or prohibition shall be suspended until August 31, 1988. Prior to August 31, 1988, the Administrator shall apply the provisions of section 173(1) and (4) of that Act without regard to the December 31, 1987 attainment date.

[(b) Evaluations and Designations.—Prior to August 31, 1988, the Administrator shall evaluate air quality data and make determinations with respect to the degree to which areas throughout the nation have attained, or failed to attain, either or both of the standards referred to in subsection (a) and shall designate those areas failing to attain either or both of such standards as nonattainment areas within the meaning of part D of title I of the Clean Air Act.

[Sec. 136. (a) Section 315 of the Communications Act of 1934 (47 U.S.C. 315) is amended—

[(1) by redesignating subsections (a) through (d) as subsections (b) through (e), respectively; and

[(2) by inserting before subsection (b) the following new subsection:

["(a)(1) The Congress finds that—

["(A) despite technological advances, the electromagnetic spectrum remains a scarce and valuable public resource;

["(B) there are still substantially more persons who want to broadcast than there are frequencies to allocate;

["(C) a broadcast license confers the right to use a valuable public resource and a broadcaster is therefore required to utilize that resource as a trustee for the American people;

["(D) there is a substantial and continuing governmental interest in conditioning the award or renewal of a broadcast license on the requirement that the licensee assure that widest possible dissemination of information from diverse and antagonistic sources by presenting a reasonable opportunity for the discussion of conflicting views on issues of public importance;

["(E) while new video and audio services have been proposed and introduced, many have not succeeded and even those that are operating reach a far smaller audience than broadcast stations;

["(F) even when and where new video and audio services are available, they do not provide meaningful alternatives to broadcast stations for the dissemination of news and public affairs;

["(G) for more than thirty years, the Fairness Doctrine and its corollaries, as developed by the Federal Communications Commission on the basis of the provisions of this Act, have enhanced free speech by securing the paramount right of the broadcast audience to robust debate on issues of public importance; and

["(H) the Fairness Doctrine (i) fairly reflects the statutory obligation of broadcasters under this Act to operate in the public interest, (ii) was given statutory approval by the Congress in making certain amendments to this act in 1959, and (iii) strikes a reasonable balance among the First Amendment rights of the public, broadcast licensees, and speakers other than owners of broadcast facilities.

["(2) A broadcast licensee shall afford reasonable opportunity for the discussion of conflicting views on issues of public importance.

["(3) The enforcement and application of the requirement imposed by this subsection shall be consistent with the rules and policies of the Commission in effect on January 1, 1987.".

[(b) This section and the amendment to the Communications Act of 1934 added by this section—

[(1) shall take effect upon the date of enactment of this Act;

[(2) shall apply to all cases within the jurisdiction of the Federal Communications Commission on or after such date; and

[(3) shall supercede the holding and findings of the Commission in its memorandum opinion and order of August 6, 1987, In re Complaint of Syracuse Peace Council Against Television Station WTVH, Syracuse, New York, (F.C.C. 87-266).

[Sec. 137. Haiti.—(a) Suspension of Assistance.—During fiscal year 1988, none of the funds made available by this joint resolution or by any other Act or joint resolution may be obligated or expended to provide assistance for Haiti (other than the assistance described in subsection (b)) unless the democratic process set forth in the Haitian Constitution approved by the Haitian people on March 29, 1987, especially those provisions relating to the Provisional Electoral Council, is being fully and faithfully adhered to by the Government of Haiti.

[(b) Exceptions.—Subsection (a) does not apply with respect to humanitarian assistance provided through private and voluntary organizations or nongovernmental organizations or to assistance provided in order to enable the continuation of migrant and narcotics interdiction operations.

[(c) OTHER SANCTIONS.—It is the sense of the Congress that, in order to further encourage the Government of Haiti to adhere to the constitutionally mandated transition to democracy, the President should—

[(1) suspend Haiti's eligibility for benefits under the Caribbean Basin Economic Recovery Act; and

[(2) seek international cooperation to encourage such adherence by the Government of Haiti, through the imposition of an international arms embargo and comprehensive trade and financial sanctions.

[SEC. 138. (a) None of the funds appropriated for fiscal year 1988 by this Joint Resolution or any other law may be obligated or expended to enter into, renew, extend, amend, or otherwise modify any contract for the construction, alteration, or repair of any public building or public work in the United States with any contractor, subcontractor, or supplier if such contractor, subcontractor, or supplier—

[(1) is a citizen or national of Japan;

[(2) is a corporation, partnership, or other entity organized or existing under the laws of Japan, any subdivision thereof, or any instrumentality of Japan or such a subdivision; or

[(3) is owned or controlled, directly or indirectly—

[(A) by a citizen or national of Japan;

[(B) by a corporation, partnership, or other entity organized or existing under the laws of Japan, any subdivision thereof; or any instrumentality of Japan or such a subdivision; or

[(C) by any combination of two or more of the persons or entities, or both, described in subparagraphs (A) and (B) of this paragraph.

[(b) The President or the head of a Federal agency may waive the restrictions of subsection (a) of this section with respect to an individual contract if the President or the head of such agency determines that such action is necessary in the public interest. The authority of the President or the head of a Federal agency under this subsection may not be delegated.

[(c) As used in this section, the terms "contruction", "alteration", "repair", "public building", and "public work" have the same meanings such terms have under the Act of March 3, 1933 (41 U.S.C. 10 et seq.), commonly referred to as the Buy American Act.

[SEC. 139. From funds appropriated under this Act, a State's allotment for the program year beginning July 1, 1988, under section 301(b) for the Job Training Partnership Act (Public Law 97-300) shall be reduced by an amount equal to the enexpended balance of such State's allotment as of June 30, 1988, in excess of the allowable unexpended carry forward. The term "allowable unexpended carry forward" shall be defined as 20 per centum of the State's allotment under section 301(b) of the Job Training Partnership Act for the program year beginning July 1, 1987. Funds not allotted to States that exceeded the allowable unexpended carry forward amount shall be allotted by the Secretary in accordance with section 301(b) among States giving primary consideration to States which have not exceeded the allowable unexpended carry forward amount as of June 30, 1988, and have an average unemployement rate for the most recent twelve months greater than the national average for such period. In no case shall such funds be reallotted to any State which had an unexpended balance as of June 30, 1988, in excess of 35 per centum of its allotment under section 301(b) for the program year beginning on July 1, 1987.]

SEC. 108. TWO PERCENT PAY INCREASE FOR FEDERAL EMPLOYEES AND MILITARY PERSONNEL.—(a) Notwithstanding any other provision of law, in the case of fiscal year 1988, the overall percentage of the adjustment under section 5305 of title 5, United States Code, in the rates of pay under the General Schedule, and in the rates of pay under the other statutory pay systems, shall be an increase of 2 percent.

(1) EFFECTIVE DATE.—Each increase in a pay rate or schedule which takes effect pursuant to subsection (a) shall, to the maximum extent practicable, be of the same percentage, and shall take effect as of the first day of the first applicable pay period beginning on or after January 1, 1988.

(2) DEFINITIONS.—For purposes of this section—

(i) the term "total pay" means, with respect to a fiscal year, the total amount of basic pay which will be payable to employees covered by statutory pay systems for service performed during such year;

(ii) the term "increase in total pay" means, with respect to a fiscal year, that part of total pay for such year which is attributable to the adjustment taking effect under this section during such year; and

(iii) the term "statutory pay system" has the meaning given such term by section 5301(c) of title 5, United States Code.

(b) Notwithstanding any other provision of law, in the case of fiscal year 1988, any increase in the rates of basic pay, basic allowance for subsistence and basic allowance for quarters for members of the uniformed services, including cadets and midshipmen, shall be limited to 2 percent effective January 1, 1988.

SEC. 109. Notwithstanding any other provision of this Act or any other law, no adjustment in rates of pay under section 5305 of title 5, United States Code, which becomes effective on or after October 1, 1987, and before October 1, 1988, shall have the effect of increasing the rate of salary or basic pay for any office or position in the legislative, executive, or judicial branch or in the government of the District of Columbia to a rate exceeding the rate (or maximum rate, if higher) of salary or basic pay payable for the office or position as of September 30, 1987, if, as of that date, such rate (or maximum rate) is—

(1) fixed at a rate which is equal to or greater than the rate of basic pay for level V of the Executive Schedule under section 5316 of title 5, United States Code, or

(2) limited to a maximum rate which is equal to or greater than the rate of basic pay for such level V (or to a percentage of such a maximum rate) by reason of section 5308 of title 5, United States Code, or any other provision of law or congressional resolution.

(b) For purposes of subsection (a), the rate or maximum rate (as the case may be) of salary or basic pay payable as of September 30, 1987, for any office or position which was not in existence on such date shall be deemed to be the rate or maximum rate (as the case may be) of salary or basic pay payable to individuals in comparable offices or positions on such date, as determined under regulations prescribed—

(1) by the President, in the case of any office or position within the executive branch or in the government of the District of Columbia;

(2) jointly by the Speaker of the House of Representatives and the President pro tempore of the Senate, in the case of any office or position within the legislative branch, or

(3) by the Chief Justice of the United States, in the case of any office or position within the judicial branch.

Mr. STENNIS. Mr. President, if I may have the attention of the majority leader, we have an important matter here that is going to take some time. We will move rapidly, I hope, but it will still take some time.

We discussed this yesterday. We have Senators who are prepared with amendments, and we will be ready to move right along. We need the help of the floor leader with respect to what amendments will be taken up and are ready. We will abbreviate it as much as possible, and I think we will make headway.

Mr. BYRD. Mr. President, the distinguished chairman of the Appropriations Committee, Mr. STENNIS, will be at this desk.

In the meantime, the Republican leader and I and our two whips, and possibly others, will meet and discuss, hopefully, the process by which we expedite action on this very important continuing resolution.

I understand that there are 74 amendments, 47 from the Democratic side. Mr. President, this is the happy season and not the silly season. We are going to try to urge Senators on both sides to restrain their appetite in calling up amendments that are not going anywhere.

This is not to say that any Senator does not have a right to call up any amendment he or she wants. Let us keep our other colleagues in mind and the importance of expediting action on this resolution, which has to go to conference, which has to come back to both Houses, and be signed by the President, before the Senate adjourns sine die.

So we are going to have our meeting, and I hope we can discipline ourselves as we did yesterday.

Mr. President, for the moment, I suggest the absence of a quorum.

Several Senators addressed the Chair.

Mr. BYRD. I withhold that, Mr. President.

Mr. DOLE. Mr. President, I will comment along the lines of what the distinguished majority leader said.

We do not have too many amendments on this side, but there are more than we need. There are some who say they have to have an hour on an amendment. They do not need an hour on these amendments. Most of these amendments can be explained in 5 minutes, and probably not one vote will be changed.

So I hope we would agree. Maybe with one or two exceptions, on major amendments, we will have an hour, and on others we could move expeditiously.

We will ask Senators not to take more than 30 minutes, equally divided, and not to have a rollcall vote on each amendment, because that could add up to 4, 5, or 6 hours in a day.

I think I find on this side a willingness to have the leadership exert some discipline, if necessary, so that we can complete this. We will work with the chairman and with the temporary manager. Our permanent manager has no voice. He has a lot of clout but no voice.

We will try to work it out as we go along.

Mr. METZENBAUM. Mr. President, will the majority leader yield for a comment?

Mr. BYRD. I yield.

Mr. METZENBAUM. The Senator from Ohio does not want to impede progress on this legislation; but I know that when there are five pages of amendments, some of those amendments become acceptable to the managers of the bill. That does not mean that they are acceptable to all of us in the Senate.

I hope we might be given some advice, maybe an hour's notice or something, that it is intended to accept the following amendments unless there is some objection. That would avoid the necessity of just being on the floor and saying, "Objection," when unanimous consent is requested.

I do not want to delay the measure one minute, but I do want to know what is going to be accepted. I just want to indicate that.

Mr. BYRD. Mr. President, the Senator is entitled to know that.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The majority leader yields the floor.

Mr. STENNIS. Mr. President, I am very happy to be here today to present before the Senate the continuing resolution for fiscal year 1988, House Joint Resolution 395. This resolution was passed by the House on Thursday, December 3, and was reported by the Committee on Appropriations to the Senate on Tuesday, December 8, 1987.

I think it is important for me to briefly describe for all Members the Senate Appropriations Committee's action on House Joint Resolution 395.

First, in section 101 of the bill we have amended the levels of funding recommended for each of the 13 appropriation bills to reflect the amounts provided in the Senate-passed or Senate-reported bills, with an adjustment to meet the summit agreement of deficit reduction dated November 20, 1987.

Second, we have concurred in several technical provisions in House Joint Resolution 395 which are set out in sections 102 through 107.

Third, we have struck all other House provisions which appear in sections 108 through 139 of the House-passed measure.

Finally, the Senate-reported measure now includes two provisions dealing with pay. The first, in section 108, at page 41, provides authority for a civilian and military pay raise of 2 percent effective January 1, 1988.

The second pay provisions, in section 109, at page 42, prohibits salary increases for Members of Congress, judges, and senior members of the executive branch.

As all Members can see, the committee's version of the continuing resolution provides for a "clean" measure—one that funds ongoing operations of Government at the necessary levels without extraneous legislative provisions.

All Senators should be aware that at the full committee markup of this joint resolution on Tuesday, December 8, no amendments were offered or adopted. This action is highly important since committee members were keenly aware that each of the 13 appropriation bills referenced in this continuing resolution had already been amended in full committee. More important, 10 of these bills were amended further before being passed by the full Senate.

I make mention of this so that all Senators will know that the Committee on Appropriations strongly wishes for this measure to remain a "clean" one so that we can proceed to conference with our House counterparts as expeditiously as possible.

I need remind no one in this body that time is short. The earlier short-term continuing resolution expires on Wednesday, December 16, and there are only 13 days left to complete action of the 13 appropriation bills before Christmas Eve—December 24.

I fully recognize that there may be a few policy matters which may need to be addressed by this body and incorporated by amendment into this resolution. However, I wish to emphasize that all other amendments will be strongly opposed by the committee. There is simply too much which needs to be done and too little time to do it in.

Accordingly, I would urge all Senators to defer those amendments which can await either other legislative vehicles or action next year.

Finally, I would ask all Members to support the resolution as it now stands and ask that it be adopted so that we can proceed to conference with our House counterparts in a timely manner.

Mr. President, there has been an enormous amount of work done on the bill as a whole. There are items in the bill and in this procedure here with reference to the items that I have just mentioned. I feel that really all of this subject matter has been fully covered. But, of course, every Member has a right to offer an amendment which I will hope you will find though that the problems going with it have been largely solved if not fully solved.

Now I heard the remarks from our friend here. Let us respond. I am going to ask the Senator from Louisiana to respond to the Senator's suggestions here.

I yield the floor.

Mr. HATFIELD. Mr. President, I rise in support of House Joint Resolution 395, the fiscal year 1988 continuing resolution, as reported from the Appropriations Committee, and I urge its adoption.

While this measure is quite broad in its scope, embracing all 13 appropriations bills, it is a straightforward piece of legislation substantially free of extraneous amendments. I commend the committee chairman for his leadership in bringing this matter to the floor in an expeditious manner, free of amendments that could lead to protracted debate here on the floor and delay the implementation of this part of the budget summit agreement.

The Senate has passed all 10 of the regular appropriations bills sent to us from the House, and sent them to conference. Since the House has not acted on the defense, foreign operations, and agriculture bills, the Committee on Appropriations has reported original Senate bills, and they are on the calendar. I wish that we could have passed individual bills. I know the chairman of the committee shares that wish, as does the joint leadership of both Houses. We have been unable to achieve that goal, but this year it may be just as well, for now we have before us a single omnibus bill to implement the discretionary spending provisions of the joint leadership agreement on the budget. I believe it is to our advantage to implement that agreement in just two pieces of legislation—this resolution and the reconciliation bill—rather than in 13 separate appropriations bills. So, Mr. President, while I know there are those in this body who feel very strongly that we should not resort to these omnibus continuing resolutions, I hope they will be tolerant of us once more, so we can enact the budget summit proposal in the manner agreed to by the administration.

In its action on this continuing resolution, the House of Representatives referenced the House-passed or reported appropriations bill, and adopted a number of additional provisions on a variety of subjects. The committee has recommended that we substitute the Senate-passed or reported appropriations bills, and strike the additional provisions of the House bill. We are also recommending language to limit the January 1, 1988, cost-of-living adjustment to 2 percent, and deny that increase to Members of Congress, the Federal judiciary, and employees of the executive branch compensated at executive level 5 or above.

We have also taken an extra step to demonstrate our commitment to the fulfillment of the budget summit agreement. For each fiscal year 1988 appropriations bill that we reference in sections 101 (a) through (m), we are recommending specific spending limits on both budget authority and outlays for defense, nondefense domestic, and international affairs, and stipulating a total for defense and nondefense discretionary spending in section 101(n). The specific actions necessary to achieve these levels have not been stipulated, and the individual bill totals will be determined in our conference with the House on this measure. But we are pledged to uphold the budget summit agreement, and I can assure my colleagues that we will.

The sooner we get to conference, the better. I urge my colleagues to withhold all but the most critical amendments.

I yield the floor.

Mr. STEVENS. Mr. President, let me say to my good friend whom we all love and had done a great job on this bill and in handling the appropriations bills this year, that I have expressed the desire that we announce if it is possible that this would be a period for consideration of the noncontroversial amendments that we might be able to accept.

I understand the Senator from Ohio has made some reference to this and we have others on this side that simiiarly would like to clear these measures.

So they are going to have to come over here soon if we are going to have a chance to review them and give these Senators an opportunity who are not on the committee to review them before we accept them or propose them for unanimous consent.

But I think that could be an orderly procedure if Members would come over and particularly if we could get the chairman and ranking member of the individual subcommittees to stand by so that we could refer these matters to them. I take it that they will make certain that their staffs will be here very soon to assist us in reviewing these noncontroversial measures.

I think we can finish this bill, Mr. President. It is my judgment we can finish this bill by 8 o'clock tonight if we follow that procedure.

Mr. METZENBAUM. Will the Senator from Alaska yield for a question?

Mr. STEVENS. The distinguished chairman was going to ask me a question first.

Mr. STENNIS. First, I want to thank the Senator for his contribution here. I hope he will spend the day with us. This is a very full bill.

Mr. STEVENS. I will be here except for the one time that I have already mentioned, and that is my little girl is going to read the Christmas message at her school and I am going to disappear for 30 minutes. Other than that, I am going to be here.

Mr. STENNIS. Mr. President, we regret the condition of the Senator from Oregon, but the Senator from Oregon is here in person. We hope he feels like staying. We already have his contribution in this bill. It is his contribution and, as always, we may need his help.

Mr. STEVENS. I yield the floor.

Mr. METZENBAUM. Will the Senator from Alaska yield for a question?

Mr. STEVENS. I am happy to respond to a question from the Senator from Ohio.

Mr. METZENBAUM. You indicated there is a list presently of amendments that are intended to be accepted.

Mr. STEVENS. There is no such list. There is a list of amendments that would be offered. I have urged and asked the chairman to join me in urging that any Member that has an amendment that he or she believes is noncontroversial to come forward now and identify it as such so that we might review it and see if it is really so. And, if so, we will accept it by unanimous consent.

Mr. STENNIS. I think that is a good suggestion. It will help the Senator from Ohio and help anyone that is interested along that line.

Mr. METZENBAUM. I want to cooperate with the managers of the bill. I do not want to be in any way a deterrent to moving this bill forward promptly. I just want to know what the amendments are.

Mr. STENNIS. We will get to them just as soon as we can.

I emphasize again that I think the Senator made a wonderful suggestion, a splendid and practical suggestion here about the handling of these amendments. I hope his suggestion will be noticed by all to bring all the amendments in here and we can pull them together and, regardless of the outcome on them, we will finish them up today in the early part of the evening.

Mr. STEVENS. If my friend would yield to me, I did not mean to interrupt the Senator from Louisiana if he was going to finish the statement of the Senator from Mississippi. I may have misunderstood the process.

Is the Senator from Louisiana going to make a statement now?

Mr. STENNIS. I hope he will seek the floor now.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, first of all let me say it is a great pleasure to work with the distinguished chairman of our committee, Senator STENNIS. He and I have worked together on appropriations measures and Tenn-Tom measures and many measures through the years. He is a role model. He is a figure that all of us not only like to work with but like to aspire to hope we can be like just in some small degree. So, it is a pleasure to work with him.

The distinguished Senator from Oregon, the distinguished ranking member of this committee, the former chairman, who is now silenced by laryngitis but who will be here working with us. And, of course, Senator TED STEVENS from Alaska is also a great member of the team.

Starting off with that fine warm feeling that we have for all of our colleagues, let me say in a little more curt, a little more direct way that in handling this bill, Mr. President, we simply, if we are going to get out of here by Christmas, cannot take every amendment that comes along. We simply cannot do it. We simply cannot allow unending debate so that every Senator who wants to make statement on any amendment can go on to his heart's content. Either we leave by Christmastime and curtail this debate and curtail the amendments or we do not.

I think it is very clear what the will of the Senate is—very clear. I think the Senators can hear the Christmas bells tinkling in the distance and want to harken to the spirit of Santa Claus and get away from here. And if you do, Mr. President, I say to my colleagues they are simply going to have to support us in motions to table and motions to keep out these extraneous amendments.

Now, I wish, Mr. President, that we could create a rule which could be unbroken and consistent. We cannot, because there are three appropriations bills—defense, foreign operations, and agriculture—which have not yet been considered on the Senate floor. So, I think it is very appropriate, in fact, it is necessary, that amendments in those areas be considered by the Senators.

For example, there is an amendment on the small ICBM which is a vital measure to be considered by the Senate and ought to be debated. It is not a matter to be accepted, but it ought to be debated; not at great length, because we do not have that much itme. I wish we had time to debate it for 2 days, but we do not. So, maybe we get 1 hour or maybe a little longer to debate that. I understand Senators will want to bring up an amendment on that and that is appropriate.

There may be a few other amendments like that on defense, vitally important amendments which require debate.

With foreign operations and agriculture, there may be some of those amendments as well.

With all the other areas, Mr. President, we have considered energy and water at great length on this floor. Any Senator who wanted to bring up an amendment had his opportunity to do that. The same is true of Interior. The same is true of HUD and Independent Agencies. The same is true of every other appropriation bill, save those three which I have mentioned. So, we are going to look very, very much askance at any amendment not in those three areas, Mr. President.

Now, with respect to those amendments which can be cleared, they will have to go through the eye of a needle. They need to be cleared with the authorizers and with the appropriations subcommittees and then we still may not accept them. And if we accept them, then Senator METZENBAUM and others may not accept them.

Mr. STENNIS. Will the Senator yield to me?

Mr. JOHNSTON. I will certainly yield to the distinguished chairman.

Mr. STENNIS. The leader is in his office and is asking some of us to come over and talk about these amendments as a group and see what chance there is to shorten the list, and so forth. So, I think you could continue with your explanation as long as you gentlemen wish and then we recess the Senate for 15 minutes.

Mr. JOHNSTON. Very well. I appreciate that. I will wind up right now, I would say, Mr. President.

We are not encouraging amendments, even agreed-to amendments, because we are in session next year. We will start in January and go through October. We will have a new, complete appropriations cycle. So, I urge Senators to think of a way to put his amendment off until next year.

In the meantime, we will repair to the majority leader's office.

But first, Mr. President, I ask unanimous consent that the committee amendments be agreed to en bloc and that the bill as thus amended be considered as original text for the purpose of further amendment.

Mr. COCHRAN. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Mississippi reserves the right to object.

Mr. COCHRAN. There is no intention to object to the request, but let me inquire about points of order. Is it necessary to include in the unanimous-consent request a statement about waiving points of order?

Mr. JOHNSTON. I would expand my request, Mr. President, to state that no points of order would be waived thereby.

The PRESIDING OFFICER. Is there objection to the unanimous consent as stated?

Mr. COCHRAN. There is no objection on this side of the aisle that I know about, Mr. President.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JOHNSTON. Mr. President, we will now be off the floor for about 15 minutes. If there is any Senator who wanted to make a statement? If not, I will move to recess the Senate.

The PRESIDING OFFICER. The Senator from South Dakota?

Mr. PRESSLER. Could I speak for 6 minutes on a matter separate from this and then recess the Senate?

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the distinguished Senator from South Dakota be permitted to speak for 6 minutes and thereafter the Senate stand in recess for 14 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from South Dakota.

AFTER THE SUMMIT: THE FUTURE OF THE INF TREATY

Mr. PRESSLER. Mr. President, now that the INF Treaty has been signed by President Reagan and Soviet leader Mikhail Gorbachev, it is the constitutional duty of the U.S. Senate to closely examine that treaty.

In my view, the Senate has the opportunity to play a very positive role in the treaty ratification process. In the case of minor treaties, the Senate's approval of ratification is fairly automatic. The INF Treaty, however, is a major matter with serious implications for United States and free world security. Thus, the many hearings and extensive debate in which we will participate during the next several months might be considered similar to the Senate's authorization process on major bills. For example, Senate action on the National Defense Authorization Act this year consumed many months of time and effort.

Mr. President, the timetable I foresee is that the Foreign Relations Committee will begin hearings on January 19. The Armed Services Committee and the Intelligence Committee will also hold hearings.

The Foreign Relations Committee will vote by late March and it will be before the full Senate in April, probably, for final vote in May.

Thus, as is the case with major legislation, we will learn a great deal about national security during the INF Treaty hearings and debates. Unknown to most people, several highly classified documents will accompany the treaty. These will be examined with great care by Senators and a few appropriate staff.

These include the negotiating records and some of the detailed papers that have not yet been made public. Indeed, some of them probably will not be made public even during the time of the debate or before the Senate votes.

These documents, including the lengthy United States-Soviet negotiating records, will shed much light on the meaning and implications of treaty provisions. I am confident that the classified data will allay some of the concerns that have been expressed about the treaty.

However, other concerns may not be resolved by this careful inspection of all the classified and unclassified materials related to the treaty. Some of that information may be ambiguous, thus requiring the questioning and examination of many official and public witnesses. These witnesses will include our diplomats who negotiated with the Soviets, leading scholars and high-ranking administration officials.

The complexity of arms control treaty negotiations with the Soviet Union—more complex than a game of chess—produces voluminous amounts of information. In carrying out its constitutional treaty responsibility, the Senate will spend countless hours and months retracing the steps that led to the President's signature on the INF Treaty.

Mr. President, there will be amendments offered to this treaty. Indeed, I intend to offer amendments regarding some linkage to the level of conventional forces left in Europe.

For example, the Soviets have superiority in troops, aircraft, and tanks in Europe. I believe that if we are to give up our INF trump cards, we should also ask the Soviets to give up some of their conventional military advantages, because when the treaty is finished they will have conventional military superiority on the European field.

At some point, there will be efforts to ask our taxpayers to help increase our side's conventional forces. We should be very careful and well-informed before we make that decision.

In addition to the three committees that will hold hearings, a task force of 11 Senators has been appointed by my party to examine the treaty and treaty procedures. I am privileged to be a member of that task force.

Another important aspect of the Senate's action will be the consideration of conditions on the treaty ratification approval resolution. Under Senate rules, the Foreign Relations Committee and the full Senate itself may consider and adopt different types of conditions. These include: amendments, reservations, understandings, declarations and provisos. Of these, the most serious are amendments or reservations, for they would affect the text of the treaty or United States obligations under the treaty and require acceptance by the Soviet Union. Understandings, declarations and provisos also are important, but they would not require renegotiation of the treaty or acceptance by the Soviets.

In other words, contrary to a widespread misperception, treaty amendments or reservations are not necessarily "killer" amendments. If the Soviets refuse to renegotiate changes adopted by the Senate, it is they and not the Senate who have killed the treaty. However, the Soviets obviously were extremely eager to complete the INF Treaty this year. Their apparent enthusiasm for the elimination of the entire class of intermediate nuclear weapons on both sides suggests that they may be receptive to renegotiation of certain treaty provisions or obligations. At this point, it is too early to know what specific amendments or reservations might be considered acceptable to the Senate or the Soviets.

In conclusion, the Senate's treaty ratification actions can play a very positive role in refining the meaning of treaty provisions, clarifying amibiguities and perhaps attaching conditions that would be in the best interests of both the United States and the Soviet Union.

I think this is a proper time for us to study the Senate's historic role regarding treaties. Indeed, when the Panama Canal treaty was considered here, some reservations were attached.

Under our Constitution, this body has a major responsibility regarding treaties that is unique. In most parliamentary systems that is not true and around the world it is always hard to explain that just because our President signs a treaty, it does not mean that it is final.

Also, individual Senators should not feel pressured to yield to the popular concept that we should just automatically go along with any treaty. Perhaps this treaty will be adopted. If predictions are accurate, it will be adopted overwhelmingly, but I hope that is only after amendments, conditions, provisos have been adopted. I am confident that the Senate will be very positive in carrying out its responsibilities regarding this treaty, beginning on January 19, 1988.

Mr. President, I yield back the remainder of my time.

RECESS FOR 14 MINUTES

Mr. PRESSLER. I move the Senate now go into recess.

There being no objection, the Senate, at 9:37 a.m., recessed until 9:51 a.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. Graham].

Mr. MURKOWSKI. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum having been suggested, the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. Reid). Without objection, it is so ordered.

Mr. BYRD. Mr. President, the distinguished Republican leader, the chairman and ranking member of the Appropriations Committee, Senators Johnston and Stevens, and representatives of the two whip organizations have met. May I have order in the Senate, Mr. President?

The PRESIDING OFFICER. The Senate is not in order. Will members of the staff please take their seats?

The majority leader.

Mr. BYRD. And we have discussed ways in which we might best expedite action on the continuing resolution.

First of all, we have asked our cloakrooms to get the word out to Senators that if they have amendments they are bound and compelled to call up that they let our cloakrooms know by 12 o'clock today, by 12 noon. And I ask unanimous consent that no amendments that we have not received notification thereon by 12 noon today be in order to this bill.

The PRESIDING OFFICER. Is there objection?

Mr. METZENBAUM. Mr. President, will the majority leader yield?

Mr. BYRD. Yes.

Mr. METZENBAUM. Is the leader in the unanimous-consent request including second-degree amendments?

Mr. BYRD. I would be.

Mr. METZENBAUM. I would have to object to that, Mr. Leader, until I am able to determine what impact that might have in connection with a controversial amendment.

Mr. BYRD. All right. Let me make the request; no amendments, other than amendments that would be second-degree and germane and relevant to the first-degree amendment, would be in order unless the leaders are notified by noon today.

Mr. METZENBAUM. Not wishing at all to be obstructive, but at some point, I intend to offer a motion to instruct the conferees in connection with a matter which I believe will come up after the bill has been enacted. The leader's unanimous-consent request would in no way preclude my doing that; is that correct?

Mr. BYRD. It would not preclude the Senator from doing that.

Mr. METZENBAUM. I thank the leader.

The PRESIDING OFFICER. Is there objection to that request? Hearing none, that is the order.

Mr. BYRD. Second, the leadership on both sides at 7 o'clock this evening will determine whether or not we proceed into the evening or whether or not we go over until tomorrow. If the end is within sight, we obviously will go on and finish the bill, if it be midnight, but I would not suggest that we go beyond that; or, if it is not within sight, then we come in tomorrow. We go home and get a reasonable night's sleep, now that the Soviet visitors have left town, and come back tomorrow. So we will make that decision.

Third, the leadership wants very much for our colleagues to consider very carefully as to just how necessary it is to call up an amendment to this bill. There are many matters that have been gone over and over and over, some of which I support, but which I might not, as one Senator, in this instance.

So, what I am saying is that the leadership is urging Senators to pare down their list of amendments and to be agreeable, if at all possible, to time limitations on their amendments; also, to consider the foolhardiness of asking for rollcall votes on amendments that obviously are not going anywhere; and, finally, that Senators understand that 15-minute rollcall votes, which have been ordered at the beginning of the 100th Congress, mean just that.

I ask unanimous consent, Mr. President, that the call for the regular order, which means the curtain comes down, occur automatically at the end of the 15-minute period.

Before I put the request, I must say that there come instances from time to time in which the leader has to extend a vote. Those times do not occur often. If the distinguished Republican leader were the majority leader, I would expect him, on certain occasions, depending upon what the issue was, not to let the clerk proceed to the Chair to have the vote announced.

With those exceptions, Senators just have to learn that at some point or other, they should start to the floor when the rollcall starts.

I have had Senators the last 2 or 3 days come to me complaining that the rollcall ended before they got here. They were on their way. Mr. President, we are all adults, and we all know that when those bells sound and the lights come on, we are expected to come to the floor.

I'll be darned if I am not getting tired of Senators expecting me to hold up a vote beyond the 15 minutes so they can get here, when they did not start until after the 15 minutes were up. That has become a luxurious habit around here. We can save a lot of time.

So I am going to make that request now, that the call for the regular order be automatic, and that means the time is up. Obviously, if the Senator is coming in the door or if we see him coming out the door and on the floor, the Chair is going to recognize him.

I hope Senators will consider their colleagues; that every minute a Senator takes is 99 other minutes that are being taken from other Senators. It is costing everybody.

So I ask unanimous consent that the call for the regular order be automatic at the end of 15 minutes, at the end of every rollcall vote today.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. STEVENS. Mr. President, will the Senator yield?

Mr. BYRD. I yield.

Mr. STEVENS. Mr. President, I have been discussing this with our leader, and we wonder if it would be possible to have the request that the majority leader previously submitted, which the Senator from Ohio objected to, readdressed, limited to the bills contained in this continuing resolution which have been before the Senate previously. Those are all bills, with the exception of Foreign Relations, Agriculture, and Defense.

On those bills, I would urge the majority leader to propose that no amendment be in order unless it is accepted by unanimous consent, unless it is cleared by the committee. The Senator from Ohio can make objections if he wishes to do so.

All those bills have been before us before. If someone has an emergency situation that we all agree is an emergency and accept, fine. But we ought not have further debate on the bills that have already been in conference and that we are only putting in this bill for the purpose of taking them to conference as part of the continuing resolution. They are already in individual conferences, and we have all had an opportunity to offer amendments before.

I think that could be worked out. I believe that you would see about two-thirds of the amendments on that list drop off, unless they are totally acceptable to both sides. Incidentally, some of mine are in that condition. I hope I am persuasive, but I know it is a problem for all of us.

Mr. BYRD. Mr. President, the distinguished Senator has used the word "bills" in the context of amendments, and it confuses me.

Mr. STEVENS. The amendments coming in, some are independent bills.

I state again that no amendment to any portion of this continuing resolution that is contained in the 10 appropriations bills that previously passed the Senate would be in order unless it is accepted by unanimous consent.

Mr. BYRD. Mr. President, I think that is a good suggestion, and I would like to hear from the other manager.

Mr. JOHNSTON. Mr. President, I think that is correct.

The distinguished Senator from New York has just submitted to me, for example, an amendment to make emergency bridge repairs in New York, and I suppose there are certain emergency matters that we cannot avoid.

I would really like to have a fixed rule that says if it is an appropriation bill and its jurisdiction has already been considered, we simply not accept it, period. But, unfortunately, if it is an emergency, we have to deal with it.

I would suggest that for that purpose we have a file folder here at the manager's desk which will say "To be cleared" on it, and that they furnish us amendments with evidence that they have been cleared by the chairman and the ranking minority member and, if it involves legislation, with the authorizing chairman and ranking minority member as well; and that we keep that here before we act on any of them, so that Senators may come and inspect; and then, at some dull point in the day, we consider them all and that the managers handle those quickly.

Mr. STEVENS. What we are suggesting is really a Consent Calendar for amendments to the portions of this continuing resolution which are already in conference—the 10 appropriations bills we have already passed.

Mr. JOHNSTON. That is precisely correct.

Mr. STEVENS. And only those in emergency which are deemed acceptable on a noncontroversial basis, because of changed circumstances since they passed, would be considered.

Mr. STENNIS. Mr. President, I think the Senator has made a very practical suggestion with respect to the pattern to be laid out here. We can emphasize that the bills have all been thoroughly considered before. These matters have been acted on.

Mr. STEVENS. I do not think there will be any objection on this side. If the majority leader would propose that, we would narrow this measure very substantially.

Mr. BYRD. Mr. President, I think it is a reasonable approach. I believe we ought to put this proposal after the first rollcall.

I think it is a reasonable one. I would think that anyone who would insist on calling up his amendment after it has already been agreed to in conference as far as I am concerned I am willing to vote against it or vote to table it. I think we ought to have that understanding.

But I do believe that this is a request that we ought to make after the first rollcall vote.

Mr. DOLE. Will the majority leader yield?

Mr. BYRD. I yield.

Mr. DOLE. Let me indicate I think it is a good idea that will take care of about 60 percent of these amendments. Many of these Senators failed to offer them on the regular appropriations bill and if they are of an emergency nature as the Senator from Louisiana pointed out that is different. They may be two or three or four or five in that category. Otherwise, we are going to spend probably until 7 o'clock just on a lot of those measures we have already gone over a couple times this year.

I would certainly encourage Senators on this side not to object to that request when it is made. I think it is a good suggestion to have a vote first. But I would hope that my colleagues, since it will take unanimous consent, would not object. Everyone wants to finish this bill. Most everyone has told me on this side that they do not want to be here tomorrow, but one of those told me that he wants to make sure he gets plenty of time today so the rest of us can be here tomorrow. It does not work that way.

I would suggest that if we really want to finish this bill tonight, we just give the leadership a little authority.

I remember the distinguished chairman said one day the leaders do not have any power, the Members have all the power. Give us 1 day of authority and we can get you out of here fairly early tonight.

Mr. STEVENS. If I could clarify what was said, I understand what the majority leader said about reference to the bill.

S. 1800, the agriculture bill, was reported to the Senate on October 16. It has not been before the Senate. S. 1923, the defense bill reported to the Senate December 4 has not been before the Senate. S. 1924, reported to the Senate December 4, has not been before the Senate. The others, H.R. 2763 passed the Senate October 15. That was the Commerce-State-Justice bill. H.R. 2713 passed the Senate September 30. H.R. 2700, the energy-water bill, passed the Senate on November 18. The HUD bill, H.R. 2783, passed October 15. The Interior bill, H.R. 2712, passed on September 30. The Labor bill, H.R. 3058, passed on October 14. The legislative bill, H.R. 2714, passed on September 30. The military construction bill, H.R. 2706, passed the Senate October 27, the Transportation bill, H.R. 2890, passed on October 29, and Treasury-Post Office, H.R. 2907, passed on September 25.

My suggestion is all those that have passed the Senate previously as contained in this bill by reference are not subject to amendment except on the consent procedures suggested by the Senator from Louisiana.

Mr. BYRD. I think it is a fair, reasonable suggestion. As soon as we have a rollcall vote and have Senators come in, I will put the request.

Mr. STEVENS. I thank the majority leader.

Mr. BYRD. I hope that in the meantime those who perhaps are hearing the request will consider not objecting to it, and if it is objected to then it would be my thought we all ought to just go in and table the amendments which by the way will not be very helpful in a conference on a bill that has already been passed upon.

Mr. President, I thank all Senators.

I yield the floor.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. MURKOWSKI. Mr. President, I have an amendment which I would like to propose which has been circulated and cleared, and I believe under the rules, as proposed by the leadership, meets within the criteria, and I would simply ask the floor leaders if they are prepared to accept the amendment under unanimous consent, that would not require a vote, that has been cleared by the appropriate subcommittee chairman and previously passed by this body. And if so I would be prepared to proceed.

Mr. JOHNSTON. Mr. President, the amendment has not been cleared with me as previously passed the Senate on other bills and the Senate has gone on record as expressing itself on this, and I like the amendment and I am crazy about my friend from Alaska, but we just have to oppose the amendment.

Mr. MURKOWSKI. I wonder if the Senator from Louisiana would indicate it is the understanding of the Senator from Alaska that it could go on a bill that had not previously been on and it is the intention of the Senator from Alaska to put it on the foreign assistance provision which I understand that and agriculture are both open.

Mr. JOHNSTON. Mr. President, we have just gone on about an hour and a half today talking about the importance of getting us out of here and where you have an amendment which has been adopted by the Senate on DOD authorization, the military construction bill, the airport and highways bill, and, by the way, all of those are adopted by reference in this bill, so in effect it is about a fifth degree redundancy because it is already in this bill and we would be putting it in the bill still another time. If we cannot keep that kind of amendment off, we are going to be here until New Year's Eve, not Christmas Eve. We simply cannot do it, as good as this amendment may be. We simply cannot do it.

Mr. MURKOWSKI. I assume that the message to the Senator from Alaska is that you will not accept the amendment as proposed in spite of the fact that it fits within your criteria.

Mr. JOHNSTON. I would say it is already in this bill.

Mr. MURKOWSKI. There is still some confusion in the minds of Sentors. While it may be in this bill under the criteria, what I understand was still open was foreign assistance and agriculture, and it would be appropriate to have the referral on those bills.

Mr. JOHNSTON. If the Senator will yield, what we are saying with respect to defense, foreign assistance, and agriculture, is not that we are going to take every amendment that comes along in those areas but that we will look at those, and we may or may not be for them. In other areas that have already been considered we will be automatically against them unless it is an emergency.

With respect to the distinguished Senator from Alaska, and I do not want to oppose the Senator from Alaska, but it is already in the bill and while it might fit into the criteria, maybe you could squeeze it through in saying it is in the foreign ops, as I say it is already in the bill, so I would hope the Senator would not bring it up because we would have to move to table just on the ground that it is redundant and unnecessary and the Christmas bells are ringing.

Mr. MURKOWSKI. I do not want to further debate but I would call the attention of my friend from Louisiana that there is a difference. This particular amendment extends the provision across the board for all federally funded construction projects and as a counterpart for the action taken in the House the other day by a vote of about 337 to 13, and I think it is timely in the sense that it is an expansion and for that reason I feel deserves some consideration because it is not the same as the proposals in the other bill, but I think we need to send this message indeed that the provision is across the board for all federally funded construction projects and would simply address the issue of reciprocity. In other words, all federally funded projects in the United States would be open to all foreign bidders with the provision that we would have reciprocity to their markets.

It is not aimed at any one country such as the House provision was, and I wondered if my friend from Louisiana would recognize the difference by the Senator from Alaska in expanding it to all federally funded construction projects and if, indeed, that would not make a difference in the sense that it is not the same as those that were referred to in the other legislation.

Mr. JOHNSTON. If the Senator will yield, it is very similar to the others and by the way, if it sparks serious opposition as well, if I were the Senator from Alaska, I would take what he has, which is an expression of the Senate already ripened and consummated in the votes of the Senate where his amendment is already in this bill, rather than risk a tabling motion, which I think undoubtedly would be passed, which then would give him a negative vote, where so far he has gotten a positive vote and it might expand it just a whit or a tittle by accepting this amendment, but he stands to lose it all.

And, in a sense, I am very grateful to the Senator because this is an amendment I voted for before, but it allows us to show the rest of the Senate that, by the grace of the Senator from Alaska, we are able to demonstrate that we are not going to take all of these amendments. I hope he will withdraw it in that spirit.

Mr. MURKOWSKI. Well, it is the intention of the Senator from Alaska to cooperate and the Senator will cooperate. I am not so sure I agree with the Senator from Louisiana that, indeed, if this amendment came up it would be successfully tabled, because I think there is a very strong message here that the Congress is sending to those countries that do not allow us market access.

But I am not going to belabor the point because we have made good progress in support of it in the energy and water bill, the military construction bill, the airport and highways bill, and the Omnibus Veterans Improvement Act.

But it is very important that we send a correct message to those countries that have excluded market access to the United States.

So, with that, the Senator from Alaska will withdraw the first amendment which I think is a test amendment. I will be watching very carefully the managers as they apply the same principles that they have applied to the Senator from Alaska's amendment in the sense of the Christmas spirit.

I hope my friend from Ohio will recognize that it is my intention to be as diligent in this process as he is usually diligent at this particular time of the year, because I think there is precedent being set by the managers of the bill, which is quite appropriate and should be applicable to all Senators.

With that, the Senator from Alaska does withdraw the amendment.

I thank my colleague from Louisiana, who I am quite convinced shares with me in the spirit of the amendment. It is my hope that the entire Senate shares, as well, because we do not want to send the wrong signal with regard to market access in view of the trade figures that have come out as of yesterday, which are dismal. The future does not look very bright unless we provide market access to U.S. firms that are trying to expand their marketplace as they are being displaced in the domestic market by foreign firms which must have that access.

Mr. STENNIS. Mr. President, if the Senator will yield to me, let me commend him for his consideration here of the whole bill that is pending and the very magnificent position he is taking here to clear up the situation so we can move ahead. I am certainly going to give special consideration to the bill when he brings it back.

Mr. MURKOWSKI. I thank my colleague. I think the colloquy we established here is noteworthy to send the appropriate message.

I thank the Chair.

Mr. JOHNSTON. Mr. President, it appears that our message of going home early has really taken and struck a responsive chord with the Senate. I see no Senators on the floor with amendments. I am wondering if we can move to third reading.

The PRESIDING OFFICER. Are there amendments?

Mr. JOHNSTON. Mr. President, let me further state, as I said a moment ago, we have a file here on the manager's desk which says, "To be cleared." If any Senator has an emergency matter, as the Senator from New York has a matter which has been cleared by the authorizers, by the appropriators—and it is for emergency bridge repair; it is a good example—that we put it in this "To be cleared" file where everyone can inspect it and then later in the day, at an appropriate time, we will, in fact, have a consent calendar where the managers will handle these matters by consent and where everyone can come by and look.

So far as we are concerned right now, nothing has been cleared. If Senators think they have amendments that have been cleared, so far as this manager knows, we are not aware of it. So if you want your amendment cleared, please get the appropriate clearance and put it in the file here and we will get it passed on a consent calendar later in the day.

Mr. President, I suggest the absence of a quorum.

Mr. BYRD. Mr. President, will the Senator withhold that request?

Mr. JOHNSTON. Yes, I withhold.

Mr. BYRD. Mr. President, would the distinguished Senators who are managers of the bill feel that we ought to have a live quorum and get Senators over here and get them in to have them understand what the modus operandi is here? We do not have a lot of time to waste on quorum calls waiting on Senators.

Mr. JOHNSTON. Well, if the leader would yield, I am not certain that any amendments are going to be brought up.

We have a technical amendment right here. We could have a vote on that.

Mr. BYRD. Very well.

AMENDMENT NO. 1279

Mr. JOHNSTON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Louisiana [Mr. JOHNSTON] proposes an amendment numbered 1279.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 13 on lines 17 and 18, strike "November 20, 1987" and insert in lieu thereof "December 16, 1987".

Mr. JOHNSTON. Mr. President, this is a technical amendment which conforms the date of this bill to the short-term continuing resolution which expires December 16. So it changes the date from November 20 to December 16. It is a technical amendment, but it is a good way to get Senators over to the floor, so I would ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. COCHRAN. Mr. President, this is a technical amendment. It conforms this legislation to previous action taken by the Congress and identifies the date on which the continuing resolution previously passed will expire. So we urge all Senators to support the amendment.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment of the Senator from Louisiana [Mr. JOHNSTON]. The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. BYRD. I announce that the Senator from California [Mr. CRANSTON], the Senator from Tennessee [Mr. GORE], the Senator from Michigan [Mr. LEVIN], and the Senator from Illinois [Mr. SIMON], are necessarily absent.

Mr. SIMPSON. I announce that the Senator from Alaska [Mr. STEVENS], the Senator from Wyoming [Mr. WALLOP], and the Senator from Missouri [Mr. BOND], are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 93, nays 0, as follows:

[Rollcall Vote No. 409 Leg.]

YEAS—93

Adams
Armstrong
Baucus
Bentsen
Biden
Bingaman
Boren
Boschwitz
Bradley
Breaux
Bumpers
Burdick
Byrd
Chafee
Chiles
Cochran
Cohen
Conrad
D'Amato
Danforth
Daschle
DeConcini
Dixon
Dodd
Dole
Domenici
Durenberger
Evans
Exon
Ford
Fowler
Garn
Glenn
Graham
Gramm
Grassley
Harkin
Hatch
Hatfield
Hecht
Heflin
Heinz
Helms
Hollings
Humphrey
Inouye
Johnston
Karnes
Kassebaum
Kasten
Kennedy
Kerry
Lautenberg
Leahy
Lugar
Matsunaga
McCain
McClure
McConnell
Melcher
Metzenbaum
Mikulski
Mitchell
Moynihan
Murkowski
Nickles
Nunn
Packwood
Pell
Pressler
Proxmire
Pryor
Quayle
Reid
Riegle
Rockefeller
Roth
Rudman
Sanford
Sarbanes
Sasser
Shelby
Simpson
Specter
Stafford
Stennis
Symms
Thurmond
Trible
Warner
Weicker
Wilson
Wirth

NAYS—0

NOT VOTING—7

Bond
Cranston
Gore
Levin
Simon
Stevens
Wallop

So the amendment (No. 1279) was agreed to.

The PRESIDING OFFICER. The Senate will be in order.

The majority leader.

Mr. BYRD. Mr. President, I had hoped we could have the distinguished Republican leader and Mr. STEVENS on the floor when all Members are assembled, as they are, so we could present to our colleagues the picture as we see it and our effort to expedite action on this bill. We wanted to put another request before the Senate with the Senators present.

Mr. President, for the benefit of all Senators, we have already agreed that at 7 o'clock this evening, give or take a few minutes, the leadership on both sides will determine whether or not we go on into the evening and finish the bill or whether we come in tomorrow and finish it.

This is an indication of the serious intention and determination on the part of the leadership to finish this bill today, if at all possible, reasonably possible. And, if not, then tomorrow.

Second, we have consent that rollcall votes not be beyond 15 minutes and that at the close of 15 minutes the call for the regular order—meaning the curtain is down, time is up—is automatic. Of course, if Senators are on the floor or walking through the door, they are going to be recognized. But a Senator is wasting his time, may I say, if he calls up and says, "Tell the majority leader to hold the vote for me."

If he does that, and he has had plenty of time to get here, I am just sorry. I will not hold the vote for that purpose. The purpose of the bells is to alert Senators to a rollcall vote, and if Senators want to be sure they do not miss that vote, they will come then and then have the luxury of going back to the office and taking their time after they have voted. But do not wait until the warning bell. Certainly, do not wait until the last minute or two and then expect to call over here and have the vote held. It inconveniences everybody else.

We had discussed a particular request, which I hoped Mr. STEVENS and Mr. DOLE would be here to explain, but I will ask Mr. JOHNSTON to explain it.

Mr. JOHNSTON. Mr. President, first of all, I think the distinguished majority leader already had a unanimous-consent request adopted that any amendment which we have not received by 12 o'clock—and I notice it is 12 o'clock now—will not be eligible.

I think perhaps first we ought to identify those amendments to be sure that our list is current and exclude all others. Does the Senator agree?

Mr. BYRD. Mr. President, the distinguished Senator is correct. A consent order was entered to the effect that no amendments would be in order if the hour of noon has passed, unless we are informed that a Senator had such amendment.

So the hour of noon is here. Unless Senators have already informed our staffs, cloakrooms, or the leadership that they have an amendment, it is too late. If any Senator on the floor at this moment has an amendment he has not told us about, we will give him this one last chance, but the order has been entered.

Now, the request that we mainly wanted to put had to do with calling up amendments to appropriations bills that have already been passed—for example, Interior, State-Justice, et cetera, et cetera. Ten of the 13 appropriations bills have already been acted upon. The three that remain are defense, agriculture, and foreign assistance. They have not been acted on at this time. And the request was, I believe—I want the three managers to correct me on this—that amendments which were not called up to those appropriations bills when they were before the Senate and acted upon, the 10 bills, would not be in order now.

I do not think I stated it precisely.

Mr. JOHNSTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, I do not think we could do that by unanimous consent. But I think we simply should be clear with Senators that we have a folder here with respect to amendments to be cleared. With respect to all of those matters that are within the jurisdiction of bills that have already been passed, then we ask that you not ask for clearance, that you wait until next year, if you can, because otherwise it will take forever. But if there is an emergency matter within the jurisdiction of those bills which have already passed, then we ask that you get it cleared with the chairman and ranking minority member in the case of an appropriations measure and also the chairman and ranking minority member of the authorizing committee in the case of a matter which also has legislative impact, and then we will need a statement as to why it is an emergency.

The idea is that we will hold those in this file to be cleared so that they will be available to Senator METZENBAUM or anyone else who wants to look through and see what those are, and then at an appropriate time later in the evening the managers will go through those quickly as a consent calendar and get them passed.

With respect to those matters which are in the jurisdiction of defense, foreign operations, and agriculture, which are three bills which have not passed at any time, we hope we can also get matters cleared where possible using the same technique, that is, having the chairman and ranking minority member of the appropriations and authorizing committee, in the latter case where it is a matter that deals with an authorization measure, and get those cleared and put in the file for clearance as an expedited matter.

Now, with respect to those matters in defense such as Midgetman where there will be a debated amendment, we will simply have to plow our way through those. We hope we can work those out and moves are afoot to work out, for example, the Stinger amendment by Senator DECONCINI. He is working on that with the administration. We hope to have that resolved. Some matters we cannot resolve, we will simply have to have debate——

Mr. BYRD. Mr. President, we simply have to have order in this Senate.

The PRESIDING OFFICER. The majority leader is right. Much of the noise in the Chamber is coming from the staff in the back of the room. They will have to exit from the room or be quiet.

Mr. JOHNSTON. Mr. President, with respect to those matters, as in defense, which have not been considered and which must be debated, we will simply have to plow through that. We would urge Senators to keep in mind that we are going to have to try to avoid a Saturday session, which is going to be difficult to do. We hope to avoid a Saturday night session, which may also be difficult to do. If we have these debates that go on for a great deal of time, we may be here all night Saturday night because we have to get the staff to work so that we can have a conference done so we can get out next week.

So, Mr. President, I do not think we could get a unanimous-consent request with respect to these cleared matters, but we simply urge Senators to cooperate.

Mr. BYRD. Mr. President, I want to be sure of that point because it was my perception that the Republican leader and Mr. STEVENS were proposing a matter which should be at least offered for unanimous consent, and I was prepared to do that.

Mr. DOLE. Will the majority leader yield?

Mr. BYRD. Yes, I yield.

Mr. DOLE. We had a discussion in the leader's office this morning and as I have indicated then and here, I have had a chance to talk to a number of my colleagues. Most of them would like to have us impose a little discipline, if we can, and get this thing out of here today. All we are trying to do is make certain everybody is treated fairly and at the same time expedite the process. A lot of these bills have gone through here as has already been explained. Amendments could have been offered then and this is just another bite at the apple.

We have all these amendments, probably 40, 50 amendments, on bills that have already passed or relate to bills that have already passed and if we can get an agreement only by unanimous consent will those be entertained, we could eliminate over half the amendments on the list. It seems to me it would be a reasonable request. That would still leave wide open agriculture, foreign assistance, and the defense appropriations bills. Those three have not been considered. I think this meets with the approval of both the chairman of the committee and the ranking Republican, with Senator STEVENS, I think Senator JOHNSTON already so indicated, and I think the two leaders. So I hope, if they really want us to provide some leadership and move this along, that there would be no objection to that, if the request is made.

Mr. BENTSEN. Will the majority leader yield for a point?

Mr. BYRD. Yes.

Mr. BENTSEN. Do I understand what we are talking about now is that each of these amendments would be subject to a unanimous-consent request? If there was not a controversy about one, and you could get unanimous consent, even if it was not on the particular departments that are being discussed today, that that would be OK? Is that the point?

Mr. BYRD. I wonder if I could phrase a unanimous-consent request in response to the distinguished Senator. I do not think that is what I understand.

Mr. BENTSEN. That was not what the Senator said but that is what the majority leader said and I was trying to get it clarified.

Mr. BYRD. Mr. President, I yield to the distinguished Republican leader so that we can have a clarification of that point.

Mr. DOLE. On Commerce-Justice-Judiciary, for example, there are 1, 2, 3, 4, 5, 6, 7, 8, 9, 10 amendments. We have already passed that appropriation bill once. Many of these amendments were argued at that time. The request would be that on those appropriations bills that have already been passed by the Senate, and there are 10 of them, that any amendment going back to that part would take consent of the managers before it would be considered.

Mr. MITCHELL. Mr. President, will the Senator yield?

Mr. BYRD. Mr. President, let us have a further discussion and then I wish to put a request. I would like to hear from the Senator.

Mr. MITCHELL. I merely wanted to ask a question of the minority leader or the majority leader.

First, do I understand that there is now an existing list as of noon of possible amendments?

Mr. BYRD. There is.

Mr. MITCHELL. So the first hurdle is an amendment must be on that list.

Mr. DOLE. Right.

Mr. BYRD. That is correct.

Mr. MITCHELL. To be subject to further consideration.

Mr. BYRD. Right.

Mr. MITCHELL. Now what we are proposing is a further narrowing beyond that list?

Mr. DOLE. That is correct.

Mr. MITCHELL. Do I understand what the distinguished minority leader is suggesting is that unless there is unanimous consent, no amendment could be offered?

Mr. JOHNSTON. Unless it was cleared.

Mr. MITCHELL. If it related to one of the previously enacted appropriations bills? That a single Member could prevent any amendment from being offered to any of the 10 appropriations bills?

Mr. DOLE. I think what we had in mind was if the managers agreed that maybe it was of an emergency nature or something that maybe should have been considered.

Mr. MITCHELL. There are some of these amendments that were not considered and could not have been considered at the time because the circumstances were not right. I do not think any impression should be left that every single amendment on here has previously been offered, debated, and rejected. That is not the case.

I really wanted to clarify that. If I could have one further clarification, when the Senator said cleared by the managers, precisely who is he speaking of?

Mr. BYRD. The managers presently standing, and Senators JOHNSTON and HARKIN constitute clearance, along with Senators HATFIELD and STENNIS.

Mr. DOLE. And Senator METZENBAUM.

Mr. GLENN. Mr. President, will the Senator yield? Will the Senator yield for a comment on that?

Mr. BYRD. Yes.

Mr. GLENN. I agree with Senator MITCHELL. There are some last stages of some appropriations bills which we have not even considered here yet, and they are very important. One reverses our whole nuclear policy, the nonproliferation policy that we have had for the last 12 or 15 years. It has not been debated here. As I understand it, it got very little discussion in the committee.

Mr. JOHNSTON. Will the Senator yield?

Mr. GLENN. All I was pointing out, and I was not trying to debate this particular one, but I am pointing out that there are some things like that.

Mr. JOHNSTON. I will explain that.

Mr. GLENN. I would not want to leave that just to the discretion of somebody to say whether it is important or not. I think it is vitally important. I am prepared to debate it for the next several days, if we have to.

Mr. DECONCINI. Will the Senator yield?

Mr. BYRD. Mr. President, I have the floor. I am glad to yield because I would like to get as much clarification and understanding of the intent of Senators as I possibly can before I put any other request. And I hope the Chair will help me maintain order so we can all hear.

Mr. BUMPERS. Mr. President, could we have order? This is like a fifth-grade fire drill. People are roaming around talking. I am just getting bits and pieces of what is going on here. What is wrong with the seats? These are comfortable seats. Why do people not use them?

The PRESIDING OFFICER. The Senate will come to order. Senators will take their seats.

Mr. DECONCINI. Will the majority leader yield?

Mr. BYRD. I only want to say at the moment that the statement that was just made I think was the most reasonable and appropriate statement that I have heard all morning. And I compliment the distinguished Senator from Arkansas for making that.

Yes. I yield.

Mr. DECONCINI. I thank the leader. My statement is not going to be near as profound as the Senator from Arkansas, I assure you. But I have a vital piece of legislation that I intend to offer to Commerce, Justice, and State. It deals with the GAO study for protection of, and provides Salvadorans and Nicaraguans voluntary departure status.

I am doing that, Mr. Leader, because I cannot get it up. That is as clear as can be.

I am not playing any games. It may be debated for several days. Unless I can make some arrangement with the Senator from Wyoming and the leadership to have a vote next year on it, I intend to bring it up.

So I am going to have to be a spoiler here, at least as to that amendment, and object to any unanimous consent because I do not think the managers are about to consider that an emergency, as I consider it.

Mr. BYRD. Mr. President, I do not think anyone here wants to be unreasonable, and I do not intend to shut out anyone discussing an amendment of that kind. I hope we will drop from our vocabulary for the moment a discussion of "several days" because that simply is not going to happen. But I do want us all to be reasonable. I expect to be reasonable. I am trying to give each Senator an opportunity to call up his amendment. But I think what we are attempting to do here is to have a clear understanding that if Senators have already had an opportunity to call up their amendments to the appropriations bills that have already passed the Senate, and there are no extenuating circumstances anew, or emerging circumstances that compel us to consider that amendment at this time, that Senators would discuss such amendment with the managers, see if we can work out a time agreement on it, and give them a shot at it.

But otherwise we just simply will table. I will support tabling. It might be my own amendment. I might like it. Maybe I voted for the amendment, and have spoken for it many times in the Senate. But I am a little worn with this idea of looking at the continuing solution, saying that is the horse we are going to ride because we have had our opportunities on other bills, perhaps we called up the amendments, it a was defeated, and so we are going to try it on the continuing resolution. I think we have to be reasonable, and keep in mind that we also have the convenience of our colleagues and the Senate, and in a very realistic situation we have to get this bill passed.

Staff has to work on it before it can go to conference. I do not think there is any talk about debating something for days. The Senator wants to be very careful about what he is saying.

This Senator will say if we are going to have debate for days, it is going to be during Christmas week.

Mr. DECONCINI. If the leader will yield, I want clarification. I am not the one who suggested days. I already suggested 1 hour.

Mr. GLENN. That has been mentioned three times now. I take back the "days." I just do not want to get aced out on something that I think is extremely important. I am not going to filibuster.

Mr. DECONCINI. Neither am I.

Mr. GLENN. I have not filibustered in all my years in the Senate and am not going to start now before Christmas.

But I do want to make certain that this is considered and that we do not go out and leave important matters left that we are going to have to live with for the next decade or so. I just say that we can consider it. That is all I am pointing out.

Mr. BYRD. I appreciate that. I do not think anyone is seeking to ace out anyone. There are issues that will take a little time here. Let us try to be reasonable and come to some agreement as to time. As far as I am concerned, I am willing to follow these managers down the barrel of a cannon. I may like the amendment. But I am ready to support them on tabling amendments. I will make my judgment on that in each case. But if I think it is a piddling amendment that has had its opportunity and we ought not be on this, I am for tabling it. If I think it is a serious amendment, and ought to have a chance, ought to be debated, I want to hear the debate. But I do not want the debate to go on and on and on. I am ready to table that amendment if the managers feel it should be.

So I am not going to put a request at this moment. Let us see how things work. I think all Senators as a result of this conversation, understand that the general mood of this Senate is that we get on with the serious business of the Senate, and adopt this bill.

Mr. KERRY. Would the distinguished leader yield for a question?

Mr. BYRD. Yes.

Mr. KERRY. Is it my understanding, Mr. President, that the matters suggested by the distinguished Senator from Arizona and from Ohio fall into the category of three appropriations bills that have not yet been considered? Are they in those three? If they are, would it at least be possible to attempt to propound at this point a unanimous-consent request as to limitations on all those appropriations bills which have gone through committee and are on the floor thus far, be considered, and at least seek to narrow as to those bills so that the only area that might be left open on some variation would be on the three that have not yet been considered?

Mr. BENTSEN. Mr. Leader, I have to object on that. And I do not want to delay it. I do not intend to. But there are some noncontroversial amendments that can be offered to clear up some problems that would be pertaining to previous appropriation bills already passed. I would be quite willing to subject myself to the approval or disapproval of the managers of the legislation, and if they did not approve of it, forget it. But on that type of thing, surely we can conclude this.

Mr. KERRY. If the leader would yield further, I did not have in mind in any way narrowing the ability to agree with the distinguished Senators, but at least propound the agreement as to the narrowing of all those areas outside the three unconsidered, and place the limitation at this point according to the earlier suggestion that it would be that cadre of the leadership that would have the right to make the decision.

Then the Senator from Texas would be covered, and we would at least narrow it significantly. I wonder if we could not propound that now and perhaps that would move us some distance.

Mr. BYRD. Mr. President, the distinguished Senator from Louisiana wishes to respond.

May we have order, Mr. President?

The PRESIDING OFFICER. Will Senators again please take their seats?

Mr. JOHNSTON. If I may first state the outlines of a proposed unanimous-consent request, then I will give an explanation, and then I will let the majority leader propound it.

First, the proposed request would say that those amendments which are within the jurisdiction of Appropriation Subcommittee on Commerce, Justice, State, the Judiciary, the District of Columbia, Energy and Water, HUD, and independent agencies, Interior, the legislative branch, Transportation, Treasury, Postal Service, general Government, that those amendments—that those amendments shall not be in order unless cleared by the chairman of the Appropriations Committee and the ranking minority member of the Appropriations Committee or his designee, and that no amendment in those areas that is already in the House bill be in order. In other words, those would be in conference. That would be the proposed unanimous-consent request.

The explanation would be this: That with respect to those subcommittees, those 10 areas, the chairman and the ranking minority member or his designee would attempt to clear matters which have been cleared by the subcommittee chairman of the Appropriations Committee and the ranking minority member.

Mr. BYRD. Mr. President, it is difficult for me to hear what the Senator is saying, and I insist on order in the Senate. We are trying to work out a difficult request here.

The PRESIDING OFFICER. The Senator will not proceed until Senators take their seats. Noise is coming from Members of the Senate.

Mr. JOHNSON. Mr. President, to repeat, very quickly, the explanation: With respect to these 10 subcommittee areas, the chairman and the ranking minority member or their designees on the Appropriations Committee would clear matters which are of an emergency nature which, in turn, have been cleared by the Appropriations Subcommittee chairman and ranking minority member, or, in the case of matters involving legislative matters, additionally by the chairman and ranking minority member of the authorizing committee. We would have to use judgment, of course, as to whether it is an emergency.

With respect to those kinds of amendments, we would like to put them in this file, which says, "To Be cleared," and hold them here for inspection.

We ask all Senators to have them signed off, so that it is obvious to anyone who looks through there that they have been cleared—either a signed statement by the author of the amendment or, better still, by the initials of the chairman and the ranking minority member, which would make it even more clear that they have been cleared.

With respect to the three subcommittees whose bills have not been considered by the Senate—that is, Defense, Foreign Relations, and Agriculture—those matters would not be affected by the unanimous consent. We would ask, however, that, where possible, all those amendments be cleared; where it is not possible, that we get short-term agreements; and where that is not possible, that we try to hold our appetite for debate down to a minimum.

I think that the unanimous consent regarding the 10 subcommittees would be very helpful and fair to all Senators.

Mr. COCHRAN. Mr. President, will the majority leader yield for a question?

Mr. BYRD. I yield.

Mr. COCHRAN. In reciting the names of subcommittees which have already had their bills passed by the Senate, I think the distinguished Senator left out Labor-HHS and military construction. I know that they are a part of the request.

Mr. JOHNSTON. The Senator is correct.

Mr. COCHRAN. That would be the 10 subcommittees, then—those cited, plus HHS and military construction.

Mr. JOHNSTON. The Senator is correct, and the proposed unanimous consent will be so amended.

Mr. BYRD. Mr. President, I want to yield to the distinguished Senator from Maine. Does the distinguished Republican leader wish to speak?

Mr. DOLE. Mr. President, I hope we can work it out. We are moving in the right direction now.

Mr. GRAMM. Mr. President, will the distinguished majority leader yield?

Mr. BYRD. First, let me yield to the Senator from Maine, and then I will yield to the Senator.

Mr. MITCHELL. Mr. President, I would like to request a clarification of the distinguished Senator from Louisiana.

In his suggested unanimous-consent request, he referred to items which were already included in the House CR, but there was no word of that in the explanation.

Do I correctly understand his intention to be that if a matter is in the House CR and therefore in conference, it would not be in order to offer here? Is that what the Senator intended to suggest in his proposal?

Mr. JOHNSTON. Yes, that would be the intention.

Mr. MITCHELL. I object to that, because the purpose of offering it is to put in this bill, so that it will not be in conference.

I would like to make a second request for clarification.

Mr. JOHNSTON. Well, then, Mr. President, in view of that, let me amend the proposed request by excluding therefrom any statement with respect to a House-passed bill. In other words, just because it has been passed by the House would not exclude it or make it out of order.

Mr. MITCHELL. May I make another inquiry of the distinguished Senator?

He described a clearance procedure and held up several times the envelope, the folder, there. Earlier, he indicated that approval in writing by the chairman and the ranking minority member of the authorizing committee and the chairman and ranking minority member of the relevant appropriations subcommittee would constitute clearance.

My question is this: If they approve it and I now have their signatures on my amendment, it then goes into the envelope. If a single Senator sees it and objects, does that negate the clearance? I am trying to understand what the clearance process is.

Mr. JOHNSTON. Mr. President, what we have in mind is that to be cleared, to be considered, it would have to be cleared by the chairman or his designee or the ranking minority member or his designee, or the designee of the Appropriations Committee. That, in turn, would go through the procedure described, of asking you to get it cleared by the subcommittee chairman and by the authorizing committee chairman, where appropriate, and the ranking minority member, where appropriate.

Once we have exercised the judgment of saying it is both and an emergency and has been cleared and put in the folder to be cleared, then it would be our intention to handle that as a consent matter.

It would not prevent some Senator from objecting and asking for a rollcall vote or, indeed, having debate on it. But it would certainly expedite matters if we do have it cleared and we can bring it up, in effect, by consent. But it would not prevent you from having that amendment in order simply because someone objected.

Mr. MITCHELL. That is a point I want clear, then: That now, having gone through one clearance procedure, and I am perfectly willing to go through a second one, but if I am unable to do that, I still have the right to offer this amendment.

Mr. JOHNSTON. That is right.

Mr. MITCHELL. So that everybody can understand that.

Mr. JOHNSTON. Precisely.

Mr. DECONCINI. I do not think that is what he is saying. If the Senator from Louisiana, whoever is handling it over there, and the Senator from Oregon determine that it is not an emergency—it is cleared by everybody that you indicate—that it is not an emergency, then it is not cleared by them. Therefore, you do not have the right to bring it up.

Is that correct?

Mr. JOHNSTON. What I am saying is that to be put in the cleared folder, it would have to be cleared by the chairman and the ranking minority member of the Appropriations Committee or his designee. Once it is cleared by us, then it is eligible to be considered by the Senate.

If any Senator objected to its being considered—in effect, on the consent calendar—that would not prevent you from bringing it up and having it considered.

Mr. DECONCINI. What about the emergency clause here that has been thrown out?

Mr. JOHNSTON. The emergency would be based on the judgment of the chairman of the Appropriations Committee and the ranking minority member.

Mr. DECONCINI. If everybody had cleared the amendment of the Senator from Maine but the ranking member and the chairman said, "I do not think it is an emergency," then it does not go in the cleared file, to be subject to everybody else to come in and look at.

Mr. JOHNSTON. That is correct.

Mr. MITCHELL. I could then still offer the amendment?

Mr. DECONCINI. No, the Senator could not offer it.

Mr. JOHNSTON. He would not be eligible.

Mr. MITCHELL. I object.

Mr. GRAMM. Mr. President, will the Senator yield?

Mr. BYRD. I yield to the Senator from Texas.

Mr. GRAMM. I thank the majority leader for yielding.

As I understand it we in the Senate have passed 10 appropriations bills and what we are being asked here is not to offer amendments to those that are not cleared. Are we to assume that the continuing resolution simply embodies those 10 appropriations bills and that nothing has been changed except the dollar amounts that would be produced by the budget agreement cap? Is that correct? So no one would object to a unanimous-consent request that would strip anything that had been added from the bill?

Mr. JOHNSTON. The Senator I think asked two questions. The first one is that we simply brought forward the bills as passed by the Senate and changed the dollar caps.

Mr. COCHRAN. If the Senator will yield, there is, however, the pay raise.

Mr. JOHNSTON. And the pay raise.

Mr. COCHRAN. And COLA's.

Mr. JOHNSTON. We disallowed the pay raise for Members of Congress, the judges, and executive level V and above. We limited all else to 2 percent.

Mr. GRAMM. That is the only change that has been made in any one of the 10 bills.

Mr. COCHRAN. The Senator is correct.

Mr. JOHNSTON. The Senator is correct.

Mr. GRAMM. I thank the Senator.

The PRESIDING OFFICER. The majority leader has the floor.

Mr. MELCHER. Mr. President, will the Senator yield?

Mr. BYRD. I yield to the Senator from Montana.

Mr. MELCHER. As I understand this unanimous-consent request, it negates the list that was submitted earlier. Is that correct?

Mr. BYRD. It does not negate the list, but it negates some of the items.

Mr. MELCHER. There would be absolutely no way at this time of knowing whether an amendment would be cleared with this process and I think perhaps the amendments I have on my list will either be accepted or will be viewed as not being important enough to consider, but I certainly cannot be placed in the position of not knowing where I am. If the unanimous-consent request is made at this time, I would be forced to have to object.

Mr. BYRD. Mr. President, I think there are some problems with the clearance request and the clearance procedures. Why do we not proceed? I think Senators have a better understanding of what the committee chairmen and ranking members and designees are saying here, what they are attempting to do. We have a better understanding. Why do we not discuss the amendments with the managers? Perhaps some agreement can be reached between and among Senators that will expedite this whole process without my attempting at the moment to put a request. There are some parts of the procedure that were stated by the distinguished Senator from Louisiana that I would have problems with, not that I have any amendment that gives me any trouble. But if we can do that working together in the spirit of trying to pare down bills and give Members such as Mr. GLENN and Mr. DECONCINI, of course, the right to call up their amendments, if we can do that for now it may be that as a result of a little bit of experience here and this process that is outlined we can go to them later and make the request.

Did anyone else want me to yield?

Mr. DOMENICI. Reserving the right to object, may I discuss with the Senator from Louisiana?

Mr. BYRD. Yes.

Mr. DOMENICI. In event some of us cannot be for a while on the floor, I understand the spirit of his proposal, but let me just ask since we are talking about the 10 bills that have passed and that is what makes the proposal satisfactory to this Senator, we have had one bite with that apple. Had we not had the CR to package them up it would not have gone to conference and would have gone out one at a time in conference and there would be no further amendments. So it makes it very reasonable to me.

I am wondering however in terms of timing. I say to the Senator from Louisiana he has at some point to get on the three bills that have not yet cleared the Senate, and some of us have an amendment that we have to touch base with five or six Senators. The Senator is not going to close up this 10 very quickly on us, is he, while we are trying to clear our amendments?

Mr. JOHNSTON. No. If the Senator will yield, those would be eligible at any time to be considered.

Mr. DOMENICI. Until the CR is adopted.

Mr. JOHNSTON. Yes.

Mr. DOMENICI. I thank the Senator.

Mr. JOHNSTON. We will get a down time sometime when no amendment is pending.

Mr. PRESSSLER. Will the Senator yield quickly?

Mr. BYRD. I yield.

Mr. PRESSLER. I have an amendment on Mount Rushmore cleared on this side, not on that side. I do not want to take time. It has been on the list. Do I understand if it does not get cleared on that side I could not offer it for a rollcall vote or I could still do that under this procedure?

Mr. JOHNSTON. If the Senator will yield, we have not adopted that unanimous consent. But if that amendment were not cleared, and I believe it is in the Interior chapter, if it were not cleared, under the proposed unanimous consent it would not be eligible. However, we would clear it if it is cleared by the appropriate subcommittee chairman and if it is an emergency. If it is just another matter that could be cleared or can be presented next year then we would reluctantly have to say "no."

Mr. PRESSLER. I doubt I could classify it an emergency. We have been trying to improve Mount Rushmore somewhat. In other words, if I agree to this unanimous consent request it has to be an emergency.

Mr. DOLE. It has to be cleared all around.

Mr. PRESSLER. It has been cleared on this side but not on that side. If I get it cleared on that side. It is not an emergency I have been told.

Mr. BYRD. No request is before the Senate.

I have an understanding already that as to one of the perhaps somewhat controversial amendments that have been discussed here the offerer of the amendment is willing to enter into a time agreement on it. Why do we not move on now and let Senators who have amendments discuss with the managers? Perhaps this process, while it is not locked in as an order of the Senate yet, could be utilized to some extent to expedite the order.

Mr. DOLE. Will the majority leader yield for a comment?

Mr. BYRD. Yes.

Mr. DOLE. I hope we would not give up on this. Last night about 11 o'clock, I had 5 amendments on this side and now I have 73. That is how ridiculous all this is. Everyone is dredging up things he had around his desk for 6 months or 7 months and tossing them in here. It beats throwing them in the wastebasket.

You cannot offer any more, but I guess—is it 73? I do not know how many the Democrats must have now, maybe 100. That is where we are.

I think Members ought to know there are maybe 175 amendments. If we do not want to discipline ourselves, we can just stay here until we process 175 amendments. I do not think anyone wants to do that, and I would hope that the majority leader could come back and make that request, maybe at 2:30 or something. I think maybe by then, some of these little bumps can be worked out.

Mr. BYRD. Let us get going on the serious amendments.

I join with the distinguished Republican leader, and may I say to the Republican leader that a good many of these amendments are on the list without the knowledge of the Senators whose names are on them. I was told this morning that in the case of one Senator, he had five amendments on the list and he only knew about one. So a good many of these amendments have been instituted by faithful staff. But let us get on now. Senators have an idea of what has been outlined here. It may be that a little later we will fashion a request.

Mr. President, I believe the Senator from Washington wanted me to yield.

Mr. ADAMS. If the majority leader will yield, I say this to all Senators, that Senator CRANSTON and I on the Democratic side are calling each of the Senators, and we are trying. We would like an accurate count, so we could give it to the managers, of those amendments that Members do not intend to offer. If they will do that, we can reduce this list.

Second, if they are absolutely certain they want to offer amendments, if they would give us some idea of time agreements that we can again give to the managers, it will be very helpful.

We are calling every one who is on the original list and this will be fed to the managers, so I urge all Senators that they reply to us promptly. We will protect their rights in every way possible, but this is the last chance we have. Otherwise, it will be gone.

Mr. BYRD. Very well.

Mr. METZENBAUM. Will the majority leader yield for a question?

Mr. BYRD. Yes.

Mr. METZENBAUM. My understanding is that there was a list prepared that had to be in by 12 o'clock.

Mr. BYRD. Yes.

Mr. METZENBAUM. I am not at all certain that that list has been incorporated into the RECORD. It would occur to me and I ask the leader whether or not it is not necessary that this list in some way be made a part of the Senate RECORD in order that there cannot be other names and other amendments added.

Mr. BYRD. Yes, we will just make it a part of some record here so that we do know what amendments we will have to deal with. I will have to depend upon floor staff to help us with this.

Mr. METZENBAUM. May I ask the manager of the bill a question?

Mr. BYRD. Yes, I yield for that purpose.

Mr. METZENBAUM. If the Senator from Louisiana would be good enough to respond, I think we have a clear understanding, but I would like to have it in the RECORD so that we have no doubt about it.

Is the Senator from Ohio correct in his understanding that the managers of the bill do not intend to accept any amendments without giving all of us an opportunity to know what is in those amendments and giving us adequate notice that there is going to be acceptance of certain amendments?

Mr. JOHNSTON. Mr. President, the purpose of our "to be cleared" file here is just for that.

Now, we do not intend to go around to every Senator and say, "Do you know what is in here?" and explain it.

For example, here is an amendment from Senator MITCHELL that has been signed by Senator STAFFORD, Senator PROXMIRE, Senator GARN, Senator MITCHELL, Senator BURDICK, myself, and Senator COCHRAN.

Mr. METZENBAUM. I am only wanting to assure that any Member who wants to get an amendment adopted, that that amendment will have to go into that file and that it will not be accepted without it being called to our attention.

Mr. JOHNSTON. That is correct. The consent calendar will go in this. Now, we hope not to put something in and then the next minute pass it. But we urge the Senator from Ohio—and I know he is interested—to keep constant track of this.

Mr. METZENBAUM. We will do that. I thank the Senator and I thank the majority leader.

Mr. BYRD. May I add to the list, Mr. President, of Senators who will have to clear that type of amendment or any other type of amendment, the two leaders.

Mr. JOHNSTON. Very well.

Mr. BYRD. You will not find a quarrelsome leader, but I want to know what is on the list also.

Mr. JOHNSTON. I think that should be clear and I do not think we have made it clear; that we should clear this with the two leaders, as well.

Mr. BYRD. I thank the Senator.

I promised to yield to Mr. PRYOR and then I want to yield the floor.

Mr. PRYOR. Yes, Mr. President, I have only one, if I might say, suggestion to our managers. Maybe I should say to our prospective managers of the CR, because we have not really gotten on it.

We are talking about amendments to the CR. No one has yet discussed sense-of-the-Senate resolutions which take as much time and as much debate and require as much time in a rollcall vote.

I am only suggesting, I say to our distinguished friends who are about to manage this bill, that in the process of an ultimate unanimous-consent request, that that request encompass a separate request as follows: that no sense-of-the-Senate resolution to this pending CR be considered unless there would be 20 cosponsors or it could not be accepted at the desk.

I think this would take away a lot of frivolous sense-of-the-Senate resolutions. I think it would probably save us many, many hours.

I was just thinking how if I am not going to bring up an amendment, I would say to the distinguished leader, maybe I will just throw in a sense-of-the-Senate resolution or two, which takes up an inordinate amount of time.

Mr. BYRD. I think the Senator has made an excellent suggestion and I would support that suggestion.

Mr. President, I think we have had a good discussion. I will yield the floor, but I hope Senators will get in touch with the managers with regard to their amendments to try to get clearance and some understanding of the amendments that can be adopted without rollcall votes. If Senators are willing to attach a time limit or suggest a time limit, do that, work with Mr. ADAMS, who is on the whip organization and, on the other side, by the same token, do the same things, I believe that this time will prove to have been well spent.

Mr. FORD. Mr. President, are amendments in order?

The PRESIDING OFFICER. Amendments are now in order.

Mr. FORD. I thank the Chair.

Mr. BYRD. Mr. President, I hope that we could have the list from both sides of the aisle so that we will know what the total number of amendments is and the nature of the amendment. Here is the Domocratic list.

Do we have the list from the other side of the aisle, also?

Mr. STEVENS. I am sorry to report that it is not ready.

Mr. BYRD. Mr. President, I believe it was understood that no amendments that had not been called to the attention of the managers and the leadership by noon would be in order.

Mr. STEVENS. I say to my good friend, we are not adding anything to it. We are trying to eliminate some of them. We will abide by that agreement, but we are trying to see if people really cannot agree not to offer some of these amendments. We will give it to you as soon as possible.

Mr. BYRD. I thank the Senator.

AMENDMENT NO. 1280

(Purpose: To express the Sense of the Senate that funding be appropriated to develop a permanently manned civilian space station)

Mr. GARN. Mr. President, I have an amendment at the desk and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Utah [Mr. GARN] for himself, Mr. RIEGLE, Mr. HOLLINGS, Mr. HEFLIN, Mr. CHILES, Mr. BENTSEN, and Mr. DANFORTH proposes an amendment numbered 1280.

Mr. GARN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the joint resolution insert the following new section:

SEC. . (a) The Senate finds that—

(1) the United States must maintain its leadership in space because of its importance to our national and economic security;

(2) the Nation's space program can inspire our youth to careers in science, mathematics, and engineering;

(3) the Nation's space science, space applications, and space technology program are an important element of U.S. foreign policy;

(4) the space program is a symbol of the Nation's technological leadership and competitive spirit; and

(5) the space station program is essential to maintaining U.S. leadership in space and to promoting the development of space for the benefit of all mankind.

(b) It is the sense of the Senate that appropriations be provided to support the development of a permanently manned space station in cooperation with Canada, Japan and the European Space Agency within a realistic budget allocation for the civilian space program.

Mr. GARN. Mr. President, may I have the attention of the Senate? This should only take 30 seconds, if I can be heard.

The PRESIDING OFFICER. The Senate will be in order.

The Senator from Utah.

Mr. GARN. Mr. President, I will be very brief.

In the leadership agreement, it causes severe difficulties with the space station. As a matter of fact, it is in doubt at this point whether the space station will even have sufficient money to go ahead. That is certainly true in the second year.

I have looked at this with many Members of this body. I have no more rabbits in my hat at this time. I have no suggestions and, therefore, I have no intention of offering any money amendments.

This is simply a nonbinding sense-of-the-Senate resolution. I will not take the time of the Senate to read all of the whereases, only the last one, which is the impotant one. It simply says:

It is the sense of the Senate that appropriations be provided to support the development of a permanently manned space station in cooperation with Canada, Japan and the European Space Agency within a realistic budget allocation for the civilian space program.

It requires no money. It makes no changes. It simply puts this body on record that we are in favor at some place in this process next year on the conference of finding a way so that the space station does not die. Senator PROXMIRE is agreeable to this. I hope the managers of the bill would simply be willing to accept it. I see no reason to have a rollcall vote on something that this body has supported, the concept of a space station, and that it merely be adopted by voice vote.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. CHILES. Mr. President, America's built itself a reputation as a pathfinder. It's our tradition, and good sense tells us it must be our future.

We're at our best when we're reaching for clear and worthy goals. One of our proudest hours was the landing on the Moon. We knew where we were going. We understood why.

The lunar missions gave the Nation a reason to marshall the best of our talent and our finest technology to a common purpose.

We didn't go to the Moon just to prove we could do it. We went to learn, to lead, and expand the reach of human adventure.

Each of those reasons underlies the wisdom of moving ahead with the space station.

It is the chance to reinvigorate the National Space Program and build on the progress made from Mercury to Gemini, from Apollo to Skylab. And the space station is the natural and necessary companion to the space shuttle.

We've learned a great deal from our earlier programs. But now it's time to harness the learning and apply it in search of better living on Earth.

What we've added to our storehouse in the fields of astronomy, astrophysics, materials processing, and biomedics must be put to work. The space station is the workhorse.

It can become our most advanced and most useful research tool even as it brings commercial benefits from what we've learned thus far.

We are not alone in our interest in space. Other nations—from Japan to India, from China to Canada—are pushing ahead with their own programs.

But we have the track record, the know-how, and the resources to unleash the genius of mankind and lead it on to new discoveries.

The National Space Administration has been through hard times. They have had to answer questions. But they have achieved wonders of science and success unequalled in history. And I believe they have the will and the ability to do even more.

NASA has tackled huge assignments, then been forced to pause because funding was uncertain and the national policy was unclear.

We would make a terrible mistake to squander our achievements in space. We would make a mistake to suspend NASA in whiplash, lunging from a major program into virtual hibernation.

For some time now, we have been preaching the Gospel of a reawakened Nation, ready to compete and determined to succeed. Throughout our economy we've grown impatient with a technology that produces breakthroughs, only to have other nations put it to commercial use.

The space station is an opportunity to turn things around. It can be a great deal more than a unifying symbol, even though that in itself is something of great worth.

It can be a national focal point to attract our finest young minds. It can be the trigger mechanism in a new burst of American creativity.

It is up to the leadership of this country to set the course. If we make the commitment, we have the people to make the progress.

So I would urge my colleagues to give their full support to building the space station. We are the fortunate people in history who can do more than ponder the mysteries of the universe. We have the capacity to push back the curtains and see for ourselves.

What we need now is the will and the vision to begin. And I'm convinced that means building the space station.

IN SUPPORT OF NASA'S SPACE STATION PROGRAM

Mr. D'AMATO. Mr. President, I rise today in support of the amendment by my distinguished colleague, Senator GARN, expressing the sense of the Senate that sufficient funds should be appropriated to permit NASA to proceed with the development of a permanently manned space station.

Few in this body would question the importance of the space station to this Nation's continued leadership in space. A permanently manned space station is vitally needed for the many scientific and technological opportunities it would provide. In addition to serving as a laboratory for basic scientific research in a microgravity environment, the space station will provide a critical platform for Earth observation, astronomy, satellite servicing, and life sciences research. Many of these benefits have already accrued to the Soviet Union, whose permanently manned "Mir" space station is already in orbit above us. Unless we provide the resources needed to move forward with our space station, we risk the loss of any opportunity to stave off Soviet preeminence in manned space exploration.

Unfortunately, at this critical time for our Nation's space program, budget deficit reduction has created a situation that could delay, or even halt, the development of the space station. We simply cannot allow this to happen. More than ever, we need to affirm the importance of the space station to the future vitality of our manned space program. I hope my colleagues will join me in demonstrating support for the space station by passing this essential amendment.

Thank you, Mr. President.

Mr. HEFLIN. Mr. President, I rise in strong support of the amendment which has been offered by the distinguished Senator from Utah, Senator GARN and myself. The space program, particularly the space station, is tied to our economy, our national security, and advances in science and scientific applications.

I understand that a voice vote is possible on this amendment. I certainly hope that is the case.

I do not intend to take up too much of the Senate's time. However, I do want to say a few words about the situation the space program, particularly the space station, is in. In my judgment, the space station and the space program in general is too important to the future of our Nation and to science and technology research to stand idly by and let this program become severely crippled or killed. In that regard, I would like to take a few brief moments of the Senate's time to explain some of the benefits of the space and the space station and my reasons for supporting it.

The current budget climate has left our space program in a terrible dilemma. Because NASA is an independent agency, and its funds are appropriated in the HUD-independent agencies appropriations bill, the space agency is having to take a disproportionate cut than other programs in the budget. Mr. President, because this continuing resolution requires the HUD-Independent Agencies Subcommittee to take a $680 million cut in outlays and because about two-thirds of that subcommittee is entitlements which either cannot be touched or can only take a very minute cut, the discretionary R&D programs, much of which is NASA programs, must take a much higher percentage cut than other programs. Mr. President, this is a very disturbing situation to me as it is to many of my colleagues who have a deep desire to see the space program continue and prosper.

In that regard, I am happy to join with Senator GARN who, as I, feels very deeply that the civilian space program is simply too important to sacrifice in this manner.

While I have a great concern over the cuts across the entire space program, I am particularly concerned that the space station may take the brunt of these cuts. This could not only cripple the program significantly this year and next year, but could also have the effect of killing the program altogether in the future.

Mr. President, for fiscal year 1988, the administration requested $767 million for the space station program. In my judgment, this was already too low since NASA originally felt it needed $1 billion to get the space station initiated in fiscal year 1988. However, as we all are well aware, the administration has been less than supportive of the civilian space program in the last several years. So NASA was allowed to ask for only $767 million for the year. That amount has been approved by both houses in the NASA authorization bill and was approved in the House version of the HUD-independent agencies appropriations bill. Then, the Senate, in its HUD-independent agencies appropriations bill, cut the space station program to $558 million.

Mr. President, it is simply inconceivable to me that the Senate could stand by and allow a situation to occur that could actually result in the irrevocable crippling of or, heaven forbid, the killing of this program which is so vital to maintaining U.S. leadership in space and promoting the development of space for the benefit of all mankind.

This is a critical time for our Nation's space program. We have experienced nearly 2 years of down time with the shuttle and have fallen far behind the Soviets in manned space technology research. While the United States may still be preeminent in space research on the whole, if we allow the space station of the United States to be killed, it will not be long before the space program of the United States will fall also.

This Congress, the 100th Congress, will be required to make the choice as to whether we want to have a manned space station or not. The members of the 100th Congress will be required to decide if the United States is to be a first class space faring nation or not. If we let the space station program be crippled or killed, the United States will not just be a second class space faring nation, it will be a fourth or fifth class space faring nation—behind the Soviets, the Europeans, the Japanese, and possibly the Canadians, as well.

I would like to make one note of pleasure. I understand that the United States and Canada have now reached an agreement on their joint participation in the space station program. I am delighted that this agreement has been reached and I believe that it will be beneficial to the program.

Other nations of this world have recognized the importance to their economies, national securities, and to their future that space technology offers. They will not stand idly by and wait for the United States to build back its space program. They will march ahead. Mr. President, we cannot be left behind or relegated to a position of simply tagging along other nations in space.

Now Mr. President, I do not mean to stand here and simply say that we should keep up with the Jones'. In my judgement, it is more important to have a strong and robust space program because of the unlimited benefits that it offers to our Nation as a whole. The simple fact is the merits far outweigh the costs. Mr. President, you do not do a space station and a space program because we have the money to do it or because other nations do it, you have a space program and do space station because that is what great nations do.

It is inconceivable to me that my colleagues in the Senate could stand idly by and allow our ability to tap such a bountiful resource for our future fall by the wayside.

Mr. President, when the history of the 20th century is written some day in the distant future, one thing that will certainly be remembered was that this was the period when man left his planet and began to explore the universe. I truly beleive that space is the greatest adventure of our time and any nation that sees itself as a world leader cannot, and must not, ignore it.

Deeply embedded in our national history and a true part of an American spirit is the need to be pioneers, adventurers, and entrepreneurs. It is also in our makeup to want to lead and to be preeminent. We did not invent the industrial revolution, but we exploited and improved upon it until we became a world power. Likewise, we may not have been the first in space; but once *Sputnik* raised our national conscience, we became the world's leading space pioneer. Mr. President, we have the opportunity, by way of the space station, our next logical step in space, to recapture the American preeminence in space on every realm of space technology.

Space has been important to us in the past and it will become increasingly important in the future. We use space to ensure our national security, improve our standard of living, and broaden our scientific knowledge.

As the first Senator to call for the development of a permanently manned space station, I have followed its progress very closely. As I have often said, I believe the manned space station is the most exciting and promising program undertaken by NASA since we went to the Moon, and it is vitally important that we keep its development on schedule. However, unfortunately, because it is widely accepted that the space station will not be fully funded in 1988, the program already faces delays as much as a year or more which will add significantly to the total program cost.

Mr. President, there are many reasons to support a strong and vigorous space station program. A permanently manned space-based facility will ensure United States leadership in space for many years to come. There is no question that the Soviets have pulled ahead in manned space activities. This facility will help the United States quickly regain our lead in manned space activities.

Not only will a space station enhance our country's science and scientific applications programs, it will also encourage development of capabilities for further commercialization of space and stimulate advanced technologies. In essence, it will be a research center in space.

I am particularly excited about the use of the space station for materials processing. Because of the unique qualities of space, particularly microgravity, many processes can be performed which are either too difficult or too expensive to do on the ground. Potential applications include new and novel products, as well as research to improve processes in the fields of biology, metallurgy, crystal growth, amorphous materials, chemistry, and vacuum processes.

In my judgment, the area of materials processing provides the greatest potential for commercial ventures in space. It may also provide us with the first profitable commercial venture of the space station. High value items such as pharmaceuticals, semiconductors, and defense-related materials show the promise of large markets that may justify early private investment.

In the area of materials processing, a joint agreement between NASA, McDonnell Douglas, and Johnson and Johnson for developing a electrophoresis experiment for the separation of organic cells showed us that the space station has the capability for producing pharmaceuticals that cannot be produced in commercial quantities on Earth. The low gravity of space allows five times the purity, and 500 to 700 times the output of a comparable Earth-based facility. A space station will not only provide the necessary facilities and on-board personnel to sustain a profitable commercial activity, but it will also allow the development of up to five times as many new pharmaceutical products as could be developed on an unmanned satellite within the same period of time. I understand that more than 50 needed pharmaceuticals have already been identified which currently can be produced in the microgravity environment of space. Included, for example, are beta cells which may represent a single injection cure for most forms of diabetes.

I must also take this opportunity to mention the outstanding cancer research under way at the University of Alabama in Birmingham in conjunction with NASA. The potentials that the space station provides in this area are unlimited. The medical school at the University of Alabama in Birmingham is working on ways to grow protein crystals at a much larger size than can be grown on Earth. In space, a perfect crystal can be grown. The goal is to take a cancer cell and grow it in a manner where one can look at the integral parts of that cancer cell in order to find a cure for cancer. This is not possible without the long duration in space provided by the space station.

Mr. President, some say that the space station should be mostly robotics, not permanently manned. While this is possible, it is not very wise. The potential loss to scientific breakthroughs when man is absent is simply too great to risk.

Manned space flight has existed almost since the beginning of our use of space. Throughout the space program, we have learned a great deal about the value of man in space. However, there is much yet to learn. For example, the flights of spacelab, aboard the space shuttle, have achieved many major successes and have again demonstrated the critical role that man plays in space.

However, the shuttle's ultimate value is limited in terms of time and orbit, and altitude above the Earth's surface. During the 1990's, we will need a space station and associated technologies to increase our utilization of space. Eventually through research in the environment of space, we will unlock its secrets and make these riches available for all mankind.

Mr. President, we have learned that the unexpected can happen in space. It is essential that man be there to learn from these experiences. I do not believe that I can say it any better than Robert Anderson, the chairman and CEO of Rockwell International, when he once said:

> Humans have a material role to play in space. Man turns the unexpected into discovery, discovery into knowledge, and knowledge into leadership.

Much is said about the Soviet space station, Mir, which is a permanently manned facility and at this moment, orbits above us. Many of the scientific advances that our space station would yield are currently benefiting the Soviet Union. The competitive deficit we are currently experiencing in space plus the inherent values of the space station program make the timely continuation of this program essential.

Now Mr. President, I will not dwell on the Soviet space station. However, let me mention three points which, in my judgment, are significant. First, the Soviet space station passes over the continental United States seven times a day. Each pass lasts up to 10 minutes, separated by 90 to 100 minutes occurring over a 9½-hour period. Second, it spends a total of 45 minutes over the United States each day. Third, its orbit is such that over any 2-day period, its path falls within 250 miles of each person and community in the continental United States.

Mr. President, let me mention one more point on the Soviet space station as it relates to Washington, DC. There are two passes each day within 400 miles of being directly overhead. These two passes are separated by about 6½ hours. The passes do not occur at the same time each day; there is a tendency for them to occur earlier each day and last, on the average, about 20 minutes per day. After about 2 months, passes will have occurred at all times of the day. During the times of the year when the Mir space station passes over Washington in the evening and early morning hours, it is a very bright object and easily visible to the naked eye. Mr. President, I consider this frightening.

The United States/International Space Station is now a reality, and we must maintain our commitment to it. In that regard, I would ask my colleagues to remember the words of President John F. Kennedy when in 1962, he said:

> If this capsule history of progress teaches us anything, it is that man, in his quest for knowledge and progress, is determined and cannot be deterred. The exploration of space will go ahead, whether we join in it or not. And it is one of the great adventures of all time, and no nation which expects to be the leader of other nations can expect to stay behind in this race for space.
>
> Those who came before us made certain that this country rode the first waves of the Industrial Revolution, the first waves of modern invention and the first wave of nuclear power, and this generation does not intend to flounder in the backwash of the coming age of space. We mean to be a part of it. We mean to lead it, for the eyes of the world now look into space.

There is little question about the ultimate importance of such an endeavor. As I have said, the space station program is tied to our economy, to our national security and to advances in science and scientific applications. The space station will be used for maintaining technological leadership, for international prestige, and, of course, for stimulating the human spirit. With the completion of the space station, the Nation's space program, much like the Firebird, must and will go ever onward to reach new plateaus and new horizons in our eternal quest for the understanding of the cosmos and our place in it.

As the Bible says, "Where there is no vision, the people perish."

I am committed to participating in this exciting program and I call on my colleagues in the Senate to join in that commitment. This is not a matter of not being able to afford the space station. Mr. President, this is a matter of not being able to afford not to have the space station. In that regard, I strongly urge my colleagues to support this amendment.

Thank you, Mr. President.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. STEVENS. Mr. President, we have discussed this at length. There is no solution available now under the caps that are set. The only thing possible would be to have this kind of sense-of-the-Senate resolution that, if it is at all possible, as we come out of conference to do something about it. I think the Senator from Utah has adopted the only sensible solution right now. It does keep the subject open in the conference as far as I can see. Otherwise, it gives him a ray of hope, but we can go no further right now.

The PRESIDING OFFICER. Is there any further debate on this amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 1280) was agreed to.

Mr. GARN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. JOHNSTON. Mr. President, while we have got this downtime we might as well begin on our "to-be-cleared" matters.

Mr. President, I send an amendment to the desk——

Mr. STEVENS. May I ask my friend if this procedure can be cleared with us, too?

Mr. JOHNSTON. The signature of Senator COCHRAN is on it.

AMENDMENT NO. 1281

(Purpose: To provide an eight-month extension of sanctions under the Clean Air Act)

Mr. JOHNSTON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Louisiana [Mr. JOHNSTON] for Mr. MITCHELL proposes an amendment numbered 1281.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the joint resolution add the following new section:

SEC. . EXTENSION OF NONATTAINMENT SANCTIONS.

(a) NONATTAINMENT AREAS FOR OZONE OR CARBON MONOXIDE.—No restriction or prohibition on construction, permitting, or funding under section 110(a)(2)(I), 173(4), 176(a), 176(b), or 316 of the Clean Air Act shall be imposed or take effect during the period prior to August 31, 1988, by reason of (1) the failure of any nonattainment area to attain the national primary ambient air quality standard under the Clean Air Act for photochemical oxidants (ozone) or carbon monoxide (or both) by December 31, 1987, (2) the failure of any State to adopt and submit to the Administrator of the Environmental Protection Agency an implementation plan that meets the requirements of part D of title I of such Act and provides for attainment of such standards by December 31, 1987, (3) the failure of any State or designated local government to implement the applicable implementation plan, or (4) any combination of the foregoing. During such period and consistent with the preceding sentence, the issuance of a permit (including required offsets) under section 173 of such Act for the construction or modification of a source in a nonattainment area shall not be denied solely or partially by reason of the reference contained in section 171(1) of such Act to the applicable date established in section 172(a). This subsection shall not apply to any restriction or prohibition in effect under section 110(a)(2)(I), 173(4), 176(a), 176(b), or 316 of such Act prior to the enactment of this section.

(b) EVALUATIONS AND DESIGNATIONS.—Prior to August 31, 1988, the Administrator of the Environmental Protection Agency shall evaluate air quality data and make determinations with respect to which areas throughout the nation have attained, or failed to attain, either or both of the national primary ambient air quality standards referred to in subsection (a) and shall take appropriate steps to designate those areas failing to attain either or both of such standards as nonattainment areas within the meaning of part D of title I of the Clean Air Act.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the amendment be withdrawn at this time.

The PRESIDING OFFICER. The amendment is withdrawn.

Mr. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. GRAHAM). Without objection, it is so ordered.

The majority leader.

Mr. BYRD. Mr. President, I believe Senator MITCHELL has an amendment.

The PRESIDING OFFICER. The Senator from Maine is recognized.

AMENDMENT NO. 1282

(Purpose: To provide an eight-month extension of sanctions under the Clean Air Act)

Mr. MITCHELL. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Maine [Mr. MITCHELL] for himself, Mr. BENTSEN, Mr. LAUTENBERG, Mr. BURDICK, Mr. STAFFORD, Mr. DURENBERGER, Mr. GRAHAM, Mr. REID, Mr. CRANSTON, Mr. RUDMAN, Mr. KERRY, Mr. DODD, Mr. WIRTH, Ms. Mikulski, Mr. BAUCUS, and Mr. HUMPHREY proposes an amendment numbered 1282.

Mr. MITCHELL. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the joint resolution add the following new section:

SEC. . EXTENSION OF NONATTAINMENT SANCTIONS.

(a) NONATTAINMENT AREAS FOR OZONE OR CARBON MONOXIDE.—No restriction or prohibition on construction, permitting, or funding under section 110(a)(2)(I), 173(4), 176(a), 176(b), or 316 of the Clean Air Act shall be imposed or take effect during the period prior to August 31, 1988, by reason of (1) the failure of any nonattainment area to attain the national primary ambient air quality standard under the Clean Air Act for photochemical oxidants (ozone) or carbon monoxide (or both) by December 31, 1987, (2) the failure of any State to adopt and submit to the Administrator of the Environmental Protection Agency an implementation plan that meets the requirements of part D of title I of such Act and provides for attainment of such standards by December 31, 1987, (3) the failure of any State or designated local government to implement the applicable implementation plan, or (4) any combination of the foregoing. During such period and consistent with the preceding sentence, the issuance of a permit (including required offsets) under section 173 of such Act for the construction or modification of a source in a nonattainment area shall not be denied solely or partially by reason of the reference contained in section 171(l) of such Act to the applicable date established in section 172(a). This subsection shall not apply to any restriction or prohibition in effect under section 110(a)(2)(I), 173(4), 176(a), 176(b), or 316 of such Act prior to the enactment of this section.

(b) EVALUATIONS AND DESIGNATIONS.—Prior to August 31, 1988, the Administrator of the Environmental Protection Agency shall evaluate air quality data and make determinations with respect to which areas throughout the nation have attained, or failed to attain, either or both of the national primary ambient air quality standards referred to in subsection (a) and shall take appropriate steps to designate those areas failing to attain either or both of such standards as nonattainment areas within the meaning of part D of title I of the Clean Air Act.

Mr. MITCHELL. The amendment is a simple short-term extension of the Clean Air Act sanctions. Under this amendment, EPA would not be authorized to impose new sanctions on areas until August 31, 1988. This amendment is supported by State and local officials organizations who are most affected by the sanctions. These include the National Governors Association, the Conference of Mayors, the National Association of Counties, and the National Conference of State Legislators. Also supporting the amendment are the Natural Resources Defense Council, the Sierra Club, the Audobon Society, and the National Clean Air Coalition.

While the Environment and Public Works Committee has already reported substantive amendments to the Clean Air Act, which we hope the Senate will soon consider, the House Energy and Commerce Committee has yet to act. Therefore, a short-term extension appears necessary in order to provide time for Congress to make the needed decisions on the best way to assure national attainment of the air quality standards. These decisions require legislative changes; regulatory proposals will not suffice.

The House adopted language that delays the imposition of sanctions until August 31, 1988. This amendment provides an 8-month extension of the prohibition of sanctions. In this respect, this extension is identical to legislation adopted by the House. It differs only in that sanctions previously imposed by the Environmental Protection Agency [EPA] for failure to comply with the law may stay in effect. The House-passed bill lifted all sanctions, even those that have been in effect since the beginning of this decade. These sanctions are unrelated to this extension and address past failures to comply with the act's requirements. Compliance with the law will remedy these sanctions. Compliance is important, particularly compliance with the air quality standards.

It is important for Congress to assure that such compliance is achieved. EPA recently announced its strategy for addressing our ozone and carbon monoxide problems.

This strategy grants areas in essence a 5- to 7-year extension of the deadline with little additional Federal requirements. I do not believe the current Clean Air Act authorizes the agency to develop its own post-1987 attainment strategy. Should EPA attempt to put its policy into practice, I am confident that the result will be to take this issue out of the agency's hands and place it before a court to decide. While this extension does not specifically preclude the agency from implementing its policy, I encourage EPA to reconsider the proposal.

The Clean Air Act requires all areas of the country to be in compliance with health-based air quality standards for ozone, or smog, and carbon monoxide by December 31, 1987. Over 70 areas, mostly our cities, will not meet the air quality standards by the end of the year. Approximately 100 million people live in areas where the air is unhealthy and the Clean Air Act requires sanctions to be imposed on such areas if they fail to meet this deadline.

And polluted air is clearly unhealthy and it is getting worse on some areas. Over 35 million people live in areas where the air quality has declined since 1981.

In testimony before the Subcommittee on Environmental Protection, representatives of the major health organization—the American Lung Association, the American Public Health Association, and the American Academy of Pediatrics—all testified that air pollution is a serious national problem that requires corrective legislation. In addition, a Harvard University researcher stated that 2 to 5 percent of illnesses and deaths in this country are associated with exposure to air pollution. This is 2 to 5 percent of preventable illness and death.

It was recently reported by researchers at the University of California that sulphur may play a major role in the incidence of breast and colon cancer, the second and third leading causes of cancer in North America. According to Dr. Cedric Garland, the director of the university's epidemiliology program:

> * * * the results show a strong positive association between levels of sulphur dioxide in the air and rates of both cancers.

Those affected by many of these problems are most often children and the elderly. Children are affected because they have a faster respiration rate and are thus more exposed to the pollutants. In addition, they have smaller bronchial tubes and lungs so even small constrictions can cause serious dysfunction.

The elderly have often had a lifetime of exposure to air pollution and other exposures that cause respiratory and pulmonary problems. These people, already often burdened by illness and disease, are less capable of fending off the additional assault of air pollution. a 10-percent decrease in lung function may not be significant in a healthy individual, but it can be crippling in a person who already suffers from asthma or emphysema. The elderly, who frequently live in polluted urban areas, are often those least able to afford the additional medical costs.

And air pollution does increase our medical bills. The American Lung Association estimates we spend $16 billion—that is $16 billion—each year on health care costs associated with air pollution. We spend another $40 billion if we take into account decreased worker productivity. These costs will increase unless air pollution emissions decrease.

Where air pollution controls have been put in place, there have been real savings. A 1979 study reported by the American Lung Association concluded that a 60-percent reduction in 1978 average particulate and sulfur dioxide emissions in the United States would save between $5.1 billion and $15.9 billion in annual health costs related to premature deaths. In Florida, pollution control equipment costing $3.1 million per year was estimated to produce $5.1 million per year in morbidity health cost savings.

This extension does not require decreased emissions. It will, however, give Congress time to address this issue and craft legislation that will achieve necessary decreased emissions. The Environment and Public Works Committee recently reported legislation, S. 1894, that provides one answer to the air pollution problem. I look forward to working closely with my colleagues to bring this legislation to the Senate floor for consideration early next year.

Until now, I supported a shorter extension. But I am now convinced that, in view of the prior House action, an extension for 8 months is the most sensible course to take. But I will press for Senate consideration of S. 1894 as soon as possible next year. I urge our House colleagues to act as expeditiously as possible to assure enactment by this deadline. It is worth emphasizing that by August 31, 1988, both the House and the Senate must have passed legislation, we must have successfully resolved our differences in conference, and the President must have signed the legislation in order to meet this commitment. This is a substantial amount of work to be accomplished, but the deadline can be met.

Mr. President, I join with 15 other Senators in offering this amendment which provides for a limited short-term extension of the Clean Air Act sanctions including those required for failure to attain the health-based air quality standards by the statutory deadline at the end of this year.

The current act requires all areas of the country to be in compliance with its standards for ozone and carbon monoxide by December 31, 1987. It is now estimated that 70 urban areas in which 100 million Americans live will not meet those standards. Under the law, the Environmental Protection Agency has the authority to impose sanctions on those areas. This amendment would extend the deadline for 8 months during which time no sanctions would be imposed and also during which time it is our intention to act on legislation revising, updating and improving the Clean Air Act.

Mr. PROXMIRE. Mr. President, this amendment extends for 8 months the time needed for meeting the standards for ozone and carbon monoxide contained in the Clean Air Act. Without such extension, sanctions for noncompliance including construction bans, bans on new federally funded highways, and cutoffs of grants for water and air pollution control could be imposed on at least 60 cities on January 1, 1988.

The amendment is similar to one accepted overwhelmingly by the House during its consideration of this bill on December 3. The extension provides Congress with the time required for enacting a new Clean Air Act. Yet, this amendment corrects a serious flaw in the House-passed provision since it restores those sanctions already in place. This addition is extremely important to my own State since EPA has already imposed a construction ban on neighboring areas of Illinois which add to Wisconsin's pollution problem. Lifting these sanctions, even for a brief time, would send a very bad signal to other areas out of compliance.

This amendment is acceptable to my side.

Mr. MITCHELL. Mr. President, this has been cleared, I believe, on both sides by the relevant chairmen and ranking members of the authorizing committees and subcommittees, the appropriations subcommittee, and the Appropriations Committee.

Mr. STENNIS. Mr. President, may I ask a question of the Senator regarding this matter? He is speaking from his personal knowledge of these matters. Is that correct?

Mr. MITCHELL. Yes. I am.

Mr. STENNIS. The only thing that he asks for in it is the extension of this time for 8 months, I believe.

Mr. MITCHELL. That is correct.

Mr. STENNIS. That helps it as far as I am concerned.

Mr. GARN. Mr. President, the amendment is cleared on this side of the aisle.

Mr. METZENBAUM. Mr. President, would the Senator from Maine yield for a question?

Mr. MITCHELL. Yes.

Mr. METZENBAUM. Will the Senator be good enough to advise regarding Cuyahoga County, OH, which is one area facing clean air sanctions?

U.S. EPA has proposed withholding highway funds and a ban on construction. The amendment—as I understand it—would leave in place existing sanctions but grant an eight-month extension for other nonattainment areas. It is my understanding that the city of Cleveland and Cuyahoga County would obtain the eight-month extension since there are no sanctions for the area currently in place—they have only been proposed.

Is my understanding of the amendment correct?

Mr. MITCHELL. The Senator's understanding is correct.

Mr. METZENBAUM. I thank the Senator.

The PRESIDING OFFICER. Is there further debate?

Mr. BYRD. Mr. President, I have discussed this amendment with the distinguished Senator from Maine. I am satisfied that this amendment in no way deals with acid rain. Am I correct?

Mr. MITCHELL. The Senator is correct. The Clean Air Act deadlines which are being extended by this amendment deal with ozone and carbon monoxide. The majority leader should be aware that the legislation that has been reported out of the Environment and Public Works Committee and which we, the sponsors of it, hope to move early next year includes revision of the law dealing with those deadlines as well as other titles which deal with acid rain, air toxics, and other matters.

Mr. BYRD. I am not talking about the legislation that was reported out and is on the calendar. I know very well about that. But this amendment I am talking about.

Mr. MITCHELL. That is right.

Mr. BYRD. Would the Senator state again precisely what this amendment does and does not do?

Mr. MITCHELL. This amendment extends the deadline for compliance under the Clean Air Act from December 31, 1987, to August 31, 1988. During that 8-month period, the EPA would not have authority to impose sanctions for noncompliance with those standards which, but for the adoption of this amendment or some comparable amendment, they would have authority to impose. It does not have anything to do with acid rain.

Mr. BYRD. Mr. President, I thank the distinguished Senator. Mr. President, if there were a rollcall vote on this amendment, I would vote "Aye."

Mr. MITCHELL. I thank the Senator.

Mr. HUMPHREY. Mr. President, cities throughout the country are expected to fail in attaining the ozone and carbon monoxide [CO] national ambient air quality standards under the Clean Air Act. Failure to reduce pollution in nonattainment areas, areas suffering the effects of smog from automobiles and industrial sources, results in health and environmental problems. Clearly, we need to work harder to reduce chemical emissions which pollute the air we breathe.

I support Senator MITCHELL's amendment to temporarily postpone clean air sanctions for nonattainment areas because I believe that an 8-

month extension of the end-of-the-year deadline will provide Congress the time necessary to address these and other air pollution problems. Not only must we step up our efforts to meet safe levels of ozone and CO in our cities, but also we must reduce emissions which lead to the creation of acid rain. The effects of acid rain are devastating the lakes, rivers, and forests of New England.

Mr. President, I endorse this amendment with the expectation that by August of 1988 the Senate will have enacted an effective and responsible package of clean air amendments to reduce emissions of CO, sulfur dioxide, nitrogen oxide, and other chemicals which pollute our air, endanger our health, and destroy our environment. I believe an 8-month extension provides a reasonable period of time for Senators to resolve their differences and bring clean air legislation to the floor. I look forward to working with Senator MITCHELL and others to enact this necessary and important legislation to reduce air pollution throughout America.

Mr. LAUTENBERG. Mr. President, I support a deadline extension for the sanctions in the Clean Air Act.

Many people wonder why staunch environmentalists like Senator MITCHELL and myself are supporting an extension of the Clean Air Act deadline. And the answer is simple. Failure to extend the deadline will only result in chaos, not cleaner air.

There is only one way we can preserve the leverage the sanctions provide us without creating massive disruption—a congressional delay of the imposition of those sanctions until the Congress passes a new Clean Air Act.

I would also like to note that many State and local associations, as well as the environmentalists, have actively supported this amendment.

Sanctions are all too often misunderstood. Their primary purpose is not to punish communities that fail to meet clean air standards. The primary purpose of sanctions is to provide the essential leverage needed for communities to implement clean air programs. If we allow this deadline to pass without taking action we will invalidate one of our best tools for promoting cleaner air.

Not only that, but Congress will have abdicated our responsibility to a faulty administration policy and the courts.

Whatever extension we grant must be one that promotes cleaner air—one that is neither too long nor too short. Senator MITCHELL's amendment is right on target. It is longer than I would like, but no longer than I know realistically we need it to be.

I also want to note a distinct difference between the Senate extension provision and that which passed the House. Our provision ensures that the sanctions EPA has already imposed will remain in effect, another critical element to avoid the disruption that would otherwise occur on January 1.

In short, I applaud Senator MITCHELL for taking this step, as I applaud his efforts to strengthen the Clean Air Act, and I wholeheartedly endorse this amendment.

The PRESIDING OFFICER. Is there further debate?

Mr. JOHNSTON. Mr. President, we have carefully gone over this amendment. It has been cleared by all of the appropriate committee chairmen and subcommittee chairmen, and we have no objection.

The PRESIDING OFFICER. Is there further debate?

Mr. STENNIS. It has been cleared on this side. I think everything is cleared. Mr. President, I favor adoption of the amendment.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from Maine [Mr. MITCHELL].

The amendment (No. 1282) was agreed to.

Mr. GARN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. MITCHELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BYRD. Mr. President, I wonder if this will make a good suggestion. Could we have those Senators who were to he involved in the clearance process meet here at the desk, and the chairman of the committee, now while I will have, say, a 10-minute recess. We can go through the amendments that we might be able to clear. And maybe we can handle this as expeditiously as the one we just handled. That amendment could have been on the floor for hours. But we had a good understanding of it. There was no necessity to go through a lengthy debate.

I know there are several bills in this package. Why do we not just gather around the desk here? We can have all the heads together at one time, and clear those or not clear them.

RECESS UNTIL 1:36 P.M.

Mr. BYRD. Mr. President, I ask unanimous consent that there be a recess for not to exceed 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Thereupon, at 1:25 p.m., the Senate recessed until 1:36 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. GRAHAM].

Mr. BYRD. Mr. President, the managers of the bill do not bear the responsibility of getting the approval of the chairmen and ranking members. Those who have amendments have that responsibility. If they have gotten those clearances, they should come and discuss the amendment with the managers of the bill. So the process is not working too well at the moment, but I believe there have been one or more amendments that have been cleared and may be submitted at this time.

Mr. JOHNSTON. We have been submitted only one copy of the amendment; and if the amendment is sent to the desk, we will have nothing for which to explain, so we are getting copies made.

Mr. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senate will come to order.

AMENDMENT NO. 1283

(Purpose: To allow certain associations of football coaches to have a qualified pension plan which includes a qualified cash or deferred arrangement)

Mr. JOHNSTON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Louisiana [Mr. JOHNSTON] for Mr. SASSER, for himself, and others, proposes an amendment numbered 1283.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill, insert the following new section:

SEC. . (a) Paragraph (37) of section 3 of tne Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(3)) is amended by adding at the end thereof the following new subparagraph:

"(F)(i) For purposes of this title a qualified football coaches plan—

"(I) shall be treated as a multiemployer plan to the extent not inconsistent with the purposes of this subparagraph, and

"(II) notwithstanding section 401(k)(4)(B) of such Code, may include a qualified cash and deferred arrangement,

"(ii) For purposes of this subparagraph, the term 'qualified football coaches plan' means any defined contribution plan which is established and maintained by an organization—

"(I) which is described in section 501(c),

"(II) the membership of which consists entirely of individuals who primarily coach football as full-time employees of 4-year colleges or universities described in section 170(b)(1)(A)(ii), and

"(III) which was in existence on September 18, 1986."

(b) The amendment made by this section shall apply to years beginning after the date of the enactment of this Act.

Mr. JOHNSTON. Mr. President, this amendment has been cleared by all appropriate parties, as indicated by their initials or signatures.

It is a Sasser-Hatch amendment relating to coaches' retirement. It allows a qualified football coach's retirement plan to be treated as a multiemployer plan for the purpose of allowing football coaches to transfer their pension rights from school to school. It is an emergency because many coaches will be changing jobs by the end of the year, and this provision is needed to allow them to transfer these pensions. It has been cleared.

Mr. COCHRAN. Mr. President, this amendment is cosponsored by Senator ORRIN HATCH.

Mr. HATCH. Mr. President, I rise in support of Senator SASSER's amendment which would allow college football coaches to form a qualified cash or deferred arrangement pension program under ERISA. I have learned over the past year that the forgotten people in the great game of college football are its coaches, especially the assistant football coaches. They guide our youth on America's college campuses.

Nevertheless, these coaches must survive a system that says if you have a losing season, you may need to find another job. Many coaches find themselves victimized by a system that does not protect them for their retirement years.

Because of the nature of college football coaching and job tenure uncertainties, football coaches need a retirement arrangement that provides for immediate vesting of money set aside while working for a particular college or university. Often football coaches change jobs before acquiring a vested, or nonforfeitable right, to their pension accruals.

This amendment modifies the Employee Retirement Security Act to allow a "qualified football coaches plan" to be treated as a multiemployer plan. Under this amendment, college football coaches will be able to contribute to a retirement plan that would be portable. Both the coach and employer could make tax-favored deposits, and the coach would own the assets and advantageous tax treatment at the time of distribution.

College football coaches, including assistant coaches, have little job security. They have very different problems from other jobs because they rarely can vest in any single pension program. The average life of a football coach's position is 2.8 years. This amendment will allow them to build up funds for their family when they retire.

I want to make special note of the support of Coach LaVell Edwards, head football coach of Brigham Young University. As the current president of the American Football Coaches Association, he and other coaches have educated my colleagues on the need for this bill. Since 1984, a mere 3 years ago, 2,003 coaches have lost their jobs. They, like all Americans, need to feel security in their pension programs.

Mr. President, we are on the 10-yard line in seeing this amendment enacted. I urge by colleagues to support this amendment to allow our coaches to have their own retirement program.

Mr. SYMMS. Mr. President, on May 12 I introduced a bill to allow the American Football Coaches Association to establish a pension plan under section 401(k) of the Tax Code. The amendment being offered today by the Senator from Tennessee, is sister legislation to my original bill, S. 1188, and demonstrates the nonpartisan support associated with this measure.

The 401(k) plan is a voluntary retirement savings program that allows individuals to move from one employer to another without losing accrued retirement benefits. This amendment adds the AFCA to the list of organizations allowed to use section 401(k). As a portable pension plan, it provides the freedom of mobility that a roving career, like that associated with the coaching profession, requires. And it provides coaches the use of a 401(k) pension plan through their professional association, the AFCA.

The AFCA has over 5,500 members representing every State in the union. While major college head coaches usually enjoy job stability and financial security, small college head coaches and assistant coaches at all institutions are guaranteed neither of these. On the average, a football coach changes jobs every 2.8 years due to promotions as well as dismissals. With this constant change in jobs, coaches are unable to build a secure retirement fund. And State retirement or pension plans available to them vary with each new jurisdiction. A uniform system under section 401(k) would allow all coaches to build retirement stability regardless of inter- or intra-State job changes.

The assistant coaches at my alma mater, the University of Idaho, wrote and asked me to introduce the original legislation. I was pleased to oblige these and all hard-working educators and athletes who are the role models for the young men of our Nation's universities.

I want to thank my 34 colleagues who became cosponsors of the original legislation. They demonstrated the vast, nonpartisan support this idea represents. I gratefully embrace this amendment and urge all Senators to do the same.

Thank you, Mr. President.

Mr. HEFLIN. Mr. President, I rise in full support of the amendment of the Senator from Tennessee. This amendment will provide a secure retirement plan for college football coaches. The amendment is necessary and urgent.

For far too long, college coaches have not received adequate retirement coverage. The reason coaches have not received this retirement coverage is not because they do not coach long enough—many are coaches for their entire lives—but because they often change their jobs. A change of jobs for coaches not only involves a change of schools, but often a change of States. Under most States' public employee retirement plans, a coach must remain at the school for several years to be vested. It is very rare for coaches to remain at schools for such a period of time. Since the average tenure for a coach at a school is only a few years, few coaches become vested under State retirement plans and thus do not qualify for retirement benefits.

The amendment the Senate is considering today establishes a 401(k) multiemployer plan. Under this arrangement, coaches can continue to move from school to school and continue their coverage under a unified retirement plan. This will give coaches the retirement security they need and deserve.

Mr. President, I would also like to take this opportunity to thank Coach Paul Davis of Auburn University for his hard work on this issue. Without Coach Davis' efforts, we may not have been able to get to this point. But anyone who knows Coach Davis greatly respects his ability to overcome great odds. Coach Davis has coached at Mississippi State University, Auburn University, and the University of Alabama. As college football fans know, the Auburn-Alabama rivalry is one of the most intense rivalries in college football. When these two programs agree on the coaching ability of an individual, his ability must be extraordinary.

In closing, Mr. President, I urge my colleagues to support this amendment.

Mr. COCHRAN. Mr. President, I inquire of the distinguished manager on the majority side if this amendment has been cleared by the legislative committee that has jurisdiction.

Mr. JOHNSTON. Yes. Senator SASSER has advised that this has been cleared by Senator KENNEDY and that Senator HATCH, who is the ranking minority member, is a cosponsor.

Mr. COCHRAN. Mr. President, there is no objection to the adoption of the amendment on this side of the aisle.

Mr. SASSER. Mr. President, first, let me express my appreciation to the distinguished Senator from Louisiana for his cooperation in this matter and also the ranking member, Senator COCHRAN.

This amendment is cosponsored by the following Senators: Senator JOHNSTON, Senator BURDICK, Senator BUMPers, Senator Harkin, Senator Mikulski, Senator Reid, Senator Garn, Senator Cochran, Senator Grassley, Senator Nickles, Senator Gramm, Senator Hatch, Senator Heflin, Senator Pryor, Senator Riegle, Senator Heinz, and Senator Symms.

Mr. President, the amendment we offer today provides much needed economic relief to college football coaches across America. College football coaches typically do not remain in any one job for very long—their average tenure at any one school is slightly more than 4 years. This means they are not usually employed by any one employer long enough to become vested in pension contributions made on their behalf. Furthermore, the more liberal vesting provisions in private industry plans often do not apply to the public employer plans in which many of the coaches participate. Thus, even though a coach may participate in many retirement programs, frequently he never becomes vested and therefore he receives little, if any, supplemental benefits at retirement.

As a rule, coaches are not well paid. The well publicized stories about highly paid coaches apply to very few individuals. More often than not, they are not paid enough to set aside substantial amounts for their retirement. As a result, many coaches reach retirement age with little or no supplemental retirement income other than Social Security.

This amendment provides a solution to this problem by allowing college football coaches to form a qualified cash or deferred retirement benefit arrangement. It amends the Employee Retirement Income Security Act to allow a "qualified football coaches plan" to be treated as a multiemployer plan and also become a 401(k) plan. Under this amendment, therefore, college football coaches will be able to contribute to a retirement plan that would be portable; both the coach and his employer could make tax-favored deposits, and the coach would own the assets and advantageous tax treatment at the time of disposition.

Mr. President, this amendment enjoys broad bipartisan support. The original legislation had 151 cosponsors in the House and 34 in the Senate.

This amendment represents a minor change in the law with major implications for college football coaches. I urge my colleagues to support the amendment.

The PRESIDING OFFICER. Is there any further debate?

If not, the question is on agreeing to the amendment of the Senator from Louisiana.

The amendment (No. 1283) was agreed to.

Mr. JOHNSTON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. COCHRAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1284

(Purpose: Groom Mountain Withdrawal Extension)

Mr. JOHNSTON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Louisiana [Mr. Johnston] proposes an amendment numbered 1284.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the Resolution, insert the following new language:

"Section 1(b) of the Act of October 17, 1984 entitled 'An Act to withdraw certain public lands in Lincoln County Nevada' (P.L. 98-485), is amended by striking out 'December 31, 1984.' and inserting in lieu thereof 'March 31, 1988.'"

Mr. JOHNSTON. Mr. President, this amendment has been cleared all around. What it does is withdraw certain lands in Lincoln County, NV, which is in the flyway or in the Nellis Air Force range. It withdraws that for a period of 3 months in order to give the authorizing committees time to pass a permanent withdrawal.

It is, of course, an emergency because it is a matter involving the national defense and the withdrawal of these lands.

Mr. COCHRAN. Mr. President, may I inquire of the manager if this is the Groom Mountain amendment?

Mr. JOHNSTON. Yes, this is the Groom Mountain withdrawal extension.

Mr. COHEN. That has been cleared on this side and we urge the adoption of the amendment.

The PRESIDING OFFICER. Is there any further debate?

If not, the question is on agreeing to the amendment of the Senator from Louisiana.

The amendment (No. 1284) was agreed to.

Mr. JOHNSTON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. REID. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Connecticut.

AMENDMENT NO. 1285

(Purpose: To allow the distribution of unused food from the Senate cafeterias to the needy in the District of Columbia)

Mr. WEICKER. Mr. President, I have an amendment I send to the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Connecticut [Mr. Weicker], for himself and Mr. Dole, Mr. Byrd, Mr. Hatfield, Mr. Harkin, Mr. Dodd, Mr. Bradley, Mr. Grassley, Mr. Dixon, Mr. Chafee, Mr. Conrad, Mr. Hatch, Mr. Kennedy, Mr. Cochran, Mr. Domenici, Mr. Bumpers, Mr. Nickles, Mr. Hollings, and Mr. Metzenbaum proposes an amendment numbered 1285.

Mr. WEICKER. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following:

Sec. . The Committee on Rules and Administration of the Senate shall provide for the distribution of unused food from the Senate cafeterias under the jurisdiction of the committee to the needy of the District of Columbia through an appropriate private distribution organization selected by the committee.

Mr. WEICKER. Mr. President, the amendment, cosponsored by Senators Dole, Byrd, Metzenbaum, Nickles, Hatfield, Dodd, Harkin, Grassley, Dixon, Chafee, Bradley, Conrad, Hatch, Kennedy, Cochran, Domenici, Bumpers, and Hollings would authorize the Rules Committee to provide for the distribution of unused food from the Senate cafeterias to the needy, including the homeless and battered women, in the District of Columbia.

The food would be distributed by an appropriate private nonprofit distribution organization selected by the committee.

Unused food from the Senate cafeterias would be distributed, at no cost to the Senate, to the needy in the District of Columbia. I find it difficult to believe that anyone could argue against distributing surplus food to those in this city who truly need it, especially when the food would otherwise be wasted.

The amendment allows the Rules Committee maximum flexibility to establish the food distribution system. However, for the information of the Rules Committee, the District of Columbia Community Action Agency, the United Planning Organization [UPO], has volunteered to distribute unused food to various homeless shelters and shelters for battered women in the District of Columbia.

If selected by the Rules Committee, this nonprofit entity—which is partially funded by the Federal Government—would distribute the food at its own expense to the needy. The organization has a heated truck with which it would be willing to distribute the unused food that is fit for human consumption. UPO presently distributes 541 meals per day to the elderly and handicapped; it has been involved with food distribution programs since 1975. The time and effort of the Senate cafeterias would be minimal; unused food would only have to be handed over once a day to the UPO staff.

Some argue that the Senate would be liable for any unhappy circumstance related to the distribution of unused Senate food.

The District of Columbia has a "Good Faith Donor and Donee" statute on the books that provides immunity from liability for food donated to charitable organizations in the District of Columbia. (D.C. Law 4-39, 2, 28 DCR 3391).

That statute applies to the distribution of unused food by Giant, Safeway, area churches and other charitable organizations. The District of Columbia government has assured my office that the statute would apply to unused Senate food distributed within the District of Columbia. A copy of D.C. statute is attached to my formal remarks.

Others argue that the dignity of the Senate would be diminished if the institution were to become a soup kitchen, with the homeless wandering through the halls with hands out.

If a credible nonprofit organization assumed the responsibility to pick up and deliver the food daily, it would be highly unlikely the Senate would assume the demeanor of a soup kitchen. The Senate Restaurants may argue that they purchase just enough food for the Senate's daily needs and that most unused food is reused.

Mr. President, the Senate Restaurants should be commended for this efficiency and we are sure that every effort is undertaken to minimize wasted or surplus food. And certainly on some days there is less surplus food than on others.

However, on virtually any day, there is unused food thrown into the trash. Walks around the cafeterias after lunch or even breakfast will bear this out. Instead of wasting any food, why not distribute it to the needy?

Mr. President, I urge my colleagues to adopt this amendment.

I urge passage of the amendment.

The **PRESIDING OFFICER**. Is there any further debate?

Mr. **JOHNSTON**. I do not believe this amendment has been cleared on this side. It sounds like motherhood.

I wonder if the Senator could withhold and follow the procedure. I do not want to put him to any inconvenience but we have asked other Senators to do that. I wish he would do that.

Mr. **WEICKER**. Mr. President, it has been signed off by all parties as I understand it, and if we are here to do business, let us do business. On the other hand, if it is necessary to go ahead and discuss this amendment in more detail I will be glad to go ahead and do that also.

I do not know of any particular procedure that was adopted here in an official sense by unanimous consent. I thought the floor was open for amendment.

Mr. **BYRD**. Mr. President, will the distinguished Senator yield?

Mr. **WEICKER**. I gladly yield to the distinguished majority leader.

Mr. **BYRD**. Has this amendment been cleared before by the chairman and ranking member on Rules?

Mr. **WEICKER**. I do not know if it has been cleared by them or not. They have an opportunity to express themselves here either for or against.

Mr. **BYRD**. Mr. President, I could probably support the amendment, but I think it should be cleared by those two Senators.

I, therefore, would have to respectfully urge the Senator to temporarily withdraw his amendment.

Mr. **WEICKER**. With great affection and respect for my friend, the distinguished majority leader, I do not believe we are operating under any unanimous-consent agreement here.

Mr. **BYRD**. No, we are not.

Mr. **WEICKER**. In the absence of that I do not see why we should de facto operate under such an agreement. Either we have an agreement or we do not have an agreement. And quite frankly if I thought there was something of enormous controversy here I would try to respect the wishes of my colleagues.

Mr. **BYRD**. I commend the Senator on taking advantage of the lull. I am simply saying that if we are going to proceed, and he has the right to call up the amendment, but we cannot adopt this amendment by unanimous consent at least until Mr. FORD is on the floor and has an opportunity to ask any questions as he wishes. In the meantime, I express the hope that the distinguished Senator would temporarily withdraw his amendment.

Mr. **WEICKER**. Through the Chair to my distinguished colleague from West Virginia, I am not asking that this amendment be adopted by unanimous consent. I am only asking it be adopted according to the regular procedures of the Senate.

I tell you what: I have been asked by the distinguished minority leader also, the same request has been posed by the majority leader, if I would lay this aside. I will be glad to do so for a few minutes. But I do not want the record to show that a unanimous-consent request has been agreed to governing the rules in the Senate on this occasion. It has not.

Mr. **BYRD**. Mr. President, I do not think anyone is maintaining that position.

Mr. **WEICKER**. I do not know of any procedure where we have to get the approval of the chairmen and ranking members of authorizing and appropriating committees before we are permitted to go ahead and bring our matter to the body.

Mr. **BYRD**. Mr. President, this Senator knows the rules of the Senate fairly well.

Mr. **WEICKER**. Very well.

Mr. **BYRD**. And this Senator will protect the rights of the Senator from Connecticut just as quickly as this Senator will protect anyone's rights. But I am simply saying he has the right to call up an amendment but there will be some debate on it, at least until the Senator from Kentucky, the chairman of the committee, gets here.

We at the moment are calling up amendments that we thought had been cleared and could be simply presented and have a voice vote on and go on with the next amendment.

I may be very supportive of this amendment. It seems to me there might be some questions to ask.

For example, "the Senate shall provide for the distribution of unused food from the Senate cafeterias under the jurisdiction of the committee to the needy of the District of Columbia through an appropriate distribution organization selected by the committee."

It seems to me the chairman and ranking member ought to be here. This is going to put some additional burden on that committee and if I were chairman of that committee I would want to know a little bit more about this.

Also, I would want to know what protections, what audits, what report cards are going to be made to the committee to assure it that indeed this is the unused food from the Senate cafeterias and that indeed it is going to the needy people of the District of Columbia. One should not be obliged to keep silent on this amendment. It sounds like a good amendment and I probably will support it, but surely the Senator would not mind, I would hope, laying the amendment aside if he would withdraw it temporarily and let us get on with another amendment until the chairman can get here and speak for himself.

I would say the same thing on behalf of the Senator from Connecticut if he were absent from the floor and if no one else spoke up in his behalf.

Mr. **WEICKER**. Mr. President, in response to the distinguished Senator from West Virginia, the amendment allows the Rules Committee maximum flexibility to establish the food distribution system. It gives to them the power to set the rules as to exactly how this program is going to operate.

As to the distribution of food, the District of Columbia Community Action Agency, the United Planning Organization, has volunteered to make the distribution of unused food to various homeless shelters and shelters for battered women in the District of Columbia.

We are very fortunate here in the legislative branch of Government. As can be attested to by the heft of the distinguished Senator from Connecticut, we are very fortunate in having plenty of food around here. Others do not. I thought this might be a salutary idea, especially during the holiday season, in setting up a system, with report cards and with accountability, to make certain that all the surplus food around here—and there is plenty of it—gets to those who have none.

I am continually appalled—I have to say this right now—I am continually appalled, as I drove in today, which is a rather mild morning, seeing at 8 o'clock people with quilts, wrapped up near these heating vents out on Constitution Avenue of the Capital City.

Now, since we will not pay attention to the primary need, which is to really take care of these people, I suggest we take part of our own surplus food and share it with others.

I want to repeat again, it is not my desire to go ahead and do this except as through the Rules Committee and its chairman and its ranking member.

Mr. JOHNSTON. Will the Senator yield?

Mr. WEICKER. Yes.

Mr. JOHNSTON. Mr. President, we are trying to help the Senator. I see the Senator from Kentucky is on the floor. All we are trying to do is get out by Christmas. We are trying to help the Senator. If he will check it right now with Senator Ford, we can get it zipped out of here.

Mr. WEICKER. I had hoped, again, that this is a matter, as I said, that would have little debate. I do not want to interfere with the processes of making certain this continuing resolution is passed by evening's end.

With that in mind, I ask unanimous consent that my amendment be temporarily laid aside.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BYRD. Mr. President, I thank the distinguished Senator for laying aside this amendment. I do not think there is a Senator in this body who would disagree with the motives of the Senator or his goals here. I am certainly capable of standing on my feet in making my own position eminently clear in that regard. I was one of those who supported the legislation for the homeless earlier this year.

I laud the distinguished Senator for his concerns. He consistently does what he can to help the needy and the handicapped and help the underprivileged. So our discussion here was not about that at all.

I feel it my duty sometimes to simply stand here and try to see that the Senators who do have jurisdiction over these things have an opportunity to be on the floor and hear them. In the meantime, we could be debating them.

The distinguished Senator has temporarily set aside his amendment so that we can go on to another amendment, and I thank him for that.

APPOINTMENT OF SENATE CONFEREES—H.R. 3545

Mr. BYRD. Mr. President, the House wants to get along with the naming of its conferees on the conference on the reconciliation bill. Thus far, the Senate has not named its conferees. It is important that we expedite this so that the conference can go forward.

I ask under the previous order that the Chair name the conferees on H.R. 3545.

There being no objection, the Presiding Officer appointed the following as conferees on the part of the Senate:

FROM THE COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Senator Leahy, Senator Melcher, Senator Pryor, Senator Lugar, and Senator Dole.

FROM THE COMMITTEE ON THE BUDGET

Senator Chiles, Senator Hollings, Senator Johnston, Senator Sasser, Senator Riegle, Senator Exon, Senator Lautenberg, Senator Domenici, Senator Boschwitz, Senator Grassley, Senator Kasten, Senator Quayle, and Senator Danforth.

FROM THE COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Senator Proxmire, Senator Cranston, Senator Sarbanes, Senator Garn, and Senator Heinz.

FROM THE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Senator Hollings, Senator Inouye, Senator Ford, Senator Danforth, and Senator Packwood.

FROM THE COMMITTEE ON ENERGY AND NATURAL RESOURCES

Senator Johnston, Senator Bumpers, Senator Ford, Senator Metzenbaum, Senator Melcher, Senator Bingaman, Senator Wirth, Senator McClure, Senator Hatfield, Senator Domenici, Senator Wallop, Senator Murkowski, and Senator Nickles.

FROM THE COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Senator Burdick, Senator Mitchell, Senator Baucus, Senator Breaux, Senator Stafford, Senator Chafee, Senator Simpson, and Senator Durenberger.

FROM THE COMMITTEE ON FINANCE

Senator Bentsen, Senator Matsunaga, Senator Moynihan, Senator Baucus, Senator Boren, Senator Bradley, Senator Mitchell, Senator Packwood, Senator Dole, Senator Roth, Senator Danforth, Senator Chafee, and Senator Heinz.

FROM THE COMMITTEE ON GOVERNMENTAL AFFAIRS

Senator Glenn, Senator Sasser, Senator Pryor, Senator Roth, and Senator Stevens.

FROM THE COMMITTEE ON LABOR AND HUMAN RESOURCES

Senator Kennedy, Senator Pell, Senator Metzenbaum, Senator Simon, Senator Hatch, Senator Stafford, and Senator Quayle.

FROM THE COMMITTEE ON VETERANS' AFFAIRS

Senator Cranston, Senator Matsunaga, and Senator Murkowski.

Mr. JOHNSTON. Mr. President, will the Senator from West Virginia withhold for a unanimous consent request? I believe, as I heard it, that the appointees on the Energy and Natural Resources and Environment and Public Works were not in accordance with our agreement. I think they substantially exceeded that. I wonder if we can withhold that request to appoint those for the time being.

Mr. BYRD. Yes. Could we get the other conferees appointed, with those exceptions?

Mr. JOHNSTON. Yes. I make the request.

The PRESIDING OFFICER. Without objection, the exceptions are noted.

Mr. STEVENS. Mr. President, could I hear the Governmental Affairs appointees again, please?

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Committee on Governmental Affairs: Mr. Glenn, Mr. Sasser, Mr. Pryor, Mr. Roth, and Mr. Stevens.

The PRESIDING OFFICER. With the exception of the conferees from the Committee on Energy and Natural Resources and the Committee on Environment and Public Works, the conferees are agreed to.

(Later the following occurred:)

Mr. JOHNSTON. Mr. President, a moment ago the conferees were announced on the omnibus budget reconciliation bill. I ask that that be withheld and in order to carry out the intent of an agreement we had between the Energy and Natural Resources Committee and the Environment and Public Works Committee so that for the purpose of consideration of title II on nuclear waste, that Senators be appointed for those limited purposes. We now have reached agreement and have it reduced to writing and I ask unanimous consent that those conferees be appointed and I send the agreement to the desk.

The PRESIDING OFFICER. The Chair appoints the following conferees:

FROM THE COMMITTEE ON ENERGY AND NATURAL RESOURCES

Senator Johnston, Senator Bumpers, Senator Ford, Senator Metzenbaum, Senator Melcher, Senator Bingaman, Senator Wirth, Senator McClure, Senator Hatfield, Senator Domenici, Senator Wallop, Senator Murkowski, and Senator Nickles.

Of these, for the purpose of consideration of Title II, Subtitle A—Nuclear Waste:

Senator Johnston, Senator Ford, Senator Melcher, Senator McClure, Senator Hatfield, and Senator Domenici.

FROM THE COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Senator Burdick, Senator Mitchell, Senator Baucus, Senator Breaux, Senator Stafford, Senator Chafee, Senator Simpson, and Senator Durenberger.

Of these for the purpose of consideration of Title II, Subtitle A—Nuclear Waste:

Senator Burdick, Senator Breaux, and Senator Simpson.

FURTHER CONTINUING APPROPRIATIONS, FISCAL YEAR 1988

The Senate continued with the consideration of the joint resolution (H.J. Res. 395).

AMENDMENT NO. 1286

(Purpose: To provide $100,000,000 for the small ICBM program for fiscal year 1988 and to limit the amount available for the rail-basing mode for the MX missile)

Mr. NUNN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Georgia [Mr. NUNN], for himself, Mr. BYRD, Mr. WARNER, Mr. CHILES, Mr. GLENN, Mr. COHEN, Mr. GORE, Mr. EXON, and Mr. LEVIN, proposes an amendment numbered 1286.

Mr. NUNN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the joint resolution, add the following new section:

"SEC. . (a) Notwithstanding any other provision of this joint resolution, of the amount appropriated by this joint resolution for fiscal years 1988 for Research, Development, Test, and Evaluation, Air Force:

(1) $100,000,000 shall be available only for the new small mobile intercontinental ballistic missile (commonly known as the "Midgetman" missile); and

(2) not more than $300,000,000 shall be available for the proposed rail-mobile basing mode for the MX missile.

(b) It is the sense of Congress that the appropriation of funds in this joint resolution for research and development for both the new small mobile intercontinental ballistic missile and the proposed rail-mobile basing mode for the MX missile does not constitute a commitment or express an intent by Congress to provide funds to procure and deploy the Midgetman missile or to deploy any MX missiles in a rail-mobile basing mode or both.

Mr. NUNN. Mr. President, the amendment at the desk is cosponsored by myself, Senator WARNER, Senator BYRD, Senator CHILES, Senator GLENN, Senator COHEN, Senator GORE, and Senator EXON.

The effect of this amendment is to transfer $100 million from the Air Force's rail mobile MX research and development account to the small ICBM, or Midgetman, Research and Development Program. This amendment does not add any money to the bill. Let me emphasize that again. This is not an add-on amendment. It is an outlay-neutral amendment.

This amendment, though, accomplishes two important purposes, if it passes. First, the amendment brings the amount appropriated in the continuing resolution for the rail mobile MX back in line with the amount authorized for the fiscal year 1988 Defense Authorization Act, which has now been signed into law. So this amendment brings the MX rail mobile to the level that was authorized that is now law.

Second, the amendment reverses the decision of the Appropriations Committee to zero out—that is, terminate—the Midgetman Program. I would like to discuss each of those points and I am sure there will be others who will want to join in this discussion on both sides.

First, let me talk briefly about the rail-mobile MX. At the outset, I want to say that I am not opposed to the rail-mobile MX. I may very well end up supporting that system very enthusiastically. While I have not decided on whether we should commit ourselves to the deployment of this rail-mobile system, I do believe it is important that we preserve this option.

Rail-mobile MX raises the possiblity of a survivable basing mode for the MX, and that has been a longstanding goal not only of mine and many of my colleagues in Congress but also of the last two administrations, thus far unsuccessfully.

The question, though, is, whether that possibility is now in fact a reality. Any rail-based system is obviously mobile, but whether it is survivable depends, in large measure, on how quickly the system can respond to indications of attack and how quickly it can disperse. Proponents of the rail-mobile MX concede that the system would need at least 6 hours' warning to get out of garrison and disperse throughout our rail network. That means the system is dependent on strategic warning and is admittedly vulnerable to a surprise "bolt out of the blue" attack. We were told, however, we need not be concerned about the system's dependence on strategic warnings—that a "bolt out of the blue" attack would be irrational on the part of the Soviet Union and, hence, unthinkable.

Well, this is a comforting thought. In all probability, odds are that it is correct. But there is a possibility it is not correct. And that is what strategic deterrence and survivability are all about, and that is dealing with possibilities. That is what the debate has been on the "window of vulnerability" for a long, long time.

When I hear the argument that a "bolt out of the blue" attack is not possible, I cannot help but think that sometime in 1941 there must have been an admiral somewhere who said: "Yes, it is true that most of our battleships are lined up in Pearl Harbor, but, by golly, we can disperse them out to sea within 6 hours."

If we go with the rail-mobile MX, we will be embarking on a fundamental change in U.S. strategic doctrine as it applies to the functions and requirements of the ICBM leg of the triad. That is if that is the only mobile ICBM system we deploy. For a decade, we have endeavored to ensure the ICBM leg of the triad is not vulnerable to a "bolt out of the blue" Soviet attack. Maybe it is time to reexamine that. I do not discount that possibility, but we should know what we are doing if we are going to do it.

I have never agreed with those who said during the 1980 campaign that any ICBM basing mode that could not survive such an attack opened a so-called window of vulnerability. The reason that I have not is because we have had more than one leg of the triad. We have had a bomber leg, and we have had a submarine-launched ballistic missile leg. And those legs were ignored by many who argued about the window of vulnerability.

The window of vulnerability term was supposed to apply to land-based systems, but it was not supposed to have been applied to the whole triad argument. And yet it was, until the Scowcroft Commission came around and finally discounted that, at least for the time being.

Now we are being told by many who opened that window of vulnerability argument that we should no longer worry about surprise attacks. We are told that the ICBM leg of the triad does not need to be survivable against any threat that takes less than 6 hours to materialize.

Mr. President, that reasoning, if it is valid, is comforting. It may be that we could discount—indeed, disregard—the possibility of a so-called irrational Soviet decision to attack without warning. But I cannot help but wonder if the real reason certain civilian and military leaders in the Defense Department are suddenly so relaxed about the threat of a bolt out of the blue Soviet first strike is that they are moving very rapidly toward a policy decision to launch on warning our ICBM's.

That is a policy we have tried mightily to avoid for a long number of years.

Let me repeat that. This is speculation but I think it is possible that there are a number of people in the administration enthusiastic for dropping the Midgetman and for going strictly with the rail mobile MX because they may have decided that they are now ready to go to a launch on warning policy for our land-based missiles.

I do not know whether this suspicion is valid but I do know that there has got to be some policy judgment behind the suddenly relaxed attitudes toward survivability. That is precisely why we need more time, as I view it, to consider the full implications of the rail-mobile MX proposal before we commit ourselves to its deployment. This does not mean that we cannot continue a robust R&D program. I think we should and this amendment will leave $300 million, which is the amount now authorized by law and the amount that we came to a conclusion was sufficient for the program this year, in the authorization bill.

I simply do not think, Mr. President, that we are yet ready to reach a decision, a final decision to go for a deployment of the rail-mobile MX. And that, make no mistake about it, is what the appropriation bill does. It says that we are committing ourselves to the rail-mobile MX. It says we are killing the alternative program. It may very well be a year from now I may come to the same conclusion, but we in the Armed Services Committee did not have enough evidence, enough testimony, and enough confidence to make that decision now.

It may be that the Senate will agree today with the Senate Appropriations Committee. It may be that the Senate agrees that we should decide now that we are going to terminate Midgetman and commit to deploy 50 MX's in the rail garrison basing mode with a 1991 IOC. It may be that the Senate thinks this choice is the right one. But if that is the will of this body, I think we should do it with our eyes wide open. We should all know what we are doing, because this is a fundamental decision affecting our strategic deterrent.

I do not want any Member to think this amendment is a case of $300 million versus $400 million, or simply a quarrel between the Armed Services Committee and the Appropriations Committee over whether the appropriation level should exceed the authorization level. My amendment really goes to the substance, it does to the heart of U.S. strategic modernization policy. Does the U.S. Senate want to go on record today as agreeing that we should go beyond having 50 MX's in silos and deploy additional MX's on rail by 1991? That is what the appropriation bill does. That is the first half of the question before us. The second half of the question is equally important. Does the United States Senate want to go on record today as agreeing that we will terminate the alternative to the rail-mobile MX, and that is the Midgetman Program?

I recognize that there are members on the Appropriations Committee, and certainly all of us have engaged in these tactics, that believe that all that is involved here is a question of tactics, that the Senate Appropriations Committee is simply posturing itself for the conference with the House and there is no need to worry about the Midgetman, that it will emerge from the conference with a least steady funding level, although it will be slower. Let me say to my colleagues, I do not agree that rationale. As Butch Cassidy said to the Sundance Kid when they were concerned by about 1,000 soldiers at the end of the movie, "Hey, this is getting serious."

I think, Mr. President, this is a serious move that has to be considered very thoroughly by this body.

It may be that my colleagues are more sanguine than I am about the outcome of the conference. Speaking for myself, though, I am not prepared to take that risk. I am not prepared to leave it all up to the conference. I am not prepared to leave it all up to the House of Representatives. And I am not prepared to take our strategic modernization program and really engage in tactics relating to conference.

The Appropriations Committee, in my view, has made a decision here that is enormously important. If I am wrong, I think the Senate of the United States ought to say so on the record. If there is no longer a majority of the Senators who support the Midgetman, then I think the committee should be backed up by a majority vote here in the Senate.

Mr. President, I would like to read into the RECORD a letter I received this week from General Scowcroft and 12 other members of President Reagan's 1983 Commission on Strategic Modernization.

The cosigners of this letter were former Secretary of Defense Harold Brown, former Secretary of Defense James Schlesinger, former Secretary of Defense Donald Rumsfeld, former Secretary of Defense Mel Laird, General Haig, Bill Perry, Richard Helms, Lloyd Cutler, Nick Brady, John Deutch, former Secretary of State Henry Kissinger, and Jim Woolsey.

Mr. President, I will quote from that letter:

> I understand that the Senate's Defense Appropriations Subcommittee has deleted funding for the Small Mobile ICBM program in its Hardened Mobile Launcher (HML). The members of, and senior counsellors to, the President's Commission on Strategic Forces in 1983 recommended to the President and the Congress a three-part plan. We proposed: (1) that our national approach toward arms control be amended to be couched "not in terms of launchers but in terms of equal levels of warheads of roughly equivalent yield;" (2) that the "short-term needs for ICBM force modernization be met by the deployment of 100 MX missiles;" and (3) that there be an "initiation of full-scale development in 1987 and an initial operating capability in the early 1990's for a small mobile ICBM." We stressed that this three part approach needed to be "taken as a package" in order to maintain deterrence and enhance strategic stability.
>
> In the intervening period of more than four years, some progress has been made, given the naturally vigorous debate on such an important and complex subject, on all three of these objectives. The recent action of the Senate Subcommittee threatens to reverse that progress.
>
> We would stress, once again, that it is vital for the nation's security that "we have underway a program for long-term ICBM survivability to hedge against long-term vulnerability for the rest of our forces." While there are several possible approaches to the fulfillment of this compelling need, the Small Mobile ICBM is currently the most promising. In that respect, the rail garrison basing for the MX missile, while possessing attractive features, is not a substitute for the Small Mobile ICBM, inasmuch as it requires significant warning time to achieve survivability.
>
> While cost would certainly be a factor in a decision to deploy the Small Mobile ICBM, in the interest of preserving the currently most promising program for survivability of our strategic forces, and especially at this critical juncture of U.S.-Soviet relations, we would urge in the strongest terms that the Congress continue the funding for the development of the Small ICBM/Hard Mobile Launcher program.
>
> In the brief time since the Senate Subcommittee's action I have been able to reach the following former members of, and senior counselors to, the Commission, who concur in the substance of this letter: Nicholas Brady, Harold Brown, Lloyd Cutler, John Deutch, Alexander M. Haig, Jr., Richard Helms, Henry Kissinger, Melvin Laird, William J. Perry, Donald Rumsfeld, James Schlesinger and R. James Woolsey.

As I count these, with the exception of the recently retired Secretary Weinberger, this would be the last four Secretaries of Defense that we have who are saying that this action today, to say the very least, is premature and at the most very dangerous.

Mr. President, I do not intend to rehash the entire argument here today for the Midgetman missile. I know that there are a lot of doubts. I know the cost is going to be a big factor. I, myself, reserve final judgment as to whether we ought to go with the Midgetman program.

I know that several of my colleagues, including Senators GLENN, COHEN, GORE, CHILES as well as Senator BYRD intend to speak and they have many compelling arguments to make. Let me just restrict myself to two points which I think are important.

First, I do not believe the time has come to terminate the Midgetman. I also believe the time has not come to commit ourselves to the rail-mobile in an unalterable fashion. That, I believe, is a decision that is best deferred and almost necessarily deferred to the next President and the next administration.

We must face it now. We have a real problem with our strategic modernization program. We have great promise in arms control and yet, in my view arms control policy and strategic modernization policy are not in sync at the present time. Part of that is the problem of the administration, a great deal of it. Part of it is also the problem here in Congress.

Half the Pentagon says it wants the Midgetman and about half says let us kill it. When the MX hung in balance after the so-called Dense Pack debate and debacle, everyone in the administration wanted the Midgetman, at least as it served the function of saving the MX.

Now we have 50 MX's in vulnerable silos, and memories have grown very short as to the basic fact that this was supposed to have been, over all, a package deal.

At any rate, we have two competitors to the Midgetman, two alternatives that were not part of the Scowcroft Commission calculus. They are, first, the rail-mobile MX; and second, the Strategic Defense Initiative. Some may even see the Midgetman as a threat to SDI.

After all, they may reason, and I do not join this, but they may reason that if we solve the problem of strategic stability through ICBM mobility, then one of the main rationales for SDI, some would say the main rationale, is removed.

Both rail-mobile MX and SDI obviously enjoy a high level of support in the administration. Together they have helped fractionate what previously was a bipartisan executive/legislative consensus united behind the Scowcroft report. The result, I fear, may well be fratricide if we are forced to choose between them now.

Mr. President, I am afraid that what we could very well end up with is the worst of all worlds. We could end up with the Senate killing the Minuteman and the House of Representatives ending up next year killing the rail-mobile MX. Then we would have to reexamine all of our arms control options because we simply cannot afford to move down the ladder to a level of 6,000 warheads and at the same time not have a strategic ICBM modernization program.

If we end up doing that we could very well increase the ratio of hard target kill Soviet missiles on a much reduced number of aim points in this country, and we could make the window of vulnerability wider than it has ever been. That is something we ought to think long and hard about.

For this reason, Mr. President, I think it would be a real mistake to force a choice at this time. I think we should keep all three programs going and try to put some degree of rationale together relating to the modernization program and relating to arms control.

The three programs I have reference to are Midgetman, rail-mobile MX, and SDI. All of them can play a useful purpose, but they have to be thought out together and they have to be thought out in the context of where we are going in offensive arms control reductions.

Mr. President, my amendment would accomplish that objective.

I would be the first to concede that $100 million, as I am offering here today, does not buy anything like a complete Midgetman program. It would not even cover the basic termination costs if the system was going to be terminated. But it would make, and we will make today, a very important and symbolic point, and there are times when symbols matter.

Restoring $100 million to the Midgetman while reducing rail-mobile MX by an equal amount says that the Senate believes both programs have merit but a final decision on neither is appropriate at this time. Of course, we have to rely on the conference to take these numbers and make some sense out of them because we are not going to be able to really remedy all of this on the floor today.

My second point has to do with arms control. The START negotiations are approaching a critical juncture. A week ago, Secretary Shultz said, for the first time publicly as far as I know, that the United States was prepared to withdraw its proposal for a total ban on mobile ICBM's if the Soviet Union worked with us to devise an effective verification regime. I do not know if this is possible, but I know the Soviets want their mobile SS-24's and SS-25's and I know also that INF went a lot further than anyone thought possible in terms of intrusive, onsite inspection and cooperative measures for enhancing national technical means of verification. So we cannot rule this out.

Why should we want ICBM mobility in START? The simple answer is that without it, we could well end up with a more unstable strategic balance than we have now. At present, the Soviets can target about three SS-18 warheads on each of our ICBM silos. Under a likely allocation of United States and Soviet forces in a START regime, the Soviets could put about five SS-18 warheads on each of the silos we have left. That is because while the Soviets will eliminate half of their 308 SS-18's under START, we will probably elect, depending on our force structure, to draw our silo inventory down to around 300 to get under the 4,900 ballistic missile sublimit.

These numbers tell me one thing: If we are going to approve the emerging START accord, if the present administration reaches a START accord, if the Senate is going to ratify that treaty as it is now being negotiated, we are going to have to have mobile ICBM's. It would be a supreme irony if over the next 6 months or so the United States and the Soviet Union resolved their differences over START, worked out an effective mobile ICBM verification regime, and produced a historic and eminently stabilizing treaty—only to discover that our internal differences have resulted in both the Midgetman and the rail-mobile MX being killed in an act of political fraticide.

If we have no mobile ICBM's to deploy under the START ceilings, then there is no way we can take advantage of the opportunities for stability afforded by this prospect treaty. This, too, argues for not deciding this issue today.

If we defer this decision, we have to know a lot more about what we are doing next year at this time.

Mr. President, I know there are other Senators who would like to speak. We do not have any time agreement. I would certainly be prepared to try to entertain the idea of getting one if the Senator from Louisiana would desire at this time, or some later point in the debate.

Mr. EXON. Will the Senator from Georgia yield for a question?

Mr. NUNN. I will be glad to yield to the Senator from Nebraska, the chairman of the subcommittee dealing with this subject and who does a splendid job.

Mr. EXON. I thank my friend and, as he knows, I have joined in cosponsorship with the move he is making. I think it is a step in the right direction. I was off the floor for just a few moments and my staff indicated to me that a reference was made in the explanation by the Senator from Georgia, and since I did not hear it, I do not know what was said, but I thought we should maybe correct it if it was said or if it was reported incorrectly to me.

Was there some reference to the fact that those who are not supporting the Midgetman missile are therefore automatically for launch on warning?

Mr. NUNN. No. No, not at all. I said that there may be people in the administration who have concluded that launch on warning is the way to go and therefore not concerned if the Midgetman is killed. There are a lot of people who are opposed to Midgetman who would also be opposed to that launch-on-warning policy. And so I do not want to equate the two.

I am glad the Senator straightened that out because I personally feel if you do not have mobility in some systems and if you have simply land-based systems, you are eventually going to have to go to launch on warning. And I also feel there are some people in the Pentagon now who do not mind doing that. I think that is something we should not adopt as a policy. We have always had, as the Senator from Nebraska well knows, in our planning the capability of doing that kind of launch on warning or launch under attack if it was absolutely essential in an emergency, but that is different from having it as a policy. As a policy, it becomes a hair trigger and it becomes a very dangerous and destabilizing situation as a policy as I see it.

Mr. EXON. I thank my friend. As usual, we agree, and I just wanted to correct the RECORD on that.

Mr. NUNN. The Senator is correct. I thank the Senator.

The PRESIDING OFFICER. The Chair would ask the Senator from Georgia if he wanted to enter into a time limitation with the Senator from Louisiana on a Nunn amendment?

Mr. NUNN. Mr. President, we could do that later. The Senator from Louisiana seems to be concerned on other things at the moment and I will just enter into that kind of dialog at a later time. At this point I yield the floor.

Mr. JOHNSTON and Mr. GLENN addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, the Midgetman missile is, indeed, perhaps the most important strategic decision that we are going to have to make in this body in a long time, maybe for a number of years. And while I know it is on the eve of Christmas, it seems to me it is no solution to say let us build them both, let us fund them both, that is, rail mobile and Midgetman, while we make up our mind sometime in the future.

Mr. President, Midgetman is not a new program. Midgetman has been around a long time. In fact, it was around for years in concept before it was picked up by the Scowcroft Commission and used as a means, in effect a political means in the highest sense of the political democratic tradition of this country, but still used as a political bargaining chip to get the Congress to go along with 100 MX. We all remember very well that history and the distinguished Senator from Georgia has pointed out that that was in fact the package and the deal, and there is nothing wrong with that. It is just that all Members of this body did not sign onto it, are not bound by it, and indeed if it is not in the national interest, should not go along with it. What this body should do is examine the question of whether we need what will probably be a $43 billion to $46 billion program in constant fiscal year 1988 dollars or whether we should have an MX rail-mobile system at a cost of about 15 billion fiscal year 1988 dollars or indeed we may decide later on that we need nothing.

But to say that we ought to continue to fund both the MX rail mobile and the Midgetman at this time seems to me a waste of money. Indeed, Mr. President, that has been the history of this body and the history of the Congress when it comes to national defense for the last couple of decades—do not make any choice: you want a bomber. Well, you build the B-1 and you build the Stealth. You want the missiles. Well, you build the MX, you build the Midgetman, you build the D-5 missile, you build them all.

Consequently, Mr. President, we find ourselves at this time with a monumental deficit.

Now, the distinguished Senator from Georgia—and he is distinguished; he is the leading expert on defense in this body. There is nobody even close, and we do not pretend to be, on the Defense Appropriations Subcommittee. But, Mr. President, when that group, the defense authorization committee, made the decision to authorize some money, they authorized about $3 billion in outlays more than we had to spend because that was before we had the so-called summit agreement which has now ripened into a limit of $285.4 billion in terms of obligations, in terms of outlays to which we are limited by law.

So, Mr. President, it is no answer to say it has been authorized; therefore, the appropriators must do it, because if we did everything they authorized, we would bust the budget to the tune of about $3 billion in outlays.

Now, Mr. President, let us compare these two systems—MX rail mobile and Midgetman. Both have 500 warheads. The relative megatonnage is comparable.

The key thing, Mr. President, is that the life-cycle cost of 500 Midgetman warheads is, according to DOD, between $43 billion and $46 billion. The cost for the same number of warheads on the MX rail mobile is 15 billion life cycle cost, fiscal year 1988 dollars.

So, Mr. President, we are talking about $30 billion additional for the Midgetman missile—$30 billion additional. In addition to that, Mr. President, the problem in maintaining these Midgetman missiles is immense. According to DOD, you can maintain the MX with 3,667 people. The small ICBM takes between 8,300 and 10,300 people to maintain, or about 5,000 additional people to maintain 500 missiles spread around the countryside.

That is not all. If you assume that they are going to disburse these missiles even more thinly over the country, then you can add on another 2,500 people and $1.3 billion. That is also if you assume there is more than one driver, because that assumption up there of 8,300 to 10,300 people assumed only one driver, who I guess is supposed to be available 365 days a year, 24 hours a day. If you assume more than one driver, then you can add that additional cost.

Mr. President, the cost differences are monumental—$30 billion additional for the Midgetman.

Now, not only that but rail-mobile is available with the full operating capacity 4 to 8 years prior to the Midgetman. So you have a window, if there was ever a window of vulnerability, and I do not know whether anybody believes in that, but whatever the vulnerability is, the window is 4 to 8 years wide. You have to wait around for that long for a full operating capability for Midgetman.

Now, Mr. President, let us talk about what the MX does and what it does not do.

Well, it is true that it has some vulnerability to a so-called bolt out of the blue. What does a "bolt out of the blue" mean? It means that somehow the Soviet Union is able to sneak its submarines in someplace close to the coast of the United States and shoot low-trajectory shots targeting all of our MX rail-mobile sites, and that they can carry that off not in a crisis and without any notice, and that they can have that flight time very, very short—let us say 30 minutes or even less.

That is what a bolt out of the blue is. And in that kind of situation, they might take out our rail-mobiles. But in being able to do so, Mr. President, we are left with our submarines, which we should have 9 to 10 Trident submarines available each of which has 24 missiles. Each of those D-5 missiles could have about 10 warheads. So there could be 240 warheads per submarine, or in other words, about 2,400 warheads in submarines available even if you knock out all of the rail-mobiles, and even if you knock out all the bombers. Besides that, Mr. President, you have thousands of additional tactical nuclear weapons. Those tactical weapons include not only the 8-inch, which has a range of many miles, but it also includes weapons for many nuclear-capable aircraft, such as the F-111's, which as we know went all the way from England to Libya in their bombing run. And they can go all the way to the Soviet Union.

So you have thousands of tactical nuclear weapons. You could have 2,400 warheads that are going to be secure out there under the seas. According to the Chief of Naval Operations, according to the chairman of the Joint Chiefs of Staff, according to the Secretary of Defense, asked every year, they say that the oceans are getting more opaque rather than more translucent. They are not vulnerable now, Mr. President. And they are not going to be vulnerable in the foreseeable future.

So I think we should ask our question for the purpose of deterrence, is 2,400 warheads enough? Why, Mr. President, to ask the question is to answer the obvious. If you let us consider that the Soviet Union had 2,400 warheads available to strike the United States—let us say just 2,000 warheads—let us consider what that would mean. If you divided it up by States, 50 States, 40 warheads per

State, my State is an average size, so that would be 40 warheads for the State of Louisiana. Is that enough? Let us see. We put five warheads on New Orleans, three on Baton Rouge, three on Shreveport, three on Lake Charles, five on Barksdale, three on Alexandria, three on Lafayette, five on Fort Polk, three on Morgan City, three on Monroe, two on Thibodaux, and two on Natchitoches.

You still have about 10 warheads left over. Is that enough to deter people in my State? Why, it is absurd, Mr. President, to think you need more than that. It is absurd.

And yet, we are told we not only need to spend $45 billion, but $30 billion more for the so-called Midgetman than for MX rail-mobile, because somewhat it is really vulnerable, Mr. President. We are told that it takes 6 hours to get the missiles out of rail garrison. That is not according to the Department of Defense. According to the Department of Defense, if you have 4 hours' notice, then they would be far enough out that it would take the full, maximum projected SS-18 inventory to attack.

In other words, if you have 4 hours' notice, it takes all of the SS-18's that the Soviet Union has to attack the rail-mobile MX. They have 308 missiles with 10 warheads each. They would have to use up 3,080 warheads to attack our rail-mobile with 500 warheads that costs $15 billion, saving $30 billion over what Midgetman costs.

Mr. President, it is fanciful, it is almost ridiculous to think that a bolt out of the blue could be accomplished. The Air Force does not believe it. I have been out there and I would urge all Senators to go out there to SAC headquarters and look at the strategic plan, so-called SIOP, and look at the intelligence that they have, and hear what they have to say about a bolt out of the blue. They say that the bolt out of the blue—that is where Gorbachev gets back in the Kremlin and suddenly sends out an order to simultaneously attack—is so unlikely, it is hardly even to be put into our consideration. It is just not going to happen.

If they were going to attack, there would be at least some minimal notice. Even if there is not, Mr. President, as I point out, you have all the warheads you need, over 2,000 warheads left with which to destroy the Soviet Union, and as a matter of fact probably bring on nuclear winter with it. But whether or not you believe in that theory, and I do not profess it to be true, it is unquestionably true, Mr. President, that that are enough warheads to deter.

When I say 2,000 warheads, Mr. President, I am assuming that you have a START Treaty with a limitation of 4,900 warheads or so on each side because that is what is projected. That is what is hoped. But somehow to say that to have these submarine warheads, these Trident warheads, that somehow they are vulnerable just runs completely counter to everything that I have heard in the Defense Appropriations Subcommittee or read in the literature on the subject. The fact of the matter is, the most invulnerable warheads are the submarine warheads.

I hope my colleagues will go out on a Trident submarine. There you are hundreds of feet down where they go and prowl at low speeds, at low sonic signature for long periods of time. The Soviets do not know where they are. It is reported that we know pretty well where their submarines are, Mr. President, first because they are louder, second because most of their submarines come out of the Kola Peninsula, out of Murmansk most of them. In short they cannot mount a huge coordinated attack against the United States and against our rail mobile system without us knowing about it.

So, Mr. President, to say that is not enough notice, to say that we need more dispersal I think is contrary to the facts.

Let me say two more points about the superiority of MX to the Midgetman. It first has to do with penetration aids. The MX rail-mobile can carry many more penetration aids, chaff, decoys, those kind of things which are necessary or will be necessary in tomorrow's battle in order to be able to successfully penetrate what might at that time be an SDI environment. The MX is simply better able to do that because you can put another warhead on the so-called bus, a warhead full of those penetration aids.

To be sure, they have increased the size and the weight of the Midgetman, but not to the extent and with the capacity that the rail mobile MX has.

Finally, Mr. President, I think we ought to consider the implications of having 500 independent, truck-carried missiles available to roam the highways of the United States, not that they will be out there at truck stops all over the country parked while the driver has a cup of coffee. Of course not. But they could be dispersed at 500 separate locations. I guess according to present plans, that would be at Minuteman missile sites. They will be available to be seen. The trucks will have to be exercised from time to time and driven at least somewhere and that, Mr. President, would be much more intrustive, much more unacceptable to the American public than to have the rail-mobile, which is in a rail garrison. And to the extent it needs to be taken out on test runs, it would be on the railroad tracks of the country which is not exactly where grandma drives her car.

Mr. President, I understand the argument. And I find it has some validity and some salience that we should not make the decision at this time. It is always easier to put off a decision. I fear, though, if we put in $100 million, that that is the go-ahead on this missile. I wonder if the Senator from Georgia is on the floor. I wanted to ask the Senator from Georgia if his sole purpose is to keep this matter alive or whether it is in fact to make a decision on this matter. We might be able to work out a compromise if the purpose is to keep the issue alive. Actually, it will be alive in conference, in any event.

Mr. GLENN. I discussed the timeframes with the Senator from Georgia just before he left, and I do not think we are willing to go to a time agreement yet.

Mr. JOHNSTON. No. I am talking about a compromise amendment.

Mr. GLENN. We could talk about that, if we are willing to put the money in, but I did not think that is what you were talking about.

Mr. JOHNSTON. If the Senator is able to talk turkey, I think we can talk turkey right now and move on to another thing.

Frankly, what we might be willing to do—and I discussed this with the distinguished ranking minority member—is this. We have language that says this:

> Provided that none of the funds made available for the small intercontinental ballistic missile program may be obligated or expended before March 31, 1988, except to pay termination costs for the program; provided, further, that the Secretary of Defense shall report no later than March 1, 1988, to the appropriate committees on likely alternative uses for funds represented by the acquisition and life cycle costs.

Then we state what those alternative uses should be.

The reason for the March 31, 1988, date is that, we are told, is the last date on which they would have to expend the money to keep the program alive. In other words, this would allow them time to state the alternative uses, allow the committees time to look at it, without spending money in the meantime, and then on March 31 the money appropriated would be able to be spent and would keep the program alive.

It would also, I might add, be in conference for the higher degree of funding.

Mr. GLENN. If the Senator could give us a copy of that, the staff could look at it while we are debating and perhaps by that time the Senator from Georgia would be back from his meeting at the Pentagon. In the meantime, we could continue our debate.

Mr. President, as an original cosponsor of this amendment, I rise to voice my very strong support for continuing the development of the small ICBM Midgetman Program.

In my opinion, it would be a most serious mistake if the Senate accepts the recommendation by the Appropriations Committee to terminate the small ICBM Program. It would be a mistake not only from the arms control perspective, which I believe another member of our committee will address in more detail, but equally important it would be a mistake not to provide the country a land-based strategic missile system that is truly survivable.

It is a system that is not limited to silos or railroad tracks. It is truly a flexible system.

Mr. President, the other day, after the vote in the Appropriations Committee, the Washington Post, in the issue of Tuesday, December 8, addressed this issue. I think the Post editorial is on target, and I would like to read it. I will not just enter it into the RECORD. The title is "Building the Right Missile," and it reads as follows:

> Political accident puts a key weapons vote, on the Midgetman missile, on the Senate calendar just as Mikhail Gorbachev arrives. The vote makes plain that the nuclear universe in which the two great powers live will be shaped as much by decisions each makes separately about forces that are permitted as by decisions they may make together about forces that are banned. Making the right distinction between weapons that should be reduced and controlled and those that should not is the essence of sound policy.
>
> The mobile single-warhead land-based Midgetman is meant to replace the obsolete, vulnerable silo-based Minuteman and perhaps to complement the new multiwarhead MX. Small and hard to target, Midgetman could be expected to survive a first strike. Confident that it was available for use later, the American command would not have to fire it off "on warning"—before it knew what was going on. Hence it fits well a strategy based on deterring nuclear war, and it is a good weapon to firm up strategic stability as arms control takes the raw numbers down.
>
> The Reagan administration, however, has equivocated on Midgetman. Under congressional pressure it has been developing this missile, but in the START talks it has sought to ban it and the matching Soviet SS25. Why ban weapons that strengthen deterrence and stability? Because, the argument goes, the Soviets are ahead in "mobiles," because Soviet mobiles are hard to hit, and because it would be hard to verify just how many had been deployed. To the objection that existing stationary MX missiles and even planned garrison-based rail-mobile MX missiles are targets vulnerable to a Soviet first strike, the reply offered is to defend them with—you guessed it—SDI.
>
> A Senate Appropriations subcommittee last week removed all funds to continue work on Midgetman. An administration that protects mightily when Congress cuts its other programs stood by. The issue goes to the full committee as soon as today.
>
> Midgetman is central to the future of deterrence and stability; this consideration dissolves complaints that the Kremlin currently leads in mobiles (why not catch up?) and that mobiles are hard to hit (that's their advantage). Inspection precedents set in the missile agreement the two leaders are to sign brighten prospects that deployments of mobiles could be efficiently policed. These are powerful reasons why the Senate should put Midgetman back on track.

I agree with the Washington Post editorial of last Tuesday, December 8.

Mr. STENNIS. Mr. President, may we have quiet? The speaker certainly is entitled to the floor and is entitled to be heard.

The PRESIDING OFFICER. The point of the Senator from Mississippi is well taken.

Mr. GLENN. I thank the distinguished manager of the bill.

Mr. President, the important cost in considering whether we have a mobile missile or not is not the cost per missile, because missiles have different capabilities, but what the deterrence is going to be per dollar spent.

On that basis I have no doubt whatsoever that with the small mobile missile we can use even secondary roads in this country, not just superhighways, but can use our whole road network in this country, across the length and breadth of this land, which is 3,679,000 square miles. If you want a deterrent, try to pick out a spot where there may be a missile; and if you pick it out by satellite, it is gone before you have a chance to shoot at it, because it is down the road someplace else, if you are in a crisis situation.

For the past 7 years, I have been coming to this floor to argue for the development and deployment of a small, land-based, mobile, single-warhead ICBM. In July 1983, during Senate deliberations of the fiscal year 1984 Defense Authorization Act, I proposed an amendment, which was adopted on a voice vote, which stated, in part:

> * * * it is the sense of the Congress that the design, development and testing of a small, mobile, single-warhead ICBM be pursued as a matter of the highest national priority.

Further, that the priority established for the small ICBM Program should be:

> * * * consistent with past national priorities such as Polaris, Minuteman, and Apollo * * * and that the Department of Defense should set forth the funding and production schedules consistent with the earliest possible initial operational capability [IOC] at or prior to 1992.

Until the recent action by the Appropriations Committee, that sense of the Congress has been followed by the Congress and the Department of Defense, albeit sometimes reluctantly, and followed most closely by the U.S. Air Force.

I might add that the Soviets have gone this route. They know the value of mobile missiles, and they have gone mobile with their SS-24's and 25's. The SS-20 that is being negotiated out in INF was also a mobile.

We know what happens in war games when we introduce a mobile nuclear missile concept into it. We know what kind of deterrence that truly is.

But, Mr. President, once the 1984 defense bill was passed, the Air Force vigorously pursued the Midgetman development program and according to Air Force Secretary Aldridge in a letter to the Armed Services Committee in 1986:

> The small ICBM is truly an Air Force success story. We have traveled the roadways from a paper system to testing hardware in 3 short years. Mobility, hardness, propulsion and guidance have all been evaluated, and we are ready to enter full-scale development.

Mr. President, with congressional approval last year, including providing $1.2 billion in development funding, the small ICBM entered full-scale development in December 1986. According to the Air Force, the program is on schedule with the first actual small missile launch to take place in 1989 and—in accordance with the wishes of the Congress as expressed in July 1983—the IOC of the small ICBM is planned for 1992.

Unfortunately, if the recommendation of our Appropriations Committee is followed, this truly outstanding success story will have a tragic ending. It will also cost the American taxpayer nearly $2.5 billion that will be essentially lost if the program is terminated.

Of equal importance, and an issue that concerns me greatly, is that we will also be terminating a land-based strategic missile system, that for the first time, truly complements our sea-based ballistic missile submarine program, where our submarine program has three degrees of capability of travel, left and right and up and down. This comes as close to it as anything can on land with freedom to travel left and right but not limited to just the Interstate Highway System but can use all the roads of our country.

Mr. President as everyone in this body knows, the bedrock of our strategic capability is our ballistic missile nuclear submarine force. Over 50 percent of our ICBM force is deployed aboard nuclear submarines.

Mr. President, you might ask why do we put so much emphasis on our strategic submarine capability? The answer is simple—because the sea-based ICBM force is survivable and should remain so for the foreseeable future.

It is survivable because it is mobile. They do not know where it is. It is free to move about the oceans of the world which cover nearly three-fourths of this planet; and because it is mobile and survivable, it fulfills the critical mission of a strategic nuclear system. It provides effective deterrence.

Wisely, however, for many years this country has chosen not to put all our eggs in one basket. The triad approach of land, air, and sea-based strategic forces has served us well.

Now, thanks to the Scowcroft Commission report in 1983, and modern technology, it is possible to develop and deploy a land-based mobile strategic system with comparable survivability—and hence comparable deterrent capability and that is the important thing—the deterrent capability—to complement the sea-based strategic forces.

The Scowcroft Commission was quoted earlier, and I, too, want to quote from them, but I would also add that there were other commissions before Scowcroft that studied this issue and thought that this was a good weapons system. I appeared before and met with the Townes Commission some years ago for some 2½ hours, and they agreed that a land mobile was by far the best way to go because it provided the greatest deterrence. Later on the Scowcroft Commission concluded:

> * * * a single-warhead missile * * * may offer greater flexibility in the long-run effort to obtain an ICBM force that is highly survivable, even when viewed in isolation, and that can consequently serve as a bridge against potential threats to the submarine force.

Mr. President, I believe the last part of that quote is key to the small ICBM issue, namely that:

> * * * [a small ICBM force] can consequently serve as a bridge against potential threats to the submarine force.

As I have already stated, I have been a strong supporter of the small ICBM since the Scowcroft Commission recommended it and even before that, and modern technology permitted the development of an ICBM that could be road mobile but still be highly accurate. The small ICBM satisfies a basic tenet of modern warfare—mobility. Throughout the history of warfare, man has continually sought ways to improve his mobility on the battlefield, or around the world, or wherever we have done that, ever since we got away from the Greek phalanges. They used to mask forces in those days and found it did not work, and ever since we have tried to increase mobility.

Even before the Scowcroft report, the Townes Commission had recommended a mobile ICBM. Unfortunately, the Townes Commission believed it would not be possible to deploy a small ICBM in the United States because of what they termed "social interface."

It is what the distinguished floor manager of the bill, the Senator from Louisiana, mentioned a little while ago, would the American people accept this. We asked the Germans to accept a Pershing missile that travels their roads. We see the Soviets carting missiles over their countryside. Yet somehow we think the American people are so queasy that if there is a crisis situation we could not bear the thought of a missile coming down a highway. I just reject that. I think the American people want what is going to give the greatest deterrence and that means that the social interface problem can certainly be solved. Other nations accept missiles without great social interface problems and I think we can too.

We certainly knew that these missiles we have now and the warheads for them, the nuclear warheads, are transported on our highways and along our airways, and we accept that as a risk; and yet somehow social interface is tossed up as something against the small mobile ICBM.

Studies in the past have raised the fear that the American people would not accept the presence of a mobile ICBM randomly deployed around the country. I was disappointed in this conclusion because I believe it might be possible to convince Americans to accept such a responsibility for the security of their country.

Mr. President, I mentioned earlier that there are 3,679,000 square miles in the United States. A mobile missile deployed on regular type trucks—I never have really felt we needed the expensive hard mobile launcher "turtle" concept where we provide armor protection for the Midgetman missiles.

I would far rather see us with a mobile missile deployed on safeway type truck randomly dispersed across this country. In my opinion, this would provide such a deterrence to a would-be attacker that the threat of nuclear war would be virtually eliminated.

Nevertheless, in recognition of these potential social interface problems, the Air Force has selected to initially deploy the small ICBM on existing Government facilities in the Northern part of the United States with the option to deploy additional missiles on Government-owned lands in the Southwest.

Mr. President, even restricting deployment of the small ICBM to Government owned property and sparsely populated areas—on and off roads—the ability to quickly and widely disperse up to 500 small ICBM's creates enormous targeting problems for Soviet planners. In fact, the Air Force estimates that it would take the entire projected inventory of the Soviet SS-18 ICBM's to attack 500 United States small ICBM's dispersed over only 10,000 square miles, not the 3.6 million square miles, but would require all of their SS-18 fleet if we had the small ICBM's in just 10,000 square miles.

Mr. President, as we stand here today, the Soviet planners do not have those problems—but U.S. planners do. The Soviets have long recognized the military value of mobile missiles and currently have an estimated 100 SS-25 mobile ICBM's deployed. The deployment of the rail-mobile SS-24 is expected any day.

So Mr. President, in summary I would say again to my colleagues that I firmly believe that to allow the mobile, small ICBM Program to be terminated would be a tragic mistake. Like the sea-based ICBM's, land-based, small, mobile, single-warhead ICBM's are survivable, and that is the important thing, and provide a level of deterence not achievable with any other land-based system.

We build the MX missiles, put them back in the silos the Soviets have had targeted for 20 years, and they are going to be a prime target. That is what the MX will be if a war starts.

We have just completed an historic week here in Washington and taken a significant step in arms control. I believe that the small ICBM could play a critical role in the progress of future strategic arms negotiations.

As the Scowcroft Commission concluded:

> A more stable structure of ICBM deployments would exist if both sides moved toward more survivable methods of basing than is possible when there is primary dependence on large launchers and missiles. Thus from the point of view of enhancing such stability, the Commission believes that there is considerable merit in moving toward an ICBM force structure in which potential targets are of comparatively low-value missiles containing only one warhead. A single-warhead ICBM, suitably based, inherently denies an attacker the opportunity to destroy more than one warhead with one attacking warhead. The need to have basing flexibility, and particularly the need to keep open the option for different types of mobile basing, also suggests a missile of small size. If force survivability can be additionally increased by arms control agreements which lead both sides toward more survivable modes of basing than is possible with large launchers and missiles, the increase in stability would be further enhanced.

In conclusion Mr. President, I urge my colleagues to support this amendment which will prevent termination of the small ICBM Program. By keeping the small ICBM Program alive, it will provide maximum flexibility for this and the next President as well as our negotiators at Geneva.

Mr. JOHNSTON. Will the Senator yield?

Mr. GLENN. I am happy to yield.

Mr. JOHNSTON. I thank the Senator.

May I say that we are working on some alternative language which Mr. Punaro of the Armed Services Committee is drafting up, which he will seek to clear with all parties concerned. So I hope we can get it settled.

In the meantime, may I ask the Senator if he thinks a bolt out of the blue is a real possibility and, if so, how that might be carried out?

Mr. GLENN. Well, do I think it is a possibility? Yes, I do.

Mr. JOHNSTON. How might it be carried out?

Mr. GLENN. Well, I would think there might be such a thing as a massive attack. I do not think we are going to see little piecemeal attacks. Probably any future war is more likely to start as a conventional war and escalate upward.

Mr. JOHNSTON. That is, by definition, not a bolt out of the blue.

Mr. GLENN. I think that is the likely scenario. But I think we have to be prepared for the bolt out of the blue. I do not think we can erase that as a possibility.

Mr. JOHNSTON. Well, as a possibility, how might it conceivably be carried out? In other words, if you are Secretary Gorbachev and you wake up one morning and you have got some mad on for the United States and you say, "I want to attack as soon as possible. I want it to be entirely secret. I want to have a bolt out of the blue," just how would you conceive of doing it?

Mr. GLENN. Well, I think if we have the small, mobile ICBM's, Secretary Gorbachev would not be able to do that because he would get up in the morning and his planners would say, "Now we think today we can attack all those MX silos and we can hit the rail intersections, but we do not know where those several hundred mobile missiles are. So they are going to shoot back at us, and we better think twice before we fire this morning."

Mr. JOHNSTON. Will the Senator agree with me that—and his inability to answer the question, I think, coincides with the fact—the doctrine in SAC is that it cannot be done?

Mr. GORE. Will the Senator yield to me for a response to the same question?

Mr. GLENN. Certainly.

(Mr. DASCHLE assumed the chair.)

Mr. GORE. First of all, both sides have been concerned over the years about the possibility that a crisis might escalate tensions on both sides and that, as tensions build, the attitude toward one another would change.

As mobilization began, tensions would rise even further. The bolt out of the blue scenario, in my view, is extremely unlikely. Nevertheless, both sides have treated it with extreme seriousness for a long, long time.

The first visit that I made to the Soviet Union included a discussion with some of the Soviet general staff and some of their arms control policymakers in which I posed the question to them. They were expressing concerns about the MX and about the Midgetman and about the D-5 and cruise missile. They made the flat statement that the United States is acquiring the ability to launch a first strike against the Soviet Union.

I said: "Now, wait a minute. You actually have more submarines than we do, correct?" "Yes."

"If we ever acquired the ability to launch a first strike and then, for some unknown reason, actually did that, you, the Soviet Union, would still have enough submarine-based warheads to completely obliterate the United States in response, correct?"

Their answer was: "Yes, but we are not really concerned that you would actually launch such a strike. But if you acquired the ability to gain that advantage, it would embolden you to challenge our interest all over the world."

Both superpowers have treated nuclear weapons as geopolitical instruments and not just military instruments. Gene Rostow, the first Chairman of the Arms Control Agency under President Reagan, used to use a phrase—geopolitical radiation, alpha waves, beta waves, geopolitical waves.

And the ability to gain an advantage in a first strike has been deemed by both sides to confer an enormous geopolitical advantage. I think that we are not safe in completely writing off the military concern, particularly if we are going to base security on these rail mobiles, which I want to talk about in a moment. But the geopolitical concerns are also important.

Mr. JOHNSTON. The Senator's answer is a very good and articulate answer, but it was not to my question. The question is: Is a bolt out of the blue, which is different from first strike, is that a real possibility and, if so, how could it conceivably be carried out? And I say that in the context of the fact that SAC says it cannot be done without some notice to us.

Mr. GORE. In responding, may I inquire, if the Senator from Ohio is through, I would like to seek the floor in my own right and respond to the question.

Mr. GLENN. Let me respond just momentarily and then I will yield the floor.

The traditional thoughts about the bolt out of the blue were just that—there is always a danger that a bolt out of the blue could happen. If an enemy saw us in a weak condition and felt we possibly would not have a response; that they could knock out our total force structure enough so that we then would be crippled to the point where we would be afraid to fire because their superiority would allow them to inundate us; so they want to knock out a high enough percentage of our force that we then would be cowed into thinking we better not return fire because they still have such a preponderance that they felt that they could overcome that. That is the traditional bolt out of the blue.

Mr. JOHNSTON. If the Senator will yield, that is not the question. The Senator knows what the force structures of the Soviet Union are. How would you carry it out? Would it be with SS-18's? Would it be with missile submarines? And, if so, where would they put them? Just how would you do it? Because I do not think it can be done without notice to us.

Mr. GLENN. I think that our intelligence would be making every effort to get that information.

Mr. JOHNSTON. To get what?

Mr. GLENN. To get information on the location of their forces, whether their submarines or whether their missile forces were on alert or not, whether they were preparing to fire. They have missiles in their silos ready to go all the time aimed at ours, as we have at theirs.

The bolt out of the blue is that there would be a massive attack—we have been afraid of this for years—that there would be a massive attack and it would knock out a sufficient portion of our forces and we would then be afraid to reply. That is the traditional bolt out of the blue.

But you keep asking how it would be done. I do not think we have a pipeline into the Kremlin where their war department is putting out the orders. But let us say they have the capability of firing several hundred of these missiles at us all at one time. The bolt out of the blue, could it cripple us? Yes, it certainly could.

Mr. JOHNSTON. You are speaking of intercontinental ballistic missiles fired from the Soviet mainland.

Mr. GLENN. I am talking first about the submarines whose missiles have a shorter flight time to target; I am also talking about ICBM's launched from the mainland. ICBM's that require 25 to 30 minutes might be used in a second-wave attack after submarines. There are all sorts of scenarios that I could dream up as to how they would do it.

I think in a situation like that they might even have some Soviet ships in port that conveniently blew up at the wrong moment—at the right moment for them, the wrong moment for us. But there are all sorts of scenarios.

Mr. JOHNSTON. But that does not blow up your rail-mobiles.

Mr. GLENN. It does. If they send their ICBM's over, it certainly does.

Mr. GORE. Will the Senator yield?

Mr. GLENN. Just 1 second, and then I will yield the floor.

I think the CBO just put out a new study as to the strategic modernization program. One of the points they make in the study, I say to the Senator from Louisiana, is that they have said that we have had warning indicators before and chose to ignore them because we could not believe that somebody would be audacious enough to strike us, a la Pearl Harbor. We had some warning there, and we thought they would not dare do that, and they did dare.

So I am hopeful that in the arms control area, we are moving ahead and moving ahead effectively. But I think the history of warfare is that you try to be as mobile as possible so you do not give them a good target to shoot at.

If you sit in on some of these war games, the most disturbing element in the whole war game is when somebody introduces a mobile nuclear missile over on the other side and you say, "Well, what are we going to do now?" And nobody knows because you do not know where the thing is. And so it throws a new uncertainty in there. That is deterrence. And that is the essence of deterrence and that is what the small mobile gives us and that is the reason I have supported it for all these years and provided some of the first legislation.

I yield the floor.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. GORE. Thank you, Mr. President.

I want to join my colleague, the Senator from Ohio, and support the amendment offered by Senator NUNN and Senator WARNER.

In response to a question just posed, before I get into my prepared statement, it is true that that scenario—well, the scenario that we were just talking about might or might not get the rail-mobile, but the way they are configuring the rail-mobile at the present time a couple of pounds of plastic explosive placed a few miles on the rail line outside of the military base would get the rail-mobile. But let me turn to the principal issue here.

Reference has been made to the Scowcroft Commission. There have been a number of other bodies empaneled to study this question. The Scowcroft Commission has studied it and recommended it. The Deutch Commission was empaneled to study it. They recommended it. The Defense Review Board studied it and they recommended it.

Five, the immediate five past Secretaries of Defense in both parties, have studied it and have recommended it.

On the other side of the spectrum, the Union of Concerned Scientists has written a letter to every Member of this body, recommending it. Reference was made to the editorial in the Washington Post. I would also like to put into the RECORD the editorial in the New York Times, also recommending it. The Boston Globe and a whole host of newspapers all across this country, the Atlanta Constitution included, have recommended it.

Interestingly enough, the Soviet Union has now conducted a long-term study on what would be required to achieve strategic stability with deep reductions on both sides.

General Secretary Gorbachev, who was just here for the summit meeting, asked two of his strategic institutes to investigate the following question: Let us suppose that it turns out not to be realistic to eliminate all nuclear weapons from the face of this Earth, at least in our lifetimes. And let us suppose that what we want to do instead is to get rid of as many of them as we can while retaining deterrence for both sides. How can we go about that? I hope that the distinguished subcommittee chairman, the Senator from Louisiana, will listen to these comments. I believe that they have some bearing on this debate.

They looked at it for a lengthy time and they published a long report directed to Gorbachev, which has just been translated into English. I put it into the CONGRESSIONAL RECORD a couple of months ago.

The conclusion that they came to is that the ideal balance would be for both sides to have 500 to 600 single-warhead mobile missiles.

Now, why is that and why has the Soviet Union begun to see this problem in ways that are so parallel to the ways that the Scowcroft Commission and the Deutch Commission and the New York Times and the Washington Post and Senator NUNN and Senator WARNER and these five Secretaries of Defense see it? It is because there is an emerging parallelism in the way the superpowers have begun to see the arms race.

We have just completed a critical summit meeting and the evidence emerging from the summit is that both sides believe in the possibility of completing work on a strategic reductions agreement within the next 6 months. That may turn out not to be possible. But even if they fail in that immediate task, both sides will have taken a giant step toward resolving this problem.

In his departing statement General Secretary Gorbachev noted that discussions here had dealt at length with the question of strategic stability. What does stability mean? Stability is not the same as equality. It is not the same as both sides having an equal ability to threaten the other. Stability means both sides having the ability to deter the other, but neither side having the ability to gain an advantage from launching a first strike against the other.

It is increasingly clear that the Soviet Union now sees this problem, at least partially, in the same terms as we see it in; that is, in terms of designing land-based forces which are both smaller and less vulnerable to a first strike.

There is also clear evidence, as I mentioned, that Soviet experts decided how best to deal with that problem through the deployment of single warhead mobile missiles in a survivable basing mode. I will put the relevant sections of this study in the RECORD at the conclusion of my remarks.

It is remarkable that the Soviet Union has now completed this lengthy study, which is parallel to the Scowcroft Commission. I believe that we should at least keep the option open for the next administration, if not this one, to explore what could be an historic opportunity to really resolve this problem and reverse the arms race in a verifiable way that enhances our national security.

Are we going to close off the option now after five Secretaries of Defense and the leading experts on strategic policy in this country have all agreed on what the correct approach is? I think it would be extremely unwise.

We are debating, in one sense, today, whether or not we are going to abandon the only basis for a bipartisan consensus on strategic policy in this body and in this country. The Senate Appropriations Committee evidently has come to the decision, contrary to the Armed Services Committee which has had lengthy hearings on these questions, that we should right now decisively reject the small ICBM Program and instead make the decision to push for accelerated work on rail mobile deployment for the MX in conjunction with SDI.

Now, who in this body believes that we can build a consensus in America for going forward with extra MX missiles protected by an SDI Program? If you believe that a majority of the American people and a majority of this body or the House of Representatives is prepared to go along with a recommendation like that, then vote against the Nunn-Warner amendment.

But, bear in mind that if you are wrong, as I believe you would be wrong, then this Nation would be right back where it was before the Scowcroft Commission was formed, that is with no consensus and no modernization of our ICBM force at all.

I do not believe that that is in the interests of our country.

Mr. JOHNSTON. Mr. President, would the Senator yield for—

Mr. GORE. Let me finish with this statement and then I look forward to a dialog with my colleague.

I believe it is a formula for political stalemate and defeat at home and in our diplomacy, on the verge of a possibly historic breakthrough. Once again, the ebb and flow of opinion in Congress may completely remove the basis for strategic agreement with the Soviets just in time to frustrate the possibility of success.

So I rise in support of the amendment offered by Senator NUNN and Senator WARNER; to prevent these unnecessary losses for our national security. The elements of the issue are clear. No strategic arms control agreement is ever going to get through this body if it fails to resolve the problem of strategic stability in relation to ICBM's; their vulnerability in fixed sites; and the fears of a nuclear first strike which surround that problem.

The rail mobile MX missile does not solve this problem by itself; and by itself, in my view, would in fact make the problem worse than ever.

My colleagues will recall that under the rail mobile MX proposal, 50 or more MX missiles will be loaded aboard as many trains, and the trains will be housed in sheds on sidings located at approximately six strategic air command bases. It does not take calculus or higher mathematics to calculate the number of miles of railroad available to these sidings in 1 to 2 hours of motion for MX trains.

Similarly, it is a straightforward matter of simple arithmetic to calculate the number of Soviet weapons required to destroy any object along those rails.

The answer from those calculations is that it would take about 40 Soviet SS-18 missiles to destroy those 50 MX trains during the first hour of their travel. After about 3 hours, such an attack might—might—no longer be practical. That makes some very charitable assumptions. But even under those assumptions at this point, after 3 hours, the Soviet Union would have an incentive to go quickly first during a heightened crisis. The implication of this would be clear to a Soviet planner. He has a limited but workable period of timer in which to destroy this threat with relative ease and there would be a substantial payoff of 500 warheads if he did so; whereas, if they waited during a heightened period of tension, then those 500 warheads might well be available to put all of the Soviet targets at risk.

But I said that there were some charitable assumptions that were being made about the MX rail mobile system.

First of all, can these trains disappear into an active railroad network that relies heavily on nonsecure microwave communications?

Can their identities as special trains be concealed both during random movements and while parked on alert?

Will all of the railroad dispatch crews in proposed operating areas have to be given security clearances, background checks?

How many civilian railroad employees will know that an MX train is operating within their area of trackage?

Next, as to the reliability of strategic warning.

The people at SAC and in the military command center insist that they watch so many different indicators that we will in fact receive many advance indications of increased Soviet activity. But the military people are not the ones who will decide whether or not to roll out the trains in the midst of a period of tension. That decision would be made by political authorities, by a President who would be getting all kinds of conflicting advice.

Just how sure can we be that a President of the United States in the midst of heightening tensions, with all of the television newscasts focusing on the crisis at hand—how can we be sure at that point that a political figure would say, "Roll out the trains and give the Soviet military command 3 hours of deadly calculus, when they will know that we are dispersing our forces, and give them 3 hours to either destroy them or put themselves at risk."

Next, as to vulnerabilities before dispersal. These trains are to be located on a handful of SAC bases in peacetime. In most cases, there will be only one exit from the SAC base to the civilian rail network. The trains will have to travel several miles before there are enough track branchings for them to have lots of different possible routes that thay might have followed.

Now let us bear in mind that a railroad is a lot different from a highway. About 5 pounds of conventional explosives carried in a back pack or a briefcase would be enough to render a railroad line unusable. It is not like a road or a military base where a Midgetman vehicle could be able to drive around a crater, where it could disperse over a large area.

If a rail line is broken, the train does not go. It stops right where it is, and it is a sitting duck just like an MX missile in a silo.

And yet there will be 500 warheads on 25 trains at only about six bases.

Do you believe the Air Force has a plan to establish security over all the miles of railroad track immediately outside these half-dozen SAC bases? Remember, if you cut the tracks 3 miles on either side of a SAC base somewhere out in the desert or out in the prairie, trains do not disperse until the tracks are fixed. That will take a longer period of time, at least hours, maybe days.

Or are we going to go to a system like the Soviets use, where we have armed guards stationed constantly at the end of every railroad bridge and every culvert and at the mouth of every tunnel? Are we prepared to go that step?

Well, these six bases, this scenario, are what provides the basis of the cost comparisons that we heard earlier. They are extremely unrealistic.

These are very serious questions. These questions are under study today. The answers are not in yet. I have grave doubts about whether the answers will be favorable or not. But the point is, and the point made by Senator NUNN and Senator WARNER is, let us wait until we have the answers to these questions before we go ahead and make the choice today. Let us keep open the possibility for strategic consensus for stability, for the possibility of an arms control agreement that could be genuinely historic.

Well, I believe that even if the garrison rail mobile idea for MX did turn out to be workable and even if all of these and other problems were solved, it would be workable only if one were not concerned about having an ICBM force which had to depend upon strategic warning of several hours in order to survive and which offers the Soviets very high-valued targets.

I believe this is a problem, of course, which has never particularly vexed the Strategic Air Command because SAC believes that the President or his survivor would order our missiles to fire as soon as it was clear that we are under attack but before the attack has reached us.

Well, that may, in fact, satisfy some in our military, but it has never been of comfort to this body. The whole argument about a window of vulnerability has been based on the fact that launch on warning is not an acceptable strategy for this country. We do not want to turn it over to computers. We do not want to put the survival of the human race at risk on the basis of some computer or radar error.

Midgetman does depend upon no more than tactical warning, 15 minutes, for a very high level of survivability.

The Soviet Union cannot destroy this system without using up its entire present force of heavy ICBM's to do so.

Let me repeat that point. If we go forward with the Midgetman missile we have a survivable land-based deterrent with high accuracy, capable of preserving our deterrent force, that cannot be destroyed by the entire Soviet ICBM force. They could use everything they had and devote it exclusively to the Midgetman missile and still not be able to take it out. That is why it has so much support. That is why the strategic policy experts have supported it. That is the reason for the editorial support. That is the reason the Soviet Union is going in that direction. That is the reason the Scowcroft Commission and its counterpart in the Soviet Union have pointed in that direction as the basis for agreement, where our countries can solve this problem.

Deploying Midgetman in conjunction with rail mobile MX might, therefore, help eliminate concerns about the latter. But, again, the latter has not been adequately studied. This decision that they are attempting to force on us is premature. We should vote for the amendment.

But the two systems together probably could operate in a cooperative relationship.

In that event I would argue for redeploying the first 50 MX as rail mobiles. Without Midgetman, however, rail mobile MX is not the answer to any problem.

Midgetman, moreover, is virtually a logical necessity for us in the event that we do reach a deep reductions agreement with the Soviet Union.

I would also like to direct your attention, Mr. President, to an article in the New York Times by Michael Gordon, analyzing the problems to be discussed at the summit meeting. The article points out the deep problems that Republicans and Democrats have begun to raise about our own negotiating proposal in the START talks, noting that if our proposal was accepted tomorrow by the Soviet Union, we would be in deep trouble because the so-called window of vulnerability would be opened wider.

If, however, the same proposal was accepted and instead of deploying the MX we deployed Midgetman, it would work, because the window of vulnerability would be closed shut. It would no longer exist.

Now to return to a point that I made earlier in colloquy, this business about a Soviet first strike should be understood on two levels, and this is critical to the argument. First of all, the military level is important. We do not want to go to launch-on-warning. We do not want to turn it over to computers. But even if you believe, as I believe, that it is highly unlikely and bordering on ludicrous that the Soviet Union might actually launch a bolt out of the blue and destroy our forces, there is still an extremely powerful political argument, and it has had currency in this body for years and years. If either the United States or the Soviet Union can gain an advantage from a first strike, then the other side begins to fear that imbalance and will not rest until it has somehow alleviated the problem and somehow dealt with the source of that problem.

What the Scowcroft Commission pointed us toward was a solution, an ability to remove that fear. And what is the solution? Simply this: To use a combination of deployments and arms control to make it impossible for either side to gain an advantage from a first strike.

If my colleagues will forgive me, I would like to use an example that I have used on some prior occasions to illustrate the essential point. If we reduce it to an absurd extreme and assume that the United States and the Soviet Union had only three missiles on both sides and each one of these missiles had six warheads, highly accurate, that could be independently targeted, then that resulting balance would look like an equal balance. But look what would happen if one side launched first. One missile with six warheads could put two warheads on each of the three missiles on the other side and, therefore, the nation striking first would have two-thirds of its forces remaining and the nation attacked would have none.

Now, both sides would still have submarines, yes, that is correct, but anybody who says those missiles are comparable and can do the same job in hitting silos needs to come to the same briefings that have been given to our committee, needs to get versed perhaps in another forum, not here in open debate, about the differences, and needs to look at the political history of why this Nation has never been willing to rely solely on one leg of the triad. And if anybody believes that we are going to ratify an arms control agreement, a strategic arms control agreement that is premised on our going to one leg of the triad, they better look again at the political history.

Now let me change the terms of the example. Let us say each nation has three missiles, each with a single warhead. The nation launching first has to use two missiles to knock out one because of the rule of thumb that you have to have two warheads to knock out a silo on the other side. The aggressor is then left with a disadvantage and, therefore, the other nation does not fear the attack in the same way.

That is the purpose of substituting single warhead mobile missiles for multiple warhead, fixed silo missiles. What does mobility get us? It changes the mathematics. Instead of using two warheads to knock out one missile, the Soviet Union would have to use as many as ten to knock out one. So the easiest way to get to strategic stability is to have both sides begin to introduce single warhead, mobile missiles into the inventory as the multiple warhead, fixed silo missiles are taken down and removed as part of a verifiable arms control agreement. That is why the Soviet Union is moving in that direction. That is why so many of the experts in the United States have been moving in that direction.

I believe we need the flexibility of single warhead missiles, therefore, to help us set up a rational land-based force.

Even if you put aside the arms control implications, it makes no sense at all to deploy warheads at the rate of 10 per launcher under the circumstances we have been talking about. It makes sense to deploy them at one per launcher, and some of the military experts from the Air Force have testified to that effect before the Armed Services committee, in order to give our targeters the best chance to cover their objectives.

Under a deep reductions agreement, moreover, the costs for deploying Midgetman could be carried readily by savings flowing naturally out of other changes that would be made in our strategic forces.

Well, I believe that in a 50-percent reduction agreement, if both sides deploy mobiles, neither side could carry out a first strike. If neither side deploys mobiles, both sides could carry out first strike. And if we do not deploy mobiles and the Soviets do, then our forces will be vulnerable to a first strike while the Soviet Union's forces will not.

At issue here, therefore, is whether any concept for strategic stability and for arms control can hold the Senate's attention and support long enough to bear fruit. We are on the verge of a breakthrough, whether it comes in this administration or building upon this administration's work in the next administration.

The small ICBM concept, if its dies, would bring down with it any remaining chance of success for the MX missiles in any guise. Make no mistake about that. We would be faced with going into the strategic arms control negotiations with no consensus and no possibility for any strategic modernization of our ICBM force. Does anybody here think negotiating from a position of strength is merely a cliche in the wake of the agreement we have just signed this past week? Please think again. This agreement covered 3 percent of the warheads, none of them targeted on the United States. The next agreement is the one that really matters. Are we going to go into that crucial negotiation with the Congress of the United States once again tearing itself apart and removing any basis for strategic modernization? That is what is at stake with this amendment. It is no accident that the chairman and the ranking minority member of the Armed Services Committee sponsor this amendment. It is no accident that the people supporting it make up such a long list of luminous names from the past five Defense Departments. I ask my colleagues to support the Nunn-Warner amendment.

I will be glad to entertain any questions that the Senator started to pose earlier if he still has them.

Mr. JOHNSTON. Mr. President, I must observe before my question that I think the Senator paints a rather gloomy picture here that it is Midgetman or nothing; if we do not have Midgetman, we do not have an arms agreement; we have a continued arms race and all of that, which I would suggest is decidedly not the case.

But I have a number of questions for the distinguished Senator. The first is, on this question of being able to blow up all the MX rail-mobiles by a little plastique on the track, that is a rather interesting idea and it sounds like they would really be vulnerable.

But in connection with the bolt out of the blue, I ask my distinguished colleague, does he really think it is possible to send some kind of radio message from Moscow to special agents scattered out among 7 to 11 bases with 25 different trains and simultaneously get the message out in time for them to go buy the "plastique" and to buy the hoods that they would need at night and all of those things and be able simultaneously to coordinate their activity and blow up those tracks right before the bolt out of the blue comes? Is that really a real possibility? Or is it not a fact that they would not try to do that because, in fact, to do it you would have to do it ahead of time and that in itself would give that you notice of the attack and put all the other forces on a high level of alert?

Mr. GORE. I appreciate the question. Let me respond in two ways. First of all, in the military sense, if they were going to actually carry out such an attack—and I agree that it is not likely, but if they were actually going to do it, they would be risking the survival of their nation.

You could guarantee therefore that they would do their utmost to retain the element of surprise. Are they capable of that? I do not think that it is likely. Should we bet the survival of our Nation on a fragile assumption about the nature of Soviet leaders? Some argued, as the Senator from Ohio noted earlier, that an attack on Pearl Harbor with all of the complicated and massive logistical measures required was unthinkable and therefore we did not really plan against it. Let me deal with it in a second way.

Gen. Larry Welch, the Chief of Staff of the Air Force, has said the following:

> My concern is thus not so much with a bolt out of the blue attack but with an escalating crisis. As such a crisis deepens even short of conflict we want our strategic forces to get progressively more survivable.

A third and final point—and I do not wish to belabor the point but I honestly believe it to be critical to the course of this discussion. Nuclear weapons have always been political instruments as well as military instruments. We chose to destroy Hiroshima, not because it was a military target but in order to intimidate the Japanese high command at the end of World War II and end the war. We have used nuclear weapons to defend the freedom of Europe not militarily, but politically. Their potential matters, even if the potential use is based on some assumptions that strain credulity of those other than military planners.

I do not think we ought to bet the farm much less the security of the United States of America on assumptions like that.

Mr. JOHNSTON. Mr. President, I have some other questions. I know the distinguished Senator from California wanted to speak.

Frankly, I think we have the makings of an agreement if we can find Senator NUNN. I know the Senator from California wanted to speak.

Mr. GORE. I yield the floor.

Mr. JOHNSTON. I will not ask any further questions.

The PRESIDING OFFICER. The Senator from California.

Mr. WILSON. I thank the Chair.

Mr. President, let me begin by congratulating my friend from Louisiana. He has quite thoroughly and succinctly outlined what really the debate is about.

What this debate is not about, Mr. President, is mobility. We can all stipulate that mobility is a highly desirable thing. It is one of the ways, though by no means the only one, to achieve survivability of your nuclear deterrent. The other way, which the Senator from Louisiana has dealt with I think quite adequately, has to do with the use of a nuclear deterrent of a submarine base which gives you not only mobility but also the tremendous advantage of concealment.

Let me point out some basic arithmetic since that phrase seems to be in vogue here this afternoon.

We are all extremely hopeful—and I agree with the Senator from Tennessee on this point—that much more important negotiations having to do with the reduction of strategic weapons will bring about an agreement whereby there can be dramatic reduction in those weapons to the point where the goal announced in the joint communique is 6,000 warheads per side. In that joint communique there are instructions to the negotiators to seek sublimits, specifically those that would permit 1,100 of those 6,000 warheads on our side to be allocated to air-breathing delivery systems. That would leave some 3,300 to be submarine launched. That would leave some 1,600, Mr. President, remaining as land-based intercontinental ballistic missile warheads.

So what we are really talking about when we discuss the fate of 500 is about 5 percent of the total and, therefore, Mr. President, we need to be concerned, one, with its effectiveness and, two, with its cost. The effectiveness is questionable if you have a road-mobile delivery system in a fixed-aim point. You do not have the same hard-target-kill capability that you do from a fixed base. But really the staggering consideration here is the enormous cost of this weapons system, and conservatively estimated by the General Accounting Office and conceded by the Air Force, it comes to almost $50 billion in order to secure it. The manpower required would be substantial.

So I think that we really have to ask ourselves what is it that justifies this outlandish cost to achieve a minimal capability when there are available to us so many other ways to achieve mobility and survivability? Your get survivability with the mobility from a rail-mobile MX. You get survivability in a much more effective way when you combine not only the mobility of the submarine but the concealment that is available to it.

The point has been made by one of the most fervent of the proponents of the Midgetman missile that we should look to the Soviets for guidance in this. They are going mobile. Well, to the extent that they are, I would point out that theirs is a very different situation than ours. Whether we like it or not, the circumstances are quite different. We are talking about confining our road-mobile missile, our Midgetman, to a very small geographic area. It would have to be flushed and run from it in order to be survivable. By contrast, the Soviets have a nation 11 time zones wide, a nation offering the capacity for virtually unlimited concealment. And, therefore, it is frankly misleading to suggest that we are in the same circumstance as the Soviets with respect to our ability to enjoy the advantages of a mobile missile because we frankly do not enjoy them. And, in fact, there is even less opportunity to enjoy them because in contrast to the recommendations of the so-called Deutch panel of the Defense Science Board, we are talking about Midgetman not based as that panel recommended, but for reasons of economy the Air Force has chosen to put them on the Minuteman bases.

So let us not delude ourselves that we are not in the same situation as the Soviets. We are not. But happily, even under the dramatic reductions, were they to be realized of a successful START agreement, we would be dealing with a tiny fraction of the total inventory of warheads available, and it simply does not make sense for us to waste the kind of money that we are talking about, $50 billion, in order to achieve that minimal highly uncertain capability unless there is some specific certain justification for it. What is it?

The real debate this afternoon is should we take money from the rail-mobile MX which gives us the kind of mobility and survivability that we all agree to be desirable and transfer that money instead into an account which the appropriators quite correctly have zeroed.

What we are being asked to do is to spend this money foolishly. The justification that it offered for doing so is that it will prevent our being vulnerable to a so-called bolt-out-of-the-blue attack.

Mr. President, a bolt-out-of-the-blue attack is one that occurs with virtually no warning. In order to achieve that kind of total surprise the Soviet Union, were they to choose to do so, would have to also elect to leave themselves enormously vulnerable. They would have had to abandon the kind of precautions which otherwise they would take. And to not belabor the point at length, because my colleague has done so I think very effectively, when they appeared before the Armed Services Committee and this specific point was pressed with the Air Force they found themselves in the very difficult and uncomfortable position of having to answer this question. What is the likelihood, what is the probability, the plausibility, of a bolt-out-of-the-blue attack by the Soviet Union?

The response was, "It is irrational."

Mr. JOHNSTON. Mr. President, will the Senator yield?

Mr. WILSON. I yield.

Mr. JOHNSTON. Mr. President, I hate to interrupt the Senator, because he was making such a great point, with which I strongly agree.

I think there is a very good chance that we have arrived at something which will be acceptable.

The problem is that Senator NUNN is at the Pentagon and cannot be reached at this time. We have been working with his staff, and we are seeking to clear the matter with other Senators.

I wonder if it would be possible to lay this matter aside, in the hope that we can work it out. If we can, we will come in and accept the Nunn amendment as modified. If we cannot, we can resume the debate at a later time. In the meantime, we can deal with some other amendments and hopefully get out tonight.

Mr. WILSON. If that is a question to me from the distinguished Senator from Louisiana, I will say that I would prefer to lay it aside permanently. However, in the Christmas spirit, in order to allow the majority leader to advance the calendar, I will be pleased to do so, under that understanding.

Mr. JOHNSTON. If other Senators would not object to that——

Mr. LEVIN. Mr. President, reserving the right to object, I ask unanimous consent that I be listed as a cosponsor of the Nunn amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUPPORT CONTINUED FUNDING OF THE SMALL ICBM

Mr. BYRD. Mr. President, I am pleased to support the amendment offered by the distinguished chairman of the Armed Services Committee, Mr. NUNN. This amendment, while it does not involve a tremendous sum of money, nevertheless represents an important statement by the Senate on the future of the small ICBM Program. The statement, in short, is that the program should not be terminated at this time, and that it is too early in the program to make a final decision on the future of the small ICBM.

Indeed, the Senate explicitly stated, in passing the Defense Authorization Act, that continuing to fund the small ICBM along with the rail-garrison MX system did not represent a commitment to procure and deploy either system. That language is repeated in this amendment. The decision on deployment is one which should be made in the context of a full debate on our strategic nuclear forces, our arms control policy, and budget realities.

While it may be true that at some point it will be necessary to make a choice between either the SICBM or the rail-garrison MX, due to budgetary constraints, that time has not yet arrived. Although the report of the Appropriations Committee asserts that the rail-garrison MX will provide a more affordable mobile land-based missile, the evidence on this matter is far from final. We should, therefore, defer a final decision in the Senate until all information is available.

Mr. President, it is worth recalling the reasons the small ICBM Program was initiated and the objectives it is designed to achieve. It has its origins in the report of the President's Commission on Strategic Forces—the Scowcroft Commission. That commission recommended the development of a small, single-warhead, mobile missile as part of a package which included deployment of MX in fixed silos and certain adjustments in arms control philosophy. The overall goal was to arrive at a strategic nuclear force posture which promoted stability and reduced the incentives for nuclear attack.

We are part of the way toward that objective, but we have not achieved it yet. If we terminate the small ICBM at this juncture, we will have foregone an important option which our strategic force planners may need in the coming years.

Specifically, we will have foregone the development of a single-warhead missile, one which may have a number of important advantages for deterrence and for employment if deterrence fails, and we will have foregone the option which provides the greatest degree of survivability for land-based missiles under attack scenarios where our forces have short warning times.

These are just a few of the key issues which should be fully addressed and debated in making decisions on the future of this important strategic program. It seems even more important, only one day after the summit between Mr. Reagan and Mr. Gorbachev, and when our negotiators in Geneva have been given renewed instructions to reach an agreement on strategic force reductions as expeditiously as possible, that the United States keep its options open pending the outcome of those talks. Again, for that reason I would argue that any final decision on the future of strategic programs—either the rail garrison MX or the small ICBM—is premature at this time.

For these reasons I urge Senators to support this amendment and I urge Senate conferees to seek a final funding level in conference sufficient to permit orderly research and development on the small ICBM to proceed in the coming fiscal year.

Mr. COHEN. Mr. President, I rise to support the amendment offered by the chairman of the Armed Services Committee. The matter addressed by this amendment has significant implications for the institutional integrity of this body, the future security of our Nation and our allies, and the prospects for meaningful arms control.

This year's Defense authorization bill, approved by the Senate and the House just 3 weeks ago and signed into law just 1 week ago, embodied significant policy decisions on the ICBM Modernization Program. In short, after lengthy consideration, we made a decision to proceed with development of the Small ICBM program and to support the administration's proposal to pursue a development program on the rail-garrison concept for basing the MX.

We acted with full recogniton of the difficult budget circumstances facing this country and the opinion expressed by some that we will have to make a choice between these two ICBM programs due to budget constraints. The carefully considered decision of the authorizers was that it is too early to make a commitment to the rail-garrison MX and thus, even if one believes a choice ought to be made between the two programs, that choice cannot be made at this time. The rail-garrison concept is simply too immature at this time and too many questions remain unanswered. This policy established in the authorization process would serve to resolve these questions and allow us to make a rational decision when we have the answers. I will discuss this in greater detail, but I would first like to address the issue of preserving the integrity of the authorization process.

USURPING THE AUTHORIZERS' ROLE

The authorizers in this and the other body, after lengthy consideration, decided upon a policy for ICBM modernization, which I have already described. This policy decision was embodied in the DOD authorization conference report. Just 3 weeks ago, the Senate and the House of Representatives approved the authorization conference report. Just 1 week ago, the President signed it into law as Public Law 100-180. And yet, we are now forced to take the floor to defend this policy decision from the complete reversal proposed by the Senate appropriators.

Make no mistake, the continuing resolution which has been sent to the floor does not simply perform the appropriators' traditional role of fitting a swollen authorization foot into a snug appropriation shoe. Rather it would overturn the authorizers' policy, substitute a different policy, and implement this substitute policy by appropriating funds which were not authorized.

Mr. President, let me explain the details of this situation. The DOD authorization conference report, which was signed into law on December 4, funded the Small ICBM RDT&E program at $1.5 billion and the rail-garrison MX RDT&E program at $300 million. A week ago, however, the Defense Appropriations Subcommittee accepted its staff's recommendation to terminate the small ICBM program in favor of the rail-garrison MX. The continuing resolution before us would zero the small ICBM and fund the rail-garrison at $400 million. Thus, the continuing resolution as reported to the Senate would appropriate $100 million in unauthorized funds for the rail-garrison MX. It is this unauthorized $100 million which the Nunn amendment would transfer to the small ICBM program.

The appropriators' action has significant implications for all authorization commitees, not just Amred Services, which should be clear to my colleagues. Even if it did not involve an effort to completely overturn a major policy decision so recently made through the authorization process, I think my colleagues who serve on the various authorization committees would understand the implications of allowing unauthorized funds to be appropriated. This is especially important in these times of extremely tight budgets, since the appropriation of unauthorized moneys necessarily means that other funds which were authorized will not be appropriated.

REASONS FOR AUTHORIZERS' DECISION

Mr. President, let me turn now to the basis for the policy decision made in the authorization process.

While it would shed light on this matter, I will not recount the long history of ICBM modernization decisions over the last decade and a half. Suffice it to say that in 1972, the Strategic Air Command articulated the requirement for a new ICBM that would, first, preserve the unique characteristics of the ICBM and the mutually supporting features of the triad legs; second, provide improved counterforce capability; and third, be based in a survivable manner. In 1976, the Defense Systems Acquisition Reveiw Council approved an Air Force proposal to proceed with concept validation of a new 192,000 pound ICBM, the MX, that could be deployed in some type of multiple-protective shelter [MPS] mode. Before and after that decision, careful examination was given to numerous basing proposals—over 30, by some counts.

Prior to the inauguration of President Reagan, only one proposed basing mode was judged by Congress to be acceptable, a modified version of the horizontal MPS system. When the Reagan administration canceled the horizontal MPS scheme in 1981 and found little support in Congress for his plan for interim silo basing for the MX, it was faced with the difficult task of inventing new basing modes or turning to ones that had already been rejected. On several occasions since then—each time the MX appeared to be approaching extinction—a new basing mode has suddenly been discovered that supposedly lacked its predecessor's deficiencies and would solve the MX basing problem.

In 1982, one such proposal, closely spaced basing or dense pack, was discovered by the administration—and rebuffed by a Congress extremely skeptical over its feasibility. In 1985, a stalemate which could have killed the MX was overcome by an amendment offered by Senator NUNN and agreed to by President Reagan. The Nunn amendment capped at 50 the number of MX missiles deployed in existing Minuteman silos and stated that further MX deployments would require a different basing mode. Following the 1985 Nunn amendment, the significant enthusiasm developed among many in the Air Force, the Secretary of Defense's Office, and Congress for the carry hard concept of shuttling 50 MX missiles in slightly hardened canisters among 2,200 soft silos. As with the dense pack proposal, however, enthusiasm waned when the proposal was subjected to intense scrutiny.

And now, following some 30 proposals considered in an exhaustive scrubbing process in the 1970's and two hastily prepared concepts under this administration, rail-garrison has arrived to save the MX. After this difficult decade of searching for a technically, operationally, and politically viable basing mode for the MX—and particularly after watching the Reagan administration desperately grab at schemes that appeared plausible but had not been scrubbed—I would think that we would approach with caution any newly discovered MX basing mode proposals.

This is not to say that rail garrison should be rejected. However, there are many questions regarding both technical issues and operational concepts that cannot yet be answered. We simply cannot determine at this time whether MX rail garrison will be technically and operationally feasible.

To the extent that the rail-garrison concept has been developed, it has operational characteristics similar to earlier proposals that were rejected. In fact, those earlier proposals were rejected precisely because of these operational characteristics. Acceptance of the rail-garrison concept would represent a significant departure from longstanding U.S. strategic policy and require a reversal of past U.S. decisions on what constitutes an acceptable ICBM basing mode. Of particular importance are the following issues:

RAIL GARRISON FAILS THE SCOWCROFT COMMISSION TEST

Rail garrison fails the critical test applied by the Scowcroft Commission in narrowing the window of vulnerability. The Scowcroft Commission recognized that while our strategic bombers are vulnerable to Soviet SLBM's with their short flight times, our ICBM's are not, due to the relatively inaccuracy of Soviet SLBM's. Accordingly, the Soviets would need to use their accurate ICBM's to attach our ICBM's, but because of the ICBM's longer flight time this could not be carried out in coordination with an SLBM attack on our bombers. However, MX railcars housed in soft garrisons would be vulnerable to the same inaccurate SLBM's that also threaten our airbreathing force. Ironically, in this regard rail garrison is a worse basing mode than putting MX in Minuteman silos.

RAIL-GARRISON RELIES ON RECEIPT OF AND ACTION ON STRATEGIC WARNING

Survivability under the rail-garrison concept would require both that strategic warning be received and that it be acted upon. This would represent a major change in U.S. strategic policy. Previously considered MX basing modes that required strategic warning were rejected, in large part because of that requirement. As noted in the Armed Services Committee report for fiscal year 1984, the proposed airmobile basing systems for the MX was found unacceptable due to its reliance on warning. Other systems rejected in large part because of their reliance on strategic warning include road-garrison concepts very similar in operation to rail-garrison, but involving unhardened trucks carrying Minutemen or similarly sized missiles. As a recent Congressional Budget Office study noted,

> The United States invest heavily in operations and support of its bomber and submarine forces to assure independence from strategic warning.

The reasons for seeking independence from strategic warning are several. There is the obvious concern over whether strategic warning indicators will be received on a timely basis. The Armed Services Committee received testimony on this issue; the committee's report states that—

> The committee is greatly reassured but not entirely persuaded by this testimony, and will explore the issue in greater detail prior to next year's markup.

Moreover, there is significant concern that strategic warning indicators might not be acted upon in a timely manner. Reasons for such a failure to act decisively would include ambiguity in the indications; ambiguity introduced in the analysis of indications and the transmission of the analysis to decisionmakers; and concern over the reaction of the Soviets, allies, and the public to the dispersal onto the public rails of missile cars.

Sensitivity to these factors was evident in testimony on ICMB basing proposals given in 1980 by Dr. William Perry, Under Secretary of Defense for Research and Engineering. In discussing a road-garrison concept, he noted that: the system would have "no survivability with less than 2 hours of warning;" that "dash to survivable posture (would be) extremely destabilizing (because) the Soviets know they have 2 hours to attack;" and that "dash would panic the public."

Unlike that regarding the receipt of warning indicators, the question of whether strategic warning would be acted upon is largely a human, rather than a hardware, issue. Accordingly, it is more difficult to allay. In fact, the more one studies the issue, the larger the question becomes. The Scowcroft Commission noted that military historians have pointed out many instances, including Pearl Harbor, when a nation had strategic warning but for a variety of reasons failed to take appropriate action." Likewise, in a 1979 article on strategic force modernization, Ambassador Paul Nitze wrote that strategic warning "should not be made the basis of any U.S. system survivability."

While this does not mean that we should reject rail-garrison basing, it definitely should tell us to proceed with caution and carefully examine the implications involved. The Armed Services Committee began this examination this year and clearly stated that it has not concluded this process. In short, such a significant change in policy requires thorough review and debate before a decision can be made. The review is underway but incomplete. Accordingly, debate at this time would be less than fully informed and a decision, as proposed by the Appropriations Committee, would be grossly premature.

RAIL GARRISON COULD BECOME THE PREVIOUSLY REJECTED RAIL-MOBILE

Because of the questionable wisdom of making ICBM survivability dependent upon strategic warning, a decision to proceed with a rail-garrison system could lead instead to a rail-mobile system—that is, a system in which rail cars with missiles would be continuously deployed on the public rail network. A rail-mobile system would not require strategic warning. Department of Defense briefings on rail garrison indicates that a shift to rail mobile is a serious possibility, due to the unacceptability of reliance on strategic warning. However, these briefings also indicate that such a shift would involve large cost increases and serious public interface problems. In this regard, we must remember the rail-mobile basing has been rejected in the past by the executive branch as infeasible, due to the interface problem and other deficiencies.

Mr. President, my colleagues know of my support for the small ICBM. The Midgetman program continues to be a model program, as the Armed Services Committee has described it. I believe that it is critical to both our modernization and our arms control efforts.

Others have already discussed during this debate the very important reasons for proceeding with that program. I will not repeat the arguments they have made. I would simply reiterate to my colleagues that this amendment does not seek to settle the question of whether the small ICBM should be chosen over the rail-garrison MX or vice versa. Rather, it affirms the position of the authorization process that we should proceed with both programs until we have better information.

Senator NUNN has already noted that the intent of this amendment has been endorsed by the following members and senior counselors of the Scowcroft commission:

Gen. Brent Scowcroft, James Schlesinger, Harold Brown, Melvin Laird, Nicholas Brady, Lloyd Cutler, John Deutch, Richard Helms, Henry Kissinger, William Perry, Jim Woolsey, Donald Rumsfeld, Alexander Haig.

In their letter to Senator NUNN, they wrote:

> We would urge in the strongest terms that the Congress continue the funding for the development of the small ICBM/Hard Mobile Launcher program.

Former National Security Adviser Robert C. McFarlane has also written me to express support for this amendment, which I ask be inserted in the RECORD. In his letter, Mr. McFarlane states:

> In my judgment the small mobile missile is the lynch pin of stability in the United States-Soviet nuclear balance for the next generation. Without it, and especially if we limit modernization of the land-based leg of the triad to the MX (rail mobile), we will have weakened our deterrent and worsened crisis stability by continuing to center our retaliatory force in a small number of highly vulnerable targets.

He goes on to note that—

> Administrations of both parties have devoted 12 years to assuring the modernization of our land-based missile force. It is imperative to our national security that these years of work and analysis not be summarily dismissed now that a viable system is at hand. I would urge that * * * (the Senate) act to overturn the recommendation of the Senate Appropriations Committee.

I join with this distinguished group of defense experts in urging my colleagues to support this amendment.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

CENTER FOR STRATEGIC & INTERNATIONAL STUDIES,
Washington, DC, December 11, 1987.
Hon. WILLIAM COHEN,
U.S. Senate, Washington, DC.

DEAR SENATOR COHEN: I am writing to express my deep concern regarding the action taken by the Senate Appropriations Committee to zero funding for the small mobile missile (Midgetman). In my judgment the small mobile missile is the lynch pin of stability in the US Soviet nuclear balance for the next generation. Without it, and especially if we limit modernization of the land-based leg of the TRIAD to the MX (rail-mobile), we will have weakened our deterrent and worsened crisis stability by continuing to center our retaliatory force in a small number of highly vulnerable targets.

It is highly doubtful that the MX (rail-mobile) could survive an attack with tactical warning in any realistic scenario involving submarine-launched systems. It is equally clear however, that Midgetman deployed in the SW United States would require virtually the entire Soviet ballistic missile throw weight for a successful barrage attack, thus making such an attack highly imprudent. The advantages therefore of Midgetman are self evident.

Senator Cohen, administrations of both parties have devoted twelve years to assuring the modernization of our land-based missile force. It is imperative to our national security that these years of work and analysis not be summarily dismissed now that a viable system is at hand. I would ask that you share these concerns with your colleagues and urge that they act to overturn the recommendation of the Senate Appropriations Committee.

Sincerely,
ROBERT C. MCFARLANE,
Counselor.

Mr. CHILES. Mr. President, it is always an honor for me to join with such distinguished Members as our distinguished majority leader and the Senators from Georgia, Virginia, Maine, Tennessee, and Florida. It is their leadership on this issue as well as their superb work with the Scowcroft Commission that brought us this well-executed program.

A great deal has transpired since the commission has published its update. We have begun deploying the MX, which was in imminent danger of being canceled when the Commission began meeting in 1983. The budget environment has turned a great deal more austere in the intervening years. More importantly, we are poised to take advantage of the tremendous defense investment we have made in the past decade and actually begin reducing nuclear weapons. It is an exciting time, a watershed time, and the world is likely to look a good deal different when we are through.

We have reached this historical point because our President and Congress worked together to develop and build a consensus on how we will structure our strategic arsenal. Today, unfortunately, if this amendment is not adopted, we will have unraveled that consensus and broken our word. We would have given the Soviets another signal of our lack of resolve and our inability to work together over the long haul. Strength and unity is what put us in a position to dramatically reduce strategic arsenals and only strength and unity will keep us there.

Debate now centers on the cost effectiveness of the various options for modernizing the land-based leg of our triad. Cost effectiveness of a force element must be measured in terms of not only the United States price to deploy, but also the Soviet price to attack. By this criterion, a system that costs an opponent very little to attack adds very little to our security—regardless of its deployment cost. Of the two ICBM basing modes under question here, the small ICBM is more likely to meet the cost effectiveness criterion while, according to a passage in the Armed Services Committee report, the Rail Garrison System "possesses operational characteristics that were possessed by earlier proposed basing modes that were rejected precisely because of those operational characteristics."

Mr. President, the purpose of this amendment is to indicate that the Senate supports completing the development on this model program which has saved the taxpayers nearly $1 billion through wise and efficient management. It is also to ensure that the next President will have the option to deploy the missile. We will not know until we complete the strategic arms reductions talks [START] what we will need. We will not know until then how long or how capable each leg of the triad will need to be.

I suspect that mobility of land-based ICBM's will be as important then as it was in 1983 and it is today. We must act quickly and decisively to restore funding to this program.

Mr. LEVIN. I support this amendment because it is a mistake at this time to pick between Midgetman and rail-mobile MX. There is a good chance that we should build neither. By Senator NUNN's own words and by the amendment's own terms, it keeps open a third option which is that we would procure neither the Midgetman nor the rail-mobile MX.

Senator JOHNSTON is right that a bolt-out-of-the-blue attack makes no sense and that it couldn't succeed. We would have 3,000 nuclear warheads remaining after such an attack with which to obliterate all or any portion of the Soviet Union; but if a bolt-out-of-the-blue attack makes no sense, an attack after we have been warned and have had time to prepare and generate our retaliatory forces makes even less sense. A rail-mobile MX adds 500 warheads to an inventory that already exceeds 10,000 warheads—most of which would be available to retaliate against an attack if we had warning.

The bottom line is that there is no window of vulnerability and we should not spend tens of billions of dollars to close a nonexistent window.

The only advantage of the rail-mobile MX is that it costs $15 billion instead of $40 billion that the Midgetman would cost. If we really would sleep better knowing we had 500 more nuclear warheads to add to our 10,000 warhead inventory, we could take $24 of the $40 billion and buy enough Trident submarines, maintain and operate them for their life cycle, and have $16 billion left over. That $16 billion would buy us 200,000 Tow missiles, 2,000 M-1 tanks, 2,000 Bradley armored personnel carriers, and 600 Apache attack helicopters. Even without the extra Tridents, those conventional systems would contribute more to deterrence than 500 Midgetman missiles and would save us $24 billion.

The problem with the Appropriations Committee language is that it commits us to the earliest possible deployment for the rail-mobile MX.

I would rather keep both options open than adopt one, particularly when the one we would be adopting probably makes less sense if we are determined to close the nonexistent window than the one which we are proceeding to deploy post-haste under the Appropriations Committee language. Senator NUNN's statement on this floor and the language of his amendment, which adopts the language I offered on the authorization bill providing that authorizing the funds for development of both rail based MX's and Midgetmen this year commits us to neither production nor deployment in future years are what is so critical, in my view, and what so clearly differentiates his amendment from the Appropriations Committee language. That's why I have cosponsored the Nunn amendment.

Mr. WARNER. Mr. President, I rise in support of this amendment, but I want it to be clearly understood that my support is to convey the message that the small ICBM development progam should not be terminated at this time. Support of this amendment does not mean that the SICBM program should be continued on its current pace, or that it should only be considered in a mobile basing mode, or that it should be deployed at all. It does mean that we need to preserve options for this administration, and subsequent administrations, to continue ICBM modernization that would enhance stability and could contribute in a significant way to a force posture in which warheads are constrained by arms control agreement.

This Senator has not forgotten that the ICBM modernization program was originally presented as a package deal—100 MX in existing silos, and development of a more survivable basing mode for the MX. Subsequently, this plan was modified to include development of the small ICBM in a mobile basing mode. I supported and continue to support the eventual deployment of 100 MX. I believe that the Armed Services Committee heard testimony this year that indicates that the rail garrison basing mode for MX shows much promise as a cost effective way of providing ICBM survivability in the presence of strategic warning indicators.

I have also supported the small ICBM portion of the package, believing as I do that the small missile provided inherent advantages in securing survivable basing. A single RV ICBM, independent of mobile basing, could provide a future administration with flexibility to make force structure adjustments in an arms control regime that limits ballistic missile warheads.

Mr. President, much has been said during this debate about the cost of the existing small ICBM program, and appropriately so. The latest estimates for RDT&E, procurement and military construction associated with the small ICBM program is $44.7 billion in then-year dollars, and this figure does not include the cost of operating the system. By way of comparison, RDT&E, procurement and military construction to deploy a comparable number of warheads in the MX rail garrison basing mode is $12.3 billion.

In the current budget environment, we simply cannot ignore the magnitude of these differences—and I do not intend to ignore them. I am simply saying that this body should not go on record deciding the fate of the small ICBM program, including the basing mode and the small missile, at this time.

Finally, Mr. President, I think it is safe to conjecture that the outcome of the Senate-House conference on the small ICBM will provide more funds for small ICBM development than is provided in this amendment. It is my hope that the administration will consider carefully the actions of the Congress in putting together their request for ICBM modernization in fiscal year 1989. It is less important, in my judgment, that the small ICBM program maintain a specific schedule, or a particular basing configuration. It is important that we maintain the options of this and future Presidents for a stable and effective ICBM force.

Mr. BYRD. Mr. President, will the distinguished Senator yield?

Mr. JOHNSTON. I yield.

Mr. BYRD. Mr. President, I hope Senators will accede to the proposal Mr. JOHNSTON has made, that we lay this aside and get on with some other business. We have had a good debate on both sides. I am a strong supporter of the amendment.

I have a speech I would like to give, but others have spoken on both sides. I do not think I will add anything to it by speaking.

I ask unanimous consent that my statement, eloquent and persuasive and cogent and lucid though it is, be included in the Record as though read.

(The statement of Senator Byrd appears earlier in the Record.)

Mr. GORE. Mr. President, reserving the right to object——

The PRESIDING OFFICER. The Senator from Tennessee dares to reserve the right to object.

Mr. GORE. Well put, Mr. President. I agree with the thrust of the suggestion. I ask the majority leader, however: I would like to see this decision made today. Is there a possibility that putting it aside would eliminate that possibility?

Mr. BYRD. I think putting it aside will probably aid that possibility. I do not want only this decision made today, but I said earlier that I want the bill passed. If not today, we are going to be in tomorrow.

Mr. GORE. Under the terms of the request, would it be the pending order of business that we would come back to it after whatever else was brought up?

Mr. BYRD. Oh, yes. There is an amendment by Mr. Weicker that has been temporarily set-aside already. This would be temporarily set-aside and would automatically come back behind Mr. Weicker's amendment.

The PRESIDING OFFICER. Is there objection to the request of the majority leader? The Chair hears none, and it is so ordered.

Mr. JOHNSTON. Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending business is the amendment offered by the Senator from Connecticut.

AMENDMENT NO. 1285

Mr. JOHNSON. Mr. President, I ask unanimous consent that the amendment by the Senator from Connecticut [Mr. Weicker] be amended in the manner I shall submit, which changes "shall" to "may." This is the amendment of the Senator from Connecticut having to do with unused food from the Senate cafeterias, and it has been cleared.

I send that modification to the desk and ask that it be immediately considered.

The PRESIDING OFFICER. Without objection, the amendment will be modified.

The modified amendment is as follows:

At the appropriate place, insert the following:

Sec. —. The Committee on Rules and Administration of the Senate may provide for the distribution of unused food from the Senate cafeterias under the jurisdiction of the committee to the needy of the District of Columbia through an appropriate private distribution organization selected by the committee.

Mr. DIXON. Mr. President, I am a cosponsor of the Weicker "distribution of unused food to the homeless" amendment which is being offered to the continuing resolution, House Joint Resolution 395. I urge my colleagues to support this proposal.

The amendment would simply authorize the Senate Rules Committee to provide for the distribution of unused food from the Senate cafeterias to the homeless in the District of Columbia.

I understand that the United Planning Organization [UPO], the not-for-profit Community Action Agency for the District, has volunteered to distribute the food to the various homeless and battered women shelters. If selected by the Senate Rules Committee to distribute the food, the UPO has volunteered to bear all expenses.

I also understand that the D.C. Government has given assurance that the Senate cafeterias would be exempted from liability under its "good faith donor and donee" statute.

Mr. President, I believe that this is a good and humane amendment, and I urge my colleagues to approve it.

Mr. GRASSLEY. Mr. President, I am pleased to not only give my support to the amendment of the Senator from Connecticut, but to also join as a cosponsor of the amendment.

As Members of the U.S. Senate, many privileges are awarded us. These privileges are intended to facilitate the execution of our responsibilities. Even though we probably take them for granted, the public frequently does not understand their necessity. This perception is particularly flagrant in regards to wasted food from the Senate dining rooms and cafeterias.

Mr. President, I greatly enjoy the food served at the Senate dining room. It is most unfortunate, however, that food which the cooks prepare and is not purchased is simply thrown out. The amendment by Senator Weicker would allow that food to be distributed to the shelters for the homeless and for battered women.

It is my understanding that there are local private agencies that are suitably equipped and organized to acquire this food and immediately distribute it to needy people in shelters. These organizations have indicated great interest in participating in this project.

It would be my hope that this project, if successful, would serve as a model for other Government agencies. Most Federal Government buildings have food service facilities, many of which undoubtedly have excess food which is presently being discarded. The example set by the Senate would hopefully provide not only a model, but also an incentive, to other Government agencies to make similar arrangements with local food distribution programs.

The final point I would like to make, Mr. President, is that this measure not replace any present or existing endeavors to address the needs of the poor and homeless in this community. The food made available in this act must supplement, not supplant, the attention of Federal and local entities.

The PRESIDING OFFICER. Does the Senator yield the floor?

Mr. JOHNSTON. Has the amendment been reported?

The PRESIDING OFFICER. Without objection, the amendment has been modified. The author has the right to do so, or anyone else, under unanimous consent.

Mr. JOHNSTON. It has been cleared all around.

Mr. DOLE. It has been cleared. I am a cosponsor of the Weicker proposal. The modification is satisfactory.

The PRESIDING OFFICER. Is there further debate?

Mr. METZENBAUM. Mr. President, I ask that my name be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the amendment.

The amendment (No. 1285), as modified, was agreed to.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1287

(Purpose: To provide for appropriations for the acquisition and renovation of property for the courts of the Tenth Circuit)

Mr. JOHNSTON. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from Louisiana [Mr. Johnston] for Mr. DeConcini, (for himself, Mr. Hatch, Mr. Domenici, Mr. Dole, Mrs. Kassebaum, Mr. Garn, Mr. Bingaman, Mr. Wallop, Mr. Simpson, Mr. Stevens, Mr. Armstrong, Mr. Wirth, Mr. Nickles, and Mr. Boren), proposes an amendment numbered 1287.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place add the following:

Sec. —. (a) The General Accounting Office shall, within 60 days after the date of enactment of this section, submit an estimate of the fair market value of the main post office in Denver, Colorado, located at 1823 Stout Street, to the General Services Administration, the Congress of the United States, the United States Postal Service, and the Administrative Office of the United States Courts.

(b) Within 30 days after obtaining the estimate made pursuant to subsection (a) the United States Postal Service shall transfer the use and benefit of the lot on which the main post office in Denver is located, along with such post office building, improvements and any other structures on such lot to the General Services Administration, and from such date such lot and structures shall be considered to be held for the use and benefit of the United States courts for the Tenth Circuit.

(c) In making the transfer pursuant to subsection (b), the General Services Administration and the United States Postal Service shall use, as the market value of such property, the estimate submitted by the General Accounting Office pursuant to this section and the United States Postal Service shall receive as a compensation therefore, the fair market value of such lot, buildings and improvements as determined by the General Accounting Office.

(d) The United States Postal Service shall surrender possession of the second, third and fourth floors of such post office building to the General Services Administration not later than 1 year after the date of the transfer thereof as provided in this section and, except as provided in subsection (e), shall surrender possession of the balance of such post office building not later than 2 years after such date.

(e) The General Services Administration shall permit the United States Postal Service to continue to occupy such area on the first floor of such main post office building not in excess of 18,000 square feet as shall be determined by the General Services Administration after consultation with the Administrative Office of the United States Courts and the United States Postal Service.

(f) Pursuant to section 210(f) of the Federal Property and Administrative Service Act of 1949, the Administrator of General Services is authorized to charge the United States Postal Service for all space and services furnished to the United States Postal Service in such main post office building after the date of the conveyance provided in this section.

(g) Notwithstanding any other provision of law, the Government Services Administration is hereby authorized to sell, at competitive bid, block 111, located at 20th and Curtis Streets in Denver, Colorado, and to deposit such sale proceeds into the Federal Building Fund.

(h) There are authorized to be appropriated such sums as are necessary to cover the costs of obtaining such post office building for the courts for the Tenth Circuit. Such costs shall include—

(1) amounts necessary to transfer the lot, main post office building, improvements and any other structures on such lot pursuant to subsection (b);

(2) appropriate renovations of such post office building for the Tenth Circuit to use such building as the principal office of such court; and

(3) the transfer of such court from their current building to such post office building.

(i) There are hereby appropriated, out of the Federal Buildings Fund, such sums as may be necessary to carry out the purposes of subsection (h).

Mr. JOHNSTON. Mr. President, this is an amendment by Senators DECONCINI, HATCH, DOMENICI, BINGAMAN, DOLE, KASSEBAUM, GARN, WALLOP, SIMPSON, STEVENS, ARMSTRONG, WIRTH, NICKLES, and BOREN.

Mr. President, this amendment has been cleared with Governmental Affairs Committee and the chairman and ranking member of the Appropriations Subcommittee.

This amendment addresses an emergency space shortage situation regarding the Federal courts of the 10th circuit. This amendment has been worked out with the Postal Service; the GSA; and the sponsors of the amendment to allow the transfer of Postal Service property to GSA to allow the 10th circuit courts to move into space in Denver, CO. It would allow the Postal Service to be compensated for the fair market value of the property out of existing GSA funds in this bill.

This attempt to find space for the 10th circuit courts has been ongoing for years and has reached fruition here. Again, there is a space emergency that must be addressed in this bill and cannot wait until next year.

There is no additional cost.

Mr. HATCH. Mr. President, as early as 1984, it became apparent that the U.S. Court of Appeals for the 10th Circuit would soon outgrow its headquarters building in Denver, CO. Case filings had been increasing at a steady rate and all projections for future growth indicated an immediate and long-term need for additional courtrooms and office space. In addition, since moving into its headquarters building in 1965, the circuit court has shared the building with the U.S. District Court for the District of Colorado, which has also experienced steady growth and has its own requirements for additional space.

Recognizing the imminent need for additional office space, several studies have been made to determine the best solution to the problem. The studies concluded that moving the 10th circuit headquarters to the old Post Office Building at 1823 Stout Street, directly across the street from the present location, would be the most desirable solution for a number of compelling reasons.

The post office building has sufficient occupiable square footage to accommodate the long-term needs of the court. The building had been the original home of the 10th circuit from 1929 until 1965 and is structurally equipped for courtrooms. The building is on the National Register of Historic Places and has the architecture normally associated with a courthouse.

From a cost standpoint, relocation to the post office building is in the best interests of the taxpayer. Such a move takes advantage of an existing Federal structure adjacent to the other Federal offices and courts in downtown Denver. From both an economic and a practical standpoint, it makes sense to keep the Federal courts within the same geographical area to permit sharing of library facilities and security personnel. The total cost of acquisition and renovation of the post office building is expected to be equal to or less than construction of a new building.

A move to the post office building is the unanimous choice of all of the 10th circuit judges. An October 1986 GSA draft proposal concluded that the post office building would be "extremely attractive for the long-term housing of the courts in Denver" and would "cost the least per square foot over a 30-year period, and would satisfy the courts' and GSA's requirements."

In accordance with the studies and with my own review of the situation, I am convinced the move to the post office building is the best possible solution to the problem. I have spoken with Postal Service representatives and am satisfied the Postal Service has no special need to continue to occupy the building. The Postal Service has been moving out of its old downtown locations in many cities to modern facilities located close to major airports. The Postal Service's present use of the Denver building can be quite easily duplicated in other facilities, and may in fact be more efficiently carried out elsewhere.

The basic relocation issue centers on fair compensation to the Postal Service. A year ago, Congresswoman PAT SCHROEDER and I asked representatives of the Postal Service, GSA, and the Administrative Office of the U.S. Courts to meet with us in Washington to encourage the various agencies to negotiate an agreeable transfer of the post office building from the Postal Service to GSA. It was agreed at the meeting that GSA and the Postal Service would each obtain an independent appraisal of the property and thereafter negotiate in good faith to effectuate a transfer.

Unfortunately, the appraisals of the two agencies were far apart. GSA's appraisal was in the neighborhood of $6.2 million while the Postal Service appraisal was $26 million. The negotiations between the two agencies eventually broke down. Together with other Members of Congress and the administrative office of the courts, I have tried during the past year to assist in overcoming the negotiating obstacles, but without success.

In the meantime, the court's need to move has not gone away. We now face the unpleasant situation where some of the recently appointed judges do not have adequate or permanent office space.

As a result of the breakdown in negotiations between the Postal Service and GSA, and because of the obvious desirability of moving the courts into the old historic post office and courthouse, I felt that it had become necessary to accomplish that result with this legislation, which simply transfers the property to the courts with the Postal Service paid full and fair compensation at fair market value as determined by an independent appraisal of the Government Accounting Office.

This legislation has the unqualified support of all 12 Senators from the 10th circuit which encompasses the States of Utah, New Mexico, Wyoming, Colorado, Oklahoma, and Kansas. Senator STEVENS is also a cosponsor of the bill. The funds to accomplish the purpose of this legislation will come entirely from the General Buildings Fund opportunity purchase program. This legislation does not add any additional funding to the continuing resolution, but it does ensure the wise and economic use of existing funds in the best interests of the taxpayers. I urge my colleagues to support this as a worthwhile and timely piece of legislation.

Mr. DOLE. Mr. President, the amendment has been cleared on this side.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1287) was agreed to.

Mr. JOHNSTON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1288

Mr. JOHNSTON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, the Nunn amendment will be set aside.

The amendment will be stated.

The bill clerk read as follows:

The Senator from Louisiana [Mr. JOHNSTON], for Mr. STEVENS, proposes an amendment numbered 1288.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, add the following:

SEC. . (a) Section 7701(j) of Title 26, United States Code, is amended—

(1) by deleting from paragraph (1)(c) the words "the provisions of paragraph (2) and" following the words "subject to"; and

(2) by deleting paragraph (2) in its entirety and substituting in lieu thereof the following language:

"NONDISCRIMINATION REQUIREMENTS.—Notwithstanding any other provision of law, the Thrift Savings Fund is not subject to the nondiscrimination requirements applicable to arrangements described in section 401(k) or to matching contributions (as described in section 401(m)), so long as it meets the requirements of this section."

(b) Section 8440 of Title 5, United States Code, is amended—

(3) by deleting from paragraph (a)(3) the words "the provisions of subsection (b) and" following the words "subject to"; and

(4) by deleting subsection (b) in its entirety and by substituting in lieu thereof the following language:

"NONDISCRIMINATION REQUIREMENTS.—Notwithstanding any other provision of law, the Thrift Savings Fund is not subject to the nondiscrimination requirements applicable to arrangements described in section 401(k) of Title 26, United States Code, or to matching contributions (as described in section 401(m) of Title 26, United States Code) so long as it meets the requirements of this section."

Mr. JOHNSTON. Mr. President, this is an amendment by Mr. STEVENS. It has been cleared with the appropriate authorizing committee, the Government Affairs Committee.

This amendment addresses an emergency, time-sensitive matter regarding the Federal Employee Retirement [FERS] Program. This amendment removes a devastating impediment to effective implementation of the FERS law. The amendent would clarify existing law to remove the discriminatory provisions in the FERS law that deter Federal employees making higher salaries from participating in the thrift plan.

This is an emergency since the deadline for entering the FERS Program is December 31. Without this amendment, thousands of Federal employees will not enter FERS and thus drive up the cost of Federal retirement. This amendment will clarify the FERS law for all Federal employees and provide an incentive for more Federal employees to enter FERS.

No cost is associated with this amendment. It will probably result in cost savings to the Government.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1288) was agreed to.

Mr. JOHNSTON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1289

(Purpose: To extend the federal leave sharing program for one additional year)

Mr. JOHNSTON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, the Nunn amendment will be set aside.

The amendment will be stated.

The bill clerk read as follows:

The Senator from Louisiana [Mr. JOHNSTON], for Mr. DOMENICI (for himself), Mr. STEVENS, Mr. PRYOR, and Mr. DECONCINI, proposes an amendment numbered 1289.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the joint resolution, add the following new section:

SEC. . TEMPORARY AUTHORITY TO TRANSFER LEAVE.—In order to ensure that the experimental use of voluntary leave transfers established under Public Laws 99-500 and 99-591 may continue and may cover additional employees in fiscal year 1988, the Office of Personnel Management shall establish by regulation, notwithstanding chapter 63 of title 5, United States Code, a program under which the unused accrued annual leave of officers or employees of the Federal Government may be transferred for use by other officers or employees who need such leave due to a personal emergency as defined in the regulations. The Veterans' Administration shall establish a similar program for employees subject to section 4108 of title 5, United States Code. The programs established by this section shall expire at the end of fiscal year 1988, but any leave that has been transferred to an officer or employee under the programs shall remain available for use until the personal emergency has ended, and any remaining unused transferred leave shall, to the extent administratively feasible, be restored to the leave accounts of the officers or employees from whose accounts it was originally transferred.

Mr. JOHNSTON. Mr. President, this amendment, on behalf of Senators DOMENICI, STEVENS, PRYOR, and DECONCINI, has been cleared with the Governmental Affairs Committee and the chairman and ranking member of the Appropriations Subcommittee.

It would allow OPM to continue the experimental use of voluntary leave transfers to those employees who need such leave due to dire personal emergencies and illnesses, primarily for those employees fighting cancer or caring for children with cancer.

It is a no cost amendment.

It would allow a permanent program to be authorized next year.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1289) was agreed to.

Mr. JOHNSTON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1290

(Purpose: Direct the Office of Management and Budget to include the City of Sullivan, Missouri in the St. Louis Metropolitan Statistical Area)

Mr. JOHNSTON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, the Nunn amendment will be set aside.

The amendment will be stated.

The bill clerk read as follows:

The Senator from Louisiana [Mr. JOHNSTON], for Mr. DANFORTH (for himself and Mr. BOND), proposes an amendment numbered 1290.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the Resolution, add the following new section:

SEC. . The Director of the Office of Management and Budget shall include in the area designated as the St. Louis Metropolitan Statistical Area, the City of Sullivan, Missouri.

Mr. JOHNSTON. Mr. President, this amendment has been cleared with the Appropriations Subcommittee with jurisdiction over OMB—Treasury, Postal Service.

This amendment merely directs OMB to include a small town in Missouri and one Baptist hospital in the St. Louis metropolitan statistical area for the purposes of receiving Medicare payments. In the absence of this amendment, this hospital will be precluded from receiving these higher Medicare payments for its patients—a situation brought about because of an error by the Health Care Financing Administration [HCFA]—that erroneously designated this hospital as being in a rural area. This is an emergency amendment that would address an emergency funding matter at this hospital.

There is no cost associated with this amendment since the hospital has been receiving Medicare payments up to the point where HCFA realized its error.

The PRESIDING OFFICER. Is there further debate?

Mr. STEVENS. Mr. President, I have the authority of the chairman to approve the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1290) was agreed to.

Mr. JOHNSTON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. JOHNSTON. Mr. President, in a moment I shall send to the desk this amendment by Senator CHILES which had been cleared by Senator HOLLINGS and Senator RUDMAN. What it does is provide none of the funds appropriated under this bill shall be obligated to any Immigration and Naturalization Service detention or processing center which holds aliens accused or convicted of a felony under State or Federal law until such a center has been designated as a security level 3 or higher level correctional facility.

In effect, what it does is because of the Cuban crisis at Elkdale, LA, and Atlanta, GA, those prisoners must be moved somewhere else and this says that if they have been convicted of a felony that they may not be moved into a facility that is not a security level 3 or higher correction facility.

Mr. GRAMM. Mr. President, will the distinguished Senator yield?

Mr. JOHNSTON. Yes.

Mr. GRAMM. Have we any assurance with that restriction they are not just going to let them go?

Mr. JOHNSTON. No.

What it says is that you would put them in a higher level facility. In other words, you would not take a murderer and put him in a minimum security detention facility. That is what it says.

Mr. GRAMM. If I may, I would like to look at that amendment.

Mr. JOHNSTON. Yes.

Mr. President, I ask unanimous consent that Senator HEFLIN be added as a cosponsor of the Sasser amendment (No. 1283) providing retirement benefit plans for football coaches.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1291

(Purpose: To disallow funding for certain INS detention or processing centers which hold felons)

Mr. JOHNSTON. Mr. President, I ask unanimous consent that we temporarily lay aside the amendment, and I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report the amendment.

The bill clerk read as follows:

The Senator from Louisiana [Mr. JOHNSTON], for Mr. CHILES, proposes an amendment numbered 1291.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, insert the following: None of the funds appropriated under this bill shall be obligated to any Immigration and Naturalization Service detention or processing center which holds aliens accused or convicted of a felony under state or Federal law unless such a center has been designated as a Security-Level 3 or higher level correctional facility.

Mr. JOHNSTON. Mr. President, this is the amendment just described providing that the prisoners convicted of felonies not be put in detention facilities unless they are at level 3 or above.

Mr. STEVENS. Mr. President, that has been cleared by the appropriate Senators on this side.

The PRESIDING OFFICER (Mr. BREAUX). Is there further debate?

If not, the question is on agreeing to the amendment of the Senator from Louisiana.

The amendment (No. 1291) was agreed to.

Mr. JOHNSTON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. JOHNSTON. Now, Mr. President, I believe that constitutes all matters that have been cleared at this time.

So I would urge Senators to be cooperative and let us enter short-time agreements where we have amendments, and otherwise let us go to third reading as soon as we can.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, I ask unanimous consent that the Nunn amendment be temporarily set aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1292

(Purpose: To revise the appropriation for the Legal Services Corporation)

Mr. GRAMM. Mr. President, I have sent an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from Texas [Mr. GRAMM] for himself, Mr. THURMOND, Mr. ARMSTRONG, Mr. HECHT, Mr. WALLOP, Mr. SIMPSON, Mr. MCCONNELL, Mr. HELMS, and Mr. SYMMS, proposes an amendment numbered 1292.

Mr. GRAMM. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Texas?

Mr. STEVENS. Mr. President, reserving the right to object, could we have a copy of the amendment? I would like to serve notice that I will object to waiving the reading of any amendment unless we have copies furnished to managers of the bill. It is moving too fast. There is no offense to my good friend from Texas. I would just like to read some of these amendments.

Mr. GRAMM. I would be happy to have this one read.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Texas?

Mr. STEVENS. I do not object. I just ask for a copy.

Mr. GRAMM. Mr. President, I ask unanimous consent that I might have this amendment pending giving Senator RUDMAN an opportunity to get here to debate it. I would be glad to have it set aside and have another amendment considered.

Mr. DOLE. With a 30-minute time agreement or less.

Mr. GRAMM. I need at least 15 minutes. Thirty minutes would be fine equally divided.

Mr. BYRD. Wait until we understand what it is about.

Mr. GRAMM. About legal services.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the resolution insert the following:

SEC. . Notwithstanding any other provision of this joint resolution, the funds made available by this joint resolution under H.R. 2763, the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriation Act, 1988, for the Legal Services Corporation shall be the following:

PAYMENT TO THE LEGAL SERVICES CORPORATION

For payment to the Legal Services Corporation to carry out the purposes of the Legal Services Corporation Act of 1974, as amended, $310,000,000: *Provided*, That because it is the intention of Congress that amounts appropriated pursuant to this paragraph be available for direct delivery of dispute resolution for the poor, not less than $299,685,000 of the amounts appropriated pursuant to this paragraph shall be expended for direct delivery of legal services to poor eligible clients and $10,315,000 of the amounts appropriated pursuant to this paragraph shall be for the management and administration of the Legal Services Corporation, including provision of funds for program development and law school clinics, and training development and technical assistance: *Provided further*, That for the purposes of this paragraph, "direct delivery of legal services to poor eligible clients" means the provision of basic dispute resolution services to eligible clients through local grant recipients whose purpose is to provide direct delivery of legal assistance to eligible clients: *Provided further*, That none of the funds appropriated in this paragraph shall be expended for any purpose prohibited or limited by or contrary to any of the provisions of Public Law 99-180 and section 112 of Public Law 99-190: *Provided further*, That the funds distributed to each grantee funded in fiscal year 1988 pursuant to the number of poor people determined by the Bureau of the Census to be within its geographical area shall be distributed in the following order:

(1) grants from the Legal Services Corporation and contracts entered into with the Legal Services Corporation under section 1006(a)(1) shall be maintained in fiscal year 1988 at not less than 1 per centum more than the annual level at which each grantee and contractor was founded in fiscal year 1987 or $8.60 per poor person within its geographical area under the 1980 Census, whichever is greater; and

(2) each such grantee shall be increased by an equal percentage of the amount by which such grantee's funding, including the increase under the first priority above, falls below $15 per poor person within its geographical area under the 1980 census:

Provided further, That if a Presidential order pursuant to section 252 of Public Law 99-177 is issued for fiscal year 1988, funds provided to each grantee covered by the second proviso shall be reduced by the percentage specified in the Presidential order: *Provided further*, That none of the funds appropriated by this Act or prior Acts may be used by an officer, board member, employee or consultant of the Corporation to implement or enforce provisions in the regulation regarding legislative and administrative advocacy and training (Part 1612, 52 FR 28434 (July 29, 1987)) which impose restrictions on private funds received by a recipient for the provision of legal assistance except to the extent that such restrictions are explicity authorized by sections 1007(a)(5), (b)(6), (b)(7), and 1010(c) of the Legal Services Corporation Act.

The PRESIDING OFFICER. Does the Senator from Texas seek recognition?

Mr. GRAMM. Mr. President, in deference to the distinguished Senator from New Hampshire, if I could, I would ask unanimous consent that the amendment be temporarily set aside to allow one other amendment or so to go forward to give the Senator from New Hampshire an opportunity to get here.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from North Carolina.

AMENDMENT NO. 1293

Mr. HELMS. Mr. President, I send an amendment to the desk. Both managers have a copy.

The PRESIDING OFFICER. The clerk will report the amendment.

The bill read as follows:

The Senator from North Carolina [Mr. HELMS] proposes an amendment numbered 1293.

Mr. HELMS. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Insert at the appropriate place in the bill the following: "None of the funds appropriated by this Act for the Government of Costa Rica or any agency thereof shall be obligated or expended after March 31, 1988, if, on that date, the Secretary of State and the United States Trade Representative have not certified to Congress that the Government of Costa Rica and J. Royal Parker & Associates have reached a settlement of the Claim of J. Royal Parker & Associates arising from the nullification in 1978 by the Government of Costa Rica of the Centraport contract between J. Royal Parker & Associates and Junta de Administration Portuaria y de Desarrollo Economico de la Vertiente Atlantico (Atlantic Zone Port and Economic Development Authority).".

J. ROYAL PARKER AND THE CENTRAPORT CASE

Mr. HELMS. Mr. President, the amendment I send to the desk provides that no further funds shall be obligated or expended to the Government of Costa Rica after March 31, 1988, unless, by that date, the Secretary of State and the U.S. Trade Representative have certified to Congress that the Government of Costa Rica and J. Royal Parker & Associates [JRPA] have reached a settlement of the claim of J. Royal Parker & Associates that has been dragged out by the Costa Rican Government since 1981.

Mr. President, this may seem to some to be a drastic step; however, once I relate a brief history of the case, I think my colleagues will agree that this amendment is long overdue.

Mr. President, on January 13, 1977, J. Royal Parker & Associates, Inc., entered into a contract with Junta de Administracion Portuaria y de Desarrollo Economico de la Vertiente Atlantica [JAPDEVA], an agency of the Government of Costa Rica, to form a joint venture to develop, arrange financing for, and manage an industrialization, tourism, and urban development project in Limon Province, Costa Rica. This contract was the successor contract to JAPDEVA contract No. 38-80, which solicited bids for development in Costa Rica based on a grant in the amount of $80,000 from the U.S. Agency for International Development. The Limon Province project was to be known as Centraport, SA.

In execution of the contract, JRPA lined up the participation of 22 international corporations and sought $100 million in financing. In so doing, JRPA incurred considerable expense and put the firm's excellent reputation at risk.

In 1978, the contract was nullified by JAPDEVA upon instructions of the newly elected Carazo Administration. J. Royal Parker & Associates was left holding the bag.

After many attempts to negotiate a satisfactory settlement of the claim, JRPA finally filed suit against JAPDEVA in 1981. Since that time, JRPA has continued, with nominal assistance from various U.S. Government agencies, to seek a negotiated settlement of the claim against the Government of Costa Rica.

In 1984, the Caribbean Basin Economic Recovery Act [CBERA] took effect. Despite its failure to make good faith efforts to settle this outstanding claim, Costa Rica has been participating as a CBERA beneficiary in clear violation of the terms of the CBERA.

In 1985, representatives of the GOCR and JRPA's Costa Rican counsel reached a "gentleman's agreement." Dinaldo Jimenez, Minister of the Presidency, agreed to substitute for front-end payments a vast development project, including two major airports, a shipyard, and an electronics center. In exchange JRPA agreed to drop its lawsuit. Shortly thereafter the statute of limitations on JRPA's claims expired, yet Costa Rica did not honor the agreement.

In December of 1986, representatives of JRPA met with Costa Rican Minister of Public Works and Transport Guillermo Constanla to discuss a settlement. JRPA submitted a written settlement offer including cash plus stipulated contracts. The total value of the offer was approximately $25 million.

Mr. Constanla agreed to the terms of the proposal and promised to recommend the proposed settlement to his Government. He suggested a settlement might be reached by yearend. The following day, President Arias met with President Reagan and reported that Costa Rica was negotiating a settlement in the Parker case. No one has since contacted JRPA on behalf of Costa Rica to continue or complete negotiations.

During the 9 years that have passed since the Centraport contract was nullified, the United States Government has repeatedly requested that Costa Rica settle this dispute. They have received assurances that Costa Rica wishes to settle the claim. To date, however, JRPA has yet to either receive a dime in settlement or even get anyone from the Costa Rican Government to enter into good faith negotiations.

Mr. President, I will not put in the RECORD all of the voluminous correspondence that has taken place in this case, but I will ask unanimous consent to include several letters which demonstrate the way this case has been dragged out over the years with no more than lipservice paid to it by either the United States or the Costa Rican Governments.

In a letter to Mr. J. Royal Parker dated December 2, 1983, Mr. Jon Rosenbaum, the Assistant U.S. Trade Representative, wrote:

> We have discussed your case with the Costa Rican Government and have reached an understanding with them that true negotiations with your corporation must proceed if the Government of Costa Rica is to remain in conformance with the requirement of the [Caribbean Basin Economic Recovery Act].

Mr. President, I ask unanimous consent that the entire text of that letter be printed in the RECORD at the close of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. HELMS. In a letter to Senator BILL BRADLEY dated January 20, 1984, the U.S. Trade Representative, William Brock, wrote:

> An understanding was reached between the Governments that true negotiations with J. Royal Parker must proceed if the Government of Costa Rica is to remain in conformance with the mandatory requirements of the [Caribbean Basin Economic Recovery Act].

Mr. President, I ask unanimous consent that the entire text of that letter be printed in the RECORD at the close of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. HELMS. In a letter to the Costa Rican Minister of Foreign Commerce, Her Excellency Muni Figueres, dated July 28, 1986, the U.S. Trade Representative, Clayton Yeutter, wrote:

> I would like to call your attention to . . . the J. Royal Parker case, which has long remained unresolved despite your Government's pledge and repeated assurances of expeditious settlement. This has now become a matter of high-level interest in the U.S. Government. In 1983, the Government of Costa Rica (GOCR) was designated as a beneficiary nation under our Caribbean Basin Initiative [CBI] on the condition that this case would be resolved quickly. A number of provisions of U.S. law exist which require that various economic benefits (including Costa Rica's CBI eligibility) be terminated or withheld if any country fails to take appropriate steps to settle expropriation claims by providing prompt, adequate, and effective compensation.

Mr. President, I ask unanimous consent that the entire text of that letter be included in the RECORD at the close of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 3.)

Mr. HELMS. Finally, Mr. President, I ask unanimous consent that the text of a letter dated December 29, 1986, from Elliot Abrams be included in the RECORD at the close of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 4.)

EXHIBIT 1

THE U.S. TRADE REPRESENTATIVE,
Washington, DC, December 2, 1983.

Mr. J. ROYAL PARKER,
President, J. Royal Parker Associates, Inc., Cherry Hill, NJ.

DEAR MR. PARKER: I have read carefully your letter of November 28, 1983 and I have considered your arguments concerning the conformance of the Government of Costa Rica to the requirements of the Caribbean Basin Economic Recovery Act with respect to good faith negotiations in cases of nationalization of property of U.S. citizens or corporations. We have discussed your case with the Costa Rican Government and have reached an understanding with them that true negotiations with your corporation must proceed if the Government of Costa Rica is to remain in conformance with the requirements of the aforementioned Act. While the officials to whom we spoke may not have been fully informed on the status of your negotiations and the problems you have had in the past, they were fully aware that more concerted attention to your case was immediately warranted.

We intend to monitor developments on your case both through the U.S. Embassy, communications we may receive from you, and contacts with the Government of Costa Rica. We will, if it becomes appropriate, raise with the Costa Rican Government the need for consultations on the handling of this nationalization of property, keeping in mind the mandatory criteria laid down by the United States Congress in giving the President the authority to make Costa Rica a beneficiary nation. Please keep us informed on a frequent basis on the status of your case.

Sincerely,
JON ROSENBAUM,
Assistant U.S. Trade Representative.

EXHIBIT 2

THE U.S. TRADE REPRESENTATIVE,
Washington, DC, January 20, 1984.

Hon. BILL BRADLEY,
U.S. Senate, Washington, DC.

DEAR BILL: Thank you for your inquiry of December 21 concerning the nationalization of property owned by J. Royal Parker Associates, Inc. of Cherry Hill, New Jersey by an agency of the Government of Costa Rica.

The President has designated Costa Rica as a beneficiary of the Caribbean Basin Economic Recovery Act (CBERA), and the trade benefits of the Act became effective for Costa Rica on January 1. Prior to the President's decision to designate Costa Rica, a U.S. delegation co-chaired by this office and the Department of State discussed the J. Royal Parker case with senior officials of the Costa Rican Government. An understanding was reached between the Governments that true *negotiations* with J. Royal Parker must proceed if the Government of Costa Rica is to remain in conformance with the mandatory requirements of the CBERA. Costa Rican officials were made fully aware that more concerted attention to the J. Royal Parker case was required immediately.

Our office has been in direct contact with Mr. Parker. We have informed him of our intent to closely monitor developments on his case through the U.S. Embassy in San Jose and through our direct contact with the Costa Rican Government. He has been assured that, if it becomes necessary, we will seek further consultations with the Costa Rican Government on the disposition of his claim, bearing in mind the mandatory criteria of the CBERA and the President's authority to withdraw or suspend eligibility from a previously-designated beneficiary.

Very truly yours,
WILLIAM E. BROCK.

EXHIBIT 3

THE U.S. TRADE REPRESENTATIVE,
Washington, DC, July 28, 1986.

Her Excellency MUNI FIGUERES,
Minister of Foreign Commerce,
San Jose, Costa Rica

DEAN MADAM MINISTER: I want to convey my best regards to you and to the Government of Costa Rica. My Government looks forward to continuing our traditionally friendly, cooperative relationship with your Government. We remain ready to work together on issues of mutual interest.

There are occasional irritants in our trading and investment relations that serve to diminish the attractiveness of Costa Rica as an investment site and which require urgent attention. I am encouraged that Ambassador Tambs has received assurances of high-level resolve to settle a number of investment disputes. Such cases are, of course, of interest to both Governments. I would like to call particular attention to one such matter, the J. Royal Parker case, which has long remained unresolved despite your Government's pledge and repeated assurances of expeditious settlement. This has now become a matter of high-level interest in the U.S. Government.

Over the years, officials of the United States Government, in San Jose and in Washington, have worked with Costa Rican officials for a resolution of the case. In 1983, the Government of Costa Rica (GOCR) was designated as a beneficiary nation under our Caribbean Basin Initiative (CBI) on the condition that this case would be resolved quickly. In the letter requesting designation, your Government stated:

"With respect to the J. Royal Parker claim against the GOCR, the Government agrees to continue negotiations in good faith to reach a just settlement or in the event the final determination is made by the courts, the GOCR will take prompt actions to carry out the decision."

In addition, existence of unresolved investment disputes over a long period of time undermines private sector confidence in the investment climate of Costa Rica. It also undermines the objectives of the Caribbean Basin Initiative and our economic assistance program for Costa Rica. A resolution of outstanding investment disputes, including the case of J. Royal Parker, is an essential first step toward restoring such confidence in furtherance of the objectives of these programs.

A number of provisions of U.S. law exist which require that various economic benefits (including Costa Rica's CBI eligibility) be terminated or withheld if any country fails to take appropriate steps to settle expropriation claims by providing prompt, adequate, and effective compensation. This September there will be a review as to whether there has been significant material progress in this case. While we understand that your Administration has just taken office, I hope you will consider the urgency we attach to the prompt resolution of this long-outstanding case.

I am aware that Costa Rica has serious problems in its external accounts and other issues that call upon your resources. Nevertheless, creating the proper conditions for the growth of a dynamic private sector is an issue important to the future of any free nation. I look forward to hearing from you as to the steps your Government is prepared to take to resolve the Parker case.

Sincerely,

CLAYTON YEUTTER.

EXHIBIT 4

Hon. JAMES J. FLORIO,
House of Representatives, Washington, DC.

DEAR MR. FLORIO: Thank you for your letter of November 24.

The State Department has repeatedly brought up the matter of the J. Royal Parker investment dispute with the Government of Costa Rica. We have learned that the new President of Costa Rica, Oscar Arias, has instructed his ministers to negotiate with Mr. Parker and to resolve the case. As a result, there have been several communications in recent months between Mr. Parker's attorneys and Costa Rican officials.

Earlier this month, Mr. Parker presented the Costa Rican minister of Public Works with a written proposal asking for $7 million and the right to develop some unspecified projects. The Public Works Minister is studying Parker's proposal and the two sides plan to meet again.

We are pleased that negotiations are continuing and believe that both sides will make a good-faith effort to reach a settlement.

With best wishes,

Sincerely,

ELLIOTT ABRAMS.

Mr. HELMS. Mr. President, in the Senate report on S. 1924, the foreign assistance and related programs appropriation bill for 1988, the Appropriations Committee included language directing the State Department to prepare a report on the status of "all pending expropriation claims of U.S. citizens and business enterprises." The report lists three specific claims in which the committee is specifically interested.

Mr. President, I've discussed the Centraport case with the chairman of the Foreign Operations Appropriations Subcommittee, Senator INOUYE. He has agreed to add the Centraport case to the list of exproprations cases in which the committee is specifically interested.

Because of the consideration and interest of my distinguished friend and colleague, I've agreed, with some hesitation, to withdraw my amendment. I don't want the withdrawal of this amendment to be interpreted as a willingness to let this case continue to drag on. I will personally be following the progress of this case over the next several months, and if a settlement is not reached expeditiously, we will revisit this issue in the Senate.

Mr. INOUYE. Mr. President, I have indeed discussed the Centraport case with the Senator from North Carolina. This is precisely the type of case that concerns the committee and that prompted us to direct the Department of State to prepare a report on all pending expropriation claims of U.S. citizens and business enterprises.

I will be glad to ensure that language is included in the conference report to require the State Department to report specifically on the Centraport case.

I thank the Senator from North Carolina for his cooperation and interest in this matter.

Mr. HELMS. Mr. President, my distinguished friend from the beautiful State of Hawaii has gone out of his way to accommodate me in this matter, and I extend to him my most sincere appreciation.

With that, Mr. President, I withdraw the amendment.

The PRESIDING OFFICER. The amendment of the Senator from North Carolina is withdrawn.

Mr. HELMS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. METZENBAUM. Mr. President, I am going to take but 5 to 10 minutes to discuss a matter that does not relate to an amendment that I will be offering but relates to a motion to instruct the conference which cannot be offered until the bill passes but because the matter which I am about to discuss does involve some possible area of controversy I do not want anyone to feel that I brought it up when others had left the floor at the conclusion of the night whenever the case may be.

I want to tell you that this situation is a rather unusual one. I would guess the matter about which I am speaking is totally unknown to every single Member of this body.

Mr. President, there is a provision in the House bill that is not in the Senate bill. The motion I will offer to instruct the conferees will be to strike that provision. Nobody in this Senate, in my opinion, knows about that provision, but every one of us should know about it because it is almost an unbelievable kind of situation.

In order to find it you have to look at the House continuing resolution, but that only incorporates by reference the House defense appropriation bill. And when you look at the defense appropriation bill, section 8118, you find a very, very strange provision. This does not involve the procurement of weapons for our armed services. It does not involve the purchase of equipment or pay for personnel.

In fact, it involves nothing at all about our Armed Forces and involves no appropriation at all.

Instead, it amends current law to allow the importation of military firearms.

Why put such a provision in the continuing resolution?

When we study the provision further, we find that it is aimed at a specific shipment of arms, in fact, a specific business deal that has already been put in motion.

We find that it is intended to allow importing firearms with respect to which an import permit was issued by the Secretary of the Treasury on or after July 1, 1986, irrespective of whether—and this is the critical language—such import permit was subsequently suspended, revoked, or withdrawn by the Secretary of the Treasury.

In fact, this provision is intended to allow a specific company—Blue Sky Productions—to import 200,000 M-1 rifles from Korea to sell to private American citizens.

These 200,000 rifles were originally given to Korea and now they are coming back on a sale. But there is much more to the story than that.

Thirty years ago, we gave arms to Korea. Now a small group is going to bring them back in and sell them to private citizens—and they are planning to make a very, very substantial amount of money in the process.

In order to allow the importation of these arms, this provision amends the Arms Export Control Act which has been in effect since 1958, and which prohibits importing firearms we furnished to a foreign government under a foreign aid program.

What is wrong with this provision? I say to my colleagues—there is a whole lot wrong.

First, what is this legislation doing being buried—buried—in the continuing resolution? Let us have a hearing. Let us find out what it is all about. What does this issue have to do with the continuing resolution? Let us let the committees with subject matter jurisdiction take a look at this. We have no business changing the law regarding the importing of firearms with a provision buried in an appropriations bill that has never been examined at all by the Senate or that has not been reported by the committee with subject matter jurisdiction.

But there is more wrong with this provision than that.

This is a provision designed to help one group of people make millions of dollars. The provision is specifically retroactive to permits issued on or after July 1, 1986. If we search the record, we find that there was a permit issued for importation of arms by Blue Sky on July 22, 1986.

But that permit was revoked by the Secretary of the Treasury. Why? Because the Government obtained evidence that importing these arms would violate the law—would violate the law—and the permit was revoked.

The proposal that is in the House measure, buried in the House measure, would undo the revocation by the Secretary of the Treasury. That provision that is in the continuing resolution that the House sent over says: ignore the fact that the permit was revoked; forget about that. The provision in the House bill also says that the House continuing resolution can undo an act of the Treasury Department that was taken in accordance with the law. It would permit the arms to be imported notwithstanding the determination of the Secretary of the Treasury.

Blue Sky Productions has been trying to import these rifles since at least 1984. In fact, in 1984, an amendment was added to the Tariff and Trade Act to allow them to do so. But the amendment was botched; it was poorly drafted. The proponents of the amendment goofed. They did not amend the Arms Export Control Act and now they are back to try again.

This is no small transaction. 200,000 M-1 rifles could sell for up to $300 apiece in the United States; 200,000 rifles at $300 each is $60 million.

We have no business approving a provision, buried in the continuing resolution, designed to allow a handful of people to carry out a business deal—particularly a deal that has been first approved by the Secretary of the Treasury and then the approval was withdrawn.

But that is not the end of the story. There is more wrong with this provision. I am told from reliable sources that there is an ongoing criminal investigation concerning the circumstances under which prior legislation concerning this issue was passed.

I do not know if anyone has committed a crime. I am not accusing anyone of having committed a crime. I do know that we have no business passing a provision intended to help a particular group when conduct by persons associated with this group is the subject of a criminal investigation.

So, I say to my colleagues: this bill is not the right place to adopt this provision. In all candor, it is not the way to pass such a provision by having it in the House continuing resolution. It is not the way to conduct our business of passing legislation.

Let those who advocate this provision come forward and testify at an open hearing.

Let the Government agencies concerned come forward and explain why these arms were not allowed to come into this country.

But, in the meantime, I will urge my colleagues in the Senate to instruct our conferees to resist this provision after action on this bill. I will move that the Senate instruct its conferees to object to section 8118 of H.R. 3576 as incorporated in section 101(B), H.J. Res. 395.

I took the time of the Senate to talk about this because I was concerned that perhaps at 11 o'clock or 12 o'clock at night, after we pass the measure, Members vote on it, and then you offer a motion to instruct the conferees. I felt my colleagues were entitled to an explanation while they were all still awake, alive, and concerned.

Mr. BYRD. Mr. President, will the Senator yield?

Mr. METZENBAUM. I certainly will.

Mr. BYRD. The motion of the Senator is in order, but the conferees will certainly not be bound, necessarily by such instruction.

Mr. METZENBAUM. I am aware of the fact that we can instruct our conferees, but we cannot bind them.

AMENDMENT NO. 1292

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, I had seen the distinguished Senator from New Hampshire earlier pass through the Chamber. I assume that he is here or will be here shortly, so to expedite matters I would like to go ahead and begin on my amendment, which is the pending business of the Senate.

Mr. STEVENS. Could I inquire at this time, if my good friend would yield, whether it was possible to get a time agreement on this amendment?

Mr. GRAMM. It was my understanding we had an agreement of 15 minutes on each side, total of 30.

Mr. METZENBAUM. I do not believe such agreement was entered into, and the Senator from Ohio would object.

Mr. STEVENS. There is no such agreement to my understanding. Is it my understanding the Senator from Ohio will object?

Mr. METZENBAUM. If my understanding of this amendment is correct, and that is that this amendment would either cut back or remove a substantial amount of funds from the Legal Services Corporation.

Mr. GRAMM. The Senator from Ohio is not correct. This would not reduce the funds for legal services. It would, however, require that 97 percent of those funds be directed directly to providing legal services for the poor; thereby shifting funds from State support centers and other entities funded by Legal Services that are not engaged in providing legal services to the poor directly.

Mr. RUDMAN. Would the Senator from Texas yield for just one moment so I might talk to the Senator from Ohio's question?

Mr. GRAMM. I would be happy to yield.

Mr. RUDMAN. Let me say to the Senator from Ohio that the amendment offered by the Senator from Texas, which Senator HOLLINGS and I will oppose, essentially does change the structure of the corporation. The amendments of the Senator from Texas would essentially say that all of the legal services funds would be directed toward essentially the representation of clients directly by lawyers and none of the other activities of the support centers and training, and so forth, would be allowed. We strenuously oppose the amendment.

Mr. STEVENS. Would the Senator yield to me once again, then?

Mr. RUDMAN. Can I just finish?

Mr. STEVENS. I beg your pardon. I am sorry.

Mr. RUDMAN. I would say to the Senator from Ohio that I believe this has been debated before, and I believe the Senate has overwhelmingly supported the position of the Senator from South Carolina and the Senator from New Hampshire. The Senator from Texas feels very strongly about this, and I understand he would like to go forward, but I would hope that we might be able to have a debate within a proper time agreement and vote on it because I believe, quite frankly, with all due respect to my very close friend and coworker on so many issues, that we can defeat him rather soundly on this one.

Mr. GRAMM. Mr. President, I know we all want to go home for Christmas. Certainly I do. I know that any amendment that is offered during this period suffers from an obvious disadvantage but I would like to remind my colleagues that the appropriation bill before us does not just appropriate money for legal services. It sets out an elaborate scheme, forcing the Legal

Services Corporation to spend money on nondirect services, expenditures, rather than allocating those funds to the purpose for which Congress passed the Legal Services Corporation: To provide legal services for the poor people of America.

The amendment being offered is no radical amendment nor has it been, so far as I am aware, debated before. The amendment simply says that 97 percent of the $310 million provided for Legal Services Corporation must be spent on legal services for the poor, the purpose for which the Legal Services Corporation was founded.

It does not say that LSC, in representing a poor person in New Hampshire who is getting a divorce, cannot hire consulting services or get legal advice or buy computer services or hire an attorney to assist. But it says that the expenditure of money has to be directly related to providing legal services to the poor.

As moneys are now spent, funds are spent on activities that have little or nothing to do with providing legal services for the poor, and, since the Senator from Ohio was exercised about this, let me just give you an example from Ohio.

I have here the application submitted this year from the Ohio State Legal Services Association, and they are asking for $1,565,873. Guess how many people they are going to have to lobby the State legislature? To lobby the State legislature they are going to have six of their staff members.

As you might guess, however, they have a nice, little caveat here. Let me read it to you because it is so typical.

It says that Ohio State Legal Services is engaged in legislative and administrative representation in 1987; activities which were permissible with legal services funds were performed with those funds, and activities which would have been impermissible were funded with supplemental public funds.

Now, you see this reference everywhere.

One of the reasons I brought this amendment for debate today relates to the nomination of Judge Bork. A lot of Members here voted against Judge Bork and many felt they had good reasons. I voted for him. But the National Legal Aid Defenders Association sent out this letter on September 2. I remind my colleagues that if you look at NLADA's fees and dues, you find that 81 percent of their fees and dues paid by LSC recipients are reported paid with LSC funds, and this is money that comes from the taxpayer. If you look at their total budget according to our dear colleague from New Hampshire, about one-quarter of it comes from the taxpayer.

They sent out a letter opposing the Bork nomination on their letterhead, as I understand, to all the Legal Services attorneys in the country opposing Judge Bork. They say here, and I quote:

> NLADA opposes the nomination and our president-elect has been requested to testify before the committee.

They go on, they give sample letters to be sent to Congress. They identify Members of Congress as to committee. They give letters to the editor. They give factsheets. And I note, and I would like my colleague from New Hampshire to note, they do not say that the portion of the National Legal Aid Defenders Association that is funded with private funds opposes Judge Bork. They say NLADA opposes Judge Bork.

I could give you 1,001 examples of the abuses of Legal Services, but I am not going to take the Senate's time today. We all know that these centers are engaged in political activism, writing laws to be introduced in legislatures, promoting unionism, being involved in social causes. Those may be useful activities. But they should not be funded by the taxpayers' money.

My amendment says simply that Legal Services money must be spent on poor people, that it cannot be spent on lobbying activities and all these intermediate activities.

Now, if I listed 1,001 things that were done that we do not think ought to be done by these associations, our distinguished colleague will say, "But those activities were not funded by the taxpayers," even though I remind my colleagues this letter from the head of the National Legal Aid and Defenders Association attacking Judge Bork and saying that NLADA opposes him does not say "but only the part funded by nontaxpayer money."

In fact, my dear colleague from New Hampshire in his defense reminds me of a fellow who might be running a Baptist fellowship hall near the college and the deacons come and find out there has been a brothel being run in the back corner of this Baptist student center. So the guy running the center says, "Well, now, you have to realize, brothers, that the money coming into this student center in part comes from private donations and it just happens that those private donations are funding that area where the brothel is."

So the deacons might say, "Don't we pay the utility bill?"

But our friend would respond, "Now, it just so happens that the electricity going into that corner of this building where the brothel is is paid out of another pot."

Then the deacons would say, "Don't we pay the water bill here?"

And the fellow would say, "It just so happens that the water that goes to the room in the back corner is paid for out of another pot of money."

This letter does not say that. This letter says that an entity, in part funded by the taxpayer, opposes Judge Bork.

Everybody here, including the distinguished Senator from New Hampshire, deep down in his heart knows that the Legal Service Corporation funding has been abused.

All my amendment says is, "To keep your money, just spend it to help poor people." That is all it says. "Anything you can justify helping poor people you can do. But you cannot fund research centers to write laws to be introduced into the Ohio Legislature. You cannot fund six lobbyists to lobby the State legislature. You cannot fund research for social causes."

The U.S. Chamber of Commerce supports this amendment as does the American Farm Bureau Federation, Concerned Women of America, the Neighborhood Network, the National Right to Work Committee, the National Council of Agricultural Employers, the National Federation of Independent Business.

This amendment does not eliminate legal services. It does not in any way limit their ability to help poor people. It just says, "If you do spend the taxpayers' money, it has to be in helping poor people getting legal services."

I would say that data like this against Bork proves there is an emergency.

"Spend the money to help poor people." That is what this amendment does. I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator has 4 minutes remaining.

Mr. HOLLINGS. Mr. President, I yield such time as the Senator from New Hampshire requires.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. RUDMAN. Mr. President, I better just lay this out the way it is, very plainly.

The Legal Services Corporation Board just does not want to deal above board. I say that for the record. I have tried to deal with them both as the chairman of the subcommittee and the ranking member and their word is not worth the paper it is printed on. That I say for the record.

They are concerned about State support centers; they are concerned about national support centers.

By the way, for the record, the programs that would be eliminated total $35 million out of a $300 million-plus budget. We said to them, "fine, if we do not think you are doing your job, we will listen to you. Set up a commission, go out and study their effectiveness. If they are doing a terrible job, come back and tell us about it."

We have a reasonable committee. The Senator from New Hampshire and the Senator from South Carolina are not known to throw away money.

What they did was to wait until the appropriations process was over with and then without announcing it to the five members of the board who were opposed, passed a resolution which essentially embodies the language offered by the Senator from Texas to essentially restructure the corporation after we had our markup. A nice way to do business with the Congress when you try to cooperate with them.

Of course, the problem they have is that knowing of our lack of trust, both the House and the Senate have adopted provisions, and we must approve those kinds of changes. Of course, we will not, and, therefore, the Senator from Texas, if he prevails, will, in a sense, overrule what we have done in the committee.

This is not a matter of the issue the Senator has been talking about. It is an issue of comity and trust between branches of Government.

Quite frankly, I do not trust the board of the Legal Services Corporation farther than I can throw the Capitol. They have doublecrossed the Senator from South Carolina and the Senator from New Hampshire at every possible opportunity. Frankly, I am sick of it.

I have tried to handle it in a very respectful way for the past 4 years but I am sick of it, because in this place our word is our bond. If a colleague tells me something, I believe it, and not once in 7 years have I found that I could not.

I find dealing with this group of people that nothing they tell me can I believe.

Now let us talk about the Judge Bork matter, if we want to get into specifics.

This Congress, with conservative and liberal and moderate Members, 5 years ago established a lobbying restriction because we were sick and tired of the Legal Services Corporation prior to 1981 and their grassroots lobbying class action suits, and doing all sorts of things they ought not to be doing.

That agreement was signed off on by a number of Members of this Chamber.

We have lived by it and they have lived by it and the Legal Services Corporation has lived by it and field organizations have lived by it.

The National Legal Aid and Defenders Associaton referred to is a trade association supported by dues from the member legal services groups, about one-third of their total budget comes from these dues, and two-thirds from private donations from private lawyers.

There is nothing this Congress can do or should do about what private funds are used for in this country.

As a matter of fact, we have a regulation that has a form attached to it that anytime this association spends, it must show where the money comes from and how the money was spent. The form is this long, I have the form here in my hand. It has another form at the end of it, which I show you. The lobbying is done with non-Federal funds. Not one dime of Federal funds was used to lobby against Judge Bork, who I might tell my friend from Texas, and he is my friend, I voted for also.

Let us talk about the State and National support centers. What are they for? They are to try to assist these young fledgling lawyers in developing their training, their techniques, and how they do things to effectively represent poor people. There is no justice in America if there is not equal justice for all, and you cannot have lawyers without the adequate kind of training if you are going to have legal services representing the poor.

I am truly sorry that we have to take this matter up today. Had the board come to Senator HOLLINGS and to me as the ranking member and said, "Look, we have a way to spend this $35 million more effectively, we think these national support centers are bureaucratic, we think they are wasteful, we do not think they do their job," then we would have said, "Give us the evidence and if it is there we are going to work with you." We told them that. They would not do that. Without announcing an agenda, they pulled this out of the hat and passed it 6 to 5 at a board meeting after the appropriations process was done and are now trying to legitimatize it with this amendment.

This amendment has as much to do with the Congress and the way this Government is run as it has to do with the Legal Services Corporation and I am going to move to table this amendment at the appropriate time. I know my friend from South Carolina has some things to say.

I yield back the floor.

Mr. HOLLINGS addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina has 9 minutes 10 seconds.

Mr. HOLLINGS. Mr. President, you know we have been around here too long when you find GRAMM, RUDMAN, and HOLLINGS fussing with each other.

But to the point, I have been closely associated with the legal services budget, Mr. President, for 15 years and I remember the groups on the Capitol steps when the late distinguished Senator from New York, Senator Javits, and I ironed out the differences about lobbying. We restricted the Legal Services Corporation to landlord-tenant cases, to employment cases, to adoption cases, domestic cases, on down the list. And then about 5 years ago, as my distinguished colleague from New Hampshire says, when he was the chairman of the subcommittee, we put restrictions on class actions.

In essence, what you really have here is a board that is trying to do away with legal services for the poor and instead institute a voucher system. The corporation is attempting to bollix the program up with bureaucracy so that it really cannot function and take away the allocations we have made for the National Support Centers, the State Support Centers, the native American programs, the computer assisted legal research grants, and right on down the line. Mr. President, we specifically earmarked funding for those services to ensure they were funded. We established them as priorities and expect them to be funded.

With respect to the National Legal Aid and Defenders Associations and their lobbying, all three of us voted for Judge Bork and let us not get into that debate again. They did not bother me, and I do not believe they made anybody change their vote one way or the other. So that is a red herring.

What is really at issue is what the Senator from New Hampshire has emphasized in that we have a legal services board over there that is opposed to legal services.

This particular program was instituted by Justice Lewis Powell, who just retired. Lewis Powell, our friend from Richmond, VA, was president of the American Bar Association and instituted the program and we have kept it going, and it has been doing a wonderful job over the many, many years.

I really react with dismay at this nagging kind of approach, of picky, picky, picky; the Legal Services Corporation Board has tried to come around here at every particular turn to do away with legal services for the poor. This time with a Gramm amendment of a voucher approach rather than using the studied and tried and true programs that we now have in place.

So I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from South Carolina reserves 6 minutes.

Mr. LEAHY. Mr. President, I rise in strong opposition to this amendment. Despite assurances of the Senator from Texas to the contrary, it would seriously set back the Legal Services Corporation's efforts to provide low-cost, high-quality legal assistance to millions of poor Americans.

The proponents of this amendment maintain that its purpose is to insure that LSC funds get to the poor people they are intended to help. If that were what this amendment would do I don't think anyone would oppose it.

Unfortunately, it would do the opposite. The State and national support centers that depend on the funds this amendment would shift to other programs are the glue that holds the Legal Services network together. They serve, in their own way, in much the same way as a Senate office—as essential resources of expertise on issues of vital importance to the local offices at home.

It is no surprise to me that this amendment, which we are told is intended to improve one-on-one legal assistance to the poor, is overwhelmingly opposed by the very lawyers in the Legal Services field offices who are providing the one-on-one assistance. Those are the people who know best where scarce Legal Services funds should be spent.

In a recent survey conducted by the Corporation, nearly 90 percent of all local Legal Services Program directors urged the continuation of national support rather than a proportional increase in their own program funding. Reallocating the $7 million that now goes to support would provide less than a 3-percent increase for each field program—an amount that cannot begin to fill the gap in productivity created by the loss of specialized assistance.

These are intelligent, committed lawyers. They earn salaries that don't begin to compete with the private sector. Their caseloads are staggering. Every dollar matters. If the national support centers weren't doing extremely valuable work these local Legal Services lawyers would support this amendment too. Instead, they overwhelmingly oppose it.

National support centers have been an essential link in the delivery of legal services to the poor for the past 20 years. There are now 17 of them—the National Center on Youth Law, which specializes in the legal problems of children, and the Food Research and Action Center, specializing in legal and other issues relating to health and nutrition, are two examples.

The national center staffs provide the only in-depth coverage of issues of special importance to poor people—affordable health care and housing, Social Security, consumer problems, welfare, and employment. These lawyers are expert in the interpretation of the myriad of regulations, statutes, and judicial decisions, and administrative agency and legislative procedures in these areas.

The directors of these support centers have an average of 18 years of professional experience—12 years within legal services. The majority of the lawyers in the centers have more than 10 years of legal experience.

Two decades ago when the Legal Services Corportation was founded, 5.2 percent of its budget went to national support. Now only 2.6 percent goes to national support. Who really benefits from these funds?

Not just poor people, but poor people who are also mentally or physically disabled, who are poor and also elderly, poor children who are also victims of physical or sexual abuse, single mothers on welfare, migrant farmworkers poisoned by pesticides, thousands of Americans with no heat in the winter and not enough to eat. These are the people who this amendment will hurt, by denying them the expertise of the national centers that have been built up over 20 years.

The legal aid lawyers in my own State of Vermont rely extensively on the national support centers. One example is a recent case involving adequate foster care and education for disabled children. The National Center for Youth Law provided invaluable assistance to the Vermont children's lawyers, by putting them in touch with other lawyers and experts throughout the country who have handled similar cases. This saved hundreds of hours that would otherwise have been spent on costly, duplicative research.

Proponents argue that this amendment is not intended to hurt the national centers, but only to get these funds to the people they're supposed to benefit. They suggest that if lawyers in the field offices want help from the centers they can contract out for that help. As reasonable as that might sound, it is a recipe for the demise of the national centers. They cannot possibly survive without a steady source of Federal funding. To suggest otherwise is either wishful thinking or intentionally misleading.

Nor are their services available in the private market. Private lawyers cannot begin to reproduce the advice, assistance and cocounseling on specialized issues of law that are of unique concern to poor people. It takes years of experience in handling these issues and a genuine commitment to improving the lives of the poor to fulfill this need.

Mr. President, since 1973 seven major studies of the support centers have been done by the Corporation or independent evaluators. Every one has reaffirmed the essential role that the centers play in the delivery of high-quality legal services. Each one has shown that the system of independent centers works well and could not be more efficiently organized.

This amendment is unnecessary and unwise. It won't save money. It will hurt the Legal Services Corporation and the millions of poor Americans it serves. It should be defeated.

IN OPPOSITION TO GRAMM LEGAL SERVICES AMENDMENT

Mr. CRANSTON. Mr. President, I strongly oppose the amendment offered by the Senator from Texas [Mr. GRAMM]. This amendment is designed to alter radically the existing system of delivering high-quality legal services to low-income Americans by eliminating funding for the legal services support programs which assist local programs in carrying out their responsibilities.

Mr. President, this is a fight which has been waged many times. Over the past 7 years, Members on both sides of the aisle in the Senate and in the other body have repeatedly joined together to defeat proposals intended to weaken the Legal Services Program. This amendment should be defeated as well.

As one of the primary architects of the 1974 Legal Services Corporation Act, I can attest to the importance of the continuation of the support programs to the overall structure of the Legal Services Program. One of the specific mandates of the Legal Services Corporation Act was to provide, in an economic and effective manner, high-quality legal assistance to the poor. The creation of the national legal services support centers and specialized State support units was designed to help achieve that goal, by providing legal services attorneys in the local programs with the technical support and expertise essential for them to provide adequate services to the indigent clients they serve.

The Legal Services support centers provide a range of services, from brief telephone advice to preparation of memos, analysis and assistance in pleadings to local programs. In addition, these programs provide such expert materials as practice manuals, newsletters, articles, model court documents, and packets of materials on issues and developments in specific areas. They act as clearinghouses, making sure that programs in different parts of the country are aware of developments in other areas. Finally, they provide basic training materials and programs for attorneys handling cases for low-income families.

Mr. President, the amendment offered by the Senator from Texas [Mr. GRAMM] is yet another attempt to weaken severely the Legal Services Program. To eliminate the backup programs and the national clearinghouse would deny poor citizens access to effective, high-quality legal representation.

As my colleagues well know, I am deeply committed to the Legal Services Program. I believe that it is a cornerstone in our national commitment to the principle of equal justice under the law—a truly fundamental concept in our society. The Legal Services Program breathes life into and gives meaning to this concept and to the notion that every person, regardless of wealth, is entitled to access to the halls of justice and to the protection of the laws of this land. Without such a program, the noble principles can become hollow rhetoric, devoid of substance for those who cannot afford legal representation.

Mr. President, the fact that the Legal Service Program exists today, after 7 years of continuous attack by the current administration, is a testament to the strength of this program and the depth of the commitment of the Congress to the program. I believe that the strong bipartisan support for the Legal Services Program will continue and the cause of justice exemplified by this fine program will continue to be served. I urge the defeat of the Gramm amendment.

Mr. GRAMM. Mr. President, my colleagues have given wonderful speeches, but this is not a meeting of the Legal Services Board. I immediately came to the conclusion that the Senator from New Hampshire did not like the Legal Services Board. But I am talking about an amendment, and I am not talking about an amendment that expands the power of the Legal Services Board. I am talking about an amendment that says that 97 percent of the money that we are providing for legal services must go to provide legal services to poor people. Did we create the Legal Services Corporation to fund lobbyists in Ohio? Did we create the Legal Services Corporation to fund dues and fees of the National Legal Aid and Defense Association and to tell us how to vote on Judge Bork?

Now, I realize that it is easy to get up and say that the money they used to prepare this letter which just happened to be funded out of private funding. It just so happens this stationery just happened to be funded out of the private funds. It just so happens the stamps they used to mail it happened to come out of private funds.

But the plain truth is that we all know this letter would have never been sent had they not been getting funds from the Legal Services Corporation.

I do not mind being lobbied by people who work in America, earn their own living and spend their money to try to tell me what to do. That is our system. I deeply resent being lobbied with the taxpayers' money when many taxpayers did not support what we were being lobbied to do.

I could go to great lengths as I said, if I had the time, in going through abuse after abuse after abuse, but everyone in this body knows that Legal Services funds are being used directly and indirectly to engage in social activism, to harass agriculture, to promote activities which may be wonderful but which should not be promoted with the taxpayers' money.

This amendment simply says spend the minimum amount on overhead and use the money to help poor people. That is what Legal Services was supposed to do. And that is why groups like the U.S. Chamber of Commerce and the Farm Bureau Federation and agricultural groups all across America support this amendment.

Why are we funding fees and dues of the National Legal Aid Defenders Association, when they are not involved directly in providing legal services to anybody? Why should we be funding a trade association? We ought to be helping mothers get child support, helping tenants be sure they are not cheated, helping everyone see that their constitutional rights are respected. We should not be funding activities that represent direct political activism. It is not fair and it is not right and it ought to be stopped.

I can understand that there are disputes involving the Legal Services Corporation. I do not know those people very well. Maybe if I did I would not like them. But that has nothing to do with my amendment. My amendment says, "Use the money to help the poor people." Do not use it to lobby against Judge Bork. Do not use it to twist the election process. Do not use it to encourage people to strike. Do not use it to harass agriculture.

That kind of thing is happening every day and it is not right, it is one of the greatest abuses of this Government, and it ought to be stopped.

It may not be stopped today, but I am going to offer this amendment every time we bring up appropriations because this is wrong and it ought to be stopped.

I reserve the remainder of my time.

Mr. RUDMAN addressed the Chair.

The PRESIDING OFFICER. The Senator has 3 minutes 15 seconds remaining.

Mr. RUDMAN. Mr. President, I ask for whatever time I may need.

Let me respond with a couple points and I think we can probably vote. First, the record is clear beyond dispute that the lobbying that the Legal Services Corporation was involved in prior to 1981 was changed and whatever is being done now is being done according to the letter of the law. The Senator from Texas cannot disprove that because that is true. The Legal Services Board itself cannot disprove that because that is true. This was an amendment worked out by all of us and they are living within it.

Second, I find it rather interesting the litany of things that the Senator from Texas ticks off that Legal Services should not be doing involving poor people. The fact is that poor people generally do not need to have help with their landlord at the Watergate or to help with the repossession of their Rolls Royce.

They generally have the kind of problems that the Senator from Texas is talking about. However, we have barred them from legislative activity, and that has been done effectively. The field reports even from this Board have proven that.

Finally, I think I should correct the RECORD. I said I had no trust whatsoever in the Board of the Legal Services Corporation. I want to be very careful in what I say. I have absolutely no trust at all in 6 of the 11 members. They know who they are, including the Chairman. I have nothing but admiration for the other five who seem to believe that poor people deserve equal justice. We have had nothing but 4 years of strife with this Board who seem to think that the Congress is a mere appendage to this Corporation, that we should appropriate the money and they will decide how to use it. This is the same Board whose Chairman told the American Bar Association that he would approve of nonlawyers working as, if you will, field workers and helpers to solve some of the problems that poor people have—another brilliant suggestion from the Chairman of that Board.

Mr. President, I do not know how much time is left but frankly I think we have talked long enough. I have no further use of the time. If the Senator from South Carolina wants to yield back the time, I daresay we can probably do so. I intend to move to table at the appropriate moment.

Mr. GRAMM. Mr. President, how much time do I have left?

The PRESIDING OFFICER. Fifteen seconds.

Mr. GRAMM. Mr. President, God forbid anybody who is not a lawyer should help anybody. This letter does not say 19 percent of the NLADA that is not supported by the taxpayer funding opposes Bork. It says that NLADA opposes Bork. Eighty-one percent of those dues and fees came from the American taxpayer and that is not right. You can cut this thing any way you want to but these are taxpayers' moneys being used every day. Six members of the Ohio Board are registered lobbyists in Ohio trying to help poor people at the legislature.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. HOLLINGS. Mr. President, at issue here is that money going to support any lobby, at issue is the basic difference we have with the provision of legal services to the poor. I firmly support this vital program and hope this amendment will be killed.

I yield the remainder of the time to my distinguished colleague from New Hampshire.

The PRESIDING OFFICER. The Senator from New Hampshire has 3 minutes.

Mr. RUDMAN. Mr. President, I would only make the observation that everything the Senator from Texas has spoken of is allowed by law. That was carefully structured in 1981, and it improved as we went along.

Mr. President, if there is no further use of the time, I yield it back.

Mr. HOLLINGS. I yield it back.

The PRESIDING OFFICER. All time is yielded back.

Mr. RUDMAN. I move to table the amendment offered by the Senator from Texas.

Mr. HOLLINGS. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from New Hampshire to lay on the table the amendment of the Senator from Texas. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Illinois [Mr. SIMON] is necessarily absent.

Mr. SIMPSON. I announce that the Senator from Wyoming [Mr. WALLOP] is necessarily absent.

I further announce that, if present and voting, the Senator from Wyoming [Mr. WALLOP] would vote "nay."

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 70, nays 28, as follows:

[Rollcall Vote No. 410 Leg.]

YEAS—70

Adams
Baucus
Biden
Bingaman
Boren
Boschwitz
Bradley
Breaux
Bumpers
Burdick
Chafee
Chiles
Cochran
Cohen
Conrad
Cranston
D'Amato
Danforth
Daschle
DeConcini
Dixon
Dodd
Dole
Domenici
Durenberger
Evans
Exon
Ford
Fowler
Glenn
Gore
Graham
Harkin
Hatfield
Heinz
Hollings
Inouye
Johnston
Kassebaum
Kennedy
Kerry
Lautenberg
Leahy
Levin
Lugar
Matsunaga
McCain
Melcher
Metzenbaum
Mikulski
Mitchell
Moynihan
Nunn
Packwood
Pell
Pryor
Reid
Riegle
Rockefeller
Rudman
Sanford
Sarbanes
Sasser
Shelby
Specter
Stafford
Stennis
Stevens
Weicker
Wirth

NAYS—28

Armstrong
Bentsen
Bond
Byrd
Garn
Gramm
Grassley
Hatch
Hecht
Heflin
Helms
Humphrey
Karnes
Kasten
McClure
McConnell
Murkowski
Nickles
Pressler
Proxmire
Quayle
Roth
Simpson
Symms
Thurmond
Trible
Warner
Wilson

NOT VOTING—2

Simon
Wallop

So the motion was agreed to.

Mr. RUDMAN. Mr. President, I move to reconsider the vote by which the motion to lay on the table was agreed to.

Mr. NICKLES. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER OF PROCEDURE

Mr. JOHNSTON. Mr. President, I believe we are on the verge of getting approval of the Midgetman missile language. It is being done by Senator NUNN at this time.

We have some other cleared amendments which in the first bit of down time we will handle. I wonder if there are any other major amendments that will require debate to be considered.

Mr. STEVENS. Mr. President, there will be an amendment concerning humanitarian assistance for the Nicaraguan resistance.

Mr. JOHNSTON. Will that require a time, and can it be worked out?

Mr. STEVENS. We will try to work it out. We are having a meeting now to see how close we can come to having the matter so we will take it to conference because it will have to be debated again with the conference and the White House after that.

Keeping that in mind, we hope we will have some commonsense about how we get the subject to conference.

Mr. JOHNSTON. I hope we can get that worked out because otherwise that could be a showstopper around here.

I wonder if there are any other amendments.

Mr. EVANS. I believe we have one amendment on the Individual Appropriations Act. I would love to have it agreed to but I am sure it will not be. I would be very willing to enter into a reasonable time agreement.

Mr. JOHNSTON. What is the nature of the amendment?

Mr. DOLE. May we have order?

The PRESIDING OFFICER. Senators will suspend. The Senate will come to order. The Chair cannot hear the Senator's discussion.

Those Senators desiring to engage in conversation will please retire from the Chamber.

The Senate will please be in order.

The Senator from Louisiana has the floor.

Mr. JOHNSTON. Mr. President, I am advised by the Senator from Washington that he has an amendment. I believe it has been fully considered, debated, and rejected by the Senate on a previous occasion. I wonder if there is anything I might tell the Senator that would talk him into not submitting that amendment here on a Christmas eve almost.

Mr. EVANS. I will say to the Senator from Louisiana that since it is virtually Christmas eve there is no better Christmas present could be given to this body and country than adoption of this amendment.

It has been debated as the Senator remembers. There was very substantial vote for and in fact a vote against tabling it and after a scramble the vote to reject it, but statements by a good many that this was an appropriate kind of thing, but not on this bill, that being the debt limit bill.

I cannot think of a more appropriate bill and a more appropriate time than one dealing with the continuing resolution and its future.

This is not on this continuing resolution. It would be propective for next year and and the year after. But now is the time to do it, and I would be willing to go into a reasonable time limit. There are others who may want to speak on this.

Mr. JOHNSTON. Would 10 minutes equally divided be all right?

Mr. EVANS. I think that is a little short.

Mr. JOHNSTON. Mr. President, if we are going to get out of here, the floor managers simply cannot accommodate all the requests for time and we have to use the rules fully.

I hope my friend from Washington with whom I have been allied on so many good fights lately, would see that it would be better off not putting this in here. If we go with this matter which has, indeed, been debated before then we will have Christmas eve. We are trying to go along with amendments where we can. I do not see how we do that.

I think we have to fully utilize the rules to expedite us. I do not want to have to do that. I hope the Senator will deem this an appropriate matter for January.

Mr. EVANS. I thank the Senator from Louisiana. I do not think this will take very much time. I do not intend to speak very long on it. It is an important matter. It deals directly with a continuing resolution. I cannot think of a better place to put it. I do not think it will hold up matters very long to do that. I am perfectly willing to enter into a short time agreement.

Mr. JOHNSTON. Ten minutes equally divided?

Mr. EVANS. I think 10 minutes per side. I want to use 10 minutes in opposition and the same amount of time.

If the Senator from Louisiana will yield, Mr. President, who has the floor?

The PRESIDING OFFICER (Mr. GRAHAM). The Senator from Louisiana has the floor.

Mr. EVANS. If the Senator from Louisiana will yield, I would certainly be willing in an attempt to try to agree to proceed to have a short debate time if we could have an up or down vote on the amendment.

Mr. JOHNSTON. Mr. President, if I may then extend my rights then to those of the majority leader, I would then ask unanimous consent there be a time limitation on the Evans amendment of 20 minutes to be equally divided, that the second-degree amendment not be in order and that a vote up or down occur at the end of the time limitation.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. EVANS. I thank the Senator.

The PRESIDING OFFICER. Who yields time?

Mr. EVANS. Mr. President, who is the time being controlled by?

The PRESIDING OFFICER. We have an amendment of the Senator from Georgia which is the pending business. There needs to be a motion to lay that aside in order to make up the amendment which the Senator seeks to propose.

Mr. EVANS. I ask unanimous consent that the pending amendment of the Senator from Georgia be laid aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Washington.

Mr. EVANS. I yield myself such time as I may require.

The PRESIDING OFFICER. Does the Senator have an amendment he wishes to send to the desk?

AMENDMENT NO. 1294

(Purpose: To provide that each title of any bill or joint resolution making continuing appropriations that is reported by a committee of conference and is agreed to by both Houses of the Congress in the same form during a 2-year period shall be presented as a separate joint resolution to the President)

Mr. EVANS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Washington [Mr. EVANS], for himself and others, proposes an amendment numbered 1294.

Mr. EVANS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, add the following new title:

TITLE .—TREATMENT OF CONTINUING RESOLUTIONS

SECTION 1. SHORT TITLE

This Act may be cited as the "Individual Appropriations Act".

SEC. 2. DEFINITIONS.

For purposes of this Act—

(1) The term "bill or joint resolution making continuing appropriations" means a bill or joint resolution that includes two or more regular appropriation bills.

(2) The term "title" means any division of a bill or joint resolution making continuing appropriations that is designated as a title.

(3) The term "regular appropriation bill" means any annual appropriation bill (within the meaning given to such term in section 307 of the Congressional Budget Act of 1974 (2 U.S.C. 638)) making appropriations, otherwise making funds available, or granting authority, for any of the following categories of projects and activities:

(A) Agriculture, rural development, and related agencies programs.

(B) The Departments of Commerce, Justice, and State, the judiciary, and related agencies.

(C) The Department of Defense.

(D) The government of the District of Columbia and other activities chargeable in whole or in part against the revenues of the District.

(E) The Departments of Labor, Health and Human Services, and Education, and related agencies.

(F) The Department of Housing and Urban Development, and sundry independent agencies, boards, commissions, corporations, and offices.

(G) Energy and water development.

(H) Foreign assistance and related programs.

(I) The Department of the Interior and related agencies.

(J) Military construction.

(K) The Department of Transportation and related agencies.

(L) The Treasury Department, the U.S. Postal Service, the Executive Office of the President, and certain independent agencies.

(M) The legislative branch.

SEC. 3. CONSIDERATION OF CERTAIN JOINT RESOLUTIONS.

(a) SEPARATE CONFERENCE REPORTS FOR EACH TITLE.—(1)(A) Notwithstanding any other provision of law, when any bill or joint resolution making continuing appropriations for a period of 30 days or more is agreed to by a committee of conference on such bill or joint resolution, the committee of conference shall prepare and submit to each House of Congress a separate conference report for each title of the bill or joint resolution together with any amendments in disagreement corresponding to each title.

(b) SEPARATE BILLS FOR EACH TITLE.—Each separate title of a bill or joint resolution reported by a committee of conference pursuant to subsection (a) shall, at the direction of the responsible official of the originating body when submitted to that body, be assigned a bill number and shall be considered separately.

SEC. 4. POINT OF ORDER.

Notwithstanding any other provision of law, the Standing Rules of the Senate, or the Rules of the House of Representatives—

(1) it shall not be in order to consider any bill or joint resolution making continuing appropriations for a period of 30 days or more unless each title of the joint resolution corresponds to a regular appropriation bill, and

(2) any general provisions of the bill or joint resolution are contained in the appropriate title or titles of the bill or joint resolution (rather than in a separate title).

SEC. 5. EXCEPTION.

The provisions of this Act with respect to the consideration of a bill or joint resolution making continuing appropriations shall not be construed as applying to a bill or joint resolution making supplemental appropriations.

SEC. 6. EFFECTIVE DATE.

The provisions of this Act shall apply to a bill or joint resolution making continuing appropriations agreed to by the Congress providing appropriations for fiscal years 1989 and 1990.

Mr. EVANS. Mr. President, this I believe is an important and certainly an appropriate amendment for this continuing resolution. We did debate at some length this question late this summer. I think it was a good debate. Some significant problems were brought forward by those who opposed this amendment at that time.

I believe that this proposal now before us has corrected many of those problems. Very briefly, this would, for just 2 years, for the budget years of 1989 and 1990, require that, prior to the sending of appropriation bills to the President, if more than one of the 13 bills are tied together that they be separated prior to sending them to the President.

This would get us back to the initial intent of the Budget Act of 1974. The separation into titles would be done not by a functionary of either House, but by the conference committee itself, which I think is an appropriate response to the concerns expressed by some earlier on.

It would not apply to supplemental appropriations, it would not apply to temporary continuing resolutions for 30 days or less, both of which were brought up as problems the last time we debated this issue.

But, Mr. President, I think it is terribly important for us to create some reasonable balance between the executive and the legislative branches.

Mr. President, the Senate is not in order.

The PRESIDING OFFICER. The Senate is not in order. The Senate is not in order. Those who have business other than currently before the Senate will please adjourn to the cloakroom.

The Senator from Washington.

Mr. EVANS. I thank the Chair.

I believe it is important for us to create balance between the President and the legislative branch. We cannot do that when we send to the President a huge, all-consuming continuing resolution containing all of the discretionary appropriations of the country. No President, especially if the fiscal year has started, can afford to have a veto. In doing so, he would stop the Government of the United States.

But I think there is something else very important that could happen, and that is it would create a greater discipline for us to examine, to pass, to have conferences on and to send to the President the separate appropriation bills as they come before us. We have done it in the past. We could have done it, to a very large degree, even this year, with probably 7 to 10 of the appropriation bills available for conference and approval by a conference committee and their further sending them to the President.

Mr. NICKLES. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate is not in order. The Senate will be in order. Those who have business other than that before the Senate, please adjourn to the cloakroom.

The Senator from Washington.

Mr. EVANS. Mr. President, I urge the Senate to adopt this modest but, I think, important trial. It is for 2 years. It gives us an opportunity to test out this procedure. If it does not work, we can return to the rather complex and not very good procedure we have now. But I believe we will find that it will help, even if modestly, create greater discipline in our own ranks and also a better relationship between the President and the Congress.

I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator reserves the remainder of his time. Who yields time?

Mr. JOHNSTON. Mr. President, I yield 5 minutes to the distinguished Senator from Alaska.

Mr. STEVENS. Mr. President, again I would remind the Senate that I am performing this task today for my good friend from Oregon, Senator HATFIELD. I made an opening statement for him today. I want to repeat that. He said:

> I believe it is to our advantage to implement the agreement, the summit agreement, in just two pieces of legislation—this resolution and the reconciliation bill—rather than in 13 separate appropriations bills.
>
> So, Mr. President, while I know there are those in this body who feel very strongly that we should not resort to these omnibus continuing resolutions, I hope they will be tolerant with us once more so we can enact a budget summit proposal in a manner agreed to by the administration.

We have been through this before with my good southern neighbor from Washington.

Mr. EVANS. Will the Senator yield for a clarification?

Mr. STEVENS. Yes.

Mr. EVANS. This proposal does not affect this continuing resolution nor the summit agreement which has been reached. We very carefully said that it would be too complex to attempt to do this immediately. So this applies to the next 2 budget years, not to this particular budget year.

Mr. STEVENS. My response to my good friend is that if I understand the budget and understand the agreement we have just entered into in the 2-year provision of the leadership agreement, ladies and gentlemen, we are going to be right back here next November or December with the same problem. And we will be in this problem until we get the budget balanced.

I perceive that this is a process which is annual now, whether we like it or not, a major reconciliation bill and a major omnibus appropriation bill.

It may well be that we will end up with some new kind of procedure after we are through. But I have got to tell my good friend from Washington I do not know how we could comply with the summit agreement this year were it not for the fact that we could join these all together in a continuing resolution. And feeling the way I do about next year—and the summit agreement does cover next year; we are bound by that agreement next year under the understanding, as I perceive it—I have got to say to my friend, I do not believe it is right to change this procedure now and to prevent us from having the mechanism for success next year that is leading us to completion of the work of the Senate in order to comply with this agreement this year.

I have to oppose it personally, and I speak for the distinguished Senator from Oregon, who will nod his head and tell you all he agrees with what I have just said.

The PRESIDING OFFICER. Who yields time? Time is controlled by the Senator from Washington and the Senator from Louisiana.

Mr. EVANS. How much time do I have remaining?

The PRESIDING OFFICER. Five minutes fifty-nine seconds.

Mr. EVANS. I yield 4 minutes to the Senator from Oklahoma.

The PRESIDING OFFICER. The Senator yields 4 minutes to the Senator from Oklahoma.

The Senate will be in order.

The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I wish to compliment my friend and colleague, Senator EVANS, from Washington, for his amendment.

Mr. President, I do not think anyone, looking at the fiscal state of affairs that we have in this country, can doubt or question that we need fiscal reform. I think if anyone studied the process they would surely agree with at least this amendment. This amendment or the substance of this amendment says if we have continuing resolutions or if we have appropriations bills that combine several appropriation bills, for the purpose of sending these bills to the President, they would be enrolled and engrossed separately to where the President would have a chance to sign or veto each individual bill.

That is just common sense. We are abusing the checks and balances if we throw all the bills in a continuing appropriation bill. So we send it all to the President and we say, "Mr. President, you sign all of it or you veto all of it." That is not checks and balances. That is Congress holding all the checks and Congress writing all the checks with the President not really having the veto as envisioned by our forefathers.

Mr. President, could we have order?

The PRESIDING OFFICER. The Senate will be in order.

Mr. NICKLES. Thank you, Mr. President,

Mr. President, if you read the Constitution, the Constitution says in article I, section 7, second paragraph:

> Every bill which shall have passed the House of Representatives and the Senate, shall, before it becomes a law, be presented to the President of the United States; if he approves he shall sign it, but if not he shall return it, with his objections to that House.

Mr. President, the President is supposed to have a veto. We are totally ignoring that process by saying, "Mr. President, you take all of the appropriations for the year. Sign it or veto it."

My good friend, the Senator from Alaska—and I agree with him on most all issues—mentioned the reconciliation bill. The Senator from Washington's amendment does not touch the reconciliation bill. But we have a massive reconciliation bill that has countless individual pieces of legislation all jammed together or thrown together. And the President likewise is given this option.

I personally think he should have this option to break down anything, itemize, at least on a bill basis; some people say on a line-item basis. This is not a line-item veto. This is saying the President, as far as appropriation bills are concerned, should have a chance to sign or veto each appropriation bill.

In my opinion, it is minimal, but it certainly needs to be done. I congratulate my colleague and I hope the majority of Senators will adopt the amendment.

Mr. STEVENS. Mr. President, did I use my time?

The PRESIDING OFFICER. The Senator from Washington has 4 minutes 32 seconds under his control and the Senator from Louisiana has 6 minutes 43 seconds.

Mr. JOHNSTON. Mr. President, I understand that we had 20 minutes equally divided.

The PRESIDING OFFICER. That is correct.

Mr. JOHNSTON. Senator STEVENS and I are on the same side of this matter, so how does our time exceed 10 minutes?

Mr. STEVENS. Go ahead. You gave me 7 minutes and I did not use it.

Mr. JOHNSTON. Five.

The PRESIDING OFFICER. The Senator from Louisiana controls time for the opposition. The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, this bill sounds good but it is a perfectly awful bill. If I may just very briefly tell my colleagues why it is that we beat it before; why it should be beaten now.

First of all, Mr. President, it is entirely unconstitutional. The Constitution provides as to what is to happen to a bill; that is, when it is passed, it goes to the President. This gives to the enrolling clerk the power to separate the bill into its constituent parts. Some parts, I guess, would go back to the House. Some parts would be passed. And it would be totally unworkable.

Mr. EVANS. Will the Senator yield?

Mr. JOHNSTON. I will not yield at this time.

Second, Mr. President, the amendment now being considered, I suppose under this language, would not be in order. Once this passes, it says there shall be a point of order. It shall not be in order to consider any bill or joint resolution making continuing appropriations unless it is divided up into its constitutent parts.

Now, just what happens, Mr. President, when there are general provisions? This is a general provision.

Either you cannot present general provisions—either you cannot present legislation on an appropriations bill or the enrolling clerk would have some kind of as yet undefined power to put your piece of general provisions into whichever of the 13 bills he wants to put it in. There would be no right of the body to determine what part of the 13 constituent parts it goes in.

Where, for instance, would this bill go? Would it go into legislative, because it pertains to the legislature? Or would it go into State justice, because it has something to do with judicial matters? I am at a loss to know, Mr. President.

This has not been considered by a committee. The only consideration it has had has been on this floor and, after an absolutely exhaustive debate of, as I recall, about 3 hours in length, we defeated it. And here on Christmas Eve we want to bring it back with 10 minutes debate on each side because we have got to get away and we want to try to pass it now.

Mr. President, I urge my colleagues not to set an absolutely terrible precedent by passing this kind of legislation which has not been considered before and put it on this bill. Why, if we can do this, every Senator will be over here with his pet project, which never went through a committee anywhere, and he will want to put it on this bill and we will be here to New Year's Eve.

So, Mr. President, let us defeat this again. If it has merit, let it go through in 1988; 1988 is going to be a great year. We have got lots of time to consider all these things and let us do it in January and February and not here on Christmas Eve.

Mr. EVANS. Will the Senator yield for a clarification?

Mr. JOHNSTON. On your time.

Mr. EVANS. Well, I hate to have to issue clarifications on my time, but I will do so.

It will be done not by an enrolling clerk, but by the conference committee itself. We have checked this entire bill as it is now written and it is found to be constitutional in every respect by those who have examined it, the constitutional experts. In addition, it would be up to the conference committee to make the decisions as to where and in which one of the 13 appropriate bills any general provisions would lie.

So I think we have attempted to handle, and I believe have, every one of the objections raised during the last exhaustive debate.

Mr. JOHNSTON. Tell me how in the world the conference committee can originate a bill? The Constitution says appropriations bills, revenue bills must originate in the House of Representatives.

If you divided it up into 13 bills, that bill, I think, would be originating in the conference committee.

Mr. EVANS. Divide the bill in the conference committee and send it back to the individual House.

Mr. STEVENS. Would the Senator yield for just 1 minute?

Mr. JOHNSTON. Yes.

Mr. STEVENS. We will be dealing with the same President, our President, next year, on this same budget agreement. What would happen next year if we got 10 or 11 of the bills that contained the items that we had agreed to cut but we did not get the other two? I mean the mechanism this year puts together everything in the agreement in two bills and he can sign the bills so that he knows he has a reconciliation bill and the cuts have been made. And then he signs the continuing resolution and he knows we have held limits to the caps, and that perfects the agreement and protects the concept of marching toward the goals we established by Gramm-Rudman. How can you do it otherwise?

Mr. JOHNSTON. I would say to my friend this does not even apply to fiscal years 1989 and 1990, so what is the emergency? Why do we have to consider it now on Christmas eve, with a 10-minute time limit when it does not even apply for 2 years? Why do we not wait until 1988 and let it go through committee where we can iron out the bugs?

The intent is a good one. Everybody endorses the intent. But the mechanics need to be worked out.

The PRESIDING OFFICER. Who yields time? The Senator from Washington.

Mr. EVANS. I do not seek recognition at this moment but to ask how much time is remaining.

The PRESIDING OFFICER. Three minutes twenty-eight seconds.

Mr. JOHNSTON. Mr. President, I would be willing to yield back the balance of the time.

Mr. EVANS. Mr. President, before the Senator yields back his time, may I take just a minute or two to respond to the Senator from Alaska, saying yes it does apply to the next 2 years. But that is what is so often wrong about this place. We make up our rules as we go along. Or sometimes we make the rules to fit retroactive problems.

I think there is no better time to set the rules for the budget debates which will begin with the President's budget message early next year than right now so we all know beforehand what we are dealing with and how we are dealing with the budget. It will be the fiscal year 1989 budget, but we will start the process at the beginning of the next year and we ought to know before we start where we are headed.

I cannot think of any more modest proposal for just a 2-year trial at the end of which we would have a sunset, or, frankly I will wager, if we try it for 2 years we will find that we like it and we will endorse it and we will extend it for a much longer period of time.

Mr. KASTEN. Mr. President, I rise in strong support of Senator EVANS individual appropriations amendment. This amendment would require Congress, when conferencing on a continuing resolution containing two or more bills, to report out individual bills for the Congress to act upon and the President to sign. This gives the President the opportunity to veto separate items that he finds objectionable. This amendment would instill fiscal discipline in the current budget process and help us achieve the goal of a balanced budget by 1992.

Mr. President, one of the major reasons for the rise in Federal spending and budget deficits over the last decade has been the diminished power of the executive branch in budgetary matters. The current budget process centralizes budgetary power overwhelmingly in favor of the legislative branch. This imbalance creates a congressional bias toward higher spending.

Throughout most of the history of the Republic, the President and the Congress were equal partners when it came to spending public funds. The Founding Fathers originally empowered the President to veto spending bills passed by Congress. In the early years of the Republic, bills were limited in their scope of authorizations and financing.

It is unlikely that the Founding Fathers envisioned the use of a single multibillion-dollar continuing resolution containing literally hundreds of spending programs, projects and activities. The President's consitutional right to veto is not always practical because it requires him to reject necessary funding for a whole range of programs in an effort to cut wasteful spending in a few.

Consequently, Presidents are reluctant to veto massive continuing resolutions that contain spending programs that would never pass on their own merits if voted on separately. In effect, the President's constitutional veto authority is severely impaired.

Mr. President, I believe the Evans amendment would restore a lost Presidential prerogative, not create a new one. It would restore the balance of power between the executive and Congress in spending matters and mitigate the congressional bias toward spending.

I believe the constitutional objections to the original Evans amendment have been sufficiently addressed. The duty of separating the continuing resolution into individual bills for presentation to the President has been transferred from the enrolling clerk to the members of the conference committee. In this way, Congress retains the constitutional prerogative to determine what is and is not considered a separate bill. The President has more than one opportunity to veto objectionable provisions contained in a continuing resolution.

Mr. President, I urge my colleagues to adopt this amendment. I recognize that this amendment is not a panacea. It will not guarantee a balanced budget by 1992. However, I believe that it does give us one more tool to reach this goal.

Mr. HUMPHREY. Mr. President, during debate on the debt limit bill prior to the August recess, I joined with the Senator from Washington in offering an amendment which would have put an end to the ever-increasing abuse of continuing resolutions. An attempt to table our amendment failed by a vote of 43 to 49. Unfortunately, with Members leaving town and others changing their vote, the amendment was defeated 41 to 48.

The vote on the tabling motion was encouraging. The vote reflected a widespread dissatisfaction with the appropriations process. It is an unwieldy, undemocratic process that eventually leaves the President with a take-it-or-leave-it proposition. Simply put, it is time to end consideration of mammoth continuing resolutions.

In recognition of this frustration, I am joining the Senator from Washington to propose again a solution. This solution is very similar to the amendment we offered in July.

When we first considered this matter, some concern was expressed by Members as to the constitutionality of the role of the enrolling clerk. This version of the proposal addresses those concerns directly. If adopted, the amendment will still require both Houses to vote on each measure to be presented to the President. In addition, it will make these votes more meaningful, since Members will no longer be voting on a single measure to fund the entire Government for the fiscal year.

The history of the appropriations process over the past few years demonstrates the need for this amendment. Since 1978, the continuing resolution has been getting larger and larger:

In 1978, we included two bills in the full-year CR; in 1980, we included seven; in 1983, we included eight; in 1985, the number was nine.

We then hit rock bottom last year when we included all 13 individual appropriations into a single CR for the entire fiscal year. This fiscal monstrosity amounted to $576 billion.

Today, we are presenting the American people with an encore performance. All 13 bills are once again wrapped into this year's CR, which amounts to over $600 billion. This is the largest spending measure in our history, and probably in the history of civilized man.

Mr. President, I ask unanimous consent that a copy of a report entitled "Summary of Continuing Appropriations Acts: Fiscal Years 1976–1987," compiled by the Congressional Research Service, appear in the RECORD.

Let us take this small step toward reforming the appropriations process. I urge support for the Evans amendment.

The material follows:

TABLE 1.—SUMMARY OF CONTINUING APPROPRIATIONS ACTS: FISCAL YEARS 1976–87 [1]

	Congress and session	Measure number	Public law No.	Duration [2]	Length in pages	Number of regular bills covered [3]
Fiscal year:						
1976	94–1	HJR 499	94–41	171 days	7	13
1976	94–1	HJR 733	94–159	103 days	1	6
1976	94–2	HJR 857	94–254	184 days*	1	2
1977	94–2	HJR 1105	94–473	182 days	3	[4] 0
1977	95–1	HJR 351	95–16	30 days	1	0
1978	95–1	HJR 626	95–130	31 days	2	3
1978	95–1	HJR 643	95–165	30 days	2	2
1978	95–1	HJR 662	95–205	304 days*	2	2
1979	95–2	HJR 1139	95–482	365 days*	4	[4] 0
1980	96–1	HJR 412	96–86	51 days*	8	10
1980	96–1	HJR 440	96–123	316 days*	4	7
1981	96–2	HJR 610	96–369	76 days	9	13
1981	96–2	HJR 644	96–536	173 days*	7	9
1981	97–1	HJR 3512	97–12	118 days*	2	4
1982	97–1	HJR 325	97–51	51 days	11	13
1982	97–1	HJR 368	97–85	23 days	1	11
1982	97–1	HJR 370	97–92	107 days	21	10
1982	97–2	HJR 409	97–161	184 days*	1	3
1983	97–2	HJR 599	97–276	78 days	20	12
1983	97–2	HJR 631	97–377	288 days*	95	8
1984	98–1	HJR 368	98–107	41 days	11	10
1984	98–1	HJR 413	98–151	326 days*	19	5
1985	98–2	HJR 653	98–441	1 day	3	9
1985	98–2	HJR 656	98–453	2 days	1	9
1985	98–2	HJR 659	98–455	4 days	1	9
1985	98–2	HJR 663	98–461	2 days	1	9
1985	98–2	HJR 648	98–473	365 days*	363	9
1986	99–1	HJR 388	99–103	45 days	3	13
1986	99–1	HJR 441	99–154	29 days	1	11
1986	99–1	HJR 476	99–179	4 days	1	7
1986	99–1	HJR 491	99–184	3 days	1	7
1986	99–1	HJR 465	99–190	292 days*	142	7
1987	99–2	HJR 743	99–434	8 days	4	13
1987	99–2	HJR 750	99–464	2 days	4	13
1987	99–2	HJR 751	99–465	5 days	1	13
1987	99–2	HJR 753	99–491	1 day	1	13
1987	99–2	HJR 738	99–500/591	365 days*	389	[5] 13

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[1] This table provides selected information on continuing appropriations acts for fiscal year 1976 through fiscal year 1987.

[2] The duration of each continuing appropriations act listed in the table is the number of days from the date on which funds were made available by the act or, if a date of availability is not specified, the date on which the act was approved to the date of expiration specified in the act. The figures in this column are not adjusted to reflect regular appropriations measures which were enacted separately before continuing appropriations acts covering their programs and activities expired. Entries marked by an asterisk (*) indicate continuing appropriations acts effective through the end of the fiscal year. The period covered by fiscal year 1976 continuing appropriations acts includes fiscal year 1976 (July 1, 1975 through June 30, 1976) and the fiscal 1976 transition quarter (July 1976 through September 1976). For some fiscal years, the duration of continuing appropriations acts exceeds 365 days (or 366 in leap years) because of overlapping dates of expiration and availability, or because funds were made available in some continuing appropriations acts retroactively over the period covered by earlier acts.

[3] Indicates the total number of regular appropriations bills initially covered by continuing appropriations acts. The number of regular appropriations bills covered by these acts which later were separately enacted prior to their dates of expiration have not been deducted from the totals in this column. However, in the case of continuing appropriations acts which simply amend a previous continuing appropriations act to extend the expiration date, the number of regular appropriations bills covered by such acts has been determined by deducting the number of regular appropriations bills which were enacted separately during the period covered by the previous act but before enactment of an extension.

[4] For fiscal years 1977 and 1979, continuing appropriations were enacted to fund certain unauthorized programs for which funds were not provided in regular appropriations acts.

[5] House Joint Resolution 748 was signed into law twice because of certain omissions in the enrollment of the Act initially forwarded to the President for his signature. Public Law 99–591, signed into law on October 30, 1986, contains the provisions omitted from the Act initially signed by the President (Public Law 99–500, signed into law on October 18, 1986).

Sources: Continuing appropriations acts for fiscal year 1976 through fiscal year 1987. Final Calendars of the House of Representatives, 94th-99th Congresses.

Mr. EVANS. Mr. President, I am prepared to yield back the remainder of my time.

Mr. JOHNSTON. I yield back the remainder of my time.

Mr. STEVENS. I ask for the yeas and nays.

Mr. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum has been suggested. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DIXON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded so I can address the majority leader.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. The Senator from Illinois.

DESIGNATING THE HAROLD WASHINGTON SOCIAL SECURITY CENTER IN CHICAGO, IL

Mr. DIXON. Will the distinguished majority leader yield for a moment?

Mr. BYRD. Yes, I am happy to.

Mr. DIXON. While this quorum call is temporarily suspended, I wonder if the majority leader would accommodate me by permitting me to call up the bill naming the Federal building in Chicago after the late Mayor Harold Washington, H.R. 3700. It is at the desk. The bill has been cleared on both sides.

Mr. BYRD. The bill has been cleared on this side, Mr. President. I do not know about the other side.

Mr. DIXON. It has been cleared on the other side, may I say to the majority leader.

Mr. STEVENS. Mr. President, I am informed that if this is the Harold Washington bill, it has been cleared on this side.

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of the bill for not more than 2 minutes, and that no amendments be in order.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The bill clerk read as follows:

A bill (H.R. 3700) to designate the Federal building located at 600 West Madison, Chicago, Illinois, as the "Harold Washington Social Security Center".

The PRESIDING OFFICER. Without objection, the Senate will proceed to its immediate consideration.

The Senate proceeded to consider the bill.

Mr. DIXON. Mr. President, I thank the distinguished majority leader and my colleagues. I will not take their time with any extensive remarks.

Mr. President, I would advise my colleagues that the mayor of Chicago, Harold Washington, who served as a State representative, a State senator, a U.S. Congressman, a great mayor of Chicago, passed away and we are naming the Federal building at 600 West Madison Street in Chicago, IL, the Harold Washington Social Security Center.

Mr. President, I want to thank my colleagues, Senators BURDICK, STAFFORD, and MOYNIHAN, for their assistance in bringing up H.R. 3700 for consideration by the Senate. The city of Chicago will be very happy to see that this bill establishing a memorial to the late Mayor Washington has been promptly acted on.

Yesterday, the House unanimously passed H.R. 3700, introduced by Congressman SAVAGE. I deeply appreciate the Senate's willingness to quickly follow suit, clearing this bill for the President's signature with a clear mandate.

The legislation names the Federal building at 600 West Madison, Chicago, IL, as the "Harold Washington Social Security Center." I introduced an identical bill in the Senate late last week, S. 1921. But, in the interest of time, I have asked the leadership of the Environment and Public Works Committee to act on the companion House bill.

The death of Harold Washington represents a great loss to the city of Chicago, the State of Illinois, and the entire country. He was a leader of unusual quality.

Mayor Washington's strength and vision brought needed stability to Chicago. He managed to guide the city through a rocky political period to the point where the city could once again concentrate on moving forward.

His life is a testament to true personal achievement. Born to a city precinct committeeman, he managed to become a State representative, State senator, U.S. Congressman, and the first black mayor of the city of Chicago.

In every office he had an impact. Every institution felt his presence. As a longtime colleague and friend of Harold, I can pesonally attest to Harold's effectiveness as a public servant.

Like everyone else who had the chance to know this remarkable man, I greatly mourn his passing.

Again, I thank my colleagues for their help in bringing up this bill.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be offered, the question is on the third reading and passage of the bill.

The bill (H.R. 3700) was ordered to a third reading, was read the third time, and passed.

Mr. DIXON. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. STEVENS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

FURTHER CONTINUING APPROPRIATIONS, FISCAL YEAR 1988

The Senate continued with the consideration of the joint resolution (H.J. Res. 395).

The PRESIDING OFFICER. The majority leader.

Mr. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senate will be in order.

Mr. BYRD. Mr. President, I ask unanimous consent to proceed for 3 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1294

Mr. BYRD. Mr. President, I support the concept of sending separate appropriations bills to the President. I argued for that earlier in the year. I have argued for it on numerous subsequent occasions. At the present time, however, it is too late. The only alternative, I think, that we have is to send to the President a continuing resolution that is in one piece. The same situation could exist next year or the next.

I am concerned about attaching legislation of this nature on this bill. There are questions I would like to have answered. With this continuing resolution right here at this juncture, at this particular point of time, and under the constrictions and restraints that confront us, which argue against this approach, we would be in one heck of a fix if we had to send this continuing resolution to conference right now and have that conference report back 13 different conference reports.

Those conference reports all have to be acted upon by both bodies before they comport with the constitutional requirement that every bill which shall have passed the House of Representatives and the Senate shall, before it became a law, be presented to the President of the United States and have the committee conduct hearings on it.

We are about to take an action which appeals to me on the surface, but I have already pointed out one very obvious problem to all Senators.

I would hope that we would not adopt this amendment.

May I ask the distinguished Senator, has this amendment been introduced as legislation and referred to a committee?

Mr. EVANS. Yes, Mr. Leader, it has. I believe it is S. 1585. I might say to the leader, just to make it very clear, that this does not require the separation of this continuing resolution into its constituent parts. It would begin with next year's continuing resolution. But by adopting it now we have a chance to set the rules in a way that everyone will recognize at the beginning of the budgetary process instead of halfway through.

Mr. BYRD. Mr. President, I did not say that this continuing resolution before the Senate today would be required to meet the provisions of the amendment because, as the Senator said earlier, and I heard him, he said it was prospective. I was simply saying that in a future year, we may be caught in the same situation when we are 2 weeks before Christmas or 1 week before Christmas with a continuing resolution on our hands.

We passed 10 of the 13 appropriations bills this year and time and time again I urged the House leadership: "Let us send these appropriation bills to the President separately because the President continues to complain that we send him one massive omnibus appropriations bill and he cannot veto it."

We used to send separate bills to the White House. I think a President is entitled to veto them, and then he can answer to the American people for that.

But while the Speaker and other House leaders agreed with me, as you can see we are here today. We have one massive continuing resolution.

I would hope that if we pass this one, if we are caught in the same situation next year—and who says we will not be; it is getting worse every year; we spend most of our time on the budget or budget-related problems—if we come up with an omnibus bill next year or in a future year and this amendment is in effect, a continuing resolution would go to a conference where the conference would break it up into 13 pieces and assign numbers to each of those pieces. Each has to come back. Every 1 of them, every 1 of those 13 conference reports would have to come back before this Senate. You know what that means. Every 1 of those conference reports would come back and offer just that many additional opportunities for Senators to talk and conduct 13 filibusters instead of 1 in the last days of a session.

As I say, the idea appeals to me. I think we are dealing with some very basic questions, at least some of which could be constitutional, others of which are fundamental and would very much involve the rules and operation of the Senate. I hesitate to think that we here today, in 30 minutes, can resolve this problem to the future satisfaction and convenience of the Senate. I hope that Senators will vote it down. Let the Senator have a committee hearing on this. I hope the Rules Committee will conduct a hearing on the bill, if it is sent to the Rules Committee. The Senator is entitled to a hearing. But let us not take a chance today by voting for this amendment because it will open up a Pandora's box.

The PRESIDING OFFICER. The question is on agreeing to the amendment, all time having been yielded back. The Chair has not determined that there was a sufficient second for the yeas and nays.

There is a request for the yeas and nays. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Florida [Mr. Chiles], the Senator from North Carolina [Mr. Sanford], and the Senator from Illinois [Mr. Simon], are necessarily absent.

Mr. SIMPSON. I announce that the Senator from Indiana [Mr. Quayle] and the Senator from Wyoming [Mr. Wallop], are necessarily absent.

I further announce that, if present and voting, the Senator from Wyoming [Mr. Wallop], would vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 44, nays 51, as follows:

[Rollcall Vote No. 411 Leg.]

YEAS—44

Armstrong
Biden
Bond
Boren
Boschwitz
Chafee
Cohen
Danforth
Dole
Domenici
Durenberger
Evans
Exon
Garn
Graham
Gramm
Grassley
Hatch
Hecht
Heinz
Helms
Hollings
Humphrey
Karnes
Kassebaum
Kasten
Lugar
McCain
McClure
McConnell
Murkowski
Nickles
Packwood
Pressler
Roth
Rudman
Simpson
Specter
Stafford
Symms
Thurmond
Trible
Warner
Wilson

NAYS—51

Adams
Baucus
Bentsen
Bingaman
Bradley
Breaux
Bumpers
Burdick
Byrd
Cochran
Conrad
Cranston
D'Amato
Daschle
DeConcini
Dixon
Dodd
Ford
Fowler
Glenn
Gore
Harkin
Hatfield
Heflin
Inouye
Johnston
Kennedy
Kerry
Lautenberg
Leahy
Levin
Matsunaga
Melcher
Metzenbaum
Mikulski
Mitchell
Moynihan
Nunn
Pell
Proxmire
Pryor
Reid
Riegle
Rockefeller
Sarbanes
Sasser
Shelby
Stennis
Stevens
Weicker
Wirth

NOT VOTING—5

Chiles
Quayle
Sanford
Simon
Wallop

So the amendment (No. 1294) was rejected.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. NUNN and Mr. JOHNSTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana.

AMENDMENT NO. 1295 (TO AMENDMENT NO. 1286)

Mr. JOHNSTON. Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending business is the amendment of the Senator from Georgia.

Mr. JOHNSTON. Mr. President, I send a second-degree amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Louisiana [Mr. Johnston] proposes an amendment numbered 1295 to amendment numbered 1286.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the Nunn-Byrd-Warner et al. amendment add the following:

Provided, That none of the funds made available for the small intercontinental ballistic missile program and the MX Railmobile program may be obligated or expended before February 25, 1988;

Provided further, That the Secretary of Defense shall report no later than February 1, 1988, to the Committees on Appropriations and Armed Services of the Senate and House of Representatives on the land based ICBM modernization program to include the survivability of each system against the postulated threat, the overall program cost of each system and the cost per fiscal year of each program as well as the Secretary's recommendation thereon.

The PRESIDING OFFICER. The Senate will be in order. Those who have business other than that before the Senate will please adjourn to the cloakroom.

Mr. JOHNSTON. Mr. President, this amendment has been worked out with the distinguished Senator from Georgia.

What it provides is that we fence the funds until February 25, 1988; that the Secretary of Defense report no later than February 1, 1988, to the Committees on Appropriations and Armed Services of the Senate and the House on the land-based ICBM modernization program, to include the survivability of each system against the postulated threat, the overall program cost of each system, and the cost per fiscal year of each program, as well as the Secretary's recommendation thereon.

In effect, what this does is to get us the recommendation of the Secretary before we proceed in a dual mode on the intercontinental ballistic missile program. It has been agreed to, and I thank very much the Senator from Georgia for getting this approved.

Mr. NUNN. Mr. President, I thank the Senator from Louisiana.

What we are doing here is preserving both the Midgetman and the MX rail-mobile. We are asking for a report and are making it clear—if you consider the original amendment as well as the Johnston amendment thereto—that the mobility is an important element in overall deterrence. But we are trying to have some better informational base before we make that decision, and we are making clear that there is no go-ahead here for deployment of either system. That is the essence of what we are doing.

We will get a report early next year. I commend this amendment and hope it will be adopted—the Johnston amendment to the Nunn amendment—and I hope we will adopt the Nunn amendment as amended.

Mr. McCLURE. Mr. President, I am delighted that the managers of the bill have worked out a compromise to expedite the consideration of this matter today.

I have not taken any time to speak with regard to this matter today, but there is a time and a place, and we should be discussing one other matter that has to do with deterrence, mobility, the invulnerability of systems, and we ought to be talking about the policy that is also embedded in legislation that we ought to destroy perfectly good submarines in order to meet some other compliance targets.

I am talking about the destruction of the Poseidons, which are perfectly competent, which have good missiles, which can provide deterrence, which can provide weapons systems at a far more effective cost-benefit ratio than anything we are talking about here.

I will not take the time of the Senate at this time, but I, for one, am not very much persuaded that there is much need for a Midgetman missile at this time, when we are destroying perfectly good submarines and submarine missiles.

The PRESIDING OFFICER. Is there further debate?

Mr. WILSON. Mr. President, having already spoken at some length earlier, I will try to contain my lack of enthusiasm for what is being proposed.

I commend my friend from Louisiana. His purpose is a good one. I think we are being too accommodating to a program that is clearly unaffordable, clearly not cost-effective, at any margin.

I have to say that I hope that when this is adopted—and I will not seek a rollcall, nor will I seek to prolong the debate—the understanding will be that the most significant improvement here, to me—there is the needless cost of putting MX in the same boat—is the earlier date by which the department must make a decision and render a judgment.

To me, it will be indefensible if they come back with anything other than a decision that this is a luxury which we cannot afford, in a time when we are compelled to make unpleasant choices, when financial constraints impose upon us, particularly in the area of strategic forces, the need to advance the most promising, and to be honest and candid enough to get rid of those which do not advance our security.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the second-degree amendment.

The second-degree amendment (No. 1295) was agreed to.

The PRESIDING OFFICER. The question is on agreeing to the first-degree amendment, as amended.

The first-degree amendment (No. 1286), as amended, was agreed to.

Mr. NUNN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. JOHNSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BOSCHWITZ. Mr. President, may I ask the Senator from Louisiana a question?

How long does the manager of the bill anticipate that we will go forward this evening, and when does he anticipate that we will be done tomorrow?

Mr. JOHNSTON. Mr. President, I cannot hear the Senator.

The PRESIDING OFFICER. The Senate will be in order.

Mr. BOSCHWITZ. I asked the Senator from Louisiana how long he intends to proceed into the evening, and I suggest that we proceed perhaps to the conclusion. If you cannot do that, how long do you anticipate it will go tomorrow?

Mr. JOHNSTON. Mr. President, looking at the far distance, I can see the end. I can hear Christmas bells and see Santa Claus out in the far distance, which I think would be tonight, and I think we can finish tonight.

It may be only a mirage, but Senators are doing very well. We just disposed of a very big one, the most troublesome of all. I hope we can dispose of the Stinger amendment—I think they are working on that—and we are working on Contra aid. Those are two very difficult ones.

If we can dispose of those, I think the rest can either be agreed to or tabled quickly—I hope.

Mr. BOSCHWITZ. I urge the Senator from Louisiana on, to negotiate.

AMENDMENT NO. 1296

(Purpose: To ensure congressional notification of the terms and conditions of a proposed sale of the Great Plains Coal Gasification Plant in Beulah, North Dakota)

Mr. JOHNSTON. Mr. President, we have a number of cleared amendments.

I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. FOWLER). The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Louisiana [Mr. JOHNSTON] proposes an amendment numbered 1296.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, insert the following:

"Sec. . Notwithstanding any other provision of law, the Secretary of Energy is directed to notify the Appropriations and Energy and Natural Resources Committees of the Senate and the appropriate authorizing committees of the House of his intent to enter into a binding contract for the sale of the Great Plains Coal Gasification Plant in Beulah, North Dakota. Such notification shall:

"(a) be submitted to the Congress at least thirty (30) calendar days before the agreement is effective; and

"(b) include a detailed description as to the terms and conditions of the sale, including, but not limited to, the purchase price, the name of the prospective purchaser, the rationale used in evaluating and ultimately selecting the firm to transfer ownership of the plant and associated assets, the relationship of the purchaser to national security interests; and a statement of commitment signed by an authorized individual of the purchaser for continued long-term operation of the facility at a rate and for a period determined appropriate and reasonable by the Secretary.

Mr. JOHNSTON. Mr. President, this amendment ensures congressional notification of the terms and conditions of the proposed sale of the Great Plains Coal Gasification Plant at Beulah, ND. It requires detailed description of that sale to be presented timely to us. It has been cleared all around.

Mr. McCLURE. Mr. President, the amendment requires the Secretary of

Energy to notify the Appropriations Committee and other appropriate authorizing committees in the House and Senate of his intent to enter into a binding contract for the sale of the Great Plains Coal Gasification Plant in Beulah, ND.

It is my understanding that the Secretary of Energy has expressed some reservation about the 30-day lie before period. Their investment bankers have advised the Secretary that they feel a mandated 30-day lie before period will decrease the number of interested parties and decrease the potential value of the facility.

I have asked the Secretary to elaborate on this problem and I am waiting for a response. With that caveat, I have no problems adopting the language here and if the Secretary is persuasive, and altering the language in conference.

Mr. President, we have no objection to the amendment, and urge its adoption.

The **PRESIDING OFFICER.** The question is on agreeing to the amendment of the Senator from Louisiana.

The amendment (No. 1296) was agreed to.

Mr. **McCLURE.** Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. **FORD.** I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1297

(Purpose: To ensure congressional notification of the terms and conditions of a proposed sale of the Great Plains Coal Gasification Plant in Beulah, ND)

Mr. **JOHNSTON.** Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The **PRESIDING OFFICER.** The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Louisiana [Mr. JOHNSTON] proposes an amendment numbered 1297.

Mr. **JOHNSTON.** Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

The amendment is as follows:

It is the sense of the Senate that the Secretary of Energy should place high priority on the continued long-term operation of the Great Plains Coal Gastification Plant as part of its divesture activity. Continued long-term operation is needed to avoid disruptions to the local community, capture the benefits associated with extended plant operations and collect emission reduction technology data. A prerequisite to consideration of any offer must be a statement of commitment signed by an authorized individual for continued long-term operation of the facility at a rate and for a period determined appropriate and reasonable by the Secretary. The 25-year Gas Purchase Agreements are effective until 2009. There must be a proper balance between realizing fair value for the project and continued operation. The Secretary of Energy shall submit to the Appropriations Committees of the Senate and House and the Energy and Natural Resources Committee of the Senate, and the appropriate authorizing committees of the House, the rationale used in evaluating and ultimately selecting the firm to transfer ownership of the plant and associated assets. The Department must assure the Federal, State and local governments as well as the affected citizens of the area that a fair, reasonable, and equitable arrangement has been arrived at during the divestiture process.

Mr. **JOHNSTON.** Mr. President, this is a companion amendment to the one just passed. It is a sense of the Senate that the Secretary of Energy shall place high priority on the continued long-term operation of the Great Plains Coal Gasification Plant as part of its divestiture activity. It has been cleared all around.

Mr. **McCLURE.** Mr. President, this amendment has been cleared on this side. We urge its adoption.

The **PRESIDING OFFICER.** The question is on agreeing to the amendment of the Senator from Louisiana.

The amendment (No. 1297) was agreed to.

Mr. **McCLURE.** Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. **FORD.** I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1298

(Purpose: To earmark $350,000 out of funds appropriated to the Department of the Interior for advanced planning and comprehensive design for the upgrade and expansion of facilities at the Mount Rushmore National Memorial)

Mr. **JOHNSTON.** Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The **PRESIDING OFFICER.** The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Louisiana [Mr. JOHNSTON], for Mr. PRESSLER, for himself, Mr. DASCHLE, and Mr. DOLE proposes an amendment numbered 1298.

Mr. **JOHNSTON.** Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

The amendment is as follows:

On Page 7, line 5, insert before the period the following: "*Provided further,* That of the funds provided in this Act to the National Park Service under the head "Construction", up to $350,000 shall be available for advanced planning and comprehensive design for the upgrade and expansion of facilities at the Mount Rushmore National Memorial, to remain available until expended."

Mr. **JOHNSTON.** Mr. President, this amendment by Senator PRESSLER earmarks $350,000 within available funds to begin the improvements on Mount Rushmore for its 50th anniversary celebration. It is necessary to get this money at this time in order to proceed with matching funds in order to be ready for that 50th anniversary. The amendment has been cleared all around.

MOUNT RUSHMORE IMPROVEMENTS PROJECT

Mr. **PRESSLER.** Mr. President, I rise today to offer an amendment to the continuing resolution that would provide funding for a study which could lead to millions of dollars of improvements to a major National Park Service facility at no or very little additional cost to the Federal Government. Specifically, this amendment would make up to $350,000 available from the Department of the Interior appropriations for the design and planning of a major improvements project at the Mount Rushmore National Memorial.

Mount Rushmore is our Nations' shrine to democracy. That granite mountain, with its famous depiction of four of our great Presidents, has been a source of tremendous national pride and inspiration ever since its completion in 1941. But as it nears its golden anniversary in 1991, the Mount Rushmore National Memorial is in need of substantial repairs.

No improvements have been made at Mount Rushmore in over 20 years. Since that time, visitation has nearly doubled. Currently, annual visitation is in excess of 2 million and exceeds design capacity by over 200 percent. The ever-increasing popularity of this national monument has simply made facilities obsolete. Overcrowding is an everyday occurrence. Sometimes visitors must be turned away. In addition, the memorial is virtually inaccessible to the handicapped. It is clearly apparent that improvements are needed so that every visitor will be able to enjoy the monument to the fullest extent.

I am not proposing that the Federal Government foot the bill for the improvements project. In this time of severe fiscal restraint, we must come up with creative alternatives to funding this upgrading of facilities. The actual costs of improvements is expected to come from the private sector through a "Statue-of-Liberty-type" fundraising effort. However, before fundraising can begin, a definitive plan conducted by the National Park Service must be completed. This can be conducted only by the National Park Service, and could be done for $350,000. This amendment would provide that funding without increasing the budget.

Mr. President, it is important that we pass this amendment this year in order to complete the improvements project in time for Mount Rushmore's 50th anniversary celebration in 1991. I believe the improvements project is worthy of our attention and I hope we will not wait until the memorial is in a state of disrepair before renovations begin. I urge your favorable consideration of this amendment.

Mr. DASCHLE. Mr. President, this is amendment language to fund design and planning work for a private sector improvements project at Mount Rushmore. It is important that this amendment be passed this year in order to complete the improvements project in time for Mount Rushmore's 50th anniversary celebration in 1991.

The actual cost of improvements is expected to come from the private sector through a "Statue-of-Liberty-type" fundraising effort. However, before fundraising can begin, a definitive plan conducted by the National Park Service must be completed. This could be done for $350,000.

No improvements have been made at Mount Rushmore in over 20 years. Currently, annual visitation in excess of 2 million exceeds its design capacity by over 200 percent. The memorial is virtually inaccessible to the handicapped.

The attached amendment would earmark $350,000 of existing Department of the Interior appropriations to do this design work during fiscal year 1988. Actual construction and improvements would be completed through private sector donations—approximately $7 million.

This amendment does not increase the appropriations level of the Department of the Interior. Rather, this very small amount would be spent out of the existing $9.9 billion contained in this bill, thereby giving the Secretary the flexibility to choose the appropriate offset. Because of its small size, there should be no serious impact on existing Department of the Interior programs.

Mr. McCLURE. Mr. President, as the Senators from South Dakota stated, the amendment requires the National Park Service to provide $350,000 for design and planning work for improvements at the Mount Rushmore National Memorial. The $7 million necessary for the actual construction costs are designed to come from the private sector through a "Statue-of-Liberty-type" fundraising effort.

I have no objection.

The amendment has been cleared on this side, and we urge its adoption.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Louisiana.

The amendment (No. 1298) was agreed to.

AMENDMENT NO. 1299

(Purpose: To clarify children counted for the purpose of section 619(a)(2)(A) of the Education of the Handicapped Act)

Mr. JOHNSTON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Louisiana [Mr. Johnston] for Mr. Harkin proposes an amendment numbered 1299.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the joint resolution, add the following:

Sec. . (a)(1) Notwithstanding any other provision of this joint resolution, for the purposes of making adjustments under section 619(a)(2)(E) of the Education of the Handicapped Act for fiscal year 1987, the number of handicapped children aged 3 to 5, inclusive receiving special education and related services for purposes of section 619(a)(2)(A)(ii)(II) of such Act shall be equal to the number of such children receiving special education and related services on December 1, 1987, or, if the State educational agency so chooses, the number of such children on March 1, 1987.

(2) In complying with paragraph (1), the Secretary of Education may not use the March 1 count for the purpose of this subsection unless it is received by the Secretary not later than April 15, 1988.

(3) For the purpose of this subsection, only children aged three through five, inclusive, as of December 1, 1987, may be included in the March 1, 1988, count.

(b) The provisions of subsection (a) shall be effective as if enacted on October 8, 1986.

Mr. JOHNSTON. Mr. President, this amendment by Senators Harkin, Kennedy, Hatch, and others, clarifies the law with respect to children counted for the purpose of section 619 of the Education of the Handicapped Act. I believe this has been passed before and is an emergency because there are children who are falling outside of these provisions who need immediate attention. It has been cleared in the appropriations subcommittee, the authorizing subcommittee, in fact two separate authorizing subcommittees and I ask for its consideration.

Mr. HARKIN. Mr. President, the Education of the Handicapped Act Amendments of 1986 (Public Law 99-457) made significant changes to the preschool incentive grant in the Education of the Handicapped Act. Under the program, as amended, for fiscal year 1987 States are entitled to $300 per handicapped child aged 3 to 5, inclusive, served during the previous year plus a bonus—not to exceed $3,800—for each additional handicapped child within such age range estimated to be served during the school year 1987-88. Pursuant to law, an actual count for the school year 1987 occurred on December 1, 1987. Based on that count, adjustments upward or downward are to be made.

The National Association of State Directors of Special Education, on behalf of all the States, has requested that the States be permitted to take a second count on March 1 which, at the State's discretion, could be submitted before April 15 and used for purposes of making adjustments relating to the bonus payment. This count would be in lieu of the December 1 count. This request, which is included in their testimony at an October 8, 1987, hearing before the Subcommittee on the Handicapped of the Committee on Labor and Human Resources is necessitated by the delay by the Department of Education in sending out application forms to the States and in providing policy guidance regarding key provisions in the new program.

The amendment has no consequences with respect to budget authority or outlays. The effect of the amendment will be a readjustment among the States of the amount of funds already appropriated by the Congress. It provides an additional 2 months for States to commence new preschool programs.

The amendment has been signed off on by Senator Kennedy, the chair of the Committee on Labor and Human Resources and Senator Hatch, the ranking minority member of the committee. It has also been signed off on by Senator Harkin, the chair of the Subcommittee on the Handicapped and Senator Weicker, the ranking member of the subcommittee.

Mr. McCLURE. Mr. President, it has been cleared on this side and we urge adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Louisiana.

The amendment (No. 1299) was agreed to.

Mr. McCLURE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. JOHNSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1300

Mr. JOHNSTON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Louisiana [Mr. Johnston], for Mr. Reid (for himself and Mr. Hecht) proposes an amendment numbered 1300.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill insert the following.

Sec. . Notwithstanding any other provision of this Act or of any other law, section

149 of the Surface Transportation and Uniform Relocation Assistance Act of 1987 (101 Stat. 181) is amended by adding after subsection (k) the following new subsection (1).

SECTION 149(1).

"(1) REQUEST FOR REALLOCATION.—If, in any fiscal year amounts allocated to the State of Nevada under subsections (b) and (d) to carry out subsection (a)(68), (a)(105), or (a)(106), are not sufficient to complete any project authorized by such subsections, such State may request the Secretary to reallocate all or any portion of such funds for another of such projects.

"(2) GRANTING OF REQUESTS.—The Secretary shall grant a request made under paragraph (1) if the respective local officials having jurisdiction over the area in which the concerned projects are located consent to such request.

"(3) ADJUSTMENT OF ALLOCATION.—If any funds allocated for a project are reallocated to another project pursuant to this subsection, the amount of funds allocated for such projects in succeeding fiscal years shall be adjusted so that the aggregate amount of funds allocated for each of such projects under this section for fiscal years 1987 through 1991 is equal to the aggregate amount of funds allocated for such projects for such fiscal years by subsections (b) and (d) of this section."

Mr. JOHNSTON. Mr. President, this amendment amends the Transportation and Uniform Relocation Assistance Act of 1987, provided that within the State of Nevada if the amounts allocated are not sufficient to complete any project authorized by such sections, such State, that is the State of Nevada, may request the Secretary to reallocate all or any portion of such funds for other of such projects. It is a Nevada matter that must be readjusted within the State.

It is approved by all the appropriate not only authorizing committees, but the appropriations committees as well.

Mr. McCLURE. We have no objection to the amendment and urge its adoption.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the amendment.

The amendment (No. 1300) was agreed to.

Mr. McCLURE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. REID. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1301

(Purpose: To amend title 28, United States Code)

Mr. JOHNSTON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Louisiana [Mr. JOHNSTON] for Mr. STEVENS (for himself, Mr. DECONCINI, Mrs. KASSEBAUM, Mr. MURKOWSKI and Mr. MCCAIN) proposes an amendment numbered 1301.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, add the following:

SEC. . (a) Section 152(a)(2) of title 28, United States Code, is amended—

(1) in the item relating to the district of Alaska by striking out "1" and inserting in lieu thereof "2",

(2) in the item relating to the district of Arizona by striking out "4" and inserting in lieu thereof "5",

(3) in the item relating to the district of Colorado by striking out "4" and inserting in lieu thereof "5", and

(4) in the item relating to the district of Kansas by striking out "3" and inserting in lieu thereof "4".

(b) The provisions of subsection (a) of this section shall be effective upon enactment of this Act, subject to the availability of appropriated funds.

Mr. JOHNSTON. Mr. President, this amendment by Senators STEVENS, DECONCINI, KASSEBAUM, MURKOWSKI, and MCCAIN adds bankruptcy judges, one in Alaska, one in Arizona, one in Colorado, and one in Kansas.

Mr. McCLURE. This has not been cleared by Senator THURMOND apparently.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the amendment be withdrawn because I understand Senator THURMOND has not yet cleared the matter.

Mr. STENNIS. That is correct.

The PRESIDING OFFICER. Without objection, the amendment is withdrawn.

Mr. JOHNSTON. Mr. President, I might note that we are moving on toward third reading. We had some other amendments we are trying to clear which would be very quickly done. So we would urge Senators to get their amendments ready and put them in or submit them for clearance. Jingle bells are ringing out there. Time is getting short. Hanukkah lights are gleaming.

AMENDMENT NO. 1302

Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Louisiana [Mr. JOHNSTON] for himself, Mr. MCCLURE, Mr. HEINZ, Mr. DECONCINI, Mr. THURMOND and Mr. SYMMS proposes an amendment numbered 1302.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the resolution, insert the following new section:

SEC. . Section 1581(b) of the Food Security Act of 1985 (Public Law 99-198) is amended by striking out "June 30, 1987," and inserting in lieu thereof "June 30, 1988.".

Mr. JOHNSTON. Mr. President, today I am offering an amendment to the continuing resolution which will provide for the extension of a vital and productive pilot program run by the USDA. This program, the Cash and "Commodity Letter of Credit" pilot project, was established in the 1981 Farm Act to provide an alternative means of assistance for 64 school district food services through the Nation. An extension for Cash/CLOC, which actually expired on June 30, 1987, is long overdue. Therefore, I am offering this amendment to extend the program until June 30, 1988, the end of the school year.

The 64 school districts throughout the Nation which have been a part of this pilot program have found it to be very successful in meeting the needs of their students and food service operations. Whereas under the traditional commodity distribution system, these school districts would receive actual commodities of peanut butter, fresh vegetables and fruit, for example, under the Cash/CLOC Program, they are instead given actual cash or commodity letters of credit with which they can make their own purchases of commodities at the local level.

Allowing food service directors in these 64 test sites such autonomy in making commodity purchase decisions has reaped remarkable benefits. The financial stability of many of these districts has improved dramatically as they have been better able to plan out expenditures and purchases with the certainty of a Cash/CLOC receipt rather than an uncertain commodity shipment. They have saved untold fortunes in storage costs with frequent, sensible purchases from local producers rather than large, difficult to use commodity shipments which must be stored a great deal of the time.

Perhaps, the greatest success of the Cash/CLOC Program has been the increase in pupil participation that has taken place at many of the schools in the program. Students are finding fresher, more appetizing food they are more interested in eating. In the Iberville Parish School District in Louisiana, for example, the percentage of students eating cafeteria-produced lunches has risen from 82 percent to 96 percent since the Cash/CLOC Program was started. Obviously, we are feeding more of our students more efficiently under this program than ever before.

While the Senate and House have both passed time extensions of the Cash/CLOC Program as provisions of

H.R. 1340, this bill is currently still in conference, on other issues, with no compromise seen in the immediate future. Since the Cash/CLOC Program expired on June 30, 1987, many school food services have been operating with neither Cash/CLOC payments nor normal commodity receipts. Because it seemed very likely that, after Senate and House passage of the extension in H.R. 1340, an actual extension would soon be forthcoming, these school districts forewent using the commodities given them and have instead had to store them, at great expense. In the Caddo Parish School District in Louisiana, the school food service has already spent over $10,000 to store the commodities they have received. Each month, their storage needs increase as their commodities pile up. This steadily growing expense, coupled with the loss of nearly $300,000 in cash they should have received for meals served from the Cash/CLOC Program, has placed an almost insurmountable financial burden on this school district.

Such a scenario has been repeated time and time again in the 64 test sites throughout the Nation. There is also documentation of school districts that are currently being forced to borrow money to continue their food services because of the congressional hold that has been placed in the extending legislation.

I believe we have a clear opportunity in my amendment to right an unfortunate situation. There is obvious agreement, as action by both Houses indicate, that the Congress would like for this program to be extended. Due to our procrastination of a compromise however, money is being lost, food is being wasted and children are not being as well fed as they could be. The extension of the Cash/CLOC Program will guarantee that our commitment on this issue is sustained.

Mr. President, this amendment relates to the Food Stamp Program and allows commodities to continue to be used in that program through June 30, 1988. It is permitted now through June 30, 1987.

The matter has been cleared all around by both the authorizing committee and the Appropriations Committee, and I think the Record should reflect that it is cosponsored by Senators McClure, Heinz, DeConcini, Thurmond, and Symms.

Mr. BENTSEN. Mr. President, I am pleased to join in offering the amendment to extend some pilot programs involving the commodity distribution programs of the U.S. Department of Agriculture. This amendment will extend the pilot programs for cash in lieu of commodities and for commodity letters of credit in lieu of commodities.

Authorization for these programs expired in June. The Senate has passed, by a vote of 97-0, legislation to extend these programs. Unfortunately this bill is still in conference with the House, and it seems apparent that the conference will not be completed this year. This amendment will allow these programs to continue for this school year.

Mr. President, these programs are in use in the Amarillo, Tyler, and Victoria School Districts in Texas. These programs have proven to be very popular in school districts that have been included in this pilot program. These school districts expected that the program would be extended this year, and this delay has caused them both cost and inconvenience. One of these districts has estimated that their Food Service Program has cost an extra $10,000 since the start of the school year compared to operations under the pilot program.

Mr. President, these school districts have enough problems without being whipsawed by congressional inaction. The Amarillo district, for instance, had their school administration building burn down yesterday. Let's help these districts out. I urge the Senate to approve this amendment and extend these pilot programs.

Mr. McCLURE. Mr. President, I rise as a cosponsor of this amendment to House Joint Resolution 395. I am reluctant to bring this amendment to this bill because the text of the amendment is in a bill currently before a House and Senate conference. A conference which I would rather see completed. However, I still offer this amendment because it appears that other matters of concern to the conferees is holding up progress on this legislation. Thus I bring this amendment which allows school districts which have been receiving commodity letters of credit or cash instead of commodities for their school lunch programs to continue to receive letters of credit or cash.

I have spoken on this topic before. I will continue to speak on this topic because I feel very strongly that this program provides an alternative to the regular commodity School Lunch Program. It still allows the USDA to carry out its dual mandate of supporting farmers through removal of surplus agriculture products and providing nutritious school lunches to the Nation's schoolchildren.

In 1980, Congress required the Department of Agriculture to conduct a demonstration project and associated evaluation of the National School Lunch Program. This study was to compare the effectiveness and efficiency of the commodity system of distribution to a cash or letter of credit system. The evaluation called for the provision of information on the operations and relative effectiveness of the three alternatives for meeting the dual objectives mentioned above. The evaluation was to examine the effects of the three systems in the following ways:

First, the extent to which the cash and CLOC systems resulted in changes in the composition and/or quality of food authorities;

Second, the benefits accruing to farmers from the Commodity Donation Program and changes that might occur under the cash or CLOC systems;

Third, the effects of the cash and CLOC systems on the cost of operating school lunch programs at the local, State, and Federal levels;

Fourth, the effects of the cash and CLOC system students, including changes in the nutritional content of the foods available for use in school feeding programs, and the changes in student-level participation in the School Lunch Program;

Fifth, the feasibility of administering and monitoring the cash and CLOC systems on a national basis, including the impact of such a change on other programs currently eligible to receive commodities.

In order to accomplish these purposes, approximately 100 school districts throughout the United States agreed to participate. About 64 of these school systems changed their operating systems either to commodity letter of credit or to an all cash system. These schools found that using either system they had lower operating expenses, increased student use, and lower plate waste. Unfortunately the USDA study did not want to admit this. The USDA study was, I believe, intentionally disrupted in the second year by the virtual dumping of surplus commodities onto school districts which had no place to store them and no need for them. This disruption cost many of the districts substantial amounts of money for storage and handling in addition to effectively clouding the results of the study.

Because of this inopportune step taken by the USDA without, I might add, the prior notification and concurrence of Congress, several Senators and myself were forced to legislatively extend the pilot project timeframe. This set the project back a year.

Also because of this action and other questions arising from the final USDA report on the project, Congressmen Goodling and Ford and myself requested the General Accounting Office to review the methodology and the resulting conclusions reached by the USDA in their report to Congress. The GAO study was released this year and found substantial problems with the USDA study. It found what we expected would be found, that the USDA study had so many flaws that the results were indeed clouded.

While we argue with the USDA over the results of the study, school districts continue to face the problems of dealing with the USDA on a daily basis. They continue to receive commodities in sizes and forms that are unsuitable for their use. They continue to be forced to find storage for surplus commodities they receive from the Government at times of the year that do not correspond to student usage. They continue to receive commodities in forms which must be reprocessed before they can be used. They must pay the costs associated with this, many times exceeding the cost of purchasing those products locally.

The House and the Senate have both recognized the problems associated with the current school lunch program. The House Education and Labor and the House Agriculture Committees have both taken action dealing with this problem. The Senate Agriculture Committee has also addressed this problem through legislation. The House passed, by voice vote, on August 3, H.R. 1340 which makes changes to the school lunch program and extends the cash and CLOC sites until the end of school year 1992. The Senate also acted on August 5, by passage of a bill to extend the cash and CLOC sites until 1989. The Senate bill passed by a vote of 97-0. Both of these bills contained several other measures dealing with how the school lunch programs are to be run. They also contain language on the Women, Infants, and Children Program.

Because I believed that the House and Senate conferees were acting and negotiating in good faith, I did not attempt to attach language extending the program to the original agriculture appropriations bill. I believed what I was told by the leadership of the Agriculture Committees, that an agreement of the conferees was possible and expected within a few weeks. What I have seen is different. The House Agriculture Committee has yet to announce conferees and a resolution to the matter is apparently as far away as ever.

Meanwhile school districts which acted in good faith, who participated in the school lunch pilot project, changed their entire operating methods, and incurred expenses at the request of Congress, are left hanging in the wind. Many of the original sites want to continue on with the cash or CLOC programs because they are easier to administer, less expensive to run, increase the nutritious foods the students eat, and utilize farm produce, even surplus commodities. They know that the multiple purposes of the program can still be met through the CLOC and cash programs. They want to continue. They have asked Congress to help them. That is why I bring this amendment to the continuing resolution. We must show these school lunch administrators that the faith they placed in Congress to extend these sites is not misplaced.

Earlier this week I spoke with one administrator in a nearby State. I asked her how she had been operating her school lunch program since the authority to continue on the CLOC/cash program expired in June. She said that she went out and borrowed money to continue her program. She knows that the flexibility of the CLOC/cash sites is better for everyone. She believes that Congress will eventually see this and has taken it upon herself to run her program hoping that Congress will act rationally and extend the authority to continue as CLOC/cash sites.

The effect of extending the authority for these sites will be negligible on the budget. The schools receive only what they would normally receive per student from the school lunch program. Each school district receives an allocation per student which they will receive whether they receive it in the form of commodities, cash or in commodity letter of credit. This amendment will not add or detract from the cost of the school lunch program. The Congressional Budget Office has stated that the program costs $150,000 for administration. This is not scored against the bill because it does not increase the overall cost of the bill. The USDA will have administrative costs to run the entire school lunch program, the cost of administering the 64 sites will be taken out of the regular administrative account.

I urge my colleagues to support me in this effort to show the CLOC/cash sites that their faith in Congress is justified. This amendment will not take the place of negotiations occurring between the House and the Senate. This only allows an extension of the authority until the end of June 1988. If the House and Senate are as serious about passing a bill dealing with the School Lunch Program and the Womens, Infants and Childrens Program [WIC] as I have been told that should be sufficient time to accomplish this goal. I encourage them to support my effort to help those CLOC/cash sites until conferees can act.

The CLOC/cash sites are a proven way of providing nutritious meals to our schoolchildren at reduced costs. In these days of budget cuts, it is ever more critical that we find ways to provide flexibility to school districts to allow them ways to cut costs. CLOC/cash sites are one way. I encourage my colleagues to agree with this amendment. It will restore much faith in Congress. Sixty-four school districts in 29 States will thank you.

Mr. President, the amendment is approved on this side. We urge its adoption.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Louisiana [Mr. JOHNSTON].

The amendment (No. 1302) was agreed to.

Mr. McCLURE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. JOHNSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1303

(Purpose: To assure that amounts available for Star Schools under H.R. 3058 reflects the program as agreed to by the conferees on the part of the House of Representatives and the Senate)

Mr. JOHNSTON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Louisiana [Mr. JOHNSTON], for Mr. KENNEDY, proposes an amendment numbered 1303.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the resolution, insert the following:

SEC. . Notwithstanding any other provisions of this joint resolution, the amount made available for Star Schools under H.R. 3058, the Departments of Labor, Health and Human Services, and Education and Related Agencies Appropriations Act, 1988, as passed by the Senate shall be available for carrying out the provisions of title IX of the Education for Economic Security Act, relating to Star Schools, as contained in section 6005 of the Senate amendment to H.R. 5.

Mr. JOHNSTON. Mr. President, this amendment, offered on behalf of Senator KENNEDY, has been cleared all around. It has previously been agreed to, as I understand it, by the Senate. It makes available money for Star Schools under the Departments of Labor, Health and Human Services, and Education and Related Agencies Appropriations Act. It makes that money available for carrying out the provisions of title IX of the Education for Economic Security Act. It has, as I say, been approved all around.

Mr. McCLURE. Mr. President, I am informed that it has been cleared on this side. We have no objection to the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1303) was agreed to.

Mr. McCLURE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. JOHNSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1304

(Purpose: To amend H.J. Res. 395 to provide operating funds for the Operation Lifesaver Program from rail-highway crossings construction funds)

Mr. JOHNSTON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Louisiana [Mr. JOHNSTON], for Mr. LAUTENBERG, proposes an amendment numbered 1304.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in H.J. Res. 395, insert the following:

Notwithstanding any other provision of law, the Secretary shall make available $250,000 per year for a national public information program to educate the public of the inherent hazard at railway-highway crossings. Such funds shall be made available out of funds authorized to be appropriated out of the Highway Trust Fund, pursuant to Section 130 of Title 23, United States Code.

Mr. JOHNSTON. Mr. President, this amendment makes available $250,000 per year for a national public information program to educate the public of the inherent hazard at railway-highway crossings. It is to be made available from funds authorized to be appropriated out of the highway trust fund. It has been cleared by the authorizing and the Appropriations Committees.

Mr. McCLURE. Mr. President, it has been cleared on this side. We have no objection to the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1304) was agreed to.

Mr. JOHNSTON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. McCLURE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1305

(Purpose: To amend the Housing and Community Development Act of 1974 with respect to the classification of metropolitan cities under the Community Development Block Grant Program)

Mr. JOHNSTON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Louisiana [Mr. JOHNSTON], for Mr. LAUTENBERG, proposes an amendment numbered 1305.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

SEC. . Section 102(a)(4) of the Housing and Community Development Act of 1974 is amended by striking out the third sentence and inserting in lieu thereof the following: "Any unit of general local government that becomes eligible to be classified as a metropolitan city, and was not classified as a metropolitan city in the immediately preceding fiscal year, may, upon submission of written notification to the Secretary, defer its classification as a metropolitan city for all purposes under this title, if it elects to have its population included in an urban county under subsection (d). Notwithstanding the second sentence of this paragraph, a city may elect not to retain its classification as a metropolitan city for fiscal year 1988 or 1989."

Mr. LAUTENBERG. Mr. President, this amendment would permit a city that becomes eligible to be classified as a metropolitan city under the Community Development Block Grant Program to defer its classification as a metropolitan city until 1990. The provision would enable the city of Hoboken in Hudson County, NJ, to defer its metropolitan city classification for 3 years, enabling Hudson County to maintain its CDBG entitlement status through 1990.

Without this provision, Hudson County will lose its urban county CDBG entitlement status, since its countywide nonmetropolitan population would fall below 200,000. This population loss would be solely due to the fact that the city of Hoboken, currently designated as a nonmetropolitan city participating in the Urban County Program, would be designated as a metropolitan city this year, if it is not able to defer its metropolitan city status. This designation would remove Hoboken's population from the county's eligible nonmetropolitan population, thereby reducing Hudson County's remaining population to 172,653 which is below the minimum 200,000 required by current law for urban county status.

In fiscal year 1987, Hudson County, NJ, received almost $4.6 million in urban county funding from the CDBG Entitlement Program, of which $3 million was locally distributed to eight different communities. The city of Hoboken and Hudson County recently entered into a 3-year agreement which is contingent on enactment of this provision.

Given the emergency nature of this provision, I would urge my colleagues to support the amendment.

Mr. JOHNSTON. Mr. President, this amendment has been cleared by all appropriate parties.

Mr. McCLURE. Mr. President, we have no objection to the amendment on this side.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1305) was agreed to.

Mr. JOHNSTON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. McCLURE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1306

(Purpose: To provide funds for the establishment and operation of international trade centers)

Mr. JOHNSTON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Louisiana [Mr. JOHNSTON] for Mr. FORD (for himself and Mr. McCONNELL), proposes an amendment numbered 1306.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following new section:

SEC. . (a) Notwithstanding any other provision of this joint resolution, there is appropriated an additional $227,000 for grants to States for the establishment and operation of international trade development centers at the University of Kentucky, as authorized by the National Agricultural Research, Extension, and Teaching Policy Act of 1977, as amended (7 U.S.C. 3292) and section 1472 of the Food and Agriculture Act of 1977 (7 U.S.C. 3318).

(b) Notwithstanding any other provision of this joint resolution, the amount made available for the Emergency Conservation Program under title II of S. 1800, a bill making appropriations for Agriculture, Rural Development, and Related Agencies programs for the fiscal year ending September 30, 1988, and for other purposes, shall be $773,000.

Mr. JOHNSTON. Mr. President, this amendment by the two distinguished Senators from Kentucky establishes funding for the International Trade Development Center of the University of Kentucky. It is authorized under the National Agricultural Research, Extension, and Teaching Policy Act of 1977.

Mr. FORD. Mr. President, authority for trade centers has been established under the National Agricultural Research, Extension, and Teaching Policy Act of 1977 for the purpose of enhancing the exportation of agricultural and related products. I do not need to stress to my colleagues the vital importance to the agricutlural industry of expanded exports.

Mr. President, Congress has already enacted legislation funding trade centers in North Dakota and Iowa. In addition, the current bill before us provides $5 million for a trade center in Kansas. I have no doubt that these trade centers will play a vital role in enhancing the export of agricultural products from the north-central region of our country. The amendment offered today by my distinguished colleague and myself attempts, on a much more modest scale, to extend the obvious benefits of a trade center to the agricultural products of the Ohio Valley, the Southeastern States, and the Appalachian region. It provides $227,000 for the proposed trade center at the University of Kentucky.

Mr. President, this amendment is budget neutral. The funding will be offset by a similar decrease in funding for the Emergency Conservation Fund, which has been funded at $1,000,000, to $773,000. I do not wish to leave the impression that the Emergency Conservation Program should be diminished in importance. However, the program was funded at $10,000,000 last year, of which only $1,000,000 was expended. Thus, a carryover balance of $9,000,000 exists which, when combined with the additional $1,000,000 contemplated by this year's bill, means that the program will be funded at $10,000,000. This amendment, Mr. President, effectively means that the program would instead be funded at $9,773,000 for fiscal year 1987. In light of the fact that only $1,000,000 was expended last year, I believe that this is a fair-minded offset.

Mr. President, I urge my colleagues to support this amendment in an effort to spread the benefits of International Trade Development Centers to a broader portion of the Nation.

Mr. McCONNELL. Mr. President, I rise today, along with the distinguished senior Senator from Kentucky, to speak in support of this amendment. Our proposal will provide 1 year of funding, out of existing appropriations, for an International Trade Development Center at the University of Kentucky.

In the 1985 farm bill, we authorized the creation of international trade development centers in response to the serious challenges facting our Nation's farmers as they struggled to compete on international markets. The focus of the farm bill was competitiveness, and this provision, designed to help farmers and agribusinesses to identify and exploit overseas markets, was an integral part of the thrust of that important legislation.

The International Trade Development Center at the University of Kentucky will serve several States throughout Appalachia, the Ohio Valley, and the Central Southeast. It will be used as a meeting point for trade delegations and conferences. Trained agricultural specialists will work to identify new markets for farmers, as well as research broader trends in agricultural trade, and their implications for our regions' farmers. They will conduct workshops and seminars for businessmen and students interested in marketing overseas, and will be a resource center for anyone needing information about doing business overseas.

Agriculture in my State has been particularly hard hit by the downturn in the agricultural economy. We have looked to new and alternative products to help improve farm income, and this trade center will do much to help farmers in my part of the country, and to strengthen our efforts to compete on world markets.

I thank the distinguished chairman and ranking member of the Subcommittee on Agriculture, Rural Development and Related Agencies of the Appropriations Committee for their assistance and support with this proposal.

Mr. President, I yield the floor.

Mr. McCLURE. Mr. President, we have no objection on this side.

The PRESIDING OFFICER. Is there any further debate on this amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 1306) was agreed to.

Mr. JOHNSTON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. McCLURE. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1307

(Purpose: To prohibit the use of funds for the escorting of vessels in the Persian Gulf under certain circumstances)

Mr. BUMPERS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Arkansas [Mr. BUMPERS] proposes an amendment numbered 1307.

Mr. BUMPERS. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the joint resolution, add the following new section:

SEC. . (a) Beginning 90 days after the date of enactment of this joint resolution, none of the funds appropriated or otherwise made available by this joint resolution may be available for operations by the United States Armed Forces to escort or convoy reregistered vessels in the Persian Gulf during any period in which there is not in effect with the country of previous ownership of those vessels an agreement providing for the payment to the United States of the additional costs which may be incurred by the United States as a result of such operations.

(b) For purposes of this section, the term "reregistered vessels" means vessels which—

(1) were owned by the government or nationals of any country bordering the Persian Gulf as of June 1, 1987; and

(2) were reregistered under the flag of the United States after such date.

Mr. BUMPERS. Mr. President, this is an amendment that we debated in the committee but I am willing to enter into a very short time agreement on it. It will not take me very long to say my piece. I certainly would be willing to take a 20-minute time agreement, equally divided.

The amendment is the one that would require the Kuwaitis to pay for the escorting of their tankers.

Mr. JOHNSTON. Mr. President, would the distinguished floor manager be willing to enter into that timeframe?

Mr. McCLURE. How much time?

Mr. JOHNSTON. Twenty minutes, equally divided.

The PRESIDING OFFICER. The Senator from Louisiana would make that request?

Mr. JOHNSTON. Mr. President, this is in the jurisdiction of the Defense Appropriations Subcommittee and Senator STEVENS is not here on the floor so I would urge the Senator from Arkansas to go ahead and propose his amendment and then, if we can get the time agreement later on, I am sure he will allow the time that he has already spent to be counted against that.

Mr. BUMPERS. The Senator concurs with my mind set on this. I will be willing to do this: I will be willing to just simply lay the amendment aside, let you proceed, we will continue to make it the order of business when Senator STEVENS arrives and we will get our time agreement.

Mr. JOHNSTON. We are not prepared with the next amendment.

Mr. BUMPERS. Mr. President, rather than let the time go by, I will take the distinguished chairman, the Senator from Louisiana, up on this offer. I will use about 5 minutes and I will allow that so we are not just doing nothing here and I will allow that 5 minutes to be counted against such time agreement as we enter into.

If I could just have the attention of the Senators for a few moments, I want to say, first of all, this amendment has nothing to do with the War Powers Act. It has nothing to do with our presence in the Persian Gulf.

I do not mind admitting my side has lost on that issue. But one thing that has always stuck in my craw is that we are asking American boys to risk their lives to escort tankers that belong to another nation through the Persian Gulf at our cost and with absolutely no cooperation from Kuwait.

Bear this in mind, we just got through hauling a portable port all the way across the world and anchored it about 12 miles off Kuwait. Why? Because they will not allow our ships to berth in their port.

You remember when we found out we did not have any minesweepers? We had to send our Sea Stallion helicopters to Kuwait or to the Persian Gulf and we put them on C-5 cargo planes and the cargo planes had to go not to Kuwait, because they would not let those cargo planes land there; they had to go to Diego Garcia, 2,000 miles away. And we had to have the helicopter ship *Guadalcanal* come to Diego Garcia, fly the helicopters off that island on to the *Guadalcanal* and then steam into the Persian Gulf with them.

Now, colleagues, that costs a lot of money. As I say, we are asking our boys to give their lives to get Kuwaiti oil out of the Persian Gulf at no cost to the Kuwaitis. And listen to this little statistic. If you do not hear anything else I say I want you to listen to this. We are here tonight to deal with a budget that is out of control; trying to cut money from the poor and the rich, and we are escorting ships for Kuwait whose per capita income is $20,000, which is higher than the per capita income of the United States.

The oil is not coming to the United States, it is going to Germany and Japan. The other day the distinguished Senator form Alaska said: Well, the reason we are having to escort these tankers is because we would not let Germany and Japan rearm. They do not have a navy so we have to escort this oil out.

I would be happy to ask Germany and Japan to pay us for this but they are not going to do it because they did not ask us to carry it in the first place. Germany and Japan, who are getting about 95 percent of the oil, never made a request of us to escort these ships. They were getting 99 percent of all the oil they were ordering and not one drop is gotten out in addition to that since we have been there.

But I want to make this point crystal clear. I am not asking Kuwait to pick up the tab for our fleet in the Persian Gulf. That is our choice. But I do think they ought to at least pay for the costs of that one or two destroyers that tags along in front of and behind Kuwaiti oil tankers as they go through the Persian Gulf.

This is not compensation for risking men's lives. This is compensation for the sailors and the fuel and the costs of operating those ships. It is costing us $20 million a month; maybe $50 million, to stay in the Persian Gulf.

But I am not suggesting Kuwait reimburse us for such an amount as that. I am simply saying a small pro rata part of that that we spend for escorting their ships, they ought to pick up the tab for.

I will not take any more time, Mr. President, except to say, I ask my colleagues: What kind of nonsense is it for us to do this free, gratis, for a country whose income per person is $20,000, a lot higher than ours; for a country who will not let our planes land on their soil nor our ships berth in their ports without one dime of compensation.

All my amendment says is 90 days after the enactment of this we will discontinue that escort unless they pay us for it.

Mr. President, I will allow that amount of time that I used to be charged against the time running. I am willing to set the amendment temporarily aside, but I will withhold that request until we find out when the Senator from Alaska will return.

Mr. McCLURE. If the Senator will yield, I am informed that the Senator from Alaska is not available right now but will be here in about 20 minutes, if that will be of any help.

Mr. BUMPERS. Let me just say, if there is anyone else who wants to proceed with an amendment, I will be happy to temporarily set this one aside and let them proceed.

AMENDMENT NO. 1308

(Purpose: To amend section 149 of the highway bill relating to highway projects in North Dakota)

Mr. JOHNSTON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The Bumpers amendment is temporarily set aside. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Louisiana [Mr. JOHNSTON], for Mr. BURDICK, proposes an amendment numbered 1308.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in H.J. Res. 395, insert the following:

SEC. . Section 149 of The Surface Transportation and Uniform Relocation Assistance Act of 1987 is amended (1) by striking in subsection (b)(111)(H) "$80,000" and inserting in lieu thereof "$100,000" and (2) in subsection (b)(111)(I) by striking "$100,000" and inserting in lieu thereof "$80,000."

SEC. . Section 149(a) of The Surface Transportation and Uniform Relocation Assistance Act of 1987 is amended by striking subsections 111 (A) and (B) and inserting in lieu thereof the following:

"(A)(1) Morton County.—The Secretary is authorized to carry out a project to obtain easement for and construct an access road in Morton County FAS, Route 3020 from 11 miles south of Sweet Briar Lake, 1½ miles south of Fish Creek Lake, then easterly 8 miles to Morton County FAS Route 3047."

"(2) Morton County.—The Secretary is authorized to carry out a project to construct an access road in Morton County, FAS Route 3002 from 6 miles north of Crown Butte Road then easterly 2 miles to North Dakota State Highway 1806.

"(3) Morton County.—The Secretary is authorized to carry out a project to construct an access road in Morton County, FAS Route 3039 from Sweet Briar Lake, North 7 miles to the Oliver county line.".

"(B)(1) Mercer County.—The Secretary is authorized to carry out a project to construct an access road in Mercer County, County FAS Route 2927 from 4 miles north of Hazen, North Dakota; north 8 miles to Hazen Bay, Lake Sakakawea or from 4 miles north of Hazen, North Dakota; then 3 miles north and 6 miles east to intersection of N.D. 200 and Mercer County Route 37; then in a southeasterly direction approximately 10 miles to the north corporate limits of the City of Stanton, North Dakota.

"(2) Mercer County.—The Secretary is authorized to carry out a project to construct an access road in Mercer County, County FAS Route 2927 from 4 miles north of Hazen, North Dakota north 8 miles to Hazen Bay, Lake Sakakawea or from 4 miles north of Hazen, North Dakota then 8 miles north to the intersection of North Dakota 1806; then east to the intersection of North Dakota 200; then south 5 miles to Mercer County, Route 37; then in a southeasterly direction approximately 10 miles to the north corporate limits of the City of Stanton; North Dakota.

"(3) Mercer County.—The Secretary is authorized to carry out a project to construct an access road in Mercer County, County FAS Route 2927 from 4 miles north of Hazen, North Dakota, north 8 miles to Hazen Bay, Lake Sakakawea, or 7 miles north of the junction with North Dakota 200 and 200 A; then east 3 miles, south 2 miles, east 2 miles, and south 3 miles to the north corporate limits of the City of Stanton, North Dakota.

"(4) Mercer County.—The Secretary is authorized to carry out a project to construct an access road in Mercer County, County FAS Route 2927, from 4 miles north of Hazen, North Dakota, north 8 miles to Hazen Bay, Lake Sakakawea, or Knife River Indian Village Historic Site across road.".

SEC. . The Surface Transportation and Uniform Relocation Assistance Act of 1987 is amended by inserting at the end of section 149 a new subsection to read as follows: "The state of North Dakota may elect to utilize the total amount of funds authorized for such state under section 149 (b) and (d) in any given year for any project or projects in the state of North Dakota as authorized under section 149. The total amount of federal funds obligated for any project under section 149 shall not exceed the total five year authorization for such project.".

Mr. BURDICK. Mr. President, I am offering two purely technical amendments. Both are to the best of my knowledge noncontroversial and involve no new costs.

Passage of Public Law 100-17, the Surface Transportation and Uniform Relocation Assistance Act of 1987, was a very difficult, complicated, and time-consuming process. Technical corrections legislation is often considered after enactment and implementation of such legislation. The leadership of the Environment and Public Works

Committee has been working with our counterparts in the House to craft a technical corrections bill, but it is obvious that more time is required for the thorough consideration necessary. I sincerely hope that we will be able to pass needed technical corrections legislation early in the second session.

In the meantime, I would like to offer two relatively minor amendments regarding: First, university transportation centers; and second, North Dakota highway projects. The Congressional Budget Office says that no new costs are associated with either one.

Section 314 of the 1987 act provided for the esablishment and operation of university transportation centers. Contract authority was provided from the transit account of the highway trust fund, but, inadvertently, the same authority was not provided from the highway account of the highway trust fund. This amendment complies with the intent of conferees to provide contract authority. The funding is to remain available until expended, and administrative costs for the program are to come from the administrative drawdown available to the Federal Highway Administration.

The second amendment makes necessary corrections in the descriptions of highway projects in North Dakota and provides project funding flexibility to the State. This will enable North Dakota to make better use of its existing highway funds. Once again, this is a strictly technical change and involves no new costs whatever.

Thank you, Mr. President.

Mr. JOHNSTON. Mr. President, this is another amendment relating to section 149(a) of the Surface Transportation Uniform Relocation Assistance Act of 1987 that amends projects in Morton County, ND. It has been cleared by all the appropriate authorizers and the Appropriations Committee chairman.

Mr. McCLURE. Mr. President, this amendment has been cleared on this side.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Louisiana.

The amendment (No. 1308) was agreed to.

Mr. JOHNSTON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. McCLURE. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1309

(Purpose: Establish the funding source for University Transportation Centers to be derived from the Highway Trust Fund)

Mr. JOHNSTON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Louisiana [Mr. JOHNSTON] for Mr. BURDICK, proposes an amendment numbered 1309.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in H.J. Res. 395, insert the following:

Section 21 of the Urban Mass Transportation Act of 1964 (49 U.S.C. App. 1617) is amended—

(A)(1) in subsection (c)(2) by striking out "(a)(2) and (b)" and by inserting in lieu thereof "(a)(2), (b), and (i)(2)"; and

(2) in subsection (i)(2) by inserting ", to remain available until expended" before the period at the end thereof.

(B) sums deducted under section 104(a) of title 23, United States Code, shall be available to the Secretary for administering the provisions of Section 21 (i)(2) of the Urban Mass Transportation Act of 1964.

Mr. JOHNSTON. Mr. President, this amendment, for Senator BURDICK, establishes the basis for funding university transportation centers and is made available to the Secretary for administering under the provisions of the Urban Mass Transportation Act, UMTA. It has been approved by all the appropriate authorizers and the Appropriations Committee.

Mr. McCLURE. Mr. President, this amendment has been cleared on this side.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1309) was agreed to.

Mr. JOHNSTON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. McCLURE. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1310

(Purpose: To adequately fund the Little Kanawha River Basin Study)

Mr. JOHNSTON. Mr. President, I have an amendment by Senator ROCKEFELLER which has been approved all around. It is an amendment to make available to the Soil Conservation Service under this joint resolution $150,000 to be made available to fund the Little Kanawha River Basin study. It has been approved all around. I send the amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Louisiana [Mr. JOHNSTON], for Mr. ROCKEFELLER, proposes an amendment numbered 1310.

Mr. JOHNSON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the resolution, insert the following new section:

SEC. . Of the amounts made available to the Soil Conservation Service under this joint resolution, $150,000 shall be made available to fund the Little Kanawha River Basin Study.

Mr. ROCKEFELLER. Mr. President, I am proposing an amendment directing that the Soil Conservation Service allocate $150,000 of its watershed and flood prevention funds to the Little Kanawha River Basin study. This will enable the Soil Conservation Service to move forward in determining the most viable alternative for flood control in the area.

The counties that make up the Little Kanawha River Basin were devastated by a flood in 1985. The area which includes Braxton, Gilmer, Calhoun, Lewis, and Upshur Counties consists of over a million and half acres. Damages of $32 million were incurred when the Little Kanawha swelled over its banks. The people there live in constant fear that this will occur again. In addition the adverse effect on economic development is monumental. The situation has made it very difficult to interest investors in the area.

This much needed study will provide for a reconnaissance survey of the area to determine the severity of the problem. The major portion of the study will involve the investigation of various methods of flood prevention. Both structural and nonstructural alternatives will be investigated to determine the most cost-effective approach to alleviate the problem.

Mr. McCLURE. Mr. President, this amendment has been cleared on this side. We have no objection.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1310) was agreed to.

Mr. JOHNSTON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. McCLURE. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. JOHNSTON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that further proceedings under the quorum call be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JOHNSTON. Mr. President, on the Bumpers amendment with respect to Kuwait shipping, we had agreed previously, subject to the Senator from Alaska, we were going to agree to a 20-minute time limit equally divided minus whatever time the Senator from Arkansas had used. I wonder if that is suitable to the Senator from Alaska.

Mr. STEVENS. How much time has my good friend from Arkansas already used?

The PRESIDING OFFICER. The Bumpers amendment is the pending amendment before the body. The Senator from Arkansas has used 4½ minutes of a 20-minute time agreement equally divided.

Mr. BUMPERS. Mr. President, that means I would have 5½ minutes and the Senator from Alaska would have 10?

The PRESIDING OFFICER. That is correct.

Mr. JOHNSTON. Mr. President, has the time agreement been agreed to?

The PRESIDING OFFICER. It has not.

AMENDMENT NO. 1307

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the Bumpers amendment on Kuwait shipping be subject to a time agreement of 5½ minutes to the Senator from Arkansas, 10 minutes to the Senator from Alaska, and be subjected to no further amendment.

The PRESIDING OFFICER. Is there an objection?

Hearing none, it is so ordered. Who yields time?

Mr. STEVENS. Does the Senator from Arkansas seek more time before I make any remarks?

Mr. BUMPERS. No.

The PRESIDING OFFICER. The Senator from Alaska is recognized.

Mr. STEVENS. Mr. President, the effect of this amendment in my judgment would be to initiate a policy that would place the U.S. Navy in the position of being a mercenary for the world.

We are not in the Persian Gulf to get a portion of the cost of our Navy paid by anybody. We are there because President Carter announced the Persian Gulf doctrine, and President Reagan has reinforced that doctrine and has demonstrated that by dispatching the Navy to the Persian Gulf to protect tankers that bear our flag.

I strenuously oppose the concept that we should initiate a policy that we will send our military forces anywhere in the world for a price. They should go where the President of the United States, the Commander in Chief, sends them to protect the interests of the United States and to carry out treaty commitments that have been approved by this body. In my judgment the role that we are pursuing now in the Persian Gulf is in the best interests of the United States.

There have been questions concerning the reflagging policy and I acknowledge those questions. I raise some of them myself. I think other Members of this body have. But I cannot believe that we would institute a policy of asking others to contribute.

If I understand the Senator's amendment, that is what he seeks to do. Unless there is an agreement providing for the payment to the United States of additional costs which might be incurred by the United States as a result of those operations, the operations cannot continue. In my judgment United States of additional costs which might be incurred by the United States as a result of those operations, the operations cannot continue. In my judgment that is just a bad policy.

I would hope others might speak up concerning this because what we are going to do with regard to the forces that are in Japan? What about the forces that are in Europe that currently exceed the actual need of the United States directly?

This concept to me is a bad one.

Mr. JOHNSTON. Will the Senator yield?

Mr. STEVENS. Yes.

Mr. JOHNSTON. I think the Senator hit the nail on the head when he said the United States should not be a mercenary. If it is not in our national interest to be there we should not be there because somebody pays us a few bucks to be there. But I think the Senator from Arkansas has a point in that it would be I think appropriate for these people to help bear some of the cost of this, not as a condition, but they simply ought to bear some of the cost of it.

So I am wondering whether we could seek to make this, in lieu of this say we should have discussions with the parties in the gulf with respect to bearing some of the burden of this matter and rewrite this matter so as to do that? Would that suit the Senator?

Mr. STEVENS. If I may say to my good friend, if we go a little further, I am mindful of the fact that the Japanese provide the cost for the facilities to house our people in Japan. We have in-country support, host-country support from the NATO allies where they provide facilities for our common defense. I do not have any problem with regard to having other nations join us in bearing these costs.

What I object to is having a condition that there has to be agreement for the payment to the United States of an additional cost incurred as a result of those operations.

Incidentally, that is an infinitesimal portion of the total cost of the concept involved.

Mr. JOHNSTON. I agree with the Senator totally. I am wondering if we could invite the Senator from Arkansas to rewrite his resolution so as to solicit help or invite negotiations for help from not only Kuwait but other nations whose interests might be affected so that they can put up what would be a fair share of general cost of defense in the gulf.

Mr. STEVENS. Mr. President, I would share that concept of burden sharing. I do not know. Are we paying for docks? We have had ships, as the Senator from Ohio pointed out to me, boats of the United States Navy in the Persian Gulf and docking in, for instance, Oman now for 40 years. I do not know if we are paying the costs of those docks. It would seem to me if some of these countries that we are helping by our presence could assume some of the costs of these burdens, that is another matter. I object to having a copout and saying, you know, put the money in there and we will stay. If you do not put the money in there, we are not going to stay here. I think that is wrong.

I think we ought to encourage burden sharing, we ought to encourage other nations to have their vessels there to protect the oil of the free world and we ought to have a joint effort to the extent possible to achieve the goals enunciated by President Carter and reaffirmed by President Reagan.

Mr. JOHNSTON. I wonder if the Senator from Arkansas might provide a sense-of-the-Senate resolution in lieu.

Mr. BUMPERS. How much time is left on each side, Mr. President?

The PRESIDING OFFICER. The Senator from Arkansas has 5 minutes and 40 seconds, and the Senator from Alaska has 4 minutes.

Mr. BUMPERS. Mr. President, I think what has always been most offensive about this is that our costs there are so much higher because Kuwait will not cooperate. Here we are asking our boys to risk their lives, we are escorting their ships, and they raise our cost of doing business there because they will not let our ships berth there.

As I say, we had to drag a portable port all the way across the world just to have a place for our ships to go. They would not let our planes land there. It cost us so much more money to send our C-5's to Diego Garcia than it would have cost to send them directly to Kuwait. What kind of gratitude is this?

I am inclined to go along with the proposal of the Senator from Louisiana. But I want to make a few points on this. We are not hauling oil for the Arab Emirates. We are not hauling oil for Iraq, Iran, we are not hauling or escorting oil for Saudi Arabia, and we are not there to enforce the Carter doctrine. We are there because the Kuwaitis invited us there to escort their ships and they have done everything in the world to make it difficult for us.

The Russians, as I say, may be dumb, but they are not stupid. They are being paid handsomely for the very same service.

Mr. STEVENS. Maybe there is a distinction, Mr. President, between the United States and the Soviet Union as some of us still recognize. It may be also that we ought to look at the concept, if my friend will yield to me for just a minute, involved in terms of——

Mr. BUMPERS. On the Senator's time.

Mr. STEVENS. Of the participation we have there. The oil that has been escorted has been sold in Japan or Germany and an increasing amount to this country. The Kuwaitis no longer own that oil. The reflagged tankers they own, but that is carrying the oil to the free world. We are escorting the oil more than we are the tankers. I think my friend would agree to that. It is the safety of the people that are moving the oil into the free world that we are concerned with.

I share the concept of burden sharing but I cannot understand why we would allow anyone to pay this country for the service of the U.S. Navy. That is a principle we ought to stand up for. We are not seeking payment for our role as superpower of the free world. We are seeking others to share the burdens with us. We do that. We take knowledge in this bill that the Japanese have put up $204 million and the concept of burden sharing because of the change of the yen. They increased their role to offset partially, I might add—not totally—the cost. I agree.

Incidentally, my friend, our planes land in Kuwait. Some of the Senators here will join me in a trip to Kuwait very soon. We land there. We have men on the ground there. We are going to discuss that in connection with the Stinger amendment pretty soon. Things have changed over there in the Persian Gulf recently. I urge you to talk to the Senator from Ohio and the Senator from Virginia about that.

Mr. JOHNSTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. JOHNSTON. I wonder if this language would be suitable to the Senator from Arkansas and the Senator from Alaska.

The PRESIDING OFFICER. Who yields time to the Senator?

Mr. BUMPERS. Mr. President, I ask unanimous consent that the Senator from Louisiana be allowed to propound this request on the time not be be charged to either side.

The PRESIDING OFFICER. Hearing no objection, it is so ordered.

Mr. JOHNSTON. The language reads as follows: "It is the sense of the Senate that nations benefiting from the escort or convoy of re-registered vessels in the Persian Gulf should fairly share the cost of such activities."

Mr. BUMPERS. Does the Senator have Germany and Japan in mind?

Mr. JOHNSTON. Really, I have all nations which benefit from that activity.

Mr. BUMPERS. Maybe we ought to put in a quorum call to try to develop this. But perhaps I would like to put some time limitation that at least the administration within a certain period of time would define the cost and ask for burden sharing of that cost.

Let me make this point, and I will ask unanimous consent that the amendment be set aside temporarily.

I feel very strongly about the point that needs to be made. Germany and Japan did not ask us to escort these tankers. They are getting the oil. You can put some kind of convoluted face on it and say it is their oil, but they were getting the oil before we went in there. They did not need our help, and they did not ask for our help; and my guess is that they would be most reluctant to participate in paying for this escort operation.

I just want to make that point that, in my opinion, the United States is being taken. We are being taken by a country that is twice as rich as we are, and I think we should be doing something about it.

Mr. President, without either side yielding what remaining time they have, I ask unanimous consent that the amendment be temporarily laid aside.

The PRESIDING OFFICER (Mr. GRAHAM). Is there objection? The Chair hears none, and it is so ordered.

Mr. STEVENS. I did not hear the request.

The PRESIDING OFFICER. The Senator asked unanimous consent that the amendment be temporarily laid aside.

Mr. STEVENS. Mr. President, I suggest to the Senator from Arkansas that he withdraw the amendment, and we will get him additional time on the other amendment when it is redrafted.

Mr. BUMPERS. I will withdraw the amendment, without prejudice to my right to repropose it.

The PRESIDING OFFICER. Without objection.

The amendment is withdrawn.

AMENDMENT NO. 1311

Mr. INOUYE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Hawaii [Mr. INOUYE] (for himself and Mr. MITCHELL, Mr. ADAMS, and Mr. EVANS), proposes an amendment numbered 1311.

Mr. INOUYE. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the resolution, insert the following:

SEC. 1. There is authorized $10,000,000 to establish the Warren G. Magnuson Foundation and Margaret Chase Smith Foundation Assistance Act.

SEC. 2. (a) In recognition of the public service of Senator Warren G. Magnuson, the Secretary of Education shall make grants, in accordance with the provisions of this Act, to the Warren G. Magnuson Foundation for use in the development and activities of the Warren G. Magnuson Health Services Center at the University of Washington at Seattle, Washington, and for other health and education related activities of the Foundation.

(b) In recognition of the public service of Senator Margaret Chase Smith, the Secretary of Education shall make grants, in accordance with the provisions of this Act, to the Margaret Chase Smith Foundation for use in the development and activities of the Margaret Chase Smith Library Center, located in Skowhegan, Maine.

(c) No payment may be made under this act unless an application is made to the Secretary of Education at such time, in such manner, and containing or accompanied by such information as the Secretary of Education may require.

SEC. 3. (a) There are authorized to be appropriated such sums, not to exceed $5,000,000 as may be necessary to carry out the provisions of section 2(a) of this Act.

(b) There are authorized to be appropriated such sums, not to exceed $5,000,000 as may be necessary to carry out the provisions of section 2(b) of this Act.

(c) Funds appropriated under this Act shall remain available until expended.

Mr. INOUYE. Mr. President, I am pleased to propose, on behalf of myself and Senators MITCHELL, COHEN, ADAMS, and EVANS, an amendment creating endowments of $5 million each for foundations established in the names of former Senators Margaret Chase Smith and Warren C. Magnuson.

The endowments would not only honor and comemorate the contributions that Senators Smith and Magnuson made as Members of the U.S. Senate. The funds would also further enrich our national life by sustaining the research and educational activities that our former colleagues supported as Senators.

The Margaret Chase Smith Foundation would use the proceeds from the proposed endowment to fund the development and activities of the Margaret Chase Smith Library Center in Skowhegan, ME. Senator Smith, who will attain the age of 90 next month, has devoted herself to the library since retiring from the Senate. The Margaret Chase Smith Library Center contains archives and a museum, and sponsors valuable programs for students, researchers, and the public.

An endowment for the Warren G. Magnuson Foundation would support its efforts to recognize and foster significant health research. The foundation would fund a chair and archives at the University of Washington, and would bestow awards on deserving researchers and students. It would also contribute to public education in health matters.

I have no doubt that we are united in our respect for Senators Smith and Magnuson. In paying tribute to their commitment and accomplishments, we would also be honoring the U.S. Senate and its traditions of public service. I invite you to join me in expressing our admiration and affection for Senators Smith and Magnuson in the form of the Margaret Chase Smith and Warren G. Magnuson endowments.

MARGARET CHASE SMITH FOUNDATION ENDOWMENT

Mr. MITCHELL. Mr. President, the amendment we are offering today authorizes $5 million for a permanent endowment for the Margaret Chase Smith Library Center, in Skowhegan, ME.

Margaret Chase Smith represented the State of Maine with integrity and distinction for 32 years, 8 in the House of Representatives and 24 in the Senate.

Senator Smith was the first woman elected to both Houses of Congress. She is the only woman ever to have been elected to four full terms in the Senate. She is also the first woman to have been placed in nomination for President at a national convention of a major political party. In the final ballot at the 1964 Republican National Convention, she received the second highest number of votes.

Senator Smith was the first woman to assume a Senate leadership post when she was unanimously elected chairman of the Conference of All Republican Senators on January 10, 1967.

She earned these and other honors. History will remember her "Declaration of Conscience" speech delivered on the Senate floor in 1950. The speech was made at a time when the late Senator McCarthy was making headlines with charges that the Government was infiltrated by Communists.

Today's controversies do not involve witch hunts and smear tactics like those against which Senator Smith spoke. But in her appeal to reason, to honor, to respect for differing views, she spoke to a timeless set of standards.

Senator Smith's speech was an important step in rejecting the attitude that there is only one view that is right, only one perspective valid. Her Declaration of Conscience helped restore honesty, openness, and respect for individual rights to our political process.

That was an example of the kind of representation all elected officials should try to provide.

It is representation which does not avoid difficult issues, does not back away from controversy, and dares to break with popular belief when a high principle is at stake.

Senator Smith's career was marked by that kind of integrity, intellectual rigor, and courage.

Senator Smith has set a very high standard. Those of us who have the honor to follow her must work very hard to even try to meet that standard.

The amendment we are offering today would authorize funds to further the goals and ideals held by Senator Smith. The Center would establish 20 weeklong lectureships on important public issues of the day.

Leaders from government, business, labor, and the nonprofit sector will be chosen by the Margaret Chase Smith Foundation to speak at colleges and universities in Maine and elsewhere. These leaders would share their knowledge and expertise with students, faculty, and the community in both formal and informal settings.

The center expects to interest many in Maine and those who visit the library in the world of international affairs by focusing on the role public officials play in world politics. The first publication in the center's planned series will be the journal kept by Senator Smith in her remarkable world tour in 1955 and 1956. At her own expense, she interviewed 16 world leaders such as Nehru of India, de Gaulle of France, Adenauer of West Germany, Franco of Spain, Churchill of Great Britain, U Nu of Burma, Magsaysay of the Philippines, Molotov of the Soviet Union, and many others.

The Foundation would establish a grant program for scholars to study and illuminate the history and operation of the Congress. Each year six "Maine Meetings" would be held in a town meeting setting to bring together the public at large and scholars and specialists to exchange views on issues of public concern and importance.

Through seminars, scholarships, and research grants, the center would provide a living and vital memorial to one of the Nation's most pioneering of women. As Senator Smith celebrates her 90th birthday this weekend, it is with great admiration and respect that today the Senate authorizes the funds to further instill her dreams through the library center.

Mr. COHEN. Mr. President, I rise to add my voice in support of this amendment to authorize funds for the Margaret Chase Smith Library Foundation.

On Monday, I, along with hundreds of other Mainers, will gather to honor Margaret Chase Smith on her 90th birthday. On that day we will be paying tribute to a woman whose legacy remains a compelling example to all Americans, but especially those of us in public life. This authorization thus represents our recognition of the enduring honesty and independence that marked Senator Smith's years in Congress.

We are all familiar with Senator Smith's litany of accomplishments; her stature is such that we need not list them here. Let it be said, however, that throughout her memorable career as a legislator, Margaret Chase Smith served her State and the Nation with both dedication and energy. To this day, Senator Smith's career remains a testimony to the essential primacy of integrity in this Nation's public life.

Since her retirement from the Senate in 1973, Senator Smith has brought these same virtues to her career as an educator. As a visiting professor at dozens of American colleges and universities, she has offered her students the knowledge and insights borne of her long congressional experience. She has also sought to instill in her students an enlightened interest in the many vital public policy issues facing this Nation today. In this way, Senator Smith has continued to serve with distinction.

The Margaret Chase Smith Library Center represents the legacy of this lady's outstanding contributions, both public and private, to her State and the Nation. Located on the grounds of her home in Skowhegan, ME, the library center's goal is to unite researchers, students, and public officials in the process of public policy research and review.

Most importantly, the library center would help rejuvenate the study and understanding of a much neglected aspect of American political life—the way we legislate. This general theme reflects Senator Smith's lifelong interest in bringing together scholars and public officials to exchange views on this subject drawn from their respective experiences. In Senator Smith's view, this dialog can help revive and maintain an interest among the people in this most singular characteristic of our Government.

Mr. President, during the last several years, Senator Smith has devoted her life to the organization and development of the library center. I am thus heartened to have this opportunity to help her initiate the programs she envisions for the library center.

Let me conclude by saying that Margaret Chase Smith has given a lifetime of exemplary service to our State and to this Nation; it would be most fitting to commemorate that service by funding this living memorial to her career.

Mr. INOUYE. Mr. President, I am pleased to advise that this measure has been cleared by all appropriate parties.

Mr. STEVENS. Mr. President, we have no objection to this amendment and heartily support it.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1311) was agreed to.

Mr. INOUYE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1312

Mr. JOHNSTON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Louisiana [Mr. JOHNSTON], for Mr. INOUYE, proposes an amendment numbered 1312.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the Resolution, insert the following:

Section 247(c)(1) of the National Housing Act is amended by inserting before the period at the end the following: "(or, in the case of an individual who succeeds a spouse or parent in an interest in a lease of Hawaiian home lands, such lower percentage as may be established for such succession under section 209 of the Hawaiian Homes Commission Act, 1920, or under the corresponding provision of the constitution of the State of Hawaii adopted under section 4 of the Act entitled 'An Act to provide for the admission of the State of Hawaii into the Union, approved March 18, 1959 (73 Stat. 5))' ".

Section 247 of the National Housing Act is further amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting after subsection (b) the following new subsection:

"(c) Notwithstanding any other provision of this Act, the insurance of a mortgage using the authority contained in this section shall be the obligation of the General Insurance Fund established in section 519. The mortgage shall be eligible to receive the benefits of insurance as provided in section 204 with respect to mortgages insured pursuant to this section, except that (1) all references in section 204 to the Mutual Mortgage Insurance Fund or the Fund shall be construed to refer to the General Insurance Fund; and (2) all references in section 204 to section 203 shall be construed to refer to the section under which the mortgage is insured".

Mr. JOHNSTON. Mr. President, this amendment, submitted on behalf of the distinguished Senator from Hawaii, is a technical amendment dealing with the FHA Hawaiian Homelands Mortgage Program and simply clarifies the meaning of the general insurance fund and the mutual mortgage insurance fund. It is technical and has been approved all the way around.

Mr. STEVENS. It has been.

Mr. INOUYE. Mr. President, in Public Law 98-181, the fiscal year 1984 appropriations bill, statutory language was included in that measure to give the Secretary of HUD the authority to grant FHA mortgages to Hawaiian homelands leasees. Since then, HUD and the State of Hawaii Department of Hawaiian Home Lands, have agreed on guidelines under which HUD would administer this program.

This amendment would do two things: First, it would clarify that this program is to be administered by the general insurance fund and not the mutual mortgage insurance fund; and second, it would permit a 25-percent blood quantum level for successors to leaseholders of Hawaiian home lands.

It is my understanding that this amendment has been cleared by Senator PROXMIRE, chairman of the HUD Appropriations Subcommittee and Senator GARN, the Ranking Minority Member of that Subcommittee.

This provision is a non-cost item, and of a technical nature. It is necessary to clarify the administration of this program.

I ask for the immediate adoption of this amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1312) was agreed to.

Mr. INOUYE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BYRD. Mr. President, earlier today, I indicated to the Senate that at around 7 o'clock this evening we would hope to be able to say whether or not the Senate would proceed into the late evening or whether we would just go out and come back tomorrow. The distinguished Republican leader is on the floor.

First of all, let me compliment our managers on both sides of the aisle for the work that has been going forward. Great progress has been made.

I should also compliment Senators who have had amendments. Many Senators have agreed to drop their amendments and not call them up. Others have agreed to a very short time limit.

There are two or three amendments that remain, I think, that are somewhat controversial.

I think it would be a good time at this moment to hear from our managers and get their opinions on where we stand. They are in a position to know what amendments remain and which will be the difficult amendments and what the prospects are for completing action on this measure if we stay in session until we finish it.

Before I ask them and before I ask if the distinguished Republican leader has anything to add, let me say this: We can be sure, no matter how near we are to the end at this point, that if we go over until tomorrow, there will be some amendments on the list that would not have been called up this evening if we stayed in. But on tomorrow there will be likely a resurgence of thought to the extent that, "Well, we're in for the day, and I might as well call it up."

We do need to take the time to put this bill, after it is passed by the Senate, into order for conference. That will require staff work, and the conferees need to get busy on Monday.

So let me yield to the distinguished Republican leader first, and then I would hope we could hear from those who have had the responsibility of managing the bill.

Mr. DOLE. I thank the majority leader.

Mr. President, I have asked the staff on this side to see if we can get an agreement to have final passage by 10 o'clock tonight. That would be one way to expedite it.

We are going to do all we can to encourage people on this side to try to cooperate with the leadership and the managers. That may not be possible, but it is worth the effort. It is 7:30 now, and there are still 2½ hours.

The managers have done an outstanding job, and I do believe that some of these amendments will not rot if they are not taken care of until even maybe next year sometime.

So, we certainly want to work with the leadership. I think there is a meeting at 8 o'clock in the leader's office, and others, on one provision. I am not certain how many controversial provisions remain. I wonder if the managers have any idea how many are really controversial.

Mr. JOHNSTON. Mr. President, there are, I think about three or four controversial provisions, but I think they are in the process of being worked out. There is Contra aid; there is the Pakistan matter; there is the Stinger missile matter. I think all three of those are well on the way to being worked out. We are not sure. I do not know of anything else that is highly controversial at this point.

Mr. STEVENS. Mr. President, I would be very reluctant to enter into a time certain to vote now, with the meeting coming up at 8 o'clock. But it is my opinion, as the Senator from Louisiana has stated properly, that we ought to be able to work out all of these and finish this bill tonight.

We have had a number of people indicate that they are not going to offer their amendments. We do not have any real count, I say to the distinguished Republican leader, that we could give on how many amendments may still be offered. I do think that during this meeting that starts at 8, we ought to have other noncontroversial amendments we can handle.

Senator STENNIS has told me he would like to go through the night.

Mr. STENNIS. I would risk it. If the Senator will yield to me 1 minute, I have seen a demonstration here after it was known and the leaders let it be known here that there was now a chance to finish tonight, that it would be considered, and immediately things started moving faster and the whole situation, the outlook was there. I think we are still in that now and will continue to go right on, and if we could conclude even by 12 o'clock, it would be one of the best investments we have made.

Mr. DOLE. Mr. President, will the majority leader yield?

Mr. BYRD. Yes.

Mr. DOLE. I think the Senator from Alaska has a good point that one amendment might foreclose that amendment. I am wondering if between now and 8:30 Members on this side who intend to offer amendments could contact me and if those on the majority leader's side contact him and give everybody an hour to let us know precisely where we are, and I know the whips have been working. We at least can come back at 8:30 and know how many amendments we have. We will try it on this side. In any event I will ask the Republican Senators who may be here in their offices or somewhere else if they intend to offer their amendments to let someone on the staff know between now and 8:30, and then we will know how many may fade away and how many more we have to deal with on this side, and we will give that information to the majority leader and he can put it into his schedule.

Mr. BYRD. Mr. President, I personally think we ought to go on. I will tell you why. If I knew right now that we could not finish this bill by going over tonight, I would say let us go out and let us come back tomorrow and get a little rest tonight, but I am concerned that if we go now until 8:30 or 9 o'clock and then decide to go out that we will come back tomorrow and have a lot of it still to do that we might not have to do if we proceed now. I hesitate to say or make this judgment but I have to make a judgment one way or the other. Based on what I have seen on the processing of the amendments and the speed with which they have acted upon and the attitude on the part of Senators, I have had Senators on that side of the aisle, I have had Senators on this side of the aisle, to come to me and say let us press on. So I think we have to make that judgment.

Mr. STEVENS. Mr. President, will the Senator yield?

Mr. BYRD. Yes.

Mr. STEVENS. If we get the bill finished this evening we will need Monday to have some preconferences. There are 13 bills on this. Would it be the leader's intention to be in on Monday if we finish this evening?

Mr. BYRD. I am glad the Senator asked that. I meant to make some statement regarding Monday. It would be our intention to go over until Tuesday if we finish this bill tonight, go over until Tuesday, and we will be in business next week. If we pass this bill today we will be in business next week for the purpose of acting on the conference reports and other matters that are cleared by unanimous consent. There will be conference reports not only on this bill and on reconciliation which are must matters before we can go out sine die. There may be other conference reports on bills that have been in conference already. I would not say that we will not do anything else because there might be some other things that we can see we ought to get done.

In the main, I want to make it as convenient as I possibly can for conferees to spend full time on the reconciliation measure and on the continuing resolution. Once we get those matters to conference, I do not want them to be interrupted by rollcalls or quorum calls. I want to expedite getting out this Senate sine die.

So I am going to take it upon myself to say that we will proceed on tonight and finish if it takes to 2 or 3 o'clock in the morning. I am very reluctant to say that unless I feel that we can do it and intend to do our best to do it.

I want to compliment our whips who have been very busily engaged in contacting Senators and in reducing the list. We all are agreed on this and really try to make it work.

I thank the chairman, Mr. STENNIS, for his fine statement, and Mr. JOHNSTON and Mr. STEVENS.

If there are Senators here now who are strongly opposed to this I would urge that they take a stand so that we can hear what they have to say.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. PRYOR. Mr. President, I am certainly not going to object. If we can finish this evening, I certainly would support that. However, in looking around at our distinguished friends and good staff people in the Senate Chamber, if each staff member represents an amendment, we are not going to finish this bill tonight. And if we are not going to finish this bill tonight, I respectfully submit that we lay down an amendment for each of the staff members who are here—I love them all—that we propose and debate those amendments, and that we stack them and come back early in the morning and start voting on them. That is my suggestion.

Mr. BYRD. Mr. President, I thank the distinguished Senator.

I see some of my own staff people. They do not have amendments. Therefore, we will press on.

I hope we have everyone's cooperation.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, I have a stack here of cleared amendments, and we are getting toward the end of cleared amendments, I am happy to say.

AMENDMENT NO. 1313

(Purpose: To provide for consistency in the treatment of quality control review procedures for federal income assistance programs; to impose a temporary moratorium on the collection of penalties under the Food Stamp program, and for other purposes)

Mr. JOHNSTON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Louisiana [Mr. JOHNSTON] for Mr. EVANS for himself, Mr. LEAHY, and Mr. DURENBERGER proposes an amendment numbered 1313.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following new section:

"SEC. . Delay quality control penalty moratorium for food stamps

"The Secretary of Agriculture shall not impose any reductions in payments to States pursuant to section 16 of the Food Security Act of 1977 (7 U.S.C. 2025) for any calendar quarter beginning before September 30, 1988."

Mr. JOHNSTON. Mr. President, this amendment by Senators EVANS, LEAHY, and DURENBERGER has been approved all around and provides for consistency in the treatment of quality control review procedures for Federal income tax assistance programs and imposes a temporary moratorium on the collection of penalties under the Food Stamp Program.

There has been a moratorium on the Secretary of Agriculture for imposing these penalties on the States and this extends that.

Mr. EVANS. Mr. President, I, along with my distinguished colleague from Vermont [Mr. LEAHY], rise to offer an amendment reinstating the moratorium on the collection of fiscal penalties in the Food Stamp Program. This amendment is similar to legislation I introduced earlier this year which currently enjoys the bipartisan support of 48 cosponsors.

In 1985, an almost identical amendment was passed by the Senate overwhelmingly. That proposal would have placed a 2-year moratorium on the collection of food stamp sanctions while a comprehensive review of the current quality control system was completed by the National Academy of Sciences. That study is scheduled to be transmitted to Congress in December. Unfortunately, the moratorium was cut down to 6 months in conference. And, as a result, the existing problems with the food stamp quality control system have become much worse.

When the Senate adopted my proposals calling for temporary moratoriums in the AFDC, Medicaid and Food Stamp Programs during the last legislative session, we recognized that there were serious flaws in the existing quality control systems. We called into question the statistical procedures used to measure State performance. We agreed that the purpose of quality control is not to raise Federal revenues. Its purpose is not to shift program costs from Federal to State budgets and its purpose is not to force States to reduce administrative resources which ironically will result in higher errors in the future. We acknowledged that the purpose of quality control is to provide States with an effective management tool so that program administration can be as cost efficient as possible.

Our amendment would reinstitute the food stamp moratorium until September 30, 1988, the end of the current fiscal year. This should give us ample time to enact reform legislation early next year implementing a new quality control system. The Finance Committee also recognized the need to protect States from the existing quality control system. Recently, it extended the AFDC moratorium to include Medicaid in its reconciliation mark. Thus, food stamps is the only major income assistance program without the protection of a moratorium.

Our failure to act will have severe and unintended consequences for not only the States but for program beneficiaries as well. When we first enacted the moratoria we recognized States should not be penalized under a system whose accuracy had been widely discredited. As we continue the task of reviewing the work of the National Academy of Sciences and preparing reform initiatives, we cannot continue imposing fiscal penalties against the States—especially when the evidence illustrates overwhelmingly that the existing system is not working.

I want to discuss briefly the costs associated with this amendment. The moratorium is cost neutral over a 2-year period. CBO scores as a cost, the $13 million it anticipates would be collected from the States in penalties this fiscal year—but for the moratorium. The following year when the moratorium would expire, CBO estimates the $13 million would be collected. Thus, this figure really doesn't represent a cost requiring an offset. For some reason, audits for AFDC, Medicaid, and food stamps have been singled out and made a part of the baseline. We don't count in the baseline, uncollected money from defaulted student loans. Nor do we consider, as a yearly cost to the Federal Government, the IRS' 20 percent inefficiency rate. And, we don't count in the baseline errors in Federal Defense procurement. Why then should we treat our income assistance programs any differently from any other Federal audit program?

Mr. President, the existing system is broke and it needs fixing very badly. The National Academy of Sciences already has found that the food stamp quality control system, "offers little to State and local program managers in support of continued improvement in administration." It also concluded that the existing system, "lacks many of the elements of a comprehensive quality improvement system." The Academy was concerned particularly with the extraordinary number of States subject to fiscal sanctions. I share their concern and agree with their conclusion that a sound quality control system should provide sanctions only for extremely poor State performance.

While the national average error rate in all three programs continues to decline each year, the number of States subject to sanction and the amount of money levied in penalties continues to increase at an alarming rate. Recently, the Department of Agriculture announced that 48 States have been penalized for fiscal year 1985. But, it noted that only 44 States would be penalized for fiscal year 1986 error rates. In total, over $500 million is pending in penalties in the Food Stamp Program alone. Ironically, the national average error rate has dropped from 12.5 percent in fiscal year 1981 to 8.6 percent in fiscal year 1984.

There is something wrong with a system which has penalized 49 States in just a few short years of its existence. Now 49 States are not incapable; 49 States are not fraudulent; 49 States are not incompetent; and, it is hard to believe 49 States are in willful noncompliance with the law. Without the protection of the moratorium, virtually every State in the Union will be subject to exorbitant fiscal year penalties.

Allowing this type of environment to develop will not result in the atmosphere of cooperation necessary between the States and the Federal Government to implement quality control reform. Our amendment will foster this essential cooperative environment. CBO has estimated it to be budget neutral over a 2-year period. It will give us the opportunity to enact substantive reforms and it will protect the integrity of existing programs. Until we can develop a new system that will serve as an effective management tool measuring overall State performance we cannot allow the existing prices to be used to impose additional and more punitive hardships upon the States and ultimately the very people these programs are intended to serve.

Mr. President, the need for this amendment is essential. I urge its immediate adoption.

Mr. STEVENS. Mr. President, we accept this amendment.

The PRESIDING OFFICER. Is there further debate?

If not, the question is on agreeing to the amendment of the Senator from Louisiana.

The amendment (No. 1313) was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. JOHNSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1314

(Purpose: To provide for the reimbursement of certain premium pay of forest fighter employees, and for other purposes)

Mr. JOHNSTON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Louisiana [Mr. Johnston] for (Mr. Domenici, for himself, Mr. Hatfield, Mr. DeConcini, Mr. Wilson, Mr. Cranston, Mr. Packwood, Mr. Wallop, Mr. Hollings, and Mr. Bingaman) proposes an amendment numbered 1314.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill add the following new section:

Sec. . (a) From funds appropriated under this Act, such sums as are necessary shall be made available to pay forest firefighters premium pay under the provisions of subchapter V of chapter 55 of title 5, United States Code, (notwithstanding the limitations 5547 of such title) for all premium pay—

(1) that would have been paid to such forest firefighter employees, but for the provisions of section 5547 of such title, for all pay periods (and parts thereof) occurring during the period beginning on January 1, 1987, through September 30, 1987,

(2) earned by such forest firefighter employees in the fiscal year ending on September 30, 1988.

(b) Notwithstanding the provisions of subsection (a), no forest firefighter employee may be paid premium pay to the extent that the aggregate rate of pay of such employee for the aggregate of all pay periods in any calendar year exceeds the maximum rate for GS-15 as provided under the General Schedule pursuant to subchapter III of chapter 53 of title 5, United States Code.

(c) For purposes of this subsection, the term "forest firefighter" means any employee of the Department of Agriculture or the Department of the Interior who is assigned to, or in support of, work on forest wildfire emergencies.

Mr. JOHNSTON. Mr. President, this amendment by Senators DOMENICI, HATFIELD, WILSON, CRANSTON, PACKWOOD, WALLOP, HOLLINGS, and BINGAMAN provides for reimbursement of certain premium pay for forest firefighter employees. Firefighters receive overtime pay when fighting fires up to a pay cap in a given 2-week period. The cap is set as a maximum rate and this readjusts that rate in accordance with the agreement as agreed to by the authorizers and the appropriators.

Mr. DOMENICI. Mr. President, I am offering on behalf of myself and the distinguished ranking minority member of this committee, Senator HATFIELD, and seven other members, I wish to offer an amendment to the continuing resolution to correct what we believe is an injustice to our Nation's firefighters.

This year our country experienced its worst wildfires in many decades.

During September, an army of 25,000 men and women worked almost nonstop in heat and smoke to save as much as they could of our precious natural resources in the West.

Many were sent directly to battle Eastern fires in October causing them to be on the fire lines almost continuously for over 2 months.

Over 2,000 of these folks were not paid for part of their work on these fires.

These Federal employees risked their lives, worked on long and dangerous shifts, and quickly exceed the maximum pay rate established under current law.

These firefighters are GS level 7 and above with exempt status, covered by title 5, United States Code. Under section 5547 an employee may be paid premium pay only to the extent that the payment does not cause his aggregate rate of pay for any pay period to exceed the maximum rate for a GS-15.

These folks supervise nonexempt employees and work side by side with State and local firefighters whose pay continues as long as they are on duty.

We have an opportunity now to make sure these people are paid for their dedication and important work.

They made an unprecedented effort during this emergency for our country and we are proposing to include in the continuing resolution a provision to pay these Federal employees for their overtime.

The cost to correct this situation for this past record fire year, estimated by all affected agencies to be $903,000 can be accommodated within amounts provided in the Interior appropriations bill to reimburse forest firefighting expenses.

Mr. President, this amendment is very simple, and very fair. It will pay over 2,000 firefighters for pay lost during this past record fire season because of statutory overtime limitations.

These Federal employees risked their lives, worked long, dangerous shifts, and in the process quickly exceeded the maximum pay rate permitted under current laws.

The cost of correcting this unjust situation is estimated by the affected agencies at $903,000. These funds are already provided in the Interior appropriations bill; we simply need to erase the ceiling on pay this past fire season so that these brave men and women can be compensated.

I repeat, this amendment adds no money, not a dime, to the CR. The money is already appropriated. The amendment simply allows that money to be given to Federal employees, usually with supervisory status, who earned it, working overtime. Let me explain the situation.

Last month, I spoke to the Senate about the heroic efforts of the firefighters battling the worst series of forest fires in many decades. During September, an army of 25,000 men and women worked almost nonstop in heat and smoke to save as much as they could of our natural resources.

I was particularly proud of the way 43 States responded with help by sending firefighters. For example: The Southwestern States sent more than 4,000 firefighters and 149 engines. Montana and New Mexico combined to send in more than 100 organized crews. Over 280 firemen flew in from Alaska.

Many of these same people left their successful effort in the West to battle fires in the East, a fact that meant many were on the fire lines almost continuously for over 2 months.

In this fight, 12 brave firefighters gave their lives.

Yet, during this saga of teamwork and heroism, many of our Federal firefighters were not paid for a portion of the long overtime hours they spent in the heat, smoke, and dust.

More than 2,000 of these dedicated Federal employees exceeded the allowable statutory overtime limit. These limits on premium pay can be reached quickly when the firefighters are engaged in prolonged emergency firefighting assignments.

As unfair as it may seem, many ended up donating their time, often working side-by-side with employees from State and county organizations who received full pay.

A typical example is Ron Bahm from Albuquerque, NM. Ron wrote to me as follows:

> I just returned from 3 weeks in California where I was helping on 2 of their forest fires as a Ground Support Unit Leader (in charge of all ground transportation). During the first 2 week pay period I worked 111 hours of overtime and can only be paid for 68 hours.

Ron goes on to ask:

> What other agency or company expects their employees to work for nothing when there is a real need for their services?

It is now time for us to show our support for these firefighters.

Mr. President, I ask unanimous consent that this letter, along with articles from the September 13 issue of the Sacramento Bee, the November 12 edition of the Los Angeles Times, and the statement by the Honorable PETE WILSON, be inserted in the RECORD.

The article entitled "Firefighters Working for Free" came out during the heat of battle and pointed up that one firefighter could have been donating work when he was killed. As a matter of fact, he had exceeded the pay limitation 9 hours before he was killed in the line of duty.

The article goes on to quote one engine fireman who said:

> So here I am, 500 miles from my family, sleeping in the dirt on my 40th birthday, catching poison oak and risking my life for four days for free, I believe that's wrong.

Mr. President, I, too, believe that's wrong.

The firefighters we're talking about are GS level 7 and higher holding exempt status. They are covered by title 5 of the United States Code. Under section 5547 of this title, an exempt employee may be paid premium pay only to the extent that the payment does not cause his or her aggregate rate of pay for any pay period to exceed the maximum rate for a GS-15.

Under this policy the typical GS-11 fire supervisor working a 16-hour emergency shift reaches nonpay status in 10 days. After the 13th day, it is possible for the employee to accumulate less pay than those they are supervising.

Several of the large fires this fall burned for over a month.

Applying standard work day and work week principles to emergency situations is inadvisable. Personnel should not leave the fire line or the disaster scene because we are concerned over how much money they are making.

Key people in many cases must stay with the emergency until it's over or controlled. Often there is no time for bringing in replacements. Sometimes, as occurred this fall, we simply run out of skilled people to carry on.

Mr. President, I ask that we act quickly to rectify an unjust situation and show our support for the dedication of our wildland firefighters. I move the adoption of the amendment.

I ask unanimous consent to have printed in the Record various items pertaining to this amendment.

There being no objection, the material was ordered to be printed in the Record, as follows:

September 29, 1987.

Senator Pete V. Domenici
Washington, DC.

Dear Senator Domenici: I work for the U.S. Forest Service and through the years have acquired expertise in the management of large forest fire camps. Many of us have these skills which are very valuable to the Forest Service in times of disaster. We are called upon to aid when needed and also to work when we have "maxed out" for overtime pay status. This is one concern that causes this letter.

I just returned from 3 weeks in California where I was helping on 2 of their forest fires as a Ground Support Unit Leader (in charge of all ground transportation). During the first 2 week pay period I worked 111 hours of overtime and can only be paid for 68 hours (that is my limitation of hours before "maxing out"). This results in a gross of $765.00 of overtime lost while being away from family during just this one pay period. This old limitation of paid overtime must be changed. We must either (1) get compensation in pay or (2) get compensable time off after the incident. What other agency or company expects their employees to work for nothing when there is a real need for their services? I appeal to you that if there is something you can do to change this old thinking, please do it.

Another issue of importance is the limitation of overtime pay at 1½ times a GS-10 step 1. That causes many of us to work for less per hour on overtime than our usual hourly rate. I usually work for $18.50 per hour and when on overtime I work for $17.78 per hour! We were working side-by-side with California State employees who were getting much better compensation while having a motel bed every night. We do not nor do I expect the motel feature. I appeal to you to get the Forest Service to change these overtime pay limitations.

I appreciate your position and how well you have represented the people of New Mexico. I sure hope you can help with these situations.

Sincerely,

Ronald D. Bahm.

[From the Sacramento Bee, September 13, 1987]

Firefighters Working for Free: Federal Law Limits Overtime Pay

(By Ron DeLacy)

Sonora.—David Ross Erickson, the first firefighter to die fighting the Stanislaus Complex blaze, might have been working for free when he was killed late Friday.

Because of a federal ceiling on overtime pay, a lot of firefighters in mainly supervisory positions had "maxed out," as forest service people call it. They had worked so much overtime in the past two weeks that they can't earn any more money until the next pay period begins today.

By law, federal employees at the GS-7 level and above cannot earn more than $2,682.40 for a two-week period, no matter how much they work or how little sleep they get, disaster or not disaster.

That figure is based on the regular salary of a GS-15, Step 10.

Erickson, a foreman of at the Callahan Fire Station in the Klamath's Scott River Ranger District, probably fell into that category, said Dick Wisehart, fire information officer.

Marcia Callenberger, wife of an El Dorado County fire crew chief, protested the policy earlier this week in a letter to Rep. Norman Shumway, R-Stockton.

She said her husband and many other supervisors would be maxing out this week.

"And because of the nature of the firefighting spirit, very few, if any, of these employees would leave their assignments because of pay restrictions," she wrote. "They risk it all because they've committed themselves to preserving our forests no matter how many hours it takes."

Mrs. Callenberger pointed out that employees below GS-7, including members of her husband's crew, are exempt from the max-out law.

"It seems a disservice," she wrote, "that those who have advanced to supervisory positions, and who are held more responsible for the fires, are the ones who are feeling the squeeze."

The Stanislaus fires, the worst in the history of this forest, began almost at the beginning of a two-week pay period. Some firefighters were working 20-hour days, so it has been a fire that maxed a lot of people out.

A GS-7 Step 8, for example, maxes out after 111 hours of overtime. That would happen after about nine 20-hour days.

Brisco, Price, a forest service information officer, said the subject has been a hot one in the past few days.

"A lot of us are affected by it, said Price, who had maxed out this week. "For me it's no problem. I've been in this agency many years and it's happened to me before. I knew about it then. I know about it now, and that's just the way it is."

A fire engine captain working out of the Paper Incident base in Tuolumne looked at it differently.

The captain, a GS-7 from Southern California, did not want his name used. He said he had "maxed out" Wednesday.

"So now here I am, 500 miles from my family, sleeping in dirt on my 40th birthday, catching poison oak and risking my life for four days for free," he said. "I believe that's wrong."

On the other hand, he said, he likes the challenge of fighting fires. And as long as there is a ceiling on his wages, he was glad to have reached it.

"What would be real nice," he said, "is if somebody could arrange to have the fire out right when I maxed out."

[From the Los Angeles Times, Nov. 12, 1987]

Forest Service Cuts Them Off: Firefighters Burned Up Over Glitch in Pay Rules

(By Edmund Newton)

Like hundreds of other U.S. Forest Service personnel, Vicente Romo fought in the recent war against wildfires in Northern California. His enemy was a blaze that, for two weeks in August and September, danced maddeningly along the eastern edge of the Shasta-Trinity National Forest.

Nine days after he arrived at the scene, 600 miles from his regular assignment as an engine foreman in the Angeles National Forest, somebody told Romo that he had "maxed out." He wouldn't get paid any more during that two-week pay period because of a federal regulation that puts a ceiling on the amount of overtime pay most federal employees can earn.

For the next five days, including one round-the-clock stint, the burly firefighter performed his tasks of chopping, digging and hosing as a "volunteer."

"I don't mind going and fighting the fires, but let's get paid for it," the 46-year-old Romo said.

Under Title V of the U.S. Code, no federal supervisor can exceed in a given pay period the normal biweekly pay of upper-management officials classified as GS-15, who earn $69,976 a year. The cutoff for a two-week period is now $2,682.40.

The same restriction does not apply, however, to state, county or local firefighters, whose employers are reimbursed with federal funds for fighting fires in national forests. For example, state Department of Forestry firefighters are paid for 24 hours a day while on out-of-town assignments, including time-and-a-half for every hour after the first 72 in a week.

A state firefighter of a rank equivalent to Romo's would earn $4,103.10 for 245 hours during a two-week period, state accounting officials said.

This year, the fires in the Western states were the biggest in 30 years, with about 800,000 acres blackened in 17 national forests. So were the hours of overtime recorded. More than 20,000 people were involved in the firefighting effort. Preliminary reports indicate that during the first two weeks in September—when as many as 86 fires were raging in Northern California, with others in Oregon and Idaho—more than 1,400 Forest Service employees had reached the maximum pay level before the end of the pay period.

The total loss to employees was $485,000, a spokeswoman said.

"This does happen periodically," said Don Winstead, chief of pay administration for the federal Office of Personnel Management. "It was especially serious this year because of the large number of fires in the Western states."

He said that his agency's director, Constance Horner, is preparing a legislative proposal to remedy the situation, perhaps by allowing the policy to be waived in some emergency situations.

But aggrieved federal employees, including some assigned to fires by the National Parks Service, the Bureau of Land Management and the Bureau of Indian Affairs, remain skeptical.

"I think it stinks," said Kenneth Duvall, another Angeles National Forest worker, who "maxed out" after 211 hours on the fire lines in the Tahoe National Forest, although he put in 290 hours during the two-week pay period. "I was working with state parks workers, state firefighters people from New Jersey and Pennsylvania. We were the only ones 'maxing out.'"

Federal firefighters, some of whom have started a petition and a letter-writing campaign, are particularly irked by the fact that many state and county firefighters were paid with federal money.

They also complain that some federal employees—air traffic controllers and test pilots, for example—are specifically exempted from the salary ceiling. "It seems like a double standard there," said Michael Bergdahl, manager of the Angeles National Forest's communications center, who "maxed out" during firefighting work last year.

Though the salary restriction is aimed at upper management, Bergdahl said, lower-level managers such as Romo and himself are often hit harder because their pay is lower.

Romo, a 27-year veteran of the Forest Service who has two sons in college, earns $22,642 a year plus overtime.

"It's a real hardship for people at that level," said one Forest Service administrator who asked to remain anonymous. "The base pay for an engine foreman is about $18,000. That's not a lot of money, especially in the L.A. Basin. If you're interested in having a refrigerator or shoes for your kids, you really depend on that overtime."

Romo said that when he reached the maximum pay level in September, he asked to be relieved by a replacement worker. "They came back and said, Hey, tough luck. A lot of people are maxing out. There's nothing you can do. So I stayed there," Romo said.

Others said they were offered the option of going out on the fire lines with their colleagues or staying in the fire camp, doing nothing. "I wouldn't want to do that," said Romo, who supervises four men on a truck that carries 500 gallons of water. "It's good money for my workers [who are not covered by the salary ceiling]. They'll never make that again. Plus, I've got to be there for their safety."

Forest Service administrators are sympathetic with their employees, but say there is nothing they can do. "The law says there's a maximum they can earn, but the ongoing emergency doesn't stop when they reach that point," said Gary Wilson, the service's wage and classification specialist.

There is a chance that the firefighters will get some back pay Rep. Norman D. Shumway (R-Stockton) has proposed a one-time measure to reimburse federal employees who reached the maximum pay level during the September and October fires. "It's not a proposal to change the law, just to compensate these people for that time," said Shumway's press secretary, Tracy Smith.

But the disgruntled federal workers are doubtful, given the climate of austerity in Washington "The word is out," said the Forest Service administrator who asked that he not be named. "Anything that's liable to cost the Administration money, we're not going to do."

Mr. WILSON. Mr. President, I rise in strong support of the amendment offered by my friend from New Mexico [Mr. DOMENICI] that will have the effect of reimbursing our valiant Federal firefighters for work well done but not paid for.

I think it unconscionable that through a quirk in the law—a quirk that I am confident will be rectified by separate legislation—Federal firefighters found themselves in a situation in last year's terrible fire season where they ended up working on the firelines for free after they had "maxed out" under the existing Federal pay scheme. To their credit, these firefighters didn't simply quit their work when they knew they had reached the point where they were working without compensation. They stayed on the firelines and continued to work shoulder to shoulder with State and local firefighters who were justifiably being paid for their important work.

What is ironic about this situation is that the State and local firefighters were being compensated for overtime work in part with Federal dollars. Yet the same Federal dollar was not available to pay the Federal firefighter once his total compensation for the regular pay period had reached the GS-15 pay schedule.

Several important policy consequences flow from this existing pay scheme. For one thing, the Forest Service reports that they experience relatively high turnover in their firefighting ranks because the Federal firefighters know they can receive better overtime pay from State and local governments. As I have indicated, Congress should address these issues and pass appropriate legislation to remedy this situation.

But for now, we have a duty to compensate our Federal firefighters for their work in putting out the worst fires this country has known since 1910. I urge my colleagues to support this amendment.

Mr. McCLURE. Mr. President, in the fall of 1987, an unprecedented number of Federal employees were involved in fighting some of the worst forest fires in both the Eastern and Western United States. Many of the employees worked overtime and were paid for that overtime. Unfortunately, due to a quirk in the law, an exempt employee, which includes most Federal firefighters, may only be paid overtime to the extent that the payment does not cause his aggregate rate of pay for any pay period to exceed the maximum rate for a GS-15. Nonexempt employees, which includes most State or local firefighters, are not restrained by this quirk and receive the overtime pay they are due.

The amendment before us not only eliminates this discrepancy for the future but applies it retroactively in fiscal year 1987. The cost of this extra pay is anticipated to total $1 million in fiscal year 1987 for the fires in the West during August and September. An estimate of additional costs due to the fires in the Eastern United States has not been made.

I firmly believe that firefighters should be adequately compensated for the work they are performing. I am concerned however, about doing anything retroactively. This amendment takes care of the firefighters in 1987 but does nothing for the firefighters in 1986. While the total dollar amount in fiscal year 1986 or in previous years would not be as large as the fiscal year 1987 figure, many of the fires were just as severe and dangerous. Under the terms of this amendment, however, we are only dealing with those who fought fires in fiscal year 1987.

Given a choice, I would prefer not to adopt this language and deal with this issue during the fiscal year 1989 appropriation process when we have a firm grasp of the fiscal year 1987 cost and the policy we are adopting. For example, are there other emergency personnel who are not firefighters yet in a similar situation that should be considered? Are there other discrepancies between Federal firefighters and State/local firefighters that should be eliminated.

These are the types of issues that we should consider during the fiscal year 1989 process, or during the time between final passage of this bill and conference action. At this time, however, I have no objection to the adoption of the amendment.

The PRESIDING OFFICER. Is there further debate?

If not, the question is on agreeing to the amendment of the Senator from Louisiana.

The amendment (No. 1314) was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. MOYNIHAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1315

(Purpose: To declare a portion of the Hudson River not to be part of the federally authorized channel deepening project)

Mr. JOHNSTON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Louisiana [Mr. JOHNSTON] (for Mr. LAUTENBERG, for himself, Mr. BRADLEY, Mr. MOYNIHAN, and Mr. D'AMATO proposes an amendment numbered 1315.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the joint resolution, add the following new section:

"Section . The following portion of the Hudson River in New York County, State of New York, is hereby declared not to be a part of the federally authorized Channel Deepening Project: That portion of the Hudson River lying to the west of the United States Pierhead Line as it exists on the effective date of this Act, more specifically described as beginning at a point at the intersection of the north side of North Cove and the existing pierhead line, proceeding in a northerly direction along the existing pierhead line to a point formed by the pierhead line and the southerly side of Vesey Street if extended; thence in a westerly direction on a line perpendicular to the existing pierhead line 200 feet to a point; thence southerly on a line parallel to the existing pierhead line to a point on the northerly line of the North Cove if extended; thence in an easterly direction 200 feet to the point and place of beginning. This declaration shall apply to all or any part of the above-described area used or needed for trans-Hudson passenger ferry boat service as such may be operated by or contracted for operation by a bistate agency created by Compact between the States of New York and New Jersey.

Mr. JOHNSTON. Mr. President, this amendment pertains to the declaration of the portion of the Hudson River not to be a part of the federally authorized channel deepening project, and it is necessary to do so in order to clear the Hudson River of a barrier in the Hudson River, and this amendment provides for doing that emergency work and it has been cleared on all sides.

Mr. STEVENS. Mr. President, we accept the amendment.

Mr. LAUTENBERG. Mr. President, I offer this amendment for myself, and Senators MOYNIHAN, BRADLEY, and D'AMATO. It's an amendment of great importance to the New Jersey-New York metropolitan area. It will help advance a major transit project that would go a long way toward relieving traffic congestion in our region.

This amendment would remove an administrative obstacle that could seriously delay implementation of this important project. With its adoption, the region would take another step forward in its efforts to further reestablish commuter ferry service between New Jersey and New York.

I note, Mr. President, that this amendment does not remove any of the environmental reviews that this project will have to undergo. The amendment would cost the Federal Government nothing.

As part of an ambitious $5.8 billion capital improvement program, the Port Authority of New York and New Jersey intends to initiate commuter ferry service between Hoboken, NJ, and Battery Park City in lower Manhattan. This service will greatly help reduce traffic on the region's congested tunnels and bridges.

Expanded use of ferries will also help the region improve its air quality and meet its clean air goals.

The ferry service, by conservative estimates, will accommodate 5,200 commuters during the peak period by the year 1990. By the turn of the century, that number could double.

The importance of alternative modes of transportation in our region cannot be overstated. Our Hudson River crossings are already at capacity. An inability to effectively move our people and our goods threatens to choke off economic growth, to stifle the resurgence of our cities.

We need to find effective alternative means of getting people to work. The region just can't sustain more cars. Recent initiation of private ferry service has proven highly successful. Implementation of the service planned by the port authority would greatly further the use of trans-Hudson ferries.

This amendment would enable the project to proceed to the necessary permit stage by resolving a problem presented by the need to construct the terminal on the New York side of the Hudson River Federal navigation project. Currently, the river, pierhead to pierhead, is a Federal navigation project, and thus construction of the terminal cannot occur unless an action is taken to permit it. With adoption of this amendment, a 200-foot-wide site immediately adjacent to the bulkhead at Battery Park City, north of North Cove, would be declared as not being part of the existing Federal navigation project. This amendment is specific to this site, and would only allow its use for ferry service. Therefore, no other development of any sort would be permitted.

Mr. President, I would also note that this amendment would not close the door on alternative sites. The environmental reviews still must be conducted, including public comment and participation. If those tests are not passed, then the ferry terminal will not be sited there.

There are also concerns among those tenants of Battery Park City located adjacent to the proposed ferry site. There are discussions ongoing to consider the impacts of the pedestrian traffic on those tenants, and how to mitigate those impacts. This amendment would not interfere with those discussions. It is clearly not the intention of this Senator, nor of those joining me, to prejudge the eventual siting of the ferry terminal, nor the outcome of the discussions now underway.

Mr. President, I urge my colleagues to join in supporting this amendment.

Mr. MOYNIHAN. Mr. President, I am pleased to join my colleagues from across the Hudson River in sponsoring this modest amendment to facilitate the plan for mass transit-scale ferry service in the New York metropolitan area. Were it not for the timing of the project—we hope construction can begin in 1988 and service as early as 1989—we would not see a need to raise the matter now. But indeed, with river crossings at capacity now, particularly the mass transit systems, there is a need for ferries to begin operating at the earliest possible moment.

The amendment would essentially allow the construction of a ferry terminal in lower Manhattan over what is now a Federal navigation channel, the breadth of the Hudson River. This is necessary to the project since the Corps of Engineers is not in a position to issue the requisite section 404 and section 10 permits without clarifying the ability of the Port Authority of New York and New Jersey to have its facility built at the location. I hasten to add that this amendment, which declares the 200-foot by 800-foot site not a part of the Federal navigation channel, will in no way interfere with the permitting process and the need to meet the standards in the law. The project will have to stand on its own in that regard. Accommodations will also have to be made to assure that the local neighborhood and commercial buildings and their tenants are not harmed by the influx of embarking and disembarking commuters. The terminal is to consist of a fixed deck extending 50 feet into the river and a floating deck that will continue another 150 feet into the river.

The Committee on Environment and Public Works has no objection to this amendment. I am informed the Corps of Engineers has no objections. This amendment poses no navigational problem; the main channel is in the center of the river, well clear of the proposed ferry terminal.

Marine traffic there along the west side of Manhattan, it is sad to say, is only a trace of what had been up through the first half of this century. The finger piers that outlined the island and provided work for so many thousands of dockworkers, this Senator among them, were idled by the revolution called containerization. Before long, the piers disappeared, but the U.S. Pierhead Line of 1941 remains and from that boundary to the New Jersey line is a Federal navigational channel.

A final note, Mr. President. We on the Environment and Public Works Committee have devoted considerable time to legislation to strengthen the Clean Air Act and to encourage and enable nonattainment areas to do what has to be done to come into compliance. Certainly a major concern of this Senator has been the need to encourage the use of mass transportation by those traveling to Manhattan.

The ferry project represents a major development in expanding the mass transit capacity between New Jersey and New York. To the extent that the overburdened PATH system, which itself is undergoing capacity expansion work, is relieved by the ferry operation the commuter will have a reasonable and economic alternative to the private car. It is through planned increments like new ferry service, additional express bus lanes and improved rail transit that New York City will move step by step toward better air quality.

This innocuous amendment thus will be of some consequence but will cost the Federal Government not 1 cent. I urge my colleagues to adopt it.

Mr. HATFIELD. Mr. President, I am pleased to join my colleague from New Mexico [Mr. DOMENICI], in supporting this amendment to the continuing resolution. This amendment will compensate more than 2,000 firefighters for the time they have spent protecting our country's natural resources during the 1987 fire season.

Since late August, this country has suffered the worst loss of forest resources since 1910: More than 1 million acres in the West and nearly 300,000 acres of forest in the South have been destroyed by fire. In the 1987 fire season, Federal firefighters from 43 States battled more than 2.3 million acres of burning forests throughout the United States. Those fires have finally been extinguished, but the extent of the damage and the bravery of the men and women who fought them are just now becoming clear.

Because of the extreme conditions this year, many Federal firefighters quickly reached and surpassed the overtime pay limitation. Under the current law, two firefighters working together do not necessarily receive the same overtime pay. One can be receiving overtime pay equivalent to or above their normal pay rate and the other may be being paid less than the rate received during regular hours. If the firefighter had already reached the overtime pay limitation, that individual then could be working without compensation.

This amendment would compensate those employees of the U.S. Departments of Agriculture and Interior who lost pay after exceeding the overtime pay limitation. This provision would incorporate a one-time lift of the overtime pay cap to amend title 5 of the United States Code and to allow funds to be used for the purposes of reimbursement of lost wages. We have introduced freestanding legislation to correct this disparity so that this situation will not be repeated in the future.

The cost of correcting this situation is estimated at approximately $1 million for the 1987 fire season. In the 1986 fire season, a more typical season, the estimates is less than $200,000.

I urge my colleagues to join Senator DOMENICI and me in supporting this provision on the continuing resolution.

The **PRESIDING OFFICER.** Is there further debate? If not, the question is on agreeing to the amendment of the Senator from Louisiana.

The amendment (No. 1315) was agreed to.

Mr. **JOHNSTON.** Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. **MOYNIHAN.** I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1316

Mr. **JOHNSTON.** Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The **PRESIDING OFFICER.** The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Louisiana [Mr. JOHNSTON] for Mr. MCCLURE proposes an amendment numbered 1316.

Mr. **JOHNSTON.** Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the resolution insert the following new section:

Of funds available to the Army Corps of Engineers, Flood Control and Navigation, Research and Development, not less than $250,000 shall be made available for research to prevent ice jamming and related flooding in the Dump Creek area of the Salmon River in Idaho.

Mr. **McCLURE.** Mr. President, I rise to offer an amendment to the continuing resolution to support ongoing research to help prevent further damage caused by ice jams and flooding in Salmon, ID.

Approximately every 3 years, Idaho experiences extreme winter temperatures that sometimes persist for 2 or more weeks. Temperatures can drop to 30 below zero and daily highs may remain below freezing for a number of days.

When that happens, "frazzle" ice begins to form on the surface of the Salmon upriver from the city of Salmon. These small, frost-like formations have the appearance of heavy frost. However, as they move slowly downstream in the intense cold, they grow larger and become more numerous.

At a point some 21 miles below Salmon, the river is constricted to a deep, narrow channel. As the frazzle ice is accelerated and then forced into this narrow passage, it begins to create an ice jam. The flow of the river is driven underneath the ice which continues to grow until it virtually plugs the channel.

As additional ice continues down the river, both ice and water begin to back up. Low lying areas become flooded and frozen in the subzero temperatures. The continued buildup of ice and the backing up of the water can easily reach the city of Salmon, 21 miles above.

When that occurs, the river begins to overflow its banks resulting in flooding and extensive damage to homes and businesses. Trying to escape from the rising, frigid waters in extreme temperatures is especially hard on senior citizens and those who may be unable to get help as quickly as it is needed.

A decade ago, Congress passed legislation designating portions of Idaho's Salmon River as a part of the Wild and Scenic River System. As a result of this designation, it is difficult to find solutions within the restrictive provisions of the wild and scenic river designation to prevent this flooding.

A few years ago, the Army Corps of Engineers prepared an environmental impact statement outlining alternatives for control. They came up with four options: First, to do nothing; second, to dredge and channelize the problem area to prevent the buildup of ice; third, to construct a series of dikes around low-lying parts of the town; or fourth, to remove all the homes located within the floodplain.

Environmental groups were unwilling to allow the dredging option since the problem area was within the stretch of river classified under the wild and scenic river designation. The diking and removal alternatives would be extremely expensive and would result in major disruptions for families and businesses.

Two winters ago, I requested the corps cold regions research lab to see if they could come up with a way to deal with the problem. Researchers were able to simulate the weather conditions that caused the formation of ice. They then experimented with ways to inhibit the formation and buildup.

They concluded that the ice could be prevented from developing to the point of clogging the channel by "skimming" it from the river's surface well above the problem area.

However, the past two winters have been mild and there has not been enough ice to determine whether or not the theory can be practically applied. If the river stays on schedule, we can expect another flooding problem either this year or next.

Approximately $250,000 is needed to carry out the necessary field tests. Those tests are critical in determining whether or not the lab results can be transferred and applied in the field to obtain the desired results.

Mr. **JOHNSTON.** Mr. President, this provides for a $250,000 study on the Salmon River for research to prevent ice jamming. It is submitted on behalf of Senator MCCLURE. It has been cleared.

Mr. **STEVENS.** Mr. President, we have no objection.

The **PRESIDING OFFICER.** Is there further debate?

If not, the question is on agreeing to the amendment?

The amendment (No. 1316) was agreed to.

Mr. **JOHNSTON.** Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. **STEVENS.** I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1317

(Purpose: To direct the Administrator of the General Services Administration to submit a prospectus to Congress within 60 days for two buildings not to exceed a total of 1.6 million gross square feet of federal office and retail and parking space in New York City)

Mr. JOHNSTON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Louisiana [Mr. JOHNSTON], for Mr. MOYNIHAN, proposes an amendment numbered 1317.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end, insert the following: "*Provided further,* That the Administrator of General Services is hereby directed to submit a prospectus to the Congress within 60 days to enable the Administrator to contract for construction of two buildings not to exceed a total of 1.6 million gross square feet of office space, plus additional parking and retail space, in New York City on sites to be acquired from the City of New York. The contracts shall provide, by lease or installment payments over a period not to exceed 30 years, from funds available for the rental of space in the Federal Building Fund for the payment of the purchase price, and reasonable interest thereon. The contracts shall further provide that title to the buildings shall vest in the United States at or before expiration of the contract term upon fulfillment of the terms and conditions of the contracts. If a lease-purchase prospectus for a building described in this paragraph is approved under the Public Buildings Act of 1959, The Administrator of the General Services Administration may enter into a transaction for the lease-purchase of such building in accordance with the terms specified in such approved prospectus and applicable provisions of law and may make annual lease or installment payments from the funds available for the rental of space in such Fund. The General Services Administration shall lease up to 400,000 square feet of office space and associated parking to the City of New York at rates that reflect an appropriate portion of the construction and related costs of the projects, adjusted for the value of the land acquired from the City. In addition, income accrued by the General Services Administration from the outlease of office space to the City as well as retail and related space to private organizations shall be used to offset GSA's installment payments for the cost of the facilities. Obligations of funds under these transactions shall be limited to the current fiscal year for which payments are due without regard to 31 U.S.C. 1341(a)(1)(B)."

Mr. JOHNSTON. Mr. President, this amendment, on behalf of Senator MOYNIHAN, deals with Foley Square and provides that the Administrator of General Services is directed to submit a prospectus to the Congress within 60 days to enable the Administrator to contract for construction of two buildings not to exceed a total of 1.6 million gross square feet for office space. It further provides that the space, I understand from Senator MOYNIHAN, is needed on an emergency basis. It has been approved by Senators DECONCINI, DOMENICI, BURDICK, STAFFORD, and the leaders, which are all the appropriate parties to approve.

Mr. MOYNIHAN. Mr. President, I rise today to offer an amendment to alleviate some of the deplorable overcrowding in the Federal courts and agencies in New York City.

This amendment directs the GSA Administrator to prepare a prospectus to send to Congress for approval by the authorizing committees for two Federal buildings in New York City at Foley Square.

A primary tenant of the building will be the Federal courts. In June, at the hearing before my Subcommittee on Water Resources, Transportation, and Infrastructure, Judge Charles L. Brieant, chief judge of the U.S. District Court for the Southern District of New York described the acute lack of facilities for the courts of the busiest circuit in the Nation. Court clerks are sitting at desks in halls. Court records are being stored in employee restrooms for lack of space. Grand juries are meeting behind makeshift partitions in halls. There are security risks due to unsecured courtrooms and detention facilities.

This amendment is budget-neutral. No additional appropriation of money by Congress is needed above the normal sums already in the budget for agency leases.

These buildings would be constructed under a "lease-to-own" plan whereby the Federal Government will make lease payments to the private developers who build the buildings over a period of 30 years. At the end of 30 years, the Federal Government will own the buildings free and clear.

This form of lease-to-own payment has been used successfully by GSA in several other cities, and most recently was approved by Congress in the bill authorizing the new International Cultural and Trade Center on the Federal Triangle.

Estimates—made by GSA at our request—indicate that this would save the Federal Government in net present value, $100 million over 30 years.

I can assure my colleagues that nothing will go forward on this project until the authorizing committees have fully reviewed the prospectus by GSA.

I understand that this amendment is acceptable to the Appropriations Committee, so I thank the chairman and Members, and I urge its adoption.

The PRESIDING OFFICER. Is there further debate?

Mr. STEVENS. We accept the amendment.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment.

The amendment (No. 1317) was agreed to.

Mr. MOYNIHAN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1318

(Purpose: to provide emergency relief for the replacement or repair of a bridge in New York)

Mr. JOHNSTON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Louisiana [Mr. JOHNSTON] for Mr. MOYNIHAN (for himself and Mr. D'AMATO), proposes an amendment numbered 1318.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, insert the following: "That (a) notwithstanding any other provision of law, the Secretary of Transportation shall provide such funds out of the emergency relief fund authorized under section 125 of title 23, United States Code, as may be necessary, to pay the expenses incurred in the reconstruction or repair of the bridge over Schoharie Creek in the State of New York that is on Interstate Route 90, including any expenses incurred in conducting the investigation of the cause of the collapse of the bridge and the expenses incurred in detouring traffic around the site of the bridge until the reconstruction or repair is completed.

(b) No payment of an expense may be made by reason of subsection (a) if such expense is paid or reimbursed—

(1) under any Federal program other than section 125 of title 23, United States Code or

(2) under any insurance policy covering the bridges described in subsection (a).

(c) The provisions of section 125 of title 23, United States Code, and any regulations prescribed under such section, regarding the expenditure of funds provided under such section shall apply to any funds provided by reason of subsection (a) to the extent such provisions and regulations are consistent with the provisions and purposes of this Act."

Mr. JOHNSTON. Mr. President, this amendment, on behalf of Senators MOYNIHAN and D'AMATO, provides assistance to the State of New York in the wake of the tragic bridge collapse on the New York Thruway. It is that emergency matter I first discussed earlier and has been cleared all the way around.

Mr. MOYNIHAN. Mr. President, this amendment provides assistance to the State of New York in the wake of the tragic bridge collapse on the New York State Thruway. I am pleased to be joined in this effort by my colleague Mr. D'AMATO.

On May 4 of this year I held a hearing of the Water Resources, Transportation and Infrastructure Subcommittee in the community of Amsterdam, NY, which is only a few miles from the bridge site. There I heard, firsthand, of the personal suffering and economic loss realized by the people who live in the area. The cost to the regional and State economy is also staggering.

The Montgomery County Chamber of Commerce estimated tourism losses alone for the area to be $66 million. The cost of doing business in the region was affected; a survey conducted by the State motor truck association indicated that freight costs across upstate New York were up by half a million dollars per week as a result of the thruway being severed.

The Federal Highway Administration has determined that the collapsed Schoharie Creek Bridge is ineligible for emergency highway relief funds authorized by section 125 of title 23 United States Code, because it is part of a tolled highway. This is despite the fact that the State has agreed to remove tolls in 1996, when the outstanding debt of the thruway is paid off.

New York State built the first segment of the Interstate System which we call the Thomas E. Dewey Thruway.

An inspired civil engineer, Bert Tallamy, constructed the first segment exactly along the routes as had been anticipated. In 1956, he came to Washington to head the Bureau of Public Roads and designed the rest of the system exactly to the model set by the thruway.

When we built that road by ourselves we did finance it with tolls, and when the time came to start a national system it would have been elemental for Congress and for the New York State delegation to ask that this first segment be made toll free as payments were made from the highway trust fund. It was, after all, the first segment completed. This was not done.

It could have been easily enough done—it was not—much the same way we built the Erie Canal in 1825. That was a toll canal built without Federal assistance.

However, in 1978, Congress did provide that the New York State Thruway and New York State would undertake to eliminate tolls. It took the New York State Thruway 4 years to reach an agreement—such is the entrenched attachment of a sure, clear source of revenue—but it was signed in 1982, which allows the thruway to receive the so-called 4-R funds for reconstruction, resurfacing, restoration and rehabilitation of the system.

I was advised by the executive director of the Thruway Authority, at our hearing in New York, that on July 1, 1996, the thruway bonds will have been paid off and the tolls removed.

By that time, the State will have received some $538 million in Federal moneys that otherwise would not have been forthcoming.

For 30 years—at this point, almost 40—New York State has been paying tolls to drive on its segment of the interstate or a principal segment, and paying taxes to build free roads of identical design elsewhere in the country, and I cannot but suppose it has had consequences in our economy.

For all intents the thruway is an integral part of the interstate system, now receiving Federal assistance and with a commitment to remove its tolls on schedule. The proposed amendment recognizes this fact by treating the Schoharie Creek Bridge in the same manner as would a similar bridge on any other part of the interstate highway system.

Mr. STEVENS. We have no objection to the amendment.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 1318) was agreed to.

Mr. MOYNIHAN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. JOHNSTON. Mr. President, I am very pleased to announce that that constitutes all the cleared amendments and all the amendments in the pipeline.

Mr. STEVENS. No, there are still some to be cleared.

Mr. JOHNSTON. Well, all in this end of the pipeline.

AMENDMENT NO. 1319

(Purpose: To permit Federal employees to more fully utilize the services of qualified clinical social workers as part of their Federal health benefits program)

Mr. INOUYE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Hawaii [Mr. INOUYE], for himself and Mr. DECONCINI, proposes an amendment numbered 1319.

Mr. INOUYE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the Resolution, add the following new section:

SEC. . Subsection 8902 of title 5, United States Code, is amended—

(1) by inserting in subsection (k)(1), after "as applicable," the following: "or by a qualified clinical social worker as defined in section 8901(11),";

(2) by inserting in subsection (k)(1), after "such a clinical psychologist" the following: ", qualified clinical social worker";

(3) by striking out all of subsection (k)(2) and by redesignating subsection (k)(3) as subsection (k)(2); and

(4) by striking out the last sentence in subsection (m)(2)(A).

Mr. INOUYE. Mr. President, I proposed this amendment on behalf of Senator DECONCINI and myself. It relates to clinical social workers. It has been cleared by Senators PRYOR, STEVENS, ROTH, GLENN, DECONCINI, DOMENICI, and METZENBAUM.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 1319) was agreed to.

Mr. INOUYE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. JOHNSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MELCHER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MELCHER. Mr. President, what is the parliamentary situation? Is the bill open to amendment?

The PRESIDING OFFICER. The bill is open to amendment.

AMENDMENT NO. 1320

(Purpose: To authorize funds for the convening of Silver Haired Congress)

Mr. MELCHER. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Montana [Mr. MELCHER] for himself, Mr. BURDICK, Mr. SHELBY, Mr. PRESSLER, and Mr. INOUYE, proposes an amendment numbered 1320.

Mr. MELCHER. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER (Mr. LEAHY). Without objection, it is so ordered.

The amendment is as follows:

At the end of the joint resolution, add the following new section:

SEC. . (a) There is authorized $300,000 of the contingent fund of the Senate, in addition to amounts otherwise available to the contingent fund of the Senate, to carry out the provisions of this section.

(b) The Congress finds that—

(1) States have adopted senior citizen advocacy and legislative bodies;

(2) older Americans are therefore provided opportunity within their States to express their concerns, promote appropriate interests, and advance the common good by influencing legislation and actions of State government; and

(3) a National Silver Haired Congress with representatives from each State would serve as a national grassroots forum to determine on a nonpartisan basis the recommendations for solutions to older American concerns without regard to race, creed, national origin or social status.

(c)(1) The Congress encourages and authorizes the convening of a National Silver Haired Congress in Washington, District of Columbia in 1989.

(2) The Speaker of the House of Representatives and the President pro tempore of the Senate shall facilitate and coordinate the convening of such a Congress.

(3) Expenses incurred in carrying out this section shall be paid from the contingent fund of the Senate upon vouchers signed by the President pro tempore of the Senate.

Mr. MELCHER. Mr. President, this amendment is to provide for the convening of the National Silver Haired Congress. I guess it is appropriate that I offer it since my hair is about as white as anyone's in this Chamber.

Silver haired refers to elderly people. In a great number of States, senior citizens have elected, on a nonpartisan basis, representatives to simulated legislative bodies to advise their State legislatures. This amendment follows through on the proposal of their national steering committee to have a national congress of such elderly people to be held here in Washington in 1989.

The amendment does authorize $300,000. It is in additional funds. It authorizes it to the contingent fund of the Senate.

This is an amendment that has widespread support across the country. If the Silver Haired Congress is going to be held in 1989, it is necessary to pass this amendment now, giving them recognition and giving them seed money to get started.

They would organize themselves into two bodies similar to the Congress and discuss, debate, and vote on resolutions that then could be recommended to Congress for appropriate action.

Mr. President, I very much encourage actions such as this, of elderly citizens across the Nation. It works in our State. They do not get everything they ask for. It works in other States, and I do not suppose they get everything they ask for. But it does put them into the process of debating and agreeing on something for making recommendations to legislative bodies.

The Silver Haired Congress would be the national counterpart to those State activities. All 50 States would be involved in this process, as indeed they should be, because we can use the assistance of the elderly, themselves, sorting out the various issues, with which they are concerned, and arriving at conclusions for offering recommendations to this body.

Mr. JOHNSTON. Mr. President, I have only now received a copy of this amendment. I understand the amendment has not been cleared. I would urge the Senator, as I have others, in this type of situation, to withdraw the amendment and see if he can get it cleared. It would help a great deal. Everybody is tired. If Senators come up to try to put on an amendment that has never been seen and has never been cleared, it will take forever to get out.

Will the Senator consider withdrawing the amendment and seek to get it cleared?

Mr. MELCHER. Mr. President, if the chairman will yield to me, I will state that the amendment has been cleared by the three components with their initials and the fourth one we have not been able to find for several hours. We understand that it has been cleared by three, however.

Mr. JOHNSTON. Mr. President, we have been asking since 10 o'clock this morning for all Senators to get their amendments to us. We have described our "Cleared" folder on the desk. We have been asking the Senator from Montana to clear his amendments with us. I have only now gotten a copy of the amendment.

That is not asking any more of the Senator. It does not look like a difficult amendment to us. We are not trying to deprive Senators of their rights under the rules.

Mr. MELCHER. Mr. President, if the Senator will yield, the attempt has been going on all day. I merely offered it now because we were not doing anything. Perhaps by offering it, we can emphasize the point that there are amendments that we think are cleared and we would like to get on with the process.

I think this amendment has been cleared. The signature that is lacking does have to come from the other side, but we are told they favor it.

Mr. JOHNSTON. The only copy I have does not have any initials on it at all.

Mr. MELCHER. If the chairman will yield further, the reason for that is because we turned it over to staff to try to track down the Senator who must initial it.

Mr. GARN. Will the Senator yield?

Mr. MELCHER. I do not have the floor.

Mr. GARN. Will the Senator from Louisiana yield?

Mr. JOHNSTON. I yield.

Mr. GARN. The Senator from Montana is correct. Three out of four have initialed it. We are looking for Senator GRASSLEY. I would suggest if the Senator from Montana could, by unanimous consent, temporarily set it aside, which will make it the pending business, we will try to find Senator GRASSLEY. I do not think he will object. It is our opinion he will not.

We just physically have not been able to find him.

Mr. JOHNSTON. Mr. President, while we are looking for Senator GRASSLEY, has Senator METZENBAUM seen this one?

Mr. METZENBAUM. I have heard of this amendment. I cannot say that I have signed off on it. I must confess to my good friend and colleague that I have some difficulty in comprehending this whole idea of a Silver Haired Congress.

Mr. JOHNSTON. The Senator from Ohio is eligible.

Mr. METZENBAUM. I am eligible. I know I am eligible, but I am not sure that I want to come to the meeting. I do not know if I want to participate in that $300,000 party. I am not sure that there is any great demand to do something of this kind.

Now, I know that every time we talk about senior citizens, all of us want to try to be helpful and be supportive. I have not heard anything from any of the senior citizens organizations in connection with this. I am wondering if the Senator from Montana will tell us, what is the aegis of this idea? Where does it come from? Why are we suddenly standing on the floor at 10 after 8 at night talking about calling a meeting in Washington and spending $300,000 of the Senate's money for a National Silver Haired Congress in 1989? I really question the merit, I am frank to say. Would the Senator be good enough to indicate, are there lots of groups supporting this? Where does the idea come from? Is it just a concept that is here on the floor tonight that we will have a meeting and put up $300,000 for it?

Mr. MELCHER. If my friend from Ohio will yield.

Mr. METZENBAUM. I certainly do.

Mr. MELCHER. Mr. President, there is a national steering committee for the National Silver Haired Congress. It has been in existence for several years. The leadership originated in California.

Now, that may be the only State where it is actually called silver haired. I cannot speak to that. But they have had endorsements from similar groups in almost all of the 50 States.

Almost all States have these silver haired or senior citizen legislatures. Certainly our State of Montana has a similar body. They have a different name for it. Ours is called the Legacy Legislature. It is a very legitimate movement. I suspect that the State of Ohio is also involved.

The money out of the contingent fund of the Congress, $300,000, is a small amount and is only meant as seed money to give them some assistance in organizing the convening of the congress. It will not cover all the costs, but it will get them started.

Mr. METZENBAUM. If I might have the attention of the manager of the bill, I look at this amendment and I look at, for example, the last paragraph that says, "Expenses incurred in carrying out this session shall be paid from the contingent fund of the Senate," and the same thing with respect to the House, I guess. I would say to the manager of the bill I am not going to say that I am terribly upset or think that this is a horrible piece of legislation, but I do think it is the kind of legislation that the managers have some responsibility to say wait, this does not belong on a continuing resolution. It ought to go through the process.

I do not know how you pay out this $300,000. I am not sure whether it is the right amount. What about anybody arriving in town who is totally bald and 92 years old, with all due apology to the present Presiding Officer of the Senate? I do not want to touch upon sensitive subjects. But the fact is I think the managers of the bill have some responsibility in a matter of this kind to go beyond the Senator from Ohio. The Senator from Ohio spends his time on the floor—

Mr. MELCHER. Will the Senator yield? I can answer those questions.

Mr. METZENBAUM. To look for particularly egregious situations where I think something is totally out of line or some special deal being made that does not conform with what is proper and appropriate.

I cannot say that that is this amendment, but I wonder whether the manager does not feel that he ought not to accept the responsibility to determine whether this should or should not be accepted, and if he can tell me that it should be accepted, then—well, I will not finish the sentence.

Mr. MELCHER. Will the Senator from Ohio yield?

Mr. METZENBAUM. Sure.

Mr. MELCHER. First of all, the bill was referred to the Rules Committee. That was only a short while ago.

Mr. METZENBAUM. Meaning tonight?

Mr. MELCHER. No. The bill on November 13 and is before the Rules Committee. Both the chairman of the Rules Committee and the ranking member of the Rules Committee have endorsed it, that is, initialed it. The $300,000 that is authorized is totally under their control. This is authorization language. It is not appropriation language. Therefore, I do not think any of the fears that have been expressed by the Senator from Ohio need come about with the acceptance of the amendment. The Rules Committee will determine how much is spent. This merely authorizes up to $300,000 of contingent funds and they would have to OK it.

Mr. METZENBAUM. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. MELCHER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MELCHER. Mr. President, I take it that it is appropriate to give background to the so-called Silver Haired Congress. I will read from my statement on this amendment.

Almost every State has a senior citizen simulated legislative body sometimes called a Silver Haired or Legacy Legislature. These groups have been highly successful and now, through a national steering committee, they are seeking through this resolution to convene representatives in Washington, DC, from every State, beginning in 1989, for a biennial congress to deal with the problems that a larger, older population will face tomorrow.

Through a National Silver Haired Congress, their purpose is to develop an awareness and to provide education, serving as a national forum or sounding board, and to advocate important issues and concerns through a grassroots, nonpartisan body of seniors elected by their peers. The focus will be on national issues as they will affect the larger older population of tomorrow, without regard to race, creed, national origin, or social status.

The National Silver Haired Congress will replicate the National Congress with 435 Representatives elected from each of the congressional districts and two Senators from each State. The elections are planned for May 1988, during Older Americans month. The process will be intergenerational as high school government classes will be involved in conducting the elections. The students will also participate in the local caucuses which will begin developing the issues. Already, 200 high school classes and senior centers have been linked up.

It is intended that the National Silver Haired Congress complement and in no way compete with the White House Conference on Aging which meets every 10 years. In 1991, the year of the next White House Conference, leaders of the Silver Haired Congress plan that it will not formally meet but that members will participate in and otherwise work along with the White House Conference.

Although $300,000 is to be authorized from the contingent fund of the Senate to facilitate the convening of a National Silver Haired Congress, this is intended as one-time funding for startup purposes. The Steering Committee of the National Silver Haired Congress wants it to be self-supporting.

We have seen the enormous success of these senior citizen legislative bodies in the States. As we face dealing with the needs of an aging America, the recommendations of a truly representative, nonpartisan, grassroots, ongoing national forum such as this will be pertinent and valuable.

Mr. President, that is just a short summary of the involvement that has been generated and is the reason why they sought to have their congress here in Washington in 1989.

The States that are involved are not listed but with 48 States that are now participating, and 400 out of the 435 congressional districts already involved, it is apparent that probably every Member of this body has such a group in his own State working toward this national senior citizens congress.

Mr. President, I now yield the floor but before I do I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, I am not speaking on the amendment. I note that it is 8:30, and I indicated to the distinguished majority leader that we would ask on this side that any Members who wanted to call up their amendments let us know by 8:30. I am not certain I said it that way, so if you want to call up an amendment, let us know by 8:45. If you do not want to call up an amendment, we assume that your contacts have gone home, or whatever.

We are down to about 106 amendments now, so we have made a lot of progress. Last time, we had 105, and now it is 106.

Mr. MELCHER. Mr. President, will the Republican leader yield?

Mr. DOLE. I yield the floor.

Mr. MELCHER. Those are various pending amendments?

Mr. DOLE. Yes.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MELCHER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MELCHER. Mr. President, I send a modified amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Is there objection to the modification of the amendment by the Senator from Montana?

The amendment is so modified.

The modified amendment is as follows:

At the end of the joint resolution, add the following new section:

SEC. . (a) The Congress finds that—

(1) States have adopted senior citizen advocacy and legislative bodies;

(2) older Americans are therefore provided opportunity within their States to express their concerns, promote appropriate interests, and advance the common good by influencing legislation and actions of State government; and

(3) a National Silver Haired Congress with representatives from each State would serve as a national grassroots forum to determine on a nonpartisan basis the recommendations for solutions to older American concerns without regard to race, creed, national origin or social status.

(b)(1) The Congress encourages and authorizes the convening of a National Silver Haired Congress in Washington, District of Columbia in 1989.

(2) The Speaker of the House of Representatives and the President pro tempore of the Senate shall facilitate and coordinate the convening of such a Congress.

Mr. MELCHER. Mr. President, there has been quite a bit of discussion over whether or not $300,000 from the Senate contingent fund should be authorized in the amendment I sent to the desk.

I do believe that the group needs seed money, but it is not the purpose of the steering committee for the National Silver Haired Congress to get bogged down on the authorization of funding. They feel capable of generating whatever funds are necessary.

So I modified my amendment not to authorize the $300,000, but merely to recognize them and to encourage their congress here in 1989. This will give them a chance to get rolling, as they would like to, with the elections of representatives on a nonpartisan basis in each congressional district, and two senators from each State, and to get the procedure underway.

For that reason, I urge the Senate to accept the amendment and to permit this, a congress of older citizens, to start organizing themselves for their congress here, in 1989.

Mr. JOHNSTON. Mr. President, this amendment is now acceptable. It urges and encourages the formation of the National Silver Haired Congress. We think it is a good amendment, and we urge its adoption.

Mr. METZENBAUM. Mr. President, I think the amendment is radically improved, without costing anything. I see no problem about encouraging such a congress. I hope that my colleague from Montana, with his beautiful silver hair, will see fit to preside over that group, I am not available.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1320), as modified, was agreed to.

Mr. STENNIS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. JOHNSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1321

(Purpose: To provide for sharing of costs associated with protecting commercial shipping in the Persian Gulf)

Mr. JOHNSTON. Mr. President, I will shortly send an amendment to the desk on behalf of Senator MURKOWSKI and Senator BUMPERS. It is a sense-of-the-Senate resolution which embraces the amendment that the Senator from Arkansas [Mr. BUMPERS] had with respect to requiring the Kuwaitis to pay their share of the costs, and an amendment by Senator MURKOWKSI, which was a sense-of-the-Senate.

It has now been redrawn so as to satisfy all concerns. It is not mandatory. It is a sense-of-the-Congress. The operative sentence is as follows:

> The President of the United States should enter into negotiations with such countries to achieve a pro rata sharing of these burdens.

It has been approved by Senator STEVENS and the other appropriate parties.

I send the amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

> The Senator from Louisiana [Mr. JOHNSTON] for Mr. MURKOWSKI (for himself and Mr. BUMPERS) proposes an amendment numbered 1321.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the joint resolution, add the following new section:

(a) The Congress finds—

(1) that the United States is spending enormous resources in money, manpower and materiel to protect a fleet of Kuwaiti owned tankers,

(2) that the vast majority of oil in those tankers and in other tankers in the Gulf is destined for places other than the United States,

(3) that other nations receive considerably more economic and energy benefits from our efforts than we do,

(4) that Japan, among other nations, is heavily dependent on oil from the Persian Gulf receiving nearly 50 percent of its oil imports from the Gulf,

(5) that nearly 30 percent of Western Europe's oil imports come from the Persian Gulf,

(6) that the United States receives only 6 percent of its oil imports from the Persian Gulf.

(b) It is the sense of the Congress, that, in order to share a portion of the burden of the protection services provided for commercial shipping in the Persian Gulf by the United States Armed Forces—

(1) countries which directly benefit from the United States policy of providing military protection to reflagged Kuwaiti vessels and maintaining freedom of navigation in the Persian Gulf should share in the burdens incurred by the United States Armed Forces in providing such protection;

(2) the President of the United States should enter into negotiations with such countries to achieve a pro-rata sharing of these burdens.

(3) the President should prepare and transmit to the Speaker of the House of Representatives and the President pro tempore of the Senate a report containing:

(A) his assessment of the costs incurred by the United States Armed Forces in carrying out the policy of protecting reflagged Kuwaiti vessels;

(B) his determination as to which countries benefiting directly from the United States reflagging policy including:

(i) Kuwait;

(ii) other oil producing Gulf states;

(iii) countries purchasing Persian Gulf oil;

(C) an accounting of the amount of benefit derived by each of these countries from the United States reflagging policy;

(D) an accounting of any assistance or support such countries are already providing the United States reflagging policy;

(E) a plan apportioning the burden of United States naval protection among those countries directly benefiting from the United States re-flagging policy; and

(F) a discussion of the status of negotiations entered into for the purpose of implementing the plan.

Mr. GARN. Mr. President, this amendment is acceptable to this side.

Mr. MURKOWSKI. Mr. President, I thank my colleagues. I think we have something here that appropriately sends a message and gives the President the latitude necessary.

Mr. President, the amendment previously offered by the Senator from Arkansas contained binding language which would have required the Kuwaitis to pay all the costs of the Persian Gulf Escort Missions. The amendments which I have offered if nonbinding and calls for burden sharing among all the nations which benefit from the Escort Missions. The burden sharing concept in this amendment was entered in recognition of the concerns of my senior colleague from Alaska, Senator STEVENS.

This amendment calls for the President to enter into negotiations with those countries who are deriving the benefits from our Persian Gulf Escort Mission, principally: Japan, Western Europe, and Kuwait to secure a pro rata sharing of the burden.

We have been told that the Escort Missions will cost: $240 million in fiscal year 1988 which equates to $12 million a month or $650,000 a day. A pro rata share of this for Japan would be $120 million in fiscal year 1988. For the Western European countries the amount would be $72 million.

With reimbursement from the Gulf States still left to add we can say that this amendment would yield approximately $200 million in offsetting burden sharing in fiscal year 1988.

This amendment also requires the President to determine the exact pro rata share of the various countries that get the benefits of us reflagging.

The President is also directed to report this to the Congress.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 1321) was agreed to.

Mr. JOHNSTON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. GARN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1322

(Purpose: To express the sense of the Senate that the Army Corps of Engineers must not operate more than four generators at the Harry S. Truman Dam in Missouri)

Mr. JOHNSTON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Louisiana [Mr. JOHNSTON], for Mr. DANFORTH, proposes an amendment numbered 1322.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the joint resolution, add the following:

SEC. . It is the sense of the Senate that the Secretary of the Army shall instruct the Army Corps of Engineers that it may not operate more than four generators simultaneously at the Harry S. Truman Dam and Reservoir, Missouri, in the absence of a plan for operation of the dam approved by the Missouri Department of Conservation and the Missouri Department of Natural Resources.

Mr. JOHNSTON. Mr. President, this amendment has been cleared by the authorizers and the appropriators. It is a sense-of-the-Senate that the Secretary of the Army shall instruct the Army Corps of Engineers that it may not operate more than four generators simultaneously at the Harry S. Truman Dam and Reservoir in Missouri in absence of a program for the operation approved by the Missouri Department of Conservation and the Missouri Department of Natural Resources.

Senator DANFORTH says that this matter is a real emergency. It has been approved and we urge its adoption.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 1322) was agreed to.

Mr. JOHNSTON. I move to reconsider the vote by which the amendment was agreed to.

Mr. GARN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1323

(Purpose: Providing $260,000 for predator control in Montana)

Mr. JOHNSTON. Mr. President, I will shortly send an amendment to the desk on behalf of Senator MELCHER which provides that funds otherwise made available to the Animal and Plant Health Inspection Service in the amount of $260,000 will be used for additional employees and equipment for protection of livestock against predators in Montana. I can assure my colleagues that Senator MELCHER knows about animals. It has been cleared by all the Senators and I am sure will be appreciated by the animals. I urge its acceptance.

I send the amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Louisiana [Mr. JOHNSTON], for Mr. MELCHER, proposes an amendment numbered 1323.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 10, Section (k) at the end of line 14 add the following:

"*Provided further,* That of the funds otherwise made available for the Animal and Plant Health Inspection Service, $260,000 will be used for additional employees and equipment for protection of livestock against predators in Montana."

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 1323) was agreed to.

Mr. JOHNSTON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. GARN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. JOHNSTON. Mr. President, that is the last of our cleared amendments. I think our pipeline is also clear. Well, there may be some in the pipeline that have not been cleared. I hope that we are moving now on toward third reading. I urge Senators in these last few minutes before third reading if they have anything to say to speak now or forever hold their peace.

Mr. MELCHER addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

FUNDING FOR THE OFFICE OF ASSISTANT SECRETARY FOR NATURAL RESOURCES AND ENVIRONMENT AT THE DEPARTMENT OF AGRICULTURE.

Mr. MELCHER. Mr. President, as we consider the fiscal year 1988 continuing resolution, a matter has come to my attention regarding the funding for the Assistant Secretary for Natural Resources and Environment in the USDA's appropriations bill passed by our colleagues in the House of Representatives. The House took an extraordinary and unprecedented action which has the effect of eliminating the funding for the Office of Assistant Secretary for Natural Resources and Environment at the Department of Agriculture.

This subcabinet position has policy and oversight management responsibilities for about 50,000 employees, or almost one-half of USDA. This is a greater number of employees than are managed by most of the Cabinet Secretaries. In addition, this office has responsibility for policy development in carrying out the laws Congress passes with respect to the management of our Nation's valuable natural resources, which include soil and water conservation and the National Forest System lands and environmental laws in general.

The office is a senior subcabinet level position, requiring confirmation by the Senate. It is vital to farmers and ranchers of the Nation to have a subcabinet position in USDA to carry out the laws regarding endangered species, ground water, and nonpoint source pollution, and especially to coordinate on the policymaking level with other departments and agencies of Government involved in the same issues.

The 1985 Food Security Act's conservation title made major changes in agricultural policy, tying conservation practices to price support payments. This policy change seeks to ensure protection of our soil and water for future generations. It is vital that USDA have a subcabinet policy position to carry out the laws which protect our natural resources as well as assist farmers and ranchers in changing cropping practices that will not cause severe economic harm at a time when agriculture is rebounding from some difficult economic times. To assure that this is the case it will require most careful attention in the Office of the Secretary of Agriculture, of a sort that makes an Assistant Secretary with policy management responsibilities for the SCS an absolute imperative. The House action would relegate all such activities to the Secretary himself, which is just impossible.

Also, the Office of Assistant Secretary also has policy oversight for our National Forest System lands which include 191 million acres located in 44 of our States. The national forests provide economic benefits to many communities in our Nation through timber sales and other multiple uses such as recreation, wilderness, and wildlife habitat. Each year countless issues arise which need the personalized and timely attention of a subcabinet level officer. It is simply unsatisfactory to provide that the Secretary of the Department of Agriculture attend to these detailed policy management tasks.

The Senate bill contains funding of $416,000 for the operation of this office which is so important to America's farmers, ranchers, and foresters. It is the hope of this Senator that when the Senate goes to conference with the House, the Senate give its strongest support for the position taken by the Senate Appropriations Committee and ensure that funding continue to be made available for the Office of Assistant Secretary for Natural Resources in the Department of Agriculture.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1324

Mr. JOHNSTON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Louisiana [Mr. JOHNSTON], for Mr. HEFLIN, proposes an amendment numbered 1324.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Amend H.J. Res. 395 by inserting a new subsection at the end of section 101 as follows:

Section 603 of title 28, United States Code, is amended by striking the second sentence and inserting in lieu thereof the following: "The salaries of the Deputy Director and of six additional positions shall be fixed by the Director at rates not to exceed the annual rate of basic pay for positions at level IV of the Executive Schedule under section 5315 of title 5.".

Mr. JOHNSTON. Mr. President, this amendment is proposed on behalf of Senator HEFLIN and is approved by the Judiciary Committee, as well as the appropriate subcommittee chairmen, Senator HOLLINGS and Senator RUDMAN.

The Director of the Administrative Office of the Courts is having exceptional difficulties recruiting top-notch executives for senior positions in the agency due to the lack of availability of an adequate number and level of senior pay grades. What this amendment does is make available to the director six additional supergrades. The cost is estimated to be less than $48,000. No additional funds need be appropriated since the director plans to have the agency absorb the cost. But, according to the director of the administrative office, it is extremely important to be able to attract the outstanding talent, both here and from the field, for the senior executive positions.

As I say, it has been cleared by the Judiciary Committee on both sides and by the appropriations subcommittee.

Mr. COCHRAN. Mr. President, we have reviewed the amendment. It has been cleared on this side of the aisle. No additional funds will be appropriated by this amendment since the director will absorb the cost of this amendment from available funds. We urge that the amendment be adopted.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 1324) was agreed to.

Mr. STENNIS. I move to reconsider the vote by which the amendment was agreed to.

Mr. COCHRAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1325

(Purpose: To limit the use of export control appropriations)

Mr. JOHNSTON. Mr. President, I will shortly send an amendment, which has been cleared all around, on behalf of Senator HEINZ, which provides that no funds in this continuing resolution for the Department of Commerce, Export Administration, under the line item "operations and administration" may be used for the processing or collection of fees charged in connection with the submission or processing of an export license application. It is a technical matter which has been, as I said, cleared by both the appropriators and the authorizers.

Mr. COCHRAN. Mr. President, this amendment actually limits the use of appropriated funds. It has been cleared on this side of the aisle by the Appropriations Committee and the authorizing committee, as well. We urge that it be agreed to.

Mr. JOHNSTON. Mr. President, I send the amendment just described to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Louisiana [Mr. JOHNSTON], for Mr. HEINZ, for himself, Mr. DIXON, Mr. CRANSTON, Mr. BAUCUS, and Mr. DANFORTH, proposes an amendment numbered 1325.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 3, line 13, before the period insert "*: Provided further*, That no funds provided in this Joint Resolution for Department of Commerce, Export Administration, "Operations and administration" may be used for the processing or collection of fees charged in connection with the submission or processing of an export license application.

Mr. JOHNSTON. Mr. President, with the explanation especially given by my colleague from Mississippi, I urge its adoption.

Mr. COCHRAN. We recommend the amendment be agreed to.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 1325) was agreed to.

Mr. COCHRAN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. JOHNSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Are there further amendments? If there are no further amendments, the Chair will go to the third reading.

The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, I am just advised by the leadership staff that Senator BENTSEN had asked that that matter not be cleared, the matter just passed on the export license.

I wonder if we could, by unanimous consent, expunge the action just taken so that we may consult with Senator BENTSEN on that matter?

Mr. President, I ask unanimous consent that the action just taken on the last amendment be vitiated and that the amendment be withdrawn.

Mr. COCHRAN. Mr. President, we have no objection to the request.

The PRESIDING OFFICER. The Chair hears no objection. By unanimous consent, the prior action on the amendment is vitiated.

AMENDMENT NO. 1326

(Purpose: To amend H.J. Res. 395 to provide technical corrections to the Federal-Aid Highway Act of 1987 with respect to a study of Route 219 in New York State)

Mr. COCHRAN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Mississippi [Mr. COCHRAN] for Mr. D'AMATO (for himself and Mr. MOYNIHAN) proposes an amendment numbered 1326.

Mr. COCHRAN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Insert the following at the appropriate place in H.J. Res. 395:

Section 165 of the Federal-Aid Highway Act of 1987 (Public Law 100-17; relating to a cost effectiveness study of upgrading of Route 219) is amended as follows:

(1) Subparagraph (B) of subsection (a)(1) is amended to read as follows:

"(B) between Springville, New York, and its intersection with the New York-Pennsylvania State line;".

(2) Subsection (b) is amended by striking "1 year" and inserting "18 months".

Mr. COCHRAN. Mr. President, the purpose of this amendment is technical in nature. It corrects the provision authorizing a study of Route 219 contained in the highway bill, Public Law 100-17.

The amendment would extend by 6 months the deadline for completing a study of planned improvements to Route 219 and specify that the terminus of these studies include the area from Springville, NY, to the New York-Pennsylvania border.

No new funds are provided by this amendment. The Congressional Budget Office has found that the amendment is budget neutral.

The PRESIDING OFFICER. Is there further debate?

Mr. JOHNSTON. The amendment has been appropriately cleared on this side.

Mr. D'AMATO. Mr. President, CBO has determined that my technical amendment is budget neutral. It would do two simple things:

First, extend—by 6 months—the completion date of a 1-year study of upgrading the New York portion of Route 219. This study was authorized in the highway bill, Public Law 100-17;

Second, specify that the termini of the study are Springville, NY, and the New York-Pennsylvania border. The highway bill contains a conflict on this point between the statute and the conference report.

This amendment has been cleared with both sides of the Environment and Public Works Committee, as well as with the Appropriations Committee.

The extra time—until September 1988, instead of April 1988—will permit a thorough analysis of the economic potential of the proposed project to be done, including interviews with businesses along the entire route.

Due to bureaucratic delays the study was not able to get underway as quickly as had been anticipated.

Federal funds have already been committed to this study—$650,000—and it is in our best interests to allow the time needed to do a good job.

Thank you, Mr. President.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment—No. 1326—was agreed to.

Mr. COCHRAN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. JOHNSTON. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. COCHRAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I have been shuffling back and forth between the two negotiating groups, one dealing with Contra aid and one dealing with Stingers. Progress is being made and I have not been able to keep up with the floor developments.

What is the situation here?

Mr. JOHNSTON. Mr. President, there are four of five amendments in the pipeline to be cleared, getting signatures: I believe the Stinger amendment, the Contra aid, and I understand there is also an amendment dealing with Pakistan by Senator GLENN, but I have heard no word of that in an hour or two. I hope it has been lost in the night. But that has been discussed.

I am just advised that Senator HARKIN may have an amendment on expedited procedures on Contra aid to do away with that.

Mr. BYRD. Well, Mr. President, I am in sympathy, very much in sympathy, with Mr. HARKIN's amendment. But here again, we have run into a situation in which we have a continuing resolution we are trying to get through this evening. I am concerned that on that particular amendment we will run into problems; long discussions. The Senator certainly has a right to call up his amendment and let the Senate see if it can work its will on it.

But I would hope that we would try to continue to move on these amendments we can get agreements on, and the Senator says he has four or five others that we need clearance on. What can we do to get clearance? Do we need a live quorum to get Senators here or what?

I would rather not have that, because I think the discussions on the Contra aid amendment are moving along very well. Some progress is being made. The same can be said for the Stingers, I hope. So I do not want to disturb those discussions, but I do not want Senators to grow faint-hearted at this point, to think because there is nothing going on on the floor at the moment, they may as well go home. I have not come to that conclusion at all.

I would urge Senators not to follow that will-o'-the-wisp.

I have been around here a long time and I have seen things develop in situations like this and I am still hoping they will.

Mr. DOLE. Mr. President, will the majority leader yield?

Mr. BYRD. Yes.

Mr. DOLE. On this side I have asked—we put out two hotlines—those who did not intend to offer their amendments let us know by 8:30 and, second, anyone who did intend to offer amendments let us know by 8:45. It might have been we missed a few there but it will be all right with me.

We think there has been a substantial reduction in the number on this side who intend to pursue their amendments. At least we hope that is the case. We may be in the position in the next few moments to give the majority leader and staff an up-to-date list.

I would hope that the fact that we have not had many calls indicates that Members are not interested enough to be here. I hope they are not going to come over here at 10 o'clock or 11 o'clock and say, "I'm here to offer my amendment," because they have been notified I hope if any have an amendment to come to the floor. Some are here now waiting to offer their amendments. That is fine.

But we hope to be able to give to the majority leader a fresh small list in a few moments.

Mr. BYRD. Mr. President, I thank the Republican leader. This is very helpful.

I think that we ought to soon conclude that we ought to limit the remaining amendments to this bill to three or four of the amendments that negotiations are going forward on, and if Senators have lesser amendments, let us get them offered then, and take them up with the managers and see if we can dispose of them.

I do not think at the moment the lesser amendments are what are creating problems for us. I think we are really waiting on the two or three big amendments to reach center of gravity among those persons who are participating.

In the meantime, if Senators who have amendments would get in touch with the managers, utilize the time to the best advantage because I am fully committed to continuing on. But I am not committed to spending a lot of time on amendments that ought to go on some other bill some other time.

I thank the Senators.

Mr. JOHNSTON. Mr. President, if no one seeks recognition, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. GRAHAM). Without objection, it is so ordered.

Mr. DOLE. Mr. President, let me repeat as I did just a few moments ago. We are in a quorum call. If anybody has amendments on this side of the aisle, and I guess on the other side too—this is a good time to come over here, and I am going to assume on this side if Senators do not show up in the next few minutes they do not have any that they would like to call up because we started notifying Senators about 8:20, 8:25. They have had plenty of time and I know their staff have been very helpful but if that is the case, if they do not intend to offer the amendment, if they can let us know because we are getting down to a rather small number on this side. And we are not encouraging anybody to offer amendments, but some are in the pipeline, as I understand it, the process is being cleared, and there are a couple of Members who cannot be located to clear amendments. That is taking a little time. If they are not in that category and we do not hear within 10 or 15 minutes, I hope we can assume then they do not intend to offer the amendment.

Mr. BYRD. Mr. President, will the distinguished Senator yield?

Mr. DOLE. I am happy to yield.

Mr. BYRD. I thank the Republican leader for the cooperation that he has continued to show throughout this day on the bill.

It has been immensely helpful.

I think that he and I should agree, with the managers, that we are going to join in moving to table amendments the rest of the evening, with the exception of the three or four big amendments. On the Contra aid amendment, I understand that further progress has been made on that amendment; and the Stinger amendment. I am not saying that they should or should not be tabled. But I think we will have to deal with those. Those are two, at least. I do not know whether there is another big amendment or not.

But I would say that Senators with lesser amendments ought to utilize this time to discuss those amendments with the managers of this bill because the managers have been very accommodating in trying to help Members to move their amendments along, if they are not here personally. But there will be a point where we will have to say there are those three, and, beyond those, any other amendments called up we will join and move to table those amendments. They will have had all day.

Mr. JOHNSTON. Will the distinguished majority leader yield?

Mr. BYRD. Yes.

Mr. JOHNSTON. The majority leader, Mr. President, said it very well. We can identify now those amendments which are in the pipeline. The Senator from Ohio, for example, has one on missing children. We know the others that are in the pipeline awaiting signatures.

We know the three big amendments that are seeking approval.

All others very shortly, which are not brought to our attention, I think the right of tabling, and I think the majority leader is correct—should be used. That right will be available, as I understand it, immediately after the amendment is read and before the sponsor of the amendment even has a chance to make his speech. Now is the time to make those speeches. If they are not made now, then we would seek recognition, as the leader or as the floor manager, and move to table immediately so that Senators may get a good night's sleep in order to Christmas shop tomorrow.

Mr. BYRD. Mr. President, I thank all Senators.

Mr. DOMENICI. Mr. President, I wonder if I might engage in a brief dialog with the Senator from Louisiana about the so-called deficit reduction package. I will yield to any Senator who has an amendment. We do not have to do this right now, but anytime.

Does the Senator have time now?

Mr. JOHNSTON. Yes, indeed.

Mr. DOMENICI. Let me say that the distinguished Senator from Louisiana, as well as the chairman of the full committee, Senator STENNIS, were part of the so-called economic summit conference. I think I am correct, am I not, ask my friend from Louisiana, that last night the U.S. Senate completed one aspect of implementing the summit agreement? Obviously, that one—the reconciliation bill—goes to conference. I think most of us know what the economic summit group and the President's negotiators' marching orders are on that.

Am I not correct, however, that in order to complete the package, the President is supposed to get two pieces of legislation: the reconciliation bill as per the summit agreement, without any major amendments that the President does not agree to, and this continuing resolution. Both are supposed to go to the President concurrently so that he can sign both knowing that the economic summit agreement has been complied with. That is generally what we have agreed to and that is why we must finish this bill as well as the other. Am I correct on that?

Mr. JOHNSTON. The Senator is correct. All parties to the so-called summit negotiations at the White House, the leadership on this side of the aisle and on that side of the aisle, have all committed themselves to complete both pieces of legislation, to have both comply with the limits, the spending limits, the spending floors, as a matter of fact, in two cases, and to have it wrapped up in good faith consistent with that agreement. I think we are headed in that direction.

Mr. DOMENICI. I thank the Senator for those comments. I will proceed with one observation and see if my friend from Louisiana agrees.

It is true, is it not, that the House continuing resolution, which came over here, and for which we substituted our bill to go to conference on, does not comply or comport with the summit agreement, either with the defense agreement or with total nondefense expenditures?

Mr. JOHNSTON. The Senator is correct. In defense of the House, I think they really did not have any opportunity to conform that to that agreement. But the Senator is correct, it did not conform to the agreement.

Mr. DOMENICI. Let me correct any inference I might have made that that was ever intended to be an intentional violation of the summit agreement; not at all. We clearly understood the House would have little time to send us a continuing resolution that met the dollar amounts that had been agreed upon.

Now we are going to complete our work and go to conference. If I am correct, our nondefense discretionary bills will not comply in terms of actual dollar amounts to the summit agreement either. They will be, for the most part, in excess of the limitations in budget authority and outlays that we agreed upon. Is that not correct? For the most part, each one would be in excess.

Mr. JOHNSTON. I am not sure that that is correct. I think in one or two instances that may be correct, but, if so, they will be adjusted in conference to meet those targets.

I think the difficulty is that we do not have targets for the conference other than the proportional subcommittee guidance which the Senate will adopt. So we do not exactly have a baseline that binds the House yet. We hope they will accept our guidance, and we will conform the conference agreement on this bill to the summit limits.

Mr. DOMENICI. I might say to my friend, I am not really trying to deceive anyone, or to ask any questions that are untoward. I just want to make the point that the leadership, as I understand it, intends the appropriators to go to conference in order to finish implementing the summit package.

When the appropriations conferees finish, the total numbers for the expenditure side of the continuing resolution for defense, international affairs, and domestic discretionary spending will be adjusted to be consistent in their totality with the agreement arrived at at the summit. Without that, we will not have a full deficit reduction package which requires no more than $5 billion in defense savings, calculated from the Gramm-Rudman-Hollings baseline, and $2.6 billion in outlay reductions from nondefense discretionary spending.

As we go to conference is this the situation as the Senator understands it?

Mr. JOHNSTON. The Senator is correct. Some of the Senate bills were passed prior to the summit conference, and, of course, an additional $2 billion was taken out of domestic discretionary other than function 150, foreign assistance. So we would have to readjust the numbers.

However, in the continuing resolution, there is, by committee, a limit set in the language that conforms precisely to a proportional representation by subcommittee of the summit conference limits.

Mr. DOMENICI. I am fully aware of that, and if I understand correctly, assuming the House would agree to that distribution, each bill, if it were modified in conference to reach the targets as stated in this bill before us, we would achieve the requisite savings.

Mr. JOHNSTON. The Senator is correct.

Mr. DOMENICI. My remarks tonight regarding compliance with the summit agreement have nothing to do with substantive provisions in either the House continuing resolution or ours that might be objectionable to the President. That is aside and apart from the dollar amounts that we have discussed. So I do not want to leave the impression that we only have substantive dollar issues in conference. There are a number of other issues that we all understand are controversial, some of them are objectionable to the White House, and these will have to be worked out.

Mr. JOHNSTON. The Senator is correct. The President's constitutional right to veto bills has not been affected at all by the summit conference.

Mr. DOMENICI. Mr. President, I thank the Senator from Louisiana, and I appreciate this opportunity to discuss this issue. As I understand it, next week is the only time we have to do all this work, and I am hopeful that going into conference we all understand what we have to do. I thank the Chair, and I yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico has yielded the floor. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, it is my understanding there is no amendment pending.

The PRESIDING OFFICER. There is no amendment currently before the Senate.

AMENDMENT NO. 1327

(Purpose: To extend the provisions of certain law relating to the use of official mail in the location of missing children for an additional 5 years.)

Mr. METZENBAUM. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Ohio [Mr. METZENBAUM], (for himself and Mr. ROTH) proposes an amendment numbered 1327.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the amendment that I sent to the desk on behalf of myself and Senator Roth not be read further.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following new section:

SEC. . (a) Section of 5 Public Law 99-87, relating to the use of official mail in the location of missing children, is amended by striking out "two and one-half years after the date of the enactment of this Act" and inserting in lieu thereof "after December 31, 1992".

(b) Section 3(a) of Public Law 99-87 is amended by striking out "Not later than two years after the date of enactment of this Act," and inserting in lieu thereof "Not later than June 31, 1992,"

Mr. METZENBAUM. Mr. President, 2 years ago, I sponsored legislation to authorize the printing of pictures and biographies of missing children on Government mailings. I rise today to offer an amendment that would extend this important program for another 5 years.

Mr. President, we have all heard heart wrenching stories about parents who send their children off to school and then never see or hear from them again. Some children are runaways, some are the victims of parental kidnappings, and still others are abducted by unknown individuals.

In response to this tragic situation, Public Law 99-87 initiated a highly successful program to distribute pictures and information about missing children. In the 17-month period ending May 1987, approximately 111,000,000 self-mailers and 30,000 envelopes bearing pictures of missing children were printed and mailed by the Senate Service Department—73 children from 37 States, Canada, and Mexico have been featured. Astonishingly, the total cost for the Senate program over 17 months was a mere $1,421,76.

Mr. President, although no children have been located as a direct result of the Senate mailings, the response to this program has been excellent—86 Senate offices have participated, and the photographs have generated 20 to 30 calls per week to the toll-free hotline at the National Center for Missing and Exploited Children. The Senate mailings have also inspired other Federal agencies to begin similar programs; 30 agencies are now participating in some type of missing children photograph campaign.

The Rules Committee has suggested several modifications to improve the program's effectiveness, which are now being implemented. First, Senate participation in the program is being extended to children other than those abducted by unknown individuals. Second, the National Center for Missing and Exploited Children will be able to decide every week or two which pictures to run, rather than choosing a year in advance. This will dramatically increase the timeliness of the Senate mailings, which is often critical in missing children cases, and thereby increase the likelihood that the program will be directly responsible for the recovery of missing children.

We must continue our efforts to locate the thousands of children who disappear from their families each year. The Senate has a unique ability to widely disseminate photographs of these missing children and heighten public awareness about this national problem. Therefore, I urge my colleagues to support the extension of this crucial program.

Mr. ROTH. Mr. President, I am certain that every one of my colleagues is aware of the grave situation concerning missing children in this country. We have all heard far too many tragic accounts of youngsters who were last seen walking home from school or playing in a neighborhood park, only to vanish without a trace.

I can think of few experiences worse than that of a parent who must face the trauma and heartache of a missing child. For those parents whose children have been missing for days, weeks, and sometimes even years, there is an added burden. On top of the anger and grief, there is also the feeling of tremendous frustration—the realization that despite the aid of the authorities, their child is still missing.

It is from those feelings of frustration that numerous individuals and groups have directed their efforts to locating missing children. Over the past few years, these efforts have evolved into a nationwide campaign to locate these children, and to educate the public about this serious situation. Many business and community organizations provide information on how to safeguard children from strangers. The faces and histories of missing children that can today be found on posters, grocery bags, the backs of milk cartons, and inserts in utility bills have heightened the Nation's awareness of the plight of missing children.

Mr. President, this bill, which would extend the provisions of Public Law 99-87, provides an additional 5 years for a proven method of educating many more of us to the plight of missing children. It designates that certain portions of material mailed by Members of both the Senate and House and the executive branch agencies contain the photographs and biographies of missing children. In this way, Government continues to join forces with the many private groups and individuals who are directing their efforts to locate missing children. Printing pictures on government mailings is an extremely effective means of dissemination because of the volume and geographic diversity of our official mail. The past success of this program is unquestioned; during a 17-month period ending in May 1987, over 111 million pieces of mail bearing the pictures of missing children were printed and mailed to homes across the country by the Senate Service Department.

It is critically important that every possible means be used to locate the thousands of children missing in this country today. We in public office have the ability to communicate with so many people, so I feel that it is our responsibility to use our resources to make the public aware of this agonizing problem.

Mr. JOHNSTON addressed the Chair.

The PRESIDING OFFICER. Is there further debate? The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, we are advised that the amendment has not been cleared by the appropriate appropriations subcommittee and I hope the Senator would temporarily withdraw the amendment to get the requisite clearance.

Mr. METZENBAUM. Will the manager of the bill be good enough to advise who the parties are? I thought we had cleared it.

Mr. JOHNSTON. I believe that is the legislative branch subcommittee, Senator BUMPERS and Senator GRASSLEY.

Mr. METZENBAUM. I was unaware of that. Mr. President, I ask unanimous consent that the amendment remain pending at the desk and be temporarily laid aside so the Senate may proceed with respect to other amendments.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Rhode Island.

AMENDMENT NO. 1328

(Purpose: to express the sense of the Senate pertaining to funding for programs addressing the needs of low income children)

Mr. CHAFEE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Rhode Island [Mr. CHAFEE] for himself and others proposes an amendment numbered 1328.

Mr. CHAFEE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(a) FINDINGS.—The Congress finds that—

(1) Since America's international competitiveness and future prosperity require national investments in America's children and youth;

(2) Since a growing spectrum of business and economic leaders, including the highly respected Committee for Economic Development, recognize the importance of investing in cost-effective programs that have a proven track record assisting low income children; and

(3) Since one out of five American children live in poverty in this nation, with minority children at even greater risk (more than one in every five black children and more than one out of every three Hispanic children live in poor families);

(4) Since the recent budget summit agreement stipulates that in implementing the budget agreement, essential programs for the poor should be a priority;

(b) SENSE OF THE SENATE—Therefore, be it declared that it is the sense of the Senate that:

(1) to the extent possible, finding for high priority programs for low income and disadvantaged children should be preserved, in determining where to make reductions in order to comply with the spending limitations reflected in the summit agreement between the Joint Leadership of the Congress.

Mr. CHAFEE. Mr. President, this is an amendment on behalf of myself, Senators MITCHELL, MOYNIHAN, NUNN, ROCKEFELLER, HEINZ, DURENBERGER, DANFORTH, DODD, LAUTENBERG, RIEGLE, BRADLEY, SIMON, BENTSEN, BOND, COHEN, GRAHAM, and BINGAMAN.

Mr. President, I am offering this amendment because I believe it is critical for us to recognize the importance of continuing to support those programs that are designed to give our children a good start in life.

Everyone likes to talk about supporting improved health care, better education and child care for our young. We hear those themes constantly in this body. But whether a commitment for improvement accompanies the themes, or whether they will simply merit a paragraph in a speech, is another question altogether.

According to recent Harris public opinion polls, a very large majority of people—as high as 90 percent—want the Government to provide more day care to working mothers, more health care to children and pregnant women, and better education. Slightly smaller percentages, but still a large majority, are willing to increase their taxes to pay for such things.

Perhaps there are some who must be convinced that investing in our children is a sound economic decision. Is there a crisis? Why do we need a larger investment today than we have made in the past? For one simple reason: the future.

The truth is that without a large number of healthy, educated children, we cannot hope to support our economy.

We have always been a bit free with our natural resources in this country. Perhaps we have viewed children as an unlimited resource. We are quickly finding out that they are not.

In 1900, 44 percent of our entire population was under 19. By 1980, that number had decreased to 32 percent, and by the year 2050, it is estimated that children will comprise only 23 percent of the population. Until recently, the future potential work force was so large that we did not have to worry much about children's health care or education. Enough of them came through childhood well educated and healthy that the work force could be filled. However, as the percentage of children decreases, it becomes more important to nurture the entire group.

Why is this so critical to the future? These numbers are important because they have a great deal to do with another important issue: Who is going to support the economy, national defense and Government programs that support the old? In 1900, there were 7 people over the age of 65 to every 100 people of working age—a ratio of about 1 to 15. In 1984, the numbers were 19 to 100—a ratio of about 1 to 5. In 2020, the ratio is projected to be 1 to 3, and by 2050, it will be 1 to 2.

It is time to make the message clear to the investors in our society: We can no longer afford our old "sink or swim" attitude toward children. We have fewer of them to work with.

We cannot afford to let any child be born with a disability that could have been prevented. A good prenatal care package can cost under $1,000. The cost of long-term care for a disabled child in an institution is on average $40,000 each year—more than a million dollars over his or her lifetime. We need to invest in these early intervention programs—including the WIC Program—which reap benefits well beyond their costs.

We cannot afford dropouts: Recent estimates suggest that each year's class of dropouts will cost the Nation more than $240 million in lost earnings and forgone taxes over their lifetime. We now know that children don't really drop out at the age of 16—they actually drop out in elementary school or even earlier, when they fail to get the basic skills they will need to survive throughout their school years. We need to invest more in proven success stories like Head Start and chapter one, which take children who are at risk and arm them with the skills that last a lifetime.

We cannot afford to raise another generation without the proper skills to participate in the work force. If present trends continue, American businesses will confront a severe labor shortage in only a few years. By 1990, the impact of new technologies is expected to drive total private sector demand for employment to 156.6 million jobs—nearly twice that in 1978. If these estimates are only close to the mark, there will be a shortage of over 23 million Americans willing and able to work. And, for the first time in history, the majority of these new jobs will require a postsecondary education. We need to invest in programs like Pell grants that open college and university doors to needy students.

This is the gravity of the problem we face: Where we used to talk of investing in children for the sake of competitiveness, we now talk of investing in children for the sake of survival. The warnings are coming with increasing frequency, increasing urgency, and from voices we cannot ignore. This sense of the Senate resolution has a simple goal—to ask the conferees to put our children, the country's future, as their first priority.

I urge my colleagues in the Senate to support us in that endeavor.

Mr. MITCHELL. Mr. President, I am pleased to join with Senators CHAFEE, MOYNIHAN, NUNN, DODD, HEINZ, DURENBERGER, ROCKEFELLER, DANFORTH, and others in offering this amendment to express the sense of the Senate that funding for high priority programs for low income and disadvantaged children should be preserved when the conferees meet to make spending reductions and to resolve the differences in the two continuing resolutions.

Mr. President, I believe this amendment is straightforward and not controversial. It basically says that as we seek to meet the targets set in the budget summit agreement that we place priority or give full consideration to funding those programs that most help low income and disadvantaged children.

Responsible budget and deficit reduction efforts are long overdue. The summit agreement followed by the reconciliation bill approved early this morning were two giant steps toward that end. However, we would be remiss if we underestimated the importance and impact of Federal assistance to children.

Today, children are more likely than any other group to live in poverty. The poverty rate for children has escalated from 14.9 percent in 1970 to over 20 percent in 1986. While children comprise about 26 percent of the U.S. population, as a group they comprise 40 percent of the poverty population. Today, 1 out of every 5 children lives in poverty.

While the Census Bureau reported that the number of families in poverty declined slightly between 1985 and 1986, families who were poor fell deeper into poverty. The poverty gap—the amount by which the incomes of the poor fell below the poverty line—rose in 1986 even though the poverty rate fell.

Despite the fact that the unemployment rate is currently 5.8 percent, the lowest since mid-1979, poor families now fall further below the poverty line than at any other time since 1963—with the sole exception of the recession and high unemployment years of 1982 and 1983.

When all programs transferring income from one group to another are taken into account, there has been a substantial difference for one major group of poor—the elderly. The poverty rate for those over 65 dropped from 25 percent in 1970 to 12.4 percent in 1986. Why? Because Congress has taken a stance to ensure that priority be placed on programs addressing the needs of the elderly.

I believe it was my colleague from New York, who said in his recent book "Family and Nation," that if the quality of a civilization can be measured by how it cares for its elderly; the future of a society can be forecast by how it cares for its young.

Already there are disturbing trends affecting our children.

One in five lives in poverty.

One in five is at risk of becoming a teenage parent.

One in six lives in a family where neither parent has a job.

One in two has a mother working outside the home, but only a fraction receive quality child care.

One in seven is at risk of dropping out of school.

In addition, there is growing recognition that this Nation could face a serious shortage of educated and otherwise qualified workers for the kind of labor market necessary to maintain and increase America's competitiveness.

Over the last 6 years, domestic discretionary spending has declined from 25 percent of the Federal budget to 17 percent. Some programs designed to aid low-income families have been particularly hard hit such as our low-income housing programs which have been cut over 70 percent since 1981.

Other programs designed to specifically help poor children barely touch their eligible populations—such as the chapter 1 compensatory education program which receives only 45 percent of eligible children and the title XX social service block grant—the largest single cash program for child care—yet in Maine it reaches less than 5 percent of eligible children.

Mr. President, I urge that my colleagues approve this amendment and give serious consideration to funding programs addressing the needs of poor and disadvantaged children and youth. It is vitally important to reduce the deficit, but at the same time, we must do it in a way that does not shortchange our children and the future of this Nation.

Mr. HEINZ. Mr. President, President Reagan and the joint leadership of Congress stated that when the budget summit agreement was implemented, essential programs serving the poor must be given priority. This amendment simply reminds us of our commitment to the Nation's 13 million poor children and their families.

Reducing the Federal budget deficit is one of this Nation's most critical issues. But, in our rush to pass this massive spending bill, we should not lose sight of our other priorities and concerns.

The conferees on the continuing resolution will be asked to cut $2.6 billion from domestic discretionary accounts. As the conferees seek to identify these reductions, we want them to be mindful of the Senate's commitment to the poor and disadvantaged.

I would like to mention how some of the problems of the poor and disadvantaged are addressed in this appropriations bill:

The national crisis of high school dropouts is robbing our workplace of the educated, skilled workers we know are needed both today and tomorrow. Students are dropping out at a rate of at least one every minute. Education programs such as chapter 1, math and science, and Head Start await funding.

Mr. President, there must be Federal leadership to address and meet the needs of disadvantaged students. We need to strengthen our efforts to prevent students from dropping out. This should remain high on our list of national priorities.

More than 1 million Americans are on waiting lists for public housing across this Nation. Of those who are fortunate enough to live in public housing, most live at half of the national poverty level—between $5,000 and $6,000 for a family of four this year. The Senate has yet to pass a housing conference report. Since we are unable to house all those currently eligible, the least we can do is to preserve funds for our existing housing program.

Proper prenatal care prevents the tragedy of infant mortality and low birthweight. Yet, each day in America 100 babies will die because they are too small to survive. Experts tell us that perhaps two-thirds of these tragedies could be avoided if all mothers received care beginning early in pregnancy. The special supplemental feeding program for women, infants and children [WIC] provides food packages and baby formula for poor pregnant women and their young children. One-hundred and eighty thousand needy mothers and children received food and counseling through WIC in my home State of Pennsylvania this year alone. We have the highest infant mortality rate in the industrialized world. Cuts in essential health and nutrition programs should be at the bottom of our list.

Mr. President, these are just a few of the many critical domestic programs to protect the poor that are included in the continuing resolution before us. This amendment echoes the budget summit agreement's commitment to these essential programs. I am pleased to join Senators CHAFEE and MITCHELL and others in offering this amendment and urge its immediate adoption.

Mr. CHAFEE. Mr. President, this has been cleared with all the respective subcommittee individuals, chairmen and ranking members. Those are Senators CHILES, WEICKER, BURDICK, COCHRAN, BENTSEN, and PACKWOOD. Therefore, I seek passage of the amendment.

The PRESIDING OFFICER. Is there any further debate?

The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, I have only recently seen the amendment, but based upon the fact that this is a sense-of-the-Senate resolution which the distinguished Senators says has been cleared on all sides, we will allow it to proceed.

Mr. CHAFEE. I seek a little more enthusiasm than that.

The PRESIDING OFFICER. The Senator from Florida in his individual capacity would like unanimous consent to be listed as a cosponsor.

Without objection, it is so ordered.

Is there any further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 1328) was agreed to.

Mr. CHAFEE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. GARN. I move to table the motion to reconsider.

The motion to lay on the table was agreed to.

Mr. JOHNSTON. Mr. President, is anyone seeking recognition?

Mr. HELMS. I was going to offer an amendment but go right ahead.

Mr. JOHNSTON. I was simply going to suggest the absence of a quorum unless the Senator wishes recognition.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. I thank the Chair. I thank the distinguished Senator from Louisiana as well.

Mr. JOHNSTON. Will the Senator withhold just one monent?

Mr. HELMS. Certainly.

AMENDMENT NO. 1325

Mr. JOHNSTON. Mr. President, earlier we ageed to and reconsidered and laid on the table an amendment by Mr. HEINZ with respect to export control of appropriations. Because Senator BENTSEN had indicated some objection to that clearance, we expunged that from the record. That has now been cleared. I ask that the matter be reproposed at this time and immediately considered.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Louisiana [Mr. JOHNSTON], for Mr. HEINZ and others, proposes an amendment numbered 1325.

Mr. JOHNSTON. Mr. President, this is the amendment previously discussed and the objection has now been removed.

Mr. CRANSTON. Mr. President, I am pleased to join as a cosponsor of this amendment by Senator HEINZ to prohibit the Department of Commerce from imposing a fee for the processing of export license applications. As you know, the administration called for the imposition of numerous user fees in the proposed budget for fiscal year 1988. One such fee would be on export licenses. Not only is such a fee a bad idea, it is directly opposed to congressional intent.

The current export licensing policy is a significant impediment to our country's overall competitiveness. As yesterday's trade statistics made abundantly clear, we must take actions to make our businesses more competitive, not stifle them. At a time when the Government should be encouraging exports, a licensing fee would be the worst possible message to send to our exporters.

Mr. President, I worked closely with Senator HEINZ and our colleagues on the Banking Committee last spring to reform our export control system so as not to impede exports needlessly. Much of our work was based on an outstanding report by the National Academy of Sciences titled, Balancing the National Interest: U.S. National Security Export Controls and Global Economic Competition. I do not question the need for national security export controls, but our current system has gotten out of control.

The Commerce Department has been doing its best to clean up the system. In fact, I am pleased with the progress that has been made to implement an electronic submission system of licenses. This will eliminate tremendous amounts of paperwork and will speed up the licensing process. While this will be of great benefit to exporters in California and throughout the Nation, we must keep in mind that individual exporters will have to pay a fee to hook up to this system. To add an additional fee for processing licenses would be excessive, and might even prevent exporters from availing themselves of this system. Many small companies would lose the opportunity to make overseas sales.

Mr. President, when the Banking Committee was marking-up its portion of the trade bill, I cosponsored an omnibus amendment which included a prohibition on licensing fees. That amendment was adopted by the committee, and was part of the final trade bill passed by the full Senate. A similar provision is in the House-passed trade bill. Congress has already addressed the issue, and clearly rejects imposing a fee on export licenses.

Mr. President, several Members of the Senate and House of Representatives became concerned recently when we heard rumors that Commerce was going forward with plans to impose the fee, regardless of the congressional prohibition, since the trade bill was not yet law. A letter from the Office of Management and Budget to then Acting Secretary of Commerce, Bruce Smart, states that, since "You expect the trade bill, which now carries prohibitions against the fee, to be vetoed," Commerce is expected to implement the fee by January 1, 1988.

We wrote the Department to express our opposition to any such plan and recently received a response from Secretary Verity saying, "We have deferred implementation pending action on the omnibus trade bill." Nevertheless, we are not told that OMB is still insisting that Commerce proceed with the fee.

Mr. President, this amendment is very simple. It merely reiterates what the Congress has already stated and makes it absolutely clear to the administration that there should be no fee imposed for the processing of export license applications.

The PRESIDING OFFICER. Is there any further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 1325) was agreed to.

Mr. JOHNSTON. I move to reconsider the vote by which the amendment was agreed to.

Mr. GARN. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. JOHNSTON. I thank the Senator from North Carolina for yielding.

The PRESIDING OFFICER. The Senator from North Carolina.

AMENDMENT NO. 1329

(Purpose: To ensure that appropriations are obligated or expended after February 15, 1988 unless authorizations for appropriations for the State Department have been approved.)

Mr. HELMS. Mr. President, I send an amendment to the desk and ask it be stated.

The PRESIDING OFFICER. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from North Carolina [Mr. HELMS] proposes an amendment numbered 1329:

On page 3, line 6, after *"Provided,"* insert the following:

"That none of the funds appropriated for Title III shall be obligated or expended after February 15, 1988 unless prior to that date, the Conference Report on H.R. 1777 (the Foreign Relations Act, Fiscal Years 1988 and 1989), the authorization for such appropriations, has been approved: *Provided further,*".

Mr. HELMS. Mr. President, I am not going into a long dissertation on this amendment.

On Tuesday of this week, the conferees agreed on the authorization bill for the State Department, and now there is concern both among House conferees as well as Senate conferees that there is some hanky-panky going on in Foggy Bottom to prevent this bill from becoming law. The conference report is a good one. It represents compromises on both sides and all philosophies. It does a lot of good things.

It is my understanding that both sides have agreed to this amendment. I would inquire if that is the case. I know it has been approved on this side. I ask the distinguished Senator from Louisiana if he is prepared to accept it.

Mr. JOHNSTON. Mr. President, do I understand that this amendment would make the appropriations in this bill contingent upon the authorization bill being signed into law?

Mr. HELMS. That is correct.

Mr. JOHNSTON. Mr. President, I am advised that the Appropriations Committee strongly objects to this. I am also advised that there is a good possibility that that authorization bill will be vetoed, and so if the Senator must persist in his amendment—must he? Would the Senator consider withdrawing his amendment?

Mr. HELMS. I must say respectfully to my friend that I do not want to do that. So I shall proceed with the discussion of the amendment.

Mr. JOHNSTON. Mr. President, I think I have the floor.

Mr. HELMS. The Senator is welcome to it. I can get it anytime when he is finished.

Mr. JOHNSTON. I was simply asking the Senator a question.

Mr. President, it is the kind of amendment that could spark a very long and lively debate and could never be, I think, agreed to. I think probably the best way to get a resolution of the matter is to move to table this amendment, unless the Senator wishes a reasonably short debate.

Mr. HELMS. I do not intend to prolong it, but I know the Senator would afford me the opportunity to discuss the amendment.

Mr. JOHNSTON. I do not want to cut the Senator off. How much time would the Senator want?

Mr. HELMS. I am not going to take long. But I do not want to give myself any limit. I will say this to the Senator. He will save time by letting me proceed.

Mr. JOHNSTON. Mr. President, I respect the Senator, and I do not want to take away from him his right to proceed. But I hope he will also respect the Christmas season and not go too long. So I yield the floor.

Mr. HELMS. I say to the Senator I think he will be satisfied with the length of time that I shall take.

Mr. President, during the consideration of the State-Justice-Commerce appropriation bill on October 15, I offered an amendment to provide a 10-percent withholding of State Department funds until an authorization for appropriation for such programs had been enacted. At that time, certain officials within the State Department were already orchestrating a strategy to block enactment this year of a State Department authorization bill which the Senate passed, as I say, in early October.

That activity from Foggy Botton persists, Mr. President. The conference committee on H.R. 1777, the Foreign Relations Authorization Act for fiscal years 1988 and 1989, has been completed. We expect that report to be filed no later than Monday, perhaps earlier and acted upon before adjournment next week.

All of the conferees spent long hours and many days in resolving more than 170 items of disagreement between the House-passed and the Senate-passed bill. Now here comes the State Department again. Incidentally, the State Department virtually abstained from participation in the conference, instead wishing to develop a strategy for killing the conference report. The reports that I have, and similar reports have come to Members of the House, are that they are going to try to persuade the President to pocket veto the bill.

I have talked with the chairman of the House Foreign Affairs Committee and other members of the conference. As is typical in any conference, nobody came away with everything he or she wanted for either the House position or the Senate position. However, the conference report is a good one. For example, it provides for the closing of PLO offices in the United States. That was one of the more controversial——

The PRESIDING OFFICER. The Senate will be in order. The Senator from North Carolina.

Mr. HELMS. I thank the Chair. That was one of the more controversial amendments.

At any rate, Mr. President, the pending amendment will ensure that an authorization for the State Department will be approved by February 15, 1988 in order for the appropriations under the bill to be made available.

Somehow, we have to send a message to all bureaucrats, whether they be the State Department bureaucrats or bureaucrats in any other Department or Agency or Commission, that they cannot and must not interfere in the process of the conference. That is clearly what they want to do, because they do not like any inhibitions on their activities and both the House and the Senate voted to place some, not enough, in my judgment, but a substantial number. They were reasonable inhibitions, and they ought to be put into effect.

I hope the Senator will not move to table the amendment. If he does, that is all right. We will at least have a recorded vote on how Senators stand on the roughshod treatment that the State Department is giving the Congress of the United States.

So, Mr. President, I ask for the yeas on the amendment.

Mr. PELL addressed the Chair.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. PELL. Will the Senator yield?

Mr. HELMS. Yes.

Mr. PELL. Would the Senator be kind enough to put me on as a cosponsor? I think this is a fine amendment.

Mr. HELMS. I will be honored to put the distinguished chairman of the Foreign Relations Committee on as a cosponsor.

The PRESIDING OFFICER. Is there further debate?

Mr. HELMS. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the yeas and nays be vitiated.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JOHNSTON. Mr. President, my position on this is derivative of other Senators, Senators HOLLINGS and RUDMAN, who I thought were immediately on their way up. If they are not here within a moment or two, I think perhaps I would not be in a position further to oppose the amendment; but for the time being, Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, I suggest that we vote.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 1329) was agreed to.

Mr. HELMS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. JOHNSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HELMS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1330

(Purpose: To change the description of a highway project authorized under the Surface Transportation and Uniform Relocation Assistance Act of 1987)

Mr. JOHNSTON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Louisiana [Mr. JOHNSTON], on behalf of Mr. DOLE, proposes an amendment numbered 1330.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the joint resolution, add the following:

SEC. . Paragraph (72) of section 149(a) of the Surface Transportation and Uniform Relocation Assistance Act of 1987 (101 Stat. 192) is amended to read as follows:

"(72) DOUGLAS COUNTY, KANSAS.—The Secretary shall carry out a highway project in Douglas County, Kansas, to demonstrate methods of reducing traffic congestion and facilitating the usage by motorists on the Interstate System of recreational facilities by construction of a limited access road of approximately 14 miles in length which, at its western terminus, will provide access from an east-west Interstate highway route to a reservoir and a University research park, will proceed easterly around the southern portion of the city of Lawrence and, at its eastern terminus, will provide access to a business park and a limited access east-west State highway.".

Mr. JOHNSTON. Mr. President, this amendment is proposed on behalf of Senator DOLE and would clarify a description of a highway demonstration project for Douglas County, KS, which was contained in the highway bill that was passed earlier this year.

Mr. DOLE. Mr. President, this amendment would clarify the description of a highway demonstration project for Douglas County, KS, which was contained in the highway bill that passed early this year. Section 149(A)(72) of the 1987 Surface Transportation Act contained an inaccurate description of the South Lawrence Trafficway. As a result, the entire amount of money—slightly over $7 million is only authorized to be applied to a 4-mile segment. This portion of road does not by any stretch of the imagination cost that much to build. Therefore, this amendment is in the nature of a technical correction that would clarify the description of the South Lawrence Trafficway, so that the $7 million could be spent on the project as a whole, as originally intended—and not just this 4-mile segment. There is no budget impact, and I ask that my colleagues accept this amendment, which would greatly help the community of Lawrence, KS.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1330) was agreed to.

Mr. JOHNSTON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the names of Senators STEVENS, BAUCUS, and HECHT be added as original cosponsors of the Domenici amendment regarding firefighter reimbursement, which was adopted by the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1331

(Purpose: To permit Southwest Airlines to provide service between Love Field, Texas, and Wichita, Kansas)

Mr. GARN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Utah [Mr. GARN], on behalf of Mr. DOLE, proposes an amendment numbered 1331.

Mr. GARN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the joint resolution, add the following:

SEC. . Effective on and after the date of the enactment of this Act, the provisions of section 503 of the Aviation Safety and Noise Abatement Act of 1979 shall not be applicable in connection with the providing of service from Love Field, to Wichita, Kansas.

Mr. GARN. Mr. President, this amendment would permit Southwest Airlines to provide service between Love Field, TX, and Wichita, KA.

The amendment has been cleared by all the necessary chairmen and ranking minority members.

Mr. JOHNSTON. Mr. President, the amendment has been appropriately cleared.

Mr. DOLE. Mr. President, section 503 of the 1979 Aviation Safety and Noise Abatement Act, Public Law 96-193, prohibits an airline which serves Love Field in Dallas from flying to destinations outside States contiguous to the State of Texas. It is my understanding that this language was originally used to force airlines to leave Love Field and serve Dallas-Fort Worth Airport.

Since this provision was enacted, most airlines have indeed moved to Dallas-Fort Worth. However, Southwest Airlines has maintained a market niche by continuing to serve Love Field, which is more convenient to downtown Dallas, but they cannot fly to destinations outside States contiguous to Texas without first landing in one of those States.

Southwest Arilines has indicated that they would be willing to serve Wichita, KS, with eight flights per day if they could serve the city directly, without first being required to land in Oklahoma City. People flying between Wichita and Dallas have paid huge fares for indirect flights for many years. This is clearly not an efficient way to travel, and the lack of direct, moderate-fare air service to and from Wichita has been a major deterrent to the economic development of southeast Kansas. For many years, agriculture, oil and airplanes have comprised the major industries in Kansas. Attracting new businesses and industry has been difficult because of the lack of direct air service to and from Wichita. This amendment would greatly assist this economically distressed region of my home State of Kansas by allowing more efficient air travel.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 1331) was agreed to.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. GARN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1332

(Purpose: Earmark up to $372,000)

Mr. JOHNSTON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Louisiana [Mr. JOHNSTON] for Mr. BENTSEN proposes and amendment numbered 1332.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(A) The Secretary of Labor is authorized to make available from funding provided by this Act and Authorized by Title IV, Part B of the Job Training Partnership Act such funds as are necessary to match a Federal Aviation Administration grant to the city of San Marcos, Texas, for the functional replacement of buildings and other facilities at the Gary Job Corps Center, San Marcos, Texas: Provided, that funding made available by this Act for this purpose shall not exceed $372,000. Such funds are necessary to facilitate the transfer of 37 acres, more or less, at the Gary Job Corps Center to the city of San Marcos, pursuant to Section 516 of the Airport and Airway Improvement Act of 1982, as amended (by pending legislation: H.R. 2310/S. 1184, awaiting conference) for development of the San Marcos Municipal Airport.

(B) Notwithstanding any other provision of law, the Secretary of Transportation is authorized, pursuant to Section 505(a) of the Airport and Airway Improvement Act of 1982, as amended (by pending legislation), to issue a grant to the city of San Marcos, Texas, for the functional replacement of buildings and other improvements at the Gary Job Corps Center, San Marcos, Texas; such functional replacement shall be considered as airport development as defined in Section 503(a)(2) of said Act; further, costs for such functional replacement shall be allowable costs, notwithstanding any provision of Section 513(c) of said Act; funds authorized in Subsection (A) of this Section may be used to provide the needed matching share of the cost of such functional relocation, notwithstanding any provision of Section 510 of said Act.

(C) For the purpose of this Section, no federal funds used for such functional replacement shall be considered as an expense to the United States as that term is used in Section 516 of the Airport and Airway Improvement Act of 1982, as amended (by pending legislation).

(D) The 37 acres referenced in Subsection (A) of this Section are defined as follows: (as described in Attachment 1A).

A tract of land being that part of the Job Corps site located south of and adjacent to the aircraft apron of the San Marcos Airport, Caldwell County, Texas. This tract is more particularly described in the following paragraphs.

Beginning at the northwest of the Job Corps site which is located near the south edge of the aircraft apron, and is approximately 100 feet northeasterly of the old control tower;

thence east along the north boundary of the Job Corps site an approximate distance of 1,850 feet to a point in the aircraft apron;

thence northeasterly along a line perpendicular to the center line of runway 12-30 an approximate distance of 150 feet to a point which is approximately 750 feet from the said center line;

thence southeasterly along a line in the aircraft apron and parallel to the said center line an approximate distance of 1,500 feet to a point near the southeast edge of the said apron;

thence southwest along a line perpendicular to the said center line an approximate distance of 400 feet to a point;

thence northwest along a line parallel to the said centerline an approximate distance of 150 feet to a point which is on a extension of a line northeasterly along 10th Street;

thence southwest along the said extension an approximate distance of 200 feet to a point;

thence northwest along a line parallel to the southwest side of the large solitary hangar between 9th Street and 10th Street and passing along the southwest side of this hangar an approximate distance of 700 feet to a point which is on an extension of a line northeasterly along 9th Street;

thence southeast along the extension of the line along 9th Street an approximate distance of 250 feet to a point on the southeast line of Kane Avenue East;

thence northwest along the southwest line of Kane Avenue East an approximate distance of 650 feet to an angle point in Kane Avenue;

thence west along the south line of Kane Avenue an approximate distance of 2,800 feet to a point on the northwest boundary of the Job Corps site, which is on the northwest side of Kane Avenue West;

thence northeast along the said northwest boundary an approximate distance of 50 feet to a point on the north boundary of the Job Corps site;

thence east along the north boundary of the Job Corps site, which is along the north side of Kane Avenue, an approximate distance of 1,250 feet to an angle point in the boundary;

thence north along the boundary an approximate distance of 150 feet to an angle point in the boundary;

thence east along the boundary an approximate distance of 250 feet to an angle point in the boundary;

thence north along the boundary an approximate distance of 300 feet to an angle point in the beginning.

Mr. BENTSEN. Mr. President, this amendment gives the Secretaries of Labor and Transportation the tools they need to assist the citizens of San Marcos, TX enhance their economic base. It provides, in essence, that the Secretaries may use their discretionary authority to allocate existing funds for airport expansion and replacement of buildings for the Job Corps in the area. What it involves is the transfer of land from the Job Corps near and around the airport to the city of San Marcos. This amendment does not appropriate any funds. The administration has been helpful in developing the amendment, and I have appreciated the assistance of the various committees involved in the process.

I thank my colleagues for their interest in helping this community.

Mr. JOHNSTON. Mr. President, this amendment, submitted on behalf of Senator BENTSEN, which has been appropriately cleared on both sides, transfers certain Job Corps properties to the San Marcos, TX, Municipal Airport.

The PRESIDING OFFICER. Is there further debate?

If not, the question is on agreeing to the amendment of the Senator from Louisiana.

The amendment (No. 1332) was agreed to.

Mr. BENTSEN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. JOHNSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr CHAFEE. Mr. President, this continuing resolution presents an opportunity to make budgetary decisions the way we always say we should—by setting priorities, rather than by simply slicing from off the top. I'd like to urge our conferees to avail themselves of this opportunity, after taking a good close look at the priorities that the Senate itself has already established as part of this year's budget and appropriations process.

One can hardly look at our work in this regard without coming to the conclusion that we in the Senate had made a considered decision to treat education as a priority. In May, we passed a congressional budget resolution which clearly distinguished education as a priority item, by including modest increases in programs which clearly are winners—the proven success stories in education. In October, we passed a Labor-HHS appropriations bill which translated these budgetary assumptions into higher funding levels.

Thus, at every stage of the budget and appropriations cycle, the Senate has demonstrated a commitment to investing in education. In my view, it would be unfortunate to abandon this objective now, at the 11th hour, when all year long we have been talking about investments in education as a national priority, a cost-efficient investment, and the key to our future prosperity.

The need for that investment is no less critical now than it was than when we made these decisions. We are facing an education gap which will widen even if we just maintain our current level of effort. As the world grows more complex, jobs grow more complex. At every level, the workers of the future will need vastly greater skills than their counterparts of today. In this, we find ourselves in the position of someone attempting to run up a down escalator.

I would, therefore, urge our Senate conferees on this measure to treat education as a priority item. This means taking advantage of opportunities to make room for growth in education accounts, in order to preserve the funding levels which the Senate has recommended for education in the budget and in H.R. 3058, the Labor-HHS appropriations bill we passed in October. This would simply be to act upon the intent that the Senate has clearly and repeatedly enunciated throughout this year's budget and appropriations process.

The passage of legislation to implement the leadership budget amendment, as reflected in this bill and in the reconciliation bill we adopted last night, will help us to avert a sequestration under the Gramm-Rudman law. A sequestration would result in deep cuts to education and other priority programs. In achieving the savings envisioned by the budget agreement, it is my hope that the conferees to this continuing appropriations bill will not be guided by an across-the-board approach.

Mr. President, I suggest the absence of a quorum.

The **PRESIDING OFFICER.** The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

AMENDMENT NO. 1327

Mr. METZENBAUM. Mr. President, regular order, please.

The **PRESIDING OFFICER.** Regular order is the Metzenbaum amendment No. 1327.

Is there debate?

Mr. METZENBAUM. Mr. President, I spoke to this amendment before. It had not been cleared. It was brought to my attention. Now it has been cleared. I think it is agreeable on both sides.

Mr. JOHNSTON. Mr. President, will the Senator yield?

Mr. METZENBAUM. I yield.

Mr. JOHNSTON. Will the Senator tell me with whom he cleared the amendment?

Mr. METZENBAUM. I cleared the amendment with Senator GRASSLEY, Senator BUMPERS, and Senator FORD has also cleared on as chairman of the Rules Committee, and Senator GLENN, Senator BYRD, and Senator ROTH, and I think there are two Members of the Senate I have not cleared it with yet, but I will get those cleared with, too, if you want me to.

Mr. JOHNSTON. Mr. President, I think the air is now cleared and we are ready.

The **PRESIDING OFFICER.** Is there any further debate?

If not, the question is on agreeing to the amendment of the Senator from Ohio.

The amendment (No. 1327) was agreed to.

Mr. METZENBAUM. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. JOHNSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER OF PROCEDURE

Mr. BYRD. Mr. President, I have just left two of the negotiations that have been going on. I think we have resolved those negotiations on the two items and I think we are just about ready to begin on the amendment involving Stingers. I think that we have worked out a resolution that will enable us to act on that amendment within 30 minutes and hopefully less and hopefully do it by voice vote.

As to negotiations on Contra aid, when I went to see if they were talking about Stingers, the Contra aid Senators left. But I understand they have reached some kind of agreement. I am not positive.

So I think we are ready to begin rolling on the big ones. I thank all Senators for their patience.

The **PRESIDING OFFICER.** The Senator from Washington.

Mr. ADAMS. Mr. President, at this time I have fnally cleared my amendment, I say to the managers of the bill, the amendment which was listed and which was the amendment I had to speak to. I cleared this with Senator GARN. I cleared this with Senator SYMMS, Senator HATFIELD, Senator PACKWOOD, Senator INOUYE, Senator HOLLINGS, and Senator METZENBAUM.

I would appreciate if this might be acted on before the Stinger amendment.

Mr. JOHNSTON. I do not think it has been approved by Senator BYRD yet.

Mr. ADAMS. Yes, it has. It has been approved by everybody I know of.

The **PRESIDING OFFICER.** The Senator from Washington has he proposed his amendment?

Mr. ADAMS. I yield to the manager of the bill to propose the amendment.

Mr. JOHNSTON. Mr. President, the amendment to be proposed on behalf of Senator ADAMS provides that no funds appropriated to the Federal Communications Commission shall be used prior to March 22, 1988 to accept or grant any application to construct or operate cellular systems in rural service areas. The amendment speaks for itself and has been approved on all sides.

AMENDMENT NO. 1333

(Purpose: to delay appropriation of funds to accept or grant any applications to construct or operate cellular systems in rural service areas)

Mr. JOHNSTON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The **PRESIDING OFFICER.** The clerk will report the amendment.

The assistant legislative clerk read as follows:

> The Senator from Louisiana [Mr. JOHNSTON], for Mr. ADAMS, proposes an amendment numbered 1333.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

The amendment is as follows:

> On Page 3, at the end of line 13, add the following: Provided further, that no funds appropriated to the Federal Communications Commission shall be used prior to March 22, 1988 to accept or grant any applications to construct or operate cellular systems in rural service areas.

Mr. ADAMS. Mr. President, it is only with the cooperation and assistance of my good friends, Mr. HOLLINGS, Mr. INOUYE, Mr. DANFORTH, and other colleagues of the Senate Commerce Committee, that I stand before you offering this simple amendment. We have worked to fashion a solution to this complex question. The gist of what we have worked out is to propose a delay of the anticipated Rural Service Area [RSA] cellular authorization lottery process. As the Senators are aware questions have been posed as to whether the lottery process is the most efficient and effective means to award such authorizations. To provide for careful consideration and assure that we provide the best system to the rural American consumer, we believe that a delay in the process is a reasonable request.

Mr. INOUYE. Mr. President, my friend from Washington has come to me with this proposal which I found reasonable and worthwhile. I agree that on balance, this is a short time for us to take while my subcommittee carefully assesses all pertinent information related to this new industry. As the Senators are aware, cellular phone systems are a very recent development. It seems to me that a short delay will allow time for interested parties to participate in the deliberation process.

Mr. ADAMS. Mr. President, I thank my friend from Hawaii for his continued assistance in this complex area of new technological development. I also agree with my friend that all interested parties must participate in the deliberation process over the coming months. I would assume that such deliberation will include committee hearings on a bill I will introduce shortly concerning the cellular authorization lottery process. Further, if necessary, legislation may be developed to meet the needs of both the consumer and the industry.

Mr. INOUYE. The Senator's assumption that deliberation in this context means committee hearings on the cellular authorization lottery process and if necessary, pertinent legislation, is correct.

Mr. ADAMS. Mr. President, I would also ask the chairman of the subcommittee if such hearings could be held on January 26, 1988 of next year. This will assure us that we meet the deadline.

Mr. INOUYE. Mr. President, it will be possible to hold committee hearings on the date specified by the Senator from Washington State. I agree that to meet this deadline, a hearing should be held as soon as possible.

Mr. President, I thank the Chair of the Communications Subcommittee for all his help and assistance in this matter. I look forward to working with him further on this issue in the future.

Mr. President, I yield to my good friend Mr. SYMMS who wishes to have an item printed in the RECORD concerning this issue.

Mr. SYMMS. Mr. President, I thank the Senator from Washington.

Mr. President, I ask unanimous consent to have printed in the RECORD a letter which expresses my early concerns.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. INDEPENDENT
CELLULAR TELEPHONE ASSOCIATION,
Washington, DC, December 9, 1987.

Senator STEVE SYMMS,
U.S. Senate,
Washington, DC.

DEAR SENATOR SYMMS: I am writing on behalf of the more than 1,000 members of the United States Independent Cellular Telephone Association, including seven from the State of Idaho. We are very opposed to proposals to eliminate open entry in the lottery for cellular telephone applications for Rural Service Areas (RSAs). Closing entry in the upcoming FCC lottery will not serve the interests of consumers or the long-run health of the cellular telephone industry. Rather, it will drastically reduce competition in an industry already threatened by increased concentration.

Some concerns have been raised about the way the FCC has handled the previous lottery for Metropolitan Service Areas (MSAs). The best way to address these concerns, however, is by directly eliminating FCC policies that create potential problems. For example, lottery winners can be prohibited from quickly selling their permits for profit. The most unfair solution is to restrict entry to the lottery so as to guarantee rural markets to a few big companies.

Finally, we are particularly concerned that these proposed major changes in policy and law may be made with no committee hearings or review.

I am enclosing some additional information and a list of our members from your state. If I can be of any help to you or your staff, please do not hesitate to call at 347-0500.

Sincerely,

ELEANOR CALAMARI,
Executive Director.

Mr. ADAMS. Mr. President, I thank the Senator for his interest in this matter.

The PRESIDING OFFICER. Is there any further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 1333) was agreed to.

Mr. GARN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. INOUYE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Arizona.

AMENDMENT NO. 1334

Mr. DECONCINI. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Arizona [Mr. DECONCINI] proposes an amendment numbered 1334.

Mr. DECONCINI. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place insert the following:

SEC. 572. STINGER MISSILES. (a) PROHIBITION.—Except as provided in paragraph (b), no Stinger antiaircraft missiles may be provided, directly or indirectly, by sale, lease, grant or otherwise, during fiscal year 1988 to any country in the Persian Gulf region.

(b) EXCEPTION.—Notwithstanding the prohibition in paragraph (a), such missiles may be provided to Bahrain if the President certifies to Congress that—

(1) such missiles are needed by the recipient country to counter an immediate air threat and/or to contribute to the protection of U.S. personnel, facilities or operations;

(2) no other appropriate system is available from the United States;

(3) the recipient agrees to safeguards as required in the Letter of Offer and Acceptance by the U.S. Government to protect against diversion, and

(4) the recipient country has agreed to a U.S. buyback of all the remaining missiles and components which have not been destroyed or fired in order to return them to the possession and control of the United States when another U.S. air defense system which meets the military requirements can be made available or not more than 18 months from the enactment of this legislation.

(c) REPORT.—Not later than 3 months after the date of enactment of this Act, the President shall submit to the Congress a report which assesses the global threat caused by the proliferation of man-portable ground-to-air missiles with advanced technology comparable to that of the Stinger missile, without regard to the country of origin of those missiles. This report shall give special emphasis to the danger of such missiles being used in acts of terrorism. Further, that the President review and report every 3 months on the conditions and timing under which the appropriate system may be delivered and the means for subsequent recovery of any Stinger missiles sold under the authority of this provision.

(d) NOTIFICATION.—Before issuing any letter of offer to sell or provide Stinger missiles (without regard to the amount of the sale or transfer) the President shall notify the Speaker of the House of Representatives and the Majority Leader of the Senate. Any such notification shall contain the information required in a certification under section 36(b) of the Arms Export Control Act.

Mr. BYRD. Mr. President, could we get a time agreement on this amendment?

Mr. DECONCINI. I am glad to.

Mr. BYRD. May I suggest 30 minutes equally divided?

Mr. DECONCINI. Thirty minutes is fine equally divided.

Mr. BYRD. Mr. President, I make this request, 30 minutes equally divided with no amendment to the amendment.

The PRESIDING OFFICER (Mr. ROCKEFELLER). Without objection, it is so ordered.

Mr. BYRD. And that Mr. DECONCINI and Mr. STEVENS control the time of the amendment.

Mr. DECONCINI. I thank the leader.

Mr. President, in the foreign operations section of this bill there is language which prohibits the transfer, gift, or sale of any Stinger missiles to the Persian Gulf area and that was put into the bill with a committee vote of 16 to 11. There was great discussion because the country of Bahrain has asked for these missiles.

There is no question, Mr. President, on this Senator's knowledge and understanding of this ally of the United States. For over 40 years this country has worked with us, has voted with us on many occasions in the United Nations, and the purpose of this Senator's amendment, which was cosponsored by the majority leader and I believe 17 other Members at the time, was to ensure several things.

Now, Mr. President, there is a lot of us who have concern about the Stinger missile. I think people who have familiarized themselves realize this is the state of the art weapon. It is not a heat-seeking shoulder-fired missile. It has a range about 3 miles. It is one of the most sought-after weapon systems in our arsenal. There is some limitation on how many of these we have. That is a classified nature and certainly it is important that our forces be well prepared and equipped with them.

We have seen a proliferation of the Stinger both in areas that have been very successful and in this area in that in the judgment of this Senator has been more symbolism and more diplomatic efforts to demonstrate to friends and allies that you are OK, we are going to transfer the most sophisticated weapon.

Mr. President, we have reached a compromise for the purpose of this bill and the compromise in essence says that I am going to read part of it, Mr. President.

It says:

> Notwithstanding the prohibition in paragraph (a), such missiles may be provided to Bahrain if the President certifies to Congress that—
>
> (1) such missiles are needed by the recipient country to counter an immediate air threat;
>
> (2) no other appropriate system is available from the United States;
>
> (3) the recipient agrees to safeguards as required in the Letter of Offer and Acceptance by the U.S. Government
>
> (4) the recipient country has agreed to a U.S. buyback of all the remaining missiles and components which have not been destroyed or fired in order to return them to the possession and control of the United States when another U.S. air defense system which meets the military requirements can be made available or not more than 18 months from the enactment of this legislation.

Mr. President, what this says, in essence, is that we are taking a high risk because of our strong friendship with this nation, because of their defense needs, and we are going to transfer these missiles to the Bahrainians.

In like order, in 18 months, Mr. President, these missiles are going to come back, which puts a great deal of pressure on our country to come up with adequate air defense systems for the Bahrainians. I believe that that is available based on the discussions that I have had with our military leaders and the needs of this country.

There are some systems like the I-Hawk system, just to mention one, which is far more expensive but, indeed, has far more capabilities than this shoulder-fired missile.

Mr. President, I reserve the balance of my time.

Mr. STEVENS. Mr. President, I commend the Senator from Arizona for his willingness to discuss this matter when it is clear that he won in committee. We have sought to meet the objections raised by the Department of Defense and the President's National Security Adviser.

I might state that the Senator from Arizona knows we will continue talking now because there is another provision in the House bill that also has to be modified to meet these objections. So this, in all probability, is not the final version of the amendment as it would be brought back to the Senate from the conference report.

But I am prepared to recommend to the Senate that we accept this compromise and particularly that we all join on commending the Senator from Arizona for his willingness to enter into this.

I explain to my friend who is the manager of the bill on the other side and to the chairman of the committee that we have had a long discussion of this in the leader's office, with representatives of the President there. They fully understand the situation. While they, too, are slightly reluctant, they understand that this is the best that is going to be done here tonight and we will have to continue talking.

Would the Senator like to have time?

Mr. JOHNSTON. Thirty seconds.

Mr. STEVENS. I yield to my friend 30 seconds.

Mr. JOHNSTON. Mr. President, I simply want to congratulate Senator DeConcini and Senator Stevens and others for working this out. I understand we can pass it with a voice vote. I hope we can yield the balance of the time while everybody is in the mood to approve it unanimously.

Mr. STEVENS. The Senator from Ohio would like some time, and I yield to him such time as he may need.

Mr. GLENN. Mr. President, I am not going to take very much time.

I also congratulate the Senator from Arizona for his willingness to compromise on this. I know he feels very deeply about this subject and the possibility of what could happen with the spread of this type of weapon around the world to terrorists or whatever.

Let me talk for just a moment, Mr. President, about the extent of the Bahrainian cooperation. Because I will say now that I had originally planned to offer an amendment that would strike the language in the appropriations bill that would prevent the sale of Stinger missiles to Bahrain. I felt that of all the nations around the gulf that deserves additional American cooperation, it was the tiny nation of Bahrain that has been a friend of our country. We have had a naval presence in Bahrain since 1949. That is when the British decided to pull out east of Suez, as some of us remember. There was a void in that part of the world. Bahrain has provided basing and berthing facilities there for our ships since 1949, at minimal costs, I might add, over the last 38 years.

So when the United States recently decided to expand our presence in the gulf, Bahrain was forthcoming with additional assistance. Right now, we have unlimited access to the port at Manama and unlimited access to air facilities.

The U.S. Navy Administration Support Unit, with approximately 100 military personnel, is also located in Bahrain.

Further, Bahrain provided immediate assistance to our Navy following the Iraqi attack on the *Stark*. They rescued four crewmen, provided firefighting assistance, opened their hospitals to injured crewmen, and the citizens of Bahrain donated clothing to the surviving crew members.

Those are the kind of people we are dealing with in Bahrain.

In our discussions about whether we would accept this compromise or not, a compromise that is between a complete cutoff of the Stingers to Bahrain, which the Senator from Arizona was proposing, and my proposal which would have struck that out, we did work out this compromise. I am glad that was possible.

Now, it is not perfect from anyone's standpoint. But we did discuss the possibility and the importance—and I want to get this in because I want it to be in the legislative history of this discussion—that we want to take another look at the provisions of the compromise. And it was the understanding of those of us who were conferring on this that we would take another look at the provisions, whether it be in the form of a review in the appropriations bill, which is a bill that has to go through here every year. I think the distinguished Senator from Idaho, Senator McClure, will want to address this in a moment here; he indicated that in our meeting and I think it is a good idea.

We want to get some sort of congressional approval. We want to cooperate with the administration before the end of this 18-month period that is provided because we do not want to see Bahrain go undefended. They have been a friend of ours. They are a tiny nation compared with the United States, but they have been a good and lasting friend in a very, very difficult part of the world.

Now, I do not want to see Stingers traded all over the world, either. But the facts are—and I have a couple of classified lists here. I cannot discuss the exact figures, but let me just say that distributed around the world are different types of missiles—something like 30,000 missiles out there in 52 different countries that have purchased man-portable surface-to-air missiles. Ten countries have also sold man-portable surface-to-air missiles on a worldwide basis. They have gone to almost—well, a lot of small countries, many of whom we would not consider reliable at all, I am sure.

But here is Bahrain that has been as reliable to American interests as any nation around the world. So I hope that when we go back and recheck the record a couple of years from now, that we can see that we made a legislative history here tonight that calls for us to look at this again in a year or 18 months and decide exactly what we are going to do to continue to help this nation of Bahrain, whether it is with additional types of antiaircraft missiles or whether it is a continuation of the Stingers there.

I certainly will guarantee that I will do everything I can to make certain that that is considered once again on this floor and in the Halls of Congress and in the proper committees to make certain that we are not letting down this nation that has been so helpful to us.

Mr. President, I know that my good friend, the Senator from Arizona, has concerns about the Security of these weapons sold to Bahrain. So let me address that point very rapidly.

As part of any agreement under which Stringers would be sold, the government of Bahrain would be required to agree to a set of specific and detailed security arrangements.

These would include the separate storage of missiles and launchers. Specifications concerning the magazine for the storage of missiles; the lighting, the doors, the locks and keys; the fencing; and the surveillance and guard. Specific accountability provisions, including physical inventories and U.S. inspections. And transfers to third parties are prohibited.

Mr. President, I ask unanimous consent that the entire text of a standard Stinger security precautions agreement be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. GLENN. Mr. President, once again I congratulate the Senator from Arizona. I think what was worked out was a good arrangement from what could have happened. The administration should be aware, as we told their representatives, that they should accept this compromise because it is likely they are going to get this or nothing, in all probability, although I was certainly willing to bring it to a vote.

But I want to congratulate the Senator from Arizona and I am glad to support the amendment.

EXHIBIT 1

SECURITY PRECAUTIONS

BASIC STINGER MAN-PORTABLE AIR DEFENSE SYSTEM

Purchaser agrees to adhere to the following additional security requirements associated with the Basic Stinger Man-Portable Air Defense System. Modification of specified requirements to meet indigenous conditions may be approved by the Office of the Deputy Chief of Staff for Personnel (DAPE-HRE), U.S. Army.

a. Physical security: The Basic Stinger will be stored in magazines that are at least equivalent to U.S. Army requirements as specified in subparagraph 1 below. The purchaser also agrees to comply with U.S. Army specified requirements for lighting, doors, locks, keys, fencing, and surveillance and guard systems. Specific requirements will be agreed upon and installed prior to delivery of the missile system. U.S. Army representatives will be allowed to verify security measures and procedures for implementation of these requirements.

(1) Magazines: Reinforced concrete, arch type, earth covered whose construction is at least equivalent in strength to the requirements of Chapter 5, Department of Defense Manual 6055.9—STD, Ammunition and Explosive Safety Standards, July 1984, will be used for storage (standards of which will be provided to the purchaser).

(2) Lighting: Lighting will be provided for exterior doors and along perimeter barriers. Security lighting requirements will conform to the ammunition and safety requirements of appendix C, U.S. Army Technical Manual 9-1300-206 (standards of which will be provided to the purchaser).

(3) Doors, locks, and keys: Exterior doors will be Class 5 steel vault doors secured by two key operated high security padlocks and a high security shrouded hasp. Keys will be secured separately to ensure effective two-man control of access (i.e., two authorized persons must be present to enter). Use of a master or multiple key system is prohibited.

(4) Fencing: Fencing will be six foot (minimum) steel chain link with a one foot overhang mounted on steel or reinforced concrete posts over firm base. Clear zones will be established 30 feet inside and 12 feet outside the perimeter fence (provided there is adequate space).

(5) Surveillance and guard: A full time guard force or combination guard force and intrusion detection system (IDS) will be provided. When the IDS is not operational, 24 hour guard surveillance is required.

(6) Access to storage facilities: Two authorized persons will be required to be present during any activity which affords access to storage facilities containing Basic Stinger. Lock and key procedures will be developed to ensure that no single individual can obtain unescorted or unobserved access to Basic Stinger storage facilities.

b. Accountability:

(1) A 100 percent physical inventory of weapons and gripstocks, when applicable, will be taken monthly by the purchaser. A 100 percent inventory by serial number shall be taken quarterly of weapons issued at the operational unit level. A 100 percent physical inventory by serial number shall be taken semiannually of weapons stored or retained at installation, depot, post, or base level. All inventories must be conducted by two authorized persons to ensure verification. Weapons expended during peacetime will be accounted for by serial number.

(2) The Office of Military Cooperation will be permitted to conduct a U.S. inspection and inventory by serial number annually. Inventory and accountability records maintained by the purchaser will be made available for review.

c. Transportation: Movements of Basic Stinger will meet U.S. standards for safeguarding classified materiel in transit as specified by the U.S. Government in DoD 5100.76-M, Physical Security of Sensitive Conventional Arms, Munitions, and Explosives (standards of which will be provided to the purchaser), and paragraph h below.

d. Access to hardware and classified information:

(1) Access to hardware and related classified information will be limited to military and civilian personnel of the purchasing government (except for authorized U.S. personnel as specified herein) who have the proper security clearance and who have an established need to know the information in order to perform their duties. Information released will be limited to that necessary to perform assigned functions/operational responsibility and, where possible, will be oral/visual only.

(2) Maintenance which requires access to the interior of the operational system, beyond that required of the operator, will be performed under U.S. control.

e. Compromise, loss, theft and unauthorized use: The purchaser will report to the U.S. Army by the most expeditious means any instances of compromise, unauthorized use, loss or theft of any Basic Stinger materiel or related information. This will be followed by prompt investigation and the results of the investigation will be provided to the U.S. Army.

f. Third-party access: The recipient will agree that no information on Basic Stinger will be released to a third-country entity without U.S. approval.

g. Damaged/expended materials: Damaged systems, launchers, and/or gripstocks will be returned to the U.S. Army for repair or demilitarization.

h. Conditions of shipment and storage for Stinger and Stinger variants: The two principal components of the Basic Stinger system, the gripstock and the missile in its disposable launch tube, will be stored in separate locations and will be shipped in separate containers. The two storage locations will be physically separated sufficiently so that a penetration of the security at one site will not place the second at risk.

i. Conditions of use:

(1) The two principle components of the Basic Stinger system, the gripstock and missile launch tube, may be brought together and assembled under the following circumstances:

(a) In the event of hostilities or imminent hostilities.

(b) For firing as part of regularly scheduled training; however, only those rounds intended to be fired will be withdrawn from storage and assembled.

(c) For lot testing; however, only rounds to be tested will be withdrawn from storage and assembled.

(d) When systems are deployed as part of the point defenses of high priority installations or activities (e.g., key government buildings, military headquarters, essential utilities, air defense facilities).

(2) The purchaser will advise the Office of Military Cooperation in advance of any assembly of the various missile and gripstock for the Stinger and its variants for training or lot testing.

(3) The U.S. Government will be notified of deployments through the Office of Military Cooperation.

The PRESIDING OFFICER. Who yields time?

Mr. STEVENS. I yield to the distinguished Senator from Rhode Island 1 minute, and then, after that, the Senator from Idaho for 3 minutes.

Mr. CHAFEE. Mr. President, I want to associate myself with the remarks of the distinguished Senator from Ohio regarding our friendship with Bahrain and the service that that nation has provided to us. It was my privilege, when I was associated with the Navy Department, to visit our forces in the Persian Gulf area and Bahrain was extremely important to us then as it is now. They have been a long and valued ally of this country.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. McCLURE. Mr. President, I too, want to associate myself with the remarks of the Senator from Ohio and thank the Senator from Arizona for having been willing to find a middle ground that will perhaps solve this question.

I think we should put this much additional on the record. With this amendment being adopted in the

Senate, the Senate will have a different position from that of the other body. This matter will therefore be in the conference and it will be possible for the conferees to deal with the question of length of time, conditions upon which there might be a vote in the Congress with or without expedited procedures. It is not the understanding of the distinguished Senator from Arizona that there is the expectation that the administration may well try to negotiate with the conferees on just exactly those kinds of arrangements?

Mr. DeCONCINI. I do not think there is any question that the administration opposes the prohibition that is in the House bill and opposes the one that is in the Senate bill. They are looking for some way to transfer Stingers to the Bahrain Government. This gives them that.

It also gives them the leeway the Senator from Idaho pointed out, to negotiate in conference, which is normal procedure and I have no objection to those negotiations. I hope I will be part of them.

Mr. McCLURE. I mentioned that only because this may not be the final word said on this subject and there is the opportunity to try to find more flexible arrangements, if indeed there are suitable arrangements.

I want to just remark, too, not only that Bahrain is a friend of ours, as indeed they are; but this is a fragile and dangerous area of the world. When a plane takes off from one of Khomeni's airfields in Iran, it is 6 minutes from that time that they take off from that runway until they could be over targets in Bahrain.

If you are sitting there with that kind of exposure to risk you would certainly want some air defenses, too. I think their request for assistance on air defense is absolutely essential, but not essential just for them. We have people there. There are U.S. dependents, there. There is a school for United States dependents and we have kids in schoolhouses in Bahrain. I hope that we do not close our eyes to the need to have some kind of security in the region that is helpful to our people, our force, our men and women and our children that are in that country serving the United States in an exposed position.

So I think the compromise that has been reached is an important move toward finding the solution to the problem that will provide a reasonable measure of security at the same time making that a secure arrangement.

I support the amendment and I again thank all of those who worked on this; bringing this to the floor and finding a way to move toward a solution to the problem.

I particularly want to thank the Senator from Alaska for his leadership as well, as well as those others who have spoken here this evening.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. DeCONCINI. I appreciate the kind words of the Senator from Idaho but I must say to him in fairness, he is the one that brought about compromise even in my mind, because I felt we had the votes to prohibit the Stinger. I am opposed to the Stinger even going to our good friend and ally, Bahrain. But I realize the Senator from Idaho has a way about him that is very successful on this floor and he has prevailed in this Senator to at least offer some compromise as it relates to Bahrain.

There is still a prohibition, I want my colleagues to know. There will be for 1 year in the Senate bill, and in perpetuity in the House bill, no Stingers to Oman or Kuwait or the Arab Emirates or in the region; so we are only compromising for this particular situation and I think it is important that, hopefully, the administration get some message out of this struggle here.

Why are we here tonight debating this? Has the United States failed to meet a commitment to Bahrain? I do not think so. We spend a million dollars a day protecting their trade. We have agreed to sell them F-16's. We have our Navy there. We give them protection from the fact that our ships go in and out there and servicemen are there.

Who is going to react first if someone strikes at Bahrain? It is going to be the American forces to protect ourselves as well as the Bahrain people and their Government.

So it is important that the State Department get off of this kick that every time you want to show your friendship to somebody, you have to give them the most sophisticated weapon or, by gosh, you just are not behind them.

We are behind them. We have done everything. We have lost 37 men over there already, and we have a multitude of forces there to protect that country as well as Kuwait and others.

So, Mr. President, I do not want any illusions here that this is any kind of a giving in, from this Senator, that we are going to have a proliferation of Stinger missiles, the most sophisticated weapon. The Senator from Ohio is right. There are a lot of other shoulder-fired missiles around the country, even in that region. They are not Stingers. Only Saudi Arabia has those, and they are kept in the most secure fashion as these will be kept.

I think it would be a mistake for us to have a proliferation of this weapon under these circumstances.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. I thank the Senator from Arizona for pointing out that it was in fact the Senator from Idaho that in fact initiated this conversation that led to this change, and I believe that if the Senator from Arizona is ready to yield back the time, I am ready to yield back the balance of our time and suggest this is a voice vote. We have no opposition that I know of to this amendment, Mr. President.

Mr. DeCONCINI. I am prepared to yield back the remainder of the time. I would like to talk about it some more because I get into this Stinger a little bit, I realize the Senator from Alaska has been through a lot. I thank him for this time. And certainly the Senator from Louisiana is anxious to move on, and I do not blame him at all.

I yield back the remainder of my time.

Mr. STEVENS. I yield back the remainder.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the amendment.

The amendment (No. 1334) was agreed to.

Mr. DeCONCINI. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. STEVENS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. STEVENS. You might say we have had several negotiations going on here that my good friend, the manager of the bill, knows I have been trying to assist in. We have, I believe, an amendment dealing with the Pakistan issue that is ready to go.

Mr. GLENN. The final version of that is being brought up right now.

Mr. STEVENS. Following that, we expect to get to the issue—

Mr. BYRD. Would it be possible, may I ask the distinguished Senator from Ohio, Mr. GLENN, that even though the final version is just being prepared, I wonder if we could get some of the debate out of the way before the amendment is offered? I merely put that out as a proposal.

Mr. GLENN. If we get an agreement, I am happy to enter more lengthy statements in the RECORD. I might make short remarks and not use up any 2 hours or anything like that.

Mr. STEVENS. I would agree with that.

AMENDMENT NO. 1336

(Purpose: To continue the existing conditions on military assistance to the People's Republic of Mozambique)

Mr. HELMS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from North Carolina [Mr. HELMS] proposes an amendment numbered 1336.

Mr. HELMS. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the joint resolution, add the following new section:

None of the funds appropriated by this Act to carry out chapter 2 of part II (relating to grant military assistance) or chapter 5 of part II (relating to international military education and training) of the Foreign Assistance Act of 1961 shall be obligated or expended for the People's Republic of Mozambique after January 1, 1988 unless on that date the President has certified to the Congress that the Government of the People's Republic of Mozambique—

(A) is making a concerted and significant effort to comply with internationally recognized human rights;

(B) is making continued progress in implementing essential economic and political reforms, including the restoration of private property and respect for the right to engage in free enterprise in all sectors of the economy;

(C) has implemented a plan to reduce the number of foreign military personnel to no more than 55; and

(D) is committed to holding free elections at a date no later than September 30, 1986, and to that end has demonstrated its good faith efforts to begin discussions with all major political factions in Mozambique which have declared their willingness to find and implement an equitable political solution to the conflict, with such solution to involve a commitment to—

(I) the electoral process with internationally recognized observers; and

(II) the elimination of all restrictions on the formation and activities of opposition political parties.

Mr. HELMS. Mr. President, it is my understanding both sides agree to this amendment.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, I do not know who has agreed, but I wonder if the Senator from North Carolina would be good enough to share the amendment with some of us?

Mr. HELMS. I would be delighted for the Senator to see it. It is merely an extension of the present law with respect to Mozambique.

Mr. JOHNSTON. Mr. President, the amendment carries forward for fiscal year 1988 the same conditions on the provision of military aid to Mozambique as have been applied during the past 2 fiscal years—under the foreign aid authorization. Inasmuch as these conditions expired September 30, 1987, the amendment is necessary in order to ensure that Mozambique is not eligible for aid under the Military Assistance Program [MAP] or the International Military Education and Training Program [IMET].

The United States should not become involved in the conflict in Mozambique by providing military assistance to the Communist Frelimo government. The amendment does not restrict humanitarian or economic aid, but rather sets conditions on military assistance.

Mr. President, this amendment has been cleared on both sides.

The PRESIDING OFFICER. Is there further debate?

Mr. HELMS. Mr. President, the pending amendment is designed to continue for another year the conditions on United States military aid which presently apply with regard to the People's Republic of Mozambique.

Before Senators pour forth in opposition to the amendment, let me explain it. I know that some Senators have differed with the Senator from North Carolina with respect to the issue of the Mozambique National Resistance—Renamo—and certain other aspects of the Mozambique situation.

This amendment is confined to a narrow issue on which I believe that is broad bipartisan support—that United States military aid should not be provided to the Government of Mozambique.

Mr. President, this is the exact language—let me repeat, Mr. President, the exact language—that has applied to military aid to Mozambique during the past 2 years—fiscal year 1986, and 1987.

That limitation on military aid expired on September 30, 1987. While we have not been informed of any intention by the administration to initiate any military assistance to Mozambique, it seems advisable to continue the limitations of current law. The administration, I note, did propose military assistance for the Frelimo regime several years ago. That proposal triggered the congressional prohibition on aid.

Mr. President, surely whatever differences Senators may have on the United States policy toward Mozambique, there should be no difference in view that the United States should not be providing military assistance to be used in a bloody civil war.

While the Senator from North Carolina questions the advisability of providing even economic assistance, surely we are united in opposing a perpetuation of the bloody civil war that continues to ravage Mozambique. The United States should not "take sides" in favor of the Communist government of President Chissano by providing military equipment, training, or other supplies.

The conditions in this amendment are precisely those that the Congress has imposed on Mozambique in the past—and the same, I note, as those that have been and continue to be imposed with respect to the Government of El Salvador.

The Senator from North Carolina has continually urged United States neutrality in the conflict in Mozambique. At a minimum, that neutrality must be reflected in our continued aversion to providing military assistance.

Mr. President, the conditions on military aid to Mozambique are repeated from the conditions that have governed such aid for the past 2 years.

These are that Mozambique:

(1) is making a concerned and significant effort to comply with internationally recognized human rights;

(2) is making continued progress in implementing essential economic and political reforms, including the restoration of private property and respect for the right to engage in free enterprise in all sectors of the economy;

(3) has implemented a plan to reduce the number of foreign military personnel to no more than 55.

This is significant, Mr. President, because it is estimated that there are 15,000 to 19,000 Zimbabwean troops in Mozambique as well as troops from Tanzania and Malawi, and considerable Soviet and North Korean military advisers. The Chissano regime is propped up by these foreign military forces.

The fourth criterion is also important, Mr. President, as follows:

(4) that Mozambique is committed to holding free elections at a date no later than September 30, 1988—

Mr. President, this aspect is updated from the earlier law which set a timeframe of September 30, 1986. Free elections were not held by that date and thus the President has not been able to certify to the Congress that the conditions of the previous law have been satisfied in this respect. Therefore, the provision has been updated to specify that free elections must be planned for a date no later than September 30, 1988.

Mozambique is currently a one-party, self-proclaimed Marxist-Leninist state, Mr. President. United States policy should be directed toward encouraging the establishment of democracy in Mozambique with multiple political parties. Such other parties are presently banned in Mozambique and the so-called elections that were held recently were the typical one-party one-choice slate typical in Communist countries.

The amendment contains the same specifications on the demonstration of commitment to hold elections by demonstrating "its good faith efforts to begin discussions with all major political factions in Mozambique which have declared their willingness to find and implement an equitable political solution to the conflict, with such solution to involve a commitment to (I) the electoral process with internationally recognized observers; and (II) the elimination of all restrictions on the formation and activities of opposition political parties."

Mr. President, I devoutly hope that the Government of Mozambique will comply with these conditions. However, in the event that the government does not comply, no U.S. military assistance shall be provided.

The Catholic bishops in Mozambique have expressed the hope that the government will begin discussions with the forces organized under the Mozambique National Resistance, the primary democratic opposition within the country. The government thus far has repudiated these overtures from the Catholic bishops.

National reconciliation in Mozambique will be achieved, Mr. President, only when the Communist government and the opposition, RENAMO, engage in meaningful dialog aimed at stopping the civil war conflict.

I have encouraged the State Department to foster that reconciliation by being a constructive force to encourage dialog between the government and RENAMO. Thus far, the Secretary has been unwilling to do that. But notwithstanding my disappointment with the State Department on that front, Mr. President, this amendment is aimed at what I believe is a broader consensus—to maintain the cutoff of military assistance to Mozambique's Communist government.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. PELL. Would the Senator explain what this does?

Mr. HELMS. This pertains to military aid only to Mozambique.

Mr. PELL. I understand.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. METZENBAUM. Just for clarification, do I understand that the language that the Senator from North Carolina is offering in this amendment is the exact language, word for word, of that which has been in the law but, as I understand it, expired as of September 30, 1987?

Mr. HELMS. The Senator is correct.

Mr. METZENBAUM. I thank the Senator from North Carolina.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 1336) was agreed to.

Mr. HELMS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. GARN. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. GLENN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1337

Mr. GLENN. Mr. President, I ask that my amendment, which is at the desk, be called up for immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

> The Senator from Ohio [Mr. GLENN] proposes an amendment numbered 1337.

Mr. GLENN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> At the end of joint resolution insert the following:
>
> SEC. 555(a). Section 620E of the Foreign Assistance Act of 1961 is amended:
>
> (1) by revising subsection (d) to read as follows:
>
> "(d) The President may waive the prohibitions of section 669 (a) and (b) of this Act at any time during the period beginning on the date of enactment of this subsection and ending on September 30, 1993, to provide assistance to Pakistan during that period if he determines that to do so is in the interest of the United States." and
>
> (2) by adding the following new subsection:
>
> "(f)(1) No assistance under chapter 2 or 5 of part II of this Act may be furnished to any country for which a waiver of section 669 or 670 of this Act is in effect, and no arms sales may be financed for any such country under the Arms Export Control Act, until the President has certified to the Congress that such country is not producing high enriched uranium as defined in Section 133(b) of the Atomic Energy Act, separated plutonium, or uranium-233.
>
> (2) The President may waive the prohibitions of paragraph (1) for any such country if the President certifies to Congress, during the fiscal year in which assistance is to be furnished, that termination of such assistance with respect to the country would result in a serious threat to the national security interests of the United States."

Mr. GLENN. Mr. President, the language concerning U.S. nonproliferation policy toward South Asia that the Appropriations Committee reported out goes, I think, far beyond what they anticipated when they put the language in. We have had a policy in this country for the last 10 or 12 years of trying to cut down on the spread of nuclear weapons to more and more nations around the world. That policy, I would submit, has been reasonably successful. In short, the policy has been to prevent the spread of nuclear capability to more nations by saying that if those nations did indeed try to get nuclear weapons capability, we, the United States of America, would take the lead in putting restrictions on those countries because we felt it was so important.

Mr. President, there is another factor here also. We wish we could go back to the days of Lilienthal and Baruch and say we could put all things nuclear under some sort of controlled aegis of more than one power. But those days are long gone. We gave up ringing that bell long ago.

So what we have done after the spread of nuclear weaponry to more and more countries around the world is we finally came up with the Nonproliferation Treaty, the NPT, and we said:

> Look, nations that are not now nuclear weapons states, please, do not go ahead and develop nuclear weapons. We pledge to you that we will cooperate with you. We will help benefit you in whatever way we can with regard to the commercial uses of nuclear energy. And at the same time, if you forswear bomb development, we will work as hard as we can possibly work with the Soviet Union to reduce our weapons stockpiles. We will do all this, if you will just say you will not develop nuclear weapons.

At the same time we said to those who go ahead and develop nuclear weapons that there indeed will be sanctions, there indeed will be restrictions. How many people took these threats seriously and opted for the now non-nuclear path? One hundred thirty-two nations have signed on to the Nonproliferation Treaty as nonnuclear weapon states. What a tremendous success story. A few nations have broken over. But by and large it has been a success. And finally, as we have just seen in the last few days in Washington, the arms control negotiations that we promised are all these years later starting to take place in a serious way.

Now, as I see it, we have a real responsibility to those 132 nations that went along with us and have not developed nuclear weapons. We should be carrying out our pledge that we will cut off assistance to any nation that does not go along with us on that.

In 1974, India set off what they called a peaceful nuclear explosion. It is a bomb. It is a nuclear explosive device. But it was termed a peaceful nuclear explosion. India set it off, and this gave its neighbors Pakistan great heartburn, obviously.

Let me add very quickly here though, to India's credit, they did not use that capability to go on and develop a huge nuclear aresnal. But Pakistan next door was very nervous about this.

These nations that have gone to war with each other three times in the last 40 years and do not trust each other. Mr. Bhutto, who headed up the government in Pakistan at that time, made the statement that Pakistan would eat grass if necessary to get the same capability that India had next door.

Mr. President, Pakistan embarked on a nuclear weapon program. We know from endless published and unpublished reports, we know from their own statements now in this last year that, yes, they have done all they can to produce weapons-grade uranium a key bomb ingredient. They have now succeeded in enriching to weapons grade. They have always said, "No, we don't have a bomb-making capability; we don't want a bomb-making capability," but their plant at Kahuta is a plant that we have absolutely no doubt is dedicated to producing nuclear-weapon material.

As luck would have it, today in the London Financial Times there is a report they are now building a second uranium enrichment plant. Pakistan has no nuclear electrical generating facilities using enriched uranium whatsoever. Their program is strictly designed for weapons development. Their top nuclear scientist, Dr. A.Q. Khan, admitted so much earlier this year in an interview with the London Observer. These comments were later denied, but two reliable reporters were present at the meeting. And so we have come down to the point where we must ask: what do we do with Pakistan?

Well, President Carter cut off aid to Pakistan under the Symington and Glenn amendment to the Foreign Assistance Act of 1961. This administration restored the help. Now, that leaves us on the horns of a dilemma, one that I feel acutely because I want to see the military equipment flow through Pakistan to Afghanistan. This assistance has been very effective. I do not want to see that cut off. On the other hand, I feel we have a real responsibility to those 132 nations that signed up with us under NPT and have remained true to it. We must finally begin to live up to our pledges under that also.

America's long and distinguished history as a leader on nonproliferation issues was ignored, so to speak, when the Appropriations Committee said: If a nation has nuclear weapons, its neighbors can have the bomb too, in effect. In other words, if India has a bombmaking capability, the United States will then condone Pakistan's bomb development.

I think this change of policy is flat wrong. If this is to be a consistent policy, think how that can be applied to the Mideast. There is not an intelligence operation in the world that does not believe that Israel has nuclear weapons. That is no secret. It has been in the paper many, many times.

Now, how de we apply this? Well, let us say that Israel's neighbors decide that since Israel has developed the bomb, they want to develop the bomb. Do we say Iraq is entitled to such a capability, one that they may or may not have been trying to develop at one time and which Israel took out the Osiraq reactor with their fighters? Well, that is what you are up against. How can we have a policy that says OK, Pakistan can have the bomb just because India does, and then tell Iraq they cannot have the bomb when they want it because Israel does. Such logic applies to Argentina or Brazil and any other number of places around the world.

Mr. MOYNIHAN. Would the Senator mind if I ask the distinguished President to acknowledge that we are hearing a most important statement. I do not think we have order. We could not be discussing a more serious matter.

Mr. GLENN. I thank the distinguished Senator from New York and I know of his work and his concerns in this area. We have talked about them many times. I appreciate his comment very, very much.

The PRESIDING OFFICER. The Senator from New York has requested more order in the Senate.

Mr. GLENN. I know the hour is late.

The PRESIDING OFFICER. The Senator will withhold until there is more order in the Senate. The Senator from Ohio.

Mr. GLENN. I know the hour is late and I do not want to belabor things in the middle of the night, but it is so important that we understand this. It is a very, very complex problem. It seems to me that if we let up on Pakistan, the most egregious violator that we have known, then we do not have a leg to stand on if we want to stop nations around Israel from developing nuclear weaponry.

That is the reason why I think it was a mistake to have the existing language in the bill.

Now, I had an amendment that was to be proposed, but we have worked out a compromise on this. This compromise would basically provide that, if a nation is deemed by the President to be producing bomb-usable material and has received a waiver of the Symington-Glenn amendments, we will not give military aid to that country. It would be cut off. But in this case, what we worked out as a compromise is this: If the President certifies annually that termination of such assistance would result in a serious threat to the national security interests of the United States, then that aid would continue. Under these terms, the compromise would give Pakistan a 6-year waiver of the Symington-Glenn amendments, instead of the 1-year waiver in my original proposal.

Now, I think that this is a very reasonable compromise. I do not think I can honestly weaken this provision any more than that and still say that we have anything that would even resemble a nonproliferation policy in Pakistan. So I think it is a good compromise we worked out. I appreciate the cooperation of Senator KASTEN, Senator INOUYE, Senator MOYNIHAN, and Senator PELL. I spoke to him about this. We have all in past times expressed our great, great interest in this whole matter.

I can summarize this whole thing very well with an editorial in the Washington Post on Tuesday of this week. I think they put it very, very well, and I would like to read the article. That will conclude my statement, unless there are other questions. The title is "Opening a Dangerous Loophole. The editorial reads as follows:

OPENING A DANGEROUS LOOPHOLE

Playing around with the law on nuclear proliferation, as the Senate Appropriations Committee has been doing, is genuinely dangerous. When the committee's bill comes to the floor, the Senate needs to listen to the senators in both parties who have had experience with the international strategy—over the decades, a remarkably successful strategy—to prevent the spread of nuclear weapons throughout the world.

The committee is trying to work out a policy for aid to Pakistan. Ever since its rival India carried out a nuclear explosion 13 years ago, Pakistan has been working with unwavering zeal toward its own bomb. The United States has been giving Pakistan very substantial aid, but American law requires cutting off aid to any country that is building nuclear weapons. With the Soviet invasion of Afghanistan, because the supply routes to the guerrilla resistance lie through Pakistan, Congress suspended that law. But the suspension has now expired, and Congress has to decide what to do next.

What the Appropriations Committee has done is to create a huge loophole by declaring that the cutoff will not apply to any South Asian country if another country in the region is producing plutonium—as India does. The committee is responding to Pakistani complaints that it's not fair to prevent Pakistan from having nuclear weapons when India has, at least, the ingredients. But that kind of fairness is a formula for letting any and every country have nuclear weapons. If Pakistan gets a bomb, that would be justification—under the Appropriations Committee's logic—to let Iran build one.

The committee thinks that it is making the world safer with this misguided concept of regional equity. It apparently hasn't thought much about the precedent for the Middle East. Applied there, its rule would mean abandoning American sanctions against the Arab countries that want nuclear arms. Just as Pakistan cites India's advances in nuclear weaponry, the Arabs could cite Israel's.

Nuclear arms control and diarmament is going to be a subject of intense attention this week during the summit meeting here. The United States and the Soviet Union are now beginning to make progress toward reducing their formidable arsenals. But there's a little more to arms control than the U.S.-Soviet balance alone. This one unwise bill from the Senate Appropriations Committee, if it were to be enacted, would rapidly accelerate the nuclear arms race in the Third World.

Mr. President, that concludes the Washington Post editorial. I agree with them completely. I think the amendment that has been agreed to on both sides this evening remedies that. I do not know whether people wish to speak on this particular subject or ask questions.

Senator PELL and Senator MOYNIHAN have agreed to cosponsor.

Mr. President, I think it is a good compromise. I recommend it. I do not see the necessity for a rollcall vote unless someone else wishes it.

Mr. President, after many months of debate, the time has come for America to decide on the future course of our relations with Pakistan. I rise to offer an amendment and ask for its immediate consideration.

In summary, this amendment would do the following:

First, grant Pakistan a 6-year waiver of the Symington amendment to the Foreign Assistance Act;

Second, prohibit U.S. military aid to any country that receives such a waiver, if the President is unable to certify that that country is not producing weapon-usable nuclear materials;

Third, grant the President authority to waive this prohibition if he certifies that any termination of our aid would constitute a serious threat to the national defense and security interests of the United States.

I have spoken many times on this floor about the valuable contributions that Pakistan has made, and is now making, in promoting the cause of freedom in Afghanistan. I have also spoken about the great disappointment that most Americans feel about the growing evidence that Pakistan is continuing its pursuit of nuclear weapons, a course that violates numerous solemn commitments that Pakistan's leaders have provided our President and his representatives. Pakistan has placed itself in the peculiar position of simultaneously championing the cause of containing Soviet expansionism, while jeopardizing regional and global security through its illicit nuclear activities.

Clearly, the choice that is now before Congress is not between a free Afghanistan and a nuclear-armed Pakistan. If we choose to orient United States south Asian policy entirely around Afghanistan, we will paradoxically end up with the result we most fear: a regionally destabilizing nuclear arms race between two nations that have fought three bloody wars in the last four decades. If containing Soviet adventurism is our exclusive preoccupation, then preventing such instability must be a top priority for United States policy throughout the region.

Since we do not want the Soviets to consolidate their stranglehold on Afghanistan, and we do not want to condone nuclear proliferation anywhere—especially in the tinderbox of south Asia—America must seek a balanced policy that reconciles our competing interests, while promoting stable and friendly relations with all nations in the region.

In this historic Chamber, in hearings of congressional committees, in letters to my colleagues, in the laws I have authored or cosponsored, in my public and private statements, indeed in my entire professional career as a U.S. Senator, I have identified the spread of nuclear weapons as among the gravest of threats to United States and global security.

The American people realize this threat. You do not have to be a parent of a sailor stationed on a U.S. warship in the Middle East to appreciate the difference between U.S. military involvement in a nuclear versus a nonnuclear conflict in the Persian Gulf. You do not have to be a strategic theorist to appreciate the implications if terrorist groups should acquire the capability to use nuclear weapons or bomb-grade materials, such as plutonium or highly enriched uranium. All you need is common sense.

Much of this common sense has been reflected in editorial opinion over the last year about Pakistan's nuclear program. I ask unanimous consent that a sampling of this opinion be printed in the RECORD at the end of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. GLENN. It is because of such threats that eight Presidents and over a score of Congresses have endorsed legislation designed to prevent the spread of nuclear weapons. This is the deeper context in which we must weigh our options in south Asia.

Last week, the Senate Appropriations Committee formally adopted a proposal linking future United States assistance to Pakistan and India to the cessation by those countries of the production of weapon-grade nuclear materials. By targeting the materials that would feed an impending nuclear arms race in south Asia, the committee's proposal wisely acknowledges that U.S. foreign assistance—while necessarily limited in what it can be expected to accomplish—may nevertheless have a significant role to play in reducing the prospects for nuclear proliferation.

While I could not be more supportive of the committee's goal, I am deeply concerned about the means they are suggesting for attaining this objective. By legitimizing one nation's illicit production of bomb-grade nuclear materials, on the basis of similar production by that nation's neighbor—and then turning around and condoning the neighbor's production as simply a by-product of the first nation's production—the proposed legislation would have the effect of underwriting the very arms race the committee is seeking to prevent.

By yielding to a nuclear materials or arms race on the subcontinent, the committee would be setting a dangerous precedent with implications far beyond the region. For example—

May Iraq now cite Israel's nuclear program to justify its acquisition of nuclear-weapon material and nuclear-capable delivery systems?

May Argentina justify unsafeguarded enrichment and reprocessing simply because Brazil may be engaging in such activities?

May Taiwan now point to China and commence, with United States approval, nuclear reprocessing?

The committee's focus on the unrestrained production by Pakistan and India of weapon-grade material is certainly well founded. The continued stockpiling of separated plutonium and highly enriched uranium in south Asia has placed this region on the verge of what could only be a devastating nuclear arms race. Such a nuclear competition would have grave repercussions for regional and global security.

Unfortunately, the Appropriations Committee has adopted a formula that would weaken existing law and undermine our global commitments to preventing the spread of nuclear weapons.

Under the Symington-Glenn amendments to the Foreign Assistance Act, U.S. aid must be terminated to countries that import or export sensitive nuclear technologies without international safeguards. Virtually no one—except perhaps the outside lobbyists and isolated administration officials who may have helped draft the committee's proposal—believes that Pakistan is complying with this law. Indeed, that is why Pakistan, unlike India, Israel, or any other nation in the developing world, must receive a waiver from this law to receive our assistance.

In order to continue aid to Pakistan, the Appropriations Committee has recommended granting Pakistan a 6-year waiver of the amendments without any meaningful new conditions on Pakistan. Given Pakistan's recent nuclear behavior—see CONGRESSIONAL RECORD May 8, S6218; CONGRESSIONAL RECORD July 14, S9885—my preference would be to give such a long-term waiver only if the United States received reliable assurances, including tough verification commitments, that Pakistan had ceased its production of bomb-grade uranium. Such behavior by Pakistan would be fully consistent with Pakistan's repeated pledges, formal and informal, to the United States.

The language accepted by the Appropriations Committee requires no such adherence to these commitments. To the contrary, it allows the President to continue aid to Pakistan regardless of Pakistan's enrichment activities, provided that India continues to produce weapon-usable nuclear materials. And under a deft committee amendment to the subcommittee language, which I am sure escaped the attention of many of my colleagues, aid could simultaneously be provided to India under a similar waiver.

The effect of these double-edged waivers would be to nullify existing aid conditions and to put a U.S. seal-of-approval on a south Asian nuclear arms race, while casting the President into the role of south Asia's Pontius Pilate.

I have no quarrel with the committee's recognition of the need for a blanced U.S. nonproliferation policy in south Asia. Yet in attempting to lump the nuclear programs of Pakistan and India together into a quarantined regional unit that would be encouraged to engage in the competitive production of bomb materials, the committee has just gone too far.

The fearsome penalties called for in the committee's proposal—which include cutting off both Pakistan and India from access to United States funding through multilateral development agencies for much-needed irrigation, sanitation, transportation, health, agriculture, literacy, and nutrition projects—seem grossly inappropriate as a sanction for the production of weapon materials. And given America's interest in discouraging both nations from pursuing high technology from the Soviets, it seems strange to recommend a blanket ban on access to such technology. Such draconian measures should only be considered as a last resort, and only then if they would help stop the outbreak of nuclear detonations or a nuclear war.

The committee is understandably impatient with India's stubborn determination to produce unsafeguarded plutonium, and with India's righteous indignation that any other nation might wish to question these peaceful assurances. Some nations might recall that India's experimental nuclear detonation in 1974 was also called peaceful. It seems that the United States does not have a monopoly on indignation when it comes to nuclear nonproliferation.

No one need warn me about the threat from the Indian nuclear program. In 1980, when the Carter administration asked Congress to exempt India from the safeguards requirements of the Nuclear Non-Proliferation Act, I led the movement to stand by our law, and lost by only two votes in the Senate. I felt strongly then, as I feel now, that the long-term interests of the country are best served by avoiding waivers of our nonproliferation legislation that are requested just because the law may be inconvenient to implement.

Our relationship today with Pakistan, however, is different from our relationship with India. Pakistan and the United States are working together to force an end to the brutal Soviet occupation of Afghanistan. This collaboration is genuine, given Pakistan's deep appreciation of its own self-interest in achieving a Soviet withdrawal. And U.S. national security could be affected by the outcome. For this reason, I was willing to enter into a compromise involving the waiving of the Symington amendment for 6 more years, on an annual determination by the President that a cutoff would seriously threaten U.S. national security interests.

I do not think that any country that receives a waiver of the Symington or Glenn amendments—which specifically ban U.S. aid to non nuclear-weapon countries that import or export unsafeguarded uranium enrichment or nuclear reprocessing technology—should be permitted to produce nuclear weapon materials while receiving our military aid except where a serious threat to U.S. national security exists. This position is hardly anti-Pakistan, given that Pakistan is the only country to have received a waiver of these laws. Indeed, America has discriminated on Pakistan's behalf.

America's demonstration of a firm commitment to restrain Pakistan's nuclear program would, if more successful than it has been in the last 6 years, go far in denying India a pretext for announcing its own weapons program. I am hopeful that the President will keep this in mind and exercise his waiver authority under this compromise with reference. By limiting Pakistan's production of bomb material, the United States will put the onus on India to take the next significant step toward nuclear nonproliferation in the subcontinent.

We are gratified that India has wisely chosen not to develop nuclear weapons and that India has shown respect for our nuclear export laws. But if India fails to take additional steps—such as following the great powers in voluntarily placing nuclear facilities under safeguards, clearing up accounting discrepancies concerning its heavy water, commencing a serious dialog with Pakistan over additional regional initiatives focused on limiting weapon-grade materials production—it surely will not be in a position to hold us responsible for the consequences.

It is possible and probably desirable for Congress to reaffirm its determination to discourage the production of such materials, while also permitting the President to respond responsibly to other threats to our national interest. This has been accomplished in the compromise by providing a cutoff of assistance to Pakistan if Pakistan produces uranium enriched to a level of 20 percent or more, or produces special plutonium or uranium 233. At the same time, the compromise provides for a Presidential waiver authority in the event that a termination of our aid would result in a serious threat to our national security interests.

I have in the past demonstrated how the administration has at times withheld proliferation-related information from the Congress, often just before an important vote on U.S. assistance. Let me cite another example. Based on information reportedly from United States intelligence sources, today's issue of the London Financial Times reports that Pakistan is now building a second uranium enrichment plant that would represent a significant expansion of Pakistan's ability to make bomb-grade uranium. The report identifies a town in Pakistan where components of nuclear weapons are being fabricated. Mr. President, I ask unanimous consent that this article be printed in the RECORD at the end of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. GLENN. The article claims that the U.S. Government was aware of this development, yet let me ask my colleagues, how many of you were so informed? How many of the Members who recently voted in the Appropriations Committee were aware of this development? Must Congress now rely on foreign newspapers for our information on such developments? It is not just common sense for Congress to be kept fully and currently informed by the executive—under the Nuclear Non-Proliferation and National Security Acts—it is our law.

Forty-five years ago, President Roosevelt spoke to Congress of a "day that will live in infamy." December 7, 1987, may well be a watershed date in the history of nuclear nonproliferation, thanks to two developments.

Trial proceedings began in Philadelphia for Mr. Arshad Pervez, a Pakistani-born businessman accused of attempting to smuggle nuclear equipment to Pakistan. If such disturbing developments are to be avoided in the future, all nations that attempt to acquire illegally our nuclear weapon technology must be put on notice that they are not above U.S. law. America's enforcement activities follow similar vigorous steps taken by West Germany last summer—after years of rhetoric about nonproliferation, perhaps the nuclear supplies are finally learning that actions speak louder than words.

On the same day, Soviet General Secretary Gorbachev came to Washington to attend a historic summit that will eliminate a class of nuclear weapons systems. How ironic it is that at a time when the superpowers are finally starting to reduce their arsenals, the Congress is considering legislation that would cordon off a corner of the world where nuclear proliferation would be encouraged, so long as it was balanced.

Mr. President, I would like in closing to commend the distinguished Senators of the Appropriations Committee for their foresight in seeking an end to nuclear-weapon materials production in both India and Pakistan. I hope that this compromise proves fully responsive to our shared concerns.

EXHIBIT 1

[From the New York Times, Dec. 3, 1987]

THE HOUSE, THE BOMB, AND PAKISTAN

The heated question of aid to Pakistan hits the floor of the House of Representatives today. The vote will be close, for principle seems to vie with principle—helping Pakistan for itself and for its help to the Afghan rebels versus trying to pressure Pakistan to stop building weapons.

The Administration has requested $4 billion for Pakistan over six years. One year's appropriation is now before the House. It requires waiving a law that precludes aid because of Pakistan's nuclear-weapons activities.

Supporters argue that Pakistan is a loyal ally essential to support of the Afghan opposition. They regret its pursuit of nuclear capability but say cutting off aid won't necessarily end it.

Representative Stephen Solarz proposes an amendment restoring the six-year aid program as Pakistan desires, but making it contingent on Presidential assurances that Pakistan has ceased producing weapons-grade nuclear materials. Perhaps, Mr. Solarz concedes, the cutoff would weaken Pakistan support of the rebels. But as Pakistan says, its support has continued despite previous aid bans and rests on its own interests.

Representative Charles Wilson and Jim Leach offer another approach: Stop aid only if India agrees for forgo nuclear weapons programs and Pakistan refuses to do likewise. Certainly Washington should put more pressure on India, but it lacks real leverage. Perhaps the only way to get India on the nonproliferation bandwagon is not to let Pakistan off the hook.

There can be reasonable disagreement over whether an aid stoppage will have the desired effect in Pakistan. But there is no doubt that Pakistan continues its weapons development program and lies about it. And there can be little doubt about the effect of Congress waiving laws it has designed to contain the spread of nuclear weapons.

An aid renewal would say that when other important issues are at stake America will accept utter disregard for nonproliferation. That is not a signal the world can afford.

[From the St. Petersburg Times, Aug. 13, 1987]

PAKISTAN PLAYS WITH FIRE

Pakistan's unabashed pursuit of expanded nuclear war-making capability places U.S. foreign policy on the horns of a classic dilemma. On the one side, to maintain credibility, the United States needs to punish those who undermine our treatybound commitment to restricting any further proliferation of nuclear bomb-making. On the other hand, and credibility again is paramount, the U.S. government wants to keep its commitments to the resistance in Afghanistan. That aid flows through Pakistan.

Yet Pakistan has paid little heed to U.S. nonproliferation policies. Indeed, it has pursued the manufacture of weapons-grade nuclear materials, in the words of U.S. Ambassador Deane Hinton, "inconsistent with a purely peaceful program." Pakistani President Mohammed Zia ul-Haq boasted this spring that "Pakistan can build a bomb whenever it wishes." In April sensitive uranium enrichment technology headed for Pakistan was discovered in a West German raid in Cologne. Recently, a Pakistani native was caught trying to buy steel and beryllium materials that are critical to nuclear weapons production and are strictly controlled by U.S. law.

Living in a world with a Pakistani finger on the nuclear trigger raises global tensions, feeds Middle East insecurities and threatens a southern Asian nuclear war (as Pakistan's rival, India, is poised with nuclear power). Israel, especially, fears an "islamic bomb" in the hands of its enemies during an era of rising Islamic fundamentalism that has led to belligerence on several fronts.

The Reagan administration, to date, has not been moved to threaten Pakistan with a cutoff in aid unless the Asian government stops pursuing nuclear brinkmanship. That unwillingness to act has led some to suggest an equally dangerous position: Pakistan either forsakes its nuclear bomb-making capacities or the United States stops its aid.

It's time for Pakistan to back off its nuclear weapons program. If it so ignores its friends in pursuit of such power, how will it handle its enemies once it controls that power?

The best approach for U.S. policy is not another all-or-nothing ban. It is the reasonable plan offered by U.S. Sen. John Glenn, author of the U.S. nonproliferation law and a supporter of the Afghan resistence. Glenn persuaded the Senate to pass a resolution saying that U.S. *military* aid should be withheld from Pakistan unless that nation offers verifiable information showing it has abandoned its pursuit of a nuclear arsenal. U.S. Rep. Dante Fascell of Miami, chairman of the House Foreign Relations Committee, has taken a similar position.

This would seem to be in Pakistan's interest as well. Pakistanis can maintain a long-term security relationship with the United States and bolster their conventional military forces—which more aptly suits their defense needs than a nuclear bomb. Or Pakistan can force the United States to choose between its own integrity and an ally's reckless ways.

[From the Orlando Sentinel, July 30, 1987]

ENOUGH OF PAKISTAN'S LIES

Once again, Pakistani agents have been charged with trying to smuggle material for making nuclear weapons out of the United States. That's forcing this country to choose between two worthy causes: slowing the spread of nuclear weapons or supporting Pakistan and Afghan rebels fighting the Soviet occupation of Afghanistan.

Although both rank high among U.S. objectives, limiting the number of nations that possess nuclear weapons should come first. Doing so controls the threat of nuclear war, especially in South Asia where India already boasts nuclear weapons.

The United States should do all it can, including cutting off military aid to Pakistan, to halt Islamabad's run for the bomb.

Indeed, since 1976 U.S. Law has prohibited military aid to any ally that diverts nuclear material into weapons of war. In 1979 the United States cut off military aid to Pakistan for that reason.

But aid was reinstated two years later because of the key role Pakistan plays in channeling U.S. aid to the rebels in Afghanistan. At the same time, Pakistan was exempted from the law for six years.

Publicly, Pakistan assured Washington that it was not trying to build a nuclear weapon. That was baldfaced lie No. 1.

In 1984 a Pakistani agent was caught attempting to send out of the United States electrical switches for detonating nuclear weapons. Congress responded with a new law that requires the United States to cut off aid if such illegal exports are done or attempted.

Pakistan again maintained that it did not seek to construct a nuclear weapon. That, apparently, was baldfaced lie No. 2.

This month a Canadian of Pakistani extraction and a former Pakistani general were charged with trying to buy special steel used to process uranium to the quality needed for weapons.

What's especially galling is that this latest grab for nuclear material was made while Congress was deliberating a new $4 billion aid package, to be doled out to Pakistan over the next six years.

Is there no limit to the reckless behavior of a purported ally?

Unless Pakistan provides verifiable assurances that it is not producing weapon-quality nuclear materials, further U.S. military aid would be foolish.

[From the Washington Post, July 27, 1987]

PAKISTAN AND THE SMUGGLERS

Pakistan invites ridicule with its protestations that it is not building nuclear weapons. The Pakistani government asserts that it had nothing to do with the attempt to smuggle 25 tons of highly specialized steel from the United States to Pakistan. The steel is suitable for equipment to enrich uranium, and the case came to light two weeks ago with the arrest of a suspect in Philadelphia. In Islamabad, Pakistani officials called it a rogue operation for which the government bears no responsibility.

Really? It was hardly an isolated case. A few days after the Philadelphia arrest, a grand jury in California indicted three people for illegally exporting electronics equipment of types that a nuclear program would require. Again, the destination was Pakistan.

As for the steel, a smaller amount of the same special alloy was recently exported illegally from West Germany to Pakistan, Leonard Spector points out in his book, "Going Nuclear." According to German press reports the shipper sent the invoice and the bill to the Pakistani Embassy in Bonn. The steel was fabricated to precisely the specifications required by the designs stolen in 1975 by a Pakistani scientist, A. Q. Khan, from the European enrichment consortium where he was then employed. Dr. Khan is now head of the Pakistan government's enrichment program.

Pakistan promised the United States three years ago that it would not enrich uranium beyond the low level required to run civilian power reactors. There is now much evidence to suggest that Pakistan is pushing the enrichment level up to weapons grade and is expanding its weapons capacity.

American law forbids foreign aid to countries that build nuclear weapons. But currently the United States is providing very substantial aid to Pakistan, especially to keep open the supply routes to the guerrillas fighting the Soviets in Afghanistan.

That confronts the United States with a difficult choice.

"Clearly, the outcome depends to a very large degree on Pakistan's response," Assistant Secretary of State Richard W. Murphy told a House hearing last week. Denials and denunciations issued from Islamabad won't suffice. If Pakistan wants to demonstrate its good faith, the way to do it is obvious. Most of the world's governments, including the United States and the Soviet Union, have opened their peaceful nuclear facilities to international inspection. If Pakistan's enrichment activities are innocent and limited, as it claims, it should have no objection to inspection. But if it continues to refuse anything more than the usual verbal assurances, the United States will have little choice but to enforce its law.

[From the Wichita (KS) Eagle-Beacon, July 27, 1987]

PAKISTAN MUST KEEP NUCLEAR RULES

Congressional sentiment for cutting off a six-year, $4 billion foreign-aid program to Pakistan is understandable. There simply is no credibility in the Pakistani government's denial it was behind a now-foiled plot to import materials from the United States to build nuclear weapons.

The U.S. Customs Service arrested Arshad V. Pervez earlier this month after he tried to buy maraging steel, used in the making of nuclear devices, from a Pennsylvania mill. The government of Pakistan President Zia last week called Mr. Pervez's activities "the outcome of a conspiracy by elements who are opposed to the continuation of Pakistan-U.S. relations."

This is not plausible. Pakistan is believed to have been developing nuclear weapons since 1974, when neighboring India exploded a nuclear device. Since then Pakistani agents have been caught in a number of attempts at buying nuclear technology and materials in the United States and Western Europe. Pakistan neither has signed the nuclear non-proliferation treaty nor allowed outside inspection of its nuclear facilities.

Such attempts made here, by any non-nuclear nation, are punishable by a cutoff in U.S. aid. The Reagan administration, however, desirous of continuing to channel aid through Pakistan to anti-Soviet rebels in nearby Afghanistan, has been loath to invoke such penalties. Members of Congress incensed at this latest incident rightly say that attitude is dangerous and must change.

The administration should demand that Mr. Zia's government provide evidence to support its "conspiracy" theory. If it can't, aid should be cut off until Pakistan signs the non-proliferation treaty and agrees to outside inspection of nuclear facilities.

[From the Cincinnati (OH) Enquirer, July, 25, 1987]

U.S./PAKISTAN—FOREIGN AID SHOULD BE HALTED PENDING BRIBERY INVESTIGATION

The arrest of a Pakistani on charges of trying to buy illegally a special steel alloy used in making atomic weapons underscores the urgency of Sen. John Glenn's drive to suspend U.S. aid to Pakistan. Pakistan must be made to understand that the United States cannot tolerate such transactions.

Arshad Z. Pervez's reported attempt to buy the alloy from a Reading, Pa., manufacturer came amid increasing suspicion that, despite its claims to the contrary, Pakistan is bidding for entry into the nuclear bomb club. The material sought—Maraging 350 steel—is banned for export because it can be used in nuclear enrichment plants.

The firm Pervez was alleged to have approached, Carpenters Steel Corp., tipped off the U.S. Customs Service last November. A customs agent's affidavit accuses Pervez of proposing a bribe in an effort to win Commerce Department approval of the proposed purchase. At one point, the Pakistani was alleged to have nodded agreement when a Carpenter Steel official said he believed the steel was for the manufacture of nuclear weaponry.

Unless Pakistan can convince the U.S. government that it isn't in the nuclear weapons business, the United States must consider halting the flow of military and economic aid to Pakistan. That, to be sure, would pose problems, the most obvious with respect to Pakistan's role as principal arms conduit for the Afghan freedom fighters and as host for millions of Afghan refugees. Pakistan, in addition, is the closest thing the United States has to a friend in that part of the world.

But U.S. law on the export of nuclear materials is explicit. Continued aid for Pakistan under the growing weight of evidence that it is making atomic weapons would make a mockery of that law.

[From the Buffalo (NY) News, July 23, 1987]

STRINGS ON PAKISTAN AID

New indications of Pakistan's obsession with nuclear weapons have come with the arrest of a man allegedly seeking the illegal export to Pakistan of materials that would be useful in building such weapons. The man, a Canadian of Pakistani origin, is accused of seeking illegal shipments of steel alloys and of trying to bribe American officials.

In addition, two Americans and a Hong Kong businessman were indicted in California recently and charged with illegally shipping to Pakistan $1 million worth of sophisticated equipment that could be used in a nuclear program.

As usual, Pakistan denies it is seeking to build nuclear weapons and claims that its nuclear research program is purely for peaceful purposes. But its production of weapons-grade nuclear material suggests its real intentions. Ever since its arch-rival, India, exploded a nuclear bomb in 1974, Pakistan has pressed forward with its nuclear program.

Pakistan has long been an American ally, and it is especially important right now because it provides bases for the Afghan guerrilla forces resisting the Soviet occupation of their country. With this in mind, the Reagan administration is now asking Congress to approve $4 billion in aid over the next six years.

Despite the traditional U.S. support for Pakistan, Congress is right to question the administration's inconsistent policy, which includes stiff lectures to Pakistan on its nuclear policy but avoids any concrete measures to back them up. Congress is seeking assurance that Pakistan will abandon its drive for nuclear status.

Pakistan has been full of assurances as to the peaceful nature of its nuclear program, but as a Washington official put it, "these recent events call those assurances into question." Sen. John Glenn, D-Ohio, deploring Pakistan's "complete lack of credibility," wants conditions built into any new aid program that would provide assurance that Pakistan did not have nuclear weapons and had ceased producing weapons-grade nuclear material.

The last thing Asia needs is another nuclear power. While India did explode a nuclear device, it claimed it was for "peaceful" purposes, and in any case it does not appear to have developed a nuclear arsenal. The emergence of a nuclear Pakistan, however, could set off a nuclear arms race on the continent.

In addition, a Pakistani break-through could lead the way to a general breakdown of the Nuclear Non-Proliferation Treaty, which has so far succeeded in limiting nuclear weapons. Only five nations acknowledge having nuclear weapons, although several appear capable of building them if they wanted to. Pakistan may already be close to achieving nuclear capability.

President Carter cut off aid to Pakistan in 1979 because of its nuclear ambitions, but President Reagan restored it. In view of Pakistan's apparent disregard for previous warnings and the fearful peril of nuclear proliferation, any further aid to Pakistan should be accompanied by stern conditions to prevent it from going nuclear.

[From the Atlanta (GA) Constitution, July 22, 1987]

PAKISTAN'S FINGERPRINTS IN NUCLEAR CASES

Is it just a coincidence that Pakistan's nationals or its presumed agents are being caught with hands in the nuclear cookie jar? Can Americans accept Pakistan's repeated avowals that it is not building The Bomb?

We could hardly believe its word beforehand, but now after the July 10 arrest of a Pakistan-born Canadian and the indictment of two Americans last week, we can't possibly accept Pakistan's pat denials.

The Canadian was charged with bribing an undercover U.S. Customs agent to arrange the manufacture and shipment to Pakistan of 25 tons of a special steel used in the construction of high-speed centrifuges for producing weapons-grade uranium.

The Americans were accused of illegally exporting to Pakistan equipment used in the analysis of explosive components in a nuclear weapon's detonator. Remember, too, that another Pakistani was deported in 1985 after his conviction in a plot to spirit special switches called krytrons out of this country to Pakistan. Almost the only use for krytrons is to trigger nuclear explosions.

Defense analysts also say Pakistanis have shopped feverishly from a nuclear wish list all over Europe and that Pakistan has received bomb components from China. Pakistan, in sum, is said to have the material to build a bomb if it hasn't done so already.

After the krytron affair, Congress mandated a cutoff in U.S. aid to any country that attempts to smuggle nuclear-weapons material out of the United States. In Pakistan's case, though, we can't just slam the door shut on the key conduit for U.S. help to the Afghan resistance; still we must be firm.

Many in Congress want to take a meat-ax to the administration's $4 billion, six-year Pakistan aid program, and well they might unless it levels with us about its nuclear program. Granted, it's impossible to prevent further nuclear weapons research in a country that lusts after The Bomb as Pakistan does. Still, we must use our aid leverage—perhaps significant cutbacks—to enforce taboos: namely, no more nuclear hanky-panky and no testing, a sure excuse for an arms race between Pakistan and India.

Thwarting the Soviets in Afghanistan is a worthy goal, but far worthier in the long run is to cool Pakistan's and other developing countries' yearning for a superpower's punch. Especially a U.S. aid client who tries to sneak its way into the nuclear club.

[From the Los Angeles (CA) Herald Examiner, July 21, 1987]

ISLAM'S BOMB

Pakistan's official assurances that it isn't preparing to build a nuclear bomb have lost whatever tenuous credibility they once had. The disturbing evidence is overwhelming.

If President Zia ul-Haq wants to see a nickel of the $4.02 billion U.S. aid package the White House has proposed for his country, then he must be forced to open his government's so-called peaceful nuclear program to full inspection. Anything less would be a defeat for the U.S. policy of nuclear non-proliferation.

It's been obvious for years that Pakistan is pursuing nuclear capability. Indeed, Zia occasionally has bragged about an "Islamic bomb." The arrest last week of a Pakistani businessman for trying to purchase 50,000 pounds of a metal alloy useful in bomb-making is just one more piece of evidence. If the businessman had been successful. Pakistan's bomb program would have been greatly advanced.

Because of the ongoing Soviet slaughter in Afghanistan, President Reagan in 1981 approved aid to the strategically located Pakistan. To do so, he had to waive a law barring aid to nations that cannot reliably assure they have no nuclear devices. The waiver expires Sept. 30. But the administration wants to renew it.

Another law may make the matter moot. Under the Solarz amendment, any nation that illegally tries to export from the U.S. materials that would "contribute significantly" to nuclear-weapons manufacture faces an automatic aid cutoff.

Aid to Pakistan can be continued, but only if General Zia agrees to prove that his country isn't enriching uranium above 5 percent, well below bomb-grade level. That's a pledge Pakistan already made to President Reagan in 1984.

The ultimate solution, of course, would be to convince Pakistan it doesn't need the bomb. Toward that end, Washington should sponsor confidence-building talks between Pakistan and its neighbor India, which already has nuclear capability.

[From the Philadelphia Inquirer, July 20, 1987]

PAKISTAN BETTER NOT THINK IT HAS AMERICA TRAPPED

Last week in Philadelphia a Pakistani was arrested for trying to smuggle home critical materials used in making nuclear weapons. Despite official Pakistani denials, all signs indicate that he was on government business. Such brazen flouting of U.S. laws forbidding such exports is pushing Washington toward a cutoff of aid to Pakistan that neither country wants.

Pakistan seems to think it has Washington over a barrel—and that is correct. On the one hand, U.S. policy seeks to halt the spread of nuclear weapons. On the other hand, Pakistan, which adjoins Soviet-occupied Afghanistan, provides bases for Afghan resistance groups, which are the most popular and formidable recipients of U.S. anticommunist aid. If Washington cuts off funds to Pakistan, that country might no longer willing to put up with the domestic problems—and the Soviet hostility—generated by its willingness to keep millions of Afghan refugees, including resistance fighters.

For its part, Pakistan is particularly eager to develop nuclear weapons because its arch enemy, India, developed and tested such a weapon more than a decade ago. Neither India nor Pakistan has been willing to agree to internationally enforced safeguards, making the situation particularly volatile. Until now, both Congress and the administration have chosen to fudge their response to Pakistan's nuclear drive. The Symington Amendment, which forbids U.S. aid to countries that produce weapons-grade uranium and won't submit to international inspection, repeatedly has been waived.

The premise has been not just the need to help the Afghans but also the fact that few believe an aid cutoff will work. President Jimmy Carter tried one briefly and Pakistan just kept on working on its bomb. (It is presumed to possess the components to make at least one device, and enough enriched uranium to build at least one more each year.) U.S. officials have worried also that if aid is cut, Pakistan will feel free to test openly. This in turn may provoke India to rev up its nuclear program, or even to launch a preemptive strike against Pakistan's nuclear facilities.

So the administration has preferred to pressure Pakistan quietly to curb its nuclear program, while keeping the aid dollars flowing.

But the American effort to ignore the situation has been made more difficult by Pakistan's brazen disregard for U.S. law. The Philadelphia caper seems to indicate a heedless determination to expand nuclear production, especially since it follows similar Pakistani smuggling operations in Europe.

If Congress is not to be forced into action that most members, and the administration don't really want, the Pakistani government will have to do more than issue denials. The first, minimal, step would be to offer persuasive commitments that efforts to smuggle bomb material will stop. The Pakistanis should realize that the onus is on them to restore a climate in which U.S. aid can continue.

[From the San Diego Union, July 20, 1987]

TIGHTEN THE SCREWS

The arrest in Philadelphia of yet another agent involved in Pakistan's worldwide effort to acquire materials for producing nuclear weapons confronts the United States with a difficult dilemma.

If the Reagan administration continues to pursue a closer strategic relationship with Pakistan in spite of Islamabad's nuclear-arms program, it risks abetting the spread of nuclear weapons in the Third World. There are few places where such proliferation is more dangerous than on the Indian subcontinent, where arch enemies Pakistan and India already possess an embryonic nuclear capability.

On the other hand, if Washington exerts its full leverage and suspends all U.S. aid to pressure Pakistan into abandoning its nuclear program, it risks undermining an important bulwark against further Soviet expansionism in Southwest Asia. Pakistan, in addition to being staunchly pro-Western, is the prime base of support for Afghan rebel armies fighting the Soviet puppet regime in Kabul.

This clash of American interests is not, however, an either-or proposition.

What is needed now is a measured response from Washington that goes beyond the mere diplomatic protests of the last six years but stops short of a full cutoff of U.S. aid. Given the mounting campaign in Congress led by Sen. John Glenn, D-Ohio, and Rep. Stephen J. Solarz, D-N.Y., to cease all U.S. support to Pakistan, the Reagan administration is obliged to tighten the screws a notch or be shoved aside as lawmakers impose much stronger measures.

The White House is seeking $4 billion in military assistance to Islamabad during the next six years. In addition, however, President Mohammad Zia ul-Haq is pressing Washington for sophisticated AWACS radar planes to improve air reconnaissance along the Pakistan-Afghan frontier, where there have been repeated incursions by Afghan government pilots.

As a first step, the administration is likely to suspend consideration of the AWACS deal, pending evidence that Pakistan is not trying to make nuclear weapons at its Kahuta nuclear-enrichment plant. In light of the arrest 10 days ago of a Pakistani citizen seeking to acquire from a U.S. firm a special steel alloy used in producing nuclear bombs, Congress would hardly permit the AWACS sale now, anyway.

At the same time, the United States should make clear to President Zia its intention to reduce in future increments other planned American assistance if Pakistan continues its efforts to build a nuclear arsenal. And the U.S. Customs Department must continue its vigorous efforts to prevent the illegal export of materials used to make nuclear arms.

Frustrating Pakistan's nuclear ambitions need not require a break in the important strategic partnership with the United States that has emerged since the 1979 Soviet invasion of Afghanistan. By the same token, maintaining close ties to Islamabad does not require the United States to acquiesce in the perilous creation of a new nuclear power in an unstable corner of the Third World.

[From the Minneapolis (MN) Tribune, July 20, 1987]

ANOTHER REASON TO SAY NO TO PAKISTAN

Pakistan insists that its interest in nuclear technology is purely peaceful. But U.S. officials need look no further than Philadelphia for contradiction of that claim. There, a Pakistani citizen now faces charges that he plotted to export materials to help his country build a bomb. That development should prompt Congress and the Reagan administration to think twice before authorizing military aid to Pakistan.

The consequence of a 20-month undercover investigation, the arrest this month exposed an illegal attempt by Pakistani businessman Arshad Pervez to purchase 25 tons of a special steel alloy needed to make nuclear weapons. Although Pakistan denies any knowledge of his actions, Pervez allegedly admitted to manufacturers of the metal that it would in fact be used by Pakistan to make bombs—and later haggled with an undercover agent over the size of the bribe necessary to sneak the material past U.S. Customs officials.

Pervez's arrest is only the latest of many indications of Pakistan's persistent interest in acquiring a nuclear weapon. U.S. intelligence officials have long maintained that Pakistan's reprocessing plant at Kahuta has already enriched enough uranium to construct such a weapon. Their conclusion is corroborated by the recent proclamation of a leading Pakistani nuclear scientist that construction of a bomb is within reach.

Such revelations should matter to Congress, which is bound by a 1985 law to cut off American aid to any country that tries to obtain American material illegally for the purpose of building an atomic weapon. Until now, lawmakers and White House officials have seemed willing to sidestep that statute—largely because of concern that ending aid to that country could close America's only avenue to guerrillas in Soviet-occupied Afghanistan. But Pakistan's nuclear obstinacy is becoming too blatant to overlook. It should now provoke second thoughts about the pending $4 billion military aid package for Pakistan, already approved by the Senate Foreign Relations Committee.

Preserving ties with the Pakistanis—and through them, with the Afghan rebels—is important. But that goal cannot be pursued regardless of price. If the United States cares about stopping the spread of the bomb, it should not send aid to a country that flouts the principles of nuclear nonproliferation at every turn.

[From the Wichita Eagle-Beacon, July 20, 1987]

PAKISTAN'S RISKY NUCLEAR AUDACITY

Driven, apparently, by its bad relations with India, Pakistan persistently has defied U.S. laws banning export of nuclear-weapons components. The Reagan administration, sensitive to strategic concerns, has avoided penalizing Pakistan.

It soon may have to. Authorities in Philadelphia last week arrested a Pakistani trying to buy maraging steel needed to make nuclear bombs. Had Pakistan taken delivery of the material, its capacity to manufacture nuclear bombs, estimated at one a year, would have inceased tenfold.

A 1985 law, the Solarz Amendment, calls for the cutoff of all U.S. aid to any country that tries to acquire and import nuclear weapons materials from the United States. That law was passed after Pakistan in 1984 was caught trying to acquire krytrons, high speed electronic switches used to trigger nuclear explosions.

But Pakistan isn't just any nation. It's the staging area for U.S. aid to the Afghan resistance, and strategically is important because it borders both China and the Soviet Union. Its audacity in trying to acquire the maraging steel seems to have been prompted by the administration's suspension of another law requiring the cutoff of arms shipments to countries engaged in proliferation of nuclear weapons. The United States, the government of President Zia seems to think, won't hinder attempts to develop a bomb because of Pakistani help in Afghanistan.

It's time to call Pakistan's bluff. A permanent Soviet presence in Afghanistan isn't in Pakistan's interest, and Pakistan really has nowhere else to turn for military hardware. Pakistani membership in the global nuclear club would benefit no nation—including Pakistan. The administration should investigate the maraging steel incident fully. If a link to the Zia government is established, the Solarz Amendment should be enforced.

[From the Long Island Newsday, July 20, 1987]

NO MORE NUCLEAR EXCEPTIONS FOR PAKISTAN

Pakistan clearly hasn't abandoned its quest for an Islamic nuclear bomb.

A Canadian citizen of Pakistani extraction was arrested in Philadelphia last week after a lengthy undercover investigation. Given Pakistan's nuclear record, it's very difficult to believe that Arshad Pervez was merely acting as an independent entrepreneur when he attempted to buy materials needed to manufacture and detonate nuclear weapons.

Pervez was trying to export these materials to Pakistan even as the Pakistani government was assuring Washington that its nuclear program was for civilian purposes only. The Reagan administration, in turn, was lobbying Congress to approve a $4-billion military and economic aid package for that government.

Pakistan has refused to go along with international nonproliferation agreements or allow international inspectors to examine its nuclear facilities. the Carter administration did cut off aid because of Pakistani efforts to acquire nuclear weapons technology and materials illegally. But aid started to flow again after the Soviet Union invaded Afghanistan in 1979, and President Ronald Reagan suspended the U.S. nonproliferation law in 1981 to put through a six-year, $3.2 billion aid package that expires Oct. 1.

Last April, House and Senate committees agreed to increase funding for Pakistan and extend the suspension for two years, subject to a 1985 law requiring that aid to any non-nuclear nation be cut off if it tries to acquire from the United States "material, equipment or technology" to make a nuclear weapon.

The materials Pervez sought included beryllium, a rare metal used in the detonation of nuclear weapons, and 50,000 pounds of superhard steel alloy needed in the manufacturing of weapons-grade uranium. His activities allegedly included bribing U.S. officials who turned out to be undercover agents.

The United States has been far too patient with Pakistan, considering its repeated and blatant violations. The situation in Afghanistan notwithstanding, Congress should refuse to renew the aid. If Pakistan wants the assistance, all it has to do is stop trying to join the nuclear club and open its nuclear facilities to international inspection.

[From the New York Daily News, July 19, 1987]

NO NUKES FOR PAKISTAN

The Pakistani government says that it didn't really try to buy a special kind of steel alloy used in making atomic bombs. That it isn't really trying to build a bomb of its own. Despite the fact that a Pakistani was recently arrested for bribing a U.S. Commerce Department official to help him smuggle 25 tons of that alloy to Pakistan.

Nonsense. Pakistan wants the bomb because India has the bomb. And it will stop at nothing to get it. Except maybe the loss of $4 billion in American aid.

It's a tough call. Pakistan is providing major assistance to Afghan rebels in their struggle against the Soviets. Which is why the U.S. is providing such a generous aid package to the Pakistanis. But a Pakistani A-bomb would be a disaster for world peace. If the United States has to pull the plug on aid to stop the Pakistanis from going nuclear, so be it.

[From the Sun, July 20, 1987]

PAKISTAN AND THE BOMB

The arrest in Philadelphia of a Pakistani trying to export nuclear-sensitive materials brings to the front burner a conflict of interest the Reagan administration has been trying to keep on the backburner for years: What to do about Pakistan's evident reach for membership in the nuclear club while preserving relations with a key South Asian ally and keeping open U.S. links to the rebels fighting Soviet domination in Afghanistan?

Ashad Z. Pervez, arrested after a 20-month investigation, allegedly tried to dupe American businessmen and bribe U.S. officials into cooperating in a scheme to export to Pakistan a quarter of a million dollars worth of specialty steel and beryllium used in the manufacture of nuclear explosives. Over the last 10 years, there have been persistent reports that Pakistani scientists were developing a nuclear-weapons capability to counterbalance perceived threats from India, which exploded a nuclear device in 1974.

U.S. administrations have consistently opposed this effort, for the plain reason that nuclear counterweights only beget new nuclear counters, a spiral Americans know all too well. President Carter even cut off aid over Pakistan's not-so-covert efforts to build a nuclear infrastructure and refusals to sign a non-proliferation treaty. But the Soviet takeover of Afghanistan, and the U.S.-supported *mujahedin* uprising it provoked, offered a lever big enough to keep Washington off balance. President Reagan, pressing the Afghan rebels cause before Congress, was able to evade the fallout from the June 1984 arrest of another Pakistani, Nazir Ahmed Vaid, who tried to export tiggering devices for bombs.

The Pervez case will probably be much more sticky. Pakistani officials have been silent on Mr. Pervez' connections with their government, but there can be little doubt who sent him to get the proscribed exports. It is time Washington stood up to Islamabad. Trying to subvert U.S. officials goes far beyond the pale of accepted activity by a friendly nation, especially when its results could destabilize an entire region.

Pakistan cannot really do without the $4 billion in U.S. aid it expects over the next six years, and its club, a rapprochement with the Soviets, is less potent than it seems. Abandoning the *mujahedin* would make Pakistan a pariah in the Moslem world and stir up a hornet's nest with the 3 million Afghan refugees on Pakistani soil. Paskistan may have the ability to make a bomb, but its leaders should be told in blunt terms that pushing forward will cost it friends it needs.

[From the Dallas Times Herald, July 18, 1987]

PAKISTAN: DROP NUKE PLAN

There's no question that Pakistan has become a key U.S. ally in South Asia, not only filling the void left by Iran but also providing critical assistance to Afghans resisting the Russian takeover of their country. But the zeal with which some Pakistanis are trying to expand their nuclear weapons program is about to spoil a promising relationship.

Just as Congress is polishing a bill to send $1.3 billion to Pakistan in economic and military aid over the next two years (the administration prefers $4 billion over six years), Arshad Z. Pervez, a Pakistani now living in Canada, was arrested in Philadelphia on charges of trying to export maraging steel and beryllium, both used for enriching uranium, to his country. He was reportedly working for a retired Pakistani army brigadier general.

It is expressly illegal to export sensitive items from the United States, as Pakistan well knows. Its officials have assured the

U.S. government many times that they were not producing weapons grade materials. Now they deny any connection with Mr. Pervez.

It's an awkward situation. Under the Solarz Amendment, miliary assistance cannot be continued to any non-nuclear nation that exports controlled materials from the United States.

It was only last March that Pakistan's president, Gen. Mohammad Zia-ul-Haq, was bragging to Time magazine that his country was capable of building a nuclear bomb. The provocation prompted India to threaten a reassessment of its nuclear position. It won't take much more to get an arms race going in South Asia.

Sen. John Glenn is calling for a halt to all aid to Pakistan unless its president offers reliable assurance that his country is curbing its bomb ambitions and agrees to some form of technical verification. Sen. Glenn is right. It's time to hit Pakistan between the eyes with a two-by-four and insist on verification. Then maybe the aid package, which is desirable, can go forward on the right terms.

[From the St. Louis Post-Dispatch, July 18, 1987]

Stand Tough on Proliferation

Pakistan's suspect record of developing nuclear weapons has received another bad mark with the arrest of a man charged with trying to buy material to make those weapons. But the real issue is whether the Reagan administration, which is closely allied with Islamabad for reasons relating to the Soviet invasion of Afghanistan, will move to enforce a 1985 law that calls for a cutoff of aid in such cases.

If it does, it will be disregarding the sentiment of Congress, which for six years has chosen to overlook Pakistan's nuclear misconduct because of its support for 2.5 million refugees from Afghanistan. Since 1981, Pakistan has received about $3.2 billion in U.S. military and economic aid; the White House is calling for $4 billion over the next six years. Pakistan is right up there with Israel and Egypt as a recipient of American dollars for strategic reasons.

When Congress passed the 1985 act, it wanted to cut down on the ways the world's leading industrial power might inadvertently contribute to the dangerous spread of nuclear weapons to states that ignore international safeguards. Nine years earlier, in 1976, Congress passed the Glenn-Symington amendment, which forbade aid to countries that did not accept international safeguards. Then Congress exempted Pakistan from that law because it wantd to help the Afghan rebels and refugees living and based in Pakistan.

This week a Canadian citizen who is a native of Pakistan, Arshad Z. Pervez, was arrested in Philadelphia after he tried to buy 25 tons of Maraging 350 steel. The alloy can be used in plants for nuclear enrichment, which is a step toward making atomic weapons. For 20 months, U.S. and Canadian officials had investigated Mr. Pervez, misleading him into thinking they could supply the materials he wanted.

Mr. Pervez seems to have been acting on behalf of a major client, but Pakistan has denied any connection with his activities. He has not been found guilty, but that should not stop the administration from demanding from the Pakistani government a full explanation of its connection with Mr. Pervez and what it has been up to. But the sudden toughness may come too late. It is well-known, for instance, that Pakistan has been in the world market looking for material that can be used to help produce a nuclear weapon. Its archrival, India, exploded a nuclear device in an underground test in the early 1970s and is widely believed to have the bomb or the capability to build several quickly. Neither nation has submitted to safeguards established by the International Atomic Energy Agency or allowed inspections of nuclear facilities.

Congress and the administration should stand firm on possible violations of a law that was enacted only recently. As Rep. Stephen Solarz, D-N.Y., said, "If we don't enforce the law, it will make a mockery of our non-proliferation policy." Pakistan and some other allies already have. That's no reason they should be allowed to continue with arrogant impunity. If they fail to show resolve now, Congress and the White House will be telling Pakistan it can build a bomb if it likes—which could cause immense long-term problems in South Asia and beyond.

[From the Detroit Free Press, July 17, 1987]

Pakistan: The United States Must Do More To Assure the Bomb Doesn't Get Built

Once again, a Pakistani agent allegedly has been caught with his hand in the jar of U.S. nuclear-related technology, and once again the U.S. government appears to be much more inconvenienced by the incident than the regime in Islamabad. It is past time for the United States to make its nonproliferation policy stick.

It is common knowledge that Pakistan is working frantically to acquire nuclear capability. In recent years, its agents have been buying and stealing nuclear technology and materials worldwide, and the United States has not been exempted from that clandestine effort. The Pakistani government apparently believes that violating U.S. export laws poses minimal risk; the Reagan administration is keenly aware of Pakistan's strategic value and the critical role it is playing in aiding the anti-Soviet resistance in Afghanistan.

For too long, the Reagan administration was willing to maintain the fiction that there was no exclusive evidence of Pakistan's nuclear ambitions in order to win congressional approval for substantial U.S. military aid to that country. Continuing this fiction after the latest revelations would undermine the credibility of U.S. commitment to nuclear nonproliferation. Suspending the next installment of U.S. aid to Pakistan is unlikely to push that country into the Soviet fold, but it could cause Islamabad to reconsider the wisdom of its reckless drive to acquire nuclear weapons.

[From the Washington Post, July 17, 1987]

Pakistan's Bomb

Once again a Pakistani has been arrested in this country for trying to smuggle out materials that could be used to build nuclear weapons. This time it was steel of a certain highly special type used in the uranium enrichment process. Work is proceeding steadily in Pakistan, and it is pressing the United States toward an unpleasant decision. American law forbids economic or military aid to countries that are building nuclear bombs. But Pakistan provides the major supply routes and staging areas for the guerrilla resistance to the Soviet occupation of Afghanistan, and for that reason the United States currently gives it very substantial aid. Pakistan is forcing the United States to decide between its interest in sustaining the Afghan resistance and its interest in preventing the spread of nuclear weapons. Put in those stark terms, the greater necessity is to deflect the nuclear rivalry—and with it, the possibility of nuclear war—in South Asia.

Pakistan has pursued nuclear weapons with obsessive energy ever since India exploded one in 1974. Since legal sources of the necessary equipment have been foreclosed by a worldwide embargo, Pakistan has resorted to systematic theft and smuggling to get the technology. There have been many recent cases in which police and customs agents here and in Europe have intercepted illicit shipments; it's clear that there have also been many shipments that reached Pakistan.

The recent pattern of these cases is ominous. Two years ago a German company evaded the embargo and sold Pakistan a ton of the special steel used in enrichment equipment. The Pakistani arrested this week in Philadelphia was attempting to obtain 25 tons of the same steel. In April West German authorities raided the headquarters of a Cologne firm that makes components for Urenco, a consortium that enriches uranium for several countries' power reactors. It appears that the Cologne firm had been supplying both blueprints and equipment to Pakistan. Since Pakistan was already capable of producing enough enriched uranium to build perhaps one bomb a year, the latest cases suggest that it is now trying to expand production.

In the 1970s the United States cut off aid to Pakistan because of its reckless pursuit of nuclear weapons. But in 1979, when the Soviets invaded Afghanistan, this country immediately reinstated the aid. Now the Pakistanis seem to believe that because of Afghanistan the United States will never enforce its nuclear control law and withdraw aid again. Are they right?

[From the New York Times, July 17, 1987]

Punish Pakistan's Perfidy on the Bomb

The arrest of a Pakistani trying to violate U.S. export laws shows once again how tenaciously Pakistan pursues the bomb. It also prompts a familiar chorus of State Department lamentations about the apparent violation, Pakistani protestations of an innocent, peaceful nuclear program and U.S. demands for good Pakistani behavior from now on.

This litany needs a new ending. American demands have to be backed up by action, even to the point of stopping aid to Pakistan. A cutoff might not work any better than scoldings, and it could be costly in other ways. But anything less would undermine U.S. nonproliferation policy.

Evidence mounts that Pakistan's decade-old pursuit of the bomb continues unabated. Yet Pakistan remains crucial to resisting the Soviet occupation of Afghanistan. All spring, Congress wrestled with these concerns and with an Administration request for a $4 billion, six-year aid program. Would approval send a limp message on proliferation? Would stopping aid destroy American influence?

As it turns out, even as Congress sweated over the usual compromise of renewing aid while expressing concern, a Pakistani businessman was hard at work in Philadelphia. He was trying to buy a steel alloy that could only be useful to Pakistan in producing nuclear weapons, and to bribe Commerce Department officials for an export license.

The baldness of Pakistan's latest perfidy has shaken even those who had hoped to paper differences with yet another compromise. All manner of reason and arguments have been tried with Pakistani leaders. It's time for stronger steps.

There is indeed no guarantee that an aid cutoff will restrain Pakistan's evident ardor for the bomb. Nor on the other side is there any certainty that Pakistani opposition to the Soviet presence in Afghanistan will be reduced by a cutoff. Pakistanis have their own reasons to oppose that occupation.

What the aid cutoff offers is another sort of guarantee: that U.S. statements about preventing nuclear nonproliferation are more than oratory. Whatever decisions Pakistan makes, the U.S. interest is clear. It lies in steady opposition to the development of nuclear weapons, in the strife-torn Indian subcontinent and worldwide. Proliferation is a terrifying prospect, one that will loom long after the injustice now plaguing Afghanistan is resolved.

[From the Miami Herald, July 17, 1987]

HOLD ON, PAKISTAN

Pakistan insists on building the bomb. In fact, it may have broken U.S. laws in its frenzy to gain its own nuclear button. A Pakistan-born Toronto businessman, Arshad Z. Pervez, has been arrested in Philadelphia for allegedly trying to buy and illegally ship to Pakistan 50,000 tons of special-alloy steel used to make nuclear weapons.

The 1985 Solarz Amendment calls for suspending U.S. aid to any non-nuclear country that attempts to acquire illegally in the United States materials used in producing a nuclear bomb. Thus Washington faces a serious dilemma. The Reagan Administration rightly wants to continue foreign assistance to Pakistan and to keep alive the flow of arms through Pakistan to the Afghan resistance fighting Soviet troops in Afghanistan. At the same time, Washington has an obligation to enforce U.S. law and to try to stop nuclear proliferation.

In 1979, the Carter Administration cut off aid to Pakistan in observance of the Symington-Glenn Amendments calling for nuclear nonproliferation. Then, in December 1979, the Soviets invaded Afghanistan. The Reagan Administration, taking office in 1980, persuaded Congress to restore the aid.

Pakistan is now entitled to a new six-year, $4.02-billion aid package, nearly half of it for military purposes. Sen. John Glenn, Democrat of Ohio, has proposed an alternative, valid course. "No new military assistance should be provided to Pakistan," said Senator Glenn, "unless it offers reliable assurances that it will not produce weapon-grade nuclear materials. These assurances must be verifiable, since Pakistan has once and for all demonstrated that its word is not sufficiently reliable."

Senator Glenn's proposal to suspend the military portion of the aid can be a way to test Pakistan's intentions. Ending all U.S. aid to Pakistan—including that earmarked to help Afghan refugees in Pakistan—would be a grave mistake, however. So would failure to prosecute violations of U.S. law, in this country, by or on behalf of Pakistan.

Pakistan might flout U.S. wishes in its quest to match is neighbor and adversary, India, in possessing nuclear weapons. But no nation can flout U.S. law on U.S. soil and get away with it.

[From the St. Paul (MN) Pioneer, June 17, 1987]

NURTURE PAKISTAN, BUT NOT NUCLEAR ARMS

Pakistan has the United States locked between an atomic bomb and a Soviet bear. Escaping the dilemma won't be easy, but Sen. John Glenn, D-Ohio, has charted an imperfect but reasonable route to safer ground.

For years, Pakistan has served as a vital conduit for U.S. arms shipments to Afghan rebels waging war against Soviet invaders. Without Pakistan's continued support, Afghan resistance would be shot down in flames within months.

Unfortunately, ever since Pakistan's neighbor and bitter enemy, India, exploded a nuclear bomb in 1974, the Pakistanis have been struggling to build one of their own. Latest evidence suggests that they are close to achieving their goal. Allowing the Pakistanis to wrap their fingers around a nuclear trigger of an "Islamic bomb" would heighten tensions in South Asia (India and Pakistan already have waged three modern wars). It also would represent the ultimate threat to Israel's existence.

So while it is clearly in Washington's interests to continue supporting both Pakistan and the Afghan rebels, it is also vital that the United States continue to discourage a nuclear buildup around the globe.

The Reagan administration has been warning the Pakistanis to back away from their bomb plan, but with little success. Moreover, recent votes by the Senate Foreign Relations Committee underscore Pakistan's belief that Washington won't risk losing Pakistani support of the Afghan rebels by taking steps to block its bomb-building effort.

Mr. Glenn believes the United States should gamble that Pakistan needs U.S. support more than it covets a nuclear bomb. Under his proposed amendment to the foreign aid bill, which may come up for a vote this week, U.S. military aid to Pakistan would stop unless President Reagan is able to certify that Pakistan has ceased producing weapons-grade nuclear material. If Pakistan exploded a nuclear bomb, the Glenn proposal continues, all U.S. aid would stop immediately.

While Mr. Glenn's plan has risks, they appear reasonable. Over the years, Pakistan has proclaimed that its nuclear pursuit has been for peaceful purposes only. Now it would have a chance to prove its claim. What is more, with the Soviet bear growling along its border, Pakistan has a critical need for U.S. military hardware.

Diplomacy is a delicate balancing act. Under the Glenn plan, the United States could continue helping the Afghan rebels without disrupting its decades-long effort to halt the spread of nuclear weapons. His suggestion also would promote South Asian detente. Both the Senate and the White House should support the Glenn amendment.

[From The Akron (OH) Beacon Journal, June 9, 1987]

SOME BALANCE ON PAKISTAN

It's no secret that Pakistan would like to be able to build nuclear weapons. Ever since its rival and neighbor, India, exploded a nuclear device 13 years ago, Pakistani leaders have vowed to gain similar capability. And recent reports suggest they're getting closer to their goal.

Unfortunately, one country that has aided Pakistan's effort is the United States. Six years ago, at the urging of the Reagan administration, Congress exempted Pakistan from requirements that U.S. aid be cut off to any non-nuclear weapons country that imported, without safeguards, uranium-enrichment or reprocessing equipment and technology.

The effect has been that Pakistan, although it has acquired these crucial ingredients to a nuclear bomb, has continued to receive U.S. military and economic aid. That's a reversal of the Carter administration's position: Jimmy Carter cut off aid to Pakistan because of its nuclear program. And in a very large way, the Reagan position makes sense. Without substantial U.S. assistance, Pakistan could not effectively support the resistance fighters in Afghanistan.

But challenging Soviet control of Afghanistan is not the only priority in the region. The United States has substantial interest in preventing the spread of nuclear weapons. Pakistan's entry into the nuclear club would further heighten tensions in south Asia and the Middle East. It would contribute greatly to the advent of the so-called "Islamic bomb," posing a clear threat to Israel.

This week the Senate will consider an amendment to the foreign-aid bill, proposed by Sen. John Glenn, that would continue the exemption but place stiffer restrictions on Pakistan. Mr. Glenn would require that military aid be contingent on Pakistan providing verifiable assurances that it is not producing nuclear-weapons material. Pakistan would have a choice: bolstering its defenses against a Soviet-controlled Afghanistan or pursuing the nuclear bomb.

The Glenn amendment strikes an intelligent balance between two crucial American interests: the plight of Afghanistan and the control of the spread of nuclear weapons. The Senate should do nothing less than make the Glenn proposal U.S. policy.

[From the Cincinnati Enquirer, June 8, 1987]

NUCLEAR WEAPONS—GLENN WANTS PRESSURE APPLIED AGAINST A PAKINSTANI A-BOMB

Pakinstan has the components of a nuclear weapon and probably could produce one any day. The United States clearly must find a way to avert what could be a devastating atomic arms race between Pakistan and India, which exploded a nuclear device in 1974. Yet it mustn't jeopardize the U.S.-Pakistani effort to get the Soviets out of Afghanistan.

Aware of the complexities, Sen. John Glenn would nevertheless deny all U.S. military and economic aid to Pakistan unless it stopped producing weapons-grade materials. This seems a most workable option, given Pakistan's urgent need for economic aid in coping with three million Afghan refugees and for conventional military aid to shore up its forces.

Senator Glenn would make proof of a cutoff in atomic materials production a condition for approving the Reagan administration's pending $4.02 billion aid package for Pakistan.

Some of the military aid in the pending package would be passed through to the Afghan rebels. But Senator Glenn believes the chances are remote that Pakistan, given its needs, would reject the no-nuke conditions. The senator fears an "Islamic bomb" might not only rekindle India's presumed nuclear-bomb capacity but also be a potential menace to Israel.

One solution would be for India and Pakistan to sign the nuclear non-proliferation treaty, designed to avert the spread of nuclear weapons.

Any country has a right to develop atomic weapons. But obviously the more countries with those weapons the more likely one will be used someday. U.S. aid to Pakistan was cut off in 1979 under law barring it to any non-nuclear weapons state that imports, without safeguards, equipment and materials that could be used to make an atomic bomb. It was restored after the Soviet invasion of Afghanistan. But some conditions, evidently inadequate, were attached.

The proposed Glenn amendment would toughen those conditions while making clear U.S. support for Pakistan's legitimate needs. It should pass.

[From the Wichita Eagle-Beacon, May 12, 1987]

Arms Control Needed in Pakistan

Although Pakistan has not exploded a nuclear device, few experts doubt President Zia's recent assertion that his country now is a member of the nuclear club. Pakistan has worked for years to match its enemy, India, in nuclear ability.

A nuclear-equipped Pakistan puts the United States in a delicate position. An American law called the Symington Amendment requires the U.S. government to stop arms shipments to countries involved with nuclear proliferation. In light of Pakistani assistance for the U.S.-backed rebels in Afghanistan, the law has been suspended. The Reagan administration is seeking a further six-year waiver of the Symington Amendment and $4.2 billion in military aid for Pakistan.

Pakistan has put the United States in an uncomfortable position. Enforcing the Symington Amendment could hurt the Afghan resistance; failure to enforce the law could increase the danger of nuclear conflict between Pakistan and India.

The priority must go to preventing the spread of nuclear arms. That does not mean abandoning the Afghan rebels, if Pakistan tries to use them as hostages for future American military aid. It does mean making Pakistan understand that stopping nuclear proliferation is a primary goal of American foreign policy.

If push came to shove, it's questionable that Pakistan would force the Afghan issue. A Soviet-dominated Afghanistan is not in Pakistan's interest, nor does Pakistan want to be cut off from American military aid.

The nuclear issue, however, requires additional American efforts to ease tensions between India and Pakistan. India, for example, has raised legitimate questions about why Pakistan—in the name of helping Afghanistan—needs U.S. ship-to-ship Harpoon missiles, late-model tanks and an air defense system. Both countries also should be encouraged to sign the Nuclear Non-Proliferation Treaty.

South Asia has enough troubles without nuclear weapons. The United States should recognize the dangers and use skillful diplomacy to lessen the chances of a nuclear calamity.

[From the Milwaukee Journal, May 3, 1987]

Fuzzy United State Signals Help Pakistan Build Bomb

Joseph Nye, a Carter administration expert on nuclear non-proliferation, asked a good question the other day: "Why fuel a Pakistani bomb? It was such a good question that the Senate Foreign Relations Committee studiously ignored it in turning aside a proposal to reduce foreign-aid for Pakistan—even though that country is almost certainly developing an atomic bomb on the sly, despite official U.S. wishes to the contrary.

Pakistan has been trying to join the nuclear-weapon club since 1974, when the country's traditional adversary, India, tested a nuclear bomb. One Pakistani leader vowed that his people would eat grass, if necessary, to get a nuke. Last February, U.S. officials warned Pakistan that developing nuclear bombs would put it on a dangerous road, but by that time the damage had been done; Pakistan had been working on a nuclear device for a long time, and the Reagan administration's efforts to prevent the spread of nuclear weapons have never been zealous.

The U.S. warnings to Pakistan were further undercut by White House opposition to a plan to trim $100 million from a $625 million foreign-aid package for Pakistan for fiscal 1988. Agreeing with the administration, the Foreign Relations Committee voted the full aid package, thus sending a message not only to Pakistan but also to such countries as Israel, South Africa, Argentina and Brazil, which also are in a position to go nuclear. The message: American officials may make speeches against nuclear proliferation, but when push comes to shove, they won't do much about it.

A cut of $100 million from that $625 million package would not have stopped Pakistan's aid to Afghan war refugees and support for the anti-Soviet insurgency in Afghanistant. But it would have given some bite to a U.S. anti-proliferation policy that, as one critic put it, "has no teeth and doesn't even have gums.' And it would have given some credibility to U.S. statements of concern.

The United States and the Soviet Union have been trying for years to negotiate treaties to limit the growth of their nuclear arsenals. Imagine how difficult those negotiations would be if they had involved third, fourth or fifth countries. Yet that is what the world may be facing one day unless greater effort is made to stop the spread of nuclear weapons technology to countries such as Pakistan.

[From the Long Island Newsday, May 1, 1987]

Pressure Pakistan to Forgo Nuclear Weapons

Pakistan is a haven for millions of Agfhan refugees. It cooperates in funneling American assistance to Afghan rebels fighting a guerrilla war against Soviet and Afghan government forces in their country. It's also a staging area for the rebels, and some of its border villages have been battered by the Afghan air force.

But as much as the United States appreciates this role and as much as it's concerned about Pakistan's security, it can't ignore the dangers Pakistan's clandestine nuclear weapons program poses to regional and world stability.

According to American intelligence officials and independent nuclear experts, Pakistan has managed the difficult step of manufacturing weapons-grade uranium and is now poised to acquire a nuclear arsenal and engage in a nuclear arms race with India. At a time when India and Pakistan blame each other for the domestic ethnic strife they both are experiencing, that's the last thing the world needs.

The United States wants to prevent the spread of nuclear weapons, so American aid was made contingent on assurances that Pakistan hasn't been producing them. But for years Washington has been willing to overlook clear evidence of Pakistan's nuclear intentions.

Regrettably, the Senate Foreign Relations Committee was willing to do so again last week when it approved a $4-billion, six-year aid package for Pakistan even though it was told by the Reagan administration that "reliable assurances" of Pakistan's peaceful intentions can no longer be obtained.

This should not be the last word. The full Senate and the House should insist that a significant portion of the aid package be withheld unless Pakistan stops producing weapons-grade nuclear material.

[From the Buffalo News, May 30, 1987]

A-Curbs on Pakistan

Pakistan has long been an important ally in South Asia, and it has become even more important since the Soviet invasion of Afghanistan in 1979. Assistance to the Afghan guerrilla forces has been funneled through Pakistan to keep the hopes for freedom alive.

Unfortunately, Pakistan is stubbornly committed to a scientific program to become a nuclear power, an eventuality that would have serious consequences, possibly setting off a nuclear arms race with India and undercutting the decades-old American effort to prevent the spread of nuclear weapons.

For this reason, President Jimmy Carter cut off aid to Pakistan in 1979. President Reagan restored it but with important strings attached by Congress. The president was required to certify each year that Pakistan did not have nuclear weapons and that the U.S. aid would help to discourage Pakistan from going nuclear.

With a new aid plan now being proposed by the Reagan administration amid additional reports of Pakistan's efforts to become a nuclear power, conscientious congressmen face a serious dilemma. They rightly want to aid the Afghan freedom fighters and bolster Pakistan against Soviet threats, but at the same time they don't want to do anything to create more nuclear powers and increase the peril of nuclear catastrophe.

Sen. John Glenn, D-Ohio, has provided thoughtful leadership on the issue, stressing that the new six-year, $4 billion aid package should not be approved without some conditions. He says Pakistan has a "complete lack of credibility" in its assurance that its nuclear program is solely for peaceful purposes.

In spite of this, the Reagan administration is proposing to send Pakistan more aid with no strings attached. This could indicate to Pakistan that the United States is not serious in its objections to the Pakistani nuclear weapons program.

Glenn would attach conditions similar to those in the previous aid package. He would require the president to certify, as before, that Pakistan does not possess nuclear weapons. In addition, the president would have to certify that he has "reliable assurances" that Pakistan has ceased producing weapons-grade nuclear material.

Pakistan continues to claim that its nuclear program is for purely peaceful purposes, despite widespread evidence to the contrary. If it is, indeed, peaceful, then Pakistan should have no objection to the strings attached to the U.S. aid package.

One concern is the potential effect of the Pakistani program on India, which exploded a nuclear device in 1974 but does not seem to have advanced much in the development of nuclear weapons. In addition, U.S. winking at nuclear development in Pakistan could open the floodgates for many of the 132 nations that have signed the Nuclear Non-Proliferation Treaty.

The non-nuclear signatories have agreed to abandon aspirations for nuclear weapons in return for the cooperation of the five nuclear nations in peaceful nuclear development. If strings are not attached to the U.S. aid to Pakistan, they may wonder if it matters whether they remain loyal to the treaty.

[From the Colombus Dispatch, May 2, 1987]

ABANDON THE BOMB

Efforts to impress upon Pakistan this country's displeasure with its reported development of nuclear weapons are needed and deserve wide support in Washington.

Pakistan is a California-sized nation of 98 million people bordered by Iran, Afghanistan, China and India. Its 430,000-man military is the world's seventh largest. It is disciplined and well-equipped—although it must rely on foreign purchases of ammunition and equipment to maintain its readiness.

The United States is one of Pakistan's chief suppliers of military equipment. The U.S. aid was started in 1981 shortly after the Soviet invasion of Afghanistan threatened to destabilize the region. Since then, Washington has committed several billion dollars in aid and purchase credits to Islamabad.

Throughout this period, the Pakistanis are said to have continued research and development of a nuclear bomb, and President Zia ul-Haq has stated that "Pakistan can build a bomb whenever it wishes."

A nuclear capacity for Pakistan would greatly complicate Asian relations, strain the delicate relations with India and pose a threat to Soviet forces in Afghanistan. Beyond these considerations is the fact that the development of a nuclear bomb would damage non-proliferation efforts that the United States has promoted for years.

Zia, however, has rebuffed all efforts by Washington to halt work on the nuclear program. This has given rise to efforts in Congress to link continued U.S. military aid to a decision to abandon the bomb. U.S. Sen. John Glenn, D-Ohio, has proposed a measure by which aid would be continued if Pakistan halted its nuclear program, and allowed for periodic, on-site verification that the work has been ended.

This makes sense. Curbing the nuclear threat is a top priority of U.S. foreign policy. That priority must be pursued at the negotiating table, in official pronouncements, and in practical policy formulation. It must be pursued without adversaries and with our allies.

Pursuing nuclear non-proliferation through military aid programs makes consummate sense. Pakistan must either cooperate, or lose America's help.

[From the Minneapolis Star and Tribune,
May 26, 1987]

THE POLITICAL TIGHTROPE TO PAKISTAN

The Reagan administration may be right that Pakistan needs more protection against the 115,000 Soviet troops in neighboring Afghanistan. Since early this year, the country has suffered hundreds of casualties in air raids intended to punish Pakistan for acting as the supply pipeline to Afghan insurgents. But the White House proposal to equip Pakistan with sophisticated radar aircraft, outlined last Thursday on Capitol Hill, should not receive automatic approval from Congress. Like the pending $4 billion military-aid package for Pakistan, the plan for planes forces lawmakers to walk a wobbly political tightrope.

The tightrope exist because Pakistan's military needs must be weighed against its efforts to build an "Islamic bomb"—an ambition that federal law and international agreements instruct the United States to discourage. Although Pakistan insists its nulcear aims are peaceful, it refuses to sign the International Nuclear Nonproliferation Treaty or even to accept outside inspection of its nuclear facilities. Small wonder, given Pakistani President Zia ul-Haq's recent boast in Time magazine that "Pakistan can build a bomb whenever it wishes." U.S. intelligence information suggests that Pakistan posesses not just nuclear capability, but also nuclear desire: Its reprocessing plant at Kahuta apparently has enriched nearly enough uranium to construct a bomb.

For the United States, those reports and Pakistan's military needs add up to a classic dilemma: As the administration argues, cutting off aid to Pakistan because of its nuclear obstinacy could close America's only avenue to the Afghan resistance. But offering Islamabad aid and aircraft with no strings attached could send a worrisome message: that Pakistan can blithely build bombs without fear of losing U.S. support. That message could endanger not only neighboring India, but all of the world.

Apparently more afraid of alienating Pakistan than of hastening the spread of the bomb, the Senate Foreign Relations Committee last month approved an unconditional military-aid package for Pakistan. But there is a nimbler way to walk the policy tightrope. Ohio Sen. John Glenn would approve the aid but hold its release until Pakistan certifies that it has stopped making weapons-grade material. For a country that professes peaceful nuclear intentions, that test should not be difficult to pass. For the United States, the test is the only way to simultaneously preserve a partnership with Pakistan, aid the Afghan rebels and honor a decade-old nonproliferation commitment.

[From the Birmingham News, May 24, 1987]

BALANCING OUR POLICY

The United States faces a very difficult task in balancing two important foreign policy goals in South Asia. We must help Pakistan support the anti-Soviet Afghan freedom fighters, but we also must do all we can to stop the spread of nuclear weapons.

The problem is that our ally Pakistan appears to be developing a nuclear weapons program. President Zia ul-Haq has said, "Pakistan can build a bomb whenever it wishes." The nation's top nuclear scientist has said Pakistan now possesses nuclear weapons. And the U.S. ambassador has spoken of developments in "Pakistan's nuclear program that are seen as "inconsistent with a peaceful program."

The United States is committed to stopping the spread of nuclear weapons. U.S. law calls for the termination of foreign aid to any non-nuclear state that takes certain steps toward building a nuclear arsenal. Under those laws, President Carter cut off aid to Pakistan in 1979.

When the Soviets invaded Afghanistan, though, the picture changed substantially. We need Pakistan's cooperation to help the Afghan freedom fighters and oppose Soviet expansionism. With that in mind. Congress approved a six-year waiver of the nuclear nonproliferation amendments as they applied to Pakistan so that aid for that strategically important ally could resume.

Although the conditions attached to that waiver were designed to steer Pakistan away from the nuclear option, many international observers believe Pakistan has moved quickly to the doorstep of nuclear weapons capability, in spite of official pronouncements that the nation's nuclear program is purely peaceful.

For that reason, Sen. John Glenn, D-Ohio, has proposed making the military portion of the proposed six-year, $4 billion aid package for Pakistan contingent on verifiable assurances from Pakistan that it will not produce nuclear weapons materials.

We must recognize that we cannot make another nation's choices for it. If Pakistan wants to go forward with nuclear weapons production, we cannot stop it. Outside pressure did little to inhibit India's development of a nuclear bomb, and it won't stop Pakistan either.

And Pakistan has the added leverage of the Afghan war. Pakistani leaders know that the United States cannot abandon the fight for freedom there because of a disagreement over Pakistan's nuclear program.

Still, we have to make some effort to keep yet another finger from embracing the nuclear trigger. Glenn's proposal, which goes to the heart of Pakistan's defense strategy by suggesting a choice between U.S.-backed improvements in conventional forces or giving up that aid to pursue the nuclear option, appears to be one possible approach.

We hope the Senate will consider the Glenn proposal seriously. It is not the perfect solution, in that it may give the administration too little flexibility to pursue its anti-Soviet objectives in South Asia, but true dilemmas do not offer perfect solutions.

Still, if Congress can find some way to slow the Pakistani nuclear weapons program while still protecting our interests in South Asia against the Soviet Union, it will have made the world just a little safer.

[From the Salt Lake Tribune, May 21, 1987]

HINDERING ARMS FOR PAKISTAN PROVES FOREIGN POLICY POINT

Part of the nay-saying attracted to the Iran-Contra hearings underway in Washington, D.C., holds that Congress is ill-placed to substitute its judgment for the executive's on foreign policy matters. However, numerous conspicuous examples to the contrary intrude.

Consider the current debate over U.S. military assistance for Pakistan. The Reagan administration's decision that this country is obliged to help those forces resisting the Soviet Union's invasion of Afghanistan has run head-on into a justified congressional concern about nuclear weapons proliferation.

Prominent leader of the opposition is Sen. John Glenn, D-Ohio, former astronaut and presidential candidate. He eloquently argues against indiscriminately providing Pakistan arms in exchange for its permission to funnel weapons to anti-Soviet Afghanistan guerrillas through Pakistan. His contention that this verges on recklessly expanding the world's nuclear club deserves thoughtful response.

Sen. Glenn has produced documentation verifying that Pakistan assiduously pursues its ambition to possess a nuclear weapon. The determination became obsessive when India, Pakistan's neighbor and historical rival, detonated its first nuclear bomb.

The United States, however, has properly and nobly promoted the concept that quite enough nations are already capable of igniting nuclear destruction. Determined, inspired work in this regard led to the 1970 nuclear nonproliferation treaty. Pakistan of course, is one of those countries refusing to sign.

Nonetheless, there are other ways to achieve the desired conformity. Sen. Glenn advocates allowing conventional arms supply for Pakistan, but with the proviso that Pakistan provide proof verifying its nuclear program is not reaching weapons grade capability.

It's a hindrance which the Reagan administration did not see fit to include with its six-year, $4.02 billion aid package for Pakistan. Congress, if and when it advances that otherwise defensible aid proposal, should include a qualifier equivalent in restriction to Sen. Glenn's amendment.

If that's meddling by Congress in administration foreign policy management, then, congressmen and senators, meddle away. The checks and balances built into this nation's constitution imply that, no branch of government having exclusive claim on knowledge and foresight, the development of wise and suitable policy, foreign as well as domestic, is a shared responsibility.

[From the Washington Post, Apr. 27, 1987]

WRONG CHOICE ON PAKISTAN

Pakistan is determined, at the least to become able to build nuclear weapons and is gambling that its most powerful ally, the United States, won't do anything about it. The vote in the Senate Foreign Relations Committee the other day says that, so far, Pakistan is right. The United States has committed itself to do whatever it can to prevent the spread of nuclear weapons—and, its laws say, that includes cutting off all foreign aid to a country that violates the prohibition. But Pakistan provides the crucial supply routes and staging areas for the guerrilla resistance to the Soviet occupation of Afghanistan. This a genuine dilemma. But there are, at a minimum, signals that can be sent and steps that can be taken which, while not inhibiting the Afghan resistance, at least would not seem so complaisant and fatalistic on the U.S. part about accepting what the Pakistanis are up to on their bomb. It's just that the United States won't take such measures. The Foreign Relations Committee was unwilling to vote even for a partial reduction of aid to Pakistan, as a warning. That was a bad vote.

Once, a decade ago, the United States suspended aid to Pakistan because of its nuclear ambitions. But after the Soviet invasion of Afghanistan it reversed itself; Congress enacted a special exemption to the law to get aid flowing again. Pakistan blandly denied any nuclear intentions, but was obviously continuing to work on weapons.

In 1984 President Reagan wrote to President Zia expressing his concern and warning of severe consequences if Pakistan began enriching uranium above the level that power plants use. By late last year it was clear that they were enriching to weapons grade and beyond. The United States keeps shaking its finger angrily at Pakistan, but Pakistan has learned that it can safely ignore all finger shaking, congressional restriction and Presidential warnings.

Attempting to defend his vote against any penalty for Pakistan, Sen. Christopher J. Dodd declared that cutting off aid "hasn't worked with India and won't work with Pakistan." It is true that the Indians have been very tough negotiators with this country on nuclear fuel and other related matters since they exploded a bomb in 1974 and that such international criticism as they incurred at the time has not exactly put them out of the nuclear business or made them resolve all the ambiguities that still mark the line between their peaceful nuclear projects and the capacity of those projects to be turned to nonpeaceful purposes. But the Indians have been more cautious and restrained.

But in regard to Pakistan, the United States has been unable to find a balance between the two policies that it is trying to pursue. Meanwhile Pakistan progresses slowly but steadily toward making South Asia a very much more dangerous place.

[From the Nation, May 28, 1987]

HOW LIES PROLIFERATE

A common criticism of the Nixon doctrine was that it gave second-tier states such as the Shah's Iran, Pakistan and Brazil blackmail power over U.S. foreign policy. Fifteen years later, proponents of the Reagan doctrine face the same dilemma, with an added twist: many of the regional policemen have gone nuclear.

Secrecy and deceit, as Daniel Egger and Christopher Hitchens show in this issue, are contagious among the established and emerging nuclear powers. There has been no more flagrant offender than Gen. Zia ul-Haq's Pakistan, and no country stands closer to the nuclear threshold. Jimmy Carter halted aid when Pakistan refused to allow international scrutiny of its nuclear facilities. But the Reagan Administration showed its enthusiasm for Zia with a six-year aid package, and bought itself a strategic rear guard for the Afghan rebels. A timid Congress asked only that President Reagan certify that Pakistan did not "possess" a nuclear device.

No problem there for Zia, who is content to remain "a screwdriver away" from full bomb assembly and testing. But the evidence of his intentions is now impossible for Congress to ignore, as it squares up for a fight with the Administration over a new six-year $4 billion aid program. For the past three years, through a network of small shell companies in compliant Western countries. Pakistan has steadily acquired critical nuclear technology. Reagan Administration officials have ignored the evidence that Pakistan's enriched uranium stocks far exceed publicly acknowledged levels.

General Zia will probably look at the Administration's commitment to the aid program—particularly its military component—and its attachment to the mujahedeen, and conclude that he can go on bending Washington to his will. Congress should call his nuclear bluff.

[From the New York Times, Mar. 30, 1987]

ARM AFGHANS, BALANCE THE REST

It's not hard to guess why Soviet planes flown by Afghan pilots are striking across the border at Pakistan. The aim is intimidation. By raising the stakes in its eight-year war in Afghanistan, Moscow hopes to impel Pakistan to accept its peace terms. That would mean cutting off all outside aid to Afghanistan insurgents and giving 115,000 Soviet troops 18 months to mop up an abandoned resistance.

The trick for the United States is to keep helping the Afghan rebels without undermining other important interests in a region beset by violence, fundamentalism and, in the Persian Gulf, escalating threats to neutral shipping. This makes for two complex balancing acts.

First, the United States must balance its anti-Soviet goals in Afghanistan with its global nuclear nonproliferation policy. Washington needs Pakistan's cooperation in the Afghan fight, and that requires shipping substantial amounts of arms to and through Pakistan. Yet providing them unconditionally could convince Pakistan that it can continue to develop a nuclear weapons capability with impunity, that Washington would not dare cut off aid simply to stop proliferation.

No one has a good answer to this problem. Washington is wise to maintain the arms pipeline, while sustaining maximum pressure on Islamabad to stop its nuclear weapons program. At the minimum, this calls for something like the formula proposed by Senator John Glenn. The Ohio Democrat favors continued military aid if President Reagan is able to certify that Pakistan has stopped producing weapons-grade nuclear materials. To settle for anything less would amount to condoning Islamabad's nuclear ambitions and mock the nonproliferation efforts of decrees.

The second balancing act is between India and Pakistan. Citing the Afghan border raids, Pakistan says that it urgently needs Awacs early-warning planes, jewels of the American arsenal. Here, surely, caution is needed to avoid inflaming a rivalry that has ignited three wars. The immediate need is to establish whether Pakistan really requires this advanced aircraft and other sophisticated devices or whether adequate substitutes are available. Again, the decision is a tough one, because Indian leaders are certain to fear the new weapons will be used against them.

In the meantime, Pakistan might consider redeploying some of its aircraft from the border with India and move them nearer to the Afghan frontier. This will send the necessary signal.

For all their differences, India and Pakistan both fear the Soviet presence in Kabul and want a Soviet withdrawal. The sticking point is the future of the Afghan regime kept in power by Soviet troops since 1979.

Soviet signals are confusing, suggesting that Mr. Gorbachev still hesitates to risk the fall of a Soviet-installed regime. At this juncture, it would be no service to Soviet leaders genuinely seeking an exit, if such exist, to reward border raids with concessions. Far better for Washington to sustain the military pressure in Afghanistan, balancing this as far as possible with the search for an Afghan peace, nuclear restraint and detente on the subcontinent.

[From the New York Times, Mar. 18, 1987]

STOP PAKISTAN'S NUCLEAR BOMB

For years, Pakistan has lied to the United States about not having a nuclear weapons program, and for years the United States has bought the fiction. It has continued to provide military and economic aid to retain influence on Karachi. Now, intelligence reports show that Pakistan stands at the threshold of nuclear capability, and Washington can no longer escape a hard choice.

To renew aid would mock America's commitment to nuclear nonproliferation. To cut it off might inflame Pakistan, inciting redoubled nuclear efforts and endangering the joint anti-Soviet resistance in Afghanistan. But Pakistani interests are not so simple, and the American choice not so stark.

Pakistan may appear to have the United States over a barrel. But Washington has good reasons to get tough, finally, and Pakistan has its own good reasons to go along.

The United States has long protested Pakistan's nuclear program, ineffectually. The Pakistanis almost certainly have built up a supply of nuclear explosive materials and all but assembled and tested the bomb. Yet stopping the process even at this stage would be worthwhile, even essential to holding the line against nuclear proliferation.

America's handle on the issue is aid. President Reagan proposes $4 billion in military and economic assistance over the next six years. Senator John Glenn wants to condition the aid on Pakistan's ceasing to produce weapons-grade nuclear explosive materials. But the Administration argues that if the aid is cut off, Pakistan might decide it has nothing to lose, go nuclear and cut a deal with Moscow against the Afghan resistance.

That's exactly how Pakistan would like Washington to see the choice. The Pakistanis have several reasons not to offend the United States. It needs the economic aid just to hold itself together. It needs the military aid for the continual border skirmishes with India. The nuclear bomb answers none of these needs. It can't be paraded through the streets to build morale.

Pakistan, meanwhile, habors its own fear of the Soviet Union, and its aversion to a Soviet puppet state next door should not be ignored. There also would be obvious advantages in a peace that permits the millions of Afghani refugees in Pakistan to go home.

Even if Pakistan could proudly approach India's nuclear capability, it would be quite another thing to try equalling India's advanced technology more broadly. Would Pakistan really choose diplomatic isolation, with a rudimentary nuclear capability and without the conventional military capability the U.S. has so generously provided it?

America's interest is clear. Preeminently, the national security of the United States lies in reducing the risk of nuclear war and that means containing the spread of nuclear weapons. Determined American efforts have prevented further nuclear proliferation for decades when experts predicted it couldn't be done.

No one can be confident about the best way to retain influence over Pakistan's decisions. But perhaps the best gamble is to act on the belief that Pakistan also has interests in restraint. Pakistani cheating to this point cannot be wished away but it can be halted where it is.

[From the Christian Science Monitor, Mar. 16, 1987]

Pakistan Aid and Bombs

Pakistan's nuclear weapons capability, long suspected and increasingly confirmed in recent months, is forcing the United States to make some difficult choices. They should be made carefully.

Washington has competing objectives:

The US relies heavily on Pakistan to channel US aid to guerrilla forces fighting Soviet troops in Afghanistan and to shelter millions of Afghan refugees. Congress is considering a new six-year, $4 billion aid package to help Pakistan.

The US wants to keep good relations, too, with democratic India and prevent a South Asian nuclear arms race. India, which has already fought three wars with Pakistan, is understandably uneasy about Pakistan military equipment stationed near its borders, the prospect of Pakistan's purchase of sophisticated US radar early-warning systems, and Pakistan's determined development of nuclear weapons capability. India exploded a nuclear device of its own in 1974, but it claims to have restricted its nuclear program since then to energy development. Yet recently India began producing weapons-quality plutonium not subject to international controls.

Washington is also firmly committed to preventing the global spread of nuclear weapons. Existing law (the Symington amendment) bars US foreign aid to those who divert nuclear materials to weapons production. In 1981 the administration won a six-year waiver from the ban to aid Pakistan in the Afghan war effort. The president must, however, assure Congress annually that Pakistan does not have a nuclear bomb; US officials now concede that such assurance can no longer be given with confidence.

In an interview published March 1 in the Observer (London), Pakistan's top nuclear scientist confirmed that his nation now possesses the bomb; he bragged about the ease of getting restricted components from Western companies. The embarrassed Pakistani government insists its research is confined to peaceful purposes and denies that the interview occurred; in an unfortunate move akin to attacking the messenger, the government has put respected Pakistani journalist Mushahid Hussain, present at the interview, under house arrest.

The Reagan administration, which has tried repeatedly to deter Pakistan from its nuclear weapons program, has decided that Islamabad's role in the Afghan war is vital enough to seek a new six-year waiver on the aid ban.

But Washington's back is not against the wall; it has other options. Pakistan's continued development of nuclear weapons is cause for grave concern.

The US can delay or shorten the waiver. Talks on the Afghan war have been progressing well; an end could come. By holding out the prospect of an aid cutoff, the US could still persuade the Pakistanis to slow or abandon further development and tests of nuclear weapons. "The US needs a stronger bargaining position," insists Selig Harrison, an expert on South Asia. Sen. John Glenn suggests a halt in current military aid until the US is assured that Pakistan has stopped producing weapons-grade uranium. It's another variation that could help.

Bearing in mind India's border concerns, Washington should be discriminating about weapons shared with Pakistan. Only six of 40 F-16 fighter planes, for instance, are deployed anywhere near the Afghan border. Washington can also deny or limit Pakistan's bid for airborne warning and control systems, which can survey territory deep inside not only Afghanistan but India; many military experts do not consider the planes critical to Pakistan's Afghan defense. Pakistan should get what it needs rather than what it wants.

The US should continue to urge both Pakistan and India to sign the nuclear Non-Proliferation Treaty or accept international nuclear safeguards. The US and other signers of the treaty should also more rigorously guard exports that could be used for nuclear weapons.

Minimizing the risk of nuclear war should be a higher priority on every nation's list. The world's future depends on it.

[From the Los Angeles Times, Mar. 16, 1987]

Proliferation's Dangerous Course: If Small-to-Middling Have Bomb, Will They Pull the Trigger?

(By Ernest Conine)

People who are genuinely concerned about the dangers of nuclear war should worry less about what is happening in Washington and Moscow these days and more about some of the items tucked away in the back pages of newspapers.

The head of Pakistan's atomic-energy program is quoted as saying that his country now possesses the nuclear bomb. The statement has since been denied, but the United States may soon face the unhappy choice of cutting off arms and to Pakistan, despite its important role as a sanctuary for anti-Soviet Afghan guerrillas, or allowing the Pakistanis to make a mockery of U.S. efforts to prevent the spread of nuclear weapons.

South Africa prepares to build a mile-long runway on an island in the Indian Ocean amid rumors that Israel and the Pretoria government are cranking up to conduct nuclear-weapons tests there. Brazilian newspapers report the existence of a nuclear-test site in the Amazon jungle. There is no confirmation.

Sober people in the national-security business have long felt that the greatest danger of nuclear war flows not from the prospect of a surprise missile attack by one great power on the other but from the chance of nuclear conflict between two small-to-middling countries whose alliance relationships might drag in America and the Soviet Union.

That was the reasoning behind the 1970 nuclear non-proliferation treaty, which sought to restrict membership in the nuclear-weapons club to the five nations already having nuclear arsenals. It was also the rationale behind bipartisan U.S. efforts in the 1970s to shape global nuclear-power development programs in ways that would not depend on nuclear fuels that could easily be diverted into nuclear weapons.

Strictly speaking, all this has paid off. No country has overtly joined the select circle of nuclear-armed nations since the treaty was signed. But Israel, which didn't sign the treaty anyway, is presumed to have nuclear-weapons components on the shelf that could be assembled in short order. It has also deployed a nuclear-capable missile. India, another non-signatory, exploded a nuclear device in 1974, and presumably has the ability to build a nuclear arsenal. So far it apparently has not done so.

The danger of nuclear-weapons proliferation is moving into a new and more acute stage, however. Nuclear explosives can be made from plutonium or highly enriched uranium. Tight controls are supposedly in force to prevent the diversion of plutonium to the manufacturing of weapons. But 9,000 pounds of plutonium already are missing from the books in the United States alone; most of it was presumably "lost" through accounting errors or the manufacturing process—but the uncertainty on this point is troubling, given the outlook for growing quantities of plutonium worldwide.

Bennett Ramberg of UCLA's Center for International and Strategic Affairs reports that by the end of the 1990s, 350 to 400 tons of plutonium will have been separated, supposedly for re-use in reactors. The more of the stuff that moves in world commerce, the greater the danger of diversion. Meanwhile, the list of countries said to be developing their own facilities for producing nuclear materials is growing.

Rex Nazare, head of Brazil's nuclear-energy program, said recently that his country had already reprocessed uranium on a laboratory scale and was working to master all the process required for turning uranium ore into reactor-fuel elements. Fortunately, Brazil's aims seem peaceful—at least for the present.

South Africa has been thought to possess a standby nuclear-weapons capability since 1980 or 1981. Considering the violence and political instability that already plague the African continent, a decision by the South Africans to go defiantly public with their nuclear-weapons program would be unhelpful to say the least.

Libya's Moammar Kadafi has tried without success to buy a nuclear weapon. According to Leonard Spector of the Carnegie Endowment for International Peace, the Shah of Iran initiated a nuclear-weapons research program in the late '70s. The program presumably fell into the hands of the Khomeini regime along with a U.S. supplied research reactor.

The most immediately dangerous situation of all, however, involves India and Pakistan. Spector, who addressed the California Seminar on International Security a few days ago, sees growing evidence that Pakistan has indeed developed the ability to fabricate all the necessary components for nuclear arms. India threatens to take "appropriate action" if Pakistan, its arch-enemy, proceeds with a weapons program.

Considering U.S. commitments to Pakistan's security and the Soviet Union's close ties to India, the prospect of the old adversaries facing each other with nuclear weapons on each side is nightmarish.

President Reagan is currently seeking a six-year, $4 billion Pakistani aid package from Congress. But he is required to certify that Pakistan has no nuclear device; that, under present circumstances, is increasingly hard to do with a straight face.

Recently the U.S. ambassador warned the Pakistani government that proceeding with a nuclear test could compel a cutoff in aid. Congressional critics, led by Sen. John Glenn (D-Ohio), accuse the Administration of being too soft on Pakistan because that country is the main channel for aid to the Afghan rebels. Glenn wants to cut off aid until there is credible evidence that the Pakistani nuclear-weapons program has been put onto the shelf.

Maybe such threats will be sufficient. After all, President Zia ul-Haq needs continued U.S. aid and support, and should be reluctant to risk losing it. But what if he defies Washington anyway? Are Congress and the President really willing to risk an anti-American outburst that could trigger the effective collapse of the Afghan resistance movement and endanger Western security interests in the area?

If the Pakistanis hang tough. Washington faces a painful choice indeed.

[From the Los Angeles Herald Examiner Mar. 10, 1987]

Does Pakistan Have the Bomb?—Defer Military Aid Until U.S. Finds Out

For the past dozen years Pakistan has moved ever closer to building nuclear weapons. The latest evidence indicates that the strategically located nation has the technology and raw materials it takes to make an atomic bomb. The U.S. which has a legitimate interest in keeping Pakistan militarily strong, should also strive to ensure that no such bomb is built.

To prevent spread of bombmaking capability, Congress prohibits foreign assistance to any country that receives or transfers technology, associated with uranium enrichment or nuclear-processing technology. In the summer of 1979, convinced that Pakistan had acquired such technology. President Carter cut off all aid to that country.

But in December of that year, the Soviets invaded Pakistans next-door neighbor, Afghanistan. And when the Reagan administration entered the White House, it directed hefty military aid to Pakistan as a hedge against the Red Army.

Normally, the president would have had to certify to Congress that failure to provide the aid would harm U.S. national interests and that Pakistan had no nuclear devices. The second requirement could not be reliably assured, however, so Congress amended the law to permit a six-year waiver. It expires in September.

The administraiton has all along argued that significant amounts of conventional military aid would reduce Pakistan's need to build nuclear weapons. Consequently, Congress enacted a law in 1985 requiring the president to certify annually that Pakistan possesses no nuclear device and that further U.S. aid will be given only if it "will reduce significantly the risk" that Pakistan will acquire nuclear weapons.

Recent reports suggest Pakistan now has both the capacity and the components needed for building nuclear weapons.

That nation is eager to obtain the $4 billion, six-year military-aid package that the administration wants Congress to approve. It should be made clear to Pakistans's leaders that not a nickel will be sent until they prove, through international inspection, that enriched uranium is not being diverted to weapons production. The world will not benefit if yet another country has the bomb.

[From The Washington Post, Nov. 28, 1986]

A Suggestion for Sen. Glenn

Sen. John Glenn is to take over the Governmental Affairs Committee in January and he is now considering its agenda. We have a suggestion. For years one small subcommittee of Governmental Affairs has kept a careful watch over the spread of nuclear weapons throughout the world, and the world's efforts to restrain that spread. The subject of nuclear nonproliferation has otherwise fallen out of fashion in recent years. Congressional interest is generally low, and the administration's attention is erratic. But the danger is persistent.

Sen. Glenn chaired that small subcommittee in the 1970's, lifting it to a notable degree of competence. Its current chairman, Thad Cochran, has brought the same kind of serious interest to it. The time has come to expand the subcommittee's assignment. Restraints can be made to work. But they require constant attention, and recent developments have been disquieting—particularly in South Asia.

India and Pakistan have each allowed the other to become an obsession and an incitement. India exploded what it called a nuclear "device" in 1974, and currently appears to have enough plutonium to build a number of bombs. Pakistan is investing much money and talent in its attempts to match India. President Reagan, to his great credit, has warned Pakistan that it will jeopardize American aid if it proceeds to enrich uranium beyond the levels needed for civilian power reactors. But there's no sign that Pakistan has been dissuaded.

India and Pakistan are both on the short list of countries that have declined to sign the non-Proliferation Treaty and that run nuclear facilities not open to international inspection. The others are Argentina, Brazil, Israel and South Africa. The two Latin countries' pursuit of nuclear weapons has slackened since elected governments replaced the military juntas there. That makes the world a little safer. But Israel and South Africa are both isolated in their respective regions, facing hostile neighbors, and both appear to possess nuclear weapons—in Israel's case, a substantial number of them. Nonproliferation policy touches many of the central issues of American foreign relations.

The quality of congressional oversight here has great influence on any administrations performance, just as the American government's performance has great influence on other countries. Sen. Glenn knows that. His chairmanship of a powerful committee now gives him the opportunity to introduce the realities of this forbidding subject to a larger audience in the Senate and country.

Exhibit 2

[From the London Financial Times, Dec. 11, 1987]

Pakistan Builds Second Plant To Enrich Uranium

(By Simon Henderson, recently in Washington)

PAKISTAN is building a second uranium enrichment plant at a place other than Kahuta, where it already has such a facility.

The plant, which is not yet operational, further complicates Pakistan's relations with the US, its principal backer in the confrontation with the Soviet Union in neighbouring Afghanistan. Funds from a new $4.02bn five-year aid programme were stopped in September in an atmosphere of suspicion about Pakistan's nuclear programme.

US satellites have watched the construction of the plant at Golra, six miles west of Islamabad, over several months. Land was cleared, and a thick concrete floor laid to act as a stable floor for the high-speed centrifuges which enrich uranium by separating out the rare fissile isotope, uranium-235.

A centrifuge hall has now been assembled but Western diplomats say the several thousand centrifuges needed have not yet been installed. Pakistan has two centrifuge halls at Kahuta, 20 miles south-east of Islamabad, one using aluminum centrifuges, the other using specially-toughened maraging steel. The Golra facility is expected to use maraging steel centrifuges.

Pakistan has been trying to buy maraging steel from many parts of the world but its export is controlled. The trial of a Pakistani-born Canadian, accused of trying to smuggle maraging steel from the US, began in Philadelphia this week. His arrest earlier this year was instrumental in causing the aid cut-off.

Uranium enriched to 5 per cent can be used in civil power reactors. The Pakistanis say this is the purpose of the Kahuta plant, although Pakistan only has one nuclear power reactor and this uses natural uranium fuel. Intelligence reports say that Pakistan has enriched uranium to 90 per cent, suitable for nuclear weapons, at Kahuta.

The Pakistan embassy in London said the reports about Golra were baseless. Dr. Abdul Qader Khan, who is in charge of the Kahuta plant, denied by telephone there was a nuclear facility at Golra. "There is an army vehicle repair base there, and also a Pir (a Moslem holy man)," he said.

Western diplomats say that one of Dr. Khan's responsibilities, the Precision Engineering Division, has been at Golra for several years. The director, Ikram Ul Haq, formerly ran a clandestine buying operation for the project in Bonn under diplomatic cover. The existing Golra facility makes precision-shaped metal components for atomic bombs.

The reason for building Golra could be to spread out facilities which might be exposed to Indian attack. It might also enable Kahuta to limit itself to 5 per cent enrichment and be opened to international inspection.

Mr. PELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. PELL. Mr. President, I would have preferred legislation to extend U.S. assistance to Pakistan for 2 more years, with no new conditions attached.

In advocating such an approach, I am reversing a stance that I have been supporting for the past 6 years. Since the resumption of assistance to Pakistan in 1981, I have worked with my colleagues, Senators GLENN and CRANSTON, to attach tough nonproliferation conditions to our assistance.

I believed our economic and military assistance relationship does give us leverage over Pakistan's nuclear program and that we should use that leverage. I particularly believe that our willingness to provide assistance should be linked to Pakistan's willingness to honor its promises on nuclear nonproliferation.

Some of our legislative efforts for nonproliferation have been enacted; others have failed. We have, however, succeeded in putting Pakistan on notice about the depth of congressional nonproliferation concerns and of the serious consequences for United States-Pakistan relations of its nuclear program.

While I believe linkage is a useful tool, I do not believe now is the time to add new conditions on our assistance to Pakistan. I oppose the conditions contained in this bill. Let me explain why.

Afghanistan is the first reason. For the last year, the Soviet Union has been signaling its desire to withdraw. Most recently, the Soviet-backed puppet Afghan regime announced it would accept a 1-year time frame for Soviet withdrawal. Yesterday, in his press conference, Soviet Secretary-General Mikhail Gorbachev stated the Soviets would agree to a time frame of 1 year or less. He also said the Soviets could accept a "free nonaligned Afghanistan, one which need not be pro-Soviet."

I cannot say if the Soviets truly intend to get out. I certainly hope so. I do know that negotiations for a total Soviet withdrawal are at a crucial phase. Pakistan is a principal party to the negotiation. Now is not the time to undermine Pakistan's negotiating position by adding new, potentially onerous conditions on our assistance to Pakistan.

Second, we have already sent Pakistan a strong signal of our concern about its nuclear program. Since the beginning of the fiscal year, all U.S. assistance has been suspended as a result of the Pervez case.

Pakistan has gotten the message. The government of Prime Minister Mohammed Khan Junejo has expressed chagrin about the Pervez affair and has indicated its eagerness to initiate a dialog designed to satisfy American concerns about Pakistan's nuclear nonproliferation commmitments.

Given Pakistan's record of performance when it comes to past promises, we should look to deeds, not words. We must also recognize, however, the change in the internal situation in Pakistan. Pakistan now has a civilian Prime Minister. While his election may have been the result of a flawed process, his accession to power is nonetheless a step in the right direction.

Evidence suggests the Prime Minister and his civilian colleagues are not yet in full control of the Pakistani Government. Pakistanis have claimed that the ongoing, covert nuclear program—of which Arshad Pervez was allegedly an agent—is run by the previous military dictatorship and not by the civilians.

This does not excuse Pakistan's conduct. I am prepared, however, to believe that the new civilian Prime Minister should be given time to obtain control over the nuclear program and to initiate a constructive dialog with us. Assurance of Pakistani compliance with commitments made to our Government on uranium enrichment and technology acquisition must be at the center of the dialog. A negotiated understanding invariably gives better results than those imposed by legislative fiat. The new Prime Minister and the process of negotiation should be given a chance.

In a year of bad news with regard to Pakistan's nuclear program, there have also been some encouraging signs. These deserve some attention. Prominent Pakistani opposition leaders have denounced the government's covert nuclear weapons program and several have advocated Pakistani adherence to the Nuclear Nonproliferation Treaty, regardless of whether India does so. I would like to commend PPP leader Benazir Bhutto, former Sind Governor Ghulam Mustafa Jatoi, and Air Marshall Asghar Khan for their courage and foresight.

The Senate Appropriations Committee would rewrite U.S. nonproliferation law. The committee has put forward a "balanced regional approach" which would equate India's nuclear program with Pakistan's. It is an approach that is flawed in concept and almost certainly unworkable. In South Asia it is likely to rupture our relations with both India and Pakistan and thereby diminish our influence for nonproliferation objectives. More broadly, the concept of a balanced regional approach to nonproliferation provides dangerous precedents. Do we intend a balanced approach to nonproliferation in the Middle East? And if we adopt the concept of a balanced regional approach, we need only expand our view of a region to comprise Asia as a whole. In this context, we might then condone an Indian effort to acquire nuclear bombs and ballistic missiles so as to match China's arsenal.

We must pursue aggressive nonproliferation policies. We also need policies that are timely and will work. The approach taken in this bill won't work. More important, with the real prospect of a total Soviet withdrawal from Afghanistan on the horizon, now is not the time to add new conditions on our assistance to Pakistan.

The PRESIDING OFFICER. Is there further debate?

Mr. MOYNIHAN. Mr. President, I especially welcome the extinction from this legislation, of what seems to many of us as gratuitous, unnecessary, and offensive language concerning the Republic of India.

I thank the President.

Mr. HUMPRHEY addressed the Chair.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. HUMPHREY. Mr. President, I congratulate the Senator from Ohio and support him in reaching this compromise. The effect is virtually the same as the committee language but the difference is that some offensive language to India has been removed.

Just for perspective, I want to briefly say this: It is important to note in the context of Pakistan's action in developing nuclear technology that President Zia several times over the last 3 years has formally proposed to India that both India and Pakistan simultaneously accede to the Nuclear Nonproliferation Treaty. President Zia has proposed to India simultaneous acceptance by both countries of complete International Atomic Energy Agency safeguards for all nuclear installations. President Zia has proposed to India formally, repeatedly, mutual inspection of one another's nuclear weapons through a joint declaration of the two countries and the establishment of a nuclear-free zone in the subcontinent.

I think it is clear from the record——

The **PRESIDING OFFICER.** If the Senator will suspend, the Chair notices that there is not order in the Chamber. There should be. It is late in the evening. We have been doing rather well.

The Senator from New Hampshire.

Mr. HUMPHREY. There are repeated efforts, good faith efforts, on the part of Pakistan to cooperate with nations which wish to bring an end to nuclear proliferation.

Mr. President, let me just say further one additional point so as to bring matters into perspective. A study published just within the last few days, a study financed by the Government of France, indicates that 1.25 million Afghans have died since the Soviet invasion of their country. That is 9 percent of the population, the preinvasion population; the equivalent figure for this country would be what, 21 million, 22 million dead, not to mention injured and those suffering unspeakable privations.

Pakistan alone in that part of the world is standing as a bulwark against Soviet imperialism which today is ravishing Afghanistan. If ever there was a time for the United States to stand by Paskistan, this is it. If there ever was a mistake that we could make—and fortunately we are not going to make a mistake because it has been rectified—we came close to making the mistake of undermining Pakistan's confidence in our commitment to her security. If we were to withhold assistance, that would only drive Pakistan toward the nuclear option, not away from it. That is human nature. When you feel insecure you go for bigger weapons.

I must say I am very, very pleased and indeed proud to work with the Senators on this very, very sensitive and difficult issue. I thank the Chair.

The **PRESIDING OFFICER.** Is there further debate? If not, the question is on agreeing to the amendment of the Senator from Ohio [Mr. Glenn].

The amendment (No. 1337) was agreed to.

Mr. GLENN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. MOYNIHAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1338

(Purpose: To amend the Compact of Free Association Act of 1985 with respect to the treatment of Pell grants and other Federal educational grants)

Mr. JOHNSTON. Mr. President, the amendment which I shall shortly propose on behalf of Senator McCain would make students in Micronesia eligible for Pell grants. It is a much needed and appropriate amendment. It has been approved by the appropriators. I send the amendment to the desk and ask for its immediate consideration.

The **PRESIDING OFFICER.** The clerk will report.

The assistant legislative clerk read as follows

The Senator from Louisiana [Mr. Johnston], for Mr. McCain, proposes an amendment numbered 1338.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

The amendment is as follows:

Insert at the appropriate place in the bill: Section 105(i) of the Compact of Free Association Act of 1985 (99 Stat. 1795, 48 U.S.C. 1681) is amended by adding the following new paragraph (3) and renumbering the subsequent paragraph accordingly:

"(3) In addition to the programs set forth in paragraph (2) of this subsection, and pursuant to Section 224 of the Compact, the Pell Grant Program, the Supplemental Educational Opportunity Grant Program, and the College Work-Study Program shall be extended,* on a non-reimbursable basis, to citizens of the Freely Associated States who are, or will be, attending postsecondary institutions in the United States, its territories and commonwealths, the Trust Territory of the Pacific Islands, and the Freely Associated States, provided that the government of the Freely Associated State of which the student is a citizen certifies that the course of study that the student is, or will be pursuing, is designed to advance the purposes of the official overall economic development plan referred to in Section 211(b) of the Compact."

*For 1 year.

Mr. STEVENS. Mr. President, the amendment is agreeable. We are prepared to support it.

Mr. McCAIN. Mr. President, I rise to offer an amendment which would continue eligibility for Pell grants, Supplemental Educational Opportunity grants and college work-study programs to Micronesian students for the length of the Compact of Free Association. The amendment provides 1 additional year of assistance for new students, in addition to the up to 4 years of assistance provided to continuing students under section 223 of the compact.

This amendment has been reviewed by the Congressional Budget Office and determined to cost nothing in new appropriations. It has also been cleared by Senators Pell and Stafford of the Subcommittee on Education, the Senate Committee on Energy and Natural Resources, the House Interior Committee and the chairman of the House Subcommittee on Interior Appropriations. In addition, the Office of Freely Associated State Affairs within the State Department has expressed no objection to this amendment language.

It is critical to the future of Micronesia-United States relations that these young people of Micronesia have access to post-secondary education in the United States. It is imperative that the grant portion of U.S. assistance that has been available to these students in the past be continued. This amendment is something I have been working on for a number of months now, and planned on attaching to another vehicle. Within the last 10 days, I learned that the bill I was planning on attaching it to was no longer available because of jurisdictional problems not having to do with my amendment. Time is of the essence in this situation. Therefore, the continuing resolution remains the only vehicle left to take care of this hole in Micronesian education funding this year. As anyone who has college age children or friends is aware, college applications are due in late December and early January. There has already been one class of eligible seniors whose plans have been disrupted due to the cessation of eligibility, and another class of students who are at risk unless we act immediately.

This amendment costs our Government nothing, and yet it opens the door of education for many young people; students who otherwise would be unlikely to attend a college or university in the United States. It is vital to the social development of the islands to have their next generation of leaders well educated, and I believe it is vital to United States interests that they obtain that education in United States institutions. This simple amendment will allow Micronesian students to compete for post-secondary education grants for an additional year.

The Federated States of Micronesia and the Republic of the Marshall Islands are in a period of transition from nearly 40 years as a United Nations trust territory administered by the United States to their new political status as Freely Associated States.

Over these 40 years the United States and the people of Micronesia have developed a deep friendship. As a result of this friendship the people of Micronesia have chosen for their future political status, not independence, but association with the United States. This association is defined in the Compact of Free Association as enacted by Congress last year, under Public Law 99-239. This law details our Nation's continuing commitment to the social, and economic development of the Freely Associated States.

Section 224 of the compact states that the United States and Freely Associated States may agree to the extension of additional U.S. grant and program assistance. In other words, this relationship is to be flexible—to respond to new or changing needs. I am not suggesting that we extend programs casually and without careful consideration and I recognize that it is essential for the Freely Associated States to develop self-sufficiency. However, I feel that we have a special obligation with respect to education. It is only with a strong educational program that the Freely Associated States will develop the skills and leadership necessary to achieve this self-sufficiency.

On June 9, 1987 the Congress of the Federated States of Micronesia formally requested extension of these programs. I believe that it is incumbent on us to consider their request in recognition of their need, and in the spirit of friendship for which the compact stands.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from Arizona [Mr. McCain].

The amendment (No. 1338) was agreed to.

Mr. JOHNSTON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1339

Mr. STEVENS. Mr. President, I am now prepared to send to the desk, as soon as I get it back from the copying device, the amendment that I intend to offer on behalf of several Members of the Senate dealing with the issue of Contra aid.

I wonder if I may inquire of my friend. So far as I know, we have no further amendmnets that are going to be offered now from this side of the aisle. I beg your pardon. Senator Kasten has one more.

Mr. President, I send this amendment to the desk and ask for its immediate consideration. I would be happy to set it aside if the Senator from Wisconsin has his amendment ready.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Alaska [Mr. Stevens], for himself, Mr. Inouye, Mr. Hollings, Mr. McCain, Mr. Rudman, Mr. Helms, Mr. Graham, Mr. Dole, and Mr. Boren, proposes an amendment numbered 1339.

Mr. STEVENS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

AMENDMENT NO. 1339

Add at the end of the bill the following new section:

Sec.   . (a) There are hereby transferred to the President $9,000,000 of unobligated funds, from such accounts for which appropriations were made by Department of Defense appropriations acts for the fiscal year 1987 or prior fiscal years, as the President shall designate, to provide humanitarian assistance to the Nicaraguan democratic resistance consistent with this section.

(b) The President is authorized to transfer or reprogram unobligated funds from such accounts for which appropriations were made by Department of Defense appropriations acts for the fiscal year 1987 or prior fiscal years, as the President shall designate, to provide transportation of humanitarian assistance to the Nicaraguan democratic resistance specifically authorized by law.

(c) As used in this section, the term "humanitarian assistance" means food, clothing, shelter, and medical supplies and services.

(d)(1) Funds made available by subsections (a) and (b) shall be available for the purposes described in sections 101, 102, and 104 of the Intelligence Authorization Act, Fiscal Year 1988 (Public Law 100-178), subject to the provisions of this section, and for the same periods of time, but not to exceed February 29, 1988, as such funds would have been available if this section had not been enacted.

(d)(2) The authority to support, monitor, and manage the activities for which this section provides funds shall continue until the funds transferred by subsection (a) have been expended.

(e) The requirements, terms, and conditions of the sections to which subsection (d)(1) refers, section 10 of Public Law 91-672, Section 502 of the National Security Act of 1947, Section 15(a) of the State Department Basic Authorities Act of 1956, and any other provision of law shall be deemed to have been met for the transfer and use consistent with this section of the funds made available by subsections (a) and (b).

(f) Sections 203(e), 204(b), 207, 209(b), and 209(c), and the first sentence of section 203(d), in "TITLE II—CENTRAL AMERICA" in section 101(k) of the continuing appropriations resolution for the fiscal year 1987 (Public Laws 99-500 and 99-591) shall apply with respect to funds made available by this section.

(g) If, on January 17, 1988, a ceasefire negotiated between the Government of Nicaragua and the Nicaraguan democratic resistance is in place and the Government of Nicaragua is in compliance with the Guatemala Accord of August 7, 1987, then the President shall, to the maximum extent practicable, make the unobligated balance of funds transferred by subsection (a) available for administration consistent with this section by nonpolitical humanitarian international organizations.

Mr. STEVENS. Mr. President, this is the amendment that is necessary to authorize the provision of humanitarian assistance for the resistance in Nicaragua. It would authorize $9 million for funds to buy humanitarian assistance, which is defined as food, clothing, shelter, medical supplies, and services.

It further authorizes from funds already available to the Department such funds as may be necessary to provide transportation to deliver this assistance to the Nicaraguan democratic resistance.

I want to state to the Senate that with the good offices of the majority leader and the minority leader, we have had a series of meetings here today and that this is an amendment which is deemed to be the minimum required to meet the circumstances and at the same time provide for the contingencies of the peace process, which this Senator entirely supports. I would like to make that plain.

May we have order, Mr. President?

The PRESIDING OFFICER. The Senator from Alaska is correct. There is a great deal of conversation in this Chamber, not only on the part of Senators but also staff, and they continue that conversation even as the Chair talks. There will not be further proceeding until there is order in the Chamber on the part of all involved. There is not order in the Chamber at this point, and the Chair will wait until there is silence.

The Senator from Alaska.

Mr. STEVENS. Mr. President, rather than debate it, I would like to read it, so that there will be no misunderstanding.

It states at the end of the bill that we will add a new section which provides as follows:

Sec.   . (a) There are hereby transferred to the President $9,000,000 of unobligated funds, from such accounts for which appropriations were made by Department of Defense appropriations acts for the fiscal year 1987 or prior fiscal years, as the President shall designate, to provide humanitarian assistance to the Nicaraguan democratic resistance consistent with this section.

(b) The President is authorized to transfer or reprogram unobligated funds from such accounts for which appropriations were made by Department of Defense appropriations acts for the fiscal year 1987 or prior fiscal years, as the President shall designate, to provide transportation of humanitarian assistance to the Nicaraguan democratic resistance specifically authorized by law.

(c) As used in this section, the term "humanitarian assistance" means food, clothing, shelter, and medical supplies and services.

(d)(1) Funds made available by subsections (a) and (b) shall be available for the purposes described in sections 101, 102, and 104 of the Intelligence Authorization Act, Fiscal Year 1988 (Public Law 100-178), subject to the provisions of this section, and for the same periods of time, but not to exceed February 29, 1988, as such funds would have been available if this section had not been enacted.

(d)(2) The authority to support, monitor, and manage the activities for which this section provides funds shall continue until the

> funds transferred by subsection (a) have been expended.
>
> (e) The requirements, terms, and conditions of the sections to which subsection (d)(1) refers, section 10 of Public Law 91-672, Section 502 of the National Security Act of 1947, Section 15(a) of the State Department Basic Authorities Act of 1956, and any other provision of law shall be deemed to have been met for the transfer and use consistent with this section of the funds made available by subsections (a) and (b).

That is to make certain that we are complying with all funds transferred for those two basic sections.

> (f) Sections 203(e), 204(b), 207, 209(b), and 209(c), and the first sentence of section 203(d), in "TITLE II—CENTRAL AMERICA" in section 101(k) of the continuing appropriations resolution for the fiscal year 1987 (Pulbic Law 99-500 and 99-591) shall apply with respect to funds made available by this section.

This is the most important paragraph:

> (g) If, on January 17, 1988 a ceasefire negotiated between the Government of Nicaragua and the Nicaraguan democratic resistance is in place and the Government of Nicaragua is in compliance with the Guatemala Accord of August 7, 1987, then the President shall, to the maximum extent practicable, make the unobligated balance of funds transferred by subsection (a) available for administration consistent with this section by nonpolitical humanitarian international organizations.

Mr. INOUYE. Mr. President, will the Senator yield?

Mr. STEVENS. Mr. President, it is the leadership of the Senator from Hawaii and others who have spent a lot of time here today that has led to this compromise, and I am pleased to be able to present it on behalf of the administration.

Mr. INOUYE. Mr. President, will the Senator yield for a question?

Mr. STEVENS. I yield.

Mr. INOUYE. With respect to subsection (b) on the first page, am I correct that the language will read as follows:

> The President is authorized to transfer or reprogram unobligated funds from such accounts for which appropriations were made by the Department of Defense appropriations acts for the fiscal year 1987 or prior fiscal years, as the President shall designate, to provide transportation of humanitarian assistance . . .

Mr. STEVENS. Yes, the Senator is correct. That is the wording of the amendment that is at the desk.

I ask the clerk to confirm that—that in subsection (b), line 5, the words are: "to provide transportation of humanitarian assistance." Is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. STEVENS. If I did not read that, I was in error. It is humanitarian assistance.

Mr. INOUYE. Then, am I correct that this amendment relates only to humanitarian needs?

Mr. STEVENS. The Senator is correct. And to the transportation necessary to deliver that assistance to the resistance.

Mr. INOUYE. And the transportation is for the delivery of just humanitarian assistance?

Mr. STEVENS. I believe that is correct. I will clarify this in a moment.

Mr. INOUYE. I thank the Senator.

Mr. JOHNSTON. Mr. President, I understand that this has been cleared on all sides. I congratulate all.

Mr. KERRY. Mr. President, I do not believe this has been cleared on all sides. I think there are a lot of questions with respect to this, and I suggest the absence of quorum.

Mr. STEVENS. Mr. President, will the Senator withhold that for a moment?

Mr. KERRY. The Senator will hold that, without losing his right to the floor.

Mr. STEVENS. I ask unanimous consent that the Senator's request be granted.

Mr. President, I stated I would clarify my response to Senator Inouye's inquiry concerning transportation. I am informed that it may be possible that some of the previously authorized and purchased lethal equipment might be moved by resistance members who are provided transportation. We are not giving any new lethal aid.

I would not want to mislead the Senate to think that there would be no lethal items transported with the transportation, but none will be purchased with this money, and the transportation is not provided for the primary purpose of transporting lethal aid provided by any other person.

Does that answer Senator Inouye's question correctly?

Mr. INOUYE. Yes, sir.

I thank the Senator from Massachusetts.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. STEVENS. One other thing, if I may.

Mr. KERRY. Mr. President, the Senator from Massachusetts asks unanimous consent that he be allowed to maintain the floor, and I yield to the Senator.

Mr. STEVENS. Mr. President, there is a typographical error on page 2. The date is February 29, 1988. I think I read it right, but it is typed wrong.

The PRESIDING OFFICER. The typographical error referred to by the Senator from Alaska will be corrected.

The Senator from Massachusetts is recognized.

Mr. KERRY. Mr. President, let me say to my colleagues that I am not rising with the intent of trying to not proceed on this or trying to prolong the process. This language has just been written. I was part of the latter part of the meeting which took place earlier this evening which attempted to pull together some form of compromise here.

The first opportunity that I have had to view this language as sent to the desk is literally as I am reading it now. I find some questions in it as I read it now, not the least of which is the last paragraph in the manner by which determination of cease fire would be made, who would be making that determination, and so forth.

I also have some very serious questions which I think my colleagues ought to think about as we approach this.

I am not looking at this particular amendment from any perspective other than how we best put to test the peace process. I have no favorites in that effort. But it seems to me that we have to measure very carefully whether or not this assistance is needed, in what form it will be in fact delivered.

It is my understanding that paragraph (D)(2) on page 2 gives the authority for the oversight and transfer of this assistance through the Central Intelligence Agency which is in fact contrary to a bill that is sitting on the President's desk at this very instance awaiting his signature.

I do not know whether he intends to sign it or not, but I know both Houses specifically have withdrawn that authority.

I am wondering why we are suddenly here at this last instant returning that authority. What I would like to do if possible is take a moment for some of us on this side to collect some thoughts, to take a look at it. And I again repeat without any effort to delay and without any certainty as to where we proceed from here, I think it behooves us to spend a moment to do that before we proceed.

That is why at this point I would like to suggest the absence of a quorum.

Mr. STEVENS. Will the Senator withhold that a minute?

Mr. KERRY. I withhold the request.

I ask unanimous consent I may retain the floor. I will yield for a question.

Mr. STEVENS. During this quorum call while having a meeting the Senator has no objection if we go ahead with routine matters setting the amendment aside if necessary?

Mr. KERRY. I have no objection.

I ask unanimous consent that this amendment be set aside pending dealing with any further business and this he the pending matter and that I be permitted to have the floor when we return at that time.

The PRESIDING OFFICER (Mr. Ford). Without objection, it is so ordered.

The Senator from Louisiana.

AMENDMENT NO. 1340

(Purpose: to ensure that Blackburn College, located in Carlinville, Illinois, is eligible to participate in the Work Study Program under part C of title IV of the Higher Education Act of 1965)

Mr. JOHNSTON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Louisiana [Mr. Johnston] for Mr. Dixon and Mr. Simon proposes an amendment numbered 1340.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the resolution add the following:

Sec. . Notwithstanding any other provision of this joint resolution or any other provision of law, the Secretary of Education shall give priority to Blackburn College, located in Carlinville, Illinois, in carrying out the provisions of section 442(a)(2) of the Higher Education Act of 1965 relating to the allocation of funds for the Work Study Program under part C of title IV of that Act for eligible institutions that begin participation in that program after fiscal year 1985.

Mr. JOHNSTON. Mr. President, this amendment, which had been cleared by the appropriators and by Senators Kennedy and Hatch of the Education Committee, provides that the Secretary of Education shall give priority to Blackburn College, located in Carlinville, IL, in carrying out the provisions of the Higher Education Act of 1965 relating to the allocation of funds for the Work Study Program.

As I say, it has been cleared on both sides.

Mr. DIXON. Mr. President, I offer an amendment on behalf of myself and Senator Simon.

The amendment would provide assurance that Blackburn College in Carlinville, IL, is eligible for participation in the College Work Study Program.

Blackburn College is a 150-year-old institution providing educational opportunities for about 500 students in central Illinois.

The institution requires each student to work 15 hours per week in on-campus, nonpaying positions as a means of paying the cost of their educational expenses, and as a means of keeping the cost within reach of low- and moderate-income families.

Blackburn College is the only college in the United States which requires all of its students to participate in a campus-based Work Study Program which is totally managed by its students. This successful arrangement has existed for 75 years.

I am proud to inform my colleagues that Blackburn College is one of three or four colleges in the United States that has been coeducational since its beginning. I am also proud to say that the college rates 23d in the United States for its production of Ph.D's in the sciences.

This is a good amendment and I urge its immediate approval.

● Mr. SIMON. Mr. President, I want to join my distinguished colleague from Illinois, Senator Dixon, in offering this amendment on behalf of Blackburn College in Carlinville, IL. Blackburn College is a small, liberal arts college which in 1914 instituted a campus work study program which requires each student to work a specific number of hours each week to pay his or her college expenses. That work program, which is similar to programs at Berea College and Alice Lloyd College in Kentucky, Warren Wilson College in North Carolina, the College of the Ozarks in Missouri, Berry College in Georgia, Bluffton College in Ohio, Lemoyne-Owen College in Tennessee, and Tuskegee University and Oakwood College in Alabama.

All of these fine institutions of higher education use college work study funds, authorized under title IV the Higher Education Act, to pay students engaged in their work study programs, except Blackburn College. The amendment offered by both Senators from Illinois would correct this inequity, which results from the failure by the Department of Education and its predecessor the Department of Health, Education and Welfare to properly examine and credit Blackburn's work-study program. For many years, Blackburn was unable to participate in the Federal College Work Study Program, due to the Department's determination that all students working at Blackburn were in violation of a labor protection provision in title IV. I support Blackburn's full participation and the labor protection provision. Now that Blackburn's program has departmental approval—there are insufficient funds to meet Blackburn's newly established base for funding.

The amendment we offer will not add to the cost of the College Work Study Program, but it will treat Blackburn College fairly.

I join my colleague in urging its adoption.●

The PRESIDING OFFICER. Is there further debate?

Hearing none, the question is on agreeing to the amendment.

The amendment (No. 1340) was agreed to.

Mr. JOHNSTON. Mr. President, I move to reconsider the vote by which the amendment has been agreed to.

Mr. McCLURE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Wisconsin.

AMENDMENT NO. 1341

Mr. KASTEN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Wisconsin [Mr. Kasten] proposes an amendment numbered 1341.

Mr. KASTEN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the Joint Resolution add the following:

"Notwithstanding any other provision of law or this joint resolution, none of the funds appropriated or otherwise made available by this joint resolution may be made available to the Government of Mozambique unless the President certifies and reports to Congress that:

The Government of Mozambique has returned church radio stations and schools;

The Government of Mozambique has issued guarantees against the future expropriation of private property;

The number of Soviet and East-European military and security personnel in Mozambique are significantly reduced from levels of 1986.

Mr. KASTEN. Mr. President, this amendment has to do with limitations or Presidential certifications to economic assistance to Mozambique.

Current law prohibits economic aid to Mozambique. This amendment is a compromise amendment that has been worked out with the Senator from Hawaii, the chairman of the Appropriations Committee, the Senator from North Carolina, the ranking member on the Foreign Relations Committee, and others.

What in fact it does is allow aid to go to Mozambique with certain conditions certified by the President.

The amendment has been agreed to by both sides and I urge its adoption.

Mr. JOHNSON. Mr. President, the amendment has been appropriately cleared.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. DANFORTH. Mr. President, I regret that I have not had an opportunity to study this amendment.

Let me ask the Senator from Wisconsin: During the discussion of this amendment was the administration a party to that discussion, anyone from the administration?

Mr. KASTEN. The administration has not been a part of the discussion with regard to the various points that have been raised here. My impression is that the administration would prefer to have no limits whatsoever and no certification on aid to Mozambique.

I point out to the Senator the present law has no economic assistance whatsoever, a prohibition of aid, and there are a number of people in this body and the other body who would prefer that position.

What we have done here is to try to work out a balance so we can have aid go forward to Mozambique, economic assistance with these conditions that the President would then certify.

So what you have here is a balance. Frankly, I am on the side of no assistance to Mozambique, and been able to maintain that position in the subcommittee. This year we have made a change and I think this represents a balance.

Mr. DANFORTH. Let me ask the Senator, in his opinion, does the Presidential certification that is provided for in this amendment amount to just a ministerial act by the administration? In other words, is it a purely factual determination to be made by the administration with very little discretion, or is it the intention of the Senator from Wisconsin that the President is able to exercise discretion in the management of our policy with respect to Mozambique?

Mr. KASTEN. I say to the Senator I think we both had enough experience with Presidential certifications to recognize the fact that the administration does have discretion and they exercise and use that discretion. I believe that the administration may well choose to exercise and use discretion with regard to this amendment. But it is also my hope that the Government of Mozambique will recognize that for the first time it now has available to it the possibility of economic aid, that with these basic requirements which are agreed to, I think the desirability of these requirements are agreed to by a number of people in this body, I think that we have a balance and with administration discretion, we have progress and we also have economic assistance to Mozambique.

Mr. DANFORTH. Let me ask the Senator from Wisconsin. This amendment does not apply to food aid, is that correct?

Mr. KASTEN. The Senator is correct. We have had food assistance and emergency assistance flowing to Mozambique all through this period during which there have been prohibition on both military and this kind of economic assistance. So food aid is not affected.

Mr. DANFORTH. So, therefore, it would be the view of the Senator from Wisconsin that the continuing program of food aid to Mozambique would continue even if this amendment turned out to be the law of the land and even if the President did not make the certification that is called for?

Mr. KASTEN. The Senator is correct.

I might go just one step further. In previous years we have said that economic assistance could go to Mozambique only to the private sector. So, the private sector aid would continue and the food assistance would continue no matter what the certification was decided upon here.

Mr. DANFORTH. I see. So this applies only to economic aid, other than food aid; development assistance is what you have in mind?

Mr. KASTEN. And that to the government and not to the private sector. We have always allowed aid to the private sector.

Mr. DANFORTH. Let me ask one hypothetical question of the Senator from Wisconsin. Let us suppose that it was the position of the administration that there was an opportunity for real movement with respect to our relationship with Mozambique; that Mozambique is moving our way; that there is an opportunity to work with that country. Would the Senator envision sufficient flexibility in the administration that it might be able to offer economic assistance even if the precise terms of this amendment might not be subject to accurate certification?

Mr. KASTEN. I think the easiest way for me to answer that question is that the administration has the discretion and I am of the opinion that the administration would exercise discretion. But I think that there is disagreement in this body and maybe disagreement between the two of us as to the amount of movement Mozambique has made, the amount of progress that has gone on in Mozambique, its relationship to the Soviet Union, its votes in international organizations, such as United Nations. There are a number of different things that we can look to when we look to that country.

The point here is that it does not affect food assistance and emergency assistance. Aid to the private sector would continue. And under these conditions, the administration could exercise discretion and the aid to the Government of Mozambique would be resumed as well.

Mr. DANFORTH. Well, I appreciate the comments of the Senator from Wisconsin. I am not here to carry the brief for Mozambique or any other country. But I know that over the years I have discussed the subject of Mozambique with the administration and in fact with the President himself and the President has expressed the hope, even the anticipation, that perhaps there is the possibility of movement in our relationship with that country. And I would not want us to do anything in this legislation that would affect the ability of the President to exercise foreign policy as he believes in the best interest of the United States.

Mr. KASTEN. If the Senator will yield, I believe that this legislation would in fact move us closer to that goal which the President and you and I all share.

Mr. DANFORTH. I thank the Senator from Wisconsin.

Mr. KASTEN. I urge the adoption of the motion.

The PRESIDING OFFICER. Is there further debate?

Mr. JOHNSTON. Mr. President, Senator PELL has asked that we momentarily delay this matter for him to check into something. If there is no further debate, I wonder if we could temporarily lay this matter aside.

Mr. KASTEN. I want to say to the Senator, we are not requesting a record vote or rollcall vote. This, in our opinion, was an agreed-to amendment by a number of different parties. I would be happy to accommodate the Senator.

Mr. JOHNSTON. I thank the Senator. I ask unanimous consent that this amendment be temporarily laid aside to be recalled at the call of the floor manager.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Are there further amendments?

Mr. METZENBAUM. Mr. President, would the majority leader, perhaps, or the manager of the bill, be in a position to indicate a little more detail about the Warner amendment that is being proposed? Is there a statement of explanation with respect to the Warner amendment? I have read it. I do not understand it. If there is something that gives a little more detail as to what it is all about, I would appreciate it.

Mr. STEVENS. I would say to my friend, Mr. President, that the explanation that was given to us was that this is a problem with regard to employees that were transferred from an official station. When he or she is assigned to a post of duty outside of the United States and then when they come back in they do not go to the same post and they are entitled to reimbursement for that move. There was a request to make that retroactive, which we have deleted.

The problem was that employees reassigned from the United States to an overseas location and those reassigned back to the United States but not to the same area from which they departed are faced with the same home sale and purchase problems faced by employees that relocate within the United States.

Those relocating costs are paid for employees who are transferred within the United States. But if they are transferred from a point within the United States overseas and then back to another place, they have double the problem and they do not get any reimbursement under existing law. This is a matter that was discussed, as I understand it, by members of the Armed Services Committee.

The second section was, as I said, to provide for a relocation. This provision, incidentally, already passed the Senate during this session as S. 1750, but it has been hung up in the House. This is an attempt to get it done this year. It is, I am told, a very vexatious problem with regard to employees agreeing to accept duty positions outside the United States because of the loss they suffer compared to the transfer within the United States.

Mr. METZENBAUM. Is it applicable only to members of the military or is it applicable to members of the State Department?

Mr. STEVENS. This is transferred Federal employees. I believe that applies to the civilian employees of the Federal Government.

Mr. METZENBAUM. Is there any estimate indicated as to what the cost to the Government will be for this measure? And have the respective departments of Government that are affected, have they been consulted and taken a position with respect to the legislation?

Mr. STEVENS. This will cost approximately $14 million a year to add it to the expenses of the total Government. That will be absorbed. There is no provision for increased cost. It will be absorbed from the moneys already provided for a change of duty station.

As I indicated, these same employees, if they are transferred within the United States, would have these costs paid.

Mr. METZENBAUM. Would the manager of the bill, who I understand is handling this particular amendment on behalf of another Member of the Senate, not think that this is a matter that does not have a sense of urgency, does not need to be on the continuing resolution, and would more properly be handled in the normal way?

Mr. STEVENS. We raised the same question, I might say to my friend, and it appears to be a considerable problem. It does have a request to be moved because 2 years ago, the Senate Treasury-Post Office appropriations bill included this and it was dropped in the House. It was passed in 1985; again, it was passed in the 1986 continuing resolution. And, regrettably, during the past years the House has failed to agree to this proposal. It now is starting to impede the transfer, the voluntary transfer, of Government employees to positions outside the United States because they will not get their cost of moving that they would get if they insisted to be transferred to a position at another post within the United States.

Mr. METZENBAUM. As I understand your earlier statement, this was in a piece of legislation that passed the Senate and was eliminated by the House.

Mr. STEVENS. This has passed the Senate three times now—in 1985, 1986, and 1987. It has been eliminated each time it has gone to the House. The request of the Armed Services Committee is once again to send it to the House. I might say twice before it has been in continuing resolutions and once as a freestanding bill.

Mr. METZENBAUM. The Senator from Ohio has some reservations, but not enough to stand in the way of the passage of the amendment.

Mr. STEVENS. I thank the Senator. I ask for the adoption of the amendment.

The PRESIDING OFFICER. The Chair would advise the Senator the amendment has not been submitted for consideration. The Senator from Ohio has asked a question about the amendment.

AMENDMENT NO. 1342

(Purpose: To amend title 5, United States Code, to liberalize certain provisions authorizing reimbursement for expenses of sale and purchase of a residence upon the transfer of a Federal employee)

Mr. STEVENS. Mr. President, on behalf of Senator WARNER, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Alaska [Mr. STEVENS] for Mr. WARNER, proposes an amendment numbered 1342.

Mr. STEVENS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the joint resolution, add the following new section:

SEC. . SALE OF RESIDENCE OF TRANSFERRED FEDERAL EMPLOYEES AND TRANSPORTATION EXPENSES.

(a) REIMBURSEMENT OF EXPENSES OF SALE AND PURCHASE OF A RESIDENCE UPON THE TRANSFER OF A FEDERAL EMPLOYEE.—

(1) REIMBURSEMENT OF EXPENSES.—Section 5724a(a)(4)(A) of title 5, United States Code, is amended—

(A) by inserting before the period at the end of the first sentence the following: "; and expenses, required to be paid by the employee, (i) of the sale of the residence (or the settlement of an unexpired lease) of the employee at the official station from which the employee was transferred when he was assigned to a post of duty located outside the United States, its territories or possessions, the Commonwealth of Puerto Rico, or areas and installations in the Republic of Panama made available to the United States pursuant to the Panama Canal Treaty of 1977 and related agreements (as described in section 3(a) of the Panama Canal Act of 1979) and (ii) of the purchase of a residence at the new official station when the employee is transferred in the interest of the Government from a post of duty located outside the United States, its territories or possessions, the Commonwealth of Puerto Rico, or areas and installations in the Republic of Panama made available to the United States pursuant to the Panama Canal Treaty of 1977 and related agreements (as described in section 3(a) of the Panama Canal Act of 1979), to an official station (other than the official station from which he was transferred when assigned to the foreign tour of duty) within the United States, its territories or possessions, the Commonwealth of Puerto Rico, or such areas and installations in the Republic of Panama"; and

(B) by adding at the end thereof the following new sentence: "Reimbursement of expenses prescribed under this paragraph in connection with transfers from a post of duty located outside the United States, its territories or possessions, the Commonwealth of Puerto Rico, or the areas and installations in the Republic of Panama made available to the United States pursuant to the Panama Canal Treaty of 1977 and related agreements (as described in section 3(a) of the Panama Canal Act of 1979), shall not be allowed for any sale or settlement of unexpired lease or purchase transaction that occurs prior to official notification that the employee's return to the United States would be to an official station other than the official station from which the employee was transferred when assigned to the foreign post of duty.".

(2) EFFECTIVE DATE.—The amendments made by paragraph (2) shall be applicable with respect to any employee transferred to or from a post of duty on or after 60 days after the date of enactment of this section.

(b) FUNDS FOR IMPLEMENTATION.—The amendments made by subsections (a) and (b) shall be carried out by agencies by the use of funds appropriated or otherwise available for the administrative expenses of each of such respective agencies. The amendments made by such subsections do not authorize the appropriation of funds in amounts exceeding the sums already authorized to be appropriated for such agencies.

The PRESIDING OFFICER. Is there further debate?

Mr. WARNER. Mr. President, I ask for the adoption of an amendment to provide the same relocation benefits for Federal employees assigned to or returning from overseas locations that are currently provided for Government personnel involved in domestic transfers.

This legislation was unanimously approved by the Senate on October 8, 1987, as a part of S. 1750, a broader relocation package now pending before the House of Representatives. I am requesting approval of this proposal to hopefully bring to an end a continuing inequity for Federal employees who have been directed to relocate overseas.

Under present law, normal relocation benefits available in domestic moves are not authorized when an interim period due to assignment overseas occurs. This problem is particularly acute for drug enforcement agency and other law enforcement agency personnel assigned overseas, as well as for Department of Defense civilian employees who routinely are required to accept foreign assignments.

With the approval of this amendment, we can send to the House of Representatives an affirmation of our commitment to provide uniform relocation benefits for all of our valued Federal employees.

Mr. JOHNSTON. Mr. President, this amendment has been approved by Senators GLENN, DECONCINI, and Senator PRYOR. Is that correct? It has been properly approved, Mr. President. We have no objection.

The PRESIDING OFFICER. Is there any further debate on this amendment? If not, the question on agreeing to the amendment.

The amendment (No. 1342) was agreed to.

Mr. JOHNSTON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. STEVENS. Mr President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1343

Mr. JOHNSTON. Mr. President, I will shortly send to the desk an amendment on behalf of Senators INOUYE and KASTEN which has been approved by everyone. It is a technical amendment with respect to aid to Greece and Turkey. The principal change is the change, the phrase "not less than" to "only." "Not less than" is, of course, a floor and "only" is both a floor and a ceiling. It has been approved, also, by the majority leader who had a particular interest in it.

There are also some other purely technical changes. Other than that it makes no change in the Greece-Turkey relationship.

I send the amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Louisiana [Mr. JOHNSTON] for Mr. INOUYE (for himself and Mr. KASTEN) proposes an amendment numbered 1343.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 5 line 19 after 1987 insert the following: "except that the text in S. 1924 beginning on line 5 of page 36 with the word 'not' down through and including line 21 on page 40 is hereby stricken and the following is inserted in lieu thereof: $490,000,000 only shall be available only for Turkey, and $343,000,000 only shall be available for Greece: Provided, That to the extent that the Government of Israel requests that funds be used for such purposes, credits made available for Israel under this heading shall, as agreed by Israel and the United States, be available for advanced fighter aircraft programs or for advanced weapon systems, as follows: (1) up to $15,000,000 shall be available for research and development in the United States; and (2) not less than $400,000,000 shall be available for the procurement in Israel of defense articles and defense services, including research and development: Provided further, That Turkey, Greece, Israel, and Egypt shall be released from their liability to repay the United States Government with respect to the credits provided under this heading: Provided further, That during fiscal year 1988, gross obligations for the principal amount of direct loans, exclusive of loan guarantee defaults, shall not exceed $4,227,000,000: Provided further, That any funds made available under this * * * Israel and Egypt, may be made available at concessional rates of interest, notwithstanding section 31(b)(2) of the Arms Export Control Act: Provided further, That the concessional rate of interest on foreign military credit sales loans for countries other than Turkey, Greece, Israel and Egypt shall be not less than 5 per centum per year; Provided further, That all country and funding level changes in requested concessional financing allocations shall be submitted through the regular notification procedures of the Committees on Appropriations: Provided further, That funds appropriated under this heading shall be expended at the minimum rate necessary to make timely payment for defense articles and services.

FOREIGN MILITARY CREDIT SALES DEBT REFORM

(a) Notwithstanding any other provision of law, the President is authorized during fiscal year 1988 and fiscal year 1989 to transfer existing United States guaranties of outstanding Foreign Military Credit Sales debt to loans, bonds, notes or other obligations made or issued (as the case may be) by private United States financial institutions to finance the prepayment at par of the principal amounts maturing after September 30, 1989 of existing Foreign Military Credit Sales loans bearing interest rates of 10 percentum or higher, and arrearages, or to issue new guaranties for new loans, bonds, notes or other obligations made or issued by private United States financial institutions to finance such prepayments and arrearages and to accept such prepayments, as long as such guaranties which are transferred or extended cover no less and no more than an indivisible 90 percentum of the principal amount of the private loan or any portion or derivative thereof plus accrued interest outstanding at any time during the maturity period of the loan. No sums in addition to the payment of the outstanding principal amounts maturing after September 30, 1989 of the loan (or advance), plus any unpaid accrued interest thereon, shall be charged by the private lender or the United States Treasury as a result of such prepayment against the borrower, the Guarantor, or the Guaranty Reserve Fund, except that the private lender may include in the interest rate charged a standard fee to cover costs which shall be set at prevailing market rates, and no guaranty fee shall be charged on guaranties transferred or issued pursuant to this provision. The terms of guaranties transferred or issued under this section shall mirror the terms of the existing loans or guaranties, except as modified by this provision and except that the repayments of the newly issued debt may be consolidated into two payments per year according to standard industry practice. Any loans, bonds, notes or other obligations made or issued or guaranties transferred or issued pursuant to this section shall be fully and freely transferable. Any guarantee transferred or extended shall cease to be effective if the obligation guaranteed or derivative thereof is to be used to provide significant support for any non-registered obligation.

(b) Any country which is in default during a period in excess of one year in payment to the United States of principal or interest on any loan made to such country guaranteed by the United States pursuant to this section shall be deemed to be in default pursuant to a program for which funds are appropriated annually under an Act making appropriations for foreign assistance and related programs.

(c) For the purposes of sections 23 and 24 of the Arms Export Control Act, the term "defense services" shall be deemed to include the refinancing of Foreign Military Credit Sales debt outstanding at the date of the enactment of this Act.

(d) Not later than ninety days after the date of enactment of this subsection, the Secretary of the Treasury shall issue regulations to carry out the purposes of this subsection. In issuing such regulations, the Secretary shall: (1) facilitate the prepayment of loans and loan advances hereunder; (2) provide for full processing of each prepayment or request within thirty days of its submission to the Secretary; and (3) except as provided in subsection 24(a) of the Arms Export Control Act, as amended, impose no restriction that increases the cost to borrowers of obtaining private financing for prepayment hereunder or that inhibits the ability of the borrower to enter into prepayment arrangements hereunder.

(e) The Secretary of State shall transmit to the Committee on Foreign Affairs of the House of Representatives, the Committee on Foreign Relations of the Senate, and the Committees on Appropriations of the House of Representatives and Senate, a copy of the text of any agreement entered into pursuant to this section not more than thirty days after its entry into force, together with a description of the transaction.

GUARANTY RESERVE FUND

There are hereby appropriated, whenever required after the date of enactment of this Act, such amounts as may be necessary from time to time to meet the requirements of the Guaranty Reserve Fund for payments of claims under guaranties issued under the Arms Export Control Act: Provided, That none of the funds appropriated under title III of this Act may be used to provide assistance to any country which, in the absence of an agreement to which the United States is a party for the rescheduling of debt, is more than ninety days in arrears on the repayment of principal or interest on loans providing credits for Foreign Military Sales.

The PRESIDING OFFICER. Is there any further debate on this amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 1343) was agreed to.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. JOHNSTON. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Is there further debate? The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, I will not at this moment ask unanimous consent that no further amendments be in order but I wonder if we might identify some of those amendments because I think, as soon as the Contra aid amendment is up, if there is no amendent pending, I think we will be ready for third reading.

I wonder if there is further business to do? There is the Mozambique amendment. We are waiting for Senator PELL's OK on that.

Mr. DOLE. Will the Senator yield?

Mr. JOHNSTON. Senator PELL had asked to withhold that. I wonder if his staff has cleared that with him.

I yield.

Mr. DOLE. I wanted you to yield in response to a suggestion. I just indicate on this side we understand that in the clearance process there is a McClure amendment on an INF report, a Grassley amendment which is nondisclosure forms, and a Wilson amendment on data package units, and one amendment of Senator WARNER on HOV lanes in Virginia. That is all there are.

Mr. STENNIS. May we have order.

The PRESIDING OFFICER. The Senator is correct. You get order in the Senate and in 5 minutes it is right back to where it was. I apologize to the distinguished minority leader.

Would the Senators cooperate with the Chair and let their staffs go back to their seats?

Mr. DOLE. And I would say one by Senator SPECTER that has been cleared. That is all there are. If we could shut it off right there, those are all in the clearance process. There would not be any more amendments in order on this side.

The PRESIDING OFFICER. Are there further amendments? If there are not further amendments we may go to a couple of amendments that—the Senator from Virginia.

Mr. WARNER. Mr. President, the Senator from Virginia is now working with the Senator from New York. I have clearance, of course, on this side for my amendment which is listed. The Senator from New York is very graciously giving his full attention to the matter at this time. I would think it could be concluded very shortly.

The PRESIDING OFFICER. The Chair asks the staff that are assisting Senators, let us get out of the huddles. If you want to talk to them, let us go outside. There are 48 staff members standing or sitting around the back, and I understand each staff member must have a chair. I will exercise that rule shortly by the use of the Sergeant at Arms.

The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, there was a Mozambique amendment which I ask to be temporarily set aside. I understand that Senator PELL was being contacted on the telephone at that moment.

It has not been cleared with Senator PELL, but, Mr. President, it is 11:30 at night and I simply cannot hold up the business of the Senate further in hopes that someone may or may not come to the floor of the Senate.

It is up to the will of the Senate. I inform the Senate it has not been cleared by Senator PELL. It has been cleared by Senator INOUYE.

Is the matter before the Senate, Mr. President?

The PRESIDING OFFICER. The Senator has a right to recall it. We set the two amendments aside. If the other amendments were moving, then we would not move that. If you want to recall it, we will be glad to entertain it.

Mr. JOHNSTON. Mr. President, the authors of the amendment did the floor managers a courtesy by agreeing to temporarily lay it aside and I do not want further to impose upon their good nature. At the same time, I want the Senate to know it has not been cleared by Senator PELL, although it has by Senator INOUYE, who is chairman of the appropriations subcommittee.

I wonder what the advice of the Senator from Hawaii would be on that matter?

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. INOUYE. This matter has been discussed and considered by the subcommittee. Like much of the legislation before us, there are those who disagree. This involves a country that is presently led by people who have not been absolutely friendly with the United States. There is no question about that.

This does not cut off all aid to Mozambique. However, it does say that the United States is concerned about the attitudes of the leadership and we are hoping that these attitudes can change. I think that this amendment will bring this about.

I have no objection to it.

Mr. METZENBAUM. Will the Senator from Hawaii yield for a question?

Mr. INOUYE. Yes.

Mr. METZENBAUM. Is this the amendment that says no money can go to Mozambique unless the President certifies and reports to the Congress that the Government of Mozambique has returned church radio stations and schools?

Mr. INOUYE. This is military assistance, sir, yes.

Mr. METZENBAUM. But I do not see that it specifically refers to military assistance. It says it cannot be done unless the Government of Mozambique has issued guarantees against the future expropriation of private property; also, the number of Soviet and East European military and security personnel are significantly reduced from levels of 1986.

Am I correct in my understanding that if we pass this we cannot provide any kind of aid whatsoever to Mozambique?

Mr. INOUYE. The Senator is not correct. With that amendment, disaster aid may go, humanitarian aid may be provided and emergency aid may be provided.

Mr. METZENBAUM. Would the Senator be good enough to explain how that can be in view of the fact—this talks about a joint resolution.

Mr. INOUYE. That resolution does not cover the section of the law that relates to humanitarian assistance and disaster assistance.

Mr. METZENBAUM. I thank the Senator from Hawaii.

The PRESIDING OFFICER. Does the Senator from Wisconsin wish to recall his amendment?

Mr. KASTEN. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. KASTEN. The amendment was temporarily set aside and the amendment is now pending. Is that correct?

The PRESIDING OFFICER. The amendment is subject to being recalled by the manager. There are other amendments. That is the prerogative of the floor manager.

AMENDMENT NO. 1341

Mr. JOHNSTON. Mr. President, in that case, I recall the amendment of Senator KASTEN and ask that it be laid before the Senate.

Mr. President, I ask that the amendment be laid before the Senate.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

> The Senator from Wisconsin [Mr. KASTEN] proposed an amendment numbered 1341.

The Senate continued with the consideration of amendment numbered 1341.

Mr. JOHNSTON. Mr. President, I believe the amendment has now been thoroughly discussed and I understand the Senator from Rhode Island is now in the Chamber. I will yield the floor.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. PELL. Mr. President, I just had an opportunity to look at this 30 seconds ago, and I have a problem with the phrase that the Government of Mozambique has returned church property, radio stations and schools.

Mr. KASTEN. My understanding is that the chairman of the Foreign Relations Committee is concerned about the section having to do with returning church radio stations. I would suggest as the author of the amendment I have the right to modify my amendment. I would like to modify my amendment as follows:

the Government of Mozambique has made progress toward returning church radio stations.

I believe that would deal with the question or the problem the Senator is suggesting. Is that correct? I would suggest the words "made progress toward returning."

Mr. President, I send my amendment, as modified, to the desk.

The PRESIDING OFFICER. Without objection, the Senator can modify his amendment. Without objection, the amendment is so modified.

The amendment, as modified, is as follows:

At the appropriate place in the Joint Resolution add the following: "Notwithstanding any other provisions of law or this joint resolution, none of the funds appropriated or otherwise made available by this joint resolution may be made available to the Government of Mozambique unless the President certifies and reports to Congress that:

the Government of Mozambique has made progress toward returning church radio stations and schools;

the Government of Mozambique has issued guarantees against the future expropriation of private property;

the number of Soviet and East European military and security personnel in Mozambique are significantly reduced from levels of 1986.

Mr. EVANS. Mr. President, I wonder if either the chairman or the ranking member of the subcommittee could respond to a question. In the amendment, as it is now worded, and there have been, as I understand, several different wordings in the proposed amendment, as it is now worded do you know what the opinion of the administration is on the amendment as it is now worded?

I know there have been some long and fairly serious and quite sensitive negotiations going on, and I think it would be inappropriate for us, the Senate, to step into the middle of something like this and perhaps inadvertently have the effect of deterring some positive negotiations that will have been underway.

Mr. KASTEN. The administration, in my opinion, would prefer to have no opinion and no discussions relative to Mozambique. We have not had that situation for the past number of years, with the exception that we have had unlimited emergency food assistance, which is not affected by this amendment.

In effect, what we have here is a compromise——

Mr. PELL. Mr. President, I am having trouble hearing the speaker.

Mr. KASTEN. In effect, what we have here is a compromise. For the first time ever, in addition to emergency food assistance, and in addition to economic assistance to the private sector, we now are also providing for, under certain conditions which we believe the administration will have the discretion to certify, economic assistance.

Mr. EVANS. I understand that it is also true, I believe, that the current situation in Mozambique is not as it was even a year or 2 or 3 years ago. There are some changes of significant proportions.

Mr. President, until I get an opportunity or a little time to do some further checking, I would have to say that I would have to spend some time on this.

Mr. INOUYE. Mr. President, the amendment that my dear friend from Wisconsin has offered I believe is the fifth draft. The first draft that was submitted in the subcommittee would have accomplished what he has just described.

The present draft recognizes the role that the administration has played in bringing about greater sensitivity and understanding in our relationship with Mozambique.

I think it should be noted that notwithstanding this amendment, the U.S. Government can provide emergency disaster aid and humanitarian assistance. What the Kasten amendment proposes to do is to provide an opportunity to the Government of Mozambique to receive further assistance, economic assistance, if certain conditions are met. Under those circumstances, I felt that it was a reasonable amendment.

Mr. PELL. Mr. President, referring to the attitude of the administration, if the same wording the Senator from Wisconsin used in modifying his amendment were also used in paragraphs 2 and 3, guarantees against the future expropriation of private property and so on, and the number of Soviet and East European military and security personnel in Mozambique are significantly reduced from levels of 1986, my understanding is that they would be supportive.

Mr. KASTEN. I would say to the Senator we have made a number of changes in this amendment. I believe it is satisfactory or the administration would not be in support of the amendment even if we added additional language. We added language to the key paragraph. I am not anxious to further change this amendment. I think we are in the position here where under these circumstances we have made a number of changes. We have made a number of these changes in consultation with the administration, as well as with the authorizing committee. I think we are in the position here where under these conditions we can move forward.

I do not think this ought to go to a record vote, but if the Senator would like to take it to a record vote and the leadership would, maybe that is necessary. We made these accommodations at the suggestion of the administration and the chairman of the committee. We will have the opportunity to go to conference and I think we are in the position now where we have done a lot of changing and have had a lot of people involved in this process.

Mr. PELL. Mr. President, I was answering the question of the Senator from Washington as to the attitude of the administration. I am not authorized to speak for this administration, obviously. But if that modification was made, my understanding is it would be acceptable. If it is not made, presumably it is not acceptable, and those who support the administration would vote against it.

The PRESIDING OFFICER. Is there further debate? Hearing none, the question is on agreeing to the amendment.

The amendment (No. 1341), as modified, was agreed to.

Mr. JOHNSTON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1344

(Purpose: To provide discretionary project funds for high-occupancy vehicle lanes on Interstate highways in northern Virginia, and for other purposes)

Mr. JOHNSTON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Louisiana [Mr. JOHNSTON], for Mr. WARNER, proposes an amendment numbered 1344.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the joint resolution, add the following:

SEC. . (a) Paragraph (2) of section 118(b) of title 23, United States Code, is amended—

(1) by striking out "and " at the end of subclause (I) of subparagraph (B)(i),

(2) by striking out the period at the end of subclause (II) of subparagraph (B)(i) and inserting in lieu thereof "; and",

(3) by adding at the end of clause (i) of subparagraph (B) the following new subclause:

"(III) projects which extend and improve high occupancy vehicle lanes of highways on the Interstate System in Fairfax County, Prince William County, or Arlington County, Virginia.", and

(4) by adding at the end thereof the following new subparagraph:

"(G) Exclusion from ice.—The projects described in subparagraph (B)(i)(III) shall not be taken into account in making the estimate of the costs of completing the Interstate System in Virginia under section 104(b)(5)(A).".

(b)(1) Paragraph (1) of section 147(a) of the Surface Transportation and Uniform Relocation Assistance Act of 1987 (101 Stat. 180) is amended by striking out "4" each place it appears and inserting in lieu thereof "3".

(2) The amendments made by paragraph (1) shall apply during the 2-year period beginning on the date that is 90 days after the date of enactment of this Act.

Mr. JOHNSTON. Mr. President, this amendment, which has been cleared on all sides, is by Senator WARNER, and makes certain high-occupancy vehicle express projects in Virginia eligible for interstate discretionary funding.

Mr. WARNER. Mr. President, this amendment makes certain high-occupancy vehicle express projects in Virginia eligible for interestate discretionary funding.

This amendment would not entitle these Virginia projects to any funding, nor does it appropriate funds for those projects.

The amendment merely makes these projects eligible to compete for Federal interstate discretionary funding with the other States.

Mr. President, the Federal-aid interstate roadways I and around the Nation's capital serve a unique population, including tens of thousands of employees of the Government and its agencies, and not a few Members of Congress.

Interstate 95, or Shirley Highway as it is called in some places, was the first interstate to have high-occupancy vehicle—or "HOV"—express lanes. Those lanes have served the metropolitan area well, moving more people at rush hour than do the congested unrestricted lanes.

The Commonwealth of Virginia has studied the idea of reducing the HOV requirement on that roadway from HOV-4 to HOV-3, and has endorsed this idea if given the ability to improve the road to safely accommodate the increased traffic this reduction would bring.

In addition to making this needed change in the HOV rules, this amendment would enable Virginia to compete for interstate discretionary funds to extend those HOV lanes from their southern terminus at Springfield, VA, some 10 miles to Triangle, VA. This extension would adapt the same reversible lane design as currently on Shirley Highway.

While the Commonwealth of Virginia has not informed me of immediate plans to extend the existing HOV lanes on Interstate 66 outside the beltway, this proposal has received the strong endorsement of groups committed to reducing congestion in northern Virginia.

To those Senators whom I am lucky enough to have live in my State, albeit on a part-time basis, this amendment will mean smoother and more timely flow of traffic.

I think this is a fine, straightforward amendment, and have received the endorsements of several Senators who have a recognized expertise in transportation, including my distinguished subcommittee chairman, Senator MOYNIHAN; and the distinguished ranking Republican of the full committee, the former chairman Senator STAFFORD.

This amendment has also been cleared by the distinguished chairman and ranking Republican on the Transportation Appropriations Subcommittee, Senators LAUTENBERG and D'AMATO respectively, and I thank them for their support.

I ask unanimous consent to have printed in the RECORD a letter from Gov. Gerald Baliles dated December 11, 1987.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

COMMONWEALTH OF VIRGINIA,
OFFICE OF THE GOVERNOR,
Richmond, VA, December 11, 1987.

Hon. JOHN W. WARNER,
U.S. Senate, Russell Office Building, Washington, DC.

DEAR JOHN: I am advised that your staff has been working with the Virginia Department of Transportation to qualify the extension and improvement of high occupancy vehicle lanes in Northern Virginia for additional federal funding opportunities. As you know, the traffic situation in the area is acute and I am certainly supportive of any effort to secure additional funding for these critically needed projects.

John, I am most appreciative of your continued efforts on behalf of the Commonwealth.

With kindest regards, I am
Sincerely,
GERALD L. BALILES.

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. This is a worthy amendment. I hope the Senate will approve it.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 1344) was agreed to.

Mr. JOHNSTON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1345

(Purpose: To ensure that Indian education funds are provided for all eligible Indian students attending Little Wound High School on the Pine Ridge Reservation)

Mr. JOHNSTON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Louisiana [Mr. JOHNSTON], for Mr. DASCHLE, proposes an amendment numbered 1345.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill, add the following:

SEC. . Notwithstanding any other provision of law, each eligible Indian student (as defined by section 1128(f) of the Education Amendments of 1978 (25 U.S.C. 2008(f))) who was in attendance at the Little Wound High School on the Pine Ridge Reservation during the week of September 21-25, 1987, shall be deemed properly enrolled in the Little Wound High School and shall be taken into account in determining the amount of funds allotted to the Little Wound High School for the 1987-1988 academic year pursuant to section 1128 of the Education Amendments of 1978.

Mr. DASCHLE. Mr. President, the amendment I am offering today would direct the Bureau of Indian Affairs to count as eligible for funding for school year 1987-88 any student in attendance at Little Wound High School during count week. Count week is the week in which all schools applying for education funding determine how many students they have for purposes of obtaining funding.

For the past 3 years, the Bureau of Indian Affairs has withheld from the Little Wound School Board considerable sums of payments attributable to students in attendance at Little Wound who, the BIA maintain, live outside of an alleged Little Wound attendance area. In 1985-86, the shortage was $196,840; in 1986-87, it was $144,950; and for the 1987-88 school year, it is estimated the shortfall will be $190,320.

Neither the Little Wound School Board nor the Oglala Sioux Tribe has agreed to any attendance boundary for Little Wound, and BIA has no authority to unilaterally establish such a boundary for a contract school. The statutory provision governing attendance boundaries only authorizes BIA to establish such boundaries for Bureau schools.

The legislative history of Public Law 98-511 underscores the fact that the attendance boundary provision applies to Bureau-operated schools only. House Report 98-748 states:

The committee wishes it to be clear that the Bureau is not to draw the attendance areas for contract schools. These may, and should, be a matter for contract school/Bureau consultation. In case of a failure to agree, the committee would prefer some small overlap to any alternative potential erosion of local control.

The Bureau has established an attendance area for the neighboring BIA-operated high school, and has refused to sign waivers to allow students who reside in that area to attend Little Wound. This results in enforcement of a BIA-operated school boundary against a contract school. Thus, BIA is doing indirectly what it has no authority to do directly.

The 61 students at issue for this school year have chosen to attend Little Wound for a variety of reasons. In many cases, the families have ties to the school and parents have been active in Little Wound school development. Further, many parents prefer that their children attend a tribally operated rather than Bureau-operated school. The Tribe places a high priority on parental choice of school, and BIA regulations themselves endorse the choice of school policy.

The effect of the BIA practice is very simple to describe: the BIA has shorted the education program on Pine Ridge between $150,000 and $200,000 per year for the past 2 years, and will do so again this school year unless Congress instructs otherwise. BIA refuses to provide the funds to Little Wound because it asserts the children are not properly enrolled there, and does not provide the funds to the BIA-operated Pine Ridge High School because the children in question are not in attendance there. In effect, then, the BIA has shrugged off its responsibility to provide funding for the education of these children. BIA has failed to articulate any beneficial policy to be served by withholding these funds from the Reservation education program.

The Little Wound School Board has indicated it will not turn away students whose parents want them to attend the contract school. This means that the school board will continue to educate these children, but, unless something occurs to deter the BIA practice, funding for these children will not flow to this reservation.

Mr. President, I ask support for this amendment.

Mr. JOHNSTON. Mr. President, this amendment is proposed on behalf of Senator DASCHLE and it ensures that approximately 60 children who are attending the Little Wound School are taken into account by the BIA distribution of Federal funds.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. We do approve this amendment, Mr. President.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 1345) was agreed to.

Mr. STEVENS. I move to reconsider the vote by which the amendment was agreed to.

Mr. INOUYE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1346

Mr. STEVENS. Mr. President, I have an amendment at the desk.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Alaska [Mr. STEVENS] proposes an amendment numbered 1346.

Mr. STEVENS. Mr. President, I ask unanimous consent that the amendment not be read.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At an appropriate place in the resolution, insert the following:

SEC. . Hereafter, status as an Indian or Alaska Native, membership in an Indian tribe, ownership of stock in a tribal or an Alaska Native corporation, or ownership or lease of Alaska Native corporation, shall not be considered a financial interest for the purposes of section 208 of title 18 of the United States Code.

Mr. STEVENS. Mr. President, in our Federal laws is a preference for Indians and Alaska Natives to be hired by the BIA and the Indian Health Service. The Office of Legal Counsel of the Department of Justice in a memorandum dated January 12, 1987, concerning the scope of the term "particular matter" under title XVIII of the United States Code, section 208 broadly interpreted the prohibition in that section against Federal employees in dealing with matters in which they have a financial interest. All Alaskan Natives and Indians throughout the country who are hired under the preference are by definition members of tribes or organizations that have a financial interest.

In view of the substantial impact of this memorandum on the operations of the Bureau of Indian Affairs and the Indian Health Service, bill language is recommended which would state that membership in an Indian tribe, ownership of stocks in an Alaskan Native corporation or membership on the board of directors of an Alaskan Native corporation shall not be considered a financial interest under the section I have referred to.

This matter has been cleared. I had intended to offer an amendment to deal solely with the Alaskan situation. At the request of the two departments involved I have made it cover all Alaskan Natives and Indians throughout the United States.

Mr. JOHNSTON. Mr. President, the matter has been appropriately cleared.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 1346) was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

MR. JOHNSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1347

(Purpose: To provide for the Administrator of the General Services Administration to proceed with the construction of a Government facility)

Mr. STEVENS. Mr. President, I send an amendment to the desk on behalf of Senator SPECTOR and Senator HEINZ.

The PRESIDING OFFICER. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from Alaska [Mr. STEVENS], for Mr. SPECTER and Mr. HEINZ proposes an amendment numbered 1347.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the joint resolution, add the following new section:

SEC. . The Administrator of the General Services Administration shall proceed with the site selection and design for construction of a facility of not less than 182,000 usable square feet for the Social Security Administration in Wilkes-Barre, Pennsylvania, pursuant to section 115 of the joint resolution entitled "A Joint Resolution making continuing appropriations for the fiscal year 1987, and for other purposes", approved October 30, 1986 (100 Stat. 3341-349; Pub. Law 99-591).

Mr. STEVENS. Mr. President, this deals with providing 182,000 usable square feet for the Social Security Administration in Wilkes-Barre, PA. It has been cleared on both sides.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 1347) was agreed to.

Mr. JOHNSTON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Are there further amendments?

Are there further amendments?

Mr. MELCHER addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

AMENDMENT NO. 1348

(Purpose: To delay implementation of the Endangered Species Labeling Act until an economic impact study is completed)

Mr. MELCHER. Mr. President, I believe that we have an amendment that is worked out and I will be prepared to offer it if the Senator from Rhode Island, Senator CHAFEE, is prepared.

Mr. BUMPERS. Mr. President, parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state the inquiry.

Mr. BUMPERS. Are all these amendments being approved on the list as of noon today?

The PRESIDING OFFICER. The Senator is correct.

Mr. MELCHER. Mr. President, the EPA has published some rules that will go into effect in November that have really caught the agriculture community by surprise. I am not sure why because the rules were discussed last spring, but nevertheless as they went through the process of describing by States and by counties exactly what the regulations would require, it became very alarming to agriculture groups. The regulations deal with protecting endangered species from pesticides. There are some 150 chemical compounds involved and there are 250 rare plants and birds and animals.

What has evolved in the past few weeks is that a thousand counties are involved and when the maps were given out on what pesticides could be given in a certain part of those counties, it became very alarming, so a number of farm organizations—and there are about 20 of them—have banded together to ask us here in the Senate to hold off. We had an amendment prepared that would have held off for 18 months, would have required a study, would have required a report back to Congress, would have required quite a few things.

The committee of jurisdiction—and Senator CHAFEE is here to speak for himself, and Senator STAFFORD and others—felt it was an intrusion into their committee's business.

Mr. JOHNSTON. Mr. President, will the Senator yield at that point?

Mr. MELCHER. Yes.

Mr. JOHNSTON. Mr. President, I am now advised by Senator MITCHELL that the matter has been cleared on this side of the aisle. Is that correct?

Mr. MITCHELL. The Senator has not yet presented the amendment but as I understand it, it extends the deadline to September 15.

Mr. MELCHER. Yes. In order to work out a compromise, the recommendation of Senator MITCHELL and Senator CHAFEE——

The PRESIDING OFFICER. I ask the Senator from Montana, did he send the amendment to the desk for immediate consideration?

Mr. MELCHER. Yes.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Montana [Mr. MELCHER] for himself and others proposes an amendment numbered 1348.

Mr. MELCHER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill add the following new section:

"SEC. . Notwithstanding any other provision of law, none of the funds made available by this in any other appropriations Act shall be available to the Environmental Protection Agency or related agency for the purpose of cancellation or suspension of any pesticide registration for failure of any manufacturer, formulator, registrant or user to comply with PR Notices 87-4 and 87-5 relating to labeling of such substances, prior to Sept. 15, 1988, nor shall funds be available to such agency for the purpose of enforcement actions against any user of any pesticide whose use is substantially in conformance with label instructions in existence as of August 1, 1987, nor to propose or order any other revision in such labeling for the reasons cited in PR Notices 87-4 and 87-5, issued on or about May 1, 1987, prior to Sept. 15, 1988.

Mr. STEVENS. Will the Senator yield to me? Does he have copies of these for the managers of the bill?

Mr. MELCHER. I take it the Senator has one provided by Senator McCLURE.

In consultation with these Senators and others, who are cosponsors of this amendment, including Senator McCLURE, Senator SYMMS, Senator CONRAD, Senator HATCH, Senator GRASSLEY, Senator KARNES, Senator PRYOR, Senator WALLOP, Senator GRAMM, and Senator HEFLIN—what we have agreed to is just establish a date much shorter than the one we had originally for withholding the implementation of the regulation. That date is September 15, 1988.

Mr. President, I would like to yield the floor so Senator CHAFEE and Senator MITCHELL can speak on this amendment.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, the proponent of the amendment has spoken correctly. This was an amendment which originally we had in mind that went far along and went much broader. We discussed it in some detail. Now it has been just reduced to extending the date at which certain activities were to take place. Originally they were to take place on February 1, 1988. They have been extended until September 15, 1988. That is acceptable to this side.

Mr. MITCHELL. Mr. President, I concur in the remarks by Senator CHAFEE.

The PRESIDING OFFICER. Is there further debate?

Mr. McCLURE addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. McCLURE. Mr. President: I rise in support of Senator Melcher's amendment which will delay implementation of the endangered species labeling program until a report is completed giving an assessment of the economic impacts of the program, the accuracy of the maps and jeopardy assumptions are validated and a report to Congress is made to Congress. This report is to be made no later than July 1, 1989. I believe that this is not too much to ask given the importance of agriculture to this Nation.

I have been very concerned with this program since it was announced this year. The Environmental Protection Agency has responded to threats made by the national environmental organizations by forcing a program on chemical registrants and pesticide users such as farmers, that was not carefully thought out nor open to public comment.

Under this labeling program Idaho has 13 counties thus far which contain a total of 4 endangered species. MacFarlane's four o'clock, the grizzly bear, gray wolf, and the whooping crane are the species which thus far have been included in the four clusters prepared by EPA thus far. There are to be several more clusters brought under this program in the future which will encompass major species and more farmers and timber operators. This program has great potential for disruption of the economic base of this country. We need to find out how it will affect our productive sectors.

I do not mean to imply that protection of truly endangered species is not also important. But I have reason to question whether the maps prepared by the Fish and Wildlife Service are correct and whether the jeopardy opinion given on the species is correct also. More local input is needed to review whether any endangered species have been found in certain areas or whether only the habitat of the species is in the area of the restriction. It makes no sense to restrict a chemical in an area where endangered species have never been seen. This is particularly important to a State like Idaho which has a large amount of land which is considered habitat for grizzly bears and gray wolves.

I have personally met with EPA on this issue. The Administrator of EPA has allowed one change on implementation of the labeling program. EPA will allow any State which wants to set up its own program until February 1988 to submit a plan to EPA. This is an important step forward as it gives each State an additional 3 months to hold open hearings and meetings with those who will be most affected by this program. Although this is a step in the right direction it is not enough. It took EPA several years to come this far yet they only want to give the States a few months.

The continuing productivity of agriculture is very dependent upon the use of certain chemicals to control disease, weeds and insects. It is necessary, even critical, in many areas to have the use of chemicals for production at all. This program has the potential of damaging a certain number of producers who happen to live near what are considered to be threatened or endangered species.

While I recognize the intent behind the Endangered Species Act, I remain concerned about the lack of sensitivity in the law which would allow a program to be implemented which would adversely affect those individuals which are most critical to its implementation. The farmers who are most affected by the labeling program are the ones which are to be most important in implementing it. Without cooperation of the user community the law and the program will be impossible to enforce. If EPA implements a pesticide control program without knowledge of the economic impacts or the benefit of overall public review or comment, it will create a monster. Traditional procedural activities of rulemaking have been deferred by EPA at their choice, notwithstanding the concerns of agriculture, forestry, public health, and public lands.

Endangered species protection strategies can benefit from expertise in USDA and the private sector and be more successful. With unknown economic impacts, this EPA action may cause, as presently proposed, more harm through reaction to endangered species than the protection desired. The costs to Government and taxpayers of enforcement and implementation has not been estimated and additional funds, not presently available, will be required to enforce such a program. With unknown costs, lack of public education and value enforcement plans, little protection of endangered species if not increased risk, will likely result. Neither the Fish and Wildlife Service nor the USDA really know the economic implications of the EPA plan nor has planned for the resources to support EPA's action on endangered species.

I believe it is necessary to allow time to review the economic impact of EPA's plan and allow for USDA, Department of the Interior and public participation in the planning process for implementation of this program. With a delay in implementation giving time for this assessment, there is a greater chance for voluntary compliance from those most directly involved. Thus I encourage my colleagues to cosponsor this amendment and vote in favor of it.

Mr. President, this is a compromise. It does not do everything that we think is necessary. But it is a step in the right direction trying to understand and give us the opportunity to see what the impact will be of the application of these pesticides, herbicides, and rodenticides regulations. I gave an example to the Senator from Rhode Island a moment ago. The reason why we have this concern is one of the counties in my State—we have 44 counties—is larger than his State. In that county, there are 17 plants on one 20-acre tract that are endangered species. EPA proposes regulations on the applications of these chemicals over the entire county, an area larger than his State, in order to make certain we have adequately protected 17 plants on one 20-acre tract. That seems to me to be ridiculous. It seems to many of the people in my State to be ridiculous. We need a little time to be able to confine the application of these regulations to the areas where they are really needed and essential. I think this additional time will allow us to do that. I support the amendment. I did as it was originally drafted. I do as it is now amended.

The PRESIDING OFFICER. Is there further debate?

Mr. KARNES addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. KARNES. Mr. President, back in 1973 Congress passed and President Nixon signed into law the "Endangered Species Act." Among other things, the law required the Environmental Protection Agency [EPA] to regulate the use of farm pesticides which threatened to make extinct certain plants and animals.

For nearly 15 years, however, the pesticide provisions were not implemented. Only recently did the EPA announce it would begin enforcing them, effective February 1988.

While I applaud the EPA in its efforts to make our environment safer—and in working to protect endangered species—I am concerned about the way in which the Agency intends to implement the pesticide provisions. As it stands now, the EPA could make Nebraska's farmers an endangered species.

There are indications a significant portion of Nebraska would be affected by the EPA's actions. For example, some published maps show entire counties included in the program simply because a lone river might run through a county.

It is clear, however, that in reality only a small portion of the land might contain riverbed areas vital to most endangered species. But because of the confusion and lack of authoritative communication on the regulations, many Nebraska farmers are apprehensive about programs and boundaries that may be too far-reaching without corresponding benefits.

Make no mistake about it, there is merit in protecting our natural resources in Nebraska. We should do all that we can to ensure pesticide applications are made prudently and safely. No one knows this better than our farmers, the premier stewards of our land and its plant and animal life.

What concerns me, though, has been the EPA's intention to implement these provisions without any public discussion. That is why I am cosponsoring this amendment, and why I introduced S. 1844 on November 4, to delay the EPA's implementation of the pesticide provisions until farmers and others engaged in agribusiness are fully informed of the program and its requirements.

I also indicate my support for this amendment and my appreciation for the Members working together to make sure that we do not add one additional category to the endangered species list, and that is the farmers of our country who would not be able to farm effectively without this resolution and amendment.

Thank you, Mr. President.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from Montana [Mr. MELCHER].

The amendment (No. 1348) was agreed to.

Mr. MELCHER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. JOHNSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. JOHNSTON. Mr. President, so far as we know that completes the agenda on this side of the aisle with the exception of the Contra aid.

AMENDMENT NO. 1349

Mr. McCLURE addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho is recognized.

Mr. McCLURE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Idaho [Mr. McCLURE], proposes amendment numbered 1349.

Mr. McCLURE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the resolution insert the following new section:

REPORT ON I.N.F. TREATY.—(a) Within 60 days of enactment of this act, the Secretary of Defense, the Director of Central Intelligence and the Attorney General of the United States shall submit a joint report to the Senate regarding the budgetary implications of the INF Treaty. This report of actual or estimated expenses, portions of which may be submitted, where appropriate, in a classified annex, shall include:

(i) The cost of implementing the on-site inspection and monitoring provisions specified in the I.N.F. Treaty;

(ii) The cost of expanded National Technical Means, if required, including expanded space-launch capability to verify Soviet compliance with the treaty, with particular emphasis on requirements of monitoring Soviet mobile missiles;

(iii) The cost, in the absence of an agreement to reduce conventional forces in Europe, to redress existing conventional deficiencies in NATO forces in Europe;

(iv) The cost of dismantlement and destruction of U.S. missiles, launchers, and other equipment and facilities to be eliminated under the treaty;

(v) The investment in U.S. I.N.F. systems to date;

(vi) Savings, including savings on Personnel, Operation and Maintenance, and military construction activities, resulting from the elimination of intermediate-range nuclear forces;

(vii) The cost of monitoring the activities of Soviet personnel who are in the United States to carry out the verification provisions of the INF Treaty.

(b) The specific information required by subsection (a) shall be expressed in terms of the added marginal costs above existing or on-going programs.

Mr. McCLURE. Mr. President, I suppose the best way to explain the amendment would be to allow it to be read, but what it does is call for information about certain costs that might be associated with the implementation of the INF Treaty. I think it is information that is not intended to prejudice the discussion or to slant it one way or the other, but it is cost information that at some point this Senate is going to consider in the deliberation of the INF Treaty. And I hope that there will be no objection to the amendment. I cannot imagine why anyone would object to having this information available to the Senate at the time we debate this treaty. If we are going to get it, we need to call for the information now so that it will be available for us at the time we debate the treaty.

Mr. JOHNSTON. Will the Senator yield for a question?

Mr. McCLURE. I am happy to yield.

Mr. JOHNSTON. This amendment calls only for information and is neutral in its application, so that the Senate, by adopting this, would neither be approving nor rejecting the treaty in any way?

Mr. McCLURE. It is absolutely neutral. It calls for cost information, some of which may be increased cost and some of which may be decreased cost, but it is information which we will certainly want to have and available to us at the time we debate this treaty.

Mr. CHAFEE addressed the Chair.

Mr. BRADLEY. Would the Senator yield for a question?

Mr. McCLURE. I am happy to yield if I may do so without losing my right to the floor.

Mr. BRADLEY. Would the Senator from Idaho contemplate that this information would be fully available?

Mr. McCLURE. I would say to the Senator that some of the information called for is probably classified and would be given to the Senate in classified form. That which is not required to be classified would not be.

Mr. BRADLEY. In particular, I wonder if the Senator had in mind section VII.

Mr. McCLURE. I do not believe that this necessarily would be classified.

But I will just read the provision. "The cost in the absence of an agreement to reduce conventional forces in Europe to redress existing conventional deficiencies in NATO forces in Europe" and there is obviously some impact upon the balance of forces in Europe with the withdrawal of the missiles, weapons called for in the INF Treaty. What is the impact upon that in order to maintain the balance if you do not get a conventional force reduction agreement in place?

Mr. BRADLEY. I am sorry. I am referring to section VII.

Mr. McCLURE. The first subsection?

Mr. BRADLEY. I am referring to number seven, Roman number seven.

Mr. McCLURE. Excuse me. I did not hear you correctly. The cost of monitoring the activity of the Soviet personnel who are in the United States? Obviously, if you are going to have teams of Soviet Personnel in the United States traveling around on inspection, you are going to have a certain number of people making certain that is what they look at.

Mr. BRADLEY. The Senator would make the cost information available?

Mr. McCLURE. The cost?

Mr. BRADLEY. The costs?

Mr. McCLURE. I would assume so. I think the public is entitled to know that.

Mr. BRADLEY. The Senator contemplates this information is not available now?

Mr. McCLURE. We do not have the teams present is this country at this time.

Mr. BRADLEY. I thank the Senator.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. I would like to ask a couple of questions, if I might, in connection with this amendment.

I notice it requires the report in 60 days on extremely complicated matters. For example, the cost in the absence of an agreement to reduce conventional forces in Europe to redress existing conventional deficiencies in NATO forces in Europe? In other words, within 60 days, we seek from the administration information on what it would cost to redress whatever imbalances might exist in conventional forces due to the treaty, what new forces you would have to have. I do not know how in the world they can come up with information like that in 60 days. They may well not be sure what they have to have there for conventional forces.

Mr. McCLURE. Would the Senator yield?

Mr. CHAFEE. What period is he talking? This agreement as you know does not take place immediately. It is extended over a period of time. I assume these are U.S. costs and not NATO as a whole. It is rather vague.

Mr. McCLURE. Would the Senator yield?

Mr. CHAFEE. Sure.

Mr. McCLURE. Let me say that I originally used a different period than the 60 days. But as the Senator knows, the proposed schedule as I understand it, and I hope I am not misstating the proposed schedule, is to hold hearings immediately upon our return in January, and I believe that the distinguished chairman of the Foreign Relations Committee has indicated that those hearings would be completed before the end of February.

I would assume that if the committee is to have the benefit of any of this information, it would have to be available to them before they close hearings.

The period of time perhaps could be longer, but we would lose the advantage of having the information available to us.

With respect to whether or not the administration can do it, I think I am not misstating their position when they have said to us that they can make this information available to us in this timeframe.

Mr. CHAFEE. Mr. President, there is a long list of specific requirements: The cost of monitoring the activities of Soviet personnel who are in the United States to carry out verification provisions of the treaty. I would hope that if this were approved, nobody would advance under the assumption that every detail required in this amendment must be presented by the time the hearings take place on the INF Treaty. I, for one, do not feel that way.

Is that the objective of the originator of the amendment?

Mr. McCLURE. Mr. President, if the Senator will yield, I believe that the administration can make those estimates, can make it available to us before the expiration of the time stated in this amendment.

I think every one of the requests for information that is included in this amendment is a legitimate request for information that may be valuable to us in formulating our own opinions with respect to this treaty.

Mr. METZENBAUM. Mr. President, 2 days ago, a little more than that, the President of the United States and the leader of the Soviets signed the INF Treaty, and the Senate is going to be called upon to ratify that treaty.

We now have, at 12 o'clock midnight, a proposal for information, on its face, but the implications of the information have a sort of negative flavor to them.

When you look at all the information that is being required, you come to the conclusion that maybe the seeker of the information is attempting to throw some difficult roadblocks in the way of ratification of the treaty.

Mr. McCLURE. Mr. President, will the Senator yield on that point?

Mr. METZENBAUM. Not now.

I have looked this over, and I think that much of this information undoubtedly can be obtained by the author of the amendment, who is a well-respected member of his party. He certainly has a close working relationship with the White House. But I think for us at this hour of the night to adopt an amendment that could very well be interpreted as a little bit strong, a little bit heavy, in connection with the INF Treaty, does not make good sense. I think it would be misinterpreted by many.

What we are talking about here—you have eight different items that are called for. As the Senator from Rhode Island has pointed out, if the information is not available, do we then postpone our actions in connection with the INF Treaty?

Those committees that will have a responsiblity so far as this treaty is concerned are fully able to obtain all the information that the Senator from Idaho is seeking. There is some question in my mind as to whether some of the information is necessary.

The Senator from New Jersey pointed out that one item calls for the cost of monitoring activities of Soviet personnel who are in the United States for carrying out the verification provisions of the INF Treaty. I am not sure that is necessary.

Then the question is the investment in U.S. INF systems to date. Is that information so necessary that we have it within 60 days? And the cost, in the absence of an agreement, to reduce the conventional forces in Europe, to redress existing conventional deficiencies in NATO forces in Europe. That is a major mouthful.

Mr. MOYNIHAN. Mr. President, will the distinguished Senator from Ohio yield for a question?

Mr. METZENBAUM. I yield.

Mr. MOYNIHAN. Does the Senator not consider that for the U.S. Government to report in full the investment of the United States in the INF system to date would make available to others—significant others—information which we would have no need or desire to make available?

Mr. METZENBAUM. I certainly agree totally. Absolutely. That is the kind of information——

Mr. MOYNIHAN. That is for us to know and for them to find out, perhaps, and not for us to tell them.

Mr. METZENBAUM. Exactly.

For us to be acting now on this amendment and calling for this kind of information, I think, is not good judgment. I think it will hurt us. I think that the people of this country will misinterpret it, no matter what the bona fides of the author is.

I think the peoples of the world will misinterpret it. I think it will be sort of a signal that the Senate, at midnight, 2½ days after the agreement had been signed, is starting to nibble away and to needle.

I strongly urge my colleague from Idaho to make an effort to obtain such information as is necessary on a voluntary basis from the administration.

He and I have discussed the White House position on this, and I think I interpret it right when I say he indicates that the White House does not support this, although I gather that they are not opposing it.

Mr. McCLURE. Will the Senator yield on that point?

Mr. METZENBAUM. Perhaps he is better able to speak to that than I.

Mr. McCLURE. I indicated to the Senator, and I think accurately, that the administration has suggested they would rather I did not offer the amendment, that they do not oppose it.

Mr. METZENBAUM. I can understand that. They would rather not offer it, but they do not oppose it.

I think some of us on the floor of the Senate feel constrained to oppose it. I think that we have to move to table, which I hoped we would not have to do on an amendment of this kind. I would hope the Senator from Idaho would wait until next week to see whether he could obtain from the administration—or perhaps tomorrow or over the weekend—such information as he deems necessary, rather than call upon the Senate at this point to enact this as an amendment to a continuing resolution.

Mr. McCLURE. Mr. President, will the Senator yield for a question, without losing his right to the floor?

Mr. METZENBAUM. I yield.

Mr. McCLURE. First, I say to the Senator that one of the things I think we all try to do on the floor of the Senate is not to assign to other Senators motives for the action they are taking. The Senator from Ohio was implying that the Senator from Idaho has ulterior motives with respect to the treaty in offering the amendment.

I say to the Senator, you are dead wrong in that assumption about my motives.

This amendment, as a matter of fact, is evenhanded. It asks for information about costs which this Senator believes the Senate ought to have available to it in discussing the treaty.

It also asks to identify savings that would be occasioned as a result of the ratification of the treaty.

I cannot see one item in here that is not a legitimate cost item to be taken into consideration with respect to the individual items that are listed.

The Senator from New York asked the question, and you agreed, that maybe some of this information should not be made available to the public. The amendment, on its face, calls for the classification of information which should not be made public.

So there is within the discretion of the administration the opportunity to segregate that information which should be made public from that which should not.

Mr. MOYNIHAN. Will my friend yield for a question?

Mr. McCLURE. The Senator from Ohio has the floor.

Mr. METZENBAUM. The Senator from Ohio has the floor. At the conclusion of the comments of the Senator from Idaho I will yield to my colleague from New York.

Mr. McCLURE. If the Senator would then permit me, which item of information here called for does the Senator from Ohio think should be withheld from the Senate before we get to the ratification of the treaty?

Mr. METZENBAUM. The Senator from Ohio is not saying that any specific portion should be withheld. The Senator from Ohio is saying that the Senator's timing is bad. I am not questioning his motives. I am not questioning his good faith. I am just saying that at 2½ days after it was signed for the Senate to pass this at after 12 o'clock midnight will be misinterpreted. It will indicate that in some way the Senate had some motivation over and beyond what the language may call for.

I would therefore urge upon my colleague that at the very minimum he withdraw his amendment, wait until the first of the week, see whether much of this information cannot be obtained on a voluntary basis with the White House and then if that cannot be done then with the proper leadership with the Senate that has jurisdiction on a matter such as this and with the leadership of the Senate perhaps work out an amendment of this kind. But I would urge him not to attach it to the continuing resolution.

Mr. MOYNIHAN. Mr. President, I ask for the yeas and nays.

Mr. BYRD. Mr. President, will the Senator from New York withhold?

Mr. MOYNIHAN. Yes.

The PRESIDING OFFICER. The Senator from Ohio has the floor.

Mr. METZENBAUM. The Senator from New York had a question.

Mr. MOYNIHAN. Yes.

Mr. METZENBAUM. I yield the floor.

Mr. MOYNIHAN. Will the majority leader allow one question?

Mr. BYRD. Yes. I am glad to yield to the distinguished Senator.

Mr. MOYNIHAN. For one question.

Mr. BYRD. Yes.

Mr. MOYNIHAN. I would like to ask the distinguished Senator from Idaho one question.

Mr. BYRD. I yield for that purpose, Mr. President, with the Chair protecting my rights to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MOYNIHAN. I thank the Senator.

The Senator from Idaho states that the administration would have no objection. Can he say to us that the administration supports this measure?

Mr. McCLURE. Will the Senator yield for an answer?

Mr. MOYNIHAN. Yes.

Mr. McCLURE. First of all, my statement was that while they would prefer I did not offer the amendment, they did not oppose.

I have now been informed by a note handed to me since this debate started out that the White House opposes the amendment.

Mr. MOYNIHAN. I thank the Senator.

Mr. BYRD. Mr. President, I urge the distinguished Senator to withdraw the amendment. Here it is 10 minutes after midnight. Senators have worked hard all day, a long day. We have only had three rollcall votes on the continuing resolution which in itself is a remarkable matter.

And there have been scores of amendments that have been adopted. Senators have cooperated on both sides of the aisle. There has been splendid cooperation and the managers have worked extremely hard.

Here is the chairman of the Appropriations Committee who has been at his post of duty all day, a long day.

I hope, Mr. President, at this hour we are not going to even debate further this amendment. I urge the Senator to withdraw the amendment. I am going to ask for the regular order. I am about tired of this business of seeing these managers put through the hoops, seeing Senators sit on the floor awaiting on the final vote, and they are sleepy. I know they are tired. We had a long day yesterday. And for us to be called upon here at this hour of the night when I have had meetings, as the majority leader I feel it my responsibility, I have had meetings with Senator PELL, Senator NUNN, and Senator BOREN, whose committees will have primary jurisdiction over this matter. Of course the Committee on Foreign Relations has the prime jurisdiction. But these committees are working together. I have talked with Mr. Shultz, and he has agreed to appoint people in his Department to work with representatives of the three Senators whom I just named, plus my own staff people in expediting the flow of information that will be needed in order to enable Senators to vote on these treaties with as complete information as we can possibly have, and I am sure that SAM NUNN, and I am sure that CLAIBORNE PELL, and I am sure that DAVID BOREN, and when I go to the other side of the aisle I am sure that those ranking members, I am sure that the Republican leader and the assistant leader are going to want the information, whatever information is needed in order for this Senate to reach a considered, wise judgment on this treaty.

Now let us do not get in too big a hurry. We will get the information. I think the wrong kind of signal would go out if this Senate were tonight, may God avert, vote for this amendment. There is not 1 of 100 Senators tonight who knows fully what he is voting on when he votes for this amendment. Why are we acting so prematurely here?

This just goes to show all of us what happens. Here it is 15 minutes after midnight. We have a big amendment pending, the Contra aid amendment. That is what we are all waiting on. As long as we do not get that amendment back before the Senate we are going to have a continuation of this, amendment after amendment after amendment.

I say to my colleagues that it is time to give our consideration to the Contra aid amendment, and I hope I do not offend the distinguished Senator from Idaho. He certainly has the right to present the matter to the Senate. But if this were pushed to a vote, I would hope that we would vote down this amendment and give it an overwhelming vote down.

The committees will get this information and we will all be privy to it and we can be briefed to our heart's content. Let us wait.

If there is an overwhelming vote against this amendment what kind of a signal does that show? That tells the American people we do not want to know anything about it? I am not in a position to vote for this amendment tonight. I am going to call for the regular order and I hope my good friend will forgive me, but we just need to get on with the business of the day and that is the continuing resolution.

We have an important amendment that is pending. We have set it aside temporarily and it is time we get back to it and have debate on it, vote on it, and go home and get this bill in conference.

Mr. McCLURE. Mr. President, will the Senator yield?

Mr. BYRD. Yes, I am happy to yield without losing my right to the floor.

Mr. McCLURE. The Senator has indicated that he wishes to bring the debate to a close, but at the same time the distinguished majority leader has indicated that he is waiting for the Contra aid amendment, so I am not sure we are wasting any time in this time discussing this.

If the Senator would yield me 5 minutes so I might just make a brief statement, I will at the end of that time withdraw the amendment.

Mr. BYRD. Mr. President, I will be happy to yield to the distinguished Senator for 5 minutes. I ask unanimous consent that I yield for a statement and for his withdrawal of the amendment, if he wishes to do that, and I ask unanimous consent that I regain the floor because we have just got to get on with the business before the Senate and if we are not going to get on that business then let us just go home.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCLURE. Mr. President, I regret that this amendment has apparently caused some people some discomfort. The reason for the timing is simply that is the way it is. It is near the end of the session and when we come back we will be considering the treaty as I understand it. If we are going to have the information available, already the point was made there is not time between now and then to get this information. Unless we ask for the information now, how in the world are we going to have it then? If time is already short, it can only be shorter.

I ask unanimous consent, Mr. President, that the Senator from Utah, Mr. GARN, and the Senator from South Dakota, Mr. PRESSLER, be added as cosponsors of this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCLURE. Mr. President, I am really puzzled to know why it is that people are concerned about acquiring information. And what information am I asking for in this amendment?

What is the cost of implementing onsite inspections as provided in the treaty?

I think we ought to know that.

What is the cost of expanded national technical means, if required, including expanded space-launch capabilities to verify Soviet compliance with the treaty?

I think that is a part of the debate. I think we will want to know that. I do not know why we should not ask for it.

For the life of me, I do not understand how that threatens the treaty if, indeed, we are going to get that information and consider that information before we get around to the ratification of the treaty.

The third one: The cost, in the absence of an agreement to reduce conventional forces in Europe.

You read about a continued balance in Europe. Everybody is talking about it. We all know that is an issue. Why should we not ask for the information so that we have it in a final manner?

The fourth part of the amendment: The cost of dismantlement and destruction of these missiles.

I think every one of us is going to ask that question. Why should we not ask it now so we have the information available when we get to the debate?

Fifth, the investment in U.S. INF systems to date.

I think that is relevant. Maybe not everyone in here cares what we invested in those systems. This Senator does. I will want that information.

The sixth part: the savings, including savings on personnel, operation and maintenance, and military construction activities, resulting from the elimination of intermediate range nuclear forces.

What are the offsetting savings? I think that is pertinent information. I think we ought to have that. That will help some Senators make up their minds about what the real cost of this treaty may be.

The seventh and final one: the cost of monitoring.

If we are going to have Russian inspection teams running around this country, I suspect we are going to monitor their activities. If we are not, we are, as a nation, incompetent and are asking for trouble. I know we will do that. We ought to be looking at that question about the cost and what our activities will be in keeping track of those people that will go around the country.

Now, that is what the amendment calls for. What in the world is so horrendous in asking for information? What is the hidden agenda that I am accused of having because I want to know something about what it is going to cost this country?

Mr. President, I did not offer the amendment to delay things tonight. I offered the amendment so that we might expedite the consideration of the treaty, as the administration is asking us to do and as I understand the leadership of this Senate to pledge itself to do. I offered the amendment at this time because I think it will make it more likely that we are able to complete our deliberations at an early date, rather than less likely.

But I, apparently, have struck some kind of a nerve which I did not suspect existed. I am amazed by the reticence to the request for information. But, Mr. President, I see it is here. I regret it.

I withdraw the amendment.

The PRESIDING OFFICER. The amendment has been withdrawn.

Mr. PRESSLER. Mr. President, as a cosponsor of the amendment to require a report on the potential economic impact of the INF Treaty, I would like to say a few words on its behalf.

The other day I saw a press report that cited Secretary of State George Shultz as saying the INF missile dismantling process could cost $7 to $9 billion. I cannot vouch for the accuracy of that report. If it is true, then it is obvious that this arms control agreement will have substantial costs associated with it. The Senate needs to know what these costs are before we plunge into the ratification hearings next month, and certainly before key votes occur on the treaty.

As the amendment reads, the Secretary of Defense would be required to submit a report before the Senate Foreign Relations Committee begins hearings in January covering the following areas:

The cost of dismantling and destroying INF missiles, launchers, and facilities;

The cost of carrying out the onsite inspection provisions of the treaty;

The cost of the additional national technical means, including surveillance satellites and expanded space launch capabilities, that would be needed to adequately verify compliance with the treaty;

The costs that might be needed to redress the conventional military forces imbalance between NATO and the Warsaw Pact;

The cost of our investment in INF systems to date;

Savings that may result from the elimination of INF weapons; and

The cost of monitoring the activities of Soviet INF inspectors operating in the United States.

All of this information should be considered carefully by the Senate. Arms control agreements do cost money and we must be fully aware of what additional expenses, if any, our national budget will be forced to bear in the event the treaty goes into force.

The PRESIDING OFFICER. The majority leader.

Mr. BYRD. Mr. President, I thank the distinguished Senator from Idaho.

May I say, nobody is accusing the distinguished Senator of anything that is dishonorable or in any way could be construed to be an aspersion of any kind. There is time for all things.

The Senate eventually will take up the treaty, but let us let the committees deal with the treaty first. And when the committees have dealt with the treaty and the Committee on Foreign Relations has reported the treaty and it is on the calendar, we will have a very orderly process here in the Senate for taking up the resolution of ratification.

This will not be the first treaty that has been in the Senate and it will not be the first important one. And those here who were here when the Panama Canal Treaty was before us, you had your baptism of fire at that time. We got all the information we needed and we will get it this time and the committee will get it.

Mr. President, I am going to ask for the regular order. I will withhold it briefly if the distinguished manager of the bill has another amendment he wishes to present.

Mr. JOHNSTON. Mr. President, what is the pending business?

Mr. BYRD. I have not yielded the floor.

Mr. President, before I yield the floor, I want it understood that we have had about enough time to pass on amendments—all day. And there were times in the day when nobody was here calling up amendments. So I want to retain the floor because I want to get back on the Contra aid amendment. We cannot avoid that amendment. We have to come to grips with it one way or another.

So I am going to yield the floor to the distinguished Senator from Louisiana, with the understanding that when he yields the floor that I resume the floor.

The PRESIDING OFFICER. Without objection.

The Senator from Louisiana.

AMENDMENT NO. 1350

(Purpose: To designate the Aliceville Lock and Dam on the Tombigbee River in Pickens County, AL and the resource management and visitor center at Aliceville Lake on the Tennessee-Tombigbee Waterway as the "Tom Bevill Lock and Dam" and the "Tom Bevill Resource Management and Visitor Center at Aliceville Lake on the Tennessee-Tombigbee waterway", respectively)

Mr. JOHNSTON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Louisiana [Mr. JOHNSTON], for Mr. HEFLIN, (for himself and Mr. SHELBY), proposes an amendment numbered 1350.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the joint resolution, add the following:

SEC. . The lock and dam on the Tombigbee River in Pickens County, Alabama, commonly known as the Aliceville Lock and Dam, and the resource management and visitor center at Aliceville Lake on the Tennessee-Tombigbee Waterway shall hereafter be known and designated as the "Tom Bevill Lock and Dam" and the "Tom Bevill Resource Management and Visitor Center at Aliceville Lake on the Tennessee-Tombigbee Waterway", respectively. Any reference in a law, map, regulation, document, or paper of the United States to such lock and dam and any reference in a law, map, regulation, document, or paper of the United States to such resource management and visitor center shall be held to be a reference to the "Tom Bevill Lock and Dam" and the "Tom Bevill Resource Management and Visitor Center at Aliceville Lake on the Tennessee-Tombigbee Waterway", respectively.

Mr. JOHNSTON. Mr. President, this amendment is proposed on behalf of Senators SHELBY and HEFLIN. It would designate the lock and dam located on the Tombigbee River in Pickens County, AL, commonly known as the

Aliceville Lock and Dam, and the Resource Management and Visitor Center at Aliceville Lake on the Tennessee-Tombigbee Waterway as the "Tom Bevill Lock and Dam."

Mr. HEFLIN. Mr. President, the amendment I now offer would designate the lock and dam located on the Tombigbee River in Pickens County, AL, commonly known as the Aliceville Lock and Dam, and the Resource Management and Visitor Center at Aliceville Lake on the Tennessee-Tombigbee Waterway as the "Tom Bevill Lock and Dam," and the "Tom Bevill Resource Management and Visitor Center at Aliceville Lake on the Tennessee-Tombigbee Waterway," respectively. This amendment is identical to a bill, S. 1168, that was introduced by my friend and colleague, the junior Senator from Alabama [Mr. SHELBY].

Since 1966, Congressman TOM BEVILL has represented the citizens of the Fourth Congressional District of Alabama in the U.S. House of Representatives in an outstanding capacity. This amendment would recognize the extended public service, the tremendous accomplishments, and the dedicated work and efforts in Congress my good friend TOM BEVILL has made through the years on behalf of the people of his district, my State and our Nation.

Through out history as a nation, I believe that the people of my home State of Alabama have been blessed with better representation in Congress than any other State in the country. The names King, Bankhead, Hill, Sparkman, Elliott, Jones, Allen, and many others—all sons of Alabama—are revered within the Halls of Congress as giants among giants. These individuals were recognized by their colleagues and will forever be remembered for their statesmanship, their devotion to the public good, and their selfless service to the people of Alabama and America. In my mind—and I know the people of Alabama wholeheartedly agree—TOM BEVILL stands tall in this company. He continues in and advances Alabama's outstanding tradition of the finest representation in Congress.

As a senior member of the House Appropriations Committee, Congressman BEVILL is known by colleagues and constituents, alike, for his work in all areas. He has always been an advocate of a strong national defense, and the impact he has had is evident through his work as a member of the House Military Construction Appropriations Subcommittee. He has always worked to ensure that spending for military facilities is adequate to provide for our national security. As a member of the Interior Appropriations Subcommittee, Congressman BEVILL has been instrumental in the preservation of our national parks and resources and has worked to provide for facilities that enable the citizens of this country to enjoy these resources.

As chairman of the House Appropriations Subcommittee on Energy and Water Development, Congressman BEVILL has played a key role in the development of our Nation's energy and water resources. The benefits made possible by ports and waterways in every State continue as vital largely because of his efforts. Sewage treatment plants are built in communities across the country, and energy facilities throughout the Nation are made possible by his work in this subcommittee.

Other programs over which Congressman BEVILL's subcommittee has jurisdiction include the Appalachian Regional Commission, the Tennessee Valley Authority, the Nuclear Regulatory Authority, and the Department of Interior's Bureau of Reclamation. Recently, Congressman BEVILL also made possible a Department of Energy grant of $12.3 million to fund the Center for Nuclear Imaging Research in Birmingham, AL, which will be vital in discovering the medical potential of nuclear imaging, a relatively new method of producing an image of internal body organs and other parts of the body.

I believe that the adoption of this amendment is an especially fitting tribute to Congressman BEVILL and to his work. Through his work in Congress, and as a member and chairman of the Appropriations Subcommittee on Energy and Water Development, Congressman BEVILL has played a tremendous role in fulfilling the dream of the Tennessee-Tombigbee Waterway. In fact, he is appropriately known as the father of the Tenn-Tom. All those who pass through the Tom Bevill Lock and Dam, and all those who benefit from or take advantage of the Tom Bevill Resource Management and Visitor Center will be immediately reminded of the instrumental role Congressman BEVILL played in the completion of the Tenn-Tom Waterway. Without his work, I do not believe the waterway would have been built. Without his efforts, the economic and recreational benefits the Tenn-Tom now offers to my State and the entire country would not be available.

During his tenure in Congress, TOM BEVILL is responsible for many of the benefits that are enjoyed by all the people of the Nation. He has worked on legislation and issues that touch almost every aspect of the lives of the citizens of America. I am proud to have the opportunity to serve with Congressman BEVILL as a member of the Alabama congressional delegation, and look forward to many years of joint service on behalf of the people of Alabama and America.

Mr. President, I am delighted that this amendment will help to recognize the tremendous work of Congressman TOM BEVILL on behalf of my State and our Nation. He is, indeed, a great man who has well served Alabama and America. There is no way that we could ever adequately repay him for all his work, or express our gratitude, but this is a small step in the right direction.

Thank you Mr. President.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 1350) was agreed to.

Mr. JOHNSTON. I move to reconsider the vote by which the amendment was agreed to.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. BYRD. Mr. President, I apologize to all Senators at this hour for insisting now that we go back to the amendment which we have to deal with sooner or later, the Contra aid amendment. That is what we are waiting on. Let us get that amendment back before the Senate, debate it, vote on it, and then if there are a few remaining amendments that can be accepted by voice vote, that is OK. But let us get back on the main amendment. I think it is about time to transact the business on this Contra aid amendment and put all other amendments to rest.

Mr. President, if the distinguished Senator wishes to have the Senate adopt another amendment, I yield for that purpose.

Mr. JOHNSTON. Mr. President, we have one amendment which is in the pipeline to be cleared, and that is an amendment by Senator MELCHER and others relative to wheat to be transferred to Lebanon.

That is the only amendment that I am aware of that is in the pipeline except one that Senator STEVENS has.

I wonder if we would be in a position to get unanimous consent that all amendments, other than those that we know about, not be in order, other than Contra aid, the amendment that Senator STEVENS has, and Senator MELCHER's amendment.

Mr. BYRD. Mr. President, the Senator knows what amendments he has reference to.

Mr. STEVENS. There was one other.

Mr. MELCHER. Will the leader yield?

Mr. BYRD. Yes; I yield.

Mr. MELCHER. I have one other amendment that has been cleared.

Mr. ADAMS addressed the Chair.

The PRESIDING OFFICER. The majority leader has the floor.

Mr. ADAMS. Mr. President, I think the majority leader was going to call for the regular order. If the majority leader would yield to me, I want to thank him.

I personally have been involved with talking to every Senator on this floor on amendments and they have gone on and on. I hope we would go to the regular order, Mr. President. I do not know what procedure might be necessary to do that, but if it is necessary to start talking on Contra aid in order to go to the regular order, I would certainly start talking on Contra aid.

Mr. BYRD. Mr. President, I will ask for regular order and that will bring the amendment back before the Senate. But, under the order that was entered into, the distinguished Senator from Massachusetts [Mr. Kerry], gets recognition. So I wish someone would send for him.

We can spend the next hour or two talking about little amendments. We are not going to change the shape of the world. I think it is our business to get on with this Contra aid amendment and pass this bill.

This horse can only carry so many riders. And, of course, as long as the Contra aid Senators who wish to debate that are not on the floor and we do not get it back before the Senate, this can go on and on and on. If there are one, or two, or three other little amendments that we can dispose of in about 3 minutes, I will yield for that purpose before I ask for regular order.

Mr. BYRD. Mr. President, I hope that Senator Kerry was sent for.

Mr. President, I am informed that on the Contra aid, that an amendment is being prepared and is about ready to be called up and that Senators who are meeting will be here in 3 or 4 minutes; that this will be a good opportunity to catch the train before it pulls out of the station.

Here is Senator Kerry, who is entitled to recognition once the Senate goes back on the Contra aid amendment.

Mr. President, I have the floor and I will yield it shortly. I want to see if Senator Johnston and the managers have anything. I understood Mr. Stevens had an amendment; the only remaining on the other side is the Stevens amendment.

Mr. JOHNSTON. Mr. President, will the majority leader yield?

Mr. BYRD. I would yield, Mr. President, without losing my right to the floor that the distinguished Senator from Louisiana may present another amendment or amendments.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. JOHNSTON. I have two amendments here. I would really like to inquire on this Melcher amendment. The indication is it has been cleared by Senator Lugar, Senator Leahy from the Agriculture Committee, Senator Cochran, and Senator Burdick from the Agriculture Subcommittee of the Senate.

It is the Agricultural Aid and Trade Mission Act, which I understand has previously passed the Senate and it has just now come into my hands.

I hate to bring up a bill this long which I have just now seen, but apparently it has been cleared on all sides.

AMENDMENT NO. 1351

(Purpose: S. 659 to establish agricultural aid and trade missions to assist foreign countries to participate in U.S. agricultural aid and trade programs)

Mr. JOHNSTON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Louisiana [Mr. Johnston], for Mr. Melcher, and others proposes an amendment numbered 1351.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place insert:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) Short Title.—This Act may be cited as the "Agricultural Aid and Trade Missions Act".

(b) Table of Contents.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Findings.

TITLE I—AGRICULTURAL AID AND TRADE MISSIONS

Sec. 101. Definitions.
Sec. 102. Agricultural aid and trade missions.
Sec. 103. Eligible countries.
Sec. 104. Functions.
Sec. 105. Mission reports.
Sec. 106. Progress reports.
Sec. 107. Use of Commodity Credit Corporation.

TITLE II—AMENDMENTS TO PUBLIC LAW 480

Sec. 201. Level of sales for foreign currency.
Sec. 202. Terms and conditions of agreements with friendly countries and organizations.
Sec. 203. Criteria of self-help measures.
Sec. 204. Use of cooperatives to furnish commodities.
Sec. 205. Limitation on use of foreign currencies.
Sec. 206. Reports on sales and barter and use of foreign currency proceeds.
Sec. 207. Use of foreign currency proceeds.
Sec. 208. Periods for review and comment.

TITLE III—AMENDMENTS TO SECTION 416

Sec. 301. Eligible commodities.
Sec. 302. Availability of commodities.
Sec. 303. Multiyear agreements.
Sec. 304. Foreign currency use and allocation requirements.
Sec. 305. Periods for review and comment.

TITLE IV—MISCELLANEOUS PROVISIONS

Sec. 401. Authorized personnel level for the Foreign Agricultural Service.
Sec. 402. Contract authority for individuals abroad.
Sec. 403. Multiyear agreements under the food for progress program.
Sec. 404. Report on intermediate export credit.

SEC. 2. FINDINGS.

Congress finds that—

(1) United States agricultural exports declined by more than 37 percent since 1981, from $43.8 billion per year to $27.5 billion per year;

(2) the United States' market share of agricultural commodities and products has dropped worldwide by 28 percent during the last 5 years;

(3) for the first time in 15 years, the United States incurred monthly agricultural trade deficits in 1986;

(4) the loss of $1 billion in United States agricultural exports causes the loss of 35,000 agricultural jobs and the loss of 60,000 nonagricultural jobs;

(5) the loss of agricultural exports threatens family farms, and the economic well-being of rural America;

(6) in order to reverse the decline of agricultural exports and improve prices for the farmers and ranchers of the United States, it is necessary that all agricultural export programs of the United States be used in an expeditious manner, including such programs established under the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1691 et seq.), the Commodity Credit Corporation Charter Act (15 U.S.C. 714 et seq.), and section 416 of the Agricultural Act of 1949 (7 U.S.C. 1431);

(7) greater use should be made by the Secretary of Agriculture of the authority established under section 4(b) of the Food for Peace Act of 1966 (7 U.S.C. 1707a et seq.) to provide intermediate credit financing for the establishment of facilities in importing countries—

(A) to improve the handling, marketing, processing, storage, and distribution of imported agricultural commodities and products; and

(B) to increase livestock production in order to enhance the demand for United States feed grains;

(8) food aid and export assistance programs can stimulate economic activity in developing countries and, as incomes improve, diets improve and the demand for and ability to purchase food increases;

(9) private voluntary organizations and cooperatives are important and successful partners in our food aid and development programs;

(10) in addition to meeting humanitarian needs, food aid used in sales and barter programs by private voluntary organizations and cooperatives can—

(A) provide communities with health care, credit systems, and tools for development; and

(B) establish the infrastructure that is essential to the expansion of markets for United States agricultural commodities and products; and

(11) greater support by the United States government for the development activities of private voluntary organizations and cooperatives is in the interest of the United States and our farmers and ranchers.

TITLE I—AGRICULTURAL AID AND TRADE MISSIONS

SEC. 101. DEFINITIONS.

As used in this title:

(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Agency for International Development.

(2) ELIGIBLE COUNTRY.—The term "eligible country" means a country that is eligible under section 103(a).

(3) MISSION.—The term "mission" means an agricultural aid and trade mission established under section 102.

(4) UNITED STATES AGRICULTURAL AID AND TRADE PROGRAMS.—The term "United States agricultural aid and trade programs" includes—

(A) programs established under titles I and II of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1701 et seq.);

(B) the program established under section 416 of the Agricultural Act of 1949 (7 U.S.C. 1431);

(C) the agricultural export enhancement program established under section 1127 of the Food Security Act of 1985 (7 U.S.C. 1736v);

(D) the dairy export incentive program established under section 153 of the Food Security Act of 1985 (15 U.S.C. 713a-14);

(E) the export credit guarantee program (GSM-102) established under section 5(f) of the Commodity Credit Corporation Charter Act (15 U.S.C. 714c(f));

(F) the intermediate export credit guarantee program (GSM-103) established under section 4(b) of the Food for Peace Act of 1966 (7 U.S.C. 1707a(b));

(G) the food for progress program established under section 1110 of the Food Security Act of 1985 (7 U.S.C. 1736o); and

(H) other agricultural aid and trade programs authorized by the Food Security Act of 1985 (Public Law 99-198), by the Commodity Credit Corporation Charter Act (15 U.S.C. 714 et seq.), or by other applicable authorities.

SEC. 102. AGRICULTURAL AID AND TRADE MISSIONS.

(a) ESTABLISHMENT.—Not later than 60 days after the date of enactment of this Act, under the direction of the Secretary of Agriculture, the Secretary of Agriculture, the Secretary of State, the Administrator, and the President of the Overseas Private Investment Corporation shall establish agricultural aid and trade missions to eligible countries to encourage the countries to participate in those United States agricultural aid and trade programs for which they are eligible in accordance with section 104.

(b) COMPOSITION.—A mission established in an eligible country shall be composed, under the direction of the Secretary of Agriculture, of—

(1) representatives of the Department of Agriculture, the Department of State, the Agency for International Development, and the Overseas Private Investment Corporation, appointed by the Secretary of Agriculture, Secretary of State, Administrator, and President of the Corporation, respectively; and

(2) not less than 3, nor more than 6, representatives of market development cooperators, private voluntary organizations, and cooperatives, appointed jointly by the Secretary of Agriculture, Secretary of State, Administrator, and President of the Corporation,

who are knowledgeable about food aid and agriculture export programs, as well as the food needs, trade potential, and economy of the eligible country.

(c) TERMS.—The term of a member of a mission shall terminate on submission of the report of the mission required under section 105.

(d) COMPENSATION AND TRAVEL EXPENSES.—A member of a mission shall serve without compensation, if not otherwise an officer or employee of the United States, except that a member shall, while away from the home or regular place of business of the member in the performance of service under this title, be allowed travel expenses, including per diem in lieu of subsistence, as authorized under section 5703 of title 5, United States Code.

SEC. 103. ELIGIBLE COUNTRIES.

(a) CRITERIA.—

(1) INDIVIDUAL COUNTRIES.—Subject to paragraph (2) and subsection (b), a mission shall be established to a foreign country selected by the Secretary of Agriculture if—

(A) the country is eligible for participation in United States agricultural aid and trade programs and such participation would be mutually advantageous to the country and the United States; and

(B) the country is friendly to the United States.

(2) MULTIPLE COUNTRIES.—In selecting countries for missions under this section, the Secretary shall—

(A) select countries that are in various stages of development and have various income levels; and

(B) consider—

(i) past participation in United States food programs;

(ii) experience with United States agricultural aid and trade programs; and

(iii) import market potential.

(b) INITIAL COUNTRIES.—A mission shall be established and completed—

(1) not later than 6 months after the date of enactment of this Act, in 8 eligible countries selected by the Secretary of Agriculture; and

(2) not later than 1 year after the date of enactment of this Act, in 8 additional eligible countries selected by the Secretary of Agriculture.

(c) ADDITIONAL COUNTRIES.—Additional missions may be established by the Secretary of Agriculture.

SEC. 104. FUNCTIONS.

The members of a mission to an eligible country shall—

(1) meet with representatives of government agencies of the United States and the eligible country, as well as commodity boards, private enterprises, international organizations, private voluntary organizations, and cooperatives that operate in the eligible country, to assist in planning the extent to which United States agricultural aid and trade programs could be used in a mutually beneficial manner to meet the food and economic needs of the country;

(2) provide technical expertise and information to representatives of government agencies of the United States and the eligible country and private organizations with respect to United States agricultural aid and trade programs and agricultural commodities and other assistance available to the eligible country under such programs; and

(3) assist in obtaining firm commitments for—

(A) proposals for food aid programs; and

(B) agreements for commodity sales.

SEC. 105. MISSION REPORTS.

Not later than 60 days after the completion of a mission under section 103, the mission shall submit a report that contains the findings and recommendations of the mission in carrying out this title to—

(1) the President;

(2) the Committee on Agriculture of the House of Representatives;

(3) the Committee on Foreign Affairs of the House of Representatives;

(4) the Committee on Agriculture, Nutrition, and Forestry of the Senate;

(5) the Committee on Foreign Relations of the Senate;

(6) the Secretary of Agriculture;

(7) the Secretary of State;

(8) the Administrator; and

(9) the President of the Overseas Private Investment Corporation.

SEC. 106. PROGRESS REPORTS.

During the 2-year period beginning 1 year after the date of enactment of this Act, the Secretary of Agriculture and the Administrator shall jointly submit a quarterly report on progress made in implementing the recommendations of the missions reported under section 105, including the quantity and dollar value of commodities shipped to eligible countries and the specific development programs undertaken in accordance with this title, to—

(1) the Committee on Agriculture of the House of Representatives;

(2) the Committee on Foreign Affairs of the House of Representatives;

(3) the Committee on Agriculture, Nutrition, and Forestry of the Senate; and

(4) the Committee on Foreign Relations of the Senate.

SEC. 107. USE OF COMMODITY CREDIT CORPORATION.

Within the funds made available to the Commodity Credit Corporation, the Secretary of Agriculture shall use the facilities, services, authorities, and funds of the Commodity Credit Corporation to carry out this title during a fiscal year.

TITLE II—AMENDMENTS TO PUBLIC LAW 480

SEC. 201. LEVEL OF SALES FOR FOREIGN CURRENCY.

Section 101(b) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1701(b)) is amended—

(1) in paragraph (1), by adding at the end thereof the following new sentence: "For each of the fiscal years 1988 through 1990, each agreement entered into under this title shall provide for some sale for foreign currencies for use under section 108, except for agreements with a country the President determines is incapable of participating in section 108."; and

(2) in paragraph (2), by inserting ", or enter into sales agreements not providing for sales for foreign currencies for use under section 108," after "currencies".

SEC. 202. TERMS AND CONDITIONS OF AGREEMENTS WITH FRIENDLY COUNTRIES AND ORGANIZATIONS.

Section 103 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1703) is amended—

(1) by striking out "and" at the end of subsection (p);

(2) by striking out the period at the end of subsection (q) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new subsection:

"(r) give favorable consideration in the allocation of commodities under this title to countries promoting the private sector through the use of section 108.".

SEC. 203. CRITERIA OF SELF-HELP MEASURES.

The first sentence of section 109(a) of the Agricultural Trade Development and Assist-

ance Act of 1954 (7 U.S.C. 1709(a)) is amended—

(1) by striking out "and" at the end of paragraph (10);

(2) by striking out the period at the end of paragraph (11) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new paragraph:

"(12) promoting the conservation and study of biological diversity.".

SEC. 204. USE OF COOPERATIVES TO FURNISH COMMODITIES.

The third sentence of section 202(a) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1722(a)) is amended by inserting "or cooperatives" after "voluntary agencies".

SEC. 205. LIMITATION ON USE OF FOREIGN CURRENCIES.

Section 206 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1726) is amended by inserting after "extraordinary relief requirements," the following: "or for nonemergency programs conducted by nonprofit voluntary agencies or cooperatives,".

SEC. 206. REPORTS ON SALES AND BARTER AND USE OF FOREIGN CURRENCY PROCEEDS.

Section 206 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1726) (as amended by section 205 of this Act) is further amended—

(1) by inserting "(a)" after the section designation; and

(2) by adding at the end thereof the following new subsection:

"(b) Not later than February 15, 1988, and annually thereafter, the President shall report to the Congress on sales and barter, and use of foreign currency proceeds, under this section and section 207 during the preceding fiscal year. Such report shall include information on—

"(1) the quantity of commodities furnished for such sale or barter;

"(2) the amount of funds (including dollar equivalents for foreign currencies) and value of services generated from such sales and barter in such fiscal year;

"(3) how such funds and services were used;

"(4) the amount of foreign currency proceeds that were used under agreements under this section and section 207 in such fiscal year, and the percentage of the quantity of all commodities and products furnished under this section and section 207 in such fiscal year such use represented;

"(5) the President's best estimate of the amount of foreign currency proceeds that will be used, under agreements under this section and section 207, in the then current fiscal year and the next following fiscal year (if all requests for such use are agreed to), and the percentage that such estimated use represents of the quantity of all commodities and products that the President estimates will be furnished under this section and section 207 in each such fiscal year;

"(6) the effectiveness of such sales, barter, and use during such fiscal year in facilitating the distribution of commodities and products under this section and section 207;

"(7) the extent to which such sales, barter, or uses—

"(A) displace or interfere with commercial sales of United States agricultural commodities and products that otherwise would be made;

"(B) affect usual marketings of the United States;

"(C) disrupt world prices of agricultural commodities or normal patterns of trade with friendly countries; or

"(D) discourage local production and marketing of agricultural commodities in the countries in which commodities and products are distributed under this subsection; and

"(8) the President's recommendations, if any, for changes to improve the conduct of sales, barter, or use activities under this section and section 207.".

SEC. 207. USE OF FOREIGN CURRENCY PROCEEDS.

Section 207 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1726a) is amended—

(1) in subsection (a), by inserting "or cooperative" after "agency";

(2) in subsection (b), by striking out "5 percent" and inserting in lieu thereof "10 percent"; and

(3) by adding at the end thereof the following new subsection:

"(c) Foreign currencies generated from any partial or full sales or barter of commodities by a nonprofit voluntary agency or cooperative shall be used—

"(1) to transport, distribute, and otherwise enhance the effectiveness of the use of commodities and products donated under this title; and

"(2) to implement income generating, community development, health, nutrition, cooperative development, agricultural programs, and other developmental activities.".

SEC. 208. PERIODS FOR REVIEW AND COMMENT.

Title II of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1721 et seq.) is amended by adding at the end thereof the following new section:

"Sec. 208. (a) Not later than 45 days after submission to the Agency for International Development office in Washington, D.C., the President shall take final action on a proposal submitted by a nonprofit voluntary agency or cooperative, with the concurrence of the field mission, for the delivery of commodities requested.

"(b) Not later than 30 days prior to the issuance of a final guideline issued to carry out this title, the President shall—

"(1) provide notice of the proposed guideline to nonprofit voluntary agencies and cooperatives that participate in programs under this title, and other interested persons, that the proposed guideline is available for review and comment;

"(2) make the proposed guideline available, on request, to any nonprofit voluntary agency, cooperative, and person; and

"(3) take any comments received into consideration before the issuance of the final guideline.

"(c) Not later than 15 days after receipt of a call forward from a field mission for commodities or products that meets the requirements of this title, the order for the purchase or the supply, from inventory, of such commodities or products shall be transmitted to the Commodity Credit Corporation.".

TITLE III—AMENDMENTS TO SECTION 416

SEC. 301. ELIGIBLE COMMODITIES.

Section 416(b)(2)(A) of the Agricultural Act of 1949 (7 U.S.C. 1431(b)(2)(A)) is amended—

(1) by striking out "grains," and inserting in lieu thereof "wheat, rice, feed grains,"; and

(2) by inserting ", and the products thereof," after "price support operations".

SEC. 302. AVAILABILITY OF COMMODITIES.

Section 416(b)(3) of the Agricultural Act of 1949 (7 U.S.C. 1431(b)(3)) is amended by adding at the end thereof the following new subparagraph:

"(D) If eligible commodities are made available under this section to a friendly country, nonprofit and voluntary agencies and cooperatives shall also be eligible to receive commodities for food aid programs in the country.".

SEC. 303. MULTIYEAR AGREEMENTS.

Section 416(b)(4) of the Agricultural Act of 1949 (7 U.S.C. 1431(b)(4)) is amended by adding at the end thereof the following new sentence: "In agreements with recipients of eligible commodities under this section (including nonprofit and voluntary agencies or cooperatives), the Secretary, on request, shall approve multiyear agreements to make agricultural commodities available for distribution or sale by the recipients if the agreements meet the requirements of this section.".

SEC. 304. FOREIGN CURRENCY USE AND ALLOCATION REQUIREMENTS.

(a) FOREIGN CURRENCY USES.—Clause (ii) of section 416(b)(7)(D) of the Agricultural Act of 1949 (7 U.S.C. 1431(b)(7)(D)(ii)) is amended to read as follows:

"(ii) Foreign currencies generated from partial or full sales or barter of commodities by a nonprofit and voluntary agency or cooperative shall be used—

"(I) to transport, distribute, and otherwise enhance the effectiveness of the use of commodities and products donated under this section; and

"(II) to implement income generating, community development, health, nutrition, cooperative development, agricultural programs, and other developmental activities.".

(b) ALLOCATION REQUIREMENTS.—Section 416(b)(7)(D)(iii) of such Act is amended—

(1) by striking out "5 percent" and inserting in lieu thereof "10 percent";

(2) by inserting ", or the minimum tonnage required, whichever is greater," after "furnished".

SEC. 305. PERIODS FOR REVIEW AND COMMENT.

Section 416(b)(8) of the Agricultural Act of 1949 (7 U.S.C. 1431(b)(8)) is amended by adding at the end thereof the following new subparagraph:

"(C)(i) Not later than 45 days after submission to the Agency for International Development office in Washington, D.C., the Secretary shall take final action on a proposal submitted by a nonprofit and voluntary agency or cooperative, with the concurrence of the field mission, for the delivery of commodities requested.

"(ii) Not later than 30 days prior to the issuance of a final guideline issued to carry out this section, the Secretary shall—

"(I) provide notice of the proposed guideline to nonprofit and voluntary agencies and cooperatives that participate in programs under this section, and other interested persons, that the proposed guideline is available for review and comment;

"(II) make the proposed guideline available, on request, to any nonprofit and voluntary agency, cooperative, and person; and

"(III) take any comments received into consideration before the issuance of the final guideline.

"(iii) Not later than 15 days after receipt of a call forward from a field mission for commodities or products that meets the requirements of this section, the order for the purchase or the supply, from inventory, of such commodities or products shall be transmitted to the Commodity Credit Corporation.".

TITLE IV—MISCELLANEOUS PROVISIONS

SEC. 402. CONTRACT AUTHORITY FOR INDIVIDUALS ABROAD.

(a) Authority.—The Secretary of Agriculture may contract with individuals for personal services to be performed outside the United States as the Secretary determines necessary or appropriate for carrying out programs and activities to maintain, develop, or enhance export markets for United States agricultural commodities and the products thereof.

(b) Nonfederal Employees.—The individuals referred to in subsection (a) shall not be regarded as officers or employees of the United States Government under any law, including any law administered by the Office of Personnel Management.

SEC. 403. MULTIYEAR AGREEMENTS UNDER THE FOOD FOR PROGRESS PROGRAM.

Section 1110 of the Food Security Act of 1985 (7 U.S.C. 1736o) is amended—

(1) by redesignating subsection (k) as subsection (l); and

(2) by inserting after subsection (j) the following new subsection:

"(k) In carrying out this section, the President shall, on request, approve multiyear agreements to make agricultural commodities available for distribution or sale by the recipients if the agreements meet the requirements of this section.".

SEC. 404. REPORT ON INTERMEDIATE EXPORT CREDIT.

Not later than December 31, 1987, the Secretary of Agriculture shall submit a report to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, on the use of authority provided under section 4(b) of the Food for Peace Act of 1966 (7 U.S.C. 1707(b)) to provide intermediate credit financing for the establishment of facilities in importing countries—

(1) to improve the handling, marketing, processing, storage, and distribution of imported agricultural commodities;

(2) to increase livestock production in order to enhance the demand for United States feed grains; and

(3) to increase markets for United States livestock and livestock products.

Mr. JOHNSTON. Mr. President, this enacts, as part of this continuing resolution, the Agricultural Trade Mission Act previously passed by this Senate and we, because it has been previously passed by the Senate and has been cleared all around, I think we are willing to take it to conference and there we will discuss it with the conferees and do what is appropriate. It comes in late at night but we are willing to take it to conference.

The PRESIDING OFFICER. Is there any further debate?

Mr. STEVENS. Mr. President, I am informed this matter has been cleared by those on our side of the aisle who are on the Agriculture Committee. It has not been previously discussed with this Senator but with the time involved, I have no objection.

The PRESIDING OFFICER. Is there any further debate on this amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 1351) was agreed to.

The PRESIDING OFFICER. The majority leader has the floor.

Mr. BYRD. Mr. President, I want to accommodate Senators. Does the Senator wish me to yield to him?

Mr. BOSCHWITZ. I would, Mr. Leader, for the purpose of offering an amendment that will take just a minute or 2 and has been cleared by all parties.

Mr. JOHNSTON. Would the leader yield?

Mr. BYRD. I yield to the Senator from Louisiana.

Mr. JOHNSTON. Mr. President, I am advised that this is in the jurisdiction of the Agriculture Subcommittee chaired by Mr. Burdick and that Mr. Burdick has not cleared it.

Mr. MITCHELL addressed the Chair.

Mr. BYRD. Mr. President, I yield my right to the floor.

The PRESIDING OFFICER. The majority leader has yielded to the Seantor from Louisiana who yields to the Senator from Maine, reserving his position.

Mr. MITCHELL. I was just advised by Senator Burdick's staff member that he does not object to the amendment.

Mr. BYRD. What does it do?

Mr. MITCHELL. It provides wheat to Lebanon. The amendment Senator Boschwitz and Senator Melcher are offering they had on the list earlier today.

Mr. MELCHER. If the majority leader will yield?

The PRESIDING OFFICER. The majority leader yields to the Senator from Montana, retaining his right to the floor.

Mr. MELCHER. This is an amendment sponsored by 43 Senators that would donate, through section 416, between 75,000 and 150,000 tons of wheat to Lebanon with half of that going to PVO's. It is an amendment that is very much in need in Lebanon. it is one that we have been working on for the past 2 months.

Mr. BYRD. I yield under the same restriction.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. JOHNSTON. Would the Senator yield for a question?

Mr. BOSCHWITZ. Certainly.

The PRESIDING OFFICER. The Senator from Louisiana will be advised that the amendment has not yet been read.

AMENDMENT NO. 1352

(Purpose to provide wheat assistance to Lebanon)

Mr. BOSCHWITZ. Mr. President, I sent an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Minnesota [Mr. Boschwitz], for himself, Mr. Melcher Mr. Mitchell, Mr. Helms, Mr. Pell, Mr. Bentsen, Mr. Bond, Mr. Boren, Mr. Conrad, Mr. Cranston, Mr. D'Amato, Mr. Durenberger, Mr. Domenici, Mr. Dole, Mr. Evans, Mr. Ford, Mr. Glenn, Mr. Graham, Mr. Heflin, Mr. Hecht, Mr. Johnston, Mr. Karnes, Mr. Kennedy, Mr. Kerry, Mr. Hatch, Mr. Levin, Mr. Lugar, Mr. McCain, Mr. Moynihan, Mr. Murkowski, Mr. McConnell, Mr. Nickles, Mr. Pressler, Mr. Quayle, Mr. Riegle, Mr. Roth, Mr. Sarbanes, Mr. Simpson, Mr. Symms, Mr. Trible, Mr. Rockefeller, Mr. Bumpers, and Mrs. Kassebaum, proposes an amendment numbered 1352.

Mr. BOSCHWITZ. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the Act, add the following new section:

"Sec. . Of the Funds made available in the Act for programs authorized by Section 416 of the Agricultural Act of 1949, as amended, the Secretary of Agriculture shall make available primarily to the Government of Lebanon not less than 75,000 metric tons but not more than 150,000 metric tons of wheat. The word "primarily" shall mean at least half. Understanding the abnormal conditions in Lebanon, Congress will understand that normal standards of accountability may not be met."

Mr. JOHNSTON. Mr. President, the amendment says that the Secretary of Agriculture shall make available primarily to the Government of Lebanon a certain quantity of wheat, and it goes on to define primarily as being at least half. What happens to the other half?

Mr. BOSCHWITZ. The other half would go to private voluntary organizations. The other half would go to so-called PVO's, private voluntary organizations, the Save the Children Fund, for instance, which is the primary one we have in Lebanon.

Mr. JOHNSTON. All of it goes to Lebanon and at least half goes to the Government of Lebanon?

Mr. BOSCHWITZ. That is correct, to be handled by the Government of Lebanon. Half of it goes to private voluntary organizations.

Mr. JOHNSTON. Mr. President, I think the amendment needs a little work. I think we can work on it in conference. Since it has been cleared by the Appropriations Subcommittee chairman, Mr. Burdick, we will take it to conference.

Mr. STEVENS. Mr. President, I am informed that the matter has similarly been cleared with the subcommittee ranking members on this side. Based upon their information, I join with the Senator from Louisiana in agreeing to take the matter to conference.

The PRESIDING OFFICER. Is there further debate?

Mr. MELCHER. Mr. President, I am very pleased that 42 Senators share my very deep concern over the adequacy of food assistance to Lebanon and have agreed to cosponsor this amendment which will significantly expand the quantity of wheat that will be made available to Lebanon under section 416 of the Agriculture Act of 1949 as amended.

The Lebanese have suffered terribly over the past decade. In that time, war, foreign intervention, and terrorism have claimed over 100,000 casualties. Today, because the Lebanese pound has depreciated by over 700 percent during this past year, Lebanon can no longer afford to import the food upon which it has traditionally depended. Consequently, some Lebanese citizens are now reduced to scavenging garbage for food. Such conditions of poverty and deprivation can only work against those who are striving to rebuild orderly democratic government in Lebanon.

Apart from merely averting starvation, the provision of American surplus wheat to Lebanon would go far toward advancing our policies there. Both Congress and the President have continually stated that our policy toward Lebanon rests on three pillars: support for the constitutionally elected government of Amine Gemayel; the withdrawal of foreign forces; and the resumption of political dialog between Lebanese factions. However, in recent years we have had little opportunity to advance any goals.

Moreover, the food shortage has worked to the advantage of foreign dominated groups such as Hizbollah. By providing foreign supplied grain, these factional militias have been able to buy recruits to continue their brutal campaign of terror and intimidation. By honoring the request of Lebanon to provide wheat, the United States can take active steps toward achieving our policy goals in Lebanon. We can show real support for the elected government and strengthen its hand over the militant factions with which it now competes for power.

Finally, I should note that 20 years ago America was a major supplier of wheat to Lebanon. Since then, however, Lebanon has shifted its buying primarily to Europe and Argentina. Last year Lebanon imported over 400,000 tons of wheat of which very little came from this country.

But now with their money worth a penny or two on the dollar their ability to buy is very limited.

By providing the wheat stipulated in this amendment, we will be advancing a second goal toward which we have been working for the past several years: opening foreign markets to American agricultural products. Indeed, the focus of efforts such as the Export Enhancement Program have been precisely to regain markets lost to heavily subsidized European grains; Lebanon is a prime example of such a market. Lebanon can purchase a portion of their needs and are negotiating to do so if we can help them with a donation through Sec. 416 and if we approve this amendment. Lebanon has always imported grain and will continue to do so after the present crisis is resolved. Providing wheat now could open future makets in Lebanon for United States exports.

In conclusion, by providing wheat to Lebanon, we can advance three important foreign policy goals: we can show tangible support for the central Lebanese Government; we can diminish the influence of radical foreign elements, and we can develop future export markets for our agricultural products. I hope that all Senators will join the 43 cosponsors of this amendment in providing this needed humanitarian relief.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 1352) was agreed to.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. JOHNSTON. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BYRD. Mr. President, I am going to ask unanimous consent that no more amendments be in order except the Contra amendment, and amendments in the second degree relative to and germane to that amendment be in order.

The PRESIDING OFFICER. Is there objection?

Mr. McCLURE. Reserving the right to object, I believe the distinguished Senator from Alaska had reserved the right to offer an amendment.

Mr. BYRD. I do not mean to shut out the Senator from offering his amendment.

Mr. President, I ask unanimous consent that only an amendment by the distinguished Senator from Alaska, of which we have been informed, about which we have had some discussion among the managers more than once, only that amendment be in order to be called up other than amendments that are relevant and germane to the Contra aid amendment which is now pending before the Senate.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. CRANSTON. Mr. President, reserving the right to object.

Mr. JOHNSTON. Mr. President,——

Mr. BYRD. I thank the Chair. The Chair is doing an excellent job.

Mr. JOHNSTON. Mr. President, there are two printing errors that need correction.

Mr. BYRD. Mr. President, I did not attempt to shut out technical amendments that have to be made. I exclude from my request such technical amendments as will be offered, if such exist, by the managers.

The PRESIDING OFFICER. Without objection——

Mr. CRANSTON. Reserving the right to object.

Senator HARKIN has an amendment that he would like to offer in relation to Contra aid in terms of procedures whereby we handle Contra aid. I presume that would be in order.

Mr. BYRD. It would be offered as an amendment to the Contra amendment?

Mr. CRANSTON. No.

Mr. HARKIN. Reserving the right to object, the amendment that I am going to offer is on the list, yes. I just came on the floor from this meeting that we had. I would like to hear what the unanimous-consent request was.

Mr. BYRD. The request was that there be no further amendments in order except that one amendment by Mr. STEVENS, my dear friend.

In response to the distinguished Senator, I would ask consent that only an amendment by Mr. STEVENS be in order, other than germane and relevant amendments to the Contra aid amendment presently pending.

Mr. HARKIN. Reserving the right to object, I am not certain that it does. I have an amendment which is on the list which I have wanted to bring up for some time. It is not to the pending amendment, the Contra aid amendment, or anything else.

Mr. BYRD. Is it Contra aid?

Mr. HARKIN. It deals with a certain aspect. It is not a Contra aid amendment.

Mr. BYRD. The Senator is evidently referring to an amendment with regard to expedited procedures.

Mr. HARKIN. That is correct.

Mr. BYRD. I hope the Senator will not call that amendment up tonight but I will include that in my request. But I hope he will not call it up.

Mr. HARKIN. I would appreciate that, otherwise I would be constrained to bring it up. I would want to have that right to bring it up.

Mr. BYRD. The Senator has that right.

Mr. DODD. If the Senator will yield, there is another amendment that I think we have reached agreement on involving Panama. Senator CRANSTON and I have talked to Senator BOREN about the Panama amendment.

Mr. BYRD. Is it on the list?

Mr. DODD. There is an amendment that I have on the list that covers the Central American region. We left it open for the possibility of reaching an agreement. I think we have. We would like at least the opportunity to raise the amendment. If we are not able to reach an agreement, we will not raise it. If we do, we would like to make sure we could.

Mr. BYRD. The amendment is on the list?

Mr. DODD. Yes.

Mr. JOHNSTON. Is that the one about multilateral lending?

Mr. DODD. No. It has to do with Panama. One is listed as the general Central American issues.

Mr. JOHNSTON. If the Senator will yield, there are two, one on peace processes in Central America and one on multilateral lending in Panama.

Mr. DODD. Then evidently I was wrong.

Mr. BYRD. The Senator said either of those two amendments.

Mr. DODD. One or the other.

Mr. BYRD. I include one or the other in my remarks.

And Senator HARKIN has been taken care of.

Mr. KERRY. Mr. President, reserving the right to object, I did some checking with the Parliamentarian on one issue to determine whether or not I need to include in that request the question of germaneness as to the amendment which will be forthcoming. I do. I would like to ask, therefore, that included in the unanimous-consent request is the issue of germaneness as to the amendment which will be offered by the Senator from California. That is the amendment that we have just discussed that would be forthcoming on the matter of Contra aid.

Mr. BYRD. Is it relevant to the Contra aid amendment?

Mr. KERRY. Yes.

Mr. BYRD. Yes, that would be in order in my request.

Mr. KERRY. I thank the distinguished majority leader.

The PRESIDING OFFICER. Is there objection?

Mr. STEVENS. Mr. President, a parliamentary inquiry.

Mr. BYRD. I will yield for that purpose.

Mr. STEVENS. I am sorry. I apologize.

Mr. BYRD. That is all right.

Mr. STEVENS. My amendment has been delayed, set aside temporarily, at the request of the Senator from Massachusetts. Is it in order for me to modify that amendment at this time?

The PRESIDING OFFICER. It would take unanimous consent to modify it.

Mr. KERRY. I will object.

Mr. STEVENS. I did not make the request. I need no consent once it is backed up. Is that correct, Mr. President?

The PRESIDING OFFICER. It would require unanimous consent if the amendment is on a list of exclusive amendments to be offered.

Mr. STEVENS. My Contra amendment is not on that list. It has already been offered and it needed no consent. I have the right to amend that at any time.

The PRESIDING OFFICER. Is it on the list of those items that were subject to the unanimous-consent agreement at 12 noon?

Mr. STEVENS. It was not on at 12 noon. I had offered it. We had two amendments previously that were on that list that were amended just by sending the amendment, as modified, to the desk.

The PRESIDING OFFICER. The amendment is subject to amendment but it is not subject to modification but by unanimous consent.

Mr. BYRD. Mr. President, will the Chair put my request?

The PRESIDING OFFICER. Are there objections? Without objection, it is so ordered.

Mr. BYRD. Mr. President, I call for regular order.

AMENDMENT 1339, AS MODIFIED

The PRESIDING OFFICER. Under regular order, the clerk will report the amendment and then the Senator from Massachusetts will be recognized.

The legislative clerk read as follows:

The Senator from Alaska [Mr. STEVENS], for himself and others, proposes an amendment numbered 1339, as modified.

Mr. KERRY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, I would like to thank my colleagues for their patience. I hope that it will in fact have proven to have speeded up matters. As I said at the outset, we were not seeking to try to talk this out endlessly nor to delay in any way, and I think that the time we had has provided us with an opportunity to be able to satisfy some of the demands of Senators on this side of the aisle and still to move forward, which we will try to do as rapidly as possible.

In that effort, Mr. President, I would like to ask unanimous consent that I be allowed to yield at this time to the distinguished Senator from California, without losing my subsequent right to the floor.

Mr. DOLE. I object.

The PRESIDING OFFICER. There is an objection.

AMENDMENT NO. 1353

Mr. KERRY. Mr. President, hearing an objection, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Massachusetts [Mr. KERRY] proposes an amendment numbered 1353.

Mr. KERRY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The amendment is as follows:

Strike all after "Sec" and insert in lieu thereof:

(a) There are hereby transferred to the President $9,000,000 of unobligated funds, from such accounts for which appropriations were made by Department of Defense appropriations acts for the fiscal year 1987 or prior fiscal years, as the President shall designate, to provide humanitarian assistance to the Nicaraguan democratic resistance consistent with this section.

(b) The President is authorized to transfer or reprogram unobligated funds from such accounts for which appropriations were made by Department of Defense appropriations acts for the fiscal year 1987 or prior fiscal years, as the President shall designate, to provide transportation of humanitarian assistance to the Nicaraguan democratic resistance specifically authorized by law.

(c) As used in this section, the term "humanitarian assistance" means food, clothing, shelter, and medical supplies and services.

(d)(1) funds made available by subsections (a) and (b) shall be available for the purposes described in sections 101, 102, and 104 of the Intelligence Authorization Act, Fiscal Year 1988 (Public Law 100-178); subject to the provisions of this section, and for the same periods of time, but not to exceed February 29, 1988 such funds would have been available if this section had not been enacted.

(d)(2) The authority to support, monitor, and manage the activities for which this section provides funds shall continue until the funds transferred by subsection (a) have been expended.

(e) The requirements, terms, and conditions of the sections to which subsection (d)(1) refers, section 10 of Public Law 91-672, Section 502 of the National Security Act of 1947, Section 15(a) of the State Department Basic Authorities Act of 1956, and any other provision of law shall be deemed to have been met for the transfer and use consistent with this section of the funds made available by subsections (a) and (b).

(f) Sections 203(e), 204(b), 207, 209(b), and 209(c), and the first sentence of section 203 (d), in "TITLE II—CENTRAL AMERICA" in section 101(k) of the continuing appropriations resolution for the fiscal year 1987 (Public Laws 99-500 and 99-591) shall apply with respect to funds made available by this section.

(g) If on January 17, 1988, a ceasefire negotiated between the Government of Nicaragua and the Nicaraguan democratic resistance is in place and the Government of Nicaragua is in complicane with the Guatemala Accord of August 7, 1987, then the President shall, to the maximum extent practicable, make the unobligated balance of funds transferred by subsection (a) available for administration consistent with this section by nonpolitical humanitarian international organizations.

(h) Notwithstanding any other provisions in this section, none of the funds authorized in this section shall be expended unless (A) a majority of the five Central American presidents advise the President of the United States in writing that such expenditures are consistent with the provisions of the Guatamala Peace Accord, or (B) a negotiated cease fire is in place between the Government of Nicaragua and the Nicaraguan resistance.

Mr. KERRY. Mr. President, let me continue to try to speed matters up and explain what this amendment is.

It is precisely word for word the exact same language which was submitted by the distinguished Senator from Alaska with one addition, and that addition is a section (h) which says:

> Notwithstanding any other provisions of this section, none of the funds authorized in this section shall be expended unless (A) a majority of the five Central American Presidents advise the President of the United States in writing that such expenditures are consistent with the provisions of the Guatemala Peace Accord, or (B) a negotiated cease fire is in place between the Government of Nicaragua and the Nicaraguan Resistance.

The reason for this change is I think self-evident. Let me just explain it very quickly. Mr. President, I offer this amendment on behalf of the distinguished Senator from California, who I know would want to speak on it, as well as some others. I will try to be very, very brief.

The administration has made it clear again and again through the Secretary of State and through the President of the United States himself and I think most Members of this Senate have voted for a resolution which expresses their support for the Guatemala peace process. It is inconsistent to believe that we are now suddenly going to pass a policy which in effect reverses those months of effort on behalf of the Central American peace process and literally reverses the statements of both the Secretary of State and the President as to policy.

The last paragraph as written by the Senator from Alaska says that the President of the United States will determine whether or not the Guatemalan peace process is in place in satisfactory form. That is precisely contradictory to what the President himself has said, it is precisely contradictory to what the Secretary of State has said, and it is precisely contradictory to the expressed desires of each and every one of the Central American Presidents themselves who have declared again and again that this is a Central American peace process which Central Americans should be allowed to determine when it is working.

So in effect what we are trying to do is create a humanitarian assistance process that is totally consistent with the policy of this country and consistent with the current peace process which is under way. Mr. President, if I could interrupt at the moment just to ask for the yeas and nays on this amendment, I would like to ask for those at this time.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. KERRY. Mr. President, just a couple of days ago, President Arias went to Oslo to receive the Nobel Peace Prize, in itself a statement about the efforts that are ongoing now in Central America. He openly reversed himself as to a prior opinion by saying that he believed all aid should be cut off as this moment in time. Why? Because he believes that humanitarian aid or lethal aid, any kind of aid at this time gives the Sandinistas an excuse to be able to point the finger at the Contras and the United States and say, "You are violating our Central American plan." In effect, we make our own lives more difficult when the day of judgment comes in January when we sit back and say, "Now, who's really obfuscating this, who's responsible for the peace process falling apart?" And the Sandinistas and others will be able to say, "Well, the United States was really hedging its bets." And there is reason to believe that, Mr. President, because we had, until a modification was made, no statement in here as to the separation of lethal aid and humanitarian aid.

Originally, the intent of this was to take a program which ends on December 16, the lethal aid program, and permit it to be continued and funded by allowing the transportation money for the humanitarian assistance to support the lethal aid assistance. That would be the most disastrous thing that we could conceivably do, and I believe there is swirling in the intent of this particular amendment an ability for the Sandinistas to take advantage, which is the last thing that I think the sponsors want to have happen.

So, Mr. President, I hope that the Senate might in passing humanitarian assistance, which I know the majority want to do, will also say that the peace process is important, that they will say they are not going to turn their backs on the stated policy of the president, the Secretary of State, and the Central American Presidents but they are going to allow that process to go forward. It is consistent with the law. It is consistent with our policy and I think and I hope our colleagues will find it is consistent with our best interests. I yield.

Mr. CRANSTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts yielded the floor. The Senator from California is recognized.

Mr. CRANSTON. I would be glad to yield to the Senator from Alaska for the purposes of making the modification he wished to make if he wishes to do that.

Mr. STEVENS. I thank my friend. I just sent it out to the copying machine. As soon as it comes back, I will ask that and I thank the Senator for his courtesy.

The PRESIDING OFFICER. The Senator from California.

Mr. CRANSTON. Mr. President, let me say that this amendment accepts in its entirety the Stevens proposed amendment. It has not changed one word, one comma, anything in that amendment, so it goes forward in its entirety in terms of what it would provide for assistance to the Contras. It does add a single proviso that is fully consistent with stated administration policy.

I would be glad now to yield for that purpose to the Senator from Alaska.

Mr. STEVENS. Mr. President, I send a modification of my amendment to the desk.

Mr. DODD. Parliamentary inquiry, Mr. President. This amendment at this point is the amendment offered by the Senator from Massachusetts?

Mr. KERRY. Correct.

Mr. CRANSTON. Yes.

Mr. DODD. It is not the amendment of the Senator from Alaska. Therefore, a modification would have to come from the author of the amendment?

Mr. STEVENS. I am modifying the basic underlying amendment which is before the Senate.

Mr. CRANSTON. We ask unanimous consent——

The PRESIDING OFFICER. It would require unanimous consent——

Mr. STEVENS. I understand that.

The PRESIDING OFFICER. To amend the underlying first-degree amendment.

Mr. STEVENS. I ask unanimous consent that the amendment to this amendment offered by the Senator from Massachusetts be similarly modified. It corrects an error that we made at the time we inserted "humanitarian" before the word "assistance" because we were dealing with assistance previously specifically authorized by law as well as humanitarian assistance. That now spells that out. "Humanitarian assistance and other assistance previously specifically authorized by law" is the change.

Mr. KERRY. Before I consent, and I am not inclined not to consent, I would just want to make sure we are clear on the record what that does. Would the distinguished Senator yield for a question?

Mr. STEVENS. Yes. If the Senator from California will allow me to do so.

Mr. CRANSTON. There is no objection.

Mr. HARKIN. Mr. President, reserving the right to object——

Mr. STEVENS. I can state what it does, if the Senator will yield to me?

Mr. DODD. Will the Senator yield? Did the Senator offer to modify both the underlying amendment and the amendment offered by the Senator from Massachusetts?

Mr. STEVENS. That is my request, to assure that the concept of humanitarian assistance is the primary purpose for the transportation, but other assistance previously authorized specifically by law could be carried incidentally to that transportation.

The PRESIDING OFFICER. The amendment and the modification of the Senator from Alaska have been forwarded to the desk.

The PRESIDING OFFICER. It will require unanimous consent to adopt that modification which will be incorporated both in the first degree and the second degree amendment. Is there objection?

Mr. HARKIN. Reserving the right to object, Mr. President, I just want to find out exactly what this does. As I understand it, I thought this amendment had to do with providing humanitarian assistance to the Contras. Do I understand now that it is to provide both humanitarian and lethal assistance? Is that the intention of the change?

Mr. STEVENS. No. I say to my friend the lethal assistance has already been specifically authorized by law. As this transportation moves around to assist democratic resistance incidentally to the movement of the humanitarian assistance they do move previously authorized assistance being the lethal aid. It is stockpiled and it moves but none of the funds in this would be used to purchase any lethal aid nor would it be used specifically for the transportation of lethal aid. It would be only incidental to the transportation of humanitarian assistance—that some previously authorized purchase that is already there would be moved. It would save considerable money if that incidental movement could take place at the same time as the humanitan assistance could be moved.

Mr. HARKIN. Further reserving the right to object, I would ask the author of the modification is there not existing authority under law right now? Is that lethal aid weapons et cetera to be transported to the Contras right now under existing law?

Mr. STEVENS. My understanding is there is but it would be at considerable additional expense since this is the primary movement that has been made. It is a very small amount moneywise of ammunition and stores that are available that will be moved along with a major assistance here which is the primary assistance which is humanitarian assistance.

Mr. HARKIN. So the essence of the modification is just to allow lethal aid already provided under other authorities to be commingled with the humanitarian aid and transported at the same time or on the same line?

Mr. STEVENS. My understanding is about a million and a half dollars worth of lethal assistance has already been purchased and is already there out of over $100 million that still has to be delivered along with this humanitarian assistance or separately in a separate plan at considerable increased cost.

Mr. HARKIN. This would allow it to be commingled with the humanitarian aid delivered.

Mr. STEVENS. Only incidentally to the movement of humanitarian assistance. That is correct.

Mr. HARKIN. I thank the Senator.

The PRESIDING OFFICER. Is there objection?

Mr. STEVENS. I thank my good friend from California. I am embarrassed about the fact that I made it at the suggestion of my friend from Hawaii because it caused me to confuse that section.

The PRESIDING OFFICER. Is there objection? Without objection, the modifications are agreed to.

The amendments, as modified, are as follows:

Add at the end of the bill the following new section:

SEC. . (a) There are hereby transferred to the President $9,000,000 of unobligated funds, from such accounts for which appropriations were made by Department of Defense appropriations acts for the fiscal year 1987 or prior fiscal years, as the President shall designate, to provide humanitarian assistance to the Nicaraguan democratic resistance consistent with this section.

(b) The President is authorized to transfer or reprogram unobligated funds from such accounts for which appropriations were made by Department of Defense appropriations acts for the fiscal year 1987 or prior fiscal years, as the President shall designate, to provide transportation of humanitarian assistance to the Nicaragua democratic resistance specifically authorized by law.

(c) As used in this section, the term "humanitarian assistance" means food, clothing, shelter, and medical supplies and services.

(d)(1) Funds made available by subsections (a) and (b) shall be available for the purposes described in sections 101, 102, and 104 of the Intelligence Authorization Act, Fiscal Year 1988 (Public Law 100-178); subject to the provisions of this section, and for the same periods of time, but not to exceed February 29, 1988, as such funds would have been available if this section had not been enacted.

(2) The authority to support, monitor, and manage the activities for which this section provides funds shall continue until the funds transferred by subsection (a) have been expended.

(e) The requirements, terms, and conditions of the sections to which subsection (d)(1) refers, section 10 of Public Law 91-672, Section 502 of the National Security Act of 1947, Section 15(a) of the State Department Basic Authorities Act of 1956, and any other provision of law shall be deemed to have been met for the transfer and use consistent with this section of the funds made available by subsections (a) and (b).

(f) Sections 203(e), 204(b), 207, 209(b), and 209(c), and the first sentence of section 203(d), in "TITLE II—CENTRAL AMERICA" in section 101(k) of the continuing appropriations resolution for the fiscal year 1987 (Public Laws 99-500 and 99-591) shall apply with respect to funds made available by this section.

(g) If on January 17, 1988, a ceasefire negotiated between the Government of Nicaragua and the Nicaraguan democratic resistance is in place and the Government of Nicaragua is in compliance with the Guatemala Accord of August 7, 1987, then the President shall, to the maximum extent practicable, make the unobligated balance of funds transferred by subsection (a) available for administration consistent with this section by nonpolitical humanitarian international organizations.

Strike all after "SEC." and insert in lieu thereof:

(a) There are hereby transferred to the President $9,000,000 of unobligated funds, from such accounts for which appropriations were made by Department of Defense appropriations acts for the fiscal year 1987 or prior fiscal years, as the President shall designate, to provide humanitarian assistance to the Nicaraguan democratic resistance consistent with this section.

(b) The President is authorized to transfer or reprogram unobligated funds from such accounts for which appropriations were made by Department of Defense Appropriations acts for the fiscal year 1987 or prior fiscal years, as the President shall designate, to provide transportation of humanitarian and other assistance previously, specifically authorized by law to the Nicaraguan democratic resistance.

(c) As used in this section, the term "humanitarian assistance" means food, clothing, shelter, and medical supplies and services.

(d)(1) Funds made available by subsections (a) and (b) shall be available for the purposes described in sections 101, 102, and 104 of the Intelligence Authorization Act, Fiscal Year 1988 (Public Law 100-178); subject to the provisions of this section, and for the same periods of time, but not to exceed February 29, 1988, as such funds would have been available if this section had not been enacted.

(2) The authority to support, monitor, and manage the activities for which this section provides funds shall continue until the funds transferred by subsection (a) have been expended.

(e) The requirements, terms, and conditions of the sections to which subsection (d)(1) refers, section 10 of Public Law 91-672, Section 502 of the National Security Act of 1947, Section 15(a) of the State Department Basic Authorities Act of 1956, and any other provision of law shall be deemed to have been met for the transfer and use consistent with this section of the funds made available by subsections (a) and (b).

(f) Sections 203(e), 204(b), 207, 209(b), and 209(c), and the first sentence of section 203(d), in "TITLE II—CENTRAL AMERICA" in section 101(k) of the continuing appropriations resolution for the fiscal year 1987 (Public Laws 99-500 and 99-591) shall apply with respect to funds made available by this section.

(g) If on January 17, 1988, a ceasefire negotiated between the Government of Nicaragua and the Nicaraguan democratic resistance is in place and the Government of Nicaragua is in compliance with the Guatemala Accord of August 7, 1987, then the President shall, to the maximum extent practicable, make the unobligated balance of funds transferred by subsection (a) available for administration consistent with this section by nonpolitical humanitarian international organizations.

(h) Notwithstanding any other provisions in this section, none of the funds authorized in this section shall be expended unless (A) a majority of the five Central American presidents advise the President of the United States in writing that such expenditures are consistent with the provisions of the Guatemala Peace Accord, or (B) a negotiated ceasefire is in place between the Government of Nicaragua and the Nicaraguan resistance.

Mr. CRANSTON addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mr. KERRY. Will the Senator yield?

Mr. CRANSTON. I am glad to yield for a question.

Mr. KERRY. Would the distinguished Senator yield? Would the distinguished Senator permit me to ask a question of the Senator from Alaska?

Mr. CRANSTON. I yield only for that purpose.

Mr. HARKIN. I would just ask my distinguished friend from Alaska, does the current Lethal Aid Lift Transportation Program terminate under current law on December 16?

Mr. STEVENS. I have to tell you that I cannot answer that question. I will get you the answer. It is my understanding that the funds that are available for the movement of that assistance will soon run out. I do not know whether it terminates or not. It is being used, I might say, as part of the fill-in for the current humanitarian assistance. We were briefed on that earlier today. Those that were there understood, I think, what the President's National Security Advisor was saying concerning that. The funds are running out. Whether the legal authority to move the aid expires, I do not know, but the money has already been spent. The value of it is what I mentioned. We are not spending any of this money for lethal aid.

Mr. KERRY. Under current law, which we are in effect changing in this very vote that will be upcoming on the continuing resolution, all moneys run out on December 16; do they not?

Mr. EVANS. All moneys run out on this continuing resolution but not those on previously authorized amounts which were in the 1987 bill which have been used. During this period, to supplement the amounts that have come through, the first continuing resolution contained funds for the humanitarian assistance, the second one and the third one. Those have been supplemented by the carryover funds for the 1987 authorization and that was the pipeline, and General Powell told us today that those will run out in December but the authorization under the third continuing resolution expires December 16. That did not apply to lethal aid.

Mr. KERRY. In the meeting that I attended with the Senator from Alaska with the general this afternoon, the general said that unless there was an authorization now for transportation money, they did not have any transportation funds, and no lethal aid could be transported because there was no transportation. Does the Senator recall that?

Mr. STEVENS. I recall he said the moneys would run out toward the end of December. He did not tie that in to December 16 in my memory.

Mr. KERRY. At the end of December. So in effect what we would be passing here is an extension, a renewal of the ability of lethal aid to be transported to the Contras. Is that not correct?

Mr. STEVENS. We are going to get the answer to that. It is my understanding that if this is not passed the authorization to spend money for humanitarian aid and to transport humanitarian aid runs out. There still is carryover money from 1986 and 1987 today that has not yet been expended. That is being used in this period to supplement the moneys that are available under the first, second, and third continuing resolution of the humanitarian aid with the amendment on the humanitarian aid.

I cannot answer the question of the Senator. I can tell the Senator that there is no intent by that amendment to extend further any authority for the movement of previously specifically authorized assistance other than incidental to this other movement for the purpose of saving money.

It was told to me that if we do not do it this way, we will have to charter a separate plane to move that last 1.5 million dollars' worth of material.

Mr. BOREN. Mr. President, if the Senator will yield, I think I can answer the question.

The PRESIDING OFFICER (Mr. DASCHLE). The Senator from California retains the floor.

Mr. CRANSTON. I yield for the purpose of answering the question, without losing my right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BOREN. I thank the Senator.

As I understand the current law with which we are dealing, the $100 million previously voted by Congress simply provides that that appropriation is available until the funds are expended. In other words, there is still a little bit of that money, about $1.5 million out of the $100 million, that is not fully expended. We are not here extending or changing current law, but that money is available until it is expended.

I am told that the estimates are that the additional $1.5 million will be expended sometime during the month of December. We are close to the period of time when that additional $1.5 million will also run out. In other words, it will be the end totally of that $100 million. I think that perhaps is where the December 17 figure came into the mind of the Senator from Massachusetts, or maybe he was thinking about the expiration of the continuing resolution. This does not depend upon the continuing resolution. These are funds that have been previously appropriated, and the appropriation is good until the funds are expended. Those monitoring this appropriation think the $1.5 million will totally run out by the end of December.

We are dealing with the language of the amendment. We are talking about appropriating $9 million for humanitarian assistance—food, clothing, shelter, and medical supplies—and providing here, in terms of transportation, that if agreement is reached on a cease-fire as of January 17, the President then, even in terms of transportation, would transport that humanitarian assistance only through international humanitarian organizations.

At that point in time, if there is an agreement reached under the language that has been inserted now in the amendment, there would be no danger that there would be any lethal assistance delivery with regard to a humanitarian delivery system to deliver those funds.

Mr. CRANSTON. Mr. President, I would like to recount a bit of recent Senate history that explains what is going on now.

The original amendment offered by the Senator from Alaska said in clause (b), which I will capsule, "The President is authorized to transfer or reprogram unobligated funds to provide transportation of assistance to the Nicaraguan democratic resistance specifically authorized by law." It said, "transportation of assistance."

The Senator from Hawaii [Mr. INOUYE] rose and asked the Senator from Alaska if the word "humanitarian" should not precede the word "assistance," since we are supposedly talking about humanitarian aid in this amendment.

The Senator from Alaska said, "Yes," and the amendment was so modified, with the apparent purpose of limiting this aid to humanitarian assistance. However, the attorneys in the White House did not like that change.

Mr. STEVENS. Mr. President, will the Senator yield?

Mr. CRANSTON. I yield.

Mr. STEVENS. The language "specifically authorized by law" was intended to carry the $1.5 million forward. We have, as the stated purpose of this, humanitarian assistance in terms of new authorization.

When I put "humanitarian" in front of "assistance," it made the "specifically authorized by law" apply only to humanitarian assistance. As of December 16, there will be nothing specifically authorized by law.

Mr. CRANSTON. I understand that. So when this change was made, inserting the word "humanitarian," to limit this to the ostensible purpose of humanitarian aid, which most of us understood that is what it was to mean, the White House objected to that change and wanted it dropped so that it would cover more than humanitarian assistance—in other words, permit the transportation of lethal assistance to the resistance in Nicaragua.

So it was modified to read, "to provide transportation of humanitarian assistance and other assistance previously specifically authorized by law."

That was added to cover not humanitarian aid but lethal aid.

So what we are now talking about is a way to continue to give lethal aid to the resistance movement. We are not talking just about humanitarian aid. I think it is important that all Senators understand that when they vote on this matter.

To return now to explain briefly the amendment that the Senator from Massachusetts offered in my behalf, when I was denied the right to the floor, it accepts the proposal of the Stevens amendment in its entirety, including the modification permitting lethal aid to continue.

It does add a single proviso at the end that is fully consistent with the administration's avowed, announced, proclaimed policy. It commits the United States to pursue efforts only in concert with the Central American peace process.

Secretary Shultz testified before the Foreign Relations Committee, where I sit, that the United States will be guided by the decisions of the Central Americans.

That is what our revision does. It simply states that none of the aid authorized in the Stevens amendment will go, unless a majority of the five Central American Presidents advise the President of the United States in writing that such expenditures are consistent with the provisions of the Guatemala peace accord.

I assume that we want to adhere to the avowed American policy of supporting, not undermining, the Guatemala peace accord. This amendment would ensure that aid would go forward only if it is felt it does not undermine that accord.

Or, there is an alternative: or unless a negotiated cease-fire is in place between the Government of Nicaragua and the Nicaraguan resistance, then humanitarian aid can go forward.

It seems to me that this proposal warrants the support of those who want humanitarian aid and those who want aid to the Contras. Those who do not want to undermine the Guatemalan peace process and are interested in peace there should support this amendment.

I remind all Senators that the Costa Rican President, Oscar Arias, who just won the Nobel Peace Prize for his efforts in peace there, in Oslo, the day before yesterday, called on the Reagan administration to stop all aid to the Nicaraguan rebels, including humanitarian and other so-called nonlethal funding that he expected would be considered by Congress this week. Obviously, President Arias did not want any further lethal assistance to go to the resistance.

One more quotation from the Washington Post story about the statements by President Arias. The Post said:

> For the Sandinistas, Arias suggested, more U.S. money to the Contras simply provided an excuse for Managua to keep fighting and to delay implementation of the peace plan's provisions for domestic political freedoms.

So I urge that this amendment be adopted, so that we behave only in ways consistent with, not undermining, the peace process.

Mr. HOLLINGS. Mr. President, will the Senator from California yield, please?

Mr. CRANSTON. Certainly.

Mr. HOLLINGS. That is just exactly what you read. Let us begin at the beginning. Does the Guatemala peace plan approve of the humanitarian aid that has been given by the United States to the Contras in the last 3 months? I think it was $3.2 million, or $3.5 million. I think we have given $6.7 million in humanitarian aid to the Contras compared to $150 million lethal aid given by the Soviets to the Sandinistas, but that is beside the point.

Does the Guatemala peace plan approve of humanitarian aid to the Contras?

Mr. CRANSTON. The Guatemala Peace Accord does not approve humanitarian aid.

Mr. HOLLINGS. Does approve it?

Mr. CRANSTON. Does not, no.

Mr. HOLLINGS. So your method says the majority of the five Central American Presidents have to advise the President of the United States in writing that such expenditures are consistent with the provisions of the Guatemala peace plan so you know already what that certificate is. That is a nonstarter. They will never get that.

You have already got Arias saying do not give any aid, and you say yourself the Guatemala peace plan does not sanction it, so how are you going to get this kind of certificate? What kind of amendment is that?

Mr. KERRY. Will the distinguished Senator yield?

Mr. HOLLINGS. The Senator from California has the floor.

Mr. CRANSTON. I am delighted to yield.

Mr. KERRY. The distinguished Senator is not reading correctly the intent of the amendment or what President Arias has said or the peace plan.

President Arias for a long period of time approved as being in keeping with the spirit and intent of the peace plan humanitarian assistance. He was for it. He said it was within that spirit. He now has changed because of recent events in Santo Domingo where he found that the combination of Cardinal Obando y Bravo and the Contras was not trying to negotiate a cease-fire but was trying to immediately engage in a political dialog. Therefore, he felt that in order to eliminate any ability of the Sandinistas to confuse the situation as to who was trying to make peace it was better to be clean, to be clear, to cut anything and then you would be able to proceed forward at that point with a clear reading of who was obfuscating the peace process.

I am convinced and I think others who have been there—I would like to hear from the distinguished chairman of the subcommittee—he has talked with all of these Presidents. Each of them has felt that if you have a cease-fire in place it is totally appropriate to have humanitarian assistance to the Contras and so all we are trying to do is stay within the earlier parameters of the peace plan and the intent of the Presidents.

Mr. HOLLINGS. If the distinguished Senator from California would yield again, as I see it, the distinguished Senator from Massachusetts has said once they surrender—we will start getting humanitarian. Let us be sensible about this thing.

The Senator from California said we have to conform with the Guatemala peace plan and says in the same breath that the Guatemala peace plan does not sanction humanitarian aid to the Contras.

If there were any doubt about it, the distinguished Senator from Massachusetts now confirms, and you have just stated the article, that Arias has no idea of approving it. So there, right now, he is the leader of the particular peace plan, so you have asked for a nonstarter.

Now, I have never heard of this national Congress of the U.S. Govenment appropriating money under the approval of five Latin American countries. I just never heard of that. I just think it is totally out of order. Let us assume we would be that loony at 1:20 in the morning. If we were going to do that, you could not get it the way you have written it out. I mean, what you said here is you copied the Stevens amendment and then at the last part you just put a proviso in there. It is like that Capital Life insurance policy we had down there when I was Governor. They were looking for a slogan, and they finally decided the slogan was "Capital Life will surely pay if the small print on the back don't take it away."

Here is what you have. You have the whole humanitarian aid. We have all gotten in the room together, all sides. We have gotten down to bare bones of a $9 million amount and now you have come out at 1:30 in the morning and say "Oh, by the way, you can't have it all because nobody is going to get a certificate."

Ronald Reagan is a pretty good communicator, but he will never get that certificate. You are just saying it is not consistent with the Guatemala peace plan, and he said otherwise, that Arias says you cannot have it anyway, and he is cussing us out for getting it. I never heard such an amendment.

Mr. CRANSTON. I point out that Arias is not given a veto or Ortega is not given a veto.

Mr. HOLLINGS. You read the news article.

Mr. CRANSTON. It says three out of five takes a majority of the governments there.

Mr. HOLLINGS. Excuse me, we have to get a majority there.

Mr. CRANSTON. They can make the decision. They can decide to undermine or not undermine the peace process that our Government states it is our desire to have work. That is the testimony of Secretary Shultz before the Foreign Relations Committee.

Mr. HOLLINGS. I tell you we really have a busted government if we have to borrow the money we spend and now we are going to borrow it for the approval of a majority of Central American Presidents. Come on, man. That is no amendment.

Mr. CRANSTON. I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, let me try if I can address the good colleague and friend here, Senator HOLLINGS, on a couple points.

First of all, it is not unprecedented for the United States to deal with other countries as we are dealing with the proposed amendment here.

Our bilateral assistance programs function on the basis that the recipient country will handle the money accordingly. So there is——

Mr. HOLLINGS. Not necessarily recipients.

Mr. DODD. There is precedent where we just do not decide ourselves how bilateral programs will work. Multilateral development banks and other programs where we contribute money and many other people decide, in fact amendments are offered every year all the time trying to constrain how our delegates should vote in those matters. It is not unprecedented for dollars that are voted by this institution or others to be determined by others.

We object to it all the time. There are various ways those moneys are expended.

So what we are proposing here today is not something totally unique. That is the first point.

The second point is the Arias peace plan has already been modified, if you will, in a variety of places. You will not find anywhere the Esquipulas II agreement that the opposition forces, if you will, the insurgents should negotiate. That agreement only says that the political opposition within the countries you must begin a dialog with them. Either side will tell you that there is a spirit there that incorporates a requirement that there be negotiations between insurgencies and governments and that is now going on in Guatemala. It is going on in El Salvador, and it is going on indirectly in Nicaragua.

There are those who will tell you there is a legal argument here that assistance provided to the Contras pursuant to paragraph 5 of the agreement that any outside government should not be providing assistance and it describes that assistance in a variety of ways. When those appropriations came along in October, November, and December, you are correct, no one stood up here and objected because the general sense was let us give this process a chance, let us not quibble about $2 or $3 or $4 million to the Contras in order to keep this process moving. That was the idea.

Most of my colleagues know, or many know here the last 2 or 3 days I have gone all over this floor. I supported additional assistance to the Contras. I offered an amendment to many of my colleagues here that did that.

It also can put it on a contingency if you will. It says we are going to do what Secretary Shultz said since August, and I agree with him, this is a Central American peace plan.

He was highly critical of the Speaker of the House of Representatives, because Americans were getting involved in negotiations, and many thought the President and the Secretary were not entirely wrong in that criticism.

This is a matter that ought to be decided by the Central Americans, give them a chance to do it.

For the months of August, September, October, November and December, up to now we have done it. Tonight we are not going to.

We are within just a few days of January 15. On January 15 five Presidents will sit down in San Jose, Costa Rica, and they will decide whether or not this plan has been complied with.

As the chairman of the observer group, along with my colleagues, five others who served with me, I got to tell you I do not necessarily think it is going to work. I wish for Christmas it would and this holy day and holiday season it would work.

I tell you when you got five countries and three guerrilla groups and countless opposition parties and outside influences like Soviets, Cubans, and others, this is a difficult problem to resolve.

So if you are betting people, you would probably bet it will not work, but for the life of me I do not understand why we cannot wait 3 more weeks and give it a chance, and why we cannot say to four of those five Presidents who were democratically elected, who embrace our values and principles, go ahead and see what you can do, and we are prepared to say on January 15 it ends. And if you say you want some more aid and you believe it is consistent with that we will go along with you, in fact if they will say it tomorrow, if three of them will, you will get it, you will get everything the Senator from Alaska asked for, including the last provision that modifies the request that allows for lethal assistance to go forward. We are saying you get all of it, but let the Central American Presidents tell us that because of this unique set of circumstances that the President of our country, the Secretary of our State, and the majority of us here recognize is worth trying. It is just worth trying.

I got to tell you something else tonight. If this thing goes down, and it may, I think we are going to regret it because we are going to be back to the old Contadora days. Remember those days with the Mexicans, Venezuelans, Panamanians, and Colombians and the support groups all deciding what this is going to look like. We will be back to a lethal aid argument here instead of trying to bet on peace tonight and freedom in Nicaragua and freedom in Central America, not just peace, to bet on that tonight and instead of betting whether this war is going to continue. We will be back here all next year and the year after fighting, nickel and diming it on the Contra assistance, to defining humanitarian, lethal, nonlethal, and whether or not you can send boots or tanks or planes or helicopters. That is ridiculous.

That is ridiculous. That is absolutely ridiculous. We look like fools. We are either for this or not. We either believe that the Central American peace process deserves a chance or not. But let us not fiddle around with it.

Why not give them a few more weeks? The amendment by the Senator from Massachusetts and the Senator from California gives you that chance. It is not going to destroy the Contras. They are not going to fade and wither on the vine between now and January 16 or January 17. It is just not going to happen. No one in this country believes that. No one in this Chamber believes that is going to happen.

Why not give it a chance? That is all that amendment does. It just says, let those people decide what they want. And if we do not have the courage to let four democratically elected governments try and give us some guidance on this issue after after everyone in the administration and in this Congress has said it deserves a chance, believe me, we are making an historic mistake. It is an historic mistake and we can see this process fail. And, believe me, the alternatives are not very pretty. And I think history will judge us poorly.

So let us adopt this. Embrace totally every single dotted I and crossed T in the Stevens amendment. And if they want that, you get it. You get everything you have asked for, the $9 billion and all the other stuff.

If those guys say they want it, let them belly up to the bar. Let them say this is important. If they do that, they get everything you asked for. I think the money is high, but I am saying you get it.

But let them tell us they want it. That is consistent with that plan. Give it until January 15. If it fails, we all know we will be back here as soon as we come back and there will be amendments offered to increase the lethal assistance and we will debate that.

But, for the life of me, for a few more weeks, I think this deserves a chance. I hope we will not have to have a divisive vote. We could accept this language, adopt the Stevens wording, and let us get to conference and give this an opportunity that it deserves.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The minority leader.

Mr. DOLE. Mr. President, I do not know what time it is over there, but over here it is after 1:30. I do not know how long we want to continue this, but it seems to me maybe we reached a point where we ought to come back tomorrow morning.

It was my understanding that we were going to try to finish the bill tonight and when we got to a point that we needed to move, there would be a joint effort by the leadership to try to move on with the bill.

I have not consulted with the majority leader, but I would like to move to table this amendment so we can move on to the next amendment so we can complete action on the CR. I do not want to stay here all night. Maybe the rest of you do. I do not intend to stay here all night, if I can help it.

But I would hope maybe the majority leader would indicate what he may have in mind.

Is there some willingness to get a time agreement on this amendment? We have been on it for about an hour.

Several Senators addressed the Chair.

Mr. DOLE. I have not yielded the floor.

The PRESIDING OFFICER. The minority leader has the floor.

Mr. KERRY. Will the minority leader yield?

Mr. DOLE. I am happy to yield.

Mr. KERRY. Mr. President, I think we are almost ready to go to a vote. We are perfectly happy to enter into a time agreement. As I said earlier, we have no reason to delay.

Mr. HOLLINGS. I just want 2 minutes or 1 minute.

Mr. DOLE. I do not want to shut off anyone, but I do think we have at least one or two more amendments coming from over there. If they are all going to take an hour or two, we are looking at 5 or 6 o'clock in the morning. That was not my understanding.

The point was, if we got to a point we could finish tonight, we would finish. We may now be at a point where we cannot finish. I think we need to make that judgment. That will be made by the majority leader.

But, hopefully, we can do something to move this bill along. Everybody has been cooperating, pushing people all day on both sides, either not to offer their amendments or to offer their amendments. I think we ought to do something, vote or go home.

Mr. BYRD. Let us vote.

Mr. STEVENS. Mr. President, will the Senator yield?

Mr. DOLE. I yield the floor.

Mr. STEVENS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, I appreciate what the distinguished leader has said. I think the Senator from Louisiana has done a fantastic job of moving this bill along. It does contain 13 bills, after all.

I said I would get the information to answer the question of the Senator from Massachusetts. I am now informed that there is $1.5 million left in that previously authorized amount. Only $500,000 of that is authorized for lethal aid that has been committed.

Under the CR, the three CR's to date, the movement of moneys, movement of goods under the previously authorized legislation, both lethal and nonlethal has been commingled with that. That was authorized first in the Wright amendment in the first CR and has been extended by changing the dates in the second and third.

So I hope there is no misunderstanding. This Senator opposes the continuation of any additional lethal aid so long as this peace process is going on. We are not authorizing any new lethal aid. We are not changing any of the rules of the game as far as what has been going on in the movement of previously authorized assistance.

As I said, it was assumed when I said $1½ million in lethal assistance. There is only $500,000 left of the over $100 million that was authorized previously.

Let me, if I may, just make two comments and then I will retire and wait for the motion to table or whatever it is that the leaders are going to make.

The amendment that has been suggested here now to the amendment I have offered on behalf of the administration is for the purpose of assuring that the peace process will go on with a level playing field. If we do not continue this assistance to these people who are now widely dispersed—as opposed to being in two or three different camps, they are widely dispersed and, therefore, the cost of moving just humanitarian assistance is greatly increased—the Sandinistas will win by default.

The effect of the amendment that has been offered here now is this: It says: "Notwithstanding any other provisions of this section, none of the funds authorized in this section shall be expended unless (a) a majority of the five Central American presidents advise the President of the United States in writing that such expenditures are consistent with the" peace accords that have already been entered into.'

Now, that means on December 16 we cease to have the money, any additional money for humanitarian assistance. If there is anyone that I have learned to really respect in this last year, it is Gen. Colin Powell. He told us today that the money will run out before the end of this month. It means that we will have to pick these people up and bring them out because I think everyone here has admitted the peace process has not yet brought about a cease fire. These people will be totally subject to annihilation unless we maintain their ability to move.

One thing that General Powell reminded us of today was that he had been a young captain in Vietnam and had to move, along with the Vietnam troops that he was with, and they carried 14 day's rations. He said that is what these people are doing. They are moving on foot and they are carrying their supplies on their backs and they catch up with them and give them resupplies.

Now, if we do not resupply them between now and the end of this peace process, they are literally dead.

Now, I do not believe that this should be looked at as a lethal aid amendment. It is not. It is an attempt on the part of the representatives of the President of the United States and this Senator to assure that the peace process will work. It specifically says that if the President finds that the peace process has worked by January 17, all of this money goes over to an international humanitarian group. I think that is enough. I believe we should reject this amendment.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, I wonder if, when we vote on this amendment, that we can have it understood if it is tabled that we go immediately to——

Mr. DOLE. Up or down.

Mr. JOHNSTON. Up or down? That we then go immediately to the vote on the main amendment? If we can, then we ought to be able to finish this bill up in short order.

The PRESIDING OFFICER. The Senator from Louisiana controls the floor.

Mr. KERRY. Would the distinguished manager yield?

Mr. JOHNSTON. Yes.

Mr. KERRY. If this fails, I do not believe anybody is seeking a rollcall vote on the next.

Mr. HARKIN. That is not the point. There may be some who want to talk on the underlying amendment.

The PRESIDING OFFICER. Does the Senator from Louisiana seek unanimous consent?

Mr. JOHNSTON. Mr. President, no. But I would hope we could abide by the result of this forthcoming vote and be able to prepare to finish this bill quickly.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. The distinguished Senator from California has stated that humanitarian aid is not sanctioned under the Guatemala peace plan. His amendment asks that the five Presidents, or a majority of the five, approve of what they do not sanction. We know that already. Everyone agreed on the $9 million and all the other provisions that we compromised on with Senator STEVENS, but now we have the amendment of the Senators from California and Massachusetts and you know that humanitarian aid is not approved of by either the spirit or letter of the Guatemalan peace plan. Mr. Arias, the head of it, says cut off all aid. We know what his vote would be. He is asking for the impossible, namely that the money cannot be expended until you get that kind of certificate. We will never get them through until January 15, so I hope it will be tabled.

The PRESIDING OFFICER. The majority leader.

Mr. BYRD. Both the opponents and the proponents of the amendment have indicated not only a willingness but a desire to vote. The distinguished Republican leader, of course, can move to table. He has indicated he is willing to get an up or down vote on it.

I see two Senators standing—three? I ask unanimous consent that there be a maximum of 5 minutes for debate.

The PRESIDING OFFICER. Is there objection? Hearing none, it is so ordered.

Mr. HARKIN. Reserving the right to object, 5 minutes for everyone?

Mr. BYRD. No. No. Maximum 5 minutes for debate; 1 minute to the Senator here, 1 minute for that Senator, and 1 minute for that Senator, and 2 to this one.

Mr. DOLE. I want only 30 seconds.

The PRESIDING OFFICER. Is there objection? Hearing no objection, it is so ordered.

The Republican leader.

Mr. DOLE. I want to remind my colleagues of a couple of things. It is a $600 billion measure out here on the floor. We have done masterful work today, managers. We are talking about $9 million. I cannot compute what percent that is, but it is not very much.

Second, this is a request from the same President that we have been praising all week for his remarkable work on arms reduction. He is only asking a little bit because he believes in this program. Just as he was criticized a few years ago because he would not agree to some arms reduction package and he prevailed and we have all applauded that, I think the President may have a point here.

So I would hope we might defeat this amendment.

The PRESIDING OFFICER. The Senator from Washington.

Mr. EVANS. Thank you, Mr. President. It is tough when we have been dealing with over $600 billion of appropriations, crammed the three most important of those appropriations, which have never been on the floor here, in 1 day and I understand the difficulty of that. But let me proceed. I may have something to say on the third reading on this.

But let me proceed for the few seconds I have to say I have opposed Contra aid consistently. I believe that instead we should have done what is now being done and that is defer to the Central American Presidents; that a peace accord in Central America ought to be a peace accord of those for whom Spanish is a primary language, those who are neighbors and who live there.

But, Mr. President, I fear that this amendment will put an unfortunate and perhaps inadvertent burden on the Presidents of Central America. I had the honor of going with the chairman of the Americas Subcommittee, the Senator from Connecticut, this last weekend to Central America. We talked with three of the five Presidents and if there is one thing I found it is, that there is a vastly different idea of what constitutes consistency with the Central American peace accord when you talk with each of those three.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. EVANS. Mr. Majority Leader, I would ask for 1 more minute, if I might?

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. EVANS. They have great difficulty in getting together. That is one of the biggest problems they have right now, is trying to get a consistent view among themselves as to what constitutes appropriate compliance with the Central American peace accord. Now we are going to add an additional burden on their shoulders.

I think, inadvertently, we may be deterring them, not encouraging them, to move toward the kind of accord we would like to see.

Four out of five countries receive aid from this Nation. They feel varying degrees of dependency on the United States and now we are asking them to take on the burden by a majority vote of deciding something that is of such terribly important consequences and such narrowly divided thoughts from those of us in the Nation.

Mr. President, I just do not believe, in spite of the honest attempts of those who would propose this amendment, that we are doing any favor to these Central American Presidents nor the Central American peace accord. I believe quite the contrary.

The PRESIDING OFFICER. The Senator's time has expired.

The Senator from Iowa.

Mr. HARKIN. Quite frankly, this vote is whether you support the Guatemala peace accords or whether you do not. The Senator from South Carolina made his point about the assistance going down there and whether or not it was in accordance. Well, if you are opposed to the Guatemalan peace accord, obviously you would vote against that and that could be a legitimate position someone could take, but if you favor the Guatemala peace accords and you want to see them work, then I think the only vote is a vote in favor of the amended provision.

The distinguished Senator from Washington said that he did not think it was fair to put an additional burden, to burden the Central American Presidents with this additional requirement. Well, they have elected to take this burden upon themselves already and I think they have come through magnificently.

Whether you are talking about Oscar Arias or President Azcona or President Duarte or President Hurtado, they have all taken this burden upon themselves to decide for themselves how they are going to settle those differences within Central America.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. HARKIN. I ask for just 30 additional seconds.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. HARKIN. I think they are not doing anything other than what they have already done to themselves in saying to themselves that we are going to settle these differences in Central America. This does not add any additional burden. All this says is we respect that decision you made in August to take this burden upon yourself.

What we are saying with this amendment is that we respect that and we are going to let you have the burden of deciding how peace comes to Central America.

The **PRESIDING OFFICER**. The Senator's time has expired.

The Senator from Massachusetts.

Mr. **KERRY**. Mr. President, I know we are not going to change any vote in this last minute but I would like to make it clear for the record: I heard the Senator from Alaska say if we do not give this aid, they are going to be dead. I cannot believe that after 6½, 7 years after aid to the Contras, after listening to how much territory they control, how popular they are, how incredibly supported they are by the people of Nicaragua, that for 30 days without supplies from the United States they are suddenly going to melt away?

If that is true, then we should not be debating this issue and they should not be receiving aid in the first place if they fade away that fast. The rebels in El Salvador go 365 days a year without supplies and they survive because there is support.

Mr. President, Newsday, the Washington Post, about 1½ weeks ago, I quote: "The Contras have more supplies than they ever had before," the State Department source said:

> Last month, according to a State Department official, almost twice as many military and logistical supplies were parachuted to rebels.

Newsday: "U.S. is rushing to fill Contras' supply pipeline."

> Bosco Matamoros, military spokesman for the Contras, said the rebels are burying the equipment in their areas of operation enabling them to fight even if U.S. military air drop ceased.

Mr. President, if the Contras cannot survive for 30 days, they do not deserve the support of the American people or of our taxpayers' money and I think we ought to support this peace plan. That is all this vote calls for and I hope we will do it.

The **PRESIDING OFFICER**. The Senator's time has expired.

Mr. **DURENBERGER**. Mr. President, I rise tonight to indicate my opposition to further aid to the Contras. I am opposed to both the Kerry-Cranston amendment and to the Stevens amendment.

I understand that the current aid package is the product of long negotiations. But I cannot support the provision of $9 million more in aid for the Contras—for humanitarian, nonlethal, or any other purposes. I recognize that there are certain positive provisions in this measure. Aid is authorized only until the end of February 1988. And if a cease-fire is in place in Nicaragua, and the Sandinistas are in compliance with the terms of the Arias plan, the remainder of the aid shall be turned over to international humanitarian organizations.

But these steps are not enough to garner my support. I want the record to show that I oppose sending further lethal or nonlethal aid to the resistance forces in Nicaragua. I have taken this position consistently and repeatedly in past years. Yet again I find myself on the floor of the Senate laying out my reasons for opposing aid to the Contras.

I was, to use the words of a not too humble former U.S. Secretary of State, "present at the creation" of the U.S. Contra aid policy in the beginning of this decade. I saw how an arms interdiction operation grew into the largest peasant army Latin America has ever seen. I saw how a policy conducted in secret fell apart due to an obsession with secrecy. And I saw how an agency charged with providing objective information about events could not do so because it was also charged with directly influencing those events.

I came to a conclusion—before I assumed the chairmanship of the Senate Select Committee on Intelligence—that our Nicaragua policy could not be effectively conducted as a covert action. This was not a decision I came to lightly but, in reviewing the recent history of our policy in Central America, it was a correct decision.

This body cannot continue to make vital national security decisions without access to full information. And as long as our aid is supplied as part of a covert action, only the 15 Senators on the Intelligence Committee have the opportunity to truly understand what we are trying to achieve, how we can measure progress, and whether we need to reevaluate our approach.

The administration says that more aid for the Contras is necessary to maintain leverage against the Sandinistas. That may be true—but I cannot adequately judge the merit of this argument because I do not know what role our last $100 million in aid played in the recent events in Central America.

The administration says that nonlethal aid does not violate the Guatemala accord reached last August and will not hinder its implementation. President Arias of Costa Rica—the author of the plan—says that the United States should call the bluff of Daniel Ortega and his cronies and not provide any more excuses for repression. President Arias opposes further aid. I believe this body should respect the wishes of the democrats in Central America. And I think this body should consider that the leaders most directly affected by the Sandinistas do not support more aid for the Contras.

I believe that the United States national security interests require that we pursue a course of action that supports the democratic leaders in Central America. Our interests may not always dictate that we support the views expressed by Presidents like Oscar Arias and Jose Napoleon Duarte. But at this time and under these circumstances, it is my judgment that our interests and the interests of democratic leaders in Central America converge on the issue of providing further aid to the Contras.

Mr. President, I am not convinced of the need for further aid to the Contras. And I am not convinced that more aid will serve the cause of peace in Central America. For these reasons, I must oppose the Stevens amendment.

Mr. **ADAMS**. Mr. President, I rise in opposition to this amendment to provide $9 million to the Contras for humanitarian aid. Two days ago, President Arias, the distinguished author of the Central American peace plan, urged President Reagan and the Congress to resist providing any additional funds to the Contras. President Arias believes that any additional funds for the Contras will make it easier for the Sandinistas to avoid instituting democratic reforms in Nicaragua, thus undercutting the peace process.

The Arias peace initiative is the single best hope we have for bringing a lasting peace to Central America. If we vote here to undercut that process, we will be voting to undercut our objective of establishing democracy in Central America.

This Senator believes that we must give peace a chance to work. Even so-called humanitarian aid in the past has been diverted to military purposes. As we vote on this $9 million, we have no assurances that this money will go for purely humanitarian needs.

We should have learned by now that the United States cannot impose a solution on Central America. We rather must begin to realize that the Central American nations, themselves, have a right to define their destiny. Only when the national security interests of the United States are clearly at stake can we justify actions contrary to their desires. In this case they are saying to us hold back your aid to the Contras—give us a chance to work through our problems to bring peace and democracy to our people.

I urge rejection of this amendment.

Mr. **CRANSTON**. I announce that the Senator from Delaware [Mr. BIDEN], the Senator from Tennessee [Mr. GORE], the Senator from North Carolina [Mr. SANFORD], the Senator from Illinois [Mr. SIMON], and the Senator from Mississippi [Mr. STENNIS] are necessarily absent.

Mr. **SIMPSON**. I announce that the Senator from Wyoming [Mr. WALLOP] is necessarily absent.

I further announce that, if present and voting, the Senator from Wyoming [Mr. Wallop] would vote "nay."

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 38, nays 56, as follows:

[Rollcall Vote No. 412 Leg.]

YEAS—38

Adams
Baucus
Bingaman
Bumpers
Burdick
Byrd
Cohen
Cranston
Daschle
Dodd
Exon
Ford
Glenn
Harkin
Kennedy
Kerry
Lautenberg
Leahy
Levin
Matsunaga
Melcher
Metzenbaum
Mikulski
Mitchell
Moynihan
Packwood
Pell
Proxmire
Pryor
Reid
Riegle
Rockefeller
Sarbanes
Sasser
Specter
Stafford
Weicker
Wirth

NAYS—56

Armstrong
Bentsen
Bond
Boren
Boschwitz
Bradley
Breaux
Chafee
Chiles
Cochran
Conrad
D'Amato
Danforth
DeConcini
Dixon
Dole
Domenici
Durenberger
Evans
Fowler
Garn
Graham
Gramm
Grassley
Hatch
Hatfield
Hecht
Heflin
Heinz
Helms
Hollings
Humphrey
Inouye
Johnston
Karnes
Kassebaum
Kasten
Lugar
McCain
McClure
McConnell
Murkowski
Nickles
Nunn
Pressler
Quayle
Roth
Rudman
Shelby
Simpson
Stevens
Symms
Thurmond
Trible
Warner
Wilson

NOT VOTING—6

Biden
Gore
Sanford
Simon
Stennis
Wallop

So amendment No. 1353 was rejected.

Mr. DOLE. I move to reconsider the vote by which the amendment was rejected.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question is now on agreeing to the underlying amendment. All those in favor will indicate by saying aye. Opposed will say no.

In the opinion of the Chair, the noes have it.

Mr. ADAMS. Regular order.

Mr. CHILES. Division.

Mr. BYRD. Mr. President, the Chair announced the vote without saying the yeas or the noes appear to have it, giving no Senator an opportunity to ask for a division or the yeas and nays. I have been cautioning Presiding Officers about this and perhaps this is a good example of the reasons why.

The PRESIDING OFFICER. The Chair is in doubt. All those in favor will indicate by saying aye. All those opposed will say no.

The Chair will have a division. All those in favor of the underlying amendment will stand and be counted. The clerk will count.

The ayes will be seated. The nays will stand.

The ayes appear to have it. The ayes do have it. The amendment is agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. JOHNSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1354

(Purpose: To express the sense of the Senate that one of the new nuclear aircraft carriers provided for fiscal year 1988 should be named the U.S.S. *John C. Stennis*)

Mr. JOHNSTON. Mr. President, did Senator Stevens have a final amendment?

Mr. STEVENS. Mr. President, I have an amendment and I would like to just take a minute. He is not on the floor at the present time, but I have served now for a great many years with the distinguished chairman of the Appropriations Committee. He has been the chairman of the Defense Subcommittee at one time and then I was and now he is once again. I have never known a man like this in my life, who has the stamina and the will to continue and the great love for this country that John Stennis does.

I send to the desk an amendment on behalf of Senator Warner and myself and many others.

The PRESIDING OFFICER. The clerk will read the amendment.

The assistant legislative clerk read as follows:

The Senator from Alaska [Mr. Stevens], for himself, Mr. Warner, Mr. Hatfield, Mr. Nunn, and Mr. Johnston, proposes an amendment numbered 1354:

It is the sense of the Senate that the Secretary of Defense should name one of the new nuclear aircraft carriers provided for fiscal year 1988 the U.S.S. *John C. Stennis*.

Mr. STEVENS. I ask unanimous consent that all Members of the Senate be cosponsors of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The list of cosponsors is as follows:

Mr. Stevens, Mr. Warner, Mr. Hatfield, Mr. Nunn, Mr. Johnston, Mr. Adams, Mr. Armstrong, Mr. Baucus, Mr. Bentsen, Mr. Biden, Mr. Bingaman, Mr. Bond, Mr. Boren, Mr. Boschwitz, Mr. Bradley, Mr. Breaux, Mr. Bumpers, Mr. Burdick, Mr. Byrd, Mr. Chafee, Mr. Chiles, Mr. Cochran, Mr. Cohen, Mr. Conrad, Mr. Cranston, Mr. D'Amato, Mr. Danforth, Mr. Daschle, Mr. DeConcini, Mr. Dixon, Mr. Dodd, Mr. Dole, Mr. Domenici, Mr. Durenberger, Mr. Evans, Mr. Exon, Mr. Ford, Mr. Fowler, Mr. Garn, Mr. Glenn, Mr. Gore, Mr. Graham, Mr. Gramm, Mr. Grassley, Mr. Harkin, Mr. Hatch, Mr. Hecht, Mr. Heflin, Mr. Heinz, Mr. Helms, Mr. Hollings, Mr. Humphrey, Mr. Inouye, Mr. Karnes, Mrs. Kassebaum, Mr. Kasten, Mr. Kennedy, Mr. Kerry, Mr. Lautenberg, Mr. Leahy, Mr. Levin, Mr. Lugar, Mr. Matsunaga, Mr. McCain, Mr. McClure, Mr. McConnell, Mr. Melcher, Mr. Metzenbaum, Ms. Milkulski, Mr. Mitchell, Mr. Moynihan, Mr. Murkowski, Mr. Nickles, Mr. Packwood, Mr. Pell, Mr. Pressler, Mr. Proxmire, Mr. Pryor, Mr. Quayle, Mr. Reid, Mr. Riegle, Mr. Rockefeller, Mr. Roth, Mr. Rudman, Mr. Sanford, Mr. Sarbanes, Mr. Sasser, Mr. Shelby, Mr. Simon, Mr. Simpson, Mr. Specter, Mr. Stafford, Mr. Symms, Mr. Thurmond, Mr. Trible, Mr. Wallop, Mr. Weicker, Mr. Wilson, and Mr. Wirth.

Mr. JOHNSTON. Mr. President, time does not permit a recitation of the merits and qualities of Senator Stennis. If it did, we would indeed be here until Christmas eve. I enthusiastically endorse this. it is cleared by everyone in the Senate.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from Alaska [Mr. Stevens].

The amendment (No. 1354) was agreed to.

(Applause, Senator rising.)

The PRESIDING OFFICER (Mr. Graham). The Senator from Iowa.

Mr. HARKIN. Mr. President, I will shortly be sending an amendment to the desk concerning an unusual procedure that we have had here in this body for the last year and a half, unusual because it pertains to only one certain request that would come from the President.

The amendment that I will send to the desk would repeal those provisions in the 1986 and the 1987 military construction appropriations bill which require Congress and the Senate in particular to consider Presidential requests for Contra aid under fast track or expedited procedures.

My amendmnent is significant because it would restore normal and regular procedures to the consideration of Contra aid requests. Current fast track or expedited procedures usurp the traditional authority of the majority leader to control floor activities; to sidestep the authority of our standing committees, including the Appropriations Committee and it undermines the most time-honored principles of the Senate, its deliberative authority.

Procedures now in effect strip authority of the Appropriatons Committee and other committees with jurisdiction over foreign aid. Under current law a joint resolution approving Contra aid has to be reported out of committee within 15 days regardless of the vote of the committee or any action taken by that committee.

Furthermore, Mr. President, requests for Contra aid should receive the same consideration as legislation of the equal if not greater importance to our Nation's security. Neither the Department of Defense authorization bill nor the continuing resolution which includes both the foreign aid and defense appropriations bills enjoy fast track consideration. In other words, if we have a request that came down from the President for military aid in the Persian Gulf, or military aid to the defense bill, it does not go through fast track. It goes through the normal regular committee procedures. And I think Contra aid should also.

Furthermore, Mr. President, I think a thorough review of Contra aid is even more critical in the wake of the August 7 signing of the peace accord. Whether or not Congress approves of additional Contra aid is a matter which will determine the future direction of U.S. policy toward Nicaragua, and which could undermine a peaceful resolution of the Central American conflict. I believe any determination of any further aid to the Contras warrants more than just 10 hours of debate on the Senate floor, and warrants more than fast track legislation.

Finally, fast track consideration of a matter of such importance to American foreign policy I think violates the historic mission of the Senate as it was intended by our Founding Fathers. On this point, I am reminded of the story of a conversation between Thomas Jefferson and George Washington on the nature of the Senate. On his return from France, Jefferson called Washington to account at the breakfast table one day for having agreed to a second Chamber, the Senate. "Why," asked President Washington, "did you pour that coffeee into your saucer?" "To cool it" responded Jefferson. "Even so," said Washington, "we pour legislation into the senatorial saucer to cool it."

Well, expedited procedures do not permit the cooling process to take place. And I believe it undercuts our Founding Fathers' original vision of the Senate as a deliberative body which would use its power of debate to check irresponsible or ill-conceived legislation.

On Contra aid, the Senate has been stripped of its constitutional and historic mandate. The amendment that I am offering would do nothing more than restore the Senate's constitutional right to debate. It would restore to the majority leader the right of the majority leader to schedule floor activities. It would restore to the Appropriations Committee the right of the Appropriations Committee to deliberate, to act upon, and perhaps modify the request that came from the President.

It would also I might add permit the Foreign Relations Committee to also exercise its jurisdiction over the legislation. Especially in light of what has happened in the last year with all kinds of secret Iran-Contra dealings and everything else, I think it is incumbent upon us that if indeed—I say "If" because we do not know, but if—another request for military aid, lethal aid comes to this body from the President, let us say in February, late January, or March, I believe that the Senate ought to take its time and deliberate it. We have not fast tracked the INF Treaty. We have not fast tracked anything else but this.

So what this amendment basically would do would be to restore as I said to the Senate its traditional authority to debate and deliberate under the normal procedures of the Senate any further requests for Contra aid.

Mr. BOSCHWITZ. Would the Senator yield for a question?

Mr. HARKIN. I am delighted to yield.

Mr. BOSCHWITZ. Is the Senator going to proceed under a time agreement by chance? How long does he intend to proceed? I may wish to retire.

Mr. HARKIN. The Senator does not know yet. I do not know how much debate this is going to take.

Mr. BOSCHWITZ. I cannot hear the Senator.

Mr. HARKIN. I do not know how much debate this is going to take.

Mr. BYRD. Mr. President, I hope Senators will not heckle the Senator for at least a little while.

[Laughter.]

Mr. BYRD. Let him make his statement. He has the right to speak at this hour.

Mr. HARKIN. If I might interrupt, I do not feel heckled by the question of the distinguished Senator from Minnesota. It is quite a proper question.

Mr. BYRD. I used the wrong word. Mr. President, I hope we will let the Senator speak. But I also hope that the Senator will not speak overly long. And I would hope that we could get to a vote one way or another on this amendment if he does intend to offer it. Does he intend to offer the amendment?

Mr. HARKIN. I intend to offer the amendment. Yes.

Mr. BYRD. Since I have interrupted, would the Senator enter into a time agreement on the amendment?

Mr. HARKIN. I think I might first of all see how many people would like to speak on it, what the flow of debate is before I would enter into the agreement.

Mr. BYRD. I thank the Senator.

The PRESIDING OFFICER. The Senate will come to order.

AMENDMENT NO. 1355

(Purpose: To repeal subsections (p), (s), and (t) of section 722 of the International Security and Development Cooperation Act of 1985, and for other purposes)

Mr. HARKIN. Mr. President, I send the amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Iowa [Mr. HARKIN] proposes an amendment numbered 1355.

At the end of the bill, add the following new section:

REPEALS

SEC. . (a) Subsections (p), (s), and (t) of section 722 of the International Security and Development Cooperation Act of 1985 are repealed.

(b) Paragraph (1) of section 215 of the Act entitled "An Act making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1987, and for other purposes" (contained in Public Law 99-500 and Public Law 99-591) is repealed.

Mr. DOLE and Mr. HARKIN addressed the Chair.

The PRESIDING OFFICER. The minority leader.

Mr. DOLE addressed the Chair.

Mr. HARKIN. Mr. President, I did not yield the floor.

Mr. DOLE. The Senator yields the floor when he sends the amendment to the desk.

The PRESIDING OFFICER. When the amendment is sent to the desk the Senator yields the floor. The second ranking person requesting recognition is the minority leader.

The minority leader is recognized.

Mr. DOLE. Mr. President, it is now 2:20 in the morning, and there is nothing urgent or any emergency about this amendment. It can be offered in the daylight sometime when we are back here in January or February. Maybe it ought to be debated. It may have a lot of merit.

I do not know about the other side, but it is my impression that we have been pushing people all day long on both sides to expedite so that we would be out of here sometime, hopefully, by midnight, and it is now 2:20.

I do not want to cut anybody off, but there is a limit. I think the minority has been cooperating all day long, talking people out of amendments, trying to get time agreements, trying to go through the clearance process; and at 2 o'clock in the morning out comes some amendment. There is no emergency. It is not going to change anything.

We already have an amendment in there for aid. Why not use the expedited procedure to do it, I say to my friend from Iowa?

So I hope that at 2:30 I could be recognized to table the amendment. I ask unanimous consent that I may be recognzied at 2:30 to table the amendment.

The PRESIDING OFFICER. The Senator is asking at 2:30 to be recognized for the purpose——

Mr. DOLE. I think he wants additional time to speak, and I do not want to cut the Senator from Iowa off.

Mr. FORD. How about 2:25?

The PRESIDING OFFICER. It will require unanimous consent to recognize the minority leader at a time certain.

Is there objection?

Mr. HARKIN. Reserving the right to object, I think this is an important issue.

Mr. DOLE. I think it is, too.

Mr. HARKIN. I think it is a very important issue, because it has to do with whether or not we are going to have deliberative rules in the Senate or whether we are going to continue on in this expedited procedure so that none of the committees can perform their jurisdictions and the majority leader cannot schedule the floor activity.

For some reason, this was put into permanent law. It does not sunset in 1 year. This expedited procedure for Contra aid can go on for the next 5 years. It is given permanent life, and I think it should be excised. I think any further requests for Contra aid ought to go through the normal proceedings of the Senate. That is all this amendment does.

I would be willing to enter into a time agreement if we could get an up or down vote on it, and a very short time agreement.

The PRESIDING OFFICER. There is objection to the request for unanimous consent for 2:30 recognition.

Mr. DOLE. Mr. President, I move to table the amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the amendment. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Washington [Mr. Adams], the Senator from Delaware [Mr. Biden], the Senator from Tennessee [Mr. Gore], the Senator from North Carolina [Mr. Sandford], the Senator from Illinois [Mr. Simon], and the Senator from Mississippi [Mr. Stennis] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from Wyoming [Mr. Wallop] is necessarily absent. I further announce that, if present and voting, the Senator from Wyoming [Mr. Wallop] would vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 60, nays 33, as follows:

[Rollcall Vote No. 413 Leg.]

YEAS—60

Armstrong
Bentsen
Bond
Boren
Boschwitz
Bradley
Breaux
Chafee
Chiles
Cochran
Cohen
D'Amato
Danforth
DeConcini
Dixon
Dole
Domenici
Durenberger
Evans
Exon
Ford
Garn
Graham
Gramm
Grassley
Hatch
Hatfield
Hecht
Heflin
Heinz
Helms
Hollings
Humphrey
Johnston
Karnes
Kassebaum
Kasten
Lugar
McCain
McClure
McConnell
Murkowski
Nickles
Nunn
Packwood
Pressler
Quayle
Rockefeller
Roth
Rudman
Shelby
Simpson
Specter
Stafford
Stevens
Symms
Thurmond
Trible
Warner
Wilson

NAYS—33

Baucus
Bingaman
Bumpers
Burdick
Byrd
Conrad
Cranston
Daschle
Dodd
Fowler
Glenn
Harkin
Inouye
Kennedy
Kerry
Lautenberg
Leahy
Levin
Matsunaga
Melcher
Metzenbaum
Mikulski
Mitchell
Moynihan
Pell
Proxmire
Pryor
Reid
Riegle
Sarbanes
Sasser
Weicker
Wirth

NOT VOTING—7

Adams
Biden
Gore
Sanford
Simon
Stennis
Wallop

So, the motion to table the amendment was agreed to.

Mr. JOHNSTON. Mr. President, I move to reconsider the vote by which the motion to lay on the table was agreed to.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1356

Mr. JOHNSTON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Louisiana [Mr. Johnston] for Mr. Dodd proposes an amendment numbered 1356.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill add the following new section:

Section . The Secretary of the Treasury shall instruct the U.S. Executive Directors to the Multilateral Development Banks (the International Bank for Reconstruction and Development, the International Finance Corporation, and the Inter-American Development Bank) to vote against any loan to Panama, unless the President has certified in advance that the conditions set forth in S. 1924, section 569 1-4 have been met.

Mr. JOHNSTON. Mr. President, this amendment has been cleared. The reading of it speaks for itself. It is as follows:

The Secretary of Treasury shall instruct the U.S. Executive Directors to the multilateral Development Banks (The International Bank for Reconstruction and Development, the International Finance Corporation, and the Inter-American Development Bank) to vote against any loan to Panama, unless the President has certified in advance that the conditions set forth in S. 1924, section 569 1-4 have been met.

That tells the whole story. It has been cleared and I yield.

Mr. STEVENS. It has been cleared by both the legislative and the appropriations people on this side.

Mr. BOREN. I want to make it clear that references to the definition of United States assistance to Panama include any assistance by the Central Intelligence Agency which has the effect of directly or indirectly supporting or of providing benefit to the regime of General Noriega.

The PRESIDING OFFICER. Is there any debate? If not, the question is on agreeing to the amendment of the Senator from Louisiana.

The amendment (No. 1356) was agreed to.

Mr. JOHNSTON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question is on the third reading of the joint resolution.

The joint resolution was read the third time.

Mr. BYRD. Mr. President, if my colleagues will indulge me just very briefly. The Senate will go over until Tuesday but on Monday, the conferees on the reconciliation bill will meet at 11 o'clock a.m. and there are 55 Senate conferees.

On the continuing resolution, there will be a considerable number of Senators who will be conferees on that bill and the deadline, of course, is Wednesday at midnight.

So, this means that even though the Senate will not be in session on Monday, I would urge that Senators who are conferees be here so that we can expedite the final action on the conference reports as early next week as possible.

Other than these two conference reports, there may be conference reports on airline passenger protection and airport and airway improvements and other matters that are in conference.

Finally, there could conceivably be a veto override at some point next week before we go out.

I thank all Senators for their cooperation and especially do I thank the managers of the bill on both sides of the aisles and the Republican leader.

Mr. President, I yield the floor.

THE LIHEAP PROGRAM

Mr. KENNEDY. Mr. President, I support the Low Income Home Energy Assistance Program, and I am very concerned about the low Senate funding levels for the program. The continuing resolution contains $1.2 billion, a 32-percent decrease over 1987. I urge the conferees on this measure to recede to the House funding level of $1.8 billion.

The tendency in conference negotiations is often to split the difference in program funding and to avoid negotiating many items separately. But, if LIHEAP is funded halfway between the House and Senate bills, it will suffer a 16-percent reduction from 1987 and a 23-percent reduction from 1986. On two amendments in October, 65 Senators voted to freeze LIHEAP funding at $1.8 billion. Fifty-two Senators, Republicans and Democrats, have signed a letter to the chairman of the Labor/HHS Appropriations Subcommittee, asking a freeze. One hundred and ninety House Members have signed a similar letter.

If we do not keep LIHEAP funding at the 1987 funding level in the House bill, we will be singling out an essential poverty program for drastic reductions. This will have tragic results for millions of poor Americans this winter. Several States have already begun to delay services or make preparations to reduce them in anticipation of reduced Federal support. The cold weather has arrived in many States, and people are going without needed help. We must act this year to provide adequate funding for this crucial program this winter.

I ask the chairman and the conferees to do everything in their power to ensure that energy assistance is treated fairly in the conference report. The simple expedient of applying a percentage cut across the board, or splitting the difference might be quick and easy—but it would be tragic for the 7 million households who need fuel assistance this winter.

PROMOTING COMMUNITY SERVICE

Mr. BUMPERS. Mr. President, there has been much debate in recent years about whether we as a society are less willing to assist those in need through public and community service. This issue concerns me because I see so many persons who need a helping hand and I see an increasing reliance on the private sector and on voluntary service to provide the needed assistance.

On March 17 of this year I introduced two bills, S. 759 and S. 760, which encourage young persons to devote a year or more of their lives to public and community service when they graduate from college; 133 CONGRESSIONAL RECORD S3264–S3268, March 17, 1987. These bills are modest proposals which do not require service, do not cost a great deal. They both seek to move the Government out-of-the-way so students who are willing to serve their community are not prevented from doing so by the obligation immediately to begin repaying the student loans they have taken out to attend college.

Few of my colleagues are aware that under current law student borrowers who serve as low-paid employees of nonprofit community service organizations upon graduation from college may defer repayment of their student loans for up to 3 years. S. 759 simply directs the Department of Education to implement and promote this current program. This bill requires no new authorization or appropriations.

Since I introduced S. 759 I have had several rounds of correspondence with the Department of Education regarding implementation of the current deferment program and I can report that we have made progress.

On March 24 and May 14 I wrote to Education Secretary William Bennett and suggested five actions which the Department could take to increase utilization of the deferment program.

First. The Department could up-date its regulations regarding which nonprofit organizations a student borrower could work for under the deferment program.

Second. It could provide specific information on the maximum compensation which a student can receive from the nonprofit organization under the deferment program.

Third. It could disseminate a dear colleague or similar notice to the student financial aid administrators at the colleges specifying the maximum compensation which may be received.

Fourth. It could revise the brochures and regulations describing the deferment program to explicitly state that students may serve as paid employees of the nonprofit organizations, not as unpaid volunteers.

Fifth. It could contact nonprofit organizations which might use the current deferment program in recruiting employees and direct colleges and universities to make sure that students are aware of the deferment program.

Sixth. Finally, it could begin to collect statistics and information on utilization of the program from colleges and universities.

In his letter to me of May 7 Secretary Bennett agreed to revise the Department's regulations on the deferment program which describe the nonprofit organizations for which a student borrower may work under the deferment program. The Department's regulations on this issue must track those in the VISTA statute. The VISTA statute had been modified and the Department regulations had not been modified to reflect the changes.

In his letter to me of August 28 Secretary Bennett has agreed to specify the rate of pay which the student borrower may receive from the nonprofit organization and to provide information to student financial aid administrators on this issue.

In both of his responses to my letters Secretary Bennett continues to resist my suggestion that the Department revise its "Student Guide" and other publications to clearly indicate that the deferment is available to students who are paid employees of a nonprofit organization, not just to volunteers. The "Student Guide," which is the basic source of information on all students loan programs for our Nation's students, currently states that the deferment is available for full time volunteers. This is misleading. It implies that students may not be compensated by the nonprofit organization, which is not the case.

The statute authorizing this deferment program clearly states that the deferment is available for student borrowers who receive compensation which is comparable to that received by a Peace Corps or VISTA volunteer. The Department now is consulting with VISTA to determine how much VISTA volunteers are paid and the Department will base its ruling for the deferment program on the VISTA pay figure.

Of course, VISTA volunteers are not paid very much. They are paid a subsistence allowance and certain other allowances. But, the key point is that they are paid; they do not serve as unpaid volunteers. It is true that they are called volunteers, but in the context of the deferment program for student borrowers who are paid employees of nonprofit organizations in the private sector it is not accurate or helpful to use the term "volunteer." Student borrowers understand that persons who serve as Peace Corps and VISTA volunteers are given financial support, but student borrowers would not understand that this is also true under the deferment program for volunteers with private sector nonprofit organizations.

In his letter of August 28 Secretary Bennett expressed his reluctance to promote utilization of the program by contacting nonprofit organizations which may be unaware of the deferment program or by directing colleges and universities to inform students about the deferment program.

Finally, in this same letter Secretary Bennett said he would not begin to collect information on utilization of the deferment program despite the fact that there currently are no statistics available on how many students utilize the program, how much in loans they have in deferment status, or what types of nonprofit organizations they work for upon graduation.

The report on the Appropriations Committee bill for the Department of Education, which previously was adopted by the Senate and is here included in the continuing resolution, addresses a number of these issues quite explicitly. On page 131 the report explicitly directs the Department to take the following actions with respect to the current deferment program:

a. Disseminate information to institutions of higher education, tax-exempt organizations and student borrowers regarding the current deferment for work with nonprofit organizations;

b. Revise its regulations, forms, the "Students Guide," and other publications to indicate that student borrowers qualify for a deferment when they serve as "paid employees" of a tax-exempt organization and not state that such deferment is available only for a student who serves as a "volunteer;"

c. Disseminate specific information (presented in terms of the Federal minimum wage) on the maximum level of compensation and allowances which a student borrower may receive from a tax-exempt organization to qualify for the deferment;

d. Require that institutions of higher education participating in student assistance programs establish and maintain administrative records regarding utilization of the deferment and submit such reports to the Secretary.

These directives are quite clear, particularly in the context of the letters I have exchanged with Secretary Bennett. Both I and the Appropriations Committee look forward to working with the Department to implement these directives. I very much appreciate the assistance of the chairman of the subcommittee, Senator CHILES, in seeing that these directives were included in the report on this appropriations legislation and they are incorporated by reference with respect to this continuing resolution.

The current deferment program is a worthwhile program. It does not compel any student to serve the community. The Government is not involved in organizing the volunteer service itself. The cost of the deferment to the government is minimal. The deferment encourages service to the community from private sector organizations. The deferment makes it possible for students who are willing to serve their community to do so.

The deferment program is the minimum that our Government should do to encourage public and community service. The Government should not erect barriers to such service. Delaying the obligation of a student to begin repaying his or her student loans while he or she serves the community is a limited, reasonable and cost-effective program.

With the Department's cooperation utilization of the program can increase so that no student can say, "I just can't afford to serve." They may not choose to serve and they may not be willing to make the sacrifices that the low rate of pay will impose, but with the deferment program fully implemented they will not be able to say, "I can't serve because of my student loans." Promoting the current deferment program will make it clear that this is no longer a valid excuse.

S. 1800, THE 1988 AGRICULTURE, RURAL DEVELOPMENT AND RELATED AGENCIES APPROPRIATIONS BILL

Mr. COCHRAN. Mr. President, the resolution before us today, House Joint Resolution 395, includes the appropriations bill for Agriculture, Rural Development, and Related Agencies. As Senators will recall, the House version of the CR included, by reference, the House-reported version of H.R. 3520. The Appropriations Committee amended the CR to include, by reference, S. 1800, as reported to the Senate on October 16, 1987. The report to accompany S. 1800 is 100-203.

The programs funded in the agriculture appropriations bill affect virtually every step in the food chain. Some of these steps include the conservation of our soil and water resources as a base for production; research on the production of agricultural commodities and livestock; protection of those products from various pests and diseases; assuring the safe and sanitary processing of commodities, along with the fair and appropriate marketing of those products; helping to purchase those products for people who are unable to buy a sufficient amount of food for themselves; and finally assistance in donating food abroad. In addition, crop insurance is available to protect farmers' against loss, and export development activities are conducted to assure markets for their products.

The rural development portion of the bill provides credit programs to rural America. Farmers who are unable to obtain financing from private lenders may come to the Farmers Home Administration for either a direct loan or a guarantee of a private loan. Low-income rural citizens may obtain a low-interest housing loan or may receive rental assistance from the Farmers Home Administration's rural housing insurance fund. Also available from Farmers Home are loans and grants to assure that rural areas have safe drinking water. The Rural Electrification Administration provides loans to rural electric and telephone cooperatives which provide valuable services to rural America.

In addition to the funds provided for the agencies of the Department of Agriculture, funds are included to carry out the responsibilities of the Food and Drug Administration and the Commodity Futures Trading Commission, and a limitation is set on the administrative expenses of the Farm Credit Administration.

As reported by the Appropriations Committee, the Agriculture Appropriations bill includes $35,668,811,000—excluding $21 billion in CCC reimbursement for losses—in total budget authority for fiscal year 1988. After adjustments by the Congressional Budget Office [CBO] and the Senate Budget Committee, the bill is scored at $35,292,350,000 in budget authority and $28,103,639,000 in outlays. These numbers reflect the subcommittee's 302(b) allocation. However, the CR does contain a proviso which reduces these numbers and which, in effect, reduces the subcommittee's 302(b) allocation or target in order to comply with the budget compromise which was announced on November 30, 1987.

In terms of budget authority, the bill exceeds the fiscal year 1987 level by $2.1 billion. Some of the significant increases over the 1987 level are: (a) $2.8 billion reimbursement for past-year losses of Farmers Home Administration revolving funds, which the House insisted be underfunded last year; (b) $1,388,000,000 for the Conservation Reserve Program; and (c) $1.0 billion for the Food Stamp Program, which is a mandatory program. This is the first year an appropriation is provided for the Conservation Reserve Program; therefore, this amount was not included in the fiscal year 1987 amount. The food stamp appropriation is based on current estimates for participation and food costs, both of which have changed significantly in the past year. A significant decrease from the 1987 level is for the Commodity Credit Corporation reimbursement in the amount of $4,228,000,000.

BILL HIGHLIGHTS

One of the highlights of this bill is the committee's recommendation in regard to the Commodity Credit Corporation. In addition to providing the President's request of $21.1 billion for the reimbursement for net realized losses, the committee has increased the Corporation's level of borrowing authority from $25 billion to $40 billion. This approach to funding this account should alleviate the need for any shut-down of CCC operations, and will alleviate the need for CCC supplemental appropriations. All CCC disbursements—including checkwriting and wire transfers from commodity loans, dairy purchases, producers and commercial storage payments, deficiency and diversion payments, conservation reserve program payments, and CCC export guarantee claims—have been suspended five times in the past 3 years.

In addition to providing the first-year appropriation for the Conservation Reserve Program, the bill restores the conservation cost-share programs, such as watershed planning; watershed and flood prevention; the Resource Conservation and Development Program [RC&D]; the Agricultural Conservation Program [ACP]; Waterbank; and the Forestry Incentives Program [FIP]. These programs are administered by the Soil Conservation Service [SCS] and the Agricultural Stabilization and Conservation Service [ASCS], and are needed to provide the national leadership and wise use of our soil, water, and related resources through a balanced cooperative program that protects, restores, and improves those resources.

In the domestic food programs title of the bill, the Committee has provided full funding for child nutrition programs—which includes school lunch and school breakfast programs—and the Food Stamp Program. We have also provided an increase of $141 million over the 1987 level for the Special Supplemental Food Program for Women, Infants and Children [WIC]. Also included in the bill is the full amount authorized—$879,750,000—for the Puerto Rico Nutrition Assistance Program.

Furthermore, adequate funding is provided for continued expansion of U.S. agricultural exports into new markets abroad and for the various export promotion programs authorized by the 1985 farm bill.

Mr. President, the Appropriations Committee has produced an Agriculture Appropriations bill which, I believe, deserves the support of the Senate. I recommend it to my colleagues, and I urge the Senate to refrain from offering extraneous amendments to the agriculture section of this resolution.

CLEARINGHOUSE ON STATE AND LOCAL INITIATIVES

Mr. BUMPERS. Mr. President, I very much appreciate the assistance of the Chairman of the Appropriations Subcommittee on Commerce, Justice, State, the Judiciary, and Related Agencies, Senator HOLLINGS, for including in the continuing resolution $500,000 in funding for the New Clearinghouse on State and Local Initiatives in the Department of Commerce. These funds also were included in the Senate appropriations bill for the Department of Commerce, which previously was adopted by the Senate.

This funding for the Clearinghouse had been included earlier in the Senate appropriations bill for the Department of Commerce and now it has been included in the continuing resolution as well. (Senate Report 100-82 at pages 6-7).

I first proposed the Clearinghouse in S. 930, a bill I introduced on April 7. The Senate Commerce Committee reported the Clearinghouse as part of S. 907, the bill which became its title to the Senate trade bill. (Senate Report 100-80, section 202). The Senate then adopted section 202 as section 4102 of S. 1420, the Omnibus Trade and Competitiveness Act.

Meanwhile, the House Science Committee adopted its own version of the Clearinghouse as title IV of H.R. 2916. (House Report 100-266).

The House and Senate conferees on the Omnibus Trade bill have been meeting and there is strong support for the new Clearinghouse among all of the conferees. It is clear that if and when the Omnibus Trade and Competitiveness bill is signed into law that the Clearinghouse will be established in the Commerce Department.

This is why we have proceeded in the Senate appropriations bill and in this continuing resolution to provide funding for the new Clearinghouse. We want to make sure that as soon as the trade bill is adopted—and I have no doubt that it will be adopted early next year—that the Clearinghouse can begin operations immediately.

The House version of the bill provides for $500,000 in funding for the Clearinghouse and this is the amount that is included in the continuing resolution we are debating here today.

I would note that the funding for the new Clearinghouse is provided in the continuing resolution to the accounts of the Office of the Secretary of the Department. My understanding is that the trade bill conferees tentatively have determined that the new Clearinghouse will be located in the Office of Productivity, Technology and Innovation, rather than in the Office of the Secretary, but I understand that this will make no difference in terms of the funding being fully available to the new Clearinghouse under the continuing resolution.

DEPARTMENT OF LABOR'S PORTABLE PENSION STUDY

Mr. BINGAMAN. Mr. President, I had contemplated offering an amendment requiring the Secretary of Labor to conduct a study of the portability of pensions, similar to the amendment I offered to the trade bill. However, respecting the wishes of the leadership regarding amendments, I would simply like to ask the distinguished chairman of the Labor Appropriations Subcommittee a question. The Department of Labor is undertaking a study of the American workforce—the Workforce 2000 Study. It is my understanding that this study will include an evaluation of the feasibility of providing portability of pensions. Is that the Senator's understanding as well?

Mr. CHILES. I would answer my good friend that yes, this is my understanding. It is our intent that Workforce 2000 will include a study of pension portability. And I would like to compliment the Senator from New Mexico on his insistence that we carefully consider this important issue.

Mr. BINGAMAN. I thank the Senator for his kind words. The importance of pension portability is something on which I believe we all agree. To improve our competitiveness we need to improve the mobility of our labor force. And portability pensions will do that.

While the President has called for a broad study of the American workforce, including a study on barriers to worker mobility due to pensions, I have been told that the Workforce 2000 study may take 2 years to complete. In 2 years, there will be a new President. I simply want to ensure that there will be a study of pension portability which will continue in the next administration. I am glad to hear that this is the Congress' intent.

Mr. STEVENS. I request a point of clarification from my friend, the senior senator from Arizona, Senator DENNIS DECONCINI, regarding section G.

That section authorizes the GSA to sell at competitive bid certain real estate. Am I correct that this sale shall be conducted completely in accord with current GSA practices for selling surplus property regarding the qualifications of the bidders?

Mr. DECONCINI. My good friend from Alaska is correct.

Mr. STEVENS. Thank you. And thus, just as in all other GSA sales of surplus property, the property account established under section 12(b) of the act of January 2, 1976, as amended, may be utilized in this sale?

Mr. DECONCINI. Yes, that is the intent of the legislation.

Mr. STEVENS. Again, I thank my friend for clarifying this point.

TROPICAL DEFORESTATION

Mr. RIEGLE. Mr. President, I rise today in support of a provision within the Senate Foreign Assistance and Related Programs Appropriations Bill, which is contained in the continuing resolution.

This provision will help limit the destruction of the world's tropical forests by promoting greater consideration of the environmental effects of development.

Tropical forests contain the most diverse number of the Earth's species. But since these forests are one of the least known parts of the Earth's surface, only a small portion of the millions of species living in this area have been identified. It is estimated that tropical forests, which occupy only 7 percent of the Earth's land area, provide habitat for 50 percent of the world's plant and animal species. Due to rapid deforestation, these species are being threatened on a level unprecedented in recent history.

Each year an area equal to the size of Pennsylvania is deforested. Deforestation increases the atmospheric concentration of carbon dioxide, creating a "greenhouse" effect which may have dangerous long-term consequences such as a global climate warming.

As leading international institutions which finance development assistance projects around the world, multilateral development banks [MDB's] are involved with billions of dollars which are distributed worldwide to promote economic development through projects ranging from road to dam construction.

Unfortunately, many of these projects are often in very environmentally sensitive areas. For example, in the state of Rondonia, Brazil the World Bank lent nearly half a billion dollars for the "Polonoroeste Project" for road construction and the promotion of large-scale agricultural settlements. During the last 4½ years, a half million people have poured into this area to farm these deforested lands. But the tropical soils are not suitable for most kinds of agriculture so, unable to sustain themselves, many of these migrants are forced to leave the land after a few short and unsuccessful years.

Currently Rondonia has the highest rate of deforestation in the Brazilian Amazon. If these trends continue, Rondonia, which as recently as 1970 had virgin tropical growth, may be largely stripped of its tropical forests by the early 1990's.

Many of these environmental concerns are addressed in this legislation. It directs the Secretary of the Treasury to undertake an analysis of potential initiatives to be implemented through the MDB's, the IMF, and other existing or newly created institutions to enable developing countries to repay portions of their outstanding debt through investments in conservation of tropical forests, wetlands and other conservation activities. The "debt for conservation" initiatives would provide clear encouragement to developing countries to give a higher priority to ecological considerations.

The Secretary of the Treasury is also to instruct the U.S. executive directors of the MDB's to promote a vigorous commitment to the environment by such measures as the addition of staff in ecology and increasing the proportion of lending programs to technical assistance to environmental ministries and natural resources protection, enhancement and rehabilitation.

The tropical forests, with their rich and varied life forms within these ecosystems must be preserved. The damage caused to the people who live in these areas, their land, and the global effects of this destruction must be halted. This legislation takes some very positive steps toward that goal.

SMOKIES WILDERNESS LEGISLATION

Mr. SASSER. Mr. President, along with the Senator from North Carolina, I have an amendment which would designate certain lands in the Great Smoky Mountains National Park as wilderness. It is our desire to move forward with the amendment at this time. However, we understand that the chairman of the Public Lands Subcommittee, Senator BUMPERS, and the chairman of the Energy Committee, Senator JOHNSTON, would prefer that we withhold offering such an amendment at this time.

Mr. SANFORD. Mr. President, I would like to associate myself with the remarks made by my distinguished colleague and friend, Senator SASSER. The amendment that has been prepared would designate most undeveloped portions of the Great Smoky Mountains National Park as wilderness and settle a 44-year-old dispute between the Federal Government and Swain County, NC. It would protect one of our country's most outstanding natural areas. This issue has been very important to the citizens of North Carolina and Tennessee alike for many years, and I share the Senator from Tennessee's desire to achieve a solution.

Mr. JOHNSTON. Yes, Mr. President, the Senators are correct. While I understand their desire to resolve this issue quickly, it is my view that this matter should be considered by the Energy and Natural Resources Committee and not done as part of the continuing resolution.

Mr. BUMPERS. Mr. President, I too support the efforts of Senators SASSER and SANFORD to move this legislation along. However, I agree with Senator JOHNSTON that this matter should be dealt with by the Energy and Natural Resources Committee rather than on the floor at this time.

Mr. SASSER. Mr. President, I can certainly appreciate the concerns of the Senators from Louisiana and Arkansas. However, I am very troubled by the continuing stalement on this matter. As my colleagues know, efforts to declare portions of the Smokies as wilderness have been ongoing for more than a decade. For the most part, this has been a bipartisan effort. Indeed, our former majority leader, Howard Baker, has played a central role in promoting this legislation. I would add that Senator Baker continues to support this effort.

While action has stalled on the wilderness question, increased traffic and visits in the Great Smoky Mountains Park have begun to threaten areas of the park. As well, pressures for development of a road in the southern section of the park could create grave environmental damage. It is time that these matters are addressed. And I believe that my colleague from North Carolina can speak to the concerns of the people in Swain County, NC who are so affected by this measure.

Mr. SANFORD. Mr. President, as is so often the case, there are several complex factors beneath the surface of what appears to be a relatively simple issue. But Senator SASSER and I have worked to address these complexities, and I think we have put together a good proposal for a reasonable compromise.

The road spoken of by my friend from Tennessee is the cause of the dispute between the Federal Government and Swain County. Serious environmental problems and massive cost escalation have prevented most of that road from being built. Our legislation would provide fair compensation to the county in the form of a cash settlement. In the long run, this will prove to be of far greater benefit to the county than would the road.

Local residents are also very concerned about the possible loss of access to cemeteries and other sites of historic importance in the north shore area. To address these concerns, we have provided for permanent special access to the cemeteries under the guidance of the Park Service. We have also exempted cemeteries, several access trails, and other structures from wilderness status, to make possible any necessary maintenance activities.

Mr. SASSER. Mr. President, I want to add my own emphasis to the remarks of my friend from North Carolina. There are legitimate long standing grievances raised by the people of Swain County. We have come up with a compromise settlement which deals with these claims in an equitable manner. Our agreement mirrors the Smokies wilderness bill which has already passed the House of Representatives.

So, we believe the time is ripe for action on this legislation. We would not be willing to withhold this amendment without some assurances that this question will be taken up by the Senate early next year.

Are my colleagues in a position to assure us that a Smokies wilderness bill will be reported out of the Energy Committee by late February 1988?

Mr. BUMPERS. Mr. President, obviously I cannot tell the Senators, at this point, what the committee will decide relative to the Smokies wilderness issue. This is a very contentious matter, and I cannot assure him at this point what the committee will do. I can assure him, however, that Senator JOHNSTON and I will make every effort to bring this matter before the committee at the earliest opportunity in the next session.

Mr. SASSER. I certainly understand the realities my colleagues must contend with in their committee. However, if the committee is unable to report out a Smokies wilderness bill by late February, would my colleagues assure us that they will work with us at that time in offering this type of amendment to an appropriate vehicle?

Mr. BUMPERS. Mr. President, my colleague from Tennessee may be assured that if we are unable to resolve this matter in the committee, we will work with him to resolve this issue on an appropriate legislative vehicle on the Senate floor.

Mr. JOHNSTON. Mr. President, I too will support Senator SASSER in his efforts to resolve this issue expeditiously next year.

Mr. SASSER. I thank my colleagues for their cooperation in this matter.

BILATERAL NARCOTICS AGREEMENTS

Mr. CHILES. Mr. President, I am pleased that the continuing resolution (H.J. Res. 395) includes my amendment which will require all drug-producing and drug-transit countries to negotiate and be party to a formal bilateral narcotics agreement with the United States as a condition of eligibility for U.S. aid.

Last year, the Congress passed a major new drug law which included a get-tough policy on international narcotics control. Specifically, the new law dictates that 50 percent of U.S. aid be delayed to those countries on the drug-producing and drug-transit list until they can show the United States that they have cooperated fully in reducing drug production and/or transshipment in their respective countries. Once such countries have cooperated, the United States will grant them certification which qualifies them for the other half of their intended foreign aid.

The rationale for such action and the intent were admirable. However, considerable confusion has arisen around the phrase "cooperated fully." Other than stating that such cooperation can be with the United States or on its own, the law does not specify what is meant by "cooperated fully."

I believe that such ambiguity is a great weakness in this law. The first certification process using the new law clearly demonstrated that weakness. In my opinion, many countries were granted certification for U.S. aid which never came close to anything resembling full cooperation.

My amendment contained in the foreign operations portion of the continuing resolution (H.J. Res. 395) is intended to clarify and strengthen the new certification process.

By requiring a detailed bilateral agreement, we will be installing a concrete benchmark for determining if a country has cooperated fully.

The specific goals negotiated by each individual country and the United States will be a signed document detailing what steps will be taken to reduce narcotics, such as: drug production, drug shipment, and money laundering.

Currently some countries have written agreements with the United States on narcotics control. But I was amazed when I asked the State Department to see the agreements with all drug producing countries.

Some were detailed—some were very general. Some were only verbal agreements.

The control of narcotics worldwide is far too critical for simple or verbal agreements.

If a country wants our dollars, under my amendment it must show good faith by signing and being party to a bilateral narcotics agreement.

If a country refuses to participate in a bilateral agreement—it will automatically be determined ineligible for certification for additional U.S. dollars.

The bilateral narcotics agreement will thus be the first requirement for the new certification process—it is a benchmark that is desperately needed in my view.

I cannot tolerate a policy that continues to give U.S. dollars to countries which blatantly and deliberately violate international narcotics laws. I believe my amendment sends a strong and direct message to the world that the United States wants and expects cooperation that is meaningful and measurable.

We should accept no less.

THE BUREAU OF RECLAMATION REORGANIZATION

Mr. DECONCINI. I would like to take a few minutes of time from the very able chairman of the Energy and Water Appropriations Subcommittee to discuss the proposed Bureau of Reclamation reorganization. Mr. Chairman, as you know, the House has included a provision in its version of House Joint Resolution 395, which prohibits the Department of the Interior from undertaking any activities to implement its proposed restructuring of offices and operations of the Bureau of Reclamation. The Senate committee struck that provision from the bill, and I want to take this opportunity to state that, while it is not my intent to offer an amendment on this subject on the floor today, I do intend to address this issue in the conference on House Joint Resolution 395.

I commend the Department of the Interior for its initiative in developing a plan to reduce overhead costs, eliminate duplication, and increase the overall efficiency of the Bureau of Reclamation. In these times of spiraling Federal deficits, it is refreshing to see an agency develop recommendations which will reduce the cost of government.

I do, however, have some concerns over the Department's reorganization for the Bureau of Reclamation as originally planned. The transfer of the Commissioner and his entire Washington operation to the Denver Engineering and Research Center could create some difficulties for those in the Congress and in other Federal agencies who regularly communicate with the Commissioner and his policy staff. I have had extensive discussions with the Department over this potential problem and we have agreed to a proposal to keep the Commissioner in Washington with at least 25 of his policy and support staff. This new proposal will allow an adequate presence of the Bureau in Washington to interact with the Congress and other Federal agencies. The Department has also agreed to another alternative which calls for the maintenance of 69 policy and support personnel in Washington, including the Commissioner of Reclamation. Either of these proposals are satisfactory to this Senator since both will provide the maintenance of a minimal staff in Washington while allowing the Department to move forward with its overall reorganization efforts. I hope we can work out some language in the conference on the continuing resolution to achieve that goal.

I want to commend Assistant Secretary Ziglar for his leadership in formulating a policy to make the Bureau of Reclamation a more efficient Federal agency. I also want to thank the Secretary for working closely with those Members of the Congress who have concerns about the restructuring of the Bureau and for his continuing efforts in support or reclamation projects.

Mr. WIRTH. If the Senator will yield, I have heard from many conservancy districts, irrigation companies, and others who are deeply in development of water resources in the West. Without exception, those organizations have said they support relocation of the Bureau's staff to Denver.

They pointed out that all of the Bureau's projects are in the West—in States like Colorado and Arizona. They also pointed out that the Bureau is changing from a major construction agency to an agency that specializes in making water and power projects more efficient.

Moving many of the Bureau personnel to Denver would make them much more accessible to the conservancy districts and irrigation companies that could benefit from the Bureau's skill and experience. It would save money, since the Bureau could reduce duplication and other costs. And it would get the Bureau much closer to the water projects that it manages.

This proposal makes good sense, Mr. President, and I support it. This proposal does not mean that the Bureau is going to walk away from the projects that already are under construction. It does mean the Bureau will be able to do more with less.

I know the Senator from Arizona supports this proposal, and I thank him for his fine work on this issue.

I hope that once we have completed action on this legislation the Senate conferees will strongly resist efforts on the part of House conferees to accept the House language that bars the Bureau's relocation.

Mr. JOHNSTON. I understand the Senator's concerns and I will do all I can in conference to support the Senate's position on this. I hope that when we sit down with the House we will be able to work out a compromise that preserves the thrust of the Bureau's plan.

Mr. WIRTH. I appreciate the Senator's comments. I agree that we should be able to find a reasonable compromise. For example, it might be a good idea to keep policy level staff—the Commissioner and his immediate staff, for example—here in Washington, while testing the rest of the relocation occurs. But I believe it is important to let the Bureau go ahead with its plans. It will save money and it will make the Bureau personnel much more accessible to water development agencies in the West.

FEDERAL RAILROAD ADMINISTRATION BANGOR OFFICE

Mr. LAUTENBERG. Mr. President, I would like to engage for a moment in a colloquy with Senator MITCHELL, Senator COHEN, and Senator D'AMATO, concerning the status of the Federal Railroad Administration's District Office, in Bangor, ME.

Mr. MITCHELL. I thank the distinguished chairman of the Appropriations Subcommittee on Transportation for this opportunity to outline my concerns about an issue which is extremely important to the State of Maine.

On July 28, the Maine congressional delegation wrote the Federal Railroad Administration [FRA] about the status of the Bangor district office. We were greatly concerned that one of two FRA inspectors in the office had retired, but not been replaced.

Noting that the last few years have been turbulent ones for the railroad industry in Maine, the Delegation told FRA Administrator John Riley that "A need currently exists in Maine for increased FRA vigilance and inspections." We asked for immediate action to restore personnel levels in the Bangor district office, and to be kept closely informed of any FRA field office studies.

On September 8, FRA Administrator John Riley informed the Maine delegation of the FRA's intention to close the Bangor district office, and to consolidate operations in Boston. The announcement came at a time of heightened concern over rail safety in Maine. On October 27, the Acting FRA Regional Director appeared before a special task force of the Maine State Legislature on the railroad industry. The FRA's testimony seemed to raise more questions than it answered.

Both the Senate and House Appropriations Committees have called in their transportation appropriations reports, which are incorporated by reference into the continuing resolution report, for an FRA special review of Guilford Industries plans, practices, and operations and their impact on railroad safety. Guilford owns the Maine Central, Boston & Maine, and Delaware & Hudson Railroads, which have been leased for operations by the Springfield Terminal Co. another Guilford entity.

On November 3, 1987, because of extreme concern over safety conditions on the Maine Central and Boston & Maine, members of the United Transportation Union discontinued working on those lines.

On November 19, the Maine delegation again wrote the FRA Administrator, stating frankly our concern that the FRA was not moving aggressively enough to alleviate safety concerns in Maine. We repeated our request for FRA to keep the Bangor district office open, and requested a special briefing for our staffs on the immediate safety situation in the State, as well as on the ERA regional consolidation studies.

The FRA responded to the UTU action by sending special inspection teams to investigate dispatcher qualifications, engineer training, locomotive conditions, and certain management allegations of vandalism.

On December 10, FRA representatives met with Maine delegation staff and briefed them, on an interim basis, on the results of these inspections. Out of 79 locomotives inspection, 72 serious violations of FRA regulations were found. FRA inspectors have forwarded 53 violation reports to the FRA Chief Counsel for Civil Prosecution, and 66 minor violations have been reported to the railroad as informational exceptions. The FRA also found a number of cases in which engineers were placed into service without adequate training or supervision. At least 21 cases involving possible vandalism have been forwarded to the FBI and DOT's inspector general.

In some instances, the FRA inspection results were incomplete or inconclusive. For the most part, hard numbers are still unavailable. No investigation has yet been made into track conditions and numerous reported derailments. The Maine delegation therefore has requested a written FRA report both on the immediate, ongoing inspection, and on overall safety trends in recent years. We also have repeated our request for copies of FRA regional consolidation studies.

At this time, all we really know is that the FRA found serious problems on the Guilford system. The precise dimensions and causes are unclear. A complete picture may not emerge until after a detailed system assessment is conducted, sometime next year.

I appreciate Senator LAUTENBERG's patience in allowing me to outline these details at length. They are important in understanding why it would be a mistake for the FRA to close its Bangor office.

Mr. LAUTENBERG. I certainly understand the seriousness of Senator MITCHELL's concern.

Mr. COHEN. It also is my concern. Closing the FRA Bangor office, and moving its inspectors to Boston, ignores the fact that the State of Maine covers a geographic area as large as the rest of New England, and the fact that Maine's paper industry, and other businesses, are dependent on heavy, often hazardous rail shipments. It would be especially inappropriate for the FRA to close the Bangor office, in the midst of so many unanswered questions about the rail safety situation in the State.

Mr. MITCHELL. It is my understanding that in the conference committee on the continuing resolution, FRA operations will be discussed, and it will be appropriate to discuss the status of the Bangor district office.

Mr. LAUTENBERG. That is certainly the case, and that will be my intention.

Mr. D'AMATO. That will be my intention as well. The issue is appropriate and relevant to the Conference agenda.

Mr. MITCHELL. On behalf of the Maine delegation, I would ask the conferees to make sure that the FRA Bangor office will be kept open. It should not be closed without express approval of Congress, and it should be maintained with an adequate level of personnel, including, but not limited to, a motive power and equipment inspector, and a track safety inspector. One of these inspectors, or a third, also should be qualified in the area of hazardous materials.

Mr. LAUTENBERG. I will convey this request to the Conference. I understand and support Senator MITCHELL's concern.

Mr. D'AMATO. As do I.

Mr. MITCHELL. I thank both Senator LAUTENBERG and Senator D'AMATO for their attention to Maine's concerns.

Mr. COHEN. I thank them as well.

JUSTICE DEPARTMENT BUDGET

Mr. RUDMAN. I would like to ask a question of the distinguished chairman of the Commerce, Justice, State, the Judiciary and Related Agencies Subcommittee, Senator HOLLINGS, about the Antitrust Division's processing of waiver requests filed by the Bell Regional Operating Companies as mandated by the Modified Final Judgment, which followed the divestiture of AT&T. I am similarly concerned that complaints and requests for compliance investigations are not being considered in a sufficiently expeditious fashion. Is the distinguished chairman aware of these concerns?

Mr. HOLLINGS. I am indeed aware of these concerns, and I share the view of the distinguished ranking member of the Appropriations Subcommittee with responsibility for the Justice Department budget. I have learned that there are presently about 50 waiver requests pending at the Justice Department, for example, NYNEX has requested to provide international telecommunications to and from the United States; and Ameritech has requested to construct interLATA transmission facilities, to provide voice storage and retrieval services to cellular customers, and to provide customer-name-address services through its local operating companies.

Additionally, there are several compliance investigation requests pending at the Justice Department at present. These requests allege that certain Regional Holding Companies are violating the line-of-business restrictions imposed by the MFJ. The distinguished chairman of the Antitrust Subcommittee of the Judiciary Committee, Senator METZENBAUM, wrote to the Justice Department on May 21, 1987, about the lack of compliance enforcement actions by the Antitrust Division. I fear that Senator METZENBAUM's concerns still have not been adequately addressed.

Mr. RUDMAN. As the chairman will recall, we provided an increase of $1,859,000 which should be helpful in processing these waiver and compliance investigation requests thoroughly and expeditiously.

Mr. HOLLINGS. Yes, we have provided adequate funds for these requests to be considered in a timely fashion. Nonetheless, I am concerned about the large number of pending requests. I am also troubled by the apparent delay in the time that some requests are made and action by the Justice Department has occurred. Therefore, it is my intention to send a letter to the Antitrust Division of the Justice Department to express concern about the delay and the volume of pending requests. Would the distinguished ranking member join me in writing such a letter, which would ask that the Justice Department respond with the target dates that these pending requests will be acted on?

Mr. RUDMAN. I would be delighted to join the distinguished chairman in such a letter. Let me add that this concern is not particularly new. In oversight hearings on the Justice Department, the Congress has addressed this issue and expressed concern about the process of considering these requests. I am also aware that the issue was expressly considered this year during the triennial review of the consent decree in filings and oral arguments before U.S. District Court Judge Harold Greene. The triennial review, as mandated by the MFJ, provides all interested parties an opportunity to consider technological and market changes which may or may not justify relaxation of the line-of-business restrictions. I would hope that our letter will spur the Justice Department to act responsively to our concerns.

AMENDMENT NO. 1289

Mr. DOMENICI. Mr. President, this amendment would provide temporary authority to extend the Office of Personnel Management's voluntary leave transfer pilot program.

Earlier this year, I introduced S. 1595, the Federal Employee Leave Act of 1987. My bill would authorize a Government wide voluntary leave sharing program, to allow Federal employees to donate unused annual leave to coworkers who are in need of emergency leave.

Last year, Congress authorized the Office of Personnel Management to conduct a pilot program to allow leave sharing. The response to this program has been overwhelming—over 200 people applied to be a part of this program. Unfortunately, only three individuals could be chosen for the initial study.

My amendment would ensure that the experimental use of voluntary leave sharing may continue through fiscal year 1988. It would authorize the Office of Personnel Management to expand the test program to additional employees.

Many of my colleagues have expressed interest in legislation to permanently authorize the leave transfer program, including the distinguished chairman of the Governmental Affairs Federal Services Subcommittee, Senator PRYOR. Until there is sufficient time to consider permanent legislation, it is important that we authorize an extension of the experimental program.

This amendment would show the support employees have for each other, and gives them the opportunity to support each other during times of personal emergencies. Most importantly, leave sharing is a relatively painless effort that the Government can make for an employee who is faced with a serious illness.

One New Mexican knows of this problem intimately. A month after graduating from high school, Geraldine Grenko started working at the Bureau of Indian Affairs in New Mexico. Starting as a clerk typist, she moved through the ranks. She put in consistently good work for 35 years.

Five years ago, Geraldine came down with—then beat—a terrible form of cancer. She continued to serve as a Federal employee despite serious surgery and arduous cancer treatment.

Then, last year this brave woman was told that a different cancer had stricken her; she won't be as lucky this time. Geraldine is a fighter and wanted to work at the BIA as long as possible.

Unfortunately, Ms. Grenko has had to retire because she does not have the leave to continue with her treatments.

> This legislation is just too late to help me,

Ms. Grenko explained,

> But there are lots of people out there who will benefit from it. It is important that the Federal Government set this type of example for other employers.

Leave sharing is more than an excellent way to help offices pull together for the common good. It is a true blessing for employees and their families when faced with a health emergency.

I ask that a copy of my remarks be printed in the RECORD at this time, along with a copy of a letter I recently received from my constituent, Geraldine Grenko.

The letter follows:

[Telegram]

Senator PETE V. DOMENICI,
Capitol One DC.

Let me urge your attention and action on the leave sharing matter. I have retired effective November 3 so my problem is no longer critical. However had the program been in place I might have been able to remain active for a longer time. The project is important and necessary and I certainly hope that you will take the needed steps to see that the law is acted upon. Let me urge you to tackle this matter with all possible speed. Thank you for your concern for the Federal employees.

FUNDING FOR THE OFFICE OF ASSISTANT SECRETARY FOR NATURAL RESOURCES AND ENVIRONMENT AT THE DEPARTMENT OF AGRICULTURE

Mr. COCHRAN. Mr. President, the House version of the 1988 agriculture appropriations bills contains a provision which has the effect of eliminating the Office of the Assistant Secretary for Natural Resources and Environment at the Department of Agriculture. Since the Senate bill which is referenced in this resolution has no such provision, this is a matter which the conferees on the continuing resolution will have to resolve.

Permit me to explain why I believe it is essential that the Senate conferees insist that the House language be deleted. As I see it, there are three important considerations.

First, the management functions and responsibilities of the Office of this Assistant Secretary are quite extensive. The Assistant Secretary has oversight and policy management responsibilities for about one-half of the entire Department—more than 50,000 employees. There are few, if any other civilian assistant secretaries who are responsible for oversight of such a large organization. In fact, there are more employees under the supervision of this sub-Cabinet office than a half-dozen full Cabinet officers.

The specific responsibilities of this Office include overseeing the U.S. Forest Service, which manages 191 million acres of public lands on 151 national forests and grasslands in 44 States. The Forest Service employs about 37,000 people, and engages the assistance of some 42,000 volunteers. The Assistant Secretary also has responsiblity for the U.S. Soil Conservation Service. SCS provides conservation information and technical assistance to farmers and land users with 13,000 employees, 3,000 volunteers, and 17,000 local government district employees and supervisors. In the next few years SCS faces a major management challenge to develop and implement some 800,000 conservation plans for farmers and ranchers to carry-out the most significant environmental and conservation legislation enacted in 50 years as part of the 1985 farm bill. These Federal workers are carrying out programs and activities in every jurisdiction in the United States, interfacing directly with individuals and businesses in countless ways.

My second concern has to do with the internal workings of the executive branch. The Assistant Secretary also serves as chairman of the Natural Resources and Environment Committee of Secretary Lyng's Policy Council. As such, he is responsible for oversight and coordination of all Federal environmental activities as they affect the Department. Virtually every department of the Federal Government engages in policy development that can affect the Nation's farmers, ranchers, and foresters. One especially important role of the Assistant Secretary for Natural Resources and Environment is to ensure that policies of other departments and agencies are in concert with the needs, interests, and perspective of America's farmers, ranchers, and foresters. Without a sub-Cabinet officer to oversee such matters, the voice of agriculture would simply not be well considered in scores, if not hundreds, of policy decisions made each year. This is critical.

Finally, this Office is one which was established in statute by Congress in concert with the executive branch. The Senate has a special role to play in these matters through the confirmation of Presidential appointments. the incumbent in this Office was approved by the Senate, by unanimous consent. We will make a major mistake, with profound implications, if we establish a precedent of eliminating executive branch posts in this fashion.

For these reasons, Mr. President, I hope the Senate conferees on the continuing resolution will insist that the Office of the Assistant Secretary for Natural Resources and Environment at USDA be retained.

Mr. CHILES. Mr. President, it is no secret that thousands of aliens, refugees and immigrants enter my State of Florida each year.

Therefore, it is understood that there is considerable need for an Immigration and Naturalization Service processing center in the region.

I recognize this need and have no problem with such.

However, when known felons are held in such a center which is at the best a minimum security facility and not adequately equipped or guarded, I have problems—serious problems.

Over the past years, I have repeatedly urged Department of Justice officials to remove felons from the INS center in south Florida known as the Krome North Detention Center. I keep stressing that hardened criminals should not be held in a nonsecure facility with other noncriminal detainees. The felons are a direct threat to the detainees, the employees of Krome and to the surrounding community.

Unfortunately, most of my pleas have been ignored by the Justice Department. This neglect has continued during the past 3 years when nearly 100 inmates have escaped from Krome and riots, fires and acts of violence have been commonplace. Most of the detainees involved in these instances have been felons.

In October 1985, about 100 detainees participated in a riot where they beat upon unarmed guards who had only broom handles to protect themselves. During the riots, 35 of the detainees climbed the barbed wire fence and escaped. Many of those involved in the riot and escape were felons.

In January 1986, guards and a detainee were involved in a fight.

In May 1986, felons at Krome participated in a disturbance which resulted in fires which destroyed most of the barracks.

In August 1987, more fires were set and a guard was injured.

And just this November, 26 detainees climbed the wire fence and escaped. All were felons.

I am frustrated with assurances from Justice officials that no felons would be held in Krome. In my view, they have reneged on these commitments. As evidence to this, note that INS officials acknowledge that when the last escape occurred at Krome, nearly 90 percent of those being detained at the facility were felons.

Mr. President, enough is enough. These disturbances have all been unnecessary. All could have been avoided if only felons were held in more security facilities where criminals are traditionally held in this country.

Therefore, I am offering an amendment today which prohibits any Federal funds going to an INS processing or detention center which holds aliens accused or convicted of a felony under any State or Federal law unless such a center has been designated as a security-level 3 or higher level correctional facility. To put it simply, no felons can be held in a detention or processing center unless it is adequately secure and guarded.

I realize that most medium- and maximum-security facilities are already filled to capacity. But the overcrowding does not give Federal officials an excuse to hold felons in a facility like Krome. It is also apparent to this Senator that these same Federal officials found space in Federal facilities across the Nation to place those inmates from the Atlanta penitentiary and Oakdale facility where riots and fires took place recently.

Mr. President, to hold felons in a facility like Krome is irresponsible and a direct threat to the people of south Florida. I have tried numerous legislative tactics and even filed suit against the Attorney General and other Federal officials to prohibit holding felons in Krome.

Today, I've had enough and feel compelled to block Federal funding of such practices. To continue to subsidize such a policy is a time bomb. I cannot sit by and let the people of Florida be victimized.

I thank my colleagues for their support.

Mr. BINGAMAN. Mr. President, I rise today to commend the members and staff of the Appropriations Committee for their diligent and comprehensive work on the several appropriations bills that already have passed the Senate and to commend them also for their able and laborious work on the resolution before us today.

Certainly, this resolution contains many vital provisions. I wish to bring one of those provisions to the attention of my colleagues: Funding for the Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986.

When the Senate passed the Interior and related agencies appropriations bill on September 30, 1987, we appropriated scarcely more than $21 million to carry out certain critical provisions of the Anti-Drug Abuse Act of 1986. Under this act, the Bureau of Indian Affairs and the Indian Health Service were directed to develop, enhance, and implement a coordinated, comprehensive program for the prevention and treatment of alcohol and substance abuse among our Nation's Indian people. A key component of that program was to be the establishment of 11 native American regional treatment centers.

When enacted, estimates indicated that nearly $100 million was needed to effectively address the problems identified in the act. And although the need for the centers increases daily, the funding for them has dropped dramatically. Currently, only 6 million critically needed—have been appropriated to establish the regional treatment centers that would serve our entire native American population.

The need for these centers is critical. Numerous studies, as well as the extensive hearing record established by the Select Committee on Indian Affairs under the excellent leadership of my good friend and distinguished colleague, Senator INOUYE, confirm the desperate need for this program and the treatment centers it would establish. The incidence of alcohol and drug abuse among Indian people is tragically high, perhaps higher than that of any other population in the United States.

Several health-related hearings have revealed the many critical health problems afflicting our Indian population, but always the No. 1 problem remains the same: Alcoholism and alcohol related diseases, injuries and death. It is, as recognized by this Congress, "the most severe health and social problem facing Indian tribes and people today."

Perhaps the tragic scope of this problem was best explained by Gilbert Pena, past chairman of the All Indian Pueblo Council in New Mexico. During his testimony on Indian health, he said:

> The most obvious and vicious threat to the lives and well-being of our Pueblo people is the damage brought on by alcoholism-related destruction. Alcohol is a contributing factor in most of the motor vehicle accidents in our communities. Many of the costly hospital admissions are in some way connected with alcohol abuse.
>
> However, in terms of the substantial cost of primary care and the strain on this nation's budget, economic cost is really nothing compared to the social cost to the Tribe. An extremely important part of the Indian culture and tradition lies in the sharing of experience and wisdom between the elders and the young people. Given the tragic rates of accidents and death among the younger age groups, it is easy to see how the social order is severely impacted. Many promising young Indian leaders are now a part of the statistics.

The findings of the Statistical Summary of Child Evaluation Surveyor for the Shiprock Service Unit of the Indian Health Services further reveal the magnitude of the problem. Of the adolescents surveyed by the Indian Health Service in a community with 10,000 children between the ages of 10 and 19, 40 percent were diagnosed as suffering from alcohol-related disorders and 23 percent were diagnosed as suffering from drug-related disorders, including hardcore chemically dependent adolescents, many with multiple drug and alcohol abuse problems. Of the youths suffering from severe family disfunctions, 70 percent had parents who abused alcohol or drugs. Perhaps the most disturbing finding concerns treatment rates. Of those surveyed, 40 percent were considered in need of treatment for substance abuse, but only 5 percent received it. Of those needing inpatient treatment—48 percent—only 5 percent were treated. Likewise, only 8 percent of the 88 percent considered in need of family therapy or counseling received it. And of the small number who did begin therapy, 60 percent failed to keep any treatment appointments after the first few sessions.

As these statistics so graphically illustrate, the need for effective preventive-education programs and localized inpatient treatment services for our native American population is absolutely critical. Clearly, establishment of the regional treatment centers authorized in the 1986 Omnibus Drug Act is a way to come to grips with that need. Unfortunately, to date only two sites for regional centers have been approved—one in the Indian Health Service's Acoma-Canocita Laguna Service Unit and another for the Cherokee Nation in Oklahoma. Unused funds that had been appropriated for the treatment centers have been made available to pay for substance abuse treatment through local contractors. However, this is merely a drop in the bucket. Funding has been consistently lowered since the passage of the 1986 act, the nine desperately needed regional facilities have yet to be selected or adequately funded, and the plight of the American Indian continues to worsen.

We cannot ignore a problem as great as that facing the American Indian, and as tragic and unchecked as that in the Shiprock area of the Navajo Nation. Alcoholism is a disease often best treated in inpatient facilities such as the one the Navajo Nation proposes to establish in the abandoned Bureau of Indian Affairs facility in Shiprock. I urge the Secretary to look carefully at the Navajo proposal and to weigh seriously the needs of Navajo people and the benefits such a facility could provide them.

Most importantly, I urge my colleagues to join with me in encouraging the Members of this body selected as conferees to this resolution to vigorously protect the existing appropriation for the alcohol and drug abuse programs, meager though it is, and I challenge all of us in this Congress to work with the Indian people and the administration to combat and beat this serious problem.

Mr. MURKOWSKI. Mr. President, earlier today I agreed, at the request of the Senator from Louisiana, to withdraw an amendment which applied the reciprocity provisions included in the military construction, energy and water, and DOT titles to all titles which included funding for architecture, engineering and construction services [AEC] associated with Federal construction projects.

It was the feeling of my good friend from Louisiana that the reciprocity provisions included in these titles of the bill were sufficient to insure reciprocity in bidding on Government projects. As the Senator is aware, the House passed an amendment on its version of the continuing resolution to ban Japanese construction and equipment services from all Government projects in fiscal year 1988. Therefore, the provisions included in this bill will have to be reconciled with what the House has done.

I prefer the approach that the Senate has taken in that our reciprocity provisions do not name any specific country. There are also some other differences in the House and Senate provisions, and I am confident we can work with our colleagues in the House to iron these out.

I hope that my colleagues in the Senate will support an across-the-board application of the provision we have already adopted in six separate funding bills when we go to conference on this bill.

Mr. JOHNSTON. As I indicated to my friend from Alaska earlier today, I did not oppose his amendment on the merits. I don't think there is a Senator in this body who would oppose assuring U.S. firms get a fair chance in their efforts to do business overseas. I have supported similar amendments when they have been brought before the Senate on various appropriations bills.

I objected to the Senator from Alaska's request to include this provision on the continuing resolution I felt we had already dealt with this issue and to do so again would be redundant. It was not intended to express opposition on the part of the Senate to applying the requirement for reciprocity in bidding for AEC services in a consistent manner for all federally funded construction. I assure my colleague from Alaska that when we take this item up in conference, we will be willing to consider expanding the reciprocity provision on its merits, giving due consideration to past Senate action.

Mr. MURKOWSKI. I thank my good friend from Louisiana.

T-800 HELICOPTER ENGINE

Mr. WEICKER. Mr. President, I rise to express support for the Army's T-800 Helicopter Engine Program and urge the chairman of the Defense Appropriations Subcommittee, Senator STENNIS, and the ranking minority member, Senator STEVENS, to support it in conference by providing the $125 million authorized to sustain the T-800 contract in fiscal year 1988.

The T-800 engine is designed to power the LHX helicopter. It is being developed by four companies, including two firms in the State of Connecticut—Pratt & Whitney and AVCO Lycoming—and has been under a firm fixed price contract since July 1985.

Questions are being raised about the need to continue developing the T-800 largely because of uncertainties surrounding the LHX helicopter. The Army's inability to decisively resolve persistent issues about the overall direction of LHX is a leadership and management problem. The underlying need for a new, light helicopter and engine, however, is clear and unambiguous.

The Army possesses 6,850 Vietnam vintage light helicopters, including

3,500 UH-1 utility and 1,100 AH-1 attack craft, which constitute 80 percent of the entire Army helicopter force. Under the most optimistic assumptions, the U/AH-1's are projected to remain in the force until the years 2005-2010, when their age will range from 35 to 50 years.

The Army must either begin to modernize its aviation force, or it will cease to exist as we know it today. While I believe an advanced technology helicopter like LHX is needed in the future, that alone is not enough.

The Army must pursue a more balanced approach to modernization, including both production and conversion, especially in view of mounting budgetary pressures. Historically, that is the way it is done, and the T-800 has an important role to play in that process.

While the Army has consistently stated that the T-800 could be used to reengine the huge U/AH-1 fleet, it has been most reluctant to undertake the detailed technical studies necessary to initiate such a program. A number of Army/industry studies have at last been completed or are underway, and without exception, all suggest the T-800 is ideal for reengining the U/AH-1 fleet.

Two other advanced helicopter engines are in R&D—the T-700-GE-401C and RTM-322, but these are more suitable for larger helicopters like the UH-60 and AH-64.

Mr. President, I ask that two documents pertaining to alternate uses of the T-800 engine be included in the RECORD: first, a letter to me from the Under Secretary of the Army, James R. Ambrose dated August 8, 1985; and second, a follow-up Army information paper dated September 3, 1985. I ask unanimous consent that these documents be printed in the CONGRESSIONAL RECORD.

The other services have been much more aggressive than the Army in modernizing older helicopters. They have learned that the performance and maintainability of these machines can be greatly improved at relatively low cost though the installation of new engines, avionics, and composite rotor systems.

The Navy, Marine Corps, and Air Force acquired reengined versions of the UH-1 helicopter, known as the UH-1N, beginning in the early 1970's. The UH-1N is powered by two engines as compared to a single engine in all Army UH-1's, and the Marine Corps is now moving to a "Super" AH-1 with two much more powerful engines.

In summary, there is a specific military requirement for the T-800 engine:

Its 1,200 shaft horsepower means the T-800 engine is the only advanced engine emerging in the intermediate zone of the power spectrum.

The T-800 will provide new technology where there is none. It will keep engine technology in balance with continuing advances in avionics, airframe, and rotor technologies.

Industry is assuming an equitable share of the cost of developing the engine.

There is a high degree of competition in the program.

It is on schedule and within cost and is well along in development. Prototype engines are already being ground-tested and should be ready for flight testing next year.

For all these reasons, a decision to terminate the T-800 engine programs would be premature. There is general agreement both in Congress and the Defense Department that such a decision should not be made until: First, a final decision is reached on the LHX airframe/engine design; and second, a U/AH-1 service-life extension/conversion program is clearly defined.

Until these decisions are made, the T-800 contract should be sustained at planned funding levels.

The material follows:

DEPARTMENT OF THE ARMY,
OFFICE OF THE UNDER SECRETARY
Washington, DC, August 8, 1985.

Hon. LOWELL P. WEICKER,
U.S. Senate, Washington, DC

DEAR SENATOR WEICKER: Secretary Weinberger and Secretary Marsh have suggested that the concerns you express about the LHX program might best be addressed by me in a personal meeting with you. I will be very pleased to do this at your convenience in Washington or in Connecticut. I don't wish to impose on your opportunity for a vacation, but I am scheduled to be in Hartford on August 30. I mentiond that simply as a time that might be convenient. If so, I would be pleased to go to whatever location would be most convenient for you. Our office staffs can work out the details. If that suggestion is not the most suitable, I'm available at your call.

I have attached a couple of magazine articles on LHX which have recently appeared in trade magazines that you may find informative. I apologize for the unedited rambling of my interview with the ARMY magazine, but, in spite of that, I consider it an accurate reflection of my thinking about the LHX program.

Perhaps I could offer you, as a prelude to our full discussion, the following brief outline of what we are trying to do in the LHX program:

1. We have postulated the hypothesis that a single replacement program for the entire Army fleet of smaller helicopters can be devised which both meets most of the fleet requirements of the late 1990's and early 2000's and provides a major economic advantage over alternatives.

2. We have engaged the entire helicopter industry and its principal subcontractors in a relatively modest, but very intensive and effective, program of examining the validity of the hypothesis.

Industry is contributing substantial resources from its "independent" R&D funds (which, of course, are largely government furnished) and profits to this program. The program is concentrated, not on full scale development, but on design, analysis, test, and simulation of the critical components to establish good credibility that the goals of the LHX program can be met (or show that the goals are too ambitious, if that should prove to be the case) before committing to full scale development and production.

3. We adopted (a year ago, with the concurrence of the Defense Resources Board) a standard-family-of-engines concept, of which the T-800 is the first of a series of three. The T-800 is applicable to the LHX, but also to other aircraft, both rotary and fixed wing, in that general weight class.

The three engines in the series will be approximately 1200, 2500, and 5500 nominal shaft horsepower (shp) respectively. The T-800 is the 1200 shp member of the series. We have not yet started the development of the other two, although the MTDE advanced development engine project is the likely precursor to the 5500 shp member of the series and the TG701 used on the AH-64 is the current predecessor of the 2500 shp member. We intend to limit aircraft designs to use of one of this standard engine series. We believe there will be substantial operational and logistical advantages as well as production economies. All Army aircraft gross weights from about 6000 pounds to over 100,000 pounds can be accommodated by combinations of 2 to 4 of one of these three engine types. The engines will be built to the most stringent Service specifications, such as marinization for Naval use, so they can be used by all Services.

4. We set out some stringent goals for LHX, including:

a. A 40-50 percent reduction in operational and maintenance costs, compared to the current fleet.

b. Single pilot operation;

c. Day-night capability; and

d. A $5-6 million flyaway cost (FY 1984 dollars) for the attack version; $4.5 million, for the utility version.

5. We are insisting on designs of engines and aircraft that have margin for performance shortfalls and for future growth in order to avoid costly weight reduction and reengining programs.

6. We are engaged in a thorough analytical comparison of the operational and cost benefits of the LHX with other alternatives. These alternatives include:

a. Keep the existing and planned fleet as is, with allowance for safety and reliability improvements

b. Replace some or all of the existing fleet with more AH-64 and UH-60 aircraft

c. Modify the existing and planned fleet with a series of defined improvements.

d. Replace the existing fleet (except for planned AH-64, UH-60 and AHIP) with a notional tilt-rotor scout/attack aircraft and procurement of a replacement utility aircraft (such as the S-76) on a non-development basis.

7. We are trying to complete all these actions next year with the intent of making a decision to undertake (or not) full-scale engineering development on the LHX, with actual contract work commencing probably in early 1987.

8. We intend to procure this development and subsequent production with full competition throughout the production period. The procurement methodology will follow that used in the T-800 engine procurement which represents a substantial departure from prior DOD practice. (Both we and industry consider that the new method is a substantial improvement. If you are interested in the details, we would be pleased to provide them to you.)

I must add that, although I am responsible for launching the Army on this course, I am not an apostle for the LHX. The case for the LHX program will have to stand on the merits of the actions outlined above. There will be full disclosure and ample opportunity for discussion of any decision to proceed with an LHX program once the information has been assembled, analyzed, and evaluated.

I am a strong advocate of the need for the Army to change the way it does its business, of the need to get ahead of the Soviet challenge, and of the need to get on top of the accumulated shortfalls of current materiel, doctrine, force structure, and operating costs.

I look forward to the opportunity of discussing this subject with you in person.

Sincerely,

JAMES R. AMBROSE,
Under Secretary of the Army.

HEADQUARTERS DEPARTMENT OF THE ARMY

INFORMATION PAPER

Service/Agency: Army/ODCSRDA.
Appropriation Account: RDTE.
Budget Activity: 4 Tactical Programs.
Subject: T-800 Engine Application.

1. *Question.* The Army has stated that the T-800 engine has applicability to systems other than the LHX to include both fixed and rotor wing aircraft. Request you provide an information paper which describes as specifically as possible the potential uses/applications of the T-800 engine in addition to LHX.

2. Response. The following represents other potential applications for the T-800 engine:

Military aircraft alternatives for LHX, Agusta A-129, Aerospatiale HH-65, AH-1 derivative improvement, and UH-1 derivative improvement.

Commercial aircraft alternatives for LHX, Sikorsky S-76 and Bell 222.

With inherent growth without major modification—T-800 would be a viable candidate for future aircraft.

Single engine—7,000-13,000 pound aircraft.

Twin engine—13,000-25,000 pound aircraft.

Engine contractor teams competing for the T-800 engine FSED program plan a parallel commercial version.

FUNDING FOR LOW-INCOME HOME ENERGY ASSISTANCE

Mr. RUDMAN. Mr. President, I would like to take this opportunity to express my concern over the funding levels contained in this bill, by reference, for a program of real interest to me and to the people of New Hampshire. Specifically, I am referring to the Low-Income Home Energy Assistance Program which the Senate has proposed to cut by $585 million—a 32-percent reduction.

Mr. President, this is a devastating cut for a program which is vital to many poor and elderly citizens in my State. LIHEAP is a needs-based program which provides assistance to low-income households to meet home heating and cooling costs. The funding cut contained in the Senate-passed bill represents the largest single reduction made by this body for any low-income program in the last 6 years. I am keenly aware of the budget constraints facing this body. Nonetheless, I cannot justify such a major reduction in a vital low-income program when we have managed to find the resources to provide funding increases in many other areas. This is not to say that I do not support many of these increases. However, I believe that some adjustment must be made to avoid this crippling reduction in the fuel assistance program.

In my State of New Hampshire, winter has barely begun. Yet the State has already committed all the funds New Hampshire would receive under the Senate-passed bill. The State of New Hampshire has had to flatly refuse to accept applications from qualified applicants. I dare to say that it will be a long and cold winter for many senior citizens and poor people in New Hampshire who are denied this assistance.

Let me remind my colleagues that about one-third of the participants in the LIHEAP program are elderly—a population especially vulnerable to heat stroke and hypothermia. This $585 million proposed cut could potentially remove 2.1 million households from the program. Many have argued that because of the availability of oil overcharge money, States can absorb this cut. This is simply not the case. Surveys have shown that only a small percentage of the oil overcharge funds have been allocated to the LIHEAP Program. This is not surprising since States were led to believe that Congress would abide by the established principle that this money was to "supplement, not supplant" Federal funds. In fact, many States are seeking to meet the needs of the low-income population by using oil overcharge funds for long-term solutions to the energy problems of the poor such as for weatherization programs. I believe this is an appropriate use of the one-time court settlement payments.

This cut can also not be justified on the basis of energy prices. The Department of Energy's short-term energy outlook report predicts that the balance of the 1987-88 winter will see heating oil prices rise about 15 percent. Already, heating oil prices are about 40 percent higher than they were last fall.

Mr. President, when the Senate considered the Labor, Health and Human Services and Education appropriations bill, in two separate amendments, 65 Senators voted to restore LIHEAP funding. I urge conferees to the Labor, Health and Human Services appropriations measure to consider these points and restore funding to this important low-income program.

ASSISTANCE TO PAKISTAN

Mr. HUMPHREY. Mr. President, I strongly support the balanced approach that the Committee on Appropriations has taken with regard to United States assistance to Pakistan. I commend the efforts of both the chairman of the Foreign Operations Subcommittee, Senator INOUYE, and the ranking member, Senator KASTEN.

Two crucial policy objectives are addressed in the Pakistan language now pending before the Senate: Our continued commitment to a strong nuclear nonproliferation policy and our commitment to the security of Pakistan and South Asia.

Mr. President, the committee language places the issue of assistance to Pakistan where it belongs: in the regional context. I agree with the committee's view that: "events this year have made clear both Pakistan's strategic importance to the United States and the need to continue the United States-Pakistan relationship."

Indeed, Pakistan faces truly unique, and threatening circumstances. Pakistan today is directly threatened by the Soviet Union. Afghanistan once provided a buffer between Pakistan and the Soviet empire. Today, 115,000 Soviet troops armed with the most modern weaponry are waging war in Afghanistan, much of it very near Pakistan's 1,200 mile border.

In Afghanistan, the Soviets have resorted to massive slaughter of civilians through air and ground attack upon villages. The death toll is 1 million. Think of it. If you apply that proportion to our own population, it means 16 million dead Americans. Try to imagine 16 million dead Americans. For the Afghans, 1 million dead is not a matter of imagination, but daily and cruel reality. Fully one-third of the Afghan people have fled into exile. Imagine 80 million Americans driven into foreign exile.

For her courage and principle, Pakistan has come under direct attack by Moscow's puppet in Kabul. As far back as 1980, the Soviet-puppet regime in Kabul was responsible for 179 airspace violations. In the past 2 years, they tripled their level of violence. Last year alone, the Soviet/puppet regime violated Pakistani airspace on 757 separate occasions—256 of these violations involved outright attacks in which 45 innocent civilians were killed and 77 were wounded. Earlier this year, the situation along the border was much worse, as hundreds of innocent Afghans and Pakistanis were killed by almost daily bombing raids along the border.

Recently, the Soviets have increasingly supported wanton acts of terrorism within Pakistan. A vicious car bomb attack in Karachi earlier this year killed more than 70 people. Another bomb near Peshawar recently killed 14 innocent people. Last year, there were 233 acts of sabotage resulting in 162 deaths and more than 500 wounded.

Mr. President, despite the escalated threats and violence, Pakistan has stood her ground courageously. Standing firm as a bulwark against Soviet imperialism in an extremely complex and troubled region of the world, she has provided refuge to more than 4 million Afghan refugees—today, the world's largest refugee population.

Mr. President, on 6 separate occasions over the past 10 months, I have come to the floor of the Senate to discuss the importance of the President's foreign aid request for Pakistan. I also had the privilege of testifying before the Senate Foreign Relations Committee along with the distinguished senior Senator from Ohio, Senator GLENN, to discuss the President's request. I have closely followed the debate on both sides of this issue. In my view the committee has taken the correct approach.

All Senators share a commitment to halting the spread of nuclear weapons. There isn't a Member of Congress who wouldn't like to see both Pakistan and India abandon their nuclear programs. If a complete suspension of United States assistance to Pakistan enhanced the security of South Asia, and achieved United States nonproliferation objectives, we wouldn't be here debating this issue.

The fact is, we are facing a truly unique situation in South Asia. The committee report rightly points out that the source of the nuclear problem in South Asia is competition between Pakistan and India. In this context, I do not believe that a cutoff, or suspension of assistance to Pakistan would move us any closer to our objective of a nuclear-free South Asia. We have been down the cutoff road before.

Pakistan has repeatedly assured us that it has not and will not build a nuclear weapon. Some may dispute the bounds of the Pakistan research effort, but what is clear, is the United States should do those things which will encourage Pakistan to refrain from joining the nuclear club. Likewise, we should avoid doing those things which will encourage Pakistan to exercise the option of building a weapon.

In this context, it seems to me any action on our part which even appears to reduce the American commitment to Pakistan's well-being and security, is an action that will work against our wish to limit the nations which possess or seek to possess nuclear weapons. Let's put ourselves in the shoes of our friends in Pakistan. A mighty and often ruthless imperial power occupies Afghanistan which borders Pakistan to the Northwest. A large, and, unfortunately, hostile nation lies to the east. If Pakistan perceives American support for her survival weakening, will she be more inclined or less inclined to opt for force-multiplier weapons, including the nuclear option? The answer is obvious. She will be more inclined, not less.

Last July, I joined with the distinguished Senator from Ohio in drafting a resolution that:

> Urges the President to pursue vigorously an agreement by India and Pakistan to provide for simultaneous accession by India and Pakistan to the Nuclear Non-Proliferation Treaty, simultaneous acceptance by both countries of complete international atomic energy agency safeguards for all nuclear installations, mutual inspection of one another's nuclear weapons through a joint declaration of the two countries, and the establishment of a nuclear weapons free zone in the sub-continent.

Importantly, Pakistan has repeatedly appealed to India to join them in stopping the spread of nuclear weapons in South Asia. In October 1985, President Zia advanced those points to India. He also discussed them directly with the Indian Prime Minister during a meeting in New Delhi in December 1985. The offers were also made to India during the South Asia Regional Conference in November 1986, and during a meeting between President Zia and Prime Minister Gandhi earlier this year.

Mr. President, the committee language parallels the policy set forth in that resolution. The committee language has been carefully drafted. I urge my colleagues to support it.

Mr. WARNER. The Wolf Trap Farm Park for the Performing Arts has proven to be an irreplaceable asset to our National Park System, and particularly to our constituents visiting the National capital area.

Although this facility is wholly owned by the Federal Government, following a devastating fire in 1982 which completely destroyed the Filene Center, the Wolf Trap Foundation agreed to finance 50 percent of the reconstruction costs.

Upon completion of the Filene Center II the actual construction costs has risen from $18 million to possibly as high as $24 million. These costs were absorbed by the foundation.

In January 1985, major structural defects were discovered in the main supporting girder which resulted in an additional $800,000 expense and a $1.435 million loan to the foundation from the Federal Government.

The financial arrangements surrounding the reconstruction of the Filene Center are very complex. The secondary $1.5 million loan is due payable to the Federal Government 90 days after settlement with the parties involved in the dispute, and it is the intention of the chairman and ranking minority member that the loan will be repaid as provided for by the authorization.

Further, it is the intention of the chairman and ranking minority member to request a review of the financial condition of the foundation with respect to the repayment of these loans by the U.S. General Accounting Office.

Mr. JOHNSTON. The Senator from Virginia [Mr. WARNER] has accurately described the circumstances surrounding the rebuilding of the Filene Center. I will join in a request to the General Accounting Office for the necessary information. As chairman of the Energy and Natural Resources Committee, I will work to see that the committee addresses this problem in a timely manner.

Mr. McCLURE. I would like to concur with the intention expressed by the chairman and say that, as the ranking member of the Energy and Natural Resources Committee, I would hope that the committee could address this issue next year once we receive the information requested by the General Accounting Office.

SUPPORT FOR THE SPACE STATION

Mr. ADAMS. Mr. President, earlier today the Senate adopted an amendment by Senator GARN expressing the sense of the Senate that funding be appropriated to develop a permanently manned civilian space station. I am proud to be a cosponsor of this amendment.

The time has come for this Nation to once again commit itself to the peaceful exploration of space. For a long time, we have been talking about the space station as the next logical step for the United States to take in its space program; now the time has come for us to fund this idea. We are faced with decisions this week which can set this project on the right track or else we can deliver a debilitating blow and shelve the project.

If we were to vote today on whether or not to fund the space station, I am confident that my colleagues, realizing the importance of this project, would vote to support the station. But if we are not careful, we will find ourselves canceling this program by allocating an insufficient amount of money.

We must realize that as the NASA budget goes to conference as part of the HUD and Independent Agencies appropriation, one of the programs targeted for a substantial cutback is the manned space station. As one of many Senators who has followed the development of the space station project, I know that if we cut the budget authority below $450 million it will have the same effect as eliminating the program. NASA will not be able to embark on the next phase of the program if the allocation drops below this level.

I am confident that our conferees will make a commitment to this project and fund the space station in a manner which will enable the United States to once again challenge the outer limits of technological exploration by permanently placing man in space.

Mr. BOND. Mr. President, I understand the committee is aware of the crucial, national security need for sufficient supplies of nerve gas agent antidotes. It was my intention to offer an amendment on behalf of myself, Senator DANFORTH, and Senator HATFIELD, to earmark with bill language $12.9 million within available Defense Logistic Agency funds in title 5 of S. 1923. However, I understand there is conflicting information regarding the production base for these nerve gas antidotes. Moreover, there are concerns regarding the impact and importance of competition with this procurement. Without prejudicing either point of view on this matter, I would inquire of the majority and minority managers if they might consider including language in the statement of managers of the conference report of this resolution in lieu of bill language which might address the earmarking of $12.9 million within the funds available to the Defense Logistic Agency?

Mr. STEVENS. Yes; this problem has been brought to my attention. I would agree that at this point in time our existing supply and future production capability regarding this procurement is not well known. I would, therefore, agree with my colleague that manager's language addressing this issue would be a more appropriate means of handling this dilemma.

Mr. STENNIS. I appreciate the Senator's concern about this problem and his willingness to withdraw his amendment at this time in lieu of manager's language.

LOW INCOME HOME ENERGY ASSISTANCE PROGRAM [LIHEAP]

Mr. LEAHY. Mr. President, one serious flaw in this continuing appropriations bill is the large funding cut in the Low Income Home Energy Assistance Program [LIHEAP]. I believe that this 32-percent reduction in funding below the fiscal year 1987 level cannot be justified—a position that a majority of the Senate has confirmed. On October 14, on the floor of the Senate, 47 Senators voted in favor of an amendment, which the senior Senator from Connecticut sponsored and I cosponsored, to waive the Budget Act and fund LIHEAP at a level equal to that of fiscal year 1988. On October 29, 15 days later, 52 of us signed a letter urging the distinguished subcommittee chairman and ranking member to recede to the House and level fund the program. I have attached a copy of that letter to this statement.

The size of the majority in support of full funding for LIHEAP is even greater than 52. Seven of the Labor/HHS bill conferees decided not to sign the October 29 letter—they considered it a letter to themselves. I trust that we can continue to count on their support in conference.

Defeating any cut in the LIHEAP appropriation is now even more important than on October 29. The fact is that oil prices are rising steadily and are already at about $1 per gallon in rural areas of New England. Gas and electricity are fortunately holding stable. Households of elderly and impoverished people in our colder States have already experienced several weeks of cold weather, and much uncertainty over whether the modest amount of fuel assistance they have qualified for in the past will be there for them. This is an unfortunate situation that we are in a position to change.

For example, in the city of Burlington, in my home State of Vermont, I know of a disabled elderly woman who lives alone on a supplemental security income payment of $397 per month and food stamps. Her monthly rent is $300 and her electric heating bill is $250 each winter month. The Senate bill would cut her monthly fuel assistance payment from $181 to $123—$58 per month, or a total cut of $348 for the 6 months she is eligible for benefits. This cut makes an already difficult situation impossible.

One of her neighbors is the mother of two children, both under 5 years of age. She is currently receiving AFDC payments of $531 per month, and is attending a building trades training school. Her rent cost is $400 per month. Her winter heating bill averages $200 per month. Obviously, these wintertime monthly costs exceed her monthly income by $69—and these are only the costs of rent and heating. Last winter, she received $120 of fuel assistance per month for 6 months. This winter, if the proposed 32-percent cut is not defeated as it should be, she will not be left with all of $51 monthly, but with $12 to meet the remainder of her family's monthly needs, from November through April.

These households are typical of fuel assistance recipients, the majority of whom are the elderly and single parents of minors. Restoring level funding for LIHEAP will not put them on a gravy train, or even in the black from month to month. Rather, it will take a little bit of the edge off the sharpness of winter's cold, and the pain of perpetual debt.

Mr. President, when the House and Senate resolve their differences on the Labor/HHS appropriations bill in conference during the coming week, we must not leave this proven, effective, means-based antipoverty program with less than level funding. No other discretionary funds for the poor have been so seriously damaged as these. I urge the Labor/HHS conferees to consider the will of the majority of the Senate, and to treat LIHEAP consistently with other programs in the bill and allow at least a freeze with 1987 funding levels.

The letter follows:

U.S. SENATE,
Washington, DC, October 29, 1987.

Hon. LAWTON CHILES,
Chairman, Subcommittee on Labor, Health and Human Services, U.S. Senate Appropriations Committee, Washington, DC.

DEAR LAWTON: When the Senate-House Committee of Conference meets on the Fiscal Year 1988 Labor, Health, and Human Services appropriations bill, we urge you and fellow conferees to recede to the House funding allowance for the Low Income Home Energy Assistance Program [LIHEAP]. We offer several reasons for this request.

LIHEAP is a needs-based income supplement program serving only the very needy—the average annual income of a recipient household is less than $6,500. Almost 40 percent of these recipients are low income senior citizens. Many others are the working poor. Fifty-two percent of federally eligible LIHEAP households include children under the age of eighteen. These households pay on average almost 16 percent of their income on home energy costs—about four times the national average. The average annual LIHEAP income supplement of about $208 means a great deal to these people, who too often must make the choice between heating and eating.

Let us put the proposed 32 percent cut in the context of state distribution of federal funds. If all states decide to deal with the reduction by proportionately eliminating recipients from the program, 2.1 million households nationwide lose benefits. If a state decides to reduce the benefit level instead, the average annual benefit goes down $67 from $208 to $141.

In practice, some states will cut benefits, and others will reduce the number of recipient households. Both approaches will be very painful for millions of poor people.

If the reduction approved by the Senate passes the Conference, LIHEAP would suffer the largest annual percentage cut of any low income support program since 1982. This is particularly onerous in view of the 5 percent rise in heating cost the Department of Energy is projecting for this winter.

Even at its endangered 1987 funding level, LIHEAP serves only about one-third of the households that are federally eligible for benefits. And, as Diane DeVaul of the Northeast-Midwest Institute pointed out in a report in 1984—the last year for which exact figures are available—a $3.6 billion gap existed between the actual energy expenses of LIHEAP-eligible households and the federal appropriation for the program (assuming that the households spent the equivalent of 10 percent of their annual incomes on energy costs).

The various states aren't in a position to make up for the LIHEAP cut. It is a myth that funds from oil overcharge settlement cases are universally available to fill the gap. Oil overcharge funds were clearly intended by the Court to supplement, not supplant, existing federal fuel assistance monies. The Department of Energy has encouraged the states to use the funds in a balanced way, for a variety of purposes aside from fuel assistance, and they are doing so.

It would be unreasonable and unfair to threaten the health and scarce financial resources of the needy, as the Congress and the states debate the oil overcharge settlement issue. Oil overcharge money is not a solution.

Please consider strongly the position of the 65 Senators who voted on October 14 to restore LIHEAP funding, 47 of whom voted to waive the Budget Act to achieve full funding. We urge you, once again, to recede to the House's reasonable funding allowance for this important program.

Sincerely,

John Heinz, Edward M. Kennedy, Robert T. Stafford, Daniel Patrick Moynihan, Patrick Leahy, Jack Danforth, John Melcher, William S. Cohen, David Durenberger, Chris Dodd, Kit Bond, Carl Levin, Richard G. Lugar, Joe Biden, and Dan Quayle.

John D. Rockefeller IV, Gordon J. Humphrey, Paul Simon, Claiborne Pell, John Chafee, Paul Sarbanes, Bob Kasten, Howard M. Metzenbaum, Larry Pressler, Don Riegle, Warren B. Rudman, John F. Kerry, Alfonse M. D'Amato, Bob Packwood, and Terry Sanford.

David Pryor, Frank R. Lautenberg, Jim Sasser, John Glenn, Tim Wirth, Barbara A. Mikulski, Bill Bradley, Jeff Bingaman, Brock Adams, Bill Roth, Alan J. Dixon, George Mitchell, Tim Daschle, Albert Gore, Jr., Wyche Fowler, Jr., Max Baucus, Richard Shelby, Arlen Specter, Pete Wilson, John McCain, Kent Conrad, and Howell T. Heflin.

VIETNAM WOMEN'S MEMORIAL PROJECT

Mr. DURENBERGER. Mr. President I rise to comment on an amendment I planned to propose authorizing the establishment of a statue of a woman Vietnam veteran as a part of our Nation's Vietnam Veterans Memorial, and to engage in a brief colloquy with the distinguished Senator from Arkansas, Mr. Bumpers.

Mr. President, I am not going to offer this amendment—despite the fact that 31 Senators have cosponsored Senate Joint Resolution 215 which authorizes the statue. I am not going to offer this amendment—despite the fact that I am holding letters endorsing my plans to amend the continuing resolution from the American Legion, the Disabled American Veterans, the Veterans of Foreign Wars, and the Vietnam Veterans of America.

I am not going to offer this amendment because the leadership of the committee and subcommittee of jurisdiction—the Subcommittee on Public Lands, National Parks, and Forests of the Energy and Natural Resources Committee—opposed moving forward in the Senate without a chance to hold hearings on the proposal.

While I do not need a hearing to be convinced of the merits of the proposed Vietnam Women's Memorial, I do understand the concerns of Senators Johnston, McClure, Bumpers, and Wallop. I am willing to withhold my amendment from consideration this year as long as I can be assured that the Senate will consider this issue expeditiously next year.

I would like to put a question to the distinguished Senator from Arkansas, Mr. Bumpers, in his capacity as chairman of the Subcommittee on Public Lands, National Parks, and Forests. Is it the position of the Senator from Arkansas that hearings should take place before the Senate acts but that you are in no way opposed to the concept of adding a statue of a woman Vietnam veteran to the Vietnam Veterans Memorial?

Mr. BUMPERS. I say to my distinguished colleague from Minnesota, I am aware of the tremendous support for this proposal that exists around the Nation. I want to ensure that my desire to hold hearings on the issue should not necessarily imply opposition to the proposed statue. On the contrary, I believe this proposal will benefit from careful hearings that allow both proponents and opponents to make their case in a way that follows the process laid out in Public Law 99-652, the Commemorative Works Act enacted last year.

Mr. DURENBERGER. I thank my colleague. Is it also correct that my colleague from Arkansas will make every effort to schedule hearings before your subcommittee early next year on establishing a memorial to women who served in the Armed Forces in the Vietnam war?

Mr. BUMPERS. I assure my colleague from Minnesota that I will do everything I can to schedule hearings on Senate Joint Resolution 215 and S. 1896 by the end of February 1988. I am sure that the Senator from Minnesota recognizes that I cannot schedule hearings today but I want the Record to show that I am committed to having hearings in my subcommittee as soon as possible next year.

Mr. DURENBERGER. I thank my colleague. With this understanding I will not offer my amendment at this time. I am confident that the Senator from Arkansas will do all he can to ensure that the Vietnam Women's Memorial receives early and fair consideration in the second session of the 100th Congress.

I ask unanimous consent that letters from the four veterans' groups I mentioned earlier be inserted in the Record at this point.

There being no objection, the letters were ordered to be printed in the Record, as follows:

Vietnam Veterans of America, Inc.,
Washington, DC, December 9, 1987.

Hon. David Durenberger,
U.S. Senate,
Washington, DC.

Dear Senator Durenberger: I wish to inform you of our unqualified and enthusiastic support for the amendment you and Senator Cranston plan to offer to the FY 1988 Continuing Resolution which would authorize the establishment of the Vietnam Women's Memorial.

As you are aware, Vietnam Veterans of America has long supported this important project. At our 1985 National Convention our membership overwhelmingly passed a resolution endorsing the Women's Memorial, and today we feel the Memorial is long overdue.

Vietnam Veterans of America greatly appreciates your efforts on this issue, Senator. I look forward to working with you to assure passage of this most worthy initiative.

Sincerely,

Mary R. Stout, *President.*

Veterans of Foreign Wars
of the United States,
December 10, 1987.

Hon. Dave Durenberger,
U.S. Senate,
Washington, DC.

Dear Senator Durenberger: On behalf of the more than 2.2 million men and women of the Veterans of Foreign Wars of the United States, I wish to commend you for your continuing efforts to erect a statue of a woman veteran at the Vietnam Veterans Memorial in Washington, D.C. We, too, were deeply disappointed when the Commission of Fine Arts unjustly rejected the Veteran Women's Memorial Project proposal. We strongly believe the Vietnam Veterans Memorial will not be completed until a statue of a woman is placed in close proximity to this most revered memorial.

It is our understanding you plan to offer an amendment, along with Senator Alan Cranston, to H.J. Res. 385, the "FY-88 Continuing Resolution," which would authorize the Vietnam Women's Memorial Project, Inc. to erect a statue of a woman Vietnam veteran at the Vietnam Veterans Memorial. We support this amendment and encourage its adoption.

Sincerely,

Earl L. Stock, Jr.,
National Commander-in-Chief.

The American Legion,
Washington, DC, December 10, 1987.

Hon. Dave Durenberger,
U.S. Senate,
Washington, DC.

Dear Senator Durenberger: The American Legion commends you for your efforts to commemorate the sacrifices of women who served in the armed forces during the Vietnam War. As you know, our organization shares your commitment to achieving that objective.

We support your legislative initiative to place a statue of a woman veteran at the site of the Vietnam Veterans Memorial. We believe this action to be consistent with the provisions of Public Law 96-297, the measure establishing the Vietnam Veterans Memorial.

The letter that you and Senator Alan Cranston sent to the Chairman of the Senate Appropriations Committee on December 8 stated your intention to amend the FY 1988 continuing appropriations resolution for the purpose of authorizing placement of the woman's statue. Our organization agrees with this approach as the most expeditious way of dealing with the issue.

Senator, we trust that a majority of your colleagues will join with the 37 who have already endorsed this proposal and will vote for the amendment during consideration of House Joint Resolution 395.

Sincerely,

E. Philip Riggin,
Director, National Legislative Commission.

Disabled American Veterans,
Washington, DC, December 11, 1987.

Hon. Dave Durenberger,
U.S. Senate,
Washington, DC.

Dear Senator Durenberger: As National Commander of the more than one million members of the Disabled American Veterans and its Ladies' Auxiliary, I wish to thank you and Senator Alan Cranston for your efforts to establish a memorial in honor and recognition of the women of the United States who served our country in Vietnam.

Senator Durenberger, understandably, the DAV was very disappointed with the Fine Arts Commission's decision to reject the plan to erect a Vietnam Women's Memorial on the grounds of the Vietnam Veterans Memorial, Washington, D.C. As I am sure you know, the DAV has supported this worthy project since the very beginning. And, the delegates to our recent National Convention once again unanimously approved a resolution continuing that support.

Senator Durenberger, we believe as you, and many of your colleagues in the Senate, that it's time our nation pay fitting tribute to American women who served in Vietnam. While their numbers were not as great as their male counterparts, their sacrifices in support of our country during the Vietnam conflict was nonetheless significant. As you know, eight women lost their lives in Vietnam, paying the ultimate sacrifice in service to our nation. A memorial honoring the brave women who served America in Vietnam should be established.

Again, I commend you and Senator Cranston for your efforts to see to it that the military service of women who served our country in Vietnam are appropriately recognized.

Sincerely,

GENE A. MURPHY,
National Commander.

LABELING OF ARTIFICIAL CHEESE IN FROZEN MEAT PIZZAS

Mr. KASTEN. Mr. President, I would like to address a series of questions to the distinguished chairman of the Agriculture Committee, Senator LEAHY, on the subject of labeling the artificial cheese content in frozen meat pizzas.

Earlier this year, I introduced S. 1443, a bill to require such labeling. Although the Congressional Budget Office did do an analysis indicating that my bill would save the taxpayers $94 million over 5 years, I did not introduce S. 1443 for this reason.

Simply put, S. 1443 is truth-in-advertising legislation. Consumers who buy frozen pizza in the supermarket believe they are buying a product with real cheese. If frozen pizzas contain something else, consumers should be informed of this fact—plainly, clearly, on the front of the pizza box.

My bill would not require consumers to buy real cheese. It would not require frozen pizza manufacturers to use real cheese. It would simply provide consumers the information necessary to make up their own minds. It makes no statement as to whether real or artificial cheese is better—it would allow that decision to be made in the marketplace.

In the reconciliation package assembled by the Committee on Agriculture before the conclusion of the deficit reduction negotiations between the White House and the congressional leadership, the committee included a pizza labeling provision. I would like to ask the Senator from Vermont whether that provision addressed the labeling issue in the same way as my legislation.

Mr. LEAHY. The Senator is correct. The provision adopted by the committee would require prominent labeling of imitation cheese content on the boxes of frozen pizzas that contain more than one-third imitation cheese. Where authorized by the Secretary of Agriculture, the words "cheese alternate" could be used in place of "imitation cheese."

This language in this provision was arrived at after discussions involving representatives both of the dairy industry and of frozen pizza manufacturers. It represents a compromise that is acceptable to both groups; the ranking member of the Agriculture Committee, Senator LUGAR, has indicated that it is acceptable to him as well.

Mr. KASTEN. Mr. President, I would like to inquire of the Senator as to why this compromise language was omitted from the revised reconciliation package approved by the committee.

Mr. LEAHY. Mr. President, I assure the Senator that this omission does not represent any change of heart on the committee's part as to the wisdom of requiring truthful labeling of frozen meat pizzas. The committee simply meant to restrict, as far as this was possible, the contents of the reconciliation package to provisions bearing directly on outlays for agricultural programs in this fiscal year.

I would point out to my colleagues that the Secretary of Agriculture would be required by the compromise pizza labeling language to implement the prominent labeling requirement by September 1, 1988. It is therefore somewhat unlikely that it would have a significant impact on the cost of the dairy program in fiscal year 1988; I would expect some positive impact in fiscal 1989.

Mr. KASTEN. I appreciate the Senator's assurance on that point. My understanding is that the House Agriculture Committee has approved a similar provision as part of its reconciliation package.

Mr. LEAHY. The Senator is correct.

Mr. KASTEN. Mr. President, since what controversy there was on this issue appears to have been resolved, and since enactment of a prominent labeling requirement would settle a dispute that already has gone on for much too long, I would like to suggest that the Senate recede to the House position on this issue when we get to conference on reconciliation.

Mr. LEAHY. That suggestion is agreeable to this Senator. The House provision is very similar to that approved by the committee, and is perfectly acceptable to me.

Mr. LUGAR. Mr. President, the labeling requirement approved by the House goes a little farther than this Senator would like. However, I do think that it would be to everyone's advantage to resolve this issue. Accordingly, I will have no objection to the Senate's yielding to the House on the substance of pizza labeling when we take it up in conference.

I would like to put Senators on notice of my intention to suggest certain technical corrections in the language of the House provision. These corrections would allow the final product to better reflect what the Senate Agriculture Committee agreed to in this area, and would in my view facilitate the implementation of the worthwhile concept of prominent labeling.

Mr. KASTEN. I appreciate the assurance on this point by my colleagues on the Agriculture Committee. They have both put time and effort into getting the pizza labeling issue resolved, and I appreciate their work on an issue that is important to the dairy farmers of Wisconsin.

Mr. LEAHY. Mr. President, I would like to thank the Senator from Wisconsin, Mr. KASTEN.

I appreciate his efforts on this issue and his support for the dairy provision in the leadership reconciliation package.

MILITARY PAY RAISE DECREASE

Mr. GLENN. Mr. President, as chairman of the Subcommittee on Manpower and Personnel of the Committee on Armed Services, I would like to comment on the provision in this bill which lowers the military pay raise we authorized in the fiscal year 1988-89 Defense Authorization Act of 3 percent to 2 percent to be effective January 1, 1988.

Mr. President, I want to point out that the Senate had a 4-percent military pay raise in the fiscal year 1988-89 Defense authorization bill and that we compromised in conference with the House to come down to 3 percent. I indicated at that time that I felt strongly that we needed to give our military personnel a competitive pay raise. Based on the employment cost index [ECI], the index used by the Department of Defense to compare military pay increases to the private sector, the 3-percent raise would have just about kept pace with projected private sector wage growth. However, measured against the ECI, military personnel are currently some 9.4 percent behind private sector wage growth. By dropping to a 2-percent pay raise, we will be widening this gap to double digits. I know we have deficit problems that we have to deal with and that we have to ask for belt tightening all around. Therefore, I reluctantly curb my instinct to oppose the reduced level of 2-percent increase in military pay that is in this bill for fiscal year 1988. At the same time, I want to say again that we have to be very careful about what we do next year. The growing pay comparability gap is insidious and could cause retention and recruiting problems that we need to be wary of.

Mr. President, I also want to say that I am concerned about our Federal civilian personnel whose salaries and wages have been capped over the last few years. In comparison to the private sector wage growth, they are even further behind than military personnel. As measured against the private sector they are currently 24 percent behind. This kind of treatment of our Federal civilian work force is bound to cause problems in the future if we are not careful.

Finally, Mr. President, I believe it is a credit to our men and women, both in and out of uniform that they carry out their duties in a professional and dedicated manner in spite of the pay gaps. I think their services are undervalued and we need to keep this in mind as we deal with the pressures of fiscal reality.

These are all real live people, with families and responsibilities that must be addressed. They cannot be ignored forever, nor be asked repeatedly to carry our fiscal burdens unfairly.

NCALRI, ADC, AND THE POULTRY ISOLATION UNIT

Mr. BUMPERS. I thank the distinguished Agriculture Appropriations Subcommittee chairman, Senator BURDICK, for his leadership on this bill and for the assistance that he has always given me. The committee report accompanying the Senate reported Agriculture appropriations bill indicates that the bill provides $493,000 through the National Agricultural Library account to the Leflar School of Law of the University of Arkansas in Fayetteville, AR for the creation of a National Center for Agricultural Law Research and Information. Is it the chairman's intention and the intention of the committee that the center is to be an independent center that will be allowed to do research and provide information on a completely neutral basis and that the center is not intended to be the legal research arm of the USDA?

Mr. BURDICK. The Senator is correct. It is intended that the center will provide timely, neutral international, State, and Federal legal research and information to practicing attorneys, farm and commodity groups, farmers' aid organizations, State and Federal agencies, Members of Congress, and others who are helping farmers and farmer-related industries deal with the crushing legal challenges facing them today. Of course, the center will also provide research and information to the USDA, but its operation will be independent of the USDA.

Mr. BUMPERS. Of the $493,000 that is made available, is it the chairman's intention that this money will be used to hire professional and support staff, to purchase library materials, to expand computer capabilities and to purchase computer access time, and to cover office expenses including the cost of disseminating research information?

Mr. BURDICK. The Senator is again correct. It is intended that the center will use existing facilities within the Leflar School of Law and that $318,000 will be used to hire a director, three professional researchers, a research and information librarian, necessary support staff, and to provide assistanceships to graduate agricultural law students at the Leflar School of Law. Also, $75,000 is provided to cover library acquisitions, $50,000 is provided to cover computer expansion and access expenses, and $50,000 is provided to cover office expenses, including expenses associated with the dissemination of research information. Let me further add that these figures are an important guide but the committee does not require a rigid distribution of the funds. Also, it is the committee's intention that funds may be used to locate a national agricultural law association at the center if such a move would further the research goals of the center and would help in the dissemination of research information.

Mr. BUMPERS. Is it the intention of the committee that the Leflar School of Law will have a significant role in hiring well-qualified personnel and in assisting the center in directing the scope of its assistance?

Mr. BURDICK. Yes. The Agricultural Law Program at the Leflar School of Law is recognized for its unique expertise in the area of agricultural law, and it is the intention of the committee that the dean of the Leflar School of Law and the director of the graduate Agricultural Law Program have a primary role in selecting the director of the center, and it is expected that the dean and the director of the Agricultural Law Program will share their expertise with the director of the new center in the selection of additional personnel and in developing the scope of assistance to be provided by this badly needed center. It is understood that the Leflar School of Law has developed a comprehensive outline for the successful operation of this national center, and it is the intention of the committee that the National Agricultural Library will consult closely with the school of law and will be guided by the Leflar School of Law proposal.

Mr. BUMPERS. I thank the Senator for sharing the intent of the committee concerning the National Center for Agricultural Law Research and Information and I would also like to seek clarification from the Senator concerning $225,000 provided to the animal damage control of APHIS for work in the delta States. Is it the intention of the committee that Arkansas be included among the delta States and that research needs in Arkansas on migratory bird problems affecting aquaculture and for blackbird and starling control in rice be favorably considered?

Mr. BURDICK. The Senator is correct. It is the intention of the committee that Arkansas, Louisiana, and Mississippi be included as the delta States and it is the intention of the committee that the research the Senator mentioned be favorably considered by animal damage control.

Mr. BUMPERS. Is it the committee's intention that the research funds shall be over and above the ADC management funds normally provided to Arkansas, including management funds used to protect human health and reduce threats to aviation?

Mr. BURDICK. The Senator is correct.

Mr. BUMPERS. I thank the Senator. Also, I would like to seek clarification on the funds provided for a poultry isolation unit at the University of Arkansas at Fayetteville, AR. As noted in the committee report, the State of Arkansas has made available nearly $500,000 for the construction of a poultry isolation laboratory. However, this facility will not be adequate to conduct research on highly virulent and exotic poultry diseases. Is it the committee's intention that the $500,000 provided in the buildings and facilities account of the Agricultural Research Service to the University of Arkansas at Fayetteville, AR, shall be used to allow the proposed new facility to be upgraded to a level that will allow research on highly virulent and exotic poultry diseases?

Mr. BURDICK. The Senator is correct.

Mr. BUMPERS. Again, I thank the chairman for his hard work, and for clarifying the committees' intention.

RURAL INDUSTRIALIZATION TECHNOLOGY CENTER AGRICULTURE AND RURAL DEVELOPMENT APPROPRIATIONS FOR FISCAL YEAR 1988

Mr. NICKLES. My colleagues are well aware of the small business incubator concept which provides new and emerging business with the support and management skills to get them off the ground. These so-called incubators have been utilized in Oklahoma and throughout the Nation.

Such an incubator center is being proposed for rural Pontotoc County, OK. Funding in the amount of $400,000 for the planning and feasibility costs for the center has been included in the House bill. Funding for the center itself would come from State and local funds. The people of Pontotoc County recently voted to approve the millage necessary to equip and operate the facility.

Senator BOREN and I are hopeful appropriate funding for this feasibility study can be provided. This is a small amount to pay for a program with the potential to help so many people. I thank my colleagues for their consideration.

Mr. BOREN. I join with my colleague from Oklahoma in expressing my strong support for the Rural Industrialization Technology Center. The $400,000 necessary for the planning and feasibility study would come from the rural development grant account, which is targeted to assist rural areas in economic distress.

The people of Pontotoc County already have indicated their support for this center by approving special county funds to operate it. Funding for the feasibility study has been included in the House bill, and my colleague from Oklahoma and I had intended to offer a similar amendment to the Senate bill. I appreciate, however, the position of the Senate managers regarding amendments of this type being kept off the bill. We have discussed this matter at some length with the chairman and ranking member of the subcommittee, and I would welcome whatever assurances they might be able to provide regarding treatment of this matter in the conference committee.

Mr. BURDICK. I would like to thank the Senators from Oklahoma for their comments. I commend their commitment not only to their States and this project, but also their foresight and courtesy in not pressing for the center on this bill. I feel that the incubator programs for small business have been successful, and I assure the Senators from Oklahoma that I will keep their strong views in mind in the conference committee and hope that an acceptable solution will be reached.

Mr. COCHRAN. I would also thank my colleagues from Oklahoma for their comments on the Rural Industrialization Technology Center. This seems to be a worthwhile effort on the part of the citizens of that area to help themselves at a time when financial problems affect us all. We have not been able to accommodate them at this stage of the bill's consideration, but we will keep in mind the strong support of the Senators from Oklahoma for this center when we go to conference.

Mr. BURDICK. Mr. President, I would like to address the appropriations bill for Agriculture, rural development, and related agencies as it is referenced by this continuing appropriations resolution. As my colleagues know, the Agriculture appropriations bill for fiscal year 1988, heretofore, has not been considered by the full Senate. We have a bill which has been reported by the committee; however, since we did not receive an appropriations bill from the House for Agriculture, we did not finalize the bill in the Senate. Therefore, this is the first and only opportunity that the full Senate has to consider Agriculture appropriations. As reported by the committee, the bill contains $56.8 billion in budget authority and $25.6 billion in outlays.

In summary, we feel that we have a bill that provides the proper amount of emphasis on agriculture and rural development. We have restored the cut proposed by the President in the extension service and in the research programs. In addition to these restorations, we have provided increases for new research on water quality and low-input agriculture.

In the pest control programs, we have a significant increase for boll weevil eradication, pseudorabies control and eradication, and we have restored the President's proposed cut in the Animal Damage Control Program.

For the Commodity Credit Corporation, we have provided the full reimbursement estimate of some $21 billion. In addition, we are recommending an increase in the permanent borrowing authority of the Commodity Credit Corporation from $25 billion to $40 billion. With this increase in borrowing authority, the Commodity Credit Corporation will not be constantly up against its limit and, therefore, we should avoid the need for supplemental appropriations that we have faced in the last several years.

For the Farmers Home Administration, we have restored the rural housing grants and loans programs which were proposed to be eliminated by the President. We have a slight increase for rural development grants and loans, and we have provided full reimbursements to the various revolving funds. In addition, for the farmer loan programs, we have complied with the authorization levels established in the farm bill.

For the Rural Electrification Administration, we have restored all of the loan programs which were proposed to be significantly cut by the President. Under conservation, we have also restored the cost-share programs which were proposed for elimination. The Conservation Reserve Program is funded at the full $1.4 billion that the President requested.

The nutrition programs are fully funded based on current estimates. In many cases, these funding levels are in excess of the budget request. Nevertheless, it is important to fund these programs at the full amount so that the food stamp recipients and child nutrition programs do not face cutoffs at some point next year. An increase of $140 million over last year's level is provided for WIC.

Finally, the bill contains an increase for the Foreign Agricultural Service as well as a Public Law 480 program level which will provide a slight increase in shipments of commodities abroad.

Mr. President, while this continuing resolution references the Agriculture appropriations bill that I have summarized, it also includes overall reductions of $260 million in budget authority and $230 million in outlays for discretionary agriculture programs. These reductions are not specified in the continuing resolution but will have to be formalized when the House and Senate go to conference on the bill.

In addition, it is extremely likely that we will have to make additional cuts in conference in order to comply with the budget summit agreement. These cuts from the Senate level will likely be in the range of 5 to 6 percent of the discretionary spending in the bill. This percentage is substantially higher than the 3.8 percent espoused by the budget summit agreement because that 3.8 percent is a cut from the average spending between the House and Senate.

The House Agriculture appropriations bill is so much lower than the Senate level; therefore, we have to cut considerably more funding from the Senate bill in order to reach the midpoint between the House and Senate, after which the 3.8-percent cut will then be made.

I can assure my colleagues that these cuts will not be easy to achieve, but we will do them in a responsible manner and I will do my utmost to protect those programs which are so important to farmers, food recipients, and rural people in this country.

Mr. MELCHER. Mr. President, as I understand the agriculture section of the continuing resolution $750,000 will be transferred out of the animal welfare enforcement provisions of the Animal and Plant Health Inspection Service and used by the National Agriculture Library to carry out information functions required by the Improved Standards for Laboratory Animals Act of 1985. This information center is intended to provide research investigators with ready access to methods of research and testing involving fewer animal subjects, or to reduce any pain or distress the animals might suffer.

While the National Agriculture Library has established the basis to fulfill this task through a $750,000 appropriation in fiscal year 1987, for the current fiscal year the necessary funds will be transferred out of the animal welfare budget.

My concern, Mr. President, is that this funding be used exclusively for the Information Center required by the 1985 amendments and that no surpluses are diverted to the food science functions which make up the bulk of NAL's overall national mandate. I would appreciate it if the distinguished chairman of the Agriculture

Appropriation Subcommittee could comment on this.

Mr. **BURDICK**. The Senator from Montana is correct. The committee is aware of the transfer and we fully intend that these funds are used solely for the laboratory animal Information Service at the National Agriculture Library.

Mr. **MELCHER**. I thank my good friend from North Dakota. Mr. President, I ask unanimous consent that a letter I received from Joseph Howard, Director of the National Agriculture Library, be placed in the RECORD.

U.S. DEPARTMENT OF AGRICULTURE,
NATIONAL AGRICULTURAL LIBRARY,
OFFICE OF THE DIRECTOR,
Beltsville, MD.

Hon. JOHN MELCHER,
U.S. Senate, Hart Building, Washington, DC.

DEAR SENATOR MELCHER: Thank you for your continuing interest in the development of the Animal Welfare Information Center at the National Agricultural Library. We have been working very hard to establish this Center and have made significant strides in acquiring training materials and other relevant documents as well as indexing journal articles for the AGRICOLA database. In addition we are having several directories, resource guides, and bibliographies developed pertinent to the mandate of the Animal Welfare Act. Many presentations and exhibits have been completed during the past few months to promote the use of the Center.

In addition to the non-farm animals that are the primary focus of the Animal Welfare Act, the mission of the National Agricultural Library is to provide information on all areas of agriculture including farm animals. This is accomplished primarily through the AGRICOLA database and other information products and services.

Unfortunately, the Animal Welfare Information Center's funding was for FY 1987 only, and it is difficult to establish and maintain such a Center without the certainty of continued funding. If no further funding comes forward, the Center will cease as of September 30, 1987. If this occurs, NAL will seek to maintain the Center's previous activities at a minimum level of acquisitions and information services in order to respond to its overall national mandate. This will be done however, within an environment of stringent budget limitations and in competition with other important subject areas.

I hope these remarks address your concerns. Again, we appreciate your interest and will be most happy to keep you informed of the Center's activities in the future.

Sincerely,

SAMUEL T. WATERS,
(For Joseph H. Howard, Director.)

PROMOTION OF NORMAL NOTICE AND COMMENT IN ADMINISTRATIVE RULEMAKING

Mr. **HARKIN**. Mr. President, I would like to briefly discuss report language which I hope will be adopted by the conference committee on this legislation. The language will help to ensure orderly rulemaking in nutrition programs under the jurisdiction of the Department of Agriculture.

The process of drafting, revising, and implementing regulations can sometimes be short circuited through the use of interim rules which are effective immediately, avoiding public notice and comment prior to implementation. This often occurs during the last year of an administration when political appointees realize that they have not accomplished all that they set out to do.

Ideas which have seemed interesting or politically desirable, but have never been put forth for public review and comment, can suddenly take on an air of urgency when appointees realize that they have only a few months left to accomplish their goals. This tendency is true, of course, regardless of the administration going out of office. The same thing can happen at the beginning of an administration, when loyal administration officials of either party are anxious to implement their party's agenda.

The result of this short circuiting can be confusion, inaccurate implementation of congressional intent, litigation, and conflicting or changing rules for Federal, State, and local administrators.

For example, the current administration was challenged in a number of lawsuits for implementing regulations without notice and comment. In *Levesque* v. *Block,* 723 F.2d 175 (1st Cir. 1983), the court of appeals for the first circuit held that household definition rules under the Food Stamp Program should not have been implemented without notice and comment. Other aspects of that rule, including lack of notice and comment, are still under litigation in a pending case in U.S. district court in Philadelphia, Robinson versus Lyng. Implementation of family day care rules without notice and comment was challenged in the D.C. Circuit in Petry versus Block, and Social Security number requirements were similarly challenged in the ninth circuit in Alcarez versus Block. Allotment regulations for food stamps issued by a previous administration were successfully challenged on this ground in Rodway versus USDA in the D.C. Circuit.

As chairman of the Senate Subcommittee on Nutrition, I am offering report language which would prevent this needless confusion, controversy, and misinterpretation of congressional intent. The language requires that new regulations for the nutrition programs under USDA's jurisdiction be issued in proposed form, for public notice and comment, prior to their implementation in interim or final form. This provision would not prevent the Department from issuing any regulation; it simply would require that all regulations receive the necessary study and comment by those affected by the rules, the American people. The provision also makes an exception for any new statute in which Congress has directed that the law be implemented by a certain date which is so soon that it precludes the use of notice and comment. To continue coverage after October 1, 1988, I plan to offer the same provision to the fiscal year 1989 appropriations bill as well.

Mr. President, this language seeks a reasonable accommodation between any administration's desire to continue the work of Government, and the need of program administrators and the American people for deliberate, careful, and regular administrative rulemaking. I hope that the conference committee, and particularly the conferees from the agriculture subcommittees, will accept and incorporate this language. I ask unanimous consent that the text of this report language be included with my statement in the RECORD.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

Mr. **BURDICK**. Mr. President, as chairman of the Subcommittee on Agriculture, Rural Development, and Related Agencies of the Committee on Appropriations, I fully support and agree with the language and concerns offered by the Senator from Iowa, who is a member of the subcommittee and will likely be a conferee. When the conference committee meets, I will work to ensure that the language and intent are adopted in the committee's report.

Mr. **HARKIN**. I thank the Senator.

APPROPRIATION LANGUAGE TO PROMOTE PUBLIC NOTICE AND COMMENT ON ADMINISTRATIVE REGULATIONS

The Committee directs the Food and Nutrition Service (FNS) of the Department of Agriculture to comply fully with the notice and comment requirements of Chapter 5, Title 5 of the United States Code in publishing, implementing, or enforcing provisions of any regulation except where a new public law expressly requires that, because a deadline for implementing a new law does not allow sufficient time for public notice and comment on a proposed rule, regulations be issued on an interim/final basis. The Committee has serious concerns that FNS may try to circumvent this process and directs the Secretary to ensure compliance with the notice and comment period envisioned for all but emergency regulations.

RETENTION OF THE ANIMAL DAMAGE CONTROL PROGRAM AMENDMENT TO THE HOUSE CONTINUING RESOLUTION

Mr. **McCAIN**. Mr. President, I would like to take this opportunity to request that we defer to the House on a provision that would extend the authority to the Secretary of Agriculture in the Animal Damage Control Program. This House provision would permit the Animal Damage Control Program, administered by the USDA, to continue contracting with State and local governments and other organizations for the control of animals that are a nuisance or that spread disease to the human population. USDA's Office of the General Counsel has determined that under the Animal Damage Control Act of 1931, the

USDA has no authority to conduct studies or provide services which are not directly related to agriculture. The impact this program has on the health of our population is tremendous. While these functions could be taken over by another agency, it is important to remember that the ADC staff has the expertise in this area and has been performing these functions for well over 30 years. I would like to ask Senator BURDICK and Senator COCHRAN, the chairman and ranking member of the Subcommittee on Agriculture, Rural Development, and Related Agencies respectively, if they will work to retain this language in the continuing resolution during conference with the House.

Mr. BURDICK. Mr. President, the Animal Damage Control Program has been going through changes recently because of its transfer from the Department of the Interior to the Department of Agriculture. It is a good program, and I am aware that some of its work has been in areas other than the protection of agriculture, such as the protection of human health and safety. While I believe we need to be careful so that this program is not extended beyond its purpose of protecting agriculture, I recognize that some of these functions are extremely important and that to end them abruptly would cause undo hardship.

Therefore, I would hope that the committee will look into this issue more carefully in the future, but for now, I would hope that in conference, we will work out an agreement with the House to continue providing these needed services that the Senator from Arizona mentions.

Mr. COCHRAN. I thank my colleague from Arizona for calling this provision to the Senate's attention. As he indicated, this is included in the House-passed CR; however, as a result of the committee's efforts to report a clean CR, all extraneous House provisions were deleted from the resolution. This provision was among those items.

I would also like to voice my support for allowing the Animal Damage Control Program to continue to provide necessary and essential support to States, individuals, and other organizations. The functions of the ADC have increased tremendously, mainly because of the advances in technology. You may be sure that I shall work with the conferees in an effort to reach an agreement that will allow the program to continue the role it has been performing for the past 30 years.

VARROA MITE INFESTATION RESPONSE

Mr. MITCHELL. I'd like to engage the chairman of the Appropriations Subcommittee on Agriculture in a discussion about the present situation involving varroa mite, an external parasite of honey bees that has been discovered in the United States.

The varroa mite does not occur naturally in this country. Within the last month, USDA has confirmed the presence of the mite in nine States: Florida, Illinois, Nebraska, New York, Pennsylvania, Ohio, Wisconsin, South Dakota, and Michigan.

Damage to bee colonies from the varroa mite can be devastating, ranging from 50 to 100 percent loss within 2 or 3 years of infestation. According to USDA, there is no completely effective treatment for varroa mites. Oftentimes, the only remedy is to destroy infected hives.

The impact of a varroa mite infestation to this Nation's agricultural economy could be substantial. Nationally, honeybees pollinate about 20 billion dollars' worth of agricultural crops each year. The domestic honey industry is a $200 million industry annually.

USDA's Animal and Plant Health and Inspection Service [APHIS], is in the field now trying to determine the extent and location of infection among hives. It has recommended that States declare a moratorium on bee movement.

The agency's Technical Advisory Group on Africanized Bees and Bee Parasites, which is made up of representatives of Federal and State agencies, universities, and industry groups has met on this matter and will present its recommendations shortly. It will be 4 to 6 weeks, however, before APHIS decides on how to proceed.

Although there are no appropriations for this matter included in the committee's recommendations for APHIS, I recognize that the committee shares my concern regarding varroa mite. Report language accompanying S. 1800 urges the Department of Agriculture to "do whatever is possible" to control these outbreaks.

It is my hope, however, that APHIS will utilize the funding under its contingencies accounts to at least begin to take whatever eradication steps are deemed necessary after the receipt of the recommendations from the Technical Advisory Group. Is that the view of the chairman?

Mr. BURDICK. That is exactly my feeling.

In addition, as the report language also says, the committee encourages the Secretary of Agriculture to exercise his extraordinary emergency powers to indemnify beekeepers for the loss of their bee colonies if that course of action is necessary to control the spread of the varroa mite.

Mr. MITCHELL. I'm very pleased to have that response from the distinguished chairman of the subcommittee. A dual response of eradication and indemnification is exactly the action already recommended to me by Maine Commissioner of Agriculture, Bernard Shaw.

The commissioner is particularly worried about the presence of the varroa mite because honeybees are important to Maine's agriculture both for their pollination value and for their honey production. Apples, blueberries, and other crops are highly dependent on honeybee pollination for optimum production. Maine also has a well deserved reputation for high-quality honey.

I would also like to inquire of the chairman's intentions regarding the subject of varroa mite in the coming months and during deliberations on the fiscal year 1989 appropriations legislation.

Mr. BURDICK. I would hope that the Animal and Plant Health Inspection Service will get a better handle on the varroa mite situation in the coming months so that we can take a responsible and manageable approach to the problem next year and the committee will be able to consider the matter and make the proper recommendation.

Mr. MITCHELL. I appreciate the response from the distinguished Senator from North Dakota. I look forward to working with him to fashion a responsible Federal reaction to this potentially serious threat to this Nation's agricultural economy.

AGRICULTURE APPROPRIATIONS: FEDERAL FUNDING FOR IMPACT AND CINTRAFOR

Mr. EVANS. Mr. President, the bill now being considered does not include funds for what I would consider two very important International Trade Development Centers. The State of Washington has established cooperative centers for international trade at the University of Washington, the Center for International Trade in Forest Products [Cintrafor] and Washington State University, the International Marketing Program for Agricultural Commodities and Trade [IMPACT]. Both Cintrafor and IMPACT have been invaluable tools in providing the information and marketing analysis necessary to understand how to best persent our products overseas. These Washington State programs work specifically with other regional research facilities including, the Tri-State Wheat Commission, the USDA Western Wheat States Association, and the U.S. Forest Service.

These established centers are strongly linked to the objectives of the International Trade Development Centers grant program authorization and demonstrate a strong commitment by both the State of Washington and the private sector. Further, both existing centers, which were initialed in 1984, have the linkages to existing Federal programs and enjoy valuable Federal cooperation.

The House included in its fiscal year 1988 Agriculture appropriations bill $1 million to be split evenly between the two programs. I would therefore ask that the chairman of the Senate Agriculture Committee, the distinguished Mr. BURDICK, support the House version of this particular aspect of the agriculture appropriations bill when it goes to conference.

Mr. BURDICK. Mr. President, I would like to thank the Senator from the State of Washington, Mr. EVANS, and express my respect for his support of these two programs. I will certainly consider the language in the House version of the agriculture appropriations bill in regards to both of these International Trade Development Programs located in the State of Washington.

Mr. EVANS. Mr President I appreciate the Senator's attention to this matter and I would like to thank the Senator for his hard work and dedication to improve the farm programs of this Nation.

ASAT LASER PROGRAMS

Mr. BINGAMAN. Mr. President, my senior colleague from New Mexico and I would like to engage Mr. JOHNSTON of the Appropriations Committee in a brief colloquy regarding our various ground-based laser programs.

We noted with interest the committee recommendation that the Air Force concentrate on developing more effective, limited-altitude ASAT capabilities based on ground-based lasers and not on enhanced altitude air-launched and ground-launched missiles. We understand that the Defense Department will be reviewing the various candidate laser ASAT programs during fiscal year 1988. Does the Senator of the Appropriations Committee believe that all of the candidate laser systems—MIRACL, EMRLD, COIL, FEL, et cetera—should be carefully considered in that review?

Mr. JOHNSTON. Mr. President, the answer to the Senator's question is yes. We would want DOD to examine all approaches to carrying out our recommendation.

Mr. DOMENICI. Mr. President, If I could follow up, I would like to pose another question to the Senator from Louisiana. We all know that Defense Secretary Carlucci is going to be facing some very hard choices in putting together a defense program that meets the funding targets set at the budget summit. In view of overall constraints on the defense budget, it is conceivable that the Defense Department may be forced to terminate one or more of these candidate Asat laser programs in order to proceed with the more promising approaches. If that situation should arise, would the Senator and the committee find it useful to be informed promptly of the decision and the reasons for it?

Mr. JOHNSTON. Mr. President, the answer to the Senator from New Mexico's question is yes. I would expect the Defense Department to submit a report within 5 days of any such termination decision fully explaining and justifying the reasons for the action.

Mr. BINGAMAN. Mr. President, we thank the Senator for his responses to our questions.

F-15 CHAFF AND FLARE DISPENSERS

Mr. BINGAMAN. Mr. President, I would like to engage in a brief colloquy with the manager of the Appropriations Committee, Senator JOHNSTON, with regard to an important modification needed on the early models of the F-15 aircraft.

Earlier this year, I visited Holloman Air Force Base and talked with the pilots there. Their main concern was the lack of ALE-45 chaff and flare dispensers on their aircraft. These self-protection devices designed to provide protection against heat-seeking and radar-imaging missiles were omitted because of budget constraints in the early models of the F-15 produced in the late 1970's. Later models have since been modified to include those vital systems.

Mr. President, this is not an expensive modification program. I am told that the Israelis immediately modified the F-15's they received from us to include chaff and flare dispensers. Our pilots deserve this protection as well. The fiscal year 1988 authorization conference report included $6.1 million above the request in the F-15 modification line to accelerate the installation of ALE-45 chaff and flare dispensers in the A and B models of the F-15. I note that the Senate Appropriations Committee did not include that funding, although it did provide $63.8 million more for the F-15 modification program than did the House Appropriations Committee in their bill.

I would like to urge the Senator from Louisiana [Mr. JOHNSTON] to hold the Senate position on F-15 modification funding. I would also urge him to give high priority to the installation of chaff and flare dispensers on the A and B models of the F-15 within the F-15 modification budget ultimately approved by the conferees.

Mr. JOHNSTON. Mr. President, I thank the Senator from New Mexico for calling this matter to my attention. I certainly want to see our F-15 pilots have improved capability to defend themselves against surface-to-air and air-to-air missiles.

As the Senator from New Mexico notes, the House and Senate are very far apart on the level of spending for F-15 modifications. I will certainly do all that I can to resolve the problem of backfitting chaff and flare dispensers into the early F-15 models.

Mr. BINGAMAN. Mr. President, I appreciate Senator JOHNSTON'S remarks. I know that if it is at all possible to correct this problem in conference the Senator from Louisiana will do it.

DEFENSE MANUFACTURING INITIATIVE

Mr. BINGAMAN. Mr. President, my colleagues and I would like to engage the manager of the Appropriations Committee, Senator JOHNSTON, in a brief colloquy with regard to funding for Department of Defense manufacturing technology programs in the continuing resolution.

As the Senator knows, I became concerned earlier this year, after a series of hearings in the Senate Armed Services Committee, that the defense industry had a serious problem in the quality of its manufacturing technology. As a result of these hearings, the Senate Armed Services Committee made a fundamental decision to shift resources toward manufacturing technology programs. The committee proposed a defense manufacturing initiative to add funds to the budget request. The authorization conference sustained $145 million of that initiative.

Mr. President, I realize that the Appropriations Committee faced a much more stringent budget environment than we did in the authorization conference. Because of the budget summit, the Appropriations Committee had little choice but to cut defense research well below the levels in the low tier of the authorization conference report.

I want to commend the committee for its handling of the manufacturing technology programs in this difficult situation. The committee did add almost $20 million to DARPA's budget for several computing-intensive manufacturing technology efforts. The committee also added $15 million to the semiconductor manufacturing technology account. Thus, manufacturing technology was one of the few areas in the entire defense research budget where the committee increased the request.

There will be an opportunity in conference to do even better in this critical area. I would urge the chairman to recede to the higher level of funding proposed by the House in two accounts: $35 million higher in the semiconductor manufacturing technology line, and $20 million more in a separate defense manufacturing initiative line. I would also urge you to hold the Senate position in the Air Force's manufacturing technology line, $10 million above the House level.

Mr. President, we have a real opportunity to make progress in this vital area in the next year. I hope that we in Congress will give DOD the tools to achieve this goal.

Mr. LEVIN. Mr. President, as a member of the Senate Armed Services Committee, I agree with my colleague from New Mexico on the need to provide sufficient funding for defense manufacturing initiative projects. In my view one of the more important projects in this area is the Center for Advanced Technologies, an advanced manufacturing technology skills training center.

The Center for Advanced Technologies, a private nonprofit enterprise, will overcome a shortage in skills critical to the defense industry. It will train multiskilled technicians to build, operate, maintain, diagnose, and upgrade advanced manufacturing equipment necessary to supply the defense industrial base with reliable, high-quality, efficient production capabilities.

I urge the chairman of the Appropriations Committee in conference to approve sufficient funding in the manufacturing technology accounts so as to permit this particular project to go forward.

Mr. WIRTH. Mr. President, I want to commend my good friend from New Mexico, Senator BINGAMAN, for his remarks in support of the defense manufacturing initiative. I add my support to his request that the Senate conferees make every effort to move toward the level appropriated by the House for these essential accounts.

Let me take a moment to focus on a program of particular interest to me: Sematech.

Semiconductor technology is of central importance to our national economy and to national security. Semiconductors are the building blocks of virtually every high technology weapon system in use today. The industry has created a consortium—Sematech—that will focus on R&D to improve and update semiconductor manufacturing technology. Recognizing the importance of improving our national semiconductor manufacturing capabilities, the Department of Defense requested $50 million for fiscal year 1988 for semiconductor manufacturing technology research and development. The authorization conference recommended $100 million for Sematech in fiscal year 1988. The House Appropriations Committee recommends the full amount authorized; the Senate Appropriations Committee recommends $65 million.

Sematech is an example of how industry and government can cooperate in order to reinvigorate our industrial base and enhance national security. When my colleagues who are named to the conference on the continuing resolution consider this important initiative, I hope they will provide the highest funding level possible.

Mr. JOHNSTON. Mr. President, I appreciate the remarks of my colleagues with regard to the Appropriations Committee's actions on defense manufacturing programs. Had it not been for the very tight constraints we faced on the defense research budget this year, we would have tried to provide additional funds for these worthwhile efforts.

I recognize the leadership of the Senator from New Mexico, Senator BINGAMAN, on the defense manufacturing initiative. He has made the case for funding in this area very effectively.

In response to the remarks of my colleagues on the upcoming conference with the House, let me say that we will do the very best we can to preserve a significant initiative in the defense manufacturing technology accounts. We will do our best regarding the manufacturing accounts they highlight, to the extent overall constraints on the research budget allow.

I also appreciate the remarks of the Senator from Michigan, Senator LEVIN. He clearly points out that training in advanced manufacturing skills can help rebuild our defense industrial base. I hope that due consideration will be given to an appropriate role for the Defense Department in the proposed Center for Advanced Technologies effort.

The Senator from Colorado, Senator WIRTH, also should be commended for his efforts on behalf of the semiconductor industry component of the defense manufacturing initiative. As I told the Senator from New Mexico a few minutes ago, we will do our best in conference to address the particular concerns expressed by the Senator from Michigan and by the Senator from Colorado about these other manufacturing technology accounts, within our budget constraints.

FOOD SAFETY INSPECTION SERVICE

Mr. BURDICK. Mr. President, on page 48 of the report (Senate Report 100-203) accompanying the Agriculture, rural development and related agencies appropriations bill, S. 1800, which is referenced in the resolution we are considering today (H.J. Res. 395), report language was included regarding the Food Safety and Inspection Service of the Department of Agriculture. The language in question, paragraph 4, No. 3, of the committee recommendations, stated the expectation that the Secretary of Agriculture would establish baselines regarding inspection operations of the Food Safety Inspection Service. In retrospect, the expectation that this particular step be taken by the Secretary may have been premature. After conferring with several of my able colleagues on the subcommittee, as well as the distinguished chairman of the Agriculture Committee, Senator LEAHY, it would be appropriate to further consider this issue in the Senate before taking action.

Mr. LEAHY. Mr. President, this is clearly an important issue. As you are aware, I've introduced legislation to address this issue. The Committee on Agriculture, Nutrition, and Forestry intends to consider the question of particular inspection guidelines in hearings on this legislation. I intend to schedule these hearings early next year. We will be sure to invite all interested parties to testify.

Mr. COCHRAN. Mr President, I would like to associate myself with the remarks of the distinguished chairman of the subcommittee, Senator BURDICK, regarding this issue, as well as the chairman of the authorizing committee, Senator LEAHY.

Mr. BUMPERS. Mr. President, I appreciate the remarks of the distinguished chairman and ranking member of the Subcommittee on Agriculture of the Appropriations Committee, and the chairman of the Agriculture Committee, and I am pleased that we are clarifying the report language specified by Senator BURDICK in his remarks. I thank my colleagues for their cooperation and guidance on this important issue.

SUPPORT OF MISSOURI BAPTIST HOSPITAL OF SULLIVAN MAINTAINING URBAN STATUS

Mr. DANFORTH. Mr. President, on behalf of Senator BOND and myself, I rise to support the amendment by my colleague, Mr. DECONCINI, in maintaining urban status for Missouri Baptist Hospital of Sullivan through the Medicare prospective payment system.

For many years, the Missouri Baptist Hospital of Sullivan has provide outstanding and necessary medical care to the citizens of Sullivan, MO. During that time, the hospital and its patients have received financial assistance through the Medicare prospective payment system. For the purposes of Medicare reimbursement, the hospital has always been considered in an urban area.

Missouri Baptist Hospital of Sullivan was recently notified by HCFA of a previous erroneous overpayment because of their unique location of lying 1,000 yards from the St Louis metropolitan statistical area [MSA] even though the hospital pays city wages and has higher expenses and costs by virtue of its proximity to the MSA. This MSA location presently classifies Missouri Baptist Hospital in a rural area.

Based on Missouri Baptist Hospital of Sullivan's unique location we support Mr. DECONCINI's amendment to provide financial relief by adjusting the metropolitan statistical area [MSA] to include this hospital, thus officially classifying this hospital as urban for the purposes of the Medicare prospective payment system.

CONSIDERATION OF HOUSE JOINT RESOLUTION 395

Mr. MCCLURE. Mr. President, I am concerned with a provision which is in the House of Representatives Agriculture appropriations bill. The provision deletes funding for an important position in the Department of Agriculture, that of Assistant Secretary for Natural Resources and Environment.

While I have had my disagreements with decisions made by the current Assistant Secretary, I do not feel that cutting the funding for the position and placing the burden of this post in the Office of the Secretary is the correct solution. This action will do nothing but make it more difficult for the farmers and ranchers who must deal with programs created by Congress. Many programs carried out through direction of this sub-Cabinet position are critical to our Nation's producers.

This sub-Cabinet position has policy and oversight management responsibilities for approximately 50,000 employees. This represents about half of the total employed at the USDA. This is a greater number of employees than are managed by most Cabinet Secretaries. This office has responsibility for policy development in carrying out the laws Congress passes with respect to the management of our Nation's natural resources. This includes soil and water conservation, the National Forest System lands, and environmental laws in general.

Critical issues such as endangered species programs, ground water policy, nonpoint-source pollution, and the important conservation title of the farm bill are all coordinated from this position. It is vital that USDA have a sub-Cabinet policy position to carry out the law which protect our resources as well as assist our farmers and ranchers.

The Senate bill contains funding of $416,000 for the operation of this office. It is the hope of this Senator that when the Senate goes to conference with the House, the Senate give its strongest support for the position taken by the Senate Appropriations Committee. The Senate bill ensures that funding will continue to be made available for the Office of Assistant Secretary for Natural Resources in the U.S. Department of Agriculture.

HARKIN AMENDMENT TO DELETE EXPEDITED PROCEDURES ON CONTRA AID

Mr. LEAHY. Mr. President, I am glad to join the distinguished Senator from Iowa in sponsoring this amendment to eliminate expedited procedures for congressional action on administration requests for aid to the Contras.

Since 1985, the Congress has been approving each administration request for assistance to the Nicaraguan Contras under expedited procedures which lay aside the normal rules of the Senate and the House, limit time for debates, and curtail amendments. This abdication of Congress' responsibility to fully debate a matter of great importance to the Nation was wrong in 1985 and it is wrong today.

No foreign policy issue has been more divisive to this country in recent years than President Reagan's policy to overthrow the Nicaraguan Government by force. The American people have consistently opposed it by a wide margin. The Congress has split almost 50-50 on every major vote.

Yet even on a matter of such importance the Senate has been constrained to act in committee within 15 days, all points of order were waived, the motion to proceed was privileged and not debatable, and debate on the Senate floor was limited.

This procedure is unwise and it demeans our role in making foreign policy.

It strips authority from the Foreign Relations and Appropriations Committees by requiring that regardless of the vote of the committee, a joint resolution must be reported out within 15 days.

It gives the administration, not the majority leader, the power to schedule bills for consideration on the Senate floor.

It precludes us from giving this policy the serious consideration it deserves.

We are at a crossroads in Central America. We have an agreement, signed by the five Central American leaders, to resolve the conflicts there peacefully. This week, for the first time, Costa Rican President Arias publicly urged the United States to cut off all aid to the Contras. Vermonters have strongly objected to the expedited procedures rule and so do I. At the very least, any request for more Contra aid should be subject to the normal Senate procedures.

Senator Harkin's amendment would reestablish for Contra aid the same procedures that apply to the Defense authorization and appropriations bills, which are far more important to our national security. The Contras don't deserve any more urgent attention than American farmers or AID's victims or the millions of other Americans who wait patiently for Congress to act.

Nor should they. The policy has failed. As President Arias has said, the sticking point in the peace negotiations is U.S. support for the Contras. As long as that support continues the Contras will refuse to bargain seriously and the Guatemala agreement will remain nothing more than words on paper. That would be a disaster for Central America and for the United States.

I applaud Senator Harkin for this amendment and urge my colleagues to reassert their role in the Central American peace process by voting for it.

The **PRESIDING OFFICER.** The majority leader yields the floor.

The question is on final passage of House Joint Resolution 395, as amended.

The yeas and nays have not been ordered.

Mr. JOHNSTON. Mr. President, I ask for the yeas and nays.

The **PRESIDING OFFICER.** Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The **PRESIDING OFFICER.** The joint resolution having been read the third time, the question is, Shall the joint resolution pass? The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Washington [Mr. Adams], the Senator from Delaware [Mr. Biden], the Senator from Tennessee [Mr. Gore], the Senator from North Carolina [Mr. Sanford], the Senator from Illinois [Mr. Simon], and the Senator from Mississippi [Mr. Stennis] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from Wyoming [Mr. Wallop] is necessarily absent.

I further announce that if present and voting, the Senator from Wyoming [Mr. Wallop] would vote "nay."

The **PRESIDING OFFICER.** Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 72, nays 21, as follows:

[Rollcall Vote No. 414 Leg.]

YEAS—72

Baucus
Bentsen
Bingaman
Bond
Boren
Boschwitz
Bradley
Breaux
Bumpers
Burdick
Byrd
Chafee
Chiles
Cochran
Cohen
Cranston
D'Amato
Danforth
Daschle
DeConcini
Dixon
Dodd
Dole
Domenici
Evans
Exon
Ford
Fowler
Glenn
Graham
Hatfield
Heinz
Hollings
Inouye
Johnston
Kassebaum
Kennedy
Lautenberg
Leahy
Levin
Lugar
Matsunaga
McCain
McConnell
Melcher
Metzenbaum
Mikulski
Mitchell
Moynihan
Murkowski
Nickles
Nunn
Packwood
Pell
Pressler
Pryor
Quayle
Reid
Riegle
Rockefeller
Rudman
Sarbanes
Sasser
Shelby
Simpson
Specter
Stafford
Stevens
Thurmond
Trible
Warner
Wirth

NAYS—21

Armstrong
Conrad
Durenberger
Garn
Gramm
Grassley
Harkin
Hatch
Hecht
Heflin
Helms
Humphrey
Karnes
Kasten
Kerry
McClure
Proxmire
Roth
Symms
Weicker
Wilson

NOT VOTING—7

Adams
Biden
Gore
Sanford
Simon
Stennis
Wallop

So the joint resolution (H.J. Res. 395), as amended, was passed.

Mr. JOHNSTON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. STEVENS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the Senate insist on its amendments to House Joint Resolution 395 and request a conference with the House on the disagreeing votes of the two Houses thereon, and that the Chair be authorized to appoint conferees on the part of the Senate.

The motion was agreed to, and the Presiding Officer (Mr. GRAHAM) appointed Mr. STENNIS, Mr. BYRD, Mr. PROXMIRE, Mr. INOUYE, Mr. HOLLINGS, Mr. CHILES, Mr. JOHNSTON, Mr. BURDICK, Mr. LEAHY, Mr. SASSER, Mr. DECONCINI, Mr. BUMPERS, Mr. LAUTENBERG, Mr. HARKIN, Ms. MIKULSKI, Mr. REID, Mr. HATFIELD, Mr. STEVENS, Mr. WEICKER, Mr. MCCLURE, Mr. GARN, Mr. COCHRAN, Mr. KASTEN, Mr. D'AMATO, Mr. RUDMAN, Mr. SPECTER, Mr. DOMENICI, Mr. GRASSLEY, AND MR. NICKLES conferees on the part of the Senate.

Mr. METZENBAUM. Mr. President, I move the conferees be instructed not to recede to the House conferees with respect to section 8118 of H.R 3576 as incorporated by reference in House Joint Resolution 395, the matter to which I addressed myself earlier in the day.

The PRESIDING OFFICER. Is there objection?

Mr. JOHNSTON. Mr. President, there is no objection.

Mr. STEVENS. Mr. President, I do not raise an objection because that instruction is not binding on the conferees. I take it as a statement of intent from the Senator from Ohio. It would not be considered binding on this side.

The PRESIDING OFFICER. The motion is agreed to.

Mr. JOHNSTON. Mr. President, I want to thank Senator TED STEVENS, the floor manager on the minority side, who is a long-time ally and great colleague.

We are all sorry that Senator HATFIELD lost his voice. His spirit was with us, his guiding hand, in putting the bill together, was with us. The part he played, although his voice was not with us, was vital, important, and crucial to the bill, as always.

I want to thank the great help we received from the leadership, Senator BYRD, every step of the way keeping us straight on the rules, giving us support in our moves to keep the bill going. It was absolutely invaluable, as were the committee chairmen who helped us at every step and, of course, Mr. President, our staff which is without parallel in this body on this side:

Frank Sullivan and Proctor Jones, who are professionals in the very highest sense of the word as well as the other members of the Appropriations Committee staff who helped us clear the bills in the various subcommittees, made possible the passage of this bill in 1 day.

A bill of this size, this complexity, these many amendments to pass in 1 day I think is close to a record and I think the staff is really to be commended for that.

Finally, we wish to thank all Senators. We wish to thank all Senators for their cooperation.

I wish Senator STENNIS were here so we could tell the real guiding light in this matter, our chairman of our full committee, how important he has been; how his guidance and help and the leadership has been vital, not just in this bill but through the years in this Senate. I am glad we could honor him in an appropriate way tonight.

I know Senator STEVENS is going to say a word about the minority staff, but I would like to join in stating that the minority staff is also a great pleasure to work with. They also are professionals.

On the majority side, we would seek the counsel and advice of the minority staff in the same way and with the same professional confidence that we do the majority staff, and they feel that way about one another, about the committee.

I think it gives the words "professional staff" a good name around here and I am happy to work in the same institution with these fine gentlemen.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. I would echo what the Senator said and I want to compliment Keith Kennedy, staff director, and Sean O'Keefe, the director of the Defense Subcommittee, for their work and all the others on this side and the other side of the aisle.

I remark for the record, we probably evolved a new procedure in terms of handling amendments. We considered 77 amendments, had 6 rollcalls, and agreed to 68 of the amendments that were offered in 16½ hours.

I do think the Senator from Louisiana is right, that it is probably fairly close to a record and it is a very good procedure and I think a fair one.

I thank all concerned and I, too, thank the distinguished majority leader who most people do not know was the host of a three-ring circus going on at the same time. His office was being used for three different conferences that led to the final breakthrough on three controversial amendments. And my good friend was there at all of them at one time or another and in spirit throughout them all.

So, thank you very much.

The PRESIDING OFFICER. The majority leader.

Mr. BYRD. Mr. President, I thank our fine managers for the extraordinarily good work that they have done on this long, long day. It began early and here it is, 3 o'clock in the morning, and they are still here.

I thank Mr. STENNIS, the chairman of the committee; congratulate him and I admire him for his stamina.

I thank Mr. STEVENS and Mr. JOHNSTON for the amendment which recognized Senator STENNIS by the naming of a ship in his name and in his honor. I think this was a tribute that was highly deserved.

Mr. President, we have witnessed, truly, a remarkable display of cooperation on the part of the Republican and Democratic Parties in this Senate: The managers, the staff working as they did to handle, I believe it was, something like 70 amendments, 6 rollcall votes, one of which was final passage, so there were 5 rollcall votes and about 70 amendments disposed of. Truly remarkable, incredible; the action of the fine fine professional staff people.

I include those staff people at the tables before us: Elizabeth and Howard Greene on the other side; and Marty Paone and Charles Kinney and Bill Norton on this side. Both of them.

And then there was BROCK ADAMS who acted as whip on this side. He spent hours on this day making telephone calls to names who were on the list for amendments. He called them and I just want to say thank you. That is about the best way to say it, I guess, to all whom I have named. If I have overlooked any, I apologize.

THE CALENDAR

Mr. BYRD. Mr. President, may I ask the distinguished assistant Republican leader if the following calendar orders have been cleared on his side: Calendar orders numbered 286, 339, 469, 471, 473, 474, 475, 476, 477, 478, 479, 482, 483, and 484.

Mr. SIMPSON. Mr. President, all of those items have been cleared on this side of the aisle.

Mr. BYRD. Mr. President, I ask unanimous consent that the aforementioned calendar orders be considered en bloc, agreed to en bloc, that amendments where shown be agreed to, where the preambles are required to be amended that that be done, that statements be appropriately placed in the RECORD, and that a motion to reconsider en bloc be laid on the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

BOUNDARIES OF STONES RIVER NATIONAL BATTLEFIELD

The bill (H.R. 1994) to amend the boundaries of Stones River National Battlefield, TN, and for other purposes, was considered, ordered to a third reading, read the third time, and passed.

ACCESS ACROSS CERTAIN FEDERAL LANDS IN THE STATE OF ARKANSAS

The Senate proceeded to consider the bill (S. 1259) to direct the Secretary of the Interior to permit access across certain Federal lands in the State of Arkansas, and for other purposes, which had been reported from the Committee on Energy and Natural Resources, with amendments, as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets, and the parts of the bill intended to be inserted are shown in italic.)

S. 1259

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) Notwithstanding any other provision of law, the Secretary of the Interior shall permit access across the Buffalo National River (hereinafter referred to as "the park") to certain privately owned lands outside the park boundary along a route known locally as the "Old Springtown Road" as depicted on a map entitled "Old Springtown Road Access", dated April, 1987 and available for inspection in the Office of the Superintendent, Buffalo National River.

(b) The Secretary shall permit such access across the park solely for the purpose of providing to the owners *(as of September 1, 1987)* reasonable ingress and egress to the private residential property depicted on the map referenced in subsection (a).

(c) The Secretary shall promulgate such regulations as he deems necessary to ensure that such access does not unreasonably diminish the scenic, historic, and other values for which the park was established.

(d)(1) The owners of the private residential property identified in subsection **[**(c)**]** *(b)* shall pay an annual fee to the Secretary of the Interior for the access provided pursuant to this Act.

(2) Any fee collected shall be fair and reasonable and shall be in an amount necessary to cover the administrative costs associated with granting of such access, including the issuance of annual permits: *Provided,* That in no event shall the fee collected pursuant to this subsection exceed $100 per annum.

The amendments were agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

QUALITY PHYSICAL EDUCATION PROGRAMS FOR ALL SCHOOL CHILDREN

The Senate proceeded to consider the concurrent resolution (H. Con. Res. 97) to encourage State and local governments and local educational agencies to provide high quality daily physical education programs for all children in kindergarten through grade 12.

Mr. KENNEDY. Mr. President, the concurrent resolution before the Senate today makes an important statement as to Congress' intent regarding the provision of physical education to young people in elementary and secondary school.

Physical fitness is an integral part not only of one's physical well-being, but of one's mental and emotional well-being as well. And good habits of sound physical health are best formed early in life. In this age of fitness craze among adults of all ages, it is astonishing to hear that such concern has not spilled over to improve the fitness of young people. While we are made increasingly aware of the tremendous benefits of physical exercise, and spending more time jogging around the mall and joining health clubs, it is appalling that we are not making the same assurances that our children also receive the benefits of exercise.

As many of you may remember, President Kennedy was a promoter of the 50-mile hike before the fitness craze ever became fashionable. The statistics which have been included in the record by my colleagues are disturbing in that they indicate a decline in the physical fitness of our young people since that time, rather than an improvement. Therefore, I commend the Senator from Alaska for sponsoring this concurrent resolution, and I urge my colleagues to support it.

Mr. BINGAMAN. Mr. President, the issues this concurrent resolution addresses—the health, well-being, and physical fitness of our children—should be of great importance to us all. In recent years, as technology and economics have led us into a more competitive global society, we have come to realize the importance of higher education, mental fitness, and improvement. We must also realize that physical fitness and physical improvement are equally important. Unfortunately, many of us do not.

Indeed, we are our own worst enemy. Half the deaths in this country are related to lifestyle. Heart disease, obesity, drug abuse, alcoholism, and poor nutrition are all rooted in the way we choose to live. Even worse, the AIDS epidemic spreading in the adult community today will filter down to our young people unless education and prevention of this disease is included in some form in our schools.

Communicable disease, however, is not the only enemy. George Allen, Chairman of the President's Council on Physical Fitness and Sports, calls the lack of youth fitness "the best kept secret in America today." A recently published report in the Journal of Physical Education, Recreation and Dance indicates that only one-third of the first through fourth graders surveyed take a physical education class daily and that children today watch four times as much television as they spend in physical education classes. Most alarming, the report states that as many as 50 percent of our children are not getting enough exercise to develop healthy hearts and lungs.

The report's findings are reaffirmed in my own State of New Mexico. Children simply are not as physically fit as they were a decade ago. A recent study by the Albuquerque Public Schools shows that children there scored below the national average in most tests for fitness and endurance—and the problem appears to worsen as the kids grow older. A majority of boys in the Albuquerque system scored below the national average in cardiovascular endurance, agility, leg power, and flexibility. The girls scored below the national average on three tests—the 50-yard dash, agility, and leg power.

I don't mean to suggest that our children should be miniature Atlases, but medical experts agree that physical fitness is a key component of good health and disease prevention and that fitness among kids nationwide is instead declining.

I strongly believe that our best weapon against these unfortunate lifestyle trends is to institute comprehensive health and physical education curriculums in our schools. It is for this reason that earlier this year I introduced S. 1348, an act to establish within the Department of Education an Office of Comprehensive School Health Education and that I support this resolution encouraging States to provide quality daily physical education programs for elementary and high school students.

Schools present our best opportunity to reverse these trends, but they are failing to do so. Health education in high schools, unfortunately, is usually an elective that does not count toward graduation. At last count, more than 20 States did not have health education consultants in their departments of education. I'm happy to report that New Mexico has such a consultant and has established an extensive Growing Healthy Program for young New Mexicans.

I believe physical fitness and health education must be core studies, not half-hearted weekly sessions or isolated, optional courses crammed into a high school senior's last semester. At the Federal level, the Office of Comprehensive School Health would establish a focal point in the Federal Government for coordinating and carrying out health education and fitness programs among States and schools.

An Office of Comprehensive School Health Education would finally provide a mechanism for coordinating the numerous categorical programs in the Department of Education, and even more importantly, among the other Federal agencies.

The National Institutes of Health, Centers for Disease Control, National Highway Traffic Safety Administration, and the Office of Disease Prevention and Health Promotion all have an interest in school health and generate a variety of information aimed at informing the public of health issues. Yet no office within the Department of Education exists to distribute this information to the States and local educational agencies. Health education material and curriculums developed by these agencies should be integrated and presented in a comprehensive school health education program.

A centralized Federal office could quicken the use of Federal health and fitness research information and promotion, stimulate quality health and physical education programs, encourage community involvement in health education curriculum decisions, and buttress States and local educational agencies with technical support.

I believe my colleagues can understand the vital need for such an office. Indeed, previous Congresses have. In 1978, Congress created a new, direct grant program for school health education. Although draft regulations were issued for public comment, no final regulations were promulgated nor any grants made, largely because the office was dismantled in 1981 in the reorganization of the Department of Education. Six years have passed. And as we have seen, the state of our children's health continues to decline and our schools do not seem to be stemming the downward slide. It is time once again to reestablish the Office of Comprehensive School Health Education.

Unfortunately, and despite the incorporation of portions of S. 1348 into the Robert T. Stafford Elementary and Secondary Education Improvement Act which passed the Senate last week, I fear the existence of this vital office may once again be threatened, even before it is reestablished. This is because the Education Reauthorization Act merely authorizes the Secretary of Education to make grants and contracts that would establish or strengthen school health education programs through an Office of Comprehensive School Health Education. It does not direct the Secretary to establish the office or make the grants.

I understand that some Members of this body were concerned that authorization of such an office—a health education office—would have been tantamount to authorizing the establishment of school-based clinics throughout the United States. Let me assure you, Mr. President, as I did last week, this simply is not true. The Office of Comprehensive School Health would not encompass health services, it would merely seek to improve the quality of our children's fitness and health education. It would encourage and support programs that stress physical health, well-being, and disease prevention as a part of the regular education program. The office would provide technical support to States and local educational agencies, issue an annual progress report, and monitor the status of school health nationally. Also, and importantly, the office would cooperate with other Federal agencies to coordinate school health and physical education programs and to provide these programs with up-to-date Federal information.

Because I believe these programs are vital to our children's future, I intend to monitor Secretary Bennett's actions with respect to the creation of the Office of Comprehensive School Health Education and, if the Department continues to ignore the worsening state of our children's health and fitness, I stand ready to offer legislation that would more affirmatively require the Department to take action. Where our children are concerned, we cannot tolerate administrative inertia.

In the meantime, I urge my colleagues to join us in support of this concurrent resolution and to encourage their State and schools to provide sound daily physical education programs to our Nation's children.

Mr. STEVENS. Mr. President, the Greeks set the standard centuries ago with the ideal of a well-educated person—educated in the mind, the body, and the spirit. And yet in America today we tolerate an incomplete education for our children.

We know that good health and fitness habits are best established early in life, and yet we are neglecting this essential aspect of our children's education. Only 10 percent of the States require elementary school students to take physical education for a minimum of 30 minutes a day—this fact comes from a recent survey conducted by the American Alliance for Health, Physical Education, Recreation, and Dance. Only four States—Illinois, New Jersey, New York, and Rhode Island—require all students to take a specific amount of physical education in all grades, kindergarten through grade 12. In addition, 39 States require less than half of the recommended amount of physical education for students in all grades.

The findings of a recently released study conducted by the Public Health Service, the National Children and Youth Fitness Study II, show that 6- to 9-year-old children carry more body fat than did their counterparts of 20 or more years ago. Other research indicates that 40 percent of children ages 5 to 8 already exhibit obesity, elevated blood pressure, high cholesterol levels, and inactivity—all coronary risk factors. In light of these frightening statistics, why are we neglecting this most basic component of our children's education? There are simply not enough quality daily physical education programs across the country to enable our children to learn how to keep themselves healthy and maintain a basic level of physical fitness.

Daily physical education classes, as endorsed by the concurrent resolution before us today, provide sequential planned objectives which teach motor skills, information and understanding, and attitude and appreciation. Children receive needed information about the components of health-related physical fitness—cardiovascular endurance, muscular strength, muscular endurance, flexibility, and body composition. Fitness testing also serves the purpose of educating students, their parents, and teachers about the fitness needs of children, helps children track changes in their fitness levels over time, provides a baseline for the development of individualized exercise programs, and helps to motivate students to improve their fitness levels and exercise habits. This knowledge is vital, yet not even half of all children have their fitness tested while in school.

Daily physical education classes provide children with the time to develop aerobic capacity by participating in vigorous activity on a regular basis which is proved to reduce coronary risk factors. The teaching of basic motor skills for participating in lifetime activities—organized sports and recreation—reinforces the need for lifetime fitness habits through the fun and excitement of physical challenges and teamwork. Knowledge gained in daily physical education class will educate our children about caring for their bodies today—and tomorrow.

Today's children are the workforce of the future. Adults who participate in a fitness program take less sick days per year. An absent employee costs the employer one and one-half times the amount of the daily wage—companies could save a substantial amount of money if they reduced the total sick days for their employees. In terms of dollars and cents, the need for healthly and fit children becomes even clearer. We must ensure that our children are educated today against the diseases and health-risk factors that will put them and our Nation's economy in jeopardy tomorrow.

The concurrent resolution before us today seeks to bring this youth fitness crisis to the attention to State and local governments and local educational agencies—its companion measure was passed by the House in October.

Unlike many of today's education problems, the remedy is clear, and the benefits are almost immediate. This resolution will be used by parents, educators and administrators alike to ensure that the physical education of our children is not seen as a frill to be cut from school budgets. It will work to reverse the erosion of health and physical education programs, and reaffirm the Greek ideal of a complete education—complete in mind, body and spirit.

We must give our children's health and fitness an equal place in the classroom. The overwhelming support shown this legislation by my colleagues (85 cosponsors), as well as organizations like the American Alliance for Health, Physical Education, Recreation and Dance, the President's Council on Physical Fitness and Sports, the American Heart Association, the American Medical Association, the National Education Association and others indicates that health-related physical fitness can become a reality for the children of America.

I'd like to commend the work of a person who played a key role in the success of this resolution: Dr. Mary Conroy. Mary is a graduate of Columbia University with a doctorate in Physical Education and Dance. She has published five books on self defense. Mary was a fellow in my office, on sabbatical leave from California State University, Los Angeles, to assist me on this resolution. She did an excellent job, and I'm grateful.

I urge all Members to join me in supporting this concurrent resolution.

Mr. DURENBERGER. Mr. President, I rise today to express my support for House Concurrent Resolution 97, a concurrent resolution sponsored by the colleague from Alaska, Senator Stevens. This concurrent resolution would be an important step forward in highlighting the problem of children's health, and the lack of quality physical education programs within our current education system.

Many people believe that American children are active and fit. However, studies show that this is not the case, and, in fact, recent trends show declining health and fitness for children in this country. According to the American Alliance for Health, Physical Education, Recreation & Dance [AAHPERD], 40 percent of American children ages 5-8 are already obese, have elevated blood pressure or high cholesterol, and are inactive. The American Alliance study showed that 30 percent of boys ages 10 and 11 and 60 percent of girls ages 10 to 18 failed to perform a single chin-up. These figures have serious implications for the well-being of all Americans.

To ensure the health and well-being of our children, the American Alliance recommends elementary children and secondary students receive 30 minutes and 50 minutes of daily physical exercise, respectively. However, studies show that only 10 States require elementary schools to meet this need. Under our current physical education program, our children simply do not have the opportunity to improve their physical fitness. Even my own great State of Minnesota is currently experiencing a decline in the number of physical education requirements.

In addition to better physical health, improved fitness will sharpen a child's mental alertness, academic performance, and readiness to learn while in school and will establish habits that will lead him or her to a healthier and more productive life. Furthermore, this could save our Nation thousands of dollars in medical costs a year, and save businesses thousands of dollars in productivity and absenteeism a year.

It is our responsibility as a society to see that our children have the opportunity to lead a healthy and active life, and to promote their own health. Mr. President, this resolution will increase the awareness of the importance of physical education programs, and encourage States to adopt increased physical education requirements. I urge my colleagues to support House Concurrent Resolution 97.

The concurrent resolution (H. Con. Res. 97) was considered, and agreed to.

The preamble was agreed to.

REMOVAL OF REVERSIONARY RIGHTS TO CERTAIN LANDS

The Senate proceeded to consider the bill (S. 892) to remove the right of reversion to the United States in lands owned by the Shriners' Hospitals for Crippled Children on lands formerly owned by the United States in Salt Lake County, UT., which had been reported from the Committee on Energy and Natural Resources, with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

That (a) notwithstanding any provision of the Act of March 14, 1946 (60 Stat. 55, Chapter 91), or any other provision of law, the Administrator of the General Services Administration, subject to receipt of the payment described in subsection (b), is authorized and directed to release by quitclaim deed to Shriners Hospitals for Cripped Children, a Colorado corporation, on behalf of the United States, any and all right of reversion held by the United States in and to the lands which were formerly owned by the United States in Salt Lake County, Utah, and which were transferred pursuant to said Act.

(b) In consideration for the quitclaim deed release described in subsection (a), Shriners' Hospitals for Crippled Children shall pay to the United States the sum of $97,627.

(c) The Administrator shall fulfill the requirements of subsection (a) within sixty days of receipt of the payment provided for subsection (b).

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

VISITOR AND ENVIRONMENTAL EDUCATION CENTER IN PINELANDS NATIONAL RESERVE

The Senate proceeded to consider the bill (S. 1165) to authorize the Secretary of the Interior to provide for the development and operation of a visitor and environmental education center in the Pinelands National Reserve, in the State of New Jersey.

Mr. JOHNSTON. Mr. President, on December 9, 1987, the Committee on Energy and Natural Resources filed the report to accompany S. 1165, a bill to authorize the Secretary of the Interior to provide for the development and operation of a visitor and environmental education center in the Pinelands National Reserve, in the State of New Jersey.

At the time the report was filed, the committee had not received an estimate of cost from the Congressional Budget Office. The committee has now received that report, and I ask unanimous consent that it be included in the Record at this time for the use and information of the public and my colleagues of the Senate.

There being no objection, the report was ordered to be printed in the Record, as follows:

U.S. Congress,
Congressional Budget Office,
Washington, DC, December 9, 1987.

Hon. J. Bennett Johnston, Jr.,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

Dear Mr. Chairman: The Congressional Budget Office has prepared the attached cost estimate for S. 1165, a bill to authorize the Secretary of the Interior to provide for the development and operation of a visitor and environmental education center in the Pinelands National Reserve, in the State of New Jersey.

If you wish further details on this estimate, we will be pleased to provide them.

With best wishes,

Sincerely,

Edward M. Gramlich,
Acting Director.

Congressional Budget Office Cost Estimate

1. Bill number: S. 1165.

2. Bill title: To authorize the Secretary of the Interior to provide for the development and operation of a visitor and environmental education center in the Pinelands National Reserve, in the State of New Jersey.

3. Bill status: As ordered reported by the Senate Committee on Energy and Natural Resources, December 2, 1987.

4. Bill purpose: The bill directs the Secretary of the Interior to develop, in cooperation with the State of New Jersey, an interpretive program for the Pinelands National Reserve. This program would include the planning, construction and operation of a visitor and environmental education center. The bill authorizes $1 million for planning and design of the center, and $5 million for construction. The bill also authorizes $21.2 million for additional land acquisition in the Pinelands.

5. Estimated cost to the Federal Government:

[By fiscal year, in millions of dollars]

	1988	1989	1990	1991	1992
Authorization level	27.2				
Estimated outlays	4.8	6.6	6.2	5.3	4.3

The operation and maintenance of the education center would cost the federal government an additional $225,000 annually beginning in fiscal year 1992.

The costs of this bill fall within budget function 300.

Basis of estimate: This estimate assumes that the bill will be enacted in January 1988, and that the full amounts authorized will be appropriated. It is assumed that the planning and design of the center would be completed within 12 months of the date of enactment, and that the construction of the center would be substantially completed within 18 months of completion of the plans and design. CBO estimates that about $4 million would be expended each year for land acquisition.

6. Estimated cost to State and local governments: The State of New Jersey would be required to fund 25 percent of the construction, operation and maintenance costs of the center. We estimate that the state share for operation and maintenance costs would total $75,000 annually, and that construction costs would total $1.25 million over the 1989-1991 period.

7. Estimate comparison: None.

8. Previous CBO estimate: None.

9. Estimate prepared by: Douglas Criscitello.

10. Estimate approved by: C.G. Nuckols (for James L. Blum, Assistant Director for Budget Analysis).

Mr. BRADLEY. Mr. President, New Jersey's Pinelands National Reserve grew from historic Federal and State legislation in 1978 and 1979. It represented a cooperative experiment among Federal, State, and local governments. It's a partnership that rarely has been accomplished with the success of this effort. In the case of the Pinelands, the results have been solid. This national reserve has faced numerous obstacles, which have repeatedly been overcome by imagination and determination.

Prior to the passage of the Federal National Park and Recreation Act in 1978 and the State's 1979 Pinelands Protection Act, more than 240,000 acres in the Pinelands were under public ownership as parks, wildlife areas and State forest. Because of the unique and fragile nature of the Pinelands, the Pinelands National Reserve legislation sets aside a 1.1-million-acre area—nearly 22 percent of the land area in the State—for special consideration and protection.

Most visitors to New Jersey pass the Pinelands without notice. Millions of people yearly drive on the New Jersey Turnpike and the Garden State Parkway which border the Pinelands area. There are no snow-capped peaks, no soaring waterfalls, no spectacular caverns. This 1.1 million acres of scrub pine forest, wetlands, and rare plant and animal species is subtle and precious. The Pinelands represents a vast wilderness area, made even more remarkable by its proximity to the Northeast's population and industrial centers.

But it is a fragile area—the Pinelands' sandy soils and shallow ground water table are easy victims to industrial pollution or abuse.

Mr. President, today the full Senate is considering legislation which supplements these efforts to establish the Pinelands Reserve. A central goal of this legislation is to end the anonymity of this wild and beautiful region. Passage of this legislation will enable the creation of a Pineland's visitor or interpretive center. This legislation includes a Federal spending authorization of roughly $5 million for the development of such a facility.

This center would serve two key purposes:

To focus attention on the vast and beautiful Pinelands Wilderness, and

To provide an easily accessible center for environmental education and telling the Pinelands story.

A decade ago, this wilderness area was in danger and, today, because of the historic efforts, the Pinelands are alive and well. In 1983, the United Nations itself recognized the importance of the Pinelands by designating it as an "International Biosphere Reserve," a distinction it shares with only the world's most remarkable ecosystems such as Yellowstone National Park and the Florida Everglades.

It is the Pinelands Commission that has the tough job of protecting the most fragile and remarkable areas. The Pinelands Commission uses its comprehensive management plan as a blueprint for the protection and development of this vital wilderness. Much of the plan represents an effort to channel development away from sensitive areas. However, an essential component of this plan is a land acquisition program which is designed to protect critical environmental and cultural areas and provide a wide range of recreational opportunities.

Appproximately, 100,000 acres of land have been targeted for acquisition with the goal of establishing a system of self-maintaining ecological reserves which are representative of the Pinelands. So far, roughly 67,000 acres have been funded for acquisition. Unfortunately, with a Federal grant of $5.8 million last summer, the original spending authorization of $26 million contained in the 1978 legislation was exhausted.

It is my goal to give the Pinelands Commission and the State DEP, which actually must purchase the land, the tools they need to complete this vital acquisition program. To this end, the legislation increases the Federal spending authorization by $21.2 million.

There are two main targets for this new land acquisition program:

The Wading River ecosystem in the central Pinelands, and

Lands in the Manumuskin River watershed area in the south.

The Wading River watershed area includes the unique pine plains—12,000 acres of pygmy pine forest—and white cedar swamps. The Wading is one of New Jersey's purest streams and a popular spot for canoeists—two features it shares with the Manumuskin River in the south.

I note that, earlier this month, the Senate approved my legislation which designates the Maurice, Manumuskin, and Menantico Rivers as study rivers for possible inclusion in the Nation's system of wild and scenic rivers. The features that make these rivers exceptional are the features of the Pinelands itself.

Mr. President, that the Pinelands can exist at all in New Jersey, the most densely populated State in the Nation, is amazing. The Pinelands demonstrates the power of people to hold back, to reflect on the land's meaning and promise, and to decide positively that the collective interest is preservation and restraint.

The Senate Energy Committee reviewed this legislation, and endorsed it unanimously, with a 19-to-0 vote. I urge my colleagues today to consider this legislation and its critical value, and to pass it—as did the Energy Committee—by a unanimous vote.

The bill (S. 1165) was considered, ordered to be engrossed for a third reading, read the third time, and passed: as follows:

S. 1165

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 502 of the National Parks and Recreation Act of 1978 (Public Law 95-625; 16 U.S.C. 471i), establishing the Pinelands National Reserve in the State of New Jersey, is amended by adding at the end the following new subsection:

"(l)(1)(A) In furtherance of the findings and purposes of this section, and to enhance public education and appreciation of the natural and cultural resources of the Pine Barrens area of New Jersey, the Secretary shall, in cooperation with the planning entity and appropriate departments and agencies of the State of New Jersey, implement an interpretive program for the Reserve.

"(B) The program authorized by this subsection shall include—

"(i) the preparation of interpretive and informational materials, exhibits, films, lectures, and other devices and educational methods, and making them available, directly and through appropriate offices of the State of New Jersey, to the public; and

"(ii) the planning, construction, and operation, in accordance with this subsection, of a visitor and environmental education center and related facilities located in the Reserve.

"(2)(A)(i) Within 12 months of the date of enactment of this subsection, the Secretary, with the concurrence of the planning entity and the State of New Jersey, and the cooperation of other public and private entities as may be necessary and appropriate, shall complete a plan and design for the visitor and environmental education center and related facilities.

"(ii) The plan shall—

"(I) indicate the location or locations of the center and related facilities;

"(II) set forth the method of acquisition, the prospective ownership of the real property on which the center shall be constructed, and the estimated cost of the acquisition, construction, and operation of the center; and

"(III) indicate the manner in which the planning entity established pursuant to this section and the State of New Jersey shall participate in the acquisition, construction, and operation of the center.

"(iii) The design of the interpretive center shall include a provision for an observation facility at an appropriate site, consistent with the relatively primitive nature of the area, to demonstrate the openness and expanse of undeveloped land that characterizes the Pine Barrens region.

"(B) Within 18 months of the completion of the plan and design of the center, the Secretary shall substantially complete the construction of the center and related facilities. Notwithstanding any other provision of law, the Secretary may accept the donation of real property and construct the center and related facilities thereon, or the Secretary may construct the center and related facilities on property owned by the State of New Jersey or a political subdivision thereof, as indicated in the plan and design. Federal funds in an amount of 75 percent of the cost shall be available for the construction of the center and related facilities.

"(C) The Secretary shall cooperate in the operation and maintenance of the center and related facilities, including the assignment of professional staff of the National Park Service to assist in the interpretation of the Pine Barrens area. Federal funds in the amount of 75 percent of the cost shall be available for operating and maintaining the interpretive center and facilities.

"(3) The Secretary may enter into such contracts and agreements with the planning entity, the State of New Jersey, and other public and private entities as may be necessary and appropriate to carry out the authorities and responsibilities of the Secretary under this subsection. There is authorized to be appropriated such sums as may be necessary to carry out the interpretive program for the Reserve, not to exceed, however—

"(A) $1,000,000 for completion of the plan and design for the visitor and interpretive center, pursuant to paragraph (2)(A), and

"(B) $5,000,000 for construction of the center, pursuant to paragraph (2)(B) and related facilities and exhibits.".

(b) Section 502(k) of such Act is amended by—

(1) striking out "of this section" in the first sentence and inserting in lieu thereof "of subsections (a) through (j) of this section"; and

(2) adding at the end thereof the following new sentence: "Effective October 1, 1987, in addition to the funds authorized pursuant to this subsection, there are hereby authorized to be appropriated not to exceed $21,200,000 for land acquisition.".

CITY OF ROCKS NATIONAL RESERVE

The Senate proceeded to consider the bill (S. 1335) to establish the City of Rocks National Reserve in the State of Idaho, and for other purposes, which had been reported from the Committee on Energy and Natural Resources, with amendments, as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets, and the parts of the bill intended to be inserted are shown in italic.)

S. 1335

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.—This may be cited as the "City of Rocks National Reserve Act of 1987".

SEC. 2. (a) There is hereby established the City of Rocks National Reserve (hereinafter referred to as the "reserve"), in order to preserve and protect the significant *historical and* cultural resources; to manage recreational use; to protect and maintain scenic quality; and to interpret the nationally significant values of the reserve.

[(b) The reserve shall include approximately ten thousand three hundred and twenty acres as depicted on the map entitled "Boundary Map, City of Rocks National Reserve, Idaho", numbered and dated**]**.

(b) The reserve shall include approximately fourteen thousand three hundred and twenty acres as depicted on the map entitled "Boundary Map, City of Rocks National Reserve, Idaho" numbered P30-80,005 and dated October 1987. The map shall be on file in the offices of the National Park Service, Department of the Interior and the Offices of the Governor, State of Idaho.

(c) Within six months after the enactment of this Act, the Secretary of the Interior (hereinafter in this Act referred to as the "Secretary") shall file a legal description of the reserve designated under this section with the Committee on Interior and Insular Affairs of the United States House of Representatives and with the Committee on Energy and Natural Resources of the United States Senate. Such legal description shall have the same force and effect as if included in this Act, except that the Secretary may correct clerical and typographical errors in such legal description and in the map referred to in subsection (b). The legal description shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior and the offices of the Governor of the State of Idaho.

[SEC. 3. (a) To achieve the purpose of this Act, the Secretary, in cooperation with the appropriate State agencies and local units of general government, shall formulate a comprehensive plan for the protection, preservation, and interpretation of the reserve.**]**

SEC. 3. (a) To achieve the purpose of this Act, the Secretary, acting through the National Park Service, in cooperation with appropriate State and Federal agencies, local units of government and local residents shall formulate a comprehensive plan for the protection, preservation, and interpretation of the reserve.

The plan shall identify those areas or zones within the reserve which would most appropriately be devoted to—

(A) public use and development;

(B) historic and natural preservation; and

(C) private use subject to appropriate local ordinances designed to protect the historic rural setting.

(b) Within eighteen months following the date of enactment of this section, the Secretary shall transmit the plan to the President of the Senate and the Speaker of the House of Representatives and to the Governor of the State of Idaho.

(c) At such time as the State or appropriate units of local government having jurisdiction over land use within the reserve have enacted ordinances or established regulations which in the judgement of the Secretary will protect and preserve the historic and natural features of the area in accordance with the comprehensive plan, the Secretary shall, pursuant to cooperative agreement—

(1) transfer management and administration over all or any part of the property acquired under subsection (d) of this **[**Act**]** *section* to the State or appropriate units of local government;

(2) provide technical assistance to such State or [*units*] of local government in the management, protection, and interpretation of the reserve; and

(3) make periodic grants, which shall be supplemental to any other funds to which the grantee may be entitled under any other provision of law, to such State or local unit of government for the annual costs of operation and maintenance, including but not limited to, salaries of personnel and the protection, preservation, and rehabilitation of the reserve except that no such grant may exceed 50 per centum of the estimated annual cost, as determined by the Secretary, of such operation and maintenance.

(d)(1) The Secretary is authorized to acquire such lands and interests as he determines are necessary to accomplish the purposes of this Act by donation, purchase with donated funds *or appropriated funds,* or exchange, except that the Secretary may not acquire the fee simple title to any land without the consent of the owner. The Secretary shall, in addition, give prompt and careful consideration to any offer made by an individual owning property is causing, or would result in, undue hardship.

(2) Lands and waters, and interests therein, within the boundaries of the reserve which were administered by the Forest Services, United States Department of Agriculture and the Bureau of Land Management, Department of the Interior prior to the date of enactment of this Act are hereby transferred to the administrative jurisdiction of the Secretary to be administered by the National Park Service in accordance with this Act.

(3) Lands and interest therein so acquired shall, so long as responsibility for management and administration remains with the United States, be administered by the Secretary subject to the provisions of the Act of August 25, 1916 (39 Stat. 535), as amended and supplemented, and in a manner consistent with the purpose of this Act.

(e) If, after the transfer of management and administration of any lands pursuant to subsection (c) of this section, the Secretary determines that the reserve is not being managed in a manner consistent with the purposes of this Act, he shall so notify the appropriate officers of the State or local unit of government to which such transfer was made and provide for a **[**ninety-day**]** *one hundred and eighty-day* period in which the transferee may make such modifications in applicable laws, ordinances, rules, and procedures as will be consistent with such purposes. If, upon the expiration of such **[**ninety-day**]** *one hundred and eighty-day* period, the Secretary determines that such modifications have not been made or are inadequate, he shall withdraw the management and administration from the transferee and he shall manage such lands in accordance with the provisions of this Act.

[(f) Subject to valid existing rights, Congress expressly reserves to the United States such water rights as may be required to carry out the primary purposes, as expressed in section 2, of the reserve created by this Act with respect to all lands withdrawn from the public domain by this Act. Such rights shall be perfected by the United States pursuant to the procedural requirements of the laws of the State of Idaho. The priority of such rights shall be as of the date of enactment of this Act. The United States may acquire such additional water rights as it deems necessary to carry out its responsibilities under this Act. Such water rights shall be acquired pursuant to the substantive and procedural requirements of the laws of the State of Idaho. Nothing in this Act shall be construed to reserve any implied water right to the United States. The transfer of lands to the administrative jurisdiction of the Secretary pursuant to section 3 shall not affect any reserved water right which the United States may have acquired for the primary purposes for which such lands were originally withdrawn to the extent such rights are consistent with the purposes for which such lands are to be administered pursuant to this Act.]

(f) Nothing in this Act, nor any action taken pursuant thereto, shall constitute or be construed to constitute either an express or implied reservation of water or water right for any purpose. The United States may acquire such water rights as it deems necessary to carry out its responsibilities under this Act pursuant to the substantive and procedural requirements of the laws of the State of Idaho. The transfer of lands to the administrative jurisdiction of the Secretary pursuant to section 3 shall not affect any reserved water right which the United States may have acquired for the primary purposes for which such lands were originally withdrawn to the extent such rights are consistent with the purposes for which such lands are to be administered pursuant to this Act.

(g) Subject to valid existing rights, Federal lands and interests therein, within the reserve, are hereby withdrawn from disposition under the public land laws and from entry or appropriation under the mining laws of the United States, from the operation of the mineral leasing laws of the United States, and from operation of the Geothermal Steam Act of 1970, as amended.

[(g)] *(h)* There is hereby authorized to be appropriated not to exceed $2,000,000 to carry out the provisions of this Act.

The amendments were agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

HAGERMAN FOSSIL BEDS NATIONAL MONUMENT

The Senate proceeded to consider the bill (S. 1675) to provide for the establishment of the Hagerman Fossil Beds National Monument in the State of Idaho, and for other purposes, which had been reported from the Committee on Energy and Natural Resources, with an amendment to strike all after the enacting clause and insert in lieu thereof, the following:

That in order to preserve for the benefit and enjoyment of present and future generations the outstanding paleontological sites known as the Hagerman Valley fossil sites, to provide a center for continuing paleontological research, and to provide for the display and interpretation of the scientific specimens uncovered at such sites, there is hereby established the Hagerman Fossil Beds National Monument (hereinafter in this Act referred to as the "monument").

(a) The monument shall consist of approximately four thousand three hundred and ninety-four acres as depicted on a map entitled "Boundary Map, Hagerman Fossil Beds National Monument, Idaho" number HAFO-20,012A and dated September, 1987. The map shall be on file and available for public inspection in the office of the Director, National Park Service, Department of the Interior and the Office of the Superintendent, Hagerman Fossil Beds National Monument, Idaho.

(b) Within six months after the enactment of the Act, the Secretary of the Interior (hereinafter in this Act referred to as the "Secretary") shall file a legal description of the monument designated under this section with the Committee on Interior and Insular Affairs of the United States House of Representatives and with the Committee on Energy and Natural Resources of the United States Senate. Such legal description shall have the same force and effect as if included in this Act, except that the Secretary may correct clerical and typographical errors in such legal description and in the map referred to in subsection (a). The legal description shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior.

SEC. 2. (a) The Secretary is authorized to acquire lands or interests in lands only by donation or exchange.

(b) Notwithstanding any other provision of law, any Federal property located within the boundaries of the monument shall be transferred without consideration to the administrative jurisdiction of the Secretary to be administered in accordance with the purposes of this Act.

(c) In acquiring non-Federal lands by exchange pursuant to this Act, the Secretary shall utilize his existing authority including but not limited to applicable provisions of the Federal Land Policy and Management Act of 1976 (Public Law 94-579).

SEC. 3. The Secretary shall administer the monument acquired pursuant to this Act in accordance with the Act entitled "An Act to establish a National Park Service, and for other purposes", approved August 25, 1916 (39 Stat. 535; 16 U.S.C. 1 et seq.), as amended and supplemented.

SEC. 4. Nothing in this Act, nor any action taken pursuant thereto, shall constitute or be construed to constitute either an express or implied reservation of water or water right for any purpose. The United States may acquire such water rights as it deems necessary to carry out its responsibilities under this Act pursuant to the substantive and procedural requirements of the laws of the State of Idaho. The transfer of lands to the administrative jurisdiction of the Secretary pursuant to section 2 shall not affect any reserved water right which the United States may have acquired for the primary purposes for which such lands were originally withdrawn to the extent such rights are consistent with the purposes for which such lands are to be administered pursuant to this Act.

SEC. 5. Nothing in this Act shall affect electrical generating and transmission and irrigation pumping and transmission facilities in existence within the boundaries of the monument, or the right to operate, maintain, repair, upgrade, and modify such facilities. Such facilities are hereby expressly determined to be compatible and consistent with the purposes of this Act.

SEC. 6. In order to provide for continuing paleontological research, the Secretary shall incorporate in the general management plan provisions for the orderly and regulated use of and research in the monument by qualified scientists, scientific groups, and students under the jurisdiction of such qualified individuals and groups.

SEC. 7. Subject to valid existing rights, Federal lands and interests therein, within the monument, are hereby withdrawn from disposition under the public land laws and from entry or appropriation under the mining laws of the United States, from the operation of the mineral leasing laws of the United States, and from operation of the Geothermal Steam Act of 1970, as amended.

SEC. 8. There are hereby authorized to be appropriated not to exceed $5,000,000 to carry out the purposes of this Act.

Mr. JOHNSTON. Mr. President, on December 9, 1987, the Committee on Energy and Natural Resources filed the report to accompany S. 1675, a bill to provide for the establishment of the Hagerman Fossil Beds National Monument in the State of Idaho, and for other purposes.

At the time the report was filed, the committee had not received an estimate of cost from the Congressional Budget Office. The committee has now received that report, and I ask unanimous consent that it be included in the RECORD at this time for the use and information of the public and my colleagues of the Senate.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, December 9, 1987.

Hon. J. BENNETT JOHNSTON, Jr.,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the attached cost estimate for S. 1675, a bill to provide for the establishment of the Hagerman Fossil Beds National Monument in the State of Idaho, and for other purposes.

If you wish further details on this estimate, we will be pleased to provide them.

With best wishes.

Sincerely,

EDWARD M. GRAMLICH,
Acting Director.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

1. Bill number: S. 1675.

2. Bill title: A bill to provide for the establishment of the Hagerman Fossil Beds National Monument in the State of Idaho, and for other purposes.

3. Bill status: As ordered reported by the Senate Committee on Energy and Natural Resources, December 2, 1987.

4. Bill purpose: S. 1675 would establish the Hagerman Fossil Beds National Monument on nearly 4,400 acres in Idaho, and would authorize the appropriation of $5 million for this purpose. The bill would require the

Secretary of the Interior to acquire these lands through donation or exchange.

5. Estimated cost to the Federal Government:

[By fiscal year, in millions of dollars]

	1988	1989	1990	1991	1992
Authorization level	5.0				
Estimated outlays	1	0.1	0.4	1.4	1.2

The costs of this bill fall within budget function 300.

Basis of estimate: This estimate assumes that the $5 million authorized would be appropriated for 1988 and would be used for development activities. The outlay estimate is based on historical spending patterns, and assumes that development would not begin until 1990, after the land has been acquired through exchange or donation. CBO estimates that preparing the management plan required by Section 6 of the bill would cost approximately $250,000 and would be completed during the first two years after the bill is enacted. These estimates are based on information provided by the National Park Service.

6. Estimated cost to State and local governments: None.

7. Estimate comparison: None.

8. Previous CBO estimate: None.

9. Estimate prepared by: Michael Sieverts (226-2860).

10. Estimate approved by C.G. Nuckols (for James L. Blum, Assistant Director for Budget Analysis).

The amendment was agreed to.

The bill (S. 1675) was ordered to be engrossed for a third reading, read the third time, and passed.

PRESERVATION OF CERTAIN SITES IN THE ST. JOHNS RIVER VALLEY, FL

The Senate proceeded to consider the bill (H.R. 1983) authorizing the Secretary of the Interior to preserve certain wetlands and historic and prehistoric sites in the St. Johns River Valley, FL, and for other purposes, which had been reported from the Committee on Energy and Natural Resources, with an amendment to strike all after the enacting clause and insert in lieu thereof, the following with amendments, as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets, and the parts of the bill intended to be inserted are shown in italic.)

S. 1983

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—FORT CAROLINE NATIONAL MEMORIAL

SECTION 101. AMENDMENTS OF 1950 ACT.

The Act entitled "An Act to provide for the acquisition, investigation, and preservation of lands to commemorate the historic Fort Caroline settlement, Saint Johns Bluff, Florida", approved September 21, 1950 (64 Stat. 897), is amended as follows:

(1) Section 2 is amended by adding the following after the final period: "Such historical park shall serve as the principal interpretive center and administrative facility for the ecological, historic, and prehistoric resources made available under this legislation. In furtherance of the interpretive and administrative functions referred to in the preceding sentence, the Secretary shall construct and maintain appropriate museum facilities for the display of important artifacts and materials that illustrate the history and prehistory of the region."

(2) Section 3 is repealed, and sections 4 and 5 are redesignated as sections 3 and 4, respectively.

(3) Section 4, as so redesignated, is amended by striking out the phrase ", not to exceed $40,000,".

TITLE II—PRESERVATION OF ST. JOHNS RIVER VALLEY ECOLOGICAL AREA AND PROTECTION OF SIGNIFICANT HISTORIC ASSETS

SEC. 201. TIMUCUAN ECOLOGICAL AND HISTORIC PRESERVE.

(a) ESTABLISHMENT.—There is hereby established in the St. Johns River Valley, Florida, where the Timucuan Indians lived in prehistoric and historic times, the Timucuan Ecological and Historic Preserve (hereafter in this Act referred to as the "Preserve"). The Preserve shall comprise the lands, waters, and interests therein within the boundaries generally depicted on a map of Duval County, Florida, entitled "Timucuan Ecological and Historic Preserve" numbered NA-TEHP 80,003-A and dated July 1987. The map shall be on file and available for public inspection in the Office of the National Park Service, Department of the Interior. The Secretary of the Interior may make minor revisions in the boundary of the Preserve in accordance with section 7(c) of the Land and Water Conservation Fund Act of 1965. The Preserve shall also include within its boundaries all that land consisting of approximately 500 acres adjacent to Fort Caroline National Memorial and known as the Theodore Roosevelt Preserve, being land formerly owned by one Willie Brown and donated by him to The Nature Conservancy.

(b) LAND ACQUISITION.—The Secretary of the Interior (hereinafter in this Act referred to as the "Secretary") is authorized to acquire lands and interests therein within the Preserve by donation, purchase with donated or appropriated funds, or exchange, but no lands other than wetlands or interests therein may be acquired without the consent of the owner. For purposes of this subsection, the term "wetlands" has the same meaning as provided by section 3 of the Emergency Wetlands Resources Act of 1986. Lands, interests in lands, and improvements thereon within the boundaries of the Preserve which are owned by the State of Florida or any political subdivision thereof may be acquired only by donation or exchange. *On lands acquired for inclusion within the Preserve, the Secretary shall not impair any legal riparian right of access nor shall he preclude the continued use of any legal right of way.*

[(c) ADMINISTRATION.—The Secretary shall administer the Preserve in such a manner as to protect the natural ecology of its land and water areas in accordance with this Act**]**

(c) ADMINISTRATION.—The Secretary shall administer those lands acquired for inclusion within the Preserve in such a manner as to protect the natural ecology of such land and water areas in accordance with this Act and the provisions of law generally applicable to units of the national park system, including the Act of August 25, 1916 (39 Stat. 535; 16 U.S.C. 1, 2-4). The Secretary shall permit boating, boating-related activities, hunting, and fishing within the Preserve in accordance with applicable Federal and State laws. The Secretary may designate zones where, and establish periods when, no hunting or fishing shall be permitted for reasons of public safety.

(d) Nothing in this Act shall affect development of a multiunit residential/resort project currently proposed for Fort George Island, nor shall any provision of this Act be construed to affect any Federal, State or local law applicable to such project.

SEC. 202. PROTECTION OF SIGNIFICANT HISTORIC ASSETS.

The Secretary, with the consent of the owners thereof, may acquire by donation or purchase with donated funds the following properties or sites of significant historic interest in Duval County, Florida:

(1) Spanish sixteenth century forts San Gabriel and San Estaban.

(2) Spanish eighteenth century fort Dos Hermanas.

(3) English eighteenth century forts at Saint Johns Bluff and Fort George Island.

(4) Spanish sixteenth and seventeenth century mission San Juan del Puerto.

(5) Site of the American Revolutionary War battle of Thomas Creek.

(6) The Zephaniah Kingsley plantation, with its eighteenth and nineteenth century buildings.

(7) The Spanish American War fortification on Saint Johns Bluff.

(8) The confederate fort known as the Yellow Bluff Fort State Historic Site.

SEC. 203. INTEGRATED ADMINISTRATION AND INTERPRETATION.

Any properties of historic interest acquired under section 202 shall become part of the Preserve established under section 201. The Secretary shall administer such properties in accordance with a plan that integrates the administration and interpretation of the ecological values of the Preserve and the historical values of the sites so acquired and the historical features of Fort Caroline. Such administration and interpretation shall be conducted through the facilities and staff of Fort Caroline National Memorial consistent with section 2 of the Act of September 21, 1950 (64 Stat. 897).

The amendments were agreed to.

The amendments were ordered to be engrossed, the bill was read the third time, and passed.

RELOCATION OF A CERTAIN HIGHWAY IN GEORGIA

The bill (H.R. 2121) to authorize and direct the National Park Service to assist the State of Georgia in relocating a highway affecting the Chickamauga and Chattanooga National Military Park in Georgia, was considered, ordered to a third reading, read the third time, and passed.

ACCEPTANCE OF LANDS FOR ADDITION TO BIG BEND NATIONAL PARK, TEXAS

The bill (H.R. 2325) to authorize the acceptance of a donation of land for addition to Big Bend National Park, in the State of Texas, was considered, ordered to a third reading, read the third time, and passed.

JIMMY CARTER NATIONAL HISTORIC SITE AND PRESERVATION DISTRICT

The bill (H.R. 2416) to establish the Jimmy Carter National Historic Site and Preservation District in the State of Georgia, and for other purposes, was considered, ordered to a third reading, read the third time, and passed.

RELIEF OF JOSE MARIA VAS

The bill (H.R. 1191) for the relief of Jose Maria Vas, was considered, ordered to a third reading, read the third time, and passed.

RELIEF OF CHU PEI YUN (ZHU BEI YUN)

The bill (H.R. 1390) for the relief of Chu Pei Yun (Zhu Bei Yun), was considered, ordered to a third reading, read the third time, and passed.

RELIEF OF HELEN YING-YU LIN

The bill (H.R. 1863) for the relief of Helen Ying-Yu Lin, was considered, ordered to a third reading, read the third time, and passed.

MEASURES INDEFINITELY POSTPONED—SENATE JOINT RESOLUTION 204, SENATE CONCURRENT RESOLUTION 43, AND S. 963

Mr. BYRD. Mr. President, I ask unanimous consent that calendar orders numbered 426, Senate Joint Resolution 204; 468, Senate Concurrent Resolution 43; and 472, S. 963 be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

BIG CYPRESS NATIONAL PRESERVE ADDITION ACT

Mr. BYRD. Mr. President, I ask unanimous consent that Calendar Order No. 99, S. 90, be called up and made the pending business.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 90) to establish the Big Cypress National Preserve Addition in the State of Florida, and for other purposes, reported with an amendment.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Energy and Natural Resources, with an amendment.

On page 9, after line 11, insert the following:

(g) Section 1(c) of the Act of October 11, 1974, is amended by deleting "exchange," and inserting in lieu thereof "exchange (including interstate exchanges with respect to lands or interests therein within the Addition.)".

So as to make the bill read:

S. 90

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

(a) Short Title.—This Act may be cited as the "Big Cypress National Preserve Addition Act".

(b) Amendment of Big Cypress National Preserve Act.—Whenever in this Act an amendment is expressed in terms of an amendment to the Act of October 11, 1974, such amendment shall be considered to be made to the Act entitled "An Act to establish the Big Cypress National Preserve in the State of Florida, and for other purposes", approved October 11, 1974 (Public Law 93-440; 88 Stat. 1257).

SEC. 2. FINDINGS AND PURPOSE.

(a) Findings.—The Congress finds that—

(1) the planned construction of Interstate 75 is presently being designed in such a way as to improve the natural water flow to the Everglades National Park, which has been disrupted by State Road 84 (commonly known as "Alligator Alley");

(2) the planned construction of Interstate 75 provides an opportunity to enhance protection of the Everglades National Park, to promote protection of the endangered Florida panther, and to provide for public recreational use and enjoyment of public lands by expanding the Big Cypress National Preserve to include those lands adjacent to Interstate 75 in Collier County north and east of the Big Cypress National Preserve, west of the Broward County line, and south of the Hendry County line;

(3) the Federal acquisition of lands bordering the Big Cypress National Preserve in conjunction with the construction of Interstate 75 would provide significant public benefits by limiting development pressure on lands which are important both in terms of fish and wildlife habitat supporting endangered species and of wetlands which are the headwaters of the Big Cypress National Preserve; and

(4) public ownership of lands adjacent to the Big Cypress National Preserve would enhance the protection of the Everglades National Park while providing recreational opportunities and other public uses currently offered by the Big Cypress National Preserve.

(b) Purpose.—It is the purpose of this Act to establish the Big Cypress National Preserve Addition.

SEC. 3. ESTABLISHMENT OF ADDITION.

The Act of October 11, 1974, is amended by adding at the end thereof the following new section:

"Sec. 9. (a) In order to—

"(1) achieve the purposes of the first section of this Act;

"(2) complete the preserve in conjunction with the planned construction of Interstate Highway 75; and

"(3) insure appropriately managed use and access to the Big Cypress Watershed in the State of Florida,

the Big Cypress National Preserve Addition is established.

"(b) The Big Cypress National Preserve Addition (referred to in this Act as the 'Addition') shall comprise approximately 136,000 acres as generally depicted on the map entitled Big Cypress National Preserve Addition, dated June, 1986, and numbered 176-91000B, which shall be on file and available for public inspection in the Office of the National Park Service, Department of the Interior, Washington, D.C., and shall be filed with appropriate offices of Collier County in the State of Florida. The Secretary shall, as soon as practicable, publish a detailed description of the boundaries of the Addition in the Federal Register.

"(c) The area within the boundaries depicted on the map referred to in subsection (b) shall be known as the Big Cypress National Preserve Addition.".

SEC. 4. ADMINISTRATION OF ADDITION.

(a) Unit of the National Park System.—The Act of October 11, 1974, is amended by adding at the end thereof the following new section:

"Sec. 10. (a) The Secretary shall administer the Addition in accordance with this Act and the provisions of law generally applicable to units of the national park system, including the Act entitled 'An Act to establish a National Park Service, and for other purposes', approved August 25, 1916 (39 Stat. 535; 16 U.S.C. 1-4).

"(b) In administering the Addition, the Secretary shall develop and publish in the Federal Register such rules and regulations as the Secretary deems necessary and appropriate to manage and control the use of Federal lands and waters with respect to—

"(1) motorized vehicles;

"(2) exploration for and extraction of oil, gas, and other minerals;

"(3) grazing and agriculture;

"(4) draining or constructing of works or structures which alter the natural water courses;

"(5) recreational uses, including hunting, fishing, and trapping, which shall be promoted and encouraged;

"(6) new construction of any kind; and

"(7) such other uses as the Secretary determines must be limited or controlled in order to carry out the purposes of this Act.

"(c) For purposes of administering the Addition and notwithstanding section 2(c), it is the express intent of the Congress that the Secretary should substantially complete the land acquisition program contemplated with respect to the Addition in not more than five years after the date of the enactment of this paragraph.".

(b) Hunting, Fishing, and Trapping.—Section 5 of the Act of October 11, 1974, is amended by inserting "and the Addition" after "preserve" each place it appears.

(c) Suitability as Wilderness.—Section 7 of the Act of October 11, 1974, is amended—

(1) by inserting "with respect to the preserve and five years from the date of the enactment of the Big Cypress National Preserve Addition Act with respect to the Addition" after "date of the enactment of this Act" in the first sentence; and

(2) by inserting "or the area within the Addition (as the case may be)" after "preserve" each place it appears.

(d) Indian Rights.—Section 6 of the Act of October 11, 1974, is amended as follows:

(1) In clause (i) insert "and the Addition" after "preserve" and insert "(January 1, 1985, in the case of the Addition)" after "1972".

(2) In clause (ii) insert "or within the Addition" after "preserve".

SEC. 5. ACQUISITION OF LAND WITHIN ADDITION.

(a) United States Share of Acquisition Costs.—The first section of the Act of October 11, 1974, is amended by adding at the end thereof the following new subsection:

"(d)(1) The aggregate cost to the United States of acquiring lands within the Addition may not exceed 80 percent of the total cost of such lands.

"(2) Except as provided in paragraph (3), if the State of Florida transfers to the Secretary lands within the Addition, the Secretary shall pay to or reimburse the State of Florida (out of funds appropriated for such purpose) an amount equal to 80 percent of the total costs to the State of Florida of acquiring such lands.

"(3) The amount described in paragraph (1) shall be reduced by an amount equal to 20 percent of the amount of the total cost incurred by the Secretary in acquiring lands in the Addition other than from the State of Florida.

"(4) For purposes of this subsection, the term 'total cost' means that amount of the total acquisition costs (including the value of exchanged or donated lands) less the amount of the costs incurred by the Federal Highway Administration and the Florida Department of Transportation, including severance damages paid to private property owners as a result of the construction of Interstate 75.".

(b) METHODS OF LAND ACQUISITION IN THE ADDITION.—The first sentence of subsection (c) of the first section of the Act of October 11, 1974, is amended—

(1) by inserting "or the Addition" after "preserve" the first place it appears; and

(2) in the first proviso—

(A) by inserting "in the preserve" after "subdivisions,"; and

(B) by striking out the colon and inserting in lieu thereof "and, any land acquired by the State of Florida, or any of its subdivisions, in the Addition shall be acquired in accordance with subsection (d):".

(c) VALUATION AND APPRAISAL.—The fourth sentence of subsection (c) of such section is amended by inserting "or the Addition" after "preserve" each place it appears.

(d) ACQUISITION OF PROPERTY RIGHTS BY THE STATE OF FLORIDA.—Subsection (c) of such section is amended by adding at the end thereof the following: "Nothing in this Act shall be construed to interfere with the right of the State of Florida to acquire such property rights as may be necessary for Interstate 75.".

(e) EXCLUSION OF SUBSURFACE ESTATE.—The third sentence of subsection (c) of such section is amended by inserting "and the Addition" after "preserve" each place it appears.

(f) IMPROVED PROPERTY IN ADDITION.—Section 3(b) of the Act of October 11, 1974, is amended—

(1) in clause (i) by inserting "with respect to the preserve and January 1, 1986, with respect to the Addition" after "November 23, 1971,"; and

(2) in clause (ii)—

(A) by inserting "with respect to the preserve and January 1, 1986, with respect to the Addition" after "November 23, 1971," the first place it appears; and

(B) by inserting "or January 1, 1986, as the case may be," after "November 23, 1971," the second and third places it appears.

(g) Section 1(c) of the Act of October 11, 1974, is amended by deleting "exchange," and inserting in lieu thereof "exchange (including interstate exchanges with respect to lands or interests therein within the Addition)".

SEC. 6. COOPERATION AMONG AGENCIES.

The Act of October 11, 1974, is further amended by adding at the end thereof the following new section:

"SEC. 11. The Secretary and other involved Federal agencies shall cooperate with the State of Florida to establish recreational and oil, gas, and mineral access points and roads, rest and recreation areas, appropriate wildlife protection, and, where appropriate, hunting, fishing, frogging, and other recreational opportunities in conjunction with the creation of the Addition and in the construction of Interstate Highway 75. Not more than 3 of such access points shall be located within the preserve (including the Addition).".

SEC. 7. REPORT TO CONGRESS.

The Act of October 11, 1974, is further amended by adding at the end thereof the following new section:

"SEC. 12. Not later than one year after the date of the enactment of this section, the Secretary shall submit to the Congress a detailed report on, and further plan for, the preserve and Addition including—

"(1) the status of the existing preserve, the effectiveness of past regulation and management of the preserve, and recommendations for future management of the preserve and the Addition;

"(2) a summary of the public's use of the preserve and the status of all access rights for public and private use;

"(3) the need for involvement of other State and Federal agencies in the management and expansion of the preserve and Addition;

"(4) the status of land acquisition; and

"(5) a determination, made in conjunction with the State of Florida, of the adequacy of the number, location, and design of the recreational access points on I-75/Alligator Alley for access to the Big Cypress National Preserve, including the Addition.

The determination required by paragraph (5) shall incorporate the results of any related studies of the State of Florida Department of Transportation and other Florida State agencies. Any recommendation for significant changes in the approved recreational access points, including any proposed additions, shall be accompanied by an assessment of the environmental impact of such changes.".

SEC. 8. AUTHORIZATION OF APPROPRIATIONS.

Section 8 of the Act of October 11, 1974, is amended—

(1) by striking out "There" in the first sentence and inserting in lieu thereof "(a) Except as provided in subsection (b), there"; and

(2) by adding at the end thereof the following new subsection:

"(b) There are authorized to be appropriated such sums as may be necessary to acquire lands within the Addition.".

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment.

The committee amendment was agreed to.

AMENDMENT NO. 1357

Mr. BYRD. Mr. President, I send an amendment to the desk on behalf of Senators CHILES and GRAHAM.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from West Virginia (Mr. BYRD) for Mr. CHILES (for himself and Mr. GRAHAM), proposes an amendment numbered 1357.

Mr. BYRD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 4, line 4, strike "136,000" and insert "146,000".

On page 4, lines 5 and 6, strike the phrase "June, 1986, and numbered 176-91000B," and insert "April, 1987, and numbered 176-91000C,".

On page 9, strike lines 12 through 15 in their entirety.

On page 9, line 21, strike "and oil, gas, and mineral".

On page 11, strike subsection (b) in its entirety and insert the following new subsection:

"(b) There is hereby authorized to be appropriated from the Land and Water Conservation Fund not to exceed $49.5 million for the acquisition of lands within the Addition.".

On page 11, after line 16, insert the following new section:

"SEC. 9. OIL AND GAS EXPLORATION, DEVELOPMENT AND PRODUCTION.

"The Act of October 11, 1974, is further amended by adding at the end thereof the following new section:

"SEC. 13. (a) Within nine months from the date of the enactment of the Big Cypress National Preserve Addition Act, the Secretary shall promulgate, subject to the requirements of subsections (b)-(e) of this Section, such rules and regulations governing:

"(1) the exploration for and development and production of non-Federal interests in oil and gas reserved in and under the surface of Federally owned or controlled lands located within the boundaries of the Big Cypress National Preserve and the Addition, and

"(2) access on, across or through Federally owned or controlled lands for the purpose of conducting such exploration or development and production,

As are necessary and appropriate to provide reasonable use and enjoyment of privately-owned oil and gas interests, and consistent with the purposes for which the Big Cypress National Preserve and the Addition were established. Rules and regulations promulgated pursuant to the authority of this Section may be made by appropriate amendment to or in substitution of the rules and regulations respecting non-Federal oil and gas rights (currently codified at 36 C.F.R. § 9.30, *et seq.* (1986)).

"(b) Any rule or regulation promulgated by the Secretary under subsection (a) of this Section shall provide that:

"(1) exploration or development and production activities may not be undertaken, nor access on, across or through Federally owned or controlled lands provided, except pursuant to a permit issued by the National Park Service authorizing such activities or access; and

"(2) final action by the National Park Service with respect to any application for a permit authorizing such activities or access shall occur within 90 days from the date such an application is submitted unless:

"(A) the National Park Service and the applicant agree that such final action shall occur within a shorter or longer period of time; or

"(B) the National Park Service determines that an additional period of time is required to ensure that the National Park Service has, in reviewing the application, complied with other applicable laws, Executive Orders and regulations; or

"(C) the National Park Service, within 30 days from the date of submission of such application, notifies the applicant that such application does not contain all information reasonably necessary to allow the National Park Service to consider such application and requests that such additional information be provided. After receipt of such notification to the applicant, the applicant shall supply any reasonably necessary additional information and shall advise the National Park Service that the applicant believes that the application contains all reasonably necessary information and is therefore complete, whereupon the National Park Service may

"(i) within 30 days of receipt of such notice from the applicant to the National Park Service determine that the application does not contain all reasonably necessary additional information and, on that basis, deny the application; or

"(ii) review the application and take final action within 60 days from the date that the applicant provides notification to the National Park Service that its application is complete.

"(c) Such activities or access shall be permitted to occur if such activities or access conform to requirements established by the National Park Service under authority of law.

"(d) In establishing standards governing access on, across or through Federally owned or controlled lands or the conduct of exploration or development and production activities within the boundaries of the Big Cypress National Preserve or the Addition, the Secretary shall take into consideration oil and gas exploration and development and production practices used in similar habitats or ecosystems within the Big Cypress National Preserve or the Addition at the time of promulgation of the rules and regulations under subsection (a) or at the time of the submission of the application seeking authorization for such access or activities, as appropriate.

"(e) Prior to the promulgation of rules or regulations under this Section, the Secretary is authorized, consistent with the purposes for which the Big Cypress National Preserve Addition was established, to enter into interim agreements with owners of non-Federal oil and gas interests governing access on, across or through Federally owned or controlled lands and the conduct of oil and gas exploration, development or production activities within the boundaries of the Addition, which agreements shall be superseded by the rules and regulations promulgated by the Secretary when applicable, *Provided*, that such agreement shall be consistent with the requirements of subsections (b)-(d) of this Section and may be altered by the terms of rules and regulations subsequently promulgated by the Secretary, and *Provided, further*, that this provision shall not be construed to enlarge or diminish the authority of the Secretary to establish rules or regulations applicable to access across Federally owned or controlled lands and the conduct of exploration or development and production activities within the Big Cypress National Preserve or the Addition.

"(f) There is hereby authorized to be established a Minerals Management Office within the Office of the Superintendent of the Big Cypress National Preserve, for the purpose of ensuring, consistent with the purposes for which the Big Cypress National Preserve was established, timely consideration of and final action on applications for access on, across or through Federally owned or controlled lands or the exploration or development and production of non-Federal interests in oil and gas reserved in and under the surface of Federally owned or controlled lands within the boundaries of the Big Cypress National Preserve and the Addition.

"(g) There are hereby authorized to be appropriated such sums as may be necessary to carry out the activities set forth in this Section."

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 1357) was agreed to.

Mr. CHILES. Mr. President, I am delighted that the Senate is taking action to protect environmentally sensitive habitat at a reasonable cost by approving S. 90. This legislation will add 146,000 acres to the Big Cypress National Preserve in south Florida, a region nationally recognized for its wide variety of plant and animal species and home to the endangered Florida panther.

Acquisition for the preserve addition will be in conjunction with the planned construction of Interstate 75. This construction will sever existing access to private property north and south of the highway, requiring the payment of damages to the property owners by the Florida Department of Transportation. If we act quickly to enact this legislation enabling the utilization of the DOT severance damage funds, we will make it possible for the public to acquire these unique lands for substantially less cost than would otherwise be possible.

As an original sponsor of the Federal legislation establishing the Big Cypress National Preserve, I am keenly aware of the role water quality and quantity plays in ensuring the livelihood of Everglades National Park which is directly south of the preserve. The everglades ecosystem is fragile and totally dependent on the complex hydrology of the entire region. The Big Cypress Preserve was established by Congress in 1974 to make sure this important watershed area was not further developed or disrupted. Passage of S. 90 will guarantee an improved system of protection for the watershed.

I have looked forward to expanding this spectacular preserve for some time now, Mr. President, and I am afraid that any further delay will prevent us from enjoying the cost savings provisions of this bill. When the Federal Government has an opportunity such as this, we ought to seize it, and I am pleased that the Senate will do just that today.

Mr. GRAHAM. Mr. President, we have the opportunity today to support and approve S. 90, a bill which authorizes the Department of the Interior to join the State of Florida in acquiring a 146,000-acre addition to the Big Cypress National Preserve.

It is our hope that within the next 6 months to 1 year, agreement will be reached on a proposed land exchange between the Department of the Interior and the Collier family of Florida.

This exchange would include much of the acreage in the preserve addition which S. 90 designates.

This exchange would also include other lands in Florida critically important to protecting sensitive areas and species—including the 10,000 islands.

Once agreement is reached, I will support legislation approving the exchange.

Mr. President, we need to move on S. 90 now so that authorization is in place when the final agreement is worked out.

Our goal in this effort is to create an envelope of protection around Everglades National Park. If we fail to act, the 146,000 acres comprising the Big Cypress addition are likely to be developed into citrus groves and subdivisions. The resulting alterations in water flow and the degradation of water quality could be drastic. A significant investment in our National Park System would be wasted.

We should, at this time, remove the interstate exchange authorization language from S. 90 because the details of the exchange are still being discussed.

Once that deletion takes place, the Florida and Arizona delegations can work freely toward an exchange agreement for the acquisition of the Big Cypress Preserve addition.

And we should also be aware that an important related economic factor is the conversion of Highway 84, known as Alligator Alley, to Interstate 75. This conversion will require the State of Florida to pay severance damages in acquiring the right-of-way.

It is fiscally prudent that we acquire lands within the proposed preserve addition at the same time land is being acquired for Interstate 75. The State of Florida should be commended for having taken the first step on December 3, by paying $15 million for a 7,600-acre tract adjoining the land encompassed by S. 90.

The timely passage of S. 90 could help to save one of the most significant and endangered natural resources on this continent. The Everglades system—of which the Big Cypress Preserve is a crucial part—is absolutely unique—one of a kind. It is the key to the survival of countless endangered species—plants and animals and reptiles—all dependent on this one fragile linchpin for their own continued existence.

We have an obligation to the rest of the world—not just to Floridians or even Americans—to preserve the mysterious beauty of the Everglades and the complexities of its function as a water provider—to preserve also the singular plant and animal and marine life species only found in the Everglades hammocks and marshes.

State and Federal cooperation in the purchases of the Big Cypress Addition is profoundly important to the future and to our present quality of life. The Federal Government has as grave a responsibility to protect its considerable investment in the Big Cypress and in the Everglades National Park as it does to join Florida in preserving a peerless environmental treasure.

I encourage my colleagues to support S. 90 as amended.

The **PRESIDING OFFICER.** Is there any further debate? If not, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 90

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

(a) SHORT TITLE.—This Act may be cited as the "Big Cypress National Preserve Addition Act".

(b) AMENDMENT OF BIG CYPRESS NATIONAL PRESERVE ACT.—Whenever in this Act an amendment is expressed in terms of an amendment to the Act of October 11, 1974, such amendment shall be considered to be made to the Act entitled "An Act to establish the Big Cypress National Preserve in the State of Florida, and for other purposes", approved October 11, 1974 (Public Law 93-440; 88 Stat. 1257).

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) the planned construction of Interstate 75 is presently being designed in such a way as to improve the natural water flow to the Everglades National Park, which has been disrupted by State Road 84 (commonly known as "Alligator Alley");

(2) the planned construction of Interstate 75 provides an opportunity to enhance protection of the Everglades National Park, to promote protection of the endangered Florida panther, and to provide for public recreational use and enjoyment of public lands by expanding the Big Cypress National Preserve to include those lands adjacent to Interstate 75 in Collier County north and east of the Big Cypress National Preserve, west of the Broward County line, and south of the Hendry County line;

(3) the Federal acquisition of lands bordering the Big Cypress National Preserve in conjunction with the construction of Interstate 75 would provide significant public benefits by limiting development pressure on lands which are important both in terms of fish and wildlife habitat supporting endangered species and of wetlands which are the headwaters of the Big Cypress National Preserve; and

(4) public ownership of lands adjacent to the Big Cypress National Preserve would enhance the protection of the Everglades National Park while providing recreational opportunities and other public uses currently offered by the Big Cypress National Preserve.

(b) PURPOSE.—It is the purpose of this Act to establish the Big Cypress National Preserve Addition.

SEC. 3. ESTABLISHMENT OF ADDITION.

The Act of October 11, 1974, is amended by adding at the end thereof the following new section:

"SEC. 9. (a) In order to—

"(1) achieve the purposes of the first section of this Act;

"(2) complete the preserve in conjunction with the planned construction of Interstate Highway 75; and

"(3) insure appropriately managed use and access to the Big Cypress Watershed in the State of Florida,

the Big Cypress National Preserve Addition is established.

"(b) The Big Cypress National Preserve Addition (referred to in this Act as the 'Addition') shall comprise approximately 136,000 acres as generally depicted on the map entitled Big Cypress National Preserve Addition, dated June, 1986, and numbered 176-91000B, which shall be on file and available for public inspection in the Office of the National Park Service, Department of the Interior, Washington, D.C., and shall be filed with appropriate offices of Collier County in the State of Florida. The Secretary shall, as soon as practicable, publish a detailed description of the boundaries of the Addition in the Federal Register.

"(c) The area within the boundaries depicted on the map referred to in subsection (b) shall be known as the Big Cypress National Preserve Addition.".

SEC. 4. ADMINISTRATION OF ADDITION.

(a) UNIT OF THE NATIONAL PARK SYSTEM.—The Act of October 11, 1974, is amended by adding at the end thereof the following new section:

"SEC. 10. (a) The Secretary shall administer the Addition in accordance with this Act and the provisions of law generally applicable to units of the national park system, including the Act entitled 'An Act to establish a National Park Service, and for other purposes', approved August 25, 1916 (39 Stat. 535; 16 U.S.C. 1-4).

"(b) In administering the Addition, the Secretary shall develop and publish in the Federal Register such rules and regulations as the Secretary deems necessary and appropriate to manage and control the use of Federal lands and waters with respect to—

"(1) motorized vehicles;

"(2) exploration for and extraction of oil, gas, and other minerals;

"(3) grazing and agriculture;

"(4) draining or constructing of works or structures which alter the natural water courses;

"(5) recreational uses, including hunting, fishing, and trapping, which shall be promoted and encouraged;

"(6) new construction of any kind; and

"(7) such other uses as the Secretary determines must be limited or controlled in order to carry out the purposes of this Act.

"(c) For purposes of administering the Addition and notwithstanding section 2(c), it is the express intent of the Congress that the Secretary should substantially complete the land acquisition program contemplated with respect to the Addition in not more than five years after the date of the enactment of this paragraph.".

(b) HUNTING, FISHING, AND TRAPPING.—Section 5 of the Act of October 11, 1974, is amended by inserting "and the Addition" after "preserve" each place it appears.

(c) SUITABILITY AS WILDERNESS.—Section 7 of the Act of October 11, 1974, is amended—

(1) by inserting "with respect to the preserve and five years from the date of the enactment of the Big Cypress National Preserve Addition Act with respect to the Addition" after "date of the enactment of this Act" in the first sentence; and

(2) by inserting "or the area within the Addition (as the case may be)" after "preserve" each place it appears.

(d) INDIAN RIGHTS.—Section 6 of the Act of October 11, 1974, is amended as follows:

(1) In clause (i) insert "and the Addition" after "preserve" and insert "(January 1, 1985, in the case of the Addition)" after "1972".

(2) In clause (ii) insert "or within the Addition" after "preserve".

SEC. 5. ACQUISITION OF LAND WITHIN ADDITION.

(a) UNITED STATES SHARE OF ACQUISITION COSTS.—The first section of the Act of October 11, 1974, is amended by adding at the end thereof the following new subsection:

"(d)(1) The aggregate cost to the United States of acquiring lands within the Addition may not exceed 80 percent of the total cost of such lands.

"(2) Except as provided in paragraph (3), if the State of Florida transfers to the Secretary lands within the Addition, the Secretary shall pay to or reimburse the State of Florida (out of funds appropriated for such purpose) an amount equal to 80 percent of the total costs to the State of Florida of acquiring such lands.

"(3) The amount described in paragraph (1) shall be reduced by an amount equal to 20 percent of the amount of the total cost incurred by the Secretary in acquiring lands in the Addition other than from the State of Florida.

"(4) For purposes of this subsection, the term 'total cost' means that amount of the total acquisition costs (including the value of exchanged or donated lands) less the amount of the costs incurred by the Federal Highway Administration and the Florida Department of Transportation, including severance damages paid to private property owners as a result of the construction of Interstate 75.".

(b) METHODS OF LAND ACQUISITION IN THE ADDITION.—The first sentence of subsection (c) of the first section of the Act of October 11, 1974, is amended—

(1) by inserting "or the Addition" after "preserve" the first place it appears; and

(2) in the first proviso—

(A) by inserting "in the preserve" after "subdivisions,"; and

(B) by striking out the colon and inserting in lieu thereof "and, any land acquired by the State of Florida, or any of its subdivisions, in the Addition shall be acquired in accordance with subsection (d):".

(c) VALUATION AND APPRAISAL.—The fourth sentence of subsection (c) of such section is amended by inserting "or the Addition" after "preserve" each place it appears.

(d) ACQUISITION OF PROPERTY RIGHTS BY THE STATE OF FLORIDA.—Subsection (c) of such section is amended by adding at the end thereof the following: "Nothing in this Act shall be construed to interfere with the right of the State of Florida to acquire such property rights as may be necessary for Interstate 75.".

(e) Exclusion of Subsurface Estate.—The third sentence of subsection (c) of such section is amended by inserting "and the Addition" after "preserve" each place it appears.

(f) Improved Property in Addition.—Section 3(b) of the Act of October 11, 1974, is amended—

(1) in clause (i) by inserting "with respect to the preserve and January 1, 1986, with respect to the Addition" after "November 23, 1971,"; and

(2) in clause (ii)—

(A) by inserting "with respect to the preserve and January 1, 1986, with respect to the Addition" after "November 23, 1971," the first place it appears; and

(B) by inserting "or January 1, 1986, as the case may be," after "November 23, 1971," the second and third places it appears.

(g) Section 1(c) of the Act of October 11, 1974, is amended by deleting "exchange," and inserting in lieu thereof "exchange (including interstate exchanges with respect to lands or interests therein within the Addition)".

SEC. 6. COOPERATION AMONG AGENCIES.

The Act of October 11, 1974, is further amended by adding at the end thereof the following new section:

"Sec. 11. The Secretary and other involved Federal agencies shall cooperate with the State of Florida to establish recreational and oil, gas, and mineral access points and roads, rest and recreation areas, appropriate wildlife protection, and, where appropriate, hunting, fishing, frogging, and other recreational opportunities in conjunction with the creation of the Addition and in the construction of Interstate Highway 75. Not more than 3 of such access points shall be located within the preserve (including the Addition).".

SEC. 7. REPORT TO CONGRESS.

The Act of October 11, 1974, is further amended by adding at the end thereof the following new section:

"Sec. 12. Not later than one year after the date of the enactment of this section, the Secretary shall submit to the Congress a detailed report on, and further plan for, the preserve and Addition including—

"(1) the status of the existing preserve, the effectiveness of past regulation and management of the preserve, and recommendations for future management of the preserve and the Addition;

"(2) a summary of the public's use of the preserve and the status of all access rights for public and private use;

"(3) the need for involvement of other State and Federal agencies in the management and expansion of the preserve and Addition;

"(4) the status of land acquisition; and

"(5) a determination, made in conjunction with the State of Florida, of the adequacy of the number, location, and design of the recreational access points on I-75/Alligator Alley for access to the Big Cypress National Preserve, including the Addition.

The determination required by paragraph (5) shall incorporate the results of any related studies of the State of Florida Department of Transportation and other Florida State agencies. Any recommendation for significant changes in the approved recreational access points, including any proposed additions, shall be accompanied by an assessment of the environmental impact of such changes.".

SEC. 8. AUTHORIZATION OF APPROPRIATIONS.

Section 8 of the Act of October 11, 1974, is amended—

(1) by striking out "There" in the first sentence and inserting in lieu thereof "(a) Except as provided in subsection (b), there"; and

(2) by adding at the end thereof the following new subsection:

"(b) There are authorized to be appropriated such sums as may be necessary to acquire lands within the Addition.".

Mr. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. SIMPSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

BATTLE MOUNTAIN PASTURE RESTORATION ACT OF 1987

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 370, S. 574.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 574) entitled the "Battle Mountain Pasture Restoration Act of 1987."

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 1358

Mr. SIMPSON. Mr. President, I have an amendment submitted on behalf of Senator Hecht.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Wyoming [Mr. Simpson], for Mr. Hecht, proposes an amendment numbered 1358.

Mr. SIMPSON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill add the following new section 5:

"Sec. 5. Reversion

"The Secretary shall not convey lands pursuant to this Act until the Pershing County Water Conservation District enters into a recordable agreement, in consideration for such conveyance, that is satisfactory to the Secretary as to form and legal sufficiency, providing that,

"(1) the District will remain subject to its existing contracts and repayment obligations to the United States, pursuant to the terms of Contract Nos. Ilr-774, 14-06-400-429, and 14-06-200-819A with the Department of the Interior, Bureau of Reclamation, and all other existing contracts and obligations to the United States;

"(2) the District will not use or permit the use of lands conveyed by this Act for any purpose except for pasturage or other agricultural use, except to the extent that any portion of such lands may be transferred to the State of Nevada or any county or other political subdivision of such State for public purposes;

"(3) the District will not transfer or attempt to transfer title to, or control over, any of the conveyed lands except insofar as title to or control over all or part of such lands may be transferred to the State of Nevada or any country or other political subdivision of such State for public purposes and subject to the condition that if the State or political subdivision should ever cease to use such lands for such public purposes or should ever attempt to transfer title to or control over the conveyed lands, title to such lands shall revert to the United States;

"(4) title to the lands conveyed pursuant to this Act shall revert to the United States if the lands should ever cease to be used for pasturage or other agricultural purposes or if the District attempts to transfer title to or control over such lands except as provided in paragraph (3)."

The PRESIDING OFFICER. Is there debate on the amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 1358) was agreed to.

The PRESIDING OFFICER. Are there other amendments? If not, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 574

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be known as the "Battle Mountain Pasture Restoration Act of 1987".

SEC. 2. FINDINGS AND PURPOSES.

(a) Findings.—The Congress finds that—

(1) the Humboldt Project is a land reclamation and irrigation project created pursuant to the Act of Congress of June 16, 1934 (48 Stat 195), and June 17, 1902 (32 Stat 388), and is an irrigation dam project known as Rye Patch Dam located in Pershing County, Nevada;

(2) the Pershing County Water Conservation District, a quasi-political subdivision of the State of Nevada, entered into contracts in 1934 to purchase all of the lands comprising the Battle Mountain Community Pasture, consisting of approximately twenty-nine thousand eight hundred and eighty-four acres of land, and water rights appurtenant thereto in Lander County, Nevada, consisting of a consolidation of two ranches known as the Filipini Ranch and the Aldous Ranch;

(3) the Pershing County Water Conservation District transferred all of the water rights appurtenant to the Filipini and Aldous Ranches to the Humboldt Project to provide water to make the construction of Rye Patch Dam feasible;

(4) the legislation authorizing the construction of the Humboldt Project provided that title to the Filipini Ranch and Aldous Ranch was to lie with the United States until further Act of Congress;

(5) the Pershing County Water Conservation District assigned its purchase contracts of the Filipini Ranch and the Aldous Ranch comprising the community pasture to the United States in 1934, and in 1936 conveyed the water rights to the United States as re-

quired under the terms of the Humboldt Project to make the construction of Rye Patch Dam feasible;

(6) a repayment contract was entered into with the United States Department of the Interior, Bureau of Reclamation, on October 1, 1934, to provide the funds necessary for the construction of Rye Patch Dam and Reservoir, and to ensure the repayment to the United States of all costs of construction and operation of the Humboldt Project;

(7) the Pershing County Water Conservation District water users have completely repaid the United States all of the costs of the Humboldt Project, including the cost of the purchase of the Aldous and Filipini Ranches, known as the Battle Mountain Community Pasture;

(8) the Pershing County Water Conservation District has paid real estate taxes on the Battle Mountain Community Pasture for many years;

(9) the Battle Mountain Community Pasture continues to be required by the Pershing County Water Conservation District to ensure that the waters of the Humboldt River pass through the pasture, and are not diverted or diminished, in accordance with the terms of the transfer of the water rights as provided by the State of Nevada;

(10) the Pershing County Water Conservation District has an immediate and continuing need for the Battle Mountain Community Pasture; and

(11) the purpose of this Act is to convey to the Pershing County Water Conservation District fee title to the Battle Mountain Community Pasture in recognition of the fact that it was initially acquired by the Pershing County Water Conservation District, and subsequently transferred to the United States for the Humboldt Project, until further Act of Congress and the full repayment of the construction and acquisition costs of the Humboldt Project to the United States.

SEC. 3. CONVEYANCE.

The Secretary of the Interior shall convey, subject to all existing rights and interests of third parties upon, in, and over the property, and upon payment of administrative costs incurred in making the transfer, not to exceed $20,000, to the Pershing County Water Conservation District, all right, title, and interest of the United States in and to the land described in section 4 of this Act.

SEC. 4. DESCRIPTION.

The land referred to in section 3 of this Act is described as follows: Portions of those parcels of land described in the warranty deed between Charles S. Aldoux, et ux., and the United States dated January 17, 1935, and in the warranty deed between Filipini Ranching Company and the United States dated January 26, 1935, said lands being in the County of Lander, State of Nevada, and described as follows:

MOUNT DIABLO MERIDIAN

Township 32 North, Range 44 East

Section 1.

Township 32 North, Range 45 East

Sections 3 to 6, inclusive, sections 10 to 14, inclusive, and sections 22 to 24, inclusive; all of section 7, excepting therefrom portions of lots 3 and 4, and southwest quarter more fully described by metes and bounds as follows:

Beginning at the intersection of the centerline of the westbound lane of Interstate Route 80, Project I-080-3(12)229, and the west boundary of section 7, at highway engineer's station "Bw" 241 plus 36.69 P.O.C., said point of beginning further described as bearing south 0 degrees 02 minutes 18 seconds west, a distance of 1,571.26 feet from the west quarter corner of section 7; thence north 0 degrees 02 minutes 18 seconds east, along west boundary of section 7, a distance of 379.00 feet to a point; thence south 34 degrees 02 minutes 55 seconds east, a distance of 754.84 feet to a point; thence from a tangent which bears the last described course, curving to the left with a radius of 1,500 feet, through an angle of 34 degrees 06 minutes 42 seconds, an arc distance of 893.04 feet to a point; thence south 68 degrees 09 minutes 37 seconds east, a distance of 731.06 feet to an intersection with the south boundary of section 7; thence south 89 degrees 58 minutes 33 seconds west, along said south boundary, a distance of 1,787.00 feet to the southwest corner of section 7; thence north 0 degrees 02 minutes 18 seconds east, along the west boundary of section 7, a distance of 1,071.65 feet to the point of beginning, said parcel contains an area of 20.91 acres, more or less.

Also excepting therefrom the southeast quarter of section 7. Also excepting therefrom, a strip of land having a uniform width of 30 feet, where measurable at right angles lying within 15 feet on each side of the following described centerline:

Beginning at a point in the south boundary of the northeast quarter of section 7, west, 660.0 feet distant from the east quarter corner of section 7; thence north, 513.0 feet to a point on the south bank of the Reese River, that is south 17 degrees 16 minutes west, 2,223.2 feet distant from the northeast corner of section 7, the sideline boundaries of said strip of land are to be lengthened or shortened as the case may be, so as to begin in the south boundary of the northeast quarter of section 7, and terminate on the south bank of the Reese River, said parcel contains an area of 0.35 acre, more or less.

Section 8, west half;

Section 9, northeast quarter;

Section 15, all that portion lying south of the old channel of the Humboldt River, and containing 340 acres, more or less;

Section 17, southeast quarter, except that portion thereof conveyed to C.W. Burge (deed recorded in Book 52 of Deeds, page 476, records of said Lander County) described as follows:

Beginning at a corner point numbered 1, on the east boundary of section 17, north, 1,015 feet distant from the southeast corner of section 17. Thence north (on section line), 1,625 feet to east quarter corner, section 17. Thence, same course, 1,525 feet to northeast corner numbered 2. Thence south 43 degrees 56 minutes west, 2,019 feet to west angle corner (along wagon road). Thence south 39 degrees 33 minutes east, 2,200 feet to corner numbered 1, place of beginning, containing 50.65 acres.

Section 18, northeast quarter northeast quarter, excepting therefrom, a strip of land having a uniform width of 30 feet, where measurable at right angles lying within 15 feet on each side of the following described centerline:

Beginning at a point in the east boundary of section 18, south, 1,127.9 feet distant from the northeast corner of section 18; thence entering section 18, north 30 degrees 20 minutes west, 1,306.8 feet to a point in the north boundary of section 18, west, 660.0 feet distant from northeast corner of section 18, the sideline boundaries of said strip of land are to be lengthened or shortened, as the case may be, so as to begin in the east boundary, and terminate in the north boundary of section 18, said parcel contains an area of 0.90 acre, more or less.

Section 26, north half north half, and south half northeast quarter.

Township 32 North, Range 46 East

Sections 7 to 11, inclusive, sections 15 to 18, inclusive, and section 20;

Section 1, south half;

Section 2, south half;

Section 3, south $^{21}/_{40}$ of south half, containing 168 acres;

Section 4, south $^{21}/_{40}$ of south half, containing 168 acres; also in section 4 all that portion of that tract of land containing 39.5 acres deeded on December 13, 1989, by J.H. Crum, and others to James Faris (deed recorded at page 151, in Book 49 of Deeds, records of said Lander County), which is not included in that certain parcel or tract of land deeded May 22, 1903, by James Faris and Annie Faris, to Southern Pacific Company (deed recorded at page 770, in Book 49 of Deeds, records of said Lander County); section 5, south $^{33}/_{40}$ of south half, containing 264 acres; section 6, south half south half, north half southeast quarter, and north half southwest quarter (undivided one-half interest);

Section 12, north half;

Section 14, northwest quarter;

Section 19, north half;

Section 21, north half;

Section 22, north half northwest quarter, northwest quarter southwest quarter, and southwest quarter northwest quarter.

Township 32 North, Range 47 East

Section 6, north half south half.

Township 33 North, Range 44 East

Section 12, southeast quarter northeast quarter.

Township 33 North, Range 45 East

Sections 5 to 8, inclusive, sections 17 to 21, inclusive, and sections 28 to 33, inclusive;

Section 9, southwest quarter;

Section 27, southwest quarter;

Section 34, north half northeast quarter, and south half;

Section 35, southwest quarter.

Township 34 North, Range 44 East

Section 36, southwest quarter southeast quarter, and southwest quarter southwest quarter.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. SIMPSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

REPEAL OF BROWN-STEVENS ACT WITH RESPECT TO CERTAIN INDIAN TRIBES IN NEBRASKA

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar 441, H.R. 2639.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 2639) to repeal the Brown-Stevens Act concerning certain Indian tribes in the State of Nebraska.

There being no objection, the Senate proceeded to the immediate consideration of the bill.

AMENDMENT NO. 1359

(Purpose: To extend the time to compile and publish the final list of land allotments or interests within certain claim categories on the White Earth Indian Reservation as required by Pub. L. 99-264 (100 Stat. 61)

Mr. SIMPSON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Wyoming [Mr. SIMPSON], for Mr. BOSCHWITZ, proposes an amendment numbered 1359.

Mr. SIMPSON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill add the following:

Section 7(c) of the White Earth Reservation Land Settlement Act of 1985 (P.L. 99-264; 100 Stat. 61; 25 U.S.C. 331 note) is amended by (1) deleting "not later than five hundred and forty days of the date of publication of the Secretary's first list in the Federal Register" and inserting in lieu thereof "not later than March 12, 1989", and (2) deleting "should be added to" and inserting in lieu thereof "should be corrected or added to".

Mr. BOSCHWITZ. Mr. President, as my colleagues recall, in 1985, after 6 long years of hard work, Congress finally passed the White Earth Reservation Land Settlement Act. This act fairly and equitably addresses the very complex issues involved through a combination of monetary and land settlements. To achieve this end, the Bureau of Indian Affairs is required to compile two lists of individuals who have claims to the settlement agreement.

The first list, which was required by section 7(a) of the act, was filed by the date required. Unfortunately, however, today the implementation of the act may be thrown far behind schedule due to the Bureau of Indian affairs' inability to meet the filing date of the second list of allotments. In fact, BIA tells me that the list cannot be complied by the March 12, 1988, deadline without risking serious omissions and errors.

Mr. President, the second filing is the mechanism which triggers the claims resolution process. Until a final determination of potential claimants is made, no other research can be undertaken. To resolve this problem, I am introducing an amendment to H.R. 2639 to provide a 1-year extension of the deadline for the second list. I want to make it clear, however, that the Bureau can publish the list as soon as it is completed any time during the extension period—I urge BIA to complete the research as soon as possible. I want to add that it is my sincere hope and expectation that the Bureau will complete the second list well before the new March 1989 deadline.

The amendment also makes clear that the publication of the second list may include corrections to the first list published by the Secretary. It is indeed disappointing that the first list contains many errors.

Mr. President, I urge the adoption of the amendment.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senate from Minnesota [Mr. BOSCHWITZ].

The amendment (No. 1359) was agreed to.

The PRESIDING OFFICER. Are there further amendments? If there be no further amendment to be proposed, the question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read a third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass?

So the bill (H.R. 2639), as amended, was passed.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. SIMPSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORGANOTIN ANTIFOULING PAINT CONTROL ACT

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 464, S. 1788.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 1788) to protect the aquatic environment from certain chemicals used in antifoulant paints, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. MITCHELL. Mr. President, I rise in support of the Organotin Antifouling Paint Control Act of 1987.

It has been a pleasure to work with Senators TRIBLE and COHEN in the development of this legislation. They were the first to alert us to the threats to the marine environment posed by organotins in antifouling paints. And, they have taken the lead in drafting the bill we are introducing today.

Mr. President, the coastal and marine waters of our country are a natural resource of tremendous value. Marine bays and estuaries play an essential part in the ecological system which supports fisheries and wildlife. And, our coastal waters provide recreational opportunities for millions of Americans.

We must be especially alert to threats to the quality of marine waters and the integrity of the marine and coastal environment.

In April of this year, the Subcommittee on Environmental Protection, which I chair, held a hearing on the effects of organotin compounds on the marine environment.

The purpose of the hearing was to review the large body of scientific evidence indicating that an organotin compound known as tributyltin, or TBT, may pose a serious threat to marine organisms and the marine environment. The subcommittee also heard testimony on options for restricting TBT use, including regulation by the Environmental Protection Agency and legislative action by the Congress.

One of the most dramatic problems identified at the hearing was the extent of TBT contamination in the Chesapeake Bay. Recent tests by the Environmental Protection Agency indicate that TBT is present in the bay at levels significantly above the concentration levels identified by the EPA as safe.

We also heard from representatives of States, such as Maryland and Virginia, which have adopted legislation to protect coastal waters from TBT contamination. I am pleased that my home State of Maine has also adopted legislation restricting the use of TBT.

Other witnesses at the hearing provided an overview of the scientific research of TBT and related compounds and described the views of the U.S. Navy and the paint industry.

Based on this hearing, I concluded that we have clear evidence that TBT poses a threat to the marine environment and that an effective and coordinated response must be developed. The legislation we are introducing today is intended to provide the prompt and effective action needed to address the TBT contamination problem.

The legislation has two primary provisions. First, it prohibits the use of any paint containing TBT on boats of less than 25 meters in length. An exception to this length limit is made in the case of aluminum boats and outboard motors. Aluminum boats and outboard motors can be painted with paint containing TBT if the paint meets the standard established in the bill or if the paint is certified by the Administrator as acceptable.

The second major provision of the bill establishes a maximum rate of release of TBT from antifouling paint of

3 micrograms per square centimeter per day. This release rate provides for a full measure of protection of the environment without impractical reductions in the effectivness of antifouling paints. In addition, this release rate is attained by over 20 paints now on the market and assures that consumers will have a range of paints to choose from.

The bill further provides that the release rate will sunset if the Environmental Protection Agency takes final action to establish a release rate under alternate legislative authority. The EPA is considering such action and it is our intention that the release rate determined to be appropriate by the EPA, using the full range of available data, be the effective release rate restriction in the long term. Our legislation, however, will protect the environment until EPA is able to reach a decision and take a final regulatory action.

The bill addresses several other aspects of the TBT contamination problem.

Section 4(d) of the bill prohibits purchase of TBT for the purpose of adding it to paint to make an antifouling paint. These so-called free association paints release TBT at very high rates and pose a significant threat to the environment and the health of the marine environment.

Section 6 of the bill provides for monitoring of coastal waters to identify TBT contamination. In addition, the Secretary of the Navy is directed to conduct monitoring in harbors serving as home ports and report on any TBT contamination identified.

Section 7 provides for civil penalties for persons violating the provisions of the act.

Section 10 directs the EPA Administrator to publish a water quality criteria document identifying levels or concentrations of TBT in fresh and marine waters which are a threat to the environment.

Section 11 directs the Administrator to conduct a research program, in consultation with the Secretary of the Navy, to identify alternatives to TBT and to identify nonchemical antifouling systems.

This legislation will be an important step forward in our efforts to protect the quality of marine and fresh waters. I look forward to working with our colleagues in the House in development of final legislation to address this problem.

I hope my colleagues will give this bill their full support as it advances through the legislative process.

Mr. TRIBLE. Mr. President, along with Senators MITCHELL, COHEN, and CHAFEE, I introduced this legislation to suspend the use of highly toxic marine paints containing organotin. On November 10, 1987, the bill was unanimously approved by the Committee on Environment and Public Works.

Today, over 70 percent of the world's commercial and recreational ships are painted with the antifouling paints known generally as organotin. These paints are also applied to buoys, crab pots, fish nets, and other marine structures.

Organotin paints are extremely effective in eliminating barnacles and other fouling organisms. However, these paints may also have a lethal effect on other marine and fresh water life.

The Environmental Protection Agency [EPA] is in the process of conducting a special review of a specific organotin, tributyltin, because the agency has determined that this highly toxic substance may present unreasonable risks to nontarget aquatic organisms such as mussels, clams, oysters, and fish. EPA suggests that final rules on this issue will be made in July of 1988. However, that time table is not certain and any action by EPA is subject to considerable delay.

I am deeply concerned about the harmful effects organotin paints pose to marine life and public health, and believe that it is important to act now and limit the use of organotin paints until the EPA is able to establish final rules on this potentially deadly chemical.

The United States lags far behind other nations in regulating these toxic paints. France, England, and Japan all have limits on the use of organotins. Germany and Switzerland have totally prohibited tributyltin's use in fresh water.

Fortunately, many States have established maximum amounts of organotin which may be released in the water. Those States include Virginia, Maine, Maryland, Alaska, Washington, Michigan, New York, California, North Carolina, New Jersey, and Oregon. As a result, the tremendous flow of the harmful chemical into our Nation's waters has been diminished.

I applaud the responsible actions taken by Virginia, Maine, and the other States. However, the organotin problem demands a uniform national response. That's why Senators MITCHELL, COHEN, CHAFEE, and I sponsored this legislation to protect the aquatic environment by reducing immediately the amount of organotin entering the waters of the United States.

Our bill prohibits the use of all organotin paints with a release rate of more than 3 micrograms per centimeter per day. A release rate measures the amount of organotin that is released from these paints over an extended period of time. The 3 release rate will remain in effect pending final action by EPA.

Moreover, because recreational vessels account for a large amount of the organotin entering the water from antifouling paints, this bill bans the use of all organotin-based paints for any vessel 25 meters or less. This absolute prohibition does not apply to the aluminum hull or outboard motor or lower drive unit of a vessel that is 25 meters or less. Organotin paints with a release rate of 3 or less are permitted in these circumstances.

Finally, the administrator of the EPA is required to monitor the concentrations of organotin in the Chesapeake Bay and other estuaries in the United States and assist the States in monitoring waters for the presence of organotins and in the laboratory analysis of samples. The Secretary of the Navy is required to test, not less than annually, the waters of the home ports of Navy ships to determine the level of organotin contamination.

Mr. President, I consider this an emergency situation. Organotin levels found in the Chesapeake Bay last year were alarmingly high. Similar organotin levels have been found in many other areas around the country. We must act now to protect our marine environment and I urge my colleagues to support this measure.

The bill was ordered to be engrossed for a third reading and was read the third time.

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be discharged from further consideration of H.R. 2210, that the Senate proceed to its consideration, that all after the enacting clause be stricken, that the text of S. 1788 be inserted, that the bill be advanced to third reading and passed, and the motion to reconsider be laid on the table.

THE PRESIDING OFFICER. Without objection, it is so ordered.

The text of the bill follows:

S. 1788

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Organotin Antifouling Paint Control Act of 1987".

DEFINITIONS

SEC. 2. As used in this Act, the term—

(1) "Administrator" means the Administrator of the Environmental Protection Agency;

(2) "antifoulant paint" means a coating, paint, or treatment that is applied to or used on a vessel to control fresh water or marine fouling organisms;

(3) "estuary" means a body of water having an unimpaired connection with open sea, where the sea water is measurably diluted with fresh water derived from land drainage, and such term includes estuary-type areas such as the Chesapeake Bay, the Great Lakes, and other bays, shallows, and marshes;

(4) "organotin" means any compound of tin used as a biocide in an antifoulant paint;

(5) "person" means any individual, any partnership, association, corporation, or organized group of persons whether incorpo-

rated or not, or any government entity, including military;

(6) "qualified antifoulant paint" means an antifoulant paint containing organotin that—

(A) is allowed to be used under the terms of the final decision referred to in section 12(b); or

(B) until such final decision takes effect, is certified by the Administrator under section 5 as having a release rate of not more than 3.0 micrograms per square centimeter per day;

(7) "release rate" means the rate at which organotin is released from an antifoulant paint over the long term, as determined by the Administrator, using—

(A) the American Society for Testing Materials (ASTM) standard test method which the Environmental Protection Agency required in its July 29, 1986, data call-in notice on tributyltin compounds used in antifoulant paints; or

(B) any similar test method specified by the Administrator;

(8) "retail" means the transfer of title to tangible personal property other than for resale, after manufacturing or processing;

(9) "State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, or any territory or possession of the United States; and

(10) "vessel" shall have the same meaning given to such term in section 3 of title 1, United States Code.

FINDINGS AND PURPOSE

SEC. 3. (a) The Congress finds the following:

(1) more than 70 percent of the worldwide commercial shipping fleets and recreational boats are painted with an antifouling paint known generically as organotin;

(2) antifouling paints containing organotin biocides are used to prevent the buildup of barnacles and other encrusting organisms on vessels;

(3) the elimination of fouling growths on vessels is highly beneficial for operating capability and leads to lower operating and maintenance costs and substantial fuel consumption reductions;

(4) laboratory and field studies show that organotin is very toxic to marine and freshwater organisms at very low levels;

(5) vessels that are less than 25 meters in length and are coated with organotin antifoulant paint account for a large amount of the organotin released into the aquatic environment; and

(6) the Environmental Protection Agency has determined that concentrations of organotin currently in the waters of the United States may pose unreasonable risks to oysters, clams, fish, and other marine life.

(b) The purpose of this Act is to protect the aquatic environment by reducing immediately the quantities of organotin entering the waters of the United States.

PROHIBITION

SEC. 4. (a)(1) Except as provided in paragraph (2), no person in any State may apply to a vessel that is 25 meters or less in length an antifoulant paint containing organotin.

(2) Paragraph (1) shall not prohibit the application of a qualified antifoulant paint on—

(A) the aluminum hull of a vessel that is 25 meters or less in length; or

(B) the outboard motor or lower drive unit of a vessel that is 25 meters or less in length.

(b) No person in any State may apply to a vessel greater than 25 meters in length an antifoulant paint containing organotin other than a qualified antifoulant paint.

(c) No person in any State may knowingly sell or deliver to, or purchase or receive from, another person an antifoulant paint containing organotin, unless the antifoulant paint is a qualified antifoulant paint.

(d) No person in any State may knowingly sell or deliver to, or purchase or receive from, another person at retail any substance containing organotin for the purpose of adding such substance to paint to create an antifoulant paint.

CERTIFICATION

SEC. 5. (a) Not later than 90 days after the date of the enactment of this Act, the Administrator shall certify each antifoulant paint containing organotin that the Administrator is able to determine has a release rate of not more than 3.0 micrograms per square centimeter per day.

(b) After the initial period of certification required by subsection (a), the Administrator, not later than 90 days after the receipt of information with regard to an antifoulant paint containing organotin submitted in response to a data call-in or pursuant to any provision of Federal law, shall certify such paint if, on the basis of such information, the Administrator is able to determine that such paint has a release rate of not more than 3.0 micrograms per square centimeter per day.

MONITORING

SEC. 6. (a) The Administrator, in consultation with the Under Secretary of Commerce for Oceans and Atmosphere, shall monitor the concentrations of organotin in the water column sediments, and aquatic organisms of representative estuaries in the United States. This monitoring program shall remain in effect until 7 years after the date of the enactment of this Act. The Administrator shall submit annually to the Speaker of the House of Representatives and to the President pro tempore of the Senate a report detailing the results of this monitoring program for the preceding year.

(b) The Secretary of the Navy shall provide for periodic testing, not less than annually, of any harbors and related waters serving as the home port for any Navy vessel to determine the level of organotin contamination in such harbor or waters, including testing of aquatic organisms. The Secretary shall provide a report and assessment of this monitoring data to the Administrator and to the Governor of the State in which the home port is located. Such report shall be included in the report to Congress required pursuant to subsection (a).

(c) To the extent practicable, the Administrator shall assist States in monitoring waters for the presence of organotins and in laboratory analysis of samples.

CIVIL PENALTIES

SEC. 7. (a) Any person who violates any provision of section 4 shall be liable to the United States for a civil penalty in an amount not to exceed $5,000 for each such violation.

(b) A civil penalty for a violation of any provision of section 4 shall be assessed by the Administrator by an order made on the record after opportunity (provided in accordance with this section) for a hearing in accordance with section 554 of title 5, United States Code. Before issuing such an order, the Administrator shall give written notice to the person to be assessed a civil penalty under such order of the Administrator's proposal to issue such order and provide such person an opportunity to request, within 15 days of the date the notice is received by such person, such a hearing on the order.

(c) In determining the amount of a civil penalty, the Administrator shall take into account the nature, circumstances, extent, and gravity of the violation or violations and, with respect to the violator, ability to pay, effect on ability to continue to do business, economic benefit to violator resulting from such violation, any history of prior violations, the degree of culpability, and such other matters as justice may require.

(d) The Administrator may compromise, modify, or remit, with or without conditions, any civil penalty which may be imposed under this section.

(e) Any person who requested in accordance with subsection (b) a hearing respecting the assessment of a civil penalty and who is aggrieved by an order assessing a civil penalty may file a petition for judicial review of such order with the United States Court of Appeals for the District of Columbia Circuit or for any other circuit in which such person resides or transacts business. Such a petition may only be filed within the 30-day period beginning on the date the order making such assessment was issued.

(f) If any person fails to pay an assessment of a civil penalty—

(1) after the order making the assessment has become a final order and if such person does not file a petition for judicial review of the order in accordance with subsection (e), or

(2) after a court in an action brought under subsection (e) has entered a final judgment in favor of the Administrator,

the Attorney General shall recover the amount assessed (plus interest at currently prevailing rates from the date of the expiration of the 30-day period referred to in subsection (e) or the date of such final judgment, as the case may be) in an action brought in any appropriate district court of the United States. In such an action, the validity, amount, and appropriateness of such penalty shall not be subject to review.

AUTHORITY TO SELL EXISTING STOCKS

SEC. 8. Notwithstanding the prohibitions contained in section 4, the Administrator shall provide a reasonable time, not to exceed 180 days from the date of the enactment of this Act, for the continued sale, delivery, purchase, receipt, application, and use of stocks of organotin antifoulant paint and organotin additives that existed before the date of the enactment of this Act.

DISCLAIMER

SEC. 9. Nothing in this Act shall preclude or deny any State or political subdivision thereof the right to adopt or enforce any requirement regarding antifoulant paint or any other substance containing organotin. Compliance with the requirements of any State or political subdivision thereof respecting antifoulant paint or any other substance containing organotin shall not relieve any person of the obligation to comply with the provisions of this Act.

WATER QUALITY CRITERIA DOCUMENT

SEC. 10. The Administrator shall, not later than September 1, 1988, issue a final water quality criteria document, pursuant to section 304(a) of the Federal Water Pollution Control Act, concerning organotin compounds.

RESEARCH

SEC. 11. (a) The Administrator, in cooperation with the Secretary of the Navy, shall conduct research into alternative antifouling chemicals and nonchemical antifouling systems.

(b) The Administrator shall, within 3 years of the date of enactment of this Act, provide a summary assessment of such research in a report to the Speaker of the House of Representatives and the President pro tempore of the Senate.

EFFECTIVE DATES

SEC. 12. (a) Except as provided in subsection (b), this Act shall take effect on the date of its enactment.

(b)(1) Section 4 and section 7 of this Act shall take effect 90 days after the date of the enactment of this Act. Subsections (b) and (c) of section 4 shall remain in effect only until a final decision regarding the release of organotin into the aquatic environment by antifoulant paints, pursuant to the process initiated by the Administrator's Position Document 1 dated January 8, 1986—

(A) is issued by the Administrator; and

(B) takes effect.

(2) For purposes of paragraph (1) of this subsection, a final decision shall be considered to have taken effect upon the date of the expiration of the time for making any appeal with respect to such decision or, in the case of any such appeal, the resolution of such appeal.

Mr. BYRD. Mr. President, I ask unanimous consent to indefinitely postpone Calendar No. 464.

The PRESIDING OFFICER. Without objection, it is so ordered.

ARMS CONTROL AND DISARMAMENT ACT AMENDMENTS

Mr. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 2689.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House agree to the amendment of the Senate to the text of the bill (H.R. 2689) entitled "An Act to amend the Arms Control and Disarmament Act to authorize appropriations for the fiscal years 1988 and 1989 for the Arms Control and Disarmament Agency, and for other purposes", with the following amendment:

In lieu of the matter inserted by the amendment of the Senate, insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Arms Control and Disarmament Amendments Act of 1987".

SEC. 2. AUTHORIZATIONS OF APPROPRIATIONS.

Section 49(a) of the Arms Control and Disarmament Act (22 U.S.C. 2589(a)) is amended to read as follows:

"(a)(1) To carry out the purposes of this Act, there are authorized to be appropriated—

"(A) $29,000,000 for the fiscal year 1988 and $29,800,000 for fiscal year 1989; and

"(B) such additional amounts as may be necessary for each such fiscal year for increases in salary, pay, retirement, other employee benefits authorized by law, and other nondiscretionary costs, and to offset adverse fluctuations in foreign currency exchange rates.

"(2) Of the amounts authorized to be appropriated by paragraph (1)(A) for each of the fiscal years 1988 and 1989—

"(A) $7,063,000 shall be available only to pay necessary expenses incurred in connection with arms control negotiations conducted with the Government of the Soviet Union on strategic arms reductions, intermediate-range nuclear forces, and space and defensive weapons;

"(B) not less than $310,000 shall be available only for the program for visiting scholars in the field of arms control and disarmament established under section 28 of this Act;

"(C) $780,000 shall be used for external research to assist the Bureau of Verification and Intelligence in making assessments of possible new systems, devices, and capabilities for verification of arms control;

"(D) not more than $1,560,000 may be used for any other external research program; and

"(E) a total of not more than $3,000,000 may be used for all external research.

"(3) Amounts appropriated under this subsection are authorized to remain available until expended.".

SEC. 3. STANDING CONSULTATIVE COMMISSION.

(a) FINDINGS.—The Congress finds that—

(1) the Standing Consultative Commission was established by the United States and the Soviet Union under Article XIII of the Treaty on the Limitation of Anti-Ballistic Missile Systems as a framework for considering and resolving questions concerning compliance with arms control obligations; and

(2) the United States should raise and attempt to resolve issues relating to compliance by the United States and the Soviet Union with arms control agreements in the Standing Consultative Commission.

(b) ANNUAL REPORTS.—Title III of the Arms Control and Disarmament Act (22 U.S.C. 2571–2577) is amended by adding at the end the following:

"SEC. 38. REPORTS ON STANDING CONSULTATIVE COMMISSION ACTIVITIES.

"The President shall submit, not later than January 31 of each year, to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate a report prepared by the United States Commissioner on the activities of the United States-Union of Soviet Socialist Republics Standing Consultative Commission established under Article XIII of the Treaty on the Limitation of Anti-Ballistic Missile Systems. In preparing this report, the Commissioner should consult with former United States Commissioners and other experts. Such annual report shall include detailed information on all substantive issues raised by either party to the Treaty and the response of the other party with regard to such issues. Such annual report shall be transmitted under an injunction of secrecy, but shall be accompanied by an unclassified addendum containing such information with respect to the activities of the Commission as can be made public consistent with the need for confidentiality of Commission proceedings and the national security of the United States.".

(c) STUDY AND REPORT.—The Director of the United States Arms Control and Disarmament Agency shall conduct a study to determine how the Standing Consultative Commission could be used more effectively to resolve arms control compliance issues. The Director shall report the results of this study to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate within 6 months after the date of enactment of this Act.

SEC. 4. COMPREHENSIVE COMPILATION OF ARMS CONTROL AND DISARMAMENT STUDIES.

Title III of the Arms Control and Disarmament Act, as amended by section 3(b) of this Act, is further amended by adding at the end the following:

"SEC. 39. COMPREHENSIVE COMPILATION OF ARMS CONTROL AND DISARMAMENT STUDIES.

"Pursuant to his responsibilities under section 31 of this Act, and in order to enhance Congressional and public understanding of arms control and disarmament issues, the Director shall provide to the Congress not later than June 30 of each year a report setting forth—

"(1) a comprehensive list of studies relating to arms control and disarmament issues concluded during the previous calendar year by government agencies or for government agencies by private or public institutions or persons; and

"(2) a brief description of each such study. This report shall be unclassified, with a classified addendum if necessary.".

SEC. 5. COMPLIANCE REPORTS.

Section 52 of the Arms Control and Disarmament Act (22 U.S.C. 2591) is amended—

(1) in paragraph (1)—

(A) by inserting ", the Soviet Union, and other nations" after "adherence of the United States"; and

(B) by inserting "the Soviet Union and" after "compliance by"; and

(2) by striking out "and" at the end of paragraph (2) and by redesignating paragraph (3) as paragraph (5);

(3) by inserting the following after paragraph (2):

"(3) the section of the report dealing with Soviet adherence shall include information on actions taken by the Soviet Union with regard to the size, structure, and disposition of its military forces in order to comply with arms control agreements;

"(4) the section of the report dealing with adherence by other nations shall include information on actions taken by each such nation with regard to the size, structure, and disposition of its military forces in order to comply with arms control agreements; and"; and

(4) in paragraph (5), as so redesignated by this section, by inserting "the Soviet Union and" after "problems of compliance by".

SEC. 6. ACDA INSPECTOR GENERAL.

(a) ESTABLISHMENT.—Title IV of the Arms Control and Disarmament Act (22 U.S.C. 2581–2591) is amended by adding at the end the following:

"SEC. 53. ACDA INSPECTOR GENERAL.

"(a) ESTABLISHMENT AND DUTIES.—There shall be an Office of the Inspector General at the Agency headed by the Inspector General of the Agency who shall have the duties, responsibilities, and authorities specified in the Inspector General Act of 1978.

"(b) DUALITY OF APPOINTMENT.—An individual appointed to the position of Inspector General of the Department of State shall, by virtue of such appointment, also hold the position of Inspector General of the Agency.

"(c) UTILIZATION OF STAFF.—The Inspector General of the Agency shall utilize personnel of the Office of the Inspector General of the Department of State in performing the duties of the Inspector General of the Agency, and shall not appoint any individuals to positions within the Agency.

"(d) REFERENCES.—For purposes of this section, references in the Inspector General Act

of 1978 to the establishment involved, to the head of the establishment, and to an Inspector General shall be deemed to be references to the Agency, the Director of the Agency, and Inspector General of the Agency, respectively, except to the extent inconsistent with this section.".

(b) Survey of ACDA Classified Information Security.—Not later than 90 days after the date of enactment of this Act, the Inspector General of the United States Arms Control and Disarmament Agency—

(1) shall conduct a survey of physical, personnel, document, and communications security programs, procedures, and practices at the Agency for the protection of classified information; and

(2) shall submit a report on the results of that survey, together with such recommendations for improvement of classified information security at the Agency as the Inspector General considers appropriate, to the Director of the Agency and to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate.

Resolved, That the House disagree to the amendment of the Senate to the title of the bill.

Mr. BYRD. Mr. President, I move that the Senate concur in the House amendment.

The motion was agreed to.

Mr. BYRD. Mr. President, I move that the Senate recede from the Senate amendment to the title.

The motion was agreed to.

Mr. BYRD. Mr. President, I move to reconsider the votes en bloc.

Mr. SIMPSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

FEDERAL TRADE COMMISSION AUTHORIZATION ACT

Mr. BYRD. Mr. President, on behalf of Mr. Hollings, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 677.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House insist upon its amendments to the bill (S. 677) entitled "An Act to amend the Federal Trade Commission Act to provide authorization of appropriations, and for other purposes", and ask a conference with the Senate on the disagreeing votes of the two Houses thereon.

Ordered, That the following are appointed as conferees:

From the Committee on Energy and Commerce, for consideration of the Senate bill and House amendments, and modifications committed to conference: Mr. Dingell, Mr. Thomas A. Luken, Mr. Florio, Mr. Lent, and Mr. Whittaker.

From the Committee on Rules, for consideration of section 13 of the Senate bill, and modifications committed to conference: Mr. Pepper, Mr. Moakley, Mr. Derrick, Mr. Beilenson, Mr. Frost, Mr. Quillen, and Mr. Taylor.

Mr. BYRD. Mr. President, I move that the Senate disagree to the House amendments, agree to the conference requested by the House on the disagreeing votes of the two Houses, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to, and the Chair appointed Mr. Hollings, Mr. Gore, Mr. Ford, Mr. Breaux, Mr. Danforth, Mr. Kasten, and Mr. McCain conferees on the part of the Senate.

TRANSFER OF THE DISTRICT OF COLUMBIA OLD CITY POST OFFICE BUILDING

Mr. BYRD. Mr. President, on behalf of Mr. Ford, I introduce a bill, and I ask for its first reading.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill to authorize the acquisition of the old city post office in the District of Columbia by the Architect of the Capitol.

Mr. FORD. Mr. President, this bill would authorize the transfer of the District of Columbia Old City Post Office Building situated at Massachusetts Avenue and North Capitol Street, to the Congress of the United States. For several years, Members of the House and Senate have surveyed this nearby building to ascertain its suitability for use by the two Houses, the Library of Congress, Government Printing Office, and other legislative and executive agencies.

Such surveys have conclusively demonstrated the enormous potential value of this magnificent building to the legislative branch of Government.

Among the uses identified are special loading and unloading areas which can meet urgent and serious security needs of the House and Senate, as well as the Library of Congress. The building would provide much needed space for many House and Senate activities which now occupy space in House and Senate office buildings which can be put to better use when available.

In addition, the Senate Computer Center currently occupies rental space at substantial annual cost, and could readily be relocated to the city post office building.

As indicated earlier, there are important uses by other than legislative agencies of Government which can be accommodated. The Postal Service and the Smithsonian Institution have expressed the desire to establish a new Postal Museum in the building. This should certainly be possible, and space can be made available for a Government Printing Office bookstore, if such a project proves feasible and desirable.

After transfer to the Congress, the bill would place the building in the control of the Architect of the Capitol, under the direction and supervision of the House Committee on Administration and the Senate Committee on Rules and Administration. Acquisition of the building by the Capitol Architect would be under the direction of a Commission specially created in the bill. Reimbursement to the Postal Service would be negotiated and agreed upon.

Mr. President, the studies which have preceded the introduction of this bill have, at least preliminarily, demonstrated a very strong need by the Congress for this building. I am also convinced that the further studies which will follow introduction of the bill will establish the substantial savings which this acquisition can bring about.

I ask unanimous consent that a section-by-section analysis of the bill be printed in the Record, along with the bill itself.

There being no objection, the material was ordered to be printed in the Record, as follows:

S. 1947

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AUTHORIZATION OF TRANSFER.

(a)(1) Subject to the provisions of paragraphs (2) and (3), the Architect of the Capitol, under the direction of the Commission for the Acquisition of the Old City Post Office established under section 2 of this Act, shall acquire by transfer from the United States Postal Service all right, title, and interest in the real property, including the improvements thereon comprising the Old City Post Office building, contained in Square 678 in the District of Columbia for use as a Senate and House of Representatives office facility.

(2) The transfer to the Architect of the Capitol shall be completed by interagency agreement within 90 days after the date of enactment of this Act.

(3) The transfer shall be subject to reimbursement as agreed to by the Postmaster General and the Commission, subject to the appropriation of funds.

(b) The property to be transferred under this Act extends to the outer face of the curbs surrounding, and includes all alleys or parts of alleys and streets within, Square 678, and any real property interests of the Postal Service in adjoining property.

SEC. 2. COMMISSION FOR THE ACQUISITION OF THE OLD CITY POST OFFICE.

(a) There is established the Commission for the Acquisition of the Old City Post Office.

(b) The Commission shall be composed of ten members as follows:

(1) Five Members of the Senate, three of whom shall be appointed by the Majority Leader of the Senate, and two of whom shall be appointed by the Minority Leader of the Senate; and

(2) Five Members of the House of Representatives, three of whom shall be appointed by the Speaker of the House of Representatives, and two of whom shall be appointed by the Minority Leader of the House.

(c) The Commission shall select a chairman and a vice chairman from among its members. The vice chairman shall, in the absence of the chairman, act in his place and stead.

(d) A vacancy in the membership of the Commission shall be filled in the manner in which the original appointment was made.

(e) The Commission shall serve until the date of the transfer, at which time any remaining functions and responsibilities shall be exercised jointly by the Chairman of the Senate Committee on Rules and Administration and the Chairman of the House Office Building Commission.

SEC. 3. ADMINISTRATION OF OLD CITY POST OFFICE AFTER TRANSFER.

(a) On and after the date of the transfer authorized by this Act, the structural and mechanical care and maintenance of the Old City Post Office shall be the responsibility of the Architect of the Capitol, subject to the approval and direction, jointly, of the Chairman of the Senate Committee on Rules and Administration and the Chairman of the House Office Building Commission.

(b) The Architect of the Capitol, subject to the oversight of the Chairman of the Senate Committee on Rules and Administration and the Chairman of the House Office Building Commission as provided in subsection (a), shall—

(1) control and manage the use and occupancy of all rooms and space within the building;

(2) assign or lease any space not required by the Congress to other agencies of the United States Government;

(3) enter into agreements, incident to such leases, for the renovation or alteration of leased space in the building; and

(4) prescribe rules and regulations governing the use and occupancy of all rooms and space within the building.

(c) Any expenditures required to implement the provisions of this section shall be paid from the appropriation "Capitol Buildings, Architect of the Capitol". Amounts received as rent or to defray the cost of renovations or alterations to leased space from Government agencies outside the Legislative Branch shall be deposited in the Treasury and credited as an addition to the appropriation "Capitol Buildings, Architect of the Capitol" and shall be disbursed on the order of the Architect of the Capitol to defray the costs of such renovations or alterations and of the structural and mechanical care and maintenance of the building.

(d) The Architect of the Capitol shall, upon transfer, effect such repairs and renovations, including the extension, if necessary, of chilled water lines from the United States Capitol Power Plant, as the Architect deems necessary to make the building available for occupancy for such uses as the Chairman of the Senate Committee on Rules and Administration and the Chairman of the House Office Building Commission shall direct.

(e) The Architect of the Capitol shall undertake planning and programming studies to determine the most practical and cost-effective permanent uses of the building, and shall submit a report to the Chairman of the Senate Committee on Rules and Administration and the Chairman of the House Office Building Commission within six months of the date of transfer.

(f) In renovating and restoring the building, the Architect of the Capitol shall—

(1) recognize the architectural and historic importance of the Old City Post Office building and its relationship to Union Station and the Capitol Grounds, and

(2) retain, to the maximum extent feasible, the original appearance of the exterior of the building.

SEC. 4. EFFECT OF TRANSFER.

On the date of transfer of the Old City Post Office to the Architect of the Capitol, all of the real property thus transferred shall become part of the United States Capitol Grounds and the improvements thereon shall become part of the "Capitol Buildings" within the meaning of, and subject to, the Act of July 31, 1946 (40 U.S.C. Sections 193a-193m, 212a and 212b).

SEC. 5. AUTHORITY TO ENTER INTO CONTRACTS AND MAKE EXPENDITURES.

The Architect of the Capitol is authorized, subject to the availability of funds, to enter into contracts, incur obligations, and make such expenditures (including expenditures for personal and other services) to carry out the purposes of this Act.

SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

(a) There are authorized to be appropriated to the Architect of the Capitol such sums as may be necessary to carry out the provisions of this Act.

(b) The Architect of the Capitol shall annually report to the Appropriations Committees of the House of Representatives and Senate the status of renovations and repairs to the Old City Post Office building.

SECTION-BY-SECTION ANALYSIS OF S. 1947, A BILL TO AUTHORIZE THE ACQUISITION BY CONGRESS OF THE DISTRICT OF COLUMBIA OLD CITY POST OFFICE BUILDING

Section 1. Under the direction of a Commission for the Acquisition of the Old City Post Office, the Architect of the Capitol is authorized to acquire from the Postal Service, with reimbursement to be agreed upon by the Postmaster General and the Commission.

Section 2. Establishes the "Commission" for the acquisition of the building. Ten Members, five each from the House and Senate, three each appointed by the Senate Majority Leader and the Speaker, and two each by the respective Minority Leaders. The Commission will elect its chairman and vice chairman, and serve until the effective date of the building transfer.

Section 3. After transfer, the structural and mechanical care and maintenance of the building will be the responsibility of the Architect of the Capitol under the direction of the Chairman of the House Office Building Commission and the Chairman of the Senate Committee on Rules and Administration, who are jointly authorized to control and manage the use of all rooms and space; assign or lease space not required by Congress to other agencies of the U.S. government; enter into agreements, incident to such leases, for the renovation or alteration of space; and, to prescribe rules and regulations governing the use of all rooms and space.

Expenditures will come from the appropriation, "Capitol Buildings, Architect of the Capitol", and sums received as rent or to defray renovation or alteration costs will be deposited in the Treasury and credited to such account.

Provision is made for a study and report by the Architect relative to the most practical and cost effective permanent use of the building within six months of the date of transfer. In any renovation or restoration of the building, the Architect is expressly directed to "recognize the architectural and historic importance" of the building, and "to the maximum extent possible retain the original appearance of the exterior of the building."

Section 4. On transfer, all the real property will become part of the United States Capitol Grounds, and the improvements will be "Capitol Buildings" and subject to the Act of July 31, 1946 (40 U.S.C. Secs. 193a-193m, 212a and 212b), in the same manner as all other Capitol Buildings.

Section 5. Subject to funding availability, the Architect is authorized to enter into contracts, incur obligations, and make expenditures to carry out purposes of the Act.

Section 6. Authorizes such appropriations as are necessary, and requires the Architect to file annual reports on the status of renovations and repairs to the House and Senate Appropriation Committees.

Mr. BYRD. Mr. President, I ask that the bill be read the second time.

I object to the bill being read the second time.

The PRESIDING OFFICER. Objection is heard.

The bill will be held at the desk until the next legislative day.

THE EXECUTIVE CALENDAR

Mr. BYRD. Mr. President, I inquire of the distinguished assistant Republican leader if the following nominations on the Executive Calendar have been cleared: Calendar Order No. 438, on page 3; Calendar Order No. 458, on page 3; Calendar Order Nos. 459, 460, and 461, on page 4.

Mr. SIMPSON. Mr. President, all of those calendar items have been cleared on this side of the aisle.

EXECUTIVE SESSION

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider the aforementioned nominations, that they be considered en bloc, confirmed en bloc, a motion to reconsider laid on the table, that the President be immediately notified of the confirmation of the nominees, that the actions of the Senate appear severally spread on the record, and that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed en bloc are as follows:

DEPARTMENT OF THE INTERIOR

Earl E. Gjelde, of Virginia, to be Under Secretary of the Interior.

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

The following-named persons to be Members of the National Commission on Libraries and Information Science for the terms indicated:

For the remainder of the term expiring July 19, 1991: Raymond J. Petersen, of Connecticut.

For terms expiring July 19, 1992:

Sally Jo Vasicko, of Indiana.

Julia Li Wu, of California, reappointment.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Beverly Fisher White, of Florida, to be a Member of the Natonal Museum Services Board for a term expiring December 6, 1990.

NATIONAL MEDIATION BOARD

Joshua M. Javits, of the District of Columbia, to be a Member of the National Mediation Board for the term expiring July 1, 1989.

U.S. INSTITUTE OF PEACE

The following-named persons to be Members of the Board of Directors of the U.S. Institute of Peace for terms expiring January 19, 1991:

William R. Kintner, of Pennsylvania, reappointment.

Morris I. Leibman, of Illinois, reappointment.

Sidney Lovett, of Connecticut, reappointment.

Richard John Neuhaus, of New York, reappointment.

Elspeth Davies Rostow, of Texas, new position.

W. Bruce Weinrod, of the District of Columbia, reappointment.

CONFIRMATION OF EARL E. GJELDE TO BE UNDER SECRETARY OF THE INTERIOR

Mr. McCLURE. Mr. President, on Friday, November 13, 1987, the Committee on Energy and Natural Resources held a hearing on the nomination of Earl E. Gjelde to the Under Secretary of the Interior. On December 2, the committee ordered favorably reported this nomination by a vote of 19 to 0.

Mr. President, I would like my colleagues to be aware of Mr. Gjelde's extended career in public service, including his present position as counselor to the Secretary at the Department of the Interior. He has served as Chief Operating Officer and Special Assistant for Policy and Programs at the Department of Energy and Acting Administrator and Deputy Administrator at the Bonnevilled Power Administration, as well as other various management positions at the BPA.

He has been a long-term confidant of Secretary Hodel, dating back to their time together at the Bonneville Power Administration. When Mr. Hodel became Secretary of Energy in November of 1982, Mr. Gjelde moved with him and served as Chief Operating Officer for the Department. Since February of 1985, when Mr. Hodel became Secretary of the Interior, he has been counselor to the Secretary.

In his statement before the committee, Mr. Gjelde referred to the benefits of his Government service in preparing him for his new position:

> I believe this experience has given me a good understanding of how government works, with the necessary meshing between policy level appointees and the professionals who carry out the work—between broad policies and the program details to implement them. Throughout my experience, I have learned to have great respect for the professionals, the career employees in government, who faithfully execute the policies in accordance with broad policy guidelines and the principles which underlie them.

The principal role of the Under Secretary is to be responsible for general management of the day-to-day operations of the Department. However, these responsibilities also relate to policy development, and require a clear understanding of the President's overall policy. In his capacity as Under Secretary, Mr. Gjelde must assist the Secretary in implementing these policies with enthusiasm and a strong sense of commitment.

Mr. President, I believe that Mr. Gjelde will do just that. He is well-qualified for this position, and I urge my colleagues to join me in supporting this confirmation.

LEGISLATIVE SESSION

The Senate resumed legislative session.

THE HEROES OF CAPITOL HILL

Mr. PRESSLER. Mr. President, we have all heard about the sad incidents where local citizens refused to get involved and help out an individual in need. Today I rise to pay tribute to two individuals who got involved and made a difference.

Adrian Boyle is a young man who lives here on Capitol Hill and attends Gonzaga High School. On the night of November 20, Adrian saw two men robbing and beating up on another man who was walking home. Instead of shying away, Adrian jumped out of his car and proceeded to chase one of the muggers down the street in an attempt to catch him. Despite the fact that these men were older and larger than Adrian, he showed no fear and went to help a fellow citizen. This is a tremendous feat.

Although the muggers were not caught, Adrian stayed and helped Blair Downing, the victim, to the police station to report the crime. My office has spoken with Mr. Downing, a Treasury Department employee and he wishes to express his sincere appreciation for Adrian's help. He said it is very encouraging to see young people willing to get involved in such a courageous and caring way. Adrian Boyle is an outstanding young man.

The second incident is similar. In witnessing another attempted mugging, Tim White of WORLDNET joined the chase to catch the mugger. Tim was joined by two other young men who saw what was going on. With the help of a taxi driver the three of them were able to lock the mugger in the cab, and physically hold the doors closed until the police came. Because of the concern of all of these local citizens, the mugger was caught.

In this case a small group of citizens working together confronted a potential robber. Their courage exceeds the normal. If everyone did as Mr. White and Mr. Boyle there would be fewer muggings and robberies. I know there is much controversy about the best way to proceed when confronted by or when witnessing a robbery. Citizen involvement helps reduce muggings. Even if a citizen cannot get physically involved, calling for help and willing to be a witness as helpful.

Mr. Boyle and Mr. White are indeed "Heroes of Capitol Hill."

EDUCATIONAL IMPROVEMENT

Mr. TRIBLE. Mr. President. In 1822 James Madison, then in retirement at Montpelier, wrote a friend:

> Knowledge will forever govern ignorance and people who mean to be their own governors must arm themselves with the power which knowledge gives.

The Congress would do well to heed Madison's words this year as it strives to adjust the Federal budget to fit economic constraints and to improve America's competitive position in the world marketplace.

Virginians, I am proud to note, have long understood that a sound educational system is absolutely fundamental to the health and welfare of American self-government. The first free schools in the United States were founded in Hampton, VA. They were the Syms Free School established in 1634 and the Eaton Free School founded about 1640.

American education is now going through a period of informed review with intensive public interest. In 1983 the National Commission on Excellence in Education startled many Americans in concluding that:

> The educational foundations of our society are presently being eroded by a rising tide of mediocrity that threatens our very future as a Nation and a people.

Many other commissions, boards, councils and foundations have since questioned how well our schools are performing. Among teachers, school administrators, parents, and public officials there is now widespread, but by no means universal, agreement that more must be done to improve elementary and secondary schools in order to prepare our children for the future.

It is very disturbing, for example, to learn that about 20 percent of Americans are functionally illiterate. They cannot read and write well enough to meet the demands of our contemporary society. Whatever their precise number, we all understand the personal tragedy of each adult who cannot read simple directions or complete a job application. Moreover, illiteracy hurts America's productivity, international competitiveness, and economic well-being.

Illiteracy, of course, is a symptom of larger ills in the education system. This symptom and others have raised several unsettling questions about the health of America's schools: What is the condition of schooling in the country? What are the causes of educational problems in our schools? What recommendations for change are appropriate?

Marcia Lynn Whicker and Todd W. Areson, of Virginia Commonwealth University's School of Community and Public Affairs, explore answers to these questions in a thoughtful article published last month in the Rappahannock Record of Kilmarnock, VA.

Their article can serve as a brief guide to the school improvement discussion and help stimulate the responsible ideas necessary for strengthening the educational foundations of our Nation.

Mr. President, I ask that the article be printed in the CONGRESSIONAL RECORD.

GRADING AMERICAN EDUCATION: REPORT CLAIMS WE'RE BEHIND

(By Marcia Lynn Whicker and Todd W. Areson)

Ominous signs exist that American schools, once the paragon of broad-based mass education, are no longer excellent. In fact, critics, including the authors of a recent article in U.S. News & World Report, charge that they are no longer even good, citing the following statistics:

Japanese high school graduates completing the twelfth grade have the equivalent of three to four more years of schooling than do U.S. high school graduates. Half of Japanese high school graduates know as much as the average U.S. college graduate. In a 1987 report, the National Assessment of Educational Progress found that U.S. high schools graduate 700,000 functionally illiterate students every year.

Soviet students typically study physics and algebra for five years, biology for four years, and calculus for two. In the U.S., only six percent of all high school students study calculus. Two-thirds of all U.S. students take no more than two years of high school math; most never take physics or chemistry.

When 22 experts in comparative education were asked to rank elementary and secondary educational systems in six countries, they ranked the U.S. next to last in mathematics and science, ahead of Britain and behind top-ranking Japan, second-ranking U.S.S.R., France and West Germany. The U.S. did not rank first in any area; it placed second in social studies only, behind West Germany.

In use of a country's own language, the U.S. ranked last, surpassed by top-ranking France, the U.S.S.R., West Germany, Japan, and Britain. In use of foreign languages—skills useful for exporting and global competitiveness—the U.S. ranked fourth behind West Germany, the U.S.S.R., and France.

While nine out of ten Japanese students earn high school diplomas, nearly one-fourth of Americans drop out of high school. This results in about one million untrained teenagers entering the U.S. job market, and often the unemployment lines, every year. Many of those who stay in high school do so primarily to take driver's education and get a driver's license.

In a United Nations survey of knowledge of foreign cultures given students in nine countries, U.S. youth scored the lowest. In another test, many 12-year-old Americans could not locate the U.S. on the world map.

In an era where future economic success seems tied more closely than ever to high quality, highly educated, and highly competitive labor force, many experts are calling for a re-examination of U.S. educational institutions and a complete overhaul of our system.

Students today need to know far more than the basic three R's of the past. The National Commission on Excellence in Education has recommended an increased emphasis on English, mathematics, science, social studies, computer science, and foreign languages. Goals offered for high school English include equipping students:

To comprehend, evaluate, and use what they read;

To write well-organized and effective papers;

To listen to and discuss ideas intelligently; and

To relate literature to everyday living.

High school mathematics would include algebra, geometry, applied math, estimation, approximation, and measurement skills. Science would not only convey basic physical and biological concepts, laws and processes, but also impart methods of scientific inquiry and reasoning. Through the introduction of computers and computer science into curricula, students would understand the capacity of computers as information, computation, storage, and communication devices. They would also use computers to study other subjects and develop some understanding of electronics and related technologies.

Social studies would equip students to understand the functioning of political and economic systems, the differences between repressive and free societies, and the implications of social structure and culture. To increase fluency in foreign languages, the Commission recommended that foreign languages be introduced into elementary schools. Proficiency in a non-native language usually takes from four to six years of study.

Other recommendations would increase the amount and effectiveness of time spent on learning, including introducing study skills in elementary school, adopting a 7-hour school day and a 200 to 220-day school year, and assigning more homework. As necessary, additional time should be devoted to disadvantaged and gifted students. Energy used to discipline would be diminished through consistent application of standards of conduct and through placing disruptive students in alternative classrooms and programs.

The quality of teachers would be greatly improved by requiring that teachers have academic training in the subjects they teach. College professors could assist secondary teachers in preparing more rigorous materials. Teachers' salaries would be raised to attract and keep competent professionals. A comprehensive evaluation system—including peer review for salary, tenure, promotion, and retention—would be developed to reward superior teacher, to encourage average teachers to improve, and to eliminate ineffective teachers. Competency tests would be required to enter the profession; periodic certification renewals would force teachers to keep abreast in their field.

Clearly we have our homework cut out for us; the question is whether, as a nation, we will undertake it or, like many of our students, continue to court disaster through dalliance and delay. These suggestions require that more dollars be spent for public education and more effectively, that we develop a vision of a superior educational system, and that we have the will to carry out our vision. While quality in education costs, maintaining an uneducated, unqualified, and uncompetitive labor force costs far more dearly—as we are already uncomfortably aware.

HUMAN RIGHTS IN THE SOVIET UNION

Mr. NUNN. Mr. President, in the aftermath of all the summit meetings between President Reagan and General Secretary Gorbachev, I would like to address an issue of deep personal concern to hundreds of thousands of American and Soviet citizens—the prospects for human rights in the Soviet Union. The dramatic and compelling nature of this issue was demonstrated most recently by the huge rally on behalf of Soviet Jewry that took place last Sunday, December 6, in Washington.

To put human rights in the Soviet Union into perspective, it is worthwhile to remember that relations between the Soviet Union and the United States currently offer both hope and risk, both opportunity and challenge. At the moment, our relations are in transition.

On the one hand, our two countries have already signed agreements eliminating intermediate range nuclear missiles in Europe and establishing risk reduction centers. Furthermore, we seem to be moving forward in our negotiations on long-range nuclear weapons, nuclear testing, weapons in space, and chemical weapons. This progress on nuclear arms control is encouraging.

On the other hand, however, if the Soviet Union is indeed serious about becoming a responsible member of the family of nations, the real proof will emerge in other areas. On Afghanistan, Soviet officials have said that their Government has made a "political decision" to leave Afghanistan. The Soviet Union must prove its commitment by agreeing to a quick and complete withdrawal of its troops.

One of the most important tests will be in the area of human rights. What is important is not only that those Soviet citizens who desire to emigrate are allowed to leave, but also that those who choose to remain in the Soviet Union are free to enjoy their fundamental human rights. This challenge to the Soviet Union was described to me earlier this year when Senator JOHN WARNER, the ranking Republican member of the Armed Services Committee, and I visited several countries in Eastern Europe. In Romania, Rabbi Rosen, who has been very active in promoting human rights for Jews in his country, told us, "The first problem with Russia is for the Soviet government to let Jews be Jews."

Does "glasnost" mean that Jews will at last be allowed to be Jews? That Jehovah's Witnesses, Pentacostals, Muslims, and other religious communities will be free to practice their faiths? Whatever our hopes for "glasnost" may be, it is sobering to remember that it is aimed at making the Soviet economic system work better, not converting it into a Jeffersonian democracy.

Nonetheless, General Secretary Gorbachev's policy of "glasnost" has produced some noticeable changes:

Of course, the press is still controlled, but Soviet newspapers now print articles critical of the bureaucracy and the economy. Literary magazines go even further.

For the moment at least, some long suppressed books are being printed and more books from abroad are being made available to the public.

Restrictions on Jews entering institutions of higher learning have been eased.

Emigration has increased dramatically since 1986, with an estimated 8,000 Jews likely to be allowed to leave by the end of this year. Almost as many Jews left the Soviet Union this June as in all of last year.

Like our progress in arms control negotiations, these improvements in human rights are encouraging. Unfortunately, however, this promising policy of "glasnost" also has a dark side:

At least one anti-Semitic group has sprung up and is enjoying great freedom to harass Jews.

Promises of more freedom to train rabbis and the young, especially in Hebrew, have not yet been fulfilled.

Most new applications for emigration are denied, except to the children and parents of those who have already emigrated.

The Soviet Government has clamped down on regional ethnic groups out of fear that more autonomy for them could undermine ethnic Russian culture.

The Soviet people remain uninformed of their Government's actions. For example, they still do not realize the extent of their country's involvement in Afghanistan, even though casualties there are mounting.

Despite the recent increases in emigration, the process required to secure permission to leave the Soviet Union continues to be a painful and drawn-out ordeal for Soviet Jews. Compared to the tens of thousands who would like to leave, this year's rate of emigration represents only a trickle.

The courageous efforts of Soviet Jews to emigrate have a personal significance for me and many other Members of Congress. All of us have been moved by stories of individuals struggling to leave the Soviet Union—whether to rejoin their families, to practice their religions, to find meaningful work, or just to enjoy the freedoms of Western democracies. In my case, I have taken a special interest in the efforts of five families:

Ilya Shostakovsky and his family, who live in Leningrad;

Aleksey Magarik and his wife, who live in Moscow;

Lev Shapiro and his family, who live in Leningrad;

Leonid Yuzefovich and his family, who live in Moscow; and

Pavel Tsimberov and his family, who live in Leningrad.

I have contacted Soviet officials on behalf of these families and will continue to do all that I can to help them to secure permission to emigrate.

Mr. President, my message today is one of cautious hope. The Soviet Government seems to be making some promising changes in certain foreign and domestic policies. At the same time, however, we cannot be sure yet of the purpose, permanence, or breadth of these changes. Further progress in improving human rights in the Soviet Union will be one of the principle factors that the citizens of our Nation consider in judging both General Secretary Gorbachev and the Soviet policy of glasnost.

ADDRESS BY PAUL N. TEMPLE AT THE TEMPLE AWARD FOR CREATIVE ALTRUISM CEREMONY

Mr. PELL. Mr. President, recently the Senate caucus room was the site of an extraordinary dinner ceremony. It was the first Temple Award for Creative Altruism. Some of our congressional colleagues were with me that evening, and the following remarks by Paul N. Temple, chairman of the board of the Institute of Noetic Sciences, and well known to many of you, is a way of sharing the spirit of that ceremony.

I ask unanimous consent that his excellent speech be inserted in the RECORD.

I have had a long personal interest in the Institute of Noetic Sciences, and the serious and competent research it has supported in the study of the human mind and the fuller understanding of man's potential. It is in keeping with the organization's philosophy that it has found a way to honor one of man's most noble urges, creative altruism.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

OPENING SPEECH BY PAUL N. TEMPLE

It seems befitting that we have come together to honor our altruists in such a setting dedicated to the national interests of our country. Perhaps not all of the political events that have taken place in the Caucus Room could be described as altruistic, but there is no doubt that this hall is hallowed by good intentions, deep commitments and devoted lives of public service. I agree that hopefully the good spirits of this evening will help a bit to elevate the level of future deliberations in this historic chamber.

On behalf of my wife, Diane, and myself we gratefully and sincerely thank all of the Honorary Dinner Committee. You have given your names and support to help make this evening an extraordinary event.

I would like to pay a special tribute to the Chairman of the Committee, Mr. Laurance Rockefeller.

Mr. Rockefeller and his father before him, John D. Rockefeller, Jr., have given philanthropy a new dimension and a deeper meaning in our country. I would like to read a few excerpts from the personal creed that was written many years ago by Mr. Rockefeller's father and has evidently been the basis upon which his own philanthropic achievements have been based. The excerpts read as follows:

"I believe in the supreme worth of the individual and in his right to life, liberty, and pursuit of happiness.

"I believe that every right implies a responsibility; every opportunity, an obligation; every possession, a duty.

"I believe in the sacredness of a promise, that a man's word should be as good as his bond; that character not wealth or power or position—is of supreme worth.

"I believe that the rendering of useful service is the common duty of mankind and that only in the purifying fire of sacrifice is the dross of selfishness consumed and the greatness of the human soul set free.

"I believe in an all-wise and all-loving God, named by whatever name, and that the individual's highest fulfillment, greatest happiness, and widest usefulness are to be found in living in harmony with his will.

"I believe that love is the greatest thing in the world; that it alone can overcome hate; that right can and will triumph over might."

So spoke John D. Rockefeller.

It is this last point that is so relevant as we gather to celebrate the altruism of humankind—the altruism that exists in every human being, and that is so keenly developed in those we honor tonight, and which, as John D. Rockefeller said, "Is the greatest thing in the world; that alone can overcome hate; that can and will triumph over might."

Laurance Rockefeller and his gracious wife, Mary, not only extend the Rockefeller heritage, they have added immensely to it with their own creative spirit. Their personal philanthropy in recent years reflect their strong personal interest in the human spirit. Yet this is an initiative coming from a man at an age when many are resting on their laurels (as well he might have). He has been part of the inspiration that gave birth to this award for altruism.

We want to thank you, Mr. and Mrs. Rockefeller for helping to make this evening a reality.

The Rockefeller concept that love can overcome hate inspires us when we see a spirit of peace and disarmament emerging between our country and the Soviet Union. Accordingly, we welcome the distinguished Ambassador of the Union of Soviet Socialist Republics, the Honorable Yuri Dubinin, who has joined us tonight. Mr. Ambassador, we appreciate the new openness of your country and look forward to a spirit of altruism in the summit talks in Washington next month.

As you can see from your programs, ladies and gentlemen, the Honorary Dinner Committee is truly a non-denominational group that contains representatives of many major religions, different political persuasions and a wide range of professions. It is truly a group of distinguished persons from many walks of life who have come together, each in his own way, to honor others whose lives are characterized by a spirit of service and of love.

Now I should like to thank the jury that selected the five persons to be the first recipients of The Temple Award. Their work has required the wisdom of Solomon. There were almost 200 nominations for the award. The nominees included persons from many nations, religions, and peoples, reflecting the fact that altruism is a characteristic that appears in all cultures, all mankind. It is a coincidence that all awardees this year are Americans. The diversity of the nominations, however, confirms our belief that altruism takes many forms, and that it permeates our everyday lives. Spouses nominated each other, siblings nominated each other, parents nominated children, and children nominated parents, mentors their students, and of course, students their mentors. Colleagues, friends, rich and poor, young and old. Many of us have been deeply moved and inspired by these nominations. Taken individually they may not seem to be too dramatic for they are the grist of daily life—a mother who is always there for her family, a retired woman in a small Midwestern town who each day does something kind for others (such as picking up library books for residents of a nursing home, and who has put 98,000 miles on her car running errands of goodwill for strangers), a physician who is paid through contributions to charities rather than fees, a woman who dresses as Raggedy Ann to make daily visitations to the local hospital; and countless business people who have given so generously of time and money to community causes. But as a group, and taken collectively, they are overwhelming in their power, their goodwill, and their genuine concern for others.

The final decision was extremely difficult due to the large number of truly deserving nominees. Some of the participants of the jury are here with us tonight and I would like to give them special thanks and ask them to stand. I would especially call attention to Mr. Winston Franklin (affectionately know as "Wink"), Executive Vice President of the Institute of Noetic Sciences; and Mr. Tom Hurley, who is the executive in charge of the exceptional human abilities program of the Institute. Both of them have made major contributions to the success of this program.

I would also like to recognize Rusty Schweikhart, one of our former astronauts who is here tonight. He not only served on our jury, but is a leader in building bridges with the Soviet cosmonauts.

I would also thank Mrs. Pamela Gilmore and Ms. Katherine Francis who have coordinated all arrangements for this event.

Finally, I would like to acknowledge the spirit of altruism in each and all of you that brought you here tonight to help pay respect to our awardees. Many of you have come from far away to be present tonight, and we are most grateful.

The interest that has been generated in this particular project shows that it is an idea whose time has come. In our world there is an excess of gratuitous violence, Rambo-style, absorbed by our youth from television and movies. I believe that people today, especially the young, are eager to focus on some loftier images and models for their lives—a different kind of heroism . . . .

You might be interested in how and where the idea of awards for creative altruism originated. One morning two years ago Diane and I were having a swim. As we relaxed in the pool I chanced to remark that I read an editorial on how there were no real heroes anymore, outside the movies. It reminded me of a sermon I had once heard entitled, "When Pygmies Cast Such Long Shadows You Know It Is Late In The Day." In any case, I took exception to the basic idea, and reminded Diane of two men who had in recent years been much in the news. One had plunged into the ice-covered Potomac River to help rescue survivors from a passenger airplane that had crashed into the river during a winter storm and quickly sunk. Another was a District of Columbia firefighter. A huge truck had broken through the siderail of a high overpass leaving the driver dangling out its open door over the ledge. When the driver could hold on no longer he plummeted to earth. The man would have been killed, but Fireman Richard Young jumped beneath him and caught him in his arms. The falling driver survived and sustained less injury than did Fireman Young who caught him. Will you please stand, Richard Young, so we can salute you?

The more we thought about and discussed this topic of heroism, like the inspiring gallantry of Fireman Young, the clearer it seemed that something should be done to give special recognition to those persons whose whole lives reflect a spirit of love and service to others. They are the true unsung heroes, and it is they who make real for all of us the possibility of a genuinely altruistic way of being. They are the models for our youth, and for a future better than the past.

Diane and I shared this concept with the Board of Directors of the Institute of Noetic Sciences, which stimulated a growing dialogue on the subject. We agreed that an altruistic spirit is a gift. Some people are born with it and others are reborn to it. Few come to altruism as a way of life as the result of a purely intellectual process.

Our use of the term "creative altruism" was inspired by the work of Professor Pitirim Sorokin, a pioneering sociologist who founded the Department of Social Relations at Harvard University. Sorokin spent the last decades of his career studying love and its importance for personal growth, healing, and positive social change. He defined "creative altruism" as unselfish service motivated by love, and learned through his study of saints, as well as of ordinary "good neighbors," that those who are most consistently and creatively altruistic invariably had a profound spiritual commitment or practice.

Sorokin emphasized the importance of altruism for the survival and well-being of humankind. He wrote, "At the present time there seems to exist no power but creative love that can prevent future suicidal wars and revolutions; and there seems to be no effective defense against the apocalyptic methods of destruction but the Sermon on the Mount practiced in human behavior, incorporated into our social institutions, and incessantly articulated by culture." "Only the greatly increased production, accumulation and circulation of love," he said, "can save humanity from the terrible dilemma that is now pending."

Altruism is a gift like other gifts we human beings receive from our creator. These gifts may be thought of as extraordinary human abilities. Many of you are attending the symposium concerning extraordinary human abilities that is being held in the GSA Departmental Auditorium today and tomorrow. This dinner is closely related to the subject of that symposium.

In the symposium which has been entitled "The Greater Self," participants have been looking at the highest development that we have been able to identify in self-healing, creativity, and peak performance involving the mind, body and spirit.

Against this noetic background the annual award for creative altruism was conceived. Stated at the bottom of page two of your programs are the criteria. I will not repeat them but I do want to emphasize that our recipients are not chosen only on the basis of their achievements. While these are important, for they are the seed from which altruism flowers in the world, another factor was equally significant—the candidates' embodiment of a particular quality of being. All of our recipients are distinguished by their capacity to inspire the spirit of altruism and love in others through their personal presence and the depth of their concern and respect. This quality of being is a powerful force for change in the world. We prefer to think of our honored guests tonight, not so much as winners, but as "representatives," first of all of the other nominees, and also of all people who live altruistic lives. The jury has selected five recipients this year, not only because it was difficult to reach agreement on one, but also because they wanted to demonstrate in how many different ways altruism manifests itself and they also wanted to honor the spirit of altruism in each of us.

There is a fortuitous coincidence between the name of the award, and its true meaning. When the Board of the Institute took the decision to sponsor The Temple Award for Creative Altruism, my wife and I had some difficulty at first in accepting that it should be called "The Temple Award."

Since Temple is our family name, it appeared to us at first anomalous that we could reward selflessness in a way that might appear to be self-aggrandizing. Then we checked the scriptures and concluded that the name was indeed an appropriate one.

Jesus spoke of the temple of his own body. He said "Destroy this temple and in three days I will raise it up." Paul the Apostle wrote, "The temple of God is holy and that is what you are." He wrote further to the Corinthians, "Do you not know that your body is a temple of the Holy Spirit who is in you, whom you have from God, and that you are not on your own." "Glorify God in your body," he added. "We are the temple of the living God."

Therefore my wife and I rejoice at the knowledge that our family name happens to symbolize the fact that human bodies may be looked upon as temples of the living God within them and that they can and should be put to the uses of God during our lifetime by following the inner impulses of his spirit. This inner direction from God is what we personally believe to be the true explanation for the wonderful altruistic nature that shines in the persons we are honoring tonight.

Finally, I would like to say a word about the Institute of Noetic Sciences of which I happen to be the present chairman. It is believed that the word "Noetic" was invented by William James in his Varieties of Religious Experience. Webster's New Collegiate Dictionary says the noetic "pertains to cognition, especially through direct and self-evident knowledge." It has also been described as "inner-knowing," and it stems from the Greek words noesis meaning to "perceive," and nous, translated most simply as "mind." In other words, the Institute of Noetic Sciences is a nonprofit organization dedicated to the study of the human mind and to a deeper understanding of its potential. I should like to clarify, if there should be any doubt, that the Institute does not expouse any new religion. It does not advocate any particular philosophy or theology. It is neither "new age" nor "old paradigm." It is a research institute pure and simple and it is also a membership organization that you can join if you feel moved to do so. About 15,000 others have done so. Some materials concerning the Institute have been placed on the tables here tonight. In those materials you will be able to see the wide variety of research projects that have been supported by the Institute. (See pages 4 to 14 of the 1986 winter review). Obviously, my wife and I are proud to serve on its board of directors.

You will be interested to know that the founder of the Institute was Edgar Mitchell, of Apollo 14, another of our astronauts who became the 6th man on the moon. He had a transcendental experience on the way back from the moon. This experience led directly to the founding of the Institute in 1973. In taking this action he too was motivated by altruism. Ed, will you please stand so that we may honor you?

So there you have it. Now let us proceed with the main purpose of the evening—the presentation of The Temple Award to our outstanding altruists. Each awardee will be given a certificate in addition to the $25,000 monetary award that they shall share.

Each award will be presented by a person of distinction who has welcomed this opportunity to perform this function.

Our first presenter will be the very distinguished actor, Mr. Robert Young, whom we all fondly remember as Marcus Welby, MD, and who has been one of my favorite film personalities for many years. Mr. Young will present the award to Francis Joseph Brennan, the founder of the Seven Seas Home for Alcoholics and the Homeless, as well as the Mission Alcoholic Center, both in San Francisco, California.

The second presenter will be Congressman Gus Hawkins of Los Angeles. He will present the award to Alice Harris of the Watts district of Los Angeles. She is the Founder and Executive Director of the Parents of Watts Program.

The next presenter is my good friend, Dr. Willis Harman, President of the Institute of Noetic Sciences. Mr. Harman will present the award to Mildred and Glen Leet, cofounders of the Trickle Up Program. This program involves grants of $100 to groups of 5 or more persons who wish to create a new business. Over 4,000 businesses in 90 countries have been started by "the poorest of the poor," thanks to these grants.

Finally, our last presenter, The Very Reverend James Morton, Dean of the Cathedral of St. John the Divine in New York City. He, an episcopal priest, will present the award to Father Bruce Ritter, a catholic priest who founded Covenant House on New York's lower east side. Covenant House is an international agency for the care of children and young adults. It now serves over 20,000 homeless and runaway youth in New York, Toronto, Houston, Fort Lauderdale, New Orleans and Guatemala.

(Following the Presentations.)

We have been deeply honored by your presence, and hope that you will assist us in disseminating far and wide the knowledge that the life of true altrusim is perhaps the highest calling of mankind and deserving of our profound respect and encouragement.

I leave you with this ancient prayer: "May you live among people who care."

Thank you and God bless you all.

ENERGY AND NATURAL RESOURCES COMMITTEE PROVISIONS OF RECONCILIATION BILL

Mr. JOHNSTON. Mr. President, I want to comment briefly on the Energy and Natural Resources Committee provisions contained in S. 1920. Since the Budget Committee has not filed a report on S. 1920, the Omnibus Budget Reconciliation Act of 1987, an explanation of the legislative history of those provisions and an expression of the committee's intent with respect to those provisions is in order.

The Energy and Natural Resources Committee provisions constitute title II of S. 1920. Subtitle A is the Nuclear Waste Policy Act Amendments Act of 1987. Subtitle A was also reported separately as S. 1668 (S. Rep. 100-159). The committee intends for the contents of that report to be incorporated by reference. Since S. 1668 and subtitle A of S. 1920 were reported, the Senate adopted the nuclear waste provisions contained in H.R. 2700, the energy and water development appropriation bill for fiscal year 1988. At the appropriate time I will offer the nuclear waste provisions passed by the Senate, and included in H.R. 2700, as an amendment to subtitle A.

Subtitle B is the Federal Onshore Competitive Oil and Gas Leasing Act of 1987. Subtitle B was also reported separately as S. 1730 (S. Rep. 100-188). The committee intends for the contents of that report to be incorporated by reference.

Subtitle C is the Land and Water Conservation Fund Act Amendments of 1987. Subtitle C includes the text of H.R. 1320, as amended and reported (S. Rep. 100-86). The committee intends for the contents of that report to be incorporated by reference. The only difference between H.R. 1320, as amended and reported, and subtitle C, is a new section 2202(c) to make the recreation fee revenues subject to appropriation for fiscal years 1988, 1989, and 1990. Thereafter fee revenues would be made available without appropriation.

Subtitle D makes the Tongass timber supply fund subject to appropriation for fiscal years 1988 and 1989. The committee's action is for 2 years only and is taken solely for budget reconciliation purposes during that period. It does not constitute an expression by the committee for or against legislation concerning section 705 of the Alaska National Interest Lands Conservation Act of 1980 or the Tongass National Forest which now is or may come before the committee. At the time the committee acted on subtitle D it had held no hearings on the Tongass and section 705 of ANILCA and said that to make such an expression for or against such legislation would be premature.

THE TEXTILE AND APPAREL TRADE AGREEMENT WITH THE SOVIET UNION

Mr. THURMOND. Mr. President, I rise to voice my strong opposition to the recent textile and apparel trade agreement entered into with the Soviet Union. The agreement allows the Soviet Union to export to the United States 23.5-million square yards in textile products. This figure represents a drastic increase from the limits imposed last year. The increase comes at a time when our textile and apparel industry is experiencing grave difficulties due to the great influx of foreign textile imports.

Mr. President, a viable textile and apparel industry is absolutely essential to the economy, defense, and national security of this Nation. Although seriously threatened, and already heavily impacted by massive imports, this vital industry still provides employment nationwide for more than 2 million Americans. One out of every 10 manufacturing jobs is a textile and apparel-created job. Moreover, more people depend upon the textile and apparel industry for their livelihoods than the steel and auto industries combined. However, if the current trend in job losses persists due to textile import penetration, massive economic hardship will continue to impact harshly upon those who depend upon this industy for their livelihoods.

In carrying out this agreement, vital American jobs will soon become Soviet jobs. There is no plausible reason to finance the Soviet agenda at the expense of American employment.

The worst aspect of the recent agreement is what will transpire in the future. The Soviets are now provided with a large base from which they can bargain for annual increases. If the same proportionate increase that took place with this agreement occurs in next year's agreement, the domestic textile market will be dealt a devastating blow.

In closing, I would like to quote a verse from St. Matthew which I feel applies to this crisis: For wide is the gate, and broad is the way, that leadeth to destruction, and many enter through it. (Matthew 7:13). Under this administration we have seen the gate opened wide for the flood of foreign textile imports. If this practice is not reversed we may eventually see the elimination of our textile industry.

Mr. President, I urge my colleagues to heed this warning.

THE RETIREMENT OF WILLIAM G. BOWEN FROM THE POSITION OF PRESIDENT OF PRINCETON UNIVERSITY

Mr. BRADLEY. Mr. President, today in my home State of New Jersey the trustees of Princeton University are honoring William G. Bowen, who is stepping down as president of the university, a position he has held since 1972.

Bill Bowen's commitment to higher education in general and to Princeton specifically is unsurpassed. A generation of Princeton specifically is unsurpassed. A generation of Princeton students has crossed Cannon Green after long nights in Firestone Library and seen the lights burning in 1 Nassau Hall. This dedication combined with his unwillingness to accept less than excellence in his own work has inspired students, faculty, and alumni to reach higher and accomplish more than most could have imagined.

Under Bill Bowen's careful guidance, Princeton made the important transition to coeducation, restructured undergraduate residential life, and added departments and programs in comparative literature, women's studies, molecular biology, computer science, and electrical engineering, among others.

His academic work and annual reports have helped to shape the national debate on such important topics as the economics of education, the role of student aid, and the need for basic research.

But President Bowen's perspective on the challenges facing our Nation's educational system never overshadowed Professor Bowen's commitment to educating our Nation's young people. Year after year, freshmen and sophomores marveled at their good fortune when they found that the president of the university would lead their section of economics 101.

In 1981 he reminded the entering class that:

> Learning pursued for its own sake—and not merely as a means to some more prosaic end—can be a source of great enjoyment and personal satisfaction; it can also serve as the soundest preparation for citizenship and for what I hope will be lives lived generously, in service to others. It is this kind of learning that we are here to promote.

And so now Bill Bowen will continue to take the advice he has given so many students—to pursue new challenges, to open up to new experiences, to serve others, and to capture the pleasure and joy of learning.

Princeton will forever bear the mark of Bill Bowen and he will be sorely missed. But I wish him well with the one word valediction he has given to thousands of graduating students: "Onward!"

MARY SLATER

Mr. BURDICK. Mr. President, North Dakota's best resource is its people. Many North Dakotans have gone on to become leaders in the corporate world, government agencies, entertainment industry, and military.

Mary Slater was none of those, yet she was one of North Dakota's best. She went on from being salutatorian of her high school class in Minot, ND, to get a master's in psychology and a doctoral degree in philosophy. Her specialty was mental retardation. She did important work in developing methods for raising the IQ and enhancing the future of brain-injured, handicapped, and retarded children. As her superior at Texas Tech Health Sciences Center said, "she was our shining star."

She and several colleagues from Texas Tech were doing research in Africa when their charter flight crashed, killing everyone aboard. Her publications survive to remind us all of her generosity and her gifts to those less fortunate.

Mr. President, I ask unanimous consent that Mary Slater's obituary from the Minot Daily News and a eulogy by Dr. Tom Hale be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

MARY SLATER

There will be a memorial service Wednesday at 10:30 a.m. in St. Leo's Catholic Church, Minot, for Mary Slater, 37, formerly of Minot, who was one of 13 victims aboard a Cessna 404 that crashed Thursday near the Rwandan village of Kanama in Africa. A gathering of family and friends will follow in the church basement.

Slater was one of a group of professional staff members of Texas Tech Health Sciences Center and Medical School in Amarillo who had gone to Africa on a research and photography tour. They were en route back to Nairobi in Kenya from a chartered plane trip to Zaire at the time of the plane crash. There were no survivors aboard the plane that exploded and burned following the crash.

She was born May 5, 1950, in Minot, a daughter of William and Dorothy Slater, 504 9th Avenue SE. Raised in Minot, she was salutatorian of the 1968 graduation class at Ryan High School, and the recipient of the Monsignor Hogan Award there. She earned a bachelor of science degree at Marquette University in Milwaukee, graduating cum laude in 1972.

She went on to earn master's and Ph.D. degrees in clinical psychology at the University of Wisconsin in Madison. She was the assistant administrator in the program at the university's Waisman Center until going to Amarillo 3½ years ago.

The dissertation for her doctorate was on retarded mothers and their children up to age 5, and the focus of her work had continued in that field and in research on the prevention of retardation in premature babies.

Surviving are her parents, and sisters, Helen Moon, Schenectady, NY, and Frances Johannes, Milwaukee.

EULOGY BY DR. TOM HALE, TEXAS TECH HEALTH SCIENCES CENTER

I've been asked to tell you about our Mary. Mary was my friend, she was my compatriot. And I grieve that I lack the eloquence to do her memory justice, but in reality, Mary was elegance in persona and to those of us who knew her. I will not fail.

Mary Alice Slater, Master of Psychology, Doctor of Philosophy, was born in Minot, North Dakota, May 5, 1950, she was 37 years old. She was the baby of the family, somewhat spoiled she told me. She was the daughter of Dorothy and William Slater. Her two older sisters were Francis and Helen.

She graduated Salutatorian from Bishop Ryan High school and received the Monsignor Hogan Award as best all around Student. She then graduated from Marquette University—1972, Cum Laude. She earned her masters and Doctor of Philosophy Degree from the University of Wisconsin in 1980.

Mary then joined what is considered the Premier institute for research in Mental Retardation, The Waisman Institute on Mental Retardation and Human Development in Wisconsin and soon became the assistant to the director and worked at this institute from 1976 to 1984 when through a stroke of magnificient fortune, she joined our department of Pediatrics.

Mary, when she came to our department was like a breath of fresh air, bubbly, enormously energetic, likeable, entertaining, driven. She was our shining star.

She soon started pouring out grants, papers and book chapters one after another until she had all the secretaries in the department overburdened. Mary was unbelievably prolific.

During her brief lifetime, she was principal investigator, or coinvestigator on more than 3.8 million dollars in grants, an immense achievement in any area of science.

Mary was a thoroughbred race horse, who made her race fast, but all too short.

Mary was not excentric, she was simply brilliant and all of us knew it. She was our pushy little northern girl whom we all loved.

Once or twice in a life time as a scientist you encounter one whom you consider truly gifted, that has an enormous insight into the problem, and how to resolve it, Mary was my encounter and that of many of us in our department.

Mary's expertise was in developing methods for raising the IQ and enhancing the future of brain injured children, and in children born with handicaps or retardation.

She worked tirelessly, to see that her scientific concepts were proven. And let me tell you now, having personally seen her results, Mary was right, completely.

In that vein, she had written over 12 publications, and 11 chapters in books. She consulted world wide, from Sweden to Alaska. Her work was recognized by all the leading authorities in her profession. Her concepts were all so well conceived, and written, that even today, we hope to continue her work.

She presently had four articles almost ready for publication. We, her colleagues will see those published, not for Mary's benefit, but for our sake.

To those of us to grieve her passing, remember the good things about Mary, because there were no bad, her bubbly but shy personality, her humor, her love for one another, her passion for sick infants, her expressive hands, and best of all, her finger in your face. That's all we have left, but it's enough.

She once told me she wanted to work ten years, publish all the works possible, get all the grant money possible, and retire distinuguished. She has retired distinguished.

I'd like to say goodbye to Mary, but not to her memory, with a poem written by Henry Wadsworth Longfellow,

There is a Reaper, whose name is Death
and with his Sickle Keen
He reaps the bearded grain at a breath
and the flowers that grow between.

Mary was our flower. She blossomed in our spring, and all too soon, withered from our grasp.

BICENTENNIAL MINUTE

DECEMBER 11, 1833: FIGHT OVER EXECUTIVE PRIVILEGE

Mr. DOLE. Mr. President, 154 years ago today, on December 11, 1833, a great constitutional issue was brewing as the U.S. Senate challenged President Andrew Jackson over what we call executive privilege.

The Senate and President were locked in combat over Jackson's refusal to recharter the Bank of the United States. Prominent Whigs like Henry Clay, Daniel Webster, and John C. Calhoun supported the Bank, but had been unable to override the President's veto. Nevertheless, when the Jackson administration began withdrawing Federal funds from the Bank, the Senate demanded to see the paper he had read to his Cabinet on this issue. On December 11, 1833, the Senate voted 23 to 18 in favor of Senator Henry Clay's resolution that the President turn over this document.

The following day, the Senate received this message from President Jackson: "The Executive is a co-ordinate and independent branch of the Government equally with the Senate, and I have yet to learn under what constitutional authority that branch of the Legislature has a right to require of me an account of any communication, either verbally or in writing, made to the heads of departments acting as a cabinet council."

This marked the first time that a President had denied records that Congress requested. An outraged Senate then censured President Andrew Jackson, but they could not make the iron-willed chief executive back down. Jackson, of course, continued to provide Congress with information on other executive branch activities and initiatives, and pledged his willingness to explain his policies to the American people. But the stand he took has enabled his successors to insist that their conversations with Cabinet members are privileged.

DECEMBER 16, AN EPIC DATE IN KOREAN HISTORY

Mr. MURKOWSKI. Mr. President, next Wednesday, December 16, 1987, will be one of the most momentous dates in the entire 5,000-year history of the Korean people. On this date, the citizens of the Republic of Korea will conduct an election for the office of President. This election promises the first peaceful change of power in the 42-year history of the Republic. It will be carried out under the mandate of the new Korean Constitution, put in place this fall at the instigation of the Korean people.

ELECTION RESULTS FROM LAST SUMMER'S DEMONSTRATIONS

Last summer, in an unprecedented outpouring of sentiment from Koreans of all classes, the streets of Korea's major cities were filled, day after day, with demonstrators demanding free elections. Those demands were answered. The Government and the opposition were able to work out a new constitution and elections were scheduled.

VIGOROUS CAMPAIGN WITH FOUR MAJOR CANDIDATES

The Presidential candidates have conducted a vigorous campaign over the past month. The campaign has had its share of violence, but the issues have been addressed and the differences between the four major candidates have become clear. It is now time for the election.

AMERICA WATCHES THIS ELECTION WITH GREAT INTEREST

Those of us in the United States will watch this election with great interest and concern. The United States is one of Korea's oldest friends. The soil of Korea is stained with the blood of American and Korean fighting men who fell in the Korean war; men who gave their lives in the successful crusade to prevent communism from dominating the entire peninsula.

Since the Korean war, the United States Armed Forces, along with their Korean counterparts have continued the defense of South Korea from repeated examples of the treachery of the North Koreans. The United States-South Korean military alliance is not only one of the strongest in the world but one of the most successful as well. Freedom in Korea has been bought with the aid of American blood. Now democracy, bought with the courage and persistence of the Korean people, is at hand.

ELECTION MUST BE FAIR

It is absolutely essential that the election be conducted in a fair and honest manner. Emotions are high in Korea and our concern is great.

ELECTION PROCESS MUST BE HONEST

The campaign process and the election itself must be free from manipulation from any quarter. The politicians must face their task in an honest way. They must live up to their reponsibility to the Korean people and to history. There must be no effort to influence the voters in an illegitimate way.

ELECTION RESULTS MUST BE CREDIBLE

Great care must be taken to see to it that the balloting process is free from influence and error. The ballots must be protected and the voters must be free from intimidation as they exercise their franchise.

NATIONAL INSTITUTIONS MUST STAY NEUTRAL

It is essential that national institutions, which have no proper political role to play, stay neutral. The greatest contribution that true Korean patriots can make is to assure the sanctity and fairness of the election.

In any democracy, the people govern and the Korean people are clearly ready to express their will.

WHEN THE ELECTION IS OVER, IF IT IS FAIR, THE RESULTS MUST BE ACCEPTED

This election is both the end of a critical time for Korea and the beginning of another crucial stage in the nation's history. Much tension and some bloodshed has gone into arriving at this moment, but the task of converting the republic into a democracy is only just beginning. The winner of this election will face an enormous challenge.

AMERICANS CAN WATCH WITH CONCERN BUT WE CANNOT INFLUENCE THE POSTELECTION PROCESS

I was pleased to learn of the excellent speech which Dr. Gaston Sigur, the Assistant Secretary of State for East Asian and Pacific Affairs delivered on December 9, expressing the administration's concern that the election process in Korea be fair, honest, and unimpeded. Dr. Sigur said "We support no candidate or party; these choices are for the Koreans to make." All Americans must concur in these sentiments.

UNITED STATES CAN DO LITTLE BUT URGE HONEST ELECTION AND LEND SYMPATHY TO THE DULY ELECTED GOVERNMENT

Korea is a sovereign nation. The Government and the people of the United States will watch the unfolding election process in Korea with concern. We can urge fairness, but we cannot and must not directly influence either the process or the outcome. It is essential that we remain neutral among the candidates; but it is also essential that we continue to urge fairness. Without that, it will be impossible to have a credible result.

DEMOCRACY WILL PREVAIL

The Korean people have an ancient and rich culture, the hope for democracy has been strong in their hearts for many, many years. I am convinced that the depth of that feeling for democracy will be enough to meet the challenge.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Emery, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 1:14 p.m., a message from the House of Representatives, delivered by Mr. Berry, one if its reading clerks, announced that the House disagrees to the amendments of the Senate to the bill (H.R. 2700) making appropriations for energy and water development for the fiscal year ending September 30, 1988, and for other purposes; it agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and appoints Mr. Bevill, Mrs. Boggs, Mr. Chappell, Mr. Fazio, Mr. Watkins, Mr. Thomas of Georgia, Mr. Whitten, Mr. Myers of Indiana, Mrs. Smith of Nebraska, Mr. Pursell, and Mr. Conte as managers of the conference on the part of the House.

The message also announced that the House disagrees to the amendment of the Senate to the bill (H.R. 3030) to provide credit assistance to farmers, to strengthen the Farm Credit System, to facilitate the establishment of secondary markets for agricultural loans, and for other purposes; it agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and appoints the following as managers of the conference on the part of the House:

From the Committee on Agriculture, for consideration of title I of the House bill, and titles I-IV, and VIII (except section 801) of the Senate amendment, and modifications committed to conference: Mr. de la Garza, Mr. Jones of Tennessee, Mr. Tallon, Mr. Evans, Mr. Stallings, Mr. English, Mr. Penny, Mr. Nagle, Mr. Stenholm, Mr. Jontz, Mr. Johnson of South Dakota, Mr. Madigan, Mr. Coleman of Missouri, Mr. Gunderson, Mr. Jeffords, Mr. Morrison of Washington, and Mr. Holloway.

In addition, for consideration of title I (except sections 103-105) of the House bill, and titles II, III, and VIII (except section 801), and section 101 of the Senate amendment, Mr. Grandy is appointed.

For consideration of section 103 of the House bill, and section 402 of the Senate amendment, Mr. Marlenee is appointed.

For consideration of section 104 of the House bill, and title IV (except section 402) of the Senate amendment, Mr. Schuette is appointed.

For consideration of section 105 of the House bill, and title I of the Senate amendment, Mr. Combest is appointed.

From the Committee on Agriculture, for consideration of title II of the House bill, and titles V and VI (except section 611) and section 801 of the Senate amendment, and modifications committed to conference: Mr. de la Garza, Mr. Jones of Tennessee, Mr. Tallon, Mr. Evans, Mr. Stallings, Mr. English, Mr. Penny, Mr. Nagle, Mr. Stenholm, Mr. Jontz, Mr. Johnson of South Dakota, Mr. Madigan, Mr. Coleman of Missouri, Mr. Marlenee, Mr. Jeffords, Mr. Morrison of Washington, Mr. Gunderson, and Mr. Holloway.

From the Committee on Agriculture, for consideration of title III of the House bill (except insofar as section 301 would add a new section 5.90 (a)-(c) to the Farm Credit Act of 1971), and title VII (except insofar as section 702 would add a new section 8.12 (a), (b), (c) (1) and (4) to the Farm Credit Act of 1971), and section 611 of the Senate amendment, and modifications committed to conference: Mr. de la Garza, Mr. Jones of Tennessee, Mr. Tallon, Mr. Evans, Mr. Stallings, Mr. English, Mr. Penny, Mr. Nagle, Mr. Stenholm, Mr. Jontz, Mr. Johnson of South Dakota, Mr. Madigan, Mr. Coleman of Missouri, Mr. Jeffords, Mr. Morrison of Washington, Mr. Gunderson, Mr. Schuette, and Mr. Holloway.

From the Commitee on Agriculture, for consideration of title IV of the House bill, and modifications committed to conference: Mr. de la Garza, Mr. Jones of Tennessee, Mr. Tallon, Mr. Evans, Mr. Stallings, Mr. English, Mr. Penny, Mr. Nagle, Mr. Stenholm, Mr. Jontz, Mr. Johnson of South Dakota, Mr. Madigan, Mr. Coleman of Missouri, Mr. Gunderson, Mr. Schuette, Mr. Combest, Mr. Grandy, and Mr. Jeffords.

As additional conferees from the Committee on Banking, Finance and Urban Affairs, for consideration of section 301 (except insofar as that section would add a new section 5.90 (a)-(c) to the Farm Credit Act of 1971) of the House bill, and title VII (except insofar as section 702 would add a new section 8.12 (a), (b), (c) (1) and (4) to the Farm Credit Act of 1971) of the Senate amendment, and modifications committed to conference: Mr. St Germain, Mr. Gonzalez, Mr. Hubbard, Ms. Oakar, Mr. Vento, Mr. Barnard, Mr. Frank, Mr. Lehman of California, Mr. Morrison of Connecticut, Mr. Schumer, Ms. Kaptur, Mr. Wylie, Mr. Leach of Iowa, Mr. Shumway, Mr. Dreier of California, Mr. Bereuter, Mr. Roth, and Mr. McMillan of North Carolina.

From the Committee on Energy and Commerce, solely for consideration of section 301 of the House bill (insofar as it would add a new section 5.90 (a)-(c) to the Farm Credit Act of 1971), and for section 702 of the Senate amendment (insofar as it would add a new section 8.12 (a), (b), (c) (1) and (4) to the Farm Credit Act of 1971), and modifications committed to conference: Mr. Dingell, Mr. Markey, Mr. Bruce, Mr. Lent, and Mr. Rinaldo.

The message further announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 3700. An Act to designate the Federal building located at 600 West Madison, Chicago, IL, as the "Harold Washington, Social Security Center".

At 6:40 p.m., a message from the House of Representatives, delivered by Mr. Dendy, one of its clerks, announced that the House disagrees to the amendment of the Senate to the bill (H.R. 3545) to provide for reconciliation pursuant to section 4 of the concurrent resolution on the budget for the fiscal year 1988; it agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and appoints the following as managers of the conference on the part of the House:

From the Committee on the Budget, for consideration of the House bill (except title X), and the Senate amendment (except subtitle B of title IV), and modifications committed to conference: Mr. Gray of Pennsylvania, Mr. Derrick, Mr. Frost, Mr. Jenkins, Mr. Williams, Mr. Oberstar, Mr. Latta, Mr. Mack, Mr. Goodling, and Mr. Denny Smith.

From the Committee on the Budget, for consideration of title X of the House bill, and subtitle B of title IV of the Senate amendment, and modifications committed to conference: Mr. Jenkins and Mr. Latta.

From the Committee on Agriculture, for consideration of title I of the House bill, and title VIII and sections 3001 and 9005 of the Senate amendment, and modifications committed to conference: Mr. de la Garza, Mr. Jones of Tennessee, Mr. Rose, Mr. Huckaby, Mr. Glickman, Mr. Stenholm, Mr. Panetta, Mr. Madigan, Mr. Stangeland, Mr. Robert F. Smith, Mr. Lewis of Florida, and Mr. Herger.

From the Committee on Armed Services, for consideration of section 5001 of the Senate amendment, and modifications committed to conference: Mr. Aspin, Mrs. Byron, and Mr. Dickinson.

From the Committee on Banking, Finance and Urban Affairs, for consideration of title II of the House bill, and sections 9006, 9007, 9010, and 9012 of the Senate amendment, and modifications committed to conference: Mr. St Germain, Mr. Gonzalez, Mr. Annunzio, Ms. Oakar, Mr. Garcia, Mr. Kleczka, Mr. Wylie, Mr. Leach of Iowa, Mr. Shumway, and Mr. Parris.

From the Committee on Banking, Finance and Urban Affairs, for consideration of title X of the Senate amendment, and modifications committed to conference: Mr. St Germain, Ms. Oakar, and Mr. Wylie.

From the Committee on Education and Labor, for consideration of title III and subtitle E of title IX of the

House bill, and part VI of title IV, title VI, and sections 4111, 4112, and 9011 of the Senate amendment, and modifications committed to conference: Mr. Hawkins, Mr. Ford of Michigan, Mr. Gaydos, Mr. Clay, Mr. Williams, Mr. Kildee, Mr. Owens of New York, Mr. Jeffords, Mr. Goodling, Mr. Coleman of Missouri, and Mrs. Roukema.

From the Committee on Energy and Commerce, for consideration of subtitles A, B, and C of title IV, parts 2-4 of subtitle C of title IX and sections 1052 and 9602 of the House bill, and subparts II-V of part A, subparts I (except sections 4086 and 4091) and II of part B of subtitle A of title IV and sections 4001(q), 4002(b), 4002(c), 4051, and 4111-4113 of the Senate amendment, and modifications committed to conference: Mr. Dingell, Mr. Waxman, Mr. Scheuer, Mrs. Collins, Mr. Synar, Mr. Wyden, Mr. Slattery, Mr. Lent, Mr. Dannemeyer, Mr. Whittaker, and Mr. Tauke.

From the Committee on Energy and Commerce, for consideration of sections 4301, 5001, and 6201 of the House bill, and subtitle A of title II and title III (except section 3001) of the Senate amendment, and modifications committed to conference: Mr. Dingell, Mr. Sharp, Mr. Swift, Mr. Leland, Mr. Cooper, Mr. Slattery, Mr. Lent, Mr. Moorhead, Mr. Dannemeyer, and Mr. Fields.

From the Committee on Energy and Commerce, for consideration of section 9033 of the House bill, and section 4583 of the Senate amendment, and modifications committed to conference: Mr. Dingell, Mr. Thomas A. Luken, Mr. Florio, Mr. Tauzin, Mr. Sikorski, Mr. Boucher, Mr. Slattery, Mr. Lent, Mr. Whittaker, Mr. Tauke, and Mr. Bilirakis.

From the Committee on Energy and Commerce, for consideration of section 3001 of the Senate amendment, and modifications committed to conference: Mr. Dingell, Mr. Waxman, Mr. Thomas A. Luken, Mr. Hall of Texas, Mr. Bruce, Mr. Slattery, Mr. Lent, Mr. Tauke, Mr. Dannemeyer, and Mr. Whittaker.

From the Committee on Interior and Insular Affairs, for consideration of sections 4301 and 5001 of the House bill, and sections 2001-2009, and 3010 of the Senate amendment, and modifications committed to conference: Mr. Udall, Mr. Miller of California, Mr. Markey, Mr. Murphy, Mr. Rahall, Mr. Vento, Mr. Young of Alaska, Mr. Lujan, Mr. Lagomarsino, and Mr. Marlenee.

From the Committee on Interior and Insular Affairs, for consideration of sections 5002-5004 of the House bill, and sections 2101-2113, and 9009 of the Senate amendment, and modifications committed to conference: Mr. Udall, Mr. Miller of California, Mr. Sharp, Mr. Markey, Mr. Murphy, Mr. Rahall, Mr. Young of Alaska, Mr. Lujan, Mr. Lagomarsino, and Mr. Marlenee.

From the Committee on Interior and Insular Affairs, for consideration of section 5005 of the House bill, and sections 2201-2203 and 2301 of the Senate amendment, and modifications committed to conference: Mr. Udall, Mr. Miller of California, Mr. Sharp, Mr. Markey, Mr. Gejdenson, Mr. Vento, Mr. Young of Alaska, Mr. Lujan, Mr. Lagomarsino, and Mr. Marlenee.

From the Committee on Merchant Marine and Fisheries, for consideration of title VI of the House bill, and sections 2008 and 3001 of the Senate amendment, and modifications committed to conference: Mr. Jones of North Carolina, Mr. Anderson, Mr. Studds, Mr. Lowry of Washington, Mr. Hutto, Mr. Tauzin, Mr. Davis of Michigan, Mr. Young of Alaska, Mr. Lent, and Mr. Shumway.

From the Committee on Post Office and Civil Service, for consideration of title VII of the House bill, and title V (except section 5002) of the Senate amendment, and modifications committed to conference: Mr. Ford of Michigan, Mr. Leland, Mr. Ackerman, Mr. Taylor, and Mr. Horton.

From the Committee on Public Works and Transportation for consideration of subtitle A of title VI of the House bill, and section 3001 of the Senate amendment, and modifications committed to conference: Mr. Howard, Mr. Roe, Mr. Mineta, Mr. Oberstar, Mr. Nowak, Mr. Rahall, Mr. Hammerschmidt, Mr. Shuster, Mr. Stangeland, and Mr. Gingrich.

From the Committee on Public Works and Transportation, for consideration of section 3003 of the Senate amendment, and modifications committed to conference: Mr. Howard, Mr. Anderson, Mr. Roe, Mr. Mineta, Mr. Oberstar, Mr. Nowak, Mr. Hammerschmidt, Mr. Shuster, Mr. Stangeland, and Mr. Gingrich.

From the Committee on Government Operations, for consideration of sections 5002 and 9003 of the Senate amendment, and modifications committed to conference: Mr. Brooks, Mr. Conyers, Mrs. Collins, Mr. English, Mr. Waxman, Mr. Weiss, Mr. Horton, Mr. Walker, Mr. Clinger, and Mr. McCandless.

From the Committee on Veterans' Affairs, for consideration of title VIII of the House bill, and title VII of the Senate amendment, and modifications committed to conference: Mr. Montgomery, Ms. Kaptur, and Mr. Solomon.

From the Committee on Ways and Means, for consideration of title III, subtitle A of title IV, and title IX of the House bill, and Subtitle A of title IV (except subpart V of part A and subpart II of part B) and subtitle A of title VI and section 8309 of the Senate amendment, and modifications committed to conference: Mr. Rostenkowski, Mr. Gibbons, Mr. Pickle, Mr. Rangel, Mr. Stark, Mr. Jacobs, Mr. Downey of New York, Mr. Frenzel, Mr. Schulze, Mr. Gradison, and Mr. Thomas of California.

From the Committee on Ways and Means, for consideration of title X of the House bill, and subtitle B of title IV of the Senate amendment, and modifications committed to conference: Mr. Rostenkowski, Mr. Gibbons, Mr. Pickle, Mr. Rangel, Mr. Stark, Mr. Jacobs, Mr. Downey of New York, Mr. Duncan, Mr. Archer, Mr. Vander Jagt, and Mr. Crane.

From the Committee on Ways and Means, for consideration of title X of the Senate amendment, and modifications committed to conference: Mr. Rostenkowski, Mr. Downey of New York, and Mr. Duncan.

Appointed as additional conferees, for consideration of the House bill (except title X), and the Senate amendment (except subtitle B of title IV), and modifications committed to conference: Mr. Foley and Mr. Cheney.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on today, December 11, 1987, he had presented to the President of the United States the following enrolled bill:

S. 649. An Act to amend the Reclamation Authorization Act of 1976 (90 Stat. 1324, 1327).

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, with amendments:

S. 641. A bill for the relief of the city of Minot, ND (Rept. No. 100-253).

By Mr. INOUYE, from the Select Committee on Indian Affairs, with an amendment in the nature of a substitute:

S. 795. A bill to provide for the settlement of water rights claims of the La Jolla, Rincon, San Pasqual, Pauma, and Pala Bands of Mission Indians in San Diego County, CA, and for other purposes (Rept. No. 100-254); pursuant to the order of June 5, 1987, referred to the Committee on Energy and Natural Resources.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. MITCHELL (for himself, Mr. Bentsen, Mr. Lautenberg, Mr. Burdick, Mr. Stafford, Mr. Durenberger, Mr. Graham, Mr. Reid, Mr. Cranston, Mr. Rudman, Mr. Kerry, Mr. Dodd, Mr. Wirth, Ms. Mikulski, Mr. Baucus, and Mr. Humphrey):

S. 1941. A bill to provide for an 8-month extension of sanctions under the Clean Air Act; to the Committee on Environment and Public Works.

By Mr. MOYNIHAN (for himself, Mr. Lautenberg, Mr. Bradley, Mr. Cranston, Mr. Dixon, Mr. Simon, Mr. Riegle, and Mr. D'Amato):

S. 1942. A bill to amend title 13, United States Code, to remedy the historic undercount of the poor and minorities in the decennial census of population and to otherwise improve the overall accuracy of the population data collected in the decennial census by directing the use of appropriate statistical adjustment procedures, and for other purposes; to the Committee on Governmental Affairs.

By Mr. KENNEDY (for himself, Mr. Inouye, Mr. Bradley, Mr. Stafford, Mr. Lautenberg, Mr. Harkin, Mr. Dodd, and Mr. Matsunaga):

S. 1943. A bill to amend the Public Health Service Act to revise and extend the authority of the Administrator of the Alcohol, Drug Abuse, and Mental Health Administration, including revising and extending the program of block grants for the provision of services with respect to mental health and alcohol and drug abuse; to the Committee on Labor and Human Resources.

By Mr. JOHNSTON:

S. 1944. A bill to provide for the unitization of common hydrocarbon-bearing areas, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. BINGAMAN (for himself and Mr. Domenici):

S. 1945. A bill to amend the Second Supplemental Appropriation Act, 1961, relating to the lease of certain lands from the Isleta Indian Tribe for a seismological laboratory; to the Committee on the Judiciary.

By Mr. MATSUNAGA:

S. 1946. A bill for the relief of Masami Kawata; to the Committee on the Judiciary.

By Mr. BYRD (for Mr. Ford):

S. 1947. A bill to authorize the acquisition of the Old City Post Office in the District of Columbia by the Architect of the Capitol; read the first time.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. SYMMS (for himself, Mr. Burdick, Mr. Stafford, and Mr. Moynihan):

S. Res. 342. A resolution to commend Ray A. Barnhart for his long and distinguished service at the helm of the Federal Highway Administration; to the Committee on Environment and Public Works.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. MITCHELL (for himself, Mr. Bentsen, Mr. Lautenberg, Mr. Burdick, Mr. Stafford, Mr. Durenberger, Mr. Graham, Mr. Reid, Mr. Cranston, Mr. Rudman, Mr. Kerry, Mr. Dodd, Mr. Wirth, Ms. Mikulski, Mr. Baucus, and Mr. Humphrey):

S. 1941. A bill to provide an eight-month extension of sanctions under the Clean Air Act; referred to the Committee on Environment and Public Works.

CLEAN AIR ACT EXTENSION

● Mr. MITCHELL. Mr. President, today I and Senators Bentsen, Lautenberg, Burdick, Stafford, Chafee, Baucus, Durenberger, Graham, Reid, Cranston, Rudman, Kerry, Dodd, Wirth, Mikulski, and Humphrey are introducing legislation to provide for a limited, short-term extension of the Clean Air Act sanctions, including those required for failure to attain the health-based air quality standards by the statutory deadline at the end of this year. The Clean Air Act requires all areas of the country to be in compliance with standards for ozone and carbon monoxide by December 31, 1987. The Environmental Protection Agency [EPA] estimates that over 70 areas, with a population of approximately 100 million people, will not meet this deadline. The act currently provides for the application of sanctions to those areas.

While the Environment and Public Works Committee has already reported substantive amendments to the Clean Air Act, which we hope the Senate will soon consider, the House Energy and Commerce Committee has yet to act. Therefore, a short-term extension appears necessary in order to provide time for Congress to make the needed decisions on the best way to assure national attainment of the air quality standards. These decisions require legislative changes; regulatory proposals will not suffice.

The House adopted language that delays the imposition of sanctions until August 31, 1988. The legislation I and my colleagues are introducing today provides an 8-month extension of the sanctions. In that respect, this extension is identical to legislation adopted by the House. It differs in only one respect. The House bill not only prohibits sanctions from being imposed during the extension, but also eliminates sanctions previously imposed and are unrelated to the extension. Our bill keeps in place sanctions that are currently in effect for failure to comply with the law.

During the effective period of the extension, no new sanctions could be imposed. This extension, which lasts until August 31, 1988, provides sufficient time for Congress to consider and enact amendments to the Clean Air Act while avoiding the imposition of new sanctions in the absence of a sound strategy for dealing with our Nation's air quality problems.

Until now, I have supported an extension for less than 8 months. But I am now convinced that, in view of the prior House action, an extension for 8 months is the most sensible course to take. But I will press for Senate consideration of Clean Air Act amendments as soon as possible next year. I urge our House colleagues to act as expeditiously as possible to assure enactment by this deadline. It is worth emphasizing that by August 31, 1988, both the House and the Senate must have passed legislation, we must have successfully resolved our differences in conference, and the President must have signed the legislation in order to meet this commitment. This is a substantial amount of work to be accomplished, but the deadline can be met.

This bill is supported by the National Governors Association, the Conference of Mayors, the National Association of Counties, the National Conference of State Legislators, the National Clean Air Coalition, the American Lung Association, the National Resources Defense Council, and the Sierra Club.

I am pleased to be joined by my colleagues today in introducing this legislation and I look forward to working with all Members in the near future on this important public health issue. I ask unanimous consent that the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 1941

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That

SECTION 1. EXTENSION OF NONATTAINMENT SANCTIONS.

(a) Nonattainment Areas for Ozone or Carbon Monoxide.—No restriction or prohibition on construction, permitting, or funding under section 110(a)(2)(I), 173(4), 176(a), 176(b), or 316 of the Clean Air Act shall be imposed or take effect during the period prior to August 31, 1988, by reason of (1) the failure of any nonattainment area to attain the national primary ambient air quality standard under the Clean Air Act for photochemical oxidants (ozone) or carbon monoxide (or both) by December 31, 1987, (2) the failure of any State to adopt and submit to the Administrator of the Environmental Protection Agency an implementation plan that meets the requirements of part D of title I of such Act and provides for attainment of such standards by December 31, 1987, (3) the failure of any State or designated local government to implement the applicable implementation plan, or (4) any combination of the foregoing. During such period and consistent with the preceeding sentence, the issuance of a permit (including required offsets) under section 173 of such Act for the construction or modification of a source in a nonattainment area shall not be denied solely or partially by reason of the reference contained in section 171(1) of such Act to the applicable date established in section 172(a). This subsection shall not apply to any restriction or prohibition in effect under section 110(a)(2)(I), 173(4), 176(a), 176(b), or 316 of such Act prior to the enactment of this section.

(b) Evaluations and Designations.—Prior to August 31, 1988, the Administrator of the Environmental Protection Agency shall evaluate air quality data and make determinations with respect to which areas throughout the nation have attained, or failed to attain, either or both of the national primary ambient air quality standards referred to in subsection (a) and shall take appropriate steps to designate those areas failing to attain either or both of such standards as nonattainment areas within the meaning of part D of title I of the Clean Air Act.

Mr. BENTSEN. I want to commend my distinguished colleague from Maine for his leadership on this issue, and his willingness to agree to an extension. This 8 month extension shows a sensitivity to the problems faced by areas like some of those in my State, and across the Nation, and gives them somewhat of a reprieve from the threat of sanctions. I wonder if the Senator would clarify the effect of this provision for the benefit of all our colleagues. Does this extension clearly provide that the areas proposed by the Environmental Protection Agency on July 14 of this year for possible sanctions, such as Dallas-Fort Worth, will not be sanctioned while this legislation is in effect?

Mr. MITCHELL. That is both the intent and effect of this provision. Staff at the Environmental Protection Agency assure me that this interpretation is consistent with their own. Those areas identified by EPA as candidates for sanctions are protected from them by this amendment.

Mr. BENTSEN. I thank the Senator for his forthright response. If he would indulge me for a minute longer, I would appreciate it. As the Senate is aware, the House last week expressed its preference for a similar extension. To my knowledge, though, the House has not advanced as far in its deliberations on clean air legislation as has the Senate. We are all hopeful that more progress will be made in the House to develop clean air legislation that fairly and responsibly addresses air pollution problems.

The Senate bill, S. 1894, requires more emissions controls than current law in order to achieve attainment. There are those who are concerned about some of the provisions of S. 1894, including myself, and who will likely want to discuss modifications to this bill with you.

My concern, and I am certain the distinguished Senator shares it, is what happens if the Congress fails to enact clean air legislation during this short-term extension? That is a possible scenario, and I would not want to see the various nonattainment areas penalized for our failure to act. What I am asking is will the Senator be willing to seek another short-term extension during this Congress with the same protection from sanctions as this extension provides, so that we will have a full opportunity to consider clean air legislation?

Mr. MITCHELL. The distinguished Senator from Texas has identified an issue that I know is of great concern to him. The problem I have had with an extension all along is that it may have the unintended effect of slowing down congressional progress to enact clean legislation. I know that is not the intent of my colleagues from Texas in pushing for an extension. He just wants to offer maximum assistance to the areas in his State not in compliance, and to protect them from sanctions. I do have an equally serious concern, however, that we not misinterpret the reason for this extension. As much as it offers a reprieve to the areas under immediate threat of sanctions, its primary purpose is to give Congress a needed opportunity to complete work on clean air legislation, hopefully in this Congress.

But in direct answer to the Senator's question, yes, I will be willing to seek another short-term extension this Congress should the pending extension expire before comprehensive legislation has been fully considered and passed by Congress. The terms of any further extension may differ from those in this amendment. But I certainly hope it does not come to that. I also hope that the distinguished Senator will actively work with me and other interested Members in developing acceptable Clean Air Act amendments for the Senate to debate in this Congress. I know that my distinguished colleague and others may have some concerns about portions of S. 1894, but I hope the Senator will work with me and the Committee on Environment and Public Works to improve the legislation, as he has done so ably in the past on other important environmental matters such as Superfund.

Mr. BENTSEN. I certainly will be pleased to work with you to develop an acceptable package of amendments. I do have some misgivings about the bill reported out of committee, but I do not have a closed mind and I would be willing to work with you and the staff and other Members to try to produce a workable bill.

Mr. MITCHELL. I thank the distinguished Senator for his assurances and for his efforts in developing this extension legislation.●

By Mr. MOYNIHAN (for himself, Mr. BRADLEY, Mr. CRANSTON, Mr. DIXON, Mr. SIMON, Mr. RIEGLE, and Mr. D'AMATO):

S. 1942. A bill to amend title 13, United States Code, to remedy the historic undercount of the poor and minorities in the decennial census of population and to otherwise improve the overall accuracy of the population data collected in the decennial census by directing the use of appropriate statistical adjustment procedures; and for other purposes; to the Committee on Governmental Affairs.

DECENNIAL CENSUS IMPROVEMENT ACT

● Mr. MOYNIHAN. Mr. President, today I am introducing the Decennial Census Improvement Act of 1987. This legislation will ensure the "fair representation of the people,"[1] Edmund Randolph's words, in the House of Representatives, and the equitable distribution of Federal funds based on population.

EQUAL REPRESENTATION AND THE CENSUS

Article I, section 2, clause 3 of the Constitution requires the Federal Government to conduct a decennial census. With the States anything but disinterested observers, a national census was necessary to implement the terms of the "Great Compromise," which, for all practical purposes, based the allocation of Congressmen in the House of Representatives solely on population. Indeed, only an accurate and honest census could accomplish this goal. As the Supreme Court stated in Wesberry versus Sanders (1964):

> While it may not be possible to draw congressional districts with mathematical precision, that is no excuse for ignoring our Constitution's plain objective of making equal representation for equal numbers of people the fundamental goal for the House of Representatives.[2]

Otherwise, the weight of each citizen's vote is diluted just as effectively as if one is prohibited from voting at all.

THE UNDERCOUNT

A census is never exact. Invariably, some persons are missed. An undercount is, to some degree or other, inevitable. Nonetheless, the Census Bureau has made considerable progress in reducing it over the years. In 1940, for example, the undercount for the population as a whole was 5.6 percent; by 1980, the total undercount had been reduced to between 1.4 and 1.6 percent. Despite this improvement, the Bureau of the Census continues to miss a significant portion of the population, particularly the nonwhite population, and those living in central cities across the United States. The wide discrepancy that exists in the enumeration of whites versus nonwhites, as a proportion of the population, is referred to as the "differential undercount."

In 1955 the demographer Ansley J. Coale established that the 1950 census missed a substantial proportion of the black population.[3] Subsequently, Jacob Siegel, senior demographic statistician at the Census Bureau, estimated the minority undercount for the 1950 census at 11.5 percent. Though the 1960 census did somewhat better, Siegel has concluded that 9.5 percent of blacks were missed and that the differential between whites and blacks remained pronounced.[4]

In 1966 when I became director of the Joint Center for Urban Studies at MIT and Harvard I asked Prof. David Heer of the Harvard School of Public Health to work with me in planning a conference to publicize the nonwhite undercount in the 1960 census and to foster concern about the problem of obtaining a full enumeration, especially of the urban poor. It was our hope that the public airing of this issue would lead to greater public support for the Census Bureau to obtain the resources to deal with this problem in the 1970 census.

In his introduction to the published report of the conference, "Social Statistics and the City (1968)," Professor Heer described our planning:

> Daniel P. Moynihan, then Assistant Secretary of Labor, became aware of the findings concerning the undernumeration of nonwhites in the census while preparing his now famous report "The Negro Family: The Case for National Action," which was published in 1965.[5] In the fall of 1966 Moynihan became director of the Joint Center for Urban Studies of the Massachusetts Institute of Technology and Harvard University. In December of that year he asked me if I would plan a conference that would (1) publicize the fact that many Negroes had not been counted in the 1960 Census and (2) attempt to arouse national concern about the matter. In further discussion we decided that the proposed conference should be broadened to include not only census underenumeration of Negroes but the adequacy of all official social statistics for Negroes, Puerto Ricans and Mexicans in the United States. In January 1967 the Carnegie Corporation of New York informed us that it was willing to provide financial support for the conference.
>
> A prime aim of the conference was to stimulate public interest in the importance of social statistics for Negroes, Puerto Ricans and Mexicans so that the chief agencies concerned with gathering such statistics—the U.S. Bureau of the Census and the National Center for Health Statistics—might obtain a more adequate budget from Congress to improve the quality and quantity of data for these groups. With this goal in mind we decided that the conference would have to be held before the fall of 1967, since the Bureau of the Budget was to decide upon the recommended appropriations for the 1970 Decennial Census at that time. The final dates established were June 22 and 23, 1967, and the conference was to be held in Washington, D.C.
>
> Among those providing invaluable assistance in planning the conference were Dr. A. Ross Eckler, Director of the U.S. Bureau of the Census; Dr. Conrad Taeuber, Assistant Director for Demographic Fields, U.S. Bureau of the Census; and Dr. Anders Lunde, Assistant Director of the Division of Vital Statistics, National Center for Health Statistics, U.S. Public Health Service. It was decided that six papers should be presented on the first day of the conference. On the morning of the second day, the participants would divide into three workshops to discuss recommendations with respect to each of the following topics: (1) ways of improving coverage of Negroes, Puerto Ricans, and Mexicans in the census, (2) ways of improving vital statistics for these groups, and (3) needed additions in available social statistics for the three groups. On the afternoon of the second day, the rapporteurs from each of the morning sessions would report the recommendations of their respective panels, and the conference as a whole would then adopt a general series of recommendations.

Since the report was published, the decline in the undercount of minorities has continued. Still, in 1980 it remained disproportionately high. While the undercount for whites and nonblacks in 1980 was an estimated 0.7 percent, a much higher 5.9 percent of all blacks were not counted. (Other estimates of the black undercount are even higher.) In the last census, the Bureau estimates it missed some 1.5 million whites and 1.67 million blacks. Thus, in 1980, blacks constituted 53 percent of all people missed in the census, even though they made up less than 12 percent of the total population. Moreover, 1980 was the first time in the history of the census that more blacks than whites were missed.

Some estimates also indicate that perhaps 5.9 percent of all Hispanics are not being counted. And the undercount rates among our central city population are estimated to be the highest. Possibly 6 percent of all central city inhabitants were missed in the 1980 count; 11.3 percentage of black central city residents, and 10.3 percent of such Hispanic residents.

Merely increasing the resources available to the Census Bureau is not likely to remedy this differential undercount. During the 1980 census, the Bureau hired almost 300,000 temporary employees, but as Prof. Eugene Ericksen of Temple University testified before the Senate Governmental Affairs Committee on September 4, 1986, finding people qualified to go into some urban areas remains a difficult problem. In addition, there is little time or money available to train this veritable army of enumerators.[7]

Indeed, the costs of doing so could be prohibitive. The 1980 census was the most expensive ever. According to the General Accounting Office, in constant dollars the cost of counting one person in 1980 ($4.72) was more than double the 1960 cost ($2.30). And the National Academy of Sciences has determined that further coverage improvement programs are likely to be extremely expensive, costing as much as $75 per capita.

Prof. Everett S. Lee of the University of Massachusetts forecast this situation when he wrote in our 1968 conference report, "Social Statistics and the City" that:

> [M]ore money will not in itself greatly improve the situation. Traditional census procedures, while highly effective, cannot be expected to provide the additional or better data needed in our effort to deal with the numerous problems posed by the disadvantaged. The Census Bureau has gone about as far as it can go with traditional procedures.[8]

Some analysts even suggest that increasing resources can actually worsen the differential undercount. For example, in 1980, additional resources helped to increase the count of whites more than the count of minorities, thus exacerbating the differential. At a conference held on the 1980 census post enumeration program in October 1980, Bureau Director Vincent Barabba admitted "[y]ou could reduce the 1970 undercoverage level [by augmenting resources], but perhaps increase the differential." [9] At the same conference, Prof. Nathan Keyfitz of Harvard University also stated:

> [A]s the census pushes harder and reduces the undercount it is almost certain to increase the differential of the undercount.[10]

Finally, Jacob Siegel, who also participated in our 1967 conference, remarked:

> Don't be surprised if you get something like an overcount of whites and an undercount of blacks with therefore an impossible-to-compute differential except in absolute terms or something that might go far beyond the 4 to 1 of 1970.[11]

IMPACT OF THE UNDERCOUNT

Estimates vary as to the impact of past undercounts on various communities, and there are divergent views about how an adjustment of the undercount would benefit different areas. But scholars agree that those people which tend to be undercounted—namely, minorities, the poor, and the homeless—generally reside in the largest cities, and in poor or remote rural areas.

New York State officials estimate that the 1980 census left between 500,000 and 860,000 New Yorkers uncounted; others estimate that a large undercount in New York City was mitigated by a substantial overcount in other parts of the State, leaving a net undercount of some 250,000 people. (Double counting of students, individuals with two homes, residential mobility, and so forth, all contribute to the overcount, which is most likely to occur in rural and more affluent areas.)

There is general agreement, however, that New York City suffered a substantial undercount—of at least a half million people—and lost one congressional seat as a result.

City officials, extrapolating from 1980 Census Bureau data, estimate the total city undercount at 7.4 percent, with the worst discrepancies in the black and Hispanic counts; 15.2 percent of black New Yorkers were missed, and 12.4 percent of Hispanics in the city may have been missed.

After the 1980 census the city and State of New York obtained a court order requiring the Census Bureau to accept "Were you Counted?" forms, distributed by the Census Bureau but not received within the Bureau's deadline. City officials claim that as a result of this action somewhere between 12,000 and 20,000 additional individuals were included in the final count. This balance, said city officials, saved a congressional seat for New York. Correction of the undercount does matter.

In addition to almost losing a second seat in Congress, city officials believe New York loses annually between $26 and $52 million in Federal and State dollars distributed on the basis of population. Among other cities, Chicago, Detroit, Kansas City and Los Angeles have each alleged substantial undercounts in the 1980 census, with resulting loss of Federal aid and representation in Congress.

FEASIBILITY OF ADJUSTMENT

Statistical adjustments to remedy this situation are quite feasible. For example, in 1970, the Bureau of the Census imputed almost 5 million additional people to the count. Yet, the Department of Commerce—with jurisdiction over the Census Bureau—has decided not to adjust the 1990 census for the undercount. Announcing the Department's decision, Dr. Robert Ortner, Under Secretary for Economic Affairs, stated this past October 30:

> Adjustment would be controversial, even among statisticians. Techniques are available to adjust, but there are questions about the validity of their results * * * Different statisticians would employ different models and get different results.[12]

Notwithstanding the Department's official position, the Census Bureau's Associate Director for Statistical Standards and Methodology, Barbara Bailar, in her capacity as president of the American Statistical Association, recently stated that:

> [T]he consensus of the statisticians—statisticians from government, industries, and academia, statisticians who have carefully reviewed all the work in this area—is that an adjustment will provide more accurate data on the size, location, and demography of the minority population in this country. It's time to get on with the job.[13]

Moreover, a panel of five census statisticians (Dan Childers, Gregg Diffendal, Howard Hogan, Nathanial Schenker, and Kirk Wolter) recently published a monograph titled "The Technical Feasibility of Correcting the 1990 Census," substantiating Bailar's view that adjustment is feasible. Expressing their collective views, and not those of the Census Bureau per se, they concluded:

> [A coverage measurement program exists] in which some weaknesses remain and must be addressed * * *. However, none of the weaknesses or errors are so large as to invalidate the adjustment * * *. On this basis, we conclude that it is technically feasible to correct the 1990 census for differential coverage.[14]

A CONSTITUTIONAL OBLIGATION

Since the feasibility of adjustment is widely admitted, the Bureau really does not have a choice about whether to undertake it. In 1967, I wrote in the foreword to "Social Statistics and the City" that:

> [T]he full enumeration of the American population is not simply an optional public service provided by the government for the use of sales managers, sociologists, and regional planners. It is, rather, the constitutionally mandated process whereby political representation in the Congress is distributed as between different areas of the nation. It is a matter not of convenience but of the highest seriousness, affecting the very foundations of sovereignty. That being the case there is no lawful course but to provide the Bureau with whatever resources are necessary to obtain a full enumeration.[15]

After the 1980 census some 50 lawsuits were filed challenging its validity, primarily on the basis of the undercount. The Bureau argued that the words "actual enumeration" restricted it to a literal headcount. Though the Supreme Court has not yet had the opportunity to address the issue, these lower court cases clearly establish, assuming technical feasibility, the constitutional permissibility, if not requirement, of utilizing statistical adjustments to improve the accuracy of census figures used for both apportionment and funding purposes. As the Federal district court in Michigan stated in Young versus Klutznick (1980):

> With the modern knowledge and the scientific techniques available to adjust for the known undercount differentials, and to bring about official population counts that are closer to the truth than those derived from the raw, unadjusted headcount, surely the framers of the Constitution would have intended that such an adjustment be made.[16]

The district court in Young further noted that if an adjustment is necessary in order to obtain a figure that more accurately reflects the actual population, article I of the Constitution and the 14th amendment would mandate such an adjustment. Thus, in response to the question of whether a headcount unadjusted for an acknowledged undercount could be used for apportionment and distribution of Federal funds, the district court stated, "The answer is clearly no" and ordered the 1990 census figures to be adjusted.

In 1981, the Sixth Circuit Court of Appeals reversed this decision for unrelated procedural reasons. However, as Judge Keith of the sixth circuit emphasized in his dissent, the district court's "formulation of the law governing this controversy is unassailable." He further noted that:

> Since the sole constitutional function of the decennial census is to provide a population base for reapportionment of Congressional districts, the Census Bureau is bound by the Constitution to count people as accurately as possible.[17]

In Carey versus Klutznick (1980), the Federal District Court for the Southern District of New York held that statistical adjustments to improve the accuracy of the count were:

> [R]equired to prevent an unwarranted dilution of the votes of New York City and New York State residents. *The Constitution requires no less.* (emphasis supplied).[18]

The second circuit reversed the district court on procedural grounds, but in so doing stated "we also agree with the district court that the appellees [the city and State of New York] have demonstrated a likelihood of success on the merits."[19] Specifically, the second circuit affirmed that the Constitution required the Bureau to determine the population as accurately as possible and that statistical adjustments were not prohibited. In so doing, the court restated a principle laid down in 1832 by Daniel Webster in discussing the subject of apportionment:

> That which cannot be done perfectly, must be done in a manner as near perfection as can be. If exactness cannot, from the nature of things, be attained, then the greatest practicable approach to exactness ought to be made.[20]

The Constitution provides that the census shall be made "in such manner as [Congress] shall by law direct." If Congress does not exercise its constitutional responsibility, the courts will be forced to resolve the undercount problem. However, prospect of another 50-plus lawsuits challenging the 1990 census is not likely to satisfy either the Bureau or its critics. As the Federal district court in City of Philadelphia versus Klutznick (1980) observed, allowing the courts to address this issue on an ad hoc basis "sacrifice [s] the national [census] program to the exact dangers of local manipulation and bias, no matter how well intentioned, the framers sought to avoid."[21]

Earlier this week, Judge E. Sprizzo ruled against the city and State of New York in Carey v. Klutznick, sub. nom, Cuomo v. Baldridge, 80 Civ. 4550 (S.D.N.Y.), which the court of appeals had remanded to the district court for further factual inquiry regarding the technical feasibility of adjustment. Based on the facts as they existed at the time of the lawsuit in 1980, Judge Sprizzo agreed with the Bureau's contention that it could not be sure of making an accurate adjustment for the whole country. He ruled simply on the facts, not the law. And as the testimony of many statisticians and demographers, including the Census Bureau's own top statistician, Barbara Bailar, reveals, the facts have since changed.

THE NEED FOR LEGISLATION

We in Congress and city and State officials concerned about the national undercount were hoping this problem could be resolved without Federal legislation. Once the 1980 undercount levels were determined, the Census Bureau agreed to study the possibility of undertaking an automatic adjustment of the 1990 census to correct for the inevitable undercount.

In congressional testimony this summer, the Bureau committed to undertaking a postenumeration survey [PES], used to estimate the size of the undercount. However, it would not agree to actually adjust the count, based on the PES findings. Finally, in his statement on October 31, Dr. Ortner announced officially that Census will not adjust the 1990 census for any undercount.

Thus, we see no alternative but to mandate a correction through statute. The legislation I offer today was introduced this October in the House by Representative MERVYN DYMALLY, the distinguished chairman of the Subcommittee on Census and Population, and a bipartisan group of his colleagues. Its purpose is most straightforward: to improve the overall accuracy of the population data collected in the decennial census. It would require the Secretary of Commerce to adjust all subsequent decennial censuses to correct for any undercounts or overcounts, using "the most accurate methods available." This corrected data will be the only set of census data, and will be used for all purposes for which such data are needed. As such, this data will be the basis for apportionment of seats in Congress, as well as distribution of Federal aid based on population. The Secretary would be required to notify Congress of his or her plans to adjust at least 1 year prior to each decennial census.

It is up to Congress. A constitutional obligation exists, and the methodology is sufficiently understood. Will we meet this challenge and ensure that each and every citizen receives equal representation and a fair share of Federal funds, or will we allow the courts to do this for us?

I urge the support of my colleagues in this important matter of fairness and equity as provided by our Constitution.

FOOTNOTES

[1] Vol. I, "The Records of the Federal Convention of 1787," (Farrand, Ed. 1911) at p. 580. (Cited in *Wesberry* v. *Sanders*, 376 U.S. 1, 13 (1964)

[2] *Wesberry* v. *Sanders*, 376 U.S. at 18.

[3] Ansley J. Coale, "The Population of the U.S. in 1950 Classified by Age, Sex, and Color—A Revision of Census Figures," Journal of the American Statistical Association (March,1955), pp. 16–54.

[4] Jacob S. Siegel, "Completeness of Coverage of the Nonwhite Population in the 1960 Census and Current Estimates," in David M. Heer, Ed., Social Statistics and the City (1968), p. 23.

[5] Daniel Patrick Moynihan, Washington, DC: Government Printing Office, 1965.

[6] Heer (Ed.), Social Statistics and the City, at 2–3.

[7] Eugene P. Ericksen, in testimony before the Senate Committee on Governmental Affairs, Subcommittee on Energy, Nuclear Proliferation and Government Processes (Sept. 4, 1986).

[8] Everett S. Lee, "Needed Improvements in Census Data Collection Procedures with Special Reference to the Disadvantaged," in Heer (Ed.) at 99.

[9] See Ericksen testimony, p. 12.

[10] Id.

[11] Id.

[12] Statement by Dr. Robert Ortner, Under Secretary for Economic Affairs, on the 1990 census, Oct. 30, 1987.

[13] Dr. Barbara Bailar, president, American Statistical Association, in speech to the association's 1987 meeting: "Statistical Practice and Research: The Essential Interactions," August, 1987.

[14] D. Childers; G. Diffendal; H. Hogan; N. Schenker and K. Wolter, Bureau of the Census, "The Technical Feasibility of Correcting the 1990 Census" (1987).

[15] Heer (Ed.), Social Statistics and the City, at v.

[16] 497 F. Supp. 1318, 1334 (E.D. Mich. 1980).

[17] *Young* v. *Klutznick*, 652 F.2d 617, 636 (6th Cir. 1981).

[18] *Carey* v. *Klutznick*, 508 F. Supp. 420, 432–433 (S.D. N.Y. 1980).

[19] *Carey* v. *Klutznick*, 637 F.2d 834, 839 (2d Cir. 1980).

[20] Senate Report, 22d Congress, 1st sess., Doc. No. 119, pp. 4, 7 (1832).

[21] 503 F. Supp. 663, 674 (E.D. Pa. 1980).

Mr. President, I ask that the text of the bill, and a copy of my foreword to "Social Statistics and the City" be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1942

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Decennial Census Improvement Act of 1987".

SEC. 2. AMENDMENTS RELATING TO THE DECENNIAL CENSUS OF POPULATION.

(a) IN GENERAL.—Section 141(a) of title 13, United States Code, is amended—

(1) by inserting "(1)" after "(a)";

(2) by striking out "1980" and inserting in lieu thereof "1990";

(3) by striking out "date'," and all that follows thereafter through "surveys." and inserting in lieu thereof "date'. Subject to paragraph (2) of this subsection, each such census shall be taken in such form and content as the Secretary may determine, including the use of sampling procedures and special surveys."; and

(4) by adding at the end the following:

"(2) In taking any census under this subsection, the Secretary shall adjust the population data to correct for any undercounts or overcounts, using the most accurate methods available. The adjusted population data shall constitute the official census data for all purposes for which decennial census data are used, whether under this title or any other provision of law.".

(b) REPORTING REQUIREMENT.—Section 141(f) of title 13, United States Code, is amended—

(1) by inserting "(1)" after "(f)";

(2) by redesignating paragraphs (1) through (3) as subparagraphs (A) through (C), respectively;

(3) by striking out "paragraph (1) or (2) of this subsection" in subparagraph (C) (as so redesignated by paragraph (2) of this subsection) and inserting in lieu thereof "subparagraph (A) or (B) of this paragraph"; and

(4) by adding at the end the following:

"(2) With respect to each decennial census conducted under subsection (a) of this section, the Secretary shall submit to the committees of Congress having legislative jurisdiction over the census—

"(A) not later than 1 year before the appropriate decennial census date, a report containing the Secretary's proposed plan for adjusting population data to correct for any undercounts or overcounts, as required by subsection (a)(2) of this section, including a description of any surveys, sampling, or other statistical procedures proposed to be used, as well as the projected timetable for carrying out any such procedures; and

"(B) after submission of a report under subparagraph (A) of this paragraph, if the Secretary finds new circumstances exist which necessitate that any matter contained in such report be modified, a report containing the proposed modifications, including a detailed statement of justification therefor.".

SEC. 3. CLARIFYING AMENDMENT RELATING TO THE USE OF SAMPLING.

Section 195 of title 13, United States Code, is amended to read as follows:

"§ 195. Use of sampling

"The Secretary shall, if he considers it feasible, authorize the use of the statistical method known as 'sampling' in carrying out this title. In taking a decennial census of population, the use of sampling shall be governed by applicable provisions of section 141 of this title.".

[Report from the Joint Center for Urban Studies of the Massachusetts Institute of Technology and Harvard University on a conference held in Washington, DC, June 22-23, 1967]

SOCIAL STATISTICS AND THE CITY

(By Daniel Patrick Moynihan)

FOREWORD

At one point in the course of the 1950's John Kenneth Galbraith observed that it is the statisticians, as much as any single group, who shape public policy, for the simple reason that societies never really become effectively concerned with social problems until they learn to measure them. An unassuming truth, perhaps, but a mighty one, and one that did more than he may know to sustain morale in a number of Washington bureaucracies (hateful word!) during a period when the relevant cabinet officers had on their own reached very much the same conclusion—and distrusted their charges all the more in consequence. For it is one of the ironies of American government that individuals and groups that have been most resistant to liberal social change have quite accurately perceived that social statistics are all too readily transformed into political dynamite, whilst in a curious way the reform temperament has tended to view the whole statistical process as plodding, overcautious, and somehow a brake on progress. (Why must every statistic be accompanied by detailed notes about the size of the "standard error"?)

The answer, of course, is that this is what must be done if the fact is to be accurately stated, and ultimately accepted. But, given this atmosphere of suspicion on the one hand and impatience on the other, it is something of a wonder that the statistical officers of the federal government have with such fortitude and fairness remained faithful to a high intellectual calling, and an even more demanding public trust.

There is no agency of which this is more true than the Bureau of the Census, the first, and still the most important, information-gathering agency of the federal government. For getting on, now, for two centuries, the Census has collected and compiled the essential facts of the American experience. Of late the ten-year cycle has begun to modulate somewhat, and as more and more current reports have been forthcoming, the Census has been quietly transforming itself into a continuously flowing source of information about the American people. In turn, American society has become more and more dependent on it. It would be difficult to find an aspect of public or private life not touched and somehow shaped by Census information. And yet for all this, it is somehow ignored. To declare that the Census is without friends would be absurd. But partisans? When Census appropriations are cut, who bleeds on Capitol Hill or in the Executive Office of the President? The answer is almost everyone in general, and therefore no one in particular. But the result, too often, is the neglect, even the abuse, of an indispensable public institution, which often of late has served better than it has been served.

The papers in this collection, as Professor Heer's introduction explains, were presented at a conference held in June 1967 with the avowed purpose of arousing a measure of public concern about the difficulties encountered by the Census in obtaining a full count of the urban poor, especially perhaps the Negro poor. It became apparent, for example, that in 1960 one-fifth of nonwhite males aged 25-29 had in effect disappeared and had been left out of the Census count altogether. Invisible men. Altogether, one-tenth of the nonwhite population had been "missed." The ramifications of this fact were considerable, and its implications will suggest themselves immediately. It was hoped that a public airing of the issue might lead to greater public support to ensure that the Census would have the resources in 1970 to do what is, after all, its fundamental job, that of counting all the American people.

As the reader will see, the scholarly case for providing this support was made with considerable energy and candor. But perhaps the most compelling argument arose from a chance remark by a conference participant to the effect that if the decennial census were not required by the Constitution, the Bureau would doubtless never have survived the economy drives of the nineteenth century. The thought flashed: the full enumeration of the American population is not simply an optional public service provided by government for the use of sales managers, sociologists, and regional planners. It is, rather, the constitutionally mandated process whereby political representation in the Congress is distributed as between different areas of the nation. It is a matter not of convenience but of the highest seriousness, affecting the very foundations of sovereignty. That being the case, there is no lawful course but to provide the Bureau with whatever resources are necessary to obtain a full enumeration.

Inasmuch as Negroes and other "minorities" are concentrated in specific urban locations, to undercount significantly the population in those areas is to deny residents their rights under Article I, Section 3 of the Constitution, as well, no doubt, as under Section 1 of the Fourteenth Amendment. Given the further, more recent practice of distributing federal, state, and local categorical aid on the basis not only of the number but also social and economic characteristics of local populations, the constitutional case for full enumeration would seem to be further strengthened.

A sound legal case? Others will judge; and possibly one day the courts will decide. But of one thing the conference had no doubt: the common-sense case is irrefutable. America needs to count all its people (And reciprocally, all its people need to make themselves available to be counted.) But if the legal case adds any strength to the common-sense argument, it remains only to add that should either of the arguments bring some improvement in the future, it will be but another instance of the generosity of the Carnegie Corporation, which provided funds for the conference and for this publication.●

By Mr. KENNEDY (for himself, Mr. INOUYE, Mr. BRADLEY, Mr. STAFFORD, Mr. LAUTENBERG, Mr. HARKIN, Mr. DODD, and Mr. MATSUNAGA):

S. 1943. A bill to amend the Public Health Service Act to revise and extend the authority of the Administrator of the Alcohol, Drug Abuse, and Mental Health Administration, including revising and extending the program of block grants for the provision of services with respect to mental health and alcohol and drug abuse; to the Committee on Labor and Human Resources.

COMPREHENSIVE ALCOHOL ABUSE, DRUG ABUSE, AND MENTAL HEALTH AMENDMENTS ACT

● Mr. KENNEDY. Mr. President, I rise today to introduce the Comprehensive Alcohol Abuse, Drug Abuse, and Mental Health Amendments Act of 1987. The major components of this bill are the reauthorization of the block grants to the States for alcohol and drug abuse and mental health services, the reauthorization of research funding for the National Institutes of Drug Abuse and of Alcohol Abuse and Alcoholism; and the maintenance and expansion of mental health and alcohol and drug treatment demonstration programs.

This bill continues the Federal Government's long standing commitment to support research and service efforts in these important health care areas. Unfortunately, in spite of our past support, mental illness and alcohol and drug abuse and dependency remain major public health problems in our Nation.

Too many Americans who are seriously mentally ill are still without appropriate or adequate mental health services. In addition, there remain many unanswered questions about the etiology of a number of mental disorders and about the most effective methods of treatment of these disorders.

In any given period, between 30 and 45 million Americans—nearly 1 in 5 individuals—are suffering from some form of mental illness that requires professional treatment. Of this number, the National Institute of Mental health estimates that 1.5 million suffer from schizophrenic disorders and more than 9 million from manic-depression and other depressive disorders. Of the 1 in 5 individuals suffering from mental illness, only 1 in 5 seeks treatment, in spite of the fact that at least some degree of effective treatment is available or possible.

Among our elderly citizens, it is projected that one-fourth of those diagnosed as senile are actually suffering from a treatable mental illness. Suicide continues to be a tragic and desperate alternative to the unanswered pain of growing numbers of our elderly over 65 as well as of our young people between the ages of 15 and 24.

In a recent study, the Office of Technology Assessment estimates that between 7.5 to 9.5 million children suffer from emotional or related problems and that only 20 to 30 percent of these children receive the mental health services that they need. To put this issue in focus, we can contrast our progress with emotionally disturbed children with our progress with the physically handicapped. Seventy-four percent of our Nation's 7.6 million physically handicapped youth receive care, and we consider this record far less than perfect.

Alcohol and drug abuse and depenency also continue to plague the lives of Americans. The National Institute on Alcohol Abuse and Alcoholism estimates that 18 million adults over the age of 18 have alcohol related problems. Of this number, NIAAA estimates that 10.6 million are alcoholics and 7 to 8 million abuse alcohol. There are also almost 5 million adolescents who are problem drinkers. The Institute reports that cirrhosis of the liver, the major disease consequent of alcohol abuse, was the ninth leading cause of death at all ages in the United States in 1983. Nearly half of the violent deaths reported are alcohol related, and alcohol abuse during pregnancy is still one of the leading causes of mental retardation.

There are currently over 18 million users of marijuana and although there is a gradual decline in the use of marijuana, it is still, according to the National Institute on Drug Abuse, the most extensively used illicit drug. Cocaine use shows a higher rate of increase than any other abused drug and currently there are about 6 million users of cocaine. NIDA also reports that deaths related to drug use are still higher for narcotics such as heroin than for any other category of drug. In addition, almost 25 percent of all AIDS cases and over 60 percent of the cases of pediatric AIDS are related to intravenous drug use.

The toll extracted by mental illness and substance abuse in terms of dollars is significant. Direct costs of mental illness are estimated to be $20.9 billion per year. Direct costs of substance abuse disorders are estimated to be $109 billion a year. When approximated indirect costs for both mental illness and substance abuse are added, the total cost is more than doubled.

More important even than these astronomical financial costs is the heavy toll paid by individuals and the Nation in terms of human potential and human accomplishment. This toll is more tragic and more costly than we should dare allow. The bill that I introduce today is one positive step toward reducing this toll.

One of the major components of this bill is the revision and extension of the alcohol and drug abuse and mental health services block grant to the States. This includes a change in the method used for the distribution of the grants. The change proposed in this bill for fiscal year 1989 is an attempt to balance the conflicting demands from the States for equity. States whose current per capita share of funding is low consider the present formula unfair and have requested a new formula based on population. Other States that would experience funding cuts if a population-based formula were adopted have claimed that any such cuts would be equally unfair.

The allocation method proposed in this bill attempts to mediate these two claims. It would allocate less than half of the money authorized for appropriation on the basis of a State's 1984 proportionate share of block grant funding. The remainder of the appropriation would be distributed on the basis of a new formula. This new formula includes two major factors, the population in need of services in a State and the fiscal capacity of a State. A minimum level of funding for small States is also included.

The bill also consolidates, beginning in fiscal year 1989, the special alcohol and drug abuse block grant created by the Anti-Drug Abuse Act of 1986 with the basic block grant. To cushion the negative impact of this formula change on those States receiving a lower proportionate share, an increase in appropriation for the block grant will be imperative. The implementation of the change in allocation method is authorized for fiscal year 1989 at $745 million.

Within the block grant, one important set-aside has been retained and two new funding priorities have been proposed. The current 5-percent set-aside for alcohol abuse treatment programs designed specifically for women has been extended. With regard to mental health services and programs, the bill requires that by 1990, a State must expend at least 55 percent of its mental health allocation for new or expanded services or programs. In addition, a 10-percent set-aside of mental health service funds is required for programs for seriously emotionally disturbed children and adolescents. One-half of this amount must be used for new services or programs.

This bill will extend the block grant program for the seriously mentally ill homeless, originally authorized by the Stewart B. McKinney Homeless Act, through fiscal year 1989, The bill also includes a new State grant program for the prevention of AIDS among intravenous drug users. This $75 million a year program allocates funds to the States for outreach, information and treatment activities for intravenous drug users at risk of contracting AIDS.

In addition to these new or extended block grant programs, the bill reauthorizes the demonstration grant program for the seriously mentally ill elderly and homeless and for seriously emotionally disturbed children and adolescents. A new prevention demonstration program is also authorized along with individual grant programs for rural mental health, youth suicide, depressive disorders, post legal adoption services, and the elderly. The bill authorizes a total of $50.8 million for these demonstration grants in fiscal year 1988.

With regard to alcohol and drug abuse programming, the bill authorizes funding for the continuation of the Office of Substance Abuse and for the grants for the development of model projects for the prevention, treatment, and rehabilitation of youth at high risk of substance abuse. Most importantly, funding for the research activities of the National Institute on Alcohol Abuse and Alcoholism and the National Institute on Drug Abuse is authorized in this bill. The funding level authorized for both of the Institutes reflects our conviction that they along with the National Institute of Mental Health must be provided with greater resources in order to increase the current momentum they have developed in the discovery of the causes, consequences, and effective methods for the prevention and treatment of alcohol and drug abuse. We cannot forget that the scientific answers that these Institutes seek through their research are responses to questions that originate in human tragedy.

Helping to reduce the toll of the tragedy of mental illness and alcohol and drug abuse, both in the present and for the future, is the goal of this legislation.●

By Mr. JOHNSTON:

S. 1944. A bill to provide for the unitization of common hydrocarbon-bearing areas, and for other purposes; to the Committee on Energy and Natural Resources.

OUTER CONTINENTAL SHELF LEASING AMENDMENTS ACT

● Mr. JOHNSTON. Mr. President, today I am introducing legislation that will assure that modern conservation practices are applied to the development of those oil and gas reserves that underlie both Federal and State lands on the Outer Continental Shelf. This legislation amends section 5 of the Outer Continental Shelf Lands Act to provide a process for independent fact finding and unitization of such jointly held natural resources. Under the legislation, the coastal States, the Federal Government, and the affected State and Federal lessees will have a full opportunity to participate in this unitization process.

Mr. President, I am a strong supporter of the development of our Nation's offshore oil and gas resources—but that development must proceed both with fairness toward the rights of the coastal States and the Federal Government and in an environmentally responsible manner. In the early days of oil and gas development in this country, the law of capture was the rule of the day. Under this legal regime, oil producers raced to draw as much oil as possible to the surface before the oil reserve was drained by a competitor. The result was forests of oil rigs standing foot to foot and oil dumped into streams and earthen ponds until tanks could be built to accommodate the volume of production. The ultimate result was a badly scarred environment, reservoir damage that left unproducible portions of our Nation's oil reserves and general chaos in the oil fields.

Over time, our States and the Federal Government moved away from the wasteful and discredited law of capture to a system of modern conservation laws. One of the cornerstones of these modern conservation laws is the concept of unitizing jointly held oil and gas reserves. Under unitization, an independent third party fact finder—when the parties cannot agree—determines whether the oil or gas reserve is commonly held, whether the reservoir should be developed pursuant to a coordinated plan and also allocates the costs and benefits of such development among the various parties holding the rights to develop the natural resource. The objectives of unitization are to prevent both the economic and physical waste of the natural resource, to conserve our natural resources and to protect the rights of the various parties.

The Congress long ago directed the Secretary of the Interior, through section 5 of the Outer Continental Shelf Lands Act, to develop the Federal portion of the Outer Continental Shelf pursuant to modern conservation practices. In addition, section 5 directs the Secretary to cooperate with the coastal States in the enforcement of conservation laws and regulations.

The State of Louisiana also long ago adopted modern conservation law and practices and established the Louisiana Conservation Commission as the independent fact finder and enforcer of this law. Thus, Louisiana State law provides modern conservation practices on the State portion of the Outer Continental Shelf; the Outer Continental Shelf Lands Act provides modern conservation practices on the Federal OCS; and the Secretary is directed to cooperate in the enforcement of the State's modern conservation practices. The historical result has been cooperation between the Federal and State governments in the development of jointly held oil and gas reserves. Over 140 cooperative arrangements have been voluntarily entered into between the State of Louisiana and the Federal Government for the development of jointly held oil and gas reserves.

Unfortunately, this spirit of cooperation has begun to break down recently. The State of Louisiana and the Federal Government are now locked in a controversy over the unitization of a jointly held gas field. If this controversy is not resolved, the result will be a return to the chaotic law of capture in such situations which could, in turn, result in the drilling of a number of unnecessary wells, the waste of the natural resource, and a lack of protection for the rights of the State and its lessees. I might add that this return to the law of capture in relationships between the Federal Government and the States could just as easily in the next fact situation be equally disadvantageous to the Federal Government and its lessees.

Mr. President, I have discussed this problem at length with the Secretary of the Interior. The problem is the lack of a process in current law for the resolution of these difficulties in situations where the Federal Government and the State cannot agree to a cooperative development plan. The Secretary and I are hopeful that a nonlegislative solution can be reached that will resolve both the current conflict between the State of Louisiana and the Federal Government and the more general process problem.

Mr. President, I ask unanimous consent that a section-by-section summary of this legislation and the legislation itself be printed in the CONGRESSIONAL RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1944

Be it enacted by the Senate and House of Representatives of the United States of America in Congress Assembled, That this Act may be referred to as the "Outer Continental Shelf Leasing Amendments Act".

SEC. 2. Section 5 of the Outer Continental Shelf Lands Act, as amended (43 U.S.C. Sec. 1334), is amended by adding a new subsection (j) as follows:

(j) UNITIZATION OF COMMON HYDROCARBON-BEARING AREA—

(1) FINDINGS AND POLICY OF THE UNITED STATES:

(A) The Congress of the United States finds that the unrestrained competitive production of hydrocarbons from a common hydrocarbon-bearing geological area may result in a number of harmful national effects, including:

(I) the drilling of unnecessary wells, the installation of unnecessary facilities and other imprudent operating practices that result in economic waste, environmental damage, and damage to life and property;

(II) the physical waste of hydrocarbons and an unnecessary reduction in the amount of hydrocarbons that can be produced from certain hydrocarbon-bearing areas; and

(III) the impairment of correlative rights which can result in the reduced value of national hydrocarbon resources and disorder in the leasing of United States and State resources.

(B) It is the policy of the United States, as set forth in Section 5(a) of this Act, to prevent the harmful effects of unrestrained competitive production of hydrocarbons from a common hydrocarbon-bearing area by applying modern conservation practices at the earliest reasonable time in the exploration and development of common hydrocarbon-bearing areas.

(2) DEFINITIONS.—Whenever used in this subsection—

(A) "Arbitrator" means that individual who has been appointed to act as a federal officer to hear and decide disputes between the United States and affected coastal States pursuant to the process set forth in this subsection.

(B) "Common hydrocarbon-bearing area" means an offshore hydrocarbon-bearing geologically identifiable area that: (i) underlies the Federal and States offshore boundary; and (ii) is being, or is susceptible to being, produced by the United States and the affected coastal State or their designees, lessees, or permittees. The term hydrocarbon-bearing area includes any stratigraphic interval or group of intervals located between identifiable geologic markers even though there may be total or partial separation of some portions of the area.

(C) "Lessee" means the party authorized by a lease, joint operating agreement, or other contractual agreement, issued or entered into by the United States or an affected coastal State, or an approved assignment thereof, to explore for and develop and produce hydrocarbons in accordance with applicable law. The term includes all parties holding that authority by or through the lessee.

(D) "Unit agreement" means an agreement providing for the exploration for and development and production of minerals in a common hydrocarbon-bearing area or portion thereof, as a single consolidated entity without regard to separate ownerships and the allocation of costs and benefits on a basis defined in the agreement.

(E) "Unitization" means the combining or consolidating of separately owned leasehold or other interests for the joint exploration or development of a common hydrocarbon-bearing area or portion thereof, under the terms of a unit agreement.

(3) PROCESS FOR UNITIZATION:

(A) NEED FOR UNIT AGREEMENT.—Whenever there exists a common hydrocarbon-bearing area, the Secretary and the Governor of the affected coastal State shall agree to the unitization of such an area or portion thereof.

(B) NOTICE.—Whenever the Secretary or the Governor of the affected coastal State determines that there exists a common potentially hydrocarbon-bearing area, the party making such determination shall immediately notify the other party in writing of such determination. Such notice shall also be sent to the last known address of all affected lessees of record of such State and the United States. After any such notification is received by the Secretary or the Governor, the Secretary and the Governor shall, within thirty (30) days, after reviewing any data and information made available to each by the other party or its lessees, determine whether there exists a common hydrocarbon-bearing area.

(C) UNITIZATION BY SECRETARY AND GOVERNOR.—If the Secretary and the Governor determine that there is a common hydrocarbon-bearing area, the Secretary and the Governor shall have thirty (30) days from the date of such determination to: (I) establish a unitization plan which conforms to the model unit agreement referenced in the regulations promulgated under this Act, unless good cause exists for variation from the model agreement and the reasons for the variation are stated in writing; (II) serve notice on all lessees of the proposed unit area with a copy of the proposed unit agreement or unitization plan and a statement of reasons for the proposed unitization.

(D) NOTICE TO LESSEES.—The Secretary and the Governor may not require unitization pursuant to a unitization plan unless they have first provided reasonable notice and an opportunity for all lessees of the proposed unit area to submit views in writing to the Secretary and the Governor. Any lessee of the proposed unit area may submit its written views within thirty (30) days of service of notice by the Secretary or Governor of a proposed unit agreement or unitization plan.

(E) ARBITRATION—

(I) NOTICE OF INTENT TO SEEK ARBITRATION.—If, after the time specified in subparagraph j(3)(B) or j(3)(C), the Secretary and the Governor of the coastal State are unable to agree on the existence of a common hydrocarbon-bearing area or on any other matter concerning the unitization of the leases, either the Secretary or the Governor may notify the other party, in writing, that the disputed matter must be submitted to arbitration and that a mutually agreed upon arbitrator be appointed.

(II) SELECTION OF AN ARBITRATOR.—If the Secretary and the Governor are unable to agree upon an arbitrator within thirty (30) days after such request for arbitration, either party may petition the United States District Court for the district nearest to the affected area for the appointment of an arbitrator. The arbitration shall be governed by the applicable provisions of 9 U.S.C. Sec. 1 through 14, to the extent not inconsistent with this subsection.

(III) COMPENSATION OF ARBITRATOR.—The arbitrator shall, when acting pursuant to this subsection, be deemed to be an officer of the United States and shall receive fair and reasonable compensation. The Secretary shall pay such compensation out of the operating funds of the Department of the Interior.

(IV) DUTIES AND RESPONSIBILITIES OF ARBITRATOR—

(a) Within ninety (90) days of the appointment of the arbitrator, the arbitrator shall: (i) determine whether there exists a common hydrocarbon-bearing area; (ii) determine the extent of any common hydrocarbon-bearing area or portion thereof that is to be included in the unit; (iii) determine the fair allocation of the hydrocarbons produced from the area included in a unit agreement, using a volumetric method of allocation to equitably apportion the hydrocarbon reserves in place as of the effective date for the unit; (iv) establish the effective date for the unit; (v) establish a unitization plan for a common hydrocarbon-bearing area or portion thereof pursuant to paragraphs (b) and (c); and (vi) decide any other matter necessary in order to avoid economic waste or physical waste of recoverable hydrocarbons, to achieve conservation, or to protect correlative rights.

(b) For a common hydrocarbon-bearing area or portion thereof, the arbitrator shall establish a unitization plan which conforms to the model unit agreement referenced in the regulations promulgated under this Act, unless good cause exists for variation from the proposed unit agreement and the reasons for the variation are set forth in the findings of the arbitrator.

(c) The arbitrator may not require unitization until the affected coastal State, the United States, and all lessees of the proposed unit area are sent reasonable notice and given an opportunity for a hearing. No such hearing may be held until written notice has been sent to the last known address of all lessees of record which would be made subject to the unit agreement at least thirty (30) days in advance of the hearing. The arbitrator shall afford the affected coastal State, the United States, and all lessees of the proposed unit area, an opportunity to submit views orally and in writing and to question both those supporting and those opposing unitization. Adjudicatory procedures are not required, but the decision of the arbitrator shall be based upon a record of the hearing including any written information made a part of the record. A party to the hearing may, at its own expense, cause a verbatim transcript to be made by a court reporter. Within the time specified in paragraph (a), unless otherwise agreed to by the parties, the arbitrator shall issue a written decision, which shall include a written statement of reasons for the action taken.

(d) All parties to the arbitration proceeding shall protect the confidentiality of privileged and proprietary data and information furnished to the arbitrator.

(V) FINALITY OF ARBITRATOR'S DECISION.—The decision of an arbitrator under this subsection shall be final and conclusive and not subject to judicial review, except as provided by 9 U.S.C. Sec. 10.

(F) Unless the Secretary and the Governor of the affected coastal State agree otherwise, the effective date of any unit established pursuant to this subsection shall be the date of first production of hydrocarbons from the common hydrocarbon-bearing area, provided the notice given under subparagraph j(3)(B) was given within one year of first production. In all other cases, the effective date shall be the date of such notice.

(G) In addition to any other common hydrocarbon-bearing area to which this subsection may apply, this subsection shall also apply to any common hydrocarbon-bearing area for which a request for unitization has been made by the Secretary or Governor of the affected coastal State, or the designee, lessee, or permittee of the United States or State government, on or before the date of enactment of this subsection. Any such request shall constitute notice as required by subparagraph j(3)(B).

SECTION-BY-SECTION ANALYSIS

Section 1 states the short title.

Section 2 amends Section 5 of the Outer Continental Shelf Lands Act, as amended, by adding a new subsection (j).

Paragraph (j)(1) sets forth findings and policy of the United States. Paragraph (j)(2) sets forth definitions.

Paragraph (j)(3) sets forth this process for unitization. Subparagraph (j)(3)(A) provides that whenever there exists a common hydrocarbon-bearing area, the Secretary and the Governor shall agree to the unitization of such an area or portion thereof.

Subparagraph (j)(3)(B) provides that whenever the Secretary or the Governor of the affected coastal State determines that there exists a common potentially hydrocarbon-bearing area, the party making such determination shall immediately notify the other party in writing of such determination. Notice shall also be sent to the last known address of all affected lessees of record. After such notification is received by the Secretary or the Governor, the Secretary and the Governor shall, within 30 days, after reviewing certain data and information made available, determine whether there exists a common hydrocarbon-bearing area.

Subparagraph (j)(3)(C) provides that if the Secretary and the Governor determine that there is a common hydrocarbon-bearing area, they shall have thirty days to establish a unitization plan and to serve notice on all lessees of the proposed unit area with a copy of the proposed unit agreement or unitization plan and a statement of reasons for the proposed unitization.

Subparagraph (j)(3)(D) sets forth certain requirements relating to notice to lessees.

Clause (j)(3)(E)(I) proivides that if, after the time specified in subparagraph (j)(3)(B) or (j)(3)(C), the Secretary and the Governor are unable to agree on the existence of a common hydrocarbon-bearing area or on any other matter concerning the unitization of the leases, either the Secretary or the Governor may notify the other party, in writing, that the disputed matter must be submitted to arbitration and that a mutually agreed upon arbitrator be appointed.

Clause (j)(3)(E)(II) provides for the selection of an arbitrator. Clause (j)(3)(E)(III) provides that the arbitrator, when acting pursuant to subsection (j) shall be deemed to be an officer of the United States and shall receive fair and reasonable compensation out of operating funds of the Department of the Interior.

Clause (j)(3)(E)(IV) sets forth the duties and responsibilities of the arbitrator. Clause (j)(3)(E)(IV)(a) sets forth certain actions that the arbitrator shall make within 90 days of the arbitator's appointment.

Clause (j)(3)(E)(IV)(b) provides that for a common hydrocarbon-bearing area or portion thereof, the arbitrator shall establish a unit agreement which conforms to the model unit agreement referenced in the regulations promulgated under the Outer Continental Shelf Lands Act, as amended, unless good cause exists for variation from the proposed unit agreement and the reasons for the variation are set forth in the findings of the arbitrator.

Clause (j)(3)(E)(IV)(c) sets forth certain procedural requirements. Clause (j)(3)(E)(IV)(d) requires all parties to the arbitration proceeding to protect the confidentiality of privileged and proprietary data and information furnished to the arbitrator.

Clause (j)(3)(E)(V) provides that the arbitrator's decision is final and conclusive and not subject to judicial review, except as provided by 9 U.S.C. Sec. 10.

Subparagraph (j)(3)(F) provides that unless the Secretary and the Governor of the affected coastal State agree otherwise, the effective date of any unit established pursuant to subsection (j) shall be the date of first production of hydrocarbons from the common hydrocarbon-bearing area, provided the notice given under subparagraph j(3)(B) was given within one year of first production. In all other cases, the effective date shall be the date of such notice.

Subparagraph (j)(3)(G) provides that in addition to any other common hydrocarbon-bearing area to which subsection (j) may apply, subsection (j) shall also apply to any common hydrocarbon-bearing area for which a request for unitization has been made by the Secretary or Governor of the affected coastal State, or the designee, lessee, or permittee, of the United States or State government, on or before the date of enactment of the subsection. Any such request shall constitute notice as required by subparagraph j(3)(B).●

By Mr. BINGAMAN (for himself and Mr. DOMENICI).

S. 1945. A bill to amend the Second Supplemental Appropriation Act, 1961, relating to the lease of certain lands from the Isleta Indian Tribe for a seismological laboratory; to the Select Committee on Indian Affairs.

LEASE OF CERTAIN INDIAN LANDS FOR A SEISMOLOGICAL LABORATORY

● Mr. BINGAMAN. Mr. President, I rise today on behalf of myself and Senator DOMENICI to introduce legislation relating to the lease of lands from the Isleta Pueblo in New Mexico.

The Second Supplemental Appropriations Act, 1961 (Public Law 86-722; 74 Stat. 821), authorized construction and equipment of a seismological laboratory on a site leased from the Isleta Pueblo in Bernalillo County, NM. The law authorized leasing of the tribal lands for a minimum of 25 years with provisions for renewal. Any lease entered into under Public Law 86-722 is required to provide for an annual rent not in excess of $1,200, as well as prescribe the terms and conditions under which the tribe can jointly use land not specifically needed for the laboratory.

The Federal Government entered into a 25-year lease in September 1960 for 673.36 acres of tribal land located on the Isleta Indian Reservation. The rental under this lease was $1,027.35 per year. The laboratory was subsequently constructed on approximately 10 acres of leased land. The remainder of the acreage was reserved as a buffer zone to avoid blasting, drilling or any other activity that would raise the ambient noise level or that would interfere with the functioning of laboratory instruments within the laboratory. Certain laboratory operations have been located in the buffer zone outside of the ten acre laboratory area for the purpose of gathering seismological data.

Upon expiration of the 1960 lease in September 1985, the U.S. Geological Survey [USGS], which assumed responsibility for the management of the laboratory by interagency agreement in 1973, entered into a 3-year interim lease for the subject tract at a rental of $1,200 per year. The interim lease was negotiated with the understanding that this Department would seek legislation to permit payment of the adjusted fair market value rental as determined by an independent appraiser, with an additional payment to be retroactive to September 1985.

My legislation would amend Public Law 86-722 to first, remove the $1,200 annual rental limitation; second, permit payment of the current (1985) fair market value of the leased land; and third, provide for periodic review and adjustment of the rental thereafter based on an approved reappraisal.

I understand the Office of Management and Budget has advised that there is no objection to the submission of this proposed legislation by the administration.

The legislation will ensure that the Isleta Indians are justly compensated for the use of their lands by the USGS. I think it is only fair that the Federal Government be required to pay fair market value for the use of these lands. The Pueblo of Isleta has expressed their strong support for this legislation.

I urge my colleagues to support this legislation.●

ADDITIONAL COSPONSORS

S.368

At the request of Mr. MATSUNAGA, the Senator from Montana [Mr. MELCHER] was added as a cosponsor of S. 368, a bill to amend the Federal Food, Drug and Cosmetic Act to ban the reimportation of drugs in the United States, to place restrictions on drug samples, to ban certain resales of drugs purchased by hospitals and other health care facilities, and for other purposes.

S. 533

At the request of Mr. THURMOND, the name of the Senator from Tennessee [Mr. SASSER] was added as a cosponsor of S. 533, a bill to establish the Veterans' Administration as an executive department.

S. 1346

At the request of Mr. MATSUNAGA, the name of the Senator from Montana [Mr. BAUCUS] was added as a cosponsor of S. 1346, a bill to amend the National Labor Relations Act to give employers and performers in the performing arts rights given by section 8(e) of such act to employers and employees in similarly situated industries, to give employers and performers in the performing arts the same rights given by section 8(f) of such act to employers and employees in the construction industry, and for other purposes.

S. 1522

At the request of Mr. RIEGLE, the name of the Senator from Minnesota [Mr. BOSCHWITZ] was added as a cosponsor of S. 1522, a bill to amend the Internal Revenue Code of 1986 to extend through 1992 the period during which qualified mortgage bonds and mortgage certificates may be issued.

S. 1601

At the request of Mr. MCCAIN, the name of the Senator from New York [Mr. MOYNIHAN] was added as a cosponsor of S. 1601, a bill to permit the immigration of Vietnamese Amerasians to the United States.

S. 1742

At the request of Mr. DOMENICI, the name of the Senator from Missouri [Mr. BOND] was added as a cosponsor of S. 1742, a bill to provide for the minting and circulation of one dollar coins, and for other purposes.

S. 1894

At the request of Mr. MITCHELL, the name of the Senator from Hawaii [Mr. MATSUNAGA] was added as a cosponsor of S. 1894, an original bill to amend the Clean Air Act to establish new requirements for areas that have not yet attained health-protective ambient air quality standards, to provide new deadlines for such attainment, to delay the imposition of sanctions, to better protect against interstate transport of pollutants, to control existing and new sources of acid deposition, and for other purposes.

SENATE JOINT RESOLUTION 206

At the request of Mr. DOMENICI, the names of the Senator from Virginia [Mr. WARNER], the Senator from South Carolina [Mr. THURMOND], the Senator from Tennessee [Mr. GORE], and the Senator from Mississippi [Mr. COCHRAN] were added as cosponsors of Senate Joint Resolution 206, joint resolution to declare "Dennis Chavez Day."

SENATE JOINT RESOLUTION 215

At the request of Mr. DURENBERGER, the names of the Senator from Michigan [Mr. RIEGLE], the Senator from North Carolina [Mr. SANFORD], and the Senator from Delaware [Mr. ROTH] were added as cosponsors of Senate Joint Resolution 215, joint resolution to authorize the Vietnam Women's Memorial Project, Inc., to establish a memorial to women of the Armed Forces of the United States who served in the Vietnam war.

SENATE RESOLUTION 342—COMMENDING RAY A. BARNHART TO HIS SERVICE WITH THE FEDERAL HIGHWAY ADMINISTRATION

Mr. SYMMS (for himself, Mr. BURDICK, Mr. STAFFORD, and Mr. MOYNIHAN) submitted the following resolution; which was referred to the Committee on Environment and Public Works:

S. RES. 342

Whereas, Ray A. Barnhart, the 10th Federal Highway Administrator, will be retiring from public service on December 31, 1987;

Whereas, he has served nearly seven years in the post of Federal Highway Administrator, longer that any other administrator in the history of the agency and has displayed uncommon leadership and integrity in the administration of the $14 billion a year Federal-aid highway program;

Whereas, he played an instrumental role in the enactment of the Surface Transportation Assistance Act of 1982, which raised much-needed gasoline tax revenues for the first time in 23 years, helping to reverse the deterioration of America's roads and bridges;

Whereas, he has worked diligently to ensure the integrity of the Highway Trust Fund particularly by seeking improvements in procedures by which gasoline and diesel fuel taxes are collected, thus eliminating potential fraud and evasion; and

Whereas, he has also been an untiring promoter of the safe operation of trucks and buses on the Nation's highways, as well as a supporter of improved productivity within the motor carrier industry: Now, therefore, be it

Resolved, That Ray A. Barnhart is commended for his long and distinguished service at the helm of the Federal Highway Administration and that the Senate expresses best wishes to Ray A. Barnhart for success in his future endeavors.

SEC. 2. The Secretary of the Senate shall transmit a copy of this resolution to Ray A. Barnhart.

AMENDMENTS SUBMITTED

CONTINUING APPROPRIATIONS, FISCAL YEAR 1988

JOHNSTON AMENDMENT NO. 1279

Mr. JOHNSTON submitted an amendment to the joint resolution (H.J. Res. 395) making further continuing appropriations for the fiscal year 1988, and for other purposes, as follows:

On page 13 on lines 17 and 18, strike "November 20, 1987" and insert in lieu thereof "December 16, 1987".

GARN (AND OTHERS) AMENDMENT NO. 1280

Mr. GARN (for himself, Mr. HEFLIN, Mr. RIEGLE, Mr. HOLLINGS, Mr. CHILES, Mr. BENTSEN, and Mr. DANFORTH) proposed an amendment to the joint resolution (H.J. Res. 395) supra, as follows:

At the appropriate place in the joint resolution insert the following new section:

SEC. . (a) The Senate finds that—

(1) the United States must maintain its leadership in space because of its importance to our national and economic security;

(2) the Nation's space program can inspire our youth to careers in science, mathematics, and engineering;

(3) the Nation's space science, space applications, and space technology program are an important element of U.S. foreign policy;

(4) the space program is a symbol of the Nation's technological leadership and competitive spirit; and

(5) the space station program is essential to maintaining U.S. leadership in space and to promoting the development of space for the benefit of all mankind.

(b) It is the sense of the Senate that appropriations be provided to support the development of a permanently manned space station in cooperation with Canada, Japan and the European Space Agency within a realistic budget allocation for the civilian space program.

MITCHELL (AND OTHERS) AMENDMENT NO. 1281

Mr. JOHNSTON (for Mr. MITCHELL, for himself, Mr. BENTSEN, Mr. LAUTENBERG, Mr. BURDICK, Mr. STAFFORD, Mr. DURENBERGER, Mr. GRAHAM, Mr. REID, Mr. CRANSTON, Mr. RUDMAN, Mr. KERRY, Mr. DODD, Mr. WIRTH, Ms. MIKULSKI, Mr. BAUCUS, and Mr. HUMPHREY) proposed an amendment to the joint resolution (H.J. Res. 395) supra, as follows:

At the end of the joint resolution add the following new section:

SEC. . EXTENSION OF NONATTAINMENT SANCTIONS.

(a) NONATTAINMENT AREAS FOR OZONE OR CARBON MONOXIDE.—No restriction or prohibition on construction, permitting, or funding under section 110(a)(2)(I), 173(4), 176(a), 176(b), or 316 of the Clean Air Act shall be imposed or take effect during the period prior to August 31,1988, by reason of (1) the failure of any nonattainment area to attain the national primary ambient air quality standard under the Clean Air Act for photochemical oxidants (ozone) or carbon monoxide (or both) by December 31, 1987, (2) the failure of any State to adopt and submit to the Administrator of the Environmental Protection Agency an implementation plan that meets the requirements of part D of title I of such Act and providing for attainment of such standards by December 31, 1987, (3) the failure of any State or designated local government to implement the applicable implementation plan, or (4) any combination of the foregoing. During such period and consistent with the preceding sentence, the issuance of a permit (including required offsets) under section 173 of such Act for the construction or modification of a source in a nonattainment area shall not be denied solely or partially by reason of the reference contained in section 171(1) of such Act to the applicable date established in section 172(a). This subsection shall not apply to any restriction or prohibition in effect under section 110(a)(2)(I), 173(4), 176(a), 176(b), or 316 of such Act prior to the enactment of this section.

(b) EVALUATIONS AND DESIGNATIONS.—Prior to August 31, 1988, the Administrator of the Environmental Protection Agency shall evaluate air quality data and make determinations with respect to which areas throughout the nation have attained, or failed to attain, either or both of the national primary ambient air quality standards referred to in subsection (a) and shall take appropriate steps to designate those areas failing to attain either or both of such standards as nonattainment areas within the meaning of part D of title I of the Clean Air Act.

MITCHELL AMENDMENT NO. 1282

Mr. MITCHELL proposed an amendment to the joint resolution (H.J. Res. 395) supra, as follows:

At the end of the joint resolution add the following new section:

SEC. . EXTENSION OF NONATTAINMENT SANCTIONS.

(a) NONATTAINMENT AREAS FOR OZONE OR CARBON MONOXIDE.—No restriction or prohibition on construction, permitting, or funding under section 110(a)(2)(I), 173(4), 176(a), 176(b), or 316 of the Clean Air Act shall be imposed or take effect during the period prior to August 31, 1988, by reason of (1) the failure of any nonattainment area to attain the national primary ambient air quality standard under the Clean Air Act for photochemical oxidants (ozone) or carbon monoxide (or both) by December 31, 1987, (2) the failure of any State to adopt and submit to the Administrator of the Environmental Protection Agency an implementation plan that meets the requirements of part D of title I of such Act and provides for attainment of such standards by December 31, 1987, (3) the failure of any State or designated local government to implement the applicable implementation plan, or (4) any combination of the foregoing. During such period and consistent with the preceding sentence, the issuance of a permit (including required offsets) under section 173 of such Act for the construction or modification of a source in a nonattainment area shall not be denied solely or partially by reason of the reference contained in section 171(1) of such Act to the applicable date established in section 172(a). This subsection shall not apply to any restriction or prohibition in effect under section 110(a)(2)(I), 173(4), 176(a), 176(b), or 316 of such Act prior to the enactment of this section.

(b) EVALUATIONS AND DESIGNATIONS.—Prior to August 31, 1988, the Administrator of the Environmental Protection Agency shall evaluate air quality data and made determinations with respect to which areas throughout the nation have attained, or failed to attain, either or both of the national primary ambient air quality standards referred to in subsection (a) and shall take appropriate steps to designate those areas failing to attain either or both of such standards as nonattainment areas within the meaning of part D of title I of the Clean Air Act.

SASSER (AND OTHERS) AMENDMENT NO. 1283

Mr. JOHNSTON (for Mr. SASSER, for himself, Mr. HATCH, Mr. JOHNSTON, Mr. BURDICK, Mr. BUMPERS, Mr. HARKIN, Ms. MIKULSKI, Mr. REID, Mr. GARN, Mr. COCHRAN, Mr. GRASSLEY, Mr. NICKLES, Mr. GRAMM, Mr. HEFLIN, Mr. PRYOR, Mr. RIEGLE, Mr. HEINZ, Mr. SYMMS, Mr. FOWLER, and Mr. MCCAIN) proposed an amendment to the joint resolution (H.J. Res. 395) supra; as follows:

At the end of the bill, insert the following new section:

SEC. . (a) Paragraph (37) of section 3 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(3)) is amended by adding at the end thereof the following new subparagraph:

"(F)(i) For purposes of this title a qualified football coaches plan—

"(I) shall be treated as a multiemployer plan to the extent not inconsistent with the purposes of this subparagraph, and

"(II) notwithstanding section 401(k)(4)(B) of such Code, may include a qualified cash and deferred arrangement

"(ii) For purposes of this subparagraph, the term 'qualified football coaches plan' means any defined contribution plan which is established and maintained by an organization—

"(I) which is described in section 501(c),

"(II) the membership of which consists entirely of individuals who primarily coach football as full-time employees of 4-year colleges or universities described in section 170(b)(1)(A)(ii), and

"(III) which was in existence on September 18, 1986."

(b) The amendment made by this section shall apply to years beginning after the date of the enactment of this Act.

REID (AND HECHT) AMENDMENT NO. 1284

Mr. JOHNSTON (for Mr. REID, for himself and Mr. HECHT) proposed an amendment to the joint resolution (H.J. Res. 395) supra; as follows:

At the end of the Resolution, insert the following new language:

"Section 1(b) of the Act of October 17, 1984 entitled 'An Act to withdraw certain public lands in Lincoln County, Nevada' (P.L. 98-485), is amended by striking out 'December 31, 1987.' and inserting in lieu thereof 'March 31, 1988.'"

WEICKER (AND OTHERS) AMENDMENT NO. 1285

Mr. WEICKER (for himself, Mr. DOLE, Mr. HATFIELD, Mr. HARKIN, Mr. DODD, Mr. BRADLEY, Mr. GRASSLEY, Mr. DIXON, Mr. CHAFEE, Mr. CONRAD, Mr. HATCH, Mr. KENNEDY, Mr. COCHRAN, Mr. DOMENICI, Mr. BUMPERS, Mr. NICKLES, Mr. HOLLINGS, Mr. BYRD, and Mr. METZENBAUM) proposed an amendment, which was subsequently modified, to the joint resolution (H.J. Res. 395) supra; as follows:

At the appropriate place, insert the following:

SEC. . The Committee on Rules and Administration of the Senate may provide for the distribution of unused food from the Senate cafeterias under the jurisdiction of the committee to the needy of the District of Columbia through an appropriate private distribution organization selected by the committee.

NUNN (AND OTHERS) AMENDMENT NO. 1286

Mr. NUNN (for himself, Mr. BYRD, Mr. WARNER, Mr. CHILES, Mr. GLENN, Mr. COHEN, Mr. GORE, Mr. EXON, and Mr. LEVIN) proposed an amendment to the joint resolution (H.J. Res. 395) supra; as follows:

At the end of the joint resolution, add the following new section:

"SEC. . (a) Notwithstanding any other provision of this joint resolution, of the amount appropriated by this joint resolution for fiscal year 1988 for Research, Development, Test, and Evaluation, Air Force:

(1) $100,000,000 shall be available only for the new small mobile intercontinental ballistic missile (commonly known as the "Midgetman" missile); and

(2) not more than $300,000,000 shall be available for the proposed rail-mobile basing mode for the MX missile.

(b) It is the sense of Congress that the appropriation of funds in this joint resolution for research and development for both the new small mobile intercontinental ballistic missile and the proposed rail-mobile basing mode for the MX missile does not constitute a commitment or express an intent by Congress to provide funds to procure and deploy the Midgetman missile or to deploy any MX missiles in a rail-mobile basing mode or both.

DeCONCINI (AND OTHERS) AMENDMENT NO. 1287

Mr. JOHNSTON (for Mr. DeConcini, for himself, Mr. Hatch, Mr. Domenici, Mr. Dole, Mrs. Kassebaum, Mr. Garn, Mr. Bingaman, Mr. Wallop, Mr. Simpson, Mr. Stevens, Mr. Armstrong, Mr. Wirth, Mr. Nickles, and Mr. Boren) proposed an amendment to the joint resolution (H.J. Res. 395) supra; as follows:

At the appropriate place add the following:

Sec. . (a) The General Accounting Office shall, within 60 days after the date of enactment of this section, submit an estimate of the fair market value of the main post office in Denver, Colorado, located at 1823 Stout Street, to the General Services Administration, the Congress of the United States, the United States Postal Service, and the Administrative Office of the United States Courts.

(b) Within 30 days after obtaining the estimate made pursuant to subsection (a) the United States Postal Service shall transfer the use and benefit of the lot on which the main post office in Denver is located, along with such post office building improvements and any other structures on such lot to the General Services Administration, and from such date such lot and structures shall be considered to be held for the use and benefit of the United States courts for the Tenth Circuit.

(c) In making the transfer pursuant to subsection (b), the General Services Administration and the United States Postal Service shall use, as the market value of such property, the estimate submitted by the General Accounting Office pursuant to this section and the United States Postal Service shall receive as compensation therefore, the fair market value of such lot, buildings and improvements, as determined by the General Accounting Office.

(d) The United States Postal Service shall surrender possession of the second, third and fourth floors of such post office building to the General Services Administration not later than 1 year after the date of the transfer thereof as provided in this section and, except as provided in subsection (e), shall surrender possession of the balance of such post office building not later than 2 years after such date.

(e) The General Services Administration shall permit the United States Postal Service to continue to occupy such area on the first floor of such main post office building not in excess of 18,000 square feet as shall be determined by the General Services Administration after consultation with the Administrative Office of the United States Courts and the United States Postal Service.

(f) Pursuant to section 210(f) of the Federal Property and Administrative Service Act of 1949, the Administrator of General Services is authorized to charge the United States Postal Service for all space and services furnished to the United States Postal Service in such main post office building after the date of the conveyance provided in this section.

(g) Notwithstanding any other provision of law, the Government Services Administration is hereby authorized to sell, at competitive bid, block 111, located at 20th and Curtis Streets in Denver, Colorado, and to deposit such sale proceeds into the Federal Building Fund.

(h) There are authorized to be appropriated such sums as are necessary to cover the costs of obtaining such post office building for the courts for the Tenth Circuit. Such costs shall include—

STEVENS AMENDMENT NO. 1288

Mr. JOHNSTON (for Mr. Stevens) proposed an amendment to the joint resolution (H.J. Res. 395) supra; as follows:

At the appropriate place, add the following:

Sec. . (a) Section 7701(j) of Title 26, United States Code is amended—

(1) by deleting from paragraph (1)(c) the words "the provisions of paragraph (2) and" following the words "subject to"; and

(2) by deleting paragraph (2) in its entirety and substituting in lieu thereof the following language:

"Nondiscrimination Requirements.—Notwithstanding any other provision of law, the Thrift Savings Fund is not subject to the nondiscrimination requirements applicable to arrangements described in section 401(k) or to matching contributions (as described in section 401(m)), so long as it meets the requirements of this section."

(b) Section 8440 of title 5, United States Code, is amended—

(3) by deleting from paragraph (a)(3) the words "the provisions of subsection (b) and" following the words "subject to"; and

(4) by deleting subsection (b) in its entirety and by substituting in lieu thereof the following language:

"Nondiscrimination Requirement.—Notwithstanding any other provision of law, the Thrift Savings Fund is not subject to the nondiscrimination requirements applicable to arrangements described in section 401(k) of title 26, United States Code, or to matching contributions (as described in section 401(m) of title 26, United States Code) so long as it meets the requirements of this section."

(1) amounts necessary to transfer the lot, main post office building, improvements and any other structures on such lot pursuant to subsection (b);

(2) appropriate renovations of such post office building for the Tenth Circuit to use such building as the principal office of such court; and

(3) the transfer of such court from their current building to such post office building.

(i) There are hereby appropriated, out of the Federal Buildings Fund, such sums as may be necessary to carry out the purposes of subsection (h).

DOMENICI (AND OTHERS) AMENDMENT NO. 1289

Mr. JOHNSTON (for Mr. Domenici, for himself, Mr. DeConcini, Mr. Pryor, and Mr. Stevens) proposed an amendment to the joint resolution (H.J. Res. 395), supra; as follows:

At the end of the joint resolution, add the following new section:

Sec. . Temporary Authority to Transfer Leave.—In order to ensure that the experimental use of voluntary leave transfers established under Public Laws 99-500 and 99-591 may continue and may cover additional employees in fiscal year 1988, the Office of Personnel Management shall establish by regulation, notwithstanding chapter 63 of title 5, United States Code, a program under which the unused accrued annual leave of officers or employees of the Federal Government may be transferred for use by other officers or employees who need such leave due to a personal emergency as defined in the regulations. The Veterans' Administration shall establish a similar program for employees subject to section 4108 of title 5, United States Code. The programs established by this section shall expire at the end of fiscal year 1988, but any leave that has been transferred to an officer or employee under the programs shall remain available for use until the personal emergency has ended, and any remaining unused transferred leave shall, to the extent administratively feasible, be restored to the leave accounts of the officers or employees from whose accounts it was originally transferred.

DANFORTH (AND BOND) AMENDMENT NO. 1290

Mr. JOHNSTON (for Mr. Danforth, for himself and Mr. Bond) proposed an amendment to the joint resolution (H.J. Res. 395) supra; as follows:

At the end of the Resolution, add the following new section:

Sec. . The Director of the Office of Management and Budget shall include in the area designated as the St. Louis Metropolitan Statistical Area, the City of Sullivan, Missouri.

CHILES AMENDMENT NO. 1291

Mr. JOHNSTON (for Mr. Chiles) proposed an amendment to the joint resolution (H.J. Res. 395) supra; as follows:

At the appropriate place in the bill, insert the following:

None of the funds appropriated under this bill shall be obligated to any Immigration and Naturalization Service detention or processing center which holds aliens accused or convicted of a felony under state or Federal law unless such a center has been designated as a Security-Level 3 or higher level correctional facility.

GRAMM (AND OTHERS) AMENDMENT NO. 1292

Mr. GRAMM (for himself, Mr. Thurmond, Mr. Armstrong, Mr. Hecht, Mr. Wallop, Mr. Simpson, Mr. McConnell, Mr. Helms, and Mr. Symms) proposed an amendment to the joint resolution (H.J. Res. 395) supra; as follows:

At the end of the resolution insert the following:

Sec. . Notwithstanding any other provision of this joint resolution, the funds made available by this joint resolution under H.R. 2763, the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriation Act, 1988, for the Legal Services Corporation shall be the following:

PAYMENT TO THE LEGAL SERVICES CORPORATION

For payment to the Legal Services Corporation to carry out the purposes of the Legal Services Corporation Act of 1974, as amended, $310,000,000: *Provided,* That because it is the intention of Congress that amounts appropriated pursuant to this paragraph be available for direct delivery of dispute resolution for the poor, not less than $299,685,000 of the amounts appropriated pursuant to this paragraph shall be expended for direct delivery of legal services to poor eligible clients and $10,315,000 of the amounts appropriated pursuant to this paragraph shall be for the management and administration of the Legal Services Corporation, including provision of funds for program development and law school clinics, and training development and technical assistance: *Provided further,* That for the purposes of this paragraph, "direct delivery of legal services to poor eligible clients" means the provision of basic dispute resolution services to eligible clients through local grant recipients whose purpose is to provide direct delivery of legal assistance to eligible clients: *Provided further,* That none of the funds appropriated in this paragraph shall be expended for any purpose prohibited or limited by or contrary to any of the provisions of Public Law 99-180 and section 112 of Public Law 99-190: *Provided further,* That the funds distributed to each grantee funded in fiscal year 1988 pursuant to the number of poor people determined by the Bureau of the Census to be within its geographical area shall be distributed in the following order:

(1) grants from the Legal Services Corporation and contracts entered into with the Legal Services Corporation under section 1006(a)(1) shall be maintained in fiscal year 1988 at not less than 1 per centum more than the annual level at which each grantee and contractor was funded in fiscal year 1987 or $8.60 per poor person within its geographical area under the 1980 Census, whichever is greater; and

(2) each such grantee shall be increased by an equal percentage of the amount by which such grantee's funding, including the increase under the first priority above, falls below $15 per poor person within its geographical area under the 1980 census: *Provided further,* That if a Presidential order pursuant to section 252 of Public Law 99-177 is issued for fiscal year 1988, funds provided to each grantee covered by the second proviso shall be reduced by the percentage specified in the Presidential order: *Provided further,* That none of the funds appropriated by this Act or prior Acts may be used by an officer, board member, employee or consultant of the Corporation to implement or enforce provisions in the regulation regarding legislative and administrative advocacy and training (Part 1612, 52 FR 28434 (July 29, 1987)) which impose restrictions on private funds received by a recipient for the provision of legal assistance except to the extent that such restrictions are explicitly authorized by sections 1007(a)(5), (b)(6), and 1010(c) of the Legal Services Corporation Act.

HELMS AMENDMENT NO. 1293

Mr. HELMS proposed an amendment to the joint resolution (H.J. Res. 395) supra; as follows:

Insert at the appropriate place in the bill the following: "None of the funds appropriated by this Act for the Government of Costa Rica or any agency thereof shall be obligated or expended after March 31, 1988, if, on that date, the Secretary of State and the United States Trade Representative have not certified to Congress that the Government of Costa Rica and J. Royal Parker & Associates have reached a settlement of the claim of J. Royal Parker & Associates arising from the nullification in 1978 by the Government of Costa Rica of the Centraport contract between J. Royal Parker & Associates and Junta de Administracion Portuaria y de Desarrollo Economico de la Vertiente Atlantico (Atlantic Zone Port and Economic Development Authority).".

EVANS (AND OTHERS) AMENDMENT NO. 1294

Mr. EVANS (for himself, Mr. BOREN, Mr. DOLE, Mr. PROXMIRE, Mr. DOMENICI, Mr. EXON, Mr. HUMPHREY, Mr. BENTSEN, Mr. PRYOR, Mr. GRAMM, Mrs. KASSEBAUM, Mr. NICKLES, Mr. ROTH, Mr. BOND, Mr. PRESSLER, Mr. GARN, Mr. TRIBLE, Mr. MCCAIN, Mr. KASTEN, Mr. KARNES, Mr. HECHT, Mr. HELMS, Mr. THURMOND, Mr. MURKOWSKI, Mr. SYMMS, Mr. ARMSTRONG, Mr. DANFORTH, Mr. QUAYLE, Mr. LUGAR, Mr. WILSON, Mr. WALLOP, Mr. GRASSLEY, Mr. COHEN, Mr. WARNER, Mr. MCCLURE, Mr. SPECTER, Mr. CHAFEE, Mr. HATCH, Mr. MCCONNELL, Mr. BOSCHWITZ, Mr. RUDMAN, Mr. DURENBERGER, and Mr. SIMPSON) proposed an amendment to the joint resolution (H.J. Res. 395) supra; as follows:

At the appropriate place, add the following new title:

TITLE —TREATMENT OF CONTINUING RESOLUTIONS

SECTION 1. SHORT TITLE.

This Act may be cited as the "Individual Appropriations Act".

SEC. 2. DEFINITIONS.

For purposes of this Act—

(1) The term "bill or joint resolution making continuing appropriations" means a bill or joint resolution that includes two or more regular appropriation bills.

(2) The term "title" means any division of a bill or joint resolution making continuing appropriations that is designated as a title.

(3) The term "regular appropriation bill" means any annual appropriation bill (within the meaning given to such term in section 307 of the Congressional Budget Act of 1974 (2 U.S.C. 638)) making appropriations, otherwise making funds available, or granting authority, for any of the following categories of projects and activities:

(A) Agriculture, rural development, and related agencies programs.

(B) The Departments of Commerce, Justice, and State, the judiciary, and related agencies.

(C) The Department of Defense.

(D) The government of the District of Columbia and other activities chargeable in whole or in part against the revenues of the District.

(E) The Departments of Labor, Health and Human Services, and Education, and related agencies.

(F) The Department of Housing and Urban Development, and sundry independent agencies, boards, commissions, corporations, and offices.

(G) Energy and water development.

(H) Foreign assistance and related programs.

(I) The Department of the Interior and related agencies.

(J) Military construction.

(K) The Department of Transportation and related agencies.

(L) The Treasury Department, the U.S. Postal Service, the Executive Office of the President, and certain independent agencies.

(M) The legislative branch.

SEC. 3. CONSIDERATION OF CERTAIN JOINT RESOLUTIONS.

(a) SEPARATE CONFERENCE REPORTS FOR EACH TITLE.—(1)(A) Notwithstanding any other provision of law, when any bill or joint resolution making continuing appropriations for a period of 30 days or more is agreed to by a committee of conference on such bill or joint resolution, the committee of conference shall prepare and submit to each House of Congress a separate conference report for each title of the bill or joint resolution together with any amendments in disagreement corresponding to each title.

(b) SEPARATE BILLS FOR EACH TITLE.—Each separate title of a bill or joint resolution reported by a committee of conference pursuant to subsection (a) shall, at the direction of the responsible official of the originating body when submitted to that body, be assigned a bill number and shall be considered separately.

SEC. 4. POINT OF ORDER.

Notwithstanding any other provision of law, the Standing Rules of the Senate, or the Rules of the House of Representatives—

(1) it shall not be in order to consider any bill or joint resolution making continuing appropriations for a period of 30 days or more unless each title of the joint resolution corresponds to a regular appropriation bill, and

(2) any general provisions of the bill or joint resolution are contained in the appropriate title or titles of the bill or joint resolution (rather than in a separate title).

SEC. 5. EXCEPTION.

The provisions of this Act with respect to the consideration of a bill or joint resolution making continuing appropriations shall not be construed as applying to a bill or joint resolution making supplemental appropriations.

SEC. 6. EFFECTIVE DATE.

The provisions of this Act shall apply to a bill or joint resolution making continuing appropriations agreed to by the Congress providing appropriations for fiscal years 1989 and 1990.

JOHNSTON AMENDMENT NO. 1295

Mr. JOHNSTON proposed an amendment to amendment No. 1286 proposed by Mr. NUNN (and others) to the joint resolution (H.J. Res. 395) supra; as follows:

At the end of the Nunn-Byrd-Warner et. al. amendment add the following:

Provided, That none of the funds made available for the small intercontinental ballistic missile program and the MX Railmobile program may be obligated or expended before February 25, 1988;

Provided, further, That the Secretary of Defense shall report no later than February 1, 1988 to the Committees on Appropriations and Armed Services of the Senate and House of Representatives on the land based ICBM modernization program to include the survivability of each system against the postulated threat, the overall program cost of each system and the cost per fiscal year of each program as well as the Secretary's recommendation thereon.

JOHNSTON AMENDMENT NO. 1296

Mr. JOHNSTON proposed an amendment to the joint resolution (H.J. Res. 395) supra; as follows:

At the appropriate place in the bill, insert the following:

"SEC. Notwithstanding any other provision of law, the Secretary of Energy is directed to notify the Appropriations and Energy and Natural Resources Committees of the Senate and the appropriate authorizing committees of the House of his intent to enter into a binding contract for the sale of the Great Plains Coal Gasification Plant in Beulah, North Dakota. Such notification shall: "(a) be submitted to the Congress at least thirty (30) calendar days before the agreement is effective; and

"(b) include a detailed description as to the terms and conditions of the sale, including, but not limited to, the purchase price, the name of the prospective purchaser, the rationale used in evaluating and ultimately selecting the firm to transfer ownership of the plant and associated assets, the relationship of the purchaser to national security interests; and a statement of commitment signed by an authorized individual of the purchaser for continued long-term operation of the facility at a rate and for a period determined appropriate and reasonable by the Secretary.

JOHNSTON AMENDMENT NO. 1297

Mr. JOHNSTON proposed an amendment to the joint resolution (H.J. Res. 395) supra; as follows:

It is the sense of the Senate that the Secretary of Energy should place high priority on the continued long-term operation of the Great Plains Coal Gasification Plant as part of its divestiture activity. Continued long-term operation is needed to avoid disruptions to the local community, capture the benefits associated with extended plant operations and collect emission reduction technology data. A prerequisite to consideration of any offer must be a statement of commitment signed by an authorized individual for continued long-term operation of the facility at a rate and for a period determined appropriate and reasonable by the Secretary. The 25-year Gas Purchase Agreements are effective until 2009. There must be a proper balance between realizing fair value for the project and continued operation. The Secretary of Energy shall submit to the Appropriations Committees of the Senate and House and the Energy and Natural Resources Committee of the Senate, and the appropriate authorizing committees of the House, the rationale used in evaluating and ultimately selecting the firm to transfer ownership of the plant and associated assets. The Department must assure the Federal, State and local governments as well as the affected citizens of the area that a fair, reasonable, and equitable arrangement has been arrived at during the divestiture process.

PRESSLER (AND OTHERS) AMENDMENT NO. 1298

Mr. JOHNSTON (for Mr. PRESSLER, for himself, Mr. DASCHLE, and Mr. DOLE) prposed an amendment to the joint resolution (H.J. Res. 395) supra; as follows:

On Page 7, line 5, insert before the period the following:

Provided further, That of the funds provided in this Act to the National Park Service under the head "Construction", up to $350,000 shall be available for advanced planning and comprehensive design for the upgrade and expansion of facilities at the Mount Rushmore National Memorial, to remain available until expended.

HARKIN AMENDMENT NO. 1299

Mr. JOHNSTON (for Mr. HARKIN) proposed an amendment to the joint resolution (H.J. Res. 395) supra; as follows:

At the end of the joint resolution, add the following:

SEC. . (a)(1) Notwithstanding any other provision of this joint resolution, for the purposes of making adjustments under section 619(a)(2)(E) of the Education of the Handicapped Act for fiscal year 1987, the number of handicapped children aged 3 to 5, inclusive receiving special education and related services for purposes of section 619(a)(2)(A)(ii)(II) of such Act shall be equal to the number of such children receiving special education and related services on December 1, 1987, or, if the State educational agency so chooses, the number of such children on March 1, 1987.

(2) In complying with paragraph (1), the Secretary of Education may not use the March 1 count for the purpose of this subsection unless it is received by the Secretary not later than April 15, 1988.

(3) For the purpose of this subsection, only children aged three through five, inclusive, as of December 1, 1987, may be included in the March 1, 1988, count.

(b) The provisions of subsection (a) shall be effective as if enacted on October 8, 1986.

REID (AND HECHT) AMENDMENT NO. 1300

Mr. JOHNSTON (for Mr. REID, for himself and Mr. HECHT) proposed an amendment to the joint resolution (H.J. Res. 395) supra; as follows:

At the end of the bill insert the following:

SEC. . Notwithstanding any other provision of this Act or of any other law, section 149 of the Surface Transportation and Uniform Relocation Assistance Act of 1987 (101 Stat. 181) is amended by adding after subsection (k) the following new subsection (l).

SECTION 149(l).

"(1) REQUEST FOR REALLOCATION.—If, in any fiscal year amounts allocated to the State of Nevada under subsections (b) and (d) to carry out subsection (a) (68), (a) (109), or (a) (106), are not sufficient to complete any project authorized by such subsections, such State may request the Secretary to reallocate all or any portion of such funds for another of such projects.

"(2) GRANTING OF REQUESTS.—The Secretary shall grant a request made under paragraph (1) if the respective local officials having jurisdiction over the area in which the concerned projects are located consent to such request.

"(3) ADJUSTMENT OF ALLOCATION.—If any funds allocated for a project are reallocated to another project pursuant to this subsection, the amount of funds allocated for such projects in succeeding fiscal years shall be adjusted so that the aggregate amount of funds allocated for each of such projects under this section for fiscal years 1987 through 1991 is equal to the aggregate amount of funds allocated for such projects for such fiscal years by subsections (b) and (d) of this section."

STEVENS (AND OTHERS) AMENDMENT NO. 1301

Mr. JOHNSTON (for Mr. STEVENS, for himself, Mr. DECONCINI, Mrs. KASSEBAUM, Mr. MURKOWSKI, and Mr. MCCAIN) proposed an amendment to the joint resolution (H.J. Res. 395) supra; as follows:

At the appropriate place, add the following:

SEC. . (a) Section 152(a)(2) of title 28, United States Code, is amended—

(1) in the item relating to the district of Alaska by striking out "1" and inserting in lieu thereof "2",

(2) in the item relating to the district of Arizona by striking out "4" and inserting in lieu thereof "5",

(3) in the item relating to the district of Colorado by striking out "4" and inserting in lieu thereof "5", and

(4) in the item relating to the district of Kansas by striking out "3" and inserting in lieu thereof "4".

(b) The provisions of subsection (a) of this section shall be effective upon enactment of this Act, subject to the availability of appropriated funds.

JOHNSTON (AND OTHERS) AMENDMENT NO. 1302

Mr. JOHNSTON (for himself, Mr. MCCLURE, Mr. HEINZ, Mr. DECONCINI, Mr. THURMOND, and Mr. SYMMS) proposed an amendment to the joint resolution (H.J. Res. 395) supra; as follows:

At the appropriate place in the resolution, insert the following new section:

SEC. . Section 1581(b) of the Food Security Act of 1985 (Public Law 99-198) is amended by striking out "June 30, 1987," and inserting in lieu thereof" June 30, 1988,".

KENNEDY AMENDMENT NO. 1303

Mr. JOHNSTON (for Mr. KENNEDY) proposed an amendment to the joint resolution (H.J. Res. 395) supra; as follows:

At the end of the resolution, insert the following:

SEC. . Notwithstanding any other provisions of this joint resolution, the amount made available for Star Schools under H.R. 3058, the Department of Labor, Health and Human Services, and Education and Related Agencies Appropriations Act, 1988, as passed by the Senate shall be available for carrying out the provisions of Title IX of the Education for Economic Security Act, relating to Star Schools, as contained in section 6005 of the Senate amendment to H.R. 5.

LAUTENBERG AMENDMENT NOS. 1304 AND 1305

Mr. JOHNSTON (for Mr. LAUTENBERG) proposed two amendments to the joint resolution (H.J. Res. 395) supra; as follows:

AMENDMENT No. 1304

At the appropriate place in H.J. Res. 395, insert the following: Notwithstanding any other provision of law, the Secretary shall make available $250,000 per year for a national public information program to educate the public of the inherent hazard at railway-highway crossings. Such funds shall be made available out of funds authorized to be appropriated out of the Highway Trust Fund, pursuant to Section 130 of Title 23, United States Code.

AMENDMENT No. 1305

Section 102(a)(4) of the Housing and Community Development Act of 1974 is amended—

By striking out the third sentence and inserting in lieu thereof the following: "Any unit of general local government that becomes eligible to be classified as a metropolitan city, and was not classified as a metropolitan city in the immediately preceding fiscal year, may, upon submission of written notification to the Secretary, defer its classification as a metropolitan city for all purposes under this title, if it elects to have its population included in an urban county under subsection (d). Notwithstanding the second sentence of this paragraph, a city may elect not to retain its classification as a metropolitan city for fiscal year 1988 or 1989."

FORD (AND McCONNELL) AMENDMENT NO. 1306

Mr. JOHNSTON (for Mr. FORD, for himself and Mr. MCCONNELL) proposed an amendment to the joint resolution (H.J. Res. 395) supra; as follows:

At the appropriate place, insert the following new section:

SEC. . (a) Notwithstanding any other provision of this joint resolution, there is appropriated an additional $227,000 for grants to States for the establishment and operation of international trade development centers at the University of Kentucky as authorized by the National Agricultural Research, Extension, and Teaching Policy Act of 1977, as amended (7 U.S.C. 3292) and section 1472 of the Food and Agriculture Act of 1977 (7 U.S.C. 3318).

(b) Notwithstanding any other provision of this joint resolution, the amount made available for the Emergency Conservation Program under title II of S. 1800 a bill making appropriations for Agriculture, Rural Development, and Related Agencies programs for the fiscal year ending September 30, 1988, and for other purposes, shall be $773,000.

BUMPERS AMENDMENT NO. 1307

Mr. BUMPERS proposed an amendment to the joint resolution (H.J. Res. 395) supra; as follows:

At the end of the joint resolution, add the following new section:

SEC. . (a) Beginning 90 days after the date of enactment of this joint resolution, none of the funds appropriated or otherwise made available by this joint resolution may be available for operations by the United States Armed Forces to escort or convoy reregistered vessels in the Persian Gulf during any period in which there is not in effect with the country of previous ownership of those vessels an agreement providing for the payment to the United States of the additional costs which may be incurred by the United States as a result of such operations.

(b) For purposes of this section, the term "reregistered vessels" means vessels which—

(1) were owned by the government or nationals of any country bordering the Persian Gulf as of June 1, 1987; and

(2) were reregistered under the flag of the United States after such date.

BURDICK AMENDMENT NO. 1308

Mr. JOHNSTON (for Mr. BURDICK) proposed an amendment to the joint resolution (H.J. Res. 395) supra; as follows:

At the appropriate place in H.J. Res. 395, insert the following:

SEC. . Section 149 of The Surface Transportation and Uniform Relocation Assistance Act of 1987 is amended (1) by striking in subsection (b)(111)(H) "$80,000" and inserting in lieu thereof "$100,000" and (2) in subsection (b)(111)(I) by striking "$100,000" and inserting in lieu thereof "$80,000."

SEC. . Section 149(a) of The Surface Transportation and Uniform Relocation Assistance Act of 1987 is amended by striking subsections 111(A) and (B) and inserting in lieu thereof the following:

"(A)(1) Morton County.—The Secretary is authorized to carry out a project to obtain easements for and construct an access road in Morton County FAS, Route 3020 from 11 miles south of Sweet Briar Lake, 1½ miles south of Fish Creek Lake, then easterly 8 miles to Morton County FAS Route 3047."

"(2) Morton County.—The Secretary is authorized to carry out a project to construct an access road in Morton County, FAS Route 3002 from 6 miles north of Crown Butte Road then easterly 2 miles to North Dakota State Highway 1806.

"(3) Morton County.—The Secretary is authorized to carry out a project to construct an access road in Morton County, FAS Route 3039 from Sweet Briar Lake, North 7 miles to the Oliver County line.".

"(B)(1) Mercer County.—The Secretary is authorized to carry out a project to construct an access road in Mercer County, FAS Route 2927 from 4 miles north of Hazen, North Dakota; north 8 miles to Hazen Bay, Lake Sakakawea or from 4 miles north of Hazen, North Dakota; then 3 miles north and 6 miles east to intersection of N.D. 200 and Mercer County Route 37; then in a southeasterly direction approximately 10 miles to the north corporate limits of the City of Stanton, North Dakota.

"(2) Mercer County.—The Secretary is authorized to carry out a project to construct an access road in Mercer County, County FAS Route 2927 from 4 miles north of Hazen, North Dakota north 8 miles to Hazen Bay, Lake Sakakawea or from 4 miles north of Hazen, North Dakota then 8 miles north to the intersection of North Dakota 1806; then east to the intersection of North Dakota 200; then south 5 miles to Mercer County, Route 37; then in a southeasterly direction approximately 10 miles to the north corporate limits of the City of Stanton, North Dakota.

"(3) Mercer County.—The Secretary is authorized to carry out a project to construct an access road in Mercer County, County FAS Route 2927 from 4 miles north of Hazen, North Dakota, north 8 miles to Hazen Bay, Lake Sakakawea, or 7 miles north of the junction with North Dakota 200 and 200 A; then east 3 miles, south 2 miles, east 2 miles, and south 3 miles to the north corporate limits of the City of Stanton, North Dakota.

"(4) Mercer County.—The Secretary is authorized to carry out a project to construct an access road in Mercer County, County FAS Route 2927, from 4 miles north of Hazen, North Dakota, north 8 miles to Hazen Bay, Lake Sakakawea, or Knife River Indian Village Historic Site access road."

SEC. . The Surface Transportation and Uniform Relocation Assistance Act of 1987 is amended by inserting at the end of section 149 a new subsection to read as follows: "The state of North Dakota may elect to utilize the total amount of funds authorized for such state under section 149 (b) and (d) in any given year for any project or projects in the state of North Dakota as authorized under section 149. The total amount of federal funds obligated for any project under section 149 shall not exceed the total five year authorization for such project.".

BURDICK AMENDMENT NO. 1309

Mr. JOHNSTON (for Mr. BURDICK) proposed an amendment to the joint resolution (H.J. Res. 395), supra; as follows:

At the appropriate place in H.J. Res. 395, insert the following:

Section 21 of the Urban Mass Transportation Act of 1964 (49 U.S.C. App. 1617) is amended—

(A)(1) in subsection (c)(2) by striking out "(a)(2) and (b)" and by inserting in lieu thereof "(a)(2), (b), and (i)(2)"; and

(2) in subsection (i)(2) by inserting ", to remain available until expended" before the period at the end thereof.

(B) sums deducted under section 104(a) of title 23, United States Code, shall be available to the Secretary for administering the provisions of Section 21 (i)(2) of the Urban Mass Transportation Act of 1964.

ROCKEFELLER AMENDMENT NO. 1310

Mr. JOHNSTON (for Mr. ROCKEFELLER) proposed an amendment to the joint resolution (H. J. Res. 395) supra; as follows:

At the appropriate place in the resolution, insert the following new section:

SEC. . Of the amounts made available to the Soil Conservation Service under this joint resolution, $150,000 shall be made available to fund the Little Kanawha River Basin Study.

INOUYE (AND OTHERS) AMENDMENT NO. 1311

Mr. INOUYE (for himself, Mr. MITCHELL, Mr. COHEN, Mr. ADAMS, and Mr. EVANS) proposed an amendment to the joint resolution (H.J. Res. 395) supra; as follows:

At the appropriate place in the resolution, insert the following:

SEC. 1. There is authorized $10,000,000 to establish the Warren G. Magnuson Foundation and Margaret Chase Smith Foundation Assistance Act.

SEC. 2. (a) In recognition of the public service of Senator Warren G. Magnuson, the Secretary of Education shall make grants, in accordance with the provisions of this act, to the Warren G. Magnuson Foundation for use in the development and activities of the Warren G. Magnuson Health Services Center at the University of Washington at Seattle, Washington, and for other health and education related activities of the Foundation.

(b) In recognition of the public service of Senator Margaret Chase Smith, the Secretary of Education shall make grants, in accordance with the provisions of this Act, to the Margaret Chase Smith Foundation for use in the development and activities of the Margaret Chase Smith Library Center, located in Skowhegan, Maine.

(c) No payment may be made under this act unless an application is made to the Secretary of Education at such time, in such manner, and containing or accompanied by such information as the Secretary of Education may require.

SEC. 3. (a) There are authorized to be appropriated such sums, not to exceed $5,000,000 as may be necessary to carry out the provisions of section 2(a) of this Act.

(b) There are authorized to be appropriated such sums, not to exceed $5,000,000 as may be necessary to carry out the provisions of section 2(b) of this Act.

(c) Funds appropriated under this Act shall remain available until expended.

INOUYE AMENDMENT NO. 1312

Mr. JOHNSTON (for Mr. INOUYE) proposed an amendment to the joint resolution (H.J. Res. 395) supra; as follows:

At the appropriate place in the Resolution, insert the following:

Section 247(c)(1) of the National Housing Act is amended by inserting before the period at the end the following: "(or, in the case of an individual who succeeds a spouse or parent in an interest in a lease of Hawaiian home lands, such lower percentage as may be established for such succession under section 209 of the Hawaiian Homes Commission Act, 1920, or under the corresponding provision of the constitution of the State of Hawaii adopted under section 4 of the Act entitled 'An Act to provide for the admission of the State of Hawaii into the Union', approved March 18, 1959 (73 Stat. 5))".

Section 247 of the National Housing Act is further amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting after subsection (b) the following new subsection:

"(c) Notwithstanding any other provision of this Act, the insurance of a mortgage using the authority contained in this section shall be the obligation of the General Insurance Fund established in section 519. The mortgagee shall be eligible to receive the benefits of insurance as provided in section 204 with respect to mortgages insured pursuant to this section, except that (1) all references in section 204 to the Mutual Mortgage Insurance Fund or the Fund shall be construed to refer to the General Insurance Fund; and (2) all references in section 204 to section 203 shall be construed to refer to the section under which the mortgage is insured".

EVANS (AND OTHERS) AMENDMENT NO. 1313

Mr. JOHNSTON (for Mr. EVANS, for himself, Mr. LEAHY, and Mr. DURENBERGER) proposed an amendment to the joint resolution (H.J. Res. 395) supra; as follows:

At the appropriate place, insert the following new section:

"SEC. . DELAY QUALITY CONTROL PENALTY MORATORIUM FOR FOOD STAMPS.

"The Secretary of Agriculture shall not impose any reductions in payments to states pursuant to section 16 of the Food Security Act of 1977 (7 U.S.C. 2025) for any calendar quarter beginning before September 30, 1988."

DOMENICI (AND OTHERS) AMENDMENT NO. 1314

Mr. JOHNSTON (for Mr. DOMENICI, for himself, Mr. HATFIELD, Mr. DECONCINI, Mr. WILSON, Mr. CRANSTON, Mr. PACKWOOD, Mr. WALLOP, Mr. HOLLINGS, Mr. BINGAMAN, Mr. STEVENS, Mr. BAUCUS, and Mr. HECHT) proposed an amendment to the joint resolution (H.J. Res. 395) supra; as follows:

At the appropriate place in the bill add the following new section:

SEC. . (a) From funds appropriated under this Act, such sums as are necessary shall be made available to pay forest firefighters premium pay under the provisions of subchapter V of chapter 55 of title 5, United States Code (notwithstanding the limitations of section 5547 of such title), for all premium pay—

(1) that would have been paid to such forest firefighter employees, but for the provisions of section 5547 of such title, for all pay periods (and parts thereof) occurring during the period beginning on January 1, 1987, through September 30, 1987,

(2) earned by such forest firefighter employees in the fiscal year ending on September 30, 1988.

(b) Notwithstanding the provisions of subsection (a), no forest firefighter employee may be paid premium pay to the extent that the aggregate rate of pay of such employee for the aggregate of all pay periods in any calendar year exceeds the maximum rate for GS-15 as provided under the General Schedule pursuant to subchapter III of chapter 53 of title 5, United States Code.

(c) For purposes of this subsection, the term "forest firefighter" means any employee of the Department of Agriculture or the Department of the Interior who is assigned to, or in support of, work on forest wildfire emergencies.

LAUTENBERG (AND OTHERS) AMENDMENT NO. 1315

Mr. JOHNSTON (for Mr. LAUTENBERG, for himself, Mr. BRADLEY, Mr. MOYNIHAN, and Mr. D'AMATO) proposed an amendment to the joint resolution (H.J. Res. 395) supra; as follows:

At the end of the joint resolution, add the following new section:

"SEC. . The following portion of the Hudson River in New York County, State of New York, is hereby declared not to be part of the federally authorized Channel Deepening Project: that portion of the Hudson River lying to the west of the United States Pierhead Line as it exists on the effective date of this Act, more specifically described as beginning at a point at the intersection of the north side of North Cove and the existing pierhead line, proceeding in a northerly direction along the existing pierhead line to a point formed by the pierhead line and the southerly side of Vesey Street if extended; thence in a westerly direction on a line perpendicular to the existing pierhead line 200 feet to a point; thence southerly on a line parallel to the existing pierhead line to a point on the northerly line of the North Cove if extended; thence in an easterly direction 200 feet to the point and place of beginning. This declaration shall apply to all or any part of the above-described area used or needed for trans-Hudson passenger ferry boat service as such may be operated by or contracted for operation by a bistate agency created by Compact between the States of New York and New Jersey.

McCLURE AMENDMENT NO. 1316

Mr. JOHNSTON (for Mr. MCCLURE) proposed an amendment to the joint resolution (H.J. Res. 395) supra; as follows:

At the appropriate place in the resolution, insert the following new section:

Of funds available to the Army Corps of Engineers, Flood Control and Navigation, Research and Development, not less than $250,000 shall be made available for research to prevent ice jamming and related flooding in the Dump Creek area of the Salmon River in Idaho.

MOYNIHAN AMENDMENT NO. 1317

Mr. JOHNSTON (for Mr. MOYNIHAN) proposed an amendment to the joint resolution (H.J. Res. 395) supra; as follows:

At the end, insert the following:

"*Provided further*, That the Administrator of General Services is hereby directed to submit a prospectus to the Congress within 60 days to enable the Administrator to contract for construction of two buildings not to exceed a total of 1.6 million gross square feet of office space, plus additional parking and retail space, in New York City on sites to be acquired from the City of New York. The contracts shall provide, by lease or installment payments over a period not to exceed 30 years, from funds available for the rental of space in the Federal Building Fund for the payment of the purchase price, and reasonable interest thereon. The contracts shall further provide that title to the buildings shall vest in the United States at or before expiration of the contract term upon fulfillment of the terms and conditions of the contracts. If a lease-purchase prospectus for a building described in this paragraph is approved under the Public Buildings Act of 1959, The Administrator of the General Services Administration may enter into a transaction for the lease-purchase of such building in accordance with the terms specified in such approved prospectus and applicable provisions of law and may make annual lease or installment payments form the funds available for the rental of space in such Fund. The General Services Administration shall lease up to 400,000 square feet of office space and associated parking to the City of New York at rates that reflect an appropriate portion of the construction and related costs of the projects, adjusted for the value of the land acquired from the City. In addition, income accrued by the General Services Administration from the outlease of office space to the City as well as retail and related space to private organizations shall be used to offset GSA's installment payments for the cost of the facilities. Obligations of funds under these transactions shall be limited to the current fiscal year for which payments are due without regard to 31 U.S.C. 1341(a)(1)(B).”.

JOHNSTON (AND D'AMATO) AMENDMENT NO. 1318

Mr. JOHNSTON (for Mr. MOYNIHAN, for himself and Mr. D'AMATO) proposed an amendment to the joint resolution (H.J. Res. 395) supra; as follows:

At the appropriate place in the bill, insert the following:

“That (a) notwithstanding any other provision of law, the Secretary of Transportation shall provide such funds out of the emergency relief fund authorized under section 125 of title 23, United States Code, as may be necessary, to pay the expenses incurred in the reconstruction or repair of the bridge over Schoharie Creek in the State of New York that is on Interstate Route 90, including any expenses incurred in conducting the investigation of the cause of the collapse of the bridge and the expenses incurred in detouring traffic around the site of the bridge until the reconstruction or repair is completed.

(b) No payment of an expense may be made by reason of subsection (a) if such expense is paid or reimbursed—

(1) under any Federal program other than section 125 of title 23, United States Code, or

(2) under any insurance policy covering the bridges described in subsection (a).

(c) The provisions of section 125 of title 23, United States Code, and any regulations prescribed under such section, regarding the expenditure of funds provided under such section shall apply to any funds provided by reason of subsection (a) to the extent such provisions and regulations are consistent with the provisions and purposes of this Act.”.

INOUYE (AND DECONCINI) AMENDMENT NO. 1319

Mr. INOUYE (for himself and Mr. DECONCINI) proposed an amendment to the joint resolution (H.J. Res. 395) supra; as follows:

At the end of the Resolution, add the following new section:

SEC. . Subsection 8902 of title 5, United States Code is amended—

(1) by inserting in subsection (k)(1), after “as applicable,” the following: “or by a qualified clinical social worker as defined in section 8901(11),”;

(2) by inserting in subsection (k)(1), after “such a clinical psychologist” the following: “, qualified clinical social worker”;

(3) by striking out all of subsection (k)(2) and by redesignating subsection (k)(3) as subsection (k)(2); and

(4) by striking out the last sentence in subsection (m)(2)(A).

MELCHER (AND OTHERS) AMENDMENT NO. 1320

Mr. MELCHER (for himself, Mr. BURDICK, Mr. SHELBY, Mr. PRESSLER, and Mr. INOUYE) proposed an amendment which was subsequently modified, to the joint resolution (H.J. Res. 395) supra; as follows:

At the end of the joint resolution, add the following new section:

SEC. . (a) The Congress finds that—

(1) States have adopted senior citizen advocacy and legislative bodies;

(2) older Americans are therefore provided opportunity within their States to express their concerns, promote appropriate interests, and advance the common good by influencing legislation and actions of State government; and

(3) a National Silver Haired Congress with reprsentatives from each State would serve as a national grassroots forum to determine on a nonpartisan basis the recommendations for solutions to older American concerns without regard to race, creed, national origin or social status.

(b)(1) The Congress encourages and authorizes the convening of a National Silver Haired Congress in Washington, District of Columbia in 1989.

(2) The Speaker of the House of Representatives and the President pro tempore of the Senate shall facilitate and coordinate the convening of such a Congress.

MURKOWSKI (AND BUMPERS) AMENDMENT NO. 1321

Mr. JOHNSTON (for Mr. MURKOWSKI, for himself and Mr. BUMPERS) proposed an amendment to the joint resolution (H.J. Res. 395) supra; as follows:

At the end of the joint resolution, add the following new section:

(a) The Congress finds—

(1) that the United States is spending enormous resources in money, manpower and materiel to protect a fleet of Kuwaiti owned tankers,

(2) that the vast majority of the oil in those tankers and in other tankers in the Gulf is destined for places other than the United States,

(3) that other nations receive considerably more economic and energy benefits from our efforts than we do,

(4) that Japan, among other nations, is heavily dependent on oil from the Persian Gulf receiving nearly 50 percent of its oil imports from the Gulf,

(5) that nearly 30 percent of Western Europe's oil imports come from the Persian Gulf,

(6) that the United States receives only 6 percent of its oil imports from the Persian Gulf.

(b) It is the sense of the Congress that, in order to share a portion of the burden of the protection services provided for commercial shipping in the Persian Gulf by the United States Armed Forces—

(1) countries which directly benefit from the United States policy of providing military protection to reflagged Kuwaiti vessels and maintaining freedom of navigation in the Persian Gulf should share in the burdens incurred by the United States Armed Forces in providing such protection;

(2) the President of the United States should enter into negotiations with such countries to achieve a pro-rata sharing of these burdens.

(3) the President should prepare and transmit to the Speaker of the House of Representatives and the President pro tempore of the Senate a report containing:

(A) his assessment of the costs incurred by the United States Armed Forces in carrying out the policy of protecting reflagged Kuwaiti vessels;

(B) his determination as to which countries benefiting directly from the United States reflagging policy including:

(i) Kuwait;

(ii) other oil producing Gulf states;

(iii) countries purchasing Persian Gulf oil;

(C) an accounting of the amount of benefit derived by each of these countries from the United States reflagging policy;

(D) an accounting of any assistance or support such countries are already providing the United States reflagging policy;

(E) a plan apportioning the burden of United States naval protection among those countries directly benefiting from the United States reflagging policy; and

(F) a discussion of the status of negotiations entered into for the purpose of implementing the plan.

DANFORTH (AND BOND) AMENDMENT NO. 1322

Mr. JOHNSTON (for Mr. DANFORTH, for himself and Mr. BOND) proposed an amendment to the joint resolution (H.J. Res. 395) supra; as follows:

At the end of the joint resolution, add the following:

SEC. It is the sense of the Senate that the Secretary of the Army shall instruct the Army Corps of Engineers that it may not operate more than four generators simultaneously at the Harry S Truman Dam and Reservoir, Missouri, in the absense of a plan for operation of the dam approved by the Missouri Department of Conservation and the Missouri Department of Natural Resources.

MELCHER AMENDMENT NO. 1323

Mr. JOHNSTON (for Mr. MELCHER) proposed an amendment to the joint resolution (H.J. Res. 395) supra; as follows:

On page 10, Section (k) at the end of line 14 add the following:

“*Provided further*, That of the funds otherwise made available for the Animal and Plant Health Inspection Service, $260,000 will be used for additional employees and equipment for protection of livestock against predators in Montana.”

HEFLIN AMENDMENT NO. 1324

Mr. JOHNSTON (for Mr. HEFLIN) proposed an amendment to the joint resolution (H.J. Res. 395) supra; as follows:

Amend H.J. Res. 395 by inserting a new subsection at the end of section 101 as follows:

( ) Section 603 of title 28, United States Code, is amended by striking the second sentence and inserting in lieu thereof the following: “The salaries of the Deputy Director and of six additional positions shall be fixed by the Director at rates not to exceed the annual rate of basic pay for positions at level IV of the Executive Schedule under section 5315 of title 5.”.

HEINZ (AND OTHERS) AMENDMENT NO. 1325

Mr. JOHNSTON (for Mr. HEINZ, for himself and Mr. DIXON, Mr. CRANSTON, Mr. BAUCUS, and Mr. DANFORTH) proposed an amendment to the joint resolution (H.J. Res. 395) supra; as follows:

On page 3, line 13, before the period insert ": *Provided further*, That no funds provided in this Joint Resolution for Department of Commerce, Export Administration, 'Operations and administration' may be used for the processing or collection of fees charged in connection with the submission or processing of an export license application".

D'AMATO (AND MOYNIHAN) AMENDMENT NO. 1326

Mr. COCHRAN (for Mr. D'AMATO, for himself and Mr. MOYNIHAN) proposed an amendment to the joint resolution (H.J. Res. 395) supra, as follows:

Insert the following at the appropriate place in H.J. Res. 395:

Section 165 of the Federal-Aid Highway Act of 1987 (Public Law 100-17; relating to a cost effectiveness study of upgrading of Route 219) is amended as follows:

(1) Subparagraph (B) of subsection (a)(1) is amended to read as follows:

"(B) between Springville, New York, and its intersection with the New York-Pennsylvania State line;".

(2) Subsection (b) is amended by striking "1 year" and inserting "18 months".

METZENBAUM (AND ROTH) AMENDMENT NO. 1327

Mr. METZENBAUM (for himself and Mr. ROTH) proposed an amendment to the joint resolution (H.J. Res. 395) supra, as follows:

At the appropriate place, insert the following new section:

SEC. . (a) Section 5 of Public Law 99-87, relating to the use of official mail in the location of missing children, is amended by striking out "two and one-half years after the date of the enactment of this Act" and inserting in lieu thereof "after December 31, 1992".

(b) Section 3(a) of Public Law 99-87 is amended by striking out "Not later than two years after the date of enactment of this Act," and inserting in lieu thereof "Not later than June 31, 1992,".

CHAFEE (AND OTHERS) AMENDMENT NO. 1328

Mr. CHAFEE (for himself, Mr. MITCHELL, Mr. MOYNIHAN, Mr. NUNN, Mr. ROCKEFELLER, Mr. HEINZ, Mr. DURENBERGER, Mr. DANFORTH, Mr. DODD, Mr. LAUTENBERG, Mr. RIEGLE, Mr. BRADLEY, Mr. SIMON, Mr. BENTSEN, Mr. BOND, Mr. COHEN, Mr. GRAHAM and Mr. BINGAMAN) proposed an amendment to the joint resolution (H.J. Res. 395) supra, as follows:

At the appropriate place, insert the following:

(a) FINDINGS.—The Congress finds that—

(1) Since America's international competitiveness and future prosperity require national investments in America's children and youth;

(2) Since a growing spectrum of business and economic leaders, including the highly respected Committee for Economic Development, recognize the importance of investing in cost-effective programs that have a proven track record assisting low income children; and

(3) Since one out of five American children live in poverty in this nation, with minority children at even greater risk (more than two in every five black children and more than one out of every three Hispanic childern live in poor families);

(4) Since the recent budget summit agreement stipulates that in implementing the budget agreement, essential programs for the poor should be a priority;

(b) SENSE OF THE SENATE.—Therefore, be it declared that it is the sense of the Senate that:

(1) to the extent possible, funding for high priority programs for low income and disadvantaged children should be preserved, in determining where to make reductions in order to comply with the spending limitations reflected in the summit agreement between the Joint Leadership of the Congress.

HELMS (AND PELL) AMENDMENT NO. 1329

Mr. HELMS (for himself and Mr. PELL) proposed an amendment to the joint resolution (H.J. Res. 395) supra, as follows:

On page 3, line 6, after "*Provided,*" insert the following:

"That none of the funds appropriated for Title III shall be obligated or expended after February 15, 1988 unless prior to that date, the Conference Report on H.R. 1777 (the Foreign Relations Act, Fiscal Years 1988 and 1989), the authorization for such appropriations, has been approved: *Provided further,*".

DOLE AMENDMENT NO. 1330

Mr. JOHNSTON (for Mr. DOLE) proposed an amendment to the joint resolution (H.J. Res. 395), supra, as follows:

At the end of the joint resolution, add the following:

SEC. . Paragraph (72) of section 149(a) of the Surface Transportation and Uniform Relocation Assistance Act of 1987 (101 Stat. 192) is amended to read as follows:

"(72) DOUGLAS COUNTY, KANSAS.—The Secretary shall carry out a highway project in Douglas County, Kansas, to demonstrate methods of reducing traffic congestion and facilitating the usage by motorists on the Interstate System of recreational facilities by construction of a limited access road of approximately 14 miles in length which, at its western terminus, will provide access from an east-west Interstate highway route to a reservoir and a University research park, will proceed easterly around the southern portion of the City of Lawrence and, at its eastern terminus, will provide access to a business park and a limited access east-west State highway.".

DOLE AMENDMENT NO. 1331

Mr. GARN (for Mr. DOLE) proposed an amendment to the joint resolution (H.J. Res. 395), supra, as follows:

At the end of the joint resolution, add the following:

SEC. . Effective on and after the date of the enactment of this Act, the provisions of section 503 of the Aviation Safety and Noise Abatement Act of 1979 shall not be applicable in connection with the providing of service from Love Field, Texas, to Wichita, Kansas.

BENTSEN AMENDMENT NO. 1332

Mr. JOHNSTON (for Mr. BENTSEN) proposed an amendment to the joint resolution (H.J. Res. 395) supra, as follows:

At the appropriate place, insert the following:

(A) The Secretary of Labor is authorized to make available from funding provided by this Act and Authorized by Title IV, Part B of the Job Training Partnership Act such funds as are necessary to match a Federal Aviation Administration grant to the city of San Marcos, Texas, for the functional replacement of buildings and other facilities at the Gary Job Corps Center, San Marcos, Texas: Provided, that funding made available by this Act for this purpose shall not exceed $372,000. Such funds are necessary to facilitate the transfer of 37 acres, more or less, at the Gary Job Corps Center to the city of San Marcos, pursuant to Section 516 of the Airport and Airway Improvement Act of 1982, as amended (by pending legislation: H.R. 2310/S. 1184, awaiting conference) for development of the San Marcos Municipal Airport.

(B) Notwithstanding any other provision of law, the Secretary of Transportation is authorized, pursuant to Section 505(a) of the Airport and Airway Improvement Act of 1982, as amended (by pending legislation), to issue a grant to the city of San Marcos, Texas, for the functional replacement of buildings and other improvements at the Gary Job Corps Center, San Marcos, Texas; such functional replacement shall be considered as airport development as defined in Section 503(a)(2) of said Act; further, costs for such functional replacement shall be allowable costs, notwithstanding any provision of Section 513(c) of said Act; funds authorized in Subsection (A) of this Section may be used to provide the needed matching share of the cost of such functional relocation, notwithstanding any provision of Section 510 of said Act.

(C) For the purpose of this Section, no federal funds used for such functional replacement shall be considered as an expense to the United States as that term is used in Section 516 of the Airport and Airway Improvement Act of 1982, as amended (by pending legislation).

(D) the 37 acres referenced in Subsection (A) of this Section are defined as follows:

A tract of land being that part of the Job Corps site located south of and adjacent to the aircraft apron of the San Marcos Airport, Caldwell County, Texas. This tract is more particularly described in the following paragraphs.

Beginning at the northwest corner of the Job Corps site which is located near the south edge of the aircraft apron, and is approximately 100 feet northeasterly of the old control tower;

thence east along the north boundary of the Job Corps site an approximate distance of 1850 feet to a point in the aircraft apron;

thence northeasterly along a line perpendicular to the center line of runway 12-30 an approximate distance of 150 feet to a point which is approximately 750 feet from the said center line;

thence southeasterly along a line in the aircraft apron and parallel to the said center line an approximate distance of 1500 feet to a point near the southeast edge of the said apron;

thence southwest along a line perpendicular to the said center line an approximate distance of 400 feet to a point;

thence northwest along a line parallel to the said centerline an approximate distance of 150 feet to a point which is on a extension of a line northeasterly along 10th Street;

thence southwest along the said extension an approximate distance of 200 feet to a point;

thence northwest along a line parallel to the southwest side of the large solitary hangar between 9th Street and 10th Street and passing along the southwest side of this hangar an approximate distance of 700 feet to a point which is on an extension of a line northeasterly along 9th Street;

thence southwest along the extension of the line along 9th Street an approximate distance of 250 feet to a point on the southwest line of Kane Avenue East;

thence northwest along the southwest line of Kane Avenue East an approximate distance of 650 feet to an angle point in Kane Avenue;

thence west along the south line of Kane Avenue an approximate distance of 2800 feet to a point on the northwest boundary of the Job Corps site, which is on the northwest side of Kane Avenue West;

thence northeast along the said northwest boundary an approximate distance of 50 feet to a point on the north boundary of the Job Corps site;

thence east along the north boundary of the Job Corps site, which is along the north side of Kane Avenue, an approximate distance of 1250 feet to an angle point in the boundary;

thence north along the boundary an approximate distance of 150 feet to an angle point in the boundary;

thence east along the boundary an approximate distance of 250 feet to an angle point in the boundary;

thence north along the boundary an approximate distance of 300 feet to the point of beginning.

ADAMS AMENDMENT NO. 1333

Mr. JOHNSTON (for Mr. ADAMS) proposed an amendment to the joint resolution (H.J. Res. 395) supra, as follows:

On Page 3, at the end of line 13, add the following:

Provided further, that no funds appropriated to the Federal Communications Commission shall be used prior to March 22, 1988 to accept or grant any applications to construct or operate cellular systems in rural service areas.

DECONCINI AMENDMENT NO. 1334

Mr. DECONCINI proposed an amendment to the joint resolution (H.J. Res. 395) supra, as follows:

At the appropriate place insert the following:

SEC. 572. STINGER MISSILES.

(a) PROHIBITION.—Except as provided in paragraph (b), no Stinger antiaircraft missiles may be provided, directly or indirectly, by sale, lease, grant or otherwise, during fiscal year 1988 to any country in the Persian Gulf region.

(b) EXCEPTION.—Notwithstanding the prohibition in paragraph (a), such missiles may be provided to Bahrain if the President certifies to Congress that—

(1) such missiles are needed by the recipient country to counter an immediate air threat and/or to contribute to the protection of U.S. personnel, facilities or operations;

(2) no other appropriate system is available from the United States;

(3) the recipient agrees to safeguards as required in the Letter of Offer and Acceptance by the U.S. Government to protect against diversion, and

(4) the recipient country has agreed to a U.S. buyback of all the remaining missiles and components which have not been destroyed or fired in order to return them to the possession and control of the United States when another U.S. air defense system which meets the military requirements can be made available for not more than 18 months from the enactment of this legislation.

(c) REPORT.—Not later than 3 months after the date of enactment of this Act, the President shall submit to the Congress a report which assesses the global threat caused by the proliferation of man-portable ground-to-air missiles with advanced technology comparable to that of the Stinger missile, without regard to the country of origin of those missiles. This report shall give special emphasis to the danger of such missiles being used in acts of terrorism. Further, that the President review and report every 3 months on the conditions and timing under which the appropriate system may be delivered and the means for subsequent recovery of any Stinger missiles sold under the authority of this provision.

(d) NOTIFICATION.—Before issuing any letter of offer to sell or provide Stinger missiles (without regard to the amount of the sale or transfer) the President shall notify the Speaker of the House of Representatives and the Majority Leader of the Senate. Any such notification shall contain the information required in a certification under section 36(b) of the Arms Export Control Act.

KARNES AMENDMENT NO. 1335

(Ordered to lie on the table.)

Mr. KARNES submitted an amendment intended to be proposed by him to the joint resolution (H.J. Res. 395), supra; as follows:

At the appropriate place in the resolution, insert the following:

"The Secretary of Agriculture shall make available generic commodity certificates in the amount of $132,000 to defray costs associated with the emergency repair of severe storm damage to cooperatively-owned farm irrigation canals near Scottsbluff, Nebraska."

● Mr. KARNES. Mr. President, I have sent an amendment to the desk that would address a major problem for many of the farmers in and around Scottsbluff, NE. The problem is severe damage to irrigation canals in the Scottsbluff area caused by what Jacquie Long, a reporter for the Scottsbluff Star-Herald, called "one of the most devastating storms experienced here."

In early August, storms hit the Scottsbluff area with heavy rains and high winds. The storm damage was astounding and widespread. I spent many days in the stricken area, surveying the damage and listening to local residents' accounts of how the storm had affected crops and property. I have worked very hard with the local residents to make sure that all emergency assistance programs are made available to the full extent of the law to help them rebuild their losses. We have not been able to make all the assistance available that I would have liked due to restrictions on such assistance enacted in recent years. But I believe we have mobilized as much assistance as we can at this time. I will keep looking for ways to help reduce the burden that people in Scottsbluff are having to bear due to nothing more than bad luck.

My amendment today is an important part of my commitment to the people of western Nebraska. The storm caused great damage to the Tri-State Irrigation Canal near Highland School, causing a flash flood north of Minatare, NE. The flash flood posed a real threat to people and property in the area. Local emergency rescue and law enforcement officials were called in to restore order to the situation, but not before the violent rains had broken the canal.

According to Wes Sell, manager of the Farmers' Irrigation District, the break in the canal was "the largest break I've seen in the 38 years I've been with the company," as he told the Star-Herald. The damage turned a country road and farm fields into a river, destroying farm equipment and cutting a widening swath outside the canal banks. One family had to be evacuated from their homes and other houses were being threatened when district officials moved in to repair the break.

Due to the swift and effective action of the Irrigation District officials and other assistance, the canal was repaired and further threats to life and limb were avoided. However, these emergency procedures were not without cost. Floyd Sauer, president of the Farmers Irrigation District, sent me a letter and the breakdown of the costs incurred in the emergency repair of the canal. I am submitting a copy of Mr. Sauer's letter to be included in the CONGRESSIONAL RECORD along with my statement.

Mr. President, it cost the district nearly $132,000 to make these emergency repairs. Local residents had no choice but to act, and act quickly to avoid further devastation from the canal break. There was no time to lose, and certainly no time to think of alternate ways to finance the emergency work. Now that the repairs have been made, the local residents have no readily available means for paying for these costs. They have asked for help.

Their requests are reasonable, and we should respond to their requests.

The amendment I am introducing today would make available to the district generic commodity certificates worth $132,000. The district will be able to redeem these certificates for cash in order to defray the costs the district members incurred making the emergency repairs. This relief will go a long way toward making sure that both the canal, and the district's financial condition, are restored to their predisaster condition.

Mr. President, I have made my colleagues in the Senate aware of my strong support for the people affected by the storm in western Nebraska. I am aware that the parliamentary situation currently existing in the Senate reduces my chances for receiving immediate approval of my amendment at this time. However, I feel it is vitally important to pursue this matter. For that reason, I have been engaged with negotiations to allow my provision to be added to the bill at a later date.

Following discussions with the Agricultural Appropriations Subcommittee, prior to the completion of the continuing resolution, it was agreed that an effort would be made by conferees during the conference to give special funding consideration to emergency irrigation canal damage caused by recent severe storms in Scotts Bluff County Nebraska as more completely referenced in the following proposed amendment to the continuing appropriations bill for fiscal year 1988, and for which no emergency program funding is specifically available.

It is my hope that these efforts, with the cooperation of the conferees on the continuing resolution for fiscal year 1988, will be successful in providing relief for the irrigators near Scottsbluff. They need it, they deserve it, and I will keep my commitment to local residents that I will do all I can to secure funds to help them.

I ask that a number of documents relating to the Scottsbluff Canal damage be made a part of the RECORD immediately following my statement.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

FARMERS IRRIGATION DISTRICT,
Scottsbluff, NE, September 2, 1987.

The enclosed work sheets cover the repair costs the Farmers Irrigation District received from the two major storms of May 23 and August 3 and 4, 1987 and the subsequent flood damage.

The cost of repair figures on the Nine-Mile Drain work sheet is an estimate of cost since we are unable to commence work on the drain until we receive our 404 permit from the Corps of Engineers.

The District suffered additional flood damages to the system and none of these costs are included in the enclosed information. One example of these additional damages is an underdrain structure on the Leavitt Drain, this structure will cost approximately $30,000.00 to replace.

Due to the depressed economic condition of agriculture the Districts budget for the past several years has not included any funds for emergencies such as major flood damage. When such emergencies do arise it creates a real financial burden on the District and the farmer who must pay the taxes.

If there are emergency federal grants or low interest funds available for irrigation districts we would appreciate your help in obtaining such information.

Your assistance will be greatly appreciated.

Sincerely,

FLOYD H. SAUER,
President.

FARMERS IRRIGATION DISTRICT, SCOTTS BLUFF, NE, SEPT. 2, 1987

[Nature of work: Repairing break and filling washes on main canal caused by heavy flooding Aug. 3 and 4, 1987. 6 to 7" rain reported. Owner of land: Farmers Irrigation District]

Description	Rate	Total cost
Labor:		
422 man-days	$57.32	$24,189.04
298 tractor hours	50.00	14,900.00
560 truck hours	6.50	3,640.00
262 pickup hours: For transportation, fuel, and water tanks	7.71	2,020.02
12 concrete mixer hours	7.00	84.00
177 dragline hours	60.00	10,620.00
88 backhoe hours	45.00	3,960.00
106 loader hours	40.00	4,240.00
3 welder hours	7.00	21.00
4 air compressor hours	7.00	28.00
184 motor grader hours	40.00	7,360.00
36 lowboy truck hours	6.50	234.00
Water wagons (14 days)	200.00	2,800.00
Paddle scrapers		12,195.00
Tractors for pulling sheeps foot packers		4,409.50
214 sheeps foot packers hours	8.00	1,712.00
Contractors loaders		1,492.50
Contractor trucks, 165 hr	30.00	4,950.00
3" and 4" pumps, 172 hr	6.00	1,032.00
Total labor		99,887.06
Material:		
Purchased the land for approximately 50,000 yd fill material		26,834.75
56 8" snap-ties	.32	17.92
10# wire	46.25	450.94
9¾ yd ready-mix concrete	1.00	10.00
25 sacks Portland cement	5.49	137.25
17 steel bars: ½" reinforcing	2.81	47.77
10# welding rod		10.51
3# nails	1.00	3.00
Lumber: Forms		310.00
10 yd plastering sand	3.00	30.00
6,845 yd brule clay	.10	684.50
850' diapers	.08	68.00
Concrete Pipe: 27–7½" joints, 24" reinforced	12.25	2,480.63
Grass seed		387.45
Wild hay for mulching with grass seed—2¼ tons	10.00	22.50
10' Steel pipe: 24" X ¼" thickness		241.66
Total material		31,736.88
Grand total		131,623.94
Overhead (25 percent)		32,905.99
Total		164,529.93

FARMERS IRRIGATION DISTRICT, SCOTTS BLUFF, NE, WORK ORDER, SEPT. 2, 1987

[Nature of work: Repairing damages to the main canal and drains. Location, div. No.; 1, 2, and 3. Owner of land: Farmers Irrigation District. Necessity of work: Damages were caused from the May 23 storm. 8 inches of rain was reported]

Items and description of M&S	Field cost	
	Rate	Total cost
Labor:		
Men (334 days)	$57.32	$19,144.88
Tractors (130 hr)	50.00	6,500.00
Truck (967 hr)	6.50	6,286.50
Pile driver (16 hr)	8.00	128.00
Motorgrader (120 hr)	40.00	480.00
Dragline (73 hr)	60.00	480.00
Backhoe (115 hr)	45.00	5,175.00
Loader (208 hr)	40.00	8,320.00
Welder (16 hr)	7.00	112.00
3" water pump (41 hr)	7.00	287.00
Total labor		55,132.38
Material:		
75: 8"	.36	27.00
Snap-ties (100): 12"	.42	.42.00
Ready mix concrete: 32¾ yd	46.25	1,514.69
Steel (scks.): Angle and Flat		102.00
Steel (150 bars): ½" reinforcing	3.00	450.00
Steel (310 lb): ⅝" cold roll		54.00
Nails (26 lb): 16 and 60 penny	1.00	26.00
Lumber (BM): Form lumber—Nichols Bridge		875.00
Steel (No.): 9" round piling and I beams		1,249.16
Fill dirt (3,201 yd):	.10	320.10
Clay 4,752 yd):	.10	475.20
Cable clamps: ⅜" galvanized		113.98
Rock (23 yd): Broken concrete rip rap	.25	5.75
Welding rod (10#)	1.00	10.00
Fasteners		
Corrugated pipe (6 ft): 18" 16 gauge	17.15	102.90
Steel pipe (294 ft): 1½" black		461.48
Total materials		5,829.26
Grand total		60,961.64
Overhead (25 percent)		15,240.41
Total		76,202.05

Note.—Commenced May 24, 1987; completed July 23, 1987.

FARMERS IRRIGATION DISTRICT, SCOTTS BLUFF, NE, WORK ORDER, SEPT. 2, 1987

[Nature of work: Straightening channel and removing trees that are washed out from the flooding on Nine-Mile Drain when the Farmers Canal broke Aug. 3 and 4 storm. Owner of land: Farmers Irrigation District and Pathfinder Irrigation District. Necessity of work: Flow is eroding farmers land]

Items and description of M&S	Field cost	
	Rate	Total cost
Labor:		
2 men (4 days)	$57.32	$458.56
2 tractors (30 hr)	50.00	3,000.00
6 truck (30 hr)	6.50	1,170.00
1 dragline (20 hr)	60.00	1,200.00
1 loader (30 hr)	40.00	1,200.00
Motorgrader (8 hr)	40.00	320.00
Total labor		$7,348.56
Overhead (25 percent)		1,837.14
Total		9,185.70

STORM LEAVES DESTRUCTION

(By Jacquie Long)

SCOTTS BLUFF.—One of the most devastating storms experienced here swept through the Panhandle Monday night and early Tuesday, leaving a path of destruction that included several injuries and millions of dollars in crop and property damage.

The storm hit a strip of land at least 20–25 miles long and nearly 12 miles wide near midnight Monday and early Tuesday, shredding the majority of crops in Scotts Bluff County and ravaging parts of surrounding counties. Scattered parts of the southern and northern Panhandle also were victim to high winds, hail and torrential rains.

The Tri-State Irrigation Canal broke 1.5 miles northeast of Hessler's Corner near the Highland School at about 2 a.m., fueling flash flooding in the Nine Mile Creek area north of Minatare that stranded some area residents.

The Civil Air Patrol, emergency rescue squads and several fire department and law enforcement agencies were called to help in separate flooding and emergency incidents throughout the area.

The storm apparently swept through the area diagonally from the northwest part of Scotts Bluff and Sioux counties north of Mitchell to southwest Minatare and Bayard. The strip was at least 20 miles long and ranged from 8 to 12 miles wide, authorities said.

The irrigation canal break was "the largest break I've seen in the 38 years I've been with the company," Wes Sell, manager of the Farmers Irrigation District, said. Sell declined to estimate the amount of dirt that broke loose, saying more continued tumbling into the spilling water Tuesday and would be loosened for at least another two days.

The break created a river where a county road and farm fields existed before, sweeping a cattle trailer, a small grain bin, irrigation pipes and other debris into the swirling water before it flowed into Nine Mile Creek about ¾ mile south and southeast of the break.

Members of the Civil Air Patrol evacuated a family of three from their home near the water as it overflowed and began buckling the walls of their house, according to a patrol report.

Two houses owned by the irrigation district were in danger of being pulled into the water as it continued cutting away dirt to the east of where the road had been, Sell said.

Crop damage in Scotts Bluff and surrounding counties was estimated at "somewhere in the millions" by several crop experts surveying the aftermath Tuesday. All noted that it was the most widespread and thorough mowing of cropland they had seen from a storm.

Stan Haas, communications specialist for the University of Nebraska Panhandle Research and Extension Center, estimated that 30,000-40,000 acres of cropland were pummeled in the storm, with damage ranging from moderate shredding to total destruction.

"It was the combination of high winds and hail that did it," Haas said. Alone, those elements wouldn't do much, but we got a lot of both real fast."●

HELMS AMENDMENT NO. 1336

Mr. HELMS proposed an amendment to the joint resolution (H.J. Res. 395) supra; as follows:

At the end of the joint resolution, add the following new section:

None of the funds appropriated by this Act to carry out chapter 2 of part II (relating to grant military assistance) or chapter 5 of part II (relating to international military education and training) of the Foreign Assistance Act of 1961 shall be obligated or expended for the People's Republic of Mozambique after January 1, 1988 unless on the date the President has certified to the Congress that the Government of the People's Republic of Mozambique—

(A) is making a concerted and significant effort to comply with internationally recognized human rights;

(B) is making continued progress in implementing essential economic and political reforms, including the restoration of private property and respect for the right to engage in free enterprise in all sectors of the economy;

(C) has implemented a plan to reduce the number of foreign military personnel to no more than 55; and

(D) is committed to holding free elections at a date no later than September 30, 1986, and to that end has demonstrated its good faith efforts to begin discussions with all major political factions in Mozambique which have declared their willingness to find and implement an equitable political solution to the conflict with such solution to involve a commitment to—

(I) the electoral process with internationally recognized observers; and

(II) the elimination of all restrictions on the formation and activities of opposition political parties.

GLENN AMENDMENT NO. 1337

Mr. GLENN proposed an amendment to the joint resolution (H.J. Res. 395) supra; as follows:

At the end of joint resolution insert the following:

SEC. 555(a) Section 620E of the Foreign Assistance Act of 1961 is amended:

(1) by revising subsection (d) to read as follows:

"(d) The President may waive the prohibitions of section 669 (a) and (b) of this Act at any time during the period beginning on the date of enactment of this subsection and ending on September 30, 1993, to provide assistance to Pakistan during that period if he determines that to do so is in the interest of the United States." and

(2) by adding the following new subsection:

"(f)(1) No assistance under chapter 2 or 5 of part II of this Act may be furnished to any country for which a waiver of section 669 or 670 of this Act is in effect, and no arms sales may be financed for any such country under the Arms Export Control Act, until the President has certified to the Congress that such country is not producing highly enriched uranium as defined in Section 133(b) of the Atomic Energy Act, separated plutonium, or uranium-233.

"(2) the President may waive the prohibitions of paragraph (1) for any such country if the President certifies to Congress, during the fiscal year in which assistance is to be furnished, that termination of such assistance with respect to the country would result in a serious threat to the national security interests of the United States."

McCAIN AMENDMENT NO. 1338

Mr. JOHNSTON (for Mr. McCAIN) proposed an amendment to the joint resolution (H.J. Res. 395) supra; as follows:

Insert at the appropriate place in the bill:

Section 105(i) of the Compact of Free Association Act of 1985 (99 Stat. 1795, 48 U.S.C. 1681) is amended by adding the following new paragraph (3) and renumbering the subsequent paragraph accordingly:

"(3) In addition to the programs set forth in paragraph (2) of this subsection, and pursuant to Section 224 of the Compact, the Pell Grant Program, the Supplemental Educational Opportunity Grant Program, and the College Work-Study Program shall be extended, *on a non-reimbursable basis, to citizens of the Freely Associated States who are, or will be, attending postsecondary institutions in the United States, its territories and commonwealths, the Trust Territory of the Pacific Islands, and the Freely Associated States, provided that the government of the Freely Associated State of which the student is a citizen certifies that the course of study that the student is, or will be pursuing, is designed to advance the purposes of the official overall economic development plan referred to in Section 211 (b) of the Compact."

*For one year.

STEVENS (AND OTHERS) AMENDMENT NO. 1339

Mr. STEVENS (for himself), Mr. INOUYE, Mr. HOLLINGS, Mr. McCAIN, Mr. RUDMAN, Mr. HELMS, Mr. GRAHAM, Mr. DOLE, Mr. BOREN, and Mr. THURMOND) proposed an amendment, which was subsequently modified, to the joint resolution (H.J. Res. 395) supra; as follows:

Add at the end of the bill the following new section:

SEC. . (a) There are hereby transferred to the President $9,000,000 of unobligated funds, from such accounts for which appropriations were made by the Department of Defense appropriations acts for the fiscal year 1987 or prior fiscal years, as the President shall designate, to provide humanitarian assistance to the Nicaraguan democratic resistance consistent with this section.

(b) The President is authorized to transfer or reprogram unobligated funds from such accounts for which appropriations were made by Department of Defense appropriations acts for the fiscal year 1987 or prior fiscal years, as the President shall designate, to provide transportation of humanitarian and other assistance previously, specifically authorized by law to the Nicaraguan democratic resistance.

(c) As used in this section, the term "humanitarian assistance" means food, clothing, shelter, and medical supplies and services.

(d)(1) Funds made available by subsections (a) and (b) shall be available for the purposes described in sections 101, 102, and 104 of the Intelligence Authorization Act, Fiscal Year 1988 (Public Law 100-178), subject to the provisions of this section, and for the same periods of time, but not to exceed February 29, 1988, as such funds would have been available if this section had not been enacted.

(d)(2) The authority to support, monitor, and manage the activities for which this section provides funds shall continue until the funds transferred by subsection (a) have been expended.

(e) The requirements, terms, and conditions of the sections to which subsection (d)(1) refers, section 10 of Public Law 91-672, Section 502 of the National Security Act of 1947, Section 15(a) of the State Department Basic Authorities Act of 1956, and any other provision of law shall be deemed to have been met for the transfer and use consistent with this section of the funds made available by subsections (a) and (b).

(f) Sections 203(e), 204(b), 207, 209(b), and 209(c), and the first sentence of section 203(d), in "TITLE II—CENTRAL AMERICA" in section 101(k) of the continuing appropriations resolution for the fiscal year 1987 (Public Laws 99-500 and 99-591) shall apply with respect to funds made available by this section.

(g) If, on January 17, 1988, a ceasefire negotiated between the Government of Nicaragua and the Nicaraguan democratic resistance is in place and the Government of Nicaragua is in compliance with the Guatemala accord of August 7, 1987, then the

President shall, to the maximum extent practicable, make the unobligated balance of funds transferred by subsection (a) available by administration consistent with this section by nonpolitical humanitarian international organizations.

DIXON (AND SIMON) AMENDMENT NO. 1340

Mr. JOHNSTON (for Mr. DIXON, for himself and Mr. SIMON) proposed an amendment to the joint resolution (H.J. Res. 395) supra; as follows:

At the end of the resolution add the following:

SEC. . Notwithstanding any other provision of this joint resolution or any other provision of law, the Secretary of Education shall give priority to Blackburn College, located in Carlinville, Illinois, in carrying out the provisions of section 442(a)(2) of the Higher Education Act of 1965 relating to the allocation of funds for the Work Study Program under part C of title IV of that Act for eligible institutions that begin participation in that program after fiscal year 1985.

KASTEN AMENDMENT NO. 1341

Mr. KASTEN proposed an amendment, which was subsequently modified, to the joint resolution (H.J. Res. 395) supra; as follows:

At the appropriate place in the Joint Resolution add the following:

"Notwithstanding any other provision of law or this joint resolution, none of the funds appropriated or otherwise made available by this joint resolution may be made available to the Government of Mozambique unless the President certifies and reports to Congress that:

The Government of Mozambique has made progress toward returning church radio stations and schools;

The Government of Mozambique has issued guarantees against the future expropriation of private property;

The number of Soviet and East-European military and security personnel in Mozambique are significantly reduced from levels of 1986.

WARNER AMENDMENT NO. 1342

Mr. STEVENS (for Mr. WARNER) proposed an amendment to the joint resolution (H.J. Res. 395) supra; as follows

At the end of the joint resolution, add the following new section:

SEC. . SALE OF RESIDENCE OF TRANSFERRED FEDERAL EMPLOYEES AND TRANSPORTATION EXPENSES.

(a) REIMBURSEMENT OF EXPENSES OF SALE AND PURCHASE OF A RESIDENCE UPON THE TRANSFER OF A FEDERAL EMPLOYEE.—

(1) REIMBURSEMENT OF EXPENSES.—Section 5724a(a)(4)(A) of title 5, United States Code, is amended—

(A) by inserting before the period at the end of the first sentence the following: "; and expenses, required to be paid by the employee, (i) of the sale of the residence (or the settlement of an unexpired lease) of the employee at the official station from which the employee was transferred when he was assigned to a post of duty located outside the United States, its territories or possessions, the Commonwealth of Puerto Rico, or areas and installations in the Republic of Panama made available to the United States pursuant to the Panama Canal Treaty of 1977 and related agreements (as described in section 3(a) of the Panama Canal Act of 1979) and (ii) of the purchase of a residence at the new official station when the employee is transferred in the interest of the Government from a post of duty located outside the United States, its territories or possessions, the Commonwealth of Puerto Rico, or areas and installations in the Republic of Panama made available to the United States pursuant to the Panama Canal Treaty of 1977 and related agreements (as described in section 3(a) of the Panama Canal Act of 1979), to an official station (other than the official station from which he was transferred when assigned to the foreign tour of duty) within the United States, its territories or possessions, the Commonwealth of Puerto Rico, or such areas and installations in the Republic of Panama"; and

(B) by adding at the end thereof the following new sentence: "Reimbursement of expenses prescribed under this paragraph in connection with transfers from a post of duty located outside the United States, its territories or possessions, the Commonwealth of Puerto Rico, or the areas and installations in the Republic of Panama made available to the United States pursuant to the Panama Canal Treaty of 1977 and related agreements (as described in section 3(a) of the Panama Canal Act of 1979), shall not be allowed for any sale or settlement of unexpired lease or purchase transaction that occurs prior to official notification that the employee's return to the United States would be to an official station other than the official station from which the employee was transferred when assigned to the foreign post of duty.".

(2) EFFECTIVE DATE.—The amendments made by paragraph (2) shall be applicable with respect to any employee transferred to or from a post of duty on or after 60 days after the date of enactment of this section.

(b) FUNDS FOR IMPLEMENTATION.—The amendments made by subsections (a) and (b) shall be carried out by agencies by the use of funds appropriated or otherwise available for the administrative expenses of each of such respective agencies. The amendments made by such subsections do not authorize the appropriation of funds in amounts exceeding the sums already authorized to be appropriated for such agencies.

INOUYE (AND KASTEN) AMENDMENT NO. 1343

Mr. JOHNSTON (for Mr. INOUYE, for himself and Mr. KASTEN) proposed an amendment to the joint resolution (H.J. Res. 395) supra; as follows:

On page 5 line 19 after 1987 insert the following: "except that the text in S. 1924 beginning on line 5 of page 36 with the word 'not' down through and including line 21 on page 40 is hereby stricken and the following is inserted in lieu thereof:

$490,000,000 only shall be available only for Turkey, and $343,000,000 only shall be available only for Greece: *Provided,* That to the extent that the Government of Israel requests that funds be used for such purposes, credits made available for Israel under this heading shall, as agreed by Israel and the United States, be available for advanced fighter aircraft programs or for other advanced weapon systems, as follows: (1) up to $150,000,000 shall be available for research and development in the United States; and (2) not less than $400,000,000 shall be available for the procurement in Israel of defense articles and defense services, including research and development: *Provided further,* That Turkey, Greece, Israel, and Egypt shall be released from their contractual liability to repay the United States Government with respect to the credits provided under this heading: *Provided further,* That during fiscal year 1988, gross obligations for the principal amount of direct loans, exclusive of loan guarantee defaults, shall not exceed $4,227,000,000: *Provided further,* That any funds made available under this heading, other than funds made available for Turkey, Greece, Israel and Egypt, may be made available at concessional rates of interest, notwithstanding section 31(b)(2) of the Arms Export Control Act: *Provided further,* That the concessional rate of interest on foreign military credit sales loans for countries other than Turkey, Greece, Israel and Egypt shall be not less than 5 per centum per year: *Provided further,* That all country and funding level changes in requested concessional financing allocations shall be submitted through the regular notification procedures of the Committees on Appropriations: *Provided further,* That funds appropriated under this heading shall be expended at the minimum rate necessary to make timely payment for defense articles and services.

FOREIGN MILITARY CREDIT SALES DEBT REFORM

(a) Notwithstanding any other provision of law, the President is authorized during fiscal year 1988 and fiscal year 1989 to transfer existing United States guaranties of outstanding Foreign Military Credit Sales debt to loans, bonds, notes or other obligations made or issued (as the case may be) by private United States financial institutions to finance the prepayment at par of the principal amounts maturing after September 30, 1989 of existing Foreign Military Credit Sales loans bearing interest rates of 10 percentum or higher, and arrearages, or to issue new guaranties for new loans, bonds, notes or other obligations made or issued by private United States financial institutions to finance such prepayments and arrearages and to accept such prepayments, as long as such guaranties which are transferred or extended cover no less and no more than an indivisible 90 percentum of the principal amount of the private loan or any portion or derivative thereof plus accrued interest outstanding at any time during the maturity period of the loan. No sums in addition to the payment of the outstanding principal amounts maturing after September 30, 1989, of the loan (or advance), plus any unpaid accrued interest thereon, shall be charged by the private lender or the United States Treasury as a result of such prepayment against the borrower, the Guarantor, or the Guaranty Reserve Fund, except that the private lender may include in the interest rate charged a standard fee to cover costs which shall be set at prevailing market rates, and no guaranty fee shall be charged on guaranties transferred or issued pursuant to this provision. The terms of guaranties transferred or issued under this section shall mirror the terms of the existing loans or guaranties, except as modified by this provision and except that the repayments of the newly issued debt may be consolidated into two payments per year according to standard industry practice. Any loans, bonds, notes or other obligations made or issued or guaranties transferred or issued pursuant to this section shall be fully and freely transferable. Any guarantee transferred or extended shall cease to be effective if the obligation guaranteed or derivative thereof is to be used to provide significant support for any non-registered obligation.

(b) Any country which is in default during a period in excess of one year in payment to the United States of principal or interest on any loan made to such country guaranteed by the United States pursuant to this section shall be deemed to be in default pursuant to a program for which funds are appropriated annually under an Act making appropriations for foreign assistance and related programs.

(c) For the purposes of section 23 and 24 of the Arms Export Control Act, the term "defense services" shall be deemed to include the refinancing of Foreign Military Credit Sales debt outstanding at the date of the enactment of this Act.

(d) Not later than ninety days after the date of enactment of this subsection, the Secretary of the Treasury shall issue regulations to carry out the purposes of this subsection. In issuing such regulations, the Secretary shall: (1) facilitate the prepayment of loans and loan advances hereunder; (2) provide for full processing of each prepayment or request within thirty days of its submission to the Secretary; and (3) except as provided in subsection 24(a) of the Arms Export Control Act, as amended, impose no restriction that increases the cost to borrowers of obtaining private financing for prepayment hereunder or that inhibits the ability of the borrower to enter into prepayment arrangements hereunder.

(e) The Secretary of State shall transmit to the Committee on Foreign Affairs of the House of Representatives, the Committee on Foreign Relations of the Senate, and the Committees on Appropriations of the House of Representatives and Senate, a copy of the text of any agreement entered into pursuant to this section not more than thirty days after its entry into force, together with a description of the transaction.

GUARANTY RESERVE FUND

There are hereby appropriated, whenever required after the date of enactment of this Act, such amounts as may be necessary from time to time to meet the requirements of the Guaranty Reserve Fund for payments of claims under guaranties issued under the Arms Export Control Act: *Provided*, That none of the funds appropriated under title III of this Act may be used to provide assistance to any country which, in the absence of an agreement to which the United States is a party for the rescheduling of debt, is more than ninety days in arrears on the repayment of principal or interest on loans providing credits for Foreign Military Sales.

WARNER AMENDMENT NO. 1344

Mr. JOHNSTON (for Mr. Warner) proposed an amendment to the joint resolution (H.J. Res. 395) supra; as follows:

At the end of the joint resolution, add the following:

Sec. . (a) Paragraph (2) of section 118(b) of title 23, United States Code, is amended—

(1) by striking out "and" at the end of subclause (I) of subparagraph (B)(i),

(2) by striking out the period at the end of subclause (II) of subparagraph (B)(i) and inserting in lieu thereof "; and",

(3) by adding at the end of clause (i) of subparagraph (B) the following new subclause:

"(III) projects which extend and improve high occupancy vehicle lanes of highways on the Interstate System in Fairfax County, Prince William County, or Arlington County, Virginia.", and

(a) by adding at the end thereof the following new subparagraph:

"(G) Exclusion from ice.—The projects described in subparagraph (B)(i)(III) shall not be taken into account in making the estimate of the costs of completing the Interstate System in Virginia under section 104(b)(5)(A).".

(b)(1) Paragraph (1) of section 147(a) of the Surface Transportation and Uniform Relocation Assistance Act of 1987 (101 Stat. 180) is amended by striking out "4" each place it appears and inserting in lieu thereof "3".

(2) The amendments made by paragraph (1) shall apply during the 2-year period beginning on the date that is 90 days after the date of enactment of this Act.

DASCHLE AMENDMENT NO. 1345

Mr. JOHNSTON (for Mr. Daschle) proposed an amendment to the joint resolution (H.J. Res. 395) supra; as follows:

At the end of the bill, add the following:

Sec. . Notwithstanding any other provision of law, each eligible Indian student (as defined by section 1128(f) of the Education Amendments of 1978 (25 U.S.C. 2008(f)) who was in attendance at the Little Wound High School on the Pine Ridge Reservation during the week of September 21-25, 1987, shall be deemed properly enrolled in the Little Wound High School and shall be taken into account in determining the amount of funds allotted to the Little Wound High School for the 1987-1988 academic year pursuant to section 1128 of the Education Amendments of 1978.

STEVENS AMENDMENT NO. 1346

Mr. STEVENS proposed an amendment to the joint resolution (H.J. Res. 395) supra; as follows:

At an appropriate place in the resolution, insert the following:

Sec. . Hereafter, status as an Indian or Alaska Native, membership in an Indian tribe, ownership of stock in a tribal or an Alaska Native corporation, or ownership or lease of tribal lands, or membership on the Board of Directors of an Alaska Native corporation, shall not be considered a financial interest for the purposes of section 208 of title 18 of the United States Code.

SPECTER (AND HEINZ) AMENDMENT NO. 1347

Mr. STEVENS (for Mr. Specter, for himself and Mr. Heinz) proposed an amendment to the joint resolution (H.J. Res. 395) supra; as follows:

At the end of the joint resolution, add the following new section:

Sec. . The Administrator of the General Services Administration shall proceed with the site selection and design for construction of a facility of not less than 182,000 usable square feet for the Social Security Administration in Wilkes-Barre, Pennsylvania, pursuant to section 115 of the joint resolution entitled "A Joint Resolution making continuing appropriations for the fiscal year 1987, and for other purposes", approved October 30, 1986 (100 Stat. 3341-349; Pub. Law 99-591).

MELCHER (AND OTHERS) AMENDMENT NO. 1348

Mr. MELCHER (for himself, Mr. McClure, Mr. Symms, Mr. Conrad, Mr. Hatch, Mr. Grassley, Mr. Karnes, Mr. Pryor, Mr. Wallop, Mr. Gramm, Mr. Heflin, and Mr. Chiles) proposed an amendment to the joint resolution (H.J. Res. 395) supra; as follows:

At the end of the bill add the following new section:

Sec. . Notwithstanding any other provision of law, none of the funds made available by this or any other appropriations Act shall be available to the Environmental Protection Agency or related agency for the purpose of cancellation or suspension of any pesticide registration for failure of any manufacturer, formulator, registrant or user to comply with PR Notices 87-4 and 87-5 relating to labeling of such substances (prior to Sept. 15, 1988) nor shall funds be available to such agency for the purpose of enforcement actions against any user of any pesticide whose use is substantially in conformance with label instructions in existence as of August 1, 1987, nor to propose or order any other revision in such labeling for the reasons cited in PR Notices 87-4 and 87-5, issued on or about May 1, 1987. Prior to Sept 15, 1988.

McCLURE (AND OTHERS) AMENDMENT NO. 1349

Mr. McCLURE (for himself, Mr. Pressler, and Mr. Garn) proposed an amendment to the joint resolution (H.J. Res. 395) supra; as follows:

At the appropriate place in the resolution, insert the following new section:

Report on I.N.F. Treaty.—(a) Within 60 days of enactment of this act, the Secretary of Defense, the Director of Central Intelligence and the Attorney General of the United States shall submit a joint report to the Senate regarding the budgetary implications of the INF Treaty. This report of actual or estimated expenses, portions of which may be submitted, where appropriate, in a classified annex, shall include:

(i) The cost of implementing the on-site inspection and monitoring provisions specified in the I.N.F. Treaty; (ii) The cost of expanded National Technical Means, if required, including expanded space-launch capabilities to verify Soviet compliance with the treaty, with particular emphasis on requirements of monitoring Soviet mobile missiles;

(iii) The cost, in the absence of an agreement to reduce conventional forces in Europe, to redress existing conventional deficiencies in NATO forces in Europe;

(iv) The cost of dismantlement and destruction of U.S. missiles, launchers, and other equipment and facilities to be eliminated under the treaty;

(v) The investment in U.S. I.N.F. systems to date;

(vi) Savings, including savings on Personnel, Operation and Maintenance, and military construction activities, resulting from the elimination of intermediate-range nuclear forces;

(vii) The cost of monitoring the activities of Soviet personnel who are in the United States to carry out the verification provisions of the INF Treaty

(b) The specific information required by subsection (a) shall be expressed in terms of the added marginal costs above existing or on-going programs.

HEFLIN (AND SHELBY) AMENDMENT NO. 1350

Mr. JOHNSTON (for Mr. HEFLIN, for himself, and Mr. SHELBY) proposed an amendment to the joint resolution (H.J. Res. 395) supra; as follows:

At the end of the joint resolution, add the following:

SEC. . The lock and dam on the Tombigbee River in Pickens County, Alabama, commonly known as the Aliceville Lock and Dam, and the resource management and visitor center at Aliceville Lake on the Tennessee-Tombigbee Waterway shall hereafter be known and designated as the "Tom Bevill Lock and Dam" and the "Tom Bevill Resource Management and Visitor Center at Aliceville Lake on the Tennessee-Tombigbee Waterway", respectively. Any reference in a law, map, regulation, document, or paper of the United States to such lock and dam and any reference in a law, map, regulation, document, or paper of the United States to such resource management and visitor center shall be held to be a reference to the "Tom Bevill Lock and Dam" and the "Tom Bevill Resource Management and Visitor Center at Aliceville Lake on the Tennessee-Tombigbee Waterway", respectively.

MELCHER AMENDMENT NO. 1351

Mr. JOHNSTON (for Mr. MELCHER) proposed an amendment to the joint resolution (H.J. Res. 395) supra; as follows:

At the appropriate place insert:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Agricultural Aid and Trade Missions Act".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Findings.

TITLE I—AGRICULTURAL AID AND TRADE MISSIONS

Sec. 101. Definitions.
Sec. 102. Agricultural aid and trade missions.
Sec. 103. Eligible countries.
Sec. 104. Functions.
Sec. 105. Mission reports.
Sec. 106. Progress reports.
Sec. 107. Use of Commodity Credit Corporation.

TITLE II—AMENDMENTS TO PUBLIC LAW 480

Sec. 201. Level of sales for foreign currency.
Sec. 202. Terms and conditions of agreements with friendly countries and organizations.
Sec. 203. Criteria of self-help measures.
Sec. 204. Use of cooperatives to furnish commodities.
Sec. 205. Limitation on use of foreign currencies.
Sec. 206. Reports on sales and barter and use of foreign currency proceeds.
Sec. 207. Use of foreign currency proceeds.
Sec. 208. Periods for review and comment.

TITLE III—AMENDMENTS TO SECTION 416

Sec. 301. Eligible commodities.
Sec. 302. Availability of commodities.
Sec. 303. Multiyear agreements.
Sec. 304. Foreign currency use and allocation requirements.
Sec. 305. Periods for review and comment.

TITLE IV—MISCELLANEOUS PROVISIONS

Sec. 401. Authorized personnel level for the Foreign Agricultural Service.
Sec. 402. Contract authority for individuals abroad.
Sec. 403. Multiyear agreements under the food for progress program.
Sec. 404. Report on intermediate export credit.

SEC. 2. FINDINGS.

Congress finds that—

(1) United States agricultural exports declined by more than 37 percent since 1981, from $43.8 billion per year to $27.5 billion per year;

(2) the United States' market share of agricultural commodities and products has dropped worldwide by 28 percent during the last 5 years;

(3) for the first time in 15 years, the United States incurred monthly agricultural trade deficits in 1986;

(4) the loss of $1 billion in United States agricultural exports causes the loss of 35,000 agricultural jobs and the loss of 60,000 nonagricultural jobs;

(5) the loss of agricultural exports threatens family farms, and the economic well-being of rural America;

(6) in order to reverse the decline of agricultural exports and improve prices for the farmers and ranchers of the United States, it is necessary that all agricultural export programs of the United States be used in an expeditious manner, including such programs established under the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1691 et seq.), the Commodity Credit Corporation Charter Act (15 U.S.C. 714 et seq.), and section 416 of the Agricultural Act of 1949 (7 U.S.C. 1431);

(7) greater use should be made by the Secretary of Agriculture of the authority established under section 4(b) of the Food for Peace Act of 1966 (7 U.S.C. 1707a et seq.) to provide intermediate credit financing for the establishment of facilities in importing countries—

(A) to improve the handling, marketing, processing, storage, and distribution of imported agricultural commodities and products; and

(B) to increase livestock production in order to enhance the demand for United States feed grains;

(8) food aid and export assistance programs can stimulate economic activity in developing countries and, as incomes improve, diets improve and the demand for and ability to purchase food increases;

(9) private voluntary organizations and cooperatives are important and successful partners in our food aid and development programs;

(10) in addition to meeting humanitarian needs, food aid used in sales and barter programs by private voluntary organizations and cooperatives can—

(A) provide communities with health care, credit systems, and tools for development; and

(B) establish the infrastructure that is essential to the expansion of markets for United States agricultural commodities and products; and

(11) greater support by the United States government for the development activities of private voluntary organizations and cooperatives is in the interest of the United States and our farmers and ranchers.

TITLE I—AGRICULTURAL AID AND TRADE MISSIONS

SEC. 101. DEFINITIONS.

As used in this title:

(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Agency for International Development.

(2) ELIGIBLE COUNTRY.—The term "eligible country" means a country that is eligible under section 103(a).

(3) MISSION.—The term "mission" means an agricultural aid and trade mission established under section 102.

(4) UNITED STATES AGRICULTURAL AID AND TRADE PROGRAMS.—The term "United States agricultural aid and trade programs" includes—

(A) programs established under titles I and II of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1701 et seq.);

(B) the program established under section 416 of the Agricultural Act of 1949 (7 U.S.C. 1431);

(C) the agricultural export enhancement program established under section 1127 of the Food Security Act of 1985 (7 U.S.C. 1736v);

(D) the dairy export incentive program established under section 153 of the Food Security Act of 1985 (15 U.S.C. 713a-14);

(E) the export credit guarantee program (GSM-102) established under section 5(f) of the Commodity Credit Corporation Charter Act (15 U.S.C. 714c(f));

(F) the intermediate export credit guarantee program (GSM-103) established under section 4(b) of the Food for Peace Act of 1966 (7 U.S.C. 1707a(b));

(G) the food for progress program established under section 1110 of the Food Security Act of 1985 (7 U.S.C. 1736o); and

(H) other agricultural aid and trade programs authorized by the Food Security Act of 1985 (Public Law 99-198), by the Commodity Credit Corporation Charter Act (15 U.S.C. 714 et seq.), or by other applicable authorities.

SEC. 102. AGRICULTURAL AID AND TRADE MISSIONS.

(a) ESTABLISHMENT.—Not later than 60 days after the date of enactment of this Act, under the direction of the Secretary of Agriculture, the Secretary of Agriculture, the Secretary of State, the Administrator, and the President of the Overseas Private Investment Corporation shall establish agricultural aid and trade missions to eligible countries to encourage the countries to participate in those United States agricultural aid and trade programs for which they are eligible in accordance with section 104.

(b) COMPOSITION.—A mission established in an eligible country shall be composed, under the direction of the Secretary of Agriculture, of—

(1) representatives of the Department of Agriculture, the Department of State, the Agency for International Development, and the Overseas Private Investment Corporation, appointed by the Secretary of Agriculture, Secretary of State, Administrator, and President of the Corporation, respectively; and

(2) not less than 3, nor more than 6, representatives of market development cooperators, private voluntary organizations, and cooperatives, appointed jointly by the Secretary of Agriculture, Secretary of State, Ad-

ministrator, and President of the Corporation,

who are knowledgeable about food aid and agriculture export programs, as well as the food needs, trade potential, and economy of the eligible country.

(c) TERMS.—The term of a member of a mission shall terminate on submission of the report of the mission required under section 105.

(d) COMPENSATION AND TRAVEL EXPENSES.—A member of a mission shall serve without compensation, if not otherwise an officer or employee of the United States, except that a member shall, while away from the home or regular place of business of the member in the performance of service under this title, be allowed travel expenses, including per diem in lieu of subsistence, as authorized under section 5703 of title 5, United States Code.

SEC. 103. ELIGIBLE COUNTRIES.

(a) CRITERIA.—

(1) INDIVIDUAL COUNTRIES.—Subject to paragraph (2) and subsection (b), a mission shall be established to a foreign country selected by the Secretary of Agriculture if—

(A) the country is eligible for participation in United States agricultural aid and trade programs and such participation would be mutually advantageous to the country and the United States; and

(B) the country is friendly to the United States.

(2) MULTIPLE COUNTRIES.—In selecting countries for missions under this section, the Secretary shall—

(A) select countries that are in various stages of development and have various income levels; and

(B) consider—

(i) past participation in United States food programs;

(ii) experience with United States agricultural aid and trade programs; and

(iii) import market potential.

(b) INITIAL COUNTRIES.—A mission shall be established and completed—

(1) not later than 6 months after the date of enactment of this Act, in 8 eligible countries selected by the Secretary of Agriculture; and

(2) not later than 1 year after the date of enactment of this Act, in 8 additional eligible countries selected by the Secretary of Agriculture.

(c) ADDITIONAL COUNTRIES.—Additional missions may be established by the Secretary of Agriculture.

SEC. 104. FUNCTIONS.

The members of a mission to an eligible country shall—

(1) meet with representatives of government agencies of the United States and the eligible country, as well as commodity boards, private enterprises, international organizations, private voluntary organizations, and cooperatives that operate in the eligible country, to assist in planning the extent to which United States agricultural aid and trade programs could be used in a mutually beneficial manner to meet the food and economic needs of the country;

(2) provide technical expertise and information to representatives of government agencies of the United States and the eligible country and private organizations with respect to United States agricultural aid and trade programs and agricultural commodities and other assistance available to the eligible country under such programs; and

(3) assist in obtaining firm commitments for—

(A) proposals for food aid programs; and

(B) agreements for commodity sales.

SEC. 105. MISSION REPORTS.

Not later than 60 days after the completion of a mission under section 103, the mission shall submit a report that contains the findings and recommendations of the mission in carrying out this title to—

(1) the President;

(2) the Committee on Agriculture of the House of Representatives;

(3) the Committee on Foreign Affairs of the House of Representatives;

(4) the Committee on Agriculture, Nutrition, and Forestry of the Senate;

(5) the Committee on Foreign Relations of the Senate;

(6) the Secretary of Agriculture;

(7) the Secretary of State;

(8) the Administrator; and

(9) the President of the Overseas Private Investment Corporation.

SEC. 106. PROGRESS REPORTS.

During the 2-year period beginning 1 year after the date of enactment of this Act, the Secretary of Agriculture and the Administrator shall jointly submit a quarterly report on progress made in implementing the recommendations of the missions reported under section 105, including the quantity and dollar value of commodities shipped to eligible countries and the specific development programs undertaken in accordance with this title, to—

(1) the Committee on Agriculture of the House of Representatives;

(2) the Committee on Foreign Affairs of the House of Representatives;

(3) the Committee on Agriculture, Nutrition, and Forestry of the Senate; and

(4) the Committee on Foreign Relations of the Senate.

SEC. 107. USE OF COMMODITY CREDIT CORPORATION.

Within the funds made available to the Commodity Credit Corporation, the Secretary of Agriculture shall use the facilities, services, authorities, and funds of the Commodity Credit Corporation to carry out this title during a fiscal year.

TITLE II—AMENDMENTS TO PUBLIC LAW 480

SEC. 201. LEVEL OF SALES FOR FOREIGN CURRENCY.

Section 101(b) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1701(b)) is amended—

(1) in paragraph (1), by adding at the end thereof the following new sentence: "For each of the fiscal years 1988 through 1990, each agreement entered into under this title shall provide for some sale for foreign currencies for use under section 108, except for agreements with a country the President determines is incapable of participating in section 108."; and

(2) in paragraph (2), by inserting ", or enter into sales agreements not providing for sales for foreign currencies for use under section 108," after "currencies".

SEC. 202. TERMS AND CONDITIONS OF AGREEMENTS WITH FRIENDLY COUNTRIES AND ORGANIZATIONS.

Section 103 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1703) is amended—

(1) by striking out "and" at the end of subsection (p);

(2) by striking out the period at the end of subsection (q) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new subsection:

"(r) give favorable consideration in the allocation of commodities under this title to countries promoting the private sector through the use of section 108.".

SEC. 203. CRITERIA OF SELF-HELP MEASURES.

The first sentence of section 109(a) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1709(a)) is amended—

(1) by striking out "and" at the end of paragraph (10);

(2) by striking out the period at the end of paragraph (11) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new paragraph:

"(12) promoting the conservation and study of biological diversity.".

SEC. 204. USE OF COOPERATIVES TO FURNISH COMMODITIES.

The third sentence of section 202(a) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1722(a)) is amended by inserting "or cooperatives" after "voluntary agencies".

SEC. 205. LIMITATION ON USE OF FOREIGN CURRENCIES.

Section 206 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1726) is amended by inserting after "extraordinary relief requirements," the following: "or for nonemergency programs conducted by nonprofit voluntary agencies or cooperatives,".

SEC. 206. REPORTS ON SALES AND BARTER AND USE OF FOREIGN CURRENCY PROCEEDS.

Section 206 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1726) (as amended by section 205 of this Act) is further amended—

(1) by inserting "(a)" after the section designation; and

(2) by adding at the end thereof the following new subsection:

"(b) Not later than February 15, 1988, and annually thereafter, the President shall report to the Congress on sales and barter, and use of foreign currency proceeds, under this section and section 207 during the preceding fiscal year. Such report shall include information on—

"(1) the quantity of commodities furnished for such sale or barter;

"(2) the amount of funds (including dollar equivalents for foreign currencies) and value of services generated from such sales and barter in such fiscal year;

"(3) how such funds and services were used;

"(4) the amount of foreign currency proceeds that were used under agreements under this section and section 207 in such fiscal year, and the percentage of the quantity of all commodities and products furnished under this section and section 207 in such fiscal year such use represented;

"(5) the President's best estimate of the amount of foreign currency proceeds that will be used, under agreements under this section and section 207, in the then current fiscal year and the next following fiscal year (if all requests for such use are agreed to), and the percentage that such estimated use represents of the quantity of all commodities and products that the President estimates will be furnished under this section and section 207 in each such fiscal year;

"(6) the effectiveness of such sales, barter, and use during such fiscal year in facilitating the distribution of commodities and products under this section and section 207;

"(7) the extent to which such sales, barter, or uses—

"(A) displace or interfere with commercial sales of United States agricultural commodities and products that otherwise would be made;

"(B) affect usual marketings of the United States;

"(C) disrupt world prices of agricultural commodities or normal patterns of trade with friendly countries; or

"(D) discourage local production and marketing of agricultural commodities in the countries in which commodities and products are distributed under this subsection; and

"(8) the President's recommendations, if any, for changes to improve the conduct of sales, barter, or use activities under this section and section 207.".

SEC. 207. USE OF FOREIGN CURRENCY PROCEEDS.

Section 207 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1726a) is amended—

(1) in subsection (a), by inserting "or cooperative" after "agency";

(2) in subsection (b), by striking out "5 percent" and inserting in lieu thereof "10 percent"; and

(3) by adding at the end thereof the following new subsection:

"(c) Foreign currencies generated from any partial or full sales or barter of commodities by a nonprofit voluntary agency or cooperative shall be used—

"(1) to transport, distribute, and otherwise enhance the effectiveness of the use of commodities and products donated under this title; and

"(2) to implement income generating, community development, health, nutrition, cooperative development, agricultural programs, and other developmental activities.".

SEC. 208. PERIODS FOR REVIEW AND COMMENT.

Title II of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1721 et seq.) is amended by adding at the end thereof the following new section:

"Sec. 208. (a) Not later than 45 days after submission to the Agency for International Development office in Washington, D.C., the President shall take final action on a proposal submitted by a nonprofit voluntary agency or cooperative, with the concurrence of the field mission, for the delivery of commodities requested.

"(b) Not later than 30 days prior to the issuance of a final guideline issued to carry out this title, the President shall—

"(1) provide notice of the proposed guideline to nonprofit voluntary agencies and cooperatives that participate in programs under this title, and other interested persons, that the proposed guideline is available for review and comment;

"(2) make the proposed guideline available, on request, to any nonprofit voluntary agency, cooperative, and person; and

"(3) take any comments received into consideration before the issuance of the final guideline.

"(c) Not later than 15 days after receipt of a call forward from a field mission for commodities or products that meets the requirements of this title, the order for the purchase or the supply, from inventory, of such commodities or products shall be transmitted to the Commodity Credit Corporation.".

TITLE III—AMENDMENTS TO SECTION 416

SEC. 301. ELIGIBLE COMMODITIES.

Section 416(b)(2)(A) of the Agricultural Act of 1949 (7 U.S.C. 1431(b)(2)(A)) is amended—

(1) by striking out "grains," and inserting in lieu thereof "wheat, rice, feed grains,"; and

(2) by inserting ", and the products thereof," after "price support operations".

SEC. 302. AVAILABILITY OF COMMODITIES.

Section 416(b)(3) of the Agricultural Act of 1949 (7 U.S.C. 1431(b)(3)) is amended by adding at the end thereof the following new subparagraph:

"(D) If eligible commodities are made available under this section to a friendly country, nonprofit and voluntary agencies and cooperatives shall also be eligible to receive commodities for food aid programs in the country.".

SEC. 303. MULTIYEAR AGREEMENTS.

Section 416(b)(4) of the Agricultural Act of 1949 (7 U.S.C. 1431(b)(4)) is amended by adding at the end thereof the following new sentence: "In agreements with recipients of eligible commodities under this section (including nonprofit and voluntary agencies or cooperatives), the Secretary, on request, shall approve multiyear agreements to make agricultural commodities available for distribution or sale by the recipients if the agreements meet the requirements of this section.".

SEC. 304. FOREIGN CURRENCY USES AND ALLOCATION REQUIREMENTS.

(a) FOREIGN CURRENCY USES.—Clause (ii) of section 416(b)(7)(D) of the Agricultural Act of 1949 (7 U.S.C. 1431(b)(7)(D)(ii)) is amended to read as follows:

"(ii) Foreign currencies generated from partial or full sales or barter of commodities by a nonprofit and voluntary agency or cooperative shall be used—

"(I) to transport, distribute, and otherwise enhance the effectiveness of the use of commodities and products donated under this section; and

"(II) to implement income generating, community development, health, nutrition, cooperative development, agricultural programs, and other developmental activities.".

(b) ALLOCATION REQUIREMENTS.—Section 416(b)(7)(D)(iii) of such Act is amended—

(1) by striking out "5 percent" and inserting in lieu thereof "10 percent";

(2) by inserting ", or the minimum tonnage required, whichever is greater," after "furnished".

SEC. 305. PERIODS FOR REVIEW AND COMMENT.

Section 416(b)(8) of the Agricultural Act of 1949 (7 U.S.C. 1431(b)(8)) is amended by adding at the end thereof the following new subparagraph:

"(C)(i) Not later than 45 days after submission to the Agency for International Development office in Washington, D.C., the Secretary shall take final action on a proposal submitted by a nonprofit and voluntary agency or cooperative, with the concurrence of the field mission, for the delivery of commodities requested.

"(ii) Not later than 30 days prior to the issuance of a final guideline issued to carry out this section, the Secretary shall—

"(I) provide notice of the proposed guideline to nonprofit and voluntary agencies and cooperatives that participate in programs under this section, and other interested persons, that the proposed guideline is available for review and comment;

"(II) make the proposed guideline available, on request, to any nonprofit and voluntary agency, cooperative, and person; and

"(III) take any comments received into consideration before the issuance of the final guideline.

"(iii) Not later than 15 days after receipt of a call forward from a field mission for commodities or products that meets the requirements of this section, the order for the purchase or the supply, from inventory, of such commodities or products shall be transmitted to the Commodity Credit Corporation.".

TITLE IV—MISCELLANEOUS PROVISIONS

SEC. 402. CONTRACT AUTHORITY FOR INDIVIDUALS ABROAD.

(a) AUTHORITY.—The Secretary of Agriculture may contract with individuals for personal services to be performed outside the United States as the Secretary determines necessary or appropriate for carrying out programs and activities to maintain, develop, or enhance export markets for United States agricultural commodities and the products thereof.

(b) NONFEDERAL EMPLOYEES.—The individuals referred to in subsection (a) shall not be regarded as officers or employees of the United States Government under any law, including any law administered by the Office of Personnel Management.

SEC. 403. MULTIYEAR AGREEMENTS UNDER THE FOOD FOR PROGRESS PROGRAM.

Section 1110 of the Food Security Act of 1985 (7 U.S.C. 1736o) is amended—

(1) by redesignating subsection (k) as subsection (l); and

(2) by inserting after subsection (j) the following new subsection:

"(k) In carrying out this section, the President shall, on request, approve multiyear agreements to make agricultural commodities available for distribution or sale by the recipients if the agreements meet the requirements of this section.".

SEC. 404. REPORT ON INTERMEDIATE EXPORT CREDIT.

Not later than December 31, 1987, the Secretary of Agriculture shall submit a report to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, on the use of authority provided under section 4(b) of the Food for Peace Act of 1966 (7 U.S.C. 1707(b)) to provide intermediate credit financing for the establishment of facilities in importing countries—

(1) to improve the handling, marketing, processing, storage, and distribution of imported agricultural commodities;

(2) to increase livestock production in order to enhance the demand for United States feed grains; and

(3) to increase markets for United States livestock and livestock products.

BOSCHWITZ (AND MELCHER) AMENDMENT NO. 1352

Mr. BOSCHWITZ (for himself, Mr. MELCHER, Mr. MITCHELL, Mr. HELMS, Mr. PELL, Mr. BENTSEN, Mr. BOND, Mr. BOREN, Mr. CONRAD, Mr. CRANSTON, Mr. D'AMATO, Mr. DURENBERGER, Mr. DOMENICI, Mr. DOLE, Mr. EVANS, Mr. FORD, Mr. GLENN, Mr. GRAHAM, Mr. HEFLIN, Mr. HECHT, Mr. JOHNSTON, Mr. KARNES, Mr. KENNEDY, Mr. KERRY, Mr. HATCH, Mr. LEVIN, Mr. LUGAR, Mr. MCCAIN, Mr. MOYNIHAN, Mr. MURKOWSKI, Mr. MCCONNELL, Mr. NICKLES, Mr. PRESSLER, Mr. QUAYLE, Mr. RIEGLE, Mr. ROTH, Mr. SARBANES, Mr. SIMPSON, Mr. SYMMS, Mr. TRIBLE, Mr. ROCKEFELLER, Mr. BUMPERS, and Mrs. KASSEBAUM) proposed an amendment to the joint resolution (H.J. Res. 395) supra; as follows:

At the appropriate place in the Act, add the following new section:

"SEC. . Of the Funds made available in the Act for programs authorized by Section 416 of the Agricultural Act of 1949, as amended, the Secretary of Agriculture shall make available primarily to the Government of Lebanon not less than 75,000 metric tons but not more than 150,000 metric tons of wheat. The word "primarily" shall mean at least half. Understanding the abnormal conditions in Lebanon, Congress will understand that normal standards of accountability may not be met."

KERRY AMENDMENT NO. 1353

Mr. KERRY proposed an amendment, which was subsequently modified, to amendment No. 1339 proposed by Mr. STEVENS (and others) to the joint resolution (H.J. Res. 395) supra; as follows:

Strike all after "Sec" and insert in lieu thereof:

(a) There are hereby transferred to the President $9,000,000 of unobligated funds, from such accounts for which appropriations were made by Department of Defense appropriations acts for the fiscal year 1987 or prior fiscal years, as the President shall designate, to provide humanitarian assistance to the Nicaraguan democratic resistance consistent with this section.

(b) The President is authorized to transfer or reprogram unobligated funds from such accounts for which appropriations were made by Department of Defense appropriations acts for the fiscal year 1987 or prior fiscal years, as the President shall designate, to provide transportation of humanitarian and other assistance previously, specifically authorized by law to the Nicaraguan democratic resistance.

(c) As used in this section, the term "humanitarian assistance" means food, clothing, shelter, and medical supplies and services.

(a)(1) Funds made available by subsections (a) and (b) shall be available for the purposes described in sections 101, 102, and 104 of the Intelligence Authorization Act, Fiscal Year 1988 (Public Law 100-178); subject to the provisions of this section, and for the same periods of time, but not to exceed February 29, 1988, as such funds would have been available if this section had not been enacted.

(d)(2) The authority to support, monitor, and manage the activities for which this section provides funds shall continue until the funds transferred by subsection (a) have been expended.

(e) The requirements, terms, and conditions of the sections to which subsection (d)(1) refers, section 10 of Public Law 91-672, Section 502 of the National Security Act of 1947, Section 15(a) of the State Department Basic Authorities Act of 1956, and any other provision of law shall be deemed to have been met for the transfer and use consistent with this section of the funds made available by subsections (a) and (b).

(f) Sections 203(e), 204(b), 207, 209(b), and 209(c), and the first sentence of section 203(d), in "TITLE II—CENTRAL AMERICA" in section 101(k) of the continuing appropriations resolution for the fiscal year 1987 (Public Laws 99-500 and 99-591) shall apply with respect to funds made available by this section.

(g) * * *

(h) Notwithstanding any other provisions in this section, nine of the funds authorized in this section shall be extended unless (A) a maturity of the five Central American presidents advise the President of the United States in writing that such expenditures are consisted with the provisions of the Guatamala peace accord, or (B) a negotiated case fire is in place between the Government of Nicaragua and the Nicaraguan resistance.

STEVENS (AND OTHERS) AMENDMENT NO. 1354

Mr. STEVENS (for himself, Mr. WARNER, Mr. HATFIELD, Mr. NUNN, Mr. JOHNSTON, Mr. ADAMS, Mr. ARMSTRONG, Mr. BAUCUS, Mr. BENTSEN, Mr. BIDEN, Mr. BINGAMAN, Mr. BOND, Mr. BOREN, Mr. BOSCHWITZ, Mr. BRADLEY, Mr. BREAUX, Mr. BUMPERS, Mr. BURDICK, Mr. BYRD, Mr. CHAFEE, Mr. CHILES, Mr. COCHRAN, Mr. COHEN, Mr. CONRAD, Mr. CRANSTON, Mr. D'AMATO, Mr. DANFORTH, Mr. DASCHLE, Mr. DECONCINI, Mr. DIXON, Mr. DODD, Mr. DOLE, Mr. DOMENICI, Mr. DURENBERGER, Mr. EVANS, Mr. EXON, Mr. FORD, Mr. FOWLER, Mr. GARN, Mr. GLENN, Mr. GORE, Mr. GRAHAM, Mr. GRAMM, Mr. GRASSLEY, Mr. HARKIN, Mr. HATCH, Mr. HECHT, Mr. HEFLIN, Mr. HEINZ, Mr. HELMS, Mr. HOLLINGS, Mr. HUMPHREY, Mr. INOUYE, Mr. KARNES, Mrs. KASSEBAUM, Mr. KASTEN, Mr. KENNEDY, Mr. KERRY, Mr. LAUTENBERG, Mr. LEAHY, Mr. LEVIN, Mr. LUGAR, Mr. MATSUNAGA, Mr. MCCAIN, Mr. MCCLURE, Mr. MCCONNELL, Mr. MELCHER, Mr. METZENBAUM, Ms. MIKULSKI, Mr. MITCHELL, Mr. MOYNIHAN, Mr. MURKOWSKI, Mr. NICKLES, Mr. PACKWOOD, Mr. PELL, Mr. PRESSLER, Mr. PROXMIRE, Mr. PRYOR, Mr. QUAYLE, Mr. REID, Mr. RIEGLE, Mr. ROCKEFELLER, Mr. ROTH, Mr. RUDMAN, Mr. SANFORD, Mr. SARBANES, Mr. SASSER, Mr. SHELBY, Mr. SIMON, Mr. SIMPSON, Mr. SPECTER, Mr. STAFFORD, Mr. SYMMS, Mr. THURMOND, Mr. TRIBLE, Mr. WALLOP, Mr. WEICKER, Mr. WILSON, and Mr. WIRTH) proposed an amendment to the joint resolution (H.J. Res. 395) supra; as follows:

It is the sense of the Senate that the Secretary of Defense should name one of the new nuclear aircraft carriers provided for fiscal year 1988 the U.S.S. *John C. Stennis.*

HARKIN AMENDMENT NO. 1355

Mr. HARKIN proposed an amendment to the joint resolution (H.J. Res. 395) supra; as follows:

At the end of the bill, add the following new section:

REPEALS

SEC. . (a) Subsections (p), (s), and (t) of section 722 of the International Security and Development Cooperation Act of 1985 are repealed.

(b) Paragraph (1) of section 215 of the Act entitled "An Act making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1987, and for other purposes" (contained in Public Law 99-500 and Public Law 99-591) is repealed.

DODD AMENDMENT NO. 1356

Mr. JOHNSTON (for Mr. DODD) proposed an amendment to the joint resolution (H.J. Res. 395), supra; as follows:

At the end of the bill and the following new section:

"SEC. . The Secretary of the Treasury shall instruct the U.S. Executive Directors to the Multilateral Development Banks (the International Bank for Reconstruction and Development, the International Finance Corporation, and the Inter-American Development Bank) to vote against any loan to Panama, unless the President has certified in advance that the conditions set forth in S. 1924, section 569 (1-4) have been met."

BIG CYPRESS NATIONAL PRESERVE

CHILES (AND GRAHAM) AMENDMENT NO. 1357

Mr. BYRD (for Mr. CHILES, for himself and Mr. GRAHAM) proposed an amendment to the bill (S. 90) to establish the Big Cypress National Preserve addition in the State of Florida, and for other purposes; as follows:

1. On page 4, line 4, strike "136,000" and insert "146,000".

2. On page 4, lines 5 and 6, strike the phrase "June, 1986, and numbered 176-91000B," and insert "April, 1987, and numbered 176-91000C,".

3. On page 9, strike lines 12 through 15 in their entirety.

4. On page 9, line 21, strike "and oil, gas, and mineral".

5. On page 11, strike subsection (b) in its entirety and insert the following new subsection:

"(b) There is hereby authorized to be appropriated from the Land and Water Conservation Fund not to exceed $49.5 million for the acquisition of lands within the Addition.".

6. On page 11, after line 16, insert the following new section:

"SEC. 9. OIL AND GAS EXPLORATION, DEVELOPMENT AND PRODUCTION.

"The Act of October 11, 1974, is further amended by adding at the end thereof the following new section:

"SEC. 13. (a) Within nine months from the date of the enactment of the Big Cypress National Preserve Addition Act, the Secretary shall promulgate, subject to the requirements of subsections (b)-(e) of this Section, such rules and regulations governing:

"(1) the exploration for and development and production of non-Federal interests in oil and gas reserved in and under the surface of Federally owned or controlled lands located within the boundaries of the Big Cypress National Preserve and the Addition, and

"(2) access on, across or through Federally owned or controlled lands for the purpose of conducting such exploration or development and production,

As are necessary and appropriate to provide reasonable use and enjoyment of privately-owned oil and gas interests, and consistent with the purposes for which the Big Cypress National Preserve and the Addition were established. Rules and regulations promulgated pursuant to the authority of this

Section may be made by appropriate amendment to or in substitution of the rules and regulations respecting non-Federal oil and gas rights (currently codified at 36 C.F.R. § 9.30 *et seq.* (1986)).

"(b) Any rule or regulation promulgated by the Secretary under subsection (a) of this Section shall provide that:

"(1) exploration or development and production activities may not be undertaken, nor access on, across or through Federally owned or controlled lands provided, except pursuant to a permit issued by the National Park Service authorizing such activities or access; and

"(2) final action by the National Park Service with respect to any application for a permit authorizing such activities or access shall occur within 90 days from the date such an application is submitted unless:

"(A) the National Park Service and the applicant agree that such final action shall occur within a shorter or longer period of time; or

"(B) the National Park Service determines that an additional period of time is required to ensure that the National Park Service has, in reviewing the application, complied with other applicable law, Executive Orders and regulations; or

"(C) the National Park Service, within 30 days from the date of submission of such application, notifies the applicant that such application does not contain all information reasonably necessary to allow the National Park Service to consider such application and requests that such additional information be provided. After receipt of such notification to the applicant, the applicant shall supply any reasonably necessary additional information and shall advise the National Park Service that the applicant believes that the application contains all reasonably necessary information and is therefore complete, whereupon the National Park Service may

"(i) within 30 days of receipt of such notice from the applicant to the National Park Service determine that the application does not contain all reasonably necessary additional information and, on that basis, deny the application; or

"(ii) review the application and take final action within 60 days from the date that the applicant provides notification to the National Park Service that its application is complete.

"(c) Such activities or access shall be permitted to occur if such activities or access conform to requirements established by the National Park Service under authority of law.

"(d) In establishing standards governing access on, across or through Federally owned or controlled lands or the conduct of exploration or development and production activities within the boundaries of the Big Cypress National Preserve or the Addition, the Secretary shall take into consideration oil and gas exploration and development and production practices used in similar habitats or ecosystems within the Big Cypress National Preserve or the Addition at the time of promulgation of the rules and regulations under subsection (a) or at the time of the submission of the application seeking authorization for such access or activities, as appropriate.

"(e) Prior to the promulgation of rules or regulations under this Section, the Secretary is authorized, consistent with the purposes for which the Big Cypress National Preserve Adddition was established, to enter into interim agreements with owners of non-Federal oil and gas interests governing access on, across or through Federally owned or controlled lands and the conduct of oil and gas exploration, development or production activities within the boundaries of the Addition, which agreements shall be superseded by the rules and regulations promulgated by the Secretary when applicable, *provided,* That such agreement shall be consistent with the requirements of subsections (b)-(d) of this Section and may be altered by the terms of rules and regulations subsequently promulgated by the Secretary, and *provided, further,* that this provision shall not be construed to enlarge or diminish the authority of the Secretary to establish rules or regulations applicable to access across Federally owned or controlled lands and the conduct of exploration or development and production activities within the Big Cypress National Preserve or the Addition.

'(f) There is hereby authorized to be established a Minerals Management Office within the Office of the Superintendent of the Big Cypress National Preserve, for the purpose of ensuring, consistent with the purposes for which the Big Cypress National Preserve was established, timely consideration of and final action on applications for access on, across or through Federally owned or controlled lands or the exploration or development and production of non-Federal interests in oil and gas reserved in and under the surface of Federally owned or controlled lands within the boundaries of the Big Cypress National Preserve and the Addition.

"(g) There are hereby authorized to be appropriated such sums as may be necessary to carry out the activities set forth in this Section."

BATTLE MOUNTAIN PASTURE RESTORATION ACT

HECHT AMENDMENT NO. 1358

Mr. SIMPSON (for Mr. HECHT) proposed an amendment to the bill (S. 574) entitled the "Battle Mountain Pasture Restoration Act of 1987"; as follows:

At the end of the bill add the following new section 5:

"SEC. 5. REVERSION.

"The Secretary shall not convey lands pursuant to this Act until the Pershing County Water Conservation District enters into a recordable agreement, in consideration for such conveyance, that is satisfactory to the Secretary as to form and legal sufficiency, providing that,

"(1) the District will remain subject to its existing contracts and repayment obligations to the United States, pursuant to the terms of Contract Nos. Ilr-774, 14-06-400-429, and 14-06-200-819A with the Department of the Interior, Bureau of Reclamation, and all other existing contracts and obligations to the United States;

"(2) the District will not use or permit the use of lands conveyed by this Act for any purpose except for pasturage or other agricultural use, except to the extent that any portion of such lands may be transferred to the State of Nevada or any county or other political subdivision of such State for public purposes;

"(3) the District will not transfer or attempt to transfer title to, or control over, any of the conveyed lands except insofar as title to or control over all or part of such lands may be transferred to the State of Nevada or any county or other political subdivision of such State for public purposes and subject to the condition that if the State or political subdivision should ever cease to use such lands for such public purposes or should ever attempt to transfer title to or control over the conveyed lands, title to such lands shall revert to the United States;

"(4) title to the lands conveyed pursuant to this Act shall revert to the United States if the lands should ever cease to be used for pasturage or other agricultural purposes or if the District attempts to transfer title to or control over such lands except as provided in paragraph (3).".

REPEAL OF BROWN-STEVENS ACT WITH RESPECT TO CERTAIN INDIAN TRIBES IN NEBRASKA

BOSCHWITZ AMENDMENT NO. 1359

Mr. SIMPSON (for Mr. BOSCHWITZ) proposed an amendment to the bill (H.R. 2639) to repeal the Brown-Stevens Act concerning certain Indian tribes in the State of Nebraska; as follows:

At the end of the bill add the following:

Section 7(c) of the White Earth Reservation Land Settlement Act of 1985 (P.L. 99-264; 100 Stat. 61; 25 U.S.C. 331 note) is amended by (1) deleting "not later than five hundred and forty days of the date of publication of the Secretary's first list in the Federal Register" and inserting in lieu thereof "not later than March 12, 1989", and (2) deleting "should be added to" and inserting in lieu thereof "should be corrected or added to".

NOTICE OF HEARING

SUBCOMMITTEE ON FEDERAL SERVICES, POST OFFICE, AND CIVIL SERVICE

Mr. PRYOR. Mr. President, I would like to announce that the Subcommittee on Federal Services, Post Office, and Civil Service, of the Committee on Governmental Affairs, will hold a hearing on Thursday, December 17, 1987. The subcommittee will hear testimony on S. 909, legislation that would require Government agencies to turn back to the Treasury any savings generated from contracting out.

The hearing is scheduled for 10 a.m., in room SD-342, Senate Dirksen Office Building. For further information, please call Ed Gleiman, Subcommittee Staff Director, on 224-2254.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on Friday, December 11, 1987. In open session to consider the nomination of Robert C. Duncan to be Di-

rector of Defense Research and Engineering.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on December 11, 1987, to mark up H.R. 1207, the Prescription Drug Marketing Act of 1987.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. BYRD. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Friday, December 11, 1987, to hold a hearing on intelligence matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON COMMUNICATIONS

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Communications, of the Committee on Commerce, Science, and Transportation, be authorized to meet during the session of the Senate on December 11, 1987, to resume oversight hearings on the modified final judgement.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON IMMIGRATION AND REFUGEE AFFAIRS

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Immigration and Refugee Affairs of the Committee on the Judiciary be authorized to meet on December 11, 1987, during the Senate session to consider S. 1611.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

SMALL BUSINESS TIMBER SET-ASIDE REGULATIONS

● Mr. BUMPERS. Mr. President, the Department of Agriculture published a proposed rule in the September 25, 1987, Federal Register affecting the Forest Service's small business timber set-aside program. As many of my colleagues know, the Small Business Act (15 U.S.C. 631) directs that the Government ensure a fair proportion of the total sales of Government property, such as timber from the national forests, be made to small business firms. The recently proposed rule has generated a substantial amount of controversy among small timber operators.

As chairman of the Small Business Committee, I wrote to the Forest Service and requested an extension of the comment period for 45 days. Many interested parties have taken advantage of this extended comment period which expires on December 24. However, the interest generated by this proposal is sufficiently intense and the issues involved sufficiently complex that I believe a further delay in the promulgation of the final regulations is warranted. The Small Business Committee, for one, plans to hold oversight hearings on the proposed regulations early next session.

I had prepared an amendment to the continuing resolution to prevent the promulgation of the regulations during fiscal year 1988. During the past few days, however, I have discussed alternative approaches with Department of Agriculture officials. We have reached an agreement which I believe will accommodate the interests of the Small Business Committee and other interested committees or Members of Congress. The Forest Service will delay the final rulemaking until such time as the Small Business Committee, or any other committee, holds hearings on the issue or until April 1, 1988. The agreement does not restrict the rights of any Member to seek legislation on the small business timber set-aside issue if their concerns cannot be resolved through this procedure.

Mr. President, I ask that copies of two letters to me from George Dunlop, Assistant Secretary for Natural Resources and Environment of the Department of Agriculture, detailing this agreement be printed in the RECORD following my remarks. I further request that a colloquoy between myself and the Senator from Arizona be printed in the RECORD.

The material follows:

DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
Washington, DC, December 8, 1987.

Hon. DALE L. BUMPERS,
U.S. Senate,
Washington, DC.

DEAR SENATOR BUMPERS: It has just come to my attention that you have special concerns regarding the proposed rule recently published in the FEDERAL REGISTER affecting the Forest Service's Small Business Timber Program.

It goes without saying that I would be more than happy to meet with you at any time to discuss these proposed changes, and, indeed, am eager to do so.

Knowing of your deep interest in this issue, and in consideration of your position as Chairman of the Committee on Small Business, I am also prepared, if you so request, to direct a delay an implementation of a final rule until we have had an opportunity to brief the Committee on Small Business on the proposed changes.

I give you my personal assurance and commitment that USDA will take into consideration all comments received at such a briefing, as well as other comments received from the public on the proposed rule. Also, I commit to meet with you prior to publishing any final rule on this program to share our thoughts as to the procedural changes, if any, that might be contained in a final rule to seek your views on the approach we are contemplating for addressing identified issues.

I hope you find these suggestions to be expressions of good faith on our part to resolve problems associated with the management of the small business timber set-aside program.

Many thanks, and kindest regards.

Sincerely,

GEORGE S. DUNLOP,
Assistant Secretary,
Natural Resources and Environment.

DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
Washington, DC, December 11, 1987.

Hon. DALE L. BUMPERS,
U.S. Senate,
Washington, DC.

DEAR SENATOR BUMPERS: In reference to our letter of December 8, regarding the proposed rule recently published in the Federal Register affecting the Forest Service's Small Business Timber Program, permit me to share our thinking in further detail.

The Forest Service will delay the final rulemaking regarding the Small Business Timber Program until such time as the Small Business Committee, or any other committees as appropriate, holds hearings on the issue or until April 1, 1988. The Forest Service will take into consideration during this period all of the written comments received, as well as the testimony presented at such hearings before issuing the final rules. As we stated earlier, the final rule will be thoroughly reviewed with you prior to publication to seek your views on our approach for addressing the identified issues.

We want to assure you of our good faith in working with you and your committee in an attempt to resolve the complicated problems associated with the management of the Small Business timber sale set-aside program.

Many thanks, and kindest regards.

Sincerely,

GEORGE S. DUNLOP,
Assistant Secretary,
Natural Resources and Environment.

COLLOQUY

Mr. DECONCINI. Mr. President, I would like to ask my distinguished colleague, Senator BUMPERS, the Chairman of the Small Business Committee, if it is his intent to hold oversight hearings on the matter of Small Business Timber Set Asides early next year?

Mr. BUMPERS. The Senator is correct.

Mr. DECONCINI. Is it the Senator's intent to review all of the issues relevant to the proposed regulations, and the most effective and equitable means to implement the program throughout the various regions of the country?

Mr. BUMPERS. That is correct.

Mr. DECONCINI. I thank the Senator and ask that small, medium sized, and larger timber companies from my region of the country, the Southwest, be given an opportunity to participate in the review of the proposed regulations, and in the hearings as witnesses, or in some manner that will help establish the most equitable means to protect a small business market share, as well as the most effective policies to achieve the goals of the Forest Service Timber management program.

Mr. BUMPERS. The Senator can be assured that the Southwest, as well as other regions of the country will be given ample opportunity to participate.

Mr. DECONCINI. I thank my distinguished colleague.●

INF AND OUR CRUISE MISSILE FUTURE

● Mr. QUAYLE. Mr. President, last Friday I spoke at great length about four concerns I had about the INF agreement signed by the United States and the Soviet Union. Prominent on that list was my concern about the bad precedent I believe INF has established on limiting conventional long-range cruise missiles.

Having actually seen a copy of the treaty, I still am worried. Under the agreement all ground-launched cruise missiles, nuclear and conventional, with a range over 500 kilometers are banned.

Frankly, I considered this provision to have been a mistake. General Galvin, the supreme NATO commander, in fact, was about to issue a requirement for such missiles when the administration announced that we had agreed to ban them.

Such missiles would have helped Galvin build up NATO's capability to delay and disrupt a Soviet attack using conventional weapons. Survivable and highly accurate versions of these missiles could block a Soviet offensive at key Warsaw Pact choke points such as train lines, bridges, tunnels, and the like. All of this would make Soviet war planners think twice about launching an attack in the first place.

These same conventional missiles, moreover, could be used to substitute for many nuclear weapons we currently have trained on targets in the Soviet Union. Rather than destabilize, these weapons could strengthen our ability to deter both nuclear and nonnuclear conflicts.

Of course, many might argue that we can still develop these weapons in sea and air-launched versions. The problem is air and sea launched cruise missiles are not as useful to NATO as ground-launched versions. Unlike mobile, ground-launched missiles, air launched cruise missiles are as vulnerable as the few NATO air bases on which we'd be based. Also, unlike many dual-capable aircraft that must be held back in reserve for possible nuclear use, mobile ground-based missile launchers are survivable enough to be used to deliver conventional munitions and can be easily switched over, if need be, to deliver nuclear warheads.

As for sea-launched cruise missiles, NATO has already raised doubts if the U.S. Navy would risk launching these and has rightly questioned if these missiles would have the range to reach their targets.

More important, the Soviets have already made it plain that they would like to ban long-range conventional sea and air-launched cruise missiles in START.

To block this move, we will have to challenge arguments that without a ban we would be stuck with the tough verification task of trying to tell the difference between a nuclear and a nonnuclear missile. Certainly, the problems associated with verifying the difference between a nuclear and nonnuclear cruise missile are hardly trivial, but as Gorbachev himself announced yesterday, they are not insurmountable.

They are no tougher, certainly, than verifying the INF range limit of 500 kilometers on cruise missiles or trying to verify how many missiles the Soviets have already produced and stored away. We could, for example, designate bases at which only conventional cruise missiles would be deployed and use INF-like verification procedures to assure that no nuclear weapons were on base.

In any case, we ought not to ban or limit the very conventional weapons we will be relying on more once nuclear reductions are made. This point is especially relevant not only in regard to any START agreement we might reach, but with regard to our interpretation of the INF agreement as it might apply to cruise missiles that we have not yet deployed.

The INF Treaty, after all, does not specify what specific future ground-launched cruise missiles will be allowed under the treaty. There are bound to be disputes. Might a missile with a 499-kilometer range be suspect? What about a cruise missile we or the Soviets claim is dedicated to surveillance tasks? Might this be challenged or banned as a potential weapons carrier? What about commitments not to circumvent the treaty? Do any such pledges exist? How might they chill efforts to deploy long range air and sea launched cruise missiles? How are we to interpret such commitments—narrowly or broadly? How are such issues to be resolved?

Mr. President, all of these questions need to be answered. As to the significance of conventional long-range cruise missiles, there can be no doubt. Recently, columns by Seymour Weiss, Richard Brody, Brian Chow, and Richard Halloran have appeared in the Wall Street Journal, the New York Times, and the Los Angeles Times clarifying how important are and will be to our security. In hopes that wider distribution of these articles will increase appreciation for these weapons systems' importance in INF and future arms negotiations, I ask that their full texts be entered in the RECORD.

The material follows:

[From the LA Times, Nov. 29, 1987]

CRUISE MISSILE BAN SKEWS GROUND FORCES' BALANCE

(By Richard Brody and Brian G. Chow)

President Reagan and Soviet leader Mikhail S. Gorbachev soon will sign a treaty to eliminate their countries' intermediate-range nuclear force (INF) missiles. How could the treaty, which will trade fewer than 500 warheads for more than 2,000, be bad for us?

The problem is that the INF treaty is fundamentally flawed. It would ban all intermediate-range ground-launched cruise missiles, conventional as well as nuclear. Yet future NATO defense and deterrence are asymmetrically dependent on these missiles. That the INF treaty is intrinsically unverifiable makes matters worse. While NATO forgoes the use of ground-launched cruise missiles, the Soviets could well stockpile them under the guise of sea-launched cruise missiles, which could easily be ground-launched.

Unfortunately, public debate seems to have focused on the weakening of our nuclear deterrent and verification difficulties. These divert attention from the critical potential contribution of conventional ground-launched cruise missiles to North Atlantic alliance security.

Soviet strategy stresses surprise and quick victory. Moscow would use forward troops to force NATO to commit its in-place armies, pinning them while threatening multiple penetrations. Rear-echelon Warsaw Pact forces would then rejuvenate the front, concentrating at selected points to exploit key breakthroughs. Taking advantage of superior forces and rapid reinforcement, the Soviets would attempt to win the battle for Central Europe before NATO's counter-mobilization could be mounted.

NATO has long recognized the necessity to delay and disrupt follow-on Soviet reinforcements, and in the late 1970s developed the "follow-on force attack" concept to implement this deep-strike operation.

Cruise missiles are well suited for delivering strikes deep behind enemy lines, for three reasons:

Greatly improved Warsaw Pact air defenses have made bomber raids unacceptably hazardous in many areas, especially around high-value targets. While "stealth" technology may help aircraft to penetrate, it will do little to protect them on the ground. Improving Soviet precision-strike capability makes it increasingly uncertain whether aircraft on airfields can survive. On the other hand, ground-launched cruise missile launchers can use mobility and camouflage to avoid Soviet targeting.

High-tech allows much better target acquisition and long-range delivery with great precision. While the Soviets have an enduring advantage in massing large armies, high-tech electronics can give the West a much needed compensating advantage. Deep strike is a key means for NATO to use it.

NATO is a defensive alliance. While an aggressor can afford to concentrate his forces, a defender traditionally needs to spread his across the range of possible points of attack. The defender thus would then be too late to concentrate his forces at the actual point of attack. Long-range strike permits counterfire to be concentrated immediately.

Thus, an effective conventional strike capability offers a rare opportunity for NATO to reduce reliance on nuclear weapons and raise the nuclear threshold. But the proposed treaty, which bans conventional ground-launched cruise missiles, would seriously degrade that opportunity.

What if we instead use air- and sea-launched cruise missiles not banned by the treaty?

It should be noted first that the INF treaty does relatively little to reduce the threat to the bulk of NATO's air bases and air defense. The missiles to be banned would have ranges between 300 and 3,000 miles. The Soviets could still build land-based 299-mile ballistic missiles that could reach all of West Germany and most of Belgium and the Netherlands.

Even with the treaty, airplanes carrying cruise missiles will continue to be vulnerable on the ground to ballistic missiles and Soviet aircraft. Surface ships that carry cruise missiles also are vulnerable to a great variety of threats. Submarines may be much less vulnerable, but an effective conventional missile force needs an inventory measured in thousands for attacks and reattacks. Submarine-launched cruise missiles simply price themselves out of the market in a Central European battle. Thus, the treaty forecloses the most promising avenue to increase the robustness of NATO's conventional defense through improved deep strike capability.

Yet a treaty that eliminates theater ballistic (but not cruise) missiles for some foreseeable period, say 10 years from *both* sides could be quite useful. Their fast speed make these missiles especially potent in a sudden surprise attack.

If we go ahead with an INF treaty that bans ground-launched cruise missiles, the Soviets will have traded a small part of their current nuclear arsenal for a major constraint on future NATO conventional defenses. NATO would continue to rely much more on nuclear weapons than it should. The debate over this treaty should focus as much on long-term consequences for the conventional balance as on any short-term nuclear benefits.

[From the Washington Post]

INF Pact Limits Our Conventional "Smarts" as Well

(By Seymour Weiss)

Now that Mikhail Gorbachev has condescended to meet at the summit, we shall finally be permitted to sign another very bad arms-control agreement.

We shall soon be faced with an agreement on INF (intermediate-range nuclear forces) that, contrary to administration claims will not be highly verifiable and that will be politically disruptive and strategically unsound. Were that not bad enough, this agreement purportedly designed to limit nuclear forces—thus having the effect of reducing the deterrent to Soviet conventional aggression—will also, as incredible as it may sound, impair Western conventional defenses.

How did this come about? In a supremely illogically logical decision, it was decided to make an agreement of inherently low verifiability slightly more verifiable by banning conventional warheads for ground-launched cruise missiles (on the grounds that it is not possible to tell nuclear warheads from conventional ones). Why illogical? Because in taking this step we once again placed the value of an arms-control agreement with the Soviets, as an end in itself, above U.S. security interests. And there is good reason to believe that the Russians laid a trap into which the administration fell.

For some time now the Soviets have evidenced great discomfort over strides being made in the West in advanced conventional-weapons systems. These systems of so-called "smart weapons" hold promise of delivering conventional warheads at great distances with incredible accuracy. Should the promise be fulfilled, then the brute-force approach used by the Soviets of throwing vast numbers of men and tanks into battle will be neutralized.

ADVANCED TECHNOLOGY GAP

Soviet literature has provided ample evidence that the Soviets understand this revolution in warfare and fear its consequences. They know they cannot match the West in developing and fielding advanced technology (much of it dependent upon computers, where the Soviets lag far behind the West), so what better way to meet the threat to their existing conventional military dominance than to constrain the West through arms control. Enter the INF pact, ostensibly designed to limit nuclear systems but in fact limiting conventional, ground-launched cruise missiles as well.

How serious in this development? If the President paid attention to his own words he might conclude it is very serious. In a little noted passage in his March 1983 address that first laid out the advantages of a strategic nuclear defense, Mr. Reagan also noted that: "America does possess, now, the technologies to attain very significant improvements in the effectiveness of our conventional, non-nuclear forces. Proceeding boldly with these technologies, we can significantly reduce any incentive . . . to threaten attack against the United States and its allies."

The Defense Science Board, a prestigious group of experts that advises the Defense Department on a wide range of scientific and technological issues, recently reported that the promise of this new technology was very high, that it might help to deter war and that should war come, it might help to inhibit rapid escalation to nuclear war. The board did not claim that dependence on this new technology could solve all our security problems, but surely deterrence of war or, failing that, inhibiting its escalation to the use of nuclear weapons are not trival benefits to the nation. Thus the board cautioned against this new conventional technology being "captured" in arms-control agreements designed to limit nuclear, even strategic nuclear, weapons.

According to press reports, then Defense Secretary Caspar Weinberger tried valiantly to get the point across to the White House but failed. Apparently nothing was to be permitted to interfere with an arms-control agreement with the Soviets even if it tended to foreclose technologies that might reduce incentives to "attack against the United States and its allies," to quote Mr. Reagan.

There is no justification for our having been caught off guard. In a book co-authored in 1981 with recently retired Secretary of the Navy John Lehman, I wrote: ". . . most important of all, the Soviets would have us severely restrain the cruise missile. This system with its potential for creating a more stable military balance in Europe is a major target be Soviet arms-control strategy. Precisely because they understand its theater potential would they like to limit if not preclude it. Moreover, they recognize full well that to do so would also have a major political impact: it would through bilateral U.S.-Soviet agreement, foreclose or substantially impair the utility of a system that our allies are increasingly comprehending could be of great importance to their own security."

GOING CARTER ONE BETTER

That was in 1981 and the book was a critique of Carter administration Salt II arms-control policy. At the time it would have defied credulity to believe that the Reagan administration would go the Carter administration one better!

One might hope that an agreement "flawed" in so many respects—of questionable verifiability, imperiling the nuclear deterrent, politically disruptive with our allies and one that even impairs our conventional defense—would not be ratified by the Senate. It is difficult, however, to imagine a Senate dominated by pro-arms control Democrats rejecting any arms-control agreement, and it is equally difficult for Senate Republicans to abandon their President. Or is it? It will not be easy for the Senate to ignore the fundamental deficiencies in this agreement if the Oct. 28 debate among GOP presidential aspirants is any guide: Only one such aspirant was unequivocal in his support for INF, Vice President George Bush. Senate majority leader Robert Dole was cautious and the other four were outspokenly opposed. Perhaps we will be saved from ourselves.

[From the Wall Street Journal, Nov. 16, 1987]

Cruise Missiles: A Wider Range and a Narrower Aim

(By Richard Halloran)

During a voyage off the Soviet Union's east coast last year, the battleship New Jersey and other ships simulated launching more than 300 cruise missiles at Soviet targets. With computers and crew drills, the battle group pretended to fire at the aircraft carrier Minsk and 26 other warships, at Soviet ports and airfields on the Sea of Japan, the Sea of Okhotsk and the Bering Sea, and at command posts, communication centers and munitions depots well inland.

Officers in the New Jersey battle group reported to Washington that they believed the Russians never detected their ships and, had the launchings been real, they would never have known what had hit them.

Cruise missiles, none of which have yet been fired in anger, are the most lethal of a new and potentially revolutionary category of arms called standoff weapons. Basically, standoff weapons can be slung at a target from so far away that the launch platform, which could be a submarine, ship, airplane or ground base, is not exposed to fire from the target.

It is the ground-launched version of the cruise missile, along with the Pershing 2 medium-range ballistic missile, that would be banned under the arms control treaty President Reagan and the Soviet leader, Mikhail S. Gorbachev, are scheduled to sign Tuesday.

But ground-launched types are but a small portion of the American arsenal of cruise missiles. Sea-based cruise missiles with conventional, high-explosive warheads are aboard American warships near the Persian Gulf today and could be used to destroy refineries, naval bases or military command centers in Iran. If the treaty takes effect, B-52 bombers carrying air-launched cruise missiles with nuclear warheads may go on alert in the United States to take up the deterrent role now played by ground-launched missiles in Western Europe.

The Soviet Union had sea-launched cruise missiles and is building air-launched versions, but they are not believed to be as accurate or consistent as those of the United

States. The Russians have concentrated more on building and improving ballistic missiles of all ranges.

However launched, the Pentagon's cruise missile is a $2-million flying torpedo with brains. It is powered by a small engine, its 20-foot frame kept aloft with stubby wings, and it finds its way with advanced navigation, keen sensors and a map programmed into its computer. Generally, these missiles can be fired 1,500 miles from a target and strike within 20 to 30 feet of it. The Navy has scored 64 hits in 76 test shots.

A cruise missile fired from a submarine off the coast of Newfoundland in Canada, for instance, could be programmed to cross the beach just north of Cape Ann, Mass., curve west to slip over the Berkshire Mountains, turn south along the Hudson River, pop up over the Palisades, glide between the goal posts at Giants Stadium in the Meadowlands and explode over the 50 yard line. The flight would take about an hour.

Because they fly just 30 or 40 feet above the ground, they are extremely difficult to track by radar. At 550 miles an hour, they move in and out of anti-aircraft missile range before gunners can fire at them. They can be instructed to attack from any direction. In short, defenses against cruise missiles are largely nonexistent.

FLYING FARTHER, HITTING CLOSER

Under development are cruise missiles with a 3,000-mile range, double that of today's missiles; at least one has been fired from a submarine, though it is expected to take more than five years to produce operational versions.

A still more important development is a laser guidance system that will enable a missile to hit within inches of the target. The missile that can thread the goal posts today would be able to hit the crossbar tomorrow. That precision is not especially important for cruise missiles armed with nuclear warheads, but pinpoint accuracy can make a missile with a nonnuclear warhead effective against many targets.

The Air Force has so far stuck with nuclear warheads. But the navy is concentrating on cruise missiles with conventional warheads. This will most likely complicate future arms control negotiations, because only a specialist up close can tell the difference between a nuclear and a conventional cruise missile.

The Navy has been arming ships and submarines with Tomahawk cruise missiles since 1983; it began deploying them with conventional warheads two years later. By the end of the 1987 fiscal year Sept. 30, the Navy had bought 338 cruise missiles with nuclear warheads and almost 700 with conventional warheads. In the current fiscal year, the Navy plans to buy only 19 nuclear cruise missiles but 456 carrying high explosives.

The reason? Navy officers say the nuclear missiles aren't useful except as a deterrent while those with high-explosive warheads may well be needed. One submarine armed with Tomahawk cruise missiles, they say, could have mounted the 1986 raid on Libya, which took dozens of Navy and Air Force planes, one of which was shot down.

"Cruise missiles," said one officer, "don't get pilots killed or captured."●

VICTOR FAERMARK AND ANDREA WINE

● **Mr. BRADLEY.** Mr. President, I rise today on behalf of all the divided spouses who have been refused permission to emigrate from the Soviet Union and join their loved ones in the West. The needless suffering of United States spouses divided from their husbands or wives in the Soviet Union continues to offend the sensibilities of concerned Americans.

I am very pleased that Victor Faermark has been granted permission to emigrate from the Soviet Union and join his wife Andrea in the West. This truly is a triumph for all who work to secure the human rights of those whose basic rights have been denied. However, the unnecessary suffering and pain that Andrea and Victor have endured can not be dismissed. Their pleas and others in similar plights repeatedly fell on unsympathetic ears. Too many requests continue to be ignored by the Soviet authorities. We must continue to ask the Soviets to recognize the struggle of those who are denied the basic right to live where they choose.

I am hopeful that the new Soviet policies of glasnost and peristroika will open the door which has been long closed and reunite all the families who are divided. Americans are deeply suspicious of a nation that keeps families divided, that denies loved ones the right to even visit. This may seem minor compared to regional conflicts and nuclear weapons. But to many Americans, permitting Soviet-Western families to unite is a basic requirement for membership in the international community. Repression and insensitivity to human rights do not produce greater understanding between the United States and the Soviet Union.

There are many important matters competing for our countries to resolve. Clearly the issue of divided spouses and families must remain a major concern. We cannot forget those who suffered the agony of separation for far too long.●

TRIBUTE TO FRANK ANDERSON

● **Mr. HEINZ.** Mr. President, I rise to offer congratulations and accolades to a newspaperman's newspaperman, Frank Anderson.

On January 14, the Valley News Dispatch and the Alle-Kiski Valley in my home State of Pennsylvania are honoring Frank Anderson. Frank has been a central figure at the Valley News Dispatch and its predecessor, the Daily Dispatch, for more than 40 years. After a most distinguished career in journalism, Frank is retiring this month.

Over the course of those 40 years, Frank has been one of the most perceptive newsmen I have ever run across. He has provided a voice to both the exalted and humble in his community. He has been a model of accuracy, quickness, and fairness. He has indeed been a newspaperman's newspaperman.

A native of Brackenridge and a lifelong resident of the Arnold-Lower Burrell area, Frank Anderson entered his chosen profession of journalism on June 1, 1947. At the time, he had a degree from Penn State and 3 years in the Navy during World War II under his belt. The "lede" to Frank's career was his first job at the former New Kensington Daily Dispatch, where he served as sports editor until 1957.

From there, Frank joined the Valley Daily News, where he became the New Kensington editor. He climbed the ladder to managing editor of the Daily Dispatch after the paper's purchase by the News in 1960. Later, he served as associate editor of the Valley News Dispatch.

Frank has become a legend of the area through his writing. A Frank Anderson column is always a favorite topic of conservation in the Valley. It seems like everybody reads the Stroller, the Back Home column and Frank's editorials. And Frank has become synonymous with characters such as Fat Frank, TV Tony, and the Old Geezer.

Frank's columns are alternately funny, blunt, and poignant. Frank made sure that no one serving the public was insulated from public criticism. He has a thorough understanding of the role of a free press.

In fact, Frank Anderson is practically synonymous with the Valley itself. He is a long-time member of the New Kensington Salvation Army Advisory Board. He has chaired the Allegheny Valley Employ the Handicapped Committee and served on the Westmoreland County Redevelopment Authority.

It has been a busy and accomplished career, and now Frank has decided to give up the hubbub of the newsroom. That's probably good news to his wife, Marge, and their two children and two grandchildren. They'll still get to enjoy the wit and wisdom of Frank Anderson on a daily basis.

For the rest of us, however, Frank will not be a part of every day any more. We will miss him. We wish him well.●

THE MILITARY CHARTER PROGRAM 2 YEARS AFTER THE GANDER CRASH

● **Mr. FORD.** Mr. President, 2 years ago tomorrow on December 12, 1985, a chartered aircraft operated by Arrow Air crashed at Gander, Newfoundland, killing 248 military personnel en route home to Fort Campbell, KY. Even though the infantry battalion that lost nearly a third of its soldiers has been rebuilt and the 101st Airborne Division has healed its wounds, we remember the men who gave their lives in service to their country, and the families and friends who lost their loved ones on that cruel day. We cannot bring our soldiers back, but we can try to ensure that such a tragic accident never happens again.

As a result of intensive investigation, legislation generated by the House Armed Services Committee, and the recommendations of the Wade Commission, the Department of the Air Force and the Federal Aviation Administration have made important revisions to the Military Charter Program and to their internal organizations, changes which I firmly believe will save both military and civilian lives.

Now a part of the Military Airlift Command [MAC] at Scott Air Force Base is the Air Carrier Survey and Analysis Office. This Office was created to survey, analyze, and recommend carrier suitability to perform airlift service for the Department of Defense. Whereas prior to Gander there was almost total reliance upon FAA data—which was often stale and sporadic, now MAC is able to conduct a vigorous precontract safety survey, an in-depth biennial technical safety evaluation, and a comprehensive biannual air carrier performance evaluation of every commercial carrier with which it does business either for the purpose of chartering or for individual travel. MAC currently has such high minimum standards that frequently carriers are placed into nonuse status by the Air Force but continue to operate under FAA regulations.

MAC's new foray into air carrier safety has been a bonus for the FAA in that MAC has provided it with an extra pair of eyes, supplementing the FAA's existing data base with its own inspection information. Under this new cooperative relationship, safety information has begun to flow continuously and often between the two organizations, an arrangement which has only the most positive implications for the future of aviation safety. Of special interest to me is the Air Carrier Analysis System [ACAS] being developed at Scott and into which all inspection data is fed. By assigning a particular index value to the performance level of a carrier, in time ACAS will provide an up-to-date snap shot of a carrier's status and will be an invaluable management tool not only for MAC but also for the FAA and the Office of the Secretary of Transportation, Air Carrier Fitness Division.

I had hoped that the Aviation Subcommittee of the Committee on Commerce, Science, and Transportation would be able to hold an oversight hearing this fall to discuss changes in the military charter program and the benefits of MAC's upgraded safety inspection program. Unfortunately, twice a scheduled hearing had to be postponed and now the end of the year is upon us.

Nevertheless I would like to share with my colleagues testimony that would have been presented had a hearing gone forward. The first is from Maj. Gen. William E. Overacker, Chief of Staff of the Military Airlift Command. The second is from Mr. Anthony J. Broderick, Associate Administrator for Aviation Standards, Federal Aviation Administration. Taken together they provide an excellent picture of the Air Force's new approach to military travel and of the exciting new relationship between MAC and the FAA—one which, again, promises great things for safer air travel.

In closing, I would like to commend the Military Airlift Command for the extraordinary steps it has taken to prevent a Gander-type accident from ever happening again. It is rare that a Government entity responds as quickly and as thoroughly as has MAC, and I think it deserves our deepest thanks for the outstanding efforts it has made to protect the lives of our servicemen and their families.

I ask that the statements of General Overacker and Mr. Broderick be printed in the RECORD.

The statements follow:

STATEMENT OF MAJOR GENERAL WILLIAM E. OVERACKER

Mr. Chairman and members of the subcommittee, I am Major General William E. Overacker, Chief of Staff for the Military Airlift Command (MAC). In that capacity, I am responsible for the day-to-day operations of Headquarters MAC, and I am the third senior officer in the command. Also with me is Col. Earl Boyanton, Deputy Chief of Staff, Air Transportation. Col. Boyanton is among other things responsible for our air carrier oversight programs and for procuring some $600 million annually in airlift for the DOD. I appreciate the opportunity to discuss with you our relationship with air carriers providing airlift services to the Department of Defense.

The Department of Defense arranges with commercial airlines for the travel of approximately six million passengers and over 60,000 tons of cargo annually at an approximate cost of one and a half billion dollars. This transportation is provided by 161 commercial carriers. As one of the country's major users of commercial aviation, it is in our interest to ensure safe, quality air service. I will outline those methods we use to ensure that type of air service to the Department of Defense. I will address the surveillance process provided by the DOD Air Carrier Survey and Analysis Office, to include on-site surveys, ramp inspections, cockpit observations, contractor inspections, and a comprehensive, automated analysis system. Central to this effort is the cooperation between the Department of Defense (DOD) and the Department of Transportation (DOT), more specifically the Federal Aviation Administration within DOT.

Under the law and as a matter of longstanding practice, the basic responsibility for ensuring all carriers operate to the highest standards of safety rests with the air carriers themselves, with oversight and enforcement by the FAA. The Military Airlift Command works with the FAA to help ensure the safety and quality of commercial airlift purchased by the Department of Defense. In effect, military members are ordered to fly on carriers whose services have been procured by the Department. Therefore, when we and other DOD agencies buy commercial passenger services for the directed movement of our people and their families, we must, to the best of our ability, assure their safe travel. The priorities underlying the management of our commercial airlift program are to contract with carriers which strive to operate to the highest possible levels of safety, meet our often unique and demanding military requirements, and have the capability to provide appropriate levels of service to our people. Congress agrees with this philosophy, as was made clear to us in the resolution passed during hearings conducted by the House Armed Services Committee's Investigative Subcommittee in February, March, and June 1986. Additionally, we must ensure that air carriers who provide airlift services to the DOD are qualified, safe, and reliable in accordance with DOD guidelines (DOD Directive 4500.53), which are derived from the FY87 Authorization Act or PL 99-661. The US commercial air carriers provide essential transportation services supporting our nation's security commitments worldwide. In fact, those carriers participating in the Civil Reserve Air Fleet (CRAF) provide over 50 percent of our wartime airlift capability.

Our capability to monitor DOD air carriers, and our use of this capability, has increased dramatically since you last conducted hearings on this subject. Our central activity is the DOD Air Carrier Survey Office.

The Air Carrier Survey and Analysis Office was an outgrowth of recommendations contained in the DOD Passenger Airlift Policies and Procedures Review, which was conducted following the Arrow Air crash in Gander, Canada, that killed 248 military members. This office was created to survey, analyze, and recommend carrier suitability to perform airlift services for the Department of Defense. The office is part of Headquarters Military Airlift Command at Scott Air Force Base IL. It will soon be augmented by the addition of Army personnel. The people who make up the office are responsible for the validation of safe operations and quality service for the same 161 air carriers who do business with the DOD. There are actually two divisions to this office—Survey and Analysis.

The Survey Division is organized with teams which conduct on-site capability surveys of air carriers proposing to provide or currently providing service to the DOD. Each team, and there are five, consists of one MAC pilot and one MAC maintenance technician. These personnel are uniquely qualified in both military and civilian aviation. The Air Force pilots, for the most part, are former flight examiner pilots with worldwide experience who also hold the FAA Air Transport Pilot rating. The maintenance people are all highly experienced in Air Force aviation maintenance, including direct supervision of hands-on maintenance and duty as Air Force maintenance standardization and evaluation team members with oversight of numerous maintenance organizations. They also have excellent civilian credentials, including FAA Airplane and Powerplant ratings and experience in managing repair stations in civilian aviation. Many of our pilots and maintenance experts have attended the FAA Airworthiness and Operations Indoctrination courses.

Following is how the typical survey is conducted.

The survey begins with a visit to the local FAA Flight Standards District Office where an exchange of information takes place. This free flow of information is codified in an agreement between the Military Airlift Command and the Federal Aviation Administration's Office of Flight Standards. The local FAA personnel are advised of the MAC team's requirements. The FAA, in turn, provides the team with information about applicable aircraft accidents, incidents, enforcement actions, and any changes in the carrier's operation that could affect its Federal Aviation Regulation compliance posture. We make a point of inviting the FAA inspectors to accompany us on the survey.

The capability survey is a broad-based review of all the fundamental operations and maintenance programs, choosing selected key areas for indepth review. The typical survey takes 5-6 days to plan, carry out, and write up. We normally spend 2-3 days at the company facilities and the local FAA office. The survey always begins with a review of the company's operations manuals. We then look into several key areas of operations, including certification, dispatch procedures, facilities, marketing plans, training programs, and records. The team uses a comprehensive, tailored checklist derived from their intensive inspection experience in the Military Airlift Command. In maintenance, we are concerned with areas such as the aircraft inspection programs, maintenance documentation, quality assurance programs, and tooling/expansion capability. The survey is completed with a return visit to the FAA, where we directly report significant findings. We usually receive a followup report from the FAA.

The secret to a favorable conclusion to one of our surveys is evidence of systemic emphasis on quality and safety throughout the carrier's operations and maintenance functions. We look for company policies and procedures which implement the Federal Aviation Regulations and which are rigorously enforced by the company itself.

Since January of 1986, shortly after the Gander crash, we have conducted 124 such surveys. Some of these were the biennial surveys required by law, some were preaward qualification surveys required by our procurement regulations, and some visits were generated by unusual circumstances. Sixteen surveys found companies deficient in safety or operational practices. The other 108 companies were considered to be operating in a safe, reliable manner in accordance with their own procedures and Federal requirements.

In addition to our in-depth capability surveys, we continually physically monitor the carriers through ramp inspections and cockpit observations. Ramp inspections, or safety preflights, are conducted by experienced aircraft maintenance technicians from the Military Airlift Command worldwide.

Although we've been doing ramp inspections for years, we increased the frequency last year to include the appropriate international and domestic charter flights now required by law and DOD directive. A new comprehensive, standardized MAC-MTMC checklist is being used.

Ramp inspections, or preflight inspections as they are called in PL 99-661, are accomplished on each scheduled international charter passenger mission within 72 hours of departure and periodically on stateside charter missions. We accomplished 433 inspections on international flights and 133 on domestic flights between March and August of 1987. These inspections enabled us to potentially identify slipping maintenance standards, ensure compliance with minimum equipment lists, and judge overall aircraft appearance. The visible presence of an Air Force ramp inspector is an important factor in establishing a high level of passenger confidence in our carriers. In addition, it is a signal to the carrier of our ongoing scrutiny of daily operations. Should our inspectors uncover a safety-of-flight deficiency, it would be brought to the attention of the aircrew. If it were not satisfactorily resolved at that time, the nearest FAA office would be notified. Furthermore, the commander of troops in a unit movement has the prerogative to refuse to board his people on an aircraft he deems to be unfit.

Another key component in monitoring air carrier performance is our cockpit observations program, in which our pilots sit in the cockpit and observe operations.

The cockpit observation program was mandated in the recommendations of the DOD Review and in PL 99-661. In this program, we observe crew safety awareness, cockpit management practices, aircraft conditions, ground handling services, and the quality of in-flight service. This gives us one more means of getting a feeling for the quality of the carrier's operations, and again signals the carrier our continuing scrutiny of daily operations throughout the world.

We have designated 16 of the most highly experienced examiner pilots in the Military Airlift Command to conduct these operations. They possess the FAA flight deck authorization required by the Federal Aviation Regulations. To date, we have conducted over 100 observations. Access to the cockpit, however, still requires the approval of the company and the captain. Our concern doesn't stop with the cockpit; we also use contracting specialists to monitor the inflight service on DOD international charter flights.

These contracting officers, known as "Range Riders," provide a quality control of the carrier's contract compliance in the service area. MTMC conducts a parallel program on domestic flights. While a direct relationship to safety may not be readily apparent, we believe attention to detail in passenger service and compliance with our contracts is indicative of the carrier's organization, management, and discipline. Furthermore, shoddy service and appearance and a marginal operation could indicate a problem in the financial stability of the company.

We are expanding our role in the collection and analysis of aviation industry data. We feel access to this data will assist in the identification of those areas that could impact safety. This is the role of the Analysis Office.

The Air Carrier Analysis Office is operational. We are phasing staff growth to keep pace with computer capability. We are "on plan" at a level of 60 percent staffed as of September 1987, and all essential analysts (maintenance, operations, safety, and financial) are in place and at work. The automated air carrier management information and decision support system used by the analysts is called the Air Carrier Analysis System, or ACAS. ACAS is now functional as a prototype system. The primary function of ACAS is to focus our attention and limited staff resources on those carriers in greatest need of close observation. The following provides a summary of the origin and development of ACAS:

First, the DOD, together with the Department of Transportation and the FAA, settled on five functional areas (safety, operations, maintenance, service quality and finance) in which lack of successful management attention could impact the safety of the commercial air carrier's operations. To acquire, store, and process the information within those initial functional areas, the DOT's Transportation Systems Center (TSC) in Cambridge, Massachusetts, began developing ACAS in November 1986. In July 1987, TSC delivered a functional ACAS prototype to MAC, MTMC, DOT, and the FAA for initial testing, evaluation, and limited use. This system is solely in use as a prototype and presently cannot fully analyze and rate each of the commercial air carriers in all five functional areas until its full development is completed in July 1988.

While the ACAS grows into a fully developed, comprehensive analysis system, the Analysis Officer gathers the bulk of its data manually for performance evaluations. FAA Principal Inspectors are the chief source of up-to-date operations, maintenance, and safety data. The carriers themselves are contacted to update financial and management personnel information. And, finally, we refer to numerous publications, to include Aviation On-Line, the Wall Street Journal, Dun and Bradstreet, and Value Line, to name a few, for additional data.

The ACAS is designed to become a comprehensive decision-support and information system. It will bring critical information, primarily from MAC, MTMC, FAA, and OST data bases, to bear in each of the five analysis areas. MAC's input includes the results of all surveys, ramp inspections, and other physical assessments. A major milestone will be the melding of the FAA's Aviation Safety Analysis System, or ASAS, under the ACAS umbrella. This process, started this July and continuing over the next 2 years, will provide for access and analysis to the majority of the volumes of FAA-collected data in the areas of accidents/incidents, enforcement actions, exemptions, and specific air carrier operations. All ACAS information will then be distilled into a quantity of weighted performance submeasures within each of the five areas, into overall area indicators (weighted), and finally into an aggregate indicator which merges the five areas. The ACAS is designed for three levels of scrutiny, from an overall review to the most detailed analysis. The steps from normal to most detailed scrutiny are triggered by system-generated "flags" to the analysts, or by the analysts themselves based on new events not yet in the system. The ACAS does not make any decisions. What it will do whem completed is put comprehensive, decision-support information at our fingertips, thus quickly directing our attention to air carriers needing closer observation.

As the scope of the ACAS information analysis system grows, so will its value as a timely source of civilian aviation information. In addition, ACAS will become the central depository for all the DOD/DOT collected data on our contracted commercial carriers. For example, the aircraft maintenance ramp inspection results are projected for data input from the maintenance community. Passenger comments and contractor evaluations will be included in the quality of service indicators.

At this time, ACAS includes the preliminary data for the 161 DOD commercial carriers. Just over $1 million has been spent for the development and delivery of the ACAS prototype, which represents the completion for Phases I and II effort. An additional $4,850,000 is projected for the implementation of the final two phases of the system. Approximately $750,000 to $1 million each year will be required to support the system. The Department of the Army, through its Military Traffic Management Command (MTMC), has agreed to fund half of the system's development and maintenance costs, with the Air Force funding the other half. The FAA has initially contributed $100,000 to research and development.

Also, the FAA has been helpful in design critique, support, and providing access to their extensive ASAS data bases. All of the aircraft/incident data now in the ACAS has been obtained from FAA sources. In addition, the Eastern Region of the FAA will continue to keep us abreast of their efforts to automate all FAA National Inspection Team findings.

Additionally, the Fitness Division within the Office of the Secretary of Transportation has provided invaluable financial and service quality information, advice, and constructive criticism. They've played a significant positive role in ACAS development.

When all information and indicators are accumulated, there are specific procedures for approval or disqualification of carriers. These procedures are contained in Attachment 1. Basically, information received from analysis, survey, or incidents is reviewed by the Air Carrier Analysis and Survey Office and is forwarded to the Air Carrier Review Committee, a group chaired by the Deputy Chief of Staff, Air Transportation at the Military Airlift Command Headquarters. This body is composed of military officers and civilian employees from such varied disciplines as flight standardization, contracting, law, and aircraft maintenance. The Review Committee can determine the carrier is capable of providing services to the DOD or, if evidence dictates, can recommend nonuse to the next level of review, the Joint Transportation Operating Agency Commercial Review Board (JTOACARB). This board consists of two general officers, one each from MAC and MTMC, along with two other representatives from each command. The board also receives information and recommendations from the MAC Airlift Contracting Office and Military Traffic Management Command's Passenger Review Board. The JTOACARB is empowered to issue letters of warning and show cause; to place carriers in nonuse pending suspension proceedings; to suspend carriers, and/or to subsequently reinstate them. The board may also elevate a suspension or reinstatment decision to the commanders of the Military Airlift Command and the Army's Military Traffic Management Command. They, in turn, may act along the same lines as described above for the JTOACARB, or they may defer decision to the DOD Commercial Airlift Review Authority, a Pentagon-level group of senior military and civilian officials chaired by the Deputy Assistant Secretary of Defense for Logistics. Although we have purposely created a deliberate process, in the case of a fatal accident involving a DOD air carrier, the JTOACARB will make an immediate determination on whether or not to suspend the carrier.

For reinstatement after suspension, the carrier must submit clear and convincing evidence that it has established its capability to serve the DOD. A hearing could take place at the option of the JTOACARB. The carrier must show to the satisfaction of the board that deficiencies that led to suspension have been corrected and that actions have been implemented to preclude the recurrence of similar deficiencies.

As you can see throughout the whole survey and analysis process, we work in concert with the FAA. To enchance this cooperation, we have a liaison officer, a highly skilled pilot, Lt. Col. (colonel select) Ron Priddy, in FAA headquarters. The FAA, in turn, has assigned a liaison officer, Mr. Jerry Nuby, to our staff. We enjoy a healthy, mutually beneficial relationship.

We have a responsibility to military travelers and their families to work jointly with the FAA and the air carrier industry to enhance safe and reliable air transportation for the DOD traveler. As a surrogate for our travelers in selecting the carriers they will fly aboard, we are an informed and critical consumer of air transportation services. Our Air Carrier Survey and Analysis Office, with its functions of capability surveys, cockpit observations, ramp inspections, and in-depth analysis, is the nerve center of our oversight process.

Finally, MAC is not only attempting to assure the daily safe and reliable purchase of commercial airlift for the Department of Defense, but also to foster a more stable CRAF, ready to provide this country's wartime surge capability from a strong commercial aviaiton industry. I would caution, however, that all of the measures we have taken still cannot guarantee there will not be another Arrow or Delta or Northwest type accident. But we believe our efforts will enhance safe and reliable service to the Department of Defense.

STATEMENT OF ANTHONY J. BRODERICK

Mr. Chairman and Members of the Subcommittee:

I welcome this opportunity to appear before the Subcommittee today to discuss Department of Transportation and FAA measures to ensure the safety of air carriers involved in the transportation of military personnel, as well as cooperative efforts to exchange safety related and other information with the Department of Defense and the Military Airlift Command (MAC). The Subcommittee's interest in this matter, and indeed the level of cooperation today, are the result of the tragic December 1985 crash of an Arrow Air DC-8, in Gander, Newfoundland.

As you have heard in the previous testimony from the Department of Defense, there are a number of very positive initiatives between the Department of Transportation, FAA, and the Department of Defense (DOD) to ensure the safety of military personnel being transported onboard civil air carriers. Frankly, a year ago, we had a lot of questions as to how that relationship might develop. Today, there is no question that our cooperative relationship has improved air carrier safety. The FAA welcomes the extra pair of eyes and different perspective DOD brings to air carrier safety. Safety information flows daily between the two agencies. Not just between headquarters, but between field organizations as well. We welcome this cooperative effort between the FAA and DOD agencies.

In early 1986, the FAA initiated an extensive National Aviation Safety Inspection Program. This plan called for special, in-depth inspections of all air carriers as well as FAA certified engine repair stations. The inspection methodology for this program follows that which was developed for the 1984 National Air Transportation Inspection Program (NATI), or white gloves inspection, ordered by Secretary Dole.

However, in 1986, there were two specially targeted areas of emphasis: (1) inspection of Federal Aviation Regulation (FAR) Part 121 air carriers which derive significant income from military charter flights, and (2) inspection of certified turbine engine repair stations. FAR Part 121, as modified by Special Federal Aviation Regulation 38 (SFAR 38), governs air carriers conducting scheduled and non-scheduled (charter) operations with aircraft having a seating capacity of more than 30 seats or a payload capacity of more than 7,500 pounds. The decision to select repair facilities that perform maintenance on and alterations of (1) large turbine engines used in air carrier service and (2) some smaller engines used on commuter aircraft, resulted from a concern over a significant number of engine service difficulties. Improper maintenance practices appear to have been particularly related to the engine service difficulties with certain types of jet engines.

In 1987, this program continues to emphasize military charter carriers, but was expanded to include commuter carriers also. In addition, the FAA expanded our emphasis to include FAR Part 141 pilot schools and FAR Part 145 repair stations. In the coming fiscal year, we will continue to emphasize carriers that derive income from military operations, as well as other areas in our nation's aviation industry that appear to need specific emphasis.

This program has had a significant, positive influence on air carrier safety. That positive influence is not just limited to the aircraft. Indeed the entire industry has been put on notice. Administrator McArtor recently announced his intention to meet with the air carrier CEO's to seek from them the same degree of accountability and care which goes into their company financial statements, in their aircraft maintenance and operations programs. They have been made aware that we are raising our standards and expect them to raise theirs in a commensurate manner.

The FAA has established other initiatives to improve the cooperation and information exchange with DOD. The FAA liaison to MAC is in position at Scott AFB, Illinois, helping the Department of Defense on their survey and analysis program and keeping the FAA informed of DOD findings and issues.

The military liaison to FAA, a United States Air Force Lieutenant Colonel, works within the Office of Flight Standards, which reports directly to me. Specifically, he is on the Evaluation Staff that plans all our major inspections. He is asked to participate in quarterly Flight Standards Managers Conferences, which puts him in contact with flight standards managers throughout the FAA. He periodically visits our regional headquarters for review of major initiatives at the regional and district office level. Throughout our major inspections, he is kept abreast of all major issues or concerns being found by the inspection teams. When our inspection teams debrief an air carrier engaged in military charter operations, the MAC liaison attends the briefing and receives a copy of the inspection report at the same time the air carrier does.

We are proud to be involved in the Air Carrier Analysis System (ACAS) program presented earlier by MAC. We are dedicated to making this a national information sharing effort.

That completes my prepared statement, Mr. Chairman. I would be pleased to respond to questions you may have at this time.●

KIMBERLY CHHIM POWERS—AMERICAN CITIZEN

● Ms. MIKULSKI. Mr. President, today is a very special day, and I would like the Senate to be aware of its significance.

Today, my Cambodian niece Kimberly Chhim Powers will formally take the oath of allegiance and become an American citizen.

I first met Kim in a refugee camp in Thailand 8 years ago. I asked her how I could help her, and she replied "Take me back with you."

And now today, she will complete the journey that began that day. I wish I could be with her today.

Kim's story is a remarkable one. I am full of admiration for and pride in how she has made this country her own.

We all take pride in the fact that so many people every year seek to become Americans. It verifies our faith and belief in our system. But it takes a story such as this to make the dry statistics of refugees and immigration come alive.

When Kim was taking her citizenship test, she was asked to name her two Senators. "Paul Sarbanes and my Aunt Barb" was her speedy reply. She passed the test.

Mr. President, I congratulate Kim, and ask unanimous consent to add at the end of these remarks the text of an article from the Prince George's Journal of June 15, 1987, about Kim's graduation from high school.

MIKULSKI'S 1979 VOW ENDS IN CAMBODIAN GIRL'S GRADUATION

(By Tracy A. Reeves)

OXON HILL.—Kimberly Chhim Powers remembers the day eight years ago as if it were yesterday.

The Vietnam War was over. She was sitting crunched between other children in a Cambodian refugee camp in Thailand when an American politician noticed the tears in her eyes and asked the question that would change Powers life.

"Is there anything I can do for you?" asked the politician.

Feeling scared and desperate. Powers, who could not speak English responded through a translator.

"Take me back with you," she said.

U.S. Sen. Barbara M. Mikulski said those words stuck in her memory. She felt compelled to find Powers a home in America. And she succeeded.

Powers, 18, now lives in Oxon Hill, where she graduated from Friendly High School on Tuesday.

Mikulski, D-Md., told Powers story to Friendly graduates, their parents and friends at the outdoor commencement exercises at the school.

Mikulski was asked to give the graduation speech by seniors who had learned early in the year that one of their own classmates had a personal relationship with the senator.

In her brief remarks, Mikulski urged the 395 graduates to use their educations to better themselves and their country.

"Each of you in your own way has the ability to move us into the next century." Mikulski said.

Mikulski also told the crowd she was especially proud of Powers, whom she calls her niece. Powers refers to Mikulski as "Aunte Barb."

"I can't wait to give her a big hug," said Mikulski, who later presented Powers and the other graduates with their diplomas.

"I would not be here if it weren't for Barbara," said Powers who plans to go to cosmetology school and ultimately earn a business degree.

"She gave me a home and a new life and I love my parents for what they've done for me." Powers said.

Mikulski's relationship with Powers began in late 1979 when she was a member of the U.S. House of Representatives. She and other members of Congress went to Thailand that year to learn more about how money sent from the United States was being used in the refugee camps.

Mikulski said she found that the money was being spent well, but that the conditions of the camps were still sad.

"I saw people living under the most horrendous conditions and here was this little girl begging for someone to take her away," she said.

Mikulski said she learned through translators at the camp that Powers had been separated from her parents and siblings. Powers has not seen them since.

Months later, with the help of several Washington social service and religious agencies, Powers was in the Tantallon home of Phorn and Samantha Powers, who had wanted to adopt a girl.

"She is wonderful. From the day I saw her, I loved her like she was my own daughter," said Samantha Powers, who with her husband also has a 17-year-old son, Tipp.

Powers began her education in the county public school system as a fifth-grader and with the help of the English for Speakers of other Languages Program learned to speak read and write in her adopted language.

Mikulski talks to her weekly on the telephone.●

PUBLIC COMMENTS ON CASH PROFIT-SHARING LEGISLATION

● Mr. BUMPERS. Mr. President, on April 7, 1987, I introduced S. 932, a bill to provide a modest tax incentive for cash profit-sharing plans.

S. 932 is premised on the work of a number of prominent economists, including Prof. Martin Weitzman of MIT, who argue that firms with cash profit-sharing plans are more likely to hire additional employees during times of economic growth and, even more important, less likely to fire them when there are downturns in the economy. The potential impact of profit-sharing plans on productivity is an added rationale for the tax incentive, but the key issue addressed by S. 932 is the level of employment and unemployment in the economy.

On October 8 I spoke to the Senate regarding the adoption of a strikingly similar tax proposal in Great Britain—113 CONGRESSIONAL RECORD S13881-S13882 (October 8, 1987). The action of Great Britain gives us a laboratory to determine whether cash profit-sharing plans do, in fact, have a positive impact on both productivity and employment.

In this statement I would like to focus on the many public comments which I have received from American firms and experts on my proposal.

Because S. 932 is an original proposal, I have been anxious to have it evaluated by business executives, economists, and employee representatives. In May and June I sent letters to solicit comments on S. 932 and the issues it raises. I sent these inquiries to a wide range of groups, including groups I thought might be skeptical of S. 932, such as labor unions and some groups involved in promoting productivity incentives other than profit sharing.

At this point in consideration of S. 932 I am just as interested to hear skeptical comments about S. 932 as to hear praise for it. I recognized that the "burden of proof" is on the proponents of any new legislative proposal. S. 932 does reduce Government revenue and, particularly in the current budget climate, I must be able to demonstrate that this expenditure of Government revenue is worthwhile.

I believe strongly that in our system of government, all interested groups should be invited—not just permitted—to participate. We need the benefit of their expert advice before we take actions which affect them.

I know that the Congress is not yet ready to take action on S. 932 because of its impact on Government revenues. The issue not being debated in Congress is how to raise new revenue, not provide new tax incentives which reduce revenue. In addition, the principal issue addressed by S. 932—employment and unemployment—is not high on the legislative agenda.

It is clear to me, however, that the issue of employment and unemployment will rise to the top of the legislative agenda when the economy next goes into a recession. I fear that the next recession may well be a deep one, with painfully high unemployment. If that is true, then Congress would be receptive to initiatives such as S. 932 which address an underlying cause of unemployment and the Congress should be willing to take actions which reduce Government tax receipts and which, thereby, stimulate economic growth. This is when S. 932 will be given serious consideration.

In the meantime I will continue to solicit comments from a broad range of groups and will continue to research the issues raised by S. 932. The next recession is not upon us yet—at least most economists do not believe it is—and we have time to consider S. 932 in depth.

PRODUCTIVITY AND EMPLOYMENT

S. 932 is based on the premise that cash profit-sharing plans have a positive impact both on employee productivity and on employment.

The impact of profit sharing on employee productivity comes because employees are rewarded when the firm is profitable and they must sacrifice when it is not. Profit sharing focuses the attention of all the employees of a firm on the bottom-line, profitability.

The potential impact of profit sharing on employment is the subject of Prof. Martin L. Weitzman's much heralded and discussed book, "The Share Economy." In this book, Professor Weitzman argues that if enough firms tied enough of the pay of their workers to the profitability of the firm, employment would increase more during times of economic growth and unemployment would be less during recessions.

This impact on employment occurs because profit sharing automatically adjusts the compensation of employees—and the costs of the firm—when the firm's profitability rises or falls.

In good times, this means that employees receive a full share of the increases in profitability. Managers of firms need to recognize that profits arise from the effort of the employees of the firm and that the employees should be rewarded when the firm prospers. Just as important, the firm has a special incentive to hire additional workers because the marginal cost of hiring additional workers is less because each additional worker who is hired is paid in part from a fixed fund of the shared profits.

In difficult times, profit sharing means that employees make defined and limited sacrifices to help the firm regain its profitability. Because with profit sharing the firm's costs automatically decline when its profits decline, the firm has less need to cut costs by firing or laying off employees—which unfortunately is the course it normally would have to follow. The marginal cost to the firm of retaining workers declines as the profitability of the firm declines.

When a firm is less likely to need to lay off or fire employees during difficult times, it may be more willing to hire additional workers in prosperous times. It will know that its investment in the training of these employees is less likely to be wasted through layoffs and firings. A firm will invest more in its employees and employees will be more loyal to the firm, all of which should help increase productivity.

Some of the comments I have received focus on whether widespread adoption of cash profit-sharing plans would have a positive impact on productivity and/or employment. Others focus on whether profit sharing is a fair and equitable form of compensation. Still others focus on whether it is appropriate for the Federal Government to provide an incentive in favor of cash profit-sharing plans and whether the terms of S. 932 are appropriate.

In short the comments I have received focus on issues of microeconomic and macroeconomic policy, labor-management relations, and tax policy.

RANGE OF VIEWS RECEIVED

Overall I am encouraged by the comments I have received on S. 932. I introduced S. 932 in order to stimulate debate on the issue of flexible compensation and pay-for-performance. The comments I have received reinforce my belief that this is an issue well worth debating.

It is not surprising to me that there is a wide range of views on the potential impact of cash profit-sharing plans on employment and productivity. Any time one discusses wages, hours, and working conditions, the opinions which are expressed tend to be strong and personal. Compensation is not an easy subject to negotiate, let alone to address in legislation.

S. 932 simply provides an incentive for cash profit sharing. It does not require any company or employee to agree to a profit-sharing plan. Despite this fact, S. 932 may have an influence on employer-employee negotiations and the comments I have received assume that it will have some influence.

The comments I have received run the gamut. Some commentators strongly agree with the premise of the legislation and others strongly dispute them. From among the comments I have received, there are 21 which represent a cross-section of views. The groups and persons who have submitted these comments include the following:

Associations: The Profit Sharing Council of America, the Employee Stock Ownership Association, and the National Center for Employee Ownership;

Corporations: Worthington Industries, Steelcase, Michigan Wheel Corp., the Lincoln-Electric Co., and Andersen Corp.;

Labor unions: The AFL-CIO, the United Brotherhood of Carpenters & Joiners, and the Airline Pilots Association;

Professors and consultants: Martin L. Weitzman of MIT, Myron Roomkin of Northwestern, Michael Carter of Hay Management, Linda Washburn of Arthur Associates, and Robert Doyle; and

Institutes: The W.E. Upjohn Institute for Employment Research, the Employee Benefit Research Institute, the Bowling Green Productivity and Gainsharing Institute, the Work in America Institute, and the American Productivity Center.

I do not have time here to review all of the written and oral comments I have received regarding S. 932. The ones I cite here, however, cover the full range of the issues which have been raised.

I am very appreciative of the assistance I have received from all of these groups and the others who have responded to my requests for comments. I am sure that other groups and persons can contribute to this debate on profit sharing and I am continuing to solicit comments on S. 932 and the issues it raises. I am sure that many of the groups and persons who already have commented will be interested in reacting to the comments of others.

OUTLINE OF COMMENTS

It is difficult to summarize the detailed comments I have received in just a few minutes. Those who have submitted comments have taken a great deal of time and care in analyzing the issues raised by S. 932 and their letters often run to five pages or more. The full text of their comments should be read by anyone interested in fully understanding their views. But, I would like here to very briefly summarize the views of these groups and individuals:

David L. Wray, president, Profit Sharing Council of America: It should not be surprising that the PSCA "strongly endorses" S. 932 and believes that it is "good public policy to encourage profit sharing." The council defines profit sharing as a system whereby "employees receive a share of the profits in addition to prevailing rates of pay." It cautions that it "in our present economic climate" is "doubtful if employees would be willing to give up part of a fixed wage in return for the promise of a portion of an uncertain profit." It expresses concern that the uniform rules of capitalization adopted in the tax reform legislation are a "disincentive" to the adoption of profit-sharing plans. It cites a number of studies which indicate that profit sharing has "improved company results."

David Binns, executive director, the Employee Stock Ownership Association: The ESOP Association "endorses the central focus of the bill which is to tie the financial interests of workers to the performance of their employer to provide for greater incentives for productivity gains as well as increased opportunities for financial remuneration for rank and file employees." Shared ownership and shared profits are "distinct in several ways" and the association supports "incorporating employee ownership into S. 932."

Cory Rosen, executive director, the National Center for Employee Ownership: Mr. Rosen states that "the bill would spur a very modest increase in profit sharing, but perhaps not enough to test Weitzman's theories." The tax deduction "would not * * * be enough to offset the additional uncertainty which profit sharing creates." Even if the bill stimulates the growth of profit-sharing plans, such plans "would encourage companies to focus on profits, not growth and market penetration (which) is very dangerous" and a "serious mistake." A "more balanced approach would encourage a mix of both equity and profit compensation * * *."

Joseph Stegmayer, vice president and chief financial officer, Worthington Industries, Inc.: "Unquestionably, our profit-sharing plan has been a vital element" in the fact that Worthington Industries sales and productivity have increased dramatically and that it has "never laid off a permanent employee." It "strongly supports the concept" of the proposal.

Robert C. Pew, chairman and chief executive officer, Steelcase, Inc.: Mr. Pew believes "that profit sharing does all the things that you state it does." However, he "really (has) trouble with using the Internal Revenue Code as a vehicle for promoting good ideas." He does not "understand what the risk is all about for either the employer or the employee * * * if there are no profits there may be no business or jobs."

Charles Dykstra, president, Michigan Wheel Corp.: Mr. Dykstra believes that profit sharing "tends to reduce the layoff possibilities" during recessions although the firm's "payroll does decline in an effort to protect" the profit-sharing plan. Profit sharing "is not without risks to all of our employees since profitability, tied to a PS figure, can significantly reduce one's annual earnings * * * (this) places a significant amount of pressure on management, and the attention it pays to wise inventory management, superior employee relations, communications, and the openness and accessibility of employees to planning processes."

George E. Willis, chairman and chief executive officer, the Lincoln-Electric Co.: Mr. Willis states that the profit-sharing bonus at Lincoln-Electric has been paid "each year since 1934 * * * (and it) has been extremely effective in improving continually our productivity with the result that today (Lincoln-Electric is) somewhere between two and three times as productive as our competitors." He "agrees in principal" with the bill but the experience at Lincoln-Electric finds that a "flexible formula is most effective" and that a formula which gives an "increased incentive to * * * middle and top management" should be allowed.

Ross A. Dahlin, manager, Andersen Corp.: Mr. Dahlin offers his "strong support to S. 932" because it would "enhance" the benefits which are received under Andersen's profit-sharing plan, which has been in effect since 1914.

Rudy Oswald, director, Department of Economic Research, the AFL-CIO: The AFL-CIO has "strong reservations concerning S. 932" but there is "no single 'labor' position for or against profit sharing." It agrees with the "goal of increasing productivity and maximizing the number of workers hired by firms during economic recoveries and recessions * * * (b)ut, we do not feel that the measure would accomplish such goals." The experience with profit-sharing plans is "mixed" and there is "no evidence that profit sharing has led to employment increase or productivity improvements." Profit sharing has been used "in some cases to undercut unions * * *."

Wayne Pierce, general treasurer and legislative director, the United Brotherhood of Carpenters & Joiners: The United Brotherhood has "serious reservations" about the bill. "It is unlikely that a small share of profits will, by itself, change workers' attitudes toward a company or the way they perform their jobs." It's experience has been that profit-sharing plans are "more often (proposed by) a company that has not acted in good faith in the past and will propose a profit-sharing plan when it is losing money as a quick-fix solution to fundamental business problems and as a way to avoid its obligations to pay decent wages and benefits. There is less "mistrust toward gainsharing plans." "It does not seem fair to us that (firms with no profits) should pay what could amount to substantially lower wages because of a profit-sharing plan."

Henry A. Duffy, president, the Airline Pilots Association: The bill is "appealing" and, "as (a pilot) is already sharing the risk of the marketplace, we concur in your belief that he is entitled to share in the rewards." Mr. Duffy expresses concern that firms which have profits might time "purchases of equipment * * * to correspond to a period of substantial profitability in order to keep wages depressed." He is concerned that the antidiscrimination provisions of the bill is not strong enough.

Martin L. Weitzman, MIT Department of Economics: Professor Weitzman finds the bill to be an "imaginative piece of legislation attempting to deal seriously with two major economic problems of our time—how to improve competitiveness and productivity, and how to improve the unemployment-inflation tradeoff." He states that profit sharing is "not an economic panacea * * * but (it) can help promote (a) commonality of interest" between employees and employers. Profit sharing should be singled-out for "special preference" because "profits are the bottom line, the best, really the only, comprehensive signal of the success of a commercial enterprise and the security of jobs in it." "If people will face up to the uncertainty, and if everyone accepts some small part of it, then society as a whole will end up with higher income and less uncertainty overall."

Myron J. Roomkin, Northwestern J.L. Kellogg Graduate School of Management: Professor Roomkin makes a series of observations about profit sharing plans. They work "best where (they are) a part of an overall approach to employee relations backed by an appropriate managerial philosophy." The "motivational value of profit sharing declines as one moves to lower levels of the organization * * *"

Employees are "understandably suspicious of the way profits are calculated." Profit sharing "requires trust" which can only happen if there is a "mechanism for employees to participate in decisionmaking and governance." The "volatility of profits in some industries will increase employee resistance to profit sharing, even with tax incentives." He suggests a "new variety of profit sharing between deferred and cash programs."

Michael Carter, senior vice president, Hay Management Consultants: Profit-sharing plans "do motivate better performance and better identification with the company's goals and profitability." By providing tax incentives for profit sharing, S. 932 makes a profit-sharing plan "a stronger motivator of performance." In times of economic distress "management can avoid or lessen reduction in force" with a combination of fixed wages and contingent pay, such as profit sharing. There is some potential for employers with consistent profits to manipulate their reward systems to gain the favorable tax treatment for their employees. "S. 932 would promote improved productivity and lower unemployment, probably without a reduction in tax revenues."

Linda Washburn, Arthur Associates: the bill "is a most interesting, and perhaps unique approach * * * (and), in principle, seems viable." Ms. Washburn raises a number of issues concerning the terms of the bill. Profit sharing, or gain-sharing programs, must involve trust between management and labor and without this trust these programs will "not reach (their) full potential, and at its worst, (may) fail."

Robert Doyle, management consultant: Mr. Doyle "strongly agree(s) with the spirit of this proposal * * *" Some profit-sharing plans "have indeed been effective in stimulating productivity." "When employees put some of their pay at risk they must, in fairness, be given greater influence over their work." "In those plans where management provides the complete program of influence sharing and profit sharing, we see solid improvement in productivity, profitability, competitive strength, and also in the security of employment and investment." "Productivity improvement will only cause reduced unemployment in the U.S. * * *" Providing a tax incentive for profit sharing is a "stronger" strategy than an educational effort, but the "proposed incentive is not strong enough to be effective." The issues raised by S. 932 are "very complicated and (he) recommend(s) that more fact gathering, debate and reflection be done."

Robert G. Spiegelman, executive director, the W.E. Upjohn Institute for Employment Research: Mr. Spiegelman "agree(s) in principle with the analysis" provided in support of S. 932. It should "increase the spirit of cooperation between management and labor," "smooth out employment cycle, that is, reduce the tendency for layoffs during downturns," and "encourage workers to strive to increase company profits through increased productivity." There may be a need for experimenting with "a temporary program of subsidization" with a tax incentive to overcome "institutional inhibitions" against profit sharing. "The structure of the program provided in S. 932 seems quite satisfactory." S. 932 "would make a contribution to the goal of increasing American competitiveness * * *."

Dallas L. Salisbury, the Employee Benefit Research Institute: "Existing research does indicate that tying a portion of total compensation to the profits of the firm can have a positive impact on productivity." Whether profit sharing will enhance employment "would depend upon * * * guaranteed cash compensation being reduced when the cash profit-sharing plan is introduced." The bill "would likely prove most attractive in the small business sector." The tax incentive might "well be expected to achieve a (30 percent) level of utilization" of profit sharing plans. The 5 percent "floor" is "likely to be too high to attract (large numbers of employers) in." Nondiscrimination rules also will deter some small businesses from adopting plans.

Timothy L. Ross, director, the Bowling Green Productivity and Gainsharing Institute: The bill "is a good start since, if nothing else, it will develop an awareness of the (competitiveness) problem." The use of "contingent or variable compensation * * * is probably the greatest reason why interest in gainsharing is growing." The "concept (of profit sharing) is fraught with many potential difficulties," including accounting issues and union opposition. "Some people say that employees cannot relate to such things as profit sharing which is ridiculous if you spend time at the educational process."

Jerome M. Rosow, president, Work in America Institute, Inc.: Mr. Rosow "endorse(s the) legislative effort" as "laudable." He then makes a series of observations about profit sharing. "(T)he degree of risk in trading wages for a share of fluctuating profits is highly uneven." Profits are "not necessarily the best reflection of the economic performance of the corporation." "The lure of profit sharing rarely fulfills the expectations because the formulas do not provide for a large distribution as a percentage of pay of the average American worker." "Profit sharing is vulnerable to economic conditions, industry competition, tax policy, interest rates and other critical variables often outside the control of management itself." He does not believe that there is any evidence to support Prof. Martin Weitzman's statement that profit sharing acts as a shock absorber to personnel layoffs." He does not believe that the tax incentive is great enough to "offset the risk to employees if they must engage the risk by sacrificing part of their regular wages in order to participate in a plan that is highly variable and vulnerable to external conditions."

Carl G. Thor, the American Productivity Center: The center "strongly oppose(s) the intent of the bill to single out 'profit-sharing' plans for favorable treatment at the expense of gain-sharing plans and other related approaches." "Profit sharing is not an effective motivator for most employees in a large organization." There is difficulty in defining the term "profits." Gain sharing is becoming very popular and "it would be very counterproductive from the point of view of the Nation to nip gain sharing in the bud and get everyone oriented on an obscure and arbitrary short-term profit calculation."

RESPONSE TO COMMENTS

As my colleagues can see, the range of views on S. 932 is broad. There are many disagreements over factual as well as policy issues. Some of the comments are enthusiastic and others are quite negative.

As I said earlier, it is not surprising that responses to S. 932 are mixed. It deals with an important and personal issue—the compensation of individual workers. The potential impact of profit sharing on productivity is difficult to study with precision. It is impossible to directly measure the potential impact of profit sharing on the Nation's employment or unemployment.

I have not provided responses to the negative comments on the bill. Those who have raised questions about S. 932 raise legitimate issues. In time I will address all of the issues which they have raised, indeed, I addressed many of them in my introductory statement on S. 932 of April 7.

I must say that these same issues were raised in the House of Commons in Great Britain when it debated a proposal to provide a tax incentive for cash profit sharing. As I said, the House of Commons proceeded to adopt the proposal and it is now law.

Here I am trying to set the agenda for the debate and the research that needs to be done. The ball is in my court as the proponent of this approach to our competitiveness challenge. I have my work cut out for myself. But, the issues are important enough to justify the effort.

The issues here are fundamental to the competitiveness challenge we face. What policies will improve productivity? How can we increase employment and reduce unemployment? How can we protect the right of workers?

These are not simple issues and the analysis of these issues is both controversial and complex.

By introducing S. 932 I am helping to focus the debate on a concrete proposal to take action. There may be other approaches to the same issues and I hope that Members will advance them so that they can be analyzed along with S. 932. I doubt that any of them will raise such interesting issues about how our economic system functions and how it can be made to be more effective in protecting the dignity and prosperity of our people.

AVAILABILITY OF MATERIALS

To save on the expense for printing the CONGRESSIONAL RECORD, I will not ask that the text of these comments be printed at the conclusion of my remarks, but I wish to announce that I have compiled a compendium of these 21 comments. This compendium is entitled "Sample of Public Comments on S. 932, the Profit Sharing Incentive Act."

The compendium is available to interested Members, staff and the public upon request from my staff counsel, Charles Ludlam, c/o Senate Small Business Committee, 428 Russell Building, Washington, DC 20510.

In addition, I have prepared six other compendium of materials on S. 932, cash profit sharing, Professor Weitzman's thesis, and the recently enacted tax incentive for cash profit sharing in Great Britain.

These seven compendium are as follows:

"Materials on S. 932, the Profit Sharing Incentive Act" (compendium no. 1);

"Sample of Public Comments on S. 932, the Profit Sharing Incentive Act" (compendium no. 2);

"Trends and Views on Compensation and Profit Sharing" (compendium no. 3);

"Macroeconomics of Cash Profit Sharing: Writings of Martin L. Weitzman" (compendium no. 4); and

"Reviews of Martin L. Weitzman's The Share Economy" (compendium no. 5);

"Economic Analysis of Issues Raised by the Share Economy" (compendium no. 6);

"Tax Incentives for Cash Profit Sharing in Great Britain" (compendium no. 7).

TRIBUTE TO ANITA M. HARDESTY

● Mr. ROCKEFELLER. Mr. President, I rise today to pay tribute to Anita M. Hardesty of Mineral County, WV, who has been honored as one of America's 50 outstanding teachers. Ms. Hardesty's dedication to her students and to her community should serve as an inspiration to teachers in West Virginia and across the country.

Ms. Hardesty has taught vocational home economics at Keyser Middle School for 12 of her 16 years in this distinguished profession. She earned bachelor and masters degrees from West Virginia University in home economics, vocational and middle schools education, and nutrition.

Prior to being recognized by the "Honor of Excellence Program," which is the only national program that salutes both outstanding teachers and principals, Ms. Hardesty was named outstanding Middle Childhood Teacher by the West Virginia Association in 1983. She has also been honored as Mineral County Teacher of the Year.

America's future depends on investing in our education system. This country needs more individuals like Ms. Hardesty who commit themselves to a career in teaching. We must encourage the best and the brightest to once again consider a lifelong commitment to education.

I am proud to draw my colleagues' attention to Anita M. Hardesty and her dedication to our younger generation. Her contributions deserve this special honor. I commend Ms. Hardesty for her exemplary public service.●

PROPOSED ARMS SALE

● Mr. PELL. Mr. President, section 36(b)(1) of the Arms Export Control Act requires that Congress receive formal notification of proposed arms sales under the act in excess of $50 million, or, in the case of major defense equipment as defined in the act, those in excess of $14 million. Upon receipt of such notification, the Congress has 30 calendar days during which the sale may be reviewed. The provision stipulates that, in the Senate, the notification of proposed sales shall be sent to the chairman of the Foreign Relations Committee.

In keeping with my intention to see that such information is available to the full Senate, I ask to have printed in the RECORD at this point the notifications I have received. The classified annex referred to in one of the notifications is available to Senators at the Foreign Relations Committee.

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, DC, December 9, 1987.
In reply refer to I-17199/87ct.

Hon. CLAIBORNE PELL,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 88-06 and under separate cover the classified annex thereto. This Transmittal concerns the Department of the Navy's proposed Letter(s) of Offer to Brazil for defense articles and services estimated to cost $55 million. Soon after this letter is delivered to your office, we plan to notify the news media of the unclassified portion of this Transmittal.

Sincerely,

GLENN A. RUDD,
Acting Director.

[TRANSMITTAL No. 88-06]

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act

(i) Prospective purchaser: Brazil.

(ii) Total estimated value:

	Millions
Major Defense Equipment [1]	$42
Other	13
Total	55

[1] As defined in section 47(6) of the Arms Export Control Act.

(iii) Description of articles or services offered: One hundred MK-46 series torpedoes, torpedo modification kits, associated exercise heads, ancillary equipment and support services.

(iv) Military department: Navy (JWD, AGO, BTS and LBW).

(v) Sales commission, fee, etc., paid, offered, or agreed to be paid: None.

(vi) Sensitivity of technology contained in the defense articles or defense services proposed to be sold: See annex under separate cover.

(vii) Section 28 report: Included in report for quarter ending September 30, 1987.

(viii) Date report delivered to Congress: December 9, 1987.

POLICY JUSTIFICATION

BRAZIL—MK-46 SERIES TORPEDOES AND TORPEDO MODIFICATION KITS

The Government of Brazil has requested the purchase of 100 MK-46 series torpedoes, torpedo modification kits, associated exercise heads, ancillary equipment and support services. The estimated cost is $55 million.

This sale will contribute to the foreign policy and national security of the United States by helping to improve the security of a friendly country which has been and continues to be an important force for economic progress in South America.

The Government of Brazil needs these defense articles to upgrade its antisubmarine warfare capabilities. They will be placed on Brazilian Navy destroyers, frigates and helicopters. The Brazilian Navy has a limited power projection capability and maintains a high level of interoperability with the U.S. Navy. Brazil will have no difficulty absorbing these articles into its armed forces.

The sale of this equipment and support will not affect the basic military balance in the region.

The prime contractor will be Honeywell, Incorporated of Minneapolis, Minnesota.

Implementation of this sale will not require assignment to Brazil of any additional U.S. Government personnel or contractor representatives.

There will be no adverse impact on U.S. defense readiness as a result of this sale.

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, DC, December 9, 1987.
In reply refer to I-17180/87ct.

Hon. CLAIBORNE PELL,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 88-07, concerning the Department of the Air Force's proposed Letter(s) of Offer to Korea for defense articles and services estimated to cost $72 million. Shortly after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

GLENN A. RUDD,
Acting Director.

[TRANSMITTAL NO. 88-07]

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act

(i) Prospective purchaser: Korea.

(ii) Total estimated value:

	Millions
Major Defense Equipment [1]	0
Other	$72
Total	72

[1] As defined in section 47(6) of the Arms Export Control Act.

(iii) Description of articles or services offered: Supply support arrangement (FMSO II) for standard follow-on spare parts in support of C-123K, F-4, F-5, T-33, F-16 and A/T-37 aircraft and other standard systems and subsystems of U.S. origin.

(iv) Military department: Air Force (KBX).

(v) Sales commission, fee, etc., paid, offered, or agreed to be paid: None.

(vi) Sensitivity of technology contained in the defense articles or defense services proposed to be sold: None.

(vii) Section 28 report: Case not included in section 28 report.

(viii) Date report delivered to Congress: December 9, 1987.

POLICY JUSTIFICATION

KOREA—SUPPLY SUPPORT ARRANGEMENT

The Government of Korea has requested the purchase of supply support arrangement (FMSO II) for standard follow-on spare parts in support of C-123K, F-4, F-5, T-33, F-16 and A/T-37 aircraft and other standard systems and subsystems of U.S. origin. The estimated cost is $72 million.

This sale will contribute to the foreign policy and national security of the United States by helping to improve the security of a friendly country which has been and continues to be an important force for economic progress in east Asia.

The Republic of Korea needs these spare parts to assure that aircraft previously procured from the United States are maintained in a mission capable status. The Government of Korea will have no difficulty absorbing these spare parts.

The sale of this equipment and support will not affect the basic military balance in the region.

Procurement of these items will be from the many contractors providing similar items to the U.S. forces.

Implement of this sale will not require assignment to Korea of any additional U.S. Government personnel or contractor representatives.

There will be no adverse impact on U.S. defense readiness as a result of this sale.●

DR. JERRY C. LEE

● Mr. INOUYE. President Jerry C. Lee of Gallaudet University has announced that he will soon leave the university and Washington, DC. The 3 years that Dr. Lee has served as president of Gallaudet have been clearly marked by his dedicated and brilliant service. He has led the institution from college to university status, has broadened its programs and advocated effectively before Congress on behalf of his students and faculty. He has greatly enriched Gallaudet University as a national resource. Deaf and hearing impaired individuals in every State have benefited from his efforts.

I am pleased to express my special appreciation for the attention that Dr. Lee has given the peoples of Hawaii and the Pacific. His concern is reflected in the new Gallaudet University-University of Hawaii Center on Deafness that is scheduled to open in January. The center will give Hawaii and the Pacific Basin the benefit of Gallaudet University's strength and expertise in education of the deaf, sign language interpreter training, and community outreach.

The Center on Deafness in Hawaii will commemorate Dr. Lee's many impressive accomplishments as president of Gallaudet University by facilitating the full participation of deaf and hearing impaired individuals in the life of their communities. The center has already demonstrated Dr. Lee's talented leadership, genuine commitment and effectiveness.

With deep respect and gratitude, I wish Dr. Lee continued success in his new position. I am certain that in the corporate world, he will continue to contribute importantly to the public good.●

THE INF TREATY

● Mr. DASCHLE. Mr. President, the Rapid City Journal is western South Dakota's largest newspaper. It provides a commonsense editorial voice for the independent thinking ranchers and business people who live in that part of my State.

The Journal, like the people it writes for, does not trust the Russians. It puts its faith in the kind of peace through strength embodied in the missiles at Ellsworth Air Force Base just outside of town.

That's why I was struck to read today that the Rapid City Journal favors President Reagan's INF Treaty.

The Journal says the treaty "makes good sense." They call it "a tiny but significant first step."

Their editorial is tight. It is thoughtful. It repeatedly emphasizes the stiff verification provisions in the INF pact and argues that even the most ardent cold warriors cannot honestly claim the treaty will alter the existing balance of power.

In the shadow of Mount Rushmore, the tough-minded editors of the Rapid City, SD, Journal believe the INF Treaty is "worth a try."

I commend their superb editorial to my colleagues.

And I must add that, while this Senator intends to examine the INF proposal very carefully, he is hard pressed to imagine that Ronald Reagan and the editorial board of the Rapid City Journal have both bought a treaty that goes soft on the Communist.

[From the Rapid City Journal, Dec. 8, 1987]

MISSILE TREATY MAKES GOOD SENSE FOR U.S.

President Ronald Reagan is seeking support for the Intermediate Nuclear Force (INF) treaty with the Soviet Union. Americans should give him that support.

Reagan has said that the purpose for his military buildup is to reduce the risk of war. He cites the current willingness of the Soviets to sign INF as proof his policy is working.

The pact makes good sense.

The ban on short- and medium-range missiles in Europe may leave the West militarily weaker than the Soviet Bloc. But that changes nothing.

The Soviets already have stronger conventional forces in Europe than do the Allies. They also have a stronger nuclear force. The United States and NATO rely on the threat of nuclear retaliation to keep both those military forces at bay. There is no reason to suppose that will change with INF.

INF will remove only some nuclear warheads. Those remaining are quite sufficient for effective deterrence. Nothing will really change—except, possibly, the attitude that the number of warheads in existence must continually increase and nothing can be done to change that arms race.

INF is a tiny but significant first step. Under its terms, missiles and launchers will be destroyed within three years of the pact's ratification. The U.S. will remove 396 nuclear warheads from Europe. The Soviet Union will remove 1,595 warheads.

About 4,300 American nuclear warheads will remain in Europe. The nuclear forces of Great Britain and France will not lose a single warhead. About 7,500 warheads will remain in the Eastern Bloc.

Verification begins 60 days after Senate ratification of the treaty. It continues for 13 years, with each side allowed 20 snap inspections on nine-hours notice per year for the first three years. During the subsequent 10 years, each side gets 15 annual surprise inspections; for the last five years, 10 annual surprise inspections.

And if either side catches the other cheating, it can withdraw from the treaty. There is a handy escape clause for either side.

The treaty may lead to further reductions, or it may lead to further proof the Soviets can't be trusted. It won't significantly alter the balance-of-terror. The Soviets will not be tempted to attack West Germany or Italy. There is plenty of deterrent left on the shelf. Reagan and his team are not the kind of people to lightly trust the Soviets.

The treaty is worth a try. It poses little risk, and offers hope for—someday, far in the future—a meaningful decrease in the insane number of nuclear weapons in existence.●

A SPECIAL GENESEE COUNTY CHRISTMAS

● Mr. RIEGLE. Mr. President, I rise to pay tribute to the dedicated efforts of the Genesee County Third District Democratic Club, and the East Side Teen Center, as they prepare for their 1987 "Children's Christmas Party" on December 13.

This party has been the club's primary community project ever since they began in 1982. The budget for the party has grown from $1,300 in 1982, to over $5,000 this year, raised by a special bingo game held weekly at the club. Since 1982, over 2,500 children have enjoyed these parties.

Many of these children come from economically disadvantaged homes, and are referred to the club by community service groups and churches. The party is a chance for these children to share in the joy of the holiday season in a way they may have never known. Every child who attends the party receives a gift, and over $7,000 worth of gifts have been given since its inception.

I am pleased that the East Side Teen Center has become associated with the party this year. The teen center is a place that young people can call their own. It provides for a positive social atmosphere to mix with peers, as well as a variety of educational programs on important issues facing teens. I am encouraged by the sense of community that is forged by this party, which inspires teenagers to see the rewards of serving those less fortunate than themselves. These teenagers learn from the example set by the adults at the center and the third district club. They then set an example for the children at the party who look up to them.

Mr. President, I would like to commend the leadership of the Third District Democratic Club for their continuing efforts to provide a special day for some special kids. Let me also add my appreciation for the dedicated volunteers who have carried out the vision through the years. I expect they will keep up the good work, and take pride knowing the joy they are bringing the community.●

AMENDMENT TO DENY PAY RAISES TO SENIOR FEDERAL EMPLOYEES

● Mr. RUDMAN. Mr. President, the Senate last night completed action on H.R. 3545, the fiscal year 1988 budget reconciliation bill. Prior to passage of the bill, I was pleased to see the Senate adopt an amendment I offered which provided that all senior Federal employees, including Members of Congress, will not get a cost-of-living raise on January 1.

As proposed, the leadership amendment to the reconciliation bill denied the 2-percent raise to Members of Congress, but permitted it for other senior officials of the Federal Government. The effect of my amendment was to retain the historic linkage on pay between the branches and to conform the reconciliation bill to the House-passed and Senate Appropriations Committee-reported versions of the continuing resolution.

Mr. President, the traditional linkage in compensation for high-level positions in the three branches is no accident. On the contrary, it is a reflection of the philosophy that, since the three branches of Government are equal in power, their compensation should be considered equitably. These pay levels were recently brought back into parity as a result of the findings of the 1986 Commission on Executive, Legislative, and Judicial Salaries and the President's January recommendation which rectified pay imbalances reaching back to 1980. As the Commission stated in its December, 1986 report:

> The Founding Fathers intended Members of Congress to be equal to the other branches in status, prestige, ability and integrity. Setting Congress adrift on the pay issue is politically impractical and will not serve the national interest well. Therefore, we have concluded that parity between Level II (executives), Congress and judges on the Circuit Court is important and should be maintained.

The Commission's view on this issue is not shared by this Senator alone. In fact, when the Senate last considered separating congressional pay from the other branches on January 29, 1987, the Senate approved linkage by a vote of 66 to 27.

The adoption of my amendment served other important purposes. First, according to the Congressional Budget Office, the amendment would save about $8 million in fiscal year 1988. While this is a small amount, it still represents a saving. In addition, as previously noted, the adoption of my amendment conformed the reconciliation bill to the House position as well as that recommended by the Senate Appropriations Committee.

Mr. President, in conclusion, I would like to thank the floor managers of the reconciliation bill, the Senator from Florida and the Senator from New Mexico, as well as the chairman of the Governmental Affairs Committee for their cooperation on this amendment.●

TESTIMONY OF NORBERT McCRADY OF INDEPENDENT BANKERS OF MINNESOTA

● Mr. DURENBERGER. Mr. President, on Wednesday, December 9, 1987, my good friend Norb McCrady of the Independent Bankers of Minnesota, testified before the Senate Banking, Housing, and Urban Affairs Committee. The issue before the committee that day was S. 1886, the Financial Modernization Act of 1987.

This proposal, which provides for the reform of our Nation's banking system, is a very complicated issue. Although I do not endorse all of the concerns highlighted in Mr. McCrady's statement, I do believe that it is a thoughtful discussion of a complex issue and deserving of my colleagues attention. Therefore, Mr. President I ask that Mr. McCrady's statement be printed in the RECORD.

The statement follows:

TESTIMONY BY NORBERT MCCRADY, EXECUTIVE DIRECTOR FOR STATE AND NATIONAL AFFAIRS, INDEPENDENT BANKERS OF MINNESOTA

Mr. Chairman and Members of the Committee: My name is Norbert McCrady. I am Executive Director for State and National Affairs, Independent Bankers of Minnesota.

Today I am here to speak in opposition to the proposed repeal of Sections 20 and 32 of the Glass Steagall Act and to comment on the related issues before your committee. Until minutes before my departure for this hearing, Mr. Chairman, I was authorized to speak for the same four state independent bankers associations that met with you to discuss our opposition to your proposal nearly three months ago. At this point I am representing three of those four—they being North Dakota, South Dakota and Minnesota.

I don't enjoy appearing in opposition to a proposal put forth by you, Mr. Chairman, because we have always found you to be a champion of small business, including small banks, with regards to previous legislation.

We don't have such a short memory that we have forgotten the find support forthcoming from the Senate in enacting secondary market, debt amortization and loophole closing legislation. We appreciated the concern and support of Senate members then and we express that appreciation again at this time. Nonetheless, I appear before this committee today to state our strong and clearcut opposition to the proposed changes contemplated by your legislation, as well as the bill introduced by Senator Wirth and Senator Graham, and by Senators D'Amato and Cranston. One can hardly be accused of taking the path of least resistance under these circumstances.

Today, bankers throughout our nation have had the opportunity to hear the pros and cons of these proposals many times over. As a result, there are very few who have not made up their minds as to whether they are for it or against it.

The bankers we speak for here today are convinced this tampering with the Glass-Steagall Act would result in an acceleration of the already serious concentration threat. This would lead to more money being controlled by fewer banks and bank holding companies with the trend toward concentration being both hard to deny and impossible to reverse. Try as one may, there are virtually no beneficial offsets in these proposals that could be put to use in helping communities and community banks in their struggle for survival.

Inasmuch as the nation's money supply is considered to be finite, it stands to reason that as laws are changed permitting more banks to become bigger and bigger banks to become more powerful, the real losers are not only small and medium sized banks, but small and medium sized businesses, and farmers and main street merchants and the unorganized members of our society who are helpless to fight back.

We have all heard the assurances that we needn't worry about concentration. However, for several years now, we have seen merger, after merger, after merger, without objection by this Administration. The product of this merger activity has not been more jobs or profits. Rather it has been layoffs, shutdowns and the selling off of assets.

The airline industry is a prime example of the deregulated industry that was to have stimulated competition and avoided concentration. But today, after a spate of mergers, that industry is greatly more concentrated than it was before deregulation and virtual monopolies dominate most airports.

Realistically, Mr. Chairman and members of the committee, there is not going to be any "opening of the gate" for the banks that have their eyes on the securities industry without that "gate" staying open until the securities industry collects a trophy of equal rank from the banking industry.

We already have a problem in the lesser populated communities and in the rural sector of our nation as the result of the mass exodus from those parts of the nation by our largest regional and money center banks. Like a giant yo-yo, these visitors from metropolia come and they go. They come when the going is good and they go when the going gets tough. To some, that may sound like "good business." To the many communities that have suffered that indignity during this most recent economic downturn, it stinks. When the big sprawling giants pull out, it isn't as though the situation is all that inviting for a new bank to start up de novo. Remember how history repeats itself. About the time the economy begins to recover and the new bank is just getting on its feet, in comes the big bank once more, to undercut the business relationships between the new bank and its best customers. Distant boardroom policies never vary to any great degree: "Go after the good loan business and leave the rest for the local lenders." This of course spells trouble for local lenders and ultimately for the community.

Earlier testimony made it sound as though this legislation would benefit small banks if "they thought hard enough." Let me identify what we call a small bank out in the midwest. The average size of our member banks in Minnesota is $19 million. They serve communities that are a vital part of our broad and diverse society. There are several thousand such banks throughout the Midwest and as others have testified before me, it will take more than powers to solve their problems.

Profitability of small banks is greatly affected by the management of the economy by those in charge of our government. Today our banks have been hard hit by a farm depression and an energy depression. I think we can place a fair share of the cause of these depressions on Government policies that didn't work.

Despite this, our bankers believe they can continue to provide the banking services that our customers need if Congress deals with problems cause by the automobile industry for instance that advertises 2.9 percent financing while they are paying 7 percent, or more, for those funds.

Mr. Chairman, if there is any 2.9 percent money out there, the Federal government should be the first in line to borrow all they can get their hands on to service our national debt.

Further damage to small banks is caused when thrift institutions pay deposit rates well in excess of what safety and soundness considerations would permit. This leads to imprudent loan decisions and I need not tell you the condition this has resulted in for that industry. Thrift industry regulators have not dealt firmly with these practices and the distortion of interest yields and of loan rates has caused havoc throughout the financial institutions industry.

Yesterday's American Banker reports an example of the kind of pressures facing independent banks—the Chicago price and premium wars.

These institutions are paying more to attract deposits than they can justify on the basis of what they can hope to earn in their local marketplace.

Regulators need a legislative directive from Congress to assure that stability of the banking system is not threatened by allowing such pricing practices being indulged in by auto giants and banking giants and the thrift industry.

Financial giants that engage in other lines of business to push the small banks out of business deserve a penalty; not a reward.

Facts and figures show that our small businesses in this country support creativity and innovation and provide the working capital that keep our economy growing. A vast majority of the new jobs created each year are jobs in the small business sector. Small business is largely financed by small community banks.

When lending decisions are made at a distance, by money center or regional banks, small businesses are greatly disadvantaged. We work closely with small businesses in Minnesota and they are not clamoring for the right to have banks issue commercial paper. They continue to need traditional banking services; working capital loans, short term financings. In those instances where it makes economic sense to go public, there are underwriters ready to provide that sevice. The proliferation of banks or bank-like offices that would result from securities industry banking would be devastating to the small banks of this nation.

The remedy for these problems is not dealt with by this legislation. Repeal of Glass-Steagall would intensify the problems, not resolve them.

Congress has heard testimony from a number of people who admit that obtaining new powers isn't really going to help solve the profitability problems of the large banks. The commercial paper market operates on paper thin margins which means that banks cannot seriously look to that activity as a means of replacing lost profits. Chairman Greenspan appears to concur with that opinion in his testimony.

Let me say that if this legislation is not going to solve the problems of the large banks, it certainly will not help small banks. And it is a matter of urgency that find remedies that will enable small banks to continue in their important community role.

I have reviewed the testimony given by the consumer organizations before the House Banking Committee. They fail to see where any benefits for consumers will result from the repeal of Glass-Steagall. Data from the seven county metropolitan area in Minnesota will bear them out. At the end of 1982, Minnesota regional giants, First Bank and Norwest, booked consumer loans for only 22 and 26 percent, respectively, of total loans. In contrast, independent banks, with total lending of about the same magnitide as Norwest banks ($3.7 billion), had 53% in consumer loans. Independent banks are highly responsive to consumer needs.

I fail to experience shock or even surprise over the fact that all the Federal regulators agree that Glass-Steagall should be repealed. It would be naive to expect anything different of these appointees of the present Administration. The creation of megabanks and the drastic reduction in the number of small banks is the policy that became operative when this Administration took office and nothing has changed.

The three proposals on your table do nothing to help small banks survive. In essence what these bills will do, in varying degrees, is to bring back under a different guise, the nonbank bank. We have consistently opposed nonbank banks. We thought we had put them to rest with the enactment of H.R. 27.

Earlier testimony before this committee made it sound as though the position of the IBAA and the proponents of the Glass-Steagall repeal were only inches apart. This is absolutely not the position of our members, let me assure you. Earlier this year when the suggestion was made that powers should be expanded to permit bank holding companies to engage in the sale of municipal revenue bonds, mortgage backed securities, commercial paper and mutual funds, we found that there was some, but not much, interest among our members in Minnesota. I think our situation was quite typical of most other states. We were able to go on record in support of these proposed expansion measures, however, because there was also no great expression of opposition. Closing the nonbank bank loophole was the most important factor in the legislative proposal before Congress at the time.

Now, as the question becomes that of repealing Glass-Steagall, a very vocal body of opposition has developed and those who would have you believe otherwise are either badly informed or are purposely ignoring the viewpoints of those who disagree with them.

While this may sound selfish or trite—or both—we who represent the smaller, independent, community banks would like it to be known that "we weren't born yesterday" and furthermore, we are intent on fighting to make certain we aren't dead tomorrow.

There are things in this legislative proposal that might, under some circumstances, be used by a limited number of our members. None would carry sufficient weight to merit any substantial tradeoffs. Certainly there is going to be no acquiescence on the proposed repeal of Glass-Steagall. We stand ready to carry out the expansion of powers as originally set forth in S. 790. Any legislation that goes beyond that will meet our firm opposition.

I thank you, Mr. Chairman and members of the committee for this opportunity to address the committee.●

● Mr. DECONCINI. Mr. President, in Bangladesh there is a bank which does not donate or give away money to poor families, does not adhere to the traditional rules of banking and international lending, and does not ignore women. Conversely, this bank lends money and charges interest at a commercial rate, it loans on an average of $60, and it concentrates on women, which is rare in an Islamic society. The Grameen Bank insists that the borrowers use the money to generate income. Despite the conventional wisdom, the Grameen Bank has one of the lowest loan default rates in the world and there are a number of organizations hoping to emulate them around the world.

This Grameen Bank concept should be supported and implemented around the world. That does not mean it will work in exactly the same form everywhere, but the idea should be applied and given a chance. Eight months ago, I introduced a bill entitled the Micro Enterprise Loans for the Poor Act with six Democratic and Republican colleagues. This act has been based on the Grameen Bank and provides $50 million in current funds for loans to the poor. Currently, this act has been successfully attached to the foreign operations appropriations bill and has 56 cosponsors.

Mr. President, I am hopeful and optimistic that this legislation will soon be signed by the President. This will provide a historic opportunity for truly poor people around the world to transform their own lives. If this passes, they will have the resources. I hope my colleagues will carefully monitor the progress of microenterprise loans, for it is an idea that is growing within the United States. An article written in the Los Angeles Times points out some of the highlights of the Grameen Bank and I recommend it to my colleagues.

Mr. President, I ask that a copy of this article be included in the RECORD.

The article follows:

BANGLADESH: A BANK JUST FOR THE POOR

(By Rone Tempest)

JAGIR MEGH SHIMUL, BANGLADESH.—Tota Bibi stood triumphantly in the doorway of her new home.

Like most village houses in Bangladesh, it had a mud floor. But its walls were much more substantial—planks of wood instead of woven reeds, reinforced concrete pillars instead of bamboo poles.

And the crowning glory, the joy of Tota Bibi and the pride of this tiny village in one of the poorest countries in the world, was the roof—corrugated metal that the rains could never penetrate and the winds could never move.

SYMBOL OF RICH

In Bangladesh, such a roof has always been the symbol of the rich families, the money lenders and the *zamindar*—landlords. Now it belonged to an almost giddy Tota Bibi, a 50-year-old widow from the poorest, landless class of Bangladesh society.

"My father, my grandfather, all of my forefathers, no one ever lived under an iron roof," she said. Tota Bibi, whose name in the Bengali language means "parrot," paid for the new home herself with a loan from the local branch of a bank that may be part of the most successful development project in the Third World.

The Grameen (meaning "rural" or "countryside") Bank breaks many rules of banking and international development. Yet it has one of the lowest loan default rates in the world and already has imitators in more than a dozen countries, including the United States, where Grameen-inspired programs are being tested in Arkansas, the south side of Chicago and among the Cherokee Indians of Oklahoma.

ROLES CHALLENGED

In Bangladesh, the Grameen also challenges the traditional role of women in an Islamic society and the vestiges of the feudal landowning system.

Its customers—more than 310,000 Bangladesh families already, with an additional 8,000 families joining each month—are all from the poorest economic stratum: landless rural peasants. Nearly 80% are women. Most are illiterate. City dwellers and families with substantial property are not accepted as bank member-customers.

The bank does not donate money to the poor families. It lends them money and charges interest at commercial rates. The average loan is the equivalent of about $60, the smallest about $1.

The bank's only lending rule (except for housing loans) is that the borrowers use the money to generate income. So far, these loans have financed such diverse occupations as making Popsicle sticks from bamboo strips, manufacturing musical instruments from conch shells, processing animal entrails and brewing perfume.

More typical loans are for dairy cows, honey bees, chickens, barber shop equipment and rickshaws.

Ali Azam, 30, has been a member of the Grameen Bank for two years in the Dhakuli area 37 miles northwest of Dhaka, the capital. Azam is a bicycle rickshaw driver. His first loan was for 3,000 takas ($90) to buy his own rickshaw.

Previously, he had leased one of the three-wheeled vehicles from a fleet owner for about 14 takas (42 cents) a day, about half of his expected daily earnings. But now he has used his earnings to pay off the loan in a matter of months.

His second loan was for $120 to buy a milk cow. The cow gave nearly nine pounds of milk a day, and he sold the milk to pay off the loan.

SELLING FOR SACRIFICE

The cow has calved twice. He plans to sell the bull calves for sacrifice during the annual *kurbani* religious festival in July when they will bring the best price.

Meanwhile, he took a third loan from the Grameen Bank to buy a small parcel of land on which he plans to build a house with a corrugated iron roof like Tota Bibi's in nearby Jagir Megh Shimul. He has already used some of his savings in the bank to buy wood for the house. For the concrete pillars and roof he will borrow 7,000 takas ($212).

Two years ago, Azam and his wife and their two children lived with her parents. Now he has his own land. In two years, he has gone from a man with no property to one who owns a rickshaw, a cow, two calves, four chickens and three goats.

Doing a little rough calculation at the side of the road on a recent afternoon, with two passengers patiently waiting in the rickshaw, Azam figured his estate is now worth about 17,000 takas, about $520.

The annual per capita income in Bangladesh is only $140.

"Before the bank I could not save anything," Azam said. "Whatever I earned I spent almost all on food and daily needs."

Mohammed Kalam Azad, 28, manages the Dhakuli branch of the Grameen Bank where Azam got his loans. "Before I started working at the bank," he said, "I did not realize poverty in all its dimensions. These are good people, hard-working people who could not transform their lives because they did not have resources. If they have resources, these people can change their lives in the shortest amount of time."

4,000 ON PAYROLL

Perhaps the most remarkable aspect of the Grameen banking operation—which has grown in just five years to more than 360 branches serving 6,000 villages—is that for all its loans to some of the poorest people on earth, the bank has a default rate of less than 2%.

In other words, 98% of the loans are repaid in full and on time. Such a low default rate is unheard of in banking. Chase Manhattan and Bank of America would love to have similar rates.

The bank, incorporated in 1982, now lends $2 million a month to its customers, meets a payroll of 4,000 employees paid at standard civil service rates and makes a profit.

The Grameen Bank provides a stunning contrast to the experiences of the large international banks that have done business in Bangladesh. Two of these institutions, the World Bank and the Asian Development Bank, have lent more than $500 million to businesses through government banks.

Only about 10% has been paid back, and consultants and middlemen have become rich through corruption in government that some assert is unrivaled except for Africa.

The Grameen Bank has received $37 million in loans from the International Fund for Agricultural Development, a U.N. agency based in Rome, and from Norwegian and Swedish aide agencies. The Ford Foundation has made a small grant to help computerize its central records.

The bank has repaid the $37 million loan and has been approved for another $125 million from the International Fund for Agricultural Development.

"We borrow the money at 2% and loan it out at 16%, said Grameen Bank managing director and founder Mohammed Yunus.

The bank has generally been critical of big aid projects and foreign consultants. The Grameen Bank remains one of the few development projects in the Third World that has never had foreign consultants.

"Consultants are the creation of aid bureaucracy," Yunus wrote in an article for the Washington Quarterly. "The assumption behind consultants is that the recipient countries need to be guided in every step."

NEW PLANS FOR AID

Yunus and other Grameen officials contend that aid programs to poor countries such as Bangladesh should be redirected, away from the big-ticket projects like dams and industrial development to programs for the bottom half of society.

The old system of aid, argued Yunus, who has a Ph.D in economics from Vanderbilt University in Nashville, Tenn., "was designed years ago when it was believed that a magic quantum of investment would generate enough economic activities to eliminate hunger and poverty."

Similarly, several huge foreign aid schemes—fertilizer plants, fisheries developments and rural development projects—have faltered or failed with enormous waste.

Bangladesh—100 million people crammed into a country the size of Wisconsin—has received billions of dollars in foreign aid since winning independence from Pakistan in 1971. Its future once looked so bleak that former Secretary of State Henry A. Kissinger termed it "an international basket case" that would forever be dependent on foreign help.

Indeed, Bangladesh this year will receive $2 billion in foreign assistance, mainly from Japan, West Germany, Canada, the United States and the Scandinavian countries. The aid accounts for 40% of the government's income and 80% of its development budget.

Yet like some giant black hole of poverty, the country has absorbed the aid with very little improvement in the lives of most of its citizens.

In recent years, Bangladesh has had an annual growth rate of about 4%, improving the lives of residents of the capital and winning praise from some international organizations such as the World Bank.

But little of the gains appear to have trickled down to the poor. In fact, there is evidence that the standard of living for the lower half of the population may actually be falling. The three main measures of poverty—infant mortality, literacy and caloric intake—have all shown negative trends. A recent Canadian report said infant mortality had increased from 101 deaths per 1,000 births in 1980 to more than 121 in 1985.

The Grameen Bank is a bright spot in this otherwise gloomy picture, and it may bring about a change in poverty assistance elsewhere.

Similar programs are being developed in Malaysia, Indonesia, Rwanda, Kenya, Sri Lanka, Pakistan, Egypt and, perhaps most surprisingly, the United States. The two most advanced U.S. projects are the neighborhood South Shore Bank in Chicago and the new "good faith fund" in rural Arkansas. Other Grameen-style programs have been introduced in Minnesota and among the Cherokee Indians of Talequah, Okla.

"The Grameen Bank is a case of reverse technology transfer," said Tom Kissinger, an official with the Ford Foundation in New Delhi, Bangladesh, he said, is teaching the developed world how to combat poverty using Western-style economic incentives.

The Grameen Bank model works with peer pressure and support. Borrowers must first assemble 50 people from different families to form a "center" in their town or village. (In Bangladesh, the centers are divided by gender into "landless male" and "landless female" categories).

The centers are divided into 10 groups of five borrowers each. The groups first discuss loans and ideas for making money. Then the two poorest borrowers are given the first loans. Only when those loans are repaid do the second set of two borrowers get loans. When those loans are repaid the fifth member of the group gets his or her loan.

The system fosters remarkable solidarity and a sense a community. The weekly meetings are part banking and part rally. Members greet each other on the roads of Bangladesh with crisp military-style salutes instead of the obsequious bows—the *salams*—that were the traditional greetings here.

"The salute was started by one of our bank managers who decided people had been salaaming too long in Bangladesh," said Mozammel Haq, a University of Michigan graduate who is national director of training for Grameen Bank. "He told the people not to bow but to look him straight in the eye and salute. At the same time it is a way for the people to make fun of the military by showing anyone can salute."

Rahela Begum is the center chief for the village of Jagir Megh Shimul. Since her center began two years ago, there has not been one default or late payment on a loan.

She said that during that time six families had troubles when, for example, the cow they had purchased stopped giving milk or someone in the family fell ill or their property was damaged in a flood. But the Grameen Bank centers have emergency funds for such crises and in each case other members were able to chip in until the members with problems got back on their feet.

This self-sufficiency has begun to make radical social changes in the areas where the Grameen Bank operates. (It has been given permission by the government to operate in five of the country's 20 districts.) Compared to a national growth rate of 4%, the collective incomes of Grameen Bank members have increased by more than 30%, according to Yunus.

Significantly, Grameen Bank members are no longer tied like serfs to village landlords and money lenders. Traditionally, the wealthier members of a community could expect to hire landless peasants to do their household chores for a bowl of rice.

Now, said Mozammel Haq, they are having difficulty finding domestic servants and have begun to complain that field workers' wages have increased as a result of the bank. In addition, the well-to-do have lost the role of benefactor in times of need that earned them respect in the community.

"Before the bank," said Rahela Begum, "I had to go to the rich people for help. I borrowed money from the asgar [money lender] when the children were sick. Now I don't have to go to these people, and that is the main difference."

Left unsaid by the tiny, tough, smiling woman (who drew the edge of her sari across her face when she laughed) was that the bank has elevated women like her to prominence in the community. Because she is center chief in the village, she enjoys status at least equal to that of a male elder.

She smiled at the memory of how she told the elders of her plans to form a female bank center in the community. At first they objected, saying that borrowing and handling money was not something for a woman in an Islamic country.

"Then I said OK—you lend us money at 16% interest," she recalled. The elders decided the female bank center was a good idea after all.

From the beginning, the bank has concentrated on women as borrowers, arguing that their interest in family stability is greater than that of males.

"A man gets money," said Mozammel Haq, "and he tends to show off. A woman contributes to the security of the family."

The first recipient of a loan from what eventually became Grameen Bank was a woman.

In 1976, Mohammed Yunus was a professor at Chittagong University in southeast Bangladesh. A woman named Sophia Khatoon came to him for help in getting a small bank loan.

The woman made small stools from bamboo, and was dependent on dealers for the bamboo. This meant that she was forced to sell to the dealer for almost any price he set. She wanted to buy her own bamboo and sell her stools to the person who would pay the most. For this she needed 50 thakas, about $2.

Yunus and a student went to her small village, and made a list of 42 village women who were self-employed in some craft and needed a small amount of money to supply themselves.

The total amount needed was only $28, but when Yunus went to the bank, "they laughed at me," he said. So he paid the money himself and vowed to create a permanent source of money for poor people such as Sophia Khatoon.

"I was trying to find out why people could not change their lives," Yunus said. "I got fed up. I decided people should found their own economies."

Although he faced opposition and even ridicule from bankers and government development workers, Yunus pushed his program, first as the "Grameen Bank project" and, finally, in 1983, as an independent bank.

Since then, the bank has branched out into some larger efforts such as community, cooperative rice mills. In one case, it took over a Dutch-funded fisheries project that had been a dismal failure and turned it around.

The goal, said Mozammel Haq, is to reach a point where the bank is adding 30,000 new members a month by 1992.

It is not difficult to see that such growth, coupled with the community development, could easily lead to broader political changes in Bangladesh.

"[It is] one of the most significant development initiatives for social justice taking place in the world today," two Norwegian researchers said of the bank.

Indeed, a visit to the Grameen Bank district reveals much more than banking. The small offices are jammed with polyvinyl chloride pipes for clean water projects, vegetable seed packets for kitchen garden and nutrition projects, iron rods for reinforced concrete pillars used in new homes.

Every meeting of Grameen Bank members includes the reading of "the 16 decisions." All members are encouraged to memorize the 16 decisions like passages from the Koran. Recitation contests are held.

The decisions apply to all members and cover sensitive topics such as birth control—"We shall plan to keep our families small"—and marriage—"We shall not take dowry for our sons' weddings. We shall keep the center free from the curse of dowry. We shall not practice child marriage."

They also deal with more mundane subjects such as sanitation—"We shall build and use pit latrines"—and nutrition—"We shall grow vegetables all year round. We shall eat plenty and sell the surplus."

But the bottom line of the 16 decisions and the Grameen Bank is pride. At its heart, the Grameen plan is to restore pride to some of the poorest people on Earth. "Discipline, unity, courage and hard work. We shall follow and advance in all walks of our lives," are the four "principles" of the Grameen Bank outlined in the first of the 16 decisions.

The renewed pride of the Bangladesh poor is palpable in Grameen villages. It was reflected in Tota Bibi when she showed off her new home here with the corrugated iron roof.

Her old hut, she said, "was not worth 10 takas." When her new home was finished, she dismantled the bamboo-and-reed structure and broke it into small pieces.

"We shall not live in dilapidated houses," says No. 3 of the 16 decisions.

Then, Tota Bibi said, with the obvious satisfaction of someone discarding the remnants of an unhappy life, "I took the pieces, set them on fire and used them to cook my rice."●

FEDERAL EMPLOYEE MORALE

● Mr. INOUYE. Mr. President, this year I returned as chairman of the Subcommittee on Foreign Operations, Committee on Appropriations. I have been concerned with the effect of budget reductions on the morale and welfare of U.S. Government employees who serve overseas. Therefore, I want to insert this letter in the RECORD.

The letter follows:

CHAIRMAN'S LETTER TO FEDERAL EMPLOYEES

I have served on the Foreign Operations Subcommittee of the Committee on Appropriations for over 16 years. I am privileged to once again serve as chairman of this important subcommittee this year. As chairman, I understand fully the problems created for programs and personnel as a result of reduced funding for the International Affairs budget category.

Budget realities resulting from the Federal deficit have meant that we have had to cut many important programs over the past several years. In making these reductions, however, I have consistently tried to keep in mind how they affect Federal personnel serving in the agencies concerned.

I am acutely aware that there are many dedicated employees in the Federal Government carrying out programs for which funds are appropriated in this bill. From Peace Corps volunteers living in primitive environments, to AID personnel stationed in countries where you and your families are daily subjected to harsh climate, unsanitary living conditions, or terrorist threats, to military personnel carrying out security assistance programs in a politically unstable world, you are individuals who are daily struggling with the harsh realities of life in developing countries.

I recognize that budget reductions cannot help but have an adverse impact on employee morale. But I want you to know that we have worked hard to preserve the institutions in which you serve. I and other members of this subcommittee believe that those of you who are carrying out our foreign assistance programs, particularly those of you who serve overseas, are engaged in an important mission on behalf of the American people and the Government of the United States. You may be assured that your work does not go unappreciated by those of us in Congress responsible for overseeing funding for your programs, even though we may not be able to fund all programs at the level they deserved.

Respectfully,

DANIEL K. INOUYE,
Chairman, Foreign Operations Appropriations Subcommittee.●

OMNIBUS BUDGET RECONCILIATION ACT OF 1987

(Yesterday, December 11, 1987, the Senate passed H.R. 3545, the Omnibus Budget Reconciliation Act of 1987, as amended by S. 1920, as amended. The text of the bill, as amended, as passed by the Senate follows:)

H.R. 3545

Resolved, That the bill from the House of Representatives (H.R. 3545) entitled "An Act to provide for reconciliation pursuant to section 4 of the concurrent resolution on the budget for the fiscal year 1988", do pass with the following amendment:

Strike out all after the enacting clause and insert:

TITLE I—SHORT TITLE

SEC. 1001. SHORT TITLE.

This Act may be cited as the "Omnibus Budget Reconciliation Act of 1987".

TITLE II—COMMITTEE ON ENERGY AND NATURAL RESOURCES

Subtitle A—Nuclear Waste

SEC. 2001. That this subtitle may be cited as the "Nuclear Waste Policy Act Amendments Act of 1987".

PROGRAM REDIRECTION

SEC. 2002. The Nuclear Waste Policy Act of 1982 is amended at the end by adding a new title IV to read as follows:

"TITLE IV—PROGRAM REDIRECTION

"FINDINGS, PURPOSE AND DEFINITIONS

"SEC. 401. FINDINGS.—(a) Congress finds that—

"(1) redirection of the program under titles I and II of this Act to provide for the sequential characterization of repository sites and the construction of a monitored retrievable storage facility as part of an integrated nuclear waste management system will result in significant Federal budget savings in fiscal years 1988, 1989, and 1990;

"(2) such a redirection is required if the Secretary of Energy is to carry out in a timely fashion his responsibility under this Act to provide for the permanent disposal of spent nuclear fuel and high-level radioactive waste in a manner that protects the public health and safety and the environment; and

"(3) it is appropriate that the Federal Government provide payments to Indian tribes, States and affected units of local government within whose reservation or jurisdiction, as the case may be, a repository or monitored retrievable storage facility will be cited under this title.

"(b) PURPOSE.—It is the purpose of this title to—

"(1) direct the Secretary of Energy to select a single site that is suitable for characterization for the first repository and to proceed with characterization of that site;

"(2) direct the Secretary to proceed with the construction of a monitored retrievable storage facility as part of an integrated nuclear waste management system; and

"(3) provide for benefits payments from the Waste Fund to any Indian tribe, State or unit of local government within whose reservation or jurisdiction, as the case may be, a repository or a monitored retrievable storage facility may be sited under this title.

"(c) DEFINITION.—For the purposes of this title the term 'affected unit of local government' means the unit of local government with jurisdiction over the site of a repository or a monitored retrievable storage facility. Such term may, at the discretion of the Secretary, include units of local government that are contiguous with such unit.

"FIRST REPOSITORY SITE CHARACTERIZATION

"SEC. 402. (a)(1) On or before January 1, 1989, the Secretary shall select as the preferred site for the first repository one of the sites previously selected for characterization as candidate sites for the first repository that the Secretary determines on the basis of available information to be the most suitable for characterization as a repository. In selecting the preferred site under this subsection, the Secretary shall give primary consideration to—

"(A) prospects for successfully licensing a repository at such site;

"(B) potentially disqualifying factors at the site;

"(C) potentially adverse impacts on the public health and safety and the environment of locating a repository at such site; and

"(D) the estimated cost of characterization, development and operation of a repository at such site.

"(2) In the period between the date of the enactment of this section and January 1, 1989, the Secretary shall carry out at the sites previously selected for characterization as candidate sites for the first repository such activities as the Secretary determines would provide information useful in making the selection required under this subsection, including information on potentially disqualifying factors, except that the Secretary shall not initiate construction of an exploratory shaft facility until such time as a preferred site is selected under this subsection.

"(b)(1) Effective on the date of selection of a preferred site for the first repository under subsection (a), the Secretary shall take all those actions required or contemplated under this Act to assure that a repository will be constructed and operated at such site at the earliest practicable date.

"(2) Effective on such date of selection of a preferred site, the Secretary shall suspend work at other sites selected for characterization as candidate sites for the first repository.

"(c) If the Secretary determines that the preferred site for the first repository selected under subsection (a) is not suitable for a repository, the Secretary shall—

"(1) immediately notify interested States and Indian tribes and Congress of such determination;

"(2) suspend all future benefits payments under this title with respect to such site; and

"(3) within 6 months after such determination select a new site as the preferred site for the first repository from the sites remaining of those considered under subsection (a).

"(d) Effective on the date of selection under this section of any site as the preferred site for the first repository, the State in which the site is located shall be eligible to enter into a benefits agreement with the Secretary under section 404.

"(e)(1) Any decision by the Secretary under subsection (a), paragraph (b)(2), or subsection (c) shall be in writing, shall be available to Congress and the public, and is not subject to judicial review except as provided in this subsection.

"(2) Any action for review of a decision by the Secretary may only be brought within 30 days after public notice of the decision.

"(3) The Temporary Emergency Court of Appeals shall have exclusive jurisdiction to review any action brought under this subsection. In reviewing any such action the court shall render its decision within 60 days from the date that the action is filed unless the court determines good cause exists for an extension. In such case the court may extend the time for its decision by not more than 30 days, and such extension may be renewed no more than 2 times.

"(4) In review of any decision under this subsection, the scope of review shall be governed by the provisions of section 706 of title 5 of the United States Code, except that subparagraphs (E) and (F) of paragraph (2) of such section 706 shall not apply.

"(5) Any person entitled to judicial review under the provisions of section 702 of title 5 of the United States Code may bring an action under this subsection.

"(f)(1) The decision of the Secretary to select a preferred site for a first repository under subsection (a) shall include a detailed statement of the basis for such decision and shall be accompanied by an environmental evaluation, as required herein. The environmental evaluation shall include—

"(A) a detailed analysis by the Secretary of the criteria required to be considered under subsection (a);

"(B) a comparative evaluation of the preferred site with the other sites previously selected for characterization as candidate sites for the first repository;

"(C) a description of the decision process by which the preferred site was selected; and

"(D) a summary of, and response to, comment received.

"(2) Before preparing the environmental evaluation, the Secretary shall—

"(A) solicit the comments of the National Academy of Sciences; and

"(B) provide an opportunity for comment by the public.

"(3) For a period of 2 years after the selection of a preferred site under this section the Secretary shall preserve all writings, records of meetings, draft reports and studies, and other documents and recordings prepared by or for employees of the Department of Energy or by or for persons under contract to such Department, relating to the selection of such preferred site and the completion of the environmental evaluation with respect to such selection. Subject to existing law, the Secretary shall make these documents available for inspection by any person requesting to review the documents, at a reasonable time and place. The Secretary shall provide for the photocopying of any such documents at a reasonable fee.

"(g) Nothing in this section affects judicial review of actions of the Secretary, the President, or the Commission taken under titles I or III prior to or subsequent to a decision of the Secretary under subsection (a), paragraph (b)(2), or subsection (c).

"(h) Within 1 year after the selection of any site as a preferred site for the first repository under subsection (a), the Secretary shall report to Congress on the potential impacts of locating a repository at such site, including the recommendations of the Secretary for mitigation of such impacts and a statement of which impacts should be dealt with by the Federal Government, which should be dealt with by the State with State resources, including the benefits payments under section 404, and which should be a joint Federal-State responsibility. The report under this subsection shall include the analysis of the Secretary of the authorities available to mitigate these impacts and the appropriate sources of funds for such mitigation. Potential impacts to be addressed in the report under this subsection shall include impacts on—

"(1) education, including facilities and personnel for elementary and secondary schools, community colleges, vocational and technical schools and universities;

"(2) public health, including the facilities and personnel for treatment and distribution of water, the treatment of sewage, the control of pests and the disposal of solid waste;

"(3) law enforcement, including facilities and personnel for the courts, police and sheriff's departments, district attorneys and public defenders and prisons;

"(4) fire protection, including personnel, the construction of fire stations and the acquisition of equipment;

"(5) medical care, including emergency services and hospitals;

"(6) cultural and recreational needs, including facilities and personnel for libraries and museums and the acquisition and expansion of parks;

"(7) distribution of public lands to allow for the timely expansion of existing or creation of new communities and the construction of necessary residential and commercial facilities;

"(8) vocational training and employment services;

"(9) social services, including public assistance programs, vocational and physical rehabilitation programs, mental health services and programs relating to the abuse of alcohol and controlled substances;

"(10) transportation, including any roads, terminals, airports, bridges or railways associated with the facility and the repair and maintenance of roads, terminals, airports, bridges or railways damaged as a result of the construction, operation and closure of the facility;

"(11) equipment and training for State and local personnel in the management of accidents involving high-level radioactive waste;

"(12) availability of energy;

"(13) tourism and economic development, including the potential loss of revenue and future economic growth; and

"(14) other needs of the State and local governments that would not have arisen but for the characterization of the site and the construction, operation and eventual closure of the facility.

"(i)(1) The Secretary, or his designee, shall value land for leasehold or ownership title for purposes of site characterization and repository development in a manner that, in the opinion of the Secretary or such designee, addresses the unique geophysical attributes causing such land to be selected as a candidate site for deep geologic disposal for high-level radioactive waste and spent nuclear fuel.

"(2)(A) The Secretary, in acquiring private land for site characterization and repository development under this Act, shall, to the extent practicable—

"(i) acquire such private land only after a site characterization plan has been issued under section 113; and

"(ii) minimize the disruption of private use of lands in the vicinity of those acquired.

"(B) Nothing in subparagraph (A) affects the authority of the Secretary to secure a leasehold interest, easement, or right of way that the Secretary determines is necessary to carry out the purposes of subsection (a)(2).

"(3) The Secretary shall offer any landowner, or his heirs, first right to repurchase any land previously secured from such landowner for site characterization or repository development, should the site found unsuitable, and after the site has been fully reclaimed as required under section 113.

"SITING OF MONITORED RETRIEVABLE STORAGE FACILITIES

"SEC. 403. (a) The proposal of the Secretary (EC-1022, 100th Congress) to locate a monitored retrievable storage facility at a site on the Clinch River in the Roane County portion of Oak Ridge, Tennessee, with alternative sites on the Oak Ridge Reservation of the Department of Energy and on the former site of a proposed nuclear powerplant in Hartsville, Tennessee, is hereby annulled and revoked. In carrying out the provisions of this section the Secretary shall make no presumption or preference to such sites by reason of their previous selection.

"(b) During the period between the date of the enactment of this section and January 1, 1989, the Secretary shall conduct a survey and evaluation of three potentially suitable sites in not less than 2 States for a monitored retrievable storage facility. In conducting such survey and evaluation, the Secretary shall consider the extent to which siting a monitored retrievable storage facility at each site surveyed would—

"(1) enhance the reliability and flexibility of the system for the disposal of spent nuclear fuel and high-level radioactive waste established under this Act;

"(2) minimize the impacts of transportation and handling of such fuel and waste;

"(3) provide for public confidence in the ability of such system to safely dispose of the fuel and waste;

"(4) impose minimal adverse effects on the local community and the local environment;

"(5) provide a high probability that the facility will meet applicable environmental, health, and safety requirements in a timely fashion; and

"(6) provide such other benefits to the system for the disposal of spent nuclear fuel and high-level radioactive waste as the Secretary deems appropriate.

"(c)(1) The Secretary may, on or before January 1, 1989, select as the site for a monitored retrievable storage facility any site that—

"(A) the Secretary determines to be suitable for a monitored retrievable storage facility; and

"(B)(i) is located in a State where the Governor and the legislature of such State request in writing such selection; or

"(ii) is located on the reservation of an Indian tribe where the governing body of such tribe requests in writing such selection.

"(2) The Secretary may make grants to any State, Indian tribe or unit of local government to support an assessment of the feasibility of siting a monitored retrievable storage facility under this section at a site under the jurisdiction of such State, tribe, or government.

"(3) The Secretary shall make every reasonable effort making use of authority under this title and under other law to encourage requests and to secure a site under this subsection.

"(d)(1) If the Secretary selects a site for a monitored retrievable storage facility under subsection (c), the Secretary, consistent with section 141, shall construct and operate such facility as part of an integrated nuclear waste management system and in accordance with applicable agreements under this Act affecting such facility.

"(2) Except as provided in subsection (e), if the Secretary does not select a site under subsection (c), the Secretary, not earlier than January 1, 1989, but not later than October 1, 1989, shall select the site evaluated under subsection (b) that the Secretary determines on the basis of available information to be the most suitable for a monitored retrievable storage facility that is an integral part of the system for the disposal of spent nuclear fuel and high-level radioactive waste established under this Act. The Secretary shall promptly notify Congress and the appropriate State or Indian tribe of the selection under this paragraph. Such notification shall be accompanied by a report setting forth the Secretary's reasons for selecting the site.

"(e)(1) The selection of a site under subsection (d)(2) shall be effective at the end of the 60-day period beginning on the date of notification under such subsection, unless the governing body of the Indian tribe on whose reservation such site is located, or, if the site is not a reservation, the Governor and the legislature of the State in which the site is located, has submitted to Congress a notice of disapproval with respect to such site. If any such notice of disapproval has been submitted under this subsection, the selection of the site under subsection (d)(2) shall not be effective except as provided under subsection 115(c).

"(2) For purposes of carrying out the provisions of this subsection, references in section 115(c) to a repository shall be considered to refer to a monitored retrievable storage facility and references to a notice of disapproval of a repository site designation under subsection 116(b) or 118(a) shall be considered to refer to a notice of disapproval under this section.

"(3) Once the selection of a site for a monitored retrievable storage facility is effective under this subsection, the Secretary, consistent with section 141, shall construct and operate such facility as part of an integrated nuclear waste management system and in accordance with applicable agreements under this Act affecting such facility.

"(f)(1) The Secretary shall study the need for and feasibility of 1 or more monitored retrievable storage facilities in addition to the facility authorized in this section. Such study shall examine the desirability of collocating the site of a monitored retrievable storage facility for spent nuclear fuel from civilian nuclear activities with a site at which substantial volumes of high-level radioactive waste generated from atomic energy defense activities are located. Such study shall also include the development of a plan for the management of such high-level radioactive waste in a system that includes 1 or more monitored retrievable storage facilities capable of storing both high-level radioactive waste and spent nuclear fuel. The Secretary shall report to Congress by April 1, 1989, on the results of the study under this paragraph.

"(2) If the Secretary determines, on the basis of the study under paragraph (1), that 1 or more additional monitored retrievable storage facilities are in the public interest and are needed to fulfill the responsibilities of the Secretary under this Act, the Secretary shall notify Congress and potentially interested States and Indian tribes of such determination and shall submit to Congress site-specific proposals for the construction of the needed monitored retrievable storage facilities in accordance with the provisions of section 141 of this Act.

"(g) Once selection of a site for a monitored retrievable storage facility is made under subsection (c) or is effective under subsection (e) or upon authorization by Congress of 1 or more sites for monitored retrievable storage facilities under subsection (f), the Indian tribe on whose reservation the site is located, or, in the case that the site is not located on a reservation, the State in which the site is located, shall be eligible to enter into a benefits agreement with the Secretary under section 404.

"(h) The provisions of section 116(c) or 118(b) with respect to grants, technical assistance, and other financial assistance shall apply to the State, to affected Indian tribes and to affected units of local government in the case of a monitored retrievable storage facility in the same manner as for a repository.

"(i)(1) During the period between the date of the enactment of this subsection and October 1, 1988, the Secretary shall conduct a study and evaluation of the use of dry cask storage technology at the sites of civilian nuclear power reactors for the temporary storage of spent nuclear fuel until such time as a permanent geologic repository has been constructed and licensed by the Commission and is capable of receiving spent nuclear fuel. The Secretary shall report to Congress on the study under this paragraph by October 1, 1988.

"(2) In conducting the study under paragraph (1) the Secretary shall—

"(A) consider the costs of dry cask storage technology, the extent to which dry cask storage on the site of civilian nuclear power reactors will affect human health and the environment, the extent to which storage on the sites of civilian nuclear power reactors affects the costs and risks of transporting spent nuclear fuel to a central facility such as a monitored retrievable storage facility, and any other factors the Secretary considers appropriate;

"(B) consider the extent to which amounts in the Waste Fund can be used, and should be used, to provide funds to construct, operate, maintain, and safeguard spent nuclear fuel in dry cask storage at the sites of civilian nuclear power reactors;

"(C) consult with the Commission and include the views of the Commission in the report under paragraph (1); and

"(D) solicit the views of State and local governments and the public.

"(j)(1) By April 1, 1989, the Secretary shall submit to Congress a report that describes the benefits of storing for at least 50 years spent nuclear fuel compared to the current system design allowing such fuel to age for 10 years prior to emplacement in a repository. Such report shall describe—

"(A) the changes in design of an integrated nuclear waste management system;

"(B) the effect on cost caused by implementing such long-term storage compared to the present system;

"(C) the effect of long-term storage on the current schedule of the repository program calling for the acceptance of spent fuel in a repository by 2003;

"(D) the increase in repository capacity as a result of reduced thermal load and the possibility of disposing the spent nuclear fuel likely to be produced in the foreseeable future in a single repository;

"(E) the increase in assurance that transportation of aged spent nuclear fuel can be carried out safely; and

"(F) the relative impact on public health and safety and the environment.

"(2) In developing the report under paragraph (1), the Secretary shall consider the long-term storage and disposal practices for spent nuclear fuel and high-level radioactive waste of other nations that generate such fuel or waste.

"(3) The Secretary shall seek public comment on the report under paragraph (1) and shall submit any written comments to Congress as part of the report.

"(k) For purposes of this section 'monitored retrievable storage facility' means a facility described in section 141(b)(1).

"(l)(1)(A) There is established a MRS Review Commission (hereinafter in this subsection referred to as the 'MRS Commission'), which shall consist of three members who shall be appointed by and serve at the pleasure of the President pro tempore of the Senate and the Speaker of the House of Representatives.

"(B) Members of the MRS Commission shall be appointed not later than thirty days after the date of the enactment of this subsection from among persons who as a result of training, experience and attainments are exceptionally well qualified to evaluate the need for a monitored retrievable storage facility as a part of the Nation's nuclear waste management system.

"(C) The MRS Commission shall prepare a report on the need for a monitored retrievable storage facility as a part of a national nuclear waste management system that achieves the purposes of this Act. In preparing the report under this paragraph, the MRS Commission shall—

"(i) review the status and adequacy of the Department's evaluation of the systems advantages and disadvantages of bringing such a facility into the national radioactive waste disposal system;

"(ii) obtain comment and available data on the subject from affected parties, including States containing potentially acceptable sites;

"(iii) evaluate the utility of such a facility from a technical perspective; and

"(iv) make a recommendation to Congress as to whether such a facility should be included in the national nuclear waste management system in order to achieve the purposes of this Act, including meeting needs for packaging and handling of spent nuclear fuel, improving the flexibility of the repository development schedule, and providing temporary storage of spent nuclear fuel accepted for disposal.

"(2) In preparing the report and making its recommendation under paragraph (1) the MRS Commission shall compare such a facility to the alternative of at-reactor storage of spent nuclear fuel prior to disposal of such fuel in a repository under this Act. Such comparison shall take into consideration the impact on—

"(A) repository design and construction;

"(B) waste package design, fabrication and standardization;

"(C) waste preparation;

"(D) the waste transportation system;

"(E) the reliability of the national system for the disposal of radioactive waste;

"(F) the ability of the Secretary to fulfill contractual commitments of the Department under this Act to accept spent nuclear fuel for disposal; and

"(G) economic factors, including the impact on the costs likely to be imposed on ratepayers of the Nation's electric utilities for temporary at-reactor storage of spent nuclear fuel prior to final disposal in a repository, as well as the costs likely to be imposed on ratepayers of the Nation's electric utilities in building and operating such a facility.

"(3) The report under this subsection, together with the recommendation of the MRS Commission, shall be transmitted to Congress between January 1, 1989 and January 20, 1989.

"(4)(A)(i) If the recommendation of the MRS Commission under paragraph (1)(D) is that the national nuclear waste management system should not contain a monitored retrievable storage facility, the Secretary may exercise his authority under subsection (d)(2) unless Congress, within 90 calendar days of continuous session of Congress (as computed for purposes of section 115) after transmission of the recommendation of the MRS Commission under paragraph (3), passes, and there is enacted into law, a resolution disapproving the deployment of a monitored retrievable storage facility as a part of the national nuclear waste management system.

"(ii) Any resolution under this subparagraph shall be introduced within 30 days after the date of transmission of the recommendation of the MRS Commission under paragraph (3). Such a resolution shall be expedited and considered by Congress in accordance with the procedures for consideration of a resolution of repository siting approval under subsections 115 (d) through (g), except the 60-day period in section 115(d)(3) shall be shortened to 30 days.

"(B) In all other cases, the Secretary may exercise his authority under subsection (d)(2), after the report and recommendation of the MRS Commission has been transmitted to Congress.

"(5)(A)(i) Each member of the MRS Commission shall be paid at the rate provided for level III of the Executive Schedule for each day (including travel time) such member is engaged in the work of the MRS Commission, and shall receive travel expenses, including per diem in lieu of subsistence in the same manner as is permitted under sections 5702 and 5703 of title 5, United States Code.

"(ii) The MRS Commission may appoint and fix compensation, not to exceed the rate of basic pay payable for GS-18 of the General Schedule, for such staff as may be necessary to carry out its functions.

"(B)(i) The MRS Commission may hold hearings, sit and act at such times and places, take such testimony and receive such evidence as the MRS Commission considers appropriate. Any member of the MRS Commission may administer oaths or affirmations to witnesses appearing before the MRS Commission.

"(ii) The MRS Commission may request any Executive agency, including the Department, to furnish such assistance or information, including records, data, files, or documents, as the Commission considers necessary to carry out its functions. Unless prohibited by law, such agency shall promptly furnish such assistance or information.

"(iii) To the extent permitted by law, the Administrator of the General Services Administration shall, upon request of the MRS Commission, provide the MRS Commission with necessary administrative services, facilities, and support on a reimbursable basis.

"(iv) The MRS Commission may procure temporary and intermittent services from experts and consultants to the same extent as is authorized by section 3109(b) of title 5, United States Code, at rates and under such rules as the MRS Commission considers reasonable.

"(C) The MRS Commission shall cease to exist sixty days after the submission to Congress of the report required under this subsection.

"(D) There are authorized to be appropriated to the MRS Commission to carry out the purposes of this subsection such sums as may be necessary.

"BENEFITS AGREEMENTS

"SEC. 404. (a)(1) The Secretary may enter into a benefits agreement with a State concerning a repository or with a State or an Indian tribe concerning a monitored retrievable storage facility for the acceptance of high-level radioactive waste or spent nuclear fuel in that State or on the reservation of that tribe, as appropriate. The State or Indian tribe may enter into such an agreement only if the State Attorney General or the appropriate governing authority of the Indian tribe or the Secretary of the Interior in the absence of an appropriate governing authority, as appropriate, certifies to the satisfaction of the Secretary that the laws of the State or Indian tribe provide adequate authority for that entity to enter into the benefits agreement. Any benefits agreement with a State under this section shall be negotiated in consultation with affected units of local government in such State.

"(2) Benefits and payments under this title may be made available only in accordance with a benefits agreement under this section.

"(b) A benefits agreement entered into under subsection (a) may be amended only by the mutual consent of the parties to the agreement and terminated only in accordance with section 408.

"(c) The Secretary shall offer to enter into a benefits agreement with the Governor of the State containing the preferred site for the first repository. Any benefits agreement with a State under this subsection shall be negotiated in consultation with any affected units of local government in such State.

"(d) The Secretary shall offer to enter into a benefits agreement relating to a monitored retrievable storage facility with the governing body of the Indian tribe on whose reservation the site for such facility is located, or, if the site is not located on a reservation, with the Governor of the State in which the site is located and in consultation with affected units of local government in such State.

"(e)(1) Only one benefits agreement for a repository under section 402 and only 1 benefits agreement for a monitored retrievable storage facility selected under section 403(c) or 403(d) may be in effect at any one time.

"(2) If Congress authorizes one or more additional sites for monitored retrievable storage facilities under section 403(f), then only 1 benefits agreement for each such additional monitored retrievable storage facility may be in effect at any one time.

"(f) Decisions of the Secretary under this section are not subject to judicial review.

"CONTENT OF AGREEMENTS

"SEC. 405. (a)(1) In addition to the benefits to which a State, an affected unit of local government or Indian tribe is entitled under titles I and III, the Secretary shall make payments to such State or Indian tribe that is a party to a benefits agreement under section 404 in accordance with the following schedule:

"BENEFITS SCHEDULE

(Amounts in $ millions)

Event	*MRS*	*Repository*
Annual payments prior to first spent fuel receipt	*20*	*50*
Upon first spent fuel receipt	*50*	*100*
Annual payments after first spent fuel receipt until closure of the facility	*50*	*100*

"For purposes of this subsection, the term—

"(A) 'MRS' means a monitored retrievable storage facility,

"(B) 'spent fuel' means high-level radioactive waste or spent nuclear fuel, and

"(C) 'first spent fuel receipt' does not include receipt of spent fuel or high-level radioactive waste for purposes of testing or operational demonstration.

"(2) Annual payments prior to first spent fuel receipt under this section shall be made on the date of execution of the benefits agreement and thereafter on the anniversary date of such execution. Annual payments after first spent fuel receipt until closure of the facility shall be made on the anniversary date of first spent fuel receipt.

"(3) If the first spent fuel payment under this section is made within 6 months after the last annual payment prior to receipt of spent fuel, the first spent fuel payment shall be reduced by an amount equal to one-twelfth of such annual payment for each full month less than 6 that has not elapsed since the last annual payment.

"(4) Notwithstanding paragraphs (1), (2) or (3), no payments under this section may be made before January 1, 1989, and any payment due under this title before January 1, 1989, shall be made on or after such date.

"(5) Except as provided in this section, the Secretary may not restrict the purposes for which the payments under this section may be used.

"(6) Any State receiving a payment under this section shall transfer not less than one-third portion of such payment to affected units of local government. A plan for this transfer and appropriate allocation of such portion among such governments shall be included in the benefits agreement under section 404 covering such payments. In the event of a dispute concerning such plan, the Secretary shall resolve such dispute, consistent with this Act and applicable State law.

"(b) A benefits agreement under section 404 shall provide that—

"(1) a Review Panel be established under section 406;

"(2) the State or Indian tribe waive its rights under title I to disapprove a recommendation of its site for application for a facility construction authorization;

"(3) the parties to the agreement shall share with one another information relevant to the licensing process for the repository or monitored retrievable storage facility, as it becomes available; and

"(4) the State or Indian tribe participate in the design of the repository or monitored retrievable storage facility and in the preparation of documents required under law or regulation governing the effects of the facility on the public health and safety.

"(c) The Secretary shall make payments to the States or affected Indian tribes under this section from the Waste Fund. The signature of the Secretary on a valid benefits agreement under section 404 shall constitute a commitment by the United States to make payments in accordance with such agreement.

"REVIEW PANEL

"SEC. 406. (a) The Review Panel required to be established by section 405(b)(1) of this Act shall consist of a Chairman selected by the Secretary in consultation with the Governor of the State or governing body of the Indian tribe, as appropriate, and 6 other members as follows:

"(1) two members selected by the Governor of the State or governing body of the Indian tribe;

"(2) two members selected by units of general local government affected by the repository or monitored retrievable storage facility;

"(3) one member to represent persons making payments into the Waste Fund, to be selected by the Secretary; and

"(4) one member to represent other public interest, to be selected by the Secretary.

"(b) The members of the Review Panel shall serve for terms of 4 years each and, other than full-time employees of the Federal Government, shall receive a per diem compensation for each day spent in meetings or conferences, or other work of the Review Panel, including their necessary travel or other expenses while engaged in the work of the Review Panel.

"(2) Expenses of the panel shall be paid by the Secretary from the Waste Fund.

"(c) The duties of the Review Panel are to—

"(1) advise the Secretary on matters relating to the proposed repository or monitored retrievable storage facility, including issues relating to design, construction, operation, and decommissioning of the facility;

"(2) evaluate performance, as it considers appropriate;

"(3) recommend corrective actions to the Secretary;

"(4) assist in the presentation of State or affected Indian tribe and local perspectives to the Secretary; and

"(5) participate in the planning for and the review of preoperational data on environmental, demographic, and socioeconomic and conditions of the site and the local community.

"(d) The Secretary shall make available promptly any information in the Secretary's possession requested by the Panel or its Chairman.

"(e) The requirements of the Federal Advisory Committee Act do not apply to a Review Panel established under this title.

"SITING A SECOND REPOSITORY

"SEC. 407. (a) While this title is in effect, the Secretary may not conduct site-specific activities with respect to a second repository unless Congress has specifically authorized and appropriated funds for such activities.

"(b)(1) Notwithstanding section 112(b)(1)(C), the Secretary is not required to nominate sites for a second repository or to recommend to the President sites for a second repository.

"(2) Notwithstanding section 114(a)(2), the President is not required to submit to Congress a recommendation of a site for a second repository.

"(c) The Secretary shall report to the President and to Congress on or after January 1, 2007, but not later than January 1, 2010, on the need for a second repository.

"(d) Upon the date of the enactment of this section the Secretary shall phase out in an orderly manner within 6 months funding for all existing research programs designed to evaluate the suitability of crystalline rock as a potential repository host medium.

"(e) In the event that the Secretary at any future time considers any sites in crystalline rock for characterization or selection as a repository, the Secretary shall give consideration as a supplement to the siting guidelines under section 112 to potentially disqualifying factors such as—

"(1) seasonal increases in population;

"(2) proximity to public drinking water supplies, including those of metropolitan areas; and

"(3) the impact characterization or siting decisions would have on lands owned or placed in trust by the Federal Government for Indian tribes.".

"TERMINATION

"SEC. 408. (a) The Secretary may terminate a benefits agreement under this title if—

"(1) the site under consideration is disqualified for its failure to comply with guidelines and technical requirements established by the Secretary in accordance with this Act; or

"(2) the Secretary determines that the Commission cannot license the facility within a reasonable time.

"(b) A State or Indian tribe may terminate a benefits agreement under this title only if the Secretary disqualifies the site under consideration for its failure to comply with technical requirements established by the Secretary in accordance with this Act or the Secretary determines that the Commission cannot license the facility within a reasonable time.

"(c) Decisions by the Secretary under this section shall be in writing, shall be available to Congress and the public and are not subject to judicial review.

"MISCELLANEOUS PROVISIONS

"SEC. 409. (a) This title does not affect the provisions of titles I and III of this Act except to establish an alternative procedure for the characterization and development of repositories and the siting of monitored retrievable storage facilities.

"(b) The powers and duties of the Secretary under this Act are not affected by this title except as expressly stated in the title.

"(c) In implementing the authorities contained in this title, the National Environmental Policy Act of 1969 shall not apply, except as provided in subsection (d).

"(d) Notwithstanding subsections (a) and (c), the requirements of title I with respect to the National Environmental Policy Act of 1969 shall apply to a repository or monitored retrievable storage facility covered by a benefits agreement under section 404, except that the provisions of section 114(a)(1)(D) and the provisions of the fourth and fifth sentences of section 114(f) of this Act requiring consideration of 3 sites for purposes of complying with the requirements of the National Environmental Policy Act of 1969 shall not apply.

"(e) The Secretary shall offer to any State, Indian tribe or unit of local government within whose jurisdiction a preferred site or a site for a monitored retrievable storage facility is located under this title an opportunity to designate a representative to conduct on-site oversight activities at such site. Reasonable expenses of such representatives shall be paid out of the Waste Fund.

"OVERSIGHT BOARD

"SEC. 410. (a) Within 30 days after the date of the enactment of this section, the Secretary shall seek to enter into a contract with the National Academy of Sciences (hereinafter in this section referred to as 'the Academy') for the purpose of establishing an oversight board under the auspices of the Academy to review and evaluate the scientific and technical adequacy of the Secretary's programs under this Act.

"(b) The oversight board established under this section shall consist of an appropriate number of scientists, engineers, and other individuals determined to be qualified by the Academy.

"(c) Activities of the Secretary to be reviewed by the oversight board under this section include—

"(1) activities under section 402(a)(2) relating to the information useful in selecting a preferred site;

"(2) activities under section 402(b)(2) relating to surface based testing at candidate sites that are not selected as the preferred site;

"(3) the site characterization program at the preferred site; and

"(4) such other activities involving significant scientific or technical issues as the Academy finds appropriate.

"(d) The oversight board shall establish procedures for the appropriate involvement in the work of the board by the Secretary, the Commission, affected States and affected Indian tribes. In addition to other reports deemed appropriate by the Academy, the board shall provide an annual report on the status of the programs of the Secretary under this Act that have been reviewed by the board. All reports of the board shall be available to the Secretary, the Commission, and the public.

"(e) The expenses of the oversight board under this section shall be paid from the Waste Fund.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 411. There is authorized to be appropriated from the Waste Fund for activities under the Nuclear Waste Policy Act of 1982—

"(a) in fiscal year 1988, no more than $567,000,000;

"(b) in fiscal year 1989, no more than $545,000,000; and

"(c) in fiscal year 1990, no more than $484,000,000.".

REPORTS

SEC. 2003. The Nuclear Waste Policy Act of 1982 is amended by inserting a new section 10 as follows:

"REPORTS

"SEC. 10. (a)(1) Within 60 days after the date of the enactment of this section, the Secretary shall seek to enter into a contract with the National Academy of Sciences for a study of major facets of reprocessing of spent nuclear fuel, including economics, the impact of reprocessing on the potential for the proliferation of nuclear weapons and effects of reprocessing on nuclear waste management. The study shall include an analysis of the economics of reprocessing spent nuclear fuel that has been aged for 3 years,

15 years, 30 years, and 50 years, and shall include a sensitivity analysis with respect to the price of uranium and the value of plutonium and uranium recovered in reprocessing. This aspect of the study shall compare the lifecycle cost of a nuclear waste management program involving reprocessing and disposal of vitrified waste with a nuclear waste management program involving direct disposal of spent nuclear fuel.

"(2) The Secretary shall submit the report of the National Academy of Sciences under this subsection to Congress by September 30, 1989.

"(3) Funds for work performed under this section shall be derived from available appropriations from the Waste Fund.

"(b) Within 270 days after the date of the enactment of this section, the Secretary shall report to Congress on subseabed disposal of spent nuclear fuel and high-level radioactive waste. The report under this subsection shall include—

"(1) an assessment of the current state of knowledge of subseabed disposal as an alternative technology for disposal of spent nuclear fuel and high-level radioactive waste;

"(2) an estimate of the costs of subseabed disposal;

"(3) an analysis of institutional factors associated with subseabed disposal, including international aspects of a decision of the United States to proceed with subseabed disposal as an option for nuclear waste management;

"(4) a full discussion of the environmental and public health and safety aspects of subseabed disposal;

"(5) recommendations on alternative ways to structure an effort in research, development and demonstration with respect to subseabed disposal; and

"(6) the recommendations of the Secretary with respect to research, development and demonstration in subseabed disposal of spent nuclear fuel and high-level radioactive waste.

"(c) The comprehensive statement of the Secretary pursuant to section 114 shall include a comparative analysis of the economics of nuclear waste management strategies based on (1) reprocessing spent fuel as a source of new fuel for light water reactors and the disposal of the resultant nuclear wastes and (2) direct disposal of spent fuel. Such analysis shall also compare the advantages and disadvantages of such strategies.".

TRANSPORTATION

SEC. 2004. Subtitle A of title I of the Nuclear Waste Policy Act of 1982 is amended by inserting at the end thereof a new section 126 as follows:

"TRANSPORTATION

"SEC. 126. (a) No spent nuclear fuel or high-level radioactive waste may be transported by or for the Secretary under this subtitle or under subtitle C except in packages that have been certified for such purposes of the Commission.

"(b) The Secretary shall abide by regulations of the Commission regarding advance notification of State and local governments prior to transportation of spent nuclear fuel or high-level radioactive waste under this subtitle or under subtitle C.

"(c) The Secretary shall provide technical assistance and funds to States for training for public safety officials of appropriate units of local government and Indian tribes through whose jurisdiction the Secretary plans to transport spent nuclear fuel or high-level radioactive waste under this subtitle or under subtitle C. Training shall cover procedures required for safe routine transportation of these materials, as well as procedures for dealing with emergency response situations. The Waste Fund shall be the source of funds for work carried out under this subsection.

"(d) The Commission shall require actual test on a sample full-scale package, in addition to any simulated tests, tests on scale models, or engineered analysis as part of the certification process of the Commission for package design for the transportation of spent nuclear fuel or high-level radioactive waste under this subtitle or under subtitle C.

"(e) The Commission shall conduct a survey of the packages for transportation or disposal of spent nuclear fuel or high-level radioactive waste used or intended to be used by other nations and report to Congress by January 1, 1989. The report under this subsection shall describe foreign designs and shall comment on the potential for such designs to meet or exceed applicable Commission regulations or standards for such transportation, storage or disposal.".

SITE APPROVAL

SEC. 2005. (a) Section 114(a)(1) of the Nuclear Waste Policy Act of 1982 is amended by—

(1) adding the phrase "and in subparagraph (I)" at the end of the fourth sentence thereof;

(2) striking the word "and" at the end of subparagraph (G);

(3) striking the period after subparagraph (H) and inserting in lieu thereof "; and"; and

(4) adding a new subparagraph (I) as follows:

"(I) a statement by the Secretary, after consultation with the Secretary of Defense, with regard to any site recommended under this section, that construction and operation of a repository at such site would not seriously jeopardize the national security by reason of interference with national defense activities, if any, occurring nearby.".

(b) Section 116 is amended by adding a new subsection (e) as follows:

"(e) ADJACENT STATES.—Effective on the date of the enactment of this subsection, a State may exercise the same rights and opportunities to participate in the site selection, review and approval process under this section as the State in which such candidate site selected for characterization for a repository is located if such State—

(1) borders on the State in which such candidate site is located; and

"(2) lies contiguous to a river, waterway or aquifer whose flow, as determined by the Secretary of the Interior, passes adjacent to or underneath the site, and continues downstream or down gradient to such bordering State.".

CONSIDERATION IN SITING FACILITIES

SEC. 2006. Subtitle A of title I of the Nuclear Waste Policy Act of 1982 is amended by adding at the end thereof a new section 127 as follows:

"CONSIDERATION IN SITING FACILITIES

"SEC. 127. The Secretary, in siting Federal research projects, shall give special consideration to proposals from States where a repository is located.".

"REPORT

SEC. 2007. In the event that the Secretary undertakes characterization of a site at Yucca Mountain, Nevada, for a nuclear waste repository, under the Nuclear Waste Policy Act of 1982, as amended, such site characterization shall include research to examine the potential effects on such site of continued testing of nuclear weapons at the Nevada Test Site including, but not limited to, whether such testing would cause earthquakes at such site, movement along faults affecting such site, or damage to such a repository if located at such site.

SUBSEABED DISPOSAL

SEC. 2008. (a) OFFICE OF SEABED DISPOSAL RESEARCH.—There is hereby established an Office of Subseabed Disposal Research within the Office of Energy Research of the Department of Energy. The Office shall be headed by a Director, who shall be a member of the Senior Executive Service appointed by the Director of the Office of Energy Research, and compensated at a rate determined by applicable law.

(b) FUNCTIONS OF DIRECTOR.—The Director of the Office of Subseabed Disposal Research shall be responsible for carrying out research, development, and demonstration activities on all aspects of subseabed disposal of high level radioactive waste and spent nuclear fuel, subject to the general supervision of the Secretary. The Director of the Office shall be directly responsible to the Director of the Office of Energy Research, and the first such Director shall be appointed within thirty days of the date of enactment of this Act.

(c) In carrying out his responsibilities under this Act, the Secretary may make grants to, or enter into contracts with, the Seabed Consortium described in subsection (d) of this section, and other persons.

(d) SEABED CONSORTIUM.—(1) Within 60 days of the date of enactment of this Act, the Secretary shall establish a university-based Seabed Consortium involving leading oceanographic universities and institutions, national laboratories, and other organizations to investigate the technical and institutional feasibility of subseabed disposal.

(2) The Seabed Consortium shall develop a research plan and budget to achieve the following objectives by 1995:

(i) demonstrate the capacity to identify and characterize potential subseabed disposal sites;

(ii) develop conceptual designs for a subseabed disposal system, including estimated costs and institutional requirements; and

(iii) identify and assess the potential impacts of subseabed disposal on the human and marine environment.

(3) In 1990, and again in 1995, the Subseabed Consortium shall report to Congress on the progress being made in achieving the objectives of subparagraph (2).

(e) ANNUAL REPORT.—The Director of the Office of Subseabed Disposal Research shall annually prepare and submit a report to the Congress on the activities and expenditures of the Office.

(f) FUNDING AUTHORIZATION.—Such funds are hereby authorized to be appropriated as are necessary for carrying out the purposes of this section.

AMENDMENTS TO THE TABLE OF CONTENTS

SEC. 2009. The table of contents of the Nuclear Waste Policy Act of 1982 is amended by—

(a) adding after "Sec. 9. Applicability." the following item:

"Sec. 10. Reports.";

(b) adding after "Sec. 125. Termination of certain provisions." the following items:

"Sec. 126. Transportation.
"Sec. 127. Consideration in Siting Facilities."; and

(c) adding the following items at the end thereof:

"TITLE IV—PROGRAM REDIRECTION

"Sec. 401. Findings, Purpose and Definitions.
"Sec. 402. First Repository Site Characterization.
"Sec. 403. Siting of Monitored Retrievable Storage Facilities.
"Sec. 404. Benefits Agreements.
"Sec. 405. Content of Agreements.
"Sec. 406. Review Panel.
"Sec. 407. Siting a Second Repository.
"Sec. 408. Termination.
"Sec. 409. Miscellaneous Provisions.
"Sec. 410. Oversight Board.
"Sec. 411. Authorization of Appropriations."

TRANSPORTATION OF PLUTONIUM BY AIRCRAFT THROUGH THE TERRITORY OR AIR SPACE OF THE UNITED STATES

SEC. 2010. (a) Plutonium in any form may not be transported by aircraft from a foreign nation to any foreign nation through the territory or air space of the United States unless such plutonium is transported in a package that has been certified safe by the Nuclear Regulatory Commission in accordance with subsection (b) and all other applicable law.

(b) The Nuclear Regulatory Commission shall—

(1) conduct an actual crash test of a cargo aircraft traveling at maximum cruising speed, appropriately loaded with sample full scale packages containing test material;

(2) conduct an actual drop test from maximum cruising altitude of a sample full scale package containing test material; and

(3) certify that the package, samples of which were tested under paragraphs (1) and (2), is acceptably safe for use in the transport of plutonium by aircraft.

(c)(1) The parameters of the tests under subsection (b) shall be determined by the Nuclear Regulatory Commission after public notice and opportunity for comment.

(2) The results of all tests under this section shall be available to the public.

Subtitle B—Federal Onshore Competitive Oil and Gas Leasing Act of 1987

SEC. 2101. This subtitle may be cited as the "Federal Onshore Competitive Oil and Gas Leasing Act of 1987".

SEC. 2102. (a) Paragraph 17(b)(1) of the Act of February 25, 1920 (30 U.S.C. 226(b)(1)), is amended to read as follows:

"(b)(1) All lands to be leased which are not subject to leasing under paragraph (2) of this subsection shall be leased as provided in this paragraph to the highest responsible qualified bidder by competitive bidding under general regulations in units of not more than two thousand five hundred and sixty acres, except in Alaska, where units shall be not more than five thousand one hundred and twenty acres, which shall be as nearly compact as possible. Lease sales shall be conducted by oral bidding. Lease sales shall be held for each State where eligible lands are available at least every two months, and more frequently if the Secretary determines such sales are necessary. A lease shall be conditioned upon the payment of a royalty of 12.5 per centum in amount or value of the production removed or sold from the lease. The Secretary shall establish by regulation a national minimum acceptable price for all leases which is at least $10 per acre. The Secretary shall accept the highest bid from a responsible qualified bidder which is equal to or greater than the minimum acceptable price, without evaluation of the value of the lands proposed for lease. Leases shall be issued within sixty days following payment by the successful bidder of the remainder of the bonus bid, if any, and the annual rental for the first lease year. All bids for less than the minimum acceptable price shall be rejected. Lands for which no bids are received or for which the highest bid is less than the minimum acceptable price shall be offered promptly within 30 days for leasing under subsection (c) of this section and shall remain available for leasing for three years after the competitive lease sale.".

(b) The first sentence of subsection 17(c) of the Act of February 25, 1920 (30 U.S.C 226(c)), is amended to read as follows: "(1) If the lands to be leased are not leased under paragraph (b)(1) of this section or are not subject to competitive leasing under paragraph (b)(2) of this section, the person first making application for the lease who is qualified to hold a lease under this Act shall be entitled to a lease of such lands without competitive bidding. Lands to be leased under this subsection shall be made available at least every two months. Leases shall be issued within sixty days of the date on which the Secretary identifies the first qualified applicant.".

(c) Subsection 17(c) of the Act of February 25, 1920 (30 U.S.C. 226(c)), is amended by adding the following at the end thereof:

"(2)(A) Lands (i) which were posted for sale under paragraph (b)(1) of this section but for which no bids were received or for which the highest bid was less than the minimum acceptable price established by the Secretary and (ii) for which, at the end of the period prescribed by paragraph (b)(1) of this section no lease has been issued and no lease application is pending under paragraph (1) of this subsection, shall again be available for leasing only in accordance with paragraph (b)(1) of this section.

"(B) The land in any lease which is issued under paragraph (1) of this subsection or under paragraph (b)(1) of this section which lease terminates, expires, is canceled or is relinquished shall again be available for leasing only in accordance with paragraph (b)(1) of this section.".

(d) Subsection 17(d) of the Act of February 25, 1920 (30 U.S.C. 226(d)), is amended to read as follows:

"(d) All leases issued under this section shall be conditioned upon payment by the lessee of a rental of not less than $1 per acre for each year of the lease. Each year's lease rental shall be paid in advance. A minimum royalty of not less than $1 per acre in lieu of rental shall be payable at the expiration of each lease year beginning on or after a discovery of oil or gas in paying quantities on the lands leased, except that no minimum royalty shall exceed the rental rate that would have applied before discovery.".

(e) Subsection 17(e) of the Act of February 25, 1920 (30 U.S.C. 226(e)), is amended by designating the existing provision as paragraph (1) and by adding the following at the end thereof:

"(2) In addition to the authority granted to the Secretary under section 39 of this Act (30 U.S.C. 209), where a lessee is denied access for operations involving exploration, drilling or production on a valid lease due to prolonged environmental or other analyses, unresolved litigation, or other delays which are beyond the control of the lessee and which continue beyond 90 days after receipt by the Secretary of a written request by the lessee for access to the leasehold for such purposes, the Secretary is authorized to suspend the lease, and the term of such lease shall be extended by adding any such suspension period thereto.".

SEC. 2103. The third sentence of section 30a of the Act of February 25, 1920 (30 U.S.C. 187a) is amended to read as follows: "The Secretary shall disapprove the assignment or sublease only for lack of qualification of the assignee or sublessee or for lack of sufficient bond: Provided, however, That the Secretary may, in his discretion, disapprove an assignment (1) of a separate zone or deposit under any lease, (2) of a part of a legal subdivision, or (3) of less than six hundred and forty acres outside Alaska or of less than two thousand five hundred and sixty acres within Alaska, unless the assignment constitutes the entire lease or is demonstrated to further the development of oil and gas. Requests for approval of assignment or sublease shall be processed promptly by the Secretary. Except where the assignment or sublease is not in accordance with applicable law, the approval shall be given within sixty days of the date of receipt by the Secretary of a request for such approval.".

SEC. 2104. The first sentence of subsection 31(b) of the Act of February 25, 1920 (30 U.S.C. 188(b)) is amended to read as follows:

"(b) Any lease issued after August 21, 1935, under the provisions of section 17 of this Act shall be subject to cancellation by the Secretary of the Interior after thirty days notice upon the failure of the lessee to comply with any of the provisions of the lease, unless or until the leasehold contains a well capable of production of oil or gas in paying quantities, or the lease is committed to an approved cooperative or unit plan or communitization agreement under section 17(j) of this Act which contains a well capable of production of unitized substances in paying quantities.".

SEC. 2105. The Act of February 25, 1920 (30 U.S.C. 181 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 43. Actions taken by the Secretary of the Interior to develop regulations and procedures for a competitive oil and gas leasing program or to hold particular lease sales shall not be subject to the requirements of section 102(2)(C) of the National Environmental Policy Act of 1969. Except as otherwise provided in this section, nothing in this Act shall be considered as affecting the application of section 102 of the National Environmental Policy Act of 1969.".

SEC. 2106. Section 1008 of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3148) is amended as follows:

(1) Subsections (c) and (e) (16 U.S.C. 3148 (c) and (e)) are deleted in their entirety.

(2) The second sentence of subsection 1008(d) (16 U.S.C. 3148(d)) is deleted.

(3) Subsections (d) and (f) through (i) (16 U.S.C. 3148 (d) and (f) through (i)) are renumbered subsections (c) through (g) respectively.

SEC. 2107. (a) Notwithstanding any other provision of this subtitle and except as provided in subsection (b) of this section, all noncompetitive oil and gas lease applications and competitive oil and gas bids pending on the date of enactment shall be processed, and leases shall be issued under the provisions of the Act of February 25, 1920 (30 U.S.C. 181 et seq.), as in effect before its amendment by this subtitle, except where the issuance of any such lease would not be lawful under such provisions or other applicable law.

(b) No noncompetitive lease applications or offers pending on the date of enactment of this subtitle for lands within the Shawnee National Forest, Illinois; the Ouachita National Forest, Arkansas; Fort Chaffee, Arkansas; or Eglin Air Force Base, Florida;

shall be processed until these lands are posted for competitive bidding in accordance with section 2102 of this subtitle. If any such tract does not receive a bid equal to or greater than the minimum acceptable price established by the Secretary from a responsible qualified bidder then the noncompetitive applications or offers pending for such a tract shall be reinstated and noncompetitive leases issued under the Act of February 25, 1920 (30 U.S.C. 181 et seq.), as in effect before its amendment by this subtitle, except where the issuance of any such lease would not be lawful under such provisions or other applicable law. If competitive leases are issued for any such tract, then the pending noncompetitive application or offer shall be rejected.

(c) Except as provided in subsections (a) and (b) of this section, all oil and gas leasing pursuant to the Act of February 25, 1920 (30 U.S.C. 181 et seq.), after the date of enactment of this subtitle shall be conducted in accordance with the provisions of this subtitle.

SEC. 2108. (a) Lands to be leased which were available for noncompetitive oil and gas leasing pursuant to subsection 17(c) of the Act of February 25, 1920 (30 U.S.C. 181 et seq.), on the day prior to the enactment of this subtitle and which are not subject to the exclusions set out in subsection (b) of this section shall be leased without competitive bidding to the person first making application for the lease who is qualified to hold a lease under the Act of February 25, 1920.

(b) This section shall not apply to the following lands:

(1) lands covered by an oil and gas lease on January 1, 1987;

(2) lands for which a lease application or offer was pending on the date of enactment of this subtitle;

(3) lands in a known geological structure of a producing oil or gas field or, in Alaska, within a favorable petroleum geological province;

(4) lands under study on the date of enactment of this subtitle for inclusion in a known geological structure of a producing oil and gas field or, in Alaska, for inclusion in a favorable petroleum geological province;

(5) lands which were referred to a surface managing agency (other than the Bureau of Land Management) for a recommendation or consent regarding leasing and which had not been made available for leasing prior to the enactment of this subtitle; and

(6) lands in the State of Arkansas.

The Secretary of the Interior shall publish in the Federal Register within sixty days a list of lands subject to paragraphs (4) and (5) of this subsection.

(c) The authority to issue leases as provided in this section shall expire twenty-four months after the date of issuance of final regulations implementing this subtitle, except for those applications or offers for leases which are filed pursuant to this section and which are pending on such expiration date.

(d) Oil and gas leases issued pursuant to this section shall be subject to all other provisions of the Act of February 25, 1920, as amended by this subtitle.

SEC. 2109. (a) The Secretary shall issue final regulations within sixty days after the date of enactment of this subtitle. The regulations shall be effective when published in the Federal Register. The environmental and economic impacts of this subtitle having been fully considered by the Congress, the Secretary shall not prepare any environmental, economic, or small business impact analyses, which may otherwise be required by law or Executive order, when he prepares proposed regulations or adopts final regulations implementing this subtitle.

(b)(1) Prior to issuing regulations implementing this subtitle, the Secretary shall hold at least one competitive lease sale pursuant to section 2102 of this subtitle. Sale procedures shall be established in the notice of sale. This sale shall include tracts which, but for the enactment of this subtitle, would have been posted for the filing of simultaneous oil and gas lease applications pursuant to applicable regulations (43 CFR subpart 3112). The Secretary may also include in the sale tracts which would otherwise have been posted for competitive sale pursuant to applicable regulations (43 CFR subpart 3120) and tracts which received over-the-counter noncompetitive oil and gas lease offers pursuant to applicable regulations (43 CFR subpart 3111) between July 1, 1987, and the date of enactment of this subtitle. The Secretary may hold additional sales if he considers it necessary prior to the issuance of final regulations pursuant to subsection (a) of this section.

(2) If tracts which would, but for the enactment of this subtitle have been posted for the filing of simultaneous applications do not receive bids of greater than or equal to the minimum acceptable price established by the Secretary at a competitive sale held under this section, they shall subsequently be posted for the filing of simultaneous applications provided the Secretary has not yet issued regulations under subsection (a) of this section.

(3) If no competitive or noncompetitive leases are issued for lands posted for sale as provided in subsection (b) of this section, the Secretary shall lease such tracts in accordance with the regulations issued pursuant to subsection (a) of this section.

SEC. 2110. The Act of February 25, 1920 (30 U.S.C. 181 et seq.) is amended by inserting after section 40 the following new section:

"SEC. 41. (a) Any person shall be liable under the standards set forth in subsections (c) and (d) of this section if that person misrepresents to the public, by any means of communication, the following:

"(1) The value or potential value of any lease or portion thereof issued under this Act;

"(2) the value or potential value of any lease or portion thereof to be issued under this Act;

"(3) the value or potential value of any land available for leasing under this Act;

"(4) the availability of any land for leasing under this Act;

"(5) the ability of the person to obtain leases under this Act on his or her own behalf or on behalf of any other person; or

"(6) the provisions of this Act and its implementing regulations.

"(b) Any person who organizes, or participates in, any scheme, arrangement, plan, or agreement to circumvent the provisions of this Act or its implementing regulations shall be liable under the provisions of this section.

"(c) The Attorney General shall institute against any person who, given the nature of the intended recipient of the communication, knew or should have known he or she was violating subsection (a) or (b) of this section, a civil action, in the district court of the United States for the judicial district in which the defendant resides or in which the violation occurred or in which the lease or land involved is located, for a temporary restraining order, injunction, civil penalty of not more than $100,000 for each violation, or other appropriate remedy, including but not limited to, a prohibition from participation in exploration, leasing, or development of any Federal mineral, or both.

"(d) Any person who knowingly and willfully violates the provisions of this section shall, upon conviction, be punished by a fine of not more than $500,000 for each violation or by imprisonment for not more than five years, or both.

"(e)(1) Whenever a corporation or other entity is subject to civil or criminal action under this section, any officer, employee, or agent of such corporation or entity who authorized, ordered, or carried out the proscribed activity shall be subject to the same action.

"(2) Whenever any officer, employee, or agent of a corporation or other entity is subject to civil or criminal action under this section for activity conducted on behalf of the corporation or other entity, the corporation or other entity shall be subject to the same action, unless it is shown that the officer, employee, or agent was acting without the knowledge or consent of the corporation or other entity.

"(f) The remedies, penalties, fines, and imprisonment prescribed in this section shall be concurrent and cumulative and the exercise of one shall not preclude the exercise of the others. Further, the remedies, penalties, fines, and imprisonment prescribed in this section shall be in addition to any other remedies, penalties, fines, and imprisonment afforded by any other law or regulation.

"(g)(1) A State may commence a civil action under subsection (c) of this section against any person conducting activity within the State in violation of this section. Civil actions brought by a State shall only be brought in the United States district court for the judicial district in which the defendant resides or in which the violation occurred or in which the lease or land involved is located. The district court shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to order appropriate remedies and penalties as described in subsection (c) of this section.

"(2) The State shall notify the Attorney General of the United States of any civil action filed by the State under this subsection within thirty days of filing of the action.

"(3) Any civil penalties recovered by a State under this subsection shall be retained by the State and may be expended in such manner and for such purposes as the State deems appropriate. If a civil action is jointly brought by the Attorney General and a State, by more than one State or by the Attorney General and more than one State, any civil penalties recovered as a result of the joint action shall be shared by the parties bringing the action in accordance with a written agreement entered into prior to the filing of the action.

"(4) Nothing in this section shall deprive a State of jurisdiction to enforce its own civil and criminal laws against any person who may also be subject to civil and criminal action under this section.".

SEC. 2111. Section 35 of the Act of February 25, 1920 (30 U.S.C. 191), is amended by adding the following at the end of the section: "In determining the amount of payments to States under this section, the amount of such payments shall not be re-

duced by any administrative or other costs incurred by the United States.".

SEC. 2112. The Secretary shall submit annually to the Congress a report containing appropriate information to facilitate congressional monitoring of this subtitle. Such report shall include, but not be limited to—

(a) the number of acres leased, and the number of leases issued, competitively and noncompetitively;

(b) the amount of revenue received from bonus bids, filing fees, rentals, and royalties;

(c) the amount of production from competitive and noncompetitive leases; and

(d) such other data and information as will facilitate (i) an assessment of the onshore oil and gas leasing system, and (ii) a comparison of the system as revised by this subtitle with the system in operation prior to the enactment of this subtitle.

SEC. 2113. Subsection 17(a) of the Act of February 25, 1920 (30 U.S.C. 226(a)), is amended by redesignating the existing provision as paragraph (1) and by striking the period (.) at the end of the subsection and inserting the following: ": Provided, however, That the Secretary of the Interior may not issue any oil and gas lease under this Act on any lands administered by the Secretary of Agriculture through the Forest Service, without consultation with the Secretary of Agriculture.

"(2) The Secretary shall not issue a lease or leases or approve the assignment of any lease or leases under the terms of this section to any person, association, corporation, or any subsidiary, affiliate, or person controlled by or under common control with such person, association, or corporation, where any such entity has failed to reclaim a lease tract as required by the terms and conditions of the lease.".

Subtitle C—Park System Admission Fees

SEC. 2201. SHORT TITLE.

This subtitle may be referred to as the "Land and Water Conservation Fund Act Amendments of 1987".

SEC. 2202. PARK SYSTEM ADMISSION FEES; USE OF RECEIPTS.

(a) Section 4(a) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601-6a(a)), is amended as follows:

(1) Paragraph (1) is amended by striking out "$10" and inserting in lieu thereof "$25" in the first sentence.

(2) Paragraph (1) is further amended by striking out "(1)" and inserting in lieu thereof "(1)(A)" and adding the following new subparagraph:

"(B) For admission into a specific designated unit of the National Park System, or into several specific units located in a particular geographic area, the Secretary is authorized to make available an annual admission permit for a reasonable fee. The fee shall not exceed $15 regardless of how many units of the park system are covered. The permit shall convey the privileges of, and shall be subject to the same terms and conditions as, the Golden Eagle Passport, except that it shall be valid only for admission into the specific unit or units of the National Park System indicated at the time of purchase.".

(3) Paragraph (2) is amended by adding the following sentences at the end thereof: "The fee for a single-visit permit at any designated area applicable to those persons entering by private, noncommercial vehicle shall be no more than $5 per vehicle. The single-visit permit shall admit the permittee and all persons accompanying him in a single vehicle. The fee for a single-visit permit at any designated area applicable to those persons entering by any means other than a private noncommercial vehicle shall be no more than $3 per person. The maximum fee amounts set forth in this paragraph shall apply to all designated areas.".

(4) Paragraph (3) is amended by adding the following new sentence at the end thereof: "Notwithstanding any other provision of this Act, no admission fee may be charged at any unit of the National Park System which provides significant outdoor recreation opportunities in an urban environment and to which access is publicly available at multiple locations.".

(5) Add the following new paragraphs:

"(6)(A) No later than 60 days after the date of enactment of this paragraph, the Secretary of the Interior shall submit to the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate a report on the entrance fees proposed to be charged at units of the National Park System. The report shall include a list of units of the National Park System and the entrance fee proposed to be charged at each unit. The Secretary of the Interior shall include in the report an explanation of the guidelines used in applying the criteria in subsection (d).

"(B) Following submittal of the report to the respective committees, any proposed changes to matters covered in the report, including the addition or deletion of park units or the increase or decrease of fee levels at park units shall not take effect until 60 days after notice of the proposed change has been submitted to the committees.

"(7) No admission fee may be charged at any unit of the National Park System for admission of any person 16 years of age or less.

"(8) No admission fee may be charged at any unit of the National Park System for admission of organized school groups or outings conducted for educational purposes by schools or other bona fide educational institutions.

"(9) No admission fee may be charged at the following unit of the National Park System: Statue of Liberty National Monument, U.S.S. Arizona Memorial, and Independence National Historical Park.

"(10) For each unit of the National Park System where an admission fee is collected, the Director shall annually designate at least one day during periods of high visitation as a "Fee-Free Day" when no admission fee shall be charged.

"(11) In the case of the following parks, the fee for a single-visit permit applicable to those persons entering by private, noncommercial vehicle (the permittee and all persons accompanying him in a single vehicle) shall be no more than $10 per vehicle and the fee for a single-visit permit applicable to persons entering by any means other than a private noncommercial vehicle shall be no more than $5 per person: Glacier National Park, Yellowstone National Park, and Grand Teton National Park. In the case of Yellowstone and Grand Teton, a single-visit fee collected at one unit shall also admit the vehicle or person who paid such fee for a single-visit to the other unit.".

(b) Section 4(f) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601-6a(f)) is amended to read as follows:

"(f) The head of any Federal agency, under such terms and conditions as he deems appropriate, may contract with any public or private entity to provide visitor reservation services. Any such contract may provide that the contractor shall be permitted to deduct a commission to be fixed by the agency head from the amount charged the public for providing such services and to remit the net proceeds therefrom to the contracting agency.".

(c) Section 4 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601-6a) is amended by adding the following new subsections at the end thereof:

"(i) Except as otherwise specifically provided by law, all receipts from fees collected pursuant to this section by any Federal agency (or by any public or private entity under contract with a Federal agency) shall be covered into a special account for that agency established in the Treasury of the United States. Amounts covered into the special account for each agency during each fiscal year shall, at the end of such fiscal year, be available for appropriation solely for the purposes and in the manner provided in this subsection and subsection (j). Funds credited into the special account shall remain available until expended:

"(1)(A) For agencies other than the National Park Service, such funds shall be made available for resource protection, research, interpretation and maintenance activities related to resource protection at facilities managed by that agency at which outdoor recreation is available.

"(B) That portion of the special account consisting of revenue from fees collected by the Bureau of Land Management from the issuance of special recreation permits for private and commercial water-based recreational activities (including but not limited to white water rafting, kayaking, and canoeing) shall be expended by such agency for on-the-ground resource protection, visitor services, recreational facilities, and other purposes directly related to such recreational activities.

"(2) Amounts covered into the special account for the National Park Service shall be allocated among park system units in accordance with subsection (j) for expenditure by the Director of the National Park Service for the following purposes:

"(A) In the case of receipts from the collection of admission fees: for resource protection, research, and interpretation, at units of the National Park System.

"(B) In the case of receipts from the collection of user fees: for resource protection, research, interpretation, and maintenance activities related to resource protection at units of the National Park System.

"(3) Notwithstanding any other provision of this subsection, beginning October 1, 1990, fees covered into the special account shall be available without further appropriation for obligation or expenditure by the appropriate fee collecting agency solely in the manner and for the purposes provided in this subsection.

"(j)(1) Fifteen per centum of the funds made available to the Director of the National Park Service under subsection (i) in each fiscal year shall be allocated among units of the National Park System on the basis of need in a manner to be determined by the Director.

"(2) Thirty-five per centum of the funds made available to the Director of the National Park Service under subsection (i) in each fiscal year shall be allocated among units of the National Park System in accordance with paragraph (3) of this subsection and 50 per centum shall be allocated in accordance with paragraph (4) of this subsection.

"(3) The amount allocated to each unit under this paragraph for each fiscal year shall be a fraction of the total allocation to all units under this paragraph. The fraction for each unit shall be determined by dividing the operating expenses at that unit during the prior fiscal year by the total operating expenses at all units during the prior fiscal year.

"(4) The amount allocated to each unit under this paragraph for each fiscal year shall be a fraction of the total allocation to all units under this paragraph. The fraction for each unit shall be determined by dividing the user fees and admission fees collected under this section at that unit during the prior fiscal year by the total of user fees and admission fees collected under this section at all units during the prior fiscal year.

"(k) When authorized by the head of the collecting agency, volunteers at designated areas may sell permits and collect fees authorized or established pursuant to this section. The head of such agency shall insure that such volunteers have adequate training regarding (1) the sale of permits and the collection of fees, (2) the purposes and resources of the areas in which they are assigned, and (3) the provision of assistance and information to visitors to the designated area. The Secretary shall require a surety bond for any such volunteer performing services under this subsection. Funds available to the collecting agency may be used to cover the cost of any such surety bond. The head of the collecting agency may enter into arrangements with qualified public or private entities pursuant to which such entities may sell (without cost to the United States) annual admission permits (including Golden Eagle Passports) at any appropriate location. Such arrangements shall require each such entity to reimburse the United States for the full amount to be received from the sale of such permits at or before the agency delivers the permits to such entity for sale.

"(l)(1) Where the National Park Service provides transportation to view all or a portion of any unit of the National Park System, the Director may impose a charge for such service in lieu of an admission fee under this section. The charge imposed under this paragraph shall not exceed the maximum admission fee under subsection (a).

"(2) Notwithstanding any other provision of law, half of the charges imposed under paragraph (1) shall be retained by the unit of the National Park Service at which the service was provided. The remainder shall be covered into the special account referred to in subsection (i) in the same manner as receipts from fees collected pursuant to this section. Fifty per centum of the amount retained shall be expended only for maintenance of transportation systems at the unit where the charge was imposed. The remaining 50 per centum of the retained amount shall be expended only for activities related to resource protection at such units.

"(m) Where the primary public access to a unit of the National Park System is provided by a concessioner, the Secretary may charge an admission fee at such units only to the extent that the total of the fee charged by the concessioner for access to the unit and the admission fee does not exceed the maximum amount of the admission fee which could otherwise be imposed under subsection (a).".

(d) Title I of Public Law 96-514 is amended by striking out the following: "Notwithstanding the provisions of Public Law 90-401, revenues from recreation fee collections by Federal agencies shall hereafter be paid into the Land and Water Conservation Fund, to be available to appropriation for any or all purposes authorized by the Land and Water Conservation Fund Act of 1965, as amended, without regard to the source of such revenues.".

(e) Section 402 of the Act of October 12, 1979 (93 Stat. 664), is hereby repealed.

(f)(1) The Secretary of the Interior shall assess the extent to which traffic congestion and overcrowding occurs at certain park system units during times of seasonally high usage and shall conduct a study of the following:

(A) the feasibility of reducing vehicular traffic within National Park System units through fee reductions for visitors traveling by bus and through other means which could shift visitation from automobiles to buses; and

(B) the feasibility of encouraging more even seasonal distribution of visitation.

(2) The study shall include a pilot project to be carried out in Yosemite National Park. For purposes of such pilot project, the Secretary may reduce the fees for admission of various classes or categories of visitors to Yosemite National Park and may reduce the admission fees imposed at the park during seasons with low visitation. A report containing the results of the study shall be transmitted to the Committee on Interior and Insular Affairs of the United States House of Representatives and to the Committee on Energy and Natural Resources of the United States Senate within three years after the enactment of this Act.

SEC. 2203. EXTENSION OF LAND AND WATER CONSERVATION FUND.

Section 2 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601 and following) is amended as follows:

(1) In the matter preceding subsection (a), strike "1989" and substitute "2015".

(2) In subsection (c)(1), strike the phrase "fiscal year 1977," and all that follows and insert the following new language: "fiscal year 1977; $900,000,000 for fiscal year 1978 and each fiscal year therafter through September 30, 1989; and $1,000,000,000 for fiscal year 1990 and each fiscal year thereafter through September 30, 2015.".

Subtitle D—Tongass Timber Supply Fund

SEC. 2301. From the period beginning on October 1, 1987, and extending until September 30, 1989, the provisions of section 705(a) of the Alaska National Interest Lands Conservation Act of 1980 (16 U.S.C. 539(d)) shall not be effective. In lieu thereof, the following provision shall apply:

"There is hereby authorized to be appropriated the sum of at least $40,000,000 annually (or such sums as the Secretary of Agriculture determines necessary) to maintain the timber supply from the Tongass National Forest to dependent industry at a rate of four billion five hundred million foot board measure per decade.".

TITLE III—COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

SEC. 3001. FEES OF THE ENVIRONMENTAL PROTECTION AGENCY.

(a) The Administrator of the Environmental Protection Agency is authorized to assess and collect fees and charges for services and activities carried out pursuant to the statutes which are administered by the Agency in the amount of $40 million annually for the fiscal years 1988, 1989, and 1990. The amount of any fee or charge assessed pursuant to this section shall be established by rule after notice and opportunity for public comment.

(b) Except as may otherwise be specifically provided by law with regard to fees and charges, and their deposit and retention, any fees and charges established and collected by the Administrator of Environmental Protection Agency pursuant to this section or other statutes administered by the Agency shall be deposited in a special fund in the United States Treasury which thereafter shall be available for appropriation, to remain available until expended, to carry out the Agency's activities for which the fee or charge is made.

SEC. 3002. NUCLEAR REGULATORY COMMISSION USER FEES.

(a) Beginning with the date of enactment of this Act, the Nuclear Regulatory Commission shall assess and collect annual charges from its licensees on a fiscal year basis for fiscal years 1988, 1989, and 1990, except that—

(1) the maximum amount of the aggregate charges assessed pursuant to this paragraph in any such fiscal year may not exceed an amount that, when added to other amounts collected by the Commission for such fiscal year under other provisions of law, is estimated to be equal to 45 percent of the costs incurred by the Commission with respect to such fiscal year; and

(2) any such charge assessed pursuant to this paragraph shall be reasonably related to the regulatory service provided by the Commission and shall fairly reflect the cost to the Commission of providing such service.

(b) The amount of the charges assessed pursuant to this paragraph shall be established by rule.

(c) Title VII of the Consolidated Omnibus Budget Reconciliation Act of 1985 (Public Law 99-272) is amended by striking subtitle G. This repeal shall become effective upon promulgation of the Commission's final rule implementing this section.

(d) Of the amounts collected pursuant to this authority, there are authorized to be appropriated to the Commission such sums as may be necessary to promulgate regulations pursuant to section 508 of this Act.

SEC. 3003. TENNESSEE VALLEY AUTHORITY SALARIES.

Notwithstanding the limitation provided for in the third sentence of section 3 of the Tennessee Valley Authority Act of 1933, as amended, the Tennessee Valley Authority is hereafter authorized to spend power revenues to pay salaries that exceed such limitation to not more then twenty-five key employees, to be designated by the Tennessee Valley Authority Board of Directors on the basis of the need to attract or retain such employee in the management of the Authority's nuclear power operations: Provided, that the total amount of such salary paid in excess of such limitation shall not exceed $900,000 per year, said amount to be adjusted by the Board annually for inflation in the cost of living from the average for the calendar year 1987.

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Subtitle A—Health, Social Services, and Income Security

PART A—PROVISIONS WITH MAJOR BUDGETARY IMPACT

Subpart I—Provisions Affecting Medicare Part A

SEC. 4001. HOSPITAL PAYMENTS.

(a) APPLICABLE PERCENTAGE INCREASE IN PAYMENTS FOR INPATIENT HOSPITAL SERVICES.—

(1) Section 1886(b)(3)(B) of the Social Security Act (42 U.S.C. 1395ww(b)(3)(B)) is amended—

(A) in clause (i)—

(i) in the matter preceding subclause (I), by striking "year and for purposes of subsection (d) for discharges occurring during a fiscal year," and inserting in lieu thereof "year,",

(ii) in subclause (II), by striking "percent," and all that follows through "and" and inserting in lieu thereof "percent,",

(iii) by redesignating subclause (III) as subclause (V), *(iv) by inserting after subclause (II) the following new subclauses:*

"(III) for fiscal year 1988, 2.7 percent,

"(IV) for fiscal years 1989 and 1990, the market basket percentage increase (as defined in clause (iii)), and", and

(v) in subclause (V) (as redesignated by subparagraph (C)), by striking "1989" and inserting in lieu thereof "1991";

(B) by redesignating clause (ii) as clause (iii); and

(C) by inserting immediately after clause (i) the following new clause:

"(ii) For purposes of subsection (d) for discharges occurring during a fiscal year, the 'applicable percentage increase' shall be—

"(I) for fiscal year 1986, 0.5 percent,

"(II) for fiscal year 1987, 1.15 percent,

"(III) for fiscal year 1988, 0.5 percent in the case of hospitals paid at the urban rate and 3.7 percent in the case of hospitals paid at the rural rate.

"(IV) for fiscal year 1989, the market basket percentage increase (as defined in clause (iii)) minus 2 percentage points,

"(V) for fiscal year 1990, the market basket percentage increase (as defined in such clause) minus 1.6 percentage points, and

"(VI) for fiscal year 1991 and subsequent fiscal years, the percentage determined by the Secretary pursuant to subsection (e)(4).".

(2)(A) Section 1886(d)(3)(A) of such Act (42 U.S.C. 1395ww(d)(3)(A)) is amended by striking "and 1988" and inserting in lieu thereof "1988, 1989, and 1990".

(B) Section 1886(e)(4) of such Act (42 U.S.C. 1395ww(e)(4)) is amended—

(i) by striking "fiscal year 1988" and inserting in lieu thereof "fiscal years 1988, 1989, and 1990"; and

(ii) by striking the last sentence and inserting in lieu thereof the following: "The percentage change may be different for urban subsection (d) hospitals, urban subsection (d) Puerto Rico hospitals, rural subsection (d) hospitals, rural subsection (d) Puerto Rico hospitals, and all other hospitals and units exempt from the prospective payment system, and may vary among such other hospitals and units.".

(3) The amendments made by paragraphs (1) and (2) shall apply to cost reporting periods beginning on or after October 1, 1987, excluding the first 51 days of the first such cost reporting period, and for purposes of section 1886(d) of the Social Security Act, for discharges occurring on or after January 1, 1988.

(4) Subsection (a)(1)(B)(ii) of section 107 of the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987 is amended by inserting ", the target percentage and DRG percentage shall be those specified in subsection (d)(1)(c)(iv) of such section, and the applicable percentage increase shall be deemed to be 0 percent" before the end period.

(b) Medicare Payments to Sole Community Hospitals.—

(1) Not later than 120 days after the date of the enactment of this Act, the Secretary shall issue, to agencies and organizations through which payments are made under part A of title XVIII of the Social Security Act, implementing instructions that set forth clearly and explicitly the manner in which a sole community hospital may apply for an adjustment of the type described in the second sentence of section 1886(d)(5)(C)(ii) of such Act and the factors that such a hospital is required to demonstrate in order to qualify for such an adjustment.

(2) Section 1886(d)(5)(C)(ii) (42 U.S.C. 1395ww(d)(5)(C)(ii)) is amended—

(A) by striking "1988" in the second sentence and inserting in lieu thereof "1990", and

(B) by inserting between the second and third sentences the following: "A subsection (d) hospital that meets the criteria for classification as a sole community hospital and otherwise qualifies for the adjustment authorized by the preceding sentence may qualify for such an adjustment without regard to the formula by which payments are determined for the hospital under paragraph (1)(A).".

(3)(A) The amendments made by paragraph (2) shall apply to cost reporting periods beginning on or after October 1, 1987.

(B) The Secretary of Health and Human Services shall take appropriate steps to ensure that the total amount paid in a fiscal year under title XVIII of the Social Security Act by reason of the amendment made by paragraph (2)(B) does not exceed—

(i) $10,000,000 in the case of fiscal year 1988; and

(ii) $12,000,000 in the case of fiscal year 1989.

(c) Impact Analyses of Medicare and Medicaid Rules and Regulations on Small Rural Hospitals.—

(1) Section 1102 (42 U.S.C. 1302) is amended—

(A) by inserting "(a)" after "Sec. 1102.", and

(B) by adding at the end thereof the following new subsection:

"(b)(1) Whenever the Secretary publishes a general notice of proposed rulemaking for any rule or regulation proposed under title XVIII, title XIX, or part B of this title that may have a significant impact on a substantial number of small rural hospitals, the Secretary shall prepare and make available for public comment an initial regulatory impact analysis. Such analysis shall describe the impact of the proposed rule or regulation on such hospitals and shall set forth, with respect to small rural hospitals, the matters required under section 603 of title 5, United States Code, to be set forth with respect to small entities. The initial regulatory impact analysis (or a summary) shall be published in the Federal Register at the time of the publication of general notice of proposed rulemaking for the rule or regulation.

"(2) Whenever the Secretary promulgates a final version of a rule or regulation with respect to which an initial regulatory impact analysis is required by paragraph (1), the Secretary shall prepare a final regulatory impact analysis with respect to the final version of such rule or regulation. Such analysis shall set forth, with respect to small rural hospitals, the matters required under section 604 of title 5, United States Code, to be set forth with respect to small entities. The Secretary shall make copies of the final regulatory impact analysis available to the public and shall publish, in the Federal Register at the time of publication of the final version of the rule or regulation, a statement describing how a member of the public may obtain a copy of such analysis.

"(3) If a regulatory flexibility analysis is required by chapter 6 of title 5, United States Code, for a rule or regulation to which this subsection applies, such analysis shall specifically address the impact of the rule or regulation on small rural hospitals.".

(2) The amendments made by paragraph (1) shall apply to regulations proposed more than 30 days after the date of the enactment of this Act.

(d) Hospital Cost Report.—

(1)(A) The Secretary of Health and Human Services (in this subsection referred to as the "Secretary") shall develop a data base of the operating costs of inpatient hospital services for a representative sample of hospitals, for use by the Congress and the Secretary in determining an appropriate applicable percentage increase under section 1886(b)(3)(B) of the Social Security Act, evaluating the appropriateness of other payment adjustments under section 1886, and analyzing legislative, regulatory, and budgetary changes.

(B) In selecting a representative sample of hospitals for the data base required to be developed pursuant to subparagraph (A), the Secretary shall—

(i) select subsection (d) hospitals (as defined in section 1886(d)(1)(B) of the Social Security Act) with cost reporting periods beginning during the first four months of the fiscal year of the United States Government, and

(ii) to the extent practicable, provide for adequate representation of small rural hospitals, sole community hospitals, and rural referral centers.

(C) The Secretary shall report to the Congress on the data base developed pursuant to subparagraph (A) not later than October 1, 1988.

(2) The Secretary shall develop and place into effect not later than June 1, 1989, a data base of the operating costs of inpatient hospital services with respect to all hospitals under title XVIII of the Social Security Act, which data base shall be updated at least once every quarter (and maintained for the 12-month period preceding any such update). The data base under this subsection may include data from preliminary cost reports (but the Secretary shall make available an update analysis of the differences between preliminary and settled cost reports).

(3)(A) Subject to subparagraph (B), with respect to cost reporting periods beginning on or after October 1, 1989, the Secretary shall place into effect a standardized electronic cost reporting format.

(B) The Secretary may delay or waive the implementation of such format in particular instances where such implementation would result in financial hardship (in particular with respect to small or rural hospitals or any hospital with a small percentage of medicare volume).

(4) The Secretary shall consult representatives of the hospital industry in carrying out the provisions of this section.

(e) ProPAC Report on Study of Separate DRG Rates for Urban and Rural Hospitals.—The Prospective Payment Assessment Commission shall evaluate the study conducted by the Secretary of Health and Human Services pursuant to section 603(a)(2)(C)(i) of the Social Security Amendments of 1983 (relating to the feasibility and impact of eliminating or phasing out separate urban and rural DRG prospective payment rates) and report its conclusions and recommendations to the Congress not later than March 1, 1988.

(f) Wage Index Survey.—Section 1886(d)(3)(E) (42 U.S.C. 1395ww(d)(3)(E)) of such Act is amended by adding at the end thereof the following: "Not later than October 1, 1989 (and at least every 36 months thereafter), the Secretary shall update the factor under the preceding sentence on the basis of a survey conducted by the Secretary (and updated as appropriate) of the wages and wage-related costs of subsection (d) hospitals in the United States. To the extent determined feasible by the Secretary, such

survey shall measure the earnings and paid hours of employment by occupational category and shall exclude data with respect to the wages and wage-related costs incurred in furnishing skilled nursing facility services.".

(g) REVISION OF STANDARDS FOR INCLUDING A RURAL COUNTY IN AN URBAN AREA.—

(1) Section 1886(d)(8) of such Act (42 U.S.C. 1395ww(d)(8)) is amended—

(A) by redesignating clauses (i) and (ii) of subparagraphs (A) and (B) as subclauses (I) and (II), respectively,

(B) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively,

(C) by inserting "(A)" after "(8)", and

(D) by adding at the end thereof the following new subparagraphs:

"(B) The Secretary shall treat a hospital located in a rural county adjacent to one or more urban areas as being located in the urban metropolitan statistical area to which the greatest number of workers in the county commute, if—

"(i) the rural county would otherwise be considered an urban area but for the fact that the rural county does not meet the standard relating to the rate of commutation between the rural county and the central county or counties of any one adjacent urban area; and

"(ii) either (I) the number of residents of the rural county who commute for employment to the central county or counties of any adjacent urban area or areas is equal to at least 15 percent of the number of residents of the rural county who are employed, or (II) the sum of the number of residents of the rural county who commute for employment to the central county or counties of all adjacent urban areas and the number of residents of the central county or counties of all adjacent urban areas who commute for employment to the rural county is at least equal to 20 percent of the number of residents of the rural county who are employed.

"(C) The Secretary shall make a proportional adjustment in the standardized amount determined under section 1886(d)(3) for hospitals paid at the urban rate to assure that the provisions of subparagraph (B) do not result in aggregate payments under this section that are greater or less than the aggregate amount of payments that would have resulted in the absence of the provisions of subparagraph (B). For purposes of computing the wage indices under this section, hospitals to which subparagraph (B) applies shall be treated as rural hospitals.".

(2) The amendments made by paragraph (1) shall apply to discharges occurring on or after January 1, 1988.

(3) For purposes of section 1886 of the Social Security Act, Watertown Memorial Hospital in Watertown, Wisconsin, is deemed to be located in Jefferson County, Wisconsin.

(h) CLINIC HOSPITAL WAGE INDICES.—In calculating the wage index under section 1886(d) of the Social Security Act for purposes of making payment adjustments after December, 1986, as required under paragraphs (2)(H) and (3)(E) of such section, in the case of any institution described in section 602(k) of the Social Security Amendments of 1983, the Secretary of Health and Human Services shall include wage costs paid to related organization employees directly involved in the delivery and administration of care provided by the related organization to hospital inpatients. For purposes of the preceding sentence, the term 'wage costs' does not include costs of overhead or home office administrative salaries or any costs that are not incurred in the hospital's Standard Metropolitan Statistical Area.

(i) PSYCHOLOGISTS' SERVICES FURNISHED TO HOSPITAL INPATIENTS.—

(1) Section 1861(b)(3) of such Act (42 U.S.C. 1395x(b)(3)) is amended by inserting "(including a clinical psychologist (as defined by the Secretary))" after "others" the first place it appears.

(2) The amendment made by paragraph (1) shall apply with respect to services furnished on or after the date of enactment of this Act.

(j) HOSPITAL CONDITION OF PARTICIPATION RELATED TO INDIVIDUAL RESPONSIBLE FOR CARE OF PATIENT.—Section 1861(e)(4) of such Act (42 U.S.C. 1395x(e)(4)) is amended by inserting "with respect to whom payment may be made under this title" after "patient".

(k) OUTLIER PAYMENTS FOR BURN CASES.—

(1) The Prospective Payment Assessment Commission (in this subsection referred to as the "Commission") shall conduct a study of possible modifications to the prospective payment system established under section 1886(d) of the Social Security Act that will provide more adequate and appropriate payments with respect to burn outlier cases, including a recommendation with respect to whether separate payment rates should be established for burn center hospitals. The Commission shall report the results of the study to the Congress not later than April 1, 1988.

(2)(A) Section 1886(d)(5)(A)(iii) of such Act (42 U.S.C. 1395ww(d)(5)(A)(iii)) is amended—

(i) by inserting "(I)" after "(iii)", and

(ii) by adding at the end thereof the following new subclause:

"(II) In the case of any burn-related discharge described in clause (i) or (ii), the amount of the additional payment under such clause shall equal 90 percent of the cost of care beyond the applicable cutoff point.".

(B) Subclause (II) of section 1886(d)(5)(A)(iii) of such Act shall be implemented in a manner that ensures that total payments under section 1886 of such Act are not increased or decreased by reason of the adjustments required by such subclause.

(3) The amendments made by paragraph (1) shall apply to discharges occurring on or after January 1, 1988, and before October 1, 1989.

(l) CHANGING COST-EFFECTIVENESS PERFORMANCE PERIOD UNDER DEMONSTRATION PROJECT REIMBURSEMENT SYSTEM.—Section 1814(b)(3) of such Act (42 U.S.C. 1395f(b)(3)) is amended by striking "for the previous three-year period" and inserting in lieu thereof "for any period beginning on October 1, 1983, and ending on the most recent date for which relevant data are available".

(m) MAINTAINING METHOD OF REIMBURSING HOSPITALS FOR BAD DEBT UNDER PROSPECTIVE PAYMENT SYSTEM.—The Secretary of Health and Human Services shall continue and shall not issue regulations to alter the method for making payments to hospitals under title XVIII of the Social Security Act for the reasonable costs relating to unrecovered costs associated with unpaid deductible or coinsurance amounts for inpatient hospital services covered under part A of such title under policy guidelines (including criteria for what constitutes a reasonable collection effort) in effect on March 31, 1987.

(n) REPORT ON OUTLIER PAYMENTS.—The Secretary of Health and Human Services shall include in the annual report submitted to the Congress pursuant to section 1875(b) of the Social Security Act a comparison with respect to hospitals located in an urban area and hospitals located in a rural area in the amount of reductions under section 1886(d)(3)(B) of the Social Security Act and additional payments under section 1886(d)(5)(A) of such Act.

(o) CLASSIFICATION OF RURAL REFERRAL CENTERS.—

(1) Section 1886(d)(5)(C)(i)(I) of such Act (42 U.S.C. 1395ww(d)(5)(C)(i)(I)) is amended in the first sentence by striking "500" and inserting in lieu thereof "275".

(2) Section 1886(d)(5)(C)(i) of the Social Security Act (42 U.S.C. 1395ww(d)(5)(C)(i)) is amended by adding at the end thereof the following new subclause:

"(III) The Secretary shall provide, under subclause (I), for the classification of a rural hospital as a regional referral center if the hospital has a case mix equal to or greater than both the median case mix for hospitals (other than hospitals with approved teaching programs) located in an urban area within the United States and the median case mix for hospitals (other than hospitals with approved teaching programs) located in an urban area in the same region (as defined in paragraph (2)(D)), meets the criterion established by the Secretary under subclause (I) with respect to the annual number of discharges for a rural osteopathic hospital, and meets any other criteria established by the Secretary under subclause (I). The Secretary shall implement the provisions of this subclause in a manner that ensures that total payments under this section are not increased or decreased by reason of the classifications required by such provisions.".

(3)(A) Subject to subparagraph (B), the amendments made by paragraphs (1) and (2) shall apply to payments for discharges occurring on or after January 1, 1988.

(B) An appeal for classification of a rural hospital as a regional referral center, pursuant to the amendments made by paragraphs (1) and (2), which is filed before April 1, 1988, and which is approved shall be effective with respect to discharges occurring on or after January 1, 1988, without regard to when the hospital's cost reporting period began.

(p). GRANT PROGRAM FOR RURAL HEALTH CARE TRANSITION.—

Title XVIII of the Social Security Act is amended by inserting after section 1884 the following new section:

"GRANTS TO RURAL HOSPITALS

"SEC. 1884A. (a) The Secretary shall establish a program of grants to assist eligible small rural hospitals and their communities in the planning and implementation of projects to modify the type and extent of services such hospitals provide in order to adjust for one or more of the following factors:

"(1) Changes in clinical practice patterns,

"(2) Changes in service populations,

"(3) Declining demand for acute-care inpatient hospital capacity,

"(4) Declining ability to provide appropriate staffing for inpatient hospitals,

"(5) Increasing demand for ambulatory and emergency services,

"(6) Increasing demand for appropriate integration of community health services, or

"(7) The need for adequate access (including appropriate transportation) to emergency care and inpatient care in areas in which a significant number of underutilized hospital beds are being eliminated.

The program shall be established through the Administrator of the Health Care Financing Administration and shall be conducted by the Administrator in consultation with the Assistant Secretary for Health (or a designee).

"(b) For purposes of this section, the term 'eligible small rural hospital' means any hospital that—

"(1) is located in a rural area (as determined in accordance with subsection (d)),

"(2) has less than 100 beds,

"(3) provides patient services (diagnostic and therapeutic) for a variety of medical conditions, and

"(4) is classified as a—

"(A) government-nonfederal,

"(B) nongovernment not-for-profit, or

"(C) church-operated as osteopathic or other not-for-profit osteopathic,

hospital under the classification codes of the American Hospital Association.

"(c)(1) Any eligible small rural hospital that desires to modify the type or extent of health care services that it provides in order to adjust for one or more of the factors specified in subsection (a) may submit an application to the Governor of the State in which it is located. The application shall specify the nature of the project proposed by the hospital, the data and information on which the project is based, and a timetable (of not more than twenty-four months) for completion of the project. The application shall be submitted on or before a date specified by the Secretary and shall be in such form as the Secretary may require.

"(2) The Governor shall transmit any application submitted pursuant to paragraph (1) to the Secretary not later than 30 days after it is received by the Governor, accompanied by any comments with respect to the application that the Governor deems appropriate.

"(3) The Governor of a State may designate an appropriate State agency to receive and comment on applications submitted under paragraph (1).

"(d) A hospital shall be considered to be located in a rural area for purposes of this section if it is treated as being located in a rural area for purposes of section 1886(d)(3)(D).

"(e) In determining which hospitals making application under subsection (c) will receive grants under this section, the Secretary shall take into account—

"(1) any comments received under subsection (c)(2) with respect to a proposed project;

"(2) the effect that the project will have on—

"(A) reducing expenditures from the Federal Hospital Insurance Trust Fund,

"(B) improving the access of medicare beneficiaries to health care of a reasonable quality;

"(3) the extent to which the proposal of the hospital, using appropriate data, demonstrates an understanding of—

"(A) the primary market or service area of the hospital, and

"(B) the health care needs of the elderly and disabled that are not currently being met by providers in such market or area, and

"(4) the degree of coordination that may be expected between the proposed project and—

"(A) other local or regional health care providers, and

"(B) community and government leaders,

as evidenced by the availability of support for the project (in cash or in kind) and other relevant factors.

"(f) A grant to a hospital under this section may not exceed $50,000 a year and may not exceed a term of two years.

"(g)(1) Except as provided in paragraphs (2) and (3), a hospital receiving a grant under this section may use the grant for any of expenses incurred in planning and implementing the project with respect to which the grant is made.

"(2) A hospital receiving a grant under this section for a project may not use the grant to retire debt incurred with respect to any capital expenditure made prior to the date on which the project is initiated.

"(3) Not more than one-third of any grant made under this section may be expended for capital-related costs (as defined by the Secretary for purposes of section 1886(a)(4)) of the project.

"(h)(1) A hospital receiving a grant under this section shall furnish the Secretary with such information as the Secretary may require to evaluate the project with respect to which the grant is made and to ensure that the grant is expended for the purposes for which it was made.

"(2) The Secretary shall report to the Congress at least once every six months on the program of grants established under this section. The report shall assess the functioning and status of the program, shall evaluate the progress made toward achieving the purposes of the program, and shall include any recommendations the Secretary may deem appropriate with respect to the program. In preparing the report, the Secretary shall solicit and include the comments and recommendations of private and public entities with an interest in rural health care.

"(3) The Secretary shall submit a final report on the program to the Congress not later than 180 days after all projects receiving a grant under the program are completed.

"(i) The provisions of section 1122 shall not apply to capital expenditures made with respect to any project for which a grant is made under this section.

"(j) For purposes of carrying out the program of grants under this section, there are authorized to be appropriated from the Federal Hospital Insurance Trust Fund $15,000,000 for each of the fiscal years 1989 and 1990.".

(q) DELAY IN REQUIREMENTS RELATING TO HOSPITAL STANDARDS FOR ORGAN TRANSPLANTS AND STANDARDS FOR ORGAN PROCUREMENT AGENCIES.—

(1) Section 9318(b) of the Omnibus Budget Reconciliation Act of 1986, as amended by section 107(c) of the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987, is amended by striking "November 21, 1987" each place it appears and inserting in lieu thereof "December 31, 1988".

(2) The amendment made by paragraph (1) shall be effective as if included in the enactment of the Omnibus Budget Reconciliation Act of 1986.

SEC. 4002. MEDICAL EDUCATION.

(a) INDIRECT MEDICAL EDUCATION.—

(1) Section 1886(d)(5)(B)(ii) of the Social Security Act (42 U.S.C. 1395ww(d)(5)(B)(ii)) is amended—

(A) in subclause (I), by striking "2" and inserting in lieu thereof "1.56"; and

(B) in subclause (II), by striking "1.5" and inserting in lieu thereof "1.7", and by striking out ".5795" and inserting in lieu thereof ".405".

(2) Section 1886(d)(3)(C)(ii) of such Act (42 U.S.C. 1395ww(d)(3)(C)(ii)) is amended—

(A) in the heading, by striking "SEPTEMBER 30, 1986" and inserting in lieu thereof "DECEMBER 31, 1987";

(B) in the matter preceding subclause (I)—

(i) by striking "September 30, 1986" and inserting in lieu thereof "December 31, 1987",

(ii) by inserting "proportionately" after "reduce", and

(iii) by striking "(in" and all that follows through "(i))";

(C) in subclause (I)—

(i) by striking "October 1, 1986" and inserting in lieu thereof "December 31, 1987", and

(ii) by inserting "and by section 4002 of the Omnibus Budget Reconciliation Act of 1987" after "1985"; and

(D) in subclause (II), by inserting "and by section 4002 of the Omnibus Budget Reconciliation Act of 1987" after "1985".

(3) The amendments made by this subsection shall apply to discharges occurring on or after January 1, 1988.

(b) EXCLUSION OF COSTS INCURRED WITH RESPECT TO FOREIGN MEDICAL GRADUATES.—Section 1886(h)(4) of such Act (42 U.S.C. 1395ww(h)(4)) is amended by adding at the end thereof the following new subparagraph:

"(F) FOREIGN MEDICAL GRADUATE EXCLUSION.—

"(i) IN GENERAL.—Except as provided in clauses (ii), (iii), and (iv), such rules shall provide that, in the case of an individual who is a foreign medical graduate (as defined in paragraph (5)(D)), the individual shall not be counted as a resident with respect to any cost reporting period beginning on or after July 1, 1988.

"(ii) FIRST TRANSITIONAL RULE.—With respect to the first cost reporting period beginning on or after July 1, 1988, such rules shall provide that the lesser of—

"(I) two-thirds of the number of a hospital's residents for such cost reporting period who are foreign medical graduates but who began their formal training required for initial board eligibility in the specialty for which they are preparing prior to July 1, 1988, or

"(II) two-thirds of the number of residents who are foreign medical graduates but with respect to whom the hospital received payments under this subsection for the last cost reporting period beginning before July 1, 1988,

shall be counted as residents.

"(iii) SECOND TRANSITIONAL RULE.—With respect to the second cost reporting period beginning on or after July 1, 1988, such rules shall provide that the lesser of—

"(I) one-third of the number of a hospital's residents for such cost reporting period who are foreign medical graduates but who began their formal training required for initial board eligibility in the specialty for which they are preparing prior to July 1, 1988, or

"(II) one-third of the number of residents who are foreign medical graduates but with respect to whom the hospital received payments under this subsection for the last cost reporting period beginning before July 1, 1987,

shall be counted as residents.

"(iv) SPECIAL TRANSITIONAL RULE FOR HOSPITALS WITH HIGH PERCENTAGE OF FOREIGN MEDICAL GRADUATES.—In the case of a hospital at which, on September 1, 1987, more than 50 percent of the residents for which such hospital receives payments under this subsection are foreign medical graduates, such rules shall provide that the provisions of clause (ii) shall apply for the first 2 cost reporting periods beginning on or after July 1, 1988, and the provisions of clause (iii) shall apply to the subsequent 3 cost reporting periods.".

(c) Rural Health Medical Education Demonstration Project.—

(1) The Secretary of Health and Human Services (in this section referred to as the "Secretary") shall enter into agreements with four sponsoring hospitals submitting applications under this paragraph to conduct demonstration projects to assist resident physicians in developing field clinical experience in rural areas.

(2) Under a demonstration project conducted under paragraph (1), a sponsoring hospital entering into an agreement with the Secretary under such paragraph shall enter into arrangements with a small rural hospital to provide to such rural hospital, for a period of one to three months of training, physicians (in such number as the agreement under paragraph (1) may provide) who have completed one year of residency training.

(3) In selecting from among applications submitted under paragraph (1), the Secretary shall ensure that four small rural hospitals located in different counties participate in the demonstration project and that—

(A) two of such hospitals are located in rural counties of more than 2,700 square miles (one of which is east of the Mississippi River and one of which is west of such river); and

(B) two of such hospitals are located in rural counties with (as determined by the Secretary) a severe shortage of physicians (one of which is east of the Mississippi River and one of which is west of such river).

(4) For purposes of section 1886 of the Social Security Act—

(A) with respect to subsection (d)(5)(B) of such section, any resident physician participating in the project under paragraph (1) for any part of a year shall be treated as if he or she were working at the appropriate sponsoring hospital with an agreement under paragraph (1) on September 1 of such year (and shall not be treated as if working at the small rural hospital); and

(B) with respect to subsection (h) of such section, the payment amount permitted under such subsection for a sponsoring hospital with an agreement under paragraph (1) shall be increased (for the duration of the project only) by an amount equal to the amount of any direct graduate medical education costs (as defined in paragraph (5) of such subsection (h)) incurred by such hospital in supervising the education and training activities under a project under paragraph (1).

(5) Each demonstration project under paragraph (1) shall be commenced not later than six months after the date of enactment of this Act and shall be conducted for a period of three years.

(6) In this subsection, the term 'sponsoring hospital' means a hospital that receives payments under sections 1886(d)(5)(B) and 1886(h) of the Social Security Act.

SEC. 4003. PAYMENTS FOR HOSPITAL CAPITAL-RELATED COSTS.

(a) In General.—Section 1886(g)(3)(A) of the Social Security Act (42 U.S.C. 1395ww(g)(3)(A)) is amended—

(1) by striking clause (ii) and inserting in lieu thereof the following new clause:

"(ii) 12 percent for payments attributable to portions of cost reporting periods or discharges (as the case may be) in fiscal year 1988 occurring on or after January 1, 1988, and to portions of cost reporting periods or discharges (as the case may be) occurring during fiscal year 1989, and"; and

(2) in clause (iii), by striking "1989" and inserting in lieu thereof "1990".

(b) Clarification of Secretarial Authority To Incorporate Payment for Other Capital-Related Costs Under the Prospective Payment System.—Section 1886(a)(4) of such Act (42 U.S.C. 1395ww(a)(4)) is amended by striking "1987" and inserting in lieu thereof "1991".

(c) Treatment of Capital-Related Regulations.—

(1) Notwithstanding any other provision of law (except as provided in paragraph (3)), the Secretary of Health and Human Services may not change the definition of capital-related costs or change the methodology for computing the amount of payment for capital-related costs (as defined in paragraph (4)) for inpatient hospital services under part A of title XVIII of the Social Security Act. Any regulation published in violation of the previous sentence after August 1, 1987, and before the date of enactment of this Act is void and of no effect.

(2) Any reference in law to a regulation issued in final form or proposed by the Health Care Financing Administration pursuant to sections 1886(b)(3)(B), 1886(d)(3)(A), and 1886(e)(4) of the Social Security Act shall not include any regulation issued or proposed with respect to capital-related costs (as defined in paragraph (4)).

(3) Paragraph (1) shall not apply to any regulation issued for the sole purpose of implementing subsections (g)(3)(A) and (g)(3)(B) of section 1886 of the Social Security Act (as amended by section 9303(a) of the Omnibus Budget Reconciliation Act of 1986 and subsection (a) of this section).

(4) In this subsection, the term "capital-related costs" means those capital-related costs that are specifically excluded, under the second sentence of section 1886(a)(4) of the Social Security Act, from "operating costs of inpatient hospital services" (as defined in that section) for cost reporting periods beginning prior to October 1, 1989.

(d) Effective Date.—The amendments made by subsection (a) shall apply to portions of cost reporting periods or discharges occurring on or after January 1, 1988.

SEC. 4004. ELIMINATION OF PERIODIC INTERIM PAYMENT SYSTEM (PIP) FOR CERTAIN HOSPITALS AND EXTENSION OF DISPROPORTIONATE SHARE ADJUSTMENT.

(a) In General.—Section 1815(e)(1) of the Social Security Act (42 U.S.C. 1395g(e)(1)) is amended—

(1) in subparagraph (B), by striking "In" and inserting in lieu thereof "Subject to the last sentence of this paragraph, in"; and

(2) by adding at the end thereof the following:

"No payment shall be made under subparagraph (B) on a periodic payment basis on or after July 1, 1990; except that, the Secretary may provide with respect to a hospital that payments be made on such basis under such subparagraph on or after such date (for such period of time as the Secretary determines is appropriate) if the hospital demonstrates to the satisfaction of the Secretary that discontinuing payments on such basis would pose an immediate threat to the ability of the hospital to operate.".

(b) Temporary Delay in Payments in Fiscal Year 1989.—Notwithstanding section 1815(a) of the Social Security Act, in the case of a hospital which is paid periodic interim payments under section 1815(e)(1)(B) of such Act, the Secretary of Health and Human Services shall provide with respect to at least the last twenty-one days for which such payments would be made during fiscal year 1989, that such payments shall be deferred until fiscal year 1990.

(c) For the purposes of section 202 of the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987, this section is a necessary (but secondary) result of a significant policy change.

(d) Extension of Disproportionate Share Adjustment.—Sections 1886(d)(2)(C)(iv) (42 U.S.C. 1395ww(d)(2)(C)(iv)), 1886(d)(3)(C)(ii)(I) (42 U.S.C. 1395ww(d)(3)(C)(ii)(I)), 1886(d)(3)(C)(ii)(II) (42 U.S.C. 1395ww(d)(3)(C)(ii)(II)), 1886(d)(5)(B)(ii)(I) (42 U.S.C. 1395ww(d)(5)(B)(ii)(I)), 1886(d)(5)(B)(ii)(II) (42 U.S.C. 1395ww(d)(5)(B)(ii)(II)), and 1886(d)(5)(F)(i) (42 U.S.C. 1395ww(d)(5)(F)(i)) of the Social Security Act are each amended by striking "1989" and inserting in lieu thereof "1990".

Subpart II—Provisions Affecting Medicare Parts A and B

SEC. 4011. PAYMENT CYCLE STANDARDS.

(a) Payment Floor Standards.—

(1) Section 1816(c) of the Social Security Act (42 U.S.C. 1395h(c)) is amended by adding at the end thereof the following new paragraph:

"(3)(A) Each agreement under this section shall provide that no payment shall be issued, mailed, or otherwise transmitted with respect to any claim submitted under this title within the applicable number of calendar days after the date on which the claim is received.

"(B) In this paragraph, the term 'applicable number of calendar days' means—

"(i) with respect to claims received in the 3-month period beginning July 1, 1988, 10 days,

"(ii) with respect to claims received in the 12-month period beginning October 1, 1988, 11 days, and

"(iii) with respect to claims received in the 12-month period beginning October 1, 1989, 12 days.".

(2) Section 1842(c) of such Act (42 U.S.C. 1395u(c)) is amended by adding at the end thereof the following new paragraph:

"(3)(A) Each contract under this section which provides for the disbursement of funds, as described in subsection (a)(1)(B), shall provide that no payment shall be issued, mailed, or otherwise transmitted with respect to any claim submitted under this title within the applicable number of calendar days after the date on which the claim is received.

"(B) In this paragraph, the term 'applicable number of calendar days' means—

"(i) with respect to claims received in the 3-month period beginning July 1, 1988, 10 days,

"(ii) with respect to claims received in the 12-month period beginning October 1, 1988, 11 days, and

"(iii) with respect to claims received in the 12-month period beginning October 1, 1989, 12 days.".

(3)(A) The amendments made by paragraphs (1) and (2) shall apply to claims received on or after July 1, 1988.

(B) The Secretary of Health and Human Services shall provide for such timely amendments to agreements under section 1816 of the Social Security Act and contracts under section 1842 of such Act, and regulations, to such extent as may be necessary to implement the provisions of this subsection on a timely basis.

(b) Prompt Payment for Comprehensive Outpatient Rehabilitation Facilities.—

(1) Section 1816(c)(2)(C) of such Act (42 U.S.C. 1395h(c)(2)(C)) is amended by striking "or hospice program" and inserting in lieu thereof "hospice program, comprehensive outpatient rehabilitation facility, or rehabilitation agency".

(2)(A) The amendment made by paragraph (1) shall apply to claims received on or after the date of enactment of this Act.

(B) The Secretary of Health and Human Services shall provide for such timely amendments to agreements under section 1816, and regulations, to such extent as may be necessary to implement the amendment made by paragraph (1).

(c) Budget Considerations.—For purposes of section 202 of the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987, this section is a necessary (but secondary) result of a significant policy change.

SEC. 4012. MEDICARE CONTRACTORS.

(a) Medicare Contractor Budget.—

(1) Section 1816(c)(1) of the Social Security Act (42 U.S.C. 1395h(c)(1)) is amended by adding at the end thereof the following new sentence: "The Secretary shall cause to have published in the Federal Register, by not later than September 1 before each fiscal year, data, standards, and methodology to be used to establish budgets for fiscal intermediaries under this section for that fiscal year.".

(2) Section 1842(c)(1) of such Act (42 U.S.C. 1395u(c)(1)) is amended by adding at the end thereof the following new sentence: "The Secretary shall cause to have published in the Federal Register, by not later than September 1 before each fiscal year, data, standards, and methodology to be used to establish budgets for carriers under this section for that fiscal year.".

(3) The amendments made by paragraphs (1) and (2) shall become effective on the date of enactment of this Act and shall apply to budgets for fiscal years beginning with fiscal year 1989.

(b) Payment Safeguards.—

(1) Section 118 of the Tax Equity and Fiscal Responsibility Act of 1982 (96 Stat. 355), as amended by section 9216(a) of the Consolidated Omnibus Budget Reconciliation Act of 1985, is amended by striking "and $105,000,000 for each of fiscal years 1986, 1987, and 1988" and inserting in lieu thereof "$105,000,000 for each of fiscal years 1986 and 1987, $205,000,000 for fiscal year 1988, and $100,000,000 for each of fiscal years 1989 and 1990".

(2) The amendment made by paragraph (1) shall apply with respect to fiscal years beginning with fiscal year 1988.

(c) Prohibition Against Denial Quotas.—

(1) Section 1816(f) of such Act (42 U.S.C. 1395h(f)) is amended in the second sentence by inserting "or solely on the basis of any specified numerical ratio of amounts that must be saved through denial of claims under utilization review to amounts expended with respect to such review" before the period.

(2) Section 1842(b)(2) of such Act (42 U.S.C. 1395u(b)(2)) is amended by inserting at the end thereof the following: "No carrier shall be found under such standards and criteria not to be efficient or effective or to be less efficient or effective solely on the basis of any specified numerical ratio of amounts that must be saved through denial of claims under utilization review to amounts expended with respect to such review.".

(3) Nothing in the amendments made by paragraphs (1) and (2) shall be construed to limit the authority of the Secretary of Health and Human Services under the law in effect on the date of enactment of this Act to—

(A) ascertain the accuracy of decisions (including medical review decisions) made by a fiscal intermediary under section 1816 of the Social Security Act or a carrier under section 1842 of such Act;

(B) prescribe standards for measuring the performance of any such fiscal intermediary or carrier; or

(C) refuse to renew (or to conditionally renew) the agreement of any such fiscal intermediary or the contract of any such carrier for failing to meet such standards.

SEC. 4013. SECONDARY PAYER PROVISIONS.

(a) Application of Secondary Payer Provisions to Governmental Entities.—

(1) Section 1862(b)(4)(B)(i) of the Social Security Act (42 U.S.C. 1395y(b)(4)(B)(i)) is amended by striking "section 5000(b) of the Internal Revenue Code of 1986" and inserting in lieu thereof "subsection (b) of section 5000 of the Internal Revenue Code of 1986 without regard to subsection (d) of such section".

(2) The amendment made by paragraph (1) shall apply to items and services furnished on or after January 1, 1987.

(b) Primary Payer Requirement With Respect to End Stage Renal Disease.—

(1) Section 1862(b)(2)(A) of such Act (42 U.S.C. 1395y(b)(2)(A)) is amended by striking "(ii)" and all that follows through the period and inserting in lieu thereof "(ii) can reasonably be expected to be made under such plan.".

(2) The amendment made by paragraph (1) shall apply to items and services furnished on or after the date of enactment of this Act.

SEC. 4014. EXTENSION OF REDUCTIONS UNDER SEQUESTER ORDER.

Notwithstanding any other provision of law (including any other provision of this Act), the reductions in the amount of payments required under title XVIII of the Social Security Act made by the final sequester order issued by the President on November 20, 1987, pursuant to section 252(b) of the Balanced Budget Emergency Deficit Control Act of 1985 shall continue to be effective (as provided by sections 252(a)(4)(B) and 256(d)(2) of such Act) through—

(1) December 31, 1987, with respect to all such payments; and

(2) January 15, 1987, with respect to payments for physicians' services and durable medical equipment (and other nonphysician services reimbursed on a reasonable charge basis) under part B of such title.

Subpart III—Provisions Affecting Medicare Part B

SEC. 4021. PHYSICIAN PAYMENTS.

(a) Three-Month Freeze on Increases in Physician Payments.—

(1) Section 1842 of the Social Security Act (42 U.S.C. 1395u) is amended—

(A) in subsection (b)(4)—

(i) in subparagraph (A), by adding at the end thereof the following new clause:

"(vi) In determining the prevailing charge levels under the third and fourth sentences of paragraph (3) for physicians' services furnished during the 3-month period beginning January 1, 1988, the Secretary shall not set any level higher than the same level as was set for the 12-month period beginning January 1, 1987.",

(ii) in subparagraph (B), by adding at the end thereof the following new clause:

"(iii) In determining the reasonable charge under paragraph (3) for physicians' services furnished during the 3-month period beginning January 1, 1988, the customary charges shall be the same customary charges as were recognized under this section for the 12-month period beginning January 1, 1987.",

(iii) by adding at the end thereof the following new subparagraph:

"(F) For purposes of this part, with respect to physicians' services furnished in 1988 on or after April 1, the percentage increase in the MEI is—

"(i) the full amount of the percentage increase in the MEI for 1988 for primary services (as defined in subparagraph (E)(iii)), and

"(ii) 0 percent for other physicians' services.",

(iv) in subparagraph (E), by adding at the end thereof the following new clause:

"(iii) The term 'primary care services' means physicians' services which constitute office medical services, emergency department services, home medical services, skilled nursing, intermediate care, and long-term care medical services, or nursing home, boarding home, domiciliary, or custodial care medical services (as defined by procedure code by the Secretary)."; and

(B) in subsection (j)(1)(C), by adding at the end thereof the following new clause:

"(vii) Notwithstanding any other provision of this subparagraph, the maximum allowable actual charge for a particular physicians' service furnished by a nonparticipating physician to individuals enrolled under this part during the 3-month period beginning on January 1, 1988, shall be the amount determined under this subparagraph for 1987. The maximum allowable actual charge for any such service otherwise determined under this subparagraph for 1988 shall take effect on April 1, 1988.".

(2) Notwithstanding any other provision of law—

(A) subject to the last sentence of this paragraph, each agreement with a participating physician in effect on December 31, 1987, under section 1842(h)(1) of the Social Security Act shall remain in effect for the three-month period beginning on January 1, 1988; and

(B) the effective period for agreements under such section entered into for 1988 shall be the nine-month period beginning on April 1, 1988, and the Secretary shall provide an opportunity for physicians to enroll as participating physicians prior to April 1, 1988.

An agreement with a participating physician in effect on December 31, 1987, under section 1842(h)(1) of the Social Security Act shall not remain in effect for the period described in subparagraph (A) if the participating physician requests that the agreement be terminated.

(3) Section 9332(a)(4)(C) of the Omnibus Budget Reconciliation Act of 1986 is amended—

(A) by striking "April" and inserting in lieu thereof "July"; and

(B) by striking "at the end of 1987" and inserting in lieu thereof "prior to April 1, 1988".

(b) Payment Increase for Services Furnished in Underserved Rural Areas.—

(1) Section 1833 of such Act (42 U.S.C. 1395l) is amended by adding at the end thereof the following new subsection:

"(m) In the case of services furnished—

"(1) on an assignment-related basis,

"(2) to an individual who is covered under the insurance program established by this part and who incurs expenses for such services,

"(3) by a physician in a rural area (as defined in section 1886(d)(2)(D)) that is designated, under section 332 of the Public Health Service Act, as a health manpower shortage area,

in addition to the amount otherwise paid under this part, there also shall be paid to the physician (on a monthly or quarterly basis) from the Federal Supplementary Medical Insurance Trust Fund an amount equal to 5 percent of such amount.".

(2) The amendment made by paragraph (1) shall apply with respect to services furnished on or after January 1, 1989.

(c) Customary Charges for New Physicians.—

(1) Section 1842(b)(4) of such Act, as amended by subsection (a)(1), is further amended by adding at the end thereof the following new subparagraph:

"(G) In determining the customary charges for physicians' services (other than services furnished in a rural area (as defined in section 1886(d)(2)(D)) that is designated, under section 332 of the Public Health Service Act, as a health manpower shortage area) for which adequate data are not available because a physician has not yet been in practice for a sufficient period of time, the Secretary shall set a customary charge at a level no higher than 80 percent of the prevailing charge (as determined under the third and fourth sentences of paragraph (3) for a service.".

(2) The amendment made by paragraph (1) shall apply to physicians who first furnish services to medicare beneficiaries after January 1, 1988.

(d) T4Reduction in Prevailing Charge Level for Overpriced Procedures.—

(1) Section 1842(b) of such Act (42 U.S.C. 1395u(b)) is amended by adding at the end thereof the following new paragraph:

"(13)(A)(i) In determining the reasonable charge under paragraph (3) for any of the procedures described in subparagraph (C), the prevailing charge for any such procedure otherwise recognized for participating and nonparticipating physicians shall be reduced by the applicable percentage with respect to procedures performed in 1988. A reduced prevailing charge under this subparagraph shall become the prevailing charge level for purposes of applying the economic index under the fourth sentence of paragraph (3) for subsequent years.

"(ii) The applicable percentage specified in this clause is—

"(I) in the case of a prevailing charge that is at least 150 percent of the weighted national average (as determined by the Secretary) of such prevailing charges for such procedure for all localities in the United States for 1987, 15 percent;

"(II) in the case of a prevailing charge that does not exceed 100 percent of such average, 0 percent; and

"(III) in the case of any other prevailing charge, a percentage between 0 and 15 determined on the basis of a straight-line sliding scale (as determined by the Secretary).

"(C) The procedures described in this subparagraph are cataract extraction with intraocular lens implant, intraocular lens insertion, coronary artery bypass surgery, total hip replacement, suprapubic prostatectomy, transurethral resection of the prostate, diagnostic dilation and curettage, pacemaker surgery, and carpal tunnel release.

"(D)(i) In the case of a reduction in the reasonable charge for a physician's service under subparagraph (A), if a nonparticipating physician furnishes the service to an individual entitled to benefits under this part after the effective date of such reduction (subject to clause (iv)), the physician may not charge the individual more than the limiting charge (as defined in clause (ii)) plus (for services furnished during the 9-month period beginning on April 1, 1988), ½ of the amount by which the physician's maximum allowable actual charge for the service for the 12-month period ending on December 31, 1987, exceeds the limiting charge.

"(ii) In clause (i), the term 'limiting charge' means, with respect to a service, 125 percent of the prevailing charge for the service after the reduction under subparagraph (A).

"(iii) If a physician knowingly and willfully imposes a charge in violation of clause (i), the Secretary may apply sanctions against such physician in accordance with subsection (j)(2).

"(iv) This subparagraph shall not apply to services furnished after the earlier of (I) December 31, 1990, or (II) one year after the date the Secretary reports to the Congress, under section 1845(e)(3), on the development of a relative value scale under section 1845.".

(2) The amendments made by paragraph (1) shall apply to procedures performed on or after April 1, 1988.

(e) Changes in Application of Maximum Allowable Actual Charge.—

(1) In the case of a physician who did not have actual charges under title XVIII of the Social Security Act for a procedure in the calendar quarter beginning on April 1, 1984, but who establishes to the satisfaction of the carrier that he had actual charges (whether under title XVIII of such Act or otherwise) for the procedure performed during any calendar quarter beginning during the 12-month period ending March 31, 1984, the carrier shall compute the maximum allowable actual charge under section 1842(j) of the Social Security Act for such procedure performed by such physician in 1988 based on the physician's actual charges for the procedure for the most recent calendar quarter (to begin during such period) for which the physician has actual charges.

(2) To the extent feasible, for the purpose of determining whether a uniform maximum allowable actual charge under section 1842(j) of the Social Security Act may be applied to a group practice—

(A) in the case of a multi-specialty group practice, in order to qualify for a group MAAC the charges must be uniform within each specialty, but to not necessarily have to be uniform across specialties; and

(B) in the case of hospital departmental practice plans, each department shall be treated separately.

(3) Paragraphs (1) and (2) shall take effect on April 1, 1988.

(f) Date for Applying Civil Penalties for Improper Use of Assistants in Performing Cataract Surgery.—

(1) Section 1842(k) of such Act (42 U.S.C. 1395u(k)) is amended in paragraphs (1) and (2) by striking "(j)(2)" each place it appears and inserting in lieu thereof "(j)(2) in the case of surgery performed on or after March 1, 1987".

(2) The amendment made by paragraph (1) shall be effective as if included in section 9307(c) of the Consolidated Omnibus Budget Reconciliation Act of 1985.

(g) Assistants at Cataract Surgery.—

(1) Section 1862(a)(15) of such Act (42 U.S.C. 1395y(a)(15)) is amended—

(A) by striking "the" the second place it appears and inserting in lieu thereof "(A) the"; and

(B) by striking the semicolon and inserting in lieu thereof the following: ", or (B) such organization and the appropriate carrier under such section have determined that the use of the assistant is necessary to perform a surgical technique of established economic benefit (taking into account the cost of the assistant) that eliminates the need for an anesthesiologist or nurse anesthetist;".

(2) The amendment made by paragraph (1) shall apply with respect to services furnished on or after the date of enactment of this Act.

(h) Utilization Screens for Physician Services Provided to Patients in Rehabilitation Hospitals.—

(1) The Secretary of Health and Human Services shall establish (in consultation with appropriate physician groups, including those representing rehabilitative medicine) a separate utilization screen for physician visits to patients in rehabilitation hospitals and rehabilitative units (and patients in long-term care hospitals receiving rehabilitation services) to be used by carriers under section 1842 of the Social Security Act in performing functions under subsection (a) of such section related to the utilization practices of physicians in such hospitals and units.

(2) Not later than 12 months after the date of enactment of this Act, the Secretary of Health and Human Services shall take appropriate steps to implement the utilization screen established under paragraph (1).

(i) Collection of Past-Due Amounts Owed by Physicians Who Breached Contracts Under the National Health Service Corps Scholarship Program.—

(1)(A) Title XVIII of such Act is amended by adding at the end thereof the following new section:

"OFFSET OF PAYMENTS TO PHYSICIANS TO COLLECT PAST-DUE OBLIGATIONS ARISING FROM BREACH OF SCHOLARSHIP CONTRACT

"Sec. 1891. (a) In General.—

"(1)(A) Subject to subparagraph (B), the Secretary shall enter into an agreement under this section with any physician who, by reason of a breach of a contract entered into by such physician pursuant to the National Health Service Corps Scholarship Program, owes a past-due obligation to the United States (as defined in subsection (b)).

"(B) The Secretary shall not enter into an agreement with a physician under this section to the extent—

"(i)(I) the physician has entered into a contract with the Secretary pursuant to section 204(a)(1) of the Public Health Service Amendments of 1987, and

"(II) the physician has fulfilled or (as determined by the Secretary) is fulfilling the terms of such contract; or

"(ii) the liability of the physician under such section 204(a)(I) has otherwise been relieved under such section.".

"(2) The agreement under this section shall provide that—

"(A) deductions shall be made from the amounts otherwise payable to the physician under this title or under a State plan approved under title XIX, in accordance with a formula and schedule agreed to by the Secretary and the physician, until such past-due obligation (and accrued interest) have been repaid;

"(B) payment under this title for services provided by such physician shall be made only on an assignment-related basis; and

"(C) if the physician does not provide services, for which payment would otherwise be made under this title or a State plan approved under title XIX, of a sufficient quantity to maintain the offset collection according to the agreed upon formula and schedule, or if the physician refuses to enter into an agreement or breaches any provision of the agreement—

"(i) the Secretary shall immediately inform the Attorney General, and the Attorney General shall immediately commence an action to recover the full amount of the past-due obligation, and

"(ii) subject to paragraph (3), the Secretary shall immediately bar the physician from the program under this title and from any State program of medical assistance under title XIX of this Act, until such time as the entire past-due obligation has been repaid.

"(3) The Secretary shall not bar a physician pursuant to paragraph (2)(C)(ii) if such physician is a sole community physician or sole source of essential specialized services in a community.

"(b) PAST-DUE OBLIGATION.—For purposes of this section, a past-due obligation is any amount—

"(1) owed by a physician to the United States by reason of a breach of a scholarship contract under section 338E of the Public Health Service Act, and

"(2) which has not been paid by the deadline established by the Secretary pursuant to section 338E of the Public Health Service Act, and has not been canceled, waived, or suspended by the Secretary pursuant to such section.

"(c) COLLECTION UNDER THIS SECTION SHALL NOT BE EXCLUSIVE.—This section shall not preclude the United States from applying other provisions of law otherwise applicable to the collection of obligations owed to the United States, including (but not limited to) the use of tax refund offsets pursuant to section 3720A of title 31, United States Code, and the application of other procedures provided under chapter 37 of title 31, United States Code.

"(d) COLLECTION FROM PROVIDERS AND HEALTH MAINTENANCE ORGANIZATIONS.—

"(1) In the case of a physician who owes a past-due obligation, and who is an employee of a provider having an agreement under section 1866 or a health maintenance organization or competitive medical plan having a contract under section 1876, the Secretary shall deduct the amount of such past-due obligation from amounts otherwise payable under this title to such provider, organization, or plan.

"(2) Such deduction shall not be made until 6 months after the Secretary notifies the provider, organization, or plan of the amount to be deducted and the particular physicians to whom the deductions are attributable.

"(3) A deduction made under this subsection shall relieve the physician of the obligation (to the extent of the amount collected) to the United States, but the provider, organization, or plan shall have a right of action to collect from such physician the amount deducted pursuant to this subsection (including accumulated interest).

"(4) No deduction shall be made under this subsection if, within the 6-month period after notice is given to the provider, organization, or plan, the physician pays the past-due obligation, or ceases to be employed by the provider, organization, or plan.

"(5) The Secretary shall also apply the provisions of this subsection in the case of a physician who is a member of a group practice, if such group practice submits bills under this program as a group, rather than by individual physicians.

"(e) NOTIFICATION TO AND AGREEMENT WITH STATE MEDICAID AGENCIES.—The Secretary shall notify each State agency which administers a State plan approved under title XIX of the name of each physician who owes a past-due obligation. If such physician receives any payments, or is employed by an entity which receives any payments, under a State plan, the Secretary shall enter into an agreement with such State under which amounts otherwise payable under the State plan to such physician or the employing entity will be deducted in accordance with the formula and schedule agreed to under subsection (a), or as provided in subsection (d). Deductions made by the State shall be made only from the Federal share of the amount otherwise payable to the physician or employing entity, and the amount otherwise payable to the State under section 1903 shall be reduced accordingly pursuant to section 1903(c).

"(f) TRANSFER FROM TRUST FUNDS.—Amounts equal to the amounts deducted pursuant to this section shall be transferred from the Trust Fund from which the payment to the physician, provider, or other entity would otherwise have been made, to the general fund in the Treasury, and shall be credited as payment of the past-due obligation of the physician from whom (or with respect to whom) the deduction was made.".

(B) The amendment made by subparagraph (A) shall become effective on the date of the enactment of this Act.

(2)(A) Section 1902(a) of the Social Security Act (42 U.S.C. 1396a(a)) is amended—

(i) by striking out "and" at the end of paragraph (46);

(ii) by striking out the period at the end of paragraph (47) added by section 9407(a) of the Omnibus Budget Reconciliation Act of 1986 and inserting a semicolon and transferring and inserting such paragraph after paragraph (46);

(iii) by striking the period at the end of the paragraph (47) added by section 11005(b) of the Anti-Drug Abuse Act of 1986 and inserting "; and", by redesignating such paragraph as paragraph (48), and by transferring and inserting such paragraph after paragraph (47); and

(iv) by inserting after paragraph (48) the following new paragraph:

"(49) provide that the State shall make deductions, as specified by the Secretary pursuant to section 1891(e), from the Federal share of amounts otherwise payable to physicians for services furnished under the State plan.".

(B) Section 1903 of such Act (42 U.S.C. 1396b) is amended by inserting after subsection (b) the following new subsection:

"(c) The amount otherwise payable under subsection (a) to a State shall be reduced by the amount of any reductions in payments to physicians made by the State pursuant to section 1902(a)(49). An amount equal to the amount of the reduction in payment under this subsection shall be credited by the Secretary as repayment of past-due obligations under section 338E of the Public Health Service Act by the physicians from whom, or with respect to whom, the payments were offset.".

(C)(i) Except as provided in clause (ii), the amendments made by this paragraph shall apply to calendar quarters beginning after the date of the enactment of this Act.

(ii) In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation in order for the plan to meet the additional requirements imposed by the amendments made by this paragraph, the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet these additional requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act.

(3)(A) Section 338E(b)(1) of the Public Health Service Act (42 U.S.C. 254o(b)(1)) is amended by adding at the end thereof the following new sentence: "Amounts not paid within such period shall be subject to collection through deductions in Medicare and Medicaid payments pursuant to section 1891 and 1902(a)(49) of the Social Security Act.".

(B) The amendment made by subparagraph (A) shall become effective on the date of the enactment of this Act.

(j) STUDY OF PREVAILING CHARGES FOR ANESTHESIA SERVICES.—The Secretary of Health and Human Services shall conduct a study of the variations in conversion factors used by carriers under section 1842(b) of the Social Security Act to determine the prevailing charge for anesthesia services and shall report the results of the study and make recommendations for appropriate adjustments in such factors not later than January 1, 1989.

(k) CHANGE IN DATE FOR ANNUAL REPORT OF PHYSICIAN PAYMENT REVIEW COMMISSION.—

(1) Section 1845(b)(1) of such Act (42 U.S.C. 1395w-1(b)(1)) is amended by striking "March" and inserting in lieu thereof "May".

(2) The amendment made by paragraph (1) shall apply with respect to reports for years after 1987.

SEC. 4022. PAYMENTS TO HOSPITAL OUTPATIENT DEPARTMENTS FOR RADIOLOGY.

(a) AMOUNTS PAYABLE.—Section 1833 of the Social Security Act (42 U.S.C. 1395l) is amended—

(1) in subsection (a)(2)—

(A) by striking "and" in subparagraph (C),

(B) by adding "and" at the end of subparagraph (D), and

(C) by adding at the end thereof the following new subparagraph:

"(E) with respect to outpatient hospital radiology services (including diagnostic and therapeutic radiology, nuclear medicine and CAT scan procedures), the amount determined under subsection (m);"; and

(2) by adding at the end thereof the following new subsection:

"(m)(1)(A) The aggregate amount of the payments to be made in a cost reporting period under this part for services described in subsection (a)(2)(E) shall be equal to the sum of:

"(i) the lesser of—

"(I) the amount determined with respect to such services under subsection (a)(2)(B) excluding amounts for capital associated with services described in subsection (a)(2)(E) or

"(II) the blend amount for radiology services determined in accordance with subparagraph (B); and

"(ii) amounts for capital associated with services described in subsection (a)(2)(E).

"(B)(i) The blend amount for radiology services for a cost reporting period is the sum of:

"(I) the cost proportion (as defined in clause (ii)(I)) of the amount described in subparagraph (A)(i)(I); and

"(II) the charge proportion (as defined in clause (ii)(II)) of 62 percent of 80 percent of the prevailing charge for participating physicians for the same radiology services as if they were furnished in a physician's office in the same locality as determined under section 1842(b).

"(ii) In this subparagraph:

"(I) The term 'cost proportion' means 65 percent for cost reporting periods beginning in fiscal year 1989 and 50 percent for other cost reporting periods.

"(II) The term 'charge proportion' means 35 percent for cost reporting periods beginning in fiscal year 1989 and 50 percent for other cost reporting periods.".

(b) CONFORMING AMENDMENT.—Section 1833(a)(2)(B) of such Act (42 U.S.C. 1395l(a)(2)(B)) is amended in the matter preceding clause (i) by striking "(C) or (D)" and inserting in lieu thereof "(C), (D), or (E)".

(c) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to cost reporting periods beginning on or after October 1, 1988.

SEC. 4023. PART B PREMIUM.

Section 1839 of the Social Security Act (42 U.S.C. 1395r) is amended—

(1) in subsection (e), by striking "1989" each place it appears and inserting in lieu thereof "1990";

(2) in subsection (f)(1), by striking "or 1987" and inserting in lieu thereof "1987, or 1988"; and

(3) in subsection (f)(2), by striking "or 1988" and inserting in lieu thereof "1988, or 1989".

SEC. 4024. COVERAGE OF MENTAL HEALTH SERVICES.

(a) OUTPATIENT SERVICES UNDER PART B.—Section 1833(c) of the Social Security Act (42 U.S.C. 1395l(c)) is amended—

(1) by striking "$312.50" and inserting in lieu thereof "$1375.00"; and

(2) by adding at the end thereof the following:

"For purposes of this subsection, the term 'treatment' does not include brief office visits (as defined by the Secretary) for the sole purpose of prescribing or monitoring prescription drugs used in the treatment of such disorders.".

(b) PARTIAL HOSPITALIZATION COVERAGE.—

(1) Section 1861(s)(2)(B) of such Act (42 U.S.C. 1395x(s)(2)(B)) is amended by inserting "and partial hospitalization services incident to such services" before the semicolon.

(2) Section 1861 of such Act (42 U.S.C. 1395x) is amended by adding at the end thereof the following new subsection:

"(ff)(1) The term 'partial hospitalization services' means the items and services described in paragraph (2) prescribed by a physician and provided under a program described in paragraph (3) under the supervision of a physician pursuant to an individualized, written plan of treatment established and periodically reviewed by a physician (in consultation with appropriate staff participating in such program), which plan sets forth the physician's diagnosis, the type, amount, frequency, and duration of the items and services provided under the plan, and the goals for treatment under the plan.

"(2) The items and services described in this paragraph are—

"(A) individual and group therapy with physicians or psychologists (or other mental health professionals to the extent authorized under State law),

"(B) occupational therapy requiring the skills of a qualified occupational therapist,

"(C) services of social workers, trained psychiatric nurses, and other staff trained to work with psychiatric patients,

"(D) drugs and biologicals furnished for therapeutic purposes (which cannot, as determined in accordance with regulations, be self-administered),

"(E) individualized activity therapies that are not primarily recreational or diversionary,

"(F) family counseling (the primary purpose of which is treatment of the individual's condition),

"(G) patient training and education (to the extent that training and educational activities are closely and clearly related to individual's care and treatment),

"(H) diagnostic services, and

"(I) such other items and services as the Secretary may provide (but in no event to include meals and transportation);

that are reasonable and necessary for the diagnosis or active treatment of the individual's condition, reasonably expected to improve or maintain the individual's condition and functional level and to prevent relapse or hospitalization, and furnished pursuant to such guidelines relating to frequency and duration of services as the Secretary shall by regulation establish (taking into account accepted norms of medical practice and the reasonable expectation of patient improvement).

"(3) A program described in this paragraph is a hospital-based or hospital-affiliated program which is a distinct and organized intensive ambulatory treatment service offering less than 24-hour-daily care.".

(3) Section 1835(a)(2) of such Act (42 U.S.C. 1395n(a)(2)) is amended—

(A) by striking "and" at the end of subparagraph (D);

(B) by striking the period at the end of subparagraph (E) and inserting "; and"; and

(C) by inserting after subparagraph (E) the following new subparagraph:

"(F) in the case of partial hospitalization services, (i) the individual would require inpatient psychiatric care in the absence of such services, (ii) an individualized, written plan for furnishing such services has been established by a physician and is reviewed periodically by a physician, and (iii) such services are or were furnished while the individual is or was under the care of a physician.".

(4) Section 1833(c) of such Act, as amended by subsection (a), is further amended at the end thereof by inserting "or partial hospitalization services that are not directly provided by a physician" before the period.

(c) EFFECTIVE DATE; IMPLEMENTATION.—

(1) The amendments made by subsection (a) shall apply with respect to calendar years beginning on or after January 1, 1988.

(2)(A) The amendments made by subsection (b) shall become effective on the date of enactment of this Act.

(B) The Secretary of Health and Human Services shall implement the amendments made by subsection (b) so as to ensure that there is no additional cost to the medicare program by reason of such amendments.

SEC. 4025. RETURN ON EQUITY PAYMENTS TO OUTPATIENT DEPARTMENTS.

(a) IN GENERAL.—Section 1861(v)(1) of the Social Security Act (42 U.S.C. 1395x(v)(1)) is amended by adding at the end thereof the following new subparagraph:

"(S) Such regulations shall not include provision for specific recognition of any return on equity capital with respect to hospital outpatient departments.".

(b) CONFORMING AMENDMENT.—Section 1881(b)(2)(C) of the Social Security Act (42 U.S.C. 1395rr(b)(2)(C)) is amended by striking "facilities" and inserting in lieu thereof "facilities (other than hospital outpatient departments)".

(c) EFFECTIVE DATE.—The amendments made by this section shall become effective on January 1, 1988.

SEC. 4026. UPDATING MAXIMUM RATE OF PAYMENT PER VISIT FOR INDEPENDENT RURAL HEALTH CLINICS.

(a) IN GENERAL.—

(1) Section 1833 of the Social Security Act (42 U.S.C. 1395l) is amended by inserting after subsection (e) the following new subsection:

"(f) With respect to any year after 1988, in establishing a limit under subsection (a)(3) on payment for rural health clinic services provided by independent rural health clinics, the Secretary shall adjust the limit established under this subsection for the previous year increased by the percentage increase in an index developed by the Secretary that takes into account economic data and the actual costs of furnishing rural health clinic services.".

(2) Section 1833 of such Act, as added by paragraph (1), is amended—

(A) by inserting "(1)" after "(f)"; and

(B) by adding at the end thereof the following new paragraph:

"(2) Notwithstanding any other provision of this section, such limit in 1988 shall be $46.".

(b) CONTINGENT EFFECTIVE DATE.—

(1) Subject to paragraph (2), the amendment made by subsection (a) shall become effective 120 days after the date of enactment of this Act.

(2) The amendment made by subsection (a)(2) shall not become effective if (and shall be null and void) the Secretary of Health and Human Services, prior to the date described in paragraph (1), updates the payment limit under title XVIII of the Social Security Act for services with respect to which such amendment applies to account for increases in practice costs occurring since the date on which such limit was last changed.

SEC. 4027. COVERAGE OF CERTIFIED NURSE-MIDWIFE SERVICES UNDER PART B OF MEDICARE.

(a) COVERAGE OF SERVICES.—Section 1861(s)(2) of the Social Security Act (42 U.S.C. 1395x(s)(2)) is amended—

(1) by striking "and" at the end of subparagraph (J);

(2) by adding "and" at the end of subparagraph (K); and

(3) by adding at the end thereof the following new subparagraph:

"(L) certified nurse-midwife services;".

(b) PAYMENT OF BENEFITS.—

(1) Section 1832(a)(2)(B) of such Act (42 U.S.C. 1395k(a)(2)(B)) is amended—

(A) by striking "and" at the end of clause (ii);

(B) by striking the semicolon at the end of clause (iii) and inserting in lieu thereof a comma; and

(C) by adding at the end thereof the following new clause:

"(iv) certified nurse-midwife services; and".

(2) Section 1833(a)(1) of such Act (42 U.S.C. 1395k(a)(1)) is amended—

(A) by striking "and" at the end of subparagraph (F);

(B) by striking "services; and" in subparagraph (G) and inserting in lieu thereof "services,";

(C) by adding "and" at the end of subparagraph (H); and

(D) by adding at the end thereof the following new subparagraph: "(I) with respect to certified nurse-midwife services under section 1861(s)(2)(L), the amounts paid shall be the amount determined by a fee schedule established by the Secretary for the purposes of this subparagraph (but in no event more than 75 percent of the prevailing charge that would be allowed for the same service performed by a physician);".

(c) Definition.—Section 1861 of such Act (42 U.S.C. 1395x) is amended by adding at the end thereof the following new subsection:

"Certified Nurse-Midwife Services

"(ff)(1) The term 'certified nurse-midwife services' means services furnished by a certified nurse-midwife (as defined in paragraph (2)) which the certified nurse-midwife is legally authorized to perform under State law (or the State regulatory mechanism provided by State law), whether or not the certified nurse-midwife is under the supervision of, or associated with, a physician or other health care provider.

"(2) The term 'certified nurse-midwife' means a registered nurse who has successfully completed a program of study and clinical experience meeting guidelines prescribed by the Secretary, or has been certified by an organization recognized by the Secretary, and performs services in the area of management of the care of mothers and babies throughout the maternity cycle.".

(c) Conforming Changes.—

(1) Section 1905(a)(17) of such Act (42 U.S.C. 1396d(a)(17)) is amended by striking "as defined in subsection (m)" and inserting in lieu thereof "as defined in section 1861(ff)".

(2) Section 1905 of such Act (42 U.S.C. 1396d) is amended by striking subsection (m).

(d) Effective Date.—The amendments made by this section shall be effective with respect to services performed on or after July 1, 1988.

SEC. 4028. PSYCHOLOGIST SERVICES IN CLINICS.

(a) Coverage of Psychologists' Services Furnished at Rural Health Clinics.—

(1) Section 1861(aa)(1)(B) of the Social Security Act (42 U.S.C. 1395x(aa)(1)(B)) is amended by striking "physician assistant or by a nurse practitioner" and inserting in lieu thereof "physician assistant or a nurse practitioner (as defined in paragraph (3)), or by a clinical psychologist (as defined by the Secretary),".

(2) The amendment made by paragraph (1) shall be effective with respect to services furnished on or after the date of enactment of this Act.

(b) Direct Payment for Psychologists' Services Furnished at a Community Mental Health Center.—

(1) Section 1861(s)(2) of the Social Security Act (42 U.S.C. 1395x(s)(2)) is amended—

(A) by striking "and" at the end of subparagraph (J);

(B) by adding "and" at the end of subparagraph (K); and

(C) by adding at the end thereof the following new subparagraph:

"(L) qualified psychologist services;".

(2) Section 1832(a)(2)(B) of such Act (42 U.S.C. 1395k(a)(2)(B)) is amended—

(A) by striking "and" at the end of clause (ii);

(B) by striking the semicolon in clause (iii) and inserting in lieu thereof a comma; and

(C) by adding at the end thereof the following new clause:

"(iv) qualified psychologist services; and".

(3) Section 1833(a)(1) of such Act (42 U.S.C. 1395k(a)(1)) is amended—

(A) by striking "and" at the end of subparagraph (F);

(B) by striking "services; and" in subparagraph (G) and inserting in lieu thereof "services,";

(C) by adding "and" at the end of subparagraph (H); and

(D) by adding at the end thereof the following new subparagraph: "(I) with respect to qualified psychologist services under section 1861(s)(2)(L), the amounts paid shall be the amount determined by a fee schedule established by the Secretary for the purposes of this subparagraph;".

(4) Section 1861 of such Act (42 U.S.C. 1395x) is amended by adding at the end thereof the following new subsection:

"Qualified Psychologist Services

"(ff) The term 'qualified psychologist services' means services furnished by a clinical psychologist (as defined by the Secretary) at a community mental health center (as such term is used in the Public Health Service Act) which the psychologist is legally authorized to perform under State law (or the State regulatory mechanism provided by State law).

(5) The amendments made by this subsection shall be effective with respect to services performed on or after January 1, 1988.

SEC. 4029. PAYMENT FOR THERAPEUTIC SHOES FOR INDIVIDUALS WITH SEVERE DIABETIC FOOT DISEASE.

(a) Coverage Under Part B.—Section 1861(s) of the Social Security Act (42 U.S.C. 1395x(s)) is amended—

(1) by redesignating paragraphs (12) through (15) as paragraphs (13) through (16), respectively,

(2) by striking out "and" at the end of paragraph (10),

(3) by striking out the period at the end of paragraph (11) and inserting in lieu thereof "; and", and

(4) by inserting after paragraph (11) the following new paragraph:

"(12) extra-depth shoes with inserts or custom molded shoes for an individual with diabetes, if—

"(A) the physician who is managing the individual's diabetic condition (i) documents that the individual has peripheral neuropathy with evidence of callus formation, a history of pre-ulcerative calluses, a history of previous ulceration, foot deformity, or previous amputation, or poor circulation, and (ii) certifies that the individual needs such shoes under a comprehensive plan of care related to the individual's diabetic condition;

"(B) the particular type of shoes are prescribed by a podiatrist or other qualified physician (as established by the Secretary); and

"(C) the shoes are fitted and furnished by a podiatrist or other qualified individual (such as a pedorthist or orthotist, as established by the Secretary) who is not the physician described in subparagraph (A) (unless the Secretary finds that the physician is the only such qualified individual in the area).".

(b) Limitation on Benefit.—Section 1833 of such Act (42 U.S.C. 1395) is amended by inserting after subsection (e) the following new subsection:

"(f)(1) In the case of shoes described in section 1861(s)(12)—

"(A) no payment may be made under this part for the furnishing of more than one pair of shoes for any individual for any calendar year, and

"(B) with respect to expenses incurred in any calendar year, no more than the limit established under paragraph (2) shall be considered as incurred expenses for purposes of subsections (a) and (b).

Payment for shoes under this part shall be considered to include payment for any expenses for the fitting of such shoes.

"(2)(A) Except as provided by the Secretary under subparagraphs (B) and (C), the limit established under this paragraph—

"(i) for the furnishing of one pair of custom molded shoes is $300;

"(ii) for the furnishing of extra-depth shoes and inserts is—

"(I) $100 for the pair of shoes itself, and

"(II) $50 for inserts for a pair of shoes.

"(B) The Secretary or a carrier may establish limits for shoes that are lower than the limits established under subparagraph (A) if the Secretary finds that shoes and inserts of an appropriate quality are readily available at or below such lower limits.

"(C) For each year after 1988, each dollar amount under subparagraph (A) or (B) (as previously adjusted under this subparagraph) shall be increased by the same percentage increase as the Secretary provides with respect to durable medical equipment for that year, except that if such increase is not a multiple of $1, it shall be rounded to the nearest multiple of $1.

"(3) In this title, the term 'shoes' includes, except for purposes of subparagraphs (A)(ii) and (B) of paragraph (2), inserts for extra-depth shoes.".

(c) Modification of Exclusion.—Section 1862(a)(8) of such Act (42 U.S.C. 1395y(a)(8)) is amended by inserting ", other than shoes furnished pursuant to section 1861(s)(12)" before the semicolon.

(d) Conforming Amendments.—Sections 1864(a), 1865(a), 1902(a)(9)(C), and 1915(a)(1)(B)(ii)(I) of such Act (42 U.S.C. 1395aa(a), 1395bb(a), 1396a(a)(9)(C), 1396n(a)(1)(B)(ii)(I)) are each amended by striking out "paragraphs (12) and (13)" and inserting in lieu thereof "paragraphs (13) and (14)".

(e) Contingent Effective Date; Demonstration Project.—

(1) The amendments made by this section shall become effective (if at all) in accordance with paragraph (2).

(2)(A) The Secretary of Health and Human Services (in this paragraph referred to as the "Secretary"), shall establish a demonstration project to begin on October 1, 1988, to test the cost-effectiveness of furnishing therapeutic shoes under the medicare program to the extent provided under the amendments made by this section to a sample group of medicare beneficiaries.

(B)(i) The demonstration project under subparagraph (A) shall be conducted for an initial period of 24 months. Not later than October 1, 1990, the Secretary shall report to the Congress on the results of such project. If the Secretary finds, on the basis of existing data, that furnishing therapeutic shoes under the medicare program to the extent provided under the amendments made by this section is cost-effective, the Secretary shall include such finding in such report, such project shall be discontinued, and the amendments made by this section shall become effective on November 1, 1990.

(ii) If the Secretary determines that such finding cannot be made on the basis of existing data, such project shall continue for an additional 24 months. Not later than April 1, 1993, the Secretary shall submit a final report to the Congress on the results of such project. The amendments made by this section shall become effective on the first day of the first month to begin after such report is submitted to the Congress unless the report contains a finding by the Secretary that furnishing therapeutic shoes under the medicare program to the extent provided under the amendments made by this section is not cost-effective (in which case the amendments made by this section shall not become effective).

SEC. 4030. DURABLE MEDICAL EQUIPMENT.

(a) Purchase of Equipment.—Section 1889 of the Social Security Act (42 U.S.C. 1395zz) is amended:

(1) in subsection (a), by striking "In" and all that follows through the final period and inserting in lieu thereof the following: "Durable medical equipment (other than inexpensive equipment, or equipment that the Secretary designates as eligible for long-term rental) furnished by a participating provider (as defined in section 1842(h)(1)) shall be purchased on a lump sum or lease-purchase basis."; and

(2) by striking subsections (c) and (d) and inserting in lieu thereof the following new subsections:

"(c) Purchase of durable medical equipment (other than inexpensive equipment) on a lump sum basis shall be permitted only if the expected duration of the medical need for the equipment warrants a presumption that purchase of the equipment would be less costly than purchase on a lease-purchase basis.

"(d)(1) If payment for durable medical equipment (other than inexpensive equipment) is made in accordance with a lease-purchase agreement on an assignment-related basis, the total amount that may be paid (including coinsurance) may not exceed an amount equal to—

"(A) the reasonable charge on a lump sum basis, plus

"(B) a fair three month rental charge;

and title to the equipment shall pass to the individual if that sum is reached.

"(2) If payment is made for durable medical equipment (including inexpensive equipment) other than as provided by paragraph (1), or other than on a rental basis for equipment that the Secretary designates as eligible for long-term rental, the total amount that may be paid under this title may not exceed 80 percent (except as otherwise provided by subsection (b)) of the reasonable charge on a lump sum basis.

"(e) If a participating supplier (as defined in section 1842(h)(1)) offers for purchase or rental particular durable medical equipment, the supplier shall offer to furnish that equipment (other than inexpensive equipment) to an individual entitled to benefits under this title on a lease-purchase basis if the individual so requests.

"(f) If durable medical equipment is rented on an assignment-related basis, the beneficiary shall be entitled (as part of the terms under the assignment) to use of the equipment (without additional charge to the beneficiary beyond the coinsurance) as long as the equipment is needed.

"(g) For purposes of this section, the term 'inexpensive equipment' means equipment for which the prevailing charge does not exceed $120 (for equipment first furnished in 1988), or does not exceed that amount as may be adjusted by the Secretary from time to time (for equipment first furnished after 1988).".

(b) Three-Month Freeze on Increases in Payments.—Notwithstanding any other provision of law—

(1)(A) the payment levels under title XVIII of the Social Security Act for durable medical equipment and other non-physician services paid on a reasonable charge basis under part B of such title for the 3-month period beginning January 1, 1988, shall be no higher than the payment levels which were in effect under such title for such equipment on December 31, 1987, excluding reductions made by the final sequester order issued by the President on November 20, 1987, pursuant to section 252(b) of the Balanced Budget Emergency Deficit Control Act of 1985 (but subject to the provisions of section 4014 of this Act),

(B) the adjustment in the payment levels for such equipment and services that would have become effective January 1, 1988, if not for the enactment of subparagraph (A), shall become effective on April 1, 1988, and

(C) the adjustment in the inflation index change for such equipment that becomes effective January 1, 1989, shall be 75 percent of the adjustment that would otherwise be made on that date; and

(2)(A) subject to the last sentence of this subsection, each agreement with a participating supplier in effect for 1987 under section 1842(h)(1) of the Social Security Act shall remain in effect for the three-month period beginning on January 1, 1988; and

(B) the effective period for agreements under such section entered into for 1988 shall be the nine-month period beginning on April 1, 1988.

An agreement with a participating supplier in effect for 1987 under section 1842(h)(1) of the Social Security Act shall not remain in effect for the period described in paragraph (2)(A) if the participating supplier requests that the agreement be terminated.

(c) Effective Date.—The amendments made by subsection (a) shall apply to equipment first furnished an individual on or after April 1, 1988.

SEC. 4031. SERVICES OF A PHYSICIAN ASSISTANT.

(a) Services Covered.—Section 1861(s)(2)(K) of the Social Security Act (42 U.S.C. 1395x(s)(2)(K)) is amended by striking "defined)" and all that follows through "surgery" and inserting in lieu thereof "defined)".

(b) Determination of Payment Amount.—Section 1842(b)(12)(B) of such Act (42 U.S.C. 1395u(b)(12)(B)) is amended to read as follows:

"(B) In subparagraph (A)(ii)(II), the term 'applicable percentage' means—

"(i) 75 percent in the case of services performed (other than as an assistant at surgery) in a hospital,

"(ii) 85 percent in the case of services performed in a skilled nursing facility or intermediate care facility, and

"(iii) 65 percent in the case of other services.".

(c) Effective Date.—The amendments made by this section shall apply with respect to services furnished on or after January 1, 1988.

SEC. 4032. PAYMENT FOR AMBULATORY SURGERY AT EYE, AND EYE AND EAR, SPECIALTY HOSPITALS.

(a) In General.—Section 1833(i)(3)(B)(ii) of the Social Security Act (42 U.S.C. 1395l(i)(3)(B)(ii)) is amended—

(1) by striking "In" and inserting in lieu thereof "Subject to the last sentence of this clause, in"; and

(2) by adding at the end thereof the following:

"In the case of a hospital that makes application to the Secretary and demonstrates that it specializes in eye services or eye and ear services (as determined by the Secretary), receives more than 30 percent of its total revenues from outpatient services, and was an eye specialty hospital or an eye and ear specialty hospital on October 1, 1987, the cost proportion and ASC proportion in effect under subclauses (I) and (II) for cost reporting periods beginning in fiscal year 1988 shall remain in effect for cost reporting periods beginning in subsequent fiscal years.".

(b) Study on Payment Rates.—The Secretary of Health and Human Services shall conduct a study on modifying the amount of payments permitted under section 1833(i) of the Social Security Act with respect to hospitals that specialize in specific surgical procedures and shall report the results of such study to the Congress not later than twelve months after the date of enactment of this Act.

(c) Effective Date.—The amendments made by subsection (a) shall be effective as if included in the amendment made by section 9343(a)(1)(B) of the Omnibus Budget Reconciliation Act of 1986.

SEC. 4033. CLINICAL DIAGNOSTIC LABORATORY TESTS.

(a) Payment.—Section 1833(h) of the Social Security Act (42 U.S.C. 1395l(h)(2)) is amended—

(1) in paragraph (2), by striking "60" and "62" and inserting in lieu thereof "55" and "57", respectively; and

(2) in paragraph (4)(B)—

(A) by striking "or" at the end of clause (i), and

(B) by striking clause (ii) and inserting in lieu thereof the following new clauses:

"(ii) after December 31, 1987, and before January 1, 1989, is equal to 100 percent of the median of all the fee schedules established for that test for that laboratory setting under paragraph (1), or

"(iii) after December 31, 1988, and so long as a fee schedule for the test has not been established on a nationwide basis, is equal to 97 percent of the median of all the fee schedules established for that test for that laboratory setting under paragraph (1).".

(b) Intermediate Sanctions.—Part B of title XVIII is amended by adding at the end thereof the following new section:

"INTERMEDIATE SANCTIONS FOR PROVIDERS OF CLINICAL DIAGNOSTIC LABORATORY TESTS"

"Sec. 1846. (a) If the Secretary determines that any provider or clinical laboratory certified for participation under this title no longer substantially meets the conditions of participation specified under this title with respect to the provision of clinical diagnostic laboratory tests under this part, the Secretary may (for a period not to exceed one year) impose intermediate sanctions developed pursuant to subsection (b), in lieu of canceling immediately the certification of the provider or clinical laboratory.

"(b)(1) The Secretary shall develop and implement—

"(A) a range of intermediate sanctions to apply to providers or certified clinical laboratories under the conditions described in subsection (a), and

"(B) appropriate procedures for appealing determinations relating to the imposition of such sanctions.

"(2)(A) The intermediate sanctions developed under paragraph (1) shall include—

"(i) directed plans of correction,

"(ii) civil fines and penalties,

"(iii) payment for the costs of onsite monitoring by an agency responsible for conducting certification surveys, and

"(iv) suspension of all or part of the payments to which a provider or certified clinical laboratory would otherwise be entitled under this title with respect to clinical diagnostic laboratory tests provided on or after the date in which the Secretary determines that intermediate sanctions should be imposed pursuant to subsection (a).

"(B) The sanctions specified in subparagraph (A) are in addition to sanctions otherwise available under State or Federal law.

"(3) The Secretary shall develop and implement specific procedures with respect to when and how each of the intermediate sanctions developed under paragraph (1) is to be applied, the amounts of any fines, and the severity of each of these penalties. Such procedures shall be designed so as to minimize the time between identification of violations and imposition of these sanctions and shall provide for the imposition of incrementally more severe fines for repeated or uncorrected deficiencies.".

(c) Effective Date.—

(1) The amendments made by subsection (a) shall apply with respect to services furnished on or after January 1, 1988.

(2) The amendment made by subsection (b) shall become effective on January 1, 1990.

SEC. 4034. INCREASE IN PART B DEDUCTIBLE.

(a) In General.—Section 1833(b) of the Social Security Act is amended by striking "$75" and inserting in lieu thereof "$85".

(b) Effective Date.—The amendment made by subsection (a) shall apply with respect to calendar years after 1988.

Subpart IV—Provisons Affecting PRO's

SEC. 4041. REFORMS OF PEER REVIEW PROGRAM.

(a) Report on Improvements in Procedures for Imposing Sanctions.—Not later than one year after the date of enactment of this Act, the Secretary of Health and Human Services shall report to Congress on the improved procedures for imposing sanctions against a practitioner or person under section 1156 of the Social Security Act established through agreement by the Health Care Financing Administration, the American Association of Retired Persons, the American Medical Association, and the Office of the Inspector General in the Department of Health and Human Services. The report shall set forth such improved procedures, describe the response of physicians and providers to the procedures, assess whether the procedures effect an appropriate balance between procedural fairness and the need for ensuring quality medical care, comment on the alternative provider-patient notification procedure contained in the agreement, and recommend whether such procedures should apply to institutional providers of health care services.

(b) Requiring Reasonable Notice and Opportunity for Discussion Prior to Denial of Claim.—

(1) Section 1154(a)(3) of the Social Security Act (42 U.S.C. 1320c-3(a)(3)) is amended to read as follows:

"(3)(A) Subject to subparagraph (B), whenever the organization makes a determination that any health care services or items furnished or to be furnished to a patient by any practitioner or provider are disapproved, the organization shall promptly notify such patient and the agency or organization responsible for the payment of claims under title XVIII of this Act of such determination.

"(B) The notification under subparagraph (A) shall not occur until the organization has—

"(i) made a preliminary notification to such practitioner or provider of such determination, and

"(ii) provided such practitioner or provider an opportunity for discussion and review of the determination.

The discussion and review conducted under subparagraph (B)(ii) shall not affect the rights of a practitioner or provider to a formal reconsideration of a determination under this part (as provided under section 1155).".

(2) The amendment made by subsection (a) shall apply with respect to services or items furnished or to be furnished on or after the date of enactment of this Act.

(c) Separate Funding Levels.—

(1) Section 1866(a)(1)(F)(i)(III) of the Social Security Act (42 U.S.C. 1395cc(a)(1)(F)(i)(III)) is amended—

(A) by striking "1986" and inserting in lieu thereof "1988"; and

(B) inserting "and for any direct or administrative costs incurred as a result of review functions added with respect to a subsequent fiscal year" after "inflation".

(2) Section 1866(a)(4)(C)(ii) of such Act (42 U.S.C. 1395cc(a)(4)(C)(ii)) is amended to read as follows:

"(ii) shall not be less in the aggregate for a fiscal year—

"(I) in the case of hospitals, than the amount specified in paragraph (1)(F)(i)(III), and

"(II) in the case of facilities and agencies, than the amounts the Secretary determines to be sufficient to cover the costs of such organizations' conducting the activities described in subparagraph (A) with respect to such facilities or agencies under part B of title XI.".

(3) The amendments made by this subsection shall apply with respect to fiscal years beginning on or after October 1, 1988.

(d) Contract Requirements.—

(1) Section 1153 of the Social Security Act (42 U.S.C. 1320c–2) is amended by adding at the end thereof the following new subsection:

"(h)(1) The Secretary shall publish in the Federal Register any new policy or procedure adopted by the Secretary that affects the performance of contract obligations under this section not less than 45 days prior to the date on which such policy or procedure is to take effect.

"(2) The Secretary shall publish in the Federal Register the general criteria and standards used for evaluating the efficient and effective performance of contract obligations under this section and shall provide opportunity for public comment with respect to such criteria and standards.

"(3) The Secretary shall regularly furnish each peer review organization with a contract under this section with a report that documents the performance of the organization in relation to the performance of other such organizations.".

(2) Section 1153(e) of such Act (42 U.S.C. 1320c–2(e)) is amended—

(A) by inserting "(1)" after "(e)";

(B) by striking "Contracting" and inserting in lieu thereof "Except as provided in paragraph (2), contracting"; and

(C) by adding at the end thereof the following new paragraph:

"(2) If a peer review organization with a contract under this section is required to carry out a review function in addition to any function required to be carried out at the time the Secretary entered into or renewed the contract with the organization, the Secretary shall, prior to requiring such organization to carry out such additional function, negotiate the necessary contractual modifications, including modifications that provide for an appropriate adjustment (in light of the cost of such additional function) to the amount of reimbursement made to the organization.".

(3) Section 1153(c)(3) of such Act (42 U.S.C. 1320c–2(c)(3)) is amended by striking "two" and "biennial" and inserting in lieu thereof "three" and "triennial", respectively.

(4)(A) The amendments made by paragraphs (1) and (2) shall become effective on the date of enactment of this Act.

(B) The amendment made by paragraph (3) shall apply with respect to contracts entered into or renewed on or after the date of enactment of this Act.

(e) Preference in Contracting with In-State Organizations.

(1) Section 1153(b)(1) of such Act (42 U.S.C. 1320c–2(b)(1)) is amended by striking "1152(1)(A)" and inserting in lieu thereof "1152(1)(A). If more than one such qualified organization meets the criteria of the preceding sentence, the Secretary shall give additional consideration to an in-State organization. For purposes of this section, an in-State organization is an organization that has its primary place of business in the State in which review will be conducted (or, which is owned by a parent corporation the headquarters of which is located in such State).".

(2) Section 1153 of such Act, as amended by subsection (d)(1), is further amended by adding at the end thereof the following new subsection:

"(i)(1) Notwithstanding any other provision of this section, the Secretary shall not renew a contract with any organization that is not an in-State organization unless the Secretary has first complied with the requirements of paragraph (2).

"(2)(A) Not later than six months before the date on which a contract period ends with respect to an organization that is not an in-State organization, the Secretary shall publish in the Federal Register—

"(i) the date on which such period ends; and

"(ii) the period of time in which an in-State organization may submit a proposal for the contract ending on such date.

"(B) If one or more qualified in-State organizations submits a proposal within the period of time specified under subparagraph (A)(ii), the Secretary shall not automatically renew the current contract on a noncompetitive basis, but shall provide for competition for the contract in the same manner as a new contract under subsection (b).".

(3)(A) The amendment made by paragraph (1) shall apply with respect to contracts entered into on or after the date of enactment of this Act.

(B) The amendment made by paragraph (2) shall apply with respect to contracts scheduled to be renewed on or after the first day of the eighth month to begin after the date of enactment of this Act.

(f) Requirements Relating to Functions of Peer Review Organizations.—

(1) Section 1154(a) of such Act (42 U.S.C. 1320c–3(a)) is amended by adding at the end thereof the following new paragraph:

"(15) During each year of the contract entered into under section 1153(b), the organization shall perform not less than 20 percent of its review activities of rural hospitals *under paragraph (1) on the site where services or items are provided and shall include, as part of such on-site review, on-site review at each rural hospital in the organization's area.".*

(2) Section 1154(a)(4)(B) of the Social Security Act (42 U.S.C. 1320c-3(a)(4)(B)) is amended—

(A) by inserting before the period at the end of the first sentence the following: "and whether individuals enrolled with an eligible organization have adequate access to health care services provided by or through such organization (as determined, in part, by a survey of individuals enrolled with the organization who have not yet used the organization to receive such services). The contract of each organization shall also provide that with respect to health care provided by a health maintenance organization or competitive medical plan under section 1876, the organization shall maintain a beneficiary outreach program designed to apprise individuals receiving care under such section of the role of the peer review system, of the rights of the individual under such system, and of the method and purposes for contacting the organization"; and

(B) by striking "previous sentence" and inserting in lieu thereof "previous two sentences".

(3) Section 1154(a)(5) of such Act (42 U.S.C. 1320c-3(a)(5)) is amended—

(A) by inserting "(A)" after "(5)"; and

(B) by adding at the end thereof the following new subparagraph:

"(B) The organization shall arrange for several educational sessions to be conducted during a year at hospitals in the organization's area for the purpose of providing providers, practitioners, and hospital personnel with the criteria used by the organization in making the determinations under subparagraphs (A), (B), and (C) of paragraph (1) with respect to such hospital.".

(4) Section 1154(a)(7)(A) of such Act (42 U.S.C. 1320c-3(a)(7)(A)) is amended—

(A) by inserting "(i)" after "(A)";

(B) by striking the semicolon and inserting in lieu thereof "; and"; and

(C) by adding at the end thereof the following new clause:

"(ii) in the case of psychiatric and physical rehabilitation services, make arrangements to ensure that (to the extent possible) initial review of such services be made by a physician who is trained in psychiatry or physical rehabilitation (as appropriate).".

(5) Section 1154(a)(6) of such Act (42 U.S.C. 1320c-3(a)(6)) is amended by adding at the end thereof the following:

"As a component of the norms described in subparagraph (A) or (B), the organization shall take into account the special problems associated with delivering care in remote rural areas, the availability of service alternatives to inpatient hospitalization, and social factors that affect the safety and efficacy of service delivery.".

(6) The amendments made by this subsection shall apply with respect to contracts entered into or renewed on or after the date of enactment of this Act.

(g) Telecommunications Demonstration Projects.—The Secretary of Health and Human Services shall enter into agreements with entities submitting applications under this subsection (in such form as the Secretary may provide) to establish demonstration projects to examine the feasibility of requiring instruction and oversight of rural physicians, in lieu of imposing sanctions, through use of video communication between rural hospitals and teaching hospitals under this title. Under such demonstration projects, the Secretary of Health and Human Services may provide for payments to physicians consulted via video communication systems. No funds may be expended under the demonstration projects for the acquisition of capital items including computer hardware.

(h) Provider Representation of Medicare Beneficiaries During Appeals of Peer Review Determinations.—Section 1155 of such Act (42 U.S.C. 1355) is amended—

(1) by inserting "(a)" before "Any"; and

(2) by adding at the end thereof the following new subsection:

"(b) Sections 206(a), 1102, and 1871 shall not be construed as authorizing the Secretary to prohibit an individual from being represented under this section by a person that furnishes or supplies the individual, directly or indirectly, with services or items solely on the basis that the person furnishes or supplies the individual with such a service or item. If a person furnishes services or items to an individual and represents the individual under this section, the person may not impose any financial liability on such individual in connection with such representation.".

(i) Financial Liability of Medicare Beneficiaries in Case of Denial of Payment for Substandard Care.—

(1) Section 1866(a)(1)(K) of such Act (42 U.S.C. 1395cc(a)(1)(K)) is amended by striking "person" and inserting in lieu thereof "person any amounts (including the amount of any copayment or deductible under this title)".

(2) Section 1842(l)(1)(A)(iii) of such Act (42 U.S.C. 1395u(l)(1)(A)(iii)) is amended—

(A) by inserting "(I)" after "(iii)";

(B) by striking "and" and inserting in lieu thereof "or"; and

(C) by adding at the end thereof the following new subclause:

"(II) a peer review organization determines under part B of title XI that payment may not be made by reason of section 1154(a)(1)(B), and".

(3) Section 1842(b)(3)(B)(ii)(II) of such Act (42 U.S.C. 1395(b)(3)(B)(ii)(II)) is amended by striking "1862(a)" and inserting in lieu thereof "1862(a) or by reason of a determination under section 1154(a)(1)(B)".

(4)(A) The amendment made by paragraph (1) shall apply to provider agreements as of the date of enactment of this Act.

(B) The amendments made by paragraph (2) shall apply to items and services furnished on or after the date of enactment of this Act.

(C)(i) The amendment made by paragraph (3) shall apply to items and services furnished on or after the date of enactment of this Act.

(ii) The Secretary of Health and Human Services shall provide for such timely amendments to contracts under section 1842 of the Social Security Act, and regulations, to such extent as may be necessary to implement the amendment made by paragraph (3).

(j) Patient Liability for Hospital Charges During Appeal of Discharge Notice.—

(1) Section 1154(e)(2) of such Act (42 U.S.C. 1320c-3(e)(2)) is amended by adding at the end thereof the following: "If the hospital requests such a review, it shall also notify the patient that the review has been requested.".

(2) Sections 1154(e)(3)(A)(i) (42 U.S.C. 1320c-3(e)(3)(A)(i)) and 1154(e)(3)(B) (42 U.S.C. 1320c-3(e)(3)(B)) of such Act are each amended by inserting "or (2)" after "paragraph (1)".

Subpart V—Provisions Affecting Medicaid

SEC. 4051. NURSING HOME QUALITY.

(a) Revision of Requirements for Skilled Nursing Facilities.—

(1) Subsection (j) of section 1861 of the Social Security Act (42 U.S.C. 1395x) is amended to read as follows:

"Skilled Nursing Facility

"(j) The term 'skilled nursing facility' means (except for purposes of subsection (a)(2)) an institution (or a distinct part of an institution) that has in effect a transfer agreement (meeting the requirements of subsection (l)) with one or more hospitals having agreements in effect under section 1866 and that meets the following requirements:

"(1) Services.—The institution is primarily engaged in providing to inpatients (A) skilled nursing care and related services for patients who require medical or nursing care, or (B) rehabilitation services for the rehabilitation of injured, disabled, or sick persons, and is not primarily for the care and treatment of mental diseases.

"(2) Development of policies.—The institution has policies, which are developed with the advice of (and with provision for review of such policies from time to time by) a group of professional personnel, including one or more physicians and one or more registered professional nurses, to govern the skilled nursing care and related medical or other services it provides.

"(3) Responsibility for execution of policies.—The institution has a physician, a registered professional nurse, or a medical staff responsible for the execution of the policies developed as provided in paragraph (2).

"(4) Physician supervision.—The institution—

"(A) requires that the health care of every resident be provided under the supervision of a physician, and

"(B) provides for having a physician available to furnish necessary medical care in case of emergency.

"(5) Clinical records; assessments.—

"(A) The institution maintains clinical records (on a discipline-specific or interdisciplinary basis) on all residents.

"(B) The institution provides for—

"(i) accurate assessments of each patient in accordance with the requirements of subparagraph (C), and

"(ii) the results of such assessments to be recorded in the clinical records of the resident and to be used in formulating, reviewing, and revising the plan of care developed under paragraph (8).

"(C)(i)(I) A preliminary assessment shall be performed with respect to each resident within 48 hours of his or her admission to the institution. Such assessment shall be coordinated with any State-required preadmission screening to the maximum extent practicable in order to avoid duplicative testing and effort.

"(II) A comprehensive assessment shall be performed with respect to each resident within 21 days of his or her admission to the institution, at least annually thereafter, and whenever there is a significant change in the resident's mental or physical condition.

"(ii) An assessment required by this paragraph—

"(I) shall include (but not be limited to) the identification of medical problems and the assessment of physical, mental, and psychosocial functioning,

"(II) shall be coordinated by a registered professional nurse and carried out in consultation with appropriate health care providers (such as licensed practical nurses, nursing aides, activities professionals, social workers, pharmacists, nutritionists, mental health professionals, and rehabilitation therapists),

"(III) shall utilize a minimum data set of core elements and common definitions and guidelines for utilization specified by the Secretary (in accordance with guidelines established by the Secretary), and

"(IV) shall be available for review and comment by the resident in accordance with the resident's right to participate in developing his or her plan of care under paragraph (8)(A)(i).

"(D) The institution must not admit, on or after January 1, 1989, any new resident who—

"(i) is mentally ill (as defined in section 1902(o)(7)) unless the State mental health authority, based on an independent physical and mental evaluation, has determined prior to admission that, because of the physical and mental condition of the individual, the individual requires the level of services provided by such institution, and, if the individual requires such level of services, whether the individual requires active treatment for mental illness, or

"(ii) is mentally retarded (as defined in section 1902(o)(7)) unless the State mental retardation or developmental disability authority has determined prior to admission that, because of the physical and mental condition of the individual, the individual requires the level of services provided by such institution, and, if the individual requires such level of services, whether the individual requires active treatment for mental retardation.

The institution must make a copy of any such determination part of the resident's clinical records.

"(6) REQUIRED NURSING CARE AND SOCIAL SERVICES.—

"(A) Except as provided in subparagraph (C), the institution provides 24-hour licensed nursing service that is sufficient to meet nursing needs in accordance with the policies developed as provided in paragraph (2), and has at least one registered professional nurse employed full time.

"(B) Except as provided in subparagraph (C), in the case of an institution with more than 120 beds, the institution has at least one social worker (with at least a bachelor's degree in social work) employed full time.

"(C) A State may waive a requirement of subparagraph (A) or (B) with respect to an institution if—

"(i) the institution demonstrates to the satisfaction of the State that the institution has been unable, despite diligent efforts (including offering wages at the community prevailing rate), to recruit appropriate personnel, and

"(ii) the State determines that a waiver of the requirement will not endanger the health or safety of individuals staying in the institution.

A waiver under this subparagraph shall be subject to annual renewal and to the review of the Secretary (as described in section 1902(a)(33)(B)) and shall be accepted by the Secretary for purposes of this title to the same extent as is the State's certification of the institution.

"(7) DRUGS AND BIOLOGICALS.—The institution establishes appropriate methods and procedures for the dispensing and administering of drugs and biologicals.

"(8) SCOPE OF SERVICES UNDER PLAN OF CARE.—The institution provides services to maintain or improve each resident's mental and psychosocial well-being, as well as physical well-being, in accordance with a written plan of care which—

"(A) is developed—

"(i) to the extent practicable, in consultation with the resident (or his or her legal representative), and

"(ii) by a multidisciplinary team coordinated by a registered professional nurse,

"(B) is periodically reviewed and revised after each assessment under paragraph (5)(B), and

"(C) describes the medical, nursing, and psychosocial needs of the resident and how such needs will be met.

"(9) NONDISCRIMINATION.—

"(A) The institution establishes and maintains identical policies and practices regarding transfers, discharges, and the provision of those services required under this title or the State plan under title XIX for all individuals regardless of source of payment.

"(B)(i) The institution does not require individuals applying to reside or residing in the institution to waive their rights to benefits under this title or title XIX.

"(ii) The institution prominently displays in the institution and provides to individuals applying to reside or residing in the institution written information regarding how to apply for and use benefits under this title or title XIX and how to receive refunds for previous payments covered by such benefits.

"(C)(i) Subject to clauses (ii) and (iii), the institution does not require any oral or written assurance from any person with respect to an individual who is staying in (or applying for admission to) the institution that such person will be financially responsible for any charges with respect to the individual.

"(ii) An institution may require a person who is authorized by law to disburse the income of such an individual to enter into an agreement to pay, solely from the income of the individual, for items and services furnished to the individual for which payment may not be made under this title or under a State plan approved under title XIX.

"(iii) Where an institution furnishes, at the request of an individual, items or services for which payment may not be made (in whole or in part) under this title or under a State plan approved under title XIX, such institution may require payment by the individual (or by another on behalf of the individual) in an amount equal to the amount for which payment may not be made under such title or plan if, before accepting an item or service, the individual is informed of the amount for which payment will not be made for such item or service. The eligibility of an individual for benefits under this title or medical assistance under title XIX shall not be affected by any payment made by such individual (or other person on behalf of the individual) under the preceding sentence, and the failure to make any such payment shall not constitute grounds for transfer or discharge from the institution.

"(D) The institution does not require (as a condition of admission or continued stay in the facility) any nonrefundable deposit, gift, contribution, or prepayment to be made by or on behalf of an individual.

"(10) RESIDENT'S RIGHTS.—The institution protects and promotes the rights of individuals residing in the institution, including each of the following rights:

"(A) The right to be informed orally and in writing at the time of admission to the institution of the resident's legal rights during the stay at the facility and to have these rights described in a written statement, which is made available to the resident upon reasonable request and which is updated upon changes in such rights.

"(B) The right to be informed in writing before or at the time of admission and periodically during his or her stay, of services available in the facility and of related charges for such services, including any charges for services not covered under this title or under a State plan approved under title XIX, or not covered by the facility's basic per diem rate.

"(C) In the case of an individual who is unable (as determined by State law) to exercise his or her rights, the rights (as specified in regulation by the Secretary) that may be exercised by another person on behalf of the resident (as permitted under State law).

"(D) The right to prompt efforts by the institution to resolve grievances the individual may have, including those with respect to the behavior of other residents.

"(E) The right to file complaints, voice grievances, and recommend changes in policies and service to the staff of the facility and to outside representatives of his or her choice, free from restraint, interference, coercion, discrimination, or reprisal.

"(F) The right (with those of family members) to organize, maintain, and participate in resident advisory and family councils, including the right to assistance from a designated staff member, space, and privacy for meetings.

"(G) The right to participate freely in social, religious, and community activities that do not interfere with the rights of others residing in the facility.

"(H) The right to associate and communicate privately with persons of his or her choice.

"(I) The right to examine, upon reasonable request, the results of the most recent certification survey conducted by the Secretary or a State or local agency with respect to the institution and any plan of correction in effect with respect to the institution.

"(J) Any other right established by the Secretary.

"(11) TRANSFER AND DISCHARGE RIGHTS.—

"(A) An individual is transferred or discharged only for medical reasons, or for his welfare or that of other patients, or for nonpayment of his stay (except as prohibited by titles XVIII or XIX of the Social Security Act), and is given reasonable advance notice to ensure orderly transfer or discharge.

"(B) The institution documents in a resident's records the circumstances of a discharge or transfer.

"(C) The institution notifies a resident, as evidenced by a signed acknowledgment, at least 30 days in advance of the resident's transfer or discharge except where—

"(i) the resident's health improves sufficiently to allow a more immediate transfer or discharge;

"(ii) a more immediate transfer or discharge is necessitated by the resident's urgent medical needs,

as explicitly recorded by the attending physician in the resident's record.

"(D) Before effecting a transfer of a resident, the institution provides the resident with—

"(i) a notice of the resident's right to appeal the transfer to the State survey and certification agency, and

"(ii) the name, mailing address, and telephone number of the State long-term care ombudsman.

"(E) The institution provides sufficient preparation and orientation to residents to provide for safe and orderly transfer or discharge from the institution.

"(F) The institution provides—

"(i) written information to each individual entitled to benefits under a State plan approved under title XIX concerning the provisions of the State plan regarding bed holds before discharging the resident for hospitalization or therapeutic leave, and

"(ii) at the time of discharge of a resident to a hospital or for therapeutic leave, written notice to the resident of the duration of any bed hold under the State plan.

"(G) The Secretary shall establish requirements pertaining to inter- and intra-institution transfers and discharges, including patient rights of notice and appeal.

"(12) ACCESS AND VISITATION RIGHTS.—The institution—

"(A) permits immediate access to any resident by any officially designated representative of the Secretary, the State (including representatives of the State office of long-term care ombudsman), the resident's individual physician, relatives who are visiting with the consent of the individual, and other individuals designated in writing by the resident,

"(B) permits reasonable access during regular business hours by any entity or individual that provides health, social, or legal services to a resident, and

"(C) permits representatives of the State office of long-term care ombudsman, with the permission of the resident (or his or her legal representative) and consistent with State law, to examine a resident's medical, nursing, and social records.

"(13) QUALITY OF LIFE.—The institution cares for its residents in such a manner and in such an environment as will promote maintenance or enhancement of the quality of life of each resident.

"(14) QUALITY OF CARE.—(A) The institution meets the needs of each resident for necessary medical, nursing, restorative, and psychosocial services that permit the resident to attain and maintain the highest feasible level of functioning in the least restrictive environment possible in light of his or her condition.

"(B) The Secretary shall establish standards for assessing the quality of care provided by institutions in at least the following areas:

"(i) vision and hearing,

"(ii) activities of daily living,

"(iii) use of physical restraints,

"(iv) accidents,

"(v) nutrition and fluid intake,

"(vi) cognitive, behavioral, and social functioning,

"(vii) use of urinary catheters,

"(viii) prevention and care of pressure ulcers, and

"(ix) use of drugs.

"(15) QUALITY ASSESSMENT AND ASSURANCE.—The institution maintains a quality assessment and assurance program that meets the following requirements:

"(A) A committee, consisting of the director of nursing services, a physician designated by the institution, and at least three other members of the staff, meets at least quarterly to identify issues with respect to which quality assessment and assurance activities are necessary.

"(B) One member of the committee described in subparagraph (A) is assigned primary responsibility for ongoing coordination and oversight of quality assessment and assurance activities.

"(C) The committee seeks comments and suggestions from residents and staff with respect to quality assessment and assurance issues (and maintains a permanent record of the comments and suggestions received).

"(D) Issues addressed by the committee at least annually shall include—

"(i) prevention measures and the occurrence of infectious diseases,

"(ii) the promotion of behavioral, cognitive, and social functioning,

"(iii) quality of life,

"(iv) use of medications (including a review of each resident's drug regimen),

"(v) use of chemical and physical restraints,

"(vi) appropriateness, adequacy, and implementation of nursing plans,

"(vii) frequency and seriousness of accident reports (and measures for preventing accidents), and

"(viii) frequency and resolution of residents' grievances and complaints (and mechanisms for monitoring the satisfaction of residents with the quality of care).

"(E) The committee develops and implements appropriate plans of action to correct identified quality deficiencies.

"(F) The committee—

"(i) documents—

"(I) the time expended by it in quality assessment and assurance activities, and

"(II) the issues that it has addressed, and

"(ii) makes such documentation available, upon request, to Secretary and to the appropriate agency responsible for conducting certification surveys with respect to the institution.

"(G)(i) Except as provided in clause (ii), the confidentiality of committee records is maintained.

"(ii) Committee records shall be made available in accordance with subparagraph (F)(ii) and as required by any other provision of law or by court order.

"(H) In determining whether an institution complies with the requirements of this paragraph, the Secretary and the appropriate State agency responsible for conducting certification surveys with respect to the institution shall take into account the degree to which the committee identified and acted upon any deficiencies found with respect to the institution.

"(16) REQUIRED TRAINING OF NURSE AIDES.—

"(A)(i) The institution—

"(I) provides (by itself or through others) training under a program that is recognized and approved by the State under clause (ii) for individuals that are hired or utilized by the institution as nurse aides, and

"(II) does not employ or utilize any individual as a nurse aide for more than 6 months unless the individual has successfully completed a training and competency evaluation program that is recognized and approved by the State under clause (ii).

"(ii) Not later than January 1, 1990, each State, as a condition of approval of its State plan under title XIX, shall—

"(I) specify those training programs that the State recognizes and approves (in consultation with providers, consumers, nurse aides, health care professionals, and other interested groups) for purposes of subparagraph (A) and that meet the minimum requirements established under clause (iii)(I), and

"(II) maintain a registry of all individuals who have successfully completed such a program and records of all test results with respect to the program.

"(iii) Not later than one year after the date of the enactment of this paragraph, the Secretary shall establish—

"(I) minimum standards for the training and competency evaluation programs described in clause (i), and

"(II) minimum standards for the mechanism by which a State recognizes and approves such programs.

"(iv) The standards referred to in clause (iii)(I) shall specify the minimum amount of time required for initial and ongoing training (not less than 75 hours in the case of initial training), the areas to be included in a training and testing program (including, at a minimum, basic nursing skills, personal care skills, cognitive, behavioral, and social care, basic restorative services, and residents' rights), and the minimum qualifications for instructors in the program.

"(v) The standards referred to in clause (iii)(II) shall specify the frequency with which training and competency evaluation programs shall be reviewed by a State and the methodology (which shall include performance-based evaluations as well as analysis of written submissions) by which a State shall make determinations with respect to whether a program meets the minimum standards established pursuant to clause (iii)(I).

"(vi)(I) The requirement of clause (i)(I) shall apply with respect to individuals hired on or after January 1, 1990.

"(II) No individual who is hired before the date specified in subclause (I) may be employed by an institution as a nurse aide on or after the date that is three years after the date of the enactment of this paragraph unless the individual has successfully completed a competency evaluation program that is recognized and approved by the State under clause (ii). In the case of any such individual, the institution shall allow the individual at least three opportunities to complete such a program successfully and shall make a good faith effort to provide the individual with the preparation necessary to complete such a program successfully.

"(B) The institution does not permit any nurse aide to provide unsupervised patient care of a type for which the aide has not demonstrated his or her competency.

"(C) The institution requires any nurse aide who has ceased providing direct patient care for more than 24 months to complete an appropriate training and competency evaluation program before again providing such care.

"(D) The institution has an ongoing program of training and performance review for nurse aides, including training for individuals providing special care to residents such as those with cognitive impairments.

"(E) The institution provides each new nurse aide an orientation to the facility and to the residents for whom the aide provides care (in addition to the general initial training and competency testing program).

"(F) The institution assures that all aides are able to read, speak, and write sufficiently to perform assigned duties.

"(17) ADMINISTRATION.—(A) The institution is administered in a manner that enables it to use its resources effectively and efficiently to maintain and improve the residents' physical, mental, and psychosocial well-being.

"(B) The Secretary shall establish criteria for assessing an institution's compliance with the requirement of this paragraph with respect to—

"(i) its governing body,

"(ii) its management (including nursing services),

"(iii) resident and consumer participation,

"(iv) medical direction and physicians' services (including the use physicians' assistants and nurse practitioners),

"(v) laboratory, radiological, and pharmaceutical services,

"(vi) resident care (including medical records),

"(vii) agreements regarding transfers of residents to and from hospitals, and

"(viii) levels of professional staffing.

"(18) LEVEL OF STAFFING.—

"(A) The staffing of the institution is at a level to meet the needs of its residents.

"(B) The compliance of an institution with the requirement of subparagraph (A) shall be determined pursuant to the certification and survey process established under section 1864(d) and not pursuant to any reports required to be filed by the institution on a quarterly or other periodic basis. No institution may be required by the Secretary or a State, under this title or title XIX, to submit a quarterly staffing report on or after the date of the enactment of this paragraph.

"(19) UTILIZATION REVIEW; PLAN AND BUDGET.—The institution has in effect—

"(A) a utilization review plan that meets the requirements of subsection (k), and

"(B) an overall plan and budget that meets the requirements of subsection (z).

"(20) INDEPENDENT EVALUATION.—The institution cooperates in an effective program that provides for regular independent medical evaluation and audit of the residents of the institution to the extent required by the programs in which the institution participates (including medical evaluation of each resident's need for skilled nursing facility services).

"(21) PROTECTION OF RESIDENT FUNDS.—The institution establishes and maintains a system for protecting the personal funds of residents that meets the following requirements—

"(A) STATEMENT OF RESIDENT'S RIGHTS.—The institution furnishes each resident, upon admission to the institution, with a written statement that—

"(i) describes all services furnished by the institution that can be charged to the resident's personal funds and the extent to which any such service is included in the institution's basic rate;

"(ii) states there is no obligation for the resident to deposit personal funds with the institution and describes the resident's right to select how such funds are handled; and

"(iii) describes the institution's obligation, once it accepts the written authorization of the resident, to hold, safeguard, and account for the resident's personal funds in accordance with subparagraph (B).

"(B) MANAGEMENT OF PERSONAL FUNDS.—Upon the institution's acceptance of the written authorization of the resident (as described in subparagraph (A)(iii))—

"(i) the institution deposits any amount of personal funds in excess of $50 in an interest bearing account (or accounts) that is separate from any of the institution's operating accounts and credits all interest earned on such separate account to such account;

"(ii) with respect to any amount of personal funds not included in the account under clause (i), the institution maintains such funds in a non-interest bearing account or petty cash fund; and

"(iii) the institution assures a full and complete accounting of the personal funds so as to ensure that there is no commingling of such funds with the funds of the institution or with the funds of any individual other than another resident.

"(C) WRITTEN RECORD.—The institution maintains a written record of all financial transactions involving the personal funds of a resident who entrusts personal funds with the institution and affords the resident (or a legal representative of the resident) reasonable access to such record.

"(D) SURETY BOND.—The institution purchases a surety bond to guarantee the security of all personal funds of residents entrusted to the institution.

"(E) ELIGIBILITY NOTIFICATION.—The institution notifies the resident (or a legal representative of the resident) and the State agency under title XIX when the personal funds of the resident entrusted to the institution reach an amount that threatens the resident's eligibility for benefits under title XVI or medical assistance under title XIX.

"(F) LIMITATION ON CHARGES TO PERSONAL FUNDS.—The institution does not charge to the personal funds of a resident the costs of any item or service for which payment is made under this title or title XIX (as the case may be).

"(22) LICENSING AND LIFE SAFETY CODE.—

"(A) The institution is licensed under applicable State and local law.

"(B) The institution meets such provisions of such edition (as specified by the Secretary in regulation) of the Life Safety Code of the National Fire Protection Association as are applicable to nursing homes; except that—

"(i) the Secretary may waive, for such periods as he deems appropriate, specific provisions of such Code which if rigidly applied would result in unreasonable hardship upon an institution, but only if such waiver will not adversely affect the health and safety of residents, and

"(ii) the provisions of such Code shall not apply in any State if the Secretary finds that in such State there is in effect a fire and safety code, imposed by State law, which adequately protects residents in nursing facilities.

"(23) COMPLIANCE WITH FEDERAL, STATE, AND LOCAL LAWS AND PROFESSIONAL STANDARDS.—The institution operates and provides services in compliance with all applicable Federal, State, and local laws and regulations (including the requirements of section 1124) and with all accepted professional standards and principles.

"(24) ACTIVITIES PROGRAM.—The institution provides for an activities program, directed by a qualified professional, to encourage self care, resumption of normal activities, and maintenance of an optimal level of psychosocial functioning in a manner appropriate to the needs and interests of each resident.

"(25) MISCELLANEOUS.—The institution meets such other conditions relating to the health and safety of residents or relating to the physical facilities thereof as the Secretary may find necessary.

For purposes of subsection (a)(2), such term includes any institution that meets the requirements of paragraph (1). Notwithstanding any other provision of law, all information concerning nursing facilities required by this section to be filed with the Secretary or a State agency shall be made available to Federal or State employees for purposes consistent with the effective administration of programs established under this title. Nothing in this subsection shall be construed to require an institution that does not participate in the program under title XIX to accept payment under such title or to accept for treatment any individual for whom payment may be made under such title.".

(2) The first sentence of section 1905(c) of such Act (42 U.S.C. 1396d(c)) is amended by striking "and (4)" and all that follows through "funds." and inserting in lieu thereof "(4) meets the requirements of section 1861(j)(21) with respect to protection of patients' personal funds, and (5) except with respect to services described in subsection (d), meets the requirements of paragraphs (5), (6), (9) through (18), and (24) of section 1861(j).".

(3) Section 1902(a) of such Act (42 U.S.C. 1396a(a)) is amended—

(A) in paragraph (13)(A), by inserting "which, in the case of skilled nursing facilities and intermediate care facilities, are adjusted in accordance with subsection (q)," after "State" the second place it appears; and

(B) by adding at the end thereof the following new subsection:

"(q)(1) Effective for fiscal years beginning on or after October 1, 1989, the plan of a State shall not be considered to have met the requirement of subsection (a)(13) unless the State has, as of April 1 before the fiscal year concerned, submitted to the Secretary an amendment to the plan to provide for an appropriate adjustment in the payment rates for skilled nursing facilities and intermediate care facilities to reflect the costs of complying with any requirement under section 1861(j) (as made applicable to this title by section 1905(i)) that takes effect during the fiscal year concerned which was not in effect on October 1, 1987, in Federal or State law or regulation.

"(2) The Secretary shall, not later than September 30 before the fiscal year concerned, review each plan amendment submitted under paragraph (1) for compliance with the requirement of subsection (a)(13). If the Secretary disapproves such an amendment, the State shall immediately submit a revised amendment which meets such requirement.

"(3) The absence of approval of such a plan amendment does not relieve the State or any such facility of any obligation or requirement under this title.".

(4) Not later than January 1, 1990, the Secretary shall—

(A) specify a minimum data set for use by an institution in conducting the assessments required by section 1861(j)(5)(B) of the Social Security Act, and

(B) establish guidelines for utilization of the data set.

(5) Section 1902(a) of such Act (42 U.S.C. 1396a(a)) is amended—

(1) by striking "and" at the end of paragraph (47),

(2) by striking the period at the end of paragraph (48) and inserting in lieu thereof "; and", and

(3) by adding at the end thereof the following new paragraphs:

"(49) provide that, with respect to an individual who is furnished skilled nursing facility services or intermediate care facility services under the plan, payment will be made under the plan for at least 3 bed hold days; and

"(50) provide that the State will meet the requirements of section 1902(r) with respect to screening, review, and disposition of mentally ill and mentally retarded residents of skilled nursing facilities and intermediate care facilities (other than intermediate care facilities for the mentally retarded).".

(6) Section 1902 of such Act, as amended by paragraph (3)(B), is further amended by adding at the end thereof the following:

"(r) STATE REQUIREMENTS FOR PREADMISSION SCREENING AND RESIDENT REVIEW.—

"(1) PREADMISSION SCREENING.—Each State, as a condition of approval of its plan under this title, effective January 1, 1989, must have in effect a preadmission screening program, for making determinations (using any criteria developed under paragraph (8)) described in section 1861(j)(5)(D) for mentally ill and mentally retarded individuals (as defined in paragraph (7)) who are being considered for admission to nursing facilities on or after January 1, 1989.

"(2) STATE REQUIREMENT FOR ANNUAL RESIDENT REVIEW.—

"(A) FOR MENTALLY ILL RESIDENTS.—As a condition of approval of a State plan under this title, as of April 1, 1990, in the case of each resident of a nursing facility who is mentally ill, the State mental health authority must based on an independent physical and mental evaluation, determine (using any criteria developed under paragraph (8))—

"(i) whether or not the resident, because of the resident's physical or mental condition (or the lack of appropriate alternative placement), requires the level of services provided by a nursing facility or requires the level of services provided in another setting, including an inpatient psychiatric hospital for individuals under age 21 (as described in section 1905(h)) or of an institution for mental diseases providing medical assistance to individuals 65 years of age or older or a program under an approved home and community-based waiver under section 1915(c); and

"(ii) whether or not the resident requires active treatment for mental illness.

"(B) FOR MENTALLY RETARDED RESIDENTS.—As a condition of approval of a State plan under this title, as of April 1, 1990, in the case of each resident of a nursing facility who is mentally retarded, the State mental retardation or developmental disability authority must review and determine (using any criteria developed under paragraph (8))—

"(i) whether or not the resident, because of the resident's physical or mental condition (or the lack of appropriate alternative placement), requires the level of services provided by a nursing facility or requires the level of services of an intermediate care facility described under section 1905(d) or a program under an approved home and community-based waiver under section 1915(c); and

"(ii) whether or not the resident requires active treatment for mental retardation.

"(C) FREQUENCY OF REVIEWS.—

"(i) ANNUAL.—Except as provided in clauses (ii) and (iii), the reviews and determinations under subparagraphs (A) and (B) must be conducted with respect to each mentally ill or mentally retarded resident not less often than annually.

"(ii) PREADMISSION REVIEW CASES.—In the case of a resident subject to a preadmission review under section 1861(j)(5)(D), the review and determination under subparagraph (A) or (B) need not be done until the resident has resided in the nursing facility for 1 year.

"(iii) INITIAL REVIEW.—The reviews and determinations under subparagraphs (A) and (B) must first be conducted (for each resident not subject to preadmission review under section 1861(j)(5)(D)), by not later than April 1, 1990.

"(3) RESPONSE TO PREADMISSION SCREENING AND RESIDENT REVIEW.—As a condition of approval of a State plan, as of April 1, 1990, the State must meet the following requirements:

"(A) LONG-TERM RESIDENTS NOT REQUIRING NURSING FACILITY SERVICES, BUT REQUIRING ACTIVE TREATMENT.—In the case of a resident who is determined, under paragraph (2), not to require the level of services provided by a nursing facility, but to require active treatment for mental illness or mental retardation, and who has continuously resided in a nursing facility for at least 30 months before the date of the determination, the State must, in consultation with the resident's family or legal representative and care-givers—

"(i) inform the resident of the institutional and noninstitutional alternatives covered under the State plan for the resident,

"(ii) offer the resident the choice of remaining in the facility or of receiving covered services in an alternative appropriate institutional or noninstitutional setting,

"(iii) clarify the effect on eligibility for services under the State plan if the resident chooses to leave the facility (including its effect on readmission to the facility), and

"(iv) regardless of the resident's choice, provide for (or arrange for the provision of) such active treatment for the mental illness or mental retardation.

A State shall not be denied payment under this title for nursing facility services for a resident described in this subparagraph because the resident does not require the level of services provided by such a facility, if the resident chooses to remain in such a facility.

"(B) OTHER RESIDENTS NOT REQUIRING NURSING FACILITY SERVICES, BUT REQUIRING ACTIVE TREATMENT.—In the case of a resident who is determined, under paragraph (2), not to require the level of services provided by a nursing facility, but to require active treatment for mental illness or mental retardation, and who has not continuously resided in a nursing facility for at least 30 months before the date of the determination, the State must, in consultation with the resident's family or legal representative and care-givers—

"(i) arrange for the safe and orderly discharge of the resident from the facility,

"(ii) prepare and orient the resident for such discharge, and

"(iii) provide for (or arrange for the provision of) such active treatment for the mental illness or mental retardation in an appropriate facility or program.

"(C) RESIDENTS NOT REQUIRING NURSING FACILITY SERVICES AND NOT REQUIRING ACTIVE TREATMENT.—In the case of a resident who is determined, under paragraph (2), not to require the level of services provided by a nursing facility and not to require active treatment for mental illness or mental retardation, the State must—

"(i) arrange for the safe and orderly discharge of the resident from the facility, and

"(ii) prepare and orient the resident for such discharge.

"(D) DENIAL OF PAYMENT WHERE FAILURE TO CONDUCT PREADMISSION SCREENING.—No payment may be made under section 1903(a) with respect to nursing facility services furnished to an individual for whom a determination is required under paragraph (2) or section 1861(j)(5)(D) but for whom the determination is not made.

"(5) PERMITTING ALTERNATIVE DISPOSITION PLANS.—With respect to residents of a nursing facility who are mentally retarded or mentally ill and who are determined under paragraph (2) not to require the level of services of such a facility, but who require active treatment for mental illness or mental retardation, a State and the nursing facility shall be considered to be in compliance with the requirement of this paragraph if, before October 1, 1988, the State and the Secretary have entered into an agreement relating to the disposition of such residents of the facility and the State is in compliance with such agreement. Such an agreement may provide for the disposition of the residents after the date specified in paragraph (3).

"(6) APPEALS PROCEDURES.—Each State, as a condition of approval of its plan under this title, effective January 1, 1989, must have in effect an appeals process for individuals adversely affected by determinations under paragraph (1) or (2).

"(7) DEFINITIONS.—In this subsection and section 1861(j)(5)(D):

"(A) Subject to the last sentence of this paragraph, an individual is considered to be 'mentally ill' if the individual has a primary or secondary diagnosis of mental disorder (as defined in the Diagnostic and Statistical Manual of Mental Disorders, 3rd edition).

"(B) An individual is considered to be 'mentally retarded' if the individual requires services of the type provided by an institution described in section 1905(d).

"(C) The term 'active treatment' has the meaning given such term by the Secretary in regulations.

"(D) The term 'nursing facility' means a skilled nursing facility or intermediate care facility (other than an intermediate care facility for the mentally retarded).

For purposes of subparagraph (A), the term 'mentally ill' does not include any organic disease of the brain or dementia (including Alzheimer's disease and related disorders).

"(8) FEDERAL MINIMUM CRITERIA FOR PREADMISSION SCREENING AND RESIDENT REVIEW.—The Secretary shall develop, by not later than October 1, 1988, separate minimum criteria for States to use in making determinations under paragraph (2) and under section 1861(j)(5)(D) with respect to individuals who are mentally ill or mentally retarded, and in permitting individuals adversely affected to appeal such determinations, and shall notify the States of such criteria.".

(7)(A) Except as provided by subparagraphs (B) and (C), the amendments made by this subsection shall apply with respect to services furnished on or after January 1, 1988.

(B) Section 1861(j)(6) of the Social Security Act, as made applicable to intermediate care facilities by the amendment made by paragraph (2) of this section, shall apply—

(i) in the case of facilities with more than 120 beds, to services furnished on or after October 1, 1988,

(ii) in the case of facilities with more than 60 beds but not more than 120 beds, to services furnished on or after October 1, 1990, and

(iii) in the case of facilities with 60 beds or less, to services furnished on or after October 1, 1992.

(C) In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation (other than legislation appropriating funds) in order for the plan to meet the additional requirement imposed by the amendment made by subsection (e), the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet this additional requirement before the first day

of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act.

(b) ESTABLISHMENT OF GRANT PROGRAM.—

(1) The Secretary of Health and Human Services (in this section referred to as the "Secretary") shall establish a program of grants to skilled nursing facilities certified as providers under title XVIII of the Social Security Act. The purpose of the program shall be to promote the development by such facilities of projects that enhance the quality of care or the quality of life of residents of such facilities.

(2) Any skilled nursing facility that desires to receive a grant under this subsection to implement a project of the type described in paragraph (1) may submit an application to the Secretary, at such time and in such form and manner as the Secretary may prescribe.

(3) In determining which skilled nursing facilities making application under paragraph (2) will receive grants under this section, the Secretary shall take into account—

(A) the likelihood that the proposed project will achieve its stated objectives,

(B) the likelihood that the proposed project will serve as a model for similar projects in other facilities,

(C) the degree to which the funds provided by a grant will be matched by funds from non-Federal sources, and

(D) the support for the project by the ombudsman, the area agency on aging, nursing home residents and their families, nursing home staff, institutions of higher learning, and other providers of long-term care.

(4) A grant to a skilled nursing facility under this subsection may not exceed $25,000 a year.

(5)(A) A skilled nursing facility receiving a grant under this subsection shall furnish the Secretary with such information as the Secretary may require to evaluate the project with respect to which the grant is made and to ensure that the grant is expended for the purposes for which it was made.

(B) The Secretary shall submit a report on the program to the Congress not later than 180 days after all projects receiving a grant under the program are completed.

(6) For purposes of carrying out the program of grants under this section, there are authorized to be appropriated from the Federal Hospital Insurance Trust Fund $2,000,000 for each of the fiscal years 1988, 1989, and 1990.

(c) CHANGES IN CERTIFICATION PROGRAM AND PROCESS.—

(1) Section 1864(a) of such Act (42 U.S.C. 1395aa(a)) is amended—

(A) by striking "or skilled nursing facility" and inserting in lieu thereof ", a skilled nursing facility, or an intermediate care facility",

(B) by striking "skilled nursing facility, rural health clinic" and inserting in lieu thereof "skilled nursing facility, intermediate care facility, rural health agency",

(C) by striking "facility, after" and inserting in lieu thereof "facility or intermediate care facility, after", and

(D) by inserting "or, in the case of an intermediate care facility, under title XIX" after "this title".

(2) Section 1864(a) of such Act, as amended by paragraph (1), is further amended by inserting, after "readily available form and place" in the fifth sentence, the following: ", and require (in the case of skilled nursing facilities and intermediate care facilities) the posting in a place readily accessible to residents (and residents' representatives),".

(3) Section 1106(e) of such Act (42 U.S.C. 1306(e)) is amended—

(A) by striking "60" the first place it appears and inserting in lieu thereof "30",

(B) by striking "report; nor" and inserting in lieu thereof "report. Nor",

(C) by striking "(e) No report" and inserting in lieu thereof "(e)(1) Except as provided in paragraph (2), no report", and

(D) by adding at the end thereof the following new paragraph:

"(2) Notwithstanding the first sentence of paragraph (1), the Secretary may release a report described in subsection (d) to a State long-term care ombudsman (established under section 307(a)(12) of the Older Americans Act of 1965) or a designee before the end of the 30-day period described in such sentence.".

(4) Section 1864 of such Act, as amended by paragraphs (1) and (2), is further amended by adding at the end thereof the following new subsection:

"(d)(1) Under each agreement under this section with a State with respect to determining whether an institution therein is a skilled nursing facility or an intermediate care facility, the State shall be responsible for certifying, in accordance with surveys conducted under paragraph (2), the compliance of facilities (other than facilities of the State) with the applicable requirements of section 1861(j). The Secretary shall be responsible for certifying, in accordance with surveys conducted under paragraph (2), the compliance of State facilities with the applicable requirements of section 1861(j).

"(2)(A)(i) Each skilled nursing facility and intermediate care facility shall be subject to a standard survey of the facility's compliance with the applicable requirements of section 1861(j).

"(ii) A survey may be conducted upon any change of ownership and shall otherwise be conducted, on an unannounced basis, not later than 15 months after the date of the previous survey.

"(iii) The frequency with which surveys are conducted with respect to a facility shall be based upon the degree to which the facility was found, in the most recently conducted survey, to be in compliance with the applicable requirements of section 1861(j).

"(iv) The Statewide average interval between surveys of such facilities shall not exceed 12 months.

"(v) A survey shall include audits of a sample of the residents' assessments and plans of care provided under sections 1861(j)(5) and 1861(j)(8), respectively.

"(B) Each skilled nursing facility and intermediate care facility that is found to have performed poorly with regard to one or more of the applicable requirements of section 1861(j) shall be subject to an extended survey. Any other facility may, at the Secretary's or State's discretion under the agreement, be subject to such an extended survey.

"(C) All surveys shall be conducted based upon regulations the substance of which the Secretary has developed, tested, and validated.

"(3) Each State shall implement programs to measure and reduce inconsistency in the application of survey results among surveyors.

"(4) Each State shall maintain procedures and adequate staff to investigate complaints of violations of applicable requirements by facilities.

"(5) The Secretary together with each State agency utilized under this section shall develop written procedures for review of survey findings in cases where the provider of services has substantial disagreement with such findings. Such procedures shall include a system for resolving significant differences in professional judgments about the appropriateness and quality of care (but in no event shall delay the timing of any enforcement action).

"(e)(1)(A) Not later than January 1, 1990, certification surveys under subsection (d) shall be conducted by a multidisciplinary team of professionals (including a registered professional nurse and others selected in accordance with regulations of the Secretary).

"(B) Each State shall maintain and utilize a specialized survey team the duties of which shall include identifying, surveying, gathering and preserving evidence, and carrying out appropriate enforcement actions against chronically substandard facilities. Such a team shall include (or have prompt access to) an attorney, an auditor, and appropriate health care professionals.

"(2) Each member of a team described in paragraph (1) must receive comprehensive initial and continuing training (of not less than 40 hours annually) with respect to the conduct of such surveys (as approved by the Secretary).

"(3) No health care professional shall serve as a member of a team described in paragraph (1) unless he or she has successfully completed a training and testing program in survey and certification techniques that has been approved by the Secretary and has experience or education in gerontological nursing or long-term care and in interviewing residents with communicative impairments.

"(4) No individual shall serve as a member of a team described in paragraph (1) if he or she is serving (or has served in the previous two years) as an employee of or consultant to the particular facility being surveyed.

"(f)(1) Each agency with an agreement with the Secretary under this section shall enter into a written agreement with the appropriate State long-term care ombudsman to provide for information exchange, training, case referral, and prompt notification of the ombudsman of any adverse action to be taken by the agency against a skilled nursing facility or intermediate care facility. Such agreement shall provide for access by the ombudsman to any inspection reports and notices of deficiencies, sanctions, or adverse determinations issued by the agency, and, consistent with Federal and State laws governing confidentiality of information, to investigative reports and findings made on account of complaints made by the ombudsman.

"(2) Each agency with an agreement with the Secretary under this section shall ensure that survey procedures are coordinated with the activities of State fraud and abuse units, resident protection and advocacy units, and the State agency under title XIX.

"(g) The Secretary shall develop and implement criteria and procedures for the evaluation of plans of correction submitted by institutions seeking compliance with the standards for skilled nursing facilities and intermediate care facilities. Such criteria and procedures shall be designed—

"(1) to maximize specificity in the plans,

"(2) to require on-site evaluation of the implementation of plans dealing with deficiencies relating to patient care, and

"(3) to emphasize the need for correction to provide for permanent compliance with the standards.

"(h)(1) Each year the Secretary shall conduct surveys of skilled nursing facilities and intermediate care facilities in each State in

a sufficient number to allow inferences about the adequacy of each State's surveys conducted under subsection (d)(2).

"(2) Any survey conducted by the Secretary under paragraph (1) with respect to a facility shall be conducted within 1 month of the most recently conducted State survey with respect to that facility.

"(3) In no case shall the Secretary conduct surveys under paragraph (1) with respect to fewer than 5 percent of the facilities surveyed by the State in a year (or with respect to fewer than 5 facilities in each State).

"(4) If the results of a survey conducted by the Secretary under this subsection differ from the results of a survey conducted under subsection (d)(2), the results of the survey conducted by the Secretary shall be conclusive with respect to whether a facility complies with the applicable requirements of section 1861(j).

"(5) Not later than one year after the date of the enactment of this subsection, the Secretary shall by regulation prescribe—

"(A) performance and outcome standards to evaluate and assure the effectiveness of State survey activities (including standards to evaluate the general improvement in quality of care in certified facilities, how the findings from such activities compare with the Secretary's review findings, the appropriateness and effectiveness of State enforcement action, the extent to which repeat deficiencies occur, the extent to which deficiencies are not corrected in a timely manner, and complaint handling activities); and

"(B) administrative sanctions to be imposed on State survey agencies for poor performance (as determined under subparagraph (A)) in relation to the proportion of beneficiaries under this title placed at risk by such performance.

"(6) Each State, and the Secretary, shall make available to the public information with respect to all surveys and certifications made with respect to skilled nursing facilities and intermediate care facilities and information with respect to cost reports of such facilities filed under this title or under State plans approved under title XIX.".

(5) The amendments made by this subsection shall become effective January 1, 1990.

(d) ENFORCEMENT PROCESS.—

(1) Section 1866(f) of such Act (42 U.S.C. 1395cc(f)) is amended by adding at the end thereof the following new paragraphs:

"(4)(A)(i) The Secretary shall develop and implement a range of intermediate sanctions to apply to facilities which have been determined to meet the conditions described in (1)(B). Such sanctions shall include—

"(I) directed plans of correction,

"(II) the appointment of receivers in accordance with paragraph (5), and

"(III) one or more of the sanctions specified in clause (ii).

"(ii) The sanctions specified in this clause are—

"(I) civil fines,

"(II) on-site monitoring by an agency responsible for conducting certification surveys (with the costs of such monitoring to be paid by the facility without reimbursement),

"(III) withholding or reducing amounts otherwise payable to a facility under this title or such a plan, and

"(IV) any other sanction designated by the Secretary.

"(iii) The Secretary shall develop and implement specific criteria as to when and how each of these intermediate sanctions is to be applied, the amounts of any fines, and the severity of each of these penalties. These criteria shall be designed so as to minimize the time between identification of violations and final imposition of these sanctions and shall provide for the imposition of incrementally more severe penalties for repeated or uncorrected deficiencies. In accordance with such criteria, the Secretary may impose any such sanction in lieu of, or in addition to, imposing the sanction otherwise provided under paragraph (1).

"(B) In any case where intermediate sanctions imposed by a State pursuant to section 1902(i)(4) are in effect with respect to a facility, the Secretary shall review periodically (not less than once every 3 months) the effectiveness of such sanctions in promoting the correction of the deficiencies involved and shall withhold action under this subsection unless the Secretary determines that such sanctions are ineffective or that the facility's deficiencies immediately jeopardize the health and safety of its patients.

"(5)(A) In any case where the Secretary determines that a skilled nursing facility is chronically failing to meet substantially the requirements of section 1861(j) or of the provider agreement, or determines that the facility's deficiencies immediately jeopardize the health and safety of its patients—

"(i) the Secretary shall give public notice of such determination, and

"(ii) in the case of a skilled nursing facility that is not in a period of State-ordered receivership (as defined in subparagraph (C)), the Secretary may appoint a receiver to—

"(I) oversee the operation of the facility;

"(II) establish and oversee the implementation of a correction plan to bring the facility into compliance with the applicable requirements of the State plan, this title, title XIX, and State licensing requirements by a date set forth in the correction plan; and

"(III) assure the health and safety of the facility's patients during the receivership period.

"(B) Subject to paragraph (1), payment shall be made under this title with respect to any services furnished by any such facility to patients who remain in such facility during any period of receivership ordered by the Secretary or the State with respect to such facility.

"(C) For purposes of this paragraph, a period of State-ordered receivership with respect to a facility is a period during which—

"(i) the State has appointed a receiver to oversee the operation of the facility;

"(ii) the State has in effect a correction plan to bring the facility into compliance with the applicable requirements of the State plan, this title, title XIX, and State licensing requirements by a date set forth in the correction plan; and

"(iii) the State has taken measures to assure the health and safety of the facility's patients during the period.

"(D) Public notice shall also be given in any case in which such deficiencies are determined to be rectified.".

(2) Section 1902(i) of such Act (42 U.S.C. 1396a(i)) is amended by adding at the end thereof the following new paragraphs:

"(4)(A) If a State determines that a skilled nursing facility or intermediate care facility (other than a facility providing services described in section 1905(d)) that is certified for participation under its plan no longer meets the applicable requirements of section 1861(j) and further determines that the facility's deficiencies do not immediately jeopardize the health and safety of its residents, the State may, instead of terminating the facility's participation under the plan, impose one or more of the sanctions developed in accordance with subparagraph (B).

"(B)(i) The State shall develop and implement a range of intermediate sanctions to apply to facilities that have been determined to meet the conditions described in (1)(B). Such sanctions shall include—

"(I) directed plans of correction,

"(II) the appointment of receivers in accordance with paragraph (5), and

"(III) one or more of the sanctions specified in clause (ii).

"(ii) The sanctions specified in this clause are—

"(I) civil fines,

"(II) on-site monitoring by an agency responsible for conducting certification surveys (with the costs of such monitoring to be paid by the facility without reimbursement),

"(III) withholding or reducing amounts otherwise payable to a facility, and

"(IV) any other sanction designated or approved by the Secretary.

"(iii) The State shall develop and implement specific criteria as to when and how each of these intermediate sanctions is to be applied, the amounts of any fines, and the severity of each of these penalties. These criteria shall be designed so as to minimize the time between identification of violations and final imposition of these sanctions and shall provide for the imposition of incrementally more severe fines for repeated or uncorrected deficiencies. In accordance with such criteria, the State may impose any such sanction in lieu of, or in addition to, imposing the sanction otherwise provided under paragraph (1).

"(5)(A) In any case where a State determines that a skilled nursing facility or an intermediate care facility (other than a facility providing services described in section 1905(d)) that is certified for participation under its plan is chronically failing to meet substantially the applicable requirements of section 1861(j) or of its agreement with the State, or determines that the facility's deficiencies immediately jeopardize the health and safety of its patients—

"(i) the State shall give public notice of such determination, and

"(ii) the State may appoint a receiver to—

"(I) oversee the operation of the facility;

"(II) establish and oversee the implementation of a correction plan to bring the facility into compliance with the applicable requirements of the title XIX, the State plan, section 1861(j), and State licensing requirements by a date set forth in the correction plan; and

"(III) assure the health and safety of the facility's patients during the receivership period.

"(B) Subject to paragraph (1), payment shall be made under this title with respect to any services furnished by any such facility to patients who remain in such facility during any period of receivership ordered by the Secretary or the State with respect to such facility.

"(C) Public notice shall also be given in any case in which such deficiencies are determined to be rectified.

"(6) The Secretary shall provide States with technical assistance in the development and implementation of the sanctions authorized by paragraphs (4) and (5).".

(3) The amendments made by this subsection shall become effective on October 1, 1990.

(e) LIST OF ITEMS AND SERVICES FURNISHED IN NURSING FACILITIES NOT CHARGEABLE TO THE PERSONAL FUNDS OF A RESIDENT.—

(1) The regulations required to be issued by the Secretary of Health, Education, and Welfare under section 21(b) of the Medicare-

Medicaid Anti-Fraud and Abuse Amendments of 1977 shall be issued by the Secretary of Health and Human Services on or before the first day of the seventh month to begin after the date of enactment of this Act.

(2) Notwithstanding any other provision of law, in the event the Secretary of Health and Human Services does not issue the regulations under paragraph (1) on or before such day, in the case of a resident of a facility (defined under section 1861(j) or 1905(c) of the Social Security Act) who is eligible to receive benefits under title XVIII of such Act or under a State plan under title XIX of such Act, the costs which may not be charged to the personal funds of such resident (and for which payment shall be made under title XVIII or XIX of such Act, as the case may be) shall include, at a minimum, the costs for routine personal hygiene items and services furnished by the facility.

(f) CERTAIN ITEMS AND SERVICES COVERED UNDER MEDICARE AND STATE MEDICAID PLANS.—The Secretary of Health and Human Services (in this subsection referred to as the "Secretary"), in consultation (as appropriate) with the State agencies administering or responsible for the administration of State plans under title XIX of the Social Security Act, shall compile, with respect to each State with a plan approved under that title, a list of the scope and extent of skilled nursing facility services and intermediate care facility services that are covered under the plan and a list of the scope and extent of extended care services and post-hospital extended care services for which payment is made under title XVIII of such Act. The Secretary, acting through the State agency, shall make the first such list compiled with respect to a State available to individuals entitled to medical assistance under the State plan and to providers of the services to which the list applies and shall make the second such list compiled available to individuals receiving benefits under part A of such title XVIII and to providers of the services to which the list applies. The Secretary shall provide for each list to be updated periodically to reflect any changes in the services to which the list applies.

(g) NATIONAL COMMISSION ON LONG-TERM CARE.—

(1) Part A of title XI of such Act is amended by adding at the end thereof the following:

"NATIONAL COMMISSION ON LONG-TERM CARE

"SEC. 1139. (a) The Director of the Office of Technology Assessment (in this section referred to as the 'Director' and the 'Office', respectively) shall provide for the appointment of a National Commission on Long-Term Care (in this section referred to as the 'Commission'), to be composed of independent experts appointed by the Director (without regard to the provisions of title 5, United States Code, governing appointments in the competitive service).

"(b)(1) The Commission shall consist of 13 members. Members of the Commission shall first be appointed no later than October 1, 1988, for a term of 5 years, except that the Director may provide initially for such shorter terms as will insure that (on a continuing basis) the terms of no more than 4 members expire in any one year.

"(2) The membership of the Commission shall provide expertise and experience in the provision and financing of long-term care. The Director shall seek nominations, and select at least one member of the Commission, from each of the following categories:

"(A) Representatives of Federal and State licensing and certification agencies.

"(B) Long-term care ombudsmen.

"(C) Consumers.

"(D) Representatives of organizations representing nursing homes.

"(E) Representatives of home health agencies.

"(F) Experts in long-term care policy.

"(G) Registered professional nurses.

"(H) Health care and allied professionals with experience relating to long-term care.

"(I) Individuals representing organizations of employees of skilled nursing facilities, intermediate care facilities, or home health agencies.

"(c) The provisions of subparagraphs (C), (D), (F), (G), (H), and (J) of section 1886(f)(6) shall apply to the Commission in the same manner and to the same extent that they apply to the Commission established under section 1886(f).

"(d)(1) The purpose of the Commission shall be advise the Congress with respect to—

"(A) methods of assessing and ensuring quality of care in long-term care facilities and home-care programs,

"(B) necessary and desirable changes in the programs for surveying and certifying such facilities and programs,

"(C) the costs, appropriate staffing, and reimbursement of such facilities and programs,

"(D) the effectiveness of Federal and State licensing and survey procedures and the enforcement of such procedures, and

"(E) maintaining and extending the access of individuals entitled to benefits under title XVIII or under a State plan approved under title XIX to long-term care and home health services (including the effects of State certificate of need requirements).

(2) In addition to carrying out its responsibilities pursuant to paragraph (1), the Commission shall investigate compliance with Federal medicaid requirements in any State that has low reimbursement rates for nursing home care and has moratorium on nursing home beds.

"(e) The Commission shall meet at least quarterly and shall convene such work groups, conferences, and public hearings as it considers necessary to assist it in carrying out its responsibilities.

"(f)(1) Not later than October 1, 1990, the Commission shall submit to the Congress and the Secretary of Health and Human Services (in this section referred to as the 'Secretary') a report setting forth recommendations with respect to—

"(A) the implementation of a system of reimbursement and staffing requirements for long-term care facilities under title XVIII of the Social Security Act that is based on the level of patient needs or the acuity of a patient's condition, or both, and

"(B) methods of ensuring the access of individuals entitled to benefits under title XVIII or under a State plan approved under title XIX to long-term care.

"(2) Not later than 9 months after the Commission submits its report under paragraph (1), the Secretary shall submit to the Congress proposed legislation to implement the recommendations set forth in such report.

"(g)(1) The Commission shall report annually to the Congress and the Secretary on the status of its studies and deliberations. The report shall set forth any recommendations that the Commission has developed in the preceding year with respect to matters relating to long-term care.

"(2) Not more than 90 days after the Commission submits a report under paragraph (1), the Secretary shall submit to the Congress a report setting forth the manner in which the Secretary proposes to implement any recommendations set forth in the report of the Commission, accompanied by proposed changes in law (if any) that the Secretary determines to be necessary to implement the recommendations of the Commission.

"(h)(1) There are authorized to be appropriated, from the Federal Hospital Insurance Trust Fund, such sums as may be necessary to carry out the provisions of this section.

"(2) The Commission shall submit requests for appropriations in the same manner as the Office submits requests for appropriations, but amounts appropriated for the Commission shall be separate from amounts appropriated for the Office.".

(2) The Commission shall conduct a study of the compliance with Federal quality standards by nursing homes in States that the Commission selects that have low reimbursement rates for nursing homes under title XIX of the Social Security Act and have moratoria or limits in effect on the number of nursing home beds.

(h) FINAL REGULATIONS WITH RESPECT TO PLANS OF CORRECTION OR REDUCTION.—

(1) Not later than 30 days after the date of enactment of this Act, the Secretary of Health and Human Services shall promulgate final regulations to implement the amendments made by section 9516 of the Consolidated Omnibus Budget Reconciliation Act of 1985.

(2) The regulations promulgated under paragraph (1) shall be effective as if promulgated on the date of enactment of the Consolidated Omnibus Budget Reconciliation Act of 1985.

SEC. 4052. MEDICAID BENEFITS FOR POOR CHILDREN AND PREGNANT WOMEN.

(a) MEDICAID OPTIONAL COVERAGE FOR ADDITIONAL LOW-INCOME PREGNANT WOMEN AND CHILDREN.—Section 1902(l) of the Social Security Act (42 U.S.C. 1396a(l)) is amended—

(1) in paragraph (2)—

(A) by striking "(2) For purposes of paragraph (1)" and inserting in lieu thereof "(2)(A) For purposes of paragraph (1) with respect to individuals described in subparagraph (A) or (B) of that paragraph",

(B) by striking "100 percent" and inserting in lieu thereof "160 percent", and

(C) by adding at the end the following new subparagraph:

"(B) If a State elects, under subsection (a)(10)(A)(ii)(IX), to cover individuals not described in subparagraph (A) or (B) of paragraph (1), for purposes of that paragraph and with respect to individuals not described in such subparagraphs the State shall establish an income level which is a percentage (not more than 100 percent, or, if less, the percentage established under subparagraph (A)) of the nonfarm income official poverty line described in subparagraph (A)."; and

(2) in paragraph (3)(D), by inserting "appropriate" after "applied is the".

(b) ALLOWING ACCELERATED COVERAGE OF CHILDREN UP TO AGE 5.—

(1) Section 1902(l)(1) of such Act (42 U.S.C. 1396a(l)(1)) is amended—

(A) by inserting "and" at the end of subparagraph (B), and

(B) by striking subparagraphs (C) through (F) and inserting in lieu thereof the following:

"(C) children born after September 30, 1983, and who have attained one year of age *but have not attained 2, 3, 4, or 5 years of age (as selected by the State),".*

(2) Section 1902(l) of such Act is further amended—

(A) in paragraph (3)(C), by striking ", (C), (D), (E), or (F)" and inserting in lieu thereof "or (C)", and

(B) in paragraph (4)(B)(ii), by striking ", (D), (E), or (F)".

(3) Section 1902(e)(7) of such Act (42 U.S.C. 1396a(e)(7)) is amended by striking ", (C), (D), (E), or (F)" and inserting in lieu thereof "or (C)".

(4) Section 9401(f)(2) of the Omnibus Budget Reconciliation Act of 1986 is amended by striking "(A)" after "(2)" and by striking subparagraphs (B) through (D).

(c) Coverage of Children up to Age 8.—

(1) Section 1905(n)(2) of such Act (42 U.S.C. 1396d(n)(2)) is amended by striking "is under 5 years of age" and inserting in lieu thereof "is age 6 or under (or is any age designated by the State that exceeds 6 but does not exceed 8)".

(2) Section 1902(l)(1)(C) of such Act, as amended by subsection (b)(1)(B), is further amended by striking "or 5 years" and inserting in lieu thereof "5, 6, 7, or 8 years".

(d) Premium.—Section 1916 of the Social Security Act (42 U.S.C. 1396o) is amended—

(1) in subsection (a)(1), by inserting "(except for a premium imposed under subsection (c))" before the semicolon;

(2) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

(3) by inserting after subsection (b) the following new subsection:

"(c)(1) The State plan of a State shall provide for imposing a monthly premium of $5 with respect to an individual described in subparagraph (A) or (B) of section 1902(l)(1) who is receiving medical assistance on the basis of section 1902(a)(10)(A)(ii)(IX) and whose family income (as determined in accordance with the methodology specified in section 1902(l)(3)) equals or exceeds 130 percent of the nonfarm income official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981) applicable to a family of the size involved.

"(2) A State shall not require prepayment of a premium imposed pursuant to paragraph (1) and shall not terminate eligibility of an individual for medical assistance under this title on the basis of failure to pay any such premium until such failure continues for a period of not less than 60 days. The State may waive payment of any such premium in any case where the State determines that requiring such payment would create an undue hardship.

"(3) A State may permit State or local funds available under other programs to be used for payment of a premium imposed under paragraph (1). Payment of a premium with such funds shall not be counted as income to the individual with respect to whom such payment is made.".

(e) Effective Date.—The amendments made by this section shall apply with respect to medical assistance furnished on or after July 1, 1988.

(f) Certification of Medicaid Eligibility for Newborn Infants.—Section 1902(e)(4) of the Social Security Act (42 U.S.C. 1396a(e)(4)) is amended by adding at the end thereof the following new sentence: "During the period in which a child is deemed under the preceding sentence to be eligible for medical assistance, the medical assistance eligibility identification number of the mother shall also serve as the identification number of the child, and all provider claims shall be submitted and paid under such number (unless the State issues a separate identification number for the child before such period expires).".

(g) Study and Report on the Medical Expenses of Families With Children With Special Health Care Needs.—The Office of Technology Assessment shall conduct a study and report to Congress, not later than August 1, 1988, on—

(1) the number of children age 18 and under who have high-cost medical expenses exceeding $25,000 in a single year and who have a chronic illness or disability which results in their being developmentally delayed or in their inability to perform one or more normal childhood activities;

(2) the aggregate medical expenses of such children in a single year;

(3) the medical diagnosis or diagnoses of children incurring such expenses;

(4) the age of such children at the onset of major chronic illnesses or disabilities (and the expected duration of such illness or disabilities);

(5) the sources and extent of payment of such medical expenses;

(6) the insurance status and adequacy of insurance coverage for such children, including out-of-pocket liability;

(7) the relation of such out-of-pocket liability to family adjusted gross income;

(8) the causes of out-of-pocket liability, including uninsured or inadequately insured services, copayments, premiums, deductibles, and changes in insurance coverage over the course of the child's treatment; and

(9) the demographic profile of families with such children, including—

(A) family size and composition, including number of parents and children;

(B) race, age, educational status, employment status, and marital status of parents;

(C) age of each child in the family and total amount of medical expenses for each child with a chronic illness or disability which results in inability to perform a major normal, childhood life activity;

(D) geographic distribution of families with such children; and

(E) impact of the expenses of medical care for such children on family financial stability.

SEC. 4053. WAIVER AUTHORITY UNDER THE MEDICAID PROGRAM FOR THE NORTHERN MARIANA ISLANDS.

Section 1902(j) of the Social Security Act (42 U.S.C. 1396a(j)) is amended—

(1) by inserting "and the Northern Mariana Islands" after "American Samoa" the first place it appears; and

(2) by inserting "or the Northern Mariana Islands" after "American Samoa" the second place it appears.

SEC. 4054. FEDERAL REVIEW OF STATE INSPECTION OF CARE (IOC) DETERMINATIONS.

(a) In General.—Section 1903(g)(2) of the Social Security Act (42 U.S.C. 1396b(g)(2)) is amended—

(1) by inserting "(A)" after "(2)"; and

(2) by adding at the end thereof the following new subparagraph:

"(B)(i) The Secretary may, in such cases as he finds appropriate, conduct an independent medical review of the care of patients in mental facilities, skilled nursing facilities, or intermediate care facilities, including an assessment of the appropriateness of the State's determination under paragraph (1) of level of care requirements, the adequacy of the services provided, and the State's efforts in communicating deficiencies to the facility and assuring corrective action. If the Secretary finds, following the conduct of an independent medical review, that the State has failed to perform an effective medical review, Federal financial participation shall not be available with respect to care provided by the facility involved for patients for whom and during the period for which the review was found to be ineffective. Where the Secretary's review is based upon sampling procedures, the findings of such review may be projected to all parties similarly situated in the State.

"(ii) For purposes of clause (i), a State's program of medical review of the care of patients referred to therein shall not be considered to be an effective program unless it includes provision, found adequate by the Secretary, for the development of a corrective action plan for each facility with respect to which deficiencies were noted and a description of the steps that will be taken by the State in the case of each such plan that is developed to assure that the facility acts expeditiously to implement such plan and correct the deficiencies addressed therein. The corrective action plan must address both deficiencies in services provided to individual patients and deficiencies of the facility generally.".

(b) Utilization Control Penalty.—Section 1903(g)(4) of such Act (42 U.S.C. 1396b(g)(4)) is amended by adding at the end the following new subparagraph:

"(C) The Secretary shall not find a showing of a State unsatisfactory, with respect to the requirement to conduct annual onsite inspections in mental hospitals, skilled nursing facilities, and intermediate care facilities under paragraphs (26) and (31) of section 1902(a), for failure to review the care of each person receiving medical assistance (or, as permitted by the Secretary, each person in a sample group of such individuals) where the showing demonstrates, with respect to each institution subject to this requirement, that the State did not fail to meet the requirement with respect to more than—

"(i) (in the case of an institution with more than one, but fewer than fifty-one such patients) the lesser of ten such individuals or two percent of the total number of such individuals in the institution, or

"(ii) (in the case of an institution with fifty or fewer such patients) one individual.".

(c) The amendments made by this section shall become effective on January 1, 1988.

SEC. 4055. PROVISION OF FAMILY PLANNING SERVICES TO INDIVIDUALS ENROLLED WITH A HEALTH MAINTENANCE ORGANIZATION.

(a) State Plan Requirement.—Section 1902(a) of the Social Security Act (42 U.S.C. 1396a(a)) is amended—

(1) by striking "and" at the end of paragraph (46);

(2) by striking the period at the end of paragraph (47) added by section 9407(a) of the Omnibus Budget Reconciliation Act of 1986 and inserting a semicolon and transferring and inserting such paragraph after paragraph (46);

(3) by striking the period at the end of the paragraph (47) added by section 11005(b) of the Anti-Drug Abuse Act of 1986 and inserting "; and", by redesignating such paragraph as paragraph (48), and by transferring and inserting such paragraph after paragraph (47); and

(4) by inserting after paragraph (48) the following new paragraph:

"(49) provide that, notwithstanding any other provision of this title, an individual enrolled with a health maintenance organization under this title shall be permitted to receive family planning services under the plan from any qualified provider.".

(b) Conforming Amendment.—Section 1902(e)(2)(A) of such Act (42 U.S.C. 1396a(e)(2)(A)) is amended by striking "but only" and inserting in lieu thereof "but, subject to subsection (a)(49), only".

(c) Effective Date.—The amendments made by this section shall apply with respect to services furnished on or after the date of enactment of this Act.

SEC. 4056. OPTIONAL MEDICAID COVERAGE OF INDIVIDUALS IN CERTAIN STATES RECEIVING ONLY OPTIONAL STATE SUPPLEMENTARY PAYMENTS.

Section 1902(a)(10)(A)(ii) of the Social Security Act (42 U.S.C. 1396a(a)(10)(A)(ii)) is amended—

(1) by striking "or" at the end of subclause (IX) and inserting "or" at the end of subclause (X); and

(2) by adding at the end thereof the following new subclause:

"(XI) who receive only an optional State supplementary payment based on need and paid on a regular basis, equal to the difference between the individual's countable income and the income standard used to determine eligibility for such supplementary payment (with countable income being the income remaining after deductions as established by the State pursuant to standards that are more restrictive than the standards for supplementary security income benefits under title XVI), which are available to all individuals in the State (but which may be based on different income standards by political subdivision according to cost of living differences), and which are paid by a State that does not have an agreement with the Secretary under section 1634.".

Subpart VI—Social Services and Income Security

SEC. 4061. INCREASED FUNDING FOR SOCIAL SERVICES BLOCK GRANT; EXTENSION OF SOCIAL SERVICES AND CHILD WELFARE SERVICES TO AMERICAN SAMOA.

(a) Increased Funding for Social Services Block Grant.—Section 2003(c) of the Social Security Act (42 U.S.C. 1397b(c)) is amended—

(1) by striking "and" at the end of paragraph (2);

(2) in paragraph (3), by striking "year" the first place it appears and all that follows through the period and inserting in lieu thereof "years 1984, 1985, 1986, and 1987, and each succeeding fiscal year other than the fiscal year 1988; and"; and

(3) by adding at the end thereof the following new paragraph:

"(4) $2,750,000,000 for the fiscal year 1988.".

(b) Inclusion of American Samoa in Social Services Block Grant Program.—

(1) Section 1101(a)(1) of the Social Security Act (42 U.S.C. 1301(a)(1)) is amended in the last sentence by inserting "American Samoa," after "Guam,".

(2)(A) Section 2003(a) of the Social Security Act (42 U.S.C. 1397b(a)) is amended by adding at the end thereof the following new sentence: "The allotment for fiscal year 1988 and each succeeding fiscal year to American Samoa shall be an amount which bears the same ratio to the amount allotted to the Northern Mariana Islands for that fiscal year as the population of American Samoa bears to the population of the Northern Mariana Islands determined on the basis of the most recent data available at the time such allotment is determined.".

(B) Section 2003(b) of such Act (42 U.S.C. 1397b(b)) is amended by inserting "American Samoa," after "the Virgin Islands," each place it appears.

(c) Inclusion of American Samoa in Child Welfare Services Program.—

(1) Section 1101(a)(1) of such Act (42 U.S.C. 1301(a)(1)) is amended by adding at the end thereof the following new sentence: "Such term when used in part B of title IV also includes American Samoa.".

(2) Section 421(b) of such Act (42 U.S.C. 621(b)) is amended by striking "and Guam" and inserting in lieu thereof "Guam, and American Samoa".

(d) Effective Date.—The amendments made by this section shall apply with respect to fiscal years beginning on or after October 1, 1987.

SEC. 4062. 2-YEAR EXTENSION OF FOSTER CARE CEILING AND OF AUTHORITY TO TRANSFER FOSTER CARE FUNDS TO CHILD WELFARE SERVICES.

(a) In General.—Section 474 of the Social Security Act (42 U.S.C. 674) is amended—

(1) in paragraphs (1), (2)(A)(iii), (2)(B), (4)(B), and (5)(A)(ii) of subsection (b), by striking out "through 1987" and inserting in lieu thereof "through 1989";

(2) in paragraph (5)(A) of subsection (b) (in the matter preceding clause (i)), by striking out "October 1, 1987" and inserting in lieu thereof "October 1, 1989"; and

(3) in paragraphs (1) and (2) of subsection (c), by striking out "through 1987" and inserting in lieu thereof "through 1989".

(b) Effective Date.—The amendments made by subsection (a) shall become effective on October 1, 1987.

SEC. 4063. PERMANENT EXTENSION OF AUTHORITY FOR VOLUNTARY FOSTER CARE PLACEMENTS.

(a) Section 102 of the Adoption Assistance and Child Welfare Act of 1980 is amended—

(1) in subsection (a)(1) (in the matter preceding subparagraph (A)), by striking out "and before October 1, 1987,";

(2) in subsection (c), by striking out all that follows "September 30, 1979" and inserting in lieu thereof a period; and

(3) in subsection (e), by striking "with respect to which the amendments made by this section are in effect".

(b) Effective Date.—The amendments made by subsection (a) shall become effective on October 1, 1987.

SEC. 4064. MOTHER/INFANT FOSTER CARE.

(a) In General.—Section 475(4) of the Social Security Act (42 U.S.C. 675(4)) is amended—

(1) by inserting "(A)" after "(4)"; and

(2) by adding at the end thereof the following new subparagraph:

"(B) In cases where—

"(i) a child placed in a foster family home or child-care institution is the parent of a son or daughter who is in the same home or institution, and

"(ii) payments described in subparagraph (A) are being made under this part with respect to such child,

the foster care maintenance payments made with respect to such child as otherwise determined under subparagraph (A) shall also include such amounts as may be necessary to cover the cost of the items described in that subparagraph with respect to such son or daughter.".

(b) Conforming Amendments Relating to Eligibility under other Programs.—

(1) Section 402(a)(24) of such Act (42 U.S.C. 602(a)(24)) is amended by striking "if an individual is receiving benefits under title XVI, then, for the period for which such benefits are received," and inserting in lieu thereof the following: "if an individual is receiving benefits under title XVI or his costs in a foster family home or child-care institution are covered by the foster care maintenance payments being made with respect to his or her minor parent as provided in section 475(4)(B), then, for the period for which such benefits are received or such costs are so covered,".

(2) Section 472(h) of such Act (42 U.S.C. 672(h)) is amended by adding at the end thereof the following new sentence: "For purposes of the preceding sentence, a child whose costs in a foster family home or child-care institution are covered by the foster care maintenance payments being made with respect to his or her minor parent, as provided in section 475(4)(B), shall be considered a child with respect to whom foster care maintenance payments are made under this section.".

(3)(A) Section 473(a)(2)(A) of such Act (42 U.S.C. 673(a)(2)(A)) is amended—

(i) by striking "or" at the end of clause (i);

(ii) by adding "or" at the end of clause (ii); and

(iii) by adding after clause (ii) the following new clause:

"(iii) is a child whose costs in a foster family home or child-care institution are covered by the foster care maintenance payments being made with respect to his or her minor parent as provided in section 475(4)(B),".

(B) Section 473(a)(2)(B)(iii) of such Act (42 U.S.C. 673(a)(2)(B)(iii)) is amended by inserting "or (A)(iii)" after "(A)(ii)".

(4) Section 473(b) of such Act (42 U.S.C. 673(b)) is amended by adding at the end thereof the following new sentence: "For purposes of the preceding sentence, a child whose costs in a foster family home or child-care institution are covered by the foster care maintenance payments being made with respect to his or her minor parent, as provided in section 475(4)(B), shall be considered a child with respect to whom foster care maintenance payments are being made under section 472.".

(c) Effective Date.—The amendments made by this section shall become effective on the first day of the second calendar quarter to begin after the date of enactment of this Act.

SEC. 4065. INCREASE IN PERSONAL NEEDS ALLOWANCE FOR SSI RECIPIENTS.

(a) Increase in Standard.—Section 1611(e)(1)(B) of the Social Security Act (42 U.S.C. 1382(e)(1)(B)) is amended—

(1) by striking "$300 per year" in clauses (i) and (ii)(I) and inserting "$360 per year"; and

(2) by striking "$600 per year" in clause (iii) and inserting "$720 per year".

(b) Mandatory Pass-Through of Increased Personal Needs Allowance.—Section 1618 of such Act is amended by adding at the end the following new subsection:

"(g) In order for any State which makes supplementary payments of the type described in section 1616(a) (including payments pursuant to an agreement entered into under section 212(a) of Public Law 93-66) to recipients of benefits determined under section 1611(e)(1)(B), on or after October 1, 1987, to be eligible for payments pursuant to title XIX with respect to any calendar quarter which begins—

"(1) after October 1, 1987, or, if later

"(2) after the calendar quarter in which it first makes such supplementary payments to recipients of benefits so determined,

such State must have in effect an agreement with the Secretary whereby the State will—

"(3) continue to make such supplementary payments to recipients of benefits so determined, and

"(4) maintain such supplementary payments to recipients of benefits so determined at levels which assure (with respect to any particular month beginning with the month in which this subsection is first effective) that—

"(A) the combined level of such supplementary payments and the amounts payable to or on behalf of such recipients under section 1611(e)(1)(B) for that particular month,

is not less than—

"(B) the combined level of such supplementary payments and the amounts payable to or on behalf of such recipients under section 1611(e)(1)(B) for October 1987 (or, if no such supplementary payments were made for that month, the combined level for the first subsequent month for which such payments were made), increased—

"(i) in a case to which clause (i) of such section 1611(e)(1)(B) applies or (with respect to the individual or spouse who is in the hospital, home, or facility involved) to which clause (ii) of such section applies, by $5, and

"(ii) in a case to which clause (iii) of such section 1611(e)(1)(B) applies, by $10.".

(c) Effective Date.—The amendments made by subsections (a) and (b) shall become effective on July 1, 1988.

SEC. 4066. INCREASE IN SSI EMERGENCY ADVANCE PAYMENTS.

(a) In General.—Section 1631(a)(4)(A) of the Social Security Act (42 U.S.C. 1383(a)(4)(A)) is amended by striking "a cash advance against such benefits in an amount not exceeding $100" and inserting in lieu thereof "a cash advance against such benefits, including any federally administered State supplementary payments, in an amount not exceeding the monthly amount that would be payable to an eligible individual with no other income for the first month of such presumptive eligibility".

(b) Effective Date.—The amendment made by subsection (a) shall become effective on the first day of the second calendar quarter to begin after the date of enactment of this Act.

SEC. 4067. AUTHORITY OF SECRETARY TO SUSPEND PENALTY FOR TRANSFERRING ASSETS FOR LESS THAN FAIR MARKET VALUE.

(a) In General.—Section 1613(c) of the Social Security Act (42 U.S.C. 1382b(c)) is amended—

(1) by inserting immediately after "the exclusions under subsection (a)" in paragraph (1) the following: "and subject to paragraph (4) of this subsection"; and

(2) by adding at the end thereof the following new paragraph:

"(4) The Secretary shall by regulation provide for suspending the application of paragraph (1) to the extent (in any instance) that the Secretary determines that such suspension is necessary to avoid undue hardship.".

(b) Effective Date.—The amendments made by subsection (a) shall become effective on the first day of the second calendar quarter to begin after the date of enactment of this Act.

SEC. 4068. DISREGARD OF AFDC UNDER SSI RETROSPECTIVE ACCOUNTING.

(a) In General.—Section 1612(b)(6) of the Social Security Act (42 U.S.C. 1382a(b)(6)) is amended by striking "assistance" and inserting in lieu thereof "payments of aid to families with dependent children under a State plan approved under section 402, and assistance".

(b) Effective Date.—The amendment made by subsection (a) shall become effective on the first day of the second calendar quarter to begin after the date of enactment of this Act.

SEC. 4069. EXCLUSION OF REAL PROPERTY WHEN IT CANNOT BE SOLD.

(a) In General.—Section 1613(b) of the Social Security Act (42 U.S.C. 1382b(a)) is amended—

(1) by inserting "(1)" after "(b)"; and

(2) by adding at the end thereof the following new paragraph:

"(2) Notwithstanding the provisions of paragraph (1), the Secretary shall not require the disposition of any real property for so long as it cannot be sold because (i) it is jointly owned (and its sale would cause undue hardship, due to loss of housing, for the other owner or owners), (ii) its sale is barred by a legal impediment, or (iii) as determined under regulations issued by the Secretary, the owner's reasonable efforts to sell it have been unsuccessful.".

(b) Effective Date.—The amendments made by subsection (a) shall become effective on the first day of the second calendar quarter to begin after the date of enactment of this Act.

SEC. 4070. EXCLUSION OF INTEREST ON BURIAL ACCOUNTS.

(a) In General.—Section 1613(d) of the Social Security Act (42 U.S.C. 1382b(d)) is amended—

(1) in paragraph (1), by striking "(if" and all that follows and inserting in lieu thereof a period; and

(2) in paragraph (3), by striking "aside" and inserting in lieu thereof "aside in cases where the inclusion of any portion of the amount would cause the resources of such individual, or of such individual and spouse, to exceed the limits specified in paragraph (1) or (2) (whichever may be applicable) of section 1611(a)".

(b) Effective Date.—The amendments made by subsection (a) shall become effective on the first day of the second calendar quarter to begin after the date of enactment of this Act.

SEC. 4071. PERMANENT EXTENSION OF DISREGARD OF IN-KIND ASSISTANCE TO SSI AND AFDC RECIPIENTS.

(a) In General.—Section 2639(d) of the Deficit Reduction Act of 1984 is amended by striking "; but" and all that follows and inserting a period.

(b) Effective Date.—The amendment made by subsection (a) shall be effective as if included in the enactment of the Deficit Reduction Act of 1984.

SEC. 4072. EXCLUSION OF DEATH BENEFITS TO THE EXTENT SPENT ON LAST ILLNESS AND BURIAL.

(a) In General.—Subparagraphs (D) and (E) of section 1612(a)(2) of the Social Security Act (42 U.S.C. 1382a(a)(2)) are amended to read as follows:

"(D) payments to the individual occasioned by the death of another person, to the extent that the total of such payments exceeds the amount expended by such individual for purposes of the deceased person's last illness and burial;

"(E) support and alimony payments, and (subject to the provisions of subparagraph (D) excluding certain amounts expended for purposes of a last illness and burial) gifts (cash or otherwise) and inheritances; and".

(b) Effective Date.—The amendments made by subsection (a) shall become effective on the first day of the second calendar quarter to begin after the date of enactment of this Act.

SEC. 4073. CONTINUATION OF FULL BENEFIT STANDARD FOR INDIVIDUALS TEMPORARILY INSTITUTIONALIZED.

(a) In General.—Section 1611(e)(1) of the Social Security Act (42 U.S.C. 1382(e)(1)) is amended—

(1) in subparagraph (A), by striking "and (E)" and inserting in lieu thereof "(E), and (G)";

(2) in subparagraph (B), by inserting in lieu thereof "(subject to subparagraph (G))" after "throughout any month"; and

(3) by adding at the end thereof the following new subparagraphs:

"(G) A person may be an eligible individual or eligible spouse for purposes of this title, and subparagraphs (A) and (B) shall not apply, with respect to any particular month throughout which he or she is an inmate of a public institution, the primary purpose of which is the provision of medical or psychiatric care, or is in a hospital, extended care facility, nursing home, or intermediate care facility receiving payments (with respect to such individual or spouse) under a State plan approved under title XIX, if it is determined in accordance with subparagraph (G) that—

"(i) such person's stay in that institution or facility (or in that institution or facility and one or more other such institutions or facilities during a continuous period of institutionalization) is likely (as certified by a physician) not to exceed 3 months, and the particular month involved is one of the first 3 months throughout which such person is in such an institution or facility during a continuous period of institutionalization; and

"(ii) such person needs to continue to maintain and provide for the expenses of the home or living arrangement to which he or she may return upon leaving the institution or facility.

The benefit of any person under this title (including State supplementation if any) for each month to which this subparagraph applies shall be payable, without interruption of benefit payments and on the date the benefit involved is regularly due, at the rate that was applicable to such person in the month prior to the first month throughout which he or she is in the institution or facility.

"(H) The Secretary shall establish procedures for the determinations required by clauses (i) and (ii) of subparagraph (G), and may enter into agreements for making such determinations (or for providing information or assistance in connection with the making of such determinations) with appropriate State and local public and private agencies and organizations. Such procedures and agreements shall include the provision of appropriate assistance to individuals who, because of their physical or mental condition, are limited in their ability to furnish the information needed in connection with the making of such determinations.".

(b) Conforming Amendment.—Section 1902(l) of such Act (42 U.S.C. 1396a(l)) is amended by striking "1611(e)(1)(E)" and inserting "subparagraph (E) or (G) of section 1611(e)(1)".

(c) Effective Date.—The amendments made by this section shall become effective on July 1, 1988.

SEC. 4074. TREATMENT OF CERTAIN COUPLES IN MEDICAL INSTITUTIONS.

(a) IN GENERAL.—Section 9 of Public Law 99-643 is amended—

(1) by striking "sharing a room or comparable accommodation in a" and inserting "living in the same"; and

(2) by striking "shared such a room or accommodation" and inserting "lived in the same such hospital, home, or facility".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall become effective on the first day of the second calendar quarter to begin after the date of enactment of this Act.

SEC. 4075. EXTENDING FROM 3 TO 6 THE NUMBER OF MONTHS THAT AN INDIVIDUAL IN A PUBLIC EMERGENCY SHELTER CAN BE ELIGIBLE FOR SSI.

(a) IN GENERAL.—Section 1611(e)(1)(D) of the Social Security Act (42 U.S.C. 1382(e)(1)(D)) is amended by striking "three months in any 12-month period" and inserting in lieu thereof "6 months in any 9-month period".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall become effective on the first day of the second calendar quarter to begin after the date of enactment of this Act.

SEC. 4076. SPECIAL NOTICE TO BLIND SSI RECIPIENTS.

(a) IN GENERAL.—

(1) Section 1631 of the Social Security Act (42 U.S.C. 1383) is amended by adding at the end the following new subsection:

"Special Notice to Blind Individuals with Respect to Hearings and Other Official Actions

"(l)(1) In any case where an individual who is applying for or receiving benefits under this title on the basis of blindness is entitled (under subsection (c) or otherwise) to receive notice from the Secretary of any decision or determination made or other action taken or proposed to be taken with respect to his or her rights under this title, such individual shall at his or her election be entitled (A) to receive a supplementary notice of such decision, determination, or action, by telephone, within 5 working days after the initial notice is mailed, (B) to receive the initial notice in the form of a certified letter, or (C) to receive notification by some alternative procedure established by the Secretary and agreed to by the individual.

"(2) The election under paragraph (1) may be made at any time; but an opportunity to make such an election shall in any event be given (A) to every individual who is an applicant for benefits under this title on the basis of blindness, at the time of his or her application, and (B) to every individual who is a recipient of such benefits on the basis of blindness, at the time of each redetermination of his or her eligibility. Such an election, once made by an individual, shall apply with respect to all notices of decisions, determinations, and actions which such individual may thereafter be entitled to receive under this title until such time as it is revoked or changed.".

(2) Not later than one year after the date on which the amendment made by paragraph (1) becomes effective, the Secretary of Health and Human Services shall provide every individual receiving benefits under title XVI of the Social Security Act on the basis of blindness an opportunity to make the election under section 1631(l)(1) of such Act (as added by such amendment).

(b) STUDY.—The Secretary of Health and Human Services shall study the desirability and feasibility of extending special or supplementary notices of the type provided to blind individuals by section 1631(l) of the Social Security Act (as added by subsection (a) of this section) to other individuals who may lack the ability to read and comprehend regular written notices, and shall report the results of such study to the Congress, along with such recommendations as may be appropriate, within 12 months after the date of the enactment of this Act.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall become effective on the first day of the second calendar quarter to begin after the date of enactment of this Act.

SEC. 4077. REHABILITATION SERVICES FOR BLIND SSI RECIPIENTS.

(a) IN GENERAL.—Section 1631(a)(6) of the Social Security Act (42 U.S.C. 1383(a)(6)) is amended—

(1) by inserting "blindness (as determined under section 1614(a)(2)) or" before "disability (as determined under section 1614(a)(3))";

(2) by inserting "blindness or other" before "physical or mental impairment"; and

(3) by inserting "blindness and" before "disability benefit rolls" in subparagraph (B).

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall become effective on the first day of the second calendar quarter to begin after the date of enactment of this Act.

SEC. 4078. RETENTION OF MEDICAID WHEN SSI BENEFITS ARE LOST UPON ENTITLEMENT TO EARLY WIDOW'S OR WIDOWER'S INSURANCE BENEFITS.

(a) IN GENERAL.—Section 1634 of the Social Security Act (42 U.S.C. 1383c) is amended by adding at the end thereof the following new subsection:

"(d) If any person—

"(1) applies for and obtains benefits under subsection (e) or (f) of section 202 (or under any other subsection of section 202 if such person is also eligible for benefits under such subsection (e) or (f)) as required by subsection 1611(e)(2), being then at least 60 years of age but not entitled to hospital insurance benefits under part A of title XVIII, and

"(2) is determined to be ineligible (by reason of the receipt of such benefits under section 202) for supplemental security income benefits under this title or for State supplementary payments of the type described in section 1616(a),

such person shall nevertheless be deemed to be a recipient of supplemental security income benefits under this title for purposes of title XIX, so long as he or she (A) would be eligible for such supplemental security income benefits, or such State supplementary payments, in the absence of such benefits under section 202, and (B) is not entitled to hospital insurance benefits under part A of title XVIII.".

(b) NOTICE.—The Secretary of Health and Human Services, acting through the Social Security Administration, shall (within 3 months after the date of the enactment of this Act) issue a notice to all individuals who have attained age 60 but not age 65 as of October 1, 1987, and who received supplemental security income benefits under title XVI of the Social Security Act prior to attaining age 60 but lost those benefits by reason of the receipt of widow's or widower's insurance benefits (or other benefits as described in section 1634(d)(1) of that Act as added by subsection (a) of this section) under title II of that Act. Each such notice shall inform the individual that he or she should contact the Secretary or the appropriate State agency concerning his or her possible eligibility for medical assistance benefits under such title XIX.

(c) STATE DETERMINATIONS.—Any determination required under section 1634(d) of the Social Security Act with respect to whether an individual would be eligible for benefits under title XVI of such Act (or State supplementary payments) in the absence of benefits under section 202 shall be made by the appropriate State agency.

(d) CONFORMING AMENDMENTS.—Section 1921(a)(2) of such Act (42 U.S.C. 1396s(a)(2)) is amended—

(1) by striking "1634" in the second subparagraph (B) and inserting in lieu thereof "1634(c)"; and

(2) by adding at the end the following new subparagraph:

"(D) Section 1634(d) of this Act (relating to individuals who lose eligibility for SSI benefits due to entitlement to early widow's or widower's insurance benefits under section 202(e) or (f) of this Act).".

(e) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to any individual without regard to whether the determination of his or her ineligibility for supplemental security income benefits by reason of the receipt of benefits under section 202 of the Social Security Act (as described in section 1634(d)(2) of such Act) occurred before, on, or after the date of the enactment of this Act; but no individual shall be eligible for assistance under title XIX of such Act by reason of such amendments for any period before the first day of the second calendar quarter to begin after the date of enactment of this Act.

SEC. 4079. EXTENSION OF DEADLINE FOR DISABLED WIDOWS AND WIDOWERS TO APPLY FOR MEDICAID PROTECTION.

Section 1634(b)(3) of the Social Security Act (42 U.S.C. 1383c(b)(3)) is amended by striking "during the 15-month period beginning with the month in which this subsection is enacted" and inserting "no later than July 1, 1988".

PART B—OTHER PROVISIONS

Subpart I—Medicare Provisions

SEC. 4081. HOME HEALTH AND SKILLED NURSING FACILITY PROVISIONS.

(a) HOME HEALTH TOLL-FREE HOTLINE AND INVESTIGATIVE UNIT.—

(1) Section 1864(a) of the Social Security Act (42 U.S.C. 1395aa(a)) is amended by adding at the end thereof the following:

"Any agreement under this subsection shall provide for the appropriate State or local agency to maintain a toll-free hotline (1) to collect, maintain, and continually update information on home health agencies located in the State or locality that are certified to participate in the program established under this title (which information shall include any significant deficiencies found with respect to patient care in the most recent certification survey conducted with respect to the agency, when that survey was completed, whether corrective actions have been taken or are planned, and the sanctions, if any, imposed under this title with respect to the agency) and (2) to receive complaints (and answer questions) with respect to home health agencies in the State or locality. Any such agreement shall provide for such agency to maintain a unit for investigating such complaints that possesses enforcement authority and has access to consumer medical records and survey reports.".

(2) The amendment made by paragraph (1) shall apply with respect to agreements entered into or renewed on or after the date of enactment of this Act.

(b) PUBLICATION OF POLICIES.—

(1) IN GENERAL.—Section 1871 of the Social Security Act (42 U.S.C. 1395hh) is amended by adding at the end thereof the following new subsection:

"(c)(1) Effective June 1, 1988, each fiscal intermediary and carrier administering claims for extended care, post-hospital extended care, home health care, and durable medical equipment benefits under this title shall make available to the public all interpretative materials, guidelines, and clarifications of policies which relate to payments for such benefits.

"(2) Effective June 1, 1988, the Secretary shall publish in the Federal Register, not less frequently than every three months, a list indicating the subject matter of all such new home health care, extended care, post-hospital extended care, and durable medical equipment coverage instructions and clarifications that have been furnished in the preceding 3 months to fiscal intermediaries, carriers or service providers, as well as interpretative rules, and statements of policy or changes therein, issued or used by the Secretary, and by fiscal intermediaries or carriers.

"(3) The Secretary shall only change policies or establish standards for payment under this title, and the Secretary or his fiscal intermediaries or carriers shall only issue additional instructions, clarifications, rules, statements, and guidelines for extended care, post-hospital extended care, home health care, or durable medical equipment by written statement, made available to all affected fiscal intermediaries, carriers, and service providers (and to the Secretary when such additional statement is made by a fiscal intermediary or carrier). Any such statement shall only have effect with respect to claims submitted 30 days after its full text has been made available pursuant to paragraph (2).

"(4) The Secretary shall ensure that the practices of fiscal intermediaries and carriers regarding payments under this title are consistent with each other and, to the maximum extent possible, are clearly understood by service providers and beneficiaries. The Secretary, shall periodically consult with representatives of beneficiaries, service providers, fiscal intermediaries and carriers, shall update, and clarify, as necessary, existing policies regarding skilled nursing and home health care to meet such goals.

"(5)(a) The Secretary shall to the extent feasible make such changes in automated data collection and retrieval by the Secretary and his fiscal intermediaries as are necessary to make easily accessible for the Secretary and other appropriate parties a data base which fairly and accurately reflects the provision of extended care, post-hospital extended care and home health care benefits pursuant to this title, including such categories as benefit denials, results of appeals, and other relevant factors, and selectable by such categories and by fiscal intermediary, service provider, and region.".

(2) REPORT.—Not later than six months after the date of enactment of this Act, the Secretary shall report to Congress on the feasibility of including in the data base required under section 1871(c)(5) of the Social Security Act, as added by the amendment made by paragraph (1) diagnoses (or groups of them), length of coverage, and reimbursements.

(c) CONDITIONS OF PARTICIPATION AND SURVEY PROCESS FOR HOME HEALTH AGENCIES.—

(1)(A) Section 1861(o)(6) of the Social Security Act (42 U.S.C. 1395x(o)(6)) is amended by inserting "the conditions of participation specified in section 1892(a) and" after "meets".

(B) Title XVIII is amended by adding at the end thereof the following new section:

"CONDITIONS OF PARTICIPATION FOR HOME HEALTH AGENCIES; HOME HEALTH QUALITY

"SEC. 1892. (a) The conditions of participation that a home health agency is required to meet under this subsection are as follows:

"(1) The agency protects and promotes the rights of each individual under its care, including each of the following rights:

"(A) The right to be fully informed about care and treatment, to participate (where appropriate) in planning care and treatment, and to be fully informed in advance of any changes in care or treatment that may affect the individual's well-being.

"(B) The right to voice grievances with respect to treatment or care that is (or fails to be) furnished without suffering discrimination or reprisal.

"(C) The right to have one's property treated with respect.

"(D) The right to be informed orally and in writing (in advance of coming under the care of the agency) of—

"(i) all items and services furnished by (or under arrangements with) the agency for which payment may be made under this title,

"(ii) the coverage available for such items and services under this title, title XIX, and any other Federal program of which the agency is reasonably aware, and

"(iii) any charges the individual may have to pay with respect to items and services furnished by (or under arrangements with) the agency.

"(2)(A) The agency promptly provides the State entity responsible for the licensing of such agency with the name and social security account number of any individual hired by the agency to provide care and discloses to such entity whether such individual has ever been convicted of a felony.

"(B) The agency promptly informs such entity of a change in the persons with an ownership or control interest (as defined in section 1124(a)(3)) in the agency.

"(3) The agency only provides items and services described in section 1861(m) (except for medical supplies and durable medical equipment) on or after October 1, 1989, through persons who are licensed health professionals or have successfully completed or are enrolled in and making timely progress in completing a training program that meets minimum standards established by the Secretary. The Secretary shall ensure that durable medical equipment suppliers are properly trained in the demonstration and use of the equipment that they supply to home health agencies. The Secretary shall establish such standards not later than July 1, 1988.

"(4) The clinical records described in section 1861(o)(3) with respect to an individual include the individual's plan of care required under section 1861(m).

"(5) The agency operates and provides services in compliance with all applicable Federal, State, and local laws and regulations and with all accepted professional standards and principles.

"(b) It is the responsibility of the Secretary to assure that the conditions of participation and requirements specified in or pursuant to section 1861(o) are adequate to protect the health and safety of individuals under the care of a home health agency and to promote the effective and efficient operation of the program.".

(C) Except as otherwise provided, the amendments made by this paragraph shall apply to home health agencies as of the first day of the eighteenth calendar month that begins after the date of enactment of this Act.

(2)(A) Section 1892 (as added by paragraph (1)) is amended by adding at the end thereof the following new subsections:

"(c)(1) Any agreement entered into or renewed by the Secretary pursuant to section 1864 relating to home health agencies shall provide that the appropriate State or local agency shall conduct a standard survey of each home health agency.

"(2)(A) Except as provided in subparagraph (B), the standard survey shall be conducted with respect to each home health agency not earlier than 9 months and not later than 15 months after the date of the most recently completed survey conducted with respect to that agency.

"(B) In addition to a standard survey conducted under subparagraph (A), a standard survey of an agency shall be promptly conducted upon—

"(i) a change of ownership of the agency, or

"(ii) a significant number of complaints with respect to the agency.

"(C) A standard survey conducted under this paragraph with respect to a home health agency—

"(i) may be made with or without advance notice,

"(ii) not later than January 1, 1990, shall include visits to a sample of the homes of individuals furnished items and services by the agency (but only with the consent of such individuals) for the purpose of evaluating (in accordance with a standardized reproducible assessment approved by the Secretary under subsection (d)) the extent to which the quality and scope of services furnished improved or maintained the functional capacity of such individuals,

"(iii) shall evaluate—

"(I) the quality of care and services furnished by the agency, and

"(II) the agency's observance of rights specified in or pursuant to section 1861(o),

"(iv) shall be based upon a protocol that is developed, tested, and validated by the Secretary not later than July 1, 1989, and

"(v) shall be conducted by an individual—

"(I) who meets minimum qualifications established by the Secretary not later than July 1, 1989, and

"(II) who has not, during the two-year period prior to the survey, served as a consultant to a home health agency with respect to such agency's compliance with the any condition of participation specified in or pursuant to section 1861(o).

"(D) Each home health agency that is found, under a standard survey, to have performed poorly with regard to measures of compliance with any condition of participation specified in or pursuant to section 1861(o) shall be subject to an extended survey. Any other facility may, at the Secretary's or State's discretion, be subject to such an extended survey.".

"(d)(1) Not later than April 1, 1990, the Secretary shall designate an instrument (or instruments) for use by an agency conducting surveys pursuant to subsection (c).

"(2)(A) Not later than January 1, 1992, the Secretary shall—

"(i) evaluate the assessment process,

"(ii) report to Congress on the results of such evaluation, and

"(iii) based on such evaluation, make such modifications in the assessment process as the Secretary determines are appropriate.

"(B) The Secretary shall periodically update the evaluation conducted under subparagraph (A), report the results of such update to Congress, and, based on such update, make such modifications in the assessment process as the Secretary determines are appropriate.

"(3) The Secretary shall provide for the training of State and Federal surveyors in the use of any assessment instrument designated under paragraph (1).".

(B) The amendment made by subparagraph (A) shall become effective on the first day of the eighteenth calendar month to begin after the date of enactment of this Act.

(3) Section 1892 (as added by paragraph (1) and amended by paragraph (2)) is further amended by adding at the end thereof the following new subsections:

"(e) The Secretary shall develop and implement criteria and procedures for the evaluation of plans of correction submitted by home health agencies that are found not to meet the conditions of participation and requirements specified in or pursuant to section 1861(o). Such criteria and procedures shall be designed to—

"(1) maximize specificity in the plans submitted, and

"(2) assure that corrections are made by an agency in accordance with a timetable approved by the Secretary.

"(f) If the Secretary determines that—

"(1) a home health agency that is certified for participation under this title—

"(A) no longer substantially meets the conditions of participation specified in or pursuant to section 1861(o), or

"(B) has failed to correct a deficiency in accordance with a timetable approved by the Secretary pursuant to subsection (e)(2), and

"(2) the deficiencies involved do not immediately jeopardize the health and safety of the individuals to whom the agency furnishes items and services,

the Secretary may (for a period not to exceed one year) impose intermediate sanctions developed pursuant to subsection (g), in lieu of canceling immediately the certification of the agency.

"(g)(1) The Secretary shall develop and implement—

"(A) a range of intermediate sanctions to apply to home health agencies under the conditions described in subsection (f), and

"(B) appropriate procedures for appealing determinations relating to the imposition of such sanctions.

"(2)(A) The intermediate sanctions developed under paragraph (1) shall include—

"(i) civil fines and penalties, and

"(ii) suspension of all or part of the payments to which a home health agency would otherwise be entitled under this title with respect to items and services furnished by a home health agency on or after the date in which the Secretary determines that intermediate sanctions should be imposed pursuant to subsection (f).

"(B) The sanctions specified in subparagraph (A) are in addition to sanctions otherwise available under State or Federal law.

"(3) The Secretary shall develop and implement specific procedures with respect to when and how each of the intermediate sanctions developed under paragraph (1) is to be applied, the amounts of any fines, and the severity of each of these penalties. Such procedures shall be designed so as to minimize the time between identification of violations and imposition of these sanctions and shall provide for the imposition of incrementally more severe fines for repeated or uncorrected deficiencies.".

(B) The amendment made by subparagraph (A) shall become effective on the first day of the eighteenth calendar month to begin after the date of enactment of this Act.

(d) DENIALS AND RECONSIDERATIONS.—

(1) Section 1816 of the Social Security Act (42 U.S.C. 1395h) is amended by adding at the end thereof the following new subsection:

"(j) An agreement with an agency or organization under this section shall require that, with respect to a claim for home health services, extended care services, or post-hospital extended care services submitted by a provider to such agency or organization that is denied, such agency or organization—

"(1) furnish the provider and the individual with respect to whom the claim is made with a written explanation of the denial and of the statutory or regulatory basis for the denial;

"(2) with respect to any claim that is denied on the ground that the service is not medically necessary, ensure that if such individual (or the provider on behalf of the individual) seeks reconsideration of the denial, the denial is reviewed by a physician (if available, a physician with expertise in geriatrics); and

"(3) promptly notify such individual and the provider of disposition of such reconsideration.".

(2)(A) Section 1816(f) of such Act (42 U.S.C. 1395h(f)) is amended by adding at the end thereof the following: "Such standards and criteria shall include with respect to home health, extended care, and post-hospital extended care claims whether such agency or organization is able to process 75 percent of reconsiderations within 60 days (except in the case of the fiscal year 1989, 66 percent of reconsiderations) and 90 percent of reconsiderations within 90 days and the extent to which its determinations are reversed on appeal.".

(2) Section 1842(b) of such Act (42 U.S.C. 1395u(b)) is amended by adding at the end thereof the following: "Such standards and criteria shall include with respect to durable medical equipment whether such carrier is able to process 75 percent of reconsiderations within 60 days (except in the case of the fiscal year 1989, 66 percent of reconsiderations) and 90 percent of reconsiderations within 90 days and the extent to which its determinations are reversed on appeal.".

(3)(A) The amendment made by paragraph (1) shall apply with respect to claims received on or after January 1, 1988.

(B) The amendments made by paragraph (2) shall apply with respect to claims filed on or after October 1, 1988.

(2) The Secretary of Health and Human Services shall provide for such timely amendments to agreements under section 1816 and contracts under section 1842 of the Social Security Act, and regulations, to such extent as may be necessary to implement the amendments made by paragraphs (1) and (2) on a timely basis.

(e) MORATORIUM ON PRIOR AUTHORIZATION FOR HOME HEALTH AND POST-HOSPITAL EXTENDED CARE SERVICES.—The Secretary of Health and Human Services shall not implement any voluntary or mandatory program of prior authorization for home health services, extended care services, or post-hospital extended care services under part A or B of title XVIII of the Social Security Act at any time prior to six months after the date on which the Congress receives the report required under section 9305(k)(4) of the Omnibus Budget Reconciliation Act of 1986.

(f) FISCAL INTERMEDIARY CONSULTATION REQUIREMENT.—

(1) Section 1816 of such Act, as amended by subsection (d), is further amended by adding at the end thereof the following new subsection:

"(k) An agreement with an agency or organization under this section shall require that the agency or organization implement a mechanism for consulting (at least once annually) with representatives of home health and post-hospital extended care and extended care service providers in the region, beneficiaries of services furnished by such providers, and appropriate personnel in the Health Care Financing Administration with respect to problems of claim review, coverage guidelines, reconsiderations, payments, and other activities of the agency or organization.".

(2)(A) The amendment made by paragraph (1) shall become effective on January 1, 1988.

(B) The Secretary of Health and Human Services shall provide for such timely amendments to agreements under section 1816 of the Social Security Act, and regulations, to such extent as may be necessary to implement the amendments made by paragraph (1) on a timely basis.

(g) DELAY IN PUBLISHING REGULATIONS WITH RESPECT TO DEEMING THE STATUS OF HOME HEALTH AGENCIES.—The Secretary of Health and Human Services shall not publish final regulations providing that for the purposes of title XVIII of the Social Security Act, an entity may be deemed to be a home health agency on the ground that it has been certified by a private accreditation entity, on a date earlier than 6 months after the date on which proposed regulations are published with respect to the deeming of such agencies.

(h) HOME HEALTH PROSPECTIVE PAYMENT STUDY AND DEMONSTRATION.—

(1) The Secretary of Health and Human Services (in this subsection referred to as the "Secretary") shall conduct a study of and demonstration to test alternative methods of paying home health agencies on a prospective basis for services furnished under title XVIII of the Social Security Act. The study and demonstration shall be designed to enable the Secretary to evaluate the effects of various methods of prospective payment (including payments on a per-visit, per-case, and per-episode basis) on program expenditures, access to and quality of, home health care and operations of home health agencies, and shall provide all necessary data for determining a prospective rate or rates for any such method and for determining whether application of a particular method allows for payment under such title on a budget-neutral basis.

(2) The study under paragraph (1) shall account for—

(A) the special needs of sole community home health agencies and new home health agencies;

(B) extraordinary circumstances beyond the control of home health agencies (such as significant fluctuations in population and unusual labor costs);

(C) the need to minimize administrative and financial reporting requirements to reduce program costs;

(D) variations in severity of illness and case complexity that cannot be adequately accounted for by the various methods considered under subsection (a); and

(E) increases in wages and the cost of goods and services included in the cost of providing home health services.

(3) The amount paid for home health services under the demonstration conducted under this subsection shall be no greater than the amount (as determined by the Secretary) that would have been paid for such services under title XVIII of the Social Security Act in the absence of the demonstration.

(4)(A) Not later than 12 months after the date of enactment of this Act, the Secretary shall submit to the Congress an interim report on the progress of the demonstration under paragraph (1).

(B) Not later than July 1, 1990, the Secretary shall submit to the Congress specific legislative proposals based on the results of the study under paragraph (1).

(i) Study of Adjustments to Home Health Agency Cost Limits.—The Secretary of Health and Human Services shall study and report to the Congress, not later than June 1, 1988, on—

(1) whether the separate schedules of cost limits currently applied to home health agencies under title XVIII of the Social Security Act located in urban and rural areas accurately reflect differences in the costs of urban and rural home health agencies, and

(2) the appropriateness of modifying such limits to take into account the proportion of agency patients who are from urban and rural areas.

(j) Beneficiary Notification.—

(1) Not later than 90 days after the date of enactment of this Act, the Secretary of Health and Human Services (in this section referred to as "the Secretary") shall develop and distribute to each provider with an agreement under section 1866 of the Social Security Act and to each agency or organization with an agreement under section 1816 of such Act a standard form that is periodically updated (as appropriate) and contains a description of—

(A) rights and conditions of coverage with respect to home health services, post-hospital extended care services, and extended care services furnished under title XVIII of such Act;

(B) rights to appeal a coverage determination under such title where the provider of such services decides not to submit a claim on behalf of the beneficiary;

(C) the right to appeal (directly or through the provider) the denial of a claim by an agency or organization pursuant to section 1816 of such Act; and

(D) the practical steps required for initiating appeals described in subparagraphs (B) and (C) (including sources of legal assistance).

(2) The Secretary shall take appropriate steps to ensure that—

(A) each provider with an agreement under section 1866 of the Social Security Act makes the standard document (as updated) distributed under paragraph (1) available to any individual covered under the insurance program under part A of title XVIII of such Act at any time such individual requests home health services, post-hospital extended care services, or extended care services through the provider; and

(B) each agency or organization with an agreement under section 1816 of such Act makes such document available to any such individual at any time the agency or organization makes a determination regarding home health services, post-hospital extended care services, or extended care services furnished such individual with respect to which the individual may appeal.

SEC. 4082. OFFICE OF RURAL HEALTH POLICY.

Title VII of the Social Security Act is amended by adding at the end thereof the following new section:

"OFFICE OF RURAL HEALTH POLICY

"Sec. 711. (a) There shall be established in the Department of Health and Human Services (in this section referred to as the "Department") an Office of Rural Health Policy (in this section referred to as the "Office"). The Office shall be headed by a Director, who shall advise the Secretary on the effects of current policies and proposed statutory, regulatory, administrative, and budgetary changes in the programs established under titles XVIII and XIX on the financial viability of small rural hospitals, the ability of rural areas (and rural hospitals in particular) to attract and retain physicians and other health professionals, and access to (and the quality of) health care in rural areas.

"(b) In addition to advising the Secretary with respect to the matters specified in subsection (a), the Director, through the Office, shall—

"(1) oversee compliance with the requirements of section 1102(b) of this Act and section 4083 of the Omnibus Budget Reconciliation Act of 1987,

"(2) establish and maintain a clearinghouse for collecting and disseminating information on—

"(A) rural health care issues,

"(B) research findings relating to rural health care, and

"(C) innovative approaches to the delivery of health care in rural areas,

"(3) coordinate the activities within the Department that relate to rural health care, and

"(4) provide information to the Secretary and others in the Department with respect to the activities, of other Federal departments and agencies, that relate to rural health care.".

SEC. 4083. SET ASIDE FOR EXPERIMENTS AND DEMONSTRATION PROJECTS RELATING TO RURAL HEALTH CARE ISSUES.

(a) Set Aside.—Not less than ten percent of the total amounts expended in each fiscal year by the Secretary of Health and Human Services (in this section referred to as the "Secretary") after October 1, 1988, with respect to experiments and demonstration projects authorized by section 402 of the Social Security Amendments of 1967 and the experiments and demonstration projects authorized by the Social Security Amendments of 1972 shall be expended for experiments and demonstration projects relating exclusively or substantially to rural health issues, including (but not limited to) the impact of the payment methodology under section 1886(d) of the Social Security Act on the financial viability of small rural hospitals, the effect of medicare payment policies on the ability of rural areas (and rural hospitals in particular) to attract and retain physicians and other health professionals, the appropriateness of medicare conditions of participation and staffing requirements for small rural hospitals, and the impact of medicare policies on access to (and the quality of) health care in rural areas.

(b) Agenda.—The Secretary of Health and Human Services shall establish an agenda of experiments and demonstration projects, relating exclusively or substantially to rural health issues, that are in progress or have been proposed, and shall include such agenda in the annual report submitted pursuant to section 1875(b) of the Social Security Act. The agenda shall be accompanied by a statement setting forth the amounts that have been obligated and expended with respect to such experiments and projects in the current and most recently completed fiscal years.

SEC. 4084. TECHNICAL AMENDMENTS RELATED TO CERTIFIED REGISTERED NURSE ANESTHETISTS.

(a) In General.—Section 1833(l) of the Social Security Act (42 U.S.C. 1395l(l)), as added by section 9320(e) of the Omnibus Budget Reconciliation Act of 1986, is amended—

(1) in paragraph (2), by striking "1985" and inserting in lieu thereof "1985 and such other data as the Secretary determines necessary"; and

(2) in paragraph (5)(A), by striking "or group practice" each place it appears and inserting in lieu thereof "group practice, or ambulatory surgical center".

(b) Effective Date.—The amendments made by subsection (a) shall apply as if included in the amendment made by section 9320(e)(2) of the Omnibus Budget Reconciliation Act of 1986.

SEC. 4085. DEMONSTRATION PROJECTS TO PROVIDE PAYMENT ON A PREPAID, CAPITATED BASIS FOR COMMUNITY NURSING AND AMBULATORY CARE FURNISHED TO MEDICARE BENEFICIARIES.

(a) In General.—The Secretary of Health and Human Services (in this section referred to as the "Secretary") shall enter into an agreement with not less than four eligible organizations submitting applications under this section to conduct demonstration projects to provide payment on a prepaid, capitated basis for community nursing and ambulatory care furnished to any individual entitled to benefits under part A and enrolled under part B of title XVIII of the Social Security Act (other than an individual medically determined to have end-stage renal disease) who resides in the geographic area served by the organization and enrolls with such organization (in accordance with subsection (c)(2)).

(b) Definitions of Community Nursing and Ambulatory Care and Eligible Organization.—As used in this section:

(1) The term 'community nursing and ambulatory care' means the following services:

(A) Part-time or intermittent nursing care furnished by or under the supervision of registered professional nurses.

(B) Physical, occupational, or speech therapy.

(C) Social and related services supportive of a plan of ambulatory care.

(D) Part-time or intermittent services of a home health aide.

(E) Medical supplies (other than drugs and biologicals) and durable medical equipment while under a plan of care.

(F) Medical and other health services described in paragraphs (2)(H)(ii) and (5) through (9) of section 1861(s) of the Social Security Act.

(G) Rural health clinic services described in section 1861(aa)(1)(C) of such Act.

(H) Certain other related services listed in section 1915(c)(4)(B) of such Act to the extent the Secretary finds such services are appropriate to prevent the need for institutionalization of a patient.

(2) The term 'eligible organization' means a public or private entity, organized under the laws of any State, which meets the following requirements:

(A) The entity (or a division or part of such entity) is primarily engaged in the direct provision of community nursing and ambulatory care.

(B) The entity provides directly, or through arrangements with other qualified personnel, the services described in paragraph (1).

(C) The entity provides that all nursing care (including services of home health aids) is furnished by or under the supervision of a registered nurse.

(D) The entity provides that all services are furnished by qualified staff and are coordinated by a registered professional nurse.

(E) The entity has policies governing the furnishing of community nursing and ambulatory care that are developed by registered professional nurses in cooperation with (as appropriate) other professionals.

(F) The entity maintains clinical records on all patients.

(G) The entity has protocols and procedures to assure, when appropriate, timely referral to or consultation with other health care providers or professionals.

(H) The entity complies with applicable State and local laws governing the provision of community nursing and ambulatory care to patients.

(I) The site where the entity provides directly, or through other qualified personnel, nursing and ambulatory care is located in an area designated by the Secretary as a health manpower shortage area.

(J) The requirements of subparagraphs (B), (D), and (E) of section 1876(b)(2) of the Social Security Act.

(c) AGREEMENTS WITH ELIGIBLE ORGANIZATIONS TO CONDUCT DEMONSTRATION PROJECTS.—

(1) The Secretary may not enter into an agreement with an eligible organization to conduct a demonstration project under this section unless the organization meets the requirements of this subsection and subsection (d) with respect to members enrolled with the organization under this section.

(2) The organization shall have an open enrollment period for the enrollment of individuals under this section. The duration of such period of enrollment and any other requirement pertaining to enrollment or termination of enrollment shall be specified in the agreement with the organization.

(3) The organization must provide to members enrolled with the organization under this section, through providers and other persons that meet the applicable requirements of titles XVIII and XIX of the Social Security Act, community nursing and ambulatory care (as defined in subsection (b)(1)) which is generally available to individuals residing in the geographic area served by the organization, except that the organization may provide such members with such additional health care services as the members may elect, at their option, to have covered.

(4) The organization must make community nursing and ambulatory care (and such other health care services as such individuals have contracted for) available and accessible to each individual enrolled with the organization under this section, within the area served by the organization, with reasonable promptness and in a manner which assures continuity.

(5) Section 1876(c)(5) of the Social Security Act shall apply to organizations under this section in the same manner as it applies to organizations under section 1876 of such Act.

(6) The organization must have arrangements, established in accordance with regulations of the Secretary, for an ongoing quality assurance program for health care services it provides to such individuals under the demonstration project conducted under this section, which program (A) stresses health outcomes and (B) provides review by health care professionals of the process followed in the provision of such health care services.

(d) DETERMINATION OF PER CAPITA PAYMENT RATES.—

(1) The Secretary shall determine for each 12-month period in which a demonstration project is conducted under this section, and shall announce (in a manner intended to provide notice to interested parties) not later than three months before the beginning of such period, with respect to each eligible organization conducting a demonstration project under this section, a per capita rate of payment for each class of individuals who are enrolled with such organization who are entitled to benefits under part A and enrolled under part B of title XVIII of the Social Security Act.

(2)(A) Except as provided in paragraph (3), the per capita rate of payment under paragraph (1) shall be determined in accordance with this paragraph.

(B) The Secretary shall define appropriate classes of members, based on age, disability status, and such other factors as the Secretary determines to be appropriate, so as to ensure actuarial equivalence. The Secretary may add to, modify, or substitute for such classes, if such changes will improve the determination of actuarial equivalence.

(C) The per capita rate of payment under paragraph (1) for each such class shall be equal to 95 percent of the adjusted average per capita cost (as defined in subparagraph (D)) for that class.

(D) For purposes of subparagraph (C), the term "adjusted average per capita cost" means the average per capita amount that the Secretary estimates in advance (on the basis of actual experience, or retrospective actuarial equivalent based upon an adequate sample and other information and data, in a geographic area served by an eligible organization or in a similar area, with appropriate adjustments to assure actuarial equivalence) would be payable in any contract year for those services covered under parts A and B of title XVIII of the Social Security Act and types of expenses otherwise reimbursable under such parts A and B which are described in subparagraphs (A) through (G) of subsection (b)(1) (including administrative costs incurred by organizations described in sections 1816 and 1842 of such Act), if the services were to be furnished by other than an eligible organization.

(3) The Secretary shall, in consultation with providers, health policy experts, and consumer groups develop capitation-based reimbursement rates for such classes of individuals entitled to benefits under part A and enrolled under part B of the Social Security Act as the Secretary shall determine. Such rates shall be applied in determining per capita rates of payment under paragraph (1) with respect to at least one eligible organization conducting a demonstration project under this section.

(4)(A) In the case of an eligible organization conducting a demonstration project under this section, the Secretary shall make monthly payments in advance and in accordance with the rate determined under paragraph (2) or (3), except as provided in subsection (e)(3)(B), to the organization for each individual enrolled with the organization.

(B) The amount of payment under paragraph (2) or (3) may be retroactively adjusted to take into account any difference between the actual number of individuals enrolled in the plan under this section and the number of such individuals estimated to be so enrolled in determining the amount of the advance payment.

(5) The payment to an eligible organization under this section for individuals enrolled under this section with the organization and entitled to benefits under part A and enrolled under part B of the Social Security Act shall be made from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund established under such Act in such proportions from each such trust fund as the Secretary deems to be fair and equitable taking into consideration benefits attributable to such parts A and B, respectively.

(6) During any period in which an individual is enrolled with an eligible organization conducting a demonstration project under this section, only the eligible organization (and no other individual or person) shall be entitled to receive payments from the Secretary under this title for community nursing and ambulatory care (as defined in subsection (b)(1)) furnished to the individual.

(e) RESTRICTION ON PREMIUMS, DEDUCTIBLES, COPAYMENTS, AND COINSURANCE.—

(1) In no case may the portion of an eligible organization's premium rate and the actuarial value of its deductibles, coinsurance, and copayments charged (with respect to community nursing and ambulatory care) to individuals who are enrolled under this section with the organization, exceed the actuarial value of the coinsurance and deductibles that would be applicable on the average to individuals enrolled under this section with the organization (or, if the Secretary finds that adequate data are not available to determine that actuarial value, the actuarial value of the coinsurance and deductibles applicable on the average to individuals in the area, in the State, or in the United States, eligible to enroll under this section with the organization, or other appropriate data) and entitled to benefits under part A and enrolled under part B of the Social Security Act, if they were not members of an eligible organization.

(2) If the eligible organization provides to its members enrolled under this section services in addition to community nursing and ambulatory care, election of coverage for such additional services shall be optional for such members and such organization shall furnish such members with information on the portion of its premium rate or other charges applicable to such additional services. In no case may the sum of—

(A) the portion of such organization's premium rate charged, with respect to such additional services, to members enrolled under this section, and

(B) the actuarial value of its deductibles, coinsurance, and copayments charged, with respect to such services to such members

exceed the adjusted community rate for such services (as defined in section 1876(e)(3) of the Social Security Act).

(3)(A) Subject to subparagraphs (B) and (C), each agreement to conduct a demon-

stration project under this section shall provide that if—

(i) the adjusted community rate, referred to in paragraph (2), for community nursing and ambulatory care covered under parts A and B of title XVIII of the Social Security Act (as reduced for the actuarial value of the coinsurance and deductibles under those parts) for members enrolled under this section with the organization,

is less than

(ii) the average of the per capita rates of payment to be made under subsection (d)(1) at the beginning of the 12-month period (as determined on such basis as the Secretary determines appropriate) described in such subsection for members enrolled under this section with the organization,

the eligible organization shall provide to such members the additional benefits described in section 1876(g)(3) of the Social Security Act which are selected by the eligible organization and which the Secretary finds are at least equal in value to the difference between that average per capita payment and the adjusted community rate (as so reduced).

(B) Subparagraph (A) shall not apply with respect to any organization which elects to receive a lesser payment to the extent that there is no longer a difference between the average per capita payment and adjusted community rate (as so reduced).

(C) An organization conducting a demonstration project under this section may provide (with the approval of the Secretary) that a part of the value of such additional benefits under subparagraph (A) be withheld and reserved by the Secretary as provided in section 1876(g)(5) of the Social Security Act.

(4) The provisions of paragraphs (3), (5), and (6) of section 1876(g) of the Social Security Act shall apply in the same manner to agreements under this section as they apply to risk-sharing contracts under section 1876 of such Act, and, for this purpose, any reference in such paragraphs to paragraph (2) is deemed a reference to paragraph (3) of this subsection.

(5) Section 1876(e)(4) of the Social Security Act shall apply to eligible organizations under this section in the same manner as it applies to eligible organizations under section 1876 of such Act.

(f) COMMENCEMENT AND DURATION OF PROJECTS.—Each demonstration project under this section shall begin not later than July 1, 1989, and shall be conducted for a period of three years.

(g) REPORT.—Not later than January 1, 1992, the Secretary shall submit to the Congress a report on the results of the demonstration projects conducted under this section.

SEC. 4086. WAIVER OF INPATIENT LIMITATIONS FOR THE CONNECTICUT HOSPICE.

Section (a) of section 9307 of the Omnibus Budget Reconciliation Act of 1986 is amended—

(1) by striking "Temporary" in the heading; and

(2) by striking "for hospice care provided before October 1, 1988,".

SEC. 4087. TECHNICAL CORRECTION RELATING TO CERTIFICATION OF PODIATRIC TEACHING PROGRAMS.

Section 1861(b)(6) of the Social Security Act (42 U.S.C. 1395x(b)(6)) is amended by striking "Council on Podiatry Education of the American Podiatry Association" and inserting in lieu thereof "Council of Podiatric Medical Education of the American Podiatric Medical Association".

SEC. 4088. PROVISION OF OFFSITE COMPREHENSIVE OUTPATIENT REHABILITATION SERVICES.

Section 1861(cc)(1) of the Social Security Act (42 U.S.C. 1395x(cc)(1)) is amended by adding at the end thereof the following: "In the case of physical therapy, occupational therapy, and speech pathology services, there shall be no requirement that the item or service be furnished at any single fixed location if the item or service is furnished pursuant to such plan and payments are not otherwise made for the item or service under this title.".

SEC. 4089. MEDICARE HEARINGS AND APPEALS.

(a) MAINTAINING CURRENT SYSTEM FOR HEARINGS AND APPEALS.—Any hearing conducted under section 1869(b)(1) of the Social Security Act prior to the date on which the Secretary of Health and Human Services submits the report required under subsection (b)(1) shall be conducted by Administrative Law Judges of the Office of Hearings and Appeals of the Social Security Administration in the same manner as are hearings conducted under section 205(b)(1) of such Act.

(b) STUDY AND REPORT ON USE OF TELEPHONE HEARINGS.—

(1) The Secretary of Health and Human Services, together with the Comptroller General of the United States, shall conduct a study on holding hearings under section 1869(b)(1) of the Social Security Act by telephone and shall report the results of the study not later than 6 months after the date of enactment of this Act.

(2) The study under paragraph (1) shall focus on whether telephone hearings allow for a full and fair evidentiary hearing, in general, or with respect to any particular category of claims and shall examine the possible improvements to the hearing process (such as cost-effectiveness, convenience to the claimant, and reduction in time under the process) resulting from the use of such hearings as compared to the adoption of other changes to the process (such as expansions in staff and resources).

SEC. 4090. MORATORIUM ON LABORATORY PAYMENT DEMONSTRATION.

Prior to January 1, 1990, the Secretary of Health and Human Services shall not conduct any demonstration projects relating to competitive bidding as a method of purchasing laboratory services under title XVIII of the Social Security Act. The Secretary may contract for the design of, and site selection for, such demonstration projects.

SEC. 4091. PERMITTING DISABLED INDIVIDUALS TO RENEW ENTITLEMENT TO MEDICARE AFTER GAINFUL EMPLOYMENT WITHOUT A 2-YEAR WAITING PERIOD.

(a) IN GENERAL.—Section 226(f) of the Social Security Act (42 U.S.C. 426(f)) is amended by inserting before the period at the end the following: ", unless the physical or mental impairment which is the basis for disability is the same as (or directly related to) the physical or mental impairment which served as the basis for disability in such previous period".

(b) EFFECTIVE DATE.—

(1) The amendment made by subsection (a) shall apply to months beginning after the end of the 60-day period beginning on the date of enactment of this Act.

(2) The amendment made by subsection (a) shall not apply so as to include (for the purposes described in section 226(f) of the Social Security Act) monthly benefits paid for any month in a previous period (described in that section) that terminated before the end of the 60-day period described in paragraph (1).

SEC. 4092. HEALTH MAINTENANCE ORGANIZATION REFORMS.

(a) CIVIL MONEY PENALTIES AND INTERMEDIATE SANCTIONS AGAINST HMOs/CMPs.—Section 1876(i)(6) of the Social Security Act (42 U.S.C. 1395mm) is amended to read as follows:

"(6)(A) If the Secretary determines that an eligible organization with a contract under this section—

"(i) fails substantially to provide medically necessary items and services that are required (under law or under the contract) to be provided to an individual covered under the contract, if the failure has adversely affected (or has substantial likelihood of adversely affecting) the individual;

"(ii) imposes premiums on individuals enrolled under this section in excess of the premiums permitted;

"(iii) acts to expel or to refuse to re-enroll an individual in violation of the provisions of this section;

"(iv) engages in any practice that would reasonably be expected to have the effect of denying or discouraging enrollment (except as permitted by this section) by eligible individuals with the organization whose medical condition or history indicates a need for substantial future medical services;

"(v) misrepresents or falsifies information that is furnished—

"(I) to the Secretary under this section, or

"(II) to an individual or to any other entity under this section; or

"(vi) fails to comply with the requirements of subsection (g)(6)(A);

the Secretary may provide for any of the remedies described in subparagraph (B).

"(B) The remedies described in this subparagraph are—

"(i) civil money penalties of not more than $25,000 for each such failure under clause (i) of subparagraph (A) or, with respect to any other determination under such subparagraph, of not more than $10,000 for each such determination,

"(ii) suspension of enrollment of individuals under this section after the date the Secretary notifies the organization of a determination under subparagraph (A) and until the Secretary is satisfied that the basis for such determination has been corrected and is not likely to recur, or

"(iii) suspension of payment to the organization under this section for individuals enrolled after the date the Secretary notifies the organization of a determination under subparagraph (A) and until the Secretary is satisfied that the basis for such determination has been corrected and is not likely to recur.

The provisions of section 1128A (other than subsections (a) and (b)) shall apply to a civil money penalty under clause (i) in the same manner as they apply to a civil money penalty under that section.".

(b) TEMPORARY WAIVER FOR WATTS HEALTH FOUNDATION.—Section 9312(c)(3) of the Omnibus Budget Reconciliation Act of 1986 is amended by adding at the end thereof the following new subparagraph:

"(D) TREATMENT OF CERTAIN WAIVERS.—In the case of an eligible organization (or successor organization) that is described in clauses (i) and (ii) of subparagraph (C) and that received a grant or grants totaling at least $3,000,000 in fiscal year 1987 under section 329(d)(1)(A) or 330(d)(1) of the Public Health Service Act—

"(i) before January 1, 1990, section 1876(f) of the Social Security Act shall not apply to the organization;

"(ii) beginning on January 1, 1990, the Secretary of Health and Human Services shall waive the requirement of such section with respect to the organization if—

"(I) before such date, the organization has submitted to the Secretary a schedule for the organization to comply with the requirement of section 1876(f)(1) of such Act, and the Secretary has found such schedule to be reasonable and has approved such schedule; and

"(II) periodically after such date, the Secretary reviews the organization's compliance with such schedule and determines that the organization has complied, or made significant progress towards compliance, with such schedule; and

"(iii) after January 1, 1990, if the Secretary has approved a schedule under clause (ii)(I) and has determined, in a periodic review under clause (ii)(II), that the organization has not complied, or made significant progress towards compliance, with such schedule, the Secretary may provide for a sanction described in section 1876(f)(3) of the Social Security Act effective with respect to individuals enrolling with the organization after the date the Secretary notifies the organization of such noncompliance.".

(c) EXTENSION OF WAIVERS FOR SOCIAL HEALTH MAINTENANCE ORGANIZATIONS.—

(1) IN GENERAL.—The Secretary of Health and Human Services shall extend without interruption, through September 30, 1992, the approval of waivers granted under subsection (a) of section 2355 of the Deficit Reduction Act of 1984 for the demonstration project described in subsection (b) of that section, subject to the terms and conditions (other than duration of the project) established under that section (as amended by subsection (b)).

(2) EXTENSION OF RISK.—Section 2355(b)(5) of the Deficit Reduction Act of 1984 is amended by inserting "and in succeeding years" after "third year".

(3) INTERIM REPORT.—Section 2355(d)(2) of the Deficit Reduction Act of 1984 is amended by striking "final" and inserting "interim".

(4) FINAL REPORT.—The Secretary shall submit a final report to the Congress on the project referred to in paragraph (1) not later than March 31, 1993.

(d) PAYMENT METHODOLOGY REFORM DEMONSTRATIONS.—

(1) The Secretary of Health and Human Services (in this section referred to as the "Secretary") is specifically authorized to conduct demonstrations under this subsection for the purpose of testing alternative payment methodologies pertaining to capitation payments under title XVIII of the Social Security Act.

(2)(A) Demonstrations shall be conducted under this subsection in each of the following three areas:

(i) Computing adjustments to the average per capita cost under section 1876 of the Social Security Act on the basis of health status.

(ii) Contracting with employer-related groups to provide medicare coverage under which payment is based on the experience of the employer-related group, benefits are offered to employees in a managed care setting, and participation is voluntary.

(iii) Accounting for geographic variations in cost in the adjusted average per capita costs applicable to an eligible organization under section 1876 of the Social Security Act.

(3)(A) In carrying out demonstrations under clause (ii), the Secretary shall appoint (in consultation with the Congress) a panel of specialists to review the project and advise on both rate-setting and the adoption of appropriate measures to ensure high quality of care.

(B)(i) Each demonstration conducted under clause (iii) shall consider geographic bases which may provide more equitable and appropriate payment than is currently provided on a county-by-county basis.

(ii) Demonstrations under clause (iii) shall primarily serve geographic areas in which payment rates under section 1876 of the Social Security Act are below 80 percent of the median of the adjusted average per capita cost for all counties within metropolitan statistical areas (and may include eligible organizations under section 1876 of such Act located in urban areas that primarily serve populations from counties in which payment rates are below such percentage).

(iii) Five million dollars in each of fiscal years 1989 and 1990 is authorized for demonstrations under clause (iii).

(4) The provisions of subsection (a)(2) and the first sentence of subsection (b) of section 402 of the Social Security Amendments of 1967 shall apply to the demonstration project under paragraph (1) of this section as they apply to experiments under subsection (a)(1) of that section.

(e) HMO PAYMENTS FOR HOSPITAL SERVICES.—

(1) Section 1876(g)(4) of the Social Security Act (42 U.S.C. 1395mm(g)(4)) is repealed.

(2) Section 1866(a)(1) of such Act is amended by adding at the end thereof the following new subparagraph:

"(O) in the case of hospitals and skilled nursing facilities to accept as payment in full for inpatient hosptial and extended care services that are covered under this title and are furnished to any individual enrolled under section 1876 with an eligible organization that has as of October 1, 1987, exercized the option under 1876(g)(4) of the Social Security Act as in effect prior to the date of enactment at this section, the amounts (in the case of hospitals) or limits (in the case of skilled nursing facilities) that would be made as a payment in full under this title if the individuals were not so enrolled.".

(3) PROVISIONS OF DRG RATES.—The Secretary of Health and Human Services shall provide (in machine readable form) to eligible organizations described in paragraph (2) Medicare DRG Rates for payments required by the amendment made by subsection (b) and data on cost pass-through items for all inpatient services provided to medicare beneficiaries enrolled with eligible organizations under section 1876 of the Social Security Act.

(4) EFFECTIVE DATE.—The amendment made by paragraphs (1) and (2) shall apply to admissions on or after April 1, 1988, or earlier if the Secretary can provide the information required under paragraph (3) in machine readable form.

(f) DISCOUNT AND ADVANCE DETERMINATION OF PAYMENTS.—Section 1876(a)(1)(C) is amended by adding at the end the following: "In the case of a contract for a term of more than one year, the Secretary, at the request of the eligible organization, may determine the annual rates for each year of the contract in advance of entering into such contract, and may discount those annual rates as the Secretary determines appropriate in advance of entering into such a contract.".

(g) POST-CONTRACT PROTECTION FOR ENROLLEES WITH ELIGIBLE ORGANIZATIONS UNDER THE MEDICARE PROGRAM; PRIORITY UNDER THE BANKRUPTCY CODE.—

(1) Section 1876(b)(2) of such Act (42 U.S.C. 1395mm(b)(2)) is amended by adding at the end thereof the following new subparagraph:

"(F) The entity makes assurances (satisfactory to the Secretary) that in the event the entity ceases to provide items and services pursuant to a contract under this section, the entity will provide or arrange for supplemental coverage of benefits under this title, during any exclusion period related to a pre-existing condition, to all individuals enrolled with the entity who receive benefits under this title.".

(2)(A) Subchapter I of chapter 11 of title 11, United States Code, is amended by adding at the end thereof the following new section:

"§ 1114. Special payment rule for health maintenance organizations.

"(a) Notwithstanding any other provision of this title, in the case of a debtor in possession that has made the assurances required under section 1876(b)(2)(F) of the Social Security Act, the debtor in possession, or the trustee if one has been appointed under the provisions of this chapter, shall timely make payments for supplemental coverage of benefits under title XVIII of the Social Security Act (to the extent such payments are necessary to meet the requirement for which assurances are made under such section).

"(b) Any payment under subsection (a) required to be made before a plan confirmed under section 1129 of this title is effective has the status of an allowed administrative expense as provided in section 503 of this title.".

(B) Section 1129 of title 11, United States Code, is amended by adding at the end of subsection (a) thereof the following:

"(12) In the case of an entity that has made the assurances required under section 1876(b)(2)(F) of the Social Security Act, the plan provides for the continuation after its effective date of payment for supplemental coverage of benefits under title XVIII of the Social Security Act, at any time prior to confirmation of the plan, to the extent any such payment is necessary to meet the requirement for which assurances are made under such section.".

(C) The table of sections for subchapter I of chapter 11, title 11, United States Code, is amended by adding at the end thereof the following new item:

"1114. Special payment rule for health maintenance organizations.".

(D) The amendments made by this paragraph shall become effective on the date of enactment of this Act and shall be effective with respect to cases commenced under chapter 11 of title 11, United States Code, in which a plan for reorganization was not confirmed by the court as of the date of enactment of this Act.

(h) TASK FORCE ON MEDICARE CAPITATION.—

(1) There is hereby established a Task Force to be known as the Task Force on Medicare Capitation (in this subsection referred to as the "Task Force") to be composed of 15 members appointed in accordance with paragraph (2)(A).

(2)(A)(i) Members of the Task Force shall be appointed by the Prospective Payment Assessment Commission, in consultation with the Physician Payment Review Commission, after consultation with private and prepaid health plan organizations.

(ii) Of the 15 members composing the Task Force—

(I) five members shall be chosen from among representatives of private health *plan and prepaid health plan organizations (which representatives may include physicians and other health professionals who serve Medicare beneficiaries),*

(II) five members shall be chosen from among researchers in health care delivery and finance and individuals with an expertise in the financing and underwriting of prepaid health care, and

(III) five members shall be chosen from among Medicare beneficiaries and representatives of employers and labor.

(B) Members of the Task Force shall serve for the life of the Task Force. A vacancy on the Task Force shall be filled in the same manner in which the original appointment was made, shall be consistent with the requirements of subparagraph (A)(ii), and shall not affect the powers or duties of the Task Force.

(C) A majority of the members of the Task Force shall constitute a quorum for the transaction of business. Decisions of the Task Force shall be according to the vote of a simple majority of those present and voting at a properly called meeting.

(D) The first meeting of the Task Force shall be called by the Prospective Payment Assessment Commission and shall be held not later than January 1, 1988. At such meeting, the members of the Task Force shall select a chairman from among such members and shall meet thereafter at the call of the chairman or of a majority of the members (which in no event shall be less than once every three months).

(3)(A) Members of the Task Force shall serve without pay.

(B) Members of the Task Force shall be allowed travel expenses, including a per diem allowance in lieu of subsistence, in the same manner as persons serving intermittently in the Government service are allowed travel expenses under section 5703 of title 5, United States Code.

(4)(A) It shall be the duty of the Task Force—

(i) to review periodically the calculations and methodology employed by the Secretary in determining the capitation rate with respect to an organization with a risk-sharing contract with the Secretary of Health and Human Services under section 1876 of the Social Security Act,

(ii) to document and report on the discrepancies between the actual and projected United States per capita incurred cost used for purposes of determining such capitation rate (and, in particular, to identify such discrepancies with respect to calendar years 1985, 1986, and 1987), and

(iii) to assess alternative methodologies for determining such capitation rate.

(B) Not later than January 1 of 1989 and 1990, the Secretary shall submit interim reports to the Congress describing the activities of the Task Force during the preceding year and containing such assessment, analysis, evaluation, and recommendations (as described in subparagraph (C)(i)) as can reasonably be formulated at the time such reports are prepared and submitted.

(C)(i) Not later than January 1, 1989, the Task Force shall submit a report to the Congress that contains—

(I) an assessment of the extent to which the long-term cost of providing benefits under title XVIII of the Social Security Act would be reduced by providing such benefits through prepaid health plans;

(II) an analysis of the use, cost, and quality of benefits provided under prepaid plans as compared to fee-for-service systems;

(III) an evaluation of—

(aa) the use of various geographic areas in calculating the capitation rate applicable to an organization with a risk-sharing contract with the Secretary of Health and Human Services under section 1876 of the Social Security Act,

(bb) the use of fee-for-service reimbursement and utilization rates in calculating such rate, and

(cc) the effects on such rate of substantial market area penetration by capitated health plans; and

(III) recommendations for revising the method for calculating the capitation rate applicable to an organization with a risk-sharing contract with the Secretary of Health and Human Services under section 1876 of the Social Security Act that specifically address the need for—

(aa) adjusting the rate to account for the case mix (including such factors as age, disability, and functional status) of individuals entitled to benefits under title XVIII of the Social Security Act who are enrolled with the organization, geographic differences in the cost of furnishing services, and the effect of outlier cases,

(bb) controlling and reimbursing for catastrophic illness by using alternative methodologies to calculate the rate,

(cc) developing methods for ensuring that individuals residing in rural or medically underserved areas have access to quality health care (as provided through such organizations), and

(dd) setting a more equitable rate with respect to contracting organizations that serve rural or medically underserved areas (or any geographic area in which the medical practice is more conservative).

(ii)(I) The report submitted to the Congress under clause (i) shall be prepared in consultation with the Health Care Financing Administration and shall be based, in part, upon the findings of various research projects that are conducted by the Task Force or by such Administration.

(II) Prior to submitting the report to the Congress under clause (i), the Task Force shall make the report available to representatives of private and prepaid health plan organizations and shall provide to such representatives an opportunity for commenting upon the report. The comments of such representatives shall accompany the report when submitted to the Congress.

(5)(A)(i) Subject to clause (ii), the Task Force may award grants or contracts to individuals or entities to conduct research that the Task Force determines would be of assistance in the performance of any of the duties of the Task Force (as described in paragraph (4)).

(ii) No contract or grant may be awarded under clause (i) unless the Task Force demonstrates to the satisfaction of the Prospective Payment Assessment Commission and the Physician Payment Review Commission that information otherwise available to the Task Force is inadequate to allow the Task Force to perform such duties.

(B)(i) The Task Force may appoint and fix the pay of such staff personnel as it deems desirable, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates (which personnel shall be allowed travel expenses, including a per diem in lieu of subsistence, in the same manner as persons serving intermittently in the Government service are allowed travel expenses under section 5703 of title 5, United States Code).

(ii) The Task Force may use on a reimbursable basis, with the prior consent of the commission concerned, the services of the personnel of the Prospective Payment Assessment Commission and the Physician Payment Review Commission.

(C) The Task Force may use the United States mails in the same manner and upon the same conditions as other departments and agencies of the United States Government.

(D) The Task Force may accept, use, and dispose of donations of money and property and may accept such volunteer services of individuals as it deems appropriate.

(E) The Task Force may procure supplies, services, and property, and make contracts.

(F) For purposes of carrying out its duties under paragraph (4), the Task Force may adopt such rules for its organization and procedures as it deems appropriate, including procedures that allow any interested party the opportunity to submit information to the Task Force.

(6)(A) The Task Force shall terminate on January 2, 1991.

(B) Any funds held by the Task Force on the date of termination of the Task Force shall be deposited in the general fund of the Treasury of the United States and credited as miscellaneous receipts. Any property (other than funds) held by the Task Force on such date shall be disposed of as excess or surplus property.

(7) There are authorized to be appropriated for each of the fiscal years 1988 through 1991 such sums as may be necessary to carry out the provisions of this subsection.

(i) Disabled Individual Classification.—Section 1876(a)(1)(B) of such Act (42 U.S.C. 1395mm(a)(1)(B)) is amended—

(1) by inserting "(i)" after "(B)"; and

(2) by adding at the end thereof the following new clause:

"(ii) The Secretary shall establish a class of members based on age and disability status that includes individuals who attain the age of 65 during calendar year 1988, 1989, 1990, or 1991, are entitled to benefits under this title, and (prior to attaining such age) received disability insurance benefits under section 223.".

(j) Two-Year Extension on Period for Benefit Stabilization.—

(1) Section 1876(g)(5) of such Act (42 U.S.C. 1395mm(g)(5)), as added by the amendment made by section 2350(a)(2) of the Deficit Reduction Act of 1984, is amended by striking "four" and inserting in lieu thereof "six".

(2) The amendment made by paragraph (1) shall be effective as if included in the enactment of the amendment made by section 2350(a)(2) of the Deficit Reduction Act of 1984.

(k) Treatment of Michigan Blue Care HMO Network Under 50 Percent Rule.—Blue Care, Inc., a nonprofit corporation which is indirectly owned and operated by Blue Cross and Blue Shield of Michigan, Inc. and which enrolls individuals for the purpose of providing them with health care services through assignment to health maintenance organizations which are indirectly or wholly owned and operated by Blue Cross and Blue Shield of Michigan, Inc., is deemed to meet the requirement of section 1876(f)(1) of the Social Security Act (relating to limitation on enrollment of medicare and medicaid beneficiaries with an eligible organization) if—

(1) such requirement would be met if applied to all individuals enrolled with (or otherwise assigned to) each of such health maintenance organizations, and

(2) not more than 20 percent of the number of individuals who are members of (or otherwise assigned to) each such organization consists of individuals who are entitled to benefits under title XVIII of the Social Security Act.

(l) Assignment of Members for HIP Health Maintenance Organization.—

(1) Section 1876(f) of such Act (42 U.S.C. 1395mm(f)) is amended by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2) the following new paragraph:

"(3)(A) An eligible organization described in subparagraph (B) may elect, for purposes of determining the compliance of a subdivision, subsidiary, or affiliate described in subparagraph (B)(iii) with the requirement of paragraph (1) for the period before October 1, 1992, to have members of the subdivision, subsidiary, or affiliate considered to be members of the parent organization.

"(B) An eligible organization described in this subparagraph is an eligible organization which—

"(i) is described in section 1903(m)(2)(B)(iii);

"(ii) has members who have a collectively bargained contractual right to obtain health benefits from the organization;

"(iii) elects to provide benefits under a risk-sharing contract to individuals residing in a service area through a subdivision, subsidiary, or affiliate which itself is an eligible organization serving the area and which is wholly-owned or wholly-contracted by the parent eligible organization; and

"(iv) has assumed any risk of insolvency and quality assurance with respect to individuals receiving benefits through such a subdivision, subsidiary, or affiliate.".

(2) The amendments made by paragraph (1) shall become effective on the date of enactment of this Act.

(m) Notification of Termination of Risk-Sharing Contract.—

(1) Section 1876(c)(3) of such Act (42 U.S.C. 1395mm(c)(3)) is amended by adding at the end thereof the following new subparagraph:

"(F)(i) Each eligible organization having a risk-sharing contract under this section shall notify individuals eligible to enroll with the organization under this section and individuals enrolled with the organization under this section that—

"(I) the organization is authorized by law to terminate or refuse to renew the contract, and

"(II) termination or nonrenewal of the contract may result in termination of the enrollments of individuals enrolled with the organization under this section.

"(ii) The notice required by clause (i) shall be included in—

"(I) any materials described in subparagraph (C) that are distributed by an eligible organization to individuals eligible to enroll under this section with the organization, and

"(II) any explanation provided to enrollees by the organization pursuant to subparagraph (E).".

(2) The amendment made by paragraph (1) shall apply to contracts entered into (or renewed) on or after the date of the enactment of this Act.

SEC. 4093. RECOVERY OF PAYMENTS FOR CERTAIN PACEMAKER DEVICES.

(a) In General.—Section 1862(h) of the Social Security Act (42 U.S.C. 1395y(h)) is amended—

(1) in paragraph (1)(B), by striking "law," and inserting in lieu thereof "law (and any amount paid to a provider under any such warranty),";

(2) in paragraph (1)(D), by striking "(3)," and inserting in lieu thereof "(3), in determining the amount subject to repayment under paragraph (2)(C),";

(3) in paragraph (2)—

(A) by striking "and" at the end of subparagraph (A),

(B) by striking the period at the end of subparagraph (B) and inserting in lieu thereof ", and", and

(C) by adding at the end thereof the following new subparagraph:

"(C) to make repayment to the Secretary of amounts paid under this title to the provider with respect to any cardiac pacemaker device or lead which has been replaced by the manufacturer, or for which the manufacturer has made payment to the provider, under an express or implied warranty."; and

(4) in paragraph (4)(B)—

(A) by striking "or has" and inserting in lieu thereof ", has", and

(B) by striking "(2)(B)," and inserting in lieu thereof "(2)(B), or has failed to make repayment to the Secretary as required under paragraph (2)(C),".

(b) Effective Date.—The amendments made by subsection (a) shall become effective on January 1, 1988.

Subpart II—Medicaid Provisions

SEC. 4101. HOME AND COMMUNITY-BASED SERVICES FOR THE ELDERLY.

(a) Waiver Formula.—

(1) Section 1915 of the Social Security Act (42 U.S.C. 1396n) is amended—

(A) by transferring subsection (d) to the end of such section and redesignating it as subsection (h), and

(B) by inserting after subsection (c) the following new subsection:

"(d)(1) Subject to paragraph (2), the Secretary shall grant a waiver to provide that a State plan approved under this title shall include as 'medical assistance' under such plan payment for part or all of the cost of home or community-based services (other than room and board) which are provided pursuant to a written plan of care to individuals 65 years of age or older with respect to whom there has been a determination that but for the provision of such services the individuals would be likely to require the level of care provided in a skilled nursing facility or intermediate care facility the cost of which could be reimbursed under the State plan.

"(2) A waiver shall not be granted under this subsection unless the State provides assurances satisfactory to the Secretary that—

"(A) necessary safeguards (including adequate standards for provider participation) have been taken to protect the health and welfare of individuals provided services under the waiver and to assure financial accountability for funds expended with respect to such services;

"(B) with respect to individuals 65 years of age or older who—

"(i) are entitled to medical assistance for skilled nursing or intermediate care facility services under the State plan,

"(ii) may require such services, and

"(iii) may be eligible for such home or community-based services under such waiver,

the State will provide for an evaluation of the need for such skilled nursing facility or intermediate care facility services;

"(C) such individuals who are determined to be likely to require the level of care provided in a skilled nursing facility or intermediate care facility are informed of the feasible alternatives to the provision of skilled nursing facility or intermediate care facility services, which such individuals may choose if available under the waiver; and

Each State with a waiver under this subsection shall provide to the Secretary annually, consistent with a reasonable data collection plan designed by the Secretary, information on the impact of the waiver granted under this subsection on the type and amount of medical assistance provided under the State plan and on the health and welfare of recipients.

"(3) A waiver granted under this subsection may include a waiver of the requirements of section 1902(a)(1) (relating to statewideness), section 1902(a)(10)(B) (relating to comparability), and section 1902(a)(10)(C)(i)(III) (relating to income and resource rules applicable in the community). Subject to a termination by the State (with notice to the Secretary) at any time, a waiver under this subsection shall be for an initial term of 3 years and, upon the request of a State, shall be extended for additional 5-year periods unless the Secretary determines that for the previous waiver period the assurances provided under paragraph (2) have not been met. A waiver may provide, with respect to post-eligibility treatment of income of all individuals receiving services under the waiver, that the maximum amount of the individual's income which may be disregarded for any month is equal to the amount that may be allowed for that purpose under a waiver under subsection (c).

"(4) A waiver under this subsection may, consistent with paragraph (2)—

"(A) limit the individuals provided benefits under such waiver to individuals with respect to whom the State has determined that there is a reasonable expectation that the amount of medical assistance provided with respect to the individual under such waiver will not exceed the amount of such medical assistance provided for such individual if the waiver did not apply, and

"(B) provide medical assistance to individuals for case management services, homemaker/home health aide services and personal care services, adult day health services, respite care, and other medical and social services that can contribute to the health and well-being of individuals and their ability to reside in a community-based care setting.

"(5)(A) In the case of a State having a waiver approved under this subsection, notwithstanding any other provision of section 1903 to the contrary, the total amount expended by the State for medical assistance with respect to skilled nursing facility services, intermediate care facility services, and home and community-based services under the State plan for individuals 65 years of age or older during a waiver year under this subsection may not exceed the projected amount determined under subparagraph (B).

"(B) For purposes of subparagraph (A), the projected amount under this subparagraph is the sum of the following:

"(i) The aggregate amount of the State's medical assistance under this title for skilled nursing facility services and interme-

diate care facility services furnished to individuals who have attained the age of 65 for the base year increased by a percentage which is equal to the lesser of 7 percent times the number of years beginning after the baseyear and ending before the waiver year involved or the sum of—

"(I) the percentage increase (based on an appropriate market-basket index representing the costs of elements of such services) between the base year and the waiver year involved, plus

"(II) the percentage increase between the base year and the waiver year involved in the number of residents in the State who have attained the age of 65, plus

"(III) 2 percent for each year beginning after the base year and ending before the waiver year.

"(ii) The aggregate amount of the State's medical assistance under this title for home and community-based services for individuals who have attained the age of 65 for the base year increased by a percentage which is equal to the lesser of 7 percent times the number of years beginning after the base year and ending before the waiver year involved or the sum of—

"(I) the percentage increase (based on an appropriate market-basket index representing the costs of elements of such services) between the base year and the waiver year involved, plus

"(II) the percentage increase between the base year and the waiver year involved in the number of residents in the State who have attained the age of 65, plus

"(III) 2 percent for each year beginning after the base year and ending before the waiver year.

In the case of a State that does not report actual final expenditures under this title to the Secretary on the basis of the age categories described in this subparagraph for a year ending before the date of the enactment of this subsection, such State (in order to be granted a waiver under this subsection for any waiver year with respect to which this subparagraph applies) must report such expenditures on such basis with respect to each fiscal year beginning on or after October 1, 1988.

"(C) In this paragraph:

"(i) The term 'home and community-based services' includes services described in sections 1905(a)(7) and 1905(a)(8), services described in paragraph (4)(B), personal care services, and services furnished pursuant to a waiver under subsection (c).

"(ii)(I) Subject to subclause (II), the term 'base year' means the most recent year (ending before the date of the enactment of this subsection) for which actual final expenditures under this title have been reported to, and accepted by, the Secretary.

"(II) For purposes of subparagraph (C), in the case of a State that does not report expenditures on the basis of the age categories described in such subparagraph for a year ending before the date of the enactment of this subsection, the term 'base year' means fiscal year 1989.

"(iii) The term 'intermediate care facility services' does not include services in an institution for mental diseases.

"(6)(A) A determination by the Secretary to deny a request for a waiver (or extension of waiver) under this subsection shall be subject to review to the extent provided under section 1116(b).

"(B) Notwithstanding any other provision of this Act, if the Secretary denies a request of the State for an extension of a waiver under this subsection, any waiver under this subsection in effect on the date such request is made shall remain in effect for a period of not less than 90 days after the date on which the Secretary denies such request (or, if the State seeks review of such determination in accordance with subparagraph (A), the date on which a final determination is made with respect to such review).".

(2)(A) Section 1902(a)(10)(A)(ii)(VI) of such Act (42 U.S.C. 1396a(a)(10)(A)(ii)(VI)) is amended by striking "section 1915(c)" each place it appears and inserting "subsection (c) or (d) of section 1915".

(B) Section 1915(h) of such Act, as redesignated by subsection (a), is amended by striking "(c)" and inserting in lieu thereof "(c) or (d)".

(3) In the case of a State which, as of December 1, 1987, has a waiver approved with respect to elderly individuals under section 1915(c) of the Social Security Act, which waiver is scheduled to expire before July 1, 1988, if the State notifies the Secretary of Health and Human Services of the State's intention to file an application for a waiver under section 1915(d) of such Act (as amended by subsection (a) of this section), the Secretary shall extend approval of the State's waiver, under section 1915(c) of such Act, on the same terms and conditions through July 1, 1988.

(b) TECHNICAL AMENDMENT RELATING TO WAIVERS FOR HOME AND COMMUNITY-BASED SERVICES.—Section 1915(c)(3) of such Act (42 U.S.C. 1396n(c)(3)) is amended by striking "and section 1902(a)(10)(B) (relating to comparability)" and inserting in lieu thereof ", section 1902(a)(10)(B) (relating to comparability), and section 1902(a)(10)(C)(i)(III) (relating to single standard for income and resource eligibility)".

(c) INCREASE IN NUMBER OF INDIVIDUALS WHO MAY BE SERVED UNDER MODEL HOME AND COMMUNITY-BASED SERVICE WAIVERS.—Section 1915(c) of such Act (42 U.S.C. 1396n(c)) is amended by adding at the end thereof the following: "No waiver under this subsection shall limit by an amount less than 200 the number of individuals in the State who may receive home and community-based services under such waiver.".

(d) TECHNICAL AMENDMENT RELATING TO EFFECTIVE DATE FOR PROVISION OF HABILITATION SERVICES.—Section 9502(j)(1) of the Consolidated Omnibus Budget Reconciliation Act of 1985 is amended by inserting before the end period "without regard to the date on which the individual with respect to whom services are provided was discharged from a skilled nursing facility or intermediate care facility".

(e) EFFECTIVE DATE.—

(1) Except as provided in paragraph (2), the amendments made by this section shall take effect on January 1, 1988.

(2)(A) The amendment made by subsection (b) shall be effective as if included in the enactment of the Omnibus Budget Reconciliation Act of 1986.

(B) The amendment made by subsection (c) shall become effective on the date of enactment of this Act.

(C) The amendment made by subsection (d) shall be effective as if included in the enactment of the Consolidated Omnibus Budget Reconciliation Act of 1985.

SEC. 4102. TREATMENT OF GARDEN STATE HEALTH PLAN.

(a) IN GENERAL.—Section 1903(m) of the Social Security Act (42 U.S.C. 1396(m)) is amended—

(1) by adding at the end the following new paragraph:

"(6)(A) For purposes of this subsection and section 1902(e)(2)(A), in the case of the State of New Jersey, the term 'contract' shall be deemed to include an undertaking by the State agency, in the State plan under this title, to operate a program meeting all requirements of this subsection.

"(B) The undertaking described in subparagraph (A) must provide—

"(i) for the establishment of a separate entity responsible for the operation of a program meeting the requirements of this subsection, which entity may be a subdivision of the State agency administering the State plan under this title;

"(ii) for separate accounting for the funds used to operate such program;

"(iii) for setting the capitation rates and any other payment rates for services provided in accordance with this subsection using a methodology satisfactory to the Secretary designed to ensure that total Federal matching payments under this title for such services will be lower than the matching payments that would be made for the same services, if provided under the State plan on a fee for service basis to an actuarially equivalent population; and

"(iv) that the State agency will contract, for purposes of meeting the requirement under section 1902(a)(30)(C), with an organization or entity that under section 1154 reviews services provided by an eligible organization pursuant to a contract under section 1876 for the purpose of determining whether the quality of services meets professionally recognized standards of health care.

"(C) The undertaking described in subparagraph (A) shall be subject to approval (and annual re-approval) by the Secretary in the same manner as a contract under this subsection.

"(D) The undertaking described in subparagraph (A) shall not be eligible for a waiver under section 1915(b)."; and

(2) in paragraph (2)(F), by striking out all that precedes "a State plan may restrict" and inserting in lieu thereof the following:

"(F) In the case of—

(i) a contract with an entity described in subparagraph (G) or with a qualified health maintenance organization (as defined in section 1310(d) of the Public Health Service Act) which meets the requirement of subparagraph (A)(ii), or

"(ii) a program pursuant to an undertaking described in paragraph (6) in which at least 25 percent of the membership enrolled on a prepaid basis are individuals who (I) are not insured for benefits under part B of title XVIII or eligible for benefits under this title, and (II) (in the case of such individuals whose prepayments are made in whole or in part by any government entity) had the opportunity at the time of enrollment in the program to elect other coverage of health care costs that would have been paid in whole or in part by any governmental entity,".

(b) CONFORMING AMENDMENT.—Section 1902(e)(2)(A) (42 U.S.C. 1396a(e)(2)(A)) is amended by striking out "section 1903(m)(2)(G)" and inserting in lieu thereof "paragraph (2)(G) or (6) of section 1903(m)".

SEC. 4103. MEDICAID MATCHING RATE FOR QUALITY REVIEW OF HMO SERVICES.

(a) IN GENERAL.—Section 1903(a)(3)(C) of the Social Security Act (42 U.S.C. 1396b(a)(3)(C)) is amended by inserting "or by a private accreditation body in accordance with section 1902(a)(30)(C)" before the semicolon.

(b) Effective Date.—The amendment made by subsection (a) shall apply to payments under title XIX of the Social Security Act for calendar quarters beginning on or after the date of enactment of this Act.

SEC. 4104. PHYSICIANS' SERVICES FURNISHED BY DENTISTS.

(a) Clarifying Coverage.—Section 1905(a)(5) of the Social Security Act (42 U.S.C. 1396d(a)(5)) is amended by inserting "(A)" after "(5)" and by inserting before the semicolon at the end the following: ", and (B) medical and surgical services furnished by a dentist (described in section 1861(r)(2)) to the extent such services may be performed under State law either by a doctor of medicine or by a doctor of dental surgery or dental medicine and would be described in subparagraph (A) if furnished by a physician (as defined in section 1861(r)(1))".

(b) Effective Date.—

(1) The amendment made by subsection (a) applies (except as provided under paragraph (2)) to payments under title XIX of the Social Security Act for calendar quarters beginning on or after January 1, 1988, without regard to whether or not final regulations to carry out such amendment have been promulgated by such date.

(2) In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation (other than legislation appropriating funds) in order for the plan to meet the additional requirement imposed by the amendment made by subsection (a), the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet this additional requirement before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of enactment of this Act.

SEC. 4105. NEW YORK STATE PILOT PROGRAM FOR PRENATAL, MATERNITY, AND NEWBORN CARE.

(a) In General.—Upon application by the State of New York and approval by the Secretary of Health and Human Services (in this section referred to as the "Secretary"), the State of New York (in this section referred to as the "State") may conduct a demonstration project in accordance with this section for the purpose of testing its Prenatal/Maternity/Newborn Care Pilot Program (in this section referred to as the "Program") as an alternative to existing Federal programs.

(b) Nature of Project.—Under the demonstration project conducted under this section—

(1) any individual who receives benefits under the Program shall not receive any of such benefits under the plan of the State under title XIX of the Social Security Act; and

(2) the Secretary shall make payments to the State with respect to individuals receiving benefits under the Program in the same amounts as would be payable for such benefits under title XIX of the Social Security Act if such individuals were receiving such benefits under such title (as determined by the Secretary).

(c) Waivers.—The Secretary may (with respect to the demonstration project under this section) waive compliance with any requirements contained in title XIX of the Social Security Act which (if applied) would prevent the State from carrying out the project, effectively achieving its purpose, or receiving payments in accordance with subsection (b)(2).

(d) Required Assurances.—As a condition of approval of the demonstration project under this section, the State shall provide assurances satisfactory to the Secretary that the State will continue to make benefits available under title XIX of the Social Security Act to all pregnant women entitled to receive benefits under such title to the extent such benefits are not provided under the Program.

(e) Duration of Project.—The demonstration project under this section shall be conducted for a period not to exceed three years.

SEC. 4106. MEDICAID WAIVER FOR HOSPICE CARE FOR AIDS PATIENTS.

Section 1905(o)(1) of the Social Security Act (42 U.S.C. 1396d(o)(1)) is amended—

(1) by inserting "(A)" after "(1)";

(2) by striking "The" and inserting in lieu thereof "Subject to subparagraph (B), the"; and

(3) by adding at the end thereof the following new subparagraph:

"(B)(i) For purposes of this title only, with respect to the definition of hospice program under section 1861(dd)(2), the Secretary may allow an agency or organization to make the assurance under subparagraph (A)(iii) of such section without taking into account any individual who is afflicted with acquired immunodeficiency syndrome.

"(ii) The Secretary shall establish appropriate procedures for making the allowance under clause (i).".

SEC. 4107. DELAY QUALITY CONTROL SANCTIONS FOR MEDICAID.

The Secretary of Health and Human Services shall not, after September 30, 1987 and prior to July 1, 1988, impose any reductions in payments to States pursuant to section 1903(u) of the Social Security Act (or pursuant to similar provisions of law in effect prior to the enactment of section 1903(u)).

SEC. 4108. TECHNICAL AMENDMENTS RELATING TO NEW JERSEY RESPITE CARE PILOT PROJECT.

(a) Conditions of Agreement.—Section 9414(b) of the Omnibus Budget Reconciliation Act of 1986 is amended—

(1) by redesignating paragraphs (2), (3), and (4), as paragraphs (3), (4), and (5), respectively,

(2) by inserting after paragraph (1) the following new paragraph:

"(2) provide that the State may submit a detailed proposal describing the project (in lieu of a formal request for the waiver of applicable provisions of title XIX of the Social Security Act) and that submission of such a description by the State will be treated as such a request for purposes of subsection (g),", and

(3) in paragraph (3), as redesignated by paragraph (1) of this subsection, by striking "if the project" and all that follows through "Act" the second place it appears and inserting in lieu thereof "the State shall utilize a post-eligibility cost-sharing formula based on the available income of participants with income in excess of the nonfarm income official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981)".

(b) Definitions.—

(1) Section 9414(a) of the Omnibus Budget Reconciliation Act of 1986 is amended by striking "elderly and disabled individuals" and inserting in lieu thereof "eligible individuals".

(2) Section 9414(c) of the Omnibus Budget Reconciliation Act of 1986 is amended to read as follows:

"(c) Definitions.—For purposes of this section—

"(1) the term 'eligible individual' means an individual—

"(A) who is elderly or disabled,

"(B)(i) whose income (not including the income of the spouse or family of the individual) does not exceed 300 percent of the amount in effect under section 1611(a)(1)(A) of the Social Security Act (as increased pursuant to section 1617 of such Act), or

"(ii) in the case of an individual and spouse who are both dependent on a caregiver, whose combined incomes do not exceed such amount,

"(C) at the option of the State, who meets a resource standard established by the State,

"(D) who is at risk of institutionalization unless the individual's caregiver is provided with respite care, and

"(E) who has been determined to meet the requirements of subparagraphs (A) through (D) in accordance with an application process designed by the State; and

"(2) the term 'respite care services' shall include—

"(A) short-term and intermittent—

"(i) companion or sitter services (paid as well as volunteer),

"(ii) homemaker and personal care-services,

"(iii) adult day care, and

"(iv) inpatient care in a hospital, a skilled nursing facility, or an intermediate care facility (not to exceed a total of 14 days for any individual), and

"(B) peer support and training for family caregivers (using informal support groups and organized counseling).".

(c) Provisions Subject to Waiver.—Section 9414(g) of the Omnibus Budget Reconciliation Act of 1986 is amended by inserting "section 1902(a)(10)(C)(i)(III)," after "section 1902(a)(10)(B),".

(d) Effective Date.—The amendments made by subsections (a), (b), and (c) shall be effective as if included in the enactment of the Omnibus Budget Reconciliation Act of 1986.

SEC. 4109. CONTINUED ELIGIBILITY AND RESTRICTION ON DISENROLLMENT WITHOUT CAUSE FOR METROPOLITAN HEALTH PLAN HMO.

For purposes of sections 1902(e)(2)(A) and 1903(m)(2)(F) of the Social Security Act, the Metropolitan Health Plan HMO operated by the New York City public hospitals shall be treated in the same manner as a qualified health maintenance organization (as defined in section 1310(d) of the Public Health Service Act).

Subpart III—Social Services and Income Security

SEC. 4111. NATIONAL COMMISSION ON CHILDREN.

(a) Part A of title XI of the Social Security Act is amended by adding at the end thereof the following:

"NATIONAL COMMISSION ON CHILDREN

"Sec. 1139. (a)(1) There is hereby established a commission to be known as the National Commission on Children (in this section referred to as the 'Commission').

"(b)(1) The Commission shall consist of—

"(A) twelve members to be appointed by the President,

"(B) twelve members to be appointed by the Speaker of the House of Representatives (in this section referred to as the 'Speaker'), and

"(C) twelve members to be appointed by the President pro tempore of the Senate (in this section referred to as the President pro tempore).

"(2) The President, the Speaker, and the President pro tempore shall each appoint as members of the Commission—

"(A) four individuals who—

"(i) are representatives of organizations providing services to children,

"(ii) are involved in activities on behalf of children, or

"(iii) have engaged in academic research with respect to the problems and needs of children,

"(B) four individuals who are elected or appointed public officials (at the Federal, State, or local level) involved in issues and programs relating to children, and

"(C) four individuals who are parents or representatives of parents or parents' organizations.

"(3) The appointments made pursuant to subparagraphs (B) and (C) of paragraph (1) shall be made in consultation with the chairmen of committees of the House of Representatives and the Senate, respectively, having jurisdiction over relevant Federal programs.

"(c)(1) It shall be the duty and function of the Commission to serve as a forum on behalf of the children of the Nation and to conduct the studies and issue the report required by subsection (d).

"(2) The Commission (and any committees that it may form) shall conduct public hearings in different geographic areas of the country, both urban and rural, in order to receive the views of a broad spectrum of the public on the status of the Nation's children and on ways to safeguard and enhance the physical, mental, and emotional well-being of all of the children of the Nation, including those with physical or mental disabilities, and others whose circumstances deny them a full share of the opportunities that parents of the Nation may rightfully expect for their children.

"(3) The Commission shall receive testimony from individuals, and from representatives of public and private organizations and institutions with an interest in the welfare of children, including educators, health care professionals, religious leaders, providers of social services, representatives of organizations with children as members, elected and appointed public officials, and from parents and children speaking in their own behalf.

"(d) Not later than September 30, 1988, the Commission shall submit a report to the President and the Congress that sets forth recommendations with respect to the following subjects:

"(1) Questions relating to the health of children that the Commission shall address include—

"(A) how to reduce infant mortality,

"(B) how to reduce the number of low birth-weight babies,

"(C) how to reduce the number of children with chronic illnesses and disabilities,

"(D) how to improve the nutrition of children,

"(E) how to promote the physical fitness of children,

"(F) how to ensure that pregnant women receive adequate prenatal care,

"(G) how to ensure that all children have access to both preventive and acute care health services, and

"(H) how to improve the quality and availability of health care for children;

in the context of the purposes of titles V and XIX of this Act and (as appropriate) other provisions of Federal law.

"(2) Questions relating to social and support services for children and their parents that the Commission shall address include—

"(A) how to prevent and treat child neglect and abuse,

"(B) how to provide help to parents who seek assistance in meeting the problems of their children,

"(C) how to provide counseling services for children,

"(D) how to strengthen the family unit,

"(E) how children can be assured of adequate care while their parents are working or participating in education or training programs,

"(F) how to improve foster care and adoption services,

"(G) how to reduce drug and alcohol abuse by children and youths, and

"(H) how to reduce the incidence of teenage pregnancy;

in the context of the purposes of title XX and parts B and E of title IV of this Act and (as appropriate) other provisions of Federal law.

"(3) Questions relating to education that the Commission shall address include—

"(A) how to encourage academic excellence for all children at all levels of education,

"(B) how to use preschool experiences to enhance educational achievement,

"(C) how to improve the qualifications of teachers,

"(D) how schools can better prepare the Nation's youth to compete in the labor market,

"(E) how parents and schools can work together to help children achieve success at each step of the academic ladder,

"(F) how to encourage teenagers to complete high school and remain in school to fulfill their academic potential,

"(G) how to address the problems of drug and alcohol abuse by young people,

"(H) how schools might lend support to efforts aimed at reducing the incidence of teenage pregnancy, and

"(I) how schools might better meet the special needs of children who have physical or mental handicaps;

in the context of the purposes of title XX and part B of title IV of this Act and (as appropriate) other provisions of Federal law.

"(4) Questions relating to income security that the Commission shall address include—

"(A) how to reduce poverty among children, and

"(B) how to ensure that parents support their children to the fullest extent possible through improved child support collection services, including services on behalf of children whose parents are unmarried;

in the context of the purposes of parts A, C, and D of title IV of this Act and (as appropriate) other provisions of Federal law.

"(5) In addition to addressing the questions specified in paragraphs (1) through (4), the Commission shall—

"(A) seek to identify ways in which public and private organizations and institutions can work together at the community level to identify deficiencies in existing services for families and children and to develop recommendations to ensure that the needs of families and children are met, using all available resources, in a coordinated and comprehensive manner,

"(B) assess the existing capacities of agencies to collect and analyze data on the status of children and on relevant programs, identify gaps in the data collection system, and recommend ways to improve the collection of data and the coordination among agencies in the collection and utilization of data, and

"(C) examine the extent to which programs under this Act can be used to meet the needs of families and children and recommend any changes in such programs to make them more effective in meeting such needs.

The report required by this subsection shall be based upon the testimony received in the hearings conducted pursuant to subsection (c), and upon other data and findings developed by the Commission.

"(e)(1)(A) Members of the Commission shall be appointed not later than sixty days after the date of the enactment of this section, for terms ending on September 30, 1988.

"(B) A vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the vacant position was first filled.

"(2) The Commission shall elect one of its members to serve as Chairman of the Commission. The Chairman shall be a nonvoting member of the Commission.

"(3) A majority of the members of the Commission shall constitute a quorum for the transaction of business.

"(4)(A) The Commission shall meet at the call of the Chairman, or at the call of a majority of the members of the Commission.

"(B) The Commission shall meet not less than four times during the period beginning with the date of the enactment of this section and ending with September 30, 1988.

"(5) Decisions of the Commission shall be according to the vote of a simple majority of those present and voting at a properly called meeting.

"(6) Members of the Commission shall serve without compensation, but shall be reimbursed for travel, subsistence, and other necessary expenses incurred in the performance of their duties as members of the Commission.

"(f)(1) The Commission shall appoint an Executive Director of the Commission who shall be compensated at a rate fixed by the Commission, but which shall not exceed the rate established for level V of the Executive Schedule under title 5, United States Code.

"(2) In addition to the Executive Director, the Commission may appoint and fix the compensation of such personnel as it deems advisable, in accordance the provisions of title 5, United States Code, governing appointments to the competitive service, and the provisions of chapter 51 and subchapter III of chapter 53 of such title, relating to classification and General Schedule pay rates.

"(g) In carrying out its duties, the Commission, or any duly organized committee thereof, is authorized to hold such hearings, sit and act at such times and places, and take such testimony, with respect to matters for which it has a responsibility under this section, as the Commission or committee may deem advisable.

"(h)(1) The Commission may secure directly from any department or agency of the United States such data and information as may be necessary to carry out its responsibilities.

"(2) Upon request of the Commission, any such department or agency shall furnish any such data or information.

"(i) The General Services Administration shall provide to the Commission, on a reimbursable basis, such administrative support services as the Commission may request.

"(j) There are authorized to be appropriated such sums as may be necessary to carry out this section.".

SEC. 4112. BOARDER BABIES DEMONSTRATION PROJECT.

Section 426 of the Social Security Act (42 U.S.C. 626) is amended—

(1) by redesignating subsection (b) as subsection (c); and

(2) by inserting immediately after subsection (a) the following new subsection:

"(b)(1) There are authorized to be appropriated $4,000,000 for each of the fiscal years 1988, 1989, and 1990 for grants by the Secretary to public or private entities submitting applications under this subsection for the purpose of conducting demonstration projects under this subsection to develop alternative care arrangements for infants who do not have health conditions that require hospitalization and who would otherwise remain in inappropriate hospital settings.

"(2) The demonstration projects conducted under this section may include—

"(A) projects designed to allow infants described in paragraph (1) to remain with a parent in a residential setting, where appropriate care for the infant and suitable treatment for the parent (including treatment for drug or alcohol addiction) may be assured, with the goal of rehabilitating the parent and eliminating the need for such care for the infant;

"(B) projects that assure appropriate, individualized care for such infants in a foster home or other non-medical residential setting in cases where such infant has been abandoned by his or her parents; and

"(C) such other projects as the Secretary determines will best serve the interests of such infants and will serve as models for projects that agencies or organizations in other communities may wish to develop.

"(3) In evaluating applications from entities proposing to conduct a demonstration project under this subsection, the Secretary shall give priority to those projects that—

"(A) serve areas most in need of alternative care arrangements for infants described in paragraph (1);

"(B) provide for adequate evaluation; and

"(C) meet such other criteria as the Secretary may prescribe.

"(4) Grants may be used to pay the costs of maintenance and of necessary medical and social services (to the extent that these costs are not otherwise paid for under other titles of this Act), and for such other purposes as the Secretary may allow.".

SEC. 4113. STUDY OF INFANTS AND CHILDREN WITH AIDS IN FOSTER CARE.

(a) In General.—The Secretary of Health and Human Services (in this section referred to as the "Secretary"), together with the Comptroller General of the United States, shall conduct (or arrange for) a survey to determine—

(1) the total number of infants and children in the United States with acquired immune deficiency syndrome who have been placed in foster care;

(2) the problems encountered by social service agencies in placing infants and children with such syndrome in foster care; and

(3) the potential increase (over the five-year period beginning on the date of enactment of this Act) in the number of infants and children with such syndrome who will require foster care.

For purposes of this section, an infant or child with acquired immune deficiency syndrome includes an infant or child who is infected with the virus associated with such syndrome.

(b) Restriction on Scope of Survey.—In conducting (or arranging for) the survey under subsection (a), the Secretary shall assure that survey activities do not duplicate research activities conducted by the Centers for Disease Control.

(c) Report.—Not later than 12 months after the date of enactment of this Act, the Secretary shall report to the Congress on the results of the survey conducted under subsection (a) and shall make recommendations to the Congress with respect to improving the care of infants and children with acquired immune deficiency syndrome who lack ongoing parental involvement and support.

SEC. 4114. CHILD SUPPORT DEMONSTRATION PROGRAM IN NEW YORK STATE.

(a) In General.—Upon application by the State of New York and approval by the Secretary of Health and Human Services (in this section referred to as the "Secretary"), the State of New York (in this section referred to as the "State") may conduct a demonstration program in accordance with this section for the purpose of testing a State program as an alternative to the program of Aid to Families with Dependent Children under title IV of the Social Security Act.

(b) Nature of Program.—Under the demonstration program conducted under this section—

(1) all custodial parents of dependent children who are eligible for supplements under the State plan approved under section 402(a) of the Social Security Act (and such other types or classes of such parents as the State may specify) may elect to receive benefits under the State's Child Support Supplement Program in lieu of supplements under such plan; and

(2) the Federal government will pay to the State with respect to families receiving benefits under the State's Child Support Supplement Program the same amounts as would have been payable with respect to such families under sections 403 and 1903 of the Social Security Act as if the families were receiving aid and medical assistance under the State plans in effect with respect to such sections.

(c) Waivers.—The Secretary shall (with respect to the program under this section) waive compliance with any requirements contained in title IV of the Social Security Act which (if applied) would prevent the State from carrying out the program or effectively achieving its purpose.

(d) Conditions of Approval.—As a condition of approval of the program under this section, the State shall—

(1) provide assurances satisfactory to the Secretary that the State—

(A) will continue to make assistance available to all eligible children in the State who are in need of financial support, and

(B) will continue to operate an effective child support enforcement program;

(2) agree—

(A) to have the program evaluated, and

(B) to report interim findings to the Secretary at such times as the Secretary shall provide; and

(3) satisfy the Secretary that the program will be evaluated using a reasonable methodology that can determine whether changes in work behavior and changes in earnings are attributable to participation in the program.

(e) Application Process.—In order to participate in the program under this section, the State must submit an application under this section not later than two years after the date of enactment of this Act. The Secretary shall approve or disapprove the application of the State not later than 90 days after the date of its submission. If the application is disapproved, the Secretary shall provide to the State a statement of the reasons for such disapproval, of the changes needed to obtain approval, and of the date by which the State may resubmit the application.

(f) Effective Date.—The program under this section shall commence not later than the first day of the third calendar quarter beginning on or after the date on which the application of the State is approved in accordance with subsection (e).

(g) Duration of Program.—

(1) Except as provided in paragraph (2), if the Secretary approves the application of the State, the demonstration program under this section shall be conducted for a period not to exceed five years.

(2)(A) The Governor of the State may before the end of the period described in paragraph (1) terminate the demonstration program under this section if the Governor finds that the program is not successful in testing the State's Child Support Supplement Program as an alternative to the program under title IV of the Social Security Act. The Governor shall notify the Secretary of the decision to terminate the program not less than three months prior to the date of such termination.

(B) The Secretary may terminate the program before the end of such period if the Secretary finds that the program is not in compliance with the terms of the application. The Secretary shall notify the Governor of the decision to terminate the program not less than three months prior to the date of such termination.

SEC. 4115. DEMONSTRATION OF FAMILY INDEPENDENCE PROGRAM.

(a) In General.—Upon application of the State of Washington and approval by the Secretary of Health and Human Services, the State of Washington (in this section referred to as the "State") may conduct a demonstration project in accordance with this section for the purpose of testing whether the operation of its Family Independence Program enacted in May 1987 (in this section referred to as the "Program"), as an alternative to the AFDC program under title IV of the Social Security Act, would more effectively break the cycle of poverty and provide families with opportunities for economic independence and strengthened family functioning.

(b) Nature of Project.—Under the demonstration project conducted under this section—

(1) every individual eligible for aid under the State plan approved under section 402(a) of the Social Security Act shall be eligible to enroll in the Program, which shall operate simultaneously with the AFDC program so long as there are individuals who qualify for the latter;

(2) cash assistance shall be furnished in a timely manner to all eligible individuals under the Program (and the State may not make expenditures for services under the Program until it has paid all necessary cash assistance), with no family receiving less in cash benefits than it would have received under the AFDC program;

(3) individuals may be required to register, undergo assessment, and participate in work, education, or training under the Program, except that—

(A) work or training may not be required in the case of—

(i) a single parent of a child under six months of age, or more than one parent of such a child in a two-parent family, *(ii) a single parent with a child of any age who has received assistance for less than six months,*

(iii) a single parent with a child under three years of age who has received assistance for less than three years,

(iv) an individual under 16 years of age or over 64 years of age,

(v) an individual who is incapacitated, temporarily ill, or needed at home to care for an impaired person, or

(vi) an individual who has not yet been individually notified in writing of such requirement or of the expiration of his or her exempt status under this subparagraph;

(B) participation in work or training shall in any case be voluntary during the first two years of the Program, and may thereafter be made mandatory only in counties where more than 50 percent of the enrollees can be placed in employment within three months after they are job ready;

(C) in no case shall the work and training aspect of the Program be mandated in any county where the unemployment level is at least twice the State average; and

(D) mandated work shall not include work in any position created by a reduction in the work force, a bona fide labor dispute, the decertification of a bargaining unit, or a new job classification which subverts the intention of the Program;

(4) there shall be no change in existing State law which would eliminate guaranteed benefits or reduce the rights of applicants or enrollees; and

(5) the Program shall include due process guarantees and procedures no less than those which are available to participants in the AFDC program under Federal law and regulation and under State law.

(c) WAIVERS.—The Secretary shall (with respect to the project under this section) waive compliance with any requirements contained in title IV of the Social Security Act which (if applied) would prevent the State from carrying out the project or effectively achieving its purpose, or with the requirements of sections 1902(a)(1), 1902(e)(1), and 1916 of that Act (but only to the extent necessary to enable the State to carry out the program as enacted by the State in April 1987).

(d) FUNDING.—

(1) The Secretary shall under section 403(b) or 1903(d) of the Social Security Act (as may be appropriate) reimburse the State for its expenditures under the Program—

(A) at a rate equal to the Federal matching rate applicable to the State under section 403(a)(1) (or 1118) of the Social Security Act, for cash assistance, medical assistance, and child care provided to enrollees;

(B) at a rate equal to the applicable Federal matching rate under section 403(a)(3) of such Act, for administrative expenses; and

(C) at the rate of 75 percent for an evaluation plan approved by the Secretary.

(2) As a condition of approval of the project under this section, the State must provide assurances satisfactory to the Secretary that the total amount of Federal reimbursement over the period of the project will not exceed the anticipated Federal reimbursements (over that period) under the AFDC and Medicaid programs; but this paragraph shall not prevent the State from claiming reimbursement for additional persons who would qualify for assistance under the AFDC program, for costs attributable to increases in the State's payment standard, or for any other federally-matched benefits or services.

(e) EVALUATION.—The State must satisfy the Secretary that the program will be evaluated using a reasonable methodology.

(f) DURATION OF PROJECT.—

(1) The project under this section shall begin on the date on which the first individual is enrolled in the Program and (subject to paragraph (2)) shall end five years after that date.

(2) The project may be terminated at any time, on six months written notice, by the State or (upon a finding that the State has materially failed to comply with this section) by the Secretary.

SEC. 4116. REPEAL OF UNNECESSARY CHILD SUPPORT REVOLVING FUND.

(a) IN GENERAL.—Section 452(c) of the Social Security Act (42 U.S.C. 652(c)) is amended to read as follows:

"(c) The Secretary of the Treasury shall from time to time pay to each State for distribution in accordance with the provisions of section 457 the amount of each collection made on behalf of such State pursuant to subsection (b).".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to amounts collected after the date of enactment of this Act.

SEC. 4117. DEMONSTRATION PROGRAM TO ASSIST HOMELESS INDIVIDUALS IN OBTAINING SSI BENEFITS.

(a) ESTABLISHMENT OF DEMONSTRATION PROGRAM.—

(1) In order to demonstrate and test the feasibility of developing and using special procedures to ensure that all homeless individuals in shelters fully and clearly understand their rights to benefits under the SSI program and other programs established under the Social Security Act, to provide such individuals with all possible assistance in applying for such benefits and obtaining the information and documentation necessary for that purpose, and to ensure that all such individuals receive the benefits to which they are entitled under such programs, up to 10 States may each create an SSI Outreach Team Project in accordance with this section. Each project approved under this section shall meet such conditions and requirements, consistent with this section, as the Secretary of Health and Human Services (in this section referred to as the Secretary) shall prescribe.

(2)(A) The Secretary shall consider all applications received from States desiring to conduct SSI Outreach Team Projects under this section and shall approve up to 10 applications involving projects which appear likely to contribute significantly to the achievement of the purpose of this section.

(B) Of the projects approved under paragraph (1), 5 shall commence their operations during the fiscal year 1988 and the remainder shall commence their operations during the fiscal year 1989, as designated by the Secretary at the time of such approval.

(3) The Secretary shall make grants to the States whose applications are approved under paragraph (2) in order to cover the costs incurred by such States in carrying out their SSI Outreach Team Projects, including the costs of staff, administration, transportation, and other necessary expenses. The cost of each such project shall not exceed $250,000 a year, except that the Secretary may in any particular case permit the State to incur costs in excess of such amount (and increase the amount of the grant accordingly), to the extent that appropriated funds are available therefor, if the State satisfactorily demonstrates that higher costs must be incurred in order to properly serve the homeless within the project area.

(b) WAIVERS.—The Secretary may waive any and all requirements, restrictions, and limitations (contained in title XVI of the Social Security Act or in regulations prescribed thereunder, or in any other law or regulation) which could prevent or hinder the operation of the demonstration program under this section.

(c) INFORMATION AND REPORTS; EVALUATION.—

(1) Each State having an approved SSI Outreach Team Project shall periodically submit to the Secretary such information (with respect to the project) as may be necessary to enable the Secretary to evaluate such project in particular and the demonstration program under this section in general.

(2)(A) The Secretary shall from time to time (but not less often than annually) submit to the Congress a full and complete report on the program under this section, together with a detailed evaluation of such program and of the projects thereunder along with such recommendations as may be deemed appropriate. Such evaluation and such recommendations shall be designed to serve as a basis for determining whether (and to what extent) the activities and procedures included in the demonstration program under this section should be continued, expanded, or modified, or converted (with or without changes) into a regular feature of permanent law.

(B) The criteria used by the Secretary in evaluating the program and the projects thereunder shall not be limited to those which would normally be used in evaluating programs and activities of the kind involved, but shall fully take into account the special circumstances of the homeless and their need for personalized attention and follow-through assistance, and shall emphasize the extent to which the procedures and assistance made available to applicants under such projects are recognizing those circumstances and meeting that need.

(e) AUTHORIZATION OF APPROPRIATIONS.—To carry out this section, there are authorized to be appropriated to the Secretary—

(1) the sum of $1,250,000 for the fiscal year 1988;

(2) the sum of $2,500,000 for the fiscal year 1989; and

(3) such sums as may be necessary for each fiscal year thereafter.

SEC. 4118. MODIFICATION OF INTERIM ASSISTANCE REIMBURSEMENT PROGRAM.

(a) IN GENERAL.—Section 1631(g)(2) of the Social Security Act (42 U.S.C. 1383(g)(2)) is amended in the first sentence by striking "at the time the Secretary makes the first payment of benefits" and inserting in lieu thereof "at the time the Secretary makes the first payment of benefits with respect to the period described in clause (A) or (B) of paragraph (3)".

(b) DEFINITION OF INTERIM ASSISTANCE.—Section 1631(g)(3) of such Act (42 U.S.C. 1383(g)(3)) is amended—

(1) by inserting "(A)" after "basic needs"; and

(2) by inserting before the period at the end the following: ", or (B) during the period beginning with the first month for which the individual's benefits (as defined in paragraph (2)) have been terminated or suspended if the individual was subsequently found to have been eligible for such benefits".

(c) EFFECTIVE DATE.—The amendments made by this section shall become effective with the 13th month following the month in which this Act is enacted, or, if sooner, with

the first month for which the Secretary of Health and Human Services determines that it is administratively feasible.

SEC. 4119. DEMONSTRATION PROGRAM TO PROVIDE SELF-EMPLOYMENT ALLOWANCE FOR ELIGIBLE INDIVIDUALS.

(a) IN GENERAL.—The Secretary of Labor (hereinafter in this section referred to as the "Secretary") shall carry out a demonstration program under this section for the purpose of making available self-employment allowances to eligible individuals. To carry out such program, the Secretary shall enter into agreements with three States that—

(1) apply to participate in such program, and

(2) demonstrate to the Secretary that they are capable of implementing the provisions of the agreement.

(b) SELECTION OF STATES.—

(1) In determining whether to enter into an agreement with a State under this section, the Secretary shall take into consideration at least—

(A) the availability and quality of technical assistance currently provided by agencies of the State to the self-employed;

(B) existing local market conditions and the business climate for new, small business enterprises in the State;

(C) the adequacy of State resources to carry out a regular unemployment compensation program and a program under this section;

(D) the range and extent of specialized services to be provided by the State to individuals covered by such an agreement;

(E) the design of the evaluation to be applied by the State to the program; and

(F) the standards which are to be utilized by the State for the the purpose of assuring that individuals who will receive self-employment assistance under this section will have sufficient experience (or training) and ability to be self employed.

(2) The Secretary may not enter into an agreement with any State under this section unless the Secretary makes a determination that the State's unemployment compensation program has adequate reserves.

(c) PROVISIONS OF AGREEMENT.—Any agreement entered into with a State under this section shall provide that—

(1) each individual who is an eligible individual with respect to any benefit beginning during the three-year period commencing on the date on which such agreement is entered into shall receive a self-employment allowance;

(2) self-employment allowances made to any individual under this section shall be made in the same amount, on the same terms, and subject to the same conditions as regular or extended unemployment compensation, as the case may be, paid by such State; except that—

(A) State and Federal requirements relating to availability for work, active search for work, or refusal to accept suitable work shall not apply to such individual; and

(B) such individual shall be considered to be unemployed for purposes of the State and Federal laws applicable to unemployment compensation,

as long as the individual meets the requirements applicable under this section to such individual;

(3) to the extent that such allowances are made to an individual under this section, an amount equal to the amount of such allowances shall be charged against the amount that may be paid to such individual under State law for regular or extended unemployment compensation, as the case may be;

(4) the total amount paid to an individual with respect to any benefit year under this section may not exceed the total amount that could be paid to such individual for regular or extended unemployment compensation, as the case may be, with respect to such benefit year under State law;

(5) the State shall implement a program that—

(A) is approved by the Secretary;

(B) will not result in any cost to the Unemployment Trust Fund established by section 904(a) of the Social Security Act in excess of the cost which would have been incurred by such State and charged to such Fund if the State had not participated in the demonstration program under this section;

(C) is designed to select and assist individuals for self-employment allowances, monitor the individual's self-employment, and provide, as described in subsection (d), to the Secretary a complete evaluation of the use of such allowances; and

(D) otherwise meets the requirements of this section; and

(6) the State, from its general revenue funds, shall—

(A) repay to the Unemployment Trust Fund any cost incurred by the State and charged to the Fund which exceeds the cost which would have been incurred by such State and charged to such Fund if the State had not participated in the demonstration program under this section; and

(B) in any case in which any excess cost described in subparagraph (A) is not repaid in the fiscal year in which it was charged to the Fund, pay to the Fund an amount of interest, on the outstanding balance of such excess cost, which is sufficient (when combined with any repayment by the State described in subparagraph (A)) to reimburse the Fund for any loss which would not have been incurred if such excess cost had not been incurred.

(d) EVALUATION.—

(1) Each State that enters into an agreement under this section shall carry out an evaluation of its activities under this section. Such evaluation shall be based on a treatment group and a control group with not more than one-half of the individuals receiving assistance at any one time being assigned to the treatment group.

(2) The Secretary shall use the data provided from such evaluation to analyze the benefits and the costs of the program carried out under subsection (g), and to estimate any excess costs described in subsection (c)(6)(A).

(e) FINANCING.—

(1) Notwithstanding section 303(a)(5) of the Social Security Act and section 3304(a)(4) of the Internal Revenue Code of 1986, amounts in the unemployment fund of a State may be used by a State to make payments (exclusive of expenses of administration) for self-employment allowances made under this section to an individual who is receiving them in lieu of regular unemployment compensation.

(2) In any case in which a self-employment allowance is made under this section to an individual in lieu of extended unemployment compensation under the Federal-State Extended Unemployment Compensation Act of 1970, payments made under this section for self-employment allowances shall be considered to be compensation described in section 204(a)(1) of such Act and paid under State law.

(f) LIMITATION.—No funds made available to a State under title III of the Social Security Act or any other Federal law may be used for the purpose of administering the program carried out by such State under this section.

(g) REPORT TO CONGRESS.—

(1) Not later than two years after the date of enactment of this Act, the Secretary shall submit an interim report to the Congress on the effectiveness of the demonstration program carried out under this section. Such report shall include—

(A) information on the extent to which this section has been utilized;

(B) an analysis of any barriers to such utilization; and

(C) an analysis of the feasibility of extending the provisions of this section to individuals not covered by State unemployment compensation laws.

(2) Not later than four years after the date of the enactment of this Act, the Secretary shall submit a final report to the Congress on such program.

(h) FRAUD AND OVERPAYMENTS.—

(1) If an individual knowingly has made, or caused to be made by another, a false statement or representation of a material fact, or knowingly has failed, or caused another to fail, to disclose a material fact, and as a result of such false statement or representation or of such nondisclosure such individual has received payment under this section to which he was not entitled, such individual shall be—

(A) ineligible for further assistance under this section; and

(B) subject to prosecution under section 1001 of title 18, United States Code.

(2)(A) If any person received any payment under this section to which such person was not entitled, the State is authorized to require such person to repay such assistance; except that the State agency may waive such repayment if it determines that—

(i) the providing of such assistance or making of such payment was without fault on the part of such person; and

(ii) such repayment would be contrary to equity and good conscience.

(B) No repayment shall be required under subparagraph (A) until a determination has been made, notice thereof and an opportunity for a fair hearing has been given to the person, and the determination has become final. Any determination under such subparagraph shall be subject to review in the same manner and to the same extent as determinations under the State unemployment compensation law, and only in that manner and to that extent.

(i) DEFINITIONS.—For purposes of this section—

(1) the term "eligible individual" means, with respect to any benefit year, an individual who—

(A) is eligible to receive regular or extended compensation under the State law during such benefit year;

(B) is likely to receive unemployment compensation for the maximum number of weeks that such compensation is made available under the State law during such benefit year;

(C) submits an application to the State agency for a self-employment allowance under this section; and

(D) meets applicable State requirements,

except that not more than (i) 3 percent of the number of individuals eligible to receive their regular compensation in a State at beginning of a fiscal year, or (ii) the number of persons who exhausted their unemployment compensation benefits in the fiscal year ending before such fiscal year, whichever is lesser, may be considered as eligible individuals for such State for purposes of this section during such fiscal year;

(2) the term "self-employment allowance" means compensation paid under this section for the purpose of assisting an eligible individual with such individual's self-employment; and

(3) the terms "compensation", "extended compensation", "regular compensation", "benefit year", "State", and "State law", have the respective meanings given to such terms by section 205 of the Federal-State Extended Unemployment Compensation Act of 1979.

SEC. 4120. MODIFICATION OF EFFECTIVE DATE WITH RESPECT TO STATE COMPLIANCE WITH CERTAIN REQUIREMENTS REGARDING EXTENDED BENEFITS UNDER THE UNEMPLOYMENT INSURANCE PROGRAM.

(a) In General.—Section 1024(b) of the Omnibus Reconciliation Act of 1980 is amended to read as follows:

"(b)(1) Except as provided in paragraph (2), the amendment made by this section shall apply with respect to weeks of unemployment beginning after October 1, 1981.

"(2) In the case of a State the legislature of which does not meet in a regular session during calendar year 1981, the amendment made by this section shall apply with respect to weeks of unemployment beginning after October 31, 1982.".

(b) Effective Date.—The amendment made by subsection (a) shall be effective as if included in the enactment of the Omnibus Reconciliation Act of 1980.

SEC. 4121. ASSISTANCE TO HOMELESS AFDC FAMILIES.

The Secretary of Health and Human Services shall take no action on or after December 1, 1987, (by regulation or otherwise) to prevent a State, prior to October 1, 1988, from including in its standard of need with respect to applicants for or recipients of aid under the State plan approved under section 402 of such Act (as a special need for individuals who would otherwise be homeless) an amount for shelter and related needs that varies according to geographic location, family circumstance, or the type of living accommodation occupied.

SEC. 4122. EXTENSION OF ARIZONA HEALTH CARE DEMONSTRATION PROJECT.

(a) Renewed Approval.—Notwithstanding any limitations contained in section 1115 of the Social Security Act, but subject to subsections (b) and (c) of this section, the Secretary of Health and Human Services (in this section referred to as the "Secretary") upon application shall renew until September 30, 1989, approval of demonstration project number 11-P-98239/9-05 ("Arizona Health Care Cost Containment System—AHCCCS—A statewide approach to cost effective health care financing"), including all waivers granted by the Secretary under such section 1116 as of September 30, 1987.

(b) Terms and Conditions.—The Secretary's renewed approval of the project under subsection (a) shall—

(1) subject to subsection (c), be on the same terms and conditions that existed between the applicant and the Secretary as of September 30, 1987; and

(2) remain in effect through September 30, 1989, unless the Secretary finds that the applicant no longer complies with such terms and conditions.

(c) Permitting Additional Waivers and Coverage.—Nothing in this section shall be construed to prevent the applicant from seeking approval, in due course, from the Secretary—

(1) for additional waivers under section 1115 of the Social Security Act,

(2) for coverage of additional optional groups, and

(3) for coverage of long-term care and other services which were not covered as of September 30, 1987.

Subpart IV—Medicare and Medicaid

SEC. 4131. CERTIFICATION AND RECERTIFICATION OF THE NEED FOR CERTAIN SERVICES.

(a) Medicare Certifications and Recertifications for Certain Services.—Section 1814(a) of the Social Security Act (42 U.S.C. 1395f(a)) is amended—

(1) in paragraph (2) by striking "(2) a physician" and inserting in lieu thereof "(2) a physician, or, in the case of services described in subparagraph (B), a physician, or a nurse practitioner or clinical nurse specialist who is not an employee of the facility but is working in collaboration with a physician," and

(2) in the matter following paragraph (7) by striking "a physician makes" and inserting in lieu thereof "a physician, nurse practitioner, or clinical nurse specialist (as the case may be) makes".

(b) Medicaid Certifications and Recertifications for Certain Services.—Section 1902(a)(44) of such Act (42 U.S.C. 1396a(a)(44)) is amended—

(1) in subparagraph (A)—

(A) by striking "physician certifies" and inserting in lieu thereof "physician (or, in the case of skilled nursing facility services or intermediate care facility services, a physician, or a nurse practitioner or clinical nurse specialist who is not an employee of the facility but is working in collaboration with a physician) certifies", and

(B) by striking "the physician, or a physician assistant or nurse practitioner under the supervision of a physician," and inserting in lieu thereof "a physician, a physician assistant under the supervision of a physician, or, in the case of skilled nursing facility services or intermediate care facility services, a physician, or a nurse practitioner or clinical nurse specialist who is not an employee of the facility but is working in collaboration with a physician,"; and

(2) in subparagraph (B) by striking "a physician;" and inserting in lieu thereof "a physician, or, in the case of skilled nursing facility services or intermediate care facility services, a physician, or a nurse practitioner or clinical nurse specialist who is not an employee of the facility but is working in collaboration with a physician with a physician;".

(c) Supervision of Health Care Furnished in Skilled Nursing Facilities.—Section 1861(j)(4) of such Act (42 U.S.C. 1395x(j)(4)) is amended—

(1) in subparagraph (A) by striking "a physician," and inserting in lieu thereof "a physician or a nurse practitioner or clinical nurse specialist working in collaboration with a physician,", and

(2) in subparagraph (B) by striking "a physician" and inserting in lieu thereof "a physician or a nurse practitioner or clinical nurse specialist working in collaboration with a physician,".

(d) Definition.—

(1) Section 1861 of such Act (42 U.S.C. 1395x) is amended by adding at the end thereof the following new paragraph:

"Nurse Practitioner and Clinical Nurse Specialist

"(ff)(1) An individual shall be treated as a nurse practitioner or clinical nurse specialist if the individual—

"(A) is licensed to practice professional nursing;

"(B) performs such services as such individual is legally authorized to perform (in the State in which the individual performs such services) in accordance with State law (or the State regulatory mechanism provided by State law); and

"(C)(i) is master's prepared in nursing; or

"(ii) holds a masters degree in a related field and is certified or certified eligible by a national professional organization; or

"(iii) has completed a nurse practitioner continuing education program and is certified or certified eligible.

"(2) A nurse practitioner or clinical nurse specialist works in collaboration with a physician where the nurse and physician act pursuant to an agreement that allocates responsibility for decisions and actions, but allows each professional to retain responsibility for their respective actions and engage in such actions independently.".

(2) Section 1861(aa) of such Act (42 U.S.C. 1395x(aa)) is amended in paragraph (3)—

(A) by striking "and the term 'nurse practitioner'" and "or nurse practitioner", and

(B) by striking "mean" and inserting in lieu thereof "means".

(3) Section 1861(s)(2)(H) of such Act (42 U.S.C. 1395x(s)(2)(H)) is amended in clause (i) by striking "physician assistant or by a nurse practitioner (as defined in subsection (aa)(3))" and inserting in lieu thereof "physician assistant (as defined in subsection (aa)(3)) or by a nurse practitioner".

(e) Effective Date.—

(1) The amendments made by subsections (a), (c), and (d) of this section shall apply to items and services furnished on or after the date of enactment of this Act.

(2)(A) Except as provided in subparagraph (B), the amendments made by subsection (b) shall apply to medical assistance provided on or after the date of enactment of this Act.

(B) In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation in order for the plan to meet the additional requirements of the amendments made by subsection (b), the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet the additional requirements before the first day of the first calendar year beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act.

SEC. 4132. COVERAGE OF CERTAIN ITEMS AND SERVICES FURNISHED BY A NURSE PRACTITIONER OR CLINICAL NURSE SPECIALIST.

(a) Payment of Benefits.—Section 1833(a)(2) of the Social Security Act (42 U.S.C. 1395l(a)(2)) is amended—

(1) in subparagraph (B) by striking "(C) or (D)" and inserting in lieu thereof "(C), (D), or (E)",

(2) in subparagraph (C) by striking "and",

(3) in subparagraph (D) by inserting "and" after "tests;", and

(4) by adding at the end thereof the following new subparagraph:

"(E) with respect to items and services described in section 1861(s)(2)(L), the amount paid shall be equal to 100 percent of the amount determined as the reasonable charge for such items and services under section 1842(b)(10).".

(b) Contracts With Carriers.—Section 1842(b) of such Act (42 U.S.C. 1395u(b)) is *amended by adding at the end thereof the following new paragraph:*

"(13) In providing payment for the items and services described in section 1861(s)(2)(L), each carrier shall require that payment be made in the manner described in paragraph (3)(B)(ii), except that the reasonable charge shall be determined as 75 percent of the prevailing charge paid for similar items and services in the same locality.".

(c) DEFINITION.—Section 1861(s)(2) of such Act (42 U.S.C. 1395x(s)(2)) is amended—

(1) by striking "and" at the end of subparagraph (J),

(2) by adding "and" at the end of subparagraph (K), and

(3) by adding at the end thereof the following new subparagraph:

"(L) services furnished by a nurse practitioner or clinical nurse specialist in a skilled nursing facility and services and supplies furnished as an incident to such services;".

(d) CONFORMING CHANGE.—Section 1861(h) of such Act (42 U.S.C. 1395x(h)) is amended by inserting ", and excluding any item or service described in subsection (s)(2)(L)" before the period.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to items and services furnished on or after the date of enactment of this Act.

SEC. 4133. COVERAGE OF CERTAIN ITEMS AND SERVICES FURNISHED BY A NURSE PRACTITIONER OR CLINICAL NURSE SPECIALIST.

(a) IN GENERAL.—Section 1905(a) of the Social Security Act (42 U.S.C. 1396d(a)) is amended in paragraph (5)—

(1) by inserting "(A)" after the paragraph designation; and

(2) by striking "elsewhere;" and inserting in lieu thereof "elsewhere; and (B) services furnished in an intermediate care facility or skilled nursing facility by a nurse practitioner or clinical nurse specialist (as defined in section 1861(ff)(1)) working in collaboration with a physician;".

(b) EFFECTIVE DATE.—

(1) Except as provided in paragraph (2), the amendments made by this section shall apply to medical assistance provided on or after the date of enactment of this Act.

(2) In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation in order for the plan to meet the additional requirements of the amendments made by this section, the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet the additional requirements before the first day of the first calendar year beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act.

SEC. 4134. RULES AND REGULATIONS.

The Secretary shall issue such rules and regulations which will ensure that this provision is implemented in a budget neutral manner. The Secretary is authorized to reduce the levels of payments that would otherwise be paid to ensure budget neutral implementation.

Subtitle B—Revenue Provisions

SEC. 4500. SHORT TITLE; AMENDMENT TO THE INTERNAL REVENUE CODE OF 1986; TABLE OF CONTENTS.

(a) SHORT TITLE.—This subtitle may be cited as the "Revenue Amendments of 1987".

(b) AMENDMENT TO THE INTERNAL REVENUE CODE OF 1986.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(c) TABLE OF CONTENTS.—

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PART I—ACCOUNTING PROVISIONS

SEC. 4501. REPEAL OF RESERVE FOR ACCRUAL OF VACATION PAY.

(a) GENERAL RULE.—Section 463 (relating to accrual of vacation pay) is hereby repealed.

(b) TECHNICAL AMENDMENTS.—

(1) Section 81 is hereby repealed.

(2) Subparagraph (B) of section 404(b)(2) is amended to read as follows:

"(B) EXCEPTION.—Subparagraph (A) shall not apply to any benefit provided through a welfare benefit fund (as defined in section 419(e))."

(3) Paragraph (2) of section 419(e) is amended by inserting "or" at the end of subparagraph (B), by striking out ", or" at the end of subparagraph (C), and inserting in lieu thereof a period, and by striking out subparagraph (D).

(4) Paragraph (5) of section 461(h) is amended to read as follows:

"(5) SUBSECTION NOT TO APPLY TO CERTAIN ITEMS.—This subsection shall not apply to any item for which a deduction is allowable under a provision of this title which specifically provides for a deduction for a reserve for estimated expenses."

(5) The table of sections for part II of subchapter B of chapter 1 is amended by striking out the item relating to section 81.

(6) The table of sections for subpart C of part II of subchapter E of chapter 1 is amended by striking out the item relating to section 463.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years beginning after December 31, 1987.

(2) CHANGE IN METHOD OF ACCOUNTING.—In the case of any taxpayer who elected to have section 463 of the Internal Revenue Code of 1986 apply for such taxpayer's last taxable year beginning before January 1, 1988, and who is required to change his method of accounting by reason of the amendments made by this section—

(A) such change shall be treated as initiated by the taxpayer,

(B) such change shall be treated as having been made with the consent of the Secretary, and

(C) the net amount of adjustments required by section 481 of such Code to be taken into account by the taxpayer—

(i) shall be reduced by the balance in the suspense account under section 463(c) of such Code as of the close of such last taxable year, and

(ii) shall be taken into account over the 4-taxable year period beginning with the taxable year following such last taxable year as follows:

In the case of the:	The percentage taken into account is:
1st year	10
2nd year	50
3rd year	15
4th year	25.

"Notwithstanding subparagraph (C)(ii), if the period the adjustments are required to be taken into account under section 481 of such Code is less than 4 years, such adjustments shall be taken into account ratably over such shorter period.

SEC. 4502. REPEAL OF INSTALLMENT METHOD FOR DEALERS IN PROPERTY.

(a) IN GENERAL.—Subparagraph (A) of section 453(b)(2) (relating to exemptions from installment sales) is amended to read as follows:

"(A) DEALER DISPOSITIONS.—Any dealer disposition (as defined in section 453A)."

(b) DEALER DISPOSITION DEFINED.—Section 453A (relating to installment method for dealers in personal property) is amended to read as follows:

"SEC. 453A. DEALER DISPOSITIONS.

"(a) IN GENERAL.—For purposes of section 453(b)(2)(A), the term 'dealer disposition' means any of the following dispositions:

"(1) PERSONAL PROPERTY.—Any disposition of personal property by a person who regularly sells or otherwise disposes of personal property on the installment plan.

"(2) REAL PROPERTY.—Any disposition of real property which is held by the taxpayer for sale to customers in the ordinary course of the taxpayer's trade or business.

"(b) EXCEPTIONS.—The term 'dealer disposition' does not include—

"(1) FARM PROPERTY.—The disposition on the installment plan of any property used or produced in the trade or business of farming (within the meaning of section 2032A(e) (4) or (5)).

"(2) TIMESHARES AND RESIDENTIAL LOTS.—Dispositions on the installment plan described in section 453C(e)(4)(A)(i) (relating to timeshares and residential lots) if the taxpayer elects to have subparagraphs (B) and (C) of section 453C(e)(4) apply to any installment obligations which arise from such dispositions. An election under this paragraph shall not apply with respect to an installment obligation which is guaranteed by any person other than an individual.

Any carrying charges or interest with respect to a disposition described in paragraph (1) or (2) shall be included in the total contract price of the property (and added on the books of account of the seller to the established cash selling price of such property) and, if such charges or interest are not so included, any payments received shall be treated as applying first against such carrying charges or interest."

(c) CONFORMING AMENDMENTS.—

(1) Sections 381(c)(8) and 691(a) (4) and (5) are each amended by striking out "or 453A" each place it appears.

(2) Section 56(a)(6)(B) is amended by inserting "an" before "applicable".

(3) Section 56(a)(6) is amended by striking out "or 453A".

(4) Sections 453C(a) and (c)(1) are each amended by striking out "and 453A".

(5) Section 453C(b) is amended—

(A) by striking out "average quarterly indebtedness for" in paragraph (1)(A) and inserting in lieu thereof "indebtedness as of the close of",

(B) by striking out "average quarterly" in paragraph (3)(B), and

(C) by striking out paragraph (4).

(6) Clause (i) of section 453C(e)(1)(A) is amended to read as follows:

"(i) which arises from the disposition after August 16, 1986, of real property under the installment method which is property used in the taxpayer's trade or business or property held for the production of rental income, but only if the sales price of such property exceeds $150,000 (determined after application of the rule under the last sentence of section 1274(c)(3)(A)(ii)), and".

(7) Section 453C(e)(5)(C) is amended by striking out "subsection (b)(4) shall not apply" and inserting in lieu thereof "subsection (b) shall be applied by taking into account average quarterly indebtedness"

(8) The table of sections for subpart B of part II of subchapter B of chapter 1 is amended by striking out the item relating to section 453A and inserting in lieu thereof the following new item:

"Sec. 453A. Dealer dispositions."

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in this subsection, the amendments made by this section shall apply to installment obligations arising from dispositions after December 31, 1987.

(2) SPECIAL RULES FOR OBLIGATIONS ARISING FROM DISPOSITIONS AFTER FEBRUARY 28, 1986, AND BEFORE JANUARY 1, 1988.—

(A) IN GENERAL.—In the case of an applicable installment obligation arising from a disposition described in subclause (I) or (II) of section 453C(e)(1)(A)(i) of the Internal Revenue Code of 1986 (as in effect before the amendments made by this section) before January 1, 1988, the amendments made by this section shall apply to taxable years beginning after December 31, 1987.

(B) CHANGE IN METHOD OF ACCOUNTING.—In the case of any taxpayer who is required by subparagraph (A) to change its method of accounting for any taxable year with respect to obligations described in subparagraph (A)—

(i) such change shall be treated as initiated by the taxpayer,

(ii) such change shall be treated as made with the consent of the Secretary of the Treasury or his delegate, and

(iii) the net amount of adjustments required by section 481 of the Internal Revenue Code of 1986 shall be taken into account over a period not longer than 4 taxable years.

(3) COORDINATION WITH TAX REFORM ACT OF 1986.—The amendments made by this section shall not apply to any installment obligation or to any taxpayer during any period to the extent the amendments made by section 811 of the Tax Reform Act of 1986 do not apply to such obligation or during such period.

SEC. 4503. AMORTIZATION OF PAST SERVICE PENSION COSTS.

(a) IN GENERAL.—For purposes of section 263A of the Internal Revenue Code of 1986 (relating to inventory costs capitalization), the allocable costs (within the meaning of section 263A(a)(2) of such Code) with respect to any property shall include contributions paid to or under a pension or annuity plan whether or not such contributions represent past service costs.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—Subsection (a) shall apply to taxable years beginning after December 31, 1987.

(2) CHANGE IN METHOD OF ACCOUNTING.—In the case of any taxpayer who is required by this section to change its method of accounting for any taxable year—

(A) such change shall be treated as initiated by the taxpayer,

(B) such change shall be treated as made with the consent of the Secretary of the Treasury or his delegate, and

(C) the net amount of adjustments required by section 481 of the Internal Revenue Code of 1986 shall be taken into account over a period not longer than 4 taxable years.

SEC. 4504. CERTAIN FARM CORPORATIONS REQUIRED TO USE ACCRUAL METHOD OF ACCOUNTING.

(a) GENERAL RULE.—Section 447 (relating to method of accounting for corporations engaged in farming) is amended by striking out subsections (c) and (e), by redesignating subsection (d) as subsection (e), and by inserting after subsection (b) the following new subsections:

"(c) EXCEPTION FOR CERTAIN CORPORATIONS.—For purposes of subsection (a), a corporation shall be treated as not being a corporation if it is—

"(1) an S corporation, or

"(2) a corporation the gross receipts of which meet the requirements of subsection (d).

"(d) GROSS RECEIPTS REQUIREMENTS.—

"(1) IN GENERAL.—A corporation meets the requirements of this subsection if, for each prior taxable year beginning after December 31, 1975, such corporation (and any predecessor corporation) did not have gross receipts exceeding $1,000,000. For purposes of the preceding sentence, all corporations which are members of the same controlled group of corporations (within the meaning of section 1563(a)) shall be treated as 1 corporation.

"(2) SPECIAL RULES FOR FAMILY CORPORATIONS.—

"(A) IN GENERAL.—In the case of a family corporation, paragraph (1) shall be applied—

"(i) by substituting 'December 31, 1985,' for 'December 31, 1975,'; and

"(ii) by substituting '$25,000,000' for '$1,000,000'.

"(B) GROSS RECEIPTS TEST.—

"(i) CONTROLLED GROUPS.—Notwithstanding the last sentence of paragraph (1), in the case of a family corporation—

"(I) except as provided by the Secretary, only the applicable percentage of gross receipts of any other member of any controlled group of corporations of which such corporation is a member shall be taken into account, and

"(II) under regulations, gross receipts of such corporation or of another member of such group shall not be taken into account by such corporation more than once.

"(ii) PASS-THRU ENTITIES.—For purposes of paragraph (1), if a family corporation holds directly or indirectly any interest in a partnership, estate, trust or other pass-thru entity, such corporation shall take into account its proportionate share of the gross receipts of such entity.

"(iii) APPLICABLE PERCENTAGE.—For purposes of clause (i), the term 'applicable percentage' means the percentage equal to a fraction—

"(I) the numerator of which is the fair market value of the stock of another corporation held directly or indirectly as of the close of the taxable year by the family corporation, and

"(II) the denominator of which is the fair market value of all stock of such corporation as of such time.

For purposes of this clause, the term 'stock' does not include stock described in section 1563(c)(1)."

"(C) FAMILY CORPORATION.—For purposes of this section, the term 'family corporation' means—

"(i) any corporation if at least 50 percent of the total combined voting power of all classes of stock entitled to vote, and at least 50 percent of all other classes of stock of the corporation, are owned by members of the same family, and

"(ii) any corporation described in subsection (h)."

(b) SUSPENSE ACCOUNT IN LIEU OF 481 ADJUSTMENTS.—Section 447 is amended by adding at the end thereof the following new subsection:

"(i) SUSPENSE ACCOUNT FOR FAMILY CORPORATIONS.—

"(1) IN GENERAL.—If any family corporation is required by this section to change its method of accounting for any taxable year (hereinafter in this subsection referred to as the 'year of the change'), notwithstanding subsection (f), such corporation shall establish a suspense account under this subsection in lieu of taking into account adjustments under section 481(a) with respect to amounts included in the suspense account.

"(2) INITIAL OPENING BALANCE.—The initial opening balance of the account described in paragraph (1) shall be the lesser of—

"(A) the net adjustments which would have been required to be taken into account under section 481 but for this subsection, or

"(B) the amount of such net adjustments determined as of the close of the 2nd taxable year preceding the year of change.

If the amount referred to in subparagraph (A) exceeds the amount referred to in subparagraph (B), notwithstanding paragraph (1), such excess shall be taken into account under section 481 in the year of the change.

"(3) REDUCTION IN ACCOUNT IF FARMING BUSINESS CONTRACTS.—If—

"(A) the gross receipts of the corporation from the trade or business of farming for the year of the change or any subsequent taxable year, is less than

"(B) such gross receipts for the taxpayer's last taxable year beginning before the year of the change (or for the most recent taxable year for which a reduction in the suspense account was made under this paragraph),

the amount in the suspense account (after taking into account prior reductions) shall be reduced by the percentage by which the amount described in subparagraph (A) is less than the amount described in subparagraph (B).

"(4) INCOME INCLUSION.—Any reduction in the suspense account under paragraph (3) shall be included in gross income.

"(5) INCLUSION WHERE CORPORATION CEASES TO BE A FAMILY CORPORATION.—If the corporation ceases to be a family corporation during any taxable year, the amount in the suspense account (after taking into account prior reductions) shall be included in gross income for such taxable year.

"(6) SUBCHAPTER C TRANSACTIONS.—The application of this subsection with respect to a taxpayer which is a party to any transaction with respect to which there is nonrecognition of gain or loss to any party by reason of subchapter C shall be determined under regulations prescribed by the Secretary."

(c) TECHNICAL AMENDMENTS.—

(1) Subsection (e) of section 447 (as redesignated by subsection (a)) is amended by striking out "subsection (c)(2)" and inserting in lieu thereof "subsection (d)".

(2) Paragraph (1) of section 447(h) is amended—

(A) by striking out "This section shall not apply to any corporation" and inserting in lieu thereof "A corporation is described in this subsection",

(B) by striking out "subsection (d)" each place it appears and inserting in lieu thereof "subsection (e)", and

(C) by striking out "subsection (d)(1)" each place it appears and inserting in lieu thereof "subsection (e)(1)".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1987.

PART II—ESTIMATED TAX PROVISIONS

SEC. 4511. REVISION OF CORPORATE ESTIMATED TAX PROVISIONS.

(a) GENERAL RULE.—Section 6655 (relating to failure by corporation to pay estimated income tax) is amended to read as follows:

"SEC. 6655. FAILURE BY CORPORATION TO PAY ESTIMATED INCOME TAX.

"(a) ADDITION TO TAX.—Except as otherwise provided in this section, in the case of any underpayment of estimated tax by a corporation, there shall be added to the tax under chapter 1 for the taxable year an amount determined by applying—

"(1) the underpayment rate established under section 6621,

"(2) to the amount of the underpayment,

"(3) for the period of the underpayment.

"(b) AMOUNT OF UNDERPAYMENT; PERIOD OF UNDERPAYMENT.—For purposes of subsection (a)—

"(1) AMOUNT.—The amount of the underpayment shall be the excess of—

"(A) the required installment, over

"(B) the amount (if any) of the installment paid on or before the due date for the installment.

"(2) PERIOD OF UNDERPAYMENT.—The period of the underpayment shall run from the due date for the installment to whichever of the following dates is the earlier—

"(A) the 15th day of the 3rd month following the close of the taxable year, or

"(B) with respect to any portion of the underpayment, the date on which such portion is paid.

"(3) ORDER OF CREDITING PAYMENTS.—For purposes of paragraph (2)(B), a payment of estimated tax shall be credited against unpaid required installments in the order in which such installments are required to be paid.

"(c) NUMBER OF REQUIRED INSTALLMENTS; DUE DATES.—For purposes of this section—

"(1) PAYABLE IN 4 INSTALLMENTS.—There shall be 4 required installments for each taxable year.

"(2) TIME FOR PAYMENT OF INSTALLMENTS.—

"In the case of the following required installments:	The due date is:
1st	April 15
2nd	June 15
3rd	September 15
4th	December 15.

"(d) AMOUNT OF REQUIRED INSTALLMENTS.—For purposes of this section—

"(1) AMOUNT.—

"(A) IN GENERAL.—Except as otherwise provided in this section, the amount of any required installment shall be 25 percent of the required annual payment.

"(B) REQUIRED ANNUAL PAYMENT.—Except as otherwise provided in this subsection, the term 'required annual payment' means the lesser of—

"(i) 90 percent of the tax shown on the return for the taxable year (or, if no return is filed, 90 percent of the tax for such year), or

"(ii) 100 percent of the tax shown on the return of the corporation for the preceding taxable year.

Clause (ii) shall not apply if the preceding taxable year was not a taxable year of 12 months, or the corporation did not file a return for such preceding taxable year showing a liability for tax.

"(2) LARGE CORPORATIONS REQUIRED TO PAY 90 PERCENT OF CURRENT YEAR TAX.—

"(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C), clause (ii) of paragraph (1)(B) shall not apply in the case of a large corporation.

"(B) MAY USE LAST YEAR'S TAX FOR 1ST INSTALLMENT.—Subparagraph (A) shall not apply for purposes of determining the amount of the 1st required installment for any taxable year. Any reduction in such 1st installment by reason of the preceding sentence shall be recaptured by increasing the amount of the next required installment determined under paragraph (1) by the amount of such reduction.

"(C) SPECIAL RULE FOR TAXABLE YEARS BEGINNING IN 1988.—Subparagraph (A) shall not apply for purposes of determining the amount of the 1st and 2nd required installments for any taxable year beginning in 1988. Any reduction in such installments by reason of the preceding sentence shall be recaptured by increasing the amount of the next required installment determined under paragraph (1) by the amount of such reduction.

"(e) LOWER REQUIRED INSTALLMENT WHERE ANNUALIZED INCOME INSTALLMENT OR ADJUSTED SEASONAL INSTALLMENT IS LESS THAN AMOUNT DETERMINED UNDER SUBSECTION (d).—

"(1) IN GENERAL.—In the case of any required installment, if the corporation establishes that the annualized income installment or the adjusted seasonal installment is less than the amount determined under section (d)(1) (as modified by subsection (d)(2))—

"(A) the amount of such required installment shall be the annualized income installment (or, if lesser, the adjusted seasonal installment), and

"(B) any reduction in a required installment resulting from the application of this paragraph shall be recaptured by increasing the amount of the next required installment determined under subsection (d)(1) (as so modified) by the amount of such reduction (and by increasing subsequent required installments to the extent that the reduction has not previously been recaptured under this subparagraph).

"(2) DETERMINATION OF ANNUALIZED INCOME INSTALLMENT.—

"(A) IN GENERAL.—In the case of any required installment, the annualized income installment is the excess (if any) of—

"(i) an amount equal to the applicable percentage of the tax for the taxable year computed by placing on an annualized basis the taxable income, alternative minimum taxable income, and modified alternative minimum taxable income—

"(I) for the first 3 months of the taxable year, in the case of the 1st required installment,

"(II) for the first 3 months or for the first 5 months of the taxable year, in the case of the 2nd required installment,

"(III) for the first 6 months or for the first 8 months of the taxable year in the case of the 3rd required installment, and

"(IV) for the first 9 months or for the first 11 months of the taxable year, in the case of the 4th required installment, over

"(ii) the aggregate amount of any prior required installments for the taxable year.

"(B) SPECIAL RULES.—For purposes of this paragraph—

"(i) ANNUALIZATION.—The taxable income, alternative minimum taxable income, and modified alternative minimum taxable income shall be placed on an annualized basis under regulations prescribed by the Secretary.

"(ii) APPLICABLE PERCENTAGE.—

"In the case of the following required installments:	**The applicable percentage is:**
1st	*22.5*
2nd	*45*
3rd	*67.5*
4th	*90*

"(iii) MODIFIED ALTERNATIVE MINIMUM TAXABLE INCOME.—The term 'modified alternative minimum taxable income' has the meaning given to such term by section 59A(b).

"(3) DETERMINATION OF ADJUSTED SEASONAL INSTALLMENT.—

"(A) IN GENERAL.—In the case of any required installment, the amount of the adjusted seasonal installment is the excess (if any) of—

"(i) 90 percent of the amount determined under subparagraph (C), over

"(ii) the aggregate amount of all prior required installments for the taxable year.

"(B) LIMITATION ON APPLICATION OF PARAGRAPH.—This paragraph shall apply only if the base period percentage for any 6 consecutive months of the taxable year equals or exceeds 70 percent.

"(C) DETERMINATION OF AMOUNT.—The amount determined under this subparagraph for any installment shall be determined in the following manner—

"(i) take the taxable income for all months during the taxable year preceding the filing month,

"(ii) divided such amount by the base period percentage for all months during the taxable year preceding the filing month,

"(iii) determine the tax on the amount determined under clause (ii), and

"(iv) multiply the tax computed under clause (iii) by the base period percentage for the filing month and all months during the taxable year preceding the filing month.

"(D) DEFINITIONS AND SPECIAL RULES.—For purposes of this paragraph—

"(i) BASE PERIOD PERCENTAGE.—The base period percentage for any period of months shall be the average percent which the taxable income for the corresponding months in each of the 3 preceding taxable years bears to the taxable income for the 3 preceding taxable years.

"(ii) FILING MONTH.—The term 'filing month' means the month in which the installment is required to be paid.

"(iii) REORGANIZATION, ETC.—The Secretary may by regulations provide for the determination of the base period percentage in the case of reorganizations, new corporations, and other similar circumstances.

"(f) EXCEPTION WHERE TAX IS SMALL AMOUNT.—No addition to tax shall be imposed under subsection (a) for any taxable year if the tax shown on the return for such taxable year (or, if no return is filed, the tax) is less than $500.

"(g) DEFINITIONS AND SPECIAL RULES.—

"(1) TAX.—For purposes of this section, the term 'tax' means the excess of—

"(A) the sum of—

"(i) the tax imposed by section 11 or 1201(a), or subchapter L of chapter 1, whichever applies,

"(ii) the tax imposed by section 55,

"(iii) the tax imposed by section 59A, plus

"(iv) the tax imposed by section 887, over

"(B) the sum of—

"(i) the credits against tax provided by part IV of subchapter A of chapter 1, plus

"(ii) to the extent allowed under regulations prescribed by the Secretary, any overpayment of the tax imposed by section 4986 (determined without regard to section 4995(a)(4)(B)).

For purposes of the preceding sentence, in the case of a foreign corporation subject to taxation under section 11 or 1201(a), or under subchapter L of chapter 1, the tax imposed by section 881 shall be treated as a tax imposed by section 11.

"(2) LARGE CORPORATION.—

"(A) IN GENERAL.—For purposes of this section, the term 'large corporation' means any corporation if such corporation (or any predecessor corporation) had taxable income of $1,000,000 or more for any taxable year during the testing period.

"(B) RULES FOR APPLYING SUBPARAGRAPH (A).—

"(i) TESTING PERIOD.—For purposes of subparagraph (A), the term 'testing period' means the 3 taxable years immediately preceding the taxable year involved.

"(ii) MEMBERS OF CONTROLLED GROUP.—For purposes of applying subparagraph (A) to any taxable year in the testing period with respect to corporations which are component members of a controlled group of corporations for such taxable year, the $1,000,000 amount specified in subparagraph (A) shall be divided among such members under rules similar to the rules of section 1561.

"(iii) CERTAIN CARRYBACKS AND CARRYOVERS NOT TAKEN INTO ACCOUNT.—For purposes of subparagraph (A), taxable income shall be determined without regard to any amount carried to the taxable year under section 172 or 1212(a).

"(3) CERTAIN TAX-EXEMPT ORGANIZATIONS.—For purposes of this section—

"(A) Any organization subject to the tax imposed by section 511, and any private foundation, shall be treated as a corporation subject to tax under section 11.

"(B) Any tax imposed by section 511, and any tax imposed by section 1 or 4940 on a private foundation, shall be treated as a tax imposed by section 11.

"(C) Any reference to taxable income shall be treated as including a reference to unrelated business taxable income or net investment income (as the case may be).

In the case of any organization described in subparagraph (A), subsection (b)(2)(A) shall be applied by substituting '5th month' for '3rd month'.

"(h) EXCESSIVE ADJUSTMENT UNDER SECTION 6425.—

"(1) ADDITION TO TAX.—If the amount of an adjustment under section 6425 made before the 15th day of the 3rd month following the close of the taxable year is excessive, there shall be added to the tax under chapter 1 for the taxable year an amount determined at the underpayment rate established under section 6621 upon the excessive amount from the date on which the credit is allowed or the refund is paid to such 15th day.

"(2) EXCESSIVE AMOUNT.—For purposes of paragraph (1), the excessive amount is equal to the amount of the adjustment or (if smaller) the amount by which—

"(A) the income tax liability (as defined in section 6425(c)) for the taxable year as shown on the return for the taxable year, exceeds

"(B) the estimated income tax paid during the taxable year, reduced by the amount of the adjustment.

"(i) FISCAL YEARS AND SHORT YEARS.—

"(1) FISCAL YEARS.—In applying this section to a taxable year beginning on any date other than January 1, there shall be substituted, for the months specified in this section, the months which correspond thereto.

"(2) SHORT TAXABLE YEAR.—This section shall be applied to taxable years of less than 12 months in accordance with regulations prescribed by the Secretary.

"(j) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this section."

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Section 6154 of such Code is hereby repealed.

(2) Subparagraph (C) of section 585(c)(3) of such Code is amended by striking out "section 6655(d)(3)" and inserting in lieu thereof "section 6655(e)(2)(A)(i)".

(3) Paragraph (1) of section 6201(b) of such Code is amended by striking out "section 6154 or 6654" and inserting in lieu thereof "section 6654 or 6655".

(4) Subsection (c) of section 6425 of such Code is amended by striking out "section 6655(g)" and inserting in lieu thereof "section 6655(h)".

(5) Subsection (h) of section 6601 of such Code is amended by striking out "section 6154 or 6654" and inserting in lieu thereof "section 6654 or 6655".

(6) Subsection (e) of section 6651 of such Code is amended by striking out "section

6154 or 6654" and inserting in lieu thereof "section 6654 or 6655".

(7) The table of sections for subchapter A of chapter 62 of such Code is amended by striking out the item relating to section 6154.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1987.

SEC. 4512. REVISED WITHHOLDING CERTIFICATES REQUIRED TO BE PUT INTO EFFECT MORE PROMPTLY.

(a) GENERAL RULE.—Subparagraph (B) of section 3402(f)(3) (relating to when certificate takes effect) is amended to read as follows:

"(B) FURNISHED TO TAKE PLACE OF EXISTING CERTIFICATE.—

"(i) IN GENERAL.—Except as provided in clauses (ii) and (iii), a withholding exemption certificate furnished to the employer in cases in which a previous such certificate is in effect shall take effect as of the beginning of the 1st payroll period ending (or the 1st payment of wages made without regard to a payroll period) on or after the 30th day after the day on which such certificate is so furnished.

"(ii) EMPLOYER MAY ELECT EARLIER EFFECTIVE DATE.—At the election of the employer, a certificate described in clause (i) may be made effective beginning with any payment of wages made on or after the day on which the certificate is so furnished and before the 30th day referred to in clause (i).

"(iii) CHANGE OF STATUS WHICH AFFECTS NEXT YEAR.—Any certificate furnished pursuant to paragraph (2)(C) shall not take effect, and may not be made effective, with respect to any payment of wages made in the calendar year in which the certificate is furnished."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to certificates furnished after the day 30 days after the date of the enactment of this Act.

SEC. 4513. ESTIMATED TAX PENALTIES FOR 1987.

(a) DELAY OF INCREASE IN CURRENT YEAR LIABILITY TEST FOR INDIVIDUALS.—Notwithstanding section 1541(c) of the Tax Reform Act of 1986, the amendments made by section 1541 of such Act shall apply only to taxable years beginning after December 31, 1987.

(b) CORPORATE PROVISIONS.—

(1) RATIFICATION OF SECRETARIAL WAIVER.—The Congress hereby ratifies the safe harbor provided by paragraph (b) of the Treasury Temporary Regulation 1.6655-2T

(2) CORPORATIONS ALSO MAY USE 1986 TAX TO DETERMINE AMOUNT OF CERTAIN ESTIMATED TAX INSTALLMENTS DUE ON OR BEFORE JUNE 15, 1987.—

(A) IN GENERAL.—In the case of a large corporation, no addition to tax shall be imposed by section 6655 of the Internal Revenue Code of 1986 with respect to any underpayment of an estimated tax installment to which this subsection applies if no addition would be imposed with respect to such underpayment by reason of section 6655(d)(1) of such Code if such corporation were not a large corporation. The preceding sentence shall apply only to the extent the underpayment is paid on or before the last date prescribed for payment of the most recent installment of estimated tax due on or before September 15, 1987.

(B) INSTALLMENT TO WHICH SUBSECTION APPLIES.—This subsection applies to any installment of estimated tax for a taxable year beginning after December 31, 1986, which is due on or before June 15, 1987.

(C) LARGE CORPORATION.—For purposes of this subsection, the term "large corporation" has the meaning given such term by section 6655(i)(2) of such Code (as in effect on the day before the date of the enactment of this Act).

PART III—CORPORATE PROVISIONS

SEC. 4521. CERTAIN EARNINGS AND PROFITS ADJUSTMENTS NOT TO APPLY FOR CERTAIN PURPOSES.

(a) SPECIAL RULE FOR DETERMINING ADJUSTED BASIS OF STOCK OF MEMBERS OF AFFILIATED GROUP.—

(1) IN GENERAL.—Section 1503 (relating to computation and payment of tax by affiliated group) is amended by adding at the end thereof the following new subsection:

"(e) SPECIAL RULE FOR DETERMINING ADJUSTMENTS TO BASIS.—

"(1) IN GENERAL.—Solely for purposes of determining gain or loss on the disposition of intragroup stock, in determining the adjustments to the basis of such intragroup stock on account of the earnings and profits of any member of an affiliated group for any consolidated year—

"(A) such earnings and profits shall be determined as if section 312 were applied for such taxable year (and all preceding consolidated years of the member with respect to such group) without regard to subsections (k) and (n) thereof (or any corresponding prior provision of law), and

"(B) earnings and profits shall not include any amount excluded from gross income under section 108 to the extent the amount so excluded was not applied to reduce basis of property or other tax attributes.

"(2) DEFINITIONS.—For purposes of this subsection—

"(A) INTRAGROUP STOCK.—The term 'intragroup stock' means any stock which—

"(i) is in a corporation which is a member of an affiliated group of corporations, and

"(ii) is held by another member of such group.

"(B) CONSOLIDATED YEAR.—The term 'consolidated year' means any taxable year for which the affiliated group makes a consolidated return."

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to any intragroup stock disposed of after October 15, 1987, except that such amendment shall not apply to any intragroup stock disposed of after October 15, 1987, and before January 1, 1989, pursuant to a binding contract in effect on October 16, 1987. For purposes of determining the adjustments to the basis of such stock, such amendment shall be deemed to have been in effect for all periods whether before, on, or after October 16, 1987.

(b) DISTRIBUTIONS RECEIVED BY 20-PERCENT CORPORATE SHAREHOLDERS.—

(1) IN GENERAL.—Paragraph (1) of section 301(e) (relating to special rule for certain distributions received by 20-percent corporate shareholders) is amended by striking out "subsection (n) thereof" and inserting in lieu thereof "subsections (k) and (n) thereof".

(2) EFFECTIVE DATES.—

(A) IN GENERAL.—The amendment made by paragraph (1) shall apply to distributions after October 15, 1987. For purposes of applying such amendment to any such distribution—

(i) for purposes of determining earnings and profits, such amendment shall be deemed to be in effect for all periods whether before, on, or after October 16, 1987, but

(ii) such amendment shall not affect the determination of whether any distribution on or before October 16, 1987, is a dividend and the amount of any reduction in accumulated earnings and profits on account of any such distribution.

(B) BINDING CONTRACT EXCEPTION.—In the case of a disposition of stock after October 15, 1987, and before January 1, 1989, pursuant to a binding contract in effect on October 16, 1987, the amendment made by paragraph (1) shall not apply for purposes of determining gain or loss on such disposition.

SEC. 4522. BENEFITS OF GRADUATED CORPORATE RATES NOT ALLOWED TO PERSONAL SERVICE CORPORATIONS.

(a) GENERAL RULE.—Subsection (b) of section 11 (relating to corporate tax rates) is amended to read as follows:

"(b) AMOUNT OF TAX.—

"(1) IN GENERAL.—The amount of the tax imposed by subsection (a) shall be the sum of—

"(A) 15 percent of so much of the taxable income as does not exceed $50,000,

"(B) 25 percent of so much of the taxable income as exceeds $50,000 but does not exceed $75,000, and

"(C) 34 percent of so much of the taxable income as exceeds $75,000.

In the case of a corporation which has taxable income in excess of $100,000 for any taxable year, the amount of tax determined under the preceding sentence for such taxable year shall be increased by the lesser of (i) 5 percent of such excess, or (ii) $11,750.

"(2) CERTAIN PERSONAL SERVICE CORPORATIONS NOT ELIGIBLE FOR GRADUATED RATES.—Notwithstanding paragraph (1), the amount of the tax imposed by subsection (a) on the taxable income of a qualified personal service corporation (as defined in section 448(d)(2)) shall be equal to 34 percent of the taxable income."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1987.

PART IV—PARTNERSHIP PROVISION

SEC. 4531. TREATMENT OF PUBLICLY TRADED PARTNERSHIPS UNDER SECTION 469.

(a) GENERAL RULE.—Section 469 (relating to passive activity losses and credits limited) is amended by redesignating subsections (k) and (l) as subsections (l) and (m), respectively, and by inserting after subsection (j) the following new subsection:

"(k) SEPARATE APPLICATION OF SECTION IN CASE OF PUBLICLY TRADED PARTNERSHIPS.—

"(1) IN GENERAL.—This section shall be applied separately with respect to items attributable to each publicly traded partnership.

"(2) PUBLICLY TRADED PARTNERSHIP.—For purposes of this section, the term 'publicly traded partnership' means any partnership if—

"(A) interests in such partnership are traded on an established securities market, or

"(B) interests in such partnership are readily tradeable on a secondary market (or the substantial equivalent thereof)."

(b) STUDY.—The Secretary of the Treasury or his delegate shall conduct a study regarding administrative and compliance issues related to the tax treatment of publicly traded partnerships and other large partnerships. The Secretary of the Treasury or his delegate shall not later than January 1, 1989, submit a report on such study to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives, together with such recommendations as the Secretary of the Treasury deems appropriate.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if included in the amendments made by section 501 of the Tax Reform Act of 1986.

PART V—INCOME TAX PROVISION

SEC. 4541. EXPENSES OF OVERNIGHT CAMPS NOT ALLOWABLE FOR DEPENDENT CARE CREDIT.

(a) General Rule.—Subparagraph (A) of section 21(b)(2) (defining employment-related expenses) is amended by adding at the end thereof the following new sentence: "Such term shall not include any amount paid for services outside the taxpayer's household at a camp where the qualifying individual stays overnight."

(b) Effective Date.—The amendment made by subsection (a) shall apply to expenses paid in taxable years beginning after December 31, 1987.

PART VI—PENSION PROVISIONS

Subpart A—Full-Funding Limitations

SEC. 4550. FULL-FUNDING LIMITATION FOR DEDUCTIONS TO QUALIFIED PLANS.

(a) General Rule.—Paragraph (7) of section 412(c) (defining full-funding limitation) is amended to read as follows:

"(7) Full-funding limitation.—

"(A) In general.—For purposes of paragraph (6), the term 'full-funding limitation' means the excess (if any) of—

"(i) the lesser of (I) 150 percent of current liability, or (II) the accrued liability (including normal cost) under the plan (determined under the entry age normal funding method if such accrued liability cannot be directly calculated under the funding method used for the plan), over

"(ii) the lesser of—

"(I) the fair market value of the plan's assets, or

"(II) the value of such assets determined under paragraph (2).

"(B) Current liability.—For purposes of subparagraph (A), the term 'current liability' has the meaning given such term by subsection (l)(7) (without regard to subparagraph (D) thereof).

"(C) Special rule for paragraph (6)(B).—For purposes of paragraph (6)(B), subparagraph (A)(i) shall be applied without regard to subclause (I) thereof."

(b) Amendment to ERISA.—Paragraph (7) of section 302(c) of the Employee Retirement Income Security Act of 1974 is amended to read as follows:

"(7) Full-funding limitation.—

"(A) In general.—For purposes of paragraph (6), the term 'full-funding limitation' means the excess (if any) of—

"(i) the lesser of (I) 150 percent of current liability, or (II) the accrued liability (including normal cost) under the plan (determined under the entry age normal funding method if such accrued liability cannot be directly calculated under the funding method used for the plan), over

"(ii) the lesser of—

"(I) the fair market value of the plan's assets, or

"(II) the value of such assets determined under paragraph (2).

"(B) Current liability.—For purposes of subparagraph (A), the term 'current liability' has the meaning given such term by subsection (d)(7) (without regard to subparagraph (D) thereof).

"(C) Special rule for paragraph (6)(B).—For purposes of paragraph (6)(B), subparagraph (A)(i) shall be applied without regard to subclause (I) thereof."

(c) Effective Date.—The amendments made by this section shall apply to years beginning after December 31, 1987.

Subpart B—Pension Funding Requirements

SEC. 4551. DEFINITIONS.

For purposes of this subpart—

(1) 1986 code.—The term "1986 Code" means the Internal Revenue Code of 1986.

(2) ERISA.—The term "ERISA" means the Employee Retirement Income Security Act of 1974.

CHAPTER 1—MODIFICATIONS OF MINIMUM FUNDING STANDARD

SEC. 4552. ADDITIONAL FUNDING REQUIREMENTS.

(a) Amendments to 1986 Code.—

(1) In general.—Section 412 of the 1986 Code (relating to minimum funding standard) is amended by adding at the end thereof the following new subsection:

"(l) Additional Funding Requirements for Plans Which Are Not Multiemployer Plans.—

"(1) In general.—In the case of a defined benefit plan (other than a multiemployer plan) which has an unfunded current liability for any plan year, the amount charged to the funding standard account for such plan year shall be increased by the sum of—

"(A) the excess (if any) of—

"(i) the deficit reduction contribution determined under paragraph (2) for such plan year, over

"(ii) the sum of the charges for such plan year under subparagraphs (B) (other than clauses (iv) and (v)), (C), and (D) of subsection (b)(2), reduced by the sum of the credits for such plan year under subparagraph (B)(i) of subsection (b)(3), plus

"(B) the unpredictable contingent event amount (if any) for such plan year.

"(2) Deficit reduction contribution.—For purposes of paragraph (1), the deficit reduction contribution determined under this paragraph for any plan year is the sum of—

"(A) the unfunded old liability amount, plus

"(B) the unfunded new liability amount.

"(3) Unfunded old liability amount.—For purposes of this subsection—

"(A) In general.—The unfunded old liability amount with respect to any plan for any plan year is the amount necessary to amortize the unfunded old liability under the plan in equal annual installments over a period of 15 plan years (beginning with the 1st plan year beginning after December 31, 1988).

"(B) Unfunded old liability.—The term 'unfunded old liability' means the unfunded current liability of the plan as of the beginning of the 1st plan year beginning after December 31, 1987 (determined without regard to any plan amendment increasing liabilities adopted after October 16, 1987).

"(C) Special rules for benefit increases under existing collective bargaining agreements.—

"(i) In general.—In the case of a plan maintained pursuant to 1 or more collective bargaining agreements between employee representatives and the employer ratified before October 17, 1987, the unfunded old liability amount with respect to such plan for any plan year shall be increased by the amount necessary to amortize the unfunded existing benefit increase liability in equal annual installments over a period of 15 plan years beginning with—

"(I) the plan year in which the benefit increase with respect to such liability occurs, or

"(II) if the taxpayer elects, the 1st plan year beginning after December 31, 1988.

"(ii) Unfunded existing benefit increase liabilities.—For purposes of clause (i), the unfunded existing benefit increase liability means, with respect to any benefit increase under the agreements described in clause (i) which takes effect during or after the 1st plan year beginning after December 31, 1987, the unfunded current liability determined—

"(I) by taking into account only liabilities attributable to such benefit increase, and

"(II) by reducing the amount determined under paragraph (8)(A)(ii) by the current liability (determined without regard to such benefit increase).

"(iii) Extensions, modifications, etc. not taken into account.—For purposes of this subparagraph, any extension, amendment, or other modification of an agreement after October 16, 1987, shall not be taken into account.

"(4) Unfunded new liability amount.—For purposes of this subsection—

"(A) In general.—The unfunded new liability amount with respect to any plan for any plan year is the applicable percentage of the unfunded new liability.

"(B) Unfunded new liability.—The term 'unfunded new liability' means the unfunded current liability of the plan for the plan year determined without regard to—

"(i) the unamortized portion of the unfunded old liability, and

"(ii) the liability with respect to any unpredictable contingent event benefits (without regard to whether the event has occurred).

"(C) Applicable percentage.—The term 'applicable percentage' means, with respect to any plan year, 30 percent, reduced by the product of—

"(i) .25 percent, multiplied by

"(ii) the excess (if any) of the funded current liability percentage over 35 percent.

"(5) Unpredictable contingent event amount.—

"(A) In general.—The unpredictable contingent event amount with respect to a plan for any plan year is an amount equal to the greater of—

"(i) the amount of unpredictable contingent event benefits paid during the plan year, including (except as provided by the Secretary) any payment for the purchase of an annuity contract for a participant or beneficiary with respect to such benefits, or

"(ii) the amount which would be determined for the plan year if the unpredictable contingent event benefit liabilities were amortized in equal annual installments over 5 plan years (beginning with the plan year in which such event occurs).

In no event shall the unpredictable contingent event amount exceed the unfunded current liability of the plan for the plan year.

"(B) Special rule for 1st year of amortization.—Unless the employer elects otherwise, the amount determined under subparagraph (A) for the plan year in which the event occurs shall be equal to 150 percent of the amount determined under subparagraph (A)(i). The amount under subparagraph (A)(ii) for subsequent plan years in the amortization period shall be adjusted in the manner provided by the Secretary to reflect the application of this subparagraph.

"(C) Paragraph not to apply to existing benefits.—For purposes of this paragraph, unpredictable contingent event benefits (and liabilities attributable thereto) for which the event occurred before October 17, 1987, shall not be taken into account.

"(6) Special rules for small plans.—

"(A) Plans with 100 or fewer participants.—This subsection shall not apply to any plan for any plan year if on each day during the preceding plan year such plan had no more than 100 participants.

"(B) Plans with more than 100 but not more than 150 participants.—In the case of a

plan to which subparagraph (A) does not apply and which on each day during the preceding plan year had no more than 150 participants, the amount of the increase under paragraph (1) for such plan year shall be equal to the product of—

"(i) such increase determined without regard to this subparagraph, multiplied by

"(ii) 2 percent for each participant in excess of 100.

"(C) AGGREGATION OF PLANS.—For purposes of this paragraph, all defined benefit plans maintained by the same employer (or any member of such employer's controlled group) shall be treated as 1 plan, but only employees of such employer or member shall be taken into account.

"(7) CURRENT LIABILITY.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'current liability' means all liabilities to employees and their beneficiaries under the plan.

"(B) TREATMENT OF UNPREDICTABLE CONTINGENT EVENT BENEFITS.—

"(i) IN GENERAL.—For purposes of subparagraph (A), any unpredictable contingent event benefit shall not be taken into account until the event on which the benefit is contingent occurs.

"(ii) UNPREDICTABLE CONTINGENT EVENT BENEFIT.—The term 'unpredictable contingent event benefit' means any benefit contingent on an event other than—

"(I) age, service, compensation, death, or disability, or

"(II) an event which is reasonably and reliably predictable (as determined by the Secretary).

"(C) INTEREST RATES USED.—

"(i) IN GENERAL.—The rate of interest used under the plan to determine costs shall be used to determine current liability. If such rate is not within the permissible range, the plan shall establish a new rate of interest within the permissible range to determine current liability.

"(ii) PERMISSIBLE RANGE.—For purposes of this subparagraph—

"(I) IN GENERAL.—Except as provided in subclause (II), the term 'permissible range' means a rate of interest which is not more than 20 percent above, and not more than 20 percent below, the average Federal mid-term rate (within the meaning of section 1274(d)) for the 3-year period ending on the last day before the beginning of the plan year (or, if shorter, the period for which a Federal mid-term rate was prescribed).

"(II) SECRETARIAL AUTHORITY TO PRESCRIBE SAFE HARBOR RATES.—The Secretary may prescribe 1 or more indices for determining a rate of interest to be used in lieu of the average Federal mid-term rate for purposes of subclause (I).

"(D) CERTAIN SERVICE DISREGARDED.—

"(i) IN GENERAL.—In the case of a participant to whom this subparagraph applies, unless the employer elects otherwise, only the applicable percentage of the years of service before such individual became a participant shall be taken into account in computing the current liability of the plan.

"(ii) APPLICABLE PERCENTAGE.—For purposes of this subparagraph, the applicable percentage shall be determined as follows:

If the years of participation are:	*The applicable percentage is:*
5 or less	*0*
6	*20*
7	*40*
8	*60*
9	*80*
10 or more	*100*

"(iii) PARTICIPANTS TO WHOM SUBPARAGRAPH APPLIES.—This subparagraph shall apply to any participant who, at the time of becoming a participant—

"(I) has not accrued any other benefit under any defined benefit plan (whether or not terminated) maintained by the employer or a member of the same controlled group of which the employer is a member, and

"(II) has years of service before such time in excess of the years of service required for eligibility to participate in the plan.

"(8) OTHER DEFINITIONS.—For purposes of this subsection—

"(A) UNFUNDED CURRENT LIABILITY.—The term 'unfunded current liability' means, with respect to any plan year, the excess (if any) of—

"(i) the current liability under the plan, over

"(ii) value of the plan's assets determined under subsection (c)(2) reduced by any credit balance in the funding standard account.

"(B) FUNDED CURRENT LIABILITY PERCENTAGE.—The term 'funded current liability percentage' means, with respect to any plan year, the percentage which—

"(i) the amount determined under subparagraph (A)(ii), is of

"(ii) the current liability under the plan.

"(C) CONTROLLED GROUP.—The term 'controlled group' means any group treated as a single employer under subsection (b), (c), (m), and (o) of section 414.

"(D) ADJUSTMENTS TO PREVENT OMISSIONS AND DUPLICATIONS.—The Secretary of the Treasury shall provide such adjustments in the unfunded old liability amount, the unfunded new liability amount, the unpredictable contingent event amount, and any other charges or credits under this section as are necessary to avoid duplication or omission of any factors in the determination of such amounts, charges, or credits."

(2) CONFORMING AMENDMENT.—Paragraph (2) of section 412(b) of the 1986 Code is amended by adding at the end thereof the following new sentence:

"For additional requirements in the case of plans other than multiemployer plans, see subsection (1)."

(b) AMENDMENTS TO ERISA.—

(1) IN GENERAL.—Section 302 of ERISA is amended by redesignating subsection (d) as subsection (e) and by inserting after subsection (c) the following new subsection:

"(d) ADDITIONAL FUNDING REQUIREMENTS FOR PLANS WHICH ARE NOT MULTIEMPLOYER PLANS.—

"(1) IN GENERAL.—In the case of a defined benefit plan (other than multiemployer plan) which has an unfunded current liability for any plan year, the amount charged to the funding standard account for such plan year shall be increased by the sum of—

"(A) the excess (if any) of—

"(i) the deficit reduction contribution determined under paragraph (2) for such plan year, over

"(ii) the sum of the charges for such plan year under subparagraphs (B) (other than clauses (iv) and (v)), (C), and (D) of subsection (b)(2), reduced by the sum of the credits for such plan year under subparagraph (B)(i) of subsection (b)(3), plus

"(B) the unpredictable contingent event amount (if any) for such plan year.

"(2) DEFICIT REDUCTION CONTRIBUTION.—For purposes of paragraph (1), the deficit reduction contribution determined under this paragraph for any plan year is the sum of—

"(A) the unfunded old liability amount, plus

"(B) the unfunded new liability amount.

"(3) UNFUNDED OLD LIABILITY AMOUNT.—For purposes of this subsection—

"(A) IN GENERAL.—The unfunded old liability amount with respect to any plan for any plan year is the amount necessary to amortize the unfunded old liability under the plan in equal annual installments over a period of 15 plan years (beginning with the 1st plan year beginning after December 31, 1988).

"(B) UNFUNDED OLD LIABILITY.—The term 'unfunded old liability' means the unfunded current liability of the plan as of the beginning of the 1st plan year beginning after December 31, 1987 (determined without regard to any plan amendment increasing liabilities adopted after October 16, 1987).

"(C) SPECIAL RULES FOR BENEFIT INCREASES UNDER EXISTING COLLECTIVE BARGAINING AGREEMENTS.—

"(i) IN GENERAL.—In the case of a plan maintained pursuant to 1 or more collective bargaining agreements between employee representatives and the employer ratified before October 17, 1987, the unfunded old liability amount with respect to such plan for any plan year shall be increased by the amount necessary to amortize the unfunded existing benefit increase liability in equal annual installments over a period of 15 plan years beginning with—

"(I) the plan year in which the benefit increase with respect to such liability occurs, or

"(II) if the taxpayer elects, the 1st plan year beginning after December 31, 1988.

"(ii) UNFUNDED EXISTING BENEFIT INCREASE LIABILITIES.—For purposes of clause (i), the unfunded existing benefit increase liability means, with respect to any benefit increase under the agreements described in clause (i) which takes effect during or after the 1st plan year beginning after December 31, 1987, the unfunded liability determined—

"(I) by taking into account only liabilities attributable to such benefit increase, and

"(II) by reducing the amount determined under paragraph (8)(A)(ii) by the current liability (determined without regard to such benefit increase).

"(iii) EXTENSIONS, MODIFICATIONS, ETC. NOT TAKEN INTO ACCOUNT.—For purposes of this subparagraph, any extension, amendment, or other modification of an agreement after October 16, 1987, shall not be taken into account.

"(4) UNFUNDED NEW LIABILITY AMOUNT.—For purposes of this subsection—

"(A) IN GENERAL.—The unfunded new liability amount with respect to any plan for any plan year is the applicable percentage of the unfunded new liability.

"(B) UNFUNDED NEW LIABILITY.—The term 'unfunded new liability' means the unfunded current liability of the plan for the plan year determined without regard to—

"(i) the unamortized portion of the unfunded old liability, and

"(ii) the liability with respect to any unpredictable contingent event benefits (without regard to whether the event has occurred).

"(C) APPLICABLE PERCENTAGE.—The term 'applicable percentage' means, with respect to any plan year, 30 percent, reduced by the product of—

"(i) .25 percent, multiplied by

"(ii) the excess (if any) of the funded current liability percentage over 35 percent.

"(5) UNPREDICTABLE CONTINGENT EVENT AMOUNT.—

"(A) IN GENERAL.—The unpredictable contingent event amount with respect to a plan

for any plan year is an amount equal to the greater of—

"(i) the amount of unpredictable contingent event benefits paid during the plan year (except as provided by the Secretary of the Treasury) any payment for the purchase of an annuity contract for a participant or beneficiary with respect to such benefits, or

"(ii) the amount which would be determined for the plan year if the unpredictable contingent event benefit liabilities were amortized in equal annual installments over 5 plan years (beginning with the plan year in which such event occurs).

In no event shall the unpredictable contingent event amount exceed the unfunded current liability of the plan for the plan year.

"(B) SPECIAL RULE FOR 1ST YEAR OF AMORTIZATION.—Unless the employer elects otherwise, the amount determined under subparagraph (A) for the plan year in which the event occurs shall be equal to 150 percent of the amount determined under subparagraph (A)(i). The amount under subparagraph (A)(ii) for subsequent plan years in the amortization period shall be adjusted in the manner provided by the Secretary to reflect the application of this subparagraph.

"(C) PARAGRAPH NOT TO APPLY TO EXISTING BENEFITS.—For purposes of this paragraph, unpredictable contingent event benefits (and liabilities attributable thereto) for which the event occurred before October 17, 1987, shall not be taken into account.

"(6) SPECIAL RULES FOR SMALL PLANS.—

"(A) PLANS WITH 100 OR FEWER PARTICIPANTS.—This subsection shall not apply to any plan for any plan year if on each day during the preceding plan year such plan had no more than 100 participants.

"(B) PLANS WITH MORE THAN 100 BUT NOT MORE THAN 150 PARTICIPANTS.—In the case of a plan to which subparagraph (A) does not apply and which on each day during the preceding plan year had no more than 150 participants, the amount of the increase under paragraph (1) for such plan year shall be equal to the product of—

"(i) such increase determined without regard to this subparagraph, multiplied by

"(ii) 2 percent for each participant in excess of 100.

"(C) AGGREGATION OF PLANS.—For purposes of this paragraph, all defined benefit plans maintained by the same employer (or any member of such employer's controlled group) shall be treated as 1 plan, but only employees of such employer or member shall be taken into account.

"(7) CURRENT LIABILITY.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'current liability' means all liabilities to employees and their beneficiaries under the plan.

"(B) TREATMENT OF UNPREDICTABLE CONTINGENT EVENT BENEFITS.—

"(i) IN GENERAL.—For purposes of subparagraph (A), any unpredictable contingent event benefit shall not be taken into account until the event on which the benefit is contingent occurs.

"(ii) UNPREDICTABLE CONTINGENT EVENT BENEFIT.—The term 'unpredictable contingent event benefit' means any benefit contingent on an event other than—

"(I) age, service, compensation, death, or disability, or

"(II) an event which is reasonably and reliably predictable (as determined by the Secretary).

"(C) INTEREST RATES USED.—

"(i) IN GENERAL.—The rate of interest used under the plan to determine costs shall be used to determine current liability. If such rate is not within the permissible range, the plan shall establish a new rate of interest within the permissible range to determine current liability.

"(ii) PERMISSIBLE RANGE.—For purposes of this subparagraph—

"(I) IN GENERAL.—Except as provided in subclause (II), the term 'permissible range' means a rate of interest which is not more than 20 percent above, and not more than 20 percent below, the average Federal mid-term rate (within the meaning of section 1274(d)) for the 3-year period ending on the last day before the beginning of the plan year (or, if shorter, the period for which a Federal mid-term rate was prescribed).

"(II) SECRETARIAL AUTHORITY TO PRESCRIBE SAFE HARBOR RATES.—The Secretary may prescribe 1 or more indices for determining a rate of interest to be used in lieu of the average Federal mid-term rate for purposes of subclause (I).

"(D) CERTAIN SERVICE DISREGARDED.—

"(i) IN GENERAL.—In the case of a participant to whom this subparagraph applies, unless the employer elects otherwise, only the applicable percentage of the years of service before such individual became a participant shall be taken into account in computing the current liability of the plan.

"(ii) APPLICABLE PERCENTAGE.—For purposes of this subparagraph, the applicable percentage shall be determined as follows:

If the years of participation are:	The applicable percentage is:
5 or less	0
6	20
7	40
8	60
9	80
10 or more	100

"(iii) PARTICIPANTS TO WHOM SUBPARAGRAPH APPLIES.—This subparagraph shall apply to any participant who, at the time of becoming a participant—

"(I) has not accrued any other benefit under any defined benefit plan (whether or not terminated) maintained by the employer or a member of the same controlled group of which the employer is a member, and

"(II) has years of service before such time in excess of the years of service required for eligibility to participate in the plan.

"(8) OTHER DEFINITIONS.—For purposes of this subsection—

"(A) UNFUNDED CURRENT LIABILITY.—The term 'unfunded current liability' means, with respect to any plan year, the excess (if any) of—

"(i) the current liability under the plan, over

"(ii) value of the plan's assets determined under subsection (c)(2) reduced by any credit balance in the funding standard account.

"(B) FUNDED CURRENT LIABILITY PERCENTAGE.—The term 'funded current liability percentage' means, with respect to any plan year, the percentage which—

"(i) the amount determined under subparagraph (A)(ii), is of

"(ii) the current liability under the plan.

"(C) CONTROLLED GROUP.—The term 'controlled group' means any group treated as a single employer under subsection (b), (c), (m), and (o) of section 414.

"(D) ADJUSTMENTS TO PREVENT OMISSIONS AND DUPLICATIONS.—The Secretary shall provide such adjustments in the unfunded old liability amount, the unfunded new liability amount, the unpredictable contingent event amount, and any other charges or credits under this section as are necessary to avoid duplication or omission of any factors in the determination of such amounts, charges, or credits."

(2) CONFORMING AMENDMENT.—Paragraph (2) of section 412(b) of the 1986 Code is amended by adding at the end thereof the following new sentence:

"For additional requirements in the case of plans other than multiemployer plans, see subsection (l)."

(b) AMENDMENTS TO ERISA.—

(1) IN GENERAL.—Section 302 of ERISA is amended by redesignating subsection (d) as subsection (e) and by inserting after subsection (c) the following new subsection:

"(d) ADDITIONAL FUNDING REQUIREMENTS FOR PLANS WHICH ARE NOT MULTIEMPLOYER PLANS.—

"(1) IN GENERAL.—In the case of a defined benefit plan (other than a multiemployer plan) which has an unfunded current liability for any plan year, the amount charged to the funding standard account for such plan year shall be increased by the sum of—

"(A) the excess (if any) of—

"(i) the deficit reduction contribution determined under paragraph (2) for such plan year, over

"(ii) the sum of the charges for such plan year under subparagraphs (B) (other than clauses (iv) and (v)), (C), and (D) of subsection (b)(2), reduced by the sum of the credits for such plan year under subparagraph (B)(i) of subsection (b)(3), plus

"(B) the unpredictable contingent event amount (if any) for such plan year.

"(2) DEFICIT REDUCTION CONTRIBUTION.—For purposes of paragraph (1), the deficit reduction contribution determined under this paragraph for any plan year is the sum of—

"(A) the unfunded old liability amount, plus

"(B) the unfunded new liability amount.

"(3) UNFUNDED OLD LIABILITY AMOUNT.—For purposes of this subsection—

"(A) IN GENERAL.—The unfunded old liability amount with respect to any plan for any plan year is the amount necessary to amortize the unfunded old liability under the plan in equal annual installments over a period of 15 plan years (beginning with the 1st plan year beginning after December 31, 1988).

"(B) UNFUNDED OLD LIABILITY.—The term 'unfunded old liability' means the unfunded current liability of the plan as of the beginning of the 1st plan year beginning after December 31, 1987 (determined without regard to any plan amendment increasing liabilities adopted after October 16, 1987).

"(C) SPECIAL RULES FOR BENEFIT INCREASES UNDER EXISTING COLLECTIVE BARGAINING AGREEMENTS.—

"(i) IN GENERAL.—In the case of a plan maintained pursuant to 1 or more collective bargaining agreements between employee representatives and the employer ratified before October 17, 1987, the unfunded old liability amount with respect to such plan for any plan year shall be increased by the amount necessary to amortize the unfunded existing benefit increase liability in equal annual installments over a period of 15 plan years beginning with—

"(I) the plan year in which the benefit increase with respect to such liability occurs, or

"(II) if the taxpayer elects, the 1st plan year beginning after December 31, 1988.

"(ii) UNFUNDED EXISTING BENEFIT INCREASE LIABILITIES.—For purposes of clause (i), the unfunded existing benefit increase liability means, with respect to any benefit increase under the agreements described in clause (i) which takes effect during or after the 1st plan year beginning after December 31, 1987, the unfunded current liability determined—

"(I) by taking into account only liabilities attributable to such benefit increase, and

"(II) by reducing the amount determined under paragraph (8)(A)(ii) by the current liability (determined without regard to such benefit increase).

"(iii) EXTENSIONS, MODIFICATIONS, ETC. NOT TAKEN INTO ACCOUNT.—For purposes of this subparagraph, any extension, amendment, or other modification of an agreement after October 16, 1987, shall not be taken into account.

"(4) UNFUNDED NEW LIABILITY AMOUNT.—For purposes of this subsection—

"(A) IN GENERAL.—The unfunded new liability amount with respect to any plan for any plan year is the applicable percentage of the unfunded new liability.

"(B) UNFUNDED NEW LIABILITY.—The term 'unfunded new liability' means the unfunded current liability of the plan for the plan year determined without regard to—

"(i) the unamortized portion of the unfunded old liability, and

"(ii) the liability with respect to any unpredictable contingent event benefits (without regard to whether the event has occurred).

"(C) APPLICABLE PERCENTAGE.—The term 'applicable percentage' means, with respect to any plan year, 30 percent, reduced by the product of—

"(i) .25 percent, multiplied by

"(ii) the excess (if any) of the funded current liability percentage over 35 percent.

"(5) UNPREDICTABLE CONTINGENT EVENT AMOUNT.—

"(A) IN GENERAL.—The unpredictable contingent event amount with respect to a plan for any plan year is an amount equal to the greater of—

"(i) the amount of unpredictable contingent event benefits paid during the plan year, (except as provided by the Secretary of the Treasury) any payment for the purchase of an annuity contract for a participant or beneficiary with respect to such benefits, or

"(ii) the amount which would be determined for the plan year if the unpredictable contingent event benefit liabilities were amortized in equal annual installments over 5 plan years (beginning with the plan year in which such event occurs).

In no event shall the unpredictable contingent event amount exceed the unfunded current liability of the plan for the plan year.

"(B) SPECIAL RULE FOR 1ST YEAR OF AMORTIZATION.—Unless the employer elects otherwise, the amount determined under subparagraph (A) for the plan year in which the event occurs shall be equal to 150 percent of the amount determined under subparagraph (A)(i). The amount under subparagraph (A)(ii) for subsequent plan years in the amortization period shall be adjusted in the manner provided by the Secretary to reflect the application of this subparagraph.

"(C) PARAGRAPH NOT TO APPLY TO EXISTING BENEFITS.—For purposes of this paragraph, unpredictable contingent event benefits (and liabilities attributable thereto) for which the event occurred before October 17, 1987, shall not be taken into account.

"(6) SPECIAL RULES FOR SMALL PLANS.—

"(A) PLANS WITH 100 OR FEWER PARTICIPANTS.—This subsection shall not apply to any plan for any plan year if on each day during the preceding plan year such plan had no more than 100 participants.

"(B) PLANS WITH MORE THAN 100 BUT NO MORE THAN 150 PARTICIPANTS.—In the case of a plan to which subparagraph (A) does not apply and which on each day during the preceding plan year had no more than 150 participants, the amount of the increase under paragraph (1) for such plan year shall be equal to the product of—

"(i) such increase determined without regard to this subparagraph, multiplied by

"(ii) 2 percent for each participant in excess of 100.

"(C) AGGREGATION OF PLANS.—For purposes of this paragraph, all defined benefit plans maintained by the same employer (or any member of such employer's controlled group) shall be treated as 1 plan, but only employees of such employer or member shall be taken into account.

"(7) CURRENT LIABILITY.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'current liability' means all liabilities to employees and their beneficiaries under the plan.

"(B) TREATMENT OF UNPREDICTABLE CONTINGENT EVENT BENEFITS.—

"(i) IN GENERAL.—For purposes of subparagraph (A), any unpredictable contingent event benefit shall not be taken into account until the event on which the benefit is contingent occurs.

"(ii) UNPREDICTABLE CONTINGENT EVENT BENEFIT.—The term 'unpredictable contingent event benefit' means any benefit contingent on an event other than—

"(I) age, service, compensation, death, or disability, or

"(II) an event which is reasonably and reliably predictable (as determined by the Secretary).

"(C) INTEREST RATES USED.—

"(i) IN GENERAL.—The rate of interest used under the plan to determine costs shall be used to determine current liability. If such rate is not within the permissible range, the plan shall establish a new rate of interest within the permissible range to determine current liability.

"(ii) PERMISSIBLE RANGE.—For purposes of this subparagraph—

"(I) IN GENERAL.—Except as provided in subclause (II), the term 'permissible range' means a rate of interest which is not more than 20 percent above, and not more than 20 percent below, the average Federal mid-term rate (within the meaning of section 1274(d) of the Internal Revenue Code of 1986) for the 3-year period ending on the last day before the beginning of the plan year (or, if shorter, the period for which a Federal mid-term rate was prescribed).

"(II) SECRETARIAL AUTHORITY TO PRESCRIBE SAFE HARBOR RATES.—The Secretary of the Treasury may prescribe 1 or more indices for determining a rate of interest to be used in lieu of the average Federal mid-term rate for purposes of subclause (I).

"(D) CERTAIN SERVICE DISREGARDED.—

"(i) IN GENERAL.—In the case of a participant to whom this subparagraph applies, unless the employer elects otherwise, only the applicable percentage of the years of service before such individual became a participant shall be taken into account in computing the current liability of the plan.

"(ii) APPLICABLE PERCENTAGE.—For purposes of this subparagraph, the applicable percentage shall be determined as follows:

If the years of participation are:	The applicable percentage is:
5 or less	0
6	20
7	40
8	60
9	80
10 or more	100

"(iii) PARTICIPANTS TO WHOM SUBPARAGRAPH APPLIES.—This subparagraph shall apply to any participant who, at the time of becoming a participant—

"(I) has not accrued any other benefit under any defined benefit plan (whether or not terminated) maintained by the employer or a member of the same controlled group of which the employer is a member, and

"(II) has years of service before such time in excess of the years of service required for eligibility to participate in the plan.

"(8) OTHER DEFINITIONS.—For purposes of this subsection—

"(A) UNFUNDED CURRENT LIABILITY.—The term 'unfunded current liability' means, with respect to any plan year, the excess (if any) of—

"(i) the current liability under the plan, over

"(ii) value of the plan's assets determined under subsection (c)(2) reduced by any credit balance in the funding standard account.

"(B) FUNDED CURRENT LIABILITY PERCENTAGE.—The term 'funded current liability percentage' means, with respect to any plan year, the percentage which—

"(i) the amount determined under subparagraph (A)(ii), is of

"(ii) the current liability under the plan.

"(C) CONTROLLED GROUP.—The term 'controlled group' means any group treated as a single employer under subsection (b), (c), (m), and (o) of section 414 of the Internal Revenue Code of 1986.

"(D) ADJUSTMENTS TO PREVENT OMISSIONS AND DUPLICATIONS.—The Secretary of the Treasury shall provide such adjustments in the unfunded old liability amount, the unfunded new liability amount, the unpredictable contingent event amount, and any other charges or credits under this section as are necessary to avoid duplication or omission of any factors in the determination of such amounts, charges, or credits."

(c) REVISION OF VALUATION REGULATIONS.—Effective with respect to plan years beginning after December 31, 1987, the provisions of the regulations prescribed under section 412(c)(2) of the 1986 Code which permit asset valuations to be based on a range between 85 percent and 115 percent of average value shall have no force and effect with respect to plans other than multiemployer plans (as defined in section 414(f) of the 1986 Code). The Secretary of the Treasury or his delegate shall amend such regulations to carry out the purposes of the preceding sentence.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to plan years beginning after December 31, 1987.

SEC. 4553. TIME FOR MAKING CONTRIBUTIONS.

(a) PERIOD DURING WHICH CONTRIBUTIONS MAY BE MADE AFTER CLOSE OF YEAR.—

(1) AMENDMENT TO 1986 CODE.—Paragraph (10) of section 412(c) of the 1986 Code (relating to time when certain contributions deemed made) is amended to read as follows:

"(10) TIME WHEN CERTAIN CONTRIBUTIONS DEEMED MADE.—For purposes of this section—

"(A) PLANS OTHER THAN MULTIEMPLOYER PLANS.—In the case of a plan other than a multiemployer plan, any contributions for a plan year made by an employer during the period—

"(i) beginning on the day after the last day of such plan year, and *"(ii) ending on the date which is 8½ months after the close of the plan year,*

shall be deemed to have been made on such last day.

"(B) MULTIEMPLOYER PLANS.—In the case of a multiemployer plan, any contributions for a plan year made by an employer after the last day of such plan year, but not later than two and one-half months after such day, shall be deemed to have been made on such last day. For purposes of this paragraph, such two and one-half month period may be extended for not more than six months under regulations prescribed by the Secretary."

(2) AMENDMENT TO ERISA.—Paragraph (10) of section 302(c) of ERISA (relating to time when certain contributions deemed made) is amended to read as follows:

"(10) TIME WHEN CERTAIN CONTRIBUTIONS DEEMED MADE.—For purposes of this section—

"(A) PLANS OTHER THAN MULTIEMPLOYER PLANS.—In the case of a plan other than a multiemployer plan, any contributions for a plan year made by an employer during the period—

"(i) beginning on the day after the last day of such plan year, and

"(ii) ending on the date which is 8½ months after the close of the plan year,

shall be deemed to have been made on such last day.

"(B) MULTIEMPLOYER PLANS.—In the case of a multiemployer plan, any contributions for a plan year made by an employer after the last day of such plan year, but not later than two and one-half months after such day, shall be deemed to have been made on such last day. For purposes of this paragraph, such two and one-half month period may be extended for not more than six months under regulations prescribed by the Secretary."

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to plan years beginning after December 31, 1987.

(b) QUARTERLY ESTIMATED PAYMENTS REQUIRED.—

(1) AMENDMENT TO 1986 CODE.—Section 412 of the 1986 Code (relating to minimum funding standard) is amended by adding at the end thereof the following new subsection:

"(m) QUARTERLY CONTRIBUTIONS REQUIRED.—

"(1) IN GENERAL.—If a plan (other than a multiemployer plan) fails to pay the full amount of a required installment for any plan year, then the rate of interest charged to the funding standard account under subsection (b)(5) with respect to the amount of the underpayment for the period of the underpayment shall be equal to the greater of—

"(A) 175 percent of the Federal mid-term rate (as in effect under section 1274 for the 1st month of such plan year), or

"(B) the rate under subsection (b)(5).

"(2) AMOUNT OF UNDERPAYMENT, PERIOD OF UNDERPAYMENT.—For purposes of paragraph (1)—

"(A) AMOUNT.—The amount of the underpayment shall be the excess of—

"(i) the required installment, over

"(ii) the amount (if any) of the installment contributed to or under the plan on or before the due date for the installment.

"(B) PERIOD OF UNDERPAYMENT.—The period for which interest is charged under this subsection shall run from the due date for the installment to whichever of the following dates is the earlier—

"(i) the date which is 8½ months after the close of the plan year, or

"(ii) with respect to any portion of the underpayment, the date on which such portion is contributed to or under the plan.

"(C) ORDER OF CREDITING CONTRIBUTIONS.—For purposes of subparagraph (B)(ii), contributions shall be credited against unpaid required installments in the order in which such installments are required to be paid.

"(3) NUMBER OF REQUIRED INSTALLMENTS; DUE DATES.—For purposes of this subsection—

"(A) PAYABLE IN 4 INSTALLMENTS.—There shall be 4 required installments for each plan year.

"(B) TIME FOR PAYMENT OF INSTALLMENTS.—

"In the case of the following required installments:	The due date is:
1st	April 15
2nd	July 15
3rd	October 15
4th	January 15 of the following year

"(4) AMOUNT OF REQUIRED INSTALLMENT.—For purposes of this subsection—

"(A) IN GENERAL.—The amount of any required installment shall be the applicable percentage of the required annual payment.

"(B) REQUIRED ANNUAL PAYMENT.—For purposes of subparagraph (A), the term 'required annual payment' means the lesser of—

"(i) 90 percent of the amount required to be contributed to or under the plan by the employer for the plan year by reason of section 412, or

"(ii) 100 percent of the amount so required for the preceding plan year.

Clause (ii) shall not apply if the preceding plan year was not a year of 12 months.

"(C) APPLICABLE PERCENTAGE.—For purposes of subparagraph (A), the applicable percentage shall be determined in accordance with the following table:

For plan years beginning in:	The applicable percentage is:
1988	5
1989	10
1990	15
1991	20
1992 and thereafter	25

"(D) SPECIAL RULES FOR UNPREDICTABLE CONTINGENT EVENT BENEFITS.—In the case of a plan with any unpredictable contingent event benefit liabilities—

"(i) such liabilities shall not be taken into account in computing the required annual payment under subparagraph (B), and

"(ii) each required installment shall be increased by the greater of—

"(I) the amount of benefits described in subsection (l)(5)(A)(i) paid during the 3-month period preceding the month in which the due date for such installment occurs, or

"(II) 25 percent of the amount determined under subsection (l)(5)(A)(ii) for the plan year.

"(5) FISCAL YEARS AND SHORT YEARS.—

"(A) FISCAL YEARS.—In applying this subsection to a plan year beginning on any date other than January 1, there shall be substituted for the months specified in this subsection, the months which correspond thereto.

"(B) SHORT PLAN YEAR.—This subsection shall be applied to plan years of less than 12 months in accordance with regulations prescribed by the Secretary."

(2) AMENDMENT TO ERISA.—Section 302 of ERISA is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) QUARTERLY CONTRIBUTIONS REQUIRED.—

"(1) IN GENERAL.—If a plan (other than a multiemployer plan) fails to pay the full amount of a required installment for any plan year, then the rate of interest charged to the funding standard account under subsection (b)(5) with respect to the amount of the underpayment for the period of the underpayment shall be equal to the greater of—

"(A) 175 percent of the Federal mid-term rate (as in effect under section 1274 for the 1st month of such plan year), or

"(B) the rate under subsection (b)(5).

"(2) AMOUNT OF UNDERPAYMENT, PERIOD OF UNDERPAYMENT.—For purposes of paragraph (1)—

"(A) AMOUNT.—The amount of the underpayment shall be the excess of—

"(i) the required installment, over

"(ii) the amount (if any) of the installment contributed to or under the plan on or before the due date for the installment.

"(B) PERIOD OF UNDERPAYMENT.—The period for which any interest is charged under this subsection shall run from the due date for the installment to whichever of the following dates is the earlier—

"(i) the date which is 8½ months after the close of the plan year, or

"(ii) with respect to any portion of the underpayment, the date on which such portion is contributed to or under the plan.

"(C) ORDER OF CREDITING CONTRIBUTIONS.—For purposes of subparagraph (B)(ii), contributions shall be credited against unpaid required installments in the order in which such installments are required to be paid.

"(3) NUMBER OF REQUIRED INSTALLMENTS; DUE DATES.—For purposes of this subsection—

"(A) PAYABLE IN 4 INSTALLMENTS.—There shall be 4 required installments for each plan year.

"(B) TIME FOR PAYMENT OF INSTALLMENTS.—

"In the case of the following required installments:	The due date is:
1st	April 15
2nd	July 15
3rd	October 15
4th	January 15 of the following year

"(4) AMOUNT OF REQUIRED INSTALLMENT.—For purposes of this subsection—

"(A) IN GENERAL.—The amount of any required installment shall be the applicable percentage of the required annual payment.

"(B) REQUIRED ANNUAL PAYMENT.—For purposes of subparagraph (A), the term 'required annual payment' means the lesser of—

"(i) 90 percent of the amount required to be contributed to or under the plan by the employer for the plan year by reason of section 412, or

"(ii) 100 percent of the amount so required for the preceding plan year.

Clause (ii) shall not apply if the preceding plan year was not a year of 12 months.

"(C) APPLICABLE PERCENTAGE.—For purposes of subparagraph (A), the applicable percentage shall be determined in accordance with the following table:

For plan years beginning in:	The applicable percentage is:
1988	5
1989	10
1990	15
1991	20
1992 and thereafter	25

"(D) SPECIAL RULES FOR UNPREDICTABLE CONTINGENT EVENT BENEFITS.—In the case of a plan with any unpredictable contingent event benefit liabilities—

"(i) such liabilities shall not be taken into account in computing the required annual payment under subparagraph (B), and

"(ii) each required installment shall be increased by the greater of—

"(I) the amount of benefits described in subsection (d)(5)(A)(i) paid during the 3-month period preceding the month in which the due date for such installment occurs, or

"(II) 25 percent of the amount determined under subsection (d)(5)(A)(ii) for the plan year.

"(5) FISCAL YEARS AND SHORT YEARS.—

"(A) FISCAL YEARS.—In applying this subsection to a plan year beginning on any date other than January 1, there shall be substituted for the months specified in this subsection, the months which correspond thereto.

"(B) SHORT PLAN YEAR.—This section shall be applied to plan years of less than 12 months in accordance with regulations prescribed by the Secretary."

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply with respect to plan years beginning after 1987.

(c) INCREASE IN PENALTY FROM 5 PERCENT TO 10 PERCENT.—

(1) IN GENERAL.—Section 4971(a) of the 1986 Code (relating to initial tax on failure to meet minimum funding standards) is amended by striking out "5 percent" and inserting in lieu thereof "10 percent (5 percent in the case of a multiemployer plan)".

(2) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning after 1987.

(d) REQUIREMENT OF NOTICE.—Section 101 of ERISA (relating to duty of disclosure and reporting) is amended by redesignating subsection (d) as subsection (e) and by inserting after subsection (c) the following new subsection:

"(d) NOTICE OF FAILURE TO MEET MINIMUM FUNDING STANDARDS.—

"(1) IN GENERAL.—If an employer of a plan other than a multiemployer plan fails to make a required installment or other payment required to meet the minimum funding standard under section 302 to a plan before the 60th day following the due date for such installment or other payment, the employer shall notify each participant and beneficiary of such plan of such failure. Such notice shall be made at such time and in such manner as the Secretary may prescribe.

"(2) SECTION NOT TO APPLY IF WAIVER PENDING.—This section shall not apply to any failure if the employer has filed a waiver request with respect to the required installment under section 303, except that if the waiver request is denied, notice under paragraph (1) shall be provided within 60 days after the date of such denial.

"(3) DEFINITIONS.—For purposes of this subsection, the terms 'required installment' and 'due date' have the same meanings given such terms by section 302(e)."

(e) IMPOSITION OF LIEN WHERE FAILURE TO MAKE REQUIRED CONTRIBUTIONS.—

(1) IN GENERAL.—Subtitle A of title IV of ERISA (relating to Pension Benefit Guaranty Corporation) is amended by adding at the end thereof the following new section:

"IMPOSITION OF LIEN WHERE FAILURE TO MAKE REQUIRED CONTRIBUTIONS

"SEC. 4010. (a) IN GENERAL.—If any person in connection with a plan other than a multiemployer plan fails—

"(1) to make a required installment on or before the due date for such installment, or

"(2) to make any other payment required to meet the minimum funding standard under section 302,

there shall be a lien in favor of the plan in the unpaid amount of such installment or payment (including interest) upon all property and rights to property, whether real or personal, belonging to such person and any other person who is a member of the same controlled group of which such person is a member.

"(b) NOTICE OF FAILURE; LIEN.—

"(1) NOTICE OF FAILURE.—A person committing a failure described in subsection (a) shall notify the corporation of such failure within 10 days of the due date for the required installment or the date the payment described in subsection (a)(2) is required to be made.

"(2) PERIOD OF LIEN.—

"(A) IN GENERAL.—The lien imposed by subsection (a) shall arise on the 30th day following the due date for the required installment or the date the payment described in subsection (a)(2) is required to be made and shall continue until the full payment of such installment or payment (including interest).

"(B) WAIVER REQUESTS.—No lien shall arise with respect to a required installment—

"(i) for which a waiver request is granted under section 303, or

"(ii) for which a waiver request is pending under section 303.

If a waiver request is denied, the lien shall arise on the day after such request is denied.

"(3) CERTAIN RULES TO APPLY.—Any amount with respect to which a lien is imposed under subsection (a) shall be treated as taxes due and owing the United States and rules similar to the rules of subsections (c), (d), and (e) of section 4068 shall apply with respect to a lien imposed by subsection (a) and the amount with respect to such lien.

"(c) ENFORCEMENT.—Any lien created under subsection (a) may be perfected and enforced only by the corporation, or at the direction of the corporation, by the contributing sponsor (or any member of the controlled group of the contributing sponsor).

"(d) DEFINITIONS.—For purposes of this section—

"(1) DUE DATE; REQUIRED INSTALLMENT.—The terms 'due date' and 'required installment' have the meanings given such terms by section 302(e)."

"(2) CONTROLLED GROUP.—The term 'controlled group' means any group treated as a single employer under subsections (b), (c), (m), and (o) of section 414 of the Internal Revenue Code of 1986."

(3) CLERICAL AMENDMENT.—The table of contents for ERISA is amended by inserting after the item relating to section 4009 the following new item:

"Sec. 4010. Imposition of lien where failure to make required contributions."

(4) EFFECTIVE DATE.—The amendments made by this subsection shall apply to plan years beginning after December 31, 1987.

SEC. 4554. LIABILITY OF MEMBERS OF CONTROLLED GROUP FOR TAXES ON FAILURE TO MEET MINIMUM FUNDING STANDARDS.

(a) GENERAL RULE.—Section 4971 of the 1986 Code (relating to taxes on failure to meet minimum funding standards) is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) LIABILITY FOR TAX.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the tax imposed by subsection (a) or (b) shall be paid by the employer responsible for contributing to or under the plan the amount described in section 412(b)(3)(A).

"(2) JOINT AND SEVERAL LIABILITY WHERE EMPLOYER MEMBER OF CONTROLLED GROUP.—

"(A) IN GENERAL.—In the case of a plan other than a multiemployer plan, if the employer referred to in paragraph (1) is a member of a controlled group, each member of such group shall be jointly and severally liable for the tax imposed by subsection (a) or (b).

"(B) CONTROLLED GROUP.—For purposes of subparagraph (A), the term 'controlled group' means any group treated as a single employer under subsection (b), (c), (m), or (o) of section 414."

(b) TECHNICAL AMENDMENTS.—

(1) Subsection (a) of section 4971 of the 1986 Code is amended by striking out the last sentence.

(2) Subsection (b) of section 4971 of the 1986 Code is amended by striking out the last sentence.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to plan years beginning after December 31, 1987.

SEC. 4555. FUNDING WAIVERS.

(a) REQUIREMENTS FOR WAIVERS.—

(1) AMENDMENTS TO 1986 CODE.—

(A) APPLICATION MUST BE SUBMITTED BEFORE DUE DATE OF INSTALLMENT.—Subsection (d) of section 412 of the 1986 Code (relating to variance from minimum funding standard) is amended by adding at the end thereof the following new paragraph:

"(4) APPLICATION MUST BE SUBMITTED BEFORE DUE DATE.—In the case of a plan other than a multiemployer plan, no waiver may be granted under this subsection with respect to any required installment under subsection (m) or other payment required to meet the minimum funding standard of this section unless an application therefor is submitted to the Secretary not later than the due date for such installment or payment. Any application under this paragraph may include more than 1 required installment or payment for any plan year."

(B) WAIVER ALLOWED ONLY FOR TEMPORARY HARDSHIP.—Subsection (d) of section 412 of the 1986 Code is amended—

(i) by striking out "substantial business hardship" in paragraphs (1) and (2) and inserting in lieu thereof "substantial temporary business hardship (substantial business hardship in the case of a multiemployer plan)", and

(ii) by striking out "SUBSTANTIAL" in the headings of paragraphs (1) and (2).

(C) HARDSHIP MUST ALSO EXIST AT CONTROLLED GROUP LEVEL.—Subsection (d) of section 412 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(5) SPECIAL RULE IF EMPLOYER IS MEMBER OF CONTROLLED GROUP.—

"(A) IN GENERAL.—In the case of a plan other than a multiemployer plan, if an employer is a member of a controlled group, the substantial temporary business hardship requirements of paragraph (1) shall be treated as met only if such requirements are met—

"(i) with respect to such employer, and

"(ii) with respect to the controlled group of which such employer is a member (determined by treating all members of such group as a single employer).

"(B) CONTROLLED GROUP.—For purposes of subparagraph (A), the term 'controlled group' means any group treated as a single employer under subsection (b), (c), (m), or (o) of section 414."

(2) AMENDMENTS TO ERISA.—

(A) APPLICATION MUST BE SUBMITTED BEFORE DUE DATE.—Section 303 of ERISA (relating to variance from minimum funding standard) is amended by redesignating subsection (d) as subsection (e) and by inserting after subsection (c) the following new subsection:

"(d) SPECIAL RULES.—

"(1) APPLICATION MUST BE SUBMITTED BEFORE DUE DATE.—In the case of a plan other than a multiemployer plan, no waiver may be granted under this section with respect to any required installment under section 302(e) or other payment required to meet the minimum funding standard of section 302 unless an application therefor is submitted to the Secretary of the Treasury not later than the due date for such installment or payment. Any application under this paragraph may include more than 1 required installment or payment for any plan year."

(B) WAIVER ALLOWED ONLY FOR TEMPORARY HARDSHIP.—Section 303 of ERISA is amended by striking out "substantial business hardship" in subsections (a) and (b) and inserting in lieu thereof "substantial temporary business hardship (substantial business hardship in the case of a multiemployer plan)".

(C) HARDSHIP MUST ALSO EXIST AT CONTROLLED GROUP LEVEL.—Subsection (d) of section 303 of ERISA (as amended by subparagraph (A)) is amended by adding at the end thereof the following new paragraph:

"(2) SPECIAL RULE IF EMPLOYER IS MEMBER OF CONTROLLED GROUP.—

"(A) IN GENERAL.—In the case of a plan other than a multiemployer plan, if an employer is a member of a controlled group, the substantial temporary business hardship requirements of subsection (a) shall be treated as met only if such requirements are met—

"(i) with respect to such employer, and

"(ii) with respect to the controlled group of which such employer is a member (determined by treating all members of such group as a single employer).

"(B) CONTROLLED GROUP.—For purposes of subparagraph (A), the term 'controlled group' means any group treated as a single employer under subsection (b), (c), (m), or (o) of section 414 of the Internal Revenue Code of 1986."

(b) FREQUENCY OF WAIVERS.—

(1) AMENDMENTS TO 1986 CODE.—The second sentence of section 412(d) of the 1986 Code is amended by striking out "more than 5 of any 15" and inserting in lieu thereof "more than 3 of any 15 (5 of any 15 in the case of a multiemployer plan)".

(2) AMENDMENTS TO ERISA.—The second sentence of section 303(a) of ERISA is amended by striking out "more than 5 of any 15" and inserting in lieu thereof "more than 3 of any 15 (5 of any 15 in the case of a multiemployer plan)".

(c) INTEREST ON REPAYMENT OF WAIVED CONTRIBUTIONS.—

(1) AMENDMENTS TO 1986 CODE.—

(A) Paragraph (1) of section 412(d) of the 1986 Code is amended by striking out the last sentence and inserting in lieu thereof the following new sentence: "In the case of a plan other than a multiemployer plan, the interest rate used for purposes of computing the amortization charge described in subsection (b)(2)(C) for any plan year shall be the greater of (A) 150 percent of the Federal mid-term rate (as in effect under section 1274 for the 1st month of such plan year), or (B) the rate of interest used under the plan in determining costs."

(B) Subsection (e) of section 412 of the 1986 Code is amended by striking out the last sentence and inserting in lieu thereof the following new sentence: "In the case of a plan other than a multiemployer plan, the interest rate applicable for any plan year under any arrangement entered into by the Secretary in connection with an extension granted under this subsection shall be the greater of (A) 150 percent of the Federal mid-term rate (as in effect under section 1274 for the 1st month of such plan year), or (B) the rate of interest used under the plan in determining costs."

(2) AMENDMENTS TO ERISA.—

(A) Subsection (a) of section 303 of ERISA is amended by striking out the last sentence and inserting in lieu thereof the following new sentence: "In the case of a plan other than a multiemployer plan, the interest rate used for purposes of computing the amortization charge described in section 302(b) for any plan year shall be the greater of (A) 150 percent of the Federal mid-term rate (as in effect under section 1274 of the Internal Revenue Code of 1986 for the 1st month of such plan year), or (B) the rate of interest used under the plan in determining costs."

(B) Subsection (a) of section 304 of ERISA is amended by striking out the last sentence and inserting in lieu thereof the following new sentence: "In the case of a plan other than a multiemployer plan, the interest rate applicable for any plan year under any arrangement entered into by the Secretary in connection with an extension granted under this subsection shall be the greater of (A) 150 percent of the Federal mid-term rate (as in effect under section 1274 of the Internal Revenue Code of 1986 for the 1st month of such plan year), or (B) the rate of interest used under the plan in determining costs."

(d) NO WAIVERS FOR PLANS WITH UNFUNDED CURRENT LIABILITY.—

(1) AMENDMENT OF 1986 CODE.—Section 412(d)(1) of the 1986 Code is amended by adding at the end thereof the following new sentence: "The Secretary shall not waive the minimum funding standard for any plan year for which a plan (other than a multiemployer plan) has an unfunded current liability (within the meaning of subsection (l)(8)(A))."

(2) AMENDMENT OF ERISA.—Section 303(a) of ERISA is amended by adding at the end thereof the following new sentence: "The Secretary of the Treasury shall not waive the minimum funding standard for any plan year for which a plan (other than a multiemployer plan) has an unfunded current liability (within the meaning of section 302(d)(8)(A))."

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to any application submitted for any plan year beginning after December 31, 1987.

SEC. 4556. OTHER FUNDING CHANGES.

(a) AMORTIZATION PERIODS.—

(1) AMENDMENTS TO 1986 CODE.—

(A) Paragraphs (2)(B)(iv) and (3)(B)(ii) of section 412(b) of the 1986 Code are each amended by striking out "15 plan years" and inserting in lieu thereof "5 plan years (15 plan years in the case of a multiemployer plan)".

(B) Paragraphs (2)(B)(v) and (3)(B)(iii) of section 412(b) of the 1986 Code are each amended by striking out "30 plan years" and inserting in lieu thereof "5 plan years (30 plan years in the case of a multiemployer plan)".

(2) AMENDMENTS TO ERISA.—

(A) Paragraphs (2)(B)(iv) and (3)(B)(ii) of section 302(b) of ERISA are each amended by striking out "15 plan years" and inserting in lieu thereof "5 plan years (15 plan years in the case of a multiemployer plan)".

(B) Paragraphs (2)(B)(v) and (3)(B)(iii) of section 302(b) of ERISA are each amended by striking out "30 plan years" and inserting in lieu thereof "5 plan years (30 plan years in the case of a multiemployer plan)".

(b) ACTUARIAL ASSUMPTIONS MUST BE REASONABLE.—

(1) AMENDMENT TO 1986 CODE.—Paragraph (3) of section 412(c) of the 1986 Code is amended to read as follows:

"(3) ACTUARIAL ASSUMPTIONS MUST BE REASONABLE.—For purposes of this section, all costs, liabilities, rates of interest, and other factors under the plan shall be determined on the basis of actuarial assumptions and methods—

"(A) in the case of—

"(i) a plan other than a multiemployer plan, each of which is reasonable (taking into account the experience of the plan and reasonable expectations) or which, in the aggregate, result in a total contribution equivalent to that which would be determined if each such assumption and method were reasonable, or

"(ii) a multiemployer plan, which, in the aggregate, are reasonable (taking into account the experiences of the plan and reasonable expectations), and

"(B) which, in combination, offer the actuary's best estimate of anticipated experience under the plan."

(2) AMENDMENT TO ERISA.—Paragraph (3) of section 302(c) of ERISA is amended to read as follows:

"(3) ACTUARIAL ASSUMPTIONS MUST BE REASONABLE.—For purposes of this section, all costs, liabilities, rates of interest, and other factors under the plan shall be determined on the basis of actuarial assumptions and methods—

"(A) in the case of—

"(i) a plan other than a multiemployer plan, each of which is reasonable (taking into account the experience of the plan and reasonable expectations) or which, in the aggregate, result in a total contribution equivalent to that which would be determined if each such assumption and method were reasonable, or

"(ii) a multiemployer plan, which, in the aggregate, are reasonable (taking into account the experiences of the plan and reasonable expectations), and

"(B) which, in combination, offer the actuary's best estimate of anticipated experience under the plan."

(c) LIMITATION ON DEDUCTION FOR CONTRIBUTIONS TO CERTAIN PLANS NOT LESS THAN UNFUNDED CURRENT LIABILITY.—Paragraph (1) of section 404(a) of the 1986 Code is amended by redesignating subparagraph (D) as subparagraph (E) and by inserting after subparagraph (C) the following new subparagraph:

"(D) SPECIAL RULE IN CASE OF CERTAIN PLANS.—In the case of any defined benefit plan (other than a multiemployer plan) which has more than 100 participants for the plan year, except as provided in regulations, the maximum amount deductible under the limitations of this paragraph shall not be less than the unfunded current liability determined under section 412(l). For purposes of this subparagraph, all defined benefit plans maintained by the same employer (or any member of such employer's controlled group (within the meaning of section 412(l)(8)(c))) shall be treated as 1 plan, but only employees of such member or employer shall be taken into account."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to years beginning after December 31, 1987.

CHAPTER 2—TREATMENT OF PLAN TERMINATIONS

SEC. 4557. STANDARD TERMINATION PROCEDURES AVAILABLE ONLY WHEN ASSETS SUFFICIENT TO MEET TERMINATION LIABILITY.

(a) GENERAL RULE.—Subparagraph (D) of section 4041(b)(1) of ERISA is amended to read as follows:

"(D) when the final distribution of assets occurs, the plan is sufficient for termination liability (determined as of the termination date)."

(b) TECHNICAL AMENDMENTS.—

(1) Paragraphs (2)(A), (2)(C), (2)(D), and (3) of section 4041(b) of ERISA are each amended by striking out "benefit commitments" each place it appears and inserting in lieu thereof "termination liability".

(2) Subparagraph (B) of section 4041(b)(2) of ERISA is amended—

(A) by striking out "the amount of such person's benefit commitments (if any)" and inserting in lieu thereof "the amount of the termination liability (if any) attributable to such person", and

(B) by striking out "such benefit commitments" and inserting in lieu thereof "such termination liability".

(3)(A) Subparagraph (A) of section 4041(b)(3) of ERISA is amended by striking out clauses (i) and (ii) and inserting in lieu thereof the following:

"(i) purchase irrevocable commitments from an insurer to provide all benefits under the plan, or

"(ii) in accordance with the provisions of the plan and any applicable regulations, otherwise fully provide all benefits under the plan."

(B) Subparagraph (B) of section 4041(b)(3) of ERISA is amended by striking out "so as to pay" and all that follows and inserting in lieu thereof "so as to pay all benefits under the plan".

(4) Paragraphs (2) and (3) of section 4041(c) of ERISA are each amended by striking out "benefit commitments" each place it appears (including in any heading) and inserting in lieu thereof "termination liability".

(5) Paragraph (1) of section 4041(d) of ERISA is amended—

(A) by striking out "no amount of unfunded benefit commitments" and inserting in lieu thereof "no unfunded termination liability", and

(B) by striking out "BENEFIT COMMITMENTS" in the paragraph heading and inserting in lieu thereof "TERMINATION LIABILITY".

(6) Paragraph (16) of section 4001(a) of ERISA is amended to read as follows:

"(16) 'termination liability' means all liabilities of employees and their beneficiaries under the plan (within the meaning of section 401(a)(2) of the Internal Revenue Code of 1986);".

(7) Paragraph (18) of section 4001(a) of ERISA is amended to read as follows:

"(18) 'unfunded termination liability' means, as of any date, the excess (if any) of—

"(A) the termination liability (determined as of such date on the basis of assumptions prescribed by the corporation for purposes of section 4044), over

"(B) the current value (as of such date) of the assets of the plan;".

(8) Subsection (i) of section 4042 of ERISA is amended—

(A) by striking out "all benefit commitments under the plan are" and inserting in lieu thereof "all termination liability under the plan is attributable to", and

(B) by striking out "no amount of unfunded benefit commitments" and inserting in lieu thereof "no unfunded termination liability".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply in the case of any termination—

(1) where notice to the Pension Benefit Guaranty Corporation with respect to such termination is provided after October 16, 1987, or

(2) any termination instituted by such Corporation under section 4042 of ERISA after October 16, 1987.

SEC. 4558. DISTRESS TERMINATIONS.

(a) BANKRUPTCY REORGANIZATION PROCEEDINGS NOT SEPARATE BASIS FOR DISTRESS TERMINATION.—

(1) Subparagraph (B) of section 4041(c)(2) of ERISA is amended—

(A) by striking out "clause (i), (ii), or (iii)" in the material preceding clause (i) and inserting in lieu thereof "clause (i) or (ii)",

(B) by striking out "a substantial member" in the material preceding clause (i) and inserting in lieu thereof "a member",

(C) by inserting before the period at the end of clause (i) the following: "or become a case seeking a reorganization", and

(D) by striking out clause (ii) and redesignating clause (iii) as clause (ii).

(2) Paragraph (2) of section 4041(c) of ERISA is amended by striking out subparagraph (C) and by redesignating subparagraph (D) as subparagraph (C).

(3) Section 4067 of ERISA is amended by striking out "controlled groups who are" and inserting in lieu thereof "controlled groups who are or may become".

(b) EMPLOYER LIABILITY TO PARTICIPANTS BASED ON TERMINATION LIABILITY.—

(1) Subparagraph (A) of section 4062(c)(1) of ERISA is amended—

(A) by striking out "outstanding amount of the benefit commitments" and inserting in lieu thereof "outstanding amount of termination liability", and

(B) by striking out the second sentence and inserting in lieu thereof the following: "Except as provided in subparagraph (B), the liability of such person under this subsection shall be equal to the total outstanding amount of termination liability."

(2) Paragraph (19) of section 4001(a) of ERISA is amended to read as follows:

"(19) 'outstanding amount of termination liability' means, with respect to any plan, the excess (if any) of—

"(A) the termination liability (determined as of the termination date on the basis of assumptions prescribed by the corporation for purposes of section 4044), over

"(B) the termination liability which would be so determined by only taking into account benefits which are guaranteed under section 4022 or to which assets of the plan are required to be allocated under section 4044;".

(3) Subparagraph (A) of section 4049(c)(1) of ERISA is amended by striking out "the outstanding amount of benefit commitments to" and inserting in lieu thereof "the portion of the outstanding termination liability attributable to".

(4) Section 4062(c)(1)(B) of ERISA is amended by striking out "benefit commitment" and inserting in lieu thereof "termination liability".

(c) EMPLOYER LIABILITY TO THE CORPORATION.—

(1) IN GENERAL.—Subparagraph (A) of section 4062(b)(1) of ERISA is amended to read as follows:

"(A) IN GENERAL.—Except as provided in subparagraph (B), the liability to the corporation of a person described in subsection (a) shall be the total amount of the unfunded guaranteed benefits (as of the termination date) of all participants and beneficiaries under the plan, together with interest (at a reasonable rate) calculated from the termination date in accordance with regulations prescribed by the Corporation."

(2) LIEN.—

(A) Subsection (a) of section 4068 of ERISA is amended—

(i) by striking out "section 4062(b)(1)(A)(i)" the first place it appears and inserting in lieu thereof "section 4062(b)(1)(A)", and

(ii) by striking out "section 4062(b)(1)(A)(i)" the second place it appears and inserting in lieu thereof "section 4062(b)(1)(A) (including interest)".

(B) Title IV of ERISA is amended by transferring subsection (e) of section 4062 of such Act to the end of section 4068 of such Act and by redesignating such subsection as subsection (f).

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2) or (3), the amendments made by this section shall apply in the case of—

(A) any termination where notice to the Pension Benefit Guaranty Corporation with respect to such termination is provided after October 16, 1987, and

(B) any termination instituted by such Corporation under section 4042 of ERISA after October 16, 1987.

(2) REORGANIZATIONS.—The amendments made by subsection (a) shall apply to petitions described in section 4041(c)(2)(B)(ii)(I) of ERISA filed after October 16, 1987.

(3) LIENS.—The amendments made by subsection (c)(2) shall not apply to a person for the period of any proceedings pursuant to a petition described in section 4041(c)(2)(B)(ii)(I) of ERISA filed before October 17, 1987.

SEC. 4559. IMPOSITION OF LIEN WHERE SIGNIFICANT UNFUNDED CURRENT LIABILITY.

(a) GENERAL RULE.—Subtitle A of title IV of ERISA (relating to Pension Benefit Guaranty Corporation) is amended by adding at the end thereof the following new section:

"IMPOSITION OF LIEN WHERE SIGNIFICANT UNFUNDED CURRENT LIABILITY

"SEC. 4011. (a) IN GENERAL.—If, as of the close of any plan year of a single-employer defined benefit plan—

"(1) the funded current liability percentage of the plan is less than 70 percent, and

"(2) the unfunded current liability of the plan is greater than $25,000,000,

there shall be a lien in favor of the plan in the amount determined under subsection (b) upon all property and rights to property, of the contributing sponsor maintaining the plan and each member of any controlled *group (within the meaning of section 412(l)(8)(C)) of which such contributing sponsor is a member. The contributing sponsor shall notify the corporation within 2½ months after the close of any plan year if the plan is described in paragraphs (1) and (2) for such year.*

"(b) AMOUNT AND PERIOD OF LIEN.—

"(A) AMOUNT.—The amount of the lien in effect for any plan year shall be the portion of the unfunded current liability of the plan for the plan year equal to the lesser of—

"(i) so much of the unfunded current liability as exceeds $25,000,000, or

"(ii) the amount necessary to increase the funded current liability percentage to 70 percent.

"(B) PERIOD OF LIEN.—The lien imposed by subsection (a) shall—

"(i) arise on the 1st day of the plan year following the 1st plan year in which the plan is described in paragraphs (1) and (2) of subsection (a), and

"(ii) shall continue for plan years until the close of a plan year in which the plan is not described in paragraphs (1) and (2) of subsection (a).

Another lien may be imposed after the expiration of a lien under this subparagraph.

"(c) ENFORCEMENT.—Any lien created under subsection (a) may be perfected and enforced only by the corporation, or at the direction of the corporation, by the contributing sponsor (or any member of the controlled group of the contributing sponsor).

"(d) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) FUNDED CURRENT LIABILITY PERCENTAGE AND UNFUNDED CURRENT LIABILITY.—The terms 'funded current liability percentage' and 'unfunded current liability' shall have the meanings given such terms by section 302(d), except that in computing unfunded current liability there shall not be taken into account any unamortized portion of the unfunded old liability amount as of the close of the plan year.

"(2) CERTAIN RULES TO APPLY.—The amount subject to a lien imposed by subsection (a) shall be treated as taxes due and owing to the United States and rules similar to the rules of subsection (c), (d), and (e) of section 4068 shall apply with respect to a lien imposed by subsection (a) and the amount of such lien."

(b) CLERICAL AMENDMENT.—The table of contents for ERISA is amended by inserting after the item relating to section 4010 the following new item:

"Sec. 4011. Imposition of lien where significant unfunded current liability."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning after the date of the enactment of this Act.

CHAPTER 3—INCREASE IN PREMIUM RATES

SEC. 4560. INCREASE IN PREMIUM RATES.

(a) GENERAL RULE.—Clause (i) of section 4006(a)(3)(A) of ERISA is amended by striking out "$8.50" and inserting in lieu thereof "the sum of $14 plus the exposure-related premium (if any) determined under subparagraph (E)".

(b) DETERMINATION OF EXPOSURE-RELATED PREMIUM.—Paragraph (3) of section 4006(a) of ERISA is amended by adding at the end thereof the following new subparagraph:

"(E)(i) The exposure-related premium determined under this subparagraph with respect to any plan for any plan year shall be an amount equal to the amount determined under clause (ii) divided by the number of participants in such plan as of the close of the preceding plan year.

"(ii) The amount determined under this clause for any plan year shall be an amount equal to $6.00 for each $1,000 of unfunded current liability under the plan as of the close of the preceding plan year.

"(iii) For purposes of clause (ii)—

"(I) Except as provided in subclause (II), the term 'unfunded current liability' has the meaning given such term by section 412(l)(8)(A) of the Internal Revenue Code of 1986.

"(II) For purposes of subclause (I), in computing current liability under section 412(l)(8)(A)(i) of such Code, the applicable percentage under section 412(l)(7)(D)(ii) of such Code shall be 100 percent for any participant with more than 5 years of participation.

"(iv)(I) Except as provided in this clause, the aggregate increase in the premium payable with respect to any participant by reason of this subparagraph shall not exceed $70.

"(II) In the case of any plan year beginning in a calendar year after 1988, the $70 amount in subclause (I) shall be increased by the percentage (if any) by which the contribution and benefit base in effect during such calendar year under section 230 of the Social Security Act exceeds such contribution and benefit base in effect during 1988.

"(III) If an employer made contributions to a plan during 1 or more of the 5 plan years preceding the 1st plan year to which this subparagraph applies in an amount not less than the maximum amount allowable as a deduction with respect to such contributions under section 404 of such Code, the dollar amount in effect under subclause (I) for the 1st 5 plan years to which this subparagraph applies shall be reduced by $10 for each plan year for which such contributions were made. The $10 amount under the preceding sentence shall be adjusted at the same time and the same manner as provided under subclause (II).

"(v)(I) No additional premium shall be determined under this subparagraph with respect to any plan which has no more than 100 participants on each day during the preceding plan year.

"(II) In the case of a plan to which subclause (I) does not apply and which did not have more than 150 participants on each day during the preceding plan year, the amount of the additional premium under this subparagraph for such plan year shall be equal to the product of such premium determined without regard to this subclause multiplied by 2 percent for each participant in excess of 100.

"(III) For purposes of this clause, all single-employer plans maintained by the same contributing sponsor (or any member of such contributing sponsor's controlled group) shall be treated as 1 plan. For purposes of the preceding sentence, the term 'controlled group' means any group treated as a single employer under subsection (b), (c), (m), or (o) of section 414 of such Code."

(c) LIABILITY FOR PREMIUM.—

(1) IN GENERAL.—Section 4007 of ERISA is amended by striking out "plan administrator" each place it appears and inserting in lieu thereof "designated payor".

(2) DESIGNATED PAYOR.—Section 4007 of ERISA is amended by adding at the end thereof the following new subsection:

"(e)(1) For purposes of this section, the term 'designated payor' means—

"(A) the contributing sponsor or plan administrator in the case of a single-employer plan, and

"(B) the plan administrator in the case of a multiemployer plan.

"(2) If the designated payor of any single-employer plan is a member of a controlled group, each member of such group shall be jointly and severally liable for any premiums required to be paid by such designated payor. For purposes of the preceding sentence, the term 'controlled group' means any group treated as a single employer under subsection (b), (c), (m), or (o) of section 414 of the Internal Revenue Code of 1986."

(d) DEPOSIT OF PREMIUMS INTO SEPARATE REVOLVING FUND.—Section 4005 of ERISA (relating to establishment of Pension Benefit Guaranty funds) is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

"(f)(1) A seventh fund shall be established and credited with—

"(A) premiums, penalties, and interest charges collected under section 4006(a)(3)(A)(i) (not described in subparagraph (B)) to the extent attributable to the amount of the premium in excess of $8.50,

"(B) premiums, penalties, and interest charges collected under section 4006(a)(3)(E), and

"(C) earnings on investments of the fund or on assets credited to the fund.

"(2) Amounts in the fund shall be available for transfer to other funds established under this section with respect to a single-employer plan but shall not be available to pay—

"(A) administrative costs of the corporation, or

"(B) benefits under any plan which was terminated before January 1, 1988,

unless no other amounts are available for such payment.

"(3) The corporation may invest amounts of the fund in such obligations as the corporation considers appropriate."

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning after December 31, 1987.

PART VII—ESTATE AND GIFT TAXES

SEC. 4561. RETENTION OF 1987 RATES FOR 2 YEARS.

Subsection (c)(2)(D) of section 2001 (relating to rate schedule) is amended by striking out "or 1987" each place it appears in the text and heading thereof and inserting in lieu thereof "1987, 1988, or 1989".

PART VIII—EXCISE TAXES

SEC. 4571. EXTENSION OF TELEPHONE EXCISE TAX.

Paragraph (2) of section 4251(b) (relating to applicable percentage) is amended to read as follows:

"(2) APPLICABLE PERCENTAGE.—The term 'applicable percentage' means 3 percent; except that, with respect to amounts paid pursuant to bills first rendered after 1990, the applicable percentage shall be zero."

SEC. 4572. FUELS FOR MOTOR VEHICLES AND CERTAIN OTHER FUELS IMPOSED AT WHOLESALE LEVEL.

(a) IN GENERAL.—Part III of subchapter A of chapter 32 is amended by inserting after subpart A the following new subpart:

"Subpart B—Fuels for Motor Vehicles and Certain Other Fuels

"Sec. 4091. Imposition of tax.

"Sec. 4092. Definitions.

"Sec. 4093. Exemption: special rule.

"SEC. 4091. IMPOSITION OF TAX.

"(a) IN GENERAL.—There is hereby imposed a tax on the sale of any taxable fuel by the

producer or the importer thereof or by any producer of a taxable fuel.

"(b) RATE OF TAX.—

"(1) IN GENERAL.—The rate of the tax imposed by subsection (a) shall be the sum of—

"(A)(i) the Highway Trust Fund financing rate in the case of diesel fuel and special motor fuels, or

"(ii) the Airport and Airway Trust Fund financing rate in the case of aviation fuel, and

"(B) the Leaking Underground Storage Tank Trust Fund financing rate in the case of any taxable fuel other than liquefied petroleum gas.

"(2) HIGHWAY TRUST FUND FINANCING RATE.—For purposes of paragraph (1), the Highway Trust Fund financing rate is—

"(A) 15 cents per gallon in the case of diesel fuel, and

"(B) 9 cents per gallon in the case of special motor fuels.

"(3) AIRPORT AND AIRWAY TRUST FUND FINANCING RATE.—For purposes of paragraph (1), the Airport and Airway Trust Fund financing rate is 14 cents per gallon.

"(4) LEAKING UNDERGROUND STORAGE TANK TRUST FUND FINANCING RATE.—For purposes of paragraph (1), the Leaking Underground Storage Tank Trust Fund financing rate is 0.1 cent per gallon.

"(5) TERMINATION OF RATES.—

"(A) The Highway Trust Fund financing rate shall not apply on and after October 1, 1993.

"(B) The Airport and Airway Trust Fund financing rate shall not apply on and after January 1, 1988.

"(C) The Leaking Underground Storage Tank Trust Fund financing rate shall not apply during any period during which the Leaking Underground Storage Tank Trust Fund financing rate under section 4081 does not apply.

"(c) REDUCED RATE OF TAX FOR CERTAIN FUELS CONTAINING ALCOHOL.—Under regulations prescribed by the Secretary—

"(1) 10-PERCENT ALCOHOL FUELS.—

"(A) IN GENERAL.—The Highway Trust Fund financing rate shall be—

"(i) 9 cents per gallon in the case of the sale of any mixture of diesel fuel if—

"(I) at least 10 percent of such mixture consists of alcohol (as defined in section 4081(c)(3)), and

"(II) the diesel fuel in such mixture was not taxed under clause (ii),

"(ii) 10 cents per gallon in the case of the sale of diesel fuel for use in producing a mixture described in clause (i) at the time of such sale,

"(iii) 3 cents per gallon in the case of the sale of any mixture of special motor fuel if—

"(I) at least 10 percent of such mixture consists of alcohol (as so defined), and

"(II) the special motor fuel in such mixture was not taxed under clause (iv), and

"(iv) 3⅓ cents per gallon in the case of the sale of any special motor fuel for use in producing a mixture described in clause (iii).

"(B) LATER SEPARATION.—If any person separates the liquid fuel from a mixture of the liquid fuel and alcohol on which the Highway Trust Fund financing rate was determined under clause (i) or (iii) of subparagraph (A) (or with respect to which a credit or payment was allowed or made by reason of section 6427(f)(1)), such person shall be treated as the producer of such liquid fuel. The amount of tax imposed on any sale of such liquid fuel by such person shall be—

"(i) 5 cents per gallon in the case of diesel fuel, and

"(ii) 5⅔ cents per gallon in the case of any special motor fuel.

"(C) TERMINATION.—Subparagraph (A) shall not apply to any sale after September 30, 1993.

"(2) QUALIFIED METHANOL AND ETHANOL FUEL.—

"(A) IN GENERAL.—In the case of the sale of any special motor fuel which is a qualified methanol or ethanol fuel—

"(i) the Highway Trust Fund financing rate shall be 3 cents per gallon, and

"(ii) the Leaking Underground Storage Tank Trust Fund financing rate shall be 0.05 cent per gallon.

"(B) QUALIFIED METHANOL OR ETHANOL FUEL.—For purposes of subparagraph (A), the term 'qualified methanol or ethanol fuel' means any liquid at least 85 percent of which consists of methanol, ethanol, or other alcohol produced from a substance other than petroleum or natural gas.

"(C) TERMINATION.—Subparagraph (A) shall not apply to any sale after September 30, 1993.

"(3) PARTIALLY EXEMPT METHANOL OR ETHANOL FUEL.—

"(A) IN GENERAL.—In the case of the sale of any special motor fuel which is a partially exempt methanol or ethanol fuel, the Highway Trust Fund financing rate shall be 4½ cents per gallon.

"(B) PARTIALLY EXEMPT METHANOL OR ETHANOL FUEL.—For purposes of subparagraph (A), the term 'partially exempt methanol or ethanol fuel' means any liquid at least 85 percent of which consists of methanol, ethanol, or other alcohol produced from natural gas.

"SEC. 4092. DEFINITIONS.

"(a) TAXABLE FUEL.—For purposes of this subpart—

"(1) IN GENERAL.—The term 'taxable fuel' means—

"(A) diesel fuel,

"(B) any special motor fuel, and

"(C) any aviation fuel.

"(2) EXCEPTIONS.—The term 'taxable fuel' shall not include—

"(A) any product taxable under section 4081, or

"(B) any product for use as heating oil.

"(3) DIESEL FUEL.—The term 'diesel fuel' means any liquid which is suitable for use as a fuel in a diesel-powered highway vehicle or a diesel-powered train.

"(4) SPECIAL MOTOR FUEL.—

"(A) IN GENERAL.—The term 'special motor fuel' means any liquid described in subparagraph (B) which is suitable for use as a fuel in a motor vehicle or motorboat.

"(B) LIQUIDS DESCRIBED.—A liquid is described in this subparagraph if such liquid is benzol, benzene, naphtha, liquefied petroleum gas, casing head and natural gasoline, or any other liquid (other than kerosene, gas oil, fuel oil, diesel fuel, or gasoline subject to tax under section 4081).

"(5) AVIATION FUEL.—The term 'aviation fuel' means any liquid which is suitable for use as a fuel in an aircraft.

"(b) PRODUCER.—For purposes of this subpart—

"(1) IN GENERAL.—The term 'producer' includes—

"(A) any person who is a refiner, compounder, blender, or wholesale distributor, and a dealer selling taxable fuel exclusively to producers of taxable fuel, as well as a producer,

"(B) but only if such person elects to register under section 4101 with respect to the tax imposed by section 4091.

Any person to whom taxable fuel is sold tax-free under this subpart shall be considered the producer of such taxable fuel.

"(2) WHOLESALE DISTRIBUTOR.—For purposes of paragraph (1), the term 'wholesale distributor' includes any person who sells taxable fuel to producers, retailers, or to users who purchase in bulk quantities and deliver into bulk storage tanks. Such term does not include any person who (excluding the term 'wholesale distributor' from paragraph (1)) is a producer or importer.

"SEC. 4093. EXEMPTION; SPECIAL RULES.

"(a) EXEMPTION OF SALES TO PRODUCER.—Under regulations prescribed by the Secretary, the tax imposed by section 4091 shall not apply in the case of sales of a taxable fuel to a producer of such fuel.

"(b) CERTAIN USES TREATED AS SALES.—If a producer or importer uses (otherwise than in the production of any taxable fuel) any taxable fuel sold to him free of tax, or produced or imported by him, such use shall be treated for the purposes of this chapter as a sale.

"(c) SPECIAL ADMINISTRATIVE RULES.—Under regulations prescribed by the Secretary, information reporting by the remitter of the tax under this section and information reporting and registration by such other persons shall be required as the Secretary deems necessary.

"(d) CROSS REFERENCE.—

For provisions allowing a credit or refund for fuel not used for certain taxable purposes, see section 6427."

(b) CONFORMING AMENDMENT TO SECTION 4041.—

(1) So much of section 4041 as precedes subsection (f) is amended to read as follows:

"SEC. 4041. GASOLINE USED IN NONCOMMERCIAL AVIATION.

"(a) IMPOSITION OF TAX.—

"(1) IN GENERAL.—There is hereby imposed a tax (at the rate specified in paragraph (2)) on any product taxable under section 4081—

"(A) sold by any person to an owner, lessee, or other operator of an aircraft, for use as a fuel in such aircraft in noncommercial aviation, or

"(B) used by any person as a fuel in an aircraft in noncommercial aviation, unless there was a taxable sale of such product under subparagraph (A).

The tax imposed by this paragraph shall be in addition to any tax imposed under section 4081.

"(2) RATE OF TAX.—The rate of tax imposed by paragraph (1) on any product taxable under section 4081 is the excess of 12 cents a gallon over the Highway Trust Fund financing rate at which tax was imposed on such product under section 4081.

"(3) NONCOMMERCIAL AVIATION DEFINED.—For purposes of this section, the term 'noncommercial aviation' means any use of aircraft, other than use in a business of transporting persons or property for compensation or hire by air. The term also includes any use of an aircraft, in a business described in the preceding sentence, which is properly allocable to any transportation exempt from the taxes imposed by sections 4261 and 4271 by reason of section 4281 or 4282.

"(4) TERMINATION.—The tax imposed by paragraph (1) shall not apply on and after January 1, 1988."

(2) Section 4041 is amended by striking out subsections (i), (j), (k), (m), and (n), and by redesignating subsections (f), (g), (h), and (l) as subsections (b), (c), (d), and (e), respectively.

(3) Section 4041 is amended by adding at the end thereof the following new subsections:

"(f) Exemption for Certain Fuels Containing Alcohol.—

"(1) In general.—No tax shall be imposed under this section on—

"(A) any liquid at least 10 percent of which consists of alcohol (as defined in section 4081(c)(3)), and

"(B) any partially exempt methanol or ethanol fuel.

"(2) Partially exempt methanol or ethanol fuel.—For purposes of this subsection, the term 'partially exempt methanol or ethanol fuel' means any liquid at least 85 percent of which consists of methanol, ethanol, or other alcohol produced from natural gas.

"(3) Special rules relating to 10 percent alcohol fuels.—

"(A) Later separation.—If any person separates the liquid fuel from a mixture of the liquid fuel and alcohol to which paragraph (1)(A) applied, such separation shall be treated as a sale of the liquid fuel.

"(B) Termination.—Paragraph (1)(A) shall not apply to any sale or use after September 30, 1993.

"(g) Other Special Rules.—

"(1) Registration.—If any product taxable under section 4081 is sold by any person for use as a fuel in an aircraft, it shall be presumed for purposes of this section that the tax imposed by this section applies to such sale unless the purchaser is registered in such manner (and furnishes such information in respect of the use of the product) as the Secretary shall by regulations prescribe.

"(2) Sales by the United States, etc.—The tax imposed by this section shall apply with respect to liquids sold at retail by the United States, or by any agency or instrumentality of the United States, unless sales by such agency or instrumentality are by statute specifically exempted from such taxes."

(4) Paragraph (3) of section 4041(b), as redesignated by this subsection, is amended by striking out "Except with respect to the taxes imposed by subsection (d), paragraph" and inserting in lieu thereof "Paragraph".

(5) The last sentence of section 4041(c), as redesignated by this subsection, is amended by striking out "Except with respect to the taxes imposed by subsection (d), paragraphs" and inserting in lieu thereof "Paragraphs".

(c) Amendments Relating to Credits and Refunds.—

(1) Subsection (a) of section 6427 is amended—

(A) by striking out "section 4041(a) or (c)" and inserting in lieu thereof "section 4041", and

(B) by inserting "of Fuel Sold for Use in Aviation" after "Nontaxable Uses" in the heading.

(2) Subsection (b) of section 6427 is amended by striking out "subsection (a) of section 4041" each place it appears and inserting in lieu thereof "section 4041 or 4091".

(3) Subsection (c) of section 6427 is amended—

(A) by striking out "section 4041(a) or (c)" and inserting in lieu thereof "section 4041 or 4091", and

(B) by striking out the parenthetical in the last sentence and inserting in lieu thereof "(except that references to gasoline in such paragraph (4) shall be treated as references to fuels taxable under sections 4041 and 4091)".

(4) Subsection (d) of section 6427 is amended—

(A) by inserting "or 4091" after "section 4041" in paragraph (2) thereof,

(B) by striking out "section 4041(h)(2)" and inserting in lieu thereof "section 4041(d)(2)",

(C) by striking out "section 4041(h)(2)(C)" and inserting in lieu thereof "section 4041(d)(2)(C)", and

(D) by striking out "section 4041(l)" and inserting in lieu thereof "section 4041(e)".

(5) Subparagraph (B) of section 6427(e)(1) is amended by inserting "or 4091" after "section 4041".

(6) Subsection (f) of section 6427 is amended to read as follows:

"(f) Taxable Liquids Used to Produce Certain Alcohol Fuels.—

"(1) In general.—Except as provided in subsection (k), if any gasoline, diesel fuel, or special motor fuel on which tax was imposed at the regular Highway Trust Fund financing rate is used by any person in producing a mixture described in section 4081(c) or in clause (i) or (iii) of section 4091(c)(1)(A) (as the case may be) which is sold or used in such person's trade or business, the Secretary shall pay (without interest) to such person an amount equal to the excess of the regular Highway Trust Fund financing rate over the incentive Highway Trust Fund Financing rate with respect to such fuel.

"(2) Definitions.—For purposes of paragraph (1)—

"(A) Regular highway trust fund financing rate.—The term 'regular Highway Trust Fund financing rate' means—

"(i) 9 cents per gallon in the case of gasoline,

"(ii) 15 cents per gallon in the case of diesel fuel, or

"(iii) 9 cents per gallon in the case of a special motor fuel.

"(B) Incentive highway trust fund financing rate.—The term 'incentive Highway Trust Fund Financing rate' means—

"(i) 5⅔ cents per gallon in the case of gasoline,

"(ii) 10 cents per gallon in the case of diesel fuel, or

"(iii) 5⅔ cents per gallon in the case of a special motor fuel.

"(3) Coordination with other repayment provisions.—No amount shall be payable under paragraph (1) with respect to any gasoline, diesel fuel, or special motor fuel with respect to which an amount is payable under subsection (b), (d), (e), or (m) of this section or under section 6420 or 6421."

(7) Subsection (i) of section 6427 is amended by striking out "and (h)" each place it appears and inserting in lieu thereof "(h), and (m)".

(8) Paragraph (1) of section 6427(1) is amended by striking out "section 4041(c)(2)" each place it appears and inserting in lieu thereof "section 4041".

(9) Section 6427 is amended by striking out subsection (o), by redesignating subsections (m) and (n) as subsections (n) and (o), respectively, and by inserting after subsection (l) the following new subsection:

"(m) Nontaxable Uses of Fuel Sold for Use in Certain Vehicles, Etc.—

"(1) In general.—Except as provided in subsection (k), if any fuel on which tax has been imposed under section 4091 is used by any person in a nontaxable use, the Secretary shall pay (without interest) to such person an amount equal to the amount determined by multiplying the number of gallons so used by the rate at which tax was imposed on such fuel under section 4091.

"(2) Nontaxable use.—For purposes of this subsection, the term 'nontaxable use' means—

"(A) in the case of diesel fuel, any use other than use as a fuel in a diesel-powered highway vehicle or a diesel-powered train,

"(B) in the case of any special motor fuel, any use other than use as a fuel in a motor vehicle or motorboat,

"(C) in the case of diesel fuel and any special motor fuel, any off-highway business use (as defined in section 6421(e)(2)), and

"(D) in the case of aviation fuel, any use other than use as a fuel in an aircraft in noncommercial aviation (within the meaning of section 4041(a)(3)).

For purposes of the preceding sentence, the terms 'diesel fuel', 'special motor fuel', and 'aviation fuel' have the respective meanings given such terms by section 4092.

"(3) Refund of highway trust fund financing rate for diesel fuel used in trains.—For purposes of paragraph (1), the use of diesel fuel as a fuel in a diesel-powered train shall be treated as a nontaxable use but only with respect to the portion of the tax imposed on such fuel by section 4091 which is attributable to the Highway Trust Fund financing rate under such section.

"(4) Refund of airport and airway trust fund financing rate for aviation fuel used in noncommercial aviation.—For purposes of paragraph (1), the use of aviation fuel as a fuel in an aircraft in noncommercial aviation (within the meaning of section 4041(a)(3)) shall be treated as a nontaxable use but only with respect to the portion of the tax imposed on such fuel by section 4091 which is attributable to the Airport and Airway Trust Fund financing rate under such section."

(10) Subsection (o) of section 6427, as redesignated by paragraph (9), is amended to read as follows:

"(o) Termination of Certain Provisions.—Except with respect to taxes imposed at the Leaking Underground Storage Tank Trust Fund financing rate under section 4081 or 4091, subsections (a), (b), (c), (d), (g), (h), and (m) shall apply only with respect to fuels purchased before October 1, 1993."

(d) Other Conforming Amendments.—

(1) Subsection (c) of section 40 is amended by striking out "subsection (b)(2), (k), or (m) of section 4041 or section 4081(c)" and inserting in lieu thereof "section 4041(f), 4081(c), or 4091(c)".

(2) Subparagraph (B) of section 4081(e)(2), as amended by section 1703 of the Tax Reform Act of 1986, is amended by striking out "net revenues" and all that follows and inserting in lieu thereof the following: "net revenues are at least $500,000,000 from taxes attributable to Leaking Underground Storage Tank Trust Fund financing rates of tax imposed under this section and sections 4042 and 4091."

(3) Subsection (a) of section 4101, as amended by section 1703 of the Tax Reform Act of 1986, is amended by inserting "or 4091" after "section 4081".

(4) Subsection (a) of section 4221 is amended by inserting "or 4091" after "section 4081".

(5) Section 6206 is amended by striking out "or 4041" and inserting in lieu thereof "or 4041 or 4091".

(6) Subparagraph (A) of section 6416(a)(2) is amended by striking out "special fuels" and inserting in lieu thereof "gasoline used in noncommercial aviation".

(7) Paragraph (2) of section 6416(b) is amended by striking out "or under para-

graph (1)(A) or (2)(A) of section 4041(a) or under paragraph (1)(A) or (2)(A) of section 4041(d)".

(8) Subparagraph (F) of section 6416(b)(2) is amended by striking out "referred to in section 4041" and inserting in lieu thereof "(as defined in section 4092(a)(4))".

(9) Subparagraph (A) of section 6416(b)(3) is amended by inserting "and other than any taxable fuel under section 4091" after "section 4081".

(10) Subparagraph (B) of section 6416(b)(3) is amended by striking out "such gasoline" and inserting in lieu thereof "or any taxable fuel under section 4091, such gasoline or fuel".

(11) Paragraph (1) of section 6420(i) is amended to read as follows:

"(1) For credit or refund of tax in case of special motor fuels used on a farm for farming purposes, see section 6427."

(12) Subparagraph (C) of section 6421(e)(2) is amended to read as follows:

"(C) COMMERCIAL FISHING VESSELS.—For provisions allowing a credit or refund for gasoline and special motor fuels used for commercial fishing vessels, see section 6416(b)(2)(B)."

(13) Subparagraph (A) of section 6421(f)(2) is amended by striking out "section 4041(c)(4)" and inserting in lieu thereof "section 4041(a)(3)".

(14) Subsection (j) of section 6421 is amended by striking out paragraph (1) and by redesignating paragraphs (2), (3), and (4) as paragraphs (1), (2), and (3), respectively.

(15) Section 6652 is amended by striking out subsection (j) (relating to failure to give written notice to certain sellers of diesel fuel) and by redesignating subsections (l) and (m) as subsections (k) and (l), respectively.

(16) Paragraph (1) of section 9502(b) is amended by striking out "subsections (c) and (e) of section 4041 (taxes on aviation fuel)" and inserting in lieu thereof "section 4041 (relating to gasoline used in noncommercial aviation)".

(17) Subsection (b) of section 9502 is amended by striking out "and" at the end of paragraph (2); by redesignating paragraph (3) as paragraph (4), and by inserting after paragraph (2) the following new paragraph:

"(3) amounts determined by the Secretary to be equivalent to the taxes received in the Treasury before January 1, 1988, under section 4091 (to the extent attributable to the Airport and Airway Trust Fund financing rate), and".

(18) Paragraph (1) of section 9503(b) is amended by striking out subparagraph (A), by redesignating subparagraphs (B) through (G) as subparagraphs (A) through (F), respectively, and by striking out subparagraph (E) (as so redesignated) and inserting in lieu thereof the following:

"(E) section 4091 (relating to tax on fuels for motor vehicles and certain other fuels),".

(19) Paragraph (4) of section 9503(b) is amended to read as follows:

"(4) CERTAIN ADDITIONAL TAXES NOT TRANSFERRED TO HIGHWAY TRUST FUND.—For purposes of paragraphs (1) and (2), there shall be taken into account the taxes imposed by sections 4081 and 4091 only to the extent attributable to the Highway Trust Fund financing rates under such sections."

(20) Subparagraph (D) of section 9503(c)(4) is amended to read as follows:

"(D) MOTORBOAT FUEL TAXES.—For purposes of this paragraph, the term 'motorboat fuel taxes' means taxes under sections 4081 and 4091 (to the extent attributable to the Highway Trust Fund financing rates under such sections) with respect to gasoline and special motor fuels used as a fuel in motorboats."

(21) Paragraph (2) of section 9503(e) is amended—

(A) by striking out "sections 4041 and 4081" and inserting in lieu thereof "sections 4081 and 4091", and

(B) by striking out "section 4041 or 4081" and inserting in lieu thereof "section 4081 or 4091".

(22) Paragraph (1) of section 9508(b) is amended to read as follows:

"(1) taxes received in the Treasury under section 4091 (relating to tax on fuels for motor vehicles and certain other fuels) to the extent attributable to the Leaking Underground Storage Trust Fund financing rate under such section,".

(23) Subparagraph (A) of section 9508(c)(2) is amended by striking out clause (ii) and all that follows and inserting in lieu thereof the following:

"(ii) credits allowed under section 34,
with respect to the taxes imposed by sections 4081 and 4091 (to the extent attributable to the Leaking Underground Storage Trust Fund financing rate under such sections)."

(24) The table of subparts for part III of subchapter A of chapter 32 is amended by inserting after the item relating to subpart A the following new item:

"Subpart B. Fuels for motor vehicles and certain other fuels."

(25) The table of sections for subchapter A of chapter 31 is amended by striking out the item relating to section 4041 and inserting in lieu thereof the following new item:

"Sec. 4041. Gasoline used in noncommercial aviation."

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to sales after December 31, 1987.

(f) FLOOR STOCKS TAX.—

(1) IMPOSITION OF TAX.—On any taxable fuel which on January 1, 1988, is held by a taxable person, there is hereby imposed a floor stocks tax at the rate of tax which would be imposed if such fuel were sold on such date in a sale subject to tax under section 4091 of the Internal Revenue Code of 1986 (as added by this section).

(2) OVERPAYMENT OF FLOOR STOCKS TAXES, ETC.—Sections 6416 and 6427 of such Code shall apply in respect of the floor stocks taxes imposed by this section so as to entitle, subject to all provisions of such sections, any person paying such floor stocks taxes to a credit or refund thereof for any reason specified in such section. All provisions of law, including penalties, applicable with respect to the taxes imposed by section 4091 of such Code (as so added) shall apply to the floor stocks taxes imposed by this subsection.

(3) DUE DATE OF TAX.—The taxes imposed by this subsection shall be paid before February 16, 1988.

(4) DEFINITIONS.—For purposes of this subsection—

(A) TAXABLE FUEL.—The term "taxable fuel" means any liquid subject to tax under section 4091 of such Code (as so added).

(B) TAXABLE PERSON.—The term "taxable person" means any person who holds any taxable fuel on which no tax has been imposed under section 4041 of such Code (as in effect on the day before the date of the enactment of this Act) unless the taxpayer establishes to the satisfaction of the Secretary that tax will be imposed on the sale of such fuel by such person (or any subsequent seller) under section 4091 of such Code (as so added) or the use by such person of such fuel will be for a nontaxable purpose.

(C) HELD BY A TAXABLE PERSON.—An article shall be treated as held by a person if title thereto has passed to such person (whether or not delivery to such person has been made).

(5) TRANSFER OF FLOOR STOCK REVENUES TO TRUST FUNDS.—For purposes of determining the amount transferred to any trust fund, the tax imposed by this subsection shall be treated as imposed by section 4091 of such Code (as so added).

SEC. 4573. EXTENSION OF TEMPORARY INCREASE IN AMOUNT OF TAX IMPOSED ON COAL PRODUCERS.

Subparagraph (A) of section 4121(e)(2) (relating to the temporary increase termination date) is amended by striking out "January 1, 1996" and inserting in lieu thereof "January 1, 2014".

PART IX—EMPLOYMENT TAXES

SEC. 4581. INCREASE IN RATES OF TIER 2 RAILROAD RETIREMENT TAX ON EMPLOYEES FOR 1988 AND THEREAFTER.

(a) IN GENERAL.—Subsection (b) of section 3201 (relating to tier 2 employee tax) is amended to read as follows:

"(b) TIER 2 TAX.—In addition to other taxes, there is hereby imposed on the income of each employee a tax equal to 4.90 percent of the compensation received during any calendar year by such employee for services rendered by such employee."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to compensation received after December 31, 1987.[PICKUP AND REVISE] Cave, Raymond 12/11/87 J. 19-060 A11DE6.498 Folios U-U34

SEC. 4582. INCREASE IN RATES OF TIER 2 RAILROAD RETIREMENT TAX ON EMPLOYERS FOR 1988 AND THEREAFTER.

(a) IN GENERAL.—Subsection (b) of section 3221 (relating to tier 2 employer tax) is amended to read as follows:

"(b) TIER 2 TAX.—In addition to other taxes, there is hereby imposed on every employer an excise tax, with respect to having individuals in his employ, equal to 16.10 percent of the compensation paid during any calendar year by such employer for services rendered to such employer."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to compensation paid after December 31, 1987.

SEC. 4583. COMMISSION ON RAILROAD RETIREMENT REFORM.

(a) COMMISSION ON RAILROAD RETIREMENT REFORM.—There is established a commission to be known as the Commission on Railroad Retirement Reform (in this section referred to as the "Commission").

(b) STUDY.—The Commission shall conduct a comprehensive study of the issues pertaining to the long-term financing, structure, and objectives of the railroad retirement system. The Commission shall submit recommendations to the Congress for revisions in, or alternatives to, the current system, to assure the provision of adequate retirement benefits to former, present, and future railroad employees on an actuarially sound basis. The study will take into account—

(1) the possibility of restructuring the financing of railroad retirement benefits through increases in the tier 2 tax rate, increases in the tier 2 tax wage base, the imposition of a tax on operating revenues, revisions in the investment policy of the railroad retirement pension fund, and establish-

ing a privately funded and administered railroad industry pension plan;

(2) the economic outlook for the railroad industry, and the nature of the relationships between the railroad retirement system, levels of railroad employment and compensation, and the performance of the rail sector; and

(3) any other matters which the Commission considers would be necessary, appropriate, or useful to the Congress in developing legislation to reform the railroad retirement system.

(c) MEMBERSHIP OF THE COMMISSION.—

(1) NUMBER AND APPOINTMENT.—The Commission shall be composed of 8 members, as follows:

(A) 4 individuals appointed by the President—

(i) one of whom shall be appointed on the basis of recommendations made by representatives of employers (as defined in section 1(a) of the Railroad Retirement Act of 1974) so as to provide representation on the Commission satisfactory to the largest number of employers concerned,

(ii) one of whom shall be appointed on the basis of recommendations made by representatives of employees (as defined in section 1(b) of the Railroad Retirement Act of 1974) so as to provide representation on the Commission satisfactory to the largest number of employees concerned,

(iii) one of whom shall be appointed on the basis of recommendations made by representatives of commuter railroads, and

(iv) one of whom shall be appointed from members of the public;

(B) 2 individuals appointed by the Speaker of the House of Representatives from among members of the public—

(i) one of whom shall be appointed after consultation with the Chairman of the Committee on Ways and Means of the House of Representatives, and

(ii) one of whom shall be appointed after consultation with the Chairman of the Committee on Energy and Commerce of the House of Representatives; and

(C) 2 individuals appointed by the President pro tempore of the Senate from among members of the public—

(i) one of whom shall be appointed after consultation with the Chairman of the Committee on Finance of the Senate, and

(ii) one of whom shall be appointed after consultation with the Chairman of the Committee on Labor and Human Resources of the Senate.

All public members of the Commission shall be appointed from among individuals who are not in the employment of and are not pecuniarily or otherwise interested in any employer (as so defined) or organization of employees (as so defined). In making appointments under this section, the President, the Speaker of the House of Representatives, and the President pro tempore of the Senate shall ensure that the members of the Commission collectively, possess special knowledge of retirement income policy, social insurance, private pensions, taxation, and the structure of the transportation industry. A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(2) BASIC PAY.—The members of the Commission shall each be paid at a rate equal to the daily equivalent of the annual rate of basic pay in effect for grade GS-18 of the General Schedule for each day (including travel time) during which they are engaged in the actual performance of duties vested in the Commission.

(3) QUORUM.—Four members of the Commission shall constitute a quorum but a lesser number may hold hearings.

(4) CHAIRMAN.—The President shall appoint as Chairman one member from the members appointed from the public.

(d) STAFF OF COMMISSION; EXPERTS AND CONSULTANTS.—

(1) STAFF.—Subject to such rules as may be prescribed by the Commission, the Chairman may appoint and fix the pay of such personnel as the Chairman considers appropriate.

(2) APPLICABILITY OF CERTAIN CIVIL SERVICE LAWS.—The staff of the Commission may be appointed without regard to the provisions of title 5, United States Code, governing appointment in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no individual so appointed may receive pay in excess of the annual rate of basic pay payable for GS-18 of the General Schedule.

(3) EXPERTS AND CONSULTANTS.—Subject to such rules as may be prescribed by the Commission, the Chairman may procure temporary and intermittent services under section 3109(b) of title 5 of the United States Code, but at rates for individuals not to exceed the daily equivalent of the maximum annual rate of basic pay payable for GS-18 of the General Schedule.

(4) STAFF OF FEDERAL AGENCIES.—Upon request of the Commission, the Railroad Retirement Board and any other Federal agency may detail, on a reimbursable basis, any of the personnel thereof to the Commission to assist the Commission in carrying out its duties under this section.

(e) ACCESS TO OFFICIAL DATA AND SERVICES.—

(1) OFFICIAL DATA.—The Commission may, as appropriate, secure directly from any department or agency of the United States information necessary to enable it to carry out this section. Upon request of the Chairman of the Commission, the head of such department or agency shall, as appropriate, furnish such information to the Commission.

(2) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(3) ADMINISTRATIVE SUPPORT SERVICES.—The Administrator of General Services shall provide to the Commission on a reimbursable basis such administrative support services as the Commission may request.

(f) REPORT.—The Commission shall transmit a report to the President and to each House of Congress not later than October 1, 1989. The report shall contain a detailed statement of the findings and conclusions of the Commission, together with its legislative recommendations.

(g) TERMINATION.—The Commission shall cease to exist 60 days after submitting its report pursuant to subsection (f).

SEC. 4584. TRANSFER TO RAILROAD RETIREMENT ACCOUNT.

Subsection (c)(1)(A) of section 224 of the Railroad Retirement Solvency Act of 1983 (relating to section 72(r) revenue increase transferred to certain railroad accounts) is amended—

(1) by inserting "(other than amounts described in subparagraph (B))" after "amounts",

(2) by striking out "1988" and inserting in lieu thereof "1990", and

(3) by striking out the last sentence.

SEC. 4585. EXTENSION OF FUTA REPAYMENT TAX.

(a) IN GENERAL.—Paragraphs (1) and (2) of section 3301 of the Federal Unemployment Tax Act (26 U.S.C. 3301) are amended to read as follows:

"(1) 6.2 percent in the case of calendar years 1988, 1989, and 1990; or

"(2) 6.0 percent in the case of calendar year 1991 and each calendar year thereafter;".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to wages paid on or after January 1, 1988.

SEC. 4586. TRANSFER OF FUNDS INTO THE FEDERAL UNEMPLOYMENT ACCOUNT AND THE EXTENDED UNEMPLOYMENT COMPENSATION ACCOUNT.

(a) IN GENERAL.—Section 901 of the Social Security Act (42 U.S.C. 1101) is amended by adding at the end the following new subsection:

"Transfers for Calendar Years 1988, 1989, and 1990

"(g)(1) With respect to calendar years 1988, 1989, and 1990, the Secretary of the Treasury shall transfer from the employment security administration account—

"(A) to the Federal unemployment account an amount equal to 50 percent of the amount of tax received under section 3301(1) of the Federal Unemployment Tax Act which is attributable to the difference in the tax rates between paragraphs (1) and (2) of such section; and

"(B) to the extended unemployment compensation account an amount equal to 50 percent of such amount of tax received.

"(2) Transfers under this subsection shall be as of the beginning of the month succeeding the month in which the moneys were credited to the employment security administration account pursuant to subsection (b)(2) with respect to wages paid during such calendar years."

(b) INCREASE IN THE LIMITATION ON THE AMOUNTS IN SUCH ACCOUNTS.—(1) Section 902(a)(2) of such Act (42 U.S.C. 1102(a)(2)) is amended by striking out "one-eighth" and inserting in lieu thereof "five-eighths".

(2) Section 905(b)(2)(B) of such Act (42 U.S.C. 1105(b)(2)(B)) is amended by striking out "one-eighth" and inserting in lieu thereof "three-eighths".

(c) CONFORMING AMENDMENTS.—(1) Section 905(b)(1) of such Act (42 U.S.C. 1105(b)(1)) is amended by striking out the last sentence thereof.

(2) Section 901(c)(3)(C) of such Act (42 U.S.C. 1101(c)(3)(C)) is amended by striking out "(i)" and all that follows through the period and inserting in lieu thereof "a tax rate of 0.6 percent."

(d) EFFECTIVE DATE.—The amendments made by this section shall become effective on the date of the enactment of this Act.

SEC. 4587. APPLICATION OF EMPLOYER TAXES TO EMPLOYEES' CASH TIPS.

(a) APPLICATION OF TAX TO TIPS.—Section 3121(q) (relating to inclusion of tips for employee taxes) is amended—

(1) by striking "EMPLOYEE TAXES" in the heading and inserting "BOTH EMPLOYEE AND EMPLOYER TAXES";

(2) by striking "other than for purposes of the taxes imposed by section 3111";

(3) by striking "remuneration for employment" and inserting "remuneration for such employment (and deemed to have been paid by the employer for purposes of subsections (a) and (b) of section 3111)"; and

(4) by inserting after "at the time received" the following: "; except that, in determining the employer's liability in connec-

tion with the taxes imposed by section 3111 with respect to such tips in any case where no statement including such tips was so furnished (or to the extent that the statement so furnished was inaccurate or incomplete), such remuneration shall be deemed for purposes of subtitle F to be paid on the date on which notice and demand for such taxes is made to the employer by the Secretary".

(b) Conforming Amendments.—(1) Subsections (a) and (b) of section 3111(a) (relating to rate of tax on employers) are each amended by striking "and (t)".

(2) Section 3121(t) (relating to special rule) is repealed.

(c) Effective Date.—The amendments made by this section shall apply with respect to tips received (and wages paid) on and after January 1, 1988.

SEC. 4588. COVERAGE OF INACTIVE DUTY MILITARY TRAINING.

(a) Social Security Act Amendment.—Paragraph (1) of section 210(l) of the Social Security Act is amended to read as follows:

"(l)(1) Except as provided in paragraph (4), the term 'employment' shall, notwithstanding the provisions of subsection (a) of this section, include—

"(A) service performed after December 1956 by an individual as a member of a uniformed service on active duty, but such term shall not include any such service which is performed while on leave without pay, and

"(B) service performed after December 1987 by an individual as a member of a uniformed service on inactive duty training.".

(b) FICA Amendment.—Paragraph (1) of section 3121(m) (relating to inclusion of service in the uniformed services) is amended to read as follows:

"(1) Inclusion of service.—The term 'employment' shall, notwithstanding the provisions of subsection (b) of this section, include—

"(A) service performed by an individual as a member of a uniformed service on active duty, but such term shall not include any such service which is performed while on leave without pay, and

"(B) service performed by an individual as a member of a uniformed service on inactive duty training.".

(c) Computation of Wages.—

(1) In general.—Paragraph (2) of section 3121(i) (relating to computation of wages for service in the uniformed services) is amended by inserting "and his compensation for inactive duty training that is computed as a rate of basic pay" after "basic pay".

(2) Conforming amendment.—The second paragraph following subsection (s) of section 209 of the Social Security Act (42 U.S.C. 409) is amended by inserting "and his compensation for inactive duty training that is computed as a rate of basic pay" after "basic pay".

(d) Conforming Amendment.—Section 229(a) of the Social Security Act (42 U.S.C. 429) is amended by striking out "section 210(l)" and inserting in lieu thereof "section 210(l)(1)".

(e) Effective Date.—The amendments made by this section shall apply with respect to remuneration paid after December 31, 1987.

SEC. 4589. COVERAGE OF ALL CASH PAY OF AGRICULTURAL EMPLOYEES WHOSE EMPLOYERS SPEND $2,500 OR MORE A YEAR FOR AGRICULTURAL LABOR.

(a) Social Security Act Amendment.—Paragraph (2) of section 209(h) of the Social Security Act is amended by striking clause (B) and inserting "(B) the employer's expenditures for agricultural labor in such year equal or exceed $2,500;".

(b) FICA Amendment.—Subparagraph (B) of section 3121(a)(8) (relating to wages) is amended by striking clause (ii) and inserting "(ii) the employer's expenditures for agricultural labor in such year equal or exceed $2,500;".

(c) Effective Date.—The amendments made by this section shall apply with respect to remuneration for agricultural labor paid after December 31, 1987.

SEC. 4590. COVERAGE OF THE EMPLOYER COST OF GROUP-TERM LIFE INSURANCE.

(a) Coverage Under Old-Age, Survivors, and Disability Insurance Program.—

(1) Social security act amendment.—Paragraph (3) of section 209(b) of the Social Security Act is amended by striking "death" and inserting "death, except that this subsection (b) does not apply to such amount to the extent of the amount includible in the gross income of the employee under the Internal Revenue Code of 1986".

(2) FICA amendment.—Subparagraph (C) of section 3121(a)(2) (relating to wages) is amended by striking "death" and inserting "death, except that this paragraph does not apply to such amount to the extent of the amount includible in the gross income of the employee".

(b) Effective Date.—The amendments made by subsection (a) shall apply with respect to group-term life insurance coverage in effect after December 31, 1987.

SEC. 4591. COVERAGE OF SERVICES PERFORMED BY ONE SPOUSE IN THE EMPLOY OF THE OTHER.

(a) Social Security Act Amendments.—

(1) In general.—Subparagraph (A) of section 210(a)(3) of the Social Security Act is amended by striking "performed by an individual in the employ of his spouse, and service".

(2) Exception for certain domestic service in the private home of a spouse.—Paragraph (3) of section 210(a) of such Act is amended by striking so much of subparagraph (B) as precedes clause (i) and inserting the following:

"(B) Service not in the course of the employer's trade or business, or domestic service in a private home of the employer, performed by an individual in the employ of his spouse or son or daughter; except that the provisions of this subparagraph shall not be applicable to such domestic service performed by an individual in the employ of his son or daughter if—".

(b) FICA Amendments.—

(1) In general.—Subparagraph (A) of section 3121(b)(3) (relating to employment) is amended by striking "performed by an individual in the employ of his spouse, and service".

(2) Exception for certain domestic service in the private home of a spouse.—Paragraph (3) of section 3121(b) (relating to employment) is amended by striking so much of subparagraph (B) as precedes clause (i) and inserting the following:

"(B) service not in the course of the employer's trade or business, or domestic service in a private home of the employer, performed by an individual in the employ of his spouse or son or daughter; except that the provisions of this subparagraph shall not be applicable to such domestic service performed by an individual in the employ of his son or daughter if—".

(c) Effective Date.—The amendments made by this section shall apply with respect to remuneration paid after December 31, 1987.

SEC. 4592. TREATMENT OF SERVICE PERFORMED BY AN INDIVIDUAL IN THE EMPLOY OF A PARENT.

(a) Social Security Act Amendments.—

(1) Age below which service for parent is excluded from covered employment reduced to age 118.—Subparagraph (A) of section 210(a)(3) of the Social Security Act (as amended by section 4591(a)(1) of this Act) is further amended by striking "twenty-one" and inserting "18".

(2) Exception for certain domestic service in the private home of parent.—Subparagraph (B) of section 210(a)(3) of such Act (as amended by section 4591(a)(2) of this Act) is further amended by inserting "under the age of 21 in the employ of his father or mother, or performed by an individual" after "individual" the first place it appears.

(b) FICA Amendments.—

(1) Age below which service for parent is excluded from covered employment reduced to age 18.—Subparagraph (A) of section 3121(b)(3) (as amended by section 6591(b)(1) of this Act) is further amended by striking "21" and inserting "18".

(2) Exception for certain domestic service in the private home of parent.—Subparagraph (B) of section 3121(b)(3) (as amended by section 6591(b)(2) of this Act) is further amended by inserting "under the age of 21 in the employ of his father or mother, or performed by an individual" after "individual" the first place it appears.

(c) Effective Date.—The amendments made by this section shall apply with respect to remuneration paid after December 31, 1987.

PART X—USER FEES

SEC. 4595. FEES FOR REQUESTS FOR RULING, DETERMINATION, AND SIMILAR LETTERS.

(a) General Rule.—The Secretary of the Treasury or his delegate (hereinafter in this section referred to as the "Secretary") shall establish a program requiring the payment of user fees for requests to the Internal Revenue Service for ruling letters, opinion letters, and determination letters and for similar requests.

(b) Program Criteria.—

(1) In general.—The fees charged under the program required by subsection (a)—

(A) shall vary according to categories (or subcategories) established by the Secretary,

(B) shall be determined after taking into account the average time for (and difficulty of) complying with requests in each category (and subcategory), and

(C) shall be payable in advance.

(2) Exemptions, etc.—The Secretary shall provide for such exemptions (and reduced fees) under such program as he determines to be appropriate.

(3) Average fee requirement.—The average fee charged under the program required by subsection (a) shall not be less than the amount determined under the following table:

Category	Average Fee
Employee plan ruling and opinion	$400
Exempt organization ruling	$320
Employee plan determination	$255
Exempt organization determination	$200
Chief counsel ruling	$200

(c) Application of Section.—Subsection (a) shall apply with respect to requests made on or after the 1st day of the second calendar month beginning after the date of the enactment of this Act and before September 30, 1990.

SEC. 4596. OCCUPATIONAL TAXES RELATING TO ALCOHOL, TOBACCO, AND FIREARMS.

(a) Occupational Taxes on Distilled Spirits Plants, Bonded Wine Cellars, Breweries, Etc.—

(1) Distilled spirits plants, bonded wine cellars, etc.—

(A) In general.—Part II of subchapter A of chapter 51 (relating to distilled spirits, wines, and beer) is amended by inserting before subpart B the following new subpart:

"Subpart A—Proprietors of Distilled Spirits Plants, Bonded Wine Cellars, Etc.

"Sec. 5081. Imposition and rate of tax.

"SEC. 5081. IMPOSITION AND RATE OF TAX.

"(a) General Rule.—Every proprietor of—
"(1) a distilled spirits plant,
"(2) a bonded wine cellar,
"(3) a bonded wine warehouse, or
"(4) a taxpaid wine bottling house,
shall pay a tax of $1,000 per year in respect of each such premises.

"(b) Reduced Rates for Small Proprietors.—

"(1) In general.—Subsection (a) shall be applied by substituting '$500' for '$1,000' with respect to any taxpayer the gross receipts of which (for the most recent taxable year ending before the 1st day of the taxable period to which the tax imposed by subsection (a) relates) are less than $500,000.

"(2) Controlled group rules.—All persons treated as 1 taxpayer under section 5061(e)(3) shall be treated as 1 taxpayer for purposes of paragraph (1).

"(3) Certain rules to apply.—For purposes of paragraph (1), rules similar to the rules of subparagraphs (B) and (C) of section 448(c)(3) shall apply."

(B) Technical amendments.—

(i) Subsection (a) of section 5691 is amended by striking out "the business of a brewer, wholesale dealer in liquors, retail dealer in liquors, wholesale dealer in beer, retail dealer in beer, or limited retail dealer," and inserting in lieu thereof "a business subject to a special tax imposed by part II of subchapter A or section 5276 (relating to occupational taxes)".

(ii) The section heading of section 5691 is amended by striking out "RELATING TO LIQUORS".

(iii) The table of sections for part V of subchapter J of chapter 51 is amended by striking out "relating to liquors" in the item relating to section 5691.

(C) Clerical amendment.—The table of subparts for part II of subchapter A of chapter 51 is amended by inserting before the item relating to subpart B the following new item:

"Subpart A. Proprietors of distilled spirits plants, bonded wine cellars, etc."

(2) Breweries.—Section 5091 (relating to imposition and rate of tax on brewers) is amended to read as follows:

"SEC. 5091. IMPOSITION AND RATE OF TAX.

"(a) General Rule.—Every brewer shall pay a tax of $1,000 per year in respect of each brewery.

"(b) Reduced Rates for Small Brewers.—Rules similar to the rules of section 5081(b) shall apply for purposes of subsection (a)."

(b) Wholesale Dealers in Liquors and Beer.—

(1) Liquors.—Subsection (a) of section 5111 (relating to imposition and rate of tax on wholesale dealers) is amended by striking out "$255" and inserting in lieu thereof "$500".

(2) Beer.—Subsection (b) of section 5111 is amended by striking out "$123" and inserting in lieu thereof "$500".

(c) Retail Dealers in Liquors and Beer.—

(1) Liquors.—Subsection (a) of section 5121 (relating to imposition and rate of tax on retail dealers) is amended by striking out "$54" and inserting in lieu thereof "$250".

(2) Beer.—Subsection (b) of section 5121 is amended by striking out "$24" and inserting in lieu thereof "$250".

(3) Repeal of tax on limited retail dealers.—Subsection (c) of section 5121 is hereby repealed.

(d) Tax on Nonbeverage Domestic Drawback.—Subsection (b) of section 5131 (relating to eligibility and rate of tax) is amended to read as follows:

"(b) Rate of Tax.—The special tax imposed by subsection (a) shall be $500 per year."

(e) Tax on Industrial Use of Distilled Spirits.—

(1) In general.—Subchapter D of chapter 51 (relating to industrial use of distilled spirits) is amended by adding at the end thereof the following new section:

"SEC. 5276. OCCUPATIONAL TAX.

"(a) General Rule.—A permit issued under section 5271 shall not be valid with respect to acts conducted at any place unless the person holding such permit pays a special tax of $250 with respect to such place.

"(b) Certain Occupational Tax Rules To Apply.—Rules similar to the rules of subpart G of part II of subchapter A shall apply for purposes of this section."

(2) Clerical amendment.—The table of sections for such subchapter is amended by adding at the end thereof the following new item:

"Sec. 5276. Occupational tax."

(f) Tobacco.—

(1) In general.—Chapter 52 (relating to cigars, cigarettes, smokeless tobacco and cigarette papers and tubes) is amended by redesignating subchapters D, E, and F as subchapters E, F, and G, respectively, and by inserting after subchapter C the following new subchapter:

"Subchapter D—Occupational Tax

"Sec. 5731. Imposition and rate of tax.

"SEC. 5731. IMPOSITION AND RATE OF TAX.

"(a) General Rule.—Every person engaged in business as—
"(1) a manufacturer of tobacco products,
"(2) a manufacturer of cigarette papers and tubes, or
"(3) an export warehouse proprietor,
shall pay a tax of $1,000 per year in respect of each premises at which such business is carried on.

"(b) Reduced Rates for Small Proprietors.—

"(1) In general.—Subsection (a) shall be applied by substituting '$500' for '$1,000' with respect to any taxpayer the gross receipts of which (for the most recent taxable year ending before the 1st day of the taxable period to which the tax imposed by subsection (a) relates) are less than $500,000.

"(2) Controlled group rules.—All persons treated as 1 taxpayer under section 5061(e)(3) shall be treated as 1 taxpayer for purposes of paragraph (1).

"(3) Certain rules to apply.—For purposes of paragraph (1), rules similar to the rules of subparagraphs (B) and (C) of section 448(c)(3) shall apply.

"(c) Certain Occupational Tax Rules to Apply.—Rules similar to the rules of subpart G of part II of subchapter A of chapter 51 shall apply for purposes of this section.

"(d) Penalty for Failure to Register.—Any person engaged in a business referred to in subsection (a) who willfully fails to pay the tax imposed by subsection (a) shall be fined not more than $5,000, or imprisoned not more than 2 years, or both, for each such offense."

(2) Clerical amendment.—The table of subchapters for chapter 52 is amended by redesignating the items relating to subchapters D, E, and F as items relating to subchapters E, F, and G, respectively, and by inserting after the item relating to subchapter C the following new item:

"Subchapter D. Occupational tax."

(g) Firearms.—

(1) In general.—Section 5801 (relating to occupational taxes) is amended to read as follows:

"SEC. 5801. IMPOSITION OF TAX.

"(a) General Rule.—On 1st engaging in business and thereafter on or before July 1 of each year, every importer, manufacturer, and dealer in firearms shall pay a special (occupational) tax for each place of business at the following rates:

"(1) Importers and manufacturers: $1,000 a year or fraction thereof.

"(2) Dealers: $500 a year or fraction thereof.

"(b) Reduced Rates of Tax for Small Importers and Manufacturers.—

"(1) In general.—Paragraph (1) of subsection (a) shall be applied by substituting '$500' for '$1,000' with respect to any taxpayer the gross receipts of which (for the most recent taxable year ending before the 1st day of the taxable period to which the tax imposed by subsection (a) relates) are less than $500,000.

"(2) Controlled group rules.—All persons treated as 1 taxpayer under section 5061(e)(3) shall be treated as 1 taxpayer for purposes of paragraph (1).

"(3) Certain rules to apply.—For purposes of paragraph (1), rules similar to the rules of subparagraphs (B) and (C) of section 448(c)(3) shall apply."

(2) Clerical amendment.—The table of sections for part I of subchapter A of chapter 53 is amended by striking out the item relating to section 5801 and inserting in lieu thereof the following new item:

"Sec. 5801. Imposition of tax."

(h) Effective Date.—

(1) In general.—The amendments made by this section shall take effect on January 1, 1988.

(2) All taxpayers treated as commencing in business on January 1, 1988.—

(A) In general.—Any person engaged on January 1, 1988, in any trade or business which is subject to an occupational tax shall be treated for purposes of such tax as having 1st engaged in such trade or business on such date.

(B) Limitation on amount of tax.—In the case of a taxpayer who paid an occupational tax in respect of any premises for any taxable period which began before January 1, 1988, and includes such date, the amount of the occupational tax imposed by reason of subparagraph (A) in respect of such premises shall not exceed an amount equal to ½ the excess (if any) of—

(i) the rate of such tax as in effect on January 1, 1988, over

(ii) the rate of such tax as in effect on December 31, 1987.

(C) OCCUPATIONAL TAX.—For purposes of this paragraph, the term "occupational tax" means any tax imposed under part II of subchapter A of chapter 51, section 5276, section 5731, or section 5801 of the Internal Revenue Code of 1986 (as amended by this section).

(3) DUE DATE OF TAX.—Any amount of tax due on January 1, 1988, by reason of the amendments made by this section, shall be due on April 1, 1988.

SEC. 4597. CUSTOMS USER FEES.

(a) FEES TREATED AS OFFSETTING RECEIPTS.—

(1) Subsection (f) of section 13031 of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(f)) is amended—

(A) by inserting "as offsetting receipts" after "deposited" in paragraph (1),

(B) by striking out paragraphs (2) and (3) and inserting in lieu thereof the following:

"(2)(A) The Secretary of the Treasury is authorized and directed to pay out of the Customs User Fee Account all salaries and expenses of the United States Customs Service that are incurred in conducting commercial operations.

"(B) The authority to make payments under subparagraph (A) during any fiscal year (other than payments described in subparagraph (C)) shall be subject to such dollar limitations as are provided in any law making appropriations for such fiscal year. Payments may be made under subparagraph (A) during a fiscal year only if a dollar limitation on the total amount of payments that may be made under subparagraph (A) during such fiscal year (other than payments described in subparagraph (C)) is provided by a law making appropriations for such fiscal year.

"(C) Any dollar limitation described in subparagraph (B) shall not apply to any payments made out of the Customs User Fee Account for expenses incurred by the Secretary of the Treasury in providing overtime customs inspectional services for which the recipient of such services is not required to reimburse the Secretary of the Treasury, and such payments shall not be taken into account in applying such a limitation.

"(D) All funds in the Customs User Fee Account shall only be available for the salaries and expenses of the United States Customs Service incurred in conducting commercial operations.", and

(C) by redesignating paragraph (4) as paragraph (3).

(b) ADJUSTMENT OF MERCHANDISE PROCESSING FEE.—

(1) Paragraph (10) of section 13031(a) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(a)(10)) is amended to read as follows:

"(10) For the processing of any merchandise (other than an article described in subparagraph (A), (B), or (C) of paragraph (9)) that is formally entered, or withdrawn from warehouse, for consumption during any fiscal year beginning after September 30, 1988, a fee at a rate equal to the lesser of—

"(A) 0.17 percent ad valorem, or

"(B) an ad valorem rate which the Secretary of the Treasury estimates will provide a total amount of receipts during the fiscal year equal to the amount of the dollar limitation authorized under section 301(b) of the Customs Procedural Reform and Simplification Act of 1978 on the total amount of payments that may be made under subsection (f)(2)(A) of this section during the fiscal year (other than payments described in subsection (f)(2)(C) of this section), reduced by the sum of—

"(i) the excess, if any, of—

"(I) the amount of such limitation for the fiscal year, over

"(II) the amount of the dollar limitation imposed by any law making appropriations for the fiscal year on the total amount of payments which may be made under subsection (f)(2)(A) during the fiscal year (other than payments described in subsection (f)(2)(C) of this section), plus

"(ii) the amount of an estimate made by the Secretary of the Treasury of the amount of funds that—

"(I) will be in the Customs User Fee Account at the beginning of the fiscal year, and

"(II) will not be used to make payments described in subsection (f)(2)(C) of this section, plus

"(iii) the amount of an estimate made by the Secretary of the Treasury of the amount of receipts from fees imposed by any paragraph of this subsection other than this paragraph that—

"(I) will be deposited in to the Customs User Fee Account during the fiscal year, and

"(II) will not be used to make payments described in subsection (f)(2)(C) of this section.

If no authorization is provided under section 301(b) of the Customs Procedural Reform and Simplification Act of 1978 for the amount of the dollar limitation that may be imposed on the total amount of payments under subsection (f)(2)(A) of this section during the fiscal year (other than payments described in subsection (f)(2)(C) of this section), the rate of the fee imposed under this paragraph for the fiscal year shall be 0.17 percent ad valorem.".

(2) Subparagraph (B) of section 13031(b)(8) of such Act (19 U.S.C. 58c(b)(8)(B)) is amended—

(A) by striking out "on which any funds are appropriated to the United States Customs Service for salaries or expenses incurred in conducting commercial operations" in clause (i) and inserting in lieu thereof "of enactment of any law making appropriations for a fiscal year that provides a dollar limitation on the total amount of payments that may be made under subsection (f)(2)(A) during the fiscal year (other than payments described in subsection (f)(2)(C))", and

(B) by striking out "an appropriation to the United States Customs Service if the funds appropriated" in clause (ii) and inserting in lieu thereof "a law described in clause (i) if the funds appropriated by such law".

(c) FEE IMPOSED ON FOREIGN CONTENT OF CERTAIN SCHEDULE 8 ARTICLES.—

(1) Subparagraph (A) of section 13031(a)(9) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c) is amended to read as follows:

"(A) provided for under any item in schedule 8 of the Tariff Schedules of the United States except item 806.30 or 807.00,".

(2) Subparagraph (A) of section 13031(b)(8) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c) is amended—

(i) by striking out "and" at the end of clause (i);

(ii) by striking out the period at the end of clause (ii) and inserting in lieu thereof a semicolon; and

(iii) by adding at the end thereof the following:

"(iii) in the case of merchandise classified under item 806.30 of the Tariff Schedules of the United States, be applied to the value of the foreign repairs or alterations to the merchandise; and

"(iv) in the case of merchandise classified under item 807.00 of such Schedules, be applied to the full value of the merchandise, less the cost or value of the component United States products.

With respect to merchandise that is classified under item 806.30 or 807.00 of such Schedules and is duty-free, the Secretary may collect the fee charged on the processing of the merchandise under subsection (a)(10) on the basis of aggregate data derived from financial and manufacturing reports used by the importer in the normal course of business, rather than on the basis of entry-by-entry accounting.".

(d) PROVISION OF CUSTOMS SERVICES AT FOREIGN TRADE ZONES AND BONDED WAREHOUSES.—Paragraph (4) of section 13031(e) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(e)(4)) is amended to read as follows:

"(4) Notwithstanding any other provision of law (other than paragraph (2)), during any period when fees are authorized under subsection (a), no charges, other than such fees, may be collected—

"(A) for any—

"(i) cargo inspection, clearance, or other customs activity, expense, or service performed (regardless whether performed outside of normal business hours on an overtime basis), or

"(ii) customs personnel provided,

in connection with the arrival or departure of any commercial vessel, vehicle, or aircraft, or its passengers, crew, stores, material, or cargo, in the United States; or

"(B) in connection with—

"(i) the activation or operation (including Customs Service supervision) of any foreign trade zone or subzone established under the Act of June 18, 1934 (commonly known as the Foreign Trade Zones Act, 19 U.S.C. 81a et seq.); or

"(ii) the designation or operation (including Customs Service supervision) of any bonded warehouse under section 555 of the Tariff Act of 1930 (19 U.S.C. 1555).

(e) EXTENSION OF THE CUSTOMS USER FEES.—Paragraph (3) of section 13031(j) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c, note) is amended by striking out "1989" and inserting in lieu thereof "1990".

(f) EFFECTIVE DATES.—

(1) Except as otherwise provided under this subsection, the amendments made by this section shall apply with respect to articles entered, or withdrawn from warehouse, for consumption on or after the date that is 15 days after the date of enactment of this Act.

(2) The amendments made by subsection (a) shall take effect on October 1, 1990.

(3) The amendments made by subsection (b) shall take effect on October 1, 1988.

PART XI—DEBT COLLECTION

SEC. 4601. 3-YEAR EXTENSION OF PROVISIONS RELATING TO COLLECTION OF NON-TAX DEBTS OWED TO FEDERAL AGENCIES.

(a) GENERAL RULE.—Subsection (c) of section 2653 of the Deficit Reduction Act of 1984 is amended by striking out "January 1, 1988" and inserting in lieu thereof "January 1, 1991".

(b) CLARIFICATION OF CONGRESSIONAL INTENT AS TO SCOPE OF PROVISION.—

(1) Nothing in the amendments made by section 2653 of the Deficit Reduction Act of 1984 shall be construed as exempting debts of corporations or any other category of persons from the application of such amendments.

(2) It is the intent of the Congress that, to the extent practicable, the amendments made by section 2653 of the Deficit Reduction Act of 1984 shall extend to all Federal agencies (as defined in the amendments made by such section).

(3) The Secretary of the Treasury shall issue regulations to carry out the purposes of this subsection.

(c) Study by the General Accounting Office.—The Comptroller General of the United States, in consultation with the Secretary of the Treasury or his delegate, shall conduct a study of the operation and effectiveness of the amendments made by section 2653 of the Deficit Reduction Act of 1984. The study shall compile and evaluate information on the effect of those amendments on voluntary compliance with the income tax laws. Not later than April 1, 1989, the Comptroller General shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report of the study conducted under this subsection, together with such recommendations as he may deem advisable.

PART XII—ESTATE TAX PROVISIONS RELATING TO EMPLOYEE STOCK OWNERSHIP

SEC. 4611. CONGRESSIONAL CLARIFICATION OF ESTATE TAX DEDUCTION FOR SALES OF EMPLOYER SECURITIES.

(a) Intent of Congress in Enacting Section 2057 of the Internal Revenue Code of 1986.—Section 2057 (relating to sales of employer securities to employee stock ownership plans or worker-owned cooperatives) is amended by redesignating subsections (d), (e), and (f) as subsections (e), (f), and (g), respectively, and by inserting after subsection (c) the following new subsection:

"(d) Qualified Proceeds From Qualified Sales.—

"(1) In general.—For purposes of this section, the proceeds of a sale of employer securities by an executor to an employee stock ownership plan or an eligible worker-owned cooperative shall not be treated as qualified proceeds from a qualified sale unless—

"(A) the decedent directly owned the securities immediately before death, and

"(B) after the sale, the employer securities—

"(i) are allocated to participants, or

"(ii) are held for future allocation in connection with—

"(I) an exempt loan under the rules of section 4975, or

"(II) a transfer of assets under the rules of section 4980(c)(3).

"(2) No substitution permitted.—For purposes of paragraph (1)(B), except in the case of a bona fide business transaction (e.g., a substitution of employer securities in connection with a merger of employers), employer securities shall not be treated as allocated or held for future allocation to the extent that such securities are allocated or held for future allocation in substitution of other employer securities that had been allocated or held for future allocation."

(b) Effective Date.—The amendments made by subsection (a) shall take effect as if included in the amendments made by section 1172 of the Tax Reform Act of 1986.

SEC. 4612. MODIFICATIONS OF ESTATE TAX DEDUCTION FOR SALE OF EMPLOYER SECURITIES.

(a) In General.—Section 2057 (relating to estate tax deduction for sales of employer securities to employee stock ownership plans or worker-owned cooperatives) is amended to read as follows:

"SEC. 2057. SALES OF EMPLOYER SECURITIES TO EMPLOYEE STOCK OWNERSHIP PLANS OR WORKER-OWNED COOPERATIVES.

"(a) General Rule.—For purposes of the tax imposed by section 2001, the value of the taxable estate shall be determined by deducting from the value of the gross estate an amount equal to 50 percent of the proceeds of any sale of any qualified employer securities to—

"(1) an employee stock ownership plan, or

"(2) an eligible worker-owned cooperative.

"(b) Limitations.—

"(1) Maximum reduction in tax liability.—The amount allowable as a deduction under subsection (a) shall not exceed the amount which would result in an aggregate reduction in the tax imposed by section 2001 (determined without regard to any credit allowable against such tax) equal to $750,000.

"(2) Deduction shall not exceed 50 percent of taxable estate.—The amount of the deduction allowable under subsection (a) shall not exceed 50 percent of the taxable estate (determined without regard to this section).

"(c) Limitations on Proceeds Which May Be Taken Into Account.—

"(1) Dispositions by plan or cooperative within 1 year of sale.—

"(A) In general.—Proceeds from a sale which are taken into account under subsection (a) shall be reduced (but not below zero) by the net sale amount.

"(B) Net sale amount.—For purposes of subparagraph (A), the term 'net sale amount' means the excess (if any) of—

"(i) the proceeds of the plan or cooperative from the disposition of employer securities during the 1-year period immediately preceding such sale, over

"(ii) the cost of employer securities purchased by such plan or cooperative during such 1-year period.

"(C) Exceptions.—For purposes of subparagraph (B)(i), there shall not be taken into account any proceeds of a plan or cooperative from a disposition described in section 4978A(e).

"(D) Aggregation rules.—For purposes of this paragraph, all employee stock ownership plans maintained by an employer shall be treated as 1 plan.

"(2) Securities must be acquired by plan from assets which are not transferred assets.—

"(A) In general.—Proceeds from a sale shall not be taken into account under subsection (a) to the extent that such proceeds (as reduced under paragraph (1)) are attributable to transferred assets. For purposes of the preceding sentence, all assets of a plan or cooperative (other than qualified employer securities) shall be treated as first acquired out of transferred assets.

"(B) Transferred assets.—For purposes of subparagraph (A)—

"(i) In general.—The term 'transferred assets' means assets of an employee stock ownership plan which—

"(I) are attributable to assets held by a plan exempt from tax under section 501(a) and meeting the requirements of section 401(a) (other than an employee stock ownership plan of the employer), or

"(II) were held by the plan when it was not an employee stock ownership plan.

"(ii) Exception for assets held on February 27, 1987.—The term 'transferred assets' shall not include any asset held by the employee stock ownership plan on February 27, 1987.

"(iii) Secretarial authority to waive treatment as transferred asset.—The Secretary may provide that assets or a class of assets shall not be treated as transferred assets if the Secretary finds such treatment is not necessary to carry out the purposes of this paragraph.

"(3) Other proceeds.—The following proceeds shall not be taken into account under subsection (a):

"(A) Proceeds from sale after due date for return.—Any proceeds from a sale which occurs after the date on which the return of the tax imposed by section 2001 is required to be filed (determined by taking into account any extension of time for filing).

"(B) Proceeds from sale of certain securities.—Any proceeds from a sale of employer securities which were received by the decedent—

"(i) in a distribution from a plan exempt from tax under section 501(a) and meeting the requirements of section 401(a), or

"(ii) as a transfer pursuant to an option or other right to acquire stock to which section 83, 422, 422A, 423, or 424 applies.

Any employer security the basis of which is determined by reference to any employer security described in the preceding sentence shall be treated as an employer security to which this subparagraph applies.

"(d) Qualified Employer Securities.—

"(1) In general.—The term 'qualified employer securities' means employer securities—

"(A) which are issued by a domestic corporation which has no stock outstanding which is readily tradable on an established securities market,

"(B) which are includible in the gross estate of the decedent,

"(C) which would have been includible in the gross estate of the decedent if the decedent had died at any time during the shorter of—

"(i) the 5-year period ending on the date of death, or

"(ii) the period beginning on October 22, 1986, and ending on the date of death, and

"(D) with respect to which the executor elects the application of this section.

Subparagraph (C) shall not apply if the decedent died on or before October 22, 1986.

"(2) Certain assets held by spouse.—For purposes of paragraph (1)(C), any employer security which would have been includible in the gross estate of the spouse of a decedent during any period if the spouse had died during such period shall be treated as includible in the gross estate of the decedent during such period.

"(3) Periods during which decedent not at risk.—For purposes of paragraph (1)(C), employer securities shall not be treated as includible in the gross estate of the decedent during any period described in section 246(c)(4).

"(e) Written Statement Required.—

"(1) In general.—No deduction shall be allowed under subsection (a) unless the executor of the estate of the decedent files with the Secretary the statement described in paragraph (2).

"(2) Statement.—A statement is described in this paragraph if it is a verified written statement—

"(A) which is made by—

"(i) the employer whose employees are covered by the employee stock ownership plan, or

"(ii) any authorized officer of the eligible worker-owned cooperative, and

"(B) which—

"(i) acknowledges that the sale of employer securities to the plan or cooperative is a sale to which sections 4978A and 4979A apply, and

"(ii) certifies—

"(I) the net sale amount for purposes of subsection (c)(1), and

"(II) the amount of assets which are not transferred assets for purposes of subsection (c)(2).

"(f) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) EMPLOYER SECURITIES.—The term 'employer securities' has the meaning given such term by section 409(1).

"(2) EMPLOYEE STOCK OWNERSHIP PLAN.—The term 'employee stock ownership plan' means—

"(A) a tax credit employee stock ownership plan (within the meaning of section 409(a)), or

"(B) a plan described in section 4975(e)(7).

"(3) ELIGIBLE WORKER-OWNED COOPERATIVE.—The term 'eligible worker-owned cooperative' has the meaning given such term by section 1042(c).

"(4) EMPLOYER.—Except to the extent provided in regulations, the term 'employer' includes any person treated as an employer under subsections (b), (c), (m), and (o) of section 414.

"(g) TERMINATION.—This section shall not apply to any sale after December 31, 1991."

(b) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in this subsection, the amendments made by this section shall apply to sales after February 27, 1987.

(2) PROVISIONS TAKING EFFECT AS IF INCLUDED IN THE TAX REFORM ACT OF 1986.—The following provisions shall take effect as if included in the amendments made by section 1172 of the Tax Reform Act of 1986:

(A) Section 2057(f)(2) of the Internal Revenue Code of 1986, as added by this section.

(B) The repeal of the requirement that a sale be made by the executor of an estate to qualify for purposes of section 2057 of such Code.

(3) DIRECT OWNERSHIP REQUIREMENT.—If the requirements of section 2057(d)(1)(B) of such Code (as modified by section 2057(d)(2) of such Code), as in effect after the amendments made by this section, are met with respect to any employer securities sold after October 22, 1986, and before February 28, 1987, such securities shall be treated as having been directly owned by the decedent for purposes of section 2057 of such Code, as in effect before such amendments.

(4) REDUCTION FOR SALES ON OR BEFORE FEBRUARY 26, 1987.—In applying the limitations of subsection (b) of section 2057 of such Code to sales after February 27, 1987, there shall be taken into account sales on or before February 27, 1987, to which section 2057 of such Code applied.

SEC. 4613. EXCISE TAXES ON PLANS OR COOPERATIVES DISPOSING OF EMPLOYER SECURITIES FOR WHICH ESTATE TAX DEDUCTION WAS ALLOWED.

(a) IN GENERAL.—Chapter 43 (relating to excise taxes on qualified pension, etc., plans) is amended by inserting after section 4978 the following new section:

"SEC. 4978A. TAX ON CERTAIN DISPOSITIONS OF EMPLOYER SECURITIES TO WHICH SECTION 2057 APPLIED.

"(a) IMPOSITION OF TAX.—In the case of a taxable event involving qualified employer securities held by an employee stock ownership plan or eligible worker-owned cooperative, there is hereby imposed a tax equal to the amount determined under subsection (b).

"(b) AMOUNT OF TAX.—

"(1) IN GENERAL.—The amount of the tax imposed by subsection (a) shall be equal to 30 percent of—

"(A) the amount realized on the disposition in the case of a taxable event described in paragraph (1) or (2) of subsection (c), or

"(B) the amount repaid on the loan in the case of a taxable event described in paragraph (3) of subsection (c).

"(2) DISPOSITIONS OTHER THAN SALES OR EXCHANGES.—For purposes of paragraph (1), in the case of a disposition of employer securities which is not a sale or exchange, the amount realized on such disposition shall be the fair market value of such employer securities at the time of disposition.

"(c) TAXABLE EVENT.—For purposes of this section, the term 'taxable event' means the following:

"(1) DISPOSITION WITHIN 3 YEARS OF ACQUISITION.—Any disposition of employer securities by an employee stock ownership plan or eligible worker-owned cooperative within 3 years after such plan or cooperative acquired qualified employer securities.

"(2) STOCKS DISPOSED OF BEFORE ALLOCATION.—Any disposition of qualified employer securities to which paragraph (1) does not apply if—

"(A) such disposition occurs before such securities are allocated to accounts of participants or their beneficiaries, and

"(B) the proceeds from such disposition are not so allocated.

"(3) USE OF ASSETS TO REPAY ACQUISITION LOANS.—The payment by an employee stock ownership plan of any portion of any loan used to acquire employer securities from transferred assets (within the meaning of section 2057(c)(2)(B)).

"(d) ORDERING RULES.—For purposes of this section and section 4978, any disposition of employer securities shall be treated as having been made in the following order:

"(1) First, from qualified employer securities acquired during the 3-year period ending on the date of such disposition, beginning with the securities first so acquired.

"(2) Second, from qualified employer securities acquired before such 3-year period unless such securities (or the proceeds from such disposition) have been allocated to accounts of participants or their beneficiaries.

"(3) Third, from qualified securities (within the meaning of section 4978(e)(2)) to which section 1042 applied acquired during the 3-year period ending on the date of such disposition, beginning with the securities first so acquired.

"(4) Finally, from any other employer securities. In the case of a disposition to which section 4978(d) or subsection (e) applies, the disposition of employer securities shall be treated as having been made in the opposite order of the preceding sentence.

"(e) SECTION NOT TO APPLY TO CERTAIN DISPOSITIONS.—

"(1) IN GENERAL.—This section shall not apply to any disposition described in paragraph (1) or (3) of section 4978(d).

"(2) CERTAIN REORGANIZATIONS.—For purposes of this section, any exchange of qualified employer securities for employer securities of another corporation in any reorganization described in section 368(a)(1) shall not be treated as a disposition, but the employer securities which were received shall be treated—

"(A) as qualified employer securities of the plan or cooperative, and

"(B) as having been held by the plan or cooperative during the period the qualified employer securities were held.

"(3) DISPOSITION TO MEET DIVERSIFICATION REQUIREMENTS.—Any disposition which is made to meet the requirements of section 401(a)(28) shall not be treated as a disposition.

"(f) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) TERMS USED IN SECTION 2057.—Any term used in this section which is used in section 2057 shall have the meaning given such term by section 2057.

"(2) QUALIFIED EMPLOYER SECURITIES.—The term 'qualified employer securities' has the meaning given such term by section 2057, except that such term shall include employer securities sold before February 27, 1987, for which a deduction was allowed under section 2057.

"(3) DISPOSITION.—The term 'disposition' includes any distribution.

"(4) LIABILITY FOR PAYMENT OF TAXES.—The tax imposed by this section shall be paid by—

"(A) the employer, or

"(B) the eligible worker-owned cooperative, which made the written statement described in section 2057(e)."

(b) CONFORMING AMENDMENTS.—

(1) Section 4978(b)(2) is amended by striking out the parenthetical and inserting in lieu thereof "(determined as if such securities were disposed of in the order described in section 4978A(e))".

(2) The table of sections for chapter 43 is amended by inserting after the item relating to section 4978 the following new item:

"Sec. 4978A. Tax on certain dispositions of employer securities to which section 2057 applied."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable events (within the meaning of section 4978A(c) of the Internal Revenue Code of 1986 occurring after February 27, 1987.

TITLE V—CIVIL SERVICE AND GOVERNMENTAL AFFAIRS GENERALLY

SEC. 5001. PAY ADJUSTMENTS DURING FISCAL YEARS 1988, 1989, AND 1990.

(a) ADJUSTMENTS FOR EMPLOYEES UNDER STATUTORY PAY SYSTEMS.—

(1) ADJUSTMENTS UNDER TITLE 5, UNITED STATES CODE.—Notwithstanding any other provision of law, in fiscal year 1988, the overall percentage of adjustment under section 5305 of title 5, United States Code, in the rates of pay under the General Schedule and in the rates of pay under the other statutory pay systems shall be an increase of 2 percent.

(2) ADJUSTMENTS FOR UNIFORM SERVICES.—(A) Section 601 of the National Defense Authorization Act for Fiscal Years 1988 and 1989 is repealed.

(B) The table of contents of such Act is amended by striking out the following:

"Sec. 601. Military pay raise for fiscal year 1988.".

(3) CERTAIN STATUTORY REQUIREMENTS TO REMAIN IN EFFECT.—The provisions of paragraph (1) may not be construed to suspend the requirements of section 5305 of title 5; United States Code, with respect to fiscal years 1989 and 1990.

(4) UNIFORM ADJUSTMENTS; DELAYED EFFECTIVE DATES.—(A) Each increase in a pay rate or schedule which takes effect pursuant to paragraph (1) shall, to the maximum extent

practicable, be of the same percentage and shall take effect as of the beginning of the first applicable pay period beginning on or after January 1 of the fiscal year involved.

(B) Notwithstanding any other provision of law, in fiscal years 1989 and 1990, any percentage of adjustment under section 5305 of title 5, United States Code, in the rates of pay under the General Schedule and in the rates of pay under the other statutory pay systems shall take effect as of the beginning of the first applicable pay period beginning on or after January 1 of the fiscal year involved.

(b) CERTAIN PAY ADJUSTMENTS NOT APPLICABLE TO MEMBERS OF CONGRESS, AND OTHER SENIOR EXECUTIVE, LEGISLATIVE, AND JUDICIAL BRANCH OFFICERS.—

(1) For any pay period occurring in the fiscal year ending September 30, 1988, no adjustment in rates of pay made pursuant to section 5305 of title 5, United States Code, or the provisions of subsection (a) of this section, shall have the effect of increasing the rate of salary or basic pay for any office or position in the legislative, executive, or judicial branch to a rate exceeding the rate (or maximum rate, if higher) of salary or basic pay payable for the office or position as of September 30, 1987 if, as of such date, such rate (or maximum rate) is—

(A) fixed at a rate which is equal to or greater than the rate of basic pay for level V of the Executive Schedule under section 5316 of title 5, United States Code, or

(B) limited to a maximum rate which is equal to or greater than the rate of basic pay for level V (or to a percentage of such a maximum rate) by reason of section 5308 of title 5, United States Code, or any other provision of law or congressional resolution.

(2) No rate of pay for any office or position shall be increased after September 30, 1988, based on any increase by an adjustment that would have been received but for the provisions of paragraph (1), unless such increase is provided pursuant to a law enacted after the date of enactment of this Act.

(c) ADJUSTMENTS FOR PREVAILING RATE EMPLOYEES.

(1) LIMITATION.—Notwithstanding any other provision of law, and except as otherwise provided in this subsection, in the case of a prevailing rate employee, the total adjustment to any wage schedule or rate applicable to such employee which is to become effective (determined without regard to paragraph (2) or any other similar provision of law delaying the effective date of any pay adjustment) during fiscal year 1988, shall not exceed the overall percentage adjustment described in paragraphs (1)(A) and (4) of subsection (a) (determined without taking into account any adjustment which, but for section 15201 of the Consolidated Omnibus Budget Reconciliation Act of 1985 (Public Law 99-272), section 613 of the joint resolution entitled "A Joint Resolution making continuing appropriations for the fiscal year 1987, and for other purposes" approved October 30, 1986 (Public Laws 99-500 and 99-591; 100 Stat. 3341-330), or any other similar provision of law, would have become effective in fiscal year 1987).

(2) DELAYED EFFECTIVE DATES.—Notwithstanding any other provision of law, any increase permitted by paragraph (1) which is scheduled to take effect during fiscal year 1988 (determined without regard to this paragraph, section 15201 of the Consolidated Omnibus Reconciliation Act of 1985 (Public Law 99-272), section 613 of the joint resolution entitled "A Joint Resolution making continuing appropriations for the fiscal year 1987, and for other purposes" approved October 30, 1986 (Public Laws 99-500 and 99-591; 100 Stat. 3341-330), or any other similar provision of law delaying the effective date of any pay adjustment) shall take effect as of the beginning of the first applicable pay period beginning at least 90 days after the date on which such increase would have taken effect if this paragraph (and any other such similar provision of law) had not been enacted.

(3) NEGOTIATED WAGE SCHEDULES.—Notwithstanding section 9(b) of Public Law 92-392 or section 704(b) of Public Law 95-454, paragraph (1) shall apply (in such manner as the Office of Personnel Management shall prescribe) to prevailing rate employees to whom such section 9(b) applies, except that paragraph (1) shall not apply to any increase in a wage schedule or rate which is required by the terms of a contract entered into before the date of the enactment of this title.

(4) RULE OF CONSTRUCTION.—Nothing in this subsection or any provision of law governing the use of appropriated funds for the payment of employees covered by this subsection during the period covered by paragraph (1) (or any part of such period) shall be construed to permit or require the payment to any such employee at a rate in excess of the rate that would be payable were this subsection, or such provision of law governing the use of appropriated funds, not in effect.

(5) EXCEPTIONS.—The Office of Personnel Management may make exceptions from the limitations imposed by paragraph (1), if the Office determines that such exceptions are necessary to ensure the recruitment or retention of well-qualified employees.

(c) DEFINITIONS.—For purposes of this section—

(1) the term "prevailing rate employee" means any employee described in section 5342(a)(2) of title 5, United States Code, and any employee covered by section 5348 of such title; and

(2) the term "statutory pay system" has the meaning given such term by section 5301(c) of title 5, United States Code.

SEC. 5002. CASH MANAGEMENT IMPROVEMENTS.

(a) SHORT TITLE.—This section may be cited as the "Cash Management Improvement Act of 1987".

(b) PURPOSE.—It is the purpose of this section to increase equity in the exchange of funds between the Federal Government and the States and to increase the efficiency of efforts to manage cash throughout the Government by providing additional procedures and incentives for cash management.

(c) DISBURSEMENT OBJECTIVES.—

(1) DISBURSEMENT OF FEDERAL FUNDS.—Subchapter II of chapter 37 of title 31, United States Code, is amended by adding at the end thereof the following new section:

"§ 3720B. Disbursement of Federal funds

"Each head of an executive agency (other than the Tennessee Valley Authority) shall, under such regulations as the Secretary of the Treasury shall prescribe, provide for the timely disbursement of Federal funds through cash, checks, electronic funds transfer, or any other means identified by the Secretary. The Secretary may collect from any executive agency which does not comply with the preceding sentence a charge in an amount the Secretary determines to be the cost to the general fund of the Treasury caused by such noncompliance. The amounts of the charges paid under this section shall be deposited in the Treasury and credited as miscellaneous receipts. Any charge assessed by the Secretary under this section shall, to the maximum extent practicable, be paid out of appropriations available for agency operations and shall not reduce program funding levels.".

(2) CONFORMING AMENDMENT.—The chapter analysis for chapter 37 of such title is amended by inserting after the item relating to section 3720A the following new item:

"3720B. Disbursement of Federal funds.".

(3) REGULATIONS.—The Secretary of the Treasury shall prescribe regulations, including the regulations required under section 3720B of title 31, United States Code (as added by subsection (c) of this section) to ensure the full implementation of such section 3720B by October 1, 1988.

(d) PAYMENT OF INTEREST.—

(1) DEFINITIONAL AMENDMENTS.—Section 6501 of title 31, United States Code, is amended—

(A) by redesignating clauses (7), (8), and (9) as clauses (8), (9), and (10), respectively;

(B) by inserting after clause (6) the following new clause:

"(7) 'Secretary' means the Secretary of the Treasury."; and

(C) by striking out clause (9) (as redesignated by subparagraph (A) of this paragraph) and inserting in lieu thereof the following:

"(9) 'State' means a State of the United States, the District of Columbia, a territory or possession of the United States, and an agency, instrumentality, or fiscal agent of a State but does not mean a local government of a State.".

(2) INTERGOVERNMENTAL FINANCING.—(A) Section 6503 of title 31, United States Code, is amended to read as follows:

"§ 6503. Intergovernmental financing

"(a) Consistent with program purposes and with regulations of the Secretary, and by means mutually agreed upon by the Secretary and a State, the head of an executive agency carrying out a program shall schedule the transfer of funds to minimize the time elapsing between transfer of funds from the United States Treasury and the issuance or redemption of checks, warrants, or payments by other means by a State.

"(b) Consistent with program purposes and with regulations of the Secretary, and by means mutually agreed upon by the Secretary and a State, a State shall minimize the time elapsing between transfer of funds from the United States Treasury and the issuance or redemption of checks, warrants, or payments by other means for program purposes.

"(c)(1) The Secretary shall issue regulations that will require a State to pay interest on funds from the time that funds are deposited to the State's account until the time that funds are paid out in order to redeem checks or warrants or make payments by other means for program purposes. Such interest shall be calculated at a rate equal to the average of the bond equivalent rates of 13-week Treasury bills auctioned during the period for which interest is calculated, as determined by the Secretary.

"(2) Amounts received as payment of interest under this subsection shall be deposited in the Treasury and credited as miscellaneous receipts, except as provided in paragraph (3) of this subsection.

"(3) If interest is paid under paragraph (1) of this subsection on funds paid to a State from a trust fund for which the Secretary of the Treasury is the trustee, or from the Un-

employment Trust Fund, such interest shall be credited to such trust fund. If interest is paid under subsection (d) of this section as a result of a State disbursing its own funds for programs for which the Secretary of the Treasury is the trustee, or for the Unemployment Trust Fund, such interest shall be charged against such trust fund.

"(d) If a State disburses its own funds for program purposes in accordance with Federal law, regulation, or Federal-State agreement, the State shall be entitled to interest from the time when the State's funds are paid out to redeem checks or warrants, or make payments by other means, until the Federal funds are deposited to the State's bank account. The Secretary shall pay, out of any money in the Treasury not otherwise appropriated, such amounts as may be necessary for interest owed to a State under this subsection. Such interest shall be calculated, at a rate equal to the average of the bond equivalent rates of 13-week Treasury bills auctioned during the period for which interest is calculated, as determined by the Secretary.

"(e) The budget submitted by the President under section 1105 of this title for a fiscal year shall include a statement specifying, for the most recently completed fiscal year, amounts of interest paid to the Federal Government under subsection (c) of this section and payments of interest to States under subsection (d) of this section.

"(f) If a State receives refunds of funds, the State shall return those refunds to the executive agency administering the program or apply those funds to reduce the amount of funds owed to the State under such program. Interest earned on such refunds shall be considered when setting overall interest obligations between the State and the Federal Government as required by this section.

"(g) If the Federal Government makes a payment to a recipient under a Federal program, and a portion of the payment is an amount which the Federal Government is paying to such recipient on behalf of a State, such amount shall be considered to be a transfer of funds between the Federal Government and the State for purposes of this section.

"(h) A State may not be required by a law or regulation of the United States to deposit money received by it in a separate bank account. However, a State shall account for money made available to the State as United States Government money in the accounts of the State. The head of the State agency concerned shall make periodic authenticated reports to the head of the appropriate Federal executive agency on the status and the application of the money, the liabilities and obligations on hand, and other information required by the head of the executive agency. Records related to the money received by the State shall be made available to the head of the executive agency and the Comptroller General for auditing in accordance with chapter 75 of this title.

"(i) The Secretary shall prescribe the methods of payment of interest between the Federal Government and the States, including provisions for offsetting amounts owed by the respective parties. Such methods of payment shall provide for comparable treatment in manner, technique, and timing for both the States and the Federal Government.

"(j) The Inspector General of an executive agency, or an officer of an executive agency performing functions similar to an Inspector General, in the case of an agency in which an Inspector General has not been established by law, shall periodically conduct audits of the implementation of this section. Periodic audits of the implementation of this section shall also be conducted by the States within the scope of work performed under chapter 75 of this title.

"(k) Consistent with Federal program purposes and regulations of the Director of the Office of Management and Budget, the head of a Federal executive agency carrying out a program shall execute grant awards on a timely basis to assure the availability of funds to accomplish transfers in compliance with subsection (a) of this section.

"(l) In determining the amount to be paid by a State to the Federal Government under subsection (c) of this section, or to a State by the Federal Government under subsection (d) of this section, the Secretary shall consider costs incurred by the State determining the amount due.".

(B) The item relating to section 6503 in the chapter analysis for chapter 65 of title 31, United States Code, is amended to read as follows:

"6503. Intergovernmental financing.".

(3) APPLICATION OF AMENDMENTS.—

(A) Subject to subparagraph (B), the provisions of this section and the amendments made by this section shall apply to all Federal programs and shall supersede the provisions of any Federal law or regulation in effect on the date of enactment of this title.

(B) The provisions of subparagraph (A) shall apply only to programs and fund transfers involving those executive agencies that are subject to regulation by the Secretary of the Treasury under section 3720B of title 31, United States Code.

(e) IMPROVING THE COLLECTION AND DEPOSIT OF GOVERNMENT RECEIPTS THROUGH NATIONAL LOCKBOX SYSTEMS.—

(1) DEFINITIONS.—For purposes of this subsection—

(A) the term "executive agency" has the same meaning as in section 102 of title 31, United States Code;

(B) the term "lockbox system" means a system under which—

(i) persons owing payments to an executive agency transmit such payments to a locked post office box in offices of the United States Postal Service; and

(ii) such payments are collected from such box by a financial institution and are credited by such institution to the account of such agency without any specific action by such agency; and

(C) the term "Secretary" means the Secretary of the Treasury.

(2) STUDY.—The Secretary shall study and make recommendations concerning standards for the establishment of lockbox systems for executive agencies. In conducting such study, the Secretary shall—

(A) consider—

(i) the feasibility of establishing such systems;

(ii) the benefits and costs of establishing such systems; and

(iii) the needs of each executive agency for such a system;

(B) develop methods of internal controls and accounting by which the Government can assure that payments received through a lockbox system will be promptly and fully credited to the Treasury of the United States;

(C) develop criteria for the adoption of lockbox systems by executive agencies;

(D) analyze the feasibility and costs of operating lockbox systems through the Department of the Treasury, the Federal Reserve Board, or other appropriate executive agencies; and

(E) develop recommendations for the establishment of lockbox systems by executive agencies, with the cost of establishing and operating such systems paid by appropriated funds.

(3) REPORT.—Within one hundred eighty days after the date of enactment of this Act, the Secretary shall submit a report on the study conducted under paragraph (2) to the President pro tempore of the Senate and the Speaker of the House of Representatives. The report shall describe the findings of the study and contain such recommendations as the Secretary considers appropriate.

(4) GUIDELINES.—Within ninety days after submitting the report required under paragraph (3), the Secretary shall prescribe guidelines which specify procedures to be used by executive agencies in determining whether to establish and operate lockbox systems.

(5) SUBMISSION OF REPORT TO THE SECRETARY.—Within ninety days after the Secretary prescribes guidelines under paragraph (4), the head of each executive agency shall submit to the Secretary a report describing the plans of such agency for the establishment of a lockbox system or specifying the reasons why such a system is not feasible or cost effective for such agency.

SEC. 5003. CONTRIBUTIONS BY THE UNITED STATES POSTAL SERVICE TO THE CIVIL SERVICE RETIREMENT AND DISABILITY FUND.

(a) DEPOSIT OF CERTAIN SAVINGS IN FUND.—

(1) FISCAL YEARS 1988 AND 1989.—From all funds available to the United States Postal Service in fiscal years 1988 and 1989, the Postal Service shall deposit (from the capital savings resulting from the implementation of the provisions of subsection (b)) into the Civil Service Retirement and Disability Fund established under section 8348 of title 5, United States Code—

(A) an amount of $402,000,000 in fiscal year 1988, in addition to any amount deposited pursuant to subsection (h) of such section; and

(B) an amount of $536,000,000 in fiscal year 1989, in addition to any amount deposited pursuant to subsection (h) of such section.

(2) CONTRIBUTIONS FOR COST-OF-LIVING ADJUSTMENTS.—Section 8348(h) of title 5, United States Code, is amended by adding at the end thereof the following new paragraph:

"(3) Notwithstanding any other provision of law, in addition to any payments into the Fund under the provisions of paragraphs (1) and (2), the United States Postal Service shall pay into the Fund, on a cash basis in each fiscal year, an amount equal to the actual cost of any adjustments made under the provisions of section 8340 of this title for any individual who becomes an annuitant by reason of retirement from the United States Postal Service on or after October 1, 1989.".

(b) CAPITAL SAVINGS FOR FISCAL YEARS 1988 AND 1989.—

(1) The United States Postal Service may not make any commitment or obligation to expend any monies deposited in the Postal Service Fund established under section 2003 of title 39, United States Code, for the capital investment program—

(A) in excess of $447,000,000 in fiscal year 1988;

(B) in excess of $1,995,000,000 in fiscal year 1989; and

(C) in excess of $2,304,000,000 in fiscal year 1990 (subject to the provisions of section 5004(c)(5)(B), if applicable).

(2) CAPITAL INVESTMENT PROGRAMS.—For the purposes of paragraph (1) the term "capital investment program" shall include all investments in long-term assets and capital investment expenditures (including direct and indirect costs associated with such investments and expenditures, such as obligations through contracts), including but not limited to—

(A) modernization of capital facilities and vehicle fleet;

(B) automation of mail distribution functions, including retail operations and information systems; and

(C) all other capital expenditures approved by the Board of Governors or the duly authorized agents of the Board.

SEC. 5004. CONTRIBUTIONS BY THE UNITED STATES POSTAL SERVICE IN THE EMPLOYEES HEALTH BENEFITS FUND.

(a) CONTRIBUTIONS FOR ALL ANNUITANTS OF THE UNITED STATES POSTAL SERVICE.—Section 8906(g)(2) of title 5, United States Code, is amended by striking out "on or after October 1, 1986,".

(b) PAYMENTS FOR CONTRIBUTIONS IN FISCAL YEARS 1988 AND 1989.—

(1) PAYMENT LIMITATIONS.—Payments by the United States Postal Service made for contributions into the Employees Health Benefits Fund under section 8906(g)(2) of title 5, United States Code (as amended by subsection (a) of this section) in fiscal years 1988 and 1989 shall—

(A) be from all funds available to the United States Postal Service in each such fiscal year;

(B) be from funds representing savings to the United States Postal Service resulting from productivity improvements in each such fiscal year; and

(C) be paid into such Fund in each such fiscal year, without—

(i) increasing borrowing under section 2005 of title 39, United States Code;

(ii) increasing the operating budget of the United States Postal Service; or

(iii) increasing postal rates under chapter 36 of title 39, United States Code, for the purposes of financing such payment.

(2) PROVISIONS INAPPLICABLE TO CERTAIN ANNUITANTS.—The provisions of paragraph (1) shall not apply to the payment of contributions under section 8906(g)(2) of title 5, United States Code (as amended by subsection (a) of this section) for any individual who retires as an annuitant from the United States Postal Service on or after October 1, 1986.

(c) PRODUCTIVITY IMPROVEMENT PLANS, REPORTS, AND COMPLIANCE FOR FISCAL YEARS 1988 AND 1989.—

(1) PRODUCTIVITY IMPROVEMENT PLANS.—No later than March 1, 1988 for fiscal year 1988, and October 1, 1988 for fiscal year 1989, the United States Postal Service shall—

(A) formulate a productivity improvement plan specifically enumerating the methods by which the Postal Service shall make the payments required under paragraph (1) of subsection (b) and fulfill the conditions required under subparagraphs (A), (B), and (C) of such paragraph; and

(B) submit such plan to the President and the Committee on Governmental Affairs of the Senate and the Committee on the Post Office and Civil Service of the House of Representatives.

(2) INTERIM REPORT.—No later than July 15, 1988 for fiscal year 1988, and March 1, 1989 for fiscal year 1989, the United States Postal Service shall submit an interim report to the President and the Committee on Governmental Affairs of the Senate and the Committee on Post Office and Civil Service of the House of Representatives on the status of meeting the guidelines and goals of the plans submitted under paragraph (1)(B), and any adjustments necessary to meet the requirements under the provisions of subsection (b)(1) of this section for each such fiscal year.

(3) PRELIMINARY AUDIT AND REPORT BY THE GENERAL ACCOUNTING OFFICE.—No later than September 1, 1988 for fiscal year 1988, and September 1, 1989 for fiscal year 1989, the General Accounting Office shall—

(A) conduct an audit of the plans and adjustments to the plans submitted by the United States Postal Service under paragraphs (1) and (2) of this subsection and determine the extent of compliance of the Postal Service with such plans and the requirements of subsection (b)(1) of this section; and

(B) submit a report of such audit and determinations to the President and the Committee on Governmental Affairs of the Senate and the Committee on Post Office and Civil Service of the House of Representatives.

(4) DETERMINATION OF COMPLIANCE.—

(A) On October 31, 1988 for fiscal year 1988, and on October 31, 1989 for fiscal year 1989, the General Accounting Office shall—

(i) make a final audit and determination of whether the United States Postal Service is in compliance with the requirements of subsection (b)(1) of this section; and

(ii) submit a final report for each such fiscal year on such compliance to the President and the Committee on Governmental Affairs of the Senate and the Committee on Post Office and Civil Service of the House of Representatives.

(B) Notwithstanding the provisions of section 2005(a) of title 39, United States Code, or any other provision of law, the United States Postal Service may not increase the net increase in the amount of obligations outstanding issued, under the provisions of such section, for purposes of defraying operating expenses of the Postal Service during the period beginning on October 1, 1988, through October 31, 1988.

(5) FISCAL YEARS 1988 AND 1989 COMPLIANCE PROVISIONS.—

(A)(i) Any portion of the payments made into the Employees Health Benefits Fund under paragraph (1) of subsection (b) of this section in fiscal year 1988, that is not in compliance with the provisions of subparagraphs (B) and (C) of such paragraph shall be paid from all funds available to the Postal Service.

(ii) An amount equal to any portion of the payments described under clause (i) shall—

(I) be an additional amount of savings included in the productivity improvement plan formulated for fiscal year 1989; and

(II) be achieved as an additional savings in fiscal year 1989 in order to be in compliance with the audit and determination by the General Accounting Office under paragraph (4) for fiscal year 1989.

(B) The limitation on the capital investment program for fiscal year 1990 under the provisions of section 5003(b)(1)(C) shall be further reduced, if applicable, by the amount necessary to achieve expenditure savings in fiscal year 1990 equal to—

(i) the amount of any portion of payments made into the Employees Health Benefit Fund for fiscal year 1989 pursuant to paragraph (1) of subsection (b) of this section, that is not in compliance with the provisions of subparagraphs (B) and (C) of such paragraph; and

(ii) any additional amount of savings which were not achieved as required by the provisions of subparagraph (A)(ii) of this paragraph.

TITLE VI—LABOR AND HUMAN RESOURCES

Subtitle A—Retirement Security Promotion

SEC. 6001. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This subtitle may be cited as the "Retirement Security Promotion Act of 1987".

(b) TABLE OF CONTENTS.—The table of contents is as follows:

TABLE OF CONTENTS

Sec. 6001. Short title; table of contents.
Sec. 6002. Minimum benefit security level.
Sec. 6003. Asset withdrawals permitted from certain ongoing single-employer plans; related definitions.
Sec. 6004. Limitations on employer reversions upon plan termination.
Sec. 6005. Three-year amortization of underfunding of plans of controlled group upon distribution to employer from a terminated plan or upon certain transactions involving plan assets; tax-free transfers between certain single-employer plans in same controlled group.
Sec. 6006. Funding waivers.
Sec. 6007. Liability of members of controlled group for taxes on failure to meet minimum funding standards.
Sec. 6008. Increase in liabilities arising upon plan termination.
Sec. 6009. Amendments relating to section 4049 trust.
Sec. 6010. Single-employer plan benefit guaranty premiums.
Sec. 6011. Interest rate on accumulated contributions.
Sec. 6012. Increase in minimum funding standards.
Sec. 6013. Time for making contributions.
Sec. 6014. Study of event-contingent benefits.
Sec. 6015. Effective date.

SEC. 6002. MINIMUM BENEFIT SECURITY LEVEL.

(a) AMENDMENT TO EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.—Section 3 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002) is amended by adding at the end the following new paragraphs:

"(41) MINIMUM BENEFIT SECURITY LEVEL.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'minimum benefit security level' for a plan means the sum of—

"(i) the greater of—

"(I) an amount equal to the full funding limitation (within the meaning of section 302(c)(7)) with respect to such plan, using the projected unit credit funding method, or

"(II) 125 percent of the actuarial present value of all benefit liabilities under the plan, and

"(ii) the amount which would be required to be distributed from the plan under section 4044(d)(2)(A) if the plan terminated.

"(B) SPECIAL RULE FOR PLANS PROVIDING QUALIFIED EVENT-CONTINGENT BENEFITS.—

"(i) IN GENERAL.—In any case in which a plan provides a qualified event-contingent benefit, the term 'minimum benefit security level' for such plan means the lesser of—

"(I) the sum of 150 percent of the amount described in subparagraph (A)(i) (determined without regard to qualified event-contingent benefits for which the contingen-

cy has not occurred) plus the amount described in subparagraph (A)(ii), or

"(II) the amount which would be determined as the amount described in subparagraph (A) if all qualified event-contingent benefits of participants or beneficiaries under the plan, which have not occurred as of the time of the determination, occurred immediately before the determination.

"(ii) QUALIFIED EVENT-CONTINGENT BENEFIT.—For purposes of clause (i), the term 'qualified event-contingent benefit' means any subsidy or benefit which is contingent upon the occurrence of an event which,

"(I) has not occurred, and

"(II) does not constitute an event occurring solely with respect to a participant or beneficiary (such as the attainment of any age, disability, death, or the completion of any period of service).

"(C) INTEREST RATE ASSUMPTION.—The interest rate assumed for purposes of subparagraph (A)(i)(II) shall be—

"(i) the interest rate stated in the plan for purposes of determining single sum distributions, or

"(ii) if no interest rate is stated in the plan for such purposes, 120 percent of the applicable interest rate (within the meaning of section 203(e)(2)(B)).

"(D) REGULATIONS.—The Secretary of the Treasury may prescribe regulations to carry out the provisions of this paragraph. Any such regulations shall be prescribed in consultation with the Secretary.

"(42) BENEFIT LIABILITIES.—The term 'benefit liabilities' under a plan to any person means all benefits of such person under the plan (including benefits which are not protected under section 204(g)).".

(b) AMENDMENT TO INTERNAL REVENUE CODE OF 1986.—Section 414 of the Internal Revenue Code of 1986 (relating to definitions and special rules) is amended by adding at the end the following new subsection:

"(u) MINIMUM BENEFIT SECURITY LEVEL.—

"(1) IN GENERAL.—For purposes of this part, except as provided in paragraph (2), the term 'minimum benefit security level' with respect to a plan means the sum of—

"(A) the greater of—

"(i) an amount equal to the full funding limitation (within the meaning of section 412(c)(7)) with respect to such plan, using the projected unit credit funding method, or

"(ii) 125 percent of the actuarial present value of all benefit liabilities under the plan, and

"(B) the amount which would be required to be distributed from the plan under section 4044(d)(2)(A) of the Employee Retirement Income Security Act of 1974 if the plan terminated.

"(2) SPECIAL RULE FOR PLANS PROVIDING QUALIFIED EVENT-CONTINGENT BENEFITS.—

"(A) IN GENERAL.—For purposes of this part, in any case in which a plan provides a qualified event-contingent benefit, the term 'minimum benefit security level' means with respect to such plan the lesser of—

"(i) the sum of 150 percent of the amount described in paragraph (1)(A) (other than qualified event-contingent benefits) plus the amount described in paragraph (1)(B), or

"(ii) the amount which would be determined as the amount described in paragraph (1) if all qualified event-contingent benefits of participants or beneficiaries under the plan, which have not occurred as of the time of the determination, occurred immediately before the determination.

"(B) QUALIFIED EVENT-CONTINGENT BENEFIT.—For purposes of subparagraph (A), the term 'qualified event-contingent benefit' means any subsidy or benefit which—

"(i) is contingent upon the occurrence of an event which has not occurred, and

"(ii) does not constitute an event occurring solely with respect to a participant or beneficiary (such as the attainment of any age, disability, death, or the completion of any period of service).

"(3) INTEREST RATE ASSUMPTION.—The interest rate assumed for purposes of paragraph (1)(A)(ii) shall be—

"(A) the interest rate stated in the plan for purposes of determining single sum distributions, or

"(B) if no interest rate is stated in the plan for such purposes, 120 percent of the applicable interest rate (within the meaning of section 411(a)(11)(B)(ii)).

"(4) BENEFIT LIABILITIES.—For purposes of this subsection, the term 'benefit liabilities' under a plan to any person means all benefits of such person under the plan (including benefits which are not protected under section 411(d)(6)).

"(5) REGULATIONS.—The Secretary may prescribe regulations to carry out the provisions of this subsection. Any such regulations shall be prescribed in consultation with the Secretary of Labor.".

SEC. 6003. ASSET WITHDRAWALS PERMITTED FROM CERTAIN ONGOING SINGLE-EMPLOYER PLANS; RELATED DEFINITIONS.

(a) AMENDMENTS TO THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.—

(1) IN GENERAL.—Part 4 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 is amended—

(A) by redesignating section 414 (29 U.S.C. 1114) as section 415; and

(B) by inserting after section 413 (29 U.S.C. 1113) the following new section:

"SEC. 414. ASSET WITHDRAWALS FROM CERTAIN ONGOING SINGLE-EMPLOYER PLANS.

"(a) IN GENERAL.—The requirements of this part shall not be treated as violated solely by reason of a withdrawal by the employer during any plan year of assets of an ongoing single-employer plan providing for the withdrawal of plan assets if—

"(1) the employer, and each member of a controlled group including the employer, has not terminated a plan described in section 4021 with assets insufficient to satisfy all benefit liabilities, except that this paragraph shall not apply in any case in which the participants of such earlier terminated plan and the corporation have been placed in a financial position that is not worse than that in which the participants would have been placed had the earlier plan terminated with sufficient assets to meet benefit liabilities, and

"(2) immediately after the withdrawal—

"(A) the current value of the assets in the plan from which the withdrawal is made is not less than the minimum benefit security level (as defined in section 3(41)) for such plan, and

"(B) the current value of the assets in each other single-employer plan (if any) which is maintained by the employer (or by any other person who is, at the time of the withdrawal, in the controlled group including the employer) is not less than the minimum benefit security level for such plan.

"(b) SPECIAL RULES FOR RECENTLY AMENDED PLANS AND FOR MERGERS, CONSOLIDATIONS, AND TRANSFERS OF PLAN ASSETS.—

"(1) IN GENERAL.—In determining the extent to which a plan provides for the withdrawal of plan assets by the employer for purposes of this section, any such provision, and any amendment increasing the amount which may be withdrawn, shall not be treated as effective before the end of the fifth calendar year following the date of the adoption of such provision or amendment.

"(2) TREATMENT OF PLANS AFTER MERGERS, CONSOLIDATIONS, AND TRANSFERS.—Except as otherwise provided in regulations of the Secretary of the Treasury, in the case of a transaction described in section 208, paragraph (1) shall continue to apply separately with respect to the amount of any assets involved in such transaction.

"(3) EXCEPTION FOR CERTAIN EXISTING PLANS.—Paragraph (1) shall not apply with respect to any plan which provides on October 9, 1987, in accordance with section 4044(d) (as in effect on such date), for a distribution of plan assets to the employer upon plan termination.

"(c) RIGHT OF AFFECTED PARTIES TO ADVANCE NOTICE OF PLAN AMENDMENTS PERMITTING ASSET WITHDRAWAL.—A plan may not be amended so as to provide for the withdrawal of plan assets or an increase in the amount which may be withdrawn, in accordance with this section, unless the plan amendment is effective not earlier than 180 days after the employer has provided written notice of such amendment to all affected parties (within the meaning of section 3(46)).

"(d) ONGOING PLAN.—For purposes of this section, a plan is 'ongoing' to the extent that, under both title IV and section 411(d)(3) of the Internal Revenue Code of 1986, the plan is not treated as a terminated plan.

"(e) APPLICATION TO MULTIPLE-EMPLOYER PLANS.—The provisions of this section shall apply with respect to multiple-employer plans (within the meaning of section 3(44)) only to the extent provided in regulations prescribed by the Secretary of the Treasury in consultation with the Secretary.

"(f) REGULATIONS.—

"(1) SUBSECTIONS (a) and (b).—The Secretary of the Treasury, in consultation with the Secretary, may promulgate such regulations as may be necessary under subsections (a) and (b).

"(2) SUBSECTION (c).—The Secretary may promulgate such regulations as may be necessary under subsection (c).".

(2) PLAN PROVISION MAY PROVIDE FOR ASSET WITHDRAWAL.—Part 4 of subtitle B of title I of such Act is amended—

(A) in section 402(c) (29 U.S.C. 1102(c)), by striking "or" at the end of paragraph (2), by striking "plan." in paragraph (3) and inserting "plan; or", and by adding at the end the following new paragraph:

"(4) that the employer may withdraw plan assets from the plan to the extent permitted under section 414.";

(B) in section 403(c)(1) (29 U.S.C. 1103(c)(1)), by inserting ", or under section 414 (relating to withdrawal of plan assets)" after "subsection (d),"; and

(C) in section 404(a)(1) (29 U.S.C. 1104(a)(1)), by inserting "414," after "403 (c) and (d),".

(3) 60-DAY NOTICE REQUIREMENT FOR PLAN ASSET WITHDRAWAL.—

(A) IN GENERAL.—Section 104 of such Act (29 U.S.C. 1024) is amended—

(i) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

(ii) by inserting after subsection (b) the following new subsection:

"(c)(1) Not later than 60 days after the date of any withdrawal of plan assets by the employer pursuant to section 414, the employer maintaining the plan from which the withdrawal was made shall provide the Secretary, the Secretary of the Treasury, the ad-

ministrator, and each employee organization representing participants in the plan a written notice of such withdrawal. Any such notice shall be maintained in the principal office of the administrator.

"(2) Such notice shall identify the plan from which the withdrawal was made, the amount of the withdrawal, a detailed accounting of assets held by the plan immediately before and immediately after the withdrawal, the benefit liabilities under the plan at the time of the withdrawal, the types of qualified event-contingent benefits (if any) under the plan, the amount of the benefit liabilities assumed as qualified event-contingent benefits, and a statement of all transactions described in section 208 involving the plan during the period commencing with the period of 2 calendar years preceding the withdrawal and ending with the date of the withdrawal.

"(3) Such notice shall include the name and identification of each other single-employer plan maintained by a person in the controlled group including the employer at the time of the withdrawal and the employer maintaining such plan, the current value of the assets of such plan and the present value of the benefit liabilities of such plan at the beginning and end of the last plan year preceding the withdrawal, and a listing of all transactions described in section 208 involving such plan during the 2-year period preceding the withdrawal.

"(4) Such notice shall include copies of all associated Internal Revenue Service filings required pursuant to section 6058 of the Internal Revenue Code of 1986 with respect to—

"(A) the plan from which the withdrawal was made,

"(B) each other single-employer plan maintained by the employer or any other person who was in a controlled group including the employer at the time of the withdrawal during the period commencing with the period of 2 calendar years preceding the withdrawal and ending with the date of the withdrawal, and

"(C) to the extent provided by regulation, each other single-employer plan maintained by the employer and each other person in the controlled group.

"(5) Such notice shall include a certification by an enrolled actuary (including supporting documentation) that the requirements of section 414(a) were met with respect to the withdrawal.

"(6) The Secretary may prescribe such additional reporting requirements as may be necessary to carry out the purpose of section 414 and other related provisions.".

(B) RIGHT TO EXAMINATION OF INFORMATION.—Section 104(b)(2) of such Act (29 U.S.C. 1024(b)(2)) is amended—

(i) by striking "description and" and inserting "description,";

(ii) by striking "report and" and inserting "report,"; and

(iii) by striking "operated" and inserting "operated, and any notice and certification provided pursuant to subsection (c)".

(C) PENALTY FOR FAILURE TO PROVIDE NOTICE.—Section 502(i) of such Act (29 U.S.C. 1132(i)) is amended—

(i) by inserting "(1)" after "(i)";

(ii) by striking "subsection" in the last sentence and inserting "paragraph"; and

(iii) by adding at the end the following new paragraphs:

"(2) The Secretary may assess a civil penalty against any employer who fails to provide a notice as required under section 104(c). The amount of such penalty may not exceed the greater of—

"(A) $5,000 per day, or

"(B) one-tenth of 1 percent per day of the amount withdrawn,

for the period beginning with the date on which such failure first occurs and ending with the date on which such notice is so provided.".

(4) PERMITTED ASSET WITHDRAWALS CONSTITUTING AN EXEMPTION FROM PROHIBITED TRANSACTIONS.—Section 408(b) of such Act (29 U.S.C. 1108(b)) is amended by inserting after paragraph (11) the following:

"(12) A withdrawal of assets from the plan permitted under section 414.".

(5) DEFINITION OF SINGLE-EMPLOYER PLAN AND MULTIPLE EMPLOYER PLAN.—Section 3 of such Act (29 U.S.C. 1002) (as amended by section 6002(a) of this Act) is further amended by adding at the end the following new paragraphs:

"(43) SINGLE-EMPLOYER PLAN.—The term 'single-employer plan' means a defined benefit plan which is not a multiemployer plan.

"(44) MULTIPLE-EMPLOYER PLAN.—

"(A) IN GENERAL.—The term 'multiple-employer plan' means a single-employer plan which is maintained by more than one employer.

"(B) TREATMENT OF CONTROLLED GROUP.—For purposes of subparagraph (A), any 2 or more employers who are in the same controlled group shall be treated as a single employer.".

(6) DEFINITION OF CONTROLLED GROUP.—Section 3 of such Act (as amended by paragraph (5)) is further amended by adding at the end the following new paragraph:

"(44) CONTROLLED GROUP.—

"(A) IN GENERAL.—The term 'controlled group' means, in connection with any person, a group consisting of such person and all other persons under common control with such person.

"(B) COMMON CONTROL.—For purposes of subparagraph (A), the determination of whether two or more persons are under 'common control' shall be made under regulations prescribed by the Secretary of the Treasury under subsections (b), (c), (m), and (o) of section 414 of the Internal Revenue Code of 1986.".

(7) CLERICAL AMENDMENT.—The table of contents in section 1 of such Act (29 U.S.C. 1001 note) is amended by striking the item relating to section 414 and inserting the following new items:

"Sec. 414. Asset withdrawals from certain ongoing single-employer plans.
"Sec. 415. Effective date.".

(b) AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1986.—

(1) IN GENERAL.—Subsection (a) of section 401 of the Internal Revenue Code of 1986 (relating to requirements for qualification) is amended by inserting after paragraph (28) the following new paragraph:

"(29) WITHDRAWAL BY EMPLOYER OF PLAN ASSETS.—

"(A) IN GENERAL.—A trust forming a part of a defined benefit plan (other than a multiemployer plan) shall not be treated as failing to constitute a qualified trust under this section solely by reason of a withdrawal of plan assets by the employer permitted under section 4975(d)(16).

"(B) EFFECT OF CORRECTION OF WITHDRAWAL.—Notwithstanding subparagraph (A), in the event that the employer becomes subject to tax under section 4980A (relating to excise tax on certain withdrawals of plan assets) and corrects (as defined in section 4980A(d)(4)) such excess withdrawal within 90 days after the withdrawal giving rise to the tax, then the plan shall not fail to constitute a qualified trust under this section solely by reason of the withdrawal, except to the extent inconsistent with the purposes of this paragraph, or as otherwise prescribed by the Secretary in regulations.".

(2) TREATMENT OF SECTION 403(b) ANNUITY PLANS.—Section 404(a)(2) of such Code (relating to taxation of employees' annuities) is amended by inserting "and (29)" before "and, if applicable".

(3) PERMITTED ASSET WITHDRAWALS CONSTITUTING AN EXEMPTION FROM PROHIBITED TRANSACTIONS.—Subsection (d) of section 4975 of such Code (relating to exemptions from prohibited transactions) is amended—

(A) in paragraph (14), by striking "(F); or" and inserting "(F);";

(B) in paragraph (15), by striking "(F)." and inserting "(F); or"; and

(C) by inserting after paragraph (15) the following:

"(16) a withdrawal of assets of the plan in accordance with section 414 of the Employee Retirement Income Security Act of 1974.".

(4) ACTUARIAL STATEMENTS REQUIRED IN CASE OF ASSET WITHDRAWAL.—Subsection (b) of section 6058 of such Code (relating to actuarial statement in case of mergers, etc.) is amended—

(A) by striking "(b) ACTUARIAL" and all that follows through "the plan administrator" and inserting the following:

"(b) ACTUARIAL STATEMENT IN CASE OF MERGERS, ETC., OR ASSET WITHDRAWAL.—Not less than 30 days before—

"(1) a merger, consolidation, or transfer of assets or liabilities of a plan described in subsection (a) to another plan, or

"(2) a withdrawal of plan assets described in section 401(a)(29),

the plan administrator"; and

(B) by inserting "or section 401(a)(29) (as applicable)" after "section 401(a)(12)".

(5) EXCISE TAX ON CERTAIN WITHDRAWALS.—

(A) IN GENERAL.—Chapter 43 of such Code (relating to excise taxes relating to qualified pension, etc., plans) is amended by adding at the end the following new section:

"SEC. 4980A. TAX ON CERTAIN WITHDRAWALS OF PLAN ASSETS.

"(a) IMPOSITION OF TAX.—There is hereby imposed a tax on each withdrawal of plan assets from a qualified plan by the employer maintaining the plan if the amount of such withdrawal is in excess of the permissible amount.

"(b) AMOUNT OF TAX.—The amount of the tax imposed by subsection (a) shall be a percentage of the amount in excess of the permissible amount, determined as follows:

"(1) CORRECTION WITHIN 90 DAYS.—If a correction occurs with respect to the withdrawal before the end of the 90-day period following the date of the withdrawal, the amount of the tax shall be 5 percent of the amount in excess of the permissible amount.

"(2) CORRECTION WITHIN 365 DAYS.—If a correction does not occur with respect to the withdrawal before the end of the 90-day period described in paragraph (1) but does occur before the end of the 365-day period following the date of the withdrawal, the amount of the tax shall be 50 percent of the amount in excess of the permissible amount.

"(3) NO CORRECTION WITHIN 365 DAYS.—If a correction does not occur with respect to the withdrawal before the end of the 365-day period following the date of the withdrawal, the amount of the tax shall be 100 percent of the amount in excess of the permissible amount and an additional 100 percent of such excess for each subsequent 365-day

period as of the end of which a correction has not occurred.

"(c) LIABILITY FOR TAX.—The tax imposed by subsection (a) shall be paid by the employer making the withdrawal.

"(d) DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED PLAN.—The term 'qualified plan' means any defined benefit plan (other than a multiemployer plan) meeting the requirements of section 401(a) or 403(b). Such term shall include any defined benefit plan (other than a multiemployer plan) which at any time has been determined by the Secretary to be a qualified plan (within the meaning of the preceding sentence) or for which deductions have been taken by an employer under section 404.

"(2) PERMISSIBLE AMOUNT.—

"(A) IN GENERAL.—The term 'permissible amount' means the amount (as of immediately before the withdrawal) of the excess of the market value of plan assets over the minimum benefit security level of the plan.

"(B) EXCLUSION.—Such term does not include the market value of plan assets with respect to which a withdrawal may not occur by reason of a failure to meet any requirement of subsection (b) or (c) of section 414 of the Employee Retirement Income Security Act of 1974.

"(C) RECOMPUTATION TO ACCOUNT FOR NEW QUALIFIED EVENT-CONTINGENT BENEFITS.—Pursuant to such regulations as may be prescribed by the Secretary, if within 365 days after the withdrawal, the plan is amended to include (or increase) qualified event-contingent benefits (within the meaning of section 414(u)(2)(B)), the permissible amount shall be recomputed as of the time of the withdrawal and the amount of tax imposed under this subsection shall be determined as though such benefits (or such increase in such benefits) were included in the plan as of the time of the withdrawal.

"(3) MINIMUM BENEFIT SECURITY LEVEL.—The term 'minimum benefit security level' has the meaning provided in section 414(u).

"(4) CORRECTION.—The term 'correction' means, with respect to a withdrawal of plan assets, placing the plan in a financial position not worse than that in which the plan would be if the amount of the withdrawal had not been in excess of the permissible amount as of immediately before the withdrawal.".

(B) CONFORMING AMENDMENT RELATING TO EXCISE TAX ON PROHIBITED TRANSACTIONS.—Section 4975(g) of such Code (relating to tax on prohibited transactions) is amended by adding at the end the following new sentence: "This section shall not apply with respect to a prohibited transaction to which section 4980A applies.".

(C) CLERICAL AMENDMENT.—The table of sections for chapter 43 of such Code is amended by adding at the end the following new item:

"Sec. 4980A. Tax on certain withdrawals of plan assets.".

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply with respect to withdrawals occurring after the later of—

(A) December 31, 1987, or

(B) 90 days after the date of the enactment of this Act.

(2) TRANSITION RULE.—In the case of any plan which is amended to provide for the withdrawal of plan assets under section 414 of the Employee Retirement Income Security Act of 1974 (as added by this section) during the first plan year beginning after December 31, 1988, subsection (b)(1) of such section shall be applied by substituting "fourth plan year" for "fifth plan year".

SEC. 6004. LIMITATIONS ON EMPLOYER REVERSIONS UPON PLAN TERMINATION.

(a) IN GENERAL.—Section 4044(d) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1344(d)) is amended to read as follows:

"(d) DISTRIBUTION OF PLAN ASSETS.—

"(1) IN GENERAL.—In any case in which there are plan assets remaining after satisfaction of all liabilities described in subsection (a), such assets shall be distributed in accordance with this subsection.

"(2) DISTRIBUTION OF ASSETS ATTRIBUTABLE TO EMPLOYEE CONTRIBUTIONS.—

"(A) IN GENERAL.—The remaining assets of the plan which are attributable to employee contributions shall be equitably distributed to the participants who made such contributions or their beneficiaries (including alternate payees, within the meaning of section 206(d)(3)(K)).

"(B) PORTION OF ASSETS ATTRIBUTABLE TO EMPLOYEE CONTRIBUTIONS.—For purposes of subparagraph (A), the portion of the remaining assets which are attributable to employee contributions shall be an amount equal to the product derived by multiplying—

"(i) the market value of total remaining assets, by

"(ii) a fraction—

"(I) the numerator of which is the present value of all portions of the accrued benefits with respect to participants which are derived from participants' mandatory contributions (referred to in subsection (a)(2)), and

"(II) the denominator of which is the present value of all benefits (or portions thereof) with respect to which assets are allocated under paragraphs (2) through (6) of subsection (a).

"(C) PARTICIPANTS AND BENEFICIARIES.—For purposes of this paragraph and paragraph (3), each person who is, as of the termination date—

"(i) a participant under the plan,

"(ii) an individual who has received, during the 3-year period ending with the termination date—

"(I) a distribution from the plan of such individual's entire nonforfeitable benefit in the form of a single sum distribution in accordance with section 203(e), or

"(II) a distribution from the plan in the form of irrevocable commitments purchased by the plan from an insurer to provide such nonforfeitable benefit,

shall be treated as a participant with respect to the termination, if all or part of the nonforfeitable benefit with respect to such person is or was attributable to employee contributions.

"(3) DISTRIBUTION OF ASSETS TO PARTICIPANTS AND BENEFICIARIES.—

"(A) IN GENERAL.—The remaining assets of the plan which are not required to be distributed under paragraph (2) shall be distributed among participants or beneficiaries (including alternate payees, within the meaning of section 206(d)(3)(K)) with respect to the termination to the extent provided in subparagraph (B) and in the manner provided in subparagraph (C).

"(B) AMOUNT AVAILABLE FOR DISTRIBUTION.—The amount of the remaining assets described in subparagraph (A) which are required to be distributed under this paragraph is an amount equal to the lesser of—

"(i) the amount of the remaining assets described in subparagraph (A), or

"(ii) the excess (not less than zero) of—

"(I) the minimum benefit security level (within the meaning of section 3(41)) of the plan as of the termination date, over

"(II) the sum of plan assets allocated under subsection (a) and plan assets distributed under paragraph (2).

"(C) MANNER OF DISTRIBUTION.—The amount distributed under this paragraph shall be distributed among the participants or beneficiaries (including alternate payees, within the meaning of section 206(d)(3)(K)) with respect to the termination so that each such participant and beneficiary receives an equal amount.

"(4) DISTRIBUTION TO EMPLOYER.—

"(A) IN GENERAL.—The remaining assets of the plan which are not required to be distributed under paragraphs (2) and (3) may be distributed to the employer if—

"(i) the distribution to the employer does not contravene any applicable provision of law,

"(ii) the plan provides for such distribution, subject to the requirements of subparagraph (B), and

"(iii) the employer, and each member of a controlled group including the employer, has not terminated a plan described in section 4021 with assets insufficient to satisfy all benefit liabilities, except that this clause shall not apply in any case in which the participants of such earlier terminated plan and the corporation have been placed in a financial position that is not worse than that in which the participants would have been placed had the earlier plan terminated with sufficient assets to meet benefit liabilities.

"(B) SPECIAL RULE FOR RECENTLY AMENDED PLANS.—

"(i) IN GENERAL.—In determining the extent to which a plan provides for the distribution of plan assets to the employer for purposes of this paragraph, any such provision, and any amendment increasing the amount which may be distributed to the employer, shall not be treated as effective before the end of the fifth calendar year following the date of the adoption of such provision or amendment.

"(ii) RECENTLY ESTABLISHED PLANS.—A distribution to the employer from a plan shall not be treated as failing to satisfy the requirements of this subparagraph if the plan has been in effect for fewer than 5 years and the plan has provided for such a distribution since the effective date of the plan.

"(iii) TREATMENT OF PLANS AFTER MERGERS, CONSOLIDATIONS, AND TRANSFERS.—Except as otherwise provided in regulations of the Secretary of the Treasury, in any case in which a transaction described in section 208 occurs, clause (i) shall continue to apply separately with respect to the amount of any assets transferred in such transaction.

"(C) EMPLOYER.—For purposes of this paragraph, the term 'employer' has the meaning provided in section 3(5).

"(5) DISTRIBUTION IN ABSENCE OF DISTRIBUTION TO EMPLOYER.—Except as otherwise provided in the terms of the plan or in any other document under which the plan is maintained or operated, assets of the plan which remain after distributions in accordance with paragraphs (2) and (3) and which are not distributed as provided in paragraph (4) shall be distributed to the participants and beneficiaries in the same proportions as assets of the plan are allocated under subsection (a).

"(6) GENERAL QUALIFICATION REQUIREMENTS.—If the Secretary of the Treasury determines that any distribution made pursuant to this subsection (without regard to this paragraph) results in discrimination prohibited by section 401(a)(4) of the Internal Revenue Code of 1986 or a violation of section 415 of such Code, then the distribution may be revised to prevent discrimination under section 401(a) or 403(b) of such Code or a violation of section 415 of such Code".

(b) TECHNICAL AMENDMENT.—Section 4044(b)(4) of such Act (29 U.S.C. 1344(b)(4)) is amended by striking "section 401(a), 403(a), or 405(a)" and inserting "section 401(a) or 403(a)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to terminations with respect to which the termination date occurs on or after October 9, 1987.

SEC. 6005. THREE-YEAR AMORTIZATION OF UNDERFUNDING OF PLANS OF CONTROLLED GROUP UPON DISTRIBUTION TO EMPLOYER FROM A TERMINATED PLAN OR UPON CERTAIN TRANSACTIONS INVOLVING PLAN ASSETS; TAX-FREE TRANSFERS BETWEEN CERTAIN SINGLE-EMPLOYER PLANS IN SAME CONTROLLED GROUP.

(a) AMENDMENTS TO EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.—

(1) ADDITIONAL CHARGES TO FUNDING STANDARD ACCOUNT.—Paragraph (2) of section 302(b) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1082(b)) is amended—

(i) in subparagraph (C), by striking "and" at the end;

(ii) in subparagraph (D), by striking "paragraph (3)(D)." and inserting "paragraph (3)(D),"; and

(iii) by adding at the end the following new subparagraphs:

"(E) in the case of a single-employer plan, the amount necessary to amortize any allocated termination funding shortfall determined under section 302A(a) with respect to each prior plan year over a period of 3 plan years, and

"(F) in the case of a single-employer plan, the amount necessary to amortize any allocated transaction funding shortfall determined under section 302A(b) with respect to each prior plan year over a period of 3 plan years.".

(2) DETERMINATION OF ADDITIONAL CHARGES.—Part 3 of subtitle B of title I of such Act is amended by inserting after section 302 (29 U.S.C. 1082) the following new section:

"SEC. 302A. DETERMINATION OF CHARGES TO FUNDING STANDARD ACCOUNT ARISING FROM CERTAIN EMPLOYER DISTRIBUTIONS IN STANDARD TERMINATIONS OR CERTAIN TRANSACTIONS ADVERSELY AFFECTING PLAN ASSET SECURITY.

"(a) ADDITIONAL CHARGE TO FUNDING STANDARD ACCOUNT FOR ALLOCATED TERMINATION FUNDING SHORTFALL.—

"(1) APPLICABILITY OF ADDITIONAL CHARGE.—In the case of a standard termination of a single-employer plan under section 4041(b) in which occurs an employer distribution adversely affecting the plan asset security of a funded plan, if the amount of the assets of the funded plan is (as of immediately after the employer distribution) less than the lesser of—

"(A) the minimum benefit security level of the funded plan (determined as of immediately after the employer distribution), or

"(B) the amount of assets (determined as of immediately after the employer distribution) which the funded plan would need to hold so that the funded ratio with respect to such plan would equal the controlled group funded ratio with respect to such plan (determined as of immediately before the employer distribution),

an allocated termination funding shortfall for the funded plan shall be determined under this subsection with respect to the plan year in which the employer distribution occurs.

"(2) EMPLOYER DISTRIBUTION ADVERSELY AFFECTING PLAN ASSET SECURITY.—For purposes of this subsection, an employer distribution adversely affects plan asset security with respect to a funded plan if (at the time of the distribution) the employer receiving the distribution—

"(A) is the employer maintaining the funded plan, or

"(B) is included in the controlled group including the employer maintaining the funded plan.

"(3) ALLOCATED TERMINATION FUNDING SHORTFALL.—For purposes of this subsection—

"(A) IN GENERAL.—The allocated termination funding shortfall for a funded plan is the portion of the aggregate termination funding shortfall (determined under paragraph (4)) allocated to the funded plan under this paragraph.

"(B) PLANS AMONG WHICH ALLOCATION IS MADE.—The aggregate termination funding shortfall is allocated under this paragraph by apportioning such amount (in the manner and to the extent provided in subparagraph (C)) among all single-employer plans, each of which—

"(i) is maintained (at the time of the employer distribution) by the employer who maintains the funded plan (or by any other person in the controlled group including such employer), and

"(ii) holds (as of immediately after the transaction) a total amount of assets which is less than the lesser of—

"(I) the minimum benefit security level of the funded plan (determined as of immediately after the employer distribution), or

"(II) the amount of assets (determined as of immediately after the employer distribution) which the funded plan would need to hold so that the funded ratio with respect to such plan would equal the controlled group funded ratio with respect to such plan (determined as of immediately before the employer distribution).

"(C) MANNER OF ALLOCATION.—The aggregate termination funding shortfall shall be allocated in its entirety among all the plans described in subparagraph (B) in relation to the respective funded ratios with respect to such plans, in accordance with regulations of the Secretary of the Treasury, in such manner as to ensure that (as of immediately after the distribution)—

"(i) the funded ratios with respect to all such plans (taking into account amounts so allocated) are—

"(I) equivalent, and

"(II) not less than the highest of the funded ratios with respect to such plans, or

"(ii) if the total amount to be allocated is insufficient to satisfy the requirements of clause (i), the funded ratios with respect to those plans described in subparagraph (B) with the lowest funded ratios are, to the maximum extent practicable, increased to the same funded ratio (taking into account amounts so allocated)—

"(I) commencing the allocation with the plan with the lowest funded ratio (before taking into account amounts so allocated),

"(II) proceeding with allocations to such plans in ascending order of the funded ratios with respect to such plans, and

"(III) ensuring that no amount is so allocated to any such plan if the funded ratio with respect to another such plan is lower (taking into account amounts so allocated).

"(4) AGGREGATE TERMINATION FUNDING SHORTFALL.—For purposes of this subsection, the term 'aggregate termination funding shortfall' means an amount (determined as of immediately after the distribution) equal to the lesser of—

"(A) the sum of the termination funding shortfalls for all plans described in paragraph (3)(B), or

"(B) the amount of the employer distribution.

"(5) ADDITIONAL DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection—

"(A) FUNDED PLAN.—The term 'funded plan' means the plan maintaining the funding standard account under section 302 with respect to which the charge is determined under this subsection.

"(B) TERMINATION FUNDING SHORTFALL.—The term 'termination funding shortfall' means, with respect to any plan, an amount equal to the excess (not less than zero) of—

"(i) the lesser of—

"(I) the minimum benefit security level of such plan (determined as of immediately after the employer distribution), or

"(II) the amount of assets (determined as of immediately after the employer distribution) which the funded plan would need to hold so that the funded ratio with respect to such plan would equal the controlled group funded ratio with respect to such plan (determined as of immediately before the transaction),

over

"(ii) the amount of the assets of such plan.

"(C) CONTROLLED GROUP FUNDED RATIO.—The term 'controlled group funded ratio' with respect to a plan means the ratio of—

"(i) the total amount of the assets held by the funded plan and the assets held by all of the other single-employer plans maintained by the employer who maintains the funded plan (or by any other person in the controlled group including the employer), to

"(ii) the total of the benefit liabilities of all plans referred to in clause (i).

"(D) FUNDED RATIO.—The term 'funded ratio' with respect to a plan means the ratio of—

"(i) the amount of the assets of such plan, to

"(ii) the benefit liabilities of such plan.

"(E) EMPLOYER DISTRIBUTION.—The term 'employer distribution' means a distribution of plan assets to the employer under section 4044(d)(4) in a standard termination of a single-employer plan under section 4041(b).

"(F) AMOUNT OF ASSETS.—Any reference to an amount of assets shall be deemed a reference to the current value of such assets.

"(G) TREATMENT OF MULTIPLE-EMPLOYER PLANS.—For purposes of subparagraph (C) and paragraph (3)(B), multiple-employer plans shall be disregarded except to such extent as may be prescribed in regulations of the Secretary of the Treasury referred to in section 302(c)(11).

"(H) ALTERNATIVE VALUATION DATES.—

"(i) IN GENERAL.—Except to the extent prescribed in such regulations as may be prescribed under clause (iii), at the election of the employer maintaining the funded plan—

"(I) amounts which are (but for this subparagraph) required to be determined as of immediately before an employer distribution shall be determined as of the beginning of the plan year preceding the plan year for which the charge under section 302(b)(2)(E) is made, except that, if the employer distribution occurs on the first day of such plan *year, such amount shall, pursuant to any such election, be determined as of the beginning of the plan year for which the charge is made, and*

"(II) in the case of an amount otherwise required to be determined as of immediately after the employer distribution, as of the beginning of the plan year for which the charge under section 302(b)(2)(E) is made.

"(ii) CERTIFICATION REQUIREMENTS.—This subparagraph shall permit a valuation with respect to any plan as of an alternative time only if the employer maintaining the funded plan certifies that—

"(I) in the case of an alternative time under clause (i)(I), as of immediately before the time of the employer distribution, there has been no material change in asset valuations (under the plan with respect to which the valuation is being made) or in the funded ratio (of such plan) since the alternative time for valuation, and

"(II) in the case of an alternative time under clause (i)(II), as of the alternative time for valuation, there has been no material change in asset valuations (under the plan with respect to which the valuation is being made) or in the funded ratio (of such plan) since immediately after the distribution.

"(iii) REGULATIONS.—The Secretary of the Treasury may by regulation provide for other times as alternative times for valuations to the extent consistent with the purposes of this subsection.

"(6) SECURITY FOR AMORTIZATION OF CHARGE.—

"(A) IN GENERAL.—Under regulations of the Secretary prescribed in consultation with the Secretary of the Treasury, the requirements of section 302 shall not be treated as satisfied with respect to the charge determined under this subsection unless, not later than the time of the employer distribution, the employer maintaining the funded plan, or any other person who is in the controlled group including the employer, provides to the plan security described in subparagraph (B) at the time of the employer distribution. Such security shall be payable on the 15th day of the third month following the third plan year to the extent of any outstanding balance of such charge as of such date. The security shall be released (and any amounts thereunder refunded with accrued interest) to the extent of any amount of such charge amortized as of the day specified in the preceding sentence.

"(B) NATURE OF SECURITY.—Security described in this subparagraph constitutes—

"(i) a bond issued by a corporate surety company that is an acceptable surety for purposes of section 412, or

"(ii) cash, or United States obligations which mature in 3 years or less, held in escrow by a bank or similar financial institution,

in an amount sufficient to provide security to the funded plan for the charge determined under this subsection.

"(C) PAYMENT OF SECURITY UPON NONPAYMENT OF AMORTIZATION AMOUNT.—The security described in subparagraph (B) shall be paid to the funded plan if—

"(i) any payment required in the amortization, pursuant to section 302(b)(2)(E), of the charge determined under this subsection is not made when due, or

"(ii) the Secretary determines that the amortization, pursuant to section 302(b)(2)(E), of the charge determined under this subsection has not been, or cannot be, accomplished by reason of termination of the funded plan or a subsequent transaction adversely affecting plan asset security with respect to the funded plan (within the meaning of subsection (b)(2)),

"(D) PAYMENT OF SECURITY NECESSARY FOR MEETING MINIMUM FUNDING STANDARD.—In any case in which security is payable under the requirements of this paragraph, the requirements of section 302 shall not be treated as satisfied to the extent that such security is not paid or that payment of such security does not amortize in full the outstanding balance of the charge remaining under section 302(b)(2)(E).

"(b) ADDITIONAL CHARGE TO FUNDING STANDARD ACCOUNT FOR ALLOCATED TRANSACTION FUNDING SHORTFALL.—

"(1) APPLICABILITY OF ADDITIONAL CHARGE.—In the case of a transaction adversely affecting the plan asset security of a funded plan, if the amount of the assets of the funded plan (determined as of immediately after the transaction) is less than the lesser of—

"(A) the minimum benefit security level of the funded plan (determined as of immediately after the transaction), or

"(B) the amount of assets (determined as of immediately after the transaction) which the funded plan would need to hold so that the funded ratio with respect to such plan would equal the controlled group funded ratio with respect to such plan (determined as of immediately before the transaction),

an allocated transaction funding shortfall for such plan shall be determined under this subsection with respect to the plan year in which the transaction occurs.

"(2) TRANSACTION ADVERSELY AFFECTING PLAN ASSET SECURITY.—

"(A) IN GENERAL.—For purposes of this subsection, a transaction adversely affects plan asset security with respect to a funded plan if the requirements of subparagraphs (B) and (C) are met.

"(B) TRANSACTION AFFECTING RELATIONSHIP TO PLAN OF EMPLOYER OR CONTROLLED GROUP.—The requirements of this subparagraph are met with respect to a transaction if—

"(i) such transaction constitutes a merger, consolidation, or transfer of plan assets or liabilities referred to in section 208, and, in such transaction, assets or liabilities attributable to the funded plan, or to any other single-employer plan maintained by such employer (or by any other person who, as of immediately before the transaction, is in the controlled group including such employer), are transferred to, or consolidated or merged with, another plan, or

"(ii) in such transaction, responsibility for funding the funded plan, or any other single-employer plan for which such employer (or any other person who, as of immediately before the transaction, is in the controlled group including such employer) has responsibility for funding, is assumed (in whole or in part) from such employer (or other person) by another person.

"(C) ADVERSE EFFECT ON CONTROLLED GROUP FUNDED RATIO.—

"(i) IN GENERAL.—The requirements of this subparagraph are met with respect to a transaction if the amount allocated to the funded plan in an allocation described in clause (ii) is greater than the amount allocated to the funded plan in an allocation described in clause (iii).

"(ii) ALLOCATION BEFORE TRANSACTION.—The allocation described in this subparagraph is an allocation (under paragraph (3)(C)) of the controlled group assets available for allocation (determined under paragraph (4)(B)) immediately before the transaction among all single-employer plans (including the funded plan described in paragraph (3)(B)).

"(iii) ALLOCATION AFTER TRANSACTION.—The allocation described in this subparagraph is an allocation (under paragraph (3)(C)) of the controlled group assets available for allocation (determined under paragraph (4)(B)) immediately after the transaction, except that such allocation shall be among all single-employer plans (including the funded plan) which are maintained (as of immediately after the transaction) by the employer then maintaining the funded plan (or by a person who is then in the controlled group including the employer).

"(3) ALLOCATED TRANSACTION FUNDING SHORTFALL.—For purposes of this subsection—

"(A) IN GENERAL.—The allocated transaction funding shortfall for a funded plan is the portion of the aggregate transaction funding shortfall (determined under paragraph (4)) allocated to the funded plan under this paragraph.

"(B) PLANS AMONG WHICH ALLOCATION IS MADE.—The aggregate transaction funding shortfall is allocated under this subparagraph by apportioning such amount (in the manner and to the extent provided in subparagraph (C)) among all plans, each of which—

"(i) is maintained (as of immediately before the transaction) by the employer who maintains the funded plan (or by any other person in the controlled group including such employer), and

"(ii) holds (as of immediately after the transaction) a total amount of assets which is less than the lesser of—

"(I) the minimum benefit security level of the funded plan (determined as of immediately after the transaction), or

"(II) the amount of assets (determined as of immediately after the transaction) which the funded plan would need to hold so that the funded ratio with respect to such plan would equal the controlled group funded ratio with respect to such plan (determined as of immediately before the transaction).

"(C) MANNER OF ALLOCATION.—The aggregate transaction funding shortfall shall be allocated in its entirety among all the plans described in subparagraph (B) in relation to the respective funded ratios with respect to such plans, in accordance with regulations of the Secretary of the Treasury, in such manner as to ensure that (as of immediately after the transaction)—

"(i) the funded ratios with respect to all such plans (taking into account amounts so allocated) are—

"(I) equivalent, and

"(II) not less than the highest of the funded ratios with respect to such plans, or

"(ii) if the total amount to be allocated is insufficient to satisfy the requirements of clause (i), the funded ratios with respect to those plans described in subparagraph (B) with the lowest funded ratios are, to the maximum extent practicable, increased to the same funded ratio (taking into account amounts so allocated)—

"(I) commencing the allocation with the plan with the lowest funded ratio (before taking into account amounts so allocated),

"(II) proceeding with allocations to such plans in ascending order of the funded ratios with respect to such plans, and

"(III) ensuring that no amount is so allocated to any such plan if the funded ratio with respect to another such plan is lower (taking into account amounts so allocated).

"(4) AGGREGATE TRANSACTION FUNDING SHORTFALL.—

"(A) IN GENERAL.—For purposes of this subsection, the term 'aggregate transaction funding shortfall' means an amount (determined as of immediately after the transaction) equal to the lesser of—

"(i) the sum of the transaction funding shortfalls for all plans described in paragraph (3)(B), or

"(ii) the controlled group assets available for allocation, as determined under subparagraph (B).

"(B) EXCESS CONTROLLED GROUP ASSETS AVAILABLE FOR ALLOCATION.—For purposes of subparagraph (A)(ii), the amount of controlled group assets available for allocation is an amount equal to the lesser of—

"(i) the sum of the amounts, determined with respect to the funded plan and each other single-employer plan maintained (as of immediately before the transaction) by the employer then maintaining the funded plan (or by any person who is then in the controlled group including the employer), equal to the excess (not less than zero) of—

"(I) the amount of the assets of such plan (as of immediately before the transaction), over

"(II) the amount of the benefit liabilities of such plan, or

"(ii) the sum of the amounts, determined with respect to each plan referred to in clause (i), equal to the excess (not less than zero) of—

"(I) the amount of the assets of such plan (as of immediately before the transaction), over

"(II) the amount of assets (determined as of immediately after the transaction) which such plan would need to hold so that the funded ratio with respect to such plan would equal the controlled group funded ratio with respect to such plan (determined as of immediately before the transaction).

"(5) REDUCTION IN ADDITIONAL CHARGE WHEN FUNDED PLAN IS TRANSFERRED TO A CONTROLLED GROUP WITH EXCESS ASSETS.—

"(A) IN GENERAL.—In any case in which, in an allocation described in subparagraph (B), an amount is allocated to the funded plan, the amount of the allocated transaction funding shortfall determined under this subsection is the excess of—

"(i) such allocated transaction funding shortfall (determined without regard to this paragraph), over

"(ii) such amount allocated to the funded plan in the allocation described in subparagraph (B).

"(B) ALLOCATION OF EXCESS CONTROLLED GROUP ASSETS.—The allocation described in this subparagraph is an allocation (under paragraph (3)(C)) of the controlled group assets available for allocation (determined under paragraph (4)(B)), except that such allocation shall be among all single-employer plans (including the funded plan) which are maintained (as of immediately after the transaction) by the employer then maintaining the funded plan (or by a person who is then in the controlled group including the employer).

"(6) ADDITIONAL DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection—

"(A) FUNDED PLAN.—The term 'funded plan' means the plan maintaining the funding standard account under section 302 with respect to which the charge is determined under this subsection.

"(B) TRANSACTION FUNDING SHORTFALL.—The term 'transaction funding shortfall' means, with respect to any plan, an amount equal to the excess (not less than zero) of—

"(i) the lesser of—

"(I) the minimum benefit security level of such plan (determined as of immediately after the transaction), or

"(II) the amount of assets (determined as of immediately after the transaction) which the funded plan would need to hold so that the funded ratio with respect to such plan would equal the controlled group funded ratio with respect to such plan (determined as of immediately before the transaction), over

"(ii) the amount of the assets of such plan.

"(C) CONTROLLED GROUP FUNDED RATIO.—The term 'controlled group funded ratio' with respect to a plan means the ratio of—

"(i) the total amount of the assets held by the funded plan and the assets held by all of the other single-employer plans maintained by the employer who maintains the funded plan (or by any other person in the controlled group including the employer), to

"(ii) the total of the benefit liabilities of all plans referred to in clause (i).

"(D) FUNDED RATIO.—The term 'funded ratio' with respect to a plan means the ratio of—

"(i) the amount of the assets of such plan, to

"(ii) the benefit liabilities of such plan.

"(E) AMOUNT OF ASSETS.—Any reference to an amount of assets shall be deemed a reference to the current value of such assets.

"(F) TREATMENT OF MULTIPLE-EMPLOYER PLANS.—For purposes of subparagraph (C) and paragraph (3)(B), multiple-employer plans shall be disregarded except to such extent as may be prescribed in regulations of the Secretary of the Treasury referred to in section 302(c)(11).

"(G) ALTERNATIVE VALUATION DATES.—

"(i) IN GENERAL.—Except to the extent prescribed in such regulations as may be prescribed under clause (iii), at the election of the employer maintaining the funded plan—

"(I) amounts which are (but for this subparagraph) required to be determined as of immediately before a transaction shall be determined as of the beginning of the plan year preceding the plan year for which the charge under section 302(b)(2)(F) is made, except that, if the transaction occurs on the first day of such plan year, such amount shall, pursuant to any such election, be determined as of the beginning of the plan year for which the charge is made, and

"(II) in the case of an amount otherwise required to be determined as of immediately after the transaction, as of the beginning of the plan year for which the charge under section 302(b)(2)(F) is made.

"(ii) CERTIFICATION REQUIREMENTS.—This subparagraph shall permit a valuation with respect to any plan as of an alternative time only if the employer maintaining the funded plan certifies that—

"(I) in the case of an alternative time under clause (i)(I), as of immediately before the time of the transaction, there has been no material change in asset valuations (under the plan with respect to which the valuation is being made) or in the funded ratio (of such plan) since the alternative time for valuation, and

"(II) in the case of an alternative time under clause (i)(II), as of the alternative time for valuation, there has been no material change in asset valuations (under the plan with respect to which the valuation is being made) or in the funded ratio (of such plan) since immediately after the transaction.

"(iii) REGULATIONS.—The Secretary of the Treasury may by regulation provide for other times as alternative times for valuations to the extent consistent with the purposes of this subsection.

"(7) SECURITY FOR AMORTIZATION OF CHARGE.—

"(A) IN GENERAL.—Under regulations of the Secretary prescribed in consultation with the Secretary of the Treasury, the requirements of section 302 shall not be treated as satisfied with respect to the charge determined under this subsection unless, not later than the time of the transaction, the employer maintaining the funded plan, or any other person who is in the controlled group including the employer, provides to the plan security described in subparagraph (B) at the time of the transaction. Such security shall be payable on the 15th day of the third month following the third plan year to the extent of any outstanding balance of such charge as of such day. The security shall be released (and any amounts thereunder with accrued interest) to the extent of any amount of such charge amortized as of the day specified in the preceding sentence.

"(B) NATURE OF SECURITY.—Security described in this subparagraph constitutes—

"(i) a bond issued by a corporate surety company that is an acceptable surety for purposes of section 412, or

"(ii) cash, or United States obligations which mature in 3 years or less, held in escrow by a bank or similar financial institution,

in an amount sufficient to provide security to the funded plan for the charge determined under this subsection.

"(C) PAYMENT OF SECURITY UPON NONPAYMENT OF AMORTIZATION AMOUNT.—The security described in subparagraph (B) shall be paid to the funded plan if—

"(i) any payment required in the amortization, pursuant to section 302(b)(2)(F), of the charge determined under this subsection is not made when due, or

"(ii) the Secretary determines that the amortization, pursuant to section 302(b)(2)(F), of the charge determined under this subsection has not been, or cannot be, accomplished by reason of termination of the funded plan or a subsequent transaction adversely affecting plan asset security with respect to the funded plan.

"(D) PAYMENT OF SECURITY NECESSARY FOR MEETING MINIMUM FUNDING STANDARD.—In any case in which a security is payable under the requirements of this paragraph, the requirements of section 302 shall not be treated as satisfied to the extent that such security is not paid or that payment of such security does not amortize in full the outstanding balance of the charge remaining under section 302(b)(2)(F).

"(c) REGULATIONS.—The Secretary of the Treasury may prescribe such regulations as such Secretary may consider necessary to carry out the provisions of this section (including such regulations as such Secretary may consider necessary to preclude avoidance of the requirements of this section).".

(3) ADDITIONAL CHARGES NOT SUBJECT TO WAIVER.—Subsection (a) of section 303 of such Act (29 U.S.C. 1083(a)) is amended by striking "section 302(b)(2)(C)" and inserting "subparagraphs (C), (E), and (F) of section 302(b)(2)".

(4) CLERICAL AMENDMENT.—The table of contents in section 1 of such Act (29 U.S.C. 1001 note) is amended by inserting after the item relating to section 302 the following new item:

"Sec. 302A. Determination of charges to funding standard account arising from employer distributions in standard terminations or transactions adversely affecting plan asset security.".

(b) AMENDMENTS TO INTERNAL REVENUE CODE OF 1986.—

(1) ADDITIONAL CHARGES TO FUNDING STANDARD ACCOUNT.—

(A) IN GENERAL.—Paragraph (2) of section 412(b) of the Internal Revenue Code of 1986 (relating to charges to funding standard account) is amended—

(i) in subparagraph (C), by striking "and" at the end;

(ii) in subparagraph (D), by striking "paragraph (3)(D)." and inserting "paragraph (3)(D),"; and

(iii) by adding at the end the following new subparagraphs:

"(E) in the case of a defined benefit plan (other than a multiemployer plan), the amount necessary to amortize any allocated termination funding shortfall determined under section 412A(a) with respect to each prior plan year over a period of 3 plan years, and

"(F) in the case of a defined benefit plan (other than a multiemployer plan), the amount necessary to amortize any allocated transaction funding shortfall determined under section 412A(b) with respect to each prior plan year over a period of 3 plan years.".

(B) TREATMENT OF MULTIPLE-EMPLOYER PLANS.—Subsection (c) of section 412 of such Code (relating to special rules) is amended by adding at the end the following new paragraph:

"(11) TREATMENT OF MULTIPLE-EMPLOYER PLANS.—Subparagraphs (E) and (F) of subsection (b)(2) shall not apply with respect to multiple-employer plans, except to such extent as may be prescibed in regulations of the Secretary.".

(2) DETERMINATION OF ADDITIONAL CHARGES.—Chapter 1 of such Code is amended by inserting after section 412 the following new section:

"SEC. 412A. DETERMINATION OF CHARGES TO FUNDING STANDARD ACCOUNT ARISING FROM CERTAIN EMPLOYER DISTRIBUTIONS IN STANDARD TERMINATIONS OR CERTAIN TRANSACTIONS ADVERSELY AFFECTING PLAN ASSET SECURITY.

"(a) ADDITIONAL CHARGE TO FUNDING STANDARD ACCOUNT FOR ALLOCATED TERMINATION FUNDING SHORTFALL.—

"(1) APPLICABILITY OF ADDITIONAL CHARGE.—In the case of a standard termination of a plan under section 4041(b) of the Employee Retirement Income Security Act of 1974 in which occurs an employer distribution adversely affecting the plan asset security of a funded plan, if the amount of the assets of the funded plan is (as of immediately after the employer distribution) less than the lesser of—

"(A) the minimum benefit security level of the funded plan (determined as of immediately after the employer distribution), or

"(B) the amount of assets (determined as of immediately after the employer distribution) which the funded plan would need to hold so that the funded ratio with respect to such plan would equal the controlled group funded ratio with respect to such plan (determined as of immediately before the employer distribution),

an allocated termination funding shortfall for the funded plan shall be determined under this subsection with respect to the plan year in which the employer distribution occurs.

"(2) EMPLOYER DISTRIBUTION ADVERSELY AFFECTING PLAN ASSET SECURITY.—For purposes of this subsection, an employer distribution adversely affects plan asset security with respect to a funded plan if (at the time of the distribution) the employer receiving the distribution—

"(A) is the employer maintaining the funded plan, or

"(B) is included in the controlled group including the employer maintaining the funded plan.

"(3) ALLOCATED TERMINATION FUNDING SHORTFALL.—For purposes of this subsection—

"(A) IN GENERAL.—The allocated termination funding shortfall for a funded plan is the portion of the aggregate termination funding shortfall (determined under paragraph (4)) allocated to the funded plan under this paragraph.

"(B) PLANS AMONG WHICH ALLOCATION IS MADE.—The aggregate termination funding shortfall is allocated under this paragraph by apportioning such amount (in the manner and to the extent provided in subparagraph (C)) among all defined benefit plans (other than multiemployer plans), each of which—

"(i) is maintained (as of immediately before the employer distribution) by the employer who maintains the funded plan (or by any other person in the controlled group including such employer), and

"(ii) holds (as of immediately after the transaction) a total amount of assets which is less than the lesser of—

"(I) the minimum benefit security level of the funded plan (determined as of immediately after the employer distribution), or

"(II) the amount of assets (determined as of immediately after the employer distribution) which the funded plan would need to hold so that the funded ratio with respect to such plan would equal the controlled group funded ratio with respect to such plan (determined as of immediately before the employer distribution).

"(C) MANNER OF ALLOCATION.—The aggregate termination funding shortfall shall be allocated in its entirety among all the plans described in subparagraph (B) in relation to the respective funded ratios with respect to such plans, in accordance with regulations of the Secretary, in such manner as to ensure that (as of immediately after the distribution)—

"(i) the funded ratios with respect to all such plans (taking into account amounts so allocated) are—

"(I) equivalent, and

"(II) not less than the highest of the funded ratios with respect to such plans, or

"(ii) if the total amount to be allocated is insufficient to satisfy the requirements of clause (i), the funded ratios with respect to those plans described in subparagraph (B) with the lowest funded ratios are, to the maximum extent practicable, increased to the same funded ratio (taking into account amounts so allocated)—

"(I) commencing the allocation with the plan with the lowest funded ratio (before taking into account amounts so allocated),

"(II) proceeding with allocations to such plans in ascending order of the funded ratios with respect to such plans, and

"(III) ensuring that no amount is so allocated to any such plan if the funded ratio with respect to another such plan is lower (taking into account amounts so allocated).

"(4) AGGREGATE TERMINATION FUNDING SHORTFALL.—For purposes of this subsection, the term 'aggregate termination funding shortfall' means an amount (determined as of immediately after the employer distribution) equal to the lesser of—

"(A) the sum of the termination funding shortfalls for all plans described in paragraph (3)(B), or

"(B) the amount of the employer distribution.

"(5) ADDITIONAL DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection—

"(A) FUNDED PLAN.—The term 'funded plan' means the defined benefit plan maintaining the funding standard account under section 412 with respect to which the charge is determined under this subsection.

"(B) TERMINATION FUNDING SHORTFALL.—The term 'termination funding shortfall' means, with respect to any plan, an amount equal to the excess (not less than zero) of—

"(i) the lesser of—

"(I) the minimum benefit security level of such plan (determined as of immediately after the employer distribution), or

"(II) the amount of assets (determined as of immediately after the employer distribution) which the funded plan would need to hold so that the funded ratio with respect to such plan would equal the controlled group funded ratio with respect to such plan (determined as of immediately before the employer distribution),

over

"(ii) the amount of the assets of such plan.

"(C) CONTROLLED GROUP FUNDED RATIO.—The term 'controlled group funded ratio' with respect to a plan means the ratio of—

"(i) the total amount of the assets held by the funded plan and the assets held by all of the other defined benefit plans (other than multiemployer plans) maintained by the employer who maintains the funded plan (or by any other person in the controlled group including the employer), to

"(ii) the total of the benefit liabilities of all plans referred to in clause (i).

"(D) FUNDED RATIO.—The term 'funded ratio' with respect to a plan means the ratio of—

"(i) the amount of the assets of such plan, to

"(ii) the benefit liabilities of such plan.

"(E) EMPLOYER DISTRIBUTION.—The term 'employer distribution' means a distribution of plan assets to the employer as permitted under section 401(a)(2).

"(F) AMOUNT OF ASSETS.—Any reference to an amount of assets shall be deemed a reference to the market value of such assets.

"(G) TREATMENT OF MULTIPLE-EMPLOYER PLANS.—For purposes of subparagraph (C) and paragraph (3)(B), multiple-employer plans shall be disregarded except to such extent as may be prescribed in regulations of the Secretary referred to in section 412(c)(11).

"(H) ALTERNATIVE VALUATION DATES.—

"(i) IN GENERAL.—Except to the extent prescribed in such regulations as may be prescribed under clause (iii), at the election of the employer maintaining the funded plan—

"(I) amounts which are (but for this subparagraph) required to be determined as of immediately before an employer distribution shall be determined as of the beginning of the plan year preceding the plan year for which the charge under section 412(b)(2)(E) is made, except that, if the employer distribution occurs on the first day of such plan year, such amount shall, pursuant to any such election, be determined as of the beginning of the plan year for which the charge is made, and

"(II) in the case of an amount otherwise required to be determined as of immediately after the employer distribution, as of the beginning of the plan year for which the charge under section 412(b)(2)(E) is made.

"(ii) CERTIFICATION REQUIREMENTS.—This subparagraph shall permit a valuation with respect to any plan as of an alternative time only if the employer maintaining the funded plan certifies that—

"(I) in the case of an alternative time under clause (i)(I), as of immediately before the time of the employer distribution, there has been no material change in asset valuations (under the plan with respect to which the valuation is being made) or in the funded ratio (of such plan) since the alternative time for valuation, and

"(II) in the case of an alternative time under clause (i)(II), as of the alternative time for valuation, there has been no material change in asset valuations (under the plan with respect to which the valuation is being made) or in the funded ratio (of such plan) since immediately after the distribution.

"(iii) REGULATIONS.—The Secretary may by regulation provide for other times as alternative times for valuations to the extent consistent with the purposes of this subsection.

"(6) SECURITY FOR AMORTIZATION OF CHARGE.—

"(A) IN GENERAL.—Under regulations of the Secretary of Labor prescribed in consultation with the Secretary, the requirements of section 412 shall not be treated as satisfied with respect to the charge determined under this subsection unless, not later than the time of the employer distribution, the employer maintaining the funded plan, or any other person who is in the controlled group including the employer, provides to the plan security described in subparagraph (B) at the time of the employer distribution. Such security shall be payable on the 15th day of the third month following the third plan year to the extent of any outstanding balance of such charge as of such day. The security shall be released (and any amounts thereunder refunded with accrued interest) to the extent of any amount of such charge amortized as of the day specified in the preceding sentence.

"(B) NATURE OF SECURITY.—Security described in this subparagraph constitutes—

"(i) a bond issued by a corporate surety company that is an acceptable surety for purposes of section 412 of the Employee Retirement Income Security Act of 1974 (relating to bonding), or

"(ii) cash, or United States obligations which mature in 3 years or less, held in escrow by a bank or similar financial institution,

in an amount sufficient to provide security to the funded plan for the charge determined under this subsection.

"(C) PAYMENT OF SECURITY UPON NONPAYMENT OF AMORTIZATION AMOUNT.—The security described in subparagraph (B) shall be paid to the funded plan if—

"(i) any payment required in the amortization, pursuant to section 412(b)(2)(E), of the charge determined under this subsection is not made when due, or

"(ii) the Secretary of Labor determines that the amortization, pursuant to section 412(b)(2)(E), of the charge determined under this subsection has not been, or cannot be, accomplished by reason of termination of the funded plan or a subsequent transaction adversely affecting plan asset security with respect to the funded plan (within the meaning of subsection (b)(2)).

"(D) PAYMENT OF SECURITY NECESSARY FOR MEETING MINIMUM FUNDING STANDARD.—In any case in which a security is payable under the requirements of this paragraph, the requirements of section 412 shall not be treated as satisfied to the extent that such security is not paid or that payment of such security does not amortize in full the outstanding balance of the charge remaining under section 412(b)(2)(E).".

"(b) ADDITIONAL CHARGE TO FUNDING STANDARD ACCOUNT FOR ALLOCATED TRANSACTION FUNDING SHORTFALL.—

"(1) APPLICABILITY OF ADDITIONAL CHARGE.—In the case of a transaction adversely affecting the plan asset security of a funded plan, if the amount of the assets of the funded plan (determined as of immediately after the transaction) is less than the lesser of—

"(A) the minimum benefit security level of the funded plan (determined as of immediately after the transaction), or

"(B) the amount of assets (determined as of immediately after the transaction) which the funded plan would need to hold so that the funded ratio with respect to such plan would equal the controlled group funded ratio with respect to such plan (determined as of immediately before the transaction),

an allocated transaction funding shortfall for such plan shall be determined under this subsection with respect to the plan year in which the transaction occurs.

"(2) TRANSACTION ADVERSELY AFFECTING PLAN ASSET SECURITY.—

"(A) IN GENERAL.—For purposes of this subsection, a transaction adversely affects plan asset security with respect to a funded plan if the requirements of subparagraphs (B) and (C) are met.

"(B) TRANSACTION AFFECTING RELATIONSHIP TO PLAN OF EMPLOYER OR CONTROLLED GROUP.—The requirements of this subparagraph are met with respect to a transaction if—

"(i) such transaction constitutes a merger, consolidation, or transfer of plan assets or liabilities referred to in section 414(l), and, in such transaction, assets or liabilities attributable to the funded plan, or to any other defined benefit plan (other than a multiemployer plan) maintained by such employer (or by any other person who, as of immediately before the transaction, is in the controlled group including such employer), are transferred to, or consolidated or merged with, another plan, or

"(ii) in such transaction, responsibility for funding the funded plan, or any other defined benefit plan (other than a multiemployer plan) for which such employer (or any other person who, as of immediately before the transaction, is in the controlled group including such employer) has responsibility for funding, is assumed (in whole or in part) from such employer (or other person) by another person.

"(C) ADVERSE EFFECT ON CONTROLLED GROUP FUNDED RATIO.—

"(i) IN GENERAL.—The requirements of this subparagraph are met with respect to a transaction if the amount allocated to the funded plan in an allocation described in clause (ii) is greater than the amount allocated to the funded plan in an allocation described in clause (iii).

"(ii) ALLOCATION BEFORE TRANSACTION.—The allocation described in this subparagraph is an allocation (under paragraph (3)(C)) of the controlled group assets available for allocation (determined under paragraph (4)(B)) immediately before the transaction among all single-employer plans (including the funded plan described in paragraph (3)(B)).

"(iii) ALLOCATION AFTER TRANSACTION.—The allocation described in this subparagraph is an allocation (under paragraph (3)(C)) of the controlled group assets available for allocation (determined under paragraph (4)(B)) immediately after the transaction, except that such allocation shall be among all single-employer plans (including the funded plan) which are maintained (as of immediately after the transaction) by the employer then maintaining the funded plan (or by a person who is then in the controlled group including the employer).

"(3) ALLOCATED TRANSACTION FUNDING SHORTFALL.—For purposes of this subsection—

"(A) IN GENERAL.—The allocated transaction funding shortfall for a funded plan is the portion of the aggregate transaction funding shortfall (determined under paragraph (4)) allocated to the funded plan under this paragraph.

"(B) PLANS AMONG WHICH ALLOCATION IS MADE.—The aggregate transaction funding shortfall is allocated under this subparagraph by apportioning such amount (in the manner and to the extent provided in subparagraph (C)) among all plans, each of which—

"(i) is maintained (as of immediately before the transaction) by the employer who maintains the funded plan (or by any other person in the controlled group including such employer), and

"(ii) holds (as of immediately after the transaction) a total amount of assets which is less than the lesser of—

"(I) the minimum benefit security level of the funded plan (determined as of immediately after the transaction), or

"(II) the amount of assets (determined as of immediately after the transaction) which the funded plan would need to hold so that the funded ratio with respect to such plan would equal the controlled group funded ratio with respect to such plan (determined as of immediately before the transaction).

"(C) MANNER OF ALLOCATION.—The aggregate transaction funding shortfall shall be allocated in its entirety among all the plans described in subparagraph (B) in relation to the respective funded ratios with respect to such plans, in accordance with regulations of the Secretary, in such manner as to ensure that (as of immediately after the transaction)—

"(i) the funded ratios with respect to all such plans (taking into account amounts so allocated) are—

"(I) equivalent, and

"(II) not less than the highest of the funded ratios with respect to such plans, or

"(ii) if the total amount to be allocated is insufficient to satisfy the requirements of clause (i), the funded ratios with respect to those plans described in subparagraph (B) with the lowest funded ratios are, to the maximum extent practicable, increased to the same funded ratio (taking into account amounts so allocated)—

"(I) commencing the allocation with the plan with the lowest funded ratio (before taking into account amounts so allocated),

"(II) proceeding with allocations to such plans in ascending order of the funded ratios with respect to such plans, and

"(III) ensuring that no amount is so allocated to any such plan if the funded ratio with respect to another such plan is lower (taking into account amounts so allocated).

"(4) AGGREGATE TRANSACTION FUNDING SHORTFALL.—

"(A) IN GENERAL.—For purposes of this subsection, the term 'aggregate transaction

funding shortfall' means an amount (determined as of immediately after the transaction) equal to the lesser of—

"(i) the sum of the transaction funding shortfalls for all plans described in paragraph (3)(B), or

"(ii) the controlled group assets available for allocation, as determined under subparagraph (B).

"(B) EXCESS CONTROLLED GROUP ASSETS AVAILABLE FOR ALLOCATION.—For purposes of subparagraph (A)(ii), the amount of controlled group assets available for allocation is an amount equal to the lesser of—

"(i) the sum of the amounts, determined with respect to the funded plan and each other defined benefit plan (other than a multiemployer plan) maintained (as of immediately before the transaction) by the employer then maintaining the funded plan (or by any person who is then in the controlled group including the employer), equal to the excess (not less than zero) of—

"(I) the amount of the assets of such plan (as of immediately before the transaction), over

"(II) the amount of the benefit liabilities of such plan, or

"(ii) the sum of the amounts, determined with respect to each plan referred to in clause (i), equal to the excess (not less than zero) of—

"(I) the amount of the assets of such plan (as of immediately before the transaction), over

"(II) the amount of assets (determined as of immediately after the transaction) which such plan would need to hold so that the funded ratio with respect to such plan would equal the controlled group funded ratio with respect to such plan (determined as of immediately before the transaction).

"(5) REDUCTION IN ADDITIONAL CHARGE WHEN FUNDED PLAN IS TRANSFERRED TO A CONTROLLED GROUP WITH EXCESS ASSETS.—

"(A) IN GENERAL.—In any case in which, in an allocation described in subparagraph (B), an amount is allocated to the funded plan, the amount of the allocated transaction funding shortfall determined under this subsection is the excess of—

"(i) such allocated transaction funding shortfall (determined without regard to this paragraph), over

"(ii) such amount allocated to the funded plan in the allocation described in subparagraph (B).

"(B) ALLOCATION OF EXCESS CONTROLLED GROUP ASSETS.—The allocation described in this subparagraph is an allocation (under paragraph (3)(C)) of the controlled group assets available for allocation (determined under paragraph (4)(B)), except that such allocation shall be among all defined benefit plans (other than multiemployer plans), including the funded plan, which are maintained (as of immediately after the transaction) by the employer then maintaining the funded plan (or by a person who is then in the controlled group including the employer).

"(6) ADDITIONAL DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection—

"(A) FUNDED PLAN.—The term 'funded plan' means the defined benefit plan maintaining the funding standard account under section 412 with respect to which the charge is determined under this subsection.

"(B) TRANSACTION FUNDING SHORTFALL.—The term 'transaction funding shortfall' means, with respect to any plan, an amount equal to the excess (not less than zero) of—

"(i) the lesser of—

"(I) the minimum benefit security level of such plan (determined as of immediately after the transaction), or

"(II) the amount of assets (determined as of immediately after the transaction) which the funded plan would need to hold so that the funded ratio with respect to such plan would equal the controlled group funded ratio with respect to such plan (determined as of immediately before the transaction), over

"(ii) the amount of the assets of such plan.

"(C) CONTROLLED GROUP FUNDED RATIO.—The term 'controlled group funded ratio' with respect to a plan means the ratio of—

"(i) the total amount of the assets held by the funded plan and the assets held by all of the other defined benefit plans (other than multiemployer plans) maintained by the employer who maintains the funded plan (or by any other person in the controlled group including the employer), to

"(ii) the total of the benefit liabilities of all plans referred to in clause (i).

"(D) FUNDED RATIO.—The term 'funded ratio' with respect to a plan means the ratio of—

"(i) the amount of the assets of such plan, to

"(ii) the benefit liabilities of such plan.

"(E) AMOUNT OF ASSETS.—Any reference to an amount of assets shall be deemed a reference to the market value of such assets.

"(F) TREATMENT OF MULTIPLE-EMPLOYER PLANS.—For purposes of subparagraph (C) and paragraph (3)(B), multiple-employer plans shall be disregarded, except to such extent as may be prescribed in regulations of the Secretary referred to in section 412(c)(11).

"(G) ALTERNATIVE VALUATION DATES.—

"(i) IN GENERAL.—Except to the extent prescribed in such regulations as may be prescribed under clause (iii), at the election of the employer maintaining the funded plan—

"(I) amounts which are (but for this subparagraph) required to be determined as of immediately before a transaction shall be determined as of the beginning of the plan year preceding the plan year for which the charge under section 412(b)(2)(F) is made, except that, if the transaction occurs on the first day of such plan year, such amount shall, pursuant to any such election, be determined as of the beginning of the plan year for which the charge is made, and

"(II) in the case of an amount otherwise required to be determined as of immediately after the transaction, as of the beginning of the plan year for which the charge under section 412(b)(2)(F) is made.

"(ii) CERTIFICATION REQUIREMENTS.—This subparagraph shall permit a valuation with respect to any plan as of an alternative time only if the employer maintaining the funded plan certifies that—

"(I) in the case of an alternative time under clause (i)(I), as of immediately before the time of the transaction, there has been no material change in asset valuations (under the plan with respect to which the valuation is being made) or in the funded ratio (of such plan) since the alternative time for valuation, and

"(II) in the case of an alternative time under clause (i)(II), as of the alternative time for valuation, there has been no material change in asset valuations (under the plan with respect to which the valuation is being made) or in the funded ratio (of such plan) since immediately after the transaction.

"(iii) REGULATIONS.—The Secretary may by regulation provide for other times as alternative times for valuations to the extent consistent with the purposes of this subsection.

"(7) SECURITY FOR AMORTIZATION OF CHARGE.—

"(A) IN GENERAL.—Under regulations of the Secretary of Labor prescribed in consultation with the Secretary, the requirements of section 412 shall not be treated as satisfied with respect to the charge determined under this subsection unless, not later than the time of the transaction, the employer maintaining the funded plan, or any other person who is in the controlled group including the employer, provides to the plan security described in subparagraph (B) at the time of the transaction. Such security shall be payable on the 15th day of the third month following the third plan year to the extent of any outstanding balance of such charge as of such day. The security shall be released (and any amounts thereunder with accrued interest) to the extent of any amount of such charge amortized as of the day specified in the preceding sentence.

"(B) NATURE OF SECURITY.—Security described in this subparagraph constitutes—

"(i) a bond issued by a corporate surety company that is an acceptable surety for purposes of section 412 of the Employee Retirement Income Security Act of 1974 (relating to bonding), or

"(ii) cash, or United States obligations which mature in 3 years or less, held in escrow by a bank or similar financial institution,

in an amount sufficient to provide security to the funded plan for the charge determined under this subsection.

"(C) PAYMENT OF SECURITY UPON NONPAYMENT OF AMORTIZATION AMOUNT.—The security described in subparagraph (B) shall be paid to the funded plan if—

"(i) any payment required in the amortization, pursuant to section 412(b)(2)(F), of the charge determined under this subsection is not made when due, or

"(ii) the Secretary of Labor determines that the amortization, pursuant to section 412(b)(2)(F), of the charge determined under this subsection has not been, or cannot be, accomplished by reason of termination of the funded plan or a subsequent transaction adversely affecting plan asset security with respect to the funded plan.

"(D) PAYMENT OF SECURITY NECESSARY FOR MEETING MINIMUM FUNDING STANDARD.—In any case in which a security is payable under the requirements of this paragraph, the requirements of section 412 shall not be treated as satisfied to the extent that such security is not paid or that payment of such security does not amortize in full the outstanding balance of the charge remaining under section 412(b)(2)(F).

"(c) CONTROLLED GROUP.—

"(1) IN GENERAL.—For purposes of this section, the term 'controlled group' means, in connection with any person, a group consisting of such person and all other persons under common control with such person.

"(2) COMMON CONTROL.—For purposes of paragraph (1), the determination of whether 2 or more persons are under 'common control' shall be made under regulations prescribed by the Secretary of the Treasury under subsections (b), (c), (m), and (o) of section 414.

"(d) REGULATIONS.—The Secretary may prescribe such regulations as the Secretary may consider necessary to carry out the provisions of this section (including such regulations as the Secretary may consider necessary to preclude avoidance of the requirements of this section).".

(3) ADDITIONAL CHARGES NOT SUBJECT TO WAIVER.—Paragraph (1) of section 412 of such Code (relating to waiver in case of substantial business hardship) is amended by striking "subsection (b)(2)(C)" and inserting "subparagraphs (C), (E), and (F) of subsection (b)(2)".

(4) TAX-FREE TRANSFERS BETWEEN CERTAIN PLANS IN SAME CONTROLLED GROUP.—Subsection (c) of section 4980 of such Code (relating to definitions and special rules for tax on reversion of qualified plan assets to employer) is amended by adding at the end the following new paragraph:

"(4) EXCEPTION FOR TRANSFERS BETWEEN CERTAIN PLANS IN SAME CONTROLLED GROUP.—Any amount transferred through a trustee-to-trustee transfer between defined benefit plans (other than multiemployer plans) maintained by the same employer or by employers who at the time of the transfer are in the same controlled group (within the meaning of section 412A(c)) shall not be treated as an employer reversion for purposes of this section (or includible in the gross income of any such employer).".

(5) CLERICAL AMENDMENT.—The table of sections for subpart B of part 1 of subchapter D of chapter 1 of such Code is amended by inserting after the item relating to section 412 the following new item:

"Sec. 412A. Determination of charges to funding standard account arising from certain employer distributions in standard terminations or certain transactions adversely affecting plan asset security.".

(c) EFFECTIVE DATES.—The amendments made by this section (other than subsection (b)(4)) shall apply with respect to—

(1) employer distributions in plan terminations with respect to which the termination date occurs on or after the date of the enactment of this Act, and

(2) transactions occurring on or after the date of the enactment of this Act.

SEC. 6006. FUNDING WAIVERS.

(a) REQUIREMENTS FOR WAIVERS.—

(1) APPLICATION MUST BE SUBMITTED BEFORE DATE 2 ½ MONTHS AFTER CLOSE OF YEAR.—Section 303 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1083) is amended by adding at the end thereof the following new subsection:

"(f) No waiver may be granted under this section with respect to any plan for any plan year unless an application therefor is submitted to the Secretary of the Treasury not later than the 15th day of the 3rd month beginning after the close of such plan year.".

(2) WAIVER ALLOWED ONLY FOR TEMPORARY HARDSHIP.—Section 303 of such Act (29 U.S.C. 1083) is amended by striking "substantial business hardship" in subsections (a) and (b) and inserting in lieu thereof "temporary substantial business hardship".

(3) HARDSHIP MUST ALSO EXIST AT CONTROLLED GROUP LEVEL.—Section 303 of such Act (29 U.S.C. 1083) (as amended by the preceding provisions of this subsection) is further amended by adding at the end thereof the following new subsection:

"(g)(1) If an employer is a member of a controlled group, the temporary substantial business hardship requirements of paragraph (1) shall be treated as met only if such requirements are met—

"(A) with respect to such employer, and

"(B) with respect to the controlled group of which such employer is a member (determined by treating all members of such group as a single employer).

"(2) For purposes of paragraph (1), the term 'controlled group' means any group treated as a single employer under subsection (b), (c), (m), or (o) of section 414 of the Internal Revenue Code of 1986.".

(b) FREQUENCY OF WAIVERS.—The second sentence of section 303(a) of such Act (29 U.S.C. 1083(a)) is amended by striking "more than 5 of any 15" and inserting "more than 3 of any 15".

(c) REPAYMENT OF WAIVED CONTRIBUTIONS.—

(1) INTEREST.—

(A) VARIANCES FROM MINIMUM FUNDING STANDARD.—Subsection (a) of section 303 of such Act (29 U.S.C. 1083(a)) is amended by striking the last sentence and inserting the following new sentence:

"The interest rate used for purposes of computing the amortization charge described in section 302(b)(2)(C) for any plan year shall be the greater of (1) 120 percent of the Federal mid-term rate (as in effect under section 1274 of the Internal Revenue Code of 1986 for the 1st month of such plan year), or (2) the highest rate of interest used under the plan in determining charges to the funding standard account maintained by the plan.".

(B) EXTENSIONS OF AMORTIZATION PERIODS.—Section 304(a) of such Act (29 U.S.C. 1084(a)) is amended by striking the last sentence and inserting in lieu thereof the following new sentence:

"The interest rate applicable for any plan year under any arrangement entered into by the Secretary of the Treasury in connection with an extension granted under this section shall be the greater of (1) 120 percent of the Federal mid-term rate (as in effect under section 1274 of the Internal Revenue Code of 1986 for the 1st month of such plan year), or (2) the highest rate of interest used under the plan in determining charges to the funding standard account maintained by the plan."

(2) ADJUSTMENTS TO AMORTIZATION PERIOD FOR WAIVED FUNDING DEFICIENCIES.—Subparagraph (C) of section 302(b)(2) of such Act (29 U.S.C. 1082(b)(2)(C)) is amended to read as follows:

"(C) the amount necessary to amortize each waived funding deficiency for each prior plan year in equal annual installments (until fully amortized) over a period of 5 plan years, and".

(d) NOTICE TO PARTICIPANTS OF APPLICATION FOR FUNDING WAIVERS.—Section 303(e)(1) of such Act (29 U.S.C. 1083(e)(1)) is amended by striking "plan." and inserting "plan, and each affected party. Such notice shall include a description of the extent to which the plan is funded for benefits which are guaranteed under title IV and the benefit liabilities (as defined in section 4001(a)(16)).".

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply in the case of—

(A) any application submitted after the date of enactment of this Act, for a waiver with respect to a plan year beginning after December 31, 1985, and

(B) any waiver granted pursuant to such an application.

(2) SPECIAL RULE FOR SUBSECTION (a)(1).—

(A) IN GENERAL.—The amendment made by subsection (a)(1) shall apply to plan years beginning after the date of enactment of this Act.

(B) TRANSITIONAL RULE FOR YEARS BEGINNING IN 1988.—In the case of any plan year beginning during calendar year 1988, section 412(d)(4) of the Internal Revenue Code of 1986 (as added by subsection (a)(1)) shall be applied by substituting "6th month" for "3rd month".

SEC. 6007. LIABILITY OF MEMBERS OF CONTROLLED GROUP FOR TAXES ON FAILURE TO MEET MINIMUM FUNDING STANDARDS.

(a) GENERAL RULE.—Section 4971 of the Internal Revenue Code of 1986 (relating to taxes on failure to meet minimum funding standards) is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) LIABILITY FOR TAX.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the tax imposed by subsection (a) or (b) shall be paid by the employer responsible for contributing to or under the plan the amount described in section 412(b)(3)(A).

"(2) JOINT AND SEVERAL LIABILITY WHERE EMPLOYER MEMBER OF CONTROLLED GROUP.—

"(A) IN GENERAL.—If the employer referred to in paragraph (1) is a member of a controlled group, each member of such group shall be jointly and severally liable for the tax imposed by subsection (a) or (b).

"(B) CONTROLLED GROUP.—For purposes of subparagraph (A), the term 'controlled group' means any group treated as a single employer under subsection (b), (c), (m), or (o) of section 414.".

(b) TECHNICAL AMENDMENTS.—

(1) Subsection (a) of section 4971 of such Code is amended by striking the last sentence.

(2) Subsection (b) of section 4971 of such Code is amended by striking the last sentence.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to taxes imposed for taxable years beginning after December 31, 1987.

SEC. 6008. INCREASE IN LIABILITIES ARISING UPON PLAN TERMINATION.

(a) BENEFIT LIABILITIES.—

(1) IN GENERAL.—Section 4001(a) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1301(a)) is amended by striking paragraph (16) and inserting in lieu thereof the following:

"(16) 'benefit liabilities' to any person means, in connection with a plan terminated under this title, all benefits of such person under the plan as of the termination date (including benefits which are not protected under section 204(g));".

(2) CONFORMING AMENDMENTS.—Title IV of such Act is amended by striking "benefit commitments" each place it appears and inserting "benefit liabilities".

(b) LIABILITY TO CORPORATION FOR DISTRESS TERMINATION.—Section 4062(b)(1)(A)(ii)(I) of such Act (29 U.S.C. 1362(b)(1)(A)(ii)(I)) is amended by striking "75 percent" and inserting "100 percent".

(c) LIABILITY TO THE SECTION 4049 TRUST.—Section 4062(c)(1)(A) of such Act (29 U.S.C. 1362(c)(1)(A)) is amended by striking the last sentence and inserting the following: "The liability of such person under this subsection shall consist of the total outstanding amount of benefit liabilities under the plan.".

SEC. 6009. AMENDMENTS RELATING TO SECTION 4049 TRUST.

(a) ACCELERATION OF DISTRIBUTIONS FROM TRUST.—Section 4049(c)(1) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1349(c)(1)) is amended by striking in the first sentence "Not later" and all that follows through "the corporation" and inserting the following: "Not later than 30 days after the receipt of each liability payment under section 4062(c) (but in no event more frequently than once per year), the corporation".

(b) CONFORMING AMENDMENTS.—Section 4049(c) of such Act (29 U.S.C. 1349(c)) is further amended—

(1) in paragraph (1)(B), by striking "such year" and inserting "a fiscal year of the trust"; and

(2) in paragraph (2), by striking all of the first sentence following "this subsection" and inserting "(other than the final payment owed under this subsection) if such payment does not exceed $100.", and by striking "following liability payment year" in the second sentence and inserting "payment due under this subsection".

SEC. 6010. SINGLE-EMPLOYER PLAN BENEFIT GUARANTY PREMIUMS.

(a) PREMIUM INCREASE.—

(1) IN GENERAL.—Section 4006(a)(3)(A)(i) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1306(a)(3)(A)(i)) is amended by striking "for plan years beginning after December 31, 1985, an amount equal to $8.50" and inserting "for plan years beginning after December 31, 1987, an amount equal to $25.00".

(2) CONFORMING AMENDMENTS.—Section 4006(c)(1)(A) of such Act (29 U.S.C. 1306(c)(1)(A)) is amended—

(A) in clause (i), by striking "and" at the end;

(B) in clause (ii), by inserting "and before January 1, 1986," after "after December 31, 1977,"; and

(C) by adding at the end the following new clause:

"(iii) with respect to each plan year beginning after December 31, 1985, and before January 1, 1988, an amount equal to $8.50 for each individual who was a participant in such plan during the plan year, and".

(b) EMPLOYER LIABILITY FOR PREMIUMS.—

(1) IN GENERAL.—Section 4007(a) of such Act (29 U.S.C. 1307(a)) is amended—

(A) by striking "The plan administrator" and inserting "(1) Except as provided in paragraph (2), the plan administrator"; and

(B) by adding at the end the following new paragraph:

"(2) Each person who is a contributing sponsor of a single-employer plan or a member of the controlled group including such sponsor shall be jointly and severally liable to the corporation for payment of premiums for such plan. This paragraph shall not apply for plan years in which the assets of the plan exceed the sum of the minimum benefit security level (as defined in section 3(41)) and the premiums due under this section for such plan.".

(2) CONFORMING AMENDMENTS.—Subsections (b), (c), and (d) of section 4007 of such Act (29 U.S.C. 1307 (b), (c), and (d)) are each amended by inserting "(or, in the case of a single-employer plan, a contributing sponsor or member of the controlled group including such contributing sponsor)" after "plan administrator" each place it appears.

(c) DEPOSIT OF PREMIUMS INTO SEPARATE REVOLVING FUND.—Section 4005 of such Act (29 U.S.C. 1305) is amended—

(1) by redesignating subsection (f) as subsection (g); and

(2) by inserting after subsection (e) the following new subsection:

"(f)(1) A seventh fund shall be established and credited with—

"(A) premiums, penalties, and interest charges collected under section 4006(a)(3)(A)(i) to the extent attributable to the amount of the premium in excess of $8.50, and

"(B) earnings on investments of the fund or on assets credited to the fund.

"(2) Amounts in the fund shall be available for transfer to other funds established under this section with respect to a single-employer plan but shall not be available to pay—

"(A) administrative costs of the corporation, or

"(B) benefits under any plan that was terminated before January 1, 1988,

unless no other amounts are available for such payment.

"(3) The corporation may invest amounts of the fund in such obligations as the corporation considers appropriate."

SEC. 6011. INTEREST RATE ON ACCUMULATED CONTRIBUTIONS.

Section 411(c)(2) of the Internal Revenue Code of 1986 (relating to accrued benefit derived from employee contributions) is amended—

(1) in subparagraph (C)(iii), by striking "5 percent per annum" and inserting "120 percent of the Federal mid-term rate (as in effect under section 1274 for the 1st month of a plan year)"; and

(2) in subparagraph (D)—

(A) in the first sentence, by striking ", the rate of interest described in clause (iii) of subparagraph (C), or both,"; and

(B) by striking the second sentence.

SEC. 6012. INCREASE IN MINIMUM FUNDING STANDARDS.

(a) GENERAL RULE.—Paragraph (2) of section 412(b) of the Internal Revenue Code of 1986 (relating to changes to funding standard account) is amended by adding at the end thereof the following new sentence: "In the case of a plan to which subsection (l) applies for any year, if the sum of the normal cost of the plan for the plan year plus the unfunded benefit liabilities contribution for such year determined under subsection (l) exceeds the charge determined under the preceding sentence (reduced by the credits under paragraph (3)(B)), the amount charged to the funding standard account for such year under this paragraph shall be equal to such sum."

(b) AMOUNT OF UNFUNDED BENEFIT LIABILITIES CONTRIBUTION.—Section 412 of such Code (relating to minimum funding standards) is amended by adding at the end thereof the following new subsection:

"(l) UNFUNDED BENEFIT LIABILITIES CONTRIBUTION.—

"(1) IN GENERAL.—In the case of a plan to which this section applies for a plan year, the unfunded benefit liabilities contribution for purposes of subsection (b)(2) shall be equal to the lesser of—

"(A) the sum of the amounts determined under paragraph (3), or

"(B) the excess of—

"(i) 100 percent of the plan's benefit liabilities for such year, over

"(ii) the normal cost of the plan for such year determined under subsection (b)(2)(A).

"(2) PLANS TO WHICH SUBSECTION APPLIES.—This subsection applies to a plan (other than a multiemployer plan) for any plan year if the actuarial value of the assets of the plan determined under subsection (c)(2) is less than 100 percent of the plan's benefit liabilities.

"(3) DETERMINATION OF AMOUNTS.—For purposes of paragraph (1)(A)—

"(A) IN GENERAL.—The amounts determined under this paragraph are the amounts necessary to amortize in equal annual installments (until fully amortized)—

"(i) the unfunded past service liability of individuals in pay status over a period of 10 years, and

"(ii) the unfunded past service liability of individuals not in pay status over a period equal to the greater of—

"(I) 15 years, or

"(II) the plan's average worklife.

"(B) INCREASE FOR LUMP SUM DISTRIBUTIONS.—The amount determined under subparagraph (A)(i) for any plan year shall be increased by the applicable percentage of the aggregate amount of distributions during the preceding plan year—

"(i) which are not part of a series of payments described in section 72(t)(2)(A)(iv), or

"(ii) as payments for the purchase of annuity contracts for employees which are not held by the trust.

For purposes of this subparagraph, the term 'applicable percentage' means 100 percent minus the percentage which the actuarial value of the assets of the plan under subsection (c)(2) bears to the plan's benefit liabilities.

"(C) PHASE-IN OF AMORTIZATION OF LIABILITIES OF INDIVIDUALS NOT IN PAY STATUS.—In the case of plan years beginning before January 1, 1993, of a plan in existence on the date of enactment of the Retirement Security Promotion Act of 1987, subparagraph (A)(ii)(I) shall be applied to unfunded past service liabilities which are not attributable to plan amendments adopted on or after such date, by substituting for 15 years the number of years determined under the following table:

"In the case of a plan year beginning in:	The number of years is:
1988	25
1989	23
1990	21
1991	19
1992	17.

"(D) SPECIAL RULE FOR PLANS IN COMPLETE PAY STATUS.—If the only unfunded past service liabilities of a plan are liabilities described in subparagraph (A), subparagraph (A) shall be applied by reducing (but not below 1) the 10-year period by 1 year for each year after the 1st year to which this subparagraph applies.

"(E) AVERAGE WORKLIFE.—For purposes of subparagraph (A), the average worklife is the amount (rounded to the nearest whole number) by which—

"(i) the average age at which such employees (and former employees) are reasonably expected to attain pay status, exceeds

"(ii) the average age of employees (and former employees) whose liabilities are taken into account under subparagraph (A)(ii).

"(F) UNFUNDED LIABILITIES.—In determining unfunded past service liabilities, the assets of the plan shall be treated as—

"(i) first funding liabilities described in subparagraph (A)(i),

"(ii) second funding liabilities described in subparagraph (C), and

"(iii) then funding all other liabilities.

"(4) TIME DETERMINATIONS MADE.—Any determination required to be made under the plan for any plan year shall be determined on the valuation date of the plan for such year for purposes of this section."

(c) PERIODS FOR AMORTIZING CERTAIN GAINS AND LOSSES.—

(1) EXPERIENCE GAINS AND LOSSES.—Paragraphs (2)(B)(iv) and (3)(B)(ii) of section 412(b) of the Internal Revenue Code of 1987 are each amended by striking out "15 plan

years" and inserting in lieu thereof "7 plan years".

(2) ACTUARIAL ASSUMPTIONS.—Paragraphs (2)(B)(v) and (3)(B)(iii) of section 412(b) of such Code are each amended by striking out "30 plan years" and inserting in lieu thereof "7 plan years".

(d) Section 412(c) of the Internal Revenue Code of 1986 (relating to special rules) is amended by adding at the end thereof the following new paragraph:

"(11) EXPERIENCE GAIN AND LOSS OF CERTAIN PLANS REQUIRED TO BE COMPUTED SEPARATELY.—If the accrued liability under a plan cannot be directly calculated under the funding method used for the plan, then the net experience loss or gain of the plan—

"(A) shall be computed separately in such manner as the Secretary may prescribe, and

"(B) shall be amortized under subsection (b)(2)(B)(iv) or (b)(3)(B)(ii), respectively."

(e) EFFECTIVE DATE.—The amendments made by this section shall apply for plan years beginning on or after January 1, 1988.

SEC. 6013. TIME FOR MAKING CONTRIBUTIONS.

(a) AMENDMENTS TO EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.—

(1) REDUCTION OF PERIOD DURING WHICH CONTRIBUTIONS MAY BE MADE AFTER CLOSE OF YEAR.—Section 302(c)(10) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1082(c)(10)) is amended—

(A) in the first sentence, by striking out "For" and inserting in lieu thereof "Subject to subsection (d), for"; and

(B) by striking out the second sentence.

(2) QUARTERLY ESTIMATED PAYMENTS REQUIRED.—Section 302 of such Act is amended

(A) by redesignating subsection (d) as subsection (e); and

(B) by inserting after subsection (c) the following new subsection:

"(d)(1) In any case in which an employer maintains a plan to which this section applies, there shall be 4 required installments for each plan year ending with or within such taxable year.

"(2) The required installments shall be due as follows:

"In the case of the following required installments:	The due date is:
1st	March 15
2nd	June 15
3rd	September 15
4th	December 15.

"(3)(A) For purposes of this subsection, the amount of any required installment shall be 25 percent of the required annual payment.

"(B) For purposes of subparagraph (A), the term 'required annual payment' means the lesser of—

"(i) the estimated amount required to be contributed to or under the plan by the employer for the plan year by reason of this section, or

"(ii) in any case in which the preceding plan year equals 12 months, the amount so required for the preceding plan year.

"(4)(A) In applying this subsection to a plan year beginning on any date other than January 1, there shall be substituted, for the months specified in this subsection, the months that correspond thereto.

"(B) This subsection shall be applied to plan years of less then 12 months in accordance with regulations prescribed by the Secretary of the Treasury.".

(b) AMENDMENTS TO INTERNAL REVENUE CODE OF 1986.—

(1) REDUCTION OF PERIOD DURING WHICH CONTRIBUTIONS MAY BE MADE AFTER CLOSE OF YEAR.—Paragraph (10) of section 412(c) of the Internal Revenue Code of 1986 (relating to time when certain contributions deemed made) is amended by striking out the last sentence.

(2) QUARTERLY ESTIMATED PAYMENTS REQUIRED.—

(A) IN GENERAL.—Chapter 43 of such Code (relating to qualified payments, etc., plans) is amended by inserting after section 4971 the following new section:

"SEC. 4971A. FAILURE BY EMPLOYER TO MAKE QUARTERLY PAYMENTS OF ESTIMATED REQUIRED CONTRIBUTION.

"(a) GENERAL RULE.—

"(1) IN GENERAL.—For each taxable year of an employer who maintains a plan—

"(A) to which section 412 applies, and

"(B) which is not a multiemployer plan (as defined in section 414(f)),

there is hereby imposed a tax equal to the amount determined under paragraph (2) with respect to any underpayment of a required installment for a plan year ending with or within such taxable year.

"(2) DETERMINATION OF AMOUNT.—The amount determined under this paragraph with respect to any underpayment shall be determined by applying—

"(A) the underpayment rate established under section 6621,

"(B) to the amount of the underpayment,

"(C) for the period of the underpayment.

"(b) AMOUNT OF UNDERPAYMENT, PERIOD OF UNDERPAYMENT.—For purposes of subsection (a)—

"(1) AMOUNT.—The amount of the underpayment shall be the excess of—

"(A) the required installment, over

"(B) the amount (if any) of the installment contributed to or under the plan on or before the due date for the installment.

"(2) PERIOD OF UNDERPAYMENT.—The period of the underpayment shall run from the due date for the installment to whichever of the following dates is the earlier—

"(A) the 15th day of the 3rd month following the close of the plan year, or

"(B) with respect to any portion of the underpayment, the date on which such portion is contributed to or under the plan.

"(3) ORDER OF CREDITING CONTRIBUTIONS.—For purposes of paragraph (2)(B), contributions shall be credited against unpaid required installments in the order in which such installments are required to be paid.

"(c) NUMBER OF REQUIRED INSTALLMENTS; DUE DATES.—For purposes of this section—

"(1) PAYABLE IN 4 INSTALLMENTS.—There shall be 4 required installments for each plan year.

"(2) TIME FOR PAYMENT OF INSTALLMENTS.

"In the case of the following required installments:	The due date is:
1st	March 15
2nd	June 15
rd	September 15
4th	December 15.

"(d) AMOUNT OF REQUIRED INSTALLMENT.—For purposes of this section—

"(1) IN GENERAL.—The amount of any required installment shall be 25 percent of the required annual payment.

"(2) REQUIRED ANNUAL PAYMENT.—For purposes of paragraph (1), the term 'required annual payment' means the lesser of—

"(A) the estimated amount required to be contributed to or under the plan by the employer for the plan year by reason of section 412, or

"(B) in any case in which the preceding plan year equals 12 months, the amount so required for the preceding plan year.

Subparagraph (B) shall not apply if the preceding plan year was not a year of 12 months.

"(e) FISCAL YEARS AND SHORT YEARS.—

"(1) FISCAL YEARS.—In applying this section to a plan year beginning on any date other than January 1, there shall be substituted for the months specified in this section, the months which correspond thereto.

"(2) SHORT PLAN YEAR.—This section shall be applied to plan years of less than 12 months in accordance with regulations prescribed by the Secretary."

(B) CLERICAL AMENDMENT.—The table of sections for chapter 43 of such Code is amended by inserting after the item relating to section 4971 the following new item:

"Sec. 4971A. Failure by employer to make quarterly payments of estimated required contribution.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to plan years beginning after December 31, 1990.

SEC. 6014. STUDY OF EVENT-CONTINGENT BENEFITS.

(a) STUDY.—The Secretary of Labor shall conduct a study of the economic impact of event-contingent pension benefits on private pension plans.

(b) REPORT.—Not later than February 1, 1988, the Secretary shall submit a report describing the results of the study, together with specific legislative recommendations for protection of private pension plans providing event-contingent benefits, to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate.

SEC. 6015. EFFECTIVE DATE.

Except as otherwise specifically provided in this subtitle, this subtitle and the amendments made by this subtitle shall become effective on the date of enactment of this Act.

Subtitle B—Guaranteed Student Loan Program Savings

SEC. 6101. RECOVERY OF EXCESS CASH RESERVES ACCUMULATED UNDER THE GUARANTEED STUDENT LOAN PROGRAM.

(a) IN GENERAL.—Section 422 of the Higher Education Act of 1965 (20 U.S.C. 1071) is amended by adding at the end thereof the following new subsection:

"(e) REDUCTION OF EXCESS CASH RESERVES.—

"(1) LIMITATION ON MAXIMUM CASH RESERVES.—A guaranty agency shall not accumulate cash reserves in excess of the greater of—

"(A) 40 percent of the total amount paid by that agency on insurance claims during the preceding fiscal year;

"(B) 0.3 percent of original principal amount of loans that are insured by that agency and that are outstanding at the end of such preceding fiscal year;

"(C) an amount which, when combined with all other parts of total agency reserves, equals 0.4 percent of such original principal amount;

"(D) $500,000; or

"(E) the amount required to comply with the reserve requirements of a State law as in effect on October 17, 1986.

"(2) RECOVERY OF EXCESS CASH RESERVES.—The Secretary shall, not later than March 31, 1988, determine for each guaranty agency the maximum cash reserve permitted under paragraph (1) for fiscal year 1986. Subject to paragraphs (3) and (4), if the Secretary determines that any guaranty agency had, at the end of fiscal year 1986, a cash reserve that exceeded such maximum, the Secretary shall direct the agency to eliminate such excess by any one or more of the following methods, as selected by the guaranty agency:

"(A) by repaying any advances to such agency made by the Secretary under this section that are not required to be repaid under subsection (d);

"(B) by withholding and canceling claims for reimbursement otherwise payable under section 428(c)(1);

"(C) by reducing the amount of payments for which application will be made by such agency under section 428(f); or

"(D) by any other method of reducing payments from or increasing payments to the Federal Government, including payment of additional reinsurance fees in addition to the fees required by section 428(c)(9), as proposed by the agency and agreed to by the Secretary.

"(3) Appeals based on special circumstances.—If the Secretary determines, on the basis of an application from a guaranty agency, that—

"(A) the agency's financial position has deteriorated significantly since the end of the preceding fiscal year; or

"(B) significant changes in the economic circumstances (such as a change in agency current cash reserves) or the loan insurance program render the limitations of paragraph (1) inadequate for the continued functioning of the agency,

the Secretary may waive, in whole or in part, the imposition of the remedies required by paragraph (2) for such agency.

"(4) Recovery limits.—The Secretary shall not require a total reduction of cash reserves for all guaranty agencies in excess of $250,000,000 during fiscal year 1988. If the total of cash reserves of all guaranty agencies exceeds the maximum amounts permitted under paragraph (1) by more than $250,000,000, the Secretary shall ratably reduce the amounts that guaranty agencies are directed to eliminate under paragraph (2), so that the total excess cash reserves to be eliminated equals $250,000,000.

"(5) Definitions.—As used in this subsection—

"(A) the 'cash reserves' for any guaranty agency for any fiscal year are equal to the agency's cumulative cash receipts less the agency's cumulative cash disbursements at the end of such fiscal year;

"(B) the 'total reserves' for any guaranty agency for any fiscal year are equal to the agency's cash reserves plus the agency's cumulative accounts receivable less the agency's accounts payable, as of the end of such fiscal year;

"(C) the term 'cumulative cash receipts' includes such receipts as insurance premiums, Federal reinsurance payments, and collections on defaulted loans;

"(D) the term 'cumulative cash disbursements' includes such disbursements as payments for default claims, repayment of Federal advances, transfers to other State activities, and payment of collection costs and other operating costs;

"(E) the term 'accounts receivable' includes Federal reinsurance payments and administrative cost allowances owed but not yet paid to the guaranty agency, as of the end of a fiscal year; and

"(F) the term 'accounts payable' includes collections and reinsurance fees due (but not paid) to the Department of Education, as of the end of a fiscal year.".

(b) Conforming Amendments.—

(1) The second sentence of section 428(c)(1)(A) of such Act is amended by striking out "shall be deemed" and inserting "shall, subject to section 422(e), be deemed".

(2) Section 428(c)(9)(A) of such Act is amended by striking out "an amount equal to" and inserting "an amount, subject to section 422(e), equal to".

(3) The second sentence of section 428(f)(1)(B) of such Act is amended by striking out "shall be deemed" and inserting "shall, subject to section 422(e), be deemed".

SEC. 6102. REPEAL.

(a) In General.—Subsection (e) of section 422 of the Higher Education Act of 1965 is repealed on September 30, 1989.

(b) Conforming Amendments.—

(1) Effective September 30, 1989, the second sentence of section 428(c)(1)(A) of such Act is amended by striking out "shall, subject to section 422(e), be deemed" and inserting "shall be deemed".

(2) Effective September 30, 1989, section 428(c)(9)(A) of such Act is amended by striking out "an amount, subject to section 422(e), equal to" and inserting "an amount equal to".

(3) Effective September 30, 1989, the second sentence of section 428(f)(1)(B) of such Act is amended by striking out "shall, subject to section 422(e), be deemed" and inserting "shall be deemed".

SEC. 6103. INFORMATION ON DEFAULTS REQUIRED.

(a) General Rule.—The first sentence of section 428(k)(1) of the Higher Education Act of 1965 is amended—

(1) by striking out "In" and inserting in lieu thereof "Notwithstanding any other provision of law, in"; and

(2) by striking out "may" and inserting in lieu thereof "shall".

(b) Conforming Amendment.—The second sentence of section 428(k)(1) of such Act is amended by striking out "may" and inserting in lieu thereof "shall".

TITLE VII—VETERANS' PROGRAMS

SEC. 7001. SALES OF LOANS MADE BY THE VETERANS' ADMINISTRATION TO FINANCE THE SALE OF FORECLOSED PROPERTIES.

Section 1816(d) of title 38, United States Code, is amended by striking out paragraph (3).

SEC. 7002. EXTENSION OF LOAN FEE.

Section 1829(c) of title 38, United States Code, is amended by striking out "1987" and inserting in lieu thereof "1989".

SEC. 7003. CASH SALES OF PROPERTIES ACQUIRED THROUGH FORECLOSURES.

(a) Number of Vendee Loans.—Section 1816(d)(1) of title 38, United States Code, is amended by striking out "not more than 75 percent, nor less than 60 percent" and inserting in lieu thereof "not more than 65 percent, nor less than 50 percent".

(b) Termination of Authority To Make and Finance Vendee Loans.—Section 1816(d) is amended by adding at the end the following new paragraph:

"(6) This subsection shall cease to have effect on October 1, 1990.".

(c) Effective Date.—The amendments made by this section shall take effect as of October 1, 1987.

SEC. 7004. CONSTRUCTION.

(a) Construction for Purposes of the Balanced Budget and Emergency Deficit Reaffirmation Control Act of 1987.—For the purposes of subsections (a) and (b) of section 202 of the Balanced Budget and Emergency Deficit Reaffirmation Control Act of 1987 (Public Law 100-119), the amendments made by this title achieve savings made possible by changes in program requirements.

(b) Rule for Construction of Duplicate Provisions.—In applying the provisions of this title and the provisions of the Veterans' Home Loan Program Improvements and Property Rehabilitation Act of 1987 which make the same amendments as the provisions of this title—

(1) the identical provisions of title 38, United States Code, enacted by the provisions of this title and the provisions of such Act shall be treated as having been enacted only once; and

(2) in executing to title 38, United States Code, the amendments made by the provisions of this title and the provisions of such Act, such amendments shall be executed so as to appear only once in the law as amended.

TITLE VIII—AGRICULTURE

SEC. 8001. SHORT TITLE; TABLE OF CONTENTS.

(a) Short Title.—This title may be cited as the "Agricultural Reconciliation Act of 1987".

(b) Table of Contents.—The table of contents is as follows:

TABLE OF CONTENTS

Sec. 8001. Short title; table of contents.

Subtitle A—Agricultural Price Support Programs

Sec. 8101. Agricultural income support reductions.
Sec. 8102. Loan rates.
Sec. 8103. Storage expenditures.
Sec. 8104. Whole base bid program.
Sec. 8105. Acreage limitation program for feed grains.
Sec. 8106. Paid land diversion program for feed grains.
Sec. 8107. Loan programs for soybeans and other oilseeds.
Sec. 8108. Advance payments.
Sec. 8109. Advanced emergency compensation payments for wheat.
Sec. 8110. Producer reserve program.
Sec. 8111. Honey loans and payment limitation.
Sec. 8112. Loan rate differentials.
Sec. 8113. Yield adjustments.

Subtitle B—Prepayment of Rural Electrification Loans

Sec. 8201. Prepayment of loans.
Sec. 8202. Use of funds.
Sec. 8203. Cushion of credit payments program.
Sec. 8204. Rural telephone bank.

Subtitle C—Miscellaneous

Sec. 8301. Study of use of agricultural commodity futures and options markets.
Sec. 8302. Authorization of appropriations for Philippine food aid initiative.
Sec. 8303. Rural industrialization assistance.
Sec. 8304. Plant variety protection fees.
Sec. 8305. Annual appropriations to reimburse the Commodity Credit Corporation for net realized losses.
Sec. 8306. Federal crop insurance.
Sec. 8307. Ethanol usage.
Sec. 8308. Wheat acreage diversion.
Sec. 8309. Demonstration of family independence program.

Subtitle A—Agricultural Price Support Programs

SEC. 8101. AGRICULTURAL INCOME SUPPORT REDUCTIONS.

(a) Target Price Reductions.

(1) Wheat.—Effective only for the 1988 crop of wheat, section 107D(c)(1)(G) of the Agricultural Act of 1949 (7 U.S.C. 1445b-

3(c)(1)(G)) is amended by striking out "$4.29" and inserting in lieu thereof "$4.25".

(2) Feed Grains.—Effective only for the 1988 crop of feed grains, section 105C(c)(1)(E) of such Act (7 U.S.C. 1444e(c)(1)(E)) is amended by striking out "$2.97" and inserting in lieu thereof "$2.94".

(3) Cotton.—Effective only for the 1988 crop of upland cotton, section 103A(c)(1)(D) of such Act (7 U.S.C. 1444-1(c)(1)(D)) is amended by striking out "$0.77" and inserting in lieu thereof "$0.762".

(4) Rice.—Effective only for the 1988 crop of rice, section 101A(c)(1)(D) of such Act (7 U.S.C. 1441-1(c)(1)(D)) is amended by striking out "$11.30" and inserting in lieu thereof "$11.19".

(b) Dairy Assessment.—Section 201(d)(2) of such Act (7 U.S.C. 1446(d)) is amended—

(1) in subparagraph (C), by striking out "subparagraph (A)" and inserting in lieu thereof "this paragraph"; and

(2) by adding at the end thereof the following new subparagraph:

"(F) During calendar year 1988, the Secretary shall provide for a reduction of 2½ cents per hundredweight to be made in the price received by producers for all milk produced in the United States and marketed by producers for commercial use.".

(c) Wool Price Support Reductions.—Section 703(b) of the National Wool Act of 1954 (7 U.S.C. 1782) is amended—

(1) by striking out "The" and inserting in lieu thereof "(1) Except as provided in paragraphs (2) and (3), the";

(2) by striking out ": Provided," and all that follows through the period and inserting in lieu thereof a period; and

(3) by adding at the end thereof the following new paragraphs:

"(2) Except as provided in paragraph (3), for the marketing years beginning January 1, 1982, and ending December 31, 1990, the support price for shorn wool shall be 77.5 percent (rounded to the nearest full cent) of the amount calculated according to paragraph (1).

"(3) For the marketing year beginning January 1, 1988, and ending December 31, 1988, the support price for shorn wool shall be 76.7 percent (rounded to the nearest full cent) of the amount calculated according to paragraph (1).".

SEC. 8102. LOAN RATES.

(a) Wheat.—Effective only for the 1988 crop of wheat, section 107D(a)(3)(B) of the Agricultural Act of 1949 (7 U.S.C. 1445b-3(a)(3)(B)) is amended by inserting "(except that, in the case of the 1988 crop of wheat, 1 percent)" after "5 percent".

(b) Feed Grains.—Effective only for the 1988 crop of feed grains, section 105C(a)(2)(B) of such Act (7 U.S.C. 1444e(a)(2)(B)) is amended by inserting "(except that, in the case of the 1988 crop of corn, 1 percent)" after "5 percent".

(c) Cotton.—Effective only for the 1988 crop of upland cotton, section 103A(a)(2)(A) of such Act (7 U.S.C. 1444-1(a)(2)(A)) is amended by inserting "(except that, in the case of the 1988 crop of upland cotton, 1 percent)" after "5 percent".

(d) Rice.—Effective only for the 1988 crop of rice, section 101A(a)(2) of such Act (7 U.S.C. 1441-1(a)(2)) is amended by inserting "(except that, in the case of the 1988 crop of rice, 1 percent)" after "5 percent".

SEC. 8103. STORAGE EXPENDITURES.

For the fiscal years 1988 and 1989, the Secretary of Agriculture shall ensure that expenditures of the Commodity Credit Corporation for commercial storage, transportation, and handling of commodities owned by the Corporation (excluding storage payments made in accordance with section 110 of the Agricultural Act of 1949 (7 U.S.C. 1445e)) are reduced by $230,000,000 in such fiscal years from the amount of funds expended in fiscal year 1987 for commercial storage, transportation, and handling of such commodities. In order to achieve the savings required by this section, the Secretary shall adjust storage, handling, or transportation rates paid by the Corporation and take other appropriate actions.

SEC. 8104. WHOLE BASE BID PROGRAM.

(a) Wheat.—Effective only for the 1988 and 1989 crops of wheat, section 107D(f) of the Agricultural Act of 1949 (7 U.S.C. 1445b-3(f)) is amended—

(1) in paragraph (5)(A), by striking out clause (iii) and inserting in lieu thereof the following new clause:

"(iii) The Secretary shall limit the total percentage of the wheat acreage base in a county to be diverted under the acreage limitation program, land diversion program, and base diversion program established under this subsection for a crop of wheat to a percentage that is 2.5 percent above the percentage reduction established under the acreage limitation program and the land diversion program for the crop."; and

(2) by adding at the end thereof the following new paragraph:

"(9)(A) In the case of the 1988 and 1989 crops of wheat, if the Secretary determines that supplies of wheat will be excessive, the Secretary shall make base diversion payments to producers of wheat who agree to devote to approved conservation uses a quantity of acreage equal to the farm program acreage base for wheat on the farm in accordance with base diversion contracts entered into by the Secretary with such producers.

"(B) The amount of such payments shall be determined through the submission of bids for such contracts by producers in such manner as the Secretary may prescribe or such other means as the Secretary determines appropriate. The Secretary shall make payments available under this paragraph at the same time and in the same manner as payments are made under subsection (c).

"(C) The contracts shall provide for the preservation of the crop acreage base of the producer.

"(D) Haying and grazing of wheat shall be permitted on acreage devoted to conservation uses under this paragraph, except during any consecutive 5-month period that is established by the State committee established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) for a State. Such 5-month period shall be established during the period beginning April 1, and ending October 31, of a year. In the case of a natural disaster, the Secretary may permit unlimited haying and grazing on such acreage.".

(b) Feed Grains.—Effective only for the 1988 and 1989 crops of feed grains, section 105C(f) of such Act (7 U.S.C. 1444e(f)) is amended—

(1) in paragraph (5), by striking out subparagraph (C) and inserting in lieu thereof the following new subparagraph:

"(C) The Secretary shall limit the total percentage of the feed grain acreage base in a county to be diverted under the acreage limitation program, land diversion program, and base diversion program established under this subsection for a crop of feed grains to a percentage that is 5 percent above the percentage reduction established under the acreage limitation program and the land diversion program for the crop."; and

(2) by adding at the end thereof the following new paragraph:

"(9)(A) In the case of the 1988 and 1989 crops of feed grains, if the Secretary determines that supplies of feed grains will be excessive, the Secretary shall make base diversion payments to producers of feed grains who agree to devote to approved conservation uses a quantity of acreage equal to the farm program acreage base for feed grains on the farm in accordance with base diversion contracts entered into by the Secretary with such producers.

"(B) The amount of such payments shall be determined through the submission of bids for such contracts by producers in such manner as the Secretary may prescribe or such other means as the Secretary determines appropriate. The Secretary shall make payments available under this paragraph at the same time and in the same manner as payments are made under subsection (c).

"(C) The contracts shall provide for the preservation of the crop acreage base of the producer.

"(D) Haying and grazing of feed grains shall be permitted on acreage devoted to conservation uses under this paragraph, except during any consecutive 5-month period that is established by the State committee established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) for a State. Such 5-month period shall be established during the period beginning April 1, and ending October 31, of a year. In the case of a natural disaster, the Secretary may permit unlimited haying and grazing on such acreage.

"(E) If the Secretary implements the program provided for by this paragraph, the Secretary shall implement a land diversion program as provided for in paragraph (5).".

(c) Cotton.—Effective only for the 1988 and 1989 crops of upland cotton, section 103A(f) of such Act (7 U.S.C. 1444-1(f)) is amended—

(1) in paragraph (4), by striking out subparagraph (C) and inserting in lieu thereof the following new subparagraph:

"(C) The Secretary shall limit the total percentage of the upland cotton acreage base in a county to be diverted under the acreage limitation program, land diversion program, and base diversion program established under this subsection for a crop of upland cotton to a percentage that is 2.5 percent above the percentage reduction established under the acreage limitation program and the land diversion program for the crop."; and

(2) by adding at the end thereof the following new paragraph:

"(8)(A) In the case of the 1988 and 1989 crops of upland cotton, if the Secretary determines that supplies of upland cotton will be excessive, the Secretary shall make base diversion payments to producers of upland cotton who agree to devote to approved conservation uses a quantity of acreage equal to the farm program acreage base for upland cotton on the farm in accordance with base diversion contracts entered into by the Secretary with such producers.

"(B) The amount of such payments shall be determined through the submission of bids for such contracts by producers in such manner as the Secretary may prescribe or such other means as the Secretary determines appropriate. The Secretary shall make payments available under this paragraph at the same time and in the same manner as payments are made under subsection (c).

"(C) The contracts shall provide for the preservation of the crop acreage base of the producer.

"(D) In the case of a natural disaster, the Secretary may permit unlimited haying and grazing on acreage devoted to conservation uses under this paragraph.".

(d) RICE.—Effective only for the 1988 and 1989 crops of rice, section 101A(f) of such Act (7 U.S.C. 1441-1(f)) is amended—

(1) in paragraph (4), by striking out subparagraph (C) and inserting in lieu thereof the following new subparagraph:

"(C) The Secretary shall limit the total percentage of the rice acreage base in a county to be diverted under the acreage limitation program, land diversion program, and base diversion program established under this subsection for a crop of rice to a percentage that is 2.5 percent above the percentage reduction established under the acreage limitation program and the land diversion program for the crop."; and

(2) by adding at the end thereof the following new paragraph:

"(8)(A) In the case of the 1988 and 1989 crops of rice, if the Secretary determines that supplies of rice will be excessive, the Secretary shall make base diversion payments to producers of rice who agree to devote to approved conservation uses a quantity of acreage equal to the farm program acreage base for rice on the farm in accordance with base diversion contracts entered into by the Secretary with such producers.

"(B) The amount of such payments shall be determined through the submission of bids for such contracts by producers in such manner as the Secretary may prescribe or such other means as the Secretary determines appropriate. The Secretary shall make payments available under this paragraph at the same time and in the same manner as payments are made under subsection (c).

"(C) The contracts shall provide for the preservation of the crop acreage base of the producer.

"(D) In the case of a natural disaster, the Secretary may permit unlimited haying and grazing on acreage devoted to conservation uses under this paragraph.".

(e) PAYMENT LIMITATION.—Section 1001(2)(B) of the Food Security Act of 1985 (7 U.S.C. 1308(2)(B)) is amended—

(1) by striking out "and" at the end of clause (v);

(2) by striking out the period at the end of clause (vi) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new clause:

"(vii) any base diversion payment received for a crop of wheat, feed grains, upland cotton, or rice under section 107D(f)(9), 105C(f)(9), 103A(f)(8), or 101A(f)(8), respectively, of the Agricultural Act of 1949.".

SEC. 8105. ACREAGE LIMITATION PROGRAM FOR FEED GRAINS.

(a) IN GENERAL.—Effective only for the 1988 and 1989 crops of feed grains, section 105C(f)(1) of the Agricultural Act of 1949 (7 U.S.C. 1444e(f)(1)) is amended—

(1) in subparagraph (A)(i), by striking out "subparagraphs (B) through (D)" and inserting in lieu thereof "this paragraph";

(2) by redesignating subparagraph (D) as subparagraph (F); and

(3) by inserting after subparagraph (C) the following new subparagraphs:

"(D) In the case of each of the 1988 and 1989 crops of feed grains, if the Secretary provides for an acreage limitation program (as described in paragraph (2)), the Secretary shall provide for a reduction of not more than 5 percent, in addition to the reduction permitted under subparagraph (C), in the quantity of acreage that may be planted to feed grains for harvest on a farm. The Secretary shall permit all or any part of such additional reduced acreage to be devoted to soybeans, sunflowers, or other oilseeds specified by the Secretary. The Secretary shall provide for the protection of the feed grain crop acreage base of a farm for any such acreage devoted to soybeans, sunflowers, or other oilseeds specified by the Secretary. In the case of the 1989 crop of feed grains, the Secretary may waive the application of this subparagraph if the Secretary estimates that (i) such waiver is necessary in order to maintain adequate supplies of feed grains, or (ii) the quantity of soybeans on hand in the United States on the first day of the 1989 marketing year for that crop (not including any quantity of soybeans of that crop) will be in excess of 425 million bushels.".

"(E) If the Secretary waives the provision of subparagraph (D) in accordance with clause (D)(ii), the Secretary shall provide for a reduction of not more than 2.5 percent in addition to the reduction permitted under subparagraph (C) in the quantity of acreage that may be planted to feed grains for harvest on a farm.".

(b) OATS.—Effective only for the 1988 through 1990 crops of feed grains, section 105C(f)(2) of such Act is amended by adding at the end thereof the following new subparagraph:

"(G) In the case of the 1988 through 1990 crops of oats, the Secretary shall not establish a percentage reduction in accordance with paragraph (1) in excess of 5 percent. In implementing this subparagraph, the Secretary shall issue regulations that provide for the fair and equitable treatment of producers on a farm for which an oat and barley crop acreage base has been established. To ensure the efficient and fair implementation of this subparagraph, the Secretary shall announce revisions of the acreage limitation program for the 1988 crop of feed grains that implement this subparagraph as soon as practicable after the date of enactment of the Agricultural Reconciliation Act of 1987. In the case of the 1990 crop of oats, the Secretary may waive the application of this subparagraph if the Secretary determines that the supply of oats will be excessive.".

(c) CONFORMING AMENDMENTS.—

(1) PLANTING SOYBEANS ON REDUCED ACREAGE.—Effective only for the 1988 and 1989 crops of soybeans, section 201(i)(6)(B) of such Act (7 U.S.C. 1446(i)(6)(B)) is amended by inserting ", except as provided in section 105C(f)(1)(D)" before the semicolon at the end thereof.

(2) CONSIDERED PLANTED ACREAGE.—Effective only for the 1988 and 1989 crops of wheat, feed grains, upland cotton, and rice, section 504(b)(2) of such Act (7 U.S.C. 1464(b)(2)) is amended—

(A) by striking out "and" at the end of subparagraph (D);

(B) by striking out the period at the end of subparagraph (E) and inserting in lieu thereof "; and"; and

(C) by adding at the end thereof the following new subparagraph:

"(F) any acreage planted to soybeans, sunflowers, or other oilseeds specified by the Secretary in accordance with section 105C(f)(1)(D).".

SEC. 8106. PAID LAND DIVERSION PROGRAM FOR FEED GRAINS.

Effective only for the 1988 and 1989 crops of feed grains, section 105C(f)(5) of the Agricultural Act of 1949 (7 U.S.C. 1444e(f)(5)) is amended by adding at the end thereof the following new subparagraph:

"(D)(i) If land diversion payments are made in accordance with this paragraph with respect to the 1988 or 1989 crop of corn—

"(I) in the case of the 1988 crop, the required reduction in the crop acreage base shall be 5 percent and the diversion payment rate shall be $2.00 per bushel; and

"(II) in the case of the 1989 crop, (AA) except as provided in (BB), the required reduction in the crop acreage base shall be 5 percent and the diversion payment rate shall be $1.75 per bushel;

"(BB) if the Secretary waives the provisions of paragraph (1)(D) in accordance with paragraph (1)(E), the required reduction in the crop acreage base for feed grains shall be 7.5 percent and the diversion payment rate shall be $1.75 per bushel. Such land diversion payments shall be made available as follows: 20 percent at the time the producer enters into a contract to participate in the 1989 feed grain program and the remainder at the time payments are made in accordance with subsection (c)(1)(C)(i).

"(ii) In the case of any land diversion program established for the 1988 or 1989 crop of barley, grain sorghum, and oats, the Secretary shall, in determining the diversion payment rate, take into consideration the diversion payment established for the 1988 or 1989 crop of corn, respectively.".

SEC. 8107. LOAN PROGRAMS FOR SOYBEANS AND OTHER OILSEEDS.

(a) SOYBEANS.—Effective only for the 1988 through 1990 crops of soybeans, section 201(i)(3) of the Agricultural Act of 1949 (7 U.S.C. 1446(i)(3)) is amended—

(1) in subparagraph (A), by striking out "If" and all that follows through "may" and inserting in lieu thereof "The Secretary may, for each of the 1986, 1987, and 1990 crops of soybeans, and shall, for each of 1988 and 1989 crops of soybeans,"; and

(2) in subparagraph (B), by striking out "If" and all that follows through "shall" and inserting in lieu thereof "The Secretary shall".

(b) SUNFLOWERS.—Effective only for the 1988 through 1990 crops of sunflowers, section 201(l) of such Act is amended—

(1) in paragraph (1)—

(A) by striking out "may" and inserting in lieu thereof "may, for each of the 1987 and 1990 crops of sunflowers, and shall, for each of 1988 and 1989 crops of sunflowers,";

(B) by striking out "for each of the 1987 through 1990 crops of sunflowers"; and

(C) by striking out "8½ cents per pound of sunflower seeds" and inserting in lieu thereof "8½ cents per pound of sunflower seeds, for the 1987 crop, and 8 cents per pound of sunflower seeds, for each of the 1988 through 1990 crops"; and

(2) in paragraph (2)(A), by striking out "may" and inserting in lieu thereof "may, for each of the 1987 and 1990 crops, and shall, for each of the 1988 and 1989 crops,".

(c) COTTONSEEDS.—Effective only for the 1988 and 1989 crops of cottonseeds, section 201 of such Act is amended by adding at the end thereof the following new paragraph:

"(7) The Secretary shall support the price of each of the 1988 and 1989 crops of cottonseeds through loans at such level and in such manner as the Secretary determines is *fair and reasonable in relation to the level and manner in which the price of soybeans is supported.".*

SEC. 8108. ADVANCE PAYMENTS.

Effective only for the 1988 through 1990 crops of wheat, feed grains, upland cotton, and rice, section 107C(a) of the Agricultural Act of 1949 (7 U.S.C. 1445b-2(a)) is amended—

(1) by striking out paragraph (1) and inserting in lieu thereof the following new paragraph:

"(1) If the Secretary establishes an acreage limitation or set-aside program for any of the 1988 through 1990 crops of wheat, feed grains, upland cotton, or rice under this Act and determines that deficiency payments will likely be made for such commodity for such crop, the Secretary shall make advance deficiency payments available to producers for each of such crops."; and

(2) in paragraph (2)(F), by striking out clause (iii) and inserting in lieu thereof the following new clause:

"(iii)(I) in the case of wheat and feed grains, not less than 40 percent, nor more than 50 percent, of the projected payment rate; and

"(II) in the case of rice and upland cotton, not less than 30 percent, nor more than 50 percent, of the projected payment rate,".

SEC. 8109. ADVANCED EMERGENCY COMPENSATION PAYMENTS FOR WHEAT.

Effective only for the 1987 through 1990 crops of wheat, section 107D(c)(1)(E) of the Agricultural Act of 1949 (7 U.S.C. 1445b-3(c)(1)(E)) is amended by adding at the end thereof the following new clauses:

"(iii) Notwithstanding any other provision of this Act, in the case of each of the 1987 through 1990 crops of wheat, the Secretary shall—

"(I) by December 1 of each of the marketing years for such crops (or, in the case of the 1987 crop, as soon as practicable after the date of enactment of the Agricultural Reconciliation Act of 1987), estimate the national weighted average market price, per bushel of wheat, received by producers during such marketing year;

"(II) by December 15 of such marketing year (or, in the case of the 1987 crop, as soon as practicable, but not later than 60 days, after the date of enactment of such Act), use the estimate to make available to producers who have elected the payment option authorized by this clause not less than 90 percent of the increase in established price payments estimated to be payable with respect to such crop under this subparagraph; and

"(III) adjust the amount of each final established price payment for wheat to reflect any difference between the amount of any estimated payment made under this clause and the amount of actual payment due under this subparagraph.

"(iv) Producers shall elect the payment option authorized by clause (iii)—

"(I) in the case of each of the 1987 crop of wheat, not later than 30 days after the date of enactment of the Agricultural Reconciliation Act of 1987; and

"(II) in the case of each of the 1988 through 1990 crops of wheat, at the time of entering into a contract to participate in the program established by this section for the crop.".

SEC. 8110. PRODUCER RESERVE PROGRAM.

Subparagraph (A) of the fourth sentence of section 110(b) of the Agricultural Act of 1949 (7 U.S.C. 1445e(b)) is amended—

(1) in clause (i), by striking out "17 percent of the estimated total domestic and export usage of wheat during the then current marketing year for wheat, as determined by the Secretary" and inserting in lieu thereof "300 million bushels"; and

(2) in clause (ii), by striking out "7 percent of the estimated total domestic and export usage of feed grains during the then current marketing year for feed grains, as determined by the Secretary" and inserting in lieu thereof "450 million bushels".

SEC. 8111. HONEY LOANS AND PAYMENT LIMITATION.

(a) Loan and Purchase Levels.—Effective only for the 1987 through 1990 crops of honey, section 201(b)(1) of the Agricultural Act of 1949 (7 U.S.C. 1446(b)(1)) is amended by adding at the end thereof the following new subparagraph:

"(D) Notwithstanding the foregoing provisions of this paragraph, effective for each of the 1987 through 1990 crops, the loan and purchase level for honey that would otherwise apply under subparagraphs (B) and (C), without regard to this subparagraph, shall be reduced for loans and purchases made after the date of enactment of the Agricultural Reconciliation Act of 1987 by 2 cents per pound for the 1987 crop, ¾ cents per pound for the 1988 crop, ½ cent per pound for the 1989 crop, and ¼ cent per pound for the 1990 crop.".

(b) Payment Limitation.—Section 1001(2) of the Food Security Act of 1985 (7 U.S.C. 1308(2)) (as amended by the matter under the heading "HONEY" of chapter X of title I of the Supplemental Appropriations Act, 1987 (Public Law 100-71; 101 Stat. 428)) is amended—

(1) in subparagraph (A), by striking out "honey,";

(2) in subparagraph (B)(iii)(I)—

(A) by striking out "cotton, rice, or honey" and inserting in lieu thereof "cotton, or rice"; and

(B) by striking out "103A(a)(5), 101A(a)(5), or 201(b)(2)" and inserting in lieu thereof "103A(a)(5), or 101A(a)(5)";

(3) in subparagraph (B)(iii)(II), by inserting ", except honey," after "any other commodity"; and

(4) in subparagraph (C), by striking out clause (i) and inserting in lieu thereof the following new clause:

"(i) The total dollar amount of loan forfeitures on a crop of honey that a person may make under the annual nonrecourse loan program established for such crop under the Agricultural Act of 1949 may not exceed $250,000."

SEC. 8112. LOAN RATE DIFFERENTIALS.

Section 403 of the Agricultural Act of 1949 (7 U.S.C. 1423) is amended by adding at the end thereof the following new sentence: "Notwithstanding the previous provisions of this section, for each of the 1988 through 1990 crops, no adjustment in the loan rate applicable to a particular region, State, or county for the purpose of reflecting transportation differentials may increase or decrease such regional, State, or county loan rate from the level established for the previous year by more than the percentage change in the national average loan rate plus or minus 1 percent.".

SEC. 8113. YIELD ADJUSTMENTS.

Effective only for the 1988 through 1990 crops of wheat, feed grains, upland cotton, and rice, section 506(b)(2) of the Agricultural Act of 1949 (7 U.S.C. 1466(b)(2)) is amended by adding at the end thereof the following new subparagraph:

"(C) In the case of each of the 1988 through 1990 crop years for a commodity, if the farm program payment yield for a farm is reduced more than 10 percent below the farm program payment yield for the 1985 crop year, the Secretary shall make available to producers established price payments for the commodity in such amount as the Secretary determines is necessary to provide the same total return to producers as if the farm program payment yield had not been reduced more than 10 percent below the farm program payment yield for the 1985 crop year. Such payments shall be made available to producers at the time final deficiency payments are made available.".

Subtitle B—Prepayment of Rural Electrification Loans

SEC. 8201. PREPAYMENT OF LOANS.

(a) In General.—Section 306A of the Rural Electrification Act of 1936 (7 U.S.C. 936a) is amended to read as follows:

"SEC. 306A. PREPAYMENT OF LOANS.

"(a) In General.—If, on the effective date of this section, a borrower has an outstanding loan made by the Federal Financing Bank and guaranteed by the Administrator of the Rural Electrification Administration under section 306, the borrower may prepay such loan (or any loan advance made thereunder) by paying the outstanding principal balance due on such loan advance if—

"(1) private capital, with the existing loan guarantee (available at the option of the borrower), is used to replace the loan;

"(2) the borrower certifies that any savings from such prepayment will be—

"(A) passed on to its customers;

"(B) in a case of financial hardship, used to improve the financial strength of the borrower; or

"(C) used to avoid future rate increases; and

"(3) the borrower certifies that the borrower will not apply for a loan made by the Administrator of the Rural Electrification Administration or the Federal Financing Bank to refinance the private loan or replace private capital used to prepay a loan advance under this subsection, except as authorized by the Administrator or the Bank, respectively.

"(b) Processing Fee for Prepayment.—

"(1) In general.—A processing fee shall be assessed against each Rural Electrification Administration borrower who has a request for prepayment of a loan advance from the Federal Financing Bank under this section approved after September 30, 1987.

"(2) One-time fee.—The processing fee shall be assessed as a one-time fee due at the time of prepayment on each loan advance prepaid by charging, against the outstanding principal balance of the loan advance—

"(A) 50 basis points; plus

"(B) points equal to 50 percent of the difference between the interest rate on the Federal Financing Bank loan advance being prepaid and the cost of money to the Federal government at the time of prepayment for new Treasury borrowings of the same maturity as the Federal Financing Bank loan advance being prepaid.

"(c) No Additional Charges.—No sums in addition to the payment of the outstanding principal balance of the loan advance and a processing fee assessed thereon, as prescribed in subsection (b), may be charged as the result of such prepayment against—

"(1) the borrower;

"(2) the Rural Electrification and Telephone Revolving Fund; or

"(3) the Rural Electrification Administration.

"(d) Amendment of Existing Guarantee.—The existing guarantee shall, at the option of the borrower, be amended to include, for the duration of the term of the Rural Electri-

fication Administration guarantee on the Federal Financing Bank loan advance prepaid, the amount of principal balance prepaid on the loan advance plus the amount of the processing fee paid by the borrower and the cost to the borrower of obtaining private capital. Private loans with the Rural Electrification Administration guarantee used to prepay a Federal financing bank loan advance shall not exceed this amount. Such loans shall be made on terms and conditions acceptable to the borrower and the lender.

"(e) Assignability.—A guarantee of a loan advance prepaid under this section with private capital shall be fully assignable and transferable without condition and shall remain available for the remainder of the term of the loan originally agreed to by the Administrator.".

(b) Effective Date.—

(1) In general.—The amendment made by this section shall become effective on the date of enactment of this Act.

(2) Agreements under existing law.—In the case of a borrower of an outstanding loan made by the Federal Financing Bank and guaranteed by the Rural Electrification Administration under section 306 of the Rural Electrification Act of 1936 (7 U.S.C. 936), if the Administrator of the Rural Electrification Administration determined prior to the date of enactment of this Act that such borrower was eligible to prepay, or if such borrower prepaid, an advance on the loan under section 306A of such Act (as in effect prior to the amendment made by subsection (a)), the borrower may prepay any advance received and not repaid by the date of enactment of this Act under any combination of terms and conditions applicable to such prepayments under section 306A of the Rural Electrification Act of 1936 (as in effect prior to the amendment made by subsection (a) or as amended by subsection (a)). No sum in addition to the payment of the outstanding principal balance of any loan advances prepaid shall be charged as the result of the prepayment.

(3) Regulations.—Within 30 days after the date of enactment of this Act, the Secretary of Agriculture shall issue regulations to carry out the amendment made by this section.

(4) Prepayment facilitation.—In issuing regulations to carry out the amendment made by this section, the Secretary shall—

(A) facilitate prepayment of Federal Financing Bank loan advances;

(B) provide for full processing of each prepayment request within 30 days after its submission to the Rural Electrification Administration; and

(C) except as specifically and directly provided in section 306A of the Rural Electrification Act of 1936, impose no restriction that—

(i) increases the cost to borrowers of obtaining private financing for prepayment under such section;

(ii) delays the full processing of prepayment requests; or

(iii) inhibits the ability of such borrowers to enter into prepayment arrangements under such section.

SEC. 8202. USE OF FUNDS.

Title III of the Rural Electrification Act of 1936 (7 U.S.C. 931 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 312. USE OF FUNDS.

"A borrower of a loan made for electrification purposes may, without restriction or prior approval of the Administrator, invest its own funds or make loans or guarantees, not in excess of 15 percent of its total utility plant.".

SEC. 8203. CUSHION OF CREDIT PAYMENTS PROGRAM.

Title III of the Rural Electrification Act of 1936 (as amended by section 8202 of this Act) is amended by adding at the end thereof the following new section:

"SEC. 313. CUSHION OF CREDIT PAYMENTS PROGRAM.

"(a) Establishment.—

"(1) In general.—The Administrator shall develop and promote a program to encourage borrowers to voluntarily make deposits into cushion of credit accounts established within the Rural Electrification and Telephone Revolving Fund.

"(2) Interest.—Amounts in each cushion of credit account shall accrue interest to the borrower at a rate of 5 percent per annum.

"(3) Balance.—A borrower may reduce the balance of its cushion of credit account only if the amount obtained from the reduction is used to make scheduled payments on loans made or guaranteed under this Act.

"(b) Uses of Cushion of Credit Payments.—

"(1) In general.—

"(A) Cash balance.—Cushion of credit payments shall be held in the Rural Electrification and Telephone Revolving Fund as a cash balance in the cushion of credit accounts of borrowers.

"(B) Interest.—All cash balance amounts (obtained from cushion of credit payments, loan payments, and other sources) held by the Fund shall bear interest to the Fund at a rate equal to the weighted average rate on outstanding certificates of beneficial ownership issued by the Fund.

"(C) Credits.—The amount of interest accrued on the cash balances shall be credited to the Fund as an offsetting reduction to the amount of interest paid by the Fund on its certificates of beneficial ownership.

"(2) Rural economic development sub account.—

"(A) Maintenance of account.—The Administrator shall maintain a subaccount within the Rural Electrification and Telephone Revolving Fund to which shall be credited, on a monthly basis, a sum determined by multiplying the outstanding cushion of credit payments made after October 1, 1987, by the difference (converted to a monthly basis) between the average weighted interest rate paid on outstanding certificates of beneficial ownership issued by the Fund and the 5 percent rate of interest provided to borrowers on cushion of credit payments.

"(B) Grants.—The Administrator is authorized, from the interest differential sums credited this subaccount and from any other funds made available thereto, to provide grants or zero interest loans to borrowers under this Act for the purpose of promoting rural economic development and job creation projects, including funding for project feasibility studies, start-up costs, incubator projects, and other reasonable expenses for the purpose of fostering rural development.

"(C) Repayments.—In the case of zero interest loans, the Administrator shall establish such reasonable repayment terms as will ensure borrower participation.

"(D) Proceeds.—All proceeds from the repayment of such loans shall be returned to the subaccount.

"(E) Number of grants.—Such loans and grants shall be made during each fiscal year to the full extent of the amounts held by the rural economic development subaccount, subject only to limitations as may be from time-to-time imposed by law.".

SEC. 8204. RURAL TELEPHONE BANK.

(a) In General.—Section 408(b) of the Rural Electrification Act of 1936 (7 U.S.C. 948(b)) is amended by adding at the end thereof the following new paragraphs:

"(8) The Rural Telephone Bank shall apply its most current cost of money rate at the time of each advance made under loan commitments approved after the date of enactment of the Agricultural Reconciliation Act of 1987.

"(9) A borrower with a loan from the Rural Telephone Bank may prepay such a loan (or any part thereof) by paying the face amount thereof without being required to pay the prepayment penalty set forth in the note covering such loan, if such prepayment is made not later than September 30, 1988.".

(b) Regulations.—The Governor of the Rural Telephone Bank shall issue regulations to carry out the amendment made by subsection (a) within 30 days after the date of enactment of this Act. Such regulations shall implement paragraphs (8) and (9) of section 408(b) of the Rural Electrification Act of 1936 (as added by subsection (a)) without the addition of any restrictions not set forth in such paragraphs.

Subtitle C—Miscellaneous

SEC. 8301. STUDY OF USE OF AGRICULTURAL COMMODITY FUTURES AND OPTIONS MARKETS.

The last sentence of section 1742 of the Food Security Act of 1985 (7 U.S.C. 1421 note) is amended by striking out "1988" and inserting in lieu thereof "1989".

SEC. 8302. AUTHORIZATION OF APPROPRIATIONS FOR PHILIPPINE FOOD AID INITIATIVE.

Section 416(b) of the Agricultural Act of 1949 (7 U.S.C. 1431(b)) is amended by adding at the end thereof the following new paragraph:

"(12) There is authorized to be appropriated for fiscal year 1988, in addition to any other funds authorized to be appropriated, $1,000,000 for technical assistance for the sale or barter of commodities under paragraph (7) to strengthen nonprofit private organizations and cooperatives in the Philippines.".

SEC. 8303. RURAL INDUSTRIALIZATION ASSISTANCE.

Section 310B(c) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932(c)) is amended—

(1) by inserting "and private nonprofit corporations" after "public bodies"; and

(2) by striking out "to facilitate development of" and inserting in lieu thereof "to finance and facilitate development of small and emerging".

SEC. 8304. PLANT VARIETY PROTECTION FEES.

Section 31 of the Plant Variety Protection Act (7 U.S.C. 2371) is amended to read as follows:

"SEC. 31. PLANT VARIETY PROTECTION FEES.

"(a) In General.—The Secretary shall, under such regulations as the Secretary may prescribe, charge and collect reasonable fees for services performed under this Act.

"(b) Late Payment Penalty.—On failure to pay such fees, the Secretary shall assess a late payment penalty. Such overdue fees shall accrue interest as required by section 3717 of title 31, United States Code.

"(c) Disposition of Funds.—Such fees, late payment penalties, and accrued interest collected shall be credited to the account that incurs the cost and shall remain available without fiscal year limitation to pay the expenses incurred by the Secretary in carrying out this Act. Such funds collected (including late payment penalties and any interest earned) may be invested by the Secretary in insured or fully collateralized, interest-bearing accounts or, at the discretion of the Secretary, by the Secretary of the Treasury in United States Government debt instruments.

"(d) Actions for Nonpayment.—The Attorney General may bring an action for the recovery of charges that have not been paid in accordance with this Act against any person obligated for payment of such charges under this Act in any United States district court or other United States court for any territory or possession in any jurisdiction in which the person is found, resides, or transacts business. The court shall have jurisdiction to hear and decide the action.

"(e) Authorization of Appropriations.—There are authorized to be appropriated such sums as are necessary to carry out this Act.".

SEC. 8305. ANNUAL APPROPRIATIONS TO REIMBURSE THE COMMODITY CREDIT CORPORATION FOR NET REALIZED LOSSES.

(a) In General.—The first sentence of section 2 of Public Law 87-155 (15 U.S.C. 713a-11) is amended by striking out ", commencing with the fiscal year ending June 30, 1961" and inserting in lieu thereof "by means of a current, indefinite appropriation".

(b) Operating Expenses.—No funds may be appropriated for operating expenses of the Commodity Credit Corporation except as authorized under section 2 of Public Law 87-155 to reimburse the Corporation for net realized losses.

(c) Effective Date.—This section and the amendment made by this section shall apply beginning with fiscal year 1988.

SEC. 8306. FEDERAL CROP INSURANCE.

It is the sense of Congress that, in carrying out the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.), the Federal Crop Insurance Corporation—

(1) should not be required to assume 100 percent of all loss adjustments in the Federal crop insurance program; and

(2) should assume and perform the loss adjustment obligations of a reinsured company if the Corporation determines that such company's loss adjustment performance and practices are not carried out in accordance with the applicable reinsurance agreement.

SEC. 8307. ETHANOL USAGE.

(a) Findings.—Congress finds that—

(1) the United States is dependent for a large and growing share of its energy needs on the Middle East at a time when world petroleum reserves are declining;

(2) the burning of gasoline causes pollution;

(3) ethanol can be blended with gasoline to produce a cleaner source of fuel;

(4) ethanol can be produced from grain, a renewable resource that is in considerable surplus in the United States;

(5) the conversion of grain into ethanol would reduce farm program costs and grain surpluses; and

(6) increasing the quantity of motor fuels that contain at least 10 percent ethanol from current levels to 50 percent by 1992 would create thousands of new jobs in ethanol production facilities.

(b) Sense of Congress.—It is the sense of Congress that the Administrator of the Environmental Protection Agency should use authority provided under the Clean Air Act (42 U.S.C. 7401 et seq.) to require greater use of ethanol as motor fuel.

SEC. 8308. WHEAT ACREAGE DIVERSION.

Effective only for the 1988 through 1990 crops of wheat, section 107D(c)(1)(C) of the Agricultural Act of 1949 is amended—

(1) in clause (i) by striking out "and (IV)" and inserting in lieu thereof "(IV), and (V)"; and

(2) in clause (ii)—

(A) by striking out "and (IV)" in subclause I and inserting in lieu thereof "(IV), and (V)"; and

(B) by adding at the end thereof the following new subclause:

"(V) Effective for the 1988 crop, producers of wheat on a farm shall not be subject to the 50 percent planting requirement, and may devote all or any portion of the farm's 1987 permitted wheat acreage to conservation uses (or other uses as provided in subparagraph (K) under the program under this subparagraph, if the producers on the farm are prevented from planting such areage, if intended for wheat, to wheat for harvest in 1988 because of a drought in 1987 and the farm is located in a country in which producers were eligible to receive disaster emergency loans under section 321 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961) as a result of such disaster.".

SEC. 8309. DEMONSTRATION OF FAMILY INDEPENDENCE PROGRAM.

(a) In general.—Upon written application of the State of Washington (in this section referred to as the "State") and after the approval of such application by the Secretary, the State may conduct a Family Independence Demonstration Project (in this section referred to as the "Project") in all or in part of the State in accordance with this section to determine whether the Project, as an alternative to providing benefits under the food stamp program, would more effectively break the cycle of poverty and would provide families with opportunities for economic independence and strengthened family functioning.

(b) Nature of Project.—In an application submitted under subsection (a), the State shall provide the following:

(1) Except as provided in this section, the provisions of chapter 434 of the 1987 Washington Laws, as enacted in May 1987, shall apply to the operation of the Project.

(2) All of the following terms and conditions shall be in effect under the Project:

(A)(i) Except as provided in clause (ii), individuals with respect to whom benefits may be paid under part A of title IV of the Social Security Act, and such other individuals as are included in the Project pursuant to chapter 434 of the 1987 Washington Laws, as enacted in May 1987, shall be eligible to participate in the Project in lieu of receiving benefits under the food stamp program and cash assistance under any other Federal program covered by the Project.

(ii) Individuals who receive only child care or medical benefits under the Project shall not be eligible to receive food assistance under the Project. Such individuals may receive coupons under the food stamp program if eligible.

(B) Individuals who participate in the Project shall receive for each month an amount of cash assistance that is not less than the total value of the assistance such individuals would otherwise receive, in the aggregate, under the food stamp program and any cash-assistance Federal program covered by the Project for such month, including income and resource exclusions and deductions, and benefit levels.

(C)(i) The State may provide a standard benefit for food assistance under the Project, except that individuals who participate in the Project shall receive as food assistance for a month an amount of cash that is not less than the value of the assistance such individuals would otherwise receive under the food stamp program.

(ii) The State may provide a cash benefit for food assistance equal to the value of the thrifty food plan.

(D) Each month participants in the Project shall be notified by the State of the amount of Project individual that is provided as food assistance for such month.

(E) The State shall have a program to require participants to engage in employment and training activities carried out under chapter 434 of the 1987 Washington Laws, as enacted in May, 1987.

(F) Food assistance shall be provided under the Project—

(i) to any individual who is accepted for participation in the program, not later than 30 days after such individual applies to participate in the Project;

(ii) to any participation for the period that begins on the date such participant applies to participate in the Project, except that the amount of such assistance shall be reduced to reflect the pro rata value of any coupons received under the food stamp program for such period for the benefit of such participant; and

(iii) until—

(I) the participant's cash assistance under the Project is terminated;

(II) such participant is informed of such termination and is advised of the eligibility requirements for participation in the food stamp program;

(III) the State determines whether such participant will be eligible to receive coupons as a member of a household under the food stamp program; and

(IV) coupons under the food stamp program are received by such participant if such participant will be eligible to receive coupons as a member of a household under the food stamp program.

(H)(i) Paragraphs (1)(B), (8), (10), and (19) of section 11(e) of the Food Stamp Act of 1977 (7 U.S.C. 2020(e)) shall apply with respect to the participants in the Project in the same manner as such paragraphs apply with respect to participants in the food stamp program.

(ii) Each individual who contacts the State in person during office hours to make what may reasonably be interpreted as an oral or written request to participate in the Project shall receive and shall be permitted to file on the same day that such contact is first made, an application form to participate in the Project.

(iii) The Project shall provide for telephone contact by, mail delivery of forms to and mail return of forms by, and subsequent home or telephone interview with, the elderly, physically or mentally handicapped, and persons otherwise unable, solely because of transportation difficulties and similar hardships, to appear in person.

(iv) An individual who applies to participate in the Project may be represented by another person in the review process if the other person has been clearly designated as the representative of such individual for that purpose, by such individual or the spouse of such individual, and, if the application review process is concerned, the representative is an adult who is sufficiently aware of relevant circumstances, except that the State may—

(I) restrict the number of individuals which may be represented by such person; and

(II) otherwise establish criteria and verification standards for representation under this clause.

(v) The State shall provide a method reviewing applications to participate in the Project submitted by, and distributing food assistance under the Project to, individuals who do not reside in permanent dwellings or who have no fixed mailing address. In carrying out the preceding sentence, the State shall take such steps as are necessary to ensure that participation in the Project is limited to eligible individuals.

(3) An assurance that the State will allow any individual to apply to participate in the food stamp program without applying to participate in the Project.

(4) An assurance that the cost of food assistance provided under the Project will not be such that the aggregate amount of payments made under this section by the Secretary to the State over the period of the Project will exceed the sum of—

(A) the anticipated aggregate value of the coupons that would have been distributed under the food stamp program if the individuals who participate in the Project had participated instead in the food stamp program; and

(B) the portion of the administrative costs for which the State would have received reimbursement under—

(i) subsections (a) and (g) of section 16 of this Act (without regard to the first proviso to such subsection (g)) if the individuals who participated in the Project had participated instead in the food stamp program; and

(ii) section 16(h) of this Act if the individuals who participated in the Project had participated in an employment and training program under section 6(d)(4) of this Act;

except that this paragraph shall not be construed to prevent the State from claiming payments for additional households that would qualify for benefits under the food stamp program in the absence of a cash out of such benefits as a result of changes in economic, demographic, and other conditions in the State and subsequent changes in benefit levels approved by the State legislature.

(5) An assurance that the State will continue to carry out the food stamp program while the State carries out the Project.

(6) If there is a change in existing State law that would eliminate guaranteed benefits or reduce the rights of applicants or enrollees under this section during, or as a result of participation in, the Project, the Project shall be terminated.

(7) The Project shall include procedures and due process guarantees no less beneficial than those which are available under Federal law and under State law to participants in the food stamp program.

(8)(A) An assurance that, except as provided in subparagraph (B), the State will carry out the Project during a 5-year period beginning on the date the first individual is approved for participation in the Project; and

(B) The project may be terminated 180 days after—

(i) the State gives notice to the Secretary that it intends to terminate the Project; or

(ii) the Secretary, after notice and an opportunity for a hearing, determines that the State materially failed to comply with this section.

(c) FUNDING.—If an application submitted under subsection (a) by the State complies with the requirements specified in subsection (b), then the Secretary shall—

(1) approve such application; and

(2) from funds appropriated under this Act, pay the State for—

(A) the actual cost of the food assistance provided under the Project; and

(B) the percentage of the administrative costs incurred by the State to provide food assistance under the Project that is equal to the percentage of the State's aggregate administrative costs incurred in operating the food stamp program in the most recent fiscal year for which data are available, which was paid under subsections (a), (g), and (h) of section 16 of this Act.

(d)(1) PROJECT APPLICATION.—Unless and until an application to participation in the Project is approved, and food assistance under the Project is made available to the applicant, such application shall—

(A) also be treated as an application to participate in the food stamp program; and

(B) section 11(e)(9) shall apply with respect to such application.

(2) Coupons provided under the food stamp program with respect to an individual who—

(A) is participating in such program; and

(B) applies to participate in the Project; may not be reduced or terminated because such individual applies to participate in the Project.

(3) For purposes of the food stamp program, individuals who participate in the Project shall not be considered to be members of a household during the period of such participation.

(e) WAIVER.—The Secretary shall (with respect to the Project) waive compliance with any requirement contained in the Food Stamp Act of 1977 (other than this section) which (if applied) would prevent the State from carrying out the Project or effectively achieving its purpose.

(f) CONSTRUCTION.—For purposes of any other Federal, State or local law—

(1) cash assistance provided under the Project that represents food assistance shall be treated in the same manner as coupons provided under the food stamp program are treated; and

(2) participants in the program who receive food assistance under the Project shall be treated in the same manner as recipients of coupons under the food stamp program are treated.

(g) PROJECT AUDITS.—The Comptroller General of the United States shall—

(1) conduct periodic audits of the operation of the Project to verify the amounts payable to the State from time to time under subsection (b)(4); and

(2) submit to the Secretary of Agriculture, the Secretary of Health and Human Services, the Committee on Agriculture of the House of Representatives, and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report describing the results of each such audit.

(h) EVALUATION.—With funds appropriated under section 18(a)(1), the Secretary shall conduct, in consultation with the Secretary of Health and Human Services, an evaluation of the Project.

TITLE IX—MISCELLANEOUS PROVISIONS

SEC. 9001. DEFENSE AND DOMESTIC DISCRETIONARY SPENDING LIMITS.

(a) AGGREGATE ALLOCATIONS FOR DEFENSE.—The levels of budget authority and budget outlays for fiscal years 1988 and 1989 for major functional category 050 (National Defense) shall be:

(1) Fiscal year 1988:

(A) New budget authority, $292,000,000,000.

(B) Outlays, $285,400,000,000.

(2) Fiscal year 1989:

(A) New budget authority, $299,500,000,000.

(B) Outlays, $294,000,000,000.

(b) AGGREGATE ALLOCATIONS FOR DOMESTIC DISCRETIONARY SPENDING.—The levels of total budget authority and total budget outlays for fiscal years 1988 and 1989 for all discretionary spending in categories other than major functional category 050 (National Defense) shall be:

(1) Fiscal year 1988:

(A) New budget authority, $162,900,000,000.

(B) Outlays, $176,800,000,000.

(2) Fiscal year 1989:

(A) New budget authority, $166,200,000,000.

(B) Outlays, $185,300,000,000.

(c) POINT OF ORDER IN THE SENATE ON AGGREGATE ALLOCATIONS FOR DEFENSE AND DOMESTIC DISCRETIONARY SPENDING FOR FISCAL YEAR 1989.—

(1) Except as provided in paragraph (5), it shall not be in order in the Senate to consider any concurrent resolution on the budget for fiscal year 1989 (including a conference report thereon), or any amendment to such a resolution, that would fail to be consistent with the allocations in subsections (a) and (b) for such fiscal year.

(2) Paragraph (1) may be waived or suspended by a vote of three-fifths of the Members of the Senate, duly chosen and sworn.

(3) If the ruling of the presiding officer of the Senate sustains a point of order raised pursuant to paragraph (1), a vote of three-fifths of the Members of the Senate, duly chosen and sworn, shall be required to sustain an appeal of such ruling. Debate on any such appeal shall be limited to two hours, to be equally divided between, and controlled by, the Majority and Minority Leaders, or their designees.

(4) For purposes of this section, the levels of new budget authority, spending authority as described in section 401(c)(2), outlays, and new credit authority for a fiscal year shall be determined on the basis of estimates made by the Committee on the Budget of the Senate.

(5) This subsection shall not apply if a declaration of war by the Congress is in effect or if a resolution pursuant to section 254(a) of the Balanced Budget and Emergency Deficit Control Act of 1985 has been enacted.

(d) ALLOCATION BY COMMITTEES ON APPROPRIATIONS FOR FISCAL YEAR 1989.—The Committees on Appropriations of each House shall, after consulting with the Committee on Appropriations of the other House, make their subdivisions for fiscal year 1989 under section 302(b)(1) of the Congressional Budget and Impoundment Control Act consistent with the allocations in subsections (a) and (b) for such fiscal year.

SEC. 9002. RESTORATION OF FUNDS SEQUESTERED.

(a) ORDER RESCINDED.—Upon the enactment of deficit reduction provisions of this Act and the appropriations legislation for fiscal year 1988 sufficient to achieve the deficit reduction contemplated by the summit agreement on deficit reduction, the final sequester order issued by the President on November 20, 1987, pursuant to section 252(b)

of the Balanced Budget and Emergency Deficit Control Act of 1985 is hereby rescinded.

(b) AMOUNTS RESTORED.—Except as otherwise provided in section 4014, any sequesterable resource that has been reduced or sequestered by the final sequester order described in subsection (a) is hereby restored or revived and shall be available to the same extent as if the final sequester order had not been issued.

SEC. 9003. SUBMISSION OF PRESIDENT'S BUDGET.

(a) DATE OF SUBMISSION.—Section 1105(a) of title 31, United States Code, is amended by striking out "February 5 in 1986" and inserting in lieu thereof "January 25 in 1988".

(b) CONFORMING AMENDMENTS.—(1) Section 300 of the Congressional Budget Act of 1974 is amended by inserting "(January 25 in 1988)" after "First Monday after January 3".

(2) Section 1109(a) of title 31, United States Code, is amended—

(A) by striking out all beginning with "On or before" through "in 1986)" and inserting in lieu thereof "Concurrently with each budget submitted pursuant to section 1105(a)", and

(B) by striking out "the budget for the following fiscal year" and inserting in lieu thereof "such budget".

SEC. 9004. TECHNICAL AMENDMENTS TO THE CONGRESSIONAL BUDGET ACT.

(a) REFERENCES IN SECTION.—Except as otherwise specifically provided, whenever in this section an amendment is expressed in terms of an amendment to or repeal of a section or other provision, the reference shall be considered to be made to that section or other provision of the Congressional Budget and Impoundment Control Act of 1974.

(b) REVISION OF TABLE OF CONTENTS.—Section 1(b) is amended by striking "Disapproval of proposed deferrals" and inserting "Proposed deferrals".

(c) REDESIGNATION OF SUBPARAGRAPH HEADINGS.—Section 3(a)(7) (as amended by section 106(a) of the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987) is amended by—

(1) striking section 3(a)(7)(C);

(2) redesignating section 3(a)(7)(D) as 3(a)(7)(C);

(3) redesignating section 3(a)(7)(E) as 3(a)(7)(D);

(4) redesignating section 3(a)(7)(F) as 3(a)(7)(E);

(5) redesignating section 3(a)(7)(G) as 3(a)(7)(F);

(6) redesignating section 3(a)(7)(H) as 3(a)(7)(G); and

(7) redesignating section 3(a)(7)(I) as 3(a)(7)(H).

(d) GRAMMATICAL CLARIFICATION OF SECTION 305(c).—Section 305(c) (as amended by section 209 of the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987) is amended by inserting a comma after "therewith".

(e) SUBSTITUTION OF "PROPOSED" FOR "MADE" WITH REGARD TO AMENDMENTS IN COMMITTEE.—Section 252(c)(2)(F)(ii) of the Balanced Budget and Emergency Deficit Control Act of 1985 (as amended by section 102(a) of the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987) is amended by striking "made" and inserting "proposed".

SEC. 9005. SALE OF RURAL DEVELOPMENT NOTES.

(a) SALES REQUIRED.—The Secretary of Agriculture, under such terms as the Secretary may prescribe, shall sell notes and other obligations held in the Rural Development Insurance Fund established under section 309A of the Consolidated Farm and Rural Development Act in such amounts as to realize net proceeds to the Government of $1,147,000,000 from such sales during fiscal year 1989.

(b) NONRECOURSE SALES.—The second sentence of section 309A(e) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1929a(e)) is amended by—

(1) inserting "and other obligations" after "Notes"; and

(2) striking out the period at the end thereof and inserting in lieu thereof the following: ", including sale on a nonrecourse basis. The Secretary and any subsequent purchaser of such notes or other obligations sold by the Secretary on a nonrecourse basis shall be relieved of any responsibilities that might have been imposed had the borrower remained indebted to the Secretary.".

(c) CONTRACT PROVISIONS.—Consistent with section 309A(e) of the Consolidated Farm and Rural Development Act, as amended by subsection (b), any sale of notes or other obligations, as described in subsection (a), shall not alter the terms specified in the note or other obligation, except that, on sale, a note or other obligation shall not be subject to the provisions of section 333(c) of the Consolidated Farm and Rural Development Act.

(d) ELIGIBILITY TO PURCHASE NOTES.—Notwithstanding any other provision of law, each institution of the Farm Credit System shall be eligible to purchase notes and other obligations held in the Rural Development Insurance Fund and to service (including the extension of additional credit and all other actions necessary to preserve, conserve, or protect the institution's interest in the purchased notes or other obligations), collect, and dispose of such notes and other obligations, subject only to such terms and conditions as may be agreed to by the Secretary of Agriculture and the purchasing institution and as may be approved by the Farm Credit Administration.

(e) LOAN SERVICING.—Prior to selling any note or other obligation, as described in subsection (a), the Secretary of Agriculture shall require persons offering to purchase the note or other obligation to demonstrate—

(1) an ability or resources to provide such servicing, with respect to the loans represented by the note or other obligation, that the Secretary deems necessary to ensure the continued performance on the loan; and

(2) the ability to generate capital to provide the borrowers of the loans such additional credit as may be necessary in proper servicing of the loans.

SEC. 9006. SALE OF RURAL HOUSING LOANS.

(a) REQUIRED SALES TO THE PUBLIC.—The Secretary of Agriculture shall take such actions as may be necessary to ensure that loans made under title V of the Housing Act of 1949 are sold to the public in amounts sufficient to provide a net reduction in outlays of $1,590,000,000 in fiscal year 1988, and $2,350,000,000 in fiscal year 1989 from the proceeds of such sales.

(b) PROCEDURES AND TERMS OF SALES.—

(1) ESTABLISHMENT OF GUIDELINES.—The Secretary of Agriculture shall establish specific guidelines for the sale of loans under subsection (a). The guidelines shall address the procedures and terms applicable to the sale of the loans, including the kind of protections that should be provided to borrowers and terms that will ensure that the sale of the loans will be made at the lowest practicable cost to the Federal Government.

(2) ASSISTANCE BY FEDERAL FINANCING BANK.—In selling loans to the public under subsection (a), the Secretary of Agriculture shall use the Federal Financing Bank as an agent to sell the loans, unless the Secretary determines that the sale of loans directly by the Secretary will result in a higher rate of return to the Federal Government. If the Secretary determines to sell loans directly under this paragraph, the Secretary shall notify the Federal Financing Bank of such determination and the loans involved and, to the extent practicable, shall implement any reasonable recommendations that may be made by the Federal Financing Bank with respect to the procedures and terms applicable to the sale.

(c) REPORTS TO CONGRESS.—

(1) NOTIFICATION OF INITIAL LOAN SALE.—Not less than 20 days before the initial sale of loans under subsection (a), the Secretary of Agriculture shall submit a report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives containing an estimate of the amount of the discount at which loans will be sold at such initial sale and an estimate of the discount at which loans will be sold at each subsequent sale during fiscal years 1988 and 1989.

(2) REPORTS BY SECRETARY.—The Secretary of Agriculture shall submit periodic reports to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives setting forth the activities of the Secretary under this section. Each report shall include the guidelines established under subsection (b)(1), a description of the loans sold under subsection (a), and an analysis of the net reduction in outlays provided by the sale of the loans. The Secretary shall submit the first report under this paragraph not later than 60 days after the date of the enactment of this Act, and shall submit subsequent reports each 60 days thereafter through the end of fiscal year 1989.

(3) REPORTS BY COMPTROLLER GENERAL.—The Comptroller General of the United States shall conduct an audit and evaluation of the activities of the Secretary of Agriculture described in each report submitted under paragraph (1) or (2), in accordance with such regulations as the Comptroller General may prescribe. The Comptroller General shall have access to such books, records, accounts, and other materials of the Secretary as the Comptroller General determines necessary to conduct each such audit and evaluation. The Comptroller General shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives a report setting forth the results of each such audit and evaluation.

(d) RELATION TO OTHER LAW.—The sale of loans under this section shall not be subject to paragraph (2) or (3) of section 517(d) of the Housing Act of 1949.

SEC. 9007. SALE OF EXPORT-IMPORT BANK LOANS.

Section 16 of the Export-Import Bank Act of 1945 (12 U.S.C. 635 et seq.) is amended to read as follows:

"SEC. 16. SALE OF BANK LOANS.

"(a) REQUIRED SALES TO PUBLIC.—The Board of Directors shall take such actions as may be necessary to ensure that loans made by the Bank under this Act are sold to the public in amounts sufficient to provide a net reduction in outlays of $500,000,000 in fiscal year 1988 and $500,000,000 in fiscal year 1989 from the proceeds of such sales.

"(b) PROCEDURES AND TERMS OF SALES.—

"(1) ESTABLISHMENT OF GUIDELINES.—The Board of Directors shall establish specific guidelines for the sale of loans under subsection (a). The guidelines shall address the procedures and term applicable to the sale of the loans, including terms that will ensure that the sale of the loans will bring the highest possible return to the Federal Government.

"(2) ASSISTANCE BY FEDERAL FINANCING BANK.—In selling loans to the public under subsection (a), the Board of Directors shall use the Federal Financing Bank as an agent to sell the loans, unless the Board of Directors determines that the sale of loans directly by the Export-Import Bank will result in a higher rate of return to the Federal Government. If the Board of Directors determines to sell loans directly under this paragraph, the Board shall notify the Federal Financing Bank of such determination and the loans involved and, to the extent practicable, shall implement any reasonable recommendations that may be made by the Federal Financing Bank with respect to the procedures and terms applicable to the sale.

"(c) REPORTS TO CONGRESS.—

"(1) NOTIFICATION OF INITIAL LOAN SALE.—Not less than 20 days before the initial sale of loans under subsection (a), the Board of Directors shall submit a report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives containing an estimate of the amount of the discount at which loans will be sold at such initial sale and an estimate of the discount at which loans will be sold at each subsequent sale during fiscal years 1988 and 1989.

"(2) REPORTS BY BANK.—The Board of Directors shall submit periodic reports to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives setting forth the activities of the Board of Directors under this section. Each such report shall include the guidelines established under subsection (b)(1), a description of the loans sold under subsection (a), and an analysis of the net reduction in outlays provided by the sale of such loans. The Board of Directors shall submit the first report under this paragraph not later than 60 days after the date of the enactment of this Act, and shall submit subsequent reports each 60 days thereafter through the end of fiscal year 1989.

"(3) REPORTS BY COMPTROLLER GENERAL.—The Comptroller General of the United States shall conduct an audit and evaluation of the activities of the Board of Directors described in each report submitted under paragraph (1) or (2), in accordance with such regulations as the Comptroller General may prescribe. The Comptroller General shall have access to such books, records, accounts, and other materials of the Board of Directors as the Comptroller General determines necessary to conduct each such audit and evaluation. The Comptroller General shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives a report setting forth the results of each such audit and evaluation.

"(d) SECURITIES LAWS NOT APPLICABLE TO SALES.—The sale of any loan under this section shall be deemed to be a sale of exempted securities within the meaning of section 3(a)(2) of the Securities Act of 1933 (15 U.S.C. 77c(a)(2)) and section 3(a)(12) of the Securities Act of 1934 (15 U.S.C. 78c(a)(12)). The Bank shall file with the Securities and Exchange Commission such annual and other reports with regard to such securities as the Commission shall determine to be appropriate in view of the special character of the Bank and its operations as may be necessary in the public interest or for the protection of investors.".

SEC. 9008. SALE OF COLLEGE FACILITIES AND HOUSING LOANS.

Section 783 of the Higher Education Act of 1965 is amended by striking out "$314,000,000" and inserting in lieu thereof "$414,000,000".

SEC. 9009. SALE OF BUREAU OF RECLAMATION LOANS.

The Secretary of the Interior, under such terms as the Secretary shall prescribe, shall sell Bureau of Reclamation loans made pursuant to the Distribution System Loans Act, as amended (43 U.S.C. 421a-421d), the Small Reclamation Projects Act, as amended (43 U.S.C. 422a-422l), and the Rehabilitation and Betterment Act, as amended (43 U.S.C. 504-505) in such amounts as to realize net proceeds to the Government of $130,000,000 in fiscal year 1988. In the conduct of such sales the Secretary is authorized and directed to take such actions as he deems appropriate to accommodate, effectuate and otherwise protect the rights and preserve the obligation so the United States and the borrowers under the contracts executed to provide for repayment of such loans.

SEC. 9010. SALE OF MEDICAL FACILITIES LOANS.

The Secretary of Health and Human Services, under such terms as the Secretary shall prescribe, shall sell Medical Facilities loans in such amounts as to realize net proceeds to the Government of $40,000,000 in fiscal year 1988.

SEC. 9011. SALE OF BUREAU OF HEALTH MAINTENANCE LOANS.

The Secretary of Health and Human Services, under such terms as the Secretary shall prescribe, shall sell Health Maintenance loans in such amounts as to realize net proceeds to the Government of $20,000,000 in fiscal year 1988.

SEC. 9012. PUBLIC FACILITIES LOAN SALES.

(a) IN GENERAL.—The Secretary of Housing and Urban Development shall take such actions as may be necessary to ensure that loans made pursuant to title II of the Housing Amendments of 1955 are sold to the public in amount sufficient to provide a net reduction in outlays of $120,000,000 during fiscal year 1988, and $50,000,000 during fiscal year 1989.

(b) PROCEDURES AND TERMS OF SALES.—The Secretary of Housing and Urban Development shall establish specific guidelines for the sale of loans under subsection (a). The guidelines shall address the procedures and terms applicable to the sale of the loans, including the kinds of protections that should be provided to borrowers and terms that will ensure that the sale of the loans will be made at the lowest practicable cost to the Federal Government.

(c) REPORTS TO CONGRESS.—The Secretary of Housing and Urban Development shall submit periodic reports to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives setting forth the activities of the Secretary under this section. Each report shall include the guidelines established under subsection (b), a description of the loans sold under subsection (a), and an analysis of the net reduction in outlays provided by the sale of the loans. The Secretary shall submit the first report under this subsection not later than 60 days after the date of enactment of this Act, and shall submit subsequent reports each 60 days thereafter through the end of fiscal year 1989.

TITLE X—NATIONAL ECONOMIC COMMISSION

SEC. 10001. ESTABLISHMENT OF COMMISSION.

There is hereby established the National Economic Commission (hereafter in this title referred to as the "Commission").

SEC. 10002. MEMBERSHIP.

(a)(1) The Commission shall be composed of twelve members until the meeting of the Presidential Electors in December 1988 when it shall be expanded to fourteen members:

(A) two citizens of the United States appointed by the President;

(B) one Senator and two citizens of the United States appointed by the President pro tempore of the Senate upon the recommendations of the Majority Leader of the Senate;

(C) one Senator and one citizen of the United States appointed by the President pro tempore of the Senate upon the recommendation of the Minority Leader of the Senate;

(D) one Member of the House of Representatives and two citizens of the United States appointed by the Speaker of the House of Representatives;

(E) one Member of the House of Representatives and one citizen of the United States appointed by the Minority Leader of the House of Representatives; and

(F) two citizens of the United States appointed by the President-elect as established by the allocation of electoral college votes 8 in the Presidential election of November 8, 1988.

(2) Individuals appointed under paragraph (1)(A) may be officers or employees of the Executive Branch or may be private citizens. Individuals who are not Members of Congress, and are appointed under subparagraphs (B), (C), (D), (E), and (F) of paragraph (1) shall be individuals who—

(A) are leaders of business or labor or persons with distinctive qualifications or experience, and

(B) are not officers or employees of the United States.

SEC. 10003. COMMISSION VACANCIES.

(a) Any vacancy on the Commission shall not affect its powers, but shall be filled in the same manner in which the original appointment was made.

(b) The Commission shall elect a Chairman from among the members of the Commission.

(c) A majority of the members of the Commission shall constitute a quorum for the transaction of business.

(d) Each member of the Commission shall be entitled to one vote which shall be equal to the vote of every other member of the Commission.

SEC. 10004. FUNCTIONS OF THE COMMISSION.

(a) The Commission shall conduct a comprehensive study and review of the elements of Federal policy that have resulted in the national debt and budget deficit.

(b) The Commission shall make specific recommendations regarding:

(1) methods to reduce the deficit, promote economic growth, and encourage savings and capital formation;

(2) a means of ensuring that the burden of achieving our deficit reduction goals is equitably distributed and not borne disproportionately by any one economic group, social group, region or State;

(3) the current and prospective economic factors and developments in the United States that should be taken into account in making economic policy and increasing international competitiveness; and

(4) the institutional arrangements required to achieve the appropriate coordination, within the United States, for the making and implementation of economic policy.

(c)(1) The Commission shall submit to the President and to the Congress by no later than March 1, 1989, a final report on the study conducted under subsection (a) that contains a detailed statement of the findings and conclusions of the Commission, including its recommendations for administrative and legislative action which the Commission considers advisable.

(2) Any recommendation made by the Commission to the President and to the Congress must be adopted by a majority vote of the members of the Commission who are present and voting.

SEC. 10005. POWERS OF THE COMMISSION.

(a) The Commission may, for the purpose of carrying out the provisions of this title, hold such hearings and sit and act at such times and places, as the Commission may find advisable.

(b) The Commission may adopt such rules and regulations as may be necessary to establish its procedures and to govern the manner of its operations, organization, and personnel.

(c)(1) The Commission is authorized to request from the heads of executive and legislative departments, agencies, establishments or instrumentalities of the Federal Government such information as the Commission may require for the purpose of this title, and each such department, agency, establishment, or instrumentality is authorized and directed to furnish, to the extent permitted by law, and subject to the exceptions set forth in the Freedom of Information Act, 5 U.S.C. 522, such information, suggestions, estimates, research, surveys, and statistics directly to the Commission, upon request made by the Chairman of the Commission.

(2) Upon request of the Chairman of the Commission, the head of any Federal department, agency, or instrumentality shall to the extent possible, and subject to his discretion make any of the facilities and services of such department, agency, or instrumentality available to the Commission and to the extent possible and subject to his discretion detail any of the personnel of such department, agency, or instrumentality to the Commission, on a non-reimbursable basis, to assist the Commission in carrying out its duties under this title, provided that any expenses of the Commission incurred hereunder shall be subject to the limitation on total expenses set forth in section 10006(b) of this title.

(3)(A) The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(B) The Commission is authorized, to such extent and in such amounts as are provided in appropriation Acts, to enter into contracts with State agencies, private firms, institutions, and individuals for the purpose of conducting research or surveys necessary to enable the Commission to discharge its duties under this title, subject, however, to the limitation on total expenses set forth in section 10006(b) of ths title.

(C) The Commission shall be considered an "advisory committee" within the meaning of the Federal Advisory Committee Act (5 U.S.C. App. 2, 3(2)).

(4) Subject to such rules and regulations as may be adopted by the Commission, the Chairman of the Commission subject to the limitation on total expenses set forth in section 10006(b) of this title shall have the power to appoint, terminate, and fix the compensation (without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title, or of any other provision, or of any other provision of law, relating to the number, classification, and General Schedule rates) of an Executive Director, and of such additional staff as the Chairman deems advisable to assist the Commission, at rates not to exceed a rate equal to the maximum rate for GS-18 of the General Schedule under section 5332 of such title.

(5) Service of an individual as a member of the Commission, or employment of an individual by the Commission, with or without compensation, shall not be considered as service or employment bringing such individual within the provisions of any Federal law relating to conflicts of interests or otherwise imposing restrictions, requirements, or penalties in relation to the employment of persons, the performance of services, or the payment or receipt of compensation in connection with claims, proceedings or matters involving the United States. Service as a member of the Commission, or as an employee of the Commission, shall not be considered service in an appointive or elective position in the Government for purposes of section 8344 of title 5, United States Code, or comparable provisions of Federal law.

SEC. 10006. COMPENSATION OF MEMBERS.

(a) Members of the Commission shall serve without any additional compensation for their work on the Commission. However, members appointed from among private citizens of the United States may be allowed travel expenses, including per diem, in lieu of subsistence, as authorized by law for persons serving intermittently in the government service to the extent funds are available therefore.

(b) The Commission shall have a staff headed by an Executive Director appointed by the Chairman. Any expenses of the Commission shall be paid from such funds as may be available to the Secretary of the Treasury. The total expenses of the Commission shall not exceed $1,000,000. Prior to the termination of the Commission, pursuant to section 10007 of this title, the General Accounting Office shall conduct an audit of the Commission's financial books and records to determine that the limitation on expenses has been met, and shall include its determination in an opinion to be included in the report of the Commission.

SEC. 10007. TERMINATION OF COMMISSION.

The Commission shall cease to exist on the date that is 30 days after the date on which the Commission submits its report.

THANKS TO SENATOR GRAHAM

Mr. BYRD. Mr. President, I wish to thank the distinguished Senator from Florida [Mr. GRAHAM] who has presided over the Senate during this hectic day with a degree of skill, professionalism, dignity, poise, and fairness that we should all try to emulate. He has presided 6 hours during this day. I congratulate him and I thank him. It is not an easy job sitting in the chair.

Does the distinguished Republican whip have anything further he would like to say or any business to transact?

Mr. SIMPSON. Mr. President, I do want to commend the occupant of the chair.

My father was a Governor and came to the U.S. Senate and he said to me presiding is much more tedious than being Governor.

I think as I look at the occupant of the chair he would concur in that statement.

So I do thank you for your courtesies to all of us and say, too, I commend the managers of the bill.

I am not going to take any more time as the staff suffers when we do this.

SUPERB LEADERSHIP

Mr. SIMPSON. Mr. President, I want to commend the majority leader for something this morning at the White House.

I have been doing that for several years now. It is some superb reference to our President, and the summit, and it was very, very impressive what you shared with the President and those of us who were there in a most generous extraordinary genuine way.

I say that and I have been waiting through the course of the day, but I did not want to interfere with that juggernaut that was put together and I think I have never seen anything quite like the reconciliation and the CR. I have never done that before. I think that is a tribute to your leadership and we are happy to assist.

With that, with rosy-fingered dawn creeping over the eastern hills, I do not want to get going. I give up.

Mr. BYRD. Mr. President, the West Virginia hills.

Mr. SIMPSON. Ah.

Mr. BYRD. Mr. President, I thank the distinguished Senator for his most gracious remarks, very typical of him, and I am deeply appreciative.

CONFERENCES

Mr. BYRD. Mr. President, once again may I say that the conference on the reconciliation bill will hold its first meeting on Monday at 11 a.m. There are 55 Senate conferees on the measure, and similarly there will be a lot of work for the conferees on the continuing resolution. They must finish the conference on 13 appropriations bills before next Wednesday to meet the deadline.

So even though the Senate will not be in session on Monday, work on these two important conferences must begin and the sooner the conferences can reach agreement the sooner we can adjourn the first session.

I hope that my colleagues who are members of these conferences will keep their conference appointments in mind as they plan their schedules for next week.

ORDERS FOR TUESDAY, DECEMBER 15, 1987

ADJOURNMENT UNTIL 11 A.M.

Mr. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in adjournment until the hour of 11 a.m. on Tuesday next.

The PRESIDING OFFICER. Without objection, it is so ordered.

MOTIONS AND RESOLUTIONS

Mr. BYRD. Mr. President, I ask unanimous consent that on Tuesday next no resolutions, and motions over under the rule, come over and that the call of the calendar under rule 8 be waived.

MORNING BUSINESS

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I ask unanimous consent that after the two leaders are recognized under the standing order on Tuesday next there be a period for morning business for not to exceed 30 minutes and that Senators may speak therein for not to exceed 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. BYRD. Mr. President, as to the business week, it will be confined mostly to work on conference reports and on matters that have been cleared by unanimous consent. Conceivably there could be a Presidential veto override. I am in no position to determine that at the moment.

I would urge Senators to stay around and so many Senators are going to be engaged in the conferences that I am sure that we are going to have a good-sized quorum at any time. But the work is not done and will not be done until final action on the conference reports.

I would suggest that Senators not leave town thinking that the conference reports will be adopted by voice vote. This may not occur.

Mr. President, if the distinguished Republican leader has anything further?

NOMINATION HEARING

Mr. SIMPSON. Mr. President, I just add one item. The Judiciary Committee will be considering the nomination of Anthony Kennedy beginning Monday morning at 10 o'clock and that will be a consuming thing for about 3 days.

Mr. BYRD. Mr. President, I thank the distinguished Senator from Wyoming, the Republican whip for that observation. That was a timely one and will be in the RECORD for Senators and staffs to note.

ADJOURNMENT UNTIL 11 A.M., TUESDAY, DECEMBER 15, 1987

Mr. BYRD. Mr. President, if there be no further business at the hour of 3:18 a.m., on this morning, I move, in accordance with the order previously entered, that the Senate stand in adjournment until the hour of 11 o'clock on Tuesday next.

The motion was agreed to, and at 3:18 a.m., the Senate adjourned until Tuesday, December 15, 1987, at 11 a.m.

NOMINATIONS

Executive nominations received by the Senate December 11, 1987:

DEPARTMENT OF STATE

RICHARD SALISBURY WILLIAMSON, OF ILLINOIS, TO BE AN ASSISTANT SECRETARY OF STATE, VICE ALAN LEE KEYES, RESIGNED.

COMMODITY FUTURES TRADING COMMISSION

WENDY LEE GRAMM, OF TEXAS, TO BE A COMMISSIONER OF THE COMMODITY FUTURES TRADING COMMISSION FOR THE REMAINDER OF THE TERM EXPIRING APRIL 13, 1990, VICE SUSAN MEREDITH PHILLIPS, RESIGNED.

WENDY LEE GRAMM, OF TEXAS, TO BE CHAIRMAN OF THE COMMODITY FUTURES TRADING COMMISSION, VICE SUSAN MEREDITH PHILLIPS, RESIGNED.

CONFIRMATIONS

Executive nomination confirmed by the Senate December 11, 1987:

DEPARTMENT OF LABOR

ANN DORE MCLAUGHLIN, OF THE DISTRICT OF COLUMBIA, TO BE SECRETARY OF LABOR.

THE ABOVE NOMINATION WAS APPROVED SUBJECT TO THE NOMINEE'S COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

Executive nominations confirmed by the Senate December 12, 1987:

DEPARTMENT OF THE INTERIOR

EARL E. GJELDE, OF VIRGINIA, TO BE UNDER SECRETARY OF THE INTERIOR.

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

RAYMOND J. PETERSEN, OF CONNECTICUT, TO BE A MEMBER OF THE NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE FOR THE REMAINDER OF THE TERM EXPIRING JULY 19, 1991; AND SALLY JO VASICKO, OF INDIANA, AND JULIA LI WU, OF CALIFORNIA, TO BE MEMBERS OF THE NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE FOR TERMS EXPIRING JULY 19, 1992.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

BEVERLY FISHER WHITE, OF FLORIDA, TO BE A MEMBER OF THE NATIONAL MUSEUM SERVICES BOARD FOR A TERM EXPIRING DECEMBER 6, 1990.

NATIONAL MEDIATION BOARD

JOSHUA M. JAVITS, OF THE DISTRICT OF COLUMBIA, TO BE A MEMBER OF THE NATIONAL MEDIATION BOARD FOR THE TERM EXPIRING JULY 1, 1989.

U.S. INSTITUTE OF PEACE

THE FOLLOWING-NAMED PERSONS TO BE MEMBERS OF THE BOARD OF DIRECTORS OF THE U.S. INSTITUTE OF PEACE FOR TERMS EXPIRING JANUARY 19, 1991:

WILLIAM R. KINTNER, OF PENNSYLVANIA.
MORRIS I. LEIBMAN, OF ILLINOIS.
SIDNEY LOVETT, OF CONNECTICUT.
RICHARD JOHN NEUHAUS, OF NEW YORK.
ELSPETH DAVIES ROSTOW, OF TEXAS.
W. BRUCE WEINROD, OF THE DISTRICT OF COLUMBIA.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

EXTENSIONS OF REMARKS

TRIBUTE TO THE HONORABLE AUGUSTUS HAWKINS

HON. MEL LEVINE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 11, 1987

Mr. LEVINE of California. Mr. Speaker, I would like to share with my colleagues an article which recently appeared in the Los Angeles Times regarding our colleague AUGUSTUS HAWKINS. GUS HAWKINS' 53 year career in government has included 28 years in the California State Legislature and membership in this body for the last 25 years. During his long tenure as a legislator, GUS HAWKINS has earned the respect of Members on both sides of the aisle. In both of these highly partisan legislative bodies, GUS HAWKINS demonstrated an outstanding ability to bring both sides together in a bipartisan consensus. As this article repeatedly points out, it has been his quiet persistence and his reputation for fairness that have been the keys to his remarkable record of achievement. I recommend to my colleagues the following Los Angeles Times article on the career of this outstanding leader.

[From the Los Angeles Times, Nov. 30, 1987]

AT 80, REPRESENTATIVE HAWKINS FINDS CHALLENGES KEEP HIM ACTIVE

(By Kenneth Reich)

When Rep. Augustus F. Hawkins, dean of the nation's black elected officials, was voted into the state Assembly 53 years ago this month, he became the only black member of the California Legislature.

"I remember driving from Los Angeles to Sacramento and seeing big signs on the way, 'No Negroes Admitted Here,' 'We Do Not Solicit the Negro Trade,'" recalls the South Los Angeles Democrat who now has longer continuous service in state-elected offices than any other Californian.

When Hawkins arrived in the state capital, he remembers, "I went to some functions that I did not realize blacks had not gone to. We were not expected to accept some invitations."

$100-A-PLATE DINNER

He has come a long way since then. A still-vigorous 80, Hawkins will be honored at a special $100-a-plate dinner at the Bonaventure on Wednesday celebrating his 25 years in Congress. Scores of political dignitaries, as well as about 1,500 of his supporters, are expected to attend the affair.

Far from announcing retirement plans that night, Hawkins—senior member of the Congressional Black Caucus—will probably talk about his 1988 reelection campaign.

Expressing a desire to serve under a Democratic president after next year's elections, he said in an interview last week:

"New challenges keep me quite busy. . . . I try to be very active. I play golf. I spend 30 minutes each morning walking briskly to work. I follow a very bland diet, avoid highly seasoned foods. I don't recall ever missing a day of work."

Hawkins is at the peak of his political power. Elected to Congress in 1962 when he became the first black elected to the House from a state west of the Mississippi, he has now amassed important seniority. Since 1984 he has been chairman of the House Education and Labor committee.

He was a political success, for that matter, even before going to Congress. During an era far less congenial to minority politicians, he spent 28 years in the state Assembly, becoming chairman of the influential Rules Committee, and in 1959, he missed becoming Speaker by two votes.

Although black lawmakers are shown considerable deference these days, Hawkins contends that, for the nation's black population in general, conditions have not changed as much as many think.

"I feel the changes have been to a large extent somewhat artificial," he said in an interview last week. "In terms of employment and education, the gap [between the races] is still very wide. That worries me. While we have made progress and changes have occurred, there's too wide a gap still remaining. . . .

"I find some of the same problems, in a more subtle way, as I found 50 years ago."

'NOT RACIALLY ORIENTED'

That pessimistic assessment, coming from Hawkins, probably means more than if it came from most minority spokesmen in or out of government, for the congressman long ago won a Statehouse and U.S. Capitol reputation for being soft-spoken and circumspect and not particularly racial in his political approach.

The ranking Republican on the Education and Labor Committee, Rep. James M. Jeffords of Vermont, said last week: "He is a black man, and he certainly represents the people of his district and blacks very effectively. But he never gives the opinion that's a factor to be considered. He never talks of it. He always thinks in general terms of people who need help. He is not racially oriented."

Much of the same point was made by Rep. Julian C. Dixon (D-Los Angeles), who represents a district neighboring Hawkins'.

"I think Gus has prided himself on a technique of speaking for disadvantaged people but has never characterized them as being entirely black," Dixon said. "There are a lot of communities who have whites who have a need for public money. . . . He has never focused on race only. That brings him a great degree of credibility."

Congressional Quarterly's book, "Politics in America, The 100th Congress," begins its four-page essay on the congressman with this observation: "While other black political leaders have made fiery speeches and demonstrated for civil rights, gentle Gus Hawkins has plodded along, working through the legislative system for jobs, equal opportunity and education."

Hawkins himself once remarked, "Racializing an issue defeats my purpose—which is to get people on my side.

It's a view he has long held. Even during the 1960s, when a series of bloody riots erupted in his own district and other black communities around the country, Hawkins declared, "We need clearer thinking and fewer exhibitionists in the civil rights movement."

Another Republican colleague, Rep. Bill Goodling of Pennsylvania, says the congressman reflects such views in running the Education and Labor Committee. He described Hawkins as "an outstanding leader in a very quiet sort of way. Not a wheeler and dealer. He's not a shouter. He lets us know in committee that we'll do our fighting there and there'll be nothing said on the [House] floor."

Hawkins in last week's interview said he decided early in his career that "there's no point in going around with a chip on one's shoulder, saying no one can be converted. Often, they can be converted. . . ."

"In Congress, you soon find out that there are others that know something too," he said. "You try to get things accomplished through negotiations. . . . When seniority and leadership bring certain responsibilities, you're at the top and not trying to establish any sensational new records.

"I try to get bipartisan support. . . . I could make a lot more noise as a Democrat, but I wouldn't be successful in getting things through and getting them signed."

One result is that Hawkins has had an impressive record of accomplishment, even though his name identification with the public has not been that high.

In the Legislature, he authored bills establishing a low-cost housing program in the state, putting domestic employees under the workmen's compensation system and, in 1959, he sponsored the California Fair Employment Practices Act. He also had key roles in the establishment of the UCLA law and medical schools, Los Angeles Trade-Technical College and the Los Angeles Sports Arena.

MINIMUM WAGE BILL

In Congress, Hawkins co-authored the Humphrey-Hawkins Full Employment and Balanced Growth Act, and authored the Comprehensive Employment and Training Act (CETA), the Job Training Partnership Act, the Youth Employment and Demonstration Projects Act and the Pregnancy Disability Act. He has recently been active sponsoring a bill to increase the minimum wage.

Often, however, he has had to compromise, and sometimes the compromises were emasculations.

For example, after Sen. Hubert H. Humphrey's death, Hawkins, in order to secure passage of the Humphrey-Hawkins Act, settled in 1978 for a much-watered-down version in negotiations with the Carter Administration.

The act, as it emerged, was stripped of several major provisions including a requirement that, if need be, the government would serve as the employer of last resort to ensure attainment of a 4% unemployment goal.

By the following year, Hawkins was so disgusted with what he felt was the Carter Administration's failure to enforce the provi-

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● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

sions left in the bill that he issued a nine-point "indictment" of alleged violations of it. It got little publicity, and the Administration scarcely bothered to respond.

REAGAN YEARS NOT EASY

Even today, Hawkins is bitter about what happened to Humphrey-Hawkins, not only in the Carter years but also under the Reagan Administration.

"Even if it was watered down, if that act could be enforced, it would have solved a lot of problems," he said last week. "We wouldn't have the deficits had we invested the money in creating jobs. We would have a growth economy and not have used high unemployment as a means of fighting inflation."

The Reagan years have not been easy for those who, like Hawkins, believe in the power of big government to solve people's problems.

Rep. Tony Coelho (D-Merced), observes: "It was easy to espouse Gus's causes prior to 1980. It may be easy in the '90s to do it again. In the '80s, however, it's been tough to find people, even among the black leaders, who are willing, as Gus is, to persevere."

Locally, in contrast with his frequently quiet, behind-the-scenes approach in the Legislature and Congress, Hawkins has occasionally expressed himself clearly, even militantly, about the racial situation.

On the Watts riot, for example, he said, in 1965: "In Los Angeles, there is police brutality, the same as in Selma [Alabama], and there is segregation just about as bad as in Selma. There are better schools, but they are certainly segregated. . . . [The police have been] abusive and arrogant and have attempted to control things by force, not by more modern methods of control. . . . Race relations have broken down completely."

And, writing in The Times, in 1976, during the dispute over busing for integration in the sprawling Los Angeles Unified School District, Hawkins declared:

"It would be foolhardy to expect voluntary measures alone to ensure compliance with the mandate of Brown vs. Board of Education. That decision charted a clear course. All Americans must share equal access to educational facilities, and 'all deliberate speed' is required to reach that destination. Take away busing as a tool for getting there, and you seriously jeopardize the whole trip."

By taking care to be sufficiently militant when it counts and making sure that he is attentive to the needs of his district. Hawkins has managed to avoid election challenges over the years from any of the numerous ambitious, black Democrats in his district.

Hawkins, of moderate weight, is only 5 feet, 5 inches tall. He retains, even at 80, an energy that belies his years, remaining capable, as he has demonstrated at recent public hearings, of incisive questioning of witnesses. He has an excellent, precise memory.

Hawkins, born in Shreveport, La., on Aug. 31, 1907, concluded at a very early age that racial segregation was ridiculous. So light-skinned that he frequently passed on first meeting for white, Hawkins often found streetcar conductors moving the segregation signs splitting the cars between black and white behind him, so he would be in the white section. "I got so angry with the whole thing and embarrassed that I would just walk," he once recalled.

At the age of 11, he moved to Los Angeles. He attended Jefferson High School and received his AB degree at UCLA in 1931. Even with a college degree, he was only able to land a job as a soda jerk in that Depression year.

Eventually, he got into the real estate business and in 1934, at the age of 27, was elected to the state Assembly to replace Republican Fred Roberts, the only black then serving there.

Hawkins, married in 1941 to Pegae A. Smith, quickly proved himself an effective legislator.

"Gus is very bright," explains his friend, Assemblyman Tom Bane (D-Tarzana). "He is a master of the political tools, including working with legislators personally and working on legislation."

In the early days in Sacramento, Hawkins recalls, some of the other Assembly members made off-color racial remarks to him.

"I felt much more embarassed for others than I did for myself," he said. "As time went on, they became very apologetic. No longer did individuals openly express such feelings.

"We would simply try to educate and constructively change some of the policies without openly challenging some of the individuals that espoused them. When they became better acquainted with our style, they became in some cases strong exponents of our views."

Said Bane: "Gus Hawkins, with his appearance and coloring could have passed the color line a long time ago. He didn't choose to do that. He chose to work for the black people, and I always respected him for that."

His popularity and the respect in which he was held helped Hawkins break out of racial isolation in the Legislature. In the reapportionment that followed the 1960 Census, a congressional district was specifically fashioned for him.

Elected to Congress in 1962, Hawkins accumulated the seniority needed to be eligible for committee chairmanships. Before becoming head of the Education and Labor Committee, he chaired the House Administration Committee, which oversees the expenses and perks of all House members. Hawkins was so fair to the Republican members in this job that he drew fire from some Democrats.

Pegae, his wife of 25 years, died in 1966. They had no children. In 1977, he married a member of his staff, Elsie Taylor, who has three children.

Hawkins' political life has been untainted by public scandal. "He's Mr. Clean incarnate," says Rep. John Conyers Jr. (D-Mich.) today. "His enemies don't even think up a rumor to lay on him."

Long described as the blackest and poorest in California, Hawkins' congressional district is changing in some respects. Centered in Watts, the eastern portion of the district—across Alameda Street in such suburbs as Huntington Park and South Gate—has undergone a transition from working-class white to Latino. Even so, half of the district still is black, and its political center of gravity remains in Watts.

"I represent a large number of blacks who are confined to the ghetto," Hawkins says. "As individuals improve their economic status, they move out. . . . With the exception of a few old-timers, I represent the individuals who can't afford to move out."

URANIUM STATEMENT

HON. BILL RICHARDSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 10, 1987

Mr. RICHARDSON. Mr. Speaker, I rise to offer an amendment clarifying the intent of Congress with respect to language in the Anti-Apartheid Act barring importation into the United States of uranium origination in South Africa. When we adopted the Anti-Apartheid Act, our intent was to signal firm displeasure with the current apartheid regime in South Africa by barring importation of a variety of the products of that regime. Two key products were gold and uranium. These two commodities are generally produced in South Africa by the same segregated work force from the same ore in the same mines, and they serve as major, perhaps as the major, economic pillars of the apartheid system.

Unfortunately, we used the terms "uranium ore" and "uranium oxide" in section 309 of the Anti-Apartheid Act. While we clearly meant by those terms both unprocessed and processed uranium, the Treasury Department and the Nuclear Regulatory Commission, contrary to our intent, are allowing in processed uranium of South African origin as long as it is in some form other than oxide. In its October 1987 report of implementation of the Anti-Apartheid Act, the General Accounting Office noted that an Energy Department official said that:

> The banning of uranium ore and oxide, without explicitly banning uranium hexafluoride, hurt the U.S. (uranium) conversion industry without reducing the amount of South African uranium entering the United States.

If we are going to have sanctions, they should be meaningful and not just a facade to circumvent. Here, they are not only a facade but are being interpreted in a way which harms an otherwise competitive domestic industry. While this result will hopefully be resolved in a sensible fashion in the courts, I am reluctant to wait indefinitely, nor do I believe should this legislative body. I, accordingly, am proposing an amendment expressing the sense of Congress that section 309 of the Anti-Apartheid Act applies to uranium hexafluoride as well as other forms of processed uranium. I urge my collegues to support it.

MALTA: AN OPPORTUNITY FOR THE UNITED STATES IN THE CENTRAL MEDITERRANEAN

HON. EDWARD F. FEIGHAN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, December 11, 1987

Mr. FEIGHAN. Mr. Speaker, I recently returned from a fact-finding study mission to the Republic of Malta. This official trip confirmed my view that the people of Malta have a good feeling about the future of their country and genuinely believe that their political destiny lies with the West. A good example of this is Malta's long-established cooperation with the

European Economic Community through an agreement of association. The new Government of Malta feels that now is the time to enhance that association by becoming full members of the community.

There has been a renewed sense of interest in improving ties with Malta. In July, Herbert Okun, U.S. Deputy Ambassador to the United Nations visited with Maltese leaders to discuss a range of issues before that body. Following my visit, Under Secretary of State Edward Derwinski met at length with government and opposition officials to obtain an assessment of political and economic developments in Malta. Most significant, was the recent tour of the United States and Canada by Prime Minister Edward Fenech Adami and a high-level delegation of Maltese officials and the September meeting between Foreign Minister Censu Tabone and Secretary of State Shultz in New York.

Mr. Speaker, while these visits are important and indeed symbolize a new, developing relationship between the United States and Malta, another step must be taken to complete this process. Dr. Fenech Adami, as the new Prime Minister, indicated to me that he would welcome a meeting with President Reagan. This meeting between himself and the leader of the free world will confirm Malta's commitment to establishing closer ties with the West and the United States. We need to do more than ask the people of Malta what they are doing to establish closer ties with the United States; we must ask ourselves what steps this country can take to guarantee that Malta's commitment to the West is the right decision for the Maltese.

Mr. Speaker, I have urged the State Department and our new Ambassador to Malta, the Honorable Peter Sommer, to press forward and arrange a meeting with the President and the Prime Minister early in 1988. Because of Malta's importance to the security of the United States—and the strategic need to maintain peace and stability in the Mediterranean—these two heads of state should formally meet.

A TRIBUTE TO HAROLD SHAPIRO

HON. CARL D. PURSELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, December 11, 1987

Mr. PURSELL. Mr. Speaker, I rise today with mixed emotions, to pay tribute to a personal friend and constituent, Dr. Harold Shapiro, president of the University of Michigan. Dr. Shapiro will be resigning his position at the University of Michigan to accept the presidency at Princeton University.

While I am delighted for Dr. Shapiro, who received his master's and doctoral degrees in economics from Princeton in 1964, I am equally disappointed that the University of Michigan will lose his diverse skills, wisdom, and sincere dedication.

Under Dr. Shapiro's leadership, the University of Michigan has been recognized as one of our Nation's premier institutions of higher education. Not only has he maintained the university's distinguished standard of excellence, but he has raised it to new heights.

University regents have called Dr. Shapiro a strong and even-tempered leader—"Just the kind of person needed at the University of Michigan." They tried in vain to persuade Dr. Shapiro to change his mind. But after years of service to the University of Michigan, he was ready to move on—to the Ivy League—to Princeton, his alma mater.

Named president of the University of Michigan in 1980, Dr. Shapiro, 51, is a Montreal native. He earned a bachelor's degree from Montreal's McGill University in 1956 prior to his masters and doctoral work at Princeton.

Starting his 23-year tenure at the University of Michigan as an assistant professor of economics, Dr. Shapiro became a full professor in 1970. He later was a research director and scientist in quantitative economics, labor, and industrial relations.

Prior to becoming the University of Michigan's 10th president, Dr. Shapiro was chairman of the economics department and served as vice president for academic affairs.

As president, Dr. Shapiro devised an innovative 5-year plan that lifted the University of Michigan from financial crises to a prosperous institution loaded with new research facilities. He accomplished this by increasing private funding and reducing the role of some departments while reallocating funds to more prominent and income-generating academic and research programs.

I value the opportunity to know and work with Harold Shapiro. He is an inspiration for all Americans to reach as high and climb as far as their God-given talents will take them. His success demonstrates the value of hard work, honesty, and the dedication to the principles that have made America great.

Mr. Speaker, Harold Shapiro will assume duties at Princeton University on January 1, 1988. I ask my colleagues in the U.S. House of Representatives to join me in offering him the warmest wishes for continued good health and success in his new position and all his future endeavors.

HON. HAROLD WASHINGTON

HON. WILLIAM J. HUGHES

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 2, 1987

Mr. HUGHES. Mr. Speaker, I want to take this opportunity to add a few brief words to those that have already been invoked in the memory of our late colleague, Harold Washington.

Of course, it was the city of Chicago that nurtured and first recognized the considerable talents that Harold Washington would bring to bear on the problems facing that great metropolis. But I would like to focus on the Harold Washington I came to know as an able and effective Member of this body.

I had the opportunity to work with Harold during his tenure on the Judiciary Committee, and I have no doubt that, had he chosen to make a long career of service here, he would have left an indelible mark on the life of this institution. Although a freshman Congressman, he was one of the floor leaders in support of the legislation that extended the provisions of the Federal Voting Rights Act, a major achievement in helping to eliminate the vestiges of racial discrimination in this country.

During his time in the Congress, Harold Washington impressed me as a man of great principle and determination, who fought long and hard for what he thought was right. But he was also a person of eminent consideration and fairness—one who was always willing to listen to another point of view with an open mind.

Perhaps it was inevitable that a man with so much to offer in the way of leadership and political skills would one day leave this House to pursue other challenges. This body's loss, however, redounded to the benefit of the people of Chicago, and to the national dialog on domestic affairs to which Harold Washington so eloquently contributed.

Let me join then with my colleagues in extending our heartfelt condolences to the family and friends of Harold Washington, and to the people of the city of Chicago. A man of his many abilities could have been a success in any job. We should be grateful that Harold Washington chose public service, a career that he ennobled, and one that allowed him to touch the lives of millions.

IN HONOR OF IRVING TERRY

HON. MEL LEVINE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 11, 1987

Mr. LEVINE of California. Mr. Speaker, I rise today to pay tribute to a fine man, Irving Terry, as he is honored by the Los Angeles Men's ORT as 1987 Man of the Year. Recipients of this prestigious annual award consistently demonstrate outstanding achievements on behalf of others. Irving Terry is richly deserving of this honor as he has given freely of himself to a myriad of community and philanthropic causes throughout his life.

Irving Terry has been an avid supporter of ORT and firmly believes in the ORT credo which is, "Give a man a fish and he will have a meal, teach a man to fish and he will feed himself and others for a lifetime." Each ORT international educational program teaches vocational and technical skills to over 210,000 students in Israel and 26 other countries throughout the world. Their education gives students the opportunity to become self-sufficient and productive adults.

Born in Omaha, NE, Irving Terry spent his boyhood in the Boyle Heights region of Los Angeles. He graduated from Roosevelt High School in 1929 and attended Los Angeles City College. Mr. Terry became an independent truck operator for food condiments from the years 1935 through 1944. At that time with a partner, Arthur H. Kaplan, he opened the largest pickle plant in southern California. That business was sold in 1948 and Irving Terry retired for a brief 2 years. Unable to remain idle, Wilkins Regulator Co., manufacturing brass valves, was started. Selling that business in 1972, Mr. Terry devoted his interests to investing in and developing several apartment buildings which were eventually sold. In 1976 Terry Oil Co. was formed to develop crude oil production in California, Oklahoma, and Texas. Irving Terry is the owner and developer of Terry-Commerce Park, an industrial complex in the City of Commerce.

Irving Terry has an impressive background of philanthropic, civic, and professional accomplishments. He is a former Transportation Commissioner for the city of Los Angeles. He served as a member of the National Democratic Finance Committee. He has held membership in many organizations, including: University of Judaism; United Jewish Welfare Fund; Board of Directors of the Jewish Federation Council; and Board of Directors of the Stephen S. Wise Temple.

Mr. Terry's current charitable affiliations are as a member of the Board of Trustees for the City of Hope; member, Board of Resources of the City of Hope; and as a member of the Board of Governors of Haifa University. Irving Terry is also an active participant with the United Jewish Appeal, the Conference for Christians and Jews, and on the Board of the Friar's Club.

Throughout his endeavors, Irving Terry has enjoyed the love and support of his family, including his wife, Esther, and his four daughters, Kayla Kantrowitz, Maidy Dreyfus, Shane Cronenweth, and Lauri Erlendsson.

It is a pleasure to share Irving Terry's accomplishments with my colleagues in the U.S. House of Representatives.

RICHARDSON POW/MIA AMENDMENT

HON. BILL RICHARDSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 10, 1987

Mr. RICHARDSON. Mr. Chairman, I am introducing an amendment to the foreign aid authorizations bill that would accelerate efforts to resolve the fate of 549 American prisoners of war and missing in action still unaccounted for in the country of Laos.

I wish to amend title IX, section 910, which states the sense of Congress that the President should provide up to $200,000 each fiscal year 1988 and 1989 for support of humanitarian projects in Laos directly associated with cooperative efforts to resolve questions concerning American prisoners and missing in action.

My amendment would strengthen this language. It would require the administration to inform the appropriate oversight committees of all progress made in POW/MIA cases in Laos and to inform the appropriate committees of any United States expenditures it may approve for projects associated with POW/MIA cases in Laos. It would send a clear signal that the United States Government is following Laotian efforts to resolve POW/MIA cases with great interest and optimism.

My amendment is supported by the National Security Council, Office of Asian Affairs, who headed a delegation to Vientiane to meet with Lao officials. During the negotiations, the Lao Government agreed to resume humanitarian cooperation with the United States on the issue of Americans still missing and unaccounted for in Lao territory. The United States Government acknowledged the humanitarian problems of Laos and agreed to work within its capability to respond to them. I offer my amendment in this cooperative spirit to increase mutual understanding and resolve POW/MIA cases in Laos. I urge the support of my colleagues.

CABLE TELEVISION: "A TIME OF TURMOIL AND A TIME OF TRIUMPH"

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 11, 1987

Mr. WAXMAN. Mr. Speaker, recently Ralph Baruch, former chairman of Viacom International Inc., and chairman of the board of governors of the National Academy of Cable Programming, addressed the Washington Metropolitan Cable Club on the past—and future—of cable television and its distinctive programming. Mr. Baruch is renowned for his many achievements in his career as a broadcast and cable executive, and is a leading force in educating Congress and the public to the need to bring cable's promise to reality. His remarks were very informative, and provide an excellent perspective on these issues, and I am pleased to share them with my colleagues:

ADDRESS BY RALPH M. BARUCH, DECEMBER 9, 1987

A TIME OF TURMOIL AND A TIME OF TRIUMPH

Many years ago, at a time of turmoil in France, a leader came forth and led France to victory. Along the way he coined a phrase, now part of the language: He said, "war is too important to be left to the generals." I would like to adapt it for the opening of my remarks today to "television is too important to be left to the broadcasters."

Well, it hasn't been.

Why do I say this? Today we are witnessing and even participating in a period of unparalleled turmoil and upheaval in the television industry. We watch as the television networks abdicate their traditional roles in television programming, programming innovation, development and program experimentation. At the same time, a new force has seized upon this opportunity to fill a television program void: That new force, of course, is cable television.

Cable has taken advantage of the existing chaos in commercial television broadcasting and is rapidly amassing new talent, new ideas and new program concepts, and cable programs are taking more and more viewers away from conventional television.

What does all this mean? Over the past 40 years, television has been the mirror of American society: scientifically, aesthetically, and commercially. Television has had an unprecedented and tremendous influence in shaping that society, impacting on every aspect of American life: Television impacts our economy and our ability to market and distribute goods. Television impacts our politics and the policies which shape the Nation and the rest of the world.

Cable television programming will continue to play an ever-greater part in this communications revolution helping to shape our country.

But bear with me as we go back to the beginning and look at a couple of basic television concepts:

The conventional networks really had two fundamental bases which they seized upon to establish and consolidate their position:

First, the ill-advised FCC frequency allocation system of the early 1950's created a three-network oligopoly and made it difficult, if not impossible, for new networks to enter the business and compete on a level playing-field; and

Second, network program distribution, 20 hours a day, 365 days a year, through inordinately expensive conventional AT&T terrestrial lines, was so costly that no one else could afford to duplicate the system controlled by ABC, CBS, and NBC.

Now there is nothing wrong with their having been in this enviable position. They did what they could, and if I had been in their position, I would have done exactly the same thing.

Two events, however, changed all of this forever. The first, which came about to a great extent as a result of the earlier FCC frequency allocation decision, was the advent of cable television, which offered viewers a much greater abundance and variety of television fare.

In its early years, cable television's function was to overcome the lack of receivable stations and with it improve reception. Cable became both a qualitative and a quantitative factor in the availability of television signals.

The second event, of equal importance, was the launching of the first commercial television satellite, which bypassed the conventional networks' stranglehold on national television distribution facilities. No longer was it necessary to buy AT&T's terrestrial distribution. Cable could now bypass all of it and use this new, economically viable satellite technology to instantaneously reach every cable head-end equipped with a receiving dish.

I well recall, not so long ago, attending a broadcast network affiliates meeting at which a very senior network executive, to my utter amazement, stated unequivocally that satellites were not part of their long range plans!

When network parent companies, which may well have thought that their huge successes in television made them infalliable, entered into the new technologies, they ventured into the realms of the wildest of blue yonders. They must have thought that their huge successes in an oligopoly business gave them the gift to divine which services would be successful. They failed in most of these new technology-driven ventures and when they wrote off developments such as CBS cable, the RCA videodisk (which could not record), ABC's telefirst, teletext, and other such projects, their losses were counted in the hundreds of millions of dollars.

But the turmoil which is affecting broadcast networks stems not just from competition or technology; much of it is of their own making. Within the very recent past, all three broadcast networks' parent companies have changed ownership, two of them by a buyout at very substantial prices which demand a return on the substantial investment made as a result of the purchase; the third through a stock buyback program which gave one major shareholder the opportunity to acquire what I will call, in nonlegal terms, a controlling interest. With these acquisitions came severe cost-cutting that affected every segment of their television organizations, and of course program development areas were not spared by these severe cost-cutting processes.

At the networks, retrenchment seems to be the watchward everywhere.

For example, when faced with an unprecedented hit like "The Cosby Show," one of the networks, for all practical purposes, abandoned the time slot by programming what I believe was a glorified newsreel, with a couple of names to host the program.

Moreover, I'd like to predict that very soon this trend will accelerate with the broadcast networks programming additional one-hour, or even 90-minute news documentary or magazine-type programs. There is a simple reason for this. It isn't the networks' concern for the public—it is simply that these days these types of programs are cheaper to produce. The financial risk factor is reduced for the networks—in addition to which there's the opportunity to lay off part of the costs through overseas sales. So expect to see a resurgence of the one-hour or 90-minute magazine shows on some of our major broadcast networks.

Programming innovation now carries an economic risk that the networks simply can't justify—or even explain—in today's ever-sterner broadcast network economic climate and ever increasing preoccupation with the bottom line.

That statesman of the broadcast industry, Dr. Frank Stanton, could not have said it better when he stated recently: "For 25 or 30 years we at the networks had a free ride, so to speak. We didn't have to deal with revolutionary new technologies and competition from outside the networks. . ."

To illustrate the turmoil, just think of this: One network parent company has had six CEO's in a little more than a decade. If you were to count up the number of network heads and the heads of programming over the last two decades, my guess is that it would approach the 100 mark.

Recently a new network has tried to enter this oligopoly but has not yet succeeded, and may never succeed. It is severely handicapped by the inability to compete on a level playing field. Why? Because most of its affiliated stations are UHF independents; there are not enough V's to give them an equal opportunity. This new network, too, has already been afflicted with some of the general turmoil, as seen in both substantial changes within its limited program schedule and personnel shifts as well.

But in the meantime, back at the cable ranch . . . While all this turmoil and upheaval is occurring in the conventional television fields, new programs, program development and experimentation have emerged . . . all initiated by the cable television industry.

One of the first of these cable program innovations removed the broadcast networks from their dominance of the news. CNN appeared, and you know the rest of that story. When urgent events occur no longer does the viewer have to wait until 6:30 or 7:00 p.m. Cable television offers the story immediately and stays with it for as long as required. Cable programming found something that sets it apart from the competition.

Sports was not far behind and along came ESPN, for example, appealing to a broad segment of the American television viewing public. All of us have seen countless examples of cable sports coverage of events ignored by conventional broadcasters. The America's Cup, Madison Square Garden, and so much more television sports programming is appearing over cable, both on a national and a regional basis. As Bill Grimes, president of ESPN, recently stated, "There is no professional sports league, nor is there any type of college sports, that is not now on cable."

With each passing day, cable is taking advantage of the decline of broadcast networks to fill the vacuum in programming content. Networks like Nickelodeon took over where conventional networks are leaving off. Isn't it regrettable that children's programming—except for the Saturday morning cartoon ghetto—has for all practical purposes disappeared from the conventional commerical broadcast networks?

Cable programming has really taken up the slack. Advertiser-supported networks such as the discovery channel, Nickelodeon and the learning channel, and pay channels such as Disney—to give you just a few examples—fill the unfulfilled needs of the young American television audience. Isn't it ironic that discussions are now taking place for adaptions of some of this new cable television developed programming on over the air television broadcasting?

And I predict that cable television programming will come up with new ideas for children's programming and continue cables historic tradition of fulfilling our obligation to the American family viewer.

Another example: C-SPAN has made its mark, not only in this country, where it shows the American public democracy in action, and where it has been quoted and excerpted by both broadcast networks and stations, but world-wide, with C-SPAN demonstrating to the nations of the world how open democracy functions. And that is just one of the many achievements cable television can point to with great pride.

The cable television industry has duplicated these examples time and again and I am particularly proud that now the industry has seen fit to recognize the best of cable television programming through the creation, by the National Cable Television Association, of the National Academy of Cable Programming. Our cable academy not only helped bring about the industry's first and highly successful National Cable Month, but, above all, in achieving magnificant coverage of the ACE awards ceremonies. These ACE awards recognize not only the vast area of programming available to the American viewing public, but today the ACE awards also recognize cable television programs for what they offer to the American public: unparalleled quality, innovation and diversity.

It is now widely recognized that cable television has taken over the role of the program innovator, finding new concepts in television programming, new talent, new ideas. Yes, cable has taken the lead in exploring or rediscovering potential audience tastes.

Today nearly 50 advertiser-supported cable networks and more than 10 pay services beam down from satellites, giving audiences a vast choice of television programming. This programming appeals to every taste, every demographic in our population.

Whether it be news, sports, minority or children's programming . . . be it movies or other established and familiar program expressions . . . be it special programming initiated by a cable network . . . or be it new talent discovered, encouraged and starring in cable programming—today cable is there to satisfy our television audiences' unending hunger for new and original ideas, as well as for established, familiar programs to meet this audience demand.

As some one said, and it bears repeating: Audiences don't watch ABC, CBS, NBC or the independent stations, nor do they watch "cable". Audiences watch programs.

Is it any wonder, then, that more and more television audiences are turning away from conventional television broadcasting and finding alternatives?

Television viewers, while watching more television, are watching less and less broadcast TV. Now undoubtedly the VCR has played a part in diminishing the role for the previously considered conventional methods of television viewing. But let's face it, over the past seven years alone cable television viewing by the American public has grown enormously.

Larry Tisch, chief executive of CBS, earlier this year said, "The audience shift has been profound, from a combined 90% prime time network share in 1980 to 73% in 1986."

For the first 8 months of 1987, that share declined further to a prime-time three network share of 71%.

Listen to this: In the first 6 months of this year in prime time, cable satellite network audiences delivered an average of 862,000 additional households, while networks and their affiliates lost 782,000 television homes. That's a swing of well over one and a half million households in just 6 months!

The numbers I have given you are in all American television households whether they subscribe to cable or not.

When you look at similar statistics in the homes subscribing to cable television, the difference becomes even more dramatic:

In the first 8 months of this year, in cable homes, the network's share in prime time dropped to a dramatic 61%! In just one year the networks lost another 6% of their audience in cable homes. In that same one year, the basic cable networks increased their audience in these homes by 21%.

Cable television, and particularly basic and pay cable networks, is being watched more and more all day long, all night long. We know it and everybody else knows it, or senses it. On a full 24-hour basis in cable homes over the first 8 months of this year, the conventional broadcast network's share declined to 51%, while basic cable network viewing has increased by 25%. Incidentally, pay network viewing increased by 10% while other viewing has remained static.

In just 5 years the time viewers in all television homes are spending watching advertiser-supported cable programming had quadrupled and in cable subscriber homes, the amount of time spent watching advertiser-supported cable networks has increased nine-fold!

There must be a reason for this. The reason, I believe, is very simple. Cable programmers have just done a better job in filling the American viewer's need for information and entertainment. The programs are better, there is a feeling of excitement in our industry to develop new forms of television programming, to find new formats, new ideas and new stars with which to better inform and entertain the American television public.

Today cable programmers are spending an estimated 2 billion dollars annually for product, and I will predict, again, that by the end of this decade, the industry will triple this amount and spend over 6 billion dollars a year to inform, to educate and to entertain the ever-growing cable television audience.

Just a few weeks ago, Nielsen announced that more than 50% of American television homes now subscribe to cable television. Some people sounded surprised, but you weren't, were you. I know that I wasn't. We give the public the programs they want in a quantity, variety and diversity never before equalled, and we shall continue to grow.

I have given you today a historical perspective on the development of television, how cable started, its achievements and its programming success.

We have reached a milestone in circulation which few predicted that cable would ever achieve, but there is a great deal more to be done. We have seen that complacency and a "business as usual" position only lead downhill, so don't look back to your past successes. Instead, you must continue to innovate and experiment, and by doing so serve the public. By continuing to take up this challenge, even greater achievements will surely follow in the years to come.

These goals are reachable—now it's up to you.

Thank you very much.

COMMITTEE STUDY OF LONG-TERM CARE INDUCED IMPOVERISHMENT

HON. EDWARD R. ROYBAL

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 11, 1987

Mr. ROYBAL. Mr. Speaker, just 1 month ago, the House Select Committee on Aging held the first in a series of hearings to examine the personal tragedy of long-term care induced impoverishment and to launch a long overdue, bipartisan effort to put a stop to these personal tragedies. Lest any of you doubt how real this tragedy is, I ask you to consider the study I released at that hearing and am submitting for the record today.

As demonstrated by the committee study, elderly Americans are at great risk from the high cost of long-term care. Seven in ten elderly living alone find their income spent down to the Federal poverty level after only 13 weeks in a nursing home. Within 1 year of entering a nursing home, over 90 percent of these elderly are impoverished. The picture for married couples is only slightly less tragic. Looking at income only, over one-half of the couples are improverished after one spouse has spent only one-half year in a nursing home. Even when both income and financial assets are taken into account, nearly one-half of the couples are impoverished after 1 year in a nursing home.

Now some will argue that only a small number of people ever face that risk. I counter with the facts. Over 200 million Americans are underinsured for long-term care. Of those aged 65 to 69, 43 percent will be in a nursing home during their lifetime. None of us knows who of our grandmothers, mothers or ourselves will end up in a nursing home or will receive extensive home care.

Though the study's focus is on long-term care, America faces two catastrophic health problems—37 million people under age 65 who are uninsured for health and long-term care and 200 million people who are underinsured for long-term care. I would argue that the question is no longer "Should we provide health and long-term care protection?" But rather "How?" Now is the time for the private and public sectors to join forces. I call upon Congress, the administration and the private sector to immediately launch a bipartisan effort resulting in full health and long-term care protection by the end of 1988.

A few months ago, Senator PEPPER and I introduced a long-term home-care bill, H.R. 2762—now H.R. 3436. Be assured that there will be a vote on this bill, the first major step toward long-term care since the enactment of Medicaid, early in the second session of the 100th Congress. But that is not enough. Whether it be my U.S. health legislation, H.R. 200, or other legislation, we must not stop until there is full protection for Americans of all ages and incomes.

My colleagues, the question of political will has been laid before us. The American public awaits and deserves an answer.

LONG TERM CARE AND PERSONAL IMPOVERISHMENT: 7 IN 10 ELDERLY ALONE ARE AT RISK

A HOUSE SELECT COMMITTEE ON AGING STUDY OF THE RISK OF LONG TERM CARE INDUCED IMPOVERISHMENT

In examining the risks related to long term care, consideration must be given to two major factors—your risk of needing long term care and your financial risk when you use long term care. As stated in a recent study by the Department of Health and Human Services, elderly persons aged 65-69 years face about a 5 percent risk of entering a nursing home in the next five years and face a 43 percent risk of entering a nursing home during their remaining lifetime. Nearly 7 million people need long term care currently. By the year 2040, this number is projected to triple to 19 million people. (Department of Health and Human Services Task Force on Long-Term Health Care Policies, 1987.)

To document the level of long term care related financial risk faced by the elderly, the Select Committee on Aging, with the assistance of the Villers Foundation, the Urban Institute and Dr. Laurence Branch (Boston University), developed a model for estimating financial risk. This model and the resulting committee study focus on America's elderly as the population most vulnerable because of both long term care need and limited incomes. However, many of the same observations and many of the results related to personal risk apply as well to America's non-elderly. Estimates of long term care induced risk are made for 1) the proportion of the elderly at risk of impoverishment based on the number of weeks in a nursing home or receiving home care and 2) the personal risk of impoverishment based upon that individual's income and financial assets.

PROPORTION OF ELDERLY AT RISK OF IMPOVERISHMENT—NATIONAL FINDINGS

After only 13 weeks in a nursing home, 7 in 10 elderly persons living alone find their income spent down to the federal poverty level. Within one year of entering a nursing home, over 90 percent of these elderly are impoverished. Even when both income and financial assets are considered, nearly one-half (48 percent) of the elderly living alone are impoverished after only 13 weeks in a nursing home. Within one year, two-thirds of elderly living alone use up both their income and financial assets and face a second year of long term care with their life savings depleted and a limited income. (See Table I.)

TABLE 1.—PERCENTAGE OF OLDER PERSONS AT RISK OF IMPOVERISHMENT BY WEEKS OF NURSING HOME CARE

Nationwide	Number of weeks of care				
	0	13	26	39	52
Based on income only:					
Singles alone:					
65 plus	27	69	84	91	94
75 plus	29	73	86	92	95
Couples alone:					
65 plus	9	34	56	69	78
75 plus	13	43	66	77	83
Based on combined income and financial assets.					
Singles alone:					
65 plus	21	48	58	63	67
75 plus	22	50	59	65	68
Couples alone:					
65 plus	7	22	34	41	46
75 plus	9	28	40	45	51

Sources: House Select Committee on Aging (1987); The Urban Institute's TRIM2 Model based on March 1984 Current Population Survey (1987); Health Care Financing Administration (1987).

While the picture for married couples is somewhat less tragic—they either have more income and financial assets or are facing long term care costs for the first time—the impact of long term care costs is still staggering for them. Looking at income only, over one-half of the couples are impoverished after one spouse has spent only one-half year in a nursing home. Even when both income and financial assets are taken into account, nearly one-half of the couples are impoverished after one year in a nursing home. (See Table 1.) This latter situation means that elderly couples face the second year with no financial assets and face the same rate of impoverishment as when income only is considered. Not only are couples at great risk, but the at-home spouses, usually the wife, face their own health and long term care needs with no financial assets and with only limited income.

Though home care is often a viable and preferred alternative to nursing home care, the risk of impoverishment remains great when extensive home care is needed. The Committee staff analysis looks to two different situations, home care provided 7 days per week and home care provided 5 day per week.

The first situation, 7-day-a-week care, would generally be home care for a person needing extensive supportive services. For example, it may be either an elderly person is living alone or an elderly couple is living alone where neither spouse is sufficiently able to be an active caregiver. In this case, home care costs, at a rate of $43 per day, could exceed $15,000 per year. As the study shows, looking at income only, nearly 90 percent of the elderly living alone and two-thirds of couples living alone are impoverished by the end of one year of 7-day-a-week home care. When both income and financial assets are considered, over 60 percent of the elederly living alone and about two-fifths of couples living alone are impoverished by the end of one year of 7-day-a-week home care. (See Table 2.)

The second situation, 5-day-a-week care, more likely describes the case where there is either a working spouse or caregiver or where there is a caregiver, possibly a spouse, who may not be completely healthy and may be able to provide only limited assistance. In this case, home care costs could easily exceed $11,000 per year. As the study shows, looking at income only, over 80 percent of the elderly living alone and over one-half of couples living alone are impoverished by the end of one year of even 5-day-a-week home care. When both income and financial assets are considered, 57 percent of the elderly living alone and one-third of couples living alone are impoverished by the end of one year of 5-day-a-week home care. (See Table 3.)

TABLE 2.—PERCENTAGE OF OLDER PERSONS AT RISK OF IMPOVERISHMENT BY WEEKS OF EXTENDED HOME CARE 7 DAYS A WEEK

Nationwide	Number of weeks of care				
	0	13	26	39	52
Based on income only:					
Singles alone:					
65 plus	27	61	75	84	89
75 plus	29	66	80	86	90
Couples alone:					
65 plus	9	25	43	56	67
75 plus	13	33	53	67	74
Based on combined income and financial assets:					
Singles alone:					
65 plus	21	43	52	58	62
75 plus	22	46	54	60	64
Couples alone:					
65 plus	7	16	28	34	39
75 plus	9	21	34	40	44

Sources: House Select Committee on Aging (1987); The Urban Institute's TRIM2 Model based on March 1984 Current Population Survey (1987); Health Care Financing Administration (1987).

TABLE 3.—PERCENTAGE OF OLDER PERSONS AT RISK OF IMPOVERISHMENT BY WEEKS OF EXTENDED HOME CARE 5 DAYS A WEEK

Nationwide	Number of weeks of care				
	0	13	26	39	52
Based on income only:					
Singles alone:					
65 plus	27	55	68	77	83
75 plus	29	60	73	81	85
Couples alone:					
65 plus	9	19	34	45	54
75 plus	13	26	44	56	64
Based on combined income and financial assets:					
Singles alone:					
65 plus	21	40	48	53	57
75 plus	22	42	50	55	59
Couples alone:					
65 plus	7	13	22	29	33
75 plus	9	17	27	35	39

Sources: House Select Committee on Aging (1987); The Urban Institute's TRIM2 Model based on March 1984 Current Population Survey (1987); Health Care Financing Administration (1987).

PROPORTION OF ELDERLY AT RISK OF IMPOVERISHMENT—STATE FINDINGS

While this study of long term care induced financial risk focuses on national data, the Current Population Survey sample was large enough to provide first-time insights into how the elderly fare in some of the larger States. The detailed tables for nursing home care and both 7-day-a-week and 5-day-a-week home care are contained in the original committee study documents. Different States have different percentages of impoverishment for a particular group of elderly due to differing income and financial asset levels as compared to differing costs of nursing home care. Due to the lack of detailed data on home care costs, national average home care costs are used for all States. As a result, different rates of impoverishment among States for home care primarily result from differences in elderly income and financial assets.

The larger States differ substantially with respect to rates of impoverishment. Focusing primarily on a nursing home care and looking at income only, the percentage of elderly couples impoverished after 13 weeks in a nursing home ranges from a low of 15 percent to a high of 59 percent. For the elderly living alone, the risk is much higher—from a low of 56 percent to a high of 79 percent at risk of impoverishment.

When both income and financial assets are included, the percentage of elderly living alone who are impoverished after 13 weeks in a nursing home range from a low of 29 percent to a high of 62 percent. Similarly, for couples living alone, the percentages who are impoverished range from a low of 9 percent to a high of 43 percent.

While "13 weeks in a nursing home" is one critical time period for analysis, a second critical time period is "one year in a nursing home." As elderly persons or elderly couples suffer through a full year in a nursing home and with both their income and financial assets being used up, the prospects for a second year in a nursing home are devastating. At the end of one year in a nursing home, using both the income and financial assets of couples living alone, the percentage of impoverishment in the larger States ranges from a low of 28 percent to a high of 69 percent. For the elderly living alone, the situation is substantially worse. The percentage of long term care induced impoverishment ranges from a low of 56 percent to a high of 82 percent—over 8 in 10 elderly living alone.

INDIVIDUAL RISK OF IMPOVERISHMENT BY INCOME LEVEL

The perilous state of the elderly population as a whole may seem somewhat abstract and distant from the day-to-day realities. However, another part of the analysis looks at personal risk based upon income. If you are over the age of 65, are living alone, and have an annual income between $9,700 and $15,000 (between 200 and 300 percent of the poverty level), you would be impoverished after only 17 weeks, an average, in a nursing home. However, if your annual income is between $6,000 and $10,000 (between 125 and 200 percent of the poverty level), it would take only 6 weeks, an average, in a nursing home before you would be impoverished. Even if you have the average amount of financial assets for this latter income group, your income and your financial assets would last only 32 weeks, an average, after you enter a nursing home. (See Table 4.)

Even for couples, the risk of personal impoverishment is great. Again focusing on nursing home care, couples living alone with annual incomes of less than $13,000 are impoverished after one spouse spends only 10 weeks in a nursing home. Even when both income and financial assets are included, couples with annual incomes between $8,000 and $13,000 are impoverished within 27 weeks, on average, of entering a nursing home. (See Table 4.)

Though several examples have been detailed above, the primary value of the following tables is to examine your own situation or that of your parents or grandparents. You can take your income (or your income and financial assets) and see how long your financial resources would last. If you have parents and grandparents, you can do the same for them. With this sense of the personal risk associated with your family's particular personal circumstances, you can better appreciate why elderly Americans, as well as non-elderly Americans, greatly fear not only a long term illness, such as Alzheimer's disease, but the tremendous personal financial risk that is associated with a long term illness.

TABLE 4.—AVERAGE WEEKS TO POVERTY WITH NURSING HOME CARE

	100 to 125 percent	125 to 200 percent	200 to 300 percent
Income only—Annual income (percent of poverty):			
Singles	$4,860–$6,075	$6,075–$9,720	$9,720–$15,000
Couples	$6,540–$8,175	$8,175–$13,000	$13,000–$20,000
Singles alone (weeks):			
65 plus	1	6	17
75 plus	1	6	17
Couples alone (weeks):			
65 plus	2	10	23
75 plus	2	10	23
Income and financial assets—combined annual income and assets (percentage of poverty):			
Singles	$4,860–$6,075	$6,075–$9,720	$9,720–$15,000
Couples	$6,540–$8,175	$8,175–$13,000	$13,000–$20,000
Singles alone (weeks):			
65 plus	8	32	97
75 plus	9	36	110
Couples alone (weeks):			
65 plus	18	27	94
75 plus	21	32	108

Sources: House Select Committee on Aging (1987); The Urban Institute's TRIM2 Model based on March 1984 Current Population Survey (1987); Health Care Financing Administration (1987).

TABLE 5.—AVERAGE WEEKS TO POVERTY WITH EXTENDED HOME CARE—SEVEN DAYS PER WEEK

	100 to 125 percent	125 to 200 percent	200 to 300 percent
Income only and annual income (percent of poverty):			
Singles	$4,860–$6,075	$6,075–$9,720	$9,720–$15,000
Couples	$6,540–$8,175	$8,175–$13,000	$13,000–$20,000

TABLE 5.—AVERAGE WEEKS TO POVERTY WITH EXTENDED HOME CARE—SEVEN DAYS PER WEEK—Continued

	100 to 125 percent	125 to 200 percent	200 to 300 percent
Singles alone (weeks)			
65 plus	2	9	24
75 plus	2	9	24
Couples alone (weeks):			
65 plus	3	14	33
75 plus	3	14	32
Income and financial assets—combined annual income and assets (percent of poverty):			
Singles	$4,860–$6,075	$6,075–$9,720	$9,720–$15,000
Couples	$6,540–$8,175	$8,175–$13,000	$13,000–$20,000
Singles alone (weeks):			
65 plus	12	46	138
75 plus	12	52	158
Couples alone (weeks):			
65 plus	24	38	133
75 plus	27	45	154

Sources: House Select Committee on Aging (1987); The Urban Institute's TRIM2 Model based on March 1984 Current Population Survey (1987); Health Care Financing Administration (1987).

BONNIE BLUEBELLS—NEW OLYMPIANS U.S.A.

HON. PAUL B. HENRY

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, December 11, 1987

Mr. HENRY. Mr. Speaker, I am pleased to rise today to recognize the accomplishments to the Bonnie BlueBells, a very talented group of 1,500 students from the State of Michigan who, under the leadership of their directors, Bonnie and Ken Hood, and head coach Mrs. Debra DeGennero, have performed in 19 different countries throughout Europe, including the Soviet Union. In the days following the summit meeting, it is particularly fitting to recognize this group of young people, who through their talents have promoted peace, friendship and understanding among each of the nations they have visited.

One of this countries top baton twirling groups, the Bonnie BlueBells have won over 500 parade awards, and held the Michigan State Championship for 14 consecutive years before retiring undefeated.

Introducing baton twirling to the Soviet Union during the summer of 1986, the Bonnie BlueBells spent 2 weeks performing on concert stages throughout the USSR to enthusiastic and appreciative audiences. As a result of this successful tour, 20 show teams from the United States were invited to participate in a goodwill tour of Russia the following year. The 1987 trip was coordinated by Bonnie Hood who personally handpicked the 1,100 young people that participated. Mrs. Hood has again been selected to issue invitations to performing groups throughout America to participate in the 1988 tour, and she herself will be teaching baton twirling at a number of clinics and seminars being held in the Soviet Union this coming summer.

Mr. Speaker, by promoting goodwill and friendship among people around the world, these young people are building a foundation for the future—the day when they, and others like them, will be the leaders of our great Nation. Doors opened through these cultural tours may well serve as a catalyst in bringing nations together, leading the way for cooperation, friendship, and harmony. Please join with me, Mr. Speaker, and colleagues, in offering our appreciation and best wishes to the Bonnie BlueBells and their leaders, Bonnie and Ken Hood and Debra DeGennero. May they continue to twirl their way into the hearts of people around the globe.

THE REAL PROBLEM: WINNING BACK THE AMERICAN MARKET

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, December 11, 1987

Mr. FLORIO. Mr. Speaker, I would like to call my colleagues' attention to an article that appeared in the November 21, 1987, edition of the National Journal, entitled "Why Trade Deficits Won't Go Away," by Jonathan Rauch.

Mr. Rauch points out very clearly that expanded economic growth in foreign markets, further decline in the value of the dollar, or even a recession in the United States will not produce any sharp turn around in the U.S. trade deficit. Instead, he says, U.S. producers of goods and services must begin to win back the U.S. market before there will be any real change in America's trade decline.

At this point, Mr. Speaker, I would like to insert this article in the RECORD, and I would urge my colleagues to read it.

The article follows:

[From the National Journal, Nov. 21, 1987]

WHY TRADE DEFICITS WON'T GO AWAY

(By Jonathan Rauch)

Like a man tied to the railroad tracks who knows that help is on the way but does not know when the train is due, observers of the jittery financial markets have reason to ask a disquieting question just now about the trade deficit: What if the long run arrives too late?

Specifically, too late to keep investors from panicking again in the face of continued disappointing trade figures, which are a strong possibility for at least another six months or so. Other things being equal, a lower dollar means that the trade deficit will shrink—eventually. But it also means, perversely, that more bad news, or at least a lack of good news, may precede progress. Judging by recent events, the markets are in no mood for bad news.

The dollar has fallen sharply since Oct. 1—by almost 10 per cent, at one point, against the Japanese yen. Over time, this will make American goods cheaper in foreign markets and foreign goods more expensive here. Americans will buy fewer imports; foreigners will buy more from us.

The problem is the now-notorious J-curve effect, which says that when the dollar falls, things get worse before they get better. The immediate effect of an increase in import prices of, say, 10 per cent is to raise the dollar value of imports by about that much, making the trade deficit that much larger. Only later do buying habits adjust as Americans cut back on imports they buy and as U.S. exports pick up. After a while, the decline in the quantity of imports, combined with a rise in exports, finally gets large enought to offset the higher prices paid for them. The trade deficit starts improving.

So far, so good. The problem is that every time the dollar drops, this cycle renews itself, potentially creating a kind of J-trap. Until the dollar finishes falling and quantities have time to catch up with prices, the trade balance keeps marching up the down escalator, and progress against the trade deficit looks frustratingly elusive just when expectations are highest.

The only way to get the trade deficit down sharply in the near future is if consumers cut back on spending in response to the stock market crash. That could break the economy out of the J-trap quickly. Unfortunately, it's also a good way to start a recession.

There's a view out there [in the financial markets] that we're going to have [monthly] trade reports below $10 billion by the end of the year, and I think that's a pipe dream," said Stephen S. Roach, the principal and senior economist at Morgan Stanley & Co. Inc. in New York. "Every time the dollar falls, you get a new J-curve type of response, and so you just get a series of J-curves on top of each other."

Just give it time, economists tell nervous investors—relief is on the way. Forget it, the stock and currency markets have been replying. On Oct. 14, when the August monthly trade report came in showing a disappointing $15.7 billion deficit, the stock market reacted with a 95-point drop in the Dow Jones industrial average and then panicked a few days later. On Nov. 12, when the September monthly report came in at a more encouraging, though hardly sterling, $14.1 billion, the Dow jumped 61 points, the seventh-largest one-day gain ever.

Despite Wall Street's seeming obsession with them, monthly trade reports don't actually say much of value about the direction of the trade deficit. They fluctuate a lot, even in the best of times. More fundamentally, they measure the trade deficit in pre-inflation dollars. That is how the J-curve hooks itself into Wall Street's tender flesh.

Measured in terms of so-called real net exports, the trade deficit has been dropping steadily and substantially since the third quarter of last year—from $162 billion (in 1982 dollars) to under $140 billion a year later. Real net exports gauge the quantity, rather than the value, of trade; the figures indicate that the deficit in goods trade is shrinking.

What hasn't yet turned around is the deficit in dollar terms. From the third quarter of 1986 to the third quarter of 1987, according to figures compiled by Roach, imports rose only about 3 percent in quantity terms. But because import prices rose almost 13 percent, the overall effect was to show a 12 percent import rise in dollar terms. The rise in import values overwhelmed a 16 percent increase in exports over the same period, mainly because the U.S. imports more than half again the amount of merchandise it exports.

So far, the big disappointment has been that Americans refuse to cut back on their import habit. Even in quantity terms, imports keep edging up. One reason is higher oil imports. Another which is more important, is that foreign manufacturers took huge profits in the past, when the dollar was high, and have been able to use those profits as a buffer against the lower dollar. They have resisted raising their prices here, thus hanging on to their markets.

That strategy has been critical. Expanding the markets for U.S. exports will certainly help the trade deficit. But the relative modesty of exports compared to imports means, Roach calculates, that even if exports grow at a strong 8 percent a year, if import volumes don't come down it will take another six years to close the merchandise trade gap.

The key to the U.S. trade problem is winning back the world's biggest market—our own—from the determined foreign competition. (See NJ, 8/15/87, p. 2087.) The Commerce Department has published a sobering statistic: To balance the U.S. trade accounts by increasing exports alone would require almost doubling the nation's share of world merchandise exports, from 11.2 percent last year to about 20 percent. To put that in perspective, in 1960, when the U.S. exerted unquestioned domination over the world exports was only 18 percent. In other words, exports won't do the job. It is crucial for price increases to start dislodging imports from the U.S. market.

As the dollar sinks, foreign producers can't hold out forever, although their tenacity so far has surprised a lot of analysts. "Our estimates suggest that foreign producers are now at the critical break-even point in their pricing of American imports," Roach said recently in congressional testimony. If he is right, it means that further declines in the dollar will evoke faster and larger import-price increases than in the past. Over the long haul, the lower the dollar gets, the more foreign manufacturers eventually have to raise their prices here, and the more competitive U.S. goods become.

There's that word "eventually" again. It's also true that every time the dollar falls, the J-curve problem fires up again. "If you want to see a contraction in the monthly nominal trade figures"—which are the ones the markets are watching so closely—"then you have to recognize it's not going to occur until the dollar stabilizes or actually appreciates above present levels," Roach said.

That may not happen soon. Indeed, he and many other economists believe that the dollar could fall another 20 per cent, which would mean, given J-curve effects, some big adjustments in trade flows would be needed just to keep the deficit from getting worse. If the financial markets panic again in the meantime, the long run might not get here before the next recession.

"What you're asking for is for prices to make the whole adjustment," said economist John H. Makin of the American Enterprise Institute for Public Policy Research. That strategy didn't work for England in the 1960s, he said, and it won't work for us unless it is accompanied by some adjustments in economic policies: either a recession here, which would knock imports back in a hurry, or—as Treasury Secretary James A. Baker III so fervently desires—stimulus from abroad, to drive up sales of U.S. exports.

Yet even such policy adjustments won't turn the trade deficit around on a dime. A recent study by the Congressional Budget Office (CBO) found that neither a permanent, 1 percentage-point increase in foreign economic growth nor a recession would produce more than small or short-lived changes in the trade balance. What would produce impressive results, the CBO found, is a rapid decline in the dollar's value, to the tune of 25 per cent by 1989. If the CBO is correct, a major improvement in the trade balance is difficult or impossible without a further large drop in the dollar.

Which brings us right back to the seemingly inescapable J-curve: A falling dollar could bring a quick reversal of the trade deficit in volume terms, but a reversal in dollar terms, which is what's needed to begin slowing U.S. indebtedness to foreigners, will be much slower. Lawrence H. Summers, a Harvard University economist, looks at all this and figures that the trade deficit probably won't drop much in the next six or eight months. "If we see anything big at all in the next 12 months, we'd be doing fine," he said.

The financial markets are doing their betting with both eyes on the trade figures that will improve least. A lot of people have high hopes that the dollar's sharp decline will produce a breakthrough on the nation's trade ledgers, but there is reason to think that reality won't change quite so fast.

The stock market crash demonstrated vividly what a financial panic can do to the world economy; an important question in the months ahead will be whether the markets will retain confidence if the long run continues to be agonizingly slow in getting here—or whether they instead conclude, with Lord Keynes, that in the long run, we're all dead.

MINING LAW OF 1872: PROGRESSIVES FAVOR CHANGE

HON. NICK JOE RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 11, 1987

Mr. RAHALL. Mr. Speaker, despite all of the official protestations from mining associations that no change should be made to the Mining Law of 1872, I have become increasingly aware of a progressive faction within the mining community which recognizes that this 115-year-old law is no longer conducive to the efficient exploration and extraction of hardrock minerals on public domain lands.

Recently, a mining organization called the Minerals Exploration Coalition [MEC] commissioned survey of its members in an effort to learn their views on changing the mining law of 1872. According to the company which conducted the survey, the response rate was 83 percent and six key questions reflected the membership's attitudes toward changing the law.

While the majority of the responses to these questions indicated opposition of modifying the Mining Law of 1872, it was not an overwhelming majority especially when factoring in the high percentage of neutral responses to certain questions. I believe the questions and responses to these questions are of great interest to those Members concerned with this matter and they follow:

1. I strongly support the Mining Law as written. No change is needed. 53.7 percent agree—5.5 percent neutral—40.8 percent disagree.

2. The mining Law is in need of changes or updating. 46.3 percent agree—14.8 percent neutral—38.9 percent disagree.

3. I support a legislative effort by MEC in concert with other mining associations to oppose any changes to the Mining Law. 53.7 percent agree—16.7 percent neutral—29.6 percent disagree.

4. The Mining Law may need some revision. I do not, however, support any legislative effort to revise the Mining Law because such an effort may result in changes that are not in the best interest of the mining industry. 57.4 percent agree—7.4 percent neutral—35.2 percent disagree.

5. The mining industry should initiate a legislative effort to change the Mining law so that we are defining the issues and the acceptable alternatives and are not forced to defend the industry's position against proposed changes initiated by other groups. 42.6 percent agree—5.6 neutral—51.8 percent disagree.

6. I suppport an effort whereby representatives of the mining industry and the conservation community meet and prepare a list of mutually acceptable changes to modernize the Mining Law. 31.5 percent agree—25.9 percent neutral—42.6 percent disagree.

The company which conducted the survey also compiled a summary of representative statements of opinion both pro and con regarding the Mining Law of 1872 which follow:

"I think it is foolish to argue that the 1872 law has served the country well and we should not tamper with it. Both Australia and Canada have much more modern mining laws, and perhaps incidently, much healthier mining industries than we do."

"MEC should proceed very carefully in tackling this issue. This is the most important and critical issue the mining industry has to deal with, and MEC must be aware of the risks involved."

"Obviously this is an emotional complex issue. The fact that revisions will occur seems inevitable. Aside from taking the 'no change' stand which I view as 'A head in the sand' attitude, the mining community should initiate a change. This will require first, seriously brainstorming abuses (such as assessment abuses) and coming up with productive changes. It is very important for the mining community to come up with these revisions to 'update the 1872' instead of having philosophical changes imposed by special interest groups change its basic concepts."

"I believe the 1872 Mining Law is working well. That's not to say there is no room for improvement but any changes proposed would surely result in some, if not many changes that are not needed. Even with the best intentions of the environmentalist leaders, there could still be a drastic change in their willingness to support the parts of the 1872 Mining Law that the Mining Industry wants left alone. I believe the industry would be best served by quieting the issue but be prepared to move quickly should a bill be introduced."

"The mining industry should be prepared to negotiate reasonable changes in the mining law—prepare all controversial positions clearly without initiating legislation. Mineral patent rights cannot be separated from tenure under unpatented claims—must have one or the other without further questions of tenure."

HUMPHREYS COUNTY, TN, SALUTED

HON. DON SUNDQUIST

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Friday, December 11, 1987

Mr. SUNDQUIST. Mr. Speaker, one of the counties in my district has been taking the initiative to prepare itself to recruit and retain job-creating business and industry and has recently been recognized for its effort. Humphreys County is only the third locality in Tennessee to earn third-year recertification in the Governor's Three Star Award.

The Three Star Award recognizes communities that display the organization, attitude, facilities, and skills needed to retain the jobs they have and to attract new ones. The requirements are demanding. There is a premium placed on long-term planning and cooperation between government officials, the business community, and civic leaders.

Humphreys County, a rural county of 16,000 people, has developed such a program, under the leadership and guidance of County Executive Johnny Fortner and Billy Rice, president of the Humphreys County Area Chamber of Commerce.

The Humphreys County program includes: an award-winning video titled "Building Towards the Future" that is being used as an industrial recruitment tool, and another video, promoting Humphreys County as a tourist destination; efforts by county leaders to win the reopening of the Acme Boot Co. plant in Waverly, and the recruitment of two other manufacturers, Advanced Laundry & Research and Waverly Apparel; a countywide cleanup program; the local chamber's support for the Plant Managers Association; and the construction of a modern spec building in the Waverly Industrial Park.

These are important and positive developments in which the citizens of Humphreys County can take great pride. I applaud their spirit and civic pride and salute them on attaining the Governor's Three Star Award.

Mr. Speaker, what is happening in Humphreys County is a prime example of what American communities can accomplish when citizens are inspired and leaders are bold and forward-thinking.

THE GROWING TRADE DEFICIT

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, December 11, 1987

Mr. LAFALCE. Mr. Speaker, there are two disturbing aspects to the trade deficit statistics which were released yesterday. One aspect is the immediate concern on Wall Street and in today's headlines; the second, a far less dramatic concern, continues to grow like a cancer, undermining the Nation's economic strength and living standards.

The record $17.63 billion trade deficit in October virtually assures that our trade deficit for the year will again set an all-time world record, this time of more than $170 billion. It means that the dollar, already at its weakest point since World War II, will weaken further and buy even less. It means that inflation and interest rates are very likely to raise, perhaps substantially, reducing job creation and slowing economic growth.

It is difficult to overstate the importance of these immediate concerns. While most experts still believe that a recession can be avoided in the months ahead, the odds have been significantly shortened by this latest record trade deficit.

The longer term concern, however, which yesterday's trade figure highlights, is that we are not addressing—and in fact are perpetuating—the enormous structural imbalance in the world economy. To pay for our trade deficits, the United States now owes about $400 billion to foreign lenders and investors—more than all of Latin America combined. We are now borrowing at the rate of over $3 billion per week. We have grown accustomed to our borrowing requirement—our current accounts—being less than our trade deficit. Beginning in the second quarter of this year, however, because of our net interest payments abroad, our current account deficits are now outpacing even our enormous and growing trade deficits. Even if the trade deficit declines next year, our borrowing requirements may very well increase. We could owe $1 trillion to foreign interests by 1992.

This borrowing is allowing us to consume far more than we are producing. At some point, just to service this debt, we will have to produce—competitively produce and sell in tough global markets—far more than we consume. Many of our financial writers are telling us that this will require that we consume far less. That is very likely true. But we must also produce better, more innovative products of higher quality. Yet new business investment is virtually flat over the past 7 years and despite the President's Quest for Excellence Program, we have seen very little action. The time for action is now.

ASSISTANT ATTORNEY GENERAL FOR STATE AND LOCAL LAW ENFORCEMENT MATTERS

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, December 11, 1987

Mr. RANGEL. Mr. Speaker, today I am introducing a bill to enhance cooperation among Federal, State, and local law enforcement agencies. This measure would create in the Department of Justice the position of Assistant Attorney General for State and Local Law Enforcement Matters. Just over 1 year ago the Congress enacted a historic bill entitled, "The Anti-Drug Abuse Act of 1986." This measure passed overwhelmingly with broad bipartisan support. The bill was comprehensive. It imposed more severe penalties on drug traffickers, it made money laundering a crime, it authorized additional equipment to be purchased by law enforcement officials so that they would wage the war against drug traffickers more successfully. It provided badly needed additional resources for international narcotics control programs. In addition, the bill authorized three main grant programs: A program of Federal assistance to State and local governments for narcotics law enforcement; a program of drug abuse education; and a program to enhance existing drug abuse prevention and treatment efforts.

If there is one thing that the hearings conducted by the Select Committee on Narcotics have made clear it is that drug abuse is an international problem. It is absolutely ludicrous to expect our Nation's cities and towns to make a dent in the flow of drugs into and across the United States with purely local resources.

The Anti-Drug Abuse Act authorized a 3-year grant program of assistance to State and local governments to combat narcotics trafficking with $230 million to be authorized in each of fiscal years 1987, 1988, and 1989. Fiscal year 1987 appropriations for the Department of Justice included $225 million for anti-drug abuse grants which were provided for State and local governments to develop and implement a drug control strategy. However, for fiscal year 1988, the administration proposed to eliminate funding for this program. OMB Director James Miller testified before the Select Committee on Narcotics that the administration made this proposal because "programs which primarily benefit a local community should be paid for by that community." I guess Mr. Miller does not realize that all of the heroin, cocaine, and most of the marijuana consumed in the United States is produced outside our Nation. The administration seems to take the position that once illicit drugs get past Federal interdiction agencies, like the Coast Guard and the Customs Service, they become a State and local problem.

Each month more drugs cross American Borders. State and local governments lack the manpower, resources, and intelligence-gathering capabilities to keep pace with the smugglers. The select committee estimates that in 1986, 150 tons of cocaine, 12 tons of heroin, and 30,000–60,000 tons of marijuana reached

American consumers. There are an estimated 600,000 active heroin addicts in the United States. Approximately 25 million Americans are regular users of marijuana, and surveys continue to show that use of cocaine is increasing rapidly.

Mr. Speaker, in all successful organizations there is a manager or management team, whose job it is to see that the objectives of the organization are realized. In testimony, letters, and concerns received by the Select Narcotics Committee, it is my strong belief that State and local law enforcement officials feel that they have been left out of narcotics law enforcement strategy planning. We have heard that many major cities have not received their fair share of funds under the grant program enacted last year. Many State and local law enforcement officials deride the absence of intelligence-sharing with Federal law enforcement agencies and often are confused about respective enforcement responsibilities in areas of concurrent jurisdiction with Federal authorities.

The duties of the Assistant Attorney General for State and Local Law Enforcement Matters, which the bill would create, would be to serve as an ombudsman for State and local law enforcement agencies with respect to matters involving the Department of Justice and such agencies. Specifically, this additional Assistant Attorney General would have responsibility for criminal and civil forfeiture actions involving State and local law enforcement agencies; and State and local law enforcement task force programs carried out with agencies of the Department of Justice. Additional duties of the Assistant Attorney General for State and Local Law Enforcement Matters would be to provide staff support and to coordinate the activities of the Bureau of Justice Assistance; and to perform such other duties as may be vested by law in the Assistant Attorney General for State and Local Law Enforcement Matters.

The creation of this position in the Justice Department would give State and local enforcement agencies a full-time Federal official to whom they can present their problems and concerns without being lost in the present bureaucratic maze. It will achieve a better integration of our Nations' law enforcement resources and achieve a more effective national drug enforcement strategy.

I note that Congressman BENJAMIN A. GILMAN, the ranking minority member of the select committee, as well as Congressmen FORTNEY H. "PETE" STARK, JAMES H. SCHEUER, DANIEL K. AKAKA, FRANK J. GUARINI, DANTE B. FASCELL, WALTER E. FAUNTROY, EDOLPHUS "ED" TOWNS, and JAMES A. TRAFICANT, JR., have joined me in cosponsoring this legislation.

Mr. Speaker, I ask that the complete text of the bill be entered into the CONGRESSIONAL RECORD at this point.

H.R.—

A bill to authorize the appointment of an Assistant Attorney General for State and Local Law Enforcement Matters, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. APPOINTMENT OF ASSISTANT ATTORNEY GENERAL FOR STATE AND LOCAL LAW ENFORCEMENT MATTERS.

Section 506 of title 28, United States Code, is amended—

(1) by inserting "(a)" before "The President",

(2) by striking "ten" and inserting "eleven", and

(3) by adding at the end of subsection (a), as so designated by paragraph (1), the following: "One of the Assistant Attorneys General shall be the Assistant Attorney General for State and Local Law Enforcement Matters.".

SEC. 2. DUTIES OF ASSISTANT ATTORNEY GENERAL FOR STATE AND LOCAL LAW ENFORCEMENT MATTERS.

(a) GENERAL DUTIES.—Section 506 of title 28, United States Code, as amended by section 1, is amended by adding at the end the following:

"(b) The duties of the Assistant Attorney General for State and Local Law Enforcement Matters shall be—

"(1) to serve as an ombudsman for State and local law enforcement agencies with respect to matters involving the Department of Justice and such agencies, including—

"(A) criminal and civil forfeiture actions involving State and local law enforcement agencies; and

"(B) State and local law enforcement task force programs carried out with agencies of the Department of Justice;

"(2) to provide staff support to coordinate the activities of the Bureau of Justice Assistance; and

"(3) to perform such other duties as may be vested by law in the Assistant Attorney General for State and Local Law Enforcement Matters.".

(b) SPECIFIC DUTY.—The second sentence of section 401(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3741(b)) is amended by inserting "for State and Local Law Enforcement Matters" after "Assistant Attorney General".

SEC. 3. TECHNICAL AND CONFORMING AMENDMENTS.

(a) TECHNICAL AMENDMENT.—The last sentence of section 508(b) of title 28, United States Code, is amended by inserting "(including the Assistant Attorney General for State and Local Law Enforcement Matters)" after "Assistant Attorneys General".

(b) AMENDMENT TO TITLE 5 OF THE UNITED STATES CODE.—Section 5315 of title 5, United States Code, is amended in the item relating to the Assistant Attorneys General by striking "(10)" and inserting "(11)".

(c) MODIFICATION OF ADMINISTRATIVE AUTHORITY.—Section 102(5) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3712(5)) is amended by striking "and the Bureau of Justice Assistance".

SEC. 4. EFFECTIVE DATE.

The amendments made by this Act shall take effect on January 1, 1989.

WARM WELCOME TO NEW U.S. CITIZENS

HON. TOM SAWYER

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, December 11, 1987

Mr. SAWYER. Mr. Speaker, I rise today to extend a warm welcome to 31 residents of my district who took the oath of allegiance as U.S. citizens on November 20, 1987, in Akron, OH.

Coming from Europe and Central America, Asia, and the Middle East, these 31 new citizens represent a true cross-section of our world's peoples, cultures, and traditions. I would like to include their names in this RECORD so that my colleagues can join me in offering our congratulations to them on this special occasion:

Reza Shafie-Khorasani, Hendrik Vandermeer, May Hwa Yu, Vinh Moc Ly, Federico Manalac Ablang, Jeanette Aleida Hope, Wen-Liang Hsu, Maria Perris, Amjad Ghaleb Matar, So Deuk Park, Yeon Deuk Park, Ziad Rushdi Rashid Traish, Jen-fen Wang Chen, Huey-Tsyh Chen, Dipali Chatterjee.

Amiya Kumar Chatterjee, Bindya Rathin Patel, Khamphouk Phanthirath, Cecilia Diaz Dannug, Andrew Gerard Sung Ho Gosky, Samay Rassavong, Clare Weyrick, Viorica Szabo, Nien-Tsu Tseng, Yun-Hwa Chang Tseng, James Somphout Thammachack, Lita Thongchanh Thammachack, Maria Lourdes Toris, Alicia Henry, Tara Ta-Wei Chu, Edward Fu-Hua Chu.

Few people have the chance to choose the nation to which they will bestow their allegiance, yet these people have chosen to become citizens of our country. As a nation, the United States has always drawn its greatest strengths from the diverse backgrounds and traditions of its people, and I am sure that these new citizens will add to the strength and prosperity of their new country.

THE SUCCESS OF LIBERTY CIRCLE

HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, December 11, 1987

Mr. HYDE. Mr. Speaker, in towns and cities across this Nation Americans are celebrating the 200th anniversary of the U.S. Constitution, an enduring and unique document enshrining the human rights and freedoms that are the envy of the civilized world.

It is with much pleasure that I congratulate the students, teachers, and parents of Fullerton School in Addison, IL, for the manner in which they celebrated this most important anniversary.

In October, a group at the school gathered to dedicate "Liberty Circle," a living tribute to the enduring work of James Madison and the other early leaders who met to draft the Constitution in Philadelphia in the summer of 1787.

A focal point of the monument is a rock symbolizing our constitutional foundation. Adjacent to the rock is planted a tree and a number of shrubs, a feature intended to symbolize the vigor and hope this document brings to successive generations of Americans.

Many people had a hand in the success of "Liberty Circle," among them were Joseph A. Patricelli, the school principal; Terry Cultra, who donated the tree; Kevin Coogan, who gave his time and talent to prepare a site, set the rock and plant the foliage; Jeff Didricksen, the student council president; the Fullerton PTA; and Janina Sather and Carol Nuzzo, without whose help the idea never may have come to fruition.

EULOGY OF HOWARD PYLE

HON. JON L. KYL

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 11, 1987

Mr. KYL. Mr. Speaker, former Governor of Arizona Howard Pyle passed away recently. I request that the following eulogy, written by former minority leader of the House of Representatives John J. Rhodes, be inserted in the RECORD:

EULOGY OF HOWARD PYLE

Howard Pyle. Who was he? Those who did not know him might ask that question, but he would not. He knew who he was.

He knew that first he was a child of God, and that he had implicit faith in his Maker. Many of his most precious moments were spent in using his God-given eloquence to describe with deep reverence the sun rising over the Grand Canyon on many an Easter morning. That talent was shared with his fellow man in his radio portrayal of matters great and small—from his role as the sole radio reporter to describe the Japanese surrender aboard the USS Missouri to his early morning KTAR radio newscasts with which many Arizonans, including Betty and John Rhodes, started each week-day.

He knew that he loved his family of all generations. His devotion to them, and his pride in each of them, were hallmarks of his being. Next to them, he loved America and Arizona. When duty called him to serve his state and nation, he responded willingly.

Howard felt strongly that his beloved state would be better governed if it had two viable political parties. So, he became the prime mover in making that a reality, and in so doing gave our state four brilliant years as its governor. The capability and dignity with which he served as governor brought credit both to him and our state.

At the end of his tenure as Arizona's governor, he answered a call to join President Eisenhower as a key White House assistant. He was specifically charged with studying ways for decentralizing some of the functions of the Federal Government, and providing the states with the financial means to assume many tasks which they could perform better than could Washington. Much of the spade work done by Howard Pyle became a base for Federal revenue-sharing in later years. If President Eisenhower were here today, he would tell you, as he once told me, that Howard Pyle was not only extremely capable and intelligent, but was a delight to be around. He was serious when the occasion demanded seriousness, but had a ready sense of humor that brightened many otherwise dismal occasions.

Howard's presidency of the National Safety Council brought enhanced attention to the general subject of human safety. Many new and effective programs were begun during his 15 year tenure. Howard was always pleased and proud that the American industry and populace are increasingly safety conscious, due in large part to the efforts of the National Safety Council.

When Howard "retired" to Tempe, the depth of his community involvement would have been a full-time job for a lesser person. Among other activities, he continued to share his wisdom by writing a regular column for his old friend, Francis Connally, publisher of the Tempe Daily News. His last appearances on a ballot occurred when he was twice elected to the Board of Directors of the Central Arizona Water Conservation District. His industry, wisdom, and knowledge of Arizona's water history will be missed by his fellow Board members.

After the members of his family and his many friends, who will miss Howard the most? I suggest that those to whom he was a role model—the epitome of a really good man and faithful, effective citizen—will miss him most. Yet, in the hearts and minds of those people—who must number in the thousands—there will always be a bit of Howard Pyle to spark those ideals he valued so highly—that they might be passed on from generation to generation.

This, then, is the heritage Howard passes to each of us. He was a man who was respected, honored, and admired as few men are, yet he was a man who knew how to be a true friend, and to walk humbly with his God. We do not mourn his passing on to a far better place. Instead, we celebrate his life, in humble gratitude to God for this great gift shared by all of us who knew and loved our friend, Howard Pyle.

CHARLES MURCHISON AND HIS LIFE OF DYNAMIC ACHIEVEMENT

HON. CHARLES E. BENNETT

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 11, 1987

Mr. BENNETT. Mr. Speaker, on November 13, my dear friend Charles Murchison passed away at the age of 88. These were 88 years of optimism and dynamic leadership that inspired everyone who knew him. I submit herewith an article by Bill Foley in the Florida Times-Union which eloquently speaks of how I and my constituents feel about this truly great man.

The article follows:

CHARLES MURCHISON'S PERSPECTIVE HELPED JACKSONVILLE BECOME CITY

(By Bill Foley)

Charles Murchison never mentioned it, at least around me. Didn't have to. He carried it easy enough. Maybe it never occurred to him.

Mr. Murchison, who died Friday, Nov. 13, at 88, was one of the few who were party to the whole story of modern Jacksonville.

From right after the Great Fire to right after The Jacksonville Landing.

Other Jacksonville lives have spanned this century. But few so watched the passing parade from the very top step as Murchison. Few so closely rubbed shoulders with the marchers: the movers and shakers, the spearcarriers and the bit players, the leaders and the legends and the lost; famous persons and persons you never heard of.

Chic Acosta, John Alsop, John Matthews, Turner Butler, Tom Imeson, Ed Ball, Haydon Burns—these were people to Murchison, long before they became bridges and highways and airports and buildings and libraries.

But for each of these who became a landmark, how many more thousands of Jacksonvillians must there have been whose lives intertwined with Murchison's over the generations, who shared the common memory of the city as its history unfolded?

Murchison was of the upper strata of society. For half a century he was one of the city's most prominent attorneys. He belonged to the world of the Florida Yacht Club, the River Club and Ponte Vedra.

To me, Murchison epitomized that not-so-forgotten graceful past of Jacksonville, a time and place evoked by mention of the Windsor Hotel and Hemming Park, when it was a park; of memories of Riverside Avenue canopied by mossdraped trees and of acorn-splattered sidewalks of six-sided stones of blue and gray.

Yet for 13 years Murchison also was president of the city's Travelers Aid Society, which is not exactly downtown Rotary. For another six he was chairman of the Duval County Welfare Board. For 14 years he was on the executive board of the Community Chest.

I knew him for eight years when he was a member of the Downtown Development Authority, from 1972 to 1980.

These were desultory years for the Downtown Development Authority, of leisurely afternoon meetings when nothing much seemed to happen, even though it was during these years that everything happening in downtown Jacksonville today was made possible.

History came to life in Murchison's casual conversation during these afternoons. His remembrance was not overbearing. Just of little things that came to mind. People. Places. Passing events.

The past has a way of bouncing off people when put in common terms of wars or presidencies. Looking back at the commonplace gives a perspective to the times spanned by Murchison's full and varied life.

Consider that when Charles Holton Murchison was born in January 1899 in Greensboro, N.C., also on Friday the 13th, the first railroad sleeping car to pass through Jacksonville was the top news of the day. The city Board of Public Works voted to pave Adams Street with oyster shell.

In 1917 Murchison was graduated from Duval High School—then Jacksonville's only high school. Voters rejected annexation of Fisher's Corner, at 15th Street and what is now Phoenix Avenue. Metropolitan Opera star Geraldine Farrar sang at the Duval County Armory. Mayor J.E.T. Bowden declared war on stray dogs. The St. Johns River Bridge Association opened headquarters at the Dyal-Upchurch Building to offer "information of a correct and truthful character relative to the bridge across the river."

Murchison returned to Jacksonville in 1921 after graduation from the University of Michigan. Mayor John W. Martin ordered stray dogs shot. South Jacksonville residents held mass meetings to protest tolls on the new bridge.

In 1924, Murchison received his law degree from Harvard and helped form the Jacksonville law firm of Stockton, Ulmer and Murchison. John Alsop was in the first of his six terms as mayor. The first midnight movie was shown at the Palace Theatre. The mayor was obliged to attend. The Seminole Hotel was said to be the first Florida hostelry to offer free orange juice to guests.

The young attorney began 13 years as president of the Jacksonville Travelers Aid Society in 1926. The Carling Hotel—later named the Roosevelt—opened that year.

Jacksonville's downtown streets became one way, to the confusion of all concerned. Professional baseball returned to the city after several years' absence, with the birth of the Jacksonville Tars. The ice-less refrigerator was hailed as the greatest boon to womanhood since the invention of the sewing machine 60 years before. Sheriff W.H. Dowling appointed Pauline Wilder as Duval County's first woman deputy sheriff.

In 1933, Murchison began six years as chairman of the Duval County Welfare Board. Lane's Drug Store offered a jumbo, double-dipped ice cream soda for a dime. The Jacksonville Motor Transit Co. replaced trolley cars with motor coaches. Jax Brewing Co. produced its first draught beer in what The Florida Times-Union described as "an amber Niagara that flowed frothing and bubbling into a thousand mugs, steins and glasses." The Jacksonville Merchants Association voted to close stores Thursday afternoons during the summer.

In May 1941, Undersecretary of War Robert Patterson appointed Murchison to the War Department's Civilian Board of Review to administer the tax amortization law for defense contractors. Troops arrived at Camp Blanding. The Atlantic Coast Line Railroad unveiled the East Coast and West Coast Champions. The School Board was three weeks late paying teachers. "Portia Faces Life," the story of a beautiful, widowed mother and lawyer who fights desperately to make her way in a man's world, moved to a featured time slot on radio station WJAX.

For more than 20 years Murchison's law firm operated in Jacksonville and Washington. In the late 1940s, he became a director of Capital Airlines. In 1951, the year Jacksonville Mayor Haydon Burns was in an auto wreck that totaled his car on his way to a campaign speech and made it anyway. Murchison was elected chairman of Capital's executive committee.

In retirement, Murchison helped the Downtown Development Authority revive a town that was only being built in his young manhood. He sat one day in the DDA office on the 12th floor of the American Heritage Building and idly mentioned talking with Ed Ball, the financier, then in his 90s, about how they wished they were 55 again and knew what they knew now.

HAROLD WASHINGTON

HON. CHARLES A. HAYES

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 10, 1987

Mr. HAYES of Illinois. Mr. Speaker, for the benefit of Members unable to attend the memorial service of our former colleague Harold Washington, I am submitting for the RECORD a eulogy by Speaker JIM WRIGHT:

STATEMENT BY SPEAKER JIM WRIGHT, DECEMBER 10, 1987

Two weeks ago, our nation lost one of its great champions of justice—Harold Washington, who died at his desk working for the city that he loved. Harold Washington's election as mayor of Chicago was a vivid example of how the doors of opportunity can be opened in America. Though he displayed leadership as a young man, Harold probably never thought he would ever be a successor to the legendary Mayor Daley.

Harold Washington came to the U.S. House of Representatives in 1980 after serving 12 years in the Illinois House and four years in the Illinois Senate. As a freshman, he played a crucial role in the successful extension of the Voting Rights Act of 1982. He became a close colleague of mine in the House, and I was sorry to see him leave us in 1983 after he was elected Mayor of Chicago, the third largest city of the United States.

He narrowly won that election as an outsider, reform Democrat, taking on the political machine. But earlier this year he was reelected easily as Chicagoans sought his continued leadership. He ran a government based on the principle that "Chicago works together." That meant all races and all ethnic groups.

Harold Washington will be remembered for his great leadership. During his 55 months in office, he initiated a number of programs to make Chicago a model city, proof that an urban metropolis could achieve harmony among its diverse communities. But it is more than just his civic accomplishments that he will be remembered for. We will remember his good fellowship, his impeccable integrity, and his political bravery. And most of all, we will remember his love for his fellow man.

DR. CHALLINOR SPEAKS ON THE FEDERALIST/ANTI-FEDERALIST BALANCE

HON. DOUG WALGREN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 11, 1987

Mr. WALGREN. Mr. Speaker, the United States Association of Former Members of Congress observed its 17th anniversary this fall to coincide with the bicentennial of the U.S. Constitution. As a part of their program, there was a presentation at Princeton University where several scholars spoke on the U.S. Constitution. I was particularly impressed with the presentation made by Dr. Joan R. Challinor on the role of the anti-Federalists during the debate on ratification. I want to insert her comments in the RECORD at this point and commend them to the attention of my colleagues:

On September 18, 1987, we had a document, framed by fifty-five delegates and signed by thirty-eight, ready to be presented to the people of the United States. These delegates, twenty of whom were under forty years of age, labored throughout the summer of 1787 to mold a new government. Their action differed from the charge they were given by the Continental Congress: to meet "for the sole and express purpose of revising the Articles of Confederation." Their confidence in themselves and in their ability came not from their years, which averaged forty-five, young by any standard, but from their familiarity with the political process. Since the Stamp Act of 1763, the subject of political science had been uppermost in the minds of Americans; by 1787, they had been wrestling with the most basic questions of political power and organization for twenty-four years. During that quarter of a century, a Stamp Act Congress and two Continental Congresses had been established; the Declaration of Independence and the Articles of Confederation had been written; a revolution had been successfully managed; and a most advantageous peace had been negotiated. At the Constitutional Convention, political science in its largest sense was in the delegates' blood as well as in their prepared minds.

The convention having concluded its work, the new, untried, as yet unknown Constitution was, on September 18th, presented to the country for ratification by special ratifying conventions. Remember, secrecy had prevailed during the Convention—no one but the delegates knew what the provisions of this new government were. When the news broke, never before had newspapers given so much space to a political event, never were they more eagerly read.

We had no Constitution on September 18, 1787—a document was all we possessed. And this document was as dry as the parchment on which it was written. What was needed to give it life was the people's assent—their imprimatur. This was to be no easy task, but it was to be the greatest democratic exercise of our country's founding. The ratifying conventions, as historian Linda Kerber pointed out, were far more democratic than the state legislatures and far more democratic than the Convention itself, most of whose delegates would have qualified for the "gentry" class.

We do a grave disservice to our country if we overlook the ratification process and declare the Constitution a reality in September 1787. Some people, surfeited by the Statue of Liberty celebration and the observance of the bicentennial of the framing of the Constitution, may think we are on historical "overload" and suggest that we not commemorate the bicentennial of the ratification debates. I beg to differ: I welcome the opportunity to explore the deep and searching discussions of political science which followed the signing of the Constitution in Philadelphia. These debates which followed the presentation of a new Constitution to the American public were the most penetrating and widespread since those of the English Civil War in the 1640's.

Compared to the debates during the English Civil War and during the French Revolution to come, however, the Federalist-Anti-Federalist debates were mannerly, polite, and managed within the existing political structures. The arguments took place both in the ratifying conventions and in the newspapers. The most famous writings in favor of the Constitution appeared under the pseudonym, "Publius," and are now known as the Federalist Papers, yet there were many Anti-Federalist articles embracing positions against the Constitution which were both trenchant and pointed.

During the debates, no blood was shed, no guillotine erected, no armies clashed on a battlefield. Yet the differences between the Federalists and the Anti-Federalists were real and the engagement hard fought. The importance of the encounter gives substance to the words of John Quincy Adams: The American Revolution, he wrote, "was a work of thirteen years . . . The Delcaration of Independence and the Constitution of the United States are part of one consistent whole, founded upon one and the same theory of government." If we count thirteen years from 1776, we arrive at 1789, when our new government was fully established, not 1787, when the Constitution was written.

As the country turns its attention to the aftermath of the Constitutional Convention—the ratification process—my hope is that Americans will once again listen attentively to both sides of the argument. We should try to understand both the Federalist and the Anti-Federalist view. This historical balance is one of the great advantages which can accrue from historical celebrations. At the time of victory, the winners trumpet their advantage; the losers' views are lost in the hurrahs. Shortly after a war or a great political upheaval, there is little time and less inclination for a calm, judicious evaluation of the event. For the winner, all roads lead to victory and paths not taken—discarded options, opportunities missed—are firmly put aside. Hopefully, over centuries, passions can cool; discussions can produce more light than heat; a balance between opposing views, impossible at the time of the event, can be restored, and time can do its healing work. The "losers" have their chance to be heard with attention and with scholarly regard. The "winners" can admit to failings and errors of judgment which in the heat of the event were never brought to light.

To respect and pay attention to the arguments put forward by the Anti-Federalists is not always easy. We know the outcome from our vantage point, two hundred years after the event. We know that the Constitution fashioned in Philadelphia has endured, that it has been and is durable yet resilient, energetic yet restrained. But if we think ourselves back into the year 1788 when the battle of ratification was waged, we know nothing of the future. We know only that a convention established "for the sole and express purpose of revising the Articles of Confederation" had delivered to the people for their acceptance or rejection a radically new Constitution, establishing a greatly strengthened central government with revolutionary principles untried in the United States: separation of powers, checks and balances, and federalism.

It was in the end a very close call for ratification, and those who warned, hesitated, and cautioned were men of stature, of experience, and of substance: Patrick Henry, George Mason, Elbridge Gerry, George Clinton, and others. These men were not cowardly, they were not nay-sayers; theirs was not a constricted view which prevented them from seeing the value of the proposed Constitution. Patrick Henry thundered in the Virginia debates, "Who authorizes gentlemen to speak the language of We, the people, instead of We, the states?. . . The people gave them no power to use their name." To the Anti-Federalists, the states and the powers vested in them were overriding importance. In the end, when the arguments were fully understood, theirs proved to be the weaker position. Further, because they were politically fragmented, were unable to put foward a single coherent view, were lacking the organization of the Federalists, and presented arguments which were less persuasive, they lost the battle against ratification of the new Constitution.

But the Anti-Federalists fought for aspects of government which we still hold dear today: states' rights, identification with localities, and a very healthy fear of unrestrained power in the national government. Ultimately it was their warnings, their hesitancies, and their unwillingness to vote an unambiguous "yes" for the Constitution which produced our Bill of Rights. Although the Bill of Rights, as we know it today, turned more on the individuals' rights than on the states' rights as the Anti-Federalists wished, it was their insistence that forced Madison to author and push through our Bill of Rights. To the Anti-Federalists we owe the enumeration of our basic rights without which, I think we today would all admit, our Constitution and our lives would be very much the poorer. In the end they forced the Bill of Rights on unreceptive Federalists—on towering figures like James Madison and James Wilson. A Bill of Rights was unnecessary, the Federalists claimed, because the Constitution gave the central government only delegated powers and left all other powers to the states. Why not then, asked Patrick Henry, make these rights specific—"would it," he asked, "have taken too much paper?"

The Federalists may have given us the Constitution, but the Anti-Federalists gave us our Bill of Rights. Both sides deserve our attention and our gratitude. I hope that throughout this bicentennial of ratification, discussions will clarify the position of the Anti-Federalists for millions of citizens and create a new respect for the value of opposition. Certainly George Washington well understood the importance of his Anti-Federalist adversaries. He wrote:

"Upon the whole, I doubt whether the opposition to the Constitution will not ultimately be productive of more good than evil; it has called forth, in its defence, abilities which would not perhaps have been otherwise exerted, that have thrown new light upon the science of Government, they have given the rights of man a full and fair discussion, and explained them in so clear and forcible a manner as cannot fail to make a lasting impression * * *".

Respect for opposition is as important in 1987 as it was in 1788. If we give full attention to the great ratification debates, we will undoubtedly sharpen our own skills in political science. It is a happy coincidence that 1988 is also an election year. We need our political skills not only to choose worthy candidates, but to hold the nominees to the highest standards of character, devotion to duty, love of country, and statesmanship. We are called upon to do this by the very form of government the Founders gave us—a republic.

Asked by a citizen what kind of government the Convention had proposed for the country, Franklin replied, "A republic—if you can keep it." His reply should give us pause, because Franklin was speaking metaphorically to us in 1988 as well as to the United States in 1788. To paraphrase Marshall McLuhan, we are not passengers on this voyage of the United States republic, we are the crew. You and I. On December 7, 1787, when Delaware's delegates ratified the Constitution, they stated that they did so "fully, freely & entirely." As members of the crew we must, in the same spirit as Delaware's delegates, enter into and understand the ratification debates of 1788 and the political debates of 1988 (no matter from which side), and thereby be worthy of the republic we inherited. From those to whom much is given, much is expected.

1988 provides us all with the opportunity to affirm and assent to what was done on our behalf in 1788. We cannot go back 200 years and sit in the ratifying conventions ourselves, but we can ally ourselves with what was done for us. We can cast our "aye" for the Constitution of 1787 and for the Constitution of 1987. I suggest there is no more important task and none more worthy of the great bicentennial in which we have been fortunate to participate than for us to hold, cherish, understand, and, in Franklin's phrase, to "keep" the great republic of the United States.

Thank you.

VETERANS' HEALTH CARE

HON. SOLOMON P. ORTIZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, December 11, 1987

Mr. ORTIZ. Mr. Speaker, today, I am introducing a bill that should contribute to beneficial health care provided our Nation's veterans.

This bill will authorize establishment of a veterans' hospital in south Texas. This bill will provide the Administrator of the Veterans' Administration authority to acquire and construct a medical facility on a suitable site in south Texas. I am honored that Mr. DE LA GARZA, the distinguished chairman of the Committee on Agriculture, is an original cosponsor of this bill.

My colleagues, while significant strides are being made to provide both the health care and facilities for our Nation's veterans, we still fall short of meeting the needs of this ever growing group who have dedicated their lives so that this Nation, under God, may prosper. It is not proper for our Nation to turn its back on the very men and women who enable us to enjoy the freedom we hold so dear. This feeling was expressed earlier this year as both Chambers passed a concurrent resolution, introduced by the distinguished chairman of the Committee on Veterans' Affairs, Mr. "SONNY" MONTGOMERY, expressing the opposition of Congress to budget proposals that would reduce the Veterans' Administration's capacity to provide health care to eligible veterans.

The State of Texas is home to more than 1.7 million veterans of which approximately 305,000 are over 65 years old. By the year 2000, this figure will exceed 500,000. This "graying" of the veteran population is an important consideration in the placement of facilities and health care services. Nationally, from 1980 to 1984, the veteran population aged 65 and older increased from 3.2 to 4.6 million, a 45-percent increase. By the year 2000, veterans 65 and older are expected to number about 9 million. The importance of this could not be underestimated, for the Veterans' Administration knows that the need for medical care increases with age. With this many elderly veterans, existing medical facilities will be stressed beyond capacity.

It is interesting to note from the May 1986 United States General Accounting Office Report to Congressional Requesters, "VA Health Care Allocation of Resources to Medical Facilities in the Sun Belt," (GAO/HD-86-70), that from 1981 to 1985, the veteran population in the Sun Belt increased less than 1 percent, while the veteran population in the rest of the country declined almost 4 percent. Concurrently, the demand for veteran health care increased more in the Sun Belt than elsewhere, even though the increased workload was greater in the rest of the country than for those in the Sun Belt. The Veterans' Administration explained this disparity by indicating that the financial condition, health, and the kind of care required by veterans in the North resulted in the increased workload, while migration increased the number of applications for care in the warmer climates. The veterans in south Texas feel this ever increasing migration when they go to obtain health care services at nearby Veterans' Administration medical centers, or in my district, are referred to the closest Veterans' Administration hospital in San Antonio, some 160 to 185 miles away. A number of the veterans are incapable of driving these distances and/or do not have family members able to transport them to those facilities.

Efforts between the Department of Defense and the Veterans' Administration to share health resource facilities and personnel are improving. As of June 1986, 97 Veterans' Administration medical centers had negotiated sharing agreements with over 120 of their military counterparts. At the national level, the Veterans' Administration and the Department of Defense signed an agreement this past year, that for the first time established a referral process for active-duty patients to Veterans' Administration medical centers from military or civilian hospitals. Such use of veterans' facilities, while alleviating health care access by active duty personnel and their dependents, could adversely affect health care available to veterans who, due to their category, may have a lower priority for receiving medical care.

It is for these reasons, collectively, that I offer these bills and request your favorable support.

VOTE AGAINST H.R. 3100

HON. MICHAEL BILIRAKIS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 11, 1987

Mr. BILIRAKIS. Mr. Speaker, yesterday the House of Representatives passed H.R. 3100, the foreign aid authorization bill. I voted against final passage of that bill, and I would like to take this opportunity to explain why.

When I first came to Washington in the 98th Congress I did so partly because of a promise I made to my constituents in the Ninth District of Florida. I told them then that I wasn't a fan of foreign aid. I told them that the United States wastes—yes, wastes—a great deal of the assistance it offers to other nations because we get little in return.

I told them that U.S. aid—American tax dollars—should be given only to those countries that have proven themselves to be our friends and allies, and I promised them that I would be guided by this belief.

I stand by that promise, and I could not in good conscience vote for the foreign aid bill that passed in this Chamber yesterday having made that promise.

Omnibus spending bills with countless amendments, such as H.R. 3100, are not conducive to getting the most for our money—and Mr. Speaker, just what are we getting for our money?

During 1985, the most current data available, the United States spent $30 million in foreign assistance on Mozambique. In that same year, Mozambique's support for the United States on a survey of 10 key votes in the United Nations was exactly zero percent. The United States spent $176 million on India in that same year for zero support, $19.7 million on Madagascar for zero support, $3.9 million on Ethiopia for zero support, $2.5 million on the Seychelles for zero support and $2.1 million on Benin for zero support. I submit that this isn't a very good return for our money, and things haven't changed all that much.

For instance, the bill this Chamber passed yesterday includes a $50 million earmark for the Southern African Development Coordination Conference [SADCC]. SADCC includes, among others, Zimbabwe, Mozambique, Tanzania, Malawi, Zambia, and Angola—countries that unfailingly vote against the interests of the United States, and rarely have anything good to say about us.

Furthermore, in approving this $50 million earmark, the House waived the Brooke amendment that prohibits assistance to any country that has defaulted for more than 6 months in payment of loans made available under the Foreign Assistance Act.

Mr. Speaker, what leverage does this leave us in collection of loans outstanding to these nations that so routinely revile us?

This bill also expresses the sense of Congress that the President should encourage our European and other allies to join the United States in applying sanctions against the Republic of South Africa, sanctions that have been proven to be ineffective.

I must say that the above examples are a slap in the face to nations who have supported the United States before the world in the United Nations—nations such as Canada, France, and Israel.

I have been to Israel and seen first hand the strength and intensity of the Israeli spirit. I have seen what Israelis have done in their land—turning desert into fruitful ground; creating cities where there was nothing. I was impressed and inspired by this spirit.

For many reasons, I believe that the United States must not fail in its support of Israel. We may not see eye to eye on all issues, but not many nations do—and our differences are far outweighed by the mutual benefits of our international relationship.

Nevertheless, I felt that H.R. 3100 was so flawed that, the much better Broomfield substitute having failed, I was compelled to vote against the committee bill. This, I would hope, would demonstrate the depth of my misgivings about this bill.

Fortunately, the long-term continuing resolution has already passed the House and it includes the same amount of funding for Israel as H.R. 3100. Thus, I was able to express my profound disappointment with H.R. 3100 and not hurt one of America's staunchest allies in the United Nations and elsewhere.

Let me say in conclusion that I hope the other body will see fit to address the many wrongs in this legislation and to make of it a true instrument of a foreign policy in the best interests of this Nation.

In foreign policy there should be compassion, but there should also be justice and self-interest. It is clearly in the self-interest of the United States to get something in return for the money we spend abroad. Indeed, that money should be an investment and not just another futile giveaway program.

THE SUMMIT AND IMPROVED AGRICULTURE TRADE

HON. E de la GARZA

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, December 11, 1987

Mr. DE LA GARZA. Mr. Speaker, earlier this week I had the honor of attending the state dinner at the Soviet Embassy. It was a beautiful event and a perfect capstone to the overwhelming success of this most recent summit between the world's two most important superpowers.

I had the opportunity to present General Secretary Gorbachev with a copy of "Our American Land," the 1987 Yearbook of Agriculture. I felt that this book was an appropriate gift not only because of my own position as chairman of the House Committee on Agriculture, but also because of the longstanding interest the General Secretary has had in agriculture and the management of land resources.

Like Mr. Gorbachev's own recently published book "Perestroika" which discusses the General Secretary's vision of the restructuring of Soviet society, "Our American Land" provides a superb recounting of the restructuring of our own American agricultural system over the past 200 years. I sincerely hope the General Secretary takes the time to read this excellent book and perhaps will find in it some helpful ideas for improving his own country's agricultural system. I have been assured that the book "Our American Land" will be translated for him to review.

Agriculture is a vital economic and diplomatic link between the United States and the Soviet Union. Both countries' economic progress has been closely tied to the success of their agricultural systems.

I hope this summit will lead to improved agriculture trade between our two countries. But more importantly, I, like every American citizen, hope this summit has been successful in improving the relations between our two countries for years to come, pointing the way for other nations to a secure and lasting peace, indeed allowing us "Peace on Earth."

IT IS NEVER TOO LATE TO HONOR A HERO

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 11, 1987

Mr. DORNAN of California. Mr. Speaker, the Congressional Medal of Honor is the highest award of valor our great Nation can bestow. It is awarded for acts of courage above and beyond the call of duty. On November 17, the House of Representatives passed House Joint Resolution 384 which designates February 12, 1988, as Congressional Medal of Honor Day.

While House Joint Resolution 384 gives special recognition to those individuals who have been awarded the Congressional Medal of Honor, there are countless numbers of instances where American men have selflessly risked their lives and never received recognition for their heroism. When these acts are brought to our attention, we should not hesitate to act. I would like to share with you one such act of valor that has been brought to my attention—the story of Tibor Rubin:

At the outbreak of the Korean conflict, Tibor Rubin volunteered to serve his new-found homeland. Rubin was born in Hungary and spent 14 months in a Nazi concentration camp during World War II. After the war he emigrated to the United States and began his studies to become a citizen. Within a year he was a United States Army volunteer, on his way to Korea, prepared to fight for a country not yet his own.

During the Korean conflict, Cpl. Tibor Rubin served his chosen country and his fellow soldiers well. In the field, Corporal Rubin distinguished himself with valor on more than one occasion. But it wasn't until he was wounded, and then captured by the North Korean forces, that his exemplary conduct earned him the undying respect of those who served with him. It was his courage and his dedication to the United States and his fellow soldiers during his ordeal in a North Korean POW camp that I nominate Tibor Rubin for the Congressional Medal of Honor.

Mr. Rubin spent 44 months as a prisoner of war in Korea. Though suffering innumerable indignities himself, Mr. Rubin assisted other prisoners—often risking his own life well beyond the normal call of duty. He attended wounded men by cleansing their wounds to keep infection down; he fed the men who were unable to feed themselves. Often Mr. Rubin had jeopardized his own life by stealing food from the North Koreans, not for himself, but for those who were too weak, too infirm to care for themselves. Stealing food was a "capital crime" if caught. Upon his release from the prison camp he hid the names of the men who were not yet released in his leg cast. Had this list been discovered, his own release would have been forfeited and his life imperiled. Once back in the United States, at his own expense and initiative, he personally contacted the families of those on his list. In many instances he was giving many of them their first information of the whereabouts and condition of their loved ones.

His unselfish acts were witnessed by many and only recently have their eyewitness accounts come forward. Each man believed that Corporal Rubin had already been recognized by his country for his acts of courage. It wasn't until many years later, at a gathering of ex-POW's that Rubin's former comrades learned that his deeds had gone unnoticed by all but those fortunate enough to have served with him.

Tibor Rubin received his U.S. citizenship in 1953. He was proud to be an American, and proud that he could serve his country. Tibor Rubin, without a doubt, clearly distinguished himself with gallantry and uncommon valor, at the risk of his life well above and beyond the call of duty, not once but many times over. He never asked for anything in return; he never sought recognition.

For his selfless acts of valor and risking his life for his fellow man beyond the call of duty, I have introduced legislation to waive the time limitation so that Tibor Rubin can proudly wear his country's highest award of valor—the Congressional Medal of Honor.

Mr. Speaker, I would like to share with you some of the touching letters I received and urge all our colleagues to support me in this effort:

MAY 1, 1987.

Hon. ROBERT K. DORNAN,
U.S. House of Representatives,
Washington, DC.

DEAR CONGRESSMAN DORNAN: During the late part of 1985, I received a letter from M/Sgt. Randall J.J. Briere from San Antonio, Texas, who was with me in the North Korean Prisoner of War Camp for 36 months. He found out that I live in California, and he was very happy to inform me that Tibor Rubin is alive. When I heard that, I could not believe it. We all believed that Tibor Rubin was killed by the Chinese, but thank God we were wrong. When I heard the good news, my heart started beating fast. I felt like I will faint. I started to cry from happiness, and made a thank you prayer to our Lord to let the man stay alive. The man who saved my life and the lives of so many other GI's. M/Sgt. Briere told me that Tibor Rubin is recommended for the "Medal of Honor" by some of the Ex-Pow's who found out that he is alive, and who's lives he also saved. I figured that I have to do something myself too, but how?

I have to tell you that ever since I came home, I can't talk about my life as far as the War is concerned, but especially my Prisoner of War days. I can't talk to my family or friends. I still have nightmares about the Prisoner of War Camp. I have severe panic spells. Periods of nervousness and the feeling that I must get out of a room or place. Shortness of breath, and I can't be with people. I get so nervous many times that I fear that I will go crazy. I have severe headaches, chest pains and I became like a hermit. I had a stroke in 1978, then in January 1987 I had a 5 by pass operation and because I got sick, I checked in the Long Beach Veterans Hospital the end of March 1987. I am now under group therapy as an outpatient and because I am sick physically and mentally, and my time is running out I asked the Lord to help me open up somehow to talk about the man who saved my life and the lives of many other GI's.

It took me 2½ weeks to write this letter. It was one of the hardest and most painful things I had to do in the last 35 years, but I had to do it. I had to open up even though it hurts so much. I do relive the horrors in the 36 months I spent in the Prisoner of War Camp in North Korea.

My name is Carl McClendon, and I was born in Flora, Louisiana on January 7, 1931. I joined the U.S. Army on May 28, 1948. My serial number is RA 18276659 and I stayed in the Army until February 12, 1956. Almost 8 years. I got out as a Sgt. First Class. I went to Japan and was stationed in Camp Otsu and I was in the 25th Infantry Division. Then I went to Korea July 12, 1950 and I was in the B Company 1st Batallion 35th Regiment, 25th Division. The war was very bad, but I did not know that the worst was yet to come. I was taken a Prisoner of War on Nov. 27, 1950 around Ipsop, North Korea. My life and many other GI's lives all of a sudden became a nightmare. We were not trained or prepared for such a life. We were captured in our summer uniforms and the weather was real cold. Later it became so cold that we started getting sick in no time. Our wounded did not have medical care. We hardly had any food, only a little corn twice a day. We started getting dysentery, pneumonia, later Beri-Beri and our nerves started getting bad and the real starvation started. We started to die. When we got to Camp #5, we were weak and disoriented. We never faced death like that before. Our lives became hopeless. In no time, everybody was for himself. Nobody cared, and many of our fellows started praying to ask our good Lord to let us die. Our GI's started dying at a rate of 30 fellows per day.

I am 6'1" and I weighed before capture 195 to 200 lbs. My weight started getting down. I went down to 95 to 100 lbs. in a few months. Everywhere was death. Smell, filth, lice and all kinds of sicknesses. I had dysentery, worms, Beri-Beri, night blindness, chills, fever. My nerves started to crumble. Our most important thing was food. We thought, dreamed and that's all we talked about food and food.

One night, a few weeks later in Camp #5, someone was crawling toward me and told me in very bad English to keep quiet. Then he came closer and reached in his fatigue pants and his pockets, and he started giving me some food and a few others as well. It was Rubin like we called him later, that young man, who I did not really understand his English. He first started coming every evening a few hours when it got dark. He used to bring corn, millet, barley, turnips and vegetables. He used to take care of the wounded people. He was like Santa Claus to us. When he came over, it was like Christmas to us. I asked him quite a few times, how will I ever repay you Rubin? He told us: "You can repay me, please don't tell my name to anyone." Later on we found out that his name was Tibor Rubin (PFC) Ser#RA19-363581 from I Company 8th Cavalry Regiment, 1st Cavalry Division. Even though we liked to have the food and the medical care, we knew he could not carry out those actions every day.

Unfortunately in our camp also in his squad, there were a lot of turncoats and informers and squealers. They would sell their country or fellow GI's for some extra food. Rubin used to tell the GI's, Please, don't beprofile, because if he ever got turned in to the Chinese or the North Koreans and got caught, this would be his end. He would get shot on the spot.

Every day we had to go to Communist lectures. They tried to brainwash us. They talked about war mongers and Capitalism. Rubin used to tell the GI's. Please, don't believe all that Horse Shit. They don't have anything to offer you. In the USA we were eating bacon, eggs and pancakes. These communists do not have anything to offer. In no time the Chinese found out that Rubin used to tell the GI's, Please, don't beso every day he was put on cleaning the toilets detail, carrying the buckets of waste, or he was put on 5 to 6 times a day burial detail, but nothing broke his moral. The more the enemy pushed him, the braver he became. He told us that his war was not over. We have to hit the enemy under the belly where it hurts. But we asked: "How can we do that?" or How will you do it Rubin? Well, he told us: The Chinese and the North Koreans do not have too much food for themselves. So stealing their ration more and more, will hurt them more than to kill them. So every day, when it got dark, and we went to sleep, Rubin was on his way, crawling on his stomach, jumping over fences, breaking in supply houses, while the guns were looking down on him. He tied the bottom of his fatique pants and filled up anything he could get a hold of. He crawled back and distributed the food that he had stolen and risked his life. Between the wounded, the very sick and the dying, he washed us. Took care of our wounds, force fed us. Talked to us about not giving up. We will go home he used to tell us. Our troops will liberate us. Your family is waiting for you. Please, don't give up. In day time, he carried the very sick to the toilet. Cleaned their rear from the disentery. Washed up the dying ones.

The Chinese asked him a few times to go back to Hungary. They promised him good jobs. They told him: You are a Hungarian citizen. Why do you fight the rich man's war? Rubin asked us what would some of us do. We told him: Rubin go back, get out of here, we all will end up in Siberia and die like animals. They wanted to let him go back to Hungary, when 30 to 35 guys died every day and no one knew who will be next. Rubin told us: No way will he ever go back, and leave his comrades. They needed him here. And no way would he bring shame to his family back in the good old USA.

Rubin had guts. The Chinese planted a nice victory garden in springtime 1951. Cucumbers, radishes, onions, soy beans and tomatoes. Nobody was allowed to go close to the garden. Our mouths were watering as we saw it grow. One tomato was worth a million bucks if we could have it. Well, one day Rubin told us: Carl if the good Lord helps us, tomorrow there will be harvest day. I really did not know what he was talking about. But the next day around midnight we found out. Rubin had tomatoes, onions, radishes, cucumbers and turnips. We asked Rubin: Where did you get it? He told us, the Chinese donated it to us. Well the next morning, when the Chinese woke up, they saw the damage. They probably first blamed each other, but later on the Commander Lam, a skinny fellow ran around screaming, that they knew who had done it and the people better come forward voluntarily. Rubin told us "If the fools know who did it, they would get him already."

Well, in no time we lost 1600 young American GI's. In no war did we lose so many young people as in the Korean War.

Many of us died the very dirty way that first winter. No man should die the way they did. Rubin was very proud of his accomplishment to save and try to save our lives, and when he helped some one and tried everything and lost some one, he was heart broken for weeks. When he lost Charles H. Lord, 304 W. 70th St., Jacksonville, Florida, who was from I Company, 1st Cav, one of the first ones from his Company, it was hard on him. Then he lost Frank Smolinsky, 1007 Hess Ave, Erie, PA, I Company, 1st Cavalry, he really took it hard. Then around April 1951, he lost Sgt La Rose. I don't know his address, I Company, 1st Cavalry, he really was down for awhile. To get rid of his hurt and angryness, he stole more food. That is the only way he knew to get even. One time he stole a whole bag of potatoes. Boy o Boy, did we have a Thanksgiving. I'll never forget how sad he was for weeks, when William K. Bonner died in June 1951, with Beri Beri. He was from I believe FFD #1, Sault St. Marie, Michigan. Rubin saved his life twice. He was doing O.K. and all of a sudden he got Beri Beri. He was so swollen up Rubin told us that he had to carry his testicles in his hands so he could walk. Rubin took it real hard, because he was working so hard to try to save Bonner's life, but this went on like that all the time. Later on we were separated from Rubin and I was transferred to Camp 4 in Aug. 1951.

Rubin's Sgt, Sgt Randall J. J. Briere from I Company 1st Cavalry a real anti-Communist was transferred to the reactionary Camp, where we met later on. I believe M/Sgt Briere and Rubin are the only ones who are alive today from the I Company, who spent 30 months or more as a Prisoner of War.

Now I told my story. While I was writing it I was in tears and nearly a breakdown. There is no way I can tell you what it meant to be a Prisoner of War in North Korea for 36 months. We lost 51 percent of our Comrades. It was a plain nightmare, which none of us will ever forget.

As far as Mr. Tibor Rubin, well M/Sgt Randall J. J. Briere wrote in his letter to Congressman Les Aspin on Jan. 7, 1986, that in the front lines Rubin was cited for an award. M/Sgt Briere later updated a letter on Feb 2, 1987 that Rubin was written up for a decoration for Valor above and beyond the call of duty. So Rubin was already then an outstanding soldier.

I know most of Rubin's family was killed by the Germans in WW 2 and he also was a prisoner of the Nazis. Maybe that is where he learned to be so cunning and brave. He had more courage, guts and fellowship than I ever knew any one had. I went thru the war and Prisoner of War Camp and I have to say, that I never met any one to be a better soldier than Tibor Rubin. He is the most outstanding man I ever met with a heart of gold. Tibor Rubin committed every day Bravery that boggled my mind. How he ever came home alive is a mystery to me. I wish I knew sooner that he is alive and I wish I could open up before to tell about this brave man. I thank God that the good Lord was good to me, so I can tell a little about this fine human being Mr. Tibor Rubin.

Tibor Rubin in my opinion really deserves 10 or 15 Congressional Medal of Honors for what he did for his fellow GI's under the most difficult conditions. But I know he only can receive one. I am very proud and happy to recommend Mr. Tibor Rubin: 1. "The Congressional Medal of Honor" for saving my life and at least 40 other Prisoner of War for his conspicuous gallantry and intrepidity above and byond the call of duty. 2. I recommend Tibor Rubin for the "Distinguished Service Cross" for his acts of Bravery during many months of captivity. He placed his life on the line. Not one occasion, but many times, to come to the aid and assistance of his fellow Prisoner of Wars. He clearly distinguished himself by gallantry and uncommon Valor above and beyond the call of duty, risking his own life. 3. I recommend Mr. Tibor Rubin for the Silver Star because of the code of conduct he performed while he was a member of the United States of America in an exemplary manner Article III. "If I am captured I will continue to resist by all means as possible." Well, while the enemy guns were looking down on him, he took the most precious things from the enemy, their food supply, every day, and hit them in their stomachs every day, where it really hurt them. While he did all those things, he was not born in the USA and he was not an United States Citizen.

We as a nation have to honor an Ex-Soldier like Tibor Rubin, and I pray to God that I can stay alive, so I can stand next to Mr. Tibor Rubin proudly when he receives the "Congressional Medal of Honor" and the DSC and the Silver Star from our President.

Thank you for helping us Ex-Prisoner of Wars and Ex-Korean Veterans.

Respectfully yours,

CARL MCCLENDON.

ASSOCIATION OF EX-P.O.W. OF THE KOREAN WAR, INC.,
San Antonio, TX, June 3, 1985.

Hon. BOB DORNAN,
U.S. House of Representatives, Washington, DC.

SIR: I am Randall J.J. Briere, President of the Association of Ex-P.O.W. of the Korean War, Inc., a non-profit organization chartered in the State of Iowa. I am also a member of the committee to assist in the purpose of attaining for Mr. Tibor Rubin the Congressional Medal of Honor award for his unselfish and heroic acts above and beyond the call of duty prior to and during his thirty months as a prisoner of war.

I was PFC Rubin's Sergeant in Co. I, 8th Regt., 1st Cavalry Division in Korea. He arrived there in August 1950, was wounded, went to the hospital in Japan and returned to the unit when released from the hospital.

With careless regard for his own safety, Tibor Rubin selflessly tended wounded persons during the heat of battle when no medical personnel were around, most often alongside Father Emil Kapaun. Tibor also gave moral support to young fellow soldiers, many of whom without Tibor's help most likely would not have survived.

Father Kapaun, chaplain of our unit, known as the Chaplain of Korea, had two jeeps shot from under him but still was right there to help the sick and wounded. He died in prison camp in 1951 as a result of untreated gangrene in his leg, the same type of wound suffered by Tibor Rubin. To this day Mr. Rubin has had continuing problems with his leg which has never completely healed.

As a combat pilot on numerous missions in Vietnam, you would certainly recognize extraordinary bravery when you see it and it is for this reason we ask your help.

It is my sincere belief that Mr. Rubin should receive the belated tribute due him, as evidenced by the other letters you have received from Mr. Elitto, chairman of our committee, to attain this long overdue award of honor.

This country has long helped and praised many persons of foreign countries. I feel there are many persons here also that deserve that same respect and honorable recognition, and Mr. Rubin is one that deserves such. Even after capture he gave unstintingly of himself to bolster morale of young hopeless POWs on the verge of giving up and shared his meager ration, that some lived and returned home. Many have written testimonials they would not be alive today were it not that Tibor Rubin showed that he cared.

The understanding in the Military was that an individual had to have been recommended by an officer for a medal. As in the case of prisoners of other wars, we came home, in 1953 anxious to forget what had happened, retreated into our own shells, and lost track of one another. Although I have worked on my own for ten years with no help from the Federal Government to locate all former POWs of Korea and now have 1,800 names with confirmed addresses, I thought Tibor Rubin was dead and only found him in 1980 through the American ex-Prisoner of War Organization files.

We have long and persistently attempted to have Mr. Rubin awarded this honor but were told the matter would have to have been tendered within a specific time period and that the time limit for this award was expired. This is not a valid reason as evidenced by the following.

President Carter in 1980 awarded the medal to two former WW II POWs:

Lt. Col. Matt Urban—36 years after the fact: and to Anthony Casamento—37 years after the fact.

Thirty-two years ago prisoners of war were released in Korea—five years less than time elapsed when the two cited awards were made.

Knowing Mr. Rubin as I do, I am firmly convinced that were the situation reversed and you needed his help, in his totally unselfish way he would go the last mile and strive to his utmost to have justice done for you.

In that spirit, Mr. Dornan, and with your knowledge of the Military which has shown justice is not always meted out equally, we solicit your help/support/sponsorship in a Congressional vote to award the justly deserved Congressional Medal of Honor to Tibor Rubin. It would be a very sad state of affairs should this matter continue to drag on and perhaps result one day in a posthumous award of the Medal.

We would most sincerely welcome your early reply, hopefully with the good news you will help us either to deliver the papers to the President or have a bill introduced to honor Mr. Rubin with this award.

Thank you for your time. We would very deeply appreciate the direction of your energies to see this action through.

May God bless and preserve you and your family and favor your efforts in Congress.

Very truly yours,

RANDALL J.J. BRIERE,
President, M/Sgt, US Army Ret.

OCTOBER'S TRADE DEFICIT DEMANDS SPEEDY ACTION ON TRADE BILL

HON. DON BONKER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Friday, December 11, 1987

Mr. BONKER. Mr. Speaker, the monthly trade statistics released yesterday by the Commerce Department revealed a $17.6 billion deficit for October, a $3.5 billion increase over September's deficit. These figures paint a grim picture, and fly in the face of the administration's assurances that the falling dollar would solve our Nation's trade deficit problem.

There is no longer any doubt that this year's trade imbalance will be even higher than last year's $156 billion trade deficit—the seventh new record in 7 years.

Our trade crisis is more than just dry statistics. Behind the numbers are millions of lost jobs, continued crumbling of our industrial base, and severe economic dislocations in many local communities.

Yesterday's announcement sent stock prices plummeting to new lows in New York and London, as investors demonstrated their waning confidence in our national economy.

It is long past time to stop rationalizing and ignoring the trade deficit. It is time to act decisively on farsighted policies to put our Nation on the road to recovery.

While it appears that 1987 will post another recordbreaking trade deficit, we can and must act to lower next year's trade deficit and to halt the erosion of our economic situation. Final action on H.R. 3, the omnibus trade bill, should be our first priority in 1988.

The omnibus trade bill is the most comprehensive competitiveness package ever considered by Congress. Unfortunately, the President continues to attack the bill as protectionist, and the media has focused more on the President's attacks than the many positive features of the trade bill.

Both the House- and Senate-passed versions of H.R. 3 would increase our Nation's export promotion and export financing efforts, help break down trade barriers that hurt U.S. exporters, eliminate unnecessary export controls on our electronics manufacturers, and boost our Nation's ability to compete through improved education and training.

Currently, House and Senate conferees are meeting to hammer out the differences between the two bills. It is no easy task—both bills are roughly 1,000 pages long, and the conference involves over 200 Members. While I do not support every provision in either bill, I am confident that the final conference agreement will establish a tough, but fair trade policy for our Nation.

Apologists for the trade deficit have pointed out that a falling dollar causes the price of imports to soar temporarily, and that the month of October generally produces the highest monthly deficit figures of the year. I would argue that the dollar has been falling for 2½ years, but 1987 is still shaping up as the worst in American trade history.

Congress cannot ignore the trade deficit—we must take responsible action. A further drop in the dollar alone will not solve the crisis. Let's make passage of a sound trade bill the first item on our agenda next year.

PERSONAL EXPLANATION

HON. JAN MEYERS

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Friday, December 11, 1987

Mrs. MEYERS of Kansas. Mr. Speaker, during consideration of H.R. 3100, International Security and Development Assistance Act, I missed three rollcall votes because I was at the White House farewell ceremony for General Secretary and Mrs. Gorbachev. Had I been present, I would have voted "yes" on rollcall 470, "no" on rollcall 471, and "yes" on rollcall 472.

A SALUTE TO DR. JERRY C. LEE, GALLAUDET UNIVERSITY'S SIXTH PRESIDENT

HON. STEVE GUNDERSON

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Friday, December 11, 1987

Mr. GUNDERSON. Mr. Speaker, one of the best honors I have had while serving in the U.S. House of Representatives is to have been selected and appointed to serve as a congressional trustee to Gallaudet University in 1985. It has been rewarding to be associated with this fine institution and to witness its many achievements and growth over the past few years. It is appropriate to attribute many of the recent strides accomplished by this 123-year-old institution to its sixth president, Dr. Jerry C. Lee.

Regrettably, Dr. Lee soon will be returning to the private sector. Dr. Lee's tenure at Gallaudet University is truly distinguished. His valuable contributions and leadership to the unique mission of Gallaudet University over a brief period of time will be preserved in its history. Just one of the many milestones achieved in Dr. Lee's tenure is the incorporation of Gallaudet into a university.

Mr. Speaker, Gallaudet University has certainly benefited from Dr. Lee's foresight, ingenuity, and leadership over the past 3 years. Some of his many accomplished goals include, but certainly are not limited to:

Broadening academic opportunities for Gallaudet University students by establishing new degree programs including, a certificate of advanced study in gerontology, a master's degree in speech-language pathology with an emphasis on deafness, and a master's degree in mental health counseling for deaf clients.

Establishing a school of management.

Expanding additional Gallaudet University regional centers across our country to effective include 45,000 hearing-impaired individuals, their families and professionals in California, Florida, Hawaii, Kansas, Massachusetts, and Texas.

Gallaudet University, since opening its door in 1864, has grown to serve as an international symbol and resource of opportunity for hearing-impaired individuals of all ages. Dr. Lee's efforts have continued this international vision for Gallaudet University by establishing cooperative programs with Brazil, Chile, Costa Rica, and Puerto Rico.

Targeting constituencies with special attention focusing on midcareer hearing-impaired persons, international students, minority students, older hearing-impaired individuals, students from mainstream programs, and transfer students. I firmly believe this is an important initiative for Gallaudet University as demographic trends compel our universities to look beyond their traditional role and respond appropriately.

Dr. Lee and the Gallaudet University family should be commended for being distinguished as the "Best Liberal-Arts Institution in the East" in the 1987 U.S. News & World Report survey of college and university presidents. Previously, under Dr. Lee's leadership, Gallaudet College in 1985 was ranked No. 3 of "smaller comprehensive institutions." Such designation illustrates the depth and quality of the university community at Gallaudet. Gallaudet is getting better with age.

It is remarkable that Gallaudet University has expanded its focus and mission during years of Federal budget constraints, by using effective cost-saving mechanisms and reallocating existing program funds. Other entities of our Federal Government would do well to take a lesson from Gallaudet University's effective management practices.

Achievements made by Gallaudet University under the determination of its sixth president will enhance the educational future of hearing-impaired individuals for years to come. As I have shared with Dr. Lee on an earlier occasion, this has a very personal significance for me because we have in my family a hearing-impaired youngster who we sincerely hope will become not only a student but a graduate of Gallaudet University.

This evening the Gallaudet University community is hosting a tribute to honor its sixth president, Dr. Jerry C. Lee. I would personally like to extend my heartfelt appreciation to Dr. Lee for his dedicated service to Gallaudet University and to the hearing-impaired individuals of all ages who are touched by the many activities and services of this institution. Best wishes to Dr. Lee in his new endeavor, and much happiness and success to the Lee family.

PERSONAL EXPLANATION

HON. TOM BEVILL

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 10, 1987

Mr. BEVILL. Mr. Speaker, on Thursday, December 10, while I was attending the final summit meeting by President Reagan and Soviet General Secretary Gorbachev at the White House, I missed three votes on H.R. 3100.

On rollcall vote No. 470, had I been present, I would have voted "no."

On rollcall vote No. 471, I would have voted "aye."

On rollcall vote No. 472, I would have voted "no."

TRIBUTE TO MARTIN AND SIMA JELIN AND JACK AND ERNESTINE BURSTYN

HON. ROBERT G. TORRICELLI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, December 11, 1987

Mr. TORRICELLI. Mr. Speaker, it is with great pleasure and respect that I rise today to pay tribute to four outstanding citizens from my State who are to receive honorary doctoral degrees at a testimonial dinner sponsored by the Rabbinical College of America.

The Rabbinical College of America in Morris Township, NJ, is an affiliate of the worldwide Lubavitch movement and serves as its headquarters for the State of New Jersey. Founded in 1956 in the city of Newark with 10 students, it expanded in 1971 to its current 15-acre campus, where 300 students from 24 States and 10 countries are now enrolled.

Over the years, the college has gained an international reputation for scholarship and has considerably broadened the scope of its activities to include extensive communal service. Through the diverse academic program of lectures, seminars, and community affairs, the college prepares its students for careers as rabbis, teachers, and community leaders. Accredited by both the New Jersey State Board of Higher Education and the Association of Advanced Rabbinical and Talmudic Schools, graduates from the college receive a bachelor of religious studies degree.

Martin and Sima Jelin are prominent in communal activities and dedicated supporters of the Rabbinical College. They are actively involved in many social and educational institutions and exemplify commitment and civic responsibility. Martin, president of Karnak Chemical Corp., is a member of the board of trustees of the college. He is president of the Jewish Community Council of New Jersey and president of the Hebrew Youth Academy. In addition, he is vice president of the Essex County United Fund and president of the Rutgers University Hebraic Studies Department. He also sits on the board of trustees of Rutgers University. Sima, a graduate of Mount Holyoke College and vice president of Kislak Co., is one of those special few who can truly make a difference. Never indifferent to the needs of others, she serves on numerous communal organizational boards, including Newark Beth Israel Medical Center Auxiliary, the YM-YWHA of Metro New Jersey, the United Federation of Metro West and the Mount Holyoke Chair of Jewish Studies.

Jack and Ernestine Burstyn have long been known for their generosity and unswerving dedication to the concepts of humanitarianism. Jack, a highly successful real estate developer in New Jersey, New York, and Pennsylvania, is noted for his willingness to respond to the needs of a myriad of essential causes. He serves on the Board of Jewish Federation of Central New Jersey, the Central New Jersey Home for the Aged, and is honorary lifetime chairman of the YM-YWHA in Union, NJ. In addition, he is past president and presently an active honorary president of the Jewish Education Center in Elizabeth, NJ. Ernestine has long demonstrated her sense of caring, concern, and civic responsibility as a member and leader of Women's Division of Israel Bonds, Jewish Educational Center in Elizabeth, and B'nai B'rith in Springfield, NJ. She is an active and well known life member of the auxiliary of the Central New Jersey Home for the Aged. The Burstyns have most recently sponsored the creation and erection of a sculpture in Jerusalem which was dedicated to the everlasting memory of the 6 million who perished in the Holocaust.

Martin and Sima Jelin and Jack and Ernestine Burstyn are being honored for their moral and financial support of the college and for their unstinting participation in the life of their community as well as many national educational institutions. They represent the spirit and dedication of their community and their country. I am proud to join in paying tribute to their efforts.

TRIBUTE TO JOSEPH P. FILIPPONE

HON. JIM COURTER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, December 11, 1987

Mr. COURTER. Mr. Speaker, I rise today to pay tribute to Joseph P. Filippone. After 37 years of service to his country, Mr. Filippone will retire on December 12.

After graduating from St. Peter's College in Jersey City, NJ, in 1950, Mr. Filippone was hired as a pyrotechnician at Picatinny Arsenal. In 1953, the transferred to the personnel office as a position classifier. He went on to serve in most areas of personnel management at both the staff and operating levels.

Two of Mr. Filippone's assignments were overseas with the Department of the Army. He served as chief of position classification in Paris from 1963 to 1965 and as chief of recruitment and career management in Heidelberg, West Germany, from 1971 to 1975. Upon his return to the States he was named the fifth personnel officer of Picatinny Arsenal.

Mr. Filippone's dedication to his professional career is duplicated in his dedication to community service. He serves on the board of directors for the Salvation Army in Dover, NJ, and he is an adviser to the Morris Hills School Board. He has also served as an adjunct faculty member of the Florida Institute of Technology, teaching personnel management and industrial relations.

I would like to thank Mr. Filippone for his many years of service to this country, and I wish him and his wife Joan well in all future endeavors.

NOW IS THE TIME FOR TURKEY TO RESOLVE THE TRAGEDY OF CYPRUS

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, December 11, 1987

Mr. BROOMFIELD. Mr. Speaker, with elections out of the way in Turkey, now is the time for that Government to improve its international image by resolving the problems of Cyprus. A withdrawal of Turkish troops would be a welcome first step.

As we all know, Turkish voters recently elected Prime Minister Turgut Ozal to lead that country. Those of us who must run for office appreciate the amount of effort that the Prime Minister expended in his recent election victory. With this success behind him, what better time for the Turkish Government to begin to focus on the important issue of Cyprus. Time is of the essence.

While Turkey gained enhanced prestige with these first civilian-run elections since the military coup of 1980, the image of that country would improve dramatically if progress were made on the Cyprus problem.

A recent incident involving Greek Cypriot women clashing with Turkish troops on Cyprus clearly highlights the tragedy of the illegal occupation of that island. The stalemate in peace talks concerning Cyprus creates frustrations and tensions between Greece and Turkey. A future clash in the eastern Mediterranean over Cyprus will undermine NATO's vital southern flank. It will do irreparable harm to the security of the free world. Now is the time for real progress on the Cyprus problem. Turkey cannot afford to ignore the Cyprus problem any longer. A withdrawal of Turkish forces would be a prudent first step.

THE LIFE AND ACHIEVEMENTS OF HIGH CHIEF SALANOA

HON. FOFO I.F. SUNIA

OF AMERICAN SAMOA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 11, 1987

Mr. SUNIA. Mr. Speaker, in 1945 a young American Samoan chief circulated a petition among the chiefs and leaders in my territory, asking the Governor, who was appointed at the time, to establish a legislature for American Samoa. The Governor ignored that request, but not for very long. In February 1948, the Governor authorized the establishment of the legislature, and this young chief was elected by the village of Tula, American Samoa, as its representative to that first legislature.

He later became speaker of the house of representatives and president of the senate. In fact, his illustrious legislative career spanned 32 years. The gentleman of whom I am speaking is High Chief Salanoa S.P. Aumoelualogo, and I rise today on the floor of the U.S. House of Representatives, privileged to enter a brief mention of the life and achievements of this outstanding American into the records of Congress.

High Chief Salanoa was born in the village of Alao, American Samoa, on March 27, 1912. After attending local schools, he began his careers in education, as a teacher, in agriculture, as an extension agent, and in business, as an exporter of Samoan handicrafts. Soon after he circulated his petition, he became one of the organizers of a general assembly of the Samoan people. This body resolved to request formally the establishment of the legislature.

During his decades of dedicated public service, High Chief Salanoa demonstrated a unique ability to understand and accept changes as ways to improve the lot of the Samoan people. He was vice chairman of the First Constitutional Committee, chairman of the Second Constitutional Committee and later chairman of the Constitutional Convention. He also chaired the first and second Political Status Commissions for the territory, which produced the reports which have become the blueprints for our political development. In the course of his capacity as a legislative leader, High Chief Salanoa made frequent visits to Washington, attending hearings on subjects related to American Samoa, and, in the process, made the acquaintance of many Members of Congress who still remember him quite vividly.

As a practitioner before the High Court of American Samoa, High Chief Salanoa was known well for his legal work on matai titles and land issues. He joined other local lawyers 15 years ago to form the American Samoa Bar Association.

High Chief Salanoa is married to Fa'aalo of the village of Masefau, American Samoa, his wife of 53 years. They have 14 children, 40 grandchildren and 10 great-grandchildren. Despite his many duties and responsibilities as a territorial leader, High Chief Salanoa still found time for his village and community duties. He is presently the president of the Combined Parent and Teachers Association of Matatula and a leading member of the Tula Christian Congregational Church.

Mr. Speaker, every member of this great body is proud of constitutents like High Chief Salanoa. I am more than proud of this man; I owe him greatly for teaching me the legislative process and for leading my people. You see, Mr. Speaker, I served with him in the territorial Senate for 8 years before coming to Congress. In those years we worked together, fought each other and differed strongly on many issues, but we have remained friends through the years, and my respect for this leader of my people has never diminished.

BERNARD BARTIKOWSKY CELEBRATES 90TH BIRTHDAY

HON. PAUL E. KANJORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 11, 1987

Mr. KANJORSKI. Mr. Speaker, I rise today to bring to your attention a very American success story from the Wyoming Valley of northeastern Pennsylvania. Bernard Bartikowsky, who will be 90 years old on January 28, is being honored by the University of Pennsylvania Alumnae Association. I am pleased to join them in paying tribute to this fine gentleman and personal friend of my family.

Bernard Bartikowsky graduated from the University of Pennsylvania Wharton School of Business in 1919. He returned to the Wyoming Valley to work with his father, Max, in the jewelry store on Main Street in Kingston. An immigrant from Lithuania, Max Bartikowsky had established the jewelry business a century ago in 1887 and operated it until his death in 1927, when Bernard took over. Under Bernard Bartikowsky's leadership, Bartikowsky Jewelers has become one of the Nation's leading diamond organizations.

Mr Bartikowsky has been a generous contributor to many worthy causes and organizations. He has maintained strong ties to the University of Pennsylvania, which several years ago presented him with the Alumnus of Merit Citation, the most prestigious award given annually by the Alumnae Association. Many local colleges and universities have benefited from his generosity. He is a member of the Century Club and President's Club of King's College, the John Wilkes Club and President's Club of Wilkes College, the President's Club and President's Circle of the University of Scranton, and has been a benefactor of Marywood College, Pennsylvania State University, Wilkes-Barre Campus, and the Jewish Theological Seminary. A charter member of Temple Israel since its founding in 1921, Mr. Bartikowsky has also been a longtime member and benefactor of the Jewish Community Center.

Mr. father was a classmate with Mr. Bartikowsky at the University of Pennsylvania, and I have known him and his family since I was a child. His name and reputation are well-known and respected throughout the Wyoming Valley. His civic leadership and pride in this family and community are trademarks of notheastern Pennsylvania, and the twinkle in his eye represents the spirit of our area.

Mr. Speaker, Bernard Bartikowsky embodies the best of the American dream. He has succeeded in his business, yet never forgot the community which fostered his success. I am pleased to bring to the attention of my colleagues in the House of Representatives this story of well-deserved success.

MAZEL TOV TO THESE FORTUNATE COUPLES

HON. E. CLAY SHAW, JR.

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 11, 1987

Mr. SHAW. Mr. Speaker, I rise today to honor the people of Temple Emeth, a senior citizen congregation in Delray Beach, FL, on the occasion of their third annual golden anniversary jubilee celebration. The golden anniversary celebration honors those special synagogue members who have been married 50 years or more.

On December 15, over 40 couples are expected to stand before a golden chupah and reaffirm their marriage vows. Marriage is a glorious institution and I want to take this time to recognize these special couples. Mark Twain once said, "Love seems the swiftest, but it is the slowest of all growths. No man or woman really knows what perfect love is until they have been married a quarter of a century." The couples that will be assembled at Temple Emeth are truly fortunate. These couples have experienced marriage together for half a century, twice the time parameters set by Mr. Twain.

Over 2,000 people are expected to witness and share the joy of this golden anniversary jubilee celebration. I wish to congratulate these remarkable people on this special occasion. I would also like to commend the dedicated people behind the golden anniversary celebration for honoring their fellow members and for continuing this fine tradition into its third decade.

Mazel tov to these fortunate couples.

CAPT. JOHN HUNT: A COURAGEOUS U.S. MERCHANT MARINER SERIOUSLY WOUNDED IN THE PERSIAN GULF

HON. ROY DYSON

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Friday, December 11, 1987

Mr. DYSON. Mr. Speaker, I rise in recognition of Capt. John Hunt, one of several seaman that were seriously injured during the cowardly Iranian Silkworm attack on the reflagged United States oil tanker, the *Sea Isle*

City, on October 16, 1987. Unfortunately, Captain Hunt, a distinguished member of the International Organization of Masters, Mates and Pilots, will not fully recover from eye damage he sustained during the attack.

While we all celebrate the spirit of the holiday season it is important to remember our merchant mariners who are spending their holidays in the extremely volatile Persian Gulf. It is vital that we, as Americans, reinforce the morale of these brave men who sacrifice so much in their willingness to move cargo from destination to destination, at any time, regardless of the high risks to themselves and their vessels.

It is my sincere hope that Captain Hunt continue his recovery and maintain the high spirit which personifies U.S. merchant mariners. Mr. Speaker, in closing I would like to express my deep sense of gratitude to Captain Hunt and all the U.S. merchant mariners who perform their duties under extreme conditions with much enthusiasm and great skill.

LONG-TERM CARE INCENTIVES PACKAGE

HON. DON RITTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 11, 1987

Mr. RITTER. Mr. Speaker, even after the catastrophic health care bill winds it way through the legislative process, senior citizens will still have big worries about long-term care. The real problem we hear about from the constituents in our districts is long-term care, not necessarily linked to illness, but stemming from medical advances and improved healthier living which grant people longer lives.

As we all know, the intentions to take the major financial worries out of the future for the elderly were not addressed by the bill which is going to conference. Since there are no provisions in it to cover long-term home care, nursing home, or other such expenses, it is imperative that we develop a variety of incentives that will take steps toward addressing the concern over the high costs with long-term care provisions. Today, I introduced legislation to provide a package of incentives to improve people's ability to plan for their own future needs for long-term care.

The long-term care incentives package recognizes the private sector's recent development of long-term insurance through a series of options presented in a nonbureaucratic framework. Instead of laying the groundwork for a new Government entitlement program that could eventually bankrupt the Medicare trust funds, this incentive package encourages markets to provide a solution which not only helps individuals protect themselves against long-term catastrophic medical care expenses, but also saves money for the Medicare trust funds. And it keeps the administration of the activities decentralized. We've all witnessed the bureaucratic nightmare of Medicare and Medicaid. A greater private initiative is in order.

The first provision would allow individuals an income tax credit of up to $100 per month for expenses incurred for maintaining a household for dependent senior citizens 65 years of age and older. I originally introduced this provision as a bill in the 97th Congress.

We all know new resources must be expended. Let's promote long-range savings to help meet these needs. Let's take advantage of the fact that the United States has an extremely high per capita square footage of housing that can be made available for seniors, particularly once children have left the nest. Let's allow for those who might wish to bring grandparents or other seniors in the home. This could mean seniors helping seniors.

The second provision, adopted from similar language in legislation introduced by Representative FRENCH SLAUGHTER of Virginia, encourages health care savings accounts by providing a 50-percent tax credit for the amounts invested—up to the amount of one's Medicare deduction—by themselves or by their employer in such private accounts.

The third provision allows for tax free assets to be transferred from IRA's and life insurance policies to pay premiums for qualified long-term care insurance and provides exclusion from taxable income for benefits received for long-term health benefits.

The fourth provision creates a federally chartered reinsurance corporation which will provide backup to insurers, helping to keep long-term insurance affordable. These provisions represent an effort on the part of Representative MATT RINALDO of New Jersey, in his work as ranking member of the Select Committee on Aging.

I am pleased to be joined by the bipartisan group of original cosponsors including Representative MADIGAN, Representative CLINGER, Representative BOEHLERT, Representative HALL of Texas, and Representative RICHARDSON.

Senior citizens and their families need and should have the sense that long-term care is being addressed. This legislation will promote a rightfully deserved security for seniors and their families.

I urge you to join with me in establishing these long-term care initiatives by cosponsoring the long-term care incentives package.

EMERGENCY LOAN EXTENSION AND ADJUSTMENT ACT OF 1987

HON. BILL SCHUETTE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, December 11, 1987

Mr. SCHUETTE. Mr. Speaker, today I am introducing no cost legislation to the 100th Congress as an important first step in reforming our Nations Federal Crop Insurance Program. For many years, Federal Crop Insurance has been virtually ignored as a risk management tool for our Nation's farmers. Not only has the program been plagued by high costs, and inaccurate claims, but participation rates average less than 5 percent across the country. In fact, in my home State of Michigan, less than 3 percent of the farmers have crop insurance.

Simply put, the Federal Crop Insurance Program is maligned, unused, and cost prohibitive. It is in need of serious and immediate attention. My bill, the Emergency Loan Extension and Adjustment Act of 1987, recognizes this fact. It is the first important step in a determined effort to create a viable, workable, and realistic crop insurance program.

Early this week, the Secretary of Agriculture declared over half of the State of Michigan a natural disaster area due to extensive drought conditions, for the 1987 crop year. Over 200 of my colleagues in this Chamber have also seen the farm families in their district experience similar conditions and hardships. Ordinarily, this designation of a natural disaster area would be great news for the Michigan farmers and other affected areas of the country. Yet, I am disheartened to say, it is not great news, Mr. Chairman. It is not great news because this announcement only allows farmers with federally subsidized crop insurance to receive FmHA loans—EM loans—to defer their losses.

This year, when over 50 percent of Michigan was affected by a devastating drought, only 2.5 percent of our farmers had crop insurance. In essence, the Secretary's disaster declaration for Michigan and for the other 38 affected States will do very little to help these farmers because less than 1 in 20 have insurance, and therefore, are not eligible for EM loans.

My request to the Secretary of Agriculture to waive this unfair requirement of having crop insurance for emergency loan eligibility has not yet been resolved. Once this waiver is obtained, the bill I am introducing today will complete this crucial first step toward making the Federal Crop Insurance Program the effective risk management tool that the Congress intended.

My bill is needed because it will prevent the minority of farmers who purchased crop insurance for the 1987 crop year from being unintentionally penalized by the Secretary's waiver. In effect, this legislation will refund crop insurance premiums paid by farmers at no cost to the Treasury. Farmers who secure FmHA loans will have their principal balance reduced by the amount they paid for their crop insurance.

This legislation is crucial to the well-being of many rural agricultural communities. I believe it may very well make the difference in survival of many farms in my State and in the 38 other States that have experienced a national disaster this year. I urge all my colleagues to support this important legislation.

THE TYRANNY OF THE MAJORITY

HON. HAL DAUB

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 11, 1987

Mr. DAUB. Mr. Speaker, I rise today to express my sincere disappointment with the budget reconciliation process and to urge my colleagues to vote against the Senate bill and support a motion to recommit with instructions that would provide that the tax increases proposed be substituted with additional cuts in spending. The "ad hoc" taxes reported from my committee, Ways and Means, and from the Finance Committee in the Senate, were written for the sole purpose of producing immediate revenue. They were not well thought out by the full committee and as a result they will create adverse reactions from the already fragile economy.

New taxes at this time, particularly these taxes which weigh so heavily upon business, will send a dangerous and unpredictable signal to the markets, to the business community and to foreign investors that will last for a long time to come. The sudden downturn in the market has resulted in the Congress, once again, reacting to a long-term problem with a short-term solution. These tax proposals are largely timing differences, that will result in lost revenue in the out years. We will be right back here again next year making burdensome changes in the Tax Code that no one, even the Congress, can keep up with anymore.

If our concern is truly meeting the budget mandates in Gramm-Rudman then we should allow ourselves more time by temporarily cutting our spending, which simply means a year of tightening our belts. Voting for hasty tax increases, which most Members have not yet analyzed, represents poor legislation and bad representation. The Members of this body made a promise to the American taxpayer with the passage of the 1986 Tax Reform Act and I believe this bill breaks that promise to leave the Tax Code alone for 5 years. Where did most of the tax package come from? Why, it came from the provisions that failed to pass the Ways and Means Committee in 1985. Some promise we made.

Not even a single, solitary year passed us by before my committee was again called upon by the Democratic majority leadership of Congress to begin raising taxes again. And when they did, the Democrats on the committee would not even allow the Republicans in the room. What were they so afraid of; that we could convince them that their package really did not work? That we would tell every one that they really are the "Tax and Spend Party"? Well, we didn't need to be at their caucus because it's clear from the 23 to 13 partisan vote that they are the "Tax and Spend Party." Clearly the improvement of the Senate Finance Committee's bill over the Ways and Means bill should be proof enough that never again should a political party take it upon themselves to tyrannize the minority. In a trillion dollar budget I should think we would have no problem finding $30 billion in Government waste this year, and then move forward with a truly well-thought-out, long-term, solution to our budget problems.

A TRIBUTE TO H.R. GROSS

HON. DELBERT L. LATTA

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, December 11, 1987

Mr. LATTA. Mr. Speaker, I think one of the most pleasant aspects of my 29 years of service thus far in this body has been my association with H.R. Gross. I considered him one of the most outstanding legislators I have ever known.

H.R. was a man of honesty, conscientiousness, and independence. He was, however, best known as a champion of fiscal responsibility. His role as the watchdog of the Treasury had made him a thorn in the side of waste and extravagance but it had also earned him the respect and admiration of Members on both sides of the aisle. This role remains unparalleled to this day. He made his points without malice or vindictiveness. There was always a message in what he said and those who served with H.R. recognized the essential integrity and wisdom of his words.

If the Congress had the wisdom during the 26 years H.R. served here, there would not be the inflation we're experiencing today; there would not be the national debt; nor would there be the deficit financing that has plagued our economy. He was a man who fought the good fight against a runaway budget; a man who insisted that every dollar and cent be accounted for. He was completely nondiscriminatory in his fight against waste or misuse of funds. Always alert and courageous, he never faltered in his devotion to good government. It was a good thing for the Congress to hear then the voice of H.R. probing, delving, asking, seeking for the truths. That voice of conscientiousness, in my opinion, has never left these Chambers.

H.R. Gross also exhibited a great knowledge about every piece of legislation which came to the House. His sheer diligence and persistence marked his character. His expertise of parliamentary procedures was a great inspiration and often left his adversaries gasping and his allies smiling. He was a man who had the courage to fight for his convictions—a man who did not equivocate.

Today, as we mourn his passing, we could do H.R. Gross no greater honor than to act upon the time-tested principles for which he stood firmly and so effectively. His contributions will always be important to us and to the American people.

HOUSE OF REPRESENTATIVES—*Monday, December 14, 1987*

The House met at 12 noon.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Specially during this holy time, O God, we remember those people who face this season with anxiety or loneliness. We particularly recall the hostages who do not have the support of families that we enjoy, we remember those whose homes and lives do not know the bonds of trust and encouragement, those who are alone and whose remembrance is only of the past. May Your loving spirit, O gracious God, which is not bound by place or time or by our own frailties, reach across the barriers that separate people from each other and may that spirit fill every heart and mind with the warmth and goodness of this holy season. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed without amendment bills and a concurrent resolution of the House of the following titles:

H.R. 1191. An act for the relief of Jose Maria Vas;

H.R. 1390. An act for the relief of Chu Pei Yun (Zhu Bei Yun);

H.R. 1863. An act for the relief of Helen Ying-Yu Lin;

H.R. 1994. An act to amend the boundaries of Stones River National Battlefield, Tennessee, and for other purposes;

H.R. 2121. An act to authorize and direct the National Park Service to assist the State of Georgia in relocating a highway affecting the Chickamauga and Chattanooga National Military Park in Georgia;

H.R. 2325. An act to authorize the acceptance of a donation of land for addition to Big Bend National Park, in the State of Texas;

H.R. 2416. An act to establish the Jimmy Carter National Historic Site and Preservation District in the State of Georgia, and for other purposes; and

H. Con. Res. 97. Concurrent resolution to encourage State and local governments and local educational agencies to provide high quality daily physical education programs for all children in kindergarten through grade 12.

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, a joint resolution of the House of the following title:

H.J. Res. 395. Joint resolution making further continuing appropriations for the fiscal year 1988, and for other purposes.

The message also announced that the Senate insists upon its amendments to the joint resolution (H.J. Res. 395) "Joint resolution making continuing appropriations for the fiscal year 1988, and for other purposes," and requests a conference with the House on the disagreeing votes of two Houses thereon, and appoints Mr. STENNIS, Mr. BYRD, Mr. PROXMIRE, Mr. INOUYE, Mr. HOLLINGS, Mr. CHILES, Mr. JOHNSTON, Mr. BURDICK, Mr. LEAHY, Mr. SASSER, Mr. DECONCINI, Mr. BUMPERS, Mr. LAUTENBERG, Mr. HARKIN, Ms. MIKULSKI, Mr. REID, Mr. HATFIELD, Mr. STEVENS, Mr. WEICKER, Mr. MCCLURE, Mr. GARN, Mr. COCHRAN, Mr. KASTEN, Mr. D'AMATO, Mr. RUDMAN, Mr. SPECTER, Mr. DOMENICI, Mr. GRASSLEY, and Mr. NICKLES, to be the conferees on the part of the Senate.

The message also announced that the Senate disagrees to the amendments of the House to the bill (S. 677) "An act to amend the Federal Trade Commission Act to provide authorization of appropriations, and for other purposes," and agrees to the conference asked by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. HOLLINGS, Mr. GORE, Mr. FORD, Mr. BREAUX, Mr. DANFORTH, Mr. KASTEN, and Mr. MCCAIN, to be the conferees on the part of the Senate.

The message also announced that the Senate agrees to the amendment of the House to the amendments of the Senate to the bill (H.R. 2689) "An act to amend the Arms Control and Disarmament Act to authorize appropriations for the fiscal years 1988 and 1989 for the Arms Control and Disarmament Agency, and for other purposes."

The message also announced that the Senate recedes from its amendment to the title of the above-entitled bill.

APPOINTMENT OF CONFEREES ON HOUSE JOINT RESOLUTION 395, FURTHER CONTINUING APPROPRIATIONS, 1988

Mr. WHITTEN. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the joint resolution (H.J. Res. 395) making further continuing appropriations for fiscal year 1988, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi? The Chair hears none, and appoints the following conferees:

For the entire resolution and Senate amendments: Messrs. WHITTEN, BOLAND, NATCHER, SMITH of Iowa, YATES, OBEY, ROYBAL, BEVILL, CHAPPELL, LEHMAN of Florida, DIXON, FAZIO, HEFNER, CONTE, MCDADE, MYERS of Indiana, MILLER of Ohio, COUGHLIN, YOUNG of Florida, REGULA, and Mrs. SMITH of Nebraska.

As additional conferees:

Solely for the consideration of Senate amendments to House Joint Resolution 395 within the jurisdiction of the Subcommittee on the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies, and modifications committed to conference: Messrs. ALEXANDER, EARLY, DWYER of New Jersey, CARR, MOLLOHAN, ROGERS, and KOLBE.

Solely for the consideration of Senate amendments to House Joint Resolution 395 within the jurisdiction of the Subcommittee on the Department of Defense, and modifications committed to conference: Messrs. MURTHA, DICKS, WILSON, AUCOIN, SABO, and LIVINGSTON.

Solely for the consideration of Senate amendments to House Joint Resolution 395 within the jurisdiction of the Subcommittee on the District of Columbia, and modifications committed to conference: Messrs. STOKES, AUCOIN, WATKINS, HOYER, and GREEN.

Solely for the consideration of Senate amendments to House Joint Resolution 395 within the jurisdiction of the Subcommittee on Energy and Water Development, and modifications committed to conference: Mrs. BOGGS, and Messrs. WATKINS, THOMAS of Georgia, and PURSELL.

Solely for the consideration of Senate amendments to House Joint Resolution 395 within the jurisdiction of the Subcommittee on Foreign Operations, Export Financing and Related Programs, and modifications committed to conference: Messrs. MCHUGH, WILSON, GRAY of Pennsylvania, MRAZEK, EDWARDS of Oklahoma, KEMP, LEWIS of California, and PORTER.

Solely for the consideration of Senate amendments to House Joint Resolution 395 within the jurisdiction of the Subcommittee on the Department of Housing and Urban Development-Independent Agencies, and modi-

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

fications committed to conference: Mr. TRAXLER, Mr. STOKES, Mrs. BOGGS, Messrs. MOLLOHAN, SABO, GREEN, and LEWIS of California.

Solely for the consideration of Senate amendments to House Joint Resolution 395 within the jurisdiction of the Subcommittee on the Department of the Interior and Related Agencies, and modifications committed to conference: Messrs. MURTHA, DICKS, AUCOIN, and LOWERY of California.

Solely for the consideration of Senate amendments to House Joint Resolution 395 within the jurisdiction and the Subcommittee on the Departments of Labor, Health and Human Services, and Education, and Related Agencies, and modifications committed to conference: Messrs. STOKES, EARLY, DWYER of New Jersey, HOYER, PURSELL, PORTER, and WEBER.

Solely for the consideration of Senate amendments to House Joint Resolution 395 within the jurisdiction of the Subcommittee on Legislative Branch, and modifications committed to conference: Messrs. ALEXANDER, MURTHA, TRAXLER, Mrs. BOGGS, Messrs. LEWIS of California, and PORTER.

Solely for the consideration of Senate amendments to House Joint Resolution 395 under the jurisdiction of the Subcommittee on Military Construction, and modifications committed to conference: Messrs. ALEXANDER, COLEMAN of Texas, THOMAS of Georgia, EARLY, DICKS, LOWERY of California, EDWARDS of Oklahoma, KOLBE, and DELAY.

Solely for the consideration of Senate amendments to House Joint Resolution 395 under the jurisdiction of the Subcommittee on Rural Development, Agriculture, and Related Agencies, and modifications committed to conference: Messrs. TRAXLER, MCHUGH, AKAKA, WATKINS, DURBIN, SKEEN, and WEBER.

Solely for the consideration of Senate amendments to House Joint Resolution 395 under the jurisdiction of the Subcommittee on the Department of Transportation and Related Agencies, and modifications committed to conference: Messrs. GRAY of Pennsylvania, CARR, DURBIN, MRAZEK, SABO, WOLF, and DELAY.

Solely for the consideration of Senate amendments to House Joint Resolution 395 under the jurisdiction of the Subcommittee on Treasury, Postal Service, and General Government, and modifications committed to conference: Messrs. AKAKA, HOYER, COLEMAN of Texas, SKEEN, LOWERY of California, and WOLF.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

WASHINGTON, DC,
December 11, 1987.

Hon. JIM WRIGHT,
The Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: Pursuant to the permission granted in Clause 5 of Rule III of the Rules of the U.S. House of Representatives, the Clerk received at 5:00 p.m. on Friday, December 11, 1987 the following message from the Secretary of the Senate: That the Senate passed with an amendment H.R. 3545 and requested a conference thereon.

In accordance with action taken by the House on Friday, December 11, 1987, the Clerk has notified the Senate that the House disagreed to the amendment of the Senate to H.R. 3545 and agreed to a conference thereon.

With great respect, I am,
Sincerely yours,
DONNALD K. ANDERSON,
Clerk, House of Representatives.

BAD NEWS FOR THE PEACE PROCESS IN CENTRAL AMERICA

(Mr. RICHARDSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RICHARDSON. Mr. Speaker, amidst all of this summit euphoria there is bad news for the peace process in Central America that should not be overlooked.

First, the other body, in an act of weakness, approved nearly $16 million in aid to the Contras as part of their spending bill. This is unacceptable and should be rejected by the conferees.

Second, the administration continues to trumpet the need for Contra aid as a source of pressure on the Sandinistas. The Sandinista Defense Minister, responding to this kind of pressure, announces a major arms buildup in cooperation with the Soviet Union. The Sandinista President then contradicts him, saying it is only a proposal.

The sum total is that the Sandinistas are not dearming. Cardinal Obando and the Sandinistas once again postponed their meeting and have run out of reasons for this postponement. Whatever happened to the Arias plan?

President Reagan should realize that to sell his unpopular Central American policy he must negotiate with the Congress and the American people. Mr. President, you have concluded a successful summit negotiating with the Soviet Union. How about working with us, with the Congress and the American people and negotiate a solution to Central America.

ARE THE SANDINISTAS COMMITTED TO THE PEACE PROCESS

(Mr. LAGOMARSINO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LAGOMARSINO. Mr. Speaker, with all the conflicting stories coming out of Nicaragua over the weekend, the question becomes "who are we to believe?"

Are we to believe that the Sandinistas are truly interested in the peace process in Central America when the Defense Minister says Nicaragua will more than double the size of its Armed Forces to 600,000, backed by Soviet Mig fighters and new deliveries of missiles and artillery? And if the Armed Forces will more than double, does that mean the Sandinistas now have an Armed Force of more than 250,000: 5 times greater than the next largest military force in Central America?

Are we to believe the Sandinistas want peace when they cancel their participation in the peace talks with the Nicaraguan resistance? Or when they say that they would remain the true power in Nicaragua even if they were to lose an election?

Are we to believe these Sandinistas are committed to the 1987 Arias Peace plan requiring democracy, civil liberties and protection of human rights, when these Sandinistas made the same promises to the OAS in 1979?

Defense Minister Humberto Ortega says Nicaragua will militarize more; Humberto Ortega's Chief Aide Roger Miranda has told us the same thing; President Daniel Ortega, the Defense Minister's brother, says, "the government hasn't accepted the plan for greater militarization"—yet.

Who do you believe?

TRADE

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, the trade deficit for October was $17 billion, a record for this country, America's worst month of trade in our entire history. What are we doing about it down here? Absolutely nothing.

In fact, our trade, tax and investment policies in America are so misdirected if we threw them at the ground they would probably miss. That is no joke. About the only opportunity left in America is for those people who own manufacturing plants in Japan.

But while all of this is going on, there is an article in the Wall Street Journal about how Korea is enjoying tremendous trade surpluses, but they are worried. They had a $5 billion trade deficit with Japan, but their officials said thank God for America and the great surpluses we are having in America or we might even be in some trouble.

Keep in mind that when we ship a car to Japan it has a 35-percent tariff. When it comes here it has a 4-percent tariff.

I think it is time we tell the Koreans if they are going to put a 35-percent tariff on our ears, we are going to put one on theirs. Think about that for a while.

□ 1215

OUR WORST FEARS ABOUT THE SANDINISTA LEADERS ARE CONFIRMED

(Mr. COATS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COATS. Mr. Speaker, yesterday's Washington Post in two front page headline stories confirmed our worst fears about the Sandinista leaders and their plans for Nicaragua. In confirming the recently disclosed revelations by a top aide, Defense Minister Humberto Ortega outlined his plans to continue a 15-year military buildup begun in 1980 that includes putting 600,000 Nicaraguans under arms and equipping them with Soviet-made and supplied MiG fighters, helicopters, gunships, missiles and artillery.

Major Miranda, whom Defense Minister Ortega described as one of his closest aides, defected with copies of cooperative agreements between Nicaraguans, Cubans and Soviets. Among other things he told the Post reporters that secret military agreements have been negotiated with the Soviet Union and Cuba that call for this military buildup, that top military officers have used slush funds set up in Panama for personal expenses; that aides to Interior Minister Borge allegedly accepted bribes from drug traffickers; that contrary to the Arias peace plan, the Sandinistas continue to support leftist Salvadoran guerrillas and recently trained 15 of their men to use Soviet-made portable anti-aircraft missiles; and most importantly that top Sandinista leaders have adopted a secret strategy to turn the regional peace plan signed by Nicaragua and four other Central American countries into a "weapon" to consolidate Sandinista control over Nicaragua and to eliminate the United States backed rebels known as the Contras.

Mr. Speaker, this is sobering news. We should not point fingers at each other; we should begin serious discussions in this Congress on what we are going to do about these revelations.

LET US PREVENT THE ESTABLISHMENT OF ANOTHER CUBA ON THE ISTHMUS OF CENTRAL AMERICA

(Mr. SLATTERY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SLATTERY. Mr. Speaker, the news today that Nicaragua might be considering a Soviet-backed plan to arm one-fifth of its population by 1995—a doubling of its current Armed Forces—underscores the need for the United States to immediately begin direct negotiations with the Nicaraguan Government.

This is not the first time I have called upon the administration to begin negotiating directly with Nicaragua. When the Sandinistas agreed to negotiate on the Soviet presence in Nicaragua and the size of their military in the past, I urged that the adminstration test the Nicaraguans intentions and determine if the Nicaraguans would agree to limit the size of their military as they said they would.

Mr. Speaker, If President Reagan can sit down with Gorbachev to negotiate arms reductions in Europe, why can't he sit down with President Ortega and negotiate arms reductions in this hemisphere?

I am convinced we can achieve a negotiated agreement with Nicaragua addressing our security concerns with the support of our Central American allies without undermining the regional peace plan.

I call, once again, on this administration to begin direct negotiations with Nicaragua.

We need to get the Soviets out of Nicaragua and achieve an agreement to limit the size of the Nicaraguan military. If we do this we can prevent the establishment of another Cuba on the Isthmus of Central America.

COMMUNICATION FROM THE HONORABLE JOHN D. DINGELL, CHAIRMAN OF SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS OF COMMITTEE ON ENERGY AND COMMERCE

The SPEAKER laid before the House the following communication from the Honorable JOHN D. DINGELL, Chairman of the Subcommittee on Oversight and Investigations:

U.S. HOUSE OF REPRESENTATIVES,
Washington, DC, December 3, 1987.

Hon. JIM WRIGHT,
Speaker, U.S. House of Representatives, H-204, The Capitol, Washington, DC.

DEAR MR. SPEAKER: I have previously notified you of the receipt of a subpoena issued by the United States District Court for the District of Columbia. After consultation with the General Counsel to the Clerk, pursuant to Rule L (50) of the Rules of the U.S. House of Representatives, I have determined that compliance with the subpoena would be consistent with the privileges and precedents of the House.

Sincerely,

JOHN D. DINGELL,
Chairman, Subcommittee on Oversight and Investigations.

COMMUNISTS ARE NOT ABOUT TO COMPLY WITH TREATIES

(Mr. BURTON of Indiana asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BURTON of Indiana. Mr. Speaker, I led a codel down to Managua, Nicaragua over the weekend and I might add that I asked about 14 or 15 Democrats to join the 8 Republican Members of the delegation. But none of them wanted to join us. But we did extend the invitation.

During our visit we talked to mothers of political prisoners who are concerned about their sons and wives of political prisoners who are concerned about their husbands. During that meeting one of the mothers told me they were demonstrating for the freedom and the proper treatment of their husbands and sons and this one wife told me they beat her mercilessly and tore her clothes off of her on the streets of Managua because she was concerned about her husband.

She gave me the shirt that was shredded from her body by the Communist Sandinista Government and the turbas divinas. The American people need to know about that. People who are concerned about the torture being perpetrated upon their loved ones in prison are treated this way down there.

Now lest you believe what I am telling you, we had some cameramen with us from Indianapolis Channel 13. They were out on the streets taking pictures of what is going on in Managua and their film was taken from their cameras forcibly. That is freedom of the press? That is freedom of assembly? That is in compliance with the promises made at Esquipulas? I do not believe so. The Communists down there are trying to consolidate their power and buy time.

They are not about to give up the power that they took out of the barrel of the gun, they are not about to comply with the treaties that they made at Esquipulas and the promises made in 1979. The people of this body who are deciding the fate of Central America along with the people who are fighting for freedom down there need to get that message across to the American people.

TIME TO IMPROVE ECONOMIC RELATIONS WITH NICARAGUA

(Mr. BONKER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BONKER. Mr. Speaker, I rise today to introduce two bills dealing with our Nation's trade relations with Nicaragua. One bill should generate broad support within the House. The other will probably generate more controversy.

The first bill is intended to spell our congressional intent regarding economic embargoes, to allow donations of humanitarian aid to be shipped to Nicaragua and any other nation to relieve human suffering and promote development.

It is my understanding that private voluntary groups attempting to deliver shipments of seeds, agricultural manuals and other humanitarian goods to Nicaragua have been blocked by the State Department even though our government allows similar shipments to other embargoed nations such as Vietnam and Kampuchea.

The second bill would call upon the President to terminate the U.S. embargo on Nicaragua if and when the Guatemala City plan achieves its goal.

It has been now 2½ years since the President first imposed that embargo on Nicaragua. Whether or not you agree with the President's policies, the fact is that the embargo has not worked since our allies refused to participate. Indeed, Nicaragua has found other markets for its exports and other sources for its imports.

In order to lend our Nation's full support to the Central American peace process currently underway, I believe the administration should offer this incentive and prepare to restore normal economic and trade relations with Nicaragua. Both of these measures will be the subject of a hearing in the Committee on Foreign Affairs tomorrow.

AN UPDATE ON THE HOSTAGE SITUATION IN LEBANON

(Mr. DORNAN of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DORNAN of California. Mr. Speaker, I dearly wanted to speak about Central America today. I was supposed to be on the Burton congressional delegation that went down over the weekend but I had to cancel at the last minute because of some obligations in my district. But I will save my thunder for tomorrow.

The beautiful opening prayer by our Chaplain brought to mind for the umpteenth time, our hostages in the near Middle East, in Beirut or there abouts.

Some of my colleagues may have noticed that I wear a "seven" on my lapel. This lapel pin was given to me by deceased Congressman George O'Brien when that seven represented a total group of persons except for two who have been hostages since the beginning. Two of the seven were murdered, one of them brutally tortured to death, three, thank God, are out, and home with their families; two remain, an additional six have been added; leaving now eight American hostages. Thirteen are from other nations ranging from Ireland to South Korea.

This is an ugly scene. As our Chaplain said beautifully this morning, that our policy has now come down to prayer. Because as a result of the so-called Iran-Contragate mess, our Government has no initiatives even at the highest level trying to get these people out. Today a British periodical said that an Iranian doctor, by name, is torturing our prisoners, by drugging them. I understand that this "doctor" is doing this to all 21 hostages from all of these nations.

I do not know what we can do in this House, but I keep pleading for my colleagues to come up with some constructive idea. I admit I do not have any. Since I had lunch with Terry Waite, it has been a year since that great worker for peace was taken prisoner himself, that giant of a man, with a giant heart to match his 6-foot, 8-inch frame.

I do not know where we are going from here, but I am awaiting novel ideas from my colleagues. I guess the least we can do after Thanskgiving and before Christmas is to pray that the torture stops. We should try to figure out some way for this great superpower to get these eight American hostages out and for all the nations who have 21 hostages represented, to figure out some way to bring some sort of sanity to these terorist groups in this tortured country of Lebanon. We have to let these terrorists know that they cannot act like barbarians.

Mr. Speaker, Here is a sad and touching letter from the sister of our longest held hostage, Mr. Terry Anderson of Associated Press. He will start a fourth year of captivity March 17, 1988, if we don't end this madness.

BATAVIA, NY,
November 12, 1987.

Hon. ROBERT K. DORNAN,
2170 Rayburn HOB,
Washington, DC.

DEAR REPRESENTATIVE DORNAN: My brother, Terry Anderson of the Associated Press, is the senior member of the group of Americans being held hostage in Lebanon. Terry will mark his one thousandth day in captivity on December 10th.

During those thousand days his Dad, Glenn Anderson Sr., and his brother, "Rich", have both passed away from cancer. Terry does not know of either death. His daughter was born and has learned to walk and talk without him. The days of his captivity have turned into weeks, weeks into months and months into years.

Terry's captivity and the holding of seven other Americans in Lebanon is no longer a political issue; it is a human rights problem; it is a moral issue; it is a humanitarian outrage.

After a year of silence during which this administration has been intensely preoccupied with sorting out the factual and legal quagmire surrounding the Iran-Contra initiative, I believe it is time to readdress this problem with a renewed sense of resolve and commitment.

I ask you to support a new initiative on behalf of these men. I ask you to support my request for a special envoy to be appointed by President Reagan to work on behalf of the hostages; a humanitarian envoy with no other mission than to work towards their release.

This envoy should have no other portfolio. He or she should not suffer the distractions of responsibility for the Middle East peace process or American policies in Central America. Instead, the President should appoint a person who can work with governments, humanitarian organizations, and religious leaders without fear of bureaucratic trespass within the administration.

Most importantly, I ask you to make the hostage situation not a political issue, but a human-rights concern. As a matter of conscience, this government cannot stand idly by while eight Americans suffer this gross violation of their rights to freedom and justice.

Historically and morally, this country has never tolerated this kind of abuse to its citizens. Our country should not be made to suffer the shame of having made an exception in the case of these men. There should be no exceptions. Ever.

Sincerely,

PEGGY SAY,
Sister of hostage Terry Anderson.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. GRAY of Illinois). Pursuant to the provisions of clause 5, rule I, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

Such rollcall votes, if postponed, will be taken at the conclusion of legislative business today.

CONFERENCE REPORT ON H.R. 1777, FOREIGN RELATIONS AUTHORIZATION ACT

Mr. FASCELL submitted the following conference report and statement on the bill (H.R. 1777) to authorize appropriations for fiscal years 1988 and 1989 for the Department of State, the U.S. Information Agency, the Voice of America, the Board for International Broadcasting, and for other purposes.

CONFERENCE REPORT (H. REPT. 100-475)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 1777) to authorize appropriations for fiscal years 1988 and 1989 for the Department of State, the United States Information Agency, the Voice of America, the Board for International Broadcasting, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Foreign Relations Authorization Act, Fiscal Years 1988 and 1989".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title and table of contents.

TITLE I—THE DEPARTMENT OF STATE

PART A—AUTHORIZATION OF APPROPRIATIONS; ALLOCATIONS OF FUNDS; RESTRICTIONS

Sec. 101. Administration of Foreign Affairs.
Sec. 102. Contributions to International Organizations and Conferences; International Peacekeeping Activities.
Sec. 103. International Commissions.
Sec. 104. Migration and refugee assistance.
Sec. 105. Other programs.
Sec. 106. Reduction in earmarks if appropriations are less than authorizations.
Sec. 107. Transfer of funds.
Sec. 108. Compliance with Presidential-Congressional summit agreement on deficit reduction.
Sec. 109. Prohibition on use of funds for political purposes.
Sec. 110. Latin American and Caribbean data bases.

PART B—DEPARTMENT OF STATE AUTHORITIES AND ACTIVITIES; FOREIGN MISSIONS

Sec. 121. Reprogramming of funds appropriated for the Department of State.
Sec. 122. Consular and diplomatic posts abroad.
Sec. 123. Closing of diplomatic and consular posts in Antigua and Barbuda.
Sec. 124. Report on expenditures made from appropriation for emergencies in the diplomatic and consular service.
Sec. 125. Requirements applicable to gifts used for representational purposes.
Sec. 126. Protection of historic and artistic furnishings of reception areas of the Department of State building.
Sec. 127. Inclusion of coercive population control information in annual human rights report.
Sec. 128. Limitation on the use of a foreign mission in a manner incompatible with its status as a foreign mission.
Sec. 129. Allocation of shared costs at missions abroad.
Sec. 130. Prohibition on the use of funds for facilities in Israel, Jerusalem, or the West Bank.
Sec. 131. Purchasing and leasing of residences.
Sec. 132. Prohibition on acquisition of house for Secretary of State.
Sec. 133. United States Department of State freedom of expression.
Sec. 134. Repeal of Office of Policy and Program Review.
Sec. 135. Studies and planning for a consolidated training facility for the Foreign Service Institute.
Sec. 136. Restriction on supervision of Government employees by chiefs of mission.
Sec. 137. Study and report concerning the status of individuals with diplomatic immunity in the United States.
Sec. 138. Federal jurisdiction of direct actions against insurers of diplomatic agents.
Sec. 139. Enforcement of Case-Zablocki Act requirements.
Sec. 140. Annual country reports on terrorism.
Sec. 141. Restriction on use of funds for public diplomacy efforts.
Sec. 142. Authority to invest and recover expenses from international claims settlement funds.

PART C—DIPLOMATIC RECIPROCITY AND SECURITY

Sec. 151. United States-Soviet Embassy Agreement; prohibition on use of Mt. Alto Site.
Sec. 152. Recovery of damages incurred as a result of Soviet intelligence activities directed at the new United States Embassy in Moscow.
Sec. 153. United States-Soviet reciprocity in matters relating to embassies.
Sec. 154. Report on personnel of Soviet state trading enterprises.
Sec. 155. Personnel security program for embassies in high intelligence threat countries.
Sec. 156. Accountability Review Boards.
Sec. 157. Prohibition on certain employment at United States diplomatic and consular missions in Communist Countries.
Sec. 158. Termination of retirement benefits for foreign national employees engaging in hostile intelligence activities.
Sec. 159. Report on employment of foreign nationals at foreign service posts abroad.
Sec. 160. Construction security certification.
Sec. 161. Protection from future hostile intelligence activities in the United States.
Sec. 162. Application of travel restrictions to personnel of certain countries and organizations.
Sec. 163. Counterintelligence polygraph screening of Diplomatic Security Service personnel.
Sec. 164. United States Embassy in Hungary.

PART D—PERSONNEL MATTERS

Sec. 171. Commission to study Foreign Service personnel system.
Sec. 172. Protection of Civil Service employees.
Sec. 173. Compensation for certain State Department officials.
Sec. 174. Audit of merit personnel system of Foreign Service.
Sec. 175. Performance pay.
Sec. 176. Extension of limited appointments.
Sec. 177. Chief of missions salary.
Sec. 178. Pay level of ambassadors at large.
Sec. 179. Foreign Service career candidates tax treatment.
Sec. 180. Prohibition on member of a Foreign Service union negotiating on behalf of the Department of State.
Sec. 181. Clarification of jurisdiction of foreign service grievance board.
Sec. 182. Record of grievances awarded.
Sec. 183. Women and minorities in the Foreign Service.
Sec. 184. Compliance with law requiring reports to Congress.
Sec. 185. Changes in reporting requirements.
Sec. 186. Disposition of personal property abroad.
Sec. 187. Authorities for service of Fascell fellows.
Sec. 188. Benefits for certain former spouses of members of the Foreign Service.

TITLE II—UNITED STATES INFORMATION AGENCY

Sec. 201. Authorization of appropriations; allocation of funds.
Sec. 202. Funds appropriated for the United States Information Agency.
Sec. 203. Receipts from English-teaching and library programs.
Sec. 204. USIA posts and personnel overseas.
Sec. 205. Forty-year leasing authority.
Sec. 206. United States Information Agency programming on Afghanistan.
Sec. 207. Television service of the United States Information Agency.
Sec. 208. Limitation on Worldnet funding.
Sec. 209. Audience survey of Worldnet program.
Sec. 210. National Endowment for Democracy.
Sec. 211. Separate accounts for NED grantees.
Sec. 212. NED treatment of independent labor unions.
Sec. 213. United States Advisory Commission on Public Diplomacy.
Sec. 214. Distribution within the United States of USIA film entitled "America The Way I See It".
Sec. 215. Availability of certain USIA photographs for distribution within the United States by the Department of Defense.
Sec. 216. USIA undergraduate scholarship program.

TITLE III—EDUCATIONAL AND CULTURAL AFFAIRS

Sec. 301. Authorizations of appropriations.
Sec. 302. Samantha Smith Memorial Exchange Program.
Sec. 303. The Arts America Program.
Sec. 304. Professorship on constitutional democracy.
Sec. 305. United States-India Fund.
Sec. 306. The Edward Zorinsky Memorial Library.
Sec. 307. Cultural Property Advisory Committee.

TITLE IV—VOICE OF AMERICA

Sec. 401. Authorizations of appropriations.
Sec. 402. Voice of America/Europe.
Sec. 403. Contractor requirements.

TITLE V—THE BOARD FOR INTERNATIONAL BROADCASTING

Sec. 501. Authorization of appropriations; allocation of funds.
Sec. 502. Reserve for offsetting downward fluctuations in overseas rates.
Sec. 503. Certification of certain creditable service.

TITLE VI—ASIA FOUNDATION

Sec. 601. Authorization of appropriations.

TITLE VII—INTERNATIONAL ORGANIZATIONS

PART A—UNITED NATIONS

Sec. 701. Probable exemptions to the United Nations employee hiring freeze.
Sec. 702. Reform in the budget decisionmaking procedures of the United Nations and its specialized agencies.
Sec. 703. Housing allowances of international civil servants.
Sec. 704. United States participation in the United Nations if Israel is illegally expelled.
Sec. 705. United Nations projects whose primary purpose is to benefit the Palestine Liberation Organization.
Sec. 706. Public access to United Nations War Crimes Commission files.

Sec. 707. Report on policies pursued by other countries in international organizations.
Sec. 708. Protection of Tyre by the United Nations Interim Force in Lebanon.

PART B—UNITED STATES COMMISSION ON IMPROVING THE EFFECTIVENESS OF THE UNITED NATIONS

Sec. 721. Establishment of Commission.
Sec. 722. Purposes of the Commission.
Sec. 723. Membership of the Commission.
Sec. 724. Powers of the Commission.
Sec. 725. Staff.
Sec. 726. Report.
Sec. 727. Funding for the Commission.
Sec. 728. General Accounting Office audits of the Commission.
Sec. 729. Termination of the Commission.
Sec. 730. Effective date.

PART B—OTHER INTERNATIONAL ORGANIZATIONS

Sec. 741. Privileges and immunities to offices of mission to the United States of the Commission of the European Communities.
Sec. 742. Contribution to the regular budget of the International Committee of the Red Cross and sense of Congress concerning recognition of Red Shield of David.
Sec. 743. Immunities for the International Committee on the Red Cross.
Sec. 744. North Atlantic Assembly.
Sec. 745. United States membership in Intergovernmental Committee for European Migration.
Sec. 746. Recognition of CARICOM.
Sec. 747. Asian-Pacific regional human rights convention.

TITLE VIII—INTERNATIONAL NARCOTICS CONTROL

Sec. 801. Assignment of Drug Enforcement Administration agents abroad.
Sec. 802. Quarterly reports on prosecution of those responsible for the torture and murder of Drug Enforcement Administration agents in Mexico.
Sec. 803. Requirement that extradition of drug traffickers be a priority issue of United States missions in major illicit drug producing or transit countries.
Sec. 804. Information-sharing system so that visas are denied to drug traffickers.
Sec. 805. Certification procedures for drug producing and drug-transit countries and inclusion of specific agency comments.
Sec. 806. Sanctions on drug producing and drug-transit countries.

TITLE IX—IMMIGRATION AND REFUGEE PROVISIONS

Sec. 901. Prohibition on exclusion or deportation of aliens on certain grounds.
Sec. 902. Adjustment to lawful resident status of certain nationals of countries for which extended voluntary departure has been made available.
Sec. 903. Processing of Cuban nationals for admission to the United States.
Sec. 904. Indochinese refugee resettlement.
Sec. 905. Amerasian children in Vietnam.
Sec. 906. Refugees from Southeast Asia.
Sec. 907. Release of Yang Wei.

TITLE X—ANTI-TERRORISM ACT OF 1987

Sec. 1001. Short title.
Sec. 1002. Findings; determinations.
Sec. 1003. Prohibitions regarding the PLO.
Sec. 1004. Enforcement.
Sec. 1005. Effective date.

PART XI—GLOBAL CLIMATE PROTECTION

Sec. 1101. Short title.
Sec. 1102. Findings.
Sec. 1103. Mandate for action on the global climate.
Sec. 1104. Report to Congress.
Sec. 1105. International year of global climate protection.
Sec. 1106. Climate protection and United States-Soviet relations.

TITLE XII—REGIONAL FOREIGN RELATIONS MATTERS

PART A—SOVIET UNION AND EASTERN EUROPE

Sec. 1201. Soviet ballistic missile tests near Hawaii.
Sec. 1202. Emigration of Jews and others who wish to emigrate from the Soviet Union.
Sec. 1203. Systematic nondelivery of international mail addressed to certain persons residing within the Soviet Union.
Sec. 1204. United States Policy against persecution of Christians in Eastern Europe and the Soviet Union.
Sec. 1205. Observance by the Government of Romania of the human rights of Hungarians in Transylvania.
Sec. 1206. Self-determination of the people from the Baltic states of Estonia, Latvia, and Lithuania.
Sec. 1207. Assistance in support of democracy in Poland.

PART B—LATIN AMERICA AND CUBA

Sec. 1211. Cuban human rights violations and the failure of the United Nations to place Cuba on its human rights agenda.
Sec. 1212. Partial lifting of the trade embargo against Nicaragua.
Sec. 1213. Terrorist bombing in Honduras.
Sec. 1214. Human rights in Paraguay.

PART C—AFRICA

Sec. 1221. Human rights in Ethiopia.
Sec. 1222. United States policy on Angola.
Sec. 1223. Forced detention by the African National Congress and the South African Government.
Sec. 1224. Detention of children in South Africa.

PART D—MIDDLE EAST

Sec. 1231. Middle East peace conference.
Sec. 1232. United States policy toward Lebanon.
Sec. 1233. Acting in accordance with international law in the Persian Gulf.
Sec. 1234. United States policy toward the Iran-Iraq war.
Sec. 1235. Iran human rights violations.
Sec. 1236. Iranian persecution of the Baha'is.

PART E—ASIA

Sec. 1241. Soviet occupation of Afghanistan.
Sec. 1242. Report on Administration policy on Afghanistan.
Sec. 1243. Human rights violations in Tibet by the People's Republic of China.
Sec. 1244. Support for the right of self-determination for the Cambodian people.
Sec. 1245. Human rights in the People's Republic of China.
Sec. 1246. Democracy in Taiwan.

PART F—MISCELLANEOUS

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TITLE XIII—EFFECTIVE DATE

Sec. 1301. Effective date.

TITLE I—THE DEPARTMENT OF STATE

PART A—AUTHORIZATION OF APPROPRIATIONS; ALLOCATIONS OF FUNDS; RESTRICTIONS

SEC. 101. ADMINISTRATION OF FOREIGN AFFAIRS.

(a) DIPLOMATIC AND ONGOING OPERATIONS.—The following amounts are authorized to be appropriated under "Administration of Foreign Affairs" for the Department of State to carry out the authorities, functions, duties, and responsibilities in the conduct of the foreign affairs of the United States:

(1) For "Salaries and Expenses" of the Department of State (other than the Diplomatic Security Program), $1,431,908,000 for the fiscal year 1988 and $1,460,546,000 for the fiscal year 1989, of which not less than $250,000 for each fiscal year shall be available only for use by the Bureau of International Communications and Information Policy to support international institutional development and other activities which promote international communications and information development.

(2) For "Acquisition and Maintenance of Buildings Abroad" (other than the Diplomatic Security Program), $313,124,000 for the fiscal year 1988 and $319,386,000 for the fiscal year 1989.

(3) For "Representation Allowances", $4,460,000 for the fiscal year 1988 and $4,549,000 for the fiscal year 1989.

(4) For "Emergencies in the Diplomatic and Consular Service", $4,000,000 for the fiscal year 1988 and $4,080,000 for the fiscal year 1989.

(5) For "Payment to the American Institute in Taiwan", $9,379,000 for the fiscal year 1988 and $9,567,000 for the fiscal year 1989.

(b) DIPLOMATIC SECURITY PROGRAM.—In addition to amounts authorized to be appropriated by subsection (a), the following amounts are authorized to be appropriated under "Administration of Foreign Affairs" for the Department of State to carry out the diplomatic security program:

(1) For "Salaries and Expenses", $350,000,000 for the fiscal year 1988 and $357,000,000 for the fiscal year 1989.

(2) For "Protection of Foreign Missions and Officials", $9,100,000 for the fiscal year 1988 and $9,282,000 for the fiscal year 1989.

(c) DIPLOMATIC SECURITY PROGRAM CAPITAL CONSTRUCTION.—Section 401(a)(3) of the Diplomatic Security Act (22 U.S.C. 4851(a)(3)) is amended by adding at the end thereof "Authorizations of appropriations under this paragraph shall remain available until the appropriations are made.".

SEC. 102. CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS AND CONFERENCES; INTERNATIONAL PEACEKEEPING ACTIVITIES.

(a) INTERNATIONAL ORGANIZATIONS.—There are authorized to be appropriated to the Department of State under "Contributions to International Organizations", $571,000,000

for the fiscal year 1988 and $582,420,000 for the fiscal year 1989 in order to carry out the authorities, functions, duties, and responsibilities in the conduct of the foreign affairs of the United States with respect to international organizations, of which amount—

(1) $193,188,000 for the fiscal year 1988 and $193,188,000 for the fiscal year 1989 shall be available only for the United States assessed contribution to the United Nations;

(2) $63,857,000 for the fiscal year 1988 and $63,857,000 for the fiscal year 1989 shall be available only for the United States assessed contribution to the World Health Organization;

(3) $31,443,000 for the fiscal year 1988 and $31,443,000 for the fiscal year 1989 shall be available only for the United States assessed contribution to the International Atomic Energy Agency;

(4) $44,915,000 for the fiscal year 1988 and $44,915,000 for the fiscal year 1989 shall be available only for the United States assessed contribution to the Organization of American States;

(5) $38,659,000 for the fiscal year 1988 and $38,659,000 for the fiscal year 1989 shall be available only for the United States assessed contribution to the Pan-American Health Organization;

(6) $7,849,000 for the fiscal year 1988 and $7,849,000 for the fiscal year 1989 shall be available only for the United States assessed contribution to the International Civil Aviation Organization;

(7) $645,000 for the fiscal year 1988 and $645,000 for the fiscal year 1989 shall be available only for the United States assessed contribution to the International Maritime Organization;

(8) $4,471,000 for the fiscal year 1988 and $4,471,000 for the fiscal year 1989 shall be available only for the United States assessed contribution to the International Telecommunication Union;

(9) $25,110,000 for the fiscal year 1988 and $25,110,000 for the fiscal year 1989 shall be available only for the United States assessed contribution to the North Atlantic Treaty Organization;

(10) $29,385,000 for the fiscal year 1988 and $29,385,000 for the fiscal year 1989 shall be available only for the United States assessed contribution to the Organization for Economic Cooperation and Development; and

(11) $388,000 for the fiscal year 1988 and $388,000 for the fiscal year 1989 shall be available only for the United States assessed contribution to the International Wheat Council.

(b) INTERNATIONAL PEACEKEEPING ACTIVITIES.—There are authorized to be appropriated to the Department of State under "Contributions to International Peacekeeping Activities", $29,400,000 for fiscal year 1988 and $29,988,000 for the fiscal year 1989 in order to carry out the authorities, functions, duties, and responsibilities in the conduct of the foreign affairs of the United States with respect to international peacekeeping activities.

(c) INTERNATIONAL CONFERENCES AND CONTINGENCIES.—There are authorized to be appropriated to the Department of State under "International Conferences and Contingencies", $6,000,000 for fiscal year 1988 and $6,120,000 for the fiscal year 1989 in order to carry out the authorities, functions, duties, and responsibilities in the conduct of the foreign affairs of the United States with respect to international conferences and contingencies, of which amount such funds as may be necessary shall be available for the expense of hosting the 1987 General Assembly of the Organization of American States.

SEC. 103. INTERNATIONAL COMMISSIONS.

The following amounts are authorized to be appropriated under "International Commissions" for the Department of State to carry out the authorities, functions, duties, and responsibilities in the conduct of the foreign affairs of the United States with respect to international commissions:

(1) For "International Boundary and Water Commission, United States and Mexico", $14,700,000 for the fiscal year 1988 and $14,994,000 for the fiscal year 1989.

(2) For "International Boundary Commission, United States and Canada", $721,000 for the fiscal year 1988 and $735,000 for the fiscal year 1989.

(3) For "International Joint Commission", $2,979,000 for the fiscal year 1988 and $3,039,000 for the fiscal year 1989.

(4) For "International Fisheries Commissions", $10,800,000 for the fiscal year 1988 and $11,016,000 for the fiscal year 1989.

SEC. 104. MIGRATION AND REFUGEE ASSISTANCE.

(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Department of State under "Migration and Refugee Assistance", $336,750,000 for the fiscal year 1988 and $343,485,000 for the fiscal year 1989 in order to carry out the authorities, functions, duties, and responsibilities in the conduct of the foreign affairs of the United States with respect to migration and refugee assistance.

(b) ALLOCATION OF FUNDS.—Of the amounts authorized to be appropriated by subsection (a)—

(1) $25,000,000 for the fiscal year 1988 and $25,000,000 for the fiscal year 1989 shall be available only for assistance for refugees resettling in Israel; and

(2) $5,000,000 for the fiscal year 1988 and $5,000,000 for the fiscal year 1989 shall be available only for the United Nations High Commissioner for Refugees and other international relief organizations for the protection of, and improvements in educational, nutritional, and medical assistance for, the Indochinese refugees in Thailand, of which $1,000,000 for the fiscal year 1988 and $1,000,000 for the fiscal year 1989 shall be used only for such educational purposes.

SEC. 105. OTHER PROGRAMS.

There are authorized to be appropriated to the Department of State for the following programs:

(1) "Bilateral Science and Technology Agreements", $1,900,000 for the fiscal year 1988 and $1,938,000 for the fiscal year 1989.

(2) "Soviet-East European Research and Training", $4,600,000 for the fiscal year 1988 and $5,000,000 for the fiscal year 1989.

SEC. 106. REDUCTION IN EARMARKS IF APPROPRIATIONS ARE LESS THAN AUTHORIZATIONS.

If the amount appropriated for a fiscal year pursuant to any authorization of appropriations provided by this Act is less than the authorization amount and a provision of this Act provides that a specified amount of the authorization amount shall be available only for a certain purpose, then the amount so specified shall be deemed to be reduced for that fiscal year to the amount which bears the same ratio to the specified amount as the amount appropriated bears to the authorization amount.

SEC. 107. TRANSFER OF FUNDS.

(a) TRANSFERS FOR SALARIES AND EXPENSES.—The Secretary of State may transfer, without regard to section 1502 of title 31, United States Code, to the "Salaries and Expenses" account of the Department of State amounts appropriated for any fiscal year prior to fiscal year 1989 under "Acquisition and Maintenance of Buildings Abroad" which are allocated for capital programs. Any transfer under this subsection shall be treated as a reprogramming for purposes of section 34 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2706).

(b) LIMITATIONS.—

(1) Subsection (a) shall not apply to amounts appropriated for purposes of the diplomatic security program under section 401(a) of the Diplomatic Security Act (22 U.S.C. 4851).

(2) The aggregate of—

(A) the amounts transferred under this section for a fiscal year, and

(B) the amounts appropriated for "Salaries and Expenses" for that fiscal year,

may not exceed the amount authorized to be appropriated for "Salaries and Expenses" for that fiscal year.

(3) The authority contained in subsection (a) may be exercised only to such extent or in such amounts as are provided in advance in appropriation Acts.

SEC. 108. COMPLIANCE WITH PRESIDENTIAL-CONGRESSIONAL SUMMIT AGREEMENT ON DEFICIT REDUCTION.

Notwithstanding the specific authorizations of appropriations contained in this Act, budget authority may not be provided pursuant to those authorizations in an amount which would cause the aggregate amount of discretionary budget authority provided for international affairs (budget function 150) for a fiscal year to exceed the amount of discretionary budget authority for international affairs for that fiscal year as specified in laws implementing the agreement between the President and the joint Congressional leadership on November 20, 1987.

SEC. 109. PROHIBITION ON USE OF FUNDS FOR POLITICAL PURPOSES.

No funds authorized to be appropriated by this Act or by any other Act authorizing funds for any entity engaged in any activity concerning the foreign affairs of the United States shall be used—

(1) for publicity or propaganda purposes designed to support or defeat legislation pending before Congress;

(2) to influence in any way the outcome of a political election in the United States; or

(3) for any publicity or propaganda purposes not authorized by Congress.

SEC. 110. LATIN AMERICAN AND CARIBBEAN DATA BASES.

(a) AUTHORIZATION.—The Secretary of State, in consultation with the heads of appropriate departments and agencies of the United States, shall use not less than $1,300,000 of the funds authorized to be appropriated for each of the fiscal years 1988 and 1989 by section 101(a)(1) of this Act to provide for the establishment of a Latin American and Caribbean Data Base.

(b) CONDITIONS.—In developing these data bases the Secretary of State shall be required to satisfy the following conditions:

(1) Any new agreement for an on-line bibliographic data base entered into for purposes of this section shall be subject to full and open competition or merit review among qualified United States institutions with strong Latin American and Caribbean programs.

(2) The Secretary shall ensure that funds are not awarded to maintain services which

are significantly duplicative of existing services.

PART B—DEPARTMENT OF STATE AUTHORITIES AND ACTIVITIES; FOREIGN MISSIONS

SEC. 121. REPROGRAMMING OF FUNDS APPROPRIATED FOR THE DEPARTMENT OF STATE.

Section 34 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2706) is amended—

(1) by inserting "(a)" after "SEC. 34."; and

(2) by adding at the end the following:

"(b) Funds appropriated for the Department of State may not be available for obligation or expenditure through any reprogramming described in subsection (a) during the period which is the last 15 days in which such funds are available unless notice of such reprogramming is made before such period.".

SEC. 122. CONSULAR AND DIPLOMATIC POSTS ABROAD.

(a) Prohibited Uses of Funds.—

(1) Closing posts.—No funds authorized to be appropriated by this or any other Act shall be available to pay any expense related to the closing of any United States consular or diplomatic post abroad.

(2) Funding for bureau of administration if posts closed.—No funds authorized to be appropriated by this Act shall be used to pay for any expense related to the Bureau of Administration of the Department of State (or to carrying out any of its functions) if any United States consular or diplomatic post is closed after January 1, 1987, and is not reopened.

(b) Funds For Operating Certain Consulates.—

(1) Allocation.—Of the funds authorized to be appropriated by section 101(a)(1) for "Salaries and Expenses", not less than $50,000,000 for each of the fiscal years 1988 and 1989 shall be available only to operate United States consulates in Salzburg, Strasbourg, Goteborg, Lyon, Dusseldorf, Tangier, Genoa, Nice, Porto Alegre, and Maracaibo.

(2) Excess funds.—Funds allocated by paragraph (1) which are in excess of the amount needed to operate the consulates specified in that paragraph may be used for other purposes under "Administration of Foreign Affairs" if all the specified consulates are open and functioning.

(c) Exceptions.—Subsection (a) does not apply with respect to—

(1) any post closed after January 1, 1987, and before the date of enactment of this Act if the host government will not allow that post to be reopened;

(2) any post closed because of a break or downgrading of diplomatic relations between the United States and the country in which the post is located;

(3) any post closed because there is a real and present threat to United States diplomatic or consular personnel in the city where the post is located, and a travel advisory warning against American travel to that city has been issued by the Department of State;

(4) any post closed in order to provide funds to open a new consular or diplomatic post which will be staffed by the Department of State on a full-time basis with at least one Foreign Service officer or member of the Senior Foreign Service, if the Secretary of State, prior to the closing of the post, prepares and transmits to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives a report stating that—

(A) the new post is a higher priority than the post proposed to be closed; and

(B) the total number of consular and diplomatic posts abroad is not less than the number of such posts in existence on January 1, 1987 (excluding the posts exempted under paragraphs (1) through (4)); and

(5) the post closed pursuant to section 123.

(d) Sequestration.—In the case that a sequestration order is issued pursuant to Part C of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901 et seq.; Public Law 99-177), the Secretary of State may, as part of an agency wide austerity proposal, submit a report proposing a list of consular posts to be downgraded or closed in order to comply with the sequestration order, together with a justification for the inclusion of each post on such list. Such report shall be submitted to the Committee on Foreign Relations and the Committee on Appropriations of the Senate and the Committee on Foreign Affairs and the Committee on Appropriations of the House of Representatives.

(e) Definition.—As used in this section, the term "consular or diplomatic post" does not include a post to which only personnel of agencies other than the Department of State are assigned.

(f) Effective Date.—Subsection (a) shall take effect 180 days after the date of enactment of this Act.

SEC. 123. CLOSING OF DIPLOMATIC AND CONSULAR POSTS IN ANTIGUA AND BARBUDA.

(a) Prohibition on Use of Funds.—None of the funds made available for the Department of State for any fiscal year may be used for the expenses of maintaining a United States diplomatic or consular post in Antigua and Barbuda.

(b) Effective Date.—The prohibition contained in subsection (a) shall take effect 60 days after the date of enactment of this Act unless the President determines that closing this post would not be in the national security interests of the United States and informs the Chairman of the Committee on Foreign Relations of the Senate and the Chairman of the Committee on Foreign Affairs of the House of Representatives of such determination.

SEC. 124. REPORT ON EXPENDITURES MADE FROM APPROPRIATION FOR EMERGENCIES IN THE DIPLOMATIC AND CONSULAR SERVICE.

The Secretary of State shall provide to the Committee on Foreign Relations and the Committee on Appropriations of the Senate and the Committee on Foreign Affairs and the Committee on Appropriations of the House of Representatives within 30 days after the end of each quarter of the fiscal year a complete report, including amount, payee, and purpose, of all expenditures made from the appropriation for "Emergencies in the Diplomatic and Consular Service" for that quarter.

SEC. 125. REQUIREMENTS APPLICABLE TO GIFTS USED FOR REPRESENTATIONAL PURPOSES.

The last sentence of section 25(b) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2697(b)) is amended by inserting before the period the following: ", but shall not be expended for representational purposes at United States missions except in accordance with the conditions that apply to appropriated funds".

SEC. 126. PROTECTION OF HISTORIC AND ARTISTIC FURNISHINGS OF RECEPTION AREAS OF THE DEPARTMENT OF STATE BUILDING.

(a) Protection and Disposition.—Title I of the State Department Basic Authorities Act of 1956, is amended—

(1) by redesignating section 41 as section 42; and

(2) by inserting after section 40 the following new section:

"SEC. 41. PROTECTION OF HISTORIC AND ARTISTIC FURNISHINGS OF RECEPTION AREAS OF THE DEPARTMENT OF STATE BUILDING.

"(a) In General.—The Secretary of State shall administer the historic and artistic articles of furniture, fixtures, and decorative objects of the reception areas of the Department of State by such means and measures as conform to the purposes of the reception areas, which include conserving those articles, fixtures, and objects and providing for their enjoyment in such manner and by such means as will leave them for the use of the American people. Nothing shall be done under this subsection which conflicts with the administration of the Department of State or with the use of the reception areas for official purposes of the United States Government.

"(b) Disposition of Historic and Artistic Items.—

"(1) Items covered.—Articles of furniture, fixtures, and decorative objects of the reception areas (and similar articles, fixtures, and objects acquired by the Secretary of State), when declared by the Secretary of State to be of historic or artistic interest, shall thereafter be considered to be the property of the Secretary in his or her official capacity and shall be subject to disposition solely in accordance with this subsection.

"(2) Sale or trade.—Whenever the Secretary of State determines that—

"(A) any item covered by paragraph (1) is no longer needed for use or display in the reception areas, or

"(B) in order to upgrade the reception areas, a better use of that article would be its sale or exchange,

the Secretary may, with the advice and concurrence of the Director of the National Gallery of Art, sell the item at fair market value or trade it, without regard to the requirements of the Federal Property and Administrative Services Act of 1949. The proceeds of any such sale may be credited to the unconditional gift account of the Department of State, and items obtained in trade shall be the property of the Secretary of State under this subsection.

"(3) Smithsonian institution.—The Secretary of State may also lend items covered by paragraph (1), when not needed for use or display in the reception areas, to the Smithsonian Institution or a similar institution for care, repair, study, storage, or exhibition.

"(c) Definition.—For purposes of this section, the term 'reception areas' means the areas of the Department of State Building, located at 2201 C Street, Northwest, Washington, District of Columbia, known as the Diplomatic Reception Rooms (eighth floor), the Secretary of State's offices (seventh floor), the Deputy Secretary of State's offices (seventh floor), and the seventh floor reception area.".

(b) Authority To Insure Certain Historic and Artistic Furnishings.—Section 3 of that Act (22 U.S.C. 2670) is amended—

(1) by striking out "and" at the end of paragraph (i);

(2) by striking out the period at the end of paragraph (j) and inserting in lieu thereof "; and"; and

(3) by adding at the end the following:

"(k) subject to the availability of appropriated funds, obtain insurance on the historic

and artistic articles of furniture, fixtures, and decorative objects which may from time-to-time be within the responsibility of the Fine Arts Committee of the Department of State for the Diplomatic Rooms of the Department.”.

SEC. 127. INCLUSION OF COERCIVE POPULATION CONTROL INFORMATION IN ANNUAL HUMAN RIGHTS REPORT.

The Foreign Assistance Act of 1961 is amended—

(1) in section 116(d) (22 U.S.C. 2151n(d))—

(A) by striking out “and” at the end of paragraph (1);

(B) by redesignating paragraph (2) as paragraph (3); and

(C) by inserting after paragraph (1) the following new paragraph:

“(2) wherever applicable, practices regarding coercion in population control, including coerced abortion and involuntary sterilization; and”; and

(2) in section 502B(b) (22 U.S.C. 2304(b)), by inserting after the first sentence “Wherever applicable, such report shall include information on practices regarding coercion in population control, including coerced abortion and involuntary sterilization.”.

SEC. 128. LIMITATION ON THE USE OF A FOREIGN MISSION IN A MANNER INCOMPATIBLE WITH ITS STATUS AS A FOREIGN MISSION.

(a) Amendment to Foreign Missions Act.—The State Department Basic Authorities Act of 1956 is amended by adding at the end of title II (22 U.S.C. 4301 et seq.; commonly referred to as the “Foreign Missions Act”) the following:

“SEC. 215. USE OF FOREIGN MISSION IN A MANNER INCOMPATIBLE WITH ITS STATUS AS A FOREIGN MISSION.

“(a) Establishment of Limitation on Certain Uses.—A foreign mission may not allow an unaffiliated alien the use of any premise of that foreign mission which is inviolable under United States law (including any treaty) for any purpose which is incompatible with its status as a foreign mission, including use as a residence.

“(b) Temporary Lodging.—For the purposes of this section, the term ‘residence’ does not include such temporary lodging as may be permitted under regulations issued by the Secretary.

“(c) Waiver.—The Secretary may waive subsection (a) with respect to all foreign missions of a country (and may revoke such a waiver) 30 days after providing written notification of such a waiver, together with the reasons for such waiver (or revocation of such a waiver), to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate.

“(d) Report.—Not later than 180 days after the date of the enactment of this Act, the Secretary of State shall submit a report to the Congress concerning the implementation of this section and shall submit such other reports to the Congress concerning changes in implementation as may be necessary.

“(e) Definitions.—For the purposes of this section—

“(1) the term ‘foreign mission’ includes any international organization as defined in section 209(b); and

“(2) the term ‘unaffiliated alien’ means, with respect to a foreign country, an alien who—

“(A) is admitted to the United States as a nonimmigrant, and

“(B) is not a member, or a family member of a member, of a foreign mission of that foreign country.”.

(b) Effective Date.—(1) Except as provided in paragraph (2), the amendment made by subsection (a) shall apply to any foreign mission beginning on the date of enactment of this Act.

(2)(A) The amendment made by subsection (a) shall apply beginning 6 months after the date of enactment of this Act with respect to any nonimmigrant alien who is using a foreign mission as a residence or a place of business on the date of enactment of this Act.

(B) The Secretary of State may delay the effective date provided for in subparagraph (A) for not more than 6 months with respect to any nonimmigrant alien if the Secretary finds that a hardship to that alien would result from the implementation of subsection (a).

SEC. 129. ALLOCATION OF SHARED COSTS AT MISSIONS ABROAD.

In order to provide for full reimbursement of shared administrative costs at United States missions abroad, the Secretary of State shall review, and revise if necessary, the allocation procedures under which agencies reimburse the Department of State for shared administrative costs at United States missions abroad. Within 3 months after the date of enactment of this Act, the Secretary of State shall submit a report to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate on such review and any revision.

SEC. 130. PROHIBITION ON THE USE OF FUNDS FOR FACILITIES IN ISRAEL, JERUSALEM, OR THE WEST BANK.

None of the funds authorized to be appropriated by this title may be obligated or expended for site acquisition, development, or construction of any new facility in Israel, Jerusalem, or the West Bank.

SEC. 131. PURCHASING AND LEASING OF RESIDENCES.

It is the sense of the Congress that in its fiscal year 1989 budget presentations to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives, the Department of State shall provide sufficient information on the advantages and disadvantages of purchasing rather than leasing residential properties to enable the Congress to determine the specific amount of savings that would or would not be achieved by purchasing such properties. The Department also shall make recommendations to the Congress on the purchasing and leasing of such properties.

SEC. 132. PROHIBITION ON ACQUISITION OF HOUSE FOR SECRETARY OF STATE.

The Department of State shall not solicit or receive funds for the construction, purchase, lease or rental of, nor any gift or bequest of real property or any other property for the purpose of providing living quarters for the Secretary of State.

SEC. 133. UNITED STATES DEPARTMENT OF STATE FREEDOM OF EXPRESSION.

(a) Finding.—Congress finds that the United States Department of State, on September 15, 1987, declared itself to be a temporary foreign diplomatic mission for the purpose of denying free speech to American citizens who planned to protest the tyranny of the Soviet regime.

(b) Prohibition.—It is not in the national security interest of the United States for the Department of State to declare, and it shall not declare, itself to be a foreign diplomatic mission.

SEC. 134. REPEAL OF OFFICE OF POLICY AND PROGRAM REVIEW.

(a) Repeal.—Subsection (b) of section 413 of the Diplomatic Security Act (22 U.S.C. 4861(b)) is repealed.

(b) Conforming Amendments.—Section 413(a) of such Act (22 U.S.C. 4861(a)) is amended—

(1) by striking out “(a)” and all that follows through “State.—”; and

(2) by redesignating paragraphs (1) through (5) as subsections (a) through (e), respectively.

SEC. 135. STUDIES AND PLANNING FOR A CONSOLIDATED TRAINING FACILITY FOR THE FOREIGN SERVICE INSTITUTE.

Section 123(c)(1) of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987, is amended—

(1) by inserting “(A)” immediately after “(1)”; and

(2) by adding at the end thereof the following new subparagraph:

“(B) Of the amounts authorized to be appropriated to the Department of State for fiscal years beginning after September 30, 1987, the Secretary of State may transfer a total not to exceed $11,000,000 for ‘Administration of Foreign Affairs’ to the Administrator of General Services for carrying out feasibility studies, site preparation, and design, architectural, and engineering planning under subsection (b).”.

SEC. 136. RESTRICTION ON SUPERVISION OF GOVERNMENT EMPLOYEES BY CHIEFS OF MISSION.

Section 207 of the Foreign Service Act of 1980 (22 U.S.C. 3927) is amended—

(1) in subsection (a)(1), by inserting “executive branch” after “Government”;

(2) in subsection (a)(2), by inserting “executive branch” after “Government” the second place it appears; and

(3) in subsection (b), by inserting “executive branch” after “Any”.

SEC. 137. STUDY AND REPORT CONCERNING THE STATUS OF INDIVIDUALS WITH DIPLOMATIC IMMUNITY IN THE UNITED STATES.

(a) Study.—The Secretary shall undertake a study of the minimum liability insurance coverage required for members of foreign missions and their families and the feasibility of requiring an increase in such minimum coverage. In conducting such study, the Secretary shall consult with members of the insurance industry, officials of State insurance regulatory bodies, and other experts, as appropriate. The study shall consider the following:

(1) The adequacy of the currently required insurance minimums, including the experiences of injured parties.

(2) The feasibility and projected cost of increasing the current minimum coverages to $1,000,000 or some lesser amount in the commercial insurance market, including consideration of individual umbrella policies to provide additional coverage above the current minimum.

(3) The feasibility and cost of requiring additional coverage up to $1,000,000 through a single group insurance arrangement, administered by the Department, providing umbrella coverage for the entire class of foreign officials who are immune from the jurisdiction of the United States.

(4) The consequences to United States missions abroad, including their costs of operation, that might reasonably be anticipated as a result of requiring an increase in the insurance costs of foreign missions in the United States.

(5) Any other issues and recommendations the Secretary may consider appropriate.

(b) REPORT.—The Secretary shall compile a report to the Congress concerning the problem arising from diplomatic immunity from criminal prosecution and from civil suit. The report shall set forth the background of the various issues arising from the problem, the extent of the problem, an analysis of proposed and other potential measures to address the problem (including an analysis of the costs associated with and difficulties of implementing the various proposals), consider the potential and likely impact upon United States diplomatic personnel of actions in other nations that are comparable to such proposals, and make recommendations for addressing the problem with respect to the following:

(1) The collection of debts owed by foreign missions and members of such missions and their families to individuals and entities in the United States.

(2) A detailed catalog of incidents of serious criminal offenses by persons entitled to immunity under the Vienna Convention on Diplomatic Relations and other treaties to assist in developing an understanding of the extent of the problem.

(3) The feasibility of having the Department of State develop and periodically submit to the Congress a report concerning—

(A) serious criminal offenses committed in the United States by individuals entitled to immunity from the criminal jurisdiction of the United States; and

(B) delinquency in the payment of debts owed by foreign missions and members of such missions and their families to individuals and entities in the United States.

(4) Methods for improving the education of law enforcement officials on the extent of immunity provided to members of foreign missions and their families under the Vienna Convention on Diplomatic Relations and other treaties.

(5) Proposals to assure that law enforcement officials fully investigate, charge, and institute and maintain prosecution of members of foreign missions and their families to the extent consistent with the obligations of the United States under the Vienna Convention on Diplomatic Relations and other treaties.

(6) The extent to which existing practices regarding the circumstances under which diplomatic visas under section 101(a)(15)(A) of the Immigration and Nationality Act are issued and revoked are adequate to ensure the integrity of the diplomatic visa category.

(7) The extent to which current registration and documentation requirements fully and accurately identify individuals entitled to diplomatic immunity.

(8) The extent to which the Department of State is able to identify diplomats allegedly involved in serious crimes in the United States so as to initiate their removal from the United States and the extent to which existing law may be inadequate to prevent the subsequent readmission of such individuals under nonimmigrant and immigrant categories unrelated to section 101(a)(15)(A) of the Immigration and Nationality Act.

(9) A comparison of the procedures for the issuance of visas to diplomats from foreign nations to the United States and international organizations with the procedures accorded to United States diplomats to such nations and to international organizations in such nations, and recommendations to achieve reciprocity in such procedures.

(10)(A) A review of the definition of the term "family" under the Diplomatic Relations Act.

(B) An evaluation of the effect of amendments to the term "family" on the number of persons entitled to diplomatic immunity in the United States.

(C) An evaluation of the potential effect of various amendments to the term "family" under the Diplomatic Relations Act on the number of serious criminal offenses committed in the United States by members of foreign missions and their families entitled to immunity from the criminal jurisdiction of the United States.

(11) An examination of all possible measures to prevent the use of diplomatic pouches for the illicit transportation of narcotics, explosives, or weapons.

(12) An examination of the considerations in establishing a fund for compensating the victims of crimes committed by persons entitled to immunity from criminal prosecution under the Vienna Convention on Diplomatic Relations and other treaties, including the feasibility of establishing an insurance fund financed by foreign missions.

(c) CONGRESS.—Not more than 90 days after the date of enactment of this Act, the findings and recommendations of the study under subsection (a) and the report under subsection (b) shall be submitted to the Committee on the Judiciary and the Committee on Foreign Relations of the Senate and the Committee on the Judiciary and the Committee on Foreign Affairs of the House of Representatives.

SEC. 138. FEDERAL JURISDICTION OF DIRECT ACTIONS AGAINST INSURERS OF DIPLOMATIC AGENTS.

(a) PERIOD OF LIABILITY.—Section 1364 of title 28, United States Code, is amended by inserting after "who is" the following: ", or was at the time of the tortious act or omission,".

(b) APPLICATION.—The amendment made by subsection (a) shall apply to the first tortious act or omission occurring after the date of enactment of this Act.

SEC. 139. ENFORCEMENT OF CASE-ZABLOCKI ACT REQUIREMENTS.

(a) RESTRICTION ON USE OF FUNDS.—If any international agreement, whose text is required to be transmitted to the Congress pursuant to the first sentence of subsection (a) of section 112b of title 1, United States Code (commonly referred to as the "Case-Zablocki Act"), is not so transmitted within the 60-day period specified in that sentence, then no funds authorized to be appropriated by this or any other Act shall be available after the end of that 60-day period to implement that agreement until the text of that agreement has been so transmitted.

(b) EFFECTIVE DATE.—Subsection (a) shall take effect 60 days after the date of enactment of this Act and shall apply during fiscal years 1988 and 1989.

SEC. 140. ANNUAL COUNTRY REPORTS ON TERRORISM.

(a) REQUIREMENT OF ANNUAL COUNTRY REPORTS ON TERRORISM.—The Secretary of State shall transmit to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate, by March 31 of each year, a full and complete report providing—

(1) detailed assessments with respect to each foreign country—

(A) in which acts of international terrorism occurred which were, in the opinion of the Secretary, of major significance;

(B) about which the Congress was notified during the preceding five years pursuant to section 6(j) of the Export Administration Act of 1979; and

(C) which the Secretary determines should be the subject of such report; and

(2) all relevant information about the activities during the preceding year of any terrorist group, and any umbrella group under which such terrorist group falls, known to be responsible for the kidnapping or death of an American citizen during the preceding five years, any terrorist group known to be financed by countries about which Congress was notified during the preceding year pursuant to section 6(j) of the Export Administration Act of 1979, and any other known international terrorist group which the Secretary determines should be the subject of such report.

(b) PROVISIONS TO BE INCLUDED IN REPORT.—The report required under subsection (a) should to the extent feasible include (but not be limited to)—

(1) with respect to subsection (a)(1)—

(A) a review of major counterterrorism efforts undertaken by countries which are the subject of such report, including, as appropriate, steps taken in international fora;

(B) the response of the judicial system of each country which is the subject of such report with respect to matters relating to terrorism affecting American citizens or facilities, or which have, in the opinion of the Secretary, a significant impact on United States counterterrorism efforts, including responses to extradition requests; and

(C) significant support, if any, for international terrorism by each country which is the subject of such report, including (but not limited to)—

(i) political and financial support;

(ii) diplomatic support through diplomatic recognition and use of the diplomatic pouch;

(iii) providing sanctuary to terrorists or terrorist groups; and

(iv) the positions (including voting records) on matters relating to terrorism in the General Assembly of the United Nations and other international bodies and fora of each country which is the subject of such report; and

(2) with respect to subsection (a)(2), any—

(A) significant financial support provided by foreign governments to those groups directly, or provided in support of their activities;

(B) provisions of significant military or paramilitary training or transfer of weapons by foreign governments to those groups;

(C) provision of diplomatic recognition or privileges by foreign governments to those groups; and

(D) provision by foreign governments of sanctuary from prosecution to these groups or their members responsible for the commission, attempt, or planning of an act of international terrorism.

(c) CLASSIFICATION OF REPORT.—The report required under subsection (a) shall, to the extent practicable, be submitted in an unclassified form and may be accompanied by a classified appendix.

(d) DEFINITIONS.—As used in this section—

(1) the term "international terrorism" means terrorism involving citizens or the territory of more than 1 country;

(2) the term "terrorism" means premeditated, politically motivated violence perpetrated against noncombatant targets by subnational groups or clandestine agents; and

(3) the term "terrorist group" means any group practicing, or which has significant subgroups which practice, international terrorism.

(e) Reporting Period.—

(1) The report required under subsection (a) shall cover the events of the calendar year preceding the year in which the report is submitted.

(2) The report required by subsection (a) to be submitted by March 31, 1988, may be submitted no later than August 31, 1988.

SEC. 141. RESTRICTION ON USE OF FUNDS FOR PUBLIC DIPLOMACY EFFORTS.

(a) In General.—Except as provided in subsection (b), none of the funds authorized to be appropriated by this Act for the Department of State may be used by the Department of State to make any contract or purchase order agreement, on or after the date of enactment of this Act, with any individual, group, organization, partnership, corporation, or other entity for the purpose of—

(1) providing advice or assistance for any program for foreign representatives of any civic, labor, business, or humanitarian group during any visit to Washington, District of Columbia, or any other location within the United States;

(2) providing contact with any refugee group or exile in Washington, District of Columbia, or elsewhere in the United States, including the arranging of any media event, interview, or public appearance;

(3) translating articles on regions of the world and making them available for distribution to United States news organizations or public interest groups;

(4) providing points of contact for public interest groups seeking to interview exiles, refugees, or other visitors;

(5) coordinating or accompanying media visits to any region of the world;

(6) providing source material relating to regional conflicts for public diplomacy efforts;

(7) providing or presenting, in writing or orally, factual material on security considerations, refugee problems, or political dynamics of any region of the world for use on public diplomacy efforts;

(8) editing briefs or other materials for use on public diplomacy efforts;

(9) conducting special studies or projects for use on public diplomacy efforts;

(10) designing or organizing a distribution system for materials for use on public diplomacy efforts; or

(11) directing the operation of this distribution system, including—

(A) development of specialized, segmented addressee lists of persons or organizations which have solicited materials or information on any region of the world;

(B) computerization, coding, maintenance, or updating of lists;

(C) retrieval, storage, mailing, or shipping of individual or bulk packets of publications;

(D) maintenance or control of inventory or reserve stocks of materials;

(E) distribution of materials;

(F) coordinating publication production; or

(G) conducting systematic evaluations of the system.

(b) Exceptions.—

(1) Subsection (a) does not apply to any contract or purchase order agreement made, after competitive bidding, by or for the Bureau of Public Affairs of the Department of State.

(2) During fiscal years 1988 and 1989, a contract related to advocacy and policy positions may be entered into by or on behalf of the Department of State if the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate are notified not less than 15 days in advance of the proposed contract.

(c) Limitation on Use of Funds.—Of the funds authorized to be appropriated by this or any other Act, not more than $389,000 may be used in any fiscal year to finance the activities set forth in subsection (a).

SEC. 142. AUTHORITY TO INVEST AND RECOVER EXPENSES FROM INTERNATIONAL CLAIMS SETTLEMENT FUNDS.

(a) Investment Authority.—Section 8 of the International Claims Settlement Act of 1949 (22 U.S.C. 1621 et seq.) is amended by adding at the end thereof the following new subsection:

"(g) The Secretary of the Treasury is authorized and directed to invest the amounts held respectively in the 'special funds' established by this section in public debt securities with maturities suitable for the needs of the separate accounts and bearing interest at rates determined by the Secretary, taking into consideration the average market yield on outstanding marketable obligations of the United States of comparable maturities. The interest earned on the amounts in each special fund shall be used to make payments, in accordance with subsection (c), on awards payable from that special fund.".

(b) Authority To Accept Reimbursements.—The Department of State Appropriation Act of 1937 (49 Stat. 1321; 22 U.S.C. 2661) is amended under the heading entitled "INTERNATIONAL FISHERIES COMMISSION" by inserting after the fourth undesignated paragraph the following new paragraph:

"The Secretary of State is authorized to accept reimbursement from corporations, firms, and individuals for the expenses of travel, translation, printing, special experts, and other extraordinary expenses incurred in pursuing a claim on their behalf against a foreign government or other foreign entity. Such reimbursements shall be credited to the appropriation account against which the expense was initially charged.".

PART C—DIPLOMATIC RECIPROCITY AND SECURITY

SEC. 151. UNITED STATES-SOVIET EMBASSY AGREEMENT; PROHIBITION ON USE OF MT. ALTO SITE.

(a) Findings.—The Congress finds that—

(1) the Government of the Union of Soviet Socialist Republics has intentionally and substantially violated international agreements with the United States concerning the establishment and operation of the new United States Embassy complex in Moscow by significantly delaying progress and by constructing the premises of that Embassy so as to compromise the security of United States operations, thus rendering the premises unuseable for the primary purpose intended under those agreements;

(2) the Soviet Government's actions constitute a material violation of international law and a substantial default in performance under the contract for construction of the new United States Embassy complex, and the United States is entitled to claim appropriate compensation;

(3) due to actions of the Government of the Union of Soviet Socialist Republics, United States Government personnel cannot pursue their official duties in confidence, as the national security and diplomatic relations of the United States requires, within the new United States Embassy being constructed in Moscow;

(4) the Government of the Union of Soviet Socialist Republics has similarly taken steps to impair the full and proper use of the present United States Embassy in Moscow, to the detriment of the national security of the United States and its ability to conduct diplomatic relations;

(5) as a result of the substantial violations by the Soviet Union of these international agreements with the United States and other Soviet violations of international law, the United States is entitled to terminate, in whole or in part, those agreements;

(6) termination of such agreements may include withdrawal of rights and privileges otherwise granted to the Soviet Union concerning the establishment of a new Soviet Embassy complex in Washington, District of Columbia;

(7) the location of the new Soviet Embassy on Mount Alto creates serious concerns with respect to electronic surveillance and potential damage to the national security of the United States; and

(8) to protect the national security of the United States, therefore, the United States should exercise its right to terminate the Embassy agreements in view of the substantial and intentional Soviet breaches thereof, unless the threat to the national security posed by adherence to those agreements can be overcome.

(b) Withdrawal From Embassy Agreement.—The United States shall withdraw from the Agreement between the Government of the United States and the Government of the Union of Soviet Socialist Republics on the Reciprocal Allocation for Use Free of Charge of Plots of Land in Moscow and Washington (signed at Moscow, May 16, 1969) and related agreements, notes, and understandings unless the President makes the determinations and waiver under subsection (c).

(c) Waiver.—

(1) Presidential determinations required.—The President may waive subsection (b) if he determines that—

(A) it is vital to the national security of the United States that the United States not withdraw from the agreement (and related agreements, notes, and understandings) referred to in subsection (b);

(B) steps have been or will be taken that will ensure that the new chancery building to be occupied by the United States Embassy in Moscow can be safely and securely used for its intended purposes; and

(C) steps have been or will be taken to eliminate, no later than 2 years after the date of enactment of this Act, the damage to the national security of the United States due to electronic surveillance from Soviet facilities on Mount Alto.

(2) When determinations may be made.—The President may not make the determination and waiver permitted by paragraph (1) before the end of the 6-month period beginning on the date of enactment of this Act.

(3) Report to congress.—The waiver permitted by paragraph (1) shall not be effective until 30 days after the determinations and waiver are reported to the Congress. Any such report shall include—

(A) a detailed justification for each of the determinations;

(B) an assessment of the impact on national security of the removal of the Soviet Embassy from Mt. Alto; and

(C) specify the steps that have been or will be taken to achieve the requirements of paragraphs (1) (B) and (C).

(4) Nondelegatability.—The President may not delegate the responsibility for making the determination and waiver permitted by paragraph (1).

(d) NOTIFICATION OF UNAVAILABILITY OF MOUNT ALTO.—If the President does not waive subsection (b), the Secretary of State shall notify the Government of the Union of Soviet Socialist Republics that the Mount Alto site will cease to be available to that Government for any purpose as of the date which is 1 year and 10 days after the earliest date on which the President could make the waiver under subsection (c).

(e) PROHIBITION ON FUTURE USE OF MOUNT ALTO SITE BY FOREIGN MISSIONS.—If subsection (b) takes effect, the Mount Alto site may not be made available for use thereafter by a foreign mission for any purpose.

SEC. 152. RECOVERY OF DAMAGES INCURRED AS A RESULT OF SOVIET INTELLIGENCE ACTIVITIES DIRECTED AT THE NEW UNITED STATES EMBASSY IN MOSCOW.

It is the sense of the Congress that the arbitration process between the United States and the Union of Soviet Socialist Republics, which is currently under way with respect to damages arising from delays in the construction of the new United States Embassy in Moscow, should include Soviet reimbursement of the full costs incurred by the United States as a result of the intelligence activities of the Soviet Union directed at the new United States Embassy in Moscow.

SEC. 153. UNITED STATES-SOVIET RECIPROCITY IN MATTERS RELATING TO EMBASSIES.

(a) REQUIREMENT FOR RECIPROCITY IN CERTAIN MATTERS.—The Secretary of State shall exercise the authority granted in title II of the State Department Basic Authorities Act of 1956 (relating to foreign missions) to obtain the full cooperation of the Soviet Government in achieving the following objectives by October 1, 1989:

(1) FINANCE.—United States diplomatic and consular posts in the Soviet Union not pay more than fair value for goods or services as a result of the Soviet Government's control over Soviet currency valuation and over the pricing of goods and services.

(2) ACCESS TO GOODS AND SERVICES.—United States diplomatic and consular posts in the Soviet Union have full access to goods and services, including utilities.

(3) REAL PROPERTY.—The real property used for office purposes, the real property used for residential purposes, and the real property used for all other purposes by United States diplomatic and consular posts in the Soviet Union is comparable in terms of quantity and quality to the real property used for each of those purposes by diplomatic and consular posts of the Soviet mission to the United States.

(b) SOVIET CONSULATES IN THE UNITED STATES.—The Secretary of State shall not allow the Soviet mission to the United States to occupy any new consulate in the United States until the United States mission in Kiev is able to occupy secure permanent facilities.

(c) SECRETARY OF THE TREASURY.—The Secretary of the Treasury shall provide to the Secretary of State such assistance with respect to the implementation of paragraph (1) of subsection (a) as the Secretary of State may request.

(d) REPORTS TO CONGRESS.—Not later than 60 days after the date of enactment of this Act and annually thereafter, the Secretary of State shall submit to the Congress a report setting forth the actions taken and planned to be taken in carrying out subsection (a).

(e) DEFINITION OF BENEFIT.—Paragraph (1) of section 202(a) of the title II of the State Department Basic Authorities Act of 1956 (22 U.S.C. 4302(a)(1); commonly referred to as the Foreign Missions Act) is amended—

(1) by striking out "and" at the end of subparagraph (E);

(2) in subparagraph (F), by inserting "and" after "services,"; and

(3) by inserting after subparagraph (F) the following new subparagraph:

"(G) financial and currency exchange services,".

SEC. 154. REPORT ON PERSONNEL OF SOVIET STATE TRADING ENTERPRISES.

Not later than 60 days after the date of enactment of this Act, the Secretary of State shall submit to the Congress a report discussing whether the number of personnel of Soviet state trading enterprises in the United States should be reduced.

SEC. 155. PERSONNEL SECURITY PROGRAM FOR EMBASSIES IN HIGH INTELLIGENCE THREAT COUNTRIES.

(a) SPECIAL SECURITY PROGRAM.—The Secretary of State shall develop and implement, within three months after the date of enactment of this Act, a special personnel security program for personnel of the Department of State assigned to United States diplomatic and consular posts in high intelligence threat countries who are responsible for security at those posts and for any individuals performing guard functions at those posts. Such program shall include—

(1) selection criteria and screening to ensure suitability for assignment to high intelligence threat countries;

(2) counterintelligence awareness and related training;

(3) security reporting and command arrangements designed to counter intelligence threats; and

(4) length of duty criteria and policies regarding rest and recuperative absences.

(b) REPORT TO CONGRESS.—Not later than 6 months after the date of enactment of this subsection, the Secretary of State shall report to the Congress on the special personnel security program required by subsection (a).

(c) DEFINITION.—As used in subsection (a), the term "high intelligence threat country" means—

(1) a country listed as a Communist country in section 620(f) of the Foreign Assistance Act of 1961; and

(2) any other country designated as a high intelligence threat country for purposes of this section by the Secretary of State, the Secretary of Defense, the Director of Central Intelligence, or the Director of the Federal Bureau of Investigation.

SEC. 156. ACCOUNTABILITY REVIEW BOARDS.

(a) ESTABLISHMENT OF A BOARD.—Section 301 of the Diplomatic Security Act (22 U.S.C. 4831) is amended—

(1) by inserting ", and in any case of a serious breach of security involving intelligence activities of a foreign government directed at a United States Government mission abroad," after "mission abroad"; and

(2) by inserting after the first sentence thereof the following new sentence: "With respect to breaches of security involving intelligence activities, the Secretary of State may delay establishing an Accountability Review Board if, after consultation with the Chairman of the Select Committee on Intelligence of the Senate and the Chairman of the Permanent Select Committee on Intelligence of the House of Representatives, the Secretary determines that doing so would compromise intelligence sources and methods. The Secretary shall promptly advise the Chairmen of such committees of each determination pursuant to this section to delay the establishment of an Accountability Review Board.".

(b) BOARD FINDINGS.—Section 304(a) of that Act (22 U.S.C. 4834(a)) is amended by inserting "or surrounding the serious breach of security involving intelligence activities of a foreign government directed at a United States Government mission abroad (as the case may be)" after "mission abroad" the first place it appears.

SEC. 157. PROHIBITION ON CERTAIN EMPLOYMENT AT UNITED STATES DIPLOMATIC AND CONSULAR MISSIONS IN COMMUNIST COUNTRIES.

(a) PROHIBITION.—After September 30, 1990, no national of a Communist country may be employed as a foreign national employee in any area of a United States diplomatic or consular facility in any Communist country where classified materials are maintained.

(b) DEFINITION.—As used in this section, the term "Communist country" means a country listed in section 620(f) of the Foreign Assistance Act of 1961.

(c) ADDITIONAL FUNDS FOR HIRING UNITED STATES CITIZENS.—The Congress expresses its willingness to provide additional funds to the Department of State for the expenses of employing United States nationals to replace the individuals dismissed by reason of subsection (a).

(d) REPORT AND REQUEST FOR FUNDS.—As a part of the Department of State's authorization request for fiscal years 1990 and 1991, the Secretary of State, in consultation with the heads of all relevant agencies, shall submit—

(1) a report, which shall include—

(A) a feasibility study of the implementation of this section; and

(B) an analysis of the impact of the implementation of this section on the budget of the Department of State; and

(2) a request for funds necessary for the implementation of this section pursuant to the findings and conclusions specified in the report under paragraph (1).

(e) WAIVER.—The President may waive this section—

(1) if funds are not specifically authorized and appropriated to carry out this section; or

(2) the President determines that it is in the national security interest of the United States to continue to employ foreign service nationals.

The President shall notify the appropriate committees of Congress each time he makes the waiver conferred on him by this section.

SEC. 158. TERMINATION OF RETIREMENT BENEFITS FOR FOREIGN NATIONAL EMPLOYEES ENGAGING IN HOSTILE INTELLIGENCE ACTIVITIES.

(a) TERMINATION.—The Secretary of State shall exercise the authorities available to him to ensure that the United States does not provide, directly or indirectly, any retirement benefits of any kind to any present or former foreign national employee of a United States diplomatic or consular post against whom the Secretary has convincing evidence that such employee has engaged in intelligence activities directed against the United States. To the extent practicable, the Secretary shall provide due process in implementing this section.

(b) WAIVER.—The Secretary of State may waive the applicability of subsection (a) on a case-by-case basis with respect to an employee if he determines that it is vital to the national security of the United States to do so and he reports such waiver to the appropriate committees of the Congress.

SEC. 159. REPORT ON EMPLOYMENT OF FOREIGN NATIONALS AT FOREIGN SERVICE POSTS ABROAD.

Not later than 6 months after the date of enactment of this Act, the Secretary of State, in consultation with the Secretary of Commerce, the Secretary of Agriculture, the Director of Central Intelligence, the Director of the United States Information Agency, and the Director of the Peace Corps, shall submit to the Congress a report discussing the advisability of employing foreign nationals at foreign service posts abroad (including their access to automatic data processing systems and networks).

SEC. 160. CONSTRUCTION SECURITY CERTIFICATION.

(a) CERTIFICATION.—Before undertaking any new construction or major renovation project in any foreign facility intended for the storage of classified materials or the conduct of classified activities, the Secretary of State, after consultation with the Director of Central Intelligence, shall certify to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate that—

(1) appropriate and adequate steps have been taken to ensure the security of the construction project (including an evaluation of how all security-related factors with respect to such project are being addressed); and

(2) the facility resulting from such project incorporates—

(A) adequate measures for protecting classified information and national security-related activities; and

(B) adequate protection for the personnel working in the diplomatic facility.

(b) AVAILABILITY OF DOCUMENTATION.—All documentation with respect to a certification referred to in subsection (a) and any dissenting views thereto shall be available, in an appropriately classified form, to the Chairman of the Committee on Foreign Affairs of the House of Representatives and the Chairman of the Committee on Foreign Relations of the Senate.

(c) DIRECTOR OF CENTRAL INTELLIGENCE.—The Director of Central Intelligence shall provide to the Secretary of State such assistance with respect to the implementation of this section as the Secretary of State may request.

(d) DISSENTING VIEWS.—If the Director of Central Intelligence disagrees with the Secretary of State with respect to any project certification made pursuant to subsection (a), the Director shall submit in writing disagreeing views to the Secretary of State.

SEC. 161. PROTECTION FROM FUTURE HOSTILE INTELLIGENCE ACTIVITIES IN THE UNITED STATES.

Section 205 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 4305) is amended by adding at the end the following:

"(d)(1) After the date of enactment of this subsection, real property in the United States may not be acquired (by sale, lease, or other means) by or on behalf of the foreign mission of a foreign country described in paragraph (4) if, in the judgment of the Secretary of Defense (after consultation with the Secretary of State), the acquisition of that property might substantially improve the capability of that country to intercept communications involving United States Government diplomatic, military, or intelligence matters.

"(2) After the date of enactment of this subsection, real property in the United States may not be acquired (by sale, lease, or other means) by or on behalf of the foreign mission of a foreign country described in paragraph (4) if, in the judgment of the Director of the Federal Bureau of Investigation (after consultation with the Secretary of State), the acquisition of that property might substantially improve the capability of that country to engage in intelligence activities directed against the United States Government, other than the intelligence activities described in paragraph (1).

"(3) The Secretary of State shall inform the Secretary of Defense and the Director of the Federal Bureau of Investigation immediately upon notice being given pursuant to subsection (a) of this section of a proposed acquisition of real property by or on behalf of the foreign mission of a foreign country described in paragraph (4).

"(4) For the purposes of this subsection, the term 'foreign country' means—

"(A) any country listed as a Communist country in section 620(f) of the Foreign Assistance Act of 1961;

"(B) any country determined by the Secretary of State, for purposes of section 6(j) of the Export Administration Act of 1979, to be a country which has repeatedly provided support for acts of international terrorism; and

"(C) any other country which engages in intelligence activities in the United States which are adverse to the national security interests of the United States.

"(5) As used in this section, the term 'substantially improve' shall not be construed to prevent the establishment of a foreign mission by a country which, on the date of enactment of this section—

"(A) does not have a mission in the United States, or

"(B) with respect to a city in the United States, did not maintain a mission in that city.".

SEC. 162. APPLICATION OF TRAVEL RESTRICTIONS TO PERSONNEL OF CERTAIN COUNTRIES AND ORGANIZATIONS.

(a) AMENDMENT TO FOREIGN MISSIONS ACT.—Title II of the State Department Basic Authorities Act of 1956 (22 U.S.C. 4301 et seq.) as amended by section 128 is further amended by adding at the end the following new section:

"SEC. 216. APPLICATION OF TRAVEL RESTRICTIONS TO PERSONNEL OF CERTAIN COUNTRIES AND ORGANIZATIONS.

"(a) REQUIREMENT FOR RESTRICTIONS.—The Secretary shall apply the same generally applicable restrictions to the travel while in the United States of the individuals described in subsection (b) as are applied under this title to the members of the missions of the Soviet Union in the United States.

"(b) INDIVIDUALS SUBJECT TO RESTRICTIONS.—The restrictions required by subsection (a) shall be applied with respect to those individuals who (as determined by the Secretary) are—

"(1) the personnel of an international organization, if the individual is a national of any foreign country whose government engages in intelligence activities in the United States that are harmful to the national security of the United States;

"(2) the personnel of a mission to an international organization, if that mission is the mission of a foreign government that engages in intelligence activities in the United States that are harmful to the national security of the United States; or

"(3) the family members or dependents of an individual described in paragraphs (1) and (2);

and who are not nationals or permanent resident aliens of the United States.

"(c) WAIVERS.—The Secretary, after consultation with the Director of Central Intelligence and the Director of the Federal Bureau of Investigation, may waive application of the restrictions required by subsection (a) if the Secretary determines that the national security and foreign policy interests of the United States so require.

"(d) REPORTS.—The Secretary shall transmit to the Select Committee on Intelligence and the Committee on Foreign Relations of the Senate, and to the Permanent Select Committee on Intelligence and the Committee on Foreign Affairs of the House of Representatives, not later than six months after the date of enactment of this section and not later than every six months thereafter, a report on the actions taken by the Secretary in carrying out this section during the previous six months.

"(e) DEFINITIONS.—For purposes of this section—

"(1) the term 'generally applicable restrictions' means any limitations on the radius within which unrestricted travel is permitted and obtaining travel services through the auspices of the Office of Foreign Missions for travel elsewhere, and does not include any restrictions which unconditionally prohibit the members of missions of the Soviet Union in the United States from traveling to designated areas of the United States and which are applied as a result of particular factors in relations between the United States and the Soviet Union.

"(2) the term 'international organization' means an organization described in section 209(b)(1); and

"(3) the term 'personnel' includes—

"(A) officers, employees, and any other staff member, and

"(B) any individual who is retained under contract or other arrangement to serve functions similar to those of an officer, employee, or other staff member.".

(b) EFFECTIVE DATE.—Subsection (a) of the section enacted by this section shall take effect 90 days after the date of enactment of this Act.

SEC. 163. COUNTERINTELLIGENCE POLYGRAPH SCREENING OF DIPLOMATIC SECURITY SERVICE PERSONNEL.

(a) IMPLEMENTATION OF PROGRAM.—Under the regulations issued pursuant to subsection (b), the Secretary of State shall implement a program of counterintelligence polygraph examinations for members of the Diplomatic Security Service (established pursuant to title II of the Diplomatic Security Act) during fiscal years 1988 and 1989.

(b) REGULATIONS.—The Secretary of State shall issue regulations to govern the program required by subsection (a). Such regulations shall provide that the scope of the examinations under such program, the conduct of such examinations, and the rights of individuals subject to such examinations shall be the same as those under the counterintelligence polygraph program conducted pursuant to section 1221 of the Department of Defense Authorization Act, 1986 (Public Law 99-145).

SEC. 164. UNITED STATES EMBASSY IN HUNGARY.

(a) FINDINGS.—The Congress finds that—

(1) the full implementation of the security program of a United States diplomatic mission to a Communist country cannot be accomplished if employees of that mission who are citizens of the host country are present in the same facilities where diplomatic and consular activities of a sensitive nature are performed;

(2) the facilities currently housing the offices of the United States diplomatic mission to Hungary are totally inadequate for the proper conduct of United States diplomatic activities, and unnecessarily expose United States personnel and their activities

to the scrutiny of the intelligence services of the Government of Hungary;

(3) the presence of local citizens in a facility where sensitive activities are performed, as well as their access to certain unclassified administrative information, greatly enhances the ability of the host government's intelligence services to restrict our diplomatic activities in that country;

(4) since the United States Government owns a substantial amount of property in Budapest, it is in a unique position to build new facilities which will substantially enhance the security of the United States diplomatic mission to Hungary; and

(5) units such as the Navy Construction Battalion are uniquely qualified to construct such facilities in an eastern bloc country.

(b) STATEMENT OF POLICY.—It is the sense of the Congress that—

(1) the Department of State should proceed in a timely fashion to negotiate an agreement with the Government of Hungary to allow for the construction of new chancery facilities in Budapest which would totally segregate sensitive activities from those of an unclassified and public-oriented character; and

(2) any such agreement should ensure that the United States Government will have the right to employ only American construction personnel and materials and will have complete control over access to the chancery site from the inception of construction.

PART D—PERSONNEL MATTERS

SEC. 171. COMMISSION TO STUDY FOREIGN SERVICE PERSONNEL SYSTEM.

In consultation with the Committee on Foreign Relations of the Senate, the Committee on Foreign Affairs and the Committee on Post Office and Civil Service of the House of Representatives, and the exclusive representatives (as defined in section 1002(9) of the Foreign Service Act of 1980), the Secretary shall appoint a commission of five distinguished members, at least four of whom shall have a minimum of ten years experience in personnel management. The Commission shall conduct a study of the Foreign Service personnel system, with a view toward developing a system that provides adequate career stability to the members of the Service. Not more than 1 year after the date of enactment of this Act, the Commission shall transmit its report and recommendations to the Secretary of State, the Chairman of the Committee on Foreign Relations of the Senate, the Chairman of the Committee on Foreign Affairs of the House of Representatives, and the Chairman of the Committee on Post Office and Civil Service of the House of Representatives.

SEC. 172. PROTECTION OF CIVIL SERVICE EMPLOYEES.

(a) FINDINGS.—The Congress finds that—

(1) the effectiveness and efficiency of the Department of State is dependent not only on the contribution of Foreign Service employees but equally on the contribution of the 42 percent of the Department's employees who are employed under the Civil Service personnel system;

(2) the contribution of these Civil Service employees has been overlooked in the management of the Department and greater equality of promotion, training, and career enhancement opportunities should be accorded to the Civil Service employees of the Department; and

(3) a goal of the Foreign Service Act of 1980 was to strengthen the contribution made by Civil Service employees of the Department of State by creating a cadre of experienced specialists and managers in the Department to provide essential continuity.

(b) EQUITABLE REDUCTION OF BUDGET.—The Secretary of State shall take all appropriate steps to assure that the burden of cuts in the budget for the Department is not imposed disproportionately or inequitably upon its Civil Service employees.

(c) ESTABLISHMENT OF THE OFFICE OF THE OMBUDSMAN FOR CIVIL SERVICE EMPLOYEES.—There is established in the Office of the Secretary of State the position of Ombudsman for Civil Service Employees. The position of Ombudsman for Civil Service Employees shall be a career reserved position within the Senior Executive Service. The Ombudsman for Civil Service Employees shall report directly to the Secretary of State and shall have the right to participate in all Management Council meetings to assure that the ability of the Civil Service employees to contribute to the achievement of the Department's mandated responsibilities and the career interests of those employees are adequately represented. The position of Ombudsman for Civil Service Employees shall be designated from one of the Senior Executive Service positions (as defined in section 3132(a)(2) of title 5, United States Code) in existence on the date of enactment of this Act.

(d) DEFINITION.—For purposes of this section, the term "Civil Service employees" means employees of the Federal Government except for members of the Foreign Service (as defined in section 103 of the Foreign Service Act of 1980).

SEC. 173. COMPENSATION FOR CERTAIN STATE DEPARTMENT OFFICIALS.

(a) PAY LEVELS.—The State Department Basic Authorities Act of 1956 is amended—

(1) in section 35(b) (22 U.S.C. 2706(b)) by inserting after the second sentence the following new sentence: "The Coordinator shall be compensated at the annual rate of pay for positions authorized by section 5315 of title 5, United States Code."; and

(2) in section 203(a) (22 U.S.C. 4303(a)) by inserting at the end "The Director shall be compensated at the annual rate of pay for positions authorized by section 5315 of title 5, United States Code.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect 30 days after the date of enactment of this Act.

(c) BUDGET ACT.—Any new spending authority (as defined in section 401(c) of the Congressional Budget Act of 1974) provided by this section shall be effective for any fiscal year only to such extent or in such amounts as are provided in advance in appropriation Acts.

SEC. 174. AUDIT OF MERIT PERSONNEL SYSTEM OF FOREIGN SERVICE.

The Comptroller General of the United States shall conduct an audit and inspection of the operation of the merit personnel system in the Foreign Service and report to the Congress, not later than one year after the date of enactment of this Act, as to any improvements in the merit personnel system that the Comptroller General considers necessary. The report of the Comptroller General shall pay particular attention to reports of racial, ethnic, sexual, and other discriminatory practices in the recruitment, appointment, assignment, and promotion of Foreign Service employees.

SEC. 175. PERFORMANCE PAY.

(a) REVIEW OF PERFORMANCE PAY PROGRAMS.—

(1) SUSPENSION OF AWARDS DURING REVIEW.—During the period beginning on the date of enactment of this Act, and ending on the date on which the Inspector General of the Department of State reports to the Congress pursuant to paragraph (2), performance pay may not be awarded under section 405 of the Foreign Service Act of 1980 (22 U.S.C. 3965) to any member of the Senior Foreign Service in the Department of State.

(2) REVIEW BY INSPECTOR GENERAL.—The Inspector General of the Department of State shall conduct a complete and thorough review of—

(A) the procedures in the Department of State under which performance pay recipients are chosen to determine whether the procedures and award determinations are free from bias and reflect fair standards; and

(B) the adequacy of the criteria and the equity of the criteria actually applied in making those awards.

The review should be conducted in accordance with generally accepted Government auditing standards. The Inspector General shall report the results of this review to the Secretary of State and to the Congress no later than May 1, 1988.

(3) REPORT BY SECRETARY OF STATE.—No later than 60 days after the report of the Inspector General is submitted to the Secretary of State under paragraph (2), the Secretary shall submit to the Congress a report containing the comments of the Secretary on the report of the Inspector General and describing the actions taken and proposed to be taken by the Secretary as a result of the report.

(b) CARRY-OVER OF SENIOR FOREIGN SERVICE PERFORMANCE PAY.—Section 405(b) of the Foreign Service Act of 1980 (22 U.S.C. 3965(b)) is amended—

(1) in paragraph (4), by inserting at the end thereof the following: "Any amount which is not paid to a member of the Senior Foreign Service during a fiscal year because of this limitation shall be paid to that individual in a lump sum at the beginning of the following fiscal year. Any amount paid under this authority during a fiscal year shall be taken into account for purposes of applying the limitation in the first sentence of this subparagraph with respect to such fiscal year."; and

(2) by adding at the end thereof the following:

"(5) The Secretary of State shall prescribe regulations, consistent with section 5582 of title 5, United States Code, under which payment under this section shall be made in the case of any individual whose death precludes payment under paragraph (4) of this subsection.".

SEC. 176. EXTENSION OF LIMITED APPOINTMENTS.

Section 309 of the Foreign Service Act of 1980 (22 U.S.C. 3949) is amended—

(1) by striking out "section 311(a)" and inserting in lieu thereof "subsection (b)";

(2) by inserting "(a)" after "LIMITED APPOINTMENTS.—"; and

(3) by adding at the end the following new subsection:

"(b) A limited appointment may be extended for continued service—

"(1) as a consular agent;

"(2) in accordance with section 311(a);

"(3) as a career candidate, if continued service is determined appropriate to remedy a matter that would be cognizable as a grievance under chapter 11; and

"(4) as a career employee in another Federal personnel system serving in a Foreign Service position on detail from another agency.".

SEC. 177. CHIEF OF MISSIONS SALARY.

(a) Limitation on Compensation.—Section 401(a) of the Foreign Service Act of 1980 (22 U.S.C. 3961(a)) is amended—

(1) by striking out "Except as provided in section 302(b), each" and inserting in lieu thereof "Each"; and

(2) by striking out the period at the end thereof and inserting in lieu thereof ", except that the total compensation, exclusive of danger pay, for any chief of mission shall not exceed the annual rate payable for level II of such Executive Schedule.

(b) Salary.—Section 302(b) of such Act (22 U.S.C. 3942(b)) is amended by striking out "may elect to continue to receive" and all that follows and inserting in lieu thereof "shall receive the salary and leave (if any) of the position to which the member is appointed by the President and shall not be eligible for performance pay under Chapter 4 of this Act.".

(c) Effective Date.—The amendments made by subsections (a) and (b) shall not apply to the salary of any individual serving under a Presidential appointment under section 302 of the Foreign Service Act of 1980 immediately before the date of the enactment of this Act during the period such individual continues to serve in such position.

SEC. 178. PAY LEVEL OF AMBASSADORS AT LARGE.

(a) Compensation.—Chapter 53 of title 5 of the United States Code is amended—

(1) in section 5313, by striking out "Ambassadors at Large."; and

(2) in section 5315, by adding at the end thereof the following:

"Ambassadors at Large.".

(b) Effective Date and Limitation.—The amendments made by subsection (a) shall take effect 30 days after the date of enactment of this Act and shall not affect the salary of any individual holding the rank of Ambassador at Large immediately before the date of enactment of this Act during the period such individual continues to serve in such position.

SEC. 179. FOREIGN SERVICE CAREER CANDIDATES TAX TREATMENT.

(a) Representation to Tax Authorities.—Section 301(d)(3) of the Foreign Service Act of 1980 (22 U.S.C. 3941(d)(3)) is amended by adding at the end thereof "Foreign Service employees serving as career candidates or career members of the Service shall not represent to the income tax authorities of the District of Columbia or any other State or locality that they are exempt from income taxation on the basis of holding a Presidential appointment subject to Senate confirmation or that they are exempt on the basis of serving in an appointment whose tenure is at the pleasure of the President.".

(b) Effective Date.—The amendment made by subsection (a) shall apply with respect to tax years beginning after December 31, 1987.

SEC. 180. PROHIBITION ON MEMBER OF A FOREIGN SERVICE UNION NEGOTIATING ON BEHALF OF THE DEPARTMENT OF STATE.

It is the sense of Congress that the Secretary of State should take steps to assure that in labor-management negotiations between the Department of State and the exclusive representative of the Foreign Service employees of the Department, those who direct and conduct negotiations on behalf of management are not also beneficiaries of the agreements made with the exclusive representative.

SEC. 181. CLARIFICATION OF JURISDICTION OF FOREIGN SERVICE GRIEVANCE BOARD.

(a) Board Decisions.—Section 1107(d) of the Foreign Service Act of 1980 (22 U.S.C. 4137(d)) is amended—

(1) by inserting "(1)" after "(d)"; and

(2) by adding at the end the following:

"(2) A recommendation under paragraph (1) shall, for purposes of section 1110 of this Act, be considered a final action upon the expiration of the 30-day period referred to in such paragraph, except to the extent that it is rejected by the Secretary by an appropriate written decision.

"(3)(A) If the Secretary makes a written decision under paragraph (1) rejecting a recommendation in whole or in part on the basis of a determination that implementing such recommendation would be contrary to law, the Secretary shall, within the 30-day period referred to in such paragraph—

"(i) submit a copy of such decision to the Board; and

"(ii) request that the Board reconsider its recommendation or, if less than the entirety is rejected, that the Board reconsider the portion rejected.

"(B)(i) Within 30 days after receiving a request under subparagraph (A), the Board shall, after reviewing the Secretary's decision, make a recommendation to the Secretary either confirming, modifying, or vacating its original recommendation or, if less than the entirety was rejected, the portion involved.

"(ii) Reconsideration under this subparagraph shall be limited to the question of whether implementing the Board's original recommendation, either in whole or in part, as applicable, would be contrary to law.

"(C) A recommendation made under subparagraph (B) shall be considered a final action for purposes of section 1110 of this Act, and shall be implemented by the Secretary.".

(b) Board Recommendations.—The first sentence of section 1107(d)(1) of such Act (as amended by subsection (a) of this section) is amended by inserting ", tenure" immediately after "relates directly to promotion".

(c) Career Appointments.—Section 306 of such Act (22 U.S.C. 3946) is amended by adding at the end thereof the following new subsection:

"(c) Nothing in this section shall be construed to limit the authority of the Secretary or the Foreign Service Grievance Board under section 1107 of this Act.".

(d) Separation for Cause.—Section 610(a)(2) of such Act (22 U.S.C. 4010(a)(2)) is amended by adding after the first sentence the following new sentence: "If such cause is not established at such hearing, the Grievance Board shall have the authority to direct the Department to pay reasonable attorneys fees to the extent and in the manner provided by section 1107(b)(5) of this Act.".

(e) Application.—The amendments made by this section shall not apply with respect to any grievance in which the Board has issued a final decision pursuant to section 1107 of the Foreign Service Act of 1980 (22 U.S.C. 4137) before the date of enactment of this Act.

SEC. 182. RECORD OF GRIEVANCES AWARDED.

Section 1107 of the Foreign Service Act of 1980 (22 U.S.C. 4137) is hereby amended by adding the following new subsection:

"(e)(1) The Board shall maintain records of all grievances awarded in favor of the grievant in which the grievance concerns gross misconduct by a supervisor. Subject to paragraph (2), the Committee on Foreign Relations of the Senate shall be provided with a copy of the grievance decision whenever such a supervisor is nominated for any position requiring the advice and consent of the Senate and the Board shall provide access to the entire record of any proceedings of the Board concerning such a grievance decision to any Member of the Committee on Foreign Relations upon a request by the Chairman or Ranking Minority Member of such committee.

"(2)(A) Except as provided in subparagraph (B), all decisions, proceedings, and other records disclosed pursuant to paragraph (1) shall be treated as confidential and may be disclosed only to Committee members and appropriate staff.

"(B) Whenever material is provided to the Committee or a Member thereof pursuant to paragraph (1), the Board shall, at the same time, provide a copy of all such material to the supervisor who is the subject of such material.

"(C) A supervisor who is the subject of records disclosed to the committee pursuant to this subsection shall have the right to review such record and provide comments to the Committee concerning such record. Such comments shall be treated in a confidential manner.".

SEC. 183. WOMEN AND MINORITIES IN THE FOREIGN SERVICE.

(a) Findings.—The Congress finds that the Department of State and other Foreign Service agencies have not been successful in their efforts—

(1) to recruit and retain members of minority groups in order to increase significantly the number of members of minority groups in the Foreign Service; and

(2) to provide adequate career advancement for women and members of minority groups in order to increase significantly the numbers of women and members of minority groups in the senior levels of the Foreign Service.

(b) A More Representative Foreign Service.—The Secretary of State and the head of each of the other agencies utilizing the Foreign Service personnel system—

(1) shall substantially increase their efforts to implement effectively the plans required by section 152(a) of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987, so that the Foreign Service becomes truly representative of the American people throughout all levels of the Foreign Service; and

(2) shall ensure that those plans effectively address the need to promote increased numbers of qualified women and members of minority groups into the senior levels of the Foreign Service.

(c) Department of State Hiring Practices of Minorities and Women.—The Secretary of State shall include annually as part of the report required to be submitted pursuant to section 105(d)(2) of the Foreign Service Act of 1980—

(1) a report on the progress made at the Assistant Secretary and Bureau level of the Department of State in increasing the presence of minorities and women at all levels in the Foreign Service and Civil Service workforces of the Department of State, and

(2) the specific actions taken to address the lack of Hispanic Americans, Asian Americans, and Native Americans in the Senior Executive Service and Senior Foreign Service of the Department of State.

SEC. 184. COMPLIANCE WITH LAW REQUIRING REPORTS TO CONGRESS.

(a) Compliance With Prior Request.—Within 90 days after the date of enactment

of this Act, the Secretary of State shall submit to the chairmen and ranking members of the Committee on Foreign Relations and the Committee on Governmental Affairs of the Senate, and the Committee on Foreign Affairs, the Committee on Post Office and Civil Service, and the Committee on Government Operations of the House of Representatives, a report complying with the 1984 request of the Senate Committee on Governmental Affairs for a listing and description of all policy and supporting positions in the Department of State and related agencies. The report shall include an unclassified tabulation, as of the 1984 request, of the following:

(1) All Foreign Service officer positions then occupied by noncareer appointees.

(2) All positions in the Senior Foreign Service subject to noncareer appointment.

(3) The name of the incumbent; location; type; level, grade, or salary; tenure; and expiration (if any) of each position.

(b) COMPLIANCE WITH FUTURE REQUESTS.—Whenever the Committee on Governmental Affairs of the Senate or the Committee on Post Office and Civil Service of the House of Representatives requests information from the Secretary of State for inclusion in the publication "U.S. Government Policy and Supporting Positions", the Secretary shall provide such information in a timely manner.

SEC. 185. CHANGES IN REPORTING REQUIREMENTS.

(a) REPORT ON PERSONNEL ACTIONS IN THE FOREIGN SERVICE.—Section 105(d)(2) of the Foreign Service Act of 1980 (22 U.S.C. 3905(d)(2)) is amended to read as follows:

"(2) The Secretary shall transmit, to the Chairman of the Committee on Foreign Relations of the Senate and the Speaker of the House of Representatives, the Department's reports on its equal employment opportunity and affirmative action programs and its minority recruitment programs, which reports are required by law, regulation, or directive to be submitted to the Equal Employment Opportunity Commission (EEOC) or the Office of Personnel Management (OPM). Each such report shall be transmitted to the Congress at least once annually, and shall be received by the Congress not later than 30 days after its original submission to the Equal Employment Opportunity Commission or the Office of Personnel Management.".

(b) REPORT ON USE OF FOREIGN SERVICE PERSONNEL BY FEDERAL AGENCIES.—Section 601(c) of such Act (22 U.S.C. 4001(c)) is amended by adding at the end thereof the following new paragraph:

"(4) Not later than March 1 of each year, the Secretary of State shall submit a report to the Speaker of the House of Representatives and to the Committee on Foreign Relations of the Senate which shall—

"(A) describe the steps taken and planned in furtherance of—

"(i) maximum compatibility among agencies utilizing the Foreign Service personnel system, as provided for in section 203, and

"(ii) the development of uniform policies and procedures and consolidated personnel functions, as provided for in section 204;

"(B) specify the upper and lower limits planned by each such agency for recruitment, advancement, and retention of members of the Service, as provided for in section 601(c)(2), including, with respect to each of the relevant promotion competition groups, the projected ranges of rates of appointment, promotion, and attrition over each of the next 5 fiscal years, as well as a comparison of such projections with the projections for the preceding year and with actual rates of appointment, promotion, and attrition, including a full explanation of any deviations from projections reported in the preceding year; and

"(C) specify the numbers of members of the Service who are assigned to positions classified under section 501 which are more than one grade higher or lower than the personal rank of the member.".

(c) REPEALS.—(1) Section 703(f) of the Foreign Service Act of 1980 (22 U.S.C. 4023(f)) is repealed.

(2) Sections 2402 (a) and (b) of the Foreign Service Act of 1980 are repealed, and section 2402(c) of such Act is amended by striking out "this section" and inserting in lieu thereof "section 601(c)(4)".

(3) Section 152(c) of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987 (22 U.S.C. 3922a(c)) is repealed.

SEC. 186. DISPOSITION OF PERSONAL PROPERTY ABROAD.

(a) AMENDMENT TO STATE DEPARTMENT BASIC AUTHORITIES ACT OF 1956.—The State Department Basic Authorities Act of 1956 (P.L. 84-885; 22 U.S.C. 2269 et seq.) is amended by adding at the end thereof the following new title:

"TITLE III—DISPOSITION OF PERSONAL PROPERTY ABROAD

"SEC. 301. DEFINITIONS.

"For purposes of this title, the following terms have the following meanings:

"(1) The term 'employee' means an individual who is under the jurisdiction of a chief of mission to a foreign country (as provided under section 207 of the Foreign Service Act of 1980 (22 U.S.C. 3927)) and who is—

"(A) an employee as defined by section 2105 of title 5, United States Code;

"(B) an officer or employee of the United States Postal Service or of the Postal Rate Commission;

"(C) a member of a uniformed service who is not under the command of an area military commander; or

"(D) an expert or consultant as authorized pursuant to section 3109 of title 5, United States Code, with the United States or any agency, department, or establishment thereof; but is not a national or permanent resident of the foreign country in which employed.

"(2) The term 'contractor' means—

"(A) an individual employed by personal services contract pursuant to section 2(c) of this Act (22 U.S.C. 2669(c)), section 636(a)(3) of the Foreign Assistance Act of 1961 (22 U.S.C. 2396(a)(3)), or pursuant to other similar authority, including, in the case of an organization performing services under such authority, an individual involved in the performance of such services; and

"(B) such other individuals or firms providing goods or services by contract as are designated by regulations issued pursuant to section 303;

but does not include a contractor with or under the supervision of an area military commander.

"(3) The term 'charitable contribution' means a contribution or gift as defined in section 170(c) of the Internal Revenue Code of 1986, or other similar contribution or gift to a bona fide charitable foreign entity as determined pursuant to regulations or policies issued pursuant to section 303.

"(4) The term 'chief of mission' has the meaning given such term by section 102(3) of the Foreign Service Act of 1980 (22 U.S.C. 2902(3)).

"(5) The term 'foreign country' means any country or territory, excluding the United States, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the Trust Territory of the Pacific Islands, American Samoa, Guam, the Virgin Islands, and other territories or possessions of the United States.

"(6) The term 'personal property' means any item of personal property, including automobiles, computers, boats, audio and video equipment, and any other items acquired for personal use, but excluding items of minimal value as determined by regulation or policy issued pursuant to section 303.

"(7) The term 'profit' means any proceeds (including cash and other valuable consideration but not including amounts of such proceeds given as charitable contributions) for the sale, disposition, or assignment of personal property in excess of the basis for such property. For purposes of this title, basis shall include initial price, inland and overseas transportation costs (if not reimbursed by the United States Government), shipping insurance, taxes, customs fees, duties or other charges, and capital improvements, but shall not include insurance on an item while in use, or maintenance and related costs. For purposes of computing profit, proceeds and costs shall be valued in United States dollars at the time of receipt or payment, at a rate of exchange as determined by regulation or policy issued pursuant to section 303.

"SEC. 302. LIMITATIONS ON DISPOSITION OF PERSONAL PROPERTY.

"(a) GENERAL RULE.—Except as authorized under subsection (b), employees or members of their family shall not sell, assign, or otherwise dispose of personal property within a foreign country which was imported into or purchased within that foreign country and which, by virtue of the official status of the employee, was exempt from import limitation, customs duties, or taxes which would otherwise apply.

"(b) APPROVAL BY CHIEF OF MISSION.—The chief of mission to a foreign country, or a designee of such chief of mission, is authorized to approve within that foreign country sales, assignment, or other dispositions of property by employees under the chief of mission's jurisdiction (as described in section 207 of the Foreign Service Act of 1980 (22 U.S.C. 3927)) to the extent that such sale, assignment, or other disposition is in accordance with regulations and policies, rules, and procedures issued pursuant to section 303.

"(c) VIOLATION.—Violation of this section, or other importation, sale, or other disposition of personal property within a foreign country which violates its laws or regulations or governing international law and is prohibited by regulations and policies, rules, and procedures issued pursuant to section 303, shall be grounds for disciplinary action against an employee.

"SEC. 303. REGULATIONS.

"(a) ISSUANCE; PURPOSE.—The Secretary of State may issue regulations to carry out the purposes of this title. The primary purpose of such regulations and related policies, rules, and procedures shall be to assure that employees and members of their families do not profit personally from sales or other transactions with persons who are not themselves entitled to exemption from import restrictions, duties, or taxes.

"(b) CONTRACTORS.—Such regulations shall require that, to the extent contractors enjoy importation or tax privileges in a foreign country because of their contractual relationship to the United States Government, after the effective date of this title contracting agencies shall include provisions in their contracts to carry out the purpose of this title.

"(c) CHIEF OF MISSION.—In order to ensure that due account is taken of local conditions, including applicable laws, markets, exchange rate factors, and accommodation exchange facilities, such regulations may authorize the chief of mission to each foreign country to establish more detailed policies, rules, or procedures for the application of this title within that country to employees under the chief of mission's jurisdiction.".

(b) EFFECTIVE DATE.—This section shall take effect 180 days after the date of enactment of this Act.

SEC. 187. AUTHORITIES FOR SERVICE OF FASCELL FELLOWS.

Section 1005(b) of the Fascell Fellowship Act (22 U.S.C. 4904(b)) is amended to read as follows:

"(b) AUTHORITIES.—Fellows may be employed—

"(1) under a temporary appointment in the civil service;

"(2) under a limited appointment in the Foreign Service; or

"(3) by contract under the provisions of section 2(c) of the State Department Basic Authorities Act of 1956.".

SEC. 188. BENEFITS FOR CERTAIN FORMER SPOUSES OF MEMBERS OF THE FOREIGN SERVICE.

(a) IN GENERAL.—Subchapter I of Chapter 8 of the Foreign Service Act of 1980 (22 U.S.C. 3901 et seq.) is amended by inserting after section 829 (22 U.S.C. 4069) the following:

"SEC. 830. RETIREMENT BENEFITS FOR CERTAIN FORMER SPOUSES.

"(a) Any individual who was a former spouse of a participant or former participant on February 14, 1981, shall be entitled, to the extent or in such amounts as are provided in advance in appropriations Acts, and except to the extent such former spouse is disqualified under subsection (b), to benefits—

"(1) if married to the participant throughout the creditable service of the participant, equal to 50 percent of the benefits of the participant; or

"(2) if not married to the participant throughout such creditable service, equal to that former spouse's pro rata share of 50 percent of such benefits.

"(b) A former spouse shall not be entitled to benefits under this section if—

"(1) the former spouse remarries before age 55; or

"(2) the former spouse was not married to the participant at least 10 years during service of the participant which is creditable under this chapter with at least 5 years occurring while the participant was a member of the Foreign Service.

"(c)(1) The entitlement of a former spouse to benefits under this section—

"(A) shall commence on the later of—

"(i) the day the participant upon whose service the benefits are based becomes entitled to benefits under this chapter; or

"(ii) the first day of the month in which the divorce or annulment involved becomes final; and

"(B) shall terminate on the earlier of—

"(i) the last day of the month before the former spouse dies or remarries before 55 years of age; or

"(ii) the date the benefits of the participant terminates.

"(2) Notwithstanding paragraph (1), in the case of any former spouse of a disability annuitant—

"(A) the benefits of the former spouse shall commence on the date the participant would qualify on the basis of his or her creditable service for benefits under this chapter (other than a disability annuity) or the date the disability annuity begins, whichever is later, and

"(B) The amount of benefits of the former spouse shall be calculated on the basis of benefits for which the participant would otherwise so qualify.

"(3) Benefits under this section shall be treated the same as an annuity under section 814(a)(7) for purposes of section 806(h) or any comparable provision of law.

"(4)(A) Benefits under this section shall not be payable unless appropriate written application is provided to the Secretary, complete with any supporting documentation which the Secretary may by regulation require, within 30 months after the effective date of this section. The Secretary may waive the 30-month application requirement under this subparagraph in any case in which the Secretary determines that the circumstances so warrant.

"(B) Upon approval of an application provided under subparagraph (A), the appropriate benefits shall be payable to the former spouse with respect to all periods before such approval during which the former spouse was entitled to such benefits under this section, but in no event shall benefits be payable under this section with respect to any period before the effective date of this section.

"(d) For the purposes of this section, the term 'benefits' means—

"(1) with respect to a participant or former participant subject to this subchapter, the annuity of the participant or former participant; and

"(2) with respect to a participant or former participant subject to subchapter II, the benefits of the participant or former participant under that subchapter.

"(e) Nothing in this section shall be construed to impair, reduce, or otherwise affect the annuity or the entitlement to an annuity of a participant or former participant under this chapter.

"SEC. 831. SURVIVOR BENEFITS FOR CERTAIN FORMER SPOUSES.

"(a) Any individual who was a former spouse of a participant or former participant on February 14, 1981, shall be entitled, to the extent or in such amounts as are provided in advance in appropriations Acts, and except to the extent such former spouse is disqualified under subsection (b), to a survivor annuity equal to 55 percent of the greater of—

"(1) the full amount of the participant's or former participant's annuity, as computed under this chapter; or

"(2) the full amount of what such annuity as so computed would be if the participant or former participant had not withdrawn a lump-sum portion of contributions made with respect to such annuity.

"(b) If an election has been made with respect to such former spouse under section 2109 or 806(f), then the survivor annuity under subsection (a) of such former spouse shall be equal to the full amount of the participant's or former participant's annuity referred to in subsection (a) less the amount of such election.

"(c) A former spouse shall not be entitled to a survivor annuity under this section if—

"(1) the former spouse remarries before age 55; or

"(2) the former spouse was not married to the participant at least 10 years during service of the participant which is creditable under this chapter with at least 5 years occurring while the participant was a member of the Foreign Service.

"(d)(1) The entitlement of a former spouse to a survivor annuity under this section—

"(A) shall commence—

"(i) in the case of a former spouse of a participant or former participant who is deceased as of the effective date of this section, beginning on such date; and

"(ii) in the case of any other former spouse, beginning on the later of—

"(I) the date that the participant or former participant to whom the former spouse was married dies; or

"(II) the effective date of this section; and

"(B) shall terminate on the last day of the month before the former spouse's death or remarriage before attaining the age 55.

"(2)(A) A survivor annuity under this section shall not be payable unless appropriate written application is provided to the Secretary, complete with any supporting documentation which the Secretary may by regulation require, within 30 months after the effective date of this section. The Secretary may waive the 30-month application requirement under this subparagraph in any case in which the Secretary determines that the circumstances so warrant.

"(B) Upon approval of an application provided under subparagraph (A), the appropriate survivor annuity shall be payable to the former spouse with respect to all periods before such approval during which the former spouse was entitled to such annuity under this section, but in no event shall a survivor annuity be payable under this section with respect to any period before the effective date of this section.

"(e) The Secretary shall—

"(1) as soon as possible, but not later than 60 days after the effective date of this section, issue such regulations as may be necessary to carry out this section; and

"(2) to the extent practicable, and as soon as possible, inform each individual who was a former spouse of a participant or former participant on February 14, 1981, of any rights which such individual may have under this section.

"(f) Nothing in this section shall be construed to impair, reduce, or otherwise affect the annuity or the entitlement to an annuity of a participant or former participant under this chapter.

"SEC. 832. HEALTH BENEFITS FOR CERTAIN FORMER SPOUSES.

"(a) Except as provided in subsection (c)(1), any individual—

"(1) formerly married to an employee or former employee of the Foreign Service, whose marriage was dissolved by divorce or annulment before May 7, 1985;

"(2) who, at any time during the 18-month period before the divorce or annulment became final, was covered under a health benefits plan as a member of the family of such employee or former employee; and

"(3) who was married to such employee for not less than 10 years during periods of government service by such employee, is eligible for coverage under a health benefits plan in accordance with the provisions of this section.

"(b)(1) Any individual eligible for coverage under subsection (a) may enroll in a health benefits plan for self alone or for self *and family if, before the expiration of the 6-month period beginning on the effective date of this section, and in accordance with such procedures as the Director of the Office of Personnel Management shall by regulation prescribe, such individual—*

"(A) files an election for such enrollment; and

"(B) arranges to pay currently into the Employees Health Benefits Fund under section 8909 of title 5, United States Code, an amount equal to the sum of the employee and agency contributions payable in the case of an employee enrolled under chapter 89 of such title in the same health benefits plan and with the same level of benefits.

"(2) The Secretary shall, as soon as possible, take all steps practicable—

"(A) to determine the identity and current address of each former spouse eligible for coverage under subsection (a); and

"(B) to notify each such former spouse of that individual's rights under this section.

"(3) The Secretary shall waive the 6-month limitation set forth in paragraph (1) in any case in which the Secretary determines that the circumstances so warrant.

"(c)(1) Any former spouse who remarries before age 55 is not eligible to make an election under subsection (b)(1).

"(2) Any former spouse enrolled in a health benefits plan pursuant to an election under subsection (b)(1) may continue the enrollment under the conditions of eligibility which the Director of the Office of Personnel Management shall by regulation prescribe, except that any former spouse who remarries before age 55 shall not be eligible for continued enrollment under this section after the end of the 31-day period beginning on the date of remarriage.

"(d) No individual may be covered by a health benefits plan under this section during any period in which such individual is enrolled in a health benefits plan under any other authority, nor may any individual be covered under more than one enrollment under this section.

"(e) For purposes of this section the term 'health benefits plan' means an approved health benefits plan under chapter 89 of title 5, United States Code.".

(b) CONFORMING AMENDMENT.—The table of contents in section 2 of the Foreign Service Act of 1980 is amended by inserting after the item relating to section 829 the following:

"Sec. 830. Retirement benefits for certain former spouses.
"Sec. 831. Survivor benefits for certain former spouses.
"Sec. 832. Health benefits for certain former spouses.".

TITLE II—THE UNITED STATES INFORMATION AGENCY

SEC. 201. AUTHORIZATION OF APPROPRIATIONS; ALLOCATION OF FUNDS.

There are authorized to be appropriated to the United States Information Agency the following amounts to carry out international information activities under the United States Information and Educational Exchange Act of 1948, Reorganization Plan Number 2 of 1977, and other purposes authorized by law:

(1) For "Salaries and Expenses", $369,455,000 for the fiscal year 1988 and $376,845,000 for the fiscal year 1989;

(2) For "Television and Film Service", $30,391,000 for the fiscal year 1988 and $30,999,000 for the fiscal year 1989; and

(3) For "East-West Center", $20,000,000 for the fiscal year 1988 and $20,400,000 for the fiscal year 1989.

SEC. 202. FUNDS APPROPRIATED FOR THE UNITED STATES INFORMATION AGENCY.

(a) NOTIFICATION REQUIREMENT BEFORE AWARDING PROGRAM GRANTS.—Section 705(b) of the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1477c) is amended by striking out "for the fiscal years 1986 and 1987".

(b) PROHIBITION ON CERTAIN REPROGRAMMING.—Section 705 of the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1477c) is amended by adding at the end the following:

"(c) Funds appropriated for the United States Information Agency may not be available for obligation or expenditure through any reprogramming described in subsection (a) during the period which is the last 15 days in which such funds are available unless notice of such reprogramming is made before such period.".

SEC. 203 RECEIPTS FROM ENGLISH-TEACHING AND LIBRARY PROGRAMS.

Section 810 of the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1475e) is amended to read as follows:

"SEC. 810. Notwithstanding the provisions of section 3302(b) of title 31, United States Code, or any other law or limitation of authority, all payments received by or for the use of the United States Information Agency from or in connection with English-teaching and library services conducted by or on behalf of the Agency under the authority of this Act or the Mutual Educational and Cultural Exchange Act of 1961 may be credited to the Agency's applicable appropriation to such extent as may be provided in advance in an appropriation Act.".

SEC. 204. USIA POSTS AND PERSONNEL OVERSEAS.

(a) PROHIBITION.—No funds authorized to be appropriated by this Act or any other Act may be used to pay any expense associated with the closing of any United States Information Agency post abroad. No funds authorized to be appropriated by this Act shall be used to pay for any expense associated with the Bureau of Management or with the television and film service of the United States Information Agency if a United States Information Agency post abroad is closed after April 1, 1987, and not reopened within 180 days of the date of enactment of this Act.

(b) LIMITATION ON REDUCTION OF POSITIONS.—Reductions shall not be made in the number of positions filled by American employees of the United States Information Agency stationed abroad until the number of such employees is the same percentage of the total number of American employees of the Agency as the number of American employees of the Agency stationed abroad in 1981 was to the total number of American employees of the Agency at the same time in 1981.

(c) WAIVER.—Subsections (a) and (b) shall not apply to any United States Information Agency post closed—

(1) after January 1, 1987, and before the date of enactment of this Act if the host government will not allow that post to be reopened;

(2) because of a break or downgrading of diplomatic relations between the United States and the country in which the post is located,

(3) where there is a real and present threat to American diplomats in the city where the post is located and where a travel advisory warning against American travel to the city has been issued by the Department of State, or

(4) when the post is closed so as to provide funds to open a new post, staffed by at least one full-time foreign service officer, and where the Director of the United States Information Agency reports to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives that—

(A) the new post is a higher priority than the post proposed to be closed; and

(B) the total number of United States Information Agency posts abroad staffed by full-time Foreign Service employees of the Agency is not less than the number of such posts in existence on April 1, 1987.

(d) SEQUESTRATION.—In the case that a sequestration order is issued pursuant to Part C of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901 et seq.; Public Law 99-177), the Director of the United States Information Agency may, as part of an agency wide austerity proposal, submit a report proposing a list of United States Information Agency posts to be downgraded or closed in order to comply with the sequestration order, together with a justification for the inclusion of each post on such list. Such report shall be submitted to the Committee on Foreign Relations and the Committee on Appropriations of the Senate and the Committee on Foreign Affairs and the Committee on Appropriations of the House of Representatives.

SEC. 205. FORTY-YEAR LEASING AUTHORITY.

Section 801(3) of the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1471(3)) is amended by striking out "twenty-five" and inserting in lieu thereof "forty".

SEC. 206. UNITED STATES INFORMATION AGENCY PROGRAMMING ON AFGHANISTAN.

(a) THE AFGHANISTAN COUNTRY PLAN.— The Director of the United States Information Agency shall implement a formal, comprehensive country plan on Afghanistan based on the guidelines set forth in the United States Information Agency country plan instructions for fiscal year 1988.

(b) REPORT TO CONGRESS.—Not later than 60 days after the date of the enactment of this Act, the Director of the United States Information Agency shall provide Congress in writing with the proposed comprehensive Afghanistan country plan.

SEC. 207. TELEVISION SERVICE OF THE UNITED STATES INFORMATION AGENCY.

The television and film service of the United States Information Agency, including Worldnet broadcasts, shall operate under the same criteria and conditions as are specified for the Voice of America by section 503 of the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1463).

SEC. 208. LIMITATION ON WORLDNET FUNDING.

Funds may not be reprogrammed in fiscal years 1988 and 1989 from any program, project, or activity for Worldnet. Funds may not be transferred in fiscal years 1988 and 1989 from any other account for Worldnet.

SEC. 209. AUDIENCE SURVEY OF WORLDNET PROGRAM.

(a) EARMARK.—Of the funds authorized to be appropriated for USIA's Worldnet Program by section 201(2), not less than $500,000 for the fiscal year 1988 shall be available only for the purpose of conducting a market survey in Europe of USIA's Worldnet programming.

(b) QUALIFICATIONS OF SURVEYOR.—Such survey shall be conducted by a television market survey company which has a long established reputation for objective estimates

of television audience size and which has not less than 15 years of substantial experience in estimating audience size.

(c) Report.—Not later than 9 months after the date of enactment of this Act, the Director of the United States Information Agency shall submit a report to the Chairman of the Committee on Foreign Relations of the Senate and the Chairman of the House Committee on Foreign Affairs containing—

(1) the best estimate by the company performing the audience survey of the number of persons in Europe who watch, on a daily basis, the passive (noninteractive) shows of USIA's Worldnet Program. Such estimate shall include the number of persons who watch a part of the daily passive (noninteractive) shows of USIA's Worldnet Program and the number of persons who watch such programs in their entirety;

(2) a description of the demographic composition and nationality of the persons watching such programs; and

(3) the entire report prepared by the company conducting the survey.

(d) Notification of Selected Surveyor.—At least 30 days prior to the approval by the Director of the United States Information Agency of a contract with a company conducting the survey required by this section, the Director shall provide the Chairman of the Senate Committee on Foreign Relations and the Chairman of the House Foreign Affairs Committee of the name of the company selected to conduct the survey together with a copy of the proposed contract.

(e) Limitation.—No funds authorized to be appropriated to the United States Information Agency shall be expended after October 1, 1988, on the production or acquisition of passive (noninteractive) programs for USIA's Worldnet television service unless—

(1) the survey required by this section has been completed in the manner described by this section;

(2) the report required by this section, along with a copy of the survey results, has been submitted to the Chairman of the Committee on Foreign Relations of the Senate and the Chairman of the Committee on Foreign Affairs of the House of Representatives; and

(3) the survey shows with a high degree of reliability that the average daily European audience for the passive (noninteractive) programs of USIA's Worldnet television service is not less than 2,000,000 viewers.

SEC. 210. NATIONAL ENDOWMENT FOR DEMOCRACY.

In addition to amounts authorized to be appropriated by section 201, there are authorized to be appropriated to the United States Information Agency $17,500,000 for the fiscal year 1988 and $18,100,000 for the fiscal year 1989 to be available only for a grant to the National Endowment for Democracy for carrying out its purposes, of which not less than $250,000 for the fiscal year 1988 shall be used to support elements of the free press, including free radio, and the democratic civic opposition inside Nicaragua which espouse democratic principles and objectives. As is the case with all programs of the National Endowment for Democracy, no employee of any department, agency, or other component of the United States Government may participate, directly or indirectly, in controlling and directing the use of these funds to the free press and democratic civic opposition inside Nicaragua.

SEC. 211. SEPARATE ACCOUNTS FOR NED GRANTEES.

Section 504(h) of the National Endowment for Democracy Act (22 U.S.C. 4413(h)) is amended by inserting "separate accounts with respect to such assistance and" after "keeps".

SEC. 212. NED TREATMENT OF INDEPENDENT LABOR UNIONS.

Section 503 of the National Endowment for Democracy Act (22 U.S.C. 4412) is amended by adding at the end thereof the following new subsection:

"(f) Nothing in this title shall preclude the Endowment from making grants to independent labor unions.".

SEC. 213. UNITED STATES ADVISORY COMMISSION ON PUBLIC DIPLOMACY.

Section 604 of the United States Information and Education Exchange Act of 1948 (22 U.S.C. 1469) is amended to read as follows:

"UNITED STATES ADVISORY COMMISSION ON PUBLIC DIPLOMACY

"Sec. 604. (a) The United States Advisory Commission on International Communication, Cultural and Educational Affairs, established by section 8 of Reorganization Plan Numbered 2 of 1977, is hereby redesignated as the United States Advisory Commission on Public Diplomacy (hereafter in this section referred to as the "Commission").

"(b) The Commission shall be composed of seven members who shall be appointed by and serve at the pleasure of the President. The members of the Commission shall represent the public interest and shall be selected from a cross section of educational, communications, cultural, scientific, technical, public service, labor and business, and professional backgrounds. The President shall designate a member to chair the Commission.

"(c) The Commission shall have a staff director who shall be appointed by the Chairman of the Commission. Subject to such rules and regulations as may be adopted by the Commission, the Chairman of the Commission may—

"(1) appoint such additional personnel for the staff of the Commission as the Chairman deems necessary; and

"(2) procure temporary and intermittent services to the same extent as is authorized by section 3109(b) of title 5, United States Code, but at rates for individuals not to exceed the daily equivalent of the annual rate of basic pay payable for grade GS-18 of the General Schedule under section 5332 of title 5, United States Code.

"(d) This section shall enter into force on January 20, 1989. Any provisions of section 8 of Reorganization Plan Numbered 2 of 1977 inconsistent with this section shall no longer have legal effect on that date. The prohibition limiting membership of individuals from the same political party is repealed.".

SEC. 214. DISTRIBUTION WITHIN THE UNITED STATES OF USIA FILM ENTITLED "AMERICA THE WAY I SEE IT".

Notwithstanding section 208 of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987 (22 U.S.C. 1461-1a) and the second sentence of section 501 of the United States Information and Education Exchange Act of 1948 (22 U.S.C. 1461)—

(1) the Director of the United States Information Agency shall make available to the Archivist of the United States a master copy of the film entitled "America The Way I See It"; and

(2) upon evidence that necessary United States rights and licenses have been secured and paid for by the person seeking domestic release of the film, the Archivist shall—

(A) reimburse the Director for any expenses of the Agency in making that master copy available;

(B) deposit that film in the National Archives of the United States; and

(C) make copies of that film available for purchase and public viewing within the United States.

Any reimbursement to the Director pursuant to this section shall be credited to the applicable appropriation of the United States Information Agency.

SEC. 215. AVAILABILITY OF CERTAIN USIA PHOTOGRAPHS FOR DISTRIBUTION WITHIN THE UNITED STATES BY THE DEPARTMENT OF DEFENSE.

Notwithstanding section 208 of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987 (22 U.S.C. 1461-1a) and the second sentence of section 501 of the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1461), the Director of the United States Information Agency shall make available, upon request, to the Secretary of Defense and the Secretaries of the military departments concerned photographs of military operations and military related activities that occurred in the Republic of Vietnam for the purpose of developing and publishing military histories by those departments. The Secretary of Defense, or the Secretary of the military department concerned, as appropriate, shall reimburse the Director for any expenses involved in making such photographs available. Any reimbursement to the Director pursuant to this section shall be credited to the applicable appropriation of the United States Information Agency.

SEC. 216. USIA UNDERGRADUATE SCHOLARSHIP PROGRAM.

(a) Increased Funding for Caribbean Region.—It is the sense of the House of Representatives that the United States Information Agency should provide increased funding for students in the Caribbean region under the scholarship program for developing countries established by title VI of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987.

(b) Definition.—

(1) As used in this section, the term "Caribbean region" means—

(A) Antigua and Barbuda, Aruba, the Bahamas, Barbados, Belize, Cuba, Dominica, the Dominican Republic, Grenada, Guyana, Haiti, Jamaica, St. Christopher and Nevis, St. Vincent and the Grenadines, St. Lucia, Trinidad and Tobago;

(B) Anguilla, British Virgin Islands, Cayman Islands, Montserrat, Netherlands Antilles, Turks and Caicos Islands; and

(C) French Guiana, Guadeloupe, and Martinique.

(2) Nothing in this subsection may be construed to encourage or authorize scholarships for students from any country which is a Communist country.

TITLE III—EDUCATIONAL AND CULTURAL AFFAIRS

SEC. 301. AUTHORIZATIONS OF APPROPRIATIONS.

(a) Authorization of Appropriations.—In addition to amounts authorized to be appropriated by section 201, there are authorized to be appropriated to the United States Information Agency for the Bureau of Educational and Cultural Affairs $188,625,000 for the fiscal year 1988 and $192,438,000 for the fiscal year 1989 to carry out the purposes of the Mutual Educational and Cultural Exchange Act of 1961. Of the funds authorized to be appropriated by this section, not less than—

(1) $93,000,000 for the fiscal year 1988 and $93,000,000 for the fiscal year 1989 shall be

available only for grants for the Fulbright Academic Exchange Programs;

(2) $39,000,000 for the fiscal year 1988 and $39,000,000 for the fiscal year 1989 shall be available only for grants for the International Visitors Program;

(3) $5,250,000 for the fiscal year 1988 and $5,250,000 for the fiscal year 1989 shall be available only for grants for the Hubert H. Humphrey Fellowship Program;

(4) $2,500,000 for the fiscal year 1988 and $2,500,000 for the fiscal year 1989 shall be available only for the Congress-Bundestag Exchange;

(5) $500,000 for the fiscal year 1988 and $500,000 for the fiscal year 1989 shall be available only to the Seattle Goodwill Games Organizing Committee for Cultural Exchange and other exchange-related activities associated with the 1990 Goodwill Games to be held in Seattle, Washington;

(6) $5,000,000 for the fiscal year 1988 and $5,000,000 for the fiscal year 1989 shall be available only for the Arts America Program; and

(7) $300,000 for the fiscal year 1988 shall be available only for books and materials to complete the collections at the Edward Zorinsky Memorial Library in Jakarta, Indonesia.

(b) ALLOCATION OF FUNDS FOR EXCHANGES BETWEEN THE UNITED STATES AND THE SOVIET UNION.—(1) Of the funds authorized to be appropriated by subsection (a), not less than $2,000,000 shall be available only for grants for exchange of persons programs between the United States and the Soviet Union.

(2) Funds allocated by paragraph (1) or (2) of subsection (a) may be counted toward the allocation required by this subsection to the extent that such funds are used, in accordance with their respective programs, for grants for exchange of persons programs between the United States and the Soviet Union.

SEC. 302. SAMANTHA SMITH MEMORIAL EXCHANGE PROGRAM.

(a) ESTABLISHMENT.—Section 112(a) of the Mutual Educational Exchange Act of 1961 (22 U.S.C. 2460(a)) is amended—

(1) by striking out "and" at the end of paragraph (6);

(2) by striking out the period at the end of paragraph (7) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new paragraph:

"(8) the Samantha Smith Memorial Exchange Program which advances understanding between the United States and the Soviet Union and between the United States and Eastern European countries through the exchange of persons under the age of 21 years and of students at an institution of higher education (as defined in section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a))) who have not received their initial baccalaureate degree.".

(b) AUTHORIZATION OF APPROPRIATIONS.—In addition to amounts authorized to be appropriated by section 301, there is authorized to be appropriated $2,000,000 for fiscal year 1988 and $2,000,000 for fiscal year 1989 to carry out the program established by the amendment made by subsection (a).

SEC. 303. THE ARTS AMERICA PROGRAM.

Section 112(a) of the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2460(a)), as amended by section 302, is further amended—

(1) by striking out "and" at the end of paragraph (7);

(2) by striking out the period at the end of paragraph (8) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new paragraph:

"(9) the Arts America program which promotes a greater appreciation and understanding of American art abroad by supporting exhibitions and tours by American artists in other countries.".

SEC. 304. PROFESSORSHIP ON CONSTITUTIONAL DEMOCRACY.

(a) FEDERAL SUPPORT FOR PROFESSORSHIP.—The President, in support of the statutory program of American studies abroad, is directed to foster studies in constitutional democracy at the Santo Tomas University in the Republic of the Philippines by supporting at such university under section 102(b)(4) of the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2452(b)(4)) a professorship on the subject of constitutional democracy, if such professorship is established by such university.

(b) FINANCIAL SUPPORT FOR THE PROFESSORSHIP.—If the professorship referred to in subsection (a) is established by the Santo Tomas University in the Republic of the Philippines, veterans of the Pacific theater in World War II and veterans of the Korean conflict and Vietnam era are encouraged to contribute funds under section 105(f) of the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2455(f)) to support such professorship.

SEC. 305. UNITED STATES-INDIA FUND.

Section 903(b) of the United States-India Fund for Cultural, Educational, and Scientific Cooperation Act (22 U.S.C. 290j-1) is amended to read as follows:

"(b) In accordance with the agreement negotiated pursuant to section 902(a), sums made available for investment for the United States-India Fund for Cultural, Educational, and Scientific Cooperation under the Departments of Commerce, Justice, and State, and the Judiciary and Related Agencies Appropriation Act, 1985, and any earnings on such sums shall be available for the purposes of section 902(a).".

SEC. 306. THE EDWARD ZORINSKY MEMORIAL LIBRARY.

(a) MEMORIAL FOR EDWARD ZORINSKY.—The United States Information Service library in Jakarta, Indonesia is named "The Edward Zorinsky Memorial Library".

(b) MEMORIAL PLAQUE.—The Director of the United States Information Agency shall cause a plaque to be made and prominently displayed at the library described in subsection (a). The plaque shall bear the following inscription:

"THE EDWARD ZORINSKY MEMORIAL LIBRARY

This library is dedicated to the memory of Edward Zorinsky, United States Senator from Nebraska. As a Senator, Edward Zorinsky worked tirelessly to promote the free exchange of ideas and people between the United States and other countries. This library, which is a forum for the exchange of ideas and knowledge between the people of the United States and the people of Indonesia, was reopened after a hiatus of more than twenty years as a result of legislation authored by Senator Zorinsky.".

SEC. 307. CULTURAL PROPERTY ADVISORY COMMITTEE.

(a) TERMS OF SERVICE.—Section 306(b)(3)(A) of the Convention on Cultural Property Implementation Act (19 U.S.C. 2601 note) is amended to read as follows:

"(3)(A) Members of the Committee shall be appointed for terms of three years and may be reappointed for one or more terms. With respect to the initial appointments, the President shall select, on a representative basis to the maximum extent practicable, four members to serve three-year terms, four members to serve two-year terms, and the remaining members to serve a one-year term. Thereafter each appointment shall be for a three-year term.".

(b) VACANCIES; CHAIRMANSHIP.—Section 306(b)(3)(B) of the Convention on Cultural Property Implementation Act (19 U.S.C. 2601 note) is amended to read as follows:

"(B)(i) A vacancy in the Committee shall be filled in the same manner as the original appointment was made and for the unexpired portion of the term, if the vacancy occurred during a term of office. Any member of the Committee may continue to serve as a member of the Committee after the expiration of his term of office until reappointed or until his successor has been appointed.

"(ii) The President shall designate a Chairman of the Committee from the members of the Committee.".

(c) APPLICATION.—The amendment made by subsection (a) shall apply to members of the Cultural Property Advisory Committee first appointed after the date of enactment of this Act.

TITLE IV—VOICE OF AMERICA

SEC. 401. AUTHORIZATIONS OF APPROPRIATIONS.

In addition to the amounts authorized to be appropriated under title II, there are authorized to be appropriated the following amounts to the United States Information Agency for the Voice of America for the purpose of carrying out title V of the United States Information and Educational Exchange Act of 1948 and the Radio Broadcasting to Cuba Act:

(1) For "Salaries and Expenses", $177,200,000 for the fiscal year 1988 and $180,744,000 for the fiscal year 1989;

(2) For "Voice of America/Europe", $3,000,000 for the fiscal year 1988 and $3,060,000 for the fiscal year 1989; and

(3) For "Radio Broadcasting to Cuba", $12,652,000 for the fiscal year 1988 and $12,905,000 for the fiscal year 1989.

SEC. 402. VOICE OF AMERICA/EUROPE.

Title V of the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1461 et seq.) is amended by adding after section 503 the following new section:

"SEC. 504. VOICE OF AMERICA/EUROPE.

"As part of its duties and programs under title V of the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1461 et seq.), Voice of America/Europe shall—

"(1) target news and features in accordance with the findings and recommendations of the Young European Survey;

"(2) conduct periodic audience evaluations and measurements; and

"(3) promote and advertise Voice of America/Europe.".

SEC. 403. CONTRACTOR REQUIREMENTS.

(a) FINDINGS.—The Congress finds that the overriding national security aspects of the $1,300,000,000 facilities modernization program of the Voice of America require the assurance of uninterrupted logistic support under all circumstances for the program. Therefore, it is in the best interests of the United States to provide a preference for United States contractors bidding on the projects of this program.

(b) RESPONSIVE BID.—A bid shall not be treated as a responsive bid for purposes of the facilities modernization program of the Voice of America unless the bidder can establish that the United States goods and services content, excluding consulting and management fees, of his proposal and the resulting contract will not be less than 55 percent of the value of his proposal and the resulting total contract.

(c) Preference for United States Contractors.—Notwithstanding any other provision of law, in any case where there are two or more qualified bidders on projects of the facilities modernization program of the Voice of America, including design and construction projects and projects with respect to transmitters, antennas, spare parts, and other technical equipment, all the responsive bids of United States persons and qualified United States joint venture persons shall be considered to be reduced by 10 percent.

(d) Exception.—

(1) Subsection (c) shall not apply with respect to any project of the facilities modernization program of the Voice of America when—

(A) precluded by the terms of an international agreement with the host foreign country;

(B) a foreign bidder can establish that he is a national of a country whose government permits United States contractors and suppliers the opportunity to bid on a competitive and nondiscriminatory basis with its national contractors and suppliers, on procurement and projects related to the construction, modernization, upgrading, or expansion of—

(i) its national public radio and television sector, or

(ii) its private radio and television sector, to the extent that such procurement or project is, in whole or in part, funded or otherwise under the control of a government agency or authority; or

(C) the Secretary of Commerce certifies (in advance of the award of the contract for that project) to the Director of the United States Information Agency that the foreign bidder is not receiving any direct subsidy from any government, the effect of which would be to disadvantage the competitive position of United States persons who also bid on the project; or

(D) the statutes of a host foreign country prohibit the use of United States contractors on such projects within that country.

(2) An exception under paragraph (1)(D) shall only become effective with respect to a foreign country 30 days after the Secretary of State certifies to the Committee on Foreign Affairs and the Committee on Appropriations of the House of Representatives and the Committee on Foreign Relations and the Committee on Appropriations of the Senate what specific actions the Secretary has taken to urge the foreign country to permit the use of United States contractors on such projects.

(d) Definitions.—For purposes of this section—

(1) the term "United States person" means a person that—

(A) is incorporated or otherwise legally organized under the laws of the United States, including any State (and any political subdivision thereof) and the District of Columbia;

(B) has its principal place of business in the United States;

(C) has been incorporated or otherwise legally organized in the United States for more than 5 years before the issuance date of the Invitation For Bids or the Request For Proposals with respect to a modernization project under subsection (b);

(D) has proven, as indicated by prior contracting experience, to possess the technical, managerial, and financial capability to successfully complete a project similar in nature and technical complexity to that being contracted for;

(E)(i) employs United States citizens in at least 80 percent of its principal management positions in the United States;

(ii) employs United States citizens in more than half of its permanent, full-time positions in the United States; and

(iii) will employ United States citizens in at least 80 percent of the supervisory positions on the modernization project site; and

(F) has the existing technical and financial resources in the United States to perform the contract; and

(2) the term "qualified United States joint venture person" means a joint venture in which a United States person or persons own at least 51 percent of the assets of the joint venture.

(e) Effective Date.—The provisions of this section shall apply to any project with respect to which the Request For Proposals (commonly referred to as "RFP") or the Invitation For Bids (commonly referred to as "IFB") was issued after December 28, 1986.

TITLE V—THE BOARD FOR INTERNATIONAL BROADCASTING

SEC. 501. AUTHORIZATION OF APPROPRIATIONS; ALLOCATION OF FUNDS.

(a) Authorization of Appropriations.—Section 8(a)(1)(A) of the Board for International Broadcasting Act of 1973 (22 U.S.C. 2877) is amended to read as follows:

"(A) $186,000,000 for fiscal year 1988 and $207,424,000 for fiscal year 1989; and".

(b) Allocation of Funds.—Of the funds authorized to be appropriated by section 8(a)(1)(A) of the Board for International Broadcasting Act of 1973, $12,000,000 for the fiscal year 1988 and $12,000,000 for the fiscal year 1989 shall be available only for radio transmitter construction and modernization.

SEC. 502. RESERVE FOR OFFSETTING DOWNWARD FLUCTUATIONS IN OVERSEAS RATES.

Section 8(b) of the Board for International Broadcasting Act of 1973 (22 U.S.C. 2877(b)) is amended by inserting after "RFE/RL, Incorporated," the following: "shall be certified to the Congress by the Director of the Office of Management and Budget and placed in reserve in a separate account in the Treasury only for the purpose of offsetting future downward fluctuations in foreign currency exchange rates in order to maintain the level of operations authorized for each fiscal year. Any such amount".

SEC. 503. CERTIFICATION OF CERTAIN CREDITABLE SERVICE.

The third to last sentence of section 8332(b) of title 5, United States Code, is amended by inserting ", and the Secretary of State with respect to the Asia Foundation and the Secretary of Defense with respect to the Armed Forces Network, Europe (AFN-E)," after "Board for International Broadcasting".

TITLE VI—ASIA FOUNDATION

SEC. 601. AUTHORIZATION OF APPROPRIATIONS.

Section 404 of the Asia Foundation Act (22 U.S.C. 4401 et seq.) is amended to read as follows:

"SEC. 404. FUNDING.

"There is authorized to be appropriated to the Secretary of State $13,700,000 for the fiscal year 1988 and $15,000,000 for the fiscal year 1989 for grants to The Asia Foundation pursuant to this title.".

TITLE VII—INTERNATIONAL ORGANIZATIONS

PART A—UNITED NATIONS

SEC. 701. PROBABLE EXEMPTIONS TO THE UNITED NATIONS EMPLOYEE HIRING FREEZE.

(a) Findings.—The Congress makes the following findings:

(1) In April 1986, the Secretary-General of the United Nations adopted a freeze on the hiring of personnel within the United Nations Secretariat.

(2) The conditions of the freeze were such that, as the terms of office for the personnel expired, replacements would not be recruited or hired to fill the vacant positions, with minor exceptions.

(3) The freeze was designed to reduce United Nations personnel by 15 percent over three years, as recommended by the Group of High-Level Intergovernmental Experts to Review the Efficiency of the Administrative and Financial Functioning of the United Nations (commonly referred to as the "Group of 18 Experts").

(4) On May 5, 1987, the Secretary-General reported to the Department of State that he was considering granting 156 exceptions to the hiring freeze.

(5) Of these 156 probable exceptions, 104 would be Soviet and Soviet-bloc nationals currently employed in the United Nations Secretariat—of 298 Soviet and Soviet-bloc nationals currently employed in the United Nations Secretariat—who would be replaced over the next 18 months.

(6) According to a report from the Select Committee on Intelligence of the Senate on "Soviet Presence in the United Nations Secretariat" (Senate Print 99-52, May 1985), approximately one-fourth of the Soviets in the United Nations Secretariat are intelligence officers, many more are co-opted by the Soviet intelligence agencies, and all Soviets in the United Nations Secretariat must respond to KGB requests for assistance.

(7) Other United States intelligence authorities estimate that as many as one-half of the Soviet and Soviet-bloc nationals in the United Nations Secretariat are officers of the KGB or the GRU.

(8) If the Secretary-General's probable exemptions are adopted, the Soviet Union will be allowed to replace retiring Soviet and Soviet-bloc personnel with new, highly skilled and well-trained intelligence officers of the KGB or the GRU.

(9) The Secretary-General's proposed exceptions would thus provide the Soviet Union with the capability to rebuild its intelligence apparatus within the United States, which was devastated in recent years when the United States ordered severe reductions in the size of the Soviet mission to the United Nations, the Soviet Embassy in Washington, District of Columbia, and the Soviet Consulate in San Francisco, California.

(10) Article 100 of the United Nations Charter calls for the establishment of an international civil service whose members are neutral and loyal only to the United Nations.

(11) Section 3 of Article 101 of the United Nations Charter calls for the appointment of individuals who are professionally qualified for the positions they are to fill and maintains that due regard shall be paid to the importance of recruiting the staff on as wide a geographical basis as possible.

(12) As of September 1985, 442 of 446 Soviet nationals employed throughout the United Nations system are "seconded", that is, serve on short, fixed-term contracts.

(13) Through the abuse of short, fixed-term contracts, the Soviet Union has maintained undue influence and control over major offices of the United Nations Secretariat, thereby effectively using the United Nations Secretariat in the conduct of its foreign relations, in clear violation of Articles 100 and 101 of the United Nations Charter.

(14) The Secretary-General's proposed exceptions to the hiring freeze (as described in paragraphs (1) through (5)) would continue the gross violations of Articles 100 and 101 of the United Nations Charter described in paragraph (13).

(15) The Secretary-General's proposed exceptions to such hiring freeze would be clearly inconsistent with the terms of the United Nation's self-imposed reform program.

(16) The United Nations has not yet achieved its reform goals and there is no indication that the United Nations can afford to make such large exceptions to such hiring freeze.

(b) REPORT TO CONGRESS.—(1) The Secretary of State shall report to the Congress not later than 90 days after the date of enactment of this Act and annually thereafter as to the status of secondment within the United Nations by the Soviet Union and Soviet-bloc member-nations.

(2) Such report shall contain as a minimum, a thorough analysis of the following issues:

(A) The number of Soviet and Soviet-bloc nationals who are currently seconded to the United Nations system on short, fixed-term contracts in New York, Geneva, Vienna, and Nairobi, and the percentage such number is to the total number of Soviet and Soviet-bloc nationals so seconded.

(B) The number of Soviet and Soviet-bloc nationals who are currently employed in the United States system on long-term contracts.

(C) The measures undertaken by the United States to persuade the United Nations Secretariat to enforce the provisions of the United Nations Charter which specifically govern the behavior and activities of United Nations employees, especially Articles 100 and 101.

(D) The measures undertaken by the United States either through bilateral or multilateral channels with the Soviet Union and other members of the Soviet-bloc to end their abuse of secondment.

(E) The measures undertaken by the United States to challenge Soviet and Soviet-bloc nationals' credentials and to deny them entry visas, in order to keep Soviet and Soviet-bloc intelligence operatives out of the United States and United Nations.

(F) The counterintelligence efforts undertaken by the United States to protect United States national security from hostile intelligence activities directed against the United States by Soviet and Soviet-bloc intelligence operatives employed by the United Nations.

(c) SENSE OF THE CONGRESS.—It is the sense of the Congress that—

(1) the President should take all such actions necessary to ensure compliance with the hiring freeze rule, including withholding all assessed United States contributions to the United Nations, and denying United States entry visas to Soviet and Soviet-bloc applicants coming to the United States to replace Soviet and Soviet-bloc nationals currently serving in the United Nations Secretariat;

(2) the President, through the Department of State and the United States mission to the United Nations, should express to the Secretary-General of the United Nations the insistence of the American people that the hiring freeze continue indefinitely, or until the United Nations has complied with the Group of 18 recommendations and can thus afford to make exceptions to the freeze;

(3) the Secretary-General should revoke all exceptions to the hiring freeze rule, excepting those member-nations which have 15 or fewer nationals serving in the United Nations Secretariat, or those positions not subject to geographical representation, such as those of the general service category;

(4) the long-term, flagrant violations of Articles 100 and 101 of the United Nations Charter and the abuse of secondment by the Soviet Union and Soviet-bloc member-nations are reprehensible;

(5) the United Nations should adopt the recommendations of the Group of 18 (as referred to in subsection (a)(3)) that no member-nation be allowed to have more than 50 percent of its nationals employed under fixed-term contracts;

(6) the Soviet Union is hereby condemned for—

(A) its refusal to adhere to the principles of the United Nations Charter calling for an international civil service,

(B) its abuse of secondment, and

(C) its absolute disregard of the solemn purpose of the United Nations to be an international civil service; and

(7) if the Soviet Union and the Soviet-bloc intend to remain member-nations of the United Nations, they should adhere to Articles 100, 101, and all other principles of the United Nations Charter to which every other member-nation must adhere.

(d) DEFINITION.—For the purposes of this section, the term "Soviet-bloc" means the countries of Bulgaria, Cuba, Czechoslovakia, East Germany, Hungary, Nicaragua, North Korea, Poland, and Romania.

SEC. 702. REFORM IN THE BUDGET DECISION-MAKING PROCEDURES OF THE UNITED NATIONS AND ITS SPECIALIZED AGENCIES.

(a) FINDINGS.—The Congress finds that the consensus based decision-making procedure established by General Assembly Resolution 41/213 is a significant step toward complying with the intent of section 143 of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987 (22 U.S.C. 287e note; 99 Stat. 405), as in effect before the date of enactment of this Act.

(b) REFORM.—Section 143 of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987 (22 U.S.C. 287e note; 99 Stat. 405), is amended to read as follows:

"SEC. 143. REFORM IN BUDGET DECISIONMAKING PROCEDURES OF THE UNITED NATIONS AND ITS SPECIALIZED AGENCIES.

"(a) FINANCIAL RESPONSIBILITY IN BUDGET PROCEDURES.—To achieve greater financial responsibility in preparation of the assessed budgets of the United Nations and its specialized agencies, the President should continue vigorous efforts to secure implementation by the United Nations, and adoption and implementation by its specialized agencies, of decision-making procedures on budgetary matters which assures that sufficient attention is paid to the views of the United States and other member states who are major financial contributors to such assessed budgets.

"(b) LIMITATION ON ASSESSED CONTRIBUTIONS.—

"(1) With respect to United States assessed contributions to the United Nations for each calendar year beginning with calendar year 1987—

"(A) 40 percent of the United States assessed contributions may be paid beginning on October 1 of such calendar year;

"(B) 40 percent of the United States assessed contributions may be paid when the President has determined and so reported to the Congress that—

"(i) the consensus based decision-making procedure established by General Assembly Resolution 41/213 is being implemented and its results respected by the General Assembly;

"(ii) progress is being made toward the 50 percent limitation on seconded employees of the Secretariat as called for by the Group of High Level Intergovernmental Experts to Review the Efficiency of the Administrative and Financial Functioning of the United Nations (Group of 18); and

"(iii) the 15 percent reduction in the staff of the Secretariat (recommendations 55 and 57 of the Group of 18) is being implemented and that such reduction is being equitably applied among the nationals on such staff; and

"(C) 20 percent of the United States assessed contributions may be paid beginning on a date which is 30 days after receipt by the Congress of the report described in subparagraph (B) unless the Congress within such 30-day period enacts, in accordance with subsection (c), a joint resolution prohibiting the payment of the remaining 20 percent of such funds.

"(2) In the case that the amount appropriated for United States assessed contributions to the United Nations for a calendar year is less than the full amount of such United States assessed contributions for that year, the final one-fifth of the amount appropriated may only be paid—

"(A) after the President has made the determinations and report specified in paragraph (1)(B); and

"(B) beginning on a date which is 30 days after receipt by the Congress of the report referred to in subparagraph (A) unless the Congress within such 30-day period enacts, in accordance with subsection (c), a joint resolution prohibiting the payment of the remaining one-fifth of such funds.

"(3) For each calendar year beginning with calendar year 1987, no payment may be made of an assessed contribution by the United States to any of the specialized agencies of the United Nations if such payment would cause the United States share of the total assessed budget for such agency to exceed 20 percent in any calendar year unless the President determines and so reports to the Congress that such agency has made substantial progress toward the adoption and implementation of decision-making procedures on budgetary matters in a manner that substantially achieves the greater financial responsibility referred to in subsection (a).

"(4) Subject to the availability of appropriations, when the presidential determinations referred to in paragraphs (1)(B), (2), and (3) have been made, payment of assessed contributions for prior years may be made to the United Nations or its specialized agencies (as the case may be) without regard to the contribution limitation contained in this section prior to its being amended by the Foreign Relations Authorization Act, Fiscal Year 1988 and 1989.

"(c) DEFINITION AND PROCEDURES.—

"(1)(A) The provisions of this subsection shall apply to the introduction and consideration in the Senate of a joint resolution described in subsections (b)(1)(C) and (b)(2).

"(B) For purposes of this subsection, the term 'joint resolution' means only a joint resolution introduced within 3 days after the date on which the report of the President described in subsection (b)(1)(B) is received by Congress, the matter after the resolving clause of which is as follows: 'That the payment to the United Nations of those contributions described in section 143(b)(1)(C) of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987, is prohibited'.

"(2) A joint resolution introduced in the Senate shall be referred to the Committee on Foreign Relations of the Senate. Such a joint resolution may not be reported before the 8th day after its introduction.

"(3) If the committee to which is referred a joint resolution has not reported such joint resolution (or an identical joint resolution) at the end of 15 days after its introduction, such committee shall be deemed to be discharged from further consideration of such joint resolution and such joint resolution shall be placed on the appropriate calendar of the Senate.

"(4)(A) When the committee to which a joint resolution is referred has reported, or has been deemed to be discharged (under paragraph (3)) from further consideration of, a joint resolution, it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) for any Member of the Senate to move to proceed to the consideration of the joint resolution, and all points of order against the joint resolution (and against consideration of the joint resolution) are waived. The motion is privileged in the Senate and is not debatable. The motion is not subject to amendment, or to a motion to postpone, or to a motion to proceed to the consideration of other business. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the joint resolution is agreed to, the joint resolution shall remain the unfinished business of the Senate until disposed of.

"(B) In the Senate, debate on the joint resolution, and on all debatable motions and appeals in connection therewith, shall be limited to not more than 10 hours, which shall be divided equally between those favoring and those opposing the joint resolution. A motion further to limit debate is in order and not debatable. An amendment to or a motion to postpone, or a motion to proceed to the consideration of other business, or a motion to recommit the joint resolution is not in order. A motion to reconsider the vote by which the joint resolution is agreed to or disagreed to is not in order.

"(C) Immediately following the conclusion of the debate on a joint resolution, and a single quorum call at the conclusion of the debate if requested in accordance with the rules of the Senate, the vote on final passage of the joint resolution shall occur.

"(D) Appeals from the decisions of the Chair relating to the application of the Rules of the Senate to the procedure relating to a joint resolution shall be decided without debate.

"(5) If, before the passage by the Senate of a joint resolution of the Senate, the Senate receives from the House of Representatives a joint resolution, then the following procedures shall apply:

"(A) The joint resolution of the House of Representatives shall not be referred to a committee.

"(B) With respect to a joint resolution of the Senate—

"(i) the procedure in the Senate shall be the same as if no joint resolution had been received from the House of Representatives; but

"(ii) the vote on final passage shall be on the joint resolution of the House of Representatives.

"(6) This subsection is enacted by the Congress—

"(A) as an exercise of rulemaking power of the Senate, and as such it is deemed a part of the rules of the Senate, but applicable only with respect to the procedure to be followed in the Senate in the case of a joint resolution, and it supersedes other rules only to the extent that it is inconsistent with such rules; and

"(B) with full recognition of the constitutional right of the Senate to change the rules (so far as relating to the procedure of the Senate) at any time, in the same manner and to the same extent as in the case of any other rule of the Senate.

(c) CONFORMING AMENDMENT.—The table of contents in section 1 of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987 (22 U.S.C. 287e note; 99 Stat. 405) is amended by striking out the item relating to section 143 and inserting in lieu thereof the following:

"Sec. 143. Reform in the budget decision-making procedures of the United Nations and its specialized agencies.".

"(e) TERMINATION DATE.—This section shall terminate on September 30, 1989.".

SEC. 703. HOUSING ALLOWANCES OF INTERNATIONAL CIVIL SERVANTS.

(a) UNITED STATES POLICY.—It is the policy of the United States to seek the implementation by the United Nations of the recommendation by the International Civil Service Commission to deduct from the pay (commonly referred to as a "rental deduction") of an international civil servant the amount of any housing allowance or payment which is provided by any member state to that international civil servant, in accordance with Article 100 of the Charter of the United Nations and regulations thereunder.

(b) UNITED STATES AMBASSADOR TO THE UNITED NATIONS.—The United States Ambassador to the United Nations shall seek to promote the adoption of the recommendation described in subsection (a).

SEC. 704. UNITED STATES PARTICIPATION IN THE UNITED NATIONS IF ISRAEL IS ILLEGALLY EXPELLED.

(a) GENERAL RULE.—The first sentence of section 115(b) of the Department of State Authorization Act, Fiscal Years 1984 and 1985 is amended to read as follows: "If Israel is illegally expelled, suspended, denied its credentials, or in any other manner denied its right to participate in any principal or subsidiary organ or in any specialized, technical, or other agency of the United Nations, the United States shall suspend its participation in any such organ or agency until the illegal action is reversed.".

(b) RULE OF CONSTRUCTION.—Such section is further amended by adding at the end thereof the following: "Nothing in this section may be construed to diminish or to affect United States participation in the United Nations Security Council or the Safeguards Program of the International Atomic Energy Agency.".

SEC. 705. UNITED NATIONS PROJECTS WHOSE PRIMARY PURPOSE IS TO BENEFIT THE PALESTINE LIBERATION ORGANIZATION.

Section 114(a) of the Department of State Authorization Act, Fiscal Year 1984 and 1985 (22 U.S.C. 287e note) is amended—

(1) by redesignating paragraphs (3) through (6) as paragraphs (4) through (7), respectively; and

(2) by inserting the following new paragraph (3) after paragraph (2):

"(3) 25 percent of the amount budgeted for that year for the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Population of the Occupied Territories (or any similar successor entity);".

SEC. 706. PUBLIC ACCESS TO UNITED NATIONS WAR CRIMES COMMISSION FILES.

(a) FINDINGS.—The Congress finds that—

(1) with the passing of time, it is important to document fully Nazi war crimes and crimes against humanity, lest the enormity of those crimes be forgotten; and

(2) the files of the United Nations War Crimes Commission deposited in the archives of the United Nations contain information valuable to our knowledge of the genocidal actions of the Nazis.

(b) POLICY.—It is the sense of the Congress that United States policy should be to support access by interested individuals and organizations to the files of the United Nations War Crimes Commission deposited in the archives of the United Nations.

SEC. 707. REPORT ON POLICIES PURSUED BY OTHER COUNTRIES IN INTERNATIONAL ORGANIZATIONS.

The last sentence of section 117 of the Department of State Authorization Act, Fiscal Years 1984 and 1985, is amended by inserting before the period the following: ", together with the amount and type of foreign assistance (if any) made available by the United States for the preceding fiscal year to each such country under the Foreign Assistance Act of 1961, the Arms Export Control Act, the Export-Import Bank Act of 1945, and the Peace Corps Act".

SEC. 708. PROTECTION OF TYRE BY THE UNITED NATIONS INTERIM FORCE IN LEBANON.

(a) FINDINGS.—The Congress finds that—

(1) the archaeological site of the ancient city of Tyre is an important part of the heritage of the people of Lebanon and of people everywhere;

(2) war and civil strife threaten the survival of the archaeological site at Tyre;

(3) the purchase of artifacts from Tyre, including purchases allegedly made by troops of the United Nations Interim Force in Lebanon (UNIFIL), is encouraging illegal excavation and looting of the Tyre site; and

(4) the United Nations Interim Force in Lebanon (UNIFIL) could best protect the archaeological site of Tyre so as to preserve this treasure for future generations.

(b) EXTENSION OF MANDATE OF UNIFIL.—The Secretary of State should request the Secretary General of the United Nations and the Security Council to extend the mandate of the United Nations Interim Force in Lebanon (UNIFIL) to include protection of the archaeological site of the ancient city of Tyre. The Secretary of State is directed to seek an order prohibiting the purchase of any artifact from Tyre by any person associated with the United Nations.

(c) REPORTING REQUIREMENT.—Not later than 6 months after the date of enactment of this Act, and every 12 months thereafter, for as long as the United Nations Interim Force in Lebanon remains in Lebanon, the Secretary of State shall report in writing to the chairman of the Committee on Foreign Relations of the Senate and the chairman of the Committee on Foreign Affairs of the House of Representatives on the progress made in implementing this section.

PART B—UNITED STATES COMMISSION ON IMPROVING THE EFFECTIVENESS OF THE UNITED NATIONS

SEC. 721. ESTABLISHMENT OF COMMISSION.

The United States Commission on Improving the Effectiveness of the United Nations (hereafter in this part referred to as the "Commission") is hereby established.

SEC. 722. PURPOSES OF THE COMMISSION.

(a) PURPOSES.—The purposes of the Commission shall be to—

(1) examine the United Nations system as a whole and identify and evaluate its strengths and weaknesses; and

(2) prepare and submit to the President and to the Congress recommendations on ways to improve the effectiveness of the United Nations system and the role of the United States in the United Nations system, including the feasibility of and means for implementing such recommendations.

(b) CONSULTATION REGARDING OTHER UNITED NATIONS REFORM EFFORTS.—In carrying out this section, the Commission shall make every effort to consult, where appropriate, with other public and private institutions and organizations engaged in efforts to reform the United Nations system, including efforts being made directly under the auspices of the United Nations.

SEC. 723. MEMBERSHIP OF THE COMMISSION.

(a) MEMBERS.—

(1) NUMBER AND APPOINTMENT.—The Commission shall be composed of 16 members, appointed as follows:

(A) Two Members of the Senate, one appointed by the President pro tempore of the Senate and one appointed by the Minority Leader of the Senate.

(B) Two Members of the House of Representatives, one appointed by the Speaker of the House and one appointed by the Minority Leader of the House.

(C) Eight individuals from the private sector, two appointed by the President pro tempore of the Senate, two appointed by the Minority Leader of the Senate, two appointed by the Speaker of the House, and two appointed by the Minority Leader of the House.

(D) Four individuals appointed by the President, not more than two of whom may be from the same political party.

(2) CRITERION FOR APPOINTMENTS.—Individuals appointed pursuant to subparagraphs (C) and (D) of paragraph (1) shall be representative, to the maximum extent possible, of the full range of American society.

(3) APPOINTMENTS TO BE MADE PROMPTLY.—All appointments pursuant to paragraph (1) shall be made not later than 60 days after the effective date of this part.

(4) VACANCIES.—Any vacancy in the membership of the Commission shall be filled in the same manner as the original appointment was made.

(b) ADVISORS.—Former United States Permanent Representatives to the United Nations who are not appointed to the Commission shall be invited by the Commission to serve as advisors to the Commission.

(c) COMPENSATION AND TRAVEL EXPENSES.—

(1) COMPENSATION IN GENERAL.—Except as provided in paragraph (2), each member of the Commission may be compensated at not to exceed the daily equivalent of the annual rate of basic pay in effect for grade GS-18 of the General Schedule under section 5332 of title 5, United States Code, for each day during which that member is engaged in the actual performance of the duties of the Commission.

(2) GOVERNMENT PERSONNEL.—Members of the Commission who are full-time officers or employees of the United States or Members of Congress shall receive no additional pay on account of their service on the Commission.

(3) TRAVEL EXPENSES.—While away from their homes or regular places of business in the performance of services for the Commission, members of the Commission, and Advisors serving pursuant to subsection (b), shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b) of title 5, United States Code.

(d) CHAIRMAN AND VICE CHAIRMAN.—The Chairman and Vice Chairman shall be elected by the Commission from among members of the Commission.

(e) QUORUM.—Nine members of the Commission shall constitute a quorum for purposes of transacting business, except that four members shall constitute a quorum for holding public hearings.

SEC. 724. POWERS OF THE COMMISSION.

(a) IN GENERAL.—For the purpose of carrying out this part, the Commission may hold such hearings (subject to the requirements of subsection (b)) and sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers necessary to fulfill the purposes specified in section 722.

(b) MEETINGS.—

(1) MINIMUM NUMBER OF PUBLIC HEARINGS.—The Commission shall hold a minimum of five public hearings.

(2) OPEN MEETINGS.—Section 552b of title 5 of the United States Code shall apply with respect to the Commission.

(3) CALLING MEETINGS.—The Commission shall meet at the call of the Chairman of a majority of its members.

(c) DELEGATION OF AUTHORITY.—When so authorized by the majority of the Commission, any member or agent of the Commission may take any action which the Commission is authorized to take by this section.

(d) INFORMATION FROM FEDERAL AGENCIES.—The Commission may secure directly from any Federal agency information necessary to enable it to carry out this part. Upon request of the Chairman of the Commission, the head of any such Federal agency shall furnish such information to the Commission, to the extent authorized by law; except that the head of any Federal agency to which a request for information is provided pursuant to this subsection may deny access to such information, or make access subject to such terms and conditions as the head of that agency may prescribe, on the basis that the information in question is classified and the Commission does not have adequate procedures to safeguard the information in question, or that the Commission does not have a need to know the classified information. In addition, a Federal agency may not provide the Commission with information that could disclose intelligence sources or methods without first securing the approval of the Director of Central Intelligence. The head of any such Federal agency may provide information on a reimbursable basis.

SEC. 725. STAFF.

(a) STAFF MEMBERS AND CONSULTANTS.—Subject to such rules as may be adopted by the Commission, the Chairman of the Commission, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classifications and General Schedule pay rates, may—

(1) appoint a Director who shall be paid at a rate not to exceed the rate of basic pay in effect for Level V of the Executive Schedule under section 5316 of title 5, United States Code;

(2) appoint and fix the compensation of such other staff personnel as the Chairman considers necessary; and

(3) procure temporary and intermittent services to the same extent as is authorized by section 3109(b) of title 5, United States Code.

(b) DETAILING OF GOVERNMENT PERSONNEL.—Upon request of the Commission, the head of any Federal agency may detail, on a reimbursable basis, any of the personnel of that agency to the Commission to assist it in carrying out this part.

SEC. 726. REPORT.

The Commission shall transmit to the President and to the Congress a report containing a detailed statement of the findings, conclusions, and recommendations of the Commission, including minority views. This report shall be transmitted not later than 18 months after the date on which all members of the Commission have been appointed.

SEC. 727. FUNDING FOR THE COMMISSION.

(a) COMMISSION TO BE PRIVATELY FUNDED.—The Commission may accept and use contributions from private United States sources to carry out this part. No Federal funds may be made available to the Commission for use in carrying out this part.

(b) LIMITATION ON SIZE OF CONTRIBUTIONS.—The Commission may not accept contributions from any single source which have a value of more than—

(1) $100,000, or

(2) 20 percent of the total of all contributions accepted by the Commission.

(c) COMMISSION APPROVAL OF CERTAIN CONTRIBUTIONS.—The Commission may accept contributions having a value of $1,000 or more from a single source only if more than two-thirds of the members of the Commission have approved the acceptance of those contributions.

(d) DISCLOSURE OF CONTRIBUTIONS.—

(1) PERIODIC REPORTS TO CONGRESS.—Every 30 days, the Commission shall submit to the chairman of the Committee on Foreign Affairs of the House of Representatives, and to the chairman of the Committee on Foreign Relations of the Senate, a list of the source and amount of each contribution accepted by the Commission during the preceding 30 days.

(2) FINAL REPORT.—The source and amount of each contribution accepted by the Commission shall be listed in the report submitted pursuant to section 726.

(e) LIMITATION ON OBLIGATIONS AND EXPENDITURES.—Notwithstanding subsection (a), the limitations on expenditures and obligations in section 1341 of title 31, United States Code, shall apply to the Commission.

SEC. 728. GENERAL ACCOUNTING OFFICE AUDITS OF THE COMMISSION.

The provisions of subchapter II of chapter 7 of title 31 of the United States Code (relating to the general duties and powers of the General Accounting Office) shall apply with respect to the programs and activities of the Commission, including the receipt, disbursement, and use of funds contributed to the Commission, to the same extent as those provisions apply with respect to other agencies of the United States Government.

SEC. 729. TERMINATION OF THE COMMISSION.

The Commission shall cease to exist 60 days after submitting its report pursuant to section 726.

SEC. 730. EFFECTIVE DATE.

This part shall take effect on March 1, 1989.

PART C—OTHER INTERNATIONAL ORGANIZATIONS

SEC. 741. PRIVILEGES AND IMMUNITIES TO OFFICES OF MISSION TO THE UNITED STATES OF THE COMMISSION OF THE EUROPEAN COMMUNITIES.

The Act entitled "An Act to extend diplomatic privileges and immunities to the Mission to the United States of America of the Commission of the European Communities and the members thereof", approved October 18, 1972 (86 Stat. 815), is amended by adding at the end the following: "Under such terms and conditions as the President may determine, the President is authorized to extend to other offices of the Commission of the European Communities which are established in the United States, and to members thereof—

"(1) the privileges and immunities described in the preceding sentence; or

"(2) as appropriate for the functioning of a particular office, privileges and immunities, equivalent to those accorded consular premises, consular officers, and consular employees, pursuant to the Vienna Convention on Consular Relations.".

SEC. 742. CONTRIBUTION TO THE REGULAR BUDGET OF THE INTERNATIONAL COMMITTEE OF THE RED CROSS AND SENSE OF CONGRESS CONCERNING RECOGNITION OF RED SHIELD OF DAVID.

(a) United States Contribution.—Pursuant to the provisions of section 109 of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987, the Secretary of State shall make an annual contribution to the regular budget of the International Committee of the Red Cross of an amount which is not less than 10 percent of its regular budget. Such contribution may be made from the funds authorized to be appropriated by section 104 for "Migration and Refugee Assistance".

(b) Limitation on Contributions.—Notwithstanding subsection (a), for fiscal year 1988, the United States contribution to the regular budget of the International Committee of the Red Cross shall not exceed nor be less than the amount contributed by the United States to the regular budget of the International Committee of the Red Cross in fiscal year 1987.

(c) Recognition of the Red Shield of David.—It is the sense of the Congress that a diplomatic conference of governments should grant identical status of recognition to the Red Shield of David (Magen David Adom) as that granted to the Red Cross and the Red Crescent and that the Red Shield of David Society of Israel should be accepted as a full member of the League of Red Cross Societies and the quadrennial International Conferences of the Red Cross.

SEC. 743. IMMUNITIES FOR THE INTERNATIONAL COMMITTEE OF THE RED CROSS.

The International Organizations Immunities Act is amended by inserting after section 12 (22 U.S.C. 288f-2) the following new section:

"Sec. 13. The International Committee of the Red Cross, in view of its unique status as an impartial humanitarian body named in the Geneva Conventions of 1949 and assisting in their implementation, shall be considered to be an international organization for the purposes of this title and may be extended the provisions of this title in the same manner, to the same extent, and subject to the same conditions, as such provisions may be extended to a public international organization in which the United States participates pursuant to any treaty or under the authority of any Act of Congress authorizing such participation or making an appropriation for such participation.".

SEC. 744. NORTH ATLANTIC ASSEMBLY.

(a) Appointment of Secretaries to the North Atlantic Assembly Delegations.—Section 1 of the joint resolution entitled "Joint Resolution to authorize participation by the United States in parliamentary conferences of the North Atlantic Treaty Organization", approved July 11, 1956 (22 U.S.C. 1928b; Public Law 84-689), is amended by adding at the end thereof the following new sentences: "Each delegation shall have a secretary. The secretaries of the Senate and House delegations shall be appointed, respectively, by the Chairman of the Committee on Foreign Relations of the Senate and the Chairman of the Committee on Foreign Affairs of the House of Representatives.".

(b) Authorization of Appropriations.—Section 2 of such joint resolution is amended—

(1) by striking out "$50,000" and inserting in lieu thereof "$75,000"; and

(2) by striking out "$25,000" the first place it appears and inserting in lieu thereof "$50,000".

SEC. 745. UNITED STATES MEMBERSHIP IN INTERGOVERNMENTAL COMMITTEE FOR EUROPEAN MIGRATION.

The President is hereby authorized to continue membership for the United States in the Intergovernmental Committee for European Migration in accordance with its constitution approved in Venice, Italy, on October 19, 1953, and, upon entry into force of the amendments to such constitution approved in Geneva, Switzerland, on May 20, 1987, to continue membership in the organization under the name International Organization for Migration in accordance with such constitution and amendments. For the purpose of assisting in the movement of refugees and migrants and to enhance the economic progress of the developing countries by providing for a coordinated supply of selected manpower, there are hereby authorized to be appropriated such amounts as may be necessary from time to time for the payment by the United States of its contributions to the Committee and all necessary salaries and expenses incidental to United States participation in the Committee.

SEC. 746. RECOGNITION OF CARICOM.

It is the sense of the Congress that the Secretary of State should consider recognizing the Caribbean Community and Common Market (CARICOM) as a regional planning organization in the Caribbean.

SEC. 747. ASIAN-PACIFIC REGIONAL HUMAN RIGHTS CONVENTION.

Not later than 180 days after the date of enactment of this Act, the Secretary of State shall submit a report to the Congress which—

(1) examines the nature and extent of human rights problems in the Asian-Pacific region; and

(2) assesses the willingness of the countries in the region to negotiate a regional human rights convention similar to the American Convention on Human Rights, the Conference on Security and Cooperation in Europe, and the African Charter on Peoples' and Human Rights.

TITLE VIII—INTERNATIONAL NARCOTICS CONTROL

SEC. 801. ASSIGNMENT OF DRUG ENFORCEMENT ADMINISTRATION AGENTS ABROAD.

If the Secretary of State, in exercising his authority to establish overseas staffing levels for Federal agencies with activities abroad, authorizes the assignment of any Drug Enforcement Administration agent to a particular United States mission abroad, the Secretary shall authorize the assignment of at least two such agents to that mission.

SEC. 802. QUARTERLY REPORTS ON PROSECUTION OF THOSE RESPONSIBLE FOR THE TORTURE AND MURDER OF DRUG ENFORCEMENT ADMINISTRATION AGENTS IN MEXICO.

Section 134(c) of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987, is amended by striking out "progress made in the Camarena case," and inserting in lieu thereof "progress made in investigating, and prosecuting those responsible for, the 1985 murders of Drug Enforcement Administration agent Enrique Camarena Salazar and his pilot Alfredo Zavala Avelar and the 1986 detention and torture of Drug Enforcement Administration agent Victor Cortez, Junior,".

SEC. 803. REQUIREMENT THAT EXTRADITION OF DRUG TRAFFICKERS BE A PRIORITY ISSUE OF UNITED STATES MISSIONS IN MAJOR ILLICIT DRUG PRODUCING OR TRANSIT COUNTRIES.

The Secretary of State shall ensure that the Country Plan for the United States diplomatic mission in each major illicit drug producing country and in each major drug-transit country (as those terms are defined in section 481(i) of the Foreign Assistance Act of 1961) includes, as an objective to be pursued by the mission—

(1) negotiating an updated extradition treaty which ensures that drug traffickers can be extradited to the United States, or

(2) if an existing treaty provides for such extradition, taking such steps as may be necessary to ensure that the treaty is effectively implemented.

SEC. 804. INFORMATION-SHARING SYSTEM SO THAT VISAS ARE DENIED TO DRUG TRAFFICKERS.

Not later than 90 days after the date of enactment of this Act, the Secretary of State shall submit to the Congress a report on the status of the comprehensive information system on drug arrests of foreign nationals which was required to be established by section 132 of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987.

SEC. 805. CERTIFICATION PROCEDURES FOR DRUG PRODUCING AND DRUG-TRANSIT COUNTRIES AND INCLUSION OF SPECIFIC AGENCY COMMENTS.

(a) Report.—Section 481(e) of the Foreign Assistance Act of 1961 is amended by adding at the end thereof the following new paragraph:

"(7) Each report pursuant to this subsection shall include specific comments and recommendations by appropriate Federal agencies involved in drug enforcement, including the United States Customs Service and the Drug Enforcement Administration, with respect to the degree to which countries listed in the report have cooperated fully with such agencies during the preceding year as described in subsection (h).".

(b) Resolution of Disapproval.—Section 481(h) of the Foreign Assistance Act of 1961 is amended in subparagraph (A), by striking out "30" and inserting in lieu thereof "45".

SEC. 806. SANCTIONS ON DRUG PRODUCING AND DRUG-TRANSIT COUNTRIES.

(a) Sanctions.—Section 802 of the Trade Act of 1974 is amended—

(1) in subsection (a)—

(A) by striking out "or" at the end of paragraph (3);

(B) by redesignating paragraph (4) as paragraph (6);

(C) by amending paragraph (6), as so redesignated, to read as follows:

"(6) take any combination of the actions described in paragraphs (1) through (5)."; and

(D) by inserting after paragraph (3) the following new paragraphs:

"(4) take the steps described in subsection (d)(1) or (d)(2), or both, to curtail air transportation between the United States and that country;

"(5) withdraw the personnel and resources of the United States from participation in any arrangement with that country for the pre-clearance of customs by visitors between the United States and that country; or";

(2) in subsection (b)—

(A) in paragraph (1), by inserting "corruption by government officials and" after "preventing and punishing";

(B) in paragraph (2)(A), by striking out "and" at the end thereof;

(C) in paragraph (2)(B), by striking out the period at the end thereof and inserting in lieu thereof "; and"; and

(D) by adding at the end thereof the following new clause:

"(C) has taken the legal and law enforcement steps necessary to eliminate, to the maximum extent possible, corruption by government officials, with particular emphasis on the elimination of bribery."; and

(3) in subsection (c), by inserting "paragraph (1), (2), or (3) of" after "under"; and

(4) by adding at the end thereof the following new subsection:

"(d) Presidential Action Regarding Aviation.—

"(1)(A) The President is authorized to notify the government of a country against which is imposed the sanction described in subsection (a)(4) of his intention to suspend the authority of foreign air carriers owned or controlled by the government or nationals of that country to engage in foreign air transportation to or from the United States.

"(B) Within 10 days after the date of notification of a government under subparagraph (A), the Secretary of Transportation shall take all steps necessary to suspend at the earliest possible date the authority of any foreign air carrier owned or controlled, directly or indirectly, by the government or nationals of that country to engage in foreign air transportation to or from the United States, notwithstanding any agreement relating to air services.

"(C) The President may also direct the Secretary of Transportation to take such steps as may be necessary to suspend the authority of any air carrier to engage in foreign air transportation between the United States and that country.

"(2)(A) The President may direct the Secretary of State to terminate any air service agreement between the United States and a country against which the sanction described in subsection (a)(4) is imposed in accordance with the provisions of that agreement.

"(B) Upon termination of an agreement under this paragraph, the Secretary of Transportation shall take such steps as may be necessary to revoke at the earliest possible date the right of any foreign air carrier owned, or controlled, directly or indirectly, by the government or nationals of that country to engage in foreign air transportation to or from the United States.

"(C) Upon termination of an agreement under this paragraph, the Secretary of Transportation may also revoke the authority of any air carrier to engage in foreign air transportation between the United States and that country.

"(3) The Secretary of Transportation may provide for such exceptions from paragraphs (1) and (2) as the Secretary considers necessary to provide for emergencies in which the safety of an aircraft or its crew or passengers is threatened.

"(4) For purposes of this subsection, the terms 'air transportation', 'air carrier', 'foreign air carrier' and 'foreign air transportation' have the meanings such terms have under section 101 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1301).".

(b) Conforming Amendment.—The title heading of title VIII of the Trade Act of 1974 is amended to read as follows: "TITLE VIII—TARIFF TREATMENT OF PRODUCTS OF, AND OTHER SANCTIONS AGAINST, UNCOOPERATIVE MAJOR DRUG PRODUCING OR DRUG-TRANSIT COUNTRIES".

(c) Aliens Excludable From Admission to the United States.—Section 212(a)(23) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(23)) is amended to read as follows:

"(23) Any alien who—

"(A) has been convicted of a violation of, or a conspiracy to violate, any law or regulation of a State, the United States, or a foreign country relating to a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)); or

"(B) the consular officers or immigration officers know or have reason to believe is or has been an illicit trafficker in any such controlled substance or is or has been a knowing assistor, abettor, conspirator, or colluder with others in the illicit trafficking in any such controlled substance;".

TITLE IX—IMMIGRATION AND REFUGEE PROVISIONS

SEC. 901. PROHIBITION ON EXCLUSION OR DEPORTATION OF ALIENS ON CERTAIN GROUNDS.

(a) In General.—Notwithstanding any other provision of law, no alien may be denied a visa or excluded from admission into the United States, subject to restrictions or conditions on entry into the United States, or subject to deportation because of any past, current, or expected beliefs, statements, or associations which, if engaged in by a United States citizen in the United States, would be protected under the Constitution of the United States.

(b) Construction Regarding Excludable Aliens.—Nothing in this section shall be construed as affecting the existing authority of the executive branch to deport, to deny issuance of a visa to, or to deny admission to the United States of, any alien—

(1) for reasons of foreign policy or national security, except that such deportation or denial may not be based on past, current, or expected beliefs, statements, or associations which, if engaged in by a United States citizen in the United States, would be protected under the Constitution of the United States;

(2) who a consular official or the Attorney General knows or has reasonable ground to believe has engaged, in an individual capacity or as a member of an organization, in a terrorist activity or is likely to engage after entry in a terrorist activity; or

(3) who seeks to enter in an official capacity as a representative of a purported labor organization in a country where such organizations are in fact instruments of a totalitarian state.

In addition, nothing in subsection (a) shall be construed as applying to an alien who is described in section 212(a)(33) of the Immigration and Nationality Act (relating to those who assisted in the Nazi persecutions), to an alien described in the last sentence of section 101(a)(42) of such Act (relating to those assisting in other persecutions) who is seeking the benefits of section 207, 208, 243(h)(1), or 245A of such Act (relating to admission as a refugee, asylum, withholding of deportation, and legalization), or to an alien who is described in section 21(c) of the State Department Basic Authorities Act of 1956. In paragraph (2), the term "terrorist activity" means the organizing, abetting, or participating in a wanton or indiscriminate act of violence with extreme indifference to the risk of causing death or serious bodily harm to individuals not taking part in armed hostilities.

(c) Construction Regarding Standing to Sue.—Nothing in this section shall be construed as affecting standing in any Federal court or in any administrative proceeding.

(d) Effective Period.—Subsection (a) shall only apply to—

(1) applications for visas submitted during 1988;

(2) admissions sought after December 31, 1987, and before March 1, 1989; and

(3) deportations based on activities occurring during 1988 or for which deportation proceedings (including judicial review with respect to such a proceeding) are pending at any time during 1988.

SEC. 902. ADJUSTMENT TO LAWFUL RESIDENT STATUS OF CERTAIN NATIONALS OF COUNTRIES FOR WHICH EXTENDED VOLUNTARY DEPARTURE HAS BEEN MADE AVAILABLE.

(a) Adjustment of Status.—The status of any alien who is a national of a foreign country the nationals of which were provided (or allowed to continue in) "extended voluntary departure" by the Attorney General on the basis of a nationality group determination at any time during the 5-year period ending on November 1, 1987, shall be adjusted by the Attorney General to that of an alien lawfully admitted for temporary residence if the alien—

(1) applies for such adjustment within two years after the date of the enactment of this Act;

(2) establishes that (A) the alien entered the United States before July 21, 1984, and (B) has resided continuously in the United States since such date and through the date of the enactment of this Act;

(3) establishes continuous physical presence in the United States (other than brief, casual, and innocent absences) since the date of the enactment of this Act;

(4) in the case of an alien who entered the United States as a nonimmigrant before July 21, 1984, establishes that (A) the alien's period of authorized stay as a nonimmigrant expired not later than six months after such date through the passage of time or (B) the alien applied for asylum before July 21, 1984; and

(5) meets the requirements of section 245A(a)(4) of the Immigration and Nationality Act (8 U.S.C. 1255a(a)(4)).

The Attorney General shall provide for the acceptance and processing of applications under this subsection by not later than 90 days after the date of the enactment of this Act.

(b) STATUS AND ADJUSTMENT OF STATUS.—The provisions of subsections (b), (c)(6), (d), (f), (g), (h), and (i) of section 245A of the Immigration and Nationality Act (8 U.S.C. 1255a) shall apply to aliens provided temporary residence under subsection (a) in the same manner as they apply to aliens provided lawful temporary residence status under section 245A(a) of such Act.

SEC. 903. PROCESSING OF CUBAN NATIONALS FOR ADMISSION TO THE UNITED STATES.

(a) PROCESSING OF CERTAIN CUBAN POLITICAL PRISONERS AS REFUGEES.—In light of the announcement of the Government of Cuba on November 20, 1987, that it would reimplement immediately the agreement of December 14, 1984 establishing normal migration procedures between the United States and Cuba, on and after the date of the enactment of this Act, consular officers of the Department of State and appropriate officers of the Immigration and Naturalization Service shall, in accordance with the procedures applicable to such cases in other countries, process any application for admission to the United States as a refugee from any Cuban national who was imprisoned for political reasons by the Government of Cuba on or after January 1, 1959, without regard to the duration of such imprisonment, except as may be necessary to reassure the orderly process of available applicants.

(b) PROCESSING OF IMMIGRANT VISA APPLICATIONS OF CUBAN NATIONALS IN THIRD COUNTRIES.—Notwithstanding section 212(f) and section 243(g) of the Immigration and Nationality Act, on and after the date of the enactment of this Act, consular officers of the Department of State shall process immigrant visa applications by nationals of Cuba located in third countries on the same basis as immigrant visa applications by nationals of other countries.

(c) DEFINITIONS.—For purposes of this section:

(1) The term "process" means the acceptance and review of applications and the preparation of necessary documents and the making of appropriate determinations with respect to such applications.

(2) The term "refugee" has the meaning given such term in section 101(a)(42) of the Immigration and Nationality Act.

SEC. 904. INDOCHINESE REFUGEE RESETTLEMENT.

(a) FINDINGS.—It is the sense of the Congress that—

(1) the continued occupation of Cambodia by Vietnam and the oppressive conditions within Vietnam, Cambodia, and Laos have led to a steady flight of persons from those countries, and the likelihood for the safe repatriation of the hundreds of thousands of refugees in the region's camps is negligible for the foreseeable future;

(2) the United States has already played a major role in responding to the Indochinese refugee problem by accepting approximately 850,000 Indochinese refugees into the United States since 1975 and has a continued interest in persons who have fled and continue to flee the countries of Cambodia, Laos, and Vietnam;

(3) Hong Kong, Indonesia, Malaysia, Singapore, the Philippines, and Thailand have been the front line countries bearing tremendous burdens caused by the flight of these persons;

(4) all members of the international community bear a share of the responsibility for the deterioration in the refugee first asylum situation in Southeast Asia because of slow and limited procedures, failure to implement effective policies for the region's "longstayer" populations, failure to monitor adequately refugee protection and screening programs, particularly along the Thai-Cambodian and Thai-Laotian borders, and the instability of the Orderly Departure Program (ODP) from Vietnam which has served as the only safe, legal means of departure from Vietnam for refugees, including Amerasians and long-held "reeducation camp" prisoners;

(5) the Government of Thailand should be complemented for allowing the United States to process ration card holders in Khao I Dang and potentially qualified immigrants in Site 2 and in Khao I Dang;

(6) given the serious protection problem in Southeast Asian first asylum countries and the need to preserve first asylum in the region, the United States should continue its commitment to an ongoing, generous admission and protection program for Indochinese refugees, including urgently needed educational programs for refugees along the Thai-Cambodian and Thai-Laotian borders, until the underlying causes of refugee flight are addressed and resolved;

(7) the executive branch should seek adequate funding levels to meet United States policy objectives to ensure the well-being of Indochinese refugees in first asylum, and to process 29,500 Indochinese refugees within the overall refugee admissions level of 68,000 as determined by the President; and

(8) the Government of Thailand should be complimented for the progress that has been made in implementing an effective antipiracy program.

(b) RECOMMENDATIONS.—The Congress finds and recommends the following with respect to Indochinese refugees:

(1) The Secretary of State should urge the Government of Thailand to allow full access by highland refugees to the Lao Screening Program, regardless of the method of their arrival or the circumstances of their apprehension, and should intensify its efforts to persuade the Government of Laos to accept the safe return of persons rejected under the Lao Screening Program.

(2) Refugee protection and monitoring activities should be expanded along the Thai-Laotian border in an effort to identify and report on incidents of refugees forcibly repatriated into Laos.

(3) The Secretary of State should urge the Government of Thailand to address immediately the problems of protection associated with the Khmer along the Thai-Cambodian border. The Government of Thailand, along with appropriate international relief agencies, should develop and implement a plan to provide for greater security and protection for the Khmer at the Thai border.

(4) The international community should increase its efforts to assure that Indochinese refugee camps are protected, that refugees have access to a free market at Site 2, and that international observers and relief personnel are present on a 24-hour-a-day basis at Site 2 and any other camp where it is deemed necessary.

(5) The Secretary of State should make every effort to identify each person at Site 2 who may qualify for admission to the United States as an immigrant and for humanitarian parole.

(6) The United Nations High Commissioner for Refugees should be pressed to upgrade staff presence and the level of advocacy to revive the international commitment with regard to the problems facing Indochinese refugees in the region, and to pursue voluntary repatriation possibilities in cases where monitoring is available and the safety of the refugees is assured.

(c) ALLOCATIONS OF REFUGEE ADMISSIONS.—Given the existing connection between ongoing resettlement and the preservation of first asylum, the United States and the United Nations High Commissioner for Refugees should redouble efforts to assure a stable and secure environment for refugees while dialog is pursued on other long-range solutions, it is the sense of the Congress that—

(1) within the worldwide refugee admissions ceiling determined by the President, the President should continue to recommend generous numbers of admissions from East Asia first asylum camps and from the Orderly Departure Program sufficient to sustain preservation of first asylum and security for Indochinese in Southeast Asia, consistent with worldwide refugee admissions requirements and the consultative processes of the Refugee Act of 1980;

(2) within the allocation made by the President for the Orderly Departure Program from Vietnam, the number of admissions allocated for Amerasians and their immediate family members should also be generous;

(3) renewed international efforts must be taken to address the problem of Indochinese refugees who have lived in camps for 3 years or longer; and

(4) the Secretary of State should urge the United Nations High Commissioner for Refugees to organize immediately an international conference to address the problems of Indochinese refugees.

(d) REPORTING.—The President shall submit a report to Congress within 180 days after the date of the enactment of this Act on the respective roles of the Immigration and Naturalization Service and the Department of State in the refugee program with recommendations for improving the effectiveness and efficiency of the program.

SEC. 905. AMERASIAN CHILDREN IN VIETNAM.

(a) FINDINGS AND DECLARATIONS.—The Congress makes the following findings and declarations:

(1) Thousands of children in the Socialist Republic of Vietnam were fathered by American civilians and military personnel.

(2) It has been reported that many of these Amerasian children are ineligible for ration cards and often beg in the streets, peddle black market wares, or prostitute themselves.

(3) The mothers of Amerasian children in Vietnam are not eligible for government jobs or employment in government enterprises and many are estranged from their families and are destitute.

(4) Amerasian children and their families have undisputed ties to the United States and are of particular humanitarian concern to the United States.

(5) The United States has a longstanding and very strong commitment to receive the Amerasian children in Vietnam, if they desire to come to the United States.

(6) In September 1984, the United States informed the Socialist Republic of Vietnam that all Amerasian children in Vietnam, their mothers, and qualifying family members would be admitted as refugees to the United States during a three-year period.

(7) Amerasian emigration from Vietnam increased significantly in fiscal year 1985 under the Orderly Departure Program of the United Nations High Commissioner on Refugees.

(8) On January 1, 1986, the Socialist Republic of Vietnam unilaterally suspended interviews of all individuals seeking to leave

Vietnam legally under the auspices of the Orderly Departure Program for resettlement in the United States.

(9) On the 19th and 20th of October 1987, the Socialist Republic of Vietnam permitted the United States to resume interviewing Amerasians and their families.

(b) Sense of the Congress.—It is the sense of the Congress that—

(1) the United States should maintain its strong commitment to receive the Amerasian children in the Socialist Republic of Vietnam and their families;

(2) the Socialist Republic of Vietnam should cooperate fully in facilitating the processing of all Amerasians who desire to be resettled in the United States; and

(3) the Socialist Republic of Vietnam should cooperate fully in the processing of Amerasians for emigration.

SEC. 906. REFUGEES FROM SOUTHEAST ASIA.

(a) Findings.—The Congress finds that—

(1) the United States remains firmly committed to the security of Thailand and to improving relations between our two nations;

(2) the United States refugee resettlement and humanitarian assistance programs constitute an important factor in bilateral relations between the United States and Thailand;

(3) the preservation of first asylum for those fleeing persecution is one of the primary objectives of the United States refugee program;

(4) the actions of another government in labeling refugee populations as "displaced persons" or closing its borders to new arrivals shall not constitute a barrier to the United States considering those individuals or groups to be refugees;

(5) it is in the national interest to facilitate the reunification of separated families of United States citizens and permanent residents, and the Congress will look with disfavor on any nation which seriously hinders emigration for such reunifications;

(6) the persecution of the Cambodian people under the Khmer Rouge rule from 1975–1979, which caused the deaths of up to two million people and in which the bulk of the Khmer people were subjected to life in an Asian Auschwitz, constituted one of the clearest examples of genocide in recent history; and

(7) the invasion of Cambodia by Vietnam and the subsequent occupation of that country by 140,000 Vietnamese troops backing up the Heng Samrin regime, which itself continues to seriously violate the human rights of Cambodians, and the presence of 40,000 heavily armed troops under the control of the same Khmer Rouge leaders, overwhelmingly demonstrate that the life or freedom of any Cambodian not allied with the Khmer Rouge or supporting Heng Samrin would be seriously endangered if such individual were forced by a country of first asylum to return to his or her homeland.

(b) Statement of Policy.—It is the sense of the Congress that—

(1) any Cambodians who are, or had been, at Khao I Dang camp should be considered and interviewed for eligibility for the United States refugee program, irrespective of the date they entered Thailand or that refugee camp;

(2) any Cambodian rejected for admission to the United States who can demonstrate new or additional evidence relating to his claim should have his or her case reviewed;

(3) the United States should work with the United Nations High Commissioner for Refugees, the International Committee of the Red Cross, and the Government of Thailand to improve the security of all refugee facilities in Thailand and to prevent the forced repatriation of Cambodian refugees;

(4) the United States should treat with utmost seriousness the continued reports of forced repatriations to Laos of would-be asylum seekers, and should lodge strong and continuous protests with the Thai Government to bring about an end to these repatriations, which endanger the life and safety of those involuntarily returned to Laos; and

(5) within the Orderly Departure Program the United States will give high priority consideration to determining the eligibility of serious health cases and cases involving children separated from both parents.

SEC. 907. RELEASE OF YANG WEI.

(a) Findings.—The Congress makes the following findings:

(1) Yang Wei, a Chinese national, studied at the University of Arizona from 1983 until he received his masters of science degree in microbiology in 1986.

(2) In May 1986 Yang Wei returned to China to marry Dr. Che Shaoli and arrange for funding for his continued studies under a Ph.D. program at the University of Arizona.

(3) On January 11, 1987, while still an official student at the University of Arizona, Yang Wei was arrested by the Shanghai Public Security Bureau.

(4) Yang Wei has been held without charge or trial since January 11, 1987.

(5) Mr. Yang's wife, a student at Baylor Medical College in Houston, Texas, has been refused any information about her husband's whereabouts or condition by Chinese authorities.

(6) Mr. Yang's father, Yang Jue, and his mother Bi Shuyun, have been denied all contact with their son.

(7) The Chinese Criminal Procedure law of 1979, sections 92, 97, 125, and 142 provides for a maximum of four and a half months of detention without charge or trial and Yang Wei has now been held over six months, contrary to Chinese law.

(8) Yang Wei has not committed any crime under United States or Chinese law.

(9) Yang Wei and his wife only aspire to freedom and democracy.

(10) The treatment of Mr. Yang and his family is frightening to all Chinese students now studying in the West and meant to be so by Chinese authorities.

(11) Recently more than two thousand Chinese students signed an open letter to express their concern about recent political developments in their country.

(b) Policy.—It is the sense of Congress that—

(1) the People's Republic of China should immediately release Yang Wei; and

(2) the United States should consider sympathetically applications for asylum from Chinese students studying in the United States who can, on a case-by-case basis, demonstrate a well-founded fear of persecution.

TITLE X—ANTI-TERRORISM ACT OF 1987

SEC. 1001. SHORT TITLE.

This title may be cited as the "Anti-Terrorism Act of 1987".

SEC. 1002. FINDINGS; DETERMINATIONS.

(a) Findings.—The Congress finds that—

(1) Middle East terrorism accounted for 60 percent of total international terrorism in 1985;

(2) the Palestine Liberation Organization (hereafter in this title referred to as the "PLO") was directly responsible for the murder of an American citizen on the Achille Lauro cruise liner in 1985, and a member of the PLO's Executive Committee is under indictment in the United States for the murder of that American citizen;

(3) the head of the PLO has been implicated in the murder of a United States Ambassador overseas;

(4) the PLO and its constituent groups have taken credit for, and been implicated in, the murders of dozens of American citizens abroad;

(5) the PLO covenant specifically states that "armed struggle is the only way to liberate Palestine, thus it is an overall strategy, not merely a tactical phase";

(6) the PLO rededicated itself to the "continuing struggle in all its armed forms" at the Palestine National Council meeting in April 1987; and

(7) the Attorney General has stated that "various elements of the Palestine Liberation Organization and its allies and affiliates are in the thick of international terror".

(b) Determinations.—Therefore, the Congress determines that the PLO and its affiliates are a terrorist organization and a threat to the interests of the United States, it allies, and to international law and should not benefit from operating in the United States.

SEC. 1003. PROHIBITIONS REGARDING THE PLO.

It shall be unlawful, if the purpose be to further the interests of the Palestine Liberation Organization or any of its constituent groups, any successor to any of those, or any agents thereof, on or after the effective date of this title—

(1) to receive anything of value except informational material from the PLO or any of its constituent groups, any successor thereto, or any agents thereof;

(2) to expend funds from the PLO or any of its constituent groups, any successor thereto, or any agents thereof; or

(3) notwithstanding any provision of law to the contrary, to establish or maintain an office, headquarters, premises, or other facilities or establishments within the jurisdiction of the United States at the behest or direction of, or with funds provided by the Palestine Liberation Organization or any of its constituent groups, any successor to any of those, or any agents thereof.

SEC. 1004. ENFORCEMENT.

(a) Attorney General.—The Attorney General shall take the necessary steps and institute the necessary legal action to effectuate the policies and provisions of this title.

(b) Relief.—Any district court of the United States for a district in which a violation of this title occurs shall have authority, upon petition of relief by the Attorney General, to grant injunctive and such other equitable relief as it shall deem necessary to enforce the provisions of this title.

SEC. 1005. EFFECTIVE DATE.

(a) Effective Date.—Provisions of this title shall take effect 90 days after the date of enactment of this Act.

(b) Termination.—The provisions of this title shall cease to have effect if the President certifies in writing to the President pro tempore of the Senate and the Speaker of the House that the Palestine Liberation Organization, its agents, or constituent groups thereof no longer practice or support terrorist actions anywhere in the world.

TITLE XI—GLOBAL CLIMATE PROTECTION

SEC. 1101. SHORT TITLE.

This title may be cited as the "Global Climate Protection Act of 1987".

SEC. 1102. FINDINGS.

The Congress finds as follows:

(1) There exists evidence that manmade pollution—the release of carbon dioxide, chlorofluorocarbons, methane, and other trace gases into the atmosphere—may be producing a long term and substantial increase in the average temperature on Earth, a phenomenon known as global warming through the greenhouse effect.

(2) By early in the next century, an increase in Earth temperature could—

(A) so alter global weather patterns as to have an effect on existing agricultural production and on the habitability of large portions of the Earth; and

(B) cause thermal expansion of the oceans and partial melting of the polar ice caps and glaciers, resulting in rising sea levels.

(3) Important research into the problem of climate change is now being conducted by various United States Government and international agencies, and the continuation and intensification of those efforts will be crucial to the development of an effective United States response.

(4) While the consequences of the greenhouse effect may not be fully manifest until the next century, ongoing pollution and deforestation may be contributing now to an irreversible process. Necessary actions must be identified and implemented in time to protect the climate.

(5) The global nature of this problem will require vigorous efforts to achieve international cooperation aimed at minimizing and responding to adverse climate change; such international cooperation will be greatly enhanced by United States leadership. A key step in international cooperation will be the meeting of the Governing Council of the United Nations Environment Program, scheduled for June 1989, which will seek to determine a direction for worldwide efforts to control global climate change.

(6) Effective United States leadership in the international arena will depend upon a coordinated national policy.

SEC. 1103. MANDATE FOR ACTION ON THE GLOBAL CLIMATE.

(a) GOALS OF UNITED STATES POLICY.—United States policy should seek to—

(1) increase worldwide understanding of the greenhouse effect and its environmental and health consequences;

(2) foster cooperation among nations to develop more extensive and coordinated scientific research efforts with respect to the greenhouse effect;

(3) identify technologies and activities to limit mankind's adverse effect on the global climate by—

(A) slowing the rate of increase of concentrations of greenhouse gases in the atmosphere in the near term; and

(B) stabilizing or reducing atmospheric concentrations of greenhouse gases over the long term; and

(4) work toward multilateral agreements.

(b) FORMULATION OF UNITED STATES POLICY.—The President, through the Environmental Protection Agency, shall be responsible for developing and proposing to Congress a coordinated national policy on global climate change. Such policy formulation shall consider research findings of the Committee on Earth Sciences of the Federal Coordinating Council on Science and Engineering Technology, the National Academy of Sciences, the National Oceanic and Atmospheric Administration, the National Science Foundation, the National Aeronautic and Space Administration, the Department of Energy, the Environmental Protection Agency, and other organizations engaged in the conduct of scientific research.

(c) COORDINATION OF UNITED STATES POLICY IN THE INTERNATIONAL ARENA.—The Secretary of State shall be responsible to coordinate those aspects of United States policy requiring action through the channels of multilateral diplomacy, including the United Nations Environment Program and other international organizations. In the formulation of these elements of United States policy, the Secretary of State shall, under the direction of the President, work jointly with the Administrator of the Environmental Protection Agency and other United States agencies concerned with environmental protection, consistent with applicable Federal law.

SEC. 1104. REPORT TO CONGRESS.

Not later than 24 months after the date of enactment of this Act, the Secretary of State and the Administrator of the Environmental Protection Agency shall jointly submit to all committees of jurisdiction in the Congress a report which shall include—

(1) a summary analysis of current international scientific understanding of the greenhouse effect, including its environmental and health consequences;

(2) an assessment of United States efforts to gain international cooperation in limiting global climate change; and

(3) a description of the strategy by which the United States intends to seek further international cooperation to limit global climate change.

SEC. 1105. INTERNATIONAL YEAR OF GLOBAL CLIMATE PROTECTION.

In order to focus international attention and concern on the problem of global warming, and to foster further work on multilateral treaties aimed at protecting the global climate, the Secretary of State shall undertake all necessary steps to promote, within the United Nations system, the early designation of an International Year of Global Climate Protection.

SEC. 1106. CLIMATE PROTECTION AND UNITED STATES-SOVIET RELATIONS.

In recognition of the respective leadership roles of the United States and the Soviet Union in the international arena, and of their joint role as the world's two major producers of atmospheric pollutants, the Congress urges that the President accord the problem of climate protection a high priority on the agenda of United States-Soviet relations.

TITLE XII—REGIONAL FOREIGN RELATIONS MATTERS

PART A—SOVIET UNION AND EASTERN EUROPE

SEC. 1201. SOVIET BALLISTIC MISSILE TESTS NEAR HAWAII.

(a) FINDINGS.—The Congress finds that—

(1) the Union of Soviet Socialist Republics and the United States are presently negotiating a reduction of nuclear weapons and have recently concluded an agreement with respect to reducing the risks of accidental nuclear war;

(2) the Soviet Union has recently conducted two tests of its heavy intercontinental ballistic missiles over trajectories similar to those which could be used in actual attacks on the Hawaiian Islands;

(3) the announced impact points for reentry vehicles from these tests could have resulted in the overflight of sovereign United States territory, namely the Hawaiian Islands;

(4) the Soviet Union reportedly encrypted telemetry from the flight tests in potential violation of the provisions of bilateral arms control agreements;

(5) the Soviet Union used a directed energy device, believed to be a laser, to irradiate a United States military aircraft in international airspace that was monitoring the tests, having the potential effect of interfering with our national technical means of verification;

(6) had this test misfired, Soviet ballistic missile test reentry vehicles could have landed among the Hawaiian Islands; and

(7) the United States does not test strategic missiles in the direction of or in close proximity to sovereign Soviet territory.

(b) SENSE OF THE CONGRESS.—It is the sense of the Congress that—

(1) the actions of the Soviet Union in testing intercontinental ballistic missiles in the Hawaiian region and irradiating United States monitoring aircraft are provocative, unnecessary, and inconsistent with behavior designed to reduce the risk of nuclear war;

(2) the United States Government—

(A) should officially and at the highest levels protest these actions by the Soviet Union and should inform the Soviet Union that it cannot tolerate flight tests in close proximity to sovereign United States territory or interference with United States monitoring aircraft; and

(B) should seek Soviet assurances that such missile testing near United States territory and irradiation of United States territory and irradiation of United States aircraft will not occur in the future; and

(3) the President should, within 10 days of the date of enactment of this Act, report to the Congress in both classified and unclassified form, on—

(A) the details of these Soviet missile tests, including the irradiation of the United States monitoring aircraft;

(B) Soviet explanations offered in response to United States protests; and

(C) what steps will be taken to ensure that such activities will not happen in the future.

SEC. 1202. EMIGRATION OF JEWS AND OTHERS WHO WISH TO EMIGRATE FROM THE SOVIET UNION.

It is the sense of the Congress that the Government of the Soviet Union should—

(1) permit the emigration of Jews and others who wish to emigrate from the Soviet Union;

(2) remove restrictions on the practice of religion and the exercise of cultural rights; and

(3) cease the official harassment of individuals who wish to emigrate, practice their religion, exercise their cultural rights, or engage in free intellectual pursuits.

SEC. 1203. SYSTEMATIC NONDELIVERY OF INTERNATIONAL MAIL ADDRESSED TO CERTAIN PERSONS RESIDING WITHIN THE SOVIET UNION.

It is the sense of the Congress that—

(1) the President should express to the Government of the Soviet Union the disapproval of the United States regarding the systematic nondelivery of international mail; and

(2) at the Congress of the Universal Postal Union in Washington, District of Columbia, in 1989, the Department of State should bring to the attention of other member countries of the Universal Postal Union patterns of nondelivery of international mail by the

Soviet Union contrary to the Acts of the Universal Postal Union and the delegation of the United States should ask other member countries to support the adoption of amendments to the Universal Postal Convention and other measures to encourage improved postal performance by the Soviet Union.

SEC. 1204. UNITED STATES POLICY AGAINST PERSECUTION OF CHRISTIANS IN EASTERN EUROPE AND THE SOVIET UNION.

It is the sense of the Congress that—

(1) the President should continue to express to the governments of the Union of Soviet Socialist Republics and Eastern European countries the deep concern and opposition of the United States with respect to the harassment of Christians and other religious believers;

(2) the governments of the Union of Soviet Socialist Republics and Eastern European countries should comply with their commitments under the United Nations Universal Declaration of Human Rights, the International Covenants on Human Rights, the Final Act of the Conference on Security and Cooperation in Europe, and the Madrid Concluding Document; and

(3) the governments of the Union of Soviet Socialist Republics and Eastern European countries should immediately cease persecuting individuals on the basis of their faith and should afford Christians and other believers their internationally recognized right to freedom of religion.

SEC. 1205. OBSERVANCE BY THE GOVERNMENT OF ROMANIA OF THE HUMAN RIGHTS OF HUNGARIANS IN TRANSYLVANIA.

The Congress deplores activities of the Government of the Socialist Republic of Romania restricting the internationally recognized human rights of Hungarians and other nationalities in Transylvania and elsewhere in Romania.

SEC. 1206. SELF-DETERMINATION OF THE PEOPLE FROM THE BALTIC STATES OF ESTONIA, LATVIA, AND LITHUANIA.

It is the sense of the Congress that—

(1) the continuing desire and right of the people of the Baltic States of Estonia, Latvia, and Lithuania for freedom and independence from the Soviet Union should be recognized; and

(2) the President should—

(A) direct world attention to the right of self-determination of the people of the Baltic States by issuing on July 26, 1988, a statement that officially informs all member nations of the United Nations of the support of the United States for self-determination of all peoples and nonrecognition of the forced incorporation of the Baltic States into the Soviet Union;

(B) call attention to violations of internationally recognized human rights in the Baltic States; and

(C) promote compliance with the human rights and humanitarian provisions of the Helsinki Final Act of the Conference on Security and Cooperation in Europe in the Baltic States.

SEC. 1207. ASSISTANCE IN SUPPORT OF DEMOCRACY IN POLAND.

(a) SUPPORT FOR SOLIDARITY.—It is the sense of the Congress that—

(1) Solidarity deserves special praise and recognition as the only free and independent trade union in Poland;

(2) Solidarity reflects the Polish people's desire for free and democratic institutions and activities; and

(3) Solidarity is one of the leading democratic representatives of the Polish working people.

(b) ASSISTANCE IN SUPPORT OF DEMOCRACY IN POLAND.—Notwithstanding any other provision of law, of the amounts authorized to be appropriated to carry out chapter 4 of part II of the Foreign Assistance Act of 1961 (relating to the economic support fund) for fiscal year 1988, not less than $1,000,000 shall be available only for the unconditional support of democratic institutions and activities in Poland.

PART B—LATIN AMERICA AND CUBA

SEC. 1211. CUBAN HUMAN RIGHTS VIOLATIONS AND THE FAILURE OF THE UNITED NATIONS TO PLACE CUBA ON ITS HUMAN RIGHTS AGENDA.

(a) FINDINGS.—The Congress finds that—

(1) the Universal Declaration of Human Rights, which was adopted and proclaimed by the General Assembly of the United Nations, states in paragraph 2 of Article 13 that "Everyone has the right to leave any country, including his own, and to return to his country";

(2) the Universal Declaration of Human Rights states in Article 19 that "Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive, and impart information and ideas through any media regardless of frontiers";

(3) the Government of Cuba has violated the Cuban people's internationally recognized human rights, including freedom of movement, emigration, opinion, and expression;

(4) Cuban human rights violations are a major obstacle to improved United States-Cuban relations; and

(5) the United Nations Human Rights Commission has acted selectively in addressing human rights violations in various countries and has failed to place Cuba on its agenda despite overwhelming evidence of the continuing disregard and systematic abuse of internationally recognized human rights by the Government of Cuba.

(b) SENSE OF CONGRESS.—It is the sense of the Congress that—

(1) the Government of Cuba should respect internationally recognized human rights, including freedom of movement, emigration, opinion, and expression; and

(2) the United States delegation to the United Nations should continue its commendable efforts to bring this issue before the attention of the United Nations and to place Cuban human rights abuses on the agenda of the United Nations Human Rights Commission.

(c) DISTRIBUTION OF TEXT TO U.N. MEMBERS.—The Secretary of State shall cause the text of this section to be circulated by the United States among the members of the United Nations in order to highlight Cuba's behavior in violation of the Universal Declaration of Human Rights.

SEC. 1212. PARTIAL LIFTING OF THE TRADE EMBARGO AGAINST NICARAGUA.

It is the sense of Congress that the President should exempt from the trade embargo against Nicaragua those items which would benefit Nicaragua's independent print and broadcast media, private sector and trade union groups, nongovernmental service organizations, and the democratic civic opposition.

SEC. 1213. TERRORIST BOMBING IN HONDURAS.

(a) FINDINGS.—The Congress finds that—

(1) a terrorist bomb exploded on August 8, 1987, in the China Palace restaurant in Comayagua, Honduras;

(2) the bomb was directed at American soldiers and did in fact wound American soldiers and an American contractor;

(3) the United States military personnel were in Honduras assigned to Joint Task Force Bravo;

(4) Honduran authorities have named Alfonso Guerrero Ulloa as a suspect in this act of terrorism and have a warrant for his arrest;

(5) the Government of Mexico, contrary to accepted norms of international law on harboring terrorists, has granted asylum to Mr. Guerrero, and

(6) the United States Government has protested to the Government of Mexico.

(b) STATEMENT OF POLICY.—It is the sense of the Congress that—

(1) the United States Congress deplores the harboring of international terrorists, and

(2) the United States Government should call upon the Government of Mexico to turn Mr. Guerrero over to the Government of Honduras.

SEC. 1214. HUMAN RIGHTS IN PARAGUAY.

(a) FINDINGS.—The Congress finds that—

(1) the Government of Paraguay systematically has violated the internationally recognized human rights of its citizens;

(2) various provisions of Paraguayan law provide for the detention of individuals without trial for an indefinite period of time;

(3) the police authorities in Paraguay arbitrarily arrest and detain individuals; and

(4) the police authorities have tortured and abused prisoners, resulting in the death of a number of detainees.

(b) SENSE OF CONGRESS.—The Congress expresses its outrage at the human rights abuses specified in subsection (a), pledges to continually speak out against all governments which commit such abuses, and urges the Government of Paraguay to respect the internationally recognized human rights of its citizens.

PART C—AFRICA

SEC. 1221. HUMAN RIGHTS IN ETHIOPIA.

(a) FINDINGS.—The Congress finds that—

(1) the Government of Ethiopia has systematically violated the internationally recognized human rights of its citizens;

(2) the Government of Ethiopia holds large numbers of political prisoners and regularly detains without trial many other political opponents of the government;

(3) the Government of Ethiopia engages in torture and ill-treatment of political prisoners;

(4) reliable reports indicate that many political opponents of the Government of Ethiopia "disappear" and that approximately sixty political prisoners were executed in October 1985 without benefit of trial; and

(5) over one million Ethiopians have fled the country.

(b) SENSE OF CONGRESS.—The Congress expresses its outrage at the human rights abuses specified in subsection (a), pledges to continually speak out against all governments which commit such abuses, and urges the Government of Ethiopia to respect the internationally recognized human rights of its citizens.

SEC. 1222. UNITED STATES POLICY ON ANGOLA.

(a) FINDINGS.—The Congress finds that—

(1) it is in the interest of peace and economic development in southern Africa for the President and the Secretary of State to discuss the conflict in Angola with Soviet leaders;

(2) the President has stated that the resolution of regional conflicts such as Angola, Afghanistan, and Nicaragua is critical to improvements in Soviet-American relations;

(3) the proposed summit between President Reagan and Secretary General Gorbachev provides the United States with an opportunity to encourage complete Soviet-Cuban withdrawal from Angola, the possible provision of humanitarian assistance, and the holding of free and fair elections;

(4) the Marxist regime in Angola known as the Popular Movement for Liberation of Angola (hereafter in this section referred to as the "MPLA") is currently launching a major dry-season offensive against the opposition involving thousands of Cuban troops and billions of dollars in sophisticated Soviet weaponry;

(5) the people of Angola are starving because of the hardships resulting from 12 years of civil war and inefficient Marxist economic policies;

(6) the MPLA regime has turned to the international community for substantial food aid while continuing to spend most of Angola's national budget on sustaining the war effort, including payments for Cuban troops and Soviet arms; and

(7) the growing intensity of the war, the starvation and mounting suffering of the Angolan people, the continued presence in Angola of 37,000 Cuban combat troops and South African forces, the continued presence and active involvement of 2,500 Soviet military advisers, and the refusal of the MPLA to negotiate with the opposition, increase the urgency of reaching a peaceful solution.

(b) POLICY.—It is the sense of the Congress that—

(1) the United States should continue to work toward a peaceful resolution to the Angolan conflict that includes—

(A) the complete withdrawal of all foreign forces and Soviet military advisers;

(B) a negotiated settlement to the 12-year conflict leading to the formation of a government of national unity and the holding of free and fair elections; and

(C) efforts by the President and the Secretary of State to convey to Soviet leaders at the proposed summit and in other meetings that the aggressive military build-up in Angola undermines positive bilateral relations and that the United States is committed to supporting democratic forces in Angola until democracy is achieved;

(2) the people of Angola should not be left to starve because of the MPLA regime;

(3) the United States should consider responding to the humanitarian needs of the Angolan people, and if humanitarian assistance is provided, such assistance should be distributed in an evenhanded manner, so that Angolans throughout the entire war-torn country are provided with food and basic medical care;

(4) any humanitarian assistance should be distributed through private and voluntary organizations or nongovernmental organizations; and

(5) within 180 days after the date of the enactment of this Act, the Secretary of State should prepare and transmit to the Congress a report detailing the progress of discussions between the Soviet Union and the United States on the conflict in Angola.

SEC. 1223. FORCED DETENTION BY THE AFRICAN NATIONAL CONGRESS AND THE SOUTH AFRICAN GOVERNMENT.

Not later than 90 days after the date of enactment of this Act, the Secretary of State shall submit a report to the Congress on any detention camps maintained by the African National Congress and on detention in South Africa since the South African Government enacted a State of Emergency in June 1986.

SEC. 1224. DETENTION OF CHILDREN IN SOUTH AFRICA.

(a) FINDINGS.—The Congress finds that—

(1) the Government of the Republic of South Africa under its system of apartheid repeatedly has detained black children without charge or trial, and has denied parental access to these children for extended periods of time;

(2) the Detainees' Parents' Support Committee of South Africa has compiled information estimating that more than 25,000 people were detained since June 12, 1986, under state of emergency regulations, and approximately 10,000 of these were children, including some as young as age 10;

(3) the Government of the Republic of South Africa has stated on numerous occasions that it has detained children without charge, and that on a certain day in December 1986, 256 children under the age of 16 were in detention; that on a certain day in February 1987, 281 children under the age of 15 were in detention; that on a certain day in April 1987, 1,424 children under the age of 18 were in detention; and that on a certain day in May 1987, 280 children under the age of 16 were in detention; and that as of June 2, stated that eleven children under the age of 16 were in detention; and as of October, 69 children under the age of 18 are still in detention; and

(4) human rights groups in South Africa estimate that many more children have been detained under state of emergency regulations than the Government of the Republic of South Africa admits;

(5) the state of emergency regulations allow for the detention of individuals without charge for an indefinite period of time; and

(6) the United States Ambassador to South Africa Edward J. Perkins has stated that such detentions are "a most serious abuse of human rights, particularly so where detainees are children as young as 11".

(b) POLICY.—The Congress hereby—

(1) calls for the cessation of the practice of detaining children under 18 years of age without charge or trial in South Africa;

(2) calls for the South African Government either to release all children in South Africa held under state of emergency regulations and other laws which authorize detention without charge or, in those cases where an internationally recognized criminal act has allegedly been committed, charge them and allow them their rights of a fair and public trial;

(3) pending the release of the children, calls on the Government of the Republic of South Africa to—

(A) permit the detained children immediate and frequent access to parents and legal counsel;

(B) make public the names and locations of all the detained children;

(C) provide the detained children with adequate food, clothing, and protection; and

(D) permit a recognized, independent, and impartial international humanitarian organization to verify that the provisions of this section are being carried out and that the detained children are not being abused, tortured, or held in solitary confinement, and are not being held in detention in the company of adults; and

(4) calls for the apprehension and trial of all those individuals who execute children by violent activities, including necklacing, and the cessation of these activities.

PART D—MIDDLE EAST

SEC. 1231. MIDDLE EAST PEACE CONFERENCE.

(a) FINDINGS.—The Congress finds that—

(1) the General Assembly of the United Nations recognized the sovereignty of the State of Israel through Resolution 181 of 1947 and the right of all Israeli citizens to live within secure and recognized boundaries through Resolutions 242 and 338 of 1973;

(2) the Government of the Soviet Union severed diplomatic relations with the State of Israel in 1967 and has opposed every recent United States initiative for direct, bilateral negotiations among the warring parties of the Middle East including the Camp David accords of 1979 and the Reagan plan of 1982;

(3) the Government of the Soviet Union has further demonstrated its lack of respect for the integrity of the Israeli state by systematically denying exit visas to Soviet Jews who wish to live and work in the State of Israel; and

(4) a permanent and equitable settlement of the Middle Eastern conflict can result only from agreements between the Arab States and Israel.

(b) POLICY.—It is the sense of the Congress that the United States should not actively encourage the participation of the Soviet Union in any conference, meeting, or summit on the Arab-Israeli conflict which includes nations other than those in the Middle East unless the Government of the Soviet Union has either:

(1)(A) reestablished diplomatic relations with the State of Israel at the ambassadorial level;

(B) publicly reaffirmed its acceptance of United Nation Resolutions 242 and 338; and

(C) substantially increased and maintained the number of exit visas granted to Jewish individuals and families within the Soviet Union who have applied for emigration to the State of Israel; or

(2) been jointly invited by the governments of the states in the region involved in the talks.

SEC. 1232. UNITED STATES POLICY TOWARD LEBANON.

(a) FINDINGS.—The Congress makes the following findings:

(1) After nearly 13 years of civil conflict and foreign intervention, the situation in Lebanon appears no closer to resolution.

(2) Through most of the last dozen years, the Lebanese have managed to continue economic activity sufficient to stave off economic collapse and provide its citizens with basic necessities.

(3) During the past year, however, the collapse in the value of the Lebanese pound from less than 40 to the dollar to nearly 300 has made the importation of wheat, rice, and other basic commodities prohibitively expensive.

(4) As a result, for the first time, the Lebanese are faced with the prospect of starvation.

(5) Hizballah and other radical elements are taking advantage of the current economic crisis by providing foreign supplied food. In so doing, they are winning converts to their cause and radicalizing the youth.

(6) It is in the interest of the United States to support the traditional Lebanese free enterprise system of distribution of food which until now has been able to compete successfully with these radical movements.

(b) SENSE OF CONGRESS.—It is the sense of the Congress that the United States should base its policy toward Lebanon on the following principles:

(1) Preservation of the unity of Lebanon.

(2) Withdrawal of all foreign forces from Lebanon.

(3) Recognition of and respect for the territorial integrity of Lebanon.

(4) Reassertion of Lebanese sovereignty throughout the nation and recognition that it is the responsibility of the Government of Lebanon for its safekeeping.

(5) Reestablishment of the authority of the Government of Lebanon throughout the nation is a prerequisite for a lasting solution to the problem of international terrorism emanating from Lebanon.

(c) Further Sense of Congress.—It is the further sense of Congress that the provision of at least 200,000 tons of wheat and 30,000 tons of rice through Public Law 480, Title I and Section 416 of the Agriculture Act of 1949 to the Government of Lebanon is in the interest of the United States. Provision of this assistance will meet the United States policy objective of strengthening the Central Government as well as helping alleviate a serious hunger problem.

SEC. 1233. ACTING IN ACCORDANCE WITH INTERNATIONAL LAW IN THE PERSIAN GULF.

(a) Findings.—The Congress makes the following findings:

(1) According to Article 2 of the 1958 Geneva Convention on the High Seas, every state is entitled to exercise free and open use of the high seas for the navigation of its vessels.

(2) On September 22, 1987, United States Navy forces discovered the Iranian ship Iran Ajr laying mines in international waters of the Persian Gulf, and fired upon that ship to help terminate the mining.

(3) On September 23, 1987, President Reagan declared that this United States action was "authorized by law", and a statement was issued by the State Department that the United States had the right under international law to use "reasonable and proportionate force" to terminate the mining.

(b) Policy.—It is the sense of the Congress that—

(1) by mining the high seas of the Persian Gulf without notifying nonbelligerent nations engaged in maritime commerce, the Government of Iran violated international law;

(2) the use of force by the United States Navy to terminate that Iranian mining was justified under international law; and

(3) fostering broader adherence to international law promotes the security interests of the United States.

SEC. 1234. UNITED STATES POLICY TOWARD THE IRAN-IRAQ WAR.

(a) Findings.—The Congress finds that—

(1) the continuation of the Iran-Iraq war threatens the security and stability of all states in the Persian Gulf;

(2) stability in the Persian Gulf and the flow of oil is critical to world trade and the economic health of the West;

(3) the conflict between Iran and Iraq threatens United States strategic and political interests in the region;

(4) the conflict threatens international commercial shipping interests and activities; and

(5) the Iran-Iraq war has continued seven years with more than 1,500,000 casualties.

(b) Policy.—The Congress declares it to be the policy of the United States consistent with United Nations Security Council Resolution 598—

(1) to support the withdrawal of both Iran and Iraq to internationally recognized boundaries;

(2) to support an immediate cease-fire;

(3) to endorse the peaceful resolution of this conflict under the auspices of the United Nations;

(4) to encourage all governments to refrain from providing military supplies to any party which refuses to abide by United Nations Security Council Resolution 598;

(5) to recognize that stability and security in the Persian Gulf will only be achieved if Iran and Iraq are at peace and agree not to interfere in the affairs of other nations through military action or the support of terrorism; and

(6) to urge strict observance of international humanitarian law by both sides and to support financially the International Committee of the Red Cross' special appeal for prisoners of war.

SEC. 1235. IRAN HUMAN RIGHTS VIOLATIONS.

(a) Findings.—The Congress finds that—

(1) the United Nations has passed nine resolutions condemning the violation of human rights in Iran;

(2) the United Nations Subcommission on Prevention of Discrimination and Protection of Minorities stressed in Resolution 1987-12 that to date, more than two-hundred thousand Iranians have been imprisoned, tortured or executed because of their beliefs;

(3) the United Nations Commission on Human Rights confirms seven thousand executions in Iran between 1978 and 1985, and attests that the actual number is probably much higher;

(4) despite the persistent requests over the past six years by the United Nations and by many human rights organizations that the Iranian Government allow a special representative of the United Nations Security Council to inspect Iranian prisons and to determine the true extent of torture in Iran, such requests have been ignored by the Iranian Government;

(5) executions, including executions of children and members of religious minorities, still take place in Iran;

(6) the Khomeini government has brought the domestic economy of Iran to the brink of ruin by pouring the resources of the country into war making;

(7) Iran has rejected all proposals to end the seven year Iran-Iraq war;

(8) Iran has not responded positively to United Nations Security Council Resolution 598 which calls for an end to the Iran-Iraq war;

(9) the Khomeini government continues to attack and intimidate the other countries of the Persian Gulf region; and

(10) it is known that the Khomeini government supports terrorism and has used hostage taking as an instrument of foreign policy.

(b) Policy.—Now therefore, the Congress—

(1) expresses concern for those citizens who must endure war and unprecedented repression;

(2) supports an official United States policy of completely halting the shipment of any kind of armament to the Government of Iran; and

(3) urges that the President continue to make every effort to cooperate with the other nations of the United Nations to bring about an end to government sponsored torture in Iranian prisons, to pressure Iran to permit inspection of Iranian prisons by an international delegation, and to respect internationally recognized human rights.

SEC. 1236. IRANIAN PERSECUTION OF THE BAHA'IS.

(a) Policy.—It is the sense of the Congress that—

(1) the Government of Iran has systematically discriminated against the Baha'i community, including the arbitrary detention, torture, and killing of Baha'is, the seizure of Baha'i property, and the outlawing of the Baha'i faith; and

(2) Iran's gross violations of the human rights of the Baha'i community are in direct contravention of the Charter of the United Nations and the United Nations Declaration of Human Rights.

(b) Implementation of Policy.—It is the sense of Congress that the President shall take all necessary steps to focus international attention on the plight of the Baha'i community and to bring pressure to bear on the Government of Iran to cease its insidious policy of persecution.

PART E—ASIA

SEC. 1241. SOVIET OCCUPATION OF AFGHANISTAN.

(a) Findings on Soviet Actions in Afghanistan.—The Congress finds that—

(1) the Soviet Union has been waging war against the people of Afghanistan since the invasion of December 25, 1979;

(2) the victims of the Soviet invasion and occupation include more than 1,000,000 dead and more than 3,000,000 Afghans forced to find refuge in neighboring countries;

(3) Soviet military tactics have included the bombing and napalming of villages without regard to the human toll, the destruction of crops, agricultural land, and orchards so as to create famine conditions, and the massacre of hostages and other innocent civilians;

(4) children have been particular victims of Soviet aggression, with some being targeted for death by the dropping of booby-trapped toys while other children have been transported to the Soviet Union for indoctrination;

(5) the Soviet-installed puppet regime has engaged in a consistent pattern of gross violations of the human rights of its own citizens, including torture and summary execution, for which its Soviet sponsors must also be held accountable; and

(6) Soviet actions in Afghanistan constitute a violation of international law and of accepted norms of human decency and, therefore, must be condemned by civilized people everywhere.

(b) Findings on the Afghan Resistance.—The Congress further finds that—

(1) the Afghan people have heroically resisted the Soviet invaders in spite of the tremendous cost of so doing and now control most of their homeland;

(2) the provision of effective assistance to the Afghan people is an obligation of those who cherish freedom;

(3) a total and prompt withdrawal of all Soviet forces from Afghanistan is essential in order for the Afghan people to exercise their inalienable human right to self-determination; and

(4) a negotiated settlement providing for the total and prompt withdrawal of Soviet forces offers the best prospect for an early end to the suffering of the Afghan people.

(c) Declaration of Policy.—The Congress, therefore, declares it to be the policy of the United States—

(1) to provide such assistance to the Afghan people as will most effectively help them resist the Soviet invaders;

(2) to support a negotiated settlement to the Afghanistan war providing for the prompt withdrawal of all Soviet forces from Afghanistan within a time frame based solely on logistical criteria; and

(3) to communicate clearly to the Government and people of the Soviet Union the necessity of a Soviet withdrawal from Afghanistan as a condition for better relations between the United States and the Soviet Union.

(d) PROVISION OF ASSISTANCE.—The President and Secretary of State are directed to adopt policies and programs to ensure that all assistance intended for the Afghan people reaches its intended recipients and that theft or diversion of such assistance not be tolerated.

SEC. 1242. REPORT ON ADMINISTRATION POLICY ON AFGHANISTAN.

(a) FINDINGS.—The Congress finds that—

(1) each of the substantive sanctions imposed on the Soviet Union by the United States to protest the Soviet invasion of Afghanistan have been lifted;

(2) although the administration's policy on Afghanistan states that only "steadily increasing pressure on all fronts—military, political, diplomatic—will induce the Soviets to make the political decision to negotiate the withdrawal of their forces", political and diplomatic pressures on the Soviet Union have decreased rather than increased;

(3) in the absence of a coordinated and aggressive policy by the administration regarding the war in Afghanistan, the Congress has been forced to unilaterally implement numerous programs to bring "steadily increasing pressure" to bear on the Soviet Union; and

(4) despite the failure of Soviet troops to withdraw from Afghanistan, and the serious deterioration with regard to the situation of human rights in Afghanistan, the administration is planning to lift further sanctions and initiate increasing areas of cooperation with the Soviet Union.

(b) REPORT TO CONGRESS.—(1) Not later than 60 days after the date of the enactment of this Act, the Secretary of State shall provide the Chairman of the Senate Foreign Relations Committee and the Chairman of the House Foreign Affairs Committee with a report listing each sanction imposed against the Soviet Union by the United States since the first anniversary of the Soviet invasion of Afghanistan, a detailed explanation for the lifting of each sanction, and a detailed analysis of the benefit to the Soviet Union incurred by the lifting of each sanction.

(2) Not later than 60 days after the date of the enactment of this Act, the Secretary of State shall provide the Chairman of the Senate Foreign Relations Committee and the Chairman of the House Foreign Affairs Committee a comprehensive list of all areas of ongoing cooperation that could be withheld from the Soviet Union.

(3) Not later than 60 days after the date of the enactment of this Act, the Secretary of State shall provide the Chairman of the Senate Foreign Relations Committee and the Chairman of the House Foreign Affairs Committee with a detailed and comprehensive report in a suitably classified form, and in an unclassified form, containing the disposition of Soviet military forces in the Afghanistan region and an account of any troop withdrawals and any new troop deployments.

SEC. 1243. HUMAN RIGHTS VIOLATIONS IN TIBET BY THE PEOPLE'S REPUBLIC OF CHINA.

(a) FINDINGS.—The Congress finds that—

(1) on October 1, 1987, Chinese police in Lhasa fired upon several thousand unarmed Tibetan demonstrators, which included hundreds of women, children, and Tibetan Buddhist monks, killing at least six and wounding many others;

(2) on September 27, 1987, a peaceful demonstration in Lhasa calling for Tibetan independence and the restoration of human rights in Tibet, which was led by hundreds of Tibetan monks, was violently broken up by Chinese authorities and 27 Tibetan Buddhist monks were arrested;

(3) in the wake of His Holiness the Dalai Lama's five point peace plan, which was presented to Members of the United States Congress during his visit to Washington in September 1987, Chinese authorities in Tibet staged, on September 24, 1987, a mass political rally at which three Tibetans were given death sentences, two of whom were executed immediately;

(4) beginning October 7, 1950, the Chinese Communist army invaded and occupied Tibet;

(5) since that time, the Chinese Government has exercised dominion over the Tibetan people, who had always considered themselves as independent, through the presence of a large occupation force;

(6) over 1,000,000 Tibetans perished from 1959 to 1979 as a direct result of the political instability, executions, imprisonment, and widescale famine engendered by the policies of the People's Republic of China in Tibet;

(7) after 1950, particularly during the ravages of China's Cultural Revolution, over 6,000 monasteries, the repositories of 1,300 years of Tibet's ancient civilization, were destroyed and their irreplaceable national legacy of art and literature either destroyed, stolen, or removed from Tibet;

(8) the exploitation of Tibet's vast mineral, forest, and animal reserves has occurred with limited benefit to the Tibetan people;

(9) Tibet's economy and education, health, and human services remain far below those of the People's Republic of China as a whole;

(10) the People's Republic of China has encouraged a large influx of Han-Chinese into Tibet, thereby undermining the political and cultural traditions of the Tibetan people;

(11) there are credible reports of many Tibetans being incarcerated in labor camps and prisons and killed for the nonviolent expression of their religious and political beliefs;

(12) His Holiness the Dalai Lama, spiritual and temporal leader of the Tibetan people, in conjunction with the 100,000 refugees forced into exile with him, has worked tirelessly for almost 30 years to secure peace and religious freedom in Tibet, as well as the preservation of the Tibetan culture;

(13) in 1959, 1961, and 1965, the United Nations General Assembly called upon the People's Republic of China to end the violations of Tibetans' human rights;

(14) on July 24, 1985, 91 Members of the Congress signed a letter to President Li Xiannian of the People's Republic of China expressing support for direct talks between Beijing and representatives of His Holiness the Dalai Lama and the Tibetans in exile, and urging the Government of the People's Republic of China "to grant the very reasonable and justified aspirations of His Holiness the Dalai Lama and his people every consideration";

(15) on September 27, 1987, the chairman and ranking minority member of the Senate Foreign Relations Committee, the chairman and ranking minority member of the House Foreign Affairs Committee, and the Co-Chairman of the Congressional Human Rights Caucus signed a letter to his Excellency Zhao Ziyang, the Prime Minister of the People's Republic of China, expressing their "grave concern with the present situation in Tibet and welcome(d) His Holiness the Dalai Lama's (five point) proposal as a historic step toward resolving the important question of Tibet and alleviating the suffering of the Tibetan people . . . (and) express(ing) their full support for his proposal."; and

(16) there has been no positive response by the Government of the People's Republic of China to either of these communications.

(b) STATEMENT OF POLICIES.—It is the sense of the Congress that—

(1) the United States should express sympathy for those Tibetans who have suffered and died as a result of fighting, persecution, or famine over the past four decades;

(2) the United States should make the treatment of the Tibetan people an important factor in its conduct of relations with the People's Republic of China;

(3) the Government of the People's Republic of China should respect internationally recognized human rights and end human rights violations against Tibetans;

(4) the United States should urge the Government of the People's Republic of China to actively reciprocate the Dalai Lama's efforts to establish a constructive dialogue on the future of Tibet;

(5) Tibetan culture and religion should be preserved and the Dalai Lama should be commended for his efforts in this regard;

(6) the United States, through the Secretary of State, should address and call attention to the rights of the Tibetan people, as well as other non-Han-Chinese within the People's Republic of China such as the Uighurs of Eastern Turkestan (Xinjiang), and the Mongolians of Inner Mongolia;

(7) the President should instruct United States officials, including the United States Ambassadors to the People's Republic of China and India, to pay greater attention to the concerns of the Tibetan people and to work closely with all concerned about human rights violations in Tibet in order to find areas in which the United States Government and people can be helpful; and

(8) the United States should urge the People's Republic of China to release all political prisoners in Tibet.

(c) TRANSFER OF DEFENSE ARTICLES.—With respect to any sale, licensed export, or other transfer of any defense articles or defense services to the People's Republic of China, the United States Government shall, consistent with United States law, take into account the extent to which the Government of the People's Republic of China is acting in good faith and in a timely manner to resolve human rights issues in Tibet.

(d) MIGRATION AND REFUGEE ASSISTANCE.—Within 60 days after the date of the enactment of this Act, the Secretary of State shall determine whether the needs of displaced Tibetans are similar to those of displaced persons and refugees in other parts of the world and shall report that determination to the Congress. If the Secretary makes a positive determination, of the amounts authorized to be appropriated for the Department of State for "Migration and Refugee Assistance" for each of the fiscal years 1988 and 1989, such sums as are necessary shall be made available for assistance for displaced Tibetans. The Secretary of State shall determine the best means for providing such assistance.

(e) SCHOLARSHIPS.—For each of the fiscal years 1988 and 1989, the Director of the United States Information Agency shall make available to Tibetan students and professionals who are outside Tibet not less than 15 scholarships for study at institutions of higher education in the United States.

SEC. 1244. SUPPORT FOR THE RIGHT OF SELF-DETERMINATION FOR THE CAMBODIAN PEOPLE.

(a) FINDINGS.—The Congress finds that—

(1) the Socialist Republic of Vietnam, in violation of its obligations under interna-

tional law including the United Nations Charter, invaded Cambodia in December 1978;

(2) in January 1979, Vietnam installed a puppet government in Phnom Penh, Cambodia, headed by Heng Samrin;

(3) eight years later Vietnam continues, with Soviet backing, to occupy Cambodia with some 140,000 troops;

(4) by invading and occupying Cambodia, the Government of the Socialist Republic of Vietnam violated its obligation, undertaken upon becoming a member of the United Nations in 1977, not to use force against the territorial integrity or political independence of any state;

(5) Vietnam has attempted to submerge Cambodian culture and heritage through the settlement of large numbers of Vietnamese in Cambodia;

(6) human rights observers have noted a pattern of torture, political detention, inhumane treatment, and other abuses of human rights by officials of the Vietnamese-backed puppet Cambodian regime;

(7) the Vietnamese occupation of Cambodia has compounded the hardship and suffering of a people which had previously suffered barbaric crimes of genocide under Pol Pot's Khmer Rouge and has caused hundreds of thousands of Cambodians to flee their own country;

(8) in recognition of the illegal occupation of Cambodia by the Vietnamese, the United Nations has refused to recognize the credentials of the Heng Samrin regime and has instead continued to recognize the credentials of the Government in Exile led by Prince Norodom Sihanouk;

(9) the member states of the United Nations for the eighth time, and by a record vote, approved a resolution at the forty-second session of the General Assembly calling for the withdrawal of foreign troops from Cambodia;

(10) the 1981 United Nations-sponsored International Conference on Kampuchea called for the early withdrawal of foreign troops and the holding of free elections under United Nations supervision;

(11) the Government of the Socialist Republic of Vietnam has thus far rejected the efforts of the Association of Southeast Asian Nations and supported by the United States to resolve the situation in Cambodia; and

(12) in the absence of a settlement, the non-Communist Cambodian forces continue to wage a war of resistance against Vietnamese occupation forces.

(b) STATEMENT OF POLICY.—The Congress—

(1) deplores the continued violation of the sovereignty and territorial independence of Cambodia by the Socialist Republic of Vietnam;

(2) calls upon the Government of the Socialist Republic of Vietnam to immediately withdraw all of its occupation forces from Cambodia and to negotiate a settlement which restores self-determination to the Cambodian people;

(3) believes that such negotiations and withdrawal by Vietnam, together with a satisfactory accounting of Americans still missing in action, would constitute positive steps that would help facilitate the prospect of an end to Vietnam's isolation in the world community and an improvement of its relations with the United States;

(4) supports the efforts of the member nations of the Association of Southeast Asian Nations (ASEAN), the United Nations Secretary General, and the non-Communist Cambodian people to achieve a political settlement which would include such elements as internationally supervised free and fair elections, as well as assurances that there will be no return to the genocidal policies of the Pol Pot regime;

(5) supports efforts to establish an international tribunal to bring to justice those Khmer Rouge leaders during the reign of Pol Pot, and any others, responsible for crimes of genocide against the Cambodian people; and

(6) calls upon the international community to observe a special day of remembrance—

(A) in recognition of the suffering of the Cambodian people under Pol Pot,

(B) in protest of the efforts of Vietnam to suppress the basic human rights, culture, and way of life of the Cambodian people, and

(C) in protest of the illegal occupation of Cambodia by Vietnamese troops.

SEC. 1245. HUMAN RIGHTS IN THE PEOPLE'S REPUBLIC OF CHINA.

(a) FINDINGS.—The Congress finds that—

(1) the advancement of human rights is a stated objective of the foreign policy of the United States;

(2) the constitutional guarantees of freedom of speech, press, and peaceful assembly have not been adequately respected in the People's Republic of China;

(3) the exercise of religious activities has a detrimental effect on a participant's civil, social, and economic status within the People's Republic of China;

(4) the freedom of movement and the freedom to form independent trade unions and other voluntary associations are severely curtailed;

(5) there have been some encouraging developments including an effort by the current leadership of the People's Republic of China to develop economic policies without regard to a rigid application of Maoist ideology; and

(6) the American people desire to extend their moral support to the struggle for freedom and justice within the People's Republic of China.

(b) SENSE OF CONGRESS.—It is the sense of the Congress that the leadership of the People's Republic of China should take necessary steps toward establishing a more democratic society, with a free and open political system that will protect the essential human rights of all people living within that country.

SEC. 1246. DEMOCRACY IN TAIWAN.

(a) FINDINGS.—The Congress finds that—

(1) stability and peace prevail on the island of Taiwan and in the Western Pacific region;

(2) economic vitality, educational advancement, and social progress have created conditions favoring the furtherance of democracy in Taiwan;

(3) the people of Taiwan, in both national and local elections, have shown themselves fully capable of participating in a democratic political process;

(4) the authorities on Taiwan are nurturing a transition toward more truly democratic and representative political institutions, although a minority of the seats in the central legislature and central electoral college are filled through periodic elections, with the majority of seats still being held by individuals who took office in the late 1940's;

(5) on September 28, 1986, Taiwan's democratic opposition announced the formation of the Democratic Progressive Party;

(6) on October 7, 1986, President Chiang Ching-kuo, announced that the Kuomintang intended to end the state of martial law and to lift the ban on the creation of new political parties;

(7) the lifting of martial law in July and the release of detainees symbolize the growing respect for human rights and freedom of expression on Taiwan;

(8) the Kuomintang has indicated a desire over the next few years to make more representative Taiwan's central representative bodies, to broaden decisionmaking within the Nationalist Party, to enhance the rule of law, and to increase the powers of local-level government; and

(9) our common commitment to democratic institutions and values is an increasingly strong bond between the people of the United States and the people of Taiwan and an acceleration of progress toward a full democracy on Taiwan, including full respect for human rights, will strengthen United States ties with the people on Taiwan.

(b) SENSE OF CONGRESS.—The Congress—

(1) welcomes the democratic trends emerging in Taiwan and commends the progress that has been made recently in advancing democratic institutions and values;

(2) welcomes the lifting of martial law and looks forward to the lifting of the ban on new political parties;

(3) encourages the leaders and peoples of Taiwan to continue this process with the aim of consolidating fully democratic institutions, in particular by—

(A) guaranteeing freedom of speech, expression, and assembly; and

(B) gradually moving toward a fully representative government, including the free and fair election of all members of all central representative bodies; and

(4) requests the American Institute in Taiwan to convey this Nation's continuing support for a democratic and prosperous Taiwan, as stated in the Taiwan Relations Act, and our encouragement for democracy to the leaders and the people of Taiwan.

PART F—MISCELLANEOUS

SEC. 1251. REPORTS ON ILLEGAL TECHNOLOGY TRANSFERS.

(a) REPORT.—Not later than 30 days after the date of the enactment of this Act, the Secretary of State shall submit to the appropriate committees of the Congress a report concerning:

(1) The status of the Japanese Government investigation of the transfer of milling machines to the Soviet Union by Toshiba Machine Company, including any prosecution, fine, or other government action.

(2) The status of the Norwegian Government investigation of the transfer of numerical controllers by Kongsberg Vappenfabrik (KV) to the Soviet Union, including any prosecution, fine, or other government action.

(3) Actions undertaken by the Japanese and Norwegian Governments to ensure that such transfers or other breaches of security related to international espionage do not recur.

(4) Actions and plans of the United States Government to respond to such case of international espionage.

(b) DISCUSSIONS.—The Secretary of State shall enter into discussions with Japan and Norway regarding compensation for damage to United States national security resulting from such case of international espionage. The Secretary shall submit a preliminary report to the appropriate committees of the Congress concerning the status of such discussions 180 days after the date of enactment of this Act and shall submit a final

report 360 days after the date of enactment of this Act. The Secretary may submit such other subsequent reports as may be appropriate.

SEC. 1252. REPORT ON PROGRESS TOWARD A WORLD SUMMIT ON TERRORISM.

It is the sense of the Congress that the President should convene a summit meeting of Western world leaders to adopt a unified effective program against international terrorism.

SEC. 1253. PROTECTION OF AMERICANS ENDANGERED BY THE APPEARANCE OF THEIR PLACE OF BIRTH ON THEIR PASSPORTS.

(a) FINDINGS.—The Congress finds that some citizens of the United States may be specially endangered during a hijacking or other terrorist incident by the fact that their place of birth appears on their United States passports.

(b) DISCUSSIONS.—The Congress urges the President to enter into discussions with other countries regarding the feasibility of a general agreement permitting the deletion of the place of birth as a required item of information on passports.

SEC. 1254. SUPPORT OF MUTUAL DEFENSE ALLIANCES.

(a) FINDINGS.—The Congress makes the following findings:

(1) Japan, the member nations of the North Atlantic Treaty Organization (NATO), and other countries rely heavily on the United States to protect their national security under mutual defense alliances.

(2) The United States spends tens of billions of dollars annually to assist in the defense of allies of the United States.

(3) The financial burden of mutual defense assumed by many NATO allies and particularly Japan is not commensurate with their economic resources, and, as a result, the United States bears a disproportionately large share of the financial burden of supporting such mutual defense.

(4) While the United States is currently spending 6.5 percent of its gross national product on defense, our NATO allies spend an average of 3.5 percent of their gross national products on defense and Japan spends only 1.0 percent of its gross national product on defense.

(5) United States allies, particularly West Germany and Japan, have derived tremendous economic benefit from the free trade system among the Western countries, accumulating in certain cases large payments surpluses, while protected through military alliances to which the United States has made an overwhelming commitment of resources.

(6) The greatest weakness in the ability of the United States to sustain the mutual defense of the United States and its allies is not the military capability of the United States, but rather the economic vulnerability of the United States.

(7) The Federal budget deficit must be reduced in order to revitalize the economy.

(8) The continued unwillingness of the allies of the United States to increase their contributions to the common defense to more appropriate levels could weaken the long-term vitality, effectiveness, and cohesion of the alliances between those countries and the United States.

(b) POLICY.—It is the sense of the Congress that—

(1) the President should enter into discussions with countries which participate in mutual defense alliances with the United States, especially the member nations of NATO and Japan, for the purpose of reaching an agreement on a more equitable distribution of the burden of financial support for the alliances;

(2) the objective of such discussions with the member nations of NATO and Japan should be to establish a schedule of increases in defense spending by our NATO allies and Japan or a system of offsetting payments that is designed to achieve, to the maximum practicable extent, a division of responsibility for defense spending between those allies and the United States that is commensurate with their resources;

(3) the President should report to the Congress, within one year after the date of the enactment of this Act, on the progress of such discussions; and

(4) if, in the judgment of the Congress, the President's report does not reflect substantial progress toward a more equitable distribution of defense expenses among the members of a mutual defense alliance, the Congress should review the extent of the distribution of the mutual defense burden among our allies and consider whether additional legislation is appropriate.

SEC. 1255. ARMS EXPORT CONTROL ENFORCEMENT AND COORDINATION.

(a) EXPORT LICENSES.—Section 38 of the Arms Export Control Act (22 U.S.C. 2778) is amended by adding at the end the following new subsection:

"(g)(1) The President shall develop appropriate mechanisms to identify, in connection with the export licensing process under this section—

"(A) persons who are the subject of an indictment for, or have been convicted of, a violation under—

"(i) this section,

"(ii) section 11 of the Export Administration Act of 1979 (50 U.S.C. App. 2410),

"(iii) section 793, 794, or 798 of title 18, United States Code (relating to espionage involving defense or classified information),

"(iv) section 16 of the Trading with the Enemy Act (50 U.S.C. app. 16),

"(v) section 206 of the International Emergency Economic Powers Act (relating to foreign assets controls; 50 U.S.C. app. 1705),

"(vi) section 30A of the Securities Exchange Act of 1934 (15 U.S.C. 78dd-1) or section 104 of the Foreign Corrupt Practices Act (15 U.S.C. 78dd-2),

"(vii) chapter 105 of title 18, United States Code (relating to sabotage),

"(viii) section 4(o) of the Internal Security Act of 1950 (relating to communication of classified information; 50 U.S.C. 783(b)),

"(ix) section 57, 92, 101, 104, 222, 224, 225, or 226 of the Atomic Energy Act of 1954 (42 U.S.C. 2077, 2122, 2131, 2134, 2272, 2274, 2275, and 2276),

"(x) section 601 of the National Security Act of 1947 (relating to intelligence identities protection; 50 U.S.C. 421), or

"(xi) section 603(b) or (c) of the Comprehensive Anti-Apartheid Act of 1986 (22 U.S.C. 5113(b) and (c));

"(B) persons who are the subject of an indictment or have been convicted under section 371 of title 18, United States Code, for conspiracy to violate any of the statutes cited in subparagraph (A); and

"(C) persons who are ineligible—

"(i) to contract with,

"(ii) to receive a license or other form of authorization to export from, or

"(iii) to receive a license or other form of authorization to import defense articles or defense services from,any agency of the United States Government.

"(2) The President shall require that each applicant for a license to export an item on the United States Munitions List identify in the application all consignees and freight forwarders involved in the proposed export.

"(3) If the President determines—

"(A) that an applicant for a license to export under this section is the subject of an indictment for a violation of any of the statutes cited in paragraph (1),

"(B) that there is reasonable cause to believe that an applicant for a license to export under this section has violated any of the statutes cited in paragraph (1), or

"(C) that an applicant for a license to export under this section is ineligible to contract with, or to receive a license or other form of authorization to import defense articles or defense services from, any agency of the United States Government, the President may disapprove the application. The President shall consider requests by the Secretary of the Treasury to disapprove any export license application based on these criteria.

"(4) A license to export an item on the United States Munitions List may not be issued to a person—

"(A) if that person, or any party to the export, has been convicted of violating a statute cited in paragraph (1), or

"(B) if that person, or any party to the export, is at the time of the license review ineligible to receive export licenses (or other forms of authorization to export) from any agency of the United States Government,except as may be determined on a case-by-case basis by the President, after consultation with the Secretary of the Treasury, after a thorough review of the circumstances surrounding the conviction or ineligibility to export and a finding by the President that appropriate steps have been taken to mitigate any law enforcement concerns.

"(5) A license to export an item on the United States Munitions List may not be issued to a foreign person (other than a foreign government).

"(6) The President may require a license (or other form of authorization) before any item on the United States Munitions List is sold or otherwise transferred to the control or possession of a foreign person or a person acting on behalf of a foreign person.

"(7) The President shall, in coordination with law enforcement and national security agencies, develop standards for identifying high-risk exports for regular end-use verification. These standards shall be published in the Federal Register and the initial standards shall be published not later than October 1, 1988.

"(8) Upon request of the Secretary of State, the Secretary of Defense, and the Secretary of the Treasury shall detail to the office primarily responsible for export licensing functions under this section, on a nonreimbursable basis, personnel with appropriate expertise to assist in the initial screening of applications for export licenses under this section in order to determine the need for further review of those applications for foreign policy, national security, and law enforcement concerns.

"(9) For purposes of this subsection—

"(A) the term 'foreign corporation' means a corporation that is not incorporated in the United States;

"(B) the term 'foreign government' includes any agency or subdivision of a foreign government, including an official mission of a foreign government;

"(C) the term 'foreign person' means any person who is not a citizen or national of the United States or lawfully admitted to the United States for permanent residence

under the Immigration and Nationality Act, and includes foreign corporations, international organizations, and foreign governments;

"(D) the term 'party to the export' means—

"(i) the president, the chief executive officer, and other senior officers of the license applicant;

"(ii) the freight forwarders or designated exporting agent of the license application; and

"(iii) any consignee or end user of any item to be exported; and

"(E) the term 'person' means a natural person as well as a corporation, business association, partnership, society, trust, or any other entity, organization, or group, including governmental entities.".

(b) REVIEW OF MUNITIONS CONTROL REGISTRATIONS.—Section 38(b)(1) of that Act is amended—

(1) by inserting "(A)" after "(1)"; and

(2) by adding at the end the following new paragraph:

"(B) A copy of each registration made under this paragraph shall be transmitted to the Secretary of the Treasury for review regarding law enforcement concerns. The Secretary shall report to the President regarding such concerns as necessary.".

(c) MUNITIONS CONTROL REGISTRATION FEES.—Section 38(b) of that Act is amended by inserting at the end the following:

"(3)(A) For each of the fiscal years 1988 and 1989, $250,000 of registration fees collected pursuant to paragraph (1) shall be credited to a Department of State account, to be available without fiscal year limitation. Fees credited to that account shall be available only for the payment of expenses incurred for—

"(i) contract personnel to assist in the evaluation of munitions control license applications, reduce processing time for license applications, and improve monitoring of compliance with the terms of licenses; and

"(ii) the automation of munitions control functions and the processing of munitions control license applications, including the development, procurement, and utilization of computer equipment and related software.

"(B) The authority of this paragraph may be exercised only to such extent or in such amounts as are provided in advance in appropriation Acts.".

TITLE XIII—EFFECTIVE DATE.

SEC. 1301. EFFECTIVE DATE.

Except as otherwise provided in this Act, this Act shall take effect on the date of its enactment.

And the Senate agree to the same.

From the Committee on Foreign Affairs, for consideration of the House bill and Senate amendment, and modifications committed to conference:

DANTE B. FASCELL,
DAN MICA,
GUS YATRON,
MERVYN M. DYMALLY,
PETER H. KOSTMAYER,
LAWRENCE J. SMITH,
CHESTER G. ATKINS,
WM. BROOMFIELD,
OLYMPIA SNOWE,
BENJAMIN A. GILMAN,
CONNIE MACK,
MIKE DEWINE,

As additional conferee solely for consideration of sec. 156 of the House bill, and modifications committed to conference:

STEPHEN J. SOLARZ,

As additional conferee solely for consideration of sec. 199E of the House bill, and modifications committed to conference:

DON BONKER,

As additional conferees from the Committee on Post Office and Civil Service, for consideration of secs. 124, 134, 139, 145, 151 through 154, 156 through 162, 179, 189 through 194, 196, and 403 of the House bill, and secs. 111 through 114, 116 through 124, 303, 525, 551, 555 through 557, 559, and 606 of the Senate amendment, and modifications committed to conference:

WILLIAM D. FORD,
PAT SCHROEDER,
FRANK HORTON,

As additional conferees from the Committee on the Judiciary, for consideration of secs. 132, 143, 146, 182, 199, 199B, and 212 of the House bill, and titles VII, IX, X, and XI and secs. 502, 503, 504, 506, 512, 526, 528, 531, 549, 552, 558, and 570 of the Senate amendment, and modifications committed to conference:

PETER W. RODINO,
R.L. MAZZOLI,
BILL HUGHES,
BARNEY FRANK,
HAMILTON FISH, JR.,
BILL MCCOLLUM,

As additional conferees from the Committee on Armed Services, for consideration of sec. 199F of the House bill, and modifications committed to conference:

BEVERLY BYRON,
ALBERT G. BUSTAMANTE,
HERBERT H. BATEMAN,

As additional conferees from the Committee on Ways and Means, for consideration of secs. 552, 912, and 913 of the Senate amendment, and modifications committed to conference:

DAN ROSTENKOWSKI,
SAM M. GIBBONS,
CHARLES B. RANGEL,
THOMAS J. DOWNEY,
JOHN J. DUNCAN,
PHILIP M. CRANE,

As additional conferees from the Committee on Energy and Commerce, for consideration of secs. 401 through 404 of the Senate amendment, and modifications committed to conference:

JOHN D. DINGELL,
HENRY A. WAXMAN,
PHILIP R. SHARP,
NORMAN F. LENT,
EDWARD MADIGAN,

As additional conferees from the Committee on Science, Space, and Technology, for consideration of secs. 401 through 404 of the Senate amendment, and modifications committed to conference:

ROBERT A. ROE,
JAMES H. SCHEUER,
RALPH M. HALL,
MANUEL LUJAN, Jr.,
JAMES SENSENBRENNER, Jr.,

As additional conferees from the Committee on Public Works and Transportation, for consideration of sec. 552 of the Senate amendment, and modifications committed to conference:

NORMAN Y. MINETA,
RON DE LUGO,
JOHN PAUL HAMMERSCHMIDT,

Managers on the Part of the House.

CLAIBORNE PELL,
JOE BIDEN,
PAUL SARBANES,
JESSE HELMS,
RICHARD LUGAR,

Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 1777) to authorize appropriations for fiscal years 1988 and 1989 for the Department of State, the United States Information Agency, the Voice of America, the Board for International Broadcasting, and for other purposes, submit the following joint statement to the House and Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck out all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment which is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

AUTHORIZATIONS OF APPROPRIATIONS; EARMARKS—H.R. 1777

The following table summarizes the actions of the committee on conference with respect to the budgets of the Department of State, the United States Information Agency, the Board for International Broadcasting, the Voice of America, and the Asia Foundation:

BUDGET FOR ALL AGENCIES

[In thousands of dollars]

	1987 appropriation	Fiscal year 1988				Fiscal year 1989			
		Administration request	House bill	Senate amendment	Conference substitute	Administration request	House bill	Senate amendment	Conference substitute
Administration of Foreign Affairs:									
Salaries and expenses	1,319,856	1,461,113	1,366,124	1,431,908	1,431,908		1,431,163		1,460,546
Foreign buildings operations	449,480	345,368	313,124	[1]323,000	313,124		325,649		319,386
Representational allowances	4,460	4,500	4,460	4,460	4,460		4,638		4,549
Emergencies in the diplomatic and consular services	4,000	4,500	4,000	4,000	4,000		4,160		4,080
American Institute in Taiwan	9,379	10,000	9,379	9,379	9,379		9,754		9,567

BUDGET FOR ALL AGENCIES—Continued

[In thousands of dollars]

	1987 appropriation	Fiscal year 1988				Fiscal year 1989			
		Administration request	House bill	Senate amendment	Conference substitute	Administration request	House bill	Senate amendment	Conference substitute
Diplomatic Security Program:									
Salaries and expenses	292,528	390,346	390,346	[1] 341,954	350,000		315,792		357,000
Protection of Foreign Missions	9,100	9,445	9,100	9,100	9,100		9,464		9,282
Counterterrorism R&D	0	9,000	9,000		(2)		9,360		(2)
Subtotal	2,088,803	2,234,272	2,105,533	2,123,801	2,121,971		2,109,980		2,164,410
International organizations and conferences:									
UN affiliated agencies	238,832	406,737	238,832	406,810	406,810		248,395		414,946
Inter-American organizations	87,198	96,660	91,698	96,660	96,660		95,186		98,593
Regional organizations	50,868	55,780	50,868	55,780	55,780		52,903		56,896
Other international organizations	8,102	11,750	8,102	11,750	11,750		8,426		11,985
Subtotal international organizations	385,269	570,927	389,500	571,000	571,000		404,900		582,420
Peacekeeping activities	29,400	30,000	29,400	29,400	29,400		30,576		29,988
Conferences and contingencies	5,460	6,000	5,460	5,460	6,000		5,678		6,120
Subtotal	420,129	606,927	424,360	605,860	606,400		441,154		618,528
International commissions:									
International Boundary and Water Commission United States-Mexico	14,700	16,770	14,700	14,700	14,700		15,288		14,994
International Boundary Commission United States-Canada	721	805	721	720	721		750		735
International joint commissions	3,453	3,983	2,979	2,980	2,979		3,098		3,039
International fisheries commissions	10,800	11,148	10,800	10,800	10,800		11,232		11,016
Subtotal	29,674	32,706	29,200	29,200	29,200		30,368		29,784
Other programs:									
U.S. Bilateral Science and Technology Agreements	1,900	2,000	1,900	1,900	1,900		1,976		1,938
Soviet and East European research	4,600	5,000	4,600	5,000	4,600		4,784		4,692
Migration and refugee assistance	346,856	314,450	336,750	314,450	336,450		350,220		343,485
Subtotal	353,356	321,450	343,250	321,350	343,250		356,980		350,115
State total fiscal year 1988 authorization	2,891,962	3,195,355	2,902,343	3,080,211	3,100,821		2,938,483		3,162,837
Title II: U.S. Information Agency:									
Salaries and expenses	352,095	374,264	371,455	377,000	369,455	398,956	386,513		376,845
Television and film service	30,391	43,655	31,306		30,391	48,752	32,558		30,999
NED	15,000	25,000	17,500	[1] 17,750	17,500	25,000	18,100		18,100
East-West Center	20,000	20,000	20,000	20,000	20,000	20,700	20,800		20,400
Total	417,486	462,919	440,261	414,750	437,408	493,408	457,971		446,344
Title III: Educational and cultural programs:									
Exchange programs	181,580	190,339	187,439	185,000	188,625	192,992	194,937		192,438
S. Smith Memorial Exchange Program	0	0	0	2,000	2,000	0	0		2,000
Total	181,580	190,339	187,439	187,000	190,625	192,992	194,937		194,438
Title IV: Voice of America									
Salaries and expenses	166,935	179,538	177,200	170,000	177,200	190,826	184,288		180,744
Radio construction	66,000	90,000	0	0	0	180,000	66,000		0
VOA/Europe	2,231	2,022	3,000		3,000		3,120		3,060
RBC	12,759	12,434	12,652	10,000	12,652	12,889	13,158		12,905
Total	247,925	283,994	192,852	180,000	192,852	383,715	266,566		196,709
Total USIA, titles II & III & IV	846,991	937,252	820,552	781,750	820,823	1,070,115	919,474		837,491
Title V: Board for International Broadcasting:									
Total authorization	173,195	203,000	170,600	[1] 174,000	186,000	219,424	219,424		207,424
Title VI: Asia Foundation:									
Total authorization	8,000	9,671	13,700	[1] 15,000	13,700		14,148		15,000
Grand total, all titles:	3,920,948	4,345,278	3,907,195	4,050,961	4,121,344	1,289,539	4,091,529		4,222,752

[1] Includes funds reallocated from Inman security program

[2] Funds for this program included in authorization for diplomatic security salaries and expenses.

FISCAL YEAR 1988–89 EARMARKS—ALL AGENCIES

[In thousands of dollars]

	Fiscal year 1988			Fiscal year 1989		
	House bill	Senate amendment	Conference substitute	House bill	Senate amendment	Conference substitute
State Department:						
Communication and information development	250		250	250		250
Consular posts and diplomatic missions abroad	3,100	50,000	50,000	3,100		50,000
International Atomic Energy Agency		31,443	31,443			31,443
International Civil Aviation Organization			7,849			7,849
International Maritime Organization			645			645
International Telecommunication Union			4,471			4,471
United Nations		193,188	193,188			193,188
World Health Organization		63,857	63,857			63,857
Organization of American States		44,915	44,915			44,915
Pan American Health Organization		38,659	38,659			38,659
NATO			25,110			25,110
OECD			29,385			29,385
International Wheat Council		388	388			388
East Asian Refugees	28,300			28,300		
Piracy in the Gulf of Thailand	1,300			1,300		
African refugees	61,000			61,000		
Near East refugees	89,200			89,200		
Latin American refugees	15,500			15,500		
Refugee resettlement in Israel	25,000	25,000	25,000	25,000		25,000
UNHCR	5,000		5,000	5,000		5,000

FISCAL YEAR 1988–89 EARMARKS—ALL AGENCIES—Continued

[In thousands of dollars]

	Fiscal year 1988			Fiscal year 1989		
	House bill	Senate amendment	Conference substitute	House bill	Senate amendment	Conference substitute
Allocation of educational assistance for Thailand		5,000	(1)			(1)
Allocation of economic support funds assistance for Thailand		5,000				
IMET allocation for Thailand		2,000				
Latin American and Caribbean data base	1,300		1,300	1,300		1,300
United States Embassy in Hungary	60,000					
Assistant Secretary for South Asian Affairs	1,750			1,750		
International child abduction		250				
International Committee of the Red Cross			(2)			(2)
USIA:						
Fulbright Academic Exchange Program		93,000	93,000			93,000
International Visitors Program		39,000	39,000			39,000
Humphrey Fellowship Program		5,250	5,250			5,250
Congress-Bundestag exchange		2,000	2,500			2,500
Seattle Goodwill Games		500	500			500
Arts America Program		5,000	5,000			5,000
Zorinsky Memorial Library		300	300			
United States Soviet student exchanges (Simon and Udall)	2,000	2,000	2,000	2,000		2,000
Free Press in Nicaragua		250	250			
Television and film service		15,500				
Worldnet audience survey		500	500			
Solidarity		1,000	1,000			
BIB: Construction		12,000	12,000			12,000

[1] $1 million is earmarked for this purpose within the allocation for UNHCR.

[2] In fiscal year 1988, the amount should be equal to the U.S. contribution in fiscal year 1987. In fiscal year 1989, the amount shall be no less than 10 percent of the regular budget of the ICRC.

TITLE I—DEPARTMENT OF STATE

PART A—AUTHORIZATION OF APPROPRIATIONS; ALLOCATIONS OF FUNDS; RESTRICTIONS

The House bill (secs. 101-104) authorizes $2,902,343,000 for fiscal year 1988 and $2,933,833,000 for fiscal year 1989 for the Department of State.

The Senate amendment (secs. 101-104) authorizes $3,080,211,000 for fiscal year 1988 for the Department of State. The Senate funding level included reallocation of funds previously authorized under the Omnibus Diplomatic Security and Anti-Terrorism Act of 1986 totaling $397 million.

The conference substitute (secs. 101-105) authorizes $3,100,821,000 for fiscal year 1988 and $3,162,837,000 for fiscal year 1989 for the Department of State. The following table summarizes the action of the committee on conference:

STATE DEPARTMENT BUDGET

[In thousands of dollars]

	Fiscal year 1987 appropriation	Fiscal year 1988				Fiscal year 1989			
		Administration request	House bill	Senate amendment	Conference substitute	Administration request	House bill	Senate amendment	Conference substitute
Administration of foreign affairs:									
Salaries and expenses	1,319,856	1,461,113	1,366,124	1,431,908	1,431,908		1,431,163		1,460,546
Foreign buildings operations	449,480	345,368	313,124	323,000	313,124		325,649		319,386
Representational allowances	4,460	4,500	4,460	4,460	4,460		4,638		4,549
Emergencies in the diplomatic consular services	4,000	4,500	4,000	4,000	4,000		4,160		4,080
American Institute in Taiwan	9,379	10,000	9,379	9,379	9,379		9,754		9,567
Diplomatic security program:									
Salaries and expenses	292,528	390,346	390,346	[1] 341,954	350,000		315,792		357,000
Protection of foreign missions	9,100	9,445	9,100	9,100		9,100		9,464	9,282
Counter terrorism R&D	0	9,000	9,000		(2)		9,360		(2)
Subtotal	2,088,803	2,234,272	1,105,533	1,123,801	2,121,971		2,109,980		2,164,410
International organizations and conferences:									
U.N. affiliated agencies	238,832	406,737	238,832	406,810	406,810		248,385		414,946
Inter-American organizations	87,198	96,660	91,698	96,660	96,660		95,186		98,593
Regional organizations	50,868	55,780	50,868	55,780	55,780		52,903		56,896
Other international organizations	8,102	11,750	8,102	11,750	11,750		8,426		11,985
Subtotal international organizations	385,269	570,927	389,500	571,000	571,000		404,900		582,420
Peacekeeping activities	29,400	30,000	29,400	29,400	29,400		30,576		29,988
Conferences and contingencies	5,460	6,000	5,460	5,460	6,000		5,678		6,120
Subtotal	420,129	606,927	424,360	605,860	606,400		441,154		618,528
International commissions:									
International Boundary and Water Commission United States-Mexico	14,700	16,770	14,700	14,700	14,700		15,288		14,994
International Boundary Commission United States-Canada	721	805	721	720	721		750		735
International joint commissions	3, 453	3,983	2,979	2,980	2,979		3,098		3,039
International fisheries commissions	10,800	11,148	10,800	10,800	10,800		11,232		11,016
Subtotal	29,674	32,706	29,200	29,200	29,200		30,368		29,784
Other programs:									
U.S. bilateral science and technical agreements	1,900	2,000	1,900	1,900	1,900		1,976		1,938
Soviet and East European research	4,600	5,000	4,600	5,000	4,600		4,784		4,692
Migration and refugee assistance	346,856	314,450	336,750	314,450	336,750		350,220		343,485
Subtotal	353,356	321,450	343,250	321,350	343,250		356,980		350,115
State total fiscal year 1988 authorization	2,891,962	3,195,355	2,902,343	3,080,211	3,100,821		2,938,483		3,162,837

[1] Includes funds reallocated from inman security program.

[2] Funds for this program included in authorization for diplomatic security salaries and expenses.

Regular salaries and expenses

In approving funds for fiscal year 1988, the committee of conference agreed to provide the higher Senate funding level for the regular salaries and expenses account, or $1,431,908,000, to enable the Department of State to seek sufficient appropriations to maintain its current level of operations.

Diplomatic security salaries and expenses

The House bill (sec. 101(b)(1) and sec. 197) authorizes a total of $390 million for salaries and expenses for the Bureau of Diplo-

matic Security for the continuation of antiterrorism security programs and to address technical security shortcomings at U.S. diplomatic and consular missions abroad. The Senate amendment authorizes $341 million for the same purposes. The committee of conference agreed to fund this account at $350 million for fiscal year 1988 and $357 million for fiscal year 1989.

With respect to the funding of the program for counterterrorism research and development, the committee of conference did not separately authorize funds for this purpose, as in the House bill (sec. 101(b)(3)). However, the committee of conference fully expects the executive branch to continue this important effort with funds provided for salaries and expenses for the Bureau of Diplomatic Security.

Fiscal year 1989

With respect to the authorization levels provided for fiscal year 1989 (see table 1) the committee of conference generally provided a 2 percent increase over fiscal year 1988 pursuant to the agreement between the President and the joint congressional leadership during the recent budget summit concluded on November 20, 1987.

Earmarks

The House bill and the Senate amendment in numerous instances earmarked funds authorized for various purposes. The conference substitute maintains a number of these earmarks. The following table summarizes the actions of the House and the Senate and provides the agreement of the committee of conference with respect to these earmarks:

EARMARKS FOR THE DEPARTMENT OF STATE

[In thousands of dollars]

	Fiscal year 1988			Fiscal year 1989		
	House bill	Senate amendment	Conference substitute	House bill	Senate amendment	Conference substitute
Communication and information development	250		250	250		250
Consular posts and diplomatic missions abroad	3,100	50,000	50,000	3,100		50,000
International Atomic Energy Agency		31,443	31,443	0		31,443
International Civil Aviation Organization			7,849	0		7,849
International Maritime Organization			645	0		645
International Telecommunication Union			4,471	0		4,471
United Nations		193,188	193,188	0		193,188
World Health Organization		63,857	63,857	0		63,857
Organization of American States		44,915	44,915	0		44,915
Pan American Health Organization		38,659	38,659	0		38,659
NATO			25,110	0		25,110
OEOD			29,385	0		29,385
International Wheat Council		388	388			388
East Asian refugees	28,300			28,300		
Piracy in the Gulf of Thailand	1,300			1,300		
African refugees	61,000			61,000		
Near East refugees	89,200			89,200		
Latin American refugees	15,500			15,500		
Refugee resettlement in Israel	25,000	25,000	25,000	25,000		25,000
UNHCR	5,000		5,000	5,000		5,000
Allocation of educational asistance for Thailand		5,000	[1]			[1]
Allocation of economic support funds assistance for Thailand		5,000				
IMET allocation for Thailand		2,000				
Latin American and Caribbean data base	1,300		1,300	1,300		1,300
United States Embassy in Hungary	60,000					
International child abduction		250				
Assistant Secretary for South Asian Affairs	1,750			1,750		
International Committee of the Red Cross			[2]			[2]

[1] $1 million is earmarked for this purpose within the allocation of UNHCR.

[2] In fiscal year 1988, the amount should be equal to the U.S. contribution in fiscal year 1987. In fiscal year 1989, the amount shall be no less than 10 percent of the regular budget of the ICRC.

REDUCTION IN EARMARKS IF APPROPRIATIONS ARE LESS THAN AUTHORIZATIONS

The House bill (sec. 701) provides that if the amount appropriated for any fiscal year pursuant to any authorization provided by this act is less than the amount of the authorization, the earmarks made by this act shall be reduced proportionately.

The Senate amendment contains no comparable provision.

The conference substitute (sec. 106) is the same as the House bill.

TRANSFER OF FUNDS

The Senate amendment (sec. 560) repeals section 401(a)(4) of the Omnibus Diplomatic Security and Anti-Terrorism Act of 1986 and authorizes the Department of State to use funds authorized to be appropriated for salaries and expenses of the Bureau of Diplomatic Security by section 401(a)(1)(A) of the Omnibus Diplomatic Security and Anti-Terrorism Act of 1986 for any salaries and expenses purpose.

The House bill contains no comparable provision.

The conference substitute (sec. 107) authorizes the Secretary of State to transfer to the salaries and expenses account of the Department of State amounts appropriated to the Department of State for any fiscal year, prior to fiscal year 1989, for capital construction programs. The transfer authority specifically does not apply to any funds authorized under the Omnibus Diplomatic Security and Anti-Terrorism Act of 1986. Furthermore, in any fiscal year, the aggregate of the amounts transferred under this section and the amounts appropriated for salaries and expenses may not exceed the authorization provided by this act for that purpose.

COMPLIANCE WITH PRESIDENTIAL-CONGRESSIONAL SUMMIT AGREEMENT

While the House-Senate conference was underway, the President and congressional leaders agreed to an overall funding cap for the international affairs budget function 150, of which authorizations under this act are a part. The conference substitute provision (sec. 108) was agreed to by the committee on conference to ensure that no funds authorized by this act may be appropriated in excess of the limits agreed upon by the Presidential-Congressional Summit Agreement of November 20, 1987, or any subsequent implementing laws.

PROHIBITION ON USE OF FUNDS FOR POLITICAL PURPOSES

The Senate amendment (sec. 503) prohibits funds authorized by this act or any other act authorizing funds for any entity engaged in any activity concerning the foreign affairs of the United States from being used for publicity or propaganda purposes designed to support or defeat legislation pending before the Congress or to influence in any way the outcome of a political election. An officer or employee of the U.S. Government who violates or attempts to violate this section shall be fined not more than $1,000 or imprisoned for not more than 1 year or both, and after notice and hearing, shall be removed from office or employment.

The House bill contains no comparable provision.

The conference substitute (sec. 109) is similar to the Senate amendment, but deletes the criminal and employment penalties for violation of this section.

LATIN AMERICAN AND CARIBBEAN DATA BASE

The Senate amendment (sec. 537) directs the Secretary of State, in consultation with the heads of appropriate departments and agencies of the U.S. Government, to use not less than $1.3 million from the salaries and expenses account to provide for the establishment of a Latin American and Caribbean data base. The Senate amendment also requires that any new contractual agreement entered into shall be subject to full and open competition, and that the Secretary of State shall ensure that the funds are not awarded to maintain services that are significantly duplicative of existing services.

The House bill (sec. 136) contains a similar provision.

The conference substitute (sec. 110) combines the two provisions and specifies that the data base referred to is dealing with online bibliographic data.

PART B—DEPARTMENT OF STATE AUTHORITIES AND ACTIVITIES; FOREIGN MISSIONS REPROGRAMMING OF FUNDS APPROPRIATED FOR THE DEPARTMENT OF STATE

The House bill (sec. 123) amends section 34 of the State Department Basic Authorities Act of 1956 to prohibit the reprogramming of any funds during the last 15 days in which such funds are available, unless notice of such reprogramming is made before that period.

The Senate amendment contains no comparable provision.

The conference substitute (sec. 121) is the same as the House bill.

CONSULAR AND DIPLOMATIC POSTS ABROAD

The Senate amendment (sec. 107) prohibits the use of funds authorized by this or any other act to pay the expenses related to the closing of any U.S. mission or consulate abroad or to pay any expenses related to the Bureau of Administration or any of its functions if any U.S. consulate or mission is closed after January 1, 1987 and not reopened. This provision does not apply to any post closed due to a break or downgrading in relations, a post where there is a real and present threat to Americans in the city where the post is located, or where the post is closed to open one of a higher priority and the total number of consulates and missions abroad is not less than the number that existed on January 1, 1987.

In addition, the Senate amendment also fences off $50 million of the funds authorized for the administration of foreign affairs subject to the reopening of the specified U.S. consulates. With the reopening of the specified consulates, funds not needed for the operations of the consulates may be used for other purposes.

The House bill (sec. 144) contains a comparable provision.

The conference substitute (sec. 122) is similar to the Senate amendment, but adds additional criteria which provides an exception when a host government will not allow the post to be reopened and which permits the Secretary of State to submit a report proposing a list of posts to be downgraded or closed in the event of a sequestration order under the Gramm-Rudman-Hollings deficit reduction legislation.

CLOSING OF DIPLOMATIC AND CONSULAR POSTS IN ANTIGUA AND BARBUDA

The House bill (sec. 141) prohibits the use of funds authorized for the Department of State for any fiscal year for the expenses of maintaining a U.S. diplomatic or consular post in Antigua and Barbuda.

The Senate amendment (sec. 567) contains an identical provision.

The conference substitute (sec. 123) is similar to the House bill, but allows for a Presidential waiver of this section on national security grounds.

The committee of conference notes that the expenses incurred in maintaining the U.S. Embassy in Antigua and Barbuda is far in excess of a reasonable expense needed to conduct necessary relations with a country whose population is less than 70,000. The need for the current level of staffing with full-time, resident American diplomats has not been convincingly demonstrated. The committee of conference directs the Department of State to undertake a comprehensive review of the staffing levels in Antigua and Barbuda with a view toward reducing the present staffing levels by 60 percent or more.

REPORT ON EXPENDITURES MADE FROM APPROPRIATION FOR EMERGENCIES IN THE DIPLOMATIC AND CONSULAR SERVICE

The Senate amendment (sec. 101(c)) directs the Secretary of State to provide the Committee on Foreign Affairs and Committee on Appropriations of the House of Representatives and the Committee on Foreign Relations and Committee on Appropriations of the Senate a quarterly report on expenditures made from the appropriation for Emergencies in the Diplomatic and Consular Service.

The House bill contains no comparable provision.

The conference substitute (sec. 124) is the same as the Senate amendment.

REQUIREMENTS APPLICABLE TO GIFTS USED FOR REPRESENTATIONAL PURPOSES

The House bill (sec. 126) amends section 25(b) of the State Department Basic Authorities Act of 1956 to prohibit the expenditure of gift funds for representational purposes except in accordance with the same conditions that apply to appropriated funds.

The Senate amendment contains no comparable provision.

The conference substitute (sec. 125) is the same as the House bill. This provision allows the Department of State to apply either the restrictions applied to representational expenditures made from the funds authorized to be appropriated under paragraph 101(a)(3) of this act or the restrictions applied to expenditures authorized to be appropriated under paragraph 101(a)(4). The Department is directed under this section to adopt regulations which strictly conform to this section with respect to section 101(a)(4). The committee of conference also stresses that nothing in this section should be construed to mandate that the Department of State must modify more stringent restrictions currently in force.

PROTECTION OF HISTORIC AND ARTISTIC FURNISHINGS OF RECEPTION AREAS OF THE DEPARTMENT OF STATE

The Senate amendment (sec. 131 and sec. 132) amends the State Department Basic Authorities Act of 1956 to provide authority for the Secretary of State to preserve the historic style and quality of designated areas of the Department of State building, to authorize the Secretary to sell items which are not needed and trade or purchase articles which enhance the museum character of the rooms, and to give the Department of State the same authority to insure items purchased for reception rooms as it now has to insure items that are loaned or donated.

The House bill contains no comparable provision.

The conference substitute (sec. 126) combines the two provisions while consolidating and modifying the provisions to stress the historic and artistic nature of the designated areas. The conference substitute also makes clear that the purpose of the provision is to leave the areas for the use of the American people. The conference substitute also provides that the administration of this section should not conflict with the administration of the Department of State or with the use of the reception areas for official purposes of the U.S. Government. The committee of conference stresses that such use includes use by all three branches of the Federal Government.

INCLUSION OF COERCIVE POPULATION CONTROL INFORMATION IN ANNUAL HUMAN RIGHTS REPORT

The House bill (sec. 131) amends the Foreign Assistance Act to include information on coercive population control, including coerced abortion, in the Department of State's annual country report on human rights practices.

The Senate amendment contains no comparable provision.

The conference substitute (sec. 127) is similar to the House bill, but specifies that information on coerced abortion and involuntary sterilization be provided wherever applicable.

LIMITATION ON USE OF A FOREIGN MISSION IN A MANNER INCOMPATIBLE WITH ITS STATUS AS A FOREIGN MISSION

The House bill (sec. 128) amends the State Department Basic Authorities Act of 1956 to prohibit the use of a foreign mission for any purpose incompatible with its status as a foreign mission, including use as a residence for unaffiliated aliens. The Secretary of State may waive this provision if he provides written notification of such a waiver 30 days in advance which includes the reasons for such a waiver. The House bill also requires an annual report not later than February 1 of each year on the implementation of this section.

The Senate (sec. 563) contains a similar provision.

The conference substitute (sec. 128) is similar to the House bill but changes the annual reporting requirement to a one time report 180 days after the date of enactment, and such other reports concerning changes in implementation that may be necessary.

ALLOCATION OF SHARED COSTS AT MISSIONS ABROAD

The House bill (sec. 129) directs the Secretary of State to review, and revise if necessary, the allocation procedures under which agencies reimburse the Department of State for shared adminstrative costs at U.S. missions abroad in order to provide for full reimbursement of such costs. The House bill also requires the Secretary to submit a report within 3 months after the date of enactment to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate on such review and revision.

The Senate amendment contains no comparable provision.

The conference substitute (sec. 129) is the same as the House bill.

PROHIBITION ON THE USE OF FUNDS FOR FACILITIES IN ISRAEL, JERUSALEM, OR THE WEST BANK

The Senate amendment (sec. 136) prohibits the obligation or expenditure of any funds authorized by this act or any amendment made by this act for site acquisition, development, or construction of any facility in Israel, Jerusalem, or the West Bank.

The House bill contains no comparable provision.

The conference substitute (sec. 130) prohibits the obligation or expenditure of funds authorized by title I of this act for the acquisition, development, or construction of any new diplomatic facility in Israel, Jerusalem, or the West Bank. This section is not meant to apply to security upgrades at existing diplomatic facilities or nonsecurity related construction, such as the new Voice of America transmitter facility.

PURCHASING AND LEASING OF RESIDENCES

The Senate amendment (sec. 540) contains congressional findings regarding the purchasing and leasing of overseas residences and expresses the sense of the Congress favoring the purchase of residences over the leasing of residences.

The House bill contains no comparable provision.

The conference substitute (sec. 131) expresses the sense of the Congress that the Secretary of State should include in the fiscal year 1989 congressional budget presentations information on the advantages and disadvantages of purchasing rather than leasing properties.

PROHIBITION ON ACQUISITION OF HOUSE FOR SECRETARY OF STATE

The Senate amendment (sec. 569) prohibits the Department of State from soliciting or receiving funds for the construction, purchase, lease, or rental of, or any gift or bequest of real property for the purpose of providing living quarters for the Secretary of State.

The House bill contains no comparable provision.

The conference substitute (sec. 132) is similar to the Senate amendment, with technical modifications.

U.S. DEPARTMENT OF STATE FREEDOM OF EXPRESSION

The Senate amendment (sec. 546) states that it is not in the national security interest of the United States for Department of State to declare itself a foreign mission and prohibits the Department from doing so.

The House bill contains no comparable provision.

The conference substitute (sec. 133) is similar to the Senate amendment, but makes a technical correction to eliminate the provisions designation as a separate act.

REPEAL OF OFFICE OF POLICY AND PROGRAM REVIEW

The Senate amendment (sec. 115) amends the Diplomatic Security Act to repeal the Office of Policy and Program Review of the Department of State.

The House bill contains no comparable provision.

The conference substitute (sec. 134) is the same as the Senate amendment.

STUDIES AND PLANNING FOR A CONSOLIDATED TRAINING FACILITY FOR THE FOREIGN SERVICE INSTITUTE

The Senate amendment (sec. 137) amends the Foreign Relations Authorization Act, fiscal years 1986 and 1987 to extend the authorization for the Secretary of State to transfer up to $11 million of the funds authorized for the administration of foreign affairs to the Administrator of General Services for carrying out feasibility studies, site preparation, and design, architectural, and engineering planning of a consolidated training facility for the Foreign Service Institute.

The House bill contains no comparable provision.

The conference substitute (sec. 135) is the same as the Senate amendment.

RESTRICTION OF SUPERVISION OF GOVERNMENT EMPLOYEES BY CHIEFS OF MISSION

The House bill (sec. 158) amends the Foreign Service Act of 1980 to provide an exemption to current law regarding a chief of mission's authority in a foreign country with respect to all U.S. Government employees in that country. Specifically, it states that the chief of mission's authorities and responsibilities regarding U.S. Government employees shall not affect the performance of official duties by Members of Congress, employees of the Congress, or employees of the General Accounting Office.

The Senate amendment (sec. 111) is similar to the House bill, but clarifies that the chief of mission's responsibilities and authorities are, under the system of separation of powers, limited to U.S. Government employees serving in the executive branch, and clarifies that only executive branch agencies must keep the chief of mission informed with respect to the activities of its employees in that country.

The conference substitute (sec. 136) is the same as the Senate provision. The committee of conference notes that the General Accounting Office is not an executive branch agency and therefore the staff of the GAO is not required to be under the direction of the chief of mission.

STUDY AND REPORT CONCERNING THE STATUS OF INDIVIDUALS WITH DIPLOMATIC IMMUNITY IN THE UNITED STATES

The Senate amendment (secs. 1001 to 1013) contains a number of provisions relating to persons entitled to immunity from the jurisdiction of the United States as follows:

It requires the Director of the Office of Foreign Missions to develop and maintain records on each incident of alleged criminal misconduct on the part of a foreign diplomat, and to report annually to the Congress on those incidents;

It directs the Office of Foreign Missions to undertake an education program for local law enforcement officials to assure that local officials know which members of the diplomatic community are entitled to what degree of immunity under the Vienna Convention on Diplomatic Immunity, and to take necessary steps to assure that crimes alleged to have been committed by foreign diplomats or members of their families are fully investigated, charges filed, and prosecution instituted, to the extent consistent with the criminal immunity granted to the accused under the Vienna Convention;

It prohibits the Department of State from influencing any criminal investigation, charge, or prosecution of any member of a foreign mission, or family member, not entitled to immunity under the Vienna Convention;

It requires the Director of the Office of Foreign Missions to notify the Diplomatic Corps of U.S. policies relating to criminal offenses committed by members of the diplomatic community;

It requires the Director of the Office of Foreign Missions to develop and implement procedures for the registration and departure of diplomats and their families;

It sets forth a procedure for the issuing of a summons to any individual entitled to immunity under the Vienna Convention believed to have committed a serious crime, and requires the Secretary of State to request the sending state to waive immunity of any individual charged with a serious criminal offense, and if such waiver is not granted, to declare such individual persona non grata;

It requires the Secretary of State to notify the Commissioner of the Immigration and Naturalization Service of each diplomat who leaves voluntarily or is asked to leave because of an alleged criminal offense;

It amends section 212(a) of the Immigration and Nationality Act to bar reentry into the United States of any individual who has left the country voluntarily or who has been asked to leave because of alleged involvement in a serious criminal offense;

It authorizes the institution and maintenance of criminal prosecution provided that no measure is taken in derogation of the immune individual's inviolability or immunity;

It requires both the Secretary of State and the Comptroller of the United States to review and report to Congress on U.S. policies of providing privileges and immunities to foreign diplomats;

It requires the Attorney General, in consultation with the Secretary of State, to review U.S. procedures for issuing visas to diplomats to the United States and the United Nations;

It increases current laws minimum automobile liability insurance from $300,000 to $1 million;

It requires the Director of the Office of Foreign Missions to set up a liability insurance scheme to compensate victims of crimes committed by diplomats;

It requires the President to take necessary steps to prevent the use of diplomatic pouches for illicit transportation of drugs, explosives, and weapons or any material used to foster terrorism;

It institutes procedures for certifying to a court immunity from criminal jurisdiction of any individual issued a summons by the court under the provisions of this title, under which the foreign minister of the sending state must request certification of immunity for an individual alleged to have committed a criminal offense to the head of the U.S. mission in the sending state, who shall then make that request to the Secretary of State; and

It amends the definition of "family" in the Diplomatic Relations Act to exclude, except in exceptional cases, children aged 21 or over, or aged 23 or over if the child is a full-time student in a postsecondary institution.

The House bill contains no comparable provision.

The conference substitute (sec. 137) requires the Secretary of State to undertake a study and compile a report setting forth the extent of the problem arising from diplomatic immunity from criminal prosecution and from civil suit; the background of the issue; an analysis of the proposed Senate amendment and other potential measures to address the problem, including the costs and difficulties associated with such proposals; the impact on U.S. diplomatic personnel if reciprocal measures are imposed by foreign governments; and recommendations for addressing the problem. The report is to be submitted to the Committees on Foreign Affairs and on the Judiciary of the House of Representatives and the Committees on Foreign Relations and on the Judiciary of the Senate within 90 days of the date of enactment of this act.

FEDERAL JURISDICTION OF DIRECT ACTIONS AGAINST INSURERS OF DIPLOMATIC AGENTS

The Senate amendment (sec. 502) provides that a direct action may be brought against an insurer of a member of a mission, or family member of such a member, after a member has left the diplomatic service. The insurer is subject to a civil action as long as the individual insured was a member of a mission, or a family member to such a member, at the time of the tortious act.

The House bill contains no comparable provision.

The conference substitute (sec. 138) is the same as the Senate amendment.

ENFORCEMENT OF CASE-ZABLOCKI ACT REQUIREMENTS

The Senate amendment (sec. 501) prohibits funding for any international agreement the text of which is required to be transmitted to Congress under section 112b(a) of title I, U.S.C. (known as the Case-Zablocki Act) if such agreement has not been submitted to the Congress under the requirements of that section.

The House bill contains no comparable provision.

The conference substitute (sec. 139) is similar to the Senate amendment with an amendment making the prohibition a 2-year prohibition for fiscal years 1988 and 1989. The conference substitute also allows the executive branch 60 days before the prohibition applies to submit all agreements which have not been submitted pursuant to section 112b(a) of the Case-Zablocki Act.

For agreements entered into by the Agency for International Development on behalf of the U.S. Government, the Case-Zablocki Act requirements will be deemed to have been met if cable confirmation of the signing of such agreements, including the amount obligated, is submitted to the Congress within the 60-day period provided for in the Case-Zablocki Act.

ANNUAL COUNTRY REPORTS ON TERRORISM

The House bill (sec. 130) requires the transmission of annual country reports providing detailed assessments with respect to certain foreign countries' antiterrorism efforts, including their efforts with respect to airport security and training of antiterrorism forces; their judicial response with respect to international terrorism; the extent of their support for international terrorism; and their positions in international fora on questions relating to international terrorism.

The Senate bill contains no comparable provision.

The conference substitute (sec. 140) provides that certain information requested in the original House bill, relating to the response of the judicial system in the relevant countries, need be provided only with respect to matters relating to acts of international terrorism affecting American citizens or facilities or which have a significant impact of U.S. counterterrorism efforts.

The conference substitute also requires the Secretary of State to report all relevant information about the activities of certain terrorist groups and their subgroups, identifying foreign governments which provide significant financial support, significant military assistance, diplomatic recognition or privileges, and sanctuary from prosecution to such terrorist groups. The committee of conference intends this report to cover such known terrorist groups as the PLO and its ancillary groups, the PFLP, Abu Nidal, DFLP, Saiqu, the Red Army Faction, and the Red Brigade.

The conference substitute also provides that the first annual report be provided to Congress by August 31, 1988 and that this report cover events occurring between June 1, 1987 and May 31, 1988. The committee of conference expects that the report required under this section will be prepared with assistance from the Ambassador-at-Large for Counterterrorism, and may be submitted as part of the annual report on global patterns of terrorism. Further, the committee of conference expects the Department of State and other relevant agencies to provide sufficient resources and personnel to assure that this report is comprehensive and made available in conformity with this section.

RESTRICTION ON USE OF FUNDS FOR "PUBLIC DIPLOMACY" EFFORTS

The Senate amendment (sec. 109) prohibits the Department of State from entering into contracts or purchase orders for the provision of a variety of public relations activities, except within the Bureau of Public Affairs, and limits the Bureau's ability to contract for such services to $389,000 annually.

The House bill (sec. 135) contains a related provision which provides that during fiscal years 1988 and 1989, a contract related to advocacy and policy positions may be entered into by or on behalf of the Office of Public Diplomacy, or the Office of the Coordinator for Public Diplomacy for Latin America and the Caribbean, of the Department of State only if the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate are notified 15 days in advance of the proposed contract.

The conference substitute (sec. 141) combines the two provisions. To the extent that this section refers to refugees, the committee of conference does not intend this section to interfere with any programs of the Bureau for Refugee Affairs to provide refugees with information or support services that will assist in their resettlement in the United States.

AUTHORITY TO INVEST AND RECOVER EXPENSES FROM INTERNATIONAL CLAIMS SETTLEMENT FUNDS

The Senate amendment (sec. 505) authorizes the Department of the Treasury to invest funds paid by foreign governments in claims settlement cases, pending disbursal to U.S. citizens. It would also require the Secretary of State to deduct 5 percent from the amount of a settlement to cover the costs of obtaining the settlement and processing claims, which would be returned to the U.S. Treasury.

The House bill contains no comparable provision.

The conference substitute (sec. 142) is similar to the Senate amendment, but deletes the authority for the Secretary of State to deduct 5 percent from the amount of the settlement.

REGIONAL AND FUNCTIONAL BUREAUS OF THE DEPARTMENT OF STATE

The House bill (sec. 122) directs the Comptroller General of the United States to submit a report on the organization to the regional and functional bureaus of the Department of State to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate within 6 months after the date of enactment of this act. The Comptroller General shall make recommendations as he determines reasonable for improving the organizational structure of the Department.

The Senate amendment contains no comparable provision.

The conference substitute deletes the provision. In deleting this provision, the committee of conference notes that it is already within its power to request such a study as directed by the House provision.

U.S. PRODUCED FOOD AND BEVERAGES

The House bill (sec. 125) reaffirms existing law which requires, to the maximum extent practicable, that food and beverages served at U.S. diplomatic functions be products of agricultural commodities produced in the United States.

The Senate amendment contains no comparable provision.

The conference substitute deletes the provision. However, the committee of conference reaffirms congressional commitment to section 905 of the Foreign Service Act of 1980 which requires, to the maximum extent practicable, the use of U.S. products for entertainment at U.S. posts overseas.

IMPLEMENTATION OF GRACE COMMISSION REPORT

The House bill (sec. 140) directs the Secretary of State to submit a report to the Congress within 6 months after the date of enactment on the extent to which the recommendations of the Grace Commission have been implemented by the Department of State.

The Senate amendment contains no comparable provision.

The conference substitute deletes the provision. However, the committee of conference urges the Secretary of State to consider implementing those recommendations of the Grace Commission which apply to the Department of State.

DIPLOMATIC SECURITY OFFICER OF A DIPLOMATIC OR CONSULAR POST

The House bill (sec. 127) amends the Diplomatic Security Act to provide that the diplomatic security officer shall: as a member of the country team report directly to the deputy chief of mission; head the emergency action committee of that mission if designated by the chief of mission; submit a monthly written report to the chief of mission on the status of the security program; and be responsible for the status of all diplomatic security personnel.

The Senate amendment contains no comparable provision.

The conference substitute deletes the provision in light of the decision of the committee of conference to defer all reorganization proposals until after a thorough review of the Department of State's organization is completed.

CONDUCT OF FOREIGN POLICY

The Senate amendment (sec. 123) expresses the sense of Congress that the United States should strengthen, through various means, the competence and professionalism of the conduct of foreign policy.

The House bill contains no comparable provision.

The conference substitute deletes the provision. The committee of conference notes that the new national training center in foreign affairs, authorized by chapter 7 of the Foreign Service Act of 1980 is cost effective and will provide the United States with significant new capabilities to meet the goal of the Senate amendment. The committee of conference urges the Secretary of State to proceed with architectural and engineering design for this national training center.

ASSISTANT SECRETARY FOR SOUTH ASIA

The House bill (sec. 133) establishes within the Department of State the position of Assistant Secretary for South Asian Affairs, who shall have responsibility for India, Pakistan, Bangladesh, Sri Lanka, Nepal, Bhutan, Afghanistan, and Maldives. The House bill also requires the President to transfer $1.75 million to the salaries and expenses account from the development assistance and economic support fund accounts which are allocated for Asia and Near East regional programs for expenses incurred in carrying out this section.

The Senate amendment contains no comparable provision.

The conference substitute deletes this provision in light of the decision of the committee of conference to defer all reorganization proposals until after a thorough review of the Department of State's organization is completed.

IMPROVEMENT OF CONGRESSIONAL RELATIONS FUNCTIONS

The House bill (sec. 137) directs that the Assistant Secretary of State for Legislative and Intergovernmental Relations shall possess and exercise full authority and responsibility for all activities, personnel, and resources within the Department of State involving congressional relations. The House bill also directs the Secretary of State to consolidate all congressional relations functions directly under the Assistant Secretary.

The Senate amendment contains no comparable provision.

The conference substitute deletes the provision.

PART C—DIPLOMATIC RECIPROCITY AND SECURITY

SOVIET EMBASSY AGREEMENT; PROHIBITION ON USE OF MOUNT ALTO SITE

The House bill (Sec. 185) requires the United States to withdraw from the construction and site exchange agreements with the Soviet Union governing the construction of new embassies by both countries in 1 year and 10 days after enactment, unless the President exercises certain waivers provided. No earlier than 6 months after enactment, the President is empowered to waive this requirement if he determines (a) that it was vital to the national security of the United States not to withdraw, (b) that steps have been or will be taken to ensure that the new U.S. chancery in Moscow can be safely and securely occupied and used for its intended purpose, and (c) that steps have been or will be taken by October 1, 1989 to eliminate damage to the national security of the United States due to electronic surveillance from Soviet facilities on Mount Alto. The United States is required to notify the Soviet Government of these provisions within 5 days of enactment of this act. If the withdrawal occurs, the Mount Alto site ceases to be available for use by any foreign mission.

The Senate amendment (secs. 135 and 550) also requires the United States to void the agreements but provides no discretion to the President to waive this action. The United States is required to enter into negotiations for a new agreement that would require the Soviet Union to move its new Embassy to a site not more than 90 feet above mean sea level, but does not specify when or if the Mount Alto site would actually cease to be available to the Soviets pending the outcome of the new negotiations. In addition, the Senate amendment mandates a number of reports pertaining to United States-Soviet Embassy agreement.

The conference substitute (sec. 1515) directs the President to make certain determinations, 6 months after the enactment of this act, regarding the security of the new U.S. Embassy in Moscow and the presence of the Soviet Embassy on Mount Alto in Washington, DC. If the President is unable to make the determinations described below, the Secretary of State shall notify the Government of the Soviet Union that the United States will withdraw from the United States-Soviet Embassy Agreement, and that the Mount Alto site will cease to be available to that Government. The U.S. withdrawal and the unavailability of Mount Alto will be effective 1 year and 10 days after the earliest date on which the President could have made the determinations.

The committee of conference intends this language to provide the President with a realistic waiver option provided he can determine that all feasible and effective steps are being or will be taken to secure our Embassy in Moscow and to remove the threat to U.S. national security from the Soviet occupation of the Mount Alto site. This waiver does not become effective until 30 days after the report of the determinations and waiver is filed with Congress to allow the opportunity for congressional review of the President's determination. The report is to include a detailed justification for each of the determinations, an assessment of the impact on national security of the removal of the Soviet Embassy from Mount Alto, and the steps that have been or will be taken to achieve the security objectives in the new chanceries in Moscow and on Mount Alto.

The committee of conference notes that the Joint United States-Soviet Summit Statement made by President Reagan and General Secretary Gorbachev on December 10, 1987 contained the following with respect to the security of diplomatic missions: "Both sides agreed on the importance of adequate, secure facilities for their respective diplomatic and consular establishments, and emphasized the need to approach problems relating to the functioning of Embassies and Consulates General constructively on the basis of reciprocity."

RECOVERY OF DAMAGES INCURRED AS A RESULT OF SOVIET INTELLIGENCE ACTIVITIES DIRECTED AT THE NEW U.S. EMBASSY IN MOSCOW.

The House bill (sec. 186) contains a provision urging that the United States-Soviet arbitration, which is already underway to recover damages from construction delays of the new U.S. Embassy in Moscow, be expanded to include reimbursement for costs incurred by the United States for the Soviet compromise of that facility.

The Senate amendment contains no comparable provision.

The conference substitute (Sec. 152) is the same as the House bill, except for the removal of the phrase "be expanded to" in referring to the recovery of costs for Soviet intelligence activities.

UNITED STATES-SOVIET RECIPROCITY IN MATTERS RELATING TO EMBASSIES

The House bill (sec. 187) directs the Secretary of State to use his authorities under title II of the State Department Basic Authorities Act so that, by October 1, 1989, U.S. diplomatic and consular missions in the Soviet Union:

Do not pay more than the fair value for goods and services;

Have full access to goods and services, including utilities; and

Have real property, used for residential and office purposes, equivalent, in terms of quantity and quality, to the real property available to the Soviet diplomatic and consular missions to the United States.

Furthermore, the House bill directs the Secretary of State to require the Soviet Union to close such facilities which is in the aggregate not less than 20 percent of the difference between the total square footage occupied by the Soviet mission in the United States and the total square footage occupied by the U.S. mission to the Soviet Union.

Finally, the House bill prohibits the Soviet mission to the United States to occupy a new consulate here until the U.S. mission to the Soviet Union is occupying secure facilities in Kiev.

The Senate amendment (sec. 133) directs the Secretary to submit an annual report on the cost of operating diplomatic and consular missions in the Soviet Union or in a member country of the Warsaw Pact. When these costs are found not to bear reasonable relationship to the norm in any country, the Secretary is directed to adjust the costs to such country of any benefits received in the United States. Finally, 60 days after the date of enactment, the Secretary of State shall report to Congress on plans for the implementation of this section.

The conference substitute (sec. 153) is similar to the House bill except that the provision requiring the closing of Soviet facilities in the United States was dropped, and the Soviet mission to the United Nations is excluded from the base when calculating Soviet real estate in the United States.

REPORT ON PERSONNEL OF SOVIET STATE TRADING ENTERPRISES

The House bill (sec. 188) requires the Secretary of State to submit a report to Congress regarding the desirability of reducing the number of personnel at Soviet State Trading enterprises in the United States.

The Senate amendment contains no comparable provision.

The conference substitute (sec. 154) is the same as the House bill.

PERSONNEL SECURITY PROGRAM FOR EMBASSIES IN HIGH THREAT COUNTRIES

The House bill (sec. 190) directs the Secretary of State to establish a special security program for personnel of the Department of State assigned to diplomatic missions in high intelligence threat countries. Such a program shall include criteria and policies for selection and screening, counterintelligence awareness and training, and security reporting and command arrangements designed to counter intelligence threats.

The Senate amendment contains no comparable provision.

The conference substitute (sec. 155) is similar to the House provision. The report shall also include criteria and policies with respect to rest and recuperative absences.

ACCOUNTABILITY REVIEW BOARDS

The House bill (sec. 191) amends the Diplomatic Security Act to provide for the convening of review boards in cases involving serious breach of security involving intelligence activities of a foreign government directed at a U.S. mission abroad.

The Senate amendment (sec. 135(d)(2)) amends existing law, as in the House version. In addition, the Senate provision authorizes the Secretary of State to delay the convening of a board if doing so would compromise sources and methods.

The conference substitute (sec. 156) is similar to the Senate amendment. However, it requires the Secretary to consult with the appropriate committees of Congress prior to any decision to delay the convening of an accountability review board.

PROHIBITION ON CERTAIN EMPLOYMENT AT U.S. DIPLOMATIC AND CONSULAR MISSIONS IN COMMUNIST COUNTRIES.

The House bill (sec. 192) prohibits the employment of Foreign Service Nationals (FSN's) at U.S. diplomatic and consular facilities in any Communist country, effective September 30, 1989. In addition, it expresses the willingness of Congress to provide necessary funds for the implementation of the prohibition.

The Senate amendment (sec. 525) prohibits the employment of FSN's at U.S. diplomatic and consular facilities in any Communist country, effective September 30, 1989.

The conference substitute (sec. 157), which becomes effective on September 30, 1990, prohibits the employment of FSN's in areas of diplomatic and consular missions and compounds where classified materials are maintained. The committee of conference urges the Department of State to make efforts to provide facilities, from which FSN's would be prohibited, that house the core embassy operations, which would comprise all classified activities and other sensitive operations. The conference substitute also includes a waiver which the President may exercise in the event (a) funds are neither authorized nor appropriated for the purpose of implementing this provision, or (b) if he determines that it is in the national security interest of the United States to continue to employ such foreign national employees in circumstances otherwise prohibited by this provision.

Finally, the conference substitute directs the Secretary of State to submit, as a part of the fiscal year 1990-91 budget request a report on the feasibility of the implementation of this section as well as its budgetary impact.

TERMINATION OF RETIREMENT BENEFITS FOR FOREIGN NATIONAL EMPLOYEES ENGAGING IN HOSTILE INTELLIGENCE ACTIVITIES

The Senate amendment (sec. 525(b)) directs the Secretary of State to exercise available authorities to ensure the United States does not provide, directly or indirectly, any retirement benefits to a present or former foreign national employee of a U.S. diplomatic mission who the Secretary of State reasonably believes engaged in intelligence activities directed against the United States. The Secretary of State may waive this provision, on a case-by-case basis, if the Director of Central Intelligence requests such a waiver, or the Secretary determines that such waiver is vital to the national security interests of the United States.

The House bill (sec. 193) contains a similar provision.

The conference substitute (sec. 158) is the same as the Senate amendment. The committee of conference notes that subchapter II of chapter 83 of title 5, United States Code provides for the forfeiture of annuities and retired pay to individuals convicted of certain serious crimes, including espionage, disclosure of classified information, and sabotage. Insofar as a foreign national employee is eligible for a retirement benefit to which subchapter II applies the Secretary of State must utilize the procedures of this subchapter to terminate benefits. The committee of conference urges the Secretary of State to use this authority and such other authorities as he has available in situations in which foreign nationals receive retirement benefits not covered by this subchapter.

REPORT ON EMPLOYMENT OF FOREIGN SERVICE NATIONALS

The House bill (sec. 194) requires the Secretary of State to report to Congress not later than 6 months after the date of enactment on the advisability of employing foreign service nationals at U.S. diplomatic and consular posts abroad.

The Senate amendment (sec. 525(c)) contains a similar provision.

The conference substitute (sec. 159) requires the Secretary of State to consult with the Secretaries of Commerce and Agriculture, and the Directors of Central Intelligence, the United States Information Agency, and the Peace Corps in compiling the report on the employment of foreign service nationals, and to include in the report information on the access of such employees to automatic data processing systems and networks.

CONSTRUCTION SECURITY CERTIFICATION

The Senate amendment (secs. 135(a), 135(e), 135(g), 538, 539, and 554) contains numerous reporting requirements pertaining to the security program of diplomatic missions abroad, and to the security of construction projects and other related issues.

The House bill contains no comparable provisions.

The conference substitute (sec. 160) directs the Secretary of State to certify to Congress, before undertaking any new construction project, that (a) appropriate steps have been taken to secure the construction project, and (b) that the resulting facility will incorporate adequate security measures for the protection of national security information and personnel.

PROTECTION FROM FUTURE HOSTILE INTELLIGENCE ACTIVITIES

The House bill (sec. 199) prohibits the acquisition of real property in the United States by or on behalf of a foreign mission of certain foreign countries if in the judgment of either the Secretary of Defense or the Director of the Federal Bureau of Investigation such acquisition might substantially improve that country's ability to engage in intelligence activities hostile to U.S. national security interests.

The Senate amendment contains no comparable provision.

The conference substitute (sec. 161) is similar to the House bill language but makes clear that this provision is not intended to prevent the establishment of a foreign mission by a country which, on the date of enactment, does not have a mission in the United States or to prevent a country from opening a consular mission in a city in which it does not currently have such a mission.

APPLICATION OF TRAVEL RESTRICTIONS TO PERSONNEL OF CERTAIN COUNTRIES AND ORGANIZATIONS

The House bill (sec. 146) limits the travel of certain foreign personnel in the United States to within the municipal areas in which they are located. The personnel affected include all foreign employees of international organizations; officials from certain foreign countries at their embassies and consulates or missions to international organizations; and personnel of certain foreign organizations.

The countries whose missions are affected under the House bill include all Communist countries (except Albania), Iran, Libya, and Nicaragua. The foreign organizations affected include the African National Congress, the Palestine Liberation Organization, and the South West African People's Organization. In addition, the House bill allows for a waiver of this provision by the Secretary of State after consultation with the Directors of Central Intelligence and of the Federal Bureau of Investigation based on U.S. national security and foreign policy interests.

The Senate amendment (sec. 533) applies the same restrictions, including travel restrictions, as are applied to Soviet missions in the United States to all personnel of foreign missions (including embassies, consulates, and missions of international organizations) from Warsaw Pact countries and Cuba. The Senate amendment also allows for a Presidential waiver based on national security and foreign policy consideration in specific circumstances provided such a waiver is reported to the Intelligence Committees of the House of Representatives and the Senate. In addition, the Senate amendment requires the Secretary of State to report to these committees 6 months after the date of enactment on the implementation of this section.

The conference substitute (sec. 162) imposes travel restrictions on those individuals who, as determined by the Secretary of State, are (1) personnel of an international organization, if the individual is a national of a foreign country whose government engages in intelligence activities in the United States that are harmful to the national security interests of the United States, or (2) personnel of a mission to an international organization, if that mission is the mission of a foreign government that engages in intelligence activities in the United States that are harmful to the national security interests of the United States.

The conference substitute provides for a waiver of this provision by the Secretary of State in consultation with the Directors of Central Intelligence and of the Federal Bureau of Investigation on national security and foreign policy grounds and requires the Secretary to report every 6 months to the Committees on Foreign Affairs and on Intelligence of the House of Representatives and the Committee on Foreign Relations and on Intelligence of the Senate every 6 months on the implementation of this section.

COUNTERINTELLIGENCE POLYGRAPH SCREENING OF DIPLOMATIC SECURITY SERVICE PERSONNEL

The House bill (sec. 189) directs the Secretary of State to implement a counterintelligence polygraph examination program for members of the Diplomatic Security Service. The Secretary will establish regulations providing that the scope and the conduct of such examinations, and the rights of individuals subject to such examinations will be at the very least the same as those under the counterintelligence polygraph program conducted pursuant to section 1221 of the Department of Defense Authorization Act, 1986. The scope is limited to counterintelligence questions only; the same restrictions imposed on the Department of Defense program will apply to the Department of State including scope, frequency, and duration. The program is authorized during fiscal years 1988 and 1989 only.

The Senate amendment contains no comparable provision.

The conference substitute (sec. 163) is the same as the House bill.

UNITED STATES EMBASSY IN HUNGARY

The House bill (sec. 142) contains a provision expressing the sense of Congress that the Department of State should conclude an agreement with the Government of Hungary that would allow for the construction of new embassy facilities in that country which would totally segregate sensitive activities from those of an unclassified and public-oriented character. Furthermore, such an agreement should ensure that the U.S. Government will have the right to employ only U.S. citizens and will have complete control over access to the construction sites. The House bill also earmarks $60 million to carry out the purposes of this section.

The Senate amendment contains no comparable provision.

The conference substitute (sec. 164) is similar to the House bill, except that the earmark was removed.

REORGANIZATION

The House bill (sec. 195) establishes a new Under Secretary for Security, Construction, Communications and Missions (SCCM). This consolidates the functions of the Bureau of Diplomatic Security (DS), the Office of Foreign Building Operations (FBO), the Office of Communications (OC), and the Office of Foreign Missions (OFM). The House bill also raises the status of OFM to a full bureau (sec. 196).

The Senate amendment (sec. 547) calls on the Department of State to submit an acceptable security reorganization plan, and, failing congressional approval of such a plan, would have established a new Under Secretary for Security, Construction, and Foreign Missions.

The conference substitute deletes all new positions contained in the House bill as well as the requirement for a reorganization plan contained in the Senate amendment in light of the decision of the committee of conference to defer all reorganization proposals until after a thorough review of the Department of State's organization, which will be forthcoming in 1988. However, the committee of conference notes with concern the organizational problems that have been identified in the security function of the Department of State, as well as the haphazard organizational growth in the Department in recent years.

USE OF PRIOR FISCAL YEAR AND FISCAL YEAR 1988 DIPLOMATIC SECURITY FUNDS

The Senate amendment (sec. 101(b)) permits the Secretary of State to transfer funds authorized the Omnibus Diplomatic Security and Anti-Terrorism Act of 1986, for fiscal years 1986 through 1990, for diplomatic security capital construction projects for any other security purposes and for foreign buildings operations. Furthermore, of the $417,962,000 authorized to be appropriated under Public Law 99-399 for diplomatic security capital construction funds authorized to be appropriated in fiscal year 1988, the Senate provision reallocated $323 million to the regular acquisition and maintenance of foreign buildings account, and $74 million to the salaries and expenses account of the Bureau of Diplomatic Security.

The House bill contains no comparable provision.

The conference substitute deletes this provision.

REDUCTION OF CAPITAL CONSTRUCTION ACCOUNT

The Senate amendment (sec. 106) amends section 401(a)(3) of the Omnibus Diplomatic Security and Anti-Terrorism Act of 1986 to reduce the amount authorized to be appropriated for fiscal year 1988 for diplomatic security capital construction from $417,962,000 to $397,262,000.

The House bill contains no comparable provision.

The conference substitute deletes the Senate provision.

SECURITY GUARD PROGRAM

The House bill (sec. 199F) prohibits Marine security guards (MSG's) from performing guard duty beyond 12 months at diplomatic or consular posts in high intelligence threat countries. This provision also stipulates that MSG's would be allowed two separate rest and recuperative periods while stationed in a high intelligence threat country, and that the Secretary of Defense may waive any portion of this provision.

The Senate amendment contains no comparable provision.

The conference substitute deletes the provision. In light of recent administrative action by the Marine Corps to limit MSG tour lengths in Eastern Bloc countries to 12 months and in Moscow to 6 months, to provide two rest and recuperative periods for MSG personnel during their tour and place a prohibition on repeat tours, the committee of conference believes that additional legislative language is not required.

The committee on conference is satisfied that the administrative action by the Marine Corps to limit MSG tour lengths in Moscow and Eastern Europe has addressed most of the concerns of Congress. However, there remains an aspect of the assignment policies that continues to require administrative action: the failure of the Marine Corps and the Department of State to provide R&R travel authority for dependents residing with MSG's assigned to these countries. The hardship factors calling for R&R or tour limitation for Marines are equally difficult for the families of the Marines. The committee of conference therefore urges the Department of State and the Marine Corps to proceed on an expedited schedule to provide rest and recuperative travel for Marine families assigned to these high intelligence threat countries that are not inferior to those provided to U.S. civilian personnel assigned to the same country.

PART D—PERSONNEL MATTERS

COMMISSION TO STUDY FOREIGN SERVICE PERSONNEL SYSTEM

The Senate amendment (sec. 555) directs the Secretary of State to appoint a commission of five distinguished members to conduct a study of the Foreign Service personnel system. The purpose of the commission is to develop a personnel system that provides adequate career stability to members of the Foreign Service. Commission members are to be appointed after consultation with the Committee on Foreign Relations of the Senate and the exclusive representatives.

The House bill contains no comparable provision.

The conference substitute (sec. 171) is similar to the Senate amendment. However, it provides that appointments to the commission would be made after consultation with the Committees on Foreign Affairs and on the Post Office and Civil Service of the House and the Committee on Foreign Relations of the Senate.

PROTECTION OF CIVIL SERVICE EMPLOYEES

The Senate amendment (sec. 121) contains congressional findings that the Department of State has overlooked the contribution of Civil Service employees in the Department and establishes in the Office of the Secretary of State the position of Ombudsman for Civil Service Employees. The Ombudsman would report directly to the Secretary of State and would have the right to participate in all Management Council meetings in order to protect the career interests of Civil Service employees.

The House bill contains no comparable provision.

The conference substitute (sec. 172) is similar to the Senate provision, with the additional stipulation that the position of Ombudsman be a career reserved position within the Senior Executive Service, and will be designated from one of the Senior Executive Service positions in existence on the date of enactment. The Ombudsman for Civil Service employees shall be subject to all provisions of title 5, United States Code, relating to career-reserved positions.

COMPENSATION FOR CERTAIN STATE DEPARTMENT OFFICIALS

The House bill (sec. 134) amends the State Department Basic Authorities Act of 1956 to establish a pay authority for the Coordinator for International Communications and Information Policy and for the Director of the Office of Foreign Missions. The rate of pay for both positions would be set at executive level IV. The provision contains a Budget Act waiver and an effective date of October 1, 1987.

The Senate amendment (sec. 113) is similar to the House bill, with no effective date or budget act waiver.

The conference substitute (sec. 173) is similar to the House provision, with an effective date of 30 days after the date of enactment of the act.

AUDIT OF MERIT PERSONNEL SYSTEM OF FOREIGN SERVICE

The Senate amendment (sec. 556) required the Director of the Office of Personnel Management to conduct an audit and inspection of the merit personnel system in the Foreign Service and report to the Congress by June 1, 1988, regarding necessary improvements in the system. Reports of racial, ethnic, sexual, and other discriminatory practices would be the focus of the report. The report shall pay particular attention to reports of racial, ethnic, sexual, and other discriminatory practices in the recruitment, appointment, assignment, and promotion of Foreign Service employees.

The House bill contains no comparable provision.

The conference substitute (sec. 174) is similar to the Senate provision, but directs the Comptroller General of the United States to undertake the audit and inspection, and report not later than 1 year after the date of enactment of this act.

PERFORMANCE PAY

The House bill (sec. 161) suspends senior performance awards to the Department of State for 1 year and requires the Inspector General of the Department of State to complete a reivew of the Department's performance award system by the end of fiscal year 1988. The House bill (sec. 162) also contains a provision dealing with the awarding of executive service merit bonuses to individuals responsible for security at the U.S. Embassy in Moscow. The House bill notes that an investigation was being conducted at the time concerning violations of security and the status of security at the U.S. Embassy in Moscow, and that the investigation could have resulted in findings or allegations of possible negligence or nonfeasance of these individuals. The House bill expressed the view of the House that in consideration of this pending investigation, it was inappropriate for the Secretary of State to award senior executive merit bonuses to such individuals before such an investigation was completed.

The Senate amendment (sec. 116) contains a provision allowing the portion of a performance pay award which cannot be paid to a member of the Senior Foreign Service because of pay cap limitations in a given year to remain available for that individual in the following year.

The conference substitute (sec. 175) requires the Inspector General of the Department of State to complete its review of the performance award system of the Department not later than May 1, 1988, and suspends performance awards for the Senior Foreign Service until that review is completed. The conference substitute also retains the Senate provision on carryover of performance pay, but deletes the House provision dealing with the awarding of executive merit bonuses to individuals responsible for security at the U.S. Embassy in Moscow.

CHIEF OF MISSIONS SALARY

The Senate amendment (sec. 551) provides that chiefs of mission would receive a salary at one of the annual rates payable for executive levels II through V, which would be considered full compensation. Chiefs of mission would not be eligible for additional compensation in the form of hardship differential, performance pay, or other incentive allowances. However, chiefs of mission could receive danger pay.

The House bill contains no comparable provision.

The conference substitute (sec. 177) establishes executive level II as a total compensation cap for chiefs of mission, except for danger pay which may be paid without respect to that limitation. The substitute also provides that a member of the Senior Foreign Service who accepts a Presidential appointment may receive only the pay and benefits of the Presidential appointment, and would no longer be eligible to receive performance pay.

PAY LEVEL OF AMBASSADORS-AT-LARGE

The House bill (sec. 124) reduces the salary of future Ambassadors-at-Large from Executive level II to level IV, or from the equivalent of the Deputy Secretary to that of an Assistant Secretary. The provision contains an effective date of October 1, 1987, and would not apply to the salary of any individual serving as Ambassador-at-Large on that date.

The Senate amendment (sec. 112) is similar to the House provision.

The conference substitute (sec. 178) is similar to the House amendment, but contains an effective date of 30 days after the date of enactment of this act.

FOREIGN SERVICE CAREER CANDIDATES TAX TREATMENT

The Senate amendment (sec. 124) provides that Foreign Service career candidates or career members may not represent to the District of Columbia or any State or locality that they are exempt from income taxes on the basis of holding a Presidential appointment subject to Senate confirmation, or on the basis of serving in an appointment whose tenure is at the pleasure of the President.

The House bill contains no comparable provision.

The conference substitute (sec. 179) is the same as the Senate amendment, with an effective date beginning with calendar year 1988.

PROHIBITION ON MEMBER OF A FOREIGN SERVICE UNION NEGOTIATING ON BEHALF OF THE DEPARTMENT OF STATE

The House bill (sec. 160) amends section 1018 of the Foreign Service Act of 1980 to prohibit a member of the exclusive representative from negotiating on behalf of the Department of State.

The Senate amendment contains no comparable provision.

The conference substitute (sec. 180) contains a sense of the Congress with regard to labor-management negotiations between the Department of State and the exclusive representative of the Department's Foreign Service employees. The conference substitute urges the Secretary of State to take steps to assure that those who direct and conduct negotiations on behalf of management are not also beneficiaries of the agreements made with the exclusive representative.

CLARIFICATION OF JURISDICTION OF FOREIGN SERVICE GRIEVANCE BOARD

The House bill (sec. 154) clarifies the authority of the Foreign Service Grievance Board to grant tenure as a remedy, either through recommendation to the Secretary or an order. The House bill also provides that the Foreign Service Grievance Board has the authority to direct the Department of State to pay reasonable attorneys fees in separation for cause cases, where cause is not established at a hearing before the Foreign Service Grievance Board. The amendments made by this provision would apply with respect to grievances filed after the date of enactment of this act.

The Senate amendment (sec. 120) removes the authority of an agency head to reject a recommendation of the Foreign Service Grievance Board if the agency head believes such a recommendation is contrary to law. The agency head would be required to implement the Board's recommendation and seek judicial review as an aggrieved party under section 1110 of the Foreign Service Act of 1980. This provision also cross references the Grievance Board's procedures and authority under chapter 11 of the Foreign Service Act with its responsibility to decide separation for cause cases, enabling the Board to award attorney fees in section 610 cases. The amendments made by this section would not apply to any grievance in which the Board has issued a final decision prior to the date of enactment of this act.

The conference substitute (sec. 181) maintains the Secretary of State's authority to reject a Grievance Board decision because it is contrary to law. If the Secretary determines that such a decision is contrary to law, the Secretary must request, within 30 days of receipt of the decision, that the Board reconsider its recommendation. The Board must subsequently review the Secretary's decision within 30 days and make a further recommendation to confirm, modify, or vacate its original decision. This recommendation would be considered a final action to be implemented by the Secretary.

The conference substitute also incorporates the language of the House bill with respect to the ability of the Grievance Board to grant tenure, and with respect to the authority of the Board to direct the Department to pay attorneys fees in separation for cause cases. The substitute also provides that these provisions will not apply to any grievance in which the Board has issued a final decision prior to the date of enactment of this act.

The committee of conference has included this section to address the concern of career candidates in the Foreign Service who believe they may, on occasion, be denied a reasonable and fair opportunity to demonstrate fitness and aptitude for a career appointment. In such instances, the Foreign Service Grievance Board will now have specific authority to remedy such harm by recommending tenure. In including this authority, tenure may be granted as a remedy if the Board determines that no other remedy provides adequate and suitable redress for the harm found by the Board. For example, section 309 of the Foreign Service Act is amended by this section to authorize the alternative remedy of extending limited appointments where necessary to afford candidates a full and fair opportunity to demonstrate fitness and aptitude for career appointment in the Foreign Service.

RECORD OF GRIEVANCES AWARDED

The Senate amendment (sec. 557) amends the Foreign Service Act of 1980 to require the Foreign Service Grievance Board to maintain records of all grievances awarded in favor of the grievant which concern gross misconduct by a supervisor of the grievant. Whenever such supervisor is nominated for a position requiring the advice and consent of the Senate, the Board would provide the Committee on Foreign Relations of the Senate with a copy of the grievance decision.

The House bill contains no comparable provision.

The conference substitute (sec. 182) is similar to the Senate amendment. It also directs the Board to provide a copy of any records which are provided to the Committee on Foreign Relations of the Senate, to the supervisor who is the subject of the grievance. The supervisor may in turn make comments to the committee concerning these records. The conference substitute also provides that all records disclosed and comments provided to the Committee on Foreign Relations by the supervisor shall be treated as confidential.

WOMEN AND MINORITIES IN THE FOREIGN SERVICE

The House bill (secs. 139 and 157) contains two provisions relating to the Department of State's employment practices with respect to women and minorities. It expands existing Department of State reporting requirements pursuant to section 105(d)(2) of the Foreign Service Act to address the Department's progress in increasing the number of women and minorities serving at the Assistant Secretary and Bureau level, and to address the number of Hispanic Americans, Asian Americans, and Native Americans serving in the Senior Executive Service and Senior Foreign Service. The House bill also requires the Secretary of State and the heads of each Federal agency utilizing the Foreign Service personnel system to increase their efforts to implement congressionally mandated plans to make the Foreign Service representative of the American people.

The Senate amendment (sec. 119) repeals certain reporting requirements required by the Foreign Service Act of 1980 and by the Foreign Relations Authorization Act, fiscal years 1986 and 1987. The provision also consolidates reporting requirements formerly required under section 2402 of the Foreign Service Act. Reports required to be submitted by the Department of State to the Equal Employment Opportunity Commission or the Office of Personnel Management are substituted for the affirmative action report required under section 105(d)(2) of the Foreign Service Act.

The conference substitute (sec. 183) merges the two House provisions and modifies the Senate provision to retain the reporting requirement under section 2402(c) of the Foreign Service Act with regard to consultation with the exclusive representative on steps taken to implement the Foreign Service Act.

COMPLIANCE WITH LAW REQUIRING REPORTS TO CONGRESS

The Senate amendment (sec. 559) requires the Department of State to submit to the Congress a report complying with the 1980 and 1984 congressional requests for a listing and description of all policy and supporting positions in the Department of State and related agencies. It also provides that no funds authorized by this act could be obligated or expended until the Department complied with this requirement.

The House bill contains no comparable provision.

The conference substitute (sec. 184) provides for a similar reporting requirement complying with the 1984 congressional request, but eliminates the prohibition on the use of funds pending compliance. Instead, the conference substitute requires the Secretary of State to provide information in a timely manner whenever the Committee on the Post Office and Civil Service of the

House of Representatives or the Committee on Governmental Affairs of the Senate request information for inclusion in the publication "U.S. Government Policy and Supporting Positions."

DISPOSITION OF PERSONAL PROPERTY ABROAD

The House bill (sec. 1001) contains a provision which would preclude individual U.S. Government employees from realizing undue profits from the sale of personal property imported or purchased in a foreign country, when that property was exempt from import limitations, customs duties, and other taxes by virtue of the employee's diplomatic or official status.

The Senate amendment contains no comparable provision.

The conference substitute (sec. 186) is similar to the House bill, but clarifies that the purpose of regulations issued by the Secretary of State with regard to the disposition of personal property is to ensure that employees and members of their families do not personally profit from transactions with persons not entitled to examptions from import restrictions, duties, or taxes.

BENEFITS FOR CERTAIN FORMER SPOUSES OF MEMBER OF THE FOREIGN SERVICE

The House bill (sec. 152) adds new sections to chapter 8 of the Foreign Service Act to provide retirement and survivor annuities and access to health insurance to former spouses who were divorced from members of the Foreign Service before the effective date of the 1980 Foreign Service Act. The House bill parallels the fiscal years 1987 Intelligence Authorization Act which extended similar benefits to certain former spouses of CIA employees.

The Senate amendment (sec. 118) contains a similar provision.

The conference substitute (sec. 188) is similar to the House bill. The committee of conference notes that the Department of State estimates the cost for fiscal year 1988 to be approximately $700,000. This cost would gradually rise for the next few years, and then decline over the next 20 to 30 years as the number of former spouses receiving benefits gradually diminishes.

DEBT COLLECTION

The House bill (sec. 143) directs the Secretary of State to enter into contracts for the collection of debts owed by a person, other than a foreign country, to the United States which arise from activities of the Department of State and which are delinquent by more than 3 months. The house bill also requires that any person contracted with by the Department submit a status report on collections every 6 months. The Secretary shall also, to the extent otherwise permitted by law, disclose any debt of more than $100 which is delinquent more than 31 days to those credit reporting agencies to which the Secretary reports loan activity information. The House bill (sec. 212) also includes an identical provision relating to debts owed to the United States arising from activities of the United States Information Agency.

The Senate amendment contains no comparable provision.

The conference substitute deletes both provisions.

CONTROLLED SUBSTANCES TESTING

The House bill (sec. 145) provides for a controlled substance testing program for employees of the Department of State having access to classified information.

The Senate bill contains no comparable provision.

The conference substitute deletes this provision. The Supplemental Appropriations Act for fiscal year 1987 (Public Law 100-71) contained a provision setting comprehensive standards for substance abuse testing of Federal employees. The legislation contained in the supplemental appropriations bill was the result of considerable negotiation between the Congress and the executive branch. As governmentwide regulations are now in effect, a separate substance abuse testing program for the Department of State is not required.

FUNCTIONS OF INSPECTOR GENERAL

The House bill (sec. 155) amends the Foreign Service Act of 1980 to delete the requirement that the Inspector General of the Department of State inspect and audit the administration of activities and operations of each Foreign Service post and each bureau and other operating unit of the Department of State at least every 5 years.

The Senate amendment contains no comparable provision.

The conference substitute deletes the provision.

FOREIGN SERVICE HEALTH CARE

The House bill (sec. 156) expresses the sense on Congress concerning the establishment of a health care program for the Department of State.

The Senate amendment contains no comparable provision.

The conference substitute deletes the provision.

PROHIBITION ON POLITICAL ACTIVITIES OF AMBASSADORS

The House bill (sec. 156) prohibits ambassadors from taking an active part in their official capacity in partisan compaigns in the United States.

The Senate amemdment contains no comparable provision.

The conference substitute deletes the provision.

VISITS OF FOREIGN DIGNATARIES TO THE CAPITOL

The Senate amendment (sec. 541) expresses the sense of the Senate that in arranging visits of foreign dignitaries to the U.S. Capitol, the Department of State should do so with a minimum of display.

The House bill contains no comparable provision.

The conference substitute deletes the provision.

AUTHORIZATIONS OF APPROPRIATIONS

The House bill (sec. 201 and sec. 301) provides authorization for the operations of the United States Information Agency in two separate titles totaling $820,552,000 in fiscal year 1988 and $919,474,000 in fiscal year 1989. Title II authorizes the appropriation of $627,700,000 for fiscal year 1988 and $652,908,000 for fiscal year 1989 for the activities of the Agency except for the Voice of America and related radio broadcasting operations. Title III of the House bill provides $192,852,000 for fiscal year 1988 and $266,566,000 for fiscal year 1989 for the activities of the Voice of America and Radio Broadcasting to Cuba.

The Senate amendment (secs. 201 through 203) authorizes the appropriation of $781,751,000 for fiscal year 1988 for the United States Information Agency.

The conference substitute (secs. 201, 210, 301, 203, and 401) authorizes the total appropriation of $820,823,000 for fiscal year 1988 and $837,239,000 for fiscal year 1989 for all elements of the agency. However, these amounts are authorized in three separate titles. The action of the committee of conference is summarized in the following table:

BUDGET FOR U.S. INFORMATION AGENCY

[In thousands of dollars]

	Fiscal year 1987 appropriation	Fiscal year 1988				Fiscal year 1989			
		Administration request	House bill	Senate amendment	Conference substitute	Administration request	House bill	Senate amendment	Conference substitute
Title II: U.S. Information Agency:									
Salaries and expenses	352,095	374,264	371,455	377,000	369,455	398,956	886,513		376,845
Television and film service	30,391	43,655	31,306		30,391	48,752	32,558		30,999
NED	15,000	25,000	17,500	17,750	17,500	25,000	18,100		18,100
East-West Center	20,000	20,000	20,000	20,000	20,000	20,700	20,800		20,400
Subtotal	417,486	462,919	440,261	414,750	437,346	493,408	457,971		446,344
Title III: Educational and Cultural Programs:									
Exchange programs	181,580	190,339	187,439	185,000	188,625	192,992	194,937		192,438
S. Smith Memorial Exchange Program	0	0	0	2,000	2,000	0	0		2,000
Subtotal	181,580	190,339	187,439	187,000	190,625	192,992	194,937		194,438
Title IV: Voice of America:									
Salaries and expenses	166,935	179,538	177,200	170,000	177,200	190,826	184,288		180,744
Radio construction	66,000	90,000	0	0	0	180,000	66,000		0
VOA/Europe	2,231	2,022	3,000		3,000		3,120		3,060
RBC	12,759	12,434	12,652	10,000	12,652	12,889	13,158		12,905
Subtotal	247,925	283,994	192,852	180,000	192,852	383,715	266,566		196,709

BUDGET FOR U.S. INFORMATION AGENCY—Continued

[In thousands of dollars]

	Fiscal year 1987 appropriation	Fiscal year 1988				Fiscal year 1989			
		Administration request	House bill	Senate amendment	Conference substitute	Administration request	House bill	Senate amendment	Conference substitute
Total USIA, Titles II, III, and IV	846,991	937,252	820,552	781,750	820,823	1,070,115	919,474		837,491

Fiscal Year 1989

With respect to the authorization levels provided for fiscal year 1989 (see table 3) the committee of conference provides a 2 percent increase over fiscal year 1988 levels pursuant to the agreement between the President and the joint congressional leadership during the recent budget summit concluded on November 20, 1987.

Earmarks

The House bill and the Senate amendment in numerous instances earmarked funds authorized herein for various purposes. The conference substitute maintains a number of these earmarks. The following table summarizes the actions of the House and the Senate and provides the agreement of the committee of conference with respect to these earmarks:

U.S. INFORMATION AGENCY EARMARKS

[In thousands of dollars]

	Fiscal year 1988			Fiscal year 1989		
	House bill	Senate amendment	Conference substitute	House bill	Senate amendment	Conference substitute
Fullbright Academic Exchange Program		93,000	93,000			93,000
International Visitors Program		39,000	39,000			39,000
Humphrey Fellowship Program		5,250	5,250			5,250
Congree-Bundestag Exchange		2,000	2,500			2,500
Seattle Goodwill Games		500	500			500
Arts America Program		5,000	5,000			5,000
Zorinsky Memorial Library		300	300			
United States-Soviet Student Exchanges (Simon-Udall)	2,000	2,000	2,000	2,000		2,000
Free Press in Nicaragua		250	250			
Television and Film Service		15,500				
Worldnet Audience Survey		500	500			
Solidarity		1,000	1,000			

TITLE II—UNITED STATES INFORMATION AGENCY

FUNDS APPROPRIATED FOR USIA

The House bill (sec. 202) amends section 705(b) of the United States Information and Educational Exchange Act of 1948 to make permanent the existing grant notification requirement for certain USIA grants, and prohibits the reprogramming of any funds during the last 15 days in which such funds are available, unless notice of such reprogramming is made before that period.

The Senate bill (sec. 208) extends for an additional 2 years the existing grant notification requirement for certain USIA grants.

The conference substitute (sec. 202) is the same as the House bill, with a technical correction to the effective date.

RECEIPTS FROM ENGLISH-TEACHING AND LIBRARY PROGRAMS

The Senate amendment (sec. 210) amends section 810 of the United States Information and Educational Exchange Act of 1948 to authorize USIA to retain receipts from the rental of English teaching tapes and programs, library services, television programs, and motion pictures.

The House bill contains no comparable provision.

The conference substitute (sec. 203) authorizes USIA to retain receipts from the rental of English-teaching tapes and programs, and from the provision of library services, but deletes the authority to retain receipts for television and motion pictures. In providing authority to charge for library services, it is the intention of the committee of conference to permit retention of charges for data base searches and similar costly activities. This shall not be construed as authority to charge for the use of books, periodicals, and other regular library materials and services.

USIA POSTS AND PERSONNEL OVERSEAS

The Senate amendment (sec. 206) prohibits the use of funds authorized by this or any other act to pay the expenses related to the closing of any USIA post abroad or to pay any expenses related to the Bureau of Management or with the "Television and Film Service" if any USIA post is closed after April 1, 1987 and not reopened within 90 days of the date of enactment. The Senate amendment also prohibits reductions in overseas American positions until the ratio of American employees stationed in the United States has been reduced to the 1981 level.

These provisions shall not apply to any post closed due to a break or downgrading in relations, a post where there is a real and present threat to Americans in the city where the post is located, or where the post is closed to open one of a higher priority and the total number of consulates and missions abroad is not less than the number that existed on January 1, 1987.

The House bill contains no comparable provision.

The conference substitute (sec. 204) is the same as the Senate amendment.

FORTY-YEAR LEASING AUTHORITY

The Senate amendment (sec. 209) amends section 801(3) of the United States Information and Educational Exchange Act of 1948 to extend the period for which real property associated with facilities for radio transmission and reception may be leased from 25 to 40 years.

The House bill contains no comparable provision.

The conference substitute (sec. 205) is the same as the Senate amendment.

USIA PROGRAMMING ON AFGHANISTAN

The Senate amendment (sec. 214) contains congressional findings on the importance of USIA programming on Afghanistan, and directs the Director of USIA to implement a formal country plan on Afghanistan, and provide the proposed plan to Congress within 60 days after the date of enactment.

The House bill contains no comparable provision.

The conference substitute (sec. 206) is similar to the Senate amendment, but deletes the congressional findings.

TELEVISION SERVICE OF USIA

The House bill (sec. 206) amends the United States Information and Educational Exchange Act of 1948 to enumerate the principles for which Worldnet, the television service of USIA, should be governed, with a charter paralleling the Voice of America charter on fairness and objectivity.

The Senate amendment contains no comparable provision.

The conference substitute (sec. 207) is similar to the House bill, but directs that Worldnet operate under the same principles as specified for the Voice of America pursuant to section 503 of the United States Information and Educational Exchange Act of 1948.

LIMITATION ON WORLDNET FUNDING

The House bill (sec. 207) prohibits the reprogramming or transfer of funds in fiscal years 1988 and 1989 from any program, project, or activity for the Worldnet program.

The Senate amendment contains no comparable provision.

The conference substitute (sec. 208) is the same as the House bill.

AUDIENCE SURVEY OF WORLDNET PROGRAM

The Senate amendment (sec. 220) earmarks $500,000 of the funds authorized for the Worldnet program to conduct a survey of the number of viewers in Europe who watch the daily passive shows of Worldnet and requires a report to Congress not later than 9 months after the date of enactment on this survey.

The House bill contains no comparable provision.

The conference substitute (sec. 209) is similar to the Senate amendment, but makes some technical and clarifying changes. In addition, the conference substitute adds a new subsection prohibiting the obligation or expenditure of funds authorized to be appropriated to USIA on the production or acquisition of passive programs for Worldnet after October 1, 1988 unless the survey required by this section has been completed in the manner specified, the report required by this section has been submitted, and the survey shows a high degree of reliability that the average daily audience of Worldnet's passive programming is not less than 2 million viewers.

In determining the size of the average daily European audience for the passive (noninteractive) programs of USIA's Worldnet television service, the survey required by this section shall count only those viewers who watch Worldnet programs on television channels that carry Worldnet passive (noninteractive) programs on a daily basis and in their entirety. In determining the size of the average daily European audience for Worldnet passive programs, the survey shall not count viewers who may watch the Worldnet passive programs on tapes distributed by USIA or viewers who may watch fragments of the passive programming as part of news or other programs carried on channels that do not carry Worldnet on a daily basis.

The company that makes the audience survey shall count viewers in accordance with standards used by the television audience survey industry in the United States when making as accurate a count as possible of the number of viewers of specific commercial television programs for the purpose of determining advertising revenues. The committee of conference expects that the company selected to conduct the survey shall do so without being influenced in any way by any individual associated with USIA.

The committee of conference further expects that the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate shall be kept currently and fully informed by the company conducting the survey and USIA on all aspects connected with the design and process of implementation of the survey.

NATIONAL ENDOWMENT FOR DEMOCRACY

The Senate amendment (sec. 204) authorizes $17.5 million for the National Endowment for Democracy and earmarks $250,000 for support of elements of the free press and democratic civic opposition inside Nicaragua which espouse democratic principles and objectives. The Senate amendment also specifies that, as is the case with all programs of NED, no employee of any department, agency, or other component of the U.S. Government may participate directly or indirectly in controlling, directing, or providing these funds to the free press and democratic opposition inside Nicaragua.

The House bill (sec. 201(4)) contains a similar authorization.

The conference substitute (sec. 210) is similar to the Senate amendment, but modifies the restriction to prohibit agencies or employees of the U.S. Government from participating directly or indirectly in controlling and directing the use of these funds by the free press and democratic civic opposition in Nicaragua.

SEPARATE ACCOUNTS FOR NED GRANTEES

The House bill (sec. 208) provides that the National Endowment for Democracy (NED) ensure that grantees keep assistance provided by NED in separate accounts.

The Senate amendment contains no comparable provision.

The conference substitute (sec. 211) is the same as the House bill.

NED TREATMENT OF INDEPENDENT LABOR UNIONS

The House bill (sec. 209) amends section 503 of the National Endowment for Democracy Act by adding a new subsection which states that NED may award grants to independent labor unions.

The Senate amendment contains no comparable provision.

The conference substitute (sec. 212) is the same as the House bill.

U.S. ADVISORY COMMISSION ON PUBLIC DIPLOMACY

The Senate amendment (sec. 215) updates the statutory authority for the U.S. Advisory Commission on Public Diplomacy to reflect changes made as a result of the 1977 reorganization of USIA and alters the method by which Commission members are chosen. The Senate amendment provides that the nine members of the Commission be chosen as follows: five members selected by the President, two members selected by the Chairman or ranking member of the Committee on Foreign Affairs of the House of Representatives and two members selected by the Chairman or ranking member of the Committee on Foreign Relations of the Senate, depending on which party controls the White House. The President designates the chairman of the Commission, and the chairman selects the Commission staff director with the concurrence of at least five members of the Commission.

The House bill contains no comparable provision.

The conference substitute (sec. 213) updates the statutory authority, but retains most of the current structure of the Advisory Commission. The conference substitute eliminates the requirement for the Commission to be appointed on a bipartisan basis, makes the members serve at the pleasure of the President instead of on fixed service, and retains the Senate confirmation of appointees.

DISTRIBUTION WITHIN THE UNITED STATES OF USIA FILM ENTITLED "AMERICA THE WAY I SEE IT"

The Senate amendment (sec. 561) authorizes the distribution of the USIA film "America the Way I See It" within the United States.

The House bill contains no comparable provision.

The conference substitute (sec. 214) is the same as the Senate amendment.

AVAILABILITY OF CERTAIN USIA PHOTOGRAPHS FOR DISTRIBUTION WITHIN THE UNITED STATES BY THE DEPARTMENT OF DEFENSE

The House bill (sec. 204) directs the Director of USIA to make available, upon request, photographs of militarty operations and related activities that occured in the Republic of Vietnam to the Secretary of Defense and Secretaries of the military departments concerned for the purpose of developing and publishing military histories.

The Senate amendment contains no comparable provision.

The conference substitute (sec. 215) is the same as the House bill.

USIA UNDERGRADUATE SCHOLARSHIP PROGRAM

The House bill (sec. 205) expresses the sense of Congress that USIA should provide increased funding for students in the Caribbean region under the scholarship program for developing countries established by title VI of the Foreign Relations Authorization Act, fiscal years 1986 and 1987.

The Senate amendment contains no comparable provision.

The conference substitute (sec. 216) is similar to the House bill, but makes the provision a sense of the House of Representatives and adds Aruba to the list of targeted countries. The committee of conference notes that for the purposes of the Fulbright Student Program and the Hubert H. Humphrey Midcareer Program, Aruba shall be considered as an independent country, with eligibility and participation consistent with program standards. These exchanges are to be administered with standard procedures.

TITLE III—EDUCATIONAL AND CULTURAL AFFAIRS

SAMANTHA SMITH MEMORIAL EXCHANGE

The House bill (sec. 211) earmarks $2 million out of the exchanges account of the United States Information Agency for United States-Soviet youth and educational exchanges.

The Senate amendment (sec. 218) establishes a similar program named in memory of Samantha Smith and provided $2 million in additional authorization to carry out this program.

The conference substitute (sec. 302) takes the Senate formulation on funding and the name of the program, and expands it to cover exchanges conducted with the Soviet Union and other East Bloc nations. In administering this program, the managers note that the Samantha Smith Memorial Exchange Program is intended to be a new program concentrating, on the basis of reciprocity, on youth exchanges with the Soviet Union. In providing flexibility in the administration of the program, the committee of conference intends neither to shift the emphasis away from exchanges of youth (including children) or students at the undergraduate college level below the age of 26, nor to imply that the exchanges need to take place under the auspices of an educational institution.

ARTS AMERICA PROGRAM

The Senate amendment (sec. 207) transfers USIA's Arts America program in the Bureau of Educational and Cultural Affairs, and brings it under the scope of the Bureau's charter.

The House bill contains no comparable provision.

The conference substitute (sec. 303) is the same as the Senate amendment.

PROFESSORSHIP ON CONSTITUTIONAL DEMOCRACY

The House bill (sec. 210) directs the President to foster the teaching of constitutional democracy at the Santo Tomas University in the Republic of the Philippines by supporting at such university, under section 102(b)(4) of the Mutual Educational and Cultural Exchange Act of 1961, a professorship on the subject of constitutional democracy, if such a professorship is established.

The Senate amendment (sec. 211) contains an identical provision.

The conference substitute (sec. 304) is the same as the House bill, but makes a technical correction to the effective date.

UNITED STATES-INDIA FUND

The Senate amendment (sec. 212) amends section 903 of the United States-India Fund for Cultural, Educational, and Scientific Cooperation Act to permit the principal set-aside for the fund, as well as interests earnings, to be used in accordance with the Education and Scientific Cooperation Agreement signed on January 7, 1987.

The House bill contains no comparable provision.

The conference substitute (sec. 305) is the same as the Senate amendment.

UNITED STATES-PAKISTAN FUND

The Senate amendment (sec. 213) authorizes the Director of USIA to enter into an agreement with the Government of Pakistan for the establishment of the United States Pakistan Fund for Cultural, Educational, and Scientific Exchange. Section 213 also provides that the director make available to the Fund for use in carrying out the agreement up to the equivalent of $598,176 in foreign currencies owed by the United States in Pakistan or owed to the United States by Pakistan.

The House bill contains no comparable provision.

The conference substitute deletes this provision.

THE EDWARD ZORINSKY MEMORIAL LIBRARY

The Senate amendment (sec. 216) designates the USIA library in Jakarta, Indonsia as the "Edward Zorinsky Memorial Library". This library was opened as the result of legislation authored by the late Senator Zorinsky.

The House bill contains no comparable provision.

The conference substitute (sec. 306) is the same as the Senate amemdment.

CULTURAL PROPERTY ADVISORY COMMITTEE

The Senate amendment (sec. 219) revises and staggers the terms of service of members of the Cultural Property Advisory Committee by lengthening such terms from 2 to 3 years. The Senate amendment also provides that with respect to initial appointments, the President shall select, on a representative basis to the maximum extent practicable, four members to serve 3-year terms, four members to serve 2-year terms, and the remaining members to serve a 1-year term. Thereafter each appointment shall be for a 3-year term.

The House bill contains no comparable provision.

The conference substitute (sec. 307) is the same as the Senate amendment, except that the effective date is modified to apply with respect to members appointed after the date of enactment.

TITLE IV—VOICE OF AMERICA

VOICE OF AMERICA/EUROPE

The House bill (sec. 302) authorizes to be appropriated for the Voice of America/Europe $3 million for fiscal year 1988 and $3,120,000 for fiscal year 1989. In addition the House bill directed VOA/Europe (a) to conduct periodic audience evaluations, (b) to promote and advertise its programs, and (c) to target news and features in accordance with the recommendations of the Young European Study.

The Senate amendment (sec. 202) provides authorization for this service within the overall authorization for the Voice of America.

The conference substitute (sec. 402) authorizes the appropriation of $3 million in fiscal year 1988 and $3,060,000 in fiscal year 1989 for the Voice of America. The conference substitute, as in the House bill, directs VOA/Europe (a) to conduct periodic audience evaluations, (b) to promote and advertise its programs, and (c) to target news and features in accordance with the recommendations of the Young European Study.

CONTRACTOR REQUIREMENTS

The Senate amendment (sec. 217) includes a position relating to the Voice of America facilities modernization program which added an exception to the application of the 10% perference for American contractors. The provision requires, among other things, a certification by the USTR that a foreign bidder was not receiving either direct or indirect subsidies from any government.

The House bill (sec. 303) contains no similar provision in its VOA contractor requirements.

The conference substitute (sec. 403) requires a certification from the Secretary of Commerce that foreign bidders are not receiving direct subsidies that would disadvantage a U.S. person who is also bidding on VOA modernization projects. The conferees intend that the Secretary of Commerce may make such a certification in the absence of a finding that U.S. persons are being disadvantaged. The Secretary of Commerce is not required to prove or show affirmatively that U.S. persons are not being disadvantaged before making such a certification.

TITLE V—THE BOARD FOR INTERNATIONAL BROADCASTING

AUTHORIZATION OF APPROPRIATIONS

The House bill (sec. 401) authorizes the appropriation of $170,600,000 in fiscal year 1988 and $219,424,000 in fiscal year 1989 for the Board for International Broadcasting.

The Senate amendment (sec. 301) authorizes $174 million for fiscal year 1988 for the Board for International Broadcasting. In addition, the Senate amendment contains a provision earmarking $12 million of the funds authorized to be appropriated for the radio modernization program.

The conference substitute (sec. 501) authorizes the appropriation of $186 million in fiscal year 1988 and $207,424,000 in fiscal year 1989 for the Board for International Broadcasting. In authorizing a higher level of funding in fiscal year 1988, the committee of conference agreed on the need to provide necessary authority to offset the dramatic impact of the recent fall of the dollar on the budget of Radio Free Europe/Radio Liberty. The conference substitute earmarks $12 million in each fiscal year for the modernization program.

TITLE VI—ASIA FOUNDATION

AUTHORIZATION OF APPROPRIATIONS

The House bill (sec. 501) authorizes the appropriation to the Secretary of State of $13,700,000 for fiscal year 1988 and $14,148,000 for the fiscal year 1989 for grants to the Asia Foundation.

The Senate amendment (sec. 105) authorizes the appropriation of $15 million for the same purpose.

The conference substitute (sec. 601) authorizes the appropriation to the Secretary of State of $13,700,000 for fiscal year 1988 and $15 million for fiscal year 1989 for grants to the Asia Foundation.

TITLE VII—INTERNATIONAL ORGANIZATIONS

PART A—UNITED NATIONS

REFORM IN BUDGET DECISIONMAKING PROCEDURES OF THE UNITED NATIONS AND ITS SPECIALIZED AGENCIES

Subsection 181(a) of the House bill contains congressional findings that the consensus-based decisionmaking procedure established by General Assembly Resolution 41/213 is a significant step toward complying with the intent of section 143 (known as the "Kassebaum-Solomon amendment") of the Foreign Relations Authorization Act for fiscal years 1986 and 1987 (Public Law 99-93). Subsection (b) amends that section 143 to impose the following requirements: That the President should continue vigorous efforts to secure implementation by the United Nations of decisionmaking procedures on budgetary matters which assure that the views of the United States and other major donors are given sufficient attention; that for calendar year 1987 and subsequent years, 20 percent of U.S.-assessed contributions to the United Nations are conditioned on a Presidental determination and report to the Congress that the budget decisionmaking procedure, and reform of secondment practices and personnel management policies are being implemented, and that the Congress will have a 30-day period following submission of such Presidential reports to enact a joint resolution of disapproval of such report; that for calendar year 1987 and subsequent years, 20 percent of U.S.-assessed contributions to any of the U.N. specialized agencies' budgets shall be withheld unless the President determines that such agency has made substantial progress toward implementing the greater financial responsibility reforms referenced above; and provides that, subject to the availability of appropriations, and the Presidential determinations referenced above, payment of assessed contributions for prior years may be made to the United Nations or a specialized agency without regard to the contribution limitations contained in section 143 of Public Law 99-93; and authorizes the President to transfer up to $79 million from funds appropriated for each of the fiscal years 1988 and 1989 to carry out the Foreign Assistance Act of 1961, the Arms Export Control Act, or the Foreign Relations Authorization Act for payments toward the full U.S.-assessed contributions for calendar years 1987 and 1988 to the United Nations and its specialized agencies, subject to the conditions referenced above and to the normal reprogramming procedures of each House of the Congress. Subsection (c) contains a conforming amendment to current law (Public Law 99-93).

The Senate amendment (sec. 141) contains a withholding formula which permits 40 percent of the funds appropriated for the U.S.-assessed contribution to the United Nations to be made available on October 1 of a calendar year, 40 percent upon Presidential determination and a report to the Congress on implementation of the General Assembly's decisionmaking procedure on budgetary matters, and the remaining 20 percent available 30 legislative days after receipt by the Congress of the Presidential report, unless the Congress enacts during those 30 days a joint resolution of disapproval. The Senate amendment further conditions U.S. contributions to the U.N. specialized agencies in a manner virtually identical to the House bill's 20 percent withholding formula. Finally, the Senate amendment provides a 2-year set of definitions and procedures for resolutions of disapproval in both Houses pursuant to section 141.

The conference substitute (sec. 702) finds that the consensus-based decisionmaking procedures established by General Assembly resolution 41-213 is a significant step forward. The conference substitute also provides: (1) that 40 percent of the U.S.-assessed contributions to the United Nations may be paid any time after October 1, 1987; (2) that the second 40 percent of the U.S.-assessed contribution may be paid upon a Presidential determination that (i) the consensus-based decisionmaking procedure is being implemented, (ii) progress is being made toward the 50 percent limitation on seconded employees, and (iii) the reductions in the staff of the Secretariat are being implemented; and (3) that the final 20 percent of the U.S.-assessed contribution may be made available 30 days after the Presidential determination unless the Congress adopts a joint resolution prohibiting such payment.

In the event that the amount appropriated for the U.S.-assessed contribution to the United Nations is less than the U.S.-assessed contribution to the United Nations, the conference substitute provides that 20 percent of the funds cannot be released until 30 days after the Presidential determination, provided the Congress doesn't prohibit such payment. The conference substitute sunsets this section on October 1, 1989.

HOUSING ALLOWANCES OF INTERNATIONAL CIVIL SERVANTS

The House bill (sec. 199A) contains a provision which states that U.S. policy is to prohibit U.N. member states from providing housing allowances and other benefits to international civil servants, as recommended by the Association of International Civil Servants, reduces the U.S. contributions to the United Nations equal to any such benefits which are provided, and calls on the U.S. Ambassador to the United Nations to promote this policy.

The Senate amendment contains no comparable provision.

The conference substitute (sec. 703) is similar to the House bill, but drops the provision withholding U.S. contributions to the United Nations.

UNITED STATES PARTICIPATION IN THE UNITED NATIONS IF ISRAEL IS ILLEGALLY EXPELLED

The House bill (sec. 171) states that if Israel is denied its legal right to participate in the United Nations, any principal or subsidiary organ, or in any specialized, technical or other agency of the United Nations, the United States shall suspend participation in the United Nations until this action is reversed.

The Senate amendment (sec. 143) contained a similar provision.

The conference substitute (sec. 704) is similar to the House bill, but does not apply the restriction to U.S. participation in the U.N. Security Council and the safeguards program of the International Atomic Energy Agency.

U.N. PROJECTS WHOSE PRIMARY PURPOSE IS TO BENEFIT THE PLO

The House bill (sec. 199J) amends section 114 of the Department of State Basic Authorities Act to authorize the withholding of 25 percent of the amount budgeted for the U.N. Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Population of the Occupied Territories, and authorizes the withholding of the U.S. proportionate share of the U.N. budget spent on the African National Congress (ANC) or any entity that benefits the ANC.

The Senate amendment contains no comparable provision.

The conference substitute (sec. 705) is similar to the House bill, but deletes the references to the ANC.

PUBLIC ACCESS TO U.N. WAR CRIMES COMMISSION FILES

The Senate amendment (sec. 508) contains congressional findings and the sense of Congress regarding access by interested individuals and organizations to the files of the United Nations War Crimes Commission.

The House bill (sec. 176) contains a similar provision.

The conference substitute (sec. 706) is essentially identical to the Senate amendment.

PROTECTION OF TYRE BY U.N. INTERIM FORCE IN LEBANON (UNIFIL)

The Senate amendment (sec. 145) contains congressional findings regarding the importance of the archeological value of ancient Tyre and the threat posed by civil strife in Lebanon, and directs the Secretary of State to request the Secretary General of the United Nations to extend the mandate of UNIFIL to include protection of Tyre and to seek an order prohibiting the purchase of artifacts from Tyre by any person associated with the United Nations. The Senate amendment also requires the Secretary of State to report not later than 6 months after the date of enactment, and semiannually thereafter, on the progress made in implementing this section.

The House bill contains no comparable provision.

The conference substitute (sec. 708) is similar to the Senate amendment.

LIMITATION ON FUNDING OF UNITED NATIONS

The House bill (sec. 1401) limits the obligation or expenditure of funds to the United Nations or any United Nations affiliated agency to 50 percent of the total payments by the United States for its assessed contribution to such organization or agency in 1986. This limitation does not apply to payments to peacekeeping activities. In addition, the President may waive this provision if he determines that such a waiver is in the national interest of the United States.

The Senate amendment contains no comparable provision.

The conference substitute deletes the provision.

RESTRICTION ON CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS

The Senate amendment (sec. 532) calls for the United States to cut its appropriated contributions to the United Nations by 50 percent unless the President certifies to Congress that significant progress has been made in the U.N. Secretariat and the specialized agencies to eliminate the excessive use of secondment by member states to the U.N. Secretariat, and to eliminate the blatant control of nationals of member states serving as employees of the U.N. Secretariat or the agencies.

The House bill contains no comparable provision.

The conference substitute deletes this provision, but incorporates the essence of the provision in section 702.

MEMBERSHIP OF BYELORUSSIA AND UKRAINE IN THE UNITED NATIONS

The House bill (sec. 199K) directs the President to conduct a review of whether the United States should introduce a resolution to cease the recognition of Byelorussia and the Ukraine as members of the United Nations in the General Assembly, and report his recommendations thereon to Congress within 90 days after the date of enactment.

The Senate amendment contains no comparable provision.

The conference substitute deletes the provision.

LIMITATION ON SOVIET NATIONALS AT THE UNITED NATIONS

The House bill (sec. 184) limits the number of Soviet nationals serving at the Soviet, Byelorussian, and Ukrainian missions to the United Nations to a level not to exceed the number of U.S. nationals serving at the U.S. Mission to the United Nations.

The Senate amendment contains no comparable provision.

The conference substitute deletes this provision. The committee of conference notes that the number of Soviet nationals at missions to the United Nations is continuing to decrease according to the schedule agreed to by the Secretary of State and the members of the Committee on Host Country Relations of the United Nations.

PART B—U.S. COMMISSION ON IMPROVING THE EFFECTIVENESS OF THE U.N.

The Senate amendment (secs. 601-610) establishes a commission composed of 18 members, including two members of the House of Representatives, two members of the Senate, eight individuals from the private sector, and six individuals appointed by the private sector, to examine the U.N. system as a whole and identify and evaluate its strengths and weaknesses. The Commission shall prepare and submit a report, not later than 18 months after the date on which all members of the Commission have been appointed, to the President and the Congress on their recommendations for improving the effectiveness of the U.N. system and the role of the United States in the U.N. System, including the feasibility of and means for implementing such recommendations. The Commission shall cease to exist 60 days after submitting its report to the President and the Congress.

The House bill contains no comparable provision.

The conference substitute (secs. 721-730) is similar to the Senate amendment, but reduces the number of Commissioners to be appointed by the President from eight to six, thereby reducing the size of the Commission, and makes the date for appointment of Commissioners March 1, 1989.

PART C—OTHER INTERNATIONAL ORGANIZATIONS

PRIVILEGES AND IMMUNITIES TO OFFICES OF THE MISSION TO THE COMMISSION OF THE EUROPEAN COMMUNITIES

The House bill (sec. 138) authorizes the President to extend diplomatic privileges and immunities to other offices of the European communities in the United States.

The Senate amendment (sec. 146) contains a similar provision.

The conference substitute (sec. 741) is the same as the House bill.

CONTRIBUTION TO REGULAR BUDGET OF INTERNATIONAL COMMITTEE OF THE RED CROSS AND SENSE OF CONGRESS CONCERNING RECOGNITION OF RED SHIELD OF DAVID

The Senate amendment (sec. 108) directs the Secretary of State to make a contribution to the regular budget of the International Committee of the Red Cross (ICRC) equal to not less than 20 percent of its regular budget. This contribution may be made from the funds authorized for migration and refugee assistance. Allocations of funds within the migration and refugee account for fiscal year 1988 may be reprogrammed within the account if the requirements of the designated programs are fully met. The Senate amendment also provides that the U.S. contribution to the ICRC shall not exceed nor be less than the U.S. contribution in fiscal year 1987.

In addition, the Senate amendment expresses the sense of the Congress that a diplomatic conference of governments should grant the Red Shield of David the identical status of recognition as the Red Cross and the Red Crescent, and should be accepted as a full member of the League of Red Cross Societies and the guadrennial International Conferences of the Red Cross.

The House bill (sec. 172) contains a provision concerning the recognition of the Red Shield of David which is similar to the Senate amendment.

The conference substitute (sec. 742) is similar to the Senate amendment, but makes the U.S. contribution to the ICRC annual, decreases the mandatory U.S. contribution to 10 percent of the ICRC's regular budget, and deletes the reprogramming authority.

IMMUNITIES FOR THE ICRC

The Senate amendment (sec. 142) amends the International Organizations Immunities Act to authorize the same privileges and immunities as are granted to public international organizations in which the United States participates be granted to the International Committee of the Red Cross.

The House bill contains no comparable provision.

The conference substitute (sec. 743) is similar to the Senate amendment.

NORTH ATLANTIC ASSEMBLY

The House bill (sec. 121) amends Public Law 84-689, authorizing participation in NATO parliamentary conferences, to increase the authorization for U.S. participation in such conferences from $50,000 to $75,000.

The Senate amendment (sec. 144) amends Public Law 84-689 to specify that the secretaries to the House and Senate delegations to the North Atlantic Assembly shall be appointed, respectively, by the chairmen of the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate.

The conference substitute (sec. 744) combines the two provisions.

U.S. MEMBERSHIP IN INTERGOVERNMENTAL COMMITTEE FOR EUROPEAN MIGRATION

The Senate amendment (sec. 517) authorizes the President to continue membership for the United States in the Intergovernmental Committee for European Migration (ICEM) and, upon entry into force of the amendments to that organization's 1953 constitution approved on May 20, 1987, to continue membership in that organization under the name International Organization for Migration (ICM). For purposes of assisting in the movement of refugees and migrants, the amendment authorizes such funds as may be necessary from time to time for payment by the United States of its contributions to ICM and all necessary salaries and expenses incidental to U.S. participation in ICM.

The House bill contains no comparable provision.

The conference substitute (sec. 745) is the same as the Senate amendment.

RECOGNITION OF CARICOM

The House bill (sec. 177) expresses the sense of Congress that the Secretary of State should consider recognizing CARICOM as a regional planning organization in the Caribbean.

The Senate amendment contains no comparable provision.

The conference substitute (sec. 746) is the same as the House bill.

ASIAN-PACIFIC REGIONAL HUMAN RIGHTS CONVENTION

The House bill (sec. 175) contains congressional findings and declarations regarding the human rights situation in the Asian-Pacific region and mandates a report from the Secretary of State to the Congress within 180 days of enactment identifying the need for an Asian-Pacific regional human rights convention, examining the feasibility of calling a conference to negotiate such a convention, and making recommendations on the calling of such a conference.

The Senate amendment contains no comparable provision.

The conference substitute (sec. 747) mandates a report from the Secretary of State to the Congress within 180 days of enactment on the nature and extent of human rights problems in the Asian-Pacific region and on the willingness of countries in the region to negotiate a regional human rights convention.

The committee of conference notes that several nations in the Asian-Pacific region, including Afghanistan, Australia, Burma, China, India, the Philippines, and Thailand, supported the United Nations Universal Declaration of Human rights in 1948; that there is a precedent for regional cooperation among the Asian and Pacific Nations as evidenced by the formation of the Economic and Social Commission for Asia and the Pacific; and that the United Nations General Assembly has repeatedly reaffirmed the value of regional arrangements for the promotion and protection of human rights.

Title VIII—International Narcotics Control

ASSIGNMENT OF DEA AGENTS ABROAD

The House bill (sec. 165) provides that if the Secretary of State authorizes the assignment of any Drug Enforcement Administration (DEA) agent to a particular U.S. mission abroad, he shall authorize the assignment of at least two such agents to that mission.

The Senate amendment contains no comparable provision.

The conference substitute (sec. 801) is the same as the House bill. The committee of conference notes that this provision was included to address the problem of two U.S. ambassadors who have refused to permit an increase in a one-man DEA office. In the case of Egypt, the single DEA agent must cover not only Egypt, but 28 other African countries as well. The committee strongly supports DEA's policy of two-man offices for both security and professional reasons.

QUARTERLY REPORTS ON PROSECUTION OF THOSE RESPONSIBLE FOR TORTURE AND MURDER OF DEA AGENTS IN MEXICO

The House bill (sec. 166) amends section 134(c) of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987 to include information on the detention and torture of DEA agent Victor Cortez to the quarterly report on progress made in investigating and prosecuting those responsible for the 1985 murders of DEA agent Enrique Camarena and his pilot.

The Senate amendment contains no comparable provision.

The conference substitute (sec. 802) is the same as the House bill.

REQUIREMENT THAT EXTRADITION OF DRUG TRAFFICKERS BE A PRIORITY ISSUE OF U.S. MISSIONS IN MAJOR ILLICIT DRUG PRODUCING OR TRANSIT COUNTRIES

The House bill (sec. 167) requires the Secretary of State to ensure that the negotiation of updated extradition treaties which ensure that narcotics traffickers can be extradited to the United States be included as a primary objective in the country plan for the U.S. mission in each major drug-producing or drug-transit country. This section also directs that the necessary steps be taken to implement effectively existing treaties which provide for the extradition of narcotics traffickers.

The Senate amendment contains no comparable provision.

The conference substitute (sec. 803) is the same as the House bill.

INFORMATION-SHARING SYSTEM SO THAT VISAS ARE DENIED TO DRUG TRAFFICKERS

The House bill (sec. 168) requires the Secretary of State to submit a report to Congress not later than 90 days after the date of enactment on the comprehensive information-sharing system on drug arrests of foreign nationals established pursuant to the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987.

The Senate amendment contains no comparable provision.

The conference substitute (sec. 804) is the same as the House bill. The committee of conference notes that since the requirement for information-sharing was originally mandated in Public Law 99-93, hundreds of foreign nationals who otherwise would have been allowed to enter the United States have been denied visas due to their involvement in narcotics trafficking. The committee of conference therefore urges the Department of State and the DEA to continue their efforts to implement effectively this information-sharing system.

CERTIFICATION PROCEDURES FOR DRUG PRODUCING AND DRUG-TRANSIT COUNTRIES AND INCLUSION OF SPECIFIC AGENCY COMMENTS

The Senate amendment (sec. 562) amends section 481(e) of the Foreign Assistance Act to change the date of submission of the annual International Narcotics Control Strategy Report (INCSR) from March 1 to February 1 of each year and adds a new subsection requiring specific comments and recommendations by appropriate Federal agencies involved in drug enforcement. The Senate amendment also extends the time period for congressional disapproval of Presidential certifications on major drug-producing and transit countries from 30 to 60 days.

The House bill contains no comparable provision.

The conference substitute (sec. 805) is similar to the Senate amendment, but does not change the date of submission of the annual INCSR report, and extends the congressional review period from 30 to 45 days.

SANCTIONS ON DRUG PRODUCING AND DRUG-TRANSITING COUNTRIES

The Senate amendment (sec. 552) amends section 802(a) of the Trade Act of 1974 to add to the current list of tariff sanctions on any country which the President has determined is not fully cooperating in antinarcotics efforts the following new three sanctions: Limiting by one-half the number of visas that may be issued for aliens born in such countries for nonimmigration status described in section 101(a)(15)(B) of the Immigration and Nationality Act; authorizing the President to take certain steps to curtail air transportation between the United States and that country; and mandating the withdrawal of personnel and resources of the United States from participation in any arrangement with that country for the preclearance of customs by visitors between the United States and that country.

The Senate amendment further amends section 802(b) of the Trade Act to require the President, in determining whether a country has cooperated fully with the United States in preventing illicit drug production and trafficking, to consider whether such government has taken the legal and law enforcement steps necessary to eliminate, to the maximum extent possible, corruption by government officials, with particular emphasis on the elimination of bribery.

The House bill contains no comparable provision.

The conference substitute (sec. 806) is similar to the Senate amendment, with the following exception: An amendment making technical corrections and clarifying the President's authority to curtail air transportation agreements with a foreign country in an orderly manner; an amendment making the shutdown of U.S. preclearance facilities discretionary rather than mandatory; an amendment deleting the provision which authorizes the President to reduce nonimmigrant visas by one-half to noncooperative countries; and an amendment to the Immigration and Nationality Act clarifying that individuals convicted of violations of drug statues may be barred from entry into the United States. The provision dealing with reductions in nonimmigrant visas was given serious consideration by the committee of conference before it was deleted. The committee of conference intends to monitor carefully the cooperation received from drug-producing and drug-transit countries, and will give serious consideration to further expanding the list of sanctions in the future should those countries fail to cooperate fully in the fight against narcotics production and trafficking. In particular, the committee of conference notes that this provision is intended to address the continuing lack of cooperation from the Government of the Bahamas in curbing drug-related corruption in that country.

TITLE IX. IMMIGRATION AND REFUGEE PROVISIONS

PROHIBITION IN EXCLUSION OR DEPORTATION OF ALIENS OF CERTAIN GROUNDS

The Senate amendment (sec. 504) prohibits the exclusion of any alien on the basis of any past or current political beliefs or political associations, or on the basis of the expected contents of the alien's statements while in the United States.

The House bill contains no comparable provision.

The conference substitute (sec. 901) is intended to ensure that no alien is denied a visa or excluded from admission into the United States, subject to conditions or restrictions on entry into the United States, or subject to deportation because of any past, current, or expected beliefs, statements or associations which would be protected under the Constitution if engaged in by a U.S. citizen in the United States.

The committee of conference notes that current law provides authority to the executive branch to deny admission to aliens or to deport them on a variety of grounds including those related to national security, ideological or political beliefs, and, more generally, the interests of the United States (8 U.S.C. 1182(a)). These provisions, since their codification in 1952 as part of the Immigration and Nationality Act, have been used by the executive branch to deny aliens entry into the United States on the basis not only of their potential threat to the national security interests of the United States or their past involvement in criminal activity, but also on the basis of their expression of beliefs, their advocacy of political positions, or their association in political organizations which would be constitutionally protected if engaged in by U.S. citizens within the United States.

During the past 35 years, a large number of well-known foreign politicans, authors, academicians, journalists, and artists, as well as thousands of ordinary citizens from foreign countries have been barred from entering this country, forced to undergo the indignity of answering embarrassing questions about their political or personal activities, or since enactment of the "McGovern Amendment" in 1977, required to submit to a lengthy bureaucractic process in order to obtain a waiver to enter the United States.

The committee of conference notes that, as a result of this history of visa denial, the citizens of the United States have been denied the opportunity to have access to the full spectrum of international opinion, and the reputation of the United States as an open society, tolerant of divergent ideas, has suffered. Though the U.S. record in this regard is on the whole exemplary and certainly far superior to that of most other nations, including those known for the frequent and egregious violations of their own citizens' human rights and freedom of expression, the committee of conference believes that, in order to make it clear that the United States is not fearful of foreign ideas or criticism or the individuals who espouse such ideas or advance such criticism, a thorough reform of the grounds for exclusion and deportation is necessary and long overdue. Furthermore, the committee of conference observes that some of the grounds for exclusion and deportation may be at variance with U.S. international obligations as expressd in the Helsinki Accords. Again, though the U.S. record of compliance with the provisions of the Helsinki Accords is superior to that of most nations of the world, the conferees believe that would be appropriate to reform these grounds in order to further the process of improved Helsinki compliance.

The conference substitute continues to permit the denial of visas or the deportation of aliens when it is in the interests of the United States, but makes it clear that it is not in the interests of the United States to establish one standard of ideology for citizens and another for foreigners who wish to visit the United States. Accordingly, under this section the executive branch would retain the ability to exclude or deport aliens on criminal, espionage, and terrorism grounds (among others), and, in certain circumstances, on national security and foreign policy grounds. But national security or foreign policy exclusion or deportation would not be permitted if such exclusion or deportation were based on beliefs, statements, or associations which would be constitutionally protected if engaged in by U.S. citizens in the United States. Under this section, statements would be construed as including writings and other forms of nonverbal communications.

Under this standard, it would still be appropriate, to the extent it is consistent with this section and existing law, for the executive branch to deny a visa to an alien to avoid conveying the impression that the U.S. Government recognizes or supports any government or group which the United States does not choose to recognize or support. An example of this situation might be a case in which an alien was applying to enter this country as the representative of a country which the United States or the international community does not recognize. Other examples might include: The exclusion of a former foreign leader whose mere entry into the United States would threaten imminent harm to the lives and property of U.S. citizens abroad; or the imposition of restrictions on the visa of a hostile foreign national who wanted access to sensitive information about nuclear power or who sought access to restricted areas or to sensitive technology.

These and other foreign policy and national security based exclusions, restrictions, or deportations would be appropriate provided that they were not based on the constitutionally protected activities described in paragraph (a) of the conference substitute. For example, such exclusions, restrictions, or deportations would not be appropriate if based on an alien's criticism of the United States or U.S. policies; an alien's attempt to influence lawfully the outcome of legislation before the Congress; or an alien's mere membership in a Communist, anarchist, or other organization proscribed under current law. However, this section should not be construed as conferring additional constitutional rights on aliens.

Notwithstanding the general prohibition on exclusion or deportation because of constitutionally protected activities, the executive branch would retain the discretionary power to exclude or deport in certain limited circumstances.

First, exclusion or deportation would be appropriate in the case of an individual who has committed or who is likely to engage after entry in terrorist activity. In considering whether a person has been involved in terrorist activities under paragraph (b)(2), it is the intent of the managers to include persons involved in hostage taking, kidnaping, threatened violence or other acts which do not actually involve death or injury. These acts, whether or not they actually result in bodily harm, are a form of violence and are crimes. The managers also consider that organizing, abetting, or participating in terrorits acts or activities would include not only actually pulling a trigger or planting a bomb but providing support or assistance, such as but not limited to: planning, providing facilities, recruiting, financing or fundraising, surveillance, courier service, transportation, providing weapons, or forging or unlawfully procuring documents. The term "terrorist activity" as used in paragraph (b)(2) of the substitute is intended to include international, targeted acts of terrorism such as assassination. The phrase "individuals not involved in armed hostilities" as used paragraph (b)(2) of the substitute is intended to mean noncombatants. An alien would be considered to have participated in an act of terrorism whether he or she did so individually or as a member of an organization.

Second, the executive branch would be permitted to exclude or deport representatives of labor organizations which are instruments of totalitarian states when such representatives are traveling in an official capacity. Therefore, the section would not prevent such an official from entering the United States to, for example, travel as a tourist, visit relatives or receive medical treatment.

Third, the prohibitions on exclusion and deportation, in particular those based on constitutionally protected associations, would not apply to aliens who have assisted in Nazi persecutions, aliens seeking refugee status, asylum, withholding of deportation or legalization who have engaged in persecution, or an alien who is a member, officer, official, representative, or spokesman of the PLO.

Finally, the conferees do not intend that this section be viewed as in any way affecting the existing authority of the President to deny admissions by proclamation or to deny entry to aliens when the United States is at war or during the existence of a national emergency proclaimed by the President.

Paragraph (c) of the conference substitute simply makes clear that no standing beyond that which currently exists would be conferred by the section. The committee of conference notes that there are several pending legislative proposals which would expand such standing, and the conferees take no position on the advisability of adopting such changes.

The committee of conference notes that the Committee on Judiciary of both the House of Representatives and the Senate have under consideration legislation aimed at revising the grounds for exclusion and deportation by directly amending the Immigration and Nationality Act. The conferees expect that comprehensive legislation revising these grounds will be acted upon by these committees early in the second session of the 100th Congress.

Because of the expected expeditious consideration of comprehensive legislation revising these grounds by the Committees on Judiciary, the committee of conference has included a 1-year sunset provision in the conference substitute. Under this provision, visas which were applied for during calendar year 1988 and admissions into the United States which are sought during the period beginning on January 1, 1988, through February 28, 1989, would be covered by this section. The additional 60 days for admission into the United States was added in order to permit entry into the United States on the basis of visas issued late in 1988 which may not be used until early 1989.

It is the intent of the committee of conference that this section apply to all visas applied for in 1988, including immigrant and nonimmigrant visas, and to all determinations in admissibility made after December 31, 1987, and before March 1, 1988. Aliens denied visas or found inadmissible in the past for reasons that would have been prohibited by this provision shall be eligible to reapply in 1988. The conference substitute would apply whether the alien was denied a visa or found inadmissible from abroad, at the border, or in the context of an application for permanent resident status. It is also the intent of the committee of conference that visas issued during 1988, and permanent resident status granted during 1988, shall not be subject to recision after 1988 for reasons prohibited by paragraph (a) of the conference substitute.

ADJUSTMENT TO LAWFUL RESIDENT STATUS OF CERTAIN NATIONALS OF COUNTRIES FOR WHICH EXTENDED VOLUNTARY DEPARTURE HAS BEEN MADE AVAILABLE

The Senate amendment (sec. 528) provides that nationals of Poland who continuously resided in the United States since July 21, 1984, and for whom a record has been established by the Immigration and Naturalization Service would be able to apply for adjustment to permanent resident status.

The House bill contains no comparable provision.

The conference substitute (sec. 902) deletes the record requirement and makes two additional changes. First, it extends the benefits of adjustment not only to qualifying nationals of Poland, but also to other nationality groups for which extended voluntary departure status (EVD) has been provided in past years. Specifically, qualifying nationals of any country the nationals of which were granted, or allowed to continue in, EVD status at any time during the past 5 years would be entitled to adjust. Though the statutory authority to grant EVD has never been precisely identified, the Congress has been consistently advised by the executive branch that only the following groups constitute the nationalities for which EVD status was provided during the preceding 5 years: Poles, Ugandans, Ethiopians, and Afghans. Thus the conference substitute effectively extends benefits to qualifying aliens only of those nationalities.

Second, the conference substitute grants to qualifying aliens temporary resident status rather than the permanent resident status provided in the Senate amendment. This status, which does permit eventual adjustment to permanent resident status and U.S. citizenship, places the beneficiaries of this substitute on the same footing as aliens legalized under section 245A of the Immigration and Nationality Act. Again, in order to maintain equality of treatment, the Polish, Ugandan, Ethiopian, and Afghan beneficiaries under the conference substitute will be subject to the same conditions and responsibilities imposed upon aliens under the legalization program.

PROCESSING OF CUBAN NATIONALS FOR ADMISSION TO THE UNITED STATES

The House bill (sec. 132) requires the Secretary of State to submit a report not later than 60 days after the date of enactment on current U.S. policies regarding the granting of entry visas and political asylum to former and current political prisoners in Cuba. The House bill (sec. 199B) also requires the Department of State to process refugee applications from Cuban political prisoners without regard to the length of their imprisonment.

The Senate amendment (sec. 526) also requires the processing of refugee applications from Cuban political prisoners without regard to duration of imprisonment and reestablishes normal immigration processing for Cuban nationals.

The conference substitute for these provisions is similar to the Senate amendment with the following changes: (1) adds language referencing the reinstatement on November 20, 1987, of the 1984 agreement between the United States and Cuba regarding the normalization of immigration procedures between the two countires; (2) mandates the resumption of normal immigration procedures in third countries and specifies that such procedures may not be suspend for any reason; and (3) adds clarifying language to ensure that the same immigration procedures shall be followed for Cubans in third countries as are followed for all other nationalities.

The committee of conference points out that the bilateral agreement between the United States and Cuba calls for the total restoration of normal immigration procedures. Specifically, the agreement calls for the United States to "resume issuance of preference immigrant visas to Cuban nationals * * * (and to take) all necessary measures to ensure that Cuban nationals residing in Cuba wishing to emigrate to the United States and who qualify under U.S. law to receive immigrant visa, may enter the United States, taking maximum advantage of the number of up to 20,000 immigrants per year."

The conference substitute takes into account the serious concerns of the Department of State that legislative restoration of normal immigration procedures at this time could jeopardize implementation of the bilateral agreement. The committee of conference intends that in the event of future problems with the implementation of the agreement, the advisability of legislatively mandating normal immigration procedures for all Cubans will be revisited. The committee of conference is concerned with the plight of U.S. citizens and permanent resident aliens who cannot be rejoined with close family members who have applied or qualified (or both) for immigrant visas. The continued separation of these families is a serious problem and the committee of conference is hopeful that, with the reinstatement of the agreement, this problem will be eliminated. If for some reason this does not occur, the committee of conference urges the appropriate committees of Congress to review this matter in the second session of the 100th Congress.

The committee of conference urges the Department of State to use every available means and international forums to press the Cuban Government to live up to its Mariel agreement to permit the return of those 2,746 Cuban nationals found inadmissible to the United States because of serious criminal records or severe mental illness. The committee of conference finds the continued refusal of the Castro regime to live up to the terms of this agreement a major obstacle to any lessening of tensions or improvement in relations between our two nations. Cuba's behavior in this matter is not only a serious breach of normal international law and practice, but a flagrant violation of the human rights of these Cubans and their families who wish to return to their homeland.

NATURALIZATION REQUIREMENTS FOR CERTAIN CUBAN POLITICAL PRISONERS

The Senate amendment (sec. 549) waives the naturalization requirements of continuous residence and physical presence for six Cuban political prisoners now residing in the United States.

The House bill contains no comparable provision.

The conference substitute deletes this provision.

INDOCHINESE REFUGEE RESETTLEMENT

The Senate amendment (secs. 702-709): (1) contains congressional findings regarding the plight of Indochinese refugees in first asylum countries in Southeast Asia and the responsibility of the United States and the United Nations High Commissioner for Refugees for the deterioration of refugee programs in the region; (2) contains congressional findings regarding the problems of processing of Indochinese refugees by the Immigration and Naturalization Service; (3) requires the president to submit a report to Congress not later than 120 days after the date of enactment of this act assessing the merits of transferring the authority to admit all refugees under the Immigration and Nationality Act from the Attorney General to the Secretary of State; (4) expresses the sense of Congress regarding the allocation of refugee admissions from East Asia first asylum camps, the Orderly Departure

Program from Vietnam, and Indochinese refugees who have lived in camps for more than 3 years; (5) earmarks $5 million for each of the fiscal years 1988 and 1989 from development assistance (education) for educational programs, projects and activities along the Thai-Lao and Thai-Cambodian borders; (6) earmarks $5 million in economic support fund assistance for each of the fiscal years 1988 and 1989 for assistance for Thai villages affected by the influx of Indochinese refugee; (7) earmarks $2 million from funds authorized for international military education and training for each of the fiscal years 1988 and 1989 to train and deploy the Royal Thai Army to better protect Indochinese refugees; and (8) expresses the sense of Congress that the international community should increase efforts to assure Indochinese refugee camps are protected and that international observers and relief workers should be present on a 24-hour-a-day basis in any camp where it is deemed necessary.

The House bill contains no comparable provision.

The conference substitute (sec. 904): (1) expresses the sense of Congress that the United States continues to be committed to playing a major role in responding to the Indochinese refugee problem and that the Government of Thailand should be commended for recently allowing the United States to begin processing Cambodian refugee ration cardholders in Khao I Dang and for its cooperation in creating a more effective antipiracy campaign; (2) expresses the sense of Congress that the Department of State should urge the Government of Thailand to allow full access to the Lao Screening program for all Lao refugees, particularly hill tribe people, and directs the Department of State and responsible international organizations to address the protection problems of the Khmer along the Thai-Cambodian border; (3) requires the President to submit a report to the Congress within 180 days of enactment on the respective roles of the Immigration and Naturalization Service and the Department of State on the refugee program with recommendations for improving the effectiveness and efficiency of that program; (4) states that the President should continue to recommend generous numbers of admissions from East Asia first asylum camps and from the Orderly Departure Program sufficient to sustain preservation of first asylum and security for Indochinese in Southeast Asia, consistent with worldwide refugee requirements; and (5) earmarks $1 million for educational programs for protection, improved health care, nutrition, education, and skills training programs for refugees in Thailand.

AMERASIAN CHILDREN IN VIETNAM

The House bill (sec. 182) contains congressional findings and declarations concerning the plight of Amerasian children still in Vietnam and expresses the sense of the Congress that the United States should maintain its commitment to receive these children in Vietnam, that the interviewing process is essential to the emigration of such children and their families to the United States, and that Vietnam should resume the processing of such children for emigration.

The Senate amendment contains no comparable provision.

The conference substitute (sec. 905) is similar to the House bill, but indicates that the United States and the Socialist Republic of Vietnam have concluded an agreement permitting the resumption of interviews and processing in Ho Chi Minh City under the Orderly Departure Program.

REFUGEES FROM SOUTHEAST ASIA

The Senate amendment (sec. 512) contains congressional findings that most Cambodians not associated with the Khmer Rouge or the Heng Samrin regime have a well founded fear of persecution if they face forced return to Cambodia. The Senate amendment also urges that any refugee in Khao I Dang camp should be interviewed for eligibility for the U.S. refugee resettlement program irrespective of the date the person had actually arrived in that camp and that the United States should work to expeditiously reunite separated refugee families. The Senate amendment also urges the Department of State to appeal to the Royal Thai Government not to forcibly repatriate Hmong and other Lao refugees to Laos, since they face the threat of grave consequences and even death if returned to that country without safeguards.

The House bill contained no comparable provision.

The conference substitute (sec. 906) is similar to the Senate amendment, but deletes reference to the Orderly Departure Program from Vietnam since that program has resumed.

RELEASE OF YANG WEI

The Senate amendment (sec. 558) expresses the sense of Congress that the People's Republic of China should immediately release Yang Wei, a student of the University of Arizona, who has been imprisoned without charge since January 11, 1987, and that the United States should offer extended voluntary departure status to Chinese students in the United States who can demonstrate a well-founded fear of persecution.

The House bill contains no comparable provision.

The conference substitute (sec. 907) replaces the phrase "offer extended voluntary departure status" with "should consider sympathetically application for asylum".

CLAIM OF JOSEPH KAREL HASEK

The Senate amendment (sec. 506) contains congressional findings concerning Private Law 98-54, which provided for the compensation of Mr. Joseph Karel Hasek from the Czechosolvakian Claims Fund for losses arising from his departure from Czechoslovakia, and directs the Secretary of the Treasury to pay Mr. Hasek $250,000 plus interest from that fund 30 days after the date of enactment or before the beginning of the final distribution of payments made under the Czechosolvakian Claims Settlement Act of 1981.

The House bill contains no comparable provision.

The conference substitute deletes this provision.

PROHIBITION OF EXPULSION OF PERSONS SEEKING POLITICAL ASYLUM

The Senate amendment (sec. 570) prohibits the expulsion of any person from a Communist country seeking political asylum and suspends any U.S. Government employee for 365 days who ordered such an expulsion without the prior personal review of the Secretary of State and the Attorney General. The Senate amendment also requires a notice of this provision to be posted in every U.S. Embassy in a Communist country.

The House bill contains no comparable provision.

The conference substitute deletes this provision.

INTERNATIONAL PARENTAL CHILD ABDUCTION

The Senate amendment (secs. 901-913) provides legislation to facilitate implementation of the 1980 Hague Convention on the Civil Aspects of International Child Abduction in the United States. The Convention establishes legal rights and procedures for the prompt return of children in cases of international abduction and retention, and for securing visitation rights. The Senate amendment also provides for various administrative and judicial remedies in cases of international abduction, establishes a central authority for dealing with such cases, establishes an interagency coordinating group to monitor operation of the Convention and to provide advice on its implementation, and contains various amendments to the Social Security Act and the Internal Revenue Code. In addition, the Senate amendment (sec. 531) provides that international parental child abduction is a criminal offense punishable by fines, up to 3 years in jail, or both.

The House bill continues no comparable provision.

The conference substitute deletes these provisions on the understanding that the committees of jurisdiction in the House of Representatives and the Senate address this issue early in the next session of Congress.

TITLE X—ANTI-TERRORISM ACT OF 1987

The Senate amendment (title XI) expresses the findings of the Congress with respect to the terrorist activities of the Palestine Liberation Organization (PLO), makes it unlawful for anyone, for the purpose of furthering the interests of the PLO, to receive anything of value, except information, from the PLO, makes it unlawful to spend funds provided by the PLO, and makes it unlawful to establish or maintain an office within the jurisdiction of the United States at the behest or direction of, or with funds provided by, the PLO. In addition, the Senate amendment requires the Attorney General to enforce these provisions in the United States District Courts and grants those courts authority to issue the necessary decrees to enforce these provisions.

The House bill contains no comparable provision.

The conference substitute (sec. 1001-1005) is the same as the Senate amendment.

TITLE XI—GLOBAL CLIMATE PROTECTION

The Senate amendment (secs. 401 to 409) contains congressional findings concerning manmade pollution and its effect on the climate of the earth and directs the President to establish a task force on the global climate which shall be mandated to determine and supervise research for a coordinated national strategy on the global climate. The Senate amendment also details the composition of the task force and the advisory role of the Congress, and requires the task force to develop and transmit to the President, not later than 12 months after the date of enactment, a U.S. strategy on the global climate. The President is required to submit the strategy on the global climate, together with recommendations for further legislative action, to the Congress not later than 3 months after receipt of the strategy.

The Senate amendment also directs the President to appoint an Ambassador at Large to coordinate U.S. Government participation in the task force and represent the Secretary of State in its operations.

The House bill contains no comparable provision.

The conference substitute (secs. 1101-1106) contains a revised set of findings, calls on the President to work with the Administrator of the Environmental Protection Agency, along with other appropriate Federal agencies, to develop and propose to Congress a coordinated national policy on global climate change. The National Climate Program Office continues to have authority for developing a coordinated research agenda for the Federal Government in the area of climate research and assessment pursuant to Public Laws 95-367 and 99-272. The Office of Science and Technology Policy's Committee on Earth Sciences remains charged with developing long-range plans for Federal research and development in earth sciences and man's impact on global environment. Nothing in this title should be construed to effect the scientific research conducted by any Federal agency, or as authorizing or requiring the adoption of any regulatory or control measures.

The conference substitute also authorizes the Secretary of State to coordinate aspects of U.S. policy through international organizations. In addition, the conference substitute requests that the Secretary of State and the Administrator of EPA submit to all relevant committees of the Congress a report that includes: a summary analysis of current international scientific understanding of the greenhouse effect; an assessment of U.S. efforts to gain international cooperation in limiting global climate change; and a description of the strategy by which the United States intends to seek further international cooperation to limit such change. The committee of conference intends that this report not duplicate or replicate ongoing studies and reports on global climate change. Finally, the substitute calls on the Secretary of State to undertake all necessary steps to promote within the U.N. system the early designation of an International Year on Global Climate Protection, and calls on the President to include the problem of climate protection on the agenda of bilateral discussions with the Soviet Union.

TITLE XII—REGIONAL FOREIGN RELATIONS MATTERS

PART A—SOVIET UNION AND EASTERN EUROPE

SOVIET BALLISTIC MISSILE TESTS NEAR HAWAII

The Senate amendments (sec. 520) contains congressional findings concerning recent Soviet heavy intercontinental ballistic missile tests near the islands of Hawaii and expresses the sense of Congress that this test has increased the threat of nuclear war, and that the Congress condemns the Soviet Union for its actions as demonstrating an utter disdain for civilized and acceptable standards of international behavior, as well as probable violations of the SALT II treaty, and demands a public apology.

The House bill contains no comparable provision.

The conference substitute (sec. 1201) retains the congressional findings, and expresses the sense of the Congress that these actions by the Soviet government were provocative and unnecessary, that the United States should officially protest these actions and seek assurances from the Soviets that such missile firings will not occur in the future, and that the President should report to the Congress on the details of these tests, including the irradiation of U.S. monitoring aircraft, on Soviet explanations offered in response to U.S. protests, and steps to be taken to ensure that such activities will not happen in the future.

SOVIET VIOLATIONS OF THE ABM TREATY

The Senate amendments (sec. 568) requires the President to report not later than 30 days after the date of enactment on whether Soviet violations of the ABM Treaty and the failure of the Treaty to reduce or limit the increase of Soviet offensive ICBM systems jeopardize the supreme national interests of the United States, and whether the United States should withdraw from the ABM Treaty.

The House bill contains no comparable provision.

The conference substitute deletes the Senate provision on the failure to achieve permanent constraints on Soviet strategic offensive forces which could threaten the survivability of U.S. strategic offensive forces, and U.S. intentions regarding possible withdrawal from the ABM Treaty. The committee of conference notes that the Senate conferees expect that the President will address the issues raised by the original Senate provision in the context of the annual report required by section 52 of the Arms Control and Disarmament Act.

EMIGRATION OF JEWS AND OTHERS WHO WISH TO EMIGRATE FROM THE SOVIET UNION

The House bill (sec. 178) contains congressional findings and a statement of policy regarding Soviet policy regarding Soviet Jews and other Soviet citizens denied their basic human rights, including the right to emigrate.

The Senate amendment contains no comparable provision.

The conference substitute (sec. 1202) expresses the sense of Congress that the Soviet Union respect the human rights of those Soviet Jews and other Soviet citizens wishing to emigrate from the Soviet Union, practice their religion, exercise cultural rights or engage in free intellectual pursuits.

The committee of conference regards the release of jailed dissidents and the resolution of longstanding emigration cases as positive developments in the Soviet human rights situation and hopes that this action continues. However, the committee of conference notes with concern that there continues to be political prisoners and unresolved emigration cases, including Jewish refuseniks and United States-Soviet divided spouses, and continues to be concerned about violations of human rights in the Soviet Union including restrictions on the practice of religion, the exercise of cultural rights, and the denial of freedom of religion.

SYSTEMATIC NONDELIVERY OF INTERNATIONAL MAIL ADDRESSED TO CERTAIN PERSONS RESIDING WITHIN THE SOVIET UNION

The House bill (sec. 179) contained findings and a statement of policy regarding the systematic nondelivery of international mail by the Soviet Union. The Senate amendment contains no comparable provision.

The conference substitute (sec. 1203) expresses the sense of the Congress that the President and the Department of State should express American disapproval of the systematic nondelivery of international mail to the Soviet Government and should ask other member countries of the Universal Postal Union to support the adoption of amendments to the Universal Postal Convention and other measures to encourage improved postal performance by the Soviet Union.

The committee of conference found that postal items mailed in the United States are systematically not being delivered to selected addresses in the Soviet Union; that such nondelivery is a violation of the Universal Postal Convention, the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights and the Final Act of the Conference on Security and Cooperation in Europe; and that explanations required under international law and given by the Soviet postal administration have been inaccurate, insufficient, or untimely.

U.S. POLICY AGAINST PERSECUTION OF CHRISTIANS IN EASTERN EUROPE AND THE SOVIET UNION

The Senate amendment (sec. 515) contains extensive findings about the denial of religious freedom to Christians in each of the countries of Eastern Europe and the Soviet Union. The Senate amendment contains a statement of policy expressing the sense of the Congress that the President should continue to express to the Soviet and East European governments the deep concern and opposition of the United States to the harassment of Christians, the Soviet and East European governments should comply with their international commitments to respect human rights and should immediately cease the persecution of Christians. The House bill contains no comparable provision.

The conference substitute (sec. 1204) is similar to the statement of policy section of the Senate amendment expressing concerns about the harassment and persecution of Christians and other believers. The committee of conference notes with grave concern the restrictions on the right to practice and profess religion in the Soviet Union, Albania, Bulgaria, Czechoslovakia, the German Democratic Republic, Hungary, Poland, Romania, and Yugoslavia and the persecution of Christians and other religious believers in those countries. The harassment and persecution of Christians and other believers occurs, in practice, despite the professed policies of most of these countries, and that such harassment and persecution is a violation of the Helsinki Act. The committee of conference also notes the obligations undertaken by each of those nations, except Albania, as signatories to the Helsinki Final Act to "respect human rights and fundamental freedoms, including the freedom of thought, conscience, religion and belief for all without distinction as to race, sex, language of religion" and urges the governments of those countries to abide by their international human rights commitments in this regard.

OBSERVANCE BY THE GOVERNMENT OF ROMANIA OF HUMAN RIGHTS OF HUNGARIANS IN TRANSYLVANIA

The Senate amendment (sec. 516) contains findings and a statement of policy concerning the observance by the Government of Romania of the human rights of Hungarians in Transylvania.

The House bill (sec. 180) contains a similar provision.

The conference substitute (sec. 1025) expresses the sense of the Congress deploring the activities of the Government of Romania which restrict the internationally recognized human rights of Hungarians and others in Transylvania. The committee of conference finds that Romania pursues a policy of denationalization toward Hungarians and people of other nationalities in Transylvania by measures approximating ethnocide, including the destruction of Hungarian language schools and documents of the Hungarian past of Transylvania, and the dispersion of the Hungarian intelligentsia; interferes with the internal affairs of all its religious communities, severely limiting or banning all their social and teaching activities, and discriminating against their members in employment, education, and promotion. The committee of conference notes with concern the denial of these internationally recognized human rights and calls on the Romanian government to abide by its commitments under the Final Act of the Conference on Security and Cooperation in Europe to respect human rights and fundamental freedoms.

SELF-DETERMINATION OF THE PEOPLE OF ESTONIA, LATVIA, AND LITHUANIA

The Senate amendment (sec. 518) contains congressional findings regarding the subjugation of the people of the Baltic states by the Soviet Union and a statement of policy recognizing the desire and the right of the Baltic peoples for freedom and independence. The Senate amendment also calls on the President to direct world attention to the right of self-determination of the people of the Baltic states.

The House bill (sec. 801) contains a similar provision.

The conference substitute (sec. 1206) expresses the sense of Congress that the desire and right of the Baltic peoples for freedom and independence should be recognized, that the President should direct world attention to the right of self-determination of the Baltic peoples by issuing a statement of support for the right of self-determination of all peoples and the nonrecognition of the forced incorporation of the Baltic states into the Soviet Union, that the President should call attention to human rights violations in the Baltic states and promote compliance with the human rights and humanitarian provisions of the Helsinki Final Act in the Baltic states.

The committee of conference is particularly concerned about Soviet policies designed to change the ethnic character of the populations of Estonia, Latvia, and Lithuania and about the Soviet Government's refusal to allow the Baltic peoples to exercise internationally recognized human rights and the right of self-determination. The committee of conference notes that the Baltic peoples continue to show their discontent with foreign domination and their desire for liberty through demonstrations, the most recent on August 23, 1987, to mark the signing of the Molotov-Ribbentrop Pact, which consigned the Baltic states to a Soviet sphere of influence. The committee of conference strongly urges the President to call attention to the harassment, arrest, imprisonment, and expulsion of peaceful protestors, as well as other violations of internationally recognized human rights in the Baltic states.

ASSISTANCE IN SUPPORT OF DEMOCRACY IN POLAND

The Senate amendment (sec. 530) earmarks $1 million for each of the fiscal years 1988 and 1989 from the economic support fund account for the unconditional support of the independent Polish trade union Solidarity.

The House bill contains no comparable provision.

The conference substitute (sec. 1207) expresses congressional support for Solidarity, but earmarks $1 million for fiscal year 1988 from the economic support fund account for unconditional support of democratic institutions and activities in Poland in lieu of the direct earmark for Solidarity. The committee of conference intends that the $1 million be channeled through the National Endowment for Democracy's Free Trade Union Institute for use in Poland in full consultation with representatives of Solidarity.

The committee of conference devoted considerable attention to the issue of whether funds should be directly earmarked for Solidarity. This issue has caused considerable disagreement within the Polish American community and representatives of Solidarity in Poland an its affiliated office in Brussels. The following are two communications received by members of the committee of conference regarding the disposition of funds authorized by this section:

POLISH AMERICAN CONGRESS, INC.,
Chicago, IL, December 1, 1987.

Hon. DANTE B. FASCELL,
Chairman, Foreign Affairs Committee, Rayburn House Office Building, Washington, DC.

DEAR MR. CHAIRMAN: This letter is to express our appreciation to you and the other Representatives who initiated and voted for the bill which indicates the strong endorsement of the U.S. Congress for Solidarity and supports funding for the "democratic institutions and activities" in Poland.

Let me emphasize that the Polish American Congress has been guided by one consideration, namely; how to assist Solidarity in the most effective way. In this respect we have to follow the advise of Lech Walesa and the Provisional Executive Committee of Solidarity in Poland.

Walesa made it clear in his letter to the Members of Congress and even in more specific terms in the letter to Lane Kirkland, the President of the AFL/CIO, that Solidarity as a trade union organization can accept badly needed funds only from free trade union organizations in the West. The one million dollars Congress allocated to Solidarity for FY87 had to be diverted by Solidarity to health services through the 'Solidarity Social Fund'. In order to avoid a similar situation we are supporting the amendment to the language of the bill as it was passed last week by your Committee.

Since I understand that a different view was offered by an officer from one of our State Divisions, let me stress emphatically that only the President of Polish American Congress and it's Executive Committee have authority to speak on behalf of our organization. As far as Solidarity is a concerned, the only authority which we recognize is Lech Walesa and the Provisional Executive Committee of Solidarity in Poland.

Respectfully,

ALOYSIUS A. MAZEWSKI,
President.

COORDINATING OFFICE ABROAD OF NSZZ,
Brussels, December 3, 1987.

Hon. JESSE HELMS,
U.S. Senate, Washington, DC.

DEAR SIR: First, allow me to express once again my deep appreciation and thanks for your personal involvement in the NSZZ "Solidarnosc" cause. In response to the questions you posed during the telephone conversation two hours ago, I would like to repeat the main points of my answers in order to avoid any misunderstanding.

1. The Coordinating Office Abroad of NSZZ "Solidarnosc" was established in Brussels, Belgium on 1 July 1982 by the Temporary Coordinating Commission (TKK) of NSZZ "Solidarnosc"—the then clandestine executive leadership of our Union in Poland. Recently, the national leadership of NSZZ "Solidarnosc" has been assumed by the newly established aboveground body—the National Executive Commission (KKW) headed by Lech Walesa, the Union's President. The Coordinating Office has been made subordinate to the KKW, and its mandate as the sole representation of NSZZ "Solidarnosc" outside of Poland is unchanged. This mandate can be confirmed by the International Confederation of Free Trade Unions in Brussels (General Secretary, John Vanderveken, tel. 32/2/217-80-85) and by the World Confederation of Labour in Brussels (General Secretary, Jan Kulakowski, tel. 32/2/230-62-95).

2. In the capacity of director of the Coordinating Office Abroad of NSZZ "Solidarnosc", I am authorized to inform you that to date my Union favors designating the NSZZ "Solidarnosc" organization, in the U.S. Congressional legislative language, as the recipient of unconditional grants. I know, however, that this issue is still a subject of discussion by the NSZZ "Solidarnosc" leadership and, therefore, a modification of the position is possible. I will inform you, immediately, should this occur.

I must stress that the KKW, the highest leadership body of NSZZ "Solidarnosc" headed by Lech Walesa is exclusively in power to decide on this matter and not the Brussels Office.

3. The controversy within the NSZZ "Solidarnosc" leadership and its group of advisers concerning this matter is based on the following:

Some are of the opinion that specifically quoting the NSZZ "Solidarnosc" name in U.S. legislative acts exposes our organization to even harsher attacks of propaganda and gives the regime another excuse to deny our Union legal status;

Others are of the opinion that the same will only strengthen our Union's negotiating position vis-a-vis the regime.

At present, the second view (i.e. favoring quoting the NSZZ "Solidarnosc" name) prevails.

4. The NSZZ "Solidarnosc" leadership in Poland is taking for granted that whatever the legislative language will be, they will have the right and responsibility to decide as to the utilization of the grants. However, there are opinions among some of them that Congressional grants should preferably be given "somehow more quietly" and/or channeled through the AFL-CIO.

5. I state, hereby, that any representations to the contrary of the above presented information are inaccurate.

With due regards,

Sincerely yours,

JERZY MILEWSKI,
Director.

SUPPLEMENT INFORMATION

After sending this telegram, I was notified that no decision by the KKW changing the NSZZ "Solidarnosc" position on U.S. Congressional grants has been made.

Brussels, December 4, 1987.

JERZY MILEWSKI,
Director.

PART B—LATIN AMERICA AND CUBA

CUBAN HUMAN RIGHTS VIOLATIONS AND THE FAILURE OF THE UNITED NATIONS TO PLACE CUBA ON ITS HUMAN RIGHTS AGENDA

The House bill (sec. 199C) contains congressional findings that the United Nations and the U.N. Human Rights Commission have acted selectively in addressing human rights violations in selected countries, expresses congressional disapproval at the failure of the United Nations to place Cuba on its human rights agenda, and applauds the efforts of the U.S. Ambassador to the

United Nations to do so. In addition, the House bill (sec. 901) contains congressional findings concerning violations of human rights by the Government of Cuba, including freedom of travel and freedom of opinion and expression, and expresses the sense of Congress that these violations by the Cuban Government are a major obstacle to improved relations between Cuba and the United States. The House bill also directs the Secretary of State to distribute the text of this section among members of the United Nations in order to highlight Cuba's violation of human rights.

The Senate amendment contains no comparable provision.

The conference substitute (sec. 1211) combines the two House provisions.

PARTIAL LIFTING OF TRADE EMBARGO AGAINST NICARAGUA

The Senate amendment (sec. 534) expresses the sense of Congress that the President should exempt from the trade embargo against Nicaragua items which would benefit the print and broadcast medias, private sector and trade union groups, nongovernmental service organizations, and the democratic civic opposition.

The House bill contains no comparable provision.

The conference substitute (sec. 1212) is the same as the Senate amendment.

TERRORIST BOMBING IN HONDURAS

The Senate amendment (sec. 566) contains congressional findings concerning the bombing of the China Palace restaurant in Comayagusa, Honduras by Alfonso Guerrero Ulloa and the granting of asylum to Mr. Guerrero by the Government of Mexico, and expresses the sense of the Senate that the United States should call on the Government of Mexico to turn Mr. Guerrero over to the Government of Honduras for prosecution.

The House bill contains no comparable provision.

The conference substitute (sec. 1213) is similar to the Senate amendment, but makes the provision a sense of the Congress.

HUMAN RIGHTS IN PARAGUAY

The House bill (sec. 1990) contains congressional findings regarding human rights abuses in Ethiopia and Paraguay, expresses the outrage of Congress at these abuses, and urges these two governments to respect the internationally recognized human rights of its citizens.

The Senate amendment contains no comparable provision.

The conference substitute (sec. 1214) is similar to the House bill, but makes modifications in the findings and divides the provision into two separate sections.

SENSE OF CONGRESS REGARDING PANAMA

The House bill (sec. 1991) expresses the concern of Congress over internal disturbances in Panama, including the suspension of most constitutional rights, and expresses support for free and constitutional elections in Panama.

The Senate amendment contains no comparable provision.

The conference substitute deletes the provision.

CONFLICT IN CENTRAL AMERICA

The House bill (sec. 1501) contains congressional findings concerning the peace process in Central America and the reaffirmation of the heads of state of that region in a political solution to the problems in the region, applauds and supports the initiative of President Arias of Costa Rica toward ending armed conflict in the region, and urges the Government of Nicaragua to endorse the Arias peace process and indicate its willingness to negotiate in good faith toward peace and democracy in Central America.

The Senate amendment contains no comparable provision.

The conference substitute deletes the provision due to recent developments in the Central American region.

TRAVEL IN SUPPORT OF COMMUNISM IN CENTRAL AMERICA

The House bill (sec. 1701) requires the Secretary of State to designate all U.S. passports as restricted for: (1) travel to or use in Nicaragua if the purpose of the travel is to perform services or provide other assistance to the military operations of the Government of Nicaragua, and (2) travel to or use anywhere in Central America if the purpose of the travel is to perform services or provide other assistance to the military operations of any group which the President has designated as a Communist guerrilla group or which receives assistance from the Soviet Union, Cuba, or Nicaragua. The provisions of this section shall remain in effect until the President certifies to Congress that the Government of Nicaragua is abiding by commitments made to the OAS in 1979.

The Senate amendment contains no comparable provision.

The conference substitute deletes the provision.

PART C—AFRICA

HUMAN RIGHTS IN ETHIOPIA

The House bill (sec. 199D) contains congressional findings regarding human rights abuses in Ethiopia and Paraguay, expresses the outrage of Congress at these abuses, and urges these two governments to respect the internationally recognized human rights of its citizens.

The Senate amendment contains no comparable provision.

The conference substitute (sec. 1221) is similar to the House bill, but makes modifications in the findings and divided the provision into two separate sections.

UNITED STATES POLICY ON ANGOLA

The Senate amendment (sec. 527) contains congressional findings regarding the war in Angola and expresses the sense of the Congress that the United States should work toward a peaceful resolution to the Angolan conflict that includes the complete withdrawal of all Soviet, Cuban, and other Communist forces, the establishment of a government of national unity and the holding of free and fair elections, and that the President and the Secretary of State should convey to Soviet leaders that the military build-up in Angola is an obstruction to positive bilateral relations. In addition, the Senate amendment states that the Angolan people should not be left to starve because of the Communist regime, that the United States should consider the humanitarian needs of the Angolan people, that any humanitarian assistance provided by the United States should be distributed through private and voluntary organizations, and that the Secretary of State should transmit to the Congress a report on the progress of discussions between the Soviet Union and the United States on the Angolan conflict.

The House bill contains no comparable provision.

The conference substitute (sec. 1222) is similar to the Senate amendment, but calls for the complete withdrawal of all foreign military forces and Soviet military advisers from Angola and makes some modifications in the findings.

FORCED DETENTIONS BY THE ANC AND SOUTH AFRICAN GOVERNMENT

The House bill (sec. 199H) requires the Secretary of State to submit a report not later than 90 days after the date of enactment on detention camps maintained by the African National Congress and on detention in South Africa since June 1986.

The Senate amendment contains no comparable provision.

The conference substitute (sec. 1223) is similar to the House bill, but makes clear that the committee of conference excepts this report to cover any detention camps that might be maintained by the ANC.

DETENTION OF CHILDREN IN SOUTH AFRICA

The Senate amendment (sec. 523) contains congressional findings regarding the detention of children in South Africa and calls for the South African Government to:

(1) cease the practice of detaining children under 18 years;

(2) to release all children in South Africa held under the state of emergency regulations and other laws which authorize detention without charge or trial or charge them and allow them their rights of a public trial; and

(3) pending the release, calls on the South African Government to permit these children access to parents and legal counsel, to provide information on the names and locations of all detained children, to provide the detained children with adequate food, clothing, and protection, to permit a recognized, impartial international group to monitor the situation of children in detention, and calls for the apprehension and trial of all of those who execute children by violent activities.

The House bill contains no comparable provision. However, the House did overwhelmingly pass a resolution (House Resolution 141) by a vote of 402-3, which is nearly identical to the Senate amendment.

The conference substitute (sec. 1224) is similar to the Senate amendment except that it contains new language regarding the charging of detained children, which calls on the South African Government to charge the children in those cases where an internationally recognized criminal act has been committed.

PART D—MIDDLE EAST

MIDDLE EAST PEACE CONFERENCE

The Senate amendment (sec. 553) states congressional findings regarding the recognition of the state of Israel and Soviet refusal to reestablish diplomatic relations with Israel, and the systematic denial of exit visas to Soviet Jews. The Senate amendment also states the sense of congress that the Soviet Union should not participate in any Middle East conference meeting or summit on the Arab-Israel conflict unless it has reestablished relations with Israel, accepted U.N. Resolutions 242 and 338, substantially increased Jewish emigration to Israel, and has received the approval of Egypt, Israel, and Jordan for participation in such a conferences.

The House bill contains no comparable provision.

The conference substitute (sec. 1231) is similar to the Senate amendment, but makes some technical changes to conform the provision to U.S. policy on a prospective Middle East peace conference.

U.S. POLICY TOWARD LEBANON

The Senate amendment (sec. 545) expresses the sense of the Congress with respect to the continued civil conflict and foreign intervention in Lebanon, and states that the United States should base its policy in Lebanon on the principles of preservation of unity, withdrawal of all foreign forces, recognition of territorial integrity, reassertion of sovereignty and the reestablishment of the authority of the Government of Lebanon. The Senate amendment also expresses the sense of the Congress that the provision of at least 200,000 tons of wheat and 30,000 tons of rice through title I of Public Law 480 and section 416 of the Agriculture Act of 1949 to the Government of Lebanon is in the interest of the United States.

The House bill contains no comparable provision.

The conference subsititute (sec. 1232) is similar to the Senate amendment, but includes a reference to title II of Public Law 480 in the list of food assistance available. It is the intention of the committee of conference that if any agreement for a program under title I of Public Law 480 or a government-to-government program under section 416 of the Agriculture Act of 1949 is concluded, such agreement should meet the legislative requirements for title I, including adequate provision for self-help measures and for programming local currencies, and ensuring that commodities provided are not reexported. It is the further intention of the committee of conference that inclusion of a title I or section 416 agreement should not jeopardize continuation of the title II program in Lebanon.

ACTING IN ACCORDANCE WITH INTERNATIONAL LAW IN THE PERSIAN GULF

The Senate amendment (sec. 524) contains congressional findings concerning freedom of navigation, the mining of the Persian Gulf by the Government of Iran, and U.S. actions to terminate that mining. The Senate amendment further expresses the sense of the Congress that by mining the Persian Gulf without notifying neutral nations engaged in maritime commerce, the Government of Iran violated international law, that the use of force by the U.S. Navy to terminate that mining was justified under international law, and that international law offers a framework for such positive action and fostering broader adherence to law promotes the security interests of the United States.

The House bill contains no comparable provision.

The conference substitute (sec. 1233) is similar to the Senate amendment.

POLICY TOWARD IRAN-IRAQ WAR

The Senate amendment (sec. 510) expresses the sense of the Congress that the continuation of the Iran-Iraq war threatens the security and stability of all states in the Persian Gulf and that the U.S. policy is to support the total unconditional withdrawal of both Iran and Iraq to internationally recognized boundaries, to support an immediate ceasefire, to endorse the peaceful resolution of this conflict under the auspices of the United Nations or any other international organization or party, and to urge strict observance of international humanitarian law by both sides.

The House bill contains no comparable provision.

The conference substitute (sec. 1234) is similar to the Senate amendment, but references U.S. policy in the context of U.N. Security Council Resolution 598, which calls for the withdrawal of both Iran and Iraq to internationally recognized borders, endorses the peaceful resolution of the Iran-Iraq conflict under the auspices of the United Nations, and calls for an embargo of military supplies to any party which refuses to abide by United Nations Security Council Resolution 598.

IRAN HUMAN RIGHTS VIOLATIONS

The Senate amendment (sec. 565) contains congressional findings regarding the continued egregious violations by the Government of Iran of the internationally recognized human rights of the citizens of Iran, including torture, imprisonment, and execution on the basis of beliefs, the continued refusal of the Iranian Government to allow a special representative of the U.N. Security Council to inspect Iranian prisons to determine the true extent of torture in Iran, and the continuation of the Iran-Iraq war. The senate amendment also expresses concern for those citizens enduring war and repression in Iran, supports an official U.S. policy of the complete halting the shipment of any kind of armament to the Government of Iran, urges the President to continue to make every effort to cooperate with other member nations of the United Nations to bring about an end to government-sponsored torture in Iran and to allow inspection of Iranian prisons, and expresses support for all efforts made through the U.N. Security Council to pressure the Khomeini government to end the Iran-Iraq war.

The House bill contains no comparable provision.

The conference substitute (sec. 1235) is similar to the Senate amendment, but clarifies the findings and urges the President to pressure the Iranian government to respect internationally recognized human rights.

IRANIAN PERSECUTION OF THE BAHA'IS

The Senate amendment (sec. 511) expresses the sense of the Congress that the Iranian Government has systematically discriminated against the Baha'i community in Iran, that these violations of human rights are in direct contravention of the Charter of the United Nations and the Universal Declaration of Human Rights, and that the president should take all necessary steps to focus international attention on the plight of the Baha'i community.

The House bill contains no comparable provision.

The conference substitute (sec. 1236) is the same as the Senate amendment.

COST-SHARING IN THE PERSIAN GULF

The Senate amendment (sec. 535) expresses the sense of Congress that the President should enter into negotiations for the sharing of costs involved in the use of U.S. Armed Forces in the Persian Gulf, and that he should submit a report to Congress detailing the costs incurred by the U.S. Armed Forces in the Gulf, any costs incurred in the event that oil supplies transiting the Gulf were not available to the United States, and a determination as to which countries benefit directly from the U.S. reflagging operation.

The House bill contains no comparable provision.

The conference substitute deletes the provision. The committee of conference agrees that the countries in the Persian Gulf and the countries presently purchasing Persian Gulf oil should join in bearing the burdens of the protection of innocent navigation in the Gulf. Some progress in this area has recently been made. Five European nations are now operating warships in the Gulf. West Germany has moved ships into the Mediterranean to relieve other ships that have been sent to the Gulf. Japan is sending navigational aids which will be of help to the Western forces and has indicated a willingness to make needed financial contributions to a U.N. effort to achieve a ceasefire in the Iran-Iraq war. In addition, Gulf nations are making valuable facilities and other assets available to American and other forces operating in the Perisan Gulf. Other nations are also providing political support in the United Nations and elsewhere in order to achieve a ceasefire and political resolution to the conflict in the region.

The committee of conference strongly urges the executive branch to continue its work to strengthen material and political support for the Western effort in the Gulf. The executive branch should make detailed reports to the Congress, which should be quantitative wherever appropriate, on the costs and benefits of its policy.

PART E—ASIA

SOVIET OCCUPATION OF AFGHANISTAN

The Senate amendment (sec. 509) contains findings concerning the Afghan resistance, a statement of policy concerning provision of assistance to the Afghan people, and a direction to the President and the Secretary of State to adopt policies and programs to ensure that all assistance intended for the Afghan people reaches its intended recipients.

The House bill contains no comparable provision.

The conference substitute (sec. 1241) is the same as the Senate amendment.

REPORT ON ADMINISTRATION POLICY ON AFGHANISTAN

The Senate amendment (sec. 564) contains findings concerning the sanctions which have been imposed on the Soviet Union to protest the Soviet invasion of Afghanistan, and calls for reports to Congress with regard to such sanctions.

The House bill contains no comparable provision.

The conference substitute (sec. 1242) is similar to the Senate amendment.

AMBASSADOR-AT-LARGE FOR AFGHANISTAN

The Senate amendment (sec. 544) establishes within the Department of State the position of Ambassador-at-Large for Afghanistan who shall coordinate the activities of the U.S. Government with respect to Afghanistan. The Department of State shall retain this position until the President certifies that various conditions with respect to the Soviet occupation of Afghanistan and its status in the world community have been met.

The House bill contains no comparable provision.

The conference substitute deletes this provision in light of the decision of the committee of conference to defer all reorganization proposals until after a thorough review of the Department of State's organization is completed.

HUMAN RIGHTS VIOLATIONS IN TIBET BY THE PRC

The House bill (sec. 1301 to sec. 1305) contains congressional findings concerning the occupation of Tibet by the People's Republic of China since 1949, the destruction of monastaries and the removal of irreplaceable worked of art and literature from Tibet, the immigration of large numbers of

Chinese to Tibet, and the incarceration and killing of Tibetans for political and religious beliefs. The House bill also expresses the sense of Congress that the People's Republic of China should end human rights violations in Tibet, actively reciprocate the Dalai Lama's efforts to establish a dialogue on the resolution of the conflict in Tibet, and release all political prisoners in Tibet and expresses the sense of Congress that the President should instruct U.S. officials to pay greater attention to the concerns of the Tibetan people. The Secretary of State is required to make a determination on the needs of displaced Tibetans and to report on such determination to Congress no later than 60 days after the date of enactment. If a positive determination is made by the Secretary of State, such sums as may be necessary from that amount authorized for migration and refugee assistance shall be made available for assistance to Tibetan refugees.

In addition, the House bill requires the Director of the United States Information Agency to make available not less than 10 scholarships for study at institutions of higher learning in the United States to Tibetan students and professionals residing outside Tibet in for each of the fiscal years 1988 and 1989.

The Senate amendment (sec. 521) is similar to the House bill, but requires that any notification to Congress with respect to any sale, licensed export, or other transfer of defense articles and services to the People's Republic of China be accompanied by a Presidential certification that the Government of the People's Republic of China is acting in good faith and in a timely manner to resolve human rights issues in Tibet. The Senate amendment also requires the Secretary of State to submit a report not later than 60 days after the date of enactment on the human rights situation in Tibet and the transfer of Chinese to Tibet and earmarks $200,000 from the amount authorized for the migration and refugee account only for assistance for Tibetan refugees, and requires the provision of 15 scholarships by the United States Information Agency.

The conference substitute (sec. 1243) lists the current and past human rights violations in Tibet by the People's Republic of China and expresses, through several policy statements, the sense of Congress that the United States should make the treatment of the Tibetan people an important factor in its conduct of relations with the People's Republic of China. The provision also requires the PRC's efforts to resolve human rights issues in Tibet and provides not less than 15 scholarships for study at institutions of higher education in the United States for Tibetans living in exile.

VIETNAMESE OCCUPATION OF CAMBODIA

The Senate amendment (sec. 529) contains congressional finding regarding the invasion and occupation of Cambodia by the Socialist Republic of Vietnam and declares that this occupation constitutes a gross violation of international law, that the Government of Vietnam is violating the fundamental human rights of the Cambodian people by its continued occupation, and that the Government of Vietnam should immediately withdraw its occupation forces and agree to negotiate a settlement restoring self-determination of the Cambodian people.

The House bill contains no comparable provision.

The conference substitute (sec. 1244) is similar to the Senate amendment, but adds new provisions decrying the lack of self-determination for the Cambodian people; supporting efforts of the Association of South East Asian States (ASEAN), the U.N. Secretary General, and the non-Communist Cambodian people to achieve a political settlement in Cambodia which would include internationally supervised free and fair elections as well as assurances that there will be no return of the genocidal Pol Pot regime to power.

HUMAN RIGHTS IN THE PEOPLE'S REPUBLIC OF CHINA

The House bill (sec. 1201) contains congressional findings concerning the restriction of the rights of citizens in the People's Republic of China to travel freely within the PRC, to have contact with foreigners, and to form trade unions and other voluntary associations, and the detrimental effect the exercise of religious activities has on the civil, social, and economic status of citizens of the PRC. The House bill also expresses the sense of Congress that the leadership of the People's Republic of China should take all necessary steps toward establishing a more democratic society.

The Senate amendment contains no comparable provision.

The conference substitute (sec. 1245) is similar to the House bill, with some modifications in the findings.

DEMOCRACY IN TAIWAN

The House bill (sec 1101) contains congressional findings on the progress made by the Government of Taiwan in opening up the political process in Taiwan and continuing the process of democratization. The House bill also urges the Government of Taiwan to continue and accelerate progress toward a fully democratic system of government by assuring the rights of free speech, assembly, and expression and by moving toward a fully representative government.

The Senate amendment (sec. 548) contains a similar provision.

The conference substitute (sec. 1246) combines the House and Senate provisions.

POLICY TOWARD SOUTH KOREA

The Senate amendment (sec. 513) contains congressional findings and a statement of policy concerning the process of democratization in the Republic of Korea.

The House bill contains no comparable provision.

The conference substitute deletes the provision.

POLICY TOWARD NORTH KOREA

The Senate amendment (sec. 514) contains congressional findings regarding North Korea's suppression of basic human rights, involvement in acts of international terrorism, and the suspension of negotiations with South Korea aimed at reducing tensions on the peninsula, and expresses the sense of Congress that North Korea should take steps to cease these harmful activities.

The House bill contains no comparable provision.

The conference substitute deletes the provision.

PART F—MISCELLANEOUS

REPORTS ON ILLEGAL TECHNOLOGY TRANSFERS

The House bill (sec. 199E) requires the Secretary of State to submit a report not later than 30 days after the date of enactment on the status of Japanese and Norwegian government investigations of transfers of sensitive machinery to the Soviet Union by Toshiba Machine Company and Kongsberg Vappenfabrik respectively, the actions taken by these two governments to ensure that such transfers do not recur, and action and plans of the U.S. Government to respond to such cases.

The Senate amendment contains no comparable provision.

The conference substitute (sec. 1251) is the same as the House bill.

REPORT ON PROGRESS TOWARD A WORLD SUMMIT ON TERRORISM

The House bill (sec. 173) requires the President to submit a report to the Congress not later than 90 days after the date of enactment on actions he has taken in convening a summit meeting of world leaders to adopt a unified program against international terrorism.

The Senate amendment contains no comparable provision.

The conference substitute (sec. 1252) deletes the reporting requirement and expresses the sense of the Congress that the President should convene a summit meeting to adopted a unified, effective program against international terrorism.

PROTECTION OF AMERICANS ENDANGERED BY THE APPEARANCE OF THEIR PLACE OF BIRTH ON THEIR PASSPORTS

The House bill (sec. 174) contains congressional findings with respect to the appearance of place of birth on U.S. passports and urges the President to enter into discussions with other countries regarding the feasibility of a general agreement concerning the deletion of place of birth as a required item of information on passports.

The Senate amendment contains no comparable provision.

The conference substitute (sec. 1253) urges the President to enter into discussions with other countries regarding the feasibility of a general agreement permitting the deletion of place of birth as a required item of information on passports.

SUPPORT OF MUTUAL DEFENSE ALLIANCES

The Senate amendment (sec. 536) contains congressional findings concerning the security and defense of the NATO countries and Japan and the contribution to defense alliances by these, and urges the President to negotiate with the NATO countries and Japan to achieve a more equitable distribution of the financial burden of defense alliances.

The House bill (sec. 1601) contains a similar provision which is Japan specific, and directs the Secretary of State to enter into negotiations within 180 days with the Government of Japan for the purpose of increasing the amount spent by the Government of Japan for defense to at least 3 percent of their gross national product.

The conference substitute (sec. 1254) is similar to the Senate amendment.

ARMS EXPORT CONTROL ENFORCEMENT AND COORDINATION

The Senate amendment (sec. 802 and sec. 803) amends section 38 of the Arms Export Control Act to:

(1) require the development of appropriate mechanisms to identify persons who have violated the Arms Export Control Act, Export Administration Act, the Espionage Act, Trading with the Enemy Act, and the Foreign Assets Control Act or who have been declared ineligible to receive export or import licenses from any agency of the U.S. Government;

(2) prohibit the granting of export licenses covered by the U.S. Munitions List to foreign persons or, except when a case-by-case review indicates otherwise, those persons who have violated various requirements of law or who have been declared in-

eligible to receive export or import licenses from any agency of the U.S. Government;

(3) require an export license for any item on the U.S. Munitions List before it is sold to, provided to, or taken possession by a foreign person or a person acting on behalf of a foreign person.

The House bill contains no comparable provision.

The conference substitute (sec. 1255);

(1) requires the President to develop appropriate mechanisms to identify persons who have violated various sections of the Arms Export Control Act, the Export Administration Act, sections 793, 794, or 798 of title 18, United states Code relating to espionage involving defense or classified information, the Trading with the Enemy Act, the International Emergency Economic Powers Act, the Securities Exchange Act, the Foreign Corrupt Practices Act, chapter 105, title 18 of the United States Code relating to sabotage, the Internal Security Act of 1950, the Atomic Energy Act of 1954, the National Security act of 1947, and the Comprehensive Anti-Apartheid Act of 1986, or who have been declared ineligible to contract with or receive a license or other form of authorization to export or import defense articles or defense services from any agency of the U.S. Government;

(2) profides authority to deny the granting of export licenses to any person indicted for violations of the above statutes or otherwise ineligible to import defense articles or defense services from any agency of the U.S. Government;

(3) denies the issuance of licenses to sell items on the U.S. Munitions List to foreign persons;

(4) requires the President to develop standards for identifying high risk exports to enable regular end-use verification and to publish those standards in the Federal Register not later than October 1, 1988;

(5) enables the Secretary of State to request personnel from the Departments of Defense and Treasury to assist in the screening and review of export license applications; and

(6) enables the Office of Munitions Control of the Department of State to use $250,000 in license fees to hire contract personnel and obtain computer equipment to assist in the screening and review of export license applications.

The committee of conference expects that the new authorities created in this section for arms export control enforcement and coordination will enable the Department of State to deny licenses for violations of the major foreign policy and national security statutes cited in this section. It also expects the the Department of State will deny licenses to fugitives from justice who have been convicted in any court of a crime punishable by imprisonment of a term exceeding 1 year whether or not they have been convicted of violations of the statutes cited in this section when the Department has information on such fugitives from justice.

The committee of conference also understands that in a very small percentage of arms export licensing cases, dealing in particular with manufacturing license and distribution agreements, all end-users may not be known at the outset of the transaction. The committee of conference does not intend by the language of this section to disallow use of these licensing arrangements.

INTERNATIONAL TRAVEL

The Senate amendment (sec. 507) prohibits funds authorized by this act from being used to fund international first class air travel for congressional staff members except for a staff member who is accompanying a Member of Congress travelling first class or if no other means are available.

The house bill contains no comparable provision.

The conference substitute delete this provision.

STATE VISIT OF PRESIDENT OF ISRAEL

The Senate amendment (sec. 522) expresses the sense of the Congress that the President of the United States should, at the earliest possible date, invite the President of Israel to make a state visit.

The House bill contains no comparable provision.

The conference substitute deletes the provision. The committee of conference notes that the President of Israel has made a state visit.

From the Committee on Foreign Affairs, for consideration of the House bill and Senate amendment, and modifications committed to conference:

Dante B. Fascell,
Dan Mica,
Gus Yatron,
Mervyn M. Dymally,
Peter H. Kostmayer,
Lawrence J. Smith,
Chester G. Atkins,
Wm. Broomfield,
Olympia Snowe,
Benjamin A. Gilman,
Connie Mack,
Mike DeWine,

As additional conferee solely for consideration of sec. 156 of the House bill, and modifications committed to conference:

Stephen J. Solarz,

As additional conferee solely for consideration of sec. 199E of the House bill, and modifications committed to conference:

Don Bonker,

As additional conferees from the Committee on Post Office and Civil Service, for consideration of secs. 124, 134, 139, 145, 151 through 154, 156 through 162, 179, 189 through 194, 196, and 403 of the House bill, and secs. 111 through 114, 116 through 124, 303, 525, 551, 555 through 557, 559, and 606 of the Senate amendment, and modifications committed to conference:

William D. Ford,
Pat Schroeder,
Frank Horton,

As additional conferees from the Committee on the Judiciary, for consideration of secs. 132, 143, 146, 182, 199, 199B, and 212 of the House bill, and titles VII, IX, X, and XI and secs. 502, 503, 504, 506, 512, 526, 528, 531, 549, 552, 558, and 570 of the Senate amendment, and modifications committed to conference:

Peter W. Rodino,
R.L. Mazzoli,
Bill Hughes,
Barney Frank,
Hamilton Fish, Jr.,
Bill McCollum,

As additional conferees from the Committee on Armed Services, for consideration of sec. 199F of the House bill, and modifications committed to conference:

Beverly Byron,
Albert G. Bustamante,
Herbert H. Bateman,

As additional conferees from the Committee on Ways and Means, for consideration of secs. 552, 912, and 913 of the Senate amendment, and modifications committed to conference:

Dan Rostenkowski,
Sam M. Gibbons,
Charles B. Rangel,
Thomas J. Downey,
John J. Duncan,
Philip M. Crane,

As additional conferees from the Committee on Energy and Commerce, for consideration of secs. 401 through 404 of the Senate amendment, and modifications committed to conference:

John D. Dingell,
Henry A. Waxman,
Philip R. Sharp,
Norman F. Lent,
Edward Madigan,

As additional conferees from the Committee on Science, Space, and Technology, for consideration of secs. 401 through 404 of the Senate amendment, and modifications committed to conference:

Robert A. Roe,
James H. Scheuer,
Ralph M. Hall,
Manuel Lujan, Jr.,
F. James Sensenbrenner, Jr.,

As additional conferees from the Committee on Public Works and Transportation, for consideration of sec. 552 of the Senate amendment, and modifications committed to conference:

Norman Y. Mineta,
Ron de Lugo,
John Paul Hammerschmidt,
Managers on the Part of the House.

Claiborne Pell,
Joe Biden,
Paul Sarbanes,
Jesse Helms,
Richard Lugar,
Managers on the Part of the Senate.

FEDERAL LAND EXCHANGE FACILITATION ACT OF 1987

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1860) entitled the "Federal Land Exchange Facilitation Act of 1987," as amended.

The Clerk read as follows:

H.R. 1860

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Federal Land Exchange Facilitation Act of 1987".

SECTION 2. FINDINGS AND PURPOSES.

(a) Findings.—The Congress finds and declares that—

(1) land exchanges are a very important tool for Federal and State land managers and private landowners to consolidate Federal, State, and private holdings of land or interests in land for purposes of more efficient management and to secure important objectives including the protection of fish and wildlife habitat and aesthetic values; the enhancement of recreation opportunities; the consolidation of mineral and timber holdings for more logical and efficient development; the expansion of communities; the promotion of multiple-use values; and fulfillment of public needs;

(2) needs for land ownership adjustments and consolidation consistently outpace available funding for land purchases by the Federal Government and thereby make land exchanges an increasingly important method of land acquisition and consolida-

tion for both Federal and State land managers and private landowners;

(3) the Federal Land Policy and Management Act of 1976 and other laws provide a basic framework and authority for land exchanges involving lands under the jurisdiction of the Secretary of the Interior and the Secretary of Agriculture; and

(4) such existing laws are in need of certain revisions to streamline and facilitate land exchange procedure and expedite exchange timetables.

(b) PURPOSES.—The purposes of this Act are:

(1) to facilitate and expedite land exchanges pursuant to the Federal Land Policy and Management Act of 1976 and other laws applicable to exchanges involving lands managed by the Departments of the Interior and Agriculture by—

(A) providing more uniform rules and regulations pertaining to land appraisals which reflect nationally recognized appraisal standards but which also reflect any differences between appraisals of lands and interests being considered for acquisition by the Federal Governemnt and appraisals of lands and interests being considered for transfer out of Federal ownership; and

(B) establishing procedures and timetables for the arbitration of appraisal disputes.

(2) to provide sufficient resources to the Secretaries of the Interior and Agriculture to ensure that land exchange activities can proceed consistent with the public interest.

(3) to require a study and report concerning improvements in the handling of certain information related to Federal and other lands.

SECTION 3. LAND EXCHANGES AND APPRAISALS.

(a) FLPMA AMENDMENTS.—Section 206 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716) is hereby amended by adding the following new subsections:

"(d)(1) The Secretary of the Interior and the Secretary of Agriculture shall promulgate regulations providing that, unless it is mutually agreed otherwise prior to the expiration of ninety days after entering an agreement to initiate an exchange of land or interest therein pursuant to this Act or other applicable law, no later than ninety days after entering into such an agreement the Secretary concerned and other party or parties involved in the exchange shall arrange for appraisal (to be completed within a time frame negotiated by the parties) of the lands or interests therein involved in the exchange in accordance with subsection (f) of this section.

"(2) If within one hundred and eighty days after the submission of an appraisal or appraisals for review and approval by the Secretary concerned and the other party or parties involved cannot agree to accept the findings of an appraisal or appraisals, the appraisal or appraisals shall be submitted to an arbitration to be conducted in accordance with the real estate valuation arbitration rules of the American Arbitration Association. Such arbitration shall be binding on the Secretary concerned and the other party or parties involved in the exchange insofar as concerns the value of the lands which were the subject of the appraisal or appraisals.

"(3) Within thirty days after the completion of the arbitration, the Secretary concerned and the other party or parties involved in the exchange shall determine whether to proceed with the exchange, modify the exchange to reflect the findings of the arbitration or any other factors, or to terminate the exchange. A decision to terminate the exchange may be made by either the Secretary concerned or the other party or parties involved.

"(4) After submission of an appraisal or appraisals for review by the Secretary concerned but prior to submission of an appraisal or appraisals to arbitration pursuant to paragraph (2) of this subsection, if both the Secretary concerned and the other party or parties involved in an exchange determine it is in the best interest of consummating an exchange pursuant to this Act or other applicable law, they may mutually agree to employ a process of bargaining or some other process (instead of arbitration) to determine the values of the properties involved in the exchange, or they may mutually agree to suspend or modify any of the following:

"(A) The arbitration requirements of this subsection.

"(B) The deadlines for submission of an appraisal to arbitration.

"(C) The deadline for determinations subsequent to completion of an arbitration.

"(e) Unless mutually agreed otherwise by the Secretary concerned and the other party or parties involved in an exchange pursuant to this Act or other applicable law, all patents or title to be issued for land or interests therein to be acquainted by the Federal Government and lands or interests therein to be transferred out of Federal ownership shall be issued simultaneously after the Secretary concerned has taken any necessary steps to assure that the United States will receive acceptable title.

"(f)(1) Within one year after the enactment of subsections (d) through (i) of this section, the Secretaries of the Interior and Agriculture shall promulgate new and comprehensive rules and regulations governing exchanges of land and interests therein pursuant to this Act and other applicable law. Such rules and regulations shall fully reflect the changes in law made by subsections (d) through (i) of this section and shall include provisions pertaining to appraisals of lands and interests therein involved in such exchanges.

"(2) The provisions of the rules and regulations issued pursuant to paragraph (1) of this subsection governing appraisals shall reflect nationally recognized appraisal standards, including to the extent appropriate, the Uniform Appraisal Standards for Federal Land Acquisitions: *Provided, however*, That the provisions of such rules and regulations shall—

"(A) ensure that appraisal standards henceforth cover both the acquisition and disposal of land by the Federal Government and adequately reflect any differences that may exist between appraising lands or interests therein being acquired by the Federal Government and appraising lands or interests therein being transferred out of Federal ownership; and

"(B) with respect to costs or other responsibilities or requirements associated with land exchanges—

"(i) recognize that the parties involved in an exchange may mutually agree that one party (or parties) will assume, without compensation, all or part of certain costs or other responsibilities or requirements ordinarily borne by the other party or parties; and

"(ii) also permit the Secretary concerned, where such Secretary determines it is in the best interest of consummating an exchange pursuant to this Act or other applicable law, and upon mutual agreement of the parties, to make adjustments to the relative values assigned to properties involved in an exchange in order to compensate a party or parties to the exchange for assuming costs or other responsibilities or requirements which would ordinarily be borne by the other party or parties.

"As used in this subparagraph, the term 'costs or other responsibilities or requirements' shall include, but not be limited to, costs or other requirements associated with land surveys and appraisals, mineral examinations, title searches, archeological surveys and salvage, removal of encumbrances, arbitration pursuant to subsection (d) of this section, curing deficiencies preventing highest and best use, and other costs to comply with laws, regulations and policies applicable to exchange transactions, or which are necessary to bring the Federal or non-Federal lands or interests involved in the exchange to their highest and best use for the appraisal and exchange purposes.

"(g) Until such time as new and comprehensive rules and regulations governing exchange of land and interests therein are promulgated pursuant to subsection (f) of this section, land exchanges may proceed in accordance with existing laws and regulations, and nothing in the Act shall be construed to require any delay in, or otherwise hinder, the processing and consummation of land exchanges pending the promulgation of such new and comprehensive rules and regulations. Where the Secretary concerned and the party or parties invovled in an exchange have agreed to initiate an exchange of land or interests therein prior to the date of enactment of such subsections, subsections (d) through (i) of this section shall not apply to such exchanges unless the Secretary concerned and the party or parties involved in the exchange mutually agree otherwise.

"(h)(1) Notwithstanding the provisions of this Act and other applicable laws which require that exchanges of land or interests therein be for equal value, where the Secretary concerned determines it is in the public interest and that the consummation of a particular exchange will be expedited thereby, the Secretary concerned may exchange lands or interests therein which are of approximately equal value in cases where—

"(A) the combined value of the lands or interests therein to be transferred from Federal ownership by the Secretary concerned in such exchange is not more than $150,000; and

"(B) the Secretary concerned finds in accordance with the regulations to be promulgated pursuant to subsection (f) of this section that a determination of approximately equal value can be made without formal appraisals, as based on a documented certification made by a qualified appraiser and approved by an authorized officer; and

"(C) the definition of and procedure for determining "approximately equal value" has been set forth in regulations by the Secretary concerned and the Secretary concerned documents how such determination was made in the case of the particular exchange involved.

"(2) As used in this subsection, the term 'approximately equal value' shall have the same meaning with respect to lands managed by the Secretary of Agriculture as it does in the Act of January 22, 1983 (commonly known as the 'Small Tracts Act').

"(i)(1) Upon receipt of an offer to exchange lands or interests in lands pursuant to this Act or other applicable laws, at the request of the head of the department or agency having jurisdiction over the lands involved, the Secretary of the Interior may temporarily segregate the Federal lands under consideration for exchange from appropriation under the mining laws. Such temporary segregation may only be made for a period of not to exceed five years. Upon a decision not to proceed with the exchange or upon deletion of any particular parcel from the exchange offer, the Federal lands involved or deleted shall be promptly restored to their former status under the mining laws. Any segregation pursuant to this paragraph shall be subject to valid existing rights as of the date of such segregation.

"(2) All non-Federal lands which are acquired by the United States through exchange pursuant to this Act or pursuant to other law applicable to lands managed by the Secretary of Agriculture shall be automatically segregated from appropriation under the public land laws, including the mining laws, for 90 days after acceptance of title by the United States. Such segregation shall be subject to valid existing rights as of the date of such acceptance of title. At the end of such 90 day period, such segregation shall end and such lands shall be open to operation of the public land laws and to entry, location, and patent under the mining laws except to the extent otherwise provided by this Act or other applicable law, or appropriate actions pursuant thereto."

(b) CONFORMING AMENDMENT.—The first sentence of section 206(b) (43 U.S.C. 1716(b)) of the Federal Land Policy Management Act of 1976 is hereby amended by inserting the word "concerned" after the words "the Secretary".

(c) ADDITIONAL AMENDMENT.—Section 206(c) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716(c)) is hereby amended to read as follows:

"(c) Lands acquired by the Secretary by exchange under this section which are within the boundaries of any unit of the National Forest System, National Park System, National Wildlife Refuge System, National Wild and Scenic Rivers System, National Trails System, National Wilderness Preservation System, or any other system established by Act of Congress, or the boundaries of the California Desert Conservation Area, or the boundaries of any national conservation area or national recreation area established by Act of Congress, upon acceptance of title by the United States shall immediately be reserved for and become a part of the unit or area within which they are located, without further action by the Secretary, and shall thereafter be managed in accordance with all laws, rules, and regulations applicable to such unit or area.".

SECTION 4. LAND EXCHANGE FUNDING AUTHORIZATION.

In order to ensure that there are increased funds and personnel available to the Secretaries of the Interior and Agriculture to consider, process, and consummate land exchanges pursuant to the Federal Land Policy and Management Act of 1976 and other applicable law, there are hereby authorized to be appropriated for fiscal years 1989 through 1998 an annual amount not to exceed $4,000,000 which shall be used jointly or divided among the Secretaries as they determine appropriate for the consideration, processing, and consummation of land exchanges pursuant to the Federal Land Policy Management Act of 1976, as amended, and other applicable law. Such moneys are expressly intended by Congress to be in addition to, and not offset against, moneys otherwise annually requested by the Secretaries, and appropriated by Congress for land exchange purposes.

SECTION 5. SAVING CLAUSE.

Nothing in this Act shall be construed as amending the Alaska Native Claims Settlement Act (Public Law 92-203, as amended) or the Alaska National Interest Lands Conservation Act (Public Law 96-487, as amended) or as enlarging or diminishing the authority with regard to exchanges conferred upon either the Secretary of the Interior or the Secretary of Agriculture by either such Acts. If any provision of this Act or the application thereof is held invalid, the remainder of the Act and the application thereof shall not be affected thereby.

SECTION 6. NFMA AMENDMENTS.

Section 17(b) of the National Forest Management Act of 1976 is hereby amended—

(1) by striking out "$25,000" and inserting in lieu thereof "$150,000";

(2) by striking out "and" at the end of paragraph (3);

(3) by striking out the period at the end of paragraph (4) and inserting in lieu thereof "; and"; and

(4) by adding after paragraph (4) the following:

"(5) any adjustment made by the Secretary of relative value pursuant to section 206(f)(2)(B)(ii) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716).".

SECTION 7. ADDITIONAL AMENDMENTS.

The Act of July 26, 1956 (70 Stat. 656, 16 U.S.C. 505a, 505b) is hereby amended as follows:

(a) The words "national forest lands" are hereby deleted wherever they occur, and the words "National Forest System lands" are inserted in lieu thereof.

(b) The words "a national forest" are hereby deleted in the first paragraph, and the words "a unit of the National Forest System" are inserted in lieu thereof.

(c) The following sentence is hereby added at the end of the second paragraph: "Lands interchanged under the authority of this Act shall be deemed to include interests in lands.".

SECTION 8. LAND INFORMATION STUDY.

(a) STUDY.—The Secretary of the Interior shall conduct an assessment of the need for and cost and benefits associated with improvements in the existing methods of land surveying and mapping and of collecting, storing, retrieving, disseminating, and using information about Federal and other lands.

(b) CONSULTATION.—In conducting the assessment required by this section, the Secretary of the Interior shall consult with the following—

(1) the Secretary of Agriculture;

(2) the Secretary of Commerce;

(3) the Director of the National Science Foundation;

(4) representatives of State and local governments;

(5) representatives of private sector surveying and mapping science.

(c) REPORT.—No later than one year after the date of enactment of this Act, the Secretary of the Interior shall report to the Congress concerning the results of the assessment required by this section.

(d) TOPICS.—In the report required by subsection (c), the Secretary of the Interior shall include a discussion and evaluation of the following:

(1) relevant recommendations made by the National Academy of Sciences (National Research Council) on the concept of a multipurpose cadastre from time to time prior to the date of enactment of this Act;

(2) ongoing activities concerning development of an overall reference frame for land and resource information, including but not limited to a geodetic network, a series of current and accurate large-scale maps, cadastral overlay maps, unique identifying numbers linking specific land parcels to a common index of all land records in United States cadastral systems, and a series of land data files;

(3) ways to achieve better definition of the roles of Federal and other governmental agencies and the private sector in dealing with land information systems;

(4) ways to improve the coordination of Federal land information activities; and

(5) model standards developed by the Secretary for compatible multipurpose land information systems for use by Federal, State and local governmental agencies, the public, and the private sector.

(e) RECOMMENDATIONS.—The report required by subsection (c) may also include such recommendations for legislation as the Secretary of the Interior considers necessary or desirable.

The SPEAKER pro tempore. Is a second demanded?

Mr. LUJAN. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes and the gentleman from New Mexico [Mr. LUJAN] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on this bill presently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 1860, entitled the Federal Land Exchange Facilitation Act of 1987, is very similar to a bill which passed the House in the last Congress but upon which the Senate did not act. Many of us who were sponsors of that bill in the last Congress joined in reintroducing it in this Congress. This reflects our continuing interest in trying to streamline the administrative processes that now apply to land exchanges involving the Forest Service and the Bureau of Land Management.

It is no secret that land ownership patterns in the West, where the largest part of the Federal lands are located, are far from ideal. Because of land grants and other past actions by the Congress there are very large areas of checkerboard ownership or other arbitrary patterns that bear no relation to geographic or economic realities.

As a result, Federal agencies, States, and others have an ongoing interest in consolidating ownership and otherwise improving ownership patterns. One of the ways this is done is through land exchanges.

The Federal Land Policy and Management Act of 1976 and other laws applicable to the Forest Service and the Bureau of Land Management have provisions authorizing land exchanges between the Federal agencies and other owners. These provisions of law spell out several important policy guidelines for such exchanges. The most important is that exchanges must be in the public interest. The law also requires that exchanges not be disproportionate in terms of the values of the lands involved.

H.R. 1860 would not alter the basic policies that apply to Federal land exchanges. It is policy neutral. What it does is address administrative procedures that apply when the Forest Service or the BLM has decided to pursue such an exchange.

Let me explain some of the main provisions of the bill.

First, with respect to appraisals of lands proposed for exchange, the bill would do two things. One, it would require appraisals to be carried out in a timely fashion, by establishing a deadline for arrangements to be made for having the appraisals done. And two, it would establish a mechanism for resolving conflicts over appraisal disputes that last for more than 6 months. Unless the parties agreed otherwise, such conflicts would be resolved through "arbitration" by the American Arbitration Association. This would settle disputes over the respective valuations of the lands involved, but it would not bind either the Federal agency or any other party, so far as concerns the exchange. Either side could walk away from the exchange, even after arbitration of an appraisal dispute.

Second, the bill would require the promulgation of comprehensive rules and regulations to govern land exchange policies and procedures and related matters. This is intended to reduce differences between the regulations of different agencies of the Department of the Interior and the Forest Service. It also is intended to accelerate exchange timetables where this can be done consistent with the requirements of the law.

Third, the bill would give the Secretary of the Interior and the Secretary of Agriculture clear discretionary authority to make appropriate adjustments to compensate a party to an exchange for bearing costs incident to an exchange which that party is not required to bear. In essence, this would allow the Secretary to transfer or accept limited amounts of land to pay for such costs. This is a particularly useful increase in administrative flexibility.

Finally, the bill would make a number of other revisions of applicable law dealing with exchanges, and would also provide for a study by the Secretary of the Interior concerning possible improvements in the existing methods of collecting, storing, and using information about Federal and other lands. This is an area in which modern technology is making rapid advances, and it is our understanding that by the year 2000 more than $90 billion may be invested by Government and industry to build land data bases. The Federal Government can play a leadership role in this area by acting to lessen duplication and incompatibility among such data bases, and the study provisions of the bill are a first step in that direction.

Mr. Speaker, for a further explanation concerning the bill, I am glad to yield such time as he may consume to the gentleman from Missouri [Mr. VOLKMER] who chairs the subcommittee of the Agriculture Committee which has dealt with this bill, which was jointly referred to the Interior and Agriculture Committees.

□ 1230

Mr. Speaker, both the gentleman from Missouri and I had jurisdication over this matter. He added important input and is a sponsor of this measure as well.

Mr. VOLKMER. Mr. Speaker, I rise in support of H.R. 1860, the Federal Land Exchange Facilitation Act. Our Committee on Agriculture, following subcommittee hearings and markup, approved the bill by voice vote on December 9.

H.R. 1860 is intended to help expedite the process of land exchanges between Federal and non-Federal landowners. The Department of Agriculture [Forest Service] and Department of the Interior [Bureau of Land Management] utilize such exchanges for a variety of purposes, including the consolidation of land units.

Non-Federal inholdings and noncontiguous landownership patterns present special management and administration problems for both the Federal agencies and the non-Federal landowners. The Forest Service estimates that some 39 million acres—17 percent of the total land area—within the boundaries of the national forests and grasslands are in private ownership. The problem is especially distinct in Eastern forests, which were usually acquired more piecemeal than Western lands, resulting in irregular, unconsolidated Federal land patterns. According to the Forest Service, 48 percent of the land within Eastern forest boundaries is in non-Federal ownership.

Landownership consolidation is a desirable method of resolving such problems. Simple purchase of inholdings is not always possible, particularly with the growing competition for funds, so acquisition by exchange is increasingly important.

As the utilization of exchange authorities grows, so does the need for an efficient, timely exchange process. Many exchanges are completed in relatively short time periods of several months, but many others are years in the process. H.R. 1860 is aimed at resolving the most critical of the many factors which contribute to delays in completing exchanges, but is not intended to make substantive changes in exchange authorities.

In closing, Mr. Speaker, I want to thank the gentleman from Minnesota, the sponsor of this measure, for his cooperation in moving the bill forward. It is always more difficult to have more than one committee involved in considering a particular bill, but when we both have responsibilities with regard to the subject matter our joint effort is required. This bill serves as a fine example of what can happen when we respect each other's interest and work together, and I certainly welcome the opportunity to do so in the future.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I thank the gentleman from Missouri [Mr. VOLKMER] for his comments and his cooperation in this matter. He has ably led the subcommittee of the Agriculture Committee and I appreciate his sponsorship.

The gentleman from New Mexico [Mr. LUJAN], who is managing the bill on the minority side, has been helpful with this matter also. It is, of course, of great interest to him and his state. He has offered several amendments to this legislation, and I want to thank him for his cooperation.

Mr. LUJAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I supported this legislation when it came before the Interior Committee because of some of the problems my State of New Mexico has experienced with Federal land ownership. Like other Western States, New Mexico is dominated by Federal land much of which is scattered throughout the State in a checkerboard ownership pattern. This scattered ownership often creates management problems for private landowners as well as State and local governments. The Federal land agencies are also not as efficient as they could be in their management of these lands as a result of the scattered ownership pattern.

One reasonable alternative to accommodating some of these land management problems is through exchanges between Federal, State, local and private interests. However, Mr. Speaker, many of my constituents have discovered that land exchanges with the Federal Government are not always easy. As the General Accounting Office reported in its recent study on the Federal land exchange process, it can take the BLM up to 41 months to complete land exchange. I fully realize that exchanges are often complex and do take time. Moreover, Congress has also complicated the process by requiring the agencies to follow several environmental laws and public notice and comment procedures.

Nevertheless, Mr. Speaker, there remains some improvements that can be made in the bureaucratic process of federal land exchanges. Although H.R. 1860 may not be the total solution to facilitating land exchanges between Federal agencies and other parties, I do believe it is a step in the right direction.

As my able colleague, the chairman of the Public Lands Subcommittee has pointed out, H.R. 1860 will provide more uniform rules and regulations which reflect nationally recognized appraisal standards; it will establish timetables for arbitration of disputes over appraisals; and it will require a study and report on how to further improve existing methods of land surveying and mapping. This latter provision is the result of an amendment which I offered and the Interior Committee accepted.

Mr. Speaker, I offered this amendment after Members of the surveying and mapping profession pointed out to me the confusion that now exists over the Federal Government's efforts to systematically map and survey Federal lands. Studies by the National Academy of Sciences and OMB have suggested that cost savings could be achieved if the Federal Government would coordinate its efforts on a land information system. The study I propose does not duplicate previous studies but is directed at how to actually implement the recommendations of these studies.

Mr. Speaker, the administration is opposed to enactment of H.R. 1860. However, I believe that the committees involved have already made substantial changes to accommodate the administration's concerns. For instance, at the request of the administration, we deleted the provision on survey authority which created confusion between the forest service and the bureau of land management.

Although the administration statement of policy objects to the requirement of mandatory arbitration, my colleagues should know the arbitration occurs only after all other efforts to set land values have failed. Furthermore, the arbitration is binding only on the land values and not the parties involved in the exchange. Simply put, the Secretary of Interior or Agriculture can terminate the exchange or modify it to reflect the findings of arbitration.

Mr. Speaker, I would like to thank subcommittee chairman Bruce Vento of the Public Lands Subcommittee and Harold Volkmer of the Forest and Family Farms Subcommittee for moving this bill through their respective committees. Of course, the chairman of the House Interior Committee, Mo Udall, and Kika de la Garza were also very supportive of this legislation and I thank them for their support.

Mr. Speaker, I urge my colleagues to support H.R. 1860.

Mr. Speaker, I rise in support of H.R. 1860, the Federal Land Exchange Facilitation Act of 1987.

This needed legislation is an improvement over the bill passed by the House in the 99th Congress in two principle respects. First, the bill no longer has a provision which would grant other agencies the statutory authority to perform cadastral, boundary, surveys on public lands. That provision was deleted from the bill by an amendment offered in the full Interior Committee by our colleagues from Utah [Mr. Hansen].

Also added in the Interior Committee was an amendment I offered to provide for a study of surveying and mapping activities and the new technology known as "land information systems."

In past years, there have been numerous studies of the Federal structure of surveying and mapping. Most notable was the "Report of the Federal Mapping Task Force on Mapping, Charting, Geodesy and Surveying" (July 1973) performed for the Office of Management and Budget. Subsequent studies have also been made by the National Research Council of the National Academy of Sciences, including "Need for a Multipurpose Cadastre" (1980).

Much has changed since those reports were made, particularly with respect to technological advances in the methods of collecting, storing, retrieving, disseminating and using information about the land. The development of systems commonly known by such titles as Geographic Information Systems [GIS], Land Information Systems [LIS], and Multipurpose Cadastres [MPC] have made the traditional approach to surveying, mapping and related sciences addressed in these earlier studies somewhat outdated. The advant of computer based geographic data has also made it necessary to review the adequacy of OMB Circular A-16, which currently governs coordination of surveying and mapping activities.

In order to assure orderly land exchanges, which is the primary purpose of H.R. 1860, the parties to the exchange must have accurate land data, including surveys and maps. In a broader view, there are endless Federal, state, and local government, as well as private sector uses of land data for a variety of engineering, resource management, public works and other projects.

As the report by the Committee on Interior and Insular Affairs mentions, it is not our intent that the previous studies be duplicated. Rather, this effort should build on these efforts and outline specific methods for improving the Federal structure. Included is the development of model standards for compatibility in land information systems and their data, among and between the various Federal agencies, as well as State and local government and the private sector.

Another important aspect of this study is the inclusion of representatives of private sector surveying and mapping science. It is important that the views of groups like the Management Association for Private Photogrammetric Surveyors be considered in this study. There is great concern that Federal agencies are becoming too deeply involved in services that can be best provided by the private sector, and that is an issue which must be resolved in this study. I am particularly hopeful that private firms have the ability to lead this new market, estimated to be some $90 billion over the next decade, as there are several very well qualified and innovative photogrammetric and computer mapping firms in my hometown of Albuquerque, NM.

My interest in this issue is not only based on my desire to see the advancement of the capabilities of New Mexico firms, but is also the result of my role as the former ranking Republican on the Interior Committee and current ranking Republican on the Committee on Science, Space, and Technology.

In 1981, I sponsored the Federal Land Survey Act which, if enacted, would have authorized a multipurpose cadastre feasibility study. Moreover, the 1986 budget reconciliation bill (Public Law 272) included an NOAA authorization bill passed in the First session of the 99th Congress. The Senate report on the original NOAA bill (S. 990, S. Rept. 99-72) included language in which "the Committee notes that the Office of Charting and Geodetic Services—of NOAA—action through the Federal Geodetic Control Committee, will be providing leadership and enlisting the support and cooperation of other Federal agencies, State and local government, and any public or private organizations, in the development of a multipurpose land information system." As a conferee on that reconciliation bill, I had hoped that language would provide the initiative for some Federal leadership. However, little has come from that effort.

The study in section 8 of H.R. 1860 will look at land information systems, as defined by but not limited to the components identified by the National Academy of Sciences. Such issues to be studied are the structure of Federal surveying and mapping, and land information activities with an eye toward reorganization, consolidation or designation of a lead agency to save money and achieve efficiencies; the respective roles of the various Federal agencies; the role of other levels of government; and as I mentioned earlier, the important role the private sector can and should play in land information systems development.

The Federal Government, through its own employees and through contracts with the private sector, is involved in a variety of surveying, mapping and land information activities. A list of agencies which collect, store, retrieve, disseminate or use geographic information is virtually the equivalent of reciting the U.S. Government manual. Those aspects of the field of engineering which are known as surveying and mapping nevertheless include such professional activities as cadastral—land—surveying, geodesy, topographic surveying and mapping, hydrographic surveying, charting, cartographic services—including compilation, digitizing, scribing, drafting, color separation, digital modeling—photogrammetry, aerial photography and remote sensing data, and the display of these and other data files in land or geographic information system.

It is important that the data collected and disseminated in these categories be accurate and reliable. That is why both the Interior and Agriculture Committees heard testimony on the use of a qualifications based selection process for contractors for these services. Land management and land information agencies must follow the existing procurement law—known as the Brooks Act, for these engineering related services. I understand the report of the Committee on Agriculture addresses this issue and I commend my colleagues for providing clarification and instruction to agencies that is long overdue.

Among those agencies is the National Mapping Division of the U.S. Geological Survey, which has responsibility for coordinating digital mapping efforts. This agency should play a lead role in this study. Similarly, the Bureau of Land Management, which has responsibility for cadastral surveys, and the Office of Charting and Geodetic Services of NOAA, which is responsible for geodetic control, should be prominent in this investigation. All these agencies should use qualified and competent surveying and mapping firms for these activities.

These any many other agencies, State and local government, and the private sector will also contribute to this much needed effort, as described in section 8. I would urge the administration to move quickly on this study and meet the timetable established so recommendations can be put into place as soon as possible.

Mr. Speaker, I yield such time as he may consume to the gentleman from Washington [Mr. Morrison], vice chairman of the Subcommittee on Forests.

Mr. MORRISON of Washington. Mr. Speaker, I thank the gentleman for yielding this time to me.

Mr. Speaker, this bill represents frustration and pleasure, frustration because in dealing with land exchanges we find that the time involved is so long and so cumbersome. In fact, we have had exchanges in the Northwest which have been hanging fire for a decade or longer. We need a resolution dispute process.

The pleasure is that this measure, as I see it and as we have worked it through the committees now, does in fact provide some answers that are long overdue. I want to report, Mr. Speaker, that appropriate hearings were held, that the measure is not controversial, and I think it is worthy of the support of the entire House of Representatives. I am pleased to present it to the Members on this calendar on this day.

Mr. VENTO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. LUJAN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. Gray of Illinois). The question is on the motion offered by the gentleman from Minnesota [Mr. Vento] that the House suspend the rules and pass the bill, H.R. 1860, as amended.

The question was taken; and (two-thirds having voted in favor thereof), the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

ECONOMIC DEVELOPMENT PLAN FOR THE NORTHWESTERN BAND OF THE SHOSHONI NATION ACT

Mr. RICHARDSON. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2370):

To provide for the establishment of an economic development plan for, and Federal services and assistance to, the Northwestern Band of the Shoshoni Nation, and for other purposes.

The Clerk read as follows:

H.R. 2370

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Economic Development Plan for the Northwestern Band of the Shoshoni Nation Act".

SEC. 2. ECONOMIC DEVELOPMENT.

(a) Plan for Economic Development.—The Secretary shall—

(1)(A) enter into negotiations with the tribal council with respect to establishing a plan for economic development for the tribe, including (but not limited to) the provision of Federal services to the tribe; and

(B) in accordance with this section and not later than 2 years after the date of the enactment of this Act, develop such a plan; and

(2) upon the approval of such plan by the tribal council (and after consultation with the State and local officals pursuant to subsection (b)), the Secretary shall submit such plan to the Congress.

(b) Consultation With State and Local Officials Required.—To assure that legitimate State and local interests are not prejudiced by the proposed economic development plan, the Secretary shall notify and consult with the appropriate officials of the State and all appropriate local posed by subsection (c). During any consultation by the Secretary under this subsection, the Secretary shall provide such information as the Secretary may possess, and shall request comments and additional information on the extent of any State or local service to the tribe.

(c) Restrictions To Be Contained in Plan.—Any plan developed by the Secretary under subsection (a) shall provide that—

(1) any real property transferred by the tribe or any member to the Secretary shall be taken and held in the name of the United States in trust for the benefit of the tribe;

(2) any real property taken in trust by the Secretary pursuant to such plan shall be subject to—

(A) all legal rights and interests in such land existing at the time of the acquisition of such land by the Secretary, including any lien, mortgage, or previously levied and outstanding State of local tax; and

(B) foreclosure or sale in accordance with the laws of the State pursuant to the terms of any valid obligation in existence at the time of the acquisition of such land by the Secretary;

(3) any real property transferred pursuant to such plan shall be exempt from Federal, State, and local taxation of any kind; and

(4) the territorial jurisdiction of the tribe shall be limited to real property taken or held in trust by the Secretary for the tribe or individual members of the tribe.

(d) Appendix to Plan Submitted to the Congress.—The Secretary shall append to the plan submitted to the Congress under subsection (a) a detailed statement—

(1) naming each individual and official consulted in accordance with subsection (b);

(2) summarizing the testimony received by the Secretary pursuant to any such consultation; and

(3) including any written comments or reports submitted to the Secretary by any party named in paragraph (1).

SEC. 3. DEFINITIONS.

For the purposes of this Act the following definitions apply:

(1) The term "Constitution" means the Constitution and Bylaws of the Northwestern Band of the Shoshoni Nation in effect on the date of the enactment of this Act.

(2) The term "member" means those person eligible for enrollment under the Constitution of the Northwestern Band of the Shoshoni Nation.

(3) The term "Secretary" means the Secretary of the Interior.

(4) The term "State" means the State of Utah.

(5) The term "tribe" means the Northwestern Band of the Shoshoni Nation.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from New Mexico [Mr. Richarson] will be recognized for 20 minutes and the gentleman from Arizona [Mr. Rhodes] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New Mexico [Mr. Richardson].

GENERAL LEAVE

Mr. RICHARDSON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill presently under consideration.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from New Mexico?

There was no objection.

Mr. RICHARDSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the purpose of H.R. 2370 is to authorize the Secretary of the Interior to undertake a study for the formulation of an economic development plan for the Northwestern Band of the Shoshoni Nation of Washakie, UT.

Today, this Indian band has about 300 members, most of whom live in northern Utah and southern Idaho.

Although the tribe lost all of its aboriginal territory to the settlers in the 1800's, the United States has never set aside lands in Utah for the Northwestern Band. From 1890 through 1900, 40 homestead patents were issued to individual members of the tribe for about 4,800 acres, however today only 4 of these patents still remain in the hands of the Indians. In addition, in 1984, the United States placed 184 acres of land into trust for the benefit of the tribe. These lands are currently being rented to local farmers.

Although the band is a federally recognized tribe, it has virtually been ignored by the Bureau of Indian Affairs and the Indian Health Service and its members have received little if no services from these agencies. Like many native Americans the tribal members suffer from high unemployment and because funds have not been available the health and housing needs of the band have not been met. This bill will hopefully force the Federal agencies to focus some attention on the problems of this forgotten tribe. The bill authorizes the Secretary of the Interior to enter into negotiation with the tribe for the establishment of an economic development plan and submit such plan to Congress not later than 2 years after the date of enactment of this act.

Although the bill does not contain any authorization for the appropriation of additional funds, I was encouraged to discover that according to a Congressional Budget Office's letter to the Interior Committee, the Department of the Interior plans to spend about $200,000 in the development of this plan.

Mr. Speaker, I urge my colleagues to vote for this bill which will hopefully bring this tribe on par with other tribes.

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Mr. RHODES. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 2370, a bill "to provide for the establishment of an economic development plan for the Northwestern Band of Shoshoni Nation."

I commend the gentlemen from Utah [Mr. OWENS and Mr. HANSEN] for introducing this legislation on behalf of this small neglected band of Indians in Utah.

H.R. 2370 would require the Secretary of the Interior to enter into negotiations with the tribe to establish a plan for economic development, within 2 years. This plan may include the formation of a reservation out of lands owned by the tribe, tribal members, and others. The estimated costs of the plan are approximately $200,000.

In committee we were persuaded that an additional incentive was needed to have the Secretary establish an economic development plan for the tribe. Therefore, I urge my colleagues to support passage of H.R. 2370.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. RICHARDSON. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The **SPEAKER** pro tempore. The question is on the motion offered by the gentleman from New Mexico [Mr. RICHARDSON] that the House suspend the rules and pass the bill, H.R. 2370.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

NUCLEAR SAFETY AND SECURITY IMPROVEMENTS ACT OF 1987

Mr. RICHARDSON. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2683) to amend the Atomic Energy Act of 1954 to improve security procedures, and for other purposes, as amended.

The Clerk read as follows:

H.R. 2683

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Nuclear Safety and Security Improvements Act of 1987".

SEC. 2. SAFEGUARDS INFORMATION.

Section 147 a. of the Atomic Energy Act of 1954 (42 U.S.C. 2167(a)) is amended by—

(1) inserting "generic or specific" before "safeguards information which"; and

(2) by striking "specifically" before "identifies".

SEC. 3. TRESPASS UPON COMMISSION INSTALLATIONS.

(a) NUCLEAR REGULATORY COMMISSION REGULATIONS.—Section 229 a. of the Atomic Energy Act of 1954 (42 U.S.C. 2278a (a)), is amended to read as follows:

"SEC. 229. TRESPASS UPON COMMISSION INSTALLATIONS.—

"a. The Department of Energy or the Nuclear Regulatory Commission, as appropriate, may issue regulations relating to the entry upon or carrying, transporting, or otherwise introducing or causing to be introduced any dangerous weapon, explosive, or other dangerous instrument or material likely to produce substantial injury or damage to persons or property, into or upon any facility, installation, or real property subject to the jurisdiction, administration, custody, or licensing authority of the Department of Energy or the Nuclear Regulatory Commission, as appropriate. Any regulation issued under this section shall be posted conspicuously at the facility, installation, or real property to which it applies.".

(b) CONFORMING AMENDMENT.—Subsections b. and c. of section 229 of the Atomic Energy Act of 1954 (42 U.S.C. 2278a (b) and (c)) are amended by striking "of the Commission" each place it appears.

SEC. 4. SABOTAGE OF NUCLEAR FACILITIES OR FUEL.

Section 236 of the Atomic Energy Act of 1954 (42 U.S.C. 2284) is amended to read as follows:

"SEC. 236. SABOTAGE OF NUCLEAR FACILITIES OR FUEL.—

"a. Any person who intentionally and willfully destroys or causes physical damage to, or who intentionally and willfully attempts to destroy or cause physical damage to—

"(1) any production or utilization facility licensed under this Act;

"(2) any production or utilization facility during its construction where the action could affect public health and safety if undetected prior to operation;

"(3) any nuclear waste storage facility licensed under this Act; or

"(4) any nuclear fuel for a utilization facility licensed under this Act, or any spent nuclear fuel from such a facility;

shall be fined not more than $10,000 or imprisoned for not more than ten years, or both.

"b. Any person who intentionally and willfully causes or attempts to cause an interruption of normal operation of any facility described in subsection (a) through the unauthorized use of or tampering with the machinery, components, or controls of any such facility, shall be fined not more than $10,000 or imprisoned for not more than ten years, or both.".

SEC. 5. NOTIFICATION REQUIREMENTS.

(a) IN GENERAL.—Section 206 of the Energy Reorganization Act of 1974 (42 U.S.C. 5846) is amended to read as follows:

"NOTIFICATION REQUIREMENTS

"SEC. 206. (a) Any firm constructing, owning, operating, or supplying any component of any facility or activity that is licensed or otherwise regulated under the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.), or this Act, or any individual director or responsible officer of such a firm, obtaining information reasonably indicating that such facility or activity or any basis component supplied to such facility or activity—

"(1) fails to comply with the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.), or any applicable rule, regulation, order, or license of the Commission relating to substantial safety hazards, or

"(2) contains a defect which could create a substantial safety hazard, as defined by regulations issued under this section,

shall immediately notify the Commission of such defect or failure to comply, unless such firm or individual has actual knowledge that the Commission has been adequately informed of such defect or failure to comply.

"(b) The Commission may issue such regulations and orders as may be necessary to assure compliance with this section, including regulations and orders requiring any firm subject to this section to devise and implement procedures to identify, evaluate, and report defects.

"(c) Any firm that fails to provide the notice required by subsection (a), or violates any regulation or order issued under subsection (b); and any individual who knowingly and consciously fails to provide such notice, shall be subject to a civil penalty in the same manner and amount as provided under section 234 of the Atomic Energy Act of 1954 (42 U.S.C. 2282) for violations of licensing requirements.

"(d) The requirements of this section shall be prominently posted on the premises of any firm described in subsection (a).

"(e) The Commission may conduct such reasonable inspections, investigations, and other enforcement activities as are needed to ensure compliance with this section and with any regulations and orders under this section.

"(f) For purposes of this section, the term 'firm' has the meaning given the term 'person' in section 11 s. of the Atomic Energy Act of 1954 (42 U.S.C. 2014(s)) except that it shall include the Department of Energy with regard to facilities, materials, or activities of the Department of Energy licensed by the Commission and shall not include, an 'individual'.".

(b) REDESIGNATION OF SECTION 210.—The second of the two sections of the Energy Reorganization Act of 1974 that is numbered 210 (42 U.S.C. 5851) is renumbered as section 211.

The SPEAKER pro tempore. Is a second demanded?

Mr. LUJAN. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from New Mexico [Mr. RICHARDSON] will be recognized for 20 minutes and the gentleman from New Mexico [Mr. LUJAN] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New Mexico [Mr. RICHARDSON].

GENERAL LEAVE

Mr. RICHARDSON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 2683, the bill now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Mexico?

There was no objection.

Mr. RICHARDSON. Mr. Chairman, I yield myself such time as I may consume.

Mr. Speaker, H.R. 2683, the Nuclear Safety and Security Improvements Act of 1987, makes four changes in existing nuclear energy laws.

First, the bill clarifies the Nuclear Regulatory Commission's authority to protect from public disclosure certain sensitive information about security measures at nuclear powerplants. Current law already protects from disclosure security information specific to individual nuclear powerplants. This amendment would extend this protection to security information that is generic to more than one plant.

Second, the bill makes unauthorized possession of firearms, explosives, or other dangerous weapons at nuclear powerplants a Federal crime. Current law already prohibits unauthorized possession of weapons at Federal nuclear facilities. This amendment extends the prohibition to include commercial plants licensed by the Nuclear Regulatory Commission.

Third, the bill makes sabotage or attempted sabotage of a nuclear powerplant that is under construction a Federal crime. Current law already prohibits sabotage or attempted sabotage of an operating plant. This amendment extends the prohibition to include plants under construction.

Fourth, the bill requires firms constructing, operating, or supplying components to nuclear powerplants to notify the NRC of substantial safety defects or violation of NRC safety rules. Current law already requires officers and directors of such firms to notify the NRC. This amendment would extend these requirements to the firms themselves.

Mr. Speaker, none of these changes are major departures from current law. They were proposed by the Nuclear Regulatory Commission to fill gaps the Commission identified in its existing regulatory authority. They provide important and useful tools to the Commission to ensure the safety and security of nuclear powerplants.

This legislation was the subject of hearings in both the Interior Committee and the Energy and Commerce Committee. Both committees reported it favorably by voice vote.

I urge my colleagues to support this important legislation.

Mr. LUJAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 2683, legislation which would provide the Nuclear Regulatory Commission with the authority to protect from public disclosure certain information concerning safeguards at nuclear facilities.

We are concerned about the public release of data which could reveal and compromise measures taken which are meant to protect nuclear materials from theft, diversion, or sabotage.

NRC is of the opinion that it has been given this authority but H.R. 2683 is intended to make that grant explicit. In addition, section 3 of this bill would extend the criminal sanctions granted to NRC to cover sabotage or attempted sabotage of a production or utilization facility while under construction.

In summary, Mr. Speaker, this is an important bill. It is supported by the administration and has been reported out of the Interior Committee unanimously. I urge its adoption.

Mr. RICHARDSON. Mr. Speaker, I yield such time as he may consume to the distinguished chairman of the full committee, the gentleman from Arizona [Mr. UDALL].

Mr. UDALL. Mr. Speaker, I rise in strong support of the legislation, and associate myself with the remarks of the distinguished gentleman from New Mexico [Mr. RICHARDSON].

Mr. LUJAN. Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. MOORHEAD].

Mr. MOORHEAD. Mr. Speaker, I rise in support of this legislation. This bill makes several changes to the Nuclear Regulatory Commission's governing legislation to enhance its authority to oversee the safe operation of nuclear plants. First, the criminal provisions of the Atomic Energy Act are expanded to help deter theft, diversion or sabotage at these facilities. This legislation makes it a crime to carry a weapon, explosive, or other dangerous material into a facility licensed by the NRC or to sabotage such a facility under construction. Second, the NRC is given broader authority to protect sensitive information which could be useful to someone considering hostile action against a nuclear reactor.

Third, safe operation of nuclear powerplants can be enhanced if potential defects in any of the reactor components are detected and corrected as quickly as possible. This bill would clarify and expand NRC's authority to inspect and take enforcement action against vendors of equipment to reactors. Finally, the duty to report defects in basic components supplied to reactors is expanded. Individual officers and directors of firms supplying reactor components are already required to report defects and are subject to civil penalties if they knowingly fail to do so, H.R. 2683 would make the firm as well as its officers liable for civil penalties for failure to report a defect.

The provisions of H.R. 2683 will all strengthen the NRC's ability to assure the safe operation of nuclear powerplants, and I urge my colleagues to support this legislation.

Mr. RICHARDSON. Mr. Speaker, I yield such time as he may consume to the gentleman from Indiana [Mr. SHARP].

Mr. SHARP. Mr. Speaker, I am pleased to offer my support for H.R. 2683, which amends the Atomic Energy Act of 1954 and the Energy Reorganization Act of 1974 to improve security procedures related to nuclear facilities. The Interior Committee and the Energy and Commerce Committee have worked well together on this legislation, and are in agreement on all aspects of the bill. I want to commend

Chairman Udall and Chairman Dingell for moving this noncontroversial, constructive legislation through the committees in an expeditious manner, and our minority members for their cooperation.

H.R. 2683 is a consolidation of four bills introduced by Mr. Udall at the request of the Nuclear Regulatory Commission, and is intended to remedy gaps in existing statutory authority. The bill:

Clarifies the NRC's authority to protect "generic safeguards information," the disclosure of which might compromise security measures for licensed nuclear facilities;

Makes it a Federal crime to possess a dangerous weapon or explosive at any site licensed by the NRC;

Applies criminal sanctions to the sabotage or attempted sabotage of a nuclear facility during its construction; and

Requires firms to notify the NRC of any known failure to comply with Commission safety requirements, and any known defect in a nuclear plant component.

I urge my colleagues to support the bill.

Mr. OXLEY. Mr. Speaker, I rise today in strong support of H.R. 2683, the Nuclear Safety and Security Improvements Act of 1987. This bill has been approved by both the Interior and Energy and Commerce Committees—the two committees that are charged with ensuring the safe operation of our commercial nuclear energy sector.

The safe operation of nuclear facilities has always been of the utmost importance to the Nuclear Regulatory Commission. Since the unfortunate events at Three Mile Island and Chernobyl, however, nuclear safety has assumed an even more elevated position in the minds of both the NRC and the general public. The lapses in security and standard operating procedures that have been in the news recently are the exception rather than the rule, but that does not diminish the importance of correcting these defects in the system.

To address these concerns, the bill incorporates several NRC recommendations designed to improve security and safety at both commercial nuclear facilities and Department of Energy facilities licensed by the NRC. The administration supports this needed legislation, and I urge my colleagues to support it as well.

Mr. GREEN. Mr. Speaker, I rise in strong support of H.R. 2683, the Nuclear Safety and Security Improvements Act of 1987. No issue we face in the management of our energy resources is as important as nuclear safety, and this bill gives us added power in assuring that nuclear plants are operated and maintained safely.

The changes implemented in this bill, as recommended by the Nuclear Regulatory Commission, provide important and useful tools for the continued protection and security of our nuclear facilities. The bill contains two specific provisions making sabotage or attempted sabotage and the unauthorized possession of firearms, explosives, or other dangerous weapons at nuclear facilities a Federal crime. These are important changes that will act as a deterrent to illegal acts at nuclear facilities.

Most importantly, Mr. Speaker, the bill requires firms constructing, operating or supplying components to nuclear powerplants to notify the NRC of substantial safety defects or violations of NRC safety rules. As I mentioned earlier in my statement, assuring the safe operation of nuclear powerplants is the single most critical issue in the energy debate today. Inasmuch as this bill strengthens existing law on nuclear safety, it is to be commended.

Mr. Speaker, I urge my colleagues to join me in supporting this important bill.

Mr. LUJAN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. RICHARDSON. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Mexico [Mr. Richardson] that the House suspend the rules and pass the bill, H.R. 2683, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

IMPORTED VEHICLE SAFETY COMPLIANCE ACT OF 1987

Mr. DINGELL. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2628) to amend the National Traffic and Motor Vehicle Safety Act of 1966 respecting the importation of motor vehicles in anticipation of compliance with safety standards under such act as amended.

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE, REFERENCE.

(a) Short Title.—This Act may be cited as the "Imported Vehicle Safety Compliance Act of 1987".

(b) Reference.—Whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the National Traffic and Motor Vehicle Safety Act of 1966.

SEC. 2. CONTROL OF IMPORTATION OF CERTAIN VEHICLES TO ENSURE COMPLIANCE WITH SAFETY STANDARDS.

(a) Repeal of General Authority for Importation in Anticipation of Compliance.—Section 108(b) (15 U.S.C. 1397(b)) is amended by striking out paragraphs (3) and (4) and by redesignating paragraph (5) as paragraph (3).

(b) Limited Authorization for Importation in Anticipation of Compliance.—Section 108 (15 U.S.C. 1397) is amended by redesignating subsection (c) as subsection (k) and by inserting after subsection (b) the following new subsections:

"(c)(1) Except as provided in this subsection and subsections (e), (f), (g), (h), (i), and (j) a motor vehicle offered for importation in violation of subsection (a)(1)(A) shall be refused entry into the United States.

"(2) In the case of any motor vehicle imported under paragraph (3), the person importing the motor vehicle shall furnish to the Secretary of the Treasury (acting on behalf of the Secretary) an appropriate bond and shall comply with such terms and conditions as it appears to the Secretary appropriate to ensure that any such motor vehicle—

"(A) will be brought into conformity with all applicable Federal motor vehicle safety standards prescribed under this title within a reasonable time after such importation, as specified by the Secretary, or

"(B) will be exported (at no cost to the United States) by the Secretary of the Treasury or abandoned to the United States.

The amount of the bond furnished under this paragraph shall not be less than the dutiable value, as determined by the Secretary of the Treasury, of the motor vehicle with respect to which the bond was furnished, except that the amount of such bond may not exceed 150 percent of such value.

"(3)(A) Subsection (a)(1)(A) and paragraph (1) of this subsection shall not apply to any motor vehicle if—

"(i) the motor vehicle (I) is determined under subparagraph (C) to be substantially similar to motor vehicles originally manufactured for importation into the United States, or (II) can be shown by test data that it can comply with the applicable Federal motor vehicle safety standards,

"(ii) the motor vehicle is imported by an importer registered under subparagraph (F), and

"(iii) the registered importer pays (I) such annual fee as the Secretary establishes to cover the cost of administering the registration program, and (II) such other annual fee or fees as the Secretary reasonably establishes to cover the cost of processing the bond furnished to the Secretary of the Treasury under paragraph (2) and making the determinations under this section.

"(B) The amount or rate of fees under subparagraph (A)(iii) shall be reviewed and, if appropriate, adjusted by the Secretary at least every 2 years. The fee applicable in any fiscal year shall be established by the Secretary before the beginning of such year. All fees collected shall be available until expended, without fiscal year limit, to the extent provided in advance by appropriation Acts, solely for use by the Secretary—

"(i) in the administration of all of the requirements of this subsection (other than subparagraph (G)(iv)) and subsection (d)(2), and

"(ii) to advance to the Secretary of the Treasury amounts for costs that will be incurred under this subsection and to reimburse the Secretary of the Treasury for such costs.

"(C) For purposes of this paragraph, a model (as defined by the Secretary by regulation) of a motor vehicle is substantially similar to a motor vehicle—

"(i) originally manufactured for importation into, and sale in, the United States,

"(ii) certified under section 114 as being in comformity with all applicable Federal motor vehicle safety standards, and

"(iii) of the same model year (as defined by the Secretary by regulation) as the model of the motor vehicle to be compared,

if the concealed safety features of the motor vehicle to be compared are determined by the Secretary to be substantially the same as *those of such originally manufactured motor vehicle or the Secretary determines, in accordance with the next sentence, that the motor vehicle can be readily modified with respect to its concealed safety features to make it substantially the same. The Secretary may determine that a motor vehicle can be readily modified with respect to its concealed safety features to make it substantially the same as those of such originally manufactured motor vehicles only if, on the basis of test data submitted to the Secretary, it can be shown that such features can be readily modified to be substantially the same as those of such originally manufactured motor vehicles.*

"(D) As used in subparagraph (C):

"(i) The term 'concealed safety features' means the safety features of the motor vehicle for which compliance with Federal motor vehicle safety standards is determined by complex and instrumented tests or destructive tests and for which compliance cannot be determined by visual inspections or simple measurements.

"(ii) The term 'readily modified' means the replacement or addition of components to a motor vehicle without significant change to its structural integrity.

"(E)(i) The Secretary may make the determination under subparagraph (C) of motor vehicle similarity—

"(I) on the petition of any registered importer or any manufacturer, or

"(II) on the Secretary's own initiative.

"(ii) The Secretary shall establish by regulation the information required to be provided by the petitioner to clearly show motor vehicle similarity and the procedures for considering such petitions. In establishing such procedures, the Secretary shall provide for a minimum period for public notice and written comment consistent with ensuring expeditious, but full, consideration of the petition and avoiding delay by any person. In considering any petition under this subparagraph, the Secretary shall give due consideration to any test data or other information available to the Secretary, including any information provided by the manufacturer (whether or not confidential). If the Secretary makes a negative determination regarding the similarity of motor vehicles, another petition may not be considered for those motor vehicles until the end of 12 calendar months after such negative determination.

"(iii) The Secretary shall establish by regulation the procedures for determinations of motor vehicle similarity made on the Secretary's initiative. Such procedures shall include a minimum period for public notice and written comment. In making a determination under such procedures, the Secretary shall give due consideration to any test data or other information available to the Secretary, including any information provided by the manufacturer (whether or not confidential). If the Secretary makes a negative determination regarding the similarity of motor vehicles, the Secretary may not make another determination for those motor vehicles until the end of 12 calendar months after such negative determination.

"(iv) The Secretary shall annually publish in the Federal Register a list of all determinations under this subparagraph. Each determination published in the Federal Register shall apply to the motor vehicles with respect to which the determination was made.

"(F)(i) The Secretary shall establish procedures under which the Secretary shall register any person who complies with the requirements of clause (ii) and who has not previously had a registration revoked under clause (iii). The Secretary may deny registration to any person who is or was, directly or indirectly, owned or controlled by, or under common ownership or control with, a person who has had a registration revoked under clause (iii).

"(ii) In order to acquire and maintain registration under clause (i), an importer shall comply with all requirements which the Secretary shall prescribe by regulation. Such regulation shall include, as a minimum, requirements for recordkeeping, inspection of records and facilities relating to the motor vehicles which such person has imported, modified, or both, and provision for ensuring that the importer (or any successor in interest) will be able technically and financially to carry out the importer's responsibilities under part B of this title (relating to discovery, notification, and remedy of defects).

"(iii) The Secretary shall establish procedures for (I) the revocation or suspension of a registration issued under clause (i) for failure to comply with any requirement of this section or the regulations issued under this section, (II) automatic suspensions of registrations for failure to pay any fee referred to in subparagraph (A)(iii) in a timely manner or for knowingly filing a false or misleading certification under subparagraph (G), and (III) reinstatement of suspended registrations.

"(G)(i) A registered importer shall not release custody of any motor vehicle—

"(I) imported by the registered importer, or

"(II) imported by an individual referred to in subsection (f) and which the registered importer is modifying to meet Federal motor vehicle safety standards,

to any person for license or registration for use on public roads, streets, or highways or license or register an imported motor vehicle for use on public roads, streets, or highways until 30 calendar days after the registered importer certifies to the Secretary, in such form as the Secretary shall require, that such motor vehicle complies with each Federal motor vehicle safety standard which was prescribed under this title in the year that vehicle was manufactured and which applies in such year to such vehicle, except that no such release shall be permitted if the Secretary gives written notice, before the expiration of such 30 days, that an inspection will be required under clause (iii). If the Secretary gives such notice, such release shall be permitted at any time but only upon the completion of the inspection showing no failure to comply with applicable Federal motor vehicle safety standards for which the inspection was made and the release by the Secretary. The Secretary and the Secretary of the Treasury shall by rule establish procedures to ensure the release of a motor vehicle and bond at the expiration of such 30 days unless the notice under this clause or clause (vi) is issued. Such rule shall provide that, if such notice is issued, the motor vehicle and bond shall be promptly released after the completion of the inspection showing no such failure to comply.

"(ii) In making a certification under clause (i) with respect to concealed safety features of a motor vehicle, the registered importer may rely on the manufacturer's certification for the model for which the motor vehicle involved is substantially similar if the importer certifies that any modification undertaken by the importer did not affect the compliance of the motor vehicle's concealed safety features and the importer retains records verifying such certification for such period as the Secretary shall prescribe.

"(iii) The Secretary may require that such certification be accompanied by such evidence of compliance as the Secretary considers appropriate or that the certified motor vehicle be inspected by the Secretary, or both.

"(iv) The Secretary shall periodically inspect a representative number of motor vehicles for which certifications have been filed under clause (i). In conducting any program under this title for the testing of motor vehicles, the Secretary shall include a representative number of vehicles for which certifications have been filed under clause (i).

"(v) Any release of a bond required under paragraph (2) shall constitute acceptance of any certification or completion of an inspection but not a determination by the Secretary under section 152 of compliance with all applicable Federal motor vehicle safety standards.

"(vi) Notwithstanding clause (i), no motor vehicle or bond may be released if the Secretary believes or has reason to believe that a certification made under clause (i) is false or contains any misrepresentation and the Secretary gives written notice of such belief or reason to believe to the registered importer before the expiration of 30 days after the date such certification is received by the Secretary. If such notice is provided, the motor vehicle involved and the bond required for the motor vehicle involved may not be released until the Secretary is satisfied with the certification and any modification thereof.

"(vii) Each registered importer shall include on each motor vehicle released by it under this subsection a label, in such form as the Secretary may prescribe, on which the registered importer is identified and which states that the vehicle has been modified by such importer to comply with all applicable Federal motor vehicle safety standards for that model.

"(d)(1) For purposes of part B of this title (relating to discovery, notification, and remedy of motor vehicle defects)—

"(A) in the case of any defect or failure to comply with any applicable Federal motor vehicle safety standard in, or regarding, any motor vehicle which was originally manufactured for importation to the United States, any imported motor vehicle that has a valid certification under subsection (c)(3)(G) and that is determined to be substantially similar to such motor vehicle shall be treated as having the same defect or failure unless the manufacturer or registered importer demonstrates otherwise to the Secretary,

"(B) the Secretary shall publish in the Federal Register notice of the defect or failure referred to in subparagraph (A), and

"(C) the registered importer shall be treated as the manufacturer with respect to any motor vehicle that it—

"(i) imports, or

"(ii) brings into conformity with applicable Federal motor vehicle safety standards on behalf of an individual under subsection (f).

"(2) The Secretary shall, by regulation, require each registered importer (and any successor in interest) to provide and maintain evidence, satisfactory to the Secretary, of sufficient financial responsibility to meet its obligations under part B of this title (relating to discovery, notification, and remedy of motor vehicle defects).

"(e) Subsections (a)(1)(A) and (c)(1) shall not apply to any motor vehicle or item of motor vehicle equipment if—

"(1) the motor vehicle or item of equipment requires further manufacturing to perform its intended function (as determined under regulations prescribed by the Secretary), and

"(2) it is accompanied at the time of entry by a written statement which is issued by the manufacturer of the incomplete motor vehicle or item of equipment which indicates the applicable Federal motor vehicle safety standard with which such motor vehicle or item is not in compliance.

"(f)(1) Subsection (a)(1)(A) and (c)(1) shall not apply to any motor vehicle that is imported—

"(A) after the effective date of the regulations initially issued to implement the amendments made to this section by the Imported Vehicle Safety Compliance Act of 1987, and

"(B) for personal use, and not for purposes of resale,

by any individual (other than an individual described in subsections (g) and (h)), if that individual takes the actions required by paragraph (2).

"(2) To receive an exemption under paragraph (1) an individual shall—

"(A) furnish to the Secretary of the Treasury (acting on behalf of the Secretary)—

"(i) an appropriate bond in an amount determined under subsection (c)(2),

"(ii) a copy of a contract or other agreement with an importer registered under subsection (c) for bringing such vehicle into conformity with applicable Federal motor vehicle safety standards, and

"(iii) a certification that such vehicle meets the requirement set forth in clause (i) (I) or (II) of subsection (c)(3)(A), and

"(B) comply with such terms and conditions as the Secretary shall impose as being appropriate to ensure that such motor vehicle—

"(i) will be brought into conformity with all applicable Federal motor vehicle safety standards within a reasonable time, as specified by the Secretary, after such importation, or

"(ii) will be exported (at no cost to the United States) by the Secretary of the Treasury or abandoned to the United States.

The Secretary, for good cause shown, may allow an individual additional time, but not more than 30 days after the day on which the motor vehicle is offered for importation, to comply with subparagraph (A)(ii).

"(g) Subsections (a)(1)(A) and (c)(1) shall not apply to any motor vehicle if the motor vehicle is imported for personal use, and not for purposes of resale, by any individual (including any member of the uniformed services)—

"(1) whose assigned place of employment is outside the United States as of the date of the enactment of the Imported Vehicle Safety Compliance Act of 1987, and who has not had an assigned place of employment in the United States between that date and the date of entry of such motor vehicle,

"(2) who has not previously imported a motor vehicle into the United States under the authority of this subsection (or subsection (b)(3) with respect to periods before the date of the enactment of the Imported Vehicle Safety Compliance Act of 1987),

"(3) who had acquired (or had entered into a binding contract to acquire) such motor vehicle before the date of enactment of this subsection,

"(4) who enters such motor vehicle not later than 4 years after such date of enactment, and

"(5) who meets the terms, conditions, and other requirements in effect under subsection (b)(3) on the day before the date of the enactment of this subsection.

Paragraphs (1) through (5) shall be carried out by certification in such form as either the Secretary or the Secretary of the Treasury may prescribe. As used in this subsection, the term 'assigned place of employment' means the principal location at which an individual is permanently or indefinitely assigned to work. In the case of a member of the uniformed services, such term means the individual's permanent duty station.

"(h) Subsections (a)(1)(A) and (c)(1) shall not apply to any motor vehicle if the motor vehicle is imported on a temporary basis for personal use by any individual—

"(1) who is (A) a member of the personnel of a foreign government on assignment in the United States or a member of the Secretariat of a public international organization so designated under the International Organization Immunities Act, and (B) within the class of persons for whom free entry of motor vehicles has been authorized by the Secretary of State, or

"(2) who is a member of the armed forces of a foreign country on assignment in the United States.

The Secretary or the Secretary of the Treasury may require such verification of such status as the Secretary considers appropriate. The Secretary shall ensure that any motor vehicle entered under this subsection will be exported (at no cost to the United States) or abandoned to the United States when the individual involved ceases to reside in the United States and hold such status. No motor vehicle imported under this subsection may be sold while within the United States.

"(i) Subsections (a)(1)(A) and (c)(1) shall not apply to any motor vehicle that is 25 or more years old.

"(j) The Secretary may exempt any motor vehicle or item of motor vehicle equipment from subsections (a)(1)(A) and (c)(1) upon such terms and conditions as the Secretary may find necessary solely for the purpose of research, investigations, studies, demonstrations or training, or competitive racing events.".

(c) MANUFACTURER'S CERTIFICATION REQUIRED.—Section 108(a)(1)(A) (15 U.S.C. 1397(a)(1)(A)) is amended by inserting after "conformity with such standard" the following: "and is covered by a certification issued under section 114,".

(d) TECHNICAL AMENDMENTS.—Section 108(a)(1)(A) (15 U.S.C. 1397(a)(1)(A)) is amended by striking out "subsection (b)" and inserting in lieu thereof "subsections (b), (c), and (d)".

(e) EFFECTIVE DATE, NOTICE, REVIEW, REPORT.—

(1) EFFECTIVE DATE.—

(A) GENERAL RULE.—

(i) Except as provided in clause (ii), the amendments made by this section shall take effect upon the expiration of 15 months after the date of the enactment of this Act, except that the Secretary of Transportation may after the effective date of regulations promulgated under subparagraph (B)—

(I) register persons under section 108(c)(3)(F) of the National Traffic and Motor Vehicle Safety Act of 1966, as added by subsection (b) of this section, and

(II) receive petitions and make determinations of motor vehicle similarity under section 108(c)(3)(E) of the National Traffic and Motor Vehicle Safety Act of 1966, as added by subsection (b) of this section.

(ii) The amendments made by this section shall take effect upon the expiration of 12 months after the date of the enactment of this Act if the Secretary of Transportation does not issue a notice of proposed rulemaking under subparagraph (B) within 6 months of date of enactment of this Act.

(B) REGULATIONS.—Not later than 12 months after the date of the enactment of this Act, the Secretary of Transportation shall promulgate and place in effect regulations to implement subsections (c) through (j) of section 108 of the National Traffic and Motor Vehicle Safety Act of 1966, as added by subsection (b) of this section.

(C) REVIEW.—If upon judicial review of the regulations of the Secretary promulgated under subparagraph (B) the court stays the regulations, the amendments made by this section shall not take effect for any person—

(i) during such stay, or

(ii) until such regulations become final.

(2) NOTICE.—As soon as possible after the date of the enactment of this Act, the Secretary of Transportation shall take reasonable steps designed to encourage notification to the extent feasible regarding the provisions of subsections (f), (g), and (h) of section 108 of such Act (as added by this section) to be promptly made to individuals who may be affected by such amendments.

(3) GAO REVIEW.—The Comptroller General of the United States shall conduct a review of the program authorized by the amendments made by this section. The review shall be based on not more than 3 years of experience under the program and shall consider all aspects of the program with emphasis on—

(A) the extent to which motor vehicles imported under the program are fully in compliance with applicable Federal motor vehicle safety standards when released to operate on public roads, streets, and highways,

(B) whether safety considerations warrant extension of the program, and

(C) the administration and enforcement of the program (including actions relating to discovery, notification, and remedy of defects required by such program and the adequacy of the fees) by the Secretary of Transportation.

Promptly upon the completion of the review the Comptroller General shall submit a report on the review to Congress.

(4) REPORT.—Not later than 18 months after the initial regulations required after this section are promulgated, the Secretary shall provide to Congress a report of the actions taken under this section and the effectiveness of such actions, including the results of any testing by the Secretary under this section. Thereafter, the Secretary shall report by July of each year on such actions.

(f) EXEMPTIONS PROHIBITED.—Notwithstanding any provision of law authorizing exemptions from energy conservation requirements for manufacturers of fewer than 10,000 motor vehicles, a registered importer under section 108(c) of the National Traffic and Motor Vehicle Safety Act of 1966 shall not be treated as such a manufacturer for purpose of such exemptions with respect to any motor vehicle that it—

(1) imports, or

(2) brings into conformity with applicable Federal motor vehicle safety standards on behalf of an individual under section 108(f) of such Act.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Michigan [Mr. DINGELL] will be recognized for 20 minutes and the gentleman from Kansas [Mr. WHITTAKER] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Michigan [Mr. DINGELL].

Mr. DINGELL. Mr. Speaker, I yield such time as he may consume to the gentleman from Ohio [Mr. THOMAS A. LUKEN].

Mr. THOMAS A. LUKEN. Mr. Speaker, last year the House passed, as part of the NHTSA authorization, a bill to address the problem of ensuring the safety of foreign motor vehicles that are designed to be used in foreign countries but are, in fact, imported for use into this country. These vehicles, because they are designed for use in foreign countries, do not meet all the safety and emission standards of our Government and are commonly called "gray market" vehicles.

Unfortunately, last year's NHTSA authorization bill, H.R. 2248, died at the end of the 99th Congress.

The bill that is now before us, H.R. 2628, was introduced by the gentleman from Kansas [Mr. WHITTAKER], and it is, with minor and technical changes, the same bill as the House adopted at the end of the last Congress.

As part of its oversight responsibilities, the committee, in January 1985, asked the GAO to study the administration of the gray market program by the three agencies involved: EPA, NHTSA, and Customs. The GAO's report was published in December 1986. This report further demonstrates the need for legislative reform of NHTSA's procedures to ensure that gray market vehicles are safe.

Under current regulations, the importer is supposed to have the gray market vehicle brought into conformity with NHTSA's standards within 120 days after the vehicle clears customs. While the importer puts up a bond to ensure eventual compliance, the importer is free to drive the vehicle as soon as it is imported and may also sell it before it is modified to meet NHTSA's standards. The seller may not even tell the buyer that it is a gray market vehicle. GAO examined a random sample of 30 vehicles that according to NHTSA's records had not met NHTSA's standards within the 120-day period. As shown on page 38 of the GAO report, for 23 of these vehicles, or 77 percent of the sample, NHTSA had taken no steps to get these vehicles off the highway even though more than a year had passed since the 120-day period had expired.

Moreover, the current system is not working even for those vehicles that the importer does modify. The modifications are done by private firms, which send documents to NHTSA for review. NHTSA does not routinely actually inspect any of the gray market vehicles that have allegedly been modified. Nor does NHTSA inspect the firms that do the modifications. The GAO examined a random sample of 29 vehicles that NHTSA, based on NHTSA's review of the documents supplied by the importer, had determined were in compliance with NHTSA's own safety standards.

GAO found that for 17 percent of this sample—and I quote from page 40 of the GAO report—"NHTSA accepted incorrect, incomplete, or inadequate documentation to substantiate the conformance of * * * these vehicles." In the spring of 1985, according to the GAO, NHTSA randomly purchased two gray market vehicles that the importer had reported had been appropriately modified and found that neither vehicle met all of NHTSA's standards.

H.R. 2628 is designed to end the safety problems whose existence has been recently confirmed by the GAO.

The bill requires the Secretary of Transportation to establish procedures for registering importers of gray market vehicles. A registered importer is prohibited from releasing custody of any motor vehicle for use until 30 days after the registered importer certifies that the vehicle complies with all applicable Federal safety standards. The importer will have to post a bond. Registered importers will have to attach a label to the gray market vehicle identifying the importer and indicating that the vehicle is a gray market vehicle, and the registered importer is responsible for any subsequent notification or remedy of a defect in the vehicle.

The Secretary must periodically inspect a representative number of gray market vehicles that have been certified to ensure that in fact the vehicles comply with NHTSA's safety standards. The Secretary is enpowered to revoke the registration of any importer who fails to comply with the law.

In sum, Mr. Speaker, H.R. 2628 will help prevent unsafe gray market vehicles from being driven on our highways.

Mr. DINGELL. Mr. Speaker, I rise in strong support for H.R. 2628, the Imported Vehicle Safety Compliance Act of 1987.

This bill permanently resolves a longstanding safety problem concerning new and used imported gray market vehicles. The bill is nearly identical to a section of H.R. 2248 in the 99th Congress which authorized funds for the National Highway Traffic Safety Administration. It is supported by the Committee on Ways and Means. I know of no opposition to it.

I particularly want to commend the chairman of the subcommittee, Congressman TOM LUKEN, and the ranking minority member, Congressman BOB WHITTAKER for their efforts in resolving this very difficult issue. I urge your support.

Mr. Speaker, I want to stress at this point that this issue probably could have been resolved in the 99th Congress if it had not been coupled with the NHTSA authorization which is always quite controversial. Those who support this measure heeded my warnings in this Congress and decoupled the legislation from the NHTSA authorization. That was wise.

I hope we can continue that course of action when the bill reaches the other body. It is a good bill. It resolves important issues. It deserves early action.

□ 1300

Mr. WHITTAKER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased that the House is today considering H.R. 2628, the Imported Vehicle Safety Compliance Act of 1987. This is a bill that I introduced, along with the chairman of the Subcommittee on Transportation, Tourism, and Hazardous Materials, Mr. LUKEN. Mr. RINALDO, Mr. BRYANT, and Mr. BLILEY, who were instrumental in the development of this legislation in the last Congress, are also original cosponsors of this bill. I believe that it is necessary to enact H.R. 2628 into law in order to ensure that gray market vehicles are brought into compliance with our safety laws.

Let me briefly describe the background that has given rise to the bill before us. Existing law generally requires that all imported vehicles comply with Federal safety standards at the time of importation. An exception in the law permits a noncomplying vehicle to be imported, so long as the importer posts a bond with the Customs Service and performs the modifications necessary to bring the vehicle into compliance. These noncomplying vehicles are referred to as gray market vehicles.

This system provided satisfactory results as long as the number of gray market vehicles remained small. In 1980, the number of gray market vehicles entering the United States was only about 2,400, and these were imported mostly for personal use. But with the increse in the value of the dollar in the early 1980's the number of gray market imports rose rapidly, reaching a peak of 67,000 in 1985. The nature of the market also changed as many of these vehicles were imported by commercial importers for purposes of resale. This rapid change in the market resulted in significant problems in enforcement of the law relating to gray market vehicles. Many vehicles slipped through the cracks and were not properly brought into compliance with our safety laws. This was demonstrated in a General Accounting Office report dated December 1986 which cited numerous examples of this type of noncompliance and concluded that "the gray market program as now operated does not have sufficient controls to ensure that the vehicles are being modified to meet Federal safety * * * standards."

We considered legislation in the 99th Congress to address this mounting problem. After considering proposals that would have closed down the gray market, the House adopted compromise legislation that included a number of reforms to ensure that gray market vehicles would be brought into compliance with safety laws. That bill was not enacted into law in the 99th Congress, but was reintroduced in identical form as H.R. 2628 in this Congress. The Energy and Commerce Committee adopted a few minor and noncontroversial changes. Before discussing those changes let me review the key features of the bill, which are unchanged from the bill approved by the House last year.

The bill requires the registration of importers of noncomplying vehicles and limits importation of noncomplying vehicles to those that are substantially similar to a U.S. model or are capable of being readily modified to meet U.S. safety standards. It provides an efffective system of bonding, inspection, recordkeeping, and labeling for gray market vehicles. The bill provides that the registered importer will be responsible for carrying out the provisions of law relating to discovery, notification, and remedy of defects for vehicles it imports.

Let me now describe the substantive changes that have been made in this year's bill:

First, a provision that would have required the release of an importer's bond exactly on the 30th day following certification of compliance has been deleted. This will provide flexibility by permitting release of the bond sooner.

Second, another change permits the National Highway Traffic Safety Administration [NHTSA] to make determinations of motor vehicle similarity on its own initiative. Last year's bill only permitted these determinations to be made on petition of a registered importer or a manufacturer. This will facilitate the implementation of the new program.

Third, the bill prohibits an importer whose registration has been revoked from being registered again. Last year's bill was drawn too narrowly in that it would only have barred the particular entity whose registration was revoked and would not have prevented the formation of a new corporation to get around the prohibition. The bill before us today gives NHTSA authority to deny registration to an entity that is or was owned or controlled by or under common ownership or control with the person whose registration has been revoked.

Fourth, the bill contains an exemption for imports for temporary use for members of the secretariat of a public international organization. An amendment in the bill before us makes this exemption subject to authorization by the Secretary of State.

Finally, a change in the bill before us modifies the effective date and transition provision. The bill takes effect 15 months after enactment, except that the Secretary is directed to issue implementing regulations after 12 months and, pursuant to those regulations, to register importers and make determinations of motor vehicle similarity. However, if the Secretary does not issue a notice of proposed rulemaking before 6 months after enactment, the bill will go into effect after 12 months.

Although the number of noncomplying vehicles entering the United States has dropped substantially from the peak in 1985, it is still important that we set in place the improvements in the gray market program that are contained in this bill. The number of noncomplying vehicles is still high relative to the 1980 number and of course currency exchange rates and market conditions can change again and result in another increase in the number of gray market imports.

This bill is a good compromise. It does not close down the gray market, but it does institute reforms in the program to ensure that the safety standards that have been in effect for the past 20 years and are responsible for saving thousands of lives will be effectively applied to all imported vehicles. I urge adoption of the bill.

Mr. THOMAS A. LUKEN. Mr. Speaker, I have no further requests for time.

Mr. WHITTAKER. Mr. Speaker, I yield 10 minutes to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I take the time in order to ask a few questions here because I am a little confused about what we are doing in this legislation.

If I understand what the bill purports to do, it is that we are now going to eliminate the ability to import vehicles that are not substantially similar to models that are already imported into the country, thereby saying to people who might want to buy a car, for instance, as a car collector of an exotic model that is built in only a few copies overseas, that they will not even be able to bring that car in, despite the fact they are willing to modify it to meet the standards. Is that what I gathered this bill is going to ultimately accomplish?

Mr. THOMAS A. LUKEN. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I am glad to yield to the gentleman from Ohio.

Mr. THOMAS A. LUKEN. Mr. Speaker, I think the gentleman from Kansas [Mr. WHITTAKER] would like to respond to this also, as the gentleman is a principal author and I think he can make a substantive response.

But really what we are trying to do basically is to set up a system to close the loopholes, to set up a system for determining whether that car does meet those standards.

Mr. WALKER. Mr. Speaker, let me just say it sounds to me like this bill sounds suspiciously similar to a bill that is billed in the automobile enthusiasts' magazine as the Mercedes-Benz dealers bill. The Mercedes-Benz dealers got a little upset about the fact that there were cars being imported that did not come through their dealership, and so they came up with this. But the language of that bill, as I understood it, along the way made quite clear that for instance cars like the Porsche 959, where there are only a handful of copies made, would not even be able to come into this country, and they would not be able to bring them in because no similar model is made for importation into this country. Is that what we are accomplishing here?

Mr. WHITTAKER. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I am glad to yield to the gentleman from Kansas.

Mr. WHITTAKER. Mr. Speaker, the gentleman from Pennsylvania is to be commended for his perception in a couple of areas. But I must point out that the primary purpose of this bill is to save lives.

We had a tremendous problem, in this country, one that was addressed by NHTSA and GAO. It is not as the gentleman would characterize subject to parochial concerns of just one automobile manufacturer. There is no maker identified here.

We had a serious problem rising to 67,000 automobiles imported per year. Many of these vehicles did not have windshields that could withstand the safety features. We do not know how many cases of blindness that would cause. We had NHTSA identifying, and GAO as well, that many of these cars, once they got into the country, were sold and put into use, or resold again without providing the same basic protections that I think the gentleman from Pennsylvania would want to provide.

Mr. WALKER. I do not think there is anybody who is against doing that. The problem is that we are writing a bill that will not even allow somebody to spend massive amounts of money to bring a car into compliance. We are going to rule certain cars out of the marketplace just because they are not built for sale in this country and are basically hand-built specialty models that come from overseas. There are automobile enthusiasts in this country who would like the same access to the marketplace as others in the world have. If they have to bring the cars in compliance, fine, bring the cars in compliance, but do not knock them completely out of the marketplace as this bill seems to be doing.

Mr. THOMAS A. LUKEN. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I am glad to yield to the gentleman from Ohio.

Mr. THOMAS A. LUKEN. Mr. Speaker, the gentleman referred to legislation previously considered or introduced into this Congress. I believe the gentleman was referring to H.R. 1006 in the 99th Congress. That is the bill the gentleman originally asked about.

I associate myself with the response of the gentleman from Kansas [Mr. WHITTAKER]. But additionally, that bill was an absolute prohibition, and I say to the gentleman from Pennsylvania that that bill was a totally different kettle of fish, a different breed of cat from this bill, because this bill sets up a system of inspection and bonding, and we are not talking about a few exotic automobiles. We are not talking about a few sports-car enthusiasts who want a different kind of automobile. We are talking about importations that a couple of years ago amounted to some 55,000 or 60,000 vehicles a year. That number has gone down because of the economy, because of the rate of exchange and things of that kind, but we are talking about potentially hundreds of thousands of automobiles.

Mr. WALKER. I understand what the bill is aimed at doing. What this gentleman is trying to find out is whether or not it goes that whole direction and also attempts to tighten up on gray market to assure that cars being brought in in fairly substantial quantities meet Federal standards. We are also essentially banning other types of vehicles that would be brought in largely by enthusiasts, and my impression of this bill is that that is what we are doing. That is what I think would be a major mistake in this legislation.

There is no need, it seems to me, to go so far as to suggest that some cars that are largely enthusiast-type cars should not be brought into the marketplace. These are not people who are going to cause major safety problems. They are not people who are costing lives of people. In fact, if they are paying several hundred thousand for these vehicles, the chances are those vehicles are more carefully driven than those Toyotas brought into the country.

Mr. WHITTAKER. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from Kansas.

Mr. WHITTAKER. Mr. Speaker, I really believe there are probably two or possibly even three aspects that would tend to address the concerns the gentleman from Pennsylvania has expressed. First of all, as a personal collector of old automobiles myself, it should be recognized that this bill exempts anything 25 years or older. Many of the cars the gentleman might allege would have a resale value in the multiples of thousands of dollars generally are antiques, and would not be covered under this bill.

Mr. WALKER. Reclaiming my time, let us concentrate on one specific vehicle. If the gentleman is a collector, he knows the car, the Porsche 959, which is a very exotic car that was hand-built in a few quantities, a total of 200 cars where made, and it is a fairly recent car. But it is something that enthusiasts are very, very interested in. Would this bill ban the 959 from coming into the country?

□ 1315

Mr. WHITTAKER. If the automobile could be modified to meet our safety standards for our roads, then it would not be banned.

Mr. WALKER. Let me ask the gentleman what that means. Does that mean they would have to run crash tests and all that sort of thing on the vehicle in order to find out whether it meets our safety standards? Because obviously if you have a hand-built 200-vehicle car they are not going to want to run it into barriers in order to bring it into the country.

Mr. WHITTAKER. There are provisions in the bill that would identify that if the manufacturer of a car had any available safety data, they could present that safety data to NHTSA or the Secretary when they were seeking importation.

What I think the gentleman is describing is a situation where you may be talking about one, two, maybe five, conceivably a dozen automobiles in the entire United States in 1 year's time. I just do not honestly think it is going to create that much of a problem.

Mr. WALKER. Well, it only creates a problem if, in fact, what we are doing is ruling out the ability of those dozen automobiles or those 50 automobiles from coming in. That is all I am trying to determine is whether or not this bill does, in fact, contain that kind of prohibition or whether or not there are means by which those kinds of automobiles can be brought into the country and continue to get into the hands of collectors and continue to flow in the commerce in this country as they do in the rest of the world or whether or not we are by Federal Government fiat here suggesting there are some cars that are never going to be allowed to come into the United States.

Mr. THOMAS A. LUKEN. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I will be glad to yield to the gentleman from Ohio.

Mr. THOMAS A. LUKEN. I thank the gentleman for yielding.

Under the language of the bill, a motor vehicle which is substantially similar to motor vehicles that comply is permitted to be imported. And the Secretary is given discretion, and I will read it: "The Secretary may determine that a motor vehicle can be readily modified with respect to its concealed safety features to make it substantially the same as those of such originally manufactured motor vehicles * * * on the basis of data submitted to the Secretary."

Mr. WALKER. Well, let me ask the gentleman this then: Is everybody that wants to bring in such a car going to have to get a specific waiver from the Secretary of Transportation in order to bring the car into the country? That also would make for a fairly substantial penalty. Is that what the language means?

Mr. THOMAS A. LUKEN. On a model-by-model basis, yes.

Mr. WALKER. A model-by-model basis. So, in other words the manufacturer of that hand-built car could seek a coverage for a particular model that he is only going to make a few copies of for exemption from this law?

Mr. THOMAS A. LUKEN. This bill does not apply to original manufacturers. It does not apply to antiques either.

Mr. WALKER. Well, I would assume if someone was going to buy a Porsche 959 they would probably buy it from the Porsche Co. Now, is the gentleman telling me that Porsche would then seek an exemption for the 959 to be brought into this country?

Mr. THOMAS A. LUKEN. Porsche is the original manufacturer.

Mr. WALKER. That is right.

Mr. WHITTAKER. Mr. Speaker, I yield an additional 2 minutes to the gentleman from Pennsylvania.

Mr. WALKER. I thank the gentleman for yielding.

Let me understand then. The gentleman says the manufacturer cannot get it. Then it seems to me, it sounds to me like the individual is going to have to go in and get it on his own for his car. That is not on a model-by-model basis, that is on a car by car basis.

Mr. THOMAS A. LUKEN. The answer is it applies to importers, not to manufacturers.

Mr. DINGELL. Mr. Speaker, will the gentleman from Pennsylvania yield to me?

Mr. WALKER. I would be glad to yield to the chairman of the committee.

Mr. DINGELL. I thank the gentleman for yielding.

The purpose of the legislation is not to deal with original manufacturers. There has grown up, either for good reasons or bad and I think they are unfortunate, a gray market in imported expensive automobiles.

Mr. WALKER. Yes; I am familiar with that.

Mr. DINGELL. And the purpose of this legislation is to deal with and to require with regard to certain Federal standards those gray market manufacturers meet those Federal standards.

Mr. WALKER. I understand that. But the language of the bill seems to go beyond that. What I am now hearing is that if somebody buys a car overseas, wants to bring it here and do all the modifications on it they will have to personally go to the Secretary of Transportation and get an exemption for that car that they have bought in Europe and personally brought to this country. That sounds to me as though that is a fairly substantial burden being put on individuals by this legislation.

Mr. DINGELL. They do not have to go directly to the Secretary. The Secretary will set up regulations and delegate down through the Department to the people who will be handling the administration of that particular program.

The idea is that people have been doing very well going abroad buying cars that do not meet U.S. standards, bringing them over here and having them modified so that supposedly they "meet U.S. standards" when, in fact, they do not do so.

This bill is meant to deal with that in two ways. First of all, see to it that it is done in an orderly manner and a proper fashion and no more games played.

Second, it is done to see to it that the American firms that deal in imported automobiles will bring in honest automobiles which are directed at meeting fully U.S. standards, in fact, do meet those standards and that they are protected against this kind of unfair competition. A lot of these vehicles will be modified by fly-by-nights and people of that character, under current law there are situations where later they do not meet U.S. standards. So, this is an attempt to rationalize that kind of situation.

Mr. WALKER. The bill may go too far. I thank the gentleman for yielding.

Mr. KOLBE. Mr. Speaker, I rise in strong support of H.R. 2628, the Imported Vehicle Safety Compliance Act. This legislation, offered by the gentleman from Kansas [Mr. WHITTAKER] takes aim at the so-called gray market in which foreign automobiles are imported into this country for resale without conforming to Federal safety and emissions standards. Similar legislation was passed by the House in the 99th Congress but died in the other body at the end of the session.

Though the gray market is invisible to most Americans, it is a serious concern to the Government agencies charged with safeguarding our Nation's roads and highways. Through loopholes in existing law, thousands of automobiles enter the United States each year that may not comply with applicable Federal safety regulations.

Such loopholes are at odds with congressional intent. When the National Traffic and Motor Vehicle Safety Act was enacted in 1966, Congress clearly required that new and used automobiles be modified to comply with Federal safety standards before being used on public roads. Nonetheless, studies since then suggest that the gray market laws are routinely violated.

Indeed, in a report issued last year, the General Accounting Office surveyed the implementation of the gray market program at the National Highway Transportation Safety Administration, the Environmental Protection Agency, and the U.S. Customs Service. In the case of NHTSA, the GAO randomly selected 50 cases to review how NHTSA examines and approves the documentation submitted by gray market importers. In nearly half the cases, the importers had not submitted the required documentation to NHTSA within the required time period.

When GAO selected 5 of the remaining 29 cases to review them in detail, it found that "NHTSA accepted incorrect, incomplete, or inadequate documentation to substantiate that each of these 5 vehicles met all the safety requirements." After examining the gray market programs at EPA and Customs, GAO concluded that "the gray market program as now operated does not * * * have sufficient controls to ensure that the vehicles are being modified to meet Federal safety and emission standards."

The legislation before us today tightens existing law to help keep unsafe gray market cars and trucks off public roads and highways. H.R. 2628 amends the 1966 act to establish a new program governing imported vehicles that are not in compliance with Federal motor vehicle safety and emission standards.

Under the new program, such vehicles can be imported only if they are substantially similar to vehicles originally manufactured for import into the United States, or if testing shows they could be modified to comply with applicable standards. Importers would be required to register with the Department of Transportation, and to furnish a bond for each vehicle to ensure it will be brought into conformity with safety standards—or exported, if necessary, at no cost to the Government or the taxpayers.

At the same time, the bill gives individuals, such as American service men and women stationed overseas, the freedom to import a vehicle for personal use in this country provided they post the necessary bond and can certify their vehicle passes safety and emissions tests. The amount of the bond must be at least equal to the dutiable value of the car—generally 2.5 percent of its total value—but not more than 150 percent of the dutiable value. To ensure reliability, the certification process must be carried out with the help of a registered importer.

Finally, H.R. 2628 preserves United States production sharing with Mexico and other countries, the arrangement whereby vehicles and vehicle equipment are partially manufactured by United States companies abroad before being shipped to the United States for final assembly and distribution. Under the bill, such imports must be accompanied at the time of entry by a written statement, issued by the manufacturer, indicating the applicable motor vehicle safety standards with which the motor vehicle or item is not in compliance. This will ensure that the finished automobiles conform to U.S. safety and emissions standards.

By passing H.R. 2628, we can cast a much-needed light on the gray market, exposing its dangers and inequities for all to see. I urge my colleagues to support this legislation and to work for its speedy passage.

Mr. WHITTAKER. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. THOMAS A. LUKEN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. GRAY of Illinois). The question is on the motion offered by the gentleman from Michigan [Mr. DINGELL] that the House suspend the rules and pass the bill, H.R. 2628, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN THE ENGROSSMENT OF H.R. 2628, IMPORTED VEHICLE SAFETY COMPLIANCE ACT OF 1987

Mr. THOMAS A. LUKEN. Mr. Speaker, I ask unanimous consent that in the engrossment of the bill, H.R. 2628, the Clerk be authorized to correct section numbers, punctuation, and cross references, and to make such other technical and conforming changes as may be necessary to reflect the actions of the House in passing this bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

GENERAL LEAVE

Mr. THOMAS A. LUKEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and to include extraneous matter therein on H.R. 2628, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

ALTERNATIVE MOTOR FUELS ACT OF 1987

Mr. SHARP. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3399) to develop a national alternative motor fuels policy and to coordinate efforts to implement such policy, as amended.

The Clerk read as follows:

H.R. 3399

Be it enacted by the Senate and House of Represenatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Alternative Motor Fuels Act of 1987".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds and declares that—

(1) The achievement of long-term energy security for the United States is essential to the health of the national economy, the well-being of our citizens, and the maintenance of national security;

(2) the displacement of energy derived from imported oil with domestically produced energy will contribute to an improved international trade balance for the United States and increased employment opportunties for our citizens;

(3) the Nation's security and economic interests require that the Federal Government should assist a clean-burning, domestically produced transportation fuel to reach a threshold level of commercial application at which it can successfully compete with petroleum-based fuels;

(4) alcohols appear to be the alternative liquid fuel with the best technological and economic prospect of displacing significant quantities of petroleum-based transportation fuels;

(5) there are proven coal reserves in the United States sufficient to provide alcohol fuel for transportation use for at least the next four hundred years;

(6) the use of alcohols and natural gas to displace gasoline and diesel fuel in the Nation's automobiles, trucks, and buses will significantly reduce reliance on imported oil and enhance the Nation's security and environment;

(7) Federal and State agencies and the energy and motor vehicle industries have already established a base of information about alcohols and natural gas as transportation fuels, which this Act will further develop; and

(8) Federal and State governments should assist in bringing alcohol fueled vehicles to a level of commercial application comparable to other alternative fueled vehicles and should provide incentives for the adoption of nonpetroleum alternatives, and competition in the marketplace should then determine which alternative fuels become commercially accepted.

(b) PURPOSES.—The purposes of this Act are to provide—

(1) that the Federal Government shall—

(A) continue the development of an alcohol fuels commercial application program by increasing the purchases and use of alcohol fueled light duty vehicles, including passenger automobiles and light duty trucks, and the use of alcohol fueled heavy duty vehicles, including trucks, buses, and other heavy duty applications;

(B) in cooperation with heavy duty engine and vehicle manufacturers, establish a commercial application program for the operation of alternative fueled trucks;

(C) establish a program for the operation of alcohol, natural gas, and LP-gas fueled buses in urban areas;

(D) assist State and local entities in purchasing alcohol, natural gas, and LP-gas fueled buses;

(E) study the feasibility of a small, relocatable methane to methanol plant;

(F) remove disincentives to the use of alternative transportation fuel;

(G) promote the availability and use of alternative transportation fuels;

(H) promote the manufacture and purchase of alternative fueled vehicles by assisting engine and vehicle manufacturers in demonstrating the engine's capability to operate on alternative fuels;

(I) increase the commercial availability of alcohol fuels; and

(J) complement, support, and further existing State and manufacturer sponsored alcohol fuel programs; and

(2) for the establishment of an Interagency Commission on Methanol to develop and coordinate the implementation of a national methanol energy policy.

SEC. 3. AMENDMENT OF ENERGY POLICY AND CONSERVATION ACT.

Title III of the Energy Policy and Conservation Act is amended by adding at the end the following new part:

"PART J—ENCOURAGING THE USE OF ALTERNATIVE FUELS

"SEC. 400AA. ALTERNATIVE FUEL USE BY LIGHT DUTY FEDERAL VEHICLES.

"(a) DEPARTMENT OF ENERGY PROGRAM.—(1) Beginning in the fiscal year ending September 30, 1990, the Secretary shall ensure, with the cooperation of other appropriate agencies and consistent with other Federal law, that the maximum number practicable of the passenger automobiles and light duty trucks acquired annually for use by the Federal Government shall be alcohol powered vehicles, dual energy vehicles, natural gas powered vehicles, or natural gas dual energy vehicles.

"(2) In any determination of whether the acquisition of a vehicle is practicable under paragraph (1), the cost of such vehicle to the United States shall not be considered as a factor unless the initial cost of such vehicle exceeds the initial cost of a comparable conventional fueled vehicle by at least 5 percent.

"(3) The Secretary shall, to the extent practicable and consistent with this part, ensure that the number of dual energy vehicles acquired under this subsection is at least as great as the number of alcohol powered vehicles acquired under this subsection, and that the number of natural gas dual energy vehicles acquired under this subsection is at least as great as the number of natural gas powered vehicles acquired under this subsection.

"(b) STUDIES.—(1) The Secretary, in cooperation with other Federal agencies regulating motor vehicles for safety and environmental purposes, shall conduct studies related to the vehicles acquired under subsection (a), including—

"(A) projects to demonstrate the performance of such vehicles,

"(B) an evaluation of the performance of such vehicles in cold weather,

"(C) an evaluation of the performance of such vehicles at high altitude,

"(D) a study of the fuel economy, safety, and emissions of such vehicles, and

"(E) a comparison of the operation and maintenance costs of such vehicles to the operation and maintenance costs of other passenger automobiles and light duty trucks.

"(2)(A) The Secretary shall conduct a study of the advisability and feasibility of the government selling vehicles acquired under subsection (a) to the public. Such study shall take into account existing laws governing the sale of government vehicles and specifically focus on when to sell such vehicles and what price to charge so as to best include the public to purchase such vehicles without compromising studies of the use of such vehicles authorized under this part.

"(B) The Secretary shall report the results of the study conducted under subparagraph (A) to the Congress within 6 months after the date of the enactment of this part.

"(c) AVAILABILITY TO THE PUBLIC.—At locations where vehicles acquired under subsection (a) are supplied with alcohol, alcohol shall be offered for sale to the public for use in other vehicles, unless—

"(1) alcohol is commercially available for vehicles in the vicinity of such locations;

"(2) security considerations prevent the offering for sale of alcohol at such locations; or

"(3) the sale of alcohol at such location is otherwise impracticable or inappropriate or not in accordance with applicable Federal law.

"(d) FEDERAL AGENCY USE OF DEMONSTRATION VEHICLES.—(1) Upon the request of the head of any agency of the Federal Government, the Secretary shall ensure that such Federal agency be provided with vehicles acquired under subsection (a) to the maximum extent practicable.

"(2)(A) Funds appropriated under this section for the acquisition of vehicles under subsection (a) shall be applicable only to the portion of the cost of vehicles acquired under subsection (a) which exceeds the cost of comparable conventional fueled vehicles.

"(B) The Secretary shall ensure that the cost to any Federal agency receiving a vehicle under paragraph (1) shall not exceed the cost to such agency of a comparable conventional fueled vehicle.

"(3) Only one-half of the vehicles acquired under this section by an agency of the Federal Government shall be counted against any limitation under law, Executive order, or executive or agency policy on the number of vehicles which may be acquired by such agency.

"(4) Any Federal agency receiving a vehicle under paragraph (1) shall cooperate with studies undertaken by the Secretary under subsection (b).

"(e) DETAIL OF PERSONNEL.—Upon the request of the Secretary, the head of any Federal agency may detail, on a reimbursable basis, any of the personnel of such agency to the Department of Energy, to assist the Secretary in carrying out his duties under this section.

"(f) EXEMPTIONS.—(1) Vehicles acquired under this section shall not be counted in any calculation of the average fuel economy of the fleet of passenger automobiles acquired in a fiscal year by the United States.

"(2) The incremental cost of vehicles acquired under this section over the cost of comparable conventional fueled vehicles shall not be applied to any calculation with respect to a limitation under law on the maximum cost of individual vehicles which may be acquired by the United States.

"(g) DEFINITIONS.—For purposes of this part—

"(1) the term 'acquired' means leased for a period of sixty continuous days or more, or purchased;

"(2) the term 'alcohol' means a mixture containing 85 percent or more methanol, ethanol, or other alcohols by volume;

"(3) the term 'alcohol powered vehicle' means a vehicle designed to operate exclusively on alcohol;

"(4) the term 'dual energy vehicle' means a vehicle which—

"(A) is capable of operating on alcohol and on conventional fuel; and

"(B) provides equal or superior energy efficiency, as calculated during fuel economy testing for the Federal Government, while operating on alcohol as it does while operating on conventional fuel;

"(5) the term 'nautral gas dual energy vehicle' means a vehicle which—

"(A) is capable of operating on natural gas and on conventional fuel; and

"(B) provides equal or superior energy efficiency, as calculated during fuel economy testing by the Federal Government, while operating on natural gas as it does while operating on conventional fuel; and

"(6) the term 'natural gas powered vehicle' means a vehicle designed to operate exclusively on natural gas.

"(h) FUNDING.—(1) For alcohol powered vehicles and dual energy vehicles, there is authorized to be appropriated for the fiscal year ending September 30, 1990, $5,000,000, for the fiscal year ending September 30, 1991, $3,000,000, for the fiscal year ending September 30, 1992, $2,000,000, and for the fiscal year ending September 30, 1993, $2,000,000, to carry out the purposes of this section. For natural gas powered vehicles and natural gas dual energy vehicles, there is authorized to be appropriated for the fiscal year ending September 30, 1990, $1,000,000.

"(2) The authority of the Secretary to obligate amounts to be expended under this section shall be effective for any fiscal year only to such extent or in such amounts as are provided in advance by appropriation Acts.

"SEC. 400BB. ALTERNATIVE FUELS TRUCK COMMERCIAL APPLICATION PROGRAM.

"(a) ESTABLISHMENT.—The Secretary, in cooperation with manufacturers of heavy duty engines, and other Federal agencies, shall establish a commerical application program to study the use of alcohol, natural gas, and LP-gas in heavy duty trucks and other heavy duty applications if appropriate.

"(b) AVAILABILITY TO THE PUBLIC.—At locations where trucks or other heavy duty applications operating under the commercial application program established under subsection (a) are supplied with alcohol, alcohol shall be offered for sale to the public for use in other vehicles, unless—

"(1) alcohol is commerically available for trucks or other heavy duty applications in the vicinity of such locations;

(2) security considerations prevent the offering for sale of alcohol at such location; or

"(3) the sale of alcohol at such location is otherwise impracticable or inappropriate or not in accordance with applicable Federal law.

"(c) FUNDING.—(1) There is authorized to be appropriated for the period encompassing the fiscal years ending September 30, 1989, September 30, 1990, September 30, 1991, and September 30, 1992, a total of $3,000,000 for alcohol powered vehicles and dual energy vehicles, and a total of $3,000,000 for natural gas powered vehicles and natural gas dual energy vehicles, to carry out the purposes of this section.

"(2) The authority of the Secretary to obligate amounts to be expanded under this section shall be effective for any fiscal year only to such extent or in such amounts as are provided in advance by appropriation Acts.

"SEC. 400CC. ALCOHOL, NATURAL GAS, AND LP-GAS FUELED BUS PROGRAM.

"(a) IN GENERAL.—The Secretary, in cooperation with other Federal agencies regulating motor vehicles for safety and environmental purposes, shall, beginning in the fiscal year ending September 30, 1989, assist in the acquisition of buses capable of operating on alcohol, buses capable of operating on natural gas, and buses capable of operating on LP-gas.

"(b) TESTING.—The Secretary, in cooperation with other Federal agencies regulating motor vehicles for safety and environmental purposes, shall test in urban settings the emissions levels, durability, and fuel economy of buses purchased under subsection (a), comparing the different types with diesel powered buses, as such buses will be required to operate under Federal safety and environmental standards applicable to such buses for the model year 1991.

"(c) FUNDING.—(1) There is authorized to be appropriated for the period encompassing the fiscal years ending September 30, 1989, September 30, 1990, September 30, 1991, and September 30, 1992, a total of $4,000,000 to carry out the purposes of this section.

"(2) The authority of the Secretary to obligate amounts to be expended under this section shall be effective for any fiscal year only to such extent or in such amounts as are provided in advance by appropriation Acts.

"(d) DEFINITIONS.—For purposes of this section—

"(1) the term 'bus' means a vehicle which is designed to transport 30 individuals or more; and

"(2) the term 'LP-gas' means hydrocarbon mixtures consisting predominantly of propane and butanes.

"SEC. 400DD. INTERAGENCY COMMISSION ON ALTERNATIVE MOTOR FUELS.

"(a) ESTABLISHMENT.—There is established a commission to be known as the Interagency Commission on Alternative Motor Fuels, which shall develop a national alternative motor fuels policy and coordinate efforts to implement such policy.

"(b) MEMBERSHIP.—The Commission shall be composed of members as follows:

"(1) The Secretary of Energy, or the designee of the Secretary, who shall be the chairperson of the Commission;

"(2) the Secretary of Defense or the designee of such Secretary;

"(3) the Administrator of the Environmental Protection Agency or the designee of such Administrator;

"(4) the Secretary of Transportation or the designee of such Secretary;

"(5) the Postmaster General or the designee of the Postmaster General;

"(6) the Administrator of the General Services Administration or the designee of such Administrator;

"(7) the Administrator of the Occupational Safety and Health Administration or the designee of such Administrator; and

"(8) such other officers and employees of the Federal Government as may be appointed to the Commission by the Secretary.

"(c) OPERATIONS.—(1) The Commission shall meet as necessary to carry out the purposes of this section, at the call of the chairperson of the Commission.

"(2) One-third of the Commission shall constitute a quorum.

"(3) No member of the Commission shall receive additional pay, allowances, or benefits by reason of the service of such member on the Commission.

"(4) The Secretary shall provide the Commission with such staff and office facilities as the Secretary, following consulation with the Commission, considers necessary to permit the Commission to carry out its duties under this section.

"(d) DUTIES.—(1) The Commission shall study the following issues or ensure that such issues are studied:

"(A) The need for and benefits from use of alternative motor fuels in the United States.

"(B) The economics of significant near-term alternative motor fuels.

"(C) Environmental benefits that can be obtained from use of alternative motor fuels.

"(D) Energy security benefits that can be obtained from alternative motor fuel use.

"(E) Environment, health, and safety problems related to the use of significant near-term alternative motor fuels.

"(F) Benefits to the military from the availability of alternative motor fuels under both peacetime and war time conditions.

"(G) National alternative motor fuels policies in other nations, with special emphasis on the alcohol fuels program of Brazil, and the extent to which those policies may serve as models for a national alternative motor fuels policy in the United States.

"(H) Existing State and local laws and regulations regarding alternative motor fuels, and the extent to which such laws and regulations may impede the achievement of the purposes set forth in the Alternative Motor Fuels Act of 1987.

"(I) Whether the purposes set forth in the Alternative Motor Fuels Act of 1987 may be achieved by action of the private market, or whether and what kind of governmental action beyond that contained in this and other Acts may be necessary.

"(2) The Commission shall develop a long-term plan for the commercialization of alcohols, natural gas, and other potential alternative motor fuels.

"(3)(A) The Commission shall ensure communication between representatives of all Federal agencies that are involved in alternative motor fuels demonstration and commercialization projects or that have an interest in such projects.

"(B) The Commission shall establish a clearinghouse for the exchange of information between persons working with, or interested in working with, the commercialization of alternative motor fuels.

"(e) PRIVATE SECTOR ADVISORY PANEL.—(1) The chairperson of the Commission shall, consistent with the Federal Advisory Committee Act, establish a private sector advisory panel to inform the Commission about matters related to alternative motor fuels. Such chairperson shall appoint the members of the panel.

"(2) The members of the panel shall be persons employed in the private sector or by State or local government who are knowledgeable about alternative motor fuels and their possible uses and the production of alternative motor fuels and vehicles powered by such fuels. Such members may not be full-time officers or employees of the Federal Government.

"(3) The panel shall meet at the call of the chairperson of the Commission.

"(f) DETAIL OF FEDERAL PERSONNEL.—Upon request of the Commission, the head of any Federal agency may detail, on a reimbursable basis, any of the personnel of such agency to the Commission to assist the Commission in carrying out its duties under this section.

"(g) REPORTS.—(1) The Commission shall, not later than September 30 of each of the years 1989, 1990, and 1991, submit an interim report to the Congress setting forth the actions taken and findings made by the Commission under subsection (d).

"(2) The Commission shall, not later than September 30, 1992, submit a final report to the Congress setting forth the actions taken and findings made by the Commission under subsection (d), including the details of the plan required by subsection (d)(2).

"(3) The results of any study or studies undertaken under subsection (d) shall be made available to the public at such times and in such manner as determined appropriate by the Secretary.

"(h) TERMINATION.—The Commission and the panel shall terminate upon submission of the final report of the Commission under subsection (g)(2).

"(i) DEFINITIONS.—For purposes of this section—

"(1) the term 'Commission' means the Interagency Commission on Alternative Motor Fuels established in subsection (a); and

"(2) the term 'panel' means the private sector advisory panel established in subsection (e)(1).

"SEC. 400EE. STUDIES AND REPORTS.

"(a) METHANOL STUDIES.—(1) The Secretary shall undertake a study of the comparative costs of methanol based on natural gas, methanol based on coal, and methanol based on other resources. Such study shall include a study of various sizes of facilities for each resource, and shall—

"(A) identify the optimum size for obtaining maximum economies of scale;

"(B) identify the largest size feasible consistent with current and projected near-term demand for methanol; and

"(C) consider and quantify 'learning curve' benefits associated with the sequential construction of additional facilities.

"(2)(A) In conducting studies under paragraph (1), the Secretary shall include a study of methanol plants that are—

"(i) capable of utilizing current domestic supplies of unutilized natural gas;

"(ii) relocatable; or

"(iii) suitable for natural gas to methanol conversion by natural gas distribution companies.

"(B) For purposes of this paragraph, the term 'unutilized natural gas' means gas that is available in small remote fields and cannot be economically transported to natural gas pipelines, or gas the quality of which is so poor that extensive and uneconomic pretreatment is required prior to its introduction into the natural gas distribution system.

"(b) ENVIRONMENTAL STUDY.—The Administrator, in accordance with existing law, shall complete, within two years after the date of the enactment of this section, a comprehensive analysis with respect to the environmental impacts associated with the storage, distribution, and use of significant amounts of methanol as transportation fuel as compared to existing diesel and gasoline fuels.

"(c) REPORTS.—(1) The Secretary, with the cooperation, where appropriate, of the Administrator, shall submit semiannual reports of the actions taken and findings made under this part to the Congress. The first such report shall be submitted no later than September 30, 1988. The last such report shall be submitted no later than September 30, 1992.

"(2) The last report referred to in paragraph (1) shall summarize all actions taken and findings made under this part.

"(d) FUNDING.—(1) There is authorized to be appropriated to carry out the purposes of this section $975,000 for the fiscal year ending September 30, 1989.

"(2) The authority of the Secretary to obligate amounts to be expended under this section shall be effective for any fiscal year only to such extent or in such amounts as are provided in advance by appropriation Acts.".

SEC. 4. USE OF NONSTANDARD FUELS.

No guaranty or warranty with respect to any passenger automobile or light-duty truck acquired by the United States after October 1, 1988, shall be voided or reduced in effect by reason of the operation of such vehicle with any fuel for which a currently effective waiver, which includes a limitation regarding Reid vapor pressure with respect to such fuel, has been issued by the Administrator of the Environmental Protection Agency under section 211(f) of the Clean Air Act (42 U.S.C. 7545(f)).

SEC. 5. FUEL EFFICIENCY STANDARDS.

(a) ALCOHOL POWERED VEHICLES.—If a manufacturer manufactures a alcohol powered vehicle, such vehicle shall be treated as if it were propelled by fuel, for purposes of any applicable Federal average fuel economy standard. The vehicle's fuel economy shall be based on the nonalcohol fuel content of the alcohol suitable for use in operating such vehicle. For purposes of this section, a gallon of the alcohol suitable for use in operating such vehicles shall be considered to contain 15 one-hundredths of a gallon of nonalcohol fuel.

(b) DUAL ENERGY VEHICLES.—If a manufacturer manufactures a dual energy vehicle, the fuel economy of such vehicle for purposes of any applicable Federal average fuel economy standard shall be determined by adding the fuel economy of such vehicle while operating on alcohol, as calculated under subsection (a), to the fuel economy of such vehicle while operating on conventional fuel, and dividing such sum by two.

(c) NATURAL GAS POWERED VEHICLES.—If a manufacturer manufactures a natural gas powered vehicle, such vehicle shall be treated as if it were propelled by fuel, for purposes of any applicable Federal average fuel economy standard. The vehicle's fuel economy shall be based on the fuel content of the energy suitable for use in operating such vehicles. For purposes of this section, 100 cubic feet of the energy suitable for use in operating such vehicles shall be considered to contain 0.823 gallons equivalent of natural gas, and a gallon equivalent of natural gas shall be considered to have a fuel content of 15 one-hundredths of a gallon.

(d) NATURAL GAS DUAL ENERGY VEHICLES.—If a manufacturer manufactures a natural gas dual energy vehicle, the fuel economy of such vehicle for purposes of any applicable Federal average fuel economy standard shall be determined by adding the fuel economy of such vehicle while operating on natural gas, as calculated under subsection (c), to the fuel economy of such vehicle while operating on conventional fuel, and dividing such sum by two.

(e) DETERMINATION OF FUEL ECONOMY STANDARD.—(1) Vehicles described in subsection (a) or (c) shall not be taken into account in any determination of maximum feasible average fuel economy for the purpose of establishing a Federal average fuel economy standard.

(2) Vehicles described in subsection (b) or (d) shall be treated as if they will be operated exclusively on conventional fuels in any determination of maximum feasible average fuel economy for the purpose of establishing a Federal average fuel economy standard.

(3) Except as provided in paragraphs (1) or (2), alcohol and natural gas shall not be treated as a fuel for purposes of establishing a Federal average fuel economy standard.

(f) APPLICABILITY.—(1) Subsections (a), (b), (c), and (d) shall not apply to vehicles manufactured before the model year 1991.

(2) Fuel economy credits generated as a result of the application of subsections (a), (b), (c), and (d) shall not be available to a manufacturer for application to any model year before the model year 1991.

(g) DEFINITIONS.—For purposes of this section—

(1) the term "alcohol" means a mixture containing 85 percent or more methanol, ethanol, or other alcohols by volume;

(2) the term "alcohol powered vehicle" means a vehicle designed to operate exclusively on alcohol;

(3) the term "dual energy vehicle" means a vehicle which—

(A) is capable of operating on alcohol and on conventional fuel; and

(B) provides equal or superior energy efficiency, as calculated during fuel economy testing for the Federal Government, while operating on alcohol as it does while operating on conventional fuel;

(4) the term "natural gas dual energy vehicle" means a vehicle which—

(A) is capable of operating on natural gas and on conventional fuel; and

(B) provides equal or superior energy efficiency, as calculated during fuel economy testing by the Federal Government, while operating on natural gas as it does while operating on conventional fuel; and

(5) the term "natural gas powered vehicle" means a vehicle designed to operate exclusively on natural gas.

The SPEAKER pro tempore. Is a second demanded?

Mr. MOORHEAD. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Indiana [Mr. SHARP] will be recognized for 20 minutes, and the gentleman from California [Mr. MOORHEAD] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Indiana [Mr. SHARP].

Mr. SHARP. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to bring to the House of Representatives H.R. 3399, a bill to encourage the development of alternatives to gasoline as a transportation fuel. It may be one of the most significant actions we can take to improve our energy security and our air quality in the coming decade.

This bill has wide bipartisan support, and I would like to thank some of the people who encouraged and worked toward its development. Chairman DINGELL has, as always, provided important leadership. My colleagues from California, Mr. MOORHEAD and Mr. DANNEMEYER, have made major contributions, and the bill relies heavily on the work done in their State by the California Energy Commission. Mr. WISE and Mr. WYDEN have lent their advice and counsel and Mr. ALEXANDER who has long been a leader in promoting alcohol fuel.

Before proceeding with an explanation of the bill, I want to point out that this bill has been modified since it was reported by the Energy and Commerce Committee. Part of the bill affected the spending of urban mass transit funds. This clearly falls with the jurisdiction of the Committee on Public Works and Transportation.

After this fact was brought to our attention, the section in question was deleted from the bill. On this understanding the chairman of the committee did not seek a sequential referral. Additionally some minor technical provisions dealing with the responsibilities of a commission that is created as a result of this bill have been clarified.

H.R. 3399 offers the prospect of replacing a significant portion of the gasoline and diesel fuel used in America's vehicles, probably the single most important step we can take in today's climate to reduce oil imports in the coming decade. Automobiles use about half of the oil consumed in the United States. Converting just 10 percent of our cars to an alternative fuel by the end of the century would reduce oil demand and oil imports by almost a million barrels per day.

Commercial adoption of alternative vehicle fuels is now blocked by the chicken-and-egg problem. Manufacturers will not produce the cars until consumers will buy them; consumers will not buy them until they can conveniently buy the alternative fuel; and fuel distributors will not supply the fuel until there are cars on the road to use it.

The central provision of H.R. 3399 is a CAFE [corporate average fuel economy] standard incentive for manufacturers to build methanol, ethanol, or compressed natural gas [CNG] cars. It does so by calculating the mileage of a car for CAFE purposes on the basis of the petroleum content of the fuel—about 15 percent.

Because the alternative fuels will only gradually become available when the new cars are on the road, it is likely that many of the first dual-fueled cars will initially run largely on gasoline. This creates the risk that there will be an initial small increase in gasoline consumption, perhaps up to four-tenths of 1 percent if the cars run entirely on gasoline in the first year. But this small increase will be more than offset by the continuing improvement in overall fleet efficiency as older cars are replaced, and it is a small risk compared to the large potential gain from encouraging a replacement of gasoline.

Some fear that this provision could be a way for manufacturers to reduce fuel efficiency without increasing the use of alternative fuels; although I believe these fears are exaggerated, I have no problem with accepting in conference a reasonable cap or limit on the use of this incentive—something under 2 miles per gallon—as suggested by Mr. SYNAR, Mrs. BOXER, and others.

Mrs. BOXER. Mr. Speaker, will the gentleman yield?

Mr. SHARP. I yield to the gentlewoman from California [Mrs. BOXER].

Mrs. BOXER. I thank the gentleman for yielding.

Mr. Speaker, this is a very central point. We do have several goals in our energy policy as we should and one is the subject of the bill of the gentleman from Indiana to get alternative fuel, and a very important issue of which I am very supportive.

But second, we want to make sure that we do not lose those fuel efficient cars. We have to continue to make sure that we do not get ourselves back into the crisis of the seventies when we had the foreign markets take over, and we did not have the fuel efficient cars.

So the fact that the gentleman has stated that he is willing to look at a cap of two or below is very important to us and I wanted to thank him very much for those comments.

Mr. SHARP. I thank the gentlewoman. It is frankly our judgment that this bill would not be able to become law without some kind of clear protection that we do not let the CAFE standards erode on us. I in 1975 offered the amendment that became the CAFE standards on the House floor. So I have a special interest as she does in seeing that we continue to advance fuel economy. And I appreciate her work in this area.

Mrs. BOXER. I thank the gentleman for his very intelligent leadership on this issue.

Mr. SHARP. I thank the gentlewoman.

Mr. Speaker, the other main part of H.R. 3399 provides for testing and demonstrating alternative-fueled cars, trucks, and buses to encourage their commercialization.

H.R. 3399 as reported by the Committee on Energy and Commerce is being amended in several minor ways.

First, section 400BB relating to demonstration of alternative fuels in vehicles has been amended to make clear that the demonstrations required are of commercial applications.

Second, as I noted earlier, section 400DD relating to the mandatory use of alternative fueled buses by mass transit operators in areas not achieving Clean Air Act standards has been deleted.

Third, section 400EE relating to a commission to coordinate alternative transportation fuels development has been modified incorporating some of the recommendations of our colleague from Arkansas [Mr. ALEXANDER]. Fourth, an environmental study of the effects of increased use of methanol, including aldehyde emissions results were incorporated.

Consequently, H.R. 3399 is a bill which can make a difference in this Nation's energy security and air quality. It does not rely on heavyhanded regulation and relies on very minimal expenditure of funds and hopefully will nudge the marketplace in this country toward more alternatives, not only for the consumer but also for the country as it faces its energy problems in the future.

Mr. Speaker, I reserve the balance of my time.

Mr. MOORHEAD. Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. DANNEMEYER].

Mr. DANNEMEYER. Mr. Speaker, I rise in support of this measure.

Mr. Speaker, I join with a bipartisan coalition in taking a major step toward energy independence and enhanced air quality with the introduction of comprehensive methanol legislation in the form of H.R. 3399, the Methanol Energy Policy Act of 1987. I am pleased to be a part of this coalition as a member of the Energy and Commerce Committee and as a Representative from California, the State that leads the Nation in methanol development.

We as a nation face an uncertain and unstable energy future in the absence of long-range planning and policies to provide for our needs in the next decade and beyond. In addition, our oil imports were slightly over one-third of our daily demand at the cost of almost $38 billion in 1986 when the United States ran up a record $156 billion trade deficit. Anything we can do to reduce oil imports in a responsible manner deserves our attention.

Methanol is an alternative fuel that can reduce our oil imports by providing a reliable transportation fuel. Fleets of methanol cars and buses have been operating successfully in California for a number of years by the private sector and by the public sector through a program run by the California Energy Commission. Methanol can be made from natural gas or coal, among other feedstocks. As a cleaner burning fuel, methanol permits greater use of coal in an environmentally sound manner.

While energy benefits are important, I am particularly interested in the environmental benefits of cleaner burning fuels such as methanol. I represent an area of southern California which is a nonattainment area under the Clean Air Act. We will not be able to achieve Federal air quality standards without alternative fuels. The use of methanol as part of an air quality strategy has been supported by the South Coast Air Quality Management District [SCAQMD], the California Lung Association, and others.

The promise of methanol will not become a reality unless a vehicle can be delivered to consumers at a price comparable to conventional gasoline models. The same goes for the cost of the fuel itself. Additional on-the-road experience is essential to determine how to expand the use of methanol and fleets are a good way to acquire such information. For that reason, H.R. 3399 requires the Federal Government, beginning in fiscal year 1990 through 1993, to purchase automobiles and light duty trucks capable of running on methanol alone or on both methanol or gasoline, dual fuel vehicles, as part of the fleet it would otherwise purchase. The Secretary of Energy is required to conduct studies on the performance of methanol and dual fuel vehicles.

Since diesel emissions from trucks and buses are a disproportionate source of air emissions, particularly in urban areas like Los Angeles and San Francisco, the bill mandates that buses purchased with Federal funds after January 1, 1992, be methanol fueled, compressed natural-gas fueled, or LP-gas fueled.

This legislation is the culmination of a series of hearings dating back to the 97th Congress and is a combined effort of those who sponsored and cosponsored individual bills in the last Congress. Last year, the Methanol Energy Policy Act of 1985, a bipartisan bill cosponsored by a number of my colleagues on the Energy and Commerce Committee, was approved unanimously by voice vote in the committee and subsequently passed the House under suspension of the rules. It is my hope that H.R. 3399, the Alternative Motor Fuels Act of 1987, will be enacted by the House today and move further through the process to become law in the near future.

Mr. MOORHEAD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 3399, the Alternative Motor Fuels Act.

This legislation is intended to begin the process of eliminating the greatest current threat to this Nation's energy security—our near total dependence on oil as a transportation fuel. Ninety-seven percent of all transportation in this country is fueled by gasoline and other products derived from oil. We use more oil to drive our automobiles and power our planes and other modes of transportation than we can produce. Clearly, we cannot continue along this path forever. We must begin to diversify the motor fuels market.

There can be little argument with these conclusions. The difficult question is what can and should be done by the Federal Government. If we have learned anything from recent experiences with regulation of energy it is that Government cannot successfully balance supply and demand and ensure reasonable prices for consumers. Further, the Government cannot force the market to accept new technologies. Attempting to do so can only be counterproductive.

The Alternative Motor Fuels Act would not repeat the regulatory mistakes of the past. Instead of dictating to the market, this bill is an attempt to encourage market testing of promising alternatives to gasoline as a fuel for motor vehicles. The primary approach is to set up demonstration programs to test vehicles running on alternative fuels under actual driving conditions. The Secretary of Energy would be responsible for ensuring the purchase of alternative fuel vehicles for the Federal fleet to carry out this program. This is not a new approach. My own State of California has had such a program for several years. Much valuable data and experience have been derived from the California program, and now that State is moving ahead with other initiatives based upon what has been learned. It is time that the Federal Government got going on its own program.

H.R. 3399 also contains provisions for comparative studies of the various alternative fuels, and for granting automobile manufacturers credits against corporate average fuel economy standards for building alternative fuel vehicles.

The Federal Fleet Demonstration Program, the studies, and the CAFE incentives are all intended to remove barriers to market acceptance of those alternative fuels which prove worthy of use. No individual consumer will be required to purchase or to use an alternative fuel vehicle; no one will be required to sell or purchase alternative fuels; and no one will be required to manufacture alternative fuel vehicles. The legislation does not dictate to the transportation fuels market, it simply attempts to light the path toward diversification.

Finally, I want to commend and thank subcommittee Chairman SHARP for his work on this legislation, as well as Chairman DINGELL. This has been a bipartisan effort from the start. The bill was approved by the Subcommittee on Energy and Power, and by the Committee on Energy and Commerce by unanimous voice vote.

I strongly urge my colleagues to vote for H.R. 3399.

Mr. SHARP. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Arkansas [Mr. ALEXANDER].

Mr. ALEXANDER. Mr. Speaker, like unto the famous axiom that "a journey of a thousand miles begins with a single step," today we take an important first step towards establishing a coherent national alternative fuels policy by enacting H.R. 3399, to develop a national alternative motor fuels policy and to coordinate efforts to implement such policy.

The establishment of a national energy policy will do more to strengthen our nation and make it secure than deployment of the star wars defense system.

I commend the gentleman from Indiana, Mr. SHARP, for his leadership. I particularly thank him for including all alternative transportation fuels in the mandate of the interagency commission established by the bill.

This is particularly important to me and many other members who advocate increased use of ethanol.

Among other things, the interagency commission would seek to know what other countries, like Brazil and New Zealand, have learned from the experience of alternative transportation fuels policies that have been in place for several years.

In Brazil, all cars now run on either gasohol or pure ethanol.

The Brazilian experience has reduced lead and other pollutants in the air of Sao Paulo by 75 percent; cut depedence on imported oil by roughly one-third; and revived the agricultural economy for their main crop, sugarcane.

New Zealand has had similar economic and social effects with its methanol program.

In the United States, however, the lack of an alternative fuels program means that the problems of clean air, agriculture and energy—the unfinished business of the 1970s—are still on the agenda of national imperatives for the 1990s.

Since the first Arab oil embargo in 1973, I've looked for each opportunity to take positive steps towards energy independence.

At the beginning of this decade, I served as a member of the National Alcohol Fuels Commission, along with our colleagues BOB ROE and DAN GLICKMAN.

Sadly, national drift and policy indecision have marked the period since the commission published its report in 1981. This administration has shown virtually no leadership on alternative fuels, still lacking the establishment of a national energy policy.

However, the bill before us today would at long last put into place some of the most important recommendations the National Alcohol Fuels Commission made nearly 7 years ago.

For instance, the bill uses purchase guarantees, as the commission recommended, to encourage automakers to produce flexible fuel vehicles and vehicles that run on neat ethanol and methanol.

Our commission also recommended the modification of motor-vehicle fuel economy requirements to allow a fair comparison between petroleum-based fuels and alternative fuels. This bill does that as well.

Most importantly, however, this bill calls for the development of a national alternative motor vehicle fuels policy for the 1990's and beyond.

Additionally, it charges an interagency commission with studying what actions are necessary to translate the policy into reality.

I'm convinced that panel will recommend that future Congresses mandate the inclusion of a certain percentage of alternative fuels in the Nation's motor fuel supply.

One example of such a policy is H.R. 2031, which I introduced earlier this year.

My bill would require that half the Nation's motor fuel supply contain 10 percent ethanol and half 5 percent methanol and 2.5 percent ethanol.

What would be the effects of such a policy?

According to analysis by the Congressional Research Service, the effects would include the following:

Energy independence and trade deficit. A near-term reduction in oil imports of between 4.3 percent and 6.5 percent, thus reducing dependence on foreign oil and reducing the trade deficit.

Cleaner air. A forseeable reduction in carbon monoxide pollution in the air around us by between 3 and 10 percent at sea level and by as much as 20 percent at higher elevations.

Increase farm income and reduce budget deficit. A short-term increase in farm income of roughly $2 billion per year, and feed grain prices above the target price in the 1985 farm bill—thus reducing farm program spending by as much as $15 billion per year from now to 1991.

Increase coal consumption. A possible increase of 2 percent in domestic coal production.

Economic development. Direct creation of nearly 4,500 new jobs, and construction of 14 to 16 billion dollars' worth of new plant entailing 225,000 person-years of employment in construction and manufacturing industries.

Clearly, then, alternative fuels can increase our energy independence, help clean the air, revive the economies of our agricultural and mining regions, and reduce the Federal budget deficit and the national trade deficit.

None of these beneficial effects will occur overnight.

But the bill before the House today encourages the use of alternative fuels in the short term and calls on the executive branch to take action that will allow us to realize the full potential of alternative fuels in the long term.

H.R. 3399 does not go as far as I and some of my colleagues would prefer. But it is a good first step, and it should be passed immediately.

Mr. MOORHEAD. Mr. Speaker, I yield 5 minutes to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Speaker, I thank the gentleman for yielding this time to me.

Mr. Speaker, let me point out to the House that this is a bill that the administration has indicated it will veto should it be passed. They have indicated they will veto this bill for about four reasons.

First of all, it would require the Federal Government to purchase dual fuel vehicles at a premium cost. Second, it would require the selling of methanol. Third, it would establish demonstration programs for trucks and buses at some cost; and it would further subsidize other kinds of alternative fuels.

I think that the House needs to understand that we are not talking about small bucks here; we are talking about creating a brand new $28.5 million program over the next several years. It is a program that is going to cost us money for things that might be regarded as questionable, particularly that first item about which the administration has some concerns. The Federal Government under this bill is going to be required to purchase dual fuel vehicles. What is not indicated is how much more we are going to have to pay. What is the premium for those dual fuel vehicles?

I have heard it suggested that the premium may be as much as 10 percent over the cost of the car. It would be at least somewhat over 5 percent. That means we are going to charge the Federal Government for the vehicles it buys some $500 to $1,000 as a premium in order to buy these vehicles. That raises, I think, substantial questions.

Second, there is the question of requiring people to sell methanol. The question that this gentleman has there is: Who is going to pick up the cost of that requirement? Are the small business owners who own independent gas stations now going to be required to have more additional equipment? Are they now going to be required to pick up a cost here that they can ill afford at a time when we have already imposed costs on them for environmental controls, for leakages from their tanks, and a lot of this kind of thing? Many of those people, as a result of the requirements of this House, have already picked up substantial costs, and now it sounds like we are going down the road of requiring something else we are not really willing to pay for.

Mr. Speaker, I have a couple of questions for the chairman of the subcommittee. First of all, what is the premium that the Federal Government is going to end up paying?

Mr. SHARP. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I am glad to yield to the gentleman from Indiana.

Mr. SHARP. Mr. Speaker, I am not sure the gentleman is addressing the legislation before us at the moment. Some of the things he is complaining of have been in earlier versions, and partly through our work with the administration they have been altered. First of all, we were originally going to require a fleet of 5,000 cars. In fact, we do not require that; it is a best efforts approach.

The gentleman is correct, that as far as the estimated potential cost of buying one of these vehicles versus another one, the increase could deviate by as much as 5 to 10 percent. We frankly think, to help encourage this effort, that that is not an unreasonable figure.

Mr. WALKER. Am I correct that you have $5 million in here, beginning in 1990, each year for the purchase of such vehicles?

Mr. SHARP. We authorize that, with the recognition that the administration, considering the appropriations of the House, will determine what that outcome is.

Mr. WALKER. The bill that we have here, H.R. 3399, in fact has $5 million in it to pay premium prices for dual fuel vehicles; is that correct?

Mr. SHARP. The gentleman is correct. We are authorizing that.

Mr. WALKER. So that is in fact in the bill that is before us?

Mr. SHARP. It is not a requirement to buy in the same sense that the previous ones have been. I think that is part of the reason we have the support of the Vice President of the United States, Mr. BUSH, on the approach we are taking.

Mr. WALKER. The Vice President is evidently disagreeing with the President, then, because the President is probably going to veto the bill, according to the information we have received on this side.

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What about this business of requiring the selling of methanol? Who is going to pick up the cost for that?

Mr. SHARP. First of all, there is no requirement that they sell the methanol. The point is should the military, for example, or the Post Office or some other agency of Government have a station at which they are in fact filling up their vehicles, as they do on gasoline and other kinds of things, they may sell that into the private marketplace for somebody who pulls up in a methanol car to buy there, so there is another station there. They absolutely do not have to do that sale; but we are trying to encourage the possibility, recognizing that nobody is going to go out and build a bunch of filling stations here on methanol or any other alternative fuel.

Mr. WALKER. Well, let me find out what is in the bill. There is absolutely no requirement in it for the retail sales of methanol?

The SPEAKER pro tempore. The time of the gentleman from Pennsylvania has expired.

Mr. SHARP. Mr. Speaker, I yield myself 1 minute, just to indicate, first of all, we have tried to minimize the cost as well as the regulatory burden of these kinds of things. Therefore, the fleet will be a question of the best efforts. We have broad-based testimony in support of this as an encouragement to the marketing of these automobiles on a broader basis and getting a demonstration of their use.

Second of all, while we would encourage where the Federal Government has fueling stations that it go ahead and sell to others who are willing to adopt an alternative fuel, the Secretary has discretion whether or not to do that, has several outs in the process of doing that.

Third, one of the items that I mentioned in the committee that we dropped was the bus requirement, the nonattainment areas, and while the administration may not fully yet endorse the entire bill, and there have been rumors of their view, most of those simply have not been communicated and they have endorsed the most essential point of the bill on the cafe standard.

With that, Mr. Speaker, I yield 2 minutes to the gentleman from New Mexico [Mr. RICHARDSON].

Mr. RICHARDSON. Mr. Chairman, I want to commend my subcommittee chairman, the gentleman from Indiana [Mr. SHARP] for his leadership on this issue. This is a very important bill.

Many in this country forget the gasoline lines and shortages of the seventies, yet petroleum imports rise as a percentage of our energy needs.

Transportation is petroleum dependent. As long as our cars, trucks, and buses depend on foreign energy sources, our entire economy is at risk. We have done much to lower our dependence on OPEC by changing to other sources, but no matter how many sources of oil we have, we must remember that we are in competition with all industrial countries for oil resources.

I am delighted that the gentleman from Indiana and the minority included an amendment that I offered to include natural gas vehicles as a vital component of the legislation.

The alternative motor fuels bill is a modest proposal, yet it will do much to enhance our energy independence. The technology exists to run automobiles on methanol or natural gas. This bill is designed to make them commercially viable. There are already natural-gas-powered cars on the road, primarily in corporate fleet programs. each of these vehicles has been converted from gasoline, an expensive process. To date, there has not been sufficient demand for the manufacturers to produce natural-gas-powered vehicles. This bill offers incentives to the Federal Government to purchase a fleet of natural gas vehicles from the major manufacturers. It is anticipated that such a Federal order will allow us to move forward with a natural gas vehicle program.

There are many reasons for urging the development of natural gas vehicles, energy independence and air quality being the most important amongst them.

In addition to directing the Federal Government to purchase natural-gas-powered vehicles, the bill would establish research programs for heavy duty natural-gas-powered vehicles. In addition to natural gas, research would be authorized on natural gas derivatives, such as LP gas. As our cities increasingly suffer air pollution from diesel engines, research into natural gas and LP powered heavy duty engines may provide an alternative to dirty diesel.

We in the United States are more fortunate than most. We have great energy resources, especially coal and natural gas. It behooves us to use our own resources, rather than depend on imports to run our transportation system. I commend the gentleman from Indiana for his leadership. It is obvious he remembers what it means to sit in a gas line.

Mr. MOORHEAD. Mr. Speaker, in partial response to the gentleman from Pennsylvania, the State of California has enacted a major program along this line. They have gotten a thousand service stations of ARCO to agree to carry methanol voluntarily in the State of California, so there is no mandate whatsoever. They have agreed to do that. I understand that Chevron is considering doing the same thing.

I am sure that such a volunteer program could be worked out around the Nation so that it is not necessary for any kind of a program to require anybody to do anything. They will be doing it on a volunteer basis.

As far as the costs are concerned, in California it will be a big boon because it will help reduce smog in southern California by the number of vehicles that we use. This is the cleanest burning fuel that there is. The costs otherwise in a nonattainment area will be far greater than the small costs that are in this legislation.

Mr. Speaker, I yield such time as she may consume to the gentlewoman from Nebraska [Mrs. SMITH].

Mrs. SMITH of Nebraska. Mr. Speaker, I thank the gentleman for yielding this time. I want to commend my colleagues, the gentleman from Indiana [Mr. SHARP], the gentleman from Michigan [Mr. DINGELL], and the gentleman from California [Mr. MOORHEAD] for their leadership in bringing this bill to the floor.

Mr. Speaker, I rise to express my support for H.R. 3399, the Alternative Motor Fuels Policy Act which will provide a mechanism for developing a national policy in developing alternative fuels.

This bill focuses attention on developing alcohol fuels and I am glad to see that the alternative fuels industry has reached an agreement and supports this bill. This bill would promote the purchase of alcohol-fueled vehicles by the Federal Government and changes corporate average fuel economy requirements for alcohol-fueled and dual-fueled vehicles to provide incentives for U.S. automobile manufacturers.

To aid public education and acceptance the Government should operate alternative fueled vehicles and provide fuel at its facilities to the public. This could overcome the fears of auto manufacturers and service stations that there will be little consumer interest or demand, and would ease the United States transition to alternative fuels.

The provision requiring larger service stations to replace their equipment as it wears out with a type of equipment that can handle ethanol/methanol, just makes good common sense, if some day we must use blended or alternative fuels to have enough fuel to keep our cars on the road.

I am always glad to see incentives designed to enhance our independence from foreign oil and especially when ethanol is included, since it is the most practical renewable resource the United States has.

All knowledgeable people know, at least in the Midwest, ethanol fuels are widely acceptable.

As I have stated many times before, Nebraska testing ethanol in its State patrol cars and the test are proving to be very successful and the cars do not require any alterations to operate efficiently. Already our patrol cars have used ethanol for 6 years.

When the United States becomes serious about researching and studying alternative fuels we will be able to provide ourselves with a smoother transition period to fuels other than petroleum, decrease our dependence on other countries for fuel, and clean up our environment at the same time.

Mr. Speaker, I urge the Members here to consider and support the concept of an alternative fuels policy and to encourage them to try a tank of blended gasoline at their earliest possible convenience.

Mr. SHARP. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from West Virginia [Mr. WISE], who has been a strong advocate of taking action on alternative fuels, expecially methanol.

Mr. WISE. Mr. Speaker, I thank the gentleman very much for yielding this time.

Mr. Speaker, I rise in strong, strong support of the Alternative Fuels Policy Act. It is the first step toward a strong bipartisan energy policy that this country so desperately needs.

The Alternative Motor Fuels Act of 1987 is the culmination of a lot of work by many of us to bring a strong alcohol fuels bill to the floor, to begin looking at other ways to become energy independent with other fuel sources which energy producers, such as my State of West Virginia, and energy consumers, those who are concerned about energy independence and the environmental community can all rejoin in. I think we can have it today.

Some objection has been raised to the cost of this bill, the $28 million authorized over a 5-year period. I would just like to point out that we spend $20 million a month now maintaining a force in the Persian Gulf to keep the oil life line open. How many hundreds of million of dollars has this Government poured into the strategic petroleum reserve, putting oil in there so that when imports one day are cut off we will be able to survive? How many more hundreds of millions of dollars go to defense to defend the Persian Gulf region?

So I would say this is really a very cheap piece of legislation. Conversion of just 10 percent of our cars to alcohol fuels, methanol, or ethanol, which is a feasible goal by the end of the century, would reduce our oil imports by nearly 1 million barrels a day. That is significant when we recognize that oil imports are going to reach 50 percent or more of U.S. consumption by the early 1990's. We are talking about energy security here, so for energy producers, such as my State where we have the largest natural gas reserves east of the Mississippi, coal reserves enough to last hundreds of years, that can go to make methanol, for the farmers who are concerned and want to make ethanol, for the energy consumer who wants to know that is going to have a reliable fuel supply, for the environmentalist who needs a clean environment, and for those of us who want our country to be energy independent, I urge your support for the Alternative Motor Fuels Act.

Mr. MOORHEAD. Mr. Speaker, I would like to point out that the Republican administration in the State of California very strongly supports this legislation, as do the Republican leaders in the State legislature in California. I feel certain that the Republican administration in Washington, DC, will do so, too, when they find out what the total program is and what the legislation is that we enact, and I would like to ask for an "aye" vote.

Mr. SHARP. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. Levine].

Mr. LEVINE of California. Mr. Speaker, I thank the gentleman for yielding this time. I wish to commend the gentleman and the membership of his subcommittee and the committee for their leadership on this important issue.

I was pleased to hear the colloquy earlier in this debate between my distinguished colleague, the gentlewoman from California [Mrs. Boxer] and the chairman of the subcommittee and to hear the assurances of the chairman of the subcommittee in that context, that the importance of this issue in no way undermines or diminishes the importance of maintaining the cafe standards which have been established and which are so important with regard to fuel efficiency.

It is my understanding, both from that colloquy as well as from the history of this legislative proposal and the work of the chairman and the members on the subcommittee, that this important program in no way is designed to undermine the significance or the efficacy of the cafe standards.

I simply wanted to take a moment to compliment the chairman for the colloquy that he had with my colleague, the gentleman from California, for the work he has done in this area and for underscoring the consistency between these two directions, and the fact that the thrust of this program is in no way designed to undermine the cafe program.

Mr. SHARP. Mr. Speaker, will the gentleman yield?

Mr. LEVINE of California. Yes, I am happy to yield to the gentleman from Indiana.

Mr. SHARP. Mr. Speaker, I certainly appreciate the gentleman's kind remarks and his cooperative effort with the committee in trying to advance this legislation.

The gentleman is absolutely correct that the one thing we do not want to have happen is that somehow in trying to advance alternative fuels we end up subverting fuel economy. There is a slight risk in that direction and we want to make sure that this does not come about. That is why we have been looking all along, and we certainly have one thing that will do it, and we anticipate in working out with the Senate we will come up with a cap that will just give us the security of knowing that this is not an open-ended escape from cafe standards.

Mr. LEVINE of California. Mr. Speaker, I appreciate the gentleman's sensitivity and his commitment, and I thank the gentleman.

Mr. DINGELL. Mr. Speaker, I rise in strong support for H.R. 3399, the Alternative Motor Fuels Act of 1987 and the amendment offered by Mr. Sharp, I want to particularly commend the gentleman from Indiana who chairs the Subcommittee on Energy and Power and the ranking minority members of that committee, as well as Congressmen Bruce and Madigan for their efforts in moving this legislation.

I also want to express my appreciation to the chairman of the Committee on Public Works and Transportation and the other members of his committee for his cooperation in working out a jurisdictional problem with the bill as reported.

H.R. 3399 has the necessary ingredients for encouraging the widespread use and application commercially of alternative fuels, particularly methanol. These fuels can ultimately help in the case of energy security and air quality. However, there are not now sufficient commercial incentives to encourage their greater use. H.R. 3399 provides those incentives in a measured way. I urge your support.

Mr. DAUB. Mr. Speaker, I support H.R. 3399, legislation to develop a national alternative motor fuels policy.

Originally, this bill was heavily weighted in favor of assisting methanol while saying little about the ethanol industry. However, the committee has addressed this concern and the bill is aimed at promoting both methanol and ethanol.

Alternative fuels such as ethanol offer an attractive, environmentally, sound octane enhancer which can also assist our need for energy independence.

The legislation authorizes a demonstration project in which the Department of Energy and the Environmental Protection Agency will use funds to compare the advantages of alternative fuel buses with conventional diesel buses.

This bill also requires the purchase of alternative fuel use buses were Federal funds assist in these purchases in nonattainment areas designated under the Clean Air Act. These buses must run on alcohol or compressed natural gas. For the first 1,000 buses bought, DOE will provide additional funds.

I would like stronger incentives than this bill contains to promote ethanol production. However, this bill can be a step in the right direction.

The reason we need more ethanol incentives is that current policies unwittingly favor the Ayatollah and carbon monoxide. This is wrong. Carbon monoxide causes tumors. And the Ayatollah causes security headaches. We don't need either.

We ought to move away from these twin evils and the farmers of America have the product that can help: Ethanol.

This bill should be passed and I hope my colleagues agree.

Mr. DURBIN. Mr. Speaker, for the past 7 years, the Reagan administration has advocated a free market approach to energy policy that has essentially left the United States totally vulnerable to the uncertainties of foreign crude oil politics for the liquid fuels we depend on to run the transportation sector of the economy. As a result, our dependence on foreign crude oil has grown to the point where we are as vulnerable to a supply disruption as we were in the late 1970's.

Through the foresight of the chairman of the Energy and Power Subcommittee, we have a bill before us today that takes an important step in the development of a long-term energy security policy for the United States.

This bill recognizes that the United States needs to develop its capacity for using alternative fuels such as ethanol and methanol.

It recognizes that although all of the cars being built in America today can run on a motor fuel containing 10 percent ethanol blended with gasoline, we currently have available very few automobiles that can be operated on alcohol fuels instead of gasoline.

It recognizes that the technology has been developed and is being perfected to incorporate ethanol and methanol more fully into our Nation's transportation fuel system.

And it provides modest incentives to encourage that transition.

Alcohol fuels can significantly reduce our reliance on imported oil, improve the quality of our air, provide a market for our abundant supplies of corn and coal, and offer employment opportunities in the industries that would produce alternative fuels.

In Brazil, all automobiles run on either ethanol blends or pure ethanol. Brazil's energy policy has allowed it to substantially reduce its dependence on foreign oil. As a result, Brazil's alcohol producers are able to run advertisements trumpeting the country's energy independence. One such advertisement shows a picture of a warship in the Persian Gulf with the headline "The Alcohol for Your Car Does Not Pass Through Here." the text of the ad points out that the country's motor fuel supply is not dependent on anyone else and cannot be cut off by a war in the Middle East.

The rule for H.R. 3399 adds to the bill an amendment calling for a study of other countries' experience with alternative fuels, including Brazil's program. Perhaps someday, because of this legislation and other measures promoting the use of ethanol and methanol, we will also be able to say that the fuels for our cars do not pass through the Persian Gulf.

Mr. OXLEY. Mr. Speaker, I rise today in strong support of H.R. 3399, the Alternative Motor Fuels Act of 1987. My colleagues should be aware that legislation similar to H.R. 3399 was passed by this body under suspension only last year, but the Senate failed to act on it. Thus, we are here again today to consider legislation to encourage the use of alternative motor fuels such as methanol, ethanol, and compressed natural gas.

Today, we find ourselves in the somewhat uncomfortable position of importing large amounts of petroleum from unstable regions of the world. To address our Nation's energy security, we have developed the strategic petroleum reserve, which we are continuing to fill so that we will have a secure source of fuel in the event of a total cutoff of all oil imports. However, it is important that we have available fuel sources that are not derived from petroleum, both for traditional energy security reasons and for environmental reasons. While the quality of the air we breathe has undoubtedly improved since the 1970's, vehicle emissions continue to be a significant source of air pollution—but they are one source that can be reduced if alternative, cleaner burning fuels are available to the driving public.

It's like the chicken and the egg, however. The refiners would not make alternative fuels without vehicles to burn them, and the auto manufacturers would not make the cars without first having the available fuel. Therefore, this bill in effect creates a market for alternative-fueled vehicles by requiring the Federal Government to purchase them and changes the fuel economy standards to give manufacturers an incentive to produce them.

This is a modest proposal that takes the first step toward developing alternative motor fuels. It does not favor one fuel over another. It does not require the blending of all gasoline supplies. It gives the auto manufacturers the flexibility they need to develop alternative-fueled vehicles, and it gives the refiners the flexibility they need to develop fuels that are both cleaner and safer. I urge my colleagues to support H.R. 3399.

Mr. MOORHEAD. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. SHARP. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Indiana [Mr. SHARP] that the House suspend the rules and pass the bill, H.R. 3399, as amended.

The question was taken.

Mr. SCHULZE. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

PUBLIC BUILDING AMENDMENTS OF 1987

Mr. LANCASTER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2790) to improve the efficiency and effectiveness of management of public buildings as amended.

The Clerk read as follows:

H.R. 2790

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Public Buildings Amendments of 1987."

SEC. 2. INCREASED THRESHOLD FOR APPROVAL PROCESS.

Sections 4(b) and 7(a) of the Public Buildings Act of 1959 (40 U.S.C. 603(b) and 606(a)) are amended by striking out "$500,000" each place it appears and inserting in lieu thereof "$1,500,000".

SEC. 3 LIMITATIONS ON LEASING AUTHORITY.

(a) LIMITATION ON APPROPRIATIONS FOR LEASING CERTAIN SPACE.—Section 7(a) of the Public Buildings Act of 1959 (40 U.S.C. 606(a)) is amended by inserting after the second sentence the following new sentence: "No appropriation shall be made to alter any building, or part thereof, which is under lease by the United States for use for a public purpose if the cost of such alteration would, when added to the cost of all other alterations made to such building or part thereof during the term of the lease (including extensions, amendments, or supplements) which have been paid for by the United States exceeds $1,500,000 unless such alteration has been approved by resolutions adopted by the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives.".

(b) LIMITATION ON LEASING CERTAIN SPACE.—Section 7 of such Act (40 U.S.C. 606) is amended by adding at the end thereof the following new subsections:

"(e) LIMITATION ON LEASING CERTAIN SPACE.—Notwithstanding any other provision of this Act, the Administrator may not lease any space to accommodate—

"(1) major computer operations;

"(2) secure or sensitive activities related to the national defense or security, except in any case in which it would be inappropriate to locate such activities in a public building or other facility identified with the United States Government;

"(3) offices which would require major alterations in the structure or mechanical system of the building to be leased; or

"(4) a permanent courtroom, judicial chamber, or administrative office for any United States court;

except that the Administrator may lease such space if the Administrator first determines, for reasons set forth in writing, that leasing such space is necessary to meet requirements which cannot be met in public buildings and submits such reasons to the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives.

"(f) USE OF LEASING FUNDS.—Funds made available after the date of the enactment of this subsection to the Administrator for payment of rents shall also be available for the purpose of leasing space in buildings erected by the lessor on land owned by the United States.".

SEC. 4. DOLLAR AMOUNT ADJUSTMENT.

Section 7 of the Public Buildings Act of 1959 (40 U.S.C. 606) is further amended by adding at the end the following new subsection:

"(g) DOLLAR AMOUNT ADJUSTMENT.—Any dollar amount referred to in this section and section 4(b) of this Act may be adjusted by the Administrator annually to reflect a percentage increase or decrease in construction costs during the preceding calendar year, as determined by the composite index of construction costs of the Department of Commerce. Any such adjustment shall be expeditiously reported to the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives.".

SEC. 5. TIME FINANCING.

Section 7 of the Public Buildings Act of 1959 (40 U.S.C. 606) is further amended by adding at the end thereof the following new subsection:

"(h) TIME FINANCING.—

"(1) ISSUANCE OF DEBT INSTRUMENTS.—Whenever the Administrator determines that the best interest of the United States will be served, the Administrator is authorized to issue debt instruments for purchase by the Secretary of the Treasury, to the extent authorized in annual appropriations Acts, in amounts necessary to finance the acquisition or construction of any public building.

"(2) TERMS AND CONDITIONS.—Debt instruments issued under this subsection shall be upon such terms and conditions as may be prescribed by the Secretary of the Treasury, taking into account that repayments shall not begin until the building is ready for occupancy and shall not extend beyond the useful life of the building but in no case for more than 30 years from the date of the initial repayment.

"(3) INTEREST RATE.—Debt instruments issued under this subsection shall bear interest at a rate determined by the Secretary of the Treasury taking into consideration the average market yield an outstanding marketable debt instruments of the United States of comparable maturity.

"(4) LIMITATIONS.—No authorization shall be made in an appropriation Act for the issuance of debt instruments under this subsection to finance the acquisition or construction of any public building for which a prospectus is required under this section, unless such acquisition or construction has been approved under this section.

"(5) BUDGETARY AND ACCOUNTING TREATMENT.—Notwithstanding any other provision of law, for budgetary and accounting purposes—

"(A) debt instruments authorized to be issued under this subsection in a fical year shall be treated as budget authority in such fiscal year only to the extent that such debt instruments are issued in such fiscal year; and

"(B) debt instruments issued under this subsection shall be treated as outlays in a fiscal year only to the extent that such debt instruments are liquidated in such fiscal year.".

SEC. 6. STATE ADMINISTRATION; SPECIAL RULES FOR LEASED BUILDINGS.

The Public Building Act of 1959 (40 U.S.C. 601-616) is amended by adding at the end thereof the following new sections:

"SEC. 19. STATE ADMINISTRATION.

"Notwithstanding any other provision of law, the Administrator may, whenever the Administrator considers it desirable, relinquish to a State, or to a commonwealth, territory, or possession of the United States, all or part of the jurisdiction of the United States over land or interests under the control of the Administrator in such State, commonwealth, territory, or possession. Relinquishment of jurisdiction under this section may be accomplished by filing with the Governor (or if none exists, with the chief executive officer) of such State, commonwealth, territory, or possession a notice of relinquishment to take effect upon acceptance thereof, or in such other manner as may be prescribed by the laws of the State, commonwealth, territory, or possession where such lands are situated. The authority granted by this section is in addition to and not instead of that granted by any other provision of law.

"SEC. 20. SPECIAL RULES FOR LEASED BUILDINGS.

"(a) SPECIFICATIONS.—Notwithstanding the provisions of section 210(h)(1) of the Federal Property and Administrative Service Act of 1949, the Administrator shall not make any agreement or undertake any commitment which will result in the construction of any building which is to be constructed for lease to, and for predominant use by, the United States until the administrator has by regulation established detailed specification requirements for such building.

"(b) COMPETITIVE BIDS.—The Administrator may procure the construction of any building which is being constructed for lease to, and for predominant use by, the United States only by publicly soliciting competitive bids.

"(c) INSPECTIONS.—The Administrator shall inspect every building to be constructed for lease to, and for predominant use by, the United States during the construction of such building in order to determine that the specifications established for such building are complied with.

"(d) ENFORCEMENT.—

"(1) POST-CONSTRUCTION EVALUATION.—Upon completion of a building constructed for lease to, and for predominant use by, the United States, the Administrator shall evaluate such building for the purpose of determining the extent, if any, of failure to comply with the specifications referred to in this section.

"(2) CONTRACT CLAUSE.—The Administrator shall ensure that any contract entered into for a building described in paragraph (1) shall contain provisions permitting a reduction of rent during any period when such building is not in compliance with such specifications.".

SEC. 7. COMPLIANCE WITH NATIONALLY RECOGNIZED CODES.

(a) IN GENERAL.—The Public Buildings Act of 1959 (40 U.S.C. 601-616) is further amended by adding at the end the following new section:

"SEC. 21. COMPLIANCE WITH NATIONALLY RECOGNIZED CODES.

"(a) BUILDING CODES.—Each building constructed or altered by a Federal agency shall be constructed or altered, to the maximum extent feasible, in compliance with one of the nationally recognized model building codes and with other applicable nationally recognized codes. Such other codes shall include, but not be limited to, electrical codes, fire and life safety codes, and plumbing codes, as determined appropriate by the Administrator. In carrying out this subsection, the Administrator shall use the latest edition of the nationally recognized codes referred to in this subsection.

"(b) ZONING LAWS.—Each building constructed or altered by a Federal agency shall be constructed or altered, to the maximum extent feasible, in compliance with all requirements (other than procedural requirements) of—

"(1) zoning laws, and

"(2) laws relating to landscaping, open space, minimum distance of a building from the property line, maximum height of a building, historic preservation, and esthetic qualities of a building, and other similar laws,

of a State or a political subdivision of a State that would apply to such building if it were not a building constructed or altered by a Federal agency.

"(c) SPECIAL RULES.—

"(1) STATE AND LOCAL GOVERNMENT CONSULTATION, REVIEW AND INSPECTIONS.—For purposes of meeting the requirements of subsections (a) and (b) with respect to a building, the Administrator (or the head of a Federal agency with authority to construct or alter buildings) shall—

"(A) in preparing plans for such building, consult with appropriate officials of the State or political subdivision, or both, in which the building is to be constructed or altered

"(B) Upon request, submit such plans in a timely manner to such officials for review by such officials for a reasonable period of time not exceeding 30 days; and

"(C) permit inspection by such officials during construction or alteration of the building, in accordance with the usual schedule of inspections for construction or alteration of buildings in the locality, if such officials provide to the Administrator or the head of the Federal agency, as appropriate—

"(i) before construction of the building is begun a copy of such usual schedule; and

"(ii) reasonable notice of their intention to conduct any inspection before conducting such inspection.

"(2) LIMITATION ON STATE RESPONSIBILITIES.—Nothing in this section shall impose an obligation on any State or political subdivision to take any action under paragraph (1).

"(d) STATE AND LOCAL GOVERNMENT RECOMMENDATIONS.—Appropriate officials of a State or a political subdivision of a State may make recommendations to the Administrator or the head of a Federal agency, as the case may be, concerning measures necessary to meet the requirements of subsections (a) and (b). Such officials may also make recommendations to the Administrator or the head of the agency concerning measures that should be taken in the construction or alteration of a building to take into account local conditions. The Administrator or the head of the agency shall give due consideration to any such recommendations.

"(e) EFFECT OF NONCOMPLIANCE.—No action may be brought against the United States and no fine or penalty may be imposed against the United States for failure to meet the requirements of subsection (a), (b), or (c) of this section or for failure to carry out any recommendation under subsection (d).

"(f) LIMITATION ON LIABILITY.—The United States and its contractors shall not be required to pay any amount for any action taken under this section by a State or a political subdivision of a State.

"(g) APPLICABILITY TO CERTAIN BUILDINGS.—This section applies to any project for construction or alteration of a building for which funds are first appropriated for a fiscal year beginning after September 30, 1989.

"(h) NATIONAL SECURITY WAIVER.—This section shall not apply with respect to any building if the Administrator determines that the application of this section to such building would adversely affect national security. A determination under this subsection shall not be subject to administrative or judicial review.".

(b) CERTAIN OTHER AUTHORITIES.—Nothing in the amendment made by subsection (a) shall be construed to affect the authorities granted in sections 5, 6, and 8 of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403f, 403g, and 403j).

(c) NOTIFICATION OF FEDERAL AGENCIES.—Not later than 180 days after the date of the enactment of this section, the President shall notify the head of each Federal agency of the requirements of section 21 of the Public Buildings Act of 1959.

SEC. 8. LIMITATION ON MAXIMUM RENTAL RATE.

Section 322 of the Act of June 30, 1932 (47 Stat. 412; 40 U.S.C. 278a) is repealed.

SEC. 9. PROTECTION OF FEDERAL PROPERTY.

(a) REFERENCE TO GSA.—The Act of June 1, 1948 (62 Stat. 281; 40 U.S.C. 318-318d) is amended—

(1) by striking out "Federal Works Agency" each place it appears and inserting in lieu thereof "General Services Administration"; and

(2) by striking out "Federal Works Administrator" each place it appears and inserting in lieu thereof "Administrator of General Services".

(b) INCLUSION OF LEASED PROPERTY.—Section 1 of such Act is amended to read as follows:

"SECTION 1. SPECIAL POLICE.

"(a) APPOINTMENT.—The Administrator of General Services, or officials of the General

Services Administration duly authorized by the Administrator, may appoint uniformed guards of such Administration as special policemen without additional compensation for duty in connection with the policing of all buildings and areas owned or occupied by the United States and under the charge and control of the Administrator.

"(b) POWERS.—Special policemen appointed under this section shall have the same powers as sheriffs and constables upon such property to enforce the laws enacted for the protection of persons and property, and to prevent breaches of the peace, to suppress affrays or unlawful assemblies, and to enforce any rules and regulations promulgated by the Administrator or such duly authorized officials of the Administration for the property under their jurisdiction; except that the jurisdiction and policing powers of such special policemen shall not extend to the service of civil process.".

(c) CONFORMING AMENDMENTS.—

(1) SECTION 2.—Section 2 of such Act is amended by striking out "Federal property" each place it appears and inserting in lieu thereof "property".

(2) SECTION 3.—Section 3 of such Act is amended by striking out "and over which the United States has acquired exclusive or concurrent criminal jurisdiction".

SEC. 10. TECHNICAL AMENDMENT.

The Act entitled "An Act to designate the United States Post Office and Courthouse in Pendleton, Oregon, as the 'John F. Kilkenny United States Post Office and Courthouse'" (Public Law 98-492; 98 Stat. 2271) is amended by striking out "Dorian" and inserting in lieu thereof "Dorion".

The SPEAKER pro tempore. Is a second demanded?

Mr. SHAW. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from North Carolina [Mr. LANCASTER] will be recognized for 20 minutes and the gentleman from Florida [Mr. SHAW] will be recognized for 20 minutes.

The Chair recognizes the gentleman from North Carolina [Mr. LANCASTER].

Mr. LANCASTER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 2790, commonly referred to as the Public Buildings Amendments of 1987, is designed to improve the efficiency and effectiveness of management of public buildings.

Currently, the Public Buildings Act of 1959 requires the submission of a prospectus which describes a proposed facility to be constructed, altered, purchased, acquired, or the space to be leased which involves a total expenditure in excess of $500,000 to Congress and approval by resolutions adopted by the House Committee on Public Works and Transportation and the Senate Committee on Environment and Public Works, prior to an appropriation being made for the project. H.R. 2790 would raise the prospectus threshold from $500,000 to $1.5 million. In addition, the legislation would require alterations to leased space which cost in excess of $1.5 million to be subject to prospectus approval. The prospectus threshold was last adjusted in 1972 and inflation, since that time, has increased over 160 percent. As a result, projects of a much narrower scope now require prospectus review. Provision is made within the bill whereby the prospectus threshold can be adjusted by the Administrator of General Services annually to reflect a percentage increase or decrease in construction costs during the preceding calendar year. Further, the bill would prohibit the leasing of any space to accommodate major computer operations, secure activities related to the national defense or security and offices which would require major alterations or a permanent courtroom. These activities should be housed in leased space due to the high costs associated with alterations necessary to such space to house these activities which can never be recouped by the Government.

Mr. Speaker, new solutions to the problem of how best to provide space for Federal agencies in the most efficient and effective manner are warranted. A key concern is the considerable increase in cost for leased space which has increased from $364 million in 1975 to the current level of $1.2 billion. There has been an increased dependency on leased space and the cost of that space has nearly tripled. The expiration of long-term, 10- and 20-year, leases that were made at favorable rates during the 1960's and early 1970's are beginning to have a significant impact in the rental of space cost. It is anticipated that unless reductions are made to the current leased space inventory, the rental of space budget will reach $2 billion by the mid to late 1990's. Further, the annual cost of leasing represents only a partial payment since the gross commitment of all general services outstanding leases currently total approximately $3 billion. Thus, the omission of the cost of all outstanding lease commitments for all future years from the budget grossly understates our actual long-term financial obligation. It skews decisionmaking away from the least costly method of acquiring Federal office space—construction and acquisition—and introduces a bias in favor of leasing. Lease commitments only have to be justified annually, whereas direct Federal construction and acquisition projects must show the full cost up front, in the first year.

The Congressional Budget Office has continuously stated that the current structure of GSA's financing of public buildings exhibits a proleasing bias to limit spending in the short run. The General Accounting Office has stated that direct Federal construction is the most advantageous for financing space acquisition. However, because of fiscal pressures purchase contracting may be the most practicable alternative.

The General Services Administration provides a total of approximately 227.4 million square feet of space to client agencies, of which 137.6 is Government owned and 89.8 is in leased space. In 1972, the GSA inventory was 219.7 million square feet of space, of which 157.8 was Government owned and 61.9 was leased.

H.R. 2790 authorizes the Administrator of General Services to issue debt instruments for purchase by the Secretary of the Treasury, but only to the extent authorized in annual appropriations acts, in amounts necessary to finance the acquisition or construction of public buildings. Legislative safeguards are further provided in the bill by prohibiting the construction or acquisition of a public building utilizing this method of financing unless a prospectus has been approved by resolution. Repayment of the debt incurred by GSA will not begin until the building is ready for occupancy, but shall not extend beyond 30 years. The mechanism employed in this legislation is similar to a mortgage on a home. The total debt incurred for the project would be recorded and scored but only the annual repayment of the debt would be counted as an actual Federal outlay. Similar authority has been used by the administration to provide for the construction of office space in Washington, DC, Oakland, CA, Miami, FL, and New Orleans, LA.

In addition, the bill authorizes the Administrator of General Services to utilize funds made available for rent for the leasing of space in buildings erected by a lessor on land owned by the Government. This provision of law has been included in appropriation acts and has been used to facilitate the construction of office space in Los Angeles, CA. This provision will permit greater utilization of Government-owned land.

The bill directs the Administrator to establish detailed specification requirements for buildings to be constructed for lease to, and predominant use by, the United States. Generally, Federal buildings are constructed to specifications which provide longer useful life and have special facilities and requirements not found in private construction. The installation of special facilities and requirements during construction can save millions of dollars over the term of any lease.

Currently, it is the General Services Administration's policy to follow local building codes and zoning ordinances to the fullest extent practical and comply with State, local, and Federal regulations to prevent, control, or abate air and water pollution. The bill, in effect, codifies this current practice.

Local codes which would adversely affect the Government's interest, such as those which restrict competition or limit innovation, are not required to be adhered to by the Administrator. Buildings leased by GSA also must adhere to local codes. However, concern has been expressed about the number of instances in which these codes are not met and the lack of consultation on the part of a Federal agency with the local officials relative to Federal construction and alteration projects. Accordingly, the bill requires that, to the maximum extent feasible, each building constructed or altered by a Federal agency shall comply with one of the nationally recognized model building codes and with other applicable nationally recognized codes and all requirements of zoning laws and other related State and local laws. Finally, no action may be brought against the United States for failure to meet the requirements.

Mr. Speaker, H.R. 2790 provides GSA with the authority to retrocede exclusive jurisdiction to State governments and other entities where full-time Federal law enforcement presence is not required. This will permit the Federal Government to enter into agreements with certain State and local jurisdictions concerning the provision of law enforcement services, while enabling GSA to concentrate its resources on those high risk areas with significant Federal populations. Similar authority has already been granted by the Congress to the Secretaries of the military departments, the Secretary of Transportation, the Administrator of Veterans' Affairs, and the Secretary of the Interior.

The bill also will make permanent the authority currently provided in annual appropriations acts for GSA to provide security and law enforcement services in areas for which the relevant State government or other legal entity has not ceded jurisdiction to the Federal Government. GSA could not perform law enforcement services in certain leased and Government-owned space absent other legislative authority.

Mr. Speaker, to conclude, this legislation will allow the General Services Administration, the housekeeping agency for the Federal Government, additional tools in which to carry out the Federal housing needs of the Government in the most efficient manner. It is anticipated that enactment of this legislation will ultimately save the taxpayers of this Nation a considerable amount of money and allow for the Federal Government to own its own space, when deemed appropriate, and discontinue our heavy reliance on leased space.

Mr. Speaker, I urge enactment of H.R. 2790.

Mr. HOWARD. Mr. Speaker, at this time, I would like to commend the distinguished chairman of the Subcommittee on Public Buildings and Grounds, the Honorable FOFO SUNIA, and the distinguished ranking minority member of the subcommittee, the Honorable E. CLAY SHAW, for their fine work in bringing this legislation before the House today. I would also like to commend the distinguished ranking minority member of the committee, the Honorable JOHN PAUL HAMMERSCHMIDT, for his fine cooperation in assisting the committee in refining the bill and reporting to the House, H.R. 2790.

Mr. Speaker, H.R. 2790 is a bill which is long overdue. The bill contains key provisions that will enable the General Services Administration the ability to operate in a fashion that is more streamlined with the private sector. It will allow the taxpayers of our Nation to save a considerable amount of money. This is terribly important in this time of fiscal constraint. The bill will alleviate much cumbersome paperwork currently undertaken by the General Services Administration by raising the prospectus threshold from $500,000 to $1.5 million. This threshold will cover repair and alteration, acquisition and construction, and alterations to leased space projects. In addition, the legislation discourages the General Services Administration from leasing space to accommodate major computer operations and permanent courtroom facilities. These activities can be much better accommodated in Government-owned facilities.

Mr. Speaker, the legislation authorizes the Administrator of General Services to issue debt instruments for purchase by the Secretary of the Treasury necessary to finance the acquisition or construction of public buildings. Prior to utilizing this authority, a determination will be made that such facilities are needed on a long-term basis, and prospectus approval must be obtained from the House Committee on Public Works and Transportation, and such projects must further be authorized in annual appropriation acts.

Mr. Speaker, the Administrator is further authorized to utilize funds made available for rent for the leasing of space in buildings erected by a lessor on land owned by the Government. This provision will allow the Government to utilize Government-owned sites which currently sit vacant and further assist in moving away from the leasing of space which leaves us with nothing but rent receipts at the end of the term of the lease. Further, the bill requires the administrator to establish detailed specifications for buildings to be constructed for lease to, and predominant use, by the Government.

Further, the bill will require Federal agencies to comply, to the maximum extent feasible, with one of the nationally recognized model building codes during the construction or alteration of Federal space. In addition, Federal officials are required to consult with local officials during such construction or alteration of Federal space.

Lastly, the bill will allow the General Services Administration the ability to protect all Federal property under their control in the most cost efficient manner.

Mr. Speaker, enactment of this legislation is warranted and I urge enactment of H.R. 2790.

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Mr. SHAW. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of this legislation which makes the first comprehensive reform to the Public Buildings Act of 1959 since its enactment nearly 30 years ago.

I would like to commend the chairman and ranking Republican of the full committee, JIM HOWARD and JOHN PAUL HAMMERSCHMIDT, as well as the chairman and ranking Republican of the Public Buildings and Grounds Subcommittee, FOFO SUNIA and GUY MOLINARI, for their leadership and efforts to bring this bill to the floor.

This bill is an important measure that responds to the changes which have taken place in the real estate industry as well as changes in the manner Federal office space is acquired and managed.

For the past several years, the committee has been evaluating numerous proposals to improve the efficiency of the General Services Administration Public Buildings Service. In addition, the committee has been seeking ways in which we can eliminate our escalating dependency on costly lease space to house the Federal work force.

I am pleased to say that H.R. 2790 reflects the joint efforts of the committee and the administration to make essential reforms in the Public Buildings Act and to achieve real, long-term cost savings for the Government.

At the request of the GSA Administration, several changes have been made to ease administrative activities and delays associated with the acquisition of Federal office space and the management of that space.

H.R. 2790 increases the prospectus threshold for projects subject to congressional review to $1.5 million which reflects the approximate change in the Consumer Price Index from when this threshold was last changed in 1972. The bill also provides that the prospectus threshold may be adjusted annually to reflect increases or decreases in the construction price indicator.

While the language requires the submission of a prospectus for all alterations in leased space in excess of $1,500,000, its intent is to provide for full disclosure of lease costs to the Government.

Currently, the General Services Administration submits a prospectus for the basic space requirements of the agency which will occupy the space being leased; however, that prospectus usually does not reflect what can be major alteration cost to prepare that space for unique agency activities.

In response to this legislative requirement the General Services Administration, and the other Federal agencies requesting lease authorization, would include the cost of alterations as part of the prospectus authorizing the leasing of the space. In instances where alteration cost cannot be identified at the time the initial lease authorization is requested, or for alterations that are being planned in existing leased locations, this language would require the submission of an alteration prospectus. Either scenario will result in the disclosure of the full costs associated with the leasing of space by the United States.

Only through this process can the Committee on Public Works and Transportation carry out its mandate to ensure that the limited resources available for satisfying the housing requirements of the U.S. Government are being appropriately spent.

Also, at the request of the administration, H.R. 2790 gives the Administrator authority to utilize the services of local and State jurisdictions to enhance police, fire and other related services where similar Federal resources are scarce. This flexibility will significantly enhance the safety and welfare of Federal employees occupying GSA controlled office space.

I am pleased that included in this bill are provisions to address several issues the committee has long been concerned about and was unsuccessful in correcting last Congress due to scheduling confusion at the end of the session.

At the urging of our colleague, BOB SMITH of Oregon, language is included in the bill which would require Federal agencies to comply, to the maximum extent feasible, with model building codes, fire and life safety codes, and local zoning laws.

I believe each of us can probably recall an incident which has taken place, at one time or another, when an agency or department of the Federal Government has undertaken a construction or similar job in our district which winds up being controversial with the local community.

The intent of this provision is to help alleviate this situation by requiring Federal agencies to consult with the community, submit building plans and permit inspection of the work site upon request, and generally conform to model building codes and local ordinances.

Let me add that in no way is this provision intended as a means for the community to delay a Federal project. Rather, it is intended to ensure local officials are active participants in the project and not summarily dismissed.

For many years now the Government has placed increasing emphasis on acquiring leased space to house Federal employees. Our decision to lease is driven strictly by short-term budget considerations and not as it should be by considering the long-term economies associated with Government ownership.

Right now, the Federal Government is in a rut with very little hope of getting out of it unless we change the way in which we acquire space.

This bill would do just that, but, like anything that proposes changing the status quo, it is controversial which is unfortunate.

A time financing mechanism has been included in this bill that is essentially the same as what passed this House last year.

Not only have we already approved such a financing tool in the House, it is also being used by the administration to acquire space in downtown Washington, DC, Miami, FL, and in Louisiana to name just a few of the places.

I will say, too, that this provision provides truth in accounting; budget or borrowing authority would have to be appropriated and scored annually and GSA's annual payment to retire the outstanding debt would be scored as outlays.

It is high time we recognize our current leasing debacle, how the world of finance really works, and give GSA the appropriate tools to compete.

Mr. Speaker, this is a good bill whose time has come and I would urge the Members on both sides of the aisle to support its passage.

Mr. LANCASTER. Mr. Speaker, I yield 2 minutes to the gentleman from Texas [Mr. BROOKS].

Mr. BROOKS. Mr. Speaker, H.R. 2790, the public buildings amendments of 1987, was introduced by request by the distinguished chairman of the Committee on Public Works and Transportation, Mr. HOWARD, and myself on June 25, 1987. Because the bill as introduced amended provisions of law dealing with the administration of public buildings that are within the jurisdiction of both the Committee on Public Works and Transportation and the Committee on Government Operations, H.R. 2790 was jointly referred to those two committees.

The Committee on Government Operations has not yet considered H.R. 2790. However, on December 11, 1987, the Committee on Public Works and Transportation reported H.R. 2790 with an amendment and requested its consideration under suspension of the rules today. It is my understanding that the amendment that is before the House today strikes all of the provisions of the bill as introduced that are within the jurisdiction of the Committee on Government Operations, and only deals with matters exclusively within the jurisdiction of the Committee on Public Works and Transportation. It is on the basis of that understanding, and without waiving any jurisdiction of the Committee on Government Operations, that I agreed to the consideration of this bill under suspension of the rules.

□ 1410

Mr. SHAW. Mr. Speaker, I reluctantly yield 5 minutes to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Speaker, I thank the gentleman for yielding me this time, even though it was with reluctance on his part.

Mr. Speaker, I rise with some concerns about this bill, largely because the administration has indicated that should this bill pass the Congress in its present form that the administration would feel constrained to veto the bill. They say that largely because of section 5 of the bill, the time financing provisions that are contained within.

Time financing is a concept which, according to the OMB, could result in a proliferation of federally owned buildings, and that they find that kind of proliferation highly objectionable. The reasons for that are that it would seriously undermine essential budgetary control, as GSA would now be permitted to borrow and spend funds without reflecting their cost in the budget in the year when those particular expenditures were obligated. That means, of course, that our attempts to retain some control over budgetary expenditures would in fact be lost under this particular procedure.

At a time when we are trying to get deficits under control, it seems strange that we would move in this kind of way in an area that literally involves billions of dollars of Federal expenditure.

Second, the administration says that this bill would not result in savings, as the proponents claim, that in fact this bill could, as a result of the proliferation of the numbers of Federal buildings, result in additional costs to the Federal Government. OMB also has some concerns that this would reduce the administrative flexibility by locking the Government into Government-owned buildings. What this largely could mean is that our attempts in the future to try to improve Government efficiency, to try to streamline Government processes could be undermined by the fact that we would have buildings in place across the country that we could not get out from under as a result of this kind of time financing program.

Also, the administration is concerned about the fact that this has a devastating impact on the privatization efforts of the Federal Government. The Federal Government has been largely moving in the direction of more privatizing of our Federal obligations, and this moves us precisely in the opposite direction, and moves toward more Government ownership, bigger Government, more Government expansion and so on. This is big Government versus an attempt to reduce the size of the Government.

Finally, the administration is concerned that this would encourage even more pork-barrel spending. This Congress has been on a diet of pork for most of its existence during this period of the 100th Congress. This would cause even more of that because once we have the Federal Government beginning to buy buildings and actually own buildings in congressional districts once again, and instead of going to lease provisions we are going to have even more of the kinds of things we have witnessed all too often on this floor with Members coming in not on the merits of the building but on the fact that the economics would be good for their district. Therefore, we would end up with far more in the way of pork-barrel spending under the time financing proposal.

At the least I would say this is not a bill that should be considered under suspension of the rules. What we ought to be doing is bringing this bill up in a way that we could deal with section 5 of the bill, deal with the time financing provisions, decide whether or not the Congress wants to move in the direction of bigger budgets, of bigger Government and of more pork barrel. If that is the direction we want to go, let us have a vote on that, but we ought not be considering the bill under a suspension of the rules as we are here.

So I would hope that under suspension of the rules this bill will be defeated. It would allow the bill to come back under the regular processes, at a time where we could deal with section 5 and we could look at whether or not bigger Government, bigger budgets and more pork is what we want for our future.

Mr. LANCASTER. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. SHAW. Mr. Speaker, I yield 5 minutes to the gentleman from Oregon [Mr. ROBERT F. SMITH].

Mr. ROBERT F. SMITH. Mr. Speaker, I thank my friend from Florida for yielding me this time.

Mr. Speaker, I rise in support of H.R. 2790, the Public Buildings Act of 1987. During subcommittee consideration of this legislation an amendment was adopted in the nature of a substitute incorporating three bills, H.R. 2790, which had been submitted by GSA, H.R. 2778, which allows the time financing of the acquisition or construction of public buildings, and a bill of mine H.R. 1772, requiring that buildings constructed or altered by a Federal agency comply, to the maximum extent feasible, with nationally recognized model codes as well as local zoning laws. I appreciate the subcommittee incorporating my bill into this legislation. I especially want to thank Chairman Sunia and the ranking member of the Public Buildings and Grounds Subcommittee Mr. MOLINARI for their assistance.

Allow me to describe that portion of H.R. 2790 which originated with my own legislation, H.R. 1722. H.R. 1772 is similar to legislation which passed the House during the 99th Congress only to die on the desk of the President of the Senate at sine die. Making it one of the most successful bills never passed by Congress. The legislation seeks simply to bring Federal construction projects under the same umbrella of nationally recognized building and safety codes which are followed by virtually every other construction project in the country.

This legislation would clarify the position of the Federal Government in complying with nationally recognized building codes, and other local requirements, such as zoning laws and building permit regulations when constructing or remodeling Federal buildings.

It would also require the Federal Government to submit plans for such projects to local building officials for review and grant to local officials the opportunity to inspect the building during construction or alternation.

Let me spend a few minutes describing some of the situations that occurred in my district that prompted my introduction of this legislation. I'm told that situations like these are not uncommon and exist throughout the country.

In Sisters, OR, the Forest Service remodeled the Sisters Ranger District Building and refused to purchase a building permit or submit site plans. Both actions are required by State and county law.

In Medford, where my district office is located and the largest city in the district three problems occurred. First, in the Medford Post Office, a stairwell was built that does not comply with city regulations.

The second problem, again at the post office, cost the taxpayers $25,000. A loading ramp was built and then demolished when changes were made in specifications. Had the contractor and the post office established a dialog through the city building department the taxpayers of this country would have been spared the expense of destroying and replacing the new ramp.

The third problem involved the Forest Service. On a remodeling project at the Rogue River National Forest auto shop, the Forest Service refused to remodel the existing firewall to meet city code and to pay $350 for a local permit. This created a potential safety hazard and the city responded by issuing a stop order which was ignored by the contractor.

I wish I could tell the House this situation was resolved simply. It was resolved, but not before the Federal Government filed suit against Medford. Let me repeat the amount in question—$350—in a letter to Attorney General Meese I suggested attorneys involved in the case probably bill that amount in less than an hour. I asked him to settle the suit and let Congress resolve this matter.

An agreement was reached that allowed both the city and the Federal Government to claim victory. The Forest Service agreed to do the work the city wanted at some later date, and the city agreed to drop its demand for immediate correction.

In addition, as a result of a meeting initiated by Senator HATFIELD and me, and attended by representatives from GSA and Medford City officials, GSA agreed to abide by city building codes.

In conclusion, I urge Members to support H.R. 2790. This legislation by requiring that federally constructed buildings comply with nationally recognized building codes, and locally enforced zoning laws will ensure that the host community's own standard of design, safety and aesthetic values are protected.

We must not allow the Federal Government to substitute brute force for common sense in questions of local building code compliance.

Mr. SHAW. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I commend the gentleman from Oregon for his amendment. I had a personal experience with the Federal Government not complying with local ordinances some years ago when I was mayor of Fort Lauderdale when they were constructing a Federal building. At that time we thought it was rather amusing some of the problems the Federal Government had run into that we could have steered them clear of. However, now as a tenant in that building, I do not find that any longer amusing at all. We would have had a much better Federal building had GSA at that time allowed the Fort Lauderdale Building Department to give them some guidance.

Also, my colleagues may recall that just a few years ago our former colleague, Mr. Hartnett, had a Federal project going in his district in Charleston, SC, that was coming into the historic district. If any of my colleagues are familiar with the beautiful historic district of Charleston, certainly the Federal Government needed the direction of the historical society and the good people in Charleston to give them the type of architecture that was right for Charleston. Fortunately, at that time the administration gave in to the people of Charleston. However, this bill would require them to go along with the local people.

I would just like to take a couple of moments and talk about time financing. The General Services Administration of this administration has told us that out of a million square feet in building space over a 30-year period that the Federal Government, by our bill, would save approximately $100 million.

I would also like to say in answer to the question of big Government, the expansion of the Federal Government has been in leased space. Over half of the space now occupied right here in Washington, DC is leased, and it is leased because there is an impediment in the law that prohibits this time of financing. This does not expand the Government; it simply tells the Government they can consider the same things a businessman would consider when making a decision as to whether or not to buy or lease.

Under present law, under our present budget conditions, if we build a Federal building our outlays have to be shown in the year in which they are expended, and without debt financing that is the total purchase price. That is why we are leasing space, and that is the only reason we are leasing space.

Right now in 1987 there was approximately $155 million spent in construction where in leased space there is $1.2 billion being paid out. That is money that we have nothing to show for at the end of the lease because the building goes back to the landlord.

Please, let us pass this bill, let us give the Federal Government not the obligation but the ability to make decisions in the same sensible way people in the private sector do. This is a good bill, it substantially improves existing law. I intend to work with the administration between now and the time of the conference in order to try to work this out.

This is not a question of everyone being against this bill in the administration because they are not. We have to work with the Office of Management and Budget and work with the administration on the problems that we have. But I cannot see any problems with this bill, and it would be much to the benefit of this administration and the Office of Management and Budget to get this bill on the books. If they do not want to use it in this administration, that is up to them. But I want to give them that ability. We are doing exactly this in Miami, FL, right now with a building that we are constructing, but we are having to do it with a lease-purchase rather than debt financing. This will allow us to go right along and do it the right way.

I urge passage of the bill.

Mr. SUNIA. Mr. Speaker, as chairman of the Subcommittee on Public Buildings and Grounds, I rise in support of H.R. 2790, commonly referred to as the "Public Buildings Amendments of 1987." This bill intends to improve the efficiency and effectiveness of management of public buildings. This piece of legislation includes several provisions which would amend the Public Buildings Act of 1959. The bill would increase the present prospectus threshold from $500,000 to $1.5 million. It would also require approval through the prospectus process of alterations to leased space which cost in excess of $1.5 million. The prospectus threshold was last adjusted in 1972. To avoid having to wait for over another decade before making such an adjustment, provision is included in the bill to allow the Administrator of General Services to make annual adjustments to reflect the percentage increase or decrease in construction costs during the preceding calendar year, as determined by the composite index of construction costs prepared by the Department of Commerce. Of course, such adjustment must be reported to Congress as expeditiously as possible.

Often the Federal Government spends a lot of taxpayers' money to lease nonfederally owned buildings to house many of its agencies. Some of these leased buildings require major alterations to suit special and specific needs of different agencies. This bill would prohibit the leasing of any space for the following: to accommodate major computer operations, secure activities related to the national defense or security, offices which would require major alterations or a permanent courtroom or related space for the United States courts unless the Administrator of General Services determines that such space requirements cannot be met in public buildings. This is important since the present cost of leased space is very high, and paying for alterations for leased space without some sort of guaranteed revision of ownership can be quite expensive.

H.R. 2790, as reported, authorizes the Administrator of General Services to issue debt instruments for purchase by the Secretary of the Treasury, but only to the extent authorized in annual appropriations acts, in amounts necessary to finance the acquisition or construction of public buildings. This method of financing would provide cost savings to the Government when private developers build and finance a building, lease it to the Federal Government and after certain number of years revert the title of ownership back to the Government. Similar authority has been used by the administration to provide for construction of office space in Washington, DC; Oakland, CA; Miami, FL; and New Orleans, LA.

In addition, the bill authorizes the Administrator of General Services to utilize funds made available for rent for the leasing of space in buildings erected by a lessor on land owned by the Government. This provision will permit greater utilization of Government-owned land.

Furthermore, this legislation directs the Administrator to establish detailed specification requirements for buildings to be constructed for lease to, and predominant use by, the United States. Generally, Federal buildings are constructed to specifications which provide longer useful life and have special facilities and requirements not found in private construction. The installation of special facilities and requirements during construction can save million of dollars over the term of any lease.

There has been some concern expressed about the lack of consulation on the part of a Federal agency to comply with the local officials concerning local building codes and zoning ordinances relative to Federal construction and alteration projects. Section 7 of this bill would require that buildings constructed or altered by a Federal agency comply, to the maximum extent feasible, with nationally recognized model codes and with local zoning laws and other local requirements. This section shall not apply with respect to any building if the Administrator determines that the application of this section to such building would adversely affect national security.

H.R. 2790, as reported, provides GSA with the authority to retrocede exclusive jurisdiction to State governments and other entities where full-time Federal law enforcement presence is not required. This action would remove the potential for dispute over jurisdiction when local police authorities respond to requests for assistance. Similar authority has been granted by the Congress to the Secretaries of military departments, the Secretary of Transportation, the Administrator of Veterans' Affairs, and the Secretary of the Interior.

Mr. Speaker, this bill is a worthwhile piece of legislation which attempts to cut certain costs to the Federal Government in relation to its public building services. A key concern is the considerable increase in cost for leased space which has increased from $364 million in 1975 to the current level of $1.2 billion. Unless reductions are made to the current leased space inventory, the rental of space budget will reach $2 billion by the mid to late 1990's. I fully support this bill, and I urge my colleagues that it be passed.

Mr. HAMMERSCHMIDT. Mr. Speaker, I rise in support of H.R. 2790, as reported by the Committee on Public Works and Transportation. H.R. 2790 makes numerous amendments to the public buildings act of 1959 designed to improve the General Services Administration's management of public buildings. This authority has not been revised in 15 years and H.R. 2790 brings this program into the 1980's.

The bill makes eight major improvements in the management of our Nation's public buildings. First, it increases the threshold which triggers submission of a prospectus for approval by the House Public Works and Transportation Committee and the Senate Committee on Environment and Public Works for construction, acquisition, purchase or alterations projects, and the leasing of space from the 1972 figure of $500,000 to $1.5 million. This will allow the Public Works Committee to maintain oversight on major projects and leases while allowing GSA to operate more efficiently. Although the number of individual prospectuses requiring approval would decline, the actual total dollar amount of such projects and leases would not be substantially affected.

Similarly, H.R. 2790 allows for the threshold to reflect annual changes in construction costs which will avoid the necessity of continuous amendment to the 1959 act. Alterations to leased space over $1.5 million would also be subject to prospectus approval. Currently, no review of these alterations, which can amount to several millions of dollars, is required.

Second, H.R. 2790 also contains provisions relating to the leasing of space to house Federal agencies. Unless the Administrator determines in writing to the House Public Works and Transportation Committee and the Senate Environment and Public Works Committee that space is not available in public buildings, the leasing of space to house major computer operations, activities related to the national defense, space requiring major alterations in structure and mechanical systems, and permanent courtrooms or space for the U.S. courts, is prohibited. This is often the type of space that requires costly expenditures of Federal funds for alterations which are lost when agencies relocate out of that space.

The third improvement relates to the leasing of space; the bill directs the Administrator of GSA to establish detailed specification requirements for the construction of buildings which will be leased for the predominant use by the United States. In this way, we will assure that specific Government needs are met. If, upon completion of construction, inspection reveals that the building is not in compliance with the specifications, H.R. 2790 allows the administrator to reduce the rent for the space during such time of noncompliance.

Fourth, language which has been carried in annual appropriations acts is included in this bill, allowing the payment of rent for the purpose of leasing space in buildings constructed by a lessor on land owned by the United States. This provision has been used in the past and will allow greater flexibility and utilization of Federal lands.

Fifth, in recognition of our increasing leasing costs and the lack of funds for Federal construction in the Federal buildings fund, the bill provides for the time financing of Federal buildings. I want to compliment Congressman CLAY SHAW for his initiative in introducing and supporting time financing, both this year and in previous Congresses. With a 30-year repayment period, construction would become more feasible and certain long-term, high-cost leasing could be avoided. H.R. 2790 authorizes the Administrator of General Services to issue debt instruments for purchase by the Secretary of the Treasury, but only to the extent authorized in annual appropriations acts.

While debt instruments issued by the Administration will be treated as budget authority in the fiscal year they are issued, only the annual repayment of the debt will be counted as Federal outlays in a fiscal year. Additional oversight of this financing program has been included in the bill through the requirement of prospectus approval before construction or acquisition.

Mr. Speaker, today, almost half of all Federal employees are housed in 89.8 million square feet of leased space. In fiscal year 1988, the rental of space is estimated to cost over $1.2 billion, double GSA's rental of space budget for fiscal year 1980. Yet, in lease prospectuses submitted to the Public Works Committee, the economic analysis required by the Office of Management and Budget frequently reveals that construction is much less than continued leasing. But, in areas where there is a long-term need and construction would be preferable, the Government is forced to lease because of the lack of funds for the total construction cost which must be provided up front. However, the full cost of leases that the Government enters into are treated in a different way, with only annual lease payments being justified each year. Thus, a 10-year lease with an annual cost of $2 million is not shown as a $20 million financial obligation on the part of the Government. Time financing will allow the Government to avoid the trap of high-cost leasing where Government ownership is more appropriate.

The sixth change in this legislation requires compliance, to the maximum extent feasible, with nationally recognized model building codes and local requirements, as well as consultation with local officals in preparing plans for construction or alternations by Federal agencies. In addition, the bill permits review of plans if requested by local officials and inspection during construction by local officials. In this way, Federal agencies will gain the expertise of those most familiar with the particular area in which a project is completed. However, the bill specifies that no penalty or fine may be imposed and no action brought against the United States for failure to meet these requirements, thus protecting the interests of the United States. Congressman BOB SMITH of Oregon introduced a bill containing similar provisions earlier this year and I commend him on his diligent work with GSA and the Public Works Committee in having these provisions included in this legislation.

Seventh, H.R. 2790 contains various provisions designed to give the Administrator of General Services more flexibility in providing security. The bill makes permanent GSA's authority to perform certain law enforcement functions in buildings owned or occupied by the United States, which includes leased buildings. This authority has been granted for several years in appropriation acts.

Mr. Speaker, H.R. 2790 will improve GSA's Federal building and leasing programs, and deserves the support of the House.

Mr. MOLINARI. Mr. Speaker, I want to express my support for H.R. 2790. The Subcommittee on Public Buildings and Grounds held hearings on this legislation on November 19, 1987, and adopted an amendment in the nature of a substitute in approving the bill on December 9, 1987. H.R. 2790, as amended, was approved unanimously by the Public Works and Transportation Committee on December 10, 1987.

H.R. 2790 will update certain provisions of the Public Buildings Act of 1959, such as increasing the prospectus threshold for construction and repair and alteration projects and annual leasing from $500,000 to $1.5 million. This figure was last adjusted in 1972 and the $1.5 million figure simply reflects inflation since that time. In order to more accurately keep up with inflation in the future, the Administrator is authorized to make annual adjustments to the prospectus threshold in accordance with annual changes in construction costs. The bill also adds the requirement that alterations to leased space be included in the prospectus approval process. The Public Buildings and Grounds Subcommittee has found that many times these alterations are completed at a very high cost—certain projects have been as high as $15 million.

The bill includes provisions allowing for the time financing of Federal construction and acquisition. For several years, there has been concern as to the high cost of leasing space for the Federal Government. In fiscal year 1988, it is anticipated that the rent bill for the Federal Government will be approximately $1.2 billion. Equally as troubling are predictions that this will increase to $2 billion by the mid-1990's. The Government currently leases 89.8 million square feet of space across the country. Seventy-five percent of the Government's leases come up for renewal in the next 5 years and we will be faced with a dramatic increase in rental costs as these leases are renewed.

One may question why the Government continues to engage in high-cost leasing. Put simply, the Federal buildings fund cannot accommodate much Federal construction, even if it may be justified, because construction costs must be accounted for in a single year. Leasing, then, is the only alternative as costs are justified only on an annual lease cost basis, hiding the full cost of the lease.

In an effort to be able to take advantage of lower costs through Federal construction when there is a legitimate and long-term need for space, H.R. 2790 permits the Administrator to issue debt instruments, to the extent authorized in annual appropriations acts, for purchase by the Secretary of the Treasury. Terms and conditions of such issuance would be determined by the Secretary but repayment would not begin until the building is ready for occupancy and the repayment shall not extend beyond the useful life of the building or 30 years. The debt issuance would be treated as outlays only to the extent liquidated in a fiscal year.

Following the concern over the cost of leasing, H.R. 2790 would prohibit the leasing of certain kinds of space. Unless justified in writing by the Administrator to the House Committee on Public Works and Transportation and the Senate Committee on Environment and Public Works, the leasing of space to accommodate major computer operations, activities related to national security and defense, space requiring major structural and mechanical alterations, and court space would be prohibited. This has been included as this is the very type of space which require alterations to be paid for by the U.S. Government. Computer operations require special floor liveloads and increased electrical capacity. Such operations, which may require prospectus-level alterations, are more appropriately housed in government-owned space where such requirements can be met without losing the investment should such operations be relocated in the future.

Also in keeping with this concern, the legislation requires that, for buildings to be constructed for lease to the Government, the Administrator establish by regulation specification requirements for such buildings. Federal buildings are usually constructed to higher specifications than private construction, and this will ensure that specific Government requirements are met. Each building shall be inspected by the Administrator who can reduce the rent during such time as the building is not in compliance with the specifications.

H.R. 2790 requires that, to the maximum extent feasible, construction or alterations made by Federal agencies comply with nationally recognized model building codes and local requirements. The provision provides that local officials be consulted during the planning process for Federal projects and allows local officials to make recommendations based on their review and inspection. The Federal Government is protected, however, as no action may be brought against the United States and no fee or penalty imposed for failure to comply.

Mr. Speaker, the bill also includes two provisions relating to the security of Federal space—an issue that continues to grow in importance. For many buildings around the country, only the Federal Government has jurisdiction. H.R. 2790 would permit the Administrator of GSA to enter into agreements with State and local officials in order to allow them to provide police and fire protection for these buildings. The bill also makes permanent authority granted in annual appropriation acts whereby the Federal Government provides certain law enforcement in leased space. These two provisions will give the Administrator of GSA flexibility in determining how to best meet the security needs of federally occupied and owned space around the country.

Mr. Speaker, this bill contains needed improvements to the Public Buildings Act of 1959 and I urge its support by the Members of the House.

Mr. SHAW. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. GRAY of Illinois). The question is on the motion offered by the gentleman from North Carolina [Mr. LANCASTER] that the House suspend the rules and pass the bill, H.R. 2790, as amended.

The question was taken.

Mr. WALKER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. LANCASTER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 2790, the bill just considered.

The SPEAKER Pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

KNIPLING-BUSHLAND RESEARCH LABORATORY

Mr. STENHOLM. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3712) to designate the U.S. Livestock Insects Laboratory in Kerrville, TX, as the "Knipling-Bushland Research Laboratory."

The Clerk read as follows:

H.R. 3712

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the United States Livestock Insects Laboratory of the United States Department of Agriculture's Agricultural Research Service, located in Kerrville, Texas, is hereby designated as the "Knipling-Bushland Research Laboratory". Any reference to the United States Livestock Insects Laboratory in a law, map, regulation, document, record, or other paper of the United States shall be considered to be a reference to the "Knipling-Bushland Research Laboratory".

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Texas [Mr. STENHOLM] will be recognized for 20 minutes and the gentleman from Texas [Mr. COMBEST] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas [Mr. STENHOLM].

Mr. STENHOLM. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 3712 will designate the U.S. Livestock Insects Laboratory in Kerrville, TX, as the "Knipling-Bushland Laboratory." This will serve to honor two outstanding individuals who pioneered research on controling insect pests of humans and livestock.

The team of Dr. Edward Knipling and Raymond Bushland are largely responsible for the success of the screwworm eradication program in North America. For those of my colleagues that are not familiar with agricultural pests, the screwworm is the No. 1 airborne livestock pest. Working together, these individuals developed a means of eradicating screwworms through the introduction of sterile male flies into areas of pest infestations. Billions of these sexually sterile flies have been distributed over vast areas of the southern United States and Mexico to attempt to control and, if possible, eliminate the screwworm from the region.

Mr. Speaker, as a result of this program the United States and most of Mexico have been declared free of screwworm. The screwworm eradication program is a model of international cooperation and is one of the first examples of the peaceful use of nuclear radiation for the benefit of man. The concept of taking advantage of the aggressive sexual behavior of adult male screwworm (or blowflies) to reduce their numbers was conceived by Dr. Knipling. The production of sufficient numbers of blowflies to allow this biological approach to pest control to work as well as the methods used to sterilize male screwworms through exposure to radiation are based on techniques developed by Dr. Bushland.

Mr. Speaker, the achievements of Dr. Knipling and Dr. Bushland have done much to promote the well-being of American agriculture as well as the cooperation of the United States and Mexico in dealing with common agricultural concerns. The renaming of the Kerrville, TX, Livestock Insects Laboratory is an essential step toward recognizing the contributions of these two important scientists.

Mr. Speaker, I urge the immediate passage of H.R. 3712.

□ 1425

Mr. Speaker, I reserve the balance of my time.

Mr. COMBEST. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 3712 as it was explained by my colleague from Texas [Mr. STENHOLM].

If I might digress for a moment, growing up on a ranch as a youngster barely old enough or large enough to sit in the saddle, I remember accompanying my father on spring and fall roundups when we were working cattle, we would dehorn, brand and vaccinate.

One of the most serious problems one faced working cattle, of course, was treating an open wound which would bring about an infestation, or case of screwworms.

For those individuals who have never seen the results of a sore on an animal infested by screwworms, I will save the gory details but suffice it to say it is not a pleasant sight.

Over the years as the screwworm eradication program progressed, it became one of the truly, I think, tremendous successes in agricultural research. The screwworm was not just retarded in number but was totally eradicated. In fact, today it is very seldom a concern after performing operations or working on cattle, that there will be an infestation of screwworms.

I might also add that in addition to domesticated animals all animals—be it deer, elk or any other type of animal—that had open sores in the past were susceptible to screwworms, and in many cases it caused death. It certainly caused severe injuries. The elimination of the screwworm as a pest and as a problem in the livestock industry in North America has saved the industry over $1 billion, and for every $1 invested, it has provided $4 of net return to the industry. It has been a truly successful program, and I am sure it is one of those programs that years ago had the sex life of the blowfly come under discussion it would have been the subject of many jokes. However, this research in fact proved to be very valuable to the livestock industry. I think in the future we will see that this research has also tremendously benefited future research on the elimination of other types of pests without using a pesticide or an insecticide, which could potentially damage the environment.

I strongly support this program, and I strongly support naming the laboratory after the two gentlemen who perfected this process.

Mr. SMITH of Texas. Mr. Speaker, I want to thank Members of the House for supporting HR. 3712, a bill to designate the United States Livestock Insects Laboratory in Kerrville, TX, as the "Knipling-Bushland Research Laboratory."

I want to commend Dr. Edward Knipling and Dr. Raymond Bushland of Kerrville, TX, who are the individuals this bill is intended to honor. Dr. Knipling and Dr. Bushland have made significant contributions to the field of entomology, including their pioneer efforts to develop the screwworm eradication program.

In 1962, an innovative and effective eradication program was initiated in the United States using a combination of radiation and sterilization of male screwworms. As a result of this program, the United States has virtually been free of screwworms since 1966. Similar programs have been initiated in Mexico and throughout Central America.

Dr. Knipling and Dr. Bushland have made invaluable contributions to the field of entomology and to the livestock industry. The United States livestock industry remains a world leader because it has been able to develop efficient and predictable production methods relatively unhindered by disease. It is my hope that the achievements of these two individuals will inspire others to strive for new successes in agricultural research.

Mr. COMBEST. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. STENHOLM. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The Question is on the motion offered by the gentleman from Texas [Mr. STENHOLM] that the House suspend the rules and pass the bill, H.R. 3712.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. STENHOLM. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 3712, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

CHARITABLE ASSISTANCE AND FOOD BANK SUPPORT ACT OF 1987

Mr. PANETTA. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3435) to provide that certain charitable donations, and payments for blood contributed, shall be excluded from income for purposes of the Food Stamp Program and the AFDC Program, as amended.

The Clerk read as follows:

H.R. 3435

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

That this Act may be cited as the "Charitable" Assistance and Food Bank Act of 1978".

SEC. 2. FOOD STAMP PROGRAM.

(a) SECTION 5(D) OF THE FOOD STAMP ACT OF 1977 (7 U.S.C. 2014(D)) IS AMENDED—

(1) in clause (8) by inserting "cash donations based on need that are received from one or more private nonprofit charitable organizations but not in excess of $300 in the aggregate in a quarter," after "or credits,";

(2) in clause (12) by striking "and" at the end thereof; and

(3) by inserting after clause (13) the following: "and (14) any payment received for blood or blood products contributed by household members".

(b)(1) EFFECTIVE DATE.—Except as provided in paragraph (2), the amendments made by this section shall become effective upon the date of enactment of this Act.

(2) APPLICATION OF AMENDMENTS.—The amendments made by this section shall not apply with respect to allotments issued under the Food Stamp Act of 1977 to any household for any month beginning before the date of enactment of this Act.

SEC. 3. FOOD BANK DEMONSTRATION PROJECT.

(a) The Secretary of Agriculture shall carry out no less than one demonstration project to provide and redistribute agricultural commodities and food products thereof as authorized under section 32 of the Act entitled "An Act to amend the Agricultural Adjustment Act, and for other purposes", approved August 24, 1935, as amended (7 U.S.C. 612c), to needy individuals and families through community food banks. The Secretary may use a State agency or any other food distribution system for such provision or redistribution of section 32 agricultural commodities and food products through community food banks under a demonstration project.

(b) Each food bank participating in the demonstration projects under this section shall establish a recordkeeping system and internal procedures to monitor the use of agricultural commodities and food products provided under this section. The Secretary shall develop standards by which the feasibility and effectiveness of the project shall be measured, and shall conduct an ongoing review of the effectiveness of the projects.

(c) The Secretary shall determine the quantities, varieties, and types of agricultural commodities and food products to be made available under this section.

(d) This section shall be effective for the period beginning on the date of enactment of this Act and ending on December 31, 1990.

(e) The Secretary shall submit annual progress reports to Congress beginning on July 1, 1988, and a final report on July 1, 1990, regarding each demonstration project carried out under this section. Such reports shall include analyses and evaluations of the provision and redistribution of agricultural commodities and food products under the demonstration projects. In addition, the Secretary shall include in the final report any recommendations regarding improvements in the provision and redistribution of agricultural commodities and food products to community food banks and the feasibility of expanding such method of provisions and redistribution of agricultural commodities and food products to other community food banks.

The SPEAKER pro tempore. Is a second demanded?

Mr. LEWIS of Florida. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from California [Mr. PANETTA] will be recognized for 20 minutes and the gentleman from Florida [Mr. LEWIS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. PANETTA].

Mr. PANETTA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, on behalf of myself and my ranking minority member, Mr. EMERSON of the Subcommittee on Domestic Marketing and Consumer Relations and Nutrition of the Committee on Agriculture, we rise in strong support of H.R. 3435, the Charitable Assistance and Food Bank Support Act of 1987. This bill was reported out of the Committee on Agriculture unanimously and enjoys bipartisan support.

In addition, a number of charities including the U.S. Catholic Conference have indicated their support for this legislation.

The purpose of H.R. 3435 is to correct two inequities in the treatment of atypical income received by certain households participating in the Food Stamp Program. The bill also authorizes demonstration projects to test new expanded ways of distributing surplus agriculture products through food banks.

The first provision would amend the Food Stamp Act so that small charitable contributions which are given to poor people, particularly at holidays, do not count as income in determining benefits under the Food Stamp Program. This provision is especially appropriate as we approach the holiday season, when many communities have private charity campaigns in which small cash donations are provided to the needy for the purchase of food, gifts, or other items.

Unfortunately, section 5(d)(1) of the Food Stamp Act, while it does allow for this kind of gift deductions, does not do the same with regard to cash contributions.

This is a time of year when those who are more fortunate in our society have traditionally been called upon to help the needy. We are a generous society and community efforts of this kind are usually successful. We all recognize the problem of hunger and homelessness in our society is a national shame and requires cooperation to deal with it at the Federal, State, and local levels, as well as the private sector.

We encourage the private sector to establish efforts to provide assistance in this time of need.

But it is frustrating for those who do wish to help to see their contributions offset by inflexible Federal regulations. It does not make sense to me to discourage such contributions in this way. Instead, we should be encouraging this outpouring of holiday spirit.

The problem in the current law was brought to my attention last year when the Monterey Peninsula Herald, conducted a campaign, "Operation Christmas," to get subscribers to donate money to help needy families over the holidays. The donors and the recipients were both justifiably outraged when they discovered that this altruism caused cuts in welfare benefits.

To correct the problem in the Food Stamp Program, this bill provides that up to $300 in a 3-month period would be excluded from income if this amount represents nonrecurring cash donations based on need that are received from one or more private nonprofit charitable organizations. CBO estimates the cost of the charity disregard to be less than $500,000 a year.

This bill will also correct a bureaucratic problem which has come to light in the Food Stamp Program. The Food and Nutrition Service interprets the Food Stamp Act as requiring, that any payment which a food stamp recipient receives for providing his or her blood must be counted in determining food stamp benefits. I personally think it is tragic that some people find themselves in such desperate straits that they have to sell their blood. If the money they get from selling their own blood causes their food stamp benefits to be cut, the inequity is compounded.

At a time when there is obviously a need for blood contributions it is tragic to discourage these contributions but it is actually more tragic when a person receives payment for their contribution to have it deducted from their benefits. The purpose of this provision is to correct that.

Mr. Speaker, correction of this inequity will cost $1 million a year.

The third provision would authorize the Department of Agriculture to carry out at least one food bank demonstration project using section 32 commodities. My distinguished colleague and the ranking minority member of the Subcommittee on Domestic Marketing, Nutrition, and Consumer Relations, BILL EMERSON, and I held a hearing on food banks earlier this year in Missouri. At that hearing, we received impressive testimony about the capability of food banks to meet emergency nutrition needs. We came away from that hearing convinced that we should test ways to increase the flexibility of the food banks. CBO advises that the cost of operating this demonstration would be $200,000 a year. The cost is kept low because the Department of Agriculture will use commodities that are already available for donation under section 32 of the Agriculture Adjustment Act of 1935.

The House approved this demonstration earlier this year when we considered the Commodity Distribution Reform Act of 1987, H.R. 1340. We have included in H.R. 3435 the exact language already approved by the House to ensure that we have to send a vehicle over to the Senate that will get this important legislation in place. At the same time, I want to emphasize that we are very close to getting final agreement on the few outstanding issues in H.R. 1340, and we hope to get that bill down to the White House before the end of the session.

I urge that the House approve the Charitable Assistance and Food Bank Support Act of 1987, H.R. 3435. We want to get this legislation over to the other body and work to get it enacted into law before Christmas so that the good work of local charities across the country will not be undercut by the complexity of the welfare system.

Mr. Speaker, I reserve the balance of my time.

Mr. LEWIS of Florida. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the bill before us today corrects two inequities in the Food Stamp Program. First, charitable contributions, received from private, nonprofit organizations and which do not exceed $300 over any 3-month period, will be excluded from consideration as income in the Food Stamp Program. The purpose of this provision is to ensure that poor families receiving cash contributions, especially over the holiday season, will not have their food stamps reduced. The contributions to be excluded must be made by private nonprofit charitable organizations. This provision will ensure that private organizations, providing help to the needy, and the Food Stamp Program rules will not be working against one another—one providing help and the other taking it away.

The second provision of H.R. 3435 exempts those payments received by food stamp participants from the sale of their blood or blood products. This issue came to the attention of the gentleman from Missouri, the ranking minority member of the subcommittee, from the Missouri Association for Social Welfare and the Governor of Missouri. Both felt that the application of this rule complicated the administration of the Food Stamp Program and suggested that such payments be excluded from consideration as income.

Both of these changes to the Food Stamp Program will affect very few participants. Charitable cash contributions are not made with much frequency. According to the National Council of Churches, churches generally give assistance in the form of food, clothing, or shelter, rather than cash. Such in-kind contributions are not now counted as income in the Food Stamp Program. The American Blood Resources Association has reported that last year there were about 1 million compensated donors of blood. While there are no specific data on how many compensated donors are receiving food stamps, it is estimated that over one-half of the compensated donors are males under 30 years. There is a relatively low participation in the Food Stamp Program among such a group.

The gentleman from Missouri [Mr. EMERSON] offered an amendment, which was accepted, during consideration of H.R. 3435 in the Committee on Agriculture.

The purpose of that amendment is to test the concept of using section 32 commodities, those commodities removed from the market by the USDA under the Surplus Removal Program, in food banks. This pilot project will be established for the period through 1990, to coincide with the expiration of the farm bill. At that time, USDA will be required to submit a report to the Congress evaluating the pilot project and making recommendations as to the feasibility of continuing the project and expanding it to other food banks.

The administration has no opposition to this bill.

I urge my colleagues to support this bill.

Mr. EMERSON. Mr. Speaker, the bill before us today corrects two inequities in the Food Stamp Program. First, charitable contributions, received from private, nonprofit organizations and which do not exceed $300 over any 3-month period, will be excluded from consideration as income in the Food Stamp Program. The purpose of this provision is to ensure that poor families receiving cash contributions, especially over the holiday season, will not have their food stamps reduced. The contributions to be excluded must be made by private nonprofit charitable organizations. This provision will ensure that private organizations, providing help to the needy, and the Food Stamp Program rules will not be working against one another—one providing help and the other taking it away.

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The 1985 farm bill provided that public or private nonprofit organizations receiving commodities under section 32 of the Act of 1935 are authorized to transfer these commodities or products to other private or nonprofit organizations that can use them without waste to provide nutrition assistance to low-income persons. This redistribution will be the source of the surplus commodities to be made available for the food bank pilot project. Other surplus removal activities of the USDA can provide additional surplus commodities to the food bank pilot project.

Food banks provide a vital resource to the communities they serve. Their service is not only in distribution of surplus commodities made available by the U.S. Department of Agriculture through the Temporary Emergency Food Assistance Program [TEFAP]. In addition, they provide food products donated by food stores and other private organizations. The food banks, which provide food to charities that serve the needy, are an integral part of the overall network of public and private organizations providing food assistance to needy individuals and families.

A food bank is defined by the USDA as a provider of central collection, storage, and distribution of donated foods. A food bank has the resources to solicit, transport, store, and distribute foods in large quantities thus providing a convenient outlet for donors who then interact with only one agency. Food banks may also operate food box programs which provide boxes or bags of food directly to households, for preparation at home.

According to a report issued by USDA, food banks distributed a significant portion of TEFAP commodities, although the proportion varies across States. The proportion varied from 100 percent in seven States to less than 1 percent, but because States with larger TEFAP allocations tended to use food banks more, 30 percent of all TEFAP commodities for the Nation were distributed through food banks.

Commodities received by food banks through TEFAP include cheese, butter, nonfat dry milk, flour, cornmeal, and rice. By initiating the food bank demonstration pilot project, it is my hope that we can test the concept of increasing the variety of commodities made available to food banks, specifically section 32 commodities which include fruits, vegetables, meat, and poultry products.

Many food banks have an established network in place to provide for the distribution of surplus commodities to agencies that feed needy people. Such food banks have workable transportation systems, available warehouses and a history of reliable service. These commodities of fruits, vegetables, meat, and fish products will complement the staple surplus commodities now distributed by food banks and thereby provide a wider range of food to individuals and families in need.

USDA is required to establish at least one demonstration project but, of course, may conduct more. I expect that USDA will consult with the Committee on Agriculture in carrying out this demonstration project and will report periodically on the status of the project, the types of commodities made available and the feasibility of expanding distribution of section 32 commodities to other food banks.

I believe that this is a worthwhile bill and merits the support of the House of Representatives.

Mr. GILMAN. Mr. Speaker, I rise in support of H.R. 3435, the Charitable Assistance and Food Bank Support Act of 1987. I would like to commend the gentleman from California [Mr. PANETTA], the distinguished chairman of the Agriculture Subcommittee on Domestic Marketing, Consumer Relations, and Nutrition, and the gentleman from Missouri [Mr. EMERSON], the subcommittee's distinguished ranking minority member, for their leadership in bringing this measure to the floor.

Mr. Speaker, this legislation will make two important corrections in the administration of Federal programs designed to alleviate the problems of hunger and starvation in our Nation. H.R. 3435 will exempt charitable cash contributions which do not exceed $300 over any 3-month period from consideration as income when calculating food stamp eligibility. Second, this measure will also exclude the amounts of compensation received in exchange for blood donations of food stamp beneficiaries.

The Congress must do everything it can to ensure that the nutritional requirements of our Nation's needy citizens are adequately fulfilled. Mr. Speaker, an integral component of our approach to this problem must be the inclusion of private sector organizations and the encouragement of their vital contributions. H.R. 3435 will take an important step in this direction by allowing organizations such as the National Council of Churches and the American Blood Resources Association to continue their current activities without fear of an inadvertent reduction in food stamp benefits. With the enactment of H.R. 3435, their small but significant contributions will no longer adversely impact upon our Nation's food stamp recipients.

Mr. Speaker, we cannot afford to retreat from the blight of hunger and starvation any longer. While today we will allow for the inclusion of certain cash contributions for eligibility for food stamp programs, we must also take action to ensure that noncash contributions are permanently excluded from consideration for Social Security benefits. These donations are currently excluded under a temporary regulation, but Congress should adopt legislation to make the exclusion permanent. Accordingly, I have cosponsored two measures designed to correct this problem, and I would hope that we can soon address the issue upon the approval of H.R. 3435.

Mr. LEWIS of Florida. Mr. Speaker, I have no futher requests for time, and I yield back the balance of my time.

Mr. PANETTA. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. PANETTA] that the House suspend the rules and pass the bill, H.R. 3435, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title of the bill was amended so as to read: "A bill to provide that certain charitable donations, and payments for blood contributed, shall be excluded from income for purposes of the food stamp program."

A motion to reconsider was laid on the table.

□ 1440

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. GRAY of Illinois). Debate has been concluded on all motions to suspend the rules.

Pursuant to clause 5, rule I, the Chair will not put the question on each motion on which further proceedings were postponed in the order in which that motion was entertained.

Votes will be taken in the following order:

H.R. 3399, by the yeas and nays; and

H.R. 2790, by the yeas and nays.

The Chair also announces that he will reduce to 5 minutes the time for any electronic votes after the first vote.

ALTERNATIVE MOTOR FUELS ACT OF 1987

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 3399, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Indiana [Mr. SHARP] that the House suspend the rules and pass the bill, H.R. 3399, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 327, nays 29, not voting 77, as follows:

[Roll No. 478]

YEAS—327

Ackerman
Alexander
Andrews
Annunzio
Anthony
Applegate
Aspin
Atkins
AuCoin
Ballenger
Barton
Bateman
Bates
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bliley
Boggs
Boland
Bonior
Bonker
Borski
Boulter
Boxer
Brennan
Brooks
Broomfield
Brown (CO)
Bruce
Bryant
Buechner
Bunning
Bustamante
Byron
Callahan
Campbell
Carr
Chandler
Chapman
Chappell
Clay
Clinger
Coats
Coble
Coelho
Coleman (MO)
Coleman (TX)
Collins
Conte
Conyers
Cooper
Coughlin
Coyne
Daniel
Dannemeyer
Darden
Daub
Davis (MI)
DeFazio
Derrick
DeWine
Dicks
Dingell
DioGuardi
Dixon
Donnelly
Dorgan (ND)
Downey
Duncan
Durbin
Dwyer
Dymally
Eckart
Edwards (CA)
Edwards (OK)
English
Erdreich
Evans
Fascell
Fazio
Feighan
Fields
Fish
Flake
Flippo
Florio
Foley
Frost
Gallegly
Gallo
Garcia
Gaydos
Gejdenson
Gibbons
Gilman
Glickman
Gonzalez
Gordon
Gradison
Grandy
Grant
Gray (IL)
Gray (PA)
Green
Guarini
Gunderson
Hamilton
Hammerschmidt
Harris
Hastert
Hatcher
Hayes (IL)
Hefley
Hefner
Henry
Herger
Hertel
Hiler
Hochbrueckner
Hopkins
Horton
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Hyde
Ireland
Jacobs
Jeffords
Jenkins
Johnson (CT)
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kasich
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kolter
Kostmayer
LaFalce
Lagomarsino
Lancaster
Latta
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lloyd
Lott
Lowery (CA)
Lowry (WA)
Lujan
Luken, Thomas
Lungren
Madigan
Manton
Markey
Martin (IL)
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McDade
McEwen
McGrath
McMillan (NC)
McMillen (MD)
Meyers
Mfume
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Moakley
Montgomery
Moody
Moorhead
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal
Nelson
Nichols
Nowak
Oberstar
Obey
Ortiz
Owens (UT)
Oxley
Packard
Panetta
Parris
Pashayan
Patterson
Pease
Pelosi
Penny
Pepper
Perkins
Petri
Pickett
Pickle
Porter
Price (IL)
Pursell
Quillen
Rangel
Ravenel
Ray
Regula
Rhodes
Richardson
Ridge
Rinaldo
Roberts
Robinson
Rodino
Roe
Rogers
Rose
Rostenkowski
Roth
Roukema
Rowland (CT)
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schneider
Schroeder
Schuette
Schumer
Sensenbrenner
Sharp
Shaw
Shays
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith, Denny (OR)
Smith, Robert (OR)
Solarz
Solomon
Spence
Spratt
St Germain
Stallings
Stangeland
Stenholm
Stokes
Stratton
Studds
Swift
Synar
Tauke
Thomas (GA)
Torres
Towns
Traficant
Traxler
Udall
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Walgren
Watkins
Waxman
Weber
Weiss
Weldon
Wheat
Whittaker
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wortley
Wyden
Wylie
Yates
Yatron

NAYS—29

Archer
Armey
Baker
Bartlett
Beilenson
Burton
Cheney
Combest
Crane
DeLay
Dornan (CA)
Dreier
Frenzel
Gekas
Houghton
Kyl
Livingston
Lukens, Donald
McCandless
Nielson
Ritter
Schulze
Shumway
Smith (TX)
Smith, Robert (NH)
Stump
Swindall
Walker
Young (FL)

NOT VOTING—77

Akaka
Anderson
Badham
Barnard
Biaggi
Boehlert
Bosco
Boucher
Brown (CA)
Cardin
Carper
Clarke
Courter
Craig
Crockett
Davis (IL)
de la Garza
Dellums
Dickinson
Dowdy
Dyson
Early
Emerson
Espy
Fawell
Foglietta
Ford (MI)
Ford (TN)
Frank
Gephardt
Gingrich
Goodling
Gregg
Hall (OH)
Hall (TX)
Hansen
Hawkins
Hayes (LA)
Holloway
Howard
Hunter
Inhofe
Kaptur
Kemp
Konnyu
Lantos
Leland
Lent
Lipinski
Mack
MacKay
Marlenee
Martin (NY)
McCollum
McHugh
Mica
Molinari
Mollohan
Oakar
Olin
Owens (NY)
Price (NC)
Rahall
Roemer
Shuster
Snowe
Staggers
Stark
Sundquist
Sweeney
Tallon
Tauzin
Taylor
Thomas (CA)
Torricelli
Vucanovich
Young (AK)

☐ 1450

The Clerk announced the following pair:

On this vote:

Mr. Barnard and Mr. Craig for, with Mr. Thomas of California against.

Messrs. HEFLEY, MORRISON of Washington, ORTIZ, LEWIS of California, and SKAGGS changed their votes from "nay" to "yea."

So (two-thirds having votes in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will reduce to a mimimum of 5 minutes the period of time within which a vote by electronic device may be taken on the additional motion to suspend the rules on which the Chair has postponed further proceedings.

PUBLIC BUILDINGS AMENDMENTS OF 1987

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 2790, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from North Carolina [Mr. LANCASTER] that the House suspend the rules and pass the bill, H.R. 2790, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 271, nays 86, not voting 76, as follows:

[Roll No. 479]

YEAS—271

Ackerman
Alexander
Andrews
Annunzio
Anthony
Applegate
Aspin
Atkins
AuCoin
Baker
Ballenger
Bateman
Bates
Beilenson
Bennett
Berman
Bevill
Bilbray
Bilirakis
Boggs
Boland
Bonior
Bonker
Borski
Boxer
Brennan
Brooks
Broomfield
Bruce
Bryant
Buechner
Bunning
Bustamante
Byron
Campbell
Carper
Carr
Chandler
Chapman
Chappell
Clay
Clinger
Coats
Coble
Coelho
Coleman (MO)
Coleman (TX)
Collins
Combest
Conte
Conyers
Cooper
Coyne
Darden
Davis (MI)
DeFazio
Derrick
Dicks
Dingell
Dixon
Donnelly
Dorgan (ND)
Downey
Duncan
Durbin
Dwyer
Dymally
Eckart
Edwards (CA)
Erdreich
Evans
Fascell
Fazio
Feighan
Fish
Flake
Flippo
Florio
Foglietta
Foley
Frost
Gallo
Garcia
Gaydos
Gejdenson
Gibbons
Gilman
Glickman
Gonzalez
Gordon
Gradison
Grandy
Grant
Gray (IL)
Gray (PA)
Green
Guarini
Gunderson
Hamilton
Hammerschmidt
Harris
Hastert
Hatcher
Hayes (IL)
Hefner
Hertel
Hiler
Hochbrueckner
Horton
Hoyer
Huckaby
Hughes
Hutto
Ireland
Jeffords
Jenkins
Johnson (CT)
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kostmayer
LaFalce
Lancaster
Leath (TX)
Lehman (CA)
Lehman (FL)
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lloyd
Lott
Lowery (CA)
Lowry (WA)
Luken, Thomas
Manton
Markey
Martin (IL)
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McDade
McEwen
McGrath
McMillan (NC)
McMillen (MD)
Mfume
Miller (CA)
Mineta
Moakley
Montgomery
Moody
Morella

Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
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Natcher
Neal
Nelson
Nichols
Nowak
Oberstar
Obey
Ortiz
Owens (UT)
Panetta
Pashayan
Patterson
Pelosi
Penny
Pepper
Perkins
Petri
Pickett
Pickle
Price (IL)
Quillen
Rangel
Ravenel
Ray
Richardson
Rinaldo
Roberts
Robinson
Rodino

Roe
Rogers
Rose
Rostenkowski
Rowland (CT)
Rowland (GA)
Roybal
Russo
Saiki
Savage
Sawyer
Saxton
Scheuer
Schneider
Schroeder
Schuette
Schumer
Sharp
Shaw
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Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Smith (FL)
Smith (IA)
Smith (NJ)
Smith, Denny (OR)
Smith, Robert (OR)
Solarz
Solomon

Spence
Spratt
St Germain
Stallings
Stangeland
Stenholm
Stokes
Stratton
Studds
Swift
Synar
Thomas (GA)
Torres
Towns
Traficant
Traxler
Udall
Upton
Valentine
Vento
Visclosky
Volkmer
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Weber
Weiss
Weldon
Wheat
Whitten
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Wilson
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Barton
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Boulter
Brown (CO)
Burton
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Cheney
Coughlin
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Daniel
Dannemeyer
Daub
Davis (IL)
DeLay
DeWine
DioGuardi
Dornan (CA)
Dreier
Edwards (OK)
English
Fields
Frenzel
Gallegly
Gekas

Hefley
Henry
Herger
Hopkins
Houghton
Hubbard
Hyde
Jacobs
Kasich
Kolbe
Kyl
Lagomarsino
Latta
Leach (IA)
Livingston
Lujan
Lukens, Donald
Lungren
Madigan
McCandless
McCurdy
Meyers
Michel
Miller (OH)
Miller (WA)
Moorhead
Nielson
Packard
Parris

Pease
Porter
Pursell
Regula
Rhodes
Ridge
Ritter
Roth
Roukema
Schaefer
Schulze
Sensenbrenner
Shumway
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Smith (NE)
Smith (TX)
Smith, Robert (NH)
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Vander Jagt
Walker
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Craig
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de la Garza
Dellums
Dickinson
Dowdy
Dyson
Early
Emerson
Espy
Fawell
Ford (MI)
Ford (TN)
Frank

Gephardt
Gingrich
Goodling
Gregg
Hall (OH)
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Hansen
Hawkins
Hayes (LA)
Holloway
Howard
Hunter
Inhofe
Kaptur
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Lantos
Leland
Lent
Lipinski
Mack
MacKay
Marlenee
Martin (NY)
McCollum
McHugh

Mica
Molinari
Mollohan
Oakar
Olin
Owens (NY)
Oxley
Price (NC)
Rahall
Roemer
Sabo
Shuster
Snowe
Staggers
Stark
Sundquist
Sweeney
Tallon
Tauzin
Taylor
Thomas (CA)
Torricelli
Vucanovich
Young (AK)

□ 1505

The Clerk announced the following pairs:

On this vote:

Mr. Akaka and Mr. Leland for, with Mr. Craig against.

Mr. Mica and Mr. Torricelli for, with Mr. Thomas of California against.

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERMISSION TO FILE CONFERENCE REPORT ON H.R. 2310, AIRPORT AND AIRWAY IMPROVEMENT AMENDMENTS OF 1987

Mr. GRAY of Illinois. Mr. Speaker, I ask unanimous consent that the managers may have until midnight tonight to file a conference report on H.R. 2310, the Airport and Airway Improvement Amendments of 1987.

Mr. Speaker, I would state further that this matter has been cleared with the minority.

The SPEAKER pro tempore (Mr. LANCASTER). Is there objection to the request of the gentleman from Illinois?

There was no objection.

DEPARTMENT OF DEFENSE ON VERGE OF MAKING MISTAKE IN STRATEGIC POLICY

(Mr. DICKS asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. DICKS. Mr. Speaker, the Department of Defense and the Air Force is on the verge of making a very serious mistake in strategic policy. In the name of budget restraint, the Department of Defense may well eliminate funding in the fiscal year 1989 budget for the small ICBM Program known as Midgetman.

This program is essential to restore survivability to the land-based leg of the triad and it is particularly important if the United States is to reduce by 50 percent the number of deployed ICBM's, SLBM's, and bombers from our strategic air command bases.

Former Secretary of Defense Harold Brown has written an important op-ed piece that described why the small ICBM is critical to strategic stability.

I ask unanimous consent that this very important article be placed in the RECORD so that it will be available to my colleagues.

[From the Washington Post, Dec. 13, 1987]

WE'RE OFF TO A GOOD START

(By Harold Brown)

The INF Agreement signed by President Reagan and General Secretary Gorbachev, though helpful to U.S. security, is only a sideshow. START remains the center ring.

Moving beyond this week's summit discussions to a full-fledged START (strategic-arms reduction treaty) requires recognition of three realities:

The current outlines of the START agreement are about as good as can be expected and deserve strong support from arms-reduction adherents in both parties;

The United States needs to restructure its retaliatory forces so that they will still provide stable deterrence of a Soviet attack after START force reductions;

Papering over disagreements about strategic defenses is a prescription for real trouble down the road.

The opponents of arms control—most of them Republicans—will, while grumbling about the INF (intermediate-range nuclear forces) Treaty, reserve their main fire for a START agreement and the limitations on strategic defense (implicit, explicit or through reaffirmation of the Anti-Ballistic-Missile Treaty) that will go with it. All the more reason for supporters of arms control and arms reduction—especially Democrats—to give due credit to the Reagan administration. Ronald Reagan's conservative and anti-Soviet credentials should make it easier for his successor, of whichever party to include arms control and U.S. military-force structure in a single national-security policy.

Despite the absence of breakthroughs in last week's summit, the START agreement that is shaping up is, on balance, a good one for U.S. security. A limit of 6,000 ballistic and cruise-missile warheads is lower than most of us thought achievable in the early 1980s. Reducing by half the number of SS18s—currently the biggest, most accurate ICBM in the Soviet arsenal and hence the ones most suitable for a preemptive strike—is a significant achievement. The sub-limit of 4,900 ballistic-missile warheads will help stability, though a further limit on ICBM warheads would be even better. Counting rules for missiles or other warheads carried over from SALT II or Reykjavik are a reasonable compromise from the U.S. point of view. The proposed limit of 1,600 launchers would allow enough leeway for both sides to deploy single-warhead, mobile ICBMs.

As in the case of INF, these verification procedures for START will be crucial in obtaining political acceptance as well as in assuring detection of violations that would significantly affect the strategic balance. Some cooperative procedures will probably be necessary, especially for mobile missiles; here the INF verification procedures seem to be providing useful precedents.

Most of these reservations, however, are nitpicks. The really urgent need is to preserve the option for some form of mobile U.S. ICBM—a crucial part of the restructuring of U.S. strategic forces to preserve their deterrent effect in a world of sharply reduced nuclear forces.

The START reductions in warhead numbers contribute to stability by reducing the number of attacking warheads aimed at strategic targets such as ICBM silos or shelters, bomber and tanker bases, command centers and the geographic areas in which ICBMs or ballistic-missile submarines move. This makes it less likely that a first strike by either side could destroy the retaliatory capacity of the other side. We can reinforce this crisis stability unilaterally by increasing the number of strategic targets on the U.S. side. The best available way to do this—and to protect against Soviet breakthroughs in anti-submarine warfare, unconstrained by treaty—is to include in our force structure a mobile, highly accurate and quickly retargetable ICBM force component that can survive a large and accurate surprise attack with little or no warning.

Various basing modes and missiles can achieve this survivability. The small, single-warhead ICBM (Midgetman) in a hardened mobile mode, moving in peacetime over an 8,000-square-mile area on southwestern military bases and dispersing over a 20,000-square-mile area on 20 minutes warning, would be an ideal, though expensive, solution in an arms-control context; the Soviets would have to use 3,000 to 7,000 warheads to attack it.

To maximize the number of ballistic-missile-armed submarines that the Soviets must track, we should stop building Trident subs, and turn to smaller ones, each with half the complement of D5 missiles—more expensive per warhead, but less vulnerable. We should also preserve, as we have apparently now agreed to do, the current limit of eight warheads per D5 missile. This would not only simplify verification but also would reduce the number of submarines the United States would have to forego under likely START counting rules.

All of these desirable force structure improvements will be allowed by START—if mobiles are allowed. So also will proceeding with the advanced technology bomber and stealthy (low radar profile) air-launched cruise missiles to counter Soviet air defenses.

Finally, it must be clearly recognized that from the U.S. point of view, deep cuts in offensive forces could become very risky if Soviet ballistic-missile defense were to be allowed to run free. In the arithmetic of deterrence, the stronger the defenses on either side, the greater the need for a sufficiency of weapons on the other side to overwhelm those defenses. Thus preservation of the ABM Treaty's ban on nationwide ballistic missile defense and, correspondingly, its limitations on testing and development of space based defenses is an integral part of any long term START limitations.

The worst possible outcome on ABM would be a situation in which the United States takes a course that ends in redefining or abrogating the ABM Treaty. This would allow the Soviets to indulge their historic proclivity toward defensive systems, causing us concern (even if ill founded) about the capability of our retaliatory forces to penetrate them. Moreover, budgetary constraints and congressional limits would almost surely keep the United States from matching these efforts.

The current tendency on both U.S. and Soviet sides is to handle this issue by a verbal formula such as "agreeing not to withdraw from the ABM Treaty for seven (or 10) years," and allowing "as required, research, development and testing, which are permitted by the ABM treaty." This approach may be useful in getting through a summit, but it papers over a fundamental, and dangerous, disagreement.

The Soviets, the U.S. Congress, and the bulk of the non-governmental national security community interpret the ABM treaty and its duration in one way, the Reagan administration in another. All the Republican presidential candidates indicate, in varying degrees, favor for deploying SDI "when" "it" "works" (leaving all three of these terms undefined); the Democrats are for varying levels of research and, in some cases, technology development. The U.S. incoherence with respect to strategic defenses invites the Soviets to switch positions—as their perceived advantage dictates. We should make sure that we and the Soviets will be playing by the same rules on SDI, and that confidence in deterrence will not be unexpectedly undermined by development and deployment of nationwide ballistic missile defenses.

(Harold Brown is chairman of the Foreign Policy Institute at Johns Hopkins University and was secretary of defense in the Carter administration.)

FEDERAL EMPLOYEES' LEAVE-TRANSFER ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York [Mr. Ackerman] is recognized for 5 minutes.

Mr. ACKERMAN. Mr. Speaker, today I am introducing [H.R. 3757] the Federal Employees' Leave-Transfer Act, legislation which would give Federal employees the opportunity to assist coworkers who face extreme personal or family hardships.

Leave-sharing is a way of providing that, throughout even the most devastating and long-term hardship, employees can still have a regular income because concerned coworkers volunteer to share with them a portion of their annual leave.

By introducing this bill, I do not pretend to have fathered the concept of leave-sharing. The private sector, and many local governments, have offered this option for many years. But Federal employees have, until now, been restricted from making this most personal and meaningful gesture of support to a coworker in need. Earlier this year, my colleague from Virginia, Congressman Frank Wolf, introduced the first Federal leave-sharing bill, which was the subject of hearings by the Subcommittee on Compensation and Employee Benefits, which I chair. I am delighted that he joins me as chief cosponsor of the revised bill which I am introducing today.

The Federal Employees' Leave-Transfer Act directs agencies to establish procedures by which employees can donate annual leave to fellow employees who are experiencing personal or family emergencies. The act also directs the Office of Personnel Management to select three agencies for the purpose of demonstrating alternative methods of transferring leave—one establishing an agencywide leave-pool, and two establishing agencywide programs which will permit the sharing of sick leave as well as annual leave.

Mr. Speaker, many of my colleagues have told me of the plight of constituents who face overwhelming hardships requiring extended absence from their jobs. And we know of many cases where their coworkers are ready and eager to help alleviate that plight by sharing their annual leave; all that they need is the legal permission to do so. The Federal Employees' Leave-Transfer Act provides that permission and establishes the mechanism for an orderly program of leave-sharing. I invite and encourage my colleagues to join me in cosponsoring this bill.

I enclose, with this statement, the text of the bill as well as a bill summary.

Summary of the Federal Employees' Leave-Transfer Act Introduced by Representative Gary L. Ackerman

(Prepared by the Subcommittee on
Compensation and Employee Benefits)

The Federal Employees' Leave-Transfer Act would establish a three-year, government-wide program allowing Federal employees to donate a portion of their annual leave to needy coworkers facing personal or family emergencies.

In cases where the need for donated leave is not self-evident, the Federal Employees' Leave-Transfer Act permits an agency to request documentation, such as medical certification, as verification of the emergency.

The bill provides that leave donated by colleagues may be applied retroactively to eliminate an indebtedness for any advanced annual leave taken as a result of the emergency, and such leave may be used to restore income lost during a period of leave without pay.

The bill provides that an emergency would terminate when the leave recipient's employment ended, or when the recipient or the agency determines that the emergency has terminated. In the case of agency determination, the leave recipient has the right to appeal that decision.

At the termination of an emergency, the leave recipient would be credited with sick and annual leave earned during the emergency. Any unused leave which had been donated to the recipient would be returned, on a prorated basis, to donors. Such restoration would not be required, however, if the unused leave is less than one hour, if the donor has separated from Federal service, or if restoration is administratively infeasible.

The bill also permits an agency to petition the Office of Personnel Management [OPM] for exclusion from leave-sharing if its participation is causing substantial disruption to the agency. OPM must notify Congress of such decisions.

In addition, the Act authorizes three demonstration programs to test alternative leave-transfer systems. The demonstrations, each of which would be agency-wide and commence with the government-wide program, would include one based on a generic "leave pool", one in which sick leave could be donated along with annual leave, and one in which sick leave could be donated only if annual leave donations are not sufficient to meet the emergency situation. (Employees participating in any of the three demonstrations will be permitted to participate in the government-wide program in the event that a demonstration program is terminated early.)

The Federal Employees' Leave-Transfer Act is a temporary program designed to demonstrate the feasibility of a permanent leave-transfer program, and would expire three years after the date of enactment.

H.R. 3757

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Federal Employees' Leave-Transfer Act of 1987".

SEC. 2. VOLUNTARY TRANSFERS OF LEAVE.

(a) AUTHORITY.—Chapter 63 of title 5, United States Code, is amended by adding at the end of the following:

"SUBCHAPTER III—VOLUNTARY TRANSFERS OF LEAVE

"§ 6331. Definitions

"For the purpose of this subchapter—

"(1) the term 'employee' means an employee as defined by section 6301(2), excluding an individual employed by the government of the District of Columbia;

"(2) the term 'personal emergency' means a medical or family emergency or other hardship situation that requires, or is likely to require, an employee's absence from duty and to result in a loss of income to the employee because of the unavailability of paid leave;

"(3) the term 'leave recipient' means an employee whose application to receive donations of leave under this subchapter is approved; and

"(4) the term 'leave donor' means an employee whose application to make 1 or more donations of leave under this subchapter is approved.

"§ 6332. General authority

"Notwithstanding any provision of subchapter I, and subject to the provisions of this subchapter, the Office of Personnel Management shall establish a program under which annual leave accrued or accumulated by an employee may be transferred to the annual-leave account of any other employee if such other employee requires additional leave because of a personal emergency.

"§ 6333. Receipt and use of transferred leave

"(a)(1) An application to receive donations of leave under this subchapter, whether submitted by or on behalf of an employee—

"(A) shall be submitted to the employing agency of the proposed leave recipient; and

"(B) shall include—

"(i) the name, position title, and grade or pay level of the proposed leave recipient;

"(ii) the reasons why transferred leave is needed, including a brief description of the nature, severity, anticipated duration, and, if it is a recurring one, the approximate frequency of the personal emergency involved;

"(iii) if the employing agency so requires, certification from 1 or more physicians, or other appropriate experts, with respect to any matter under clause (ii); and

"(iv) any other information which the employing agency may reasonably require.

"(2) If an agency requires that an employee obtain certification under paragraph (1)(B)(iii) from 2 or more sources, the agency shall ensure, either by direct payment to the expert involved or by reimbursement, that the employee is not required to pay for the expenses associated with obtaining certification from more than 1 of those sources.

"(3) An employing agency shall notify a proposed leave recipient (or other person acting on behalf of the proposed recipient, if appropriate) of the agency's decision, in writing, within 10 days (excluding Saturdays, Sundays, and legal public holidays) after receiving the proposed recipient's application for leave under this subchapter.

"(b) A leave recipient may use annual leave received under this subchapter in the same manner and for the same purposes as if such leave recipient had accrued that leave under section 6303, except that any annual leave, and any sick leave, accrued or accumulated by the leave recipient and available for the purpose involved must be exhausted before any transferred annual leave may be used.

"(c) Transferred annual leave—

"(1) may accumulate without regard to any limitation under section 6304; and

"(2) may be substituted retroactively for any period of leave without pay, or used to liquidate an indebtedness for any period of advanced annual leave, which began on or after a date fixed by the employee's employing agency as the beginning of the personal emergency involved.

"§ 6334. Donations of leave

"(a) An employee may, by written application to such employee's employing agency, request that a specified number of hours be transferred from such employee's annual-leave account to the annual-leave account of a leave recipient in accordance with section 6332.

"(b)(1) Upon approving an application under subsection (a), the employing agency of the leave donor may transfer all or any part of the number of hours requested for transfer, except that the number of hours of annual leave so transferred may not exceed one-half of the total number of hours of annual leave standing to the credit of the leave donor at the time of the transfer.

"(2) The employing agency of a leave donor may waive the limitation under paragraph (1). Any such waiver shall be made in writing.

"(c) Regulations prescribed under section 6342 shall include procedures to carry out this subchapter when the leave donor and the leave recipient are employed by different agencies.

"§ 6335. Termination of personal emergency

"(a) The personal emergency affecting a leave recipient shall, for purposes of this subchapter, be considered to have terminated on the date as of which—

"(1) the leave recipient notifies that individual's employing agency, in writing, that the emergency no longer exists;

"(2) the leave recipient's employing agency determines, after written notice and opportunity for the leave recipient (or, if appropriate, another person acting on behalf of the leave recipient) to answer orally or in writing, that the personal emergency no longer exists; or

"(3) the leave recipient is separated from service.

"(b)(1) A leave recipient's employing agency shall, consistent with guidelines prescribed by the Office of Personnel Management, establish procedures to ensure that a leave recipient is not permitted to use or receive any transferred leave under this subchapter after the personal emergency terminates.

"(2) Nothing in section 5551, 5552, or 6306 shall apply with respect to any annual leave transferred to a leave recipient under this subchapter.

"§ 6336. Restoration of transferred leave

"(a)(1) The Office of Personnel Management shall establish procedures under which, except as provided in paragraph (2), any transferred leave remaining to the credit of a leave recipient when the personal emergency affecting the leave recipient terminates shall be restored on a prorated basis by transfer to the appropriate accounts of the respective leave donors.

"(2) Nothing in paragraph (1) shall require the restoration of leave to a leave donor—

"(A) if the amount of leave which would be restored to such donor would be less than 1 hour or any other shorter period of time which the Office may by regulation prescribe;

"(B) if such donor retires, dies, or is otherwise separated from service, before the date on which such restoration would otherwise be made; or

"(C) if such restoration is not administratively feasible, as determined under regulations prescribed by the Office.

"(b)(1) Transferred annual leave restored to a leave donor under subsection (a) before the beginning of the third biweekly pay period preceding the end of a leave year shall be taken into account, for purposes of subsection (a) or (b) of section 6304, as applicable, as if such leave had accrued to such donor during the leave year in which it is so restored.

"(2) Transferred annual leave restored to a leave donor under subsection (a) after the end of the fourth biweekly pay period preceding the end of a leave year shall be taken into account, for purposes of subsection (a) or (b) of section 6304, as applicable, as if such leave had accrued to such donor during the leave year following the leave year in which it is so restored.

"(c) The Office shall prescribe regulations under which this section shall be applied in the case of an employee who is paid other than on the basis of biweekly pay periods.

"(d) Restorations of leave under this section shall be carried out in a manner consistent with regulations prescribed to carry out section 6334(c), if applicable.

"§ 6337. Accrual and accumulation of leave

"(a) For the purpose of this section—

"(1) the term 'paid-leave status under subchapter I', as used with respect to an employee, means the administrative status of such employee while such employee is using sick leave, or annual leave, accrued or accumulated under subchapter I; and

"(2) the term 'transferred-leave status', as used with respect to an employee, means the administrative status of such employee, while such employee is using transferred leave under this subchapter.

"(b)(1)(A) Except as otherwise provided in this section, while an employee is in a transferred-leave status, annual leave and sick leave shall accrue to the credit of such employee, and shall accumulate, in the same manner as if such employee were then in a paid-leave status under subchapter I.

"(2) Any annual or sick leave accrued or accumulated by an employee under this section—

"(A) shall be credited to an annual-leave or sick-leave account, as appropriate, separate from any leave account of such employee under subchapter I; and

"(B) shall not become available for use by such employee, and may not otherwise be taken into account under subchapter I, until, in accordance with subsection (c), it is transferred to the appropriate leave account of such employee under subchapter I.

"(3)(A) Any annual leave accruing to the credit of an employee under this section may not accrue or accumulate in excess of the maximum amount of annual leave which could be accumulated by such employee under subsection (a) or (b) of section 6304, determined without regard to any exclusion under subsection (f) of such section.

"(B) Nothing in this section shall be considered to permit or require that any annual leave accrued, accumulated, or otherwise standing to the credit of an employee under subchapter I be taken into account in applying the limitation under subparagraph (A).

"(c)(1)(A) Any annual leave or sick leave accrued or accumulated by an employee under this section shall be transferred to the appropriate leave account of such employee under subchapter I, effective as of the beginning of the first applicable pay period beginning after the date on which the employee's personal emergency terminates as described in paragraph (1) or (2) of section 6335(a).

"(B) If the employee's personal emergency terminates as described in section 6335(a)(3), no leave shall be credited to such employee under this section.

"(2) Any annual leave accrued under this section and transferred in accordance with paragraph (1)(A) shall, for purposes of subsection (a) or (b) of section 6304, as applicable, be treated in the same way as provided for under section 6336(b) with respect to restored leave.

"§ 6338. Exclusion authority

"(a) Upon written request by the head of an agency, the Office of Personnel Management may exclude that agency, or a unit of that agency, from the leave-transfer program under the preceding sections of this subchapter if the Office determines that inclusion in such program is causing substantial disruption to the agency or unit involved.

"(b) An agency, or unit of an agency, which is excluded under subsection (a) shall, to the extent practicable, make a sustained effort to eliminate the conditions on which the exclusion is based.

"(c) The Office shall periodically review any exclusion under subsection (a) and may, at any time, revoke any such exclusion. A revocation under this subsection shall be made in writing.

"(d) The Office shall provide prompt written notification to the Congress with respect to any exclusion, and any revocation of an exclusion, under this section.

"(e) Any transferred leave remaining to the credit of an employee whose personal emergency has not terminated before that employee's employing agency, or unit, is excluded pursuant to this section shall remain available for use in the same way as provided for under section 6343(b).

"§ 6339. Alternative leave-transfer programs

"(a)(1) In order to determine the feasibility and desirability of each alternative leave-transfer program under subsection (b), the Office of Personnel Management shall, with the concurrence of the head of the Executive agency involved, carry out a demonstration project under which each such alternative program shall be tested on an agency-wide basis in accordance with the provisions of this section.

"(2) Under the project, each of 3 Executive agencies shall, instead of participating in the leave-transfer program under sections 6331 through 6338, implement the alternative program incorporating the requirements described in subparagraph (A), (B), or (C) of subsection (b)(2), respectively.

"(b)(1) The terms and conditions governing the alternative leave-transfer programs under this section shall be the same as those governing the program under sections 6331 through 6338, except—

"(A) to the extent necessary to implement the requirements of paragraph (2); and

"(B) as provided in paragraph (3) or subsection (c).

"(2) The alternative leave-transfer programs under this section shall be as follows:

"(A) One program under which any transfers of annual leave shall be effected by donations to and withdrawals from a common, agency-wide 'leave fund', rather than by direct transfers from leave donors to leave recipients.

"(B) One program under which, in addition to allowing transfers of annual leave in accordance with sections 6331 through 6338, sick leave accrued or accumulated by one employee shall be transferable to the sick-leave account of any other employee if such other employee requires additional sick leave because of a personal emergency.

"(C) One program under which, in addition to allowing transfers of annual leave in accordance with sections 6331 through 6338, sick leave accrued or accumulated by one employee shall be transferable to the sick-leave account of any other employee in the circumstances described in subparagraph (B), but only if transfers of annual leave are inadequate, or would be inadequate, to meet the personal emergency involved.

"(3)(A) The terms and conditions relating to the transfer, use, and restoration of sick leave under the respective programs described in subparagraphs (B) and (C) of paragraph (2) shall be consistent with the terms and conditions governing comparable matters under sections 6331 through 6338.

"(B) In administering section 6337(b)(3)(A) (relating to the maximum amount of annual leave accruable or accumulable while in a transferred-leave status) with respect to any leave recipient who, under either of the programs referred to in subparagraph (A), is permitted to use both transferred annual leave and transferred sick leave in connection with the same personal emergency, the total amount of annual leave accrued or accumulated while in transferred-leave status (whether transferred annual leave or transferred sick leave) in connection with such emergency may not, in the aggregate, exceed such maximum amount.

"(C) Nothing in section 8339(m) shall apply with respect to any sick leave transferred to a leave recipient under either of the programs referred to in subparagraph (A).

"(C)(1)(A) Upon written request by the head of an agency testing an alternative program, the Office of Personnel Management may, if the Office determines that the program is causing substantial disruption to the agency involved—

"(i) terminate the alternative program; and

"(ii) concurrent with the action under clause (i)—

"(I) discontinue the exclusion of the agency from the program under sections 6331 through 6338;

"(II) continue the exclusion of the agency from the program under sections 6331 through 6338; or

"(III) discontinue the exclusion of the agency from the program under sections 6331 through 6338, with the exception of 1 or more units of the agency involved.

"(B) An agency, or unit of an agency, shall, to the extent practicable, make a sustained effort to eliminate the conditions on which is based the continued exclusion of such agency or unit under subclause (II) or (III) of subparagraph (A)(i), as the case may be.

"(C) The Office of Personnel Management shall periodically review any exclusion referred to in subparagraph (B) and may, at any time, provide that the exclusion be revoked.

"(2) The Office shall submit a written report to the President and the Congress with respect to any alternative program terminated under this subsection. A report under this paragraph shall be in lieu of any report which would otherwise be required with respect to such program under section 6341.

"(3) Any program termination, continuance of an exclusion, discontinuance of an exclusion, or revocation under this subsection shall be made in writing.

"§ 6340. Prohibition of coercion

"(a) An employee may not directly or indirectly intimidate, threaten, or coerce, or attempt to intimidate, threaten, or coerce, any other employee for the purpose of interfering with any right which such employee may have with respect to donating, receiving, or using annual or sick leave under this subchapter.

"(b) For the purpose of subsection (a), the term 'intimidate, threaten, or coerce' includes promising to confer or conferring any benefit (such as an appointment or promotion or compensation), or effecting or threatening to effect any reprisal (such as deprivation of appointment, promotion, or compensation).

"§ 6341. Reporting requirements

"(a) Not later than 6 months before the scheduled termination date of any program under this subchapter, the Office of Personnel Management shall submit a written report to the President and the Congress with respect to the operation of such program.

"(b) The Office of Personnel Management may require agencies to maintain such records and to provide such information as the Office may need in order to carry out subsection (a) or section 6339(c)(2).

"§ 6342. Regulations

"The Office of Personnel Management may prescribe regulations necessary for the administration of this subchapter.

§ 6343. Commencement and termination of programs; treatment of residual leave

"(a) The voluntary leave-transfer program under sections 6331 through 6338, and each alternative leave-transfer program under section 6339, shall commence not later than 4 months after the date of the enactment of this subchapter and, except as provided in section 6339(c), shall terminate 3 years after its commencement date.

"(b) If a leave-transfer program referred to in subsection (a) terminates before the termination of the personal emergency affecting a leave recipient under such program, any leave which was transferred to the leave recipient before the termination of the program shall remain available for use (including by restoration to leave donors, if applicable) as if the program had remained in effect.

"(c) Any annual leave remaining in an agency-wide leave fund under the alternative program incorporating the requirements of section 6339(b)(2)(A) shall, upon termination of such program, be dispensed in accordance with the following:

"(1) If there are any employees who, based on applications submitted before the program's termination date, are found (before, on, or after that date) to be eligible to make withdrawals of leave in connection with any personal emergency, annual leave donated to the leave fund before the program's termination date shall—

"(A) remain available for withdrawal by any such employee until the last such emergency has terminated, and

"(B) if so withdrawn, remain available for use (including by restoration to leave donors, if applicable),

as if the program had remained in effect.

"(2) If there are no employees eligible to make withdrawals as of the date on which the program terminates, or if the application of paragraph (1) does not result in the exhaustion of all annual leave which was donated to the leave fund before the program's termination date, any remaining leave shall be restored to leave donors in a manner consistent with the procedures under section 6336.".

(b) CHAPTER ANALYSIS.—The analysis for chapter 63 of title 5, United States Code, is amended by adding at the end the following:

"SUBCHAPTER III—VOLUNTARY TRANSFER OF LEAVE

"Sec.
"6331. Definitions.
"6332. General authority.
"6333. Receipt and use of transferred leave.
"6334. Donations of leave.
"6335. Termination of personal emergency.
"6336. Restoration of transferred leave.
"6337. Accrual and accumulation of leave.
"6338. Exclusion authority.
"6339. Alternative leave-transfer programs.
"6340. Prohibition of coercion.
"6341. Reporting requirements.
"6342. Regulations.
"6343. Commencement and termination of programs; treatment of residual leave.".

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. MACKAY] is recognized for 5 minutes.

Mr. MACKAY. Mr. Speaker, my flight returning from my congressional district did not arrive in time for me to cast my votes on two bills considered earlier today.

Had I been able to cast my vote, I would have voted "yes" on rollcall No. 478, to suspend the rules and pass H.R. 3399, the Alternative Motor Fuels Policy. I would also have voted "yes" on rollcall No. 479, to suspend the rules and pass H.R. 2790, the Public Buildings Amendments Act.

I appreciate having this opportunity to state my position on these two bills for the RECORD.

CODEL VISIT TO NICARAGUA ON DECEMBER 12, 1987

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana [Mr. BURTON] is recognized for 60 minutes.

Mr. BURTON of Indiana. Mr. Speaker, this weekend we participated in a codel to Central America, and to Nicaragua to investigate the peace process and find out what is going on in Nicaragua, whether or not the Communists are complying with the commitment they made in Esquipulas, or whether or not they are continuing to violate the promises they made to the Nicaraguan people regarding democracy and freedom which was made in 1979 to the Organization of American States, as well as the Nicaraguan people.

These promises or commitments were restated in the Esquipulas II agreement. Those commitments were freedom of the press, freedom of religion, freedom of assembly, and the freedoms that we enjoy here in the United States.

In addition to that, they promised to release the political prisoners who had been languishing and had been tortured in Tipitapa prison and other penal institutions in Nicaragua.

When the tyrant Somoza was in power in Nicaragua, there were approximately 800 political prisoners. Today in Nicaragua there are somewhere between 8,000 and 10,000 people in those jails and at least 6,000 of them are political prisoners and they are supposed to be released in accordance with the Esquipulas II agreement.

So far about 900 have been released but those 900 we understand from meeting with people in Nicaragua were going to be released anyhow. Mr. Speaker, 5,000 to 6,000 people are still incarcerated.

During our meetings down there, and I was very happy to have seven of the most distinguished Members of the House along with me on this codel, and they will be talking in this special order along with me, but during one meeting in this trip to Central America we had the opportunity to meet with the mothers of the political prisoners. One of the things that I think makes an impression on the American people and on Members of Congress are human rights, how many people are being treated in these countries, particularly Nicaragua, since it is just south of the Mexican-American border a few hundred miles.

Mothers of political prisoners and wives of political prisoners are very concerned about their husbands who are supposed to be released. We met with those mothers and those wives during this trip. I had met with some of them previously on previous trips.

One of the women I had met with previously is a young woman who had a husband in Tipitapa prison. This woman has told me and my colleagues that her husband has been tortured, and mistreated, and they are not going to release him. So she has been demonstrating for the promises that were made at Esquipulas, she has been demonstrating for the freedom and proper treatment of her husband who is in prison.

□ 1520

This woman told me that recently she and about 200 of the other mothers of political prisoners and wives were demonstrating in front of one of the Sandinista public buildings, government buildings, and they were attacked by the turbas divinas. These are government-sponsored mobs that beat up on people who take issue with the government. And she presented me with the shirt she was wearing when this demonstration took place.

This young woman, probably in her early twenties, was beaten severely, as were the other mothers and wives of political prisoners. They were beaten in the face and on the body with chains and clubs and her clothes were torn off of her. This is the shirt she was wearing, and as my colleagues can see it was shredded. I presume they left her topless on the streets of Managua because she was demonstrating for the rights of her husband who was in prison and for the promises the Communist Sandinistas made about releasing these political prisoners when they signed the agreement in Esquipulas.

This is one small part of what transpired during our trip, but I think it shows very clearly that the Communist Sandinista government is not living up to the promises they made. They made these commitments in 1979 and they made them again this year. They did not keep them, they are not keeping them now.

A number of my colleagues would like to express their concerns and their views on the trip we took down there. They will tell about the trip we took to Leon. They will tell about their impressions. of the trip, and at the conclusion of their remarks I will be happy to add some more of my own.

Mr. BALLENGER. Mr. Speaker, will the gentleman yield?

Mr. BURTON of Indiana. I yield to the gentleman from North Carolina.

Mr. BALLENGER. Mr. Speaker, I thank the gentleman from Indiana for yielding.

One of the things that came up in the mothers' meeting that we attended and the gentleman did not mention, and I think it is probably something that occurs in every meeting they have in Nicaragua, is the basis feeling that those ladies were up speaking, cheering, yelling in front of everybody, and the Sandinista TV cameras came in, and they would go down the aisle by every woman, shining the camera right in their faces. Lucky for us we had three sets of TV cameras with us, and we asked our TV cameramen to take pictures of their TV cameramen taking pictures of the mothers. Surprisingly, it was one of the most effective things that I have seen happen. As soon as our TV's started shooting their TV cameramen, they left.

Mr. BURTON of Indiana. It was obvious they were trying to intimidate these mothers.

Mr. BALLENGER. The gentleman is correct. The whole idea I think of TV down there exists only for that purpose. At the meeting we had in Leon with the big crowd of 2,500 people, the gentleman mentioned how patriotic the people were, standing up and speaking, and here again were the TV cameras shining in their faces. It takes a man with a great deal of guts, I think, and I admire the patriotism those fellows showed. It is just unbelievable. They were standing up and really all they were asking for is democratization, and following of the peace accords, and they did a wonderful job of speaking. But again, you knew that Daniel Ortega was going to have his TV cameras taking a picture of everything they did. I could not imagine.

One thing we discussed earlier is the economic situation down there. To me, as a businessman who has spent all his life working probably against unions, yet here I am, and I go down there and I find that one of the strongest organizations they have are the union people working down there. They are doing their best to see if they cannot organize the people down there to earn some money. But of course, they have the difficulties that there are two independent unions and five Sandinista unions, and these fellows have gone around doing their best to help out in wages. I think the gentleman and I discussed the idea that because of the inflationary impact they have had in that country, and because of the wages being frozen, people who work in factories down there at the present time, it is almost impossible to believe their wages. They are the bottom scale 3 cents an hour and at the top of the scale 9 cents an hour.

We asked a person how can a person possibly live on that amount of money, and they said if you only eat two meals a day you possibly can make it through the month. Then the question was brought up what about the mothers and the children in your family, and they said we do not have enough for that, they have to take care of themselves.

One question came to my mind, and it is a very theoretical question: can they actually have destroyed this economy of theirs by sheer stupidity? The story goes around down there why in the world is it in such terrible shape when it is run by these supposedly intelligent fellows. The story goes when they were trying to overthrow Somoza, they were college kids, they did not know what to do, so they would go and rob a bank every time they needed money. Now that they are in charge of the government they own the banks, and they do not know what to do. They asked for economic help, and this is true, they asked from Eastern Europe, and they got a Bulgarian adviser on how to run the economy. They have done a beautiful job of really messing that up.

Mr. BURTON of Indiana. If I might say in line with what the gentleman said, this is a 20 cordoba bill. I do not know if anybody can see, but it now has 20,000 printed on it. So the devaluation of the currency, as the gentleman from North Carolina said, is just so dramatic that people cannot afford to buy things when they do have currency.

Mr. ROTH. Mr. Speaker, will the gentleman yield?

Mr. BURTON of Indiana. I yield to the gentleman from Wisconsin.

Mr. ROTH. Mr. Speaker, I thank the gentleman for yielding.

First of all, I want to compliment the gentleman and the members of the delegation who went to Nicaragua for the work they have done. They are doing our Nation's work. I want to congratulate Dan Burton for heading that delegation.

I also want to thank Michael Bilirakis for the wonderful work he did down there and the great comments he made. I was so proud of him, Cass Ballenger, and Jim Bunning, who is an idol to those young people. Don Lukens, Howard Nielson, and Tom DeLay. The enthusiasm heard from 7,000 people in that building, the condemnation by the opposition party against the government, and the speeches I heard were absolutely moving.

We talk about the few pittances these people earn, but those are by the people who have jobs. There is 48-percent unemployment in Nicaragua, 48 percent. That is what surprised me most, although I should not have been surprised. That is why there is a book entitled "Perestroika," because the Soviet economy does not work, socialism does not work. I should not have been surprised.

But the other thing that really struck me was how unpopular the Sandinistas are. People come to the well of the House telling us we should not be backing the freedom fighters, this and how popular the Sandinistas are. Can you really say 18 percent is popular? There is no one in this body who is that unpopular. These people are nothing more than gangsters. These guys are a bunch of robbers. They are not leaders, they are gangsters, and we are supposed to be intimidated by them?

This is the 200th anniversary of our Constitution, which starts out "We the people." In Nicaragua wherever you look it is not we the people, it is we the Sandinistas. So I think that is something that was very depressing.

There are some bright lights though. I think the cardinal is right on target.

Last night when we got back here I read in our local newspaper that they are planning to build an army of 600,000 people. When we left the airport, one of the commandantes said they are not looking for 600,000, my friends, they are looking for 1 million soldiers.

Mr. BURTON of Indiana. Bayardo Arce said that to us.

Mr. ROTH. I want to conclude by saying that the thing that bothers me more than anything is why does the Lord permit something like this to happen where you have one dictator replaced by another dictator and the people just do not seem to come out from under the thumb and the heel of these dictators. I think we who represent the free world should speak out.

Also, if you have a chance, I am sure you will want to read Time magazine this week on Ethiopia. There are 5 to 6 million Ethiopians suffering from starvation again. We know what happened in 1984 and 1985. Now the famine is returning. It is an excellent article on why we are having the famine return and what is taking place in Ethiopia, and I recommend this to every Member of this body and every American to read.

Again I thank the gentleman from Indiana for yielding and those seven people who went to Nicaragua and for the great speeches you gave. My hat is off to you and I congratulate you for doing not only this country's work but I think humanity's work.

Mr. BURTON of Indiana. I thank the gentleman for his kind remarks.

Mr. DREIER of California. Mr. Speaker, will the gentleman yield?

Mr. BURTON of Indiana. I am happy to yield to the gentleman from California.

Mr. DREIER of California. Mr. Speaker, I thank my friend for yielding.

Mr. Speaker, I have to stand here at the microphone and say while unfortunately I was not able this past weekend to be a part of this very important congressional delegation, I certainly was with you in spirit. I am sure many of our other colleagues here were also.

I was down there last month and had the opportunity to meet with the mothers of the political prisoners who have been held there, and I have not heard any of my colleagues talk about some of the crimes these individuals have been charged with. I heard some unbelievable stories, and I wondered if my friend, the gentleman from Indiana, might like to elucidate me and our colleagues on exactly what did happen.

Mr. BURTON of Indiana. I thank the gentleman very much for that question. I think it is something the American people and my colleagues would like to know about, and the gentleman may know of other stories which I would love to have him remark about or comment about in a minute.

There was a lady whose husband died a few years ago in one of the small villages surrounding Managua. Her husband was a doctor, he had a small medical clinic and he took care of the people in that village and in that area. They had a son who went to Honduras for his education as repects getting a medical degree. He wanted to become a doctor as well.

When his father died, he came back to visit his father's town and to participate in the funeral activities, and he was there also to possibly take over the medical clinic that his father had been running.

That Sandinista commandante sent a military patrol out there, and they arrested him because he had an acquaintance with a Catholic priest who had antigovernment sentiments and who had fled the country. They arrested this fellow who really had not done anything. They took him before one of the government tribunals which consists usually of a lawyer and two laymen. If my colleagues want to call it a trial, there was a trial, but it really was not, it was a kangaroo court.

They threw him in jail. He has been there I think on an indeterminate sentence, and his teeth are coming out, he is suffering from malnutrition and he is dying, and he really has not done anything other than want to come back and serve as a medical clinic doctor.

Mr. DREIER of California. If the gentleman from Indiana will continue to yield, I would like to ask him about this whole issue of some 921 or so political prisoners who were to be released. One of the reports I got was that those who were to be released were simply very elderly former Guardia Nacionals who obviously could not do anything if they were to be released, and those who actually protested the government of the Sandinistas are continuing to be held in prison. Is that correct?

Mr. BURTON of Indiana. The gentleman is absolutely correct. The people who have been released, according to reports we have received during this trip and our previous trips, are not the people who are the true political prisoners. They are people who are going to be let out anyhow, or people who are too old to really be able to participate in any antigovernment activities whatsoever. They are actually continuing to incarcerate political prisoners in violation of the Esquipulas II agreement.

Mr. DREIER of California. I thank the gentleman and would like to say I was there the weekend of November 5, and we noticed a significant deterioration, and from what I have heard from your colleagues who are members of this past weekend's delegation, it is apparent to me that things have continued to decline for the people of Nicaragua. Would that be a correct assumption?

Mr. BURTON of Indiana. There is no question. I have been down in Nicaragua three times, once 2 years ago, once earlier this year and this trip, and there has been a precipitous drop in the quality of life, if you ever wanted to call it quality of life under the Sandinistas, and the economy is going straight down the tubes. Human rights violations continue to accelerate and political prisoners continue to suffer under the pressure of the government.

Mr. DREIER of California. Other than the fact you saw government television cameras monitoring families of political prisoners, did you have a sense that the Interior Ministry, the secret police were closely watching your goings on and the activities of the people of Nicaragua?

Mr. BURTON of Indiana. I am glad the gentleman asked that question. The answer will be very illuminating, and I thank the gentleman for asking the question.

We were marching with the people who were concerned about their human rights and the economy and the government policies in Leon, and we went past a police station where they had KGB-type officers watching the parade. As we went by, the people were hollering up to the officers saying, "Sandinistas go," and they were calling them unsavory names and making some unsavory comments, and they were openly hostile to the Sandinistas, and hundreds, if not thousands of people were expressing their desire that the Sandinistas be thrown out of power.

Mr. DREIER of California. What does the gentleman think could conceivably happen to those people who were marching by and criticizing the government and looking at those police and saying that?

□ 1535

I will tell you when we marched in November in a parade, we suspect that many of those who were participating with us may today be in political prisons in Nicaragua.

Mr. BURTON of Indiana. Let me just tell the gentleman the sentiments of a woman who has lived her whole life there, a Nicaraguan citizen married to an American. She had several thousand acres of land and they had a small business. Her family had a bank there years ago.

All of her family now has left. She and her husband are destitute. They are working for the U.S. Embassy in some capacity. This lady did not want to make any comments publicly. I said, "Why are you not willing to tell us what you think about the Sandinistas?" She said, "Because I am afraid." And I said, "Why are you afraid?" And she said, "Well, we think this may be another Bay of Pigs." And I said, "What do you mean another Bay of Pigs?" And she said, "Well, when the Cubans invaded to free their homeland from Castro, the United States withdrew its support and people died on the beaches. After that, people were thrown in the prisons and there was a lot of political reprisals and heartache and suffering and many people were killed. If my husband or I say anything and the United States withdraws its aid to the Contras and there is no viable opposition to the Sandinistas I am afraid my husband may be killed or we may be thrown into prison. So we have to be very careful about what we say. We do not want to say anything publicly about the Sandinistas for fear of that happening in the future." So there is growing fear among people down there that the United States is going to cut and run. And if we cut and run then the brave people in Leon, the brave people who came to that rally, the brave people who have been speaking out for democracy and human rights, those people who were televised in this march and in this rally, many of them are going to be incarcerated, murdered and get maybe 30 year sentences, which is a life sentence in those dungeons.

Mr. DREIER of California. That is a very telling figure.

As I said when we were down there last month we were down there at really the beginning of the cease-fire, November 5, the 90-day period had gone by. I had supported the Reagan-Wright plan, the Arias plan. But it certainly sounds to me as if both of those at this point have failed. Would that assessment be correct?

Mr. BURTON of Indiana. Well, I think there is an allusion that progress is being made under the Arias plan. But I think my colleagues and I, those who we have asked to join us, I think they will tell you that in fact the violations continue, the human rights atrocities continue. So the plan in fact is really not working.

Mr. DREIER of California. I am very confused by this, because as I recall, Daniel Ortega said there had been 100 percent compliance on the part of Nicaragua and it was up to the surrounding countries and all those others involved to bring about compliance.

Mr. BURTON of Indiana. That is a misstatement if not an out and out lie. There has not been 100 percent compliance. They continue to oppress their citizens and my colleagues will attest to that fact.

The human rights violations, the violations in the prisons, they have not released the political prisoners, they have not complied with almost anything other than just a few minor things for show. So that the Congress of the United States will no longer appropriate money for the Contras.

Mr. DREIER of California. I thank the gentleman for his contribution and congratulate him on the great trip.

Mr. BURTON of Indiana. I thank the gentleman for his contribution.

Mr. Speaker, I yield to my colleague from Ohio [Mr. LUKENS].

Mr. DONALD E. LUKENS. I thank the gentleman for yielding.

Mr. Speaker, I thank the gentleman for heading our codel to Nicaragua this weekend.

I would like to make three or four observations of my own from personal experience and personal knowledge.

I know other Members of the delegation were very moved and I believe very, very impressed. This is my own fourth time down to Nicaragua and fifth time in that area in the last 12 months.

This trip was more significant to me than any of the others combined, for the simple reason that I saw a piece of democracy and what could be a peace with freedom in Nicaragua. I am sure the gentleman from Indiana would agree with me that the march in Leon, as he already said on two occasions, was a very unique example of raw courage and of great dedication to the principles that without liberty, without freedom, there really is no peace.

I would like to share with the gentleman and other members of the delegation what we discussed in private, what I have already said to some of the Members; In speaking to approximately 42 or 43 individuals through interpreters, or who themselves spoke English, most of them came up to me during that march and said that without the Contras, "You know, we would not be here. Without that military pressure against the Sandinista regime there would be no freedom whatsoever in Nicaragua." Having restrained myself for several months in the hope that the Arias peace plan has opened the window of opportunity and does have some potential and which I will continue to support, the key to it working now in Honduras and Guatemala—I mean El Salvador, have given into total and complete amnesty, have offered it for their prisoners, it is now for the Communist regime, the Sandinista regime in Nicaragua to open its prisons to total and complete amnesty. It has not done that. In fact, I figure that anything that is the most unifying glue down there—and I would like the gentleman's comments on this—it would be the mutual outrage and anger and frustration at having innocent people in prison with perhaps some who deserve to be there and not have access to them, to have information about them and to be totally frustrated and angered by this outlandish charade of the Sandinista government telling them that they do not have access to their loved ones and will not explain why they are in there.

It is very frustrating in some ways but it is also encouraging to me, as a member of a free country, to go to a country that is still slave, not free, and see the beginnings of freedom. I do not believe that this Communist administration in Nicaragua can survive real freedom. I think they would die a diplomatic or political death in a ballot box ballot. I think they would lose.

The last comment: It is very dismaying on leaving Nicaragua, believing there was some hope for free activity, political activity to read a headline on our departure that they now plan to have a 600,000-person army in a little country of 3.3 million where at least 10 and as high as 14 percent of the population has already gone because of fear and frustration and disappointment with this administration, the government, the Communists, calling themselves Sandinistas in Nicaragua.

It is time for this country to make up its mind if we are a major nation, if we have a major foreign policy, and if we intend to do something about it, or if we really intend for the first time in our history to desert the Monroe Doctrine and also the first time in the last 7 years to abandon the Reagan Doctrine which was to restore the promise of freedom to some people.

I would hope the Sandinista government would comply with more of the Arias peace plan mandates and requirements.

If they did, there would be no battle anywhere except at the ballot box.

It is clear now that the Communist Sandinista government, ought to now make a change for the better, to bring more freedom to their country or to face the real prospect of terrible, terrible tragedy brought on by their own obviously iron-clad adherence to a failed philosophy.

I thank the gentleman from Indiana for yielding.

[The report referred to is as follows:]

[From the ROA National Security Report, December 1987]

JUDGE THE SOVIETS BY ACTIONS, NOT WORDS

(By Margaret Thatcher)

Today is a time of hope. Indeed there is no mistaking the bracing air of change in the Soviet Union. In my many hours of talking with Mr. Gorbachev in Moscow earlier this year, his determination to bring about far-reaching reform was plain.

The difficulties and obstacles confronting him are massive.

But we must recognize that anything which increases human liberty, which extends the boundaries of discussion and which increases initiative and enterprise in the Soviet Union, is of fundamental importance in terms of human rights. And that's why we support it.

That is why we have publicly welcomed and encouraged those aspects of Mr. Gorbachev's reforms which do just this. They are genuinely courageous—not least in their admission that, after 70 years, the socialist system has failed to produce the standard of life the Russian people want.

But we have yet to see that change carried through into the Soviet Union's policies towards the outside world.

The traditional instruments of Soviet power—military strength, subversion, propaganda—are all being exercised as vigorously as ever.

Afghanistan is still occupied. The Berlin Wall still stands, and Soviet weapons are still pouring into Third World countries which need food but not arms. They get the food from the free world and arms from the Soviet Union.

There is however hope in the agreement which now seems certain to be signed later this autumn, by the United States and the Soviet Union, to eliminate medium and shorter-range nuclear missiles. We welcome that agreement.

Indeed Britain has contributed in a major way to its achievement.

It's a success for the West—especially for the United States and President Reagan.

But let us remember one thing. If we had listened to some voices, that agreement would never have been achieved. The Russians would have kept their 1,300 warheads, while the West would have given away its 300, for nothing in return. That lesson must never be forgotten.

Reduction in nuclear weapons come about not from weakness, but from strength.

Our policies are bearing fruit and we have every reason to be pleased. But we must not let satisfaction turn to euphoria.

We are ready for improved relations with the Soviet Union.

But we can't afford to take anything on trust.

Nor should we be deceived by changes in style rather than substance. We shall continue to judge the Soviet Union not by what they say but what they do.

We believe that the strategic nuclear weapons of the United States and the Soviet Union could be reduced by 50 percent without endangering western security.

But so long as the Soviet Union continues to enjoy massive superiority in chemical and conventional forces, we say that reductions in nuclear weapons in Europe have gone far enough.

As the Supreme Allied Commander in Europe reminded us recently: it is not a nuclear-free Europe we want, it is a war-free Europe.

Nuclear weapons will continue to play a vital role in preventing war in Europe—as they have done for 40 years. And that is why we will press ahead with Trident and the modernization of our independent deterrent, vital to our security.

The British people want peace. But it must be a peace with freedom and justice.

And that peace is only maintained by keeping our defenses strong, by resisting violence and intimidation at home, and by standing up to tyrants and terrorists abroad. That is the true spirit of the British people. That is the spirit which sustained us through two world wars. And it guides us still.

RECOGNITION PURPOSED FOR HERO BUCKLEY

The courage of William Buckley that caused him to face certain death in Lebanon should be recognized by official action of the US government. That's the opinion of Cdr. Ralph G. Eldridge, USNR (Ret.) of Lexington, Mass.

Here's what he wrote to this report in late October:

"Over forty 'small' conflicts are taking place throughout the world which make the news daily. 'Small' in the context that these 'wars' involve only a small portion of the world's population, but never the less, influence large segments of the population.

"There is also a 'larger' worldwide conflict which has been in progress for almost half a century which does not receive daily press, one which potentially involves the whole world's population. This is the covert struggle between ideologies—the 'large' war in which William Buckley was a major participant.

"I never fully appreciated William Buckley's situation until I read the article by Niles Lathem entitled "Desperation in Middle East Led to Iran-Contra Extremes" in the September 1987 issue of the ROA National Security Report. A more appropriate title might have been 'Eulogy For An Unsung Hero.'

"William Buckley undertook the Beirut assignment knowing full well that his odds for survival were nil—yet because he was judged to be the best man for a near hopeless task, he did his duty. I know of no modern day man who is more deserving our nation's tribute.

"His activities to preserve this nation's freedom are deserving more than Mr. Lathem's fine article and the newspaper footnotes received to date. William Buckley should at least be recognized as an extraordinary patriot who saw his duty and gave his life for his country while performing it.

"Is there no way that this patriot can be honored with an appropriate (posthumous) medal and his memory preserved as 'a good soldier?'"

Although ROA has not taken a position on this matter, it's a safe bet that the vast majority of the membership would second Commander Eldridge's recommendation.

Pressure Must Be Kept on Nicaragua in Order to Fight Communism There

(By Rep. Donald E. "Buz" Lukens)

In Nicaragua, the Sandinista Communists now have 150 tanks, 220 armored vehicles, four large air-defense radar stations, 40 fixed wing aircraft and 50 to 60 transport and attack helicopters. They also are building a subbase and a long range air base.

Only eight days after they signed the Guatemala peace agreement the Sandinistas broke up two peaceful demonstrations using dogs, sticks and electric prods and arrested the leaders.

Recently Sandinista Communists gouged the eyes out of a man, cut his tongue out, castrated him and then beheaded him.

The citizens of Nicaragua are panicked. Twelve per cent of the population has fled the country.

Refugees questioned say they are feeing to escape the oppression. The Center for International Research Census Bureau estimates that 300,000 Nicaraguans have been driven out. Relatively speaking, in the US that woud be equivalent to having everyone in the state of California leave the country!

Nicaragua is the only dictatorship in Central America. In that country they may achieve peace by threat of arms but there is no freedom.

The people of Nicaragua are suffering at the hands of this violent Marxist regime. Independent observers report that they still violate human rights daily and at will.

One recent report detailed how 6,000 peasants were forced out of their homes into a war zone because they supported the resistance. The Sandinistas hoped to gain propaganda victory if a stray Contra bullet took the life of an innocent peasant. The terrified citizens unanimously accused the Sandinistas, not the Contras, of the abuses.

In the absence of the right to vote, the Nicaraguan people are voting with their feet. The Sandinistas are not concerned about the reaction of their citizens. They remain loyal to communism and hostile toward the United States. Humberto Ortega, Nicaraguan Minister of Defense and commander in chief of the army, describes the Sandinistas as "anti Yankee and Marxist-Leninist." The Sandinista party anthem proclaims: "Let's fight against the yankee, enemy of humanity."

Now the Sandinistas are spreading their terror across Central America.

Their first target was their neighbor, El Salvador. This year, Nicaraguan President Daniel Ortega admitted that Nicaragua has been supplying weapons to the guerrillas of El Salvador. Vice President Sergio Ramirez also remarked: "We will never give up supporting our brothers in El Salvador."

Liberals are quick to say that a small country like Nicaragua cannot threaten the United States. Of course it cannot if they work alone—but they are not alone.

While liberals in Congress convince one another that Nicaragua is independent, the Soviet Union has financed the biggest military buildup in Central American history for the Sandinistas. Since 1980, 103,000 meteric tons of arms worth $2 billion have been shipped to the Communist regime from the Soviets.

In 1979, the Nicaraguan army numbered 6,000 men—in 1987, it had grown to 74,850. This buildup began before the freedom fighters became a force.

Nicaragua has become an armed fort. Living in this well armed fortress the Sandinista Communists believe they are above the international codes of behavior. They answer only to their arms supplier.

Naive liberals who think that the Sandinistas will voluntarily change have learned nothing from recent history. The Sandinista Communists respond only to pressure. The Sandinistas must be pressured economically, politically and militarily.

Unfortunately, we are seeing more and more evidence that the Sandinistas are using the Guatemala (Arias) Peace Plan to hold the pressure off just long enough to consolidate their death grip on Nicaragua.

The Sandinistas are making cosmetic reforms calculated not to free their citizens but to free the Sandinistas from international pressure.

Recently the Sandinistas allowed Radio Catolica, the Catholic radio station, to reopen after years of government imposed silence. After an investment of tens of thousands of dollars by hopeful Americans, the station was brought back on the air. The communists promptly told the church it would only be allowed to play music—not to report the news. Again the Sandinistas allow change but not real change which would threaten their monopoly on the flow of information to citizens.

I can understand the Sandinista's wanting to keep the press quiet, they have very little to be proud of.

Nicaragua is a total Communist failure except for its military force. It's a perfect example of the failure of communism with its stagnant economy, human rights abuses and fleeing refugees.

Nicaragua's inflation rate is now 750 per cent. I repeat 750 per cent. The 1986 industrial labor force turnover rate was 60 per cent.

The Soviet newspaper Isvestia recently admitted that "the majority of the stalls at the large central market in Managua are empty. There is no rice, meat, poultry or eggs. The price of tomatoes and potatoes has gone up several times in the last year . . . the crisis is being exacerbated by bad management."

The Sandinistas claim they will reform. But why would they embrace democratic reforms which could ultimately bring them down? They will not. They will make promises but they will not keep them.

In 1979, the Sandinistas promised the Organization of American States that they would form a broadly representative government, remain nonaligned, maintain civil rights and hold free elections. But as Sandinista Interior Minister Thomas Borge said in 1984: "We are not going to lose at the polls what we have won through arms." Bayardo Arce, one of the nine Sandinista comandantes remarked, "For us, then, the elections . . . are a nuisance."

Only military pressure—up to now only the Contras—can supply the pressure necessary to restore democracy to Nicaragua. The democratic resistance has targeted the economy and weakening the position of the Sandinistas government.

Continued aid to the democratic resistance is vital to maintaining military pressure on the Sandinistas. It will restore freedom and democracy to the Nicaraguan people.

Congress' response to the Central American problem reflects a lack of understanding of the nature of the Sandinista character.

Early this year, Benjamin Linder was killed by the Nicaraguan resistance. At the time he was in a war zone, working for and among uniformed Sandinistas. He was armed with an AK-47 automatic rifle fighting against the interests of his own country. But some US Congressmen portrayed him as a pacifist. Liberal Congressmen are quick to glorify communists and quick to condemn those who fight communism.

I am embarrassed to admit that the Congressional response to the Central American crisis has been to give the communists exactly what they want. Congress is willing to trade American goodwill for hollow promises. And every time we are taken for a ride by Sandinista con-men.

Until Members of Congress grasp the fundamental contradiction between what the Sandinistas do and what they say, the Nicaraguan people will continue to live in a repressive, atheistic society. As long as Congress refuses to meet the threat in Central America, the US will have hundreds of small fires to extinguish. The Sandinistas will continue to look for and create opportunities to expand and to damage US interests.

Even peace plan author, Costa Rican President Oscar Arias, understands the deception of the Sandinistas. Earlier this year, he said: "For the (Sandinistas) to live up to my agreement would be incompatible with the Marxism and the kind of political system they're establishing in Nicaragua." He continued, "What I want to prove is that I'm right, that they've deceived everybody, that they've had for eight years, that the people have been wrong to give them the benefit of the doubt."

America's policy should be to maintain pressure until the Sandinistas feel the heat.

When the Sandinistas give an inch we should take a mile. You can be certain they will make reforms designed to appear to meet the terms of the peace agreement. If they allow newspapers to open we should make sure the papers have the materials to publish. If they allow demonstrations we should make sure that does not mean only party members can demonstrate.

In the end, however, it will be the military pressure that will force the Sandinistas to accept democracy. No Communist government in history has accepted democracy on its own.

If the United States appears to lose the resolve to protect its interests then there is no hope for the Nicaraguan people.

To meet the deadline they agreed to, the Sandinistas must comply with the peace plan by January. I doubt they will. If they manage to get rid of the democratic resistance before then, I know they will not.

That is why I have been using my foundation, the Action Fund, to deliver humanitarian aid to Nicaraguan refugee camps. Over the last six months I have delivered about four tons of clothes and medical supplies to help sustain the force.

If America ceases pressure on the Sandinistas the Sandinistas will begin to pressure the U.S. Over the past several years, civilian and military aid to the Democratic National Resistance has kept the Sandinistas at bay. They are now on the defensive. Without the Contras they would be on the offensive throughout Central America, creating new threats to the freedom and peace we all seek.

Just as Congressional liberals think they can use the budget deficit to spend today and pay later they think we can use a false peace plan to postpone the day we stop the growth of communism in the Americas.

Supporting the freedom fighters will prevent the sad day when we are forced to protect our national security with American troops.

COLLEGES MUST HELP DEFEND A FREE SOCIETY

(By Hon. Caspar W. Weinberger)

The role of the university in defense of a free society is a topic of immediate relevance to all of us, for whether we are members of the academy or not, we all understand that if free thought and inquiry are stifled in the university, society's freedom will soon be in jeopardy.

Recently, we were told that 7,000 American scientists signed a "pledge neither to solicit nor accept" funds related to our Strategic Defense Initiative. I assume that among this group are a large number, perhaps an overwhelming majority, of university professors. These scientists claim that strategic defense is infeasible and indeed a threat to international stability.

But, if I perceive it correctly, the deepest ground of their reservations is their belief that somehow there is a fundamental incompatibility between the purpose of a university and its participation in the construction of this nation's defenses. And when I say "defense," I mean the entire range of technologies of warfare, from offensive nuclear weapons to belt buckles for our troops.

These scientists, I believe, would find it difficult, perhaps repugnant, to contribute in any way to defense research. For if they object to a purely defensive system, what can be their attitude toward an offensive deterrence arsenal?

I would like to argue that there is no conflict between the aims of the academy and the defense of our freedom in the nuclear age. Indeed, I see a great harmony and even a fulfillment of those rightful aims of our great educational institutions. I believe that aiding in the construction of SDI is only a part of a larger obligation and a major opportunity for our colleges and universities to help defend our public and our freedom. Yet I know that this conclusion is far from being generally accepted, and so it requires argument and advocacy.

We must begin by asking ourselves what a university is for. We must inquire as to the essential soul of our country. Finally, we must discover what threatens both.

The university is a complex organization with a long history. And yet, we can discern two major periods in its development: the original, or ancient, university; and the institutions that grew up with the advent of modern natural science.

The original university began in ancient Athens with the rise of philosophy, especially in the schools of Plato and Aristotle. Although the whole of the universe came under its scrutiny, the greatest concern of those universities was the study of human action and how it might be perfected. The virtues, as detailed in books like Aristotle's *Ethics*, formed the core of their teaching. The ancient academy's goal was to form the character of its students, and in so doing, create thinking, self-restrained citizens.

With the rise of modern science in the 16th century, the university acquired a new purpose. The founders of this new science spoke of the conquest of nature and of the need to direct nature's energies to improving the human condition.

Francis Bacon taught that the purpose of inquiry was "the relief of man's estate." Rene Descartes argued that science would make us "masters and possessors of nature." The university no longer had as its primary concern the perfection of individual character.

The formidable enterprise of science has taken shape over 500 years and has remade our world—for good and for evil. And therein lies the irony of modern science. Its activity and its products are morally neutral—science contains no guidance as to its proper employment. For this reason, the progress of science and technology, although constituting the greatest part of the agenda of our modern universities, will never, and should never, displace the university's original function: the formation of individual human character through free inquiry.

It is perhaps no coincidence that free government, as we know it, took shape in the same ancient world that saw the rise of Western academies. Especially in Athens, the ideal of a society of self-governing citizens shone most brightly, if often imperfectly.

The freedom of Athens was inseparably bound up with the rule of law, public deliberation and a devotion to orderly procedure. At the heart of this kind of civil life was the dedication to reason as the key to decent self-government. So it is with every society that has ever claimed a commitment to freedom. And whenever a society has severed freedom from reason, its experiments in self-government have ended in bitter disappointment.

If I had to express in one word the common bond between the university and a free society, it would be their common dependence upon the cultivation of civility and I define "civility" as the disposition on the part of one human being to be willing to listen to the thoughts of others.

In order to characterize what most threatens civility in the world today, I can do no better than to quote a very infamous man. I quote him, not because I agree with him, but because he stood for everything we abhor.

Joseph Goebbels, Adolf Hitler's minister of propaganda, said: "When I hear the word civility, I reach for my gun." What Goebbels meant was that the only way to react to those who would foster civility is to eradicate them. He was saying that the bullet is stronger than the word. Simply put, that is a frank proclamation of the rule of brute force in human life.

Unfortunately for his nation and for the 40 millions of mankind who went to their graves because of Hitler and his cohorts, Goebbels was no armchair philosopher. He was just a particularly repulsive man with a gun. But he had political power. And it is good to remember two things about his holding political power. One is how he came to have it.

The other is what wrested it from him. We must remember that the Nazi party was voted into office. It succeeded a democratic republic. The National Socialists did not perform a magician's trick upon the German people. They did not say one thing before the elections of 1933 and subsequently betray their program. Their program was a pogrom, and they so announced.

The other thing to remember is what finally took political power away from Goebbels and his associates. Only when they were utterly defeated in war were Germany and the world free of him. It took the combined military and economic power of the allied powers, millions of casualties and the destruction of many societies and much of the treasure that had required centuries to amass before the Nazi regime was ended.

The civility of free societies is always imperiled, either from within or without. From within come those forces of forgetfulness or self-indulgence or fear which make a citizenry lose touch with the worthiness of its institutions of self-rule and which make military unpreparedness seem so much more attractive than preparedness.

From without come the organized onslaughts of war or aggression on the part of some nations which are eager and able to exploit the elements of force and fraud, which, sadly, are always factors in international affairs.

The most vital role that centers of learning can play in the defense of freedom and civility is to keep alive the education and ideas that bond citizens to their freedom and make them aware of the dangers to that freedom. Now, I know that many in today's academies would react to this with scorn and derision.

But I must say: For an academic to feel a fundamental antipathy to the social and political order of the United States is as violent a self-contradiction as any imaginable.

I do not contend that America is a perfect society. Nor am I suggesting that the approach of the men and women of the academic world should be simpleminded, unquestioning admiration of our country.

It is essential that the academy debate our laws and the justice of our policies. But at least the university must retain the clarity of mind to perceive that we can only have such debates if we preserve our essential devotion to freedom. Freedom is the only condition that makes a university possible.

What would cause a thinking person to lose such clarity of mind? There are presently two doctrines or dispositions that are widespread in the academic world: One, a kind of nihilism about values and moral choices; and two, a disdain for what they perceive as the commercial nature of the United States.

According to the first opinion, there can be no absolute knowledge about moral values. Since no way of life can be proven better than any other, their view is that we cannot say that Soviet—or any totalitarian—society is worse than ours. The nihilism results in a belief that there is a moral equivalence between the United States and the Soviet Union.

Indeed, taken to its extreme, this nihilism and moral equivalence theory can destroy the university itself, for nihilism can give no answer to the question—why would free inquiry be preferable to derision, repression and censorship? An education that produces scholars and citizens indifferent to their own freedom is hardly a fulfillment of the original purposes of the university.

Oddly, the other doctrine or tendency presents itself as a simple devotion to what its proponents call justice, usually grounded in their views on a distaste for capitalism. The United States, proponents of this view argue, is nothing but a sprawling market, generating vulgarity and inequality as it lumbers onward to ever-greater profits. So deficient is our nation in simple decency and justice, it is held, that no clear ground emerges by which we could pronounce ourselves better than the Soviet regime.

This is not the place to offer an extended defense of American capitalism. I only want to argue what I believe is indisputably true: The United States have created a free society in which the university has flourished as never before in human history. And in no small measure, the university's success is due to the generosity and entrepreneurial spirit on American capitalism. If ever there existed a "self-evident truth," it seems to me that this is it.

In sum, the university's role in the defense of a free society is to keep alive those traditions of civility and learning by which free citizens govern themselves and recognize the dangers to that civility in the world. This is a role that derives, or should derive, from knowledge, affection and even self-interest.

Since threats to freedom and civility in the world come armed with weapons, it appears to me an utterly appropriate extension of the wider duty of the university to make available to free societies the findings of its scientific research for the purpose of defense against such weapons.

I believe that this applies especially to the case of the Strategic Defense Initiative, SDI offers a particularly apt opportunity for the university to contribute to the nation's defense and remain true to itself. And this is the case even if some research must remain classified, so as not to aid the enemies of freedom and civility.

One often hears the objection voiced that scientists would betray a moral trust if they turn their research to weapons of destruction. But SDI is not a weapon; it is a variety of technologies we hope to use to destroy weapons. It is purely defensive.

And, indeed, it is particularly strategic defense that allows for a greater infusion of mortality into strategic considerations as shaped by technological advancements.

Of course, defense as a whole does require weapons, which we build, not to use, but to deter aggresion. At the moment, that is the only way we can deter aggression by having strong retaliating offensive weapons.

But if an advance in technology could render us more secure from the devastation of nuclear weapons; if such an advance could give our adversaries incentives to cooperative in the reduction of nuclear arsenals (as indeed it already has); and if such a defense could enable us to defend our allies and ourselves more completely against nuclear weapons launched by any nation—by what possible criterion of morality would one judge it wrong?

What kind of morality renders immoral a technological advance that is designed only to destroy weapons, and not people and thus advance the nation's security and the aggregate security of humanity? Here the university is presented with an opportunity, by working to secure such defense, to play its part in the unfolding of modern science which is perfectly consistent with the academy's original purposes.

One of the principal goals of this nation is to defend ourselves and our friends against the many threats facing us. The university has an essential role in this defense. We must always recall a harsh truth about our adversaries. If we stand devoted to the university of free inquiry and the republic of free citizenship, we must remember that the governing principles of the Soviet Union declare both to be a sham.

The policy of Soviet leaders is to undermine the existence of free inquiry and free government wherever possible. What real debate exists in the universities of Cuba, North Korea or the Soviet Union, where the permission of the state to a physics professor to travel 178 miles was considered an international event?

If I suppose correctly, the loss of the university and our republic would spell the end of civility and civilization as we know it. And if that is correct, does it not behoove us all to do all we can to prevent its loss to a form of government totally incompatible with freedom?

Given the real world in which we live, it is not only consistent with the purposes of the university to assist in the development of the Strategic Defense Initiative; it is a fulfillment of the university's real purpose, which is to defend the soul of free society through discovery, debate and learning and the pursuit of truth.

If I were to search for a model of that man who best embodied the love of free inquiry and the love of free citizenship, it would be Socrates. He said in the *Apology* that Athens was committing a grave injustice against him condemning him to death. Defiantly, Socrates vowed never to cease from examining the grounds of the well-lived life.

Yet, he always fought his city's battles and was known for his great courage in her defense. He claimed that both his questioning of Athens and his willingness to defend his city stemmed from his love of knowledge. Moreover, in the *Crito*, the sequel to the *Apology*, Socrates refused to leave Athens for another city, even to save his life. Where else could he go, he asked, where he would be as free to philosophize?

Like her modern decedent, America, Athens was not a perfect society. But also like America, Athens was a free society—a society that was free to perfect its imperfections. As such, she won the allegiance of the man who was free to know and who knew best how to be free.

AMERICA'S FORCES IN EUROPE MAKE THE FREE WORLD SECURE

(By Mrs. Hannelore Kohl)

I accept the International Service Award from the United Service Organization on behalf of the many thousands of German men and women who support the USO in our country,

Men and women who help American soldiers and their families to become accustomed to their new environment and to learn a new language,

Men and women who familiarize American soldiers with our country's cultural and scenic attractions,

Men and women who show themselves as good neighbors and welcome the Americans to their homes,

Men and women who join with their American friends in merrymaking and in the more contemplative kind of celebration,

In short: all those people who help to make Americans feel at home in our country.

All this would not have been possible without the help of these many known and unknown people. In fact they are the real award-winners. I wish to take this opportunity to extend my warmest thanks to all of them. In the truest sense of the word their commitment and readiness to help have built a bridge of friendship between the American people and the German people. A friendship built on personal experiences.

This fact is a source of great pleasure to all of us. Today about half a million American servicemen and their families are living in Germany. Over the past 40 years more than 10 million US soldiers and their families have been stationed in Germany.

Some 150,000 Germany-American marriages are another proof that the services can have positive trade-offs. Countless bonds of friendship have been forged between people on both sides of the Atlantic. They are the links between our two peoples.

The relations between individuals and our two societies go much deeper. We are joined together by our common values of peace and freedom, by our democratic ideals and our belief in the universal validity of human rights. The continuous presence of US forces in Western Europe guarantees our security.

All post-war American presidents have strongly endorsed this commitment. This American guarantee is vital to our country and ensures in particular the freedom and viability of our old capital of Berlin where I was born. President Reagan renewed that guarantee with his visit to the city on June 12.

Conversely, the freedom and security of Western Europe are of crucial importance to the United States and its world status. With our Federal Armed Forces, the Bundeswehr, which numbers about half a million soldiers, we make a major contribution to the defense of the whole alliance and thus of the United States as well.

As the mother of two sons who both have served in the Bundeswehr, let me put it quite simply: considering the still existing threat to our freedom it is imperative for our young soldiers to know that they do not stand alone, but that they have allies at their side, in particular the American Forces in Germany. Together—as proven by 40 years of peace—we will continue to be able to preserve peace and freedom.

The service which the Americans are rendering worldwide, within the alliance, and especially for our country, is in keeping with an old and noble tradition of their country.

Alexis de Tocqueville, a great French admirer of the Americans, put it most aptly 150 years ago when he said, as translated into English in American history books; "I have often seen Americans make great and real sacrifices to the public welfare; and I have remarked a hundred instances in which they hardly ever failed to lend faithful support to each other."

I'm very happy that this spirit hasn't changed. The American commitment in Germany and the close bonds between our two nations will continue to guarantee freedom and democracy.

SPACE LAUNCH PROGRAM CALLS FOR EXPANSION

(By Hon. Edward C. Aldridge)

The total picture of America's national security space launch capabilities has a large measure of good news, but we still have some significant challenges facing us.

In particular, we need you to be aware of and support the need for additional expendable launch vehicles (ELVs) and production and launch facilities.

By way of background, from the late 1970s through 1984, the United States had committed to rely exclusively on shuttles for space launch after the last ELV was used in 1990. However, by 1985 it was apparent that we could not accomplish all our space missions with assurance without complementary ELVs.

The Congress supported this critical need, and as a result, these vehicles—which we now call Titan-IVs—are now in production. However, in 1985 and 1986 the Space Shuttle Challenger loss coupled with two Titan 34 failures unexpectedly compromised our ability to place critical heavy payloads in space. This series of accidents created a national crisis and undeniably confirmed the need for a national space launch strategy independent of any single lanuch system.

The Department of Defense, the National Aeronautics and Space Administration, the Congress, other government agencies, and the civil and commercial communities worked together to develop such a strategy—one intended to recover our launch capability and place it in a far stronger position to assure access to space in the future. The plan centered on the development of a mixed fleet of launch vehicles, and was based on several key guidelines.

First, the Space Transportation System (STS) will remain an important element of our national launch fleet. Second, a number of DoD missions will be off-loaded from the shuttle and moved to expendable launch vehicles. In essence, the shuttle will be used for national security missions that require the unique characteristics of the shuttle, much as the President has directed for other non-defense users.

To further promote assured access to space, additional launch facilities will be developed and maintained on both the East and West coasts. Finally, selected military missions will have "dual-compatibility". That is to say, these satellites could be put into space by at least two independent launch systems—the space shuttle of ELVs.

Clearly, this recovery approach required the acquisition of additional ELVs, as well as development and maintenance of a continuing industrial base for launch vehicle production and launch services.

Thanks to the earlier support of the Congress, we have already made significant progress in this direction. Congress provided us with supplemental Fiscal Year 1986 and Fiscal Year 1987 funding for additional Titan IV boosters and new Delta II Medium Launch Vehicles (MLVs). The Titan IV boosters will allow us to meet our immediate national security needs. Additionally, the Delta II launch system we contracted for in January 1987 will relieve further demands on the shuttle and allow us to deploy most of the Navstar Global Positioning System satellites considerably earlier than would otherwise have been possible.

Thus, our national space launch recovery plan was well underway when we submitted the Fiscal Years 1988-1989 President's Budget to the Congress early this year.

Since we formulated that launch recovery plan and submitted the budget, we have continued to work hard to quantify the total scope of the space launch recovery effort. We have already requested Fiscal Year 1987 reprogramming for completing the Titan-34D recovery, developing a Centaur upper-stage for use on the Titan-IV, and conducting nondestructive testing on the Titan-34Ds and Titan-IVs.

However, the recovery situation has now been complicated: NASA announced on May 22 a delay in resumption of space shuttle flights until no earlier than June 1988. In addition, the shuttle's maximum launch rate has been reduced to 14 per year. Finally, NASA has informed us that future shuttles will carry lighter payloads. The result is that far fewer shuttle flights will be in support of DOD.

These changes have required us to expand our original launch recovery plan: we must now acquire additional ELVs and increase production and launch capacity to close the significant gap between national launch requirements and capabilities. Following an extensive Air Force assessment of our situation, here are the impacts these requirements have on the Fiscal Year 1988-1989 budget.

Our specific needs are as follows: we must acquire 25 more Titan-IV boosters—in addition to the 23 Congress has already approved—in order to meet requirements through 1995. Seven Titans will compensate for reduced shuttle availability between now and 1993, and two are required for new missions. The remaining 16 are for Fiscal Year 1994 and Fiscal Year 1995 requirements.

We need not request funding for those 16 vehicles until the Fiscal Year 1990-1991 President's Budget. I mention these now because we must provide production and launch facility improvements in the near-term in order to begin building these boosters during Fiscal Year 1990.

Currently our Titan-IV supplier can produce six boosters per year. In order to accommodate our required launch rates through 1995, we need the ability to produce up to 10 Titan-IVs per year.

We will also need increased capacity at our East Coast and West Coast launch facilities to be able to meet our expected launch rates. We must modify one Titan launch pad at the Eastern Space and Missile Center at Cape Canaveral, Fla., to allow six or more East Coast Titan-IV launches per year, while allowing the commercial Titan III program to continue simultaneously on a no-cost, non-interference basis.

The need for a second Titan-IV launch pad on the West Coast was identified to the Congress earlier and is included in the Fiscal Year 1989 Military Construction request.

We are also faced with the need to offload payloads previously intended for the shuttle to medium launch vehicles. In order to so do, five additional Delta-II boosters and 10 new MLVs will be required. The additional Delta-IIs will be acquired under the existing contract, and will be used to launch Global Positioning System satellites and a GPS-related experiment.

We will conduct a competition for the remaining 10 MLVs or for launch services to launch Defense Satellite Communication System (DSCS) Satellites one-at-a-time.

Significant benefits to the military, NASA and the commercial launch industry will accrue from this approach. First, DoD operations will face less risk from the possibility of additional slips to the shuttle recovery schedule. We will gain flexibility for DSCS replenishment, and have the opportunity to substitute important, but less schedule-critical DoD Science and Technology payloads onto shuttle flights.

Further, additional shuttle payload capacity and shuttle flight opportunities would be provided to NASA since our plan to acquire additional MLVs could. allow us to return shuttle flights for NASA's use in the 1991-and-beyond time period.

Finally, the MLVs we need are the same class of vehicle that the emerging commercial launch industry will be producing. Acquiring additional expendable launch capability would strengthen that industrial base and improve the opportunities for success of commercialization. Acquiring more ELVs will be one more way both DoD and the Congress can encourage commercialization of space launch services.

In order to accomplish all of these activities above (including modifying shuttle payloads to fit ELVs and accounting for savings from reduced use of the space shuttle), we have requested support for adjustments to the Fiscal Year 1988 budget by $316 million and to the Fiscal Year 1989 budget by $645 million, and for special authorization should a prolonged Continuing Resolution be required.

This support will enable us to implement our expanded launch recovery plan in the near to mid-term, and workoff the backlog of national security payloads by the early 1990s.

Beyond the near and mid-term, we remain concerned over the nation's ability to deal with future launch requirements. The recovery plan I've outlined does not include any slack, or excess capacity through the early 1990s. It is just adequate to launch the minimum number of payloads we now know must be launched by 1995.

For example, many of these payloads will complete constellations of multiple satellites and bring them up to the minimum prudent quantity for reliable operations. However, without slack the recovery plan is fragile because it allows no margin for error.

If shuttle or Titan-IV problems occur—and statistically that is not unlikely—a launch backlog will again accrue. The ideal solution to this Achilles-heel in the nation's space launch posture is to begin acquiring and phasing-in the next generation of space launcher, the Advanced Launch System (ALS). As ALS is phased into the launch inventory, the reliability of our launch capability as a whole will increase and launch costs will begin a trend towards significant reduction.

With a third heavy launch vehicle, we would gain the margin we need and could avoid schedule delays should problems occur with any single type of launch vehicle. In addition, we will have increased flexibility to provide for eventualities such as presently unforeseen launch requirements.

Although the ALS is currently under study by seven contractors and no specific design has yet been selected, we can still plan for our transition to this new launch system. The ALS program can be phased to provide a transition vehicle, ready by the mid-1990s, and a more capable objective vehicle, available by 1998.

The transition vehicle would not represent a departure from the orderly path to the objective ALS. Rather, it would be composed of modules to be used in the objective vehicle—modules that can be built with current technologies and will be available before 1998. This transition approach has several advantages.

First, it allows us to achieve our flexible launch vehicle inventory sooner. Second, it evens out the development costs by having the development work for the modular components of the transition vehicle done several years before those of the objective vehicle rather than simultaneously.

Finally, for the transition vehicle we have set a goal to cut launch costs by one-half. The ALS will be the first vehicle designed with cost as the driving factor, rather than a specific performance. It is crucial to our space launch capability as we move into the next century.

Congress is aware of the national requirement to regain and maintain assured access to space, and has consistently supported DoD requirements. With Congress' continued support for Fiscal Year 1987 reprogramming and the current budget deliberations, DoD will be able to compensate for reduced shuttle availability.

In the longer term, Congressional support will enable us to begin using the ALS during the mid-1990's, and to develop ALS to its full capabilities for use during the next century.

The loss of the Challenger and ELV launch failures painfully underscored our nation's need for a robust, balanced fleet of launch vehicles to assure our access to space now and in the future. The plan I have outlined will ensure the nation will never again be faced with the situation we have coped with for the past 21 months. It is a necessary strategy to retain America's leadership in space.

AMERICA'S WILL TO SUPPORT STRONG NATIONAL DEFENSE IS BEING TESTED

(By Rep. Ernie Konnyu)

There is a big job to be done, protecting America, safeguarding the future of the free world, preserving democracy and our way of life in the face of what has become an ever more effective Soviet threat.

Our democracy is in a period of testing our own will as doing what is necessary is assure survival as a free country. Much of our population and a majority in Congress want to reduce further our country's effort to defend itself. For those of us who believe that such a road is too risky in face of the challenges, it is our job, in this democracy, to speak out on the side of realism and caution. It is our job to convince other citizens to also speak out in support of a strong national defense.

This country is at peace, the ultimate reward of eternal vigilance. But despite that, all you need to do to convince yourself a strong military is necessary to turn on the evening news any afternoon and watch the highlights from wars around the world—the Middle East, Southeast Asia, Central America—there are hot beds all around us.

Yes! The history of the world where stronger countries go after the weaker either to take them over or to force them to become part of their alliance has not changed, and unfortunately it never will.

The tensions in the areas mentioned are made even higher as the Soviets continue their military build-up through high-tech modernization to far beyond what is necessary to defend themselves. Here are some examples:

The Soviet's newest class of strategic ballistic missile submarine, the super quiet Delta Four, is preparing to put to sea on its first operational mission carrying the Soviet's newest submarine-launched ballistic missiles. Each missile carries 10 nuclear warheads and is even more accurate than its predecessors.

The Soviet's newest generation ICBM, the road-mobile SS-25, now numbers about 100 launchers, with additional support bases nearing completion.

The Russians have an extensive network of rail support facilities taking shape and they are preparing to deploy the rail-mobile SS-X-24 ICBM. Each missile, again, armed with 10 nuclear warheads.

They've begun test flights for the follow-up missile to an ICBM that is expected to have a greater throw-weight, carry at least 10 warheads, and be even more accurate than its predecessor, increasing its effectiveness against their specific targets, the US ICBM silos and other hardened targets.

Additional supersonic Blackjack strategic bombers have reportedly joined the initial five aircraft that had undergone testing last year.

And, the USSR has begun operational deployment of an entirely new generation of mobile surface-to-air missiles.

The Soviet Union's research facilities continue to explore new biological warfare technologies. New genetically engineered agents that could be so resistant to treatment that only those scientists who know how the original mutation was developed could produce an effective prevention or cure.

The Soviet Union's Star Wars program over the past 10 years has cost the equivalent of about $200 billion. We're only spending about $3 billion this year. They have the only operational Star Wars program—that surrounding Moscow. You tell me who's ahead in that game.

Appreciating the size and power of the Russian Armed forces is not enough. We must also think critically about why the Soviets continue to devote such a large portion of their national resources to support their military build-up, 15 to 17 per cent of their gross national product, as opposed to America's six per cent. Yes! Triple our defense effort.

Of course, we must not forget that the Soviet navy is more numerous and is newer in terms of average ship age than ours. Additionally, they outdo us in soldiers 2 to 1, tanks 3 to 1, guns 4 to 1, fighter planes 2 to 1, and so on as well.

As free people, we must base our decision about our national security on a rational and realistic understanding of the Soviet military threat. Look at Poland and Afghanistan, Central America, the Soviet support of state terrorism, and to Angola and Ethiopia, where Soviet surrogates are in combat.

As one recent Congressional witness pointed out, the Duchy of Moscovy has grown since the 1600's equivalent to the size of the territory of Alaska every decade. They are simply the clearest and most successful example of an eternally imperialistic power the world has ever seen.

It is imperative to our national security that we, as a nation, understand that the Soviet political system fosters the growth of military power to a level above that of any other country.

Congress has been addressing defense issues through debate on the annual Defense funding bill. Legislatively, we won some important victories in the House but the realists among the representatives lost most of the key fights. Successful rhetoric and political posturing on the part of the anti-Defense members came in the shape of things such as imposing a ban on nuclear weapons testing with a yield greater than one kiloton.

Incidentially, that means no ability to test the warheads for the new D-5 Navy missiles designed to bust hardened silos or the Midgetman Air Force missile. A similar ban was imposed on anti-satellite weapons testing, an area where the Soviets have a large lead.

Other arms reduction provisions in the Defense authorization bill would force unilateral adherence to the unratified SALT II Treaty which has been severly violated by the Soviets. A narrow interpretation of the SALT II Anti Ballistic Missile Treaty will inhibit Strategic Defense Initiative-related development activity so vital to this area. Of course the House reduced the President's request for America's Strategic Defense Initiative funding by almost half.

The House, however, did prove to be realistic on a few of the debated fronts.

The House did not eliminate SDI funding altogether. Research funding was set at $3.1 billion. So SDI related activity will continue. The hope remains that we will be able to someday protect ourselves from a Soviet nuclear attack enough to realistically eliminate their serious thoughts on a first-strike option.

Further, we would definitely be able to protect America from either an accidental Soviet missile launch or from a nuclear attack from other parts of the world in the unfortunate event that a Khomeni or Kaddaffi acquire and decide to use a few nuclear weapons carrying missiles.

Of course, keeping America safe and strong takes more than just money and strategic awareness of potential dangers. It takes a military force comprised of the best this country has to offer. Dedicated, committed men and women in the armed forces is the finest resource we have.

Because behind all the high-tech equipment America's security still rests with one thing . . . people.

A great deal of responsibility falls on the shoulders of our military personnel. I stand in awe of all of those soldiers and sailors who gave their lives doing their duty.

Remembering those who paid the highest price for freedom is done not only through kneeling before a white marker to plant a tiny flag, donning that old uniform for the Memorial Day parade, delivering a patriotic speech, or singing our stirring anthem although each of these is an important tradition.

Remembering them is also voting and speaking out. It is freedom of expression, freedom of speech, and the right and privilege to get involved in our democracy's checks and balances. These are ways of showing daily gratitude and reverence for the past, for hard-fought battles, and for those who fought them.

Mr. BURTON of Indiana. I thank the gentleman from Ohio for his very kind comments. He was a very valued member of the delegation and we really appreciate everything he did when he was down there.

Mr. Speaker, I yield to my colleague from Kentucky [Mr. BUNNING].

Mr. BUNNING. I thank the gentleman for yielding.

I would like to make a statement about our trip and then get into a colloquy with the gentleman from Indiana on what we saw, at least what we perceived we saw when we were in Nicaragua. This was not my first trip to Nicaragua. This was the third time that I had been to Nicaragua since May. I went back this time so that I could compare what is going on in Nicaragua presently with what I conceived to be going on in May and September.

The last time I was there in September the Arias peace plan had just been signed. So I wanted to get a feel if there had been any compliance or if there had been compliance to a little degree or to a major degree.

This trip was much like the other trips. We met with various and varied groups in Nicaragua. As the gentleman from Indiana has stated, the mothers of political prisoners, what is left of the Chamber of Commerce, labor leaders. We also had the good fortune of meeting with Mrs. Chamorro, the owner and publisher of La Prensa newspaper, with Cardinal Obando y Bravo, the head Catholic delegate in all of Nicaragua.

We tried to meet, and I do not believe this has been stated, with the Sandinista leadership, those people who are now in power in Nicaragua. They did not find it to their convenience to meet with any of us until we accidentally ran into Commandante Arce at the airport at the lounge as we were leaving.

There have been some changes in Nicaragua since the last trip that I made in September.

The La Prensa newspaper is open and running without censorship. Radio Catolica is now allowed to broadcast and we do have news broadcasts on Radio Catolica thanks to a letter my colleague from North Carolina had signed and 157 Members of Congress had signed, to Daniel Ortega asking that Radio Catolica be allowed to broadcast news.

So they are now broadcasting news three times a day.

Some 900 supposed political prisoners have been released from their jails, most of them elderly, as the gentleman from California had stated.

We are very pleased that they are out, but their sentences had been up. So there was no reason to hold them any longer. We tried to arrange a direct meeting between the foreign ministry and those colleagues who went with me, and the gentleman from Indiana, to have some kind of a dialog on the Denby incident. Mr. Denby had dropped out of a Cessna 172 and had been forced to land and we tried to have some kind of dialog with the Sandinistas to find out what kind of condition he was in. We were unable to do that. But despite these cosmetic changes, at least the cosmetic changes that I have seen, it was clear that very, very little progress has been made under the Arias peace plan.

No censorship, that is great for La Prensa.

Mr. Chamorro did tell us though that their reporters and editorial staff on a daily basis find it more difficult with their food card, and their ability to move around and just general harassment by the Sandinistas of those people who are working for La Prensa.

Mr. BURTON of Indiana. If the gentleman would let me interject something, he might also recall she indicated that many of her reporters in addition to being harassed on the street and threatened with loss of their food rationing cards, also to keep their other forms of employment. They only work part time for La Prensa because they are concerned that La Prensa may be closed again at any time and they would be without funds, without any source of income.

Mr. BUNNING. Sure, she made that very clear to us in our conversations. We had the good fortune to spend about 2 hours with this brave and courageous lady who is the voice of freedom for all people in Nicaragua presently along with the cardinal.

Of course, when we returned back to this country of ours, this great democracy, we find out what the cardinal told us on Saturday and the encouragement he had had on Saturday that the first direct technical negotiations between military people of the Contras and the Sandinistas that was going to take place, that the Sandinistas had canceled it. Those are the kinds of things that everybody in this country ought to know about, that the Sandinistas unilaterally canceled that meeting of Cardinal Obando y Bravo and a face-to-face meeting between the Sandinista representatives and the Contra leadership.

One of the key elements in the Arias peace plan is direct negotiations on a cease-fire. One of the key elements is amnesty for all political prisoners. Right now there are still about 9,000 political prisoners.

The highlight of my trip and I think most of my colleagues have stated it, was the rally in Leon. It is about 1½ to 2-hour ride to Leon, about 80 miles. When we arrived there about a quarter of 10 on Sunday morning, we were taken into this theater that seats about 1,800 or 1,900 people. There was standing room only in the theater.

I thought Congressman GRANDY and the Love Boat were going to appear there. But no, it was a political rally sponsored by five of the political parties that are in opposition to the Sandinista government. And all the political parties were participating. There must have been 2,000 to 2,500 people crowded into this theater to hear those political leaders speak in opposition to what was going on and hoping that somehow the Sandinistas would comply with the Arias peace plan.

Mr. BURTON of Indiana. I yield to the gentleman from Pennsylvania.

Mr. RITTER. I thank the gentleman for yielding.

Mr. Speaker, I want to thank the gentleman and my colleagues for going to Nicaragua and coming back with this kind of information for the American people which is so important for this debate.

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I just want to turn to an item in today's New York Times, and I will get to the other headline stories in the Times and the Washington Post later. But just related to what the gentleman is talking about, there is a quote here, and there is a quote by President Ortega.

It says:

> "This country will never vote for any party other than the Sandinista National Liberation Front," Mr. Ortega said in an assembly of labor unions in Managua. "But in the hypothetical case that the Sandinista Front lost an election, the Sandinista Front would hand over government, not power." Mr. Ortega said, "An opposition party could govern only if it respected the established power."

I submit that I think what the gentleman is telling the American people after his visit is that what the Sandinista Front has been conducting is a farce in these peace negotiations. The idea that the Arias peace plan promotes democratization is very foreign to a man who says the only power, even in an election or after an election in Nicaragua, is Sandinista power, no matter what happens with government. I think the gentleman is doing an excellent service to the American people by bringing these things to light.

Mr. DORNAN of California. Mr. Speaker, will the gentleman yield?

Mr. BURTON of Indiana. Mr. Speaker, I think the gentleman from Kentucky had not yet finished with his remarks. I will yield to the gentleman from Kentucky, and then I will be happy to yield to the gentleman from California.

Mr. BUNNING. Mr. Speaker, I will be very quick. I will finish my remarks in due course, and then the gentleman from California can continue to colloquy with the gentleman from Indiana.

The television cameras that we say taking pictures of the rally in Leon were significant, and I think they were significant for one reason.

Mr. BURTON of Indiana. And there were numerous cameras, as the gentleman recalls.

Mr. BUNNING. Those pictures that the Sandinista government's television cameras were taking and were going to take were never going to be shown on television. The only reason they were taking those pictures was so they would have a record to show Commandante Ortega, President Ortega, or Commandante Borge, to make sure they could use those cameras and those pictures to intimidate the people of great courage who were out there speaking and hoping that someday Nicaragua would be free and someday they would have the same opportunity you and I have everyday here on the floor of the House to speak out for democracy and speak out for those things we believe in.

The rally itself, after we left the theater, is something I will remember always also, because not only did the people in the theater go out and march, but all along the streets, of Leon people joined us everywhere along that mile-and-a-half walk. It was the first political rally that has been held in Leon since the Sandinista government took power.

Now, those people have to be very brave people. They know the consequences. They know what is going to happen when they leave the protection of eight U.S. Congressman, not being there tomorrow or the next day. They know the possibility exists and the probability exists that they will be made political prisoners also.

So that was the highlight for me, to see those people rally. Who knows how many there were there? But those 5,000 people or 6,000 people were in that small gathering in Leon, and it was great because it shows what the people of Nicaragua feel. They want change. They want, hopefully, peaceful change, but they know and I know that this Congress and the people of the United States must continue to support that kind of freedom that they want for their country. We cannot pull the rug out from under those kinds of people and those Contras that have helped them get that courage to appear at that rally. I am going to continue to do everything I can to make sure that continues to happen.

Mr. BURTON of Indiana. Mr. Speaker, I thank the gentleman for his very eloquent summation. I think that those of us who were attending that rally feel exactly as the gentleman from Kentucky does. It must be reminiscent of some of the great rallies that took place early in our history when Patrick Henry and Nathan Hale and many of our other forefathers made great speeches in favor of liberty. It was a very touching time, and I am glad we were there to share that.

Mr. DORNAN of California. Mr. Speaker, will the gentleman yield?

Mr. BURTON of Indiana. I am glad to yield to my colleague, the gentleman from California.

Mr. DORNAN of California. Mr. Speaker, I was only going to rise to ask the Members a question and make an observation, and the gentleman from Kentucky actually addressed himself to it.

When I went down with the gentleman from Indiana a few months back and then went down last month with the Congressman Kyle Truth Squad, which was about the same size as the Burton Truth Squad—about eight Members—I was confronted by one of America's three leading newspapers, the Los Angeles Times, with hand-selected letters to the editor, about 6 to 8 of them, without one counterbalancing one, all attacking me on the same point the gentleman from Kentucky mentioned, about what would this demonstration have been like without a Congressman there.

When the six of us were down there marching in the parade last month—actually it was on November 7, the anniversary of communism's first big success in the Soviet Union—there was also a car following us with five attorneys-general of U.S. States, including Florida, our former colleague from the House. And Texas was there; I think your attorney general from Indiana was there.

But here is what the letters to the editor, hand selected by fellow Americans, which sounds like some of the dialog we get out of the well on the majority side here had to say; they were saying that if this country was not free, how could these Congressman be rummaging around down there? If this country, Nicaragua was not free, how come they could have these rallies? If this country was not free, how could you have meetings with the mothers and the wives down there?

They do not understand the locking-in process of turning it into a total communist puppet state like Bulgaria or Rumania where this cannot happen or like Poland where it does happen and the people end up in jail, like the solidarity people did.

I just want the Members to be alerted to that problem that we are going to get in the well in a few days, particularly when we come back in January on funding for the freedom fighters. Also I would give the observation that the gentleman from Kentucky has already given, and that maybe the gentleman from Indiana [Mr. BURTON] could give, about how close we are to them slamming the door to congressional delegations and increasing the army to twice its size.

Mr. BURTON of Indiana. Mr. Speaker, if I could just make a comment regarding the gentleman's remarks, the people in Leon at the rally said very clearly that the rally would never have taken place if it had not been for the congressional delegation coming. They made that very clear. In fact, the permit for the rally and the march—they have to have a permit down there—was not granted until just a few hours before the rally took place, and the reason that permit was granted was because we were asked to meet with Mr. Bendana on Sunday morning, when we were supposed to be on our way to Leon to meet with him, so we could not go to the rally. We declined because we had already promised the people we would be up there, and they would have been extremely embarrassed if the television cameras and the Congressman had gone up there and they had slammed the door on freedom of assembly and freedom of expression that they had promised in Esquipulas in 1979. They were in a crack. They had to let the march go forward.

Mr. DORNAN of California. Right. Let me comment on that. This is a clever trick. They know we are going to be hit with our liberals and the 60,000 so-called Peace Americans that have been trained down there saying, "Why didn't they meet with the government?"

So when we are going with the opposition people down there, they have cleverly dangled in front of Mayor Koch's nose on November 5 a meeting with Ortega. He canceled a trip to Montegolfa, and, of course, there was no meeting with Daniel Ortega. Then on the 7th they dangled Daniel Ortega and Sergio Ramirez, the Vice President, in front of our nose, and we said, "No thanks," as the gentleman did.

I remind the people who are interested in this special order that Bendana is Al Bendana. He speaks fluent English. He is the man that Ted Koppel has made a star on Nightline. He is the executive director of the foreign minister, kind of the administrative head. So they will always try to thwart an American delegation now with some promise that is not going to be fulfilled anyway.

So I am glad that the gentleman stuck to his guns.

Mr. BURTON of Indiana. Mr. Speaker, he told us, if I might follow up on that, that if they had had the meeting that was scheduled for some time and we had not been there, the Turbas Divinas would have been out with the clubs and chains, and a lot of people would have been intimidated by participating in the march.

Mr. DORNAN of California. And with cattle prods.

Mr. Speaker, I thank the gentleman for yielding.

Mr. RITTER. Mr. Speaker, will the gentleman yield further?

Mr. BURTON of Indiana. I am happy to yield to the gentleman from Pennsylvania.

Mr. RITTER. Mr. Speaker, I thank the gentleman for yielding.

I think what we are saying is that there really is no more other side to this debate about supporting the democratic resistance in Nicaragua. The Sandinista government has shown its true colors. It is morally bankrupt.

I would like to just add to the quote that I gave a moment ago to today's New York Times where I mentioned that in front of labor unions Daniel Ortega said, "But in the hypothetical case that the Sandinista Front lost an election, the Sandinista government would hand over government, not power."

Again he said that an opposition party could govern only if it respected the established power. I would like to add another paragraph:

> If an elected opposition party tried to roll back workers' advances since the Sandinista revolution of 1979, there would be an insurrection and the Sandinista Front would lead it, Mr. Ortega said.

So much for democratization in Nicaragua.

□ 1600

So much for adherence to the Arias peace proposal, and if that we were insulting enough and injurious enough, here is some more, adding insult to injury. I would like the people watching this special order and my colleagues who may have their TV's on to take a look at today's Washington Post front page headline stories on the enormous arms agreement and the arms buildup that the Soviet Union and the Nicaraguans have agreed to go ahead with.

Also, on the front page of the New York Times, "Soviet Is Aiding Nicaragua in Build-Up, Defector Says."

A high ranking defector, a man named Roger Miranda Bengoechea has for 1 month been briefed, had a press conference with the Washington Post, with the New York Times and Time Magazine with the State Department present, and I am just going to read the opening paragraph in the New York Times headline story by Stephen Kinzer, someone who has reported extensively on Central America, particularly Nicaragua. It says here:

> A former senior officer in the Nicaraguan army who defected recently to the United States has told American officials that the Soviet Union is preparing to send large quantities of new weapons to Nicaragua, despite provisions of the new regional peace accord that called for limiting the size of national armies in Central America.

It talked about things like training Salvadoran rebels in the use of portable antiaircraft weapons.

These articles I commend to my colleagues in the Congress and commend to the people watching this special order.

Mr. BURTON of Indiana. If I might ask the gentleman one question, I was under the impression that Humberto Ortega said in a speech this weekend that they were going to try to build to a 600,000-man army, which was updated by Mr. Arce when we were at the airport. He said they would like to have a million in their army, but it has been publicly stated that that they are going to build toward a 600,000-man army, which is so huge for that part of the world, plus they are going to try to get Mig Soviet fighters for those air bases down there.

Mr. RITTER. Exactly. The words of Roger Miranda are that they have an agreement with the Soviet Union and a 5-year plan to get Mig-21's offensive weapons, major offensive weapons, into this theater.

I really think the debate over assisting the democrats, with a small "d", is over. We have got the goods. Trips like those of the gentleman from Indiana, statements like the president of Nicaragua saying, "There is no such thing as an election here. You can win the election, but we will still have the power."

I mean, that is the end of the debate. I say to my colleagues on the other side of the aisle, read the New York Times, page A-12, where Mr. Ortega has said, "There is no such thing as democratization, because you can win the election and we will still have power."

I mean, does that not mean that the only alternative we have is to help the democratic resistance?

I ask my colleagues on the other side of the aisle, I ask them to take a look at these front page stories in the Washington Post and in the New York Times, which talk about this massive military agreement between the Soviet Union and the Nicaraguan Communists. I mean, it has to make you a little bit more concerned about our own safety, the safety of our hemisphere, the long-range security of our own Nation, given the proximity of this new Soviet base.

Mr. Miranda basically states that they are seeking to promote another Cuba.

Now, many of us have been saying this all along. This is nothing new to some of us in this debate, but I urge my colleagues, particularly those who are of a category of moderate to take a look and just investigate what is going on with these recent pronouncements by the defector, Roger Miranda, because I think their opinions have got to change. I mean, you are now talking about the safety of the United States of America.

Mr. BURTON of Indiana. I think ultimately the gentleman is correct. I want to thank him very much for his contribution. I hope that it illuminates the issue for a number of our colleagues.

Mr. RITTER. I thank the gentleman for yielding to me and for his leadership in taking this special order.

Mr. BURTON of Indiana. Mr. Speaker, I understand the gentleman from Utah was a great asset to our codel and he participated in the march to Leon. I know he has some very interesting and illuminating remarks to make.

I yield to the gentleman from Utah [Mr. NIELSON].

Mr. NIELSON of Utah. Mr. Speaker, I thank the gentleman for yielding this time. I realize his time is almost over.

I thoroughly enjoyed the visit. I have previously been to El Salvador and Honduras and Panama, but I have not had the opportunity to go to Nicaragua.

I found some interesting conversations with the business and labor leaders, agricultural leaders, and the fact that the imports were not available. They were having to go without things. They were only exporting about 10 percent in some instances of what they formerly exported. They are really in desperate shape.

I also found interesting the fact that they said that the Nicaraguan Sandinistas could not win the war. There is no way they can win the war. They can have a stalemate for a long time, if necessary, but they cannot win the war.

As to the 300,000 army, slated to go to 600,000, I understand Mr. Ortega is now saying that was just a trial balloon that his brother had suggested and had no real intention of going that far. I cannot tell whether Mr. Arce, who is supposed to be his information officer, when he says it will go to a million is correct, or whether Mr. Ortega is trying to pull the wool over our eyes again.

It was a very informative trip. I came back even more convinced that what we have done in helping the Contras has been very beneficial to Nicaragua. It is the only reason Nicaragua survives today.

I thank the gentleman for leading a very fine codel.

Mr. BURTON of Indiana. I thank the gentleman from Utah for his participation in the codel and in this special order.

Does the gentleman from Florida have some comments he would like to make? Congressman BILIRAKIS was also a valued member of the codel and I appreciate his leadership and his participation in this special order.

I yield to the gentleman from Florida.

Mr. BILIRAKIS. Mr. Speaker, I thank the gentleman from Indiana for yielding this time. This is not the first time that I have seen him in a great leadership role. We came into Congress together back in January 1983, which was not our party's year. I have been a part of a number of leadership ventures with the gentleman. South Africa has been one of them, and now Nicaragua. It was a pleasure to go on the trip, a real honor to have gone on the trip with the gentleman.

I went to Nicaragua for the first time. I have been in Central America before, but never previously as a Congressman. I try to keep an open mind. I have, as the gentleman knows, supported the Contras all along without any reservation all of my time here in the Congress.

I did not know really what I would find down there.

I remember our first night there when we went to visit Dona Violetta Chamorro at her home. She is the widow, of course, of the gentleman who was killed by the Somoza government back in I believe it was 1978 and 1979. She is the owner of the La Prensa newspaper. I recall, I know I specifically asked her a question about do they print, does La Prensa print human rights violations, and she said yes, and I asked her, "Do you get away with it?"

And she said, "Well, yes. They haven't been coming around trying to talk us out of it," but she went into detail, she and her daughter, in terms of how they get this information for printing purposes, for publication purposes. She said people come to them and all the courage it takes these people to come to them, but they come to them and tell them these stories and, of course, the stories are printed in the newspaper, and then what happens is, and they have had many aspects of this where the Sandinistas visit these people afterward. They go knocking on their doors late at night and would start intimidation tactics, urging them to withdraw and that sort of thing.

She also shared with us when I talked about human rights and whatnot, she shared with us very briefly the fact that in the previous morning's newspaper there was a letter from the mother of a deceased young soldier entitled, yes, "Mother of a Martyr Writes to Ortega." It was a letter addressed to Ortega. Actually, it was printed in the La Prensa newspaper. It is a very lengthy letter. I am in the process of having it translated word for word and I would like to share it with my colleagues in the Congress when I get that, but basically as I understand it the gist of the letter is that it is written by the mother of a young 17-year-old high school student who was forced to join the Sandinista Army. He never finished high school. He was assured by the Sandinistas that because he was a student and he had no military training that he would be sent to region four. There are seven regions, as I recall, in the country. He would be sent to region four where there was no combat.

To quote the article:

> Without doubt, like all promises of the government, this was a false promise and my son was sent to the front to combat.

On two different occasions, she went on to say in her letter, her son deserted, and on both occasions the Sentinals of Public Happiness, or the CDS, in effect I suppose the KGB of Nicaragua, which is called The Committee for the Defense of the Sandinistas, came looking for her son. The last time they came to her house, they brought the decomposed body of her son.

I am sure the letter is even more powerful than that and I will share it with Members of the House when I have it fully translated.

We were told that the image of the Congress of the United States, particularly the House of Representatives, as far as the people of Nicaragua are concerned, we were told that the image—and this is not my statement, this is relating basically to statements we received from people down there—the image is one that the Democratic Party in the House of Representatives is pro-Sandinista and the Republican Party is anti-Sandinista, and that is the image.

Mr. BURTON of Indiana. I think Mr. Arce made that comment.

Mr. BILIRAKIS. Mr. Arce made that comment, that is right. As we were leaving, Mr. Arce came right out with that particular comment, and we were sort of taken aback that all of us were Republicans, if you will.

Mr. NIELSON of Utah. Mr. Speaker, will the gentleman yield?

Mr. BURTON of Indiana. I yield to the gentleman from Utah.

Mr. NIELSON of Utah. It seemed to me that they indicated had we been Democrats, we would have had an opportunity to meet with Mr. Denby and have the red carpet, but since we were Republicans they could not find it in their hearts to let us meet Mr. Denby.

Mr. BURTON of Indiana. Or anybody for that matter.

Mr. BILIRAKIS. I remember at the airport when the gentleman from Indiana [Mr. BURTON] approached Mr. Arce about our efforts to try to see Mr. Denby, at least find out something about him, his condition and what not. I could hear in the background from him, "Republicano." So I think he basically was telling that, as he did later on when we sat down with him.

I was taken aback by many things down there. I know that the time is running out here and I am not sure whether the gentleman will get an extension of his time, and possibly we should do this later on in the week or when we return; but I was taken aback with what they called the Neighborhood Watch. We know what the Neighborhood Watch is in this country. Well, they also have a Neighborhood Watch. These are block committees with the ability, literally the ability to control access to food, work, et cetera. We found evidence of this when we went to the supermarket to see how the shelves might have been stocked and what not. There were guards at the doors and you had to show a pass. They not only had these ration cards, which as I understand it according to my notes, in any case, there is an allotment, an allocation, if you will, of 1 pound per person per month of rice; but then we were also told after we received that information, however, that they are all state stores, and is sort of something that alludes to the Soviet Union. I was in the Soviet Union a couple years ago and I know they have their state stores, and by gosh, they have state stores in a country in our own hemisphere here, Nicaragua; but in any case, the state stores do not even have an adequate stock for that much rice, 1 pound per person per month of rice, which is allocated.

Also, we found out about the blackmarket down there. We asked all sorts of questions about free enterprise and private enterprise and were told that a large portion of what little private enterprise still remains in Nicaragua is really what they call the informal. I even asked the question, "What do you mean by informal?"

"The blackmarket."

"And why is the blackmarket allowed to function in Nicaragua?"

Well, we found out why. The blackmarket is allowed to function because without the blackmarket they just literally would not have any food for the people, and that is about basically the only place they have to go, so this is why it has continued to be funded—not funded, but to continue to operate.

But getting back to these block communities, these block committees, we saw evidence of that when we went to the supermarket. We talked to the labor people and we have colleagues on the other side of the aisle who are generally considered more pro-labor than we are and what not. I wonder if they even bother to talk to the labor people down there, the fact that there are only seven unions down there and the fact that only three of them are really democratic unions. One is Communist, one is Sandinista, and one is Socialist, and the other is Mayan.

Anyhow, when we talked to these labor people, they told us in terms of getting jobs and that sort of thing, they have to go to the block committees, so there is complete control by these block committees.

There is so much I could say to my colleagues and to my colleague from Indiana. I do not really want to take what little time is available here. Hopefully we can continue on with other special orders subsequently, but again it was an honor to have gone to Nicaragua with the gentleman.

Mr. BURTON of Indiana. Well, it was an honor to be with the gentleman from Utah as well, and I thank the gentleman for his contribution.

☐ 1615

Mr. HAMMERSCHMIDT. Mr. Speaker, will the gentleman yield?

Mr. BURTON of Indiana. Mr. Speaker, I am happy to yield to the gentleman from Arkansas.

Mr. HAMMERSCHMIDT. Mr. Speaker, I want to commend the gentleman from Indiana for taking this special order and to say that I have a friend from Arkansas named Sandy McMath.

Mr. Speaker, for the benefit of my colleagues, I would like to mention the article regarding the current situation in Latin America, which was written by my friend, Sandy McMath. Sandy is an Arkansas trial lawyer, and a former chief deputy prosecuting attorney at Little Rock. He is also a former U.S. marine captain and Vietnam veteran as well as an accomplished author. Sandy is currently completing his second book, "Southern Passage," which chronicles his 15-month Jeep trip from Mexico to Argentina in 1985–86. His travels and experience permit Sandy McMath to bring unique and insightful perspectives to his writing and I commend his article to my colleagues.

Mr. Speaker, the other day I shared with my colleagues an article on the situation in Central America, written by my friend Sandy McMath. Sandy has traveled throughout Central and South America and has experienced first hand what is really happening in that region. I would like to commend these next two articles in his series to my colleagues. In addition, for those of you participating in today's special order, I would like to commend for your reading, page E4681 in the CONGRESSIONAL RECORD of December 8, 1987, which contains the first article in the series by Sandy McMath.

1 OP-ED SUBMISSION

The Washington propaganda visit by Commandante Ortega confirms once again the resourcefulness of the Sandinista disinformation campaign to squeeze off funding for the Nicaraguan Resistance through phony reforms and gestures to a gullable Congress.

Not only did pro-Sandinista Congressional staffers embarrass the Speaker by having him confer legitimacy on the exercize, they even helped arrange the Commandante's visit to the Vietnam memorial!

And the media not only faithfully covered Ortega's every move, but showered him with obsequious commentary, suggesting that objectivity in Central American reporting has been all but abandoned.

"I can't understand the American media," Violeta Chamorro told me last year in Managua. "With all their concern for freedom of the press, only a very, very few have supported us."

"They even say we are subversive so what can we expect. There is a war here and so we should not complain if we are censored. And anyway, it is really the fault of the United States."

Even old friends in the newspaper business, who see them at conventions and such, insist on keeping their support private, she said.

When one publisher, who had made a small contribution to a fund for La Prensa, was asked how he could then write an editorial praising Sandinista toughness with local opponents, he had replied: "They [the Sandinistas] have to do what they are doing."

"You should really support them, yourselves, he had told her. Besides, the current of [US public] opinion is too strong against the Contras. We have to * * * oppose Reagan, no matter what."

I was beginning to sense the Chamorro's feeling of isolation. Two American reporters I met during the May Day march two days later had lived in Managua for over three years, had special housing, grocery and interview-access privileges and dated middle-level Sandinista functionaries.

It was commonly discussed among resident journalists that the way to maintain a constant flow of "good copy" was to stay on the "good side" of the Sandinistas.

That meant, one said, "having the guts" to "relay" Sandinista disinformation as factual copy. This writer had been among the first to send the subsequently discredited (and never retracted) report that American GI's had given AIDS to prostitutes in Comayagua, the town near the principal Honduran-U.S. training base.

Equally questionable were the activities of the bureau chief for Central America for one television network, who concurrently operates out of San Jose, Costa Rica a pro-Sandinista "educational seminar" for American political tourists, distributes by mail from the network's well-appointed and computerized offices some twenty anti-American and pro-East-bloc publications (one of which he edits himself).

He claims to be on a first-name basis with Commandantes Wheelock and Humberto Ortego. When I interviewed him he saw no conflict with these sidelines and his objectivity as a newsperson.

Anti-American bias even touches so-called "investigative reporters" stateside. In an interview recently on one of the morning TV shows to promote his latest book, Mr. Robert Woodward of the Washington Post castigated the late CIA Director William Casey for "treating the Communists like the Nazis, who were *certifiably evil*" (Mr. Woodward's emphasis).

The Communists, he said—and he did this very succinctly, taking great care to repeat himself—are just "not certifiably evil."

The interview was conducted by one of Mr. Woodward's media friends in a honeyed, leading manner which sought, under an ostensibly objective format, to enhance the credibility of Mr. Woodward's reports of alleged interviews with Mr. Casey while the latter was lingering comatose from a brain tumor and sedative medication on his deathbed.

It was forensic pas due deux to rouse the cross-examination instincts of every red-blooded trial lawyer. (If only we could subject these media priests to immediate cross examination!)

Every question of the interview, and every on-cue response by this supposedly objective reporter, savaged the necessity, legality and morality of the United States' opposing Soviet totalitarianism clandestinely or militarily—not just in President James Monroe's hemisphere, but anywhere else.

In a 15-minute McNeil-Lehrer news special on Honduras, the trials of that troubled country were laid wholly at the door of the United States and the Contras. Not one word of blame, not one, was directed at the Sandinistas and their Soviet sponsors who had driven the Freedom Fighters into exile. So biased was the report that it sounded like propaganda, not rapportage.

On one of his evening commentaries the week before, Mr. John Chancellor stated that the United States and Nicaragua, "whether they [my emphasis throughout] like it or not," are now having to "work out their differences. Not because they want to but because they have to."—as if the question were merely some trivial dispute between strangers down the street that had got out of hand but is now, thank goodness, being resolved by cooler heads.

To refresh the memory of Mr. Chancellor, one of those "they" is us. And as for Mr. Woodward, here is but a partial list of the peoples whose hearths and histories have been certifiably buried or impounded by Hitler's surviving 1939 treaty partners: Latvians, Lithuanians, Estonians, Poles, Kulaks, Armenians, Hungarians, Czechoslovaks, Bulgarians, Kazaks, Rumanians, Cubans, Angolans, Ethiopians, Vietnamese, Afghans—not to mention Jews, Georgians, Ajerbijinians and Ukranians.

Committed to defend Poland, Mr. Woodward's uncertifiables helped the Nazis carve it alive, swallowing the Baltic states into the bargain. Over half of the Estonian people were shot, buried alive or deported to Siberia.

More human beings have been murdered by Communist regimes than by Hitler and his war—from the sixty million shot, frozen or starved by Stalin (including virtually the entire Kulak people) to the hundred million "resolved" by Mao and the four million just yesterday butchered like hogs in Cambodia. Amnesty International estimates over ten thousand political prisoners or disappeared persons in Nicaragua.

No millionaire adolescent with a guitar has bemoaned them and the comradely Platoons which carried out this work of socialist equalization will not soon be coming to a theater near you. Perhaps those are the "certifications" which Mr. Woodward awaits.

WRITER'S BACKGROUND

Sandy S. McMath, 46, a trial lawyer in Little Rock, Arkansas, took off two years to drive by jeep from Tijuana, Mexico to Tierra del Fuego in Argentina and write a book about the trip.

The journey took fifteen months, September 19, 1985 to December 19, 1986. "Southern Passage," the result, will be published next summer.

Mr. McMath spent over three months in Central America and conducted over 100 interviews there, 45 of them in Nicaragua, with combatants, civilians, officials and journalists.

While in Managua, he spent a day with Jaime and Violeta Chamorro, editors of La Prensa, at the newspaper's offices.

He was later arrested at the Costa Rica border by the Sandinistas, who confiscated censored newspaper articles which had been given him by the editors. He was questioned for several hours then released.

"Africa Alone," Mr. McMath's first book, was about a similar trip in the late 1970's.

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2. OP-ED SUBMISSION

"The only reason they have not closed us down is for the propaganda it gives them. They need to be able to say to the political tourists and reporters: See, it is a lie that we do not have freedom of the press.

Violeta Chamorro was 57 but looked 40, in spite of cheeks webbed with care and small purpose sacks under sleepless eyes. It was April 1986 in Managua, the week of the Communist "May Day" celebrations.

Outside the compound a thousand children in youth-brigade khaki strutted past, shouting fierce slogans.

Older ones, fourteen or thereabouts, toted M-16s and AK-47s; tots barely six carried wooden stocks painted with red stars, hammers and sickles.

"Of course, they do not tell them that over half of each issue they censor. Did you look at the wall outside before you came in?"

I'd seen it. Posting censored matter there was now forbidden but they did it anyway, smothering a long bulletin board with unpublished clippings of bread lines, food and hardware shortages, anti-government pronouncements of Cardinal Obando y Bravo, and whimpers about restricted meetings by once-proud anti-Somoza businessmen who'd thought they were part of the revolution.

A messenger carried the layout over to the censor at the Secret Police in a pick-up.

The censor, a "Captain" Melba Blanton, would frequently delay her work until past quitting time—so that "corrections" either couldn't be made until morning, making the paper late, or else had to be done on overtime.

Bland filler (simultaneously submitted—and sometimes itself rejected) had to be substituted in the place of prohibited articles. Simply leaving blank spaces was forbidden.

An explicit order accompanied the returned copy: Delete this sentence, substitute this word, do not publish this story, add this paragraph.

Violeta had worked side-by-side with her late husband, Pedro Joaquin Chamorro, as he fought Somoza and American meddling for over 20 years. They'd been at it before most of the "commandantes" were born.

He'd become the generally accepted leader of opposition opinion when he was mysteriously murdered in 1978, just as the Sandinistas were co-opting the revolution. Somoza is blamed but no one was ever charged.

She and Jaime Chamorro, her co-editor and brother-in-law, now had to weather charges by the Sandinistas that they were "stooges of gringo imperialism."

"When they no longer need us to support their myth of 'political pluralism' they will shut us down. Even censored, we are for them very dangerous."

Maime Chamorro was prophetic: just six weeks later, after Congress approved renewed Contra aid, the Sandinistas closed La Prensa.

They were watching it carefully that April day last year. Two operatives in the parking lot took down names and license numbers of visitors. Formerly, many had come to read the bulletin board, but no longer.

The narrow arched gateway was hardly a barrier against sneak attacks by gangs of brown shirts called "turbas divinas" (divine mobs) by the Sandinista cabal, who orchestrate and truck them about.

These bullies roam Managua disrupting Church of God and other fundamentalist religious services and beating up opponents of the regime.

They sometimes "spontaneously" gather here to shout insults, throw rocks and paint the premises with graffiti and threaten writers and pressmen. Many employees have been intimidated and quit, some joining the pro-communist Nuevo Diario, begun by a renegade brother, Xavier.

At the time the turbas were conducting an "educational campaign" with Prensa's street vendors and route kids.

Most of the carriers had quit and few shops outside the tourist places, like the International Hotel (then packed with reporters, network film crews and "solidarity cadres" from Berlin to Berkeley) would now sell it.

Still, its paid readership exceeded those of both pro-government papers, El Diario and the more strident Barricada, combined.

I was puzzled by these modest, disarmingly ordinary-looking people. Were they really beseiged champions of freedom, as they'd been called by some? Or were they simply political "outs" grinding personal axes in the name of a larger cause?

As one Hollywood personage put it while waiting for her Solidarity Cadre's bus to the Thursday morning CUSCLIN (Committee on U.S. Citizens Living in Nicaragua) demonstration at the U.S. Embassy: "They ain't cast-able; they don't look the part."

Jaime Chamorro had brought his and Violeta's lunch to the office in a little picnic basket. There was a jar of Coca Cola and some orange juice in a bottle that had once contained a very good Rioja.

You could tell that the bottle had carried orange juice for some time. They did not say whether they, or one of them, had drunk the wine and I did not ask.

Somehow I thought of them as abstainers—though not teetotalers—and it occurred to me that someone else must have enjoyed the tinto then given or returned the bottle to them, and that the carrying of the orange juice in this manner was a private joke—a shared contempt, perhaps, at the Marxist phillistines encamped about them.

When I left that evening, Jaime Chamorro gave me xeroxed copies of the past month's censored copy and the accompanying orders from Melba Blanton. Three days later, after clearing the border post at Penas Blancas, I was stopped about a mile from Costa Rica and taken into custody by the Secret Police.

I was released unharmed after a six-hour interrogation, naturally without the documents. I had learned a great deal about Freedom.

Mr. BURTON of Indiana. Mr. Speaker, I would like to conclude by saying that there is so much that we need to cover, and we will take another special order, but if freedom and democracy is to come to Central America, not just the fledgling democracies that are democratic, but to Nicaragua as well, then we must be resolute of purpose in supporting those people down there who really are committed to freedom. The Communists in Nicaragua are not. They are continuing to repress their people. If the United States of America cuts and runs and pulls in our support for the Contras, those who are fighting for freedom, the suffering that will take place in Nicaragua will be gigantic compared to the suffering that has taken place today.

We must not have that on our consciences.

GENERAL LEAVE

Mr. BURTON of Indiana. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks regarding the subject of my special order today.

The SPEAKER pro tempore (Mr. LANCASTER). Is there objection to the request of the gentleman from Indiana?

There was no objection.

KOSOVO: THE BLOODY BATTLEGROUND

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Maryland [Mrs. BENTLEY] is recognized for 60 minutes.

Mrs. BENTLEY. Mr. Speaker, there are places in the world where, for reasons of geographic location, or the people who live there or other strategic considerations, great battles recur over the centuries. Such a place is Kosovo in what is now southern Yugoslavia. Since the time of the Assyrians and then the Greeks and the Romans, armies have crossed and recrossed Kosovo. I decided to talk about Kosovo because toward the end of the 14th century, the Ottoman Turks fought here against the forces of the Christian West, defeating the army of the Serbian empire under its ruler, Prince Lazar. A century later, the same forces met at Kosovo and the Turks again repulsed the West and thereby preserved their stranglehold on Constantinople.

Major newspapers recently have been carrying articles regarding Kosovo—and I want my colleagues to have the background on their holiest of places in the hearts of all Serbians persons of Serbian descent such as myself.

The memory of the battle in 1389 is so ingrained in the soul and spirit of Kosovans, and indeed all Serbians, that those of us of Serbian descent annually keep June 28 as Vidov Dan, Widow's Day, to commemorate the Serbs who died in that battle 600 years ago.

What is this place which is woven so strongly into the life, character and very soul of Serbans. In truth, it is a locale, not unlike others around the world. It is a land of rolling hills and gentle valleys, bounded in the north by Mount Kopaonik and in the south by Mount Shar. Its people are poor, even by the standards of a poor country like Yugoslavia.

But to Serbians and to Kosovans in particular, these 4,200 square miles are sacred. They are our link with the ancient glory of Illyria and the ancient agonies of our tragic Serbian history.

Nor did Kosovo drop from history in the 14th and 15th century. In the great wars of this century, this land has seen the Balkan campaigns of the First World War and the struggles among Nazi, Communist, and Allied forces in the Second World War.

It is today the focus of a struggle which could literally affect the face of Europe and, perhaps even the world. Kosovo is being torn internally by a struggle between the native Serbian population and a literal invasion of Albanians from their native land to the west.

This issue, the struggle for control of Kosovo highlights the problems which plague the nation state of Yugoslavia. It is not really an ethnic issue. For good or bad, Kosovo is part of that state. Serbians may have to learn to live with the fact that the population of Albanians in Kosovo is reported to be as high as 77 percent. If Yugoslavia is to survive, everyone there must look to the interests of consolidating a nation made up, as it is, of at least five strong ethnic groups.

Kosovo might well be described as the example of why the entire Yugoslavian economy is so fragile. As we well know, Yugoslavia is not a representative government—nor is any other East European nation.

In Kosovo, where much autonomy has been given to the local administration, one out of four workers are part of the Province's bureaucracy. In the Republic of Slovenia, the ratio is only 1 out of 7.

Similarly, in the factories of Kosovo, and Yugoslavia in general, autonomy has been given to the workers to set their own wages. As a result, even while their factories have shown declining productivity and lots of red ink, workers have voted larger and larger pay hikes for themselves. No one was held accountable.

All of this has helped add to the shaky economy on which Yugoslavia has been hanging since the death of Tito. Because of his personality and the fear instilled in people, Tito managed to keep Yugoslavia in line and its economy flowing adequately for a Third World nation. The United States was interested in helping him because they did not want Communist Yugoslavia to become a Stalinist or Russian Communist country.

However, for whatever reason, Tito failed to provide for a successor who could keep the country functioning in the same manner. There is much speculation as to why he did not handpick one person to follow in his footsteps rather than placing this fragile country under the impossible rule of a six-headed rotating monster with no one ever assuming the responsibility and leadership because the title annually floats from one to the other.

In this decade, unemployment has soared, ranging from 12 to 30 percent. Inflation has been double digit and just recently one of my staff returned from there and said it was well over 200 percent. On top of this, Yugoslavia has more indebtedness per capita than any other country in the world.

Because of the deep-seated interest in Washington in keeping the doors to Yugoslavia open to the West rather than to the East, the United States has done much in recent years to help Yugoslavia stabilize its economy.

For example, through the International Monetary Fund, the United States has supported Yugoslavia's attempt to reorganize its debt. I remember when the lady Prime Minister, Milka Planinar, visited the United States in 1985 to appeal for help.

At that time, the debt facing the country was approaching $3 billion and she was worried about restructuring that debt.

Vice President GEORGE BUSH and I shared the honor of sitting on either side of Madam President that night as she discussed the financial woes of the country.

And Vice President BUSH promised the United States would help again, and the United States did just that.

From 1979 to 1986 Yugoslavia was on the International Monetary Fund's critical standby program. Since then, however, she has been placed on the less critical enhanced surveillance arrangement.

Now, in an attempt to halt such inflationary wage raises, the government has threatened to close down all unprofitable enterprises.

While this is another positive step toward decentralization and privatization of the economy, it is often during such transition periods when the potential for chaos is greatest.

In recent years, Yugoslavia has done more than just keep even on its debt payments; it has actually reduced the principal owed by a slight amount.

The debt burden per capita is still the highest in the world.

Similarly, in the area of bilateral trade, America has been responsive. Such trade is now close to $1½ billion.

Yugoslavia still holds its Generalized System of Preferences [GSP] status with the United States. It is the ninth largest participant in that system. The outlook is good for resolution of the concerns raised by certain United States industries concerning Yugoslav export practices.

Our Export-Import Bank program with Yugoslavia totals $1 billion. Included in it are passenger aircraft, nuclear power technology, and many other types of manufactured goods.

Also, the Commodity Credit Corporation has earmarked $100 million for fiscal year 1986. This will be used by Yugoslavia to purchase American agricultural goods.

In 1984 the Yugoslavian Government passed legislation encouraging joint business ventures. At least 11 U.S. corporations have since entered into such joint venture agreements.

In overall international trade, Yugoslavia was able to reverse a $1.6 billion current accounts deficit and turn out 3 consecutive years of surpluses.

In the midst of this attempt to mold a nation looms the shadow of the Soviet Union. We can be sure, that if the fragile unity of Yugoslavia shatters, Moscow will be there to pick up the pieces. The consequences of such an event to the rest of the Balkans and to the rest of Europe, Soviet dominated and free alike, can only be guessed at.

I am inserting in my remarks at this point an excellent brief analysis of the situation which appeared in the East European Quarterly for March 1987 under the title "Kosovo: A Tragedy in the Making" by Nicholas J. Costa.

KOSOVO: A TRAGEDY IN THE MAKING

(By Nicholas J. Costa, Greater Hartford Community College)

Yugoslavia, a nation which in 1941 passed through the crucible of "war, resistance, rebellion and death" is today a nation in search of its soul. The immediate structural contradictions which have worked to produce an atmosphere of political angst no longer remain the private speculative preserve of the traditional observer of the Yugoslav scene. Today with the "Yugoslavization" of the Kosovo crisis and its effect upon intro-Party and inter-republic relations one can conclude that certain segments of the general populace, the Yugoslav intelligentsia, the rank and file of the Party faithful and the "Power Elite" within the League of Communists of Yugoslavia are not only becoming prisoners of the aroused emotions of their national-republic and/or regional constituency but are being forced, five years after the 1981 demonstrations in Prishtina, into the adoption of an intransigent mind-set. Judicial decisions enacted tend to reflect the prevailing political climate. The Constitutional Court of Serbia recently declared as unconstitutional the practice of adhering to the principle of proportional ethnic representation as relating to hiring practices in Kosovo.[1] This decision is being cited as an example of the changing attitudinal mind-set. Yet, it must be pointed out, that the reaction pattern runs the total spectrum, as it did in the United States when the principle of Affirmative Action was introduced. The favorable decision brought applause and the unfavorable verdict brought condemnation as projected in the charge of "Reverse Discrimination." The multitude of negative judgmental statements by non-persons such as Milovan Djilas who once called to my attention the fact that, "the Albanians are looked upon as the 'Blacks' of Yugoslavia";[2] also by members of the academic community in Prishtina who are quick to point out that there exists an internal contradiction when, "they call this the Land of the South Slavs and then there are we, the Albanians",[3] and those of private citizens who frequent the outdoor cafes, as they sip their cups of Turkish coffee followed by a glass of mineral water, attest to this national phenomenon.

As one reflects upon the national consolidation, solidification, and intractableness of the divergent views brought on by the Kosovar events of 1981, one is confronted with the image that the principal participants and their respective supporting cast are performing in a manner of actors involved in the presentation of a Greek tragedy, the tragedy of necessity, where the feeling aroused in the spectator is "What a pity it had to be this way." The triad of eruptions which engulfed the autonomous region of Kosovo in the period fom March 11th to April 3, 1981, have once again resurfaced. A Reuters dispatch followed by a report in the New York Times and by an article in the January, 1986 issue of *The Economist* entitled, "Keeping Kosovo Quiet For Now", informed the public of the arrest of one hundred and fifty ethnic Albanians for engaging in hostile and subversive acts against the Yugoslav state on behalf of the government of The Peoples' Republic of Albania.[4] This figure, according to informed sources, is currently reported to be ninety-four persons. If one were to analyze the protracted periods of political confrontation which have taken place and have characterized the relations between Yugoslav-Serbs and Yugoslav-Albanians since the close of World War II, one would discover that what had transpired in the crucial two-month period of March and April of 1981 had already happened before. The action-reaction pattern did not emerge from a void: it was culmination of a twenty year disturbance cycle within a forty year cyclical trend—1945. 1968, 1981—whose origins and causes can be traced back to the formation of the Land of the South Slavs following the close of World War I.

The upheavals of 1981 have been attributed to a variety of determinants. The outstanding causative factors which numerous writers have alluded to from both sides of the "Iron Curtain" consist of the following: one, the age-old struggle between The Cross and The Crescent; two, the traditional protracted clash for control of the plains region and water rights between the highlander and the lowlander; three, the alleged failures of the Yugoslav economic and political policies; four, the breakdown of the communication process as a result of what Dimitrije Djordjevic ascribes to "realities not conforming to the dream"; five, the cultural agreement between The Peoples' Republic of Albania and the University of Prishtina of which the Albanianologist Anton Logoreci states, "led to the discovery on the part of the Kosovar Albanians of their history and true national and cultural identity" and of which Skender Berisha, the President of the Kosova Committee for the Development of Relations with the Outside World, states "was a means used by Tirana to propagandize and spread misinformation among the student population"; as a means of illustrating this point Dr. Berisha called to my attention the fact that a visiting economics professor from the University of Tirana made it clear to the students of his former class that Albania had no employment problem but that the visiting lecturer conveniently failed to identify the means employed by the Albanian government to achieve this goal; six, the evolution of clandestine organizations which possess ties to the government in Tirana and which are dedicated to the liberation of Kosovo and all other Albanian inhabited populated regions together with their eventual unification with the Peoples' Republic of Albania; seven, the deterioration of the economy which projects its consequences in the form of high rates of inflation and unemployment; eight, the confusion and the imbalances brought on by the sui generis character of the Yugoslav political and economic system; nine, the traditional willingness on the part of both Yugoslav-Serbs and Yugoslav-Albanians, due to their Byzantine and Ottoman heritage, to adhere, in a most dogmatic manner, to the principle of power as opposed to the principle of law; and ten, the quest for the acquisition of republic status.[5]

The confrontational situation which characterizes the relationship between Belgrade and Prishtina, which while the capital of the Socialist Province of Kosovo-Metohija remains an integral part of the Republic of Serbia, may be attributed to the fact that there exists a political economic and a cultural relationship in which a subordinate ethnic group, the Yugoslav-Albanians confronting a dominant political entity, the Yugoslav-Serbs, find themselves in a situation where the relationship between the two ethnic categories have not only become dichotomized but where there currently exists a fierce clash of interest over values like influence, prestige and power. Furthermore, in a region where the Albanians represent in excess of eighty percent of Kosovo's population, demographic projections show a 2.4 percentage annual rate of population growth,[6] this in itself insures that, with the passage of time, a definitive reversal of the existing dominant-subordinate power relationship will evolve. This transformational process is continually being reinforced by the voluntary and the involuntary exodus of Serbs and of Montenegrins from the autonomous province of Kosovo-Metohija, which is estimated to have reached a figure of one hundred thousand persons as of 1986.[7]

In relation to the problem of outward migrations of Serbs and Montenegrins from Kosovo, Ismail Bajra, a member of the Presidium of the Provincial Committee of the Kosovo League of Communists calls to one's attention that the exodus is on the decline. Furthermore, he states that due to the granting of an employment guarantee and the provision of housing facilities for some of the returnees, a total of sixteen hundred individuals have elected to reestablish themselves in Kosovo.[8] The decision to render preferential treatment to former expatriates have created an atmosphere of resentment in Kosovo among Yugoslav-Albanians. Members of the academic community of the University of Prishtina are quick to call to one's attention the fact that these individuals received preferential treatment for jobs, housing and financial assistance when they left and now, following their return, are receiving the same type of treatment while there exists a growing underclass composed mainly of young Yugoslav-Albanians who have been rendered superfluous and nonfunctional by the interplay of economics, failed reforms and individual choices.[9]

Internal migrations by the citizens of a nation state have traditionally been ascribed to a deterioration in the economic sector, changes within the socio-political climate which are deemed to be detrimental to the individual's well being or that of the subordinate ethnic group. As one seeks to come to terms with the events that have transpired in Kosovo, one must first accept the fact that the reality, as it is perceived by the inhabitants of Kosovo, does not correspond to the reality being lived in objectively. Secondly, and fundamental to one's understanding of the "Kosovo Issue", is the acquisition of an awareness that the impact of the accelerated socio-cultural, political and economic conditioning process, brought on by the traumatic events of 1981, have served to create a frame of reference where the alienated groups (Serb and Albanian alike) define reality as that which the alienated ethnic group imagines it to be. The citizens of the southern tier of the Balkan peninsula by historical conditioning and by temperament, incline towards extremes. Today, the massive exodus of Serbs and Montenegrins from Kosovo Polije, appears to possess a similarity in relation to causational factors involved in the massive exodus of ethnic Albanians from Fushte Kosovos in 1920 and following the close of World War II.

The government of Yugoslavia is an agent of the League of Communists of Yugoslavia, In theory its primary obligation is to the interest of the national society. The interests for which the two agencies are collectively responsible and for which they must concern themselves are basically those of military security, the insuring of the integrity, legitimacy and the longevity of the political life of the two units, and the provision for the well being of the people of the Yugoslav nation state. In practice, the republics and the provinces have entrenched themselves in their own territories. In doing so as independent fiefdoms within the Yugoslav national entity, they enjoy, because of the right of the veto, political and economic supremacy over the federation. This phenomenon may be attributed to the period of liberal ascendancy which emerged following the political demise of Alexandar Rankovic. In relation to Kosovo there evolved, at this time, a willingness on the part of its government and party representatives to circumvent the constitutionally established operational procedures and legislative bodies and deal directly with the collective presidency. This consists of eight regional representatives—one for each republic or autonomous province—plus the current party president. A readiness on the part of the decision-makers in Belgrade to acquiesce to this decentralizing and politically astute procedural maneuver while adhering to a policy of "salutory neglect", may be attributed to a realization that their respective representatives, who while acting in a state of agency, possess the responsibility of defending the local interest of the region. Thus the acquired maneuverability gave to the regional representative in the State Presidency, the twenty-nine member federal cabinet and the two houses of Yugoslavia's Parliament a greater degree of independent political power. Such action is considered to be valid through an adherence to the rationalization that a weak Serbia insures a strong Yugoslavia.

An additional consequence of the acceptance of the procedural move was, because of the lack of a challenge, the bestowing of a de facto status to Kosovo's latent claims for republic status. The unofficial establishment and acceptance in the hearts and the minds of the people that de facto status was a reality served, with the passage of time, together with an increase in the rising expectations of the people of Kosovo, to set the stage for the belief that de jure recognition was forthcoming. Failure for such to materialize led, because of the efforts of a highly vocal and well organized minority within the ethnic Albanian populations of Kosovo, to the demand for the establishment of a Socialist Kosovo-Metohija Federal Republic. It is, at one and the same time, both ironic and tragic, given the interplay of forces and events since the promulgation of the 1967 Constitution, that the spirit of liberalism which was responsible for the granting of equal status with Serbo-Croatian to the Albanian language, the encouragement and the expansion of cultural contacts between Kosovo and the Peoples' Republic of Albania, the vocalization of the demand for republic status through symbolic statements, should today be responsible for awakening the force of reactionary nationalism which today tends to place the existing tenure of that very spirit of liberalism which made it all possible in a state of jeopardy.

From a historical and a human rights perspective, the action-reaction pattern relating to the totality of events, indicate that the indigenous population of Kosovo have been the victims of destructive actions since and prior to Vidov Dan, "the day when tragedy befell the Serbs and their Christian allies at the Battle of Kosovo in 1389". Today, the alienated Yugoslav-Albanian society which is dependent on the dominant Yugoslav-Serb "Director" society has, since the disruptions of 1981, sought to proceed from demand to demand, to announce by their actions, regardless of the costs, that they have reached a state of sophisticated political organization to break out of their "Culture of Silence", end their status as a "Dependent" society and proceed to particpate in the political process as citizens of a Yugoslav-Albanian Republic. This demand unfortunately invokes the spectre of secession and linkage to the Peoples' Republic of Albania. Furthermore, it is given legitimacy by the statements of Kosovar militants to the effect that:

"The right to withdraw could pave the way for creating a greater Albania. Such a nation would unite all Albanians-Christians, Moslems and atheists as a people who believe themselves descendants of the ancient Illyrians." [10]

Such, in turn, generates the sincere belief on the part of a vast majority of the "Community of Scholars," representatives within the government and party structure—especially from Serbia, Montenegro and Macedonia—and a segment of the population that the Albanian society within the Yugoslav nation state have gone beyond the point of reasonableness in their demands as determined by the realities of contemporary world politics. The emergence of an all too strong and predictable confrontational situation is magnified and reinforced by misleading and negative generating stereotyped image producing media statements. Such pronouncements appear in the international press to the effect that in Kosovo's capital city of Prishtina:

"Young Serbs stand on one side of Marshall Tito Boulevard and the Shqiptars on the opposite sidewalk." [11]

Through their one-dimensional emphasis on the negative aspects of the economic situation, as they compare the standard of living of Kosovo to that of Slovenia, while ignoring the fact that:

"Before World War II the difference between Kosovo and Slovenia could be measured in centuries, while now they have been reduced to a few decades." [12]

Yugoslavia is today confronted with a dilemma which places the League of Communists of Yugoslavia and the representatives of all republics, together with the totality of the Yugoslav population, in a crisis of confidence and a conflict of values situation. Time alone will determine if the decisionmakers in Belgrade possess the courage, the trust and the vision required to transcend the destructive forces of fear and mistrust and engage in a governmental restructuring process. Failure to do so may result in some further historian proclaiming that the events which transpired in Yugoslavia following the events of 1981 in Kosovo, are to be equated not with a Greek tragedy, but with that of a Christian tragedy. Here one is confronted with "the tragedy of possibility," coupled with the feeling, "What a pity it was this way, when it might have been otherwise." [13] To this day the western observer insists in a multitude of ways, as does the author of "Tito, Mihailovic and the Allies," 1941-1945, Dr. Walter R. Roberts, that:

"Yugoslavia is a country with seven frontiers, six republics, three religions, two alphabets, and one boss."

In so doing there exists the tendency to view Yugoslavia as a country that remains a kaleidoscope of national cultures in spite of continuing efforts to forge a single unifying national ethos. This may be attributed to one's willingness to adhere to a socio-political theoretical perspective that demands that one treat ethnicity as independent of the psycho-historical and socio-cultural context. A failure to understand the negative experiences of the Yugoslav people during the dark days of occupation and resistance may in part be attributed to an unwillingness to accept the premise that neither culture nor ethnicity can be treated as though it is a force unto itself, independent of other spheres of life and the multitude of internal and external forces that have shaped the Yugoslav mind-set. Thus, the formulation of a policy for Kosovo does not remain simply an exercise in rational choice. Rather it remains a complex subjective process influenced by a large number of diverse variables. On the one hand, one finds that the Kosovo issue potentially represents the most effective political instrument which can be exploited by those internal and external forces who seek not only the destabilization of the Land of the South Slavs, but also who desire the transformation of Yugoslavia through a repetitive, self-feeding cycle of internal economic and political animosities into an economically embattled garrison state with its hydra-like national structure turning upon itself. Of such forces, Sinan Hasani, in his recent publication, *Kosovo: Istine i Zablude* ("Kosova: Truth and Misconceptions"), identifies the Organization of Albanian Students of New York (Organizacija albanskih studenata u Njuyorku) and the Association of Clubs of Albanian Republicans (Udruzenje klubova albanskih republikanaca) as the two major external groups and in Kosovo-"Ardjan" (Silver)—as one of the prime internal counter revolutionary organizations. On the other hand, the correlation of forces which are currently emerging require that the power elite within the League of Communists of Yugoslavia penetrate the myths and the polemics that abound so that not only they, but the man in the street may learn how and why the confrontation between the Yugoslav-Albanian and the Yugoslav Serb who view Kosovo as the heart and soul of their land, came about—not as people have chosen to remember it but how it really happened.

Kosovo does not exist in a vacuum; it is and it remains an integral part of the Yugoslav political matrix. Its strategic position and its potential and explosive tinder-box quality have combined with Kosovo's schizophrenic political posture to transform Kosovo into a top priority focus of attention of Yugoslav security policy. Contemporary events and interests have served to reimforce this fact. With the formulation and the presentation of the "Kosovo Polje 2011 Petition" of October, 1985 and the visitation to Prishtina of such notables—in the month of January, 1986—as Interior Secretary Culfaic, Chief of Staff General Canadi and Assistant Defense Secretary Popovic followed in February, 1986 by such noteworthy persons as State Presidency member Stan Dolanc, Serbian Interior Secretary Lalovic and Presidium member Matic, Belgrade signified that regional political realities are indeed playing a decisive role in the formulation and determination of policy application. The tri-dimensional political, economic and constitutional protracted conflict situation which is responsible for the strains within the relations between Belgrade and Prishtina at the governmental and party level and at the attitudinal state between Serb and Albanian has prompted Dr. Elez Biberaj to remark:

"The movement for the establishment of an Albanian republic within Yugoslavia represents a mass movement from below. Rejection of the Albanian demands for equality with other ethnic groups has undermined ethnic Albanians' independence and the League of Communists of Yugoslavia's legitimacy in Kosovo. As a result the regime's authority and effectiveness in the Albanian-inhabited regions have been eroded." [14]

The profusion of Tanjug Domestic Service announcements pertaining to Kosovo together with the recent parade of governmental and party dignitaries to Prishtina may serve to lend credence to Dr. Biberaj's assessment. Furthermore, the gloom and doom scenario is reinforced by the calling in April, 1986, of the Federal Council for the Protection of the Constitutional Order.

That local political realities have a way of frustrating national objectives can not be denied. That the credibility factor is questionable in terms of popular support among certain segments of the Yugoslav-Serb and the Yugoslav-Albanian population in Kosovo—given the demand that the status of the Albanians as a "nationality" be changed and recognized as a "nation", the Serbian charge that the Albanian Kosovars in their quest to establish an ethnically-pure autonomous province are pursuing a policy of genocide and the massive demonstration of approximately five hundred Serbs and Montenegrins from Kosovo on behalf of their civil rights in Belgrade—can not be refuted. Yet, in spite of such charges and countercharges and actions and reactions the flurry of activity in the Federal Assembly which produced a twenty-point resolution for Kosovo's domestic situation, demonstrates that the party and governmental functionaries do, in fact, possess the commitment and the political ability to manage a crisis situation.

To this day Kosovo, a dual society with a long history and roots extending into the past and across international boundaries, remains not only an enigma but a "Catch-22" situation. There is little doubt that the socio-political ferment which in April, 1981, produced the clandestine nationalist group, "Ardjan" (Silver), whose miniscule membership called for the unification of all illegal organizations and Albanian nationalist cells within the academic, industrial and governmental structure that desired the establishment of a Kosovo Republic, has created a category of passive recipients who will be transformed into political activists if the economic situation continues to deteriorate and the constitutional issue remains unsolved.[15] Furthermore the intensity and the longevity of the Kosovo issue has created a situation where in February, 1986, a segment of the Serbian intellectual community subordinated their scholarship to nationalist oriented political goals. Had they recalled the words of the French existentialist writer and philosopher Albert Camus,

"I love my country too much to be a nationalist." [16]

Then they and their Yugoslav-Albanian counterparts in Prishtina would recognize that once the logic of secession is accepted, there is no end except anarchy for the totality of the Yugoslav nation. The evolution and the significance of such a condition is not lost upon the parties involved. Neither Belgrade nor Tirana can afford to push the Kosovo issue to extremes. Thus, since the outbreak of the disturbances in 1981, both the Socialist Federative Republic of Yugoslavia and the Peoples' Socialist Republic of Albania have been content to satisfy themselves by casting polemical epithets at one another. Given Amnesty International's publications the reality is that neither Tirana nor Belgrade possesses a legitimate moral mandate to place the Kosovo dispute before the world court of public opinion. Each realizes that their respective arguments would be undone by the seepage of historical facts through their opposing presentations as the abscess of human rights violations slowly poured forth. One of Tirana's top priority goals in relation to Yugoslavia consists of exapanding and consolidating its interests and influence in Kosovo. Belgrade's countermove consists of adopting strategies that would deny Albania the means of achieving this objective. Thus today, at the rhetorical level, proximity and history have permitted the Albanians and the Yugoslavs to indulge themselves in a series of mutual recriminations that since 1948 have produced a level of mistrust and hostility that remains almost unabated.

At the practical level, policy is being determined by the internal dynamics in the bloc brought on by economic concerns, the potential "changing of the guard" in Bulgaria, Czechoslovakia, East Germany, Hungary, and Romania the impact of liberalism and reform in East Europe and the Soviet Union and perceived Soviet policy options. In relation towards their neighbors in the southern tier of the Balkan peninsula, policy is currently being defined by a more circumspect approach.

While it is possible that new conflicts may arise over implementation and enforcement of party decisions and governmental enactments, the media must display an objective sensitivity to those events as opposed to implying that the viability of the governmental structure is in question. The events that have transpired in Kosovo since the outbreak of the initial disturbances in 1981 make it appear that the protracted quest to formulate a viably policy based on the twin pillars of conciliation and consensus possesses a Sisyphean quality. Thus, to this day Kosovo remains a microcosmic reflection of the internal divisions within the conscience of a nation in search of its soul.

NOTES

[1] "Is Fair Unfair?" *The Economist*, November 9, 1985.

[2] Milovan Djilas: Personal Interview held in Belgrade, Yugoslavia, June, 1984.

[3] Dr. Ali Hadri: Personal interview held in Prishtina, Yugoslavia, June, 1985.

[4] "Keeping Kosovo Quiet for Now." *The Economist*, January, 1986.

[5] The following conclusions were based upon a series of interviews with the following people: Mr. Zoran Jovanovic, Belgrade, Yugoslavia, June, 1981; Mr. Vukmanovic-Tempo, Belgrade, Yugoslavia, June, 1981; Mr. Alex Djilas, London, United Kingdom, June, 1985; Mr. Ramadan Marmullaku, Belgrade, Yugoslavia, May, 1981; Mr. Anton Logereci, London, United Kingdom, July, 1985; Dr. Skender Berisha, Prishtina, Yugoslavia, May, 1985; Dr. Beqir Hoti, Prishtina, Yugoslavia, May, 1985; Mr. Milovan Djilas, Belgrade, Yugoslavia, June, 1984; Mr. Kole Shiroke, Prishtina, Yugoslavia, June, 1985; Dr. Anton Bebler, Washington, D.C., U.S.A., October, 1985; and Dr. Elez Biberaj, Washington, D.C., U.S.A., October, 1985.

[6] "Nationalism Cannot Stand the Truth," Interview of Dr. Kosta Mihailovic by Dragan Tanasic, Belgrade, Yugoslavia, July 1985.

[7] "What the Irredenta Sang was Poison." Interview of Ismail Bajra, Member of the Presidium of the Provincial Committee of the Kosovo League of Communists, by Gojko Marinkovic. June, 1985.

[8] Ibid.

[9] Dr. Ali Hadri. Personal interview held in Prishtina, Yugoslavia, June, 1985.

[10] *New York Times*, "Yugoslavia's Albanians; Poor, Proud and Prolific." October 5, 1984.

[11] Ibid.

[12] Mr. Peter Vidovic, Consul General of Yugoslavia: Personal interview in New York, New York, August, 1985.

[13] John G. Stoessinger, *Why Nations Go to War* (New York: St. Martin's Press, 1982).

[14] Elez Biberaj, "The Conflict in Kosovo", *Survey: A Journal of East and West Studies*, Vol. 28 (August, 1984), p. 39.

[15] Sinan Hasani, *Kosovo Istine i Zablude* ("Kosovo: Truth and Misconceptions"), (Zagreb: Center for Informational Publications, 1986), p. 345.

[16] Albert Camus, *Resistance, Rebellion and Death* (New York: Alfred A. Knopf, 1961), p. 4.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. HEFLEY) to revise and extend their remarks and include extraneous material:)

Mr. BURTON of Indiana, for 60 minutes, today.

Mrs. BENTLEY, for 60 minutes, today.

(The following Members (at the request of Mr. KLECZKA) to revise and extend their remarks and include extraneous material:)

Mr. ACKERMAN, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. OWENS of New York, for 5 minutes today, December 15, 16, 17, and 18.

Mr. MACKAY, for 5 minutes, today.

Mr. CONYERS, for 30 minutes, today.

Mr. GONZALEZ, for 60 minutes, on December 14 and December 17.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. DINGELL, after Mr. THOMAS A. LUKEN, on H.R. 2628, in House, today.

Mr. DAUB, immediately prior to vote on H.R. 3398, in House, today.

(The following Members (at the request of Mr. HEFLEY) and to include extraneous matter:)

Mr. CRANE in eight instances.

Mr. LOTT in eight instances.

Mr. RITTER.

Mr. BEREUTER.

Mr. SMITH of Texas.

Mr. CLINGER.

(The following Members (at the request of Mr. KLECZKA) and to include extraneous matter:)

Mr. ANDERSON in 10 instances.

Mr. GONZALEZ in 10 instances.

Mr. BROWN of California in 10 instances.

Mr. ANNUNZIO in six instances.

Mr. JONES of Tennessee in 10 instances.

Mr. RICHARDSON in two instances.

Mr. BEILENSON.

Mr. HUBBARD.

Mr. VENTO in two instances.

Mr. BORSKI.

Mr. ATKINS.

ENROLLED BILLS SIGNED

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 1191. An act for the relief of Jose Maria Vas;

H.R. 1390. An act for the relief of Chu Pei Yun (Zhu Bei Yun);

H.R. 1863. An act for the relief of Helen Ying-Yu Lin;

H.R. 2121. An act to authorize and direct the National Park Service to assist the State of Georgia in relocating a highway affecting the Chickamauga and Chattanooga National Military Park in Georgia;

H.R. 2325. An act to authorize the acceptance of a donation of land for addition to Big Bend National Park, in the State of Texas;

H.R. 2416. An act to establish the Jimmy Carter National Historic Site and Preservation District in the State of Georgia, and for other purposes; and

H.R. 2689. An act to amend the Arms Control and Disarmament Act to authorize appropriations for the fiscal years 1988 and 1989 for the Arms Control and Disarmament Agency, and for other purposes.

ADJOURNMENT

Mrs. BENTLEY. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 4 o'clock and 30 minutes p.m.), the House adjourned until tomorrow, Tuesday, December 15, 1987, at 12 noon.

EXPENDITURE REPORTS CONCERNING OFFICIAL FOREIGN TRAVEL

Reports and amended reports of various House committees concerning the foreign currencies and U.S. dollars utilized by them during the first, second,

and third quarters of calendar year 1987 in connection with foreign travel pursuant to Public Law 95-384 are as follows:

AMENDED REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMISSION ON SECURITY AND COOPERATION IN EUROPE, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND MAR. 31, 1987

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Samuel G. Wise	1/25	3/23	Austria						[3] 7,758.00		7,758.00
Miscellaneous telephone expense incurred by codel Hoyer from Feb. 12 to Feb. 16 in Vienna, Austria.	2/12	2/16	Austria						[4] 438.00		438.00
Committee total									8,196.00		8,196.00

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Hotel expense.
[4] Telephone expense.

STENY H. HOYER, Nov. 18, 1987.

AMENDED REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON WAYS AND MEANS, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN APR. 1 AND JUNE 30, 1987

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Charles Mellody	4/12	4/15	England	389.46	630.00						630.00
	4/15	4/16	Belgium	7,190	192.00						192.00
	4/16	4/21	Portugal	136,080	972.00						972.00
Military transportation							4,606.99				4,606.99
Committee total											6,400.99

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

DAN ROSTENKOWSKI, Chairman, Nov. 12, 1987.

AMENDED REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMISSION ON SECURITY AND COOPERATION IN EUROPE, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN APR. 1 AND JUNE 30, 1987

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Samuel G. Wise	5/20	6/13	Austria				[3] 44.01				44.01
	5/3	5/13	Austria						[4] 121.14		121.14
	3/23	6/13	Austria						[5] 6,446.00		6,446.00
Barbara Edwards	5/31	6/13	Austria				[3] 28.77				28.77
Lynne Davidson	5/11	6/18	Austria				[3] 88.72				88.72
Barbara Edwards	5/31	6/13	Austria		[6] 449.50						449.50
Lynne Davidson	5/11	6/18	Austria		[7] 3,599.50						3,599.50
Committee total					4,049		161.50		6,567.14		10,777.64

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Miscellaneous taxi fares.
[4] Rep. funds.
[5] Hotel.
[6] Received $1,638 and returned $1,188.50 on June 26, 1987.
[7] Received $4,788 and returned $1,188.50 on June 26, 1987.

STENY H. HOYER, Nov. 18, 1987.

AMENDED REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON THE BUDGET, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 1 AND SEPT. 30, 1987

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Peter Storm (staffdel Storm)	8/8	8/11	Switzerland						241.68		241.68
Committee total									241.68		241.68

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

WILLIAM H. GRAY III, Chairman, Dec. 3, 1987.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON FOREIGN AFFAIRS, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 1 AND SEPT. 30, 1987

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
P. Abbruzzese	8/31	9/5	England		822.00						822.00
Commercial transportation							4,301.00				4,301.00
N. Agris	9/4	9/7	Cuba		429.00						429.00
No transportation cost											
	9/17	9/21	Barbados		[3] 420.00						420.00
Military transportation							1,541.81				1,541.81
S. Biegun	7/16	7/18	Panama		244.00						244.00
	7/18	7/19	El Salvador		125.00						125.00
	7/19	7/20	Honduras		92.00						92.00
Military transportation							5,138.23				5,138.23
B. Blaz	7/24	7/28	Philippines		520.00		73.38		305.75		899.13
Commercial transportation							690.00				690.00
	9/27	10/1	France		692.00		104.46		750.00		1,546.46
Commercial transportation							3,866.64				3,866.64
Total					3,344.00		15,715.52		1,055.75		20,115.27
	9/17	9/21	Barbados		680.00						680.00
Military transportation							1,541.81				1,541.81
M. Bowman	9/17	9/21	Barbados		680.00						680.00
Military transportation							1,541.81				1,541.81
M. Boyle	7/25	7/27	Philippines		390.00		73.38		305.75		769.13
Military transportation							19,712.74				19,712.74
D. Burton	9/4	9/6	Honduras		[3] 142.00						142.00
	9/6	9/7	Nicaragua		[3] 76.50						76.50
Military transportation							14,277.55				14,277.55
R. Bush	7/2	7/4	Argentina		[3] 152.29				130.00		282.29
	7/4	7/6	Chile		208.50				527.55		736.05
Commercial transportation							4,109.00				4,109.00
Total					2,329.29		41,256.29		963.30		44,548.88
F.M. Chambers	8/24	8/28	Bahamas		800.00						800.00
	8/28	9/1	Dominican Republic		512.00						512.00
	9/1	9/3	Curacao		256.00						256.00
	9/3	9/6	Venezuela		327.00		49.59				376.59
Commercial transportation							1,556.51				1,556.51
G. Crockett	9/17	9/21	Barbados		680.00						680.00
Military transportation							1,541.81				1,541.81
M. Donovan	9/26	10/1	France		865.00		104.46		750.00		1,719.46
Commercial transportation							3,865.00				3,865.00
R. Dornan	7/16	7/18	Panama		244.00						244.00
	7/18	7/19	El Salvador		125.00						125.00
	7/19	7/20	Honduras		92.00						92.00
Military transportation							5,138.28				5,138.28
Total					3,901.00		12,255.65		750.00		16,906.65
	9/4	9/6	Honduras		[3] 142.00						142.00
	9/6	9/7	Nicaragua		[3] 76.50						76.50
Military transportation							14,277.55				14,277.55
T. Dunman	7/15	7/18	Panama		441.00						441.00
Commercial transportation							1,590.00				1,590.00
	8/10	8/11	Panama		147.00						147.00
	8/11	8/14	Chile		417.00						417.00
	8/14	8/17	Argentina		435.00						435.00
	8/17	8/18	Panama		147.00						147.00
Military transportation							12,635.00				12,635.00
M. Dymally	7/24	7/24	England		[3] 109.50						109.50
	7/25	7/28	Ethiopia		[3] 483.00						483.00
	7/28	7/31	Angola								
Commercial transportation							5,480.00				5,480.00
Total					2,398.00		33,982.55				36,380.55
	9/17	9/19	Barbados		510.00						510.00
	9/19	9/19	St. Vincent		180.00						180.00
	9/19	9/20	St. Lucia								
Commercial transportation							693.00				693.00
E.F. Feighan	8/12	8/17	Turkey		[3] 602.00				89.73		691.73
	8/17	8/19	Greece		268.00						268.00
	8/19	8/22	Malta		375.00				57.59		432.59
Commercial transportation							4,921.00				4,921.00
R.M. Finley	7/20	7/22	Haiti								
Military transportation							852.25				852.25
J. Fuster	9/17	9/21	Barbados		680.00						680.00
Military transportation							1,541.81				1,541.81
C. Grunberg	9/17	9/21	Barbados		680.00						680.00
Military transportation							1,541.81				1,541.81
Total					3,295.00		9,549.87		147.32		12,992.19
R.M. Hathaway	8/9	8/11	Poland								
	8/11	8/12	Bulgaria		154.00						154.00
	8/12	8/13	Austria		176.00						176.00
Commercial transportation							2,791.20				2,791.20
W.B. Inglee	7/16	7/18	Panama		244.00						244.00
	7/18	7/19	El Salvador		[3] 69.00						69.00
	7/19	7/20	Honduras		92.00						92.00
Military transportation							5,138.23				5,138.23
W. Jones	7/14	7/17	Panama		441.00						441.00
Commercial transportation							1,585.00				1,585.00
	9/21	9/25	Haiti		544.00						544.00
Commercial transportation							817.00				817.00
P.H. Kostmayer	9/4	9/7	Cuba		429.00						429.00
No transportation cost											
Total					2,149.00		10,331.43				12,480.43
R. Lagomarsino	7/25	7/27	Philippines		390.00		73.38		305.75		769.13
Military transportation							19,712.74				19,712.74

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON FOREIGN AFFAIRS, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 1 AND SEPT. 30, 1987—Continued

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
	8/10	8/11	Panama		147.00						147.00
	8/11	8/14	Chile		417.00						417.00
	8/14	8/17	Argentina		435.00						435.00
	8/17	8/18	Panama		147.00						147.00
Military transportation							12,635.00				12,635.00
J. Meyers	7/25	7/27	Philippines		390.00		73.38		305.75		769.13
Military transportation							19,712.74				19,712.74
D. Mica	9/17	9/21	Barbados		510.00						510.00
Military transportation one way							70.91				770.91
Commercial transportation one way							329.00				329.00
J. Miller	7/25	7/27	Philippines		390.00		73.38		305.75		769.13
Total					2,826.00		53,380.53		917.25		57,123.78
W. Owens	7/30	8/4	Greece		304.81						304.81
Commercial transportation							2,695.80				2,695.80
B. Paolo	8/30	9/4	Switzerland		1,176.00		200.00				1,376.00
Commercial transportation							3,635.00				3,635.00
P. Quilter	9/13	9/21	Barbados		[3] 1,333.00						1,333.00
Commercial transportation one way							543.00				543.00
Military transportation one way							770.91				770.91
A. Roberts	8/30	9/4	South Korea		820.00						820.00
Commercial transportation							3,601.00				3,601.00
S. Roth	7/25	7/27	Philippines		390.00		73.38		305.75		769.13
Military transportation							19,712.74				19,712.74
	8/15	8/18	Saudi Arabia		407.50						407.50
	8/18	8/20	Iraq		186.51						186.51
	8/20	8/20	Kuwait		228.00						228.00
Total					4,845.82		31,231.83		305.75		36,383.40
	8/20	8/22	Bahrain		200.00						200.00
	8/22	8/24	United Arab Emirates		187.00						187.00
	8/24	8/25	Oman		288.00						288.00
Commercial transportation							4,020.19				4,020.19
S.J. Solarz	7/25	7/27	Philippines		390.00		73.38		305.75		769.13
Military transportation							19,712.74				19,712.74
	7/2	7/4	Argentina		155.00				130.00		285.00
	7/4	7/6	Chile		527.55						527.55
Commercial transportation							4,109.00				4,109.00
	8/9	8/11	Poland		[3] 17.00						17.00
	8/11	8/12	Bulgaria		154.00						154.00
	8/16	8/18	Saudi Arabia		277.50						277.50
	8/18	8/20	Iraq		206.19						206.19
	8/20	8/20	Kuwait		228.00						228.00
	8/20	8/22	Bahrain		200.00						200.00
Total					2,830.24		27,915.31		435.75		31,181.30
	8/22	8/24	United Arab Emirates		187.00						187.00
	8/24	8/25	Oman		288.00						288.00
	8/26	9/8	Turkey		462.00				60.91		522.91
Commercial transportation							5,142.00				5,142.00
C. Sprunger	7/25	7/27	Philippines		[3] 120.35		73.38		305.75		499.48
Military transportation					19,712.74						19,712.74
R. Torricelli	8/13	8/16	South Korea		492.00						492.00
	8/16	8/19	Philippines		390.00		175.00		109.00		674.00
	8/19	8/21	Hong Kong		400.00				28.20		428.20
Commercial transportation							4,009.00				4,009.00
L. Watson	8/9	8/13	Barbados		[3] 530.00						530.00
Commercial transportation							1,129.00				1,129.00
	9/13	9/21	Barbados		[3] 1,160.00						1,160.00
Commercial transportation one way							543.00				543.00
Military transportation one way							770.91				770.91
Total					23,742.09		11,842.29		503.86		36,088.24
T. Weiss	8/9	8/11	The Netherlands		332.00						332.00
	8/11	8/13	France		460.00						460.00
	8/13	8/15	Portugal		318.00						318.00
	8/15	8/18	Morocco		375.00						375.00
	8/18	8/19	Nigeria		144.00						144.00
	8/19	8/22	Italy		582.00						582.00
Military transportation							12,474.09				12,474.09
	9/3	9/5	Chile		233.00		37.48		161.36		431.84
Commercial transportation							3,832.00				3,832.00
Total					2,444.00		16,343.57		161.36		18,948.93
Grand total for 3d quarter											323,149.62

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[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Represents unused per diem returned.

DANTE B. FASCELL, Chairman, Oct. 30, 1987.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMISSION ON SECURITY AND COOPERATION IN EUROPE, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 1 AND SEPT. 30, 1987

Name of member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Steny H. Hoyer	8/28	8/31	Romania		628.00		[3] 10,804.00				11,432.00
	9/1	9/4	Bulgaria		462.00						462.00
Bill Richardson	8/28	8/31	Romania		628.00		[3] 10,804.00				11,432.00
	9/1	9/4	Bulgaria		462.00						462.00
Mary Sue Hafner	8/28	8/31	Romania		628.00		[4] 6,424.00				7,052.00
	9/1	9/4	Bulgaria		462.00						462.00
	9/4	9/6	Paris		208.00		[5] 1,067.00				1,275.00
Samuel G. Wise	8/26	8/28	Poland		438.00		[6] 1,178.00				1,616.00
	8/29	8/31	Romania		471.00		[7] 2,148.00				2,619.00
	9/1	9/4	Bulgaria		462.00		[8] 3,504.00				3,966.00
	9/4	9/5	West Germany		112.00		[9] 837.00				949.00
Jane S. Fisher	8/28	8/31	Romania		628.00		[10] 10,804.00				11,432.00
	9/1	9/4	Bulgaria		462.00						462.00
Judith Ingram	8/28	8/31	Romania		628.00		[11] 2,290.00				3,548.00
	9/1	9/5	Romania		239.00		[12] 1,047.00				1,286.00
Orest S. Deychakiwsy	9/1	9/4	Bulgaria		462.00		[13] 1,229.00				1,691.00
							[14] 4,380.99				4,380.00
Miscellaneous expenses codel Hoyer—Romania									1,348.00		1,348.00
Miscellaneous expenses codel Hoyer—Bulgaria									337.00		337.00
Samuel G. Wise	6/21	8/1	Austria		[15] 2,457.00		[16] 1,385.00				3,842.00
							[17] 99.37				99.37
									[18] 814.77		814.77
Robert Hand	5/4	8/1	Austria		11,088.00		[16] 1,134.00				12,222.00
Ronald McNamara	5/3	8/1	Austria		7,938.00		[16] 1,396.00				9,334.00
							[17] 90.00				90.00
Committee total					28,863.00		61,250.37		2,499.77		92,613.14

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[1] Per diem constitutes lodging and meals. [2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended. [3] Round trip military transportation. [4] Military transportation United States to Romania to Bulgaria. [5] Commercial transportation Paris to Washington, DC. [6] Commercial transportation Washington, DC, to Poland. [7] Military transportation Poland to Romania. [8] Military transportation Romania to Bulgaria. [9] Commercial transportation West Germany to Washington, DC. [10] Round trip military transportation. [11] Military transportation Washington, DC, to Romania. [12] Commercial transportation Romania to Washington, DC. [13] Commercial transportation Washington, DC, to Bulgaria. [14] Military transportation Bulgaria to Washington, DC. [15] One-half per diem. [16] Round trip commercial. [17] Miscellaneous taxi fares. [18] Miscellaneous food and representative funds.

STENY H. HOYER, Nov. 18, 1987.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2562. A communication from the President of the United States, transmitting offsetting amendments to the request for appropriations for fiscal year 1988 for the Department of Health and Human Services, pursuant to 31 U.S.C. 1107 (H. Doc. No. 100-146); to the Committee on Appropriations and ordered to be printed.

2563. A letter from the Assistant Secretary of Defense (Comptroller, transmitting a listing of supplemental contract award dates for the period January 1, 1988 to February 29, 1988, pursuant to 10 U.S.C. 2431(b); to the Committee on Armed Services.

2564. A letter from the President, Overseas Private Investment Corporation, transmitting a draft of proposed legislation to amend the Foreign Assistance Act of 1961 with respect to the activities of the Overseas Private Investment Corporation; to the Committee on Foreign Affairs.

2565. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a draft of proposed legislation entitled the "South Pacific Tuna Act of 1987"; to the Committee on Merchant Marine and Fisheries.

2566. A letter from the Secretary of Commerce, transmitting a copy of the 1987 "Directory of Japanese Technical Resources", pursuant to 15 U.S.C. 3704(d); to the Committee on Science, Space and Technology.

2567. A letter from the United States Trade Representative, transmitting a copy of the Free Trade Agreement text negotiated recently with the Government of Canada, pursuant to 19 U.S.C. 2114(d); to the Committee on Ways and Means.

2568. A letter from the Secretaries of Health and Human Services, Agriculture, Labor, and the Director of the Office of Management and Budget, transmitting their views on the Administration's support for H.R. 3200; jointly, to the Committees on Ways and Means and Education and Labor.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. de la GARZA: Committee on Agriculture. H.R. 1860. A bill entitled the "Federal Land Exchange Facilitation Act of 1985"; with an amendment (Rept. 100-165, Pt. 2). Referred to the Committee of the Whole House on the State of the Union.

Mr. MICA: Committee of Conference. Conference report on H.R. 1777 (Rept. 100-475). Ordered to be printed.

Mr. DINGELL: Committee on Energy and Commerce. H.R. 3399. A bill to develop a national alternative motor fuels policy and to coordinate efforts to implement such policy; with an amendment (Rept. 100-476). Referred to the Committee of the Whole House on the State of the Union.

Mr. de la GARZA: Committee on Agriculture. H.R. 3712. A bill to designate the United States Livestock Insects Laboratory in Kerrville, Texas, as the "Knipling-Bushland Research Laboratory" (Rept. 100-477). Referred to the House Calendar.

Mr. de la GARZA. Committee on Agriculture. H.R. 3435. A bill to provide that certain charitable donations, and payments for blood contributed, shall be excluded from income for purposes of the Food Stamp Program and the AFDC Program, with amendments (Rept. 100-478, Pt. 1). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ACKERMAN (for himself and Mr. Wolf):

H.R. 3757. A bill to amend title 5, United States Code, to permit voluntary transfers of leave by Federal employees where needed because of medical or other emergency situation; to the Committee on Post Office and Civil Service.

By Mr. BEREUTER:

H.R. 3758. A bill to provide for participation by the United States in the Multilateral Investment Guarantee Agency and to protect workers' rights and trade benefits to the United States; to the Committee on Banking, Finance and Urban Affairs.

By Mr. DeFAZIO (for himself and Mr. Johnson of South Dakota):

H.R. 3759. A bill to provide that adjustments in rates of pay for Members of Congress be deferred until the beginning of the Congress following the Congress in which they would otherwise occur, and to provide that such adjustments may not exceed any cost-of-living increases in benefits under title II of the Social Security Act; jointly, to the Committees on Post Office and Civil Service and House Administration.

By Mr. LIVINGSTON:

H.R. 3760. A bill to ensure the provision of effective military and economic assistance to anti-Communist freedom fighter movements, to prohibit certain direct and indirect assistance to Communist countries, and for other purposes; jointly, to the Committees on Foreign Affairs, Armed Services, and Banking, Finance and Urban Affairs.

By Ms. SNOWE (for herself and Mr. Brennan):

H.R. 3761. A bill to authorize the Secretary of Education to make grants to the Margaret Chase Smith Foundation; to the Committee on Education and Labor.

By Mr. BONKER (for himself, Mr. Crockett, Mr. Dorgan of North Dakota, and Mr. Penny):

H. Con. Res. 230. Concurrent resolution expressing the sense of the Congress that the executive branch, in exercising authorities to restrict exports, use a standard definition of those goods which may be exported as humanitarian donations; to the Committee on Foreign Affairs.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 1093: Mr. DeWine, Mr. Murphy, Mr. Gray of Pennsylvania, Mr. Natcher, Mr. Foglietta, Mr. Bilbray, Mr. Denny Smith, Mr. Frenzel, Mr. Hatcher, Mr. Stump, Mr. Thomas of Georgia, Mr. Marlenee, Mrs. Morella, Mr. Edwards of Oklahoma, Mr. Archer, Mr. Whitten, Mr. MacKay, Mr. Visclosky, Mr. Holloway, Mr. Pashayan, and Mr. Young of Florida.

H.R. 1352: Mr. Weiss.

H.R. 1891: Mr. Hansen.

H.R. 1955: Mr. Montgomery.

H.R. 2041: Mr. Weiss.

H.R. 2577: Mr. Borski, Mr. DeFazio, Mr. Gray of Illinois, Mr. Dixon, Mr. Mavroules, Mr. Kildee, Mr. Beilenson, Mr. de Lugo, and Mr. Gilman.

H.R. 2950: Mr. Lancaster.

H.R. 3009: Mr. Dellums.

H.R. 3130: Mr. Mfume, Mr. Akaka, Mr. Clay, and Mr. Cardin.

H.R. 3193: Mr. Leland, Mr. Torricelli, Mr. Manton, and Mr. Perkins.

H.R. 3343: Mr. Vento.

H.R. 3378: Mr. Smith of Florida, Mr. Owens of New York, Mr. Thomas of Georgia, Mr. Ford of Tennessee, Mr. Badham, Mr. DeFazio, Mr. Fish, Mr. Lowry of Washington, and Mr. Wortley.

H.R. 3432: Mr. Madigan, Mr. DeFazio, and Mr. Stokes.

H.R. 3627: Mr. Swindall.

H.R. 3674: Mr. Miller of Washington, Mr. Manton, Mr. Davis of Michigan, Mr. Hughes, Mr. Biaggi, and Mr. Anderson.

H.R. 3734: Mr. Applegate, Mr. Ballenger, Mrs. Bentley, Mr. Boehlert, Mr. Borski, Mr. Bosco, Mr. Cardin, Mr. Chapman, Mr. Clinger, Mr. DeFazio, Mr. DeLay, Mr. de Lugo, Mr. Gallo, Mr. Gingrich, Mr. Grant, Mr. Gray of Illinois, Mr. Hastert, Mr. Hayes of Louisiana, Mr. Inhofe, Mrs. Johnson of Connecticut, Mr. Kolter, Mr. Lancaster, Mr. Lewis of Georgia, Mr. Lightfoot, Mr. Lipinski, Mr. McEwen, Mr. Mineta, Mr. Molinari, Mr. Nowak, Mr. Oberstar, Mr. Packard, Mr. Petri, Mr. Rahall, Mr. Roe, Mr. Rowland of Georgia, Mr. Savage, Mr. Shaw, Mr. Skaggs, Ms. Slaughter of New York, Mr. Stangeland, Mr. Sundquist, Mr. Sunia, Mr. Towns, Mr. Traficant, Mr. Upton, Mr. Valentine, Mr. Visclosky, and Mr. Wise.

H.J. Res. 50: Mr. Fascell, Mr. Moakley, Mr. MacKay, Mr. Fauntroy, Mr. Kolbe, and Mr. Young of Florida.

H.J. Res. 304: Mr. Petri, Mr. Stump, Mr. Hughes, Mr. Weldon, Mr. Kemp, Mr. DeWine, Mr. Parris, Mr. Feighan, Mr. Coats, and Mr. Durbin.

H.J. Res. 377: Mr. Brown of Colorado, Mr. Bryant, Mr. Daniel, Mr. Daub, Mr. Feighan, Mr. Frank, Mr. Lancaster, Mr. Lowry of Washington, Mr. Porter, Mr. Stratton, Mr. Thomas of Georgia, Mr. Torres, Mr. Wilson, Mr. LaFalce, and Mr. Robinson.

H.J. Res. 378: Mr. Shumway, Mr. Barnard, Mr. Solomon, Mr. Lagomarsino, Mr. Levin of Michigan, Mr. Lewis of Georgia, Mr. Nichols, Mr. Hubbard, Mr. McCollum, Mr. Gilman, Mr. Horton, Mr. Wortley, Mr. Roe, Mr. McEwen, Mr. Evans, Mr. Dyson, Mr. Miller of Ohio, Mr. Rose, Mrs. Martin of Illinois, Mr. DeWine, Mr. Bunning, Mr. Wyden, Mr. Brown of Colorado, Mr. Fish, Mr. Boehlert, Mrs. Vucanovich, Mr. Hamilton, Mr. Wylie, Mr. Sisisky, Mr. Green, Mr. McMillen of Maryland, Mr. Michel, Mr. LaFalce, Mr. Carper, Mr. Sharp, Ms. Slaughter of New York, Mr. Latta, Mr. Ballenger, and Mr. Jacobs.

H.J. Res. 416: Mr. Fuster, Mr. de Lugo, Mr. Leland, and Mr. Lagomarsino.

H. Con. Res. 194: Mrs. Roukema.

H. Con. Res. 216: Mrs. Morella, Mr. Inhofe, Mr. Mfume, Mr. Wolpe, Mr. Solarz, Ms. Pelosi, Mr. McGrath, Mr. Manton, Mr. Bustamante, and Mr. Hochbrueckner.

H. Con. Res. 227: Mr. Clinger, Mr. Emerson, Mr. Lowry of Washington, Mrs. Meyers of Kansas, and Mr. Price of Illinois.

H. Res. 271: Mr. Bilirakis, Mr. Hopkins, Mr. Moorhead, Mr. Schuette, Mr. Thomas of California, Mr. Bliley, Mr. Livingston, and Mr. Baker.

H. Res. 311: Mr. Shumway, Mr. Swindall, and Mr. Young of Florida.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

104. By the SPEAKER: A Petition of the City Council of Berkeley, CA, relative to the further expansion of the Navy within the San Francisco Bay area; to the Committee on Armed Services.

105. Also, petition of the Minister-Counselor, Embassy of the Union of Soviet Socialist Republics, Washington, D.C., relative to copies of Statements addressed to the United States Congress, recently adopted by the Supreme Soviet of the Lithuanian SSR, the Supreme Soviet of the Latvian SSR and the Supreme Soviet of the Estonian SSR; to the Committee on Foreign Affairs.

EXTENSIONS OF REMARKS

AMERICA'S FAILURE OF NERVE IN NICARAGUA

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, December 14, 1987

Mr. CRANE. Mr. Speaker, I rise to address the issue of aid to the Nicaraguan resistance. Within the past few months, half-hearted efforts have been made in Central America to promote peace and stability in the region. To date, these efforts include a number of promises which have yet to be followed through. Nonetheless, these efforts have increased pressure on the United States to withdraw support of the Nicaraguan resistance. In recent months, there has been renewed debate between the administration and Congress regarding the continuation of Contra aid.

The Boland amendments are examples of poorly negotiated compromises resulting from this subject. These amendments are increasingly gaining notoriety. They represent a conglomeration of compromises too weak to make a strong political statement. As a result, it is impossible for the United States to establish a firm direction to assist the freedom fighters in Nicaragua. Our involvement in Central America has the potential to seriously damage the credibility of the United States Government. We as leaders of this country must make bold decisions without apprehension or doubt, and we must be willing to accept the consequences of these decisions. We cannot be bought off by such superficial actions on the part of the Sandinistas. Rather, we must stand firm, accepting nothing less than true peace and freedom in Central America.

The following article by Richard Perle in U.S. News & World Report addresses the concerns facing both Congress and the administration. I commend the article to my colleagues' attention.

AMERICA'S FAILURE OF NERVE IN NICARAGUA

(By Richard Perle)

When an amendment begins with the words "Notwithstanding any other provision of law, no funds may be appropriated under this or any other act for the purpose of . . ." you can be certain of at least one thing: If the amendment becomes law, some administration program will be stopped dead in its tracks, dead, done, over, finito, period. So decisive, so categorical are those words that getting a majority of both houses of Congress to agree to them is seldom easy and often impossible. For one thing, there's usually a plausible case to be made that the total prohibition of almost anything is going too far. After all, for every rule there is bound to be a worthy exception—even if worthy means only that some powerful constituent would be adversely affected. (If you don't believe me, just leaf through the tax-reform act.)

But there is a more fundamental reason why the Congress is seldom categorical or decisive: Decisive, categorical legislation entails an assumption of responsibility. And as nature loathes a vacuum, so the Congress loathes responsibility. Give senators or representatives half a chance and they will shape any legislation into an opportunity to come down squarely on both sides of an issue. That is why vital matters are often settled by voice votes on motions to table amendments to amendments, obscuring clear choices and, often, the identities of those who make them. The cigars are long gone, but the smoke-filled rooms remain.

Even if congressional leaders were prepared to act with clarity and determination, procedural constraints, issues of jurisdiction, the need to reconcile differences between the House and Senate, the threat of presidential vetoes and the difficulty of organizing and holding majorities all incline the Congress toward hedging, ambiguity and compromise.

So it was with the Boland amendments, all five of them, enacted between December, 1982, and December, 1985. Five easy pieces, they were, wrung out of a running skirmish between the White House and the opponents of aid to the Nicaraguan resistance, the Contras. Each in its own way exhibited the unwillingness of the Congress to halt that aid. Each seeming prohibition was woven, not like a blanket but like Belgian lace: Hold them up to the light, and an intricate pattern of interstices is revealed through which an administration wishing to aid the Contras could, at various times, pass money, arms, intelligence, training and that most ubiquitous subterfuge humanitarian assistance.

AN UNWORTHY CAMPAIGN

Here was a deplorable failure of nerve, repeated five times in three years, by a Congress that lacked the courage of its convictions, not so much quarreling as conspiring with a President who lacked the courage of his.

At no time during the early '80s when Edward Boland and his Democratic House colleagues laid gentle siege to his policy did the President choose to mount a campaign worthy of the sacrifice that the resistance fighters made daily. One compromise followed another in a lengthening chain of small openings and partial measures by which the White House and the Congress became joined in a meandering, incoherent substitute for a consistent national policy. Thus a callous, reciprocating cowardice grew up between the branches of government, while 1,800 miles away in Central America, the Contras, unwise in the ways of Washington, struggled and died to recapture the revolution betrayed by the Sandinistas.

The unrelenting pressure from the Congress was aimed at encumbering, but not killing, the President's program to assist the democratic resistance. A direct assault on the Reagan policy carried the considerable political risk that the Marxist-Leninist regime in Managua might, by some unforeseen action, enrage the American people and ultimately cause the Congress itself to be held accountable. Indeed, something rather like that happened when Sandinista leader Daniel Ortega rewarded his Capitol Hill benefactors by turning up in Moscow immediatley following an anti-Contra vote. For the Congress, it was far better to put less than half a tank of gas in the President's car and leave it to him to explain why his policy never made it home.

So the Boland restrictions were enacted with a wink and a nod—a wink at the "law" and a nod in the direction of what in Washington is known as a "workaround." In this case, the workaround was entrusted to Lt. Col. Oliver North, who discharged his assignments with a passion that, for all its excesses and failures of judgment, was admirably dedicated and undoubtedly selfless.

Looking back at the needle-threading micromanagement of the anti-Contra congressional faction, one is struck by the solicitousness with which they sought to protect the Nicaraguan regime. While he now denies it, the record shows that former House Speaker "Tip" O'Neill had his own "workaround." After both houses had passed legislation to provide $100 million to the Contras, O'Neill deliberately delayed, for four months, a routine House-Senate conference so that urgently needed supplies could not be shipped to Central America. In all the talk about frustrating the will of the Congress, O'Neill's manipulation of the legislative process to achieve his agenda somehow has escaped the scrutiny of the select committees.

And what is one to make of the sordid little encumbrance written into law by Representative Robert J. Mrazek (D-N.Y.) that prohibited the delivery of Contra aid to locations within 20 miles of the Nicaraguan Border? Did Mrazek know (and when did he know it?) that the Contras had a crucial base just 18 miles from the border? The lengths to which he went to draw the line precisely where he (and a majority of the house) insisted suggest that he understood precisely what he was doing, and why. The result of Mrazek's little legislative ploy was that delivery of urgently needed support to the Contras was severely impeded.

FACING GUNSHIPS "WITHOUT A CHANCE"

And how is one to explain to the Contras in the field (or the families of those who die there) that, owing to a compromise worked out between the administration and a single senator whose vote was crucial, young freedom fighters must face Sandinista helicopter gunships without the American-made Stinger missiles that might give them a fighting chance?

The House and Senate select committees, intoning like a Greek chorus, have wrapped their inquisition in the banner of truth-telling and tragic lessons. But the truth in this tragedy—how the Contras were betrayed a second time when those who opposed them succeeded in suborning those who supported them—has eluded everyone but those who suffered most: The democratic resistance in Central America.

If there are heroes to be found, the place to look is among those who carried on the struggle, alone at times, without the protection of high office or the blurring of responsibility which the President and Mr. Bo-

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

land's majority reserved for themselves alone. Assistant Secretary of State Elliott Abrams and Rear Adm. John Poindexter have, each in his own way, earned a place in the history of those who fought for freedom, without much help and against all odds. And while a vengeful Congress shares with the special prosecutor a search for what in other circumstances would be misdemeanors, high crimes of dereliction go unnoticed.

Despite congressional reluctance to underwrite the struggle in Central America, the President has managed to extract funding sufficient to give democracy in El Salvador the chance to take root. But this success story required a five-fold increase in military assistance back in 1984. Saving the democratic resistance in Nicaragua will require no less.

Ronald Reagan may yet acquit himself, his Presidency and the Contra cause. But to do so he will have to fight in Washington as he would have the democratic resistance fight in Nicaragua: With courage and conviction. That means asking the Congress to support his policy and provide the resources to implement it, instead of acquiescing in its policy. And if that, in turn, requires that he once again take the issue to the American people, then that is what he must do.

PERLE'S GUIDE TO THE BOLAND AMENDMENTS: "FIVE EASY PIECES"

Although the Iran-Contra hearings have made the Boland Amendment one of the most talked about pieces of prohibitive legislation since the Volstead Act, few realize there have been five separate amendments bearing the name of the representative from Springfield, Mass.

Boland No. 1: Passed in December, 1982, it prohibited giving military equipment or advice to the Contras "for the purpose of overthrowing the government of Nicaragua." President Reagan, disclaiming any such purpose, took the money and ran—switching nominal goals rather than fighting for his real ones.

Boland No. 2: Congress approved the second of Representative Boland's amendments in November, 1983. It limited aid to the Contras to $24 million—a sum sufficient to draw further blood but hopelessly inadequate to implement the President's policy of victory for the Contras. Once again the President collected his check, paltry though it was, rather than forcing the issue by vetoing the continuing resolution to which Boland 2 was attached.

Boland No. 3: Following the depletion of the $24 million provided by Boland 2, Congress passed Boland 3 in October, 1984. It provided no new money for the Contras and further specified that no government funds could be spent on behalf of the Nicaraguan resistance by the CIA, the Pentagon or agencies "involved in intelligence activities."

It is this prohibition over which so much Capitol Hill energy currently is being so self-righteously expended, as a parade of witnesses is asked to discuss the fatuous legalism of whether the National Security Council is an agency "involved in intelligence activities."

Boland No. 4: Passed in August of 1985, this legislation appropriated $27 million for "humanitarian" aid. However, after extended debate, Congress chose not to forbid U.S. officials from seeking help for the Contras from third countries.

Boland No. 5: The fith (and, let us hope, final) Boland Amendment, which was passed in November, 1985, authorized sharing intelligence data with the Contras and supplying them with communications support but precluded military assistance. In short, Boland 5 sent a message to the resistance forces: "Praise the Lord and pass the communications."

However, the final amendment allowed—even invited—the U.S. to solicit Contra aid from third countries, launching a round of humiliating "tin-cup diplomacy." Thus, the President let a program vital to our own national security rest on the vicissitudes of covert philanthropy.

I.A.M.: THANKS GENE

HON. BRUCE F. VENTO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 14, 1987

Mr. VENTO. Mr. Speaker, on December 3 I had the pleasure of attending a retirement dinner honoring Eugene Glover, general secretary treasurer of the International Association of Machinists [I.A.M.]. I was the guest of Lodge No. 459 district 77 one of the local Minneapolis-St. Paul units.

As a former machinist union member and union stewart myself and growing up under my father's active machinist participation, I have a real appreciation for the work that Gene Glover has done these past 30 years. I would like to join the many fans that Gene has gained in wishing him and his family well in the years ahead as he enjoys his retirement from the I.A.M.

In all of the tasks that he set out to achieve, Gene Glover has demonstrated the electricity and excitement that was felt by all who came in contact with him. There may have been a few sparks but the results have been very positive for the rank and file union membership. The I.A.M. has been a dynamic labor force in the 1980's because of these substantial efforts. Labor union membership has experienced some decline in the changing marketplace and world of work that constitutes America in the 1980s, but our public policies can be modified in manufacturing and trade to give a fair shake to the highly skilled machinist of the I.A.M. and other union crafts. The American workers' energy and productivity will then continue to contribute to the creation of wealth and well being of all members of our great Nation.

The political and public decision process to which the I.A.M. has so loyally participated with good leaders such as Gene Glover, must join hands for commonsense policies and solutions to provide a fair shake for machinists and all U.S. workers in our economy. Gene Glover has made his mark and helped maintain a strong I.A.M. labor union framework so vital to our economy for which his coworkers within and outside the labor union movement say an emphatic "Thanks Gene!"

COMBATTING HEALTH CARE FRAUD

HON. CLAUDE PEPPER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 14, 1987

Mr. PEPPER. Mr. Speaker, health care fraud is a growing national problem. The Subcommittee on Health and Long-Term Care of the Select Committee on Aging, which I have the privilege to chair, has held numerous hearings and issued reports documenting the shocking pervasiveness of fraud, waste, and abuse in public and private health care programs. Health care fraud ranges from medical quackery to overcharging Medicare and private insurors to practicing medicine with fraudulent credentials. The subcommittee found that some $10 billion each year is lost to the purchase of quack cures and health remedies. We found that there may be as many as 10,000 doctors practicing in the United States with fraudulent credentials. We have also documented cases of permanent harm and even deaths attributable to health care fraud.

The problem of health care fraud requires a comprehensive response on the part of both the government and the private sector. We need tougher penalties against those who perpetrate such frauds against Federal programs such as Medicare and Medicaid. We need to establish a central computerized clearinghouse on health care fraud to give the Government, insurors, health care providers and the American public prompt and easy access to information on individuals found to have been sanctioned or found guilty of health fraud.

I am pleased to say that a new private organization, the National Health Care Anti-Fraud Association, has been formed to combat health fraud. The association is a nonprofit group made up of a wide range of health care professionals. Its chairman, Mr. James Garcia, recently had an article on health care fraud published in "Business and Health" magazine. I commend this article to my colleagues. It provides a thoughtful and informative summary of the threat of health care fraud to our society.

THE FRAUD FACTOR IN RISING MEDICAL COSTS

(By James L. Garcia)

The cost of health care in America has skyrocketed in the last 10 years and with it has come a sharp increase in perpetrators of medical insurance fraud. The total cost of health care reached $425 billion in 1986, tempting a growing number of individuals—patients, physicians and various enterprises, some with ties to organized crime—to defraud public and private insurers. Ultimately, it is society that pays for fraud, totaling $10 billion annually, according to the Federal Trade Commission.

The means of medical insurance fraud are as varied as human ingenuity and can break into the medical reimbursement process at any stage. Valid claims may be exaggerated, spurious claims may be made on behalf of real maladies, or the maladies or their proximate causes may be faked. The malefactor may be a patient, a provider or a group of individuals. Such conspiracies need not be sophisticated. A scam, for instance, might involve several people piling into a couple of cars and arranging a fenderbender, which is duly reported to the police and written up. The individuals then go to their physicians complaining of back or neck aches, ailments that are unlikely to be challenged even in the absence of medical confirmation. When the patients have incurred medical costs exceeding some legal threshold, they make a direct claim to the insurance carrier for pain and suffering, which usually is payable in addition to medical bills. This kind of staged accident generally takes place in more densely populated geographic communities.

Other conspiracies may be considerably more complex. Unscrupulous medical practices have targeted employee health plans, which are much more lucrative than auto insurance. Relying on the tendency of employers to defer to their insurance carriers for claims verification, and carriers to shy from challenging claims for fear of being sued under state bad faith laws, the fraudulent practitioners will provide a battery of unneeded services that will be covered by comprehensive plans. Incentives are provided to the patient, such as waiving deductibles and copayments, and to other providers who often are recruited to supply referrals and in turn receive kickbacks or sometimes a percentage of revenues from the fraudulent operators. Such fly-by-night operations have cost private industry and government dearly.

Insurance fraud is opportunistic, and perpetrators focus their efforts in areas of high health care usage and/or low oversight. Florida, with its large elderly population and numerous health clubs with health promotion minded members, is one example. Both populations have fallen prey to sophisticated and large-scale insurance fraud.

MEDICARE POPULATION A TARGET

About 20 percent of Florida's 2.4 million residents are 65 or older and most are better off financially and more likely to seek medical care than elsewhere in the nation. They are also less likely to be living with relatives, a situation which may encourage unethical health care providers who know that a high proportion of fraudulent operations are detected as a result of patients who become suspicious. Thus, less alert patients who are not monitored by relatives are a common target.

One example of the kind of scams uncovered involved a clinic owned by a chiropractor that employed physicians and other chiropractors. The physicians' names were used for treatments actually given patients by the chiropractors so Medicare would provide reimbursement. Later the physicians were released by the clinic, but the chiropractors kept the physicians' signature stamps, which they continued to use to make claims.

The Florida Medicaid Control Unit, a division of the state attorney general's office, has obtained 55 convictions for provider Medicaid fraud over the last three years. The most common patterns of fraud, according to records of Florida Medicaid convictions, involve individual providers, often dentists or pharmacists, who bill for services not rendered or for brand name medication for which they provide generics instead. Dental fraud, where the patient cannot readily see the work performed, is a particular temptation. Of the 12 providers convicted of Medicaid fraud in 1986, 7 were dentists and 3 were pharmacists.

Like insurance programs, patients also can be victimized. Florida has attracted its share of medical quackery and individuals practicing medicine without a medical degree. Rep. Claude Pepper (D.-Fla.), chairman of the House Select Committee on Aging's health and long-term care subcommittee, estimates that 10,000 spurious medical practitioners are operating in the United States, many of them in his home state. In addition to the grave threat they pose to their patients, such imposters are likely to falsify insurance claim forms.

Last year, Pepper announced plans to introduce legislation to increase the penalties for health care fraud from a maximum of a $1,000 and five years in prison to $10,000 and 15 years per count. Another bill, approved by the House Ways and Means Committee last spring, would mandate that providers be excluded from participating in Medicare and Medicaid if they have been convicted of program related crimes or patient neglect or abuse. The Department of Health and Human Services (HHS) also would be empowered to exclude providers who have been convicted of fraud, obstructing a criminal investigation or illegally dispensing controlled substances, or who have had their licenses suspended or revoked. An additional provision, designed to address conspiracies such as the South Florida chiropractors case, would allow the exclusion of providers who are controlled by other providers who already have been banned from participating in Medicare or Medicaid.

REACHING INTO EMPLOYERS' DEEP POCKETS

As with the elderly, insurance companies now are learning that individuals involved in fitness programs—while healthier than the general population—also are more likely to seek preventive care and checkups. Dishonest practitioners, too, have discovered the willingness of health buffs to undergo exams and tests, and have found that health clubs offer concentrations of such people. Most health club members are employed and generally are covered by an employer health plan. When an employer offers its own fitness center, the combination for operators of scams involving medical testing can be ideal.

In Southern California, for instance, insurance investigators have uncovered an extensive scheme involving mobile laboratories that travel to health clubs and employers' fitness centers (see BUSINESS AND HEALTH, May 1986, p. 48). These operations use vans outfitted with medical testing equipment and staffed with medical personnel, who sometimes are recruited from the ranks of physicians with revoked licenses. They offer to provide free diagnostic tests to members of health clubs or company fitness centers, but then submit bills for the tests to the members' or employees' health insurance companies.

In the largest case investigated so far, a mobile lab, operated by American Diagnostics Inc. (AMD), billed Aetna Life Insurance Company for over $16,000 for tests purportedly performed on an employee and his wife. AMD, which has been the target of federal and private insurance investigations for the past two years, is known to have operated under more than 75 different company names, which would change as insurance carriers caught on to them. David Smushkevich, owner and operator of AMD, has been convicted of Medicare kickback schemes. He was sentenced recently to three years' imprisonment and fined $50,000. Aetna now is pursuing separate charges under the federal Racketeer Influenced and Corrupt Organization (RICO) Act. This type of scam has generated fraudulent claims of $80 million over the last three years, and private investigators believe it now has spread to states such as Nevada, Oklahoma, Texas, Pennsylvania, Florida, Michigan and Illinois.

RECRUITING PROVIDERS AND PATIENTS

Another version of the mobile lab scam involves recruiting individual providers, who refer their patients and also provide their own offices as sites for the medical testing. One company made a practice of approaching chiropractors and osteopaths. Because such companies say they are merely encouraging more comprehensive tests than medical guidelines might require—which some physicians may regard as simply aggressive business tactics—providers may cooperate without realizing the actual felonious intent of the operation.

With health care being the third largest industry in the United States, it was inevitable that organized crime also would turn its energies to infiltrating the medical profession.

The Federal Bureau of Investigation (FBI) has documented cases of organized crime purchasing clinics or laboratories, which can be used to launder money as well as generate revenue by billing for fraudulent practices. Mob interests that control labor unions can multiply business by directing union members to use their operations. Pharmacies also have been purchased by organized crime, providing a source of prescription drugs in addition to the other opportunities for fraud. In the mid-1980s, the FBI estimated that 40 percent of all the abused controlled substances in the United States were dispensed by pharmacies and physicians in Detroit, Mich., that had been deeply penetrated by the mob. Mob owned clinics would write prescription to mob controlled "patients," who would buy drugs such as Dilaudid, a synthetic heroin substitute sold for 17 cents per tablet but commanding $25 per tablet on the streets of Detroit, and for more elsewhere. To crown the scam, the drug would be dispensed by mob controlled pharmacies, which would generate "legitimate" profits in large volume.

In other cases, a physician will gain the complicity of the patient in defrauding a third party payer. One problem in towns close to the U.S.-Mexico border is the attraction of Mexican providers for whom reimbursement in American currency is so valuable that they will pay kickbacks to American patients to induce them to cross the border to receive treatment. In another type of scheme, a patient can end up conspiring with a physician who explains that he or she can recommend a medical procedure for which the patient's insurance will pay only 50 percent, leaving a copayment the patient cannot afford. The physician then will charge the insurer twice as much and not bill the patient anything. A smaller scale version involves the physician certifying that a patient's medical condition is slightly more serious in order to ensure coverage, such as claiming that a minor surgical procedure to correct a deviated septum also involved a fracture.

Cases involving fraud on the part of a primary physician are particularly difficult for patients, who are accustomed to placing trust in their physician. Many patients are more loyal to their personal physician than to their insurance company. Thus patients who discover billing discrepancies are unlikely to contact the insurer, although they may point out errors to the provider.

As insurance investigators catch on to such practices and initiate safeguards against them, canny malefactors take steps to anticipate and circumvent investigation. For example, one outpatient group surgical practice, which eventually was convicted of submitting claims for unnecessary procedures and procedures that had not been performed, would insert surgical staples in patients' feet, take photographs for documentation and then remove the staples. Since the patients did indeed undergo a surgical procedure, they would not question bills to their insurers for complex surgery. In another case, a company engaged in the mobile lab scan eventually excluded from payment people covered by insurance companies that were on to it. In this fashion, the mobile lab company hopes to avoid prosecution if the insurance carrier contents itself with halting further losses from fraudulent claims.

PRIVATE INSURERS GET TOUGH

Until recently, this might have been true. Private insurance carriers traditionally have been less effective in prosecuting fraud than public programs such as Medicare and Medicaid, which enjoy statutory support, draw on federal investigative resources and can sanction a provider for abusive situations without having to obtain a criminal conviction. In addition, private carriers were reluctant to challenge many cases. And when cases were brought to the attention of a state prosecutor, he or she often had to weigh the priority of pursuing an insurance fraud case involving tens of thousands of dollars against an often overburdened caseload involving violent crimes against society.

With the rising cost of health care, however, carriers are beginning to act more decisively. Insurers no longer can take solace in being able to pass the increased costs along to consumers. In a major insurer initiative, the National Health Care Anti-Fraud Association (NHCAA) was formed in 1985, and combines insurance industry resources and information to combat health care fraud. By promoting greater public and insurance industry awareness of the extent of methods of health care fraud used, NHCAA hopes to increase consumer vigilance against this crime and encourage tougher antifraud legislation.

In 1987, NHCAA began to develop a computer system to monitor health claims paid in Florida. The operation will be fully online in the state by next month and will be implemented nationally in the spring of 1988. By pooling data on all physicians and hospitals to which insurers have made payments, patterns of excessive treatment or billings will emerge that could not be discerned by any one carrier. NHCAA plans to develop lists of known claims payment abusers, and make available to physicians and hospitals a summary of every physician ever convicted of fraud or barred by the federal government from receiving Medicare or Medicaid benefits.

While the computer system promises better protection for commercially insured employers, self-insured companies that do not use an insurance carrier to administer their programs remain highly vulnerable to most forms of insurance fraud. Even the largest of these employers rarely have the resources to monitor claims for the warning signs of fraud, let alone create departments of fraud investigation. Fraud perpetrators are aware of this, and these companies have become a big target. At the moment no program exists to coordinate information among self-insurers. Employers, however, can assist in the fight against fraud by helping educate their employees to the fact that they are the real victims of fraud and can take a number of steps to help detect and prevent it.

Although every fraudulent claim ever submitted passes under the eye of an insurance claims processor, this is not the leading means of detecting fraudulent situations. Identifying fraud is secondary to the main priority of health care payers, which is to pay claims. At Aetna, over 70 percent of claims identified as questionable because of indicators turn out to be fraudulent, and some carriers have claimed detection rates of up to 80 percent. If a carrier were to become significantly tougher in questioning claims, the number of detected frauds would increase but so would the proportion of valid claims held up for audit, which would be unacceptable for business, legal and ethical reasons.

Consequently, some fraudulent cases will continue to get through, and these must be noticed and reported by patients. Only then can they be brought to the attention of the medical profession and other insurers through groups like NHCAA. The cost of medical care to society is big enough. It should not also feed the parasite of health insurance fraud.

TEACHING PATIENTS TO SPOT FRAUD

The most effective means of detecting provider health care fraud is patient alertness. Data on known abusers often are discovered first through patients who notice discrepancies on insurance forms. Consequently, a key step employers and insurance carriers can take in fighting medical fraud involves consumer education. Here are some particularly helpful measures that can be adopted in the work place.

Establish a fraud hotline. Making it easy for consumers to alert their health plan of suspected fraud is one of the most cost-effective steps a company can take. Some carriers report that fraud hotlines account for up to 80 percent of discovered frauds.

Put a message about fraud in employee manuals explaining their health benefits.

Set up an education campaign for employees on fraud prevention. A corporate communications effort is expensive, but companies increasingly are developing programs to educate employees on the high cost of health care and the need for cost containment. Information about tracking health care fraud can be made part of this education effort.

Use medical consultants or review organizations. Insurance carriers maintain frequency guidelines in processing medical claims. Claims analysts can bring claims involving unusually frequent visits or expensive procedures to a medical consultant or outside review organization for an expert opinion.

Look for indicators of fraudulent billings. Claims processors should be alert for numerous warnings signs of fraud, such as strike overs, erasures or other alterations in a claim form, including the simple addition of another zero to the claim figure. Other signs include prescription bills that are consecutively numbered, bills that only come photocopied, or medical services billed on a Sunday or holiday.

A WHALE OF A PROBLEM

HON. TRENT LOTT

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Monday, December 14, 1987

Mr. LOTT. Mr. Speaker, one of the miracles of the Old Testament is the story of Jonah who was swallowed by a whale, remained in its belly for 3 days and 3 nights, and then was spat up upon the shore, alive and unharmed.

Mr. Speaker, as if that miracle weren't enough, the Democratic leadership in Congress is now calling upon the Congress and the President to pull a reverse Jonah and swallow a whale. Yes, I am referring to that whale of a spending and catch-all garbage bill we eumphemistically refer to as a continuing resolution or CR.

We are told that such omnibus CR's are now necessary to avoid a tilt in power toward the Executive. That's a bunch of hooey! We're not strengthening the Congress with these omnibus bills; we're destroying our legislative prerogatives and responsibilities by legislating blindly and shutting most Members out of the process.

Mr. Speaker, last Thursday I inserted a special order in the RECORD entitled "CR Madness" discussing the need for reform. We should return to the separate enactment of regular appropriations bills, or, at the least, treat these omnibus CR's in a more rational, open, and understandable manner. A recent Washington Post editorial and David Broder column echo these sentiments. I insert both the editorial and column at this point in the RECORD.

[From the Washington Post, Dec. 7, 1987]

MEGABILLS

The White House says the president will veto the continuing resolution if the language reviving the so-called fairness doctrine stays in. He should. We say that not just because we oppose the doctrine; the president is right on procedural grounds. The megabills to which Congress has turned increasingly in recent years destroy the normal legislative process and eliminate accountability.

The excuse is that these bills are the only way to do even the most basic business in a government this divided. That may be so, and in fairness, it is not just Congress that has used them. The administration invented the modern megabill in 1981, the celebrated Gramm-Latta mural in which the president and David Stockman touched up half the government. The big bills remain the means of forcing compromise; the defense and domestic budgets become hostages for one another.

But it is meaningless to bring to the floor a single $587 billion appropriation bill covering everything from nuclear weapons and arms control to national parks. A congressman is asked to vote only yes or no; what does either vote signify? The blur, the general retreat from responsibility, becomes even greater when the leadership allows altogether extraneous issues to be tacked on. Nor are these always issues of great national moment. The House bill takes the time to instruct the D.C. government in the number of lanes to be maintained on the Theodore Roosevelt Bridge; the current Senate version includes instructions to the city council on the delicate subject of AIDS and health insurance.

We propose a new fairness doctrine, more worthy of the name. The leadership, if it feels it must resort to these omnibills to draw up and enact a budget, at least should keep them clean. They should not be used to sneak to passage unrelated legislation that could not survive if tested on its own. It's bad enough to use these huge freight trains at all. To stuff them with free-standing legislation such as the failed bill to revive the fairness doctrine is just plain wrong.

[From the Washington Post, Dec. 13, 1987]

NOW IT'S THE CR DEVICE

(By David S. Broder)

At 2:30 a.m. yesterday, the Senate of the United States gave birth to a $606 billion baby called Continuing Resolution, or CR for short. The country will be fortunate if there is never again such a blessed event.

The House passed its version of the CR on Dec. 4—a modest little $576 billion infant, including 13 separate appropriations bills and a spate of unrelated legislation on broadcasting rules, environmental cleanup deadlines and a few other stray cats and dogs.

The Senate similarly bundled all 13 of its appropriations bills into its CR and added a batch of unrelated provisions, mainly bestowing favors on states where Democrats are seeking reelection.

When a conference committee of House members and senators has worked out the differences between the two versions of the CR, the final compromise will be dumped on President Reagan's desk for him to sign or veto as Congress flees town for the Christmas holidays.

Reagan says that the way the package is shaping up, he will veto it—and he should.

This is, as House Minority Leader Robert Michel said, "absolutely a lousy, rotten way to legislate." And that view is not confined to Republicans. Last summer, Sen. David Pryor said that CR really stands for "combined retreat," or "our admission of failure . . . at the end of each fiscal year, when we get ready to go home."

Lumping everything together into one monstrous bill sharply reduces the ability of Congress and its members to make effective judgments on the nation's spending priorities. It also, and not accidentally, subverts the president's constitutional authority to veto legislation and have that veto count.

When everything from the Army's kitchen sinks to the National Institutes of Health's experimental drugs is wrapped into a single bill, passed in Congress' final hours of session, the president must either swallow it whole or accept responsibility for shutting down the government. Reagan says he will not shrink from the latter course—but no president should have to face that choice.

This is a new and ugly feature of government, a phenomenon of the 1980s. Through most of its history, Congress has passed individual appropriations bills for individual departments or functions and sent them on to the president for his signature or veto. The CR was used only when a particular appropriation was briefly delayed and authority was needed for a department to go on spending for a short time.

But in recent years, Congress has fallen into the habit of wrapping all its spending authority into one CR—and then loading it up with other measures to make them "veto proof."

Some blame the development on the new congressional budget process, which began in the mid-1970s, claiming it has slowed the work of the appropriations committees. But in the past couple of years, Congress has chosen to repackage even largely completed appropriations bills into the CR, rather than send them individually to the president for his approval or veto.

Increasingly, the CR has become a vehicle for shoving extraneous legislation down a reluctant president's throat. Earlier this year, Reagan vetoed a bill to reinstate the "fairness doctrine," a regulation requiring broadcasters to present alternative policy views. The Senate failed by 13 votes to override the veto, so now congressional sponsors of the legislation have stitched it onto the House CR—figuring Reagan would not veto money for military pay or school lunches just to win the fairness doctrine fight.

Whether you agree with Reagan or not on that issue, you have to recognize the Democratic architects of this strategy are attempting an end run, not just around Reagan, but around the Constitution.

What is to be done? When the Senate CR came up for action, Sen. Daniel Evans offered an amendment requiring that any future CR be split into its component parts when it comes out of the House-Senate conference committee, so that Congress can vote on each separate appropriation and the president can sign or veto each of them.

Evans lost by a narrow 51-to-44 margin. Similar legislation offered by Rep. Mickey Edwards was killed in the House Rules Committee, which denied Edwards the chance for a floor vote.

Edwards' sponsorship is significant. Unlike most other conservatives, he has consistently opposed Reagan's call for presidential authority to veto individual items in an appropriations bill. The "line-item veto" authority, Edwards has argued, would tilt the constitutional balance too heavily in the executive's direction.

But denying the president his right to receive and act on individual appropriations bills is a serious infringement on his constitutional authority, Edwards and Evans rightly say.

Whatever advantage Democrats may temporarily gain by using the CR device to thwart Reagan's veto, short-circuiting the Constitution ultimately endangers everyone. Congress should clean up its act before a new president takes office.

EDUCATIONAL INDEPENDENCE

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, December 14, 1987

Mr. CRANE. Mr. Speaker, as a former educator, I firmly believe that freedom from government control is an integral part of the educational process. The pending Civil Rights Restoration Act has the potential to further increase the already excessive bureaucratic involvement in education. I commend the following article by Dr. George Roche, the president of Hillsdale College (Michigan), which emphasizes the importance of independence in education.

[From U.S. News & World Report, May 4, 1987]

GOOD INTENTIONS AREN'T ENOUGH—GEORGE ROCHE ON THE THREAT OF GOVERNMENT CONTROL

It's tough being an innovator. Social pioneers are always being put on the spot. Even when injustice and social need clearly exist, the good intentions of people trying to address them will be called into question.

One can recall the protestations of civil-rights advocates, for example, that their intention was to eliminate the very real discrimination suffered by blacks and other minorities. In no way did they intend to saddle the country with quotas or reverse discrimination. Likewise, those who advocated reform of abortion laws wanted only to save poor girls from the dangers of coat-hanger abortions and the foul dens of the back-street butchers. It was not intended as birth control.

What has happened in both areas is due to the Law of Unintended Consequences—which somehow derives the most outrageous results from the most nobly motivated efforts.

Now another well-intended measure looms: The Civil-Rights Restoration Act, a bill designed to "correct the defects" in enforcement of Title IX of the Education Amendments of 1972 that arose from the Supreme Court's decision in the famous *Grove City College v. Bell* case of 1984.

This bill, whose chief sponsor and most visible advocate is Senator Teddy Kennedy, contains the most staggering possibilities for extension and abuse of government power—all based entirely on the best of intentions.

Hillsdale College, of which I am president, and Grove City College of Pennsylvania rejected federal demands to provide statistics on student and staff gender and ethnic makeup. Our reasoning was that since these were private schools receiving no direct federal funds, we had no obligation to comply.

The government saw things differently, since some Hillsdale and Grove City students were receiving federal student aid. The situation ended with Grove City's going to the Supreme Court to argue a case complied largely by Hillsdale. The result was mixed.

On one hand, the Court agreed with the government that federal aid to a student makes the college where the student spends that money an indirect recipient of federal funds and therefore liable to comply with federal regulations. On the other hand, the Court said that federal money finding its way into one part of an institution does not necessarily create obligations for the institution as a whole—a win for educational freedom, albeit a small one. It's this part of the Court's finding that the civil-rights restoration act is designed to "correct."

The proposed law would allow government to cut off the flow of dollars entirely to any institution that discriminates—or fails to comply fully with a regulation—in even one program. It would be a powerful weapon in the enforcement of civil rights, and, as such, has an appeal that lawmakers find hard to resist.

But this act is not limited to colleges. Supermarkets where customers pay for groceries with food stamps would be covered. Farms participating in crop-subsidy and price-support programs would be covered. In short, any entity anywhere through which even one federal dollar flows—no matter now indirectly—would be subject to regulation by Uncle Sam.

The danger in all this is not in what *is,* but what *could be.* Questions have been raised about whether the law would force church-affiliated hospitals to perform abortions—regardless of their stand on abortion.

What can we do? Can we turn for reassurance that we won't face such interpretations of federal law to those who promised us there would be no quotas, no busing, no reverse discrimination? Can we look for such assurance to a Supreme Court that just reaffirmed the concept of affirmative action? Hardly.

I have seen the product of government innovation firsthand. And I guarantee there's no end to the possibilities that await us if Congress is allowed to eliminate even the last small principle of restraint that Hillsdale and Grove City fought to establish.

HILLSDALE COLLEGE,
October 5, 1987.

Hon. PHILIP M. CRANE,
Longworth Office Building, Washington, DC.

DEAR PHIL: At Hillsdale College, we begin each new academic year with an opening Convocation. We bring together the College family, new students, and their parents. In my welcoming remarks to the freshmen, I try to convey the importance of responsibility—the responsibility they must assume as Hillsdale students as well as the College's obligations to them.

A key responsibility has been Hillsdale's long struggle to remain free from government control. I explain to the students that independence is an integral part of our educational mission. This is the same message I present in the enclosed article.

The threat to our independence is real enough. The pending Civil Rights Restoration Act in Congress has the potential to expand even further bureaucratic involvement in education and in our daily lives. While there is much well-founded criticism of education today, this new round of bureaucratic prescriptions will inevitably fail because they are conceived by people who lack a genuine moral commitment to the rights of the responsible individual and demonstrate increasing contempt for those rights.

Regardless of what the bureaucrats say or do, Hillsdale's 144-year tradition, not the ever-changing, murky dictates of Washington, clearly guides this year's agenda. Thanks to your partnership we are able to offer all academically qualified students a well-rounded liberal arts education. This sense of clear purpose grows from a simple and direct mission which argues against social and cultural relativism, and focuses on fixed and immutable American traditions and values. Your vital support allows us to go about our daily task of educating young men and women in this tradition.

Let me tell you about some of the advancements we have made and the programs that will be offered this year. They are a direct result of your past support.

We have an enrollment of 1,087 students, the largest in 14 years.

Twenty-five percent of our entering freshman class ranked in the top 13 percent of national test norms.

Seventy percent of our students receive private scholarships and loans. We will need $500,000 to replace government Pell Grants and National Direct Student Loans for one-fifth of our student body. All other colleges and universities participating in these federal programs, except Hillsdale, will under a new law receive one lump sum direct from the government to fund their programs. Hillsdale has been replacing this need-based aid for three years in order to remain truly free and independent of all government interference.

Two new tenure track positions were created and filled this year, in keeping with our long range plan to strengthen further our rigorous academic curriculum. A professor in the classics was added to teach Latin, mythology, and Greek. In the psychology department, a professor in neuroscience was appointed.

Our nationally-recognized Center for Constructive Alternatives begins its 16th year of quarterly, week-long seminars. Topics this year include the issues of separation of church and state, volunteerism and citizenship, ethical questions addressing biotechnology, and the future of entrepreneurship in a changing (often hostile) cultural climate. Plans are under way to broadcast part of our program on entrepreneurship to audiences at select universities and other sites around the country.

Our annual Ludwig von Mises lecture series on free market economics in the spring will examine "The Politics of Hunger."

IMPRIMIS goes monthly to nearly 125,000 readers, and excerpts appear frequently in newspapers, journals, and magazines nationwide.

The Shavano Institute conducted its keynote seminar in the Action-2000 series in August, with 300 guests in attendance. C-SPAN, the Voice of America, National Public Radio, HUMAN EVENTS, and several newspapers covered the event. Five more seminars will be held in Charlotte, Cleveland, Colorado Springs, Portland, and Seattle.

Construction is under way on our new Health Education and Sports Complex. We must raise $1.1 million by December in order to qualify for a major Kresge Foundation challenge grant.

Eleven new classrooms and eight additional faculty offices are also under construction thanks to private support.

This list, as you can see, is substantial and shows what can be accomplished without government intervention. I remain grateful for your confidence. The College family will continue to work to merit your investment in our mission.

All my best,

GEORGE.

H.R. 515

HON. BRUCE F. VENTO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 14, 1987

Mr. VENTO. Mr. Speaker, during the House consideration of H.R. 515, the Credit and Charge Card Disclosure Act, I offered an amendment relating to annual renewal fees which was adopted. Since then several questions have been raised regarding the implementation of the amendment which I would like to clarify.

My amendment builds on the basic premise of H.R. 515—an informed consumer is the best method to assure competitiveness among credit card companies. By providing a 30-day renewal notification process for credit card holders, those consumers will have time "to shop around" and find the best credit card to meet their needs.

My amendment only applies to annual fees or other membership or participation fees for availability of a consumer credit card account. The notification requirement in my amendment does not apply to other fees that may be imposed in connection with such an account.

In addition, the notice required by my amendment can be given either before the imposition of the fee, or in the monthly billing notice disclosing the imposition of the fee, but the consumer must have clear notice of his right to cancel continued credit availability and 30 days to exercise that right and avoid payment of the fee and interest associated with that fee.

PRESIDENT AQUINO TALKS TOUGH

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, December 14, 1987

Mr. FLORIO. Mr. Speaker, this past August, I visited the Philippines to explore the economic and military well-being of a nation whose stability is important not only to the United States national interests but also to peace and democracy in that part of the world. As chairman of the House Subcommittee on Commerce, I was interested in exploring the economic outlook of the Philippines as well as the trade situation.

During my trip, I was able to meet with numerous key government officials as well as several American and Filipino business leaders. It was very evident that the economic needs of the Filipino people are tremendous and that President Corazon Aquino has before her a Herculean task. I was impressed by her strong resolve to set right the inequities of the Marcos years and rejuvenate the Philippines.

On October 20, 1987, President Aquino met with Filipino business leaders and delivered a strong speech full of resolve and commitment to improving the plight of her fellow countrymen and women. I would like to share this speech with my colleagues because I think it is truly indicative of the unwavering commitment and courage President Aquino is demonstrating.

Her directives to government officials, business interests, and the military are all issues that need to be aired and addressed directly. President Aquino's "tough talk" which I hope will be followed by "tough action" is medicine that needs to be swallowed if democracy in the Philippines is to remian viable.

I direct the attention of my colleagues to this excellent speech and I extend to President Aquino my best wishes for success in this necessary effort.

PRESIDENT CORAZON AQUINO'S SPEECH

You invited me here because you say you are concerned about the Presidency, about the way things are going—or not going—in the economy, in the labor front, in politics, in the war against the communists. Above all, I am told, you are concerned about me, and my leadership.

But first: the formalities. Let me say that it is a pleasure to meet with businessmen, "the engines of economic growth," as you are referred to in all our economic plans. In the next 20 months, I hope to see many more of you, together with those who work with you, on the shop floor and in the fields of your businesses. Because it is there, where Filipinos put their shoulders to the whole of our national economy, that our future is made.

I have to say that at the beginning because there has been more talk than work in our country today. That is a pity. Because recovery and progress won't come through talking. At this time, when all the talk is about coups and strikes, it is worth remembering that is work, by all of us, that is going to lift us to better times.

When politics gets in the way of work, we have a problem, and there's been too much politics.

Let me get down to the issues that made you invite me here.

Issue number one: Government lacks a program of economy and politics.

First, the economy. It is said that government lacks a coherent plan of economy. Wrong. We have a detailed Medium-Term Plan. We are following that plan to the letter, making adjustments here and there as need arises. A lot of spirited and intelligent debate went into the making of that plan. Some people said that the over-spirited debates proved a flaw in the government. To the contrary, I thought the debates assured a better plan. The Plan sets the direction this government would like the country to take. It is not set in concrete, because we do not pretend that the Plan foresees every contingency. But there is a direction. If you don't like the direction, let us know. We can reopen the debate. This is a democracy.

The state of the economy was clearly and accurately described by me in my State-of-the-Nation Message. I recounted the disappointments we had met in our effort to revive the economy with external assistance, but I also pointed out the healthy signs in the economy. Recession bottomed out in late 1986. We posted a modest 1.5 percent GNP growth, whereas the two previous years had been negative. The reforms we had implemented improved the situation further. First quarter GNP, 1987, posted a growth of 5.5 percent. Unemployment dropped from 12 percent to 11.2. The exchange rate remained stable, but I made no promise that it was locked there with any degree of permanence. We had $2.4 billion in reserves. For the first time in three years, investments started to grow.

These were the effects of the structural reforms we had implemented. All monopolies, from sugar to sardines are gone; more than 2,000 items are freed from licensing, with a further 260 items to go. Price controls, whose inefficiencies and distortion always meant they hit the poor hardest, are gone. From power costs to rural credit, we have moved to reform and cleanup, so that we can put the country back to work. We shall do more to deregulate all economic activities, so that the businessman is not hostage to the bureaucrat and the politican. With due regard to public health and safety, we shall move to eliminate licenses and permits to the extent possible.

I pointed out certain weaknesses in our economy—those weaknesses have been aggravated by the public reaction to the August 28 coup attempt. The reaction, let me emphasize, not the coup attempt. The coup was defeated by a timely decision to use maximum force. But our victory was quickly undone by reactions to the coup. That reaction took the form of rumors of another coup; of talk about fatal weakness of the government, which had roundly defeated the coup; of divisions between military and civilians although the coup was defeated by the solidarity of the two sectors. What happened?

I am not surprised that instead of backslapping congratulations, there was hand wringing instead. For we Filipinos did it again. Coups, successful or unsuccessful, are usually bloodless affairs. But the last attempt was one of the bloodiest anywhere in the world. Another Filipino first. But it doesn't erase the fact that the coup was roundly defeated, the perpetrators are swaying in LSTs awaiting trial, and their leaders are in hiding.

But better than defeating coups, is deterring them and removing, or at least reducing, the reasons they get some support. The soldiers have legitimate needs that have not been met. But they have never been ignored by the government. We continue to scrape the barrel of our resources to give them better conditions and better equipment for the all-important task of keeping the peace and destroying our enemies. I will go back to this later.

It is said that Government has had no blueprint of political development. I had a blueprint that you helped me formulate when I challenged Marcos for the possession of state power. The blueprint called for a restoration of democracy, respect for its processes, adoption of a democratic constitution, the establishment of its necessary institutions such as an independent and honorable judiciary, and accountable Executive and a representative legislature. I came to power with a democratic blueprint that did not sit well with those who had other ideas about how power should be shared and exercised in this country, such as by a junta. I rejected those ideas and stuck to my blueprint, and I carried it out to the letter and in record time, despite numerous attempts to sidetrack me by coups and threats, all of which I defeated.

We now have a Supreme Court and a revamped judiciary that no one can take exception to, that everyone lauds for its new honesty, competence and independence.

We gave the nation a Constitution that stripped me of the vast, supreme powers I held in my single hand, and got it ratified by a sweeping majority such as this nation had never experienced in its entire history. It is truly a people's Constitution and the manner of its ratification did honor once more to the great people we are so fortunate to be part of.

Pursuant to that Constitution, I called for legislative elections. There were efforts to derail those elections. The people came through again, voting in record numbers, to give us a genuinely elected and truly representative Congress.

Early next year, we shall have local elections.

Part of the blueprint called for a reorganization of the government, to make it more efficient and responsive. And I gave you, by and large, men and women of the highest integrity and competence to administer that new government.

So did I have a blueprint? You know I did. And you helped me implement it, in record time to the astonishment of a skeptical world. More than a blueprint, it is now an accomplished and, if I can help it, a permanent fact.

Issue number two: relations with the military. In a sound democracy, civilian government and its military arm have each their respective roles. One makes policy, including military policy, the other enforces it. But, obviously, we have been undergoing a period of adjustment, as all our institutions, the military included, come to terms with the new democracy. Still, the fact speak for themselves. With the military, we have crushed every challenge to the supremacy of civilian authority. There was turmoil. Naturally, because neither side would give up without a fight. They fought me, I fought back. Surrender would have been neater, but it is not in me to ever yield. I want peace as much as the next person, but not at any price. Reality is never neat or nice.

The August 28 coup attempt reveals a fissure in the military. That is true. But more importantly, the determined and forceful putting down of the attempt by the military shows the triumph of professionalism. As I said, there are groups still resisting their personal and permanent loss of power and prestige, but the military as a whole demonstrated that it is firmly with, not against, the new democracy. I retain full confidence in the professional leadership of the Armed Forces.

For all the threats of a further coup attempt, we have actually seen a retreat from military to political action. I suspect the coup bubble is burst. Threatened, coups are used to leverage the political pressure. Somebody forgot to tell that the place for politics is not the parade ground anymore but the halls of Congress. I have every confidence that their fellow officers will finally get this message through to the dwindling band of coup-makers.

Yet I know there will always be ambition. And you should know that I will always be there to stop it from getting out of hand. Those who are desperate to retrieve their lost privilege will do what they can: I will do what I must to stop them.

The third issue is the insurgency. There is talk again about new talks with the NDF. Let me clarify that, The truce ended last February when I ordered the AFP to resume operations against the Communist insurgents. Talk hadn't worked, so it was time to fight. And it is still fighting time. Therefore any talk of resuming talks with the NDF is unauthorized. The insurgents are daily killing our soldiers and civilians. They are destroying bridges and power lines, burning public buildings.

They blow up bridges, we rebuild them. They take down our power lines, we put them up again. All this takes a heavy toll on our economy and meager resources, but it has not and will not in any measure reduce our resolve to fight back and defeat them. The army has orders to hunt them down and pursue the war against the insurgents with absolute vigor.

Poor as our people live, and difficult enough as it is to recover from the ravages of dictatorship, the insurgents are determined to make life worse for everyone. By a twisted logic, they hope that the people will invite them to power so they will stop harassing them. They forget that Marcos tried the same approach with the Filipino people and is now in Hawaii regretting it. The extreme right is using the same strategy. They think that their coups, bombings and assassinations will break the people's resistance to their brand of government and make them accept peace and quiet at any price. I invite them especially to look at their mentor in Hawaii and contemplate his fate.

Struggle against the communists must be waged by civilians, as well as by the military, by OIC's and by Officers. I hold both responsible for the results I am still waiting for.

Of course, military initiatives are not enough. Economic improvement and expanded social services are the long-term and final solutions. But we need military victories to buy us the time to make our programs work; to buy us the conditions in which our services can reach the people and change their lives for the better.

One month before the August 28 coup attempt, I devoted a third of my State-of-the-Nation Message to the requirements of a better fighting force and the Congress is now acting on my specific requests.

My counter-insurgency policy has always been clear. First talk, in keeping with my pledge to negotiate peace that respects law and democracy. And then fight, should it fall. I have said clearly all that needs to be said. Am I also expected to take up and M-16 myself and do it, just like I went to the fiscal's office myself to vindicate my honor?

The fourth issue you want a straight answer to is labor. I know you believe that the strike situation has become bad, nor are you willing to accept anymore the answer that this is the exuberance of democracy. And I don't blame you because there is something premeditated and carefully planned about this exuberance.

I opened my remarks by saying that the future of our nation will be decided on the shop floors and fields of the economy. We have to get our labor relations right. That means labor must accept the same values that drive our democracy: Tolerance, fairness, respect for the law, and a shared commitment to bring progress not chaos to our nation.

The right of collective bargaining is enshrined in the Constitution, but so is the duty to preserve order and respect for the law. I believe we must establish a decent daily wage for all our working people and beyond that, we must have a flexible wage bargaining system that reflects productivity. But I will not tolerate the abuse of any rights. I will not allow an unruly minority to use the rights of labor to improve the conditions of labor to achieve a Communist victory instead. The way to power is the ballot, not the strike.

I therefore order the police and other peacekeeping authorities to give full assistance to the Labor Department to remove all illegal blockades at the factory gates.

A special peacekeeping force has been organized and is now being trained to enforce return to work orders and injunctions issued by the Department so that our response to resistance will be calibrated and reasonable in the application of force.

The Department of National Defense and Labor will finalize and sign within this week "The Guidelines for the Conduct of the INP/AFP Personnel During Strikes and Lock Outs".

The Labor Department has issued the guidelines to clarify the conduct of strikes and lockouts to clarify the right and obligations of the parties to labor disputes.

But for all that, I ask you, the business community, to do your share. Business operates for profits, and it is hard indeed for all of us to make a go of things while the economy is still struggling to recover. Our laboring class is very poor, and their lives are truly difficult. It amazes me how they survive. I ask you to search your minds and hearts, and prove your pockets, to share with your brothers and sisters in the labor sector the gains you make. Business and labor are indispensible partners in the growth of a free economy. They should act toward each other in the light. Labor has its rights, as much as you have yours. But in the end what will work is not the mutual enforcement of rights so much as a mutual commitment to grow together in prosperity. That commitment has been demonstrated by the Filipino small businessman, and by the Filipino-Chinese entrepreneur who appear to have no problems about this government's alleged lack of vision, because they have a 20/20 vision for the opportunities that democracy and honor government have opened up.

They know my vision of this nation. A immersed nation in work, and not lost in idle talk. A nation free and at peace with itself and its neighbors. A nation respected in the councils of the world. A nation strong because its people are strong, healthy, well-fed, well-housed, well-educated and firm in their commitment to the rights and freedoms that are the foundation of their dignity. It is a vision we can achieved assuredly as we achieved the first; the restoration of democracy which we now enjoy.

The fifth issue I want to raise is foreign debt. That debt is growing even without fresh borrowing. Servicing the debt takes up over 40 percent of the budget, and over 45 percent of our export earnings. In the next six weeks we shall have to pay $20 billion to our official and private creditors while we shall be getting only $4 billion in additional loans. That means we shall pay out $16 billion more than we will be getting.

Our policy has been very clear from the start: growth must take priority, for the plain and simple reason that if we have no money to pay, we can't. And if we starve the nation of essential services, there may be no one around willing to honor the debt.

Meanwhile. I have instructed our representatives to consolidate the rescheduling agreement by November 15th. That should end speculation and remove at least one excuse for hoarding dollars.

The sixth issue is what really brought you here. The question you all really want to ask is, can she back it? Isn't she weak? These are the questions that were asked by all those who have openly challenged my power, authority, and resolved, and who have suffered for it. I speak of the shamefaced officers who have abandoned their followers to await trial in court, and the failed politicans who made the last places in the last elections and now trying a backdoor to power.

Well, they can forget it. Although I am a woman and physically small, I have blocked all doors to power except elections in 1992.

You invited me here on the issue of Presidential leadership. The honeymoon is over, isn't it? It didn't last very long. By mid 1986, my cabinet was getting it. By August, the attacks were hitting closer to the Presidency, And now, it is but openly against me. The Cory who could do no wrong in those early invigorating months after February, 1986 is seen as having done nothing at all. Nothing, in spite of Constitution, a Congress, and a well-thought out body of legislation that asks of direction of this nation to progress if you have the courage to follow.

Still you ask, is she weak again, I say, let my scattered enemies answer that.

Still you have reason to ask. For the style of government, by consultation, which I hoped would get your understanding and support, has disappointed you, has given you a sense of drift. It is time again to simplify.

Henceforth, I shall rule directly as President. To the ad hoc committees and commissions created to inform me on their special areas, I now add one more: An Action Committee with a single member; me.

A President is supposed to be above details, but it seems I must do nearly everything myself.

For a modest start, Metro Manila Governor Jejomar Binay will now turn over the responsibility and authority for collectiing the garbage in Manila to OIC Mayor Mel Lopez and the other Mayors of Metro Manila. I give Mel Lopez one week to clean up the mess that's been neglected. The public should cooperate. Let's respect ourselves by not making a garbage can of our surroundings.

The department of Public Works is directed to cover all potholes in the First District of Manila within one week, and is given one week periods to fix up all the other districts in succession.

The National Power Corporation was poised to increase its rates due to the increase in the international price of crude oil. There will be no increase in power rates this year. Instead, I have directed all concerned agencies to submit immediately the necessary measures to prevent this increase, which measures I will implement this week.

The PLDT must attend to all complaints within 48 hours, or at least appease the subscriber that the fault is in the cable and how long it will take to fix it.

I urge the PLDT management to come up with a comprehensive program for improving service and upgrading facilities. The Central Bank, the Department of Transportation and Communications, the NTC and the NEA are directed to give them the fullest assistance.

I have ordered an investigation of MERALCO on the frequent brownouts, scheduled and unscheduled that destroy industrial machinery and cut the salary of our workers.

There is grave doubt about the seriousness of our privatization policy, There is always an excuse for government not to sell. Fine. Therefore let me make this clear.

I want government to get out of business. I want it to cash in on all the investments it should have never made.

Non-performing assets listed to be sold, WILL be sold in open bid to the highest bidder, First preference goes to the bidder with most cash up front, using, and let me emphasize this, only fresh money. Buyers who want to use the target company's own funds are obviously going to run it to the ground. The preferred procedure open bidding. Filipinos and foreigners will compete on the same terms, subject of course to constitutional limitations. In general, ability to pay the highest price will decide conclusively. That is how PCIBank and Associated Bank will be sold. Combank is a negotiated deal because there is only one serious bidder. I will not tie up hundreds of millions of pesos just to keep some people in their jobs.

All our hotels are up for sale. Including Manila Hotel, Foreigners are invited to bid for the allowable equity. The sale of Philippine Airlines is under serious consideration. We can't have it landing on the South Superhighway. There's enough traffic there.

The policy, in brief, is: no funny, deals, no favors.

If anyone says that I have made an exception for him or her, report it to the press and to me. I got a copy of an application filed with the Central Bank for the importation of 8 million cases of apples. It is signed, "Corazon Aquino, President of the Philippines", as if the signer wasn't sure if the Central Bank knew I was President. Now that's a crook who isn't going to get far. More likely, that's a piece of black propaganda that isn't going to fly, eight million cases means more apples than there are Filipinos.

I cannot issue a directive to all the banks on this matter, but let it be known that any application for importation of anything, apples, castanas, orange and guns, alleged to be signed, endorsed supported or whatever by me or any of my kin should be reported to me and to the NBI.

I have heard the talk of the coffeeshops. I am addressing your concern about graft and corruption in government. I have directed the Special Prosecutor's Office and the NBI to give first priority to the investigation and prosecution of graft and corruption cases against senior government officials, including the members of my Cabinet.

I am not sorry the honeymoon is over. The sooner we get over the fantasy of the honeymoon and face the hard work of marriage—the marriage of President and nation for the better.

I recently read a formulation of Presidential leadership by Hedley Donovan. "The honesty of Abraham Lincoln, the Intelligence of Henry Kissinger and the soothing TV personality of Marcos Wealby-Robert Young".

He goes on to quote approvingly a former US congressman who said: "The President should like his fellow man, and he should have read "Manchiavelli". Transposed to this country, you might say the ideal President would have the courage of Abad Santos, the intelligence of Diokno, the charisma of Magsaysay, and the love of country of the men and women and children who converged on EDSA in February '86.

That's quite a tall order and is no surprise that the ideal President has never lived and is defined by the traits of different leaders facing different challenges in different times.

I do just fine on the honesty and liking my fellow men, although recently there have been exceptions. But there is no regret on my part if there is not much of Machiavelli. I don't have all those qualities. Some of my enemies, who contributed to the mess left by the previous government, claim to possess them. Maybe, but thay lack the one quality I alone have election to the Presidency and a mandate for my principles and policies that has been tested in a massived voter's registration, a plebiscite, a sweeping electoral victory for the Congress, and in five coups that were handly beaten by me and my forces. They lack the one thing the people will never give them trust.

I do not have all the qualities of the ideal President who never existed. But I have the qualities for the leadership of our nation in these times. After years of stealing, degradation and abuse from our leaders, the Filipino people made a clear choice. They wanted a leader whose honesty and commitment to them would never be in doubt; who would not clamp down but rather open up the country so that all could be heard; and who would bind our wounds so that we could, as one nation, work together to overcome our common crisis of economic decline.

I except sniping from yesterday's men, passed over as they are, by the march of history. To all other Filipinos, though, I say the tide is with us. Together our future can be as bright as we choose to make it. So judge my leadership as the rum of all our strengths. What sets me apart is that I bring us together where others would divide us as a nation. Those who challenge me, challenge us.

The last time I spoke here before you, I left you with a slogan that carried us to victory. I leave you with this:

Sobra na ang Komunista
Tama na sa kudeta
Ipaglaban ang demokrasya.

DEMOCRATIC RESPONSE TO THE PRESIDENT

HON. CHESTER G. ATKINS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, December 14, 1987

Mr. ATKINS. Mr. Speaker, last Saturday, Mr. SOLARZ, at the request of the House leadership, delivered the Democratic response to the President's weekly radio address to the Nation. Mr. SOLARZ has earned a reputation as one of the party's most thoughtful and articulate spokespersons on foreign policy and international affairs. His thoughtful radio speech this past Saturday certainly demonstrates why.

Mr. Speaker, it is ironic that President Reagan must rely to a greater degree on Democrats than members of his own party to support and ultimately ratify the INF treaty. Mr. SOLARZ'S comments set forth the basis for this Democratic support, thus indicating our genuine commitment to arms control notwithstanding partisan loyalty.

Wisely, Mr. SOLARZ counsels continued vigilence with respect to human rights and solutions to regional conflicts throughout the world. I believe his thoughts deserve consideration by all our colleagues, and, Mr. Speaker, I am requesting permission to insert Mr. SOLARZ's entire statement in the RECORD.

DEMOCRATIC RESPONSE TO THE PRESIDENT

(By Congressman Stephen J. Solarz)

Almost twenty-five years ago, President Kennedy signed a treaty with the Soviet Union banning all nuclear weapons tests in the atmosphere.

This week, President Reagan signed a treaty with the Soviet Union eliminating all intermediate-range nuclear missiles.

Ever since the dawn of the nuclear age, both Democratic and Republican Presidents have strongly supported the arms control process.

Recognizing the consequences of an unrestrained arms race in nuclear weapons, they have attempted to reach understandings with the Soviet Union that would lessen the dangers of nuclear war.

That is why we Democrats, who differ with President Reagan on so many other issues, warmly welcome the INF Treaty.

We believe that this agreement, which would eliminate an entire class of nuclear weapons, has been rightly characterized as a small step forward for mankind and a great step forward for President Reagan.

We only wish that the Republican Party would provide the President with the same strong support for this agreement that he will be able to count on from the Democratic Party.

Unfortunately, despite the bipartisan commitment of all previous President to the arms control process, significant elements within the Republican Party have vigorously condemned the Treaty.

Indeed, four-and-a-half of the six candidates seeking the Republican nomination to succeed President Reagan have already announced their opposition to it.

What is at stake in the forthcoming Senate debate on the ratification of this agreement is not just the fate of the INF Treaty, but the future of the entire arms control process.

If a conservative Republican President like Ronald Reagan, whom no one has ever before accused of being soft on communism, is unable to persuade the Senate to reject killer amendments and ratify the Treaty the Soviets are likely to conclude that no President will ever be able to persuade the Senate to approve such agreements, and the stage will be set for an unlimited escalation of the arms race in nuclear weapons.

Yet even if the INF Treaty is ratified, which we Democrats very much hope it will be, the Millennium will still not have arrived.

The INF Treaty provides, after all, for the elimination of only three percent of all the nuclear weapons in our respective arsenals.

That is why we Democrats also strongly support President Reagan's efforts to negotiate a follow-on strategic arms limitation agreement that would require a 50% reduction in nuclear weapons.

Important as nuclear arms control may be, it is also essential for us to move forward in the area of conventional arms control agreements as well.

Right now, the Soviet Union and its Warsaw Pact allies enjoy a substantial advantage over the U.S. and its NATO allies in terms of manpower and materiel in Europe.

The Democratic Party believes that this imbalance must be corrected if the threat of war is going to be diminished.

Since it would be far more desirable to establish an acceptable balance of conventional military power in Europe by multilaterally negotiating down, rather than by unilaterally building up, we call upon President Reagan to put forward realistic and comprehensive proposals for the elimination and reduction of offensively oriented military equipment in Europe.

Despite our deep commitment to the arms control process, we Democrats remain mindful of the profound differences between the Soviet system and our own.

The Democratic Party strongly condemns the brutal Soviet occupation of Afghanistan; the unjustifiable Soviet domination of Eastern Europe; and the continued violation of fundamental rights within the Soviet Union itself.

And so, even as we celebrate the progress in arms control that has taken place this week, we cannot overlook the fact that so long as Soviet Jews are deprived of the right to emigrate, none of us is fully free.

So long as Soviet Christians are deprived of the right to practice their religion, all of us are spiritually impoverished.

So long as Soviet dissenters remain unjustly incarcerated in psychiatric wards, each of us loses a bit of our own humanity.

That is why we Democrats believe that the prospects for an enduring peace between our two countries would be significantly advanced by progress, not only in arms control, but in the resolution of regional and human rights issues as well.

In the meantime, we must recognize that we all share the same small planet, and that we must, therefore, find ways to resolve our differences peacefully.

"It is better," as Winston Churchill once said, "to jaw-jaw, than war-war."

This has been Congressman Steve Solarz. Thank you for listening.

ECONOMIC ILLITERACY

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, December 14, 1987

Mr. CRANE. Mr. Speaker, we are led to believe by many individuals across this country that we are in a predicament of extreme proportions. This predicament reached a momentary nadir last October with the fabled Wall Street "Black Monday." The following article by the renowned economist Milton Friedman, explains this predicament as "an increase in the level of economic illiteracy * * *" I urge you to read and consider this article and take a closer look at what the American public is led to believe.

[From the Wall Street Journal, Dec. 2, 1987]

AN ECONOMIST'S GROWING GARDEN OF FALLACIES

(By Milton Friedman)

"Black Monday" has been followed by something I had thought almost impossible: an increase in the level of economic illiteracy in public discussions of economics. The substitution of adjectives for both logic and fact, reliance on economic fallacies, and the absence of any sense of proportion have reached highs as the Dow reached lows.

As documentation, herewith a few quotes extracted at random from the news media and public discussions of current economic policies. I do not attribute the quotes to individuals. That would be invidious, since I could readily have found dozens of similar quotes. However, I assure you that these are all from reputable publications (including The Wall Street Journal), some quoting from statements by high public officials.

* * * * *

1. "Stupendous Budget Deficit"

FACTS: GOVERNMENT DEFICIT (−) OR SURPLUS (+) AS A PERCENTAGE OF GNP

	1975	1980	1986	2d quarter 1986	2d quarter 1987
Federal	−4.3	−2.2	−4.8	−5.6	−3.4
State, local	+0.3	+0.9	+1.5	+1.4	+0.9
Total	−4.0	−1.3	−3.3	−4.2	−2.5

* * * * *

2. "Crushing Federal Debt"

Facts: Net Federal debt[1] as percentage of GNP:

1945	107
1960	46
1970	22
1974 (low point)	18
1980 (low point)	22
1987 (est.)[2]	37

[1] (Gross interest-bearing debt of U.S. government less amounts held by federal government agencies and the Federal Reserve.)

[2] (About same as in prosperous 1960.)

* * * * *

3. Foreign Trade: "We Are Consuming More Than We Produce"

Fact: Total personal consumption plus government purchases of goods and services in 1986 as percentage of:

Gross production (GNP)	87.2
Net production (NNP)	97.1

* * * * *

4. "The U.S. Is the World's Largest Debtor Nation"

FACT: U.S. Estimated Net Investment Income (1986): $20.844 billion

(a) If your income from investments exceeds the cost of carrying your investments, you are clearly not a net debtor. Similarly here. The available estimates are contradictory. Balance-sheet estimates record a large net debt. Income-account estimates record a large net investment income that has been roughly stable for years. Both estimates are subject to wide margins of error. No one can be confident whether in any sense the U.S. is a net debtor or a net creditor.

(b) Whatever the figure, the so-called net debt is the estimated difference between the dollar value of all the assets in the United States owned by foreigners and the dollar value of all the assets outside the United States owned by U.S. residents (including state, local, and federal governments). There is no single entity corresponding to the nation that is either a debtor or creditor. Insofar as individuals are net creditors or net debtors, they receive the corresponding income and are liable for the corresponding payments.

To illustrate the key point concretely, the net external debt (of all the residents and governmental units) of the State of California, including that owed to residents of other states as well as of other countries, almost surely dwarfs the comparable total for the nation. That fact has caused no economic or political problems in California. There undoubtedly would be a political uproar if such an estimate were compiled and given publicly.

The so-called net external debt of the U.S. is a political, not an economic, problem.

* * * * *

5. "The Gramm-Rudman Cuts Would Be Starvation Diet"

Fact: Gramm-Rudmancuts (billions)	$23
As percentage of:	
Proposed federal spending	2.2
GNP	0.5

* * * * *

6. "Tax Reduction of 1981 . . . Produced . . . a Huge Federal Deficit"

FACTS: PERCENTAGE OF GNP

	(First half) 1980	(First half) 1987
Federal spending	22.5	23.9
Federal tax revenues	20.3	20.4

* * * * *

7. Black Monday produced "A $1 Trillion Loss in Wealth" that will lead to a "Tremendous Shock to Consumption."

FACTS:

(a) The Dow is now roughly at the same level as in December 1986. The level of wealth then did not lead to a "tremendous shock to consumption."

(b) Prices of bonds have risen more than 10% since Black Monday. Total value of fixed-income securities outstanding is a multiple of total value of equities. Increase in value of fixed-income securities partly or wholly offsets decrease in value of equities (just as decrease in value of fixed-income securities in first nine months of 1987 partly or wholly offset increase in value of equities).

THE DEATH OF MR. CHARLES M. RUSSOLINI

HON. DON RITTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 14, 1987

Mr. RITTER. Mr. Speaker, may I call the attention of the Congress, most respectfully, to the recent death of Charles M. Russolini, former treasurer of the city of Allentown, in the Lehigh Valley.

Charlie was a beloved figure to all Lehigh countians and he was doubly beloved to me. He was so kind, so thoughful, so bright, and clever, yet so humble.

He taught people like myself much about character and grace. Edie and I and others will never forget Charlie. He'll live on in our hearts as if he were next door. That's the way he affected those around him.

Charlie held a post within the tax collector's office for a record 40 years, 14 as assistant treasurer and 26 as city treasurer, running without formal opposition either in the Republican primaries or from Democrats on the general ballot for his final five terms.

The sterling quality of this man was reflected in the way he marked his professional responsibilities with a personal touch. Charlie's insistence on Saturday hours in his office during tax-paying periods for the convenience of taxpayers, highlights the excellence he brought to his service.

Finally, Mr. Speaker, Charlie acknowledged his birth in Bologna, Italy, as well as his acceptance and election by a largely Pennsylvania Dutch community. He considered this position a privilege and a gift that he welcomed as an opportunity in which he served his community.

Charlie may have passed away physically, but his legacy, his humanity, can never die.

NOT ALL ELDERLY OPPOSE SOCIAL SECURITY REDUCTIONS

HON. ANTHONY C. BEILENSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 14, 1987

Mr. BEILENSON. Mr. Speaker, it is generally assumed around here that a politician who suggests any proposal that will have an effect of reducing Social Security payments will incur the wrath of each and every older person who hears about it.

But that has not been my experience. Last month, I wrote an article for the Washington Post entitled "Put Social Security on the Table," which advocated including that program in the deficit-reduction talks which were then in progress. My article, which was subsequently published in other newspapers around the country, suggested that congressional and White House budget negotiators consider either limiting next year's cost-of-living adjustment for Social Security recipients or taxing a greater share of benefits.

I fully expected to receive letters and calls from older people who were outraged by those suggestions—and I did, in fact, get some such responses. But I also received a surprising number of letters and calls from older folks who agreed with what I said, and I thought our colleagues might be interested in seeing a sample of those responses.

An 84-year-old woman from Lacey, WA, wrote: "Social Security is a crucial part of my retirement * * * But I still feel that we older persons should shoulder part of this country's deficit just as the young and middle aged (who are, by the way, paying toward these Social Security programs) and not take a COLA this year."

A retiree from Pacific Palisades, CA, wrote: "My wife and I are tired of hearing that Social Security is a sacred cow and can't be touched. To us nothing is that sacred in the present emergency. To us the greatest harm you could do us retirees would be to let the present financial problems facing the country turn into a full-fledged depression, which would then probably be followed by inflation.

"We've been paying into the fund for over 40 years, and so we feel we are entitled to something. But we are not entitled to unlimited cost-of-living adjustments."

A couple from Bethesda, MD, wrote: "One of us is now a Social Security recipient, the other will be in a couple of years, and we anticipate retirement in which Social Security (and Federal Civil Service Retirement) will be our only serious income. Your proposal would affect us directly, and would reduce our income. And we are wholeheartedly in support of what you propose. * * * As Federal retirees, we think simple justice would require the same considerations would apply to Federal retirement, too.

"We don't support general means-testing for Social Security * * * But subjecting the full range of benefits to progressive income taxation would reach the same results, based on the same principle. And your idea of a dollar COLA instead of a percentage COLA would reach the same result on the outlay side."

Another retiree from Bethesda, MD, aged 77 who called to express his agreement with my article, said that he felt that Social Security recipients earning more than $35,000 a year should not receive COLA's. "We don't need our increases," he said.

A Social Security recipient in her 70's from Johnson City, NY, wrote: "I do feel that we could forego our cost-of-living increase and that we should. Certainly our generation is better equipped to deal with less * * *." And, in reference to the attitude of others her age, she added: "I am almost ashamed to be called a senior citizen. It seems to me that senior citizens are a group of people with loud voices, no pride, and demands that the Government support them."

A retiree from Fairfax County, VA, who called to say he, too, thought Social Security should be included in the deficit negotiations, said: "Congress is way behind the rest of the country in recognizing the seriousness of the deficit problem and the fact that everyone's going to have to give up something to solve it * * *."

Mr. Speaker, the interest groups representing the elderly would have us believe that older people are unanimous and unwavering in their opposition to touching Social Security. But the truth is, most older people care about more than just the Federal benefits they are receiving. Like younger Americans, they understand the critical problem we are facing with the budget and they know that some unpleasant and unpopular steps will have to be taken to deal with it. And at least some of them, as these responses show, are just waiting to be asked to do their share.

WE ALREADY HAVE A BLUEPRINT TO REDUCE THE DEFICIT

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, December 14, 1987

Mr. CRANE. Mr. Speaker, in this time of budget reconciliation, continuing resolution and daily reminders that we the Members of Congress have been delinquent in our responsibility to take the initiative to resolve the budget deficit, J. Peter Grace provided us in 1985 the means to eradicate the deficit without further strapping the American people with more taxes. Grace, who headed the President's Private Sector Survey on Cost Control—the Grace Commission—has spent much time and money preaching the results of the Grace Commission's War on Waste.

Unfortunately, few of the excellent ideas he presented have been implemented. Mr. Grace, in the following article makes direct reference to our dismal efforts in the deficit-cutting process. He says of congressional action, "They aren't serious. If they were, they would have called me." Mr. Grace has again put the challenge to us. To not pick up the phone would be a terrible injustice to our constituents who have sent us to these hallowed halls of leadership. I ask that we all consider the following article and take a closer look at the results of the Grace Commission.

[From the New York Times, Dec. 7, 1987]

A MAN WITH 2,478 SOLUTIONS TO THE DEFICIT AWAITS A CALL

(By Albert Scardino)

While Congressional committees were picking away at the Federal budget last week, looking for $30-odd billion to cut in the inconclusive war on the Federal budget deficit, J. Peter Grace was flying around the world calling them clowns.

"They aren't serious," he says. "If they were, they would have called me."

And Peter Grace would have told them, too, just as he has told thousands of others in the last three years, exactly how to cut twice that much without raising taxes a nickel. And then he would have told them how they could go back and do it again next year, for a total of $120 billion, quick, rather than the iffy $76 billion to which the Administration and Congress have tentatively agreed. All Government has to do is to act more like a private business, he would say.

W.R. GRACE HAS OWN PROBLEMS

Not like his own business, mind you. Mr. Grace serves as chairman, president and chief executive of W. R. Grace & Company, the conglomerate founded by his grandfather 133 years ago. Last year W. R. Grace lost $472 million on sales of $3.7 billion.

While much of the red ink came from a restructuring, Grace has drifted downward for years. Earnings for 1985, the year before the overhaul, were less than half what they had been in 1981. But the company, with three good quarters this year expects to return profitability when the totals are added up next month.

So Grace may not be the model. Rather, Congress should adopt the policies recommended by the phalanx of business executives whom Mr. Grace assembled at President Reagan's urging to examine waste in the Federal Government.

These 2,000 business leaders studied the Federal bureaucracy from top to bottom from 1982 to 1984, then produced 21,000 pages of studies. Official Washington knew them as the President's Private Sector Survey on Cost Control, but to the rest of the world they were the Grace Commission.

They discovered that those who serve in the military or work in the Federal civil service retire after many fewer years on the payroll than their counterparts in private industry. And pensions run generously to 75 percent of pay, compared with 50 percent or less in the private sector.

As a result, Uncle Sam spends six times as much on the pension of a civil service employee, and eight times as much for military retirees, as the best private company spends on its workers.

$19 BILLION COULD BE SAVED

Reform just that one item and save $19 billion a year, the commission reported. And save even more in the future, because the Government has already agreed to pay pensions that will cost $500 billion—but has set aside no money yet to cover the bill. If you were serious you would also add employees-to-be, but who's counting? Not Congress, Mr. Grace said. Not the Federal Government.

"That's intellectually dishonest," Mr. Grace said. "It's stealing from the young people of the future."

If the Government can't stomach that reform, Mr. Grace has 2,477 other recommendations, ranging from higher fees in national parks to better cash management techniques for Federal money. Some are being pursued, but none would save nearly so much as the pension changes. Taken together, though, they would reduce the Federal budget gap by more than $420 billion over three years.

THE TYCOON OF 42D STREET

All these ideas to trim the budget are sitting on the shelf, and no one from Capitol Hill even called.

That's because sometimes it is hard to decide whether Mr. Grace, with his budget-cutting notions, is crazy like a fox, or just crazy.

For one thing, there is his demeanor. At the age of 74, after 42 years as chief executive of W. R. Grace, he can be seen bouncing through the headquarters on West 42d Street with a mischievous glint in his eye, thumbing his nose playfully at the assistants who try to keep him on schedule in his international travels, tugging his vest down over his tummy without quite popping the buttons.

In an office overlooking Bryant Park, he has surrounded himself with mementoes of his family: an oil portrait of his father and predecessor, photos of his five daughters, snapshots of family gatherings at one of his four houses and porcelain statutes of dogs of all description. Smoking pipes, dozens of them, clutter two desks, the bookshelves and the window sill in the bathroom.

It is the office of a tycoon, a patriarch. Today Mr. Grace controls only 1 percent of the enterprise that bears his grandfather's name, but he rules it like a fief. He is a holdover from another day, sustaining himself by force of personality.

Then there is his method of waging war on waste. With no visible result, he has spent thousands of hours, and hundreds of thousands of his own and his company's dollars, crisscrossing the country with his message, preaching to the converted in hundreds of business audiences.

He has enlisted Jack Anderson, the newspaper columnist, as his Sancho Panza in a grass-roots organization known as Citizens Against Government Waste. He has enrolled 164 members of Congress in what he calls the Grace Caucus.

But Congress, the target of his assaults, pays no attention. As recently as mid-November, Congress dismissed the idea of pension reform and a suspension of automatic increases in Social Security payments—the largest items by far on the Grace Commission's list—as politically unworkable.

That sounded familiar to Mr. Grace. When his commission delivered its report in 1985, Washington generally pooh-poohed him. He doesn't understand politics, said senators and representatives, lobbyists and Cabinet members. The people who received Federal pensions vote, they said. The people who receive pensions from private businesses don't elect the board of directors of their company.

But Peter Grace is in for the long haul. He has outlasted several successors presumptive at W.R. Grace. He endures; they pass from the scene.

And Mr. Grace has seen government get its comeuppance. He served as a volunteer adviser to Mayor Abraham D. Beame in 1975 as the Mayor struggled without success to prop up New York City's worm-eaten municipal budget.

"Walter Wriston called me one night when I was on a business trip in Tennessee," Mr. Grace recalled, Mr. Wriston at the time was chairman of Citibank and leader of a bankers committee with which the city was negotiating for additional credit. He had a message for Mr. Grace to deliver to Mayor Beame: "Tell your boy that we aren't going to roll over his loans," Mr. Grace remembers Mr. Wriston saying.

The banks' refusal touched off a panic. Municipal bonds collapsed. Corporations with headquarters in New York accelerated their plans to leave the city.

"That scared the boys at City Hall," Mr. Grace said, with more than a hint of satisfaction that a bunch of politicians had been taught a financial lesson.

"Things got better," Mr. Grace said. "The politicians were scared enough to balance the budget. Now the Mayor of New York can spend his time in Nicaragua telling them how to run their Government."

Mr. Grace thinks the only way to change the spending habits of "the yellow bellies" in Washington is for the voters to frighten members of Congress.

"Moynihan starts getting sensible when Giuliani says he might run against him," Mr. Grace said, referring to the Democratic Senator from New York and to the United States Attorney in Manhattan, widely considered a possible opponent next year.

"Write to Congress," he advises the business audiences that hang on his every word. "If you don't think that'll do it, run for Congress. That ought to scare 'em."

A TRIBUTE TO SENATOR E.W. RICHMOND

HON. CARROLL HUBBARD, JR.

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Monday, December 14, 1987

Mr. HUBBARD. Mr. Speaker, Senator E.W. Richmond, a longtime, close friend whom I admired very much, died at age 83 on Sunday, November 22, at the Owensboro-Daviess County Hospital in Owensboro, KY.

E.W. Richmond was a developer, farmer, high school teacher, and county school superintendent in addition to being elected a Kentucky State senator for Daviess and Hancock Counties in 1953.

"He always had Owensboro's interests at heart," said Owensboro Mayor Jack Fisher. "He was always trying to do things for Owensboro."

E.W. Richmond was trying recently to redevelop the Owensboro Downtown Motor Inn, Mayor Fisher said. He owned the building and was trying to find investors to renovate it.

E.W. Richmond served as senator for the Kentucky's eighth senate district from 1954 to 1962. He served as senate president pro tempore in 1956 and 1957. He was in charge of A.B. "Happy" Chandler's unsuccessful campaign for Governor in 1963.

He was known best recently for development locally and in other cities.

After he decided not to run for reelection in 1961, E.W. Richmond became involved in real estate and building.

In 1964, he built Brescia College's first dormitory for men, called E.W. Richmond Hall. It is now the Morehead Center, used by Green River Comprehensive Care.

He worked to open a retirement complex on the riverfront, but another complex broke ground elsewhere, stopping the 6-year effort.

E.W. Richmond built 30 nursing and personal care homes in Kentucky, 5 in Indiana, and 2 in West Virginia. He developed four subdivisions in Daviess County, one in Madisonville, and one in Union City, TN.

"He was always working on different projects," Mayor Fisher said. "He was a front runner in building nursing homes."

A native of Daviess County, E.W. Richmond graduated from Whitesville High School and the University of Kentucky. He taught at Berry High School in Harrison County between 1928 and 1935.

In 1935, he returned to Daviess County as county school superintendent. He held that job for a decade.

E.W. Richmond was also a farmer and raised horses.

He served as president of the Owensboro Lions Club, the Daviess County Farm Bureau, organized the county Soil Conservation District, and served on the first Owensboro-Daviess County Airport Board.

He was an elder at Cumberland Presbyterian Church in Mt. Pleasant.

I am very proud of the letter I've received from E.W.'s lovely widow Marjorie Richmond, and have enjoyed talking with Marjorie on two occasions recently.

My wife Carol and I extend our sympathy to Marjorie, E.W.'s nephew Scott Richmond, an attorney in Owensboro, and Vesta Person, a first cousin of E.W.'s, who lives with Marjorie on the beautiful Richmond farm south of Owensboro.

BEYOND THE INF TREATY

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 14, 1987

Mr. BEREUTER. Mr. Speaker, I invite my colleagues' attention to two recent editorials that should be examined in any formulation of policy regarding arms control agreements to follow the expected ratification of the INF Treaty. The following editorial of December 9, 1987, from the Lincoln Journal of Lincoln, NE, focuses on the need to address the conventional arms imbalance in Europe between the Warsaw Pact and NATO while the editorial of the same date in the New York Times is directed toward any treaty to reduce long range or strategic nuclear weapons.

[From the Lincoln (NE) Journal, Dec. 9, 1987]

QUESTION OF CONVENTIONAL FORCES LOOMS BEYOND NEW ARMS PACT

Mikhail Gorbachev should have immensely less trouble gaining a symbolic ratification of the intermediate-range nuclear missile treaty signed in Washington Tuesday afternoon than will Ronald Reagan. As we all know, yes-bossism goes with the territory of a single-party, authoritarian state.

In the contentious U.S. Senate, a variety of objections to treaty ratification—most of them sincerely rooted—will be presented. One strain of opposition concerns the potential for future destabilization of the North Atlantic Treaty Alliance if the superpowers pact goes through.

Take away Pershing II missiles capable in five minutes of obliterating Soviet command and control complexes—located in the Soviet Union, not Poland or some other helpless buffer nation—and a mighty piece of the old deterrent formulation crumbles.

The Reagan administration officially repeats and repeats: Removal of INF missiles will not undercut NATO's ability to counter an invasion from the east. But the existing disparity in reported conventional forces still cannot be waved away.

For NATO to begin to fill in the gap of reduced nuclear strike capability with more conventional resources means increased military budgets in Europe. That's no more popular in Europe currently than it is in the United States. In a reasonable world, the pathway to improved continental stability would be a radical downscaling of Warsaw Pact forces.

Would the Soviets hold still if their advantage in fighter aircraft was reduced from 5-to-1 to say, 2-to-1? Would the Kremlin accept a cut in its surface-to-air missiles edge of 6-to-1 back to 3-to-1, or even 2-to-1? Instead of the reported 52,000 Warsaw Pact main battle tanks, could the Soviet generals be persuaded to live with 25,000? That would still give them a margin over NATO's 22,200 tanks?

The behavior of the Soviet Union's leadership in the last decade suggests a lessening of feudal Russia's ancient paranoia and an increase in international maturity. Moscow appears somewhat more European, less Asian. Such heartening signs nevertheless can not disguise reality.

Soviet military might and presence still appears to us a prime requirement for maintaining either Soviet rule or powerful influence among unhappy Marxist countries east of the Iron Curtain. The police state risks much by retiring a lot of policemen. Which is why Gorbachev, for all his modernity and sophistication, may have grave problems with the proposition of relaxing his conventional forces superiority facing NATO defenders.

[From the New York Times, Dec. 9, 1987]

THE TREATY AFTER THE TREATY

An agreement emerging at the summit would cut Soviet and American long-range nuclear weapons by half. But is that—as opposed to the treaty signed yesterday banning Euromissiles—good? Will it actually reduce the risks of war?

Many experts argue that the strategic arms agreement actually would make U.S. intercontinental forces more vulnerable and thus weaken deterrence. These concerns cannot be dismissed.

Before President Reagan signs off on the outline of this new pact, he has to show one of two things: preferably that the terms will result in forces for both sides that make nuclear war less likely; or that U.S. security will not be diminished and opportunities for diplomacy will be enhanced.

It is often assumed that the fewer nuclear weapons, the better: a few thousand missiles and bombs should prevent war as well as many thousands . . . all the complicated schemes and scenarios about fighting nuclear wars are not more plausible than Alice in Wonderland.

But no responsible American leader can make such assumptions. Numbers can matter. Agreements can produce situations permitting a foe to plan a first strike. And the kind of weapons allowed can matter. Some, harder to attack, may be more survivable for retaliation and deterrence.

The treaty now being neogitated in Washington would cut each side from roughly 12,000 to about 5,000 land- and submarine-launched missile warheads plus 1,000 bomber weapons. Different types of missiles carry from 1 to 10 warheads. Thus there are many more warheads than missiles. The ratio is of some significance. The more warheads relative to missiles, the easier to destroy those bunched warheads (and bombers on the ground), and blunt a retaliatory blow. Now, the ratio is three of four Soviet silo-killer warheads for each U.S. land-based missile. Will the new treaty lower those odds, or increase them?

Missiles in silos are potentially more vulnerable than mobile missiles. Yet the U.S. proposal would ban land-based mobiles. One reason is that it's hard to verify numbers of missiles moving around on land. But this hurdle can surely be overcome. Another reason is that Moscow has such mobile missiles and Washington doesn't. That can be corrected if this Administration or the next is prepared to spend a lot of money to develop new land mobiles. Will they?

The prospective agreement would also sharply reduce the number of submarines carrying long-range missiles. That provision will work against the U.S. side particularly because each new Trident submarine holds almost 200 missile warheads—a lot of eggs for each basket. Moscow cannot locate those subs at sea today. But what if there's a breakthrough in antisubmarine technology? The U.S. would then have to find a way to put fewer eggs in new, smaller submarines—an enormously expensive proposition.

Until recently, the Reagan Administration treated arms control as a propaganda game. Its proposals seemed intended more to cast Moscow as truculent than to enhance U.S. security. Now Moscow, for its own reasons, is saying yes to many of the proposals. From what is so far known about the emerging agreement, it looks as if security would not be diminished—and overall relations can continue to improve. But first the Administration has hard work to do, reassuring its own experts, and the public, that the strategic arms accord makes strategic sense.

SPEND, SPEND, SPEND: NATIONALIZED HEALTH CARE

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, December 14, 1987

Mr. CRANE. Mr. Speaker, I am concerned by the rising advocacy for socialized health care in Congress. While I am sure that many Members believe that by socializing medicine our health care will improve, I am nevertheless hounded by the thought that many other Members advocate such a program simply because it can win them votes. To both these groups I can only say: Do you really want to punish our constituents with a socialized health care system which will, in all probability, suffer from the same ills as the English system of health care? Hence, I have inserted the following article by Harry Schwartz entitled, "Spend, Spend, Spend: Congressional Liberals are Singing the Same Old Song." It clearly outlines why we must not adopt a system of nationalized health care.

SPEND, SPEND, SPEND—CONGRESSIONAL LIBERALS ARE SINGING THE SAME OLD SONG

(By Harry Schwartz, Ph.D.)

The proponents of national health insurance are raising their voices again. While they were silent earlier in the Reagan era, they now see Health and Human Services Secretary Otis Bowen's catastrophic-insurance proposal for Medicare beneficiaries and the "spend, spend, spend" attitude of the Democratic Congress as giving them their best chance for success in years. Sen. Edward M. Kennedy's plan to require employers to provide health insurance and Sen. Joseph R. Biden's idea of free medical care for children up to 12 years of age are reflections of the new mood in Washington.

Since I don't want physicians to have any illusions about national health insurance, I am devoting this column to recent evidence of its realities in two countries that have been leaders in socialized medicine for years, Britain and Sweden.

Here is how the London Economist summed up the state of Britain's National Health Service on the eve of the recent parliamentary election.

"The National Health Service is one of the British institutions that needs to be made more egalitarian and efficient. The present NHS is run so that demand (sometimes nil-priced, therefore infinite) is thrown at a limited number of hospitals and practitioners, who are given no incentive to provide health care either most cost-effectively or where it is most needed. In 40 years, the NHS increased poor Britons' low life expectancy by less than rich Britons' high one. The NHS now staffs pleasant south English suburbs with one-third more doctors per inhabitant than poorer northern slums, which sometimes have three times their sickness rates. It imposes West Europe's longest pre-surgery waiting lists on patients in pain, before they can get into often-dirty hospitals."

I suggest passing out that quotation, from the May 23, 1987, issue of *Economist* to American supporters of socialized medicine. In most cases, these misguided zealots are remarkably uninformed about what really happens under national health insurance.

The *British Medical Journal* of May 16, 1987, gave a concrete example of the realities of national health insurance. It reported on a study of the care given to patients who died of asthma in hospitals; the study concluded that almost half of these deaths could have been prevented with better care:

"Before considering policies aimed at speeding admission to hospitals of patients with acute attacks of asthma, it is crucial that the general standard of hospital care offered to all patients with asthma should be improved."

For data on Sweden, we turn to Gunnary Biorck, professor emeritus of medicine at the Karolinska Institute in Stockholm and a member of the Swedish Parliament.

In the same issue of the *British Medical Journal*, Biorck raises the question of whether patients (obviously those in socialized medical systems) "have a right to the best and most expensive treatment." I quote two paragraphs from his thoughtful article:

"In a climate of disintegrating national economies, politicians and administrators are faced with the challenge of meeting the expectations of their constituents in ways that must cost next to nothing and preferably less than that. Their goal is, therefore, to find formulas for the least expensive treatment of their public's expectations. . . .

"For the first time in more than 300 years, the top administrator of the Swedish Board of Health is no longer a doctor. Yet we are probably not the only country where medicine finds itself driven into a corner. Thus, at present and for the indefinite future, the real problem is not how to provide the most expensive treatment but how to secure a decent and knowledgeable treatment for all those who really need it. Florence Nightingale is no more, but there is still a tremendous need for farsighted, idealistic, knowledgeable and strong leaders of the medical establishment to secure and promote people's access to a decent and effective medical care. Without this, there will be no future rights for good, if not always the best and rarely the most expensive, medical care."

I like Biorck's phrase about countries where "medicine finds itself driven into a corner," where even elementary medical care is threatened. This situation is, of course, the inevitable result of national health insurance, where there is never enough money for health care after the needs of schools, national defense, policemen, firemen, sanitation systems and old-age pensions have been met.

SECTION 331 OF HOUSE-PASSED TRADE BILL WILL HELP TO ENHANCE NATIONAL ENERGY SECURITY

HON. HOWARD WOLPE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, December 14, 1987

Mr. WOLPE. Mr. Speaker, section 331 of the House-passed trade bill contains provisions which will help to enhance our national energy security. Unfortunately, some opponents of these provisions have an incorrect understanding of current law and how section 331 would alter it.

All domestically produced crude oil is already subject to export restrictions by virtue of provisions contained in five separate statutes. Section 7(d) of the Export Administration Act of 1979—which governs Alaskan North Slope crude oil—contains the most stringent export restrictions. In essence, section 7(d) provides that exports of ANS crude are prohibited unless the President makes certain findings, which must be approved by both Houses of Congress. Among other things, the President must find the proposed exports are in the national interest and will benefit U.S. consumers. These are commonsense findings based on a decision first made by Congress in 1973 that a domestic use priority should be placed on the vast supplies of ANS crude.

Section 331 of the trade bill, which I sponsored, would amend section 7(d) in two ways. First, it would extend coverage of section 7(d) to all domestically produced crude oil. This does nothing more than bring consistency to our domestic energy policy. As a result of having five separate statutes—with five separate sets of restrictions—governing crude exports, our policy regarding oil exports is unnecessarily complicated.

More fundamentally, this extension of section 7(d)'s coverage makes sense at a time when U.S. dependence on crude oil imports is growing at an alarming rate. By the early 1990's, we are likely to be importing over one-half of our domestic petroleum needs. I know that my constituents have not yet forgotten the long gasoline lines of the 1970's. They were caused by relatively minor disruptions of our imported oil supply. Our national security depends on reducing, to the maximum extent possible, our reliance on the volatile Middle East for crude oil. By extending section 7(d) to cover all domestically produced crude oil, the House of Representatives has shown once again that it is determined to ensure that exports of U.S. crude oil will be permitted only if they promote the national interest.

The other portion of my amendment places restrictions on a proposed export refinery to be built at the terminus of the Trans-Alaska Pipeline. The primary purpose of this refinery is to exploit a loophole in section 7(d) by exporting ANS crude in the form of refined product. The provision does not, as some have asserted, ban exports of refined petroleum products refined anywhere in the United States. In fact, it would not alter the current export sales of any refinery currently operating anywhere in the United States. Only the proposed export refinery in Alaska would be affected since it plans to export well over one-half of its output to the Far East. Simply stated, my amendment requires any refinery exporting more than a third of its output—on an annual basis—to meet the same national interest and consumer benefit tests that apply to ANS crude oil. Thus, even the proposed Alaska refinery would be permitted to export all of its output if the President made the requisite findings under section 7(d) and the Congress concurred.

Every barrel of oil produced in Alaska is currently being consumed in the United States. That has been the case since Congress first placed restrictions on the export of Alaskan oil in 1973, and it will remain the case in the years ahead. The export restrictions of section 7(d) are part of a longstanding national policy that has promoted national security, energy conservation, and consumer benefits. Because they are in place today, militarily useful tankers that would otherwise have been scrapped or laid up are carrying Alaska oil to west and gulf coast ports. Much-needed pipelines are being built to carry oil from California to the Midwest. Under section 7(d), the production of Alaskan North Slope crude has increased because oil companies have discovered they have a profitable market for it in the United States. Furthermore, consumers on the west coast have benefited from access to lower priced domestic petroleum products.

Section 331 is not a radical departure from existing law, but rather a reaffirmation of the type of sound energy policy that our country needs.

THE BAHAI'S IN IRAN

HON. SIDNEY R. YATES

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, December 14, 1987

Mr. YATES. Mr. Speaker, nothing in my experience is more tragic than the complacency of the world community in the 1930's when it turned its head and failed to tell Nazi Germany that its policies and actions were anathema to civilized people everywhere and would not be tolerated.

I think of that time when I consider the human rights environment in the Soviet Union and the violations of individual rights in other parts of the world. We have a responsibility to the oppressed and that is why I want to again call to the attention of the House the very precarious position of the Bahai's in Iran.

As you may know, the Bahai' faith began in Iran in the early 1800's and over the decades it has spread around the world. Bahai's are known everywhere as tolerant, gentle, and very peaceful people. World peace and the unity of the human race are basic tenets of their religion. In short, there is nothing about the Bahai's or their religion that makes them a threat to the Khomeini government. But they are suffering in Iran because of their beliefs. It is my understanding that some 200 Bahai's are now in Iranian prisons and there are reports that at least 12 of these prisoners are scheduled to be executed by the Iranian Government. The general pattern of repression for the 300,000 Iranian Bahai's has increased in recent months and I can only say to the rulers of Iran that they are very wrong if they think no one is watching and listening. There is nothing to be gained by the severe mistreatment and repression of these people. The Bahai's are not a danger to Iran or its government and many people in all parts of the world care very much about what happens to them.

PLIGHT OF SOUTH AFRICAN SUGAR INDUSTRY SHOWS SANCTIONS FALL HEAVILY ON BLACKS

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, December 14, 1987

Mr. CRANE. Mr. Speaker, last year, the Congress overrode the President's veto, and placed economic sanctions on the Republic of South Africa. The rationale behind the imposition of sanctions was the false belief that sanctions would necessitate change in the system of apartheid. Several of my colleagues and I warned that the sanctions would only serve to harm the very people that the Congress intended to help. As a case in point, I submit the following article by Mr. Roger Thurow, which confirms our fears by proving that the burden of sanctions has indeed fallen upon the blacks of South Africa.

Rex Hudson, the general manager of the South African Cane Growers' Association, avers that sanctions are never healthy. It is like a slow bleeding to death. With regard to the South African sugarcane industry and the black farmers in particular, Mr. Hudson's statement is quite accurate. While sanctions have severely affected those at the bottom of the economic scale, the blacks, sanctions have had little effect on the white government. In fact, the economy, fueled by the high price of gold, continues to grow.

I commend the following article regarding the negative impact of sanctions for the careful consideration of my colleagues. I would further recommend that now is the time for the Congress to make a prudent decision to lift sanctions and to encourage United States reinvestment in South Africa. By setting a positive example, we can help bring an end to apartheid without hurting the blacks in South Africa.

The article follows:

[From the Wall Street Journal, Oct. 2, 1987]

PLIGHT OF SOUTH AFRICAN SUGAR INDUSTRY SHOWS SANCTIONS FALL HEAVILY ON BLACKS

(By Roger Thurow)

ENTUMENI, SOUTH AFRICA.—Sitting in a country courthouse that is surrounded by sugar-cane fields and wrapped in fog, the 18 black sugar-cane farmers seem sealed off from the events of the outside world.

Yet it is the international pressures on South Africa that have brought the group together. Economic sanctions have soured the country's sugar industry, and these farmers have come here to wrestle with the consequences. "Without sugar cane, we have no jobs, no money," says Olly Sibiya, one of the growers, "Without sugar-cane, we are starving."

On the surface, the international sanctions drive, which picked up steam a year ago today when the U.S. Congress passed an array of penalties, seems to have landed at most a glancing blow. The white government, which was supposed to be prodded into reform, remains unbowed. The economy, fueled by the lofty price of gold—the country's most valuable export, which is barely touched by the sanctions—is still growing.

In Washington, meantime, the Reagan administration expressed its opposition to sanctions and said it is seeking "other ways" to prod Pretoria toward dismantling apartheid. "[Sanctions] haven't resulted in significant progress in ending the outrage of apartheid," White House spokesman Marlin Fitzwater said yesterday. The administration is required under the sanctions law to submit a report to Congress this week on conditions in South Africa. If progress hasn't been made toward ending apartheid, Mr. Reagan is supposed to recommend additional sanctions. But the administration is expected, instead, to restate its opposition to sanction.

But here in remote Entumeni, on the vulnerable underside of the economy, there is no mistaking the hardship the sanctions have inflicted. And to some, the farmers' plight serves as a warning of the fate that lies ahead for the entire nation if shrinking foreign markets choke off economic growth and throw masses of people out of work.

"Sanctions are never healthy," says Rex Hudson, the general manager of the South African Cane Growers' Association. "It is like a slow bleeding to death."

Each of 18 men and women gathered in the courthouse has about 2½ acres of cane, and each is desperate to expand. But sanctions, particularly moves by the U.S. and Canada to block imports of South African sugar, have stunted the sugar industry's growth. The South African Sugar Association, which regulates cane production along with the government, has stopped handing out new quotas to farmers. So 2½ acres apiece will have to do.

Lacking a sophisticated understanding of the political pros and cons of the sanctions, the farmers talk instead about the uncertainty that the measures have brought to their lives. "We're the ones who feel the sanctions," says Mr. Sibiya. "What kind of future do we have if we can't expand? There is a lot of worry and confusion in this room."

Adds Geoffery Bhengu, a farmer up the road in the town of Eshowe: "We are like people who know they are moving toward a precipice but can't stop because they have no choice. It is a prolonged tension."

In South Africa, the first to feel the effects are those on the bottom of the economic scale—the blacks. Industries hardest hit by sanctions—coal mining, textiles, agriculture—have already begun retrenchment programs, and most of those turned out of jobs are black.

Yet the nation as a whole still sells more to the world than it buys. The trade surplus has led some businessmen and government officials to adopt an air of invincibility. But others fear it won't be long before the effects of the sanctions creep higher—to the whites.

"Most of us know it can't go on like this," says the manager of an export-import company, bemoaning the restricted access to the markets of North America, Western Europe and Japan. "It hurts to see your goods go to the East bloc or the Third World. We need the exposure to the latest technology. We can't pretend not to feel the effect of sanctions."

There is no pretending in Entumeni. The sugar sanctions have touched off a chain reaction—first hitting the industry as a whole, then rocking the small growers of KwaZulu, which is the government's designated homeland for members of the Zulu tribe, and finally jeopardizing the smallest mill in the country.

When the U.S. sanctions came into effect, one of the first casualties was South Africa's U.S. sugar quota of about 40,000 tons a year. Canada followed by eliminating its allotment of 120,000 tons. Suddenly, the South African industry, already reeling from the depressed world price, had lost about 20% of its export market.

Although industry officials say they have found other buyers to take up the slack—they won't say which ones—any hopes for expansion were dashed. The U.S. cutoff hurt more because prices there are set artificially high to protect American farmers—a policy that gave South Africa a $7 million-a-year premium.

Before sanctions hit, the sugar association was making plans to divert this money to aiding the black growers. "Of course, that fell through when we lost the market," says Peter Sale, general manager of the sugar association.

This loss is being felt most acutely in KwaZulu, where sugar cane is the largest source of income. Since 1973, when the association began a financial-assistance program for them, the number of black cane growers has more than quadrupled to about 21,000. And they all had big plans. "When we got into cane growing, we came to stay," says Mr. Sibiya. "We don't have an option of getting out now like the white farmers."

The 2,000 white growers, who raise most of the country's cane, are better able to adjust to market fluctuations, either by planting other crops or by selling their land. The black farmers don't have this option, because they don't own the land; it is held by the local chief in trust from the central government.

But they may be forced out if the Entumeni sugar mill, the smallest in the country and the only one in the immediate area, shuts down. Already foundering before sanctions came along, the mill was counting on the expansion by the black growers to restore it to health. Now, it is fighting to stay open.

"I wouldn't put it out of the question that if the economics of the industry continue as they are, this mill won't be viable anymore," says Rob Pole, the manager. "Being the smallest, we're certainly feeling the threat from sanctions. The small guys are always the ones who feel it most."

Mr. Bhengu, who is also the deputy minister of education in the KwaZulu government, says 1,300 growers, including himself, would go under along with the mill. The precipice, he fears, is getting nearer. "If the mill goes, we have no future as growers," he says. "Then, I fear for the stability of an area that has had peace for the past 100 years."

A TRIBUTE TO JOHN WRIGHT

HON. RONNIE G. FLIPPO

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 14, 1987

Mr. FLIPPO. Mr. Speaker, after a decade of professional excellence and outstanding service as the president of the University of Alabama in Huntsville, John Wright has decided to resign.

Many of us who have watched the progress of the university under Dr. Wright's guidance were sorry to hear his decision to "pass the mantle of leadership," but we are also very grateful to him for the years he wore that mantle.

He said the change comes after much thought and careful consideration. "I have filled the role (of president) for half of the University's lifetime as an independent campus," he said. "That has been an adequate period to make my mark."

He has, in fact made an indelible mark. His success as president of UAH can easily be measured in objective terms:

Enrollment increased from 4,000 to 6,000 and State appropriations rose from $8.7 million to $21 million, and because of the high quality science and research programs, funds from grants and contracts grew from $2.5 million to $14 million.

The university developed the College of Engineering and the College of Administrative Science.

The optics, robotics and space plasma research centers were founded.

Campus student housing, the university center, the engineering building and the Bevill Center were added.

UAH campus was computerized and the Huntsville supercomputer was installed.

The list of Dr. Wright's achievements goes on and on, but even more demonstrative of his merit as an administrator is his success in more subjective realms.

During his years as president he won the respect of colleagues, the community, and has maintained rapport with the faculty at a time when many university administrations seem unable to achieve a collaborative relationship with the faculty. Dr. Wright will become part of the faculty at UAH after his successor to the presidency is named.

Martha Simms, a member of the university system board of trustees, said of Dr. Wright's administration, "during the 10 years that Dr. Wright has been president he has moved the institution in quantum leaps * * * from a small regional school to one that has achieved national recognition."

Dr. Thomas Bartlett, chancellor of the University of Alabama system agrees that Dr. Wright presided during a time of historic change at UAH. "He has provided the vigorous imaginative leadership * * * required to move to another level," Dr. Bartlett said. "All of us who have worked with John * * * can only admire his achievements and be grateful for his service."

RECOGNIZING THE CRIMINAL VIOLATIONS OF HUMAN RIGHTS IN NICARAGUA

HON. DUNCAN HUNTER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 14, 1987

Mr. HUNTER. Mr. Speaker, on Friday, December 11, an article appeared in the Wall Street Journal that portrayed the obscene treatment of innocent people caught in the middle of a war. The plight of families struggling to survive in Nicaragua under the oppression of the Sandinista regime is a sight we seldom read about. It is the scene of bombing and the tragic loss of life. The rural residents of Nicaragua have endured years of human rights violations as they watch their homeland being destroyed by a Communist dictatorship. I continue to support the Contras in their efforts to establish a nation where human rights reign in a democracy that speaks in the loud voice of its people.

The article follows:

[From the Wall Street Journal, Dec. 11, 1987]

THE AGONY OF SOUTHEAST NICARAGUA TOO LONG OVERLOOKED

(By Gary Moore)

NUEVA GUINEA, NICARAGUA.—Fierce fighting in southeastern Nicaragua has been largely ignored by the press, as the Sandinista government battles the U.S.-supported Contra guerrilla force. With the continuing flurry of peace negotiations—which forces attention on Managua and areas outside the country—the press oversights are understandable. It is difficult, however, to understand how human-rights activists, many of whom claim to have access to all areas of the country, could allow a broad pattern of Sandinista abuses against civilians here to remain largely concealed.

One example—out of many—is the issue of bombarding civilians with artillery. Human-rights reports and hearings have repeatedly anathematized the Contras for using portable mortars and grenade launchers that have sometimes wreaked havoc on civilian dwellings during combat. Meanwhile the same sources have said that, as a rule, the Sandinista government just doesn't seem to bomb civilians. Only after becoming familiar with the areas in question does one realize that this is a breathtakingly partisan falsehood.

On Nov. 17, this report was on mule-back in the Nicaraguan southeast as a 13.02 mile range "Stalin's Organ" multiple rocket launcher was deployed by the Sandinista army to send large projectiles screaming overhead, carving 15-foot craters among civilian houses in the country-side. The shells fell well away from any Contra concentrations, but were quite effective at sowing terror among civilians. I video-taped Eulalio Castellon Mejia, 38, as he broke down in tears beside a shell hole near his home. Where were the human-rights groups?

In a Nov. 28, conversation in Managua, representatives of the prestigious Americas Watch group indicated that the organization's only real effort to look into the countryside of southeastern Nicaragua has been to stop briefly—one time—at a government-guarded internment camp beside a main road and ask the poor souls there if they felt abused. When asked why Americas Watch did not go into the countryside itself to seek the facts, the astonishing reply came back: "That's a restricted area."

The excuse is false. The area is not restricted. Besides, readers of the Nov. 5 Americas Watch report on Nicaragua were given the impression that Americas Watch had looked into every nook and cranny of Nicaragua. The report claimed, "Our representative obtained cooperation from Nicaraguan authorities and had access to conflictive areas."

The same 58-page report devotes 11 pages to "Indiscriminate Attacks" against civilians by Contras. But it says the following about indiscriminate attacks by the Sandinistas: "In the course of our investigation, we did not learn of any such incidents in 1987." In fact, there are indications that Sandinista troops in southeastern Nicaragua may have punished repeatedly the nearest civilians when battle losses were suffered to the Contras.

On Sept. 14, the Sandinista air force, in combat with Contras at Cerro de las Torres, lost a Soviet-supplied Hind helicopter, one of the dreaded "flying tanks," to a shoulder-fired Redeye missile supplied by the U.S. Two more Sandinista Helicopters returned to the same area a few hours later—not to bomb the Contras, who had disappeared but instead to bomb the nearest civilian hamlet, Casa de Tablas, where no Contras had taken refuge and no combat had occurred. A direct hit was scored on the wood-shingled residence of Andrea Rayos. Her 15-year-old nephew, Miguel Angel Zeledon, was killed. Clementina Pau Rayos, 19, who was pregnant, suffered massive shrapnel wounds and lost her baby.

The same rural residents say they have few fears of the Contras. Many of these people romanticize the Contras to the point of being blind to the Contras' own abuses, because the Contras are considered the only salvation from the Sandinistas. In fact, the Contras in southeastern Nicaragua seem to have committed fewer human-rights abuses than their fellow guerrillas in northern Nicaragua, where the bulk of U.S. efforts to field an anti-communist resistance have been focused, sometimes disastrously. But precisely because southern Nicaragua has been a less dramatic hotbed of embarrassing U.S. involvement, news attention has been scant.

On a recent five-day muleback trip through the southeast—apparently too great an effort for most human-rights investigators—I was swamped by farmers who, outside the informer networks of larger towns, told striking tales of suffering. "They [Sandinista troops] are like wild beasts when they go through this wilderness," said Cesar Perez, 36. "They don't come into the bush just to look for the enemy—for the people who are armed—but to hunt down civilians who don't have any way to defend themselves."

On the muddy mule trails here, most campesinos share this conviction. Many have actually been Contras at one time or another; for the Sandinistas, it has become a war against a largely civilian enemy. A 48-year-old southeastern Nicaraguan woman, whom I video-taped standing beside a clay oven on a dirt floor, was asked to respond to a claim sometimes strongly suggested by human-rights reports that the Sandinista government is protecting the peasantry from the ravages of the Contras. "Protecting!" she exploded. "This isn't protecting. This is beating up, This is destroying." She says that she and her daughter were seized by the people's army, stripped naked, abused sexually and badly beaten.

Perhaps most chilling, however, is the lack of international attention given to the reports of repeated massacres by Sandinista soldiers of large groups of refugees trying to flee to Costa Rica. These stories have been common knowledge in southeastern Nicaragua for more than two years now, but any evidence that the allegations have been investigated has yet to find its way into human-rights reports.

This decade's flood of more than 200,000 Nicaraguan refugees has been a major embarrassment to the Sandinistas. The southeastern jungles apparently have concealed a grisly method of stanching the flow. Have the human-rights groups thoroughly investigated these charges? Are the jungle trails too muddy for access? Or is the truth too cruel?

THE CRIME OF SPREADING AIDS

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, December 14, 1987

Mr. CRANE. Mr. Speaker, the subject of AIDS continues to grow as a national topic. The AIDS virus has become more than just a health issue: it is a moral and legal issue as well. When an infected person continues to have sexual relations while knowingly carrying the virus it becomes a question of criminal and civil liability. Here then is a subject of no small explosive content and inference. Even with the flood of current articles on the AIDS virus, I encourage my colleagues to read this outstanding article entitled, "The Crime of Spreading AIDS" which appeared in the Washington Post on August 31, 1987.

[From the Washington Post, Aug. 31, 1987]

THE CRIME OF SPREADING AIDS

Suppose a person who knows that he has the AIDS virus persists in having sexual contact with others, thereby threatening their lives. Should that be a crime? If so, is it enough that the second person has been put at risk, or must there be actual transmission of the virus for the crime to occur? If risk is the triggering element, and to some extent lack of warning, should the law distinguish between homosexual contacts, where the risk is known to be great, and heterosexual, where it is not? And if AIDS is transmitted, what of civil liability?

These complex issues are beginning to arise in courts and legislatures, and not just here. The Soviet Union has announced that a person with the virus who continues to have sexual contact with others faces up to five years in jail. The price rises to eight years if the virus is transmitted. Your first reaction might be that this is boot-heel law that could never happen here; we care too much for civil liberties. There's the further tempting thought that some of the people who would surely favor such a law here are among the Soviet system's most vociferous critics.

But at least the first part of this is wrong. It turns out that several states, including Florida and Idaho, have already made it a crime for a person with the AIDS virus knowingly to expose another to it. Nevada has a law requiring persons arrested for prostitution—normally a misdemeanor—to be tested for AIDS. If those who test positive are ever arrested for prostitution again, they can be charged with a felony. The Army is court-martialing a soldier who knew he had the virus and still had sexual relations with two other persons, one a woman and one a man.

AIDS is a terrible disease. Because it invariably kills and because it is mostly spread through homosexual activity, there has been a nasty mix of hysteria and vengefulness in some of the national reaction to what must still be treated as a public health problem. But it is not hysterical to penalize as a crime the willful exposure of unknowing people to this virus. It is likely to be no more of a deterrent than any other criminal penalty, but it is basic, ordinary justice.

INDEPENDENCE FOR NAMIBIA

HON. DONALD E. "BUZ" LUKENS

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, December 14, 1987

Mr. DONALD E. LUKENS. Mr. Speaker, since the creation of the United Nations in 1946, few items have occupied more time on its agenda than the question of independence for Namibia. Yet, 41 years and millions of dollars later, the U.N. has yet to render one decision that has benefited the population of Namibia. In fact, any progress that has been made toward independence in Namibia is made in spite of the U.N., not because of it.

One would think that the U.N. would have learned over the past few decades that it is the Namibians, not the outside powers, who have the right to self-determination and independence in Namibia. And, therefore, it is the Namibians themselves who have the right to determine how that independence should be achieved. This has not been the case.

In 1976, the U.N. General Assembly passed a resolution designating SWAPO as the sole and authentic representative of the Namibian people, ignoring the fact that SWAPO is only one of many political parties in Namibia. This decision to represent only SWAPO's interests while ignoring all other political parties in Namibia makes a mockery of the necessary concept of impartiality, and should effectively disqualify the U.N. from supervising an election in Namibia under Securtiy Council Resolution 435.

In Namibia—although the U.N. seems to be paying little attention—Namibians have been making the best of a difficult situation. In June 1985 six Namibian political parties formed the Multi-Party Conference. These were: the Democratic Turnhalle Alliance, the South West Africa National Union, the National Party, the Rehoboth Liberated Democratic Party, the Labour Party, and the SWAPO-Democrats. These parties successfully negotiated a transfer of power from the South African Administrator General to the Multi-Party Conference. The Multi-Party Conference then formed the Transitional Government of National Unity [TGNU], which has governed Namibia since that time, pending internationally acceptable elections.

At the time of its creation, leaders of the Multi-Party Conference stated: "The Multi-Party Conference was born out of the frustration of the people. It came about because we realized that unless we took matters into our own hands we would remain powerless; unless we asserted our right to speak for ourselves, others would continue to make decisions about us."

Despite this obvious progress toward independence inside Namibia, or perhaps because of it, the U.N. constantly reaffirms its narrow approach to the Namibian situation. Just last month, the U.N. Security Council again denied a request made by representatives of these six political parties to present their views before the council.

When the United Nations denied a similar request by these Namibian political parties in 1981, former U.S. Ambassador Jeane Kirkpatrick protested, pointing out the dangers of this position. "The Security Council damages its capacity to act as a forum, as a peacemaker, as an impartial mediator who can be trusted to treat all parties fairly. If the Security Council were to deny the right even to be heard, then the Security Council damages precisely those principles on which the United Nations itself is based—the principles of reason, discussion, representation. It is as easy to damage these principles as it is easy to silence dissent."

Mr. Speaker, the United Nations must recognize the progress made by Namibians themselves toward Namibian independence. That progress should be built upon, not thrust aside and ignored. The U.N. must take into account the voices and actions of those in who's name they profess to act.

THE 60TH WEDDING ANNIVERSARY OF BILL AND LUCY LARSON

HON. WAYNE OWENS

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Monday, December 14, 1987

Mr. OWENS of Utah. Mr. Speaker, today is the 60th wedding anniversary of W.G. "Bill" and Lucy Larson, close friends and leading citizens of Salt Lake County. I have known the Larsons for 25 years and am grateful for the help they gave me as a young man just beginning to get involved in politics. Bill Larson, as chairman of the Salt Lake County Commission, helped me get various public works jobs so that I could work at night for Cal Rampton, then an unknown Salt Lake attorney running for the Senate. Although we were just about the only Rampton supporters that year, Cal went on to serve with distinction for three terms as Governor of Utah. This association with the Larsons was my first active involvement in politics.

Bill and Lucy have been active supporters of the Democratic Party in Salt Lake City and in Utah. At an open house held in their honor yesterday, they were honored by hundreds of friends that they have met through their service to the community and their active role in local politics. I am proud to submit for the RECORD this article, By LaRae Pehrson which appeared in the Murray Green Sheet on December 10, to honor my friends, Bill and Lucy.

"BILL" AND LUCY LARSON REACH 60TH ANNIVERSARY

An open house, hosted by their daughters, will honor W.G. (Bill) and Lucy Sorenson Larson on the occasion of their 60th wedding anniversary.

The event will be held Sunday, December 13th from 2 to 5 p.m. in the Magna Senior Citizen Center, 8952 West 2700 South.

A native of Oakley, Idaho, Bill came to Bingham Canyon in 1923 where he started work at the Highland Boy Mine. In early 1924 he was employed by the Utah Copper Company to play basketball and baseball in the old "Copper League", which was considered the strongest in the state.

In 1925, the Utah Apex Mine started their athletic program, joined the "Copper League", and Bill was the first athlete hired.

The basketball team won the League championship in 1926, defeating the best team in Colorado, and went on to participate in the National Championship Tournament in Kansas City.

He married Lucy Grace Sorenson on December 14, 1927, in Bingham Canyon and they moved to Magna the following year where Bill worked for Utah Copper at the Arthur Mill. He remained active in athletics and established a record in bowling that is unbeaten.

In 1932, he began working in the laboratory department, of the Utah State Road Commission, then became a road inspector, and had been promoted to Chief Inspector over all new road construction before leaving in 1936 to work for Kennecott.

He remained at KCC in the railroad department until his retirement in September 1971.

In the early 1930's, Bill became active in politics of the Democratic party, serving in offices at local, county, and state levels, and as a member of the first Joint Labor-Management committee to mediate legislative matters.

He was elected to the Utah House of Representatives in 1946 and served five consecutive terms as co-speaker; Democratic floor leader, chairman of appropriations and other major committees, he was also a member of the State Legislative Council. In addition, he served one term in the Utah State Senate.

He was elected to the Salt Lake County Commission for a four year term in 1959, serving as commission chairman in 1961-62. He was instrumental in the first organization of the Metro Salt Lake Committee on Aging in 1962, and served as chairman.

He helped to implement the Meals-On-Wheels program to supply hot meals to the needy and elderly in Salt Lake County.

Bill also headed the drive for the senior citizens center on 10th East, which was the first such center in Salt Lake County.

In 1965-66 he served a two-year term on the S. L. County Commission. In 1966, he saved the taxpayers one-and-a-half million dollars by diverting building funds set aside for a new building to the remodeling of the old Salt Lake County Hospital Complex at 2100 So. and State Street.

Other organizations with which Bill has held positions include being past president of the Magna Lions Club; past president of the Magna Community Council; a member of the Order of Eagles, Lodge No. 1760; Order of Elks, Lodge No. 85; Order of Moose, Lodge No. 269; International Footprinters; past chairman of Utah's first Labor Management committee; and past chairman of Utah citizen's legislative council.

Bill was appointed by the S. L. County commission to the Council on Aging in 1973 where he served as chairman until 1977. He was a member of the Utah Joint State legislative committee from 1976 to 1980; and the Outstanding Senior Citizen in S. L. County award was presented to him by the Utah social services department in 1976.

In 1977 he was appointed to the State Advisory Council on Aging, and served as chairman of the Governor's Conference on Aging in 1978, 1985, and 1986. The Utah State Human Services conference presented him with an Honorary Life Membership in 1984.

Bill was appointed by the Governor of the Utah State Board on Aging and Adult Services in 1978, and he has served as chairman of the board since 1985.

Lucy Grace Sorenson Larson was born in Pleasant Grove, Utah, and moved to Bingham Canyon in 1919. She has been politically active since she was able to vote . . . beginning with the Mayor's race in Bingham Canyon when she was 21.

Prior to her marriage she worked at the Bingham grocery and Sargis photo shop, and up until that time she was registered as a Republican. But after casting her first vote for Reed Smoot, and voting for Herbert Hoover over Al Smith, she became a dyed-in-the-wool-Democrat.

Not only has she supported her husband in his political endeavors, she has had a political life of her own, serving as a delegate to state and county conventions, and in 1932, was chairwoman of the Legislative District and Senatorial Chairman.

In addition Lucy has been active in the American Legion, serving as secretary-treasurer in 1953-54; president in 1955-56; and National Committee Woman in 1957-58.

She has been president of the Magna Lady Lions; president of the S. L. County Democratic Women's Club; acting postmaster for the Magna Post Office from 1948 through 50; manager of Larson Drug; mail clerk at Hotel Utah; and a PBX switchboard operator at KSL.

Both of their children, Nancy and Billie Gay Larson, have followed in their parent's footsteps, pursuing political careers.

Nancy served on the White House staff during the administrations of presidents Kennedy and Johnson, and then became a Foreign Service Staff Officer with the State Department. She spent three years at our embassy in Rome, Italy, as assistant press attaché; served as staff assistant on the House of Representatives Committee on Interior and Insular Affairs in Washington D.C. and recently retired from federal government service. She lives in San Francisco, California.

Billie Gay worked in Washington, D.C. on the "Humphrey for Vice President" staff in 1964, and for ten years worked for Thomas P. (Tip) O'Neill as senior legislative side. Currently she is special assistant to Robert A. Roe, chairman of the Committee on Science, Space and Technology for the U.S. House of Representatives.

THE POST OFFICE: A MONOLITHIC DINOSAUR

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, December 14, 1987

Mr. CRANE. Mr. Speaker, during the last few years, the Post Office has endured criticism from many quarters including the Grace Commission, Members of Congress and more importantly, the general public. Earlier this year, the New York magazine conducted a test of the postal system and found the system to be a monolithic dinosaur. A Wall Street Journal editorial once again cries out for the privatization of the Post Office.

H.R. 2233: Privatization of U.S. Postal Service, was introduced to accommodate this much needed transition. This bill will give all the assets of the Post Office to its employees and allow them to run it as a regulated monopoly for a 5-year period. Thereafter, the monopoly would be abolished and free competition in all classes of mail would be allowed. Regulations would guarantee rural service and the retirement benefits of all employees' current levels.

In this day and age of the successful and profitable overnight delivery service, it is only fitting that the postal system enter the 20th century. I ask my fellow colleagues to read the editorial and consider H.R. 2223, which would bring efficient mail service to our voting constituents.

The text of the editorial follows:

LETTER IMPERFECT

This summer, New York magazine decided to test the U.S. Postal Service's claim that it delivers 90% of the mail on time in Manhattan. It arranged for 144 letters to be mailed from all over the country to Manhatten zip codes that postal officials claimed were generally free of delivery trouble. The results show that the Postal Service's claims belong to the dead-letter office, and may also explain why it has been so much on the defensive of late. Only 50% of the letters mailed from within New York City or from Los Angeles arrived on time, and just 33% of letters from the Washington, D.C., area arrived within two days.

More and more Americans are frustrated by a Postal Service that according to Federal Trade Commission Chairman Dan Oliver is a classic monopoly dinosaur. "The nature of a monopoly is to charge higher prices while restricting consumer choices," he wrote in a May letter to Postmaster General Preston Tisch. Mr. Oliver called for repeal of the 1872 Private Express Statutes, which forbid first-class delivery service from competing with the Postal Service.

In a hand-delivered reply the post-master general strongly disagreed and wrote that the public was "receiving better mail service across the board than ever before," a contention belied by the growing number of businesses and individuals who now send even routine documents via private overnight-delivery services.

At an October speech by Mr. Tisch, an FTC staffer handed out copies of Mr. Oliver's statement along with a set of possible questions for Mr. Tisch. None were asked, but complaints were made to Senator David Pryor, who chairs the subcommittee handling postal matters. Senator Pryor in turn asked the General Accounting Office to investigate Mr. Oliver and see if the small sums his office had spent on materials discussing the postal monopoly "were necessary, appropriate, consistent with the Commission's mission and in accord with [the] laws."

The GAO howitzer employed on Mr. Oliver is another sign that Postal Service supporters feel increasingly challenged by supporters of postal competition. When President Reagan's new Commission on Privatization discussed recently what government assets could be sold, former Secretary of Defense Melvin Laird, now a counselor for Reader's Digest, called for exempting the Postal Service from such an examination. Mr. Laird, who admitted he had a conflict of interest because the Digest is the service's largest private postal customer, said that rural areas would not be served if "the cream of the crop [were] skimmed off."

With several members absent, Mr. Laird's suggestion was adopted by the commission. It has since been partially rescinded, and it would be useful to have the commission study the sale of part of the Postal Service through stock offerings to businesses, postal employees and the general public. Federal subsidies for rural service could remain during any transition; moreover, both United Parcel Service and Federal Express already deliver the smallest packages to the smallest towns for one uniform national or regional rate.

The Postal Service won't be able to deflect criticism of its monopoly indefinitely. If mail service fails to improve significantly, some experts estimate that 60 percent of business mail will be delivered electronically by the year 2000. That would remove most of the Postal Service's most lucrative business, and force either price hikes or huge taxpayer subsidies.

Britain's vigorous prime minister, Margaret Thatcher, may yet show the U.S. how to introduce competition. When 1,300 British postal workers left their jobs last week and threatened a nationwide strike, she warned them that she would suspend the government's monopoly overnight and allow private mail delivery. The workers called off the strike, apparently somewhat to her disappointment.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Tuesday, December 15, 1987, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

DECEMBER 16

9:30 a.m.
Select on Intelligence
To hold hearings on intelligence matters.
SD-562

10:00 a.m.
Environment and Public Works
Business meeting, to consider the nominations of Marvin T. Runyon, of Tennessee, to be a Member of the Board of Directors of the Tennessee Valley Authority, Linda J. Fisher, of Ohio, to be an Assistant Administrator of the Environmental Protection Agency, Grant C. Petersen, of Washington, to be an Associate Director of the Federal Emergency Management Agency, and Rear Admiral Wesley V. Hull, National Oceanic and Atmospheric Administration, to be a Member of the Mississippi River Commission, Water Resources Study proposals, and other pending calendar business.
SD-406

Foreign Relations
Western Hemisphere and Peace Corps Affairs Subcommittee
To hold hearings on the situation in Haiti.
SD-419

Judiciary
To continue hearings on the nomination of Anthony M. Kennedy, of California, to be an Associate Justice of the Supreme Court of the United States.
SR-325

DECEMBER 17

9:30 a.m.
Commerce, Science, and Transportation
Aviation Subcommittee
To resume hearings on S. 1600, to create an independent Federal Aviation Administration.
SR-253

10:00 a.m.
Foreign Relations
Terrorism, Narcotics and International Operations Subcommittee
To hold hearings on the Voice of America transmitter in Northern Costa Rica.
SD-419

Governmental Affairs
Federal Services, Post Office, and Civil Service Subcommittee
To hold hearings on S. 909, Commercial Activities Contracting Act of 1987.
SD-342

Judiciary
To continue hearings on the nomination of Anthony M. Kennedy, of California, to be an Associate Justice of the Supreme Court of the United States.
SR-325

Labor and Human Resources
Education, Arts, and Humanities Subcommittee
To resume oversight hearings on the problem of default in the guaranteed student loan program.
SD-430

2:00 p.m.
Energy and Natural Resources
Public Lands, National Parks and Forests Subcommittee
To hold hearings on S. 850, to designate a segment of the Rio Chama River in New Mexico as a component of the National Wild and Scenic Rivers System.
SD-366

CANCELLATIONS

DECEMBER 16

9:30 a.m.
Select on Indian Affairs
To hold oversight hearings on activities of the Bureau of Indian Affairs, focusing on the seizure of Crow Indian Tribal records.
SR-485

SENATE—*Tuesday, December 15, 1987*

The Senate met at 11 a.m., and was called to order by the Honorable Bob Graham, a Senator from the State of Florida.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

O Lord, thou hast searched me, and known me. Thou knowest my downsitting and mine uprising, thou understandest my thought afar off. Thou compassest my path and my lying down, and art acquainted with all my ways.—Psalm 139:1-3.

Omniscient God, the psalmist reminds us that You know the hearts of all of us. From You we have no secrets. To You our motives are clearly understood. As this final week of work begins, cleanse us, and renew a right spirit within us. This past week was exhausting physically, mentally, emotionally. Despite very hard work, there seemed to be little satisfaction with the legislation. There has been much second guessing over the weekend. Some have regretted the position they took—some whose action on the floor was different from brave words in the Cloakroom—some who were intimidated and lacked courage to obey their conscience. Father, relieve the weariness—the discouragement—the frustration—the feeling of disintegration and impotence. As the 1st session of the 100th Congress comes to a close, infuse the Senate with fresh, invigorating optimism and hope. We pray in the name of Jesus whose birthday the world celebrates. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. Stennis].

The legislative clerk read the following letter:

U.S. Senate,
President pro tempore,
Washington, DC, December 15, 1987.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable Bob Graham, a Senator from the State of Florida, to perform the duties of the Chair.

John C. Stennis,
President pro tempore.

Mr. GRAHAM thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

THE JOURNAL

Mr. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

GOD KNOWS OUR THOUGHTS

Mr. BYRD. Mr. President, I am not sure that my perception of the aftermath of the Senate's work of this past week comports with the perception that the Chaplain apparently had, as reflected in his prayer. But I do believe that he touched upon something important to all of us when he spoke of God's knowing our thoughts. We are told in the Scriptures that as a man thinketh in his heart, so is he.

I do not think that we can escape God's knowing our thoughts. I believe He is omniscient. If He were not, I think I would lose faith in my own little silent prayers.

I once said to President Carter, "Don't ever call on me to deliver a public prayer, because, if I should, I would concentrate on beautiful words of it, how to phrase it, how to make it a beautifully sounding prayer."

Somebody has to pray in public, but not this Senator. I prefer to do my prayers in private, speaking only to God. If anyone were around, they would not hear me. So I have faith in that ability to communicate with Him through silent prayer. If I did not have that faith, I would not proceed as I do in my feeble efforts to communicate with the Almighty. I think He must be very gracious and merciful even to listen to someone like me. But He does, and He knows my thoughts.

I hold that thoughts are things
Endowed with being, breath, and wings;
And that we send them forth to fill
The world with good results or ill.

That which we call our secret thought
Speeds to the earth's remotest spot,
And leaves its blessings or its woes
Like tracks behind it as it goes.

It is God's law. Remember it
In your still chamber as you sit
With thoughts you would not dare have known,
And, yet, make comrades when alone.

These thoughts have wings, and they will fly,
And leave their impress, bye and bye,
Like some marsh breeze whose poisoned breath
Breathes into homes its fevered death.

Then after you have quite forgot,
Or else outgrown some vanished thought,
Back to your mind to make its home,
A dove or raven it will come.

Then let your secret thoughts be fair;
They have a vital part and share
In shaping worlds and molding fate,
God's system is so intricate.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business, not to exceed 30 minutes, with Senators permitted to speak therein for not to exceed 5 minutes each.

The Senator from Wisconsin.

THE SOVIET ECONOMIC POLICY CHANGES—THREAT OR PROMISE?

Mr. PROXMIRE. Mr. President, on December 9, General Secretary Gorbachev's closest economic adviser, Abel Aganbegyan, came to my office. He had accompanied Secretary Gorbachev to Washington in connection with the signing of the INF Treaty. I invited Dr. Aganbagyan to meet with several of the members of the Joint Economic Committee to discuss some of the changes underway in Soviet economic policy. Senator Sarbanes, the chairman of the Joint Economic Committee, Congressman Scheuer, also a member of the Joint Economic Committee, and I questioned Dr. Aganbegyan for 1½ hours. The meeting originated with comments Secretary Gorbachev had made about testimony at hearings conducted in September by a subcommittee of the Joint Economic Committee that I chair. We directed the inquiries we made of Dr. Aganbegyan at the economic policy changes underway in the Soviet Union.

We first questioned Dr. Aganbegyan about Soviet defense spending. He argued that because of incomplete price information, it was difficult to ascertain the level of defense spending in the Soviet Union. He also said that the statistics the Soviet Union publishes on defense spending were not comprehensive. They did not include, for example, procurement costs, or research and development. When asked how Soviet military spending compared with United States military spending, he responded that it was hard to compare the two because the prices are not comparable. He contended that Soviet military personnel

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

is paid a great deal less than American military personnel, but the prices the Soviet troops have to pay are far less than the prices American troops have to pay. He said that the Government would publish complete defense expenditure information when price reform is completed. When asked if Soviet scholars assess the effects of defense spending on the Soviet economy as is done in the United States, he indicated they did not. However, he did say it might be possible for United States and Soviet scholars to take part in discussions on the economic implications of defense spending in both countries. If experts can discuss the number of missiles, tanks, and planes, why not what they cost?

Dr. Aganbegyan described the spectacular slowdown in the economic growth of the Soviet economy over the past 20 years. He said that nominal national income not corrected for inflation in the Soviet Union grew by an annual rate of about 8 percent between 1966 and 1970. In the next 5 years, growth dropped to 5.3 percent. In the following 5 years, in 1976 to 1980, it fell to about 4 percent; and in the period 1981 through 1985, it fell again to about 3.3 percent. Dr. Aganbegyan said the worst period was 1979-82, when inflation ranged between 2 and 4 percent. If the official figures fully recognized inflation, there was virtually no real economic growth in the Soviet Union in the latter period, that is from 1979 through 1982. He said that official statistical reports, in fact, concealed price increases.

I asked Dr. Aganbegyan to suggest how the United States could increase our trade with the Soviet Union without weakening controls designed to prevent the transfer of military technology. He responded that if we did not export advanced technology to the U.S.S.R., they would be forced to produce their own. He said:

> As soon as you imposed your embargo on gas turbines, two plants were set up to produce your turbines and we have no problems. When the United States imposed its ban on large pipes, we started major production with two facilities. If your ban had been kept on for another couple of years, we could have done it. If we can buy something, we will curtail our research and development and we become dependent. The chemical situation is tragic regarding procurement and purchases. Our institutes have gotten into the habit of buying technologies and the need to develop these technologies at home disappears.

Among the other subjects discussed was the opposition to Gorbachev's reforms. Dr. Aganbegyan identified several groups who are opposed to change, including some Government bureaucrats who will lose pay, privilege, and authority, some plant managers who dislike the idea of having to stand for election, and some workers who are unhappy with the new quality and performance standards.

My general impression from this part of the discussion is that it is intended that the economic policy changes will go forward despite the opposition and the knowledge that there will be difficult times ahead for some groups.

At the conclusion of the meeting, I told Dr. Aganbegyan that he had increased our understanding of the Soviet Union, and I hoped that the exchange of views would establish a precedent for the future. Dr. Aganbegyan responded that he would be "very glad if this becomes standard practice."

Dr. Aganbegyan responded to questions in a candid and informative manner. He is articulate and lively and doubtlessly a talented economist. A continuing dialog about the issues we discussed with him and other Soviet experts could be most useful.

Needless to say, this Senator does not buy some of the views expressed by Dr. Aganbegyan. Obviously, the Soviet Union could not only save time and money by securing our military related technology. It could also have more advanced and effective tanks, planes, missiles, command and control systems and cause us to go to great expense in order to maintain our technological lead. There is no way we could justify selling any technology to the Soviet Union that would advance their military strength. On the other hand, there are areas of trade in agriculture and commerce that are clearly nonstrategic. Increased trade in these areas could benefit both countries.

The ACTING PRESIDENT pro tempore. The Senator from Wisconsin has yielded the floor. The majority leader.

SENATOR CONRAD PRESIDES FOR 100 HOURS

Mr. BYRD. Mr. President, at 9:10 a.m., Friday, December 11, the Senator from North Dakota [Mr. CONRAD] achieved the distinction of presiding over the Senate for 100 hours.

This achievement qualifies Senator CONRAD to receive the Golden Gavel Award. Established to commend Senators who preside for 100 hours in a session of Congress, Senator CONRAD is the first Senator from North Dakota to receive this award.

While the Senator from North Dakota [Mr. CONRAD] came to this body with a distinguished career as the elected tax commissioner of the State of North Dakota, he did not have experience as a member of a legislative body. I must observe that he is a fast learner.

From his arrival in this body, Senator CONRAD has shown great enthusiasm and diligence in learning how the Senate operates. It is obvious that Senator CONRAD has utilized his 100 hours as the Presiding Officer as one of the methods by which he has rapidly become an effective legislator.

Now that the Senator has gained valuable experience presiding over the Senate, I hope that he will continue to give us the benefit of his ability and will continue to preside for another 100 hours in the 2d session of the 100th Congress.

I congratulate him and I thank him, on behalf of all my colleagues in the Senate.

PROGRAM

Mr. BYRD. Mr. President, during this day I know of nothing that will require a rollcall vote. As a matter of fact, I would not anticipate being in for a lengthy session today. I hope that Senate-House conferences can go forward and that conferees can give their full and undivided attention to the matters in conference. I have particular reference to the conference on the reconciliation bill and the conference on the continuing resolution. These are two measures that must be finally passed before the Senate adjourns sine die over until next year. So, there will not be any rollcall votes that will interfere with their work today that I know about. And, as I say, I do not anticipate being in very long.

MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that the period for morning business be extended 1 hour and that Senators may speak therein.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

THE UNITED STATES SENATE

THE CONTEMPORY SENATE

Mr. BYRD. Mr. President, for over 7 years, I have delivered a series of addresses in this Chamber on the history of the U.S. Senate. More recently, at the encouragement of my colleagues, I have consented to the collection and publication of these addresses in commemoration of the Senate's 200th anniversary. Under the sponsorship of the Senate Bicentennial Commission, the first volume will contain 38 of the speeches I have given to date.

In these speeches, I have wanted to share with other Senators, and with all those who read the CONGRESSIONAL RECORD, my own awe of this institution, my admiration of the distinguished men and women who have served here, and my enjoyment of the many wonderful stories about Senators and the Senate. I have endeavored to present the Senate's history in

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Footnotes at end of article.

an objective, nonpartisan, lively and meaningful fashion. Now, these were not easy tasks. Objectivity is a goal for which one can aim, but everyone views the past from his own subjective perspective. My heroes might be another person's villains, and the triumphs that I celebrate might be someone else's defeats. As for a nonpartisan account, I have done my best to treat Republicans as fairly as I treated Democrats—and for that matter Federalists, Whigs, Free-Soilers, Know-Nothings, Populists, and Progressives.

To preserve the nonpartisan nature of the series, and to gain some historical perspective, I have emphasized men and events of the distant past rather than the more recent past. Even talking about what took place 10 or 20 years ago, like the Vietnam war or the Watergate scandal, involves issues that still stir political and emotional passions. For those of us who lived through these events, and played some role in them, it is immensely difficult to adopt a dispassionate and objective point of view about them. Still, I hold that it is important for us to try, if we are to learn our lessons from our Nation's past and present, and if we are to apply them to our future.

So now I shall conclude the chronological portion of my history of the U.S. Senate by briefly commenting on the Senate's recent past. I shall make particular reference to relations between the legislative and executive branches under our constitutional system of checks and balances. Earlier, I spoke of the 1974 resignation of President Richard Nixon, in the face of impeachment; now I shall focus on the Senate during the era of Presidents Gerald Ford, Jimmy Carter, and Ronald Reagan. These times and these men are so recent that they belong more to the realms of journalism and political science than to history, but when we contemplate that there are now in the Capitol and Senate Office Buildings marble and bronze busts of Henry Jackson, Hubert Humphrey, and Gerald Ford, then we realize how fine is the line between ourselves and history.

Mr. President, after the dramatic clash between Congress and Richard Nixon over Watergate and other trappings of the "imperial presidency," the United States entered an era in which Congress reasserted its power and authority. With varying degrees of intensity and success this reassertion continued under the next three Presidents, regardless of their party, and was highlighted most recently in the final report of the Senate Select Committee on Secret Military Assistance to Iran and the Nicaraguan Opposition.[1]

The Watergate crisis brought home to Members of Congress the realization of how unbalanced and unchecked Presidential powers had become. For years, Presidential actions had circumvented Congress, kept Congress in the dark about major foreign policy initiatives, and frustrated congressional intentions in a wide range of areas from the use of American troops abroad to the spending of Federal funds at home. As a result, the Presidents who followed immediately after the Watergate crisis faced a Congress determined to exert its influence on policy and unwilling to march unthinkingly in step behind Presidential dictation.

This resistance first confronted a President who had come almost directly out of Congress, Gerald R. Ford. A 25-year-veteran of the House of Representatives, Ford had served for a decade as House Republican leader. He knew the institution very well, and he was well liked and respected by its Members. Nevertheless, he had spent all but two of his years in Congress as a member of the minority, and had routinely led the opposition to majority-sponsored initiatives. He would find it a far different task to win enactment of legislation than to block it.

For his part, Ford did all he could to reestablish good relations between the White House and Capitol Hill. Appearing before a joint session shortly after becoming President, he addressed us as "My former colleagues." And he promised that his motto toward Congress would be "communication, conciliation, compromise and cooperation." President Ford had a realistic view of Congress. He liked to recall the words of his Senate counterpart, Everett Dirksen, that "Congress is like a waterlogged scow. It doesn't go fast, but it doesn't sink."

Gerald Ford soon found that Congress looked different when viewed from the other end of Pennsylvania Avenue. In his autobiography, "A Time to Heal," Ford wrote: "When I was in the Congress myself, I thought it fulfilled its constitutional obligations in a very responsible way, but after I became President, my perspective changed." Now it seemed to him that Congress had disintegrated as an organized legislative body, that it had become excessively fragmented, and that it too often responded to single-issue special interest groups rather than addressing national problems in a coherent way. Was that so? Perhaps the reality was simply that Ford's program did not appeal to the majority in Congress, and that he was unwilling to accept the majority's program.

President Ford admitted that his program, particularly on economic issues, was similar to President Nixon's, but he believed that while Nixon's "relations with Capitol Hill had been terrible, mine were excellent and I hoped this good will might help get those proposals through."[2] In fact, the Ford years saw far more conflict than cooperation between the executive and legislative branches. The Democrats' majorities in both houses of Congress had been strengthened by the post-Watergate elections, and the majority had its own legislative agenda.

Both the Congress and the President were deeply concerned about the sharp recession that the Nation had entered in 1974, but they responded very differently. Congressional Democrats worried about the high levels of unemployment and declining productivity. These problems appeared to trouble President Ford less than did inflation. Thus, when Congress passed social-welfare programs, Ford vetoed them. In his brief 2-year Presidency, Ford vetoed 61 bills. Congress overturned 12 of thoses vetoes, more overrides than for any President since Andrew Johnson. Yet, many important domestic initiatives came to a dead end on the President's desk.

These vetoes hurt President Ford's campaign for election in his own right, for they put him on record in opposition to issues that a large portion of the electorate favored. The efforts of the Democratic majority in Congress, therefore, helped to boost the chances of the Democratic candidate in 1976. But, while a number of prominent Members of Congress had run for the nomination—men like Henry Jackson, Frank Church, Birch Bayh and Morris Udall—the winning candidate was an "outsider" who ran against the Washington "establishment." Jimmy Carter gave little indication that he recognized the assistance that Congress had given his campaign. In his own memoirs, Carter admitted that, when he came to Washington, he "did not know many of the Senators or Representatives on Capitol Hill and had not spent much time studying about them." This quickly became evident to Members of Congress as well.

President Carter noted that "most of the Democratic members had never served with a President of their own party, and their attitude was one of competition rather than cooperation with the White House." He was technically correct, although the statement is somewhat misleading. In fact, about half of the Democratic Senators—27 out of 61—had served during the Johnson administration, including all of the committee chairmen. While these Senators were veterans of the many skirmishes with the Nixon and Ford administrations, they did have clear expectations about dealing with a President of their own party. From the start, the leadership in both the House and Senate tried very hard to steer President Carter in the right direction if he wished to build a harmonious relationship with Congress.

"Jimmy Carter was the smartest public official I've ever known," former Speaker Tip O'Neill has written in his memoirs, "Man of the

House." But, he added: "When it came to the politics of Washington, DC, he never really understood how the system worked." [3] In his own memoirs, "Keeping Faith," President Carter wrote that he "had not been in office a week before the top Democratic leaders in both Houses, Speaker Tip O'Neill and Majority Leader Robert Byrd, were complaining to the press that they were not adequately consulted. It seemed that Congress had an insatiable desire for consultation, which, despite all our efforts, we were never able to meet." Reading on, Carter described the Senate Democratic leader as "strong, able, and proud. . . . Senator Byrd did his homework; he was slow to make a commitment but absolutely trustworthy when he gave his word." And he added: "I paid for my mistake whenever I inadvertently slighted him." [4]

Inadvertent slights were not the problem. The message that the democratic leaders in the Senate and House were trying to get to the Carter White House was about appreciating the institution of Congress and how it works; about working with Congress rather than fighting against it. President Carter came to office with a very ambitious program; he had no patience for delay or deliberation; and he disliked compromising. Instead of focusing his energy and congressional attention on one or two major issues at a time, Carter presented Congress with a host of complex and controversial issues, among them energy, budget, taxes, civil service reform, SALT, and the Panama Canal treaties.

Within a few months after taking office, the President was bristling over congressional amendments to his energy program. At that time I advised Mr. Carter to "cool it just a bit at this stage and let the process work." I considered it unfair for the President to blame committee changes in his bill on industry lobbying, and I pointed out that the most powerful and active lobby with which any committee had to deal was the executive branch. When White House lobbying failed, then Presidents had a habit of making Congress "the butt of unfair criticism." [5]

President Carter relished a good fight and never hesitated to take on powerful chairmen from his own party. High on his agenda was the elimination of many Federal water projects, which he viewed as "pork barrel" wastefulness. "Other recent Presidents, graduates of the congressional system, had looked on the procedure as inviolate," he wrote. "I did not, and dove in head first to reform it." At heart, this was a good cause, for there were, indeed, obsolete and unnecessary projects contained in the bill. But many of these water projects were vitally important to Members' home States and had gained the support of Senators and Representatives from both parties, of all ideological persuasions. Instead of marshaling his forces against the worst excesses of the pork barrel and building support on a case-by-case basis, Carter leveled his fire at the whole package, thereby alienating more Members than he attracted. President Carter has written that "None of the leaders in either House supported me." But, in fact, it was the leadership that worked out the compromise that enabled the President to grasp at least a partial victory out of the jaws of defeat. The following year, the President did veto the public works bill, and in his memoirs he concedes that "the battle left deep scars."

Too many commentators tend to slight the Carter presidency's legislative accomplishments. They remember only that he was unable to win the major tax reforms he sought, or that he failed to achieve national health insurance, or that his energy program was initially resisted. But his program was extensive and ambitious, and he won more often than he lost. In terms of energy issues, the President saw the creation of a Department of Energy and the Synthetic Fuels Corporation, lifted controls on domestic oil production, and won a "windfall profits tax" on oil production. He won major legislative victories on civil service reform, and on airline deregulation. He won passage of the important but emotionally charged Panama Canal treaties. When he left office, he could be justly proud of his legislative accomplishments. History will be more kind to Mr. Carter than were his contemporaries.

With hindsight, Jimmy Carter has agreed that "it would have been advisable to have introduced our legislation in more careful phases—not in such a rush. We would not have accomplished any more, and perhaps less, but my relations with Congress would have been smoother and the image of undue haste and confusion could have been avoided." Carter also now recognizes that he had asked Members of Congress to take courageous stands on controversial issues with "really little in the list to attract constituents, but much to alienate some of the special interest groups." He recalls how Republican leader Howard Baker said to him: "Mr. President, if I vote right many more times I'm going to lose the next election!"

Speaking of Senator Baker, I considered it most fortunate that he assumed the reins of leadership of his party, and that he served as Republican minority leader during the Carter years. Having followed his father, step-mother, and father-in-law in Congress, he had a deep and abiding understanding and respect for the legislative process. His love of the Senate and of his country came before partisan imperatives. He offered a voice of wisdom, moderation, timely compromise, and gentle humor in the cloakrooms and on the floor. Without his support, we could not have won ratification of the Panama Canal treaties, and he contributed to other important parts of the Carter legislative package. In later years, he served well as Senate majority leader, and most recently he sacrificed his own Presidential campaign to become President Reagan's chief of staff, at a time when mature counsel and moderate leadership in the White House were sorely needed.

Mr. President, reading these recent Presidential memoirs, it seems that each chief executive creates his own myth to explain his failings with Congress. President Carter repeats a popular myth that congressional relations are harder now than in the days when a President had merely to meet with a handful of leaders and committee chairmen to work out a deal, before power became so diffuse. This mythical period is often attributed to the era of Lyndon Johnson—because, I suppose, no one would believe it about the era of Truman, Eisenhower, or Kennedy—but it ignores how hard Lyndon Johnson worked to achieve consensus, how he devised his programs to appeal to the broadest spectrum of Members, and how well he knew that every Member's vote counted, from the leadership to the backbenchers. [6]

Gerald Ford was too much a man of Congress to repeat this myth, but he offered his own "why-Presidents-can't-work-with-Congress-anymore" explanation. Ford's villain is the increased congressional staff. When he first came to the House in 1949, he had three staff members, and now a Member might have dozens, not counting all those committee staff people. These staff members, as the story goes, have become minor powers unto themselves, goading their members into making more grandiose demands on an administration, devising new legislation simply to justify their existence on the swollen staff.

Like any myth, there is an element of truth in the charge, but it ignores the far most explosive expansion of staff within the executive branch during the same era. Just 50 years ago, Congress created the Executive Office of the Presidency, permitting President Franklin D. Roosevelt to hire a half dozen special assistants rather than to rely exclusively on his cabinet departments. Now look at the size of the President's staff. They fill the entire Old Executive Office Building, which in FDR's time housed the Departments of State, War, and Navy. The same new demands on the Government, both nationally and internationally, that required an increase in executive staff, have required expansion of the legislative staff. The fact is that we face issues far larger, far more complex, and in far greater number than those the Federal Government grappled with a half century ago. Increased staff is just the symptom, not the cause of modern governmental problems.[7]

Certainly, there have been major structural changes in the Senate in the years since Watergate. We reorganized our committee system. We changed committee rules to permit a majority to call a committee meeting if the chairman refused, and to permit the minority to call witnesses to testify. We limited the ability of senior Members to take the most desirable committee assignments. We assured every Member of a meaningful committee assignment, and of a chairmanship or ranking minority position on a subcommittee. We passed "sunshine" legislation to open the markup sessions to the press and the public. We provided staff assistance to all committee members. We reduced the number of votes needed for cloture from two-thirds to three-fifths. We tightened the rules on the so-called "post-cloture filibuster." And we opened the Senate's proceedings to television and radio coverage.

Presidents, Senators, lobbyists, journalists, and political scientists will, for years, be debating the effects of these structural reforms, which cannot help but affect the way we do business. Their direction has been toward greater egalitarianism and openness in the legislative process, which we can all endorse. But whether these reforms also influence party discipline is another question. I suspect that these cumulative reforms neither make a President's task easier nor harder. Structure matters less than issues: how issues affect Members in their home States, how persuasive an administration is in selling Congress its position on the issues, how much popular support the President can stimulate for his program, and how well the President can define the national goals.

Many of the problems that commentators ascribed to structural changes in the 1970's became moot after the election of 1980. In that election, Republicans won the Senate for the first time in 26 years. Their narrow margin in the Senate, their minority status in the House, and their new President in the White House all forged a party unity that had been absent during the previous decade. No matter what one might think of the specific items in President Ronald Reagan's program, we may admire the way that that package was achieved during his first year in office.

Facing double-digit inflation and a sluggish economy, President Reagan proposed slashing cuts in taxes and domestic spending at the same time he endorsed major increases in military spending. Reagan's budget severely slashed Federal job training programs, cut student loans, and reduced Medicare, food stamps, and other social welfare programs. It used "supply side economics" to justify massive tax cuts, arguing that reduced taxes would stimulate consumer and corporate spending. After a sharp recession in 1982, the Nation, overall, has enjoyed a fairly strong period of prosperity in most areas of the country and the economy, and inflation has been held in check. The price, of course, has been staggering Federal budget and trade deficits, and the increasing discomfort of the stock markets. The last pages of the Reagan administration's history have yet to be written, and so we cannot make final assessments. Moreover, unlike the Ford and Carter administrations, we currently have no Presidential memoirs offering personal insights and explanations.

But we do have two memoirs by staff members, one an aide to Senator Baker, and the other the President's director of the Office of Management and Budget. In his book, "Running in Place," James Miller recounts how the new Republican President and Republican Senate majority handled the economic crisis facing them. Senator Baker urged the President to tell the country how bad economic conditions had become, declare a moratorium on cost-of-living increases, and then offer his own stringent budget proposals.[8] However, the President's advisors rejected this proposal in favor of a dramatic fiscal realignment, based on massive tax and spending cuts. Acting boldly and decisively, drawing on his immense popularity, the President advocated and won enactment of the Kemp-Roth tax cut, the cornerstone of the "Reagan Revolution." In his own remarkable confessions, "The Triumph of Politics," budget chief David Stockman has defined the "Reagan Revolution" as "a frontal assault on the American welfare state," believing deep reductions in all forms of domestic spending the only way to balance the massive tax cuts.

"Behind the hoopla of the Kemp-Roth tax cut and my thick black books of budget cuts," Stockman wrote, was ". . . minimalist government—a spare and stingy creature, which offered even-handed public justice, but no more." There was only one problem: Stockman discovered that his numbers did not add up. "In effect, the President was letting his fiscal architect develop his economic policy revolution for him." This is Stockman speaking. "He was taking my plan on faith alone, having no reason to suspect that the numbers wouldn't add up." [9] The President wanted taxes cut, and defense spending increased, and was unwilling to touch Social Security. Key Republicans in Congress defended tobacco subsidies, job programs, nuclear reactors, and other pet projects. Cabinet secretaries defended their departments' budgets. Although some programs were abolished or reduced, the cuts in domestic spending simply did not match the increases in defense spending or compensate for the tax cuts. A disillusioned Stockman had discovered that "Our Madisonian government of checks and balances, three branches, two legislative houses, and infinitely splintered power is conservative, not radical. It hugs powerfully to the history behind it." [10] The result of this error in calculation has been unprecedented triple-digit Federal deficits, a crisis in the U.S. balance of trade, where there have been also triple digit deficits, and steadily eroding investor confidence.

Mr. President, I would agree with Mr. Stockman's assessment of our Madisonian system of government. It seems to me that where Presidents—of either party—go astray is when they forget the fundamental reasons and wisdom behind that system of government, and why it has survived for 200 years. Divided power is not efficient: it sometimes frustrates favorite schemes; it opens projects to criticism, revision, and rejection. Congress supposedly leaks, while the executive branch is imagined to be sealed up tighter than a drum. So, a budget director's fears are held back from congressional scrutiny; a scheme to sell arms to the Iranians is kept secret even from the congressional Intelligence Committees, as is an illegal diversion of funds to Nicaragua. In all those cases, the truth is eventually revealed, to the embarrassment of all involved.

In July, when the Congress traveled to Philadelphia to celebrate the 200th anniversary of the "Great Compromise" that created the Senate and House, I drew special attention to this country's need to preserve its system of checks and balances. "In recent years, there has been a great deal of discussion about the separation of powers, of the proper role of the Congress in the formation of American foreign policy," I said at that occasion. "Yet, seen in the light of public debate, it is clear that a policy without checks and balances is a policy that too often loses its way." I wanted to drive home the point that our representative form of democracy depends upon power divided and power shared. "The tension between the Congress and the Executive was meant to be," I said. "It need not be destructive. It is, in the best sense, a healthy and creative tension inherent in our democratic process."

Mr. President, I trust that readers will recognize the threads of that theme throughout my addresses on the history of the Senate. This is not simply the story of the 100th Congress versus the Reagan administration. It is also the story of the Senate of William Maclay versus the presidency of George Washington; of Henry Clay versus Andrew Jackson; of Ben Wade versus Abraham Lincoln; of Nelson Aldrich versus Theodore Roosevelt; of Robert Taft versus Harry Truman; of J. William Fulbright versus Lyndon Johnson; and of Sam Ervin versus Richard Nixon. Neither Presidents nor Congress can act by fiat, but must work together, each keeping a firm eye on the other branch, and each jealously guarding its own prerogatives. At the same time, we are all judged by the American people who elect us. I have frequently said that I have full faith in the restorative powers of our democracy. What is unchecked will be balanced. What is wrong will be righted in time by our open and democratic system of government. So it has been for the first 200 years in the history of the U.S. Senate, and so it will be in the future.

I ask unanimous consent, Mr. President, to include footnotes in the RECORD at this point.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

NOTES

[1] U.S. Congress, Senate, Select Committee on Secret Military Assistance to Iran and the Nicaraguan Opposition, and House of Representatives, Select Committee to Investigate Covert Arms Transactions with Iran, *Iran-Contra Affair*, S. Rept. 100-216, H. Rept. 100-433, 100th Congress, 1st sess., 1987.

[2] Gerald R. Ford, *A Time to Heal: The Autobiography of Gerald R. Ford* (New York, 1979), 134, 150, 156.

[3] Thomas P. O'Neill and William Novak, *Man of the House: The Life and Political Memoirs of Speaker Tip O'Neill* (New York, 1987), 297.

[4] Jimmy Carter, *Keeping the Faith: Memoirs of a President* (New York, 1982), 35, 71-73, 87-88.

[5] *Washington Post*, 12 June 1977.

[6] Carter, *Keeping Faith*, 78-80.

[7] Ford, *A Time to Heal*, 266-268.

[8] James A. Miller, *Running In Place, Inside the U.S. Senate* (New York, 1986), 75.

[9] David Stockman, *The Triumph of Politics: How the Reagan Revolution Failed* (New York, 1986), 129.

[10] Ibid, 9.

The ACTING PRESIDENT pro tempore. The Senator from Idaho is recognized.

DREAMS AND REALITIES

Mr. SYMMS. Mr. President, I appreciate the opportunity to have a few moments to speak today on last week's summit now that the euphoria of Gorbachev's visit to the United States has died down. With all of the attention devoted to his alleged charm and persuasiveness of Mikhail Gorbachev during the recent summit, I felt somewhat relieved that the dictator got out of town before he won the nomination. Before anyone thinks that I am being partisan in that statement, I was not sure of which party it was that he was seeking the nomination. Now that the euphoria has come down somewhat, we need to take a realistic look at the words Mikhail Gorbachev, and what his policies actually are doing. The underlying question is whether or not he is a person that can be trusted.

It was refreshing to note, while Gorbachev was in our town for this recent summit with President Reagan, the CATO Institute, coincidentally issued an essay, "Marxist Dreams and Soviet Realities," by Prof. Ralph Raico, of the State University of New York College of Buffalo.

This excellent document should be read by anyone who might feel compelled, based on Mr. Gorbachev's visit, to reassess an aversion toward the Soviet Union. Professor Raico lays bare the tragic consequences of 70 years of communism in the Soviet Union and make clear that the pain and suffering wrought by that system is inherent in it, and ongoing today.

Indeed, the most telling point that Professor Raico makes is the fact that the mass executions and tens of millions of deaths that have resulted from Soviet communism in its history have not been mere historical accidents but are, in fact, the logical consequences of a system that denies such basic natural human rights as liberty and property.

It is clear too, that we too often focus narrowly on the heroic efforts of dissidents and activists within the Soviet Union, ignoring the plight of 270 million Soviet subjects who live in a system where the state decides how much they earn, where they work, and where they live.

Americans should concern themselves less with the clothing fashions of Soviet leaders and more with the need to pressure the Soviets to allow full immigration for any citizen.

I think Americans should pressure their Government to inundate the Soviet Union with J.C. Penney and Sears catalogs so they can see that there is a difference in what our system has been able to produce rather than the stark, bare system in the Soviet Union and other Communist-bloc nations, which is economically as well as morally bankrupt.

I ask unanimous consent that the full text of Professor Raico's essay be printed in the RECORD.

There being no objection, the essay was ordered to be printed in the RECORD, as follows:

MARXIST DREAMS AND SOVIET REALITIES

(By Ralph Raico)

The sharp contrast that Alexis de Tocqueville drew in 1835 between the United States and Russia—"the principle of the former is freedom; of the latter, servitude" [1]—became even sharper after 1917, when the Russian Empire was transformed into the Soviet Union.

Like the United States, the Soviet Union is a nation founded on a distinct ideology. In the case of America, the ideology was fundmentally Lockean liberalism; its best expressions are the Declaration of Independence and the Bill of Rights of the U.S. Constitution. The Ninth Amendment, in particular, breathes the spirit of the world-view of late-eighteenth-century America.[2] The Founders believed that there exist natural, individual rights that, taken together, constitute a sort of moral framework. Translated into law, this framework defines the social space within which men voluntarily interact; it allows for the spontaneous coordination and ongoing mutual adjustment of the various plans that the members of society form to guide and fill their lives.

The Soviet Union was founded on a very different ideology, Marxism, as understood and interpreted by V. I. Lenin. Marxism, with its roots in Hegelian philosophy, was a quite conscious revolt against the individual rights doctine of the previous century. The leaders of the Bolshevik party (which changed its name to Communist in 1918) were virtually all revolutionary intellectuals, in accordance with the strategy set forth by Lenin in his 1902 work *What Is to Be Done?* [3] They were keen students of the corpus of works of Marx and Engles published in their lifetimes or shortly thereafter and known to the theoreticians of the Second International. The Bolshevik leaders viewed themselves as the executors of the Marxist program, as those whom History has called upon to realize the apolcalyptic transition to communist society foretold by the founders of their faith.

The aim they inherited from Marx and Engels was nothing less than the final realization of human freedom and the end of the "prehistory" of the human race. Theirs was the Promethean dream of the rehabilitation of Man and his conquest of his rightful place as master of the world and lord of creation.

Building on the work of Michael Polanyi and Ludwig von Mises, Paul Craig Roberts has demonstrated—in books that deserve to be much better known than they are, since they provide an important key to the history of the twentieth century [4]—the meaning of freedom in Marxism. It lies in the abolition of alienation, i.e., of commodity-production, production for the market. For Marx and Engels, the market represents not merely the arena of capitalist exploitation but, more fundamentally, a systematic insult to the dignity of Man. Through it, the consequences of Man's action escape from his control and turn on him in malign ways. Thus, the insight that market processes generate results that were no part of anyone's intention becomes, for Marxism, the very reason to condemn them. As Marx wrote of the stage of communist society before the total disappearance of scarcity,

> "freedom in this field can consist only in socialized man, the associated producers, rationally regulating their interchange with Nature, bringing it under their common control, instead of being ruled by it as by the blind forces of Nature." [5]

The point is made most clearly by Engles:

"With the seizure of the means of production by society, production of commodities is done away with, and with it dominion of the product over the producers. Anarchy of social production is replaced by conscious organization according to plan. The whole sphere of the conditions of life which surround men, which ruled men up until now, now comes under the dominion and con-

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Footnotes at end of article.

scious control of men, who become for the first time the real, conscious lords of nature, because and in that they become masters of their own social organization. The laws of their own social activity, which confronted them until this point as alien laws of nature, controlling them, then are applied by men with full understanding, and so mastered by them. . . . Only from then on will men make their history themselves in full consciousness; only from then on will the social *causes* they set in motion have in the main and in constantly increasing proportion, also the *results* intended by them. It is the leap of mankind from the realm of necessity to the realm of freedom." [6]

Marx and Engels had taken over the idea of the primacy of the economic from Saint-Simon and his followers, who had learned it from French liberal writers of the school of Say, Thierry, Dunoyer, and Charles Comte.[7] Thus Man's freedom would be expressed in the total control exercised by the associated producers in *planning the economy* and, with it, all of social life. No longer would the *unintended consequences* of Man's actions bring disaster and despair—there *would be no such consequences.* Man would determine his own fate. Left unexplained was how millions upon millions of separate individuals could be expected to act with one mind and one will—could suddenly become "Man"—especially since it was alleged that the state, the engine of coercion, would wither away.

Already in Marx and Engels's day—decades before the establishment of the Soviet state—there were some with a shrewd idea of just who it was that would assume the title role when the time came to perform the heroic melodrama, *Man Creates His Own Destiny.* The most celebrated of Marx's early critics was the Russian anarchist Michael Bakunin, for whom Marx was "the Bismarck of socialism" and who warned that Marxism was a doctrine ideally fitted to function as the ideology—in the Marxist sense: the systematic rationalization and obfuscation—of the power urges of revolutionary intellectuals. It would lead, Bakunin warned, to the creation of "a new class," which would establish "the most aristocratic, despotic, arrogant, and contemptuous of all regimes" [8] and entrench its control over the producing classes of society. Bakunin's analysis was extended and elaborated by the Pole Waclaw Machajski.[9]

Despite this analysis—or perhaps as a confirmation of it—the Marxist vision came to inspire generations of intellectuals in Europe and even in America. In the course of the vast, senseless carnage that was the First World War, the Tsarist Empire collapsed and the immense Imperial Russian Army was fragmented into atoms. A tiny group of Marxist intellectuals seized power. What could be more natural than that, once in power, they should try to bring into being the vision that was their whole purpose and aim? The problem was that the audacity of their dream was matched only by the depth of their economic ignorance.

In August, 1917—three months before he took power—this is how Lenin, in *State and Revolution,* characterized the skills needed to "run" a national economy in the "first phase" of communism, the one he and his associates were to embark upon:

"The accounting and control necessary for this have been *simplified* by capitalism to the utmost, till they have become the extraordinarily simple operations of watching, recording, and issuing receipts, within the reach of anybody who can read and write and knows the first four rules of arithmetic." [10]

Nikolai Bukharin, one of the foremost "Old Bolsheviks," in 1919 wrote, together with Evgeny Preobrazhensky, the most famous Bolshevik text. It was *The ABC of Communism,* a work that went through 18 Soviet editions and was translated into 20 languages. Bukharin and Preobrazhensky "were regarded as the Party's two ablest economists." [11] According to them, communist society is, in the first place, "an organized society," based on a detailed, precisely calculated plan, which includes the "assignment" of labor to the various branches of production. As for distribution, according to these eminent Bolshevik economists, all products will be delivered to communal warehouses, and the members of society will draw them out in accordance with their self-defined needs.[12]

Favorable mentions of Bukharin in the Soviet press are now taken to be exciting signs of the glories of glasnost, and in his speech of November 2, 1987, Mikhail Gorbachev partially rehabilitated him.[13] It should be remembered that Bukharin is the man who wrote, "We shall proceed to a standardization of the intellectuals; we shall manufacture them as in a factory" [14] and who stated, in justification of Leninist tyranny:

"Proletarian coercion, in all its forms, from executions to forced labor, is, paradoxically as it may sound, the method of molding communist humanity out of the human material of the capitalist period." [15]

The shaping of the "human material" at their disposal into something higher—the manufacture of the New Soviet Man, Homo sovieticus—was essential to the vision of all the millions of individuals in society acting together, with one mind and one will,[16] and it was shared by all the Communist leaders. It was to this end, for instance, that Lilina, Zinoviev's wife, spoke out for the "nationalization" of children, in order to mold them into good Communists.[17]

The most articulate and brilliant of the Bolsheviks put it most plainly and best. At the end of his Literature and Revolution, written in 1924, Leon Trotsky placed the famous, and justly ridiculed, last lines: Under Communism, he wrote, "The average human type will rise to the heights of an Aristotle, a Goethe, or a Marx. And above this ridge new peaks will rise." This dazzling prophecy was justified in his mind, however, by what he had written in the few pages preceding. Under Communism, Man will "reconstruct society and himself in accord with his own plan. . . . The imperceptible, ant-like piling up of quarters and streets, brick by brick, from generation to generation, will give way to the titanic construction of city-villages, with map and compass in hand. . . . Even purely physiologic life will become subject to collective experiments. The human species, the coagulated homo sapiens, will once more enter into a state of radical transformation, and, in his own hands, will become an object of the most complicated methods of artificial selection and psycho-physical training. . . . [It will be] possible to reconstruct fundamentally the traditional family life. . . . The human race will not have ceased to crawl on all fours before God, kings, and capital, in order later to submit humbly before the laws of heredity and blind sexual selection! . . . Man will make it his purpose . . . to create a higher social biological type, or, if you please, a superman.[18]

I suggest that what we have here, in the sheer willfulness of Trotsky and the other Bolsheviks, in their urge to replace God, nature, and spontaneous order with total, conscious planning by themselves, is something that transcends politics in any ordinary sense of the term. It may well be that to understand what is at issue here, we must ascend to another level, and that more useful in understanding it than the works of the classical liberal economists and political theorists is the superb novel of the great Christian apologist, C. S. Lewis, *That Hideous Strength.*

Now, the fundamental changes in human nature that the Communist leaders undertook to make require, in the nature of the case, absolute political power in a few directing hands. During the French Revolution, Robespierre and the other Jacobin leaders set out to transform human nature in accordance with the theories of Jean-Jacques Rousseau. This was not the *only* cause but it was surely *one* of the causes of the Reign of Terror. The Communists soon discovered what the Jacobins had learned: that such an enterprise requires that Terror be erected into a system of government.[19]

The Red Terror began early on. In his celebrated November 1987 speech, Gorbachev confined the Communist Reign of Terror to the Stalin years and stated:

"Many thousands of people inside and outside the party were subjected to wholesale representative measures. Such, comrades, is the bitter truth." [20]

But by no means is this the whole of the bitter truth. By the end of 1917, the repressive organs of the new Soviet state had been organized into the Cheka, later known by many other names, including OGPU, NKVD, and KGB. The various mandates under which the Cheka operated may be illustrated by an order signed by Lenin on February 21, 1918: that men and women of the bourgeoisie be drafted into labor battalions to dig trenches under the supervision of Red Guards, with "those resisting to be shot." Others, including "speculators" and counter-revolutionary agitators, were "to be shot on the scene of their crime." To a Bolshevik who objected to the phrasing, Lenin replied, "Surely you do not imagine that we shall be victorious without applying the most cruel revolutionary terror?" [21] The number of Cheka executions that amounted to legalized murder in the period from late 1917 to early 1922—including neither the victims of the Revolutionary Tribunals and the Red Army itself nor the insurgents killed by the Cheka—has been estimated by one authority at 140,000.[22] As a reference point, consider that the number of political executions under the reactionary and repressive Tsarist regime from 1866 to 1917 was about 14,000 [23] (except that the persons executed were accorded trials), and the comparable figure for the French Revolutionary Reign of Terror was 18,000 to 20,000.[24] Clearly, with the first Marxist state something new had come into the world.

In the Leninist period—that is, up to 1924—fall also the war against the peasantry that was part of "war communism" and the famine conditions, culminating in the famine of 1921, that resulted from the attempt to realize the Marxist dream. The best estimate of the human cost of those episodes is around 6,000,000 persons.[25]

But the guilt of Lenin and the Old Bolsheviks—and of Marx himself—does not end here. Gorbachev asserted that "the Stalin personality cult was certainly not inevitable." "Inevitable" is a large word, but if something like Stalinism had *not* occurred, it would have been close to a miracle. Scorn-ing what Marx and Engels had derided as mere "bourgeois" freedom and "bourgeois" jurisprudence.[26] Lenin destroyed freedom of the press, abolished all protections against the police power, and rejected any hint of division of powers and checks and balances in government. It would have saved the peoples of Russia an immense amount of suffering if Lenin—and Marx and Engels before him—had not quite so brusquely dismissed the work of men like Montesquieu and Madison, Benjamin Constant and Alexis de Tocqueville. These writers had been preoccupied with the problem of how to thwart the state's ever-present drive toward absolute power. They laid out, often in painstaking detail, the political arrangements that are required, the social forces that must be nurtured, in order to avert tyranny. But to Marx and his Bolshevik followers, this was nothing more than "bourgeois ideology," obsolete and of no relevance to the future socialist society. Any trace of decentralization or division of power, the slightest suggestion of a countervailing force to the central authority of the "associated producers," ran directly contrary to the vision of the unitary planning of the whole of social life.[27]

The toll among the peasantry was even greater under Stalin's collectivization [28] and the famine of 1933—a deliberate one this time, aimed at terrorizing and crushing the peasants, especially of the Ukraine. We shall never know the full truth of this demonic crime, but it seems likely that around 14,000,000 persons lost their lives as a result of these Communist policies—more than the total of all the dead in all the armies in the First World War.[29]

One is stunned. Who could have conceived that within a few years, compared with what the Communist were to do in the Ukraine, the appalling butcheries of World War I—Verdun, the Somme, Passchendaele—would be nothing?

They died in hell,
They called it Passchendaele.

But what word to use, then, for what the Communists made of the Ukraine?

Vladimir Grossman, a Russian novelist who experienced the famine of 1933, wrote about it in his novel, *Forever Flowing*, published in the West. An eyewitness to the famine in the Ukraine stated:

"Then I came to understand the main thing for the Soviet power is the Plan. Fulfill the Plan. . . . Fathers and mothers tried to save their children, to save a little bread, and they were told: You hate our socialist country, you want to ruin the Plan, you are parasites, kulaks, fiends, reptiles. . . . When they took the grain, they told the kolkhoz members they would be fed out of the reserve fund. They lied. They would not give grain to the hungry."[30]

The labor camps for "class-enemies" had already been established under Lenin, at least as early as August, 1918.[31] They were vastly enlarged under his successor. Alexander Solzhenitsyn compared them to an archipelago spread across the sea of the Soviet Union. The camps grew and grew. Who were sent there? Tsarists and recalcitrant members of the middle classes, liberals, Mensheviks, anarchists, priests and laity of the Ukrainian Orthodox Church, Baptists and other religious dissidents, "wreckers," suspects of every description, then, "kulaks" and peasants by the hundreds of thousands. During the Great Purge of the middle 1930s, the Communist bureaucrats and intellectuals themselves were victims, and there was a certain sort of thinker in the West who now began to notice the camps, and the executions, for the first time. More masses of human beings were shipped in after the annexations of eastern Poland and the Baltic states; then enemy prisoners of war, the internal "enemy" nationalities, and the returning Soviet prisoners of war, who flooded into the camps after 1945—in Solzhenitsyn's words, "vast dense gray shoals like ocean herring." [32]

The most notorious of these camps was Kolyma in eastern Siberia—in actuality, a system of camps four times the size of France. There the death rate may have been as high as 50% per year [33] and the number of deaths was probably on the order of 3,000,000. It goes on and on. In 1940 there was Katyn and the murder of the Polish officers; in 1952, the leaders of Yiddish culture in the Soviet Union were liquidated en masse [34]—both drops in the bucket for Stalin. During the Purges there were probably about 7,000,000 arrests, and one out of every ten arrested was executed.[35]

How many died altogether? No one will ever know. What is certain is that the Soviet Union has been the worst reeking charnel house of this whole awful twentieth century, worse even than the one the Nazis created (but then they had less time).[36] The sum total of deaths due to Soviet policy—in the Stalin period alone—deaths from the collectivization and the terror-famine, the executions and the Gulag, is probably on the order of 30,000,000.[37]

As *glasnost* proceeds and these landmarks of Soviet history are uncovered and explored to a greater or lesser degree, it is to be hoped that Gorbachev and his followers will not fail to point an accusing finger at the West for the part it played in masking these crimes. I am referring to the shameful chapter in twentieth-century intellectual history involving the fellow travelers of Soviet Communism and their apologies for Stalinism. Americans, especially American college students, have been made familiar with the wrongs of McCarthyism in our own history. This is as it should be. The harassment and public humiliation of innocent private persons is iniquitous, and the U.S. government must always be held to the standards established by the Bill of Rights. But surely we should also remember, and inform young Americans of, the accomplices in a far different order of wrongs—those progressive intellectuals who "worshiped at the temple of [Soviet] planning" [38] and lied and evaded the truth to protect the homeland of socialism, while millions were martyred. Not only George Bernard Shaw,[39] Sidney and Beatrice Webb, Harold Laski, and Jean-Paul Sartre, but, for instance, the Moscow correspondent of the *New York Times*, Walter Duranty, who told his readers, in August, 1933, at the height of the famine:

"Any report of famine in Russia is today an exaggeration for malignant propaganda. The food shortage which has affected almost the whole population in the last year and particularly in the grain-producing provinces—the Ukraine, North Caucasus, the lower Volga region—has, however, caused heavy loss of life." [40]

For his "objective" reporting from the Soviet Union, Duranty won a Pulitzer Prize.[41]

Or—to take another fellow traveler virtually at random—we should keep in mind the valuable work of Owen Lattimore of Johns Hopkins University. Prof. Lattimore visited Kolyma in the summer of 1944, as an aide to the vice president of the United States, Henry Wallace. He wrote a glowing report on the camp and on its chief warden, Commandant Nikishov, for the *National Geographic*.[42] Lattimore compared Kolyma to a combination of the Hudson Bay Company and the TVA.[43] The number of the influential American fellow travelers was, in fact, legion, and I can think of no moral principle that would justify our forgetting what they did and what they did it in aid of.

In his speech of November 2, Gorbachev declared that Stalin was guilty of "enormous and unforgivable crimes" and announced that a special commission of the Central Committee is to prepare a history of the Communist Party of the Soviet Union that will reflect the realities of Stalin's rule. Andrei Sakharov has called for the full disclosure of "the entire, terrible truth of Stalin and his era." [44] But can the Communist leaders really afford to tell the entire truth? At the Twentieth Party Congress in 1956, Nikita Khrushchev revealed the tip of the iceberg of Stalinist crimes, and Poland rose up and there took place the glorious and immortal Hungarian Revolution, when they did, high deeds in Hungary, to pass all men's believing.

What would it mean to reveal *the entire truth?* Could the Communist leaders admit, for instance, that during World War II, "the losses inflicted by the Soviet state upon its own people rivaled any the Germans could inflict on the battlefield"? That "the Nazi concentration camps were modified versions of Soviet originals, whose evolution the German leadership had followed with some care"? That, in short, "the Soviet Union is not only the original killer state, but the model one"? [45] If they did that, what might the consequences not be this time? But the fact that the victims of Soviet Communism can never be fully acknowledged in their homeland is all the more reason that, as a matter of historical justice, we in the West must endeavor to keep their memory alive.

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FOOTNOTES

[1] Alexis de Tocqueville, *Democrary in America*, vol. I (New York: Vintage, 1945), p. 452.

[2] "The enumeration in the Constitution of certain rights shall not be construed to deny or disparage others retained by the people."

[3] V. I. Lenin, *What Is to Be Done? Burning Questions of Our Movement* (New York: International Publishers, 1929).

[4] *Alienation and the Soviet Economy: Towards a General Theory of Marxian Alienation, Organizational Principles, and the Soviet Economy* (Albuquerque: University of New Mexico Press, 1971) and (with Matthew A. Stephenson) *Marx's Theory of Exchange, Alienation, and Crisis* (Stanford: Hoover Institution Press, 1973).

[5] Karl Marx, *Capital: A Critique of Political Economy*, Vol. III, ed. Friedrich Engels (New York: International Publishers, 1967), p. 820.

[6] Friedrich Engles, "Socialism: Utopian and Scientific," in Karl Marx and Friedrich Engles, *Selected Works* (Moscow: Progress Publishers, 1968), p. 432. Italics in original.

[7] Shirley M. Gruner, *Economic Materialism and Social Moralism* (The Hague/Paris: Mouton, 1973).

[8] See, for instance, Michael Bakunin, "Marx, the Bismarck of Socialism," in Leonard I. Krimerman and Lewis Perry, eds., *Patterns of Anarchy. A Collection of Writings in the Anarchist Tradition* (Garden City, N.Y.: Anchor/Doubleday, 1966), pp. 80-97, especially p. 87. For a discussion of the theoretical problems involved in a "new class" analysis of Soviet society and a critique of James Burnham's attempt to generalize the interpretation to non-Marxist societies, see Leszek Kolakowski, *Main*

Current of Marxism, trans. P. S. Falla (Oxford: Oxford University Press, 1981), Vol. III, *The Breakdown*, p. 157-66.

[9] See Max Nomad, *Political Heretics* (Ann Arbor: University of Michigan Press, 1968), pp. 238-41. Also, Jan Waclav Makaiski, *Le socialisme des intellectuals*, ed. Alexandre Skirda (Paris: Editions du Seuil, 1979).

[10] V. I. Lenin, *State and Revolution* (New York; International Publishers, 1943), pp. 83-84. Italics in original.

[11] Sidney Heitman, in the "New Introduction" (unpaginated) to N. Bukharin and E. Preobrazhensky, *The ABC of Communism* (Ann Arbor: University of Michigan Press, 1966).

[12] Ibid., pp. 68-73. Italics in original.

[13] *New York Times*, Nov. 3, 1987.

[14] David Caute, *The Left in Europe Since 1789* (New York: McGraw-Hill, 1966), p. 179.

[15] Ibid., p. 112.

[16] "The principal task of the fathers of the October Revolution was the creation of the New Man, *Homo sovieticus*." Michel Heller and Alexsandr Nekrich, *L'utopie au pouvoir: Histoire de l'U.R.S.S. de 1917 à nos jours* (Paris: Calmann-Lévy, 1982), p. 580. As for the result, Kolakowski states: "Stalinism really produced 'the new Soviet man': an ideological schizophrenic, a liar who believed what he was saying, a man capable of incessant, voluntary acts of intellectual self-mutilation." Kolakowski, vol. III, p. 97.

[17] Heller and Nekrich, p. 50.

[18] Leon Trotsky, *Literature and Revolution* (Ann Arbor: University of Michigan Press, 1971), pp. 246, 249, 254-56. Bukharin entertained similarly absurd collectivist-Promethean notions of socialist achievement. He stated, in 1928 (when Stalin's domination was already apparent): "We are creating and we shall create a civilization compared to which capitalism will have the same aspect as an air played on a kazoo to Beethoven's *Eroica* Symphony." Heller and Nekrich, p. 181.

[19] Cf. J. L. Talmon, *The Origins of Totalitarian Democracy* (London: Mercury Books, 1961).

[20] *New York Times*, Nov. 3, 1987.

[21] George Leggett, *The Cheka: Lenin's Political Police* (Oxford: Clarendon Press, 1981), pp. 56-57.

[22] Ibid., pp. 466-67.

[23] Ibid., p. 468. The great majority of these occurred as a result of the Revolution of 1905.

[24] Samuel F. Scott and Barry Rothaus, eds., *Historical Dictionary of the French Revolution, 1789-1799, L-Z* (Westport, Conn.: Greenwood Press, 1985), p. 944.

[25] Robert Conquest, *Harvest of Sorrow: Soviet Collectivization and the Terror-Famine* (New York: Oxford University Press, 1986), pp. 53-55.

[26] Karl Marx and Friedrich Engels, *The Communist Manifesto*, in *Selected Works*, p. 49.

[27] On Marx's responsibility, Kolakowski (vol. III, pp. 160-61) writes, "He undoubtedly believed that socialist society would be one of perfect unity, in which conflicts of interest would disappear with the elimination of their economic bases in private property. This society, he thought, would have no need of bourgeois institutions such as representative political bodies . . . and rules of law safeguarding civil liberties. The Soviet despotism was an attempt to apply this doctrine." See also p. 41.

[28] The "war against the nation"—Stalin's forced collectivization—was not the product of a power-mad cynic; as Adam Ulam has argued, "Stalin was seldom cynical. . . . He was sincere and obsessed." His obsession was Marxism-Leninism, the science of society that unerringly points the way to human freedom. If reality proved refractory, then the cause had to be the "wreckers"—whole categories and classes of people engaged in deliberate sabotage. Surely, the Marxist dream could not be a fault. Adam Ulam, *Stalin. The Man and His Era* (Boston: Beacon Press, 1973), pp. 300-301.

[29] Conquest, pp. 299-307. The terrible famine year was 1933; after that, concessions were made to the peasant: a half-acre plot that he could work for himself and the right to sell crops on the market, after the state's quota had been met. Stalin, however, begrudged these "concessions" to "individualism." Ulam, pp. 350-52.

[30] Cited in ibid., p. 346.

[31] Hélène Carrère d'Encausse, *Stalin: Order Through Terror*, trans. Valance Ionescu (London and New York: Longman, 1981), pp. 6-7.

[32] Aleksandr I. Solzhenitsyn, *The Gulag Archipelago, 1918-1956. An Experiment in Literary Investigation*, vol. I-II, trans. Thomas P. Whitney (New York: Harper and Row, 1973), p. 237.

[33] Nikolai Tolstoy, *Stalin's Secret War* (New York: Holt, Rinehart and Winston, 1981), p. 15.

[34] David Caute, *The Fellow-Travellers. A Postscript to the Enlightenment* (New York: Macmillan, 1973), p. 286.

[35] Robert Conquest, *The Great Terror. Stalin's Purge of the Thirties* (New York: Macmillan, 1968), p. 527.

[36] It should be obvious that, in logic and in justice, the enumeration of Soviet crimes can in no way exculpate any other state for the crimes it has committed or is committing.

[37] Conquest, *The Great Terror*, pp. 525-535, expecially p. 533. Caute, *The Fellow-Travellers*, p. 107, estimates the deaths in the camps between 1936 and 1950 at 12,000,000. He adds "Stalin's policies may have accounted for twenty million deaths." Ibid., p. 303.

[38] Caute, *The Fellow-Travellers*, p. 259.

[39] Shaw, for example, expressed his scorn for those who protested when the Soviet Union "judiciously liquidates a handful of exploiters and speculators to make the world safe for honest men." Ibid., p. 113. On this whole subject, see Caute, *The Fellow-Travellers*.

[40] Quoted by Eugene Lyons, "The Press Corps Conceals a Famine," in Julien Steinberg, ed., *Verdict of Three Decades. From the Literature of Individual Revolt Against Soviet Communism, 1917-1950* (New York: Duell, Sloan, and Pearce, 1950), pp. 272-73.

[41] Conquest, *Harvest of Sorrow*, pp. 319-20. As Conquest mentions, as of 1983 the *Times* still listed Duranty's Pulitzer prize among the paper's honors. If the *Times* reporter and other correspondents lied so contemptibly about conditions in Soviet Russia, however, others were soon telling the truth: Eugene Lyons and William Henry Chamberlin published articles and books detailing, from personal experience, what Chamberlin called the "organized famine" that has been used as a weapon against the Ukrainian peasantry. See William Henry Chamberlin, "Death in the Villages," in Steinberg, p. 291.

[42] Caute, *The Fellow-Travellers*, p. 102.

[43] Conquest, *The Great Terror*, p. 354.

[44] *New York Times*, Nov. 7, 1987.

[45] Nick Eberstadt, Introduction to Iosif G. Dyadkin, *Unnatural Deaths in the U.S.S.R., 1928-1954* (New Brunswick, N.J. and London: Transaction Books, 1983), pp. 8 and 4.

Mr. SYMMS. Mr. President, I bring to the attention of my colleagues another article I believe is worthy of our consideration—it was in the Wall Street Journal on December 14—by one of America's most distinguished women, Mrs. Jeane Kirkpatrick.

The article she wrote is entitled "Is He a New Kind of Communist? Read His Book."

I would challenge my colleagues in the Senate, and I will try to live up to that challenge myself, that we should all make an attempt to read Gorbachev's book. Mrs. Kirkpatrick points out in her article that boring as it is, she found it very instructive to read. And she said that the conclusion she draws is Gorbachev's goals are "* * * not a retreat from socialism and not a drive for liberalization caused by Western pressures, then what is it?"

"It is a resolution. A decisive acceleration of the socioeconomic and cultural development of Soviet society which involves radical changes."

She is quoting Gorbachev. She said, "There are few surprises in his book." She said, "From it we learn that Gorbachev is a Soviet national who clings firmly to Leninism and the one-party state. We also learn that his foreign-policy approaches are the same as would have been assumed by any close observer."

She goes on and points out in the article that there are familiar justifications. The Soviet Union went into Afghanistan because "its leaders asked the Soviet Union to help." That is a quote from Gorbachev. There is no mention here of the murders of the same Soviet leaders at the hands of the Soviet benefactors within hours of the Soviet army's arrival.

Although not mentioned in her article, I believe it should be noted for the RECORD that 9 percent of the Afghanistan population has been lost because of the Soviet intervention into Afghanistan.

If that is Mr. Gorbachev's idea of helping a neighbor, I think most of the world could well do without his help. He still made those statements on television that the Soviets went into Afghanistan to help. I think the only kind of assistance we can lend is to continue to provide the material, humanitarian, and military wherewithal to the mujeheddin.

I ask unanimous consent that Mrs. Kirkpatrick's article be inserted in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, Dec. 14, 1987]

IS HE A NEW KIND OF COMMUNIST? READ HIS BOOK

(By Jeane Kirkpatrick)

Ronald Reagan believes Mikhail Gorbachev is a different kind of man from his Soviet predecessors, and this belief enables our president to set aside a lifetime of caution concerning what communists are like and how we should deal with them.

The president is not alone in his view. Underlying the euphoria of the summit week was a widespread notion that Gorbachev is a new kind of Soviet ruler, with new goals for his country and new views about how to achieve them. This optimistic belief is based not only on our national character, but also on Gorbachev's style and on the fact that he represents a new generation of Soviet leadership.

The style is that of a modern man. Gorbachev does not sound like a man who threatens anyone's security. So many of his Western hearers, including the American president, conclude that the country he rules is less aggressive and expansionist than in the past. Months ago, George Shultz argued that Gorbachev was a new type of Soviet ruler. Reagan then resisted this view. Now he believes it.

The belief is not implausible. We regularly assume that style is an external reflection of internal realities, and as far back as Plato, discerning people have believed that political generations sometimes differ in fundamental ways, that the arrival of a new generation in power may mark the beginning of a new political era.

Moreover, we Americans have wanted desperately to believe in a transformation of the Soviet Union and of U.S.-Soviet relations. Most Americans have, therefore, been enormously gratified and encouraged to hear of Gorbachev's campaign for *"glasnost"* and *"perestroika"* and "new thinking."

People rethinking their view of the Soviet Union, including Ronald Reagan, would be well advised to actually read Gorbachev's new book—dull as it is—which casts great light on his conceptions of where the Soviet Union is, where it is going and why. The Gorbachev who wrote "Perestroika" is a classical Leninist—flexible, adaptable, skillful in the pursuit and use of power, absolutely committed to "the revolution," to socialism, to a one-party state, and not unduly disturbed about the high human cost of past Soviet policy.

The book rejects utterly the common American view that economic difficulties have prompted Gorbachev's campaign of reform, and that these reforms constitute a retreat from socialism. Again and again, Gorbachev insists that his goal is the consolidation and perfection of socialism, not its modification.

"We will proceed toward better socialism rather than away from it," he writes. "We are saying this honestly and without trying to fool our own people or the world. Any hopes that we begin to build a different, non-socialist society and go over to the other camp are unrealistic and futile."

Concerning democratization, he says it is indeed a goal. But, as he has emphasized in Moscow conversations and makes clear in the book, the democracy he seeks is not American-style, Western-style democracy in which rulers are chosen in periodic, competitive elections under conditions of free press and assembly. The democracy Gorbachev seeks means decentralization and broad participation in society. It does not and could not mean competitive elections, for, as Gorbachev remarks without embarrassment, "We have no political opposition." The party rules.

If perestroika is not a retreat from socialism and not a drive for liberalization caused by Western pressures, then what is it?

"It is a revolution. A decisive acceleration of the socioeconomic and cultural development of Soviet society which involves radical changes. . . . It is a jump forward in the development of socialism . . ." he writes.

There are few surprises in this book. From it we learn that Gorbachev is a Soviet national who clings firmly to Leninism and the one-party state. We also learn that his foreign-policy approaches are the same as would have been assumed by any close observer.

There are the familiar justifications. The Soviet Union went into Afghanistan "because its leaders asked the Soviet Union to help." There is no mention here of the murders of those same Afghan leaders at the hands of their Soviet "benefactors" within hours of the Soviet Army's arrival. There is the familiar theme that "Europe is our common home," a Europe that "stretches from the Atlantic to the Urals." Russians then are European. Americans are not. Russians seek to realize closer bonds with the "common family."

There are harsh, familiar complaints about America's role in the world. U.S. foreign policy is depicted as being dominated by a "cave-man" mentality that sees the Soviet Union as a persistent threat to the world. "We have the impression that the United States needs regional conflicts to maintain its confrontation with the Soviet Union," Gorbachev says.

"What motivates the United States?" Gorbachev asks and answers. The old villain, the military-industrial complex. American foreign policy is based on illusions of technological superiority and the belief that "the economic system of the Soviet Union is about to crumble," that it will be possible to restore American military supremacy.

America is not the only target. Gorbachev reaffirms Soviet opposition to "any manifestations of nationalist narrow-mindedness and chauvinism, parochialism, Zionism and anti-Semitism in whatever forms they may be expressed."

His conception of the Soviet past is conventional, orthodox and unembarrassed. He describes the collectivization policy that killed 5 million people as "a great historic act, the most important social change since 1917."

The book lacks the charm and flexibility that characterize Gorbachev himself. It is dull; he is not. Perhaps he did not write the book at all. Gorbachev describes perestroika as a revolution. But the book testifies that Gorbachev is no revolutionary within the Soviet tradition. I hope the president reads it before the next summit.

Mr. SYMMS. Mr. President, on the subject of INF, I want to just make a few comments because I believe when the euphoria dies down and we analyze what this treaty does we in the Senate are going to be asked to vote on a very important question. I think we have to come down to the bottom line question: Is it going to make the world safer from war, or less safe from war?

Frank Gaffney, Jr., wrote a good article in the Washington Post which was published last week. I ask unanimous consent that following my comments the following articles be printed in the RECORD: the Gaffney article entitled "Take a 'Timeout' on the INF Treaty," "Europe's INF Message to President, Reagan," "Treaty and Summit Give Away Too Much" and, "INF: The Perils of Euphoria."

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SYMMS. Mr. President, I want to say Mr. Gaffney makes four very important points. First. Does the treaty actually eliminate the Soviet Union's INF mission infrastructure and capacity? That is a question that each Senator has to ask himself. In other words, they are getting rid of the so-called SS-20's. They are not destroying one nuclear warhead. There are no less nuclear warheads. The infrastructure and the mix of SS-20's and 25's is already in place in the Soviet Union.

Second. Is the Soviet supplied data complete, consistent, and compatible with our own intelligence estimates of the treaty limiting systems and activities? Third. Does the treaty language have important ambiguities, loopholes, or provisions that otherwise might lend themselves to future debate about the meaning and interpretations? And fourth, Is there an effective onsite inspection regimen for the suspect facilities?

The most important question we will have to ask ourselves is: If the answer to any one of those questions is no, then should this treaty be ratified?

The article entitled "Europe's INF Message to President Reagan," has served poignant thoughts. The authors, one who is a senior fellow at the College de France, another is a member of the Bundestag and a diplomat, the other is the director of the London-based Institute for European Defense and Strategic Studies. There are many points they make. But they say in closing:

> It is one thing to strike a spectacular arms deal with one's adversary. It is another to preserve the conditions of peace and freedom. We remember the president who once denounced the "empire of evil" and who courageously scorned fashionable opinion in order to build up Western defenses. To that president we wish renewed courage, resolve and good fortune. We extend no less to the members of the United States Senate to whom the burden of a historic responsibility now passes.

Moreover, they say:

> It is also important to bear in mind that the Soviet SS-20s no longer present the same threat to Western Europe they once did: the strategic and political value of their removal may therefore be exaggerated. This is partly because, by the latest standards, the SS-20 lacks accuracy and sophistication. Indeed, it will soon be obsolete.
>
> Meanwhile, the Soviets are modernizing their nuclear arsenals by the inclusion of such weapons as the SS-24 that are outside the scope of the agreement. Thus, although the Soviets will give up many more warheads than the United States, there is no balance of symmetry in this exchange. Even in the short term the accord will not exclude the possibility of an intermediate-range nuclear strike against Europe: The Warsaw Pact may simply re-target a proportion of its Intercontinental Ballistic Missiles against Europe.
>
> It should also be remembered that if the Soviets break the agreement—as they have violated earlier deals—or find ways of avoiding its provision, it is unlikely that any American president will be able to put the missile back.

I would say to my colleagues that many questions are raised in this article and encourage all Senators to read it.

Because what this article points out and makes very clear, is that the American President, whether he is a Republican or Democrat, has to stand as the Rock of Gibraltar for the European politicians who have stood up to the expansionism of the Soviets in the past, and the Communists in general; because they do have the political parties with some substantial force in Europe, from the left, who see no threat from the Iron Curtain countries. Those political parties have been embolden by our so-called new love affair that we have embarked upon with the Soviet dictator.

Although there is a lot of praise that the President deserves for his ability to get the Soviets to the bargaining table, this Senator is gravely concerned about what the answers to some of these questions are.

Mr. President, I know my time is getting close to ending, and I have one other article I would like to add, and that is the Wall Street article of December 9, 1987, entitled "Heavy-Metal Treaty." Also, there is a little piece at the bottom entitled "An Echo."

I think it is interesting that the article points out some of the problems within this treaty and some of the questions that have to be answered by the Senate in this verification process.

I want to read this one part:

> For the first time in history, the language of "arms control" was replaced by "arms reduction"—in this case the complete elimination of an entire class of U.S. and Soviet nuclear missiles.

That is President Reagan on signing the INF Treaty on December 8.

I read another part:

> The first international agreement since World War II to provide for the actual elimination of an entire class of weapons from the arsenal of nations.

That was Richard Nixon, in his official message on the Convention on Prohibition of the Development, Production, and Stockpiling of Biological and Toxin Weapons and Their Destruction, in 1972.

Another treaty, I might add, the Soviet Union has violated.

I think the point we have to recognize is this: Are we going to end up conforming with the INF agreement and at the same time the Soviets go back home to the Soviet Union and go ahead on their planned military program of SS-24's, SS-25's, SS-26's, to replace the SS-18's? The SS-24's and SS-25's are rail-mobile and ground-mobile launchers, which are very difficult to detect. It is a perfect opportunity for camouflage, concealment, and deceit.

They are expanding their sphere of influence in Central America. They are expanding their sphere of influence in the African continent. They are expanding their sphere of influence in Afghanistan. They are seeking the treasure house of the Persian Gulf and the treasure house of minerals in Africa. Their intent is to deny the West of the opportunity to have these minerals, both the oil and the critical materials for our industrial societies.

Yet, they are now in the process, according to recent disclosures from an officer who has defected from the Sandinistas, to go on a program to build a 600,000-man army in Nicaragua. For what? For a strike force to use against neighboring countries in the region, as they have done in the past with the Cuban forces and others?

I think these are questions we need to get into perspective. The euphoria is now over, the summit is ended, and the Soviet dictator has gone home.

Now I appeal to my colleagues to take a very slow and careful look at what the Soviet policies are and then try to mesh them with what the Soviet dictator's rhetoric is, and see if there are not some gross inconsistencies.

It is very interesting that in some cases it is not inconsistent. The Soviet dictator clearly states what his position is. I intend to read his book, because I remember that some 50 years ago, another dictator wrote a book called "Mein Kampf," and he spelled out what his plan was in the book. People would not believe it, but he spelled out what the plan was, and he raised havoc with peace and freedom of people in the world for some time—a short and tragic time which created enormous loss of life and difficulty for people in the world.

Mr. President, we do have a very important responsibility. I know that the Senate will look at this very carefully. I think Senators should not commit themselves for this treaty or against it, for obvious reasons. I think they have an opportunity to weigh all the evidence until the hearing process can be well studied and undertaken.

The bottom line question is: Is the world going to be safer after the ratification of this treaty than it is now, or is it safer now, when the American and the Western position is obviously quite strong in the Western alliance in Europe?

Mr. President, I thank the majority leader for his indulgence.

I ask unanimous consent that the articles to which I referred be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, Dec. 9, 1987]

HEAVY-METAL TREATY

The INF treaty President Reagan signed yesterday with Mikhail Gorbachev will now occupy center stage in Washington and the capitals of Western Europe for the coming year. It will share discussion time with Mr. Gorbachev's proposed "radical cuts in long-range strategic arms" ("subject," he added pointedly, "to preserving the ABM treaty"). Debating the merits and disadvantages of this deal will now consume the best hours of the West's best strategic minds. Opinion polls will be commissioned. Western defense policy, notably the conventional defense of Europe, will be rethought, redebated and resubmitted for reconsideration to defense ministries, parliaments and Congress. The American President will spend his final year arguing about arms control with conservatives.

In short, the West will debate with itself, and the Soviets will go home to work—developing and building a coherent military machine.

At some point, after all the commemorative jouralism has subsided in the nation's capital, someone other than just the hardliners will have to ask some hard questions about where the current arms-control process is taking the West.

Have Western elites concluded that their people more highly value psychological security (presumably affirmed in the opinion polls) than security based on the hardware of serious defense? In particular, will someone look at the treaty's text to find out whether the missiles' warheads will be destroyed, or whether in fact they will be stored and refitted on newer missiles. Is it true that the explosive charges of the "eliminated" missiles may be saved and used on new missiles? If so, will someone please tell all the Pentagon reporters and strategic pundits to either define their words so the public can understand them or stop talking about eliminated warheads.

On reading the treaty, will someone also tell us if it's true that it eliminates not only nuclear but conventional ground-launched cruise missiles? We hear that because of verification, the latter has to go with the former. This means that what's really ended by the treaty is the best hope for a conventional defense of Europe.

Soviet offensive strategy depends crucially on attacking in sequenced, massed echelons from Eastern Europe and inside the Soviet Union. Cruise missiles are extremely accurate and can carry large payloads needed for powerful conventional warheads; if properly developed, the conventional GLCM would be capable of slowing an echeloned Soviet attack by quickly hitting bridges, massed armor and communications outposts. Whether eliminating the potentional for useful weapons in which the U.S. excels makes the world safe or less safe is a question that won't appear in an opinion poll.

The Soviets, it's said, have accepted "intrusive" verification procedures. American inspectors will keep watch on the doors of a factory in Votkinsk that produces both intermediate-range SS-20 and intercontinental SS-25 missiles; their mission will be to ensure that the factory produces only missiles that can reach the U.S.

If over the treaty's 13-year inspection regime one of the American observers raises an objection, the U.S. and the Soviets will talk about that in something called the Standing Nuclear Commission. This succeeds the Standing Consultative Commission, where we talked about (and never once did anything about) Soviet violations of the two SALT treaties. Neither commission can compel either party to cease an activity; they are forums for discussion.

The U.S. Senate already has made its own contribution to the arms-control process this year. It spent most of its session debating two matters. First, whether the binding version of the ABM treaty was the "broad" interpretation negotiated with the Russians or the "restrictive" version sold to the Senate. Debate Topic Two, which held up the defense authorization bill, was an amendment requiring the administration to adhere to the terms of the SALT II treaty, which the Senate refused to ratify in 1979.

The hoopla surrounding the signing of this latest treaty conceals a hard fact: The entire Washington community, from one end of Pennsylvania Avenue to the other, of late has suffered a fundamental loss of seriousness about the direction and purpose of Western security. We suspect that many in Washington, Democrats and Republicans, know this to be so. Will any of them soon begin redefining an agenda that forces the West to work on its defense, instead of mostly talking about it?

Arms control, we fear, has become the heavy-metal music of Western foreign policy—a seemingly addictive pursuit of otherwise normal people. There seems to be a difference, though, at least so far. After a heavy metal concert, the audience goes back to the real world.

AN ECHO

For the first time in history, the language of "arms control" was replaced by "arms reduction"—in this case the complete elimination of an entire class of U.S. and Soviet nuclear missiles.—Ronald Reagan, on signing the INF treaty yesterday.

The first international agreement since World War II to provide for the actual elimination of an entire class of weapons from the arsenal of nations.—Richard Nixon, in his official message on the Convention on Prohibition of the Development, Production and Stockpiling of Biological and Toxin Weapons and Their Destruction, 1972.

[From the Washington Post]

TAKE A "TIMEOUT" ON THE INF TREATY

(By Frank J. Gaffney Jr.)

Dear Mr. President, in your recent moving statement accepting Casper Weinberger's resignation, you praised your secretary of defense for his service to the country in many ways. One of the most striking to me was the recognition you extended to him for his handling of several controversies for which he has been roundly criticized by others.

I am speaking of the highly publicized revelations during Secretary Weinberger's tenure of several instances of cost overruns and other failures of the Defense Department's procurement system. Despite the fact that for most of the past seven years, Cap has been caricatured, with a $500 toilet seat around his neck, you rightly credited him with finding and fixing these problems. In thus commending Secretary Weinberger for his unwillingness to tolerate inadequate performance and unsatisfactory products where they were found, you have set an example that we should emulate.

In this spirit, I write to express my concern that your administration and the nation may shortly become embroiled in a new controversy over inadequate workmanship and insufficient quality control. This one doesn't involve coffeepots or "gold-plated" hammers; rather, it involves an agreement with our adversary to eliminate all intermediate-range nuclear missiles from Europe. The analogy, however, may be useful in illuminating the causes of my concern.

Like so many of the procurement horror stories, the basis approach was entirely acceptable. Your administration has for six years sought an INF agreement based on a sound structure—the so-called "zero option." As a direct result of our patience, tenacity and alliance cohesion, an accord based on this principle is at hand.

If there is a problem with the INF treaty, it will in all likelihood be a result of the same phenomena that occasionally mar defense procurements: unexpected complexity, unanticipated scheduling pressures and corners that had to be cut to get the job completed within the time and resources available. The responsibility for such a problem would not, of course, lie with some contractor or procurement official; indeed, it may not lie with any single individual. Yet the consequences can be every bit as unpleasant and contrary to the national interest—or more so.

My guess is that, if there are resultant problems with the treaty, they will lie in the area of verification. This may seem incredible in view of its unprecedented provisions for intrusive on-site inspection and continuous monitoring of selected U.S. and Soviet facilities. On the face of it, such measures seem to go so far beyond what has been negotiated in support of past arms control agreements that many will conclude that the treaty is, by definition, verfiable.

Unfortunately, the INF treaty can have a range of novel verification measures undreamed of by the framers of the flawed SALT II accord and still not enable us to ensure Soviet compliance. It is for precisely this reason that your administration early on enunciated as a matter of policy a requirement for "effective verification" of any future agreement.

While this term can mean many things, for us it has always had certain cardinal features in the INF context: elimination of the entire infrastructure for supporting INF missiles; comprehensive exchanges of detailed, internally consistent data about the forces being controlled; clear, unambiguous treaty text; and short-notice on-site inspection not only at present and formerly declared facilities associated with treaty-limited items, but also at *suspect* sites.

This sound verification agenda was made necessary by bitter past experience with Soviet cheating on arms control agreements. If we have failed to keep in mind past lessons in the rush to finish an accord on INF in time for the summit, the risks to the national interest will vastly exceed the damage done by high-priced coffeepots and toilet seats. The prescription for addressing the problem should be the same, however: spare no effort to uncover and assess the errors and accept whatever inconvenience might be caused in fixing them.

In this vein, Mr. President, I urge you to do what Cap Weinberger would have done in a comparable procurement situation, namely call a "time-out" take stock of the situation with the best experts you can find and, if necessary, make adjustments to correct any deficiencies revealed in the process. A week remains before you will be asked to sign the INF Treaty; I strongly recommend that you use that week to review the treaty with key individuals, particularly members of the Senate and others outside the government who are likely to be influential in the upcoming ratification debate. After you and they have had a chance to read the fine print, several questions must be addressed:

Does the treaty actually eliminate the Soviet Union's INF missile infrastructure and capacity?

Is the Soviet-supplied data complete, consistent and compatible with our own intelligence estimates of treaty-limited systems and activities?

Does the treaty language have important ambiguities or loopholes or provisions that otherwise might lend themselves to future debates about meaning and interpretation?

Is there an effective on-site inspection regime for suspect facilities?

If the answer to one or more of these questions is no, by finding it out now—before you sign the treaty—it is possible to seek adjustments with the Soviet Union and avoid these issues' becoming a matter of Senate debate and amendment.

Naturally, many will say such an idea is out of the question. They will maintain that this is the best agreement we can get with the Soviet Union, that it cannot be improved. In this regard, I remember how often Cap Weinberger was told that a nonperforming contractor was doing the best he could or that there was no alternative to accepting an inferior product. To my knowledge, he never failed to reject that advice and to set in train the necessary, albeit sometimes inconvenient, corrective steps.

For that matter, your own experience in negotiating with the Soviet Union has decisively demonstrated that determined insistence on sound arms control terms is rewarded in due course by Soviet movement toward our position. Nowhere should this be a more likely outcome than in the area of verification, where Soviet rhetoric about openness and transparency have recently reached new heights.

So, if it comes to that, "Just say no." The United States will not accept another unverifiable arms control agreement, no matter how smartly it is packaged in verification "break-throughs," steps which for all their novelty will not materially alter the difficult task of ensuring Soviet compliance. After all, there is a lot more riding on this than a bad report card from the General Accounting Office.

[From the Wall Street Journal, Dec. 9, 1987]

EUROPE'S INF MESSAGE TO PRESIDENT REAGAN

(By Jean-Marie Benoist, Hans Huyn and Gerald Frost)

Mr. President: As longstanding admirers of your great personal contribution to the cause of freedom we wish to draw your attention, and that of the Senate, to the risks inherent in the agreement now signed to eliminate intermediate-range nuclear forces from Europe. Although we would like to convince ourselves otherwise, we believe that the accord will seriously and adversely change the balance of military and political forces within Europe in favor of the Soviet Union.

We are also fearful that unless NATO defenses are buttressed by a range of compensatory measures the agreement may set in train a course of events that will progressively undermine the fragile cohesion of the Western Alliance.

Ours is not, we think, a Euro-centric view. We fear that the accord will damage the influence and reputation of the United States, upon which all free, democratic societies remain dependent. It also will damage the vital interests of the U.S. itself. We must therefore decline to join in the summit euphoria that has gripped so many and that brings to mind unfortunate historical precedents. Rather, we would respectfully ask you—and by means of this open letter, members of the Senate who will soon be asked to ratify the accord—to consider the following:

The zero-zero option will remove a vital part of the architecture of deterrence that cannot be replaced soon. The cruise and Pershing II missiles serve a combination of functions that are essential to NATO strategy in an age of growing Soviet military superiority. The missiles make a general contribution to deterrence through their ability to reach targets deep within the Soviet Union—a capability not matched by any other U.S. land-based missile in Europe. The missiles link the European pillar of the alliance to the American pillar. They provide a crucial element between the level of tactical missiles and the strategic level. Take away that vital rung in the escalatory ladder and you immediately throw into question the mutual transatlantic involvement and solidarity that have preserved the peace in Europe for 40 years.

It is also important to bear in mind that the Soviet SS-20s no longer present the same threat to Western Europe they once did: the strategic and political value of their removal may therefore be exaggerated. This is partly because, by the latest standards, the SS-20 lacks accuracy and sophistication. Indeed, it will soon be obsolete.

Meanwhile, the Soviets are modernizing their nuclear arsenals by the inclusion of such weapons as the SS-24 that are outside the scope of the agreement. Thus, although the Soviets will give up many more warheads than the U.S., there is no balance or symmetry in this exchange. Even in the short term the accord will not exclude the possibility of an intermediate-range nuclear strike against Europe: The Warsaw Pact may simply re-target a proportion of its Intercontinental Ballistic Missiles against Europe.

It should also be remembered that if the Soviets break the agreement—as they have violated earlier deals—or find ways of avoiding its provision, it is unlikely that any American president will be able to put the missiles back. It is doubtful, too, whether it would be possible to create a European consensus in favor of the missiles' re-deployment. At a later date some European nations may have been effectively neutralized.

We regret that you have not followed the advice of European political leaders who urged that what was needed to preserve deterrence in Europe was not the zero-zero option but a balanced *reduction* of INF forces. Perhaps the Europeans did not speak sufficiently, clearly and consistently. We fully understand that Americans must be irritated by Europeans who appear ambivalent or hostile to the U.S. position when so many of their fellow Europeans have pushed you relentlessly in the direction of the negotiating table.

These comments, however, come from those who have publicly supported both the case for INF deployment throughout and the case for SDI program. We are not partisans of the arms race for its own sake and we emphatically are not opposed to arms reduction in principle. Indeed, we are saddened to read that you recently dismissed informed criticism of the INF deal as coming from those who believed nuclear conflict was in any case inevitable.

SDI, the British and French strategic nuclear deterrents, Pershing II, cruise missiles, shorter-range intermediate nuclear weapons, the N-bomb and conventional weaponry—all these interdependent assets complicate the calculations of the Soviet military planner and so deter attack. This may not be the case if the Soviet Union comes to believe that a conventional land battle waged in Europe can be successfully fought without risk of a nuclear response. Clearly, the Soviet political leadership already believes the new agreement brings it closer to securing its related objectives of achieving a nuclear-free Europe and of dividing that continent from its Atlantic partner.

All this we have explained at length to our countrymen. Our friends will be baffled and our adversaries delighted if the great political and strategic victory represented by the INF deployment is now to be canceled. Such an eventuality would provide the most unexpected and welcome encouragement to neutralists and unilateralists who in Holland, Belgium, West Germany and Britain lost the game and were proved wrong.

Americanism scarcely provides evidence of brilliant statecraft. Whatever show of unity Western politicians may now feel obliged to provide, the inescapable truth is that the West has been comprehensively outplayed. We run the risk of a denuclearized, neutralist West Germany, which in our view would be fatal to the alliance. Europe generally may be plunged into a worse state of doubt than that which existed prior to INF deployment. All this because in our haste for an agreement the arms-control process became an end in itself.

As Frank Barnett has written: "We have played at the arms-limitation table now for more than 60 years, first against Nazi Germany and Japan, then against the Soviet Empire. For the most part we gained little more than the euphoria of being seen at the Peace Casino while our adversaries went home to convert 'lawful' winnings into larger stockpiles of more advanced weapons."

It is one thing to strike a spectacular arms deal with one's adversary. It is another to preserve the conditions of peace and freedom. We remember the president who once denounced the "empire of evil" and who courageously scorned fashionable opinion in order to build up Western defenses. To that president we wish renewed courage, resolve, and good fortune. We extend no less to the Members of the United States Senate to whom the burden of a historic responsibility now passes.

[From the USA Today, Sept. 21, 1987]

TREATY AND SUMMIT GIVE AWAY TOO MUCH

(By Richard F. Staar)

STANFORD, Calif.—About 10 years ago, after much persuasion by the U.S. Government, Chancellor Helmut Schmidt laid his political future on the line and publicly announced that West Germany would accept U.S. enhanced-radiation warheads.

These neutron weapons could have reduced NATO vulnerability to a Warsaw Pact invasion. When President Carter suddenly canceled the deployment, our allies began doubting the U.S. commitment to the defense of Western Europe.

Before the end of 1987, a Republican president probably will further undermine the relationship with our NATO allies by beginning to withdraw U.S. ground-launched cruise and Pershing 2 missiles. The facts are clear that:

It is the West which requires a deterrent against the East, and not vice versa.

With a 2-1 or even 3-1 advantage in aircraft, tanks, artillery, and ground division equivalents, the Warsaw Pact will continue increasingly to threaten NATO.

Removing a key part of the U.S. nuclear unbrella inevitably will "uncouple" the USA from Western Europe.

The only choice left for NATO will be to band together around the British and French independent nuclear deterrents or submit to Soviet blandishments.

Leaders in allied countries risked their political credibility when accepting intermediate-range nuclear weapons in 1983. By pulling them out now, the USA, in effect, will be supporting the leftist opposition. Social Democrats in West Germany already are making deals with the ruling Communist Party in East Germany. If the Social Democrats win the next election, these agreements will become treaties.

Why is it that Washington remained so cavalier in ignoring Prime Minister Margaret Thatcher, Chancellor Helmut Kohl, and Premier Jacques Chirac, all of whom questioned the complete elimination of intermediate-range weapons? Why did the administration not bother to consider the views of a former Republican secretary of state, the Democratic chairman of the Senate Armed Services Committee, the immediate past NATO commander?

Nobody even bothers to recall Lenin's statement: Treaties are like pie crusts, made to be broken. Only last year, the Arms Control and Disarmament agency issued a 17-page report, Soviet Noncompliance, which lists repeated USSR violations of international agreements. What does Washington propose to do when the one on INF is broken?

Mikhail Gorbachev, described by senior politbureaucrat Andrie Gromyko as "a communist with teeth of steel," will be smiling when he meets with President Reagan in the Oval Office.

[From the Washington Times, Sept. 21, 1987]

INF: THE PERILS OF EUPHORIA

Soviet Foreign Minister Eduard Shevardnadze and U.S. Secretary of State George Shultz stole the headlines with the Friday announcement of the virtual completion of a treaty on intermediate-range nuclear forces. That treaty, which would eliminate all intermediate range nuclear missiles on the continent, may be profoundly flawed.

The chief argument in its favor is that the Soviets would have to remove more than 1,300 warheads, while we would only have to dismantle 300-400. But this "advantage" won't amount to much if diplomats don't agree on a reasonable "verification regime."

As we and others have pointed out before, intermediate range missiles are virtually impossible to detect, regardless of elaborate treaty provisions. They typically are small, mobile, difficult if not impossible to enumerate accurately, and can become ICBMs by the simple addition of an extra stage. They can also be produced in underground or otherwise concealed factories. Even with the much-ballyhooed on-site inspection, we can inspect only sites that we suspect conceal treaty violations. Any acceptable treaty must address these inherently insurmountable obstacles to reliable verification.

Second, even if the Soviets, in an unprecedented deviation from their long tradition of cheating, decide to abide by the treaty, the resulting imbalance of conventional forces in Europe will lead ineluctably to the Finlandization of that continent. With Soviet troops and armor vastly outnumbering those of Western European and American forces and with their spatial proximity to the European theater, an immense domino would begin to sway, psychologically and politically, toward the East. Only massive increases in defense spending by both the United States and its European allies could hope to balance the scales, and in both America and Europe the political objections to such spending would more than likely prevail.

The awful threat of nuclear exchanges has helped Europe experience a 42-year peace, something it hasn't enjoyed since the emergence of nation-states. It is no coincidence that peace has reigned in the "nuclear" world since World War II, while millions have died in conventional wars in non-nuclear Southeast Asia, Afghanistan, Ethiopia, and Nicaragua. NATO Secretary-General Lord Carrington, not exactly the firmest opponent of arms control, took the occasion of the joint Soviet-American statement to warn that his NATO colleagues "should not let any euphoria it engenders push us toward some mythical non-nuclear Nirvana."

The U.S. acceptance of the "rush to detente" not only undercuts anti-Soviet forces in Europe, but also conduces to the erosion of confidence in the United States itself. That such erosion should occur under Ronald Reagan is as inexplicable as it is shameful, especially since it could only encourage further destabilizing disarmament.

Also shameful is the apparent willingness of the administration to forego any serious pressure on the Soviets to come to terms with regional conflicts in Afghanistan, Nicaragua or southern Africa, or to address human rights issues in the vast penitentiary that calls itself the Soviet Union. The terse and vacuous sentences in the joint statement issued last week—"the secretary and foreign minister also discussed regional issues," and "a constructive discussion of human rights issues and humanitarian questions took place"—may tell far more than they intended and far less than what was desirable.

The Soviets, with their inimitable comprehension of the Western will to believe good of their enemies, prepared for Mr. Shevardnadze's visit two weeks ago by releasing a quota of highly visible Jewish political prisoners, and have engaged in peace offensives in Nicaragua, Afghanistan, and Angola. But as Natan Sharansky told us (and presumably Mr. Shultz in his later meeting with him), there remain nameless thousands more in the glasnost gulag. There has been no structural change in the Soviet system.

What emerged last week was not, of course, the final draft of a treaty, but it is now clear that a treaty will be concluded and sent to the Senate. Mr. Reagan will meet Mr. Gorbachev, probably in November, by which time the political and psychological urge for completion and further movement to strategic arms talks will be at full throttle. This may fulfill the Reagan family's desire to make history, but one should always remember that in securing peace, Neville Chamberlain also made history—and propelled Europe into the Second World War.

SMOKELESS TOBACCO

Mr. SYMMS. Mr. President, I wish to call to the attention of the U.S. Senate an example of true corporate responsibility in the form of a public awareness campaign being conducted by the Smokeless Tobacco Council on behalf of the Nation's manufacturers of chewing tobacco and snuff.

The industry's "Because We Care" program is an honest, admirable attempt to inform parents, teachers, athletes, coaches, tobacco retailers, and other youth authority figures of the industry's longstanding policy: "Smokeless tobacco is not for kids." In the industry's view, the use of smokeless tobacco products has long been and should remain an adult concern.

The code of the smokeless tobacco industry, which is strictly adhered to by the members of the Smokeless Tobacco Council, governs the industry's advertising and marketing practices. The code states: "* * * the subscribing members confirm 18 years as the minimum age for purchase of smokeless tobacco products."

I commend the smokeless tobacco industry and the Smokeless Tobacco Council for maintaining this worthwhile public awareness effort at considerable expense. It is in the best traditions of responsible, enlightened corporate public participation.

I ask unanimous consent to have printed in the RECORD, for everyone's edification, the text of the "Because We Care" booklet produced by the council, explaining their campaign in detail.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

BECAUSE WE CARE

BECAUSE WE CARE . . .

For many years, the members of the Smokeless Tobacco Council have adhered to The Code of the Smokeless Tobacco Industry, a strict code of ethics governing the marketing and advertising of chewing tobacco and snuff. The Code is based on the firm belief that the use of smokeless tobacco is an adult custom properly reserved for adults only.

The members of the Smokeless Tobacco Council actively discourage those under 18 years of age from using smokeless tobacco products.

The industry sponsors the Because We Care program to inform parents, teachers, elementary and high school coaches, retailers and other youth authority figures about the official policies governing its products.

Program goals include: Discourage those under 18 from using smokeless tobacco; enlist the help of parents, teachers and others in enforcing this policy; and urge individual states to set 18 as the minimum age of purchase for smokeless tobacco.

Since inception of the public awareness campaign in 1985, millions of adult Americans have seen, read and heard these messages sponsored by the Smokeless Tobacco Council.

POINT OF PURCHASE MATERIALS

Because retailers have the ability to sell, or not to sell, smokeless tobacco products to youth, they form a critical link in the chain of enforcement of the industry's minimum age policy. Therefore, materials developed to reach retailers are a principal element of Because We Care . . .

Point of sale materials—developed to discourage retailers selling smokeless tobacco to those underage—were distributed to more than 50,000 retail stores in 1985-86. One piece urges retailers to limit sales of smokeless tobacco products to those over 18 years of age, while a second informational placard asks purchasers not to be offended if proof of age is required by the retailer.

NATIONAL ADVERTISING

The total number of readers who have read the Smokeless Tobacco Council's public information messages in newspapers, general interest publications and special interest magazines easily approaches 25 million adults over the last two years.

From Parade Magazine and the Washington Post to Convenience Store News, the U.S. Tobacco & Candy Journal and Education Week, the Smokeless Tobacco Council's messages have reached into America's homes, offices, stores, factories and meeting rooms, educating adults about the smokeless tobacco industry's responsible marketing, advertising and sales policies.

"Some things are still for adults only" was the message that premiered in 1956-86, to be followed in 1986 by four "Open Letters" to parents, coaches, teachers and retailers, asking their cooperation educating the nation's youth about the industry's minimum age policy.

MODEL LEGISLATION

As part of its comprehensive approach to informing those in authority about its policies, the smokeless tobacco industry has worked closely with local, state and federal officials over the last three years in an effort to have laws passed establishing uniform age of purchase regulations at the state level.

It is significant that the industry's position is in complete accord with that of the Department of Health and Human Services, as expressed in an official letter in October 1986, by Secretary Otis R. Bowen, who wrote in part: "This Department urges that all jurisdictions establish 18 as the minimum age of purchase for cigarettes and other tobacco products."

MINIMUM AGE OF PURCHASE

The draft legislation developed by the smokeless tobacco industry to govern the sale of purchase of smokeless tobacco products states:

"Sec. 1. Sale of smokeless tobacco products.—It shall be unlawful for any person, firm, corporation, partnership, or any other entity engaged in the sale of smokeless tobacco products to knowingly sell, barter, give, or in any way furnish to a person under the age of eighteen (18) years any smokeless tobacco products, including chewing tobacco, snuff, or any other form of smokeless tobacco.

"Sec. 2. Purchase of smokeless tobacco products.—It shall be unlawful for any person under the age of eighteen (18) years to purchase, barter, or in any other way receive from any person, firm, corporation, partnership, or any other entity engaged in the sale of smokeless tobacco products any smokeless tobacco product, including chewing tobacco, snuff, or any other form of smokeless tobacco."

SUPPORTING TESTIMONY

On behalf of the industry, the Smokeless Tobacco Council has testified and written letters in support of 18 years as the minimum age for purchase of smokeless tobacco products to such state legislatures as Colorado, Maryland, New York, Pennsylvania and Virginia.

In this effort, Michael J. Kerrigan, president of the Smokeless Tobacco Council, has stated ". . . the industry has encouraged state legislatures to limit the sale or distribution of smokeless tobacco products to those persons 18 years of age or older."

CONTINUING EFFORTS

The Smokeless Tobacco Council continually seeks to inform the public, members of Congress, state legislators, parents, teachers, coaches, retailers and others in positions of youth guidance about its longstanding policies regarding use of smokeless tobacco products. The Council welcomes responsible commentary on its programs.

For further information, please contact: the Smokeless Tobacco Council, Inc., 1925 K Street NW, Suite 504, Washington, DC 20006.

The **ACTING PRESIDENT** pro tempore. The majority leader is recognized.

Mr. BYRD. I thank the Chair.

Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

PERHAPS ARIAS COULD ASK ORTEGA

Mr. DOLE. Mr. President, as I stand here today, 3 days after our early Saturday morning debate on aid to the Nicaraguan "freedom fighters," I can still hear echoes of the passionate pleas of Contra aid opponents: "Give the peace process a chance."

Apparently, Daniel Ortega was not listening.

A high ranking defector from the Sandinista army now tells us of a secret plan, hatched by Ortega and his Communist comrades, to triple the size of the Sandinista army—an army already larger than all the other armies of Central America combined—to triple it to 600,000 men; a plan to import massive amounts of new Soviet arms and equipment, including Mig fighters; a plan to expand their support to the Communist insurgency in El Salvador.

And, let me note, Daniel Ortega's own brother, in a public speech in Managua, confirms that this defector is telling the truth.

Perhaps the next time Costa Rican President Arias talks with his fellow peacemaker, Daniel Ortega, he can inquire exactly why the Sandinistas will need a 600,000 man army, 5 or 6 years after the Arias plan is supposed to be fully implemented? Why he plans to expand aid to the Salvadoran insurgents, in direct violation of the Arias plan?

Or, even more interesting, perhaps President Arias can inquire of his friend, exactly what he meant in his speech in Managua yesterday—when he said, and I quote:

> If the Sandinista front is ready to give up power in the hypothetical case that it loses an election, what it would give up would be the Government, but not the power. In the hypothetical case that the people became deranged, and an opposition party were elected, this party could govern—as long as it respected the established power; and we will be ready to defend "respect" for this established power, end of his quotation.

Those were Daniel Ortega's remarks, not mine.

Daniel Ortega is a self-styled "democrat," a self-styled "peacemaker."

But unlike the biblical peacemaker—who will inherit the Earth—Ortega is a more modest Communist peacemaker: He just wants El Salvador, Costa Rica, and a couple of his other neighbors.

Mr. President, do not listen to me; do not listen to BOB DOLE, or Ronald Reagan, or anyone of the others among us who have worked so hard to restore democracy, and true peace, to Central America.

Listen to Daniel Ortega, "democrat and peacemaker." Believe what he says. That is all you have to do.

Mr. President, the reason I think this is rather important, at this time a conference is going on now and because of the bipartisan majority—about 1:30 a.m. on Saturday morning—there was a $9 million figure in that plan for continued humanitarian aid to the contras.

It would seem to me in light of the story which broke the next day we should certainly have at least $9 million, perhaps even more, if in fact, and I guess it is a fact, that Daniel Ortega has made these great plans. I would also suggest that while many people are still recovering from glasnost fever, maybe Mr. Gorbachev may have known something about all these plans and maybe they were discussed in the summit last week, but if not it ought to give us pause to understand as many of us do—I think everybody in this Chamber—that Mr. Gorbachev is a Communist.

I am not certain Mr. Gorbachev has given up hope of world domination, or if he ever entertained it, but it would seem to me there is every good reason for all of us, and I am certain all of us will on both sides of the aisle, keep one eye on what Mr. Gorbachev said when he was here and another eye on what he may do now that he is back in the Soviet Union, a godless society where people have little freedom and a very low standard of living. Now it is time for Mr. Gorbachev to start producing. Maybe it is human rights. Maybe it is Afghanistan. Maybe it is the Persian Gulf. Maybe it is Nicaragua. Maybe it is Angola. Maybe it is Kampuchea. So now is the time for the American people, who by a wide margin support the INF agreement, to again judge Mr. Gorbachev in other areas that are equally as important.

So I just suggest that this news that broke over the weekend, in my view, is highly significant. It indicates to me that Daniel Ortega has no intention of following the Arias peace plan.

And if I were Mr. Arias, I would be a little concerned. Costa Rica does not have any army. If Mr. Ortega is going to build his up to 600,000 men, I would be a little nervous if I were President of that country. I would want to know if, in fact, Mr. Ortega is helping Nicaragua and El Salvador. We have invested a lot of money in El Salvador. We have invested a lot of confidence in Mr. Duarte.

It just seems to this Senator, in light of the weekend events and statements that have been confirmed by Daniel Ortega's brother, that we ought to be a little wary of how far we go out on a limb in an effort to satisfy some—yes, some in this country—who always make our Government or portray our Government as the aggressor or the bad guy and stand up for the likes of Daniel Ortega and the Sandinista Communists who control that country and who deprive the poor Nicaraguan people of the freedom they deserve.

Mr. BYRD. Mr. President, I was disturbed by what I read and heard over the weekend in connection with Daniel Ortega; his brother, General Ortega; and the defector Major Miranda. I would really like to know more about what goes on here that does not appear to the naked eye.

I feel that it is all the more imperative that our Government have some direct discussions with Mr. Ortega. He has indicated his willingness to enter into bilateral discussions. He has also indicated his willingness to get rid of Soviet influence in his country—advisers, equipment, no Soviet bases, et cetera.

It seems to me we ought to make him show down on these by having direct discussions with him. Let us see if he really means what he says. Let us see if he really means to cut the military umbilical cord with the U.S.S.R. I have my doubts, but what better way to find out than to have the bilateral discussions that he has said he is willing to enter into and put the matter directly to him; see if we can ascertain what his real intentions, motives, and assurances add up to.

I wrote to Secretary Shultz some time ago and urged that, indeed, through direct discussions, we find out if Mr. Ortega really means what he says about his willingness to cut the military umbilical cord to the Soviet Union. Thus far, I have gotten no response.

In the light of this past weekend's revelations, I am writing to Mr. Shultz again and renewing my proposal. Let us put the burden on Mr. Ortega and do it in direct discussions. We can see with our own eyes and hear with our own ears and speak with our own mouths directly.

THE INF TREATY

Mr. BYRD. Mr. President, the distinguished Republican leader, in referring to the events of the weekend, reminds me that I had a telephone call this past weekend, on Saturday, as I do from time to time—the former President of the United States, Richard Nixon, called me. Regardless of events that have occurred in the past, I still have a fond feeling for Richard Nixon. I had a personal affection for him when he was President and I still have that warm, personal affection for him.

He called me, and we talked a little while. He urged that the Senate approve the ratification of the INF Treaty. He said that for the Senate not to approve the ratification now, would create—to use his words—"a chaotic political situation in Europe." He stated his understanding of the need for careful examination of the treaty, its verification processes and all that; he does not take the position that the Senate ought to just blindfold itself and accept every provision and every word of the treaty—but after the Senate has the opportunity to examine, through careful, thorough hearings, the treaty and all of its provisions and satisfy itself as to the adequateness of the verification procedures, President Nixon thinks the treaty worthy of approval.

I know there are Members in this body who have concerns, and I have some. But I believe it appropriate to state for the RECORD that former President Nixon called me in support of the treaty.

I also received a call from Cy Vance, and he is supportive of the treaty. I got that call only yesterday.

So, for me, I continue to look with a positive view on the treaty. But I also want to say that I do not share the view of those who imply that the Senate has no responsibility but to act as a rubber stamp; that it is just supposed to roll over and play dead and place its full trust and confidence in our negotiators—this administration or any other administration—without taking the steps to satisfy itself as to such things.

Presently, I have a feeling that, after careful consideration, we will satisfy ourselves and find that the treaty's provisions are such that we can approve the ratification of it. I have a feeling we will find that the verification procedures which, on their face, seem to be very adequate, are indeed adequate. I do not understand all of the terminology that is used—obviously, those of our negotiators who are well schooled in the terminology and who have sat for months and months and months and talked with the Soviets can enlighten us—I would like to get a better understanding of the verification procedures. I am sure there will be some questions.

I compliment the Republican leader who insists that he wants to fulfill his responsibilities under the Constitution as a Senator and as an elected leader in the Senate; and he will have an important part to play. Without his support, I doubt that there would be two-thirds support for this treaty.

But, obviously all has not been said and all that can be known is not yet known. The Republican leader is taking the position that he feels this Senate has a role to play, a constitutional reponsibility, and he intends to fulfill it. He will fulfill it according to his own lights, not according to mine or somebody else's. He will reach a judgment after he has carefully weighed the pros and cons, and when he feels that he has satisfied himself as to the facts he will do that. That is what I am going to do.

I think we are in danger of being over-Gorbed. The circuits have been overloaded with the events of this past weekend. I was amazed and somewhat disappointed to read the poll in this morning's paper that Mr. Gorbachev had a more favorable rating in the United States than does Mr. Reagan. This is somewhat perplexing. I am sure that will change. But there are those who have been practically swooning over the fact that the Soviet leader got out on the street and shook a few hands. He is an able politician. He did not get where he is in the Soviet Union by being a nice guy. Nice guys do not end up first in Communist countries. They end up last.

There is, underneath that smile and that handshake, a flintlike hardness, toughness. So as we look at the INF Treaty, we need also to look farther down the road and consider very carefully where we go from here.

Let us talk to our allies and get their advice on this, too. Where do we go from here?

Let us not permit all this momentum that seems to be developing for the next treaty and the next summit wholly sweep us off our feet.

I think Senators are going to be more skeptical of rushing forward too fast, too soon with a reduction in our strategic arsenal of 50 percent. I say to friend and foe alike, let's stay sober, and not allow the euphoria with respect to another summit sweep us in its wake. We had better take a good look in time. That is what I intend to do.

Mr. DOLE. Mr. President, if the majority leader would yield?

Mr. BYRD. Yes, I yield.

The ACTING PRESIDENT pro tempore. The majority leader yields to the minority leader.

Mr. DOLE. The majority leader made a number of good points and I want to indicate that this morning at 10:30, our little coordinating group on our side, there are 10 of us from the Intelligence Committee, the observer group, Armed Services and Foreign Relations, met with the President on INF. And I think it is fair to say the President clearly understands the very appropriate role that we play in the U.S. Senate and he understands that there may be some areas that we need to address. As the majority leader said: conventional weapons. We should not wait until this treaty is implemented 3 years from now after ratification. We ought to be addressing those issues now. Is it going to cost more money? Can we obtain more funding for catch-up in conventional weapons, if the Soviet's refuse to reduce what they now enjoy as a rather large disparity?

So, it was a good meeting. I told the President I have not heard of a single Senator on either side of the aisle say flatly they are against the treaty. But I have heard 20 or 30 Senators say, on both sides of the aisle, that we are not rubberstamps. We have a constitutional role to play. Apparently our Founding Fathers felt it was important enough to put it in the Constitution. And not every treaty that has come to this body has been ratified—or authorized to be ratified, as the distinguished majority leader knows.

So I think we are making progress in the meantime. Many of us are talking to different people inside and outside the administration, trying to satisfy ourselves on verification; on whether or not our allies support the treaty. We know they say that publicly. Is that the case? And what we may need to address, between now and the time the treaty is before the Senate, which I would guess, according to the majority leader's statement, the White House—may be sometime late March or early spring.

The President did say this morning that there had been no date set for another summit. He is not so anxious for another summit that he is going to say well, let us do it on May 1, and then we will force action on everything else. He knows that cannot be done. He is not that anxious to do it.

When it comes to the START agreement, then I share the view of the majority leader; it is going to be much more difficult. Verification is easier when it is zero. It can be more difficult when it is a 50 percent reduction.

So it is going to be a whole different approach. But, notwithstanding, as one Senator reminded the White House today, let us not get carried away with public opinion polls. Everyone wants an arms reduction. I am surprised it is not 100 percent instead of 70-some percent. But I doubt that a half of 1 percent really analyzed the treaty.

I will bet if you ask the next question: do you believe the Russians will carry out the terms of this agreement, you would have a pretty high negative rating.

So we want it to work. We want the Soviets—we want to live in peace with the Soviets and all those things. We want arms reduction. But not at the expense of the future security of this country long after we are gone.

So there is a lot of euphoria; there is glasnost fever. The word I think the majority leader used I think is even better. We have been "Gorba-ized," or whatever.

Mr. BYRD. "Over-Gorb'd."

Mr. DOLE. I think everyone will have their feet back on the ground one of these days and the American people will begin to understand as I said before when Gorbachev left on Thursday night he flew back into a closed society in the Soviet Union, a godless society, a very low standard of living and very few freedoms.

We all woke up the next morning in America, the freest country on the face of the Earth. We can go where we want to, travel where we want to, whatever.

So there is a big, big difference in our systems. Gorbachev was an attractive, tough, and compelling to some, person. He is also new and fresh. The American people like that.

I would guess, as the majority leader said, that we are not going to make judgments around here based on opinion polls. If the majority leader did not say that, then someone else did.

If we do that in the Congress, we might as well give up. We will make judgments based on what we believe to be in the best interests, in this case the future relations and the treaty itself, and future treaties. I have to believe that when it is all said and done, there will be a big, big vote for the treaty, a big vote, a bipartisan vote. But let us get there. Let us do what we should do.

I know the majority leader has already started ahead of us with his coordinating group. We are doing the same and the White House is doing the same. I think we are all on the same wave length now.

TRIBUTE TO THE MAJORITY LEADER

Mr. President, before I conclude, I wanted to make a comment the other morning at 3 a.m., but I did not do it. I wanted to compliment the majority leader for what I thought was a remarkable performance in both the reconciliation package and the continuing resolution. If anyone had told anyone in this body on either side that we were going to complete those two things in a couple of days, they would have said, "Yes, what else? Get your head examined" or something.

But the majority leader stayed right on the floor and pushed, pushed, pushed, and we did it. Even the President thinks the Senate did an outstanding job. He told us so this morning. He did not think we would do it that quickly.

Mr. President, in my view, we did it because Senator BYRD made up his mind we were going to finish and we had our work to do. I think there were some faint-hearted people who wanted to maybe put it off until Saturday about 10 o'clock Friday night. I may have been in that group for a while. But in any event we did not do that. We finished it. Now all we have left to do is finish the conference reports and a few other things the majority leader mentioned to me earlier.

There is every good hope that we may be gone for Christmas by the weekend.

I thank the distinguished majority leader.

Mr. BYRD. Mr. President, I thank the very distinguished Republican leader. He played a very considerable part in the work and accomplishment to which he has referred.

Mr. President, I do not in my remarks attempt to play down the importance of the recent summit and what was accomplished. I simply seek to find a proper center of gravity.

As I recall, Mr. Gorbachev did not give up anything on Afghanistan. He did not give up anything on Nicaragua. He did not give up anything on conventional weapons. He did not give up anything on human rights. He indicated he was quite irritated that the question on human rights kept arising. He will become more irritated, I am sure, before it is over with. That question will continue to arise as well regarding Afghanistan and conventional weapons and Iran, the Persian Gulf.

Mr. President, I believe the sooner we get back down on the ground the better it will be. I believe that the INF Treaty will be approved and I am positively inclined to support it. But let us not engage in wishful thinking. Those who may see another treaty before the summer is out, if they harbor any idea that it will be called up and approved before this year is out, they have some sobering up to do. It will take a lot more time.

Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

EXTENSION OF MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that morning business continue for an additional 30 minutes and that Senators may speak therein.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The absence of a quorum having been suggested, the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HELMS Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. WIRTH). Without objection, it is so ordered.

THE PEARL HARBOR SUMMIT: INTERNATIONAL STRATEGIC CONSIDERATIONS

Mr. HELMS. Mr. President, this past Thursday, December 10, I discussed in this Chamber some historical parallels in the 1941 Japanese attack on Pearl Harbor and last week's visit to Washington by Mr. Gorbachev.

Today I believe we should look at the impact of the Gorbachev visit on our future society and our future relations with other nations. Therefore, my comment today will address the international strategic considerations, using strategic in the broad sense—that is, not only in the military sense, but in the cultural, economic, and social senses as well.

Mr. President, it is not yet time for close examination of the INF treaty itself; that must come after careful study and intensive questioning of the negotiators and other experts. I am more concerned today with the side effects—the associated changes triggered by the treaty—than with problems in the treaty itself. We must ask ourselves whether there are not obvious perils that actions taken during this summit might pose not only for our country but for the free world.

The principal purpose of the summit, we were told, was the INF Treaty. In reality, the summit in fact has been a public relations contest. As time passes, as the euphoria of the moment subsides, we could well be left with destructive consequences that were not foreseen.

Mr. President, we must also ponder whether the consequences of this summit could well lead to the dismantling of the free world, indeed, to the eclipse of the leadership of the United States. Despite the well-orchestrated official voices, will this summit result in the disintegration of the North Atlantic Treaty Organization and the disintegration of the Rio Treaty? Will we find ourselves isolated as a nation, within a hostile world dominated by the Soviet empire? Under such conditions, can our way of life—the order and values established under our Constitution—remain secure?

SOVIET STRATEGY AND THE DESTRUCTION OF NATO

In my view, Mr. President, the very negotiations for the INF Treaty, whatever the technical issues in the final document, could well spell the beginning of the end of the NATO Alliance. Mr. Gorbachev is engaged in a strategic deception of the most sweeping kind and our State Department has spared no effort to lead our President into an arms control trap. Other pressures include the effort of the major

United States banks and the multinational corporations which almost always seek to advance their narrow special interests at the expense of the security of their country by expanding commercial relations with the Soviet bloc.

Since its formation, the NATO Alliance has been a primary target of the Soviet Union. Moscow has bent every effort to destroy NATO through psychological and political subversion. In Soviet strategy, the destruction of NATO would permit the Finlandization of western Europe. With western Europe Finlandized, the Soviet Union has a freer hand to proceed against the United States—which the Kremlin characterizes as its "main enemy."

Mr. President, the principal objectives of current Soviet global strategy are:

One, the strategic encirclement of western Europe and the dismemberment of the NATO Alliance.

Two, the strategic encirclement of the Arabian Peninsula.

Three, the strategic encirclement of southern Africa.

Four, the strategic encirclement of China pending a rapproachment between Moscow and Peking.

Five, the strategic isolation of the Western Hemisphere and the dismemberment of the Rio Treaty.

Six, the strategic encirclement of the United States.

Mr. President, even a brief review of the systematic Soviet aggression and expansion in recent years demonstrates the Kremlin's carefully laid strategy. The Soviet Union, as the world has seen, has successfully placed Marxist-Leninist regimes in power in Mozambique, Angola, Ethiopia, South Yemen, Afghanistan, and Nicaragua, not to mention the Warsaw Pact countries.

And where the regimes are not outright Marxist-Leninist, the Soviets have achieved a remarkable penetration to obtain their aims. Examples include:

Soviet penetration of the Assad regime in Syria threatens Lebanon, Israel, Jordan, Turkey, and Iraq.

Soviet penetration of the Khomeini regime in Iran is significant and threatens the Persian Gulf including Saudi Arabia and Kuwait; indeed, the Khomeini regime threatens the entire Muslim world.

Soviet penetration of India threatens Pakistan, Bangladesh, and the entire subcontinent and its submerged nations such as the Sikh, the Kashmiri, the Tamil, the Assemese, and the Bengali nations. The brutal occupation of ethnic Tamil lands in Sri Lanka by the Indian Army is costing thousands, the innocent lives of thousands of men, women, and children. Of course, the real objective of the Indian Army is the control of the strategic port of Trincomalee on behalf of their Soviet masters. Trincomalee is the single most strategic port in the Indian Ocean.

Soviet projection of naval power into the South China Sea and into the Western Pacific from Vietnam threatens the free countries of the Pacific rim and the future of international commerce.

Soviet penetration of the Philippines threatens not only prospects for freedom in that country and for freedom in its neighbors such as Indonesia and Malaysia. Soviet penetration of the Philippines threatens the strategic position of the United States in the Pacific and therefore the ability of the United States to act as a force for peace and for progress in the Pacific Basin.

PSYCHOLOGICAL WARFARE AGAINST THE AMERICAN PEOPLE

Mr. President, who can deny that the American people and Congress have been subjected to an unprecedented campaign by the major American news media to portray Mr. Gorbachev as a benign reformer whose only desire is openness and restructuring in Soviet domestic affairs and normal relations with the United States? How often have we heard about glasnost and "perestroika?"

Why should we applaud a restructuring which is intended to make communism work? Why should we rejoice in a restructuring which is intended to build a better Gulag?

Mr. President, having heard the word glasnost so often on U.S. television and having read so much about it in the U.S. press, I asked my staff to look up the word in a Russian-English dictionary. The media tell us that the word means openness which leads us to believe that there is a relaxation of controls inside the Soviet Union and a new friendly attitude with the West.

The Library of Congress sent over to me a page from the Russian-English dictionary compiled by Prof. A.I. Smirnitsky and published in Moscow. The entry under "glas" gives a meaning of "voice." The entry under "glasnost" gives a meaning of "publicity." Several specialists on the Soviet Union, who are native Russian speakers, have told us that the current meaning is a bit stronger than just "publicity." These specialists say that "glasnost" in current usage means "propaganda."

Mr. President, this is a far cry from what the media would have us believe. But this distortion of the meaning of words, warfare in the field of semantics, is typical of the media diet that the American people are being fed hour after hour, day after day, page after page, broadcast after broadcast. This distortion of the meaning of words is typical of the ethical standards of American journalists working today. These journalists, intentional or not, are not reporting the facts about the news. They are, rather, engaged in polemics and propaganda in a war on traditional American culture and values.

This campaign against the American people—against traditional American culture and values—is systematic psychological warfare. It is orchestrated by a vast array of interests comprising not only the Eastern establishment but also the radical left. Among this group we find the Department of State, the Department of Commerce, the money center banks and multinational corporations, the media, the educational establishment, the entertainment industry, and the large tax-exempt foundations.

Mr. President, a careful examination of what is happening behind the scenes reveals that all of these interests are working in consert with the masters of the Kremlin in order to create what some refer to as a new world order. Private organizations such as the Council on Foreign Relations, the Royal Institute of International Affairs, the Trilateral Commission, the Dartmouth Conference, the Aspen Institute for Humanistic Studies, the Atlantic Institute, and the Bilderberg Group serve to disseminate and to coordinate the plans for this so-called new world order in powerful business, financial, academic, and official circles.

The current psychological campaign against the American people is promoting the beginning of a new attempt at détente which proceeds from an illusion of arms control. The INF summit is supposed to mark the initiation of a new phase in Soviet-American relations. This phase is intended ultimately to produce a convergence in the two systems.

THE EASTERN ESTABLISHMENT: GLOBALISM, DÉTENTE, AND PROFITS

The psychological campaign that I am describing, as I have said, is the work of groups within the Eastern establishment, that amorphous amalgam of wealth and social connections whose power resides in its control over our financial system and over a large portion of our industrial sector. The principal instrument of this control over the American economy and money is the Federal Reserve System. The policies of the industrial sectors, primarily the multinational corporations, are influenced by the money center banks through debt financing and through the large blocks of stock controlled by the trust departments of the money center banks.

Anyone familiar with American history, and particularly American economic history, cannot fail to notice the control over the Department of State and the Central Intelligence Agency which Wall Street seems to exercise. The recent stock market crash, and the general expectation in the exchanges that stock prices should dictate policy, confirms this feeling. The influence of establishment insiders over our foreign policy has become a fact of life in our time. This pervasive influence runs contrary to the real long-term national security of our Nation. It is an influence which, if unchecked, could ultimately subvert our constitutional order.

The viewpoint of the establishment today is called globalism. Not so long ago, this viewpoint was called the "one-world" view by its critics. The phrase is no longer fashionable among sophisticates; yet, the phrase "one-world" is still apt because nothing has changed in the minds and actions of those promoting policies consistent with its fundamental tenets.

Mr. President, in the globalist point of view, nation-states and national boundaries do not count for anything. Political philosophies and political principles seem to become simply relative. Indeed, even constitutions are irrelevant to the exercise of power. Liberty and tyranny are viewed as neither necessarily good nor evil, and certainly not a component of policy.

In this point of view, the activities of international financial and industrial forces should be oriented to bringing this one-world design—with a convergence of the Soviet and American systems as its centerpiece—into being.

The world view of the insiders' club is de facto atheistic and materialistic. All that matters to this club is the maximization of profits resulting from the practice of what can be described as finance capitalism, a system which rests upon the twin pillars of debt and monopoly. This isn't real capitalism. It is the road to economic concentration and to political slavery.

By real capitalism I mean free enterprise which is based upon productive capitalism. The free market, unencumbered by debt and complex concentrations of power, is the only road to abundance and political freedom. It is the only road to national prosperity and independence.

To the insiders' club, productive capitalism—real free enterprise—is as irrelevant as it is naive. It does not fit into their plans for the concentration and control of profit and political power.

Mr. President, it should not surprise us that members of this insiders club are falling all over themselves to put together all manner of joint ventures and business deals with the masters of the Kremlin who themselves have an atheistic and materialistic world view. The hidden design is the construction of a global political condominium by United States financiers and the Kremlin. Wall Street maximizes its profits and the Communist Party of the Soviet Union maintains its dictatorship.

In short, the purpose of the current détente offensive is twofold. First, it is a means to promote a broad array of financial and commercial relations between American business and the Kremlin which will keep the Soviet empire afloat. Our money center banks and multinational corporations intend to expand their interests through literally thousands of projects and transactions blessed by the U.S. Department of State and by the U.S. Department of Commerce. Of course, this building of communism only serves to build the Soviet military-industrial complex and to maintain the Communist Party in power.

Second, and this is the most important aspect, we must consider whether or not this détente is a means to promote cultural change in the United States in order to so alter our traditional way of life that a convergence or merging of the American and Soviet systems can occur. The alteration of our traditional way of life can only proceed through a process in which the perception of threat posed by international communism is lowered to the point where the American people no longer resist the long-range program for collectivism here at home.

WHO IS GORBACHEV?

Mr. President, it is never easy to penetrate the interior of Soviet political life and this Senator makes no claim to special knowledge of Kremlin politics. We can, however, try to sketch out some aspects of Mr. Gorbachev's career. There can be no question that Mr. Gorbachev is a tough leader and a formidable opponent. His wife, who reportedly holds a doctoral degree in Marxist-Leninist philosophy, appears to be a calculating and determined part of his team.

From published sources we find that Gorbachev was born on March 2, 1931, in an area near Stavropol in the Cossack lands. His father was apparently a farmworker who supported Stalin's agricultural policy which targeted more prosperous farmers, called "kulaks," for mass destruction. Stalin undertook the destruction of the more prosperous peasants as a class in order to prevent their takeover of the local councils, or "Soviets." The prosperous farmers posed a mortal political danger to the Communist regime and to the dictatorship of the Communist Party. They were therefore destroyed for political reasons.

Stalin's mass murder of the kulaks swept across the Ukraine but was slowed when it encountered the stubborn resistance of the Cossacks who since ancient times fought fiercely to maintain their status as a free and independent nation within their lands. Serfdom never existed in the Cossack lands. Cossacks were freeholders who were productive farmers as well as formidable soldiers.

Gorbachev's family were reportedly members of the Communist Party. Accordingly, they welcomed Stalin's anti-kulak campaign which resulted in the deaths of several million of their fellow Cossack men, women, and children. Some historians believe that more Cossacks died in Stalin's campaign against the kulaks than did Ukrainians. They put the figure of Cossack deaths at about 6 million arising from outright slaughter, starvation, disease, and forced removal.

If Mr. Gorbachev is so interested in openness why does he not restore democracy in his ancestral homeland? Between 1917 and 1921, Cossackia had its own constitution. Even Lenin gave Cossackia Republic status but this was taken away in May 1923. So why doesn't Mr. Gorbachev grant Republic status to the Cossack lands today? Surely this would be an indication of good faith and his commitment to openness and democracy.

Gorbachev, in his rise to power, has had a series of powerful patrons. These patrons can hardly be described as moderate and open. In fact, they represent some of the most dedicated and hardline ideological elements with the closest links to the KGB. Gorbachev joined the Communist Party of the Soviet Union in 1952. He studied at Moscow University from which he graduated in 1955 with a degree in law, Soviet law that is. He became active in the Communist Party youth organization, the Komsomol. At this stage in his career, specialists point out that his key patrons were Suslov, whose political base was in Stavropol, and Shelepin, who was the head of the Communist Komsomol youth organization.

After graduation from Moscow University, Gorbachev returned to Stavropol and became an activist in the local and regional Communist Party apparatus. He specialized in agriculture, which is an area for those who are prudent and wish to bide their time by avoiding political conflict in more high visibility issue areas. Kulakov became his patron.

By staying in the provinces and building his political base carefully, Gorbachev finally was able to return to the center, Moscow, in 1971. In this year he became a full member of the powerful Central Committee of the Communist Party of the Soviet Union.

Gorbachev rose to a position as Secretary for Agriculture on the Central Committee. During 1979 and 1980, he was elevated to candidate status on the Politburo. Then, in 1980 he was made a full member of the Politburo.

Specialists point out that Gorbachev during 1981 and 1982 was in charge of the administrative organs department of the Communist Party Secretariat. This is the department which is in charge of the administrative organs department of the Communist Party Secretariat. This is the department which is in charge of the KGB, the GRU, and other Soviet security services. It is an extremely powerful position and indicates that Andropov—the KGB head who became Secretary General—may very well have been Gorbachev's most powerful and important patron. That Gorbachev held his position which is so critical to the maintenance of the dictatorship of the Communist Party of the Soviet Union indicates the close alliance that he has with the state security services such as the KGB.

Those who promote a moderate reformist image of Gorbachev, for whatever reasons, ignore his own programmatic statements before the most important official bodies in the Soviet Union. This November 2 in a major address Gorbachev reaffirmed his commitment to orthodox Leninism. Of particular interest was his emphasizing the importance of dialectical logic and thought as a weapon of revolution. Dialectical logic is at the heart of Communist thought processes and is completely different from the traditional logic and thought processes of the West. What Gorbachev was underscoring is that he is commited to the Communist revolution and its way of thinking. In so doing, he reassured his comrades that there would never be a meeting of the minds with the free world.

CONSEQUENCES OF AN INF TREATY

Mr. President, as I said at the outset of my remarks, the central question is whether or not the INF Treaty spells the end of the NATO alliance in practical terms. The INF Treaty, therefore, may accelerate the unravelling of the fabric of free world security. The INF Treaty could accelerate the disintegration of hemispheric unity as outlined in the Monroe Doctrine and as embodied in the Rio Treaty. Senators will recall that on September 17 of this year the Senate reaffirmed the Monroe Doctrine by a vote of 90 to 2.

There are profound and inescapable geopolitical consequences to the INF Treaty which we, in our haste to support it may fail to consider. The failure to consider the long-range consequences of the INF Treaty will negatively affect the long-term security of the United States.

Mr. President, some have said that those who oppose the INF Treaty believe that war is inevitable. Nothing could be further from the truth. Nothing could be less informed. The INF Treaty by eliminating the Pershing missile from the NATO inventory—by eliminating our best deterrent system—reduces stability and creates conditions for war.

Can it be denied that the central deterrent weapons system in NATO is the Pershing missile? Given the overwhelming Soviet superiority in conventional weapons, is not the Pershing essential to deterrence? Is there any substitute?

Is not the Pershing missile the only system which poses a fundamental challenge to the key military targets deep within Soviet territory?

The Pershing missile is a highly capable and prompt system which can reach its targets in just a few minutes.

We know that the Pershing missile by placing critical Soviet targets at risk gives the essential dimension to deterrence in Europe.

The Pershing missile by providing credible deterrence is a fundamental resource in keeping the peace.

Mr. President, should the Pershing missile be removed from Europe, should this the central deterrent system of the NATO alliance be removed from Europe, then the NATO alliance would exist in name only. At this point, we might as well bring all of our troops home and call it a day because NATO will cease to be a credible deterrent to Soviet aggression. Our troops and their families will be in the position of hostages in the event of hostilities.

Mr. President, under these circumstances, it is unethical and immoral for the United States to maintain our troops in Western Europe.

With Pershing missiles removed from West German territory, the danger is that West Germany could be de facto Finlandized. Moscow is holding out the powerful incentive of German reunification on the condition that West Germany gets out of NATO and becomes neutral.

The carrot is the profits to be derived from dramatically expanded commercial relations with the Soviet bloc. Austria is a model. This Soviet proposal has a powerful appeal to politically influential German financial and industrial groups who were the driving force behind Willi Brandt's Ost-Politik opening to the Soviet bloc in the 1960's.

In fact, these business interests for almost a century have been associated with pan-German political, financial, and strategic designs which have consistently aimed at the expansion of German influence in eastern Europe and Russia. These interests brought kaiserism, naziism, and communism to the world stage. The world has yet to recover from the devastation unleashed by these forces during this century, the bloodiest century in human history.

Is it any wonder then that respected French military figures such as General Gallois have spoken out so sharply in recent days. They recognize the dangers of the INF agreement and its consequences in Europe. They recognize the threat to France posed by the Warsaw Pact with or without West Germany as part of a Western alliance structure.

Mr. President, with Western Europe out of the NATO alliance and neutralized militarily it is but a small step for the rise of Western Europe as a so-called "Third Force" between East and West. This is the so-called "Pan-European" concept which involves the transformation of Western Europe into a superstate after destroying the national sovereignty and traditional culture of each of the constituent states. Certain financial and industrial interests hope to profit from this program which, of course, involves a diminution of U.S. world economic and political influence.

In this design, Western Europe would supposedly balance off the Soviet Union and the United States. As part of the design, these circles intend to increase their economic relations with Eastern Europe and the Soviet Union in a grand maneuver to keep America at bay via Soviet power.

On the cultural front, we should expect an intensified transformation in the area of Western culture and values in Europe and in the United States in the wake of the Gorbachev summit and the INF Treaty. Politics flows from culture. Western Europe has lost its identity and mission as a bastion of Western civilization. As a result, politics based upon traditional values has given way to politics based upon Marxism in its many forms.

Western Europe has almost become a wasteland from the standpoint of the traditional culture and values which flow from the historical experience of the nations of the old world as well as from the standpoint of our common Judeo-Christian heritage.

Western Europe is daily being transformed by the sophisticated techniques of cultural subversion devised by Antonio Gramsci, a founder of the Italian Communist Party. Pornography, drugs, secularism, and immorality have been on the rise for decades leaving the countries of Western Europe sapped of their strength, their dignity, and their sense of purpose.

In Western Europe, the breakdown of traditional culture and values has facilitated the penetration of Marxism in its many forms. Marxism, Marxist-Leninism, and British-inspired Fabian socialism—the slow boat to communism—have deeply penetrated the psyche of European intellectual, political, and business circles. This cultural disintegration facilitates the designs of those who aim at political power through a socialist Western European superstate.

THE DESTRUCTION OF HEMISPHERIC UNITY

Mr. President, when the United States unnecessarily and unwisely tilted to the British side during the Malvinas war in 1982, I warned that this would polarize the hemisphere and alienate our traditional friends and neighbors South of the border. Anti-American forces were, indeed, unleashed throughout Latin America which have contributed to the rise of violently anti-American leftist regimes.

A calm analysis will show that the State Department and the CIA have bent every effort to install leftist regimes throughout the hemisphere. For them, socialism is the wave of the future. As a result, the unity of our hemisphere is threatened by the expansion of extra-continental ideologies based upon Marxist and Marxist-Leninist concepts.

While it is fashionable in Washington to talk about the spread of democracy in Latin America nothing could be further from the mark. What we really confront in Latin America is the spread of Marxism in a variety of guises ranging from so-called social democracy to outright Marxist-Leninism.

As a result of the spread of socialism, the economic picture in Latin America is more bleak than at any point in the last three decades. State debt is mounting and the productive base is disintegrating. It will not be that much longer before South America resembles the tropical wreckage of Central America.

Mr. President, it is no secret that the international bankers profiteer from sovereign state debt. The New York banks have found important profit centers in the lending to countries plunged into debt by Socialist regimes. Under Socialist regimes, countries go deeper and deeper into debt because socialism as an economic system does not work. International bankers are sophisticated enough to understand this phenomenon and they are sophisticated enough to profit from it.

Because the public debt is sovereign debt, the bankers have calculated that they will always be able to collect. If there is too much risk in the private debt side, it is a simple matter to get Socialist governments to nationalize banks, industrial enterprises, and agricultural holdings. In this way, private debt is converted to sovereign state debt which the bankers have believed will always be collectable.

The New York banks find the profit from the interest on this sovereign debt to be critical to their balance sheets. Up until very recently, this has been an essentially riskless game for the banks because the IMF and the World Bank have stood ready to bail the banks out with our taxpayers' money. In today's conditions, however, the debt problem has arrived at almost unmanageable proportions. Undoubtedly, the American taxpayer one way or another will be required to bail the banks out.

Instability and economic disintegration in Latin America is not in the long-term interest of the United States. To the contrary, economic development in Latin America based upon productive investment and fair trade with the United States is a fundamental interest because it contributes to the general peace and prosperity of this hemisphere, the New World.

The Communist world, however, does not want to see economic progress in Latin America. This is one of the major underlying factors behind Communist aggression in this hemisphere.

This is why the Kremlin has been bending every effort to destabilize Chile. Chile, by engaging in productive capitalism, has registered the most significant economic progress in Latin America. The Soviet Union does not want Chile to become a model for economic development in Latin America and in other developing areas.

Of course, the Soviets also want to expand their empire geographically. They want to drain Third World countries of their mineral, agricultural, and fisheries production. In the post-Malvinas situation in South America we find massive Soviet fishing fleets devouring the sea's bounties off Argentine, Chilean, and Peruvian territorial waters.

In fact, Argentina has negotiated a major and nationally disadvantageous fishing agreement with the Soviet Union as has Peru. Soviet Aeroflot aircraft regularly fly in and out of Argentina and Peru servicing the vast fishing fleets plying South Atlantic and South Pacific waters. These vast fleets composed of hundreds of ships and tens of thousands of fishermen are under the direct command of the Soviet Navy. Aeroflot, the Soviet airline, is a known adjunct of the Soviet military intelligence organization, the GRU.

Mr. President there is a design afoot in Latin America to isolate the United States diplomatically and politically within the hemisphere. The meeting of eight countries in Acapulco over our Thanksgiving holiday was a major advance of this design. In statements released by the conference the attendees recommended the admission of Cuba to the Organization of American States. Informed sources in Latin America have told me that the key actors behind this scheme are the Foreign Ministers of Argentina and Uruguay. The Foreign Minister of Argentina is reported to be deeply influenced by French radical and Communist circles including Regis Debray. The Foreign Minister of Uruguay is said to be courting Soviet support for a prominent job in an international organization such as the United Nations.

At the covert level, the Communist Parties of Argentina and Uruguay are reportedly active in the design to undermine the United States that I have described. The current head of the Argentina Communist Party is known as an expert in revolutionary guerrilla warfare. The deputy head of the Uruguayan Communist Party was born in Italy and is a specialist in the subversive strategies of Antonio Gramsci who, as I pointed out earlier, was a founder of the Communist Party of Italy and the principal theoretician of strategies for cultural subversion.

The Communist Party of Uruguay and the Communist Party of Argentina, undoubtedly, were delighted by the recent and unprecedented visit of the Soviet Foreign Minister to Brazil, Uruguay, and Argentina. The purpose of this visit was to prepare the way for an official state visit of General-Secretary Gorbachev in 1988 to these countries. It is certainly clear that the Soviets are moving to consolidate and expand the gains in this hemisphere that the Communist seizure of Cuba and Nicaragua have conferred on them.

HEMISPHERIC DISINTEGRATION

Mr. President, the dynamics of the situation south of the Rio Grande are not in the long-range interest of the United States. Our hemisphere is in deep trouble. We have the rise of Marxism and Marxist-Leninism. We have the virulent activities of those in the Catholic Church and in Protestant denominations who are promoting the so-called "theology of liberation."

The theology of liberation is neither theology nor liberation. It is Marxist-Leninism with a thin veneer of Biblical phraseology. It is grounded in Marxist methodology and dialectical thought. The promoters of this ideology are destroying the foundations of Christianity in the hemisphere. The promoters of this ideology are working hand in glove with the Soviet-sponsored guerrilla and terrorist movements which are spreading death and devastation throughout the New World.

Mexico is in a process of disintegration and radicalization. As a result, Mexico has flooded our country with over 10 million illegal aliens by some estimates. The border patrol has been arresting some 100,000 illegal aliens per month at our Southern border for several years running.

Central America is crumbling under the rule of Socialist and Marxist-Leninist regimes. Communist terrorism is rampant in Central America. The long-term viability of the Panama Canal is threatened.

Colombia is in the hands of the narcotics traffickers.

Brazil is disintegrating rapidly without a firm hand at the helm. In Brazil, crime is rampant in urban areas and the countryside is becoming radicalized through the efforts of the clergy which promotes the Communist theology of liberation.

Argentina has become radically Marxist under the anti-American Alfonsin regime.

Peru is in chaos produced by its Socialist regime and by the bloody terrorism of the Shining Path guerrillas.

For the moment, Ecuador and Paraguay are holding their own.

Chile has been on the difficult road to recovery from the chaos and economic devastation produced by the Communist Allende regime. It appears that Chile will be successful in making a transition to representative government under a constitution approved by the Chilean people in a national plebiscite. We should never forget that it is Chile which stands watch over the sea lanes around Cape Horn through the Drake Passage.

To our north, we find our Canadian neighbors being subjected to a massive attempt to shift their political system to the far left. The so-called New Democratic Party in Canada is neither new nor democratic. The New Democratic Party is simply Marxist and alien to Canada's historical roots and culture. It is a cause for some concern that this destructive political party is gaining ground in Canada. It is sad to look northward upon a country which has, as does our own country, such outstanding political figures as Algernon Sidney, John Hampden, and John Locke in the English part of its heritage throwing away common sense for Karl Marx.

Mr. President, the cultural, economic, and social trends in the New World, in our hemisphere, are cause for deep concern. This is our homeground. This is our neighborhood. We cannot maintain our way of life and constitutional order over the long term with Latin America in chaos. The State Department and the CIA are handing Latin America over to socialism and communism. The Kremlin is, no doubt, overcome with joy by the naivete of our diplomatic and intelligence services. Our Latin friends and neighbors certainly deserve a better fate.

SOVIET BLOC TRADE AND THE DESTRUCTION OF LATIN AMERICAN ECONOMIES

Mr. President, as I pointed out on October 13 of this year when discussing the nomination of C. William Verity to the Office of Secretary of Commerce, any expansion of financial and commercial relations with the Soviet Union will be at the expense of our neighbors in Latin America. It is no secret that economic relations have been a part of the Gorbachev summit. It is no secret that numerous leading businessmen affiliated with the United States-U.S.S.R. Trade and Economic Council have met with Mr. Gorbachev and his entourage.

The transfer of goods and technology to the Soviet Union directly and indirectly contributes to Soviet military capabilities. The installation of turnkey projects and joint ventures for manufacturing and other purposes deprives American workers of jobs and impairs our own export markets in third countries for downstream goods which these manufacturing facilities produce.

The expansion of commercial relations with the Soviet Union will inevitably impair economic development in Latin America. Instead of factories and other projects being built in this hemisphere, we will see joint ventures between American firms and the Soviet Government and between American firms and other Soviet bloc countries. Latin America, in effect, will become decapitalized and will experience ever greater problems in being able to meet debt payments not to mention being able to provide job creation.

As the United States abandons Latin America, the Soviet Union and its satellites will be moving in. I have already pointed out the unprecedented trip by the Soviet Foreign Minister which is preparing the way for a state visit by General Secretary Gorbachev to Brazil, Uruguay, and Argentina next year. As the Soviet Union moves further into this hemisphere, our unity will be dismantled and our traditional culture and values will be destroyed.

Mr. President, as a result of this summit, in years to come we may well find ourselves isolated and without allies in a world dominated by the Soviet empire. I sincerely hope that this is not the case but we cannot rule out this possibility. NATO could pass into insignificance. The Rio Treaty could pass into insignificance. The moral, political, diplomatic, economic, and military strength of the United States could become dangerously eroded. Under such conditions, our freedom would be at risk, our standard of living would be lowered, our internal situation would be polarized and unstable, and our national security would be jeopardized.

Mr. President, it is time that our Nation has a foreign policy suited to protecting our vital national interests around the globe. It is time that our Nation has a foreign policy designed to strengthen our relations with friends and allies. It is time that our Nation has a foreign policy which will serve to protect the American people, our way of life, and our constitutional order from the perils of Soviet global expansion and other less visible threats.

TRIBUTE TO THE NORTH HILLS HIGH SCHOOL FOOTBALL TEAM

Mr. SPECTER. Mr. President, the Duke of Wellington, in commenting on the final conflict which ended Napoleon's dreams of empire, said that the Battle of Waterloo was won on the playing fields of Eton. His point was, of course, that the virtues young Englishmen learned in competitive sports—hard work, commitment, courage and loyalty—stood them in good stead when they were forced with life's more difficult problems.

The athletes of North Hills High School's football team in the suburban Pittsburgh, PA, area have vigorously displayed these virtues in recently completing a fantastic season. In going 13-0 and in winning the WPIAL class 4-A championship, the Indians have convincingly earned the mythical national championship and the No. 1 ranking of USA Today—designation as the best high school football team in the country.

Over the past 3 years, North Hills has won 37 games, lost one and tied one. Its loss was in last year's WPIAL championship game by a single point, 7-6; its one tie was a hard fought, scoreless deadlock in 1985. This is an extraordinary record and a tribute to Coach Jack McCurry and his dedicated athletes.

The late Vince Lombardi, coach of the Green Bay Packers, was subject to some criticism because of his seemingly ruthless insistence on winning. But, as Lombardi himself protested, he was misunderstood. His insistence was not winning at any cost, but on working as hard as possible to win, that is, on pursuing excellence.

Nothing in life that is worthwhile comes easily. It is invariably the result of hard work and, in team sports, on a selfless commitment to team excellence. North Hills High School's football team has demonstrated this concept admirably with its all-winning season.

It is, therefore, fitting that the U.S. Senate take note of this achievement and extend its congratulations and best wishes to the North Hills Indians on their truly remarkable championship season.

MISSISSIPPIAN NEW CHAIRMAN OF NATIONAL KIDNEY FOUNDATION

Mr. COCHRAN. Mr. President, another Mississippian has been honored with a leadership position at the national level.

Bill Hunter of Jackson, MI, is now chairman of the National Kidney Foundation. I congratulate him on this honor and his new responsibility.

He is a certified public accountant and is a partner with Peat, Marwick, Main & Co. in Jackson, and has been active in his profession as well as providing leadership and dedicated service to his community, State and Nation in such organizations as the Kidney Foundation.

I know Bill Hunter will provide very fine guidance, service and strong leadership to the Kidney Foundation as it seeks to combat kidney disease.

I commend Bill Hunter and wish him well during his tenure as chairman of the National Kidney Foundation.

MISSISSIPPI HOUSE SPEAKER RETIRES AFTER 40 YEARS LEGISLATIVE SERVICE

Mr. COCHRAN. Mr. President, I want to take this opportunity to commend a good friend who is retiring after 40 years of legislative service to the people of his district and the entire State of Mississippi, including the past 11 years as speaker of the house of representatives.

C.B. (Buddie) Newman of Valley Park in Issaquena County has been one of the most dedicated, hard working legislators in our State's history. During his service in the legislature, he has helped provide the leadership to steer many major legislative programs to passage, and, as chairman of the ways and means committee and later as speaker, has taken the lead in raising the revenue necessary to fund programs in education, highways, health care, and economic development, as well as other programs and institutions vital to the well-being of the people of our State.

A farmer himself, Buddie Newman has been a strong spokesman for the farmers of our State, and has been supportive of our efforts here to secure sound farm legislation and policies beneficial to the farmers of Mississippi.

In addition to his duties as speaker since 1976, Buddie has also been active in a wide range of professional and community service organizations. He is a past chairman of the Southern Legislative Conference of the Council of State Governments and the Southern States Speakers Conference. He is also an active member of a number of economic development, flood control, agriculture, and veterans organizations.

There is a ceremony scheduled tonight at the State capitol in Jackson to pay tribute to Buddie Newman as he prepares to retire and leave office. A portrait of the speaker will be unveiled at this ceremony, and a dinner will be held in his honor.

Although we have a new generation of State and legislative leaders poised to take office and assume leadership positions next month, I feel certain that Buddie Newman's experience and knowledge of the legislature and State government, and his keen awareness of the needs of our people, will be missed by his friends and colleagues.

I wish Buddie and his wife Betty the very best in the years ahead.

CURTIS BOWLING, LEGISLATIVE FELLOW

Mr. WARNER. Mr. President, this year I have been extremely fortunate to have benefited from the abilities of Mr. Curtis Bowling, a superviser at headquarters, Department of the Air Force, who as a LEGIS Fellow, served as a member of my staff.

Mr. Bowling's performance over the course of the past year, a period of unusual, extensive, and demanding legislative deliberations, was thoroughly outstanding. Because of his exemplary efforts, I wanted to take a few moments to commend him and express my appreciation for his service and dedication.

Curtis brought a depth of experience and insight from the Department of Defense and the Air Force in his assignment as a fellow. His perspectives on all aspects of defense policy, particularly environmental, contracting, and acquisition issues, were especially noteworthy. With this grounding, he made an immediate and valuable contribution to the operations of my office.

Possessing a high degree of intellectual maturity combined with sound judgement, he quickly became an integral part of my staff. He consistently provided exceptionally competent advice and counsel on a wide range of complex and demanding issues. Of particular note was an innate capability to go to the heart of a matter and ferret out the salient factors. This not only made for more efficient staff work, but also resulted in far more effective problem resolution.

These attributes coupled with a tenacious approach and a sincere concern with respect to difficult situations to further enhance problem resolution. Curtis routinely made the complex understandable, while placing matters in the proper perspective. In at least three different instances, this tenacity and proficiency resulted in the reversal of what had been a major decision on the part of the Pentagon. In each case, Curtis brought to light details that either had not been considered, or certainly had not been considered adequately.

At the same time, he demonstrated a superb capacity to interface with all agencies of the Government as well as entities throughout the Commonwealth of Virginia. Again, he manifested a genuine concern in every matter large and small, and came to be respected by all with whom he dealt. Comments from every quarter were without exception, highly complimentary.

Curtis is extremely well liked and thoroughly respected by all members of my staff. He will be missed by all as he moves on to new responsibilities. His contributions and achievements are indicative not only of outstanding capabilities, but also an authentic devotion to our Nation. These attributes along with those mentioned earlier, have made him a most valuable member of my staff during his stay with us. The workload and hours during this stay were extraordinary. I am grateful not only to him, but to his wife and family as well for their understanding and support during this year's turbulent legislative session.

As Curtis moves on to other duties, I would like to once again express my sincere appreciation to him for his outstanding service and support, and wish him the very best in all his future endeavors.

Mr. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE SESSION

Mr. BYRD. Mr. President, I inquire of the distinguished acting Republican leader, Mr. HELMS, if two nominations on page 2 of the Executive Calendar, under "United Nations," have been cleared on his side of the aisle.

Mr. HELMS. Mr. President, I say to my good friend that they have been cleared.

Mr. BYRD. I thank the distinguished Senator.

Mr. President, I ask unanimous consent that the Senate go into executive session to consider the two aforementioned nominations, seriatim.

There being no objection, the Senate proceeded to the consideration of executive business.

The PRESIDING OFFICER. The clerk will report the nominations.

UNITED NATIONS

The legislative clerk read the nomination of Pearl Bailey, of Arizona, to be a Representative of the United States of America to the Forty-second Session of the General Assembly of the United Nations.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the nomination was confirmed.

Mr. HELMS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The legislative clerk read the nomination of Mark D. Siljander of Michigan, to be an Alternate Representative of the United States of America to the Forty-second Session of the General Assembly of the United Nations.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the nomination was confirmed.

Mr. HELMS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BYRD. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of these nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate return to the consideration of legislative business.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS CONSENT AGREEMENT ON COMMITTEE FUNDING RESOLUTIONS

Mr. BYRD. Mr. President, I ask unanimous consent that when the Senate considers Calendar Order No. 451, Senate Resolution 304, supplemental funding for the Agriculture Committee there be 90 minutes of debate to be equally divided and controlled in the usual form; provided, that there be no amendments in order to the resolution, and that following the conclusion or yielding back of time, the Senate proceed to vote on the adoption of the resolution without any intervening action; provided further, that there be 10 minutes of debate on any debatable motion or appeal, to be equally divided in accordance with the usual form; provided that following the disposition of Senate Resolution 304, the Senate proceed to the consideration of the following committee funding resolutions en bloc:

Calendar Order No. 444, S. Res. 306—Armed Services Committee; Calendar Order No. 445, S. Res. 311—Finance Committee; Calendar Order No. 446, S. Res. 319—Veterans' Affairs Committee; Calendar Order No. 447, S. Res. 321—Indian Affairs Committee; Calendar Order No. 448, S. Res. 322—Appropriations Committee; and Calendar Order No. 449, S. Res. 325—Rules Committee, and that action on each of these resolutions appear separately in the RECORD; and that one motion to reconsider and lay on the table be in order.

The PRESIDING OFFICER. Without objection, it is so ordered.

LIBRARY CONFERENCE ON LIBRARY AND INFORMATION SERVICES

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 309, Senate Joint Resolution 26.

The PRESIDING OFFICER. The joint resolution will be stated by title.

The legislative clerk read as follows:

A joint resolution (S.J. Res. 26) to authorize and request the President to call a White House Conference on Library and Information Services to be held not later than 1989, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the joint resolution?

There being no objection, the Senate proceeded to consider the joint resolution, which had been reported from the Committee on Labor and Human Resources, with an amendment to strike all after the resolving clause and insert new language.

S.J. RES. 26

Whereas access to information and ideas is indispensable to the development of human potential, the advancement of civilization, and the continuance of enlightened self-government;

Whereas the preservation and the dissemination of information and ideas are the primary purpose and function of the library and information services;

Whereas the economic vitality of the United States in a global economy and the productivity of the work force of the Nation rest on access to information in the postindustrial information age;

Whereas the White House Conference on Library and Information Services of 1979 began a process in which a broadly representative group of citizens made recommendations that have improved the library and information services of the Nation, and sparked the Nation's interest in the crucial role of library and information services at home and abroad;

Whereas library and information service is essential to a learning society;

Whereas social, demographic, and economic shifts of the past decade have intensified the rate of change and require that Americans of all age groups develop and sustain literacy and other lifelong learning habits;

Whereas expanding technological developments offer unprecedented opportunities for application to teaching and learning and to new means to provide access to library and information services;

Whereas the growth and augmentation of the Nation's library and information services are essential if all Americans, without regard to race, ethnic background, or geographic location are to have reasonable access to adequate information and lifelong learning;

Whereas the future of our society depends on developing the learning potential inherent in all children and youth, especially literary, reading, research, and retrieval skills;

Whereas rapidly developing technology offer a potential for enabling libraries and information services to serve the public more fully; and

Whereas emerging satellite communication networks and other technologies offer unparalleled opportunity for access to education opportunities to all parts of the world, and to individuals who are homebound, handicapped, or incarcerated: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

PRESIDENT TO CALL CONFERENCE IN 1989

SECTION 1. The President is authorized to call and conduct a White House Conference on Library and Information Services to be held not earlier than September 1, 1989, and not later than September 30, 1991.

ESTABLISHMENT OF CONFERENCE

SEC. 2. (a) PURPOSE.—The purpose of the White House Conference on Library and Information Services shall be to develop recommendations for the further improvement of the library and information services of the Nation and their use by the public, in accordance with the findings set forth in the preamble to this joint resolution.

(b) COMPOSITION.—The Conference shall be composed of—

(1) representatives of professional library and information personnel and individuals who support or furnish volunteer services to libraries and information services centers, from all age groups and walks of life, and members of the general public;

(2) representatives of local, statewide, regional, and national institutions, agencies, organizations, and associations which provide library and information services to the public;

(3) representatives of educational institutions, agencies, organizations, and associations (including professional and scholarly associations for the advancement of education and research);

(4) individuals with special knowledge of, and special competence in, technology as it may be used for the improvement of library and information services; and

(5) representatives of Federal, State, and local governments.

(c) DISTRIBUTION OF PARTICIPANTS.—In carrying out subsection (a)—

(1) one-fourth of the participants shall be selected from the library and information profession,

(2) one-fourth of the participants shall be selected from among individuals who are currently active library and information supporters, including trustees and friends groups,

(3) one-fourth shall be selected from among individuals who are Federal, State, or local government officials, and

(4) one-fourth shall be selected from the general public.

(d) STATE PARTICIPATION OPTIONAL.—(1) State and territorial delegates and alternates to the national conference may participate in a respective State or territorial conference.

(2) Nothing in this Act shall be construed to require any State to participate in a State or territorial conference.

ADMINISTRATIVE PROVISIONS

SEC. 3. (a) DIRECTION BY COMMISSION.—The Conference shall be planned and conducted under the direction of the National Commission on Libraries and Information Science.

(b) COMMISSION FUNCTIONS.—In carrying out this joint resolution, the Commission shall—

(1) when appropriate, request the cooperation and assistance of other Federal departments and agencies in order to carry out its responsibilities;

(2) make technical and financial assistance (by grant, contract, or otherwise) available to the States to enable them to organize and conduct conferences and other meetings in order to prepare for the Conference;

(3) prepare and make available background materials for the use of delegates to the Conference and associated State conferences, and prepare and distribute such reports of the Conference and associated State conferences as may be appropriate; and

(4) conduct fiscal oversight activities with respect to the preparation for and the con-

vening of the Conference including contracting for the services of an audit firm.

(c) Federal Agency Cooperation and Assistance.—(1) Each Federal department and agency, including the national libraries, shall cooperate with, and provide assistance to the Commission upon its request under clause (1) of subsection (b). For that purpose, each Federal department and agency is authorized and encouraged to provide personnel to the Commission.

(2) The Librarian of Congress, the Director of the National Library of Medicine, and the Director of the National Agricultural Library are authorized to detail personnel to the Commission, upon request, to enable the Commission to carry out its functions under this joint resolution.

(d) Personnel.—In carrying out the provisions of this joint resolution, the Commission is authorized to engage such personnel as may be necessary to assist the Commission and the Advisory Committee, without regard for the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to chapter 51, and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(e) Expenses.—Members of the Conference may, while away from their homes or regular places of business and attending the Conference, be allowed travel expenses, including per diem in lieu of subsistence, as may be allowed under section 5703 of title 5, United States Code, for persons serving without pay. Such expenses may be paid by way of advances, reimbursement, or in installments as the Commission may determine.

REPORTS

Sec. 4. (a) Submission to President; Transmittal to Congress.—A final report of the Conference, containing such findings and recommendations as may be made by the Conference, shall be submitted to the President not later than 120 days following the close of the Conference. The final report shall be made public and, within 90 days after its receipt by the President, transmitted to the Congress together with a statement of the President containing the recommendations of the President with respect to such report.

(b) Publication and Distribution.—The Commission is authorized to publish and distribute for the Conference the reports authorized under this joint resolution. Copies of all such reports shall be provided to the depository libraries.

ADVISORY COMMITTEE

Sec. 5. (a) Composition.—There is established an advisory committee of the Conference composed of—

(1) eight individuals designated by the Chairman of the Commission;

(2) five individuals designated by the Speaker of the House of Representatives with not more than three being Members of the House of Representatives;

(3) five individuals designated by the President pro tempore of the Senate with not more than three being Members of the Senate;

(4) ten individuals appointed by the President;

(5) the Secretary of Education; and

(6) the Librarian of Congress.

The President, the President pro tempore of the Senate, the Speaker of the House of Representatives, and the Chairman of the Commission shall, after consultation, assure that members of the Advisory Committee are broadly representative of all areas of the United States.

(b) Function.—The advisory committee shall assist and advise the Commission in planning and conducting the Conference.

(c) Administration.—(1) The Chairman of the Commission shall serve as Vice Chairman of the Advisory Committee. The Advisory Committee shall elect the Chair of the Advisory Committee from among its members, who are not full-time Federal employees. The Advisory Committee shall select the Chair of the Conference.

(2) The Chairman of the Advisory Committee is authorized to establish, prescribe functions for, and appoint members to, such advisory and technical committees and staff as may be necessary to assist and advise the Conference in carrying out its functions.

(d) Compensation.—Members of any committee established under this section who are not regular full-time officers or employees of the United States shall, while attending to the business of the Conference, be entitled to receive compensation therefor at a rate fixed by the President but not exceeding the rate of pay specified at the time of such service for grade GS-18 in section 5332 of title 5, United States Code, including traveltime. Such members, may, while away from their homes or regular places of business, be allowed travel expenses, including per diem in lieu of subsistence, as may be authorized under section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

GIFTS AND TITLE TO CERTAIN PROPERTY

Sec. 6. (a) Gifts.—The Commission shall have authority to accept, on behalf of the Conference, in the name of the United States, grants, gifts, or bequests of money for immediate disbursement by the Commission in furtherance of the Conference. Such grants, gifts, or bequests offered the Commission, shall be paid by the donor or his representative into the Treasury of the United States, whose receipts shall enter such grants, gifts, and bequests in a special account to the credit of the Commission for the purposes of this joint resolution.

(b) Reversion of Certain Equipment and Material.—Materials and equipment acquired by the White House Conference shall revert to the National Conference on Libraries and Information Science after the close of the White House Conference.

DEFINITIONS

Sec. 7. For the purpose of this joint resolution—

(1) the term "Commission" means the National Commission on Libraries and Information Science;

(2) The term "Conference" means White House Conference on Library and Information Services; and

(3) the term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and American Indian Tribes.

AUTHORIZATIONS OF APPROPRIATIONS; LIMITATIONS

Sec. 8. (a) In General.—There are authorized to be appropriated without fiscal year limitations $5,000,000 to carry out this joint resolution. Such sum shall remain available for obligation until expended.

(b) Limitation.—Of the funds appropriated under the Library Services and Construction Act, only the funds appropriated for title III of that Act may be used to carry out the activities authorized by this resolution.

AMENDMENT NO. 1360

(Purpose: To add provisions relating to the Constitution bicentennial education program, the income contingent direct loan demonstration project, and certain resource authorizations, and for other purposes)

Mr. BYRD. Mr. President, I send an amendment to the desk on behalf of Senators Pell and Stafford.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from West Virginia [Mr. Byrd], on behalf of Mr. Pell and Mr. Stafford, proposes an amendment numbered 1360.

Mr. BYRD. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 11, between lines 8 and 9, insert the following:

TITLE I—WHITE HOUSE CONFERENCE ON LIBRARY AND INFORMATION SERVICES

On page 11, line 10, strike out "Section 1." and insert in lieu thereof "Sec. 101.".

On page 11, line 15, strike out "Sec. 2." and insert in lieu thereof "Sec. 102.".

On page 13, line 13, strike out "Sec. 3." and insert in lieu thereof "Sec. 103.".

On page 15, line 14, strike out "Sec. 4." and insert in lieu thereof "Sec. 104.".

On page 16, line 4, strike out "Sec. 5." and insert in lieu thereof "Sec. 105.".

On page 17, line 24, strike out "Sec. 6." and insert in lieu thereof "Sec. 106.".

On page 18, line 10, strike out "Conference" the second time it appears and insert in lieu thereof "Commission".

On page 18, line 14, strike out "Sec. 7." and insert in lieu thereof "Sec. 107.".

On page 18, line 25, strike out "Sec. 8." and insert in lieu thereof "Sec. 108.".

On page 19, after line 6, insert the following:

TITLE II—CONSTITUTIONAL BICENTENNIAL EDUCATION PROGRAM

TEACHER TRAINING AMENDMENT

Sec. 201. Section 501(c)(1) of the Arts, Humanities, and Museums Amendments of 1985 is amended—

(1) by striking out "$5,000,000 for each of the fiscal years 1987 and 1988," and inserting in lieu thereof "$8,000,000 for each of the fiscal years"; and

(2) by inserting before the period at the end thereof a comma and the following: "of which at least $3,000,000 in each fiscal year shall be reserved for elementary and secondary teacher training and retraining programs in history, geography, and other related disciplines in the social sciences and humanities designed to enhance understanding of the Constitution.

TITLE III—HIGHER EDUCATION PROGRAM

INCOME CONTINGENT DIRECT LOAN DEMONSTRATION PROJECT

Sec. 301. (a) New Agreements and Consortia.—Section 452(c)(2) of the Higher Education Act of 1965 is amended—

(1) by inserting "(A)" after the paragraph designation; and

(2) by adding at the end thereof the following new paragraph:

"(B) The Secretary may, in any fiscal year beginning after September 30, 1988, in which the appropriation to carry out the provisions of this part exceeds $5,000,000, enter into agreements with an additional 10 institutions of higher education. Any agreement entered into under this subparagraph may include consortia of such institutions if the participating institutions of higher education are located in the same State.".

(b) INSTITUTIONAL PAYMENT OF IN-SCHOOL INTEREST.—Section 453(5) of the Higher Education Act of 1965 is amended—

(1) by striking out "and" at the end of subparagraph (B);

(2) by adding "and" at the end of subparagraph (C); and

(3) by adding at the end thereof the following new subparagraph:

"(D) at the option of the institution, payment, from the institution's capital contribution described in paragraph (3), to cover the interest that accrues on loans made by such institution to students, during the period such students are attending the institution on at least a half-time basis;".

(c) GRADUATE AND PROFESSIONAL STUDENT ELIGIBILITY.—(1) Section 454(a)(2) of the Higher Education Act of 1965 is amended by striking out "$17,500" and inserting in lieu thereof "$17,500 in the case of an undergraduate student (as defined in accordance with the regulations of the Secretary), and $44,500 in the case of a graduate or professional student (as defined in accordance with the regulations of the Secretary and including any loans from such funds made to such student before the student became a graduate or professional student)".

(2) Section 454(a)(3) of the Higher Education Act of 1965 is amended—

(A) by striking out "and" at the end of subparagraph (B);

(B) by striking out the period at the end of subparagraph (C) and inserting in lieu thereof a semicolon and "and"; and

(C) by adding at the end thereof the following new subparagraph:

"(D) $10,000 in the case of a graduate or professional student, as defined in accordance with the regulations of the Secretary.".

(d) INTEREST RATE.—(1) Section 454(a)(4)(A) of the Higher Education Act of 1965 is amended to read as follows:

"(A) The interest rate on loans under this part shall be computed in accordance with subparagraph (B), based on the interest rate computed for the calendar year in which the loan was made, and fixed over the life of the loan.".

(2) Section 454(a)(4)(B)(ii) of the Higher Education Act of 1965 is amended by striking out "3 percent" and inserting in lieu thereof "one-half of 1 percent".

(e) EFFECTIVE DATE.—The amendments made by this section shall be effective for loans made to cover periods of instruction beginning on or after July 1, 1988.

INFORMATION ON DEFAULTS REQUIRED

SEC. 302. (a) GENERAL RULE.—The first sentence of section 428(k)(1) of the Higher Education Act of 1965 is amended—

(1) by striking out "In" and inserting in lieu thereof "Notwithstanding any other provision of law, in"; and

(2) by striking out "may" and inserting in lieu thereof "shall".

(b) CONFORMING AMENDMENT.—The second sentence of section 428(k)(1) of such Act is amended by striking out "may" and inserting in lieu thereof "shall".

TECHNICAL AMENDMENT CONCERNING TEACHER TRAINING PROGRAM ELIGIBILITY FOR GSL PROGRAM

SEC. 303. Section 484 of the Higher Education Act of 1965 is amended—

(1) in subsection (a)(1), by striking out "subsection (b)(2)" and inserting in lieu thereof "subsections (b)(2) and (b)(3)"; and

(2) by adding at the end of subsection (b) the following new paragraph:

"(3) A student who—

"(A) is carrying at least one-half the normal full-time work load for the course of study the student is pursuing, as determined by the institution, and

"(B) is enrolled or accepted for enrollment in a program at an eligible institution leading to a professional credential or certification from a State that is required for employment as a teacher in an elementary or secondary school in that State,

shall be, notwithstanding paragraph (1) of subsection (a), eligible to apply for loans under part B of this title.".

TITLE IV—LIBRARY AND EDUCATION RESOURCE AUTHORIZATIONS

WASHINGTON LIBRARY CONSORTIUM

SEC. 401. (a) GENERAL AUTHORITY.—The Secretary of Education is authorized to provide financial assistance, in accordance with the provisions of this section, to the Washington Library Consortium for the purpose of constructing and equipping a facility in Prince Georges County, Maryland, that would link by computer eight university libraries (located at American University, Georgetown University, George Washington University, Catholic University, George Mason University, Gallaudet University, Marymount University, and the University of the District of Columbia) and provide central storage for the rare books of the participating institutions of higher education.

(b) APPLICATION.—No financial assistance may be made under this section unless an application is submitted to the Secretary of Education at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $7,500,000 to carry out the provisions of this section. Funds appropriated pursuant to this section shall remain available until expended.

VERMONT HIGHER EDUCATION COUNCIL

SEC. 402. (a) GENERAL AUTHORITY.—The Secretary of Education is authorized to provide financial assistance, in accordance with the provisions of this section, to the Vermont Higher Education Council located in Hyde Park, Vermont, for development activities for faculty at institutions of higher education which are members of the Vermont Higher Education Council designed to address and overcome professional isolation experienced by such faculty members.

(b) APPLICATION REQUIRED.—No financial assistance may be made under this section unless an application is submitted to the Secretary of Education at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require.

(c) AUTHORIZATION OF APPROPRIATION.—There are authorized to be appropriated $1,000,000 to carry out the provisions of this section. Funds appropriated pursuant to this section shall remain available until expended.

HEALTH AND HUMAN RESOURCES CENTER AUTHORIZED.

SEC. 403. (a) GENERAL AUTHORITY.—The Secretary of Education is authorized, in accordance with the provisions of this section, to provide financial assistance to Voorhees College, located in Denmark, South Carolina, to pay the cost of construction and related costs for a Health and Human Resources Center at Voorhees College.

(b) APPLICATION REQUIRED.—No financial assistance may be made under this section unless an application is made at such time, in such manner, and containing or accompanied by such information, as the Secretary may reasonably require.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums, not to exceed $4,500,000, as may be necessary to carry out the provisions of this section. Funds appropriated pursuant to this section shall remain available until expended.

UNIVERSITY OF MISSISSIPPI LAW LIBRARY

SEC. 404. (a) GENERAL AUTHORITY.—The Secretary of Education is authorized to provide financial assistance, in accordance with the provisions of this section, to the University of Mississippi Law School for the renovation and completion of the library facilities of the University of Mississippi Law School at Oxford, Mississippi.

(b) APPLICATION REQUIRED.—No financial assistance may be made under this section unless an application is submitted to the Archivist at such time, in such manner, and containing or accompanied by such information as the Archivist may reasonably require.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $2,200,000 to carry out the provisions of this section. Funds appropriated pursuant to this section shall remain available until expended.

Mr. PELL. Mr. President, I would like to offer a package of amendments which have been agreed to by the committee. In addition to some technical changes to the provisions on the White House Conference on Libraries, several substantive amendments are included as well.

First, the committee amendment adds $3 million to the Constitutional Bicentennial Education Program to provide additional training for elementary and secondary teachers in the areas of history, geography, and subjects related to our Constitution. Education is the primary tool for transmitting the ideals of our society to the next generation. If our Nation's teachers do not have a basic understanding in these three critical areas, neither will our children.

Second, the committee package contains four important changes to the Income Contingent Loan Demonstration Program to enable us to get a better picture regarding whether or not such a program is viable. Specifically, the amendment: First, permits 10 additional institutions to participate in the program and allows these to include a consortia of institutions within a State; second, permits institutions of higher education to pay students' in school interest; third, allows for program participation by professional and graduate students; and fourth, decreases the interest rate from T-Bill plus 3 percent to T-Bill plus one-half of 1 percent.

Third, the committee amendment would require guaranty agencies to share information with colleges concerning former students in default on their Guaranteed Student Loans. We have found that schools often cannot obtain the information they need to help us crack down on defaulters, and this amendment will facilitate the sharing of such data.

Fourth, the amendment corrects a technical error in the eligibility section of the Guaranteed Student Loan Program which prevents students who have returned to school to obtain State teacher certification from obtaining a student loan.

Finally, we have a series of special projects that the Committee members have agreed upon. These include:

For the Washington Library Consortium $7.5 million. This would authorize the construction and equipping of a facility in Prince Georges County, MD, that would link by computer eight universities, including American University, Georgetown, George Washington, Catholic, George Mason, Gallaudet, Marymount, and the University of the District of Columbia. The facility would also provide central storage for rare books owned by these institutions.

For the construction of a Health and Human Resources Center at Voorhees College in Denmark, SC, $4.5 million.

For the Vermont Higher Education Council $1 million to establish a series of faculty development programs at the 32 institutions of higher education in Vermont.

For the construction of a Law Library at the University of Mississippi, $2.2 million.

These are all worthy projects, and they deserve the strong support of the full Senate.

Mr. President, this amendment represents consensus by the members of the Labor and Human Resources Committee, and I offer it on behalf of myself and Senator STAFFORD.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1360) was agreed to.

AMENDMENT NO. 1361

(Purpose: To reauthorize, and make certain modifications to, the Drug-Free Schools and Communities Act of 1987)

Mr. BYRD. Mr. President, on behalf of Senators CHILES, D'AMATO, and DECONCINI I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD], (for Mr. CHILES) (for himself, Mr. D'AMATO, and Mr. DECONCINI), proposes an amendment numbered 1361.

Mr. BYRD. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the joint resolution add the following:

TITLE X DRUG-FREE SCHOOLS

DRUG-FREE SCHOOLS REAUTHORIZATION

SEC. X01. Section 4111(a) of the Drug-Free Schools and Communities Act of 1987 (hereafter in this title referred to as the "Act") is amended by inserting before the period a comma and the following: "and such sums as may be necessary for the fiscal year 1990 and each of the fiscal years ending prior to October 1, 1993".

STATE PROGRAM—LOCAL ALLOTMENTS

SEC. X02. The second sentence of section 4124(a) of the Act is amended by striking out "the relative numbers of children in the school-aged population within such areas" and inserting in lieu thereof "the relative enrollments in public and private, nonprofit schools within the areas served by such agencies".

STATE PROGRAM—PARTICIPATION OF TEACHERS IN PRIVATE NONPROFIT SCHOOLS

SEC. X03. Section 4143(b) of the Act is amended by striking out "State, State educational agency, or State agency for higher education" and inserting in lieu thereof "State, agency, or consortium".

STATE PROGRAM—LOCAL APPLICATIONS

SEC. X04. (a) Section 4126(a)(2) of the Act is amended—

(1) by redesignating subparagraphs (D) through (J) as subparagraphs (G) through (M), respectively; and

(2) by inserting after subparagraph (C) the following new subparagraphs:

"(D) describe the extent and nature of the current illegal drug and alcohol problem in each school of the applicant, including detailed information that shows—

"(i) the number or percentage of students who use drugs or alcohol;

"(ii) the grade level of those students;

"(iii) the types of drugs they use; and

"(iv) how the applicant obtained this information;

"(E) describe the applicant's drug and alcohol policy, including an explanation of—

"(i) the disciplinary practices and procedures it will strictly enforce to eliminate the sale or use of drugs and alcohol on school premises; and

"(ii) how it will convey to students the message that drug use is not permissible;

"(F) describe how the applicant will monitor the effectiveness of its program;".

(b) Section 4126 of the Act is further amended by adding at the end thereof the following new subsection:

"(b)(1) In order to receive funds under this Act for the third year of its plan, an applicant shall submit to the State educational agency a progress report on the first two fiscal years of its plan. The progress report shall describe in detail—

"(A) the applicant's significant accomplishments under the plan during the preceding two years; and

"(B) the extent to which the original objectives of the plan are being achieved, including the extent to which there has been a reduction in the number of students who use drugs and alcohol.

"(2) The State educational agency shall not award funds under this Act to an applicant for the third year of its plan unless the State educational agency determines that the applicant's progress report shows that it is making reasonable progress toward accomplishing the objectives of its plan and the purposes of this Act. If the State educational agency determines that reasonable progress is not being made, the State educational agency shall instruct the applicant in writing to modify its plan so as to provide reasonable assurance of such progress. If after 90 days the applicant has not submitted to the State educational agency a modified plan which provides such assurance, the State educational agency may reallocate the applicant's funds to other applicants on the basis of need.".

STATE PROGRAM—REPORTS

SEC. X05. Part 2 of the Act is amended by adding at the end thereof the following new section:

"STATE REPORTS

"SEC. 4127. Each State shall submit to the Secretary an annual report, at such time and in such form as the Secretary may prescribe, that contains information on the State or local programs the State conducts under this subtitle, including—

"(1) data on the number and characteristics of program recipients and the persons who participated in their programs; and

"(2) an assessment of the degree to which those programs accomplished their goals, including their impact upon drug and alcohol use by students.".

NATIONAL PROGRAMS—GRANTS AND CONTRACTS

SEC. X06. (a) The third sentence of section 4132(b) of the Act is amended by inserting "directly, or through grants, cooperative agreements, or contracts" immediately after "shall".

(b) Section 4134(a) of the Act is amended by striking out "enter into" and inserting in lieu thereof "make grants to or enter into cooperative agreements or".

(c) Section 4135 of the Act is amended by inserting a comma and "through grants, cooperative agreements, or contracts," immediately after "Secretary".

EVALUATION

SEC. X07. Section 4132(d) of the Act is amended by adding at the end thereof the following new sentence: "In addition, the Secretary may conduct periodic evaluations of programs authorized by this Act.".

EFFECTIVE DATE

SEC. X08. (a) The provisions of this title shall take effect October 27, 1986.

(b) Notwithstanding subsection (a), a State educational agency may allot fiscal year 1987 funds to local and intermediate educational agencies and consortia under section 4124(a) of the Act on the basis of their relative numbers of children in the school-aged population.

Mr. CHILES. Mr. President, my portion of this amendment serves to reauthorize the Drug Free Schools and Communities Act and allow the Senate to make long term commitment to our war against drugs. I initially brought this amendment to the floor during consideration of the elementary and secondary education reauthorization bill. I deferred from offering the amendment until now, however, in order to accommodate the managers of the bill.

Mr. President, this amendment would authorize funding for the Drug Free Schools Act at $250 million in 1989 and "such sums as may be necessary" for the years 1990 through 1993. It extends the authority for our drug education programs as is done in the House reauthorization bill and as is done with the many other education programs in the Senate bill. I think all Senators will agree that our efforts at ridding our schools of drugs and alcohol are equally important, if not more important, than all of the valuable contributions made by our other elementary and secondary education programs. Any schoolteacher or principal will tell you that they cannot make one bit of progress in improving basic skills, or teaching English to our immigrant youngsters, or giving our kids new vocational skills, if these students are hooked on drugs.

The problem of drug abuse in our schools has not abated since we passed the Anti-Drug Abuse Act of 1986. We are just beginning to see some positive results from this initiative. In my own State, our school-based drug education programs are now being complemented by programs sponsored by our community groups, police forces, churches and synagogues. But, since the passage of the omnibus drug bill, even newer and more dangerous threats have surfaced in our Nation's schools. In Broward County, FL, arrests of children for cocaine possession are up 120 percent and arrests of children dealing in cocaine has risen 102 percent. In 1986 the majority of crack cocaine users in Broward County's drug treatment centers were above the age of 25. This year the majority are below the age of 20. In Dade County, FL, we now have an average of two deaths a week attributable to cocaine abuse. Too many of these deaths involved school-age children or the parents of school-age children. And, in Florida this year, we have seen a frightening rise in the number of children who are inhaling typewriter correction fluid. Teachers in Florida City are confiscating these bottles of "white-out" from students as young as 11 years old.

Many of us here in the Senate still have painful memories of the administration's 1988 budget request that asked us to walk away from our war on drugs just weeks after we stood with the President and launched this bipartisan initiative. The administration asked us to reduce our overall Federal drug budget by 23 percent and our drug-free schools program was singled out for a 50-percent cut. I have met privately with Secretary Bennett and he has assured me that he will be doing his best to send us a more realistic budget request next year. For my own part, as chairman of the Appropriations Subcommittee for Labor, Health and Education, I greeted the administration request to cut funding for drug education in half by, instead, boosting funding by 25 percent to $250 million—the fully authorized level.

I can only hope, Mr. President, that next year the administration will stand with us and not against us in this cause. Because when I ask law enforcement officials in my State, what is the most important tool we can give you in fighting the war on drugs? Whether it is a major city police chief or a small county sheriff, some say they need more men and some say they need more equipment, but they all say that we must educate our children as to the dangers of drugs. If we let ourselves fall behind in controlling the demand for drugs we will never get the drug problem under control. Currently, the Federal Government is spending about $3 billion to control the supply of drugs to this country, but less than one-tenth of that amount to control the demand side.

Getting the demand side under control is a tall order, especially in States like Florida that serve as a point of illegal entry for the rest of the country. It is estimated that 70 percent of the cocaine in the United States enters the country through Florida. Children as young as 11 years old have been arrested in my State for smoking crack cocaine. Sixty-one percent of high school students have used illicit drugs in Florida and almost one in five have used cocaine.

Early this year the Appropriations Committee held hearings on the Drug Free Schools Act. During those hearings, Florida's education commissioner, Betty Castor, told the committee that while 64 percent of all juveniles arrested in Florida are involved in drug or alcohol abuse, the State only has resources to provide substance abuse counseling to 1 out of every 10 students that need it. She said that the funds she will be receiving from the Drug Free Schools Act would help her improve those figures, but there is no question that our States and our local school districts have a long way to go.

Perhaps the most important testimony the Appropriations Committee received this year was from students whose lives were literally saved by special drug education and treatment programs. We heard from 16-year-old Derek Dame of Jacksonville who started using drugs at the age of 8 and last year was finally able to end his addiction after spending 38 days in a rehabilitation program. We also heard from Clarence Coburn of Fort Lauderdale. Clarence was more fortunate than Derek—his path toward drugs was detoured by a successful early intervention education program. Instead of embarking on a adult life of crime and addiction, these kids are now heading into a life of self confidence, pride, and accomplishment. Saving young lives is what the Drug Free Schools Act is all about. But, while it is heartening and encouraging to call attention to these success stories, we cannot forget that we still have a long way to go toward reaching all the students that need help. Many Senators will remember that when we originally passed the Omnibus Anti-Drug Abuse Act, we were criticized by some for indulging in an insincere preelection political exercise. Those critics were wrong and I believe that our continued funding commitment has proven that. Passing this amendment will show again that the Senate's commitment to fighting drug abuse in our schools is not a passing political fad.

I strongly encourage my colleagues to stand with me and support this amendment. Our war on drugs will not be a short one or an easy one, but it is one we cannot afford to lose.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1361) was agreed to.

The PRESIDING OFFICER. The joint resolution is open to further amendment. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and the third reading of the joint resolution.

The joint resolution was ordered to be engrossed for a third reading and was read the third time.

Mr. PELL. Mr. President, it is a pleasure to speak today in support of Senate Joint Resolution 26, the bill to authorize and request the President to call a White House Conference on Library and Information Services sometime between September 1989 and September 1991.

In fact this will be the second White House Conference to address the important issues facing our library and information services communities. I was proud to be the Senate sponsor of the first Conference that was held with great success in 1979.

It is time again to focus in a national forum on a wide range of important issues that are of critical importance to the well-being of our library community. Few will dispute how useful such a Conference can be in targeting national attention to ion to library needs and to building broader support for improved library services.

Such a Conference is very timely as we strive to improve America's competitive standing in the international community. Over the last decade the drastic changes in information technology have had a far-reaching impact on the way our modern society functions. We must be as sure of maintaining access to information as we are of knowing how to organize and use it.

The Conference shall be planned and conducted under the direction of the National Commission on Libraries and Information Science whose responsibility it is to ensure the participation of individuals and organizations at the local, State, regional and national levels. Though the national Conference may be a few years away, it is time now for the States to begin serious planning for their own State-level gatherings at which conference themes will be developed to be taken later to the national forum.

In an effort to keep expenses to a minimum, this bill authorizes $5 million to help fund the White House Conference. The total cost is apt to be higher, but other financial sources must be found for the balance. The future health and vitality of our libraries is certainly worth this investment. This second White House Conference will be a significant reaffirmation of our commitment to our libraries.

I commend this legislation to my colleagues, and hope that they will join me in supporting it.

Mr. STAFFORD. Mr. President, I rise today in support of Senate Joint Resolution 26, authorizing the President to call a White House Conference on Library and Information Services. This legislation will make it possible for representatives from libraries across our Nation to meet in Washington, DC to exchange ideas about how to provide the very best library services to the citizens of our Nation.

I have been concerned in the past about spending Federal funds for a White House Conference on Library and Information Services. Libraries have pressing needs for funds to acquire new holdings and to provide services to elderly, handicapped, and other hard-to-reach citizens. It is this Senator's firm belief that our priority should be developing and extending library programs which serve those individuals who need them most. In light of this concern, the committee agreed to prohibit the use of title I funds received under the Library Services and Construction Act for purposes related to the White House Conference. This is sensible amendment and does not preclude States from using other LSCA moneys, not earmarked for direct services, for conference related events.

The Committee package also includes service amendments to the Income Contingent Loan Demonstration Program which was authorized in the 1986 amendments to the Higher Education Act. These provisions will make the following changes in this program to benefit student borrowers: First, make graduate and professional students eligible to borrow income contingent loans. These are the students who certainly have the most to gain from a repayment program based on future income; second, lower the interest rate on ICL's from T-Bill plus 3 percent to T-bill plus 1½ percent; third, permit participating institutions to use Federal funds to pay in-school interest on these loans for student borrowers; and fourth, allow the number of participating institutions to increase to 20 if appropriations for the ICL demonstration exceed the fiscal year 1987 level. Consortia would also be allowed to apply for these additional funds.

I urge my colleagues to join me in support of Senate Joint Resolution 26.

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be discharged from further consideration of the House-passed companion measure, House Joint Resolution 90, and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The joint resolution will be stated by title.

The legislative clerk read as follows:

A joint resolution (H.J. Res. 90) to authorize and request the President to call a White House Conference on Library and Information Services to be held not later than 1989, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the joint resolution?

There being no objection, the Senate proceeded to consider the joint resolution.

Mr. BYRD. Mr. President, I move that all after the resolving clause be stricken and the text of Senate Joint Resolution 26, as amended, be substituted in lieu thereof.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from West Virginia.

The motion was agreed to.

The PRESIDING OFFICER. The question is on the third reading and passage of the joint resolution.

The joint resolution (H.J. Res. 90) was ordered to be read a third time, was read the third time, and passed.

The preamble was agreed to.

The text of House Joint Resolution 90, as amended, and passed, is as follows:

H.J. RES. 90

Resolved, That the joint resolution from the House of Representatives (H.J. Res. 90) entitled "Joint resolution to authorize and request the President to call and conduct a White House Conference on Library and Information Services to be held not earlier than September 1, 1989, and not later than September 30, 1991, and for other purposes do pass with the following amendments:

Strike out all after the resolving clause and insert:

TITLE I—WHITE HOUSE CONFERENCE ON LIBRARY AND INFORMATION SERVICES

PRESIDENT TO CALL CONFERENCE IN 1989

SECTION 101. The President is authorized to call and conduct a White House Conference on Library and Information Services to be held not earlier than September 1, 1989, and not later than September 30, 1991.

ESTABLISHMENT OF CONFERENCE

SEC. 102. (a) PURPOSE.—The purpose of the White House Conference on Library and Information Services shall be to develop recommendations for the further improvement of the library and information services of the Nation and their use by the public, in accordance with the findings set forth in the preamble to this joint resolution.

(b) COMPOSITION.—The Conference shall be composed of—

(1) representatives of professional library and information personnel and individuals who support or furnish volunteer services to libraries and information services centers, from all age groups and walks of life, and members of the general public;

(2) representatives of local, statewide, regional, and national institutions, agencies, organizations, and associations which provide library and information services to the public;

(3) representatives of educational institutions, agencies, organizations, and associations (including professional and scholarly associations for the advancement of education and research);

(4) individuals with special knowledge of, and special competence in, technology as it may be used for the improvement of library and information services; and

(5) representatives of Federal, State, and local governments.

(c) DISTRIBUTION OF PARTICIPANTS.—In carrying out subsection (a)—

(1) one-fourth of the participants shall be selected from the library and information profession,

(2) one-fourth of the participants shall be selected from among individuals who are currently active library and information supporters, including trustees and friends groups,

(3) one-fourth shall be selected from among individuals who are Federal, State, or local government officials, and

(4) one-fourth shall be selected from the general public.

(d) STATE PARTICIPATION OPTIONAL.—(1) State and territorial delegates and alternates to the national conference may participate in a respective State or territorial conference.

(2) Nothing in this Act shall be construed to require any State to participate in a State or territorial conference.

ADMINISTRATIVE PROVISIONS

SEC. 103. (a) DIRECTION BY COMMISSION.—The Conference shall be planned and conducted under the direction of the National Commission on Libraries and Information Science.

(b) COMMISSION FUNCTIONS.—In carrying out this joint resolution, the Commission shall—

(1) when appropriate, request the cooperation and assistance of other Federal departments and agencies in order to carry out its responsibilities;

(2) make technical and financial assistance (by grant, contract, or otherwise)

available to the States to enable them to organize and conduct conferences and other meetings in order to prepare for the Conference;

(3) prepare and make available background materials for the use of delegates to the Conference and associated State conferences, and prepare and distribute such reports of the Conference and associated State conferences as may be appropriate; and

(4) conduct fiscal oversight activities with respect to the preparation for and the convening of the Conference including contracting for the services of an audit firm.

(c) Federal Agency Cooperation and Assistance.—(1) Each Federal department and agency, including the national libraries, shall cooperate with, and provide assistance to the Commission upon its request under clause (1) of subsection (b). For that purpose, each Federal department and agency is authorized and encouraged to provide personnel to the Commission.

(2) The Librarian of Congress, the Director of the National Library of Medicine, and the Director of the National Agricultural Library are authorized to detail personnel to the Commission, upon request, to enable the Commission to carry out its functions under this joint resolution.

(d) Personnel.—In carrying out the provisions of this joint resolution, the Commission is authorized to engage such personnel as may be necessary to assist the Commission and the Advisory Committee, without regard for the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to chapter 51, and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(e) Expenses.—Members of the Conference may, while away from their homes or regular places of business and attending the Conference, be allowed travel expenses, including per diem in lieu of subsistence, as may be allowed under section 5703 of title 5, United States Code, for persons serving without pay. Such expenses may be paid by way of advances, reimbursement, or in installments as the Commission may determine.

REPORTS

Sec. 104. (a) Submission to President; Transmittal to Congress.—A final report of the Conference, containing such findings and recommendations as may be made by the Conference, shall be submitted to the President not later than 120 days following the close of the Conference. The final report shall be made public and, within 90 days after its receipt by the President, transmitted to the Congress together with a statement of the President containing the recommendations of the President with respect to such report.

(b) Publication and Distribution.—The Commission is authorized to publish and distribute for the Conference the reports authorized under this joint resolution. Copies of all such reports shall be provided to the depository libraries.

ADVISORY COMMITTEE

Sec. 105. (a) Composition.—There is established an advisory committee of the Conference composed of—

(1) eight individuals designated by the Chairman of the Commission;

(2) five individuals designated by the Speaker of the House of Representatives with not more than three being Members of the House of Representatives;

(3) five individuals designated by the President pro tempore of the Senate with not more than three being Members of the Senate;

(4) ten individuals appointed by the President;

(5) the Secretary of Education; and

(6) the Librarian of Congress.

The President, the President pro tempore of the Senate, the Speaker of the House of Representatives, and the Chairman of the Commission shall, after consultation, assure that members of the Advisory Committee are broadly representative of all areas of the United States.

(b) Function.—The advisory committee shall assist and advise the Commission in planning and conducting the Conference.

(c) Administration.—(1) The Chairman of the Commission shall serve as Vice Chairman of the Advisory Committee. The Advisory Committee shall elect the Chair of the Advisory Committee from among its members, who are not full-time Federal employees. The Advisory Committee shall select the Chair of the Conference.

(2) The Chairman of the Advisory Committee is authorized to establish, prescribe functions for, and appoint members to, such advisory and technical committees and staff as may be necessary to assist and advise the Conference in carrying out its functions.

(d) Compensation.—Members of any committee established under this section who are not regular full-time officers or employees of the United States shall, while attending to the business of the Conference, be entitled to receive compensation therefor at a rate fixed by the President but not exceeding the rate of pay specified at the time of such service for grade GS-18 in section 5332 of title 5, United States Code, including traveltime. Such members, may, while away from their homes or regular places of business, be allowed travel expenses, including per diem in lieu of subsistence, as may be authorized under section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

GIFTS AND TITLE TO CERTAIN PROPERTY

Sec. 106. (a) Gifts.—The Commission shall have authority to accept, on behalf of the Conference, in the name of the United States, grants, gifts, or bequests of money for immediate disbursement by the Commission in furtherance of the Conference. Such grants, gifts, or bequests offered the Commission, shall be paid by the donor or his representative into the Treasury of the United States, whose receipts shall enter such grants, gifts, and bequests in a special account to the credit of the Commission for the purposes of this joint resolution.

(b) Reversion of Certain Equipment and Material.—Materials and equipment acquired by the White House Conference shall revert to the National Commission on Libraries and Information Science after the close of the White House Conference.

DEFINITIONS

Sec. 107. For the purpose of this joint resolution—

(1) the term "Commission" means the National Commission on Libraries and Information Science;

(2) The term "Conference" means White House Conference on Library and Information Services; and

(3) the term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and American Indian Tribes.

AUTHORIZATIONS OF APPROPRIATIONS; LIMITATIONS

Sec. 108. (a) In General.—There are authorized to be appropriated without fiscal year limitations $5,000,000 to carry out this joint resolution. Such sums shall remain available for obligation until expended.

(b) Limitation.—Of the funds appropriated under the Library Services and Construction Act, only the funds appropriated for title III of that Act may be used to carry out the activities authorized by this resolution.

TITLE II—CONSTITUTIONAL BICENTENNIAL EDUCATION PROGRAM

TEACHER TRAINING AMENDMENT

Sec. 201. Section 501(c)(1) of the Arts, Humanities, and Museums Amendments of 1985 is amended—

(1) by striking out "$5,000,000 for each of the fiscal years 1987 and 1988," and inserting in lieu thereof "$8,000,000 for each of the fiscal years"; and

(2) by inserting before the period at the end thereof a comma and the following: "of which at least $3,000,000 in each fiscal year shall be reserved for elementary and secondary teacher training and retraining programs in history, geography, and other related disciplines in the social sciences and humanities designed to enhance understanding of the Constitution.

TITLE III—HIGHER EDUCATION PROGRAM

INCOME CONTINGENT DIRECT LOAN DEMONSTRATION PROJECT

Sec. 301. (a) New Agreements and Consortia.—Section 452(c)(2) of the Higher Education Act of 1965 is amended—

(1) by inserting "(A)" after the paragraph designation; and

(2) by adding at the end thereof the following new paragraph:

"(B) The Secretary may, in any fiscal year beginning after September 30, 1988, in which the appropriation to carry out the provisions of this part exceeds $5,000,000, enter into agreements with an additional 10 institutions of higher education. Any agreement entered into under this subparagraph may include consortia of such institutions if the participating institutions of higher education are located in the same State.".

(b) Institutional Payment of In-School Interest.—Section 453(5) of the Higher Education Act of 1965 is amended—

(1) by striking out "and" at the end of subparagraph (B);

(2) by adding "and" at the end of subparagraph (C); and

(3) by adding at the end thereof the following new subparagraph:

"(D) at the option of the institution, payment, from the institution's capital contribution described in paragraph (3), to cover the interest that accrues on loans made by such institution to students, during the period such students are attending the institution on at least a half-time basis;".

(c) Graduate and Professional Student Eligibility.—(1) Section 454(a)(2) of the Higher Education Act of 1965 is amended by striking out "$17,500" and inserting in lieu thereof "$17,500 in the case of an undergraduate student (as defined in accordance with the regulations of the Secretary), and $44,500 in the case of a graduate or professional student (as defined in accordance with the regulations of the Secretary and including any loans from such funds made to such student before the student became a graduate or professional student)".

(2) Section 454(a)(3) of the Higher Education Act of 1965 is amended—

(A) by striking out "and" at the end of subparagraph (B);

(B) by striking out the period at the end of subparagraph (C) and inserting in lieu thereof a semicolon and "and"; and

(C) by adding at the end thereof the following new subparagraph:

"(D) $10,000 in the case of a graduate or professional student, as defined in accordance with the regulations of the Secretary.".

(d) INTEREST RATE.—(1) Section 454(a)(4)(A) of the Higher Education Act of 1965 is amended to read as follows:

"(A) The interest rate on loans under this part shall be computed in accordance with subparagraph (B), based on the interest rate computed for the calendar year in which the loan was made, and fixed over the life of the loan.".

(2) Section 454(a)(4)(B)(ii) of the Higher Education Act of 1965 is amended by striking out "3 percent" and inserting in lieu thereof "one-half of 1 percent".

(e) EFFECTIVE DATE.—The amendments made by this section shall be effective for loans made to cover periods of instruction beginning on or after July 1, 1988.

INFORMATION ON DEFAULTS REQUIRED

SEC. 302. (a) GENERAL RULE.—The first sentence of section 428(k)(1) of the Higher Education Act of 1965 is amended—

(1) by striking out "In" and inserting in lieu thereof "Notwithstanding any other provision of law, in"; and

(2) by striking out "may" and inserting in lieu thereof "shall".

(b) CONFORMING AMENDMENT.—The second sentence of section 428(k)(1) of such Act is amended by striking out "may" and inserting in lieu thereof "shall".

TECHNICAL AMENDMENT CONCERNING TEACHER TRAINING PROGRAM ELIGIBILITY FOR GSL PROGRAM

SEC. 303. Section 484 of the Higher Education Act of 1965 is amended—

(1) in subsection (a)(1), by striking out "subsection (b)(2)" and inserting in lieu thereof "subsections (b)(2) and (b)(3)"; and

(2) by adding at the end of subsection (b) the following new paragraph:

"(3) A student who—

"(A) is carrying at least one-half the normal full-time work load for the course of study the student is pursuing, as determined by the institution, and

"(B) is enrolled or accepted for enrollment in a program at an eligible institution leading to a professional credential or certification from a State that is required for employment as a teacher in an elementary or secondary school in that State,

shall be, notwithstanding paragraph (1) of subsection (a), eligible to apply for loans under part B of this title.".

TITLE IV—LIBRARY AND EDUCATION RESOURCE AUTHORIZATIONS

WASHINGTON LIBRARY CONSORTIUM

SEC. 401. (a) GENERAL AUTHORITY.—The Secretary of Education is authorized to provide financial assistance, in accordance with the provisions of this section, to the Washington Library Consortium for the purpose of constructing and equipping a facility in Prince George's County, Maryland, that would link by computer eight university libraries (located at American University, Georgetown University, George Washington University, Catholic University, George Mason University, Gallaudet University, Marymount University, and the University of the District of Columbia) and provide central storage for the rare books of the participating institutions of higher education.

(b) APPLICATION.—No financial assistance may be made under this section unless an application is submitted to the Secretary of Education at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $7,500,000 to carry out the provisions of this section. Funds appropriated pursuant to this section shall remain available until expended.

VERMONT HIGHER EDUCATION COUNCIL

SEC. 402. (a) GENERAL AUTHORITY.—The Secretary of Education is authorized to provide financial assistance, in accordance with the provisions of this section, to the Vermont Higher Education Council located in Hyde Park, Vermont, for development activities for faculty at institutions of higher education which are members of the Vermont Higher Education Council designed to address and overcome professional isolation experienced by such faculty members.

(b) APPLICATION REQUIRED.—No financial assistance may be made under this section unless an application is submitted to the Secretary of Education at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require.

(c) AUTHORIZATION OF APPROPRIATION.—There are authorized to be appropriated $1,000,000 to carry out the provisions of this section. Funds appropriated pursuant to this section shall remain available until expended.

HEALTH AND HUMAN RESOURCES CENTER AUTHORIZED

SEC. 403. (a) GENERAL AUTHORITY.—The Secretary of Education is authorized, in accordance with the provisions of this section, to provide financial assistance to Voorhees College, located in Denmark, South Carolina, to pay the cost of construction and related costs for a Health and Human Resources Center at Voorhees College.

(b) APPLICATION REQUIRED.—No financial assistance may be made under this section unless an application is made at such time, in such manner, and containing or accompanied by such information, as the Secretary may reasonably require.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums, not to exceed $4,500,000, as may be necessary to carry out the provisions of this section. Funds appropriated pursuant to this section shall remain available until expended.

UNIVERSITY OF MISSISSIPPI LAW LIBRARY

SEC. 404. (a) GENERAL AUTHORITY.—The Secretary of Education is authorized to provide financial assistance, in accordance with the provisions of this section, to the University of Mississippi Law School for the renovation and completion of the library facilities of the University of Mississippi Law School at Oxford, Mississippi.

(b) APPLICATION REQUIRED.—No financial assistance may be made under this section unless an application is submitted to the Archivist at such time, in such manner, and containing or accompanied by such information as the Archivist may reasonably require.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $2,200,000 to carry out the provisions of this section. Funds appropriated pursuant to this section shall remain available until expended.

TITLE V—DRUG-FREE SCHOOLS

DRUG-FREE SCHOOLS REAUTHORIZATION

SEC. 501. Section 4111(a) of the Drug-Free Schools and Communities Act of 1987 (hereafter in this title referred to as the "Act") is amended by inserting before the period a comma and the following: "and such sums as may be necessary for the fiscal year 1990 and each of the fiscal years ending prior to October 1, 1993".

STATE PROGRAM—LOCAL ALLOTMENTS

SEC. 502. The second sentence of section 4124(a) of the Act is amended by striking out "the relative numbers of children in the school-aged population within such areas" and inserting in lieu thereof "the relative enrollments in public and private, nonprofit schools within the areas served by such agencies".

STATE PROGRAM—PARTICIPATION OF TEACHERS IN PRIVATE NONPROFIT SCHOOLS

SEC. 503. Section 4143(b) of the Act is amended by striking out "State, State educational agency, or State agency for higher education" and inserting in lieu thereof "State, agency, or consortium".

STATE PROGRAM—LOCAL APPLICATIONS

SEC. 504. (a) Section 4126(a)(2) of the Act is amended—

(1) by redesignating subparagraphs (D) through (J) as subparagraphs (G) through (M), respectively; and

(2) by inserting after subparagraph (C) the following new subparagraphs:

"(D) describe the extent and nature of the current illegal drug and alcohol problem in each school of the applicant, including detailed information that shows—

"(i) the number or percentage of students who use drugs or alcohol;

"(ii) the grade level of those students;

"(iii) the types of drugs they use; and

"(iv) how the applicant obtained this information;

"(E) describe the applicant's drug and alcohol policy, including an explanation of—

"(i) the disciplinary practices and procedures it will strictly enforce to eliminate the sale or use of drugs and alcohol on school premises; and

"(ii) how it will convey to students the message that drug use is not permissible;

"(F) describe how the applicant will monitor the effectiveness of its program;".

(b) Section 4126 of the Act is further amended by adding at the end thereof the following new subsection:

"(b)(1) In order to receive funds under this Act for the third year of its plan, an applicant shall submit to the State educational agency a progress report on the first two fiscal years of its plan. The progress report shall describe in detail—

"(A) the applicant's significant accomplishments under the plan during the preceding two years; and

"(B) the extent to which the original objectives of the plan are being achieved, including the extent to which there has been a reduction in the number of students who use drugs and alcohol.

"(2) The State educational agency shall not award funds under this Act to an applicant for the third year of its plan unless the State educational agency determines that the applicant's progress report shows that it is making reasonable progress toward accomplishing the objectives of its plan and the purposes of this Act. If the State educational agency determines that reasonable progress is not being made, the State educational agency shall instruct the applicant in writing to modify its plan so as to provide reasonable assurance of such progress. If after 90 days the applicant has not submitted to the State educational agency a modified plan which provides such assurance, the State educational agency may reallocate the applicant's funds to other applicants on the basis of need.".

STATE PROGRAM—REPORTS

SEC. 505. Part 2 of the Act is amended by adding at the end thereof the following new section:

"STATE REPORTS

"SEC. 4127. Each State shall submit to the Secretary an annual report, at such time and in such form as the Secretary may prescribe, that contains information on the State or local programs the State conducts under this subtitle, including—

"(1) data on the number and characteristics of program recipients and the persons who participated in their programs; and

"(2) an assessment of the degree to which those programs accomplished their goals, including their impact upon drug and alcohol use by students.".

NATIONAL PROGRAMS—GRANTS AND CONTRACTS

SEC. 506. (a) The third sentence of section 4132(b) of the Act is amended by inserting "directly, or through grants, cooperative agreements, or contracts" immediately after "shall".

(b) Section 4134(a) of the Act is amended by striking out "enter into" and inserting in lieu thereof "make grants to or enter into cooperative agreements or".

(c) Section 4135 of the Act is amended by inserting a comma and "through grants, cooperative agreements, or contracts," immediately after "Secretary".

EVALUATION

SEC. 507. Section 4132(d) of the Act is amended by adding at the end thereof the following new sentence: "In addition, the Secretary may conduct periodic evaluations of programs authorized by this Act.".

EFFECTIVE DATE

SEC. 508. (a) The provisions of this title shall take effect October 27, 1986.

(b) Notwithstanding subsection (a), a State educational agency may allot fiscal year 1987 funds to local and intermediate educational agencies and consortia under section 4124(a) of the Act on the basis of their relative numbers of children in the school-aged population.

Amend the title so as to read: "Joint resolution to authorize and request the President to call a White House Conference on Library and Information Services to be held not later than 1989, and for other purposes.".

Mr. BYRD. Mr. President, I send an amendment to the title to the desk.

The PRESIDING OFFICER. The clerk will report. The legislative clerk read as follows:

Amend the title so as to read:

"A joint resolution to authorize and request the President to call a White House Conference on Library and Information Services to be held not later than 1989, and for other purposes."

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. BYRD. Mr. President, I ask unanimous consent that Senate Joint Resolution 26 be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I ask unanimous consent that a motion to reconsider en bloc be laid on the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONFEREES ON THE OMNIBUS BUDGET RECONCILIATION BILL

Mr. BYRD. Mr. President, I ask unanimous consent that the listing of conferees for H.R. 3545 be changed to reflect the addition of conferees from the Committee on Armed Services and the changes in conferees from the Committee on Agriculture, Nutrition and Forestry, the Committee on the Budget, and the Committee on Governmental Affairs that I send to the desk at this point.

The PRESIDING OFFICER. Without objection, it is so ordered.

The list is as follows:

CONFEREES ON THE OMNIBUS BUDGET RECONCILIATION BILL

FROM THE COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Senators Leahy, Melcher, and Pryor.

Senators Lugar, and Cochran.

FROM THE COMMITTEE ON ARMED SERVICES

Senators Nunn, and Glenn.

Senator Warner.

FROM THE COMMITTEE ON THE BUDGET

Senators Chiles, Hollings, Johnston, Sasser, Riegle, Exon, and Lautenberg.

Senators Domenici, Boschwitz, Grassley, Quayle, Danforth, and Nickles.

FROM THE COMMITTEE ON GOVERNMENT AFFAIRS

Senators Glenn, Chiles, Sasser, and Pryor.

Senators Roth, Stevens, and Rudman.

ORDER TO PRINT REVISED COPY OF SENATE DOCUMENT NO. 98-150

Mr. BYRD. Mr. President, I ask unanimous consent that there be printed a revised edition of a document numbered Senate Print 98-150, entitled "Nomination and Election of the President and Vice President of the United States, 1984," as a Senate document, and that there be printed for the use of the Committee on Rules and Administration additional copies of such document not to exceed the cost of $600.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER TO PRINT REVISED COPY OF SENATE DOCUMENT NO. 99-28

Mr. BYRD. I ask unanimous consent, Mr. President, that there be printed a revised edition of Senate document numbered 99-28, entitled "Senate Election Law Guidebook 1986," as a Senate document, and that there be printed for the use of the Committee on Rules and Administration additional copies of such document not to exceed the cost of $800.

The PRESIDING OFFICER. Without objeciton, it is so ordered.

Mr. WIRTH. Mr. President, I ask unanimous consent to speak as if in morning business.

The PRESIDING OFFICER (Mr. BYRD). The Senator is recognized.

Mr. WIRTH. Thank you very much, and I appreciate the distinguished majority leader taking over the Chair and giving me the opportunity to make this brief statement.

FORMER SENATOR GARY HART TO RUN AGAIN FOR PRESIDENT

Mr. WIRTH. Mr. President, as I think a great number of our colleagues know by now, former Senator Gary Hart announced today at noon that he was going to reenter the race for the Presidency of the United States. I released, shortly thereafter, the following statement which I want to share with my colleagues:

> This morning I spoke with Gary Hart about his decision to run again for the Presidency. It is clear that Gary wants again to raise the central issues facing the United States today, including economic restructuring, new approaches to foreign policy and military reform. Few Americans are better prepared to discuss these important areas with the people of the country; issues must be the basis of any campaign.
>
> I have great respect for Gary's willingness to take on this quest, and concur entirely with his intent and purpose of keeping these issues alive. Wren and I send our very best wishes to Lee and Gary and John and Andrea.

BICENTENNIAL MINUTE

DECEMBER 13, 1940: PROSPECTIVE CHAIRMAN WITH EQUAL SENIORITY

Mr. DOLE. Mr. President, 47 years ago this week, on December 13, 1940, two Senators conducted a quiet struggle for the soon-to-be-vacant position as chair of the Senate Judiciary Committee. Never before had two men with exactly equal seniority contended for a committee chairmanship.

Incumbent chairman Henry F. Ashurst had been defeated for reelection to the Senate. The next most senior majority member of the committee, Matthew Neely, had been elected Governor of West Virginia and planned to resign from the Senate early in January.

The Congressional Directory of 1940 listed Senator Patrick McCarran of Nevada as the next ranking majority member of the committee. His name was followed by Senator Frederick Van Nuys of Indiana. Both men had entered the Senate on March 3, 1933. At that time, McCarran, whose name came earlier in the alphabet, took his Senate oath several minutes ahead of Van Nuys. Both men were appointed to the Judiciary Committee on the same day, although Van Nuys' name appeared before that of McCarran on the list of recommended new members. From 1933 until 1937, the Indiana Senator was listed ahead of McCarran on the Congressional Directory's roster of committee members. Then, mysteriously, in 1938 the order of their names was reversed.

As 1940 drew to a close, Majority Leader Alben Barkley privately urged both men to settle the contest informally. Neither chose to do so. Consequently, the Democratic Steering Committee was obligated to make the choice. The committee selected Van Nuys, presumably because his State of Indiana entered the Union before Nevada. Van Nuys chaired the Judiciary Committee for 3 years, until his death in 1944. Then McCarran got his turn and served for most of the following decade.

168TH ANNIVERSARY OF THE GREAT STATE OF ALABAMA

Mr. HEFLIN. Mr. President, 168 years ago yesterday, on December 14, 1819, Alabama became a State among these United States of America. I am proud to rise today to congratulate each Alabamian on this outstanding occasion, the 168th anniversary of our State. We have come a long way in a relatively short time. I believe that we Alabamians have more about which to be thankful than the residents of any other State in this country. I believe that we Alabamians have accomplished more than the residents of any other State in the Nation. On this, the 168th anniversary of our statehood, I hope all Alabamians will pause to survey how far we have come, and will each feel proud of the many accomplishments we have made together. And, as we look to the future, I have no doubt but that each citizen of my State is filled with the resolve and the determination that will be needed to build on our great successes.

Alabama is a State that is rich in history, traditions, and resources. We are a State that has been blessed with a tremendous physical and natural beauty.

But, as I have said on numerous occasions in the past, I believe that our greatest State resource—the one thing about which we should be the most thankful—is the good people of Alabama.

In the coming years, I believe that we have a historic opportunity to work together so that the entire Nation will see what we already know—that Alabama is the greatest State in these United States. In the coming years, as we approach our 175th anniversary, we have the potential, the resources, and, I believe, the drive to accomplish our greatest dreams and our loftiest goals. Just as individuals have made possible many of the great accomplishments we have made in the past * * * people like U.S. Supreme Court Justices John McKinley, John Archibald Campbell, and Hugo Black, people like George Washington Carver, and Booker T. Washington, people like Helen Keller, Josiah Gorgas, and Wernher Von Braun * * * so will people make the difference and add to the luster of our State in the future.

I am excited about our future as a State. Alabamians share many goals. We must work to attract industry and jobs, to improve the educational opportunities that are available to all, young and old alike. We must help the farmers of Alabama in their goal to feed the Nation and the world, and we must give our wholehearted support to the families of Alabama—who are the backbone and strength of our State and Nation.

I am filled with the greatest hope and anticipation as I contemplate the accomplishments and achievements that we can make in the next few years. I am convinced that it will be a time in which we will reap the bountiful fruits of combined efforts. It will be a time during which we can increase productivity, and ensure greater educational, economic, and technological advancement. It will be a time in which we can provide for the futures of our children and grandchildren. The happiness and enrichment of the lives of all Alabamians will be within our grasp.

Having said all this, I would, again like to congratulate the citizens of Alabama on their 168th anniversary as a State. We have accomplished much in these years, but I believe, and I am sure they agree, we have far to go.

Thank you, Mr. President.

CONGRATULATIONS TO TROY STATE UNIVERSITY, WINNER OF THE NCAA DIVISION II FOOTBALL CHAMPIONSHIP

Mr. HEFLIN. Mr. President, I am proud to rise today to congratulate the members of the championship Troy State University football team on their capture of the NCAA Division II football crown. On Saturday afternoon, December 12, 1987, the Troy State Trojans defeated the Portland State Vikings at University of North Alabama's Braly Stadium in Florence, AL, by a score of 31 to 17 to clinch the championship for the second time in 4 years. This is indeed an honor to be enjoyed not only by the Troy State University players, coaches, and fans, but by the entire State of Alabama.

My home State of Alabama is, undoubtedly, the football capital of the world. But often, people from other States can name only two successful football schools from my State. Unfortunately, and, in my judgment, wrongfully, Troy State University is not listed with these two. Although I would wager that the players and coaches from Portland State would now list the Trojans among the greatest of Alabama football teams, I am hopeful that Troy State will begin to receive its rightful and well-deserved recognition.

The Troy State Football Team has brought great distinction to my State. I believe that its accomplishment illustrate the dedication, resolve, and will to work toward and fulfill a goal that links all Alabamians.

In closing, I wish the players, coaches, and fans of the Troy State University Football Team the greatest success in the future as they continue their quest for more championships.

Mr. President, I ask unanimous consent that three newspaper articles describing Troy State University's great championship win be printed in the CONGRESSIONAL RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Montgomery Advertiser, Dec. 14, 1987]

TROJANS REACH A LOFTY GOAL WITH VICTORY

(By Phillip Marshall)

They came from Alabama, Florida, Georgia, Louisiana and even Illinois.

Many of them walked on, determined to prove to themselves and others that they could play college football. Others wound up at Troy because they were a little too small or a step too slow for Division I.

They arrived at Troy State with little fanfare, but with a lot of hope. And they set their goals early.

Saturday afternoon, as students poured out of the stands onto the field and the band played, they knew they had reached that goal.

Portland State had been vanquished 31-17 and Troy State was the Division II national champion.

MOB SCENE

There was a mob scene at midfield at Braly Stadium. There were hugs, there were screams, there were laughs and there were tears of joy.

The seniors on this team were freshmen in 1984 when Troy also won the Division II national champion. They told the others what it was like. They showed them the way to the top.

Quarterback Mike Turk, throttling the wishbone as few men can, helped take the Trojans to the top in 1984. And his flying feet were the driving force behind their return trip Saturday.

It was a special day, the kind of day that a person relives for himself and for others as the years go by.

Troy State's football players will grow old. But always they will be able to be young again by looking back on the December day when they climbed the highest mountain they could climb.

Head Coach Rick Rhoades was an assistant in 1984. He suffered through the disappointment of a loss in the semifinals last season. But this time there was no stopping.

Troy State rolled impressively through the playoffs. When the game was on the line Saturday, there was no stopping the men in red.

WON HIS HEART

When the celebrating had finally been done, Rhoades talked in the dressing room about the players who won his heart while they were winning a championship.

"When you coach three years and just have two minor discipline problems, when they always do everything you ask them to do, when you ask them to be class people off the field and on the field and they do it . . . the list just goes on and on," Rhoades said.

"These kids just deserve so much credit. As a coach, I am very fortunate to be associated with these men."

Turk's 51-yard run with 1:43 left in the game sealed Portland State's fate. It also started a celebration on the Troy State sidelines that made Rhoades a little nervous.

Moments later, Portland State was at the Troy 25, within striking distance of a touchdown. Stranger things had happened than a touchdown and an onsides kick.

"It's a tremendous thing," Rhoades said. "When Mike went over the goal line, I felt like my heart exploded out of the back of my head."

Then Rhoades told himself it wasn't over.

"After I ran around for a few seconds, I got back under control," he said. "I'm paranoid about that stuff anyway. I have been since I was at Jeff Davis and we had Lanier 27-7 with seven minutes left and lost.

"I'm a firm believer that it's not over until it's over."

Troy State has ridden the wishbone to its greatest football days. The Trojans don't like to throw, but they will readily go into their bag of tricks.

They ran back-to-back reverses against Portland State. And the result was a touchdown.

"We've never felt the wishbone was a conservative offense," Rhoades said. "I've always felt like it just gives you so many options.

"We say we are going to attack the depth and the width of the field, and that's what we try to do. On the reverse, we thought it would go. It was going to be a 5-yard loss or a touchdown."

Troy State will face a rebuilding job next season. At least 13 seniors will be gone. There could be others who decide to pass up a fifth year of eligibility.

"We like to think we have other special people," Rhoades said. "There might be another Mike Turk at Troy State. That's the great thing about Division II."

Turk couldn't have played quarterback at many schools. At 5-foot-6, he was suited for little other than the wishbone. At Troy, he became an All-American.

"We know Alabama and Auburn are the big schools in the state, and that's the way it should be," he said.

"But if I had gone to Auburn, I wouldn't have two national championship rings."

[From the Birmingham News, Dec. 19, 1987]

Troy Welcomes Home Division II National Champs

(By Jimmy Bryan)

There was no Broadway ticker tape parade awaiting Troy's NCAA Division II national football champions when they rolled into town at 10 o'clock Saturday night, but there was a pretty good little celebration anyway.

Approximately 400 fans were waiting at the Troy fieldhouse to salute two busloads of champions who arrived behind the screaming sirens of Troy's police department.

A sign was already in place, with the message "Welcome to Troy, Ala., home of the national football champions."

The homecoming was a third celebration for Coach Rick Rhoades and the Trojans, who ripped Portland State 31-17 for the championship at Florence's Braly Stadium Saturday.

Approximately 1,000 of the 10,660 at the game were Trojan fans, including TSU President Dr. Ralph Adams. They came out of the stands for the first celebration on the field and there was another at the team's Ramada Inn headquarters in Sheffield.

"It was a nice welcome home," Troy Sports Information Director Tom Ensey reported Sunday night. "Four police cars picked up the buses at the city limits and escorted them to the fieldhouse. The fans had it decorated and the stadium lights were on. Coach (Rick) Rhoades got on the balcony and told the fans they shared in the national championship, too.

"Local people who hadn't made it to the game, plus those who beat the bus back, visited with the players and coaches for about an hour. School is out for the holidays, and everybody pretty much left for home this morning (Sunday)."

Ensey said it is beginning to sink in that Troy is national champion again.

"I believe everybody realizes what we've accomplished," he added. "It's always kind of a funny feeling when the season ends. Everybody has been going full bore, and then it comes to a screeching halt."

Rhoades was asked why Troy has been able to win two national championships and finish third once in the past four years.

"I think the small town atmosphere has a lot to do with it," he said. "A lot of athletes want to play in a small town. Our geographical location is good. All the high schools around here play pretty good football, Florida is not that far and South Georgia is pretty close.

"But the guys who wear the helmets are the ones who do the job. We've been blessed with fine young men who, by and large, have done what we've asked them to do. They play full speed and play hard on every snap.

"They play the way we want them to, and that's important. If the players won't buy it, it doesn't matter what you do.

"And, of course, you have to have an administration that's supportive. We have a great administration."

Saturday's championship game was the second to be played in the Shoals area, and the sponsoring group has another year and two option years on the current contract with the NCAA, according to game chairman Grady Liles. This year's production drew raves from Troy and Portland State.

"The people here have taken Division II football to a new level," Rhoades said. "They couldn't have been nicer to us. I was on the staff when we won at McAllen, Texas, and there's no comparison."

Troy quarterback Mike Turk, basking in the glow of his second national championship, said with an impish grin, "They put on such a great show here all week I'm tempted to say it would have been fun even if we had lost, but I'm not going to say that."

Portland State Coach Pokey Allen, former star quarterback at Utah who was MVP in the Utes' 31-6 win over West Virginia in the 1964 Liberty Bowl, said, "It's nothing against the Liberty Bowl, but they treated us better here. I don't know what the Rose Bowl is like, but I'd just as soon come back here."

[From the Washington Post, Dec. 13, 1987]

Turk Leads Troy State to Division II Laurels

A day after losing the Harlon Hill Trophy for best NCAA Division II player, Troy State quarterback Mike Turk earned a better award—the national championship.

Turk, beaten out by Texas A&I running back Johnny Bailey for the Harlon Hill Trophy, ran for two touchdowns to pace Troy State's 31-17 victory yesterday over Portland State in the Division II final in Florence, Ala. Turk also took the Trojans to the national title in his freshman year, 1984.

Turk rushed for 190 yards on 25 carries and scored on runs of one and 51 yards. The 51-yard run gave the Trojans (12-1-1) a commanding 14-point lead with 1:43 left, capping an eight-play, 76-yard drive.

SUPPORT FOR COLIN POWELL

Mr. WILSON. Mr. President, I wish to join my colleagues in strong support for the confirmation of Colin Powell to the rank of lieutenant general of the Army, while serving as National Security Advisor to the President.

General Powell is not only an able and dedicated soldier, he is an astute and wise counselor on national security policy. His distinguished service career and training make him an outstanding choice as the President's National Security Advisor and especially well qualified to hold the rank of lieutenant general.

Colin Powell is a credit to our Nation and it is with great esteem and confidence I cast my vote in the affirmative for General Powell's confirmation.

I very much look forward to working with General Powell and wish him and our President the very best in guiding our Nation through the pivotal months ahead.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Emery, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 11:04 a.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 1860. An act entitled the "Federal Land Exchange Facilitation Act of 1987";

H.R. 2370. An act to provide for the establishment of an economic development plan for, and Federal services and assistance to, the Northwestern Band of the Shoshoni Nation, and for other purposes;

H.R. 2628. An act to amend the National Traffic and Motor Vehicle Safety Act of 1966 respecting the importation of motor vehicles in anticipation of compliance with safety standards under such Act;

H.R. 2683. An act to amend the Atomic Energy Act of 1954 to improve security procedures, and for other purposes;

H.R. 2790. An act to improve the efficiency and effectiveness of management of public buildings;

H.R. 3399. An act to develop a national alternative motor fuels policy and to coordinate efforts to implement such policy;

H.R. 3435. An act to provide that certain charitable donations, and payments for blood contributed, shall be excluded from income for purposes of the food stamp program and the AFDC program; and

H.R. 3712. An act to designate the U.S. Livestock Insects Laboratory in Kerrville, Texas, as the "Knipling-Bushland Research Laboratory".

The message also announced that the House disagrees to the amendments of the Senate to the joint resolution (H.J. Res. 395) making further continuing appropriations for the fiscal year 1988, and for other purposes; it agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and appoints the following as managers of the conference on the part of the House:

For the entire resolution and Senate amendments: Mr. WHITTEN, Mr. BOLAND, Mr. NATCHER, Mr. SMITH of Iowa, Mr. YATES, Mr. OBEY, Mr. ROYBAL, Mr. BEVILL, Mr. CHAPPELL, Mr. LEHMAN of Florida, Mr. DIXON, Mr. FAZIO, Mr. HEFNER, Mr. CONTE, Mr. MCDADE, Mr. MYERS of Indiana, Mr. MILLER of Ohio, Mr. COUGHLIN, Mr. YOUNG of Florida, Mr. REGULA, and Mrs. SMITH of Nebraska.

Appointed as additional conferees:

Solely for the consideration of amendments within the jurisdiction of the Subcommittee on the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies, and modifications committed to conferences: Mr. ALEXANDER, Mr. EARLY, Mr. DWYER of New Jersey, Mr. CARR, Mr. MOLLOHAN, Mr. ROGERS, and Mr. KOLBE.

Solely for the consideration of amendments within the jurisdiction of the Subcommittee on the Department of Defense, and modifications committed to conference: Mr. MURTHA, Mr. DICKS, Mr. WILSON, Mr. AUCOIN, Mr. SABO, and Mr. LIVINGSTON.

Solely for the consideration of amendments within the jurisdiction of the Subcommittee on the District of Columbia, and modifications committed to conference: Mr. STOKES, Mr. AUCOIN, Mr. WATKINS, Mr. HOYER, and Mr. GREEN.

Solely for the consideration of amendments within the jurisdiction of the Subcommittee on Energy and Water Development, and modifications committed to conference: Mrs. BOGGS, Mr. WATKINS, Mr. THOMAS of Georgia, and Mr. PURSELL.

Solely for the consideration of amendments within the jurisdiction of the Subcommittee on Foreign Operations, Export Financing and Related Programs, and modifications committed to conference: Mr. MCHUGH, Mr. WILSON, Mr. GRAY of Pennsylvania, Mr. MRAZEK, Mr. EDWARDS of Oklahoma, Mr. KEMP, Mr. LEWIS of California, and Mr. PORTER.

Solely for the consideration of amendments within the jurisdiction of the Subcommittee on the Department of Housing and Urban Development-Independent Agencies, and modifications committed to conference: Mr. TRAXLER, Mr. STOKES, Mrs. BOGGS, Mr. MOLLOHAN, Mr. SABO, Mr. GREEN, and Mr. LEWIS of California.

Solely for the consideration of amendments within the jurisdiction of the Subcommittee on the Department of the Interior and Related Agencies, and modifications committed to conference: Mr. MURTHA, Mr. DICKS, Mr. AUCOIN, and Mr. LOWERY of California.

Solely for the consideration of amendments within the jurisdiction of the Subcommittee on the Departments of Labor, Health and Human Services, and Education, and Related Agencies, and modifications committed to conference: Mr. STOKES, Mr. EARLY, Mr. DWYER of New Jersey, Mr. HOYER, Mr. PURSELL, Mr. PORTER, and Mr. WEBER.

Solely for the consideration of amendments within the jurisdiction of the Subcommittee on Legislative Branch, and modifications committed to conference: Mr. ALEXANDER, Mr. MURTHA, Mr. TRAXLER, Mrs. BOGGS, Mr. LEWIS of California, and Mr. PORTER.

Solely for the consideration of amendments within the jurisdiction of the Subcommittee on Military Construction, and modifications committed to conference: Mr. ALEXANDER, Mr. COLEMAN of Texas, Mr. THOMAS of Georgia, Mr. EARLY, Mr. DICKS, Mr. LOWERY of California, Mr. EDWARDS of Oklahoma, Mr. KOLBE, and Mr. DELAY.

Solely for the consideration of amendments under the jurisdiction of the Subcommittee on Rural Development, Agriculture, and Related Agencies, and modifications committed to conference: Mr. TRAXLER, Mr. MCHUGH, Mr. AKAKA, Mr. WATKINS, Mr. DURBIN, Mr. SKEEN, and Mr. WEBER.

Solely for the consideration of amendments under the jurisdiction of the Subcommittee on the Department of Transportation and Related Agencies, and modifications committed to conference: Mr. GRAY of Pennsylvania, Mr. CARR, Mr. DURBIN, Mr. MRAZEK, Mr. SABO, Mr. WOLF, and Mr. DELAY.

Solely for the consideration of amendments under the jurisdiction of the Subcommittee on Treasury, Postal Service, and General Government, and modifications committed to conference: Mr. AKAKA, Mr. HOYER, Mr. COLEMAN of Texas, Mr. SKEEN, Mr. LOWERY of California, and Mr. WOLF.

ENROLLED BILLS SIGNED

The message further announced that the Speaker has signed the following enrolled bills:

H.R. 1191. An act for the relief of Jose Maria Vas;

H.R. 1390. An act for the relief of Chu Pei Yun (Zhu Bei Yun);

H.R. 1863. An act for the relief of Helen Ying-Yu Lin;

H.R. 2121. An act to authorize and direct the National Park Service to assist the State of Georgia in relocating a highway affecting the Chickamauga and Chattanooga National Military Park in Georgia;

H.R. 2325. An act to authorize the acceptance of a donation of land for addition to Big Bend National Park, in the State of Texas;

H.R. 2416. An act to establish the Jimmy Carter National Historic Site and Preservation District in the State of Georgia, and for other purposes; and

H.R. 2689. An act to amend the Arms Control and Disarmament Act to authorize appropriations for the fiscal years 1988 and 1989 for the Arms Control and Disarmament Agency, and for other purposes.

The enrolled bills were subsequently signed by the Acting President pro tempore (Mr. GRAHAM).

MEASURES REFERRED

The following bills were read the first and second times by unanimous consent, and referred as indicated:

H.R. 1860. An act entitled the "Federal Land Exchange Facilitation Act of 1987"; to the Committee on Energy and Natural Resources.

H.R. 2370. An act to provide for the establishment of an economic development plan for, and Federal services and assistance to, the Northwestern Band of the Shoshoni Nation, and for other purposes; to the Select Committee on Indian Affairs.

H.R. 2683. An act to amend the Atomic Energy Act of 1954 to improve security procedures, and for other purposes; to the Committee on Environment and Public Works.

H.R. 2790. An act to improve the efficiency and effectiveness of management of public buildings; to the Committee on Environment and Public Works.

H.R. 3435. An act to provide that certain charitable donations, and payments for blood contributed, shall be excluded from income for purposes of the food stamp program and the AFDC program; to the Committee on Agriculture, Nutrition, and Forestry.

H.R. 3712. An act to designate the U.S. Livestock Insects Laboratory in Kerrville, Texas, as the "Knipling Bushland Research Laboratory"; to the Committee on Agriculture, Nutrition, and Forestry.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. BURDICK, from the Committee on Environment and Public Works, with amendments:

S. 1389: A bill to amend the National Fish and Wildlife Foundation Establishment Act with respect to management requisition, and disposition of real property, reauthorization, and participation of foreign governments (Rept. No. 100-255).

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, with amendments:

S. 1382: A bill to amend the National Energy Conservation Policy Act to improve the Federal Energy Management program, and for other purposes (Rept. No. 100-256).

By Mr. PELL, from the Committee on Foreign Relations, with an amendment in the nature of a substitute:

S. 1614: A bill to restrict United States assistance for Panama (Rept. No. 100-257).

By Mr. INOUYE, from the Select Committee on Indian Affairs, with an amendment in the nature of a substitute:.

S. 1684: A bill to settle Seminole Indian land claims within the State of Florida, and for other purposes (Rept. No. 100-258).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. BRADLEY (for himself, Mr. Roth, and Mr. Lautenberg):

S. 1948. A bill to amend the Tariff Schedules of the United States to modify the quota on the importation of sugar; to the Committee on Finance.

By Mr. DOLE (for himself, Mr. Harkin, Mr. Stafford, Mr. Simon, Mr. Melcher, Mr. Durenberger, Mr. Cochran, Mr. Lugar, and Mr. Burdick):

S. 1949. A bill to amend titles II and XVI of the Social Security Act to ensure proper payments for reimbursement for reasonable and necessary costs of vocational rehabilitation services under State vocational rehabilitation plans; to the Committee on Finance.

By Mr. PELL (for himself, Mr. Adams, Mr. Biden, Mr. Boren, Mr. Boschwitz, Mr. D'Amato, Mr. Daschle, Mr. DeConcini, Mr. Dodd, Mr. Heflin, Mr. Helms, Mr. Hollings, Mr. Kerry, Mr. Lautenberg, Mr. Levin, Mr. Matsunaga, Mr. Moynihan, Mr. Murkowski, Mr. Pressler, Mr. Proxmire, Mr. Pryor, Mr. Riegle, Mr. Sanford, and Mr. Simon):

S.J. Res. 232. A joint resolution to authorize the Raoul Wallenberg Tribute Committee to establish a monument to honor Raoul Wallenberg on Federal land in the District of Columbia or its environs; to the Committee on Rules and Administration.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BRADLEY (for himself, Mr. Roth, and Mr. Lautenberg):

S. 1948. A bill to amend the Tariff Schedules of the United States to modify the quota on the importation of sugar; to the Committee on Finance.

SUGAR IMPORT QUOTA ADJUSTMENT ACT

● Mr. BRADLEY. Mr. President, I am introducing legislation to reverse a trade policy which imperils the economic and political stability of some of our closest neighbors and most strategic allies. I am pleased to have Senators Roth and Lautenberg as cosponsors of this legislation.

In many struggling democracies, sugar production is the most important industry. The sale of sugar enables them to earn the dollars necessary to buy basic goods needed to feed and house their people. In 1981, some 5 million tons of sugar was imported to the United States. Unfortunately, annual reductions in sugar quotas now allow only 1 million tons to enter the country. Recent Government estimates indicate that the sugar import quotas may reach zero within a few years. This trade policy threatens the already fragile economies of countries in the Philippines, the Caribbean, Latin America, and some of the poorest African nations.

Mr. President, the Sugar Import Quota Adjustment Act is a straightforward response to our neighbors' need. The act would fix next year's quota level as a floor on imports. Then, for each of 4 years, this floor would be raised annually by 500,000 tons. By 1992, therefore, the floor will be approximately 3 million tons per year of imports.

This legislation represents only a first step toward reversing a trend which presents a danger to both our neighbors and our own strategic and trade interests. Clearly, an end to quotas is the right solution and remains my own goal. But this legislation is a necessary step and one that's long overdue. I urge my colleagues to consider this proposal seriously and to act on it expeditiously.●

● Mr. ROTH. Mr. President, I am pleased to join with my colleagues, Senators Bradley and Lautenberg, to introduce legislation that will make some important and needed reforms in our domestic sugar program. Quite frankly, this bill, the Sugar Import Quota Adjustment Act of 1987, is one that will benefit the American consumer and the American homemaker. It will benefit American businesses, and it will even benefit American children, the boys and girls who love ice cream and candy bars. It will benefit all those who operate on a budget by gradually reducing sugar price supports and the artificially high prices that accompany them.

Now, it's no great secret that I am not—nor have I ever been—a supporter of our agricultural subsidy program. My record, in this area, speaks for itself, as I have consistently voted against subsidies.

This legislation is a step in this direction. It is legislation that will save our citizens billions of dollars at the grocery store as the artificially high prices, now associated with sugar, are brought down through production and competition. At the same time, this bill will restore some semblance of balance to what has been a time bomb in our agricultural policy.

Currently, we have a domestic sugar price support program which has set a domestic sugar price of 18 cents per pound—three times as high as the world price. What has occurred is a three-tiered boondoggle. A boondoggle at the expense of the American consumer who must front the price increase, a boondoggle at the expense of the American worker who ends up losing employment to foreign competition, and a boondoggle at the expense of the American taxpayer who pays for the loans when the processors default.

It's also the taxpayer who pays for the foreign aid to help fledgling democracies like the Philippines, whose economies have been adversely impacted by America's protectionist sugar policies.

Already we have seen a loss of jobs in the United States as the food processing industry has moved from the United States to other countries where sugar can be purchased at one third the cost. Consequently, we have seen increased sales of important sugar-containing products in the United States. And without a change in the existing program these trends will continue, and the inevitable will result: Jobs will continue to be lost in our domstic food processing industry. Foreign policy will continue to be adversely affected. And our consumers—the backbone, taxpaying Americans who make our country run—will continue to front the expense of bad policy at the grocery store.

I urge my colleagues to join Senators Bradley, Lautenberg, and me in cosponsoring this important legislation.●

By Mr. DOLE (for himself, Mr. Harkin, Mr. Stafford, Mr. Simon, Mr. Melcher, Mr. Durenberger, Mr. Cochran, Mr. Lugar, and Mr. Burdick):

S. 1949. A bill to amend titles II and XVI of the Social Security Act to ensure proper payments for reimbursement for reasonable and necessary costs of vocational rehabilitation services under State vocational rehabilitation plans; to the Committee on Finance.

VOCATIONAL REHABILITATION AGENCY REIMBURSMENT ACT

Mr. DOLE. Mr. President, for many years there has been a working relationship between the Social Security Administration [SSA] and State vocational rehabilitation agencies [VRA] to provide comprehensive services to severely disabled individuals. SSA, through its Social Security disability insurance [SSDI] and supplemental security income [SSI] programs provides a monthly benefit and automatic medical coverage under Medicare or Medicaid. VRA's offer a combination of services to help disabled individuals become employed.

These programs were established many years apart and in response to different needs in society.

Yet, today they work together to provide services to severely disabled individuals. This working relationship, however, is at times difficult because of the differences in authorizing legislation.

Congress established a Disability Advisory Council [DAC] to identify those problem areas and, where possible, recommend ways to eliminate them. The Council is expected to submit its report in early 1988.

One issue that will receive special attention in the DAC report is how VRA recoups the moneys it spent on rehabilitating a Social Security recipient.

Under existing law, SSA may reimburse a State VRA for the reasonable costs of serving an SSDI or SSI beneficiary when that client has worked for 9 straight months above what is called substantial gainful activity.

Two problems have arisen with this procedure. First, because Social Security has total control of the reimbursement process and determines eligibility for reimbursement on a case-by-case basis, the State VRA has no idea at the beginning of each fiscal year what its SSA reimbursement level will be during those next 12 months. This inhibits a State's planning of services to Social Security recipients. Second, in some States the reimbursement checks are sent to the State and often deposited in the general State coffers and not necessarily allocated for services to the disabled as intended.

Today I am offering the Vocational Rehabilitation Agency Reimbursement Act of 1987 to address both of these issues. Under this legislation, SSA would look back to the second previous fiscal year's total reimbursement to a State VRA and disburse that amount to the State at the beginning of the next fiscal year. For example, for fiscal year 1989, a disbursement would be given to a State agency equal to the money reimbursed to that same agency during fiscal year 1987. If the actual allowable reimbursement for fiscal year 1989 differed from the amount received at the start of the fiscal year, the difference would be made up in subsequent fiscal year disbursements. The bill would also require that the reimbursements be used only for vocational rehabilitation services.

It is my understanding that SSA has run demonstration projects along these lines and feels the proposal is worthwhile.

I introduce this bill with no expectation that it will produce a significant increase in the number of Social Security clients who achieve gainful employment. It will, however, eliminate one more barrier to allowing the system to work on behalf of disabled persons.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1949

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Vocational Rehabilitation Agency Reimbursement Act of 1987".

SEC. 2. AMENDMENTS RELATING TO PAYMENTS FOR REIMBURSEMENT OF COSTS FOR REHABILITATION SERVICES UNDER THE OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE PROGRAM.

Section 222(d)(3) of the Social Security Act (42 U.S.C. 422(d)(3)) is amended to read as follows:

"(3)(A) Each payment under this subsection shall be made for each fiscal year in advance, in an amount equal to the amount of the reasonable and necessary costs of vocational rehabilitation services described in paragraph (1) furnished during the preceding fiscal year ending September 30 of the preceding calendar year, except that such amount shall be—

"(i) increased by the amount by which the payment made under this subsection for such preceding fiscal year was less than the amount of such costs for such services furnished during such preceding fiscal year, or

"(ii) decreased by the amount by which the payment made under this subsection for such preceding fiscal year exceeded the amount of such costs for such services furnished during such preceding fiscal year.

"(B) Each payment under this subsection shall be available only for the purposes provided in this subsection. Any balance of payment under this subsection for any fiscal year remaining at the end of such fiscal year shall be available for the purposes provided in this subsection for subsequent fiscal years.

"(C) Each payment under paragraph (1) shall be made to the State agency designated under the State plan to administer the plan or to supervise its administration.".

SEC. 3. AMENDMENTS RELATING TO PAYMENTS FOR REIMBURSEMENT OF COSTS FOR REHABILITATION SERVICES UNDER THE PROGRAM.

Section 1615(d) of such Act (42 U.S.C. 1382d(d)) is amended by adding at the end thereof the following new sentence: "Payments under this subsection shall be made in the same manner and under the same requirements as provided in section 222(d)(3).".

SEC. 4. EFFECTIVE DATE.

The amendments made by this Act shall apply with respect to fiscal years beginning on or after October 1, 1988, except that payments made in accordance with section 222(d)(3) of the Social Security Act (as amended by this Act) for the fiscal year beginning on October 1, 1988, and for the fiscal year beginning on October 1, 1989, shall be determined without regard to increases or decreases provided in clauses (i) and (ii) of subparagraph (A) of such section.

● Mr. HARKIN. Mr. President, I am pleased to be an original cosponsor of the Vocational Rehabilitation Agency Reimbursement Act of 1987. I am particularly gratified that this bill has bipartisan support.

This bill improves the ability of the State vocational rehabilitation agencies to serve clients who are receiving Social Security disability insurance payments [SSDI] or supplemental security income [SSI]. It is cost-neutral to the Federal Government. And it streamlines the Federal reimbursement to the States.

Currently, the Federal Government makes payments out of the Social Security Trust Fund to State vocational agencies only after the State agencies provide services to SSDI and SSI recipients. This process of retroactive reimbursement has made it difficult for the State agencies to know with sufficient certainty what their levels of reimbursement would be. In addition, the reimbursement is made on a case-by-case basis, thereby creating a great deal of small payments and administrative work. Unfortunately, there have been delays of up to 2 years before a State agency is reimbursed. Clearly, the present system has its flaws.

Under this bill, the Federal Government will make payments to the State vocational rehabilitation agencies on a prospective basis. The Federal payment to a State will be based on the State's most recent annual reimbursement. It will be made at the beginning of the Federal fiscal year. And it will be readjusted—either upward if the State serves a larger number of SSDI or SSI clients in that fiscal year than in the previous fiscal year, or downward if the State serves a smaller number—to take into account the actual State expenditures. In this way, the Social Security Administration will not have to collect any shortfall in Federal payments to the States.

It also requires the Federal Government to pay directly to the State vocational rehabilitation agency, assuring that there is no further delay in the agency's receipt and use of the Federal funds.

The bill makes no changes in the criteria for determining whether the State vocational rehabilitation agencies are entitled to the reimbursement.

Mr. President, this is sensible legislation and reflects a bipartisan effort to improve the important Federal-State program in vocational rehabilitation. I urge its adoption.●

By Mr. PELL (for himself, Mr. ADAMS, Mr. BIDEN, Mr. BOREN, Mr. BOSCHWITZ, Mr. D'AMATO, Mr. DASCHLE, Mr. DECONCINI, Mr. DODD, Mr. HEFLIN, Mr. HELMS, Mr. HOLLINGS, Mr. KERRY, Mr. LAUTENBERG, Mr.

Levin, Mr. Matsunaga, Mr. Moynihan, Mr. Murkowski, Mr. Pressler, Mr. Proxmire, Mr. Pryor, Mr. Reigle, Mr. Sanford, and Mr. Simon):

S.J. Res. 232. Joint resolution to authorize the Raoul Wallenberg Tribute Committee to establish a monument to honor Raoul Wallenberg on Federal land in the District of Columbia or its environs; to the Committee on Rules and Administration.

ESTABLISHMENT OF A MONUMENT TO HONOR RAOUL WALLENBERG

● Mr. PELL. Mr. President, today I introduce with 23 of my colleagues a joint resolution authorizing the establishment of a monument to honor Raoul Wallenberg. The cost of this monument would be borne entirely through private contributions. This bill is a companion to House Joint Resolution 403 introduced by my good friend and distinguished colleague in the House, Congressman Tom Lantos.

It is most fitting that we honor Raoul Wallenberg in this, our Nation's Capital. In 1944, Cordell Hull requested the cooperation of the neutral Government of Sweden in protecting Hungarian Jews from Nazi persecution. The Swedish Government responded by sending Raoul Wallenberg, a young Swedish businessman, to Budapest as Secretary of the Swedish Legation.

Once there, Wallenberg carried out a relentless campaign to save Hungarians from Nazi persecution. With a selfless disregard for his own safety, Wallenberg intervened with Nazi officials to save the lives of innocent men, women, and children. Through his personal efforts, almost 100,000 people were saved from Nazi death camps.

One of those people, Tom Lantos, captured Wallenberg's efforts most eloquently when he said:

> Wallenberg has shown us that one individual—motivated by a genuine and personal concern for human rights—can face evil and triumph; that one person alone can make a difference; that there are genuine heroes to illuminate our age.

Mr. President, I believe it would be a fitting tribute to honor Raoul Wallenberg in our Nation's Capital. I urge my colleagues to join in cosponsoring the "Raoul Wallenberg Monument Resolution."●

ADDITIONAL COSPONSORS

S. 533

At the request of Mr. Thurmond, the name of the Senator from Oklahoma [Mr. Nickles] was added as a cosponsor of S. 533, a bill to establish the Veterans' Administration as an executive department.

S. 863

At the request of Mr. Kennedy, the name of the Senator from Massachusetts [Mr. Kerry] was added as a cosponsor of S. 863, a bill to provide for the admission of the State of New Columbia into the Union.

S. 1471

At the request of Mr. Hecht, the name of the Senator from California [Mr. Wilson] was added as a cosponsor of S. 1471, a bill to grant the consent of the Congress to the Tahoe Regional Planning Compact, as amended by the States of Nevada and California.

S. 1692

At the request of Mr. Murkowski, the name of the Senator from Kansas [Mr. Dole] was added as a cosponsor of S. 1692, a bill to amend title 38, United States Code, to provide for the payment of a veterans' disability benefit in the case of certain veterans who have non-Hodgkin's lymphoma.

S. 1731

At the request of Mr. Metzenbaum, the name of the Senator from North Carolina [Mr. Sanford] was added as a cosponsor of S. 1731, a bill to amend the Job Training Partnership Act to establish a demonstration program employment opportunities for severely disadvantaged youth, and for other purposes.

SENATE JOINT RESOLUTION 169

At the request of Mr. Moynihan, the name of the Senator from California [Mr. Wilson] was added as a cosponsor of Senate Joint Resolution 169, a joint resolution designating October 2, 1988, as a national day of recognition for Mohandas K. Gandhi.

SENATE JOINT RESOLUTION 178

At the request of Mr. Kennedy, the name of the Senator from Iowa [Mr. Grassley] was added as a cosponsor of Senate Joint Resolution 178, a joint resolution designating the first day of August as "National Day of Peace."

SENATE JOINT RESOLUTION 181

At the request of Mr. Wilson, the name of the Senator from Washington [Mr. Adams] was added as a cosponsor of Senate Joint Resolution 181, a joint resolution designating the week beginning February 1, 1988, as "National VITA Week."

SENATE JOINT RESOLUTION 210

At the request of Mr. Wilson, the name of the Senator from North Dakota [Mr. Burdick], the Senator from Mississippi [Mr. Cochran], the Senator from Arizona [Mr. DeConcini], the Senator from Minnesota [Mr. Durenberger], the Senator from Texas [Mr. Gramm], the Senator from Utah [Mr. Hatch], the Senator from Pennsylvania [Mr. Heinz], the Senator from Hawaii [Mr. Matsunaga], the Senator from Hawaii [Mr. Inouye], the Senator from Idaho [Mr. McClure], the Senator from Ohio [Mr. Metzenbaum], the Senator from Oklahoma [Mr. Nickles], the Senator from Georgia [Mr. Nunn], the Senator from Arkansas [Mr. Pryor], and the Senator from Virginia [Mr. Warner] were added as cosponsors of Senate Joint Resolution 210, a joint resolution to designate the period commencing February 8, 1988, and ending February 14, 1988, as "National Burn Awareness Week."

AMENDMENTS SUBMITTED

WHITE HOUSE CONFERENCE ON LIBRARY AND INFORMATION SERVICES

PELL (AND STAFFORD) AMENDMENT NO. 1360

Mr. BYRD (for Mr. Pell), (for himself and Mr. Stafford) proposed an amendment to the joint resolution (S.J. Res. 26) to authorize and request the President to call a White House Conference on Library and Information Services to be held not later than 1989, and for other purposes; as follows:

On page 11, between lines 8 and 9, insert the following:

TITLE I—WHITE HOUSE CONFERENCE ON LIBRARY AND INFORMATION SERVICES

On page 11, line 10, strike out "Section 1." and insert in lieu thereof "Sec. 101.".

On page 11, line 15, strike out "Sec. 2." and insert in lieu thereof "Sec. 102.".

On page 13, line 13, strike out "Sec. 3." and insert in lieu thereof "Sec. 103.".

On page 15, line 14, strike out "Sec. 4." and insert in lieu thereof "Sec. 104.".

On page 16, line 4, strike out "Sec. 5." and insert in lieu thereof "Sec. 105.".

On page 17, line 24, strike out "Sec. 6." and insert in lieu thereof "Sec. 106.".

On page 18, line 10, strike out "Conference" the second time it appears and insert in lieu thereof "Commission".

On page 18, line 14, strike out "Sec. 7." and insert in lieu thereof "Sec. 107.".

On page 18, line 25, strike out "Sec. 8." and insert in lieu thereof "Sec. 108.".

On page 19, after line 6, insert the following:

TITLE II—CONSTITUTIONAL BICENTENNIAL EDUCATION PROGRAM

TEACHER TRAINING AMENDMENT

Sec. 201. Section 501(c)(1) of the Arts, Humanities, and Museums Amendments of 1985 is amended—

(1) by striking out "$5,000,000 for each of the fiscal years 1987 and 1988," and inserting in lieu thereof "$8,000,000 for each of the fiscal years"; and

(2) by inserting before the period at the end thereof a comma and the following: "of which at least $3,000,000 in each fiscal year shall be reserved for elementary and secondary teacher training and retraining programs in history, geography, and other related disciplines in the social sciences and humanities designed to enhance understanding of the Constitution.

TITLE III—HIGHER EDUCATION PROGRAM

INCOME CONTINGENT DIRECT LOAN DEMONSTRATION PROJECT

Sec. 301. (a) New Agreements and Consortia.—Section 452(c)(2) of the Higher Education Act of 1965 is amended—

(1) by inserting "(A)" after the paragraph designation; and

(2) by adding at the end thereof the following new paragraph:

"(B) The Secretary may, in any fiscal year beginning after September 30, 1988, in which the appropriation to carry out the provisions of this part exceeds $5,000,000, enter into agreements with an additional 10 institutions of higher education. Any agreement entered into under this subparagraph may include consortia of such institutions if the participating institutions of higher education are located in the same State.".

(b) INSTITUTIONAL PAYMENT OF IN-SCHOOL INTEREST.—Section 453(5) of the Higher Education Act of 1965 is amended—

(1) by striking out "and" at the end of subparagraph (B);

(2) by adding "and" at the end of subparagraph (C); and

(3) by adding at the end thereof the following new subparagraph:

"(D) at the option of the institution, payment, from the institution's capital contribution described in paragraph (3), to cover the interest that accrues on loans made by such institution to students, during the period such students are attending the institution on at least a half-time basis;".

(c) GRADUATE AND PROFESSIONAL STUDENT ELIGIBILITY.—(1) Section 454(a)(2) of the Higher Education Act of 1965 is amended by striking out "$17,500" and inserting in lieu thereof "$17,500 in the case of an undergraduate student (as defined in accordance with the regulations of the Secretary), and $44,500 in the case of a graduate or professional student (as defined in accordance with the regulations of the Secretary and including any loans from such funds made to such student before the student became a graduate or professional student)".

(2) Section 454(a)(3) of the Higher Education Act of 1965 is amended—

(A) by striking out "and" at the end of subparagraph (B);

(B) by striking out the period at the end of subparagraph (C) and inserting in lieu thereof a semicolon and "and"; and

(C) by adding at the end thereof the following new subparagraph:

"(D) $10,000 in the case of a graduate or professional student, as defined in accordance with the regulations of the Secretary.".

(d) INTEREST RATE.—(1) Section 454(a)(4)(A) of the Higher Education Act of 1965 is amended to read as follows:

"(A) The interest rate on loans under this part shall be computed in accordance with subparagraph (B), based on the interest rate computed for the calendar year in which the loan was made, and fixed over the life of the loan.".

(2) Section 454(a)(4)(B)(ii) of the Higher Education Act of 1965 is amended by striking out "3 percent" and inserting in lieu thereof "one-half of 1 percent".

(e) EFFECTIVE DATE.—The amendments made by this section shall be effective for loans made to cover periods of instruction beginning on or after July 1, 1988.

INFORMATION ON DEFAULTS REQUIRED

SEC. 302. (a) GENERAL RULE.—The first sentence of section 428(k)(1) of the Higher Education Act of 1965 is amended—

(1) by striking out "In" and inserting in lieu thereof "Notwithstanding any other provision of law, in"; and

(2) by striking out "may" and inserting in lieu thereof "shall".

(b) CONFORMING AMENDMENT.—The second sentence of section 428(k)(1) of such Act is amended by striking out "may" and inserting in lieu thereof "shall".

TECHNICAL AMENDMENT CONCERNING TEACHER TRAINING PROGRAM ELIGIBILITY FOR GSL PROGRAM

SEC. 303. Section 484 of the Higher Education Act of 1965 is amended—

(1) in subsection (a)(1), by striking out "subsection (b)(2)" and inserting in lieu thereof "subsections (b)(2) and (b)(3)"; and

(2) by adding at the end of subsection (b) the following new paragraph:

"(3) A student who—

"(A) is carrying at least one-half the normal full-time work load for the course of study the student is pursuing, as determined by the institution, and

"(B) is enrolled or accepted for enrollment in a program at an eligible institution leading to a professional credential or certification from a State that is required for employment as a teacher in an elementary or secondary school in that State,

shall be, notwithstanding paragraph (1) of subsection (a), eligible to apply for loans under part B of this title.".

TITLE IV—LIBRARY AND EDUCATION RESOURCE AUTHORIZATIONS

WASHINGTON LIBRARY CONSORTIUM

SEC. 401. (a) GENERAL AUTHORITY.—The Secretary of Education is authorized to provide financial assistance, in accordance with the provisions of this section, to the Washington Library Consortium for the purpose of constructing and equipping a facility in Prince George's County, Maryland, that would link by computer eight university libraries (located at American University, Georgetown University, George Washington University, Catholic University, George Mason University, Gallaudet University, Marymount University, and the University of the District of Columbia) and provide central storage for the rare books of the participating institutions of higher education.

(b) APPLICATION.—No financial assistance may be made under this section unless an application is submitted to the Secretary of Education at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $7,500,000 to carry out the provisions of this section. Funds appropriated pursuant to this section shall remain available until expended.

VERMONT HIGHER EDUCATION COUNCIL

SEC. 402. (a) GENERAL AUTHORITY.—The Secretary of Education is authorized to provide financial assistance, in accordance with the provisions of this section, to the Vermont Higher Education Council located in Hyde Park, Vermont, for development activities for faculty at institutions of higher education which are members of the Vermont Higher Education Council designed to address and overcome professional isolation experienced by such faculty members.

(b) APPLICATION REQUIRED.—No financial assistance may be made under this section unless an application is submitted to the Secretary of Education at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require.

(c) AUTHORIZATION OF APPROPRIATION.—There are authorized to be appropriated $1,000,000 to carry out the provisions of this section. Funds appropriated pursuant to this section shall remain available until expended.

HEALTH AND HUMAN RESOURCES CENTER AUTHORIZED.

SEC. 403. (a) GENERAL AUTHORITY.—The Secretary of Education is authorized, in accordance with the provisions of this section, to provide financial assistance to Voorhees College, located in Denmark, South Carolina, to pay the cost of construction and related costs for a Health and Human Resources Center at Voorhees College.

(b) APPLICATION REQUIRED.—No financial assistance may be made under this section unless an application is made at such time, in such manner, and containing or accompanied by such information, as the Secretary may reasonably require.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums, not to exceed $4,500,000, as may be necessary to carry out the provisions of this section. Funds appropriated pursuant to this section shall remain available until expended.

UNIVERSITY OF MISSISSIPPI LAW LIBRARY

SEC. 404. (a) GENERAL AUTHORITY.—The Secretary of Education is authorized to provide financial assistance, in accordance with the provisions of this section, to the University of Mississippi Law School for the renovation and completion of the library facilities of the University of Mississippi Law School at Oxford, Mississippi.

(b) APPLICATION REQUIRED.—No financial assistance may be made under this section unless an application is submitted to the Archivist at such time, in such manner, and containing or accompanied by such information as the Archivist may reasonably require.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $2,200,000 to carry out the provisions of this section. Funds appropriated pursuant to this section shall remain available until expended.

CHILES (AND OTHERS) AMENDMENT NO. 1361

Mr. BYRD (for Mr. CHILES) (for himself, Mr. D'AMATO, and Mr. DECONCINI) proposed an amendment to the joint resolution Senate Joint Resolution 26, supra; as follows:

At the end of the joint resolution add the following:

TITLE X DRUG-FREE SCHOOLS

DRUG-FREE SCHOOLS REAUTHORIZATION

SEC. X01. Section 4111(a) of the Drug-Free Schools and Communities Act of 1987 (hereafter in this title referred to as the "Act") is amended by inserting before the period a comma and the following: "and such sums as may be necessary for the fiscal year 1990 and each of the fiscal years ending prior to October 1, 1993".

STATE PROGRAM—LOCAL ALLOTMENTS

SEC. X02. The second sentence of section 4124(a) of the Act is amended by striking out "the relative numbers of children in the school-aged population within such areas" and inserting in lieu thereof "the relative enrollments in public and private, nonprofit schools within the areas served by such agencies".

STATE PROGRAM—PARTICIPATION OF TEACHERS IN PRIVATE NONPROFIT SCHOOLS

SEC. X03. Section 4143(b) of the Act is amended by striking out "State, State educational agency, or State agency for higher education" and inserting in lieu thereof "State, agency, or consortium".

STATE PROGRAM—LOCAL APPLICATIONS

SEC. X04. (a) Section 4126(a)(2) of the Act is amended—

(1) by redesignating subparagraphs (D) through (J) as subparagraphs (G) through (M), respectively; and

(2) by inserting after subparagraph (C) the following new subparagraphs:

"(D) describe the extent and nature of the current illegal drug and alcohol problem in each school of the applicant, including detailed information that shows—

"(i) the number or percentage of students who use drugs or alcohol;

"(ii) the grade level of those students;

"(iii) the types of drugs they use; and

"(iv) how the applicant obtained this information;

"(E) describe the applicant's drug and alcohol policy, including an explanation of—

"(i) the disciplinary practices and procedures it will strictly enforce to eliminate the sale or use of drugs and alcohol on school premises; and

"(ii) how it will convey to students the message that drug use is not permissible;

"(F) describe how the applicant will monitor the effectiveness of its program;".

(b) Section 4126 of the Act is further amended by adding at the end thereof the following new subsection:

"(b)(1) In order to receive funds under this Act for the third year of its plan, an applicant shall submit to the State educational agency a progress report on the first two fiscal years of its plan. The progress report shall describe in detail—

"(A) the applicant's significant accomplishments under the plan during the preceding two years; and

"(B) the extent to which the original objectives of the plan are being achieved, including the extent to which there has been a reduction in the number of students who use drugs and alcohol.

"(2) The State educational agency shall not award funds under this Act to an applicant for the third year of its plan unless the State educational agency determines that the applicant's progress report shows that it is making reasonable progress toward accomplishing the objectives of its plan and the purposes of this Act. If the State educational agency determines that reasonable progress is not being made, the State educational agency shall instruct the applicant in writing to modify its plan so as to provide reasonable assurance of such progress. If after 90 days the applicant has not submitted to the State educational agency a modified plan which provides such assurance, the State educational agency may reallocate the applicant's funds to other applicants on the basis of need.".

STATE PROGRAM—REPORTS

SEC. X05. Part 2 of the Act is amended by adding at the end thereof the following new section:

"STATE REPORTS

"SEC. 4127. Each State shall submit to the Secretary an annual report, at such time and in such form as the Secretary may prescribe, that contains information on the State or local programs the State conducts under this subtitle, including—

"(1) data on the number and characteristics of program recipients and the persons who participated in their programs; and

"(2) an assessment of the degree to which those programs accomplished their goals, including their impact upon drug and alcohol use by students.".

NATIONAL PROGRAMS—GRANTS AND CONTRACTS

SEC. X06. (a) The third sentence of section 4132(b) of the Act is amended by inserting "directly, or through grants, cooperative agreements, or contracts" immediately after "shall".

(b) Section 4134(a) of the Act is amended by striking out "enter into" and inserting in lieu thereof "make grants to or enter into cooperative agreements or".

(c) Section 4135 of the Act is amended by inserting a comma and "through grants, cooperative agreements, or contracts," immediately after "Secretary".

EVALUATION

SEC. X07. Section 4132(d) of the Act is amended by adding at the end thereof the following new sentence: "In addition, the Secretary may conduct periodic evaluations of programs authorized by this Act.".

EFFECTIVE DATE

SEC. X08. (a) The provisions of this title shall take effect October 27, 1986.

(b) Notwithstanding subsection (a), a State educational agency may allot fiscal year 1987 funds to local and intermediate educational agencies and consortia under section 4124(a) of the Act on the basis of their relative numbers of children in the school-aged population.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON THE JUDICIARY

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to hold hearings during the session of the Senate on December 14, 15, 16, and 17, 1987, at 10 a.m. on the nomination of Anthony M. Kennedy to be an Associate Supreme Court Justice.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON SECURITIES

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Securities of the Committee on Banking, Housing, and Urban Affairs be allowed to meet during the session of the Senate Tuesday, December 15, 1987, at 10 a.m., to hold hearings on S. 1380, the Insider Trading Proscriptions Act of 1987, and on legislation submitted by the Securities and Exchange Commission relating to insider trading.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON GOVERNMENT EFFICIENCY, FEDERALISM, AND THE DISTRICT OF COLUMBIA

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Government Efficiency, Federalism, and the District of Columbia, of the Committee on Governmental Affairs, be authorized to meet during the session of the Senate on Tuesday, December 15, 1987, at 10 p.m., to resume open hearings on the reauthorization of the National Historical Publications and Records Commission.

The PRESIDING OFFICER. Without objection, it so ordered.

ADDITIONAL STATEMENTS

JIMMY CARTER NATIONAL HISTORIC SITE

● Mr. NUNN. Mr. President, in passing H.R. 2416, the Jimmy Carter National Historic Site and Preservation District Act, the Senate took an important step toward preserving a portion of our history.

The homes of American Presidents that have been preserved represent an invaluable resource for all Americans. They provide an opportunity to better understand the men who lived there and their families, and show us much about the times in which they lived. In preserving only the homes of major historical figures, however, we tend to lose much of the essence of ordinary life that would illuminate those times. We may not realize what made the "typical" places unique until they have been so changed that they have become unrecognizable.

As passed by the Congress, the Jimmy Carter historical site and park would serve both these important purposes by preserving the homes of our 39th President, and key sites from the past of a small Southern town. The high school and railroad depot were part of one President's boyhood, but they also represent a world that played an important part in American life for decades. Preserving them will help future generations comprehend the attitudes and actions that came out of that world.

The park and historic site are an especially appropriate way to honor President Jimmy Carter. The preservation of sites of special value to Americans was one of his priorities as President, as Governor of Georgia, and throughout his life.

He set aside more land to be enjoyed by current and future generations than any other President—56 million acres—tripling America's wilderness system. These lands contain some of the most magnificent landscapes in the world, and save irreplaceable natural systems.

Jimmy Carter also was a leader in both public and private historic preservation during his Presidency. His encouragement of private conversion and reuse of existing buildings contributed to the saving of many architecturally interesting structures that might otherwise have been lost by now. By getting Americans to take a second look before destroying older structures, he contributed immeasurably to our appreciation of the texture of our city scapes and our architectural heritage, especially its human scale.

As President, Jimmy Carter devoted himself to peace, human rights, and the environment. The course of history will determine how much will survive of his legacy of concern for human rights and his efforts to further peace in the world. In setting aside these sites, however, the Congress has continued his legacy of providing for safekeeping places of interest and importance to future generations.●

SOUTH AFRICAN BANNING OF GOVAN MBEKI

Mr. McCONNELL. Mr. President, on December 1, I received a letter from Pieter Koornof, South African Ambassador to the United States. The letter opened with a passage from the Book of Ecclesiastes: "To everything there is a season, a time for every purpose, a time to live . . . and a time of peace." Apparently, in South Africa, this is the season to restrict freedoms, ban citizens, and reverse the little progress that has been made in resolving South Africa's deepening domestic crisis.

Over the weekend, Mr. Govan Mbeki, was banned. He has been confined to his home town, Port Elizabeth, and has been prohibited from giving press interviews or writing for publication. I find this action by the South African Government bitterly ironic in light of additional comments included in Ambassador Koornhof's letter. He stated South Africa was on the road to "achieving a new constitutional system in which everyone has the right to participate—as—symbolized by the release of Govan Mbeki. . . ." After 23 years in prison, Govan Mbeki was freed on November 5, only to be banned. To squash any reaction to his banning, the Government also banned a scheduled rally in Cape Town.

Yesterday, the State Department issued a statement saying that South Africa's action ". . . negates the significant goodwill Mr. Mbeki's release created in both South Africa and the international community. The prospects for peaceful negotiations in that troubled country are consequently that much diminished." The State Department went on to say, "We continue to urge the South African Government to recognize and deal with all the significant political figures and organizations that are vital to any solution of that country's problems. Detaining and restricting them is not the answer."

Mr. Mbeki's banning follows a series of actions further censoring freedom of the press in South Africa. In August, the Government imposed a whole new set of restrictions which essentially declared anything critical of the Government or its activities was banned. These sweeping new restrictions have had profoundly negative consequences. Smaller publications such as neighborhood newsletters are prohibited from any criticism of Government sponsored day care, education, or a whole universe of activity for fear that they will be put out of business. Just as the Senate has recently condemned Panama's press censorship, we should also voice our objections to these new ruthless restrictions on freedom of speech in South Africa.

Mr. President, the actions of the South African Government over the past few months leave me with the clear impression that they are engaged in a dangerous game of political chicken. They have cynically calculated that by keeping important political figures from galvanizing action within South Africa and by keeping the rest of the world in the dark about internal events through repressive press censorship, the world will forget about what is happening in South Africa. I guess they figure that if our collective conscience is not pricked by violence captured on news footage, South Africa will fade from memory. Mr. President, as one voice in this body, I want to go on record for the benefit of those who operate under this false assumption and say we will not forget, give in, or give up.●

J.P. "PETE" STROM: IN MEMORIAM

● Mr. HOLLINGS. Mr. President, with the sudden death of J.P. "Pete" Strom yesterday afternoon, the Nation has lost one of its great lawmen and I have lost a dear friend.

Pete Strom's career in law enforcement spanned a half century. From 1956 until his death, he served with legendary dedication and effectiveness as chief of the South Carolina State Law Enforcement Division [SLED]. Equally zealous in upholding the law and protecting citizens' rights, Pete was a talented administrator and a role model to two generations of law enforcement officers.

It is difficult, in mere words and accolades, to do justice to the accomplishments of this extraordinary public servant. Pete's authority and standing transcended politics, and it is no coincidence that he was reappointed by Democratic and Republican Governors alike. He personally built SLED into an elite investigative and enforcement agency—recognized as one of the very best in the Nation. Pete was always the innovator, revolutionizing his agency with the use of computers, polygraphs, first-rate crime labs, and modern communications. He was the ultimate professional.

Pete was always rigorously fairminded in his treatment of suspects. His credo was,

> Make sure he's guilty before you affect his reputation, his freedom, or his pocketbook. Make sure that during your investigation you always assure yourself that you are the fairest juror a suspect will ever have.

Even more important, though, was Pete's defense of South Carolinians' civil rights. Over the years, he developed a reputation as the scourge of the Ku Klux Klan. And South Carolinians will be forever grateful for his firm and fair handling of the Orangeburg riots in 1968 as well as student unrest at the University of South Carolina in 1970. Pete kept the attack dogs and the fire hoses out of South Carolina at a time when other Southern States had turned ugly.

Today, the flags are at half staff throughout South Carolina. It is a fitting tribute to Pete Strom, emblematic of our respect and our heavy hearts. I mourn the passing of wonderful friend and valued confidant.●

NATIONAL PULASKI DAY HONOREES

● Mr. METZENBAUM. Mr. President, on October 11, 1987, the Polonia Foundation of Ohio, Inc., celebrated National Pulaski Day. As well as commemorating the death of the great American hero, Casimir Pulaski, National Pulaski Day was a day to honor and recognize three people who are dedicated to their Polish heritage. It is with great pleasure that I salute these people today.

Mary E. Pawlak is recognized for the devotion which she has exhibited in her work for the Polish National Alliance, the American Polish Women's Club, the planning of the Polish Village Project, and many other worthwhile activities. She is indeed deserving of the honor she has received.

Genevieve Lewandowski is honored for the work which she began as a child helping Polish immigrants to write letters, fill out forms, and locate families in Poland. She is also recognized for her work as a director of the Polonia Foundation of Ohio, Inc., for contributing to clubs such as the Grand Lady of the Knights of Pulaski, Union of Poles, the Polish Legion of American Veterans U.S.A., and for her volunteer work at the Wade Park Veterans Hospital.

Stanley O. Samek, is another fine example of dedication and commitment to organizations which support the needs of the Polish community. Mr. Samek is a member of a large number of organizations in addition to actively serving as secretary of the Ohio Polish American Congress, chairman of the Polish Constitution Day, president of Council 6 of the National Polish Alliance, and chief organizer and national secretary of the Alliance of Poles of America.

These three people have shown great commitment to the Polish community, as well as to the community at large. Their efforts certainly deserve great respect and admiration. I am glad to be able to honor them at this time on the floor of the U.S. Senate.●

TRIBUTE TO MRS. PATSY BURTON ON IMPROVEMENT OF TAXPAYER RIGHTS

● Mr. PRYOR. Mr. President, today I wish to call attention to an outstanding citizen who has selflessly committed her time and energy to improving the rights of American taxpayers. Her name is Mrs. Patsy Burton of Baltimore, MD.

Earlier this year, I introduced legislation called the Omnibus Taxpayers' Bill of Rights Act, a bill that would guarantee the due process rights of taxpaying citizens. Today, the bill has an unprecedented 63 cosponsors in the U.S. Senate. The Omnibus Taxpayers' Bill of Rights Act has received such widespread cosponsorship largely because of the efforts of concerned citizens, such as Mrs. Burton.

Over the past few months, I have received thousands of letters from taxpayers around the country who wished to voice their support for the bill, tell of their personal experiences with the Internal Revenue Service, or make suggestions on how to improve our tax collection system. Mrs. Burton volunteered her time and helped our staff to read and compile statistics on many of these letters. Through Mrs. Burton's help, we were better able to identify the types of problems that taxpayers face and, with this information, to develop workable solutions.

I wish to commend Mrs. Burton for the significant contribution she has made to improve taxpayer rights. Mrs. Burton's commitment to protecting our American liberties is truly exemplary.●

H.R. 2121

● Mr. NUNN. Mr. President, I rise in support of H.R. 2121, which is a bill of great importance to the people of northwest Georgia and a matter of great importance to me. H.R. 2121 is the proposed legislative solution to a serious growth problem along the U.S. Highway 27 corridor in northwest Georgia. This measure is also designed to address the historical significance of the Chickamauga and Chattanooga National Military Park. I am delighted that the House recently passed this legislation which was authored by Congressman BUDDY DARDEN. This bill provides funding authorization for the National Park Service to assist the State of Georgia in the relocation of U.S. Highway 27. The proposed rerouting would skirt the western border of the park. This solution is a good one. The Georgia Department of Transportation (DOT) has agreed to fund 25 percent of the relocation project while the Federal Government would be expected to provide funding for 75 percent of the project, in an amount not to exceed $30 million.

Mr. President, the passage of H.R. 2121 would represent the culmination of a number of years of effort by State, local, and Federal officials. We have also been working closely with the National Park Service officials on both the local and national levels. The proposed route is a compromise solution as the Georgia DOT had originally planned to widen the road along its present route through the center of the park. However, the Park Service was opposed to such a widening. After studying the problem for quite some time, a decision was reached last April to proceed with the initiative that is described in H.R. 2121. The consensus among all of the civic leaders was that this plan was the best solution for all those concerned. The present proposal allows for the park to continue to thrive as a recreational and historical landmark. The proposed bypass will provide for a much safer transportation system which is sorely needed. More than 15,000 commuters travel through the park daily as U.S. 27 is the only north-south thoroughfare in Walker County.

Mr. President, I wholeheartedly support this legislation and I urge the Senate to approve this important proposal.●

ORDER OF BUSINESS

Mr. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum has been suggested. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. WIRTH). Without objection, it is so ordered.

Mr. BYRD. Mr. President, the distinguished Republican leader is conducting a meeting at this time and he has no objection to my proceeding.

CONCLUSION OF MORNING BUSINESS

Mr. BYRD. Mr. President, I ask that morning business be closed.

The PRESIDING OFFICER. Without objection, it is so ordered. Morning business is closed.

AUTHORIZING THE ACQUISITION OF THE OLD CITY POST OFFICE IN THE DISTRICT OF COLUMBIA BY THE ARCHITECT OF THE CAPITOL

The PRESIDING OFFICER. The clerk will read S. 1947 for the second time.

The legislative clerk read as follows:

A bill (S. 1947) to authorize the acquisition of the Old City Post Office in the District of Columbia by the Architect of the Capitol.

Mr. BYRD. Mr. President, I object to any further consideration of this measure at this time.

The PRESIDING OFFICER. Objection has been heard. Further proceedings at this time may be placed on the calendar under rule XIV.

Mr. BYRD. Mr. President, I did not understand the Chair.

The PRESIDING OFFICER. Objection having been heard to the further consideration of the bill, the bill will be placed on the calendar under rule XIV.

ORDER OF PROCEDURE

Mr. BYRD. Mr. President, on tomorrow at 10 o'clock, it will be the intention of the leadership to proceed to the House message on S. 825, the housing authorization. That is a privileged matter and, therefore, there will be no problem in going to it.

I would anticipate some debate, probably not lengthy, and a rollcall vote.

ORDERS FOR WEDNESDAY

RECESS UNTIL 9:45 A.M.

Mr. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until the hour of 9:45 a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

REDUCTION OF LEADERSHIP TIME

Mr. BYRD. Mr. President, I ask unanimous consent that the time of the two leaders on tomorrow be reduced to 5 minutes for each.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that there then be a period for morning business until the hour of 10 a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONSIDERATION OF S. 825

Mr. BYRD. Mr. President, at 10 o'clock I will ask the Senate to go to the message from the House, S. 825. That will be taken up and Senators may anticipate that there will be a rollcall vote or rollcall votes tomorrow.

I hope that the conferences can go forward expeditiously and that the conference reports on the reconciliation bill and the continuing resolution can be brought back before the Senate as soon as possible. The CR deadline will be midnight tomorrow night.

I hope we can all work together, that both Houses can work together and resolve the remaining issues on these two measures in time for the Senate and House to adjourn sine die without having to work into next week, next week being Christmas week. So we have got work to do. There will be additional rollcall votes on these measures before they are sent to the President, undoubtedly; and there will be rollcall votes on other matters.

There may be a rollcall vote in an attempt to override a Presidental veto, if that should become a reality, anent the legislation on an independent counsel. That would be a rollcall vote.

There are other conference reports that will attract rollcall votes so I urge Senators not to leave the Nation's Capital until all our work is done.

RECESS UNTIL TOMORROW AT 9:45 A.M.

Mr. BYRD. Mr. President, if there be no further business to come before the Senate, I move in accordance with the order entered that the Senate stand in recess until the hour of 9:45 a.m. tomorrow.

The motion was agreed to; and at 1:36 p.m., the Senate recessed until Wednesday, December 16, 1987, at 9:45 a.m.

NOMINATIONS

Executive nominations received by the Senate December 15, 1987:

INTER-AMERICAN FOUNDATION

JOSÉ M. DEETJEN, OF CALIFORNIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE INTER-AMERICAN FOUNDATION FOR A TERM OF SIX YEARS. (NEW POSITION)

AFRICAN DEVELOPMENT FOUNDATION

JAY KENNETH KATZEN, OF VIRGINIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE AFRICAN DEVELOPMENT FOUNDATION FOR THE REMAINDER OF THE TERM EXPIRING FEBRUARY 9, 1990, VICE MILTON FRANK.

UNITED STATES ADVISORY COMMISSION ON PUBLIC DIPLOMACY

HERSHEY GOLD, OF CALIFORNIA, TO BE A MEMBER OF THE UNITED STATES ADVISORY COMMISSION ON PUBLIC DIPLOMACY FOR A TERM EXPIRING JULY 1, 1990. (REAPPOINTMENT)

NATIONAL ADVISORY COUNCIL ON EDUCATIONAL RESEARCH AND IMPROVEMENT

J. WADE GILLEY, OF VIRGINIA, TO BE A MEMBER OF THE NATIONAL ADVISORY COUNCIL ON EDUCATIONAL RESEARCH AND IMPROVEMENT FOR A TERM EXPIRING SEPTEMBER 30, 1990, VICE GWYNETH GAYMAN, TERM EXPIRED.

FEDERAL COMMUNICATIONS COMMISSION

SUSAN WING, OF ILLINOIS, TO BE A MEMBER OF THE FEDERAL COMMUNICATIONS COMMISSION FOR THE REMAINDER OF THE TERM EXPIRING JUNE 30, 1988, VICE MARY ANN WEYFORTH DAWSON.

SUSAN WING, OF ILLINOIS, TO BE A MEMBER OF THE FEDERAL COMMUNICATIONS COMMISSION FOR A TERM OF FIVE YEARS FROM JULY 1, 1988. (REAPPOINTMENT)

SECURITIES INVESTOR PROTECTION CORPORATION

FRANK G. ZARB, OF NEW YORK, TO BE A DIRECTOR OF THE SECURITIES INVESTOR PROTECTION CORPORATION FOR A TERM EXPIRING DECEMBER 31, 1989, VICE JAMES W. FULLER, TERM EXPIRED.

IN THE AIR FORCE

THE FOLLOWING OFFICERS FOR APPOINTMENT IN THE UNITED STATES AIR FORCE UNDER PROVISIONS OF SECTION 624, TITLE 10 OF THE UNITED STATES CODE:

To be major general

BRIG. GEN. JOSEPH A. AHEARN, [redacted]FR, REGULAR AIR FORCE.

BRIG. GEN. ROBERT M. ALEXANDER, [redacted]FR, REGULAR AIR FORCE.

BRIG. GEN. EDWARD P. BARRY, JR., [redacted]FR, REGULAR AIR FORCE.

BRIG. GEN. BILLY J. BOLES, 238-58-4132FR, REGULAR AIR FORCE.

BRIG. GEN. LESTER P. BROWN, JR. [redacted]FR, REGULAR AIR FORCE.

BRIG. GEN. RICHARD E. CARR, [redacted]FR, REGULAR AIR FORCE.

BRIG. GEN. JAMES E. CHAMBERS [redacted]FR, REGULAR AIR FORCE.

BRIG. GEN. JAMES R. CLAPPER, JR. [redacted]FR, REGULAR AIR FORCE.

BRIG. GEN. JOHN A. CORDER, [redacted]FR, REGULAR AIR FORCE.

BRIG. GEN. JOHN M. DAVEY, [redacted]FR, REGULAR AIR FORCE.

BRIG. GEN. ROBERT S. DELLIGATTI, [redacted]FR, REGULAR AIR FORCE.

BRIG. GEN. THOMAS R. FERGUSON, JR., [redacted]FR, REGULAR AIR FORCE.

BRIG. GEN. GEORGE B. HARRISON, [redacted]FR, REGULAR AIR FORCE.

BRIG. GEN. HARALD G. HERMES, [redacted]FR, REGULAR AIR FORCE.

BRIG. GEN. JAMES W. HOPP, [redacted]FR, REGULAR AIR FORCE.

BRIG. GEN. FRANK J. KELLY, JR., [redacted]FR, REGULAR AIR FORCE.

BRIG. GEN. GEORGE W. LARSON, JR., [redacted]FR, REGULAR AIR FORCE.

BRIG. GEN. NATHAN J. LINDSAY, [redacted]FR, REGULAR AIR FORCE.

BRIG. GEN. ROBERT H. LUDWIG, [redacted]FR, REGULAR AIR FORCE.

BRIG. GEN. CHARLES A. MAY, JR. [redacted]FR, REGULAR AIR FORCE.

BRIG. GEN. GARY H. MEARS, [redacted]FR, REGULAR AIR FORCE.

BRIG. GEN. WILLIAM J. PORTER, [redacted]FR, REGULAR AIR FORCE.

BRIG. GEN. JAMES F. RECORD, [redacted]FR, REGULAR AIR FORCE.

BRIG. GEN. DONALD A. RIGG, [redacted]FR, REGULAR AIR FORCE.

BRIG. GEN. ALAN V. ROGERS, [redacted]FR, REGULAR AIR FORCE.

BRIG. GEN. JAMES G. SANDERS, [redacted]FR, REGULAR AIR FORCE.

BRIG. GEN. JOHN P. SCHOEPPNER, JR., [redacted]FR, REGULAR AIR FORCE.

BRIG. GEN. CHARLES J. SEAROCK, JR., [redacted]FR, REGULAR AIR FORCE.

BRIG. GEN. WILLIAM H. SISTRUNK, [redacted]FR, REGULAR AIR FORCE.

BRIG. GEN. JOSEPH K. SPIERS, [redacted]FR, REGULAR AIR FORCE.

BRIG. GEN. DALE C. TABOR, [redacted]FR, REGULAR AIR FORCE.

BRIG. GEN. DALE W. THOMPSON, JR., [redacted]FR, REGULAR AIR FORCE.

BRIG. GEN. WALTER E. WEBB, III [redacted]FR, REGULAR AIR FORCE.

THE FOLLOWING OFFICERS FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE OF BRIGADIER GENERAL UNDER THE PROVISIONS OF SECTION 624, TITLE 10 OF THE UNITED STATES CODE:

COL. HAROLD B. ADAMS, [redacted]FR, REGULAR AIR FORCE.

COL. DENNIS C. BEASLEY, [redacted]FR, REGULAR AIR FORCE.

COL. LAWRENCE E. BOESE, [redacted]FR, REGULAR AIR FORCE.

COL. RALPH T. BROWNING, [redacted]FR, REGULAR AIR FORCE.

COL. RICHARD A. BROWNING, [redacted]FR, REGULAR AIR FORCE.

COL. EDWARD N. BRYA, [redacted]FR, REGULAR AIR FORCE.

COL. FRANK CARDILE, [redacted]FR, REGULAR AIR FORCE.

COL. WILLIAM E. COLLINS, [redacted]FR, REGULAR AIR FORCE.

COL. LEWIS E. CURTIS, III, [redacted]FR, REGULAR AIR FORCE.

COL. STANCIL L. DILDA, JR., [redacted]FR, REGULAR AIR FORCE.

COL. FRANCIS R. DILLON, [redacted]FR, REGULAR AIR FORCE.

COL. JOHN W. DOUGLASS, [redacted]FR, REGULAR AIR FORCE.

COL. BRETT M. DULA, [redacted]FR, REGULAR AIR FORCE.

COL. ALBERT J. EDMONDS, [redacted]FR, REGULAR AIR FORCE.

COL. MARVIN S. ERVIN, [redacted]FR, REGULAR AIR FORCE.

COL. JAMES A. FAIN, JR., [redacted]FR, REGULAR AIR FORCE.

COL. JOHN L. FINAN, [redacted]FR, REGULAR AIR FORCE.

COL. BURCE L. FISTER, [redacted]FR, REGULAR AIR FORCE.

COL. CHARLES E. FRANKLIN, [redacted]FR, REGULAR AIR FORCE.

COL. BENARD W. GANN, [redacted]FR, REGULAR AIR FORCE.

COL. TIMOTHY D. GILL, [redacted]FR, REGULAR AIR FORCE.

COL. JAMES F. GRANT, [redacted]FR, REGULAR AIR FORCE.

COL. KENNETH L. HAGEMANN, SR., [redacted]FR, REGULAR AIR FORCE.

COL. MILTON L. HAINES, [redacted]FR, REGULAR AIR FORCE.

COL. LARRY L. HENRY, [redacted]FR, REGULAR AIR FORCE.

COL. WALTER C. HERSMAN, [redacted]FR, REGULAR AIR FORCE.

COL. ELLWOOD P. HINMAN, III, [redacted]FR, REGULAR AIR FORCE.

COL. JAMES M. HURLEY, [redacted]FR, REGULAR AIR FORCE.

COL. RONALD W. IVERSON, [redacted]FR, REGULAR AIR FORCE.

COL. ARTHUR E. JOHNSON, [redacted]FR, REGULAR AIR FORCE.

COL. ROGER A. JONES, [redacted]FR, REGULAR AIR FORCE.

COL. JOHN P. JUMPER, [redacted]FR, REGULAR AIR FORCE.

COL. KENNETH F. KELLER, [redacted]FR, REGULAR AIR FORCE.

COL. JEAN E. KLICK, [redacted]FR, REGULAR AIR FORCE.

COL. OWEN K LENTZ, [redacted]FR, REGULAR AIR FORCE.

COL. ANTONIO MALDONADO, [redacted]FR, REGULAR AIR FORCE.

COL. JAMES W. MCINTYRE, [redacted]FR, REGULAR AIR FORCE.

COL. BEN NELSON, JR., [redacted]FR, REGULAR AIR FORCE.

COL. PHILIP W. NUBER, [redacted]FR, REGULAR AIR FORCE.

COL. RAYMUND E. O'MARA, [redacted]FR, REGULAR AIR FORCE.

COL. ROBERT W. PARKER, [redacted]FR, REGULAR AIR FORCE.

COL. JOHN F. PHILLIPS, [redacted]FR, REGULAR AIR FORCE.

COL. ROBERT W. POEL, [redacted]FR, REGULAR AIR FORCE.

COL. JOSEPH J. REDDEN, [redacted]FR, REGULAR AIR FORCE.

COL. RONALD N. RUNNING, [redacted]FR, REGULAR AIR FORCE.

COL. JOHN J. SALVADORE, [redacted]FR, REGULAR AIR FORCE.

COL. GARRY A. SCHNELZER, [redacted]FR, REGULAR AIR FORCE.

COL. GRAHAM E. SHIRLEY, [redacted]FR, REGULAR AIR FORCE.

COL. NOLAN SKLUTE, [redacted]FR, REGULAR AIR FORCE.

COL. LESTER J. WEBER, [redacted]FR, REGULAR AIR FORCE.

COL. THAD A. WOLFE, [redacted]FR, REGULAR AIR FORCE.

COL. WALTER T. WORTHINGTON, [redacted]FR, REGULAR AIR FORCE.

IN THE NAVY

THE FOLLOWING NAMED OFFICER, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 601, TO BE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY DESIGNATED BY THE PRESIDENT UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be vice admiral

REAR ADM. STANLEY R. ARTHUR, [redacted]/1310, U.S. NAVY.

THE FOLLOWING-NAMED CAPTAINS IN THE LINE OF THE NAVY FOR PROMOTION TO THE PERMANENT GRADE OF REAR ADMIRAL (LOWER HALF), PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 624, SUBJECT TO QUALIFICATIONS THEREFOR AS PROVIDED BY LAW:

UNRESTRICTED LINE OFFICER

To be rear admiral (lower half)

PHILIP SHEPARD ANSELMO
JON MICHAEL BARR
BRUCE BARTON BREMNER
WILLIAM CLIFFORD CARLSON
STEPHEN SCOTT CLAREY
WALTER JACKSON DAVIS, JR
WILLIAM ANTHONY EARNER, JR
JAMES RICHARD FITZGERALD
WILLIAM JOHN FLANAGAN, JR
DAVID EUGENE FROST
ALVARO RAYMOND GOMEZ

THOMAS FORREST HALL
JOHN TIMOTHY HOOD
KARL LEE KAUP
JAMES RICHARD LANG
JOHN BAPTISTE LAPLANTE
CONRAD C LAUTENBACHER, JR
JOHN ALDEN MORIARTY
PAUL WHITNEY PARCELLS
JAMES WOOD PARTINGTON
PHILIP MICHAEL QUAST
JOHN SCOTT REDD
THOMAS DAVID RYAN
LUTHER FREDERICK SCHRIEFER
RALPH LAWRENCE TINDAL
PAUL EDWARD TOBIN, JR
WILLIAM LANSING VINCENT
GEORGE RHODES WORTHINGTON
TIMOTHY WAYNE WRIGHT
RONALD JOSEPH ZLATOPER

RESTRICTED LINE OFFICER—ENGINEERING DUTY OFFICER

To be rear admiral (lower half)

MILLARD SHERWOOD FIREBAUGH
DEAN HOWARD HINES

AERONAUTICAL ENGINEERING DUTY OFFICER

To be rear admiral (lower half)

ROBERT GLEN HARRISON

SPECIAL DUTY OFFICER (CRYPTOLOGY)

To be rear admiral (lower half)

ISAIAH CLAWSON COLE

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICERS FOR PERMANENT PROMOTION IN THE UNITED STATES AIR FORCE, UNDER THE APPROPRIATE PROVISIONS OF SECTION 624, TITLE 10, UNITED STATES CODE, AS AMENDED, WITH DATES OF RANK TO BE DETERMINED BY THE SECRETARY OF THE AIR FORCE.

LINE OF THE AIR FORCE

To be major

RANDY D. ABELE, [redacted]
ROBERT A. ABOE, [redacted]
EDWIN J. ABREU, [redacted]
ABEL ABUNDEZ, [redacted]
JOHN J. ADAIR, JR, [redacted]
CRAIG P. ADAMS, [redacted]
DAVID G. ADAMS, [redacted]
WARREN R. ADAMS, [redacted]
FREDERICK W. ADRIANCE, JR, [redacted]
ROBERT D. ADSIT, [redacted]
DONALD F. AIKEN, [redacted]
KEVIN P. ALBERT, [redacted]
VINCENT L. ALBERT, [redacted]
EDWARD T. ALEXANDER, JR, [redacted]
GARY R. ALEXANDER, [redacted]
JOSEPH P. ALFANO, [redacted]
JOSEPH M. ALICEA, [redacted]
BENJAMIN S. ALLEN, [redacted]
JERRY L. ALLEN, [redacted]
MICHAEL L. ALLEN, [redacted]
PHILIP B. ALLEN, [redacted]
THOMAS E. ALLEN, [redacted]
DEAN S. ALLRED, [redacted]
RICHARD L. ALMEIDA, JR, [redacted]
JOHN R. ALSBROOKS, [redacted]
WILLIAM E. AMERINE, [redacted]
DWIGHT C. AMES, [redacted]
RONALD E. AMICK, [redacted]
MELVIN R. ANDERS, [redacted]
DAVID N. ANDERSON, [redacted]
DONALD J. ANDERSON, JR, [redacted]
FRANK E. ANDERSON, [redacted]
JOHN M. ANDERSON, III, [redacted]
JOSEPH A. ANDERSON, [redacted]
PAUL R. ANDERSON, [redacted]
REX ALLAN ANDERSON, [redacted]
STERLING S. ANDERSON, [redacted]
JOHN D. ANDREWS, [redacted]
JOHN M. ANDREWS, [redacted]
LAURENS R. ANDREWS, III, [redacted]
WILLIAM B. ANDREWS, II, [redacted]
JOHN G. ANDRUSYSZYN, [redacted]
CONSTANTINE ANNINOS, [redacted]
LAWRENCE N. APPEL, [redacted]
ALVIN N. ARAMBURO, JR, [redacted]
GARY R. ARCHAMBEAULT, [redacted]
GILBERT D. ARMOUR, [redacted]
CURTIS A. ARMSTRONG, [redacted]
JOHN C. ARMSTRONG, [redacted]
ALEXANDER J. ARNISTA, [redacted]
ROBERT M. ARNOLD, [redacted]
ROBERT G. ARRANT, [redacted]
JOSEPH M. ARRISI, [redacted]
MARY C. ARRISI, [redacted]
EVAN H. ASHBY, III, [redacted]
DANA T. ATKINS, [redacted]
EARL C. ATKINSON, [redacted]
JUDY A. ATKINSON-KIRK, [redacted]
STEVEN L. ATTARD, [redacted]
INGELORE AUBER, [redacted]
RICHARD A. AUDELO, [redacted]
WILLIAM N. AUDENAERT, [redacted]
RICHARD A. AUGSBURGER, [redacted]
MARK R. AVERY, [redacted]
JOHN W. AYERS, [redacted]
EUGENE R. BACA, [redacted]
BLAINE L. BACHUS, [redacted]
STEPHEN R. BACK, [redacted]
CHARLES BAILEY, [redacted]
KARLA S. BAILEY, [redacted]
JOSEPH G. BAILLARGEON, JR, [redacted]
HENRY D. BAIRD, JR, [redacted]
BEVERLEY J. BAKER, [redacted]
JAMES F. BAKER, [redacted]
JON R. BAKER, [redacted]
MICHAEL T. BAKER, [redacted]
VIRGINIA E. BAKER, [redacted]
WILLIAM E. BAKER, JR, [redacted]
MILTON G. BALANCIERE, III, [redacted]
DOUGLAS M. BALL, [redacted]
GEORGE W. BALLINGER, JR, [redacted]
DOUGLAS A. BANKER, [redacted]
DAVID C. BANNERMAN, [redacted]
PHILLIP W. BARBEE, [redacted]
RUSSELL C. BARBERO, [redacted]
ROBERT E. BARCLAY, II, [redacted]
JOSEPH D. BARKER, JR, [redacted]
ROBERT D. BARKER, JR, [redacted]
ROBERT E. BARKER, JR, [redacted]
WILLIAM D. BARKER, [redacted]
GEORGE G. BARR, [redacted]
JOHN W. BARR, [redacted]
DAVID K. BARRETT, [redacted]
JOHN A. BARRETT, [redacted]
THOMAS A. BARRETT, [redacted]
ROBERT W. BARTHELMESS, [redacted]
RAY H. BARTLETT, [redacted]
ROBERT BARTOLONE, [redacted]
DONALD E. BARWICK, [redacted]
STEPHEN J. BASE, [redacted]
MICHAEL J. BASLA, [redacted]
FRANK T. BASS, JR, [redacted]
ROBERT A. BATCHELOR, [redacted]
STEVEN L. BATDORFF, [redacted]
JAMES A. BATES, [redacted]
FRANK W. BATTEAS, [redacted]
ROGER L. BAUCUM, [redacted]
JOSEPH M. BAUDENDISTEL, [redacted]
WILLIAM L. BAUERLE, [redacted]
DANIEL W. BAUGH, [redacted]
HAROLD J. BAUGH, JR, [redacted]
JAMES D. BAUGHMAN, [redacted]
DAVID L. BAUMAN, [redacted]
STEVEN N. BAUMGARTNER, [redacted]
BARRY D. BAXLEY, [redacted]
COY S. BAXLEY, II, [redacted]
DENNIS A. BAXTER, [redacted]
WILLIAM K. BAXTER, [redacted]
JAMES L. BEACH, [redacted]
PAUL R. BEACH, [redacted]
GARY L. BEACHAM, [redacted]
ROBERT F. BEAN, [redacted]
ANDREW R. BEASLEY, [redacted]
JAMES D. BEASON, [redacted]
ALAN M. BECKER, [redacted]
BRUCE W. BECKER, [redacted]
LARRY J. BECKER, [redacted]
DAVID R. BEECROFT, [redacted]
DOUGLAS W. BEIDLER, [redacted]
PAUL W. BEKEBREDE, [redacted]
ARTHUR BELAIR, [redacted]
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ERIC H. CAPPEL, [redacted]
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WILLIAM R. FLOYD, [redacted]
KARL J. FLUSCHE, [redacted]
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HUGH A. FORDE, [redacted]
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MARK DENNIS GEORGES, [redacted]

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NORMA H. HOLLAND, [redacted]
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EVERETT L. ILER, JR, [redacted]
ERIC F. IMKER, [redacted]
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JERRY B. INGRAM, JR, [redacted]
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VINCENT JOHN KRACK, [redacted]
GARY S. KRAJCI, [redacted]
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PAGE L. LAPRADE, JR, [redacted]
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VAL J. LAUGHLIN, [redacted]
KRIS T. LAURITZEN, [redacted]
FREDRIC R. LAUTEN, [redacted]
NED J. LAVIOLETTE, JR, [redacted]
LARRY A. LAW, [redacted]
RICHARD R. LAW, [redacted]
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KARI K. M. LAWRENCE, [redacted]
DAVID J. LAWTON, [redacted]
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IRA T. MORRISON, JR, [redacted]
JONATHAN B. MORROW, [redacted]
JAMES E. MOSCHGAT, [redacted]
HUBERT L. MOSS, JR, [redacted]
WILLIAM D. MOTE, [redacted]
SANDRA T. MOTLEY, [redacted]
THOMAS N. MOUCH, [redacted]
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DUFF A. MUIR, [redacted]
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DANIEL SALVINO, [redacted]
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JACK E. SPEAKE, [redacted]
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JACOB L. STAUFFER, JR, [redacted]
BRUCE D. STCYR, [redacted]
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MARY J. STREET, [redacted]
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LANCE D. UNDHJEM, [redacted]
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ABIGAIL L. UPTEGRAFF, [redacted]
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WILLIAM C. WELLMAN, [redacted]
ELLSWORTH B. WELLS, [redacted]
LAWRENCE L. WELLS, [redacted]
JOHN K. WELSH, [redacted]
JAMES S. WELSHANS, [redacted]
MARK WELTY, [redacted]
RICHARD B. WENDEL, [redacted]
ROY W. WESLEY, [redacted]
DANIEL M. WEST, [redacted]

RICHARD W. WEST, [redacted]
JEFFREY A. WESTBERG, [redacted]
ROBERT S. WESTER, [redacted]
RICHARD B. WETZEL, [redacted]
TRAVIS M. WHEELER, [redacted]
ROBERT M. WHIDDON, [redacted]
DAVID E. WHIPKEY, [redacted]
GEOFFREY L. WHISLER, [redacted]
HUGH K. WHISTED, [redacted]
BRETT D. WHITE, [redacted]
CLAUDIA P. WHITE, [redacted]
DANIEL M. WHITE, [redacted]
HAROLD C. M. WHITE, [redacted]
RICHARD M. WHITFIELD, [redacted]
BRIAN C. WHITING, [redacted]
THOMAS M. WHITTEMORE, JR, [redacted]
JAMES S. WHITTEN, [redacted]
THOMAS R. WHITTEN, [redacted]
ROBERT D. WHITTENBERG, [redacted]
ALLEN E. WICKMAN, [redacted]
RONALD B. WIDBY, [redacted]
STEVEN H. WIEBKE, [redacted]
GLEN A. WIERSCH, [redacted]
ROBBIE C. WILCOX, [redacted]
MARK J. WILDERMUTH, [redacted]
DAVID B. WILE, [redacted]
LARRY D. WILHELM, [redacted]
GREGORY D. WILKE, [redacted]
BOBBY J. WILKES, [redacted]
CRAIG R. WILKES, [redacted]
JAMES H. WILKINSON, [redacted]
JOHN L. WILKINSON, [redacted]
DANIEL J. WILLEMS, [redacted]
DEREK M. WILLIAMS, [redacted]
JEFFREY A. WILLIAMS, [redacted]
JEFFREY H. WILLIAMS, [redacted]
RAE A. WILLIAMS, [redacted]
STEPHEN P. WILLIAMS, [redacted]
STUART D. WILLIAMS, [redacted]
WALTER C. WILLIAMS, [redacted]
WAYNE H. WILLIAMS, [redacted]
JERRY H. WILLIAMSON, [redacted]
JOHN S. WILLIAMSON, [redacted]
MARK E. WILLIS, [redacted]
CHARLES P. WILSON, II, [redacted]
DALE G. WILSON, [redacted]
GLENN A. WILSON, [redacted]
LARRY D. WILSON, [redacted]
MARK E. WILSON, [redacted]
ROBERT E. WILSON, [redacted]
WILLIAM M. WILSON, [redacted]
WILLIAM F. WIMBERLY, III, [redacted]
KAY WINEFORDNER, [redacted]
STEVEN L. WINGFIELD, [redacted]
RODNEY G. WINTER, [redacted]
JOHN T. WINTERS, JR, [redacted]
WILLIAM L. WINTERS, JR, [redacted]
RANDALL E. WISE, [redacted]
DONNA M. WOJTAK, [redacted]
CARL S. WOLF, [redacted]
KEITH E. WOLFSBERGER, [redacted]
TIMOTHY L. WOLTERS, [redacted]
JOHNIE G. WOOD, [redacted]
KIM W. WOOD, [redacted]
JAMES F. WOODDELL, [redacted]
PATRICIA E. WOODMAN, [redacted]
KEITH D. WOOTEN, [redacted]
BEVERLY D. WORLEY, [redacted]
LESTER D. WORLEY, [redacted]
MAUREEN M. WORTHAM, [redacted]
JAMES C. WORTHY, [redacted]
CHESTER M. WOZNIAKOWSKI, [redacted]
ROBERT F. WRAY, [redacted]
CURTIS A. WRIGHT, [redacted]
DAVID A. WRIGHT, [redacted]
GARRY L. WRIGHT, [redacted]
JAMES M. WRIGHT, [redacted]
LONNIS D. WRIGHT, [redacted]
STEPHEN E. WRIGHT, [redacted]
WILLIAM D. WRIGHT, [redacted]
WILLIAM H. WRIGHT, JR, [redacted]
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SCOTT L. WYMORE, [redacted]
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JOHN O. YANAROS, JR, [redacted]
THOMAS M. YANKOVOY, [redacted]
ROBERT R. YAUCH, [redacted]
GLEN E. YEAGER, [redacted]
MELVIN E. YODER, [redacted]
ALAN K. W. YOUNG, [redacted]
CURTIS K. Y. YOUNG, [redacted]
DAVID C. YOUNG, [redacted]
TERENCE G. YOUNG, [redacted]
THOMAS D. YOUNG, [redacted]
WILLIAM K. YOUNGINER, [redacted]
NEIL A. YOUTSLER, [redacted]
WILLIAM A. ZAAL, [redacted]
CHERYL L. ZADLO, [redacted]
EDWARD G. ZAKRZEWSKI, [redacted]
JOHN ZALENCHAK, III, [redacted]
MARK R. ZAMZOW, [redacted]
WALLACE B. ON ZANE, [redacted]
CHARLES M. ZARZA, [redacted]
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LAWRENCE E. ZEBELL, JR, [redacted]
DONALD S. ZONA, [redacted]
JAMES S. ZUPAN, [redacted]
DAVID J. ZUPI, [redacted]
PETER ZWALLY, [redacted]
ANTHONY ZYCH, [redacted]
RICHARD A. ZYVOLOSKI, JR, [redacted]

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RICHARD M. HARTWELL, [redacted]
EDGAR W. HATCHER, [redacted]
JAMES M. HOUGH, [redacted]
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WALLACE W. HUNTER, [redacted]
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MICHAEL T. JONES, [redacted]
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JOHN F. KURZAK, [redacted]
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JOSEPH E. MCCLANAHAN, [redacted]
THOMAS J. MINOR, [redacted]
RAYMOND P. MONTY, [redacted]
GLENN W. NOWELL, [redacted]
GARY L. ODAY, SR, [redacted]
MICHAEL F. ONEILL, [redacted]
FRANCESCO PASSAMONTE, [redacted]
LANELLE PICKETT, SR, [redacted]
HAROLD RAY, [redacted]
WILLIAM L. RICE, [redacted]
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JOHN M. SAETHRE, [redacted]
JOHN S. SANDERS, [redacted]
JOHN S. SRODE, [redacted]
BENJAMIN F. TANDY, [redacted]
SEAN F. TURLEY, [redacted]
MARINUS G. VANDESTEEG, [redacted]
BRIAN R. VANSICKLE, [redacted]
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ROBERT M. WINEBERG, III, [redacted]

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DAVID L. BLISK, [redacted]
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GREGORY F. INTOCCIA, [redacted]
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LARRY K. LASKIEWICZ, [redacted]
STEPHEN T. LYNCH, [redacted]
BRENDA D. MACK, [redacted]
JOSEPH E. MCCANN, JR, [redacted]
GEORGE D. MILLER, JR, [redacted]
WILLIAM F. PHILLIPS, [redacted]
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RICHARD B. ROBISON, [redacted]
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HENRY J. SCHWEITER, [redacted]
DENNIS W. SHEPHERD, [redacted]
EUGENE J. SMITH, [redacted]
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GERHARD A. STUEBBEN, [redacted]
JOHN J. THRASHER, III, [redacted]
CHARLES E. TUCKER, JR, [redacted]
DEANNA M. TULEY, [redacted]
ERIC E. WEISS, [redacted]
LYNNE H. WETZELL, [redacted]
EUGENE B. WHITAKER, [redacted]
PATRICIA L. WILDERMUTH, [redacted]
KEITH L. WILLIAMS, [redacted]
MARY C. YASTISHOCK, [redacted]

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REGINA C. AUNE, [redacted]
JAMES H. BAKER, JR, [redacted]
JOHN D. BAKER, JR, [redacted]
SHARON H. BAKER, [redacted]
LEANNE D. BANDONI, [redacted]
SUSAN BARANOWSKI, [redacted]
DEBRA L. BAYS, [redacted]
TERRY W. BAYS, [redacted]
TERRY L. BEASLEY, [redacted]
DAVID W. BEATTIE, [redacted]
CRYSTAL S. BELSHER, [redacted]
LYNDA K. BENNETT, [redacted]
VINCENT P. BERNOTAS, [redacted]
SUSIE J. BLANKENSHIP, [redacted]
WILLISTENE A. BLYDEN, [redacted]
MICHELE M. BOLLINGER, [redacted]
JACK R. BONEY, JR, [redacted]
MARJORIE BOWER, [redacted]
KATHRYN L. R. BOWLING, [redacted]
JAMEY T. BRAUN, [redacted]
DIANA A. BRAUNPOLINTAN, [redacted]
STANLEY W. BREAKIRON, [redacted]
MINA L. BROWN, [redacted]
R. JAMES BROWN, [redacted]
SANDRA D. BRYANT, [redacted]
MICHAEL R. BULLIS, [redacted]
ELAINE M. BURNS, [redacted]
BEVERLY J. BUTLER, [redacted]
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DEBRA G. CARR, [redacted]
DEBORAH A. CHAPIN, [redacted]
VIVIANNE M. CLARK, [redacted]
MARY CONRAD, [redacted]
GARY S. CORRICK, [redacted]
SANDRA J. COY, [redacted]
JANE E. COZIER, [redacted]
ROSE M. DEARING, [redacted]
JAMES C. DECKER, [redacted]
CAROLYN E. DEESE, [redacted]
MARY M. DEFFENBAUGH, [redacted]
DOROTHY A. DIDIER, [redacted]
KATHERINE M. DIERKSEN, [redacted]
THERESA C. DIRESTA, [redacted]
JILL D. DIXON, [redacted]
PATRICIA A. DURNING, [redacted]
ELSIE M. ENRIQUEZMAERINA, [redacted]
SARAH S. FERGUSON, [redacted]
GAIL M. FIGUEROA, [redacted]
BLAKE W. FOLDEN, [redacted]
CHERYL A. FOTI, [redacted]
NANCY L. FRENCH, [redacted]
COTTON HELEN M. GENSHEIMER, [redacted]
SALLY A. GLOVER, [redacted]
MARY E. GUFFEE, [redacted]
YONA HACKL, [redacted]
MARION A. HALIBURTON, [redacted]
NONA G. HALL, [redacted]
ANNE F. HAMILTON, [redacted]
CAROL J. HAMMES, [redacted]
WANDA D. HARALSON, [redacted]
GLENN A. HARDESTY, [redacted]
MARY E. HARPSTER, [redacted]
SANDRA L. HARRIS, [redacted]
DEBRA K. HICKMAN, [redacted]
KATHY S. HIGGINS, [redacted]
DENISE M. HILLER, [redacted]
JAMES E. HOLLAND, [redacted]
ALICE P. HONIKER, [redacted]
KATHLEEN HUEGLIN, [redacted]
CARRIE M. ISHISAKA, [redacted]
DEBRA J. JATTAR, [redacted]
MARGARET A. JEALOUS, [redacted]
PETER A. JEFFERSON, [redacted]
YOLANDA JIMENEZ, [redacted]
JUANITA F. JOHNSON, [redacted]
DAVID P. JOHNSTON, [redacted]
CYNTHIA A. KERSTETTER, [redacted]
MICHAEL E. KILCOMONS, [redacted]
GLEN F. KINNEY, [redacted]
DANIEL R. KIRKPATRICK, [redacted]
LINDA C. KISNER, [redacted]
JOHN M. KITTRELL, JR, [redacted]
DENISE P. KLEISTER, [redacted]
MARYANNE KOLESAR, [redacted]
ANDREA R. KRULL, [redacted]
CRAIG R. KUHNS, [redacted]
MARYANN KULPA, [redacted]
BETH J. LAING, [redacted]
GARY L. LARSON, [redacted]
JOHN S. LARY, [redacted]
DONALD A. LEE, [redacted]
GERALD L. LEIDICH, [redacted]
CAROLYN W. LERUM, [redacted]
LOUIS K. LIEBIG, [redacted]
EILEEN C. LIGDAY, [redacted]
LEE ANN J. LIGI, [redacted]
KERRIE G. LINDBERG, [redacted]
JOHN A. LUTZ, [redacted]
JAMES A. MACHETTA, [redacted]
ATHANASIOS MALAVAKIS, [redacted]
CARYLON J. MANN, [redacted]
POLLY L. MARCH, [redacted]
WENDY A. MARTIN, [redacted]
DONALD K. MARTINO, [redacted]
NEILA A. MASSEY, [redacted]
LARRY L. MAY, [redacted]
JUDITH C. MAYNE, [redacted]
MAURA S. MCAULIFFE, [redacted]
GAIL MCCAIN, [redacted]
MARK L. MCDANIEL, [redacted]
PENELOPE A. MCGREW, [redacted]
LYNN M. MCKENZIE, [redacted]
DANIEL M. MONCILOVICH, [redacted]
KATHERINE R. MOSLEY, [redacted]
MICHAEL J. MOWREY, [redacted]
ANNA K. MURPHY, [redacted]
CLARA J. MURRAY, [redacted]

CYNTHIA L. MURRAY, [redacted]
VIRGINIA D. MUSSELWHITE, [redacted]
NORMA J. NATION, [redacted]
ARTHUR J. NILSEN, [redacted]
JODIE G. OAKS, [redacted]
ROBERT J. PARKER, III, [redacted]
DARLENE M. PERKINS, [redacted]
GREGORY PITELL, [redacted]
GEORGE A. PLACEK, [redacted]
KENNETH G. PRICE, [redacted]
JAMES L. QUINLAN, [redacted]
JEAN A. REINERT, [redacted]
KENNETH J. REMINGTON, [redacted]
STANLEY P. RENNAUX, [redacted]
MARILYN KAY RHODES, [redacted]
GREGORY L. RIFFLE, [redacted]
CHRISTINE E. RINTA, [redacted]
LINDA C. ROLLINS, [redacted]
CATHLEEN A. ROSSI, [redacted]
SUSAN I. ROTHFUSS, [redacted]
YETTA D. ROY, [redacted]
PATRICIA S. RYAN, [redacted]
LYNDA C. SANDERS, [redacted]
NANCY SAYERS, [redacted]
REGINA T. SCHMUCKER, [redacted]
HELEN K. SCHREUR, [redacted]
PEQUITTE SCHWERIN, [redacted]
JOANN L. SEYMOUR, [redacted]
LINDA S. SHOREY, [redacted]
MELANIE SCHLITTLER SHWED, [redacted]
MICHAEL L. SIMMONS, [redacted]
ZULENE O. SIMMONS, [redacted]
RICHARD J. SIMONOVICH, [redacted]
ELIZABETH M. SMITH, [redacted]
MARY A. SOLANO, [redacted]
JOEL P. SOLOMON, [redacted]
JOSEPH J. SOMMA, [redacted]
JEAN M. SPECHT, [redacted]
EDWARD T. SPRINGER, [redacted]
PHILIP G. STEGMAIER, [redacted]
SHEILA M. STEINER, [redacted]
MATHEW V. STOKES, III, [redacted]
PAUL TARTARILLA, [redacted]
SUSAN E. THAMES, [redacted]
ROBERT E. THORNTON, JR, [redacted]
PHYLLIS E. TINSLEY, [redacted]
DOUGLAS V. TOULOUSE, [redacted]
PAULINE A. TRACEY, [redacted]
GARY D. TROHA, [redacted]
LINDA J. TUBBIOLO, [redacted]
EATHYL L. TUCKER, [redacted]
THOMAS O. TURNER, [redacted]
MICHAEL C. VERVILLE, [redacted]
SHIRLEY G. VOLK, [redacted]
DAVID M. VOSS, [redacted]
DARNELL M. WAUN, [redacted]
DOROTHY J. WELTZ, [redacted]
DIANE D. WHITWORTH, [redacted]
SANDRA G. WILHELMI, [redacted]
CATHERINE R. WILKALIS, [redacted]
JOHN F. WILSON, [redacted]
SUSAN L. WILSON, [redacted]
DEBORAH A. WIPF, [redacted]
KRISTAN J. T. WOLF, [redacted]
BRIAN J. WOOD, [redacted]
CYNTHIA L. WOOD, [redacted]
PATRICIA L. WOOD, [redacted]

MEDICAL SERVICE CORPS

To be major

ROCCO L. ALBANO, JR, [redacted]
RICHARD E. BIGELOW, [redacted]
JAMES W. CAMPBELL, [redacted]
JOHN B. CARLETON, [redacted]
ALVIN R. CHILES, [redacted]
MICHAEL V. CICCOCIOPPO, JR, [redacted]
MATTHEW W. COGDELL, [redacted]
PHILLIP M. COOPER, [redacted]
JOHN F. COURTNEY, [redacted]
CHARLES E. DAMERON, [redacted]
ALVIN B. DRYE, JR, [redacted]
JOSEPH G. ECKERMAN, [redacted]
JOHN P. EONTA, [redacted]
PAUL A. GARRETT, [redacted]
FRANK E. GRIGGS, [redacted]
WILLIAM D. HADDOCK, [redacted]
BRAD J. HALVORSEN, [redacted]
RANDALL W. HARTLEY, [redacted]
CARL W. HUARD, [redacted]
SUSAN E. HUGHES, [redacted]
STANLEY E. HURSTELL, JR, [redacted]
RICHARD R. HYMER, [redacted]
RICHARD E. JONES, [redacted]
JEANIE M. KEARNEY, [redacted]
JAMES W. KECK, [redacted]
SUSAN E. KOLWITZ, [redacted]
PHILIP L. MAHLUM, [redacted]
THEODORE B. MCFARLAND, [redacted]
GARY S. MELVIN, [redacted]
ALFREDO ONTIVEROS, JR, [redacted]
DONALD W. PALEN, JR, [redacted]
JAMES T. ROSENSWIKE, [redacted]
DAVID C. SAEVA, [redacted]
DEBORAH A. SMEED, [redacted]
HENRY L. SMITH, [redacted]
BILLY L. SNYDER, [redacted]
THOMAS P. TATKO, [redacted]
RANDY L. TATROE, [redacted]
LARRY W. THORNHILL, [redacted]
ROBERT L. TRITLE, [redacted]
KENNETH L. TROUT, [redacted]
BRETT M. B. UTTERBACK, [redacted]
LUCAS J. WALTER, JR, [redacted]
DONALD G. WOOD, [redacted]
JOHN H. YANCEY, [redacted]

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ERNEST A. BATES, [redacted]
ROBART W. BAUER, [redacted]
DANIEL D. BERLINRUT, [redacted]
LANCE J. BOLLINGER, [redacted]
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FREDDIE E. DRUMMOND, [redacted]
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GARY W. FREDERICKSEN, [redacted]
JAN F. GAILLARD, [redacted]
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MICHAEL GALLAGHER, [redacted]
GLENN A. GODDARD, [redacted]
RANDY L. GROSS, [redacted]
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THOMAS W. HEARN, JR, [redacted]
TONI C. HENRY, [redacted]
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DANIEL B. HICKEY, [redacted]
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FREDERICK S. HOLLIS, [redacted]
JOHN B. HURD, JR, [redacted]
LEROY F. JACOBS, III, [redacted]
LEANDER JONES, [redacted]
DON W. JORDAN, [redacted]
JAMES E. KARLSTRAND, [redacted]
NORMAN W. KILBURN, III, [redacted]
LON G. KIRT, [redacted]
DANIEL B. KLEIN, [redacted]
VIRGINIA A. KOEHNLEIN, [redacted]
RALPH T. LEWKOWICZ, [redacted]
CHRISTOPHER A. LINDBERG, [redacted]
RICHARD C. LIPOVAC, [redacted]
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JOHN E. METZER, [redacted]
BONNIE J. MITCHELTREE, [redacted]
ROBERT J. NAQUIN, [redacted]
MICHAEL R. NEWBERRY, [redacted]
GREGORY NICOLAS, [redacted]
ARNOLD L. PERDUE, [redacted]
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PATRICIA E. PIRRELLO, [redacted]
BRUCE C. POLLOCK, [redacted]
JURGEN K. RASCHMANN, [redacted]
SUSAN E. RICHARDSON, [redacted]
THOMAS W. ROBINSON, [redacted]
DONNA M. RONCARTI, [redacted]
RICHARD W. ROSS, [redacted]
STANLEY J. SADORF, [redacted]
JAMES D. SARGENT, [redacted]
JOHN G. SCHLEIFER, [redacted]
ROBERT H. SCHWARZHOFF, [redacted]
JOHN F. SEIBERT, [redacted]
ROBERT G. SENCHY, [redacted]
PAUL A. SEWARD, [redacted]
STEVEN M. SHAFFER, [redacted]
DANNY J. SHARON, [redacted]
RINALDO C. SIMONINI, III, [redacted]
NANCY A. SLICNER, [redacted]
DOUGLAS G. SMALLEY, [redacted]
DENNIS L. SMITH, [redacted]
JERRY A. SMITH, [redacted]
ALAN J. SNYDER, [redacted]
RICHARD L. SPEICHER, II, [redacted]
ERIC I. SPIEGEL, [redacted]
BOBBY C. SPRINGER, [redacted]
THOMAS M. STEDMAN, JR, [redacted]
DAVID N. STEELE, [redacted]
KENT R. STRINGHAM, [redacted]
SHERWOOD C. STROUD, JR, [redacted]
JAMES A. SWABY, [redacted]
MICHAEL B. VASQUEZ, [redacted]
WILLIAM W. WARD, [redacted]
JOHN W. WARDEN, [redacted]
LINDSEY C. WATERHOUSE, [redacted]
JAMES D. WATSON, [redacted]
DANIEL W. WHITE, [redacted]
ROBERT L. WILLIAMS, [redacted]
PATRICIA A. WILSON, [redacted]
RICHARD J. WILSON, [redacted]
HENRY C. WOODCOCK, [redacted]
ALAN L. ZOHNER, [redacted]

CONFIRMATIONS

Executive nominations confirmed by the Senate December 15, 1987:

UNITED NATIONS

PEARL BAILEY, OF ARIZONA, TO BE A REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE FORTY-SECOND SESSION OF THE GENERAL ASSEMBLY OF THE UNITED NATIONS.

MARK D. SILJANDER, OF MICHIGAN, TO BE AN ALTERNATE REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE FORTY-SECOND SESSION OF THE GENERAL ASSEMBLY OF THE UNITED NATIONS.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

HOUSE OF REPRESENTATIVES—*Tuesday, December 15, 1987*

The House met at 12 noon.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

It is good to give thanks to the Lord, to sing praise to Thy name, O most High; to declare Thy steadfast love in the morning, and Thy faithfulness by night.—Psalm 92:1,2.

Teach us always, O God, whatever our circumstances, whether in good times or bad, to live each day with the attitude of thanksgiving and praise for all the blessings that touch us and nurture us along life's way. Amen.

THE JOURNAL

The **SPEAKER**. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. **BURTON** of Indiana. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The **SPEAKER**. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. **BURTON** of Indiana. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The **SPEAKER**. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 274, nays 128, not voting 31, as follows:

[Roll No. 480]

YEAS—274

Ackerman
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Aspin
Atkins
AuCoin
Badham
Bartlett
Bateman
Bates
Beilenson
Bennett
Berman
Bevill
Bilbray
Boggs
Boland
Bonior
Bonker
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Broomfield
Bruce
Bryant
Bustamante
Byron
Campbell
Cardin
Carper
Carr
Chapman
Clarke
Coats
Coelho
Coleman (TX)
Collins
Combest
Conte
Conyers
Cooper
Coyne
Crockett
Daniel
Darden
Davis (MI)
DeFazio
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dorgan (ND)
Downey
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
English
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Fish
Flake
Flippo
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Frank
Garcia
Gaydos
Gejdenson
Gibbons
Gilman
Glickman
Gonzalez
Gordon
Grant
Gray (PA)
Green
Guarini
Gunderson
Hall (TX)
Hamilton
Hammerschmidt
Harris
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefner
Hertel
Hochbrueckner
Holloway
Hopkins
Horton
Houghton
Howard
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Jeffords
Jenkins
Johnson (CT)
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kaptur
Kasich
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kostmayer
LaFalce
Lancaster
Lantos
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Livingston
Lloyd
Lowry (WA)
Luken, Thomas
MacKay
Manton
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McDade
McHugh
McMillen (MD)
Mfume
Mica
Miller (CA)
Miller (WA)
Mineta
Moakley
Mollohan
Montgomery
Moody
Morrison (CT)
Morrison (WA)
Mrazek
Murtha
Myers
Natcher
Neal
Nelson
Nichols
Nielson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Panetta
Patterson
Pease
Pelosi
Pepper
Perkins
Petri
Pickett
Pickle
Price (IL)
Price (NC)
Pursell
Quillen
Rahall
Rangel
Ray
Richardson
Rinaldo
Ritter
Robinson
Rodino
Roe
Rose
Rostenkowski
Rowland (GA)
Roybal
Russo
Sabo
Savage
Sawyer
Scheuer
Schneider
Schulze
Schumer
Sharp
Shaw
Shumway
Sisisky
Skaggs
Skelton
Slattery
Slaughter (NY)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Solarz
Spratt
St Germain
Staggers
Stallings
Stark
Stenholm
Stokes
Stratton
Swift
Synar
Tauzin
Taylor
Thomas (GA)
Torres
Torricelli
Traficant
Traxler
Udall
Valentine
Vento
Visclosky
Volkmer
Walgren
Walker
Watkins
Waxman
Weiss
Wheat
Williams
Wilson
Wise
Wolpe
Wortley
Wyden
Wylie
Yates
Yatron

NAYS—128

Armey
Baker
Ballenger
Barton
Bentley
Bereuter
Bilirakis
Bliley
Boehlert
Boulter
Brown (CO)
Buechner
Bunning
Burton
Callahan
Chandler
Clay
Clinger
Coble
Coleman (MO)
Coughlin
Courter
Craig
Crane
Dannemeyer
Daub
Davis (IL)
DeLay
DeWine
Dornan (CA)
Dreier
Duncan
Edwards (OK)
Emerson
Frenzel
Gallegly
Gallo
Gekas
Gingrich
Goodling
Gradison
Grandy
Hansen
Hastert
Hefley
Henry
Herger
Hiler
Hunter
Hyde
Ireland
Jacobs
Kolbe
Konnyu
Kyl
Lagomarsino
Latta
Leach (IA)
Lewis (CA)
Lewis (FL)
Lightfoot
Lott
Lowery (CA)
Lujan
Lungren
Mack
Madigan
Marlenee
Martin (IL)
Martin (NY)
McCandless
McGrath
McMillan (NC)
Meyers
Michel
Miller (OH)
Molinari
Moorhead
Morella
Murphy
Oxley
Packard
Parris
Pashayan
Penny
Porter
Ravenel
Regula
Rhodes
Roberts
Roemer
Rogers
Roth
Roukema
Rowland (CT)
Saiki
Saxton
Schaefer
Schroeder
Schuette
Sensenbrenner
Shays
Sikorski
Skeen
Slaughter (VA)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solomon
Spence
Stangeland
Stump
Sundquist
Sweeney
Swindall
Tauke
Thomas (CA)
Upton
Vander Jagt
Vucanovich
Weber
Weldon
Whittaker
Wolf
Young (AK)
Young (FL)

NOT VOTING—31

Akaka
Barnard
Biaggi
Brown (CA)
Chappell
Cheney
de la Garza
Dickinson
DioGuardi
Dowdy
Fawell
Fields
Frost
Gephardt
Gray (IL)
Gregg
Hall (OH)
Inhofe
Kemp
Leath (TX)
Leland
Lukens, Donald
McCollum
McEwen
Nagle
Ridge
Shuster
Studds
Tallon
Towns
Whitten

☐ 1215

Mr. **WALGREN** changed his vote from "nay" to "yea."

So the Journal was approved.

The result of the vote was announced as above recorded.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed without amendment a bill of the House of the following title:

H.R. 3700. An act to designate the Federal building located at 600 West Madison, Chicago, Illinois, as the "Harold Washington Social Security Center."

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 1983. An act authorizing the Secretary of the Interior to preserve certain wetlands and historic and prehistoric sites in the St. Johns River Valley, FL, and for other purposes;

H.R. 2210. An act to prohibit the use of certain antifouling paints containing organotin and the use of organotin compounds, purchased at retail, used to make such paints;

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface **indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.**

H.R. 2639. An act to repeal the Brown-Stevens Act concerning certain Indian tribes in the State of Nebraska;

H.R. 3283. An act to allow the obsolete submarine United States ship Turbot to be transferred to Dade County, Florida, before the expiration of the otherwise applicable 60-day congressional review period; and

H.R. 3479. An act to provide for adjustments of royalty payments under certain Federal onshore and Indian oil and gas leases, and for other purposes.

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 90. An act to establish the Big Cypress National Preserve Addition in the State of Florida, and for other purposes;

S. 574. An act entitled the "Battle Mountain Pasture Restoration Act of 1987";

S. 892. An act to remove the right of reversion to the United States in lands owned by the Shriners' Hospitals for Crippled Children on lands formerly owned by the United States in Salt Lake County, UT;

S. 1165. An act to authorize the Secretary of the Interior to provide for the development and operation of a visitor and environmental education center in the Pinelands National Reserve, in the State of New Jersey;

S. 1259. An act to direct the Secretary of the Interior to permit access across certain Federal lands in the State of Arkansas, and for other purposes;

S. 1335. An act to establish the city of Rocks National Reserve in the State of Idaho, and for other purposes;

S. 1675. An act to provide for the establishment of the Hagerman Fossil Beds National Monument in the State of Idaho, and for other purposes; and

S. 1937. An act to amend title II of the Social Security Act to continue disability benefits during an appeal.

DISPENSING WITH CALL OF THE PRIVATE CALENDAR

The SPEAKER pro tempore (Mr. RAY). This is Private Calendar day.

Mr. BOUCHER. Mr. Speaker, I ask unanimous consent that the call of the Private Calendar be dispensed with today.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Virginia?

There was no objection.

ELECTION OF MEMBERS TO CERTAIN STANDING COMMITTEES

Ms. OAKAR. Mr. Speaker, by direction of the Democratic Caucus, I offer a privileged resolution (H. Res. 332) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 332

Resolved, That the following Members be, and are hereby, elected to the following standing committees of the House of Representatives: Committee on House Agriculture, H. Martin Lancaster, North Carolina; and Committee on Science, Space, and Technology, Paul E. Kanjorski, Pennsylvania, and George J. Hochbrueckner, New York.

The resolution was agreed to.

A motion to reconsider was laid on the table.

AN EXPRESSION OF GRATITUDE

(Mr. KANJORSKI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KANJORSKI. Mr. Speaker, I would like to address the gentlewoman from Ohio [Ms. OAKAR] and the members of the Democratic Steering and Policy Committee: on behalf of myself and the Commonwealth of Pennsylvania, I wanted to thank the Democratic Steering and Policy Committee for the faith they have indicated to me in this resolution today by placing me as an extra member on the Committee on Science, Space, and Technology.

To the Commonwealth of Pennsylvania, it is a major committee and, of course, it excites my desire to serve in this body so much more because of the jurisdiction of that committee. But, Mr. Speaker, it shows that the House of Representatives is very responsive to the younger Members who come along.

In that vein, I want to encourage all the Members of my class and the class below me to hold their faith and know that this body does allow for membership to participate on those committees they desire to serve.

I want to thank the charming gentlewoman from Ohio [Ms. OAKAR] again and all the members of the Steering and Policy Committee of the House.

IN SUPPORT OF FAMILY WELFARE REFORM ACT, H.R. 1720

(Mr. CARDIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CARDIN. Mr. Speaker, the Manpower Demonstration Research Corp., a highly respected research team, recently released several studies that have direct bearing on the welfare reform legislation before us today.

Their studies showed that a welfare-to-work program in Illinois achieved almost nothing to improve the employability of welfare recipients. MDRC also showed that Maryland welfare recipients participating in a similar program were significantly more likely to find employment than those who did not participate in training.

Why are the Maryland results different from those of Illinois? According to MDRC, the main reason for the failure of the Illinois program was the small amount of resources and services provided to welfare recipients. The Maryland program spent $1,000 per person while the Illinois experiment spent $160 per person. Simply stated, enrolling in a job training program with inadequate resources and no support services does not improve your chances of finding a job.

The Illinois program has been replaced with a new, more successful project offering more services. The Republican substitute would condemn all 50 States to repeat the failure of the first Illinois experiment. Spending $1 billion for a program that will not improve a person's chance of finding a job is budget busting. Spending $5 billion to remove welfare recipients from the rolls is prudent, humane public policy.

H.R. 3523, VIDEO PRIVACY PROTECTION ACT

(Mr. McCANDLESS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McCANDLESS. Mr. Speaker, watching prerecorded movies at home has become big business. Half of all U.S. households are equipped with a VCR. Fifty thousand retail outlets rent and sell video cassettes. This year, Americans will spend $7 billion renting and buying movies for home viewing.

To conduct business, video rental operations must record who rented what and when. Most companies store this information on a computer. With the press of a button, a person's entire video history can be retrieved.

The unauthorized release of a video list is a serious invasion of privacy and should not be permitted. To prevent the unauthorized release of this information, I recently introduced H.R. 3523, the Video Privacy Protection Act. This legislation would allow civil penalties in the event of wrongful disclosure.

I urge my colleagues to protect the right of privacy in the home by cosponsoring H.R. 3523, the Video Privacy Protection Act.

□ 1230

MORE HUMAN RIGHTS VIOLATIONS IN EL SALVADOR

(Mr. MOAKLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MOAKLEY. Mr. Speaker, last week I stood in this Chamber and argued for a measure which condemned the brutal murder of Salvadoran human rights activist Herbert Anaya, and which conditioned a small amount of United States aid to El Salvador on human rights progress in that country.

As you know, Mr. Speaker, the House expressed strong concern over Mr. Anaya's murder, but did not restrict or condition moneys to El Salvador.

Today I regretfully come before my colleagues again to denounce yet another violent murder of a human rights worker in this tiny, wartorn country.

Only days ago, Rene Joaquin Cardenas, the eastern regional director of the Government's Human Rights Commission, was assassinated by unknown gunmen—allegedly, rightwing death squads.

The day after Mr. Cardenas was killed death threats were made against the leader of El Salvador's Catholic Church—Archbishop Rivera y Damas.

Mr. Speaker, this administration and this Congress must acknowledge the existence of continued violence in El Salvador—and we must be prepared to condition and, if necessary, withhold aid to that country pending real progress in human rights.

Mr. Speaker, we must face reality. We must recognize that things are not getting better in El Salvador—they are getting worse.

HOW TO INVESTIGATE THE SPEAKER

(Mr. GINGRICH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GINGRICH. Mr. Speaker, I have today sent a "Dear Colleague" to every House Member drawing their attention to recent articles on House ethics in Regardie's and the Washington Post. These articles refer to the Speaker, and the Speaker is the second most powerful elected official in America.

Therefore, it is clear that we need to examine these articles and their allegations. My "Dear Colleague" letter outlines four possible methods of investigating a Speaker. I hope every Member will read my letter, study the various articles, and advise me as to what process would work best when we come back in January.

POLITICAL MOTIVES SAID TO FORM BASIS OF CONTEMPLATED INVESTIGATION

(Mr. WILLIAMS asked and was given permission to address the House for 1 minute.)

Mr. WILLIAMS. Mr. Speaker, any allegations against any Member of this body, including, of course, allegations against any of the leadership on either side, are subject to review by the Justice Department under the normal law of this land. The highest elected official of this body is not nor does he want to be beyond that law.

The previous 1-minute speaker made an indication about allegations against a Member of the House leadership. It is a matter of public record that some Members of this institution have been running against this institution and the leadership of this institution for a long time. We all understand that that is a way that some people get reelected. I submit that it is an inexpensive shot and one not worthy of the time of this Chamber.

SHOULD WE QUESTION THE NICARAGUAN DEFECTOR'S VERACITY?

(Mr. BURTON of Indiana asked and was given permission to address the House for 1 minute.)

Mr. BURTON of Indiana. Mr. Speaker, Major Miranda, the former assistant to the Defense Minister, Humberto Ortega, of the Communist Sandinista government of Nicaragua, said yesterday that there has been a secret Soviet agreement signed between Nicaragua and the Soviet Union that would bring Mig-21 and Mig-23 fighters to the North American land mass in Nicaragua. He said they are building toward a 500,000-man army, far in excess of what they have said thus far. He said they are training Salvadoran guerrillas in Nicaragua, that they are exporting weapons into El Salvador, Guatemala, and Honduras.

Then in the Washington Post of last Saturday Defense Minister Humberto Ortega is quoted as saying that they are building not to a 500,000-man army but a 600,000-man army, and they are sending military people to be trained in Soviet-bloc countries.

This morning the House Speaker, Mr. WRIGHT, said that speech was preposterous. He described that speech by Ortega as outrageous and counterproductive. He said it was intemperate and irrational.

Mr. Speaker, why do you not believe the Communists when they tell you directly?

Mr. Speaker, why do you doubt their intentions when they pointedly tell us?

THE IMPORTANCE OF THE CIVIL SPACE PROGRAM

(Mr. NELSON of Florida asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. NELSON of Florida. Mr. Speaker, I would like to address my colleagues on an issue of vital importance to this Nation's civil space program—the continuation of the space station.

Last week, in the midst of all the attention that was focused on the Reagan-Gorbachev summit, we received news of another great foreign policy achievement. The Canadian Government has given final approval of a memorandum of understanding to participate in the space station program. The Europeans and Japanese who are also expected to be our partners on the space station are now watching the progress on this year's budget very carefully.

The space station is more than just another budgetary outlay. The station is part of a continuing effort to rebuild America's competitiveness in science and technology. It embodies both the foundation of the U.S. civil space program and the centerpiece of the entire free world's future in space. We simply cannot afford to turn away from this commitment to the space program at a time when other nations such as the Soviet Union are stepping up to this challenge.

I strongly urge that my colleagues join me in urging the administration and the conferences on the continuing appropriation's bill to find a way to provide funding for this critical program.

MAJOR MIRANDA'S STORY—A TALE OF BETRAYAL

(Mr. RITTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RITTER. Mr. Speaker, there is a story that is moving across America like a firestorm, and it is Major Miranda's story. It is a story about secret protocols developed between the Nicaragua Sandinista government and the Soviet military. This is a story of betrayal.

While we were all discussing the Arias peace plan, they acted in direct contravention of that peace plan by negotiating a massive secret arms and military agreement with the Soviets that only remains to be signed. It is not a proposal, as Daniel Ortega said; it is several formal protocols of understanding. It has been negotiated, it has been agreed upon. It remained only a formality to be signed. While Gorbachev was laying the groundwork for a summit with the United States based on a glasnost or openness, he was negotiating in secret a military relationship designed to hurt the United States and all the American people.

Major Miranda said to a group of about 25 Members from both sides of the aisle yesterday that the Sandinistas consider Democrats as well as Republicans, in Congress, to be their enemies in that they both seek to deter "the revolution."

I call upon the Speaker and the minority leader to convene a special meeting where Miranda can speak to the Members of Congress from both sides of the aisle and where Members can ask the tough questions. This is not a partisan issue anymore.

NICARAGUAN MILITARY BUILDUP

(Mrs. BRYON asked and was given permission to address the House for 1 minute.)

Mrs. BRYON. Mr. Speaker, yesterday afternoon, I, along with several of my colleagues, had the opportunity to meet with Maj. Roger Miranda, whose defection from Nicaragua set off the recent disclosures by Defense Minister Ortega on the proposed Nicaraguan military buildup, which was approved 1 month after the Guatamala City accord had been signed by the Nicaraguan Government.

I asked Major Miranda about the prospects of direct, face-to-face negotiations between the Sandinistas and the Contras. He replied that the Sandinistas have stated they will never negotiate directly with the Contras to achieve a political settlement which would end the civil war in Nicaragua, but he also stated that there is less venom in their statement than before. Thus, I feel that it is extremely important that we as a body should continue to put pressure on the Sandinistas to negotiate directly with the Contras as we did in the Foreign Assistance Act passed last week.

I also asked Major Miranda to what degree had the Contras played in forcing the Sandinistas to sign the Guatamala accord. His answer was very clear. The Contras are the major impediment to the Sandinista's Marxist revolution and their eradication is paramount. The Guatamala accord is not seen by the Sandinistas as an opportunity to embrace democratic principles but rather as a means of suffocating the Nicaraguan resistance once and for all.

For those who are thinking about voting against nonlethal aid to the Contras, I would urge you to talk to Major Miranda. Let's not play into the hands of the Sandinistas and their ambitions of building a 600,000-man army by cutting off nonlethal aid to the Contras. The consequences of a congressional vote to kill the Contras is something that we will certainly regret in the future.

REPEAL THE SOCIAL SECURITY EARNINGS TEST

(Mr. SLAUGHTER of Virginia asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SLAUGHTER of Virginia. Mr. Speaker, the Social Security earnings test represents an unfair treatment of our senior citizens who are willing and able to supplement their income with extra earnings. Social Security deducts $1 from a recipient's benefits for every $2 earned over the exempt annual amount. This works out to be a 50-percent tax on income earned above this cap, despite the fact that the tax bill we passed last year reduces the top tax rate on ordinary income to 28 percent.

Further, Mr. Speaker, this earnings limitation sends a very negative message to our Nation's senior citizens—that their contributions to our economy are no longer needed or wanted after a certain age, an age determined by the Federal Government. This denies the tremendous potential the elderly have to offer. Let's welcome the contributions of our senior citizens by removing barriers such as the earnings test.

Mr. Speaker, I believe that Congress should be encouraging Americans to provide for their own livelihood to the best of their ability, not discouraging them through disincentives like the Social Security earnings test. I urge my colleagues to support the repeal of this unfair law.

DEATH SQUAD KILLINGS IN EL SALVADOR

(Mrs. BOXER asked and was given permission to address the House for 1 minute, and to revise and extend her remarks.)

Mrs. BOXER. Mr. Speaker, I rise in this season of peace to call attention to another violent death in El Salvador, yet another human rights commissioner, Rene Joaquin Cardenas.

Last week this House passed an amendment to the foreign aid bill condemning the killing of Herbert Anaya and putting out a message to the death squads that they must cease their cruelty. I say to my friends that we must send another message to the death squads to cease.

Now death threats are being made against the head of the Catholic Church in El Salvador, Archbishop Rivera y Damas.

Let us not lose yet another religious leader in El Salvador. Let us not lose yet another human rights commission in El Salvador. This Congress gives more money to El Salvador than that country's own budget. We have a moral responsibility to speak out.

Mr. Speaker, I hope my colleagues will join me in a letter to President Duarte urging him to continue to move on these death squad killings.

A SUBSTITUTE FOR WELFARE REFORM MADE IN ORDER

(Mr. ROWLAND of Connecticut asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROWLAND of Connecticut. Mr. Speaker, before we discuss welfare reform today, I must make clear my feelings regarding the rule that has been fashioned to choke the debate. I have been very involved in fashioning the Republican substitute for H.R. 3200 which will also be offered today. Members may wonder why I would oppose a rule that brings our substitute to the floor.

I have but one answer to give, and that is my respect for the rights of all Members to have an active role in the debate. In my opinion, welfare reform is too important an issue to only allow a few to participate in it.

Today we will have three legislative proposals before us, but we will have only one real welfare reform proposal to consider, H.R. 3200. The real tragedy is that there is at least one other proposal that was brought forward, H.R. 3692, by the gentleman from Delaware [Mr. CARPER].

Mr. Speaker, I would ask my colleagues to ask, what happened to that proposal? I would ask all Members to defeat the rule, Mr. Speaker, in order to open the debate and do justice to an issue such as welfare reform.

THE PROBLEM OF DEFENSE WASTE MANAGEMENT

(Mr. LOWRY of Washington asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LOWRY of Washington. Mr. Speaker, I am speaking today in support of five bills that deal with the issue of defense waste cleanup. The bills proposed by Representatives SWIFT, WYDEN, LUKEN, SYNAR, and ECKART form a package that lays the groundwork for a systematic solution to the tremendous problem of defense waste management.

Mr. Speaker, the State of Washington is the home to the Federal reservation at Hanford. The problem of defense wastes at Hanford is staggering. It is absolutely unbelievable.

There are almost 300,000 cubic meters of low-level radioactive wastes dumped at Hanford.

There are about 190,000 cubic meters of transuranic wastes buried at Hanford, and possibly as much as 7 million cubic meters of contaminated soil that need proper disposal.

The problem of the extremely dangerous, high-level radioactive wastes is, in itself, mind-boggling. Since 1944, 149 single shell storage tanks and 20 double shell storage tanks have been filled with about 190,000 cubic meters of high-level radioactive wastes. Many of these tanks have been found to leak.

The extent of ground water contamination is yet unknown. Ground water that contains tritium concentrations exceeding the EPA drinking water standards has traveled from the plutonium-uranium extraction plant [PUREX] to the Columbia River, and a plume of radioactive tritium extends down the Columbia River. There may not be any feasible technological solution to preventing radioactive contamination of the Columbia River for years to come. Clearly, though, we can take steps to cleaning up the source of the ground water contamination—and that is what these five bills will do.

In 1986 the General Accounting Office estimated that there may be as many as 750 potential Superfund sites at Hanford. The cost of cleanup may be as high as $17 billion. By comparison, this is almost twice as much as the Congress appropriated to cleanup the Nation's toxic waste problems under the Superfund Reauthorization Act of 1986. Clearly we are looking at an environmental problem of great magnitude.

Mr. Speaker, for over 40 years the people of Washington State have trusted the Department of Energy and its predecessors to run its facilities in a way that serves to protect human health and the environment. If DOE had come even close to living up to this trust, these bills would not be necessary. But that has not been the case. The history of Hanford management is a sorry affair—one of intentional releases of radioactivity, one of knowing disposal of dangerous radioactive materials in an improper manner, one of coverups and evasion, one of thwarting the mandate of sister agencies, such as the EPA and the relevant Washington State agencies.

Even now, years after the problem has become glaringly obvious, even now the central question remains: Can we trust DOE to police itself? Could we trust DOE and its contractors to implement safe disposal procedures? This remains doubtful.

We need a special counsel, as Mr. SWIFT's bill proposes, to enforce proper disposal regulations at Federal facilities.

We need to make contractors liable for their activities on Federal facilities, as Mr. WYDEN's bill proposes.

We need to foster an agency advocacy for waste management and cleanup, as Mr. SYNAR's bill proposes, with an Office of Waste Management and cleanup within DOE.

We need to affirm the rights of State agencies to fulfill their mandate on Federal facilities, and protect their citizens, as Mr. ECKART's bill would do.

Finally, we need to clarify the enforcement authority of the EPA over mixed hazardous and radioactive wastes, as Mr. LUKEN's bill proposes.

Mr. Speaker, this is just the beginning. It will take years of work, and much Federal support and funding, to solve this gigantic environmental problem. It will call upon new technologies, and it will require specially trained and devoted researchers and managers. The risks are high. Some of the materials that need to be moved or cleanup are the most dangerous substances known. But there is no choice. The price of inactivity is just as high, if not higher. We owe it to our people to protect their health and safety.

A TRIBUTE TO RAY BARNHART, HEAD OF FHA

(Mr. SHAW asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SHAW. Mr. Speaker, I would like to pay tribute to an outstanding member of the Reagan administration, the head of the Federal Highway Administration, Ray Barnhart. Ray Barnhart announced that he will resign from the FHA effective at the end of this year.

Ray has served 7 years at the FHA, longer than any previous Administrator. He has worked since January 1981 to return authority to the States while protecting the integrity and viability of the Federal highway trust fund. He has done an excellent job.

In 1982, Ray Barnhart played a leading role in persuading Congress to adopt long-postponed increases in highway user taxes in order to fund needed improvements in the Nation's highways and bridges. Now, under Ray Barnhart's leadership, many important improvements in our highway system are now underway.

We will miss Ray's competence, his integrity, and his dedication to an improved Federal highway system. I thank him for his efforts, and wish him well in his future endeavors.

□ 1245

PHANTOM DIRECT MAIL OPERATIONS

(Mr. FEIGHAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FEIGHAN. Mr. Speaker, all of us have heard from constituents asking for advice about firms soliciting money through the mails. They are right to be concerned.

According to a preliminary investigation conducted by my office, three direct mail outfits are preying on the hopes and fears of our constituents with highly misleading mailings.

National Heart Research offers the opportunity to fight heart disease and win $10,000 at the same time. But their Georgetown address turns out to be a postal express outlet, and their office suite is a P.O. box.

Project Cure claims to have a center for alternative cancer research on K Street. But when you call that office, the line is secretly transferred to southern Alabama.

And if you went to 665 15th Street to personally deliver your gift to the United Cancer Council, you'd be in for a surprise—there is no 665 15th Street in Washington.

These groups claim to spend money to fight cancer, heart disease, and harmful radiation—something we all support. They offer cash gifts if you contribute—something we'd all like. But what I want to know—and what I think all our constituents want to know—is where does the money go?

That's why today I have called on the Postmaster General, the Attorney General, and the Federal Trade Commission to investigate these phantom operations. Only a full investigation by the proper authorities can get to the bottom of this mail mess.

Mr. Speaker, all of us want to prevent heart attacks and wipe out cancer once and for all. And our country is filled with legitimate nonprofit organizations that deliver what they promise. But before we get out our checkbooks, we have to ask the right questions.

PERSONAL EXPLANATION

(Mr. EMERSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. EMERSON. Mr. Speaker, during yesterday's consideration of H.R. 3399 and H.R. 2790 I was unable to be here to participate and to vote because I was unavoidably detained in Missouri at the St. Louis Airport which was closed due to a monumental ice and snow storm.

Mr. Speaker, had I been present, I would have voted "yea" on rollcall No. 478, passage of H.R. 3399; and "yea" on rollcall No. 479, passage of H.R. 2790.

IN SUPPORT OF CONFERENCE REPORT PROVISIONS PROHIBITING CLOSURE OF CONSULATES

(Mr. SCHEUER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCHEUER. Mr. Speaker, I rise in strong support of the provisions of the State Department conference report which prohibit the administration from closing consulates except in case of extreme circumstances.

I am hopeful that the House and Senate conferees on the continuing resolution will choose to protect the integrity of our consular service. Any short-term savings that might derive from closing consulates, particularly in Europe, will certainly be paid in irreversible long-term costs. I am particularly concerned, Mr. Speaker, about the danger of the proposed closing of the consulate in Strasbourg, France. Strasbourg is where the Council of Europe is located, along with the European Parliment, the European court, and the Commission on Human Rights.

The Strasbourg consulate plays a vital role in our ongoing consular relations with the peoples of all Western Europe.

Mr. Speaker, I congratulate the leadership for the thoughtful deliberation that they have encouraged on the State Department authorization bill. I urge the House and the Senate conferees on the continuing resolution to preserve the integrity of this bill so that we can maintain continuity in our ongoing consular relations.

CHESAPEAKE BAY AGREEMENT OF 1987

(Mrs. BENTLEY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BENTLEY. Mr. Speaker, today the people of the mid-Atlantic region of our great country have received probably one of the best Christmas presents possible, the signing of the Chesapeake Bay Agreement of 1987. I, along with three of my House colleagues, attended the signing ceremony this morning in Baltimore where the Governors of Maryland, Virginia, and Pennsylvania, the Mayor of the District of Columbia and the EPA Administrator signed the agreement to help clean up the bay.

Restoration of the Nation's largest natural estuary is a major commitment to the improvement of the quality of life for all. Governors Schaefer, Baliles, Casey, Mayor Barry, and EPA Administrator Lee Thomas all placed their signature on the 12-page document after each discussed the importance of restoring Chesapeake Bay to its natural beauty and cleanliness. Already over $250 million has been invested in cleanup and restoration of the Chesapeake since the first four-paragraph compact was signed in 1983.

Public and private officials were in attendance with the main Speaker being U.S. Senator Mathias of Maryland who was instrumental in starting the restoration campaign of the Chesapeake Bay over a decade ago when it was not so popular.

Under the new agreement, the States will work together to improve the water quality of the bay by achieving a 40-percent reduction in nutrients by the year 2000. EPA also will produce a Federal facilities strategy designed to help control point and nonpoint pollution sources entering the bay. Provisions are included to protect, enhance, and restore wetlands and improve soil conservation, by planting some 800,000 trees along the shore lines.

Today's signing of the Chesapeake Bay Agreement is indeed a vital cooperative commitment to improve this great natural resource by all who live and work on and near the bay—a truly marvelous Christmas gift.

RESTRICTING MAINTENANCE OF U.S. AIRCRAFT OVERSEAS

(Mr. MINETA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MINETA. Mr. Speaker, I would like to call to the Members' attention a little noticed provision in the House-passed continuing resolution on appropriations. It is a provision sponsored by Congressman WHEAT that would prohibit the implementation of a regulatory proposal of the Federal Aviation Administration. Three weeks ago, the FAA formally proposed to completely liberalize the ability of U.S. airlines to have their aircraft maintained overseas.

I support Congressman WHEAT's provision because I think FAA should issue a new proposal that more adequately addresses the safety concerns attendant in permitting U.S. domestic aircraft to be maintained abroad on a wholesale basis.

The Subcommittee on Aviation held hearings on this matter last July. It is clear that the current regulation is out of date and needs revision. But the FAA proposal goes too far. If any and all maintenance on our domestic fleet were permitted to be conducted overseas, we will see the airlines increasingly seeking out less expensive foreign maintenance. This has significant safety implications because of increased difficulties in oversight, surveillance, and control. The FAA's inspection resources abroad are already small and quite limited and this proposal no doubt would add to the FAA's responsibilities.

The Senate continuing resolution has no provision on the issue, and I understand the Senate conferees are resistant to addressing this issue in the CR. Because I have serious safety concerns about our domestic fleet being maintained abroad, I urge adoption of the Wheat amendment.

FOCUS ON ENDING DEPENDENCY IN WELFARE REFORM

(Mr. PACKARD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PACKARD. Mr. Speaker, today we will be considering the Family Welfare Reform Act of 1987. We all agree that welfare reform is needed. However, the debate goes on as to the best way to go achieve it.

Raising benefits is not the answer. We need to focus on ending dependency. By targeting those who are most likely to remain on welfare, we can end the cycle of dependency. A recent Wall Street Journal article indicated that a majority of unwed mothers must turn to welfare for support, 55 percent of the children born out of wedlock in 1980 were receiving Aid to Families with Dependent Children in 1981. H.R. 1720 does not encourage individuals to go out and find jobs, instead it awards dependency with increased benefits. The Congressional Budget Office estimates the program will result in outlays of $6.6 billion over 5 years.

On the other hand, the Republican substitute concentrates on putting able-bodied people to work. It allows States the creativity to pursue the programs that work best for them. Finally, the substitute will result in outlays of only $1.1 billion over 5 years.

So, my colleagues, as we consider these welfare reform proposals, let us think about the current budget situation. Which proposal gives us the most for our money. Which proposal is truly a solution to the continuing dependency cycle. How can we in good conscience support fostering further dependency on the welfare system. I urge my colleagues to support the substitute amendment when it is brought to the floor.

DEFEAT OF RULE WOULD OPEN WAY FOR BETTER OPTION ON WELFARE REFORM

(Mr. McCURDY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McCURDY. Mr. Speaker, today we consider welfare reform. Most of us in this House agree that welfare reform is critical if we are to make real progress in helping dependent families become self-sufficient and productive members of society.

Before we can debate these issues and come to a real resolution on welfare reform, we must defeat the rule.

If this rule is adopted we will be allowed to consider the bill offered by Ways and Means with one amendment, or the Republican substitute.

These options are not acceptable to me. Considering the economic problems my State faces today, I cannot justify voting for a measure as costly as H.R. 1720, even as amended. This proposal spends almost two-thirds of its dollars increasing welfare benefits, yet only 15,000 people will go off welfare by 1992, according to CBO.

The Republican substitute is cheaper, yet does not go far enough to help States meet the challenges of welfare reform. H.R. 3200 does not provide States with the funding needed to implement mandated employment and training programs, but most importantly, it does not support the institution of a two-parent family or provide for adequate child care.

We have the knowledge and the responsibility to establish a welfare program that is fair. We can create a program that helps get people into the work force to stay and into jobs that will allow them to support their families. We can have a welfare system that encourages independence instead of dependence; however, the choices we have today do not provide that.

I cannot go back to the Fourth District of Oklahoma and shrug my shoulders and say to my constituents "Sorry, I didn't have any good, responsible options." Welfare reform is too important to the people of this country to limit our options to the two extremes, especially when there are other, better options such as Carper-Stenholm.

I urge my colleagues to vote against this rule because if we approve it, we will lose the opportunity for responsible, effective welfare reform.

ORTEGA SCUTTLES PEACE TALKS

(Mr. BALLENGER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BALLENGER. Mr. Speaker, in spite of the heroic efforts of Cardinal Obando y Bravo to mediate peace talks between the Sandinistas and the Nicaraguan resistance, it appears that the usual Sandinista spirit of generosity has intervened. Even though the Contras themselves have unilaterally declared a Christmas truce, the Sandinista commandantes have abruptly broken off the peace talks. Although this comes as a disappointment to all of us who wanted to see the Arias peace plan work, it comes as no surprise to those who know the Sandinistas for what they are.

Daniel Ortega's true attitude toward the goals of democratization set forth in the Arias plan came shining through in a speech he gave on Sunday. "This country will never vote for any party other than the Sandinista National Liberation Front," he said. "But in the hypothetical case that the Frente Sandinista lost an election, the Frente Sandinista would hand over government, not power." If there were any attempt at true multiparty democracy, the commandantes would lead an insurrection against it. Mr. Speaker, the Sandinistas' calculated contempt toward democratic forms is an insult to all of us who have tried to make the Arias plan work, and who seek peace and democracy in Central America.

CHERRY TREES ARE BLOOMING ON CAPITOL HILL

(Mr. GIBBONS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GIBBONS. Mr. Speaker, here we are on December 15 at 1 o'clock in the afternoon finishing the work that we should have finished in September. We have got Gary Hart back in the campaign again and the cherry trees are blooming on Capitol Hill.

THE SANDINISTA MILITARY BUILDUP

(Mr. HERGER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HERGER. Mr. Speaker, over the weekend Maj. Roger Miranda, the highest ranking Sandinista military defector, provided details about the secret military protocols between the Sandinistas and the Soviet Union. These protocols include plans to increase the size of the Nicaraguan Army to 600,000 troops, backed by deliveries of Mig-21 fighter aircraft, missiles, and artillery. This makes a mockery of the Sandinistas' alleged desire to comply with the provisions of the Arias peace plan. An army of 600,000 in a nation of only a little over 3 million means turning the country into a literal armed camp. It most certainly does not imply respect for democracy, human rights, and nonintervention in neighboring countries.

What is even more astonishing about this revelation is that the Sandinistas did not even bother to deny it. Instead, Defense Minister Humberto Ortega confirmed the substance of the report at the same time the Sandinista government abruptly broke off participation in the peace talks being mediated by Cardinal Obando y Bravo. Mr. Speaker, once again we have seen the mask slip from the face of Communist tyranny. As Daniel Ortega said Sunday, This country will never vote for any party other than the Sandinista National Liberation Front. It has become obvious that the Sandinistas are building up the military muscle to keep that pledge.

PASO A PASO, POCO A POCO, IS THE JIM WRIGHT DOCTRINE THE WRONG DOCTRINE, AND WHATEVER HAPPENED TO THE MONROE DOCTRINE?

(Mr. DORNAN of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DORNAN of California. Mr. Speaker, my good friend, paso a paso, poco a poco, slowly and slowly, step by step, the truth emerges.

Mr. Speaker, you are about as far out on a Texas limb as you can get with respect to Nicaragua. I beg you sincerely, do not go any further, sir, until you meet with Maj. Roger Miranda, the top Sandinista defector.

In today's paper, as the gentleman from Indiana [Mr. BURTON] pointed out earlier, you said, Mr. Speaker, that the claims of the Sandinista junta that—let us face it, it is a military government that has faced no opposition in their 1984 election—they plan a buildup is "preposterous", that it is "outrageous". Your characterization of the buildup as counterproductive is a pretty good analysis, Mr. Speaker. You're right on target there. Of course, a military buildup of that size is intemperate and irrational. But here are the facts, Mr. Speaker. Including to November 1987, there have been 51 arms shipments of some 22.5 metric tons, yielding 150 tanks, 53 helicopters, 5 airfields. That military infrastructure in U.S. dollars is equal to $475 million and we still have a month to go.

The Soviet ships are now leaving the Black Sea ports, one of them named after Lenin's older brother, the *Alexander Ulanoff.*

It is going to Nicaragua's Pacific port called Corinto, Mr. Speaker. Beware.

Mr. Speaker, it seems as though every year we pass an amendment by the gentlemen from Washington [Mr. FOLEY] as amended by the gentleman from California [Mr. HUNTER] that pledges no United States military intervention in Nicaragua, except in cases where clear and present threats to the United States are posed by Nicaragua. One of the threats enumerated in the amendment is introduction into Nicaragua of high performance fighter aircraft such as Migs. Quite properly, this amendment is overwhelmingly approved by this body as a kind of modern expression of the Monroe Doctrine. While the United States seeks no quarrel with anyone, we will not tolerate threats to hemisphere security.

Mr. Speaker, anyone who thinks the Monroe Doctrine means what it says ought to take a look at the secret protocols recently by Nicaragua and the Soviet Union. The protocols, whose authenticity has been confirmed by the Nicaraguan Defense Minister, clearly state that the Nicaraguans plan to obtain a squadron of Mig-21 fighters from the Soviet Union. Poco a poco, step by step, the Soviets and their Sandinista clients are working to undermine the security of this hemisphere. The Monroe Doctrine, whose principles have guided this country for over 150 years, ought to dictate what our response will be to the introduction of Mig fighter aircraft into Nicaragua.

□ 1300

BIG BEND NATIONAL PARK IN TEXAS

(Mr. SMITH of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Texas. Mr. Speaker, early last Saturday morning, December 12, the Senate passed H.R. 2325, legislation I introduced to authorize the acceptance of 67,000 acres of land for inclusion into Big Bend National Park in Texas.

I am gratified that the Senate has joined the House in approving this measure, which allows the National Park Service to accept the land as a donation from the Texas Nature Conservancy.

The land itself is a varied mix of desert, mountains, and prairie. It includes approximately one-fourth of the Rosillas Mountains, and some 736 rare or unique plant and animal species have been recorded in the area.

The generosity of Edward and Houston Harte and the Texas Nature Conservancy has provided an opportunity to acquire this land at no cost to the taxpayers, and to preserve an important part of our natural heritage for future generations.

I am delighted that the first piece of legislation I authored will have a direct impact on the people of west Texas.

With the President's signature, this bill will enhance our national parks system and prove that public-private partnerships can be a valuable part of our effort to preserve our natural resources.

THE ORTEGA BROTHERS' ARMED CAMP

(Mr. KASICH asked and was given permission to addres the House for 1 minute.)

Mr. KASICH. Mr. Speaker, the Sandinista military buildup begun in 1980 is destined to continue until 1995. According to the secret military protocols between Nicaragua and the Soviet Union which were revealed by the Sandinista defector, Maj. Roger Miranda, over the weekend, the Nicaraguan Armed Forces, including the militia and the reserves, will grow from its 250,000 members to 500,000 members by 1995.

Ironically, the Sandinistas did not even dispute the story. On the contrary, the Nicaraguan Defense Minister, Humberto Ortego, Daniel's brother, confirmed all of its substance in a speech on Saturday. In fact, the commandante stated that the Sandinista goal was not a half million persons under arms, but 600,000 people.

An article in the Washington Post quotes observers as saying that although these protocols are rationalized by the Sandinistas as a defense against United States invasion, the real reason is to perfect the means to control Nicaragua's population of 3 million.

If carried out, these plans would result in a militarization unprecedented in Latin American history, surpassing even the militarization of Cuba under Fidel Castro.

Obviously, this unprecedented buildup has serious consequences for democracy in Nicaragua.

ASK THE CENTRAL AMERICAN LEADERS

(Mr. DAVIS of Illinois asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DAVIS of Illinois. Mr. Speaker, it would be interesting to know how Costa Rican President Arias feels in light of the recent revelation of the secret military protocols between Nicaragua and the Soviet Union. As we all know, Costa Rica does not even have a military establishment. Now we have learned that Nicaragua plans to more than double its military to 600,000 persons. If the Contras are abandoned and destroyed, one can only imagine the effect a victorious Sandinista army, armed to the teeth with modern Soviet weaponry, is going to have on the stability of Costa Rican democracy.

President Duarte of El Salvador is in a similar predicament. Thousands of Salvadorans have been killed and the national infrastructure ruined in an insurrection which, as Ortega himself now acknowledges, the Sandinistas helped foment and supply. What will El Salvador's prospects be when it has to face a hostile, militarized regime dedicated to the overthrow of democracy in Central America?

Honduras, Nicaragua's neighbor to the north, has recently embraced democratic institutions but remains a poor and fragile country. Can President Azcona enjoy the prospect of living next door to a garrison state?

Mr. Speaker, the Soviet-Nicaraguan protocol will have a drastic impact on Central America's democracies, and ultimately, on our own security as well.

NICARAGUAN MILITARY BUILDUP

(Mr. WALKER asked and was given permission to address the House for 1 minute and to read from papers.)

Mr. WALKER. Mr. Speaker, it was not very many days ago when you were helping Daniel Ortega write his peace plan here in Washington, and now when you find out the reality of what Mr. Ortega has in mind for Central America you label his plans for a military buildup as preposterous, outrageous, and counterproductive.

The problem is, Mr. Speaker, you and the majority party have been very good friends to the Sandinistas in your votes thus far, and we have got a bill coming to the floor this afternoon where your party, on a party-line vote in conference, stripped out an amendment aimed at keeping Americans from helping the military in Nicaragua and the military guerrillas in other areas of Central America.

Now the question becomes if what Mr. Ortega is saying is outrageous, if what he is saying is preposterous, and if what he is saying is counterproductive, then why cannot the Democrats in this body get tough with Ortega and the Sandinistas. It is high time we have that kind of toughness.

OPEN UP THE RULE ON WELFARE REFORM

(Mr. CARPER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CARPER. Mr. Speaker, it has been said politics makes strange bedfellows, and that has never been truer than it is in the debate on the rule on welfare reform. What we have before us today is a restrictive rule, basically a closed rule. Those of us who have other ideas, who have developed a bipartisan alternative, are going to be denied under this restrictive rule the right to offer that alternative. Anyone else who has a different idea from the committee bill or the Republican substitute will also be denied that opportunity.

Mr. Speaker, I do not think that is right, I do not think it is fair. It is not good politics, it is not good policy.

Interestingly enough, the Reagan administration has joined in with my own leadership to try to keep the rule closed, to prevent us from offering our alternative or anyone else from offering their plan either. I would suggest the administration is not doing so because they think the Republican substitute is going to be approved, but because they are afraid that our bipartisan plan might actually be adopted if it could be debated and voted on.

If my colleagues think they have something to contribute on the issue of welfare reform, if they believe that it is fair to open this process up to give the rest of us a chance to have our voices heard, please oppose the restrictive rule on welfare reform. For our country's sake, and for the sake of the people on welfare who want a way out the welfare trap, open this debate up. Vote "no" on the rule.

WELFARE REFORM

(Mr. LUNGREN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LUNGREN. Mr. Speaker, what the last gentleman just spoke to is something I would like to say a few words about, and that is that I think this country is ready for true welfare reform. In my own home State, the largest State in the Union, California, we had a major welfare reform passed just last year with bipartisan support. It took a lot of effort, it took the effort of a Republican Governor and the help from both Democrats and Republicans in the State legislature to come up with a fundamental reform of the welfare system.

Unfortunately, what is going to be presented here today is not that fundamental reform. I guess as much in sadness, more in sadness than anger, I would say that it is a problem, it is a tragedy that we are not given the opportunity to work when I think the American people are ready, willing, and able to support welfare reform.

Talk about seizing the moment, Congress is with this rule making sure we do not seize the moment. They are making sure we avoid the moment, and the tragedy is that all Americans, taxpayers and welfare recipients alike, are the victims.

CONFERENCE REPORT ON H.R. 1777, FOREIGN RELATIONS AUTHORIZATION ACT, FISCAL YEARS 1988 AND 1989

Mr. MICA. Mr. Speaker, I move to suspend the rules and agree to the conference report on the bill (H.R. 1777) to authorize appropriations for fiscal years 1988 and 1989 for the Department of State, the U.S. Information Agency, the Voice of America, the Board for International Broadcasting, and for other purposes.

The Clerk read the title of the conference report.

The **SPEAKER** pro tempore (Mr. RAY). Is a second demanded?

Mr. BROOMFIELD. Mr. Speaker, I demand a second.

The **SPEAKER** pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

(For conference report and statement, see proceedings of the House of Monday, December 14, 1987, at page 35456.)

The **SPEAKER** pro tempore. The gentleman from Florida [Mr. MICA] will be recognized for 20 minutes and the gentleman from Michigan [Mr. BROOMFIELD] will be recognized for 20 minutes.

PARLIAMENTARY INQUIRY

Mr. BROOMFIELD. Mr. Speaker, I have a parliamentary inquiry.

The **SPEAKER** pro tempore. The gentleman will state his parliamentary inquiry.

Mr. BROOMFIELD. Mr. Speaker, we have a number of Members who want to speak on this issue. I was wondering if the gentleman from Florida [Mr. MICA] would agree to a unanimous-consent request to add 10 minutes to each side, because there is a lot of concern that this is going through under suspension of the rules, and there are Members who would like to make a few comments. I think it would be advisable if it could be done.

Mr. MICA. Mr. Speaker, I believe if the gentleman from Michigan were to make that request to the Chair, I would absolutely have no objection, and I know of no one who would.

Mr. BROOMFIELD. Mr. Speaker, I ask unanimous consent that each side be allotted an additional 10 minutes on this issue.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. MICA. Mr. Speaker, I have a parliamentary inquiry. Was the gentleman's request to split the original 20 minutes, 10 and 10?

The **SPEAKER** pro tempore. Ten minutes' additional time on each side.

Mr. MICA. I thank the Chair.

Mr. BURTON of Indiana. Mr. Speaker, I have a further parliamentary inquiry. I just want to make sure that we have the time right. It is 30 minutes allotted to each side?

The **SPEAKER** pro tempore. Thirty minutes for each side, the gentleman is correct.

The Chair recognizes the gentleman from Florida [Mr. MICA] for 30 minutes.

Mr. MICA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the conference report on H.R. 1777.

Mr. Speaker, this legislation is the result of a long and thorough process in which every budget issue, every foreign policy issue was examined in detail, with a particular focus on fiscal responsibility. The conferees faced a tremendous task in resolving the differences between the House and Senate versions of this bill. We have returned from this process with a conference report that we can offer with confidence for the Members' review and consideration.

I am proud of this conference report and of the bipartisan process which led to its creation. Let me take this moment to congratulate my colleague and ranking minority member, Ms. SNOWE, on the leadership she has shown in this legislative process. The result of her professional and intelligent stewardship is a conference report which is worthy of strong bipartisan support in this House.

Mr. Speaker, this is a responsible bill. It is fiscally responsible; it is responsible from a foreign policy standpoint. It contains no excesses in foreign policy funding or direction. In fact, the Secretary of State has argued that this bill should provide more in terms of salaries and expenses for his Department.

With respect to the Budget Act, the authorities provided for fiscal years 1988 and 1989 are explicitly made subject to the overall cap on international affairs spending set by the summit agreement between the President and the joint leadership of Congress.

With respect to foreign policy, the legislation contains valuable initiatives for our national security and protection of the secrecy of our diplomatic activities. For example, the bill contains:

Strong congressional directives regarding the security of the United States Embassy in Moscow and the ability of the Soviets to occupy their Embassy site on Mount Alto—provisions previously approved by the House by a vote of 414 to 0.

This security package provides for:

Withdrawal from the United States-Soviet Embassy agreement;

Embassy security certification;

A prohibition of employment of Foreign Service nationals;

United States-Soviet reciprocity relating to Embassy operations; and

A personnel security program.

The bill also authorizes:

Barebones funding for the conduct of the official U.S. diplomacy function and the administration of U.S. consulates and embassies worldwide.

New mandates with respect to international narcotics control.

Funding for continued U.S. public diplomacy programming through the Voice of America, Radio Free Europe, Radio Liberty, and Radio Marti.

Continued support for the Fulbright and other valuable educational exchange programs, including an important, though modest, new program for youth exchange between the United States and the Soviet Union.

Continued pressure for United Nations reform through funding limitations subject to Presidential and congressional determination.

Funding for assistance to refugee populations around the world; and

Important statements regarding various human rights practices around the globe.

The conference report also contains new management initiatives to provide for the more efficient conduct of the Foreign Service and U.S. foreign policy:

The bill provides a rational approach to decisionmaking regarding the closing of posts overseas; and

It directs the Department of State to more effectively identify the costs incurred in supporting personnel of other Federal agencies overseas, and collect payment from those agencies.

This bill is a good compromise which I think all Members can support. However, there are those who have voiced opposition to some portions of the bill. In particular, the Department of State has described this bill as veto bait. To this end there is talk of waiving the authorization requirement in the CR. I think this would be damaging to the authorization and appropriation process.

Mr. Speaker, I urge the Members to support this conference report.

□ 1315

Mr. Speaker, I reserve the balance of my time.

Mr. BROOMFIELD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I support the conference report on the fiscal years 1988-89 State Department authorization bill, H.R. 1777, and encourage my colleagues to give it favorable consideration.

The most important element in this bill is a package of security-related improvements that were cosponsored by Chairman FASCELL and myself as well as the subcommittee chairman, Mr. MICA, and ranking Republican member, Ms. SNOWE.

I am pleased to say that these provisions emerged virtually unchanged from conference.

The conferees followed the House approach toward the problem of the Soviet Embassy on Mount Alto and the new United States Embassy in Moscow. The Soviets cannot occupy their new embassy on Mount Alto unless the President certifies that it is in our vital national interest to allow the Soviets to occupy the facility and:

The security problems at the new U.S. Embassy in Moscow have been resolved; and

Steps have been taken or will be taken, to eliminate vulnerability to our national security caused by the Soviet occupation of Mount Alto.

The conferees also accepted the other major provisions of the House security package. For example, the State Department is directed to resolve issues concerning United States-Soviet diplomatic reciprocity—such as exchange rates, real estate, and working conditions of our respective diplomatic missions.

The House conferees were under instructions from the House to accept the Grassley amendment which would order closed the United States offices of the Palestine Liberation Organization. This provision has been retained.

Ultimately the issues regarding closure of the PLO's offices in the United States may be resolved by the courts. However, the conferees proceeded on the basis of strong congressional opinion on this issue.

The conference report retains a House provision condemning the Toshiba and Kongsberg Cos. for transferring sensitive military technology to the Soviet Union. The Hunter amendment also directed that the United States should enter into discussions with Japan and Norway on reparations for the resulting damage to United States security.

The conference report also contains several other important provisions:

The conference report provides for United States withdrawal from international organizations which exclude Israel, except for the U.N. Security Council and the International Atomic Energy Agency.

While the conferees extended the timetable for reducing and eventually eliminating foreign service nationals in embassies in Communist countries, the intent of the House provision was maintained.

The conference report provides higher authorization levels than the House bill contained but the Snowe provision adopted in conference ensures that the total authorizations will not exceed the budget summit level.

The conference report prohibits the State Department from acquiring an official residence for the Secretary of State.

The conference also adopted the Solomon-Kassebaum provision restricting U.S. contributions to the United Nations if U.N. budget reforms are not implemented.

Unfortunately the conference rejected the House-passed Walker amendment restricting the use of United States passports for those planning to assist Communist military activity in Central America.

While the conference report is not everything everyone wanted, it is a product I can support. For these reasons, I commend the conference report to you.

I wish again to thank Chairman FASCELL, Mr. MICA, and Ms. SNOWE for their expert management of this bill during markup, initial consideration by the House, and conference.

Mr. Speaker, I reserve the balance of my time.

Mr. MICA. Mr. Speaker, I yield 1 minute to the gentleman from New Jersey [Mr. ROE], chairman of the Committee on Science, Space, and Technology and a conferee on this matter.

Mr. ROE. Mr. Speaker, I thank the distinguished gentleman from Florida for yielding time to me.

Mr. Speaker, I rise in support of the conference report to H.R. 1777.

Title XI of the conference report—global climate protection—on which the Committee on Science, Space, and Technology served as conferees, recognizes that global climate change could have profound effects on the habitability of the Earth—effects which could begin as soon as the turn of the century. It is clear that climate protection, by virtue of its inherently global nature, holds tremendous opportunities for international scientific and environmental cooperation. However, any attempts to mitigate climate change will also lead to conflicts—in part because there will be national winners and losers in the climate change sweepstakes, and in part because the science underlying climate change is presently so incomplete.

We should be proud of the role that the United States has played internationally in understanding and responding to climate change. The recent international expedition to study the disappearance of ozone over Antarctica was predominantly a United States expedition, led by scientists from the National Aeronautics and Space Administration, the National Oceanic and Atmospheric Administration, and the National Science Foundation. The largest worldwide research program aimed at understanding the greenhouse effect is conducted by U.S. scientists with the support of the Department of Energy and other agencies. And the United States has taken the lead internationally in developing a global change program aimed at understanding and responding to the long-term global impacts of man on his environment.

While all of these efforts are laudable and indicative of a well-coordinated U.S. research program on climate change, title XI would take the United States further into national and international policy responses to these potential changes. In view of the stakes involved, it is important that these policy discussions begin in parallel with ongoing scientific studies.

Title XI would foster development of policy responses to climate change by directing the President, through the Environmental Protection Agency, to propose to Congress a coordinated national policy on global climate change and by directing the Department of State to coordinate U.S. policy through the channels of multilateral discussion and negotiation. By placing the authority for this effort with the President, the conferees intend that the White House's Office of Science and Technology Policy play a key role in coordination of an integrated Federal policy. The conferees certainly do not expect that a global treaty on emissions of greenhouse gases can be achieved as readily as the recent Montreal Agreement on ozone-depleting CFC's; after all, while the production figures for CFC's are readily available, there is not even a reliable global inventory for greenhouse gas emissions. However, given the potential importance of global climate change, it is clearly desirable that the United States take a leadership role in international discussions.

Mr. Speaker, let me conclude by discussing the appropriate roles of Federal agencies involved in global climate change. The provision on climate change originally passed by the Senate would have created considerable confusion among U.S. research agencies by designating EPA and the State Department as leaders of an interagency group concerned with both policy development and research. This problem was corrected in the conference report language and statement of managers. Title XI, while clarifying the roles of EPA and State in policy development, does not affect the current agency roles and interagency process with respect to research on global climate change.

Therefore, nothing in title XI affects the congressional directives contained in the National Climate Program Act, which establishes within the Department of Commerce a "national climate program to understand and respond to natural and man-induced climate processes and their implications." The National Climate Program Office remains charged with coordination of international climate research programs under the act. Further, the Committee on Science, Space, and Technology strongly supports the work of the Committee on Earth Sciences of the Office of Science and Technology Policy in its review and coordination of national and international programs in global change, and of the National Academy of Sciences and the International Council of Scientific Unions in their development of national and international research agendas for global change.

Mr. Speaker, a careful, step-by-step process is already underway to develop international cooperation on a comprehensive set of programs aimed at understanding man's impact on the global environment. This process may lead to unprecedented cooperation and cost-sharing on major space-based and land-based research programs and it should be allowed to unfold, without inserting either EPA or the State Department into major new roles in determining the research agenda. EPA's role, in the view of the Committee on Science, Space, and Technology, should lie in developing, under a consensus interagency process, policies which may be necessary for an effective national response to global climate change. EPA does not, under title XI, have authority to direct, inhibit, or control scientific research by other Federal agencies.

Mr. Speaker, I would like to thank my colleagues on the Foreign Affairs Committee and on the Energy and Commerce Committee, who were most constructive and cooperative in crafting the final agreement on title XI. I urge my colleagues to support the conference report.

Ms. SNOWE. Mr. Speaker, I yield myself 4 minutes.

Mr. Speaker, I rise in support of the conference report for H.R. 1777. This legislation authorizes the budgets of the State Department, the U.S. Information Agency, the Board for International Broadcasting, the United Nations, and other foreign affairs agencies.

We are bringing this conference report up under suspension of the rules to expedite its passage. Conferees only finished work on the conference report last Tuesday, and because of the Senate's preoccupation with the continuing resolution last week, the final technical corrections were not completed until Saturday.

Before explaining some of the major provisions in this bill that deserve this body's support, I would like to express my appreciation for the leadership of the chairman of the Subcommittee on International Operations, Mr. Mica. In his stewardship of this legislation, a process which began last March, the chairman has been professional, bipartisan, and most of all fair. This is in keeping with our activities at the Subcommittee on International Operations, where I serve as ranking Republican. At our subcommittee the chairman sets a good example of bipartisanship and provides an opportunity for the views of all Members to be fully aired, regardless of party or ideology.

Both the House and Senate versions of this bill had strong bipartisan support, and originally passed each body overwhelmingly. In the House the vote was 303 to 111, and all but one of the 49 House and Senate conferees signed the conference report.

MICA-SNOWE AMENDMENT

This conference report contains many important provisions from both the House and Senate bills. It retains the basic provisions of the Mica-Snowe amendment on our Moscow Embassy and Mount Alto. Our amendment will expel the Soviets from Mount Alto unless the President can certify three things within 6 months:

First, that we have or will have a secure embassy in Moscow;

Second, that he has taken actions to eliminate the threat of Soviet electronic penetration from Mount Alto; and

Third, that it is vital to our national security not to terminate the United States-Soviet Embassy exchange agreement.

I would like to emphasize that all three of these determinations must be made for the waiver to be used. They establish a strict criteria, but if that criteria cannot be met, the Soviets should never have been allowed to be there in the first place.

FUNDING/UNITED NATIONS

This bill represents a freeze at the fiscal year 1987 appropriate level, with the exception of an additional $200 million for the United Nations. This additional authorization was contained in the Senate bill. The conference report authorizes our full assessed contribution for the United Nation and affiliated agencies, in recognition of the budget reforms since the original Kassebaum-Solomon amendment 2 years ago.

In acting on U.N. funding, the conferees were presented with a special problem. On one hand, neither the budget resolution nor the November 20 budget agreement with the administration provides full funding for the United Nations. But because of the budget reforms at the United Nations, the administration urged conferees to provide full authorization, even though appropriations will fall short.

BUDGET SUMMIT COMPLIANCE

But while the conferees approved full authorization for the United Nations this conference report also ensures that the extra authorization will not be used to exceed the November 20 budget agreement. The conferees adopted a provision I offered to prohibit the apporpriation of any funds in excess of the cap for the foreign affairs function contained in the budget agreement.

Thus, this conference report is the first authorization bill to be specifically in compliance with the budget agreement. From the very beginning of the authorization process, the chairman of the subcommittee, Mr. Mica, and I have worked to produce both a responsible and realistic authorization bill. I am pleased that we are now completing that process in the same spirit.

OTHER PROVISIONS

This conference report also contains other important provisions. It would:

Close the PLO information offices in Washington and New York;

Condemn Toshiba for selling sensitive military technology to the Soviets, and direct the Secretary of State to seek reparations for damage to United States national security;

Require full reciprocity in the treatment of diplomatic personnel and facilities between the United States and the Soviet Union;

Provide a strong American preference for Voice of America contracting;

Prohibit the State Department from acquiring an official residence for the Secretary of State; and

Restrict U.S. contributions to the United Nation if it fails to implement its new budget reforms.

I must inform my colleagues that the State Department does not support this conference report. This is unfortunate, because both parties and both bodies have strongly supported this bill, and we worked in conference to modify areas where we believed the State Department had legitimate concerns. It appears that the Department is now in the uncomfortable position of having little left in the bill to oppose. That State nevertheless continues to oppose the bill, is an indication that the Department doesn't want an authorization bill of any kind. It simply wants its money with no strings attached.

The State Department is threatening to recommend a veto on issues such as:

The Moscow Embassy provisions;

The closure of the PLO office in New York;

Reform in the Department's performance award system, which has been riddled with favoritism and abuse;

Polygraph requirements for the Department's security personnel, which will bring its security procedures in line with the intelligence agencies and the Department of Defense; and

That we still aren't providing sufficient funding.

All of these point merely give Members of this body more reasons to support this bill.

Finally, I am confident that President Reagan will sign this bill without hesitation if he considers it on its merits. If we stand united we can send a strong message to the State Department that Congress has a legitimate role in determining how this Nation's business ought to be run. I urge my colleagues to provide overwhelming support to this conference report.

Mr. Speaker, I reserve the balance of my time.

Mr. MICA. Mr. Speaker, I have no further requests for time, I reserve the balance of my time.

Ms. SNOWE. Mr. Speaker, I yield such time as he may consume to the gentleman from New Mexico [Mr. LUJAN].

Mr. LUJAN. Mr. Speaker, as ranking Republican member of the Science, Space, and Technology Committee, I would like to address my comments to title XI of the conference report—global climate protection. It was this provision that the Science Committee had conferees.

As originally introduced by the Senate, this provision called for the establishment of a task force on the global climate to determine and supervise the research necessary for a coordinated national strategy on the global climate, and to develop and implement such a strategy both domestically and internationally.

As a result of the extensive discussions and negotiations within the House by the Foreign Affairs, Energy and Commerce, and Science, Space and Technology Committees, a consensus was arrived at that the near-term and long-term research agenda of the Federal Government was well in hand.

The House acknowledges and complements that commitment of NASA, NSF, NOAA, DOE, and the Navy in a coordinated Federal effort.

Furthermore, the House notes that through the Office of Science and Technology Policy's [OSTP] Federal R&D Coordinating Committee on Earth Sciences, the United States will have an inceased understanding of the global system, as well as the ability to assess mankind's impact on our global environment. The U.S. research agenda is certainly an international one and involves the collaboration of foreign scientists and nations. I would like to acknowledge the concerns raised by the President's science adviser in his December 14, 1987, letter to the conferees that there are already mechanisms and existing legislation to implement a national policy.

In order to safeguard against duplication of effort and to secure that various functions within the Government are appropriately placed with agencies' mission, the provision adopted by House and Senate conferees places the responsibility with the President for a coordinated national policy on global climate change. It is understood that the President, in this context, is the Office of the President and thereby assures that his science adviser, the OSTP and his domestic, economic and international advisors will work toward a truly national and coordinated policy.

The international scientific community, through the International Council of Scientific Unions [ICSU], is working on global geoshpere-bioshpere modelling, data and information systems, techniques for extracting environmental data from the past, and several atmospheric chemistry, marine and global ecosystem projects. Their capabilities are building upon the results of a joint ICSU-World Meteorological Organization Climate Research Programme.

Finally, the provision adopted by the conferees will call upon the Environmental Protection Agency [EPA] to begin thinking of appropriate implementation action, once our understanding of the global climate advances. EPA's input will compliment the activities of other agencies in the Federal Government, as well as recognize the discrepancies in international environmental programs. The Department of State will thereby have the necessary data for negotiating with other countries for a truly comprehensive global effort.

I include the correspondance from Dr. William Graham, Director of the Office of Science and Technology Policy, following my statement:

OFFICE OF SCIENCE AND
TECHNOLOGY POLICY,
Washington, DC, December 14, 1987.

Hon. DANTE B. FASCELL,
Chairman, Committee on Foreign Affairs, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: I would like to transmit to you my views regarding the contents of Title XI, H.R. 1777/S. 1394 (prior to agreed conference report of December 8, 1987), the Global Climate Protection Act of 1987. While the intent of the Global Climate Protection Act of 1987 is certainly laudable, the concerns are today being well met through existing activities. Although it is not the intention, passage of the proposed legislation would conflict with existing legislation and, in fact, seriously disrupt the organized effort underway.

Congress legislated coordination of science activities affecting more than one agency to the Office of Science and Technology Policy (OSTP) and its Federal Coordinating Council for Science, Engineering, and Technology (FCCSET) in PL 94-282. The Committee on Earth Sciences (CES) was established under the FCCSET to coordinate the federal research efforts on Earth sciences with the responsibility to increase the understanding of the Earth as a global system, particularly in assessing humankind's impact on the global environment. Scientific understanding is absolutely essential if we are to be able to evaluate technologies and activities that may have adverse effects on the global climate. Several agencies, including NASA, NSF, NOAA, DOE, and Navy, have mounted strong research efforts in the area of global climate change. Since the several appropriate roles for federal agencies are being determined and coordinated by the CES, we do not feel that it is appropriate to name a single lead agency.

International programs are being developed to support national research programs and interests, in concert with U.S. policy. As additional efforts appropriate for the international sphere are identified, they will be incorporated into the present structure. Therefore further legislation in this area is not necessary.

Global climate protection is a long-term effort that requires a long-term commitment, and a year would indicate a short-term effort. Therefore, I do not support the establishment of an International Year of Global Climate Protection.

In conclusion, I strongly recommend against passage of the Global Climate Protection Act of 1987, Title XI, H.R. 1777/S. 1394. I look forward to continuing to work with you to ensure the conduct of excellent scientific research and international coordination in the U.S. interest, in all areas including that of global climate change.

Sincerely,

WILLIAM R. GRAHAM,
Director.

Ms. SNOWE. Mr. Speaker, I yield 6 minutes to the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. I thank the gentlewoman from Maine for yielding me this time.

Mr. Speaker, I rise in support of the motion to suspend the rules and pass the conference report.

Mr. Speaker, there were some moments on the way to the passage of this legislation when we had some doubts that we would be standing here today in support of the conference report. Our Subcommittee on International Operations moved diligently and swiftly at the beginning of the year, under the effective leadership of the gentleman from Florida [Mr. MICA] and the gentlewoman from Maine [Ms. SNOWE]. We finished our work in March. But we were stalled by the administration's resistance to our legislation, even at the point when we were trying to get a rule.

Our leaders persevered, despite a series of apparent security disasters overseas which required extensive personal attention and the rewriting of some part of the bill.

After floor consideration of this legislation, we went into another deep freeze, awaiting Senate action. When they finished working their will on this legislation, we had perhaps 200 items in disagreement.

The able staffs of the two Houses were able to resolve the vast bulk of some 200 items in disagreement in consultation with the Members. When unanimity was lacking among the House and Senate minority and majority, the issue was referred to the full conference. We also had participants from the Ways and Means, Commerce, Science and Technology, Post Office, and Judiciary Committees on matters within the jurisdictions of those panels. We were able to reach final agreement within a matter of a few days because of the enormously cooperative attitude of the other body in laying to rest the few items we had to discuss. I hope that this spirit of cooperation will also be reflected in further consideration of foreign assistance legislation which recently passed the House and now needs to be considered by the Senate.

Mr. Speaker, this legislation provides the necessary funding, the necessary flexibility, and the necessary oversight to ensure that the American people get the diplomatic representation and public diplomacy that they deserve. The bill makes a number of important statements on foreign policy.

For example, we agreed on language on the situation in Tibet, calling upon the occupying Chinese to grant cultural and religious rights to the inhabitants of that land. We will be requiring that the administration provide information on the counterterrorism activities, if any, of major countries around the world, so that, for example, when we receive foreign visitors, we will have in readily available form information on that actions, or lack of actions, on this critical matter. We will be requiring that the offices of the Palestine Liberation Organization in New York and Washington be shut down. We will be tightening up on security in our embassies through a variety of legislative provisions. And most importantly, we will be authorizing spending for these important diplomatic security functions as well as for the conduct of foreign policy.

It is important to note that this bill limits funding to the November 20 budget summit agreement for foreign affairs.

This conference report, Mr. Speaker, will not completely satisfy every Member because no compromise will ever provide every Member, or either House, with everything they want. But we were able to reach compromises through hard bargaining. Accordingly, I urge my colleagues to support this compromise by voting to pass this conference report.

I would like the distinguished subcommittee chairman, the gentleman from Florida [Mr. MICA], to engage in a colloquy with regard to funding for the Food and Agriculture Organization, the FAO.

Mr. Speaker, I note that in the conference report on the Department of State Authorization Act that the Food and Agriculture Organization [FAO] is not earmarked. I am concerned about this since the FAO is an important international organization and we in the Congress have supported its useful work in promoting improvements in agriculture and fisheries in many countries of the world. Because of currency flunctuations, my understanding is that FAO actually saved moneys in 1987 in the amount of $9 million. Early reports from the Department of State on the general conference that just concluded in Rome indicate that the organization did not adopt budget reform procedure mandated by the 1985 Kassebaum-Solomon amendment to the Foreign Relations Authorization Act.

This would trigger a reduction from 25 to 20 percent of the U.S. contribution to FAO until it does adopt the budget reform mechanism under this Department of State Authorization Act; however, I hope that the Department would make an effort to provide funding for FAO to enable it to continue this work and that the United States and our allies would work together diplomatically to promote in FAO the adoption of the budget procedure. I fear that we may face a difficult situation here: if we don't fund FAO, it may not be interested in introducing a budget reform mechanism; if we do, it would have a greater interest in looking with favor on the introduction of a budget reform measure. I hope that early in the New Year, the gentleman from Florida will help us look into the FAO situation in the hope of finding ways to have it participate along with the other U.N. specialized agencies in the reform process.

□ 1330

Mr. MICA. Mr. Speaker, will the gentleman yield?

Mr. GILMAN. I yield to the gentleman from Florida.

Mr. MICA. Mr. Speaker, I understand the gentleman's concern. I would like to make it clear that I will look into the situation.

I do feel that every organization within the U.N. needs to be a part of that reform process. I think we all agree that if there is no reform down the line, there will be more problems. I will urge them to adopt the provisions of Kassebaum-Solomon and all the reform provisions. I certainly understand the gentleman's concern.

Mr. GILMAN. Mr. Speaker, I thank the gentleman for his remarks and his supportive statement.

Ms. SNOWE. Mr. Speaker, I yield 3 minutes to the gentleman from Indiana [Mr. BURTON].

Mr. BURTON of Indiana, Mr. Speaker, I have my differences with the State Department but I rise in support of the conference report because it takes an important step against the Palestine Liberation Organization [PLO]. A few weeks ago I offered a motion to instruct conferees to accept a Senate provision that would close the PLO offices in Washington and the PLO's U.N. mission in New York. This provision prevailed in conference.

Mr. Speaker, there has been a storm of controversy about this provision, much of it based on misunderstandings. Recently the New York Times echoing the State Department, editorialized that signing the PLO provision into law would "mock the Constitution and treaties relating to the U.N."

This is complete and utter nonsense and it is time we set the record straight. First, the U.S. District Court ruled that the PLO's case that its first amendment rights were violated was "utterly meritless." Let me repeat—"utterly meritless." That's about the strongest statement a court can make.

This is not a first amendment issue. No American is limited in any way from advocating the Palestinian cause—the bill only prevents people from acting as official paid agents of the PLO—a terrorist organization that kills Americans.

It is simply a lie that this bill violates the U.S. headquarters agreement. An internal State Department memorandum admits this, yet Members of Congress and the State Department continue to spread this misinformation.

The U.N. headquarters agreement does not even contain the words "observer mission." All observer missions exist under a clause pertaining to "invitees" that was never intended to cover permanent offices or missions. All U.N. observer missions remain in New York under the courtesy of the United States and have no—zero—rights in the headquarters agreement.

Moreover, under the national security clause attached by Congress to the U.N. headquarters agreement, the United States has the right to expel any aliens from its territory if necessary for U.S. security interests.

The PLO is the world's richest and one of the world's most brutal terrorist organizations. It has killed many Americans, Israelis, and moderate Arabs around the world.

This is not just a feel good measure. Legitimacy is a terrorist organization's greatest asset. The U.S. Congress can and should strike a blow at the heart of the PLO's legitimacy by kicking the PLO out of the United States. We can begin, here and now, to banish the PLO from the world's capitols and international bodies.

The idea that the PLO, an organization who's charter demands the elimination of Israel, a member of the United Nations, is somehow protected by the U.N.'s charter or by international law, is absolutely ludicrous.

I support the anti-PLO provision and the conference report.

Ms. SNOWE. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. DORNAN].

Mr. DORNAN of California. Mr. Speaker, I thank the gentlewoman for yielding this time to me.

Mr. Speaker, I rise in support of this State Department authorization, and I am proud to say that I have five amendments which I have added to this bill. This always comes as a great surprise to that self-appointed god of the Congressional Quarterly, Alan Ehrenhalt, who decides what Members are worth around here. In Ehrenhalt's information I also have seven Dornan amendments to the foreign assistance act, but today I would like to proudly discuss my five amendments to State authorization briefly. The first amendment demands that the Soviet Union free emigration for Soviet Jews. This is hard-hitting language directed at human right violations in the Soviet Union. Mr. Gorbachev, the General Secretary, showed quite vividly how the Soviets hate to hear this discussed, but that is just too bad. This country believes in human rights.

Another amendment also condemns the U.S.S.R. for its systematic interference with international mail. For the first time it directs our Government to negotiate with their Soviet counterparts about it. The idea is to put some teeth into our protection of the international mail. Unfortunately, the Soviets just arbitrarily dump mail addressed to Soviet Pentecostals, Soviet Jews and refuseniks in general. The interception of mail in the U.S.S.R. is an ugly interfence with one of the Helsinki baskets. The claim, of course, by the Soviets is that they do respect the international mail.

My third amendment condemns the Romanian Government for the very first time for its systematic destruction of the culture of the Hungarian people who live inside that part of Romania generally called Transylvania. My amendment also underscored the right of Hungarians in Transylvania to self-determination.

My fourth amendment is one which did not have a sponsor on the Senate side. I will certainly not make that mistake next time. The Senate, in conference, took the teeth out of this amendment, which directed the United Nations to at least make a study of why the Soviet Union has three votes in the United Nations while every one of the other 167 nations only 1 vote. Why does the Soviet Union have a separate vote for Byelorussia, sometimes called White Russia and the Ukraine. They have three votes. That was what President Roosevelt gave Uncle Joe Stalin as a little inducement to get him into the United Nations. I think it is time to get rid of those bonus votes and that is what my amendment attempts to do.

My fifth amendment is designed to tell the Soviet Union that we believe in the right of self-determination for the separate nations of Latvia, Lithuania, and Estonia. Tragically, these captive nations were swallowed up by the U.S.S.R. nearly 50 years ago.

Ms. SNOWE. Mr. Speaker, I yield such time as he may consume to the gentleman from Wisconsin [Mr. SENSENBRENNER].

Mr. SENSENBRENNER. Mr. Speaker, I rise in support of the conference report.

Mr. Speaker, title XI of the conference report to H.R. 1777 includes provisions on global climate protection. I rise today in support of this legislation.

The history of international cooperation in the study of the global environment has a rich tradition. As early as the 19th century, weather observing stations were coordinated internationally to better understand and predict weather patterns. Subsequently, the First and Second International Polar Years gathered scientists from over 40 nations to study and publish on such topics as atmospheric ozone, Earth currents, astronomy and biology.

Mr. Speaker, today, we witness the continuation of this international tradition. In hearings before the Committee on Science, Space, and Technology earlier this year, we heard testimony on the many domestic and international activities already being undertaken to study the phenomenon of global change. Along with advances in the scientific understanding of the processes which affect the Earth system, we also have new technologies to examine and document these phenomenon.

On an international level, the International Council of Scientific Unions has served to define issues of relevance to the global change program and to coordinate the efforts of national programs around the world. The European Space Agency, the Japanese Institute of Space and Astronautical Science, and the National Aeronautics and Space Administration [NASA] have proposed to undertake the International Solar-Terrestrial Program. Finally, the Man and the Biosphere Program [MAB] continues to work with issues of land management and ecosystem conservation in the tropics. This list is not all inclusive, Mr. Speaker, but merely highlights the truly international character of this attempt by man to better understand his global environment.

On a domestic level, Mr. Speaker, the list of ongoing agency activity is equally impressive. In fact, the President's Office of Science and Technology Policy [OSTP] reviewed Federal agency roles and missions in relation to the Global Change Program. The Office of Science and Technology Policy's Committee on Earth Sciences remains charged with developing long-range plans for Federal R&D in Earth sciences and man's impact on global environment.

Their recommendations include: NASA should be responsible for Earth science missions from space; NOAA is to be responsible for maintaining data sets on Earth's geosphere-biosphere systems and weather, climate, and oceanographic data; and the National Science Foundation is responsible for basic research in all areas of Earth science.

This list also, Mr. Speaker, is not exhaustive, however, it is the intent of the conference committee to recognize the important contributions these agencies and others are doing in the area of global climate change and the legislation before Congress today does not seek to alter their respective missions.

The conference report states that the President, which is intended to mean the President's Office through the Science Adviser and the Office of Science and Techology Policy, will work with the Administrator or the Environmental Protection Agency to develop and propose to Congress a coordinated national policy on global climate change. The conference report further authorizes the Secretary of State to coordinate aspects of U.S. policy through international organizations. A report will then be submitted to Congress which will supplement other ongoing studies and reports on global change for purpose of providing their recommendations.

Mr. Speaker, the history of international scientific cooperation on this subject is encouraging. As a conferee to the provisions of H.R. 1777 which address global climate protection, I support the development of a coordinated national policy so this country can continue its effective participation with other nations to address this important issue.

Ms. SNOWE. Mr. Speaker, I yield 4 minutes to the gentleman from Pennsylvania [Mr. Walker.]

Mr. WALKER. Mr. Speaker, I thank the gentlewoman for yielding this time to me.

Mr. Speaker, when this bill left the House of Representatives, it contained an amendment which banned the use of U.S. passports for the purpose of helping Nicaraguan military operations or military operations of Communist guerrilla groups in Central America. As this bill comes back from conference, it contains no such language. I am told that it was a rather strange process that developed to assure that that language would not be included in this bill, so I am going to relate the story as I heard it, and if anybody has any reason to doubt anything I say, I would appreciate being corrected on the situation.

I am told that that particular amendment was eliminated, first of all, on a straight party line vote in conference, that the Democrats all voted in favor of American passports being used to help Nicaraguan military operations and Communist military groups, and that the Republicans all voted against that proposition.

I think it is important to understand that on this issue the two parties were divided. But the Democrats also in their straight party line vote decided not to support the position of this House by which this House had gone on record in taking that position, and the Democrats specifically decided the position of this House should not be defended and should not prevail in the conference.

☐ 1340

Now, I have also been informed that there was a reason why the Democrats took that straight party line position beyond the fact that there seems to be a constant desire around this body to help the Sandinistas down there. We seem to be able to put all kinds of limitations on freedom fighters in Central

America or on El Salvador or on some of our friends, but when it comes to the Communist guerrilla groups or the Sandinistas, we seem to be able then to slide by and help them; but I am also told that the majority staff was actually told that if my language, my amendment on this was included in the conference report being brought to this floor, that that bill would never reach this floor, that the Democratic leadership on that side was bound and determined that we were not going to have any kind of language brought to this floor that included my amendment.

Now, I will tell you that I find that to be rather disturbing. It seems to be that the House position was clear. It deserved to be defended. If certain leaders in this House do not like what the House decides by majority vote, I do not think they have the right to pressure that committee in ways to keep legislation off this floor simply to get certain language out. That is not the democratic process. It once again goes back to the kind of tyranny that seems to prevail in this place with regard to issues I think of real importance. I find it disturbing. I do not think it is the right way to proceed.

I feel very strongly that it shows how far we will go in this Congress to protect the Communist military in Nicaragua, but it also says a lot about this House, that despite the positions taken by the majority, the majority will get thwarted when it comes to defending the very extreme left wing positions of the Democratic leadership.

Mr. FRENZEL. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I am very glad to yield to the gentleman from Minnesota.

Mr. FRENZEL, Mr. Speaker, is the gentleman complaining about the democratic processes on a bill that came to us under suspension? The rules had to be suspended because the bill exceeds the scope of our rules.

The majority Democrats would waive the Constitution if they could. There never have been any rules around here that the majority has not been willing to waive whenever it suits the convenience or whimsy of the leadership.

Mr. WALKER. Well, I thank the gentleman for pointing that out. There is also another disturbing aspect of what we have happening here. It is very hard to reflect on some of the things that have gone wrong, such as this process, when in fact the rules are being thrown out, that we are determining these things under very questionable processes. I find this disturbing. I would hope the Members would vote against the conference report.

Ms. SNOWE. Mr. Speaker, I yield 2 minutes to the gentleman from Texas [Mr. ARMEY].

Mr. ARMEY. Mr. Speaker, I thank the gentlewoman for yielding this time.

I am not on this committee. Therefore, I think from the beginning I would like to express my appreciation to the members of the committee for their patience with me with this respect to one provision in this bill. I became concerned about our Embassy agreements long before the sensational incidents of the Embassy security in Moscow broke in the news. I had a bill drafted. I had legislation that I wanted to move forward regarding the Embassy agreements, particularly with respect to disallowing the Soviets from occupying Mount Alto.

Prior to trip to the Soviet Union made by Congressman MICA and Congresswoman SNOWE in which they verified that our concerns were real regarding the security of our Embassy in Moscow, I had been contacted by our State Department and advised that there was no cause for concern.

Well, now we know better. I had hoped to pass stronger language with respect to the preemption of those 1972 agreements on Embassy construction. We did not get the language from this body that I had hoped for, although we did have our language passed in the other body. The language that we did pass in this body and the language that we now have in this conference report regarding the Embassy agreements is too weak for my liking. Nevertheless, I do understand that I am not a member of the committee and that the committee has jurisdiction that goes far beyond my concerns and has good reason to want to move their legislation forward and not to be hampered by my more specific concerns.

I would like to congratulate the committee members for standing up against the pressures brought to bear against them and make the point only that although these provisions are not perfect, I am aware that the perfect is the enemy of the good, and I am afraid we will have to accept this provision.

Mr. MICA. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from California [Mr. MILLER].

Mr. MILLER of California. Mr. Speaker, I rise in support of the conference report on the State Department Authorization Act. The report includes critical improvements in the operation of the Office of Munitions Control, the agency which grants licenses to private arms export dealers.

While not all of my concerns have been met, we have made important progress with this legislation. I hope the committee will hold oversight hearings on this issue in the spring.

As I stated in June when I introduced legislation to address this problem, license review and enforcement is poor. The OMC granted almost 50,000 license requests last year, worth almost $15 billion. Only 850 of those license requests were denied.

The OMC's lax attitude toward identifying potential arms diversions is also unacceptable. At present, the OMC does not conduct checks to determine if terrorists or other questionable persons are shipping U.S. arms. Nor does the OMC conduct end-use checks to determine if arms shipments are reaching their supposed destination. Senate hearings and a GAO study revealed many egregious deficiencies—including the provision of 65 licenses to a company after it had been indicted for conspiring to export tank parts to Iran.

The legislation before us today would require the screening of applicants against a data base of questionable persons. It would prohibit licenses for persons who violate our national security laws and our Nation's embargo against the apartheid regime of South Africa. This legislation would not only ensure that end-use checks are conducted, but strengthen enforcement by providing Treasury Department oversight and more licensing officers. I am pleased that the language of the report clarifies OMC's authority to deny licenses to criminals.

The Iran-Contra affair brought to light the sophisticated black market for United States military items, which compromises our ability to control their export. An international network of private profiteers and middlemen who operate for outrageous fees can subvert Government policy, unless we strengthen our export controls.

The conference report would allow us to improve arms export control. I urge my colleagues to support this measure and help ensure that we know where U.S. arms are being shipped and who is shipping them.

I want to express my deep appreciation to my colleagues, Mr. SMITH of Florida, Mr. KOSTMAYER, Mr. ATKINS, and Mr. DYMALLY for their assistance and support as members of the conference committee. They have played a key role in this effort to strengthen license enforcement and review.

Ms. SNOWE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, just a final note with respect to this conference report. I would urge the Members of this House to adopt it.

One of the major reasons this conference report is out of scope is that I offered an amendment within the conference committee that would restrict its authorization to the budget summit agreement that was reached between congressional leaders and administration officials, so that it limits the funds to the November 20 budget summit agreement for foreign affairs accounts 150.

This conference report also retains the House-passed language on the Moscow Embassy and Mount Alto.

It closes the PLO information offices in Washington as well as New York.

It restricts U.S. contributions to the United Nations if the United Nations fails to implement its budgetary reform.

It condemns Toshiba and Konigsberg for illegally selling sensitive technology to the Soviet Union and it requires the Secretary to enter into negotiations for compensation for the loss of that sensitive technology.

It provides strong American preference for Voice of America contracts.

Finally, it prohibits the State Department from acquiring an official residence for the Secretary of State.

So I think this is a balanced, well-proportioned legislation, given the enormous differences that we had between the House and the Senate. In fact, there were more than 80 differences and we were able to resolve them in an expeditious fashion and overall within the 1987 authorization, with the exception of the funding for the United Nations, which we have agreed to for 1988 to provide the full assessment.

Finally, I will include a statement in the RECORD with respect to adopting section 403 of the conference agreement on this bill which provides a 10-percent bid preference for U.S. manufacturers of equipment for the VOA Modernization Program.

We think it is important to establish an appeals process by which aggrieved U.S. bidders can make their concerns known to the Secretary of Commerce when the Secretary determines that foreign manufacturers do not have an advantage with subsidies.

We think it is important to establish a fair process, and so we would require the Secretary of Commerce to establish an appeals process.

So Mr. Speaker, I would urge adoption of this conference report.

Mr. Speaker, in adopting section 403 of the conference agreement on this bill which provides a 10-percent bid preference for U.S. manufacturers of equipment for the VOA Modernization Program, our intent was to ensure that the playing field was level with respect to competition and the conferees found that some foreign governments offer unfair advantages to their domestic producers of such equipment by excluding U.S. manufacturers from competing in their home markets and by offering subsidies to their manufacturers. Under the exceptions provision, where a foreign bidder can establish that it does not enjoy unfair advantages over U.S. companies, the 10-percent preference will not be applied.

Among the exceptions are cases where the Secretary of Commerce certifies to the Director of USIA in advance of the contract award that a particular foreign bidder does not receive subsidies from its home government.

In the conference report on this provision, it is explained that the Secretary of Commerce may make such a certification in the absence of a finding that U.S. persons are being disadvantaged. It is further provided that the Secretary of Commerce is not required to prove or show affirmatively that U.S. persons are not being disadvantaged before making such a certification.

However, it clearly is the intent of the conferees that aggrieved U.S. bidders be permitted to make a prima facie case before the Secretary of Commerce that subsidies are being granted to a foreign bidder. Where allegations of subsidies are made, the Secretary of Commerce is required to investigate and make a factual determination prior to making a certification.

Triggering a governmental investigation in the trade area as a result of a petition filed by aggrieved U.S. company is obviously nothing new. In the case of alleged subsidies relating to this program, a petition filed with the Secretary of Commerce which meets the relevant requirements of 19 CFR 355.26 should be considered sufficient to cause the withholding of certification pending a determination of the facts. The procedure that I refer to is that used by the International Trade Administration in the Department of Commerce and relates to countervailing duties. However, it sets out a pertinent procedure for U.S. manufacturers to follow and would provide the Secretary of Commerce with a basis upon which to begin an investigation and upon which to base a subsequent determination.

It clearly was not our intent that the Secretary of Commerce self-initiate an investigation. On the other hand, it was clearly not our intent that the Secretary of Commerce fail to do anything in response to allegations made by an aggrieved U.S. bidder. If this were the case, the subsidy issue and the 10-percent preference for U.S. bidders where there is unfairness, would become a nullity. This absurd result would be at variance with our intent under this provision.

Requiring the Secretary of Commerce to conduct an investigation in such cases is no undue burden. After all, ensuring fairness to U.S. entities in the trade area is their whole raison detre. Nothing should be more important to the Secretary of Commerce than ensuring fairness in an area so vital to our national security as the VOA Modernization Program.

Mr. MICA. Mr. Speaker, I yield myself such time as I might consume.

Mr. Speaker, I am going to take what I consider to be an unusual opportunity here to again first thank my colleagues, but also to close the debate on this with a message to the State Department. If there is anybody out there listening who has some friends at the State Department, I hope you will get them to tune in and listen for just a minute, because I am not happy with the U.S. Department of State.

I am supporting this bill. I am the chairman of this subcommittee. We have had phenomenal support, as I indicated before. Every Senator has signed off. Eight major committees were part of the conference. Everybody signed off, except one Member on the House side.

It took a lot of work. In fact, I could say it took a great deal of diplomacy by Members of this body who probably in many respects could do a better job representing America than some of the people who have handled this bill for the State Department for our administration.

Before I get into that message and while they get tuned in very clear, I want to pay a special tribute to the gentlewoman from Maine [Ms. SNOWE] and the minority staff for the excellent work they did. They spent day and night on a bill that the leadership on both sides said probably would never come to the floor and probably would take 3 months to conference.

The gentleman from Florida [Mr. FASCELL] and the gentleman from Michigan [Mr. BROOMFIELD] as well as the majority staff, worked like you have never seen before on an issue that could be just ripped with emotion, fraught with controversy, and brought it down to the basics that need to be done to carry on diplomacy, and we are going to do that.

I am sure that the House will pass this bill. There is no doubt about it.

I am not so sure, frankly, about the State Department; so let me just talk a little bit about the history of this bill. You know, we worked for months on this bill. We held hearings, the majority and the minority, and were in constant contact. The day that we were to take this bill to the Rules Committee to get a rule and to have this issue done months ago—last April, the day we walked into the Rules Committee—we found out that the State Department and the administration pulled support for the bill and said they did not want the bill because it did not have enough money in it. Because they did not like the money figure, at the same time that we are facing a budget crunch in this Nation.

Furthermore, they did not like some of the provisions that might come out later in the Moscow Embassy.

Now, let us think about that. Here is the State Department, an organization that is supposed to know the minds of men and women around the world and be our diplomats. When the Moscow Embassy situation broke loose, they also added to their problems by stating that they did not want any language in a bill from the House or the Senate that addressed the problems in Moscow.

What kind of diplomacy, what kind of people are representing us, that say they do not want a bill where the American people through their Representatives express a feeling of concern about something that really is important, and indeed, the measure passed this House 414 to nothing, and the State Department says, "We want nothing in the bill."

When we travel around the world and we talk to some of our diplomats, they are dedicated. They work hard, but there are some in the State Department and some in our diplomatic corps in the embassies who somehow feel that the Congress is an unneeded attachment to American Government, that we are a bother.

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At one point someone mentioned, and I think I know the name, that one of the problems with the State Department was that the Congress went to other countries and looked at their operations and that was costly. To blame the Congress, the funding mechanism, I think just shows a lack of diplomatic understanding, not of the world, not of our adversaries, not of our friends, but of our own Government.

Mr. Speaker, there is a senior Member on the minority side who has had a problem with the State Department. I personally called the highest levels in the State Department and asked if they had dealt with that senior Republican, and have they worked with them?

The answer was, "I don't even know the gentleman. I don't know the name."

What kind of a diplomacy are we talking about? This bill starts to address our problems in an honest way, but I say to the State Department, whether it is this Congressman or my ranking minority Member, in the years to come the State Department better work with the Congress, better learn the names of the majority and the minority Members, because there are gentlemen here who have sincere, honest amendments that were never addressed becasue the State Department did not even want to talk about them. So it is a good bill, it is an honest bill, but in the future if the State Department turns their back, they will be turning their back on themselves. I think we did a good job, I think there needs to be a shakeup over there, and determine how this mess started. How can we stop it, how can we build a relationship with those very individuals and the branch of Government that provides for their existence, who do not ignore, and are not too busy to answer phone calls or make phone calls. They say that is someone else's job, that bill over there, and not dirty your hands with American Government.

I am pleased with this bill. I am pleased with the support it has gotten Congresswide. But I say to the State Department, the people we are trying to help, wake up. The State Department may not have friends like they have in this Congress and on this committee in the future if they do not develop those friends and work with them.

So I just say in conclusion, this is an excellent bill. We did the best job that any Congress could do.

Mr. FASCELL. Mr. Speaker, will the gentleman yield?

Mr. MICA. Mr. Chairman, I yield to the gentleman from Florida.

Mr. FASCELL. Mr. Speaker, I rise in support of the conference report on H.R. 1777, the authorization for the Department of State and related agencies for fiscal year 1988 and 1989.

At the outset, I want to commend my good friends, DAN MICA and OLYMPIA SNOWE, the chairman and ranking member of the Subcommittee on International Operations for their outstanding leadership in this conference. In the last 6 weeks, the conference committee has resolved over 200 issues in disagreement, including some 150 extraneous issues added on both floors. As a result of these extraneous issues, the conference involved not only the Committee on Foreign Affairs, but the Committees on the Judiciary, Post Office, and Civil Service, Ways and Means, Public Works and Transportation, Armed Services, Energy and Commerce, and Science and Technology as well. I want to commend the conferees from these other committees for their cooperation in resolving the issues under their jurisdiction.

The agreements that were concluded by this conference reflect a favorable shift toward the original House position on several significant issues, such as the treatment of the United States-Soviet Embassy construction agreement and related security issues, and 2-year authorizations of appropriations.

The conference report retains the essential provisions of the Mica-Snowe amendment adopted on the floor by a vote of 414 to 0 regarding the disposition of the new United States Embassy in Moscow and the Soviet Embassy on Mount Alto. In order to keep the current construction agreement in force, the conference report requires the President to certify to the Congress that the new United States Embassy building in Moscow can be made secure and that the Soviet complex on Mount Alto does not threaten the national security of the United States.

With respect to the authorizations, the conference agreement provides the administration with a 2-year authorization at levels sufficient to allow for dealing with unforeseen emergencies, but links these authorizations to the overall cap on international affairs budget function spending agreed to by the President and the joint leadership of Congress during the budget summit.

Within these authorization levels, the conference report provides the full administration request for assessed contributions to international organizations, but links the U.S. contribution to the United Nations to implementation of the budget and management reform process. The conference report also provides the necessary funding to continue the voice of America modernization program, radio broadcasting to Cuba, and other vital broadcasting programs to the Soviet Union and Eastern Europe.

Finally, I would like to stress that this conference report puts the legislative process in the proper order. Enactment will provide the administration and the Congress with the necessary authorizations and policy provisions, not only for fiscal year 1988, but also for the next fiscal year, which will enable the Appropriations Committees of both Houses to meet their deadlines expeditiously next year. Therefore it is essential that this legislation be sent to the President so that it may be reflected in the continuing resolution and in the appropriation process next year.

I urge the unanimous adoption of the conference report.

Ms. SNOWE. Mr. Speaker, will the gentleman yield?

Mr. MICA. Mr. Speaker, I am happy to yield 1 minute to the gentlewoman from Maine [Ms. SNOWE].

Ms. SNOWE. Mr. Speaker, I want to thank the gentleman from Florida [Mr. MICA], the chairman of the Subcommittee on International Operations, for yielding me this time, and for his comments with respect to our relations with the State Department. I think it is a fact of life this year that the State Department does not recognize the legitimacy nor the principle of the authorizing language. It is unfortunate because they also think that they can spend more than $4 billion without any kind or restrictions or recognizing the role that we play in the authorizing process.

In addition, the State Department did have legitimate concerns but the 49 conferees resolved those differences and I think that certainly enhances the State Department's role.

So I would hope in the future that we can have better relations with the State Department with respect to this program. I would hope they would not recommend a veto to the President, but to remind my colleagues here in the House why they might recommend a veto to the President, it would because the Moscow Embassy provisions are in the bill. They do not want any restrictions or any kind of legislation regarding the problems that we have with the Moscow Embassy or with Mount Alto. They are opposed to some of the polygraph requirements for the State Department security personnel which are the same as those we require of Department of Defense personnel and other personnel. However, up until now we did not require the

State Department security personnel to come under these regulations.

The closure of the PLO office in New York is another issue. We also require a review of the Department's performance award system which has been riddled with favoritism and abuse. So we are urging the inspector general's report be completed before we continue the performance of pay award systems.

Finally, it would be because we do not provide sufficient funding for the overall authorization. I think it is unfortunate that the Department of State might recommend that veto but I would remind my colleagues that 48 of the 49 conferees signed this conference report. So it is an indication of the strong support that exists for this authorization both in this body as well as in the other body.

I want to thank the gentleman from Florida [Mr. MICA] again for his support and cooperation and for the bipartisan spirit which he has displayed throughout the authorization process.

Mr. MICA. Mr. Speaker, I thank the gentlewoman from Maine (Ms. SNOWE) for her comments.

Mr. WEISS. Mr. Speaker, I would like to commend the distinguished chairman of the Foreign Affairs Committee and the conferees on the many important provisions contained in the conference report on H.R. 1777, the Foreign Relations Authorization Act.

In particular, I would like to congratulate Chairman FASCELL for his successful efforts to include in the agreement the Senate funding level for the United Nations and international organizations. The authorization of $571 million for fiscal year 1988 and $582 million for fiscal year 1989 is necessary to pay in full the past and present U.S. assessments to the United Nations and other international organizations.

In November, I was joined by nine other members of the Foreign Affairs Committee in expressing our support of Chairman FASCELL'S efforts to urge the conferees to accept full funding of the United Nations. At that time, I declared that "there is an urgent need to strengthen respect for international law and the capacity of the United Nations to fulfill its responsibilities." The authorization of full funding sends a strong signal that there are Members of the U.S. Congress who take this country's treaty obligations seriously.

In addition, I would like to express support for that provision of the agreement which redefines United States policy toward granting asylum for Cuban political prisoners. During markup of H.R. 1777 in the Foreign Affairs Committee, I sponsored a provision which called for a report by the State Department regarding United States policy on the acceptance of current and former Cuban political prisoners into the United States.

At that time I argued that the United States had failed to live up to its public commitment to allow the 1,500 former Cuban political prisoners the opportunity to immigrate to the United States. For years, these individuals have been held hostage to the political struggle between Cuba and the United States. In the recent past, United States policy towad granting asylum to present and former Cuban political prisoners has been badly muddled—its seems that our latest policy was to grant priority to former political prisoners who spent more than 10 years in Castro's prisons.

We should not set a minimum amount of time that an individual has to languish in jails before we allow them to immigrate to this country. I am pleased that the conference agreement redefines United States policy to direct the State Department and the Immigration and Naturalization Service to process all applications for asylum from any Cuban political prisoner, without regard to the duration of their imprisonment.

By passing such measures, the Congerss is taking a decisive step to restore the United States to its historical role as a moral leader in the company of law-abiding nations. I urge my colleagues to accept the conference report.

Mr. OBERSTAR. Mr. Speaker, I rise in strong support of the conference report on H.R. 1777, the State Department authorization bill for fiscal year 1988. I am particularly pleased with the conferees' decision to include in the measure provisons requiring that consulates scheduled for closure by the Department will remain open, and I commend the gentleman from Florida [Mr. MICA] for his able leadership on the bill throughout the conference.

My purpose in offering the consulate protection amendment to the House version of the State Department authorization bill, was to ensure that important decisions about the erosion of the U.S. Government's diplomatic infrastucture would be forcefully and vigorously debated by the U.S. Congress. As a member of the Budget Committee, I am fully aware of the Department's funding dilemmas, however, I believe the administrator's decision to close U.S. posts abroad—many in Europe—is irresponsible and unwise, and is not in the long-term interest of the United States. As we continue to consult with our European allies on critical national security, trade, and economic policy, we must have the necessary representatives in country to press the U.S. position in those negotiations. Without such representation, we hamstring U.S. diplomatic efforts abroad unnecessarily and place at risk diplomatic, social, cultural, intelligence and military relationships developed over long years.

The conference agreement stipulates that U.S. posts abroad cannot be allowed to close unless: First, the United States breaks diplomatic relations with the country involved; second, the consulate is closed in order to open another of higher priority; or third, budget sequestration goes into effect and closure is required for budgetary reasons. I hope the Department heeds this clear signal that the U.S. Congress believes strongly—and will vigorously support—sufficient funding to keep U.S. consular posts open, serving American citizens and representing U.S. interests abroad.

Let me close, Mr. Speaker, by expressing my hope that the conferees on the continuing resolution will scrupulously observe the provisions of this bill, without waiving the consular offices requirement in the bill. While I understand the other body has included such a waiver in its version of the bill until February 15, 1987, I do not believe such a waiver would serve the clearly expressed intent of this body or the interests of the U.S. Government, and I urge our House colleagues who are conferees on the CR to refuse to agree to such a waiver.

Mrs. SCHROEDER. Mr. Speaker, I rise in support of the conference report on H.R. 1777. My colleagues from the International Operations Subcommittee, DAN MICA and OLYMPIA SNOWE, have done an excellent job in molding a complex and diverse legislative package into a workable plan of action for the State Department.

H.R. 1777 contains nearly 50 sections that affect the treatment of Foreign Service and Civil Service employees working for the State Department and other foreign affairs agencies. Among the more important is a section that clarifies the authority of the Foreign Service Grievance Board to recommend tenure as a remedy in its proceedings and authorizes payment of attorney fees in separation for cause cases where cause is not shown. Representative DYMALLY spent a great deal of time working to resolve this issue, and I appreciate his efforts.

Other notable provisions exempt General Accounting Office and other legislative branch employees working at overseas posts from the supervision of the chief of mission. This section was developed to prevent chiefs of mission from blocking or interfering with a GAO or congressional investigation.

The conference report also provides retirement, survivor, and health insurance benefits to former spouses who were not covered by the 1980 Foreign Service Act. Similar benefits for former spouses of CIA retirees have already been signed into law in the Intelligence Authorization Acts for fiscal years 1987 and 1988.

When we began the conference, H.R. 1777 also contained a number of provisions which caused the conferees from the Committee on Post Office and Civil Service some concern. Among these were the requirement that the Department establish a drug testing program for employees having access to classified information. This section was dropped because of the Governmentwide drug testing program established under the President's Executive order. Another section would have penalized three civil service employees by withholding payment of merit bonuses. This section, too, was dropped.

I urge my colleagues to support this conference report.

Mr. YOUNG of Florida. Mr. Speaker, I rise to express disappointment that conferees on H.R. 1777, the State Department authorization bill, dropped a Senate amendment that would have made it more difficult for foreign diplomats working in our Nation to avoid prosecution by pleading diplomatic immunity.

These foreign nationals are guests in our Nation and I am angered and disgusted with reports of their all too frequent abuse of diplomatic immunity.

The most recent abuse occurred last month when the Washington Post reported that a receptionist employed by the Saudi Arabian Embassy was released on grounds of diplomatic immunity after he allegedly snatched a Washington woman's purse and threatened her with a knife. The man otherwise would have been charged by Washington police with assault with a deadly weapon.

Diplomatic immunity is granted to diplomats here and abroad to protect their ability to conduct the official business of the nation they represent without any threat or hindrance by the host country. Diplomatic immunity is not granted to permit diplomatic staff and families to terrorize Americans on the road, in their homes, or on their jobs.

Last month's incident was only the latest of a number of examples where the privilege of diplomatic immunity has been abused by foreign nationals working in our country. In fact, books have been written detailing these abuses. Let me cite just two other examples this year, these being traffic incidents, which are typical of the abuse of diplomatic immunity here in our Nation's Capital.

Last February, the Papua New Guinea Ambassador to the United States crashed into four parked cars on Wisconsin Avenue, seriously injuring a 26-year-old American journalist who was innocently sitting in one of the parked cars. State Department and police officials acknowledged that the Ambassador had been drinking before the incident. Yet, under the veil of diplomatic immunity, the Ambassador could not be prosecuted.

A second, more recent incident, took place last August when the 20-year-old son of Senegal's Ambassador to the United States was involved in a hit and run accident which injured two people. He was cited by Washington, DC, police for reckless driving, but was not arrested because he is protected by diplomatic immunity.

The Senate amendment to H.R. 1777, which was dropped in conference, would have required the State Department to request foreign governments to waive diplomatic immunity in all cases where diplomatic employees are charged with serious crimes. In cases where diplomats refuse to waive diplomatic immunity, the State Department would only be allowed to accept such a refusal from the Foreign Minister of a guest nation.

Diplomats who request immunity would be immediately expelled from our Nation by the State Department, which would be required to prohibit that diplomat from ever returning. The amendment also would have raised the amount of automobile liability insurance required to be carried by diplomats from $300,000 to $1 million.

The Senate Foreign Relations Committee held hearings earlier this year on the abuse of diplomatic immunity and the need for this type of legislation. Although the provision was dropped in conference, it's my understanding that the chairmen of the House Judiciary and Foreign Affairs Committees have agreed to schedule similar hearings on this issue next year.

Mr. Speaker, the more than 30,000 foreign diplomats, their families, staff, and employees who are protected by diplomatic immunity must be made to realize that they are guests in our country. They should be expected to abide by our laws just as American diplomatic personnel abroad are expected to abide by the laws of their host nation. I look forward to the opportunity to work with my colleagues to see that legislation is enacted by this Congress to clearly state our Nation's policy with regard to diplomatic immunity.

Mr. MICA. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MONTGOMERY). The question is on the motion offered by the gentleman from Florida [Mr. MICA] that the House suspend the rules and agreed to the conference report on the bill, H.R. 1777.

The question was taken.

Mr. WALKER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 366, nays 49, not voting 18, as follows:

[Roll No. 481]

YEAS—366

Ackerman
Alexander
Anderson
Andrews
Annunzio
Anthony
Archer
Armey
Aspin
Atkins
AuCoin
Badham
Ballenger
Bartlett
Bateman
Bates
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Boggs
Boland
Bonior
Bonker
Borski
Bosco
Boucher
Boulter
Boxer
Brennan
Brooks
Broomfield
Brown (CA)
Brown (CO)
Bruce
Bryant
Buechner
Bunning
Burton
Bustamante
Byron
Callahan
Campbell
Cardin
Carper
Carr
Chandler
Chapman
Chappell
Clarke
Clay
Clinger
Coats
Coble
Coelho
Coleman (MO)
Coleman (TX)
Collins
Conte
Conyers
Cooper
Coughlin
Courter
Coyne
Daniel
Darden
Daub
Davis (IL)
de la Garza
DeFazio
Dellums
Derrick
DeWine
Dicks
Dingell
DioGuardi
Dixon
Donnelly
Dorgan (ND)
Dornan (CA)
Downey
Duncan
Durbin
Dwyer
Dyson
Early
Eckart
Edwards (CA)
Edwards (OK)
Emerson
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Fish
Flake
Flippo
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Frank
Frost
Gallegly
Gallo
Garcia
Gejdenson
Gekas
Gibbons
Gilman
Gingrich
Glickman
Goodling
Gordon
Gradison
Grandy
Grant
Gray (IL)
Gray (PA)
Green
Guarini
Gunderson
Hall (TX)
Hamilton
Hammerschmidt
Harris
Hastert
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Herger
Hertel
Hiler
Hochbrueckner
Holloway
Hopkins
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jeffords
Jenkins
Johnson (CT)
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz
Kaptur
Kasich
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kolter
Konnyu
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
Latta
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lipinski
Livingston
Lloyd
Lowery (CA)
Lowry (WA)
Luken, Thomas
Lungren
Mack
MacKay
Madigan
Manton
Markey
Martin (IL)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McDade
McGrath
McHugh
McMillan (NC)
McMillen (MD)
Meyers
Mfume
Mica
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Murtha
Myers
Nagle
Natcher
Neal
Nelson
Nichols
Nowak
Oakar
Oberstar
Olin
Ortiz
Owens (NY)
Owens (UT)
Oxley
Panetta
Parris
Pashayan
Patterson
Pelosi
Penny
Pepper
Perkins
Petri
Pickett
Pickle
Porter
Price (IL)
Price (NC)
Pursell
Quillen
Rangel
Ravenel
Ray
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Rodino
Roe
Roemer
Rogers
Rose
Rostenkowski
Roukema
Rowland (CT)
Rowland (GA)
Roybal
Sabo
Saiki
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schneider
Schroeder
Schuette
Schumer
Sensenbrenner
Sharp
Shaw
Shays
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NJ)
Smith (TX)
Snowe
Solarz
Spence
Spratt
St Germain
Staggers
Stallings
Stangeland
Stark
Stenholm
Stokes
Stratton
Studds
Sundquist
Swift
Synar
Tallon
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walgren
Waxman
Weber
Weiss
Weldon
Wheat
Whitten
Wilson
Wise
Wolf
Wolpe
Wortley
Wyden
Yates
Yatron
Young (AK)
Young (FL)

NAYS—49

Applegate
Baker
Barton
Cheney
Combest
Craig
Crane
Crockett
Dannemeyer
DeLay
Dreier
Dymally
English
Fields
Frenzel
Gaydos
Gonzalez
Gregg
Hansen
Henry
Jacobs
Kanjorski
Lightfoot
Lott
Lujan
Marlenee
McCandless
Murphy
Nielson
Packard
Pease
Rahall
Roberts
Robinson
Roth
Russo
Schulze
Shumway
Smith (NE)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Solomon
Stump
Swindall
Walker
Watkins
Whittaker
Williams

NOT VOTING—18

Akaka
Barnard
Biaggi
Davis (MI)
Dickinson
Dowdy
Fawell
Gephardt
Hall (OH)
Howard
Kemp
Lukens, Donald
McCollum
McEwen
Obey
Shuster
Sweeney
Wylie

□ 1410

Messrs. ENGLISH, SWINDALL, and LIGHTFOOT changed their votes from "yea" to "nay."

Mr. SCHAEFER and Mr. HEFLEY changed their votes from "nay" to "yea."

So (two-thirds having voted in favor thereof) the rules were suspended and the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

□ 1425

GENERAL LEAVE

Mr. MICA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report just adopted.

The SPEAKER pro tempore (Mr. MONTGOMERY). Is there objection to the request of the gentleman from Florida?

There was no objection.

RECOGNITION OF SIGNIFICANCE OF ADMINISTRATION OF FEDERAL-AID HIGHWAY SYSTEM AND EXPRESSION OF GRATITUDE TO RAY A. BARNHART AT HIS RETIREMENT

Mr. ANDERSON. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (H.R. 3734) to recognize the significance of the administration of the Federal-Aid Highway System and to express appreciation to Ray A. Barnhart for his dedicated efforts in improving the Federal-Aid Highway System.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. HAMMERSCHMIDT. Mr. Speaker, reserving the right to object, I yield to my friend, the gentleman from California [Mr. ANDERSON], the very distinguished and able chairman of the Subcommittee on Surface Transportation of the Committee on Public Works and Transportation to explain the nature of his unanimous-consent request.

Mr. ANDERSON. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, the Federal highway system is of paramount importance to the economic well-being of the Nation, and the lifestyle of its people. For nearly 7 years, its administration has been in the understanding hands of Ray Barnhart.

Ray, who will be leaving the Federal Highway Administration at the end of the year, has enjoyed the longest tenure of any Administrator in the history of the FHWA. H.R. 3734, which has been cosponsored by every member of the Public Works and Transportation Committee, Democrat and Republican, honors Ray for his honest, effective, and meaningful efforts to preserve and improve our Nation's highways. It is a well-deserved honor.

During difficult years, Ray has served the Nation well. He was a force behind enactment of the landmark Surface Transportation Assistance Act of 1982. He has worked to inform the Congress and the American people of the impact that gasoline and diesel fuel tax evasion has on the Highway Program and has labored effectively to address this problem. And among his many other achievements, he has worked to promote the efficient, safe use of our Nation's highways.

Clearly, Ray Barnhart has been an effective Administrator. A key to his effectiveness has been his approach to his job. He has viewed Congress and its Members as a body, and as people to work with, not to outright oppose. He knows that there will be disagreements. But with Ray, they have been honest disagreements. He is certainly not nonpartisan, but he adds to the definition of partisan politics. He personifies the qualities that make partisan politics an honorable profession. In doing so he has contributed greatly not only to our Nation's highways, but to our notion of how government in Washington can, and should operate.

Mr. Speaker, I urge support for H.R. 3734.

Mr. HOWARD. Mr. Speaker, the House will consider a measure today to commend a very dedicated public servant for his tremendous effort to improve the Nation's transportation system. Ray A. Barnhart has served as the Federal Highway Administrator for the last 7 years, the longest term served in the history of the Federal Highway Department. Within a few weeks, Ray will be stepping down from his post as the Federal Highway Administrator. Ray will long be remembered for his dedication to improve the Nation's transportation system.

During his tenure, Ray has displayed strong leadership and integrity in the administration of the Federal-Aid Highway Program. With his leadership and support, the Congress enacted the Surface Transportation Assistance Act of 1982. This legislation provided for a 5-cent increase in the Federal excise taxes on motor fuels to support higher funding levels for the Federal-Aid Highway Program.

Ray Barnhart has been a staunch supporter of the integrity of the highway trust fund and the "user fee" principle. He has lead the efforts to eliminate gasoline and diesel fuel tax evasions.

In essence, Ray A. Barnhart has done a commendable job at the helm of the Federal Highway Administration and the Nation has benefited by his leadership. Mr. Speaker, I wish Ray Barnhart success in his future endeavors. I urge my colleagues to support this measure.

Mr. NOWAK. Mr. Speaker, on December 31, Ray A. Barnhart will retire as Administrator of the Federal Highway Administration. He has served in that important position for 7 years, longer than any other person in the history of the Department of Transportation.

As a member of the House Committee on Public Works and Transportation, I have first-hand knowledge of Mr. Barnhart's awareness of the importance of our transportation infrastructure to our national economic well-being and of his commitment to the integrity of our highway system.

It was a pleasure, therefore, to join my colleagues in cosponsoring H.R. 3734, which acknowledges the contributions he made during his Federal service and expresses gratitude to Ray Barnhart "for his honest, effective, and meaningful efforts to preserve and improve" our Federal-Aid Highway System—"one of the Nation's most vital assets, an asset that contributes mightily to the economic welfare of the Nation and the lifestyle of the American people."

As we applaud Ray Barnhart's contributions, we also would like to join in wishing him good luck and continued success in his future endeavors.

Mr. COUGHLIN. Mr. Speaker, I want to take this opportunity to thank our departing Federal Highway Administrator, Ray A. Barnhart, for his fine management and dedicated service over the last 7 years.

As the ranking minority member for the House Appropriations Committee on Transportation, I have worked with Ray Barnhart since his appointment as Administrator of the Federal Highway Administration in January 1981 and can attest to his abilities as a fiscal manager.

He has been an ardent defender of the highway trust fund, ensuring its fiscal solvency to meet our Nation's surface transportation needs.

He has remained committed to providing the necessary resources to meet America's highway needs. Ray Barnhart has been at the center of our efforts to eliminate gasoline tax evasion which was costing highway users about $1 billion a year in lost revenues. Thanks to Ray's efforts, Congress passed the Tax Reform Act of 1986 which reduced tax fraud opportunities by putting the tax collecting burden at the refinery level, rather than at the distributor level.

Not content to sit on his laurels, Ray Barnhart is continuing his policy of fiscal responsibility, this time in an effort to eliminate tax evasion on diesel fuel. Evasion of diesel fuel taxes is estimated to cost the highway trust fund between $680 million and $1.16 billion a year.

Clearly, Ray Barnhart has been an articulate spokesman for the administration's budget policies, consistently crafting budgets in keeping with the administration's ideas and guidelines. Ray has also worked hard to pursue the goals the administration holds most dear, particularly those which would give more control and responsibility to the State and local levels, streamlining administrative procedures wherever possible and prudent, and striving to cut out the fat in government programs.

Ray Barnhart has shown superb skill and ethical judgment in his handling of a $14 billion annual budget, providing good, solid proposals administered with sound fiscal policies to support them.

Given all that Ray Barnhart has done as the Administrator of the Federal Highway Administration, he deserves America's heartfelt thanks and appreciation.

Mr. HAMMERSCHMIDT. Mr. Speaker, further reserving the right to object, I am pleased to rise in strong support of the resolution honoring Ray A. Barnhart, our 10th Administrator of the Federal Highway Administration.

The temptation is great for me to say that they don't make them like Ray Barnhart anymore. But I hope that is not the case, because we need more Ray Barnharts in Government.

Closing out a tremendously productive 7 years as Federal Highway Administrator, Ray holds the record. That says something about the kind of job he has done and what he has meant to the Nation's Highway Program.

Ray has been one of the most visible members of this administration, and one of the most accessible. He has appeared before our committee on many occasions and met individually with Members countless times. In public and in private, he has always been up front, straightforward, and helpful.

When he first came here in 1981, he had already fashioned a distinguished career as a member of the Texas Highway Commission, chairman of the Texas Republican Party, a member of the Texas Legislature, and mayor of Pasadena, TX.

When he did make the move to Washington, he was at the right place at the right time. At a period when this Nation's highways were deteriorating badly, Ray Barnhart quickly put his great leadership and administrative expertise to work. He helped bring about the enactment of the 1982 Surface Transportation Assistance Act, which provided the first gas tax revenue increase in two decades.

Not only did he play an important role in getting the gas tax approved, he worked tirelessly and effectively to make sure it was collected. His success against organized crime in the highway construction business and in changing the collection procedures for the diesel fuel tax will save the highway trust fund hundreds of millions of dollars.

Ray Barnhart leaves with 97½ percent of the Interstate System open to traffic. He also leaves his successor with the largest Highway Program ever and with the smallest labor force in about 30 years.

The Nation will miss the commonsense leadership of Administrator Ray Barnhart, and I especially will miss my personal association with him. I wish him and his fine family the very best in the months and years ahead.

Mr. Speaker, further reserving the right to object, I yield to the gentleman from Virginia [Mr. PARRIS].

Mr. PARRIS. Mr. Speaker, I appreciate the gentleman from Arkansas yielding to me.

I rise to honor a truly outstanding public servant, Ray A. Barnhart.

Mr. HAMMERSCHMIDT. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the bill, as follows:

H.R. 3734

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS.

The Congress finds that—

(1) the funding of the Federal-Aid Highway System has resulted in the development of the greatest system of highways in the world;

(2) such System has enhanced the social and economic well-being of the people of the United States;

(3) administration of such System has become one of the most significant responsibilities;

(4) Ray A. Barnhart who is retiring as Federal Highway Administrator on December 31, 1987, has served as administrator of such System longer than any other person in the history of the Department of Transportation;

(5) Ray A. Barnhart was in the forefront of the coalition which strived successfully to increase the Nation's highway user fees so that our Nation's transportation system could be improved without increasing the Nation's deficit;

(6) Ray A. Barnhart has labored to make certain that highway user fees are utilized only for transportation purposes thus preserving the sanctity of the Highway Trust Fund;

(7) Ray A. Barnhart has persevered in his leadership of the fight against gasoline and diesel fuel tax evasion;

(8) Ray A. Barnhart has worked vigorously to improve safety on our Nation's roads;

(9) Ray A. Barnhart's efforts on behalf of highway safety have included the reorganization of the Federal Highway Administration to upgrade its emphasis on truck and bus safety through the establishment of an Associate Administrator for Motor Carriers:

(10) Ray A. Barnhart has endeavored to preserve, continue, and enhance the high level of professional expertise that has been a hallmark of the Federal Highway Administration;

(11) Ray A. Barnhart is leaving Federal service with the same open door policy and management style that he brought to Washington nearly 7 years ago;

(12) Ray A. Barnhart has demonstrated unfailing professional and personal integrity; and

(13) Ray A. Barnhart has on most occasions been an outstanding ally and when necessary a worthy adversary but always a spokesman for what he believed best for our Nation's highway system.

SEC. 2. RECOGNITION AND EXPRESSION OF GRATITUDE.

In recognition of the importance of the Federal-Aid Highway System and the administration of such System, the United States Government hereby expresses its gratitude to Ray A. Barnhart for his honest, effective, and meaningful efforts to preserve and improve such System—one of the Nation's most vital assets, an asset that contributes mightly to the economic welfare of the Nation and the lifestyle of the American people.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ANDERSON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

PROVIDING FOR CONSIDERATION OF H.R. 1720, FAMILY WELFARE REFORM ACT OF 1987

Mr. FROST. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 331 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 331

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 1720) to replace the existing AFDC program with a new Family Support Program which emphasizes work, child support, and need-based family support supplements, to amend title IV of the Social Security Act to encourage and assist needy children and parents under the new program to obtain the education, training, and employment needed to avoid long-term welfare dependence, and to make other necessary improvements to assure that the new program will be more effective in achieving its objectives, and the first reading of the bill shall be dispensed with. All points of order against the consideration of the bill are hereby waived. After general debate, which shall be confined to the bill and which shall not exceed four hours, with two hours to be equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means, with one hour to be equally divided and controlled by the chairman and ranking minority member of the Committee on Education and Labor, and with one hour to be equally divided and controlled by the chairman and ranking minority member of the Committee on Agriculture, the bill shall be considered for amendment under the five-minute rule. In lieu of the amendments now printed in the bill, it shall be in order to consider an amendment in the nature of a substitute consisting of the text of the bill H.R. 3644 as an original bill for the purpose of amendment under the five-minute rule, said substitute shall be considered as having been read, and all points of order against said substitute are hereby waived. No amendment to said substitute, or to the bill, shall be in order in the House or in the Committee of the Whole except: (1) the amendments en bloc printed in the report of the Committee on Rules accompanying this resolution, by and if offered by Representative Andrews of Texas, and (2) a substitute for the amendment in the nature of a substitute made in order by this resolution, consisting of the amendment printed in the report of the Committee on Rules accompanying H. Res. 310 (H. Report 100-448), by and if offered by Representative Michel of Illinois. Each of said amendments to the amendment in the nature of a substitute made in order as original text shall be considered as having been read, shall be debatable for not to exceed one hour, equally divided and controlled by the proponent and a Member opposed thereto, shall not be subject to amendment or to a demand for a division of the question in the House or in the Committee of the Whole, and all points of order against the amendments are hereby waived. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the amendment in the nature of a substitute made in order as original text by this resolution. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

SEC. 2. Upon the adoption of this resolution, H. Res. 310 shall be considered as having been laid on the table.

The SPEAKER pro tempore (Mr. GLICKMAN). The gentleman from Texas [Mr. FROST] is recognized for 1 hour.

Mr. FROST. Mr. Speaker, for purposes of debate only, I yield 30 minutes to the gentleman from Tennessee [Mr. QUILLEN], pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 331 is a modified closed rule providing for the consideration of H.R. 1720, the Family Welfare Reform Act of 1987. The rule waives all points of order against consideration of the bill.

Mr. Speaker, I should like to take a few moments to explain to my colleagues how the House has come to this point in the consideration of welfare reform legislation. As introduced, H.R. 1720 was referred to the Committee on Ways and Means. Title I of the bill was also referred to the Committee on Education and Labor and title IV was referred to the Committee on Energy and Commerce. In addition, the Committee on Agriculture was referred H.R. 3337, the Food Stamp Family Welfare Reform Act of 1987.

A compromise of the provisions of title I as reported from the Committees on Ways and Means and Education and Labor, the provisions reported from the Committee on Energy and Commerce and the provisions of H.R. 3337, as reported from the Committee on Agriculture, were included as items to be considered by the House in House Resolution 296, the rule providing for the consideration of H.R. 3545, the reconciliation bill for fiscal year 1988. That rule was defeated and the title I compromise and the food stamp provisions were subsequently removed from House Resolution 298, the second rule reported by the Committee on Rules providing for the consideration of reconciliation legislation.

On November 17, the Committee on Rules reported a modified closed rule, House Resolution 310, providing for the consideration of H.R. 1720. That rule provided for the consideration of an amendment in the nature of a substitute, H.R. 3644, and one substitute amendment to be offered by the distinguished minority leader. On December 8, the Committee on Rules met again to report another rule providing for the consideration of H.R. 1720, and it is that rule which is under consideration today. House Resolution 331 is virtually identical to House Resolution 310 except that it provides for the consideration of an additional amendment to the amendment in the nature of a substitute made in order in the rule. The amendment, to be offered by the gentleman from Texas [Mr. ANDREWS] reflects suggestions made by many Members to both improve the bill and reduce its costs. The Andrews amendment consists of three provisions which in combination reduce the cost of the bill, over 5 years, by $500 million, or 10 percent. The provisions mandate immediate wage withholding for payment of child support obligations, target and expand the day care transition, and sunset the enhanced Federal AFDC benefit match.

As reported by the Committee on Rules, House Resolution 331 provides that in lieu of H.R. 1720, the text of H.R. 3644 shall be considered as an original bill for the purpose of amendment under the 5-minute rule. H.R. 3644 is an amendment in the nature of a substitute for H.R. 1720 and consists of the Ways and Means and Education and Labor Committees compromise, debt collection provisions originally included in reconciliation, an amendment developed by the chairman of the Welfare Subcommittee of the Committee on Ways and Means to further offset the costs of the programs in H.R. 3644, as well as the provisions of the Food Stamp Family Welfare Reform Act as reported by the Committee on Agriculture.

Consequently, Mr. Speaker, during general debate on H.R. 1720, the rule provides for 4 hours of general debate to be divided in the following manner: 2 hours to be equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means; 1 hour to be equally divided and controlled by the chairman and ranking minority member of the Committee on Education and Labor; and 1 hour to be equally divided and controlled by the chairman and ranking minority member of the Committee on Agriculture.

The rule further provides that the amendment in the nature of a substitute, H.R. 3644, shall be considered as having been read and that all points of order against the substitute are waived. Under the provisions of House Resolution 331, no amendments to the substitute are in order in the House or in the Committee of the Whole except: First, the amendments en bloc printed in the report of the Committee on Rules accompanying this resolution, by and if offered by Mr. ANDREWS of Texas; and second, a substitute for H.R. 3644, consisting of the amendment printed in the report accompanying House Resolution 310, by and if offered by the distinguished minority leader, Mr. MICHEL of Illinois. The rule specifies that both of these amendments shall be considered as having been read; shall be debatable for not to exceed 1 hour, equally divided and controlled by the proponent and a Member opposed thereto; shall not be subject to amendment or to a demand for a division of the question in the House or in the Committee of the Whole; and all points of order against the amendments are waived.

The rule provides that at the conclusion of the consideration of the bill for amendment, the committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the amendment in the nature of a substitute made in order as original text by House Resolution 331. Finally, the rule provides that the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

Mr. Speaker, H.R. 1720 is landmark legislation which seeks to profoundly and fundamentally change the welfare system in the United States. The bill creates opportunities for recipients of Aid to Families with Dependent Children to further their education and job training and to ultimately remove themselves from the welfare rolls and gain self-sufficiency through meaningful employment. The bill creates a new work, education, and training program for AFDC recipients, assists those families in making the transition from welfare to work by subsidizing day care expenses for those who go to work, school, or training, and provides modest financial incentives to those families who do go to work in order that they will be better off than those who do not.

Mr. Speaker, House Resolution 331 is a good rule which will allow the House to make an informed decision regarding which direction the welfare system will proceed in the United States. The rule provides ample opportunity for the issues embodied in welfare reform to be fully debated. The rule offers the House the opportunity to reduce the costs of the substitute developed by the relevant committees by 10 percent. And the rule offers the House the opportunity to make a choice between two fundamentally different proposals to reform the welfare system in this country. The Committee on Rules has heard from a great many Members of this body on this subject; the rule recommended by the committee and under consideration today reflects the ideas of a number of our colleagues.

Mr. Speaker, the Committee on Rules strongly recommends House Resolution 310 to the House and I urge its adoption so that the House may fully debate this issue and vote on H.R. 1720 prior to the adjournment of the 1st session of the 100th Congress.

□ 1540

Mr. QUILLEN. Mr. Speaker, I yield myself such time as I may use.

Mr. STANGELAND. Mr. Speaker, will the gentleman yield?

Mr. QUILLEN. I yield to the gentleman from Minnesota.

Mr. STANGELAND. Mr. Speaker, I rise in strong opposition to the rule, and I urge my colleagues to vote no on the rule.

Mr. Speaker; I rise in strong opposition to this rule.

Three weeks ago I went before the Rules Committee and testified that the House should adopt a rule that allows consideration of many welfare reform proposals. Through this type of open rule I would be able to offer my welfare reform plan to establish a national workforce program for able-bodied AFDC recipients.

Unfortunately, like all my colleagues, with the exception of the Republican leader, Mr. Michel, my request was summarily rejected.

Mr. Speaker, welfare reform is certainly a complex and controversial issue. However, the sentiment of the American people is clear on at least two points. First, they feel government spends too many of their tax dollars on welfare; and second, Americans believe incentives are needed to assist those on the welfare roles to become self-sufficient. These statements are backed up by a national poll which demonstrates over 94 percent of Americans believe it is fair and responsible to require able-bodied welfare recipients to provide some community service work in exchange for their welfare benefits. In other words, the people in this country want workfare, not more welfare.

Because of this, Mr. Speaker, I introduced workfare legislation early in this Congress. My proposal enjoys great support as it has been cosponsored by 73 Members of the House—this is 6 more Members than have cosponsored H.R. 1720, the welfare bill considered under this unfair rule.

Under my program every able-bodied AFDC recipient would be required to work a public service oriented or not-for-profit job in return for his or her AFDC benefits. Certain individuals would be exempt from participation—for instance those who care for small children, the disabled, those under age 18 or over age 65, and people who work 40 or more hours per week. However, most all others would provide some community service in exchange for their benefits.

In 1981 Congress granted the States the opportunity to experiment with workfare programs. Pilot programs are currently operating in 38 States. Studies show that many people drop off the welfare rolls when faced with having to work for their benefits. In some areas, as many as 40 percent of those applying for welfare benefits dropped off the rolls. This represents significant potential savings.

But, maybe we should give the majority the benefit of the doubt. Perhaps H.R. 1720 isn't such a bad bill. After all, given the will of the people, the Democratic leadership would undoubtedly draft a bill that requires work for welfare. Or, at the very least, we must assume their bill would hold the line on welfare benefits and encourage recipients to become independent of government. Well, guess again. Not only does their bill prohibit workfare, but it breeds dependence by increasing benefits. And, believe it or not, H.R. 1720 costs the hardworking taxpayers an extra $6 billion.

Mr. Speaker, Americans demand workfare because it offers welfare recipients a meaningful and rewarding work experience to those who truly want to help themselves. Unlike the current welfare system which mandates guarantees and government dependence, my workfare proposal provides incentive, opportunity and a return to the work ethic.

I have worked far too hard to sit by and watch our chance to truly reform the welfare system go down the drain. Yet, that's what will happen if the House adopts this rule. So, if you support work for welfare as an alternative to the current welfare mess, I urge you to vote against the rule.

Mr. QUILLEN. Mr. Speaker, for good substantive and procedural reasons this gag rule for the welfare bill should be rejected.

Most Members view our welfare system as having seriously gone astray and support genuine reform. Reform, however, is something quite different than free-spending add-ons that, according to the Congressional Budget Office, will cost $6.5 billion over the first 5 years. Is this the message the Congress wants to send to the international financial markets 2 months after the stock market crash? I say, "No."

The second reason to vote against this gag rule is procedural. This gag rule is an insult to virtually every Member of the House because it prevents us from offering amendments to an expensive bill making major policy changes in our welfare system. This is outrageous, and must not be allowed to stand.

Seventeen Members testified before the Rules Committee when this bill first was taken up in mid-November. Nine Democrats and eight Republicans. I sat through the entire hearing and listened carefully to what they all had to say. All the Members of the House deserve such an opportunity here on the floor when this bill is brought up because a large number of thoughtful and hard-working colleagues have done their homework and many of them have reasonable amendments they want to offer to this bill. But under this gag rule they won't be allowed to offer their amendments and none of us will be able to listen to their arguments and then vote the amendments up or down.

This is disgraceful. This is contemptible. Some Members on the other side of the aisle may think I am making a partisan pitch here for Republican amendments that are shut out. I am, but I am also making a pitch for a good number of Democratic amendments, too.

Yes, there are some excellent amendments written by Republican Members which were presented to the Rules Committee. Mr. Brown, Mr. Petri, Mrs. Roukema, Mr. Lungren, Mr. Stangeland, Mrs. Johnson, Mr. Rowland, and Mr. Bartlett all asked to be permitted to offer amendments. And, yes, I think they have a right to be heard. But, I also think we should have a chance to judge the merits of Democratic amendments written by Mr. Bates, Mr. Staggers, Mr. Kanjorski, and a comprehensive substitute drafted by many Members under the leadership of Mr. Carper, Mr. Stenholm, and Mr. Penny.

This gag rule even shuts out the distinguished chairman of the Committee on Education and Labor, Mr. Hawkins, whose testimomy before the Rules Committee was, and I quote,

> I continue to have substantial concerns about the adequacy of the pending legislation, especially the child care provisions * * *

At the second Rules Committee meeting where a second rule was granted on this bill last week, Mr. Andrews of Texas was given the right to offer his amendment. I think the Andrews amendment should be allowed but so should the others.

We must have an open rule, Mr. Speaker. This gag rule should be fired right back upstairs to the Rules Committee with a demand from the Members that the committee give us an open rule or no rule at all.

Let's vote down this contemptible rule which prevents us from having any influence on a bill making major policy changes to our welfare system. This is not a partisan vote. It's a vote related directly to our jobs as representatives of the people who elected us.

Don't let the Rules Committee ram this stinker through. Vote "no" and stand up for your rights as Members of the House.

Mr. FROST. Mr. Speaker, for purposes of debate only, I yield 5 minutes to the gentleman from New York [Mr. Downey].

Mr. DOWNEY of New York. Mr. Speaker, we are here today because the current welfare system is broken and is in desparate need of repair. The problems that confront our Nation are manifold, and they are especially acute with the America's children.

Over the last 15 years we have done an excellent job in reducing the number of elderly poor in our country, but we have not—and I repeat, not—done a very good job with our children. One out of every five of America's children lives in poverty. One out of every two black children and more than one of every three Hispanic children grow up basically without hope, living a life without opportunity.

We have worked on this bill because on January 27 the President of the United States recognized, as we all have, that the time has come to reform the Nation's welfare system. We have worked with the Governors, and we have worked with welfare agencies. Democrats and Republicans have over the 15 years been subject to study upon study about what works and what does not work with respect to the welfare system, and from that fund of knowledge we have written this bill.

This bill was written by my esteemed colleague, the gentleman from Tennessee [Mr. Ford], and I want to pay him a special tribute at this time. This is his handiwork and the staff's handiwork, and it is to be commended. It is an excellent piece of legislation.

We are here today also because we have achieved a level of consensus in this country. Democrats have learned over the last 15 years that there is great dignity in work. We always believed it, but we did not believe it as fervently as we do today. And the last 7 years have taught our Republican friends something about the Nation's economy. While it is absolutely true that in order to share wealth, one must create it, and that the best possible welfare bill is a strong economy, we know that even a strong economy leaves too many people out in the cold. We have too many poor people, and the way we bring them out of poverty, the way we can reduce child poverty is to make their parents more responsible.

Today, who are the poor? Increasingly in America today the poor person is a single woman with two children. She gets on the welfare rolls predominantly because of divorce. Historically she has had close attachment to the work force. But there is one group that consumes almost half of the welfare resources, some 16 to 17 percent, who are on welfare for more than a decade.

Our bill seeks to make parents responsible in a number of different ways. First of all, in the child support enforcement area it says that we want parents to be responsible for their offspring, and we go to great lengths to make the States more responsible in determining the child's parents. There is bipartisan support about the child support enforcement amendments.

We also say to the mother of those two children. "We want you to work. It is good for you, and it is good for your children." And we as an understanding society recognize that there should be a contractual relationship between the client and the State, and that there are mutual obligations flowing in both directions. That is what our Network Program is all about. It says to that woman with children, "We will help educate and train you, but you must participate in the program, and as a result of participation we will extend better health care coverage and better child support coverage, and as you work, we will make sure that the additional dollar that you earn is a dollar you keep."

We in H.R. 1720 reduce the barriers to employment in the welfare system. We in H.R. 1720 are mindful of the fiscal realities that we face today. We could not bring a bill to the floor that would increase the deficit. I understand that. We need to send our message to Wall Street about fiscal responsibility, and this bill does that.

□ 1450

In this bill we provide the mechanism to pay for every single aspect of the welfare bill. We do not increase the deficit with this bill. But we do increase the opportunity for people.

We have been inclusive in the process. Over 146 Members of Congress have participated in one forum or another in the drafting of this bill.

Mr. Speaker, I urge my colleagues to support the rule and give a new generation of Americans a better chance.

Mr. QUILLEN. Mr. Speaker, I yield 3 minutes to the gentleman from Colorado [Mr. Brown].

Mr. KOLBE. Mr. Speaker, will the gentleman yield?

Mr. BROWN of Colorado. I yield to the gentleman from Arizona.

Mr. KOLBE. Mr. Speaker, I rise in strong opposition to this rule. We are about to debate one of the most important legislative initiatives in the 100th Congress, the overhaul of the welfare system, and we are going to be very limited in the options that can be considered. We are not being afforded the opportunity to consider two proposals that are receiving a great deal of praise from experts and the news media alike.

I am referring to two excellent substitute proposals that will not be in order if this rule passes. Congressman Carper has produced a welfare reform package that takes some of the best parts of both H.R. 1720 and the Republican substitute, a proposal that can garner genuine bipartisan support. Its cost is almost half of the cost of H.R. 1720, it promotes self-sufficiency by encouraging people to get training and employment, and it allows for modest State demonstration authority.

The other initiative that will remain on-the-shelf is Mr. Gradison's proposal, otherwise known as the highly touted Moynihan proposal. The basis of this proposal is to concentrate Federal efforts on putting people back to work. It deserves to be debated and voted on.

I urge my colleagues to reject this rule. We should tell the Rules Committee we want more options: All possible amendments should be made in order. Barring that, at the very least it should make both the Carper and Gradison amendments in order. To restrict ourselves from considering the welfare proposals that are garnering the most support just doesn't make sense.

Mr. BROWN of Colorado. Mr. Speaker, the vote before the House will be a vote on whether or not to have a gag order on welfare reform. For the Members to decide how to cast their votes, I think there are some major considerations.

Why should we shut off debate, and consideration of amendments, on one of the most important pieces of legislation that faces our Nation?

Some would say that the area is so simple that you do not need to consider options, but the fact is this bill is 196 pages long and no one seriously claims it is simple.

Some have said that you should not consider options because there are no meaningful options. Those who said that have not looked at the options that have been brought forward from the Rules Committee.

Both Democrats and Republicans, including liberals and conservatives, have crafted options that can improve the bill. Yet this rule says, "Gag the Congress, don't consider the options."

Is it because we think the current bill is perfect?

Mr. Speaker, nothing could be further from the truth.

Mr. Speaker, you do not have to look any further than the rhetoric from the sponsors of the bill themselves.

Let me give an example. They claim the bill is prowork, and yet it has five major disincentives for work. It is not prowork. It is the opposite.

One of the restrictions, believe it or not, makes it illegal to refer people to jobs if you cannot prove they pay more than the combined welfare benefits. They say this bill will assist the States. The Congressional Budget Office says it costs the States $980 million, the exact opposite of what the sponsors say.

They say it will help in child care, and yet 58 percent of child care is done through family members, and this requires State licensing and restrictions on family child care.

The simple fact is, Mr. Speaker, this bill is fraught with problems. We have an opportunity to straighten this legislation out. Let us make sense out of welfare reform. Let us put down this gag order and straighten the bill out.

Mr. QUILLEN. Mr. Speaker, I yield 2 minutes to the gentleman from Texas [Mr. STENHOLM].

Mr. STENHOLM. Mr. Speaker, I rise in opposition to this modified closed rule. I do so because I believe in the democratic process, the open marketplace of ideas, the ability of this entire body to grasp complex issues, and in abiding by the honest, noncoerced will of the majority.

In general, closed rules say that as a body we do not truly believe in those things. In most cases, closed rules say that we as individual Members are willing to allow a small portion of the whole decide what information we need to consider, what complexities our minds are able to master, and from what alternatives we should choose. Furthermore, many times closed rules indicate either an arrogance on the part of the proponents of a bill or an insecurity about the bill's merits and abilities to stand up against competing ideas.

We have before us two versions of welfare reform, H.R. 1720 and the Republican substitute, H.R. 3200. Many of us are unhappy with the options before us and TOM CARPER has developed a thoughful, reasonable alternative. Although its cost is considerably less than that of H.R. 1720, it does a great deal to bring about significant welfare reform. But in spite of his exhaustive efforts, we do not have the opportunity for that vote today under the given rule.

Don't be fooled into believing that you are being offered a true compromise in the one amendment to H.R. 1720 which is being allowed. Cutting $500 million from a $6.2 billion new spending bill is not a compromise. This is a major spending bill, and at a time when we're finally starting to face the hard truths about our budget deficit, we cannot afford this sort of new spending for any reason.

There are two issues at hand here: The appropriateness of closed rules in a democratic body, and the options available to you on the substance of welfare reform. On both counts, you have every reason to vote against the rule and I strongly urge you to do so.

Mr. FROST. Mr. Speaker, for purposes of debate only, I yield 1 minute to the gentleman from Arkansas [Mr. ROBINSON].

Mr. ROBINSON. Mr. Speaker, I rise in support of the rule today.

In my opinion, we cannot afford not to vote for this rule for the sake of the poor children and poor families in our society today. Today right in the United States of America, this time of Christmas, we have one in five children living in poverty. Two of every five black children today live in poverty, and one of two Hispanic children are poor.

I think this is a good rule. I am for H.R. 1720. The rule gives a couple other options. For those who want to go home and say they are fiscal conservatives, and I am, they can vote for the Andrews amendment, which I will vote for; and for those on my left, some of my friends who simply do not want welfare reform, they can vote for the Republican substitute.

For the first time in the history of this legislative body, we have an opportunity to offer a helping hand instead of a handout.

I urge you to vote for the rule and for H.R. 1720.

Mr. FROST. Mr. Speaker, for purposes of debate only, I yield 2 minutes to the gentleman from Illinois [Mr. ROSTENKOWSKI], the chairman of the Committee on Ways and Means.

Mr. ROSTENKOWSKI. Mr. Speaker, I rise in support of the rule. H.R. 1720 has had a lot of false starts before coming to the House floor today. First, we removed the welfare provisions from the reconciliation bill. Second, we were asked to wait until the economic summit concluded. The sponsors of the bill have been patient. But now is the time to proceed.

Many Members of the House have participated in the development of the bill:

When it was introduced, H.R. 1720 was referred to three committees of Congress—Ways and Means, Education and Labor, and Energy and Commerce. Each of these committees participated fully in the development of the bill. In addition, the Agriculture Committee has added food stamp provisions to the bill. Also, 146 Members of Congress—one-third of the House—serve on these four committees.

During the past 2 years, six House committees held 38 days of hearings. The subject was welfare reform. More than 450 witnesses, including experts, State and local government officials, and 54 Members of Congress testified during these hearings. The Ways and Means members alone sat through 21 days of hearings and heard from 213 witnesses.

Once H.R. 1720 was introduced, it took 9 months for us to reach agreement on the bill before us today. During that time, the committees consulted with Governors, welfare directors, and all those known to have an interest in welfare reform. This is not a bill that was written in the middle of the night.

I am especially troubled that the Members who have been most vociferous in their objection to a closed rule on this bill did not choose to participate in the welfare reform debate until the week before it was scheduled for floor action. To consider a substitute, developed at the last minute, would be dangerous. We can't be sure that it does what its sponsors claim it would do. And more importantly, it would say "thanks but no thanks, we don't need your help" to the four committees of the House that worked on this bill. That would be a serious mistake.

Let me close by reminding you that we will not be judged by what kind of rule the bill had, or who did and didn't participate in developing the legislation. What is important, however, is this: 7 million American children rely on the AFDC Program to put food on their plates, a roof over their heads, and clothes on their backs. Today, the future for these children is bleak. However, if we pass this rule, and later today or tomorrow pass the bill, we will provide hope for those children and incentives that may someday reduce their welfare dependency.

I urge my colleagues to support the rule and support the bill.

Mr. QUILLEN. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. LUNGREN].

Mr. LUNGREN. Mr. Speaker, last month, in a fit of irony, the House Rules Committee approved terms of debate for the Family Welfare Reform Act which excludes discussion of a major reform that could permit many Americans to escape from the underclass.

In "A Community of Self-Reliance," the American Enterprise Institute's Working Seminar on Family and Welfare Policy stressed the significance of behavioral dependency and called for mandatory workfare legislation. Work requirements, the seminar observed, communicate to the impoverished that we as a society believe they can work and can make a positive contribution to American life.

Regrettably, the Public Assistance Subcommittee chose to ignore the advice of the American Enterprise Institute and the Hudson Institute, which also called for mandatory work requirements. Informally dubbed Network, the subcommittee's bill might better be called No-Work. It does not require a single welfare recipient to work. And it does not require a single welfare recipient to look for a job.

Even worse, the Rules Committee brings before us legislation that lacks any mechanism for targeting—the direction of aid recipients to the type of activity that best reflects their abilities, experience and aspirations. During the 99th Congress, I chaired a Joint Economic Committee hearing on welfare versus workfare. In the course of the meeting, we heard expert testimony from Mr. David Swoap, formerly Deputy Secretary of Health and Human Services and a top expert on welfare policy. Speaking of the development of California's revolutionary GAIN Program, Mr. Swoap remarked: "What we learned through State and local experiments in the 1980's is that in order to achieve cost-effective job placement the sequence of activities is as important as the activities themselves so that we can target dollars efficiently to those individuals who need them."

Apparently, Mr. Swoap's advice fell on deaf ears in the meeting of the Rules Committee. I crafted amendments which would have installed a mandatory job search provision in the Family Welfare Reform Act and in the Republican alternative. Such a provision would sort out those recipients in need of long-term work, training and education programs from those ready to enter the workplace. In the San Diego workfare experiments of the early 1980's more than 46 percent of participants in job search workshops found jobs and thus saved significant taxpayer investments in unnecessary training expenditures. Regrettably, the Rules Committee decided to prohibit discussion of my amendments. As a result, the House could approve a Ways and Means bill that spends billions on programs which may or may not suit the needs of aid recipients.

Mr. Speaker, America declared a war on poverty 22 years ago. Isn't it time we begin to fight that war with effective weapons? I urge my colleagues to vote "no" on the rule.

Mr. QUILLEN. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio [Mr. GRADISON].

□ 1505

Mr. GRADISON. Mr. Speaker, as you know, a consensus on the underlying need to reform our Nation's welfare system has been a long time coming. Now, after years of study and debate, all sides have come to the conclusion that our existing welfare system simply does not work and the hour has come to craft a new system better suited to assist welfare recipients off the welfare rolls and into permanent jobs. Unfortunately, however, the long-sought gains made toward this consensus are at risk. If the debate on welfare reform is allowed to go to the House floor under the proposed restrictive rule, we will have lost a great opportunity.

More is at stake in bringing welfare reform to the floor under these circumstances than just the great amount of time and effort that have gone into striving for consensus and developing possible solutions. Advancing the welfare reform proposal currently under consideration without adequate debate, discussion, and opportunity for compromise is very shortsighted. Limiting debate will ultimately impact not only on the Nation's welfare recipients, but also on the budget deficit, as well as our international fiscal reputation, such as it is.

Given the events of recent weeks, this is an unwise time to bring such an expensive proposal to the House floor. The House has just passed a bloated continuing resolution. Taking up another huge spending bill even before the final version of the continuing resolution is written and signed into law does an excellent job of telling the world where our fiscal priorities are; the message is that it's business as usual in Washington, and that we can't be trusted to stick by the summit agreement. Where I come from, such a move is not only beyond the definition of good financial sense, but is foolish politics as well. It would clearly violate the pact entered into by the President and congressional leaders in the budget summit.

The substance of the reported welfare reform bill is wrong, too. There remain some definite differences among the various proposals advanced. With proper consideration, these differences could provide constructive guidelines and help us design and improve the current welfare reform proposals. Under a more open rule, floor debate and discussion could iron out these differences and result in a better piece of legislation.

The most obvious problem with the reported bill is its cost. Ironically, while the majority leadership says it is giving top priority to reducing the Federal budget deficit, that same leadership is simultaneously and unashamedly trying to call up for House consideration the most costly welfare reform option around. What is the outside world to believe? Is it any wonder more and more people outside the beltway view our meager deficit-cutting efforts as laughable?

We have no less than three opportunities before us. First, we have an opportunity to demonstrate our dedication to reducing the deficit. Second, without a more open rule, an important opportunity to develop quality welfare legislation will be compromised. And finally, the chances of proceeding with a practical proposal to assist welfare recipients move away from dependency will be lost.

Bringing welfare reform to the House floor under so restrictive a rule is wrong. I urge defeat of this rule.

Mr. QUILLEN. Mr. Speaker, I yield 3 minutes to the gentlewoman from Connecticut (Mrs. JOHNSON).

Mrs. JOHNSON of Connecticut. Mr. Speaker, I rise in strong opposition to the rule.

Three weeks ago I went before the Rules Committee and was denied the right to offer three reasonable amendments to H.R. 1720. One would have extended child care benefits to give single mothers a fighting chance to stay off welfare once they have made it into the work force. Another would have profoundly reformed our welfare system so that young men would get the message that fathering is as important as mothering. My third amendment would have remade welfare into a preventive program, so that young mothers are not isolated and unchallenged 3 or 6 or more years, making independence more difficult to attain.

The Rules Committee denied me the right to be heard.

Two weeks ago a bipartisan coalition which included Representatives CARPER, BROWN, STENHOLM, BARTLETT, SPRATT, myself, and others, developed and introduced H.R. 3692, a welfare reform proposal that combines the best of H.R. 1720 and H.R. 3200 in legislation that we believe a majority of Members of the House of Representatives can support.

Apparently, the House leadership and the Rules Committee Democrats agree with us, because they have repeatedly refused the full House of Representatives the opportunity to debate our bill on the floor.

The Carper-Johnson bill is a pragmatic approach that will provide welfare families with the means to escape dependence. It realistically makes education, training, and job-search assistance an entitlement, and provides the necessary day care and medical benefits that make the transition from welfare dependence to working independence possible.

It rewards States for doing a good job by enhancing the Federal funding match from a 50-percent match to a 65-percent match for States that meet Federal goals.

And these goals are realistic. They would result in half of the caseload participating in education, work or training after 10 years. Opponents of the bill have made much of this limited participation requirement, but it is not unreasonable to ask the States to give us some assurance that the investment we are making today will make a difference for women and children tomorrow.

The Carper-Johnson bill is real reform because it promotes early intervention. It would allow States to require enrollment in an education or skills training program or other work when a welfare mother's youngest child is 6 months old if—and only if—day care and transportation are available. At a time when almost one-half of the work force is female, when fully one-fourth of working women are mothers of children under 3, and when the typical working woman must return to her job just 6 or 8 weeks after the birth of a child, we cannot create a double standard that discourages welfare-dependent women from taking responsibility for their families.

Finally, and as importantly, the Carper-Johnson bill provides health care and daycare support for a year, or more at State option. Our coalition was not afraid to tackle the toughest issue in welfare reform—what happens to a struggling parent once she gets off welfare. H.R. 1720 provides only 6 months of extra child care help. Our proposal meets real world needs by providing realistic transition benefits.

While child care is expensive, it is even more expensive to invest in a single mother's future, only to force her back on to the welfare rolls when we take away her child care assistance. That's why the Carper-Johnson proposal adopts H.R. 3200's enlightened child care provisions.

In sum, the Carper-Johnson compromise embodies real programmatic reform that we could be proud take back to our constituents, but we won't have the chance to vote on this legislation unless we vote down this restrictive rule.

Mr. Speaker, I yield to the gentleman from South Carolina [Mr. SPRATT], to share time with me. Because there was so little time, his own side has denied him an opportunity to speak on this important matter.

Mr. SPRATT. Mr. Speaker, I support wefare reform but that is why I oppose this rule.

Left with no other choice, I will probably vote for this bill.

I think it is time we consider welfare reform but there are other choices and that is why I think we ought to vote down the rule and come back and consider this under a more open procedure.

Mr. Speaker, I am on the Committee on Armed Services. If we brought the armed services authorization bill to the floor, my friend the gentleman from New York [Mr. DOWNEY] would be the first to cry foul if we were to propose a rule so restrictive as this. And he would be right.

But the same practice that applies to our rule in the Committee on Armed Services and to the foreign authorization bill that we had just a few days ago ought to apply to this rule. We need a searching, scrutinizing, vigorous debate about welfare reform. The only way we can have it is to have a wider, an open rule. Why can we not have that rule? Because the gentleman from Delaware [Mr. CARPER] has a substitute which is likely to pass. That is the only reason he cannot bring it up. It is not because it is off the wall. It is well conceived, and coherent, and well considered.

It is not because he wants to pick at this bill and take apart its integral provisions. No, he has a bill that might pass if it were allowed to be brought to the floor.

This procedure is not right. We ought to open up the rule and have the debate that is timely and in order on this critical subject.

Mrs. JOHNSON of Connecticut. Mr. Speaker, a "no" vote on the rule is a vote to reform welfare, to base our welfare program on the values we share so that it can command the respect of our people and not just their sympathy.

Mr. FROST. Mr. Speaker, for purposes of debate only, I yield 2 minutes to the gentleman from Texas [Mr. ANDREWS].

Mr. ANDREWS. Mr. Speaker, I rise in support of the rule and H.R. 1720, the Family Welfare Reform Act.

For the first time in almost two decades we have a chance to reform our welfare system.

For the South this is a special issue.

Over a century ago Charles Dickens said, "It was the best of times, it was the worst of times." Surely this is true today in the South.

The South stands poised to compete aggressively for the new jobs of the next decade—in space, in high technology research, and in manufacturing.

This is also the worst of times for the South. Since 1979, the number of southerners living below the poverty has grown by 2½ million. Now 20 percent of all southerners live in poverty. Unless we do something significant between now and the year 2000, southern welfare rolls will swell by 30 percent. Eight of ten people being added to the Nation's welfare rolls will live in the South of the future.

This burden will be tremendous for southern State governments; for local civic leaders, for educators, for court systems, for local police officers.

In America today:

Six of ten women who grew up in a family receiving aid will get some welfare assistance as adults;

One of five children is born into poverty; and

Almost 40 percent of recipients are children.

Disraeli said: "The youth of a nation are the trustees of posterity."

This legislation is designed to reach those children of welfare mothers who grow up learning more about the welfare office than an employment office.

Our present system is not working. We are spending more than $40 billion a year and more than 30 million of our citizens continue to live in poverty.

The cycle begins when a teenage mother drops out of school to raise her child. She has little luck finding a job without a high school diploma. Her children grow up learning about life on welfare instead of the value of work.

This legislation targets these teenage mothers who are the most likely to become long-term welfare dependents.

It gives them a chance to complete their high school education;

It provides the training they need to compete in the job market;

It gives them an incentive to work by reducing the 100-percent tax rate on benefits; and

Finally, it gives them temporary assistance with day care so that they can remain in a job long enough to obtain job security.

These provisions are the key to breaking the cycle of proverty.

Not enough is being done to require absent parents to support their children. Child support enforcement is a major component of this bill.

The bill requires that a higher percentage of fathers be identified. This will lead to more child support awards.

It increases child support payments by encouraging adoption of immediate wage withholding laws.

My amendment requires adoption of immediate wage withholding. This reduces the cost of the bill by raising $139 million.

In summary, the Family Welfare Reform Act will reform the welfare system to take us through the year 2000.

The bill will target long-term dependents. It will help parents go back to work. It will require absent parents to support their children. It will keep families together. It will take care of the health and safety of the children.

This kind of targeting is a fresh start. We will not get results without an investment.

There are concerns about the cost of this bill. That is why my amendment will cut the costs by 10 percent. That is a savings of $509 million.

The Family Welfare Reform Act is a smart investment.

Walter Lippmann said, "It is easier to talk about poverty than to think about the poor."

It is easier to vote no today, to simply speak out about the problems of welfare than it is to do something significant to win our losing battle against welfare dependency.

Let it not be said that the House of Representatives failed to seize the opportunity to move this process ahead.

Vote yes on the rule and yes on the bill.

Mr. FROST. Mr. Speaker, for purposes of debate only, I yield 2 minutes to the gentlewoman from Connecticut [Mrs. KENNELLY].

Mrs. KENNELLY. Mr. Speaker, I rise today in strong support of the rule on H.R. 1720 and urge its adoption.

Much has been made of the fact that this bill has a high price tag in a time of fiscal constraint, and that consequently this is not the time to take up welfare reform. This concern, in fact, was a primary consideration in the development of this bill.

Many of us who had envisioned a complete and critically necessary overhaul of the present welfare system found ourselves, during many months of struggling with this bill in the committees, disappointed as many positive reforms were compromised or reluctantly dropped. Indeed, this concern about fiscal restraint is the reason and the sole reason for the Andrews amendment on which we shall shortly vote. However, today is also the day to remember that the present welfare system spends about $16 billion annually if you add together the State and Federal share. These billions of dollars are spent on an incredibly flawed system. By passage of this rule we will admit that the system is flawed.

By passage of this rule, we will bring a bill to the floor that delicately balances the responsibilities of the welfare recipient to society, and to their own children. We cannot expect a welfare recipient to hold a job and abandon her children to inadequate care. But without guaranteed support for child care, especially if one is a single head of household, we would be asking women to sacrifice one responsibility for the other.

This rule brings us a bill beloved as a whole by few but with various parts championed by many. Nevertheless, let me emphasize that this bill begins comprehensive welfare reform. It begins a plan that can be built upon and improved on down the road. We all know the time for welfare reform is long overdue. We should set aside our differences and vote for the rule to begin the debate. We all can agree in our concern for the poor children in America living in poverty. We also realize our present system is resulting in the development of an under class in these United States. Something this country has never had—up to now every child born in this country has a fighting chance. Lets support the rule and begin welfare reform.

Mr. QUILLEN. Mr. Speaker, I yield 2 minutes to the gentleman from Minnesota [Mr. FRENZEL].

Mr. FRENZEL. Mr. Speaker, I rise in opposition to this rule. In the first place it makes in order a $6 billion welfare cost increase. That cost is over a 5-year period. No one can say for certain what the costs are beyond 5 years except that they increase more sharply after the fifth year. So if my colleagues are looking for a way to wreck the budget permanently, may I suggest a vote for the rule and for the bill.

In the Subcommittee on Public Assistance and Unemployment Compensation we had dozens of amendments on this bill. Many of them failed narrowly. Only a few of them were accepted. But I think that if the House is to have an honest debate on the bill it has to do so through the amendment mechanism, just as the subcommittee did.

The noxious business of the closed rule, the abuse of the minority, it is still unacceptable in this House. It causes the House to make bad decisions.

In this case there is an amendment sponsored by the gentleman from Delaware [Mr. CARPER]. I would, if it was made in order, vote against it. Nevertheless, the gentleman from Delaware had 80 cosponsors of his own party. He was turned down in the Committee on Rules. He cannot offer his amendment.

Why are we Republicans nervous about suppression of Democrats. Because when a majority abuses a minority of its own, it then turns around and abuses us twice as badly.

I would like to stand for that gentleman's right to offer his amendment, and I would like to have the right to offer some of my own, too. If we do not have amendments like these, we will go through a stilted, canned debate couched in the misguided terms of the people who drafted the bill.

This is another outrageous abuse of the House rules. The rule ought to be promptly and decisively rejected.

Mr. QUILLEN. Mr. Speaker, I yield 1 minute to the gentleman from Pennsylvania [Mr. WELDON].

Mr. WELDON. Mr. Speaker, I rise in opposition to the rule and in strong support of welfare reform, not welfare bailout, and not an effort to walk away from our moral responsibilities.

This rule is an attempt to ramrod the leadership bill through this body. In a recent editorial in the Philadelphia Inquirer, I think this process was summed up very succinctly. The title of the editorial is "House Rules Thwart Democracy." I quote from the article:

> The House of Representatives, which boasts of a certain closeness to the American people, has an embarrassing habit of acting undemocratically. The House Rules Committee routinely helps the House leadership pass what it wants by severely restricting what lawmakers can vote on. * * *
>
> Normally lawmakers should be allowed multiple choices. When Mr. Pepper's panel limits 435 men and women to a true-false test on the rightness of what the leadership wants, it abuses its powers.

Mr. Speaker, I ask for a no vote on the rule.

Mr. Speaker, I include for the RECORD the editorial from the Philadelphia Inquirer:

HOUSE RULES THWART DEMOCRACY

> The House of Representatives, which boasts of a certain closeness to the American people, has an embarrassing habit of acting undemocratically. The House Rules Committee routinely helps the House leadership pass what it wants by severely restricting what lawmakers can vote on.
>
> On the complex matter of welfare reform, which the chamber's 435 voting members plan to begin debating on Thursday, the Rules Committee has allowed just three options: a Democratic plan, a Republican alternative—or nothing. This reflects a fear that a majority of lawmakers would prefer a bill less expensive than the one backed by Democratic leaders but more comprehensive than the Republican alternative. Since no such option is available under the stipulations the committee has placed on the legislation, the leadership's preference can win. It's an old, stale game carried under the ruse that it is justified by improving the efficiency with which the House operates.
>
> The procedural rule can be overturned by a majority vote, and that did happen when dozens of Democrats said no to the leadership's bid to slip welfare reform through earlier this year by stapling it onto a tax bill. House leaders are meeting today to reconsider the unfair limitation of debate only because they fear being rejected again by the rank and file.
>
> Rules Chairman Claude Pepper (D., Fla.) did make good use of his committee's powers over procedure when he promised that if a deficit-reduction compromise touched Social Security, every member of the House would have to stand up and vote for or against that controversial item separately. That kind of accountability is fair enough.
>
> Normally lawmakers should be allowed multiple choices. When Mr. Pepper's panel limits 435 men and women to a true-false test on the rightness of what the leadership wants, it abuses its powers.

Mr. FROST. Mr. Speaker, for purposes of debate only, I yield 2 minutes to the gentleman from Tennessee [Mr. FORD].

Mr. FORD of Tennessee. Mr. Speaker, I rise in strong support of the rule that is before the House today and also in strong support of H.R. 1720, the Family Welfare Reform Act of 1987.

Mr. Speaker, we have debated the welfare reform package for the past 9 months before the Subcommittee on Public Assistance and Unemployment Compensation as well as in the Committee on Ways and Means. There have been other committees with jurisdiction over this welfare reform package and it has gone to the Committee on Rules and the rule is on the House floor today. One thing that is important to the final passage of the bill, or the consideration of the bill, is the adoption of the rule allowing the bill to be debated on the House floor.

This bill has stalled in the Congress for the past 60 days. No one could be more concerned with our massive budget deficit than I especially at a time when Members are not eager to vote legislation that will spend additional dollars. But for the 12 million Americans who are trapped in the vicious cycle of welfare, in poverty, in this Nation, it is time for them that the House Members and this body live up to the proposition of considering a welfare reform package that would in fact respond to the human needs of poor people in this country.

□ 1520

When we see the AFDC Program being replaced with the family support system, we feel that we have a bill that is sound and that as we approach the 21st century we will work to solve some of the ills of the welfare population of this Nation. When we look at the components in this bill we will see and we will find that they have been well thought out and 49 of the 50 Governors have been on board. Their package over a 5-year period is $4.8 billion. With the Andrews amendment being placed in order to cut $500 million, we are talking about $4.3 billion, and we bring it revenue neutral to the House floor.

I hope my colleagues will support the rule so we can have the family welfare reform package on the House floor.

Mr. QUILLEN. Mr. Speaker, I yield 1 minute to the gentleman from Texas [Mr. BARTLETT].

Mr. BARTLETT. Mr. Speaker, I rise in strong opposition to this closed rule on what could become, if we would allow it, the most significant, and could be the most positive step we could take in this Congress for some people that need our help; namely, both taxpayers and welfare recipients.

The fact is there is only one vote today that counts, and that is a vote on a closed rule. Welfare reform is an idea whose time has come. The U.S. Congress should be allowed to debate it, to have the will of the majority to work, to have the entire issue considered.

This is a 196-page bill, and yet it comes before us on a closed rule with no amendments being allowed. This bill that is before us, H.R. 1720, is in desperate need of some amendments because the fact is what we need in welfare reform is to allow people to go to work, and H.R. 1720, in its present form, creates more work discentives than we already have in the current law.

H.R. 1720 says anyone with a child under the age of 3 is exempted from the program. It has additional disincentives.

I urge a "no" vote on the rule.

Mr. QUILLEN. Mr. Speaker, I yield 1 minute to the gentleman from Connecticut [Mr. ROWLAND].

Mr. ROWLAND of Connecticut. Mr. Speaker, I have listened very carefully to some of the arguments and some of the comments made about this particular welfare reform proposal on the other side of the aisle, and I would pose a few thoughts.

If the Democrat welfare reform proposal is as good as the proponents claim it to be, then no one should fear an open rule. If it is as good as the proponents claim it should be, then no one should fear amendments to the bill or open debate.

Unfortunately, many of us know that this is not true. It is a terrible proposal. It is nothing more than a welfare increase.

I think it is going to be interesting to watch those who vote for the Democrat plan in the next year explain to the American people why something called welfare reform is going to cost almost $7 billion to the American taxpayer. I say let us be fair and honest with the American taxpayer.

The Wall Street Journal in today's editorial said it best:

> Earlier this year, there were hopeful signs that we would see sweeping, serious welfare reform legislation emerge from Congress. Democrats and Republicans alike agreed on the need for change. This rare opportunity is being squandered.

Mr. Speaker, please oppose the rule and allow everyone to participate in the debate, allow everyone to bring amendments forward. It is far too important, it is far too expensive, and it is going to have a dramatic impact on the years to come.

Mr. FROST. Mr. Speaker, for purposes of debate only, I yield 2 minutes to the gentleman from South Carolina [Mr. TALLON].

Mr. TALLON. Mr. Speaker, during my tenure in Congress the issue of welfare reform has risen as predictably as the U.S. flag. And just as predictably we have made minor adjustments in the welfare system, patted ourselves on the back and walked away; leaving the system intact and its dependents worse off.

Today we are confronted with the choice either to perpetuate or break this pattern. The Michel-Brown substitute promises us more of the same. It pays lip service to workfare and job training but fails to provide the day care, funding, family support, and job search assistance necessary to get and keep people off of welfare.

In fact, about the only argument that proponents of the Michel-Brown substitute seem to be able to make is that it costs less. But, if cost is our No. 1 priority I don't see why we are bothering with welfare reform at all.

Effective welfare reform is an investment. H.R. 3200 promises the returns of more and better work, without committing the necessary upfront expenditures. Such a shortsighted strategy is destined to fail.

In contrast, H.R. 1720 will enable us to enact meaningful and lasting changes in the welfare system and end the dependency that has been passed from generation to generation. H.R. 1720 is prowork and profamily.

It targets resources on families most likely to become dependents. To ease the transition to work, the bill creates modest financial incentives so that families who work are better off than those who do not. It provides day care and Medicaid services, and improves child support enforcement. As well, it provides incentives for States with low AFDC payments to raise them and requires AFDC coverage to be extended to two-parent households.

Recently, I met with a constituent who illustrated with tragic clarity the difference between these two bills. This woman went off welfare to take a job through the WIN program paying $77 a week.

In taking this job, she lost her Medicaid, utility, housing, and food stamp assistance. At the same time, she had to come up with the money for health insurance, child care, food, transportation to work, and $186 a month in rent. As you can see, the numbers just aren't there; this woman simply could not afford to work, and there are thousands more like her and her child—that desparately need a change.

The Michel-Brown substitute would mandate States to run huge numbers of welfare recipients through inexpensive job search programs of limited effectiveness. It would not provide the funding, health and child care, training and referral assistance to make work affordable for this woman and thousands like her. H.R. 1720 would.

I will not go back to my constituents with more empty promises. There is no longer any doubt of the changes that need to be made. The question is whether we have the courage to make the. I appeal to my colleagues, don't sell short welfare reform and America's potential. Vote for the rule and H.R. 1720.

Mr. QUILLEN. Mr. Speaker, I yield 1 minute to the gentleman from New Hampshire [Mr. GREGG].

Mr. GREGG. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I rise in opposition to this rule. It does seem ironic to me that a piece of legislation which is so critical to an issue which is so fundamental to the way that the Federal Government deals with its poor and disadvantaged should be so limited in debate and opportunity for the Congress to address it.

There are on that side of the aisle numerous individuals who have some excellent, excellent ideas on how to improve this bill. The gentleman from Delaware [Mr. CARPER] happens to be one of those individuals. There are on this side of the aisle a number of amendments I think which would also be excellent and appropriate to improving this legislation.

There are some serious problems with this legislation, especially in the issue of family. I, for example, have a very definite concern about the fact that I think this bill, in fact I know this bill is going to have a dramatic chilling effect on the ability to care for children of welfare recipients in their home or in their grandparents' home. That language could be cleared up rather easily through some amendment activity. That amendment activity is not going to be allowed. In fact, no amendment activity is going to be allowed.

This makes no sense. Here we have a week during which we are basically treading water waiting for conference committees to fulfill their obligations. We have time to address this bill. It is major legislation. The Congress should be allowed to work its will on this language and, therefore, we should be allowed to amend it.

Mr. FROST. Mr. Speaker, for purposes of debate only, I yield 1 minute to the gentleman from Georgia [Mr. Lewis].

Mr. LEWIS of Georgia. Mr. Speaker, I rise in support of this rule and the legislation. This bill is not a cure-all, it is not a panacea. But, it is a major step down that long road toward welfare reform.

Let's give it a chance. Let's make it work. There is nothing wrong with putting poor people to work, providing job training and day care, to break the cycle of poverty.

Let's take people off of the welfare rolls and put them on the tax rolls.

Mr. QUILLEN. Mr. Speaker, I yield 2 minutes to the gentleman from Minnesota [Mr. Penny].

Mr. PENNY. Mr. Speaker, I rise in opposition to the rule.

There are alternative welfare reform plans which would be less costly and do a better job of moving people off of welfare and into the work force. But we won't have a chance to discuss those alternatives if this rule is adopted.

By rejecting the rule we make it clear that when this bill is brought up again, we expect various options to be made in order.

There is no urgency to move this bill today. The Senate has not even begun action on welfare reform. We can wait awhile and bring the bill up under a more democratic rule—one that allows us to debate and vote on various proposals. after all, that is what our constituents elected us to do.

Mr. BARTLETT. Mr. Speaker, will the gentleman yield?

Mr. PENNY. I yield to the gentleman from Texas.

Mr. BARTLETT. Mr. Speaker, I thank the gentleman for yielding and note this is a very bipartisan effort to permit amendments and substitutes to be offered to this bill.

Earlier I spoke of work disincentives contained in H.R. 1720. One of them came up in the committee that the gentleman from Minnesota and I serve on, the Education and Labor Committee. In fact, the Education and Labor Committee decided in an open vote of that committee that they would change a program that they have jurisdiction over in which they would say that a recipient of welfare could be required to take a job as long as it paid minimum wage. The committee bill does not do that. It refuses that provision and denies the Education and Labor Committee, just as one example, the opportunity to offer their amendment to put in some incentives to work.

This bill in its present form is replete with disincentives to work. The differences between this bill and what I think a majority of the House floor would come out with is the difference between work and continuation of the status quo.

I thank the gentleman form Minnesota for his opposition to the closed rule.

Mr. PENNY. I thank the gentleman for his comments.

Mr. QUILLEN. Mr. Speaker, I yield 1 minute to the gentleman from Colorado [Mr. Brown].

Mr. BROWN of Colorado. Mr. Speaker, I believe the vote on the rule may be the most important vote we will cast on welfare reform. If we open the rule, if we allow meaningful amendments, we can craft a bill that this body will support and can be enacted into law.

If we fail to allow a change in that rule I think we will frustrate our ability to change and progress in welfare reform. It is that simple.

If Members are for modernizing welfare, vote against the rule. If they are opposed to modernizing welfare then be satisfied with killing this bill because this measure before the House will not ultimately be accepted by the White House nor be passed into law.

The simple fact is the measure that is before the House is anti-work. Mr. Speaker, the Democratic voters are not opposed to work. Republican voters are not opposed to work. The citizens of this country are not opposed to work. For us to cast a vote for five major disincentives to work is an outrage. To prohibit any amendment in those areas is a sad restriction on democracy.

Let us give the Members of this body an opportunity to speak out, to correct this bill and to move forward.

Mr. Speaker, we are all aware of the various tricks that can be employed to make legislation look less expensive than it really is. Three of the most common are to delay the implementation of a provision for 2 or 3 years, to write a provision so that its costs increase gradually over a period of years, and to put parts of a program in different pieces of legislation hoping that no one will add up the costs.

All three of these approaches to masking the true costs of H.R. 1720 have been used. First, perhaps thinking that our memory would not reach back 5 weeks, the leadership put one of its most expensive welfare reform provisions in the fiscal year 1988 reconciliation package. The leadership told us, of course, that after the rule for reconciliation was defeated, they were going to remove welfare reform from the package and bring reconciliation back to the floor. However, they managed to retain 1 billion dollars' worth of welfare reform in the guise of Medicaid amendments, which was then passed as part of reconciliation. Now that $1 billion does not appear in any of the CBO cost estimates of the bill we are considering today.

Second, two of the major spending provisions of the Democrat bill do not begin until after the first year. The work incentive provisions do not begin until year 2 and the very expensive AFDC-Unemployed Parent Program does not begin until the third year.

Third, nearly every provision in the Democrat bill begins with relatively low costs in the first year and increases rapidly in subsequent years. The net outlays in year 1 are $251 million; by year 5 they reach $1.96 billion—an increase by a factor of nearly 8 over 5 years.

So when the bill's proponents say that their bill costs about $6 billion over 5 years, or about $1.2 billion per year, we should realize that these figures are very misleading.

If we use the fifth year as an estimate of what the bill will cost when fully implemented, we can estimate that we are being asked to pass a bill that will cost about $9.8 billion over the 5 years between 1993 and 1997. If we now add the Medicaid amendments that were slipped through during the reconciliation process, we find that when fully implemented the type of welfare reform Democrats support will cost the Nation nearly $11.5 billion for 5 years or about $2.3 billion per year.

So if you are thinking that you might support the Democrat bill, keep in mind that if you vote "yes" the Nation will soon be spending an additional $2.3 billion per year for welfare, most of it on increased benefits.

By contrast, if you support the Republican bill, the Nation will spend about $300 million per year, nearly all of it to help welfare families get jobs.

Mr. Speaker, in his December 10 article on welfare reform, Governor Clinton was well intentioned but inaccurate. The Governor says the Republican reform bill will cost States more than the Democrat bill. In fact, the Congressional Budget Office estimates that over 5 years the Democrat bill will cost States over $900 million and the Republican bill will save them about $480 million.

To label the Democrat bill as pro work when three provisions of the bill make it illegal to refer able-bodied welfare recipients to jobs demonstrates exceptional political chutzpah.

Further, we can quickly dispense with his claim that "benefits are 33 percent lower than they were in 1970." Although constant dollar benefits in the Aid to Families with Dependent Children Program have declined 16 percent on a per capita basis since 1970, spending in nearly all the other Federal welfare programs has skyrocketed. In constant dollars, Federal spending on seven primary welfare programs—including AFDC, food stamps, Medicaid, housing, and child nutrition—has increased an average of 210 percent since 1970.

But the major issue of welfare reform in 1987, as Governor Clinton implies, is welfare dependency. His claim that the Democrat bill holds promise of reducing dependency, while the Republican bill does not, is simply incorrect. According to CBO, the Democrat bill will result in 210,000 welfare recipients participating in employment and training programs; the Republican bill will result in 935,000—more than four times as many—recipients participating in employment and training. Even more important, the Democrat bill will remove 15,000 families from the welfare rolls as a result of work; the Republican bill will help 50,000 families find work and leave welfare.

That's not all. The Democrat bill requires all States to offer the AFDC Program to two-parent families in which the parents are unemployed. This provision, at a cost of nearly $500 million per year to both Federal and State governments, will bring 90,000 new families onto the welfare rolls by 1992. Here we have a major new facet of Democrat social policy: reduce dependency by bringing thousands of new families onto the welfare rolls.

As for the Governor's assertion that the Republican bill has "limited funding" that would force States to run welfare recipients through inexpensive and ineffective job search programs, the facts are again wide of the Governor's understanding. First, both bills would make about $2.5 billion available to the States for employment and training. Second, the inexpensive job search program denigrated by the Governor, along with actual work experience, are the only two types of employment programs that have been shown by research to be cost effective. Surely Governor Clinton is familiar with this fact since one of the major studies supporting the effectiveness of job search and work experience was done in his own State. Third, all but one of the work programs that proved to be cost effective spent less than $700 per participant. Given that the Republican bill would make an average of about $2,600 per recipient available to States for employment and training, one might label our funding generous rather than limited.

Surprisingly, Mr. Clinton states flatly that the Nation's Governors support increased waiver authority allowing States to experiment with their welfare programs. As he notes correctly, Democrats refuse to grant this authority to States while Republicans do so in a way that nevertheless allows Congress to protect poor citizens against State programs that might prove detrimental.

Finally, we come to the issue of cost. As the Congress sets about cutting programs and raising taxes in order to reduce the Federal deficit, Democrats are asking us to spend huge sums on welfare reform—at least 70 percent of it on benefit increases. Governor Clinton says the 3-year cost of the Democrat bill is $1.7 billion. True enough. What he doesn't say is that many of the costs being in the second or third year and increase dramatically in the outyears. Thus, the 5-year cost of the bill is $6.2 billion—and that does not include $1 billion in Medicaid expenditures that Democrats already sneaked into the House reconciliation package. Moreover, when fully implemented, the Democrat bill will cost at least $10 billion every 5 years. Does the phrase borrow and spend come to anybody's mind?

By contrast, the Republican bill's net cost is $1.1 billion over 5 years.

I certainly agree with the Governor's observation that the Democrat and Republican bills represent very different approaches to welfare reform. Democrats would spend over $7 billion to increase benefits and bring tens of thousands of new families onto the welfare rolls; Republicans would spend $1.1 billion to provide States with greater flexibility to implement their welfare programs, to involve nearly 1 million AFDC families in work and training, and to help at least 50,000 welfare families join the work force and leave welfare.

Mr. QUILLEN. Mr. Speaker, I yield 4 minutes to the gentleman from Delaware [Mr. CARPER].

Mr. MAZZOLI. Mr. Speaker, will the gentleman yield?

Mr. CARPER. I yield to the gentleman from Kentucky.

Mr. MAZZOLI. Mr. Speaker, I appreciate the gentleman yielding.

Let me first salute my friend, the gentleman from New York [Mr. DOWNEY], and my friend, the gentleman from Tennessee [Mr. FORD] on their courageous job to reform the welfare system, something which needs that kind of reform. I will assure the gentlemen that it will take a powerful argument for me to support anything but the gentlemen's bill.

At the same time I think that this whole idea of welfare reform reaches the floor under the wrong rule and at the wrong time. It limits our ability to make tailored efforts to improve the bill, and it reaches us after a series of similar closed rules.

It just seems to me that a closed rule is an indication that this body does not have the maturity and the balance to make selective judgments on important issues. I conversely believe we have that kind of balance and sensibility, and I would hope that the House would vote down the rule and allow us to debate this bill at length and then we will reach the final verdict.

Mr. CARPER. Mr. Speaker, this year began with a bipartisan consensus that our welfare system in this country was in disrepair, that it needed to be fixed. During the course of this year we have seen that bipartisan consensus degrade into what I am going to call a bipartisan polarization.

About a month ago it became apparent to me we were going to have two choices on welfare reform, a proposal, not a bad proposal from our Ways and Means Committee, but a proposal that I felt was flawed; and a proposal from the Republicans in the House, not a bad proposal, but one that was also flawed, each proposal representing, if you will, polar extremes.

About a month ago a group of Democrats and Republicans decided that we were going to try to restore a little bit of bipartisan consensus on this issue. We have come up with a plan, a plan that is opposed by the administration, a plan that is opposed by my own leadership, a plan which I think if we had the chance to vote on it on this floor today would be passed. It is a plan that would put the White House in frankly some difficult territory.

Our plan briefly would do this: Its cost is one-half that of the Democrats' plan, twice that of the Republicans' plan. We say there should be AFDC for two-parent families, not forever, but for at least 1 year. We need to help welfare recipients overcome barriers to work. Give them 1 year of health-care assistance if they take a job, provide 1 year of day-care assistance if they take a job.

□ 1535

We expect teenagers who have not finished school, who have applied for FDC, to take a job or go back to school. In addition to that, "if there is a minimum wage job out there, we expect you to take it." We provide flexibility for the States which our Governors have sought. The financing is 50-50; 50 percent Federal and 50 percent State.

We provide incentive for it to go up 65 percent Federal for the States that do a particularly good job. On child support enforcement we are tough. We call for immediate wage withholding.

I am not asking, none of us are asking today for anyone in this Chamber to embrace that proposal. We are not asking for cosponsors of that proposal.

What we are asking for is simple basic fairness, that is the right to debate it, find out if we think it is a good idea; to simply put it to the majority and let the majority work its will.

I do not think that is asking too much. I do not think it is asking too much to basically be given our shot, a shot for a bipartisan plan that can carry, that can actually become the law of this land.

It is opposed by the White House, it is opposed by my leadership. Maybe if we had a chance to vote on it, it would be supported by a majority of us.

I say let us vote "no" on this rule, let us vote "yes" for openness, for openness.

Mr. PETRI. Mr. Speaker, I rise in opposition to the rule. I do think welfare reform is long overdue. But I also believe that now that we have the opportunity to consider comprehensive reform; all of the Members of this body ought to be able to debate this issue fully and to offer amendments.

I can understand the Ways and Means Committee preferring a closed or limited rule for debate on a tax package. If we had to vote on each provision of such a package, needed changes might not be made because each kind of revenue provision has its own constituency and we could not ask Members to vote up or down on every one.

However, we are not talking about a tax package here. We are talking about redesigning our national policy on poverty. This is the first time we have done so in this decade. This ought to be the day for careful consideration of different solutions. But the rule before us arbitrarily stifles such debate. Only one substitute is permitted and no amendments.

In the absence of an open rule for consideration of this sweeping welfare reform legislation, I had hoped to be permitted to offer two amendments. The first addresses the provisions of H.R. 1720 relating to benefits received by minor mothers, the other expands the earned income tax credit to make it adjustable for family size.

The second amendment in particular is an attempt to broaden the debate to other antipoverty efforts that are directly related. It seems to me it's not too much to ask for Members of the House to be able to offer amendments on welfare once a decade.

I urge my colleagues to oppose the rule.

The SPEAKER pro tempore (Mr. Gray of Illinois). The gentleman from Tennessee [Mr. Quillen] has 1 minute remaining and the gentleman from Texas [Mr. Frost] has 6 minutes remaining.

Mr. QUILLEN. Mr. Speaker, I yield 1 minute to the gentleman from New Jersey [Mr. Hughes].

Mr. HUGHES. Mr. Speaker, I rise in opposition to this rule. The bill which we are preparing to debate today represents a major overhaul of our Nation's welfare reform system. I do not believe that the House's consideration of this important legislation should be limited to the two amendments that this rule makes in order.

Like most of my colleagues, I recognize that our present welfare system is in desperate need of reform. I support many of the provisions of the bill that has been reported from committee for our consideration. I also believe, however, that there is a great deal of room for improvement.

I know, from discussions I have had with other Members over the past several weeks, that there is no dearth of ideas as to how this bill could be improved. There are some ideas that I support and many that I do not, but I believe that there are several comprehensive alternatives to H.R. 1720 that deserve to be heard and debated by the full House.

For my part, I would like to have a better opportunity to consider more flexibility in the work, education, and training services that States would be required to provide, and, particularly, the benefits of State demonstration projects. And I know that there are other Members who share my feelings.

We have a responsibility to the American people to fashion the best welfare reform bill we possibly can. If we limit our options to the extent that this rule would force us to do, I do not believe that we would fulfill this responsibility.

We all want to pass a good welfare reform bill—one that speaks to the needs of both those who deserve public assistance and those taxpayers who foot the bill. I urge my colleagues to give the House a chance for full and meaningful debate on this vitally important issue. I urge my colleagues to defeat this rule.

Mr. FROST. Mr. Speaker, for purposes of debate only, I yield such time as he may consume to the distinguished majority leader, the gentleman from Washington [Mr. Foley].

Mr. FOLEY. Mr. Speaker, perhaps there is no greater consensus to have emerged over the last two decades than the consensus that our welfare system is in need of reform.

The administration of both President Carter and President Reagan have recognized that; and the work that has been done to bring forth this bill, H.R. 1720, has involved four distinguished committees whose members comprise together about one-third of the House of Representatives.

Having realized for many years that the problem exists and that the country both needs and deserves action to resolve it, it is surprising to me that we should now be debating whether to consider this legislation. There is always, I suppose, some dissatisfaction with any rule that is not totally open. In this instance, however, such a course of action would forfeit the opportunity in this Congress, in this session, to deal with welfare reform.

I think Members recognize that that is the case.

This legislation presents what has been described as a historic opportunity to meet the challenge of reforming the welfare system to emphasize the belief we as a country and people, Democrats and Republicans alike, share in promoting the family, in being concerned about the lives and the future of our children and insuring that the long process of dependence does not stretch from generation to generation.

By approving this rule we commit ourselves to undertaking the process of welfare reform. I would strongly urge all of the Members on both sides of the aisle not to throw away this change, not to put aside this opportunity and not to miss this challenge. We can in this 100th Congress provide a firm and important contribution to solving one of the deep social problems of our society.

I ask all the Members of Congress to support this rule.

Mr. BARTLETT. Mr. Speaker, will the gentleman yield?

Mr. FOLEY. I yield to the gentleman from Texas [Mr. Bartlett].

Mr. BARTLETT. I thank the gentleman for yielding.

Mr. Speaker, I know it is unusual to ask the gentleman to yield in a closing statement, but I would inquire: The gentleman said that we could not have a totally open rule and instead we have a virtually totally closed rule.

Many of us are simply urging that we have a rule that is somewhere in the middle that would permit Mr. Carper to offer a rather well-reasoned, well-researched substitute that accomplishes the objectives the gentleman has articulated, and allow the House to vote on that substitute.

I wonder if the gentlemen in the Rules Committee would consider such a rule that would permit the gentleman from Delaware to offer his well reasoned substitute. If it is defeated, it is defeated, but at least we would give the House Members a chance to vote on the substitute in that form.

Mr. FOLEY. I understand the gentleman's position. I think there always have to be decisions made by the Committee on Rules. In this case it made the decision that it felt was necessary to move this legislation forward. I have great respect for the distinguished gentleman from Delaware but there is always a possibility of complaint over a rule that is not totally open, that does not give infinite opportunity for amendment.

This is a bill that has been brought forward by one-third of the House of Representatives through its membership serving on the Committee on Ways and Means, the Committee on Agriculture, the Committee on Energy and Commerce and the Committee on Education and Labor.

I think that it would be a great mistake for us by defeating this rule to send a signal that the House does not want to consider this legislation.

I would deeply appeal to Members on both sides that we may not have this opportunity again. We ought to take it now, move the legislation forward, accept this rule and make it possible for the 100th Congress to put on its list of legislative achievements the reform of the welfare system to stress work, end dependency, and strengthen family values.

Mr. FROST. Mr. Speaker, I have no further requests for time and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore (Mr. Gray of Illinois). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. QUILLEN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently, a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 213, nays 206, not voting 14, as follows:

[Roll No. 482]

YEAS—213

Ackerman
Alexander
Anderson
Andrews
Annunzio
Anthony
Aspin
Atkins
AuCoin
Bates
Beilenson
Berman
Bevill
Bilbray
Boggs
Boland
Bonior
Bonker
Borski
Boucher
Boxer
Brennan
Brooks
Brown (CA)
Bruce
Bryant
Bustamante
Campbell
Cardin
Carr
Chappell
Clarke
Clay
Coelho
Coleman (TX)
Collins
Conyers
Cooper
Coyne
Crockett
Darden
de la Garza
DeFazio
Dellums
Derrick
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Edwards (CA)
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Fazio
Feighan
Flake
Flippo
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Frank
Frost
Garcia
Gaydos
Gejdenson
Gibbons
Glickman
Gonzalez
Gordon
Grant
Gray (IL)
Gray (PA)
Guarini
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefner
Hertel
Hochbrueckner
Hoyer
Hubbard
Huckaby
Jacobs
Jenkins
Johnson (SD)
Jones (TN)
Jontz
Kanjorski
Kaptur
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kostmayer
LaFalce
Lancaster
Lantos
Lehman (CA)
Lehman (FL)
Leland
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Lowry (WA)
Luken, Thomas
MacKay
Manton
Markey
Martinez
Matsui
Mavroules
McCloskey
McHugh
McMillen (MD)
Mfume
Mica
Miller (CA)
Mineta
Moakley
Mollohan
Moody
Morrison (CT)
Mrazek
Murtha
Nagle
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Nowak
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Obey
Ortiz
Owens (NY)
Owens (UT)
Panetta
Patterson
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Pelosi
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Price (IL)
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Rahall
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Slaughter (NY)
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Traficant
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Visclosky
Walgren
Watkins
Waxman
Weiss
Wheat
Whitten
Williams
Wilson
Wise
Wolpe
Wyden
Yates
Yatron

NAYS—206

Applegate
Archer
Armey
Badham
Baker
Ballenger
Barnard
Bartlett
Barton
Bateman
Bennett
Bentley
Bereuter
Bilirakis
Bliley
Boehlert
Boulter
Broomfield
Brown (CO)
Buechner
Bunning
Burton
Byron
Callahan
Carper
Chandler
Chapman
Cheney
Clinger
Coats
Coble
Coleman (MO)
Combest
Conte
Coughlin
Courter
Craig
Crane
Daniel
Dannemeyer
Daub
Davis (IL)
Davis (MI)
DeLay
DeWine
DioGuardi
Dornan (CA)
Dreier
Duncan
Dyson
Edwards (OK)
Emerson
English
Erdreich
Fields
Fish
Frenzel
Gallegly
Gallo
Gekas
Gilman
Gingrich
Goodling
Gradison
Grandy
Green
Gregg
Gunderson
Hall (TX)
Hamilton
Hammerschmidt
Hansen
Harris
Hastert
Hefley
Henry
Herger
Hiler
Holloway
Hopkins
Horton
Houghton
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jeffords
Johnson (CT)
Jones (NC)
Kasich
Kolbe
Konnyu
Kyl
Lagomarsino
Latta
Leach (IA)
Leath (TX)
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Lewis (CA)
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Lightfoot
Livingston
Lloyd
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Mack
Madigan
Marlenee
Martin (IL)
Martin (NY)
Mazzoli
McCandless
McCurdy
McDade
McGrath
McMillan (NC)
Meyers
Michel
Miller (OH)
Miller (WA)
Molinari
Montgomery
Moorhead
Morella
Morrison (WA)
Murphy
Myers
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Olin
Oxley
Packard
Parris
Pashayan
Penny
Petri
Porter
Pursell
Quillen
Ravenel
Ray
Regula
Rhodes
Ridge
Rinaldo
Ritter
Roberts
Rogers
Roth
Roukema
Rowland (CT)
Rowland (GA)
Saiki
Saxton
Schaefer
Schneider
Schroeder
Schuette
Schulze
Sensenbrenner
Shaw
Shays
Shumway
Skeen
Slattery
Slaughter (VA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solomon
Spence
Spratt
Stallings
Stangeland
Stenholm
Stump
Sundquist
Sweeney
Swindall
Tauke
Taylor
Thomas (CA)
Thomas (GA)
Upton
Valentine
Vander Jagt
Volkmer
Vucanovich
Walker
Weber
Weldon
Whittaker
Wolf
Wortley
Wylie
Young (AK)
Young (FL)

NOT VOTING—14

Akaka
Biaggi
Bosco
Dickinson
Dowdy
Fawell
Gephardt
Hall (OH)
Howard
Kemp
Lukens, Donald
McCollum
McEwen
Shuster

☐ 1600

The Clerk announced the following pairs:

On this vote:

Mr. Akaka for, with Mr. Dickinson against.

Mr. Gephardt for, with Mr. McCollum against.

Mr. Howard for, with Mr. Fawell against.

Messrs. LIVINGSTON, CHAPMAN, and MURPHY changed their votes from "yea" to "nay."

Mr. DERRICK changed his vote from "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. FROST. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and to include extraneous material, on H. Res. 331, the resolution just agreed to.

The SPEAKER pro tempore (Mr. GRAY of Illinois). Is there objection to the request of the gentleman from Texas?

There was no objection.

CORRECTIONS AND ADDITIONAL APPOINTMENT OF CONFEREES ON H.R. 3545, BUDGET RECONCILIATION ACT OF 1987

The SPEAKER. Without objection, the Chair makes the following corrections in the appointment of conferees on H.R. 3545, Budget Reconciliation Act of 1987:

(1) The panel from the Committee on Agriculture is appointed for consideration of section 5003 of the House bill, and sections 2101 though 2113 and 2301 of the Senate amendment.

(2) The panel from the Committee on Education and Labor is appointed for consideration of section 9602 of the House bill, and for section 9008 of the Senate amendment, in lieu of section 9011.

(3)(a) The first panel from the Committee on Energy and Commerce is appointed for consideration of sections 9010 and 9011 of the Senate amendment.

(b) The second panel from the Committee on Energy and Commerce is appointed for consideration of title III—except sections 3001 and 3003—of the Senate amendment.

(4) The following additional conferees are appointed from the Committee on the Judiciary, for consideration of the bankruptcy provisions contained in section 9432 and 9433 of the House bill, and sections 4553(e), 4558, and 4559 of the Senate amendment, and modifications committed to conference: Messrs. RODINO, EDWARDS of California, MAZZOLI, HUGHES, GLICKMAN, FEIGHAN, STAGGERS, FISH, DANNEMEYER, MOORHEAD, and HYDE.

(5) The panel from the Committee on Merchant Marine and Fisheries is also appointed for consideration of section 2002 of the Senate amendment—insofar as that section would add a new section 409 (c) and (d) to the Nuclear Waste Policy Act of 1982.

(6) The following additional conferees are appointed from the Committee on Science, Space, and Technology, for consideration of sections 2002—insofar that section would add new sections 403(i) and 410 to the Nuclear Waste Policy Act of 1982—2006 and 2008 of the Senate amendment, and modifications committed to conference: Mr. ROE, Mrs. LLOYD, and Messrs. BROWN of California, SCHEUER, VALENTINE, CHAPMAN, MORRISON of Washington, SMITH of Texas, FAWELL, and KONNYU.

There was no objection.

The **SPEAKER**. The Clerk will notify the Senate of the change in conferees.

HOUR OF MEETING ON TOMORROW

Mr. **FOLEY**. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at noon tomorrow.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from Washington?

Mr. **WALKER**. Reserving the right to object, Mr. Speaker, and I do not plan to object, but I do so to ask the majority leader whether or not he can give us some idea with this change in schedule just what the schedule will be for the rest of the day and what bills we might be thinking of taking up tomorrow.

Mr. **FOLEY**. Mr. Speaker, will the gentleman yield?

Mr. **WALKER**. I am glad to yield to the gentleman from Washington.

Mr. **FOLEY**. We will be continuing consideration of H.R 1720 for general debate purposes during the remainder of the afternoon. I think it is the intention of the chairman to move to rise at approximately 6 o'clock this evening to accommodate the invitation of Members to the White House.

Tomorrow, subject to this unanimous-consent request being granted, the House will meet at noon and resume consideration of H.R. 1720, we assume to completion.

On Thursday, the House will further consider the Endangered Species Act and, of course, the possibility exists of some action with respect to a very short extension of the continuing resolution which expires at midnight tomorrow night, and it is the hope of the leadership on this side, and I am sure it is joined by the leadership on the gentleman's side, to complete the business of this session by the end of this week.

Now, the end of this week is not Friday. The end of this week is Saturday, as the gentleman knows, and we would find it regrettable if we should have to have a Sunday session, but the committees are working toward bringing back conference reports on both the continuing resolution and the reconciliation legislation.

Mr. **WALKER**. Further reserving the right to object, Mr. Speaker, the endangered species bill will not be on the calendar tomorrow, we will simply work on the completion of the welfare bill?

Mr. **FOLEY**. That is correct.

Mr. **WALKER**. And since there is a limited time, I assume that means we would rise in fairly good time tomorrow afternoon; is that correct?

Mr. **FOLEY**. Well, I think whenever the bill is completed we would probably rise.

Mr. **WALKER**. And we would not take up the short-term CR tomorrow?

Mr. **FOLEY**. Well, we might. That is what I say. As far as the legislative agenda is concerned, that is the only thing that might be offered tomorrow in addition to the continuing consideration of H.R. 1720, we might have an extension of the continuing resolution.

Mr. **WALKER**. At this point the Members can at least anticipate a Saturday session, is that the general idea?

Mr. **FOLEY**. I think Members should assume a Saturday session. I think it would be very wise, if I can be so presumptuous to suggest, that Members should clear their schedules for Saturday.

Mr. **WALKER**. Mr. Speaker, I thank the gentleman, and I withdraw my reservation of objection.

The **SPEAKER**. Is there objection to the request of the gentleman from Washington?

There was no objection.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mrs. Emery, one of his secretaries, who also informed the House that on the following dates the President approved and signed bills and a joint resolution of the House of the following titles:

On November 17, 1987:

H.R. 3428. An act to provide for the distribution within the United States of the film entitled "America The Way I See It."

On November 23, 1987:

H.R. 3295. An act for the relief of Nancy L. Brady; and

H.R. 3457. An act to amend the Packers and Stockyards Act, 1921, to provide financial protection to poultry growers and sellers, and to clarify Federal jurisdiction under such act.

On November 29, 1987:

H.R. 1451. An act to amend the Older Americans Act of 1965 to authorize appropriations for the fiscal years 1988, 1989, 1990, and 1991; to amend the Native Americans Programs Act of 1974 to authorize appropriations for such fiscal years; and for other purposes.

On December 2, 1987:

H.R. 2112. An act to authorize appropriations for fiscal year 1988 for intelligence and intelligence-related activities of the U.S. Government, for the intelligence community staff, for the Central Intelligence Agency retirement and disability system, and for other purposes.

On December 3, 1987:

H.J. Res. 404. Joint resolution to provide for the temporary extension of certain programs relating to housing and community development, and for other purposes.

On December 4, 1987:

H.R. 1748. An act to authorize appropriations for fiscal years 1988 and 1989 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal years for the Armed Forces, and for other purposes.

On December 8, 1987:

H.R. 148. An act to designate certain public lands in the State of Michigan as wilderness, and for other purposes.

On December 11, 1987:

H.R. 3483. An act to amend title 18, United States Code, to improve certain provisions relating to imposition and collection of criminal fines, and for other purposes.

On December 15, 1987:

H.R. 2939. An act to amend title 28, United States Code, with respect to the appointment of independent counsel.

FAMILY WELFARE REFORM ACT OF 1987

The **SPEAKER**. Pursuant to House Resolution 331 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 1720.

□ 1612

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 1720) to replace the existing AFDC Program with a new Family Support Program which emphasizes work, child support, and need-based family support supplements, to amend title IV of the Social Security Act to encourage and assist needy children and parents under the new program to obtain the education, training, and employment needed to avoid long-term welfare dependence, to make other necessary improvements to assure that the new program will be more effective in achieving its objectives, with Mr. SPRATT in the chair.

The Clerk read the title of the bill.

The **CHAIRMAN**. Pursuant to the rule, the first reading of the bill is dispensed with.

Under the rule, the gentleman from Illinois [Mr. ROSTENKOWSKI] will be recognized for 60 minutes; the gentleman from Tennessee [Mr. DUNCAN] will be recognized for 60 minutes; the gentleman from California [Mr. HAWKINS] will be recognized for 30 minutes; the gentleman from Michigan [Mr. HENRY] will be recognized for 30 minutes; the gentleman from California [Mr. PANETTA] will be recognized for 30 minutes; and the gentleman from Missouri [Mr. EMERSON] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Illinois [Mr. ROSTENKOWSKI].

Mr. **ROSTENKOWSKI**. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, in recent weeks, the budget deficit and the crisis on Wall Street have dominated our attention. And rightly so. Continued high deficits and market uncertainty hurt everyone. However, it is equally appropriate that we are considering welfare reform legislation today. The 7 million children who rely on welfare for their daily support also face a crisis. They too need our help.

H.R. 1720 is the culmination of over 2 years of work by the Committee on Ways and Means which began when we realized that each year more and more children were falling into the trap of poverty. This was the first of many signs that our welfare system wasn't working. To find out why, we asked the Congressional Research Service and the Congressional Budget Office to investigate this growing problem. Their report, "Children in Poverty," led to a series of hearings in 1985 on poverty, hunger, and teenage pregnancy.

By January 1986, the President had joined the issue, directing his White House staff to study the welfare system and recommend solutions. The Committee on Ways and Means turned in earnest to one possible solution—work, education, and training opportunities for welfare recipients.

A year later, the President issued his recommendations and called on the Congress to enact welfare reform. After reviewing the President's proposal, and considering the views of the Governors and others, we developed this welfare reform package, H.R. 1720.

Two principles guided our work. We concluded that education, training, and work must be the central focus of welfare reform. Rather than spend money solely on increasing benefits, we decided to invest in the future productivity of welfare recipients. Two-thirds of the new spending in this bill is devoted to work, training, and other related activities.

Our second principle was fiscal responsibility. No matter how important welfare reform may be, this Congress will not approve it unless it is paid for. The Committee on Ways and Means took the responsible approach: Once we had met our revenue and spending targets under the budget resolution, we looked for a way to pay for welfare reform. Our main choice was to improve IRS debt collection—a proposal strongly favored by the administration.

There are three revenue-raising provisions included in this bill. The first of these provisions has been requested by the administration. Under this provision, the Federal debt collection program would be extended for 3 years for all Federal agencies. The program would be expanded to cover corporate, as well as individual, debts owed to Federal agencies.

Also under the provision, the Internal Revenue Service and the General Accounting Office would be required to report on the effectiveness of the program and its effect on voluntary tax compliance.

Under present law, certain Federal agencies are authorized to notify the IRS that a person owes a past due, legally enforceable debt to the agency. The IRS then must reduce the amount of any tax refund due the person by the amount of the debt and pay that amount to the agency. Under IRS regulations, the program only affects refunds due individuals, not corporations. This program expires after December 31, 1987.

This program is meritorious and should be extended. Thus, this extension and expansion of the debt collection program would be effective on January 1, 1987, and would expire after December 31, 1990. The Committee on Ways and Means included an identical provision in its fiscal year 1988 budget reconciliation proposals to the House Committee on the Budget. However, that provision was deleted along with the welfare provisions when H.R. 3545 was considered by the House of Representatives.

The second funding provision makes two modifications to the child care credit. First, the credit rate would be reduced by 1 percentage point for each $1,500, or portion thereof, by which adjusted gross income exceeds $65,000. Under the bill, no credit would be available to taxpayers with adjusted gross incomes over $95,000. This provision is included to make tax benefits provided under the credit more equitable. As presently structured, the child care credit may be claimed by high-income individuals who do not need Federal tax subsidies for their child care expenses.

Second, the bill provides that expenses of overnight camps are ineligible for the credit. As stated in the House Committee on the Budget's report on the Omnibus Budget Reconciliation Act of 1987 (H.R. 3545), a taxpayer's expenses for sending a child or other dependent to an overnight camp are not sufficiently related to the taxpayer's employment to justify providing a tax credit for such costs, as contrasted to the costs of day care. Overnight camp expenses are a personal expenditure that is not a necessary cost of being able to go to work.

The third funding provision denies a deduction or credit for amounts paid or incurred in carrying on any trade or business if the activities which comprise this trade or business are prohibited by Federal criminal law. Expenses that are included in the cost of goods sold would not be subject to disallowance under this provision. Further, a deduction or credit would also be denied for activities in a trade or business prohibited by the criminal law of the State in which such activities are conducted. This provision would be effective for amounts paid or incurred after December 31, 1987, in taxable years ending after this date.

There is strong public sentiment against allowing taxpayers involved in criminal activities the benefit of business expense deductions or credits for those activities when they are undertaken in connection with a trade or business.

The bill before us today does not do everything we might want to do to reform the welfare system. But it does what we can afford to do. This bill is a compromise of the provisions reported by several committees. Portions of H.R. 1720 were referred to three committees of the House: The Committee on Ways and Means, the Committee on Energy and Commerce, and the Committee on Education and Labor. At the direction of the House leadership, we worked together to craft a consensus package. There was give and take on all sides.

H.R. 1720 has one primary purpose: To create work, education, and training opportunities for recipients of Aid to Families with Dependent Children [AFDC]. It does that in three ways. First, it creates a new work, education, and training program—called NET-Work—that will help long-term welfare recipients to become self-supporting. Second, it helps AFDC families make the transition from welfare to work by subsidizing the day care expenses of those who go to work, school, or training. Third, it provides modest financial work incentives so that families that do work will be better off than those that do not. Food stamp provisions have also been added to assure that AFDC and food stamp rules are compatible and to simplify administration.

The bill also contains provisions to improve the enforcement of child support orders, expand State efforts to establish paternity when appropriate, and improve program efficiency. To encourage families to stay together, the bill requires all States, beginning in 1990, to permit two-parent families in which the principal earner is unemployed to qualify for AFDC. The bill also increases Federal matching funds for States that decide to increase their welfare benefits. The Medicaid extension, originally included in H.R. 1720, is not part of the bill before you today because these provisions have already passed the House as part of H.R. 3545, the Omnibus Budget Reconciliation Act of 1987.

Over the first 3 years, the bill has a cost of $1.7 billion. There is one simple reason for this: It costs money to put people to work. We are proposing to invest in a new work, education, and training progam for welfare recipients; as well as financial work incentives to reward those who work. Also, the bill assists in the transition from welfare to work by helping welfare recipients who do work with their day care costs so that they can continue working. We are convinced these measures will save us money in the long run and will reduce welfare dependency.

Some of you are concerned about the cost of welfare reform and are worried that passing welfare reform now sends the wrong signal. Not passing welfare reform sends a terrible signal. It says that we are not willing to take this opportunity to invest in a better life for the poorest of our children. It says that breaking the cycle of poverty and welfare by moving people from dependency into productive jobs is not a high priority of the Congress. I do not want to send this message. I do not think you do either. It is certainly not the message the American public wants to hear.

Mr. Chairman, I strongly support H.R. 1720 and urge its adoption by the House.

□ 1615

Mr. Chairman, I reserve the balance of my time.

Mr. DUNCAN. Mr. Chairman, I yield myself such time as I may consume, at the conclusion of which I will yield the balance of my time to the gentleman from Colorado [Mr. Brown], the ranking Republican Member.

Mr. Chairman, I do not know how Members can defend, with a straight face, an "aye" vote on H.R. 1720 today.

Here we are, in the middle of difficult decisions on deficit reduction, considering a bill that will cost about $6 billion more than we already are spending. At the same time we are being asked to cut back on programs like Medicare and Medicaid, we are being asked to increase certain welfare benefits by huge amounts over the next 5 years.

We have not even voted finally on budget reconciliation. We have not yet agreed to a 1988 deficit reduction of about $30 billion—an amount so modest that some Democrats and some Republicans, in both Houses, have called it too small by far. Yet we are seriously debating here today a bill that would spend one-fifth of the amount we are trying to cut from the deficit next year. I have heard the claim that the Democrat's bill will cost much less in the first 2 years, but the central point is: It still costs too much.

Our welfare system needs to be improved, no question about that. But we should use a little more restraint in the way we go about it.

There is an alternative before us today, and I suggest to my colleagues that if they really feel compelled to revise welfare immediately, they should take a close look at H.R. 3200, offered by my friend and leader, Mr. Michel of Illinois. His bill would cost a fraction—about 20 percent—of the Democrat bill, H.R. 1720.

H.R. 1720 would increase benefits and bring at least 75,000 new families onto the welfare rolls; the Michel bill would leave the current generous benefit structure in place and use our tax money to help families train for work and a departure from the welfare rolls.

H.R. 1720 would create new barriers to work by welfare recipients; the Michel bill would do everything possible to encourage work by families on welfare.

H.R. 1720 would retain the current system of rigid Federal control of welfare programs; the Michel bill would grant substantial new authority and flexibility to the States, allowing them the freedom to seek improvements.

H.R. 1720 would dictate to the States how they should run their work programs, who is to receive priority, and what services are to be offered; the Michel bill would give States maximum flexibility in designing and implementing their work programs;

H.R. 1720 would add nearly $1 billion to State costs to pay for welfare expansions; the Michel bill would save money for the States so they will have more to spend on their employment and training programs.

I urge Members, especially our friends on the other side of the aisle, to view the Michel bill dispassionately. If reason and logic prevail, we will serve the needs of America's poor families and children by defeatng the Democrat bill and passing the Republican bill.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I would like to commend members of the Subcommittee on Public Assistance and Unemployment Compensation. In all the time that I have served as chairman of the Committee on Ways and Means, I have never seen a group of men and women who have worked as hard together as this group. One always wonders whether it is time for welfare reform as a legislative product. It is very difficult to choose the right time, but through the efforts of the gentleman from New York [Mr. Downey], the acting subcommittee chairman, and the gentleman from Tennessee [Mr. Ford], I want to say that I am proud of having worked with them and proud of the product that they have put together.

Mr. Chairman, I yield such time as he may consume to the gentleman from New York [Mr. Downey].

Mr. DOWNEY of New York. Mr. Chairman, let me thank the gentleman from Illinois [Mr. Rostenkowski], the chairman of the Committee on Ways and Means, for the compliment personally and on behalf of the subcommittee. We worked hard and I believe the product that we deliver to the floor today is a good one. One that will make a substantial difference to the poor children and people of this country.

Mr. Chairman, the former Secretary of Health and Human Services, Joseph Califano, said of welfare that it is the domestic political equivalent of the Middle East. It is shrouded in myth, in controversy. Everyone has an idea of what we should do for the poor, and it is very difficult to bring those ideas together.

Over the last 10 years, we have managed to bring those ideas together. The work that the gentleman from Tennessee [Mr. Ford] and the members of the subcommittee have done reflects the work of many different groups, including the National Governors Association. Mr. Chairman, 49 of the 50 State Governors endorse this product. They do so because they recognize that if we are going to move people out of dependency and into a productive environment, we have to provide the necessary transitional services to make that leap. I mentioned before during consideration of the rule that the majority of welfare recipients, almost half, are on welfare very briefly for a period of less than 2 years. But a very large number, though a small percentage, 15 percent of the total are on welfare for some 10 years.

What we have attempted to do is to target our money, our opportunities to those people who are long-term welfare recipients in order to get them off welfare, and lay out a schedule of who the States can provide services to and who they should provide services to in a priority.

This is a recognition of the fact that we cannot continue to turn our backs on these people. There will not be enough locks on the doors of America or enough policemen on the streets of our cities if we decide to say no to a generation of Americans who have not had a chance and who will never get one.

The way we provide these transitional services is by establishing a relationship between the client and the State. There will be mutually flowing obligations on the part of the welfare recipient and on the part of the State and the Federal Government. We believe that this is essential so that there is a sense of mutual responsibility about this whole process. That has been missing from current law and it is integral to this bill.

Another absolutely essential matter is the recognition that a woman with two children—probably small children—is thrust into a position of having to worry about raising her family and at the same time earning money. It is only recently in our society's memory that we want a woman to do both these tasks. In the past, some of my colleagues have suggested that a minimum wage should be the goal for a person who is not working, that they should be required to take such a job even though it will mean for their children less in the way of benefits and less in the way of support.

This is not a decision that any rational mother will make.

Under our bill a minimum wage job becomes that much more attractive because we provide a longer period of daycare, an extended program of health care, and earned income disregards that allow that welfare beneficiary to keep more of her salary so that the minimum wage job under our bill is not a barrier to returning to work.

□ 1630

I repeat, the minimum-wage job under our bill is not a barrier to work. Under the Republican substitute it is a barrier to work.

When we look at these reductions, and these impediments that now exist, we will find, as all of the studies have shown us, that the vast majority of welfare recipients want to work, that they just need the barriers taken down. That is what our bill does. It reduces the barriers for people who want to work.

Inevitably we are going to hear from our colleagues on the other side that we have erected barriers. They will cite a whole series of things: The minimum wage, the fact that the person has to be paid the same salary as the job of the person they are working next to, or the limit on the CWEP Program, the Community Work Experience Program.

We have studied these issues. We have not come lightly to any decisions on them. The decisions that are inherent in this bill recognize that what some of our Republican friends want to do does not increase the chances of work. They diminish them. They demean the people who want to get off welfare. They do not encourage them.

Our bill recognizes the essential dignity in work and the essential responsibility of the State to help the least fortunate among us to be able to work and to care for themselves.

Lastly, let me just say one thing. The philosopher, John Rawls, has told us that we are part of an American family and that there is something completely insidious and unacceptable about the randomness of poverty. That it should strike children, the most vulnerable among us in our society is inimical to a free society that is concerned about the people.

All of the major religions practiced in the United States recognize the obligation of people who have more to provide and help people who have less. In 2 weeks, we celebrate the birth of the Creator of one of these great religions, the Christian religion. Inherent in the teachings of that religion is the understanding that the poor need help and that it is our responsibility and our duty to help them. Beyond that, it is an economic necessity because we have fewer and fewer people coming into the work force who will have the needed skills and opportunities unless we reach out to them now.

We have done a very effective job I think in understanding the studies. We have put them together in this bill. They richly deserve the support of the membership.

I want to thank again the members of the subcommittee for the extraordinary effort in putting this package together.

Mr. BROWN of Colorado. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I would like at the start of the debate to pay tribute to the gentleman from Tennessee [Mr. FORD]. He has been a leader in this area, a tireless worker, and while we have not always seen eye to eye, I do not know of anyone who has worked with him who does not have the deepest respect for his sincerity, his hard work, and yes, unfortunately, Mr. Chairman, his effectiveness.

I would like to also make those comments and observations applicable to our chairman of the subcommittee, the gentleman from New York [Mr. DOWNEY]. He is one who has exhibited tireless energy in this pursuit.

The bill in large measure has generated much of its dynamism from his leadership, and while I have found myself differing with him on important issues, he is clearly a person who is worthy of respect and has had a major hand in fashioning the document before us.

I would also like to pay tribute to the chairman of the Ways and Means Committee, the gentleman from Illinois [Mr. ROSTENKOWSKI]. His good humor, his willingness to work with others is deeply appreciated.

Mr. Chairman, I yield 2 minutes and 30 seconds to the gentleman from Ohio [Mr. KASICH].

Mr. KASICH. Mr. Chairman, of course the gentleman from Colorado [Mr. BROWN] deserves a few kudos as well for his hard work in trying to develop a responsible alternative to the bill, and I want to compliment him along with the chairman who I know has worked very hard in putting a package together.

I do, however, want to point out a problem that I think exists in this bill, and whether this bill passes, if the bill passes it is going to have to be addressed. That is there is about $250 million, a quarter of a billion dollars that is provided for funding in this bill that is raised as a result of implementing the IRS offset. In other words, if somebody owes money to the Federal Government and the Federal Government is unable to collect it, if that person is going to get a rebate from the Federal Government on their income tax, the two totals are subtracted. So if I get $100 as a loan from the Federal Government, which I refuse to repay, and I get $100 as a rebate from the Federal Government on my income tax. I get nothing back. It is just simply an offset, and that is projected to raise in 1 year somewhere in the neighborhood of about $300 million to $340 million.

The $250 million funded in this bill for fiscal year 1988 comes from the IRS offset. There is only one problem with that. The problem is that the deficit-reduction package that is passing the Senate contains the same $340 million or $300 million from the IRS offset used to reduce the deficit.

So what we are doing, ladies and gentlemen, in this bill, and what the Congress in its wisdom is proceeding down the path of doing is using a quarter of a million dollars from the IRS offset to fund the welfare reform bill, while at the same time we are using the same, understand it, the same $250 million in deficit reduction in the bill passing the U.S. Senate.

Now we cannot use the $250 to $300 million twice. We cannot use it in welfare reform and use it in deficit reduction.

I assume we are going to be voting on deficit reduction, and therefore the offset is going to be included in the deficit-reduction package. So, therefore, your bill is going to be underfunded by the tune of about a quarter of a billion dollars. It does not make any sense. It simply does not make any sense do not have the bill funded properly, and I think it is a big problem in this bill, and somehow if it in fact does pass this House we are going to have to find a quarter of a billion dollars somewhere else. Frankly, the IRS offset ought to be used for deficit reduction, which is what I have suggested all along, from the beginning and when I introduced that particular bill not to increase spending in other areas.

So I think the committee ought to be aware of that, and I hope this will be addressed when it comes time to vote on the package of the bill and alternatives.

I thank the gentleman for yielding me this time.

Mr. DOWNEY of New York. Mr. Chairman, I yield 6 minutes to the gentleman from Tennessee [Mr. FORD].

Mr. FORD of Tennessee. Mr. Chairman, I rise in strong support of H.R. 1720, the Family Welfare Reform Act. I would like to say to the acting chairman of the subcommittee, the gentleman from New York [Mr. DOWNEY], that I want to thank him for his leadership, and also the gentleman from Colorado [Mr. BROWN], who is the ranking member of the subcommittee, for his leadership over the past 9 months, as well as all of the members of the Subcommittee on Public Assistance and Unemployment Compensation who worked so tirelessly, and I know as of today the gentleman from Colorado [Mr. BROWN], and some of the other Members on that side of the aisle have somewhat of a problem with H.R. 1720. But I know of the time and the effort they put into the welfare reform package, and I think we are all here today to say to the American public that those who have been dependent upon welfare for so long that we are fashioning a program today here in the Congress that hopefully will make those dependent self-sufficient of our Nation's welfare system.

In thinking in terms of aid to families with dependent children, it was very clear to members of the Public Assistance and Unemployment Compensation Subcommittee, as well as members of the full Committee on Ways and Means, that if we were going to amend title IV of the Social Security Act that we wanted to do it in a fashion that States throughout this Nation would all agree with us. I think we had 49 of the 50 Governors throughout this Nation to come on board and say yes, the major cornerstone of this bill is the network program. For the first time in the history of this Congress we have been able to stress in a welfare package work, education, and training. We provide through the States an opportunity for those States to create the type of work, education, and training that would be needed in order to respond to the welfare problems of their States.

Mr. Chairman, I think when we look at all titles of this bill we will see that many will say this bill does not go far enough. There are those who will say we spend too much in the bill. But we have heard a lot of reports from the private sector as well as the public sector. We have seen trends over the past 3 years. We have studied the welfare population, and it is time now for this House and this Congress to act, to reform, to overhaul the current welfare system.

I think if my colleagues will take a minute to look at the facts surrounding this bill, they will see the benefits it has to offer. Unlike previous bills, this bill is the first to stress, as I said earlier, work, education, and training. What this bill does is guarantee Federal funds for work, education, and training programs targeted to AFDC recipients who are likely to be long-term dependents on the welfare system. It is targeted to teenage-parent families, those without a high school education, and those who have been on welfare for some time.

It provides work incentives, assuring that a family on welfare who works will be better off than those who do not work. This bill mandates education services and training for welfare recipients as a part of an individualized plan to fit the needs of thsoe recipients who are dependent upon the system.

This bill is a real work bill, and the only one that guarantees child-care or day-care support for parents of young children who are working or in training or who would be in school.

This bill, Mr. Chairman, is a bill that says in 24 States that the father will not have to leave the home in order for the children to be eligible for public assistance under the family support system.

Mr. Chairman, this bill is not an answer to all of the problems welfare recipients are faced with. However, it is an approach to reform the inequities of our present system.

H.R. 1720 addresses the importance of enabling those caught in the quicksand of welfare dependency to take control of their own lives and become self-sufficient.

What is good about this bill is that it pays for itself and does not increase the deficit. But if my colleagues look at this bill and study the bill, we all see that we save money in the long run. Failing to make the investment in this system today will cost us later on, Mr. Chairman. That is why it is critical for this House to take the appropriate action, to pass this welfare package that is before the House today.

The money spent in this bill will be used for requiring work, education, and training, and for training those who are dependent upon welfare. We will see, Mr. Chairman, once this legislation is put into place, that we will have a new system, that we will no longer say that welfare is to blame, or welfare is dependent, that we will have responded to many of the problems within the welfare system and responded to the welfare population by saying that yes, in America those who have been dependent upon the system will be self-sufficient of the system.

This bill is nothing more than an investment in our Nation's future productivity, and I therefore ask my colleagues to commit themselves to this reform package. Let us report this package out of this House today or tomorrow and say to the American public that yes, the 12 million who are trapped into the cycle will have a way to escape.

Mr. BROWN of Colorado. Mr. Chairman, I yield 3 minutes and 30 seconds to the gentleman from California [Mr. KONNYU].

Mr. Chairman, we have been privileged to have the gentleman from California participate in developing a Republic alternative. He was one of the leaders in the California Legislature when they adopted their welfare reform, and much of the effort in our bill to help give additional flexibility and initiative to the States has come from the leadership of the gentleman from California.

□ 1645

Mr. KONNYU. First of all, I want to thank the gentleman from Colorado [Mr. BROWN] for those kind remarks.

Mr. Chairman, I rise to oppose H.R. 1720 and to strongly support the GOP substitute, H.R. 3200. In particular, I wish to express my support for the workfare program contained in the substitute and my other most immediate concern is with the lack of problem-solving insight inherent in the work-for-benefits program contained in the majority party's bill.

Let me first briefly relate to you the success of California's bipartisan greater avenues for independence program or GAIN, for short.

I spearheaded the GAIN into law as a California State assemblyman and it parallels with the workfare program contained in H.R. 3200.

Under GAIN, California is now able to marshal all the forces necessary to win the battle against welfare dependency, including employment training, education, work experience and child care as well as discipline, and the opportunity for true self-determination.

GAIN was built on several fundamental premises; that welfare people who can work must work; that recipients of welfare want to work and will do so given the opportunity; that taxpayers must receive real reduction in the size of the welfare population; and that the State must assemble under one system all of its resources to overcome the circumstances which keep recipients dependent on the dole.

The Republican substitute, H.R. 3200, a bill I am cosponsoring and which I played an active role in shaping, has mandatory, and that is the key, mandatory workfare program which most closely resembles the California GAIN law.

True welfare reform should help the poor get out of the welfare trap and stay out. A reform with mandatory participation will break the welfare dependency cycle in those families who prefer a welfare check to a paycheck.

It will provide the training and employment skills necessary to help the impoverished help themselves.

Our H.R. 3200, but not their H.R. 1720, bears the closest resemblance to true welfare reform.

That ours is a sound proposal is best testified to by the President of the United States who dropped his reforms in favor of our reforms.

Mr. Chairman, I commend the Republican leadership for their efforts to create a substitute bill containing a workfare program exhibiting the fine elements of quality work-for-benefits package.

I am honored to serve as the sole freshman on the Republican task force on welfare reform and to help shape this substitute bill.

Mr. Chairman, I urge my colleagues on both sides of the aisle to take a hard look at our reform and demonstrate with us the clear intent of this House to deal immediately with welfare reform in a conscientious taxpayer-sensitive and responsible manner.

Mr. DOWNEY of New York. Mr. Chairman, may I inquire as to the disposition of the time?

The CHAIRMAN. The gentleman from New York [Mr. DOWNEY] has 38 minutes remaining and the gentleman from Colorado [Mr. BROWN] has 49 minutes remaining.

Mr. BROWN of Colorado. Mr. Chairman, I yield 8 minutes to the gentleman from Minnesota [Mr. FRENZEL] who has played a leadership role for a number of years on the subcommittee and has been a prime drafter of the Republican alternative here.

Mr. FRENZEL. Mr. Chairman, this is a vexing subject. Everyone who studies welfare can see immediately that there is a crying need for restructuring, for improvement and yet almost all parties have different ideas of how to proceed.

I join my distinguished subcommittee vice chairman, the gentleman from Colorado, in congratulating his Democratic counterparts, both of them, the regular chairman and the acting chairman and everybody else who worked on this.

I think everyone has worked hard. I am sorry we have not come to a better conclusion.

I sometimes think that if those who worked hard on the other side would give as much respect to our opinions as we do to those, we would have a better basis for proceeding. But in looking over the handiwork of the majority—and it clearly was a party line vote that produced this bill in subcommittee and in full committee just as it was practically a party line vote that passed the rule—we have here a bill that I think does not do well for the republic, for the so-called beneficiaries, and does not reflect great credit on the Congress.

What we have is an example of Democratic compassion. Democratic compassion is better described as putting one's hands into someone else's pocket to show how merciful we are.

Here you have a situation where welfare benefits over the next 5 years are going to be expanded by 6 billions of dollars. It means that many people are going to pay taxes who makes less money to sustain people on welfare whose total benefits are greater. And one of the problems with this bill is that in a number of states it raises welfare benefits above the level that is the entry wage in the area, which means that those who are on welfare may, if they wish—and I would be the first to agree that a majority would like to get off of welfare—but may if they wish stay on welfare, and we know that many do.

Well, what is the matter with the bill? If you look at the minority report in the committee's report, you will see a kind of a synopsis that tells what the minority thinks is wrong with this bill. In addition to the egregious overspending, there are many other flaws.

I want to dwell on overspending for just a minute, because we only have a 5-year estimate as to the cost of this bill. And no one dares predict what will happen after 5 years, but everyone admits that the costs will escalate geometrically after 5 years. And that, of course, just bodes great evil for our republic for the future. It is tough enough right now; it is going to be much tougher in the future should this misguided bill become law.

There are, in addition to its costs, three inhibitions to work. Our thrust on our side was to make it easy for people to go to work, to make it mandatory for States to put people into training programs so that they would go to work if they were so minded and if there were opportunities.

The Democrat bill, unfortunately, provides three restrictions. The first one says that they have to work at a particular rate of pay, it has to be the highest of the Federal minimum wage, the applicable State or local minimum wage or the rate of pay for persons employed in the same or similar jobs by the same employer.

With large employers, that may be a very difficult matter to ascertain and will, of course, throw State systems I think into a bit of a turmoil.

We also have a very strange provision which forbids local governments from requiring welfare claimants to work more than 6 months in community-sponsored work.

Now most of us believe in workfare. In fact, I think sometimes in this Congress we have been unanimous in favor of workfare.

In this case, however, we are stamping on workfare by saying, "Only 6 months can you do it, otherwise you might get to like it or you might get in practice and we certainly wouldn't get you to like work," and therefore the committee bill says that, "You cannot continue CWEP employment for more than 6 months and in some cases for as little as 3 months."

Mr. Chairman, there is another inhibition to work which says that if you would have any of your welfare benefits reduced by working, that you would not be required to do so. In high-benefit States such as California, that is clearly a problem. I think it is something that I find inimical to the goal which I believe we all subscribe to and that is to put people on welfare to work or at least give them a chance.

The training costs in the Republican substitute really make up the whole substitute's cost. That is where our priorities are.

We make it mandatory for the States to put people into these training programs. As a result, should you vote for the Republican substitute, you will be providing for far greater training and far more people being put to work.

Now somebody talked awhile ago about how much this costs the States. The Republican substitute actually saves the States money; the Democratic bill, of course, forces the States to pay more.

I suppose that is consistent with the philosophy. I think it is a bit unfair for the Congress to mandate State costs.

Now I would like to say, Mr. Chairman, that the administration has taken a position on this bill. I have in my hand a letter from four department heads to the Speaker; the Secretary of HHS, the acting Secretary of Labor, the Secretary of Agriculture and the Director of the Office of Management and Budget. I will quote but one sentence from their letter: "Were 1720 to reach the President's desk, we would recommend it would be vetoed." And they would be dead right.

I think the net, net, net of what we are looking at here, the comparison between the Michel-Brown substitute and the Democratic committee is that the Democrats use their money to pay the system. They make sure that all the welfare agencies and the State systems are going to have plenty of money. They raise the benefits so it will discourage work and they raise barriers to work.

The Republican substitute attempts to raise opportunities, to provide a chance for people to work and in fact mandates States that they make more people fit for work.

I do not know how you can have a higher goal than that; I do not know how you can be more misguided than the committee Democratic bill.

I very much hope that when we are through this House will reject the Democratic bill and will adopt the Michel-Brown Republican substitute in its stead.

Mr. BROWN of Colorado. Mr. Chairman, I yield 3 minutes to the gentleman from North Carolina [Mr. BALLENGER].

Mr. BALLENGER. Mr. Chairman, I thank the gentleman from Colorado for yielding me this time.

Mr. Chairman, for welfare reform to be truly effective, it should prepare those on welfare for work, breaking the cycle of dependency and helping them to become economically independent.

Having worked with the welfare program at the local level at county commission and State levels, I have a long standing belief that able-bodied people should work and be self-supporting. I believe that welfare programs should be designed to help motivate individuals to find jobs.

Welfare reform must include provisions mandating work or work training for welfare recipients. Those who receive benefits such as aid for families with dependent children [AFDC], food stamps or low-income energy assistance should be required when able to participate in activities that offer the opportunity to gain work skills, job histories and job references. These are important skills, vital to both the recipient and the potential employers.

As noted by many welfare experts, workfare provides the welfare recipients with a sense of responsibility while meeting taxpayer demands that those who benefit from the system work to meet their obligation to society. Contrary to claims of some critics of workfare, most welfare recipients have a positive view of the program, indicating improvement in their family situation, self-concept and prospects of leaving the Federal assistance program.

Workfare has been one of the few programs offered by Congress that has had positive effect on reducing the welfare rolls. However, the only places that it has been effective is in States where it has been mandated. H.R. 1720 lacks this important feature of welfare reform.

I urge my colleagues to support the Michel-Brown substitute which includes mandated work participation standards. It provides the better alternative.

□ 1700

Mr. DOWNEY of New York. Mr. Chairman, I yield 4 minutes to the gentleman from Ohio [Mr. Pease], a member of the subcommittee.

Mr. BROWN of Colorado. Mr. Chairman, I yield 1 additional minute to the gentleman from Ohio [Mr. Pease].

The CHAIRMAN. The gentleman from Ohio [Mr. Pease] is recognized for a total of 5 minutes.

Mr. PEASE. Mr Chairman, I rise in support of this welfare reform bill.

I have been on the Public Assistance Subcommittee now for 7 years. I am very proud of the product that we have produced. In the beginning I would like to extend, first of all, my congratulations to the gentleman from Tennessee [Mr. Ford], our long-time subcommittee chairman, without whose stalwart effort this bill would never be on the floor today.

I would also like to express my congratulations to our active chairman, the gentleman from New York [Mr. Downey], who has been, I must say, an excellent substitute over the last few months in actually moving the bill on to the House floor. Both of them, in my view, deserve a great deal of credit for welfare reform.

Mr. Chairman, common sense ought to be our guide in evaluating the welfare reform proposal before the House today. The proposal offered for consideration by the Ways and Means Committee passes the commonsense test with flying colors, because the package is results-oriented and practical.

Members of Congress and their constituents alike agree that work should be the key to any welfare reform effort. No matter what you think should be the primary goal of welfare reform—whether it be reduction of poverty, cutting the cost of welfare programs, or reducing the number of people who depend on the programs—a job has always been and will continue to be the best way to achieve any of these goals.

The people we are trying to reach with this reform effort are those who know that their long-term prospects would be brighter with a job but who lack the basic tools to succeed in the job market. The package targets these people and addresses their specific needs for education and training. Generally, able-bodied welfare recipients between the ages of 16 and 60 who do not have to care for a child under age 3 in their homes would be required to participate in the education and training program. Special priority would be given to families with teenage parents and families that had been receiving welfare for 2 years or more.

Beyond education and training, there is another imperative. Working must be a better deal than not working. It makes no sense whatsoever to encourage people to work if working is going to leave them economically worse off. And under the current system, working often does leave families less well off. What kind of message is that to send to children in these families? If we intend to be serious about our commitment to jobs as the best way out of welfare, how can we ignore the injustice of a system which penalizes work?

The obvious answer is that we can't. A reformed welfare system must accordingly deal with transition problems of people who move from welfare to gainful employment. The welfare reform proposal devotes consideable attention to such transition problems as health care, day care, transportation, and work-related expenses. Currently, a welfare mother who takes a low-wage job will likely soon find herself without medical insurance for her children. What mother would find that an inducement to go to work? The new welfare reform bill would allow continuation of medical coverage for up to 2 years.

The fact that our welfare system was originally designed to aid needy children without fathers has led to a legitimate criticism. The existing program encourages the breakup or nonformation of families. That's crazy. It is long past time that we remove the bias against families. Ohio and 25 other States have this program already, but we need to make it mandatory for all States. The President himself has enunciated as one of his welfare reform principles that the system should "encourage the formation of economically self-sufficient families."

Unfortunately, the debate has come down to dollars. Would the package cost money? Yes, it would. No one has ever pretended otherwise, but the Reagan administration and the minority in this House want to do welfare "reform" on the cheap.

The simple fact is that to do a good job on welfare reform will require an investment to get the return we all want to see. A corporation invests capital (and often loses money) in the short run in order to profit in the long run. With welfare reform, investment now in education and training for welfare families will pay handsome dividends in the future.

If we were to be judged on how we treat our worst-off citizens, I am afraid we would not get very high marks right now. We can demonstrate our commitment to a practical, commonsense approach to welfare reform by voting for this long-overdue reform bill today.

Mr. BROWN of Colorado. Mr. Chairman, I yield 4 minutes to the gentleman from Kentucky [Mr. Hopkins].

Mr. HOPKINS. Mr. Chairman, first of all, let me pay tribute to the gentleman fom Colorado [Mr. Brown] for his untiring efforts in a very difficult area that our Government continues to wrestle with.

Mr. Chairman, I rise in opposition to H.R. 1720 and in support of H.R. 3200.

During the current 5-year economic expansion, the U.S. economy created more new jobs than any other country in the world. This indicates to me that there are many people out there collecting welfare checks while jobs stand empty in need of workers.

Today we have the opportunity to overhaul the present system and set in place a plan which will offer recipients an alternative to dependency.

H.R. 3200 focuses on strengths instead of perpetuating weaknesses;

Removes old barriers to prevent work, instead of creating new excuses for not working;

It encourages employment and training opportunities for welfare recipients instead of paying them for not working.

The philosophy of H.R. 3200, reflects that States are more aware of the needs of poor people within their borders than the Federal bureaucracy. States are not merely geographically different but diverse in climate, culture and work ethic. A welfare program that is successful in California may fail miserably in Kentucky. It is arrogant to assume that only Washington can devise a successful welfare program.

H.R. 3200 grants States the flexibility to construct and excute their own training and their own employment plans.

I am sure we all agree that the ultimate goal of welfare reform must be to replace welfare benefits with paychecks. Compare the two proposals before us: the Congressional Budget Office estimates that H.R. 1720, at a cost of $6.2 billion over its first 5 years, would assist only 15,000 families to get off welfare and go to work. H.R. 3200 would help 50,000 people to become working taxpayers at a fraction of the cost.

Several provisions of H.R. 1720 violate common sense.

Participants are permitted and even tempted to choose welfare over work. Under H.R. 1720, a person may refuse a job which pays $4.50 an hour if welfare benefits equal $5 an hour. What incentive is there for welfare recipients to work if the Government will pay them more to stay home?

Today, you and I can make a choice: If you want to perpetuate dependency, if you want to make welfare more attractive than work, vote for H.R. 1720.

But if you want to tear down the obstacles that have kept Americans trapped in welfare—if you want to restore hope, pride, and incentive, then vote for H.R. 3200.

□ 1710

Mrs. KENNELLY. Mr. Chairman, I yield 4 minutes to the gentleman from California [Mr. MATSUI]. The gentleman from California is a member of the Public Assistance and Unemployment Compensation Subcommittee and has spent untold hours on this bill.

Mr. MATSUI. Mr. Chairman, I would like to thank the gentlewoman from Connecticut for the work that she has been doing on the welfare reform package. She has been one of the leaders for the last 3 years on this issue.

I would also, as Mr. PEASE has done, commend both the gentleman from Tennessee [Mr. FORD] and certainly the gentleman from New York [Mr. DOWNEY] for the work that they have performed on welfare reform. Without their efforts, we would not have gotten the bill as far as we have today.

As some earlier witnesses have stated, we have spent the last 36 months on welfare reform. We have had 450 different witnesses before the Ways and Means Subcommittee on Public Assistance and we have talked to numerous individuals about how the current system could be improved and made better.

I have come away from the entire debate with five elements that I think are essential to any welfare reform package. One needs a work training and education program in order to get people who are currently on welfare out of the welfare cycle and off the welfare system.

Second, you need a daycare system. Almost all the recipients of welfare today are women with minor children and for them to get training, for them to find employment, they need daycare.

Also, although this would be an easy element for all of us, they need transportation, because they need to find a way to get from their homes to either an education center or their place of employment.

Fourth, they need minimum benefits. We have seen that since 1970 the benefit level to an average welfare recipient in the United States has been diminished by over 33-⅓ percent at a time when in 1981 we gave the largest tax cuts to the high-income Americans and middle-income Americans. We have forgotten about those who are welfare recipients.

Of course, the fifth element is that when a person goes off welfare and into the work force, you need to give that person a transition period in which that individual will still maintain some benefits, like Medicaid and other benefits they are receiving, so that it is better for them to get off welfare, rather than staying on welfare.

H.R. 1720, the bill before this House of Representatives, has those necessary five elements in the legislation. It is not the best bill. I myself would have liked to have seen a minimum benefit and a national standard, but we had to make compromises on this legislation. As a result of that, I think this is probably the best bill that we could have before us.

Let me just conclude by making one further observation. We are going to have a Republican substitute available at the end of this debate. That bill has a lot of rhetoric in it. It provides a work training program, but unfortunately we are going to set up payment for that system to the States, some of whom may not be able to afford it. As a result of that, that system will provide false promises and it will not provide daycare. It will not provide the kind of work training program necessary to make the system work.

Mr. Speaker, I urge my colleagues to vote for H.R. 1720.

Mr. BROWN of Colorado. Mr. Chairman, I yield 4 minutes to the gentleman from South Carolina [Mr. RAVENEL].

Mr. RAVENEL. Mr. Chairman, I was happy and I was proud to see that the Chair voted against the rule on this wild and crazy bill.

Mr. Chairman, this so-called Democratic welfare reform bill, instead of solving problems, just creates more. For example, under the Democratic plan, if a welfare mother has a child under the age of 3, she is exempt from meeting the requirements of the work program. Therefore, all she has to do is have a baby every 3 years—which many of them do—and she remains in the same old cycle of poverty, dependency, and lack of self respect.

Under the Democratic welfare reform plan, welfare recipients, under title 1, must receive no less than the "standard wage," for which there is no definition, for jobs they are assigned to. This recipient cannot be assigned to jobs such as cleaning, babysitting, aiding the elderly or handicapped or doing yard work. In other words, the myriad jobs which might be avaliable for someone with little training in a rural community, would be off limits to one on welfare under the Democratic plan. Waiter and waitress jobs would not be available to our welfare person because many of them pay less than this nebulous "standard wage". Most of the pay comes in the form of gratuities.

Under the Democratic welfare reform bill, title I, an AFDC recipient cannot be required to take a job that pays less than his or her welfare benefits. Many will choose to stay on welfare rather than work—even though he or she would be supplemented by welfare payments, receive food stamps, Medicaid benefits and would qualify for low-income housing if he or she took a job. What is needed is a solution that requires work rather than one which provides every excuse not to work.

Any serious attempt to reform our welfare calamity must reduce options not to work. This, the Democrat plan has not done and I cannot vote for it.

Mrs. KENNELLY. Mr. Chairman, I yield 4 minutes to the gentleman from Massachusetts [Mr. DONNELLY]. The gentleman is a member of the Public Assistance and Unemployment Compensation Subcommittee of the Committee on Ways and Means.

Mr. DONNELLY. Mr. Chairman, at the outset let me say that as a member of this subcommittee and a member of the full Committee on Ways and Means, I can understand some of the frustration and anger about people's inability to offer amendments to this legislation, but I would hope that that frustration and anger does not blind people to see some of the good things that we are doing in H.R. 1720.

Having said that, let me state something I think we all will agree on. The present system is a miserable failure. It perpetuates the cycle of poverty. It does not break the cycle of poverty.

I think H.R. 1720 provides a mechanism that will break the cycle of poverty. We have seen time and time again, both from personal experiences and reading and seeing through the media, that we are producing generation after generation of people stuck on welfare. The children that we are charged with helping, their children are becoming dependent upon the welfare system.

H.R. 1720 creates what is called the network system. It requires education and job training. It provides assurances for welfare parents that the medical care and day care of their children will be provided for while they are retraining themselves and educating themselves to become productive members of society. It does not break up families, as the present system does. This legislation is profamily. It keeps the family unit together.

Aid to Families with Dependent Children is the system we are speaking about. Our commitment and responsibility is to those children.

I think H.R. 1720 goes a long ways toward doing it.

In my home State of Massachusetts, we have created a program that is very similar to this legislation. Some of the same criticisms that I have heard this afternoon about the cost of the program, the structure of the program, I heard in Massachusetts; but the facts of the matter are that the investment that we made in Massachusetts is now paying off. Our caseloads have been substantially reduced. Dependent Americans have not become independent Americans.

Let me say that we have invested trillions of dollars over the course of the last few years in physical capital. What we are asking this House of Representatives to do this afternoon is invest a few dollars in human capital.

One of the great indictments of our society and on this institution is that the poorest people in America are now our children. I do not think anybody can stand in this Chamber and defend the way that we treat those children. I do not think anybody in America would be proud and is proud of the way that we treat those children.

This is a very political and thorny issue, but let me just say, there has to be a solution. H.R. 1720 is part of that solution.

The President agrees the system does not work. The leaders of this body and the other body agree that the system does not work. The people who are paying the price for the inaction of this institution are the poorest children and people in America.

I would hope during the course of this debate we could keep it on a high plane, because we are talking about the most serious issue in the United States.

H.R. 1720 is a good bill. It is a well-thought-out bill. There is disagreement over certain provisions and specific policies that H.R. 1720 is making, but if this Congress does not enact welfare reform legislation before it heads home for the holidays, it does a great injustice to the people that need help most in America.

Mr. Chairman, why do we need the welfare reform bill agreed to by the Ways and Means and Education and Labor Committees? There are really three reasons: It's profamily. It's prochildren. It emphasizes work over welfare.

Our existing welfare system contributes to the breakup of families. This bill contains such important provisions as a requirement that all States provide benefits to eligible two-parent families. No longer will families be forced to break up to receive the welfare benefits to which they are entitled. The bill allows mothers to stay with their children during their earliest years.

The bill also strengthens child support laws, including an incentive for States to enact mandatory presumptive wage attachment laws. Such laws help insure that children get the payments which they are legally entitled, as they already have in Massachusetts and Texas. Such a provision insures that able-bodied fathers—not the taxpayers—pay for the care and support of their children.

Finally the bill will help break the cycle of welfare dependency. It requires States to enact innovative education and training programs which will emphasize work over welfare. And, the bill targets the education, training, and work program to those who are most in need of it. Work over welfare—that's the theme of our bill.

Now, Mr. Chairman, I also want to focus on two other issues. First, title 1 of the legislation authorizes general demonstration authority for works, education, and training demonstration projects. Emmanuel College in Boston, MA, had developed a women's resource center that is designed to coordinate educational programs for single women heads of households. It is targeted to AFDC recipients, and is meant to provide career opportunities for these recipients.

Title I also authorizes 10 demonstration projects on early childhood development. The Randolph Foundation in the town of Randolph, MA, is developing a child care program to demonstrate the ability of a community-based day care center involving the school system, the town and the business community to provide comprehensive child care services to infants, toddlers, and pre-schoolers. As a member of the Committee on Ways and Means, I believe that the projects at Emmanuel College and in Randolph, MA, are precisely the types of projects the committee had in mind when the generic demonstration authority was added to the bill.

Finally, Mr. Chairman, I want to focus on one of the revenue provisions used to fund this bill. The provision to which I refer would disallow deductions for income tax purposes for criminal activities—a proposal which I had raised in the context of revenue raising legislation this fall. My intent is that the provision would apply after the conviction of any individual for a criminal activity when that individual's income tax liability was calculated. To the extent that the income tax liability was based on illegally obtained income, and the taxpayer had been convicted of that illegal activity—or entered a plea of nolo contendre—no expenses incurred in direct relation to that activity would be allowed as a deduction against that income.

This provision follows the Supreme Court's invitation to Congress in *Commissioner* v. *Sullivan,* 356 U.S. 27 (1958), where the Court specifically allowed a taxpayer to take deductions for expenses incurred in an illegal activity. There, the Court said that a decision to disallow deductions for criminal activities should be made by Congress, and could not be made by the courts.

Furthermore, I do not believe that this proposal poses constitutional problems. In *Sonzinsky* v. *U.S.,* 300 U.S. 506 (1937), the Supreme Court said that a tax is not invalid simply because it regulates, discourages, or even definitely deters the activities taxed. And, that principle applies even though the revenue obtained is negligible, or if the revenue purpose is secondary. See, also, *Hampton and Company* v. *United States,* 276 U.S. 394 (1928) and *United States* v. *Sanchez,* 340 U.S. 42 (1950).

Mr. Chairman, H.R. 1720 is good legislation. Its' not perfect, but that is the price we pay for our legislative process. This is a major, beneficial reform of the welfare system we have now. It deserves our strongest support.

Mr. BROWN of Colorado. Mr. Chairman, I yield 4 minutes to the gentleman from Connecticut [Mr. ROWLAND], who has played a key role in fashioning the Republican alternative here and has been one of the leaders in the area of developing participation standards.

Mr. ROWLAND of Connecticut. First, Mr. Chairman, I would like to commend our colleagues on both sides of the aisle. I want to commend the gentleman from New York [Mr. DOWNEY] and the members of that subcommittee for working diligently on their Democrat plan, and although many of us do not agree with that particular proposal, I commend them for their intent. I commend them for the efforts that were made now as we look back over the past year of this legislation.

Mr. Chairman, I rise in strong objection to H.R. 1720. Here we are finally debating so-called welfare reform. I guess the most logical question we should all ask ourselves is why something called welfare reform would cost the American taxpayers almost $7 billion. Should not welfare reform help get people off the rolls into good productive jobs. Should not welfare reform help people with job training, education, even child care support.

Well Mr. Chairman the Republican substitute does provide incentives to get people off of welfare, it does make a commitment to job training, education, and child care.

What it doesn't do is promote a major welfare benefit increase.

To my friends on the other side of the aisle, I would pose a serious question, where is the reform?

I understand the political concerns on this issue—but unfortunately the democratic plan goes two far.

I suspect that the vast majority of our constitutents believe that welfare recipients should, as a general rule, participate in employment or education programs while they are on welfare. Our constututents want to help our less fortunate citizens break out of the poverty cycle.

The Downey bill and the Republican substitute are in agreement that employment, training, and educational programs are good ideas. Unfortunately, the Downey bill simply does not advance a good idea far enough. Good ideas are made better when more and more people are involved.

The Republican bill ensures that we will make welfare reform more than a concept. We mandate that States phase in programs to end the poverty cycle. Our bill requires that within 9 years States must have 70 percent of their AFDC families participating in work, job training, job search, or education programs and it allows States the flexibility to develop programs that are best suited to their needs and provide the best support services.

The fundamental flaw with the Downey bill is that it has no teeth to implement these ideas. Without mandated participation standards these strong programs will not achieve anything near their potential. The bottom line is, if you want welfare reform vote for the Republican alternative.

Vote for the Downey bill if you must, but please do the American people a favor, don't call it welfare reform.

Democrat members of the Ways and Means Committee have been saying that the Republican welfare reform bill imposes substantial new costs on States. Republicans deny it. Perhaps my friends on the other side of the aisle are willing to let the Congressional Budget Office solve this dispute.

According to official CBO figures, which can be found in the Ways and Means report on H.R. 1720, the Democrat bill will impose $1.2 billion in costs on the States between 1988 and 1992. By contrast, again according to official CBO figures, the Republican bill will save the States $479 million over the next 5 years. That's a difference of nearly $1.7 billion in the cost of welfare reform to the States—Democrats would impose $1.2 billion in costs on the States, Republicans would save the States nearly $.5 billion.

But let's look a little more closely at how the two bills impose costs or achieve savings for the States. There are four basic ways in which the bills affect State expenditures. First, both bills require States to increase their efforts to help people work or prepare for work. The basic work program found in title I of the Democrat bill saves the States $233 million over 5 years. But in other titles of the bill, States are required to pay a portion of work-related expenses like day care and transportation, to pay a portion of health insurance costs, and to increase the benefits of those working by changing rules with calculating the interplay between income and benefits. Taken together, these provisions will impose $1.5 billion in new costs on the States. Combining these costs with the direct work program costs, we find a net cost of about $1.3 billion to States. This State expenditure of $1.3 billion on employment and training required by the Democrat bill contrasts with a cost of $436 imposed on States for the work program found in the Republican bill.

The second way the bills influence State expenditures is by requiring States to increase their effort to collect child support from parents who do not live with their children. Because the Federal Government pays most of these costs, and because the States get to keep a major portion of the money they collect, the child support enforcement provisions found in both bills will actually save money for the States. The Democrat bill saves the States $719 million over 5 years; the Republican bill saves the States $805 million.

The third way the bills influence State spending concerns family living arrangements. Specifically, the Democrat bill requires every State to adopt the AFDC-Unemployed Parent Program. The bill also requires teen mothers to live with their parents in order to be eligible for AFDC benefits. However, the bill also says that States must ignore the grandparents' income in calculating AFDC eligibility and payment levels. Taken together, these two provisions will cost the States about $1 billion over 5 years.

The Republican bill does not require States to adopt the AFDC-Unemployed Parent Program. Like the Democrat bill, the Republican bill requires teen mothers to live with their parents in order to get AFDC. But unlike the Democrat bill, the Republican bill tells States to count the grandparents' income in determining AFDC eligibility and benefit levels. This provision in the Republican bill saves the States $110 million over 5 years.

Thus, provisions in the Democrat bill concerning family living arrangements will cost the States about $1 billion; Republican provisions will save the States $110 million.

The final area in which State spending will be influenced is the so-called benefit improvements of the Democrat bill. In order to induce States to increase their AFDC benefit levels, Democrats offer a bonus of 25 percent higher Federal reimbursement for all State-determined benefit increases. In short, over the next 5 years, the Federal Government will buy out a portion of the benefit increases States already plan to give AFDC families. Most AFDC families won't have any more money than they would have had without this bill, but the increases they get will come primarily from Federal rather than State dollars. In other words, AFDC families will be no better off; the Federal Government will spend more money; State governments will spend less money. This arrangement will save the States a total of $365 million over the next 5 years.

If you add up these provisions in the two bills, you reach two conclusions. First, the Democrat bill costs the States $1.2 billion while the Republican bill saves the States $.5 billion. Second, the Republican bill requires States to spend money on running their employment and training programs; the Democrat bill requires States to spend money expanding welfare roles and increasing benefits.

Let me conclude with a simple question to my friends on the other side of the aisle. Do you want a bill that imposes over $1 billion in new costs on States to increase the welfare roles and raise benefits, or do you want a bill that saves money for the States while providing them with over $1 billion to run programs designed to help people get off welfare?

WELFARE'S TROJAN HORSE

How much more of an "investment" should American taxpayers make in the welfare system? This is the question the House of Representatives is scheduled to take up today when it votes on the Family Welfare Reform Act of 1987. The bill proposes $5.2 billion in new spending over five years, and most of that will increase benefits currently received by welfare recipients.

It appears that what we have here is something of a Trojan horse—a piece of legislation that is represented as "reform" when all it does is expand existing welfare programs. The bill's questionable premise is that larger expenditures on welfare will reduce welfare dependency. This thinking was nicely summarized by Rep. Anthony Beilenson, who said plainly, "The truth is, for welfare reform to be successful, it's got to be expensive."

The proposed new spending on welfare should be viewed as an investment, say its proponents, led by Rep. Thomas Downey. They point out that part of the money will go for special education, training and work programs for welfare mothers, to induce them off the rolls and into jobs. At the same time they say, certain existing benefits—mainly Aid to Families With Dependent Children (AFDC)—must be increased to offset real declines since the base year of 1970.

House members on both sides of the aisle agree that welfare-to-work programs are worthwhile. That conclusion was presumably the basis for the bipartisan consensus that was going to produce a serious welfare-reform bill this year. But less than a quarter of the $5.2 billion outlay would go for that purpose. The bulk of the new money would go to higher AFDC pay-outs, extension of mandatory benefits to two-parent families and maintenance of certain benefits for welfare recipients earning some income. In short, the Family Welfare Reform Act amounts to an expanded investment in the status quo.

Of course, House Democrats could hardly promote this bill as more of the same. That might produce reprisals from voters who've watched their tax dollars build and maintain the welfare system, with little evident return on their investment. Instead, after nearly 20 years, the system's defenders and funders repeatedly tell the public that the problem, if anything, has gotten worse. So the House's liberal majority hoped to achieve an increase in welfare outlays by making a bow to "reform."

In fact, while the level of AFDC benefits has decreased in real terms since 1970, the total level of all welfare benefits has not. Nearly all AFDC families also receive Medicaid coverage, for instance; more than three-quarters receive food stamps, and one-third have children who receive free school meals. One-quarter receive housing assistance.

Together, spending for the seven major welfare programs (those just mentioned plus the Women, Infants and Children program and the Low Income Energy Assistance program) has actually increased since 1970 by 232% in constant dollars, to an annual total $65.7 billion. The House Democrats' claim that welfare recipients are worse off than they were in 1970—in terms of the level of benefits received—is dubious.

Measured in the terms that really count—namely the number of welfare dependents liberated from the rolls—the situation has become worse. During the unprecedented expansion of the welfare state, the most notable and highly publicized phenomenon has been the development of an entrenched class of long-term welfare dependents. It is difficult to accept that the $4.3 billion increase in basic benefits proposed in the Family Welfare Reform Act will do much of anything about the problem of hard-core welfare dependency.

At the least, welfare reform should have these goals: to shrink rather than enlarge the welfare system, to ultimately eliminate perverse incentives to remain on welfare, and to make work the focus of the system.

The House bill doesn't do that. By adding several welfare programs to what already exists (without eliminating any), the House bill adds another layer to an already complex welfare system. By further increasing rather than gradually reducing the level of benefits available to recipients, it makes welfare more, not less, enticing. By diluting proposed work-for-welfare requirements, it diminishes the importance of work.

Earlier this year, there were hopeful signs that we would see sweeping, serious welfare-reform legislation emerge from Congress. Democrats and Republicans alike agreed on the need for change. This rare opportunity is being squandered.

Mr. Chairman, please oppose this rule and let everyone participate.

□ 1725

Mrs. KENNELLY. Mr. Chairman, I yield 3 minutes to the gentleman from Texas [Mr. ANDREWS].

Mr. ANDREWS. Mr. Chairman, I rise in support of the Family Welfare Reform Act.

The problems of welfare dependency has brought this bill to the floor today. H.R. 1720 is designed around the fact that over one-half of welfare dollars are spent on long-term dependents. These costs are high for the Government and for the children of welfare families.

In America today:

Six of ten women who grew up in a family receiving aid will get some welfare assistance as adults;

One in five children is born into poverty; and

Almost 40 percent of recipients are children.

Disraeli said: "The youth of a nation are the trustees of posterity."

This legislation is designed to reach those children of welfare mothers who grow up learning more about the welfare office than an employment office.

Our present system is not working. We are spending more than $40 billion a year and more than 30 million of our citizens continue to live in poverty.

The cycle begins when a teenage mother drops out of school to raise her child. She has little luck finding a job without a high school diploma. Her children grow up learning about life on welfare instead of the value of work.

Not enough is being done to require absent parents to support their children.

Three out of four welfare cases begin due to divorce, separation, or the birth of child out of wedlock.

But the great majority of these cases do not have support awards established for the children. Of those who have an award, less than half receive full payment.

Child support enforcement is a major component of this bill.

The bill requires that a higher percentage of fathers be identified. This will lead to more child support awards.

It increases child support payments by encouraging adoption of immediate wage withholding laws.

My amendment requires adoption of immediate wage withholding. This reduces the cost of the bill by raising $139 million.

In summary, the Family Welfare Reform Act will reform the welfare system to take us through the year 2000.

The bill will target long-term dependents. It will help parents go back to work. It will require absent parents to support their children. It will keep families together. It will take care of the health and safety of the children.

This kind of targeting is a fresh start. We will not get results without an investment.

There are concerns about the cost of this bill. That is why my amendment will cut the costs by 10 percent. That is a savings of $509 million.

The Family Welfare Reform Act is a smart investment.

I urge your vote for this well-crafted legislation.

Mr. BROWN of Colorado. Mr. Chairman, I yield 7 minutes to the gentlewoman from Connecticut [Mrs. JOHNSON], who has been a leader in a variety of areas with regard to welfare reform and has taken a key position in designing the Republican alternative.

Mrs. JOHNSON of Connecticut. Mr. Chairman, in listening to the leaders of the Committee on Ways and Means who wrote the Democrat bill, I want to make it very clear that there is nothing in their rhetoric with which I disagree. I think that that is probably true for the general public who is watching this debate. The problem is that when my colleague, the gentleman from California [Mr. MATSUI], says that his principles are to provide work, training, education, day care, transportation, and transition benefits, his own bill does not measure up to these standards.

I want to talk about not the rhetoric of my colleague from California [Mr. MATSUI] or the gentleman from Massachusetts [Mr. DONNELLY] or many of the other fine Members of the House whose rhetoric I agree with completely, but I want to talk about the structure of this bill, the legal requirements that it places on people and States and the services it provides, because those specifics of this bill, in fact, do not help women to become independent, do not support poor women and poor children in finding a better way of life.

Let us look at what the bill says. All of us agree that transition benefits are essential. If we are going to ask the taxpayers of America to invest in the education, training, and job placement services that the committee bill and the Republican alternative provide, those taxpayers ought to know that welfare recipients who get into the work force will be able to make a go of that job opportunity for which they have been trained.

Yet there is not a welfare recipient taking an entry-level job who after 6 months is going to be able to pay both rent and day care. It is simply too much money. It is too big a burden.

In 6 months their salary will not grow sufficiently so that they will be able to shoulder the cost of rent, and day care services.

So what will happen after 6 months? Under the committee bill the day care subsidy is revoked after 6 months. It expires. These young women will be forced, as I have seen young women forced, back on the welfare rolls.

To say that we are promoting independence and to provide that limited day care transition benefit is a cruel hoax on the women of America.

The Republican alternative provides an enlightened day care transition benefit. It says your day care subsidy will expire, not as a function of time, but as a function of salary. When your salary rises to where you can pay rent and day care, then the public day care subsidy will expire and not before that time. That is the promise that I and my Republican colleagues and the Democrats who support the Republican bill make and that is the only promise that will enable welfare recipients who go through education, job training and job placement, and succeed in employment. That is the only promise that will support them and will enable them to deal with the reality of their lives, which is a tough reality.

Now, let us look at what this bill says about meeting the real needs of women on welfare. It makes no requirement for women on welfare to pursue their education or to develop their work skills, and yet what women on welfare need the most is to develop their own skills so they can support their families economically.

Current law says that when the youngest child reaches age 6 that the mother must participate in the work training program. How many women I have sat with who told me personally, "I dreaded the day my youngest child turned 6, but when it came and I got into the job training program and into the work force, I loved it. It was just what I had longed for."

Why? Because she was finally in a situation where she was the focus of attention, her needs, her abilities, her talents, supported and encouraged, and as a result, yes, her child's future guaranteed.

But H.R. 1720 does not change our ability to help a woman to get into education and work training when her child is young, before she has that second and third child. It maintains current law, which requires that she does not have to work, does not have to be involved in education, work, or training until her youngest child is 6 years old. That is current law.

If people want to volunteer now they can and many do, but if we want to make welfare reform preventive, if we want to prevent families from becoming caught in the cycle of welfare dependence then we want that young woman when her youngest child is 6 months old to begin thinking about her talents and abilities and begin school, training, or work, not full time and not unless day care is available, but to begin. In other words, we want the State to be able to say to a young teenaged mother, look, get in there and finish your high school diploma and plan for your future.

A program that would allow a young woman who already has dropped out of high school to reject education for 3 years does not help the woman or her children, because it does not help her become aware of her abilities, develop them into marketable skills, and plan and train to become both economically independent and a responsible parent.

Second, is it fair and right to all the women who are out there working when their children are young that they pay taxes to enable women on welfare to have the choice to work or not to work?

Mr. Chairman, one-fourth of working women have children under the age of 3, but we are going to tell welfare recipients that they have no obligation economically toward their children until their youngest child is 6. That does not reflect the values of this Nation. It is not fair to the working women of America.

I ask my colleagues to consider the alternative provisions in the Republican bill that would allow States to require women when their youngest child is 6 months to commence this process, this participation process.

Participation requirements in the Democrats' bill are totally inadequate. Day care transition services are totally inadequate. Finally, this bill fails by another important measure of reform because it does not reform the fundamental message that the welfare system sends out to America: mothering matters, and fathering does not matter.

We must treat fatherhood with the same seriousness that we treat motherhood. It is neither fair to mothers nor fair to fathers if we do not ask them to be equally responsible for the support of their children. We will never succeed in collecting unpaid child support, or discourage the formation of single-parent families if we continue to send young fathers the message that their role is insignificant to their families' well-being.

That is a wrong message. It is no wonder the young boys who father children feel no obligation for them, because we support that message.

The Republican bill, on the other hand, has a demonstration project that will allow States to require young men to participate in job training programs to enable them to support their children.

Look at the participation requirements in this bill. The day care transition services. The message it sends to fathers. The barriers it creates to work, its failure to create incentives to the States to reach any kind of goals. You and my colleagues will have to say that the rhetoric is fine, the structure of the law is inadequate. This is not reform.

If we are going to do better for women and children in America we must pass real reform legislation, and H.R. 3200 comes closer than does H.R. 1720, though I believe the Carper-Johnson alternative was the best and regret its suppression.

Mrs. KENNELLY. Mr. Chairman, I yield 4 minutes to the gentleman from North Dakota [Mr. DORGAN].

Mr. DORGAN of North Dakota. Mr. Chairman, the previous speaker references the bill before us a cruel hoax. Let me say that with respect to the transitional benefits in both daycare and Medicaid we should note that there is not any guarantee that one penny of daycare will go to families in need under the Republican substitute; and, No. 2, that the transition benefits under Medicaid are no different under the Republican substitute than they are today.

Let me go from there to say that almost everyone who comes to Congress takes a look at this body and suggests that at one time or another that things really do not change much around here.

If we look at this piece of legislation today, we have to conclude that there are times when things can change, when things do change, when things will change.

Every politician that has run for office, I am willing to bet, at one time or another has stood up in a town meeting and said, "Do you know what I support? I support reforming that welfare program of ours because the program does not work. It institutionalizes welfare. We have generations of welfare recipients, and if I get down there to Washington, DC, I intend to do something about it to change it."

□ 1740

It is going to be tough for some people here in Congress to be confronted with actual change. This bill is structural reform, real change in our welfare program. What we are saying is yes, we want to take people from the welfare rolls and put them on the payrolls. Yes, we want that to happen, and we believe that most welfare recipients want that to happen.

My colleagues have heard the numbers, that two-thirds of the welfare recipients in this country are kids under the age of 16. Clearly America is not going to send them to the work rolls. But there are a lot of welfare recipients who are trapped in a cycle of poverty from which they cannot escape, and they do want a chance to get a good job, make a decent living, have an opportunity for themselves.

How does that happen? It happens if we have the guts to decide that we will put together a welfare-reform package that offers them education, training, and work. That is exactly what we have done.

We have folks here in Congress who say we love this first part of the notion that we want to force people from welfare to jobs, we love that. But when it comes to the second part, the education and training, to get to that payroll, we are not so sure we like all of that because that is going to cost some money.

There is some experience to guide us in what it costs because several States have done this before.

Massachusetts has a new and novel program. Let me tell my colleague what Massachusetts tells us. Massachusetts, with a proposal similar to this current welfare-reform package, has an annual cost of $80 million and introduces an annual savings of $100 million. That means what we invest, if Massachusetts is any guide at all, if there is any experience here to learn from, what we invest we are going to get back plus 25 percent. That is a darn good investment.

So I say to those in the House who have always campaigned on welfare reform, now is your chance. This is structural reform, this is real reform. Do you believe people ought to go from the welfare rolls to the payrolls? Do you believe people ought to have a chance to go from the welfare rolls to the payrolls? If yes, then vote for the welfare-reform bill.

Would you like the Federal Government to save money? If you say yes, then I say vote for this welfare-reform bill.

Would you like to keep families together, would you like to help these welfare recipients who really desperately want to work and want to get off of the welfare rolls? If you say yes to that, then vote for this welfare reform bill. But do not tell us that you want change, that you want reform, that you want real structural change in our welfare program and then find 100 different excuses and 100 different reasons to oppose it when it finally gets here.

There was an old man who was interviewed by a radio announcer, and the radio announcer said how old are you? And the old man said 80 years old. The radio announcer said you must have seen a lot of changes in your lifetime, and the old man replied yep, I have, and I have been against every one of them too.

There are a lot of folks in Congress like that. They talk about change, they talk about change, but then they are against it when they are confronted with change.

This bill I am proud to support. This is real structural reform of the welfare system that is good for this country.

Mr. Chairman, welfare in our country has become a patched and potholed street that leads to a dead end. We add a program here and change a program there, but it's still the same system with no exit. It's a dead end for the taxpayers who invest billions of dollars in a program that doesn't work. And it's a dead end for hundreds of thousands of families who want to get off welfare but have no escape.

The system has failed. Instead of serving as a temporary stopping off point for able-bodied people on their way to a job—welfare has become an institution that stays with families for two and three generations.

I believe that people want the independence and dignity that a decent job provides. And the taxpayers of this country want to see results from the multibillion-dollar investment they make each year in welfare programs.

The system we've got now cannot achieve these goals because it's designed to provide poor families with just enough money to stay at home, pay the rent, and buy groceries. It's time to make a change, and create a welfare system that prepares people for work instead of lifelong dependence on the Government. We've got the tools to make these changes with H.R. 1720, the Welfare Reform Act.

First of all—and most important—welfare reform takes stock of just who is a typical welfare family and what the family needs to leave the welfare rolls. Over two-thirds of all people on welfare are children under the age of 16. The remainder are primarily women who are the mothers of these children. The women are young, very often teenagers, undereducated, untrained, and unable to find a job. Welfare assures that without any other means of support, these women and children in poverty at least have shelter, food, and clothing. In my State of North Dakota, a typical welfare family is a single woman and her young children. They receive a welfare payment each month of $340 for the entire family. Let's face it, no one is getting rich on welfare. It's obvious that any parent trying to support a family on $340 a month would rather have a job. But on $340 a month, parents cannot enroll in vocational training, cannot pay a baby sitter, and cannot support the children while they look for a job. The result: a typical welfare family goes nowhere, and welfare becomes hereditary.

H.R. 1720 replaces the old system with a common sense progam that devotes 65 percent of its resources to education, training, and job preparation. Since those who have the hardest time breaking the welfare cycle are women with children, H.R. 1720 provides child care assistance while unemployed parents receive education and training. After parents complete their training, this bill provides continued child care help for 6 months and health care assistance for up to 24 months to assure the children are provided for while their parents search for jobs and enter the work force.

This legislation also helps welfare families get hold of their lives in one other very important way. Most children on welfare live in one parent families. The absent parent doesn't support them. That's just plain wrong. While this bill helps single parents get the education they need to learn a wage, it also puts into place a program to help the States find absent parents and require them to pay their child support.

H.R. 1720 will cost $1.5 billion over the next 3 years. But it can save us billions of dollars down the road. If parents support their children, welfare costs go down. It's that simple.

Several States are already experimenting with welfare reform programs that make a strong investment up front for gains later on. And while the verdict is not yet in from most of the States that are adopting welfare reform programs, some States are already realizing gains. In Massachusetts, where welfare reform took hold several years ago, an annual cost of $80 million has produced annual savings of $100 million; 40,000 welfare recipients have been placed in full-time jobs. In Arkansas, a rural State like North Dakota, a $3 million investment has their welfare reform program breaking even after its first year. They expect to save dollars in 3 years' time. In New Jersey, a 3-year old program has already reduced case loads for social workers and is breaking even.

If nationwide we could adopt an aggressive program of education and training for welfare families, and remove just 3 percent of those families from welfare, we could save $400 million a year. I believe that over the long term, we'll save billions in Federal tax dollars.

Let's take a detour from the dead end road of institutional welfare. We can pass H.R. 1720 and make welfare a temporary step on the way to job independence and better future for thousands and thousands of poor families. It's a road worth exploring.

□ 1740

Mr. BROWN of Colorado. Mr. Chairman, I yield 30 seconds to the gentlewoman from Connecticut [Mrs. JOHNSON].

Mrs. JOHNSON of Connecticut. Mr. Chairman, the gentleman from North Dakota has brought up a very important issue, and that is how these bills are funded.

The committee bill devotes most of its money to increasing benefits by allocating a 75-percent match to those States that raise benefits. That means that people in my State have to pay twice, once to increase benefits in Connecticut and once to increase benefits in other States.

But in our bill we provide ample daycare subsidies, and we do not allow the person to be required to participate unless the day care is provided.

In addition, we allow States great flexibility to put as much money into day care as they need and as little into other aspects of the program as they find necessary. That flexibility is critical to success, for some States have excellent community college systems that will be able to gear up to help at little additional cost while additional day care will without question cost significant dollars.

Mrs. KENNELLY. Mr. Chairman, I yield 1 minute to the gentleman from

North Dakota [Mr. DORGAN] to respond.

Mr. DORGAN of North Dakota. Mr. Chairman, the point I made previously is that the money that the gentlewoman suggests will come for day care benefits comes out of the same pot as education and training, and the fact is there is no guarantee, there is no guarantee at all that money from your substitute is going to be available for day care that is needed in the transition. The plain fact is that we will not get people from the welfare rolls to the payrolls unless we provide education and training. We will not be able to provide education and training without the steps that are necessary in day care and in Medicaid benefits as a transitional basis to allow that to happen.

What we find is people on the gentlewoman's side of the aisle, not all of them, but some of them say yes, we agree with those steps but we are not willing to pay for them.

Mr. BROWN of Colorado. Mr. Chairman, I yield 30 additional seconds to the gentlewoman from Connecticut [Mrs. JOHNSON].

Mrs. JOHNSON of Connecticut. Mr. Chairman, I think what is important here is that our bill provides money for day care and very clear statutory authority to prevent people from participating unless day care is provided.

But on the critical issue of work and job training, there are enormous resources out there in our community colleges and high schools and in JTPA's programs that are unused. Our bill allows States to better utilize those resources and put more money in day care if they choose.

At a Florida hearing by the Select Committee on Children, Youth and Families, the primary barrier to independence as described by welfare recipients themselves was not job training but day-care subsidies. They simply couldn't afford to work because they couldn't pay both rent and daycare. If we could help with day care, they could and would work. It is because of testimony like this that I believe we must allow States great latitude in deploying their monetary resources.

Mr. BROWN of Colorado. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the people who will look at the bill will realize one thing: the Democratic bill that is before us places most of its money into benefit increases. The Republican bill, while it spends a fourth as much, puts together generally comparable amounts of money into education and training. That is why we talk about our bill as one that is designed to help people realize their potential. We put our money into overcoming barriers to work, whereas the Democratic bill's emphasis is primarily on benefit increases.

Mr. DORGAN of North Dakota. Mr. Chairman, will the gentleman yield?

Mr. BROWN of Colorado. I am happy to yield to the gentleman from North Dakota.

Mr. DORGAN of North Dakota. Mr. Chairman, I thank the gentleman for yielding.

The only point I was trying to make was you do not have a cent that is designated explicitly for day care because you put it all in the same pot, and there is no guarantee anybody is going to get any day care out of your substitute. That is the point I was trying to make.

Mr. BROWN of Colorado. Mr. Chairman, I think the gentleman makes a good point because we have tried in our bill to give States some flexibility. But the point I think with regard to child care is this: The requirement that people undergo training or education or involve themselves in work are conditioned upon child care being available. It is only required if child care is available.

Mr. Chairman, I yield 5 minutes to the gentleman from Wisconsin [Mr. PETRI].

Mr. PETRI. Mr. Chairman, I thank my colleague from Colorado for the time and for his leadership on this issue.

Mr. Chairman, I would like to address two issues raised by the bill before us, one detailed and one very broad. The first is the provisions of H.R. 1720 relating to benefits received by minor mothers; the second is the relation of this bill to other welfare-related programs. Under current law, an adolescent girl can discover that if she has a baby, she can leave home, and get a subsidized apartment, food stamps, and monthly check. Now, she may not set out to get pregnant just for that reason, but there is certainly no incentive not to get pregnant under those circumstances.

The incentive support having babies and breaking up families. For several Congresses now, I have been urging that these incentives be changed. On several occasions the other body has been willing to go along but the House has not.

The bill before us takes one step forward and one step backward on this issue.

As I have been urging, it does require minor mothers to live at home with their parent or guardian unless it is the best interests of the young mother and child to move away.

I think we can all agree that, in most cases, a 13-year-old girl is better off at home than living in an apartment by herself, and H.R. 1720 provides for that. It eliminates the incentive to break up families.

However, H.R. 1720 also increases the incentive to have a baby. It does that by striking a provision of current law requiring the whole household's income to be taken into consideration when figuring the amount of AFDC the minor mother and her child receive. In contrast, the Republican substitute, the Casper substitute, and the Moynihan bill in the other body all would retain that provision of current law.

Right now, in my home State of Wisconsin, the AFDC grant for a mother and two minors is $517 per month. If one of those minors has a child and remains at home, the grant is increased to $617. If H.R. 1720 is enacted in its present form, the minor mother will remain at home with her child, but the combined grant for the household will increase to $880 per month, because the household will be treated as two distinct family units, not one. Thus, under H.R. 1720, the addition of the baby raises the household's AFDC grant alone by $363 per month, not to mention other benefits.

I suppose it's a matter of judgment just where you cross the line from enabling a poor family to support a baby to providing large financial rewards for having it in the first place, but with this provision, clearly we will cross it.

Then there is the minor mother in the household that is not on welfare. Under the bill, it is theoretically possible for even a millionaire's teenage daughter to have a baby and receive her own welfare check of $440 per month, tax free, while living in the family mansion. It seems to me that this is not the aim of our welfare programs. Nor can I find any real purpose to it. When there is in fact one household, we should not divide it artificially into two.

In any welfare reform bill that becomes law we should certainly include H.R. 1720's requirement that minor mothers live with their parents. But we should also retain that provision of current law which permits the income of the parents of a minor mother to be included when figuring the AFDC grant.

H.R. 1720's failure to do that is a very serious defect.

Another serious defect of this bill, which it shares with all the major alternatives under consideration, is its failure to take a broad enough view of the problem and consider all our major welfare related programs in a comprehensive way. For example, the bill and all its surrounding debate make no mention of the existing earned income tax credit, or EITC. I have prepared an amendment that would improve the EITC by relating it to economic need as determined by family size. The rule precludes me from offering that amendment, but I am convinced that we would all benefit from looking at this aspect of the problem more carefully.

The EITC is in effect a welfare benefit in the Tax Code. It provides direct transfer payments, in the form of refundable credits against earned income, only to low wage workers with dependent children. In so doing it serves as a wage enhancement device targeted at those deemed to need such an enhancement: namely all those low wage workers supporting at least one child. Unfortunately, the amount of credit does not vary according to the amount of need as determined by the number of children. At a given income, you get the same amount whether you have one child or four. As a result, people with larger families can often get more real income on welfare than they can working at or near the minimum wage.

Meanwhile, HR 1720 provides that States cannot require any welfare recipient to take a job if it would reduce his or her net income.

That will undermine efforts to more people off welfare into productive employment, but there is a reason for it. Presumably those with the higher welfare benefits need them, and it's cruel to force them to reduce their already meager incomes. My amendment solves this problem by increasing the maximum EITC by $630 for each extra child up to a maximum of $2,800 for minimum wage workers with four or more children.

That's about $2,000 more than the maximum under current law, and it should be enough to make even minimum wage jobs more attractive than welfare for just about everyone. That not only solves the problem of forcing people to lower their incomes, but it should also encourage voluntary participation in work and training programs by some who are exempted from mandatory participation for other reasons, such as the ages of their children.

The amendment pays for these increases in the EITC primarily by phasing out the credit more rapidly than in current law for those with one or two children and incomes well above the poverty line. There is also a new cost to the Treasury on the tax side, but if only 1 to 2 percent current welfare recipients are encouraged by this change to move from welfare to work, that cost will be balanced by welfare savings.

The basic goal of this proposal is to boost work incentives by improving the net incomes from work for those who need it.

Another way to try to achieve this goal would be to increase the minimum wage. However, that tool is much cruder and carries a lot of disadvantages, including the loss of some of the very jobs we want to move welfare recipients into. The family-size adjusted EITC approach is a much more direct and efficient way of achieving this crucial goal, and I hope that as the process moves forward into the other body and through conference, we will give it the careful consideration it deserves.

Mrs. KENNELLY. Mr. Chairman, I yield 2 minutes to the gentleman from Texas [Mr. PICKLE].

Mr. PICKLE. Mr. Chairman, I thank the gentlewoman for yielding me this time.

Mr. Chairman, I do not think Congress or any Congress is going to pass a welfare bill that is going to please everybody on both sides of the aisle or the public generally. Welfare, by its very nature, is often degrading, frustrating, embarrassing, and people basically do not want to be on welfare. Nonetheless, the welfare system is a necessity.

I know of no welfare recipient who wants to stay on welfare. Perhaps there is a very, very small element that seems to be so helpless that there is no alternative, but by and large people want to get off of it.

I think this debate is encouraging because both sides today are saying that we ought to take a different approach. I believe there is agreement that we ought to have a system of training and some kind of workfare rather than welfare.

I do not know anybody who wants to continue the same expensive program we have. It seems like we are locked into further expense as we go along. So we are in agreement, we ought to have a different approach.

I do not accuse anyone of saying they do not want to have reform. I think they act in good faith. We have a good choice here, a good alternative. I believe the bill the committee has put together is a positive, progressive step, and we ought to take that chance, we ought to say we can do better than we are doing today.

So with good faith, I hope the House can support this welfare measure.

Mr. BROWN of Colorado. Mr. Chairman, I yield 3 minutes to the gentleman from Georgia [Mr. SWINDALL].

□ 1755

Mr. SWINDALL. Mr. Chairman, I rise in support of the substitute and in opposition to the bill.

Certainly the fact that we are even having this debate recognizes that we need some type of welfare reform. What we are doing is not working. It is obvious if one studies the statistics of what we have achieved through our welfare policy over the last several decades that it is the institutionalization of welfare. I do not know why we are surprised because the reality is that one of the most fundamental economic principles is that whatever you subsidize you in effect create more of. We have in effect been creating more welfare because we have been subsidizing it.

The tragedy of this debate, however, is that as important as welfare reform is, we are not even going to allow a full debate, with full amendments. In reality, we are operating here under a rule that says we must either vote for one bill or another without the opportunity to offer meaningful amendments that would strike at the heart of some of these problems.

In reality, this bill has been characterized by its sponsors as a bill designed to increase the employment of welfare recipients. In reality, 89 percent of the $6.6 billion in new Federal spending in H.R. 1720 estimated by the Congressional Budget Office over the next 5 years would actually be devoted to increasing welfare benefits and eligibility. What I am saying is that we are further subsidizing that which we say we want to eliminate.

This Congress is guilty of violating its own laws. Many times this Congress has stood for truth in labeling. Unfortunately, what we are labeling here as welfare reform does not even vaguely resemble it. What we are actually doing is further structuralizing the problems that have created the institutional poverty that we see in this country today.

I can say that as much as I would like to see a bill come forward from this Committee of the Whole with much more evidence of what we ought to have in welfare reform, at least H.R. 3200 in comparsion does not place new structural barriers to individuals who want to seek employment. What this bill does, as opposed to the substitute, is it says that you cannot take a job in effect if that job does not pay equal to or greater than current welfare benefits. In essence, what we are doing is penalizing those individuals who are actually out working and paying taxes and saying to them that we are going to reward those individuals who are not willing to, and in fact under this bill cannot, lawfully take jobs.

Second, it ignores the internal need in this country for productivity. We know, with increasing trade deficits, that one of our problems as a nation is a lack of productivity. Why, then, are we passing a bill that in effect fails to address productivity?

Mr. Speaker, we are robbing the country of the efforts and the work of those people who are being locked into our welfare cycle.

The CHAIRMAN. The time of the gentleman from Georgia [Mr. SWINDALL] has expired.

The Chair wishes to inform the respective sides that the Republican side has 9 minutes remaining and the Democratic side has 16 minutes remaining.

Mr. DOWNEY of New York. Mr. Chairman, I yield 2 minutes to the gentleman from New York [Mr. RANGEL].

Mr. RANGEL. Mr. Chairman, I would like to take this brief moment to congratulate the acting chairman of the subcommittee and also the gentleman from Tennessee [Mr. FORD] and all the Republicans and Democrats alike for working hard over the months to bring this bill to the floor. The Committee on Ways and Means not only has the responsibility to raise revenues but also we establish a lot of policies to provide incentives for people to invest in capital. One of the areas we have failed in over the years is that we have never invested really in our most valuable resource, and that is people. In our attempt to use our ability to try to provide for people to engage in the pursuit of happiness, we know that one way they cannot get it is if they are poor. Worse than being poor is if they have no hopes of getting out of poverty.

The American dream means being able to get the skills and the education to compete and to get a job and to be productive. Unfortunately, our public school systems in many of our older cities have failed our young people. I think that by providing a mixture of making certain that people are not homeless and hopeless and at the same time giving them the incentive to get out and get a job and to be self-sufficient is one of the things every Member of this Congress can be proud of. We cannot find a bill that we can all agree upon, but this is one moment that I think we should take advantage of, because Republicans and Democrats, Members of the Congress and governors alike, recognize that if we do not make the initial investment in our people today, in the long run we will pay a much dearer price.

Mr. Chairman, I think that poverty and ignoring the needs of the helpless and the poor of our country are a greater threat to our national security than the threat of communism.

Mr. BROWN of Colorado. Mr. Chairman, I yield 3 minutes to the gentleman from Indiana [Mr. HILER].

Mr. HILER. Mr. Chairman, I rise today in support of the Republican welfare reform substitute.

Few are surprised to hear us say there is an urgent need for welfare reform in this country. Rather, it is generally recognized that neither the people receiving welfare benefits nor taxpayers funding the system are particularly happy with the outdated, dinosaur methods we have fostered.

The Republican Substitute is an important welfare reform measure, and represents a permanent solution to nagging problems previously addressed in piecemeal fashion. I am pleased to support this landmark legislation that responsibly addresses and appropriately answers core welfare and workfare issues.

Unlike the Democratic bill, the substitute is specifically designed to provide jobs for welfare recipients. It is aimed at skill training and job placement, while granting states wide discretion in experimenting with more effective welfare programs. But perhaps most importantly, the substitute serves as the avenue in which welfare recipients gain back their dignity. It moves people from welfare checks to pay checks, and it breaks the vicious cycle of welfare dependency.

Education and job training are important components of any welfare reform package. The Republican proposal takes a practical and commonsense approach in both areas. Likewise, an effective welfare reform bill needs to remove the hurdles welfare recipients face in finding and keeping full-time jobs. With this in mind, the substitute provides for both child care and health insurance benefits during the often difficult welfare-to-work transition. Of equal importance, we include provisions to strengthen the Federal-State system of collecting child support from noncustodial fathers who live in a different State than their children. Going beyond that, the legislation creates new programs to help States establish paternity and obtain child support payments in cases involving disputed paternity.

We have before us a historic opportunity to reform our welfare system. The Republican bill restores the work ethic by weaving work incentives with financial assistance. It emphasizes shared responsibilities and dual commitments between welfare recipients, States and the Federal Government, and the bill strengthens the family unit and restores values.

What the Republican bill offers those now on welfare rolls is not the tyranny of chance, but the opportunity to have their lives guided by choices and the hope for a better tomorrow for themselves and for their children. Unlike the Democratic proposal, we are not simply providing a safety net to those who fall, but more importantly, we lend a hand—the hand of the American people—to help those in need up the ladder.

Through enactment of the Republican welfare bill, we give welfare recipients back their dignity, pride, and industry; the things that traditionally make our country grow and keep us free and strong. We make welfare recipients a part of our great society, not left standing at the fringes dependent upon it. To my mind, there is nothing more compassionate than this. I urge my colleagues support for the Republican substitute.

Mrs. KENNELLY. Mr. Chairman, I yield myself 5 minutes.

Mr. Chairman, I rise in strong support of H.R. 1720, the Family Welfare Reform Act. This is a good bill to make important improvements in the Aid to Families with Dependent Children Program.

AFDC currently costs Federal and State governments $16 billion a year. It serves on average 3.7 million families, including over 7 million children. Most of the families who rely on welfare utilize it for a short time—but for a number of women and children, welfare is a way of life.

Welfare may be a way of life but it is no "tender trap." No State in the Nation has grants high enough for a family of three to escape poverty—even at the maximum benefit level and even with food stamps counted in. It is abundantly clear that parents on welfare want a better life for themselves and their children. The experimental job training programs started in the States have proven that recipients are eager to enroll in programs which will help them overcome obstacles to employment. And for many of these women the obstacles are severe: from not being able to find affordable, reliable day care, to not having the skills to compete in the job market. The tragedy of the Welfare Program is that to-date it has done precious little to help people overcome these obstacles.

For the last 2 years, the Ways and Means Committee has set about to develop a comprehensive proposal to reform the Aid to Families with Dependent Children Program. We had two goals: one, to break down the barriers to self-sufficiency of families on welfare and, two, without apology, to alleviate the effects of poverty on children in this country.

Unfortunately, we found we could not do all that we wanted to do in this bill in this year. But after months of hearings and markup by four committees of this body, we have legislation that lays the foundation for a new beginning in our welfare policy. It is a bill that offers hope to millions of women and children who need a helping hand.

The Family Welfare Reform Act rewards work. Through a change in the benefit formula, a welfare recipient who holds a job will always be better off than a recipient who does not. This makes common sense. It allows families to work their way off welfare gradually, rather than suddenly lose assistance and Medicaid coverage. In real terms, poor children will be less poor as a result of this provision.

The Family Welfare Reform Act promotes work. It requires the States to set up education and job training programs that will give adults and teens the skills they need to enter the work force. This bill successfully strikes a balance between flexible and mandatory requirements to ensure that creative States have a chance to run programs geared to their own needs, but that no State neglects helping the difficult cases—those individuals most likely to be dependent on welfare for the longest period of time.

The Family Welfare Reform act protects children. It requires that child care services meeting basic health and safety standards be provided to participants in education and training programs. What's more, it helps these families make the transition from welfare to work by guaranteeing that the very same child care assistance from the welfare agency will be available after the family leaves the rolls. If there is anything we have learned from the employment and training programs in the States, it is that the key to success and to independence from welfare is child care. That's why nearly 50 percent of the funds for the ET Program in Massachusetts are spent on child care. The Family Welfare Reform Act child care guarantee will be a major infusion of new funding for child care for low-income families, taking some pressure off already oversubscribed programs. Make no mistake about it, this is a good first step on the road to solving the crisis of child care affordability and quality in this country. It is significant new child care help from Federal and State governments and no advocate of better child care should vote against it.

Welfare reform has been on the agenda for over 2 years. It has been a priority with liberals and conservatives. In recent weeks we have been acutely aware of structural problems in our economy looming on the horizon: we are taking steps to solve these problems. As we look to the future, we must also take steps to ensure the well-being of the children of our society. Seven million of our children now receive welfare—but that system is failing them and their parents. We cannot afford this failure. We cannot afford to waste these children. We must make the investment in improving welfare now, or pay the consequences later. This Family Welfare Reform Act is for children. I urge my colleagues to support it.

Mr. BROWN of Colorado. Mr. Chairman, I yield 3 minutes to the gentleman from California [Mr. LUNGREN].

Mr. LUNGREN. Mr. Chairman, many in the media and in academia suggested earlier this year that a new consensus had emerged concerning welfare reform. The leadership of the Public Assistance Subcommittee, however, has chosen to ignore that consensus. In its furious dash to buttress Great Society policies, that panel has abandoned impoverished Americans to the culture of dependency.

An April evaluation of workfare programs by the Congressional Budget Office indicated that such programs improve the incomes of participants and can insure that participants contribute to society in a meaningful way. Yet the bill before us today not only rejects workfare as a policy alternative, but effects sabotage on the work programs already in place. If this bill became law, State and local officials could not assign aid recipients to community work experience programs for more than 6 months. Ironically, this ostensibly "pro-work" bill would thus exclude aid recipients from work even though jobs through community work experience were available.

In a July 1987 report entitled "Welfare Dependency," the Hudson Institute determined that "the research indicates absolutely no logical route by which higher benefit levels could induce women to become financially independent." In fact, the institute went on to conclude that higher benefit levels would probably discourage economic self-reliance. Yet the Family Welfare Reform Act tempts States with the prospect of a 25-percent increase in Federal AFDC matching funds when States increase benefits.

In "A Community of Self-Reliance," the American Enterprise Institute's Working Seminar on Family and Welfare Policy strongly emphasized the importance of an attack on behavioral dependency. "Escape from poverty," the seminar noted, "is in part a matter of attaining personal control and independence, so as to respond to changing economic circumstances." The seminar made a forceful case for work requirements—even for mothers of preschool children. "Those who delay entry into the labor force will find it more difficult later," the seminar added.

Yet the Family Welfare Reform Act does not require one single welfare recipient to work. It does not require one single welfare recipient to even look for a job. Even worse, it excludes women with children under the age of 3 from work requirements, and limits the participation of women with children under 6 in mandatory work programs to a part-time basis. I have yet to hear anyone in the Congress explain to me the value of part-time training or part-time work experience.

Mr. Chairman, the subcommittee has promulgated these provisions despite the agreement of the working seminar and others that assistance policies devoid of social obligations deny aid recipients their full status as citizens, for citizens by definition have duties and responsibilities to each other and to society. Even worse, such policies raise questions about social equity in the minds of those poor Americans who choose the path of work in order to support themselves.

Mr. Chairman, this bill isn't welfare. It isn't workfare. It's spendfare. We're going to spend $6 billion over the next 5 years to give poor Americans a vote of "no confidence."

No confidence in their ability to lift themselves out of the poverty culture;

No confidence in their ability to contribute to our economy; and

No confidence in their ability to function as equal partners in a society based on self-reliance and mutual obligations.

Mr. Chairman, 20 years ago, President Lyndon Johnson stated: "We want to offer the forgotten fifth of our population opportunity and not doles. The days of the dole in our country are numbered." It's a tremendous tragedy—for the Congress and for the American people—that the Public Assistance Subcommittee has abandoned that commitment.

Mr. Chairman, I include with my remarks the following letter to me from the chief administrative officer of the county of Los Angeles:

CHIEF ADMINISTRATIVE OFFICER,
COUNTY OF LOS ANGELES,
Los Angeles, CA, December 14, 1987.
Hon. DAN LUNGREN,
House of Representatives, Rayburn House Office Building, Washington, DC.

DEAR CONGRESSMAN LUNGREN: The County of Los Angeles strongly urges you to oppose, unless amended, H.R. 1720, The Family Welfare Reform Act, when it is considered by the House. We share the concern of California Governor Deukmejian that federal welfare reform should recognize that states require sufficient flexibility to design and operate programs which will meet local needs.

The State of California currently has one of the most extensive family welfare programs in the nation. California's Greater Avenues for Independence (GAIN) program assists AFDC recipients in finding employment through job placement, training and education. In addition, transportation and child care assistance are provided as necessary.

The objectives of H.R. 1720 and California's GAIN program are similar, but the programs embodied in H.R. 1720 are much broader and more complex than GAIN, and are therefore more expensive. Requirements of H.R. 1720, such as expanded eligibility, more intensive case management, greater income disregards and unrealistic deadlines would render the program unaffordable for the County of Los Angeles and virtually impossible to administer. If H.R. 1720 were to become law in its current form, the County estimates that its welfare program net costs, which last year totaled over $271 million, could increase by $60 million a year.

In addition, the GAIN program, generally considered to be one of the most progressive in the nation, essentially will be superseded by program requirements contained in H.R. 1720.

The County of Los Angeles is prepared to assist those who are unable to support themselves to become productive members of the work force. We cannot support H.R. 1720, however, unless it is amended to establish more realistic time frames for implementation and provides funding for the additional costs imposed on local government as a result of new program requirements.

Thank you for your consideration.

Sincerely,

RICHARD B. DIXON,
Chief Administrative Officer.

□ 1810

Mr. BROWN of Colorado. Mr. Chairman, I yield myself the remaining time.

Mr. Chairman, this debate and perhaps this year of discussion of welfare reform has been an interesting one. I suppose all of us reflect on our own experiences and backgrounds in considering these issues.

I found this particular area is of unique interest. I have listened through long committee sessions to people talk about single parent families. Interestingly, many of those people came from two-parent families.

We heard from people who did not have to work their way through life tell us about being poor. To some extent this Democratic bill reflects the thinking of those who have never been poor.

Mr. Chairman, there is a secret of success. A secret to making our lives better, and Mr. Chairman, it is work. It is a four-letter word. It is a word that means opportunity and growth. It is a word that means fulfillment. It is a word that means change. To reform welfare we have got to provide self-respect and an opportunity for people to work. If we are looking for one answer, it is in that four-letter word "work."

Mr. Chairman, that is why the bill before us is a bad bill. That is why it should be and must be defeated. It should be defeated because it is antiwork.

Let us be specific how this measure is antiwork.

First, it prohibits people from referring welfare recipients to jobs, unless the job pays more than all the welfare benefits combined.

Thus, if you are receiving public housing, and 25 percent of our welfare recipients do, in some States your welfare benefits exceed $16,000 a year and, Mr. Chairman, that is after tax. That means the law will make it illegal to refer some people in California to jobs that pay $7 to $8 an hour. That does not make any sense. That is just plain silly, and everybody in this Chamber knows it. The working men and women of this country know it. To make it illegal to refer people to jobs that pay $8 an hour hurts welfare recipients. Do not talk about that showing compassion, because restricting work does not show compassion.

Second, this measure fails to include any mandatory participation standards. Let us be specific about what that means. While the sponsors say it is a prowork bill, there is no requirement for anybody to go to work. There are no penalties to the States if they fail to refer them to work. The suggestion that this is a prowork bill is simply nonsense.

Third, this bill puts restrictions on participating in community work experience programs and forces people out of that work back onto welfare. If anybody thinks more than 5 percent of the American public believes in that, let them step forward. I do not think they do. The vast majority of Americans think it is utterly foolish to force people off community work project programs and back onto welfare.

Fourth, any day care provider involving two or more children has to comply under this bill with State standards. That may mean licensing and inspection. Fifty-eight percent of child care, for children under 5 is now provided by family members or a relative. It may be difficult for them to get the licensing and inspections. What we have done is make it more difficult for day care to be provided by family members. That is a barrier to work because when you increase the cost of child care you increase the barriers to work.

Fifth, anyone with a child under the age of 3 is exempt from the job search or training requirements. That exempts 21 percent of the people who are in the welfare category from the requirement to get education or training or be referred to jobs.

The simple fact is many working women in this country whose children are above the age of 6 months, are not only able to work but are some of our most productive workers.

This bill is antiwork. The American people are not antiwork. They are prowork. This measure should be defeated and we ought to come back with real welfare reform that helps the welfare recipient.

Let us not fashion a bill that just helps the bureaucracy. Let us fashion a bill that helps those who are in need. If we are compassionate, we are going to adopt a different bill. We are going to design a bill that breaks down barriers of work. The decision this Chamber faces is whether we are prowork or antiwork. Let us defeat this bill and get on with true welfare reform.

Mr. Chairman, these figures indicate that H.R. 1720 spends more than 80 percent of its funds for benefit increases.

Benefit and eligibility increases in H.R. 1720

(Outlays in millions)	*5-year total*
Benefit and eligibility increases:	
100-hour rule	$93
Child care grants	881
Transitional employment	([1])
Increase child care disregard	48
Transitional child care	820
Extend and expand earnings disregards	410
Mandate UP	1,145
Minor parents and disregard grandparents' income	71
Enhanced Federal match	1,240
Increased funds for territories	54
Demonstrations with increased benefits	105
Food Stamp disregard and eligibility expansions	539
Total	5,406
New spending in H.R. 1720:	
AFDC benefits, work and CSE	5,468
Food Stamps	691
Total	6,159
Benefit and eligibility changes as percent of new spending (percent)	88

[1] Costs not estimated.

Source: CBO cost estimates. Classification by OMB.

Mr. LEVIN of Michigan. Mr. Chairman, I yield myself 7 minutes.

Let me review what this bill does and what it does not do.

The gentleman from Colorado has stated his case. I hope people have listened to it and that they will listen to the answer.

What does this bill do? It links welfare and work irretrievably. It crosses the Rubicon. After this, I do not think the debate will be whether welfare and work should be linked, but the extent, within what structure, opportunity plus obligation. Those are built into this bill irrevocably and let no one try to distort that as the thrust of this bill. This is a bill that at long last says we are going to link welfare and work.

What does the bill not do? We have heard a lot of rhetoric about this. It is said that 80 percent of the cost of the bill is welfare benefits—simply untrue.

I have gone through even the Republican data in terms of how much goes for the welfare work linkage in H.R. 1720. It is clearly the majority of the money. I do not like it when people get up on this floor and distort what the facts are. The majority of the money in this bill is not for welfare benefits.

It has also been said, including by Secretary Bowen, that there are no real work requirements. That is simply untrue. This bill mandates work.

Now, there is a difference of opinion as to at what age it will start. This bill gives the States the ability to mandate work for those under three, but there has to be day care provided. There has to be day care provided, and we have an interesting irony here, that the Republican bill would mandate work in cases of mothers with a child of 7 months, regardless of the circumstances, regardless of whether that mother is needed at home.

Where are the profamily echoes that used to come from that side of the aisle? I do not hear them. They are getting lost in the rhetoric of workforce.

We leave it to the States to determine when there shall be a mandate in terms of younger children, and that is the best way to do it.

It is also stated that this bill, H.R. 1720, discourages work—this is Secretary Bowen—by placing restrictions on assignments and job referrals. Let me make just two points absolutely clear.

No. 1, there is no community standard in this bill. There is no Davis-Bacon provision in this bill. There is no prevailing wage provision in this bill. Let nobody distort it. It says that somebody on welfare shall not be placed in a position at a lower wage than is being paid by that employer for like work, so that an employer cannot use welfare recipients as sweatshop employees. That is all it says. There is not an ounce of Davis-Bacon in this, not an ounce of community standard in this, and let no one say to the contrary.

Something has also been stated about only 15,000 families getting off welfare under this bill for $6.6 billion.

Well, first of all, those same CBO estimates say that the Republican bill would only bring about 50,000 people leaving the welfare system for all that they spend.

I have talked to the CBO. Be wary of their estimates on this.

The State experiences with programs like this under H.R. 1720 are that people leave welfare for work by the thousands, and that is why the Governors of this country support the thrust of this bill.

One last word. The Republican bill has many more people going through the work processes, supposedly, for a total of less money, but much more State money and more money for work. Much of it is State. But what you do is kind of cycle people around an elevator. That is what you do. You do not pay attention to quantity.

This bill, H.R. 1720, pays attention to quality as well as quantity. What it says is that it is going to take some funds in order to train and retrain people. The Governors understand this. You cannot have welfare reform on the cheap. We are going to have to pay for it. This bill pays for it. The money is there. It is not extravagant. It is necessary.

What it finally does is bite the bullet combining work and welfare. I hope all of us will unite in supporting it.

Mr. Chairman, if I have any time left from that I yielded myself, I yield to the gentleman from Colorado [Mr. BROWN].

Mr. BROWN of Colorado. Mr. Chairman, I thank the gentleman for his courtesy and the opportunity to reply, just quickly.

The Republican bill conditions the requirement to work for what I assume would be the primary requirement of education and training for those mothers who have children who are 7 months or older. It conditions that, first of all, upon being able-bodied, and second, there being child care or day care available. So it is not a broad one.

Mr. LEVIN of Michigan. Let me just say on that point, as we go back and forth, all right; first of all, there is not the money guaranteed to pay for that day care, and second, it seems to me that the States should be able to make a judgment as to the age of the child at which mandatory work shall begin.

We here in Washington should not be telling mothers with kids 7 months that regardless of the circumstances you must work. That is an antifamily kind of provision.

Mr. BROWN of Colorado. First of all, with regard to the money, the money is roughly equivalent in that area or perhaps more than in the democratic bill in that area, but if there is not the money available, there is no requirement to work.

I think that is the point.

I will forward this over to the gentleman. With regard to the way the benefits are distributed in the democratic bill, we have an estimate that uses CBO cost estimates. The breakdown estimate is exact and specific, listing the benefits of the programs, but this specifically shows the programs and it shows 88 percent of the benefits and eligibility changes as a percent of new spending.

In other words, the figure for 80 percent of the money in the democratic bill going to benefit increases is my own estimate. This particular one shows 88 percent.

I am sure there is no intent by either of us to mislead, but I think this at least makes it specific, so perhaps people can make their own judgments.

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Mr. LEVIN of Michigan. Mr. Chairman, taking back my time, I have gone over the Republican figures and if we include employment training, child care, and work incentives as a part of the resources that go for the work element, and I think we could because child care and work incentives are tied into our bill, over 50 percent easily goes for this connection between welfare and work.

Mr. STOKES. Mr. Chairman, I am pleased to join my colleagues in support of H.R. 1720—the Family Welfare Reform Act of 1987. Every day new and rising demands are being made on American families. In the last two decades we have seen an increase in the number of mothers working outside of the house who still live under the poverty line, an increase in the number of teen-parent families, and an increase in two parent families unemployed or facing unemployment. These situations combined have resulted in a very serious and difficult problem—the impoverishment of millions of young children.

The United States leads the world in nearly every aspect of productivity and development. Yet, one child in every four is born into poverty. The primary and most sensible way to address the needs of children is to expand and strengthen opportunities for their parents to be self-sufficient, productive members of our national work force.

In order to effectively ensure that families become self-sustaining and financially independent, welfare reform must be designed to meet the multifaceted nature of today's family structure. This calls for a comprehensive welfare program that includes education, training, and job search assistance for public assistance recipients. It calls for extending benefits to needy two-parent families during hard times so they can stay together. It calls for ensuring access to child care for children so that parents are able to participate in employment, training and education programs. And it calls for expanded access to health care for the entire family so that families are assured continuity of health care during the transition to work.

Mr. Chairman, we are confronted with some very serious and basic problems with raising our young children. The very future of our children and our Nation depends on our support of the Family Welfare Reform Act of 1987. If we are to have a lasting and meaningful impact on moving welfare recipients toward self-sufficiency, we must lead the way for these families to contribute to productivity, instead of being dependent on Government to provide for their needs. The very survival of our children—our families—America's future—depends on our enhancing employability for low-income families across America.

Mr. MCGRATH. Mr. Chairman, I rise in opposition to H.R. 1720, the Family Welfare Reform Act of 1987. While there are several aspects of the bill which I do support, such as child care provisions and workfare, there are several others that make it impossible for me to vote in favor of this legislation.

H.R. 1720, the Family Welfare Reform Act of 1987, was introduced as an attempt to eliminate poverty. However, in its present form it does not accomplish this goal. I believe this legislation actually creates major new barriers to work for welfare recipients. It mandates more Federal regulation and control, increases welfare benefits above the wages of entry-level jobs in many States, increases the earned-income disregard, and prevents States from using demonstration projects to decrease welfare dependence and increase administrative efficiency. All in all this bill moves the welfare program toward a system of guaranteeing a certain level of annual income through Government programs rather than through work by those who are capable of being employed. H.R. 1720 even goes so far as to prohibit AFDC recipients from being forced to take a job that pays less than their welfare benefits, including the insurance value of Medicaid. Surely this cannot be considered an effective step toward breaking the cycle of welfare dependency. In addition, in these times of tremendous Federal deficits, this legislation raises Federal spending by more than $5.2 billion over 5 years without designating a financing mechanism to pay for it.

I am concerned that, rather than breaking the cycle of poverty, this bill will actually harm welfare recipients and increase their dependency. I agree that welfare reform is necessary but I do not feel that H.R. 1720 is the answer. I believe that the Republican substitute better handles the improvement of the current welfare system.

The Republican substitute to H.R. 1720 creates an employment and training program that will prepare recipients to leave the welfare system. These programs are targeted to traditionally long-term recipients such as dropouts and teenage parents with children under age 3. In addition, the Republican substitute will result in twice as many participants in work and training programs over a 5-year period as H.R. 1720.

The requirement that welfare recipients participate in work and training programs does not ignore the problem of child care availability. Participation cannot be required if child care is not available. Like H.R. 1720, the Republican substitute authorizes Federal reimbursement for transitional child care costs for families leaving AFDC because of increased earnings. Also included in the substitute is the creation of a uniform system for providing child care information, including State licensing and certification requirements.

I would also support improvements in child support enforcement which allow for the garnishing of wages of a noncustodial parent when child support payments are in arrears. It is not necessary to regulate those who faithfully make their support payments.

Welfare reform should not be used as an excuse to increase welfare benefits. It shoud not result in a program where it is more attractive to remain on welfare than to work and where nonworkers end up better off than those who are employed. These are the pitfalls of H.R. 1720. This legislation will only continue the cycles of poverty and welfare dependency. I believe that the Republican substitute is a much more efficient and effective approach to welfare reform resulting in less overall monetary cost and higher percentages of former welfare recipients.

Mr. DE LUGO. Mr. Chairman, the Family Welfare Reform Act of 1987 would take a step toward righting the least defensible and cruelest wrong of our current welfare system that I know of: discrimination against the needy among the 3.5 million Americans of the insular areas.

The bill, H.R. 1720, would raise the amount of funds provided Guam, the Virgin Islands, and Puerto Rico for Aid to Families with Dependent Children, the aged, the blind, and the disabled. It would also provide assistance for the first time to American Samoa.

The provisions respond to a recommendation made by the Subcommittee on Insular and International Affairs which I chair early in the year that was endorsed by the full Committee on Interior and Insular Affairs, supported by the Committee on the Budget, and resulted in action by the Committee on Ways and Means.

I want to thank Chairman UDALL and BOB LAGOMARSINO of the Committee on Interior and Insular Affairs; Chairman GRAY and MIKE LOWRY of the Committee on the Budget; Chairman ROSTENKOWSKI, TOM DOWNEY, HAROLD FORD, HANK BROWN, and BRIAN DONNELLY of the Committee on Ways and Means, and other Members who actively supported my efforts and those of our other colleagues from the insular areas: FOFO SUNIA; JAIME FUSTER; and BEN BLAZ.

The current discrimination exists because there is an artificial limit on the amount of funds provided Guam, the Virgin Islands, and Puerto Rico for aid to families with dependent children on top of the normal limits of the program; because these islands have not been included in the Supplemental Security Income Program but instead receive assistance under the old programs that it replaced; and because American Samoa receives no assistance for these needs.

What is most wrong about this inequitable treatment is that pressing human needs are not met. There are, however, other unfortunate consequences.

A strong message is being sent to the insular areas that their political relationships with the rest of the Nation are unfair and ought to be changed.

Needy islanders feel compelled to move to the States where they can receive assistance equal to that provided their fellow Americans.

Our Nation's image is undermined in the strategic Caribbean and Pacific regions by discrimination against the American minorities who live in the Nation's insular borders.

After years of effort on my part and that of my colleagues from the insular areas and other Members, the insular areas are finally being treated equitably under most Federal programs. I find it ironic, though, that discrimination still exists in several which provide essential assistance to the most needy.

I recognize that unprecedented deficit pressures on the Federal budget make this a time for cuttting rather than enlarging programs. I know that equitable treatment in these programs for insular America would be costly.

Nonetheless, equitable treatment of the insular needy, who now receive just a fraction of the assistance provided their fellow Americans, is a rights issue that remains one of my highest priorities.

This bill would take a small step closer to equitable treatment by raising the cap on assistance for families with dependent children, and the aged, blind, and disabled in Guam, Puerto Rico, and the Virgin Islands which we were last able to raise in 1979. It would provide American Samoa with aid to families with dependent children assistance.

The $3.3 million provided Guam would be increased by $425,000; the $72 million provided Puerto Rico would be increased by $9,270,000; the $2.4 million provided the Virgin Islands would be increased by $309,000; and American Samoa would be provided $1 million each year.

In comparison to the costs of equitable treatment, these are small steps. Still, as the first steps possible in 8 years they are important ones. More important, they will help some of the neediest people under our flag.

I ask the support of this House for this increase. I also ask my colleagues to work with me for further steps toward equitable treatment of the needy among the Americans of the U.S. insular areas.

Mrs. COLLINS. Mr. Chairman, I want to join with my distinguished colleagues who support the child care provisions of H.R. 1720.

Shortly after Congress convened, I met with Speaker WRIGHT to emphasize the importance of addressing the "crying need" for safe, affordable, good quality day care. Numerous statistics bear out the fact that growing numbers of mothers are returning to the labor force at some time after they have children.

The child care provisions of H.R. 1720 are an important first step toward satisfying this need.

As the author of the first bills to improve the quality and availability of child care services, I am pleased the bill encourages States to get a better understanding of their existing child care resources and their ability to meet the increased demand for this service.

If anything gives me concern about this provision, it is the timing of this study. Under the bill, the study can be done either prior to, or in conjunction with, the disbursement of these funds. Encouragement alone may not be sufficient to ensure this study is undertaken and completed. I would have hoped this would be mandatory and timed so that adequate child care services are in place before we require the working poor to be employed. We must be absolutely certain that quality day care is available to these parents. We do not need a repetition of the tragic deaths of children in Reston, VA, or the near tragedy of Jessica McClure in Midland, TX, before we wake up to this fact.

I am also concerned that this bill does not address the lack of coordination of existing child care programs, especially for the working poor whom this bill is supposed to help.

It is vital that we have a considerably better understanding of why existing Federal child care programs are not meeting the demand for this service. In particular, we need to better coordinate these programs, together with those provided by the States, to ensure we're getting the "biggest bang for our bucks."

In closing, Mr. Chairman, if anyone still thinks this bill goes too far, I want to know where parents of a 1- to 3-year-old can find a safe and sound day care program for $200 a month in Chicago, or for that matter, in any other major urban center? The answer is you can't!

Because of the critical importance of ensuring the availability of quality child care services for parents, I urge my colleagues to support this bill as a first step toward accomplishing this objective.

Mr. RAY. Mr. Chairman, I recently wrote Gov. Bill Clinton who is the lead Governor for welfare reform in the National Governor's Association, in response to a letter which he wrote supporting H.R. 1720—the welfare reform bill.

I told the Governor that we are standing on the brink of economic catastrophe, in my opinion. Our national debt will approach $3 trillion on the day that President Reagan leaves office, up from $950 billion just 9 years ago. Our interest payments on the debt equals 17 percent of our 1988 trillion-dollar budget. The bill is introduced with good intentions, and addresses serious problems. However the timing could not be worse.

We are economically weakened at a time when the Soviet Union and China have realized what capitalism is all about, and we face continued serious difficulties with our trading partners. In addition, our foreign creditors, who, unfortunately, we necessarily depend on to buy our Treasury bonds to finance our deficit, will not continue to provide money for our Government if Congress continues to refuse to take steps to get our fiscal problems in order.

Welfare reform was introduced with no meaningful initiative from welfare recipients. My office has heard from very few constituents, however, the mere debate on passage of this legislation will serve to alarm the stock market and to highlight the failure of the Congress and the administration to take control of our fiscal policies in a responsible manner.

Mr. Chairman, I include the text of my letter to Governor Clinton in the RECORD:

HOUSE OF REPRESENTATIVES,
Washington, DC, December 11, 1987.

HON. BILL CLINTON,
Governor of Arkansas, National Governors' Association, Washington, DC.

DEAR GOVERNOR CLINTON: I have received your letter of December 8, 1987, in support of H.R. 1720.

I am as concerned about the truly poor, helpless and needy as most Americans are. However, it is my firm opinion that the best action that the Congress can take on welfare reform, and all new spending programs at this time, is no action. I intend to work diligently toward that end.

Governor, we are standing on the brink of economic catastrophe, in my opinion. Our national debt will approach 3 trillion dollars on the day that President Reagan leaves office, up from 950 billion dollars just nine years ago. Our interest payments on the debt equals 17 percent of our 1988 trillion dollar budget.

We are economically weakened at a time when the Soviet Union and China have realized what capitalism is all about, and we face continued serious difficulties with our trading partners. In addition, our foreign creditors, who, unfortunately, we necessarily depend on to buy our Treasury bonds to finance our deficit, will not continue to provide money for our government if Congress continues to refuse to take steps to get our fiscal problems in order.

Welfare reform was introduced with no meaningful initiative from welfare recipients. My office has heard from only one constituent. However, the mere debate on passage of this legislation will serve to alarm the stock market and to highlight the failure of the Congress and the Administration to take control of our fiscal policies in a responsible manner.

I am, to say the least, disappointed in the National Governors' Association's position on welfare reform, as well as my colleagues in Congress who have initiated additional spending legislation in the very worst of times.

Sincerely,

RICHARD RAY,
Member of Congress.

Mr. RAHALL. Mr. Chairman, I rise today in support of H.R. 1720, the Family Welfare Reform Act. This welfare reform initiative replaces the existing Aid to Families with Dependent Children [AFDC] Program with a new Family Support Program [FSP] that encourages families to support themselves. There is a need for welfare reform that is widely acknowledged. As an original cosponsor of H.R. 1720, I am encouraged that the House of Representatives is addressing this need. H.R. 1720 requires most recipients to take part in an education, training, and work program designed to get welfare recipients off welfare and to become self-supporting. The measure requires States to target individuals who are in danger of becoming long-term welfare recipients as participants in the program.

This welfare reform plan includes a number of worthy initiatives which are not a part of the Republican welfare reform substitute which is expected to be offered during House consideration of this measure. For instance, H.R. 1720 provides for a continuation of Medicaid benefits for 2 years after a recipient leaves welfare and the provision of child care during education and training which meets State regulations for health and safety. The loss of medical insurance for their children once removed from welfare and the inability to provide child care during job training are two tremendous disincentives to current welfare recipients who may otherwise have the opportunity to escape welfare. As this bill stands, welfare recipients have the opportunity to escape public dependence while providing for the health and security needs of their children through at least an adjustment period. Our national economy and social stability can only be served through the implementation of these incentives. I, therefore, support this welfare reform effort whose cost is offset by several spending reductions, and oppose any substitution in this regard that may be offered.

As with any measure of this magnitude, we may have some concern with the bill's cost or content. As with all programs, the implementation of this bill's reforms will be followed by an evaluation of the need for further change as well as the reaffirmation of the benefit of this legislation. It is my hope that any founded concerns will be addressed in future legislation. However, we must not allow our varied concerns to outweigh the importance of this effort. Comprehensive welfare reform is needed and once achieved, will be cost effective. I commend the chairman of the committees and subcommittees responsible for bringing this legislation before us today, as well as the efforts of the individual members of those committees. I urge my colleagues to support passage.

Mr. SCHAEFER. Mr. Chairman, I share my colleagues' concern that our current welfare system is simply not working. I would like to take this opportunity to state my strong support for welfare reform and to urge adoption of the Republican substitute.

I believe the substitute would provide for a greater number of families participating in work programs, thereby encouraging them to leave the welfare rolls. Furthermore, the substitute would accomplish this at nearly one-fifth the cost of H.R. 1720, the Democratic proposal. H.R. 1720 is an expensive bill that would reduce incentives and participation requirements, both of which lead to self-sufficiency.

First, H.R. 1720 would increase benefits for those on assistance, making them more dependent on welfare. I fail to see how we can encourage people to leave welfare if they are paid more to remain on it. Furthermore, H.R. 1720 would not refer individuals on assistance to job openings unless the wage is equal to the pay scale for that job. The substitute measure would call for referral if the job pays at least minimum wage.

I applaud both measures for including education and training programs. However, once again H.R. 1720 would discourage self-sufficiency by providing several exemptions that waive the participation requirements. For example, H.R. 1720 would excuse mothers with children under the age of 3, or nearly 20 percent of all welfare recipients. The Republican alternative would require participation by those with children at least 6 months old, while also making day care reimbursements available to participants in these training and education programs.

Finally, in this era of out-of-control Federal spending, we simply must evaluate the cost of welfare reform to the taxpayer. Congress is finally admitting the need to reduce the deficit, yet H.R. 1720 would cost $7 billion over 5 years. Certainly the substitute, which would cost slightly more than $1 billion over the same 5 years, is a much more reasonable price to pay for true welfare reform. I again urge adoption of this substitute.

Mr. FAUNTROY. Mr. Chairman, I rise in enthusiastic support of H.R. 1720, the Family Welfare Reform Act of 1987. This bill is designed to aid recipients of welfare assistance in embarking upon more productive, rewarding, and self-reliant lives through education, training, employment, and funding for child care.

Specifically, this profamily and cost-effective legislation would accomplish the following:

It would replace the existing Aid to Families with Dependent Children [AFDC] Program with a new Family Support Program [FSP] that encourages self-sufficiency, enhances the ability to compete in the employment market, and provides care for the children of welfare recipients.

It would require States to target services to individuals who are most vulnerable to long-term dependency and a life entangled in the debilitating welfare cycle.

It would structure incentives for employment by allowing those on welfare to earn greater amounts than what is stipulated under current law without suffering a reduction in, or termination of, welfare benefits.

It would provide reimbursement for child care if the parent is enrolled in school or training, or is employed. Most importantly, recipients with young children would be assured access to child care before they could be required to enroll in a program of education, training, or employment as a condition of continuing eligibility.

It would help many in their transition to the world of work by establishing a day-care transition program, compensating working families for day-care expenses for up to 6 months after leaving the AFDC-FSP. Such compensation would be tabulated according to the family's ability to pay for the service.

The bill also contains measures to improve the enforcement of child support orders. It would expand State efforts to establish paternity and improve program efficiency.

Of great importance is that H.R 1720 encourages families to remain intact by requiring all States, commencing in 1990, to allow two-parent family units in which the principal earner is unemployed to qualify the AFDC–FSP benefits.

Finally, this legislation would increase Federal matching funds for States that have as their policy the accountable increasing of welfare benefits.

This legislation will cost $148 million in fiscal year 1988 and $1.7 billion over the next 3 years. The education, training, and child care provided will return far more than that to our national economic and spiritual reservoir. It will enhance our educational and economic competitiveness and will help to heal the divisions between those who now enjoy the fruits of our society and those who are left out.

H.R. 1720 is sound on economic, social, and moral grounds. I urge all of my colleagues to vote in favor of the Family Welfare Reform Act of 1987. By casting a vote for H.R. 1720, you will be delivering a vote for self-reliance and equal opportunity—values that represent the best in American life.

Mr. COLEMAN of Texas. Mr. Chairman, I rise today in support of H.R. 1720, the Family Welfare Reform Act, because I believe that approving this legislation is the only way through which we can assist welfare recipients escape their dependence on welfare benefits.

I would like to think that Congress has reached the realization that a successful welfare system must include measures that encourage recipients to become self-sufficient by providing them the opportunity for education and employment. This bill is not a perfect bill, but it provides expanded education, training and employment opportunities, and the enhanced supports needed by poor families and children.

During my many years in public service, I have listened to all sides of this controversial issue. Yet most of the people who were receiving welfare benefits when I entered public service are still welfare recipients, and their grown children are oftentimes welfare recipients as well. Not only do these individuals continue to be the poorest members of society even with governmental assistance, but the burden of welfare benefits on the Federal budget has grown by monumental proportions.

I strongly believe in the importance of providing individuals the opportunity to become self-sufficient, and I think that as policymakers we must do a better job to assist people to achieve this goal. Not only should we attempt to provide people enough resources on which to survive, but we must go beyond that. We should look further to providing them basic education and training, skills that will enable them to become productive members of society while helping them maintain their dignity. This investment now in education and training programs will save our society in the future both in terms of financial and human costs.

I support H.R. 1720 because I believe this bill will achieve this. The Welfare Reform Act is prowork, profamily, probusiness, and pro-State flexibility. If enacted, this bill would create a new national education and job training program for welfare recipients. All welfare recipients with children above the age of 3 would be required to participate at least part-time in work, education or job training, and quality day care will be provided so that parents of young children can take advantage of the opportunity to work or go to school. As we all know, many of the individuals on welfare rolls are poorly prepared for the job market. Most never finished high school, and few have any marketable skills. This bill attempts to remove the barriers that keep these individuals from becoming self-supporting.

The portion of this bill that would provide child care services to welfare recipients to enable them to attend school or work training is a critical component of the package. Many young women find themselves trapped by their inability to pursue employment or an education because of the unavailability and prohibitive cost of child care. I anticipate that many of these parents will welcome the opportunity to provide for themselves while at the same time they can feel their children are being taken care of properly.

In addition to its primary component of work, education and training programs, this bill is even stronger because it includes a number of other provisions such as stronger child support collection, extended health care benefits, and income disregards. I am not saying this is a perfect bill, but it does propose a better system than that under which we are currently operating. It is my hope and that of other supporters of this bill that welfare recipients will take advantage of this opportunity.

I urge all my colleagues to support the Welfare Reform Act.

Mr. DURBIN. Mr. Chairman, I rise today in support of the Family Welfare Reform Act. This legislation improves our current welfare system by including the components necessary for welfare dependent families and their children to achieve self-sufficiency.

Some troubling trends have brought us to this debate. The poverty rate among children has increased dramatically. In 1979, fewer than 10 million children lived below the poverty line. Today, more than 12 million children, or one out of five, are born into a life of poverty. Over half the children in female-headed families today are poor and more than two-thirds of children in black or Hispanic families are living in poverty. Despite an array of Federal programs and substantial increases in public expenditures to fight poverty since the mid-1960's, 33 million Americans had incomes below the poverty line in 1985.

There is a clear consensus that our efforts to reform this country's welfare system and to reduce poverty among America's families must emphasize three important factors: the strength and maintenance of the family, the value of work, and the goal of independence.

H.R. 1720 encourages family stability. Under current law, States have the option of extending AFDC benefits to two-parent families with an unemployed wage earner. In the States without this program, only single-parent families are eligible for benefits. This legislation requires that by January 1990, all States establish AFDC-Unemployed Parent Programs, which will eliminate the incentive for families to break apart. Federal law should promote two-parent families. In addition, the bill contains provisions designed to improve child support enforcement.

H.R. 1720 emphasizes the value of work by creating a fully funded program to provide education, training and child care support to participants. Approximately two-thirds of the new 3-year expenditures in the bill are specifically allocated for work, training and education and related expenditures.

H.R. 1720 encourages independence by addressing some of the many disincentives built into our current welfare system that penalize families working to make the transition from welfare to the labor market. The bill provides transition child care and health benefits for a limited time. It also includes "new income disregard" provisions to insure that welfare recipients who work are better off than those who do not.

By making an investment in the productivity of low-income families and the development of their children, we are making an investment in our Nation's future. I urge your support for this important legislation.

Mr. MOODY. Mr. Chairman, I rise in strong support of H.R. 1720, the Family Welfare Reform Act of 1987. This is a comprehensive, compassionate, and carefully crafted bill that deserves our support. It is the product of both the ways and Means Committee and the Education and Labor Committee. Each of the committees worked long, hard, and carefully on this bill, and I think the end product shows the results of all this time and thought.

Welfare reform is a top priority of the President, the Congress, and the Nation's Governors. It is an idea whose time has come. Let's not miss this opportunity.

This bill represents a major change in the Nation's welfare system. H.R. 1720 would change AFDC from a dole program to one that teaches people to become independent wage earners. People would earn their AFDC benefits while they are on welfare and, under features included in the bill, would soon be equipped to earn their own living and to be self-supporting.

Key features of H.R. 1720 are the strict work and education requirements for receiving assistance. Instead of emphasizing "makework" jobs that may never lead to gainful employment, H.R. 1720 would give recipients the skills that will enable them to leave the welfare rolls.

The bill's National Education, Training and Work [NETWork] Program would enable recipients either to earn a high school education or to receive job training as well as money for child care while they are studying. NETWork would first target families with teenage parents, and the families that have been receiving welfare for 2 or more years—the people most likely to turn into long-term welfare dependents.

Importantly, H.R. 1720 includes incentives to leave the welfare rolls whenever possible. In the current system, a recipient is often better off staying on welfare than accepting a low-paying job and becoming independent. Currently, a woman on AFDC may get a low-paying job that renders her ineligible for benefits but that doesn't pay enough for her to afford decent health benefits for herself or her children. Working then becomes economically prohibitive.

By modifying the current AFDC system and creating the correct incentives, H.R. 1720 will encourage recipients to get jobs and leave the welfare system.

The bill takes into account States' varying ability to pay for welfare programs. It requires a minimum effort of all States, but has incentives for low-benefit States to increase their benefits, thus reducing disparity among the States. But the bill is careful to ensure that each Governor has the flexibility to create a welfare-to-work program that best responds to the needs and resources in that State.

The ultimate goal of welfare reform is, of course, to enable people to be self-sufficient. H.R. 1720 has the right balance of support, education, training, job counseling, and work programs to keep welfare recipients from becoming permanent, full-time beneficiaries. Instead, with the training and experience they will get under this bill, today's AFDC recipients can become tomorrow's permanent, full-time employees.

I urge you to join me in voting for this important welfare reform bill.

Mr. LEVIN of Michigan. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore [Mr. MFUME] having assumed the chair, Mr. SPRATT, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 1720), to replace the existing AFDC Program with a new Family Support Program which emphasizes work, child support, and need-based family support supplements, to amend title IV of the Social Security Act to encourage and assist needy children and parents under the new program to obtain the education, training, and employment needed to avoid long-term welfare dependence, to make other necessary improvements to assure that the new program will be more effective in achieving its objectives, had come to no resolution thereon.

GENERAL LEAVE

Mr. BROWN of Colorado. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to include extraneous matter, on H.R. 1720, the bill just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Colorado?

There was no objection.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF RESOLUTION REPORTED BY COMMITTEE ON RULES PROVIDING FOR CONSIDERATION OF ANY JOINT RESOLUTION WHICH ONLY PROVIDES FOR A TEMPORARY EXTENSION OF DATE PROVIDED FOR IN SECTION 102 OF PUBLIC LAW 100-120, AS AMENDED

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 100-483) providing for the consideration of a resolution reported by the Committee on Rules providing for the consideration of any joint resolution which only provides for a temporary extension of the date provided for in section 102 of Public Law 100-120, as amended, which was referred to the House Calendar and ordered to be printed.

PERMISSION TO FILE CONFERENCE REPORT ON H.R. 2310, AIRPORT AND AIRWAY IMPROVEMENT AMENDMENTS OF 1987

Mr. GRAY of Illinois. Mr. Speaker, I ask unanimous consent that the managers may have until midnight tonight to file a conference report on the bill (H.R. 2310), to amend the Airport and Airway Improvement Act of 1982 for the purpose of extending the authorization of appropriations for airport and airways improvements, and for other purposes.

Mr. Speaker, I would state further that this matter has been cleared by the minority.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

CONTINUATION OF LIBYAN EMERGENCY—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 100-147)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Foreign Affairs, and ordered to be printed:

(For message, see Proceedings of the Senate of today, Tuesday, December 15, 1987.)

EXPORT-IMPORT BANK RECAPITALIZATION AND LOAN LOSS RESERVES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin [Mr. KLECZKA] is recognized for 5 minutes.

Mr. KLECZKA. Mr. Speaker, when Congress considers the recapitalization of the Export-Import Bank of the United States next year, it should use the occasion to require the Bank to establish loan loss reserves, in accordance with Generally Accepted Accounting Principles [GAAP].

I recently introduced legislation which would mandate this real-world bookkeeping at the Bank, legislation which I am pleased to report has elicited a favorable response from the General Accounting Office [GAO].

GAO has consistently maintained that the failure of Eximbank to follow GAAP accounting rules on loan loss reserves results in a less than accurate fiscal report to the Congress on the condition of the bank. In a recent letter, GAO provided an effective rebuttal to the limited arguments against GAAP loan loss reserves. In view of the role asset sales now play in budget politics, the GAO prediction that discounted Eximbank loan sales after fiscal year 1988 will result in large losses for the Bank in the years in which they are sold is of special interest. With an established loan loss reserve as provided in my legislation, the impact of these losses in the year of the sale would be minimal since the losses would already have been recognized.

At this point, I would like to include in the RECORD a copy of the GAO letter on loan loss reserves:

COMPTROLLER GENERAL
OF THE UNITED STATES,
Washington, DC, December 14, 1987.

Hon. Gerald Kleczka,
House of Representatives.

DEAR MR. KLECZKA: We recently completed our audit of the fiscal year 1986 financial statements of the Export-Import Bank of the United States and have issued our report thereon. (See enclosure 1.) As you may know, that report presented an adverse opinion on the bank's financial statements. The adverse opinion resulted from the bank's refusal to establish a loss allowance on loans and claims paid under its insurance and guarantee programs that experience has shown are not likely to be collected. We also issued adverse opinions on the bank's 1984 and 1985 financial statements for the same reason. In addition, in a letter to the Chairman of the Subcommittee on Foreign Operations and Related Agencies, House Committee on Appropriations (B-224061, September 18, 1986), our General Counsel responded to arguments the bank raised concerning its objections to establishing a loss allowance. (See enclosure 2.) The purpose of this letter is to explain our concerns about the bank's continuing refusal to fairly report its financial condition.

Generally accepted accounting principles require that financial statements recognize losses when they are deemed probable and the amounts can be reasonably estimated. Recognizing losses on loans and other receivables ensures that financial statements reflect the true value of such assets. The proper means to recognize losses on loans and other receivables is to establish a loss allowance equaling the estimated amount of losses on those assets. This allowance is established and adjusted by charges against operating income. Factors to be considered in estimating the loss allowance include the current level and amount of delinquencies, the degree to which the loan portfolio includes renewed and rescheduled loans, and the adequacy of collateral.

We believe the bank's financial statements are misleading because the bank does not establish and report a loss allowance. The bank's portfolio includes a significant amount of problem debt—loans to and claims[1] due from foreign obligors that are delinquent or that have had repayment terms rescheduled. At the end of fiscal year 1986, the bank had problem debt of $5.8 billion, amounting to about 38 percent of its total outstanding portfolio. Even though some of these problem loans have been delinquent for over 20 years, the bank continues to refuse to recognize the losses inherent on them.

The bank's refusal is particularly disappointing in view of recent actions by U.S. commercial banks to increase their loan loss allowances for less developed country (LDC) debt. We believe the bank should assume a leadership role in improving financial management and we find it disconcerting that it is lagging behind private industry in establishing a loss allowance for foreign debt. As discussed in the following paragraphs, the bank has provided several reasons for its contention that "full recovery estimates on sovereign risk guarantees and insurance [2] is proper and that the establishment of a specific loan loss reserve is neither necessary nor appropriate." (See enclosure 3.)

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[1] These claims represent amounts the bank has paid to honor defaults under its insurance and guarantee programs. For the most part, the bank considers the claims to be fully recoverable.

First, the bank states that neither historical performance nor a general analysis of its portfolio provides a basis upon which the bank can establish an allowance for losses. We disagree. Our audit work over the last several years has demonstrated that an analysis of the bank's portfolio can, and does, provide an adequate basis for estimating losses. Specifically, based on our analysis of the bank's $15.5 billion portfolio as of September 30, 1986, we estimated that the bank's loss would range from $2.7 to $3.8 billion. Our analysis is based on the historical performance of the bank's loans and estimated recoveries, including repayment history and reschedulings. Our estimate is supported by the low amounts for which similar loans are being sold in the emerging secondary market for LDC loans.

Furthermore, since May 1987, the bank has been imposing exposure fees (surcharges) on direct loans based on the perceived risk of lending in a particular country. If the bank assesses risk and charges higher fees on riskier loans, one can assume that the bank expects some losses on its loans. Moreover, it is simply not logical to assume no losses will occur or that such losses cannot be reasonably estimated when over 20 percent of the bank's loans were delinquent, some by over 20 years, at the end of fiscal year 1986.

The bank also asserts that "significant adverse foreign policy implications could result from the establishment of a loan loss reserve" and that the bank "would have to make determinations that certain countries are not likely to repay their indebtedness." We do not believe these arguments are persuasive. By imposing surcharges on direct loans, the bank already makes determinations about certain countries' ability to repay their debt. Moreover, although the bank should analyze its portfolio, including individual loans, to determine the amount of the loss allowance needed, there is no requirement for allowances for specific countries to be disclosed in the bank's financial statements nor is there any authoritative literature that suggests that the only means to establish a loss allowance is to establish country-specific reserves. Also, other entities, such as commercial banks and the Overseas Private Investment Corporation, a federal agency, have established and reported loss allowances without any repercussions.

The bank also states that "[N]ot only would United States bilateral relations be damaged, but the ability to collect debt owed to United States Government institutions could be seriously impaired." Establishing a loss allowance does not impair the lender's right to full collection. Creating an allowance does not constitute forgiveness of indebtedness; rather, it is a recognition of the economic reality that doubt exists as to the collectibility of loans and other receivables. Debtor countries presumably are concerned with their international credit standing and its impact on their ability to obtain future financing. A unilateral decision not to repay existing debt—whether or not an allowance exists—would severely impair a country's ability to enter world capital markets.

The bank also asserts that "the establishment of a loan loss reserve would not be a useful management tool." We believe establishing a loss allowance in conformity with generally accepted accounting principles is useful, both to management and the Congress. Reporting in accordance with generally accepted accounting principles provides a uniform gauge of how well management is carrying out its responsibilities, whereas not following those principles inhibits management and congressional oversight of the bank's efficiency and effectiveness. By increasing the allowance account when collectibility first appears to be impaired, the diminished value is recognized in the entity's financial statements in a timely manner. Such timely recognition of losses provides management better information on the cost of doing business and can provide credit risk and collection information that would be useful for developing future credit strategies and business plans.

The effect of not establishing a loss allowance will become more apparent as the bank proceeds under the administration's loan sale program. Currently, to fulfill its goals under the program, the bank is using loan prepayments received from obligors, which are made at 100 percent of the outstanding balance plus accrued interest. However, according to the bank, after fiscal year 1988, it will probably have to resort to loan sales on the open market because it will not have sufficient obligors willing or able to prepay their debt. The bank believes these loans will probably have to be sold at discounts well below their face value, resulting in large losses in the years they are sold. Had the bank established a timely loss allowance in conformity with generally accepted accounting principles, the impact of these discounted loan sales would be negligible in the year of the sale because expected losses would already have been recognized.

The bank also states that a loss allowance would not "add to disclosure since full disclosure is already provided in Eximbank's financial statements where reschedules and nonperforming loans are specified." We believe that the bank is not fully disclosing the adverse impact of problem debt on its financial position even though it discloses delinquencies and reschedulings in the notes to its financial statement. To fully and fairly disclose the effect of delinquencies and reschedulings on its financial position and results of operations, the bank should establish a loss allowance. To do otherwise allows financial statement users to assume that there is no impact or leaves them guessing as to what the potential impact might be.

In conclusion, I would like to reaffirm our position that government agencies should assume a leadership role in improving financial management, including fully and fairly disclosing the results of operations and the value of assets and liabilities. In addition, over the past several years, the bank's equity has been eroded and the bank may soon require recapitalization. We believe establishing a loss allowance is necessary to give the Congress a true picture of the bank's financial condition for its deliberations on replenishing the bank's equity.

Accordingly, we believe the Congress should consider requiring the bank to analyze its portfolio and to establish an adequate loss allowance to fully and fairly report the results of its operations and its financial position. We are pleased that you have recently introduced an amendment to the Export-Import Bank Act to require the bank to estimate and record a loan loss allowance.

We are also sending this letter today to the Chairmen, Senate Committee on Appropriations, Senate Committee on Banking, Housing and Urban Affairs, House Committee on Appropriations, House Committee on Banking, Finance and Urban Affairs, and Subcommittee on Foreign Operations, House Committee on Appropriations, and to Representative John R. Kasich.

My staff and I are available should you wish to discuss this issue further. Please contact the Director of our Accounting and Financial Management Division, Mr. Frederick D. Wolf, at 275-9461.

Sincerely yours,

CHARLES A. BOWSHER,
Comptroller General of the United States.

SANDINISTA MILITARY BUILDUP

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. HUTTO] is recognized for 5 minutes.

Mr. HUTTO. Mr. Speaker, I wish to add to the alarm expressed by many in this body, and in the administration, over the massive military buildup being planned by the Sandinista government.

The recent speech by the Nicaraguan Defense Minister Humberto Ortega indicates that the Sandinistas plan to increase their armed forces to 600,000 by 1995 and to equip their armed forces with advanced Soviet-made Mig fighter planes, missiles, and artillery. Ortega has brashly stated publicly that the Sandinistas have initiated this 15-year military buildup as early as in 1980.

It is significant to note that the comments by Defense Minister Ortega appear to confirm disclosures by Maj. Roger Miranda, who defected to the United States on October 25, 1987. If carried out as we presently understand, the planned buildup would be clearly unprecedented in Latin America and would pose a significant security threat to the surrounding nations of Central America.

I very strongly believe that the security of our United States would also be threatened with the establishment of another Cuban-style regime in our Western Hemsiphere. Only this time, the regime would be in an even more vitally significant geographic location relative to the United States and our neighbors immediately to our south.

I believe this buildup bears watching closely, and that we should do all that we possibly can through negotiations and economic and military pressures to persuade the Sandinista government from following through on this military buildup. I believe it essential that we continue to provide the necessary economic and military assistance to the Contras in order to continue putting pressure on the Sandinistas to follow through on the Central American peace plan as signed by the region's five Presidents in August.

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[2] Sovereign risk guarantees and insurance refer to those activities backed by foreign governments.

TRADE THEORY DISCREDITED BY LATEST BALANCE OF DEFICITS REPORT

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Maryland [Mrs. BENTLEY] is recognized for 60 minutes.

Mrs. BENTLEY. Mr. Speaker, Washington, Wall Street, and the world is reeling under the October balance of payments deficit—a new monthly high of $17.6 billion. Experts are predicting that the total year deficit will be at $175 billion—last year's deficit was $156 billion.

Like everyone else—I have watched this hemmorhage of dollars expecting that the trade experts in our Government—who got us into this mess—would get their hands on the situation and affect some of the needed changes to begin to bring these shocking numbers down.

It is obvious that past trade policy has been wrong. The experts continue to be wrong. And the reason, I believe, is that they are working off a theory which began to be discredited 18 months ago.

We were told 3 years ago when the dollar was at an all time high and cheap imports were tearing into our domestic markets and producers that if we would just get the dollar down, the tide would turn, foreign products would increase in price, domestic goods become cheaper—both here and in foreign markets—and the balance of payments deficit would come down.

Right? Wrong. That theory is called the J-curve which supposedly is a currency-related effect. It says that the deficit initially widens from the immediate impact of rising prices of imports but then narrows as those prices create a preference for domestic goods.

In theory, then, the dollar started down 3 years ago and we were told by these theoretical economists that in 18 months the downward adjustment would begin. Well, we are now 18 months past that turn-around and the deficit has continued to increase to the point that the deficit this year is predicted to be $24 billion higher than even last year's record above the year before.

How much more evidence is needed to not only discredit the J-curve theory, but to discredit the proponents of the theory?

If these economic witch doctors were in politics the electorate would throw the rascals out, so I suggest that, lacking that opportunity, we never hear them speak authoritatively again about the trade issue.

I am not an economist. I have been a journalist and a businesswoman. I have headed an international agency of the Government and have negotiated treaties with foreign nations. Before I give my opinion, I am offering my credentials.

My experience in trading matters has been hands-on, seat-of-the-pants. And, I was successful. I wonder about the credentials of the theoreticians. I wonder if they are aware that their theories of currency behavior were created in a sanitized atmosphere of academia that has nothing to do with the basic laws of barter—which is what trade really is—stripped of all its theory.

Currency is only a part of the barter system and comes into play when the basic rules of barter are in imbalance. If we really barter well, items for items—goods for goods—very few dollars or yen or marks will be involved.

In projecting currency flows, rather than in projecting goods flow—one is looking at the wrong indicator.

While watching the currency, few people were watching the impact of the foreign goods upon our manufacturing base. What has happened in that 3 years of dollar outflow is that the imported goods which those dollars represented destroyed many of the U.S. manufacturers of those goods shrinking our capacity to manufacture enough when demand worldwide turned up.

Commerce Secretary Verity is reported as blaming the balance of payments deficit on disappointing export figures. He and others are blaming U.S. manufacturers for not rushing into the export markets and correcting the imbalance of imports.

What do these trade experts suggest we export? Steel? We have lost so much of our steel production under the impact of imports that in some steel product lines, U.S. manufacturers cannot fill U.S. internal demand quickly enough, causing some domestic price increases which then generates the demand for more imports which in turn then destroys more of our capacity to produce. As a matter of fact, we cannot increase our capacity or produce many steel products because the desperate U.S. plants sold much of their nonproducing equipment abroad.

The cycle is vicious. Imports destroy the domestic market, which destroys a part of the industrial base so the next surge of demand cannot be satisfied domestically which creates demand for yet more imports which in turn takes out more of the industrial base, it becomes as destructive as a fire feeding on itself destroying our Nation's vitality.

At this point in the decimation of the U.S. production base, what is there left to export? We can't export radios, VCR's, tape recorders, televisions, clocks, and watches. We don't manufacture any of those products onshore anymore—with the exception that one television plant—I have heard—is coming back home to America.

Should we expect to export machine tools? That production base was decimated while the U.S. Department of Commerce and the White House sat on a 232 petition for 26 months which found import penetration so great in the machine tool field that many categories of machine tools needed to be protected for the security of the United States.

We are lucky in that vital area of the industrial base if there are enough machine tool producers left in this country to supply domestic demand let alone any foreign demand. The assault on this one industry presents a classic pattern of the way Japanese cartels—coordinated by MITI—move in concert to take control of whole market sectors.

Machine tools are expensive pieces of equipment and one tool can cost $250,000. In the days of the high dollar and high interest, the Japanese moved on shore and filled warehouses with the more-in-demand standard machine tools—carrying the cost of having hundreds of thousands of dollars tied up as though they were warehousing tricycles.

The American manufacturer fighting the high cost of money could not afford to build a machine tool until it was sold. So—the Japanese were offering immediate delivery, at a drastically reduced price, and 10-year financing at interest figures as low as 8 percent when the local U.S. bank was charging as high as 14 to 15 percent for a loan to buy the American made machine tool.

That financing money which they used against our industry was the dollars which we had sent to them early on for television sets and automobiles. Collected, they came back to hollow out yet another industry. The money made on machine tools has now been reinvested in hollowing out the semiconductor industry. And so they roll the stake over and move onto the next industry.

I can continue on here for a long time listing manufacturing sectors which have been attacked in this manner—products which we no longer produce for ourselves, let alone for export, but the point I wish to hammer home is that if we are not exporting enough, it is because we are not producing enough.

In a report from London in the Journal of Commerce December 11, a foreign trade analyst says it right out, "It's difficult to think of what the U.S. makes that we want to buy * * *."

So much for the knowledge of our trade experts about the condition of our manufacturing base. So much for their opinion of the cure. God must surely help us, because our experts are destroying us.

Even Commerce Secretary Verity seems to have some confusion about the cause of the trade surplus. When he was visiting Japan in late November, he accused the Japanese of "slashing export prices" to maintain market share inside the United States—absorbing the added costs. Many items are now more expensive inside Japan than they are in the United States which shows the deliberate pattern of pricing cheaper for the export market.

Having blamed the Japanese in November for the growing trade imbalance, on December 11 when the new trade figures came in, the Secretary then said U.S. manufacturers had failed to rev up exports enough to offset the imports. The cold fact is that there is not enough of the right kind of manufacturing left in this country to do so.

And since pricing cheaper for export breaks all trade laws, if Mr. Verity was right in November as to what the Japanese are doing on pricing—deliberately confounding the J-Curve theory—then we await eagerly Mr. Verity's actions to ban all Japanese products for export to the United States which are being sold inside Japan more expensively inside than they are being offered on United States markets.

The law says this is illegal. It is dumping. The law should be upheld immediately!

Now—there are two more points which I wish to make—which must be considered in all of this.

No. 1: Think about the list of products that have been targeted by foreign producers over the last 10 years—TV's, radios, watches, clothing, shoes—consumer products popular in international trade. At the heavy end of the list—steel, iron, machine tools—high value added products which are the base of creating the capacity needed inside a country to produce the consumer goods for international trade.

So far, we have been left with stoves, refrigerators—some lawn and garden tractors—some parts of automobile manufacture—some chemicals and pharmaceuticals, some furniture and forestry products, some electronics products, some of this—some of that—but from these terrible balance of payments figures—we have not been left with enough.

The second point which needs to be made to our trading partners—take no joy from your big sales. The growing dependency of the United States on foreign products and borrowed foreign money to buy the products is weakening the greatest economic machine ever created by man.

For 40 years the wealth generated by that machine has given a stability to international politics not seen since the demise of the British Empire. If you take our markets, if you destroy our industrial base, then be prepared to also take up our burden of peace keeping.

Immediately after the Second World War, there was a plan put forth to forever destroy the power of the German nation—to render it impotent in world affairs—to keep it from ever being able to wage war again.

It was called the Morganthau Plan and fortunately for the German people and the West—it was discarded.

The basis of the plan was to turn Germany into a predominantly agricultural nation and to never rebuild its industrial base.

Over this last 3 years as I have heard arguments put forth on the floor of this House that we are to sacrifice our industrial base to the export of agricultural products—and I have seen vote after vote making it happen—I wonder in whose hands the old Morganthau plan now rests.

At the time it was discarded—in the 1940's—it was said that if Germany were destroyed as an industrial power, it would be playing into the hands of the Russians.

Who will benefit from a deindustrialized America?

I would think Mr. Gorbechev may have been as interested in our trade figures as he has been in reading the reviews of his visit to Washington on the missile ban.

Both should be equally heartening to him.

□ 1840

Mr. GAYDOS. Mr. Speaker, will the gentlewoman yield?

Mrs. BENTLEY. I yield to the gentleman from Pennsylvania.

Mr. GAYDOS. Mr. Speaker, I thank the gentlewoman from Maryland for yielding. I want to put on the record, which I think is going to be proven to be true in the near future, that this is probably one of the most I think thoughtful, I think scholarly approaches, and all done in very simple, understandable terms on this subject matter. The gentlewoman from Maryland works with me and I work with her for a common cause, and that is on the Steel Caucus. I think the gentlewoman has said it so clearly, because one of the greatest problems we have in the Steel Caucus in dealing with the highly technical subject matter of international trade and the interpretation and application of the GATT International Agreement is that our members and people generally, even the Members of this House, unless they are intimately active in that particular area, do not understand the ramifications of what the gentlewoman has stated for the record here with such clarity and such effectiveness. I want to congratulate her for that.

I also want to make an observation that I think that maybe there was one item that my good friend and colleague and hard worker on the Steel Caucus did not mention, and that is those who advocate shipping out technology, and I think the gentlewoman wanted to mention that, to balance our payments.

Mrs. BENTLEY. I thank the gentleman from Pennsylvania for his remarks. That is going to be the subject of another one of my special orders. We have been working on that. That really frightens me on what we have been doing.

Mr. GAYDOS. I am glad to hear that, and I want to say again in support of my colleague and all of her fine work that it is about time that the American people take cognizance of this very, very important problem.

Mrs. BENTLEY. They have to.

Mr. GAYDOS. If they do not do it, we are destined to find ourselves complete losers in the international trade game or war, if we want to call it that. I think on past occasions my good friend and colleague has said, and said explicitly that we are fighting an economic international war and we have lost it to date. I think that is a good description.

Mrs. BENTLEY. The gentleman from Pennsylvania has said it so well, there again reminding us that this is an economic war we are in and that we are losing it, and this does worry me.

I think the thing that disturbs me, I say to the gentleman from Pennsylvania, is the fact we are so complacent in this country about this. We just say let us get the cheapest product and it is imported, it is great, it is imported. They are not thinking about the total ramifications of how those dollars going over there to buy whatever it is are coming back and really buying our assets. They are buying up our country, and with the low dollar today our assets are going for peanuts. I am concerned about this.

Mr. GAYDOS. I want to compliment my colleague in this respect, that she has pointed out by example as to all of these imports coming in, and I think we could probably add on to those things like golf carts, golf clubs, golf shoes. Every item, every particular activity in this country has been targeted by our foreign competitors. They are doing it methodically. It is an invasion to the *n*th degree. They are going down to every item, every nitty-gritty item, those items the gentlewoman enumerated in her presentation and a couple that I mentioned over here. It seems to me, and I believe my colleague does share my fears, that this invasion and this concerted activity goes from the very highest technical area down to the very lowest, rudimentary type of items, and it is going to destroy us if we do not pass some kind of a realistic trade bill.

Mrs. BENTLEY. The thing that the gentleman well knows we have been hearing a lot is that we should be a service economy. That is where we belong today and let the rest of the world produce.

If we do not produce things we cannot have a good service economy. That is what people have to realize.

Look what happened the minute the stock market dropped, for whatever reason, that does not matter, the stock market handling stocks in a service economy, and look at what has happened to the employment in the service economy the minute that happens, because we did not have anything to back it up.

Mr. GAYDOS. I think that is such a salient point. I think it is best illustrated, and I am sure my colleague agrees with me, by the example that we hear so many times in the Steel Caucus where a man gets up and says look we are becoming so service-oriented that I am going to wash your socks and you are going to wash my socks, but nobody gives us the answer as to who is going to pay for washing the socks, where are we going to get the money.

Mrs. BENTLEY. The other aspect of this, I say to my dear colleague from Pennsylvania, is the lack of skilled people to work in the industrial field. That to me is part of our national security. When we look around in shipyards, steel plants, you name it, I know the gentleman has them in his district, I have them in mine, we are not getting the influx of young people into becoming machinists, into becoming civil engineers.

Just the other day in one of our committee hearings in an overview on highways and on bridges on the highways, the Federal Highway Administrator made this remark, he said that the old designs and the construction of the bridges, they had no problem with them other than normal wear and tear, they had to watch those, but they were concerned about the new designs, not the construction, but the new designs. So I asked him the question, because I have been hearing so much about the lack of training and the lack of people coming into the industrial base, and I said is that because we are not having the people who have the most talent in this area become civil engineers, become mechanical engineers and that today, and his response was "Yes." That is frightening, because we are not going to have the backup or the skills that we need, God forbid, should we ever get into an emergency to rev up.

Mr. GAYDOS. I am sure my colleague remembers the very illustrious case we had when we built I think the last one or two merchant ships in this country some 10 years ago or 15 years ago, I cannot even remember.

Mrs. BENTLEY. A long time ago.

Mr. GAYDOS. It was done around Newport News and I remember at the time much was made over the fact that this country had to go to our immigration people and have them make some special exceptions for some people from Scotland who knew how to build ships to be allowed to come into this country and work for a year or two because we had no skilled mechanics.

□ 1855

I think that was a good example of what my colleague is talking about.

Mrs. BENTLEY. Mr. Speaker, even much more recent than that, just very recently in the past 3 months, the Navy brought over into the Philadelphia Navy Yard 40 electricians from the Philippines because they said they did not have enough skilled electricians in that area, and they brought 52 riggers and boilermakers and people of those shipyard talents from the United States naval base in Japan—they were Japanese workers—into Long Beach because they said they did not have those skills.

Now, when we are in a very ordinary time, certainly not in an emergency, if we do not have those kinds of skills available now, what is going to happen in an emergency?

Mr. GAYDOS. Mr. Speaker, I wish to commend my colleague, the gentlewoman from Maryland, most sincerely on a subject matter that has not stimulated much interest throughout the Nation. The effects of it and the results have stimulated interest, but the understanding, the rudimentary understanding, fundamental understanding, of a very complicated problem and the problem itself do not lend themselves to cause the general population to become actively a part of it.

So I commend my colleague. She is in the forefront of the Steel Caucus with her constitutents in Maryland, and she is in the forefront of trying to make this very difficult subject matter at least understandable. The gentlewoman has done an effective job in this House, and I hope my colleagues will rally around her and provide efficient and sufficient support in the hope that we may end up getting a half decent trade bill. I commend the gentlewoman, and I think that her constituents have had a good public servant. I am looking forward to maintaining an active connection with her and also working actively with her on the Steel Caucus. We have just recently come back from Canada, where I think we made some very good points.

Again, Mr. Speaker, my congratulations.

Mrs. BENTLEY. Mr. Speaker, I thank the gentleman from Pennsylvania [Mr. GAYDOS] for joining in this colloquy.

Mr. Speaker, I yield back the balance of my time.

A COMPASSIONATE APPROACH TO GUARANTEED STUDENT LOAN DEFAULTS

The SPEAKER pro tempore (Mr. MFUME). Under a previous order of the House, the gentleman from Pennsylvania [Mr. GAYDOS] is recognized for 60 minutes.

Mr. OWENS of New York. Mr. Speaker, will the gentleman yield?

Mr. GAYDOS. I yield to the gentleman from New York, and in doing so, I want to commend him on the job he has done on the Education and Labor Committee. I know that the gentleman is going to talk about something in the education field. I always feel privileged to listen to him because he is such an active member of our committee, holding a subcommittee chairmanship.

CURRENT DEVELOPMENTS IN HAITI

Mr. OWENS of New York. Mr. Speaker, I thank the gentleman for yielding, and I will say to the gentleman that I want to continue the educational process with respect to the developments in Haiti.

We have a great danger of having this item forgotten which aroused the conscience of America on Sunday, November 29, when the television cameras and the newspaper front pages showed bloody massacres taking place to prevent people from carrying out their right to vote. The drama goes on, and the treachery of Haiti continues.

A new electoral council has now been hand-picked by Haiti's military junta. It was sworn in by the Haitian Supreme Court on Saturday. This is a totally illegal act. The Constitution bars anyone from interfering with the previously existing electoral council. The military government has no power to do what it is doing, but it is going right ahead and doing it.

According to a Washington Post article published Sunday, the new council consists of political unknowns. At least one member did not even know he had been appointed to the board until he heard his name mentioned on a State television newscast last Friday night.

The military junta disbanded the original electoral council that was created under Haiti's new Constitution, and under the Constitution, human rights, civic and religious groups, as well as the Supreme Court could each appoint a member. The council was to have sole and independent authority to carry out the elections.

When the military government dissolved the original electoral council, it claimed that a constitutional provision gave it the right to do so. But Americas Watch, the human rights monitoring group for the Western Hemisphere, says the Constitution only gave the junta the right to name an electoral board last March when the Constitution was ratified, and it was able to do that only if groups which were designated under the Constitution did not name representatives. Americas Watch says that the junta acted illegally when it dissolved the original electoral council, named one more to its liking, and rewrote the election laws to allow Duvalierists in the election. That also is illegal.

Mr. Speaker, I submit the Americas Watch statement on the junta's constitutional violation relative to the elections, and also the Washington Post article on the new elections board, as follows:

PROPOSED HAITAIN ELECTIONS ARE UNCONSTITUTIONAL

The military-dominated National Governing Council (CNG) in Haiti has announced its intention to hold elections on January 17 under a reconstituted Provisional Electoral Council (CEP) appointed by the CNG. Americas Watch believes that effort is illegal under the Haitian Constitution, which requires that the original CEP run elections until a new president takes office. The CNG's actions reveal an attempt to retain power through extra-legal means as a way of perpetuating the violence and corruption of the Duvalier era.

The Haitian Constitution established the CEP to be composed of nine members, one each to be selected by nine designated civic and religious organizations (Article 289). The Constitution also authorized the CNG to govern the nation in non-electoral matters until February 7, the scheduled date of the presidential inauguration (Article 285). Significantly, the Constitution empowered the CNG to appoint only one of the nine CEP members, and thus to have only a limited say on electoral matters.

On November 29, as the scheduled elections collapsed in the face of violence by the military and those working in concert with it, the CNG announced, without citing any pertinent authority, that it was dissolving the CEP. Since then, the CNG has asked the designated civic and religious organizations to select new members. Most of these organizations have refused. Nonetheless, the CNG has announced its intention to hold elections on January 17 under the auspices of a new CEP, if need be with members appointed by the CNG alone.

The Haitian Constituion proscribes that effort. It charges the CEP exclusively with the task of "drawing up and enforcing the Electoral Law to govern the next elections" (Article 289). It then dictates that "(t)he mission of the Provisional Electoral Council shall end when the President-elect takes office" (Article 289-3), thereby mandating the continued functioning of the CEP through at least the anticipated February 7 presidential inauguration and implicitly prohibiting any earlier dissolution.

The CNG has attempted to justify its actions by pointing to a constitutional provision that allowed it to fill vacancies if any of the nine bodies designated by the Constitution to appoint the original CEP members failed to make such an appointment (Article 289-2). But all nine bodies did designate a CEP member shortly after the Constitution was ratified in March (Article 289-1). At that point, at least with respect to the eight CEP seats filled by the other designated organizations, the CNG's power of appointment ended.

The CNG's attempt to usurp the Haitian Constitution is particularly ironic because the Constitution is its sole source of legitimacy. Apart from its temporary duties assigned by the Constitution, the CNG exists solely by virtue of its appointment by Jean-Claude Duvalier just prior to his flight into exile on February 7, 1986. By flouting that Constitution, the CNG reduces itself to a mere appendage of the Duvalier dictatorship.

The impropriety of the CNG's actions has been underscored by the refusal of the four leading presidential candidates—Marc Bazin, Sylvio Claude, Louis Dejoie II and Gerard Gourgue—to recognize the CNG's effort to dissolve the CEP or to participate in CNG-run elections. The original CEP members have also denounced the CNG effort. We believe that the judgment of these leading Haitian democrats is crucial in assessing the legitimacy of any future election bid. Moreover, a presidential election held without the participation of the widely recognized leading candidates holds no possibility of fairly reflecting the electoral will of the Haitian people.

Indeed, the refusal of leading Haitian democratic forces to countenance a CNG-run election appears to be central to the CNG's strategy. By imposing an electoral procedure that it knows the most popular candidates cannot support, the CNG hopes to manipulate the election of a president with little popular backing and thus little power to check the military's dominance over Haitian society.

We call on the Reagan Administration and the international community to denounce this effort by the CNG to subvert Haiti's electoral process and to insist that new elections be held under the auspices of the original CEP as required by the Haitian Constitution. To condone the CNG's cynical and lawless manipulation of the electoral process is to shut the door on the prospect of a meaningful transition to democracy in Haiti.

[From the Washington Post, Dec. 13, 1987]

HAITI'S JUNTA-PICKED ELECTORAL BOARD SWORN IN

(By Julia Preston)

PORT-AU-PRINCE, HAITI, December 12.—A new electoral board, whose nine members were handpicked by the military-dominated government and are all political unknowns, was sworn in today at the Supreme Court in a sparsely attended ceremony that marked the culmination of a six-month struggle by Gen. Henri Namphy to gain control of national elections.

One of the new members, Clement Maurice-Barthelmy, said he learned from a television newscast last night that he had been named by the government to join the new board that will organize national elections now scheduled for Jan. 17.

"I'm a citizen. I must do my duty," explained the 48-year-old math teacher before he and the eight other board members were sworn in.

Other new election officials said the government asked beforehand if they would accept the post. The new board members also made clear in interviews that they are willing to organize an election within strictures laid down by the ruling National Government Council, headed by Namphy.

Namphy's government council has sought to gain control of the election process since June 22, when it issued a decree sharply restricting the autonomy of an electoral board whose members had been appointed, under terms of a 1987 constitution, by the Catholic and Protestant churches, the Supreme Court and other institutions independent of the government council.

Namphy backed down from that attempt to control the board after two weeks of strikes and widespread street protests. But the general refused to help and protect the electoral board while it attempted to organize presidential and legislative elections last month and then dissolved it on Election Day, Nov. 29, after violence forced the board to call off the elections.

The Supreme Court was one of the institutions that refused to name a delegate to the new board. Today, the justices avoided comment about the swearing-in that they conducted.

Some new board members differed sharply with the previous electoral board on key issues. Joseph Azor, a medical doctor, said he believes that "errors of interpretation" of the constitution led the former board to eliminate 13 presidential candidates associated with the ousted Duvalier dictatorship. The Duvalier loyalists allegedly took revenge by sending gunmen to disrupt the election.

But Maurice-Barthelmy argued that the previous board was correct in barring the candidates. "It wasn't the board's fault. They followed the constitution," he said.

Max Michaud, who described himself as an unemployed lawyer, was asked how a new elections law will be written to replace the one that Namphy abolished Nov. 29. "The government will decide," he said.

The four leading Presidential candidates in Haiti have also determined that they would not participate in this new sham election being set up by the military government. The four leading candidates are Gerard Gourgue, Marc Bazin, Louis Dejoie, and Sylvio Claude. They have announced recently that they will be holding a meeting to determine a common strategy among themselves. The four have said they would boycott any elections orchestrated by the military government and then would only recognize the original electoral council as having the legal authority to coordinate elections.

Mr. Speaker, a very important development also took place over the weekend. A story which appeared in the Associated Press said that a colonel in the Haitian Army had been pinpointed by American intelligence as being the coordinator of the November 29 massacre, and that the same colonel had been under investigation for sometime for drug running. Drugs, the scourge of our modern society have emerged as a major factor in the Haitian power struggle. It comes as no surprise that those people who are involved in drugs would do everything possible to hold on to their privileges and their ability to use Haiti as a conduit for drugs. So we have now a new element which I think should be closely investigated.

Meanwhile, the violence that started long before November 29 continues in Haiti. On Sunday, the home of Guy Bauduy, an independent candidate for Haiti's Senate, was attacked by gunfire and a Molotov cocktail. Fortunately, no one was injured, although there were children in the House. The Molotov cocktail failed to go off. It it had gone off, two little girls who were sleeping near the door would have been blown to bits.

Bauduy says that he plans to go underground now. He is going to continue to campaign as a Senator, but he is going underground and also will take his daughters and the rest of his family with him. He does not plan to flee Haiti, although he was told that his name is on a death list and he should get out of Haiti if he wants to survive.

In view of the lawlessness of the military government and its efforts to subvert the constitution and its efforts to subvert the election and the elections process, with its failure also to do anything about the violence which was caused, as we now see, by one of their very own, we still do not know to what degree the military is involved, but if a colonel in the army has been pinpointed as a coordinator, the likelihood is that that colonel also had some kind of sanctioning from people who are above him in the military structure. The Ton-ton Macoutes, the gang of terrorists that also perpetrated much of the violence, continues to go uncontrolled and unabated in Haiti.

In view of all these developments, I again would like to call upon the State Department and the Reagan administration to take a firmer stand on support for the legal electoral council. Whatever the legal electoral council needs to be reestablished to also carry out elections in accordance with the constitution should be supplied by the Reagan administration.

We need a new civilian government. We could have that civilian government if they were to carry out the constitutional timetable. That timetable calls for elections to be completed by February 7. That will not happen if our Government continues to sit by idly while the Namphy military government violates the constitution and turns its head as more violence is perpetrated. It is very important that if free elections are to be carried out in Haiti, the U.S. Government must orchestrate and provide leadership for a peaceful intervention in Haiti at this point. That peaceful intervention should be in terms of support for the electoral council. Whatever the electoral council needs, paper for ballots, machines, transportation through helicopters or trucks, whatever they need should be supplied. If they also need police and armed guards and troops in order to carry out the election, that should be supplied by a multinational force coordinated by the U.S. Government also.

Mr. GAYDOS. Mr. Speaker, the Guaranteed Student Loan Program is at the heart of this country's efforts to enable disadvantaged American youth to break out of the poverty cycle, but the program has serious problems.

Too many of the students who need these loans the most are, unfortunately, also defaulting on repaying their Federal education loans, and these defaults are threatening the entire loan and grant program.

This year alone, defaults on GSL's will cost American taxpayers more than $1.6 billion—almost half of the GSL Program's annual budget, and defaults could force a cutback on new loans.

Who are the defaulters? They are the same students who are highest on the priority list to be served—economically disadvantged students from lower income families, members of minorities, and women. Statistically, these students make up the groups which are the greatest credit risks—the same students GSL loans are designed to assist.

Many of these borrowers have had no experience with loans and don't understand loan obligations and complicted paperwork. Unfortunately, these high-risk borrowers are also the people who need education and job training the most.

The big question is: How do we solve the problem? The administration, Congress, and the educational community are all looking at it and each has come up with a different solution.

The administration, through Education Secretary Bennett proposes to identify schools with the highest default rates and then penalize those schools if their default rates are not decreased.

Some Members of Congress are suggesting that we change the current program by offering only grants to students in their first 2 years—since many defaulters are students who have dropped out of their training programs before they finished. Then, we would allow only loans for students in their third and fourth years of postsecondary education.

A third plan is being offered by proprietary school owners. They have put together a manual for school officials which gives step-by-step instructions for setting up a student loan counseling program with followup activities.

Each of these groups is focusing on this serious problem of student loan defaults, but, as we can see, it's difficult to agree on a single solution. Each approach has some merits, and I am going to address them in more detail later. But, before I get to that, I'd like to give you a little background on GSL.

The Guaranteed Student Loan Program was created in 1965, and has grown to a national program which last year provided $8.6 billion in loans to 3.5 million students.

During the last 6 years, the loan default rate has ranged from a high of 9.7 percent in 1981 to a low of 8.3 percent in 1984. Last year's rate was 9.4 percent, which represents a cost to the agency of $1.6 billion.

Since college costs have been rising at twice the rate of inflation throughout the 1980's, it's becoming harder and harder for students and their parents to pay. With all of the recent cuts and limitations on grants and student aid, the GSL Program has become vital for millions of students. But, unfortunately, some of these students are defaulting on their student loans. The administration's solution was proposed last month by Secretary of Education Bennett. His plan involves targeting schools with students who are at high risk of defaulting based on data kept by the GSL Program.

Once the schools have been identified, the Secretary will work with them to reduce the default rates of their students. If the students fail to repay their loans, then the school might lose its guaranteed student loan eligibility.

Shortly after Bennett's plan was proposed, a report by the Department of Education's Inspector General's Office found that the default data which the Secretary used in his proposal contained significant errors and that "use of the data will result in the Department of Education making incorrect decisions in monitoring and managing the multibillion-dollar Guaranteed Student Loan Program."

In spite of the unreliability of this data, Secretary Bennett is going ahead with his plan to try to target schools with high default rates. If the students from these targeted schools continue to default on their loans then the Department of Education will either limit, suspend, or terminate a school's guaranteed student loan eligibility.

One of the criticisms of Bennett's plan is that the burden is on the school to prove that it should not lose its eligibility to qualify for GSL loans. Eligibility decisions are also not sufficiently reviewed, and many schools could be dropped from the GSL Program unfairly.

Another problem with the Secretary's default reduction proposal is that it fails to mention that school officials cannot easily and accurately identify students who have defaulted on loans, because school officials are denied access to loan default information.

If schools cannot identify defaulting students, then they should not be held responsible for their students who default, but that is exactly just what Secretary Bennett proposes.

Schools should possibly shoulder some of the responsibility for student loan defaults, but it's basically not their fault since, after all, schools don't default on loans, students do.

In Congress, my colleagues on the Education and Labor Committee and I are primarily focusing on students as we consider various options to control student loan defaults.

As I mentioned earlier, one of the bills restructures the Federal student grant and loan programs to allow first- and second-year students to receive only grants, and no loans. Students would be eligible for GSL loans only after the completion of their second year. But, for all students, the loans and grants would be provided on the same need basis.

Another alternative might tie the grant and loan programs more closely to family income, so that we establish two income levels—a low one for grants and a slightly higher one for loan eligibility.

For example, we might determine that applicants for postsecondary education whose family income was below $20,000 a year might be eligible for grants alone, while families with an annual income which falls between $20,000 and $30,000 might be eligible for loans.

With adequate funding, either of these congressional proposals might improve the student loan and grant programs and ensure that all worthy students receive the postsecondary aid they need.

A third approach to the default problem has been developed by the organizations and associations which teach students who have the highest risk of defaulting.

This program is called the private career schools default management initiative and it was started by the National Association of Trade and Technical Schools and the Association of Trade and Technical Associations. They have been joined by the National Association of Health Career Schools, the National Association of Accredited Cosmetology Schools, and the National Home Study Council.

Two weeks ago they released their "Default Management Manual" to suggest ways for schools to reduce the number of GSL defaults.

After the manual outlines who defaults and why, it describes a model default prevention program that can easily be adopted by any school which uses GSL loans. It is extremely practical and its sponsors are going to spend the next 5 months explaining their default management program to schools across the United States.

The "Default Management Manual" is clearly written, it can be easily adapted to any type of school, and it gives sound advice to students and schools involved with the GSL Program.

Instead of reducing the number of high-risk students in the GSL Program, as Secretary Bennett proposes, we should use a more reasonable and compassionate approach, similiar to the one taken by members of the default management initiative.

It's not surprising that the groups which developed this manual have done such a good job, because reducing loan defaults is one of their biggest concerns.

Along with students at community colleges and historically black colleges, students at trade and technical schools are most likely to default on student loans. A high percentage of these students have lost their jobs and are seeking retraining, others come from inner city ghettos, from disadvantaged minority groups, or from areas with few social or educational opportunities.

In my congressional district outside of Pittsburgh, 10 years ago, there were over 63,000 steelworkers. Right now there are about 21,000. So, in 10 years, 40,000 jobs have just disappeared.

Most of those 40,000 workers didn't just retire. They had to find new jobs to support themselves and their families and many of them took advantage of the trade and technical schools in my area. Thousands of them were retrained at the same types of trade and technical schools which the Secretary of Education proposes to eliminate from the GSL Program.

Now I won't deny that there are some schools which have abused the GSL Program, but the vast majority are making a tremendous contribution to American society. Private, for-profit schools are giving millions of men and women job-related, practical training. They are helping them become productive tax-paying citizens.

In fact, a recent comprehensive study by the University of Arkansas indicated that even if every student in the country defaulted on his or her guaranteed student loan, the Government would still benefit. On the average, taxable earnings increase with education, so the Government would receive enough in increased taxes from these educated students to pay for their loans.

Mr. Speaker, Congress and the administration need to work together with members of the educational and vocational training communities to design a fair and workable plan for reducing defaults on guaranteed student loans.

I encourage all of my colleagues to work with members of the Education and Labor Committee as we look critically at Secretary Bennett's proposal and as we develop more equitable and realistic alternatives. The individual follow-up and loan counseling procedures contained in the "Default Management Manual" are very good steps to reducing the default problem which could be adopted by Federal loan agencies.

In light of cuts in Government spending for academic and vocational education, we need to work to strengthen and improve the GSL Program. The millions of students who receive GSL loans depend upon us to ensure that they are able to pay for their training.

Since the administration's plan would hurt schools which serve disadvantaged students, it would hurt the students who need education and job training the most, and it would create a discriminatory educational system. If that happened, it would eliminate many of the gains we have made since the Higher Education Act passed in 1965.

Whatever we do, disadvantaged and high-risk students must not be forgotten, because they need and deserve access to postsecondary education. Money spent on education is a way for these men and women to obtain useful, meaningful jobs and to improve their standards of living. It is also an investment in the future strength and vitality of the American people.

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RELEASE OF DECLASSIFIED INFORMATION ON NICARAGUA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana [Mr. BURTON] is recognized for 60 minutes.

Mr. BURTON of Indiana. Mr. Speaker, I want to thank the gentleman from Maryland for sticking with us tonight. I know he wants to get down to the White House for the festivities, the Christmas party the President is throwing down there, and we will try to make this as brief as possible.

Mr. Speaker, today the State Department and the Defense Intelligence Agency and the CIA released and declassified some information given to the Government of the United States by the defector, Major Roger Miranda Bengoechea, who was a very high official in the Communist Sandinista Government. Major Miranda has served as the Deputy Chief of the Sandinista forces, the personal administrative assistant to Minister of Defense Humberto Ortego and aid to the chief of the general staff. Miranda became chief of the Secretariat in early 1982. The Secretariat is the only entity that reports directly to the Defense Minister Humberto Ortego, giving then Major Miranda more executive power than the chief of the general staff, who is the major general.

Miranda defected after visiting the Nicaraguan battlefields where he says he noted that the resistance forces were not mercenaries, but compesinos from the local population. The Nicaraguan resistance forces are the legitimate representatives of the interests and hopes of the Nicaraguan people, that is the Contras, he said after being out in the battlefields.

Miranda said in an interview since his defection, he also said he was disgusted with the corruption that is destroying the Sandinista cause.

On October 25 he went to Mexico for a physical, a supposed physical, and he and his wife went to the American Embassy and defected.

Since that time, he has been meeting with our Government officials, telling them what the intentions of the Communist Sandinista Government really are, not what they tell the press, not what they tell the people who believe in them, but what the facts really are.

Today when they declassified this information, I became very concerned and thought this ought to be conveyed to all my colleagues and to the American people. Some of the major revelations are these:

There is going to be a continued military build-up that calls for increased Soviet Bloc military aid over the next 7 years. The Soviet Union sent 14,000 tons of military assistance into Nicaragua 3 years ago; 18,000 tons of military supplies 2 years ago; last year they sent 23,000 tons of military supplies in, and this year it is going to be between 32,000 and 36,000 tons. It is a tremendous military buildup.

Major Miranda says the Soviet Union has promised the Sandinistas Mig-21 high performance aircraft.

Now, our Government has said they will not allow that kind of aircraft on the North American Continent because of the possibility of spying on the western coast of the United States, the possibility that they could build up a military force big enough to take over all of Central America and up into Mexico and force the United States to defend our southern flank. Nevertheless, they have signed a secret agreement with the Soviet Union that will require that the Sandinistas by 1991 get Mig-21 and possibly Mig-23 high performance fighter aircraft.

The Mig's are now expected to come sometime around 1991 or after.

The Sandinistas also have requested more MI-25 Hind helicopters, as if they do not have enough already, that is the flying tank; MI-17 Hip helicopters, and an AN-26 transport aircraft.

The Sandinistas intend to build an army and militia totalling a half a million men. We were told up to now that it was going to be a quarter of a million men, far in excess of all the other governments of Central America combined, and now we are told it is going to be a half a million man army.

Humberto Ortega in a speech delivered on Saturday said they were going to increase them to 600,000 men in the military service.

Many more armored personnel carriers, self-propelled howitzers, antitank weapons, surface-to-air missiles and antiaircraft guns are expected or already have been delivered.

They requested and are going to get three new 400-ton naval vessels.

Miranda said the Sandinista commandante "think that the only way of guaranteeing the development of their Marxist program in Nicaragua is to construct a powerful army. One can sign agreements, one can appear to be more flexible in the political system, but they will never negotiate the development of their massive army. They know that their power rests in the long run in the size of that army."

Miranda went on that the Sandinistas do not have any desire to negotiate the size of that army that they plan to have in Nicaragua.

Yes, they are going to sit down and talk, but after months of discussion they are going to say that they did not arrive at any agreement. They are just trying to buy time to kill the Contras, let them die on the vine.

I think that is the most vulnerable point, where they show the least desire to reach peace in Central America.

According to Miranda, the Sandinistas have continued to support the Salvadoran insurgents, the guerrillas, the Communist guerrillas in El Salvador, in spite of the Central American peace plan.

As a matter of fact, he told us yesterday at a meeting that they were giving additional aid to the Communist guerrillas in El Salvador after the peace accords were signed in Guatemala in August; so they signed a peace agreement saying they were going to work for peace down there and follow democratic principles and not export revolution, and after that they continued to export revolutionary materials and supplies into El Salvador.

He went on, that at the request of guerrilla leader Joiquin Villalobos, Humberto Ortega agreed in September 1987 to provide training in the use of surface-to-air missiles to Salvadoran guerrillas. They are training Communist guerrillas from El Salvador in Nicaragua today. They said they were not doing that, but they are in fact training Communist guerrillas in Nicaragua that are fighting to undermine the government of El Salvador. They are also exporting revolutionary supplies into Guatemala and Honduras.

In October, 1987, 15 Salvadoran guerrillas completed a 35-day course in using a variety of surface-to-air missiles. The training conducted in Nicaragua was approved by the Sandinistas, the Sandinista commandantes.

This entire weapons supply operation is handled by the clandestine entity known as the Bureau, which is run by Commandante Bayardo Arce. I met with Bayardo Arce Sunday evening at the airport in Managua this past Sunday.

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He told me that they were building not to a 600,000-man army but to a 1-million-man army. Weapons bound for El Salvador, Costa Rica, Colombia, and other Latin American guerrilla groups are shipped via commercial vessels and arrive from Cuba and are stored in Managua and are sent on to their designated targets.

The peace plan they plan to use as a weapon to deceive the American people, to deceive the American Government, and to further their attempts to undermine all of the fledgling democracies in Central America.

Here is what he had to say, the Sandinistas have no intention of complying with the Guatemala peace accords.

Bear in mind this gentleman was one of the chiefs in the Sandinista government. He was the deputy assistant to Humberto Ortega, the defense minister of Nicaragua, and he brought documents with him verifying everything he said to us. It has been checked out.

The Sandinistas have no intention of complying with the Guatemala peace accords.

Cuban and Soviet advisers have told the Sandinistas to talk about democracy, pluralism, and reform. The goal of building a Marxist state is to be downplayed.

He said they, the Sandinistas, do not have the will to achieve that peace. They had already made an agreement with the Soviets and the Cubans on plans for the Sandinista army for the next 8 years.

With what desire then are they going to talk of peace when at the same time in the back of their minds they are thinking about creating one of the most powerful armies in Latin America with an armament that few other armies in Latin America have.

We are talking about self-propelled artillery, we are talking about Mig-21's, we are talking about new 400-ton battleships for the navy that no other Central American country has.

He said the Sandinistas had begun to recognize that the resistance enjoys a base of support in the countryside among the compesinos, the real people, an important social base. In fact it is one of the fundamental facts that permits one to explain why after so many of the Sandinista popular army offensives, they are still out there. The resistance in the Nicaraguan countryside is like a fish in water.

He said plans to invade Costa Rica, Honduras, and capture United States personnel and property in response to any direct United States military action is a real probability.

He said in the event of direct United States intervention, if we think we are threatened or we must come to the rescue of Honduras, El Salvador, or Guatemala, he said in the event of direct United States intervention in Nicaragua the Sandinistas would attempt to regionalize and protract the conflict by sending helicopters and troops to invade Costa Rica, which has no army, destroy infrastructure targets and the United States Embassy in San Jose.

A Sandinista battalion will simultaneously attack Honduras.

This has just been declassified.

The American people and my colleagues in the Congress need to be aware of this because many of my colleagues on that side of the aisle tell us that we do not have to worry about the Sandinistas going beyond the borders of Nicaragua, that they promised freedom, democracy, freedom of assembly, freedom of the press, freedom of religion, and all the things that we hold dear.

I might recommend to my colleagues they read what they promised in 1979 when they took power, which were the same things that they promised in Guatemala in August of this year. They did not keep the promises then, they are not going to keep them now, and Mr. Miranda has pointed out exactly what they plan for us.

He said that the Sandinista Government, the hierarchy considers both the Democrats and the Republicans their enemies because we both want to end the revolution down there. We just have different ways to approach it. He did say, however, that Democrats are more foolish than Republicans because they are more malleable.

He said that, I did not say that.

Some things I think that need to be pointed out to my colleagues are what is really going on down there as respects the poor people who are having to endure this Communist totalitarian government.

We were in a town called Leon on Sunday for a rally. I thought there were going to be 400 or 500 people there. We ended up having 7,000. I went into a crowded movie theater and it seated about 1,800 people. We went in there and instead we could hardly find room to get in the place. They were waving flags, they had a little local band, they were beating drums and singing patriotic songs. Every person who spoke from the local area, from the opposition parties, said that the Sandinistas and their repression was intolerable. They were killing the country.

After the meeting we went outside and we marched down the streets with these people who were waving their flags and chanting for freedom. Seven thousand people were involved in that little town.

When they passed the headquarters of the Communist Sandinista military, they were waving their fists and saying "Sandinistas must go," and they were making other comments as well.

We met with some of the business people at the conclusion of that meeting and I want to tell my colleagues what they said has happened to this economy.

Since the Sandinistas took power in 1979, cattle production and beef sales for export has gone from 70 million pounds to 10 million pounds, a 700-percent drop.

The cotton growers in 1979 exported 650,000 bales of cotton. This year it is going to be 189,000 bales of cotton, a drop of about 600 or 500 percent.

The small producers who produce cotton went from 5,000 to 270.

They talked about the loss of technology. They had 2,000 engineers in the country, 1,500 have fled.

They talked about in 1979 the exports from the government of Somoza, when he fled, was $200 million in exports, and now it is $10 million, a drop of 2,000 percent.

They had 22 multinational corporations in Nicaragua in 1978 and 1979, and that has now dropped to six.

In 1979 when the Sandinistas took power they communized 75 percent of the industry. There is no foreign currency to replace the aging industrial base and equipment now.

There are no technical advisers to help with the technical problems of the country.

The average worker down there, the average worker is now making between $5 and $17 a month and for that he has to work 48 hours a week plus he has to donate 12 hours to the Sandinista Government. That is a total of 60 hours of work for $5 to $17 a week. That means that the one person who works will be able to feed himself probably twice a day and that does not include his famiy. As a result of this the black market has gone wild. On the black market 70 percent of the commerce in that country is conducted. While I was down there I bought some currency. On entering the country one must buy currency at the airport, or one cannot get into the country.

I have here an old Cordoba currency. When the Sandinistas came into power shortly after this piece of currency was printed, and this is a 20-Cordoba bill, I bought this one which is the same bill but my colleagues will notice over the top of it is printed "20,000."

When I was down there 2 months ago, the exchange rate was 7,200 Cordobas for 1 U.S. dollar. When I went back this weekend, it was 15,000 Cordobas for 1 U.S. dollar and that is the official rate. On the black market it is double that, 30,000 Cordobas for 1 U.S. dollar.

One cannot buy anything. The money is worthless. The money is getting more worthless all the time. It is only worth a few cents now. This 20,000-Cordoba bill is worth 67 cents, and when Somoza, the tyrant, fled the country it was 10 Cordoba for 1 U.S. dollar. Each Cordoba was worth 10 cents. Now 20,000 Cordobas are worth 67 cents.

Is it any wonder the people cannot eat? They are starving, they are dying on the vine.

We need to make our colleagues in the U.S. Congress and the people across this country aware of that fact.

Humberto Ortega in a speech this weekened after Major Miranda made these revelations said, yes, they are building toward a 600,000-man army; yes, they are exporting revolution; yes, they are training guerrillas in their own country; and yes, they are planning to get Soviet Mig-21's and other aircraft.

Major Miranda has been supported by the defense minister himself in what Major Miranda has said.

This morning in the Washington Post the Speaker of this House of Representatives said that the speech was preposterous, the speech by the defense minister, Humberto Ortega. He described the speech as outrageous, and counterproductive. He said that it was intemperate, and irrational.

I would like to conclude by saying what does it take to convince the leader of this House, what does it take to convince the majority of the Congressman in the Democrat Party in this House to believe what these people are all about?

A defector, a military major, the assistant to the secretary of defense down there of Nicaragua, the defense minister, Humberto Ortega, has told us of the vast military buildup that they are planning. Humberto Ortega himself has told us the same thing and yet Members on that side of the aisle still do not believe. My concern is, are we going to wait until El Salvador is undermined and falls? Are we going to wait until Honduras falls and Costa Rica falls? Are we going to wait until they get into Guatemala and southern Mexico before we respond?

We should be supporting the Contras who are fighting not only for their own freedom and the promises of democracy made to their people in 1979 and again in August in Esquipulas, Guatemala, but also for the freedoms and the security of the United States as well. We have a 1,980-mile border between us and Mexico. We cannot even keep illegal aliens out. All of my colleagues know that last year we passed the Simpson-Mazzoli immigration reform bill and in that bill we allowed anybody who has been in this country illegally for 5 years or more to get permanent resident status because we could not find them and get them out.

This year we said if they had been here 5 years or longer and they wanted to bring their families up here, they can bring their families up even though they came in illegally.

We are going to give permanent resident status to them because we cannot control the border and we will make them U.S. citizens, and it is going to cost us dearly in welfare costs, housing costs, Social Security costs, and jobs, because a lot of those people work for a heck of a lot less. So we have a lot of pressure on us because we cannot keep illegal aliens from coming across the border.

Can my colleagues imagine what it is going to be like if Humberto Ortega's prophecy in what he promises to do takes place? If they can consolidate power and crush the Contras in Nicaragua, and accomplish that because we do not act in this body, then they will rapidly export revolution or even more rapidly export revolution into El Salvador, Costa Rica, Honduras, Guatemala, and up into Mexico. They told us time and again what they plan to do. Yet the leadership in this House and the majority in this House continues to believe that it ain't so.

Well, it is so.

If we have to defend that 2,000-mile border, it is going to cost us dearly in manpower. Our young boys are going to be down there fighting and dying to defend that southern flank, the soft underbelly of America. It is going to cost us billions of dollars and we are going to get 5, 10, 20 million people fleeing those countries, and coming into this country as refugees, not as illegal aliens, as refugees. We are going to have to deal with that. It is going to cost us dearly.

It is estimated if we get 5 million to 10 million refugees coming into this country it will increase unemployment among Americans by 5 percent to 7 percent and for each 1 percent of unemployment it costs the taxpayers of this country $30 billion. That is $150 billion to $210 billion in just lost jobs, not to mention the vast amount of expense it will cost to defend a 2,000-mile border between the United States and Mexico, or if we have to, to send them down into Honduras.

When I met with President Azcona in Tegucigalpa, Honduras, he told me face to face that if the peace process fails and if the Contras are destroyed because of lack of will in this body, that they do not get any more aid from us to fight the fight for freedom down there, that he is going to have to request 50,000 Americans be stationed in Honduras and he is going to ask for $250 million in additional military aid.

He has told us that is what he will have to do.

In El Salvador, that fledgling democracy is going to need assistance, so is Costa Rica which does not have an army, and Guatemala will need assistance as well.

Either we do what is necessary now by helping the Contras or we are going to have to pay dearly later. Many people had doubts about this before, and I can understand that, because we have been debating it a lot and we have heard different stories coming across the national news media. But now we have the facts. The defense minister of Nicaragua himself has told us what he plans to do.

Major Miranda has given us secret documents that show the secret agreements that they have signed with the Soviets. There is no question about it.

□ 1940

Now the U.S. Congress when we come back after the holidays must vote for additional Contra aid. If we do not, we are going to rue the day.

It is that old statement that has been made in television commercials for years when they show a guy with a Fram oil filter on television and he says you can either pay me now or pay me later. The implication is if you buy Fram oil filters you are going to keep your engine in good shape and you will not have to pay for major repairs for your automobile engine someplace down the road.

The statement I am making tonight is you can pay now by helping the Contras fight for freedom and give them the wherewithal to put that country into the free column, as was promised them in 1979 and again in August of this year at Esquipulas, or later it is going to cost us billions of dollars and a lot of young American lives. We need to deal with this problem. We can no longer dilly-dally. The time is late.

They told us what they plan to do and this Congress must act for the American people and for the people of Central America.

CONFERENCE REPORT ON H.R. 2310

Mr. HOWARD submitted the following conference report and statement on the bill (H.R. 2310) to amend the Airport and Airway Improvement Act of 1982 for the purpose of extending the authorization of appropriations for airport and airway improvements, and for other purposes:

CONFERENCE REPORT (H. REPT. 100-484)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2310) to amend the Airport and Airway Improvement Act of 1982 for the purpose of extending the authorization of appropriations for airport and airway improvements, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Airport and Airway Safety and Capacity Expansion Act of 1987".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title and table of contents.
Sec. 2. Secretary and Administrator defined.

TITLE I—AIRPORT AND AIRWAY IMPROVEMENT ACT AMENDMENTS

Sec. 101. Amendment of Airport and Airway Improvement Act of 1982.
Sec. 102. Declaration of policy.
Sec. 103. Definitions.
Sec. 104. National airport and airway system plans.
Sec. 105. Authorization of appropriations.
Sec. 106. Apportionment of funds.
Sec. 107. Limitations on uses of funds.
Sec. 108. State sponsorship.
Sec. 109. Project sponsorship.
Sec. 110. Grant agreements.
Sec. 111. Project costs.
Sec. 112. Limitation on powers.
Sec. 113. Part-time operation of flight service stations.
Sec. 114. Explosive detection K-9 teams.
Sec. 115. Denial of funds for projects using products or services of foreign countries that deny fair market opportunities.
Sec. 116. State block grant pilot program.

TITLE II—FEDERAL AVIATION ACT AMENDMENTS

Sec. 201. Amendment of Federal Aviation Act of 1958.
Sec. 202. Essential air service.
Sec. 203. Aircraft collision avoidance systems.
Sec. 204. Civil penalties.
Sec. 205. Indemnification of Federal Aviation Administration employees.
Sec. 206. Hazards to safe and efficient air commerce and the preservation of navigable airspace and airport traffic capacity.
Sec. 207. Public aircraft defined.

TITLE III—MISCELLANEOUS PROVISIONS

Sec. 301. Noise abatement.
Sec. 302. Air traffic controller workforce.
Sec. 303. Safety rulemaking proceedings.
Sec. 304. Inflation adjustment on collection of certain aviation fees.
Sec. 305. Amendments to the National Driver Register Act.
Sec. 306. Low activity level I air traffic control tower contract program.
Sec. 307. Eligibility of Dermott, Arkansas, municipal airport.
Sec. 308. Standards for navigational aids.
Sec. 309. Long-term airport capacity needs.
Sec. 310. Radio navigation systems.
Sec. 311. Reporting of accidents to NTSB.
Sec. 312. Atlantic City Airport.
Sec. 313. Release of certain conditions.
Sec. 314. Flight service station in Juneau, Alaska.
Sec. 315. Grand Canyon Airport.

TITLE IV—EXTENSION OF AVIATION-RELATED TAXES AND AIRPORT AND AIRWAY TRUST FUND SPENDING AUTHORITY

Sec. 401. Short title.
Sec. 402. 3-year extension of aviation-related taxes.
Sec. 403. Extension of Airport and Airway Trust Fund spending authority.

Sec. 404. Exemption for certain emergency medical transportation by helicopter.

Sec. 405. Reduction in aviation-related taxes where appropriations are significantly below authorizations.

SEC. 2. SECRETARY AND ADMINISTRATOR DEFINED.

As used in this Act—

(1) the term "Secretary" means the Secretary of Transportation; and

(2) the term "Administrator" means the Administrator of the Federal Aviation Administration.

TITLE I—AIRPORT AND AIRWAY IMPROVEMENT ACT AMENDMENTS

SEC. 101. AMENDMENT OF AIRPORT AND AIRWAY IMPROVEMENT ACT OF 1982.

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Airport and Airway Improvement Act of 1982 (49 U.S.C. App. 2201-2225).

SEC. 102. DECLARATION OF POLICY.

(a) Comprehensive Air Space Plan.—Section 502(a)(4) is amended—

(1) by inserting ", a vertical visual guidance system," after "precision approach system"; and

(2) by inserting "distance-to-go signs for each primary and secondary runway, a surface movement radar system at each category III airport, a taxiway lighting and sign system," after "vertical guidance on all runways,".

(b) Cargo Hub Airports.—Section 502(a) is amended—

(1) by redesignating paragraphs (7), (8), and (9) as paragraphs (8), (9), and (10), respectively; and

(2) by inserting after paragraph (6) the following new paragraph:

"(7) cargo hub airports play a critical role in the movement of commerce through the airport and airway system and appropriate provisions should be made to facilitate the development and enhancement of such airports;".

(c) Increasing Airport Capacity; Nonaviation Use of Airspace; Limitation on Artificial Restrictions on Airport Capacity.—Section 502(a) is amended—

(1) by striking out "and" at the end of paragraph (9), as redesignated by subsection (b);

(2) by striking out the period at the end of paragraph (10), as so redesignated, and by inserting in lieu thereof a semicolon; and

(3) by adding at the end thereof the following new paragraphs:

"(11) airport construction and improvement projects which increase the capacity of facilities to accommodate passenger and cargo traffic, thereby increasing safety and efficiency and reducing delays, should be undertaken to the maximum feasible extent;

"(12) it is in the national interest to ensure that nonaviation usage of navigable airspace be accommodated but not allowed to decrease the safety and capacity of the airspace and airport system; and

"(13) artificial restrictions on airport capacity are not in the public interest and should not be imposed to alleviate air traffic delays unless other reasonably available and less burdensome alternatives have first been attempted.".

(d) Sense of Congress.—It is the sense of Congress that any regulation under which the Administrator limits the number of instrument flight rule takeoffs and landings of aircraft at certain airports should be phased out and eliminated at the earliest practicable date the Administrator finds that such phaseout or elimination is consistent with aviation safety.

SEC. 103. DEFINITIONS.

(a) Inclusion of Heliports as Airports.—Section 503(a)(1) is amended—

(1) by inserting "(A)" before "means"; and

(2) by inserting "; and (B) includes any heliport" before the period at the end thereof.

(b) Acquisition of Fire Fighting Equipment as Airport Development.—Section 503(a)(2)(B) is amended—

(1) by striking out "or" at the end of clause (iv);

(2) by striking out "and" at the end of clause (v) and inserting in lieu thereof "or"; and

(3) by adding at the end thereof the following new clause:

"(vi) fire fighting and rescue equipment at any airport which serves scheduled passenger operations of air carrier aircraft designed for more than 20 passenger seats; and".

(c) Landed Weight Defined.—Section 503(a) is amended—

(1) by redesignating paragraphs (9) through (24), and any references thereto, as paragraphs (10) through (25); and

(2) by inserting after paragraph (8) the following new paragraph:

"(9) 'Landed weight' means the weight of aircraft providing scheduled and nonscheduled service of only property (including mail) in intrastate, interstate, and foreign air transportation, as shall be determined by the Secretary pursuant to such regulations as the Secretary may prescribe.".

(d) Inclusion of Certain International Passengers as Passengers Enplaned.—Paragraph (10) of section 503(a), as redesignated by subsection (c), is amended by inserting before the period at the end thereof the following: "and includes passengers on board international flights which transit an airport located in the 48 contiguous States for nontraffic purposes".

(e) Definition of Primary Airport.—Paragraph (12) of section 503(a), as redesignated by subsection (c), is amended by striking out ".01 percent" and all that follows through the period at the end thereof and inserting in lieu thereof the following: "more than 10,000 passengers enplaned annually.".

(f) Conforming Amendment.—Section 101(1) of the Aviation Safety and Noise Abatement Act of 1979 (49 U.S.C. App. 2101(1)) is amended by striking out section "503(17)" and inserting in lieu thereof "503(18)".

SEC. 104. NATIONAL AIRPORT AND AIRWAY SYSTEM PLANS.

(a) Review of Plan.—

(1) In general.—Section 504(a) is amended—

(A) by inserting "(1) Publication, contents, and review of plan.—" before "Not later than two"; and

(B) by adding at the end thereof the following new paragraph:

"(2) Special review.—As soon as feasible following the date of the enactment of this paragraph, the Secretary shall, in reviewing and revising the plan, take into account tall structures which reduce safety or airport capacity and make every reasonable effort to address the legitimate needs of air cargo operations, STOL/VSTOL aircraft operations, and rotary wing aircraft operations.".

(2) Conforming amendment.—Such section is further amended by indenting paragraph (1), as designated by paragraph (1)(A) of this subsection, and aligning such paragraph (1) with paragraph (2), as added by paragraph (1)(B) of this subsection.

(b) Study of Special Use Airspace.—

(1) In general.—Section 504(d) is amended by striking out paragraphs (2) and (3) and inserting in lieu thereof the following new paragraph:

"(2) Special use airspace.—

"(A) Review.—The Secretary and the Secretary of Defense, in consultation with aviation users, shall jointly conduct a national review of the need and utilization of special use airspace with a view to determining its impact on civil aviation operations and on the quality of the environment.

"(B) Report.—Not later than 18 months after the date of the enactment of the Airport and Airway Safety and Capacity Expansion Act of 1987, the Secretary and the Secretary of Defense shall report to Congress the results of the review conducted under subparagraph (A), together with their recommendations.".

(2) Conforming amendments.—Section 504(d) is further amended—

(A) in paragraph (1) by inserting "Civil use of domestic military airports.—" before "The Department"; and

(B) by indenting paragraph (1) and aligning such paragraph with paragraph (2), as inserted by paragraph (1) of this subsection.

SEC. 105. AUTHORIZATION OF APPROPRIATIONS.

(a) Airway Facilities and Equipment.—Section 506(a) is amended—

(1) by redesignating paragraph (2) (and any reference thereto) as paragraph (3); and

(2) by striking out "For the purposes of" and all that follows through "remain available until expended." and inserting in lieu thereof the following:

"(1) General authorization.—For the purposes of acquiring, establishing, and improving air navigation facilities under section 307(b) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1348(b)), there are authorized to be appropriated from the Trust Fund for fiscal years beginning after September 30, 1981, aggregate amounts not to exceed $6,327,000,000 for fiscal years ending before October 1, 1987, $7,704,000,000 for fiscal years ending before October 1, 1988, $9,434,000,000 for fiscal years ending before October 1, 1989, and $11,625,200,000 for fiscal years ending before October 1, 1990. Amounts appropriated under this subsection shall remain available until expended.

"(2) Purchase and installation of instrument landing systems.—

"(A) Minimum obligation level.—Of amounts made available under paragraph (1) after September 30, 1987, the Secretary shall obligate not less than $27,000,000 in fiscal year 1988, $30,000,000 in fiscal year 1989, and $35,000,000 in fiscal year 1990 for the purposes of purchasing and installing instrument landing systems at airports under section 307(b) of the Federal Aviation Act of 1958.

"(B) Primary and reliever airports.—75 percent of amounts obligated pursuant to subparagraph (A) in a fiscal year shall be made available for the purchase and installation of instrument landing systems at primary airports and reliever airports.

"(C) Other airports.—25 percent of amounts obligated pursuant to subparagraph (A) in a fiscal year shall be made available for the purchase and installation of instrument landing systems at airports other than primary airports and reliever airports.".

(b) Research, Engineering and Development, and Demonstrations.—

(1) In general.—Section 506(b) is amended to read as follows:

"(b) Research, Engineering and Development, and Demonstrations.—

"(1) Demonstration projects.—The Secretary is authorized to carry out under section 312 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1353) such demonstration projects as the Secretary determines necessary in connection with research and development activities under such section.

"(2) General authorization.—For research, engineering and development, and demonstration projects and activities under section 312 of the Federal Aviation Act of 1958 and paragraph (1) of this subsection, there is authorized to be appropriated from the Trust Fund—

"(A) for fiscal year 1988—

"(i) $127,192,000 solely for air traffic control projects and activities;

"(ii) $7,743,000 solely for air traffic control advanced computer projects and activities;

"(iii) $9,818,000 solely for navigation projects and activities;

"(iv) $21,957,000 solely for aviation weather projects and activities;

"(v) $6,307,000 solely for aviation medicine projects and activities of which not less than $250,000 shall be made available for research and development relating to equipment designed to provide improved access by handicapped persons to commercial aircraft;

"(vi) $24,988,000 solely for aircraft safety projects and activities; and

"(vii) $3,000,000 solely for environmental projects and activities;

"(B) for fiscal year 1989—

"(i) $135,866,000 solely for air traffic control projects and activities;

"(ii) $15,716,000 solely for air traffic control advanced computer projects and activities;

"(iii) $11,395,000 solely for navigation projects and activities;

"(iv) $21,797,000 solely for aviation weather projects and activities;

"(v) $6,613,000 solely for aviation medicine projects and activities;

"(vi) $21,013,000 solely for aircraft safety projects and activities; and

"(vii) $2,600,000 solely for environmental projects and activities; and

"(C) for fiscal year 1990, $222,000,000.

"(3) Authority to transfer funds.—

"(A) Unlimited.—Funds may be transferred among the projects and activities listed in paragraph (2), except that the net funds transferred to or from any category of such projects and activities listed in paragraph (2) in any fiscal year may not exceed 10 percent of the amount authorized for such category by paragraph (2) for such fiscal year.

"(B) After notice.—In addition, the Secretary may propose transfers to or from any category of projects and activities listed in paragraph (2) exceeding 10 percent of the amount authorized for such category. An explanation of the proposed transfer must be transmitted in writing to the Committee on Science, Space, and Technology and the Committee on Appropriations of the House of Representatives and the Committee on Commerce, Science, and Transportation and the Committee on Appropriations of the Senate. The proposed transfer may be made only when—

"(i) 30 calendar days have passed after transmission of such explanation; or

"(ii) each such Committee has transmitted to the Secretary written notice that such Committee has no objection to the proposed transfer.

"(4) Funding for enhancing airport capacity.—

"(A) General rule.—Notwithstanding any other provision of this subsection, of funds made available under paragraph (2) in each of fiscal years 1988, 1989, and 1990, not less than $25,000,000 per fiscal year is authorized to be appropriated for research and development on preserving and enhancing airport capacity (including research and development on improvements to airport design standards, airport maintenance, airport safety, airport operations, and airport environmental concerns) under section 312 of the Federal Aviation Act of 1958.

"(B) Report.—Not later than 60 days after the last day of each of fiscal years 1988, 1989, and 1990, the Administrator of the Federal Aviation Administration shall transmit to the Committee on Science, Space, and Technology and the Committee on Public Works and Transportation of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on expenditures made by the Administrator for research and development under subparagraph (A) in such fiscal year.

"(5) Period of availability.—Amounts appropriated under this subsection shall remain available until expended.".

(2) Effective date.—The amendment made by paragraph (1) shall take effect October 1, 1987.

(c) Other Expenses.—

(1) General limitations.—Section 506(c) is amended by adding at the end thereof the following new paragraph:

"(3) Fiscal years 1988-1990.—

"(A) Maximum amount appropriated.—Subject to subparagraph (B) of this paragraph, the amount appropriated from the Trust Fund for the purposes of clauses (A) and (B) of paragraph (1) of this subsection for each of fiscal years 1988, 1989, and 1990 may not exceed 50 percent of the amount of funds made available under section 505 and subsections (a) and (b) of this section for such fiscal year.

"(B) Reduction in maximum amount.—The maximum amount which may be appropriated from the Trust Fund for the purposes of clauses (A) and (B) of paragraph (1) for any fiscal year, as determined under subparagraph (A) of this paragraph, shall be reduced by an amount equal to 2 times the excess, if any, of—

"(i) $3,278,000,000 in the case of fiscal year 1988, $3,445,000,000 in the case of fiscal year 1989, $3,863,000,000 in the case of fiscal year 1990, $3,770,000,000 in the case of fiscal year 1991, and $3,778,000,000 in the case of fiscal year 1992, over

"(ii) the amount made available under section 505 and subsections (a) and (b) of this section for such fiscal year.

"(C) Increase in maximum amount.—Subject to subparagraph (D), the amount authorized to be appropriated from the Trust Fund under this paragraph for any fiscal year shall be increased by an amount equal to 2 times the excess, if any, of—

"(i) the amount made available under section 505 and subsections (a) and (b) of this section for such fiscal year, over

"(ii) the portion of the amount authorized under such section and subsections for such fiscal year which was not authorized for any previous fiscal year.

"(D) Limitation on increases.—The aggregate amount of increases in the amount authorized to be appropriated from the Trust Fund under this paragraph may not exceed the aggregate amount of reductions made under subparagraph (B) of this paragraph.".

(2) Limitation on funding for weather services.—Section 506(d) is amended—

(A) by striking out "$26,700,000" and all that follows through "1986; and"; and

(B) by inserting before the period at the end thereof the following: "and $30,000,000 per fiscal year for each of fiscal years 1988, 1989, and 1990".

(d) Limitation on Uses of Trust Fund.—

(1) Funding of airport improvement program.—Section 506(e)(1) is amended by inserting "and section 505" before the period.

(2) Extension.—Section 506(e)(5) is amended by striking out "1987" and inserting in lieu thereof "1992".

(e) Airport Development and Planning.—Section 505(a) is amended by striking out the second sentence and inserting in lieu thereof the following: "The aggregate amounts which shall be available after September 30, 1981, to the Secretary for such grants and for grants for airport noise compatibility planning under section 103(b) of the Aviation Safety and Noise Abatement Act of 1979 and for carrying out noise compatibility programs or parts thereof under section 104(c) of such Act shall be $5,116,700,000 of which $475,000,000 shall be credited to the supplementary discretionary fund established by section 507(a)(3)(B) for fiscal years ending before October 1, 1987, $6,816,700,000 for fiscal years ending before October 1, 1988, $8,516,700,000 for fiscal years ending before October 1, 1989, $10,216,700,000 for fiscal years ending before October 1, 1990, $12,016,700,000 for fiscal years ending before October 1, 1991, and $13,816,700,000 for fiscal years ending before October 1, 1992.".

(f) Disadvantaged Business Enterprises.—Section 505 is amended by adding at the end thereof the following new subsection:

"(d) Disadvantaged Business Enterprises.—

"(1) General rule.—Except to the extent that the Secretary determines otherwise, not less than 10 percent of the amounts made available under subsection (a) in a fiscal year beginning after September 30, 1987, shall be expended with small business concerns owned and controlled by socially and economically disadvantaged individuals.

"(2) Definitions.—For purposes of this subsection—

"(A) Small business concern.—The term 'small business concern' has the meaning such term has under section 3 of the Small Business Act (15 U.S.C. 632); except that such term shall not include any concern or group of concerns controlled by the same socially and economically disadvantaged individual or individuals which has average annual gross receipts over the preceding 3 fiscal years in excess of $14,000,000, as adjusted by the Secretary for inflation.

"(B) Socially and economically disadvantaged individuals.—The term 'socially and economically disadvantaged individuals' has the meaning such term has under section 8(d) of the Small Business Act (15 U.S.C. 637(d)) and relevant subcontracting regulations promulgated pursuant thereto; except that women shall be presumed to be socially and economically disadvantaged for purposes of this subsection.

"(3) Annual listing of disadvantaged business enterprises.—Each State or airport sponsor shall annually survey and compile a list of the small business concerns referred

to in paragraph (1) and the location of such concerns in the State.

"(4) UNIFORM CERTIFICATION.—The Secretary shall establish minimum uniform criteria for State governments and airport sponsors to use in certifying whether a concern qualifies for purposes of this subsection. Such minimum uniform criteria shall include but not be limited to on-site visits, personal interviews, licenses, analysis of stock ownership, listing of equipment, analysis of bonding capacity, listing of work completed, resume of principal owners, financial capacity, and type of work preferred.".

(g) CONFORMING AMENDMENTS.—(1) Section 506(a) is further amended—

(A) in paragraph (3), as redesignated by subsection (a)(1) of this section, by inserting "SITE PREPARATION WORK.—" before "The costs of"; and

(B) aligning such paragraph (3) with paragraph (1), as inserted by subsection (a)(2) of this section.

(2) Section 506(c) is further amended—

(A) in paragraph (1) by inserting "DESCRIPTION.—" before "The balance";

(B) in paragraph (2) by inserting "FISCAL YEARS 1982-1987.—" before "The amount appropriated"; and

(C) by indenting paragraph (1) and aligning such paragraph and paragraph (2) with paragraph (3) of such section, as added by subsection (c) of this section.

(3) Section 506(e)(2) is amended by striking out "and (d) and the third sentence of section (c)" and inserting in lieu thereof "(c), and (d)".

(h) SPECIAL RULE FOR HAWAII.—Notwithstanding any other provision of law, funds made available to the State of Hawaii under section 505 of the Airport and Airway Improvement Act of 1982 may be used to acquire properties referred to as areas 46A and 46B of the United States General Services Administration Facility Site in Moanalua, Honolulu, Oahu, Hawaii, or to reimburse the State of Hawaii for such acquisition.

SEC. 106. APPORTIONMENT OF FUNDS.

(a) GENERAL RULES.—Section 507 is amended to read as follows:

"SEC. 507. APPORTIONMENT OF FUNDS.

"(a) APPORTIONMENT.—On the first day of each fiscal year for which any amount is authorized to be obligated for the purposes of section 505 of this title, the amount made available for the fiscal year under such section and not previously apportioned shall be apportioned by the Secretary as follows:

"(1) PRIMARY AIRPORTS.—To the sponsor of each primary airport, as follows:

"(A) $7.80 for each of the first 50,000 passengers enplaned at the airport;

"(B) $5.20 for each of the next 50,000 passengers enplaned at the airport;

"(C) $2.60 for each of the next 400,000 passengers enplaned at the airport; and

"(D) $0.65 for each additional passenger enplaned at the airport.

"(2) CARGO SERVICE AIRPORTS.—To the sponsors of airports which are served by aircraft providing air transportation of only property (including mail) with an aggregate annual landed weight in excess of 100,000,000 pounds, 3 percent of the amount made available under section 505 for such fiscal year (but not to exceed $50,000,000) as follows: In the proportion which the aggregate annual landed weight of all such aircraft landing at each such airport bears to the total aggregate annual landed weight of all such aircraft landing at all such airports.

"(3) STATES.—To the States, 12 percent of the amount made available under section 505 for such fiscal year, as follows:

"(A) INSULAR AREAS.—For airports, 1 percent of such amounts to Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and the Virgin Islands.

"(B) STATES.—For airports, other than primary airports and airports described in section 508(d)(3), ½ of the remaining 99 percent in the proportion which the population of each State (other than a State to which subparagraph (A) applies) bears to the total population of all such States and ½ of the remaining 99 percent in the proportion which the area of each such State bears to the total area of all such States.

"(b) SPECIAL RULES.—

"(1) MAXIMUM AND MINIMUM AMOUNTS FOR PRIMARY AIRPORTS.—The Secretary shall not apportion less than $300,000 nor more than $16,000,000 under subsection (a)(1) to an airport sponsor for any primary airport for any fiscal year.

"(2) LIMITATION ON TOTAL APPORTIONMENTS TO PRIMARY AND CARGO SERVICE AIRPORTS.—

"(A) GENERAL RULE.—In no event shall the total amount of all apportionments under subsections (a)(1) and (a)(2) for any fiscal year exceed 49.5 percent of the amount authorized to be obligated for such fiscal year for the purposes of section 505 of this title.

"(B) DISTRIBUTION.—In any case in which apportionments in a fiscal year would be reduced by subparagraph (A), the Secretary shall for such fiscal year reduce the apportionment to each sponsor of an airport under subsections (a)(1) and (a)(2) proportionately so that such 49.5 percent amount is achieved.

"(3) EFFECT OF OBLIGATION CEILING ON PRIMARY AND CARGO SERVICE APPORTIONMENTS.—

"(A) OVERALL LIMIT.—If any Act of Congress has the effect of limiting or reducing the amount authorized or available to be obligated for any fiscal year for the purposes of section 505 of this title, the total amount of all apportionments under subsections (a)(1) and (a)(2) for such fiscal year shall not exceed 49.5 percent of such limited or reduced amount.

"(B) DISTRIBUTION.—In any case in which apportionments in a fiscal year would be reduced by subparagraph (A), the Secretary shall for such fiscal year reduce the apportionment to each sponsor of an airport under subsections (a)(1) and (a)(2) proportionately so that such 49.5 percent amount is achieved.

"(4) MAXIMUM PERCENTAGE OF APPORTIONMENTS TO ANY CARGO SERVICE AIRPORT.—The Secretary shall not apportion to the sponsor of any airport more than 8 percent of the total amount of apportionments under subsection (a)(2) for any fiscal year.

"(5) TREATMENT OF ALASKA.—

"(A) APPORTIONMENT FORMULA.—Notwithstanding any other provision of subsection (a), for any fiscal year for which funds are made available under section 505 of this title the Secretary may apportion funds for airports in the State of Alaska in the same manner in which funds were apportioned in fiscal year 1980 under section 15(a) of the Airport and Airway Development Act of 1970.

"(B) MINIMUM APPORTIONMENT.—In no event shall the total amount apportioned for such airports under this paragraph for any fiscal year be less than the minimum amounts that were required to be apportioned to such airports in fiscal year 1980 under section 15(a)(3)(A) of such Act.

"(C) HOLD HARMLESS.—In no event shall a primary airport be apportioned less under this paragraph for a fiscal year than it would be apportioned for such fiscal year under subsection (a)(1).

"(D) EXPENDITURES AT COMMERCIAL SERVICE AIRPORTS.—In no event shall the amount of funds apportioned under this paragraph which are expended at any commercial service airport in the State of Alaska during a fiscal year exceed 110 percent of the amount apportioned to such airport for such fiscal year.

"(E) DISCRETIONARY FUNDING.—Nothing in this paragraph shall be construed as prohibiting the Secretary from making additional project grants to airports in the State of Alaska from the discretionary fund established by subsection (c).

"(6) ELIGIBILITY.—

"(A) ALASKA.—Notwithstanding subsection (a)(3)(B), funds apportioned under such subsection for airports in the State of Alaska may be made available by the Secretary for public airports described in section 508(d)(3)(C) in such State.

"(B) PUERTO RICO.—Notwithstanding subsection (a)(3)(B), funds apportioned under such subsection for airports in the Commonwealth of Puerto Rico may be made available by the Secretary for primary airports and airports described in section 508(d)(3) in such Commonwealth.

"(c) DISCRETIONARY FUND.—

"(1) ESTABLISHMENT.—Subject to section 508(d) and paragraph (2) of this subsection any amounts—

"(A) which are made available for a fiscal year under section 505,

"(B) which have not been previously apportioned by the Secretary, and

"(C) which are not apportioned under subsections (a) and (b)(5) of this subsection,

shall constitute a discretionary fund to be distributed at the discretion of the Secretary. Such discretionary fund shall be used for making grants for any of the purposes for which funds are made available under section 505 as the Secretary considers most appropriate for carrying out the purposes of this title.

"(2) LEVEL OF FUNDING FOR PRESERVING AND ENHANCING CAPACITY, SAFETY, AND SECURITY.—Subject to section 508(d) and paragraph (4) of this subsection, not less than 75 percent of the funds in the discretionary fund pursuant to paragraph (1) and distributed by the Secretary under this subsection in a fiscal year beginning after September 30, 1987, shall be used for making grants for any of the following purposes: preserving and enhancing capacity, safety, and security at primary airports and reliever airports and carrying out airport noise compatibility planning and programs at primary airports and reliever airports.

"(3) SELECTION CRITERIA.—In selecting projects for grants described in paragraph (2) for preserving and enhancing capacity at airports, the Secretary shall consider each proposed project's effect on overall national air transportation system capacity, project benefit and cost, and the financial commitment of the airport operator or other non-Federal funding sources to preserve or enhance airport capacity.

"(4) LIMITATION.—If the Secretary determines that the Secretary will not be able to comply with the percentage requirement established by paragraph (2) in any fiscal year because the number of qualified applications submitted in compliance with this title is insufficient to meet such percentages, the portion of funds which the Secretary determines will not be so distributed shall be available for obligation during such fiscal year without regard to such requirement.

"(d) Calendar Year as Basis for Determining Certain Apportionments.—

"(1) Passengers enplaned.—For purposes of determining apportionments for any fiscal year under subsection (a)(1), the number of passengers enplaned at an airport shall be based on the number of passengers enplaned at such airport during the preceding calendar year.

"(2) Landed weight.—For purposes of determining apportionments for any fiscal year under subsection (a)(2), the landed weight of aircraft landing at an airport referred to in subsection (a)(2) shall be based on the landed weight of aircraft landing at such airport and all such airports during the preceding calendar year.

"(e) Definitions.—As used in subsection (a)(3)—

"(1) Population.—The term 'population' means the population according to the latest decennial census of the United States.

"(2) Area.—The term 'area' includes both land and water.".

(b) Conforming Amendments.—

(1) Section 505.—Section 505(a) is amended by striking out "sections 507(a)(1), (2), (3)(A), or" and inserting in lieu thereof "sections 507(a)(1), 507(a)(2), 507(a)(3), 507(c), and".

(2) Section 508.—Section 508 is amended—

(A) in subsection (a) by striking out "paragraph (1), (2), or (4) of section 507(a)" and inserting in lieu thereof "subsection (a) or (b)(5) of section 507";

(B) in subsection (a) by striking out "507(a)(3)" and inserting in lieu thereof "507(c)";

(C) in subsection (c) by striking out "507(a)(2)" each place it appears and inserting in lieu thereof "507(a)(3)";

(D) in subsection (d)(3) by striking out "paragraph (4) of section 507(a)" and inserting in lieu thereof "section 507(b)(5)"; and

(E) in subsection (e)(1) by striking out "507(a)" and inserting in lieu thereof "507(a) or 507(b)(5)".

(3) Section 509.—Section 509 is amended—

(A) in subsection (a)(2) by striking out "507(a)" and inserting in lieu thereof "507"; and

(B) in subsection (e) by striking out "507(a)(1)" and inserting in lieu thereof "507(a)(1) or 507(a)(2)".

(4) Section 512.—Section 512(a) is amended by striking out "507(a)(1)" and inserting in lieu thereof "507(a)(1) or 507(a)(2)".

(5) Section 513.—Section 513(b) is amended—

(A) in paragraph (2) by striking out "507(a)(3)" and inserting in lieu thereof "507(c)"; and

(B) in paragraph (4) by striking out "507(a)" and inserting in lieu thereof "507(a) or 507(b)(5)".

(c) Effective Date.—The amendments made by this section shall take effect October 1, 1987, and apply to fiscal years beginning on and after such date.

SEC. 107. LIMITATIONS ON USES OF FUNDS.

(a) Noise Compatibility Planning and Programs.—Section 508(d)(2) is amended by striking out "8 percent" and inserting in lieu thereof "10 percent".

(b) Reduction in Set Aside for Small Airports.—Section 508(d)(3) is amended by striking out "5.5 percent" each place it appears and inserting in lieu thereof "2.5 percent".

(c) Integrated Airport System Planning.—Section 508(d)(4) is amended by striking out "one percent" and inserting in lieu thereof "½ of 1 percent".

(d) Conforming Amendment.—Section 508(d)(2) is amended—

(1) by striking out "(A)"; and

(2) by striking out ", and (B) in the case of fiscal year 1982, for any of the purposes set forth in section 505(c) of this title".

SEC. 108. STATE SPONSORSHIP.

Section 509(a) is amended by adding at the end thereof the following new paragraph:

"(3) State sponsorship.—Nothing in this title shall preclude a State from submitting, as sole sponsor, a project application under this title for an airport development project benefitting 2 or more airports in the State or airport planning for similar projects at 2 or more airports in the State if—

"(A) the sponsors of such airports consent in writing to State sponsorship of such projects or planning;

"(B) the Secretary is satisfied that there is administrative merit and aeronautical benefit to State sponsorship of such projects or planning; and

"(C) an acceptable agreement exists to ensure compliance by the State with appropriate grant conditions and other assurances required by the Secretary.".

SEC. 109. PROJECT SPONSORSHIP.

(a) Nondiscrimination Assurance.—Section 511(a)(1)(A) is amended—

(1) by inserting "with respect to facilities directly and substantially related to providing air transportation" after "and other charges";

(2) by striking out "and combined passenger and cargo flights or all cargo flights," and inserting in lieu thereof "and signatory carriers and nonsignatory carriers,";

(3) by inserting "or signatory" after "or status as tenant"; and

(4) by striking out "on tenant air carriers," and inserting in lieu thereof "on air carriers in such classification or status,".

(b) Approval of Nonaeronautical Closing of Airports.—Section 511(a)(3) is amended by inserting before the semicolon at the end thereof the following: ", and any proposal to temporarily close the airport for nonaeronautical purposes must first be approved by the Secretary".

(c) Terminal Airspace Assurance.—Section 511(a)(4) is amended to read as follows:

"(4) appropriate action will be taken to assure that such terminal airspace as is required to protect instrument and visual operations to the airport (including established minimum flight altitudes) will be adequately cleared and protected by removing, lowering, relocating, marking, or lighting or otherwise mitigating existing airport hazards and by preventing the establishment or creation of future airport hazards;".

(d) Revenue Assurance.—Section 511(a)(12) is amended to read as follows:

"(12) all revenues generated by the airport, if it is a public airport, and any local taxes on aviation fuel (other than taxes in effect on the date of the enactment of the Airport and Airway Safety and Capacity Expansion Act of 1987) will be expended for the capital or operating costs of the airport, the local airport system, or other local facilities which are owned or operated by the owner or operator of the airport and directly and substantially related to the actual air transportation of passengers or property; except that if covenants or assurances in debt obligations issued before September 3, 1982, by the owner or operator of the airport, or provisions enacted before September 3, 1982, in the governing statutes controlling the owner or operator's financing, provide for the use of the revenues from any of the airport owner or operator's facilities, including the airport, to support not only the airport but also the airport owner or operator's general debt obligations or other facilities, then this limitation on the use of all other revenues generated by the airport (and, in the case of a public airport, local taxes on aviation fuel) shall not apply;".

(e) Disposal of Land Assurances.—Section 511(a) is amended by striking out paragraph (13) and inserting in lieu thereof the following new paragraphs:

"(13) if the airport operator or owner receives a grant before, on, or after the date of the enactment of this paragraph for the purchase of land for airport noise compatibility purposes—

"(A) the owner or operator will, when the land is no longer needed for such purposes, dispose of such land at fair market value at the earliest practicable time;

"(B) such disposition will be subject to the retention or reservation of any interest or right therein necessary to ensure that such land will only be used for purposes which are compatible with noise levels associated with the operation of the airport; and

"(C) that portion of the proceeds of such disposition which is proportionate to the United States share of the cost of acquisition of such land will, at the discretion of the Secretary—

"(i) be paid to the Secretary for deposit in the Trust Fund; or

"(ii) be reinvested in an approved noise compatibility project as prescribed by the Secretary;

"(14) if the airport operator or owner receives a grant before, on, or after the date of the enactment of this paragraph for the purchase of land for airport purposes (other than noise compatibility purposes)—

"(A) the owner or operator will, when the land is no longer needed for airport purposes, dispose of such land at fair market value;

"(B) such disposition will be subject to the retention or reservation of any interest or right therein necessary to ensure that such land will only be used for purposes which are compatible with noise levels associated with the operation of the airport; and

"(C) that portion of the proceeds of such disposition which is proportionate to the United States share of the cost of acquisition of such land will be paid to the Secretary for deposit in the Trust Fund;".

(f) Airport Layout Plan Assurance.—Section 511(a) is further amended by adding at the end thereof the following new paragraph:

"(15) the airport owner or operator will keep up to date at all times a layout plan of the airport which meets the following requirements:

"(A) the plan will be in a form prescribed by the Secretary;

"(B) before the plan and an amendment, revision, or modification thereof may take effect, the plan, amendment, revision, or modification will be submitted to, and receive approval of, the Secretary;

"(C) the owner or operator will not make or permit any changes or alterations in the airport or in any of its facilities which are not in conformity with the airport layout plan as approved by the Secretary and which might, in the opinion of the Secretary, adversely affect the safety, utility, or efficiency of the airport;

"(D) if a change or alteration in the airport or its facilities is made which the Secretary determines adversely affects the safety, utility, or efficiency of any federally owned, leased, or funded property on or off the airport and which is not in conformity with the airport layout plan as approved by the Secretary, the owner or operator will, if requested by the Secretary—

"(i) eliminate such adverse effect in a manner approved by the Secretary; or

"(ii) bear all costs of relocating such property (or replacement thereof) to a site acceptable to the Secretary and all costs of restoring such property (or replacement thereof) to the level of safety, utility, efficiency, and cost of operation existing before the unapproved change in the airport or its facilities;".

(g) Assurance Relating to Contracting for Engineering and Design Services.—Section 511(a) is further amended by adding at the end thereof the following new paragraph:

"(16) each contract or subcontract for program management, construction management, planning studies, feasibility studies, architectural services, preliminary engineering, design, engineering, surveying, mapping, or related services with respect to the project will be awarded in the same manner as a contract for architectural and engineering services is negotiated under title IX of the Federal Property Administrative Services Act of 1949 or an equivalent qualifications-based requirement prescribed for or by the sponsor of the airport; and".

(h) Assurance Relating to Disadvantaged Business Enterprises.—Section 511(a) is further amended by adding at the end thereof the following new paragraph:

"(17) the airport owner or operator will take such action as may be necessary to ensure that, to the maximum extent practicable, at least 10 percent of all businesses at the airport which sell food, beverages, printed materials, or other consumer products to the public are small business concerns (as defined by the Secretary by regulation) owned and controlled by socially and economically disadvantaged individuals (as defined under section 505(d)(2)(B)).".

(i) Use of State Taxes on Aviation Fuel.—Section 511 is further amended by adding at the end thereof the following new subsection:

"(d) Use of State Taxes on Aviation Fuel.—Nothing in subsection (a)(12) of this section shall preclude the use of State taxes on aviation fuel to support a State aviation program or preclude use of airport revenue on or off the airport for noise mitigation purposes.".

(j) Use of Land Disposal Funds.—Section 511 is further amended by adding at the end thereof the following new subsection:

"(e) Use of Land Disposal Funds.—

"(1) Airport noise compatibility lands.—Amounts deposited in the Trust Fund in accordance with subsection (a)(13) of this section shall be available to the Secretary for making grants for airport development and airport planning under section 505(a). Such amounts shall be in addition to amounts made available to the Secretary under section 505 and not subject to the apportionment provisions of sections 507(a) and 507(b)(5).

"(2) Other airport lands.—Amounts deposited in the Trust Fund in accordance with subsection (a)(14) of this section—

"(A) shall be available to the Secretary for making grants at the discretion of the Secretary for the purposes described in section 507(c)(2) at primary airports and reliever airports; and

"(B) shall be available to the Secretary for use in accordance with section 507(a)(3) at other airports in the State in which the land disposition occurred under subsection (a)(14).

Such amounts shall be in addition to amounts made available to the Secretary under section 505 and not subject to the apportionment provisions of sections 507(a) and 507(b)(5).".

(k) Procedures for Modifying Assurances.—Section 511 is further amended by adding at the end thereof the following new subsection:

"(f) Procedures for Modifying Assurances.—If the Secretary proposes to modify any assurance required of a person receiving a grant under this Act and in effect on or after the date of the enactment of this subsection or proposes to require compliance with any additional assurance from such person, the Secretary shall first—

"(1) publish notice of such proposal in the Federal Register, and

"(2) provide an opportunity for comment on such proposal.".

SEC. 110. GRANT AGREEMENTS.

(a) Maximum Obligation of the United States.—Section 512(b) is amended to read as follows:

"(b) Maximum Obligation of the United States.—

"(1) General rule.—Subject to paragraphs (2) and (3) of this subsection, when an offer is accepted in writing by a sponsor, the amount stated in the offer as the maximum obligation of the United States may not be increased.

"(2) Exceptions for fiscal years 1987 and before.—The maximum obligation of the United States under this subsection with respect to a project receiving assistance under a grant approved under this title on or before September 30, 1987, may be increased—

"(A) by not more than 10 percent in the case of a project for airport development (other than a project for land acquisition); and

"(B) by an amount not to exceed 50 percent of the total increase in allowable project costs attributable to an acquisition of land or interests in land, based upon current credible appraisals.

Any increase under this section may be paid only from funds recovered by the United States from other grants made under this title.

"(3) Exceptions for fiscal years 1988 and thereafter.—The maximum obligation of the United States under this subsection with respect to a project receiving assistance under a grant approved under this title or the Aviation Safety and Noise Abatement Act of 1979 after September 30, 1987, may be increased by not more than 15 percent in the case of a project for airport development.".

(b) Workscope.—Section 512 is amended by adding at the end thereof the following new subsection:

"(d) Workscope.—The Secretary may amend, with the consent of the grant recipient, a grant agreement entered into under this title to change the workscope of a project funded under such grant if such amendment does not result in any increase in the maximum obligation of the United States authorized under subsection (b) of this section.".

(c) Conforming Amendment.—Section 512(c) is amended by inserting "Maximum Obligation for Grants Under the Airport and Airway Development of 1970.—" before "Notwithstanding".

SEC. 111. PROJECT COSTS.

(a) Authority To Modify Certain Limitations on Expenditures for Terminal Development.—

(1) Obligation limitation.—The first sentence of section 513(b)(2) is amended by striking out "Not more" and all that follows through "60 percent" and inserting in lieu thereof "All or any portion".

(2) Maximum federal share.—Section 513(b)(5) is amended by striking out "50 percent" and inserting in lieu thereof "75 percent".

(b) Costs Not Allowed.—Section 513(c) is amended—

(1) by striking out "or" the first place it appears; and

(2) by inserting before the period at the end thereof the following: "; or (3) the cost of decorative landscaping or the provision or installation of sculpture or art works".

(c) Reimbursement for Certain Advance Expenditures.—Section 513 is amended by adding at the end thereof the following new subsection:

"(d) Reimbursement for Certain Advance Expenditures.—

"(1) Letters of intent.—

"(A) Announcement of intention.—The Secretary is authorized to announce an intention to obligate for an airport development project (including formulation of the project) at a primary airport or a reliever airport under this subsection through the issuance of a letter of intent to the applicant.

"(B) Schedule of reimbursement.—Subject to the provisions of this paragraph, a letter of intent issued under this paragraph shall establish a schedule under which the Secretary will make payments under paragraph (2) of this subsection to the sponsor of the airport at which the airport development project will be carried out.

"(C) Limitation on projects eligible for advance funding.—The provisions of this subsection only apply to an airport development project—

"(i) regarding which the sponsor notifies the Secretary of the sponsor's intent to carry out such project before commencement of such project;

"(ii) which will be carried out in accordance with all applicable statutory and administrative requirements that would be applicable to the project if the project were being carried out with funds made available under this title; and

"(iii) which the Secretary determines will result in a significant enhancement of system-wide airport capacity and meets the criteria of section 507(c)(3).

Clause (i) shall not apply to a project which is commenced on or after November 20, 1987, and for which a letter of intent is signed under this subsection in the 90-day period beginning on the date of the enactment of this subsection.

"(D) Limitation on effect.—An action under subparagraph (A) shall not be deemed an obligation of the United States Government under section 1501 of title 31, United States Code, and a letter of intent issued under this paragraph shall not be deemed to be an administrative commitment for funding.

"(E) Treatment of letter.—A letter of intent under this paragraph shall be regarded as an intention to obligate from future budget authority not to exceed an amount stipulated as the United States share of allowable project costs for the project under this subsection. No obligation or administrative commitment may be made pursuant to such a letter of intent except as funds are provided in authorization and appropriation Acts.

"(F) LIMITATIONS ON AGGREGATE AMOUNT.—The total estimated amount of future Federal obligations covered by all outstanding letters of intent under this paragraph shall not exceed the amount authorized to carry out section 505(a), less an amount reasonably estimated by the Secretary to be necessary for grants under section 505(a) which are not covered by a letter of intent.

"(2) REIMBURSEMENT.—If the Secretary issues under paragraph (1) a letter of intent to obligate funds for an airport development project (including formulation of the project) at a primary airport or reliever airport and if the sponsor of such airport proceeds with such project without the aid of funds under this title, the Secretary shall pay, as funds become available, the sponsor for the United States share of allowable project costs payable on account of such project in accordance with such letter of intent.".

SEC. 112. LIMITATION ON POWERS.

Section 519 is amended—

(1) by inserting "(a) GENERAL RULE.—" before "The Secretary"; and

(2) by adding at the end thereof the following new subsection:

"(b) LIMITATIONS.—

"(1) WITHHOLDING OF APPROVAL.—The Secretary may not withhold approval of a grant application for funds apportioned under sections 507(a)(1), 507(a)(2), and 507(b)(5) for a violation of an assurance or other requirement of this title unless—

"(A) the Secretary provides the applicant with an opportunity for a hearing; and

"(B) within 180 days after the date of such application or the date the Secretary first knows of such noncompliance, whichever is later, the Secretary makes a determination that the violation has occurred.

"(2) WITHHOLDING OF PAYMENT.—The Secretary may not withhold a payment under any grant agreement entered into under this title for more than 180 days after the date such payment is due—

"(A) without providing the recipient of such payment with notice and an opportunity for a hearing; and

"(B) without determining that the grant recipient has violated such agreement.

"(3) EXTENSION OF TIME LIMITS.—The time limits established by paragraphs (1) and (2) of this section may be extended—

"(A) by mutual agreement of the Secretary and the grant applicant or recipient, as the case may be; or

"(B) at the discretion of the hearing officer if the hearing officer determines that such extension is necessary as a result of a failure of the applicant or recipient to adhere to the hearing schedule established by such officer.

"(4) JUDICIAL REVIEW.—A person aggrieved by an order of the Secretary withholding (A) approval of a grant application under paragraph (1), or (B) a payment under a grant agreement under paragraph (2), may obtain review of the order by petition to the Court of Appeals for the District of Columbia Circuit or the court of appeals for the circuit in which the project is located. Such petition shall be filed not later than 60 days after the date on which the order is served on the petitioner.".

SEC. 113. PART-TIME OPERATION OF FLIGHT SERVICE STATIONS.

Section 528 is amended to read as follows:

"SEC. 528. PART-TIME OPERATION OF FLIGHT SERVICE STATIONS.

"(a) GENERAL RULE.—On or after July 15, 1987, the Secretary shall not close, or reduce the hours of operation of, any flight service station in any area unless the service provided in such area after the closure of such station or during the hours such station is not in operation will be provided by an automated flight service station with model 1 or better equipment.

"(b) RULE FOR CERTAIN CLOSED STATIONS.—As soon as practicable after the date of the enactment of the Airport and Airway Safety and Capacity Expansion Act of 1987, the Secretary shall reopen any flight service station closed between March 25, 1987, and July 14, 1987 if the service provided in the area in which such station is located since the date of such closure has not been provided by an automated flight service station with model 1 or better equipment. The hours of operation for such station shall be the same as the hours of operation of such station on March 25, 1987. After reopening such station, the Secretary may only close or reduce the hours of operation of such station in accordance with subsection (a).".

SEC. 114. EXPLOSIVE DETECTION K-9 TEAMS.

Section 529 is amended—

(1) in the first sentence by striking out "shall" and inserting in lieu thereof "may"; and

(2) by striking out the second sentence.

SEC. 115. DENIAL OF FUNDS FOR PROJECTS USING PRODUCTS OR SERVICES OF FOREIGN COUNTRIES THAT DENY FAIR MARKET OPPORTUNITIES.

The Airport and Airway Improvement Act of 1982 is amended by adding at the end thereof the following new section:

"SEC. 533. DENIAL OF FUNDS FOR PROJECTS USING PRODUCTS OR SERVICES OF FOREIGN COUNTRIES THAT DENY FAIR MARKET OPPORTUNITIES.

"(a) IN GENERAL.—

"(1) PROHIBITION ON FUNDING.—No funds made available under this Act may be used to fund any project which uses any product or service of a foreign country during any period in which such foreign country is listed by the United States Trade Representative under subsection (c).

"(2) LIMITATION ON APPLICABILITY.—Paragraph (1) shall not apply with respect to the use of a product or service in a project if the Secretary determines that—

"(A) the application of paragraph (1) to such product, service, or project would not be in the public interest,

"(B) products of the same class or kind as such product or service are not produced or offered in the United States, or in any foreign country that is not listed under subsection (c), in sufficient and reasonably available quantities and of a satisfactory quality, or

"(C) exclusion of such product or service from the project would increase the cost of the overall project contract by more than 20 percent.

"(b) DETERMINATIONS.—

"(1) DEADLINE.—By no later than the date which is 30 days after the date on which each report is submitted to the Congress under section 181(b) of the Trade Act of 1974 (19 U.S.C. 2241(b)), the United States Trade Representative shall make a determination with respect to each foreign country of whether or not such foreign country—

"(A) denies fair and equitable market opportunities for products and suppliers of the United States in procurement, or

"(B) denies fair and equitable market opportunities for United States bidders, for construction projects that cost more than $500,000 and are funded (in whole or in part) by the government of such foreign country.

"(2) INFORMATION CONSIDERED.—In making determinations under paragraph (1), the United States Trade Representative shall take into account information obtained in preparing the report submitted under section 181 of the Trade Act of 1974 and such other information as the United States Trade Representative considers to be relevant.

"(c) LISTING OF FOREIGN COUNTRIES.—

"(1) GENERAL RULE.—The United States Trade Representative shall maintain a list of each foreign country with respect to which an affirmative determination is made under subsection (b).

"(2) REMOVAL FROM LIST.—Any foreign country that is added to the list maintained under paragraph (1) shall remain on the list until the United States Trade Representative determines that such foreign country does permit the fair and equitable market opportunities described in subparagraphs (A) and (B) of subsection (b)(1).

"(3) PUBLICATION.—The United States Trade Representative shall annually publish in the Federal Register the entire list required under paragraph (1) and shall publish in the Federal Register any modifications to such list that are made between annual publications of the entire list.

"(d) SPECIAL RULES.—

"(1) For purposes of this section, each foreign instrumentality, and each territory or possession of a foreign country, that is administered separately for customs purposes shall be treated as a separate foreign country.

"(2) For purposes of this section, any article that is produced or manufactured (in whole or in substantial part) in a foreign country shall be considered to be a product of such foreign country.

"(3) For purposes of this section, any service provided by a person that is a national of a foreign country, or is controlled by nationals of a foreign country, shall be considered to be a service of such foreign country.".

SEC. 116. STATE BLOCK GRANT PILOT PROGRAM.

The Airport and Airway Improvement Act of 1982 is further amended by adding at the end the following new section:

"SEC. 534. STATE BLOCK GRANT PILOT PROGRAM.

"(a) PROMULGATION OF REGULATIONS; EFFECTIVE PERIOD.—Not later than 180 days after the date of the enactment of this section, the Secretary shall promulgate regulations to implement a State block grant pilot program to become effective on October 1, 1989. Such program shall not be effective after September 30, 1991.

"(b) ASSUMPTION OF CERTAIN RESPONSIBILITIES.—Such regulations shall provide that the Secretary may designate not more than 3 qualified States to assume administrative responsibility for all airport grant funding available under this title, other than funding which has been designated for use at primary airports.

"(c) SELECTION OF STATE PARTICIPANTS.—The Secretary shall select States for participation in such program on the basis of applications submitted to the Secretary. The Secretary shall select a State only if the Secretary determines that the State—

"(1) has an agency or organization capable of administering effectively any block grant made under this section;

"(2) uses a satisfactory airport system planning process;

"(3) uses a programming process acceptable to the Secretary;

"(4) has agreed to comply with Federal procedural and other standard requirements for administering any such block grant; and

"(5) has agreed to provide the Secretary with such program information as the Secretary may require.

Before determining that any planning process is satisfactory or any programming process is acceptable, the Secretary shall ensure that such process provides for meeting critical safety and security needs and that the programming process ensures that the needs of the national airport system will be addressed in deciding to which projects funds will be provided.

"(d) REVIEW AND REPORT.—The Secretary shall conduct an ongoing review of the program established under this section, and shall, not later than 90 days before its scheduled termination, report to Congress the results of such review, together with recommendations for further action relating to the program.".

TITLE II—FEDERAL AVIATION ACT AMENDMENTS

SEC. 201. AMENDMENT OF FEDERAL AVIATION ACT OF 1958.

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Federal Aviation Act of 1958 (49 U.S.C. App. 1301-1551).

SEC. 202. ESSENTIAL AIR SERVICE.

(a) FISCAL YEAR 1987.—

(1) TRANSFER OF OPERATIONAL AUTHORITY.—Section 419 is amended by adding at the end of subsection (a) the following new paragraph:

"(12) If an air carrier which is providing on or after October 1, 1987, essential air transportation under this subsection between an eligible point and an airport at which the Administrator limits the number of instrument flight rule takeoffs and landings of aircraft provides notice to the Secretary of its intention to suspend, terminate, or reduce such transportation and another air carrier is secured to provide such transportation on a continuing basis, the Secretary shall require the carrier suspending, terminating, or reducing such service to transfer any operational authority which such carrier has to conduct a landing or takeoff at such airport with respect to such service to the carrier secured to provide such service unless the carrier secured to provide such service does not need such authority or such authority is being used to provide air service with respect to more than 1 eligible point.".

(2) TERMINATION DATE.—Section 419(g) is amended by striking out "the last day" and all that follows through the period at the end thereof and inserting in lieu thereof "September 30, 1988.".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect October 1, 1987.

(b) FISCAL YEARS 1988-1998.—

(1) GENERAL RULES.—Section 419 is amended to read as follows:

"SEC. 419. SMALL COMMUNITY AIR SERVICE.

"(a) ELIGIBLE POINT DEFINED.—For the purposes of this section, the term 'eligible point' means any point in the United States—

"(1) which is defined as an eligible point under this section as in effect before October 1, 1988, and which, at any time in the 12-month period ending on such date, received scheduled air transportation, and

"(2) which the Secretary determines is 45 highway miles or more from the nearest hub airport.

"(b) BASIC ESSENTIAL AIR SERVICE.—

"(1) LEVEL OF SERVICE.—

"(A) DETERMINATION FOR ESSENTIAL AIR SERVICE POINTS.—With respect to each eligible point for which a determination of what constitutes essential air transportation was made under this section before October 1, 1988, the Secretary shall determine what is basic essential air service for such point. Such determination shall be made no later than the last day of the 1-year period beginning on the date of the enactment of the Airport and Airway Safety and Capacity Expansion Act of 1987 and only after consideration of the views of any interested community and the State agency of the State in which such community is located.

"(B) DETERMINATION FOR OTHER POINTS.—With respect to each eligible point for which a determination of what constitutes essential air transportation was not made before October 1, 1988, the Secretary shall determine what is basic essential air service to such point if the Secretary receives notice that service to such point will be provided by only 1 air carrier. Such determination shall be made no later than the last day of the 6-month period beginning on the date on which the Secretary receives such notice and only after the Secretary considers the views of any interested community and the State agency of the State in which such community is located. The Secretary may impose such notice requirements as may be necessary to implement this subparagraph.

"(C) CONTINUATION OF REQUIREMENT; TRANSITION PROVISIONS.—An air carrier required to provide essential air transportation before October 1, 1988, to an eligible point shall be required to continue to provide such transportation to such point after such date and the level of such transportation shall be deemed to be basic essential air service for purposes of this subsection until a determination is made under subparagraph (A) with respect to such point. The rate of compensation in effect for essential air transportation before such date shall continue in effect until a new rate is determined in accordance with the guidelines under subsection (f) of this section.

"(D) REVIEW.—The Secretary shall periodically review the basic essential air service level for each eligible point, and may, based upon such review and consultations with the interested community and the State agency of the State in which such community is located, make appropriate adjustments to the basic essential air service level.

"(2) NOTICE REQUIRED BEFORE TERMINATION, SUSPENSION, OR REDUCTION IN SERVICE.—An air carrier may not terminate, suspend, or reduce air transportation to any eligible point below the level of basic essential air service established under paragraph (1) unless such air carrier has given the Secretary, the appropriate State agency or agencies, and the communities affected at least 90 days' notice before such termination, suspension, or reduction.

"(3) DETERMINATION OF NEED FOR COMPENSATION.—

"(A) SELECTION OF CARRIER.—Whenever the Secretary determines that basic essential air service will not be provided to an eligible point without compensation, the Secretary shall provide notice that applications may be submitted by any air carrier that is willing to provide such service to such point for compensation under this subsection. In selecting an applicant to provide basic essential air service to a point for compensation the Secretary shall, among other factors, consider—

"(i) the applicant's demonstrated reliability in providing scheduled air service;

"(ii) the contractual and marketing arrangements that the applicant has made with a larger air carrier to assure service beyond the hub airport;

"(iii) the interline arrangements which the applicant has made with a larger air carrier which allow passengers and cargo of the applicant at the hub airport to be transported by such large carrier through one reservation, one ticket, and one baggage check-in;

"(iv) the preferences of the actual and potential users of air transportation at the eligible point, giving substantial weight to the views of elected officials representing such users; and

"(v) with respect to any eligible point in the State of Alaska, the experience of an applicant in providing scheduled air service, or significant patterns of nonscheduled air service pursuant to an exemption granted pursuant to section 416 of this title, in Alaska.

"(B) RATE OF COMPENSATION.—The Secretary shall establish, in accordance with the guidelines promulgated under subsection (f), the rate of compensation to be paid for providing basic essential air service under this subsection.

"(4) PAYMENT OF COMPENSATION.—The Secretary shall make payments of compensation under this subsection at times and in a manner determined by the Secretary to be appropriate. The Secretary shall continue to pay compensation to any air carrier to provide basic essential air service to an eligible point only for so long as the Secretary determines it is necessary in order to maintain basic essential air service to such point.

"(5) REQUIREMENT TO CONTINUE SERVICE.—If an air carrier has provided notice to the Secretary under paragraph (2) of such air carrier's intention to suspend, terminate, or reduce service to any eligible point below the level of basic essential air service to such point, and if at the conclusion of the applicable period of notice the Secretary has not been able to find another air carrier to provide basic essential air service to such point, the Secretary shall require the carrier which provided such notice to continue such service to such point for an additional 30-day period, or until another air carrier has begun to provide basic essential air service to such point, whichever first occurs. If at the end of such 30-day period the Secretary determines that no other air carrier can be secured to provide basic essential air service to such eligible point on a continuing basis, either with or without compensation, then the Secretary shall extend such requirement for such additional 30-day periods (making the same determination at the end of each such period) as may be necessary to continue basic essential air service to such eligible point until an air carrier can be secured to provide basic essential air service to such eligible point on a continuing basis.

"(6) COMPENSATION FOR CONTINUED SERVICE.—

"(A) CARRIERS RECEIVING COMPENSATION.—If an air carrier (i) which is providing air transportation to any eligible point, and (ii) which is receiving compensation under this subsection for providing such transportation, is required by the Secretary to continue *service to such point beyond the date on which such carrier would, but for paragraph (5), be able to suspend, terminate, or reduce such service below the level of basic essential air service to such point, then after such date such carrier shall continue to receive such compensation until the Secretary secures another air carrier to provide basic essential air service to such point or the 90th day following such date, whichever is earlier. If, after such 90th day, the Secretary has not secured another air carrier to provide such service, the carrier required to continue to provide such service shall receive compensation in an amount sufficient—*

"(i) to cover the carrier's fully allocated actual cost of performing the basic essential air service that was being provided at the time the 90-day notice of termination, suspension, or reduction of service is given to the Secretary under paragraph (2) plus a fair and reasonable return on investment which shall not be less than 5 percent of operating costs; and

"(ii) to provide the carrier an additional return which recognizes the demonstrated additional lost profits from opportunities foregone and the likelihood that such lost profits increase as the duration of the required basic essential air service increases.

"(B) CARRIERS NOT RECEIVING COMPENSATION.—If the Secretary requires an air carrier which is providing air transportation to an eligible point without compensation pursuant to paragraph (4) to continue to provide basic essential air service to such point beyond the 90-day notice period after which, but for paragraph (5) of this subsection, such air carrier would be able to suspend, terminate, or reduce service to such point below basic essential air service for such point, then the Secretary shall compensate such air carrier in an amount sufficient—

"(i) to cover the carrier's fully allocated actual cost of performing the basic essential air service that was being provided at the time the 90-day notice of termination, suspension, or reduction of service is given to the Secretary under paragraph (2) plus a fair and reasonable return on investment which shall not be less than 5 percent of operating costs; and

"(ii) to provide the carrier an additional return which recognizes the demonstrated additional lost profits from opportunities foregone and the likelihood that such lost profits increase as the duration of the required basic essential air service increases.

"(7) TRANSFER OF OPERATIONAL AUTHORITY AT CERTAIN HIGH-DENSITY AIRPORTS.—If an air carrier which is providing basic essential air service under this subsection between an eligible point and an airport at which the Administrator limits the number of instrument flight rule takeoffs and landings of aircraft provides notice to the Secretary of its intention to suspend, terminate, or reduce such service and another air carrier is secured to provide such service on a continuing basis, the Secretary shall require the carrier suspending, terminating, or reducing such service to transfer any operational authority which such carrier has to conduct a landing or takeoff at such airport with respect to such service to the carrier secured to provide such service unless the carrier secured to provide such service does not need such authority or such authority is being used to provide air service with respect to more than 1 eligible point.

"(8) EFFORT TO SECURE CARRIERS.—During any period for which the Secretary requires an air carrier to continue providing air transportation to an eligible point which such air carrier has proposed to terminate, reduce, or suspend, the Secretary shall continue to make every effort to secure an air carrier to provide at least basic essential air service to such eligible point, on a continuing basis.

"(9) PROHIBITION ON CERTAIN REDUCTIONS IN SERVICE.—Unless the Secretary has determined what is basic essential air service for any eligible point pursuant to paragraph (1) of this subsection, the Secretary shall, upon petition of any appropriate representative of such point prohibit any termination, suspension, or reduction of air transportation which reasonably appears to deprive such point of basic essential air service, until the Secretary has completed such determination.

"(c) ENHANCED ESSENTIAL AIR SERVICE.—

"(1) PROPOSAL.—

"(A) SUBMISSION.—A State or local government may submit a proposal to the Secretary for enhanced essential air service to an eligible point with respect to which basic essential air service is being provided under subsection (b).

"(B) CONTENTS.—A proposal submitted under this subsection shall specify the level and type of enhanced essential air service which the State or local government considers appropriate. Such proposal shall also include an agreement relating to compensation required for the proposed enhanced essential air service. Such agreement shall be subject to the requirements of subparagraph (C).

"(C) COMPENSATION AGREEMENT.—The agreement relating to compensation included in the proposal submitted by a State or local government under this subsection shall either—

"(i) provide for the State or local government or any person to pay 50 percent of the compensation required for the proposed enhanced essential air service and for the Federal share of such compensation to be 50 percent; or

"(ii) provide for the Federal share for such compensation to be 100 percent and provide that, if the proposed service is not successful in terms of the criteria established under paragraph (3)(C) for not less than a 2-year period, the eligible point shall not be eligible for air service for which compensation is payable by the Secretary under this section.

"(2) ESTABLISHMENT OF SERVICE.—Not later than 90 days after receiving a proposal under paragraph (1), the Secretary shall issue a decision on the proposal. The Secretary shall approve such proposal unless the Secretary determines that such proposal is not reasonable. If the Secretary determines that such proposal is not reasonable, the Secretary shall disapprove such proposal and notify the State or local government submitting such proposal of such disapproval and the reasons therefor.

"(3) REVIEW.—

"(A) PROPOSALS FOR 50 PERCENT FEDERAL SHARE.—If the enhanced essential air service approved under this subsection is to be at a 50 percent Federal share, the Secretary shall periodically review the level and type of such service to an eligible point and may, based upon such review and consultations with the community and the government or person paying the non-Federal share, make appropriate adjustments to the level and type of enhanced essential air service to such point.

"(B) PROPOSALS FOR 100 PERCENT FEDERAL SHARE.—If the enhanced essential air service approved under this subsection is to be at a 100 percent Federal share, the Secretary shall periodically review air service provided to an eligible point under this subsection. If the Secretary finds, after consultation with the State or local government which submitted the proposal, that such service has not been successful in terms of the criteria established under subparagraph (C) for not less than a 2-year period, such eligible point shall not be eligible for air service for which compensation is payable by the Secretary under this section.

"(C) CRITERIA OF SUCCESS.—The Secretary shall establish, by regulation, objective criteria for determining whether or not enhanced essential air service to an eligible point provided under this subsection is successful in terms of increasing passenger usage of the airport facilities at such point and reducing the amount of compensation provided by the Secretary under this subsection for such service.

"(4) NOTICE BEFORE TERMINATION, SUSPENSION, OR REDUCTION OF SERVICE.—An air carrier may not terminate, suspend, or reduce air transportation to an eligible point for which a determination of enhanced essential air service has been made below the level of such service approved by the Secretary under this subsection unless such carrier has given the Secretary, the community affected, and the government or person paying the non-Federal share at least 30 days' notice before such termination, suspension, or reduction. Nothing in this paragraph relieves an air carrier of its obligations under subsection (b).

"(5) PAYMENT OF COMPENSATION.—The Secretary shall make payments of compensation under this subsection at times and in a manner determined by the Secretary to be appropriate. The Secretary shall continue to pay the compensation to an air carrier to provide enhanced essential air service to an eligible point only for so long as such carrier maintains the level of enhanced essential air service and the government or person agreeing to pay any non-Federal share continues to pay such share and only for so long as the Secretary determines it is necessary in order to maintain such service to such point.

"(6) PAYMENT OF NON-FEDERAL SHARE.—The Secretary may require appropriate payment in advance or such other security to assure that non-Federal payments for enhanced essential air service under this subsection are made on a timely basis.

"(7) COMPENSATION FOR ENHANCED ESSENTIAL AIR SERVICE DEFINED.—For purposes of this subsection, compensation for enhanced essential air service to an eligible point covers only those costs incurred for providing air service to such point which are in addition to the costs incurred for providing basic essential air service to such point under this section.

"(d) COMPENSATION FOR SERVICE TO OTHER SMALL COMMUNITIES.—

"(1) PROPOSAL.—A State or local government may make a proposal to the Secretary for compensated air transportation in accordance with this subsection to a point that is not an eligible point under this section.

"(2) DETERMINATION OF ELIGIBILITY.—

"(A) DESIGNATION OF POINTS.—Not later than 90 days after the submission of a proposal under this subsection, the Secretary—

"(i) shall determine whether or not to designate the point for which such proposal is made as eligible to receive compensation under this subsection; and

"(ii) shall approve or disapprove such proposal and notify the State or local govern-

ment submitting such proposal of such decision.

The Secretary shall approve such proposal if the State or local government submitting the proposal or any other person is willing and able to pay 50 percent of the cost of providing the proposed compensated air transportation; except that the Secretary shall disapprove such proposal if the Secretary determines that such proposal is not reasonable. In the case of disapproval of a proposal, the notification of such disapproval must include the reasons for such disapproval.

"(B) Small community service.—Notwithstanding subparagraph (A)(ii), the Secretary shall approve a proposal submitted under this subsection for compensated air transportation to a point in the 48 contiguous States and designate such point as eligible for compensation under this subsection—

"(i) if, at any time before October 23, 1978, the point was served by an air carrier that held a certificate issued under section 401;

"(ii) if the point is more than 50 miles from the nearest small hub airport or an eligible point;

"(iii) if the point is more than 150 miles from the nearest hub airport; and

"(iv) if the State or local government submitting the proposal or any other person is willing and able to pay 25 percent of the cost of providing the proposed compensated air transportation.

"(C) Criteria for determining reasonableness.—In determining whether or not a proposal submitted under this subsection is reasonable, the Secretary shall consider, among other factors, the traffic generating potential of the point, the cost to the Federal Government of providing the proposed service, and the distance of the point from the closest hub airport.

"(D) Withdrawal of designation.—After notice and an opportunity for any interested person to comment, the Secretary may withdraw the designation of a point under subparagraph (A) as eligible to receive compensation under this subsection if the point has received air service under this subsection for at least 2 years and the Secretary determines that withdrawal of that designation would be in the public interest. The Secretary shall establish, by regulation, standards for determining whether or not withdrawal of a designation under this paragraph is in the public interest. Such standards shall include, but not be limited to, the factors set forth in subparagraph (C).

"(3) Level of service.—

"(A) Initial determination.—If the Secretary designates a point under paragraph (2), the Secretary shall determine the level of service to be provided under this subsection. The Secretary shall determine such level after considering the views of any interested community, the State agency of the State in which the point is located, and the government or person agreeing to pay the non-Federal share of the cost of the proposed service. The Secretary shall determine such level not later than 6 months after the date on which the Secretary designates such point under paragraph (2).

"(B) Review.—The Secretary shall periodically review the level of air service provided under this subsection and may, based upon such review and consultation with any interested community, any State agency of the State in which the community is located, and any government or person providing the non-Federal share of the compensation for the service, make appropriate adjustments in the level of service.

"(4) Selection of carrier.—After making the determinations required by paragraph (3) with respect to a designated point, the Secretary shall provide notice that applications may be submitted by any air carrier that is willing to provide the level of air service determined under paragraph (3) with respect to such point. In selecting an applicant to provide such service the Secretary shall, among other factors, consider the factors set forth in subsection (b)(3)(A) and shall also consider the views of the government or person paying the non-Federal share of the cost of the service.

"(5) Non-federal share.—Except as provided in paragraph (2)(B), the non-Federal share for compensation required for providing air service under this subsection shall be 50 percent.

"(6) Notice before termination, suspension, or reduction of service.—An air carrier may not terminate, suspend, or reduce air transportation to an eligible point for which compensation is paid under this subsection below the level of such service established by the Secretary under paragraph (3) unless such carrier has given the Secretary, the community affected, and the government or person paying the non-Federal share at least 30 days' notice before such termination, suspension, or reduction.

"(7) Payment of compensation.—The Secretary shall make payments of compensation under this subsection at times and in a manner determined by the Secretary to be appropriate. The Secretary shall continue to pay compensation to an air carrier to provide service to a point designated under this subsection only for so long as such carrier maintains such service and the government or person agreeing to pay the non-Federal share continues to pay such share and only for so long as the Secretary determines it is necessary in order to maintain such service to such point.

"(8) Payment of non-federal share.—The Secretary may require appropriate payment in advance or such other security to assure that the non-Federal payments for air service under this subsection are timely made.

"(e) Fitness.—

"(1) General rule.—Notwithstanding section 416(b) of this title, the Secretary shall prohibit any air carrier from providing service to an eligible point and from providing service to a point designated under subsection (d), unless the Secretary determines that such air carrier—

"(A) is fit, willing, and able to perform such service; and

"(B) that all aircraft which will be used to perform such service and all operations relating to such service will conform to the safety standards established by the Administrator.

"(2) Limitation on compensation.—The Secretary may not pay compensation to any air carrier for providing air service under this section unless the Secretary finds that such carrier is able to provide the air service in a reliable manner.

"(f) Guidelines for Compensation.—The Secretary shall establish guidelines to be used in computing the fair and reasonable amount of compensation required to ensure the continuation of air service under this section. Such guidelines shall provide for a reduction in compensation in any case in which an air carrier fails to perform any agreed upon air service. Such guidelines shall take into account amounts needed by air carriers to promote public use of the service for which compensation is to be made and shall include expense elements based upon representative costs of air carriers providing scheduled air transportation of persons, property, and mail, using aircraft of the type determined by the Secretary to be appropriate for providing such service. Amounts needed for promotion of such service shall be a special, segregated element of the required compensation.

"(g) Deadline for Payment of Compensation.—Not later than 15 days after receiving a written claim for compensation from an air carrier for providing air service under this section, the Secretary shall pay the Federal share of such claim or deny payment of the Federal share of such claim and notify the carrier of such denial and the reasons therefor.

"(h) Insurance.—An air carrier shall not receive compensation under this section unless such air carrier complies with regulations or orders issued by the Secretary governing the filing and approval of policies of insurance or plans for self-insurance in the amount prescribed by the Secretary which are conditioned to pay, within the amount of such insurance, amounts for which such air carrier may become liable for bodily injuries to or the death of any person, or for loss of or damage to property of others, resulting from the operation or maintenance of aircraft.

"(i) Carrier Obligations.—If 2 or more air carriers enter into an agreement to operate under or use a single air carrier designator code to provide air transportation, the air carrier whose code is being used under such agreement shall share responsibility with the other carriers for the quality of service provided under such code to the public by such other carriers.

"(j) Encouragement of Joint Air Service Proposals.—The Secretary shall encourage the submission of joint proposals by 2 or more air carriers for providing air service under this section through arrangements which will maximize service to and from major destinations beyond the hub.

"(k) Definitions.—For purposes of this section—

"(1) Basic essential air service.—The term 'basic essential air service' means scheduled air transportation of persons and cargo to a hub airport (or, in any case in which the nearest hub airport is more than 400 miles and in the case of Alaska, to a small hub or nonhub airport) which has convenient connecting or single-plane air service to a substantial number of destinations beyond such airport. Such transportation shall include, at least, the following elements:

"(A)(i) with respect to a point not in the State of Alaska, 2 daily round trips 6 days per week, with not more than 1 intermediate stop on each flight; or

"(ii) with respect to a point in the State of Alaska, a level of service that is not less than that which existed in calendar year 1976, or 2 round trips per week, whichever is greater, unless otherwise specified under an agreement between the Secretary and the State agency of the State of Alaska, after consultation with the community affected;

"(B) flights at reasonable times taking into account the needs of passengers with connecting flights at such airport and at rates, fares, and charges which are not excessive when compared to the generally prevailing fares of other air carriers for like service between similar pairs of points;

"(C) with respect to a point not in the State of Alaska, service provided in an aircraft with an effective capacity of at least 15 passengers if the average daily enplanements at such point in any calendar year beginning after December 31, 1975, and ending

on or before December 31, 1986, exceeded 11 passengers unless—

"(i) requiring such service would require the payment of compensation in a fiscal year under subsection (b)(4) or (b)(6) with respect to such point when no compensation under such subsection would otherwise be paid with respect to such point in such fiscal year; or

"(ii) the community concerned agrees in writing with the Secretary to the use of smaller aircraft to provide service to such point;

"(D) service which accommodates the estimated passenger and cargo traffic at an average load factor of not greater than—

"(i) 50 percent, or

"(ii) in any case in which such service is being provided with aircraft with 15 passenger seats or more, 60 percent,

for each class of traffic taking into account seasonal demands for such service;

"(E) service provided in an aircraft with at least 2 engines and using 2 pilots, unless scheduled air transportation in aircraft with at least 2 engines and using 2 pilots has not been provided with respect to the point on each of 60 consecutive operating days at any time since October 31, 1978; and

"(F) in the case of service which regularly exceeds 8,000 feet in altitude, service provided with pressurized aircraft.

"(2) ENHANCED ESSENTIAL AIR SERVICE.—The term 'enhanced essential air service' means scheduled air transportation to an eligible point of a higher level or quality than basic essential air service.

"(3) HUB AIRPORT.—The term 'hub airport' means an airport that annually has 0.25 percent or more of the total annual enplanements in the United States.

"(4) NONHUB AIRPORT.—The term 'nonhub airport' means an airport that annually has less than 0.05 percent of the total annual enplanements in the United States.

"(5) SMALL HUB AIRPORT.—The term 'small hub airport' means an airport that annually has 0.05 percent or more, but less than 0.25 percent, of the total annual enplanements in the United States.

"(l) DURATION OF PROGRAM.—This section shall not be in effect after September 30, 1998.".

(2) CONFORMING AMENDMENT.—The table of contents contained in the first section of the Federal Aviation Act of 1958 is amended by striking out the item relating to section 419 and inserting in lieu thereof the following:

"Sec. 419. Small community air service.

"(a) Eligible point defined.

"(b) Basic essential air service.

"(c) Enhanced essential air service.

"(d) Compensation for service to other small communities.

"(e) Fitness.

"(f) Guidelines for compensation.

"(g) Deadline for payment of compensation.

"(h) Insurance.

"(i) Carrier obligations.

"(j) Encouragement of joint air service proposals.

"(k) Definitions.

"(l) Duration of program.".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect October 1, 1988.

SEC. 203. AIRCRAFT COLLISION AVOIDANCE SYSTEMS.

(a) FINDINGS.—Congress finds that—

(1) the number of near midair collisions is an indication that additional measures must be taken to assure the highest level of air safety in the United States;

(2) public health and safety requirements necessitate the timely completion and installation of a collision avoidance system for use by commercial aircraft flying in the United States;

(3) the Traffic Alert and Collision Avoidance System promises to reduce the threat to life caused by midair collisions, particularly collisions between general aviation aircraft and commercial aircraft;

(4) the Traffic Alert and Collision Avoidance System will succeed only to the degree that other aircraft posing a collision threat use operating transponders with automatic altitude reporting capability; and

(5) the Federal Aviation Administration should continue at a deliberate pace the development of additional technologies, including the collision avoidance system known as TCAS-III, to ensure the safe separation of aircraft.

(b) GENERAL RULES.—Section 601 is amended by adding at the end the following new subsection:

"(f) COLLISION AVOIDANCE SYSTEMS.—

"(1) DEVELOPMENT AND CERTIFICATION.—

"(A) STANDARDS.—The Administrator shall complete development of the collision avoidance system known as TCAS-II so that such system will be operable under visual and instrument flight rules and will be upgradable to the performance standards applicable to the collision avoidance system known as TCAS-III.

"(B) SCHEDULE.—The Administrator shall develop and implement a schedule for development and certification of the collision avoidance system known as TCAS-II which will result in completion of such certification not later than 18 months after the date of the enactment of this subsection.

"(C) MONTHLY REPORTS.—The Administrator shall transmit to Congress monthly reports on the progress being made in development and certification of the collision avoidance system known as TCAS-II.

"(2) INSTALLATION.—The Administrator shall require by regulation that, not later than 30 months after the date of certification of the collision avoidance system known as TCAS-II, such system be installed and operated on each civil aircraft which has a maximum passenger capacity of more than 30 seats and which is used to provide air transportation of passengers, including intrastate air transportation of passengers.

"(3) TRANSPONDERS.—Not later than 6 months after the date of the enactment of this subsection, the Administrator shall promulgate a final rule requiring the installation and use of operating transponders with automatic altitude reporting capability for aircraft operating in designated terminal airspace where radar service is provided for separation of aircraft. For such terminal airspace, other than Terminal Control Areas and Airport Radar Service Areas, the Administrator may provide for access to such airspace by nonequipped aircraft if the Administrator determines that such access will not interfere with the normal traffic flow. Such final rule shall require the installation and use of such transponders not later than 36 months after the date of the enactment of this subsection.".

(c) CONFORMING AMENDMENT.—That portion of the table of contents contained in the first section of the Federal Aviation Act of 1958 which appears under the heading

"Sec. 601. General safety powers and duties."

is amended by adding at the end the following:

"(f) Collision avoidance systems.".

(d) COMPLETION OF RESEARCH AND DEVELOPMENT.—

(1) GENERAL RULE.—The Administrator shall complete the research and the development on, and the certification of, the collision avoidance system known as TCAS-III as soon as possible.

(2) AUTHORIZATION OF APPROPRIATION.—There are authorized to be appropriated such sums as may be necessary from the Airport and Airway Trust Fund to carry out this subsection.

SEC. 204. CIVIL PENALTIES.

(a) FOR HAZARDS TO COMMERCE.—Section 901(a)(1)(A) is amended by striking out "1114," and inserting in lieu thereof "1101 or 1114,".

(b) INCREASED PENALTY FOR AIR CARRIERS.—The first sentence of section 901(a)(1) is amended by inserting after "$1,000 for each such violation," the following: "except that a person who operates aircraft for the carriage of persons or property for compensation or hire (other than an airman serving in the capacity of an airman) shall be subject to a civil penalty not to exceed $10,000 for each violation of title III, VI, or XII of this Act, or any rule, regulation, or order issued thereunder, occurring after the date of the enactment of the Airport and Airway Safety and Capacity Expansion Act of 1987, and".

(c) CLARIFICATION OF DETERMINATION OF PENALTY.—The second sentence of section 901(a)(1) is amended by inserting ", or each flight with respect to which such violation is committed, if applicable," after "each day of such violation".

(d) COMPROMISE.—Section 901(a)(2) is amended by inserting ", or of section 1101, 1114, or 1115(e)(2)(B)," after "XII".

(e) PENALTY FOR INTERFERENCE WITH AIRCRAFT ACCIDENT INVESTIGATIONS.—Section 902(p) is amended by striking out "shall be subject to a fine of no less than $100 nor more than $5,000, or imprisonment for not more than one year, or both" and inserting in lieu thereof "shall be fined in accordance with title 18, United States Code, or imprisoned not more than 10 years, or both".

(f) SECURED AREAS OF AIRPORTS.—Section 902 is amended—

(1) in subsection (o) by inserting "and subsection (r)" after "inclusive,"; and

(2) by adding at the end thereof the following new subsection:

"(r) SECURED AREAS OF AIRPORTS.—

"(1) VIOLATION.—It shall be unlawful for any person to knowingly and willfully enter an aircraft or an airport area that serves air carriers or foreign air carriers contrary to security requirements established pursuant to section 315 or 316 of this Act.

"(2) GENERAL PENALTY.—Upon conviction of a violation of paragraph (1), a person shall be subject to imprisonment for a term not to exceed 1 year or a fine not to exceed $1,000, or both.

"(3) PENALTY FOR VIOLATIONS IN CONNECTION WITH FELONIES.—If any person violates paragraph (1) of this subsection with the intent to commit in the aircraft or secured area an act punishable as a felony under Federal or State law, such person shall be subject to imprisonment for a term not to exceed 10 years or a fine not to exceed $10,000, or both.".

(g) DEMONSTRATION PROGRAM.—Title IX is amended by adding at the end thereof the following new section:

"SEC. 905. CIVIL PENALTY ASSESSMENT DEMONSTRATION PROGRAM.

"(a) CIVIL PENALTY.—The Administrator, or his delegate, may assess a civil penalty for a violation arising under this Act or a rule, regulation, or order issued thereunder, upon written notice and finding of violation by the Administrator.

"(b) NO REEXAMINATION OF LIABILITY OR AMOUNT.—In the case of a civil penalty assessed by the Administrator in accordance with this section, the issue of liability or amount of civil penalty shall not be reexamined in any subsequent suit for collection of such civil penalty.

"(c) CONTINUING JURISDICTION OF DISTRICT COURTS.—Notwithstanding subsection (a) of this section, the United States district courts shall have exclusive jurisdiction of any civil penalty action initiated by the Administrator (1) which involves an amount in controversy in excess of $50,000; (2) which is an in rem action or in which an in rem action based on the same violation has been brought; (3) regarding which an aircraft subject to lien has been seized by the United States; and (4) in which a suit for injunctive relief based on the violation giving rise to the civil penalty has also been brought.

"(d) LIMITATIONS.—

"(1) HEARING.—A civil penalty may be assessed under this section only after notice and opportunity for a hearing on the record in accordance with section 554 of title 5, United States Code.

"(2) VIOLATIONS.—This section only applies to civil penalties initiated by the Administrator after the date of the enactment of this section.

"(3) MAXIMUM AMOUNT.—The maximum amount of a civil penalty which may be assessed under this section in any case may not exceed $50,000.

"(4) EFFECTIVE PERIOD.—The provisions of this section shall only be in effect for the 2-year period beginning on the date of the enactment of this section.".

(h) CONFORMING AMENDMENTS.—That portion of the table of contents contained in section 1 of the Federal Aviation Act of 1958 relating to title IX of the Federal Aviation Act of 1958 is amended—

(1) by inserting

"(r) Secured areas of airports."

after

"(q) Transporting controlled substances without airman certificate."; and

(2) by adding at the end thereof the following:

"Sec. 905. Civil penalty assessment demonstration program.".

(i) EFFECTIVENESS REVIEWED.—

(1) STUDY.—The Administrator shall conduct a study on the effectiveness of the amendments made by this section to the Federal Aviation Act of 1958.

(2) REPORT.—Not later than 18 months after the date of enactment of this section, the Administrator shall transmit to Congress a report on the results of the study conducted under this subsection. The report shall include (A) the Administrator's views concerning the effectiveness of civil penalty levels established by the amendments made by this section and whether additional changes to the civil penalty program conducted under title IX of such Act are necessary to provide an adequate safety deterrence; and (B) the Administrator's recommendation as to the effectiveness of the civil penalty assessment demonstration program authorized by section 905 of the Federal Aviation Act of 1958 and whether it should be continued.

SEC. 205. INDEMNIFICATION OF FEDERAL AVIATION ADMINISTRATION EMPLOYEES.

Section 313 is amended by adding at the end thereof the following new subsection:

"(e) INDEMNIFICATION.—The Administrator is empowered to indemnify any officer or employee of the Federal Aviation Administration against any claim or judgment against such person if such claim or judgment arises out of an act or acts committed, as determined by the Administrator, within the scope of such person's official duties. The Administrator may issue such regulations as may be necessary to implement this subsection.".

SEC. 206. HAZARDS TO SAFE AND EFFICIENT AIR COMMERCE AND THE PRESERVATION OF NAVIGABLE AIRSPACE AND AIRPORT TRAFFIC CAPACITY.

Section 1101 is amended to read as follows:

"SEC. 1101. HAZARDS TO SAFE AND EFFICIENT AIR COMMERCE AND THE PRESERVATION OF NAVIGABLE AIRSPACE AND AIRPORT TRAFFIC CAPACITY.

"(a) NOTICE OF CONSTRUCTION.—The Secretary of Transportation (hereinafter in this section referred to as the 'Secretary') shall, by rules and regulations, or by order where necessary, require all persons to give adequate public notice, in the form and manner prescribed by the Secretary, of the construction or alteration, or of the proposed construction or alteration, of any structure where notice will promote safety in air commerce as well as the efficient use and preservation of the navigable airspace and of airport traffic capacity at public-use airports.

"(b) AERONAUTICAL STUDIES.—

"(1) REQUIREMENT.—Where the Secretary determines, according to rules and regulations, that the construction or alteration of any structure may constitute an obstruction of navigable airspace or an interference with air navigation facilities and equipment or navigable airspace, the Secretary shall conduct an aeronautical study to determine the extent of the adverse impact, if any, on the safe and efficient use of such airspace, facilities, or equipment.

"(2) FACTORS TO CONSIDER.—When conducting an aeronautical study under this subsection to determine the impact of the construction or alteration of a structure, the Secretary shall thoroughly consider, according to rules and regulations, all factors relevant to the efficient and effective use of the navigable airspace, and shall consider the following:

"(A) The impact on arrival, departure, and en route procedures for aircraft operating under visual flight rules.

"(B) The impact on arrival, departure, and en route procedures for aircraft operating under instrument flight rules.

"(C) The impact on all existing public-use airports and aeronautical facilities.

"(D) The impact on all planned public-use airports and aeronautical facilities.

"(E) The cumulative impact resulting from the proposed construction or alteration of a structure when combined with the impact of other existing or proposed structures.

"(3) REPORT.—Upon completion of an aeronautical study under this subsection, the Secretary shall issue a report fully disclosing the extent of the adverse impact on the safe and efficient use of the navigable airspace which the Secretary determines will result from the construction or alteration of a structure.

"(c) COORDINATION.—In the administration of laws relating to broadcast applications and the conduct of aeronautical studies relating to broadcast towers, the Federal Communications Commission and the Federal Aviation Administration shall take such action as may be necessary to efficiently coordinate the receipt, consideration of, and action upon such applications and the completion of associated aeronautical studies.".

(b) CONFORMING AMENDMENT.—That portion of table of contents contained in the first section of the Federal Aviation Act of 1958 is amended by striking out

"Sec. 1101. Hazards to air commerce."

and inserting in lieu thereof

"Sec. 1101. Hazards to safe and efficient air commerce and the preservation of navigable airspace and airport traffic capacity.".

SEC. 207. PUBLIC AIRCRAFT DEFINED.

Section 101(36) is amended by adding at the end thereof the following new sentence: "For purposes of this paragraph, 'used exclusively in the service of' means, for other than the Federal Government, an aircraft which is owned and operated by a governmental entity for other than commercial purposes or which is exclusively leased by such governmental entity for not less than 90 continuous days.".

TITLE III—MISCELLANEOUS PROVISIONS

SEC. 301. NOISE ABATEMENT.

(a) NOTICE AND HEARING REQUIREMENT.—The first sentence of section 104(a) of the Aviation Safety and Noise Abatement Act of 1979 (49 U.S.C. App. 2104(a)) is amended by inserting after "any air carriers using such airport" the following: "and after notice and an opportunity for a public hearing".

(b) FEDERAL SHARE.—Section 104(c)(1) of the Aviation Safety and Noise Abatement Act of 1979 (49 U.S.C. App. 2104(c)(1)) is amended by inserting before the period at the end of the fourth sentence the following: "or the Federal share which would be applicable to such project if the funds made available for such project were being made available under the Airport and Airway Improvement Act of 1982 for a project at the airport, whichever percentage is greater".

(c) SOUNDPROOFING OF SCHOOLS AND HOSPITALS.—Section 104(c) of the Aviation Safety and Noise Abatement Act of 1979 (49 U.S.C. App. 2104(c)) is amended by adding at the end thereof the following new paragraph:

"(3) The Secretary is authorized under this section to make grants to operators of airports and to units of local government referred to in paragraph (1) for any project to soundproof any public building (A) which is used primarily for educational or medical purposes in the noise impact area surrounding such airport, and (B) which is determined to be adversely affected by airport noise.".

(d) PROCEDURES FOR PREPARATION AND SUBMISSION OF NOISE COMPATIBILITY PROGRAMS.—

(1) STUDY.—The Secretary shall conduct a study of the procedures established under the Aviation Safety and Noise Abatement Act of 1979 for the preparation and submission of noise compatibility programs. The objectives of such study shall be to determine whether or not such procedures could be revised to provide a more simplified process which meet the objectives of such Act and to determine whether or not expedited and simplified procedures which meet the objectives of such Act could be developed to take into account special circumstances at certain airports.

(2) Consultation requirement.—In undertaking the study under this subsection, the Secretary shall consult airports, airport users (including air carriers), representatives of persons residing in areas surrounding airports, concerned Federal, State, and local officials, and other interested persons.

(3) Report.—Not later than 18 months after the date of the enactment of this Act, the Secretary shall transmit to Congress a report on the results of the study conducted under paragraph (1) together with recommendations.

(4) Funding During Study.—

(A) Congressional intent.—It is the intention of Congress that the authority of the Secretary to make grants under section 104(c)(2) of the Aviation Safety and Noise Abatement Act of 1979 to airport operators and units of local government to implement noise compatibility programs that were developed prior to the promulgation of implementing regulations under such Act if the Secretary determines that such programs would further the purposes of such Act shall continue until such programs are fully implemented but not later than the last day of the 18-month period beginning on the date of the enactment of this Act, notwithstanding any other provision of law and any rule or regulation promulgated pursuant to any other provision of law.

(B) Continuation.—In order to carry out the intent specified in subparagraph (A), grants may continue to be made under section 104(c)(2) of the Aviation Safety and Noise Abatement Act of 1979 for noise compatibility programs or projects previously approved under such program during the 18-month period beginning on the date of the enactment of this Act, if—

(i) the operator of the airport involved submits updated noise exposure contours, as required by the Secretary; and

(ii) the Secretary determines that such programs or projects are compatible with the purposes of such Act.

(e) Existing Noise Abatement Proposals.—

(1) Review.—The Administrator shall conduct a study of noise abatement proposals under consideration by airport operators and local governments for the purpose of identifying those proposals which, under existing law or administrative policy, are not currently eligible for Federal assistance and determining whether or not such proposals should be made eligible for Federal assistance.

(2) Report.—Not later than 180 days after the date of the enactment of this Act, the Administrator shall transmit to Congress a report on the results of the study conducted under paragraph (1), together with recommendations concerning modifications in existing law and administrative policy for making additional noise abatement proposals eligible for Federal assistance.

SEC. 302. AIR TRAFFIC CONTROLLER WORKFORCE.

(a) Minimum Number of Air Traffic Controllers.—The Administrator shall hire such additional persons as are necessary to make the number of persons employed in the air traffic control workforce on September 30, 1988, not less than 15,900.

(b) Air Traffic Control Workforce Defined.—For purposes of this section, the term "air traffic control workforce" means persons employed by the Federal Aviation Administration (including persons employed as traffic management coordinators and air traffic control first line supervisors) a substantial part of whose duties include separating and controlling air traffic. Such term does not include any air traffic assistant and any student at an air traffic control academy.

SEC. 303. SAFETY RULEMAKING PROCEEDINGS.

(a) Floatation Equipment.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall initiate a rulemaking proceeding to consider requiring (1) adequate, uniform life preservers, life rafts, and floatation devices for passengers, including small children and infants, on any flight of an air carrier which the Secretary determines a part of which flight will occur over water, and (2) adequate information and instructions as to the use of such preservers, rafts, and floatation devices.

(b) Improved Crashworthiness Standards for Aircraft Seats.—Not later than 120 days after the date of the enactment of this Act, the Secretary shall initiate a rulemaking proceeding to consider requiring all seats on board all air carrier aircraft to meet improved crashworthiness standards based upon the best available testing standards for crashworthiness.

(c) Cockpit Voice Recorders and Flight Data Recorders.—Not later than 120 days after the date of the enactment of this Act, the Secretary shall initiate a rulemaking proceeding to consider the use of cockpit voice recorders and flight data recorders on commuter aircraft and other aircraft, commensurate with the recommendations of the National Transportation Safety Board.

(d) Monthly Status Reports.—The Secretary shall transmit to Congress monthly status reports on the rulemaking proceedings being conducted under subsections (a), (b), and (c) of this section.

(e) Aircraft Design and Equipment.—

(1) Study.—The Secretary shall conduct a study pertaining to aircraft design and equipment which minimize the incidence of fire or explosion, including fuel tanks (including crash resistant inner fuel tanks and breakaway, self-closing fittings throughout the fuel system).

(2) Report.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall transmit to Congress a report on the results of the study conducted under this subsection, together with recommendations.

(f) Report on Modernization Recommendations.—Not later than 90 days after the date of the enactment of this Act, the Secretary shall report to Congress on specific regulations the Secretary has adopted or intends to adopt to modernize and improve the oversight and inspection of air carrier maintenance and safety-related procedures.

SEC. 304. INFLATION ADJUSTMENT ON COLLECTION OF CERTAIN AVIATION FEES.

Section 334 of title 49, United States Code, is amended by inserting before the period at the end of the first sentence the following: ", adjusted in proportion to changes in the Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics of the Department of Labor between January 1, 1973, and the date the charge is imposed".

SEC. 305. AMENDMENTS TO THE NATIONAL DRIVER REGISTER ACT.

(a) Expansion of Coverage.—Section 206(a)(1) of the National Driver Register Act of 1982 (23 U.S.C. 401 note) is amended by striking out "highway" and inserting in lieu thereof "transportation".

(b) Applicants for Airmen's Certificates.—Section 206(b) of such Act is amended—

(1) by redesignating paragraphs (3) and (4), and any reference thereto, as paragraphs (4) and (5), respectively; and

(2) by inserting after paragraph (2) the following new paragraph:

"(3) Any individual who has applied for or received an airman's certificate may request the chief driver licensing official of a State to transmit information regarding the individual under subsection (a) of this section to the Administrator of the Federal Aviation Administration. The Administrator of the Federal Aviation Administration may receive such information and shall make such information available to the individual for review and written comment. The Administrator shall not otherwise divulge or use such information, except to verify information required to be reported to the Administrator by an airman applying for an airman medical certificate and to evaluate whether the airman meets the minimum standards as prescribed by the Administrator to be issued an airman medical certificate. There shall be no access to information in the Register under this paragraph if such information was entered in the Register more than 3 years before the date of such request, unless such information relates to revocations or suspensions which are still in effect on the date of the request. Information submitted to the Register by States under the Act of July 14, 1960 (74 Stat. 526), or under this Act shall be subject to access for the purpose of this paragraph during the transition to the Register established under section 203(a) of this Act.".

(c) Conforming Amendments.—Section 206(b) of such Act is further amended by adding at the end of each of paragraphs (1), (2), and (4) (as redesignated by subsection (b) of this section) the following new sentence: "Information submitted to the Register by States under the Act of July 14, 1960 (74 Stat. 526), and under this Act shall be subject to access for the purpose of this paragraph during the transition to the Register established under section 203(a) of this Act.".

SEC. 306. LOW ACTIVITY LEVEL I AIR TRAFFIC CONTROL TOWER CONTRACT PROGRAM.

The Secretary shall continue in effect the low activity (VFR) Level I air traffic control tower contract program established under section 526 of the Airport and Airway Improvement Act of 1982 with respect to existing contract towers and shall extend such program to other towers as practicable.

SEC. 307. ELIGIBILITY OF DERMOTT, ARKANSAS, MUNICIPAL AIRPORT.

In the administration of the provisions of the Airport and Airway Improvement Act of 1982, the municipal airport of the city of Dermott, Arkansas, shall not be denied eligibility for assistance under such Act on the basis that such airport is located on leased land, if such lease is for a period of at least 99 years, and if the land so leased consists of at least 25 acres.

SEC. 308. STANDARDS FOR NAVIGATIONAL AIDS.

Not later than December 31, 1988, the Secretary shall promulgate regulations to establish criteria for the installation of airport control towers and other navigational aids. For each type of facility, the regulations shall, at a minimum, consider traffic density (number of aircraft operations without consideration of aircraft size), terrain and other obstacles to navigation, weather characteristics, passengers served, and potential aircraft operating efficiencies.

SEC. 309. LONG-TERM AIRPORT CAPACITY NEEDS.

(a) Study.—The Secretary shall conduct a study for the purpose of developing an overall airport system plan through the year 2010 which will assure the long-term availability of adequate airport system capacity.

(b) Reports.—

(1) Preliminary report.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall transmit to Congress a preliminary report on the status of the plan being developed under subsection (a).

(2) Final report.—Not later than January 1, 1990, the Secretary shall transmit to Congress a final report on the results of the study conducted under subsection (a), together with the plan developed under such subsection.

(c) Funding.—There shall be available to the Secretary from the Airport and Airway Trust Fund $250,000 per fiscal year for each of fiscal years 1988 and 1989 for carrying out this section. Such funds shall remain available until expended.

SEC. 310. RADIO NAVIGATION SYSTEMS.

(a) Synchronization.—

(1) Loran-c master transmitters.—Not later than September 30, 1989, the Secretary shall take such action as may be necessary to synchronize all loran-C master transmitters located in the United States and all loran-C master transmitters subject to the jurisdiction of the United States. Each such master transmitter shall be synchronized to within approximately 100 nanoseconds of universal time.

(2) Other loran-c transmitters.—

(A) Impact study.—The Secretary shall conduct a study of the impact on users of loran-C transmitted signals of synchronizing time of signal transmissions among all secondary loran-C transmitters in the United States in accordance with the standard set forth in the second sentence of paragraph (1).

(B) Report.—Not later than September 30, 1989, the Secretary shall transmit to Congress a report on the results of the study conducted under subparagraph (A).

(3) Authorization.—There shall be available for carrying out this subsection from the Airport and Airway Trust Fund $750,000 for fiscal year 1988 and $500,000 for fiscal year 1989. Such funds shall remain available until expended.

(b) Interoperability of Radio Navigation Systems.—

(1) Study.—The Secretary shall study and evaluate methods of coordinating the time references of the loran-C transmitter system and the global positioning satellite system to within approximately 30 nanoseconds of each other for the purpose of making possible the interchange of positioning data between the 2 systems.

(2) Report.—Not later than September 30, 1989, the Secretary shall transmit to Congress a report on the results of the study conducted under paragraph (1).

(3) Authorization.—There shall be available for carrying out this subsection from the Airport and Airway Trust Fund $500,000 for fiscal year 1988. Such funds shall remain available until expended.

(c) Development of Minimum Standards.—Not later than September 30, 1989, the Administrator shall establish by regulation minimum standards under which a radio navigation system may be certified as the sole radio navigation system required in an aircraft for operation in airspace of the United States.

SEC. 311. REPORTING OF ACCIDENTS TO NTSB.

(a) General Rule.—Section 304(a)(6) of the Independent Safety Board Act of 1974 (49 U.S.C. App. 1903(a)(6)) is amended to read as follows:

"(6) establish by regulation requirements binding on persons reporting (A) accidents and aviation incidents subject to the Board's investigatory jurisdiction under this subsection, and (B) accidents and aviation incidents involving public aircraft other than aircraft of the Armed Forces and the Intelligence Agencies;".

(b) Report to Congress.—Not later than 18 months after the date of the enactment of this Act, the National Transportation Safety Board shall report to the Congress its findings on public aircraft accidents and incidents.

SEC. 312. ATLANTIC CITY AIRPORT.

(a) Limitation on Funding or Transfers of Property.—Notwithstanding any other provision of law, with regard to the Atlantic City Airport, at Pomona, New Jersey, the Federal Aviation Administration shall not convey any interest in property (pursuant to section 516 of the Airport and Airway Improvement Act of 1982) to any municipality or any other entity operating such airport, nor shall any funds authorized to be appropriated for fiscal year 1987 by such Act be available to such municipality or entity for any planning, study, design, engineering, or construction of a runway extension, new runway, new passenger terminal, or improvements to or expansion of the existing passenger terminal at such airport, until such time as—

(1) the master plan update for Atlantic City Airport and Bader Field, prepared pursuant to Federal Aviation Administration Contract FA-EA-2656, is completed and released; and

(2) the Administrator finds that a public entity has been created to operate and manage the Atlantic City Airport, which entity has the following characteristics:

(A) the authority to enter into contracts and other agreements, including contracts, leases, cooperative agreements, or other transactions with any agency or instrumentality of the United States;

(B) the standing to sue and be sued in its own name;

(C) the authority to hire and dismiss officers and employees;

(D) the power to adopt, amend, and repeal bylaws, rules, and regulations governing the manner in which its business may be conducted and the powers vested in it may be exercised;

(E) the authority to acquire, in its own name, an interest in such real or personal property as is necessary or appropriate for the operation and maintenance of the airport;

(F) the power to acquire property by the exercise of the right of eminent domain;

(G) the power to borrow money by issuing marketable obligations, or such other means as is permissible for public authorities under the laws of the State of New Jersey;

(H) adequate financial resources to carry out all activities which are ordinarily necessary and appropriate to operate and maintain an airport;

(I) a governing board which includes (but need not be limited to) voting representatives of the city of Atlantic City, the county of Atlantic, and the municipalities which are adjacent to or are directly impacted by the airport;

(J) a charter which includes (i) a requirement that members of the governing board have expertise in transportation, finance, law, public administration, aviation, or such other qualifications as would be appropriate to oversee the planning, management, and operation of an airport, and (ii) procedures which protect the research and development mission of the Federal Aviation Technical Center at Pomona, New Jersey, and the defense functions of the Air National Guard; and

(K) the authority to carry out comprehensive transportation planning to minimize the traffic congestion and facilitate access to and from the airport.

(b) Safety Funds Not Subject to Limitation.—The limitation on funds set forth in subsection (a) shall not apply to any expenditure which the Administrator determines is needed for safety purposes.

(c) Availability of Restricted Funds.—Notwithstanding any other provision of law, the funds restricted under subsection (a) shall become available at such time as the conditions set forth in subsection (a) are satisfied.

SEC. 313. RELEASE OF CERTAIN CONDITIONS.

(a) Stapleton International Airport, Denver, Colorado.—

(1) Authority to grant release.—Notwithstanding section 16 of the Federal Airport Act (as in effect on the date of each conveyance referred to in this subsection) with respect to such conveyance, the Secretary is authorized, subject to the provisions of section 4 of the Act of October 1, 1949 (63 Stat. 700; 50 U.S.C. App. 1622c), and the provisions of paragraph (2) of this subsection, to grant release—

(A) from any of the terms, conditions, reservations, and restrictions contained in each deed of conveyance under which the United States conveyed property to the city and county of Denver, Colorado, on which any portion of Stapleton International Airport is located; and

(B) from any assurance made by the sponsor of such airport for a grant under the Airport and Airway Improvement Act of 1982 for a project at such airport.

(2) Conditions.—Any release granted by the Secretary under paragraph (1) of this subsection shall be subject to the following conditions:

(A) The city and county of Denver, Colorado, shall agree that in conveying any interest in the property which the United States conveyed to the city and county by the deeds described in paragraph (1) the city and county will receive an amount for such interest which is equal to the fair market value (as determined pursuant to regulations issued by the Secretary).

(B) Any such amount so received by the city and county shall be used by the city and county for the development, construction, and improvement of (i) a new Denver air carrier airport, and (ii) a reliever airport in the event that the operation of the new air carrier airport severely restricts the operation of the nearby reliever airport. In no event shall such amount be used for operation or maintenance of such airports.

(C) The city and county shall agree not to convey any interest in the property which the United States conveyed to the city and county by the deeds described in paragraph (1) until the opening and initial operation of a primary airport to replace Stapleton International Airport, unless the Secretary determines that any such property is not essential for the operation of Stapleton International Airport.

(b) Hawaii.—

(1) Authority to grant release.—Notwithstanding section 23 of the Airport and Airway Development Act of 1970 (as in effect

on April 6, 1982), the Secretary is authorized, subject to the provisions of section 4 of the Act of October 1, 1949 (63 Stat. 700; 50 U.S.C. App. 1622c), and the provisions of paragraph (2) of this subsection, to grant releases from any of the terms, conditions, reservations, and restrictions contained in the deed of conveyance, dated April 6, 1982, under which the United States conveyed certain property to the State of Hawaii for airport purposes.

(2) CONDITIONS.—Any release granted by the Secretary under paragraph (1) of this subsection shall be subject to the following conditions:

(A) The property for which a release is granted under this subsection shall not exceed 2.280 acres.

(B) The State of Hawaii shall agree that, in conveying any interest in the property which the United States conveyed to the State by a deed described in paragraph (1), the State will receive an amount for such interest which is equal to the fair market value.

(C) Any amount so received shall be used for airport purposes only.

(D) In the event land or any interest therein is received in exchange for all or part of the 2.280 acres, the deed of conveyance of such land or interest will contain language mandating that—

(i) the land or interest must be used for airport purposes only;

(ii) such land or interest in land received by the State of Hawaii may not be conveyed by the State, except by approval of the Federal Government, pursuant to the authority vested in the Secretary under section 4 of the Act of 1949 (63 Stat. 700; 50 U.S.C. App. 1622c);

(iii) such conveyance by the State of Hawaii shall be subject to receipt of fair market value; and

(iv) the proceeds from such conveyance by the State of Hawaii shall be used for airport purposes only.

(c) LAREDO INTERNATIONAL AIRPORT, LAREDO, TEXAS.—

(1) AUTHORITY TO GRANT RELEASE.—Subject to paragraph (2), in recognition of the benefits to the public, the city of Laredo, Texas, and its successors and assigns are hereby released from all terms, conditions, reservations, and restrictions contained in the instrument of disposal dated February 21, 1975, by which the United States conveyed the property on which the Laredo International Airport, Laredo, Texas, is located to such city to the extent that such terms, conditions, reservations, and restrictions apply to the portion of such property consisting of approximately 680.1586 acres of land which is designated under the 1985 master plan and land use plan for the Laredo International Airport as being available for nonaviation purposes.

(2) CONDITIONS.—The release granted by paragraph (1) shall be subject to the following conditions:

(A) All revenues derived from the property to which such release applies shall be used for development, improvement, operation, and maintenance of the Laredo International Airport.

(B) The use of property to which such release applies shall not interfere with the operation and maintenance of such airport.

(C) Property to which such release applies may only be rented or leased if the term of the rental or lease agreement is 20 years or less and if compensation which is not less than—

(i) ¼ of fair market value is received in the case of a rental or lease agreement for a term of 10 years or less; and

(ii) ½ of fair market value is received in the case of a rental or lease agreement for a term of more than 10 years.

(D) Property to which such release applies may only be transferred if compensation which is equal to or more than fair market value is received.

(E) The city of Laredo, Texas, shall provide to the Administrator—

(i) an accounting and management plan acceptable to the Administrator for managing the Laredo International Airport general fund; and

(ii) an explanation of the management by such city of such general fund in calendar years beginning after December 31, 1977, and ending before the date of the enactment of this Act.

(3) IMPLEMENTATION.—The Administrator shall take such action as may be necessary to carry out the provisions of this subsection.

SEC. 314. FLIGHT SERVICE STATION IN JUNEAU, ALASKA.

(a) DESIGNATION.—The Federal Aviation Administration flight service station located in Juneau, Alaska, shall be known and designated as the "Dave Scheytt Flight Service Station".

(b) LEGAL REFERENCE.—Any reference in a law, map, regulation, document, or other paper of the United States to the flight service station referred to in subsection (a) shall be deemed to be a reference to the "Dave Scheytt Flight Service Station".

SEC. 315. GRAND CANYON AIRPORT.

(a) STUDY.—The Secretary shall conduct a study of methods of air traffic control which might be utilized at the Grand Canyon Airport, including the feasibility of installing radar for air traffic control purposes.

(b) REPORT.—Not later than the 180th day following the date of the enactment of this Act, the Secretary shall report to Congress the results of the study conducted under subsection (a), together with recommendations.

TITLE IV—EXTENSION OF AVIATION-RELATED TAXES AND AIRPORT AND AIRWAY TRUST FUND SPENDING AUTHORITY

SEC. 401. SHORT TITLE.

This title may be cited as the "Airport and Airway Revenue Act of 1987".

SEC. 402. 3-YEAR EXTENSION OF AVIATION-RELATED TAXES.

(a) IN GENERAL.—The following provisions of the Internal Revenue Code of 1986 are each amended by striking out "January 1, 1988" each place it appears and inserting in lieu thereof "January 1, 1991":

(1) Section 4261(f) (relating to transportation of persons by air).

(2) Section 4271(d) (relating to transportation of property by air).

(3) Section 9502(b) (relating to transfer to Airport and Airway Trust Fund of amounts equivalent to certain taxes).

(b) FUEL USED IN NONCOMMERCIAL AVIATION.—Paragraph (5) of section 4041(c) of such Code (relating to noncommercial aviation) is amended by striking out "December 31, 1987" and inserting in lieu thereof "December 31, 1990".

SEC. 403. EXTENSION OF AIRPORT AND AIRWAY TRUST FUND SPENDING AUTHORITY.

(a) EXPENDITURES FROM TRUST FUND.—The material preceding subparagraph (A) of paragraph (1) of section 9502(d) of the Internal Revenue Code of 1986 (relating to expenditures from Airport and Airway Trust Fund) is amended by striking out "October 1, 1987" and inserting in lieu thereof "October 1, 1992".

(b) TRUST FUND PURPOSES.—Subparagraph (A) of section 9502(d)(1) of such Code is amended by striking out "(as such Acts were in effect on the date of the enactment of the Surface Transportation Assistance Act of 1982)" and inserting in lieu thereof "or the Airport and Airway Safety and Capacity Expansion Act of 1987 (as such Acts were in effect on the date of the enactment of the Airport and Airway Safety and Capacity Expansion Act of 1987)".

SEC. 404. EXEMPTION FOR CERTAIN EMERGENCY MEDICAL TRANSPORTATION BY HELICOPTER.

(a) IN GENERAL.—Section 4261 of the Internal Revenue Code of 1986 (relating to imposition of tax on transportation by air) is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

"(f) EXEMPTION FOR CERTAIN EMERGENCY MEDICAL TRANSPORTATION.—No tax shall be imposed under this section or section 4271 on any air transportation by helicopter for the purpose of providing emergency medical services if such helicopter—

"(1) does not take off from, or land at, a facility eligible for assistance under the Airport and Airway Development Act of 1970 during such transportation, and

"(2) does not otherwise use services provided pursuant to the Airport and Airway Improvement Act of 1982 during such transportation."

(b) TAX FREE SALES.—Subsection (l) of section 4041 of such Code (relating to exemption for certain helicopter uses) is amended to read as follows:

"(l) EXEMPTION FOR CERTAIN HELICOPTER USES.—No tax shall be imposed under this section on any liquid sold for use in, or used in, a helicopter for purposes of providing transportation with respect to which the requirements of subsection (e) or (f) of section 4261 are met."

(c) TECHNICAL AMENDMENT.—Subsection (e) of section 4261 of such Code is amended by striking out "System Improvement Act" and inserting in lieu thereof "Improvement Act".

(d) EFFECTIVE DATES.—

(1) SUBSECTION (a).—The amendment made by subsection (a) shall apply to transportation beginning after September 30, 1988, but shall not apply to amounts paid on or before such date.

(2) SUBSECTION (b).—The amendment made by subsection (b) shall take effect on October 1, 1988.

SEC. 405. REDUCTION IN AVIATION-RELATED TAXES WHERE APPROPRIATIONS ARE SIGNIFICANTLY BELOW AUTHORIZATIONS.

(a) IN GENERAL.—Part III of subchapter C of chapter 33 of the Internal Revenue Code of 1986 (relating to facilities and services) is amended by adding at the end the following new section:

"SEC. 4283. REDUCTION IN AVIATION-RELATED TAXES IN CERTAIN CASES.

"(a) REDUCTION IN RATES.—If the funding percentage is less than 85 percent, with respect to any taxable event occurring during 1990—

"(1) subsections (a) and (b) of section 4261 (relating to tax on transportation of persons by air) shall each be applied by substituting '4 percent' for '8 percent',

"(2) subsection (a) of section 4271 (relating to tax on transportation of property by air) shall be applied by substituting '2.5 percent' for '5 percent', *"(3) paragraph (1) of section 4041(c) (relating to tax on certain fuels used in noncommercial aviation) shall be applied by substituting '7 cents' for '14 cents', and*

"(4) paragraph (2) of section 4041(c) (relating to tax on gasoline used in noncommercial aviation) shall not apply.

"(b) Funding Percentage.—

"(1) In general.—For purposes of this section, the funding percentage is the percentage (determined by the Secretary) which—

"(A) the sum of—

"(i) the aggregate amounts obligated under section 505 of the Airport and Airway Improvement Act of 1982 for fiscal years 1988 and 1989, and

"(ii) the aggregate amounts appropriated under subsections (a) and (b) of section 506 of such Act for such fiscal years, is of

"(B) the sum of—

"(i) the aggregate amounts authorized to be obligated under such section 505 for such fiscal years, and

"(ii) the aggregate amounts authorized to be appropriated under subsections (a) and (b) of such section 506 for such fiscal years.

"(2) Rules for applying paragraph (1).—

"(A) Treatment of prior year amounts.—For purposes of paragraph (1), an amount shall be treated as authorized, obligated, or appropriated only for the 1st fiscal year for which it is authorized, obligated, or appropriated, as the case may be.

"(B) Treatment of sequestered amounts.—The determination under paragraph (1)(A) shall be made without regard to the sequestration of any amount described therein pursuant to an order under part C of title II of the Balanced Budget and Emergency Deficit Control Act of 1985 (or any successor law).

"(3) Determination of funding percentage.—

"(A) In general.—Not later than December 1, 1989, the Secretary shall determine—

"(i) the funding percentage, and

"(ii) whether the rate reductions under this section shall apply to taxable events occurring during 1990.

"(B) Determinations to be published in Federal Register.—As soon as practicable after making the determinations under subparagraph (A), the Secretary shall publish such determinations in the Federal Register.

"(c) Taxable Event.—For purposes of this section—

"(1) Taxable transportation by air.—In the case of the taxes imposed by sections 4261 and 4271, the taxable event shall be treated as occurring when the payment for the taxable transportation is made.

"(2) Sale or use of fuel.—In the case of the taxes imposed by section 4041(c), the taxable event shall be the sale or use on which tax is imposed."

(b) Refund of Fuel Taxes on Noncommercial Aviation Where Rate Reduction in Effect.—

(1) In general.—Section 6427 of such Code (relating to fuels not used for taxable purposes) is amended by redesignating subsection (p) as subsection (q) and by inserting after subsection (o) the following new subsection:

"(p) Gasoline Used in Noncommercial Aviation During Period Rate Reduction In Effect.—Except as provided in subsection (k), if—

"(1) any tax is imposed by section 4081 on any gasoline,

"(2) such gasoline is used during 1990 as a fuel in any aircraft in noncommercial aviation (as defined in section 4041(c)(4)), and

"(3) no tax is imposed by section 4041(c)(2) on taxable events occurring during 1990 by reason of section 4283, the Secretary shall pay (without interest) to the ultimate purchaser of such gasoline an amount equal to the excess of the aggregate amount of tax paid under section 4081 on the gasoline so used over an amount equal to 6 cents multiplied by the number of gallons of gasoline so used."

(2) Technical amendments.—

(A) Paragraph (1) of section 6427(i) of such Code is amended by striking out "or (h)" and inserting in lieu thereof "(h), or (p)".

(B) Clause (i) of section 6427(i)(2)(A) of such Code is amended by striking out "and (h)" and inserting in lieu thereof "(h), and (p)".

(3) Cross reference.—Subsection (c) of section 4041 of such Code is amended by adding at the end thereof the following new paragraph:

"(6) Reduction in rates of tax in certain circumstances.—For reduction of rates of taxes imposed by paragraphs (1) and (2) in certain circumstances, see section 4283."

(c) Clerical Amendment.—The table of sections for part III of subchapter C of chapter 33 of such Code is amended by adding at the end the following new item:

"Sec. 4283. Reduction in aviation-related taxes in certain cases."

And the Senate agree to the same.

From the Committee on Public Works and Transportation, for consideration of titles I and III of the House bill and title I of the Senate amendment, and modifications committed to conference:

James J. Howard,
Glenn M. Anderson,
Norman Y. Mineta,
James L. Oberstar,
Henry J. Nowak,
Nick Rahall,
Peter J. Visclosky
(for consideration of sec. 109 of the Senate amendment only, in lieu of Mr. Rahall),
John Paul Hammerschmidt,
Bud Shuster,
Arlan Stangeland,
Newt Gingrich,
Ron Packard
(for consideration of sec. 120 of the Senate amendment only, in lieu of Mr. Shuster),

From the Committee on Science, Space, and Technology, for consideration of sec. 102(b) of the House bill and secs. 107 and 120 of the Senate amendment, and modifications committed to conference:

Robert A. Roe,
Dave McCurdy,
Dan Glickman,
Manuel Lujan, Jr.,
Tom Lewis,

From the Committee on Ways and Means, for consideration of title II and sec. 114 of the House bill and title II and sec. 114 of the Senate amendment, and modifications committed to conference:

Dan Rostenkowski,
Sam M. Gibbons,
J.J. Pickle,
Barbara B. Kennelly,
Managers on the Part of the House.

From the Committee on Commerce, Science, and Transportation:

Fritz Hollings,
Wendell Ford,
J.J. Exon,
John C. Danforth,
N. Kassebaum,

From the Committee on Finance, solely for consideration of title II:

Lloyd Bentsen,
Spark M. Matsunaga,
Bob Packwood,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2310) to amend the Airport and Airway Improvement Act of 1982 for the purpose of extending the authorization of appropriations for airport and airway improvements, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck out all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment which is a substitute for the House bill and the Senate amendment. The difference between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

1. Authorization for Airport Improvement and Noise Abatement Program

House Bill

Authorizes the following amounts for the Airport Improvement and Noise Abatement program:

Fiscal year 1988—$1.720 billion
Fiscal year 1989—$1.720 billion
Fiscal year 1990—$1.699 billion
Fiscal year 1991—$1.760 billion
Fiscal year 1992—$1.712 billion

Senate Amendment

Authorizes the following amounts for the Airport Improvement and Noise Abatement Programs:

Fiscal year 1988—$1.600 billion
Fiscal year 1989—$1.700 billion
Fiscal year 1990—$1.800 billion

Conference Substitute

Authorizes the following amounts for the Airport Improvement and Noise Abatement programs:

Fiscal year 1988—$1.7 billion
Fiscal year 1989—$1.7 billion
Fiscal year 1990—$1.7 billion
Fiscal year 1991—$1.8 billion
Fiscal year 1992—$1.8 billion

2. Authorization for Facilities and Equipment Program

House Bill

Authorizes the following amounts for the Facilities and Equipment Programs:

Fiscal year 1988—$1.377 billion
Fiscal year 1989—$1.730 billion
Fiscal year 1990—$2.191 billion
Fiscal year 1991—$1.990 billion
Fiscal year 1992—$2.083 billion

Senate Amendment

Authorizes the following amounts for the Facilities and Equipment programs:

Fiscal year 1988—$1.50 billion

Fiscal year 1989—$1.50 billion
Fiscal year 1990—$1.75 billion

Conference Substitute

Authorizes the following amounts for the Facilities and Equipment programs:

Fiscal year 1988—$1.377 billion
Fiscal year 1989—$1.730 billion
Fiscal year 1990—$2.191 billion

3. Minimum for Instrument Landing Systems

House bill

Provides that from the F&E authorization, not less than $27 million in Fiscal Year 1988, $30 million in Fiscal Year 1989 and $35 million in Fiscal Year 1990 shall be spent for Instrument Landing Systems (ILS) (75% for ILS's at primary and reliever airports, 25% for ILS's at other airports.)

Senate amendment

No similar provision.

Conference substitute

Same as House bill.

The bill sets minimum levels of funding for installing Instrument Landing systems of $27 million for FY 1988, $30 million for FY 1989, and $35 million for FY 1990. Seventy-five percent of the amounts for Instrument Landing Systems installation shall be made available for their purchase and installation at primary airports and reliever airports and 25 percent of the amounts shall be available for their purchase and installation at other airports.

The conferees recognize that due to cost and installation variables, FAA may not be able to meet the exact percentages established for acquisition and installation or Instrument Landing Systems at primary and reliever airports and at other airports. However, FAA is directed to come as close as feasible to the 75 percent/25 percent proportion called for in the legislation.

General aviation airports as well as commercial service airports shall be the recipients of Instrument Landing Systems under this provision. In implementing this set-aside, the FAA shall establish qualifying criteria that will allow all sizes of airports to benefit through the installation of these systems.

The Conferees are concerned about the lack of progress in implementing the Microwave Landing System Program. This has occurred even though the need for navigation systems, at both air carrier and general aviation airports, has continued to increase. The lack of such systems has served to restrict the growth of airport capacity and requires the installation of some Instrument Landing Systems in the interim.

At the same time, the conferees note that the Microwave Landing System has been adopted by the International Civil Aviation Organization (ICAO) and, indeed, is the only system that is feasible at some airports surrounded by hilly terrain. The authorization for Instrument Landing Systems in the bill should not be viewed, at this time, as lessening our commitment to the Microwave Landing System.

4. Operations and Maintenance from the Trust Fund

House bill

For Fiscal Years 1988-1992, authorizes funding for Operations and Maintenance from the Trust Fund of a sum equal to 50% of the amounts made available for the Airport Improvement, Facilities and Equipment, and Research, Engineering and Development programs.

Senate amendment

For Fiscal Years 1988-1990, authorizes funding for Operations and Maintenance from the Trust fund of the same amount as is made available for the Airport Improvement Program.

Conference substitute

House bill formula, authorized for Fiscal Years 1988-1990.

5. Operations and Maintenance Penalty

House bill

Establishes a $3 reduction in the authorization for Operations and Maintenance from the Trust Fund for each $1 that the actual funding for the Airport Improvement, Facilities and Equipment, and Research and Development programs fall short of the authorized amount. The reduction in the authorization for Operations and Maintenance is credited to the discretionary fund for the Airport Improvement Program.

Senate amendment

No change in current law which establishes a $2 penalty, applying only to funding for Facilities and Equipment.

Conference substitute

Establishes a $2 reduction in the authorization for Operations and Maintenance from the Trust Fund for each $1 that the actual funding for the Airport Improvement, Facilities and Equipment, and Research and Development programs fall short of the authorized amount. If the Operations and Maintenance authorization is reduced and in a subsequent year the funding for the Airport Improvement, Facilities and Equipment, and Research and Development programs exceeds the amounts newly authorized for that year, then the authorization for Operations and Maintenance is increased on a 2-1 basis, up to the amount of the prior reduction.

6. Reimbursement of the National Oceanic and Atmospheric Administration from Trust Fund

House bill

Authorizes reimbursement of the National Oceanic and Atmospheric Administration from the Trust Fund for Fiscal Years 1988-1992 at $30 million a year.

Senate amendment

Authorizes reimbursement of the National Oceanic and Atmospheric Administration from the Trust Fund for Fiscal Years 1988-1990 at $30 million a year.

Conference substitute

Senate amendment.

7. Apportionment for Primary Airports

(A) ELIGIBLE AIRPORTS

House bill

Apportionment goes to airports with 18,000 or more annual enplanements.

Senate amendment

Apportionment goes to airports with 10,000 or more annual enplanements.

Conference substitute

Senate amendment.

The conferees emphasize the importance of developing, in metropolitan areas, an Integrated System of Airports designed to provide maximum access and safety for all airspace users. Therefore, the conference report continues the requirement in current law for a National Plan of Integrated Airport Systems (NPIAS) to meet the needs of our national air transportation system. The Managers believe that the planning, preservation, and enhancement of airport system capacity, safety, and security must continue to be a priority objective of FAA and all state and local airport sponsors.

The FAA needs to take a national systems approach to planning for airport development and capacity enhancement. This will require a major cooperative effort involving FAA and the state and local government airport sponsors.

The NPIAS shall include the type and estimated cost of eligible airport development necessary to provide a safe, efficient and integrated system of public use airports to meet the needs of civil aeronautics, the national defense, and the Postal Service.

As the FAA proceeds with the implementation of the National Airspace System (NAS) Plan, it is vital to the public interest that it be fully coordinated with the implementation strategy of the National Plan of Integrated Airport Systems.

In reviewing and revising the NPIAS, the Secretary shall consider the needs of and consult with all segments of civil aviation and, where appropriate, military aviation.

The conferees expect that the implementation of the National Plan of Integrated Airport Systems will result in an overall enhancement of air safety and capacity and will help alleviate congestion and delays.

(B) INCREASES IN MAXIMUM AND MINIMUMS

House bill

Establishes a $300,000 minimum and a $16,000,000 maximum for annual enplanement funding.

Senate amendment

Same as House bill.

Conference substitute

Same as House bill.

(C) CEILING

House bill

Establishes a ceiling of 49.5% of the AIP program for passenger and cargo entitlements.

Senate amendment

Establishes a ceiling of 38% for passenger entitlement.

Conference substitute

House bill.

8. Cargo Entitlement

(A) ELIGIBLE AIRPORTS

House bill

Establishes entitlement funding for airports with all-cargo service with an aggregate annual landed weight in excess of 500,000,000 pounds.

Senate amendment

Establishes entitlement funding for airports with all-cargo service with an aggregate annual landed weight in excess of 100,000,000 pounds.

Conference substitute

Senate amendment.

(B) TOTAL AMOUNT

House bill

$50 million a year.

Senate amendment

3% of total Airport Improvement Program a year.

Conference substitute

3% of total Airport Improvement Program a year, with a cap of $50 million.

(C) PER AIRPORT ENTITLEMENT

House bill

Each airport's percentage of the landed weight at all eligible airports. No airport may receive more than 8% of total amount available.

Senate amendment

Same as House bill, but no cap on an individual airport's share.

Conference substitute

House bill.

9. STATE APPORTIONMENT

House bill

Current law modified to provide that insular areas can use apportioned funds at any airport.

Senate amendment

Current law modified to allow the State of Alaska to use apportionment for certain small commercial service airports.

Conference substitute

House bill and Senate amendment.

10. FUNDING FOR CAPACITY EXPANSION FOR SAFETY AND NOISE ABATEMENT

House bill

75% of discretionary fund shall be used for preserving and enhancing safety, capacity, and security at primary and reliever airports and noise compatibility and programs at primary and reliever airports.

Senate amendment

$250 milllion a year to primary and reliever airports to increase capacity.

Conference substitutes

House bill.

11. MINIMUM FUNDING

(A) RELIEVERS

House bill

No change in existing law. (10% of program)

Senate amendment

Continues existing law, and adds a requirement that a minimum of $300,000 annually be apportioned to each primary reliever airport (which is defined as a reliever airport meeting specified requirements for level of operations, based aircraft, and proximity to a pacing airport).

Conference substitute

House bill.

Although the conference report does not adopt the Senate provision creating a "primary" reliever airport category with its concomitant minimum annual guarantee per airport, the larger airport improvement program authorized by this bill will result in a substantial increase in the group set-aside for all reliever airports. Considering the needs of the larger and busier reliever airports, the conferees direct FAA to assure that these facilities receive a reliable flow of funds under this authorization to assist qualified, high priority projects at such airports. Specifically, the use of this Act's new provision encouraging advance construction reimbursement is desirable in appropriate cases, allowing relievers to obtain a letter of commitment from the Secretary for multiyear funding.

(B) NOISE ABATEMENT

House bill

At least 10% of authorized Airport Improvement funds must be spent for noise abatement.

Senate amendment

Same as House bill.

Conference substitute

Same as House bill.

(C) SMALL COMMERCIAL SERVICE AIRPORTS

House bill

At least 4% of Airport Improvement funds must be spent at small commercial service airports.

Senate amendment

At least 2% of Airport Improvement funds must be spent at small commercial airports.

Conference substitute

At least 2½% of Airport Improvement funds must be spent at small commercial service airports.

(D) INTEGRATED AIRPORT SYSTEM PLANNING

At least ½ of 1% of Airport Improvement funds must be spent for integrated airport system planning.

Senate amendment

No change in current law. (1%)

Conference substitute

House bill.

12. SPONSOR ASSURANCES

(A) NONDISCRIMINATION

House bill

Assurance in existing law requiring airport to be open on a nondiscriminatory basis modified to indicate that assurance applies only to facilities directly and substantially related to providing air transportation; that an airport may not discriminate against cargo carriers; and that all willing carriers must be allowed to participate in airport use agreement.

Senate amendment

No comparable provision.

Conference substitute

House provision.

(B) APPROVAL OF NON-AERONAUTICAL CLOSINGS

House bill

Adds assurance that any proposal to temporarily close the airport for non-aeronautical purposes must be approved by Department of Transportation.

Senate amendment

No comparable provision.

Conference substitute

House bill.

(C) TERMINAL AIRSPACE ASSURANCE

House bill

Modifies existing assurance to require sponsor to take appropriate action to clear or protect the airspace needed to protect instrument and visual operations to the airport, including minimum flight altitudes.

Senate amendment

No comparable provision.

Conference substitute

House bill.

(D) REVENUE ASSURANCE

House bill

Existing assurance that revenue must be spent on the airport modified to provide that local aviation fuel taxes must be spent on the airport; that authorization to spend revenues for other transportation facilities is limited to facilities directly and substantially related to actual air transportation; and to clarify that exception permitting use of airport revenues to support debt obligations for other facilities is limited to cases in which such use of revenues was authorized before 1982.

Senate amendment

No comparable provision.

Conference substitute

House bill, modified to provide that the assurance requires that local aviation fuel taxes must be spent on the airport does not apply to taxes in effect on the date of enactment of this Act.

The assurance requiring that local taxes on aviation fuel must be spent on the airport is intended to apply to local fuel taxes only, and not to other taxes imposed by local governments, or to state taxes. Similarly, this provision is not intended to modify subsequent provisions in the bill which clarify that a state may commit the proceeds from state aviation fuel taxes to state aviation agencies and that an airport may apply airport revenues for airport noise abatement on or off the airport.

This amendment to the assurance in section 511(a)(12) changes the requirement in current law allowing revenue to be spent on local facilities owned or operated by the owner or operator of the airport and "directly related to the actual transportation of passengers or property." Under the amendment in the Conference Substitute, the facilities must be "directly and substantially related to the actual air transportation of passengers and property." The conferees intend this amendment to be prospective. It is not intended to invalidate the provisions of any pre-existing contractual agreement between an airport owner or operator and its airline tenants or other tenants which was entered into before the date of enactment and which was consistent with the law then in effect on the use of airport revenue, for transportation facilities. No airport owner or operator complying with such a contract shall be ineligible for grants on the basis that its compliance with a pre-existing contract conflicts with its assurances to the Secretary. In addition, this provision is not intended to prohibit the use of revenues generated by an airport for non-aviation transportation uses where the airport sponsor has obtained a legal opinion from the FAA, prior to enactment, that airport-generated funds may be used for facilities directly related to the actual transportation of passengers and/or property.

The Conferees intend to follow the same policies as were established in the 1982 reauthorization legislation on the types of revenues which are subject to this assurance.

This assurance is not intended to apply to revenue generated by facilities which are located on airport property but are unrelated to air operations or services which support or facilitate air transportation. Accordingly, it would not apply to revenue generated by such facilities as a water reservoir or a convention center which happen to be located on airport property, but which serve neither the airport nor any air transportation purpose. It would apply to such facilities as terminal concessions and parking lots serving the terminal or other air transportation purposes.

(E) DISPOSAL OF LAND

House bill

Assurance on use of funds obtained in disposing of land purchased with federal funds for noise abatement modified to provide that reinvestment of funds must be in approved noise compatibility projects. New assurance added concerning disposal of land for purposes other than noise abatement. Disposal is authorized when land is no longer needed for airport purposes. Land must be disposed of at fair market value and an amount proportionate to the United

States' share of the cost of acquisition must be deposited in the Trust Fund.

Senate amendment

No comparable provision.

Conference substitute

House bill.

(F) LAYOUT PLAN ASSURANCE

House bill

New assurance requiring an up-to-date layout plan and prohibiting changes in the airport which the Department of Transportation determines would adversely affect the safety or efficiency of the airport. If a change in the airport affects the efficiency of federal property, the airport owner must pay costs of restoring the federal property to its prior level of efficiency.

Senate amendment

No comparable provision.

Conference substitute

House bill, modified to clarify that an airport may make changes which are not in an approved layout plan if, in the opinion of the Secretary, the change would not adversely affect the safety, utility or efficiency of the airport.

The House bill is further modified to clarify that an airport is only obligated to pay the cost of restoring federal property impaired by a change in the airport if the change was not in conformity with an approved layout plan and if the Secretary determines that the change adversely affects the safety, utility or efficiency of the federal property.

(G) ENGINEERING AND DESIGN SERVICE

House bill

New assurance requiring contract for engineering and design services to be awarded in accordance with qualifications-based requirements established by federal law or an equivalent procedure prescribed by or for the sponsor of the airport.

Senate amendment

Similar provision allowing use of different procedures if required by State law.

Conference substitute

House bill.

(H) CONSULTATION REQUIREMENTS

House bill

Modifies consultation requirements in existing law to provide that before submitting an application, a sponsor must provide notice and opportunity for comment on the application to affected parties using the airport.

Senate amendment

No comparable provision.

Conference Substitute

Senate amendment.

The conferees are pleased to note that the primary industry groups concerned with this provision have agreed to establish a recommended industry-wide standard for consultation between airports and air carriers. The Air Transport Association, American Association of Airport Executives, and Airport Operators Council International have agreed to mutually adopt and recommend to their respective members an industry standard for aeronautical user consultation. We understand that the recommendation will cover both the timing and method of consultation. The conferees will monitor the compliance with this voluntary agreement to determine the success of this approach in resolving differences.

(I) MODIFYING ASSURANCES.

House bill

Before Secretary may modify assurances or require additional assurances, there must be notice and an opportunity for comment.

Senate amendment

No comparable provision.

Conference substitute

House provision.

The Conference substitute provides that before the Secretary may modify any AIP grant assurance required on the date of enactment or require compliance with any additional assurance (other than new assurances established by this legislation), the Secretary shall publish notice of the proposed change or addition to the sponsor assurances in the Federal Register and provide an opportunity for comment. The Secretary should not add or change any assurance until the Secretary has given adequate public notice of the proposed changes, and has allowed a reasonable period for comments to be filed by the airport sponsors and other interested parties.

13. DISADVANTAGED BUSINESS ENTERPRISES

House bill

Provides that not less than 10% of airport improvement funds must be spent with small business concerns owned and controlled by socially and economically disadvantaged individuals. Adds a new assurance that an airport must ensure, to the maximum extent practicable, that at least 10% of concessions at the airports go to small business concerns owned or leased by socially and economically disadvantaged individuals.

Senate amendment

No comparable provision.

Conference substitute

House bill.

Modified to provide that with respect to assurance on concessions, the Secretary shall establish the definition of a small business concern. (There is no change in the provision in the House bill that the determination of whether a concern is owned and controlled by socially and economically disadvantaged individuals is to be made by reference to definitions in the Small Business Act subject to the presumption that women are to be considered as economically disadvantaged.)

The Conferees recognize that some airports may be unable to meet the 10% DBE goal for terminal concessions for reasons which include, but are not limited to, a lack of qualified DBEs in its area and existing multi-year concession contracts which may preclude immediate or short-term achievement of the DBE goal and limit opportunities to award new contracts to DBEs until existing agreements expire. The Secretary should establish a short- and long-term DBE concessional goals for these airports to allow a phase-in as new concession opportunities become available, and provide waivers for sponsors where the 10% goal is not reasonably or practicably achievable.

In administering this provision, the Secretary should not require airport sponsors to break existing contracts to fulfill this assurance. As options to renew existing contracts are exercised, or if a lease is amended for any purpose, opportunities for DBEs to participate as sublessees or joint ventures should be assessed and encouraged when feasible.

Under this provision, the Secretary would have discretion to determine the basis on which the 10% DBE requirement would be measured. In appropriate cases the requirement could be a percentage of the number of new concessions awarded to DBEs or a percentage of the terminal concession revenues received by the airport sponsor from all firms. The Conferees expect that airport sponsors whose terminal concessions do not meet the 10% DBE participation requirement will make good faith efforts toward achieving that goal by increasing the percentage of new concession contracts awarded to DBE firms.

It is the intention of the conferees that firms owned and controlled by women (WBEs) be included as a presumptive group within the definition of Disadvantaged Business Enterprise (DBE).

The conferees intend that the contractors bidding on federally funded Airport Improvement Projects will be able to make best efforts to meet DBE contract goals covering the federally funded portion (including state/local/private matching funds) of the project by using MBEs (as defined prior to this Act), WBEs or combinations thereof. Additionally, the conferees intend that the Department of Transportation and Airport Improvement Program grant sponsors should no longer require contractors to meet separate contract goals for MBEs and WBEs covering the federally funded portion (including state/local/private matching funds) of airport improvement projects. To the extent that airport development is funded exclusively with state, local or private funds, the conference substitute does not preempt action by state or local authorities.

14. STATE PROJECT SPONSORSHIP

House bill

Allows state to sponsor a project application for airport development project benefiting two or more airports for local airport sponsors consent, and there is agreement between the state and local sponsors and the FAA to assure compliance with appropriate grant conditions.

Senate amendment

No comparable provision.

Conference substitute

House bill.

15. STATE BLOCK GRANT

House bill

No provision.

Senate amendment

Establishes Pilot State Block Grant program for up to five states to administer all airport funding except primary airports. Program to run from Fiscal 1989 to Fiscal 1991.

Conference substitute

Senate amendment, modified to establish program for three states.

16. MAXIMUM UNITED STATES SHARE

House bill

Provides that maximum obligation of United States under a grant may not be increased by more than 15%.

Senate amendment

No comparable provision.

Conference substitute

House bill.

17. TERMINAL ELIGIBILITY

House bill

Allows airport to receive terminal development grants up to its full entitlement and allows United States share for terminal development to be up to 75%. The increases in amount and federal share over current law require a public interest determination by Secretary.

Senate amendment

Allow funding up to amount of entitlement. Makes regular federal share applicable (75% for larger airports; 90% for smaller airports).

Conference substitute

House bill modified to eliminate requirement of a public interest determination for increased amount and federal share.

18. Advance Construction Reimbursements

House bill

Permits the issuance of a Letter of Intent to fund a project at a primary or reliever airport in future fiscal years. If a Letter of Intent is issued the Secretary shall pay the costs incurred for the project as funds become available.

Senate amendment

Provides for grants to reimburse work already accomplished at a primary or reliever airport, if the Secretary was notified before the project began and was provided with information to assure that the project would be carried out in accordance with the applicable requirements.

Conference substitute

House bill modified to provide that Letters of Intent must be issued before a project is started, except that within 90 days after enactment, a letter of intent may be issued for a project begun after November 20, 1987.

Letters of Intent may be issued for projects to be funded with enplanement funds or discretionary funds. If a sponsor requests a Letter of Intent for a project to be funded with future enplanement funds only, the Conferees expect that a letter of intent will be issued if the project meets all statutory requirements.

19. Limitation on Withholding of Grants

House bill

Provides that the Secretary shall not withhold approval of an application for entitlement funds on the grounds of violation of an assurance unless there is an opportunity for hearing and a determination of noncompliance within 90 days. Provides that funding under an approved grant agreement may not be withheld for more than 60 days after payment is due without a hearing and a determination of a violation.

Senate amendment

No comparable provision.

Conference substitute

House bill modified to extend deadlines for determinations to 180 days. The Conferees expect that FAA Hearing Officers will adopt procedural schedules which will permit cases to be completed in 180 days, without depriving parties to the cases of procedural due process. We note that the Department of Transportation has developed procedures which have permitted merger cases, which may be considerably more complex than grant assurance cases, to be completed in 180 days.

20. Denial of Funds for Projects Using Products of Foreign Countries Which Deny Fair Market Opportunities

House bill

Prohibits use of funds for projects using products or services of a foreign country if the United States Trade Representative determines that the country denies fair and equitable market opportunities for United States suppliers or bidders for construction projects costing more than $500,000 which are funded by the government of the country. An exception to the prohibition is permitted if the Secretary determines that the prohibition would not be in the public interest, that similar products are not produced in the United States, or that exclusion of the foreign products would increase the cost of a project by more than 20%.

Senate amendment

Same as House bill.

Conference substitute

Same as House bill.

The prohibition on funding contained in this section is based upon a determination by the United States Trade Representative (USTR) within 30 days after submission to the Congress of the annual report on foreign trade barriers required under section 181(b) of the Trade Act of 1974 of whether each foreign country denies U.S. products, suppliers, or bidders fair and equitable market opportunities for certain construction projects. In order to focus limited resources on known significant barriers to U.S. trade, the conferees intend that the scope of USTR determinations for purposes of this Act be limited only to those foreign countries that are listed in the annual report as maintaining barriers to U.S. construction services for such projects. The conferees expect the annual report will describe significant barriers of any foreign country to such services and that existing authorities, particularly section 301 of the Trade Act of 1974, will also be used against unfair trade practices.

21. Project Costs

House bill

Prohibits use of airport improvement funds for cost of decorative landscaping or the installation of sculpture or art work.

Senate amendment

No comparable provision.

Conference substitute

House bill.

22. Inclusion of Heliports as Airports

House bill

Specifically includes heliports in definition of airports.

Senate amendment

No comparable provision.

Conference substitute

House bill.

23. Noise Abatement

(A) FUNDING FOR PROJECTS WHEN AIRPORT HAS NOT OBTAINED APPROVAL FOR COMPREHENSIVE NOISE ABATEMENT PROGRAM

House bill

Provides that if the Secretary finds that an airport is not making reasonable progress towards developing or implementing a noise compatibility program, 10% of the funds apportioned to the airport shall be made available to units of local government and public agencies near the airport for noise abatement programs and projects. Authorizes grants for soundproofing of schools and hospitals even though the airport has not obtained approval for a comprehensive noise abatement program.

Senate amendment

Authorizes funding for purchase of land for noise abatement even though no comprehensive plan has been approved. Allows continuation of exception in 1979 Noise Abatement Act permitting funding for noise abatement projects when Secretary determines that a program developed before the 1979 Act meets the purposes of the Act.

Conference substitute

House provision authorizing grants for soundproofing of schools and hospitals even though the airport has not obtained approval for a comprehensive noise abatement program. The Conference substitute also requires a study by the Department of Transportation to determine whether the procedures which the Federal Aviation Administration has developed for the preparation and submission of noise compatibility programs could be revised to provide a more simplified process which meets the objectives of the Aviation Safety and Noise Abatement Act of 1979, and whether or not expedited and simplified procedures could be developed to take account of special circumstances at certain airports. The special circumstances which should be considered in the study include airports surrounded by densely populated, long-established residential neighborhoods, where land acquisition would be a prohibitively expensive and socially undesirable solution to the airport noise problem.

The study must be completed in 18 months. During this 18-month period, the Conference substitute continues the Secretary's authority to make grants for noise abatement projects at an airport which has not obtained approval for a comprehensive noise program if the Secretary determines that the airport has a program developed before the 1979 Act which meets the purposes of that Act.

The study required by this provision is to be developed in consultation with affected individuals or groups. Without intending to limit this consultation requirement, the Conferees note that the procedures established by FAA for the development of noise compatibility programs are now being evaluated by an industry Task Force in the context of a review of a wide range of issues of noise and airport capacity. We expect the DOT study on procedures for noise compatibility programs to give full consideration to the conclusions of the industry Task Force.

(B) FEDERAL SHARE

House bill

Provides that federal share for noise abatement may be the percentage share under the Airport Improvement Program or the Aviation Safety and Noise Abatement Act of 1979, whichever is greater.

Senate amendment

No comparable provision.

Conference substitute

House bill.

(C) PUBLIC HEARING

House bill

Provides for notice and an opportunity for public hearing before an airport operator submits a noise compatibility program.

Senate amendment

No comparable provision.

Conference substitute

House bill.

(D) NOISE ABATEMENT

House bill

Requires a study by Federal Aviation Administration of noise abatement proposals not currently eligible for federal assistance.

Senate amendment

Similar provision.

Conference substitute

House bill.

This provision requires the FAA Administrator to conduct a study of innovative noise abatement proposals that are not currently eligible for federal assistance and to make recommendations as to whether or not some of these proposals should be eligible to receive federal assistance. This study should also examine how funding eligibility for additional types of projects should be related to an FAA-approved Part 150 Noise Compatibility Program.

The Conferees believe that the satisfactory resolution of noise abatement problems is an important factor in the ability to provide sufficient airside capacity at our nation's airports. The conferees have been apprised of innovative noise abatement programs which have not received federal assistance, either because of the lack of legal authority or because of administrative policies. The conferees believe that further consideration should be given to whether innovative measures, such as those proposed at the Baltimore-Washington International, Minneapolis-St. Paul, Orange County, California, and Seattle-Tacoma airports, should be made eligible for federal assistance. Noise abatement proposals to be studied should include, but not be limited to, the voluntary acquisition of properties and relocation of residents, abatement of interior ambient noise levels within residential and institutional buildings by air conditioning and other appropriate insulation techniques, and programs intended to assure receipt of full fair market value upon the sale of residential properties for those desiring to relocate out of a noise zone.

In order to move toward the implementation of these programs, the Conferees have directed FAA (1) to conduct a study assessing these innovative proposals, (2) to recommend whether federal assistance should be provided for them, and (3) to recommend what administrative or legislative actions would be necessary to allow such federal participation under the Airport Improvement Program.

24. STUDY ON LONG-TERM CAPACITY NEEDS

House bill

Requires the Secretary to conduct a study to develop an overall airport system plan through the year 2010 which will ensure a long-term availability of adequate system capacity. Authorizes $250,000 per fiscal year for Fiscal Years 1988 and 1989.

Senate amendment

No comparable provision.

Conference substitute

House bill. Secretary required to submit status report in one year.

In recent years, questions relating to the need to enhance airport and airway system capacity have become urgent. Congress has initiated various remedies to help alleviate the system's inability to accommodate public air travel demands. Correcting system inadequacies is a problem of national proportions that requires thoughtful analysis and innovative solutions. It is clear to the Conferees that a comprehensive evaluation of the aviation system is warranted and that a thorough examination of long-term capacity needs should be given the highest priority if the national air transportation system is to attain optimum safety and efficiency.

This legislation requires the Secretary of Transportation to conduct a two-year study of long-term airport capacity needs and develop an overall airport system development plan which must be compatible with airways modernization and that will, at a minimum, cover the next 20-year timeframe.

The study will permit the Department and the Federal Aviation Administration, along with broad participation by aviation interests, to make comprehensive determinations about how to best accommodate future air travel demands and how to best structure the airport and airway system. It is expected that the study will project the volume and distribution of air traffic to the year 2010 and beyond, and identify specific options for implementing the system plan. This study should include, but is not limited to, an examination of the following specific factors affecting the capacity of the system and an outline of recommendations for expanding that capacity.

runaway and taxiway configurations;

adverse weather;

availability of precision landing aids and related required lighting;

runway configuration management practices;

terminal airspace configuration, including approach and departure routings;

other relevant air traffic control constraints;

impact of noise restrictions;

operational procedures to mitigate noise; and

limits imposed by gate shortages.

The conferees believe it is vital that the study delineate the specific measures necessary to bring about meaningful enhancements to the national air transportation system.

25. DENVER STAPLETON AIRPORT

House bill

Authorizes a release of conditions in the Deed of Conveyance and grants to Denver Stapleton Airport. A release must be subject to requirements that airport property must be conveyed for fair market value and the proceeds must be invested in developing a new airport and a reliever airport.

Senate amendment

Same as House bill.

Conference substitute

Same as House bill.

26. BURBANK AIRPORT

House bill

Provides that no grant shall be made for Burbank Airport until the airport requests the FAA to allocate runway use so that as many flights as FAA determines are feasible and safe shall depart from Runway 7. Plan shall not require more than 50% of the flights at the airport to depart from Runway 7.

Senate amendment

No comparable provision.

Conference substitute

Senate amendment.

27. POMPANO BEACH AIRPARK

House bill

Prohibits Federal Aviation Administration from taking any action to redesignate non-aviation use land at Pompano Beach Airpark, or to revert such lands to the Federal government.

Senate amendment

No comparable provision.

Conference substitute

Senate amendment.

28. ATLANTIC CITY AIRPORT

House bill

Prohibits funding for development at Atlantic City Airport until a Master Plan is completed, and a public entity with specified characteristics has been created to manage the airport.

Senate amendment

Same as House bill.

Conference substitute

Same as House bill.

29. LAREDO, TEXAS

House bill

Releases the City of Laredo, Texas from restrictions prohibiting the sale or lease of airport property for non-aviation purposes, subject to conditions.

Senate amendment

Same as House bill.

Conference substitute

Same as House bill.

30. GRAND CANYON STUDY

House bill

No comparable provision.

Senate bill

Directs Department of Transportation to study methods of air traffic control which might be utilized in the Grand Canyon, including use of radar. The study must be completed in 180 days.

Conference substitute

Senate amendment.

31. HAWAII

House bill

No comparable provision.

Senate amendment

Authorizes use of Airport Improvement funds by the State of Hawaii to acquire specified property from the United States General Services Administration or to reimburse the state for such acquisition. Authorizes the Secretary to grant releases permitting the State of Hawaii to convey certain land which had been conveyed to the State by the United States for airport purposes.

Conference substitute

Senate amendment.

32. FLIGHT SERVICE STATIONS

House bill

Prohibits Secretary from closing or reducing hours of operation of any Flight Service Station unless the area is served by an automated Flight Service Station with Model One or better equipment. Requires the Secretary to reopen any Flight Service Station closed between March 25, 1987 and July 14, 1987 if service in the area is not provided by an automated Flight Service Station with Model One or better equipment.

Senate amendment

No comparable provision.

Conference substitute

House bill.

33. EXPLOSIVE DETECTION K-9 TEAMS

House bill

Authorizes grants for the training of explosive detection dog teams for use at airports and onboard aircraft.

Senate amendment

Authorizes $130,000 a year from Trust Fund for this program through Fiscal Year 1990.

Conference substitute

House bill.

34. Limitation on Aviation Fees

House bill

Amends current law placing a ceiling on certain aviation user fees to permit those fees to be adjusted in accordance with changes in the Consumer Price Index since 1973.

Senate amendment

No comparable provision.

Conference substitute

House bill.

35. Declaration of Policy

House bill

Establishes a policy goal that Federal Aviation Administration shall install specified navigation and safety equipment at commercial service airports. Adds new policy statement that artificial restrictions on airport capacity are not in the public interest and should not be imposed unless less burdensome alternatives have first been attempted. Expresses the sense of Congress that existing FAA regulations limiting operations at certain airports should be phased out and eliminated at the earliest practicable date consistent with aviation safety.

Senate amendment

No comparable provision.

Conference substitute

House bill.

36. Radio Navigation Systems

House bill

Requires Federal Aviation Administration to synchronize Loran C master transmitters and to study impact on users of synchronization of secondary transmitters. Authorizes funding of $750,000 for Fiscal Year 1988 and $500,000 for Fiscal Year 1989 for such study. Requires a study of coordination of time reference of Loran C transmitters and Global Positioning Satellite System. Authorizes $500,000 for such study. Requires FAA to establish minimum standards under which a radio navigation system may be certified as the sole radio navigation system.

Senate amendment

No comparable provision.

Conference substitute

House bill.

37. Penalty for Interference with Aircraft Accident Investigations

House bill

Increases penalty for interfering with accident investigations from a $5,000 fine and imprisonment of up to one year to a fine of $250,000 and imprisonment of up to 10 years.

Senate amendment

No comparable provision.

Conference substitute.

House bill.

38. Contract Tower Program

House bill

No comparable provision.

Senate amendment

Directs Department of Transportation to make permanent the VFR Level 1 air traffic control tower contract program.

Conference substitute

Senate provision modified to clarify that the program is to be continued at existing towers and extended to other towers as practicable.

This provision directs the Secretary to continue the contract tower program, currently administered by the FAA. Following the 1981 air traffic controller strike, the FAA closed a number of low activity control towers in order to move personnel to other more essential activities. To reinstate service at those airports, the FAA began to contract with local government jurisdictions for the operation of these low activity towers. These governments have, in turn, used their own employees or contracted with private firms for the operation of the towers.

In recent months, the Federal Aviation Administration has exhibited some reluctance to continue this program. The Conferees believe that the contract tower program has provided significant benefits in terms of aviation safety, as well as economic development for participating communities, and believe that those towers currently being operated should remain in operation. In addition, the conferees direct the Secretary to make every effort to extend this program to those low activity air traffic control towers that remain closed, or to new towers determined by the Secretary to qualify for contract operations.

39. Additional Air Traffic Controllers

House bill

No comparable provision.

Senate amendment

Directs Federal Aviation Administration to hire not less than 1,000 additional air traffic controllers. This may not include air traffic assistants.

Conference substitute

Senate amendment. Redrafted to clarify that FAA is required to have a controller workforce of at least 15,900 on September 30, 1988. Controller workforce is defined to mean persons employed by the FAA (including traffic management coordinators and first line supervisors), a substantial part of whose duties include separating and controlling air traffic. The term does not include air traffic assistants and students at an air traffic control academy.

40. Collision Avoidance Systems

House bill

No comparable provision.

Senate amendment

Directs Federal Aviation Administration to develop a schedule of certification of the collision avoidance system, known as TCAS II, resulting in certification not later than 18 months after enactment. Directs Federal Aviation Administration to require that not less than 30 months after TCAS II certification it must be installed on aircraft with more than 20 seats. Directs Federal Aviation Administration to require installation of altitude encoding transponders in all areas where radar service is provided. Exemptions are permitted in areas other than Terminal Control Areas and Airport Radar Service Areas. Transponders must be installed not later than 24 months after enactment. Directs Federal Aviation Administration to complete development and certification of TCAS III as soon as possible.

Conference substitute

Senate amendment modified to require TCAS II on aircraft of 30 seats or more, and to require installation of altitude encoding transponders three years after enactment.

It is not the intent of the Conferees to exclude equivalent or better collision avoidance systems that may be developed from being used on commercial and non-commercial aircraft. It is the intent of the Conferees to allow competition to the TCAS system if such competition enhances safety and is certified and approved through the administrative procedures and rules of the FAA. This paragraph should not be construed to delay the installation of the TCAS system as defined in this legislation but rather as guidance for future collision avoidance system decisions by the Congress or the FAA.

41. Flight Service in Juneau, Alaska

House bill

No comparable provision.

Senate amendment

Directs that Flight Service Station in Juneau, Alaska be named the Dave Scheytt Flight Service Station.

Conference substitute

Senate amendment.

42. Sierra Blanca Regional Airport

House bill

No comparable provision.

Senate amendment

Provides that for purposes of eligibility for Federal assistance for airport development, namely, fire protection, the Sierra Blanca Regional Airport shall be considered to have scheduled commuter service with at least 30 passenger aircraft.

Conference substitute

Establishes eligibility for funding under the Airport Improvement Program of fire fighting and rescue equipment at by airport served by scheduled passenger operations with aircraft designed for more than 20 passenger seats.

43. Municipal Airport of Dermott, Arkansas

House bill

No comparable provision.

Senate amendment

Provides that the Municipal Airport of the City of Dermott, Arkansas shall not be denied eligibility for assistance on the basis that the airport is located on leased land, subject to conditions.

Conference substitute

Senate amendment.

44. Amendment to National Driver Registration Act

House bill

No comparable provision.

Senate amendment

Authorizes airmen to request transmission of information from National Driver Regrister only to verify information reported by the airmen in seeking an FAA medical certificate. There shall be no access to information entered more than 3 years before the request unless the information relates to driver license revocations and suspensions which are still in effect.

Conference substitute

Senate amendment.

45. Cockpit Voice Recorders and Flight Data Recorders

House bill

No comparable provision.

Senate amendment

Requires the Department of Transportation to initiate a rulemaking proceeding to require installation and use of Cockpit Voice Recorders (CVR) and Flight Data Recorders (FDR) on commuter aircraft and other aircraft consistent with recommendations of the National Transportation Safety Board.

Conference substitute

Senate amendment modified to require initiation of a rulemaking proceeding to consider use of CVRs and FDRs. Rulemaking must begin in 120 days. Monthly status reports are required.

46. CIVIL PENALTY

House bill

No comparable provision.

Senate amendment

Establishes civil penalties of $1,000 for failing to notify the FAA of proposed construction of towers that might be a hazard to navigation. Increases penalties for violation of safety provisions of the Federal Aviation Act by air carriers from $1,000 to $10,000 for each violation. Gives Federal Aviation Administration jurisdiction to assess civil penalties when the total amount in controversy is less than $100,000 and the case does not involve the seizure of aircraft. The authority granted to the FAA terminates two years following date of enactment.

Conference substitute

Senate amendment modified to clarify that in appropriate cases each flight operated in violation of the Act or FAA regulations is a separate violation; that new $10,000 penalty applies only to offenses committed after effective date; to add a requirement that when the Federal Aviation Administration assesses penalties FAA must comply with the Administrative Procedure Act's requirements for a hearing on the record; and to limit FAA's authority to assess civil penalties to cases in which the amount in controversy is less than $50,000.

In providing for a hearing on the record before an Administrative Law Judge as a matter of right in the Civil Penalty Assessment Demonstration Program, the Conferees intend to accomplish two objectives. First, the requirement is intended to advise the FAA of the appropriate level of procedural formality and attention to the rights of those assessed civil penalties under this demonstration program. Secondly, this requirement is intended to provide reasonable assurance to the potential subjects of such civil penalties that their due process rights are not compromised.

47. ILLEGAL ENTRY IN SECURED AREAS

House bill

No comparable provision.

Senate amendment

Establishes criminal penalties for unlawful entry into an area of an airport in violation of security requirements established pursuant to section 315 and 316 of the Federal Aviation Act.

Conference substitute

Senate amendment.

The Conferees direct the Secretary of Transportation to report on the status of DOT and FAA actions to implement the recommendations concerning domestic airport security, screening equipment, screening personnel and their training, employee and public access to airport concourse and air operations areas, and the enforcement of federal airport security standards and regulations by the Federal Aviation Administration contained in the 1986 Initial Recommendations of the Secretary of Transportation's Safety Review Task Force on Domestic Aviation Security, the March 1987 Recommendations of the Secretary of Transportation's Safety Review Task Force on Domestic Aviation Security Regarding Security of Airport Perimeter and Air Operations Areas, and the July 1987 Report of the Secretary of Transportation's Safety Review Task Force on Domestic Aviation of Security Regarding Passenger and Carry-on Baggage Screening.

48. INDEMNIFICATION

House bill

No comparable provision.

Senate amendment

Allows Federal Aviation Administration to indemnify officers or emloyees against claims or judgments for acts committed within the scope of official duties.

Conference substitute

Senate amendment.

49. PUBLIC AIRCRAFT

House bill

No comparable provision.

Senate amendment

Changes definition of public aircraft (which are exempt from many Federal Aviation regulations) to provide that aircraft used by state or local governments must be leased for not less than 90 continuous days to qualify as a public aircraft. Authorizes National Transportation Safety Board to require reports on accidents and incidents involving public aircraft other than aircraft operated by military and intelligence agencies.

Conference substitute

Senate amendment.

50. DEFINITION OF PASSENGERS ENPLANED

House bill

No comparable provision.

Senate amendment

Provides that definition of passengers enplaned used in entitlement formula for the Airport Improvement Program includes passengers onboard international flights which transit an airport for non-traffic purposes.

Conference substitute

Senate amendment, limited to airports in the 48 contiguous states.

51. CRITERIA FOR INSTALLING CONTROL TOWER AND NAVIGATION AIDS

House bill

No comparable provision.

Senate amendment

Provides that in setting criteria for installing control towers and navigation aids based on the number of air carrier operations the Secretary shall count operations with aircraft providing scheduled passenger service with fewer than 61 seats as the equivalent of operations with aircraft with more than 61 seats.

Conference substitute

Requires the Department of Transportation to promulgate regulations establishing criteria for installation of control towers and navigation aids by December 31, 1988. Criteria are to include aircraft operations (regardless of aircraft size) and passengers served.

The conferees are concerned that FAA criteria (which give more weight to operations by planes with more than 60 passenger seats, than to similar operations with 60 or fewer seats) may fail to afford passengers flying on smaller commercial aircraft the same consideration as travelers flying on larger equipment. This provision directs the FAA to eliminate any unfair discrimination against passengers on regularly scheduled commercial airlines which use smaller planes or which serve small communities. The provision requires the FAA to establish, after a public rulemaking procedure, new criteria for establishing towers and other navigational aids which are based on relevant safety and operational considerations and which do not make the capacity of the aircraft the sole or major determining factor.

52. SAFETY REGULATIONS

(A) FLIGHTS OVER WATER

House bill

No comparable provision.

Senate amendment

Requires Department of Transportation to issue within 120 days of enactment regulations requiring adequate uniform life preservers, life rafts, and floatation devices on any flight which will occur over water and adequate information on use of such devices.

Conference substitute

Requires the Department of Transportation to initiate rulemaking proceeding to consider the regulations described in the Senate amendment. Notice of Proposed Rulemaking must be issued in 180 days. Monthly status reports required.

(B) SEAT STRENGTH

House bill

No comparable provision.

Senate amendment

Requires rulemaking to begin within 120 days and be completed within 425 days following date of enactment to require all seats onboard air carrier aircraft to meet improved crashworthiness standards based on best available testing standards.

Conference substitute

Requires Department of Transportation to initiate a rulemaking proceeding to consider the regulations described in the Senate amendment. Notice of Proposed Rulemaking must be issued in 120 days. Monthly status reports required.

(C) CABIN FLAMMABILITY STANDARDS

House bill

No comparable provision.

Senate amendment

Requires FAA rulemaking to require air carrier interior cabins to meet improved flammability standards. Requires rulemaking to begin within 120 days and be completed within 425 days following date of enactment.

Conference substitute

House bill.

With respect to the need for improved flammability standards for airline aircraft cabin materials, the conferees support the standards and the deadlines of the Final Rule issue by FAA on July 21, 1986. The conferees believe that this Final Rule will bring about significant safety improvements and that there should be neither a relaxation of the flammability standards nor an extension of the August 20, 1990 compliance deadline. The conferees believe the Federal Aviation Administration and the industry should redouble their efforts to achieve these standards on a timely basis.

(D) FIRE PREVENTION

House bill

No comparable provision.

Senate amendment

Requires a rulemaking to establish regulations to minimize the incidence of fire or explosion, including crash resistant inner fuel tanks and breakaway self-closing fittings throughout the fuel system. Requires rulemaking to begin within 120 days and be completed within 425 days following date of enactment.

Conference substitute

Requires a study of the feasibility of the safety improvements specified in the Senate amendment. Study to be completed in one year.

(E) FAA INSPECTION

House bill

No comparable provision.

Senate amendment

Requires Department of Transportation to report within 90 days on specified regulations which the Secretary has adopted or intends to adopt to modernize and improve the oversight and inspection of air carrier maintenance and safety related procedures.

Conference substitute

Senate amendment.

53. POLICY STATEMENTS

House bill

No comparable provision.

Senate amendment

States Congressional policy on importance of cargo hub airports, increased airport capacity, and non-aviation use of airspace.

Conference substitute

Senate amendment.

54. TALL TOWERS

House bill

No comparable provision.

Senate amendment

Requires Secretary of Transportation, in reviewing National Plan of Integrated Airport System, to consider tall structures which reduce safety or capacity and needs of air cargo, STOL/VSTOL, and rotary wing aircraft. Requires notice to Secretary of construction of structures which may limit safety or efficiency of aviation system. Secretary is required to issue a report on construction which will have an adverse impact on safety and efficient use of airspace. Federal Communications Commission and Federal Aviation Administration are directed to coordinate their actions in considering broadcast applications and aeronautical studies relating to broadcast towers.

Conference substitute

Senate provision, modified to clarify that requirements cove structures which create electro-magnetic interference.

This provision makes clear the FAA's responsibility to carry out obstruction evaluations and notifications in light of the proposed structure's impact on aviation safety and on efficient use and preservation of airspace and airport capacity. Obstruction evaluations shall include the impact on arrival, departure, and en route procedures for VFR and IFR traffic; the impact on all existing and planned public-use airports and aeronautical facilities; and the cumulative impact of the proposed construction or alternation of tall structures. The FAA should coordinate such evaluations with state and local aviation officials.

Following this evaluation, the FAA report should fully disclose the extent of the proposed structure's adverse impact on the safe and efficient use of navigable airspace and airport capacity. The FAA is currently reviewing Part 77 regulations. The current Part 77 "Hazard/No Hazard" system does not meet the requirements of section 1101 of the Federal Aviation Act of 1958, as modifed by this provision.

The "Hazard" determination should be maintained for those proposed structures which clearly endanger safety. Of those structures which currently receive a "No Hazard" determination, those which would have a negligible aeronautical impact should receive a "No Adverse Aeronautical Impact" or similarly-worded determination. For the balance, the FAA should fully disclose the adverse aeronautical impact as determined by the obstruction evaluation.

Frequently, the proposed structure is a broadcast tower. It is clearly in the national interest that the FAA and the Federal Communications Commission work together in reviewing broadcast applications and tower proposals. This provision directs these agencies to take whatever action is necessary to establish procedures for the receipt, consideration of, and action upon broadcast applications and associated aeronautical studies.

55. STUDY OF SPECIAL USE AIRSPACE

House bill

No comparable provision.

Senate amendment

Secretary of Transportation and Secretary of Defense directed to conduct a study of special use airspace.

Conference substitute

Senate amendment. This provision does not contemplate the development of Environmental Impact Statements.

56. REGULATIONS FOR AIRPORT GRANT PROGRAM

House bill

No comparable provision.

Senate amendment

Secretary of Transportation is directed to promulgate implementing regulations for airport grant program within one year of enactment.

Conference substitute

House bill.

57. RESEARCH, ENGINEERING AND DEVELOPMENT

House bill

For Research, Engineering and Development and Demonstrations the authorizations are, for fiscal years 1988 and 1989 respectively, $127,192,000 and $135,866,000 for air traffic control projects and activities, $7,743,000 and $15,716,000 for air traffic control advanced computer projects and activities, $9,818,000 and $11,395,000 for navigation projects and activities, $21,957,000 and $21,797,000 for aviation weather projects and activities, $6,307,000 and $6,613,000 for aviation medicine projects and activities, $24,988,000 and $21,013,000 for aircraft safety projects and activities, and $3,000,000 and $2,600,000 for environmental projects and activities. Funds may be reprogrammed among these projects and activities in any fiscal year up to 10 percent of the amount authorized. Amounts exceeding 10 percent may be reprogrammed 30 days after notifying the authorizing and appropriating committees or after each such committee transmits written notice that it has no objection to the proposed reprogramming. Within the amounts authorized, not less than $25,000,000 is earmarked each year for research and development on preserving and enhancing airport capacity. Within 60 days after the end of fiscal years 1988 and 1989, the FAA must report to the authorizing committees on its compliance with the airport capacity provision. Funds appropriated pursuant to this authorization remain available until expended.

Senate amendment

For Research, Engineering and Development and Demonstrations the authorizations are $200,000,000 for fiscal year 1988, $200,000,000 for fiscal year 1989, and $225,000,000 for fiscal year 1990. In fiscal year 1988 not less than $250,000 is made available for equipment designed to provide improved access by handicapped persons to commercial aircraft. In fiscal years 1988 and 1989, not less than $25,000,000 is authorized to be appropriated each year for research, engineering and development regarding airport capacity improvements.

Conference substitute

For Research, Engineering and Development and Demonstrations, the authorizations, for fiscal years 1988 and 1989, are as specified in the House bill (total amounts: $201,005,000 and $215,000,000 for 1988 and 1989 respectively) and for fiscal year 1990, $222,000,000. In fiscal year 1988, $250,000 is intended to support research on means to provide improved access by handicapped persons to commuter aircraft, including lifting devices and boarding chairs for boarding and deplanning people in wheelchairs from small commuter aircraft where level boarding ramps and gateways are not available. In conducting this work, the FAA is directed to consult with representatives of regional airlines, airports, and groups of mobility impaired people.

The conferees believe that, in light of the increasing problems with congestion and delay in the air transportation system, increased funding must be dedicated toward research and development programs that will increase and preserve airport capacity. According to FAA estimates, 16 major U.S. airports are now seriously congested and 58 airports (accounting for 76 percent of all passengers) will become congested by the year 2000. Accordingly, the conferees direct the FAA to undertake increased research and development activities directed toward technologically advancing the design, construction, safety, maintenance, and operation of airports. In this light, the conferees establish a minimum authorization of $25 million in 1988, 1989 and 1990 for airport capacity research and development programs. A report from the FAA on compliance with this provision is required after each fiscal year.

Language in the House bill relating to reprogramming of funds among projects and activities is retained. In fiscal year 1988, within the amount specified for aircraft safety, $1,200,000 is authorized for increased research in fire safety studies. The increase in research is being directed toward studies of new fire resistant materials used in aircraft interiors and for studies to reduce the toxicity of smoke resulting from interior aircraft fires. The conferees wish to reaffirm language in the House report regarding the Civil Aeromedical Institute and research on aircraft noise reduction and control. The Civil Aeromedical Institute conducts research to determine human causes of aviation accidents. The Institute has been underutilized in terms of its facility and personnel in the areas of Human Performance Research and Protection and Survival Research. The Administrator is requested to evaluate potential roles of the Institute in aeromedical research and investigate the possibilities of expanding its activities with respect to Human Performance Research including assessments of pilot/controller errors and stresses, and Protection and Survival Research including work on seat and restraint systems, crashworthiness, emergency escape and survival, and fire and smoke toxicity. The Administrator is to report his findings no later than January 1, 1988. Of the funds authorized for Environmental Programs, no less than $2,000,000 is earmarked for research in Aircraft Noise Reduction and Control. The research shall examine new and innovate technologies, in cooperation with other agencies including NASA, to control noise generated by aircraft and in the development of effective noise abatement operating procedures. Specifically, the research should investigate noise abatement for airports that have a high density of private residences and educational and medical facilities in close proximity. The innovative noise abatement research should also include effective noise insulation of private residences.

58. ESSENTIAL AIR SERVICE

(A) SHORT TITLE

House bill

No comparable provision.

Senate amendment

Provides that the Act may be cited as the "Small Community Air Service Improvement Act of 1987."

Conference substitute

House bill.

(B) DEFINITION OF ELIGIBLE POINT

House bill

Defines an eligible point as any community which (a) is defined as an eligible point under current law, (b) is still receiving air service, and (c) is 35 highway miles or more from the nearest hub airport or from a nonhub airport which the Secretary determines has significant scheduled air transportation. A hub is defined as an airport that annually enplanes 0.05 percent or more of the total annual enplanements in the United States.

Senate amendment

Defines an eligible point as any community for which a determination of essential air transportation was previously made and which is more than 50 statute miles from a hub airport. A hub is defined an an airport that annually enplanes more than 0.25 percent of the total annual enplanements in the United States.

Conference substitute

Defines an eligible point as any community that (a) is defined as an eligible point under current law (P.L. 95-504), (b) is still receiving air service, and (c) is 45 highway miles or more from a hub. A hub is defined as an airport that annually enplanes 0.25 percent or more of the total annual enplanements in the United States.

Under current law, all communities that were listed on an airline's certificate on the date of enactment of the Airline Deregulation Act are defined as eligible points even if their air service was suspended at that time. With the above described definition, the conferees intend to continue basic essential air service to all these communities except those within 45 miles of the nearest medium or large hub, those whose service was suspended and never restarted, and those who had lost or given up their essential air service and never made a request to restart it.

In determining which communities are within 45 miles of the nearest hub, the conferees expect the Department of Transportation (DOT) to rely on the mileages listed in Appendix P of its February 1987 study of essential air service.

(C) BASIC ESSENTIAL AIR SERVICE

House bill

Guarantees that passengers and cargo at all eligible points will receive at least 2 flights per day, 6 days per week, to a medium or large hub (unless the nearest such hub is in Alaska or more than 400 miles away), with no more than 1 stop. The flights must be at reasonable times taking into account the needs of passengers with connecting flights. The medium or large hubs are defined as any airport that annually enplanes 0.25 percent or more of the total annual enplanements in the United States. These hubs must have connecting air service to a substantial number of cities beyond the hub.

The aircraft used at an eligible point must (a) have 2 engines and 2 pilots unless such aircraft had not been used there for at least 60 consecutive days since October 31, 1978, (b) be pressurized when the flights will regularly exceed 8,000 feet and (c) have 15 seats unless average daily enplanements at the eligible point have been 11 passengers or less in every year since 1976, the community states in writing that it wants smaller aircraft, or the use of 15-seat aircraft at the point would require the payment of subsidy where no subsidy would otherwise be required for basic EAS.

Basic essential air service also requires that passengers and cargo each be accommodated at 50 percent load factors when less than 15-seat aircraft are used and 60 percent load factor when 15-seat or larger aircraft are used, adjusted as needed to take into account seasonal demands for such service.

In addition, fares cannot be excessive when compared to generally prevailing fares of other air carriers for like service between eligible points. Special provisions with respect to Alaska are continued from current law.

Senate amendment

Guarantees that all eligible points will receive at least 2 flights per day, 6 days per week, to a hub with no more than 1 stop. The flights must be at the beginning and end of the business day. Hub is defined as an airport that annually enplanes more than 0.25 percent of the total annual enplanements in the United States. These hubs must offer convenient connecting or single-plan service to and from a substantial number of major destinations beyond the hub.

The aircraft used must (a) have 2 pilots, 2 engines, and an effective capacity of at least 15 passengers, unless no such aircraft were used at the eligible point for more than 60 consecutive days after October 31, 1978, and (b) be pressurized when flights will regularly exceed 8,000 feet.

Passenger and non-passenger traffic must be accommodated at 50 percent load factors. The language on fares is the same as the House bill. Special provisions for Alaska are included similar to current law.

Conference substitute

Same as the House bill with the following exceptions:

Flights must go to a hub unless the nearest such hub is in Alaska or more than 400 miles away. A hub is defined as an airport that annually enplanes 0.25 percent or more of the total annual enplanements in the United States. These hubs must provide convenient connecting and single-plane service to and from a substantial number of major destinations beyond the hub. Although basic EAS in Alaska does not mandate service to a hub, DOT is free to require such service in individual cases.

The 15-seat aircraft size requirement is modified to include the Senate amendment language on "effective capacity" to ensure that the 15-seat aircraft used are aircraft that are actually capable of carrying 15 passengers and their baggage.

With respect to the cargo requirement, the conferees do not expect DOT to force airlines to reconfigure their aircraft after their subsidy rate has been established in order to accommodate cargo but DOT should take the community's cargo needs into account when establishing the frequency and aircraft size needed to meet that community's basic essential air service requirements. The load factor for cargo should be established by using a weight, cubic dimension, or passenger equivalency standard, depending on which measure will best ensure that the community's cargo needs are met.

Even where not explicitly stated in the statute, it is the conferees' intention that an eligible point should be able to request service that is less than the basic EAS requirements described above. DOT is authorized to grant such requests but shall not impose them on its own initiative.

(D) PROCEDURES

House bill

Requires DOT to establish a basic essential air service (EAS) level with 1 year of the bill's effective date and to periodically review that level. Prior to the initial establishment of this basis EAS level, carriers must continue to meet the previously established essential air transportation requirements applicable to the eligible point concerned. In selecting a carrier to provide basic EAS, DOT is directed to consider—

The carrier's demonstrated reliability in providing scheduled air service;

Contractual and marketing arrangements, such as code-sharing, between the carrier and a major airline to assure service beyond the hub.

Interline arrangements that the carrier has made with a major carrier at the hub;

Preferences of the users, giving great weight to the views of elected officials;

With respect to Alaska, the experience of the carrier.

There is also a provision to encourage the submission of joint proposals by 2 or more carriers that would increase service from the eligible point to major destinations beyond the hub.

Any carrier providing basic EAS that wants to end that service or reduce it below the basic EAS level, must provide 90 days notice to DOT and the community. DOT, in turn, must prohibit that termination or reduction until a replacement is found. If the carrier forced to continue its service was already receiving a subsidy, it would continue to receive that subsidy for the first 180 days after the 90-day notice takes effect. After that, the carrier is treated as if it had not been receiving a subsidy. These carriers receive compensation that is sufficient to cover their fully allocated actual costs plus return on used and useful investment (at market value) attributable to the service at the time the notice was filed plus the reasonable demonstrable costs of opportunities foregone as a result of being required to continue the service. A procedure, similar to the Contracts Disputes Act, is included to give a carrier an opportunity to appeal an adverse determination by DOT on a claim for compensation.

Senate amendment

Requires DOT, in selecting a carrier to provide basic EAS, to consider—

The carrier's demonstrated reliability in providing scheduled air service;

Contractual arrangements the carrier has made with other carriers to assure service beyond the hub;

Preferences of actual and potential users, giving substantial weight to views of elected officials.

Also includes provision similar to the House bill on joint contract proposals, notice by carriers seeking to terminate basic EAS, and the requirement that DOT force these carriers to continue basic EAS until a replacement is found. Carriers forced to continue basic EAS that are already receiving a subsidy continue to receive that subsidy until the notice takes effect. After that 90-day period, all carriers forced to continue service receive compensation sufficient to cover their fully allocated actual costs plus return on used and useful investment (at market value) plus the reasonable demonstrable costs of opportunities foregone as a result of being required to continue the service.

Conference substitute

House bill with the following exceptions:

DOT is required to issue new basic EAS determinations for eligible points within 1 year of the date of enactment. Although DOT is given 1 year, it is hoped that action would be completed as soon as possible because communities will not benefit from the new service levels until the basic EAS determinations are issued.

The weight to be given to the views of elected officials is characterized as "substantial" as in the Senate amendment.

The provision on compensating carriers who are required to continue service against their will is changed so that a carrier already receiving a subsidy continues to receive that subsidy for 90 days after its 90-day notice takes effect. Any carrier not receiving a subsidy or a carrier required to continue service beyond that 90-day period would receive compensation sufficient to cover that carrier's fully allocated actual cost of performing the basic EAS at the time the notice was filed plus a return on investment that shall not be less than 5 percent of operating costs and an additional return that reflects additional lost profits from opportunities foregone and the likelihood that such lost profits increase as the duration of the required EAS increases.

The provision establishing an appeal procedure for carriers dissatisfied with their compensation has been dropped. Nevertheless, the conferees expect DOT to use reasonable and fair procedures in such circumstances.

(E) SUBSIDY

House bill

Requires DOT to continue the subsidy guidelines in current law but to expand them to require (a) that a carrier's subsidy be reduced in any case where that carrier fails to perform some of the EAS and (b) that advertising and promotional expenses are taken into account in setting subsidy level and included as a separate, segregated element of the subsidy rate. Also, a 15-day deadline on the payment of valid subsidy claims is imposed on DOT.

Senate amendment

No comparable provision.

Conference substitute

House bill.

(F) ENHANCED EAS

House bill

Provides two ways (a cost-sharing option and a use-or-lose option) for an eligible point to get enhancements in its service. The community may submit a proposal to DOT asking for more flights, larger aircraft, or other enhancements, and agree to pay 50 percent of the added subsidy cost. Or, the community may submit a proposal to DOT asking for more flights, larger aircraft, or other enhancements, but must agree to give up all rights to any essential air service if the requested improvements do not meet the DOT criteria (which DOT is required to establish) for increasing passenger usage and reducing subsidy. DOT must issue a decision on the eligible point's proposal within 90 days. The eligible point's proposal shall be accepted by DOT unless DOT finds the proposal to be unreasonable. If DOT accepts the proposal it must establish the enhanced EAS level as the required level of service and subsidize the carrier involved accordingly (50 percent of the added subsidy is paid by DOT under the cost sharing option while DOT picks up 100 percent of the cost under the use-or-lose option). The level of enhanced service must be periodically reviewed by DOT. This review could lead to the loss of even basic EAS under the use-or-lose option.

If the carrier providing the enhanced service wants to terminate or reduce that service it can do so provided it gives 30 days notice. The 30-day notice would only relieve it on its obligation to provide enhanced EAS. The carrier would have to comply with the provisions applicable to basic EAS if it wanted to reduce service below that level.

Senate amendment

Requires DOT to guarantee enhanced air service to an eligible point whenever the State or local government is willing to pay 50 percent of the added subsidy. DOT must pay the other 50 percent.

Conference substitute

House bill. The conferees wish to make clear that if a carrier providing enhanced EAS reduces its service to the basic EAS level, that carrier's subsidy should be reduced accordingly. Moreover, DOT should take such action as may be necessary to ensure that the eligible point's service is raised back up to the enhanced EAS level.

(G) NEW COMMUNITIES

House bill

Provides two ways for a community that is not an eligible point to apply for guaranteed air service. Under the first option, the community submits a proposal to DOT. DOT must decide within 90 days whether the community should qualify for guaranteed air service.

DOT may withdraw the community's air service guarantee if the community has actually received such service for at least 2 years and DOT finds, after notice and comment, that the withdrawal would be in the public interest. DOT is directed to establish standards, by regulation, for making this public interest determination. These standards should include such factors as passenger usage, cost of the service, and the quality of service being provided.

Under the second option, a community in the 48 contiguous States that had certificated air service prior to deregulation, is more than 50 miles from the nearest small hub, and more than 150 miles from the nearest medium or large hub, may submit a proposal for guaranteed air service to DOT. DOT must decide in favor of the community's proposal if the community meets the above criteria and is willing and able to pay 10 percent of the subsidy.

Under both options, DOT, after considering the views of the community, has 6 months to set the air service level for the community. This service level must be periodically reviewed and adjusted as necessary. If the carrier providing the required service wants to end that service, it can do so if it first provides a 30-day notice. DOT would then be expected to secure another carrier to provide that service.

Senate amendment

Ensures that each community that is not an eligible point may receive the type and quality of air service specified by a State or local government that has agreed to pay 50 percent of the subsidy. These communities would be defined as new eligible points.

Conference substitute

House bill except that the local share under the second option in that bill is raised from 10 percent to 25 percent.

(H) MISCELLANEOUS PROVISIONS

House bill

Continues the requirement in current law that subsidized carriers comply with DOT rules on insurance.

Continues the requirement in current law that carriers be found fit, willing, and able before being allowed to provide essential air service and that their aircraft comply with FAA safety standards. Adds a requirement that DOT not pay subsidy to a carrier to provide EAS unless it finds that that carrier will provide the service in a reliable manner.

Imposes a new obligation on all air carriers involved in the sharing of their two-letter code in a computer reservation system. It requires the carrier whose code is being used by other carriers to share responsibility with these other carriers for the quality of service they provide under its code.

Adds a new provision requiring an airline that wants to end basic EAS to turn over its slots to its replacement.

Senate amendment

No comparable provisions.

Conference substitute

House bill.

With respect to the new obligations on major carriers in code-sharing arrangements, the conferees believe that where passengers are on a trip involving two carriers using a common designator code, the carrier whose code is being used should accept responsibility for seeing that passenger service complaints directed to it are handled promptly, regardless of whether the complaint relates to service by that carrier or its code-sharing partner.

With respect to the requirement that a carrier turn over slots to its replacement, the provision has been modified to make it effective retroactive to October 1, 1987. In addition, exceptions have been provided where the replacement carrier does not need the slots and where the same slot is being used for service to more than one eligible point but the carrier is ending service to only one of them. The conferees expect DOT to administer this requirement in a manner consistent with the requirement that basic EAS flights depart at reasonable times taking into account the needs of passengers with connecting flights.

(I) AUTHORIZATION

House bill

No comparable provision.

Senate amendment

Authorizes such sums as may be necessary.

Conference substitute

House bill.

(J) EFFECTIVE DATE

House bill

Provides that this bill takes effect on October 24, 1988, when the current law expires, and ends on December 31, 1998.

Senate amendment

Provides an effective date of October 1, 1988. The program would end 10 years after the date of enactment.

Conference substitute

Senate amendment except that the expiration date shall be September 30, 1998, which is 10 years after the effective date rather than 10 years after the enactment date.

EXTENSION OF AIRPORT AND AIRWAY TRUST FUND TAXES (AIRPORT AND AIRWAY REVENUE ACT OF 1987)

A. EXTENSION OF AVIATION TAXES

1. Extension of present-law aviation taxes; "tax reduction trigger"

Present law

Excise taxes are imposed on air passenger tickets (8 percent), domestic air freight (5 percent), international passenger departures ($3), and fuels for noncommercial aviation (12 cents per gallon on gasoline and 14 cents per gallon on other fuels). These taxes are scheduled to expire after December 31, 1987.

Revenues from the aviation excise taxes are transferred to the Airport and Airway Trust Fund to finance certain Federal airport and airway programs. There is no provision for reduction or suspension of these taxes before the scheduled expiration if Trust Fund authorizations are not fully appropriated or if the unobligated Trust Fund balance exceeds a specific amount.

House bill

(a) *Extension of present-law taxes.*—The House bill generally extends the present-law aviation taxes for 5 years, from January 1, 1988 through December 31, 1992.

(b) *"Tax reduction trigger".*—The House bill provides an automatic reduction in the aviation tax rates (other than the $3 departure tax) for transportation provided in any calendar year following a fiscal year (FY 1988 or later) for which total Trust Fund appropriations for (1) airport improvements, (2) airway facilities and equipment, plus (3) research, engineering and development fall below 90 percent of the amount authorized for these three programs.

The tax rates are to be reduced by the same percentage as the total appropriations shortfall for the three programs, but the tax rate reduction may not exceed 50 percent. Further, the tax rate reduction will apply only if the unobligated Trust Fund balance is $2 billion or more as of the end of the applicable fiscal year.

Senate amendment

(a) *Extension of present-law taxes.*—The Senate amendment generally extends the present-law aviation taxes for 4 years, from January 1, 1988 through December 31, 1991.

(b) *"Tax reduction trigger".*—The Senate amendment provides an automatic 50-percent reduction in each of the aviation taxes for 1991, if the unobligated Trust Fund balance exceeds $3 billion at the end of fiscal year 1990.

Conference agreement

(a) *Extension of present-law taxes.*—The conference agreement generally extends the present-law aviation taxes for 3 years, from January 1, 1988 through December 31, 1990.

(b) *"Tax reduction trigger".*—The conference agreement provides for an automatic 50-percent reduction in the aviation excise taxes (other than the $3 departure tax) in calendar year 1990, if the total appropriations for fiscal years 1988 and 1989 for airport improvements, facilities and equipment, plus research, engineering and development are less than 85 percent of the total amounts authorized for these three programs for fiscal years 1988 and 1989. The reduction in taxes, if applicable, would apply to tickets (or way bills) sold, and fuels purchased, during calendar year 1990.

2. Treatment of certain helicopters

Present law

Exemptions are provided from the air passenger ticket tax and the aviation fuels taxes for helicopters engaged in certain timber and oil, gas, or hard mineral exploration and development activities, provided that the helicopters do not use the Federally assisted airport and airway system.

The air passenger and air freight taxes generally apply with respect to amounts paid to a person engaged in the business of transporting persons or property by air for hire (i.e., commercial airlines). The air passenger and air freight taxes do not apply to transportation by an aircraft with a maximum certificated takeoff weight of 6,000 pounds or less, except when such aircraft is operated on an established line. Noncommercial aviation is subject to the fuels taxes rather than the ticket or freight taxes, as are aircraft subject to the 6,000 pound exception.

House bill

The House bill provides a general exemption from the air passenger, air freight, and aviation fuels taxes for emergency medical helicopters when engaged in providing emergency medical services, where the helicopters (1) do not use the Federally assisted airport or airway system, and (2) are owned or leased by a nonprofit health care facility and are operated exclusively under the control of such facility.

The provision is effective for transportation provided after September 30, 1987.

Senate amendment

The Senate amendment provides a general exemption from the air passenger ticket tax for helicopters not using the Federally assisted airport or airway system, while subjecting such helicopters (other than those specifically qualifying for the timber, and oil, gas, or hard mineral exceptions) to the air freight tax (if applicable) or fuels taxes.

The provision is effective for transportation provided after September 30, 1988, but does not apply to any amount paid on or before such date.

Conference agreement

The conference agreement generally follows the House bill, except that the exemption applies also to use of helicopters by for-profit health care facilities. The exemption is effective for transportation provided after September 30, 1988, but does not apply to any amount paid on or beforre such date.

The conferees intend that the mere use by these emergency medical helicopters of weather service information supplied by the FAA to all aircraft or the fact that such helicopters notify airports or air navigation stations of their location while in the air will not disqualify the qualified helicopters from the tax exemption.

B. EXTENSION OF TRUST FUND AUTHORITY

1. Transfer of revenues to the Trust Fund

Present law

Revenues from the aviation excise taxes are transferred to the Airport and Airway Trust Fund through December 31, 1987.

House bill

The House bill extends the transfer of aviation tax revenues to the Trust Fund for 5 years, through December 31, 1992.

Senate amendment

The Senate amendment extends the transfer of aviation tax revenues to the Trust Fund for 4 years, through December 31, 1991.

Conference agreement

The conference agreement extends the transfer of aviation tax revenues to the Trust Fund for 3 years, through December 31, 1990 (consistent with the 3-year extension of the aviation taxes, as indicated in item A.1.(a), above).

2. Trust Fund expenditure authority and purposes

Present law

The Trust Fund provision of the Internal Revenue Code provides authority to make expenditures from the Trust Fund through September 30, 1987.

The Trust Fund statute authorizes expenditures from the Trust Fund for obligations incurred under the Airport and Airway Improvement Act of 1982 (and as authorized under applicable prior Acts) as in effect on the date of enactment of the 1982 Act.

House bill

The House bill extends the Trust Fund expenditure authority for 5 years, through September 30, 1992. (Title I of the House bill provides a 5-year extension of Trust Fund authorization programs, for fiscal years 1988-1992.)

The House bill updates the Trust Fund statute to include a reference to the Trust Fund programs authorized under H.R. 2310 as passed by the House.

Senate amendment

The Senate Amendment extends the Trust Fund expenditure authority for 3 years, through September 30, 1990. (Title I of the Senate amendment provides 3-year extension Trust Fund authorization programs, for fiscal years 1988-1990.)

The Senate amendment updates the Trust Fund statute to include a reference to the Trust Fund programs authorized under H.R. 2310 as amended by the Senate.

Conference agreement

In conformance with the conference agreement on the Trust Fund program authorizations in the bill, the conference agreement on Title IV of the bill extends the Trust Fund expenditure authority for 5 years, through September 30, 1992, with respect to expenditures for the Airport Improvement Program. The conferees point out that this 5-year extension of Trust Fund expenditure authority is only to cover the expenditures for the Airport Improvement Program; the other Trust Fund programs are limited to 3 years, through fiscal year 1990, as under the Title I authorizations. (Title I of the conference agreement generally extends the Trust Fund authorization programs for years, fiscal years 1988-1990, except that it provides a 5-year authorization for the Airport Improvements Program, fiscal years 1988-1992.)

The conference agreement updates the Trust Fund statute to include a reference to the Trust Fund programs authorized under H.R. 2310 as agreed to in the program conference provisions.

From the Committee on Public Works and Transportation, for consideration to titles I and III of the House bill and title I of the Senate amendment, and modifications committed to conference:

JAMES J. HOWARD,
GLENN M. ANDERSON,
NORMAN Y. MINETA,
JAMES L. OBERSTAR,
HENRY J. NOWAK,
NICK RAHALL,
PETER J. VISCLOSKY
(for consideration of sec. 109 of the Senate amendment only, in lieu of Mr. Rahall),
JOHN PAUL HAMMERSCHMIDT,
BUD SHUSTER,
ARLAN STANGELAND,
NEWT GINGRICH,
RON PACKARD,
(for consideration of sec. 120 of the Senate amendment only, in lieu of Mr. Shuster),

From the Committee on Science, Space, and Technology, for consideration of sec. 102(b) of the House bill and secs. 107 and 120 of the Senate amendment, and modifications committed to conference:

ROBERT A. ROE,
DAVE MCCURDY,
DAN GLICKMAN,
MANUEL LUJAN, Jr.,
TOM LEWIS,

From the Committee on Ways and Means, for consideration of title II and sec. 114 of the House bill and title II and sec. 114 of the Senate amendment, and modifications committed to conference:

DAN ROSTENKOWSKI,
SAM M. GIBBONS,
J.J. PICKLE,
BARBARA B. KENNELLY,
Managers on the Part of the House.

From the Committee on Commerce, Science, and Transportation:

FRITZ HOLLINGS,
WENDELL FORD,
J.J. EXON,
JOHN C. DANFORTH,
N. KASSEBAUM,

From the Committee on Finance, solely for consideration of title II:

LLOYD BENTSEN,
SPARK M. MATSUNAGA,
BOB PACKWOOD,
Managers on the Part of the Senate.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mrs. BENTLEY) to revise and extend their remarks and include extraneous material:)

Mr. PARRIS, for 60 minutes, on December 16, 17, and 18.

Mr. BURTON of Indiana, for 60 minutes, on December 15, 16, and 17.

Mr. HANSEN, for 5 minutes on December 16.

Mr. BILIRAKIS, for 60 minutes, on December 17.

Mr. RITTER, for 5 minutes today.

Mr. DORNAN of California, for 5 minutes today.

Mr. DREIER of California, for 60 minutes on December 16.

(The following Members (at the request of Mr. GRAY of Illinois) to revise and extend their remarks and include extraneous material:)

Mr. KLECZKA, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. HUTTO, for 5 minutes today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mrs. BENTLEY and to include extraneous matter:)

Mr. BEREUTER.
Mr. BILIRAKIS.
Mr. BROOMFIELD in two instances.
Mr. RITTER.
Mr. MORRISON of Washington.
Mr. CLINGER in two instances.
Mr. SMITH of New Jersey.
Mr. SCHAEFER.
Mr. OXLEY.
Mr. GEKAS.
Mr. SOLOMON.
Mr. BROWN of Colorado.

(The following Members (at the request of Mr. GRAY of Illinois) and to include extraneous matter:)

Mr. TRAFICANT.
Mr. MAZZOLI.
Mr. KASTENMEIER.
Mr. RODINO.
Mr. RAHALL.
Mr. FEIGHAN.
Mr. WAXMAN.
Mr. FLORIO in two instances.
Mr. SABO.
Mr. BOSCO.
Mr. PEPPER.
Mr. MINETA in two instances.
Mr. KOSTMAYER.
Mr. MILLER of California.
Mrs. SCHROEDER.
Mr. LELAND.
Mr. DORGAN of North Dakota.
Mr. SIKORSKI.
Mr. DURBIN.
Mr. KANJORSKI.

SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 574. An act entitled the "Battle Mountain Pasture Restoration Act of 1987"; to the Committee on Interior and Insular Affairs.

S. 892. An act to remove the right of reversion to the United States in lands owned by the Shriners' Hospitals for Crippled Children on lands formerly owned by the United States in Salt Lake County, UT; to the Committee on Government Operations.

S. 1165. An act to authorize the Secretary of the Interior to provide for the development and operation of a visitor and environmental education center in the Pinelands National Reserve, in the State of New Jersey; to the Committee on Interior and Insular Affairs.

S. 1259. An act to direct the Secretary of the Interior to permit access across certain Federal lands in the State of Arkansas, and for other purposes; to the Committee on Interior and Insular Affairs.

S. 1335. An act to establish the City of Rocks National Reserve in the State of Idaho, and for other purposes; to the Committee on Interior and Insular Affairs.

S. 1675. An act to provide for the establishment of the Hagerman Fossil Beds National Monument in the State of Idaho, and for other purposes; to the Committee on Interior and Insular Affairs.

S. 1937. An act to amend title II of the Social Security Act to continue disability benefits during an appeal; to the Committee on Ways and Means.

ADJOURNMENT

Mr. BURTON of Indiana. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 7 o'clock and 41 minutes p.m.), under its previous order, the House adjourned until tomorrow, Wednesday, December 16, at 12 noon.

EXECUTIVE COMMUNICATIONS

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2569. A letter from the Inspector General, Department of Agriculture, transmitting notification of a proposed new Federal records system, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

2570. A letter from the Assistant Attorney General for Administration, Department of Justice, transmitting notification of two proposed new Federal records systems submitted by the Special Counsel for Immigration-Related, Unfair Employment Practices, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

2571. A letter from the Deputy Associate Director for Collection and Disbursements, Department of the Interior, transmitting notification of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

2572. A letter from the Deputy Associate Director for Collection and Disbursements, Department of the Interior, transmitting notification of proposed refunds of excess royalty payments in OCS areas, pursuant to

43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

2573. A letter from the Deputy Associate Director for Collection and Disbursements, Department of the Interior, transmitting notification of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

2574. A letter from the Administrator, National Aeronautics and Space Administration, transmitting the annual report on the performance of its industrial application centers and on the ability to interact with the Nation's small business community, pursuant to 15 U.S.C. 648(f); to the Committee on Small Business.

2575. A letter from the Acting Assistant Secretary for Import Administration, Department of Commerce, transmitting the annual report of the Foreign Trade Zones Board for fiscal year 1984, pursuant to 19 U.S.C. 81p(c); to the Committee on Ways and Means.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. HOWARD: Committee on Public Works and Transportation. H.R. 2927. A bill to designate the Federal courthouse being constructed at 129 Market Street, Youngstown, Ohio, as the "Thomas D. Lambros Federal Courthouse"; with amendments (Rept. 100-479). Referred to the House Calendar.

Mr. HOWARD: Committee on Public Works and Transportation. H.R. 3327. A bill to designate the Federal Building located at 324 West Market Street in Greensboro, North Carolina, as the "L. Richardson Preyer Federal Building"; with amendments (Rept. 100-480). Referred to the House Calendar.

Mr. HOWARD: Committee on Public Works and Transportation. H.R. 3734. A bill to recognize the significance of the administration of the Federal-aid highway system and to express appreciation to Ray A. Barnhart for his dedicated efforts in improving the Federal-aid highway system (Rept. 100-481). Referred to the House Calendar.

Mr. HOWARD: Committee on Public Works and Transportation. S. 1642. A bill to designate the U.S. courthouse located at the intersection of Uniondale Avenue and Hempstead Turnpike in Uniondale, NY, as the "John W. Wydler United States Courthouse"; with amendments (Rept. 100-482). Referred to the House Calendar.

Mr. MOAKLEY: Committee on Rules. House Resolution 333. Resolution providing for the consideration of a resolution reported by the Committee on Rules providing for the consideration of any joint resolution which only provides for a temporary extension of the date provided for in section 102 of Public Law 100-120, as amended (Rept. 100-483). Referred to the House Calendar.

Mr. HOWARD: Committee of conference. Conference Report on H.R. 2310 (Rept. 100-484). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BAKER:

H.R. 3762. A bill expressing the sense of the Congress that project impact of the combined accident reduction effort should receive the support of every State in the Nation and should be recognized as a model project for education of the Nation's youth; to the Committee on Education and Labor.

By Mr. BERMAN (for himself, Mr. Frank, Mr. Glickman, Mr. Morrison of Connecticut, Mr. Cardin, and Mr. Edwards of California):

H.R. 3763. A bill to amend title 28, United States Code, relating to foreign sovereign immunity, with respect to certain activities of foreign governments, and for other purposes; to the Committee on the Judiciary.

By Mr. BOSCO (for himself, Mr. Lewis of Georgia, Mr. Lewis of Florida, Mr. Grant, Mr. Perkins, Mr. Donald E. Lukens, Mr. Lehman of Florida, Mr. Pepper, Mr. Howard, Mr. McEwen, Mr. Kolter, Mr. Young of Alaska, Mr. Smith of Florida, Mr. Mica, Mr. Petri, and Mr. Rahall):

H.R. 3764. A bill to assure the right of passengers in air commerce to have access to certain courtesy vehicles operated at airports; to the Committee on Public Works and Transportation.

By Mr. NELSON of Florida (for himself, Mr. Roe, Mr. Lujan, Mr. Walker, Mr. Brown of California, Mr. Lewis of Florida, Mr. Volkmer, Mr. Packard, Mr. Hall of Texas, Mr. Henry, Mr. McCurdy, Mr. Slaughter of Virginia, Mr. Mineta, Mrs. Morella, Mr. MacKay, Mr. Torricelli, Mr. Chapman, Mr. Nowak, Mr. Perkins, Mr. Nagle, Mr. Skaggs, and Mr. Lagomarsino):

H.R. 3765. A bill to facilitate commercial access to space, and for other purposes; to the Committee on Science, Space, and Technology.

By Mr. SABO:

H.R. 3766. A bill to provide for certification and require the offering of qualified health plans, to provide Federal assistance to States to establish a program of assistance for low-income persons to purchase comprehensive health insurance and a program for coverage of catastrophic health care expenses, and for other purposes; to the Committee on Energy and Commerce.

By Mr. STUDDS (for himself and Mr. Young of Alaska):

H.R. 3767. A bill to authorize the U.S. Government to meet its obligations under the Treaty on Fisheries between the governments of certain Pacific Island States and the Government of the United States of America; to the Committee on Merchant Marine and Fisheries.

By Mr. VOLKMER (for himself, Mr. Jontz, Mr. Morrison of Washington, Mr. Robert F. Smith, Mr. AuCoin, and Mr. Herger):

H.R. 3768. A bill to amend the act of May 27, 1955, to increase the effectiveness of domestic firefighting forces and ensure prompt and effective control of wildfires on Federal lands; jointly, to the Committees on Government Operations and Foreign Affairs.

By Mr. WAXMAN (for himself and Mr. Madigan):

H.R. 3769. A bill to amend the Public Health Service Act to revise and extend the program of assistance for family planning services; to the Committee on Energy and Commerce.

By Mr. BILIRAKIS:

H.J. Res. 424. Joint resolution designating May 8-14, 1988, as "National Soccer Week"; to the Committee on Post Office and Civil Service.

By Mr. OWENS of New York:

H. Con. Res. 231. Concurrent resolution expressing the sense of the House of Representatives that the month of December 1987 should be observed by the people of the United States as a month to commemorate the contributions of deaf individuals and to increase public awareness of deafness and deaf individuals; to the Committee on Post Office and Civil Service.

By Ms. OAKAR:

H. Res. 332. Resolution designating membership on certain standing committees of the House; considered and agreed to.

By Mr. KASICH:

H. Res. 334. Resolution expressing the sense of the House of Representatives with respect to the ratification by the Senate of the INF Treaty; to the Committee on Foreign Affairs.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

250. By the SPEAKER: Memorial of the Senate of the Commonwealth of Pennsylvania, relative to employee pension plans; to the Committee on Education and Labor.

251. Also, memorial of the Senate of the State of Michigan, relative to the free trade union movement; to the Committee on Education and Labor.

252. Also, memorial of the Senate of the Commonwealth of Pennsylvania, relative to the Pennsylvania lottery; to the Committee on the Judiciary.

253. Also, memorial of the Senate of the Commonwealth of Pennsylvania, relative to Pennsylvania's unemployment compensation system; to the Committee on Ways and Means.

254. Also, memorial of the Legislature of the State of Michigan, relative to the Low Level Radioactive Waste Policy Act of 1980; jointly, to the Committees on Energy and Commerce and Interior and Insular Affairs.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. OBEY introduced a bill (H.R. 3770) for the relief of Ali Choucair; which was referred to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 111: Mr. Bilirakis.

H.R. 245: Mr. Lowery of California.

H.R. 1197: Mr. Coleman of Missouri, Mr. Penny, Mr. Schuette, Mr. Robert F. Smith, Mr. Stangeland, Mr. Upton, Mr. Boehlert, Mr. Marlenee, Mr. Herger, Mr. Jeffords, Mr. Holloway, and Mr. Gunderson.

H.R. 1213: Ms. Slaughter of New York.

H.R. 1598: Mr. Hansen.

H.R. 1726: Mr. Herger.

H.R. 1742: Mr. Hochbrueckner.

H.R. 1808: Mr. Weiss.

H.R. 2248: Mr. Kyl.

H.R. 3332: Mr. Lowry of Washington, Ms. Pelosi, Mr. Bustamante, and Mr. Gonzalez.

H.R. 3342: Mr. Hamilton.

H.R. 3584: Mr. Morrison of Connecticut.

H.R. 3612: Mr. Lewis of Georgia, Mr. Fauntroy, Mrs. Boxer, Mr. Foglietta, and Mr. Mavroules.

H.R. 3646: Mr. Nielson of Utah, Mr. Mrazek, Mr. Morrison of Connecticut, Mr. Rangel, Mr. Pease, Mr. Cardin, Mr. Thomas A. Luken, and Mr. Coats.

H.J. Res. 61: Mr. Smith of New Jersey.

H.J. Res. 289: Mr. Badham, Mr. Bateman, Mr. Conte, Mr. de la Garza, Mr. Dornan of California, Mr. Hayes of Illinois, Mr. Levine of California, Mr. Mineta, Mr. Moody, Mr. Neal, Mr. Owens of New York, Mr. Sawyer, Mr. Sundquist, Mr. Vento, and Mrs. Vucanovich.

H.J. Res. 332: Mr. Dickinson, Mr. English, Mr. Flippo, Mr. Owens of Utah, Mr. Nichols, Ms. Slaughter of New York, and Mr. Traxler.

H.J. Res. 383: Mr. Dicks, Mr. Foley, Mr. Garcia, Mr. Porter, Mr. Florio, Mr. Rangel, Mr. Bevill, Mr. Solarz, Mr. Gallo, and Mr. Solomon.

H.J. Res. 386: Ms. Oakar.

H. Con. Res. 168: Mr. Crockett.

H. Res. 283: Mr. Matsui, Mr. Moody, Mr. Torres, Mr. Murphy, Mr. LaFalce, Mr. Morrison of Connecticut, and Mr. Shaw.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

106. By the SPEAKER: Petition of the Naval Reserve Association, Alexandria, VA, relative to sundry resolutions adopted by its 34th national conference; to the Committee on Armed Services.

107. Also, petition of the Naval Reserve Association, Alexandria, VA, relative to Reserve income tax deductions; to the Committee on Ways and Means.

108. Also, petition of the Council of the City of New York, NY, relative to the catastrophic health insurance bill for the elderly; jointly, to the Committees on Ways and Means and Energy and Commerce.

EXTENSIONS OF REMARKS

THE IMPORTANT ROLE OF OLD FARM/LABOR COALITION

HON. ROBERT W. KASTENMEIER

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 15, 1987

Mr. KASTENMEIER. Mr. Speaker, in a society based on trickle-down economics, it is incumbent upon those in the bottom half of our economy to do what they can to maintain the drainspouts and prevent them from clogging.

It is especially important that the old farm/labor coalition, which has contributed so much to the policies of this country in the past, reestablish itself as a base of power for the working people of this country. Likewise, it is fitting that this base of power include all those who care about ensuring that every American enjoys the right to minimum standards of food, housing, education, and health care.

On December 1, Mr. Owen Bieber, president of the UAW, spoke before the annual National Convention of the National Farmers Organization. He reminded the NFO of the important role of the farm/labor coalition in the past and the urgent need to reinvigorate the coalition in the years ahead.

Mr. Speaker, I ask that the text of Mr. Bieber's remarks be included in the RECORD at this point.

REMARKS OF OWEN BIEBER, NATIONAL FARMERS ORGANIZATION, LAS VEGAS, NV

Thanks Devon, for that generous introduction and my thanks to all of you NFO delegates for that very warm and enthusiastic reception.

I was delighted to accept the invitation of President Woodland to join you here today. And I hasten to add, it's not because I like to gamble.

I'm not much of a gambler, and I would suspect a good many of you are likewise not that interested in the various games of chance that are available on the famous Las Vegas strip.

Nevertheless, as family farmers and ranchers, you are occupationally involved in a form of gambing all the time.

I spent a good part of my youth among farming people, and I worked for an uncle who was a full-time farmer in Western Michigan.

And I remember well how so many decisions and so many crops hinged on pure luck.

In the old days at least, if you were with a farmer or a group of farmers and the weather forecast came up on the radio, all conversation would stop and all attention would turn to that forecast.

At haying time especially, a farmer would want 3 days at least of no rain, and he would't mind if the dew was light as well.

Once the fateful decision to mow that hay was made, of course, the next forecast would be likely to report a low pressure system on its way in from Wisconsin.

Well, that's just a small example of the amount of chance that goes into a farmer's life. Depending on what the farmer or rancher sells, there's also livestock prices and commodity prices.

There's the price of fertilizer and fuel, which can fluctuate wildly from one year to the next.

There's a question of whether the operator can get outside labor when he needs it for a major project.

And, of course, there's the interest rate that the banker says he has to have in order to finance this year's planting or carry the farmer through a bad year if things don't pan out as hoped for.

Farmers and ranchers and their families need a lot of courage and a lot of commitment to this way of life in order to work as hard as they do while still leaving so much to chance.

Perhaps that's why farmers and ranchers enjoy so much respect from the American people as a whole.

There is no other group of workers in this country that has such an absolute claim on the affection and admiration of the public as family farmers.

The cynics and the agribusiness interests that would just as soon kiss family farming goodbye say that this widespread support for the farmers is but so much sentimentalism.

They say Americans only identify with farming because so many American families can trace their roots to the countryside and because people falsely assume that farming is a pure and uncorrupted way of life compared to life in the city or the suburb.

Well, I happen to think there's more to it than sentimentalism.

I think people recognize that our American system of widespread distribution of land has been a very positive force in our history.

I think they understand that there's a great deal of truth in Thomas Jefferson's perception that widely dispersed land ownership and the cultivation of the land by independent farmers would serve as a powerful safeguard over the American system of democracy.

And perhaps most important, I think Americans value and appreciate the tremendous productivity of America's farms and ranches.

I think they recognize that family farmers and ranchers have made very good use of scientific innovations through the years to give us the best and purest food supply in the world at very little cost to consumers.

They understand that we haven't needed giant factory farms to achieve that level of efficiency and quality and that the consumer might in fact begin to pay a lot more for a lot less in the supermarket if the huge operators get complete control of our agriculture.

And so I'm not one to dismiss the depth of attachment Americans have toward family farming as some sort of aberration or some sort of misguided sentiment.

I will even go so far as to suggest that family farmers will find new allies as a result of the new national concern about good health and nutrition.

After all, if the trend continues toward what they call free-range poultry and organically-grown produce and so on and so forth, who do they think is going to go to the extra trouble to provide these specialties? The corporate farm? Not likely. It will again be the small operator who is most likely to be successful in meeting these new market demands.

And so the family farmers and ranchers of this country are not without a broad base of support, including political support.

But how is that support going to be focused, and what direction is national farm policy going to take as we prepare to bid the Reagan era goodbye?

Americans may want to help the farmers, but there is also the factor of the Federal budget deficit which, as you all know, has tied Washington in knots for weeks and weeks.

Now that Thanksgiving is past, I'm going to dare to stick my neck out a little and say that there may actually be a bit of a silver lining for family farmers in the huge mess that Mr. Reagan has made of the Federal budget.

There is a new mentality in Washington as a result of the budget crisis. The politicians are scared to death of taxes. They like to talk instead about user fees and revenue enhancement—whatever that is.

You may have noticed a trend even among the democrats to find ways other than universal taxation to pay for programs.

For example, the new catastrophic health care coverage is to be paid for by Medicare beneficiaries. And the new minimum health care benefits for employees currently not covered will be financed by employers as the program is presently conceived.

Now let me be very clear that, in general, there are plenty of questions that should be raised by this approach.

If you try to shift responsibility for what are essentially social programs over to the private sector of the economy, you begin to run into trouble.

Breakdowns in universal coverage and universal financing of such programs through the tax system mean that you are risking inconsistencies in the quality and delivery of the needed service.

Absolving the Government of direct responsibility also sends the wrong philosophical message. It implies that these areas may not be the ultimate responsibility of Government, whereas the truth is that Government is or should be involved in strenthening the social fabric and investing in our human resources in the same way governments in enlightened countries everywhere take the lead in these areas.

Having said all that, however, let me get to my point about the possible silver lining for farmers in this new Washington mindset.

The basic decision the Government has to make with respect to agriculture is whether to allow production to float up to whatever level our system is capable of producing and then find ways to keep farmers alive when prices plunge—or whether to control production in such a way that farmers can receive an adequate income from the actual market price of their products.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

The second approach—the approach embodied in the HARKIN-GEPHARDT Save the Family Farm Act—is based on the logical economic principle that prices will go up if the supply is limited. Following it would mean that consumers would ultimately pay slightly more for their food, especially since we know the processors and middlemen are not about to give up their very large slice of the pie.

But I don't see how anyone can argue that the consumer, who is also a taxpayer, would not ultimately benefit along with the farmer under this approach.

And I would suggest that the time may be right for this kind of major redirection in Federal farm policy to come about, if only because so many politicians are terrified by the portion of the budget deficit that relates to agriculture.

What's working against the basic reform we need is of course the fact that it goes against the prevailing ideology with respect to the p-word: that is planning.

The idea that farmers and ranchers couldn't raise or produce as much as they please of a particular product cuts against the philosophical grain.

So does the idea that we would give up trying to compete with worldwide commodity prices and simply admit that American farmers need and deserve a better price than the price that third-world or subsidized first and second-world producers are able to accept.

I would like to develop this second point a little, because it relates directly to our problems with Government policy in the UAW and the manufacturing sector.

You know, there's a myth that refuses to die about so-called free trade and U.S. history.

The core of this myth is that free trade has always worked in favor of the United States and that we therefore have always favored it.

In fact, this country became the world's strongest industrial power during the 19th and early 20th centuries when we never allowed free trade.

And I should add that the Republican party was the strongest advocate of protecting American industries from foreign competition throughout most of that era.

The blind assumption that free trade always works in our favor is really the product of an exceptional period in U.S. history—the 25 years or so following World War II where we were the world's undisputed leader in both agriculture and manufacturing.

When you have an abundance of high-quality, cheap food and the rest of the world is starving, you can afford free trade in agriculture.

When you produce fully one-half of the world's manufactured goods, and everyone else's manufacturing capacity has been devastated by war, you can afford free trade in basic industry.

But today, there are dozens of countries that have gained the capacity to grow wheat and rice and other goods and market them at prices that undercut our domestic price.

There are dozens of countries that have nurtured key manufacturing industries—such as an auto industry—and that now are determined to conquer foreign markets—namely ours—in those key sectors.

The world just isn't the same as it was 30 or 40 years ago, and to base our policies on the assumptions about trade that are 30 or 40 years old means we are bound to be frustrated and defeated.

But today, I want to leave you with a message that is not about frustration and defeat but about hope and opportunity.

It has been what the Bible would call 7 lean years for the farmers, just as it has been 7 lean years for the industrial workers.

We've had some problems that we would have had anyway, but we've also had a Government that shows no sympathy or understanding for our problems—a Government of the rich, by the rich, and for the rich that simply doesn't care if families are going hungry in the heart of America's breadbasket, which the physicians task force on hunger says they are.

We've had a Government that is so blinded by an outdated free-market, free-trade ideology that it refuses to understand that the rest of the world doesn't play by those rules—if indeed, it ever did.

But slowly and surely, the people of this country are beginning to open their eyes.

The people are not blind—not by any means. They can see broken promises and unmet needs all around them.

They can see the tremendous need for education and training, for industrial reinvestment, for rebuilding the roads and bridges and waterworks and mass transit systems that have been neglected for so long, for child care for working parents and long-term care for dependent seniors, and for a serious new commitment to clean up our environment and deal with the toxic time bombs industrial pollution has planted all around us.

Yes, the people are not blind—and that is our margin of hope.

Our margin of opportunity is what we ourselves are willing to commit to the political effort that will be necessary to put things right in this country once again.

The people may be receptive to a new political message—a message that basically says the problem is not getting Government off our backs: it's getting Government on our side to help us meet the challenges we face.

But even if the people are receptive, somebody still has to deliver that message.

Someone still has to go out and convince people that there's a reason to take part in the political process—that intelligently-conceived Government programs and policies will make a difference to them and to the kind of future we are building for our children.

Someone has to go out and challenge those free-trade, free-market myths I spoke about—to make people feel more comfortable about the fact that the world has changed and that we as Americans can still do very well in that world provided we don't play by the wrong set of rules.

Well, just who do you think is going to do this kind of missionary work?

I'll give you a clue: for the most part, it will not be the candidates.

This is nothing against any of the candidates. It's just a fact of political life that those who are seeking your vote and your support are not going to get too far out in front of you on the issues.

They will respond to changes in the body politic, but they will generally not instigate those changes.

No, brothers and sisters, if we aren't the instigators of positive changes in the political arena, no one else is going to come to the rescue.

Your great organization—the national farmers organization—was formed out of great duress and suffering.

It was nothing less than economic desperation and total frustration with some of the old approaches to farm problems that caused you to come into existence and to experiment with something new: what amounts to collective bargaining over commodity prices.

The same is true of the UAW's history. We were formed out of adversity at a time when industrial workers had absolutely no job security and were subjected to every form of abuse and exploitation during the Great Depression.

The other allies in our grand coalition for social change—the civil rights and women's groups, most especially—were also formed because there was no alternative to self-organization.

And as our organizations grew and matured along their own paths, they also discovered the power and importance of coalition—of working together to achieve what each on its own could never achieve.

Finally, we learned how to move the political agenda on key issues by tying our particular concerns to the concerns of the broad majority of our fellow citizens. We learned to communicate effectively.

That rich heritage that we share in the progressive community—the heritage of struggle, the heritage of coalition-building, and the heritage of effective communication—can serve us well in 1988.

The political process of this country is ready to swing in a more enlightened, progressive direction, but we have to put our hand to the rudder.

The political ground is fertile with good new ideas to solve some of our long-neglected problems, but we have to put our hand to the plow.

The political debate is waiting for the sounds of confidence and leadership, but we have to raise our voices in unison to provide that necessary leadership.

I assure you today that if you in the NFO and your sister farm organizations are prepared to march toward a brighter future, the UAW is prepared to join in that march with you.

We have been there with you in the past, and we will be there with you in the future.

You know, there's an old expression in the UAW that goes: there is no power on earth equal to the power of human solidarity united in the bonds of brotherhood.

Now to some, that would be an empty slogan—a piece of shopworn rhetoric.

But it's never seemed that way to us, and do you know why? It's because human solidarity has worked for us—we believe in it, we've lived by it, and we know it can move mountains.

We have mountains to move and many miles to travel in 1988, and so I invite you to join us and look forward to joining with you in changing that landscape and in walking those roads to a better America in solidarity and brotherhood.

Thank you very much, and have a great convention!

Thank you.

UNITED STATES-SOVIET RELATIONS: THE HARSH REALITY

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 15, 1987

Mr. BROOMFIELD. Mr. Speaker, now that the euphoria is over after the signing of the

INF Treaty, it is time to wake up and look at the harsh reality of United States-Soviet relations. While some progress is being made in our overall dialog with the Soviet Union, we must now move to solve the many regional conflicts in the Third World before we sign another agreement with Mr. Gorbachev. The Soviets must end their military adventurism against United States interests and allies around the globe if they want to have the President's signature on a comprehensive future arms accord.

During the past few weeks, we have witnessed rhapsodic fascination with Mr. Gorbachev and company. With a slick public relations effort, the Soviets have sold the world a concept of glasnost much different than reality. Now that the "tango" is over here in Washington, it is time to pause and look at the facts. The Soviet Union is still a totalitarian state and has not altered its internal or international conduct.

While we can all admit that some progress has been made in improving the human rights of Soviet citizens, that government is still violating the basic freedoms of thousands of innocent men, women, and children. A recent demonstration involving human rights activists in the Soviet Union was broken up by the KGB. An American reporter covering the demonstration was detained.

I urge the administration to press the Soviets on the regional conflict issues until the aggressive and expansionist nature of the Soviet Union changes. Soviet promises to resolve the Afghanistan conflict have not paid dividends, the Soviet Union still has over 100,000 troops occupying that once-free country.

The Soviets still support anti-United States regimes in Nicaragua, Angola, Vietnam, Libya, as well as supporting the PLO. The Soviets give various types of support to terrorist-supporting nations and to terrorist groups in Western Europe, the Middle East, and Latin America. The Soviets remain a serious threat to United States interests around the globe. Many complex regional issues involving the U.S.S.R. must be resolved if international tensions are to be reduced.

The Soviet government did sign an INF Treaty with the United States, but much more remains to be accomplished. While ridding the world of nuclear weapons, we must also tell the Soviets to end their attacks on America's interests and the interests of our friends and allies, around the globe if they want further progress in the arms control area.

I commend the following Wall Street Journal article on Soviet activities in the Third World to my colleagues in the Congress.

[From the Wall Street Journal, Dec. 9, 1987]

SOVIETS LET OFF HOOK IN THIRD WORLD

(By Alan L. Keyes)

Neither the arms-control process, nor the agreement President Reagan and Soviet leader Mikhail Gorbachev signed yesterday do anything to address America's most threatening strategic deficiency—its inability to mount a sustained effective campaign for its interests in key regions of the developing world.

The U.S. is at an inherent strategic disadvantage, a fact the Soviets fully appreciate. A major goal of their policy has always been to make arms-control and disarmament discussions the only serious focus of U.S.-Soviet relations. They have successfully resisted any linkage between progress on arms control and progress in the areas of Soviet behavior that pose the greatest immediate strategic threat to American interests.

The Soviet war against the Afghan people continues, generating millions of refugees and pressure on Pakistan, a key strategic partner of the U.S. Similarly, Soviet backing sustains the Vietnamese occupation of Cambodia, which has created a prolonged refugee problem in neighboring Thailand. Through their military supplies and the presence of thousands of Cuban troops in Angola, the Soviets maintain their bid for predominant influence in southern Africa. On the horn of Africa, a Soviet client regime in Ethiopia not only wages war against its own people, but provides support for rebel forces in southern Sudan. In Central America, massive Soviet assistance permits the Sandinista regime to resist democracy at home and support efforts to destabilize its neighbors, especially in El Salvador.

NONCONVERTIBLE CURRENCY

While the two sides jockey for postions in a war that may never be fought, the U.S. remains exposed to gradual defeat in the war that goes on every day. Because of the resistance of linkage, Soviet persistence in that war never becomes a central focus of serious U.S.-Soviet negotiations. The arms-control coinage that most interests the Soviets can never be cashed in for reductions in offensive Soviet behavior in the developing regions. The two sides reach bargains in which the U.S. pays in hard cash—that is, results that can be converted into Soviet gains outside the arms-control area. In return, the U.S. receives nonconvertible currency—that is, results that, at best, produce marginal advantages strictly limited to the arms-control area.

America's great postwar achievement is the reconstruction of Western Europe on a democratic basis. It failed, however, in its efforts to prevent the establishment of massively brutal, pro-Soviet tyrannies in other strategically significant regions. While the defeat in Vietnam is the principal symbol of that failure, its most dangerous consequences are felt much closer to home, in Central America.

The principal aim of Soviet policy in the postwar era has been to compensate for or overcome the effects of its strategic defeat in Western Europe. The main strategic necessity facing the U.S. has been to reverse the trend of failure in the other strategically significant regions of the world.

When the Vietnam debacle demoralized America's governing elite, the Soviets saw a chance to consolidate their military advantage in Europe. With their deployment of SS-20s against targets in Western Europe they sought to neutralize the tactical nuclear option needed to supplement NATO's inferior conventional defenses. They also sought to weaken security ties between Western Europe and the U.S. The Soviet leaders who made the deployment decision had good reason to believe there would be no effective U.S.-NATO response. They hoped to exploit America's post-Vietnam malaise to achieve a decisive psychological and political advantage in Europe, just as they had seized upon it to make important gains in Asia, southern Africa and Central America.

What the Brezhnev-era Soviet Strategists did not anticipate was the election of a U.S. administration that had enough will, competence and domestic political support to frustrate the political component of their strategy. The Reagan administration successfully managed the politics of deploying Pershing 2s and cruise missiles in Europe. Soviet strategy suffered a major setback. Instead of leaving Europe open to Soviet attack without an automatic American response, the result left the Soviet Union open to attack from Europe without the automatic involvement of America's long-range nuclear arsenal.

The situation was not all bad for the Soviets. At best, they hoped to turn the SS-20s into bargaining chips with which to extract concessions from the West. At worst, there would be a return to the status quo ante, leaving increased European apprehensions about the reliability of America's nuclear umbrella and saddling NATO with the politically painful necessity of paying for expensive increases in conventional arms. It was a scenario that involved little pain for the Soviets, provided it left intact their gains in the developing world.

Since Lenin, Soviet leaders have understood that the resource-producing regions of the world are one key to influence in Europe. These areas provide minerals, raw materials and future trade relations far more important to Europe than to America. Africa and Asia are major suppliers to Europe of such minerals as copper, cobalt and aluminum, as well as a wide variety of raw materials including tea, coffee, cocoa, edible oils, spices, sisal and cotton. The Europeans are critically dependent on energy supplies from the Persian Gulf. If the Soveits could gain predominant influence in these regions, this would reinforce European inclinations toward cooperation with countries in the Soviet orbit. In addition, Soviet demonstrations of American incapacity in these areas could seriously damage Western cohesion and morale.

In the '70s the Soviets achieved major gains in Asia, Africa and Central America. They were effectively stymied only in the Middle East (though the U.S. suffered the loss of a major partner in the region when Ayatollah Khomeini emerged triumphant in Iran). When American leaders defeated the Soviet Union's SS-20 strategy, they had the opportunity to follow up their success in ways that helped to reverse the pro-Soviet trend.

The linkage principle articulated by the Reagan administration in its early days was the right basis for pursuing this goal. Given this principle, if the Soviets wanted to get out of the bad situation brought on by their bid for nuclear dominance in Europe, they would have to pay a price in terms of their position in the developing world. The key areas of interest lay in Afghanistan, Central America and southern Africa.

As long as the linkage idea held firm, the Soviets faced hard choices. They could accept the strategic disadvantage represented by NATO's deployment of intermediate-range nuclear forces in Europe. Or, in exchange for restoration of the status quo before Soviet deployment of the SS-20s, they could negotiate some retrenchment of their position in the developing world.

The linkage principle meant holding back in areas of the U.S.-Soviet relationship that mattered most to the Soviets until concrete agreements emerged affecting hostile Soviet activities in the developing regions. The administration now asks that we approve of an INF agreement that lets the Soviets off the hook of a major strategic blunder, with no credible indications that such agreements have been or will be achieved.

TANTALIZING POSSIBILITIES

Where is the agreement to secure Soviet withdrawal from Afghanistan, or the cessation of Soviet support for Nicaragua's campaign of aggression and subversion in Central America? Where is the agreement to secure the withdrawal of Cuban troops from Angola, or Vietnamese troops from Cambodia? As part of a package that included some or all of these elements, the INF agreement would make strategic sense for the U.S. In their absence, it occasions serious doubts.

In recent days, the Soviets have floated tantalizing possibilities that are not quite promises of things to come. Administration officials, including the president, have offered firm promises that human-rights and regional-security issues will be raised during the summit with Mr. Gorbachev. But will any of them be settled?

The Soviets just backed a major offensive against pro-American freedom forces in Angola. They have sustained their heavy military support for the Sandinistas in Nicaragua. They have done nothing to encourage the withdrawal of Soviet-backed Vietnamese invaders from Cambodia. Yet the Reagan administration has returned to the worn-out formula Ronald Reagan criticized in his predecessors: Sign the agreement and hope, without reason, for the best.

As a candidate in the '70s, and as president in 1981, Mr. Reagan understood that such an approach fails to promote America's overall strategic interests. Those interests demand that the Soviets cease to war on American interests in key regions of the world. Absent agreements that secure this cease-fire, even a technically sound INF agreement is a bad deal.

OPPOSITION TO CONFERENCE REPORT ON CONTINUING RESOLUTION

HON. NORMAN Y. MINETA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 15, 1987

Mr. MINETA. Mr. Speaker, it is with reluctance that I must tell my colleagues of my intention to oppose the conference report on the concurrent resolution for fiscal year 1988. From the reports we are now hearing of the agreements made thus far by the conferees from the Appropriations Committee, this continuing resolution seems to be reaching decisions with no recognition of the actions taken by the authorizing committees of the House of Representatives. In the case of the airport and airways trust fund, it is my understanding that the conferees will be considering a proposal to fund 60 percent of the operating budget of the Federal Aviation Administration out of the aviation trust fund—a fund created with the primary purpose of funding capital expenses to improve our airports and our air traffic control system. This action is being considered despite the previous approval of H.R. 2310, the airport and airways programs authorization, by the House of Representatives on October 1, 1987, by a rollcall vote of 396 yeas and 0 nays. In that approval, the House agreed to specific funding priorities from the trust fund and to setting a far different ceiling on the funding of FAA operations out of the trust fund.

I might note that the conference report on H.R. 2310 will be filed this evening—preceding the conference report on the continuing resolution by 1, 2 or 3 days. This should be adequate time to adopt an appropriations measure that does not run roughshod over the policies made by our authorizing committees and adopted by the House.

While I appreciate that the conferees on the CR are working under pressure and trying to get us home for Christmas, I am one Member of Congress who is willing to stay here working as long as it is necessary to produce a better budgetary policy than the one we now seem about to produce. In the rush of the moment, we should neither be ignoring nor overturning the policies that have been carefully developed through the detailed hearing and oversight processes used by our authorizing committees. That was not how our process was intended to work. If the CR continues in this direction, I will be back here urging my colleagues to oppose the conference report on the continuing resolution.

SUBCOMMITTEE STRIVES TO ENSURE SAFE CLOSURE OF HAZARDOUS WASTE LANDFILLS

HON. WILLIAM F. CLINGER, JR.

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 15, 1987

Mr. CLINGER. Mr. Speaker, earlier today, I joined my colleagues on the Subcommittee on Environment, Energy and Natural Resources at a subcommittee hearing which focused on what is not only a critical environmental issue, but an important budgetary issue as well.

The issue the subcommittee addressed, namely, the timely and safe closing of those hazardous waste facilities not meeting the permit certification requirements of the Resource Conservation and Recovery Act, is of concern to residents in nearly every congressional district in the Nation. In Pennsylvania alone, there are 66 hazardous waste land disposal facilities that EPA has identified as closure sites.

In 1984, congressional concern with the slow pace of the RCRA Program contributed to the passage of legislation setting new deadlines and tougher penalties. However, witnesses from the General Accounting Office testified today that 44 percent of facilities in the closure universe have either not submitted closure plans or the plans have been submitted but not yet approved. There is simply no assurance that closure activities are proceeding properly as long as EPA has not received or approved these plans.

One of the questions central to the issue is whether EPA has adequate resources to effectively administer the RCRA Program. If the problem is money, it is not because Congress has been stingy with funds. The Congressional Research Service recently published figures showing that from 1984 ot 1987, there was a $128 million increase in funding for EPA hazardous waste programs. Between fiscal year 1986 and fiscal year 1987, appropriations for RCRA enforcement increased almost $15 million, a 72-percent jump.

Despite these increases, EPA seems to have been unable to adequately focus its efforts to address the universe of closed and closing treatment, storage and disposal facilities. I am confident that today's hearing contributed to a better understanding of the reasons why, and may ultimately assist in improving EPA's performance.

The testimony presented at the hearing, underscored the need for enactment of legislation of which I am a cosponsor, H.R. 2800, the "Hazardous Waste Reduction Act." According to the Office of Technology Assessment, the Federal Government devotes 99 percent of its environment-related resources to telling industry how to control wastes and pollutants after they are generated. The difficulties involved in safely closing hazardous waste landfills, demonstrates why the Government needs to focus more attention on reducing and preventing waste. Hopefully, such efforts will help in limiting the number of landfills needed to dispose of America's future waste.

A single subcommittee hearing can contribute only so much to a complex and costly problem like the closure of hazardous waste landfills. However, I am confident that through the ongoing efforts of the subcommittee and the enactment of legislation to reduce the generation of hazardous waste, we can improve the safe handling and disposal of these wastes.

THE DECOUPLING POTENTIAL OF THE UNITED STATES FROM NATO

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 15, 1987

Mr. BEREUTER. Mr. Speaker, in light of the signing of the INF Treaty documents by President Ronald Reagan and General Secretary Mikhail Gorbachev last week, I believe my colleagues and a larger number of Americans might want to review an editorial in the November 28, 1987 edition of the Economist, a very respected British magazine. The prescriptive editorial addresses an important and growing concern in Europe about America's continued commitment to the defense of Western Europe that will undoubtedly be accentuated by the withdrawal of INF missiles from Europe and the resultantly greater concern of Western Europe about the imbalance of conventional forces that exist between NATO and the Warsaw Pact. Indeed its basic conclusion—"whether Europe keeps America's protection is largely up to Europe" is indeed the correct conclusion.

IT TAKES TWO TO DECOUPLE—WHETHER EUROPE KEEPS AMERICA'S PROTECTION IS LARGELY UP TO EUROPE

A week or so from now, Ronald Reagan and Mikhail Gorbachev will be signing a missile-cutting agreement that too many people see as Apocalypse Tomorrow. This is the beginning of the end, such people think, of the American-guarded security Western Europe has enjoyed for the past 42 years: the age of decoupling has arrived.

As described by Sir James Goldsmith in the *Wall Street Journal*, decoupling will happen because America will realise that the withdrawal of cruise and Pershing missiles from Europe, and the cut in long-range missiles that may follow, will leave America's soldiers in Europe naked to a Russian attack, so America will take them home too; Western Europe will be too divided, or too cowardly, to replace them with a defence of its own; and pretty soon West European industry will be servant to the economy of Europe-dominating Russia. It does the complacent majority of West Europeans good to be reminded that all three of these things are possible. Sir James and the apocalyptic minority need to be told that they are no more than possible, and the prime law of political mathematics is that three possibles do not make a probable.

The first point is the weakest. It is true that most Europeans' willingness to believe that America will risk a nuclear war purely for Europe's sake has diminished, and will probably continue to diminish. The more people think about nuclear weapons, the more they suspect no country will use them except to protect its own vital interests. Nevertheless, even this diminished American cover over Europe remains a powerful thing, so long as a large American army remains in Europe, and still has plenty of battlefield nuclear weapons. A Chairman Mao, even a Stalin, might have risked a local nuclear war that would kill or capture such an American army, in the hope that America would not consider it a vital enough American interest to pull the big nuclear trigger. Mr. Gorbachev does not seem likely to run that risk; and, though another Stalin may follow Gorbachev, the West is entitled to adjust its defence policy to the adversary it faces.

WIMPISHNESS WILL DRIVE THEM OUT

The present aim of West Europeans should therefore be to keep the American army in Europe as large as possible, and to keep it (and NATO) equipped with battlefield nuclear weapons. America's need to cut its budget deficit, and its duties in other parts of the world, make it virtually certain that the American army in Europe will be smaller by mid-1990s than it is now. How much smaller depends on the Europeans.

The American reduction will probably be minor if a spirited Europe shows that it is ready to make up the difference—and, even better, if Europe is prepared to help America in places like the Gulf. It will be a bigger reduction if a limp Europe does neither of those things. The danger is not, at bottom, economic. Even with a smaller budget, America can still afford to keep a large army in Europe, rather than build expensive new barracks in New England or Texas. The real danger is the short-fused temper of American populism. Another spasm of fury about Eurowimpishness, and a weak, inward-looking president after Mr. Reagan: that combination could cost Europe its American garrison. The moral is unexpectedly cheering. The more Western Europe shows willing to look after itself, the less it may actually have to do.

On whether Europe will be spirited or spiritless, the gloomsters may be on firmer ground. The first reactions to this newspaper's recent suggestion that Western Europe should take over about two-fifths of America's present share in the defence of Europe have not been encouraging.

The coming year's defence budgets of all the main European NATO countries, except France, look like being smaller in real terms than this year's. The past autumn's novelties in French-German co-operation—a mixed army brigade, a joint defence council—may one day prove to have been first steps to something serious, but so far they will not add a man or a franc to Europe's defence. Of course, Western Europe will have less rearming to do if Mr. Gorbachev agrees to some serious non-nuclear disarmament reaching right up to the Urals. That, however, is still a mistily distant hope. And it is no balm to say the Europeans will presumably wake up as the moment of the first American withdrawal approaches. A European panic after the explosion of American irritation would do little good. The alliance ought to be starting to plan the necessary burden-shifting now.

It is wrong to smirk at Europe's ditherings. The difficulty with burden-shifting is not just a matter of whether comfortable Europeans can summon up the decisiveness to spend more on defence, though that is the core of it. Some heroic squaring of old European circles has at last to be attempted. If Western Europe is to play a proper part in its own defence, France's soldiers must be able to plan and practise for the day when they may have to fight alongside other NATO armies, while French politicians go on proclaiming that France is an utterly independent country. If a bigger European part in the defence of Europe includes a bigger nuclear part, the West Germans may need a larger say in that: which will set many hearts fluttering. Approach those unsquared circles with the thought that, if they stay unsquared, the apocalyptic vision of Europe's future could prove true after all.

WE MUST REDUCE DRUG ABUSE

HON. RICHARD H. BAKER

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 15, 1987

Mr. BAKER. Mr. Speaker, today I am introducing a House concurrent resolution which expresses a strong need for drug education in our country. In 1986, the global problems of drug production, trafficking, and abuse, along with the health, welfare, and national security risks these problems engender, captured the Nation's attention. Our Nation witnessed the death of two rising star's in sports caused directly by the misuse of controlled substances, that is, cocaine. The alarms must sound again, we must reduce drug abuse.

Time and time again, we are stunned as another cocaine bust has gone down in this town or that city. Time and time again we hear of this crime or that crime committed that is directly tied to drug trafficking or abuse. I rise to say enough time and time again, we must again refocus our energies in the direction of curbing the drug problem in our country.

The unlawful use of drugs continues to be one of the major problems still facing our society today. Unfortunately, we live in a permissive society, a society where it is not unusual to hear that our role models or heros such as major motion picture stars, professional athletes, and even legislators have been arrested for drug violations. In fact, research conducted by law enforcement agencies across the Nation estimates that from 60 to 80 percent of all crimes are in some way connected to illegal drugs.

The Louisiana State Police Department has developed a model drug education program titled "project impact." It is comprised of a colorful, easy to understand booklet which each congressional office will be receiving and it can be used by all ages. In fact, the national conference of the combined accident reduction effort resolved to initiate project impact on a national level. And its for that purpose, I have introduced this resolution.

H. CON. RES.—

Concurrent resolution expressing the sense of the Congress that Project Impact of the Combined Accident Reduction Effort should receive the support of every State in the Nation and should be recognized as a model project for education of the Nation's youth

Whereas the Combined Accident Reduction Effort was established to reduce the number of tragic accidents that occur on the Nation's highways;

Whereas the agencies participating in the Combined Accident Reduction Effort are indirectly involved in narcotics enforcement;

Whereas the Combined Accident Reduction Effort recognizes the ever-increasing problem of intoxicated drivers' involvement in the carnage that occurs on the Nation's highways;

Whereas, at its 1987 national conference, the Combined Accident Reduction Effort resolved to initiate Project Impact, a united effort in drug education;

Whereas Project Impact will prepare an informational booklet to teach adults about the problems of drug abuse, with the hope that adults who read the booklet will in turn teach their children about the subject;

Whereas Project Impact's informational booklet will be distributed by State police departments and highway patrol agencies throughout the Nation; Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That it is the sense of the Congress that Project Impact of the Combined Accident Reduction Effort should receive the support of every State in the Nation and should be recognized as a model project for education of the Nation's youth.

ROBERT AND BEVERLY COHEN FETED BY THE SEPHARDIC HEBREW ACADEMY

HON. HENRY A. WAXMAN

OF CALIFORNIA

HON. HOWARD L. BERMAN

OF CALIFORNIA

HON. MEL LEVINE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 15, 1987

Mr. WAXMAN. Mr. Speaker, we would like to bring to your attention and the attention of our colleagues the fact that Robert and Beverly Cohen will soon be feted by the Sephardic Hebrew Academy.

The Cohens have distinguished themselves not only in their business and professional lives, but also in their tireless dedication of the needs of the community. It is astonishing to contemplate that these two individuals have not only raised a family and operated a large and successful business, but have also found time and energy for a phenomenally wide range of worthwhile projects.

Beverly Cohen has served in leadership roles in both the Sephardic Hebrew Academy and the Sephardic Home for the Aged. Both Beverly and Robert have been staunch supporters of the City of Hope Medical Center, Big Brothers of America, the Anti-Defamation League, the United Jewish Welfare Fund, and the State of Israel Bonds Golda Meir Club.

Both Jews and non-Jews tend to think of the American Jewish community as being of East European origin. This is accurate in the majority of cases. However, throughout American history—going back to colonial times—there has always been a vibrant Sephardic Jewish community rich with unique customs, language, and tradition. These Jews—originating from the Iberian Peninsula, North Africa, and the Mediterranean—have established the Sephardic Hebrew Academy to perpetuate their ancient values and way of life. The Academy has chosen Robert and Beverly Cohen both for their tireless work on behalf of the school, and for their magnanimous contributions to the larger community.

Mr. Speaker, we ask that the Members of the House of Representatives join us in congratulating Beverly and Robert Cohen on the occasion of the January 26, 1988 scholarship banquet, and wish them many long years of good health, happiness, joy in their family, and continued community service.

BABY BELLS GET SPANKED

HON. MICHAEL G. OXLEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 15, 1987

Mr. OXLEY. Mr. Speaker, much has been said and written about the state of America's telecommunications industry since U.S. District Court Judge Harold Greene's order of September 10, 1987. Clearly, the order didn't go far enough in providing needed MFJ relief for the Bell Holding Cos.

Although the judge has yet to rule on the recent information services filings which will determine the infrastructure for transmission of such services, we will have to wait until 1990, the year of the second triennial review, before added relief from the court is allowed. That is, in the absence of legislative remedies, which are being advanced in the industry and on Capitol Hill in order to keep the information industry vibrant at home and competitive abroad.

Mr. Speaker, an article I found both enlightening and persuasive on the above topic appeared in the October 19, 1987, issue of Industry Week entitled "Baby Bells Get Spanked." I commend it to your attention and to our colleagues, and place it in the RECORD at this point:

[From Industry Week, Oct. 19, 1987]

BABY BELLS GET SPANKED

(By Mark L. Goldstein)

Talk about a surprise ending. When the regional Bell operating companies (RBOCs) were disentangled from AT&T three years ago, most experts thought the seven holding companies would fade into some monopolistic limbo.

The RBOCs proved the pundits wrong. Despite regulation and intense competition from private networks, the former Bell telephone companies have turned in consistently solid performances by investing in their regulated local businesses to cut costs, and by expanding aggressively into new ventures that the divestiture never prohibited. The result, for most of them, has been improved services, respect from Wall Street, and generally higher stock prices.

NO RELIEF

To the RBOCs, surpassing expectations was supposed to be only the first step. The way they saw it—as did others in Congress and the Justice Dept.—the scheduled three-year review of the divestiture agreement would bring them relief from restrictions that choked their competitive stance in the information-services, manufacturing, and long-distance markets.

After all, as technology and the competition have proliferated in the last three years, the industry has outgrown the need for the original monopoly strictures, they reasoned. The time was ripe for the telephone companies to compete on an equal footing in the $120 billion industry.

The judge saw it differently. As the final arbiter of virtually all telecommunications policy involving the AT&T divestiture, U.S. District Judge Harold Greene last month ruled that the market had not changed sufficiently to loosen the ties that bind the RBOCs to monopoly status.

Indeed, in the direct rejection of a Justice Dept. report that advocated an easing of the consent decree specifically because technology had changed the market, Judge Greene declared that the telephone companies still controlled the local network, and, as a result, the access of competitors to that network.

STILL SEETHING

Most of the industry is still seething over the court's support of the divestiture restrictions. The judge disallowed long-distance service and any manufacturing ventures, permitting only the transport of information services.

Although still unclear, the ruling lets the RBOCs establish "gateways" to electronic-information services, but doesn't give them permission to create or change other services. The ambiguous ruling creates problems in the short term.

Ameritech, for instance, joined a partnership of Canadian companies to offer a gateway service called iNet—just weeks before the judge tightened his grip. "We're not sure yet what is meant by a gateway, and until it's cleared up, we can't do much with iNet," complains an Ameritech spokesman.

LEFT UNSAID

The triennial review is also confusing because of what it doesn't say: There is essentially no mention of electronic messaging and voice store and forward capabilities in the judge's 200-page opinion—which leaves the RBOCs nervous.

The judge could approve such services when he clears up the definition of information gateways, but a considerable revenue base and competitive position hang in the balance.

"We view store and forward simply as a delay in transport," insists Richard Dietz, manager of strategic planning at Southwestern Bell Corp. "Remaining competitive is going to be much tougher without it."

ANTICOMPETITIVE

The RBOCs have said for years that much of the consent decree does exactly the opposite of its intent—that the agreement is anticompetitive.

By restricting the Baby Bells from providing information services or equipment, the RBOCs charge, the court reduces the number of choices for the consumer.

The RBOCs insist, for instance, that they never intended to delve into the mass manufacture of basic telephone equipment—the market already faces keen competition. But by denying them the opportunity to establish strategic partners for manufacturing proprietary equipment, Judge Greene inadvertently inhibits the development of new technology that could benefit consumers. "It never has made sense," says one long-time industry observer.

VIDEOTEX DOOMED?

Moreover, by preventing their active participation in the information-services industry, the RBOCs claim Judge Greene is dooming the videotex industry to a dismal future. More than half a dozen major companies have abandoned videotex projects in the last five years. Without a concerted effort to market consumer-oriented videotex products, companies with deep pockets, and the kind of network access that customers will need, it's doubtful the industry will succeed, observers have long said.

DISTURBED

Finally, Judge Greene's controversial rulings have rekindled a debate that has waged ever since AT&T and the federal government began to wrangle over the company's future.

Evidence indicates that an increasing number of government officials, from Congress to the White House, are disturbed by the activist role a federal judge is playing in setting the nation's telecommunications policy.

THE MAJESTIC THEATER'S 81ST BIRTHDAY

HON. ROBERT W. KASTENMEIER

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 15, 1987

Mr. KASTENMEIER. Mr. Speaker, today the Majestic Theater in Madison, WI celebrates its 81st birthday. As the oldest continuously operating movie theater in Wisconsin, the Majestic has survived and thrived by bringing quality films to Madison from our own country and from around the world.

Films are an American-bred art form and one of our most popular and successful exports to the rest of the world. The Majestic has featured films not readily available elsewhere throughout its history. Our film art heritage deserves recognition and preservation, but most of all films invite us to enjoy as well as to appreciate.

In "Gone With the Wind," Scarlett O'Hara wonders, "Where will I go, what will I do?" My advice to her would be to check out what's on at the Majestic, and forget about tomorrow.

FORD MOTOR CO. SHOWS RESPONSIBILITY IN SUPPORTING CONSTRUCTIVE CHANGE IN SOUTH AFRICA

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 15, 1987

Mr. BROOMFIELD. Mr. Speaker, I want to take this occasion to commend the Ford Motor Co. and its chairman, Donald E. Petersen, for having taken a responsible and compassionate approach to the issue of United States business investments in South Africa. During the past debates on the issue of political and economic sanctions against South Africa, I have always said that progressive companies such as the Ford Motor Co. should remain in that country as a catalyst for harmonious and constructive change. It is regrettable that the Congress has not played a more constructive role in encouraging a peaceful and rapid evolution toward majority rule in South Africa.

All Americans stand united in our condemnation of apartheid and the human toll that results from this abhorrent system of institutionalized racism. While our Government is on the side of change in South Africa and against those who would maintain the status quo in that country, America is not on the side of violence.

It has always been my belief that constructive change in South Africa will come about not from the barrel of a gun or from the destruction of the South African economy. The economy is clearly the most effective force for change in South Africa that exists today. We should strengthen it, not weaken it. We should take a responsible position on this issue and help to build a future for blacks throughout southern Africa. In no way should we contribute to the destruction of the major vehicle for their liberation.

For these reasons, I praise the recent decision of the Ford Motor Co. concerning its business activities in that country. Ford will shortly cease to have any investment in South Africa. By the end of this year, Ford Motor Co. of Canada Limited will divest completely its 42 percent interest in Samcor, the South African Motor Corp. As part of Ford's decision to end investment in that country, Ford of Canada will donate a 24-percent interest in Samcor to a trust for the benefit of all Samcor employees. The remaining 18 percent will be transferred to Anglo American Corp., Ford's partner in the venture.

Ford's prudent approach to this issue will enable Samcor's 4,900 workers, the majority of whom are black, to continue working. Those employees will become part owners of that company and will also be represented on Samcor's board of directors. Ford will also contribute over $10 million to programs designed to improve the quality of life as well as educational opportunities available to black South Africans. If the Ford Motor Co. had withdrawn totally from its investments in South Africa, Samcor would probably have ceased its operations and its thousands of South African workers would be unemployed.

I commend the Ford Motor Co. for taking a sound and sane approach to supporting the forces for peaceful and constructive change in South Africa.

IN PURSUIT OF COMMON SENSE AND ACCOUNTABILITY AT DOE CONTRACTOR FACILITIES

HON. WILLIAM F. CLINGER, JR.

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 15, 1987

Mr. CLINGER. Mr. Speaker, last Friday, I participated in an important congressional hearing in which we reviewed the Department of Energy's oversight of its contractors. We specifically looked at charges that personnel in the model shop at the Rockwell International nuclear weapons manufacturing facility in Rocky Flats, CO, produced gold- and silver-plated gifts which were billed to DOE and the American taxpayers. We also examined the role of Lawrence Livermore National Laboratory in ordering and paying for the production of gifts, mementos and memorabilia.

The issues that we addressed are extremely important, but to be honest, they are not extremely complex or difficult to understand. When you cut through the Government jargon and the legalese of DOE contracts, it became apparent that hearing was about two simple concepts—"common sense" and "accountability".

First, is common sense being used to help ensure the cost-effective and proper expenditure of taxpayer dollars when writing, implementing, and overseeing contracts for the operation of facilities like Rocky Flats and Lawrence Livermore?

Second, when common sense doesn't prevail—as in allowing the use of easy-to-erase pencils to fill out time cards; allowing accounting records to be written in cryptic language that years later can't be deciphered by even the authors of the records; and in allowing the approval of contract language that saddles taxpayers with the cost of fraud and waste unless the president of the contracting firm is aware of the fraud—then who is accountable? Unfortunately, on the basis of current information, it looks as though the American taxpayer has been the only one held accountable.

Rocky Flats, Lawrence Livermore and other Government funded nuclear facilities have been the targets of intense criticism on a wide variety of issues. Sometimes the criticism has been justified. Other times, the facilities have simply served as symbols for those advocating unilateral nuclear disarmament.

On the whole, Rocky Flats and Lawrence Livermore have served our Nation well; contributing to a national strength that ultimately allowed for the kind of arms agreement that was recently signed here in Washington.

However, I am deeply concerned about the events alleged to have taken place at the model shop at Rocky Flats. I am concerned that 17 months after the model shop situation came to light, the Department of Energy inspector general reported that they continued to find "no corporate knowledge of inventory," concluding that accountability and control over inventory was still insufficient to protect against unauthorized use and misappropriation of materials. I am concerned that taxpayers are being tagged for the costs resulting from poor oversight of contractor employees.

Hearings such as the one held last Friday hold little joy for me or the other members of the subcommittee. But there is absolutely no joy in the waste or improper use of taxpayer dollars.

Hopefully, through the subcommittee's hearing and the continued efforts of all members, we may further the cause of common sense and accountability in the operations of DOE contractor facilities. Thank you.

KOREAN WAR MEMORIAL GAINS MOMENTUM

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 15, 1987

Mr. FLORIO. Mr. Speaker, Veterans Day 1987 was a significant day for Korean war veterans when the Secretary of the Interior announced plans for petitioning the Congress to permit the siting of the national Korean War Memorial in area I of our Nation's Capital. As the author of the 1986 law that authorized a Korean War Memorial, I knew that Korean war veterans across the country were pleased to learn that yet another milestone has been reached in the long road to building this memorial.

Under a law governing the siting of military memorials in Washington, DC, Congress must within 150 days approve the Secretary's petition in order for a memorial to be sited on the Mall, in area I. This area is of prominent importance and is reserved for memorials of preeminent historical and lasting significance to the Nation.

I recently introduced House Joint Resolution 405 which approves the Secretary's petition and permits the Korean War Memorial to be sited in area I. On December 8, 1987, the Subcommittee on National Parks and Public Lands held a hearing to review this legislation, which has received the support of 103 of my colleagues and numerous veterans' service organizations. At the hearing, moving testimony was offered by a number of Korean war veterans who I know deserve this special honor that has been withheld from the 5.7 million American who served in Korea. I am hopeful that this legislation will soon be considered and approved by the Congress.

One of the key components of making this dream for a memorial a reality is the raising of the necessary private funds to build the memorial. The Korean War Memorial Act authorizes $1 million in Federal funds but the total cost of the memorial is estimated at $5 million, which needs to be raised from private funds. I would like at this point to commend the Veterans of Foreign Wars and the Ladies Auxiliary for their invaluable efforts to support the memorial. Not only did the VFW offer testimony in support of House Joint Resolution 405 at the December 8 hearing but the VFW has contributed $250,000 to the Korean War Memorial fund. I would like to express my appreciation to the VFW and their membership for their efforts and urge my colleagues to join me in commending their hard work.

I would like to share with my colleagues a letter I recently received from the Director of Operations and Finance at the American Battle Monuments Commission, Col. Wiliam E. Ryan, Jr. Colonel Ryan has been been a tireless worker in the effort to build the Korean War Memorial as well as helping to maintain our Nation's network of memorials. I thank him for his support and direct the attention of my colleagues to the following letter:

THE AMERICAN BATTLE
MONUMENTS COMMISSION,
Washington, DC, December 9, 1987.

Hon. JAMES J. FLORIO,
House of Representatives,
Washington, DC.

DEAR MR. FLORIO: Please accept my personal thanks and appreciation and that of the members of the American Battle Monuments Commission for your superb support of Commission efforts to honor our Korean War veterans with a suitable memorial.

Whether it be the initial enabling legislation for the memorial, fund-raising to erect it, or a Congressional authorization to place it on the mall, you have always been there when help is needed, for which we are truly grateful.

During my testimony on House Joint Resolution 405, a question was raised concerning the amount of funds which had been collected to date for the memorial. When I responded to that query, I failed to give complete credit where credit was due and would like to set the record straight. Although I mentioned pledges from two veterans organizations, I failed to mention that the Veterans of Foreign Wars of the United States and its Ladies Auxiliary already have given the Korean War Memorial Fund a quarter of a million dollars in cash and are conducting a new fund drive to raise more money for the memorial. To date, the V.F.W. is the only veterans' organization to make a major cash contribution. Knowing the high esteem that you are held by veterans and your keen interest in and dedicated support of a suitable Korean War Memorial in the Nation's Capitol, we would be most grateful if you would give the V.F.W. a "well done" for their efforts.

Thank you again for your superb support. Whenever we can be of assistance to you or your constituents, please do not hesitate to ask.

Kindest personal regards,

Sincerely,
WILLIAM E. RYAN, Jr.,
Colonel, AD,
Director of Operations and Finance.

THE INTRODUCTION OF LEGISLATION CURBING EXCESSIVE AND DISCRIMINATORY AIRPORT ACCESS FEES

HON. DOUGLAS H. BOSCO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 15, 1987

Mr. BOSCO. Mr. Speaker, we are here today to announce the introduction of legislation that will curb excessive and discriminatory airport access fees. This measure is intended to insure that in the midst of the highly competitive air travel industry that our country now enjoys the average airline passenger's savings will not be taken away when he reaches the ground.

During this holiday season millions of Americans will be traveling by air—overall, the number of airline passengers has nearly doubled since Congress deregulated the airline industry in 1978. Air travel services are now available at nearly every conceivable price level, a circumstance which has made it possible for Americans from widely disparate socioeconomic backgrounds to fly. Flying is no longer the purview of the privileged, and the legislation we are introducing today will ensure that services relating to flying are also not limited to the privileged.

But while the deregulation of the airline industry is a relatively recent phenomenon, it has been only within the past year or two that the magnitude of its impact on American culture and commerce has begun to be understood. One of our responsibilities in Congress is to anticipate and manage deregulation's various spin-offs. We must insure that these spin-offs do not have an adverse impact on the average American consumer by reducing the availability of off-airport services. These services typically provide good deals for the thrifty consumer.

The issue which we face today is that at a number of airports, off-airport companies operating courtesy vans have been charged unfair access fees, typically gross receipts fees of up to 10-percent. These fees are currently imposed against car rental companies, but they may soon be imposed upon other businesses such as motels and parking facilities.

Airports have justified this high fee structure by asserting their need to protect their on-airport concessionaries from off-airport competition. This is a rather remarkable justification, given that in 1976 the major on-airport car rental companies were subjected to an FTC consent decree that prevented them from monopolizing the industry, a move which resulted in today's competitive industry.

Yet if the imposition of gross receipts fees on off-airport companies is allowed to continue unabated, many of these companies may be forced to raise their rates substantially or be crowded out of the air travel services market entirely. One result of such a situation would be that if off-airport businesses are forced to raise their rates, on-airport businesses most likely would do the same. In the worst possible scenario the American consumer would eventually be left with only the major on-airport concessionaires from which to select services, but I believe it is quite likely that the average consumer will suffer under any scenario.

And so I am very pleased to join 14 of my colleagues, including JIM HOWARD, chairman of the House Public Works and Transportation Committee, in introducing legislation that would curb the imposition of gross receipts fees and mandate a more equitable fee structure for off-airport businesses. It is our intention to combat certain practices which could effectively limit the average consumer's freedom of choice almost as much as the regulated airline industry did.

Airport owners and operators should be able to charge reasonable fees not only to airport tenants but also to the off-airport businesses that make use of certain airport facilities. All airport users should pay their fair share, but off-airport businesses should not be discriminated against, especially when they enjoy none of the substantial benefits of marketing their services within airport terminals.

This legislation is not intended to tie the airports' hands, nor is it intended to provide on-airport companies with an undue burden. What we intend to accomplish is to provide a level playing field in the air travel services arena, and to maximize the consumer's freedom of choice. Our legislation does not establish a particular fee structure, but rather sets standards of fairness by which the civil courts could, if necessary, judge certain fee structures.

These standards of fairness should pose no special problems for the airports. After all, airports are already obligated to develop cost-based fee structures for airlines under the Federal Aviation Act.

This legislation strikes the appropriate balance between the airports' needs to generate revenues and the preservation of the consumer benefits derived from a competitive travel industry.

THE COMPREHENSIVE HEALTH CARE IMPROVEMENT ACT OF 1987

HON. MARTIN OLAV SABO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 15, 1987

Mr. SABO. Mr. Speaker, today nearly 37 million Americans lack health insurance of any kind and far more do not have adequate protection from catastrophic health-care costs. Not only have we failed to address this crisis for far too long, but the problem has also gotten steadily worse in recent years.

We are the only industrialized nation that denies its citizens basic health care. It is unconscionable that the wealthiest society on earth allows one in six of its people to go without basic protection.

The uninsured too often must endure needless pain and affliction. They are less likely to seek needed medical attention and they have trouble getting it. The lack of coverage is clearly associated with higher mortality rates generally and especially higher rates of infant mortality.

Congress has finally taken the issue off the back burner and is giving it attention. Legislation to provide catastrophic coverage for the elderly has passed both houses. And proposals to require most businesses to provide health insurance for their workers has been introduced.

The fact that these issues are being debated seriously is a positive development. But I remain convinced that the best approach to solving the problem is a comprehensive one.

That is why I am today introducing the Comprehensive Health Care Improvement Act of 1987. I have introduced similar bills during each of my five terms in Congress. The proposal is based in part on legislation adopted in Minnesota 12 years ago.

The bill provides access to health insurance for all Americans at group rates by requiring most businesses to offer insurance to their employees and by making it available to others through statewide insurance pools. My proposal also helps low-income people buy insurance and protects citizens of all ages from truly catastrophic health costs. It does all of this at a relatively low cost.

Most Americans—83 percent—have health-insurance coverage. The current system of private insurance, Medicare and Medicaid works fairly well for them. We do not need to make drastic changes in this structure, nor do we need to create a large new bureaucracy.

My bill would do neither. Instead, it would build on the existing system and fill in its gaping holes by encouraging businesses and individuals to provide comprehensive insurance for their employees and themselves.

FAR TOO MANY UNINSURED

Passage of this legislation is even more important today than when I first introduced it 9 years ago, as the problem has grown dramatically. Since 1979, the number of people who lack insurance has risen at a rate of 1 million a year, from 29 million to 37 million.

Who are all of these uninsured Americans? Eleven million of them are children. Three-fourths of uninsured workers earned less than $10,000 in 1985 and almost all earned less than $20,000. More than two-thirds of those without coverage are full-time workers or their dependents.

The widening gaps in the health insurance structure can be largely explained by two recent changes in our economy and labor forces. More and more people work for smaller companies that are less likely than big corporations to offer their employees health benefits. Of the 17 million full-time workers who lack insurance, two-thirds are either self-employed or work for firms with fewer than 25 employees.

The other significant trend is the dramatic redistribution of workers away from industries with high rates of employee coverage, such as mining and manufacturing, toward industries with low rates of coverage, such as retail trade, services, or construction. Between 1980 and 1985 industries with lower than average rates of coverage grew four times as fast as industries with high rates. Of the working uninsured more than half work in the retailing or services industries.

As we try to address the Nation's health insurance crisis, we could try to patch the holes one by one. That may be the only politically and fiscally possible approach. But I believe a comprehensive solution deserves serious discussion and consideration. Here is a brief summary of how my bill would work.

PROVIDING ACCESS TO COVERAGE

First, we need to provide access to affordable health insurance for all Americans. To take care of most of the uninsured, my bill would require businesses with ten or more employees to offer coverage to their workers. These employers—as well as State and local governments and nonprofit organizations—would have to offer coverage to employees who work at least 17.5 hours per week. Dependents would also be covered.

Firms would not be compelled to pay the premiums and employees would not have to accept an offered plan. But at least most people would have the opportunity to obtain good coverage through the workplace at lower, group rates.

In order to provide access to reasonably priced insurance for the rest of the uninsured—those working for firms with fewer than 10 employees, part-time workers, the self-employed, the unemployed, and many rural Americans—States would be required to establish statewide pools of all health insurance companies. In other words, a group of all people not eligible for regular group plans would be created. Businesses could also buy or offer insurance from the State pools.

The bill defines three kinds of "qualified" plans. All plans would have to cover employees' dependents and be fully convertible if the individual leaves the group. Firms with 10 or more employees would have to offer plans A or C. Plan A provides a minimum benefit of 80 percent of medical costs, limits out-of-pocket payments to $3,000 a year, sets an unlimited maximum lifetime benefit, and has a deductible of no more than $250. Plan C is a Health Maintenance Organization [HMO] that has benefits that are equivalent to those outlined in plan A. In addition to plan A or C, the statewide pools would also offer Plan B, which is the same as plan A except that the deductible could be up to $1,000.

HELP FOR THE POOR

The first part of the bill ensures that all Americans have access to insurance. But many individuals and families would still be left out. They may not qualify for Medicaid or Medicare and their financial circumstances may make it difficult or impossible for them to pay premiums.

Consequently, my bill creates an optional State-Federal program to help low-income people buy health insurance. Unemployed persons could also be assisted through this program. Each State could design a program that best meets its needs. States could experiment with such alternative kinds of assistance as subsidizing premiums completely, cost-sharing, and sliding-fee schedules.

The Federal Government would pay half of the program's cost up to a maximum of $7.50 times a State's population. If every State participated fully, the maximum Federal liability would be about $1.8 billion, matched by at least $1.8 billion in State funds.

I have also included a provision that is identical to the spousal-impoverishment section of H.R. 2470, the catastrophic bill passed by the House. Today, Medicare and most private insurance plans do not cover nursing home care. Consequently, other than personal wealth, Medicaid is the only source of payment. Under current law, however, when one member of a senior citizen couple needs long-term care, the couple must use a large amount of their assets before Medicaid will help. This forces thousands of senior citizens to go bankrupt and lose their life savings.

To address this tragic circumstance, this provision would allow the healthy spouse to keep enough income and assets so he or she is not forced into poverty. Specifically, the spouse who remains at home could keep at least $925 a month in income and at least $12,000 in liquid assets.

PROTECTION FROM CATASTROPHIC ILLNESSES

While the first parts of my bill give all Americans access to basic health care, we must also protect people from the loss of their homes, businesses, or the bulk of their assets because of an extremely expensive illness.

Congress is making progress on catastrophic legislation for senior citizens. But we should adopt a plan to protect all people, not just the elderly. Financial ruin is just as serious, if not more serious, for a young person or family as it is for a senior citizen. We must ensure that no one is left destitute from a catastrophic illness with nothing left on which to rebuild after recovery.

My bill would do that by creating an optional State-Federal catastrophic health insurance program. After an individual exhausts his or her existing medical coverage, the program would cover 90 percent of all costs that exceed certain income thresholds. These thresholds are the greater of $2,500 or 30 percent of income up to $25,000, 40 percent of income between $25,000 and $40,000, and 50 percent of income above $40,000.

This catastrophic program would not be a substitute for conventional insurance. The income thresholds are high enough to encourage people to obtain catastrophic coverage of their own and ensure that only truly catastrophic illnesses are covered. But they will still ensure that people are not financially devastated.

For the catastrophic program, the Federal Government would pay 75 percent of the program's cost with a maximum contribution of $2.50 times a participating State's population. If every State participates, the maximum Federal cost would be $452 million, with a minimum State match of $151 million.

A COMPREHENSIVE SOLUTION

The need to repair the deficiencies in our health insurance structure has been on the national agenda for four decades, only to remain on the back burner. The problem persists today and we can no longer delay addressing it.

Recent debate on Capitol Hill gives us renewed hope. The prospects for making real progress now seem better than ever. But I hope we will not be satisfied with half measures.

My proposal is not overly ambitious; it does not make promises we cannot hope to keep. But it does realistically address all aspects of the problem in a fiscally responsible manner. (If all States participated fully in both the low-income assistance and catastrophic portions of my bill, the annual cost to the Federal Government would be only about $2.3 billion.)

While many people say that new programs cannot be considered now, I say we can no longer allow so many of our citizens to slip through the cracks. We cannot afford to continue to ignore the problem.

By building constructively on the existing health-insurance system, we can assure all citizens of proper coverage and improve the health and quality of life for all Americans. A society as wealthy as ours, and one that strives for equity and fairness, should do no less.

TRIBUTE TO MR. CYRIL F. BRICKFIELD

HON. CLAUDE PEPPER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 15, 1987

Mr. PEPPER. Mr. Speaker, I would like to take this opportunity to pay tribute to one of the finest warriors in the cause of aiding the elderly, Mr. Cyril F. Brickfield. Mr. Brickfield recently retired from his position as executive director of the American Association of Retired Persons, the world's largest nonprofit organization of persons over age 50. He headed AARP's staff of more than 1,000 for 11 years, having served earlier as that organization's director of legislative activities and legal counsel. I want to wish him well with all future endeavors.

In addition to his duties with AARP, Mr. Brickfield has chaired the 39-member Leadership Council of Aging Organizations and served as president of the National Senior Citizens Law Center, affiliated with the University of Southern California.

Cy Brickfield has a very admirable record of service to America's seniors. He was an official U.S. delegate to the 1982 U.N. World Assembly on Aging in Vienna. He was a member of the Advisory Council for the 1981 White House Conference on Aging, and president of the Corporation for Older Americans, which helped raise funds for that conference.

Before joining AARP, Mr. Brickfield served in a number of key positions from the Veterans' Administration from 1961 to 1967, including General Counsel, Chief Benefits Director, and Deputy Administrator.

In this last position, the second highest in the agency, he directed programs serving the needs of older veterans. He also is credited with establishing the first VA nursing home system.

An attorney, Mr. Brickfield served as law clerk to the chief judge of the New York Court of Appeals, the State's highest tribunal. Later, he was counsel to the U.S. House Committee on the Judiciary and was president of the Federal Bar Association.

I will miss working with Cy Brickfield. Through the years, we have collaborated on such issues as Social Security, Medicare, consumer affairs, the rights of the elderly, and many others. We have attended many a hearing, conference, meeting and dinner party together and had many opportunities to exchange ideas. He is a gentleman of integrity, compassion, and leadership ability, a powerful combination which has enabled him to accomplish so many noble goals throughout his distinguished career. I know all of us on Capitol Hill are the better for having had the chance to work with Cy Brickfield, and that we will be a little sadder for no longer having the benefit of his energy and wisdom as we endeavor to aid America's elderly.

A REMEMBRANCE OF PHILIP HORNBEIN, JR.

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 15, 1987

Mrs. SCHROEDER. Mr. Speaker, I would like to take this opportunity to remember a great Coloradan—Philip Hornbein, Jr. Philip Hornbein served as a lawyer in Colorado with great distinction for many years. I would like to insert into the RECORD the eulogy written to Phil. It was a priviledge to know Phil and we will miss him.

EULOGY TO PHILIP HORNBEIN, JR., DECEMBER 1, 1987

Phil Hornbein was born to be a lawyer. He was admitted to practice 49 years ago and, throughout his career, he served with distinction. He received the Bar Association Award of Merit, its highest honor; he was elected a Fellow of the American College of Trial Lawyers; he was the Histadrut Honoree in 1985. Only 72 years old when he died, he was the son of one of Colorado's finest trial lawyers. When his father, Phil Hornbein, Sr., died in 1962, he was described by Gene Cervi as one:

". . . who embraced the neglected causes of labor, the underprivileged, the disenfranchised, the sick and the lowly.

"He defended the beaten and rejected in bitter labor strifes; he fought management and he fought cruelty and social injustice.

"He was a lawyer's lawyer . . . the rare man among us who could call his soul his own.

"Denver is a better place to live because of him."

That eulogy described his son as well. John Carroll, close friend of both, praised both often for their character and integrity.

Phil took pride in never having turned away a person because their cause was lost, their character deficient, or their pocket book empty. He believed in the right to counsel. He, too, was a lawyer's lawyer.

For years, Phil was the advocate for the labor movement. His reputation as a labor lawyer reached well beyond Colorado. He was, indeed, as his father before him, an advocate for the working man, an opponent of management, uncompromising in his effort to enhance the rights of individuals in the workplace. He was always so determined, so spirited, so inventive, so committed, so respected.

The lawyer we knew and admired is gone. Gone also is the man too few were privileged to know. Let me talk about him in that dimension for a moment, because I was his friend before I became his partner. There is no scarcity of material to convey to you the qualities of the man. The task is to decide what to speak of so that you might know him as I did. I can remind you, but not tell you more, of his love of Anne and of his twin grandchildren, Eric and Lisa—of his pride in them and theirs in him. Of course, his sister, Marjorie, was also proud of his achievements.

Two brief examples may convey the picture I want you to have. They are simple and recent:

1. Library for research;
2. Tricycles for grandchildren.

Phil was worthy to be sung of with Parnell—and honored among those who subscribe to the Code of Cadoc, written by the Sixth Century Celt. It is:

"I hate the judge who loves money and the scribe who loves war . . .

"I hate him who respects not father or mother—those who make strife among friends

"I hate a country in anarchy lost learning, and uncertain borders journeys without safety—families without virtue, lawsuits without reason

"Ambushes and treasons—faults in counsel Justice unhonored. I hate a man without a trade a laborer without choice

"A society without teachers. Without freedom, a false witness before a judge—the undeserving exalted to a high position."

I will close with a few lines from Yeats:

"Think where man's glory most begins and ends
And say my glory was I had such friends"

Let all of us here join in that thought—and say that we were honored by having Phil Hornbein as a friend.

SALUTE TO THE CENTRAL LABOR COUNCIL OF SANTA CLARA COUNTY

HON. NORMAN Y. MINETA

OF CALIFORNIA

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 15, 1987

Mr. MINETA. Mr. Speaker, it is with great pleasure that we take this opportunity to salute the Central Labor Council of Santa Clara County's AFL-CIO. January 22, 1988, will mark the centennial of this great organization, and a banquet will be held on that day to honor this special occasion.

The Santa Clara Valley has always prided itself on the ingenuity and productivity of its labor force: a labor force founded in the agricultural worker of years past; a labor force now grounded in the high technology professional, the service worker, and the craftsperson.

We join in saluting the Central Labor Council for its century-long efforts to provide a safe and secure workplace, thereby serving the community at large. Most importantly, the Central Labor Council has consistently upheld the rights of its workers, enabling all of us to go to work each day with the knowledge that they are preserving and strengthening the value of laborers in our community.

One hundred years ago, a group of dedicated individuals founded this organization for working America. Today, with Santa Clara County a leader in our Nation's economy, the present leadership of the council is preparing to represent working men and women for the next 100 years.

Mr. Speaker, we salute the achievements of the council in its first 100 years, years which have seen the council provide much service to the community. It is our great pleasure to ask our esteemed colleagues in the House of Representatives to join us in commending the

Central Labor Council and extend our best wishes for many more years for continued success.

COURT JEOPARDIZES BLACK LUNG BENEFITS

HON. PAUL E. KANJORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 15, 1987

Mr. KANJORSKI. Mr. Speaker, yesterday the U.S. Supreme Court issued a split decision which directly jeopardizes the black lung benefits of over 10,000 mine workers and their families, and threatens the benefits of tens of thousands of additional miners. In the case of Mullins Coal Company versus the Director of the Office of Workers' Compensation Programs the Court overturned the Fourth Circuit Court of Appeals and substantially increased the burden of proof a mine worker must meet in order to prove he has black lung disease.

I am introducing legislation which will overturn the Court's decision and reinstate the more reasonable standard approved by the Court of Appeals.

Under the regulations issue to implement the black lung law a presumption of eligibility is established if a miner can prove that he was engaged in coal mine employment for at least 10 years and can meet any one of four rigorous medical requirements. The requirements are: First, an x ray, biopsy or autopsy establishing the existence of pneumoconiosis, ventilatory studies establishing the presence of any respiratory or pulmonary disease of a specified severity, third, blood gas studies demonstrating an impairment in the transfer of oxygen to the blood, or fourth, other medical evidence, including the documented opinion of a physician, establishing a totally disabling respiratory impairment.

Under the existing program once the initial threshold of eligibility has been met the burden of proof shifts to the coal company which has an opportunity to rebut the evidence and prove to the Administrative law judge [ALJ] either that the miner is doing or could do his usual work or comparable work, or that the disability did not arise in whole or in part out of coal mine employment, or that the evidence establishes that the minor does not or did not have pneumoconiosis. No case is fully resolved until the company has an opportunity to rebut the evidence presented by the miner.

In the Mullins Coal case the Court held that a miner does not establish a presumption of eligibility by simply providing evidence meeting one of the four medical requirements. Instead the Court held that the miner must meet a higher standard of evidence. Under the Court's ruling a miner must prove "by a preponderance of the evidence" that one of the four medical requirements has been met.

In their dissenting opinion Justices Marshall and Brennan provide an eloquent and convincing explanation of why this higher evidentiary threshold is inappropriate, unnecessarily complex, and interrally inconsistent.

Justices Marshall and Brennan note that the underlying regulation refers to an x ray or a physician's opinion, and not to x ray evidence taken as a whole or the weight of documented opinions of physicians. They further note that the regulation goes on to state that a claimant who provides a single qualifying piece of evidence will be presumed eligible, not simply that they may be presumed eligible.

Justice Marshall's opinion also makes note of the fact that in issuing the original regulations for the Black Lung Program the Labor Department stated that a "single item of evidence" could establish a presumption of disability.

In the words of the minority, the majority decision "creates a needlessly complex regulatory scheme that blurs the distinction between the presumption-invocation and rebuttal stages." Evidence which is admissible at one stage may not be admissible at a later stage.

Under the court of appeals' interpretation, which my bill would reinstate, the process is much simpler and consistent. The ALJ first determines whether or not a claimant has worked in the mines long enough and meets one of the four medical requirements, and then proceeds to the rebuttal stage.

As Justices Marshall and Brennan acknowledge, "pneumoconiosis is an elusive and progressive disease." It is difficult to identify even with the aid of modern medical technology. The goal of the Congress in establishing the program was to set a reasonable and easy way to judge initial standard so that miners and their families would not be destitute during the frequently lengthy rebuttal and appeals process. Scientific studies have documented through autopsies that 90 percent to 95 percent of coal miners with more than 20 years in the mines had pneumoconiosis.

It is a sad fact, Mr. Speaker, that all too often miners die before the rebuttal and appeals process is complete. The program was established in such a way that disabled miners could live in dignity with their disease, and not be strung along by endless appeals. The Court's decision places an undue hardship on the neediest of the needy, men who have worked long and hard in the mines for many years only to be afflicted with a painful and disabling disease for which there is no cure. If allowed to stand, the Court's decision will sentence thousands of miners and their families to a lifetime of poverty and pain, destitution and disability.

My bill offers miners a glimmer of hope for the future and a chance to live out their remaining years without having to worry about their financial security, or that of their families. As Justices Marshall and Brennan concluded, the evidence of black lung disease among long-term coal miners, coupled with the difficultly of diagnosing the disease, gives us good reason to presume disability upon a showing of long-term work in the mines and a single positive medical test of physician opinion. That is what the court of appeals ruled was appropriate, and that is the standard my bill will reestablish.

LEBANON'S AMBASSADOR SPEAKS IN CLEVELAND ON THE LEBANESE CRISIS

HON. EDWARD F. FEIGHAN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 15, 1987

Mr. FEIGHAN. Mr. Speaker, a few weeks ago, my guest, His Excellency Abdallah Bouhabib of Lebanon, addressed the Rotary Club of Cleveland and the Cleveland Council on World Affairs. The distinguished Ambassador—in clear and forthright terms—presented the problems and anguish of Lebaron in language clear enough for all to understand.

The recent history of Lebanon is told in the sad title of Ambassador Bouhabib's speech: "Lebanon: Does It Still Exist?" I am proud to be part of a program that allows Lebanon's Ambassador to the United States tell the story about his country's plight in that troubled part of the world.

Americans of Lebanese heritage are proud of the country of their ancestors. The Lebanese are hard-working, industrious people and when left to their own ingenuity are able to resolve their problems. This is not the current case in Lebanon because of all the foreign elements that are using Lebanon as a staging area for their own military and political objectives.

Mr. Speaker, Lebanon will never be free or have a stable central government until all foreign forces withdraw from that country. In his remarks, Ambassador Bouhabib discusses the real crisis in Lebanon but also shares the potential opportunities. For my Lebanese—American constituents, I thank the Ambassador for coming to Cleveland and I urge my colleagues to take special note of his remarks.

LEBANON, DOES IT STILL EXIST?

(By Abdallah Bouhabib)

Americans and other westerners who have lived in, or passed through, Lebanon—and more than a century of close interaction has brought many to our shores—must surely ask themselves how this island of rich, diverse, and tolerant culture, how this jewel of sophistication and civilization could possibly be the same Lebanon that has been the scene of such savagery for so many years?

We Lebanese were pround of what set us apart from the rest of the Middle East, and indeed the Third World. Our tradition of liberty and respect for human dignity, our proud history of promoting education, and our renowned business tradition quickly put Lebanon at one of the highest levels of development among the newer countries. We enjoyed prosperity, and we also enjoyed a quality of life that was uniquely Lebanese.

Today, we are back in many ways to the situation that prevailed before the June 1982 war. A description of Lebanon today would be close to one prepared prior to the 1982 war with the exception of one player: The Iranians and Hezbollah. Relative power among various factions has shifted, of course, but the actors and their foreign supporters are virtually identical. The stalemate is no less entrenched, the direction of events no less ominous, the current situation no less unstable.

Given such a situation, it is easy for those whose interest it is to argue that Lebanon does not exist to find proof in the pudding. They usually point to several facts to buttress their argument. Fact one: up to 80 percent of Lebanese territory is not under the direct control of the central authorities. Some of the territory is under outright occupation, the rest is controlled by various Lebanese factions or external forces. Fact two: the constitutionally-mandated governing function of the central authorities is severely curtailed for various reasons, as much internal as external. Fact three: Lebanon's ability and freedom to take its destiny into its own hands is, at the present time, virtually impossible.

The Lebanese are the first to admit that, given those criteria, the case for Lebanon's continued existence is rather weak. But allow me to present the situation in a different light and point to as many factors which prove that Lebanon is nowhere near disappearing from the world map. Some factors are less tangible than others but no less powerful in ensuring the survival of the Lebanese entity.

I am thinking in particular of the Lebanese will to continue to exist. In 13 years of war, not once was there a call by any Lebanese leader, yet alone the people, to do away with the Lebanese entity. There have been calls for political reforms, even calls for radical changes; but never a call for unification with larger entities and never a call for an end to what is knows as Lebanon.

This will is manifested as much in deeds as in words. How else can one explain the Lebanese resilience through 13 years of conflict, untold suffering, and now, economic misery?

Yes, we have our differences and, yes, we have made mistakes. But whatever else separates the Lebanese, we are bound by our will to remain united. There is a definite consensus today in Lebanon, that all attempts at dismemberment and absorption are rejected.

There will always be those, beyond our borders, who choose to ignore the existence of such a consensus and such a will and argue for the complete disintegration of Lebanon. After all, that is one way of "solving" what is sometimes viewed as a headache, a thorn in the side, and a breeding ground for terrorism. To those, it should be pointed out that the dismemberment of Lebanon would only serve to multiply current problems, not solve them.

The disappearance of the region's safety valve would have serious and wide-ranging consequences regionally as well as internationally. The conflicts and terrorism that now unfortunately characterize the area would pale in comparison with what will be spawned by Lebanon's disappearance.

As for the Lebanese, they can hang on to one reassuring fact of modern history: not a single member of the United Nations state system has ever simply ceased to be. Some have changed form, others have changed names, none has ever fallen off the face of the Earth. In fact, the United Nations was founded precisely to prevent the destruction of members of the world community.

Having said that, one might still rightly ask: is there no solution to the problems in Lebanon? Are violence and extremism the new status quo in this once most peaceful and moderate of all Middle East countries?

Ladies and gentleman, it is my contention that there is only one path toward a solution of the problems of Lebanon. The only viable way to restore order in Lebanon is through the strengthening of the central government. Lebanon's neighbors have tried the alternative, and continue to practice the alternative—foreign usurpation and control. It hasn't worked. It doesn't work. It won't work. The Lebanese do not want to be Israelis, and they don't want Israeli domination. They don't want to be Syrians, and they don't want Syrian presence in their land. The Lebanese want to be Lebanese, and if they have problems with each other, and they do, these are problems that can be resolved and must be resolved by the Lebanese. The only authority the Lebanese will accept is their own.

I am not trying to suggest that the restoration of Lebanese authority in Lebanon is a simple task. But let us not kid ourselves either: It has not been tried. To blind ourselves to the foreign involvement in Lebanon which has prevented the extension of the central government's authority is to overlook the central reality of Lebanon today—borders that are respected by no one psychologically, politically, militarily, and economically. Every Lebanese community has requested the presence of that most Lebanese of Lebanese institutions, our small army. Do not think therefore that the Lebanese oppose the extension of government authority, for this is not the case.

I do not wish to suggest that the restoration of central government authority in Lebanon is imminent or likely. On the contrary, I would be less than candid if I did not recognize the tremendous odds against this possibility as long as external forces, far more powerful than the Lebanese, actively and determinedly oppose it.

Today, the Lebanese do meet and talk. They exchange views about internal Lebanese issues, about means of overcoming legitimate differences among the Lebanese. I should add that the president of Lebanon has advanced a variety of proposals, some quite recently, to overcome these differences. The President and most of the Lebanese leadership proceed on the basis of the recognition, shared very widely in Lebanon, that no community can dominate the country and that none can be eliminated either. We must all share, as we should all share, in the governance of our country.

Such a view is reflected in a proposed course of action recently outlined by President Gemayel. In his September 24 speech before the United Nations General Assembly, the President identified the conponents of his blueprint of a process designed to lead Lebanon down the long path toward peace and recovery. They include a program of structural reforms to be initiated according to constitutionally-prescribed procedures, and aimed at ensuring an effective partnership in governing by all communities. Another overriding goal must be to insulate Lebanon against all future interference in its domestic affairs.

A third aim is to ensure the withdrawal of the Israeli occupying forces from Lebanese soil by seeking implementation of the many U.N. resolutions on southern Lebanon since 1978. These resolutions, from 425 to 426 and on down the line, call for the creation of UNIFIL, the withdrawal of Israel and the extension of the Lebanese Government's authority, exercised through the Lebanese army, over the whole of Lebanon.

The President's course of action also entails resuming Lebanon's geopolitical role as a bridge for the dialogue between Islam and Christianity and developing new relationships on the basis of current realities. Lebanon's ties with Syria, often strained in the past, must be normalized and strengthened on the basis of mutual respect for each country's sovereignty and independence.

Syria's presence on more than 60 percent of Lebanese territory has enabled Damascus to affect internal affairs. However, to quote the President: "It has been established that there cannot be a Syrian solution to the Lebanese question (just as) there is no solution to the Lebanese question without Syria." Syria must, and will, one day pull out of Lebanon. When that day comes, its pull-out must be undertaken according to covenants governing inter-Arab relations.

Those same covenants will also be applicable in the case of relations with the PLO. Lebanon is willing to continue to welcome the Palestinians on its soil but, mindful of the lessons of the past, will not tolerate policies which could affect law and order on its territory.

As for the Iranian military presence in my country, it should be brought to an end. Iran's self-appointed military and ideological revolution in Lebanon has neither served its cause nor that of its followers in Lebanon. Indeed, its continued presence in south Lebanon under the pretext of protecting the Lebanese there is actually endangering them further. Israeli incursions into southern Lebanon have increased as a result of the Iranian presence in that sensitive region of Lebanon.

Ladies and gentlemen, I am confident that you would agree that Lebanon is indeed alive, although I cannot add, at this point, that we are alive and well. In the past year, the economic situation has deteriorated drastically, adding to the burden of 13 years of conflict.

There are remedies to the political and economic situation and, as I have pointed out, the President has advanced some of them. But we harbor no illusions. Those proposals may never see the day without help from the world community. This help could be reflected in several ways.

First, we feel it is important for many to recognize that the proper channel to address Lebanon is the government of Lebanon and not the militias. It is understandable that given the external forces' unwillingness to permit the Lebanese Government to exercise authority, concerned foreign authorities are inclined to deal directly with the local groups on the ground in Lebanon. Over the past decade this tendency has had the effect of accelerating the inability of the Lebanese Government to control events on its territory. Direct interaction with militia leaders has produced a series of catastrophes and weakened the authority of the Lebanese Government without solving the problems of the victims.

Second, the implementation of Security Council Resolution 425 and continued support for UNIFIL's mandate are imperative. The continued direct and indirect Israeli occupation of southern Lebanon has increased armament as well as tension markedly. It serves as a pretext for the maintenance and strengthening of other armed groups in Lebanon.

Finally, limited international economic assistance to Lebanon can help to create employment, to deny to militia organizations the ready recruits, and stave off the spectre of famine that is upon us.

The rest is up to us. We are fully aware of that and fully prepared to face up to our responsibilities, if and when we are given the opportunity. For, as I have explained, our will to exist is fierce and—to coin a cliche—where there is a will, there is always a way.

WHY IS THE WEST SO DAZZLED BY GORBACHEV?

HON. DON RITTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 15, 1987

Mr. RITTER. Mr. Speaker, I mentioned on the floor on December 9 that hope tempered by healthy skepticism is the realistic way to evaluate the Reagan-Gorbachev summit. I serve as the ranking republican on the Helsinki Commission which is continuing to study the Gorbachev glasnost to determine if it generates real change in Soviet human rights policies or just spectacular events at the surface.

To make sure the progress made at the summit is not lost, we all must keep asking pertinent questions. Natan Shcharansky emphasizes this point in his article in the Washington Post on September 13, 1987.

That article is just as relevant today as it was then and might well serve to guide us in the weeks, months, and years ahead. Mr. Shcharansky was active in the Soviet Jewish and dissident movements, served 9 years in Soviet prisons, and emigrated to Israel last year.

I include the article at this point:

[From the Washington Post, Sept. 13, 1987]

WHY IS THE WEST SO DAZZLED BY GORBACHEV?

(By Natan Shcharansky)

I was beginning my ninth year in the Gulag when that memorable Pravda arrived. In our isolation we were so thirsty for news that even the official organ of the Communist Party was eagerly awaited. This time it contained a transcript of Mikhail Gorbachev's interview with the editors of Time, his first interview in which questions not submitted in advance were permitted.

Hungrily, we searched in it for questions on our issues: human rights. Helsinki accord violations, Jewish emigation. Nothing. "It's censored," I assured my fellow inmates. "I know American journalists. They ask pointed, penetrating questions. This is a censored, 'Pravda version.'" I was wrong. The interview, enthusing over Gorbachev's voice, demeanor and smile, and scrupulously avoiding "embarrassing" questions in the best tradition of Soviet journalism, had been faithfully transcribed. The questions had been "censored" by the American journalists themselves.

Last month, in a 12-page spread on Gorbachev's reforms in the same publication, human rights were again practically ignored. And the new Soviet emigration law, designed to deal a death blow to the hopes of a Jewish exodus from the Soviet Union, was nowhere to be found. And again I wondered how the West, having experienced Soviet liberalization spasms in the past, not to mention similar czarist "openings" since Peter the Great, could still fall so readily for promises, smiles, changes of style and a generous strewing of well-publicized crumbs unaccompanied by real change in areas that matter most.

That Gorbachev wants to invigorate the Soviet economy, reverse its decline and correct what the Soviets perceive as an unfavorable shift in the "correlation of forces" is a given. He knows that internal reforms, even if successful, cannot by themselves achieve this, for the limitations inherent in the communist system preclude successful competition with the capitalist countries.

He knows that only greater access to Western trade and credit can give the Soviet economy the boost it needs. He realizes that he must blunt the ferment among the Soviet intelligentsia and artistic community by giving them at least as much freedom as their colleagues in other communist countries have been enjoying for a decade or more, and that he must harness the restless energies of Soviet youth, for whom anything Western is a seductive symbol of liberty, by legitimizing rock, jazz and jeans. To achieve these ends, reforms are an imperative.

The West, in turn, naturally welcomes Gorbachev's liberalization, regardless of his motives, in the hope that it may have an irresistible momentum of its own and ultimately smash the chains of totalitarian oppression. But to make a folk hero out of Gorbachev, to glorify him as a great lover of humanity whose zeal in search of peace, accommodation and goodwill is second to none, is to let wishful thinking triumph over common sense.

A comparison with the last reform "revolution" in the Soviet Union, which brought Nikita Khrushchev to power, may be instructive. Then, the KGB chief was executed, and the KGB's iron grip on the government and the populace weakened. Hundreds of thousands, if not millions, were released from the Gulag, exonerated and rehabilitated. Artists and writers were allowed unprecedented freedom of expression and travel abroad, while artists from the West were invited to the U.S.S.R., regardless of their affiliations and sympathies.

Compared with those changes, today's reforms are meager indeed. The KGB may be more sophisticated and subtle now, but there is no sign that its powers have been curtailed. Under the rubric of "glasnost," Nazi-like anti-Semitic groups have been allowed to organize and assault Jews, doing the KGB's dirty work without its reflecting on the regime. But there has been no admission of error and none of the falsely convicted have been exonerated. Cultural exchange is still a force in which the Soviets determine which Soviet artists are "reliable" enough to appear in the West and who among Western artists is acceptable for appearances in the U.S.S.R.

Most disturbing, the Soviet Government, while regaling the West with dramatic releases of celebrated prisoners and an increase in emigration far below the demands, has fashioned a new emigration law that strictly limits eligibility to apply to those who have blood relatives of the first degree—parents, children or siblings—abroad. It thus excludes over 90 percent of the 400,000 Jews who have indicated their desire to leave. Worse, after promising Western leaders that of those who are eligible only possessors of "state secrets" would be turned down, the Soviets notified "refuseniks" that previous reasons for rejection were now being canceled only to be replaced by "security considerations."

In a bitter twist on the "zero-zero option," Soviet policy seems to be aiming at a typical Moscow compromise: zero "prisoners of Zion" and zero Jewish emigrants. And, indeed, if the law is allowed to stand, if it is not changed under Western pressure, the number of emigrants will be practically zero, and Soviet Jewry will be doomed.

Will Western pressure come? Here, too, the comparison with past experience is discouraging. The new law is far more draconian than a previous effort to strangle emigration: the education tax of 1972, which required would-be emigrants to pay a huge ransom in the guise of a refund for the cost of their education. The uproar then was loud and universal, and the subsequent events dramatic and dizzying. The Soviets stopped enforcing the law within months, the U.S. Congress started discussions and then passed the Jackson Amendment linking trade and credits to Soviet human rights policies, and up to 1980 almost a quarter of a million Jews left the U.S.S.R.

Now, there is no recognition of the gravity of the danger, and the silence is ubiquitous and deafening.

This silence cannot all be attributed to indifference. Many believe that we must "help Gorbachev against opposition in the Kremlin" by uncritically cheering him on. The very fact that the talk of "opposition" originated with Kremlin spokesmen should have put us on guard.

In fact, the opposition to Khrushchev, who subdued the KGB, was real and powerful and—at the time—a jealously guarded state secret. Gorbachev, on the other hand, was a protege of KGB chief Andropov, and his grip on power seems complete. But even if opposition to Gorbachev exists, we must question the logic of "not rocking the boat." A friend told me of suggesting to a high Soviet official that granting immediate emigration permits to the 15,000 to 20,000 refuseniks—those whose applications for exit have been rejected—would make Gorbachev the most popular man in the West. "But he already is," was the smiling reply.

Clearly, if opposition to Gorbachev really exists, Western pressure—not unreserved Western adulation—helps him justify the need to deliver on his many hints and promises. And if there is no opposition, then there is certainly no reason for us to withhold our demands.

It will be tragic if, during Foreign Minister Shevardnadze's coming visit and the summit that will likely follow, the public, press and political leadership are so dazzled by rhetoric, charm and wardrobe that they avoid "embarrassing" questions.

We must keep asking pertinent questions and pressing for relevant actions until we find out if "glasnost" is a harbinger of a new era or a cruel ruse. We in the Free World and those struggling for freedom in the Soviet Union have a right to know if the Soviets intend to adhere to numerous human rights treaties to which they were signatories and if they intend to make the right of Jews to leave the Soviet Union a part of their extravagantly publicized "glasnost." Indeed, we have to know—for the sake of our future—if signing agreements with the Soviets is a step toward greater trust and cooperation or an exercise in futility and an acquiescence in repression.

DOES WALL STREET CARE ABOUT MR. AND MRS. JONES

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 15, 1987

Mr. MILLER of California. Mr. Speaker, several weeks ago, I took this floor after the Wall Street crash to remind my colleagues that we should be far more concerned with the economic well-being of Mr. and Mrs. Jones throughout the United States than with Dow Jones of Wall Street.

I was not trying to be flip; not at all. I was, in fact, making a serious point.

For while the collapse of the stock market in October focused political, media and popular attention on the frailty of our recent prosperity, few have taken a full account of where America stands economically some 60 months into the much-touted recovery.

For years, while the stock market boomed, we as a Nation have in fact been ignoring, and even undermining, our most important national resource: our children. While some economists and fiscal analysts have cautioned that investment in physical facilities has not approached the level predicted when we enacted the 1981 tax cut, we have paid far less attention to our seriously deficient investment in the next generation of Americans.

Because of the shortcomings of our educational system, because we have ignored issues like teenage pregnancy and school dropouts, because we have consigned millions of Americans to deficient physical and mental development as a result of grossly inadequate health policies—for all these reasons, a group of our leading business people recently concluded that by the year 2000, we will have turned out 20 million people with no productive place in our society.

That finding parallels the report of the 1983 National Commission on Educational Excellence, which noted that "for the first time in the history of our country, the educational skills of one generation will not surpass, will not equal, will not even approach, those of their parents."

During the era of Reaganomics, Federal aid to education has dropped by 14 percent. Crucial, cost-saving programs like education for all handicapped children, Head Start, Chapter I education for the disadvantaged have all either suffered cuts or been frozen in place, serving a fraction of the eligible and needy population.

Our failure to invest has not been limited to education, however. The need for greater investment in research and development is well appreciated if we are to achieve a more competitive position with our trading partners in Japan and Europe. Yet we have seen investment in non-defense R&D actually drop by 25 percent over the same period.

Similar concerns must be raised about infant and child nutrition programs that reach a fraction of their medically certified and eligible population; about maternal and child health programs that fail to provide basic medical care to high-risk populations; child abuse and neglect services which are virtually frozen even as reports of child victimization rise by 50 percent; and income support and jobs programs that leave participants mired in poverty.

Yet today, we are not debating how to expand programs to meet the need and to reduce the long term, and inescapable costs, of paying for our current indifference and neglect. Instead, we are almost exclusively engaged in discussions of how to cut the budget to pacify Wall Street.

We are caring too much about what Wall Street needs and too little about what America needs.

As Professor Robert Reich has recently pointed out, those are not always synonymous goals. The fact is that while our savings and investment rates were plummeting, while our competitive position in the world was being transformed from greatest creditor to greatest debtor, even while our budget deficits were rising higher and higher—above the $200 billion mark—through all this turmoil, the stock market continued to boom, masquerading the serious economic changes which are now coming home to roost.

Many of the same trends were evident in the late 1920's, when many analysts raised cautionary concerns about the frailty of the economy, notwithstanding the boom on Wall Street.

This is not to suggest that the deficit isn't real or serious; it most certainly is. But Professor Reich is correct in warning us not to devise a budgetary solution based on its appeal to Wall Street, which has not exactly shown itself an accurate barometer of overall economic conditions or long-range economic needs.

Let us recall, after all, that when the deficit stood at $220 billion, the market was booming; when we cut $70 billion from the deficit and slowed Government spending to the smallest increase in 25 years, the market weakened and collapsed.

While the President rails at Congress to slash domestic spending, we must keep in mind that most domestic discretionary spending has lost ground over the last 7 years. We have, in fact, cut such spending for the poorest Americans by over 40 percent since 1981; the value of means-tested, poverty-related entitlements has dropped significantly; millions of children have been thrown into poverty; and a significant proportion of the unemployed who have found new jobs are working for far less, and with far fewer benefits, than just a few years ago.

Professor Reich's conclusion is one which we should all bear in mind as we begin final consideration of budget and deficit-reduction legislation for 1988:

"Wall Street's goals and America's goals are not quite the same thing. Wall Street wants to restore stock prices to their level before the crash, productivity gains to the levels they were at more than a decade ago."

Or recalling my own statement several weeks ago, Dow Jones' blueprint is not necessarily good policy for Mr. and Mrs. Jones, or for our country.

[Professor Reich's article follows:]

[From the Washington Post, December 6, 1987]

MEMO FROM MAIN STREET TO WALL STREET: "DROP DEAD!"

(By Robert B. Reich)

Why is everyone worrying about what Wall Street is worrying about? Oh sure, it's important, in the larger scheme of things, to keep the financial markets reasonably happy in their work of supplying liquidity to the U.S. economy. But right now, in the wake of the Great Crash of 1987, why should Congress and the news media be falling all over themselves to consult Wall Street's view of why it happened and what needs to be done to remedy the situation?

Wall Street wants to blame it all on Washington: on the budget deficit, on protectionist legislation pending before Congress and on a House Ways and Means Committee proposal to remove tax advantages for takeovers. Wall Street lobbyists are now swarming over the Hill and the White House, demanding an end to these pernicious policies. Investment bankers are filling the airwaves and op-ed pages with their prescriptions for what Washington must do. Financiers are taking out full-page advertisements in newspapers. Wall Street is mobilized as never before.

Washington, in its own plodding way, is trying to oblige. The president and congressional leaders have agreed to budget deficit reductions totaling $30 billion this year and $45 billion the next. Democrats are having second thoughts about their trade bill. Ways and Means Chairman Dan Rostenkowski has promised to reconsider the tax provision. The press reports daily about whether Washington is doing enough to restore Wall Street's confidence.

But why, at this time, should restoring Wall Street's confidence be high on the list of public-policy concerns? After all, the Street's mindless confidence over the past several years has been a contributing cause of our present predicament. Now that Wall Street is finally concerned about the future of the American economy the rest of us should feel reassured rather than alarmed. We should be relieved that the Street is now back in touch with reality, a fevered child awaking from its hallucinations.

The economic "crisis" that Wall Street tells us we have just experienced is, in fact, no different from the slowly-gathering crisis that existed before Oct. 19. Some Americans may now feel poorer than before, but their apparent prosperity in the halcyon days of the bull market was largely illusory—a paper prosperity. The real economy had been unraveling for years while America busily consumed more than it produced. In 1986, for example, the nation generated some $800 billion more in goods and services than it had in the recession year of 1982, but it spent about $900 billion more—Mr. Micawber's recipe for eventual misery.

We were able to ignore our profligacy only because foreigners kept lending us money, buying our corporations and purchasing our real estate. By the time of the crash, we were $350 billion in the hole, one-third of downtown Los Angeles (among other U.S. cities) was in foreign hands and our foreign creditors were growing distinctly nervous about our ability to repay our debts.

A nation living beyond its means faces precisely the same choices as a family living in the same manner. It may either grow poorer, or it may improve its means by becoming more productive. Before Oct. 19, we were already exercising the first option: The declining dollar was rendering imports more expensive; in many families two wage-earners were needed to make ends meet; young people found it hard to afford houses nearly as nice as the homes they grew up in.

The second option—becoming more productive—was being pursued less vigorously. Our indebtedness to the rest of the world would have been no cause for alarm had we invested our borrowings in our future productivity. But net investment in plant and equipment, as a percentage of gross national product, was no higher than in the perilous 1970s, supply-side predictions to the contrary notwithstanding. Meanwhile, the government had cut back on public investment in education, training, commercial research and development and in the roads, bridges, ports and tunnels that comprise the nation's "infrastructure."

Spending to upgrade and expand the nation's infrastructure dropped from 2.3 percent of GNP two decades ago to 0.4 percent by the early 1980s. Total public and private-sector spending on commercial research and development dwindled to below 2 percent of GNP, far lower than in previous decades, and significantly lower than that of our major trading partners. While manufacturing productivity rose healthily, overall productivity gains—weighted down by slow or negative gains in the increasingly important service sector—dropped to only one percent a year, from over 3 percent a decade before. In the last two years, even a declining dollar has yet to help American producers regain market share from foreigners who continue to supply world markets with relatively cheap, high-quality goods.

The anomaly through it all was the Wall Street bull market, which surged upward in seeming disregard of the underlying decline. One big reason: Stock prices were responding in large measure not to the real economy but to takeovers, or threats of takeovers, which prompted corporations to do whatever was necessary to raise their share prices in the short term. Often this meant purchasing their own shares and thus going deeply into debt and jettisoning long-term projects. The new debt ballooned by over $700 billion between 1982 and 1987, about the same amount by which share prices tumbled this fall. This new debt made corporate America much more vulnerable to economic downturns. Interest payments soaked up an ever-larger proportion of corporate earnings—last year, over half.

Wall Street's reverie could not go on forever, and it did not. The balloon was sure to burst eventually. It did.

In light of this recent history, there is something vaguely unseemly about Wall Street's new demands. Of course, the budget deficit needs to be tamed. But the deeper problem is not the budget deficit per se; it is the nation's chronic unwillingness to reduce its total consumption and increase its total investment—both public and private. Moreover, to suddenly and significantly reduce government spending and increase taxes now—at a time when consumers and companies are likely to scale back their purchasing plans in light of economic uncertainty, and when there is as yet no firm guarantee that our trading partners will expand their economies to fill the gap—threatens a deep and prolonged recession.

What we need to do now is what we should have been doing all along: Gradually scale back aggregate consumption by, for example, spurring the growth of personal savings through expanded IRAs and Keoghs, hobbling hostile takeovers and leveraged buyouts, taxing more of Social Security benefits, reducing farm supports, getting our allies to foot a larger portion of the defense bill and cutting back on weapons systems that are of low priority or fail to perform as planned.

But this is only half the agenda. We should simultaneously attend to the investment side of the ledger by, for example, inducing more private-sector spending on plant and equipment (restoring the investment tax credit), and increasing government spending for education, retraining, child nutrition, research and development, and infrastructure. These investment strategies may make it more difficult to reduce the current federal budget deficit, but they are more important to our long-term economic health than any short-term budget fix. To focus singularly on reducing the federal budget deficit distracts us from these more fundamental agenda, which long predate Oct. 19.

Wall Street's other immediate demands merit similar skepticism. America's drift toward protectionism is dangerous, but no more dangerous today than it was last month or last year. Regardless of what happens to the Democrats' trade bill, the political reality is as yet unaltered: Without new jobs for our industrial workers whose present jobs are threatened by cheaper foreign goods, and without opportunities for them to train for such jobs or get help in finding them, demands for protection will continue to mount. To make matters worse, there are no longer clear international ground rules for what constitutes fair trade.

Technological changes and ballooning service sectors in all advanced economies have rendered irrelevant much of the General Agreement on Tariffs and Trade. Every government, including our own, is subsidizing and protecting its major industries. The very absence of global agreement about what sorts of government interventions are now permissible further invites distressed workers and communities to claim unfair injury at the hands of foreigners. Here again, the longer-term agenda—in this case, to ease workers out of older industries, and to reach a new understanding with our trading partners about fair trade—is no more or less urgent than it was before Oct. 19.

Wall Street's third demand is the most dubious of all. In the weeks preceding the crash, the House Ways and Means Committee had introduced legislation to cap interest deductions on debt incurred for the purpose of acquiring another company. Financiers now claim that this proposal triggered Wall Street's free fall, since, if enacted, the provision would render hostile takeovers unprofitable. Says Donald Drapkin, vice chairman of Revlon Inc., and a key figure in his company's effort to take over Gillette, "If you couldn't deduct interest incurred in an acquisition, it would be a disaster for the stock market and for American companies."

Takeovers and takeover threats certainly did help to prop up share prices during the great bull market. But there is little evidence that corporations became very much more efficient or productive as a result. If, as is argued by raiders and their apologists, such ploys rid corporations of inept managers, there would be no particular reason to subsidize them through the tax system. Takeovers would occur anyway, prompted by the bonus available to the clever raider who replaces inept managers with those who can generate bigger profits.

If Revlon could make Gillette into a more profitable company, it would be in Revlon's interest to take it over, regardless of any tax advantages for doing so. Thus Wall Street's current assertion that the tax break is needed in order to spur takeovers—and that the threat of its withdrawal had a disastrous effect on the market—only serves as further evidence that the takeover activity of the last few years did little to improve underlying corporate performance. Takeovers merely filled Wall Street's balloon.

The economy (although perhaps not Wall Street) would be served by enacting the Ways and Means Committee's proposal. The removal of the interest deduction would screen out takeovers that added nothing to

the American economy—in fact, which were likely to undermine long-term productivity gains—that are of low priority or fail to perform as planned.

But this is only half the agenda. We should simultaneously attend to the investment side of the ledger by, for example, inducing more private-sector spending on plant and equipment (restoring the investment tax credit), and increasing government spending for education, retraining, child nutrition, research and development, and infrastructure. These investment strategies may make it more difficult to reduce the current federal budget deficit, but they are more important to our long-term economic health than any short-term budget fix. To focus singularly on reducing the federal budget deficit distracts us from these more fundamental agenda, which long predate Oct. 19.

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Technological changes and ballooning service sectors in all advanced economies have rendered irrelevant much of the General Agreement on Tariffs and Trade. Every government, including our own, is subsidizing and protecting its major industries. The very absence of global agreement about what sorts of government interventions are now permissible further invites distressed workers and communities to claim unfair injury at the hands of foreigners. Here again, the longer-term agenda—in this case, to ease workers out of older industries, and to reach a new understanding with our trading partners about fair trade—is no more or less urgent than it was before Oct. 19.

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current assertion that the tax break is needed in order to spur takeovers—and that the threat of its withdrawal had a disastrous effect on the market—only serves as further evidence that the takeover activity of the last few years did little to improve underlying corporate performance. Takeovers merely filled Wall Street's balloon.

The economy (although perhaps not Wall Street) would be served by enacting the Ways and Means Committee's proposal. The removal of the interest deduction would screen out takeovers that added nothing to the American economy—in fact, which were likely to undermine long-term productivity gains—while still allowing takeovers that arguably promoted efficiency.

The point is that Wall Street's goals and America's goals are not quite the same thing. Wall Street wants to restore stock prices to their levels before the crash, and to the upward trajectory they were on before last August. But our more basic goal should be to rebuild our economy, and restore productivity gains to the levels they were at more than a decade ago. If America were to accept Wall Street's perceptions of the current economic crisis, and the Street's preferred remedies, stock prices might well rise once again to record heights. But the underlying economy would continue to deteriorate, thus inviting another pop of Wall Street's balloon.

It is perhaps understandable that Republicans would fail to differentiate between Wall Street and the rest of us; Republicans have traditionally had difficulty with the distinction. But there is no excuse for the Democrats. The Great Crash provides Democrats with a signal opportunity to show how Ronald Reagan's policies during the last seven years have hastened our economic decline, and to reveal how our tax dollars have been used by the wealthy to make themselves even richer by gambling on Wall Street.

The Crash also allows Democrats to make a strong case for a new public agenda directed at rebuilding our economy. Democrats should be talking about the importance of reducing overall consumption while increasing both public and private investment; easing the transition of our work force out of older industries; reaching new multilateral understandings about what sorts of government interventions promote productivity and thus do not impede trade, and which should be prohibited because they advance one nation at the expense of another; and removing tax benefits for speculative activities like takeovers.

It is, in short, the Democrats' hour. They should not be wasting precious minutes looking over their shoulders to see if Wall Street is soothed by their efforts.

Robert B. Reich teaches political economy at Harvard's John F. Kennedy School of Government and is the author of "Tales of a New America."

THOUSANDS OF ROMANIANS GATHER COURAGE TO PROTEST

HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 15, 1987

Mr. SMITH of New Jersey. Mr. Speaker, the time has come for Congress, our own administration and the West to take serious notice of the recent unrest which has been stirring in Romania. Since mid-November—while we have celebrated the Thanksgiving feast and now as we prepare for the Christmas season—thousands of Romanian men and women have risked their jobs and faced arrest to protest publicly the repressive policies of the Ceausescu regime.

Although Romanian authorities deny it, Mr. Speaker, thousands of workers in Brasov, a medium-sized town in central Romania, participated in a demonstration on November 15. Shouting slogans such as "Down with the Dictator" and "We Want Bread," the Romanians were protesting the severe lack of food and heat for their homes. While milk and meat are practically unobtainable, other food supplies are limited. To make matters worse, the government is restricting each home to 35 kilowatt hours of electricity per month. It is my understanding that an ordinary refrigerator requires 197 kilowatt hours per month.

Over the last few weeks, Mr. Speaker, a number of well-known dissidents have been arrested because of their outspoken criticism of Ceausescu's reign of fear and repression. Other demonstrations have been reported in other towns, such as Timisoara, and an uprising in the capital city of Bucharest resulted in a fire being set ablaze at Lenin's statue just last week.

In the wake of the unrest which is clearly evident in the country, Mr. Speaker, the Ceausescu regime is acting as if business is as usual. At the opening of the Communist Party conference yesterday, the Communist leader of Romania seemed to ignore the unprecedented, widespread and desperate cries of protest during the last month. I believe it would behoove the Ceausescu regime to respond fairly to the concerns of the protestors—respond to their calls for sufficient food supplies and heat. Mr. Speaker, the cries for human rights and these basic human needs will not be suppressed by repressive economic and social policies. Just as we have joined in spirit the pleading of Poland's Solidarity Movement, Mr. Speaker, we must not let the Romanian people down—we owe it to them to pick up their banner in the West and plead for their rights and basic needs.

DR. DOUGLAS OLESEN SELECTED PRESIDENT OF BATTELLE MEMORIAL INSTITUTE

HON. SID MORRISON

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 15, 1987

Mr. MORRISON of Washington. Mr. Speaker, I would like to share with my colleagues some very good news that not only is of interest to my constituents in the Fourth District of Washington but also to those in government and industry whose business is dependent on research and development and the successful commercialization of technology. Dr. Douglas Olesen, a native of Wenatchee, WA, was recently selected by the board of trustees to be president of Battelle Memorial Institute.

Battelle, which pioneered the concept of contract research more than 50 years ago, is today an international organization with over 8,000 scientists, engineers, and support staff whose mission is the generation, application, and commercialization of technology.

I have been impressed with Battelle and its commitment to science in the service of mankind since I first met Dr. Olesen in the fall of 1980. As the newly elected Congressman from the Fourth District of Washington, I was about to represent 3,000 scientists and engineers who were conducting research at Battelle's laboratories in Richland, WA. Doug Olesen, who was then vice president of the Pacific Northwest Division, impressed me during that visit with his knowledge and management capabilities. I knew that he was on his way to bigger and better things.

It was during that visit that I got his first glimpse of the spectrum of research and development projects that Battelle scientists were performing for a multitude of government and industrial clients. Whenever I have a chance, I visit Battelle to see firsthand some of the exciting developments that are occurring in the laboratory—from molecular and environmental sciences to waste management technology development.

I should point out to my colleagues the impressions provided by Doug Olesen and Battelle were inducements for me to seek membership on the Science, Space, and Technology Committee of the House. This committee has jurisdiction over many new and exciting scientific programs ranging from the Space Station and the Supercollider to superconductivity and biotechnology applications. From this experience I have a greater appreciation of the value of a strong research and development policy for the United States. Indeed, everyone agrees that the United States must increase its support for research and development in order to maintain a strong role in international competitiveness.

Battelle's principal mission is to put science and technology to work for the benefit of mankind. Scientific advances and technology development create new business opportunities, and every nation in the world and every enterprise depends on continued progress in these areas for economic growth. If the United States is going to continue its record of economic growth and improve the standard of living for all of its citizens, it must continue its commitment to a strong research and development strategy. Under Doug Olesen's leadership, I am confident that Battelle will continue to fulfill its commitment to its primary mission—putting science and technology to work for the benefit of mankind. I want to extend my best wishes to Dr. Douglas Olesen, the new president of Battelle, as we enter this new age of scientific discovery.

OBLIGATORY DEATH SERVICE

HON. MICHAEL BILIRAKIS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 15, 1987

Mr. BILIRAKIS. Mr. Speaker, I would like to share the following paraphrased letter to the editor taken from La Prensa regarding obligatory military service in Nicaragua. It is written by the mother of a young boy who was forced into what the mother calls "obligatory death service."

After my recent visit to Nicaragua, I feel compelled to share with you the injustice and brutalities the Sandinista government inflicts upon its people.

MOTHER OF MARTYR WRITES ORTEGA

I address you and La Prensa, that symbol of liberty and strength, to bring to bear the echo of my lament, the lament of the mother of a martyr. I say I am the mother of a martyr because my tender young son Eduardo Santiago Luna Arevalo was sent against his will to burn himself for this dictatorship, to defend this government which is the actual cause of most of the problems in Nicaragua today. President Ortega had the gall to write me and send his condolences but I know that he cared less for my son and cares less for all others who are in his service.

My son was 17 years old, a student in his third year of high school at the Alejandro Garcia Vado de Jinotepe Institute. One day before school break, one of the "planners of my son's death" came to his school and forced him to sign a military obligation form for OBLIGATORY DEATH SERVICE. In signing this, he was promised he would not have to serve in combat because he was a student without military training. He was sent to Region IV, a region without much military action. But as with all the (government) promises, this promise was broken and my son was sent to fight on the front. When he was there he took two separate opportunities to desert. Both times the "Sentinels of Public happiness"—motto of the CDS—Committee for the Defense of Sandinismo—Secret Police—had to come to my humble house with great military show to hunt down my son and return him to combat.

On November 6, 1987, the CDS came again, this time with his decomposed body. They left it at my house at 5 am.

Later I learned he was killed in Bocaycito a combat area. I had thought he was being trained in a military school—Facundo Picado—and being well fed. In fact, he was rationed food and fought and died on a mountain with other defenseless children.

The day of the wake for my son the other children who went to school with my son gave much thought to the senseless sacrifice of children. I hope that the blood of my son will serve to excuse the sins of others, and not be used as fascist—government—propaganda. I would not let the CDS attend the funeral of my son.

He was given a simple burial, without the celebration and the fancy flowers of a Sandinista propaganda burial. He was carried on the honest and strong shoulders of the poor citizens, and was laid to rest simply as he came into this earth. The odor of decomposition was strong and repulsive, reminding many of the tragedy of death.

I told the mothers present not to offer the fruits of their womb to the war effort which has no moral purpose; not to give our children up to the slavery of the slaughterhouse.

In conclusion, I ask one question to whomever wants to answer it: why is there a professional army in Nicaragua, better financed than most doctors, teachers and economists? Why don't the planners of the war go to fight, rather than send our children against their will? This is a war of men, not children.

In Nicaragua there is infanticide more brutal than anywhere in history. This is the same atrocity Herod committed 2,000 years ago. Is this war the same as Herod's? Is the cause the same? Should our youth put aside all future plans to go and fight?

History gives reason to whomever has it.

Socorro Arevalo de Luna—Mother.

HONORING THE UNITED STATES AIR FORCE TACTICAL FIGHTER WEAPONS CENTER

HON. JAMES H. BILBRAY

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 15, 1987

Mr. BILBRAY. Mr. Speaker, I rise today to respectfully pay tribute to the U.S. Air Force Tactical Fighter Weapons Center, Tactical Air Command, for its exceptionally meritorious service and its excellent achievement in providing combat training to tactical Air Forces worldwide.

During the year 1986 the Tactical Fighter Weapons Center top performance was singled out by the Air Force and they were awarded the "Air Force Organizational Excellence Award". The top award featured all the men and women who have served with the tactical fighter weapons center at the base during 1986 and they will have the honor added to their military records. The USAF Tactical Fighter Weapons Center had a superb year for accomplishments.

The Air Force capabilities were enhanced through advanced fighter training, weapons testing, and tactics development as well as a hard-working management that efficiently increased productivity and mission readiness. The USAF Tactical Fighter Weapons Center has provided a regimented operational training of tactical aircrews and advanced level training of instructor aircrews. In addition they have exerted time and energy to developing tactics. Techniques and procedures for weapons employment, and maintaining the readiness of units assigned and attached.

Mr. Speaker, in behalf of the State of Nevada I would like to commend the Tactical Fighter Weapons Center for their outstanding performance. They have excelled in every inspection, made significant improvements in both training and support to both military and civilian communities. The Air Force has made an excellent choice for its top organizational award.

PERSONAL EXPLANATION

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 15, 1987

Mr. MAZZOLI. Mr. Speaker, I was unavoidably absent for recorded votes on Friday, December 11, 1987. Had I been present, I would have voted:

"Yea" on Roll No. 476, to approve the Journal of Thursday, December 10, 1987;

"Yea" on Roll No. 477, on agreeing to the resolution providing for the consideration of the bill, H.R. 1467, to authorize appropriations to carry out the Endangered Species Act of 1973, during fiscal years 1988, 1989, 1990, 1991, and 1992.

"JUST VOTING" WAS NEVER ENOUGH FOR PEACE CAMPAIGNER

HON. GERRY SIKORSKI

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 15, 1987

Mr. SIKORSKI. Mr. Speaker, today I would like to insert into the RECORD an article commemorating Alpha Smaby's 65 years of political and public service. The article appeared in the St. Paul Pioneer Press Dispatch on December 6, 1987.

Alpha Smaby is a former Minnesota State representative and long-time community activist whose public career spans 65 years. She has been involved in public service on many different levels, ranging from leading the Greater Minneapolis Girl Scout Council, working on a number of political campaigns, chairing the Minnesota International Center for Students and Visitors to serving in the Minnesota House of Representatives.

Throughout her career as a public servant, Smaby has experienced a number of triumphs and defeats. And throughout those years she has maintained a deep-rooted sense of commitment and a dedication to improving our government and quality of life. Her daughter has described her mother as "a visionary, a practical dreamer." In her lifetime, she has assiduously pursued her ideals and has fought to make them a reality. We are grateful for Alpha Smaby's years of commitment to the public good.

"JUST VOTING" WAS NEVER ENOUGH FOR PEACE CAMPAIGNER

(By Ellen Tomson)

Alpha Smaby was a state representative and one of few women in the Minnesota Legislature when she decided to support anti-war candidate Eugene McCarthy for president in 1968. As a Concerned Democrat, she challenged the policies of Lyndon Johnson and Hubert Humphrey, the men her party had sent to the White House.

Since the vice president, a close friend, was a man beloved by Smaby's constitutents in Minneapolis, her opposition to White House policies contributed to her defeat in the next election and the end of her legislative career. But it did not end her interest in politics, especially the politics of the anti-war movement.

Now 77 and battling cancer for the third time, Smaby has just completed eight years of work on "Political Upheaval," a book about Minnesota's peace movement.

The 1960s are years she describes as "strange, troubling—and interesting."

"It was a time when people came together so committed against a war, so committed to a cause, that they were willing to oust a president from their own party if that was what was needed in order to change the course of our country," Smaby said during a recent interview.

In Minnesota, as Democrats split between McCarthy and Humphrey, a conflict developed that Smaby likened to a "civil war." Afterward, neither Minnesota nor the country would be the same.

Blacks, women, the clergy and gays who became vocal opposing the war would become more courageous in fighting for other causes and more visible and powerful politically.

"Within the black community, within women's organizations, within the church, and certainly within the whole gay movement, there was this noticeable change as a result of what happened in the 1960s," Smaby said. "The rules were changed."

But the rebelling that took place during that time was nothing new for Smaby. She had spent much of her life campaigning, organizing and challenging ideas and people.

One of six children of Norwegian-American parents, Smaby grew up in a household where voting was considered a near-sacred duty and political views were argued. Her father, who managed cooperative creameries, was a staunch Republican. Gifted with perfect pitch, he played organ and piano, and the family sang and read together in the evening. He expected all of his children would attend college.

In 1923, at age 13, Smaby circulated a petition at her high school in Peterson, Minn., seeking the ouster of the superintendent. He was so disliked that the students once applauded when a frenzied grasshopper under the influence of formaldehyde jumped into his mouth. Because of the petition, Smaby was expelled for several months. But the superintendent eventually resigned.

"That is about the only political victory I've ever had," Smaby said, laughing at the recollection. "There have been so many lost causes I have been involved in. That is probably true of most people who have been involved in politics, though. You lose many more than you win."

Smaby's political involvement began in the 1930s, when she joined the League of Women Voters. She was married and pregnant with her second child when the league sent her to interview a Golden Valley candidate for the Legislature in 1946. During the interview, she discovered she did not like the candidate.

That evening, she told her husband, "If I weren't so pregnant, I would run against him."

But it would be awhile before she did run for office. Meanwhile, she studied evenings in her basement to earn her bachelor's degree from the University of Minnesota. She was a leader in the Greater Minneapolis Girl Scout Council and chairman of the visitor's committee of the Minnesota International Center for Students and Visitors.

Smaby suffered the first in a series of political setbacks in 1952 and 1956, when she campaigned for Adlai Stevenson, the Democratic candidate for president.

In the late 1950s, she battled construction plans for Interstates 35 and 94 in Minneapolis. She viewed the freeways as an "intrusion" on the city and favored the construction of a light rail transit system.

Later, she lost a bid to become a consumer representative on the board of Northern States Power Co. And she supported other losers: McCarthy against Humphrey for the 1968 Democratic nomination; Fred Harris against Jimmy Carter for the 1976 nomination; George Latimer against Rudy Perpich in the 1986 gubernatorial race.

All of the lost causes have earned her a dubious distinction as a politician, she noted wryly.

"Some people have said if you want to be sure you are not going to make it, go find out if Alpha is working for you," she said.

Even after she was elected to the Minnesota House in 1964 and aligned herself to the Liberal Caucus, there were disappointments. Her goal was a more liberal government, but her caucus was still in the minority and policy changes were difficult to enact. And much of her time was consumed in attempting to solve personal problems of individual constituents in her district, which included University of Minnesota neighborhoods.

"It was a demanding kind of position," Smaby said. "And because I was in the minority in the Legislature, I didn't feel I was contributing a lot."

In 1968, she was defeated for reelection. She said that during the campaign, her opponents distorted her views on black power, abortion and conscientious objectors. They used her membership in Americans for Democratic Action to try to demonstrate she had "communist leanings." And because of her anti-war activities, they placed her in the same category as "the crazy students on the West Bank."

When only one fellow legislator spoke out publicly in her defense, Smaby realized she had learned a valuable lesson about politics.

"I learned that politics is sometimes a very frightening kind of involvement," she said. "I wasn't bitter. But I was disappointed. I hadn't expected this kind of reaction, especially from people I'd worked so closely with.

"It taught me something about politics: You can't always count on the people who seem to be your friends and supporters. If politics is of chief importance in their lives, their own survival will come first."

Smaby came to realize, though, that victories sometimes followed disappointments and defeats. Though the freeways she fought in Minneapolis were built, some changes were made in the plans. NSP appointed two consumer advocates to its board after she lost her bid for board membership. The power of the DFL grew, and Minnesota's government became more liberal. Eventually, the country withdrew from Vietnam.

Throughout her political involvement, Smaby and her husband, Arthur, former president and general manager of Midland Cooperatives, raised three daughters. The oldest, Marit Smaby-Nowlin, is the mother of four daughters and worked in public relations and fund-raising before making a career change to writing music and performing stand-up comedy. The middle daughter, Karlin Symons, had a career in real estate and is about to graduate from law school. The youngest, Jan Smaby, is president of Spring Hill conference center in Orono and host of the "Almanac" program on KTCA public television.

Smaby-Nowlin described her mother as "visionary, a practical dreamer."

"She has a sense of discouragement about some of the things she has worked for, but she keeps plugging away," Smaby-Nowlin said, noting that among other concerns, her mother has focused on conservation of natural resources. "She can be energized by a new cause or a new concern, and that is great. Her energy and concern go to things beyond herself. She has a real concern for other people and what is going on in the world."

Since shortly after her husband's death in 1972, Smaby has lived alone in a cabin on Lake Vermilion in northern Minnesota. The master's thesis she began writing there evolved into her book about the peace movement. Besides writing, Smaby has spent much of her time reading history. And thinking.

She is no longer a Democrat. After numerous trips to observe the workings of governments in Norway, Sweden and Denmark, she is more comfortable labeling herself a socialist. And though she is discouraged about the current conservative mood of this country, she has no regrets.

"When you are living in a democracy, you have to participate, and participating means more than just blindly voting," she said. "When I think of all the time I put in, in every instance I would do it again."

GEOGRAPHY: OUR LIVES DEPEND ON IT

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 15, 1987

Mr. FLORIO. Mr. Speaker, I would like to recognize Jeremy Greenwald, a sixth-grader from the First District of New Jersey. Jeremy recently won an essay contest on geography in which he competed with over 300 other students.

Because of Jeremy's special dedication and insight into the importance of geography in today's school curriculum, he has afforded the opportunity to be part of a distinguished panel—a panel composed of three U.S. Senators, a former U.S. Supreme Court Chief Justice, and the Secretary of Education.

Jeremy testified before the Senate Education Subcommittee in support of greater educational emphasis on geography.

During his testimony, Jeremy told the subcommittee that "geography is more important than people think: Our lives depend on it."

Indeed, the Turnersville, NJ student has touched upon the essence of geography awareness. We, as citizens of a democratic society and an increasingly interdependent world, cannot begin to make informed decisions about public policy, commerce, and trade in other areas of the world without a sound understanding of what it is like to live in those areas. We all owe Jeremy Greenwald a debt of gratitude for helping us to focus our attention on the important issue of geography awareness.

FINALLY, A CHANCE TO TAKE PART IN AMERICAN SOCIETY

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 15, 1987

Mr. LIPINSKI. Mr. Speaker, I rise today in strong support for the State Department conference agreement passed today by an overwhelming margin. I am particularly pleased that my bill, H.R. 2692, in modified form, was inserted in the final language.

H.R. 2692 would allow approximately 7,000 Polish refugees granted extended voluntary departure [EVD] status to adjust their immigration to that of permanent resident. Under the conference agreement, these same refugees would go through the same procedures as illegal aliens under the Immigration Reform and

Control Act of 1986. Mr. Speaker, that compromise is fine by me—as long as these worthy refugees are allowed to remain in the United States without fear of forced deportation, waiting 18 more months for permanent resident status is a small price to pay in their eyes.

According to the latest statistics, none of the Poles are on welfare. They came here to escape the repressive political atmosphere caused by the imposition of martial law in Poland, and have proven themselves to be productive members of American society. While we were all grateful President Reagan granted these people EVD when martial law was declared in 1981, the status had clearly outlived its usefulness. The situation had not improved in Poland, and yet these people were expected to go back whenever the United States Government, in 6-month periods, decided to end or extend EVD.

I want to take this opportunity to commend the distinguished chairmen of the full Foreign Affairs Committee, Mr. Fascell, and the International Operations Subcommittee, Mr. MICA—as well as—the distinguished chairmen of the full Judiciary Committee, Mr. RODINO, and the Immigration Subcommittee, Mr. MAZZOLI. As leaders of the conference on this agreement, they and their fine staffs were instrumental in obtaining final passage of the language. I further want to thank the 106 Members of the House who supported my bill in its original form. Without such strong support, it is difficult to conceive the bill would have progressed as far as it did. Polish martial law refugees owe all of you their thanks for the chance to begin a new life in America.

TRIBUTE TO CLIFF SIMMONS, SR.

HON. CARROLL HUBBARD, JR.

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 15, 1987

Mr. HUBBARD. Mr. Speaker, I want to take this opportunity to pay tribute to the late Earl Clifton Simmons, Sr., of Arlington, KY, who died at Western Baptist Hospital in Paducah, KY, on Thursday, November 26.

Cliff Simmons, a longtime member of the Arlington City Council, was a friend of mine whom I admired and of whom I was very fond.

He was an avid supporter of his hometown and his home county—Carlisle County, which borders the Mississippi River.

My wife Carol and I would see Cliff and his lovely wife Jane frequently at various events in Western Kentucky. However, when we attend annually, the Kentucky Boys' High School Basketball Tournament—"The Sweet Sixteen"—we could always count on a visit with a group of Carlisle Countians which include our friend Cliff Simmons.

We all shared the excitement of the 1983 basketball tournament when the Carlisle County High School Comets went all the way to the final game, losing in three overtimes to Lexington Henry Clay High School—one of Kentucky's largest—35 to 33.

Cliff Simmons was an employee of Martin Marietta Energy Systems, Inc., at Paducah, KY, a former member of the Carlisle County School Board, and a member of Arlington First Baptist Church. He was a Shriner, a member of the Arlington Masonic Lodge and Bardwell Lions Club.

Cliff Simmons, a veteran of the Korean war, served with the U.S. Air Force.

He has been the official time keeper for Carlisle County High School basketball games for 17 years.

Surviving are his wife, Jane Burton Simmons; two daughters, Debbie Simmons of Paducah and Celia Hickman of Cunningham, KY, a son, Maj. Earl Clifton Simmons, Jr., of Omaha, NE; three sisters, Katherine Steilberg of Louisville, KY, Betty Stewart of Orlando, FL, and Dorothy Jean Wild of Cairo, IL; a brother, Billy Joe Simmons of Barlow, KY, three grandchildren, several nieces and nephews.

Carol and I extend our sympathy to Jane, Cliff, Jr., Debbie, Celia and other members of the Simmons family.

TRIBUTE TO MRS. ELLA P. STEWART

HON. MARCY KAPTUR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 15, 1987

Ms. KAPTUR. Mr. Speaker, recently my district and the Nation lost one of its most respected and admired citizens. Mrs. Ella P. Stewart, 94, was a humanitarian, civic leader, and honored professional.

In 60 years as a Toledo resident, Ella Stewart won numerous honors for community service and civic activities. She was recognized by local, State, national, and international organizations for her service to humanity.

Ella Stewart was the first black woman to be graduated from the University of Pittsburgh School of Pharmacy and in 1959 became the first woman to receive a plaque from that institution for outstanding contributions to pharmacy.

In 1967, Temple B'nai Israel awarded Mrs. Stewart a gold medal during its centennial convocation for her efforts in establishing the Toledo Board of Community Relations, breaking down racial barriers, and improving the quality of life for the community's minority citizens.

Ella Stewart traveled the world serving as an official good-will representative for our Government. She served on the boards of countless community, civil rights, professional, and church organizations.

Perhaps as much as any human being I have ever known, Ella Stewart made a difference in the lives she touched. Our community, our Nation, and the world was blessed by her presence. We will miss her. I know my colleagues in the House of Representatives join me in mourning the death of Ella P. Stewart.

PERSONAL EXPLANATION

HON. HARRIS W. FAWELL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 15, 1987

Mr. FAWELL. Mr. Speaker, today I was not able to cast votes on the House floor because I was snowed-in in Chicago. Had I been present, I would have voted for passage of the conference report to the State Department authorization—rollcall No. 481—and in opposition to the rule for consideration of H.R. 1720, the Family Welfare Reform Act—rollcall No. 482.

COMMEMORATING SOUDERTON, PA 100th ANNIVERSARY

HON. PETER H. KOSTMAYER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 15, 1987

Mr. KOSTMAYER. Mr. Speaker, today, I rise to extend congratulations to the community of Souderton, PA, which is celebrating it's 100th anniversary this year.

Souderton was founded by two families, the Souders and the Hunbergers, both of strong Mennonite backgrounds. Many direct decendents of these families still make up the 7,000 people that inhabit Souderton today.

Souderton, as with many small Pennsylvania towns, started out as a railroad stop on property owned by the Hunsberger and Souder families. The Great North Penn Railroad helped the Pennsylvania Dutch with their prosperous cigar and cigar box businesses. Later, Souderton's advantageous geography—between Bethlehem and Philadelphia—helped develop a textiles industry.

Today, Souderton is a small, yet vibrant rural community. It in many ways symbolizes the characteristics that makes southeastern Pennsylvania popular. Souderton has a small town appeal that many citizens of this country envy. Many of my constituents work in Souderton. Many others from all around the country visit Souderton to enjoy it's rich history and quant charm.

On this occasion, Mr. Speaker, I'd like to congratulate the citizens of Souderton, and praise them for upholding that small town tradition that makes this country great.

PERSONAL EXPLANATION

HON. NICK JOE RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 15, 1987

Mr. RAHALL. Mr. Speaker, I was unable to be present to cast my vote yesterday on H.R. 3399 and H.R. 2790. Upon returning to National Airport from a speech to a high school in my district, I found that my car had been mistakenly impounded by the airport security police. Upon discovering their mistake, the airport authority apologized for their error. However, the unfortunate mixup caused me to miss two rollcall votes, No. 478 and No. 479. Had I been present, I would have voted "yea" on H.R. 3399—rollcall No. 478—and "yea" on H.R. 2790—rollcall No. 479.

TRIBUTE TO MR. LOU POMPEI

HON. GEORGE W. GEKAS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 15, 1987

Mr. GEKAS. Mr. Speaker, family, friends and fellow workers of Mr. Lou Pompei will gather on Saturday, January 2, 1988, at the I.W. Abel Hall in Steelton, to share in the festivities honoring his 32 years of devoted service to the U.S. Postal Service.

Mr. Pompei began his career with the Postal Service in May 1959 as substitute distribution clerk in Philadelphia. It was only a couple of months later that he was reassigned to the Harrisburg Post Office as a substitute clerk. Two years later he was assigned to regular duty. On April 7, 1964, Mr. Pompei received his first of what was to be many special achievement awards for superior performance.

Beginning on July 21, 1973, when he was promoted to foreman of mails, Mr. Pompei continued to move up the promotional ladder within the U.S. Postal Service. After 32 years of dedicated service, Lou Pompei will retire as manager of the general mail facility of the Harrisburg Division of the U.S. Postal Service.

Mr. Speaker, I would like to take this opportunity to extend my congratulations to Lou Pompei for his many years of service to his community and the U.S. Postal Service. I wish him well in his retirement.

A TRIBUTE TO THE TRUMBULL COUNTY DAIRY SERVICE UNIT

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 15, 1987

Mr. TRAFICANT. Mr. Speaker, today I rise in order to pay tribute to the Trumbull County Dairy Service Unit, a very special organization of my 17th Congressional District of Ohio. On Friday, November 20 of this year, I had the privilege of addressing the annual meeting of this outstanding agricultural extension group.

The Trumbull County Dairy Service Unit was founded on January 23, 1958. This organization works directly with the Ohio Cooperative Extension Service and the U.S. Department of Agriculture in providing dairy farmers and others in agriculture which information on expanding milk production, improving dairy farming practices, and marketing techniques. The Dairy Service Unit also publishes, prints, and distributes books, pamphlets, and other materials related to the promotion of dairy products as a whole. The Trumbull County Dairy Service Unit is indeed a great service to those many people in my district who are involved in agriculture, and I am greatly honored to represent such a fine organization.

AMENDMENTS TO H.R. 3100, FOREIGN AID AUTHORIZATIONS

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 15, 1987

Mr. SOLOMON. Mr. Speaker, during the closing minutes of debate this past Thursday on H.R. 3100, Foreign Aid Authorizations for fiscal year 1988 and 1989, I decided not to take up time by discussing all of my amendments that were included in an en bloc package by the Committee on Foreign Affairs. And so for the record, and for the benefit of interested Members, I would like to submit the talking points I prepared for two of my amendments. Both of these amendments concern the provision of emergency humanitarian relief, and I ask that my talking points, offering a rationale for each amendment, appear at this point in the RECORD:

AMENDMENT FOR REPORT ON COMMUNIST COUNTRIES

I am offering two amendments that would add new subsections to section 491 of the Foreign Assistance Act of 1961. Section 491 is the section that sets forth the general principles and policies that govern the provision of emergency humanitarian relief assistance to other countries. I am offering these two amendments based on the bitter experience we had with Ethiopia during the tremendous famine relief effort that was mounted by the United States and other free countries in 1985. These amendments are particularly timely now that our country is once again being called upon to alleviate famine conditions in Ethiopia—with 115,000 metric tons of food already on the way, even as we speak.

My first amendment says that whenever the United States is providing humanitarian disaster relief assistance to a Communist country, for which the standard types of foreign aid are prohibited by section 620(f) of the Foreign Assistance Act, the President shall be required to submit a report to Congress every three months on the steps being taken by the government of the recipient country "to alleviate the conditions that make such assistance necessary." This amendment wouldn't cut off the aid, but it would require that Congress be notified periodically on what the country in question is doing to help itself.

We are all aware now that there was a massive political component in the last Ethiopian famine. Indeed, the man who directed the famine relief efforts for the Ethiopian Government, Commissioner Dawit, who is now living in the United States, stated publicly earlier this year that, "unless the Mengistu regime changes its policies, there will always be famine and starvation, and millions more will die." Dawit went on to speak of Mengistu's "indifference to the emergency which aggravated the effects of the drought, leading to mass death, starvation and migration . . ."

Whatever may have been the vagaries of weather and climate, the hard truth is that the duration and severity of the Ethiopian famine were intensified by political decisions made by dictator Mengistu, including, not least, his exploitation of the starving for his own political ends and his relentless emphasis on state farming and collectivized agriculture.

When a great famine ravaged the Sahelian region of Africa in the early 1970s, every country in that region, except one, learned from experience. When those same countries were re-visted by drought and famine in the mid-1980s, every one of them, except one, was in a better position to deal with the situation than they were a decade earlier. Sure, they needed our help—and we gave it. But every country, except one, was able to respond to the emergency in a more effective and timely manner than previously.

That one exception is Ethiopia. We live in a world in which ideas have consequences—and the consequences of dictator Mengistu's perverted notions of communism and collectivization will continue to be felt for years to come. This amendment is aimed at guaranteeing that Congress will never again be in the dark about what is going on in a country such as Ethiopia.

AMENDMENT ON NON-PAYMENT OF PORT CHARGES

This second amendment that I am offering concerns a problem about which it is difficult to speak without becoming enraged. It involves another of lessons we learned during the Ethiopian famine in 1985. Specifically, it concerns the Ethiopian authorities having charged entry fees—or import duties—on the foodstuffs and other humanitarian assistance that were being freely provided by the U.S. Government, the people of America, and the governments and people of other free countries.

It was revolting enough to learn during the last famine that ships from the Soviet Union, carrying military supplies, were routinely given priority passage into the Ethiopian port, priority passage ahead of ships carrying foodstuffs from the free world.

But on top of that, we now know that foodstuffs from the free world were subject to arrival in Ethiopia to an entry fee that ranged anywhere from $12 to $50 per metric ton. To get an idea of how outrageous this practice was, consider that the United States spent about $170 to buy and ship each metric ton of grain that we provided. Consider, too, that the free world contributed about 900,000 metric tons of foodstuffs to Ethiopia, compared to less than 10,000 which came from the Soviet bloc.

But, not only were foodstuffs subject to these charges—payable only in hard currency, by the way—but trucks, land-rovers, and other such vehicles that were to be used in distributing the food were subject to—get this—a "tax" of up to $50,000 on every vehicle. An international outcry ultimately prevented this "tax" from being collected, but many vehicles sat parked at the docks for months until arrangements were made. And, meanwhile, the Ethiopian regime was doing everything it could to prevent the port in the neighboring country of Djibouti from being used as a transit point for aid; railroad cars were repeatedly diverted to other purposes away from the Addis Ababa/Djibouti railway line.

The amendment that I am now offering would require the President to promptly report to Congress whenever the humanitarian disaster relief assistance we are providing to a country—any country—is subject to import duties, loading charges, or other fees levied by the authorities in the recipient country. When the recipient country is Communist, and thus ineligible for regular foreign aid, it shall be the policy of the

United States to withhold payment of such fees. This prohibition could be waived if the President certifies to Congress that doing so would serve the vital national interests and that the amount of money we are paying for our shipment does not exceed what the Soviets or Warsaw Pact countries are having to pay for their shipments. Personally, I would love to see Dictator Mengistu muster up the temerity to charge the Soviets $50 per metric ton of military aid the Soviets are providing.

However, I also recognize that taking action such as this could potentially disrupt the relief effort that is even now getting under way. Therefore, I am agreeing to support the committee substitute which declares that our Government will pay port charges that are in line with what is being levied at ports in neighboring countries.

It does need to be pointed out, however, that the foodstuffs and humanitarian supplies that will soon be arriving in Ethiopia will be arriving there as a gift, not as the result of a commercial transaction. If the regime in Ethiopia were to waive the port charges as a way of demonstrating a commitment to start paying attention to the needs of the Ethiopian people, that would be a very significant—and welcome—development.

In any event, the Mengistu regime does need to do something. This is a regime that somehow manages to scrape together the resources necessary to build the largest standing army in Africa.

This is a regime that somehow manages to buy a half-billion dollars worth of Soviet arms every year.

This is a regime that has managed to restate the forced relocation and villagization programs, even thought millions of people who are to be resettled under these coercive policies are already facing imminent starvation.

In short, this is a regime that manages to do everything except to reform itself.

It's about time that the Mengistu regime start demonstrating a commitment to helping meet the basic needs of the Ethiopian people—people who are sick of war, sick of repression, sick of collectivization, and sick of starvation.

SENATE—*Wednesday, December 16, 1987*

(Legislative day of Tuesday, December 15, 1987)

The Senate met at 9:45 a.m., on the expiration of the recess, and was called to order by the Honorable Kent Conrad, a Senator from the State of North Dakota.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

Praise ye the Lord. Praise, O ye servants of the Lord, praise the name of the Lord. Blessed be the name of the Lord from this time forth and for evermore. From the rising of the sun unto the going down of the same the Lord's name is to be praised. The Lord is high above all nations, and his glory above the heavens.—Psalm 113:1-4.

God of Abraham, Isaac, and Israel, we celebrate Hanukkah—festival of victory, light, and liberty. Victory from oppression—the miracle of lights—and the freedom of the people of God to be the people of God. We praise and thank You, Lord, for Your gracious intervention at one of the difficult times in Israel's history. May their triumph from oppression by the God of their fathers remind the contemporary world that You are still the God of loving deliverance to those who turn to You for the infinite mercy and grace which You are always ready to give. Blessed be the name of the Lord. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. Stennis].

The legislative clerk read the following letter:

U.S. Senate,
President pro tempore,
Washington, DC, December 16, 1987.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable Kent Conrad, a Senator from the State of North Dakota, to perform the duties of the Chair.

John C. Stennis,
President pro tempore.

Mr. CONRAD thereupon assumed the chair as Acting President pro tempore.

Mr. PROXMIRE addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Wisconsin.

RESERVATION OF LEADERSHIP TIME

Mr. PROXMIRE. Mr. President, I ask unanimous consent that the time of the Democratic and Republican leaders be reserved for their use later in the day.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business, not to extend beyond the hour of 10 a.m., with Senators permitted to speak therein.

The Senator from Wisconsin is recognized.

WHY INF MAY BE MORE IMPORTANT THAN ANY OF US IMAGINE

Mr. PROXMIRE. Mr. President, assume that the INF Treaty were never signed. Assume that both sides retained their intermediate missiles in Europe. Assume that these missiles were used. What would have been the consequences? Dr. Jack Geiger, the immediate past president of the Physicians for Social Responsibility, discusses those consequences in an article that appeared in the New York Times December 12. Geiger points out that the American warheads that will be removed by the INF Treaty total 40 megatons. That would equal 3,083 Hiroshima atomic bombs. The Soviet INF arsenal that INF will eliminate has a destructive power equivalent to 378 megatons or 29,112 Hiroshima bombs.

Geiger writes:

> What could those weapons have done? It would take 25 megatons to destroy the 10 largest cities in West Germany and kill most of their 9.5 million inhabitants. The radioactive fallout would be lethal to millions more in an area of 7,500 square miles. Only 23 megatons would obliterate most of Britain's population. Half of our Pershing missiles properly aimed could have destroyed the urban population of East Germany, Poland and the western Soviet Union. * * * All in all, the INF Treaty removes weapons with a combined capacity to kill more than 300 million people. That is the number—lives, not bombs—that we should remember.

Now, Mr. President, the INF Treaty appears to be a remarkable achievement. Potentially it would seem to save hundreds of millions of human lives. In fact, it does nothing of the kind. For as Dr. Geiger points out, the INF Treaty removes only a tiny 4 percent of the superpower nuclear warheads. The superpowers are still up to their necks in nuclear weapons. Both sides still have a surfeit of intermediate nuclear weapons that they can and will bring in promptly to take over the mission that the Soviet SS-20's and SS-25's and the United States Pershings and cruise missiles were assigned to perform. What real advantage was there in basing Pershing missiles in Germany or Denmark or cruise missiles in Belgium or Italy? Can we not move submarines with precisely the same range right off the Atlantic coast of France or in the Baltic Sea—a few miles from Denmark or Bremen in West Germany? Cannot those invisible submarines carrying nuclear armed cruise missiles with ranges from 300 to 3,000 miles ply the waters of the east Mediterranean and reach every target in east Europe and European Russia? Of course they can. And cannot Russian submarines also armed to the teeth with intermediate nuclear missiles slide invisibly and quietly through the same waters carrying a far greater destructive capacity than the INF Treaty will eliminate? Yes, indeed. No doubt about it.

So what does the INF Treaty accomplish? It may have accomplished a very great deal. Or, it may have accomplished almost nothing. The contribution to peace of the INF Treaty depends on whether the United States and the Soviet Union carry the principle of reducing and eliminating missiles further. The INF Treaty made remarkable progress in establishing a system for verification of compliance with the treaty. The INF compliance procedures require inspection by the other side of the actual destruction of missiles. INF provides constant surveillance of the exits from missile assembly plants by inspectors from the other superpower. It requires the destruction of facilities essential to the maintenance and transportation of missiles in the presence of inspectors from the other superpower. It mandates the opening up of hundreds of sites where missiles have been or might be deployed to satellite surveillance—the marvelous new technology of cameras in the sky. It is good news for peace that both superpowers have embraced these thorough inspection requirements for the INF Treaty. The next step is to apply these same princi-

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

ples to the START Treaty. That treaty would require the destruction of about one-half of the massive strategic nuclear arsenals of both superpowers.

Unfortunately, even the achievement of a START agreement, even the full compliance on both sides with the terms of such an agreement would not by itself significantly reduce the danger of the total destruction of civilization and the potential death of most of the people on Earth in a nuclear war. Only the most naive can believe that the process begun by the INF Treaty and hopefully advanced by a START Treaty will lead to the elimination of nuclear weapons. For the foreseeable future, in the words of Churchill: "Peace must be the twin child of terror." The nuclear deterrent that has given Europe the longest period of peace in centuries, may just possibly continue to prevent a major world war for centuries to come. But it must be a peace that is managed and controlled. Unfortunately, it will not be a peace that relies on trust or love or reverence for life. These wonderful, humane forces have plead for peace throughout all of history. And throughout all history they have failed. Now at least we have a force in the world that is so infinitely destructive, so obviously terrible, so certain to destroy both sides that it may continue to prevent cataclysmic war for centuries to come. But it must be controlled, directed, managed. It must be based on arms control that is thoroughly and meticulously verified. The great contribution of INF is that the treaty moves the superpowers down that road.

Mr. President, I ask unanimous consent that the article in the December 12, 1987, New York Times by H. Jack Geiger to which I have referred be printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, Dec. 12, 1987]

IT'S SECOND DOWN AND 48,000 TO GO

(By H. Jack Geiger)

WASHINGTON.—Repeatedly in months to come, while the Senate is debating the treaty on eliminating intermediate-range nuclear forces, we will hear the numbers repeated: 1,565 Soviet nuclear warheads and 436 American nuclear warheads eliminated.

Just numbers in an inventory. Four decades of life in a nuclear age have numbed us to their real meaning. But as physicians, my colleagues and I see these figures differently. In those bland, neutral numbers, we see blast and burns and radiation, cities incinerated, lands laid waste.

What do those numbers really mean? In our reckoning, they mean the United States and the Soviet Union together will take away the capacity to create roughly 32,000 Hiroshimas—enought to turn all the cities of Europe, East and West, into charred rubble. The total of 378 megatons in the Soviet I.N.F. arsenal have a destructive power equivalent to 29,112 Hiroshima bombs. The American warheads total 40 megatons, equal to 3,083 Hiroshima bombs.

What could those weapons have done? It would take 25 megatons to destroy the 10 largest cities in West Germany and kill most of their 9.5 million inhabitants. The radioactive fallout would be lethal to millions more in an area of 7,500 square miles. Only 23 megatons would obliterate most of Britain's population. Half of our Pershing missiles, properly aimed, could have destroyed the urban populations of East Germany, Poland and the western Soviet Union.

In one study of such a so-called limited nuclear war in Europe, Henry Kendall, a physicist at the Massachusetts Institute of Technology, tallied enough destructive power to destroy East and West Germany, Britain, Italy, Belgium and the Netherlands. At the end, there would still be I.N.F. weapons left over. "The attack" Mr. Kendall wrote, "would run out of victims and targets."

All in all, the I.N.F. treaty removes weapons with a combined capacity to kill more than 300 million people. That is the number—lives, not bombs—that we should remember.

And yet all those lives are still at risks. For, even if the I.N.F. agreement is carried out, Europe will still be studded with nuclear weapons—in long-range aircraft, artillery shells, land mines, depth charges, submarines and naval vessels. Looming behind them are the fearsome intercontinental strategic ballistic missiles and warheads of the superpowers, with vastly greater destructive capacity, to bring the world's total to 50,000 nuclear weapons.

The I.N.F. treaty is a beginning. But if negotiating an end to the nuclear threat to our planet were envisioned as a kind of global football game, we'd have to call this "second down and 48,000 to go." That is the task President Reagan and General Secretary Mikhail S. Gorbachev face as they address the task of deep cuts in the remaining arsenals.

Only a few years ago, we were talking of a "window of vulnerability." We have now, in the I.N.F. treaty and the new direction it represents, a window of opportunity measured in lives that were—and are—vulnerable to nuclear destruction, lives that we now have the opportunity to save from an unimaginable threat.

GOLD MEDAL FOR MARY W. LASKER

Mr. PROXMIRE. Mr. President, I am pleased to speak in support of H.R. 390, a bill authorizing the President to present, on behalf of the Congress, a gold medal to Mary W. Lasker. I have known Mary Lasker for 25 years. She is a citizen of great compassion and achievement. Her life-long work in the areas of medical research and education, urban beautification, and the fine arts has touched and enriched thousands of people's lives. Her philosophy is that we can never do enough to enhance the health of our Nation. For more than 40 years, Mary Lasker has brought her relentless determination and energy to the fight to conquer the major killing and crippling diseases of our time. She has devoted a lifetime to encouraging Federal and State recognition of medical research in cancer, cardiovascular disease, mental illness, arthritis, neurological diseases, and blindness. And equally important, she has worked tirelessly for increased private support for such research.

She has put her philosophy to good practice. As a cofounder with her late husband of the Albert and Mary Lasker Foundation, she has been a major contributor to the advancement of medical knowledge. In 1944 she and her husband presented the first Albert Lasker Medical Research Awards to honor physicians and scientists for outstanding achievements. In the years since, 45 recipients have gone on to win the Nobel Prize. Her efforts have also played a key role in encouraging increased funding for and interest in basic cancer research. Dr. Vincent DeVita, the Director of the National Cancer Institute, has described her as "our country's first lady of science and medicine."

Her list of accomplishments is considerable, including those in the areas of urban beautification and the fine arts. Mrs. Lasker has been active in the beautification of New York City and Washington, which has resulted in the planting of millions of flowers, shrubs, and trees in both cities. Mrs. Lasker is the recipient of 10 honorary degrees, and awards too numerous to list. Mary Lasker's exceptional commitment merits a Congressional Gold Medal.

CUT SOCIAL SECURITY? FORGET IT!

Mr. PROXMIRE. Mr. President, how about all the reported discussion about cutting Social Security benefits in connection with the reconciliation bill? What is the answer to the charge repeated over and over again that the Congress has to find the courage to cut entitlements if it means business about bringing the budget deficit under control? Editorials in the Nation's leading newspapers, comments by Members of Congress again and again called for a reduction in Social Security cost-of-living adjustments as essential for a really serious attack on the deficit. There was virtually no discussion in the press or on the floor of the House or Senate about the full substantive consequences of reducing Social Security benefits.

On December 13, the Washington Post carried an excellent response to the cry to cut Social Security benefits. The article was written by Forrest Chisman. At long last here is an article that deals with the case against such a reduction. I ask unanimous consent that the Chisman article be printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Dec. 13, 1987]

CUT SOCIAL SECURITY? FORGET IT—IT'S A FAIR, HUMANE, SOLVENT PROGRAM—AND IT WORKS!

(By Forrest Chisman)

Why is everyone beating up on Social Security?

In an editorial deploring the slight progress embodied in the recent deficit reduction package, The New York Times lamented that "The negotiators, acting together, could have made genuinely constructive reductions, like restraining Social Security increases for the well-to-do." Writing in The Atlantic, investment banker, Peter G. Peterson thunders that ". . . today's [Social Security] policies are unsustainable." This newspaper admonishes: "There can be no credible deficit reduction without attacking Social Security and the other major benefit programs to which it is the key."

Statements of this sort are overdrawn if not absurd. There are all sorts of "credible" and "constructive" ways to reduce the deficit that have nothing at all to do with Social Security. The present deficit was created largely by cutting taxes and increasing military spending. Collectively, Social Security retirement payments, interest on the national debt and programs for the poor add up to roughly half the federal budget. That leaves about $500 billion worth of other programs available for deficit reduction before even considering tax hikes.

Moreover, Social Security benefits are certainly "sustainable" for the foreseeable future. In fact, the national pension system has not added one penny to the accumulated national debt. Instead it is contributing an ever-increasing amount to reducing annual deficits. Receipts from the payroll tax will exceed outlays by $19 billion this year, almost $40 billion next year and hundreds of billions in the '90s. Because these surpluses are invested in federal bonds, they reduce the amount the government must borrow from the private sector. This means that this year's deficit would be $19 billion and next year's roughly $40 billion bigger were it not for Social Security.

These arguments seem lost on Social Security critics. They contend that we can't raise taxes because last year's income-tax reform "promised" high-income people further reductions in income-tax rates. But if all bets are off in the scramble to reduce deficits, surely the promises we have been making to all the American people for decades—promises on which most have based their retirement plans for all their working lives—should count for at least as much or more.

In the end, most arguments for cutting Social Security reduce to an essentially mindless idea of "fair shares": Since a case can be made against cutting any government program and against raising taxes as well, the only route to deficit reduction is to cut a little bit of everything without respect to merit or moral claim. To bolster their position with regard to Social Security, people who advocate "fair shares" march out allegations meant to prove that it's all right to reduce benefits for retirees, either because they don't really need them or because the retirement system doesn't work very well anyway. These allegations are either incorrect or off the mark. Some of the leading fallacies:

It's all right to cut Social Security because the poverty rate for the elderly is only 12.6 percent compared to 14 percent for the population as a whole. Or, in Peterson's words, they are among the groups "least likely to be poor."

In fact, the lower poverty rate for the elderly is completely accounted for by the fact that the federal government assumes that the old need less food than the young. Even more important is the fact that without Social Security, almost half of all retirees would be living in poverty. Reducing poverty among the elderly is a major national acomplishment in which we should all take great pride. Do we want to make our next great national accomplishment increasing poverty among retirees?

If the elderly as a whole aren't well-off, there are at least some affluent elderly. Why shouldn't we cut back their benefits?

This observation usually leads to the suggestion that we should tax Social Security in the same way that we tax private pension benefits. And that's not a bad idea. (At present only half the benefits of individuals with incomes over $25,000 and couples with incomes over $32,000 are taxed.) But doing so would make only a small contribution to reducing the deficit: about $2-3 billion, if the present income thresholds were maintained. And this scheme raises another question. If we think that the better-off elderly can afford to pay more taxes, why shouldn't we also raise taxes for the better-off non-elderly? The most affluent 20 percent of Americans now receive about half of all national income. This group which has already benefited most from Reagan era tax cuts is due to receive another big rate cut in 1988, costing the Treasury an estimated $51 billion over the next three years and much more thereafter. The biggest cuts will go to the very wealthiest people. Would it be amiss to ask Peterson and his cohort to sacrifice something for the deficit about which they are so vocally concerned?

Why should the elderly be held harmless against cost of living increases, when incomes for the rest of us aren't indexed to keep up with inflation?

Unlike the rest of us, the elderly don't have the option of making up inflation losses by working more hours or seeking better jobs. They're stuck on fixed incomes. Should someone who is 85 receive less income than he did at 65?

It's all right to cut Social Security, because the system will collapse anyway when the baby-boomers retire.

Not true. The 1983 Social Security reforms were designed to maintain its financial soundness for the next 75 years with only modest tax increases. By the time the baby boomers retire, they will have built up a trust fund surplus on the order of $2 trillion that they can draw on to help lighten the burden on their children. Beyond 75 years, no one's crystal ball is good enough to support sensible debate.

Social Security promotes consumption, not savings, and the United States must increase its saving rate and invest in more physical and human capital.

Paradoxically, critics who use this argument typically also argue for cutting benefits only for the affluent elderly (who are most likely to convert their spare earnings into savings), not for the less affluent (who have no choice but to spend their retirement income). Moreover, these critics generally ignore that Social Security's large and growing surplus promotes private investment by reducing the need for the federal government to borrow, thereby freeing up huge amounts of private capital for investment.

Social Security isn't a very efficient way to provide for the elderly, because it's not a means-tested program. Both rich and poor people receive benefits.

What's so great about means-testing? We don't means-test public education or defense or public highways or, in fact, most of the services that government provides, for the very simple reason that they are services that everyone needs, everyone pays for and everyone deserves to receive. The same is true for Social Security. Everyone in our society, whether rich, poor or middle class, has to make provision for their retirement. Social Security is the mechanism by which they use government to do a major part of the job. Why shouldn't rich and middle-class Americans (and their parents and kids) benefit from the program, as long as they pay for it? It's their government and their dollars, too.

Social Security is not "welfare for the middle class," as Peterson and other critics so often maintain. It is a retirement program for everyone. And on efficiency grounds alone, it's a clear winner. It is portable, inflation-adjusted and progressive in its benefits structure (low-income workers pay taxes on a larger part of their wages but get back higher rates of return.) The whole system operates with an overhead rate of only one percent. Unlike private pensions that often tie workers to their jobs, Social Security facilitates the labor mobility needed for a smooth-functioning economy. And, unlike means-tested programs, that have been eroded by budget cuts and inflation in recent years, Social Security lives up to its promises.

Only the federal government could provide a comprehensive retirement plan with all these advantages. If Americans want to buy this much-needed service from their government—and don't complain about paying the bill—what's wrong with that?

SUPERCOMPUTER TRADE POLICY

Mr. ROCKEFELLER. Mr. President, once again, this administration has demonstrated its inability to define and implement a consistent and thoughtful trade policy that will benefit our country and our citizens. I refer to the recent fiasco over supercomputer purchases by the Massachusetts Institute of Technology and by the Air Force.

According to press reports, the Air Force's Military Airlift Command purchased a supercomputer from Honeywell that was built by NEC, a giant Japanese electronics firm. The Air Force bought this Japanese-built supercomputer after concluding that the NEC model could do the job at the lowest price.

At about the same time, MIT was also in the market for a supercomputer. Like the Air Force, MIT concluded that an NEC supercomputer, although a different model, also gave them the best deal for their money. MIT was prepared to make the purchase. However, under pressure from the Defense Department, and the Commerce Department MIT decided not to buy this supercomputer. At that point. MIT—one of the foremost institutions of learning in this world—

made the decision to abandon the whole idea of procuring a supercomputer.

While all this was going on, others in the U.S. Government in the U.S. Trade Representative's office and the Commerce Department were negotiating with Japan to open up the market in that country for American supercomputers. The Japanese have agreed that its government agencies and universities would follow internationally recognized rules relating to government procurement when they purchased supercomputers. Several weeks ago, the Commerce Department led a mission—with which I met before it left—with representatives of a dozen American firms involved in supercomputers to test the waters in Japan and see if these commitments were real.

In my view, this sequence is very troublesome. It is yet another example of our Government's failure to follow a coherent trade policy that wins the respect and cooperation of our allies and trading partners around the world and produces tangible economic benefits here at home. The problem is this: On the one hand, we are making huge efforts to open the Japanese market for supercomputers, with Japanese universities one important target. At the same time, we are putting pressure on an American university to buy an American supercomputer, even though, based on price and capability, it selected a Japanese model. Then we turn around and allow the military to buy a supercomputer from Japan.

Mr. President, this makes no sense. Ralph Waldo Emerson wrote that "A foolish consistency is the hobgoblin of little minds." But consistency in trade policy is not foolish; it is an absolute necessity. Which of these three actions represents our Government's policy on supercomputers, trade, and Japan? Obviously, I cannot answer that question. I doubt that anyone in Government can.

How do we expect to turn our massive global trade deficit around if this is the way we approach the problem—with no coordination between Government agencies or even within a single agency and no broad policy framework with which to approach the problem?

Mr. President, I urge the administration to offer a full explanation of this chain of events as soon as possible. In fact, I feel offering not only consternation but sympathy to all parties involved, particularly the American people and MIT. I want to make it known that this Senator is among those who intend to continue to work on ways that bring about more consistency and coordination in America's trade activity—not the hypocrisy and confusion that mark the recent incidents regarding supercomputers.

I thank the chair.

Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

RECESS

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess for 1 hour.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Thereupon, at 9:59 a.m., the Senate recessed until 10:59; whereupon, the Senate reassembled when called to order by the Presiding Officer. [Mr. GRAHAM].

EXTENSION OF MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that the period for morning business be extended for 15 minutes and that Senators may speak therein.

The PRESIDING OFFICER. Without objection, the Senator from Idaho.

COMMUNIST ACTIVITY IN CENTRAL AMERICA

Mr. SYMMS. Mr. President, I thank the majority leader for the time and the indulgence of the Presiding Officer, who seems to be in the Chair every day when I carry on about the evils of the "Evil Empire" and what it is that they have been up to in recent years. But I think it is important, Mr. President, while the world has focused its attention recently on the concluded summit and the signing of the INF Treaty, we fail not to take a look back to our own front door in Central America, because Central America has slipped from the front pages of the newspapers and the headlines to the inside pages. Nonetheless, the activities occurring in Central America have not lost their importance to the future well being and security of Central America and the Western Hemisphere.

There continues to be a struggle, though appearing to be of little consequence, which is of global significance and it is happening right here at our front door, for in the region are conflicts which may determine the course taken by Central America and, by extension, all of the Americas.

Of primary importance is the fighting presently taking place within Nicaragua between the Marxist-Leninist Sandinista regime and the democratic resistance, the freedom fighters, the Contras. It is a struggle which has been ongoing since the Communist Sandinistas betrayed the popular revolution that overthrew Somoza in 1979.

Mr. President, there have been numerous efforts to resolve this civil war by an equal number of nations, the latest initiative being the Guatemala accords signed on August 7 by all five Central American Presidents. Its purpose is to bring about peace, the democratic process, and national reconciliation within the region.

Now, we are 120 days into that process established by the agreement that was to achieve these goals. As a member of the Central American observation group and having visited the region on two occasions since the majority leader and the minority leader appointed that observation group, having talked with many of the principals involved, it is my opinion, Mr. President, that the so-called peace process has been derailed. This is not said because of pessimism on my part, but it is out of a sense of a realism brought home by what is seen and heard there. This is the impression I got on our last trip there. At one of our news conferences when the group of Senators was there, they wanted to know if we were optimistic or pessimistic. I said that if you are realistic about it, the peace process has been derailed.

Now, I believe we have to base our foreign policy, Mr. President, on realism. While we continue to make every effort to bring about the democratic process and national reconciliation which is called for under the Guatemala peace accords, esquipulas II they call it. We must not fall into the self-delusion of "peace in our time".

In Central America the key for any regional peace is the Communist Sandinista government. If they want to have peace and freedom in the region, all they have to do is restore human rights, restore all the freedoms that we so often take for granted in this country. And I might add parenthetically that when I say "peace," I use it in the sense that we in the United States of America understand peace, and that is that peace and freedom are inseparable, not silence and deprivation, which is characteristic of the Marxist totalitarian regimes. Unfortunately, as Honduran President Azcona notes, while the Sandinistas are signatories of the peace accords, they have fulfilled less than 5 percent of their commitments under the agreement. This is not to say that the Communist Sandinistas have done nothing. Such is not the case. They are doing things such as "the cease-fires," "amnesty," and "national dialog." What they are doing is designed to promote their cause before the liberal Western media and in trying to make us think things are going well down there so that they will erode the support for the freedom fighters here in the

United States. However, these actions do very little to threaten the Communist Sandinistas' oppressive rule which is in place in Nicaragua.

I am not sure that we should be surprised by this action on the part of a Communist government, or the lack of compliance to date. While we in the United States automatically attribute the character of what we call good faith and good will to the people we deal with, in many cases the people we deal with simply do not deserve this good will. Our negotiations with the Communist Sandinistas have been a perfect example of this. In negotiating with them, we have to deal with them as they are, not as we would like them to be. We need to realize that quite apart from "nationalist, agrarian reformers," we are dealing with individuals who have consciously adopted an ideology and philosophy tied to Marxist-Leninism. It is true that within the ruling body of the Sandinistas, a certain number of the commandantes vary between Marxist-Leninism as interpreted by Mao, Che', or Castro. Whatever their "tendency," they are Marxists, and all agree that the United States is the "enemy" of "progressive reform" in this hemisphere.

In a meeting 6 weeks ago, Mr. Borge came across very clearly as a hard line Leninist ideologue. He had absolutely no qualms about lying to U.S. Senators, saying things to us that he must have known we knew were not true. He denied that they have political prisoners to the tune of 8,000 to 10,000 when we know they have them. He continues to preach the hard line doctrine of the true believer in the Marxist-Leninist ideologue. It is very easy to see it when you meet with him, and we should not be fooled about what they believe in and where they come from.

So it is not the United States—is my point, Mr. President—that has made Ortega a Marxist. They clearly made that decision themselves many years ago.

As Daniel Ortega recently stated in an address given in Moscow to commemorate the 70th anniversary of the October revolution:

> * * * [T]he Nicaraguan people, which 8 years ago liberated itself from oppression from capitalist imperialist exploitation, is proud of its fraternal relations with the U.S.S.R. and will never renounce them in spite of pressure, aggression, and blackmail. In April, 1985, I visited the Soviet Union and met Comrade Gorbachev, and this led to U.S. congressman giving hundreds of millions of dollars in order to sow death in our country. The U.S. Government is currently demanding from Congress $270 million, and they will try to use our presence at this grand event in order to provide these $270 million. But in spite of this danger, in spite of the fact that a decision will be made on these millions of dollars, in spite of the pressure, in spite of the aggression, in spite of the blackmail, we shall not renounce our fraternal relations with the Soviet Union.

Mr. President, that is Daniel Ortega speaking. I do not know how much clearer he can make it to us about whose side he is on and who he views as his friends, the dictator in the Kremlin, and who he views as his enemies, those of us who worship and love the alter of freedom in the United States of America.

If I might turn toward the motivation of the Sandinistas in signing the Esquipulas II accord, once again, while we are a nation that signs international agreements with a view toward honoring them, this is not the case of many others in the international community. Realistically, there is nothing in the Communist Sandinistas' past or in their ideology that can justify any belief that they will honor any agreement or commitment when it suits their purpose to not do so. Rather, there is a past of purposely calculated misrepresentations, distortions, and lies. From their commitment to the OSA in 1979 to the elections of 1984 to their recent actions in signing the Guatamala accord, one can only detect a manipulation and a cynical lack of good faith in their internal and external dealings. Their approach to compliance of the present peace accord can probably best be shown by how they approached the so-called national elections of 1984. As Commandante Bayardo Arce, one of the nine ruling commandantes, said in his secret speech before the Nicaraguan Socialist Party 6 months before the election:

> Of course, if we did not have the war situation imposed upon us by the United States, the electoral problem would be totally out of place in terms of its usefulness. What a revolution really needs is the power to act. The power to act is precisely what constitutes the essence of the dictatorship of the proletariat—the ability of the working class to impose it's will by using the means at hand without bourgeois' formalities.
>
> For us, then, the elections, viewed from that perspective, are a nuisance. * * * But from a realistic standpoint, being in a war with the United States, those things become weapons of the revolution to move forward the construction of socialism.

Mr. President, that is about as clear as Commandante Bayardo Arce can make it as to what his motivation and goals are, what his intentions are, and how he views such interferences and inconveniences of having elections, even though it was a sham election.

The intent of the Communist Sandinistas in holding the 1984 elections was clearly not to place their power in jeopardy as done in free nations. Rather, it was a "sham" designed to generate favorable international opinion. It was merely a step to "move forward the construction of socialism" while giving the appearance of an open pluralistic society.

Mr. President, based on the situation that exists in Nicaragua today from what I have seen there, what I have heard there, and what I have read about, it is my opinion that the Communist Sandinistas by signing the August 7 accord are again engaged in a "sham."

They have no intention of actually placing their power in jeopardy. They have absolutely no intention of risking the power that they have consolidated thus far. They have no intention of bringing about any type of democratization and national reconciliation that is not on their terms. Why then did they take the chance of generating adverse reaction by not complying with the agreement that they signed? It is my opinion that the Communist Sandinistas are literally "between a rock and a hard place."

They are very much aware of the deterioration and support of the growing opposition that they face at home and abroad. Internationally, countries that have been supportive of the Communist Sandinistas financially and otherwise are reassessing this support because of the policies of oppression that they represent in Nicaragua.

Inside Nicaragua these same policies have led to a major deterioration of the quality of life which the Nicaraguans enjoy. Nicaraguans themselves realizing that the problems of Nicaragua are caused by the government—not by the freedom fighters—are becoming increasingly disaffected from the Sandinistas. The Communist Sandinistas face not only a loss of support but they also face an armed opposition that is attracting more and more and more Nicaraguans.

As Wilfredo Barreto, the FSLN's political delegate in New Guinea province, told a Reuters News Agency reporter, the creation of vast free-fire zones and relocation of civilians inside Nicaragua this past summer was an effort to smash the rebels' support network among the population. The civilians are supplying the rebels with food, information, and shelter. "The Contras had a strong social base there," he told Reuters. "They established good relations with the peasants."

When I had the opportunity to visit the Contra camps in Central America, we discovered that the age of the soldiers fighting for the Contras ranges from about 15 years old to about 22 to 24 years old.

And the Contras were young soldiers, they were not old Somozans. Some of those soldiers were only 7 years old when the Somoza regime was overthrown. They have the support of the country.

I talked to one young soldier who had a foot amputated who had been helped out of the country. And we asked him how long it took him from the time he was wounded to get out to the Contra camps in a safe zone. He said about 3 months; that he was protected and taken care of by civilians all the time. So there is great popular support for the freedom fighters. They are an indigenous popular force to deal with, and the Communist Sandinista government, recognizes that they are.

By the quote of the FSLN political delegate in New Guinea, he is confirming that by his own statements to Reuters News Service.

We have further verification from the recent Washington Post and New York Times reports that the democratic resistance is now a force the Communist Sandinistas must reckon with. Because of this erosion of support for the Communist Sandinista agenda inside and outside Nicaragua, they have found it necessary to somehow regain the initiative they lost politically and in terms of international opinion. Thus, they and their Communist international sponsors chose to agree with the peace accords, at least in the public eye.

Though they realize that there is a potential danger in doing so, their alternatives were limited. Based upon their actions so far, which I will discuss on a later date, they give every appearance of having decided to make only minimal concessions over an extended period of time, concessions that can quickly be recouped after the democratic resistance has been abandoned by the United States and left to die on the vine.

This is the goal of the commandantes—to be left with a free hand in Nicaragua. That is why the vote coming up is of considerable importance when we do finally come to the floor with a package sometime next year. And I think it is of importance that it is in the continuing resolution—the humanitarian aid package—to keep the Contras alive. It is important that that process continue. If we deny assistance to the democratic resistance, then we in the Senate of the United States and the House of Representatives would be playing directly into the hands of the Sandinistas Communist dictatorship.

Now I know that there are individuals in the United States, even in this Congress, that have counseled the Ortegas, the Borges and D'Escoto's to adopt cosmetic reforms so that with the facade of democratic change the Congress could be justified in cutting off aid to the Contras.

In fact, I was in the room when a Member of the other body actually said to the commandante, "Mr. Commandante, you would be surprised at how little you would have to do in order to guarantee the killing of all aid to the Contras from Congress." He had the audacity to say this to the commandante in front of the news media and everyone else—to say that it would take just a little bit of cosmetic reforms to be able to assure that there will be no more help coming from Congress for the freedom fighters. I thought that was outrageous. I find it very offensive, as a Member of Congress, to have one of my colleagues making these kinds of statements to a Communist dictator out of the United States. I must say, Mr. President, that such action on the part of U.S. citizens bothers me a great deal, and I find it very disgusting. And it would be disgusting for a free America to abandon those who are daily suffering deprivation and hardship and spilling their blood to bring about a free Nicaragua.

It is the height of folly to believe that without the pressure put upon the Communist Sandinistas by the democratic resistance, the Sandinistas would move toward a pluralistic society. The Sandinistas, themselves, have plainly acknowledged this in their private councils time after time.

How many examples do we need of a Communist, totalitarian regime coming to power, crushing all opposition, and then the curtain of silence descending on the hapless and unfortunate nation?

How many times, I say to my colleagues in this Chamber and those in the country, do we have to have it happen, before we in this country are going to wake up and recognize what has happened, where the so-called people's party takes over and leaves people in deprivation and in many cases, such as the case in Cambodia, of genocide, where they killed two out of every seven people in the population when they were abandoned? Two out of every seven people were murdered when the Communists took over.

The Communist Sandinistas today have not consolidated their power, have not been able to completely impose their Cuban style dictatorship of the proletariat because of Nicaraguans willing to stand and fight in opposition. But, it is difficult to stand and fight in opposition to billions of dollars' worth of Soviet and Warsaw Pact weapons. The democratic resistance needs the material support to carry on the fight for freedom.

It is unfortunate that many people believe the fight should be between the freedom fighters and Communists—that it is their battle and not ours. However, we need to realize that as a free republic, the fight in Nicaragua is our fight. It is not just their battle. As the late Senator John East said on this floor many times, if we will not help those people desperately fighting to restore freedom to their country here in the Americas, then who will? We must recognize, as a free republic, that the fight in Nicaragua is our fight. We cannot flatter ourselves by thinking that we in the United States may maintain our liberties while all the world suffers under oppression. Moreover, we must remember our commitment to the Monroe Doctrine, and the words of President Kennedy who said:

> Let every nation know, whether it wish us well or ill, that we shall pay any price, meet any hardship, support any friend or oppose any foe in order to assure the survival and success of liberty.

We in Congress need to take heed of those words. They were true and accurate and correct when he said them in January 1961, and they should be reapplied to the situation in Central America today, in 1987.

It is the Marxists that have "drawn the line in the sand" in Nicaragua and around the world; we cannot ignore that. We must have the same commitment to furthering freedom as those fighting totalitarian communism as are tens of millions in Nicaragua, Angola, Afghanistan, Southeast Asia, and elsewhere. We must push forward to extend the frontiers of freedom and stop the advancement of tyranny and oppression that comes with Communist dictatorships.

If we do not have this commitment to freedom—a commitment of material wherewithal is all that is being asked of us—then we are indeed abandoning whole nations to the inevitable "curtain of silence" of Communist terror. How we can be so short-sighted is beyond me. How we can so readily, unquestionably accept the "siren" promises of Soviet puppets is beyond me. How we can abandon men and women desiring freedom is beyond me.

Mr. President, I hope this body has the wisdom and foresight to avoid giving the Communist Sandinistas a victory over the democratic resistance in the Halls of Congress that the Communist Sandinistas are not able to win in Nicaragua.

We must continue to support the Nicaraguan democratic resistance until Nicaragua is indeed and in fact free.

EXTENSION OF MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that morning business be extended 15 minutes and that Senators may speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

H.R. 2628 PLACED ON CALENDAR

Mr. BYRD. Mr. President, I ask unanimous consent that H.R. 2628, the Imported Vehicle Safety Appliance Act of 1987, just received from the House, be placed on the calendar. This has been cleared.

The PRESIDING OFFICER. Without objection, the measure will be placed on the calendar.

FOREIGN RELATIONS AUTHORIZATION ACT, FISCAL YEARS 1988 AND 1989—CONFERENCE REPORT

Mr. BYRD. Mr. President, the following request has been cleared with the Republican leader, Mr. DOLE.

I ask unanimous consent that the conference report on the State Department authorization bill, H.R. 1777, be laid before the Senate.

The PRESIDING OFFICER. The report will be stated.

The legislative clerk read as follows:

> The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 1777) to authorize appropriations for fiscal years 1988 and 1989 for the Department of State, the United States Information Agency, the Voice of America, the Board for International Broadcasting, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of December 14, 1987.)

Mr. PELL. Mr. President, I urge the Senate to approve the conference report on H.R. 1777, the Foreign Relations Authorization Act for fiscal years 1988 and 1989.

The making of this bill has been a long, drawn out, and sometimes controversial process. The final result is, however, one of which the Senate can be proud.

The bill authorizes funding levels for the Department of State, the U.S. Information Agency, and the Board for International Broadcasting. The combined authorizations for these agencies is $4,121,344,000, and amount commensurate with the importance of these agencies in promoting the foreign policy and national security interests of the United States.

Each year the United States spends well in excess of $300 billion on all components of our national security apparatus, including the Pentagon, the CIA, and the foreign affairs agencies. If the Pentagon is the brawn of our defense, the State Department is the brains. It is indeed penny-wise and pound-foolish to build up our defenses which ignoring our foreign policy establishment.

Second, this bill authorizes payment of the full U.S. assessed contributions to the international organizations of which we are a member. These include the United Nations, the U.S. specialized agencies, the inter-American organizations, and regional organizations such as NATO. Our past unwillingness to meet our treaty obligations to the United Nations has become a source of embarrassment and of weakness in the world. This bill is just a first step to restoring America's reputation as a reliable supporter of the United Nations. We must follow up the authorizations with actual appropriations.

Third, the bill keeps open U.S. missions and consulates around the world. Over the past few years, the Reagan administration has been pulling down the flag. If it were to have its way, there would be no American presence in the seat of Europe's parliament, Strasbourg; in Sweden's second city, Goteborg; in Germany's leading manufacturing city, Dusseldorf; or the capital of Scotland, Edinburgh. For a savings of less than $2 million, the post closings now prohibited by this bill would have represented a major loss of prestige, influence, and commercial opportunities.

Beyond the financial issues, the Foreign Relations Authorization Act includes some significant legislative provisions. These include:

A rewrite of the McCarran-Walter Act to eliminate a McCarthy era relic of our visa laws. Periodically, we have read about how the State Department has denied a distinguished foreign author, scientist, or Nobel Laureate a visa to the United States because of some alleged past political association or comment. The new provision, of which Senator MOYNIHAN is the principal author, prevents the exclusion of aliens on the basis of their political beliefs. It is an affirmation of first amendment values appropriate to the bicentennial of our Constitution.

A repeal of statutory prohibitions on U.S. contributions to the United Nations, in addition to the full funding mentioned above.

The creation of a new United States-Soviet exchange, authored by Senator MITCHELL and named after Maine schoolgirl Samantha Smith.

A strengthening of USIA's artistic programs by merging them with that Agency's Educational and Cultural Affairs Bureau, and by increasing funding.

A package to improve diplomatic security at U.S. missions abroad, including a phaseout on the use of Communist country foreign service nationals in areas where classified material is stored.

A major effort to address the problem of global climate change, proposed by Senator BIDEN, which mandates a U.S. Government strategy to foster international cooperation in coping with this potentially serious threat to human survival.

The naming of the new USIA library in Jakarta, Indonesia, after our late colleague, Edward Zorinksy, who did so much to improve USIA programs.

The bill includes language addressing a range of important foreign policy questions. These include provisions:

Denouncing Chinese human rights violations in Tibet, and asserting congressional support for a negotiated settlement between the Chinese and Tibetan peoples;

Affirming our commitment to the freedom fighters in Afghanistan;

Articulating a clear U.S. policy on the Iran-Iraq war in the wake of confusion generated by the administration arms sales to Iran; and

Expressing concern about the illegal detention of children by the South African authorities.

Calling for "generous" admissions and protection programs for Indochinese refugees in Southeast Asia.

Let me also say a word about what this bill does not do. There was much comment about the congressional foreign policy making that went on in connection with floor action on this bill. Our colleague, Senator DANFORTH, described the process as a "cacophony of confusion." I believe the conferees have effectively addressed these concerns.

This bill creates no new positions. There is no new Under Secretary of State, no new Assistant Secretaries, and no new Ambassadors-at-Large. The conferees believe the organization of the State Department is worth a close look; we were reluctant however, to impose a new organizational structure so close to the end of this administration, a structure with which the next President would have to live.

In the conference committee we consciously worked to strip out those provisions that might be described as "micro-management" of U.S. foreign policy. There are fewer reports and fewer policy directives in the bill emerging from conference than were in either the House or Senate version. As our colleagues review the bill, I hope they will agree we have separated the wheat from the chaff, and kept the wheat.

Let me also address two concerns expressed by the administration. First, with regard to the Moscow Embassy, the bill does not require the abrogation of the United States-Soviet Embassy agreement. Instead, it requires the President to certify that steps will be taken to eliminate the intelligence threat from the Soviets' high-ground at Mount Alto, and that the United States will get a secure chancery in Moscow. These are eminently reasonable conditions that should be achievable with diligence on the administration's part.

Second, the administration has expressed concern that the language on the PLO might require the closing of the Observer Mission to the United Nations in violation of U.S. obligations under international law. The bill language, as I read it, does not necessarily require the closure of the PLO Observer Mission to the United Nations, since it is an established rule of statutory interpretation that U.S. courts will construe congressional statutes as consistent with U.S. obligations under international law, if such construction is at all plausible.

The proponents of closing the PLO mission argue that the United States is under no legal obligation to host observer missions. If they are right as a matter of international law, then the language in this bill would require the closure of the PLO Observer Mission.

On the other hand, if the United States is under a legal obligation as the host country of the United Nations to allow observer missions recognized by the General Assembly, then the language in this bill cannot be construed, in my opinion, as requiring the closure of the PLO Observer Mission. The bill makes no mention of the PLO Mission to the United Nations and the proponents never indicated an intent to violate U.S. obligations under international law. Rather, they asserted that closure of the New York PLO office was not a violation of international law and that they were proceeding on this basis.

Mr. President, this is not a perfect bill; it is, however, a very good bill. Passage of the conference report will strengthen our foreign policy agencies and will help enhance our country's standing in the world.

Mr. HELMS. Mr. President, I am pleased that the conference on the State Department authorization bill, H.R. 1777, has included a significant number of constructive amendments recommended by the Senate. We have made substantial progress in providing administrative and policy guidance to the Secretary of State with regard to the administration of the Department of State during fiscal years 1988 and 1989.

Mr. President, I commend the Senator from Rhode Island, the distinguished chairman of the committee, for his stewardship of the Senate conferees during the conference. Senator Pell and I sometimes differ on various issues. However, he is a civil, decent, and fair man, and those qualities were helpful in an important way in assuring that this conference report is a fair compromise between the original House and Senate bills.

There has been an unwarranted and unjustified campaign against the chairman of the Foreign Relations Committee with implications portraying him in an unfavorable light. As ranking Republican member of the committee, I can assure you, Mr. President, it is an error in judgment to mistake the chairman's willingness to accommodate his colleagues and his patient manner of allowing full debate of the issues for anything other than a deep and abiding commitment to the traditions of the U.S. Senate.

The conference dealt with approximately 170 issues. The conferees met for 3 days and grappled with many difficult issues. As is the case with all conferences, there are parts of this conference report I do not care for, and other parts I prefer a great deal. Unfortunately, a good number of Senate amendments were dropped or watered down—some almost beyond recognition.

We made compromises in many areas, including numerous ones to accommodate legitimate concerns of the Secretary of State—and some, I might add, to accommodate what I regard as unwarranted concerns. Nonetheless, we have tried to address the concerns of numerous parties to the conference, and again, I commend the chairman for his ability to forge compromises. I preferred those compromises I was a part of, but I compliment him nonetheless.

I also note, Mr. President, the fine leadership of the chairman of the conference, Representative Dan Mica of Florida. As House subcommittee chairman, he was knowledgeable on the many issues we confronted. His Republican counterpart, Representative Olympia Snowe, was equally skillful and adept, and it was a pleasure to work with them, as well as with Chairman Dante Fascell and the ranking Republican member, Bill Broomfield, and other House conferees.

Mr. President, having paid my respects to the primary managers, let me outline some of the most significant aspects of the conference report. Let me start with what are reported to be the primary remaining concerns of the Department of State.

CLOSING THE PLO OFFICES IN WASHINGTON AND NEW YORK

Surely, Mr. President, one of the most significant provisions of this legislation is title X, the Anti-Terrorism Act of 1987, which requires the closing of the offices of the Palestine Liberation Organization in Washington and New York.

This provision was added to the bill on the Senate floor, where it was offered by the Senator from Iowa [Mr. Grassley]. Over half the Members of the Senate cosponsored this provision, and the House voted to instruct its conferees to accept this provision. Ultimately, the House conferees did vote to accept the full Senate provision, after rejecting, 8 to 11, a substitute motion to require closing only the Washington office, rather than both Washington and New York.

Mr. President, there are few things in this world as ugly as terrorism. Terrorism randomly singles out totally innocent people—many times helpless children—and sentences them to violent and horrible deaths. All too often, victims are selected out only because they are Americans.

Of all the terrorist groups in the world, I don't think there is one the American people find to be more notorious than the PLO. The PLO has been directly responsible for the murder of dozens of American citizens over the past 15 years. In fact, the PLO has boasted about murdering American citizens.

Yet, despite the fact that Americans are one of the prime targets of this terrorist organization, the State Department has continued to allow the PLO to maintain official offices both in Washington and in New York, ostensibly in connection with the United Nations.

For years now, Americans have heard a stream of pronouncements from the administration about the need to get tough with terrorist groups such as the PLO. But all the State Department has given us is more of the same—accommodating terrorist groups such as the PLO and coddling terrorist nations such as Syria.

They insist that the PLO is not a terrorist organization, they refused to act to close the PLO's Washington office until Congress initiated legislation to close both Washington and New York offices, and they fought tooth and nail against the provision in the conference report precisely because it would also close the PLO's New York office.

Mr. President, there are two issues involved in the closing of the PLO's Washington and New York offices: Whether we are going to exercise our rights to stand up to terrorists, and whether we are going to exercise our rights as a sovereign nation to decide which foreign groups are entitled to privileges and immunities.

By adopting the full Senate provision, the conference wisely decided to exercise these rights.

Mr. President, I also want to note the poignant plea of the family of Navy diver Robert Stethem, who was tortured and murdered in 1985 by terrorists associated with the PLO. Now is the time to implement the President's pledge to the Stethem family, "Robbie's death will not have been in vain." I ask unanimous consent that the article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the Washington Times, Nov. 6, 1987]

FRIDAY FORUM—A FAMILY'S PLEA TO CLOSE PLO OFFICES

In July 1985, President and Mrs. Reagan visited Arlington National Cemetery to pay their respects to Robert Stethem, the U.S. Navy diver who was tortured and murdered by terrorists of the hijacked TWA Flight 847.

We'll never forget how the first couple pledged their support in bringing Robbie's killers to justice. "Be strong, be patient," they said, "Robbie's death will not have been in vain." Over the past 2½ years, the optimism for judicial retribution for Robbie's death that once guided our family has all but dissipated.

We have all heard strong words regarding our government's stance against terrorist organizations. Yet the emissaries of the Palestine Liberation Organization terror are permitted to operate within the shadow of the White House and the U.S.-sponsored United Nations.

Members of the House and Senate have proposed legislation to close the PLO "information" offices in Washington, D.C., and New York. However, the legislation—H.R. 2587 and S. 1203—has met with debate.

Why?

It seems ludicrous that all our legislators would not jump at the opportunity to take a forceful stand against international terrorist organizations.

It is no secret that the PLO terror of the 1970's and 1980s, in which air piracy and the slaughter of innocent civilians was elevated to a practiced art, set the stage for the recent episodes of fanatical terror. It also is no secret that the PLO offices which are permitted to operate in Western Europe have served as fund raising bases and "safe houses" for the PLO and its terrorist operatives.

While the ringmasters of Shi'ite terror remain elusive, safely ensconced in Lebanon, Iran and other foreign countries, the emissaries of PLO terror are permitted to operate within the boundaries of the United States of America. Hezbollah, the "Party of God"—responsible fo the TWA Flight 847 hijacking, the kidnapping of Americans in Beirut and many other terrorists acts—and the PLO—which in April reintegrated the so-called "radicals" under Yassir Arafat's leadership and reaffirmed the organization's terrorist policy—continue to operate with virtual impunity.

Since President Reagan took office in 1981, the United States and other Western nations have been targets for innumerable acts of international terror. Many studies show collaboration between the radical PLO and extremist Shi'ite organizations. One incident of PLO and Shi'ite collusion was the April 1985 bombing of a Madrid restaurant frequented by innocent American servicemen like Robbie. Eighteen people died in that bombing episode, which linked PLO involvement alongside the Islamic Jihad, the group which ultimately took credit for the criminal act.

Now is a golden opportunity for our legislators to seize the initiative, take a stand against international outlaws, and recoup some of our country's lost prestige. It's time to set an example for Western leaders and show the world that the United States of America is deadly serious about the war against terrorism.

We believe that the will of American citizens, through this legislation, demands that our senators and representatives act decisively and expeditiously to close PLO-financed outlets which promulgate PLO terrorist policies. How many more American citizens must feel such loss, hurt and pain before all elected officials act forcefully?

Robbie suffered an extremely painful death. Alone and bleeding, he was left to die on the airport runway in a foreign country. Young Marines have been burned alive far away from home and families. An elderly gentleman was shot and thrown overboard, helpless to survive. Are we to allow the PLO representatives to get a foothold on our soil? Are we to allow them to continue working, living and enjoying American freedoms and our way of life and at the same time, finance terror and PLO policies?

We say "No!"

SHERRY STETHEM,
PATRICIA STETHEM,
RICHARD L. STETHEM,
Waldorf, MD.

WITHDRAWAL FROM UNITED STATES-SOVIET EMBASSY CONSTRUCTION AGREEMENT

Mr. HELMS. Mr. President, I regret that the conference report does not contain the same strong language contained in the Symms amendment with respect to United States withdrawal from the Embassy construction agreements with the Soviet Union.

While I appreciate much of the discussion that has went into the development of the conference substitute, section 151, the compromise is actually weaker than the provision that passed the Senate, and, I felt duty bound to uphold the Senate's position—especially in light of the consistent and widespread support which has been expressed for the Senate's position.

The Symms amendment had been adopted overwhelmingly, 70-27, as an amendment to the defense authorization bill on September 24, and had been added, by voice vote, to the Senate State Department authorization bill.

The two key differences between the Symms approach and that of the original House bill, as well as the conference substitute, are: First, when the Embassy agreement is voided—immediately [Symms], or a year from now [House]; and second, whether there is a Presidential waiver [House] or not [Symms].

The conference substitute is somewhat weaker than either the House bill or the Senate bill, and I believe we will be confronted with this issue further next year. I offered a proposal that was a true compromise between the two provisions. Instead of having the agreements terminated immediately, or even in 1 year, the conference substitute provides that the agreements are not terminated until 1 year and 7 months from the date of enactment. In my judgment, the Congress should have the opportunity both to review and vote on the President's determination as to whether the construction agreements should be voided. The Senate conferees rejected a compromise to provide expedited consideration for a joint resolution of disapproval in the event the President decides not to void the construction agreements.

I am dismayed that the State Department reportedly does not like the compromise because it is too strong. Frankly, Mr. President, they got far more than they deserve, and far more than either House of Congress would give them if this issue were to be voted on separately, as may well be the case in the future.

While the provision is not all I would have liked, it is an improvement over present State Department policy, and is one component of an overall package of proposals designed to redress the damage done by the Soviet espionage at our United States Embassy in Moscow.

The conference substitute, section 152, also expresses the sense of Congress with regard to the need to have Soviet reimbursement for the costs incurred by the United States as a result of the Moscow spying episode.

Mr. President, in the euphoria over Mr. Gorbachev's visit, it should not be forgotten that serious national security interests have been compromised as a result of extensive Soviet espionage activities, and that these activities took place during Mr. Gorbachev's tenure.

POLYGRAPH TESTS FOR DIPLOMATIC SECURITY PERSONNEL

Mr. President, the conference substitute, section 163, also contains a reasonable provision originally included in the House bill to require the Secretary of State to implement a counterintelligence polygraph examination for personnel of the Diplomatic Security Service.

The bill is explicit in setting the same scope and conduct of such examination, and the rights of individuals subject to such examination, as those under the counter-intelligence polygraph program conducted pursuant to section 1221 of the Department of Defense Authorization Act, 1986.

This polygraph will affect approximately 700 employees, all of whom are in security sensitive positions at U.S. foreign missions and consulates abroad.

While I have heard of some disgruntlement from within the Department, other officials within the Department indicated that such a polygraph requirement was a useful security measure which should be initiated. Given the serious breach of security that has taken place at the Moscow Embassy, this appeared to be useful, and narrowly focused requirement worthy of immediate implementation.

CONSULAR AND DIPLOMATIC POSTS ABROAD

The conference report makes clear strong congressional support for geographic diversity in our overseas representation. The Department of State has closed a number of its small consulates and embassies in the mistaken belief that such closings are preferable to reductions in staffing at the very large embassies. We have a difference of opinion with some of the officials at the Department.

We believe it is important to the U.S. national interest to have political and economic reporting officers and other diplomatic representatives outside the capital cities where the embassies are located. There is perhaps no major country where there are not significant geographic differences in the political and economic climate. The conference report clearly indicates to the Department that we believe it preferable to reduce the staffing at the large embassies—some of which have almost 1,000 American employees—than it is to close the one-man or two-man posts in the outlying cities. I think a good argument can be made that these very large embassies sometimes become so self-contained and self-preoccupied with the bureaucracy within the embassy, that they lose touch with the people in the country to whom they are accredited. And it can be argued that sometimes the officers in the small consulates are actually out into the local environment than their counterparts in the large embassies. It is therefore, we believe, highly desireable to keep these counsulates open.

Capital cities are not always the primary political and business centers. In West Germany, for instance, the capital of Bonn is clearly a governmental, bureaucrat-dominated city. The business of West Germany takes place in other cities, such as Dusseldorf where many States, including North Carolina, have their overseas export promotion offices. This bill requires the Department to keep open the consulates we have in those cities so that we can best service the needs of the American exporter. How can we begin to address our chronic balance of trade deficit if we cannot provide assistance to American exporters in the major commercial cities of foreign countries? We cannot.

TOSHIBA

The Senate passed the Garn-Proxmire Toshiba legislation on June 30 and it now faces an uncertain future on an uncertain bill. We now know that Toshiba Corp. was engaged in a series of additional illegal sales of microelectronics to the East bloc. We also know that Kongsberg was engaged in at least 150 additional violations with other European companies. At least one violation involved a sale of sophisticated equipment to a Soviet nuclear weapons plant.

The committee felt that time should not be lost and the United States should immediately begin discussions with Japan and Norway on the question of compensation as called for in section 1251.

An apology from the Japanese and Norwegian Governments will not be enough. Compensation will be necessary and the conference substitute initiates this process. Additional legislation will be a part of the trade bill or other legislation in 1988.

HUMAN RIGHTS IN CHINA

Mr. President, the bill contains four sections relating to China. Section 1246 points to the progress toward a more complete democracy by the Republic of China now on Taiwan. Under the very able leadership of President Chiang, Taiwan has become a model of economic development, political, and personal liberty.

At the same time the committee felt very strongly that it must report serious, tragic human rights violations on the mainland of China. Section 1245 describes the generally deteriorating human rights situation. Section 1243 points to the specific violations against minorities, in this case Tibetans. Finally, section 907 calls for the release of University of Arizona student Yang Wei from the notorious Detention House No. 1 in Shanghai and serious consideration for asylum for Chinese students in the United States.

Mr. President, the contrast between a free, economically sound Republic of China and the poor, tortured mainland could not be more stark.

THE UNITED STATES EMBASSY IN ISRAEL

The conference report, section 130, contains a significant provision regarding the location of the United States Embassy in Israel.

In 1984, there was a major effort undertaken by a number of Members of Congress to require the President to move our Embassy in Israel from Tel Aviv to Jerusalem. I sympathized with the intentions of those Members. Israel, like any other country, has a right to select its capital city. The United States should respect this right by locating its Embassy in Jerusalem.

However, there is good reason to believe that article II, section 2 of the Constitution which provides the President with the express power to appoint Ambassadors bars Congress from ordering the move of our Embassy from Tel Aviv to Jerusalem.

In light of this, perhaps the best way Congress can weigh in on this issue is through its "power of the purse" by preventing the State Department from building a new Embassy in Tel Aviv, and rather, only permitting the construction of any new Embassy to be in Jerusalem.

As part of the 1985 State authorization bill, I offered an amendment to do just that: Prohibit the construction of any new Embassy in Israel unless it is located in Jerusalem. While this amendment was passed by the Senate, the conference committee watered it down somewhat by simply prohibiting the construction of any new facility in Israel.

In coming up with this compromise, it was hoped that during the ensuring 2 years, the State Department would develop a proposal which would allow a recognition of Jerusalem's status as the capital of Israel. Unfortunately, no such proposal has come forth from the State Department. As a result, this conference reports retains an effective bar on any new diplomatic construction or site acquisition in Israel.

This is an important provision in that it thwarts the State Department's plans to construct a new Embassy in Tel Aviv. Such an act on the State Department's part would be an affirmative act which assumes that there will never be an outcome to the Arab-Israeli conflict which acknowledges Jerusalem as the capital of Israel.

Yet, for historic, political, and religious reasons, it is inconceivable, at least for this Senator, that Israel would ever remove the key functions of its Government from Jerusalem. Nevertheless, once the millions of dollars have been spent on a brand new Embassy in Tel Aviv, it is no longer credible that the United States might one day recognize Jerusalem as the Israeli capital.

By building such an Embassy, the United States would be saying to Israel that we can conceive of no outcome to any peace negotiations which would allow us to have our Embassy in Jerusalem. In effect, the United States would be coming down firmly on the side of those who do not recognize the right of Israel to exist, and who will not accept United Nations Resolution 242.

Mr. President, the Congress does not wish to make such a statement. That was why the prohibition was included in the 1985 State Department authorization bill, and that is why it is included in this conference report.

It is the hope of this Senator at least, that the State Department will come to us before we need consider the next authorization bill, and provide us with some proposals for solving this issue in such a way as to allow for a recognition of Israel's capital.

TERRORISM REPORT

Mr. President, as I noted previously, there are acts as ugly as terrorism. Unfortunately, international terrorism has proven a difficult force to combat.

An important step in combating terrorism is to identify from where terrorist groups are receiving financial, military and other assistance. With this in mind, the conference report, section 140, includes a provision calling for an annual report on terrorist groups, and the countries from which they received support. Among the groups to be reported on are the PLO, the PFLP, Abu Nidal, Saiqwa, the DFLP, the Red Army Faction, and the Red Brigade.

The Palestine Liberation Organization [PLO].—The Palestine Liberation Organization was founded in the late 1960's and is the umbrella group for approximately 10 Palestinian terrorist factions.

During the 1970's, the PLO was involved in numerous hijackings and in the early 1980's, aside from attacking civilians in Israeli cities, it also attacked school nurseries and civilian busses. Recently, it took credit for the grenade attack at Israel's holiest site—the Wailing Wall.

It was responsible for the attack on the *Achille Lauro* steamship and for the murder of an American citizen, Leon Klinghoffer, who was confined to a wheelchair. Earlier this year, it tried to infiltrate a small group into Israel for the purpose of seizing civilian hostages at an Israeli kibubutz.

Abu Nidal.—Its official name is Fatah (Fah-tah)—the Revolutionary Council. It also has used serveral other names, including Black June and Arab Revolutionary Brigades.

When it attacks Arab targets, it uses the name Black September. When it attacks British targets, it calls itself the organization of Socialist Muslims.

It is headquartered in Syria. It was responsible for the hijacking of an Egypt Air commercial jetliner which resulted in a tragic shootout in Malta in November 1985. It also played the primary role in the massacres at the Rome and Vienna international airports in January 1986, where more than 20 persons were killed. It apparently was responsible for the September 1987, massacre of Jewish worshippers at an Istanbul synagogue.

The Red Army Fraction.—A West German radical Marxist group that has specialized in bombings directed against American military targets, kidnapings and executions of West German civilians and government officials, and attempted assassinations of United States military officers.

The Red Army Fraction has ties with French and Belgian terrorist groups as well as with the Italian Red Brigades.

The Popular Front for the Liberation of Palestine [PFLP].—Headed by the notorious Dr. George Habash. In the early 1980's the PFLP carried out attacks in Europe against Israeli and European civilian targets, including attacks on the embassies in Vienna and Athens, and bombings of airline offices in Italy and Turkey.

It also claimed responsibility for the bombing of a Cypriot cruise ship in the Haifa Harbor. It is believed to be responsible for the bombing of a Brussels synagogue in October 1981.

The Red Brigades.—Italy's longest-lived and most notorious terrorist group, responsible for the kidnaping and execution of former Italian Premier Aldo Moro and the kidnaping of American General James Dozier.

In 1981, in addition to kidnaping General Dozier, the Red Brigades were responsible for three kidnapings, several bombings and murders, and one bank robbery. In 1985, it murdered a prominent Italian labor economist.

It has also been responsible for the murder and serioius bodily harm of a number of Italian newspapermen, judges, and security personnel. In 1987, it resumed its pattern of assassination of government targets.

TRAVEL RESTRICTIONS

Mr. President, I regret that the travel restrictions included as an amendment by Senators ROTH and DOLE was so greatly compromised in the conference. Despite having received qualified support from Judge Webster, the conferees rejected the Roth-Dole-Swindall approach for the much less effective conference substitute. Judge Webster had the unique ability to bring to the issue the perspectives of both the Federal Bureau of Investigation and the Central Intelligence Agency.

I can offer the proponents of the amendment, which the Senate adopted 60 to 36, that if circumstances do not improve with regard to domestic intelligence activities, we will need to revisit the subject in the manner they, and I, preferred.

PLO OFFICE CLOSING

Mr. President, I noted earlier the strong Senate support for the PLO office closing provision. It is clear that the State Department is totally misreading the American people. The fact that this provision has so much support in Congress is one indication, a poll which recently ran in Newsweek is another. The poll asked respondents what they thought to be the most important issue for the United States and the Soviet Union to discuss at the recent summit.

The most important issue for Americans was not nuclear weapons, or conventional arms, or even human rights. The most important issue was "international terrorism," with 86 percent of respondents saying it was "very important."

The poll shows how concerned the American public is about terrorism, and terrorist groups such as the PLO. But it also indicates that the public recognizes a point the State Department continually downplays: That the Soviet Union is behind, or assists, a good deal of international terrorism.

Mr. President, I ask unanimous consent that the poll which ran in the Newsweek of December 7, 1987, be printed at this point in the RECORD:

There being no objection, the poll was ordered to be printed in the RECORD, as follows:

SUMMIT ISSUES: A UNITED STATES-SOVIET POLL

On the eve of the summit, a comparative sampling of public opinion in the United States and the Soviet Union shows broad agreement on the importance of arms control. Soviet citizens, however, are more optimistic about the chances of actually eliminating nuclear weapons.

TELL ME HOW IMPORTANT YOU FEEL IT IS FOR THE UNITED STATES AND SOVIET UNION TO DISCUSS THE FOLLOWING ISSUES AT THE SUMMIT

[In percent]

	Very important	Somewhat important	Not so important
Limiting strategic or long-range nuclear weapons:			
United States	78	16	4
U.S.S.R.	86	12	1
Reductions in medium-range and tactical nuclear missiles:			
United States	69	21	6
U.S.S.R.	82	15	1
Cutting down on conventional arms:			
United States	48	31	17
U.S.S.R.	46	40	8
International terrorism:			
United States	86	8	3
U.S.S.R.	49	34	5
The star war project:			
United States	55	27	10
U.S.S.R.	88	9	1
Easing regional tensions and conflicts:			
United States	70	20	5
U.S.S.R.	67	28	2
Expanding economic links:			
United States	61	28	6
U.S.S.R.	53	43	2
Human rights in both countries:			
United States	78	16	5
U.S.S.R.	49	33	9
Expanding people-to-people contacts:			
United States	71	21	5
U.S.S.R.	64	32	2
A total nuclear test ban:			
United States	71	19	7
U.S.S.R.	84	12	1

Mr. HELMS. During consideration by the committee of conference, it was suggested that the provision infringed upon the constitutional rights of the PLO and its supporters.

However, there is simply no first amendment issue involved in closing these offices. The provision adopted by the conference does not compromise the rights of American citizens to speak on behalf of the PLO, its policies, or its positions. Furthermore, Americans would not be prohibited from donating legal assistance to the PLO, nor from making monetary contributions to the organization.

Rather, the provision prohibits the PLO from maintaining offices and transacting business in this country. I might point out, that a foreign entity, the PLO is not entitled to first amendment protections.

In fact, during the time the conference was meeting, a U.S. District Court issued an opinion on the PLO's objection to the State Department ordering their Washington office closed. The court held that the constitutional claims of the PLO do not rise to the level necessary to implicate first amendment concerns.

Mr. President, I ask unanimous consent that a New York Times article of December 3, 1987, discussing this decision be printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, Dec. 3, 1987]

REBUFF TO PALESTINIANS IS UPHELD

WASHINGTON, December 2 (AP).—A Federal District Court judge today upheld a State Department order closing an information office connected to the Palestine Liberation

Organization, rejecting claims that shutting it down was unconstitutional.

The judge, Charles R. Richey, said that Secretary of State George P. Shultz "acted lawfully" in determining that the Palestine Information Office "is a 'foreign mission' of the P.L.O." that could be ordered closed under the Foreign Missions Act.

The State Department, citing involvement in terrorism by "individuals and organizations associated with the P.L.O.," had ordered the office in Washington to be closed by Dec. 1, but postponed the deadline until Thursday to give Judge Richey time to rule on the challenge, by the American Civil Liberties Union.

The A.C.L.U. said that closing the office would violate First Amendment guarantees of free speech and assembly and that the office had a legal right to function because it was a lobbying office staffed by American citizens.

"The Secretary's order merely prohibits the P.L.O. from operating as a 'foreign mission' " of the P.L.O., Judge Richey said in a 16-page opinion. Nothing prohibited the staff of the office from continuing to engage in political activity for Palestinians, he said.

Hope Nakamura, an A.C.L.U. lawyer, said the group would appeal.

Mr. HELMS. But perhaps the main issue of contention in the conference in regard to this provision involved the question of closing the New York office. During consideration of this provision, a motion was made by Representative Frank to recede to the Senate position with an amendment to delete the Senate language closing the PLO's New York office. Represenatative Frank's motion was defeated by a vote of 11 to 8 among House conferees.

The House conferees were wise to reject this amendment. During the conference, the State Department representatives insisted that closing the PLO's New York office would constitute a violation of international law. However, it is apparent that the State Department's own internal legal memorandum differs from this assessment.

Specifically the press has reported that the memorandum acknowledges that the PLO maintains its office in New York as a courtesy of the United States and not as a legal right.

It is unfortunate that the State Department continues to refuse to declassify this memorandum. However, a wire story published by AP on November 4, 1987, gives some insights into the content of this memorandum.

Mr. President, I ask unanimous consent that this AP wire story be inserted in the Record at this point.

There being no objection, the wire story was ordered to be printed in the Record as follows:

STATE DEPARTMENT CALLS SHUTTING DOWN PLO OFFICE IMPRACTICAL

(By Barry Schweid)

Washington (AP).—The State Department has concluded that the Palestine Liberation Organization maintains an office in New York thanks to American courtesy and not as a legal right, but that trying to close it would be impractical.

The analysis, obtained Monday by the Associated Press, could have an impact on Congress. Majorities in the House and Senate have voted to evict the PLO, but the action is not final.

The 25-page document, which traces the history and legal status of permanent observer missions to the United Nations, will be considered by Congressional conferees Thursday along with anti-PLO amendments to the State Department's Authorization Bill.

The United Nations granted the PLO permanent observer status in 1973. The PLO is not recognized by the United States and it has been implicated in acts of terrorism against Americans and Israelis.

At the same time, it enjoys diplomatic status in a number of other countries and is recognized by the Arab League as the sole legitimate representative of the Palestinian people.

On Sept. 15, the State Department gave the PLO 30 days to close its information office in Washington, but subsequently extended the deadline for 45 days to allow the office to settle its affairs.

The punitive action was taken "to demonstrate the United States' concern over terrorism conducted and supported by organizations affiliated with the PLO," Charles F. Redman, the department spokesman, said in the announcement.

However, the New York office was permitted to remain open.

Both the Senate and House have enacted legislation to close the office, as well. The chief sponsors are Reps. Jack Kemp, R-N.Y., and Dan Mica, D-Fla., in the House, and Sens. Charles F. Grassley, R-Iowa, and Frank R. Lautenberg, D-N.J. in the Senate.

According to the analysis, the U.S. agreement with the United Nations to establish its headquarters in New York did not specifically deal with permanent U.N. observers.

The paper said the United States has never "acknowledged an international legal obligation to accord privileges and immunities to observer missions."

The institution of permanent observer "rests purely on practice" and "permanent observers are not entitled to diplomatic privileges and immunities," the analysis said.

Since PLO officials are not on the U.S. diplomatic list, the analysis continued, any facilities they may be given in this country "are merely gestures of courtesy."

In fact, the analysis said, "As a matter of principle, the U.S. government, as host country, can argue that it should not be obligated to accord observer missions privileges and immunities that it has not expressly agreed to provide."

However, the paper said, "In light of the practice of both the United Nations and the U.S. government it is not practical for the U.S. government to take such a position at this time."

Without explanation, the analysis returned to the point again. "As a practical matter," it said, "it is too late to challenge the institution of permanent observer missions or the extension of that institution to non-governmental organizations like the PLO."

The order to close the Washington office was challenged by Arab-American groups and some civil libertarians who said it conflicted with the Constitution's free speech guarantees.

The analysis quotes a classified FBI report as saying, "The investigation has clearly shown that Chairman Yassar Arafat directs the activities of the PLO Information Office and has given his personal approval and guidance over its activities since it opened in 1977."

Mr. HELMS. Mr. President, it is unfortunate that the State Department continues to make this important legal memorandum unavailable to the public. The legal issues involved in closing the New York office are complex, and I am certain that this memorandum would help the Congress and the public better understand our rights under international law. I am informed by knowledgeable sources who know of the memorandum that the AP story is accurate in its description.

While the State Department continues to keep its own legal memorandum under wraps, the Senate was indeed fortunate to hear the Senator from Iowa [Mr. Grassley], whom I may point out is a member of the Judiciary Committee, provide an excellent analysis of the legal issues involved in closing the PLO's New York office.

In his speech, the Senator points out how closing the PLO's office is entirely within our Nation's obligations under international law. Indeed, the speech framed the issues involved in this matter so clearly, that this Senator felt compelled to share it will all of the members of the conference.

Mr. President, I ask unanimous consent that a copy of the letter from the Senator from North Carolina, and the statement of the Senator from Iowa be printed in the Record at this point.

There being no objection, the material was ordered to be printed in the Record, as follows:

U.S. Senate,
Committee on Foreign Relations,
Washington, DC, November 4, 1987.

Hon. Dan Mica,
U.S. House of Representatives,
Washington, DC

Dear Dan: As you are no doubt aware, one of the more controversial items we will cover in the Conference on the State Department Authorization Bill is the Senate provision closing the offices of the P.L.O. in Washington and New York.

Over half the Senate co-sponsored this provision, authored by Senators Grassley and Lautenberg. The House subsequently approved a motion to instruct their conferees to accept the Senate language.

I understand, however, that despite such indications of support for the Senate provision, an effort will be undertaken to strike all Senate language pertaining to the P.L.O. office in New York.

I hope you will join me in persuading our fellow conferees to retain the Senate language. Towards this end you may find the information in the enclosed statement by Senator Grassley to be of help. It notes how Congressional legislation to close the New York office is entirely consistent with international law.

In addition, I have taken the liberty of enclosing a reprint of a story from the AP wire. It discusses the State Department's own internal legal memorandum which acknowledges that the PLO maintains its office in New York as a courtesy of the United States and not as a legal right—despite recent State Department pronouncements to the contrary.

I hope you will find these documents to be of use. I will look forward to working with you at the Conference on this and other items.

Sincerely,

JESSE HELMS.

THE ANTITERRORISM ACT OF 1987

Mr. GRASSLEY. Mr. President, I want to bring to the attention of my colleagues and the American people an issue that is currently the subject of a great deal of debate among members of the conference committee to the State Department authorization bill.

The issue involves an amendment to State authorization that I sponsored to close the Palestine Liberation Organization offices in the United States until the PLO renounces its policy of terrorism. The amendment, known as the Antiterrorism Act of 1987, has 50 Senate cosponsors as a free-standing bill.

At this time, our State Department is bowing to pressure from the United Nations and is lobbying members of the conference committee arguing that closing the PLO observer mission at the United Nations may conflict with treaty obligations the United States has with U.N. members.

The battle going on over the Antiterrorism Act is really a battle over two extremely important principles. The first principle is that the United States has a sovereign right and obligation to protect its territory and citizens from terrorism. The second principle involves the absolute requirement that before the United States can be bound to a new provision of a treaty or a new interpretation of a treaty provision, the United States must affirmatively agree to that new provision or interpretation.

Mr. President, there is little or no argument that the PLO is involved in terrorism, and that the United States has the right to act accordingly. One only has to look at the recent elevation of Abbul Abbas to the PLO's executive council to be reminded of the PLO's politics of terror. Abbul Abbas, of course, is wanted in connection with the *Achille Lauro* hijacking and the murder of an American citizen, Leon Klingenhoffer.

Nevertheless, U.N. officials, through reinterpreting U.S. treaty obligations, argue that the PLO observer mission should have the same privileges and immunities that member states have at the United Nations. In other words, the PLO should be equal to a sovereign government whose office is inviolable under the charter, and therefore, cannot be closed by the United States even to protect its own territory and people.

Mr. President, there is absolutely nothing in the written agreements between the United States and the United Nations that expressly provides for observer missions. Nevertheless, the United Nations is attempting to force treaty obligations on the United States that have never even been negotiated, let alone ratified by the Senate, and our State Department is bowing to the pressure.

However, despite the State Department's questionable conduct, the United States, up to this point, has never formally acknowledged an international legal obligation to accord the privileges and immunities to members of observer missions beyond the specific requirements in the headquarters agreement relating to entry, residence, and transit.

Historically, the United Nations had a very restrictive view of what privileges and immunities were accorded to observer missions. A 1962 U.N. Legal Counsel memorandum stated the following:

Permanent Observers are not entitled to diplomatic privileges and immunities under the Headquarters Agreement or other statutory provisions of the host State. Those among them who form part of the diplomatic missions of their Governments to the Government of the United States may enjoy immunities in the United States for that reason. If they are not listed in the United States diplomatic list, whatever facilities they may be given in the United States are merely gestures of courtesy by the United States authorities.

This narrow interpretation continued until observer status was given to the PLO in 1974. Since then, the United Nations, over U.S. objections, has steadily attempted to unilaterally extend powers and privileges to observer missions. For example, the General Assembly adopted the so-called 1975 Vienna Convention over U.S. opposition. The convention would have given observer missions the same rights accorded to permanent missions. The United States has never signed the convention, and therefore, cannot be bound to its terms.

Nevertheless, the U.N. Legal Counsel has attempted to bind the United States to the spirit, if not the letter, of the convention by reinterpreting the U.N. Charter. In 1982, the U.N. Legal Counsel attempted to expand the interpretation of article 105 to include the inviolability of observer missions. However, there is absolutely nothing in article 105 or the headquarters agreement that even mentions observer missions, let alone any obligations that the United States owes to them.

So, Mr. President, what exactly is the problem? The problem is that even though the United States has never actually agreed to a reinterpretation of the U.N. Charter that would extend full privileges and immunities to the PLO observer mission, the United Nations is on the verge of successfully forcing the United States into such an agreement with no negotiation and no Senate ratification.

What makes these events even more incredible is the fact that the State Department is feebly acquiescing to this force, contrary to an internal State Department memorandum of last April. According to this internal memorandum, State Department officials should "refuse to recognize an obligation to accord inviolability to the premises of an observer mission * * *." Unfortunately, those in charge at our State Department have disregarded this advice and instead refused to protect or promote American interests in this matter.

Mr. President, State Department bureaucrats may sit by and let American rights be tossed out the door, but this Senator is going to do everything he can to stop such a blatant usurpation of American sovereignty.

As I have stated, the battle over this policy of forfeiting American interests at the United Nations, in regard to observer missions, is a subject of debate this week among the conferees to the State Department authorization bill. The debate centers on the Antiterrorism Act amendment which, as I noted earlier, will close the PLO observer mission until the PLO renounces its policy of terrorism. Of course the U.N. hierarchy has been arm-twisting the State Department bureaucracy into lobbying against the amendment.

I would like to remind by colleagues on the conference committee that even if the State Department isn't willing to defend U.S. rights in this matter, the Congress has the power and the obligation to do so. Notwithstanding U.N. interpretations of U.S. treaty obligations, Congress has the constitutional authority to modify those interpretations through legislation. In fact, according to the landmark case of Whitney versus Robertson, Congress even has the power to modify binding treaty obligations. Therefore, Congress has the authority to define, on our own terms, what obligations are owed to the PLO.

Mr. President, we are at a crucial point in our battles to promote U.S. principles of protecting American sovereignty and putting an end to terrorism. Congress can follow the State Department line and watch these principles collapse, or Congress can adopt the Antiterrorism Act and ensure the protection and preservation of these principles.

Mr. President, I yield back the remainder of my time.

Mr. HELMS. Needless to say, it is not a perfect bill. For my part, I believe the bill provides a too generous authorization for appropriation for these agencies and, if I had my way, would have preferred to see a greater budget restraint applied to these agencies. I would have also preferred to have been able to bring back for final approval the reforms of diplomatic immunity that Chairman PELL and I devised as a means of protecting American citizens from the abuse of that immunity that has plagued the District of Columbia, Virginia, Maryland, New York and other communities. We ran into strong opposition from the House Committee on the Judiciary and had to settle for a report, with assurances by the House Committee on the Judiciary that this issue will be addressed in the coming year.

NO NEW POSITIONS

Several Members have expressed concern that the conference report does not mandate the creation of a new under secretary position at State to be charged with security and foreign buildings construction. There were a number of conflicting philosophies expressed in the House and Senate bills referred to the committee of conference with respect to the organization and structure of the Department of State. One House provision was clearly directed at the goal of streamlining State's organizational structure and reducing the number of executive level positions, while others continued to create new executive level positions such as assistant secretaries and under secretaries.

At this late date in the second term of President Reagan, any position created by law is likely to remain vacant until the middle of 1989, or even later. The process of recruiting a new under secretary, conducting the required background investigation and financial clearance processes, and Senate advice and consent are so time-consuming that it would be difficult to project that the position could be filled before July 1988. But where are we to find a competent candidate for the new positions who will be interested in a 6-month appointment? There may be candidates, but will they be the very best? The committee on conference decided that it would be best to drop all provisions, from both the Senate and the House bills, that called for the creating of new Presidential appointments that required the long process of Senate confirmation.

MANAGEMENT IMPROVEMENTS

The bill makes important improvements in the management of the Department of State, and sets into motion further improvements to be considered by Congress in the next year or two.

It creates a Commission, appointed by the Secretary of State, to examine the personnel system in the Foreign Service with the goal of developing a system that provides adequate career prospects for members of the Service. The current system was adopted in the last year of the Carter administration, and has proven to be a handicap to the effective conduct of foreign policy. It rewards those officers who avoid specialization, who avoid service in certain vitally needed functional and substantive positions requiring genuine expertise, and whose overseas assignments are of only limited duration.

It requires a serious study by the Comptroller General of discriminatory personnel policies in the Foreign Service. There are persistent reports from the State Department's employees that unless you fit a narrowly defined mold of the "classic" foreign service officer—that is, a wealthy white male who entered an Ivy League university from an exclusive boy's preparatory school—your career advancement prospects are severely limited. It is unacceptable, I believe, for a U.S. Government agency to conduct its personnel policies in a manner that results in a person fitting that classic mold having six or seven times the prospects of reaching the ambassadorial level than other candidates who passed the same stringent written and oral examinations. It is simply not right. The requirement for a study by the Comptroller General was written into the law because Congress has been telling the Foreign Service to implement a genuine merit promotion system for decades but those who control the system are also beneficiaries of it and are not about to change.

SECONDMENT, U.N. REFORM

The bill requires that at least 20 percent of the appropriations made for the U.S. assessed contribution to the United Nations be fenced off until the President has certified to the Congress that the budget reform process announced with a great fanfare at the United Nations last year is actually being implemented and that progress is being made in reducing the number of Soviets who are working for the United Nations under the "secondment" system. Under that system, the Soviet Union is able to place KGB agents into the U.N. bureaucracy and get the American taxpayer to pick up 25 percent of their salaries. That is an outrage that needs to be halted immediately, although our bill only requires that progress be made in eliminating it. We do include a provision allowing Congress 30 days to pass a resolution of disapproval if we disagree with any Presidential certification in this regard. So the United Nations should be on notice: We are watching and watching closely. My own assessment is that the President will not be able to certify to the Congress that the budget reform is being respected or that progress is being made on the secondment controversy.

CEILING ON AMBASSADORS' SALARIES

Last year I was appalled to learn that the State Department had manipulated its regulations to allow 1 out of 10 Foreign Service officers to earn more in taxable compensation that Members of Congress receive. The Department has admitted that it has used the performance pay system to get around the congressionally mandated salary cap. Furthermore, a recent nomination controversy has highlighted the opportunity for abuse in allowing various senior officials to build annual and sick leave to unlimited levels while serving overseas as ambassadors. No one ever demands a leave slip from an ambassador who takes off the afternoon. Since the taxpayer has to pay for unused leave at retirement and there is a credit given for unused sick leave, the possibilities of abuse could be costly. The bill changes the law to restrict ambassadors and others who serve in high ranking Presidential appointments to the normal system for such appointees, that is they neither earn nor are charged vacation or sick leave.

CIVIL SERVICE PROTECTION

Although it has been traditional that the State authorization bill concerns itself almost exclusively with the Foreign Service, the year's bill creates a mechanism for protecting the civil service employees in the Department. Some 42 percent of the Department's work force, these employees have been the stepchild of the senior management. There was widespread dismay in the Department when it was learned that the order had come from the highest level of the Department to protect the Foreign Service in any budget reduction exercise, even if that meant singling out the civil service for extraordinary hardships. A Department and its senior management should exhibit loyalty and concern towards all of its employees, not such a special category. The bill also calls upon the Secretary to assure that the burden of any budget cuts is equitably shared among the different categories of Department of State personnel.

Mr. HELMS. Mr. President, I also ask unanimous consent that the following summary of record votes taken during the conference be included in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SUMMARY OF RECORD VOTES TAKEN DURING THE CONFERENCE ON H.R. 1777 AND THE SENATE AMENDMENT THERETO

1. On December 2, the Senate conferees defeated, 2-3, a motion by Senator Helms that the Senate recede to the House with respect to House section 186, expressing the sense of the Congress that the U.S. should seek reimbursement from the Soviet Union for costs incurred as a result of the intelligence activities directed at the new United States Embassy in Moscow. Ayes: Helms, Lugar (by proxy). Nays: Biden, Sarbanes (by proxy), Pell.

[Subsequently, the House conferees, by voice vote, insisted on House section 186, and the Senate receded, by voice vote, when Senator BIDEN agreed to support the motion. See conference substitute section 153.1.]

2. On December 2, the Senate conferees defeated, 1-4, a motion by Senator Helms to modify a proposed compromise on U.S. withdrawal from the U.S.-Soviet Embassy construction agreement. The motion provided that if, 6 months from enactment, the President waives the requirement that the U.S. withdraw from the embassy construction agreement, the Congress would not only review the proposal (as provided in the compromise), but also that the Congress would do so under the same guidelines as provided in the expedited procedures under section 601 of the International Security Assistance and Arms Export Control Act of 1976. Such review would include the potential Export Control Act of 1976. Such review would include the potential consideration of a joint resolution of disapproval of the waiver. The motion also provided that the termination of the construction agreements would take place 1 year and 10 months from the date of enactment (as provided in the House bill) rather than 1 year and 7 months (as provided in the compromise). Ayes: Helms. Nays: Biden, Sarbanes, Lugar, Pell. [Subsequently, by voice vote, the conferees adopted the proposed compromise. See conference substitute section 151.]

3. On December 2, the Senate conferees adopted a motion by Senator Helms to require a GAO study with regard to the organizational structure of the Department of State in lieu of establishing new positions for an Under Secretary for Security and an Assistant Secretary of State for South Asia. On a division, requested by Senator BIDEN, the Senate conferees voted as follows:

Division I, 2-1, to mandate a GAO study with regard to the organizational structure of the Department of State. Ayes: Pell, Helms. Nays: Biden.

Division II, 3-2, to delete the establishment of new bureau for South Asia provided for in the House bill. Ayes: Sarbanes (by proxy), Helms, Lugar (by proxy). Nays: Biden, Pell.

Division III, 5-0, to delete the establishment of a new Under Secretary for Security. Ayes: Biden, Sarbanes (by proxy), Helms, Lugar (by proxy), Pell.

[The Senate position initially was rejected, by voice vote, by the House conferees on December 2, and the issues were set aside. However in subsequent action, on December 3, the conferees agreed to delete from the conference substitute several new positions contained in the House bill and the Senate amendment: Under Secretary for Security, Assistant Secretary for South Asia, Ambassador-at-large for Afghanistan, and Ambassador-at-large for activities related to global warming. No legislative requirement for a GAO study was included.]

4. On December 2, the Senate conferees adopted, 3-2, a proposal from the House that the Senate recede from its section 519 (regarding limitations on subsidies for U.S. employees stationed at the United Nations) which provided the following: permit a continuation of leasing under certain circumstances (all leasing was eliminated by the Senate amendment) and establishing a higher limitation on total U.S. subsidies ($1,500 per month had been permitted by the Senate amendment). Ayes: Biden, Sarbanes, Pell. Nays: Helms, Lugar (by proxy).

[In subsequent action, on December 8, the conferees deleted all provisions regarding U.S.-U.N. housing subsidies.]

5. On December 2, the Senate conferees defeated, 2-3, a motion by Senator Helms that the Senate recede to the House section 199J(b) (providing a proportionate reduction in U.S. contributions to the U.N. by the amount such programs benefit the African National Congress) with an amendment establishing conditions on the application of such a prohibition as follows: Subsection (b) may be waived by the President if he certifies to the Congress that (1) the National Executive Committee of the African National Congress has taken a stand publicly and officially opposing the practice of "necklacing", the practice of execution by fire, used against South African blacks; (2) the membership of the National Executive Committee of the African National Congress is no longer dominated by communists; and (3) the African National Congress no longer receives its primary financial, military, and training support from the Soviet Union or other communist countries listed in section 620(f) of the Foreign Assistance Act of 1961. Ayes: Helms, Lugar (by proxy). Nays: Biden, Sarbanes, Pell.

6. On December 2, the Senate conferees adopted, 3-2, a motion by Senator Pell that the Senate ask the House to recede with regard to House section 199J(b) (providing a proportionate reduction in U.S. contributions to the U.N. by the amount such programs benefit the African National Congress). Ayes: Biden, Sarbanes, Pell. Nays: Helms, Lugar (by proxy).

[The House conferees subsequently receded, by voice vote, from House section 199J(b).]

7. On December 2, the House conferees adopted, 7-5, a motion to recede from House title XVII (regarding travel restrictions in support of communism in Central America). Ayes: Fascell (by proxy), Mica, Yatron (by proxy), Dymally (by proxy), Kostmayer (by proxy), Smith of Florida, Atkins. Nays: Broomfield (by proxy), Gilman, Mack (by proxy), DeWine, Snowe.

8. On December 3, the House conferees adopted, 7-5, a motion to recede to Senate section 124, providing that Foreign Service career candidates or career members may not represent to the District of Columbia or any State or locality that they are exempt from income taxes on the basis of holding a Presidential appointment subject to Senate confirmation, or on the basis of serving in an appointment whose tenure is at the pleasure of the President. Ayes: Fascell (by proxy), Yatron (by proxy), Smith of Florida, Broomfield (by proxy), Snowe, Gilman, Mack (by proxy). Nays: Mica, Dymally, Kostmayer, Atkins, DeWine. [See conference substitute section 179.]

9. On December 3, the House conferees adopted, 6-4, a proposal to modify a pending budget compromise to establish the fiscal year 1988 authorization level for WORLDNET at $37 million, rather than $28 million as included in the compromise proposal. Ayes: Fascell (by proxy), Mica, Yatron (by proxy), Dymally (by proxy), Gilman, DeWine. Nays: Kostmayer, Smith of Florida, Atkins, Snowe.

[Subsequently, the fiscal year 1988 WORLDNET authorization level was established at $30,391,000.]

10. On December 3, the Senate conferees adopted, 3-1, a motion to recede from Senate section 570, regarding individuals seeking asylum from a Communist country. Ayes: Biden, Sarbanes (by proxy), Pell. Nays: Helms.

11. On December 3, the House conferees adopted, 14-5, a Kostmayer amendment to the pending Swindall motion regarding travel restrictions. The pending Swindall motion was that the House recede to the Senate section 533 with modifications to provide a waiver by the Secretary of State, after consultation with the Directors of the FBI and CIA (rather than a Presidential waiver, as in the Senate amendment) and to apply restrictions "other than the closed area restrictions". The Kostmayer amendment provided that restrictions would apply (1) to U.N. missions and organizations, but not against foreign embassies and consulates; (2) only with respect to travel; and (3) not with respect to specific lists of countries in either bill, but by reference to governments that engage in intelligence activities in the United States that are harmful to the national security interests of the United States. Ayes: Fascell (by proxy), Mica, Yatron (by proxy), Dymally, Kostmayer, Smith of Florida (by proxy), Atkins, Broomfield, Snowe, Gilman, Rodino, Hughes, Frank, Fish (by proxy). Nays: Mack, DeWine (by proxy), Mazzoli, McCollum, Swindall.

12. On December 3, the Senate conferees, adopted, 4-1, a Pell motion to accept the Kostmayer substitute (described above) for Senate section 533. Ayes: Biden, Sarbanes (by proxy), Lugar, Pell. Nays: Helms.

[See conference substitute section 162.]

13. On December 3, the Senate conferees, adopted, 3-2, a motion to recede from Senate section 506, providing $250,000 compensation for Joseph Karel Hasek from the Czechos, ovakian Claims Fund. Ayes: Biden, Sarbanes (by proxy), Lugar. Nays: Helms, Pell.

14. On December 3, the House conferees, defeated, 8-11, an amendment by Rep. Frank to the pending motion by Rep. Mack regarding the offices of the Palestine Liberation Organization. The Frank amendment proposed to close only the Washington office of the PLO; the Mack motion to recede to the Senate's title XI encompassed closing both the Washington office and the New York office. Ayes: Dymally, Kostmayer, Atkins, Rodino, Mazzoli, Hughes, Frank, Fish (by proxy). Nays: Fascell (by proxy), Mica, Smith of Florida (by proxy), Broomfield (by proxy), Snowe, Gilman, Mack, DeWine (by proxy), McCollum, Swindall (by proxy). (Mr. Yatron was later recorded in the negative.) Subsequently, the House conferees, adopted, by voice, vote the Mack motion to recede to the Senate's title XI. [See conference substitute title X.]

ARMS EXPORT CONTROL PROVISION

Mr. PRYOR. Mr. President, I would like to take a few moments to comment on a section of the conference agreement on the State Department authorization bill dealing with international arms trafficking.

Mr. President, this section, which I offered as an amendment to the Senate bill, strengthens the statute that regulates who can commercially export U.S. military products. It also strengthens the tiny office at the State Department that reviews roughly $15 billion arms export applications every year. Yes, Mr. President, I said $15 billion a year, which includes guns, radars, combat communications gear, and F-16 fighter parts.

Hearings in the Governmental Affairs Committee and the excellent work of the General Accounting Office on this subject have found this understaffed State Department office unable or unwilling to ensure that questionable individuals are not exporting U.S. military goods or receiving them abroad.

Export screening is so lax at the State Department that today it would be easier for a criminal arms trafficker to get a license to export U.S. arms than it would be for him to get a credit card. For example, my investigations found that the State Department has been regularly issuing arms export licenses to persons who have been indicted or convicted for being part of efforts to sell tank parts to Iran, aircraft parts to Libya, and Hughes helicopters to North Korea. Our hearing transcripts contain much more detail on the dangerous results of problems in the State Department's licensing office.

While some of the legislative changes made by the conference committee weakened the original amendment, others were very good. Taken in total, this measure will give some teeth to the arms export licensing office at State and decrease the potential for diversion of arms exports to our adversaries or potential adversaries. It should also help address the concerns of the many legitimate commerical arms exporters about the quality and speed of license application review at State.

I would like to comment on the legislation and some of the changes.

The measure establishes two standards for denying licenses to arms exporters. The first gives State the discretion to deny licenses to those who have been indicted for violating or are suspected of having violated export related statutes or who are ineligible to contract with or receive import authority from the Government.

The second standard establishes mandatory denial of export privileges to those who have been convicted of violating export related statutes, including the Comprehensive Anti-Apartheid Act, and those who are denied export authority by any other government agency (such as the Department of Commerce). This debarment can be lifted after a case-by-case review by State to determine the potential licensing impact on the national security.

Under both standards, the State Department retains ultimate control over who gets arms export licenses, but State is expected to coordinate with and give substantial weight to recommendations to deny export privileges by our lead export law enforcement agency, the Customs Service.

Should it be found in the future that State is not giving due consideration to Customs Service recommendations or that coordination is not effective, Congress should consider giving the Customs Service and perhaps other agencies a type of veto power over licensing decisions.

The next portion of the legislation denies licensing privileges to foreign persons other than those representing foreign governments. This does not mean that foreign corporations or nationals can not receive U.S. arms exports, only that a U.S. citizen, who is easily held accountable to U.S. laws, must be responsible for the export license—and for where the arms export ends up.

The new law will also give State explicit authority to require an export license (or other authorization) whenever a defense article is transfered to a foreign national or person acting on behalf of a foreign person.

Among its other benefits, this provision addresses a disturbing policy decision by State which holds that there is no legal barrier against the delivery of U.S. military articles without an export license to embassies of foreign countries in the United States. This exposed us to the possibility of military items slipping out of the Embassy and the country in diplomatic pouches.

Like many of issues addressed in this legislation, I believe that State has had broad authority to make tough decisions about arms exporting, but has been unwilling to do so.

This legislation also enables State to request personnel from the Departments of Defense and Treasury to assist in the screening and review of export license applications. The Senate amendment originally mandated the detailing of such personnel to the licensing office which has an overburdened staff of 30 reviewing 49,000 applications per year.

It is vitally important that State use this opportunity to bolster its capabilities through interagency cooperation. If the State Department can not improve its staff size and its ability to enforce the law, then Congress should consider making this provision mandatory.

The House conferees added a provision allowing $250,000 of the registration fees at the licensing office to be applied to upgrading the licensing operation. The language of the measure makes clear that a portion of this should go to improving export screening or compliance activities.

An excellent change made by the conference committee at the request of four House Members requires that State develop a system for identifying high risk exports for checks on end use. A General Accounting Office study found that State had performed end use checks on a fraction of 1 percent of all arms exports. In short, we are not sure whether a friend or foe ultimately takes possession of many U.S. arms exports. If implemented correctly, this provision will help to address this problem.

Finally, this legislation requires that the State Department provide the Treasury Department with the list of export registrants for review concerning law enforcement concerns. Since one must register to export—and pay a fee to do so—before applying for licenses to export defense articles and services, the review by Treasury should supply an early warning to State about questionable exporters.

I applaud the conference committee for its work on this provision. It is a big step forward for security controls on arms exports but it is not all that needs to be done. Most importantly, Congress needs to closely scrutinize how well this new law is implemented by State. We also need to look at specific problem areas, such as the policy behind decisions on whether an export is military or commercial, the policy for dealing with U.S. export companies in which a controlling interest is owned by foreign parties, and State's computerization and the need to link up with other government data bases.

Mr. President, I yield the floor.

Mr. TRIBLE. Mr. President, I have studied with great interest section 217 of the bill which grants to U.S. manufacturers a 10-percent bidding preference on their responses to requests for proposals issued by USIA for transmitter and other procurements related to the VOA Modernization Program. I agree with the conclusion of the committee and conferees that stimulated this provision. U.S. persons may be disadvantaged in competing for this program because of subsidies or similar advantages offered by some foreign governments to their domestic manufacturers who may also bid to supply equipment for this program. However, under the more than equitable language of the bill, the 10-percent U.S. preference can be effectively nullified as to a particular foreign bidder where the Secretary of Commerce certifies to the Director of USIA that the foreign bidder is not receiving any subsidy from any government. This makes it clear that where a foreign bidder wants to "escape" the application of the 10-percent U.S. "priced" preference on the basis of "no subsidies," USIA must receive a certification to that effect from the Secretary.

The statement of managers explains this provision by stating that the Secretary may make such a certification in the absence of a finding that U.S. persons are being disadvantaged. Further, the Secretary is not required to prove or show affirmatively that U.S. persons are not being disadvantaged before making such a certification.

I would like to ask my colleague from Connecticut, Senator DODD, what process would trigger the Secretary's determination as to whether or not subsidies are being granted to a foreign bidder, which may disadvantage their U.S. counterparts.

Mr. DODD. The Senator from Virginia raises a key point with respect to the subsidy issue. Clearly, the Secretary of Commerce cannot be required to make a determination on such an important matter, in a vacuum. Where a foreign bidder's proposal is under review, in considering price, USIA must consider a competing U.S. bidder's proposal as reduced by 10 percent unless the Director receives a certification of "no subsidies" from the Secretary of Commerce, or unless the foreign bidder is able to qualify under one of the other exceptions.

The Department of Commerce has great expertise and resources available to investigate such matters. Indeed, the raison detre of the Department is to advance and protect the legitimate interests of U.S. commercial enterprises.

Ensuring a "level playing field," especially in competing with non-U.S. entities for sales of major equipment to our Government for a program essential to our national security, should be a priority matter for the Secretary. The policies and laws of countries hosting manufacturers of the sophisticated types of equipment required under the VOA Modernization Program are well known to experts in the Department of Commerce. The Secretary has the resources available, and the responsibility to get the facts. We would expect that the Secretary would utilize these resources efficiently and effectively in preparing him to make a determination on the subsidy issue.

Likewise, where allegations of subsides are made to the Secretary by an aggrieved U.S. bidder, the Secretary obviously must investigate to determine the facts before making a decision. We did not intend that an aggrieved U.S. bidder be required to "prove" his case, but rather that where such allegations are made in an appropriate petition to the Secretary, that he use his resources and issue a considered decision in which he responds to the allegations.

The Department has regulations now in effect at 19 CFR 355.26 which would seem an appropriate format for an aggrieved U.S. bidder to file a petition with the Secretary.

Mr. TRIBLE. The conference report in discussing this provision states that the Secretary is not required to prove or show affirmatively that U.S. persons are not being disadvantaged before certifying to the Director of USIA that no subsidies are being granted to a foreign bidder. Does this mean that the Secretary need not self-initiate an investigation?

Mr. DODD. The Senator is correct.

Mr. TRIBLE. Does it also mean that the Secretary need not assume the existence of offensive subsidies and in effect "disprove" them prior to making a certification?

Mr. DODD. The Senator's interpretation is correct.

Mr. TRIBLE. However, to fulfill the intent of this statutory provision, the Secretary obviously cannot blindly make a certification, but must withhold certification where the subsidy issue is raised by either USIA or by a U.S. bidder until he conducts an investigation to determine the facts and makes a finding supported by those facts.

Mr. DODD. The Senator's interpretation is correct.

Mr. TRIBLE. I thank the Senator for his clear explanation of this provision.

Mr. HEINZ. Mr. President, I would like to commend the Foreign Relations Committee, under the leadership of Chairman CLAIBORNE PELL and ranking member Senator JESSE HELMS, for their fine work in producing the Foreign Relations Authorization for fiscal year 1988 and 1989. It is a piece of legislation that engages as many controversial and divisive issues as any other bill that comes before the Senate. And in this very busy legislative year, the Foreign Relations Committee was able to pass the bill, steer it through conference, and now bring it back to the Senate for final approval.

One section of the conference report that is of special interest to me is section 702, dealing with U.S. contributions to the United Nations. This section was controversial, for all sides had serious and legitimate concerns about the issues involved. My amendment to the Foreign Relations Authorization would have fenced half of our appropriated contributions to the United Nations on condition that a serious effort get underway to reduce the excessive use of secondment at the Secretariat. This language was approved by an overwhelming vote of 95 to 0 by the Senate.

The purpose of my efforts, as reflected in my amendment, is to put effective pressure on the UN system to end a scam that allows the Soviets and other Eastern bloc member states to funnel their intelligence personnel through the U.N. Secretariat. This practice condoned by the United Nations flies in the face of the United Nations' stated commitment to a neutral and international civil service as called for in the U.N. Charter. While the practice of secondment, or temporary assignment, which has been the principal means to achieve this infiltration, has a legitimate role at the United Nations when properly used, there is no excuse for any member state having 100 percent of its nationals employed in the Secretariat on a temporary basis. It is long past time for this Soviet abuse to end. Since the United Nations failed to take the initiative to stop this abuse, I determined to find a legislative way to call a halt to this totally unjustifiable practice.

Mr. President, the conference report incorporates the essential thrust of my amendment in section 702. In that section, the President is authorized to give the United Nations 40 percent of our assessed and appropriated contribution immediately. Another 40 percent can go when the President certifies that, among other things, progress is being made to reduce use of secondment at the Secretariat to no more than 50 percent for each member state. The final 20 percent of the funds can be released 30 days later, provided the Congress does not enact a joint resolution blocking transfer of these funds.

While the conference report is not as strong as my legislation, I am willing to permit the President, as this legislation provides, the opportunity to produce results. I hope that the administration realizes that the Congress is very serious about maintaining momentum for reform at the United Nations. The deal struck in this conference report calls for good faith efforts by the administration to use U.S. funding as leverage for change. The Senate expects this leverage to be put to good use.

Mr. President, in early November of this year, 27 of my Senate colleagues joined me in writing to Secretary of State George Shultz on the secondment matter, registering our strong concern about the problem and asking what actions the State Department was taking to counter this particular abuse of the U.N. system.

I received a response last week. In the State Department's letter, it is made clear that secondment has become a serious concern for the U.S. Government, and that our concern is being communicated to the U.N. and to member states. I hope that this concern is accompanied by a commitment to change things. The conference report we will pass here today provides the tools for the administration to do the job. We will be watching closely to see whether these tools are put to good use.

Mr. President, I ask that the letter from me and my colleagues to Secretary Shultz and the State Department's response be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

U.S. SENATE,
COMMITTEE ON FINANCE,
Washington, DC, November 3, 1987.

Hon. GEORGE SHULTZ,
Secretary of State, U.S. Department of State, Washington, DC.

DEAR MR. SECRETARY: We are writing to express our concern about a continuing abuse of the personnel system of the United Nations Secretariat by the countries of the Soviet bloc.

As you know, on September 25, 1987, during consideration of the Defense Authorization Act, the Senate unanimously adopted an amendment concerning the abuse of the practice of secondment at the UN Secretariat by a vote of 95-0. The provision was later added to the Senate version of the Foreign Relations Authorization Act for Fiscal Year 1988.

The language of this provision stipulates that 50% of US assessed contributions to the United Nations be withheld until the President can certify that significant progress has been made at the United Nations in eliminating the excessive use of secondment. This practice of temporary assignment, which is used by the Soviet Union for up to 99% of its nationals in the Secretariat, is a clear violation of the letter and spirit of the UN Charter. The UN member states have themselves recognized the serious problems posed by excessive secondment in the recommendation of the Group of 18, which called for a cap of 50% on such temporary assignment by member states.

The use of secondment, as well as other abuses such as blatant control of Secretariat employes by missions to the UN and salary remission schemes, all undermine the independence of the international civil service. It is also well understood that these abuses facilitate the use of Soviet bloc nationals working for the Secretariat in New York City for intelligence activities directed against the United States.

We believe the Senate has given a clear and strong signal of concern of this issue. Regardless of the eventual outcome of a House-Senate conference on the State Department bill with regard to the UN secondment issue, we feel it is imperative that the United States begin to address this problem with seriousness and concrete action. We ask that you provide us with information on your plans to address the problem of secondment at the United Nations Secretariat, including any multilateral efforts within the General Assembly context.

Your cooperation in this matter will help insure that the Senate and the Administration can work closely together to correct the most egregious abuses now undermining the integrity of the United Nations system.

Sincerely,

Senator JOHN HEINZ
with 27 colleagues.

U.S. DEPARTMENT OF STATE
Washington, DC.

Hon. JOHN HEINZ,
U.S. Senate.

DEAR SENATOR HEINZ: Thank you for the letter of November 3, 1987, from you and your colleagues regarding the Soviet bloc abuse of the United Nations personnel system.

We share your concern that the Soviet and East European practice of seconding of their nationals to the United Nations contravenes the spirit and intent of the United Nations Charter, which envisaged an independent international civil service. Secondment, per se, is not in violation of the rules or regulations, and it can be a positive mechanism for attracting high caliber staff to the UN in certain circumstances. Indeed, the U.S. seconds staff to the UN and other international organizations on a limited basis. However, as you know, we seriously object to the Soviets' exclusive use of secondment and believe that practice must be changed.

Secretary Shultz wrote to UN Secretary-General Perez de Cuellar in May forcefully stating our concerns on this matter. In September we instructed our Embassies to include the issue of secondment as a priority issue in their demarches to over 120 foreign governments in preparation for this year's General Assembly. On November 13, 1987, we formally signaled our intention in a speech to the Fifth Committee of the United Nations to seek urgently to change this practice.

Our delegation to the General Assembly is circulating a draft resolution which is designed to initiate the needed changes in personnel policies. Specifically, the resolution calls upon Member States to limit the number of their nationals temporarily seconded for service with the United Nations, with the goal of obtaining a reasonable balance between fixed-term and permanent employees from all Member States. The delegation has advised us that positive response to the draft resolution from other Member States is not as forthcoming as we would prefer, due in large part to the low level of U.S. funding. We are continuing to pursue this issue vigorously in New York.

We remain firmly committed to the independence of the international civil service of the United Nations. We believe it is in the interest of all nations to strengthen the international civil service by ensuring its neutrality and impartiality.

With best wishes,

Sincerely,

J. EDWARD FOX,
Assistant Secretary,
Legislative Affairs.

TITLE IV—GLOBAL CLIMATE PROTECTION ACT TO STATE DEPARTMENT AUTHORIZATION

Mr. BAUCUS. Mr. President, the authorization for the State Department contains important legislation addressing the serious threat posed by the continued release of gases which will disrupt the global climate. The Global Climate Protection Act embodied in title IV of the legislation before us, (1) recognizes the serious environmental threat posed by these pollutants and (2) sets in place a mechanism for the Environmental Protection Agency to identify a domestic policy and for the State Department to ensure that the worldwide community participates in fully addressing the problems posed by global climate change.

Man's activities are altering the world climate. Burning of fossil fuels and the continued release of trace gases such as chlorofluorocarbons, nitrous oxides, and methane along with a continued decrease in worldwide forest cover are responsible for these changes.

There exists a scientific consensus that these activities will alter climate. The question that remains is how much change will occur, over what timeframe, and when will climate change stabilize.

The climate has been slowly changing throughout the Earth's existence. Approximately 18,000 years ago, near the end of the last ice age, the global climate was approximately 5 degrees Celsius cooler that it is today.

This climate change occurred slowly over a period of thousands of years.

The global climate change confronting the world today is not one that will occur over thousands of years. We are talking about climate changes becoming visible to the public over the next decade. And, within the next century—during our children's lifetime—we could encounter a climate warmer than has existed for over 100,000 years. Projections of climate change indicate that the continued buildup of greenhouse gases will result in a temperature 1.5 to 4.5 Celsius warmer than exists today.

The wide range of temperature projections is not caused by a lack of knowledge as to the amount of greenhouse gases being released to the environment. The uncertainty in projections is due to a mechanism known as the feedback mechanism. In other words, the oceans can absorb vast amounts of carbon monoxide and then release these gases at some point in the future, leading to massive swings in climate.

We don't understand how the oceans will react. We are subjecting the world to a global experiment with consequences we can't identify. The question that must be asked is what other unforeseen changes are possible.

The uncertainty and potential magnitude of the impacts forces us to begin to take responsible action now. None of us can assume the changes in climate will be positive.

Sea level rise is one of the better understood impacts of a warming climate. Sea level is expected to rise about 1 meter by the middle of the next century. This impact alone is significant. About one-half of the world's population as well as a large number of the world's major cities and urban developments are located in coastal regions. Massive coastal areas could be inundated and whole islands could disappear.

But consequences do not stop here. We can expect to see changes in precipitation, winds, humidity, and the severity and frequency of extreme events such as droughts and floods. The impacts of these changes can be expected to be felt on agriculture, forests, water resources, health, and energy demands.

Climate change cannot be prevented. Our goal, as stated in this legislation, is to "limit global climate change." It should be clear that what we mean by "limiting climate change" means limiting the change in the concentration of greenhouse gas buildup in the atmosphere. Adaptation is not what we mean by "limiting climate change"; adaptation is a way of coping with climate change.

I think it would be useful to spell out some of the means that will have to be considered in order "to limit climate change" and thus to "stabilize or reduce" the concentration of greenhouse gases in the atmosphere. We know, for example, that we must reduce the emissions of carbon dioxide which make up about half of the greenhouse gas emissions. What method should the Secretary of State and the Administrator of EPA consider in this regard? Recent State testimony has suggested a number of policies which will have to be considered in order for the United States to reduce its carbon dioxide emissions which account for almost a quarter of the global total. Carbon dioxide emissions are tied to the types and amounts of fossil fuels which we use in our economy. Therefore, to control carbon dioxide emissions will require changes in the way we manage our energy use in the future. Consideration should be given to improvement in energy end-use efficiency, such as lighting, and across the board in new appliances; the efficiency of supply energy technology can also be improved. New gas-fueled powerplant technologies appear to improve efficiency substantially. A vast improvement of auto efficiency standards for cars sold in the United States must be considered in order to lower the use of gasoline. Pricing initiatives must be considered in order to reflect the "externalities" in the price of fossil fuels. A number of experts have suggested the establishment of a carbon dioxide tax in order to reflect the damage to our climate reflected in the price of energy.

Fuel switching must also be considered since some fuels produce much less carbon dioxide per Btu than others. Coal, for example, produces twice the carbon dioxide per Btu as gas. Stopping the destruction of tropical forest—a significant carbon dioxide sink—is an important step, consideration should also be given to increased forestation. We also know that the complete elimination of CFC's would provide a major greenhouse benefit. These, too, should be considered. We know that improving the controls on carbon monoxide might control the buildup of methane; we should consider reexamining whether nitrous oxides can be controlled through air pollution control technologies and we may need to control the buildup of tropospheric ozone not just locally, but also on a national basis because ozone in the troposphere is also a greenhouse gas.

We know that the United States will have to share our knowledge in controlling greenhouse gases with other nations; this will be a large task. Therefore, a part of this effort will be to assist other nations in figuring out how to do their share in reducing the concentrations of greenhouse gases.

There are many opportunities to gain international cooperation in limiting global climate change. First, the United States, through UNEP, should begin negotiations to bring about a global convention and protocol on climate change. Second, we can work through our allies at the seven-nation economic summit to bring about a unified call for a global climate convention. Third, it would be appropriate at the next Reagan-Gorbachev summit for the two superpower leaders to call for a global convention on climate. Fourth, the Secretary of State should be working with developing nations to help bring about a greater awareness of the climate change issue and encourage positive working relations on both impacts and economic planning to deal with greenhouse gas emissions.

Dealing with the greenhouse problem is a daunting task. We must not wait; we must begin now. This legislation states that "necessary corrective action must be identified and implemented in time to protect." We are already too late. I think the list of responses mentioned above previously should help us get started in formulating and initiating a response.

I commend Senator BIDEN, the author of this provision, and Senator PELL for their leadership in putting in place the policy mechanisms needed to address this challenge. I also thank my colleagues for their willingness to work with me, Senator CHAFEE, Senator MITCHELL, Senator STAFFORD, and other Members of the Senate in the development of this provision.

As the Senator has stated, there is an urgent need to move rapidly toward the development of policies to control and mitigate the impacts of global climate change, both domestically and internationally. The purpose of the legislation before us today is to develop those policies. I would be happy to respond to my colleagues' questions.

Mr. BIDEN. I am sure you are aware that EPA has two studies underway on the greenhouse effect. The first is a review of the effects of climate change. The second is the development of policy options to stabilize the concentrations of greenhouse gases. How do you see the relationship between this legislation and those studies?

Mr. BAUCUS. My intention is that these two studies should be completed long before the report to Congress as envisioned in this legislation. Those studies may be utilized in the development of the report to Congress. But this legislation is not in any way intended to delay those studies that were requested by members of the Senate Environment and Public Works Committee.

I thank the Senator. The Global Climate Protection Act addresses one of the major environmental threats to the Earth, that of global warming and concomitant global climate change. The driving force behind this unprecedented change in the Earth's climate is the release of carbon dioxide and other trace gases into the Earth's atmosphere at unparalleled rates. It is my understanding that the gases of concern to global warming include carbon dioxide, chlorofluorocarbons, methane, tropospheric ozone, and nitrous oxide.

Carbon dioxide concentrations have increased by 25 percent in the last century and continue to increase at a rate of 4 percent per decade, methane concentrations have risen 30 to 40 percent in the last 35 years and continue to grow by 1 percent per year, two of the primary chlorofluorocarbons—CFC-11 and CFC-12—are growing at a rate of 5 percent per year, nitrous oxide concentration are increasing by two-tenths of 1 percent per year, and ozone in the lower atmosphere is increasing by about 1 percent per year in the Northern Hemisphere.

This is a tremendous amount of gaseous pollution that we are adding to the atmosphere. Scientists tell me that in the last 20 years or so, the contribution of the trace gases to global warming is equal to that of from carbon dioxide.

My concern is that any legislation seeking to address global warming must take into consideration the combined effects of both carbon dioxide and the trace gases. I wonder if the Senator would clarify what greenhouse gases are covered in this bill?

Mr. BIDEN. I concur with the statements of my distinguished colleague. Certainly both carbon dioxide and the trace gases are important contributors to global warming and should all be considered in any policy discussions related to global climate change. That is the intention of this legislation.

Mr. BAUCUS. The global climate change phenomenon is highly complex, and there are many unanswered scientific questions. We need improved multidimensional models to provide more accurate temperature predictions; better regional predictions of rainfall patterns, vegetation shifts, and agricultural growing regions; and an increased understanding of the possible feedback mechanisms such as cloud cover, the oceans, and sea ice changes that may dampen or intensify the temperature increases. While the severity of the problem demands that we cannot wait for all the uncertainty to be resolved before we begin the policy debate, it still remains imperative that we continue and expand our scientific research effort. Could the sponsors explain how the research highlighted in this proposal will build on the investigations already underway?

Mr. BIDEN. The Global Climate Protection Act recognizes the significance of the important research now being conducted by both the U.S. Government and international agencies. What we are requiring is to continue and intensify this research on global climate change. It is not meant to supplant ongoing research. One goal of the U.S. policy outlined in the act is to foster cooperation among nations to provide more extensive and effective scientific research efforts. In formulating our national policy, the act also mandates that the Environmental Protection Agency consider the research findings of the relevant Federal agencies and other research organizations engaged in global climate research.

TITLE IV OF STATE DEPARTMENT AUTHORIZATION—GLOBAL CLIMATE PROTECTION ACT

Mr. MITCHELL. Mr. President, there is growing concern about the complex and serious issue of global climate change. Human activities are accelerating the so-called "greenhouse effect" by continuing to increase the concentrations of greenhouse gases and disrupting the global atmospheric radiation balance. Mankind has been described as conducting a gigantic environmental experiment of unprecedented magnitude on the Earth's atmosphere.

The Global Climate Protection Act incorporated as title IV of the State Department authorization will provide a strong beginning in our efforts to grapple with the climate change problem, nationally and internationally. The act mandates that the United States take the lead, through the Environmental Protection Agency, to develop policies to both increase our understanding of climate change and identify technologies to stabilize the concentrations of greenhouse gases in the atmosphere. The act also directs the Secretary of State to coordinate the U.S. policy on a worldwide basis through the United Nations Environment Programme and other diplomatic channels.

This legislation is timely and vital to lay the groundwork for the challenge ahead in addressing global climate change. Concentrations of carbon dioxide and other greenhouse gases—methane, chlorofluorocarbons, nitrous oxide and ozone—are continuing to increase. This leads to increased trapping of infrared radiation from the Sun, thereby increasing the average temperature of the Earth and altering the climate system. Past additions of these gases to the atmosphere have already committed us to a 2.5 degrees Centigrade—4.5 degrees Fahrenheit—increase. Predictions indicate that at the current emissions rates of these same gases, the average global temperature will rise another 1.5 to 4.5 degrees Centigrade by the middle of the next century.

The concomitant environmental changes will be dramatic and unparalleled. They include sea level rise; increased precipitation and humidity over the globe generally, but with regional differences such as hotter, dryer conditions over the midcontients in the midlatitudes; increased frequency and intensity of tropical storms and severe weather; and major changes to ecosytems resulting in shifts in vegetation patterns.

The economic, social, and political consequences of these changes may be severe and intractable. The ramifications and disruptions certainly will be felt worldwide.

The issue of global climate change is challenging for both the scientific community and the policymakers. The changes are likely to occur suddenly and with unpredictable magnitude, limiting our ability to cope and adapt. The Antarctic ozone hole, which was not anticipated by any of our scientific theories, serves as a dramatic example of the complexity, magnitude, and unpredictable nature of mankind's potential to impact the atmosphere.

These are not issues where a "quick fix" solution is available. There are no ready or easy regulatory alternatives, nor would an infusion of dollars provide enough answers. Controlling carbon dioxide, caused largely by the combustions of fossil fuels, and the other greenhouse gases on an international scale will be both technically and socially difficult to achieve.

Yet the impacts of global climate change are of such consequence that we cannot afford to wait for all the questions to be answered with certainty. We are behind in our efforts to begin policy analysis and development to respond to this threat.

The Global Climate Protection Act should foster the beginning of the policy debate, and augment the efforts already underway at the Environmental Protection Agency. At the same time, the world's top scientists must continue their investigations into this phenomenon to increase our knowledge and understanding. The key elements of success in dealing with an unprecedented environmental problem of this nature are cooperation and commitment on an international basis.

I commend my colleagues, Senators BIDEN and PELL, for their leadership in introducing this legislation, and for their willingness to cooperate with members of the Environment and Public Works Committee and other Members of the Senate in its development. With his permission, I would like to ask Senator BIDEN, the author of this legislation, a clarifying question.

Mr. BIDEN. I would be glad to answer any questions from the distinguished Senator.

Mr. MITCHELL. I thank Senator BIDEN. I am certain that he shares my concern for the urgency related to the development of control strategies and corrective actions. Scientists have told us that we are already committed by past emissions of greenhouse gases to an average global temperature increase of 2.5 degrees Centigrade—4.5 degrees Fahrenheit. If we continue at the current emissions rates of greenhouse gases, scientists predict that the global average temperature will rise by an additional 1.5 to 4.5 degrees Centigrade—2.7 to 8.1 degrees Fahrenheit—by the middle of the 21st century. This is a warmer Earth than has existed over the past 70 million years. Recognizing this urgency, how does the Global Climate Protection Act insure that we proceed on a timely course to solutions?

Mr. BIDEN. I agree that, despite its effects not being fully felt until the long-term, global climate protection is a near-term issue. By early in the next century we may witness alterations in agricultural production, sea-level rise, and dramatic impacts from increases in the Earth's temperature. This bill requires that within 24 months, the Secretary of State and the Environmental Protection Agency must submit a report to Congress that describes the international scientific and policy efforts that are underway. This report must also outline the United States strategy for focusing international cooperation to limit global climate change. This timeframe should insure that we begin preparation of an international effort, including the development of appropriate policies.

THE GLOBAL CLIMATE PROTECTION ACT OF 1987

Mr. CHAFEE. Mr. President, as reported by the Committee on Foreign Relations, the Senate bill that preceded this conference report included a title, title VI, known as "the Global Climate Protection Act of 1987." That portion of the bill was designed to address the problems of global climate change due to the greenhouse effect.

With the cooperation of my colleague from Rhode Island [Mr. PELL] and the Senator from Delaware [Mr. BIDEN] the bill's managers and the title's original sponsors, an amendment of mine was included in the Senate passed version of this bill. I am pleased to see that the conference report includes, as title XI, a modified version of the Global Climate Protection Act of 1987. This new version addresses some of the concerns I expressed on October 8 and retains the essential elements of my amendment.

The greenhouse effect is a major environmental threat that I, along with my colleagues on the Environment and Public Works Committee and other interested Senators, have been examining and working on for quite some time. In addition to holding numerous hearings, we have initiated several important studies, including two that are being conducted by the EPA: One examining the health and environmental effects climate change, and another examining the policy options that, if implemented, would stabilize current levels of greenhouse gases in the atmosphere.

Through a process of continued oversight and participation in meetings with experts from the scientific community and the Federal Government, we have made significant progress during the past 20 months. A consensus has developed around the three propositions that we set forth in June 1986: First, the problems and threat of global climate can no longer be treated solely as important scientific questions; second, we need to expand efforts to understand more fully the effects that atmospheric pollution has on the environment; and third, we need to develop an extensive range of policy options for dealing with the serious global problem of climate change due to the greenhouse effect. One of the most significant developments has been the ever increasing public awareness and understanding of the problem.

Senators PELL and BIDEN, as well as all of the conferees on this bill, are to be congratulated for including provisions dealing with the greenhouse effect. The effort being devoted to this problem by our Government and the governments of the world have been woefully inadequate. The bill before us seeks to correct this.

This legislation is particularly well-timed. At the recent Reagan-Gorbachev summit, this important issue was discussed and, at the conclusion of the summit, an agreement was reached to have our two countries devote more attention to the problem of global climate change. The significance of the fact that this issue was on the agenda of these two world leaders should not go unnoticed and the President should know that we appreciate his efforts in this regard.

As modified, title XI directs the United States to begin an international process to more fully understand and come to grips with the threats of global climate change.

The international process that led to the Montreal protocol on protection of the ozone layer should serve as a model for dealing with the greenhouse effect. The United States can and should be a world leader in this area but we must also take care to work with other nations every step of the way. Not only must we convince the doubting Thomas' that the problem is real but we may find that, by working together, we come up with solutions that did not occur to us before or find that some solutions are easier to implement than we originally thought.

To those who suggest that global climate change will produce "winners and losers" and that, therefore, some countries may not share our concern I say you need to look at the complete picture. The magnitude of the changes being predicted—changes such as the flooding and virtual elimination of whole countries such as Bengladesh, or the conversion of the United States grain belt into a dust bowl—these changes will create so much turmoil, such sociopolitical instability that no one will be a winner. Continued reference to "winners and losers" is misleading and may undermine our ability to achieve international cooperation.

Using the international process that led to the ozone agreement once again, we need to start thinking of initial, preliminary steps that we can begin to take immediately.

No one expects to solve this problem quickly or all at once. But there are things that we can do in the short term to buy time, to give us the chance to develop more lasting solutions. We cannot afford to wait until we fully understand this problem. We must act on the information we have now. Each day of delay places us further down a path that threatens our very existence. We may be committing ourselves to environmental changes that are irreversible. By the time we have more information, it may well be too late.

Mr. President, I had some reservations about how well the new interagency task force that was being proposed by the Senate would work. Fortunately, the conferees saw fit to delete that portion of the Senate bill. As modified, the EPA is clearly chosen as the lead agency for development of policy options and the State Department is similarly chosen to lead the international process.

Although the Office of Science and Technology Policy does have an appropriate role to play in the coordination of scientific research, neither that office nor any other office or agency may intrude upon the domain of EPA and the State Department as set forth in this new law. It would defeat the clear intent of Congress if, as has been suggested by some, references to "the President" were interpreted to mean "the Office of the President." Congress knows the difference between the two and would have said "the office of" if that is what we meant. This bill was carefully crafted to prevent a repeat of the domestic process that threatened to undermine the role of the United States as a world leader at a crucial point in the ozone negotiations.

Mr. President, in conclusion, we cannot expect to enact this bill, sit back and wait for the report to show up. This project will require constant attention, oversight and guidance from those of us in the Congress who are concerned about these problems. As a senior member of the Committee on Environment and Public Works, the committee with primary jurisdiction over the greenhouse effect, I plan to continue our work in this area and to make sure that this effort is a success.

The **PRESIDING OFFICER**. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. **BYRD**. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. **SYMMS**. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. **BYRD**. Mr. President, I thank all Senators.

The **PRESIDING OFFICER**. The Senator from North Dakota.

FARM POLICY

Mr. **CONRAD**. Mr. President, I rise to respond to an editorial that appeared in yesterday's Washington Post. Yesterday, the Washington Post suggested that the conferees make further cuts in farm target prices.

Mr. President, the Washington Post might as well have said, "Let us cut farm income," because that is precisely what further cuts in target prices will do. Target price cuts will translate directly into farm income reductions.

Mr. President, this is not the time for further reductions in farm income. It is ironic that just weeks ago the Washington Post was calling on the Congress to pass farm credit legislation. They said we ought to allow the Farm Credit System to survive. Why did they think the Farm Credit System was in danger? The Farm Credit System was in danger because of insufficient farm income, inadequate farm income. The reason farmers in this country are in deep trouble is that they do not have sufficient income with which to repay their debts.

So it is ironic the Washington Post says cut farm income at the same time they are saying and recognizing the Farm Credit System must be supported.

Mr. President, what has happened in agriculture? What is the current status of agriculture? Here are the facts. Let me just turn to the charts that I brought with me to show how dramatic the erosion has been in the farm sector.

For farms with $40,000 to $250,000 a year of farm sales, income has dropped in the period of 1970 to 1979 from $41,000 a year to, in the period from 1980 to 1985, $12,700 a year. That is the kind of decline we are seeing in farm income. In the decade of the eighties we have seen a 35-percent reduction in net farm income over the decade of the seventies. The farm share of the consumer food dollar has been cut in half since 1980. We have gone from just over 15 percent of the consumer food dollar to just over 7 percent.

Mr. President, even when farm program payments are factored into the cash income of farmers, the farmers' share of the disposable personal income of our population has eroded. I do not think there is another group or another industry in this country that could look back on the eighties and say their share of the disposable income of the people of our country has gone down and gone down dramatically. But that is what has happened to agriculture even when the enormous increase in farm program payments is factored in.

This is what has happened to farmers cash receipts from 1980 to 1986. It has gone from over $50 billion in foodgrains, feedgrains and oil seed crops to about $30 billion. That is farmers' cash receipts, a dramatic decline.

When we look at the value of our exports we see the same picture, from a total in 1980 of almost $18 billion in the feedgrains, wheat, and flour categories, to just over $6 billion in fiscal year 1987. That is the history of agriculture. That is what has happened to farmers in this country.

There is a recent GAO study that says 10 percent of our farmers are in a category of imminent failure; 10 percent of our farmers are about ready to go out of business. Forty-nine percent are in precarious financial shape, susceptible to failure in farm income would go down dramatically or go down in the next coming days.

Mr. President, this is clearly not the time to be cutting farm income.

Now, is this the farmers' fault? Is it the farmers' fault that they are in deep trouble? Is it the farmers' fault that 10 percent are in imminent danger of failure? Is it the farmers' fault that 40 percent of this country's farmers are in precarious financial shape and cannot tolerate further reductions in farm income? No, it is not. It is not mismanagement by this Nation's farmers. It is mismanagement right here in Washington that has caused farmers to be in grave danger, economic policy conceived and implemented here that has put farmers in the worst shape since the Great Depression, massive budget deficits, tight money; that policy, massive budget deficit, tight money, has put a noose on interest rates. Real interest rates, the difference between the interest rates people pay and the level of inflation have skyrocketed.

The result was an overvalued dollar forcing us out of export marketplaces and putting farmers in an economic noose of collapsing commodity values.

Commodity values in my State have been cut in half in the last 5 years.

The Government created the problem with an economic policy out of Washington that was devastating to America's farmers.

And the Government had a responsibility to cushion the blow and the Government had an obligation to step in and fill part of that gap, and that is what has happened. The Government has filled part of that gap, not all of it. Not all of it, but part of it.

But now the Government is starting to walk away and they are saying to the farmers of this country, "It is tough, you are just going to have to make it without our help; even though you did not cause your problems, we caused your problems with an economic policy that made no sense."

And the Washington Post has gone on to walk away from your problems. Oh, they were there in the earlier days when they saw that farm people, farm families were so stressed that some were taking their own lives and they saw that the heartland of this country was in deep trouble. They had sympathy for a while. But not they are walking away encouraging the Government to walk away.

Mr. President, I wish that the editorial writers of the Washington Post and the others in our Government who are tempted to walk away would spend a weekend with me in my State, going from town to town, meeting with the people and seeing for themselves what is happening. I would like them to sit across the kitchen table from a farm family that has had their income cut in half. I would like them to sit in a town hall meeting and listen to the small business people who recite the closings on Main Street of business after business, not because the people did not work hard, not because the people were not productive, but because of an economic policy out of Washington that collapsed commodity values and ended an economic future for those people.

I wish that the editorial writers of the Washington Post and all others who think somehow agriculture has had some great benefit from the tremendous increase in farm program costs could come with me and see what is happening all across my State, and it is not just my State. It is Montana, South Dakota, Nebraska, and Iowa, the faces of failure, a failure not of their own, a failure created by policy out of Washington, DC.

Mr. President, no doubt, 5 years from now the Washington Post will be writing editorials about the need for rural redevelopment. They will be talking about what a mistake it was to allow the rural areas of this country to decline. And I can imagine now that we will see them telling their readers that we must now revitalize rural American, we must give people an opportunity to live in those parts of the country that could handle more population, because, as night follows day, Mr. President, that is what this country will be faced with because we are not keeping the population that is out in those areas able to make it financially. It will be written in the years ahead that one of the greatest failures of American policy has been the economic failures of the 1980's.

Mr. President, I just wish the Washington Post editorial writers and those who really do not understand what is happening out in the heartland of America could spend a few days with me and visit with the people who have made it happen in the years past. Those people deserve to be heard. They do not deserve a further erosion in their income.

Thank you, Mr. President. I yield the floor.

The PRESIDING OFFICER. The Senator from California.

PROVIDING FOR THE TEMPORARY EXTENSION OF CERTAIN PROGRAMS RELATING TO HOUSING AND COMMUNITY DEVELOPMENT

Mr. CRANSTON. Mr. President, I send to the desk a Senate joint resolution and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the joint resolution.

The assistant legislative clerk read as follows:

A joint resolution (S.J. Res. 233) to provide for the temporary extension of certain programs relating to housing and community development, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the joint resolution?

Mr. SYMMS. Mr. President, reserving the right to object. Mr. President, I might just inform the distinguished Senator from California that, in the spirit of Christmas, we still have some Senators on our side of the aisle that think in this Christmas season the entire package is going to be worked out and it may be completed and yet ready for action before we adjourn. They wish to make an attempt to amend that compromise package on this bill, so I object.

The PRESIDING OFFICER. Objection is heard.

Mr. CRANSTON. Mr. President, I understand the action taken by the acting minority leader. Let me just say that, unfortunately, there is no prospect that the overall housing bill will be brought to the floor today or tomorrow, because there are difficulties over the text of that measure, difficulties in this body and particularly difficulties with the other body.

In the absence of the possibility of early action on the overall housing measure, we need an extension of the FHA's life since its authority expires at midnight tonight. The measure that I proposed would extend the FHA's authority to make loans for those who need housing and those who want to build housing until March 15, giving us time then to try to resolve the other matters. At some time, we must pass a bill that extends the life of FHA permanently. That is in the measure that we have been working on. Unfortunately, we cannot get to that at the moment.

The objection to the Senate joint resolution that I have just sought to bring before the Senate that would extend the life of FHA until March 15 may mean that the FHA will be closed down because its authority expires at midnight tonight. Rather than press the matter now, we will wait for a House measure that I expect to be passed today that would extend FHA until March 15.

We will then seek to bring that up either later today or as early as possible tomorrow. I would anticipate that then there would be an effort from the other side of the aisle to amend that with a permanent extension. That would be unacceptable to the House and that would cause a further delay in FHA activities and would cause the housing market that FHA sustains to be shut down, meaning that many people cannot get their homes or enter into loans that would procure their homes in the Christmas season. It could also mean some unemployment and some major difficulties for homebuilding corporations and companies.

Therefore, I hope that when the House measure comes before us, either today or tomorrow, we will be able to deal with the proposal to amend it with reasonable dispatch. If it was amended with a permanent extension, unfortunately, it would then go back to the House. There would have to be consideration on the House side. They would not accept it. It would come back to the Senate stripped of the permanent authority. That would mean a significant interference in the functioning of FHA and all those dependent upon FHA.

I hope that when we get the measure before the Senate, we will be able to reject the amendment, which I anticipate, putting FHA on a permanent basis and then be able to pass the extension until May 15 that would come from the House. This could then go right down to the White House and be signed into law and there would not be any interference in the activities of FHA for any significant time.

So that is the script that presumably will be unfolding either today or tomorrow in the Senate.

The PRESIDING OFFICER. The majority leader.

RECESS UNTIL 2 P.M.

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess until the hour of 2 p.m. today.

There being no objection, the Senate, at 11:46 a.m., recessed until 2 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. DASCHLE).

MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that there be a period for morning business not to extend beyond 10 minutes and that Senators may speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

HOLIDAY CONCERT IN HART BUILDING ATRIUM

Mr. MATSUNAGA. Mr. President, I send a resolution to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the resolution.

The assistant legislative clerk read as follows:

A Senate resolution (S. Res. 344) authorizing the use of the Hart Building atrium for a holiday concert by the Congressional Chorus.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. MATSUNAGA. Mr. President, I am pleased to submit this straightforward Senate resolution authorizing the congressional chorus to present a brief concert of holiday music in the Hart atrium during the noon hour on Friday, December 18. The congressional chorus is composed of over 60 House and Senate staff members who find joy and relaxation, as well as escape from the pressures of the office, in creating beautiful music. The concert will incur no cost to the Senate and will not disrupt the performance of official duties in that the performance will be from 12 noon to 1 p.m. during the lunch hour.

Mr. President, during this holiday season, at the close of a long and arduous session, this concert of Christmas, Hanukkah and secular music will brighten our day and bring us a brief respite from the rush of Senate business.

I urge the adoption of the resolution.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the resolution offered by the Senator from Hawaii.

The resolution (S. Res. 344) was agreed to, as follows:

Resolved, That the atrium of the Senate Hart Office Building may be used from 12:00 noon until 1:00 p.m. on December 18, 1987, for a concert of holiday music presented by the Congressional Chorus.

Mr. MATSUNAGA. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MATSUNAGA. Mr. President, I thank the majority leader for his assistance in this matter.

APPEAL TO CONFEREES REGARDING THE FISCAL YEAR 1988 BUDGET RECONCILIATION, H.R. 3545

Mr. DIXON. Mr. President, I am very concerned about the adverse effect that a provision in the budget reconciliation bill, H.R. 3545, would have on many hospitals in my own State of Illinois. As approved by the Senate, the legislation would gradually phase out direct medical education payments under the Medicare Program for graduates of foreign medical schools.

This provision could be devastating for many inner city and some rural hospitals where interns and residents who are graduates of these schools fill a health manpower gap which is essentially caused by a maldistribution of physicians.

Foreign medical graduates play an important role in the delivery of health care in my State. Illinois has the third largest number of residents in foreign medical graduate programs in this country. Of the current 60 residents at Mt. Sinai Hospital in Chicago, 60 percent are graduates of foreign medical schools. Sixty-five percent of the 472 residents at Cook County Hospital are graduates of foreign medical schools. I could go on like this about other hospitals in Illinois. I am sure the case can similarly be made by many of my colleagues.

The budget resolution attempts to address this concern. It provides a longer transitional phaseout period for those hospitals where more than half of the interns and residents are foreign medical graduates. However, there is no evidence that the current problem involving the maldistribution of physicians will change in the near future. Therefore, the transitional phaseout period will not eliminate the adverse effect this legislation could have on the delivery of patient care in Illinois and many other States.

Mr. President, I request that the conferees give strong consideration to this problem.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

FURTHER CONTINUING APPROPRIATIONS, FISCAL YEAR 1988

Mr. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on House Joint Resolution 425.

The PRESIDING OFFICER laid before the Senate House Joint Resolution 425, an act making further continuing appropriations for the fiscal year ending September 30, 1988, and for other purposes, which was read twice by its title.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its consideration.

The joint resolution was considered, ordered to a third reading, read the third time, and passed.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. DOLE. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

EXTENSION OF MORNING BUSINESS

Mr. BYRD. Mr. President, I ask that morning business be extended for an additional 10 minutes that Senators may speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Illinois.

IT IS NOT TOO LATE FOR A HOUSING BILL

Mr. DIXON. Mr. President, earlier today there was some very happy news circulating around the building for those of us who support and have been active in trying to obtain passage this year of a significant piece of housing legislation. The rumor was the administration and leaders on both sides in the Senate had achieved an understanding on a housing bill that would shortly be discussed with leaders on the House side in the hopes that we could pass a major free-standing housing bill for the first time in 7 years before the end of this session.

I am sorry to tell you, Mr. President, that this afternoon rumors are that those negotiations have temporarily failed. I would simply like to say, it being Wednesday of a week in which we are essentially waiting for conference reports on the important reconciliation bill and the continuing resolution, that I would urge the leaders on both sides to continue to discuss with the administration accomodations that could bring about passage of a housing bill this year.

For the edification of my colleague, who may have forgotten what transpired, we were unable to achieve a budget waiver on the housing bill and thereafter we attempted to negotiate some differences in the proposal with the administration that would bring about its passage. I understand at one point in time Senators CRANSTON, D'AMATO, DOMENICI, GARN, and others, had been successful in talking to the administration about some compromise. Essentially, their proposal was to take out some of the new programs that had been put in the bill by the House so that an agreement could be reached.

I am told that some leaders on the House side were prepared to go to the House with those suggested changes. I may not be entirely well informed about this particular fact but I am told that, thereafter, the administration suggested some additional changes it now wants. Those changes seem to be too much for the House to tolerate. I am only trying to suggest, Mr. President, that it would be important to try to pass a housing bill this year, and I hope that those in the leadership and others who are acquainted with the issues would consider pursuing this end.

I was a conferee on the banking bill and throughout the time we held the conference, the administration said it was going to veto the banking bill. At the very end when most of us had already signed the conference report, the administration came back with some suggested changes which we finally accepted, enabling us to pass an omnibus banking bill this year, H.R. 27.

I think this housing bill, Mr. President, can be passed. It is basically a sound piece of legislation. It has some very fine, new, innovative things in it that will not cost any money, such as a proposal which I sponsored to give tenants the right to manage their own affairs in housing projects around the country. This has been successful in St. Louis; here in Washington, DC; and other cities. We want to try it now in the city of Chicago at LeClaire Courts.

There has not been a major free standing housing bill, Mr. President, in 7 years. At a time when we have doubled expenditures on our military in this country, our investment in housing has deteriorated 70 percent. That is a very, very modest figure. It may be as much as 80 percent in the perception of some. But it has deteriorated at least 70 percent since I came to the U.S. Senate and President Reagan was elected President in 1980.

In my own State of Illinois, housing investments have dropped, and Federal funding for assisted housing programs has dropped 87 percent in the last 7 years, Mr. President. So I think the time is well past due for us to pass a housing bill. We are here at a little bit after 2 in the afternoon on Wednesday, and we are going to be here until at least Friday. The two conferences are still meeting. There is time to pass a housing bill.

I would say to those in the administration who genuinely want to see a housing bill, and to my friends on the other side who are interested in a housing bill, that this can be accomplished in the remaining several days. We are not far apart, Mr. President.

It would be a significantly good message for the country. The homebuilders, realtors, and many financial interests in the country want a housing bill. But more importantly, Mr. President, there is a definite need for housing legislation for ordinary folks in the country and I would hope a real, conscientious effort is made by the administration and the leaders to bring about this reality before the end of the day on Friday of this week, Mr. President.

I look about the Chamber and see that there are others prepared to talk and I yield the floor, Mr. President.

Mr. HECHT addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada.

(The remarks of Mr. HECHT pertaining to the introduction of legislation will be found in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. SANFORD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, will the Senator yield?

Mr. SANFORD. Yes.

EXTENSION OF MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that morning business be extended for 10 minutes and that Senators may speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SANFORD. I thank the majority leader.

SOCIAL SECURITY WORKS

Mr. SANFORD. Mr. President, last month I rose to express my opposition to cuts in Social Security benefits as a means of reducing our Federal deficit.

I pointed out in my statement that Social Security is a mainstay of American life. It is synonymous with our family traditions and has over time become part of the fabric of family unity—an intergenerational compact, if you will.

Social Security allows families to know that there will be an income when their economic status abruptly changes due to retirement, death or disability. It is the pillar that holds the roof over their heads and keeps disaster from crashing down upon them.

I also pointed out in my statement that cutting Social Security benefits is no way to reduce the Federal deficit. It just makes no sense to diminish the purchasing power of Social Security recipients as they grow older. Furthermore, the deficit is not part of the Social Security trust fund. It is part of the debt we owe for public expenditures outside of the Social Security system. If Social Security benefits are reduced in any way, the American people will not realize any drop in the national debt. We will still be spending more than we take in to pay for the general expenses of government. The only result is that the trust fund will show a larger surplus—a surplus which cannot be used to pay off our general purpose indebtedness.

In last Sunday's edition of the Washington Post, Forrest Chisman responded in detail to the numerous and varied criticisms that have been leveled against Social Security in recent months. Among other things, he points out that there are any number of ways to reduce the Federal deficit, without having to resort to cuts in Social Security benefits. He points out further that:

> Taken together, Social Security retirement payments, interest on the national debt and programs for the poor add up to roughly half the federal budget. That leaves about $500 billion worth of other programs available for deficit reduction before even considering tax hikes.

Mr. President, I ask unanimous consent to enter into the RECORD Mr. Chisman's December 13, 1987, article, entitled "Cut Social Security? Forget

It." Mr. Chisman is coauthor of "Government for the People: The Federal Social Role."

There being no objection, the article was ordered to be printed in the Record, as follows:

Cut Social Security? Forget It: It's a Fair, Humane, Solvent Program—And it Works!

(By Forrest Chisman)

Why is everyone beating up on Social Security?

In an editorial deploring the slight progress embodied in the recent deficit reduction package, the New York Times lamented that "the negotiators, acting together, could have made genuinely constructive reductions, like restraining Social Security increases for the well-to-do." Writing in the Atlantic, investment banker, Peter G. Peterson thunders that ". . . today's [Social Security] policies are unsustainable." This newspaper admonishes: "There can be no credible deficit reduction without attacking Social Security and the other major benefit programs to which it is key."

Statements of this sort are overdrawn if not absurd. There are all sorts of "credible" and "constructive" ways to reduce the deficit that have nothing at all to do with Social Security. The present deficit was created largely by cutting taxes and increasing military spending. Collectively, Social Security retirement payments, interest on the national debt and programs for the poor add up to roughly half the federal budget. That leaves about $500 billion worth of other programs available for deficit reduction before even considering tax hikes.

Moreover, Social Security benefits are certainly "sustainable" for the foreseeable future. In fact, the national pension system has not added one penny to the accumulated national debt. Instead it is contributing an ever-increasing amount to reducing annual deficits. Receipts from the payroll tax will exceed outlays by $19 billion this year, almost $40 billion next year and hundreds of billions in the '90s. Because these surpluses are invested in federal bonds, they reduce the amount the government must borrow from the private sector. This means that this year's deficit would be $19 billion and next year's roughly $40 billion bigger were it not for Social Security.

These arguments seem lost on Social Security critics. They contend that we can't raise taxes because last year's income-tax reform "promised" high-income people further reductions in income-tax rates. But if all bets are off in the scramble to reduce deficits, surely the promises we have been making to all the American people for decades—promises on which most have based their retirement plans for all their working lives—should count for at least as much or more.

In the end, most arguments for cutting Social Security reduce to an essentially mindless idea of "fair shares": Since a case can be made against cutting any government program and against raising taxes as well, the only route to deficit reduction is to cut a little bit of everything without respect to merit or moral claim. To bolster their position with regard to Social Security, people who advocate "fair shares" march out allegations meant to prove that it's all right to reduce benefits for retirees, either because they don't really need them or because the retirement system doesn't work very well anyway. These allegations are either incorrect or off the mark. Some of the leading fallacies:

It's all right to cut Social Security because the poverty rate for the elderly is only 12.6 percent compared to 14 percent for the population as a whole. Or, in Peterson's words, they are among the groups "least likely to be poor."

In fact, the lower poverty rate for the elderly is completely accounted for by the fact that the federal government assumes that the old need less food than the young. Even more important is the fact that without Social Security, almost half of all retirees would be living in poverty. Reducing poverty among the elderly is a major national accomplishment in which we should all take great pride. Do we want to make our next great national accomplishment *increasing* poverty among retirees?

If the elderly as a whole aren't well-off, there are at least some affluent elderly. Why shouldn't we cut back their benefits?

This observation usually leads to the suggestion that we should tax Social Security in the same way that we tax private pension benefits. And that's not a bad idea. (At present only half the benefits of individuals with incomes over $25,000 and couples with incomes over $32,000 are taxed.) But doing so would make only a small contribution to reducing the deficit: about $2-3 billion, if the present income thresholds were maintained. And this scheme raises another question. If we think that the better-off elderly can afford to pay more taxes, why shouldn't we also raise taxes for the better-off non-elderly? The most affluent 20 percent of Americans now receive about half of all national income. This group which has already benefited most from Reagan era tax cuts is due to receive another big rate cut in 1988, costing the Treasury an estimated $51 billion over the next three years and much more thereafter. The biggest cuts will go to the very wealthiest people. Would it be amiss to ask Peterson and his cohort to sacrifice something for the deficit about which they are so vocally concerned?

Why should the elderly be held harmless against cost of living increases, when incomes for the rest of us aren't indexed to keep up with inflation?

Unlike the rest of us, the elderly don't have the option of making up inflation losses by working more hours or seeking better jobs. They're stuck on fixed incomes. Should someone who is 85 receive less income than he did at 65?

It's all right to cut Social Security, because the system will collapse anyway when the baby-boomers retire.

Not true. The 1983 Social Security reforms were designed to maintain its financial soundness for the next 75 years with only modest tax increases. By the time the baby boomers retire, they will have built up a trust fund surplus on the order of $2 trillion that they can draw on to help lighten the burden on their children. Beyond 75 years, no one's crystal ball is good enough to support sensible debate.

Social Security promotes consumption, not savings, and the United States must increase its savings rate and invest in more physical and human capital.

Pardoxically, critics who use this argument typically also argue for cutting benefits only for the affluent elderly (who are more likely to convert their spare earnings into savings), not for the less affluent (who have no choice but to spend their retirement income). Moreover, these critics generally ignore that Social Security's large and growing surplus promotes private investment by reducing the need for the federal government to borrow, thereby freeing up huge amounts of private capital for investment.

Social Security isn't a very efficient way to provide for the elderly, because it's not a means-tested program. Both rich and poor people receive benefits.

What's so great about means-testing? We don't means-test public education or defense or public highways or, in fact, most of the services that government provides, for the very simple reason that they are services that everyone needs, everyone pays for and everyone deserves to receive. The same is true of Social Security. Everyone in our society, whether rich, poor, or middle class, has to make provision for their retirement. Social Security is the mechanism by which they use government to do a major part of the job. Why shouldn't rich and middle-class Americans (and their parents and kids) benefit from the program, as long as they pay for it? It's their government and their dollars, too.

Social Security is not "welfare for the middle class," as Peterson and other critics so often maintain. It is a retirement program for everyone. And on efficiency grounds alone, it's a clear winner. It is portable, inflation-adjusted and progressive in its benefits structure (low-income workers pay taxes on a larger part of their wages but get back higher rates of return.) The whole system operates with an overhead rate of only one percent. Unlike private pensions that often tie workers to their jobs, Social Security facilitates the labor mobility needed for a smooth-functioning economy. And, unlike means-tested programs, that have been eroded by budget cuts and inflation in recent years, Social Security lives up to its promises.

Only the federal government could provide a comprehensive retirement plan with all these advantages. If Americans want to buy this much-needed service from their government—and don't complain about paying the bill—what's wrong with that?

CORNELL C. MAIER: A MAN WHO HAS MADE A DIFFERENCE

Mr. CRANSTON. Mr. President, there are many measures of a successful business executive, the bottom line being the best known. But the wise executives know that there's more to success than profit. They recognize that they have an obligation to their communities as well as to their stockholders.

Cornell C. Maier, of the Kaiser Aluminum & Chemical Corp., is such an executive. At the end of this month, Cornell will retire after more than 38 years with Kaiser. During his career there, he has been involved in virtually every major activity in the corporation's operations. His successes over those years led to his being named general manager in 1971 and his being elected president in January 1972, chief executive officer the following July, and chairman of the board in 1978. After his retirement, he will continue as a member of the boards of Kaiser Aluminum and its parent holding company, KaiserTech Limited. He will also serve as a consultant to both.

These are the facts of Cornell Maier's career. But they are far from the whole story. I would venture to say that the secret to Cornell's success has been that he understands that both corporations and communities are comprised of individuals who need two things: Motivation and opportunity.

At Kaiser, he put this knowledge into practice with his "One Person Can Make a Difference" program. By recognizing individual and team achievements, the program succeeds in motivating people to do even more. He has also made a special effort to reach out and hire disadvantaged workers from the Oakland area.

But perhaps the best indication of Cornell's commitment to people has been his involvement in improving the quality of education in his community. I have spoken here before about the the good work done by the California Business Roundtable Education Task Force. That group played a key role in urging the California Legislature to initiate education reforms, and it has also been instrumental in ensuring that adequate funding accompany those reforms. Cornell Maier chaired the task force for 3 years and can take much of the credit for its success.

This commitment to education makes the events planned to honor Cornell on the occasion of his retirement from Kaiser all the more fitting. Although he insisted he wanted no retirement ceremonies, he has agreed to a fundraising dinner for the endowment fund of the Marcus A. Foster Educational Institute.

Since 1973, the institute, named for the late superintendent of schools in Oakland, has provided motivation and opportunity for tens of thousands of students in Oakland's public schools. It's expected that the endowment fund will be $100,000 richer by the end of the evening.

Mr. President, Cornell Maier represents the best that American business has to offer. He is one person who has definitely made a difference.

THE CREDIT AND CHARGE CARD COST DISCLOSURE ACT

Mr. PROXMIRE. Mr. President, on December 2, 1987, the Banking Committee, by voice vote, ordered to be reported H.R. 515, the Credit and Charge Card Cost Disclosure Act. The bill would give consumers basic information about the costs of these cards in all applications and solicitations. The purpose of the legislation is to encourage consumers to shop around for the best cards, thereby increasing competition among card issuers and reducing today's unduly high credit card interest rates.

Today the committee is filing the report to accompany H.R. 515. I am including portions of the report in the CONGRESSIONAL RECORD in the hope that, if there is no more controversy in the full Senate than there was in the Banking Committee, perhaps we could pass the bill before the end of this session.

Mr. President, I ask unanimous consent that excerpts from the committee report be included in the RECORD.

The bill is designed to give consumers relevant cost information about credit and charge cards at a time when they can shop around for the best card. The committee believes this information will be beneficial to consumers as well as to competition. The committee reported the bill by a voice vote.

There being no objection, the excerpts were ordered to be printed in the RECORD, as follows:

EXCERPTS

PURPOSE OF THE LEGISLATION

The credit card has become an essential part of life in modern America. Today, some 105.5 million people own 801.7 million credit and charge cards.[1] The outstanding balances on revolving credit totalled $142 billion as of September 30, 1987.[2]

In May of 1981, credit card rates stood at 17.71 percent and profits on credit card loans were modest.[3] At the same time, interest rates on other loans were at record highs. In May of 1981, the prime rate hit a high of 20.5 percent and the Federal Reserve Board's discount rate reached 14 percent. Later in the same year, the rate on 30-year mortgages hit 18.63 percent.[4]

Since that time, the latter three rates have declined dramatically. The most recent statistics show the prime rate at 8.75 percent; the discount rate at 6 percent and the mortgage rate at 10.6 percent. Yet at no time since May of 1981 has the national average credit card interest rate fallen below 17.71 percent, the rate 6½ years ago.[5]

Not surprisingly, high credit card interest rates have been translated into high credit card profits. In 1984, 1985 and 1986, credit card loans were the most profitable of all bank loans, often several times more profitable than other loans.[6] While some people have argued that higher credit card profits were needed to offset losses in earlier years, competitive market places do not allow profits above a competitive level for length of time.

Given the value of credit card rates to consumers—a 1 percent drop would save consumers about $700 million a year in interest charges[7]—the Consumer Affairs Subcommittee considered several different proposals for reducing rates, ranging from early disclosure of relevant cost information to legislation that would have imposed a floating Federal cap on credit card interest rates.

H.R. 515, as reported from the Committee, adopts a disclosure approach. Today, consumers are bombarded with solicitations to apply for credit cards. It is estimated that U.S. consumers will receive over 2,400,000,000 solicitations for credit cards in 1987.[8] Unfortunately, far too many of them do not disclose the basic cost information about the card. By law, such information need not be disclosed until the consumer actually receives the card. Moreover, the information consumers receive with the cards covers the entire credit relationship and is often complicated and intimidating. While consumers are legally entitled to return the cards without incurring any charges if they are dissatisfied with the terms, the situation is obviously not conducive to comparison shopping. This lack of disclosure at the time of application or solicitation may help explain why credit card profits remain so high despite the large number of card issuers.

The Committee believes that early disclosure of relevant cost information, coupled with widespread publication of the costs of different cards, will help remedy the problem by enabling consumers to shop around for the best cards. The resulting competition should be good for both consumers and competition. Thus, the bill does the following:

1. It requires the disclosure of the four key cost terms, where applicable, in all mailed applications and solicitations—the annual percentage rate applicable to extensions of credit; the annual or periodic fee; the "grace" or free period during which a consumer may repay the balance without incurring a finance charge; and the name of

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[1] The Nilson Report, H.S. Nilson, Publisher (February, 1987).

[2] Federal Reserve Board G. 19 Statistical Release, November 6, 1987.

[3] The 17.71 figure represents a national average for the month of May, 1981, according to Federal Reserve Board Statistical Releases. The Federal Reserve Functional Cost Analysis data for 1981 show that banks with over $200 million in deposits earned 1.329 percent on credit card loans in 1981, which was the highest average return for all categories of banks. Historical data from the same analyses show that the annual net earnings of bank card plans before taxes averaged 1.9 percent of balances outstanding from 1972 through 1985.

[4] The mortgage figure is for October of 1981. Contract Interest Rates on Conventional 30-Year Fixed Rate Mortgages, A Weekly Survey by the Federal Home Loan Mortgage Corporation.

[5] See Federal Reserve Board Statistical Releases.

[6] The average profitability of bank cards was 3.4 percent in 1984, 4.0 percent in 1985, and 3.28 percent in 1986. See Functional Cost Analysis, published annually by the Federal Reserve. By contrast, for example, the same data show the average profitability for commercial and other loans for banks with deposits between $50 million and $200 million at .06 percent in 1986 and 1.18 percent for banks of over $200 million in deposits. Returns for the largest banks averaged 2.21 percent on real estate loans and 2.62 percent on installment loans. The data show similarly lower returns on these other forms of loans in 1984 and 1985.

[7] The $700 million figure is a conservative estimate. Many private and public surveys have estimated that 50 percent of cardholders pay off their full credit card balances monthly. It is highly unlikely that these payments represent 50 percent of total balances. Nevertheless, assuming that they did, then, using the September, 1987, figure of $142 billion in outstanding balances, 50 percent of that amount would be $71 billion. Assuming an 18 percent APR, which is somewhat below the average of the past 6½ years and .18 percent above the November, 1987 average, that yields an annual credit card interest bill of $12.78 billion. A 17 percent return would produce $710 million less revenue for card issuers and the identical amount more for card holders. The reasonableness of a 17 percent APR was attested to at the April 21st hearing of the Consumer Affairs Subcommittee by Walter Connolly, Chairman, Bank of New England Corp., Boston, Massachusetts. Mr. Connolly's bank operates in Massachusetts and Connecticut, the latter of which imposes a 15 percent ceiling on credit card interest rates. Mr. Connolly testified that "our average rate, I would guess, is about 15¼ percent, and we are making money at that rate."

[8] The Nilson Report, H.S. Nilson, Publisher.

the balance calculation method used by the creditor.

2. It requires the disclosure of the same four terms in telephone solicitations. However, the bill provides for an alternative means of telephone disclosure—mailing the information to the consumer later—where the card issuer does not impose a fee, or does not impose a fee unless the consumer signifies acceptance by using the card.

3. It requires disclosures in other forms of applications and solicitations, such as magazines, catalogs and "take-ones." With respect to such items, the card issuer on the date of printing, or instead may simply indicate that there are costs associated with the use of the card and provide a toll free telephone number and an address for the consumer to write for specific cost information.

4. It provides for a special rule for "charge cards," cards that may be used to obtain credit but which do not permit consumers to roll over balances from month to month. Typical of such cards is the American Express card. For such cards, the bill requires only the disclosure of the annual or periodic fee and a statement that all charges are due and payable upon receipt of the periodic statement.

5. It provides for disclosures prior to renewal where the card issuer imposes an annual or periodic fee. In such circumstances, the card issuer must notify the consumer at least 30 days in advance of the renewal date, indicating what that date is, disclose the four cost items, and inform the consumer how he or she may terminate the relationship, if desired.

6. It contains provisions that restrict civil liability to consumers who actually obtain a credit or charge card and who either pay an annual or periodic fee or use the card.

7. It provides, in general, that the disclosure provisions shall preempt State laws. However, it does permit states that have already acted in this area [9] to reenact their laws if they wish to require additional disclosures in applications and solicitations.

8. It requires credit and charge card issuers to submit semiannually to the Federal Reserve Board information about the four cost items. It is anticipated that newspapers and consumer groups will use this information to inform consumers about the virtues and vices of different cards.

9. It contains provisions to protect cardholders who have purchased insurance to pay off their credit card balances. It provides that when a proposed change in such insurance would result in coverage that is not at least equivalent to their old coverage, the new insurance may take effect only if the consumer files a written election to continue to purchase the insurance, as so charged.

10. It requires the Federal Reserve Board to promulgate regulations implementing the disclosure provisions within 120 days of enactment and gives creditors another 120 days to comply with the regulations.

11. It requires the Board to transmit three reports to the Congress: an assessment of the profitability of card operations, including an analysis of the impact of the provisions of this Act; a description of the different balance calculation methods being used; and then an assessment of the impact of the Act on the availability of credit to low-income consumers.

HISTORY OF THE LEGISLATION

This is the second Congress in which the Committee has considered credit card disclosure legislation. In the 99th Congress, the Subcommittee on Financial Institutions and Consumer Affairs conducted hearings on January 28, 1986, and May 21, 1986, but no legislation moved forward because of a lack of time.

In this Congress, the Subcommittee on Consumer Affairs held a hearing on April 21, 1987, on three bills: S. 241, the Credit Card Disclosure Act of 1987, introduced by Senator D'Amato; S. 242, the Credit Cardholder Protection Act, also introduced by Senator D'Amato, which would have placed an indexed ceiling on credit card interest rates; S. 616, the Full Credit Card Cost Disclosure Act, introduced by Senators Dodd and Proxmire; and S. 647, the Credit Card Account Holder Protection Act, introduced by Senator Sasser, which included both disclosure and rate ceiling provisions.

At the hearing, Congressman Charles Schumer testified in favor of his credit card legislation, H.R. 515, which was identical to S. 616. Alan Fox of the Consumer Federation of America and Elgie Holstein of Bankcard Holders of America supported both disclosure and rate cap legislation. Martha R. Seger, Member, Board of Governors of the Federal Reserve System, testified that the Board generally favored disclosure, within certain parameters, and opposed federal rate ceilings.

Several representatives of lender groups also appeared. Meredith Fernstrom, Senior Vice President, American Express; James Wiesler, representing VISA; Alan Silberstein, representing Mastercard; Jerry D. Craft, representing the American Bankers Association; Michael Zoroya, representing the National Retail Merchants Association; and Ralph Rohner, representing the Consumer Bankers Association all generally supported additional disclosures. Also, William Kizer, Chairman, Central States Health & Life Insurance Company, testified in favor of an amendment to require reenrollment by cardholders when bank holding companies change insurers of bank credit card balances.

On the basis of this testimony and discussions in the hearings, the Credit and Charge Card Cost Disclosure Act was drafted. On December 2, 1987, the Committee adopted by voice vote a Committee Print of the bill, with three amendments, as an amendment to H.R. 515, the House-passed legislation.

SECTION-BY-SECTION ANALYSIS

Section 1. Short Title

Section 1 sets forth the short title of the bill, the "Credit and Charge Card Cost Disclosure Act."

Section 2. Credit Card and Charge Card Cost Disclosure Requirements

Section 2 amends section 127 of the Truth in Lending Act (15 U.S.C. 1637) to require new disclosures in connection with applications for all credit cards (including bank and retail store cards), and for charge cards, such as the American Express card, that do not permit the consumer to roll over any balances.

The credit card portion is divided into separate provisions for mailed applications and solicitations, telephone solicitations, and other forms of applications and solicitations. For purposes of section 127(c), a "solicitation" is an opportunity to open a credit card account without requiring the completion of a written application.

The requirements do not apply to personal financial statements or general purpose applications unless the forms, or any materials accompanying them, indicate that they can be used to apply for a credit card account. Card issuers may provide the required disclosures either on or with the application or solicitation, and the disclosures can be presented on that part of the application which is returned to the creditor. Also, the requirements do not apply to general media advertisements which do not include applications or solicitations through which a person may apply for an account. If a card issuer includes an application as part of an advertisement and, as a result, discloses the information required by section 127(c), the inclusion of this information shall not "trigger" the requirement to make additional disclosures under section 143.

Section 127(c)(1)(A) requires four credit card terms, to the extent applicable, to be disclosed clearly and conspicuously on or with all applications and solicitations to open a credit card account that are mailed to consumers:

The annual percentage rate (APR);

Any annual, periodic or membership fee for the issuance or availability of a credit card and any transaction charge for use of the card to purchase goods or services;

The grace period; and

The name of the balance calculation method.

Specifically, the care issuer must disclose the annual percentage rate or rates applicable to extensions of credit under the credit card plan. Where more than one rate applies, the card issuer must also disclose the balances or range of balances to which each rate applies.

Where the extension of credit is subject to a variable rate, the card issuer must disclose the fact that the rate is variable, the annual percentage rate in effect at the time of the mailing, and how the rate is determined. For example, a card issuer can satisfy the requirement of disclosing how the rate is determined by identifying the index and the margin or spread above the index. For purposes of this variable rate disclosure, the annual percentage rate disclosed shall be deemed to be the rate in effect at the time of the mailing so long as it was in effect at any time within 30 days before the mailing. Thus a change in the index resulting in a change in the APR within 30 days before the mailing would not invalidate the disclosure.

The second required disclosure is of the annual fee or other periodic or membership fee imposed for the issuance or availability of a credit card and any transaction charge imposed in connection with the use of the card to purchase goods or services. This subsection requires the disclosure of any monthly membership fee or account maintenance fee, as well as any monthly charge imposed when the account has activity during the billing cycle, for the issuance or availability of a credit card. An example of a "transaction charge" that would require disclosure under this provision would be any minimum or percentage transaction fee assessed on consumers for purchases. The subsection does not require the card issuer to disclose any other charge for the use of the credit card, such as a charge when the account is used to obtain a cash advance. Nor does it require the disclosure of any late charge or over-the-limit fees that accrue for misuse of the account.

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[9] Ten States have enacted disclosure laws: California, Hawaii, Illinois, Minnesota, New York, North Carolina, Oregon, Rhode Island, Virginia and Wisconsin. The exception would also apply where one House of a State legislature had passed a credit card disclosure bill by December 2, 1987. The Committee is aware that the State of Tennessee is one such State.

Third, the card issuer must disclose the date by which or the period within which any credit extended under the credit card plan for the purchase of goods or services must be repaid to avoid incurring a financing charge. If the creditor does not offer such a "grace period," the creditor must clearly disclose that fact. If the length of such grace period varies, the card issuer may disclose the range of days in the grace period, the minimum number of days in the grace period, or the average number of days, if the disclosure is identified as such.

Fourth, the card issuer must identify the balance calculation method used in determining the balance on which the finance charge is computed. If the balance calculation method is one of up to five methods identified by the Federal Reserve Board (the "Board"), the card issuer need only disclose the name of the method. If, however, the method used by the card issuer has not been so identified by the Board, the card issuer must include a detailed explanation of the balance calculation method. In promulgating its regulations under this provision, the Committee expects the Board to identify the most commonly used methods. The methods indentified by the Board shall be general or generic balance calculation methods, rather than particular variations of these general methods, so long as the variations do not have a significant impact on the consumer's finance charge. In carrying out this provision, the Committee expects the Board to identify methods that will encompass those being used by the vast majority of card issuers.

For purposes of this subsection, including the Board's determination, the balance calculation method means the method of determining the balance against which one or more periodic rates are applied to determine the finance charge and does not include any other charges that may be imposed in connection with the account unless such charges are included in the balance against which the periodic rate or rates are applied.

Certain issuers of retail store cards currently provide the initial disclosures required by section 127(a) on or with their credit card application forms. Inasmuch as the initial disclosures required by section 127(a) include the disclosures required by subsection 127(c)(1)(A), such issuers of retail store card can continue the practice of providing the initial disclosures with their applications and thereby satisfy the requirements of subsection 127(c)(1)(A). To fulfill the requirements, however, such card issuers must present the terms required by this subsection together in the initial disclosure form and highlight these terms on the initial disclosure form.

Section 127(c)(1)(B) establishes the disclosure requirements for telephone solicitations. At the time of any such solicitation, the card issuer must disclose the same four terms, to the extent applicable, that are required to be disclosed in the context of mailed applications or solicitations. The bill permits an alternative disclosure for telephone solicitations where the card issuer does not impose an annual fee or other fee described in subparagraph (c)(1)(A)(ii), or does not impose such a fee unless the consumer signifies acceptance by using the card. In either such case, the issuer may disclose the four items within 30 days after the consumer who qualifies for the account requests the card, but in no event later than with the card. The card issuer would not satisfy this requirement simply by providing the materials required by section 127(a). To fulfill this requirement, the card issuer must present the four items together and highlight them. The card issuer must also explain clearly and conspicuously in that disclosure notice that the consumer is not obligated to accept the card or account and that the consumer will not be obligated to pay any of the fees or charges dislosed unless the consumer elects to accept the card or account by using the card. The consumer will not be liable for fraudulent use of the card before the card is accepted by the consumer.

Section 127(c)(2) establishes the disclosure requirements for other credit card applications or solicitations that are made available "to the public or contained in catalogs, magazines, or other publications. . . ." With respect to these materials, the card issuer can either disclose the items required for direct solicitations on or with the applications or solicitations (and indicate that the disclosures are accurate as of the date of printing but that they are subject to change) or disclose that there are costs associated with the use of credit cards and provide a toll free number to call and an address to write for further information. In the latter case, if the card issuer receives a request for any of the information described in paragraph (1)(A), the card issuer or its agent shall disclose all of the information described in paragraph (1)(A). In addition, if a card issuer discloses any of the information required in paragraph (1)(A) in connection with any application or solicitation under subsection 127(c)(2), the card issuer shall disclose all of the items of information in accordance with paragraph (1)(A).

Section 127(c)(3) sets forth the rules for charge card applications and solicitations. The term "charge card" is defined to mean "a card, plate, or other single credit device that may be used from time to time to obtain credit which is not subject to a finance charge." Because, by definition, the balance on these cards is due and payable upon receipt and cannot be rolled over from month to month, paragraph (3)(A) requires only two disclosures—the annual, periodic or membership fee for the issuance of a charge card and any transaction charge for use of the card to purchase goods or services; and a statement that charges incurred by use of the charge card are due and payable upon receipt of a periodic statement.

Paragraph (3)(B) addresses charge cards which provide access to open end consumer credit plans. In these situations, where the card issuer and the person extending the credit are different persons, the provision permits the charge card issuer to disclose only the elements required under paragraph (3)(A) if such issuer discloses clearly and conspicuously to the consumer that the charge card issuer will make an independent decision as to whether to issue the card, that the card may arrive before the decision is made with respect to the extension of credit, and that approval by the charge card issuer does not constitute approval by the issuer of the extension of credit. The full information about the costs associated with the line of credit must be disclosed by the creditor that extends such line before the first extension of credit. These disclosures will enable the consumer to make an intelligent choice between such a charge card and a credit card that offers a line of credit.

Subsection (d), "Disclosure Prior to Renewal," requires card issuers that impose annual fees or any other fee described in subsection 127(c)(1)(A)(ii), either upon the opening of an account or upon renewal, to make certain disclosures at least 30 days prior to renewal and imposition of a new periodic fee. The renewal date is the date the fee is payable to preserve continued availability and not necessarily the date on which the credit or charge card expires. The notice must disclose clearly and conspicuously (1) the date by which, the month by which, or the billing period at the close of which the account will expire if not renewed; (2) the information described in subsection 127(c)(1)(A) that would apply if the account were renewed; and (3) the manner in which the consumer may terminate continued credit availability under the account.

The subsection makes it clear that the notice may be provided either prior to posting the fee to the account, or with the periodic billing statement first disclosing that the fee has been posted to the account, so long as the consumer is given at least a 30-day period to avoid payment of the fee, or to have the fee recredited to the account, in any case where the consumer does not wish to continue the availability of credit. If the card issuer elects to provide the disclosures with the periodic billing statement, such disclosures may be presented either on the statement itself or with the statement. In addition, the creditor may preprint certain of the information on the back of the billing statement if the disclosures are made clearly and conspicuously and if the disclosure on the front of the statement includes a clear reference to such information.

The subsection also permits the Board, by regulation, to provide for fewer disclosures where the account is renewable more frequently than every 6 months. This provision is designed to ease the burden on card issuers in such circumstances, but the Committee expects the Board to require at a minimum disclosure of the periodic fee and of any term that had changed since the last disclosure.

Section 3. Civil Liability

This section restricts civil liability to consumers who actually obtain a credit or charge card and who either pay a fee described in section 127(c)(1) (A)(ii) or who use such card. The effect of this provision is to limit those eligible for minimum penalties for misstatements in advertisements and solicitations to people who actually pay for or use the credit or charge cards.

Section 4. Coordination With Other Laws

Section 4 amends section 111 of the Truth in Lending Act (15 U.S.C. 1610) so that, with the exceptions described below, the provisions of sections 127(c) and 127(d) supersede any provision of the law of any State or local authority relating to the disclosure of the terms required to be disclosed or the manner in which such terms are disclosed in any credit card application or solicitation or any renewal notice. The section applies to State credit card disclosure laws, not to general disclosure statutes such as State retail installment sales acts and State plain language statutes. Nor does it apply to the use of State mini-Federal Trade Commission statutes to address unfair or deceptive acts or practices.

There are two exceptions to the general preemption. First, this section does not affect any State law enacted or used to enforce the requirements of section 127(c) or (d). Thus, any State may employ or establish laws for the purpose of enforcing the Federal disclosure requirements.

Second, during Committee markup, this section was amended to reflect actions taken by certain States with respect to credit and charge card disclosures. In deference to their efforts, this section permits States that have enacted disclosure laws prior to December 2, 1987, to reenact such laws not later than December 2, 1989. In addition, it permits States in which, during the current session of their legislature, one house of the legislature has passed a bill by December 2, 1987, to complete action on such legislation (the final legislation does not have to be identical to that of the house that has already acted). In either case, any State that meets these requirements would have its disclosure provisions apply to the extent that they are in addition to the four disclosures required by section 127(c)(1)(A) or section 127(d). Thus, although all such State legislation would be superseded upon the effective date of this Act, such a State can reinstitute the requirement to disclose one or more of the additional terms included in the original legislation by reenacting the legislation (or, in the case of a State in which one house had enacted a bill before December 2, 1987, by enacting that legislation) within the 2 year period. This exception applies only to actions by the legislature of a State or Commonwealth and does not apply to actions by any county, city or other local body or to requirements established by regulation rather than by State legislation.

The exception for State reenactments or enactments contains two limitations. First, the legislation does not authorize States to include terms not included in the original State legislation enacted by the State. Such provisions would be preempted by the provisions of this Act. Second, to the extent any State law requires the disclosure, or the method of disclosure, of information required to be disclosed under this Act, such provisions are preempted by this law. Thus compliance with the disclosure provisions of this legislation relieves the card issuer from having to comply with State laws mandating the disclosure, or the method of disclosure, of the same items of information. Moreover, since the same forms are often used for both consumer and business applications, State law cannot impose different or additional disclosure requirements in connection with consumer credit or charge card applications even if those same applications can also be used to apply for business accounts.

Section 5. Reporting to the Board of Governors.

This section requires card issuers to submit semi-annually to the Board the information required to be disclosed under section 2. Further, it requires the Board to make such information available to the public upon request and to report it to Congress annually. The section does not require the Board to publish such information itself. Any person who wishes to secure this information would be obligated to pay the Board's costs of reproducing the material.

Section 6. Insurance Provided in Connection With Certain Open End Credit Plans.

This section amends section 127 of the Truth-in-Lending Act to add a subsection (e). Section 127(e)(1) provides that whenever a card issuer that offers any guarantee or insurance for repayment of the outstanding credit card balance on an open end credit card plan (typically, this guarantee or insurance would afford complete or partial coverage for the payment of credit card balances in case of death, disability or involuntary unemployment) proposes to change the person providing the guarantee or insurance, the card issuer shall notify in writing each insured cardholder and the insurance commissioner of the appropriate State of the change in insurer not less than 30 days prior to the change.

Section (e)(2) establishes a special rule for adverse change. When the new guarantee or insurance coverage is not at least equivalent in cost, amount, terms, and conditions as the current guarantee or insurance, the cardholder may continue the coverage, as so changed, only if he or she affirmatively files a written election to continue such coverage. The Committee intends this section to be applicable whenever the new coverage would be more costly to the cardholder or when a significant term has been changed to the detriment of the consumer. An example of the latter would be a change from 30 to 45 days in the waiting period before benefits commence. Another example would be a change in the number and identity of people who are covered.

Section (e)(3) provides that if the law of the appropriate State requires notification and reenrollment, the card issuer shall comply with the State requirements instead of the requirement of this section. Paragraph (4) defines the "appropriate State" as the State in which the creditor has its principal place of business, except that where a majority of the cardholders are located in another State, the "appropriate State" is that other State.

Section 7. Effective Date

This section requires the Board to issue regulations implementing the disclosure requirements of section 2 within 120 days of the date of enactment. The regulations would go into effect 120 days after the initial 120 day period. The time periods in this section supersede the general requirements of section 105(d) of the Truth-in-Lending Act.

The section also provides that any creditor, at its option, may comply with the provisions of the legislation after enactment, but prior to the applicable effective date, in which case all of the provisions of this legislation shall be fully applicable to such creditor. This exception to the effective date provision applies only to creditors that comply with the regulations promulgated by the Board.

Section 8. Reports to the Congress

This section requires the Board to transmit three reports to the Congress, within 1 year after the regulations become effective and annually thereafter. The reports are (1) an assessment of the profitability of credit card operations of depository institutions, including an analysis of the impact of the provisions of this Act; (2) a description of the methods of balance calculation being used by card issuers and any changes in the methods; and (3) the impact of this Act on the availability of credit to low income consumers.

ADDITIONAL VIEWS OF SENATOR JIM SASSER

I am pleased to support credit card cost disclosure legislation. I believe that Senator Dodd has done an excellent job in formulating this legislation that is designed to deal with a vexing problem for American consumers.

The disclosure provisions of the Dodd Bill will be of enormous value to consumers in determining which credit card plans best suit their needs and in determining the actual cost of these plans. In other words, consumers will know what they are getting into. For too long, too many consumers have been duped by seemingly attractive credit card programs because there was too little information up front as to actual terms and conditions.

Further, along with the need for credit card disclosure, the high interest rates paid by credit card consumers has been a concern of mine. I introduced legislation early this year which contained disclosure provisions similar to those of this bill and which dealt with the question of credit card interest rates.

I was concerned at that time, as were many other members of this Committee, that interest rates being paid by consumers on credit cards were much too high. At the Consumer Affairs Subcommittee hearing on credit card legislation last April the focus was almost entirely on the interest rate question. At a time when market interest rates had dropped from the 18 pecent level to well below 10 percent, credit card rates were still hovering near 20 percent. It appeared that credit card rates were completely unresponsive to market or competitive pressures, and that consumers were bearing the brunt.

I think its worth noting that credit card rates have moved down somewhat. Since the Spring—a time period during which market interest rates were actually rising—credit card rates have come down. The average credit card interest rate is now 17 percent—a drop of 1 percentage point. In fact, some credit card issuers are offering differing types of plans with interest rates as low as 11 percent. Indeed, American Express has put forth the "Optima" card, a major new credit card at 13.5 percent. So I think that our legislative focus on the issue was positive in bringing some relief to credit card customers.

Finally, I note that this legislation contains a provision preempting State credit card disclosure laws. However, there is an exception for States that have already enacted disclosure laws and for States, such as Tennessee, where one house of the legislature has passed a disclosure law. Those States are given 2 years to reenact or enact a disclosure law. Thus, the States that had a particular interest in this type of legislation will have the opportunity to appraise the Federal approach, decide whether it meets their needs and add complementary requirements should they find the Federal law inadequate.

JIM SASSER.

ADDITIONAL VIEWS OF SENATORS GARN, HECHT, BOND, KARNES, AND SHELBY

We are particularly troubled by one provision of the bill. Section 5 of this legislation requires every credit card issuer in the country, including banks, retailers and other merchants, to submit to the Federal Reserve Board every six months a statement containing all of the information already required by this bill to be disclosed when an application to obtain a credit card is first distributed to consumers. The information thus required to be reported includes: (1) the annual percentage rate or rates applicable to extensions of credit; (2) if the rate is variable, the fact that it is variable, the annual percentage rate in effect at the time the application is mailed to the consumer and how the rate is determined; (3) where more than one rate applies, the range of balances to which each rate applies; (4) any annual fee, other periodic fee, or membership fee or transaction fee; (5) the date by which or the period within which any credit extended must be repaid to avoid a finance charge; and (6) the name of the balance calculation method or a description of that method. This information must then be aggregated by the Board, made available to the public upon request, and reported annually to the Congress.

Chairman Greenspan of the Federal Reserve Board, in a letter dated December 1, 1987, urged that this provision be deleted as unnecessary. His letter goes on to note that information from over 10,000 entities would have to be aggregated, and that this costly undertaking would be of little use to consumers, who could obtain equivalent information from private sector sources at nominal costs. The staff of the Board estimates that the cost to the Board to comply with this requirement would exceed $120,000 annually, that the completed guide would exceed 2,000 pages in length, and that reproduction costs would dictate a cost to consumers of between $125 and $160 for each report. Further, $120,000 annual cost to the Board must come out of the funds that the Board would otherwise have rebated to the Treasury, thus needlessly adding to our budget deficit.

In light of these statistics, the costs involved, and the fact that the report will provide little benefit to consumers, we strongly urge the deletion of this section from the bill.

JAKE GARN.
CHIC HECHT.
CHRISTOPHER S. BOND.
DAVID K. KARNES.
RICHARD C. SHELBY.

ADDITIONAL VIEWS OF SENATORS GARN, CHAFEE, SASSER, AND WIRTH

The Credit and Charge Card Disclosure Act is a major step forward in the protection of the consumer, by seeing that disclosure of significant financial cost factors are made available during the solicitation and application process for securing credit and charge cards. The central consumer need is to have sufficient information, readily available and intelligible, to make an informed choice of whether or not to use a card, and if so which card. The information provided in this Act should enable the consumer to judge better among the various alternatives.

Nevertheless, this Act does accord federal preemption, except where states have already enacted, or are in the process of enacting, state disclosure laws, in which case such states have two years to reenact such laws unamended and they will then control in each particular provision where they exceed this Act. Although federal preemption would bring national uniformity to the solicitation and application process, there is real cause for concern that it would block the ability of states to accommodate changing consumer needs which may be unique to the state and to react to future situations where corrective statutory measures may be called for. It also represents the first federal limitation of states rights with regard to the Truth In Lending Act.

Federal preemption will require that this Committee step forward swiftly if any egregious activity with regard to the credit and charge card solicitation and application process is thereby seemingly condoned at the state level. It must also not be seen as an automatic precedent for further federal bounding of states' involvement in matters covered by the Truth In Lending Act.

JAKE GARN.
JOHN H. CHAFEE.
JIM SASSER.
TIM WIRTH.

THE RETIREMENT OF WILLIAM G. BOWEN FROM THE POSITION OF PRESIDENT OF PRINCETON UNIVERSITY

Mr. BRADLEY. Mr. President, today in my home State of New Jersey the trustees of Princeton University are honoring William G. Bowen, who is stepping down as president of the university, a position he has held since 1972.

Bill Bowen's commitment to higher education in general and to Princeton specifically is unsurpassed. A generation of Princeton students has crossed Cannon Green after long nights in Firestone Library and seen the lights burning in 1 Nassau Hall. This dedication combined with his unwillingness to accept less than excellence in his own work has inspired students, faculty, and alumni to reach higher and accomplish more than most could have imagined.

Under Bill Bowen's careful guidance, Princeton made the important transition to coeducation, restructured undergraduate residential life, and added departments and programs in comparative literature, women's studies, molecular biology, computer science, and electrical engineering, among others.

His academic work and annual reports have helped to shape the national debate on such important topics as the economics of education, the role of student aid, and the need for basic research.

But President Bowen's perspective on the challenges facing our Nation's educational system never overshadowed Professor Bowen's commitment to educating our Nation's young people. Year after year, freshmen and sophomores marveled at their good fortune when they found that the president of the university would lead their section of economics 101.

In 1981 he reminded the entering class that:

> Learning pursued for its own sake—and not merely as a means to some more prosaic end—can be a source of great enjoyment and personal satisfaction; it can also serve as the soundest preparation for citizenship and for what I hope will be lives lived generously, in service to others. It is this kind of learning that we are here to promote.

And so now Bill Bowen will continue to take the advice he has given so many students—to pursue new challenges, to open up to new experiences, to serve others, and to capture the pleasure and joy of learning.

Princeton will forever bear the mark of Bill Bowen and he will be sorely missed. But I wish him well with the one word valediction he has given to thousands of graduating students: "Onward!"

BICENTENNIAL MINUTE

DECEMBER 16, 1841: SENATOR PROMOTES SETTLEMENT OF OREGON

Mr. DOLE. Mr. President, 146 years ago today, on December 16, 1841, Senator Lewis Linn, a Missouri Democrat, introduced a bill providing for settlement of the Oregon territory. For this action and his related unyielding efforts on behalf of American expansion, the States of Kansas, Missouri, Iowa, and Oregon each subsequently honored Senator Linn with the establishment of a Linn County. Few Senators, apart from the likes of Clay, Webster, and Calhoun have been so memorialized.

As a Missourian, Senator Linn had a particular interest in promoting settlement of Oregon. St. Louis and Independence served as the usual jumping off points for pioneers headed west and among those who made the journey were many of his constituents. What made his legislation of particular interest was its provision for a grant of 640 acres of land to each white male inhabitant of the territory over the age of 18 who would cultivate the land for 5 consecutive years.

Under an 1818 agreement, the United States and Great Britain jointly occupied the Oregon territory. By the late 1830's Members of the Senate were coming under increased pressure from anxious settlers to establish military occupation and a territorial government in Oregon, or risk losing it to the British. Supporters of settlement, led by Senator Linn, distributed at Government expense survey reports that described fertile valleys, easy travel conditions, and a lucrative trade in furs, timber, and fisheries.

In February 1843, the Senate passed the Linn bill by a 2-vote margin. Although the measure subsequently failed in the House, it triggered an extensive migration that year. The Oregon territorial boundary was finally settled by treaty with the British in 1846. The land donation provision Linn devised attracted great attention throughout the Western States and became the basis of later Federal land policy, culminating in the 1862 Homestead Act.

DR. ROGER NICHOLS

Mr. KENNEDY. Mr. President, this past week one of the great science educators in this country died suddenly at age 61. Dr. Roger Lloyd Nichols was the president and director of the Boston Museum of Science and a national leader in fostering scientific understanding among children, teachers, and the public in general.

Dr. Nichols was appointed head of the museum in 1982. Since then his enthusiasm and zeal has been felt throughout the world of science education.

At the museum he has sparked a marvelous rejuvenation. It has seen the opening of a brilliant new wing, which houses the Omni Theater, a showroom which encompasses the viewer with sight and sound. That wing also contains new exhibit and educational space. He created a new learning center for computer education.

He spread the excitement of science education through a multitude of programs in New England. He initiated a program of science teacher training which educates teachers about the scientific method and the vitality of science exploration. And the popular Kits program helped these teachers bring this excitement to their students, by allowing the students to actually engage in scientific inquiry.

His efforts were quickly recognized. Attendance at the museum has shot up, and came to over a million people last year. Museums throughout the New England region joined the Museum of Science in educational and exhibition collaboratives.

Roger Nichols succeeded in his goal of making the Museum of Science the campaign headquarters for science education.

Mr. President, the need for improving the quality of science and math education in this country has been noted for some time, and was a chief subject of our deliberations in authorizing the Robert T. Stafford Elementary and Secondary Education Improvement Act of 1987. Dr. Nichols was one of the rare people who is both a visionary and an effective operator, and his major contributions in this field are a continuing testimonial.

Prior to coming to the museum, Roger was a professor at the Harvard School of Public Health and an internationally recognized leader in the effort to fight infectious diseases, especially in the Third World. He guided the implementation of health education and health care programs in many of these underdeveloped countries. He was chairman of the Department of Microbiology for many years, and was recognized by both the faculty and the students for his teaching excellence.

Roger Nichols was warm, sincere and humorous. He was dedicated to improving science education in our country and succeeded at his task. He will be greatly missed as the task continues, but greatly remembered for moving us up the mountain. I extend my condolences to his wife Elinor and to his children, Quaife, Kathleen, and Wendy.

REPORT ON NATIONAL EMERGENCY WITH RESPECT TO LIBYA—MESSAGE FROM THE PRESIDENT RECEIVED DURING RECESS—PM 96

Under the authority of the order of the Senate of February 3, 1987, the Secretary of the Senate, on December 15, 1987, during the recess of the Senate, received the following message from the President of the United States, together with accompanying papers; which was referred to the Committee on Banking, Housing, and Urban Affairs:

To the Congress of the United States:

Section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)) provides for the automatic termination of a national emergency unless, prior to the anniversary date of its declaration, the President publishes in the Federal Register and transmits to the Congress a notice stating that the emergency is to continue in effect beyond the anniversary date. In accordance with this provision, I have sent the enclosed notice, stating that the Libyan emergency is to continue in effect beyond January 7, 1988, to the Federal Register for publication. A similar notice was sent to the Congress and the Federal Register on December 23, 1986.

The crisis between the United States and Libya that led to my declaration on January 7, 1986, of a national emergency has not been resolved. The Government of Libya continues to use and support international terrorism, in violation of international law and minimum standards of human behavior. Such Libyan actions and policies pose a continuing unusual and extraordinary threat to the national security and vital foreign policy interests of the United States. For these reasons, I have determined that it is necessary to maintain in force the broad authorities necessary to apply economic pressure to the Government of Libya to reduce its ability to support international terrorism.

RONALD REAGAN.

THE WHITE HOUSE, *October 15, 1987.*

MESSAGES FROM THE HOUSE

At 9:47 a.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 1777) to authorize appropriations for fiscal years 1988 and 1989 for the Department of State, the U.S. Information Agency, the Voice of America, the Board for International Broadcasting, and for other purposes.

The message also announced that the Speaker makes the following corrections in the appointment of conferees in the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3545) entitled "An Act to provide for reconciliation pursuant to section 4 of the concurrent resolution on the budget for the fiscal year 1988.".

(1) The panel from the Committee on Agriculture is appointed for consideration of section 5003 of the House bill, and sections 2101–2113, and 2301 of the Senate amendment.

(2) The panel from the Committee on Education and Labor is appointed for consideration of section 9602 of the House bill, and for section 9008 of the Senate amendment, in lieu of section 9011.

(3)(a) The first panel from the Committee on Energy and Commerce is appointed for consideration of sections 9010 and 9011 of the Senate amendment.

(b) The second panel from the Committee on Energy and Commerce is appointed for consideration of title III (except sections 3001 and 3003) of the Senate amendment.

(4) The following additional conferees are appointed from the Committee on the Judiciary, for consideration of the bankruptcy provisions contained in sections 9432 and 9433 of the House bill, and sections 4553(e), 4558, and 4559 of the Senate amendment, and modifications committed to conference: Mr. Rodino, Mr. Edwards of California, Mr. Mazzoli, Mr. Hughes, Mr. Glickman, Mr. Feighan, Mr. Staggers, Mr. Fish, Mr. Dannemeyer, Mr. Moorhead, and Mr. Hyde.

(5) The panel from the Committee on Merchant Marine and Fisheries is also appointed for consideration of section 2002 of the Senate amendment (insofar as that section would add a new section 409(c) and (d) to the Nuclear Waste Policy Act of 1982).

(6) The following additional conferees are appointed from the Committee on Science, Space, and Technology, for consideration of sections 2002 (insofar as that section would add new sections 403(i) and 410 to the Nuclear Waste Policy Act of 1982), 2006, and 2008 of the Senate amendment, and modifications committed to conference: Mr. Roe, Mrs. Lloyd, Mr. Brown of California, Mr. Scheuer, Mr. Valentine, Mr. Chapman, Mr. Morrison of Washington, Mr. Smith of Texas, Mr. Fawell, and Mr. Konnyu.

The message further announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 3734. An act to recognize the significance of the administration of the Federal-Aid Highway System and to express appreciation to Ray A. Barnhart for his dedicated efforts in improving the Federal-Aid Highway System.

At 2:12 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House agrees to the amendment of the Senate to the bill (H.R. 2974) to amend title 10, United States Code, to make technical corrections in the provisions of law enacted by the Military Retirement Reform Act of 1986; with an amendment, in which it requests the concurrence of the Senate.

The message also announced that the House has passed the following bill and joint resolutions, in which it requests the concurrence of the Senate:

H.R. 3100. An act to authorize international security and development assistance programs and Peace Corps programs for fiscal years 1988 and 1989, and for other purposes;

H.J. Res. 425. Joint resolution making further continuing appropriations for the fiscal year ending September 30, 1988, and for other purposes; and

H.J. Res. 426. Joint resolution authorizing the hand enrollment of the budget reconciliation bill and of the full-year continuing resolution for fiscal year 1988.

ENROLLED BILLS SIGNED

The message further announced that the Speaker has signed the following enrolled bills:

H.R. 1994. An act to amend the boundaries of Stones River National Battlefield, Tennessee, and for other purposes; and

H.R. 3700. An act to designate the Federal building located at 600 West Madison, Chicago, Illinois, as the "Harold Washington Social Security Center."

The enrolled bills were subsequently signed by the Acting President pro tempore (Mr. CONRAD).

MEASURES REFERRED

The following bills were read the first and second times by unanimous consent, and referred as indicated:

H.R. 3100. An act to authorize international security and development assistance programs and Peace Corps programs for fiscal years 1988 and 1989, and for other purposes; to the Committee on Foreign Relations.

H.R. 3399. An act to develop a national alternative motor fuels policy and to coordinate efforts to implement such policy; to the Committee on Governmental Affairs.

MEASURE PLACED ON THE CALENDAR

The following bill, previously received from the House of Representatives, was placed on the calendar by unanimous consent:

H.R. 2628. An act to amend the National Traffic and Motor Vehicle Safety Act of 1966 respecting the importation of motor vehicles in anticipation of compliance with safety standards under such Act.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. PROXMIRE, from the Committee on Banking, Housing, and Urban Affairs, with an amendment in the nature of a substitute:

H.R. 515: A bill to provide for more detailed and uniform disclosure by credit card issuers with respect to information on interest rates and other fees which may be incurred by consumers through the use of any credit card (Rept. No. 100-259).

By Mr. PROXMIRE, from the Committee on Banking, Housing, and Urban Affairs, with amendments:

H.R. 2631: A bill to authorize appropriations for the United States Mint for fiscal years 1988 and 1989, and for other purposes (Rept. No. 100-260).

By Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation, with an amendment in the nature of a substitute:

S. 62. A bill to improve efforts to monitor, assess, and to reduce the adverse impact of driftnets (Rept. No. 100-261).

By Mr. KENNEDY, from the Committee on Labor and Human Resources, without amendment:

S. 1726. A bill to amend the Public Health Service Act to promote employee health and disease prevention, and for other purposes (Rept. No. 100-262).

By Mr. BIDEN, from the Committee on the Judiciary, without amendment:

S. 1134. A bill to amend title 28, United States Code, to provide for the selection of the court of appeals to decide multiple appeals filed with respect to the same agency order (Rept. No. 100-263).

By Mr. PROXMIRE, from the Committee on Banking, Housing, and Urban Affairs, without amendment:

H.R. 390. A bill to provide that a special gold medal be presented to Mary Lasker for her humanitarian contributions in the areas of medical research and education, urban beautification, and the fine arts.

By Mr. BUMPERS, from the Committee on Small Business, with an amendment in the nature of a substitute:

S. 437. A bill to amend the Small Business Investment Act of 1958 to permit prepayment of loans made to State and local development companies.

By Mr. PROXMIRE, from the Committee on Banking, Housing, and Urban Affairs, with amendments and an amendment to the title:

S. 1519. A bill to authorize the President of the United States to award congressional gold medals to Lawrence Doby and posthumously to Jack Roosevelt Robinson in recognition of their accomplishments in sport and in the advancement of civil rights, and to authorize the Secretary of the Treasury to sell bronze duplicates of those medals.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. NUNN, from the Committee on Armed Services:

Samuel K. Lessey, Jr., of New Hampshire, to be Director of Selective Service.

Robert Clifton Duncan, of Massachusetts, to be Director of Defense Research and Engineering.

Robert W. Page, Sr., of Texas, to be an Assistant Secretary of the Army.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

The following-named officer for appointment to the grade indicated, under the provisions of title 10, United States Code, section 601(a), in conjunction with assignment to a position of importance and responsibility designated by the President under title 10, United States Code, section 601(a):

To be lieutenant general

Lt. Gen. Colin L. Powell, [redacted], U.S. Army.

Mr. NUNN. Mr. President, from the Committee on Armed Services, I report favorably the attached listing of nominations.

Those identified with a single asterisk (*) are to be placed on the Executive Calendar. Those identified with a double asterisk (**) are to lie on the Secretary's desk for the information of any Senator since these names have already appeared in the CONGRESSIONAL RECORD and to save the expense of printing again.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The nominations ordered to lie on the Secretary's desk were printed in the RECORD of November 17, November 30, and December 4, 1987, at the end of the Senate proceedings.)

**In the Air Force there are 10 promotions to the grade colonel and below (list begins with Thomas E. Koss) (Ref. 694).

**In the Air National Guard there are 15 promotions to the grade lieutenant colonel (list begins with Dennis C. Daly) (Ref. 695).

**In the Air Force there are 3 appointments to the grade of major and below (list begins with Walter S. Mohn) (Ref. 696).

**In the Army there are 2,314 promotions to the grade of major (list begins with James W. Abbott) (Ref. 697).

*Brigadier General Martin E. Lind, Jr., U.S. Army National Guard, to be major general (Ref. 713).

*Vice Admiral Joseph Metcalf, III, U.S. Navy, to be placed on the retired list in the grade of vice admiral (Ref. 714).

**In the Air Force there are two promotions to the grade of colonel and below (list begins with Collins E. Smith, Jr.) (Ref. 715).

**In the Air Force there are two appointments to the grade major and below (list begins with John F. Courtney) (Ref. 716).

**In the Air Force there are 13 promotions to the grade of major (list begins with Colney B. Gainer) (Ref. 717).

**In the Air Force there are 260 appointments to a grade no higher than major (list begins with Alvin N. Aramburo, Jr.) (Ref. 718).

**In the Army there are 492 promotions to the grade of colonel (list begins with Richard D. Allen) (Ref. 719).

**In the Army there are 1,499 promotions to the grade of lieutenant colonel (list begins with Alvin D. Aaron) (Ref. 720).

**In the Navy Reserve there are 194 appointments to the grade captain and below (list begins with Hugh R. White) (Ref. 721).

*Rear Admiral Joseph S. Donnell, III, U.S. Navy, to be Vice Admiral (Ref. 724).

*Rear Admiral John W. Nyquist, U.S. Navy, to be Vice Admiral (Ref. 725).

**In the Air Force Reserve there are 4 appointments to the grade of lieutenant colonel (list begins with Gerald M. Friedman) (Ref. 738).

**In the Air Force there are 44 appointments to the grade of colonel and below (list begins with Cary D. Hardison) (Ref. 739).

Total: 4,856.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. KENNEDY (for himself, Mr. Hatch, and Mr. Bingaman):

S. 1950. A bill to amend the Public Health Service Act to reauthorize adolescent family life demonstration projects, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. KENNEDY:

S. 1951. A bill to amend the Public Health Service Act to revise and extend the program of assistance to organ procurement organizations, to provide for an immunosuppressive drug therapy block grant, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. KENNEDY (for himself, Mr. Inouye, Mr. Hatch, Mr. Byrd, Mr. Dole, Mr. Stennis, Mr. Cranston, Mr. Moynihan, Mr. Burdick, Mr. DeConcini, Ms. Mikulski, Mr. Adams, Mr. Harkin, Mr. Simon, Mr. Dodd, Mr. Matsunaga, Mr. Metzenbaum, Mr. Pell, Mr. Stafford, Mr. Quayle, Mr. Thurmond, Mr. Weicker, Mr. Cochran, and Mr. Humphrey):

S. 1952. A bill to amend the Public Health Service Act to provide for national and regional centers for pediatric emergency medical services, and for other purposes; placed on the calendar.

By Mr. HECHT:

S. 1953. A bill to amend title II of the Social Security Act so as to remove the limitation upon the amount of outside income which an individual may earn while receiving benefits thereunder; to the Committee on Finance.

By Mr. INOUYE (for himself and Mr. Murkowski):

S. 1954. A bill to amend the Internal Revenue Code of 1986 to exclude from gross income certain cost-of-living allowances; to the Committee on Finance.

By Mr. GLENN (for himself and Mr. Simon):

S. 1955. A bill to study the expansion of the Coastal Barrier Resources System to include undeveloped, unprotected areas along the Great Lakes shoreline; to the Committee on Environment and Public Works.

By Mr. BENTSEN:

S. 1956. A bill to treat tobacco grown in the United States and processed in a Caribbean Basin country as eligible for duty-free treatment; to the Committee on Finance.

By Mr. CRANSTON (for himself and Mr. D'Amato):

S.J. Res. 233. Joint resolution to provide for the temporary extension of certain programs relating to housing and community development, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. THURMOND:

S.J. Res. 234. Joint resolution designating the week of April 17, 1988, as "Crime Victims Week"; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT RESOLUTIONS AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. McCONNELL:

S. Res. 343. Resolution expressing the sense of the Senate in support of a resolution to enhance cooperation of NATO allies; to the Committee on Foreign Relations.

By Mr. MATSUNAGA:

S. Res. 344. Resolution authorizing use of the Hart Building atrium for a holiday concert by the congressional chorus; considered and agreed to.

By Mr. MOYNIHAN (for himself and Mr. Pell):

S. Res. 345. Resolution expressing the sense of the Senate that the Secretary of State should designate a special envoy to negotiate the release of Americans held hostage in Lebanon; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. KENNEDY (for himself, Mr. Hatch, and Mr. Bingaman):

S. 1950. A bill to amend the Public Health Service Act to reauthorize adolescent family life demonstration projects, and for other purposes; to the Committee on Labor and Human Resources.

ADOLESCENT FAMILY LIFE DEMONSTRATION PROJECTS ACT

● Mr. KENNEDY. Mr. President, today I am introducing legislation, along with Senators Hatch and Bingaman, which would reauthorize title XX of the Public Health Service Act, the adolescent family life demonstration projects. This reauthorization represents a commitment by the U.S. Congress to address the Nation's concerns about adolescent pregnancy.

A pattern has emerged in our society in which sexual activity is initiated at a young age. Recent data from the National Center for Health Statistics show that, of those surveyed, almost half of all women under age 20 had experienced sexual intercourse. Of those under age 15, 19 percent had experienced sexual intercourse. Seventy percent of the men between age 17 and 21 reported they had intercourse before marriage.

Early initiation of sexual activity brings with it numerous potential problems. Early sexual activity, particularly with multiple partners, increases the likelihood of sexually transmitted disease. Particularly in light of the current AIDS epidemic, early sexual experimentation without responsible consideration of potential consequences is of great concern.

The increase in the incidence of adolescent pregnancy is the most troubling outcome of early sexual relations among teenagers. In 1984, more than 1 million teenagers became pregnant and nearly half a million had babies. One-quarter of all first born children were born to a mother who was not yet 20 years of age. Among adolescents aged 17 and younger, more than two-thirds of the births occurred outside marriage; more than half the babies born to mothers under age 20 in 1984 were born to unmarried mothers. Although alarming, these statistics only begin to tell the story of the often devastating consequences of adolescent pregnancy.

Adolescent pregnancy threatens the health of both mother and child. The teenage mother is more likely to experience pregnancy and childbirth complications and to lack adequate prenatal care. Infants of adolescent mothers are more likely to be of low birth weight and have a greater risk of mortality and morbidity. In addition, these children tend to score lower on intelligence tests and perform more poorly in school than those born to older mothers. By their own teen years, children born to teenage mothers appear to show more adjustment problems and are themselves more prone to early childbearing.

The legislation I am introducing today helps these adolescents make informed choices by educating them on the risks of adolescent sexual relations. The adolescent family life demonstration projects legislation addresses the Nation's concerns about adolescent pregnancy and sexual experimentation by advocating the following measures:

Finding means, within the context of the family, of reaching adolescents before they become sexually active in order to maximize the guidance and support available to adolescents from parents and other adults;

Promoting adoption as an alternative for adolescent parents;

Establishing innovative approaches to the delivery of care services for both pregnant adolescents and adolescent parents;

Encouraging and supporting research projects and demonstration projects concerning adolescent premarital sexual relations, contraceptive use, pregnancy and childbearing.

The problems of adolescent premarital sexual relations, pregnancy, and parenthood are multiple and complex. Services that have been available to adolescents often have been fragmented and ineffective. We can best approach such problems through a variety of integrated and essential services provided to adolescents and their families. We must design programs to deal with adolescent sexuality and pregnancy that will involve parents and place emphasis on strong family values and close family ties. Research has shown that where there is family involvement in comprehensive values-based projects and services, there is greater success: low birth weight is significantly reduced; initiation of sexual activity is delayed; repeat pregnancies are significantly reduced, as are welfare costs and child abuse; and teens are more likely to complete their high school education.

There continues to be a need for further research concerning the societal causes and consequences of early premarital sexual relations and adolescent pregnancy. More specifically we must determine the most effective means of delaying initiation of adolescent premarital sexual activity and stimulating responsible decision-making about initiation of sexual activity. We must explore how most effectively to integrate health, educational and support services in order to best meet the needs of teens and their families on the issues of adolescent sexuality and pregnancy.

By providing funding for demonstration projects to a wide range of public or nonprofit organizations and agencies, this bill will allow us to provide integrated services to adolescents before they become sexually active as well as to those teens who have become pregnant. The information obtained from these demonstration projects will serve to guide development of other programs in the future and help us address our concerns about the consequences of early initiation of sexual activity by teens.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1950

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Adolescent Family Life Demonstration Projects Act of 1987".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Section 2001(a) of the Public Health Service Act (42 U.S.C. 300z(a)) is amended—

(1) by striking out paragraph (1) and inserting in lieu thereof the following new paragraph:

"(1) in 1984, more than 1,000,000 teenagers became pregnant, and nearly 500,000 teenagers carried their babies to term, of which over one-half of the babies born to such teenagers were born out of wedlock;";

(2) in paragraph (2), by striking out "one-half" and inserting in lieu thereof "two-thirds";

(3) in paragraph (4), by striking out "approximately 80 per centum" and inserting in lieu thereof "the majority";

(4) in paragraph (5)—

(A) by inserting "(A)" after the paragraph designation;

(B) by inserting "and" after the semicolon at the end thereof; and

(C) by adding at the end thereof the following new subparagraph:

"(B) a widespread pattern in which sexual activity is initiated at a young age and involves multiple partners increases the spread of sexually transmitted diseases and the risk of acquiring acquired immunodeficiency syndrome;";

(5) in paragraph (8)(B), by striking out "religious and"; and

(6) in paragraph (10)—

(A) in subparagraph (A), by inserting after "formed," the following: "the family should become a partner in the development of curriculum and programs that reflect the values of the community, and";

(B) by striking out "and" at the end of subparagraph (B);

(C) in subparagraph (C), by striking out "religious and"; and

(D) by adding at the end thereof the following new subparagraph:

"(D) research has shown that in cases in which there is family involvement in comprehensive values-based projects and services there is greater success in such projects and services, low birth weight is significantly reduced, delays in initiating sexual activity occur, there are significant reductions in repeat pregnancy, welfare costs, and child abuse, and teens are more likely to return and complete their high school education; and".

(b) PURPOSES.—Section 2001(b)(1) of such Act is amended by striking out "family members" and all that follows through the semicolon and inserting in lieu thereof the following: "adults and of promoting adolescent postponement of the initiation of coitus, and (within the context of programs that promote family involvement and the delay of sexual initiation) of explaining family planning when sexual activity is eventually initiated;".

SEC. 3. DEFINITIONS.

Section 2002 of the Public Health Service Act (42 U.S.C. 300z-1) is amended—

(1) in subsection (a)—

(A) by striking out the subsection designation; and

(B) by striking out paragraphs (4) through (6) and inserting in lieu thereof the following new paragraphs:

"(4) 'necessary services' means core services and supplemental services;

"(5) 'core services' means those services that shall be provided by a grantee, as determined by the Secretary by regulation, which shall include—

"(A) pregnancy testing and maternity counseling;

"(B) adoption counseling and referral services, that present adoption as an option for pregnant adolescents, including referral to licensed adoption agencies in the community if the eligible grant recipient is not a licensed adoption agency;

"(C) primary and preventive health services, including prenatal and postnatal care for mother and children;

"(D) nutrition information and counseling;

"(E) referral for screening and treatment of sexually transmitted diseases, including acquired immunodeficiency syndrome;

"(F) referral to appropriate pediatric care;

"(G) educational services relating to family life and problems associated with adolescent premarital sexual relations, including—

"(i) information about adoption and abstinence;

"(ii) education on responsibilities of sexuality and parenting;

"(iii) the development of material to support the role of parents as the provider of sex education;

"(iv) assistance to parents, schools, youth agencies, and health providers to educate adolescents and pre-adolescents concerning self-discipline and responsibility in human sexuality; and

"(v) in the context of family involvement and within programs that promote the postponement of sexual activity, the dissemination of information and the provision of counseling that explains the use of family planning if premarital sexual activity is eventually initiated;

"(H) appropriate educational and vocational services;

"(I) family planning services;

"(J) mental health services and referral to mental health services and to other appropriate physical health services; and

"(K) a parent and family involvement component in each of the core services described in subparagraphs (A) through (J);

"(6) 'supplemental services' means those services that may be provided by a grantee, as determined by the Secretary by regulation, which may include—

"(A) child care sufficient to enable the adolescent parent to continue education or to enter into employment;

"(B) consumer education and homemaking;

"(C) counseling for the immediate and extended family members of the eligible person;

"(D) transportation;

"(E) outreach services to families of adolescents to discourage sexual relations among unemancipated minors;

"(F) referral to licensed residential care or maternity home services;

"(G) employability training and counseling; and

"(H) such other services as are consistent with this title as the Secretary may approve in accordance with regulations promulgated by the Secretary;"; and

(2) by striking out subsection (b).

SEC. 4. AUTHORITY TO MAKE GRANTS FOR DEMONSTRATION PROJECTS.

The last sentence of section 2003(a) of the Public Health Service Act (42 U.S.C. 300z-2(a)) is amended by striking out "religious and".

SEC. 5. PRIORITIES FOR DEMONSTRATION PROJECTS FOR SERVICES.

Section 2005(a) of the Public Health Service Act (42 U.S.C. 300z-4(a)) is amended

(1) in paragraph (7)—

(A) by inserting "members of the adolescent's family," after "including"; and

(B) by striking out "and" at the end thereof; and

(2) by striking out paragraph (8) and inserting in lieu thereof the following new paragraphs:

"(8) will demonstrate innovative and effective approaches (including abstinence) in addressing the problems of adolescent premarital sexual relations; and

"(9) will demonstrate innovative and effective approaches in addressing the problems of adolescent pregnancy or parenthood, including approaches to provide pregnant adolescents with adequate information about adoption.".

SEC. 6. REQUIREMENTS FOR APPLICATIONS.

Section 2006(a) of the Public Health Service Act (42 U.S.C. 300z-5(a)) is amended

(1) in paragraph (21)—

(A) in subparagraph (B), by striking out "religious and";

(B) by inserting "and" at the end of subparagraph (B); and

(C) by adding at the end thereof the following new subparagraph:

"(C) ascertain whether services for which adolescents have been referred have actually been obtained and develop a plan to ensure that needed services are actually received;";

(2) in paragraph (22)(A)—

(A) by striking out "and" at the end of clause (i);

(B) by inserting "and" at the end of clause (ii); and

(C) by adding at the end thereof the following new clause:

"(iii) in the case of prevention programs, parents are to be involved unless there is a history of physical or sexual abuse;"; and

(3) in paragraph (22)(B)(i), by striking out "venereal" and inserting in lieu thereof "sexually transmitted".

SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

Subsection (a) of section 2010 of the Public Health Service Act (42 U.S.C. 300z-9(a)) is amended to read as follows:

"(a) For the purpose of carrying out this title, there are authorized to be appropriated $30,000,000 for each of the fiscal years 1986 through 1991.".●

By Mr. KENNEDY:

S. 1951. A bill to amend the Public Health Service Act to revise and extend the program of assistance to organ procurement organizations, to provide for an immunosuppressive drug therapy block grant, and for other purposes; to the Committee on Labor and Human Resources.

ORGAN TRANSPLANT AND IMMUNOSUPPRESSIVE DRUG THERAPY ACT

● **Mr. KENNEDY.** Mr. President, today I am introducing legislation that would reauthorize sections of the Public Health Service Act concerning organ transplantation and initiate an immunosuppressive drug block grant program. This legislation will allow continued growth and improvement in the availability of organs for transplantation and provide life-saving immunosuppressive drugs to transplant patients who cannot afford them.

The National Organ Transplant Act of 1984 was designed to increase the number of organs available for transplantation, to enhance the quality of organ transplantation in the United States, and to allocate organs in a fair and equitable manner. Through this act, the Task Force on Organ Transplantation issued a comprehensive report and set of recommendations in October, 1985, and April, 1986. These recommendations have been very helpful in guiding policy development at the Federal, State and local levels. Grants to establish organ procurement organizations [OPO's] on the local and regional levels were initiated. A contract to conduct the organ procurement and transplantation network [OPTN] was awarded, with the aim of improving the coordination and allocation of organs for transplantation. The Office of Organ Transplantation was initiated within the Health Resources and Services Administration to manage the OPTN contract and provide Federal direction in organ transplantation.

Through all these efforts, the availability of organs and access to transplantation has improved, as have the standards and quality of medical care related to transplantation. Approximately 80 OPO's have been started around the country, and 40 to 50 organs are procured for transplantation each day. In 1981, 4,885 kidneys, 62 hearts and 26 livers were transplanted. In 1986, there were 8,972 kidney, 1,368 heart, and 924 liver transplants in this country. While part of the increase in the number of transplants can be attributed to improvements in surgical and medical techniques and more effective immunosuppressive drugs, the greater availability of organs has certainly fueled this growth. And the number of patients who are alive today because of the increased availability of organs for transplantation is proof of the positive impact of the original legislation.

This legislation authorizes $5 million for each of fiscal years 1988 through 1990, for assistance to organ procurement organizations. The focus of this assistance would be on consolidation, as opposed to the initial emphasis on start-up assistance. It would also fund special projects designed to increase the number of organ donors, especially from among minority populations. And the responsibility of OPO's for testing of organs to prevent the transmitting of the AIDS virus would be expanded. Most OPO's are nearing self-sufficiency, so I do not anticipate the need to reauthorize this grant program beyond 1990.

This legislation further directs the OPTN to establish explicit membership criteria and medical criteria for allocating organs, and provides for public comment on these criteria. The Secretary of Health and Human Services is also directed to establish means for public comment on the operation of the OPTN. Through the availability of public comment, the American people can maintain confidence in the equitable function of the OPTN; organs for transplantation must be allocated in a fair and equitable manner, and not according to ability to pay or political influence.

This legislation would also establish a bone marrow registry. The original National Organ Transplant Act directed the Department of Health and Human Services to determine the need and feasibility of a national bone marrow registry. Bone marrow transplantation has become accepted treatment for illnesses including aplastic anemia and has resulted in a significant improvement in survival. The registry would increase the availability of matched donors for bone marrow transplantation; currently, if a patient does not have a relative with a matched tissue type, a transplant is not advisable. A national registry would provide access to many more potential donors. A national registry of potential bone marrow donors was initiated by the Navy 2 years ago, and this legislation would direct the Secretary of Health and Human Services to assume responsibility for the registry.

With this bill, a new program would be initiated to provide funds for transplant patients who are unable to afford the cost of immunosuppressive drugs. These drugs act to suppress certain parts of the body's immune system, thereby preventing the rejection of a foreign transplanted organ. The development of newer immunosuppressives has lead to greatly reduced organ rejection and improved survival of transplant patients. Those who receive kidney transplants have shown improved function of the transplanted organ, and the transplantation of hearts and livers has been accepted as nonexperimental in large part because of the success of immunosuppressive therapy. Patients who receive kidney transplants require decreasing doses of immunosuppressive drugs and, therefore, costs diminish over time. Heart and liver transplant patients must receive the drugs at higher doses and for the remainder of their lives; the costs for providing immunosuppressive drugs to these patients can exceed $10,000 per year. For kidney transplant patients, the cost of immunosuppressives is covered by the Federal Government. For those heart and liver transplant patients not covered by private insurance and who are Medicare-eligible, Medicare covers only the cost of therapy for the first year following the transplant. We have seen families of heart and liver transplant patients who are not Medicare-eligible decimate their assets and financial resources to pay for these essential drugs.

This new program would authorize $5 million a year for fiscal years 1988 through 1990 for grants to States for immunosuppressive drugs for transplant patients. Should a State choose not to apply for these funds, a medical center approved for organ transplantation may apply for funds to provide immunosuppressives to their patients. Organ transplantation has been proven to reduce morbidity and mortality, and the use of more powerful immunosuppressive drugs has enhanced this record of success. This program should improve access to organ transplantation for those who may not be able to afford expensive immunosuppressive drug therapy, extending the availability of these life-saving procedures.

I look forward to consideration of this bill by the Committee on Labor and Human Resources soon after the Christmas recess and passage by the full Senate shortly thereafter. Passage of this bill will greatly enhance the support for organ transplantation in the United States and improve health care for many needy Americans.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1951

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Organ Transplant and Immunosuppressive Drug Therapy Act of 1987".

TITLE I—ORGAN TRANSPLANTS

SEC. 101. ASSISTANCE FOR ORGAN PROCUREMENT ORGANIZATIONS.

(a) Additional Grant Authority.—Section 371(a) of the Public Health Service Act (42 U.S.C. 273(a)) is amended—

(1) in paragraph (2), by inserting "consolidation," after "operation,";

(2) by redesignating paragraph (3) as paragraph (4) and inserting after paragraph (2) the following new paragraph:

"(3) The Secretary may make grants for special projects designed to increase the number of organ donors."; and

(3) in paragraph (4) (as redesignated in paragraph (2) of this subsection)—

(A) by striking out "and" at the end of subparagraph (A);

(B) by striking out the period at the end and inserting in lieu thereof ", and"; and

(C) by adding at the end thereof the following new subparagraph:

"(C) with respect to carrying out paragraph (3), give special consideration to proposals from existing organ procurement organizations.".

(b) Limitations on Additional Grant Authority.—The first sentence of section 374(b)(3) of such Act (42 U.S.C. 274b(b)(3)) is amended by striking out "section 371" and all that follows through "organizations" and inserting in lieu thereof "paragraphs (2) and (3) of section 371(a)".

(c) Description of Organ Procurement Organization.—Section 371(b) of such Act (42 U.S.C. 273(b)) is amended—

(1) in paragraph (1)(E)—

(A) by striking out "size which" and inserting in lieu thereof "size such that"; and

(B) by striking out "will include" and all that follows through "year" and inserting in lieu thereof the following: "the organization can reasonably expect to procure organs from not less than 50 donors each year";

(2) in paragraph (2)(C), by striking out "372(b)(2)(D)," and inserting in lieu thereof the following: "372(b)(2)(E), including arranging for testing with respect to preventing the acquisition of organs that are infected with the etiologic agent for acquired immune deficiency syndrome,";

(3) in paragraph (2)(E)—

(A) by inserting "equitably" after "organs"; and

(B) by striking out "centers and"; and

(4) in paragraph (2)—

(A) by striking out "and" at the end of subparagraph (I);

(B) by striking out the period at the end and inserting in lieu thereof ", and"; and

(C) by adding at the end the following new subparagraph:

"(K) assist hospitals in establishing and implementing protocols for making routine inquiries about organ donations by potential donors.".

(d) Authorizations of Appropriations.—Subsection (c) of section 371 of such Act (42 U.S.C. 273(c)) is amended to read as follows:

"(c) For grants under subsection (a), there is authorized to be appropriated $5,000,000 for each of the fiscal years 1988 through 1990.".

SEC. 102. ORGAN PROCUREMENT AND TRANSPLANTATION NETWORK.

(a) Duties.—Section 372(b)(2) of the Public Health Service Act (42 U.S.C. 274(b)(2)) is amended—

(1)(A) by redesignating subparagraphs (B) through (H) as subparagraphs (C) through (I), respectively; and

(B) by inserting after subparagraph (A) the following new subparagraph:

"(B) establish membership criteria and medical criteria for allocating organs and provide to members of the public an opportunity to comment with respect to such criteria,";

(2) in subparagraph (D) (as redesignated in paragraph (1)(A) of this subsection), by striking out "organs which" and all that follows and inserting in lieu thereof "organs,";

(3) in subparagraph (E) (as redesignated in paragraph (1)(A) of this subsection), strike "organs," and insert the following: "organs, including standards for preventing the acquisition of organs that are infected with the etiologic agent for acquired immune deficiency syndrome,";

(4) in subparagraph (F) (as redesignated in paragraph (1)(A) of this subsection), by striking out "basis," and inserting in lieu thereof the following: "basis (and, to the extent practicable, among regions or on a national basis),"; and

(5)(A) by striking out "and" at the end of subparagraph (H) (as redesignated in paragraph (1)(A) of this subsection);

(B) by striking out the period at the end and inserting in lieu thereof ", and"; and

(C) by adding at the end the following new subparagraph:

"(J) carry out studies and demonstration projects for the purpose of improving procedures for organ procurement and allocation.".

(b) Consideration of Critical Comments.—Section 372 of such Act (42 U.S.C. 274) is amended by adding at the end the following new subsection:

"(c) The Secretary shall establish procedures for—

"(1) receiving from interested persons critical comments relating to the manner in which the Organ Procurement and Transplantation Network is carrying out the duties of the Network under subsection (b); and

"(2) the consideration by the Secretary of such critical comments.".

SEC. 103. REQUIREMENT OF ESTABLISHMENT OF BONE MARROW REGISTRY.

(a) In General.—Section 373 of the Public Health Service Act (42 U.S.C. 274a) is amended—

(1) by inserting "(a)" after the section designation; and

(2) by adding at the end the following new subsection:

"(b)(1) Not later than October 1, 1988, the Secretary shall, by grant or contract, establish a registry of voluntary bone marrow donors.

"(2) For the purpose of carrying out paragraph (1), there are authorized to be appropriated $1,500,000 for fiscal year 1989 and $1,600,000 for fiscal year 1990.".

(b) Conforming Amendment.—The section heading of section 373 of such Act (42 U.S.C. 274a) is amended by inserting "AND BONE MARROW REGISTRY" after "REGISTRY".

SEC. 104. ADMINISTRATION.

Section 375 of the Public Health Service Act (42 U.S.C. 274c) is amended—

(1) in the matter preceding paragraph (1), by striking out "1985, 1986, 1987, and 1988," and inserting in lieu thereof "1985 through 1990,"; and

(2) in paragraph (4), by striking out "one year" and all that follows through "annual report" and inserting in lieu thereof the following: "not later than April 1 of each of the years 1988 and 1990, submit to the Congress a report".

SEC. 105. REPORT.

Section 376 of the Public Health Service Act (42 U.S.C. 274d) is amended by striking out "shall annually" and inserting in lieu thereof the following: "shall, not later than October 1 of each year,".

TITLE II—IMMUNOSUPPRESSIVE DRUG THERAPY BLOCK GRANT

SEC. 201. IMMUNOSUPPRESSIVE DRUG THERAPY BLOCK GRANT PROGRAM.

Title XIX of the Public Health Service Act (42 U.S.C. 300w et seq.) is amended by adding at the end thereof the following new part:

"Part D—Immunosuppressive Drug Therapy Block Grant

"SEC. 1931. DEFINITIONS.

"For purposes of this part:

"(1) Eligible patient.—The term 'eligible patient' means an organ transplant patient who is not eligible to receive reimbursement for the total cost of immunosuppressive drug therapy under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.), under the State's medicaid plan established under title XIX of such Act (42 U.S.C. 1396 et seq.), or under private insurance.

"(2) Immunosuppressive drug therapy.—The term 'immunosuppressive drug therapy' means drugs and biologicals that are to be used for the purpose of preventing the rejection of transplanted organs and tissues.

"(3) Transplant center.—The term 'transplant center' means a transplant center certified by a State under the laws and regulations of such State.

"SEC. 1932. AUTHORIZATION OF APPROPRIATIONS.

"For the purpose of making allotments to States to carry out this part, there are authorized to be appropriated $5,000,000 for each of the fiscal years 1988 through 1990.

"SEC. 1933. ALLOTMENTS.

"(a) Amount.—

"(1) In general.—From amounts appropriated under section 1932 for each of the fiscal years 1988 through 1990, the Secretary shall allot to each State an amount that bears the same ratio to the total amount appropriated under such section for such fiscal year as the total number of eligible patients in the State bears to the total number of eligible patients in the United States.

"(2) Minimum allotment.—Notwithstanding paragraph (1), the allotment of any State in any fiscal year under this subsection shall not be less than $50,000. If, under paragraph (1), the allotment of any State in any fiscal year will be less than $50,000, the Secretary shall increase the allotment of such State to $50,000 and shall proportionately reduce the allotments of all other States whose allotment exceeds $50,000 in a manner that will insure that the allotment of each State in such fiscal year is at least $50,000.

"(b) Unallotted Funds.—

"(1) In general.—Subject to paragraph (2), to the extent that all the funds appropriated under section 1932 for a fiscal year and available for allotment in such fiscal year are not otherwise allotted to States because—

"(A) one or more States have not submitted an application or description of activities in accordance with section 1936 for such fiscal year;

"(B) one or more States have notified the Secretary that they do not intend to use the full amount of their allotment; or

"(C) some State allotments are offset or repaid under section 1906(b)(3) (as such section applies to this part pursuant to section 1936(d));

such excess shall be allotted among each of the remaining States in proportion to the amount otherwise allotted to such States for such fiscal year without regard to this subsection.

"(2) ORGAN TRANSPLANT CENTERS.—

"(A) APPLICATION.—If a State does not submit an application for an allotment or description of activities in accordance with section 1936 for a fiscal year or notifies the Secretary that the State does not intend to use the full amount of the allotment of the State, an organ transplant center in the State may submit an application in accordance with section 1936 for the amount of the allotment not allocated to the State.

"(B) ALLOTMENT.—Subject to subparagraph (C), if an applicant center is approved by the Health Care Financing Administration and the center complies with the requirements imposed on the State by this part, the Secretary shall provide to the center the amount of the allotment not allocated to the State.

"(C) MULTIPLE APPLICANTS.—If two or more applicant centers in a State meet the requirements of subparagraph (B), the Secretary shall divide among the eligible applicant centers in an equitable manner the amount of the allotment not allocated to the State.

"(D) DISTRIBUTION TO OTHER STATES.—If one or more centers in a State receive an allotment under this paragraph for a fiscal year, the allotment shall not be made available to remaining States under paragraph (1).

"SEC. 1934. PAYMENTS UNDER ALLOTMENTS TO STATES.

"(a) IN GENERAL.—For each fiscal year, the Secretary shall make payments, as provided by section 6503(a) of title 31, United States Code, to each State from its allotments under section 1933 from amounts appropriated for that fiscal year.

"(b) CARRYOVER FUNDS.—Any amount paid to a State for a fiscal year and remaining unobligated at the end of such year shall remain available for the next fiscal year to such State for the purposes for which it was made.

"SEC. 1935. USE OF ALLOTMENTS.

"(a) IN GENERAL.—

"(1) USE.—Except as provided in subsections (b) and (c), amounts paid to a State under section 1934 from its allotment under section 1933 for any fiscal year shall be used by the State to provide immunosuppressive drug therapy for eligible patients.

"(2) METHODS.—A State may use amounts paid to the State under section 1934 from its allotment under section 1933 to provide immunosuppressive drug therapy for eligible patients—

"(A) by purchasing the drugs and biologicals for such therapy and distributing such drugs and biologicals to transplant centers or eligible patients;

"(B) by certifying that an individual is an eligible patient for purposes of this part and by reimbursing a transplant center for the costs of immunosuppressive drug therapy provided by such center to such individual;

"(C) by any other method prescribed by the Secretary by regulation (other than the method described in subsection (b)(1)).

"(3) COPAYMENTS.—A State may require an eligible patient to whom immunosuppressive drug therapy is provided with amounts paid to the State under this part to make copayments for part of the costs of such therapy, without regard to section 1916 of the Social Security Act (42 U.S.C. 1396o).

"(b) LIMITATIONS.—A State may not use amounts paid to it under section 1934 to—

"(1) make direct payments to organ transplant patients; or

"(2) satisfy any requirement for the expenditure of non-Federal funds as a condition for the receipt of Federal funds.

"(c) ADMINISTRATIVE COSTS.—Not more than 10 percent of the total amount paid to any State under section 1934 from its allotment under section 1933 for any fiscal year may be used for administering the funds made available under section 1934. The State shall pay from non-Federal sources the remaining costs of administering such funds.

"SEC. 1936. APPLICATION AND DESCRIPTION OF ACTIVITIES; REQUIREMENTS.

"(a) APPLICATION REQUIRED.—In order to receive an allotment for a fiscal year under section 1933, each State shall submit an application to the Secretary. Each such application shall be in such form and submitted by such date as the Secretary shall require. Each such application shall contain assurances that the State will meet the requirements of subsection (b).

"(b) REQUIREMENTS.—As part of the annual application required by subsection (a), the chief executive officer of each State shall—

"(1) certify that the State agrees to use the funds allotted to the State under section 1933 in accordance with the requirements of this part;

"(2) agrees to cooperate with Federal investigations undertaken in accordance with section 1907 (as such section applies to this part pursuant to subsection (d) of this section); and

"(3) certify that the State agrees that Federal funds made available under section 1934 for any period will be so used as to supplement and increase the level of State, local, and other non-Federal funds that would in the absence of such Federal funds be made available for the activities for which funds are provided under such section and will in no event supplant such State, local, and other non-Federal funds.

"(c) DESCRIPTION OF ACTIVITIES.—

"(1) IN GENERAL.—The chief executive officer of a State shall, as part of the application required by subsection (a), also prepare and furnish the Secretary (in accordance with such form as the Secretary shall provide) with a description of the intended use of the payments the State will receive under section 1934 for the fiscal year for which the application is submitted, including information on the programs and activities to be supported.

"(2) PUBLIC COMMENT.—The description shall be made public within the State in such manner as to facilitate comment from any person (including any Federal or other public agency) during development of the description and after its transmittal.

"(3) REVISIONS.—The description shall be revised (consistent with this section) throughout the year as may be necessary to reflect substantial changes in the programs and activities assisted by the State under this part. Any revision shall be subject to paragraph (2).

"(d) ADMINISTRATION.—Unless inconsistent with this part, section 1903(b), section 1906(a), paragraphs (1) through (5) of section 1906(b), and sections 1907, 1908, and 1909 shall apply to this part in the same manner as such provisions apply to part A of this title.

"(e) ADDITIONAL INFORMATION.—Each annual report submitted by a State to the Secretary under section 1906(a) (as such section applies to this part pursuant to subsection (d) of this section) with respect to its activities under this part shall contain—

"(1) a specification of the number of eligible patients in the State receiving immunosuppressive drug therapy with amounts paid to the State under this part;

"(2) a description of the amount of any copayment required by the State under section 1935(a)(3); and

"(3) a certification that amounts paid to the State under this part are being used in accordance with this part.".

SEC. 202. REPORT.

(a) IN GENERAL.—Not later than 24 months after the date of enactment of this Act, the Secretary of Health and Human Services shall prepare and transmit to Congress a report concerning the impact of part D of title XIX of the Public Health Service Act (as added by section 202 of this Act).

(b) CONTENTS.—The report shall contain—

(1) a description of the effect of the program established under such part on organ transplants in the United States;

(2) an analysis of the effects of such program on the costs of organ transplants;

(3) an analysis of the extent to which amounts paid to States under such part are used for purposes other than the purposes specified by such part, including an analysis of the extent to which drugs and biologicals purchased with such amounts are provided to individuals who are not eligible patients under such part; and

(4) such recommendations as the Secretary considers appropriate, including recommendations as to whether financial assistance under such program should be continued during fiscal years after fiscal year 1990.

SEC. 203. CONFORMING AMENDMENTS.

(a) IN GENERAL.—The matter following subparagraph (E) of section 1902(a)(10) of the Social Security Act (42 U.S.C. 1396a(a)(10)(E)) is amended—

(1) by striking out "and" at the end of subclause (VIII); and

(2) by inserting before the semicolon at the end thereof the following: ", and (X) the making available of immunosuppressive drug therapy (or immunosuppressive drugs) to individuals who have received organ transplants shall not, by reason of this paragraph, require the making available of any other type of drug or the making available of any drugs for other individuals".

(b) APPLICATION OF AMENDMENTS.—The amendments made by subsection (a) shall apply to drugs furnished after the date of the enactment of this Act.●

By Mr. HECHT:

S. 1953. A bill to amend title II of the Social Security Act so as to remove the limitation upon the amount of outside income which an individual may earn while receiving benefits thereunder; referred to the Committee on Finance.

RETIRED AMERICAN WORKERS ACT

● Mr. HECHT. Mr. President, I rise today for the purpose of introducing the Retired American Worker's Act of 1987, a bill which will repeal the Social Security earnings test now imposed on America's retirees.

As we all know, Mr. President, when Social Security became law in 1935, it was intended to supplement the income of America's retirees during their golden years. Over time, however, many have become dependent on Social Security as their only source of income and in many instances, Social Security benefits have just not been enough to live on. Mr. President, for this reason, many retirees today have found it necessary to return to work.

There is an additional reason why my legislation is important and very much needed, Mr. President, and that is the fact that Americans today are simply living longer. Moreover, they find themselves in excellent health and, while maybe not maintaining the hectic schedules of their youth, wish to remain creative, active, and contributing members of society. Mr. President, retired Americans represent our greatest natural resource and our best hope for solving many of the problems now facing this country. Unfortunately, large numbers have been prevented from contributing a lifetime of experience and innovation because current law restricts how much money they can earn yet still receive their full Social Security benefits.

Mr. President, the bill I am introducing today will correct this inequity and ensure that retirees can enjoy working if they need to, or choose to, without losing their well deserved Social Security benefits. Simply put, my legislation would completely eliminate the limitation on the amount of outside income an individual may earn while receiving Social Security.

My proposal, Mr. President, will give retirees the opportunity to offer a fresh perspective and a lifetime of wisdom to their employer and to their fellow workers. As a Nevada businessman for more than 35 years, I have employed many retirees and found that they were my hardest and most dedicated workers. They were usually the first to arrive in the morning and the last to leave in the evening. Why should a law stifling ambition, energy, and the desire for hard work be allowed to remain on the books? I think the time is right for a change.

Mr. President, in these troubled economic times, it would be very shortsighted indeed to shut our seniors out from employment. Senior citizens could well become one of the most productive sectors of our economy. They should be allowed to work if they want to, without being punished for it. Furthermore, America's retired workers have paid into Social Security all their lives. It's their money, and I'm going to fight to see that they can get it back, whether they choose to work or not.

The most important gift America's younger generation can offer to our retirees, Mr. President, is the ability to enjoy their golden years viably, in economic security, and in comfort. The Retired American Worker's Act will give them this gift. I urge my colleagues to join me in this effort.

Mr. President, on a personal note, if I might say, my own father ran his business until he was 85 years old. He is still living at the age of 98.

This is a perfect example, close to home, about the business abilities of a man 85 years old.●

By Mr. INOUYE (for himself and Mr. MURKOWSKI):

S. 1954. A bill to amend the Internal Revenue Code of 1986 to exclude from gross income certain cost-of-living allowances; referred to the Committee on Finance.

EXCLUSION OF CERTAIN COST-OF-LIVING ALLOWANCES

● Mr. INOUYE. Mr. President, the bill which I am introducing today would restore tax-exempt cost-differential allowances for Federal employees of any branch of the Government working in high-cost remote areas. It is cosponsored by Senator MURKOWSKI.

An Executive order declared that cost-differential allowances for executive branch employees are tax-exempt. However, recent Internal Revenue Service ruling ruled that cost-differential allowances paid to Federal court employees working in remote areas are not subject to the same tax exemption as allowances paid to executive branch employees. Therefore, a disparity of benefits exists between Federal executive branch and judicial branch employees. The ruling also reversed a policy that has been in effect since the 1940's.

The Joint Committee on Taxation indicates that this amendment is negligible in terms of revenue impact.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1954

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) paragraph (2) of section 912 of the Internal Revenue Code of 1986 (relating to exemption for certain allowances) is amended by inserting "or in accordance with pay scales or salary plans adopted through administrative action pursuant to statutory authority" after "President".

(b) The amendment made by subsection (a) shall apply to amounts received after August 30, 1987.●

By Mr. GLENN (for himself and Mr. SIMON):

S. 1955. A bill to study the expansion of the Coastal Barrier Resources System to include undeveloped, unprotected areas along the Great Lakes shoreline; referred to the Committee on Foreign Relations.

GREAT LAKES COASTAL BARRIER ACT

● Mr. GLENN. Mr. President, today, I am indroducing, along with my colleague, Senator SIMON, the "Great Lakes Coastal Barrier Act". This bill would amend the Coastal Barriers Resource Act (Public Law 97-348) by incorporating into the Coastal Barriers Resources System, appropriate sites within the Great Lakes. A similar bill has been introduced in the House of Representatives by Mr. DAVIS and 11 of his colleagues.

The Great Lakes Coastal Barrier Act is designed to restrict federally subsidized development of undeveloped coastal barriers along the Great Lakes shoreline on privately owned properties. The act prohibits, within the undeveloped and unprotected coastal barrier sites, most expenditures of Federal funds promoting development. This act does not apply to sites owned and protected by Federal, State, or local governments or held by a qualified tax exempt organization for wildlife refuge, sanctuary, recreational, or natural resource conservation purposes. The original act also exempts such efforts such as nonstructural shoreline development projects, scientific research, Coast Guard facilities, maintenance of existing roads and waterways, and projects funded under the Coastal Zone Management Act and the Land and Water Conservation Fund.

In this legislation, a coastal barrier is defined as an area of privately owned shoreline which:

Consists of unconsolidated sedimentary materials; is subject to wave, tidal, and wind energies; protects landward aquatic habitats, including the adjacent wetlands, marshes, estuaries, inlets, and nearshore waters; is undeveloped—contains less than one structure per 5 acres that is roofed and walled and covers at least 200 square feet.

Within the Great Lakes Basin, approximately 140 shoreline miles or 77,000 acres fall within this definition.

Areas designated as coastal barriers cannot receive Federal grants for development projects such as roads, sewers, bridges, and so forth, or shore protection devices—breakwalls, groins, and so forth—nor receive national flood insurance.

We have witnessed the destruction of many homes and businesses recently due to record high Great Lakes water levels. While I will continue to seek financial assistance for those people who have lost their homes, this act will ensure that the Federal Government will not subsidize future development in areas which are vulnerble to flooding and erosion. The Great Lakes Coastal Barrier Act removes the financial risk of developing the Great Lakes shoreline from the general taxpayer and places it where it belongs; on those who choose to build there.

This bill would also conserve valuable wetland areas within the Great Lakes. These areas are vital to the ecology of the lakes, especially as they serve as fish spawning habitats. At this time, the vast majority of these resources has been lost to shoreline development. As a result, many endogenous fish species can no longer reproduce naturally in the Great Lakes.

Mr. President, I believe that this Great Lakes Coastal Barrier Act would be an extremely helpful tool in prudently managing the shoreline of the Great Lakes. I urge the Senate to give this legislation its early and favorable consideration. I ask unanimous consent that a summary of this legislation and the text of the bill be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

S. 1955

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Great Lakes Coastal Barrier Act of 1987".

SEC. 2. STUDY OF COASTAL BARRIER RESOURCES SYSTEM TO INCLUDE BARRIERS WITHIN GREAT LAKES SHORE AREAS.

Section 4 of the Coastal Barrier Resources Act (16 U.S.C. 3503) is amended to read as follows:

"SEC. 4. COASTAL BARRIER RESOURCES SYSTEM.

"(a) In General.—The Coastal Barrier Resources System consists of—

"(1) those undeveloped coastal barriers that are located on the Atlantic and Gulf coasts of the United States and included within the System on April 19, 1983; and

"(2) those undeveloped coastal barriers along the shore areas of the Great Lakes that are recommended by the Secretary under subsection (b) and reviewed by Congress under subsection (c).

"(b) Inclusion of Great Lake Barriers.—(1)(A) Except as provided in subparagraph (B) of this paragraph, no later than 90 days after the date of the enactment of the Great Lakes Coastal Barrier Act of 1987, the Secretary shall recommend to Congress for review under subsection (c) and prepare maps identifying the boundaries of those undeveloped coastal barriers along the shore areas of the Great Lakes that the Secretary considers appropriate for inclusion in the Coastal Barrier Resources System.

"(B) The Secretary may not recommend for inclusion as an undeveloped coastal barrier, and sections 5 and 6 of this Act do not apply to any area that is publicly owned and protected by Federal, State, or local government law, or held by a qualified organization defined in section 170(h)(3) of the Tax Reform Act of 1986 (26 U.S.C. 170(h)(3)), primarily for wildlife refuge, sanctuary, recreational, or natural resource conservation purposes.

"(2) Before recommending undeveloped coastal barriers under paragraph (1) of this section, the Secretary shall—

"(A) consult with and provide an opportunity for comment by appropriate United States Government agencies, State agencies (including the coastal zone management agencies) of the States bordering the Great Lakes, and the public; and

"(B) update and consider the draft coastal barrier inventory maps prepared by the Secretary in January 1985 for the States of Michigan, Wisconsin, Ohio, New York (Great Lakes) and Minnesota, after updating the maps on the basis of aerial photographs.

"(3) The maps required under subsection (b)(2) may not include areas that are publicly owned and protected by Federal, State or local government law or held by a qualified organization defined in section 170(h)(3) of the Tax Reform Act of 1986 (26 U.S.C. 170(h)(3)), primarily for wildlife refuge, sanctuary, recreational, or natural resource conservation purposes.

"(4) As soon as practicable after the revision of the maps referred to in paragraph (2)(B) of this subsection is completed, the Secretary shall provide copies of the maps to the chief executive officers of—

"(A) each appropriate State and county or equivalent jurisdiction in which System units are located;

"(B) the coastal zone management agency in each appropriate State that has a coastal zone management program approved under section 306 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1455); and

"(C) each appropriate United States Government agency.

"(c) Review by Congress and Designation of Areas.—(1) The Congress shall have 90 days after the submission by the Secretary under subsection (b)(1) of the boundaries of those undeveloped coastal barriers along the shore areas of Great Lakes that the Secretary considers appropriate for inclusion in the Coastal Barrier Resources System to review such boundaries.

"(2) Ninety days after the date of the submission referred to in paragraph (1) and subject to modification by law, the undeveloped coastal barriers designated by the Secretary shall be included in the Coastal Barrier Resources System.

"(d) Boundary Modifications.—(1) The Secretary shall—

"(A) conduct a review of the System maps, at least once every 5 years after the date of the enactment of the Great Lakes Coastal Barrier Act of 1987; and

"(B) subject to paragraph (2) of this subsection and the restrictions in subsection (b)(3) of this section, make any minor and technical modifications to the boundaries of any System unit that are necessary solely to reflect changes that have occurred in the size or location of that unit as a result of natural forces.

"(2) The Secretary shall conduct the reviews required under paragraph (1) of this subsection in consultation with the chief executive officer of—

"(A) each appropriate State and county equivalent jurisdiction in which System units are located;

"(B) the coastal zone management agency in each appropriate State that has a coastal zone management program approved under section 306 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1455);

"(C) each appropriate United States Government agency; and

"(D) the public.

"(e) System Maps.—The Office of the Director of the United States Fish and Wildlife Service, Department of the Interior, and other appropriate offices of the Service shall have available for public inspection all System maps.".

SEC. 3. CONFORMING AMENDMENTS.

(a) Congressional Findings.—Section 2 of the Coastal Barrier Resources Act (16 U.S.C. 3501) is amended by inserting "and along the shore areas of the Great Lakes" after "Atlantic and Gulf coasts" at each place it appears.

(b) Definitions.—Section 3 of the Coastal Barrier Resources Act (16 U.S.C. 3502) is amended—

(1) by redesignating paragraphs (4) and (5) as paragraphs (5) and (7), respectively; and

(2) by inserting after paragraph (3) the following new paragraph:

"(4) The term 'Great Lakes' means Lake Ontario, Lake Erie, Lake Huron, Lake St. Clair, Lake Michigan, and Lake Superior, to the extent that those lakes are subject to the jurisdiction of the United States.";

(3) by inserting after new paragraph (5) the following new paragraph:

"(6) The term 'system maps' means—

"(A) the maps that are entitled 'Coastal Barrier Resources System', numbered A01 through T12 (but excluding maps T02 and T03) and dated September 30, 1982, and the maps numbered T02A and T03A and dated December 8, 1982; and

"(B) the maps prepared under section (4)(b) of this Act and any modification to those maps made under that section.".

SEC. 4. EXPANSION OF HIGHWAYS IN MICHIGAN.

The limitations on the use of Federal expenditures or financial assistance within the Coastal Barrier Resources System under section 6(a)(3) of the Coastal Barrier Resources Act (16 U.S.C. 3505(a)(3)) shall not apply to highways located within the State of Michigan if Congress adds by law new units to the Coastal Barrier Resources System under section 4 of this Act, and these units include portions of United States or State highways in the State of Michigan.

Executive Summary: Great Lakes Coastal Barrier Act

I. PURPOSE OF ACT

To amend the Coastal Barriers Resource Act by including into the Coastal Barriers Resource System suitable sites within the Great Lakes Basin.

II. BACKGROUND OF PROGRAM

The Coastal Barriers Act of 1982 was designed to restrict federally subsidized development of undeveloped coastal barriers along the Atlantic and Gulf coasts. The Act prohibits, within the undeveloped and unprotected coastal barriers, most expenditures of federal funds promoting development.

A coastal barrier is defined as an area of privately owned shoreline which:

Consists of unconsolidated sedimentary materials;

Is subject to wave, tidal, and wind energies;

Protects landward aquatic habitats, including the adjacent wetlands, marshes, estuaries, inlets, and nearshore waters;

Is undeveloped (contains less than one structure per five acres that is "roofed and walled" and covers at least 200 square feet;

Otherwise protected (park land, conservation areas, etc.).

Areas designated as Coastal Barriers cannot receive federal grants for development projects (roads, sewers, bridges, etc.) or shore protection structures (breakwalls, groins, etc.) nor receive National Flood Insurance.

III. MECHANISMS OF BILL

Within 90 days of passage, the Department of Interior would revise existing Coastal Barrier maps to include appropriate Great Lakes sites.

Interior must consult with U.S. and state agencies and the public during this revision.

After submission of the maps, Interior shall provide the revised maps to each state and county/parish in which sites are located, state coastal zone management agencies, and each appropriate U.S. government agency.

After submission of the revised maps, Congress shall have 90 days to review and amend them. After this time, the designated sites shall be included in the Coastal Barrier Resources System.

The maps shall be reviewed by The Department of Interior every 5 years.

IV. TENTATIVE SITES TO BE INCLUDED

Maps were prepared by the Department of Interior in January, 1985 listing tentative sites within the Great Lakes Basin. These include:

Unit, name, and county/parish	Shoreline		
	Congressional District	Length (miles)	Area (acres)
MICHIGAN			
MI–01 Paddys Creek, Ontonagon	11	1.13	272
MI–02 Flintsteel River, Ontonagon	11	3.40	418
MI–04 Misery Bay, Ontonagon	11	1.20	415
MI–05 Hills Creek, Keweenaw	11	1.40	22
MI–06 Gratiot River, Keweenaw	11	.86	96
MI–07 Sevenmile Point, Keweenaw	11	.21	27
MI–08 Eagle River, Keweenaw	11	.66	126
MI–09 Jacobs Creek, Keweenaw	11	.33	19
MI–10 Great Sand Bay, Keweenaw	11	1.13	437
MI–11 Bete Grise, Keweenaw	11	1.61	1,220
MI–12 Traverse Bay, Keweenaw/Houghton	11	9.11	6,621
MI–14 Baraga, Baraga	11	2.15	206
MI–15 Pequaming, Baraga	11	1.00	600
MI–16 Huron Bay, Baraga	11	.24	429
MI–17 Huron River, Baraga/Marquette	11	.47	244
MI–18 Salmon Trout Bay, Marquette	11	1.39	1,036
MI–19 Squaw Beach, Marquette	11	.22	61
MI–20 Iron River, Marquette	11	.73	108
MI–21 Snake Head River, Marquette	11	.45	641
MI–22 Harvey, Marquette	11	1.57	191
MI–24 Laughing Fish Point, Marquette	11	.71	64
MI–39 Iroquois Road, Chippewa	11	1.22	121
MI–40 Waiska Bay, Chippewa	11	.33	854
MI–48 Bass Cove Lake, Mackinac	11	.19	31
MI–49 Big St. Martin Island, Mackinac	11	.63	49
MI–51 Green Island, Mackinac	11	.82	18
MI–58 McNeil Creek, Mackinac	11	13.02	5,392
MI–59 Seiners Point, Mackinac	11	3.78	1,280
MI–60 Seul Choix Bay, Schoolcraft	11	2.05	426
MI–66 Portage Point, Delta	11	1.04	325
MI–69 Grand Mere Lakes, Berrien	4	1.63	930
MI–71 Pierson, Muskegon	9	.60	30
MI–73 Arcadia, Manistee	9	1.07	277
MI–74 Watervale, Benzie	9	1.32	562
MI–78 North Manitou Island, Leelanau	9	1.19	77
MI–79 Petobego Pond, Amtrim/Grand Traverse	11	.94	146
MI–80 Vacation Valley Camp, Amtrim	11	3.31	2,875
MI–86 Cheboygan Point, Cheboygan	11	2.34	965
MI–87 Swan Lake, Presque Isle	11	.41	405
MI–88 Presque Isle, Presque Isle	11	1.15	72
MI–90 Whitefish Bay, Alpena	11	1.43	223
MI–91 Alpena, Alpena	11	2.36	1,508
MI–92 Thunder Bay, Alpena	11	.11	583
MI–93 Black River, Alpena	11	7.23	3,870
MI–94 Au Sable Inlet, Iosco	11	.87	26
MI–95 Au Sable Point, Iosco	11	.09	1,295
MI–96 Tawas Point, Iosco	11	3.03	232
MI–97 Charity Island, Arenac	8	3.12	253
MI–104 Point Aux Barques, Huron	8	1.23	451
MI–105 Alaska Bay, Huron	8	.56	197
MI–106 Huron City, Huron	8	1.43	378
MI–107 Celeron Island, Inayne	13	.92	938
MI–108 Enrico Fermi, Monroe	16	.39	160
MI–110 Toledo Beach, Monroe	16	1.32	320
MI–111 Woodtick Oeninsula, Monroe	16	3.69	4,420
Total		93.79	42,942
MINNESOTA			
MN–01 Minnesota Point, St. Louis	8	2.99	940
Total		2.99	940
NEW YORK			
NY–64 Wilson Bay, Jefferson	26	.39	164
NY–65 Grenadier Island, Jefferson	26	1.14	29
NY–66 The Isthmus, Jefferson	26	.28	100
NY–67 Point Peninsula, Jefferson	26	.81	296
NY–68 Stony Island, Jefferson	26	.82	165
NY–69 Sherwin Bay, Jefferson	26	.23	51
NY–70 Association Island, Jefferson	26	2.17	523
NY–71 Black Pond, Jefferson	26	.99	242
NY–74 Deer Creek Marsh, Oswego	29	.91	428
NY–76 The Bluffs, Cayuga	29	.65	251
NY–77 Little Sodus and Blind Sodus Bay, Cayuga	29	2.34	1,790
NY–78 Black Creek, Wayne	29	1.01	198
NY–79 Scotts Bluff, Wayne	29	.59	211
NY–80 Port Bay, Wayne	29	.82	309
NY–81 East Bay, Wayne	29	.47	124
NY–82 Crescent Beach, Wayne	29	.46	91
NY–83 Braddock, Monroe	30	1.36	1,072
Total		15.44	6,044
OHIO			
OH–05 Middle Bass Island, Ottawa	5	.62	22
OH–06 North Bass Island, Ottawa	5	.39	12
OH–08 Bay Point Shoal, Ottawa/Erie	5	.43	1,315
OH–09 South of Sandusky, Erie	5	1.45	555
OH–10 Mentor-on-the-Lake, Lake	11	2.21	1,418
Total		6.82	5,014
PENNSYLVANIA			
PA–01 Presque Isle Bay, Erie	21	6.82	5,014
Total		6.82	5,014
WISCONSIN			
WI–02 Port Wing, Bayfield	7	1.89	942
WI–03 Herbster, Bayfield	7	.22	30
WI–04 Bark Bay, Bayfield	7	2.06	717
WI–06 Sand Bay, Bayfield	7	.67	80
WI–08 Raspberry Bay, Bayfield	7	.85	145
WI–16 Amnicon Bay, Ashland	7	.63	145
WI–17 Big Bay Lagoon, Ashland	7	1.53	925
WI–18 Chequamegon, Ashland	7	13.21	18,730
WI–21 Au Sable, Brown	8	.84	275
WI–22 Point Beach, Manitowac	6	7.25	4,190
Total		24.31	24,410
Total potential Great Lakes units		141.63	77,658●

By Mr. BENTSEN:

S. 1956. A bill to treat tobacco grown in the United States and processed in a Caribbean Basin country as eligible for duty-free treatment; referred to the Committee on Finance.

DUTY-FREE TREATMENT OF TOBACCO GROWN IN U.S. AND CARIBBEAN BASIN COUNTRY

● Mr. BENTSEN. Mr. President, today I introduce a bill that would clarify how the provisions of the Caribbean Basin Initiative interact with the provisions of the general tariff schedules in certain circumstances. In essence, the issue that the bill would deal with is as follows:

Under schedule 8 of the tariff schedules, any product of the United States that is returned to the United States after having been "advanced in value or improved in condition abroad by any process of manufacture or other means" is treated as a foreign article that is dutiable on its full value. Under the CBI, however, a product will be considered a product of a CBI beneficiary country only if the product satisfies two tests: first, at least 35 percent of the value of the product as declared at entry into the United States must have been added in the beneficiary country, 15 of the 35-percentage points may be attributable to value added in the United States; second, the product must be "a new or different article of commerce which has been grown, produced, or manufactured in" the beneficiary country. The second part of this test is viewed as satisfied if a "substantial transformation" of the product has taken place in the beneficiary country.

As a result of these provisions of the tariff schedules and the CBI taken together, it is possible in some circumstances that tobacco grown in the United States, processed only in a CBI country and returned to the United States may be considered by the Customs Department to be ineligible for duty-free treatment. As an example, take the case of tobacco grown and purchased in the United States, shipped to a CBI country such as the Dominican Republic to be stemmed, stripped, chopped and graded, and returned to the United States. It is possible that Customs would consider this tobacco to be a foreign article, and therefore dutiable, under schedule 8 of the tariff schedules, since it has been "advanced in value or improved in condition" in the Dominican Republic, but would consider it not to be a Dominican Republic product eligible for CBI benefits, because it does not satisfy the two-part rule of origin test in the CBI. In other words, under this view, the tobacco would be treated for tariff purposes as if it were neither a product of the United States nor a product of the Dominican Republic, which would be an absurd and unintended result.

The bill I introduce today would clarify that this is not the correct result by providing duty-free treatment for tobacco or products of tobacco grown in the United States and advanced in value in a CBI country and not elsewhere. Thus it would clarify that the correct result in the case described above is that the tobacco may be reimported without duty. This result, and hence the bill, is entirely consistent with the policy of the rules of origin in the CBI, which is to prevent persons in third countries from obtaining duty-free treatment by doing minimal processing of a product in a CBI country. This policy is not in play when the only other country in question is the United States.

In sum, Mr. President, the bill I introduce is of a technical and clarifying nature and is completely consistent with the policy of the CBI. I urge my colleagues to support this needed legislation, and I ask unanimous consent that a copy of this bill be printed following my remarks.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 1956

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TOBACCO PROCESSED IN CARIBBEAN BASIN COUNTRY.

(a) In General.—Notwithstanding any other provision of law, any tobacco grown in the United States, and any product of tobacco grown in the United States, that—

(1) is processed, advanced in value, or improved in a beneficiary country, and

(2) is not processed, advanced in value, or improved in any country other than a beneficiary country or the United States, shall be accorded duty-free treatment as an eligible article under the Caribbean Basin Economic Recovery Act (19 U.S.C. 2701, et seq.).

(b) Beneficiary Country.—For purposes of this section, the term "beneficiary country" has the meaning given to such term under section 212 of the Caribbean Basin Economic Recovery Act.

SEC. 2. EFFECTIVE DATE.

(a) In General.—The provisions of section 1 of this Act shall apply with respect to articles entered, or withdrawn from warehouse for consumption, after the date that is 15 days after the date of enactment of this Act.

(b) Reliquidation.—Notwithstanding section 514 of the Tariff Act of 1930 or any other provision of law, upon a request filed with the appropriate customs officer before the date that is 90 days after the date of enactment of this Act, any entry, or withdrawal from warehouse, of any tobacco or tobacco product described in section 1(a) of this Act that was made—

(1) after December 31, 1983, and

(2) on or before the date that is 15 days after the date of enactment of this Act,

shall be liquidated or reliquidated as though such entry or withdrawal occurred on the day after the date that is 15 days after the date of enactment of this Act.●

By Mr. THURMOND:

S.J. Res. 234. Joint resolution designating the week of April 17, 1988, as "Crime Victims Week"; to the Committee on the Judiciary.

CRIME VICTIMS WEEK

Mr. THURMOND. Mr. President, I am pleased to introduce today legislation which would designate the week of April 17-23, 1988, as "Crime Victims Week."

It is a sad legacy that over the past 3 years, nearly 35 million Americans were victimized annually by criminal acts; 6 million individuals per year are raped, robbed, beaten, or murdered. The impact of crime is devastating to innocent victims and their families. In addition to the physical injuries and the financial losses, the victim is further scarred with the emotional loss of one's sense of dignity, security, and trust in other human beings. It is disturbing that the likelihood of becoming a victim of violent crime is now greater than that of being injured in an automobile accident.

Further compounding the pain and anguish victims must endure has been an historical insensitivity to their plight. The criminal justice has often times ignored the rights of victims before making crucial decisions regarding their cases or failed to notify them that a defendant had been released in a bill. While the system offered legal representation and other forms of aid to the accused, it offered minimal assistance to the victim in recovering from the tremendous burden resulting from victimization.

Five years ago, the President's Task Force on Victims of Crime presented an agenda to correct these injustices and restore balance to the criminal justice system. At the Department of Justice, an Office for Victims of Crime was established within the Office of Justice Programs for the purpose of helping States implement the Task Force's recommendations. The Federal Government began awarding fines collected from convicted Federal offenders to the States to aid victims of crime. In addition, the National Victims Resource Center within the Office for Victims of Crime was established to provide information on victim assistance programs and laws. Largely as a result of these efforts, community programs for victims have grown in number and now every State has a designated agency responsible for victim services.

Much progress is being made to help the victims adjust, but much more needs to be done. Through the continued efforts of State and local governments and private organizations and concerned citizens, the trauma suffered by the innocent victims of crime will be eased.

I urge my colleagues to support this measure and to join me in focusing America's attention on the plight of crime victims.

ADDITIONAL COSPONSORS

S. 347

At the request of Mr. Sasser, the name of the Senator from Montana [Mr. Baucus] was added as a cosponsor of S. 347, a bill to amend chapter 171 of title 28, United States Code, to allow members of the Armed Forces to sue the United States for damages for certain injuries caused by improper medical care provided during peacetime.

S. 430

At the request of Mr. Metzenbaum, the name of the Senator from Minnesota [Mr. Boschwitz] was added as a cosponsor of S. 430, a bill to amend the Sherman Act regarding retail competition.

S. 533

At the request of Mr. Thurmond, the name of the Senator from Maryland [Mr. Sarbanes] was added as a cosponsor of S. 533, a bill to establish the Veterans' Administration as an executive department.

S. 612

At the request of Mr. Simon, the name of the Senator from Montana [Mr. Melcher] was added as a cosponsor of S. 612, a bill to repeal a provision of Federal tort liability law relating to the civil liability of Government contractors for certain injuries, losses of property, and deaths and for other purposes.

S. 840

At the request of Mr. Thurmond, the name of the Senator from Georgia [Mr. Nunn] was added as a cosponsor of S. 840, a bill to recognize the organization known as the 82d Airborne Division Association, Inc.

S. 889

At the request of Mr. Gore, the name of the Senator from Alaska [Mr. Murkowski] was added as a cosponsor of S. 889, a bill to amend the Communications Act of 1934 to provide for fair marketing practices for certain encrypted satellite communications.

S. 1099

At the request of Mr. Cochran, the name of the Senator from Vermont [Mr. Stafford] was added as a cosponsor of S. 1099, a bill to authorize the several States and the District of Columbia to collect certain taxes with respect to sales of tangible personal property by nonresident persons who solicit such sales.

S. 1124

At the request of Mr. Simon, the name of the Senator from Connecticut [Mr. Weicker] was added as a cosponsor of S. 1124, a bill to amend title 18, United States Code, to require that telephone monitoring by employers be accompanied by a regular audible warning tone.

S. 1346

At the request of Mr. Matsunaga, the name of the Senator from Tennessee [Mr. Sasser] was added as a cosponsor of S. 1346, a bill to amend the National Labor Relations Act to give employers and performers in the performing arts rights given by section 8(e) of such act to employers and employees in similarly situated industries, to give employers and performers in the performing arts the same rights given by section 8(f) of such act to employers and employees in the construction industry, and for other purposes.

S. 1393

At the request of Mr. Heinz, the name of the Senator from Iowa [Mr. Harkin] was added as a cosponsor of S. 1393, a bill to amend title 39, United States Code, to designate as nonmailable matter any private solicitation which is offered in terms expressing or implying that the offeror of the solicitation is, or is affiliated with, certain Federal agencies, unless such solicitation contains conspicuous notice that the Government is not making such solicitation, and for other purposes.

S. 1522

At the request of Mr. RIEGLE, the name of the Senator from Vermont [Mr. LEAHY] was added as a cosponsor of S. 1522, a bill to amend the Internal Revenue Code of 1986 to extend through 1992 the period during which qualified mortgage bonds and mortgage certificates may be issued.

S. 1731

At the request of Mr. METZENBAUM, the name of the Senator from New Mexico [Mr. BINGAMAN] was added as a cosponsor of S. 1731, a bill to amend the Job Training Partnership Act to establish a demonstration program employment opportunities for severely disadvantaged youth, and for other purposes.

S. 1856

At the request of Mr. SASSER, the names of the Senator from Florida [Mr. CHILES], the Senator from South Carolina [Mr. THURMOND], and the Senator from Alabama [Mr. SHELBY] were added as cosponsors of S. 1856, a bill to amend chapter 25 of title 44, United States Code, to provide an authorization for the National Historical Publications and Records Commission programs, and for other purposes.

S. 1896

At the request of Mr. CRANSTON, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of S. 1896, a bill to authorize the Vietnam Women's Memorial Project, Inc., to construct a statue in honor and recognition of the women of the United States who served in the Vietnam conflict.

S. 1939

At the request of Mr. GARN, the names of the Senator from Georgia [Mr. NUNN], and the Senator from Virginia [Mr. TRIBLE] were added as cosponsors of S. 1939, a bill to grant a Federal charter to the Challenger Center, and for other purposes.

SENATE JOINT RESOLUTION 59

At the request of Mr. THURMOND, the names of the Senator from Montana [Mr. BAUCUS], the Senator from Texas [Mr. BENTSEN], the Senator from New Mexico [Mr. DOMENICI], and the Senator from Rhode Island [Mr. PELL] were added as cosponsors of Senate Joint Resolution 59, a joint resolution to designate the month of May 1987 as "National Foster Care Month."

SENATE JOINT RESOLUTION 170

At the request of Mr. ROTH, the name of the Senator from Wisconsin [Mr. KASTEN] was added as a cosponsor of Senate Joint Resolution 170, a joint resolution designating the month of September 1988 as "National Ceramic Arts Month."

SENATE JOINT RESOLUTION 178

At the request of Mr. KENNEDY, the name of the Senator from Ohio [Mr. METZENBAUM] was added as a cosponsor of Senate Joint Resolution 178, a joint resolution designating the first day of August as "National Day of Peace."

SENATE JOINT RESOLUTION 206

At the request of Mr. DOMENICI, the names of the Senator from Utah [Mr. HATCH], and the Senator from Hawaii [Mr. MATSUNAGA] were added as cosponsors of Senate Joint Resolution 206, a joint resolution to declare Dennis Chavez Day.

SENATE JOINT RESOLUTION 218

At the request of Mr. LAUTENBERG, the names of the Senator from Maine [Mr. MITCHELL], the Senator from Mississippi [Mr. COCHRAN], the Senator from Washington [Mr. ADAMS], the Senator from Utah [Mr. GARN], the Senator from Hawaii [Mr. INOUYE], the Senator from Massachusetts [Mr. KERRY], the Senator from Vermont [Mr. STAFFORD], and the Senator from California [Mr. WILSON] were added as cosponsors of Senate Joint Resolution 218, a joint resolution to designate March 25, 1988, as "Greek Independence Day: A National Day of Celebration of Greek and American Democracy."

SENATE RESOLUTION 270

At the request of Mr. LAUTENBERG, the names of the Senator from Hawaii [Mr. INOUYE], and the Senator from California [Mr. WILSON] were added as cosponsors of Senate Resolution 270, a resolution paying special tribute to Portuguese diplomat Dr. de Sousa Mendes for his extraordinary acts of mercy and justice during World War II.

SENATE RESOLUTION 343—EXPRESSING THE SENSE OF THE SENATE IN SUPPORT OF A RESOLUTION TO ENHANCE COOPERATION OF NATO ALLIES

Mr. McCONNELL submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 343

Whereas, Greece and Turkey are members of the North Atlantic Treaty Organization [NATO];

Whereas, Greece and Turkey both make important contributions to NATO objectives;

Whereas, without these contributions the military training, capabilities and the forward defense of the Alliance would be diminished;

Whereas, the success of the Organization has depended upon the full military and political cooperation and confidence among the member nations;

Whereas, NATO has preserved the interests of international peace and stability for 38 years and has provided a credible framework for maintaining the East-West military balance;

Whereas, continuing differences between both Turkey and Greece have weakened the prospects for complete NATO cooperation: *Resolved by the Senate,* That it is in the interest of the Alliance that members accommodate their differences through political and diplomatic processes; and

That it is in the interests of the United States to promote a resolution of the tension between two valued partners within the Alliance; and

That the Secretary of State should dispatch a senior U.S. official to both nations to consult on possible solutions to differences that diminish the strength of the overall NATO arrangement; and

That the Senate supports the Secretary of State encouraging the Secretary General of the United Nations to renew and strengthen efforts to find a solution to the tensions between Greece and Turkey; and

That the United Nations settlement process has provided contact between the parties and a constructive basis for negotiations aimed at a comprehensive and good faith solution to the Cyprus problem; and

That any resolution to the differences must address the questions of level of military forces on Cyprus, and constitutional and security guarantees for individual Cypriots and both communities on Cyprus; and

That international organizations have made a valuable contribution to the resolution of territorial disputes and should be encouraged to participate in the solution of matters in the Aegean Sea.

Mr. McCONNELL. Mr. President, on December 2, I introduced Senate Resolution 335. That legislation dealt with relations between two of our NATO allies, Turkey and Greece.

Since the introduction of Senate Resolution 335, I have discussed its provisions with many of my colleagues in this body and with several other interested parties. As a result of those discussions, I rise today to offer a revised version of that legislation which I urge my colleagues to consider. Thank you.

SENATE RESOLUTION 344—AUTHORIZING USE OF THE HART BUILDING ATRIUM FOR A HOLIDAY CONCERT

Mr. MATSUNAGA submitted the following resolution; which was considered and agreed to:

S. RES. 344

Resolved, That the atrium of the Senate Hart Office Building may be used from 12:00 noon until 1:00 p.m. on December 18, 1987, for a concert of holiday music presented by the Congressional Chorus.

SENATE RESOLUTION 345—EXPRESSING THE SENSE OF THE SENATE THAT THE SECRETARY OF STATE SHOULD DESIGNATE A SPECIAL ENVOY TO NEGOTIATE THE RELEASE OF AMERICANS HELD HOSTAGE IN LEBANON

Mr. MOYNIHAN (for himself and Mr. PELL) submitted the following resolution, which was referred to the committee on Foreign Relations:

S. RES. 345

Whereas American citizens Terry Anderson, Thomas Sutherland, Frank Herbert Reed, Joseph James Cicippio, Edward Austin Tracy, Alann Steen, Jesse Jonathan Turner, and Robert Polhill are being held hostage in Lebanon;

Whereas eleven other foreign citizens are being held hostage in Lebanon, including Anglican Church envoy Terry Waite;

Whereas many of these hostages have not seen their families for more than a year;

Whereas the hostages' captivity is an affront to their most basic human rights; and

Whereas despite the best efforts of the Administration under current arrangements, these hostages remain in captivity: Now, therefore, be it

Resolved, That (a) the Senate hereby renews its appeals to those holding these men to free them out of compassion for their plight.

(b) It is the sense of the Senate that the Secretary of State should designate a special envoy to negotiate the release of American hostages in Lebanon, and of all hostages in that nation.

● Mr. **MOYNIHAN.** Mr. President, last week I had the privilege of attending a special ceremony for Americans held hostage in Lebanon. The event was part of "International Human Rights Day," the date of which this year coincided with the 1,000th day of captivity for Associated Press reporter Terry Anderson.

Imagine what it must be like to be held for so long a period—longer than either the Kennedy or Ford administrations, longer than the American involvement in World War I—without seeing or hearing from loved ones, never knowing when freedom will come. Circumstances are no less difficult for family members in the United States, who often have no information whether their relatives are alive.

The Government of the United States has had a lackluster record in negotiating the release of the hostages. By covertly selling arms to so-called Iranian moderates, we aided extremists in their war against the Arab nations of the Persian Gulf and contradicted a policy we were asking our allies to maintain. The publicity surrounding the Iran-Contra affair appears to have made the United States Government gun-shy about working for the hostages' release.

Such a policy is not acceptable; we must continue to look for new initiatives. The negotiation process could be aided by the appointment of a special envoy to help win the release of the hostages. Such an envoy could devote all of his or her energies to evaluating information from the Middle East and serving as a contact point for the hostages' families.

Under current arrangements, the best efforts of the administration have been unsuccessful. We must continue to work for the hostages' freedom, or they shall surely never be free.

I therefore introduce the following resolution, on behalf of myself and Mr. PELL, and I ask unanimous consent that it be printed in the RECORD.●

● Mr. **PELL.** Mr. President, I am pleased to join with my distinguished colleague from New York [Mr. MOYNIHAN] in sponsoring Senate Resolution 345, expressing the sense of the Senate that the Secretary of State should designate a special envoy to negotiate the release of Americans held hostage in Lebanon.

As we near the end of 1987, eight American citizens continue to be held in captivity in Lebanon. One of these citizens, Mr. Terry Anderson, has been held hostage in Lebanon for more than 1,000 days. Sadly, that 1,000th anniversary of Mr. Anderson's kidnapping passed last Friday with far too little notice.

Too often, Mr. President, the world is shocked by yet another savage terrorist attack. In the immediate wake of each incident, all Americans react with grief and a strong sense of urgency that our Government take whatever steps may be appropriate to resolve the incident. Too often, as time passes by, the incident and the victim or victims of the incident, fade in our collective memory as we resume our daily activities.

Our clearly stated policy is that we will talk to anyone and use every available resource to gain the safe return of American citizens who are held hostage by terrorists. While the administration has worked diligently to gain the release of the eight Americans still held in Lebanon, there they remain. It is time for a new approach, for renewed efforts to free these Americans. This resolution which we are sponsoring today urges the administration to take a new approach in designating a special envoy to negotiate the release of our hostages in Lebanon, and of all those held hostage in that country.

We can leave no avenue unexplored as we seek to uphold the very values on which this country was founded: Respect for individual life, respect for law, and respect for the sovereignty of nations. I urge all of my colleagues to join with us in sponsoring this resolution and working for its adoption.●

AMENDMENTS SUBMITTED

PREPAYMENT OF LOANS TO STATE AND LOCAL DEVELOPMENT COMPANIES

BUMPERS AMENDMENT NO. 1362

(Ordered to lie on the table.)

Mr. **BUMPERS** submitted an amendment intended to be proposed by him to the bill (S. 437) to amend the Small Business Investment Act of 1958 to permit prepayment of loans made to State and local development companies; as follows:

At line , on page one of the Committee Amendment, strike the comma and insert the following: "plus a prepayment penalty as described in subparagraph (c),".

On page two, line , of the Committee Amendment insert the following new subparagraph (c) and renumber the existing subparagraphs accordingly:

(c) The Federal Financing Bank may impose a prepayment penalty on issuers of debentures who elect to pay those debentures before maturity according to the following schedule:

(1) For debentures ten years or less remaining before maturity, a penalty not to exceed 40 percent of the coupon rate;

(2) For debentures with more than ten years but less than 15 years remaining before maturity, a penalty not to exceed fifty percent of the coupon rate;

(3) For debentures with more than fifteen years but less than 20 years before maturity, a penalty not to exceed sixty percent of the coupon rate;

(4) For debentures with more than twenty years remaining before maturity, a penalty not to exceed seventy percent of the coupon rate;"

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON THE JUDICIARY

Mr. **BYRD.** Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to hold hearings during the session of the Senate on December 14, 15, 16, 1987 on the nomination of Anthony M. Kennedy to be an Associate Supreme Court Justice.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

SUBCOMMITTEE ON WESTERN HEMISPHERE AND PEACE CORPS AFFAIRS

Mr. **BYRD.** Mr. President, I ask unanimous consent that the Subcommittee on Western Hemisphere and Peace Corps Affairs of the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, December 16, 1987 to hold a hearing on the situation in Haiti.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. **BYRD.** Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Wednesday, December 16, 1987 at 3 p.m. to hold a markup of S. 1721 and S. 1818.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

Mr. **BYRD.** Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Wednesday, December 16, 1987 to hold a hearing on Intelligence matters.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

ADDITIONAL STATEMENTS

MISSISSIPPIAN NEW CHAIRMAN OF NATIONAL KIDNEY FOUNDATION

Mr. COCHRAN. Mr. President, another Mississippian has been honored with a leadership position at the national level.

Bill Hunter of Jackson, MS, is now chairman of the National Kidney Foundation. I congratulate him on this honor and his new responsibility.

He is a certified public accountant and is a partner with Peat, Marwick, Main & Co. in Jackson, and has been active in his profession as well as providing leadership and dedicated service to his community, State, and Nation in such organizations as the Kidney Foundation.

I know Bill Hunter will provide very fine guidance, service, and strong leadership to the Kidney Foundation as it seeks to combat kidney disease.

I commend Bill Hunter and wish him well during his tenure as chairman of the National Kidney Foundation.

SOCIAL SECURITY IS NOT PART OF THE DEFICIT PROBLEM

● Mr. RIEGLE. Mr. President, two recent articles in the Washington Post reflect the widespread recognition that Social Security should not be cut in order to try to balance the Federal budget. That recognition is not yet shared, however, by all of the Members of Congress, some of whom repeatedly propose raiding the Social Security trust funds to pay for other Government operations. I therefore believe it would be useful to reprint these two important articles in the RECORD.

As I have stated before on this floor, the Social Security trust funds are separately financed by taxes paid by workers who expect the money to be there when they retire. For that purpose, the trust funds are building a large surpluses. So Social Security is already contributing an estimated $287 billion toward deficit reduction over the next 6 years. To take from Social Security now to pay for the deficit would be an accounting trick, not an honest means of addressing the deficit crisis.

I ask that these articles be printed in the RECORD.

The articles follow:

[From the Washington Post, Dec. 13, 1987]

CUT SOCIAL SECURITY? FORGET IT

(By Forrest Chisman)

Why is everyone beating up on Social Security?

In an editorial deploring the slight progress embodied in the recent deficit reduction package, The New York Times lamented that "The negotiators, acting together, could have made genuinely constructive reductions, like restraining Social Security increases for the well-to-do." Writing in The Atlantic, investment banker, Peter G. Peterson thunders that ". . . today's [Social Security] policies are unsustainable." This newspaper admonishes: "There can be no credible deficit reduction without attacking Social Security and the other major benefit programs to which it is the key."

Statements of this sort are overdrawn if not absurd. There are all sorts of "credible" and "constructive" ways to reduce the deficit that have nothing at all to do with Social Security. The present deficit was created largely by cutting taxes and increasing military spending. Collectively, Social Security retirement payments, interest on the national debt and programs for the poor add up to roughly half the federal budget. That leaves about $500 billion worth of other programs available for deficit reduction before even considering tax hikes.

Moreover, Social Security benefits are certainly "sustainable" for the foreseeable future. In fact, the national pension system has not added one penny to the accumulated national debt. Instead it is contributing an ever-increasing amount to reducing annual deficits. Receipts from the payroll tax will exceed outlays by $19 billion this year, almost $40 billion next year and hundreds of billions in the '90s. Because these surpluses are invested in federal bonds, they reduce the amount the government must borrow from the private sector. This means that this year's deficit would be $19 billion and next year's roughly $40 billion bigger were it not for Social Security.

These arguments seem lost on Social Security critics. They contend that we can't raise taxes because last year's income-tax reform "promised" high-income people further reductions in income-tax rates. But if all bets are off in the scramble to reduce deficits, surely the promises we have been making to all the American people for decades—promises on which most have based their retirement plans for all their working lives—should count for at least as much or more.

In the end, most arguments for cutting Social Security reduce to an essentially mindless idea of "fair shares": Since a case can be made against cutting any government program and against raising taxes as well, the only route to deficit reduction is to cut a little bit of everything without respect to merit or moral claim. To bolster their position with regard to Social Security, people who advocate "fair shares" march out allegations meant to prove that it's all right to reduce benefits for retirees, either because they don't really need them or because the retirement system doesn't work very well anyway. These allegations are either incorrect or off the mark. Some of the leading fallacies:

It's all right to cut Social Security because the poverty rate for the elderly is only 12.6 percent compared to 14 percent for the population as a whole. Or, in Peterson's words, they are among the groups "least likely to be poor."

In fact, the lower poverty rate for the elderly is completely accounted for by the fact that the federal government assumes that the old need less food than the young. Even more important is the fact that without Social Security, almost half of all retirees would be living in poverty. Reducing poverty among the elderly is a major national accomplishment in which we should all take great pride. Do we want to make our next great national accomplishment increasing poverty among retirees?

If the elderly as a whole aren't well-off, there are at least some affluent elderly. Why shouldn't we cut back their benefits?

This observation usually leads to the suggestion that we should tax Social Security in the same way that we tax private pension benefits. And that's not a bad idea. (At present only half the benefits of individuals with incomes over $25,000 and couples with incomes over $32,000 are taxed.) But doing so would make only a small contribution to reducing the deficit: about $2-3 billion, if the present income thresholds were maintained. And this scheme raises another question. If we think that the better-off elderly can afford to pay more taxes, why shouldn't we also raise taxes for the better-off non-elderly? The most affluent 20 percent of Americans now receive about half of all national income. This group which has already benefited most from Reagan era tax cuts is due to receive another big rate cut in 1988, costing the Treasury an estimated $51 billion over the next three years and much more thereafter. The biggest cuts will go to the very wealthiest people. Would it be amiss to ask Peterson and his cohort to sacrifice something for the deficit about which they are so vocally concerned?

Why should the elderly be held harmless against cost of living increases, when incomes for the rest of us aren't indexed to keep up with inflation?

Unlike the rest of us, the elderly don't have the option of making up inflation losses by working more hours or seeking better jobs. They're stuck on fixed incomes. Should someone who is 85 receive less income than he did at 65?

It's all right to cut Social Security, because the system will collapse anyway when the baby-boomers retire.

Not true. The 1983 Social Security reforms were designed to maintain its financial soundness for the next 75 years with only modest tax increases. By the time the baby boomers retire, they will have built up a trust fund surplus on the order of $2 trillion that they can draw on to help lighten the burden on their children. Beyond 75 years, no one's crystal ball is good enough to support sensible debate.

Social Security promotes consumption, not savings, and the United States must increase its savings rate and invest in more physical and human capital.

Paradoxically, critics who use this argument typically also argue for cutting benefits only for the affluent elderly (who are most likely to convert their spare earnings into savings), not for the less affluent (who have no choice but to spend their retirement income). Moreover, these critics generally ignore that Social Security's large and growing surplus promotes private investment by reducing the need for the federal government to borrow, thereby freeing up huge amounts of private capital for investment.

Social Security isn't a very efficent way to provide for the elderly, because it's not a means-tested program. Both rich and poor people receive benefits.

What's so great about mean-testing? We don't means-test public education or defense or public highways or, in fact, most of the services that government provides, for the very simple reason that they are services that everyone needs, everyone pays for and everyone deserves to receive. The same is true of Social Security. Everyone in our society, whether rich, poor or middle class, has to make provision for their retirement. Social Security is the mechanism by which they use government to do a major part of the job. Why shouldn't rich and middle-class Americans (and their parents and kids) benefit from the program, as long as they pay for it? It's their government and their dollars, too.

Social Security is not "welfare for the middle class," as Peterson and other critics so often maintain. It is a retirement program for everyone. And on efficiency grounds alone, it's a clear winner. It is portable, inflation-adjusted and progressive in its benefits structure (low-income workers pay taxes on a larger part of their wages but get back higher rates of return.) The whole system operates with an overhead rate of only one percent. Unlike private pensions that often tie workers to their jobs, Social Security facilitates the labor mobility needed for a smooth-functioning economy. And, unlike means-tested programs, that have been eroded by budget cuts and inflation in recent years, Social Security lives up to its promises.

Only the federal government could provide a comprehensive retirement plan with all these advantages. If Americans want to buy this much-needed service from their government—and don't complain about paying the bill—what's wrong with that?

[From the Washington Post, Dec. 16, 1987]

BITE THE DEFICIT, NOT SOCIAL SECURITY

(By Henry J. Aaron and Robert D. Reischauer)

Having observed Congress and the president labor mightily to bring forth a deficit-reduction mouse, some commentators, self-designated wise men, and a few elected officials have concluded that real progress in cutting the deficit cannot be made until Congress cuts Social Security benefits. A little bit off the cost-of-living adjustments, commentators like Peter Peterson and Martin Feldstein speculate, wouldn't hurt anyone.

But a case for singling out Social Security can be made only if this program has contributed significantly to the budget deficit, if benefits are excessively generous or if recipients are economically privileged. The facts clearly do not support any of these conditions.

The Social Security program is big (some 20 percent of the budget), and it has been growing rapidly (144 percent over the last decade). But it has not contributed to the deficit problem. Financed by a dedicated tax that is yielding far more than benefits and program administration cost, the Social Security system is an island of budgetary surplus in the midst of an ocean of red ink. During fiscal year 1987 the surplus in the Social Security system was $19 billion. The surplus will jump to $38 billion in 1988 and $69 billion by 1992.

The surpluses exist largely because of payroll tax increases enacted by Congress in 1983 and signed into law by President Reagan. And these surpluses are being accumulated for a reason: to pay the anticipated costs of the pensions due when the baby-boom generation retires. But to suggest that Social Security is part of the current deficit problem is lunacy.

In fact, the surpluses being accumulated by the Social Security system are already a big part of the apparent "solution." They offset a portion of the deficit in the rest of the budget and, therefore, reduce the deficit estimates widely cited in the press. Without the increases in the Social Security surpluses, the deficit anticipated for 1992 would be $50 billion larger.

What about the possibility that benefits may, in some sense, be unneeded or too generous? While much has been made of the recent improvement in the economic position of the elderly, it is important to realize that this has only brought the aged into approximate economic parity with the rest of the American population. This major accomplishment should not be confused with economic privilege. The average Social Security benefit in September 1987 was $491 per month for retirees, $449 for aged widows and widowers.

Although average benefits are modest, no one should doubt that the economic status of the aged hinges critically on these payments. Social Security benefits make up 38 percent of the income of the elderly. Social Security constitutes more than half of the income for 53 percent of the elderly. Any large cuts in benefits would push some of them below the poverty threshold and return many to the position of economic inferiority from which they only recently emerged. Fully 8.1 percent of the elderly have incomes less than 25 percent over official poverty thresholds, compared with 4.7 percent of the nonelderly.

While the case for cutting Social Security benefits is weak, it is only responsible to expect that all segments of American society will have to sacrifice something if significant deficit reduction is to be achieved. In this spirit, Social Security recipients should make some contribution.

But across-the-board reductions are not the way to impose them, and cutting the annual COLA is just about the worst. To understand why, consider the proposal advocated by Martin Feldstein and some others to provide cost-of-living adjustments only for inflation in excess of 2 percent per year. In time, this formula would ensure that the oldest and most vulnerable in society would suffer the greatest income loss. An 85-year-old retiree, who probably has used up most of her savings and faces high medical bills, would receive benefits nearly one-third smaller than she received at age 65. A totally disabled 25-year-old could rest assured that his benefit would be cut in half by the time he turned 60. Such a grotesque proposal deserves not serious debate, but derision.

Another proposal, to grant cost-of-living adjustments only on the first 2 percent of inflation, is equally nonsensical. This formula would protect beneficiaries from small adversities, but leave them unprotected against the calamity of rapid inflation.

If Congress and the president decide to take a real bit out of the deficit, not the $30 billion nibble announced Nov. 20, the most sensible way to curtail net Social Security is to subject an increased portion of the benefits to the income tax. Currently, a couple must include in its taxable income the lesser of 1) half of its Social Security or 2) the amount by which its adjusted income exceeds $32,000 if its regular income plus half of its Social Security income and all of its tax-free interest income exceed $32,000. The comparable threshold for single individuals is $25,000. These thresholds could be lowered or eliminated, or the fraction subject to tax could be increased to 60 or 70 percent.

Such changes would make the tax treatment of Social Security more comparable to that of private pensions. They could contribute to a grand deficit-reduction compromise that included other spending cuts and significant tax increases. Moreover, they could do so without reducing the incomes of that large portion of the retired population that is clinging precariously to its modest, but not sumptuous, standard of living.●

H.R. 403, THE EL MALPAIS BILL

● **Mr. WALLOP.** Mr. President, I rise today to speak on one section of the El Malpais bill which has ramifications extending beyond the small area established by this legislation. Section 509 on water rights was designed to halt what I view as a looming catastrophe for water users in the arid West: That is the judicially implied reserved water right in wilderness areas and the continual expansion of the reserved rights doctrine by the courts.

A Federal district court judge in Colorado ruled in recent Sierra Club lawsuits that Congress intended to withdraw an unspecified amount of water in connection with the wilderness areas it creates. This in spite of the fact that Congress was clear in specifying that the Wilderness Act of 1964 was solely a management statute for lands already in Federal ownership.

This expansion by Judge John Kane of the reserved rights doctrine follows the general expansion of Federal authority under the commerce and property clauses. Somewhere along the line courts seem to have lost the concept which they paid great heed to for the first 100 years.

In a State like Wyoming, the concern of the Kane decision is not so much the mountain wilderness which has few water diversions in or above the area, but rather it is with the BLM land studies for wilderness potential which are nearing completion. At these lower elevations the effect will be absolutely catastrophic because virtually all the water has been appropriated.

The consequences of continually expanding implied rights to the Federal Government out of reservations of public lands is devastating to a West which still hopes to grow and to be a part of this Nation's economy. As a result, Congress must now expressly consider and decide what effect the designation of certain land qualifications will have on water resources rather than relying on the courts to discern congressional intent.

Accordingly, Senator JIM MCCLURE of Idaho, and I, insisted that Congress state what water rights it chooses to reserve as an express reservation and to reject any implied reservation when the El Malpais bill was considered by the Energy Committee.

The land designations established by this act have extremely limited surface water, all of which is fully appropriated. These appropriations are senior to any reserved right created by this bill, as are existing wells and any pending applications, if perfected, and it is not anticipated that there will be any conflict between the Federal Government's need for water and any valid existing or pending rights in the area. However, I still find it disconcerting and most disappointing that we could not get a strong statement from the water authorities of New Mexico saying that whatever water was to be retained by the establishment of this Federal reserve would be obtained under State water law. The cost of water liberty is eternal vigilance and no Western State can afford to sit on its rights.

As the bill states, this water language is not a precedent for future designations: not for Wyoming or other Western States—not even for the State of New Mexico. The precedent has already been established by the courts as they continue to erode the concept of State water rights in case after case. This language merely calls a halt to further court intrusions by expressly stating that Congress has examined the nature of the water resources potentially affected by the bill and proposes specific decisions concerning them. The only precedent is that Congress will no longer allow courts to infer congressional intent in an ever-expanding manner.●

SMALL BUSINESS LOAN PREPAYMENTS

● Mr. BUMPERS. Mr. President, I rise to address the Senate concerning S. 437, which has now been reported by the Committee on Small Business and which will appear on today's calendar. I am also submitting for the RECORD an amendment which I will offer as a committee amendment when the Senate turns to the consideration of this bill.

Mr. President, S. 437 was introduced by Senator METZENBAUM on February 3, 1987, and referred to the Committee on Small Business. The committee held a hearing on June 18, 1987, and the bill was ordered reported, with an amendment in the nature of a substitute, at a markup held on September 29. The bill was placed on the Senate Calendar without a formal report, so I will provide the Senate with background information now.

Senator METZENBAUM introduced this bill to aid hundreds of small businesses which made business expansions in the early part of this decade with loans received through the Small Business Administration's Certified Economic Development Company, also known as the 503 program for section 503 of the Small Business Act. Although the loans received by businesses borrowing through SBA were at more reasonable interest rates than were available to borrowers in the private market in 1981 through 1984, those rates seem very high indeed by today's standards.

Moreover, the burden of these high interest rates is worsened by a very strict and onerous prepayment penalty which was imposed by the Treasury Department as part of the debenture which funds the section 503 loan. Like many individuals who purchased homes or received other major loans in the late 1970's and early 1980's, business owners who received these loans would like to refinance their obligations under today's more favorable interest rates. Refinancing would save many of these businesses thousands of dollars in present cash flow and, and in many cases, allow for immediate business expansion with consequent creation of new jobs.

At the Small Business Committee's hearing on this measure, more than one witness testified that their business volume was such that they would like to expand, and that their local bankers were willing to offer financing for expansion, but for one very big problem. And that problem is this: The lender would naturally want to consolidate financing for the business so as not to be in a junior position as a lien holder with respect to the existing section 503 loan. This kind of consolidation is made impossible by the prepayment penalty contained in the section 503 loan. In other words, as several business owners testified before our committee, their bankers would be more than willing to offer additional financing if it were not for the prepayment penalties contained in the section 503 loan.

These businesses are strapped by a high prepayment penalty which was imposed by the Treasury's Federal Financing Bank when the 503 program was instituted. As Senators well know, the bargaining position of the U.S. Treasury is substantial. Small businesses eligible for financing under this program had no real power to bargain with the Treasury. The Treasury laid out the terms—and I might add that the terms of this penalty were never authorized or even reviewed by the authorizing committee which created this program—and the small business' only option is to take it or leave it. The prepayment penalty which the Treasury determined to impose in this program, and I might add that this penalty is different and more onerous than analagous penalties in similar small business finance programs, is far out of proportion to those in common practice in the private sector.

The sum and substance of the prepayment penalty as it operates under the present circumstances is this: The Treasury allows prepayment of these debentures based on the current market value of the loans. If interest rates have fallen since the time of the loan, as they clearly have, the borrower is required to pay the Treasury a premium based on the present value of all the interest which would be due over the course of the note, minus the present value of interest on the remaining principal at a current-day interest rate. In other words, the borrower must make the Treasury whole for its lost investment if he elects to prepay.

I ask that a series of examples of actual prepayment penalties, based on Small Business Administration data, be included in the RECORD at this point.

The material follows:

SUMMARY AND EXAMPLES AS OF MAY 20, 1987

INDIVIDUAL EXAMPLES

Debenture sold, October 1983; original amount, $360,000; interest rate, 15.134 percent; remaining balance, $348,034.29; FFB premium, $161,182.33.

Debenture sold, June 1983; original amount, $500,000; interest rate, 11.03 percent; remaining balance, $469,021.65; FFB premium, $82,625.94.

Debenture sold, December 1985; original amount, $500,000; interest rate, 10.023 percent; remaining balance, $491,125.71; FFB premium, $34,730.93.

Debenture sold, January 1986; original amount, $500,000; interest rate, 9.413 percent; remaining balance, $490,029.57; FFB premium, $30,615.05.

Mr. BUMPERS. At our committee's markup of S. 437, there was unanimous agreement that the prepayment penalty currently in place imposes a heavy and undue burden on the affected businesses. There was, however, some concern expressed over the alternative prepayment penalty of 6 month's interest which had been proposed by the committee staff. The committee agreed to order the bill reported with the understanding that another penalty scheme would be developed which would be graduated, based on the number of years remaining to maturity on the debenture. A consensus has been reached among the committee as to the terms of that penalty, and I ask unanimous consent that the new penalty provision, which I am filing today as an amendment to S. 437, be included in the RECORD at this point. I further ask consent that the text of S. 437, as ordered reported by the Committee on Small Business at this point be printed in the RECORD.

Finally, I ask that the Congressional Budget Office's estimate of this bill and of my amendment be included in the RECORD.

The material follows:

COMMITTEE AMENDMENT TO S. 437

Strike all after the enacting clause and insert in lieu thereof the following:

In title V of the Small Business Investment Act of 1958, insert the following new section:

SEC. 506. (a) DEFINITIONS.—(1) As used in this section, "issuer" means the issuer of a debenture which has been purchased by the Federal Financing Bank pursuant to Section 503 of this Act.

(2) "Borrower" means the small business concern whose loan secures a debenture issued pursuant to Section 503 of this Act.

(b) The issuer of a debenture purchased by the Federal Financing Bank and guaranteed under Section 503 of this Act may at the election of the borrower prepay such de-

benture by paying to the Federal Financing Bank the outstanding principal balance and accrued interest due on the debenture at the coupon rate on the debenture, provided that:

(1) the loan that secures the debenture is not in default on the date the prepayment is made;

(2) private capital, with or without the existing debenture guarantee, is used to prepay the debenture, and provided further that if private capital with the existing debenture guarantee is used, such refinancing may be done solely pursuant to Sections 504 and 505 of this Act;

(3) the issuer of the debenture certifies that the benefits associated with prepayment of the debenture are entirely passed through to the borrower.

(c) No fees other than those specified in this section may be imposed as a condition on such prepayment against the issuer of the debentures, or the borrower, or the Small Business Administration or any fund or account administered by the Small Business Administration. If a debenture is refinanced without the existing debenture guarantee, the borrower may be required to pay a fee to the issuer of the debenture in the amount of one percent of the outstanding principal amount of the loan which secures the debenture. If a debenture is refinanced with the existing guarantee pursuant to Section 504 of this Act, the borrower shall be subject to imposition of a fee by the issuer of the debenture in the amount of one-half of one percent of the outstanding principal amount of the loan which secures the debenture. Debentures refinanced under Section 504 otherwise shall be subject to all of the provisions of such section and Section 505 of this Act and the rules and regulations of the Administration promulgated thereunder, including but not limited to payment of authorized expenses and commissions, fees or discounts to brokers and dealers in trust certificates issued pursuant to Section 505, provided, however, that the issuer shall be deemed to have waived any origination fee on the new debenture to which it would have otherwise been entitled under 13 C.F.R. Section 108.503-6(a)(1).

(d) Any debenture refinanced under Section 504 pursuant to this section shall have a term of either 10 or 20 years, as determined by the Administration.

(e) In the event of default by a borrower, the Administration's guarantee shall be extinguished by payment by the Administration of the remaining principal balance plus accrued interest.

(f) Nothwithstanding any other law, rule or regulations, the guarantee by the Administration under Section 503 of this Act of existing debentures purchased by the Federal Financing Bank which are refinanced pursuant to this section under Section 504 of this Act shall continue in full force and effect and the full faith and credit of the United States shall continue to be pledged to the payment of all amounts which may be required to be paid under any guarantee of debentures or trust certificates (representing ownership of all or a fractional part of such debentures) issued by the Administration or its agent pursuant to Section 505 of this Act.

(g) The Administration shall issue regulations to implement this section and to facilitate the prepayment of debentures and loans made with the proceeds of such debentures within 60 days of the date of enactment of this section.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, November 5, 1987.
Hon. DALE BUMPERS,
Chairman, Committee on Small Business, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: As you requested, the Congressional Budget Office has prepared the attached cost estimate for S. 437, a bill to amend the Small Business Investment Act of 1958.

If you wish further details on this estimate, we will be pleased to provide them.

With best wishes,
Sincerely,
EDWARD M. GRAMLICH,
Acting Director.

CONGRESSIONAL BUDGET OFFICE—COST ESTIMATE

NOVEMBER 5, 1987.

1. Bill number: S. 437.

2. Bill title: A bill to amend the Small Business Investment Act of 1958 to permit prepayment of loans made to state and local development companies.

3. Bill status: As ordered reported by the Senate Committee on Small Business, September 29, 1987, plus certain proposed amendments.

4. Bill purpose: S. 437 would change the terms for prepaying loans authorized by Section 503 of the Small Business Investment Act of 1958. Under the 503 program, the Small Business Administration guarantees debentures issued by certified development companies (CDCs). The CDCs use the proceeds of the guaranteed debentures, which are financed by the Federal Financing Bank (FFB), to make loans to small businesses.

Under current law, the FFB allows borrowers, including the CDCs, to prepay FFB loans at any time at current market value. Based on current market rates, certain borrowers wishing to prepay loans would have to pay a premium, or an amount greater than the outstanding principal. The bill would limit the premium that could be charged to borrowers prepaying their 503 loans. The bill also provides that existing debentures may be refinanced under Section 504 of the act, and that the existing 100 percent guarantee would remain in effect for such refinancing.

5. Estimated cost to the Federal Government: The table below shows the estimated cash flow that would result from enactment of S. 437, assuming interest rates consistent with the Concurrent Resolution on the Budget for Fiscal Year 1988 (H. Con. Res. 93). However, Section 8 of H. Con. Res. 93 states that contributions resulting from legislation authorizing the federal government to waive prepayment penalties on guaranteed loans advanced by the FFB and allowing repayment with new guaranteed loans should not be allocated to the authorizing committee. In addition, such contributions would not be scored as budget authority or outlays under a committee's allocation under Section 302 of the Congressional Budget and Impoundment Control Act of 1974. Also, under the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987 (Public Law 100-119), the 1988 budget baseline for determining sequestration would not be affected by loan prepayments such as those authorized by S. 437.

[By fiscal year, in millions of dollars]

	1988	1989	1990	1991	1992
DIRECT SPENDING					
Function 370:					
Estimated budget authority					
Estimated outlays	−52	−50	3	3	4
Function 900:					
Estimated budget authority	−5	9	13	13	12
Estimated outlays	−5	9	13	13	12
Total budget impact:					
Estimated budget authority	−5	9	13	13	12
Estimated outlays	−57	−41	16	16	16

CBO estimates that this transaction would cost the federal government about $20 million on a present value basis, because it would lose a repayment stream bearing interest at 12.5 percent or more, while its current borrowing rate is lower.

Basis of estimate: For purposes of this estimate, CBO assumes that this will would be enacted in the first quarter of fiscal year 1988. Using the interest rate assumptions underlying the 1988 Budget Resolution (H. Con. Res. 93), we estimate that only borrowers whose interest rate exceeds 12.5 percent would find the eased prepayment restrictions sufficiently attractive to consider refinancing their loans. Such borrowers account for outstanding principal of about $145 million, or 16 percent of the current outstanding portfolio of $904 million. Further, we assume that of this amount, about 80 percent, or $104 million, of the funds would be prepaid by borrowers, and that prepayments would begin in the last quarter of 1988 and continue through fiscal 1989.

On this basis, we estimate that the proposed legislation would result in additional receipts of approximately $104 million in principal and $10 million in interest—of which roughly half would be paid in 1988 and the rest in 1989. Starting in 1989, however, outlays would also increase by about $16 million a year for the next 10 to 15 years as a result of the lost repayments on these prepaid loans. Budget authority would be increased by the loan repayment transaction because the loss of interest associated with loan repayments is scored as a decrease in offsetting receipts to the Treasury, and thus an increase in both budget authority and outlays. Under standard budgetary treatment for loans issued by the FFB, the repayment of loan principal is scored as a decrease in outlays with no impact on budget authority.

This loan prepayment transaction would result in a net cost to the federal government because the government would lose a repayment stream bearing interest rates of 12.5 percent to 15.5 percent, which would be only partially offset by reduced borrowing at much lower Treasury rates. The net cost, on a present value basis, is estimated to be about $20 million, which is the amount of the premiums that would be owed to the FFB under current loan agreements if borrowers were to refinance.

If enacted, S. 437 would also prohibit the FFB from charging a premium to SBA on Section 503 loans that default. While this might result in lost income to the FFB, it would also decrease outlays by the SBA, resulting in no net cost to the federal government. To date, defaults on development company loans have been less than $10 million annually.

6. Financing mechanism: The additional small business development company loans that would be prepaid as a result of this bill, including proposed amendments, would be

subject to an interest penalty that increases depending upon the remaining term of the loan. For example, debentures with less than 10 years remaining until maturity would be required to pay 40 percent of the annual interest on the outstanding loan balance, while debentures with more than 20 years remaining until maturity would pay 70 percent of the annual interest charge. Under current law, these penalties would be equal to the present value of the expected future interest payments from the prepaid loans. CBO estimates that the penalties forgone under this proposal would total about $20 million. It is expected that the majority who prepay their loans will receive refinancing under the SBA Section 504 program. If this is the case, then the level of SBA loan guarantees outstanding would increase by an estimated $80 million to $90 million relative to current law.

7. Estimated cost to State and local governments: None.

8. Estimate comparison: None.

9. Previous CBO estimate: On September 28, 1987, CBO prepared a cost estimate for S. 437, as introduced, with proposed amendments provided by Committee staff. That version of S. 437 imposed a single interest penalty of six months' interest on the outstanding principal balance to borrowers choosing to prepay their development company loans. We estimated that the interest penalty from this formula would be about $9 million. CBO estimates that the proposed revision to that formula, as contained in the Chairman's amendments, and as reflected in this cost estimate for S. 437, would result in a prepayment penalty of approximately $10 million.

10. Estimate prepared by: Mary Maginniss.

11. Estimate approved by: C.G. Nuckols, for James L. Blum, Assistant Director for Budget Analysis.●

FRAUD OF THE DAY—PART 22

● Mr. HEINZ. Mr. President, hats are not normally a much discussed subject here, except when Senators throw theirs into the ring. But today, I want to make hats, and the industry which produces them, the center of my discussion on customs fraud.

As Senators have probably noticed, a number of the frauds I have discussed have involved the apparel and textile industries. There is a very good reason for this: this industry is one of those most regularly victimized by customs fraud. Counterfeit designer jeans, misrepresented shorts, and forged import visas are all scams I have discussed. Today's fraud is new in content, but it is unfortunately consistent in the brutal impact it has had on this industry and our economy generally.

In February 1984 Seattle Customs Service officers discovered that Taiwanese hat producers, who primarily produce baseball style caps, were intentionally underdeclaring the weight of their hat shipments. This is important, because hat quotas are based on weight, not number. In this way, Taiwanese hat exporters were managing to import far more hats into the United States than quotas allowed. Customs Service officers in Los Angeles discovered that South Korean hat manufacturers were also using this very simple scheme.

Naturally, domestic hat producers were concerned. They demanded an investigation into the fraud as well as a review of imports from 1983 and 1984. They also sought a quota reduction. The Committee for the Implementation of Textiles Agreements [CITA], which administers the Multi-Fiber Arrangement in the United States, took until September, 1984, 7 months later, before it concluded that there had been a weight declaration problem and that an investigation into 1983 and 1984 imports should occur.

This was an awfully long delay, considering the customs evidence that was available. The report, which was delivered on March 1, 1985, agreed with the CITA position. At that point, the domestic hat industry thought that they had finally ensured prompt action. They were wrong. It was another month and a half before anything happened.

The United States met with Taiwan in mid-April, but the talks collapsed. It took until May 9 for the Government to render its decision that, tentatively, 750,060 pounds of fraudulent hat imports were to be charged against the 1985 quota.

Once again, the domestic hat industry thought that they had finally won. Not so. The United States and Taiwan met again, and mitigated the penalty. The new agreement stated that the 765,060 pounds illegally and fraudulently entered would be spread out over 3 years of quotas. This was the final resolution. Needless to say, the domestic industry was not thrilled. As a spokesman stated, "It's a very foul way of handling a very bad problem."

Mr. President, this case clearly shows that present methods for dealing with customs fraud are inefficient and inadequate. A widespread fraud was discovered; proof was provided; and a decision was rendered. Seemingly, a success. Yet this process took entirely too long, and resulted in entirely too little. The 250,000 pound per year dent in quota has had very little effect on the Taiwanese producers, since restraint levels also increased.

Mr. President, the penalty assessed in no way served as a deterrent to future fraud, nor was it a sufficient penalty for such an injurious crime. We need to do something to make the customs fraud prosecution process more expeditious for those injured by the crime and more daunting for those who profit from such activity. I ask Senators to join me in seeing that a private right of action, which would serve to make prosecution more likely, penalties more realistic, and apprehension a greater possibility, becomes law, in order to do something about customs fraud, an insidious crime which is devastating our industries.●

RICHARD MEIER NAMED 1988 SOUTH DAKOTA TEACHER OF THE YEAR

● Mr. DASCHLE. Mr. President, I rise today to offer my congratulations to an exceptional individual from my State of South Dakota. Richard Meier, a first-grade teacher at the John F. Kennedy Elementary School, has been named the 1988 South Dakota "Teacher of the Year."

Mr. Meier, 32, has taught 12 years in the Sioux Falls School District. He taught first and second grades at the Laura Wilder Elementary for 11 years before moving to the new JFK School this year.

As a teacher, he believes that children need confidence and a strong belief in themselves to be successful in school. He believes that educators should stress more reading and critical thinking in the primary grades. "Not only yes and no questions, but getting them to think on a different level," he said.

Mr. Meier also is interested in creative writing and has taught other teachers how to teach it. He requires that his own students write and illustrate books. Last school year, he initiated a district-wide writing project called the "Writers Connection." The project solicited writing from elementary students. Selected works were printed in a book, and the district hosted an author's party for the children.

South Dakotans are fortunate to have this distinguished teacher within our borders, and I am proud to pay tribute on the Senate floor to his achievements in the education of our South Dakota youth.●

TODD BRILL'S ACT OF HEROISM

● Mr. LUGAR. Mr. President, I would like to bring to the attention of my colleagues an act of heroism.

On October 21, 1987, in Elkhart, IN, 24 year-old Todd Brill was talking to his mother and a friend when a truck lost control on a bridge near his home. The truck crashed through the Brill's backyard and into icy waters of the St. Joseph's River.

Todd instructed his mother to call for emergency help and ran down to the river. Without hesitation, Todd dove into the river and swam 30 feet to the truck, upside down in 7 feet of water. Underwater, Todd struggled to open the jammed doors. Unable to see, he felt clothing and pulled a young girl from the wreckage and carried her to shore. Todd then learned that the girl's mother was still in the truck. Todd again swam to the truck, pulled the women out, and swam to shore where his mother was waiting with blankets.

Mr. President, because of quick thinking and shear courage on the part of Todd Brill, these two women are alive today. It is this kind of heroism and high regard for helping others that we all should hold as an example. All Hoosiers are proud of Todd Brill and his heroic accomplishment.●

ORGANOTIN ANTIFOULING PAINT CONTROL ACT OF 1987

● Mr. COHEN. Mr. President, during the session on December 11, the Senate passed S. 1788, the Organotin Antifouling Paint Control Act of 1987, legislation that I, along with Senators TRIBLE, MITCHELL, and CHAFEE introduced earlier this year.

The dangers of tributyltin [TBT] first came to my attention in 1985, and at that time I cosponsored a resolution urging the Environmental Protection Agency to speed up its investigation into the environmental and health effects of the chemical. In addition, I and a number of my Senate colleagues pushed through a measure that barred the Navy from painting its ships with any paints containing TBT.

As I stated during the floor debate on December 9, 1985, our amendment was not specifically aimed at the Navy. We were not accusing the Navy of any wrongdoing. On the contrary, the Navy has met all Environmental Protection Agency regulations. Its paint specifications are far more stringent in terms of toxicity and release rates than any used in the recreational and commercial industry. The Navy has been in the forefront of ongoing efforts to reduce the toxic content of organotin-bearing antifouling paints, and it has researched this matter far more extensively than any other segment of the maritime industry.

Our concerns, instead, Mr. Chairman, must of necessity, be focused on the potentially harmful effects the highly toxic pesticides of the organotin family of compounds may have on estuarine marine life and public health.

Organotin is an effective, tin-based antifouling compound used in paint. TBT is the active ingredient in organotin-bearing paints. It is used to keep ship hulls free from barnacles, sea grasses and other fouling organisms that may damage or increase friction on the hull. The increased friction requires more power and hence more fuel to maintain ship speed. Increased fuel consumption means higher operating costs. Navy officials estimate that fleetwide use of TBT copolymer paints would save $150 million per year in fuel costs and $5 million in maintenance once the entire fleet is so treated. TBT is superior to copper-based paints that were used in the past because it extends the duration of the antifouling action. A majority of the worldwide commercial shipping fleets and pleasure craft are painted with organotin-bearing paints.

While there may be substantial economic benefits derived from the use of TBT based antifouling paints, there are potentially severe environmental and human risks. The Environmental Protection Agency [EPA], the Navy, the Virginia Institute of Marine Sciences, and several environmental groups have voiced such concerns. Others are joining the debate daily. The States of Maine, Virginia, North Carolina, New York, Maryland, California, Washington, Oregon, Alaska, Michigan, Delaware, Texas, and Hawaii have established restrictions on the use of organotin paints.

The principal concern is not whether organotin-bearing paints kill the organisms that foul a ship's hull. Rather, concern centers on whether the organotins leach out of the paints into the water at rates and toxicity levels that contaminate or kill nontarget aquatic organisms such as clams, shrimp, oysters, crabs, lobsters, and fish.

While organotin-bearing paints are presently registered with the EPA as pesticide antifouling compounds, many of these compounds were registered for use over 25 years ago. Recent studies raise new and troubling questions about the acute and chronic toxicity of these compounds even at extremely low concentrations, and their potential transmission into the food chain.

Biological damage by organotin leaching from boat bottoms has been noted in other countries. In 1982, France banned the use of TBT on boats under 25 meters—80 feet—in length. French scientists noted that oysters in and around boat moorings and marinas were found to have abnormal shell growth, reduced reproduction rates, and mutations in oyster larvae. Evidence of these abnormalities was no longer present following the prohibition.

In 1985, William Waldegrave, England's junior environmental minister, stated that he had—

> * * * seldom been faced with clearer scientific evidence of the need for environmental action—and fast; that the apparent tendency of organotin-bearing paints to stunt the growth of Britain's Pacific oyster is just the visible tip of a potentially massive environmental iceberg.

England is now regulating the use of TBT. In addition, Canada, Japan, West Germany, and Switzerland have prohibitions on freshwater use.

Mr. President, preliminary findings seem to confirm the suspicion that contamination levels that are adverse to our marine resources may be present at some marinas and shipyards in this country. Very high levels of TBT were recorded in the Chesapeake Bay last summer. These high readings have led many scientists to conclude that we must, without delay, take whatever steps are necessary to reduce the levels of TBT being introduced into our marine environment.

A large part of my strong concern about the dangers involved in this compound relate to Maine, a State with a long coastline, thousands of boats, and tens of thousands of individuals and families whose livelihoods depends on a clean and productive marine environment. Few States would be as adversely affected by any unhealthy side effects of this organotin-bearing paint as Maine, and the interests of my State and all coastal States are clearly at stake here. Any coastal area with recreational, commercial, or naval activities has the potential for being so affected.

S. 1788 is urgently needed. It would significantly reduce the impact of TBT on the environment by suspending the use of antifouling paints containing TBT that have unacceptable release rates as certified by the Administrator of the EPA. The suspension would remain in effect until such time as the EPA completes its special review and certifies steady-state release rates generated by organotin paints which do not pose an unacceptable hazard to the marine environment.

Mr. President, S. 1788 has received the unanimous support of the Environment and Public Works Committee. I urge my colleagues to support this legislation.●

REMARKS OF CONGRESSWOMAN KAPTUR BEFORE AFL-CIO CONVENTION

● Mr. SIMON. Mr. President, On October 27, 1987, Congresswoman MARCY KAPTUR spoke before the 17th Convention of the AFL-CIO in Miami. A week after the dramatic Wall Street plunge, Congresswoman KAPTUR addressed problems such as our dependence on foreign credit, and our need to "balance the books."

Congresswoman KAPTUR offers a sound analysis of the problems we are facing and the need to move on such important issues as education, and health care in an effort to build a stronger more self-reliant country.

I ask that Congresswoman KAPTUR's remarks be included in the RECORD.

The remarks follow:

REMARKS OF CONGRESSWOMAN MARCY KAPTUR

Thank you President Kirkland, Secretary-Treasurer Donahue, members of the Executive Council, delegates, distinguished guests, Brothers and Sisters, Toledo delegates. It is an honor for me to address you, the representatives of the freest, most socially progressive trade union movement on earth.

More than 200 years ago, our forebears captured our nation's spirit of independence and freedom in writing the Declaration of Independence. This grand document declares our nation's right to be free and independent of foreign governments. Today, we are the most free of nations. Individual rights are the cornerstone of American democracy. In the last century our freedoms have been expanded. We have created a society with a broad middle class, the envy of the world. We must, and will, do more. Our system of government has withstood the political turmoil of unpopular wars, public corruption, and assassination of our top leaders. As a people, we admire self-reliance, independence, and opportunity for all. We remain the most pluralistic and socially diverse nation on earth. Our diversity is the source of our democratic strength.

But there is another dimension to our heritage of freedom and independence—an economic dimension. This was dramatically brought home last week with the first convulsion on Wall Street and the subsequent ups and downs we have witnessed. At the center of the storm is our nation's dependence on foreign credit. No one is sure how much America is worth anymore. New York Times headlines on Monday, 10/19: "Foreigners Called Key to Rates—Markets Fear Cut in Flow of Capital to U.S."

How long can we truly remain free and independent when we borrow from foreign creditors to subsidize our national income because we, as a nation, spend more than we earn? As astounding as it sounds, we are borrowing money from abroad to pay for goods we insist on importing from abroad.

We as a nation are engaged in a dangerous credit binge which is deepening our reliance on foreign capital. Our government is running the largest deficit in history. During the first five years of the Reagan Administration, more debt was added to the federal ledger than by all previous Administrations—Democratic and Republican—combined! The interest we are paying on this debt is astounding—$137 billion for 1987 alone! This amount to 16.6 cents of every tax dollar you pay.

I ask you, how long can the United States truly remain free and independent while we are challenged by aggressive foreign competitors who send a flood of money as well as foreign goods—both industrial and agricultural—to capture larger shares of our marketplace? Our own productive capacities are suffering from erosion and displacement. We have witnessed over 4 million jobs move offshore.

Industries vital to our nation's defense are being sold to foreign interests—machine tools, metal fasteners, steel, autos, bearings, electronics and textiles. While U.S. exports abroad are struggling, international investment in the U.S. is booming. I am a vocal supporter of "Buy American" in a world which is rapidly buying America.

Think about it. Where are jobs and profits going when: 25% of our machine tool industry is foreign owned; ½ the value of all autos in the U.S. market are made outside the U.S.; ½ of all the textile we buy are from foreign sources; steel imports are 22% of the U.S. market, and imports from countries not restricted under VRAs are rising; we import nearly half of the oil we consume; in 1986 the U.S. imported nearly ⅕ of its agricultural products as farmers in Iowa, South Dakota, Minnesota, Oklahoma and elsewhere went bankrupt.

Did you see the recent Wall Street Journal rankings of the world's largest companies and financial institutions?

Of the world's ten largest public companies, 8 are Japanese. Only two, IBM and Exxon, are U.S. owned.

Of the world's ten largest banks, only one is U.S., Citicorp. Seven are Japanese. Two are French.

As a nation, we must reclaim America. We must learn to live within our capacity to earn. We must invest our dollars wisely in our own productive ventures. We must again assert our economic muscle in manufacturing, mining, and agriculture. For if America loses its industrial and agricultural muscle, all the social programs which we rely upon to improve our standard of living are threatened—health care, social security, education, housing.

What are the answers? First, the public pocketbook must be put in order. The President was wise to accept the invitation of our Speaker, Jim Wright, to sit down with Congress to balance the books. This is for the good of the nation. The President has nothing to lose in this last year of his administration. I believe the next President of the U.S. should submit pay-as-you-go-budgets. Congress should accept no less. This means programs must have the means to pay for them built in prior to passage.

As individuals, we must wean ourselves off the borrowing binge and get our private checkbooks under control. Working men and women of this nation know how to save. I've seen it firsthand in my own community. Most recently I attended the 50th anniversary celebration of the credit union at GM's Hydra-matic plant in Toledo. It has $20 million in assets. Shortly thereafter, new ground was broken for another multi-million dollar credit union next to the Jeep facility in my District. You and the people you represent understand the meaning of thrift. Your pension funds are one of the largest sources of capital in America—earned by the workers and saved for the workers. As my Dad use to say, "It's not how much you make, it's how much you save."

We need a President to launch our nation on a major campaign to sell U.S. Savings Bonds to provide dollars for investment here at home—call them "Independence Bonds." The American people must be called upon to rebuild our nation's financial independence. We have the ability to finance our own spending. We have an obligation to future generations to pay our own way. Our initial goal should be to displace all foreign purchases of U.S. bonds, an amount nearing $270 billion. In fact, when you buy holiday presents this year, buy savings bonds. It's the best investment you can make in America's future. The federal government must make it financially advantageous for Americans to save. It's no secret domestic savings fuel domestic investment. A dollar saved helps create a job in America.

We also need a President who will sign the Trade Bill. And we need a President who will enforce it. And we need a President who will appoint respected negotiators in the international trade arena. We have people negotiating for our country who don't know a car from a truck, a machine tool from a baseball bat, or a slab of steel from a soybean. How I would love some of the members of this Executive Council negotiating for America! The goal for America should no longer be free trade, but mutually beneficial trade—trade that expands markets, trade that raises the standard of living for all countries, trade that does not demand that concessions come from one side only.

Not only do we need competence among our trade negotiators, we need integrity. Two weeks ago, it was revealed that the Reagan Administration's top official for auto trade policy, Robert Watkins, was using his official position to solicit a job with top Japanese auto firms. He was doing this at the same time as he was involved in the most important auto trade negotiations with Japan in decades. He is a national disgrace. Members of Congress like myself forced his resignation. Now I am certain why he achieved such weak-kneed results in those negotiations.

This Administration's record is filled with far too many examples of this type of breach of the public trust. Michael Deaver is only the tip of the iceberg. It's happened in machine tools. It's happened in textiles. It's happened in autos. Citizens of this country who go to work for the government of the United States in top trade positions should not be allowed to leave these positions and then immediately go to work on behalf of a foreign country or company.

Congressman Howard Wolpe of Michigan and I have introduced the Foreign Agents Compulsory Ethics in Trade Act [FACE IT], H.R. 1231 to put an end to this type of despicable activity. We need your help in getting the legislation passed. When you go home, ask your Member of Congress to sign on to our bill. the battle for fair trade is tough enough. America doesn't need traitors in her own camp.

Let's move to another key measure to reclaim America. We can modernize the public face of America through the establishment of a "Build America Trust Fund." We can revitalize our cities by modernizing our mass transit systems and our water, sewage and drainage facilities. We can rehabilitate our schools, our fire stations, out libraries and other public buildings. We can rebuild our major county and state roads and bridges. We can improve our ports and inland waterways. In short, we can put in place all of the public works that create and sustain jobs. This means we must tap the talent, creativity, and dedication of our public sector work force.

The Speaker of the House Jim Wright has proposed such a Trust Fund predicated upon the highly successful Highway Trust Fund, a pay as you go method of financing that is fair and fiscally responsible. It has not added one penny to the national debt. We can do the same to set in motion an American public renaissance to repair and upgrade this nation from coast to coast.

Labor too can play a vital role in this endeavor. Pension funds are labor's source of economic power. They are the largest source of capital investment in the U.S. By creatively using pension funds, the building trades in my hometown, Toledo, have helped rebuild our downtown. At the same time they have put thousands of union men and women to work. This should be done all across America.

The private face of America needs to be modernized too. It is unconscionable that our nation has lost its shipbuilding capacity, that our steel mills are not state-of-the-art technology, and that U.S. made tractors are becoming a rare commodity. It is unacceptable that Japan is quickly catching the U.S. auto industry in world market share. And it is unacceptable that, last year, almost half the patents approved by the U.S. government were granted to foreigners.

The next President of this country must revisit the tax code of this land. We must reform Tax Reform to invest in America! We must stamp out hostile takeovers that make financiers rich on Wall Street. But destroy jobs on Main Street. We must close the loopholes in the tax laws that move jobs overseas. Our tax laws must encourage U.S. industry to retool, rebuild and emphasize research and development here at home.

To help, we must enlist the help of our own Department of Defense to use its mighty resources, purchases of over $150 billion per year, to help retool and modernize U.S. industry. The national security of this nation is a function of the strength of our manufacturing industries. We must no longer tolerate the offshore migration of manufacturing capabilities in forging, castings, ball bearings, machine tools, semiconductors, steel, electronics, refining, metals, ceramics, and composite fibers. Cutting edge technologies are essential to our defense base. We must invest in them.

Reclaiming an independent America also means committing ourselves to a first-rate educational system. I have always believed education is this nation's first line of defense. We must reverse the trend where nearly one-third of each entering high school class drops out before earning diplomas. And we must make it easy for current workers to learn new skills in order to keep pace with technology.

There is a dangerous trend in higher education as well. Japan, with only half the population of the U.S., graduates five times as many engineers as the U.S. Foreign nationals make up nearly half of the enrollment in our graduate schools in engineering, mathematics and computer sciences. There is something wrong with our system which makes it more glamorous and financially rewarding for our best graduates to work on Wall Street than in the factories and on the farms of America. We need an educational system and a business community which encourage America's young to make a commitment to careers vital to our nation's future.

We must spark an American educational renaissance. For those students who do not have the financial means to continue their education, I propose a new type of student aid—a national program of Voluntary Service for America, that would reward participants with educational benefits similar to the GI Bill.

Finally, one of the most difficult issues facing the next Administration will be affordable health care for all Americans. Today, 37 million Americans lack any type of health care coverage. One third of them are children. Many of the rest are workers who have lost their health care benefits due to lay offs and unemployment. By 1990, these numbers are expected to double.

We must confront the health care challenge head on. The next President of the United States, within 90 days of assuming office, should appoint a blue ribbon commission comprised of labor and business, health experts, and government officials to formulate a new program of health insurance. It worked for Social Security: it can work for comprehensive health care. Congressmen Don Pease (OH), Martin Sabo (MN), and Ed Roybal (CA) should be part of that Commission. They have already introduced forward looking legislative proposals which would make health care available to all our people. Of course, this proposal has a price tag. But cost-sharing by insurance purchasers according to ability to pay, requiring State matching funds, and saving some money through the use of HMOs. I also suggest we place a tax on earnings from rapid stock transfers and the unproductive paper shuffling taking place on Wall Street, and target that money productively for health care for all our people.

In 1776 we were a young confederation fighting for our political independence. In 1987, we are a mature nation waging another fight—to sustain our economic independence.

Mutually beneficial trade, high educational standards, health-care, self-reliance in finance, and the rebuilding of our country. These goals can reclaim America. "Made in the U.S.A." will again be a standard of excellence and dependability. We can do this by investing in ourselves, in our future, and in the independence of America.

David Halberstam, in his recent best-selling book about the auto industry entitled The Reckoning, professes that this may be the end of the American century. I believe differently. Our country is going to regain its economic preeminence because of the essential strength of our democratic system. I believe this is the time to reclaim and recapture America for the 21st Century. Our task is to turn America to the next generation in better condition than we found it.

As Carl Sandburg wrote:

> I see America not in the setting sun of a black night, I see America in the crimson light of a rising sun, I see great days ahead, great days possbile to men and women of will and vision.●

STOP DISCOURAGING EXPORTERS

● Mr. SIMON. Mr. President, on December 10, this excellent article appeared in the Journal of Commerce. It was written by one of my constituents, Mr. Roger Lippman, of Trans Global Impex Ltd., of Skokie.

In this article, Mr. Lippman detailed many of the ways in which the United States is literally shooting itself in the foot when it comes to export sales.

I ask that this article be printed in the RECORD, and urge my colleagues to read it.

The article follows:

STOP DISCOURAGING EXPORTERS

(By Roger I. Lippman)

Many problems exist for exporters. A few years ago, the high U.S. dollar was blamed. Today, exporters' problems are caused in part by the U.S. government, banks, trade associations and everyone else who has a hand in business.

The budget should be increased rather than decreased for Department of Commerce export activities, including cash benefits. A former weekly Commerce Department publication (now discontinued and given to private industry) had continuous inaccuracies and misleading information. Our company had only a 2% response from contacting over 500 overseas companies that wanted products here. If that bulletin were improved and had better screening of leads, it would be helpful to export trading companies and others selling general products.

When we wrote U.S. embassies overseas requesting they place basic information about our products (numbering over 150) in their library to be seen by potential buyers, 90% of the embassies replying sent us a form letter, returned our material and said to contact the local Department of Commerce office for help in exporting. Only embassies in the smaller countries agreed. Many of those even gave us the names of local importers to contact. But the embassies in bigger countries having access to the big business did nothing but pass the buck.

Other government problems involve visas for clients. The Department of Commerce encourages trade, but visa desks at overseas embassies are run by the Department of State. Unfortunately, they look upon many potential business people applying to come here in a negative manner. Telexes, calls, and letters from senators have failed to get several visa desks to cooperate. The people there are often rude, arrogant and have final authority. Appealing through government channels here is a waste of time.

The private sector does its part to discourage exports, too. The Illinois State Chamber ago eliminated a monthly bulletin of international trade leads, claiming it attracted little interest. The Chicago Chamber of Commerce and Industry has no trade lead service. Only our state government itself works to help companies in several ways, including some subsidies for trade shows, but even they have failed to update directories of exporters. Information on manufacturers and agriculture exporters is outdated and inaccurate.

Eighty percent of all U.S. exporting is done by 20% of the firms. We need to reach and help the other 80%—small and medium-size companies. The federal Foreign Credit Insurance Agency offers export insurance to help in obtaining financing. Yet that insurance is not effective for the very companies who need credit, since the agency operates to make a profit and avoids the risks involved in helping smaller companies. Our bank, one of the largest in Chicago, offers no financing on documentary letters of credit, even if they are irrevocable and confirmed on U.S. banks, claiming it is too risky. Tax relief in the form of credits for exporting by small companies could stir activity. Insurance and government guarantees for the harder export deals would get banks to lend.

Washington does not offer enough effective incentives to smaller companies—cash—leads—funds to participate in trade shows. One foreign government we know paid a U.S. company to travel there to meet with exporters wanting to sell their products to the United States. Our government should do the same. When people come to the United States at their own expense, often their itinerary is limited to New York or California. They don't see other companies that export.

Industry deserves blame as well. Smaller companies kill off deals. They look at exporting as something evil—they don't understand it. They place roadblocks saying they want cash, and in advance, or that they are inflexible about small changes needed by buyers overseas. We lost one order due to a 25-cent adapter that one U.S. company refused to include in the package which would make its product usable overseas.

At other times it has been a matter of language on labels or packaging. We have even had people tell us that they won't sell to anyone in "that country." So far "that country" includes India, all of Africa and Eastern Europe. A manufacturer of ours withdrew a building product introduced by us at a trade show in the U.S.S.R. after they were acquired by another company that decided not to "aid the communists" by selling to them.

Government, local, state and national as well as the press and business have failed to motivate exporting. Some talk about the value of export but there is a greater need to reach the smaller manufacturer and show them the ropes. While prices should be lowered to sell overseas, they get access to new and additional markets. If government assisted by spending more rather than less money on additional programs, if banks encouraged companies to export and offered services to them, and if newspapers wrote about benefits of exporting, it would educate the public.●

SOVIET JEWRY

● Mr. SIMON. Mr. President, as 1987 draws to a close, we can reflect on the accomplishments of the past year. We can rejoice over our successes and consider our failures.

In the past year, the Soviet Jewry has made progress. Many prominent refuseniks have been granted permission, and it appears there is better communication between the United States and the Soviet Union. Meanwhile, we must not think that the problem of the refuseniks has been solved. Over 200,000 Jews remain in the Soviet Union waiting to emigrate. Until every Soviet refusenik has been granted an exit visa, we cannot completely rejoice.

Naum Meiman's case must be resolved before we can feel success on this important human rights issue. My friend, Naum, has been denied an exit visa for too long, therefore being denied his basic human rights to live and pray as he desires. He will begin a new year, on January 1, with the hopes that this will be a better year than the last—that the new year will bring him the freedom to leave the Soviet Union. We must make every effort to bring him this happiness. We can rejoice over our successes of the past, but we must remember the work that lay ahead.

I implore the Soviet officials to grant Naum an exit visa immediately. When refuseniks, such as Naum, are allowed to live where they want, then we can rejoice in the New Year.●

ORDER OF BUSINESS

Mr. SANFORD. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER TO PLACE S. 1952 ON CALENDAR

Mr. BYRD. Mr. President, this request has been cleared through the able Republican leader. I ask unanimous consent to place on the calendar S. 1952, a bill introduced earlier today by Senator KENNEDY and others amending the Public Health Service Act to provide for national and regional centers for pediatric emergency medical services.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECORD TO REMAIN OPEN UNTIL 5 P.M.

Mr. BYRD. Mr. President, I ask unanimous consent that Senators may be permitted to have their statements entered into the RECORD until 5 p.m. today.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. I make a similar request with respect to committees, that they be permitted to file reports until 5 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR THURSDAY

RECESS UNTIL NOON

Mr. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 12 o'clock noon tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that after the two leaders or their designees have been recognized during the standing order on tomorrow there be a period for morning business not to extend beyond 30 minutes, and that Senators may be permitted to speak therein for not to exceed 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL TOMORROW

Mr. BYRD. Mr. President, if there be no further business to come before the Senate I move, in accordance with the order previously entered, that the Senate stand in recess until the hour of 12 noon tomorrow.

The motion was agreed to; and, at 2:40 p.m., the Senate recessed until tomorrow, Thursday, December 17, 1987, at 12 noon.

HOUSE OF REPRESENTATIVES—*Wednesday, December 16, 1987*

The House met at 12 noon.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Gracious God, send forth Your spirit upon men and women who know in their inner beings that life ought to have purpose and meaning. With the competing demands that vie for solutions, the discordant voices that cry for attention, may we still experience that peace that passes all human understanding, that joy that gives fulfillment. May our hearts be open, O God, and our minds alert to hear Your Word calling us to see the light and the hope and the joy and the promises of Your abiding spirit. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. DAVIS of Illinois. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. DAVIS of Illinois. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 269, nays 138, not voting 26, as follows:

[Roll No. 483]

YEAS—269

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Aspin
Atkins
AuCoin
Barnard
Bartlett
Bateman
Bates
Beilenson
Bennett
Berman
Bevill

Bilbray
Boggs
Boland
Bonior
Bonker
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Broomfield
Brown (CA)
Bruce
Bryant
Bustamante
Byron
Campbell
Cardin
Carper

Carr
Chapman
Chappell
Clarke
Coleman (TX)
Collins
Combest
Conte
Conyers
Cooper
Coyne
Crockett
Daniel
Darden
Davis (MI)
de la Garza
DeFazio
Dellums
Derrick
Dicks

Dingell
Dixon
Donnelly
Dorgan (ND)
Downey
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
English
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Fish
Flake
Flippo
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Frank
Frost
Garcia
Gaydos
Gejdenson
Gibbons
Gilman
Glickman
Gonzalez
Gordon
Gradison
Grant
Green
Guarini
Gunderson
Hall (TX)
Hamilton
Harris
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefner
Hertel
Hochbrueckner
Horton
Houghton
Hubbard
Huckaby
Hughes
Hutto
Jeffords
Jenkins
Johnson (CT)
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kaptur
Kasich
Kastenmeier
Kennedy

Kennelly
Kildee
Kleczka
Kolter
Kostmayer
LaFalce
Lancaster
Lantos
Leath (TX)
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Livingston
Lloyd
Lowry (WA)
Lujan
Luken, Thomas
MacKay
Manton
Markey
Martinez
Matsui
Mazzoli
McCurdy
McDade
McHugh
McMillen (MD)
Mfume
Mica
Miller (CA)
Miller (WA)
Mineta
Moakley
Mollohan
Montgomery
Moody
Morrison (CT)
Morrison (WA)
Mrazek
Murtha
Myers
Nagle
Natcher
Neal
Nelson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Panetta
Patterson
Pease
Pelosi
Perkins
Petri
Pickle
Price (IL)
Price (NC)
Rahall
Ravenel
Ray
Regula
Richardson

Rinaldo
Ritter
Robinson
Rodino
Roe
Rose
Rostenkowski
Rowland (GA)
Roybal
Russo
Sabo
Savage
Sawyer
Scheuer
Schulze
Schumer
Sharp
Shaw
Shumway
Shuster
Sisisky
Skaggs
Skelton
Slattery
Slaughter (NY)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Solarz
Spence
Spratt
St Germain
Staggers
Stallings
Stark
Stenholm
Stokes
Stratton
Studds
Swift
Synar
Tallon
Tauzin
Taylor
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Valentine
Vento
Visclosky
Volkmer
Walgren
Watkins
Waxman
Weiss
Wheat
Whitten
Williams
Wilson
Wise
Wortley
Wyden
Wylie
Yates
Yatron

NAYS—138

Armey
Badham
Baker
Ballenger
Barton
Bentley
Bilirakis
Bliley
Boehlert
Boulter
Brown (CO)
Buechner
Bunning

Burton
Callahan
Chandler
Cheney
Clay
Clinger
Coats
Coble
Coleman (MO)
Coughlin
Courter
Craig
Crane

Dannemeyer
Daub
Davis (IL)
DeLay
DeWine
Dickinson
DioGuardi
Dornan (CA)
Dreier
Duncan
Edwards (OK)
Emerson
Fawell

Fields
Frenzel
Gallegly
Gallo
Gekas
Goodling
Grandy
Gregg
Hammerschmidt
Hansen
Hastert
Hefley
Henry
Herger
Hiler
Holloway
Hopkins
Hyde
Inhofe
Ireland
Jacobs
Kolbe
Konnyu
Kyl
Lagomarsino
Latta
Leach (IA)
Lewis (CA)
Lewis (FL)
Lightfoot
Lott
Lowery (CA)
Lukens, Donald
Lungren

Mack
Madigan
Marlenee
Martin (IL)
McCandless
McCollum
McGrath
McMillan (NC)
Meyers
Michel
Miller (OH)
Molinari
Moorhead
Morella
Murphy
Nielson
Oxley
Packard
Parris
Pashayan
Penny
Porter
Pursell
Quillen
Rhodes
Ridge
Roberts
Rogers
Roth
Roukema
Rowland (CT)
Saiki
Saxton
Schaefer

Schneider
Schroeder
Schuette
Sensenbrenner
Shays
Sikorski
Skeen
Slaughter (VA)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solomon
Stangeland
Stump
Sundquist
Sweeney
Swindall
Tauke
Thomas (CA)
Upton
Vander Jagt
Vucanovich
Walker
Weber
Weldon
Whittaker
Wolf
Young (AK)
Young (FL)

NOT VOTING—26

Bereuter
Biaggi
Coelho
Dowdy
Gephardt
Gingrich
Gray (IL)
Gray (PA)
Hall (OH)

Howard
Hoyer
Hunter
Kemp
Leland
Martin (NY)
Mavroules
McCloskey
McEwen

Nichols
Owens (UT)
Pepper
Pickett
Rangel
Roemer
Udall
Wolpe

□ 1215

So the Journal was approved.

The result of the vote was announced as above recorded.

FURTHER CONTINUING APPROPRIATIONS, FISCAL YEAR 1988

Mr. WHITTEN. Mr. Speaker, I send to the desk a joint resolution (H.J. Res. 425) making further continuing appropriations for fiscal year 1988 and for other purposes, and ask unanimous consent for its immediate consideration.

The Clerk read the title of the resolution.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi?

Mr. DANNEMEYER. Mr. Speaker, reserving the right to object, this Member reserves the right to object in order to obtain the assurance of the Speaker that the body will have an opportunity of a rollcall vote on the issue that is being presented, namely, a 2-day extension of the deadline that now exists.

□ This symbol represents the time of day during the House proceedings, e.g., □ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

The SPEAKER. Let the Chair understand the gentleman's expression.

Does the Chair understand the gentleman from California to be requesting an opportunity that a rollcall vote shall ensue on the matter presently to be considered, which is to say the temporary continuing resolution?

Mr. DANNEMEYER. It is on final passage of this issue, Mr. Speaker, that this Member desires a rollcall vote.

The SPEAKER. That would be permitted under the request made by the gentleman from Mississippi for its immediate consideration. There is nothing in that request which precludes the right of the gentleman from California or any other Member to demand a rollcall vote and the Chair will protect the gentleman's right to demand such a vote. And if sufficient numbers rise to demand the vote, then by all means a rollcall vote will be had.

Mr. DANNEMEYER. Further reserving the right to object, Mr. Speaker, the nature of this request now is only for consideration of the issue, not for passage of it?

The SPEAKER. The gentleman is correct. The gentleman from Mississippi merely asks unanimous consent for the immediate consideration of this resolution.

Mr. DANNEMEYER. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. Res. 425

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That section 102(c) of Public Law 100-120, as amended by Public Law 100-162, is further amended by striking out "December 16, 1987" and inserting in lieu thereof "December 18, 1987".

The SPEAKER. The gentleman from Mississippi [Mr. WHITTEN] is recognized for 1 hour.

Mr. WHITTEN. Mr. Speaker, for purposes of debate only, I yield 30 minutes to the gentleman from Massachusetts [Mr. CONTE] or to the gentleman from Indiana [Mr. MYERS].

GENERAL LEAVE

Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on House Joint Resolution 425, the joint resolution presently under consideration.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

Mr. WHITTEN. Mr. Speaker, this 2-day extension is necessary because the present resolution expires at midnight tonight. The conferees on the full year resolution have been meeting since Monday afternoon and expect to reach agreement on all items later today. However, it will take at least 2 days for the staff to prepare the conference report and the statement of managers.

Yesterday, four subcommittees completed action on their bills. As I said, I expect action on the other bills to be completed.

This is the second successive year we have been faced with all appropriations in one bill. Last year we were faced with 125 Senate amendments to the House bill. This year there are 50 Senate amendments recommended by the Senate Committee on Appropriations and 61 amendments added on the floor for a total of 111. In addition, the individual appropriations bills contain hundreds of other Senate amendments.

Only once before last year in our Nation's history has the Congress dealt with appropriations in such a manner. This was in 1952.

WORK OF THE COMMITTEE ON APPROPRIATIONS

This year our Committee on Appropriations, and its 13 subcommittees held regular hearings for 221 days where they heard 4,188 witnesses and produced 94,220 pages of hearings printed in 90 volumes.

Ten of the bills were passed in regular order by the House as follows:

Commerce-Justice-State-Judiciary;
District of Columbia;
Energy and Water Development;
HUD-Independent Agencies;
Interior and Related Agencies;
Labor-HHS-Education;
Legislative Branch;
Military Construction;
Transportation; and
Treasury-Postal Service and General Government.

The bills for Defense and Foreign Operations have not yet passed because of delays in authorization. Agriculture has been delayed; waiting, hopefully, for legislative action to put the Farm Credit System on a sound basis.

In this conference we have requested and the Speaker has appointed members of each subcommittee as conferees on his chapter of the continuing resolution, with the chairman of the full committee and the chairmen and appropriate number of ranking minority members of the various subcommittees appointed conferees on the entire bill.

Since appropriations bills were not enacted into law by October 1, the beginning of the fiscal year, the first continuing resolution, Public Law 100-120 was enacted September 30 to continue until November 10. Since the Congress did not enact appropriations bills by that date, House Joint Resolution 394 was passed and signed into law (Public Law 100-160) on November 10 and expires today.

INCREASE IN NATIONAL DEBT

Despite the fact that the total of appropriations bills has been held below the President's request, the national debt has increased from $988 billion in 1981 to $2.3 trillion this year.

TERRIBLE TRADE SITUATION

Since 1981, our country has opened up our markets to foreign production, without agreements that they open up their country to us. Our annual trade deficit has reached $175 billion a year. We have just about destroyed our textile, shoe, steel, and agriculture industries with such imports.

In 1981, we had a favorable international trade balance of $6.7 billion. Each year since then, we have had a negative balance, gone in the red, for a total through 1986 of $419.7 billion. For this year it is expected to hit $175 billion. This comes from opening up our country to imports, with practically no restraints and a failure to require foreign countries to open up their countries to our exports. Under existing law, upon a finding by the Tariff Commission that imports endanger a domestic industry, the President has the authority to correct this situation by adding duties or prohibiting such imports.

We must give the American industry, American labor, and American agriculture the same support foreign countries give to their people.

We must recover our domestic markets and use existing law to recover our normal foreign markets by selling competitively as we did in the period 1949 to 1981.

OUR FARMERS—BANKRUPT

The Department of Agriculture, acting through the Administrator of the Farmers Home Administration, without public hearings or notice, issued an order that farmers who had borrowed from the Farmers Home Administration must show they could pay all they owed; meet their living expenses, and repay the new loan, all in 1 year, to qualify for a new production loan. No group, foreign or domestic, has been required to do that. Of course, when FHA, the lender of last resort, took that action, banks, insurance companies, and other lenders followed suit.

The effect has been that more than 200,000 farmers have become bankrupt; many have committed suicide. Since 1981 437 banks have failed and 373 savings and loan associations have failed.

Thousands of towns and villages have practically dried up.

The Congress has passed reconciliation measures to require legislative committees to raise revenue and cut entitlements to a sufficient amount in order to suspend sequestration. The Appropriations Committee is faced with making sufficient cuts to meet the Gramm-Rudman requirements and thus suspend sequestration. After our committee had held the continuing resolution total $6 billion below the President's recommended total, the Congress directed an additional cut of $2.6 billion in domestic cuts.

NEED TO CONTINUE ESSENTIAL PROGRAMS

Of course, we need to work toward a balanced budget, but not at the expense of our own country for that is all we have to back up our money, and Japan and West Germany are rapidly buying up our country.

No longer is our money backed up by gold or silver.

As we meet here we must deal with all these facts, realizing we must continue our essential national programs if we are to maintain public support.

In the final analysis, in addition to holding down spending, we are going to have to increase our production of things of value, and investment spending on our own country if we are to successfully handle the financial problems which face our Nation.

If we believe history, we will likely be faced with the need for another productive jobs program as we were in 1985, when our committee handled the jobs bill, which the President agrees staved off a recession.

Mr. Speaker, I urge adoption of the resolution.

Mr. Speaker, I reserve the balance of my time.

Mr. MYERS of Indiana. Mr. Speaker, this comes as a necessity, through no fault of anyone; time has run out on us. We expected to get this completed. We are meeting with the other body in conferences constantly but obviously with the tremendous job that is to be done by the Appropriations Committee, it is a physical impossibility to complete this by tonight midnight. It is a simple extension of what we already are operating under today. We hope to be able to finish by this weekend. There is a lot of work to be done. The Appropriations Committee is going to be working night and day to finish as best they can.

Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. I thank the gentleman for yielding. If I could, I would like to ask a couple of questions.

Mr. Chairman, first of all, let me say that we appreciate the fact this is being brought as a clean resolution of the present continuing, so that we are not dealing with any extraneous matters.

Mr. Speaker, does the chairman have some confidence that this is going to be passed as a clean matter by the other body as well?

Mr. WHITTEN. May I say that each subcommittee is meeting on the subject matter with the other body. They accept the limitations which have been imposed on our committee that is in conference. We are proceeding with expedition as best we can.

I say again our biggest worry is the rules of our friends on the other side, whether that will permit them to go ahead. We are making progress. There are hopes that we will get through by Friday night.

Mr. WALKER. Is it the gentleman's understanding that this particular resolution will probably be cleared in its present clean form by the other body?

Mr. WHITTEN. I have been so assured.

Mr. WALKER. I thank the gentleman.

Furthermore, let me ask the gentleman: The 2-day extension, a number of us are under the impression that it is probably going to be impossible to finish this within 2 days. Are we going to come back with another resolution? Why the limitation on the 2 days?

□ 1230

Mr. WHITTEN. Mr. Speaker, it is very simple. To write the resolution, we can do whatever is necessary, but as the gentleman points out, if we go through Friday, we do have Saturday and Sunday that we can stretch out under the pending one without any harm to the Government. We are going to move as fast as we can.

Mr. WALKER. So in other words, the reason for the Friday date is because on Saturday and Sunday we would not be in a position of shutting down the Government?

Mr. WHITTEN. That is correct. It may have expired, and it would cause no real trouble.

Mr. WALKER. This is designed primarily, then, to make certain that we will really have until Sunday to work out any differences?

Mr. WHITTEN. The gentleman is correct.

Mr. MYERS of Indiana. Mr. Speaker, I yield 3 minutes to a very valuable member of the Appropriations Committee, the gentleman from Illinois [Mr. PORTER].

Mr. PORTER. Mr. Speaker, I thank the gentleman for yielding this time to me.

Mr. Speaker, when a columnist as well known as David Broder catches on to the CR game and calls for its end, it gives me hope that we may someday marshall a majority in this body for a return to responsible governance.

A significant number of us in both bodies have endorsed legislation which, as a first step, would sever the CR into its 13 component bills when it is sent to the President. The President could lend powerful support to this kind of initiative, Mr. Speaker, if he would announce in his State of the Union Address as well in advance of the year-end crush that he will not sign a CR, any CR, again.

When we vote on the conference report on the omnibus CR later this week or early next week, it will appear here in the well of the House as a confused bundle of notes held together by a string. Nobody will really know what is in it. Nobody will know if it reduces the deficit as called for by the Budget Summit, but we will adopt it, declare victory, and go home for the holidays.

Mr. Speaker, to those who say we must use the CR, that there is no other way, I say that is nonsense. The CR is a device intended to permit a great deal of substantive legislation to be adopted that could not stand alone on the floor, and it is a device used to subvert the President's veto power.

The President should put an end to the use of this device by which he has been bought off and rolled every year for a few crumbs of military spending increases and Contra aid. He can easily do it and he should do it.

Mr. Speaker, it is time that we have true deficit reduction. And it is time that we put an end to the pernicious omnibus CR and put these twin goals at the top of our legislative agenda.

Mr. MYERS of Indiana. Mr. Speaker, I yield myself 1 minute.

All of us here today certainly have sympathy for the article that the gentleman from Illinois [Mr. PORTER] has just referred to, but we are here today through no fault of our own. The House has passed 10 of the required 13 appropriation bills. We have been unable to go to conference on many of those bills, not only because of what we have not been able to do but because of the other body. We have to have a conference of both bodies.

So we are here not because we want to be here. Least of all, whether we like it or not, speaking for the Appropriations Committee, we are here through necessity of fact, and today we are faced with no choice but to do what we are doing.

Mr. Speaker, we all hope that we can do what the gentleman from Illinois [Mr. PORTER] has spoken of, but this year it has not been possible. We are going to do our best, as far as the Appropriations Committee is concerned—and I am speaking for the entire House—to do a better job next year, but we cannot do it just by ourselves.

Mr. Speaker, I yield such time as he may require to the minority leader, the gentleman from Illinois [Mr. MICHEL].

Mr. MICHEL. Mr. Speaker, I appreciate the gentleman's yielding this time to me.

Mr. Speaker, I share the views expressed by my friend, the gentleman from Illinois [Mr. PORTER], over the omnibus, catchall CR's that have been brought before us in recent years, but this one is for all practical purposes a really bona fide, true, CR which carries everything forward at its current level, with no other strings attached, and with no ifs, ands, or buts.

So this is a very legitimate CR. It is for 2 days, and that brings us to Friday. Admittedly, there will likely be a problem in getting things finally resolved before Saturday or Sunday, but the alternative to a 2-day CR is something that goes over into next week, and then we would almost certainly be here on Christmas Eve.

My view is to keep the pressure on. Two days is sufficient. That puts pressure on all of us to finally get this thing wound up before the end of the week.

Mr. CONTE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am sorry that I was not here, but the gentleman from California was going to object and I asked him to remove his objection. He refused.

I support the extension through midnight Friday. The CR is at the 1987 levels, with no new programs, no new extraneous provisions. I wish that we did not have to ask the House for this extension. No one is more sick and tired of CR's and extensions than I am, but I can say to my colleagues that under the circumstances that exist today we have no choice. We got the full-year CR from the Senate on Monday. We started the conference that afternoon. We had to conference on 13 appropriation bills, and in doing so we have to implement our part of the budget summit agreement. If we extend through Friday, then the President would have to sign a full CR by Monday in order to avoid another extension, and that is cutting it pretty close.

I am going to go along with this CR, but I might say that I hear rumblings about the conference on the reconciliation, stating that they are not going to get their work done until next Tuesday on reconciliation because some Members of Congress have certain pet projects in that particular reconciliation conference.

Mr. Speaker, I will object, and I will fight any other extension of this CR.

Mr. DANNEMEYER. Mr. Speaker, will the gentleman yield?

Mr. CONTE. I yield to the gentleman from California.

Mr. DANNEMEYER. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, a good question that comes to the minds of all of us as to why we should even bother with objecting to the reasonable request that has been presented to us is, why should we not let this thing go over for another 2 days? Let me suggest a good reason to my colleagues why we should object to even this request for a 2-day extension.

We all know the reasons, with the abomination of the CR. We know all the reasons why we should not accede to this request. It effectively denies to the President of the United States the ability to exercise his constitutional right of a veto. We all know that drill has been going on all during the Reagan Presidency by the Democrats who control this body, because they do not want to give this President the ability of vetoing one of those 13 appropriation bills.

We all know those reasons, but let me share with my colleagues why we should stop this right now. We should stop this right where it is. We need to get the attention of the leadership of this institution. We need to say, on both sides of the aisle, that enough is enough. This is absolutely an irresponsible way to run anything, let along the Government of the United States, and the only way we, the Members of this body, are going to get the attention of our distinguished leaders, the chairman of the Appropriations Committee and the ranking minority member, the gentleman from Massachusetts [Mr. Conte], whom I love and endear, is to say that enough is enough. The way to get their attention is to face the reality and shut down this Government if that is what is required in order to bring some change to how we run this institution.

What we are doing is a disgrace. We all know it. The time to stop it is right now.

Mr. Speaker, I say to the Members, when the rollcall vote comes, vote no on this CR.

Mr. CONTE. Mr. Speaker, I hope we will all vote aye on this CR and get on with our business. I am sure the Appropriations Committee will do its work and will come out with a record better than any amendment that was offered this year on the floor of the House. We will be below any one of those amendments. We will have a good CR.

But I am afraid that something else will happen, and I mentioned it before. There will be another committee that will not have its work done, and it will be for other reasons. We are working hard. We are well on our way. We are about two-thirds through right now, and if it was just the Appropriations Committee to consider, we would be home and out of here next Saturday.

Mr. WHITTEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I believe I have supplied the facts as to how this continuing resolution has been made necessary, not by our committee but by the rules of our friends on the other side to a great degree and by the failure of the legislative committees to get their authorizations through.

Mr. Speaker, I move the previous question on the joint resolution.

The previous question was ordered.

The SPEAKER pro tempore (Mr. Gonzalez). The question is on the engrossment and third reading of the joint resolution.

The joint resolution was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the joint resolution.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. FRENZEL. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 272, nays 149, not voting 12, as follows:

[Roll No. 484]

YEAS—272

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Aspin
Atkins
AuCoin
Barnard
Bateman
Beilenson
Bennett
Bevill
Bilbray
Bliley
Boehlert
Boggs
Boland
Bonior
Bonker
Borski
Bosco
Boucher
Boxer
Brooks
Brown (CA)
Bryant
Bunning
Bustamante
Byron
Cardin
Carper
Carr
Chandler
Chapman
Chappell
Cheney
Clarke
Clay
Clinger
Coelho
Coleman (TX)
Collins
Combest
Conte
Conyers
Cooper
Coughlin
Coyne
Darden
Davis (MI)
de la Garza
Dellums
Derrick
Dickinson
Dicks
Dingell
Dixon
Donnelly
Downey
Duncan
Durbin
Dwyer
Dyson
Early
Eckart
Edwards (CA)
Edwards (OK)
English
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Fish
Flippo
Florio
Foley
Ford (MI)
Ford (TN)
Frank
Frost
Garcia
Gejdenson
Gibbons
Gonzalez
Gordon
Gradison
Grant
Gray (PA)
Green
Guarini
Hamilton
Harris
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefner
Hertel
Hochbrueckner
Horton
Houghton
Howard
Hoyer
Huckaby
Hughes
Hutto
Jacobs
Jeffords
Jenkins
Johnson (CT)
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kaptur
Kastenmeier
Kennelly
Kildee
Kleczka
Kolbe
Kolter
Lancaster
Lantos
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Lent
Levin (MI)
Levine (CA)
Lipinski
Livingston
Lloyd
Lott
Lowery (CA)
Lujan
Luken, Thomas
MacKay
Madigan
Manton
Markey
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McDade
McGrath
McHugh
McMillen (MD)
Mica
Michel
Miller (CA)
Miller (OH)
Mineta
Moakley
Mollohan
Montgomery
Moody
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal
Nelson
Nichols
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Panetta
Parris
Patterson
Pease
Pelosi
Penny
Pepper
Perkins
Pickle
Price (IL)
Price (NC)
Quillen
Rahall
Rangel
Ravenel
Ray
Regula
Richardson
Ridge
Rinaldo

Rodino
Roe
Rogers
Rose
Rostenkowski
Roukema
Rowland (GA)
Roybal
Sabo
Saiki
Savage
Sawyer
Scheuer
Schneider
Schumer
Sharp
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Solarz
Spratt
St Germain
Staggers
Stallings
Stark
Stokes
Stratton
Sundquist
Swift
Synar
Tallon
Tauzin
Thomas (GA)
Torres
Towns
Traficant
Traxler
Valentine
Vander Jagt
Vento
Volkmer
Walgren
Watkins
Waxman
Weiss
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wortley
Wylie
Yates
Yatron
Young (AK)
Young (FL)

NAYS—149

Archer
Armey
Badham
Baker
Ballenger
Bartlett
Barton
Bates
Bentley
Bereuter
Bilirakis
Boulter
Brennan
Broomfield
Brown (CO)
Bruce
Buechner
Burton
Callahan
Campbell
Coats
Coble
Coleman (MO)
Courter
Craig
Crane
Crockett
Daniel
Dannemeyer
Daub
Davis (IL)
DeFazio
DeLay
DeWine
DioGuardi
Dorgan (ND)
Dornan (CA)
Dreier
Dymally
Emerson
Fawell
Fields
Flake
Foglietta
Frenzel
Gallegly
Gallo
Gekas
Gilman
Gingrich
Glickman
Goodling
Grandy
Gregg
Gunderson
Hall (TX)
Hammerschmidt
Hansen
Hastert
Hefley
Henry
Herger
Hiler
Holloway
Hopkins
Hubbard
Hunter
Hyde
Inhofe
Ireland
Kasich
Kennedy
Konnyu
Kostmayer
Kyl
LaFalce
Lagomarsino
Latta
Leach (IA)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lowry (WA)
Lukens, Donald
Lungren
Mack
Marlenee
Martin (IL)
McCandless
McCollum
McMillan (NC)
Meyers
Mfume
Miller (WA)
Molinari
Moorhead
Nielson
Oxley
Packard
Pashayan
Petri
Pickett
Porter
Pursell
Rhodes
Ritter
Roberts
Robinson
Roth
Rowland (CT)
Russo
Saxton
Schaefer
Schroeder
Schuette
Schulze
Sensenbrenner
Shaw
Shays
Shumway
Shuster
Slaughter (NY)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solomon
Spence
Stangeland
Stenholm
Studds
Stump
Sweeney
Swindall
Tauke
Taylor
Thomas (CA)
Torricelli
Upton
Visclosky
Vucanovich
Walker
Weber
Weldon
Wheat
Whittaker
Wyden

NOT VOTING—12

Berman
Biaggi
Dowdy
Gaydos
Gephardt
Gray (IL)
Hall (OH)
Kemp
McEwen
Owens (UT)
Roemer
Udall

□ 1300

Mr. **FOGLIETTA** changed his vote from "yea" to "nay."

Mr. **TRAFICANT** changed his vote from "nay" to "yea."

So the joint resolution was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

AUTHORIZING HAND ENROLLMENT OF CERTAIN BILLS AND JOINT RESOLUTIONS DURING REMAINDER OF FIRST SESSION OF 100TH CONGRESS

Mr. **FOLEY**. Mr. Speaker, I offer a joint resolution (H.J. Res. 426) authorizing the hand enrollment of the budget reconciliation bill and of the full-year continuing resolution for fiscal year 1988, and ask unanimous consent for its immediate consideration in the House.

The Clerk read the title of the joint resolution.

The **SPEAKER** pro tempore (Mr. HUBBARD). Is there objection to the request of the gentleman from Washington?

Mr. **WALKER**. Mr. Speaker, reserving the right to object, it is my understanding that all we have here is simply a resolution that will keep us from having to go to parchment copies of the resolution coming over; is that correct?

Mr. **FOLEY**. Mr. Speaker, will the gentleman yield?

Mr. **WALKER**. I yield to the gentleman from Washington.

Mr. **FOLEY**. The gentleman is correct.

Mr. **WALKER**. Mr. Speaker, I thank the gentleman and I withdraw my reservation of objection.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. RES. 426

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That, during the remainder of the first session of the One Hundredth Congress, the provisions of sections 106 and 107 of title 1, United States Code, with respect to the printing (on parchment or otherwise) of the enrollment of the bill H.R. 3545 of the One Hundredth Congress (or any other bill providing for reconciliation pursuant to the concurrent resolution on the budget House Joint Resolution 395 of the One Hundredth Congress (or any other joint resolution making continuing appropriations for fiscal year 1988) are waived, and the enrollment of any such bill or joint resolution shall be in such form as the Committee on House Administration certifies to be a true enrollment.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

HOUR OF MEETING ON TOMORROW

Mr. **FOLEY**. Mr. Speaker, I ask unanimous consent that when the House adjourns today it adjourn to meet at noon tomorrow.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from Washington?

Mr. **WALKER**. Mr. Speaker, reserving the right to object, I do so simply to inquire of the gentleman from Washington whether or not this request is in anticipation of any change in the schedule from what we talked about yesterday?

Mr. **FOLEY**. Mr. Speaker, will the gentleman yield?

Mr. **WALKER**. I yield to the gentleman from Washington.

Mr. **FOLEY**. Mr. Speaker, I would answer the gentleman by saying no. The gentleman's question of yesterday and my response remain the same.

Mr. **WALKER**. So we will still be on the Endangered Species Act when we come back tomorrow at noon?

Mr. **FOLEY**. The gentleman is correct. That is what we expect.

Mr. **WALKER**. Mr. Speaker, I thank the gentleman and I withdraw my reservation of objection.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

MILITARY RETIREMENT REFORM ACT OF 1987

Mrs. **BYRON**. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 2974) to amend title 10, United States Code, to make technical corrections in provisions of law enacted by the Military Retirement Reform Act of 1986, with a Senate amendment thereto, and concur in the Senate amendment with an amendment.

The Clerk read the title of the bill.

The Clerk read the House amendment to the Senate amendment as follows:

House amendment to Senate amendment:

At the end of the House engrossed bill, add the following:

SEC. 4. INVOLUNTARY RELEASE FROM ACTIVE DUTY FOR CERTAIN RESERVE MEMBERS.

Section 1163(d) of title 10, United States Code, is amended by inserting "(other than for training)" after "active duty".

SEC. 5. OTHER TECHNICAL CORRECTIONS.

(a) PUBLIC LAW 100-180.—(1) The table relating to warrant officers in section 305a(b) of title 37, United States Code (as amended by section 621(a) of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (Public Law 100-180)), is amended by striking out "Over 13" and inserting in lieu thereof "Over 14".

(2) Section 301c(b) of title 37, United States Code (as amended by section 623(b) of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (Public Law 100-180)), is amended in the matter preceding the tables by striking out "(b) The monthly rates for special pay under subsection (a) are as follows:".

(3) Section 803(b) of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (Public Law 100-180) is amended by

striking out "Section 2437" and inserting in lieu thereof "Section 2437(a)".

(4) The amendments made by this subsection shall apply as if included in Public Law 100-180 as enacted on December 4, 1987.

(b) TITLE 10.—(1) Section 1450(f)(3)(A) of title 10, United States Code, is amended by striking out the second comma after "required by a court order to make such an election".

(2) Section 2327 of such title is amended by inserting "App." after "(50 U.S.C." in subsections (a) and (b)(2).

(3) The item relating to section 2690 in the table of sections at the beginning of chapter 159 of such title is amended to read as follows:

"2690. Fuel sources for heating systems; prohibition on converting certain heating facilities.".

(4) The item relating to section 5898 in the table of sections at the beginning of chapter 549 of such title is amended to read as follows:

"5898. Action on reports of selection boards.".

Mrs. BYRON (during the reading). Mr. Speaker, I ask unanimous consent that the House amendment to the Senate amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Maryland?

Mr. BATEMAN. Mr. Speaker, reserving the right to object, I do not intend to object, but I take this time only for the purpose of permitting the gentlewoman from Maryland [Mrs. BYRON], chairman of the Military Personnel and Compensation Subcommittee of the Armed Services Committee, to explain the reason for her unanimous-consent request.

Mrs. BYRON. Mr. Speaker, will the gentleman yield?

Mr. BATEMAN. I yield to the gentlewoman from Maryland.

Mrs. BYRON. Mr. Speaker, the Senate amendment is purely technical in nature to correct a section number. The purpose of the House amendment is twofold: First, to prevent a windfall never intended by law for a small group of reservists who may come on active duty for training and then, as a result of a recent court decision, may remain in an active status until they qualify for retirement benefits; and second, to correct several typographical errors in the recently enacted National Defense Authorization Act for fiscal years 1988 and 1989.

Mr. BATEMAN. Mr. Speaker, I thank the gentlewoman for her explanation and urge that we join in her unanimous-consent request.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Maryland?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentlewoman from Maryland?

There was no objection.

A motion to reconsider was laid on the table.

CONGRESSIONAL SALARY ACT OF 1987

(Mr. SKAGGS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SKAGGS. Mr. Speaker, I am today introducing legislation to make two important changes in the way Congress sets its pay.

First, this bill will require separate, recorded votes for any increase in the pay of Members of Congress. This will do away with the current system in which we let our pay get raised just because we didn't vote to prevent it.

Second, the bill will provide that any increase in congressional pay cannot take effect until after the next general election. This will ensure that the people can hold us accountable for any decisions we make to raise our pay.

A similar change was proposed by the very first Congress, in 1789, as a constitutional amendment. It was the second of 12 proposed amendments; the 10 that were ratified are the Bill of Rights. The pay raise amendment has not yet been ratified, and is still pending before the States. Twenty-one States have ratified it, including 13 in the last 4 years.

I voted for this constitutional amendment when the Colorado General Assembly voted to ratify it in 1984. I believe this system should be made a permanent part of our Constitution. Colorado and many other States have similar systems in their State constitutions for members of the State legislature, and it works well in those States.

Even without the constitutional amendment being ratified, we can go ahead today and make the change. And that is what I am proposing.

Nothing hurts credibility of Congress more than the spectacle of Members of Congress raising their own pay during their terms in office, and doing so without a vote. I urge my colleagues to join me in establishing a responsible and respectable system for dealing with congressional pay.

FINISHING TOUCHES ON COMPREHENSIVE CRIME PACKAGE

(Mr. GEKAS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GEKAS. Mr. Speaker, I am today introducing legislation which should put the finishing touches on the comprehensive crime package introduced by the President and passed by the Congress in 1984. It was not able to pass three basic elements which are the subject of this particular piece of legislation.

First, it would reform the exclusionary rule under which today criminals walk out of the courtroom scot-free because of a technicality in search and seizure proceedings. This would eliminate that.

Second, it would go a long way to eliminate the habeas corpus petitions that are filed endlessly by people already convicted and sitting in jail which hamper the criminal justice system and cause unending problems for the judges of our Nation.

Third, it would restore to the Federal law a death penalty for the serious crimes on which this House has already acted and the Senate separately for attempted assassination of the President, God forbid, for terrorism, for treason, for espionage, for drug dealers who would kill in the furtherance of their criminal enterprise.

The American public deserves the conclusion of the comprehensive crime package, and the 100th Congress is the proper forum to do so.

MURDER IN AMERICA

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, Ted Bundy is still awaiting execution for the murders of a 12-year-old schoolgirl and two female students at Florida State University. His defense though now argues that Bundy was incompetent at the time he stood trial. What a bunch of bull.

Bundy got a fair trial. Bundy was found guilty. In fact, Florida has bent over backward to protect his rights.

The time has come. It is time for Bundy to face the death penalty.

In the last 10 years, the taxpayers of Florida have spent megabucks to keep him in jail with proper feed and clothing and to protect and secure his rights. Who protected the rights of those women and those girls and that 12-year-old? What about their families and the pain that they now endure?

I think it is time that Congress start looking at 90,000 murders in America.

They say what would you do if you were a judge, how could you make that decision? Ladies and gentlemen, I would not flinch. I would say good night, sweet prince, because payback is a real killer.

OPPOSITION TO A PLAN TO CONVERT NATIONAL INSTITUTES OF HEALTH INTO A PRIVATE RESEARCH CENTER

(Mrs. MORELLA asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. MORELLA. Mr. Speaker, I read in today's New York Times that the

Office of Management and Budget is proposing to convert the National Institutes of Health into a private research center. Such a plan should be rejected outright. It would destroy the institutional purity of the scientific research system which is so sucessful at NIH, and place profit over production. I have written OMB with my objections to this plan. "If it isn't broke, don't fix it."

The proposal, reportedly being considered for inclusion in the administration's 1989 budget to be announced next month, would make NIH a "free-standing research institute" along the lines of Rockefeller University in New York City. The new NIH would be funded by industry and foundations, with additional Federal dollars.

NIH is in its 100th year of important, essential research into the workings of the human body and mind. This plan is no way to celebrate that anniversary. Hybridization and privatization is not the answer.

The noted educator James Bryant Conant once said:

> There is only one proved method of assisting the advancement of pure science—that of picking men with genius, backing them heavily, and leaving them to direct themselves.

If researchers are distracted from their tasks to raise dollars from private sources, then grantmanship would be the only research done.

Apparently, the OMB didn't do its research. NIH performs basic research, the cornerstone of scientific exploration, growth, and development, and has performed it well. Ninety Nobel Prizes for NIH-sponsored research is quite a track record. An NIH scientist was one of the first to discover the AIDS virus; research is continuing on a vaccine for the disease. Researchers there helped break the molecular code for DNA, putting NIH at the forefront of biomedical and biotechnology research.

Mr. Speaker, I acknowledge there are key issues at NIH to be addressed, such as proper salary and staffing levels. But these can be addressed within the existing system, without such a fundamental change. I urge my colleagues to strongly oppose this plan.

IN SUPPORT OF THE WELFARE REFORM ACT OF 1987

(Mr. ESPY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ESPY. Mr. Speaker, I am glad to speak in strong support of the Family Welfare Reform Act of 1987, H.R. 1720, a bill we will continue to debate today. The provisions of this bill reflect a new era for our public welfare system and an important change in our public assistance and service policy. This new direction is long overdue and much needed. As an early cosponsor to H.R. 1720, I am glad to have this bill come before this legislative body for a full and complete discussion and I believe it will be adopted.

It seems that we are moving from a policy of simple maintenance to a policy of service and support. This welfare reform legislation does not only give a new hope to a segment of our citizenry that yearn for a piece of the pie; but in the long run, the payoff is a social profit shared by all Americans. Putting people to work is an excellent and achievable goal, but public officials must decide that it is a "can do" proposition and not an unneeded burden; that it constitutes a public good and requires a public policy commitment.

Mr. Speaker, the major source of income in my district, the Second District of Mississippi, is public assistance transfer payments. Twenty-seven percent live below the poverty level. This represents nearly 136,000 people. I know, the people of my district are hard working when they have jobs; and with an average unemployment rate of more than 13 percent, my district has people who are willing and hungry for work.

I believe the Family Welfare Reform Act of 1987 will give the people of my district a new hope and a new assurance that their Government hasn't given up hope and will offer the resources needed to cure a serious social ill. The benefits will not be delivered to us easily or quickly, but in due time with keen administration, we will receive the benefits, promote the dignity of welfare recipients, and save the generations of would-be welfare recipients.

Mr. Speaker, I urge my colleagues to vote yes on final passage of H.R. 1720, the Family Welfare Reform Act of 1987.

DANIEL ORTEGA HAS NO RESPECT FOR THE ARIAS PEACE PLAN

(Mr. RITTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RITTER. Mr. Speaker, the Democratic Party has pinned its hopes on the Arias peace accords. Beyond those hopes there is no strategy.

Mr. Speaker, I urge them to consider the words of Daniel Ortega as pronounced in the New York Times on Monday and in the Washington Post yesterday. Quoting Mr. Ortega, he said:

> This country will never vote for any party other than the Sandinista National Liberation Front. But in the hypothetical case that Sandinista Front lost an election, the Sandinista Front would hand over the Government, not power.

Ortega said "An opposition party could govern only if it respected the established power."

The Washington Post put it another way. They said:

> In the hypothetical case that the people became deranged * * * and an opposition party were elected, this opposition party could govern as long as it respected the established power, and we will be ready to defend respect for this established power.

Mr. Speaker, what Ortega has told the Democrats in the House of Representatives is that he has no respect for the Arias peace proposal. With these words he has trashed the Arias peace proposal.

I call upon the Democrats in the House of Representatives to come up with yet a backup strategy now that Ortega has said goodbye to Oscar Arias.

□ 1315

FAMILY WELFARE REFORM ACT OF 1987

(Mr. BRENNAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BRENNAN. Mr. Speaker, later today, we will be continuing our consideration of the welfare reform bill.

I'd like to tell you about my experience with a similar program in Maine, the Welfare Employment, Education, and Training Program, or "WEET."

I was Governor at the time—and I was talking with a mother of three children who had been on AFDC for 5 years. Through our State WEET Program she was trained, got a job, and went to work. And the young mother told me what that job meant to her—simply, but eloquently.

She told me she no longer had to be stared at, embarrassed, or humiliated when she paid with food stamps at the checkout counter of a supermarket.

The fact is, she really got more than a job. She got human dignity. She got self-respect. And that is what this welfare reform bill is all about.

I would urge each of my colleagues to support the bill.

FAMILY WELFARE REFORM ACT HAS POTENTIAL TO HELP FAMILIES GET OUT OF THE POVERTY CYCLE

(Mr. RICHARDSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RICHARDSON. Mr. Speaker, today we will be casting a historic vote on reforming a welfare system which has not worked. Instead of creating a dependency, we are saying to the welfare recipient, "In order to get benefits, we want you to work. We will train you and educate you but you must follow through and participate in this job-oriented program. We will help you with child care. The bottom line is that we want you to work."

Call it workfare, whatever, the point is we are creating something new that has tremendous potential to help families get out of the poverty cycle.

The heart of this legislation is job search, on-the-job training, counseling, and education. It involves the States and the business community in designing these programs. This is positive legislation which promotes respect and human dignity. Let us give it a chance to work.

H.R. 3771, A BILL TO AID OUR U.S. SERVICEMEN AND THEIR FAMILIES OVERSEAS

(Mr. DAVIS of Illinois asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DAVIS of Illinois. Mr. Speaker, today Congressman ARTHUR RAVENEL and I have introduced H.R. 3771 that will affect the quality of life and ability to live with dignity for all U.S. servicemen and their families who are stationed overseas.

H.R. 3771 will have a positive effect on burden-sharing by requiring that our allies pay to the U.S. Treasury a negative currency fluctuation amount equal to the difference between the host country currency and the dollar to offset the decline in purchasing power of the dollar in that host country that we have experienced in the last year and every year from now on should this become law.

This year, due to the currency differentials, Mr. Speaker, in Europe and Japan, we have poured literally hundreds of millions of dollars into the COLA arrangements for our servicemen and women but it is not enough to offset the devastation of a decline of over half of the dollar's purchasing power in some countries. This bill would require semiannual differential payments by our allied host countries or they would face a drawdown of U.S. troops until the differential amount is reached for that given year.

I encourage everyone in the House to join me on this very good bill.

APPALACHIAN TRAIL

(Mrs. BYRON asked and was given permission to address the House for one minute and to revise and extend her remarks.)

Mrs. BYRON. Mr. Speaker, I would like to bring to the attention of my colleagues a landmark occasion in the development of the Appalachian Trail. As a result of a recent acquisition in Maine, 31.6 miles of the trail will be permanently protected. Included in the purchase are several major peaks and the last 2-mile section to be opened after 15 years of construction. That section made the Appalachian Trail a continuous 2,100-mile footpath through 14 States, from Maine to Georgia.

The acquisition took place under provisions of the National Trails System Act of 1968, which designates the Appalachian Trail as a national scenic trail. The act also authorizes the National Park Service to acquire a corridor, or right-of-way, to protect the trail from development or other uses that could undermine its scenic and recreational values.

Negotiated this fall, the recent Maine purchase was made by the Park Service from Scott Paper Co. It was the largest single acquisition in the history of the Appalachian Trail project. In addition to contributing some beautiful wildlife areas to the trail, the purchase will also allow for the relocation of some portions of the trail off of heavily traveled roads, helping to insure the safety of trail users.

Mr. Speaker, in closing I would like to commend the Park Service for seeing to it that this opportunity to expand the Appalachian Trail was taken advantage of. In Maryland, we are very proud of our portion of the trail and the link that it provides to our neighbors. As a Member interested in trails and the scenic and recreational enjoyment that they provide, I am pleased to be able to share the news of the expansion of the Appalachian Trail with my colleagues today.

H.R. 1720 INCREASES BENEFITS, WILL NOT HELP WELFARE RECIPIENTS FIND JOBS

(Mr. BROWN of Colorado asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BROWN of Colorado. Mr. Speaker, there has been a great deal of discussion about the welfare reform bill. But what a tragedy it would be if Members vote for that bill believing it will help welfare recipients find jobs.

That is the slogan that people who have advocated the bill have suggested.

Let me ask those folks who are inclined to vote that way to review the bill. I do not say that to be trite; I say it because the bill does the opposite of what they suggest.

The bill spends its money to increase benefits. More than 80 percent of the money in the bill goes to increased benefits, not to place people in jobs. As a matter of fact, when it comes to jobs, H.R. 1720 has five major restrictions on work. The bill is designed to prevent people being referred to jobs.

Just one of them: take a look at page 180 of the committee report. It shows what welfare benefits are in a variety of States. Unless the job pays more than those welfare benefits under this bill, it is illegal to refer people to those jobs. In California, you start at somewhere about $16,000 with a basic package and public housing.

That means you have to show under the bill that you are going to come out better working than you will the $16,000-plus, after tax benefits. In truth, the bill is antiwork, it is not prowork.

Sell the bill, if you will, on higher benefits, but do not mislabel it. This will has a devastating impact on those who need our help the most. We ought to be talking about how we help them, not harming them with restrictions.

FAMILY WELFARE REFORM ACT

(Mr. MINETA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MINETA. Mr. Speaker, today we have the opportunity to beat the welfare cycle by breaking the welfare cycle. The House is considering the Family Welfare Reform Act and is addressing a perennial problem of the past by making an investment in our future.

We can invest in the future of our children by ensuring they receive quality child care. We can invest in the future of our families by encouraging family unity with provisions allowing for two-parent households. We can invest in the future of our economy by establishing mandatory work and education programs for welfare recipients. H.R. 1720 does just that.

On the other hand, we can divest by way of the Republican substitute; a deceptively attractive plan which seems easy and inexpensive but has little potential for the future.

Mr. Speaker, for years we have heatedly debated this issue. And yet, we have done little more than pass it from one generation to the next. If we are ever to make welfare reform work, we must take the initiative, accept the responsibility, and vote "yes" on final passage of the Family Welfare Reform Act.

A CALL FOR PEACE AND AN END TO VIOLENCE IN NORTHERN IRELAND

(Mr. DONNELLY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DONNELLY. Mr. Speaker, as the holy season is upon us I would like my colleagues to join me in praying for peace and calling for an end to the continued violence in Northern Ireland.

We should express our deep outrage at the recent reprehensible killing of 11 innocent victims the maiming of scores more in Enniskillen, Northern Ireland. I extend my deepest sympathies to the victims of this murderous assault and their families.

The situation in Northern Ireland affects all the people of Ireland and is of deep concerns to many Americans. I am personally by tradition supportive of the Irish nationalist community. I believe that many of my colleagues support Irish unity as the ultimate solution to the problem in Northern Ireland. However none of us wish to impose unity against the wishes of the majority of the people in Northern Ireland and we do not wish to impose it at the expense of Irish lives and the rights of a whole generation of young people to peace and stability.

The senseless killing must stop. Since 1969 more than 2,600 lives have been lost and 30,000 wounded. Once again I call upon those who share my feelings to refrain from promoting any assistance to those in Ireland and Northern Ireland who advocate and commit the violence that has taken the lives of so many innocent Irishmen, women, and children.

H.R. 1720, BILLED AS A WORK BILL, IN FACT IS SOMETHING ELSE

(Mr. WALKER asked and was given permission to address the House for 1 minute.)

Mr. WALKER. Mr. Speaker, we have had a good deal of discussion on the floor in 1-minutes about the welfare bill that we will be considering here in the House. The problem a number of us have with the majority bill is the fact that though it is billed as a work bill, it is something else.

It is, in fact, an expansion of welfare, a $5 billion expansion of welfare. It even has the potential of making certain that people never go to work. And if you take a look at the provisions referred to by the gentleman from Colorado a couple of minutes ago, in the report you will find that in California the potential is that you could not be referred to a job that paid less than $8 an hour.

There are a lot of my constituents who are working every day, week in and week out, in jobs that pay less than $8 an hour. They are paying taxes to the Federal Government that will pay for this $5 billion program.

They are expected to work in a manner that pays benefits so that people do not have to be referred to jobs that are making that level of benefits? That is wrong, that is precisely the opposite direction from where we should be going. We ought to have a program that encourages everyone to work and then if we need supplements over and above that, fine, but we ought not have a process that says to people, "Unless you make $8 an hour or more you don't have to work."

We ought to stop this bill and adopt the substitute.

MR. GORBACHEV, WHY DON'T YOU APPLY YOUR EXTRAORDINARY LEADERSHIP TO CONFORM YOUR EMIGRATION AND HUMAN RIGHTS POLICIES WITH ESTABLISHED NORMS OF THE CIVILIZED WORLD?

(Mr. SCHEUER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCHEUER. Mr. Speaker, last week the General Secretary of the Soviet Union, Mr. Gorbachev, in a conversation with President Reagan expressed some pique about their discussion of human rights and he said, "Mr. President, you are not the judge and jury and I am not the accused on this matter."

Well, Mr. Speaker, the Soviet Union's systematic government-driven abuse of the human rights of millions of their Soviet citizens placed the Soviet Union squarely in the prisoners dock and in the defendant's seat before the international bar of public opinion.

Mr. Speaker, as long as the Soviet Union flagrantly disregards its legal obligations under the Helsinki accords, as long as they use the power of their government and their emigration laws as a club to degrade, demean, humiliate, and intimidate their citizens, they will be giving testimony every day, hour by hour, of the nature and quality of the Soviet state.

Now, Mr. Gorbachev, we know you are capable of extraordinary leadership. Why do you not apply it on this subject and bring your great country and its policies, programs and practices on emigration and human rights, into conformity with the established norms of the civilized world?

ESTABLISHING A WORLD WAR II VETERANS' MEMORIAL AND MUSEUM

(Ms. KAPTUR asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. KAPTUR. Mr. Speaker, I invite my colleagues to join me, along with 65 other Members who have already sponsored legislation that I recently introduced to establish a World War II Veterans' Memorial and Museum here in Washington, DC.

This month marks the 46th anniversary of the attack on Pearl Harbor and the entrance of the United States into World War II. Over 16 million Americans served in this Nation's Armed Forces in that conflict, and over 400,000 made the ultimate sacrifice in defense of freedom around the world.

This was a conflict in which the choice between democracy and tyranny was crystal clear. That war, in its origins and outcomes, largely shaped the history of the 20th century.

Only a national memorial and museum located in our Nation's capital can pay tribute to our valiant men and women. Such a memorial will give a sense of the time, the origins and outcomes of that war, the numerous actors in the conflict, and the multiple issues, goals, and objectives that came into play. Most importantly, this remembrance will reinforce the enduring values to which our participation in that struggle were dedicated.

Funding for this effort will be largely from private donations, not tax dollars, as have been our other well known museums and memorials.

Mr. Speaker, I hope my colleagues will join me in so honoring these veterans and in sharing with future generations of Americans the historical lessons of World War II.

FAMILY WELFARE REFORM ACT OF 1987

The SPEAKER pro tempore. (Mr. Hubbard). Pursuant to House Resolution 331 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union of the further consideration of the bill, H.R. 1720.

□ 1332

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 1720) to replace the existing AFDC Program with a new Family Support Program which emphasizes work, child support, and need-based family support supplements, to amend title IV of the Social Security Act to encourage and assist needy children and parents under the new program to obtain the education, training, and employment needed to avoid long-term welfare dependence, and to make other necessary improvements to assure that the new program will be more effective in achieving its objectives, with Mr. Barnard [Chairman pro tempore] in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose on Tuesday, December 15, 1987, all time allocated to the Committee on Ways and Means had expired.

Pursuant to the rule, the gentleman from California [Mr. Hawkins] will be recognized for 30 minutes; the gentleman from Michigan [Mr. Henry] will be recognized for 30 minutes; the gentleman from California [Mr. Panetta] will be recognized for 30 minutes; and the gentleman from Missouri [Mr. Em-

ERSON] will be recognized for 30 minutes.

The chair recognizes the gentleman from California [Mr. HAWKINS].

Mr. HAWKINS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, let me begin by paying tribute to the members and the Ways and Means Committee who have played a key role on the issue of welfare reform, a subject that has bedeviled several administrators and confounded the best of experts.

Today, with a great compassionate plea, the proponents of welfare reform declare it is time we once again deal with the problem and they are right. My heart is with them, but my head says otherwise.

Welfare reform may well be an idea whose time has come, but regrettably, it arrives in a most inhospitable budgetary and political climate.

If a choice is to be made—this very week—in deficit reduction, in cuts in education, training, and employment versus spending on welfare targeted on a specific underclass deficit reduction wins outright, not on rational merit or basic morality or economic soundness, but on political expediency. This is the mandate under which we operate and like everything else in the budget, welfare reform becomes one of the victims, merit notwithstanding.

If welfare reform is to be successful, it must be comprehensive and all-inclusive in its approach. It is absolutely essential to make a commitment to put adequate funding behind it to insure that jobs in fact will be made available and support services be provided at quality levels.

It is obvious, as the Andrews amendment clearly illustrates—that we are not willing to make a strong commitment—to our children, either those on AFDC-welfare or millions of others equally in distress.

Today, about one in five children in America is living in poverty. In addition, another 20 percent of our children are living in families whose income hovers at or right above the official poverty cutoff. Through antiquated, inadequate, ad hoc Government policy, we have allowed over 40 percent of our most precious personal and national treasures, our young, fall through the social safety net.

The problems of the welfare system are part and parcel of the overall misguided policies eating away at our great democratic society. Unemployment continues at unacceptable high levels. Millions of able-bodied, experienced workers have been displaced.

Millions of young people have never experienced a full-time job. And, only 37 percent of those living in poverty are actually receiving public assistance.

Looked at in its best light, welfare reform, and a comprehensive employment and education policy must, therefore, be viewed as offering hope and a realistic way out of poverty for a great number of Americans.

As Economist Isabelle Sawhill has said, "we must" rely on employment-oriented macroeconomic policies to build a strong, inclusive economy and to build a productive work force through, as suggested in Governor Cuomo's Task Force Report on Poverty and Welfare, "reforms in education, investments in preschool education, support for training in the private sector, and compensatory training for those who lack the skills and abilities to compete in the labor market."

H.R. 1720 assumes there are jobs in the economy for welfare recipients to move into. That premise is questionable for several reasons. First, in November, there were still 7.1 million Americans officially unemployed. The number of people working part time because they could not find full-time work rose to 5.5 million workers. Also, there were several million people classified as "working poor," who although employed full time, did not earn enough money to escape poverty. If these people have not found full-time work, or a job that pays more than a poverty wage, how can we expect welfare recipients to do so?

How, in brief, do we provide self-sufficiency for welfare dependency, when more able job seekers cannot be accommodated.

As a friend said it—Eddie Williams of Joint Center on Political Policies—"How do we move from here to there when there doesn't seem to be a there, there?"

None of the welfare proposals without further changes in the right direction will get us there. Because there aren't enough jobs there to place welfare recipients into without replacing or displacing others who have far superior qualifications, even at the minimum wage level of $3.35 per hour—value now at only $2.75—that will not lift anyone out of poverty.

Even more troubling, however, is the inadequate child care provisions in the bill. H.R. 1720 is a step in the right direction, but the Federal reimbursement for child care costs is limited to $200 per month for a child under 2 years of age and $175 per month for older children. These reimbursement levels are not sufficient to pay for the current cost of quality child care in many parts of the country, and no allowances have been made for future inflationary erosion.

Funding for child care should provide no less than the market rate of care. The Massachusetts Employment and Training [ET] Program, invests about 47 percent of its budget on child care. The California GAIN Program invests about 22 percent. It is not clear if H.R. 1720 would provide reimbursement levels adequate to insure comparable quality child care before mandating a parent's participation in an education training or work program.

Quality care does not come cheaply. Good child care should address the emotional, social, physical, and intellectual development of the child. This takes experienced and expert child care workers, the provision of appropriate toys, books, games and other equipment and supplies, and a safe and nurturing environment.

While H.R. 1720 does make an effort to address the need to increase the supply of child care and the training of caregivers, I am afraid the reimbursement levels will fall short of providing the caliber of child care needed for the participants in this mandatory program.

The Massachusetts plan provides $270 plus while California's plan [GAIN] is running at about $373 and, for 1988, projected at $389.

Access to good, quality, and affordable child care is a powerful incentive to encourage parents to seek employment, whether they be welfare recipients or others; or then they have the motivation to work to provide the kind of life for their children that they were denied.

I believe a more workable first step would be to extend the voluntary participation to parents of children up to 6 years of age, if indeed compulsion is needed at all. It is extremely doubtful that we are ready to meet the challenges involved in delivering quality child care in a gigantic, mandatory program for AFDC recipients while also providing remedial education, training, or work experience. Under current budget constraints, the Gramm-Rudman targets, and other conflicting budgetary demands, the Federal Government shows no indication of being ready to invest enough and I believe most States will either be unable or unwilling to pick up the slack.

Another point I would like to make concerns H.R. 1720's work fare program, the Community Work Experience Program [CWEP]. I do not support work fare because it is unfair and punitive in that it forces participants to work off their benefits.

Workfare is based on the welfare participation myth, that recipients are lazy and do not want to work. The facts do not bear this out. There is no evidence to support the claim that people will not willingly work under proper conditions. Over half who start on welfare stay on it no more than 2 years. It is a largely transitional program. One-third of the 4 million people who do stay on a longer period of time are disabled or elderly. The welfare cheat driving to pick up benefits in a Cadillac is basically myth, not reality. Being on welfare is no luxury.

Workfare often results in exploitation and punishment of participants, and they are often placed in demeaning jobs which provide no real work experience and where no education or training skills have been acquired.

Congress voted in 1981 to permit States to establish workfare programs. GAO looked at the experience in 23 States operating work and welfare demonstration programs in 1985, and concluded only 3 percent of the recipients received remedial or basic education, 2 percent received vocational training and only 5 percent received other educational or training services.

While H.R. 1720 makes an attempt to ensure useful job experience, so long as work fare is a program option, there will continue to be too much opportunity for abuse. I would prefer the authority for CWEP to deleted in H.R. 1720, and the mandatory participation requirement entirely deleted.

In conclusion, efforts to enact a comprehensive welfare reform policy must be made in tandem with job creation and economic development initiatives, along with improvements in education and training programs. There is a dearth of jobs in the regular economy. Welfare recipients will be forced to compete with the current unemployed and underemployed, the more experienced displaced workers and with better educated individuals looking for jobs.

Unless we begin to make significant investments in the welfare population, we will fail to assist them to escape from dependency and poverty.

H.R. 1720's greatest attribute is that it forces us to lay a foundation on which in better days a better system of dealing with poverty can be constructed.

On that basis—I give conditional support to its passage in the hope improvements can be made and changed economic conditions can support a stronger commitment in the future.

SUMMARY OF MAJOR EDUCATION, TRAINING, AND WORK PROVISIONS IN WELFARE REFORM BILL (H.R. 1720)

1. *Involvement of Secretary of Labor:* The State welfare agency's education, work, and training plan is subject to the approval of the Secretary of Health and Human Services (HHS), in consultation with the Secretary of Labor. Involvement of the private sector and local governments through administrative entities authorized under the Job Training Partnership Act (JTPA) would be required in planning and program design to assure that participants are trained for jobs available in the community.

2. *Target Populations:* States would be required to first extend the opportunity to participate to certain target populations: (a) families with teenage parents, and families with parents under age 18 when first child was born; (b) families who have been receiving benefits continuously for two or more years; (c) families with a parent who lacks a high school diploma or its equivalent; (d) families in which the youngest child is within two years of being ineligible for AFDC/FSP because of age.

3. *Age of Children of Participating Parent:* Participation by parents with children between ages 3 and 6 may be required only if day care is guaranteed and the parent's participation in the education, work, and training program is part-time. Parents with children between ages 1 and 3 could be required to participate part-time if the State demonstrates that appropriate infant care can be guaranteed within the dollar limitations of the Act, and the Secretary of HHS approves (participation of such parents must emphasize education and training including, as a first priority, parenting and nutrition.)

4. *Range of Activities:* Participants without a high school diploma would be required to participate in an education program first. In addition, each State would be required to offer all of the following: (a) remedial education, English as a Second Language instruction, and specialized advanced education instruction, as appropriate; (b) group and individual job search; (c) skills training; (d) job readiness activities; and (e) counseling and information and referral for those experiencing personal and family problems which prevent work. In addition, States would be required to offer at least one of the following: on-the-job training; work supplementation; a community work experience program; or other education and training activities.

5. *Wage Rates, Working Conditions, Displacement:* The Secretary of Labor would implement and carry out these provisions. Wage rates for jobs to which participants are assigned would not be less than: (1) the minimum wage under the Fair Labor Standards Act; (2) the minimum wage under applicable State or local minimum wage law; or (3) the rates of pay for individuals employed in the same or similar occupations by the same employer.

Further, participants could not be assigned to employers who have terminated employment or laid off employees with the intention of filling the vacancies with participants. Participants could not be assigned to jobs that infringe on promotional opportunities of current employees and could not fill established unfilled vacancies. Discrimination on the basis of race, sex, national origin, religion, age, or handicapping condition would be prohibited.

6. *Transitional Employment:* States would be authorized to offer short-term subsidized or transitional employment in public or private nonprofit sectors for up to 6 months. Transitional employment would be available only for those individuals who have completed participation in other education and training activities and who are still unable to obtain regular employment.

7. *Child Care:* A total of $150 million per year would be authorized for two purposes: (1) grants for training child care personnel, and (2) grants to local nonprofit child care programs to establish or renovate child care centers and family day care homes.

8. *Coordination:* States would coordinate work and training program activities with programs operated under JTPA, existing early childhood education programs, including Head Start, preschool programs funded under Chapter 1 and school and nonprofit child care programs, and any other relevant employment, education, or training programs available in the State.

Private industry councils under JTPA would be consulted in the development of arrangements and contracts for education, work, and training programs, and the State's education, work, and training plan must be submitted for review and comment to the State Job Training Coordinating Council.

9. *Transition from WIN to NETWork:* Funding for the WIN program (such sums as necessary) would be authorized to be appropriated for fiscal years 1988 and 1989. The new National Education, Work, and Training Program (NETWork) would take effect no later than FY 1990.

10. *Program Administration and Financing:* The NETWork program would be operated by the State welfare agency and would be authorized under Title IV-A of the Social Security Act. Additional program activities would be detailed in Title IV-C of the Act. In carrying out the purposes of the program, States could contract with public or private agencies or organizations to provide any of the required services.

Federal reimbursement would be provided in two tiers. For amounts up to the State's WIN allotment in FY 1987, the Federal reimbursement would be 90 percent. Federal reimbursement of NETWork program costs exceeding the amount allotted to the State for the Work Incentive (WIN) Program in FY 1987 would equal 65 percent; the State share would equal 35 percent.

The Federal government would pay 50 percent of the costs of basic AFDC and NETWork administration.

□ 1340

Mr. HENRY. Mr. Chairman, I yield 5 minutes to the gentlewoman from New Jersey [Mrs. ROUKEMA].

Mrs. ROUKEMA. Mr. Chairman, I come to this issue of welfare reform as a member of the Education and Labor Committee and as one of the congressional leaders of child support enforcement reform. I also served for 4 years as vice chairman of the Select Committee on Hunger.

Through our hearings and studies on the problems of hunger and education in this country, it has become apparent that our current welfare system is broken and needs to be fixed. It is inconsistent with the economic realities of contemporary society. That's why a bipartisan consensus has developed in support of restructuring our welfare system.

And I tell you today that welfare reform could have and should have been the crowning achievement—a legislative watershed—of the 100th Congress. It was to be the landmark legislation for the millions of women and children who must now suffer a lifetime of impoverishment.

Unfortunately this bill, H.R. 1720, does not fulfill the promise of reform. It should be defeated.

I cannot stand here and say the Republican substitute is the total answer to the welfare conundrum. It has some serious flaws—the funding is inadequate although the incentives to the States stand on firm principles.

But these general analyses have already been amply illustrated during the course of this debate. Allow me to confine my remarks to a few basic and undeniable facts:

First, on child support enforcement—the committee refused to include the lynchpin of meaningful reform; that is, mandatory, immediate wage withholding from the time a court order is signed. The so-called incentives to the States are not enough. They simply set up another cumbersome bureaucracy and more destructive procedural delays.

Our colleague Mr. ANDREWS has wisely determined to include this key reform in the amendment he will be offering. But the committee's dogged resistance to this fundamental welfare prevention principle—which Senator MOYNIHAN, the Republican substitute and every knowledgable and experienced professional in the field acknowledges is essential—this dogged resistance has quite frankly been typical of the way the committee has clung to other untenable proposals.

My assessment is that in a number of areas, this bill, if enacted will trigger the law of perverse effects. There exists the potential that this bill will make it more attractive to go on welfare and stay on welfare.

How? Let me give you but two examples.

H.R. 1720 provides that a welfare mother does not have to have training or take on a job if she has a child 3 years or younger. Contrast that with the facts of today's work force:

Today there are 51 million women who work. Latest figures show that more than 50 percent of working mothers have children under age 1! And yet, this bill holds up a different standard, a standard that is totally inconsistent with the economic and social realities of contemporary America.

Imagine this: A welfare mother could actually continue to have a child every 2 years and never have to work at all. That's wrong. And not only will that mother not have to work, but her children, born into impoverishment, will have little hope for their own futures. And the cycle of poverty and dependency continues.

I ask: How much longer do you think the two-worker couple will tolerate the welfare state and its cost to them in taxes to support that welfare mother? How much longer must children suffer a lifetime of despair? The answer is that they should not have to.

Another key provision of this bill permits an AFDC recipient attending a postsecondary institution full time to be exempted from any work requirement. College attendance would qualify the welfare recipient to receive welfare and AFDC benefits, including child care, transportation and Medicaid. There is no requirement for even part-time work.

While college study is laudable and could open up the opportunity for a higher paying job, it would seem apparent that welfare recipients who are skilled enough to gain admission to attend a college are more likely already to possess the skills necessary to obtain some level of employment.

But the reason this provision is egregious is that hundreds of thousands of people are currently working their way through school. The Bureau of Labor Statistics recently compiled data which show that of 1.5 million students enrolled in postsecondary institutions, 593,000 are working, while an additional 90,000 are seeking employment.

This means that one-fourth of the class of 1985 worked at least part-time while making their way through school. Yet this bill does not require an AFDC recipient to engage in a job search, if attending a full-time baccaluareate program. We expect of some what we do not even ask of others!

Question. Are we not creating a de facto higher education entitlement program here?

The welfare system should be a short-term transitional program to restore individuals to self-sufficiency. But, when disincentives to work outweigh the incentives, we undermine the program itself and waste the opportunity to help restore welfare families to personal and financial independence.

As the number of two-worker families increases, the key to welfare reform is to maintain a balance of equity between adequate welfare benefits and strong incentives to work. If benefits are not adequate we may have children and families without enough to live on. If benefits are too generous, however, there is a strong disincentive for the low-income working families.

An equal balance must be found between benefits on the one hand and work, education, and training programs on the other. Congress has a golden opportunity to bring reform to the welfare system and yet we are letting this opportunity slip right through our hands.

We must create legislation that will help break the cycle of dependency and give welfare recipients the opportunity and incentive to work, without creating a disincentive for the hard working two-parent family struggling to make ends meet.

I urge defeat of this bill.

Mr. HAWKINS. Mr. Chairman, I yield 2 minutes to the gentleman from Michigan [Mr. KILDEE.]

Mr. KILDEE. Mr. CHAIRMAN I would like to enter into a colloquy with the gentleman from New York concerning the child care provisions of the bill.

Many of the parents who may be participating on a part-time basis will need child care in excess of 20 hours a week to allow for the time spent in transit between the child care site and the work or training site.

Is it the understanding of the gentleman that the amount of child care to be provided must be sufficient to cover parental time spent in transit as well as the actual time spent in the work or training program?

In other words, if 22 hours of child care are necessary for a parent to participate, is it 22 hours of child care that must be provided within the cost limitation in the bill?

Mr. DOWNEY of New York. Mr. Chairman, if the gentleman will yield, obviously, it takes people some time to get to and from work or training. It is the intention of the committee that the total amount of child care necessary for participation be provided within the dollar limitations of the bill. For example, if a parent requires 22 hours a week of child care, 22 hours of child care is to be provided.

Mr. KILDEE. Is this the case for full-time participants as well?

Mr. DOWNEY of New York. Yes; that is correct.

Mr. KILDEE. Mr. Chairman, I wish to call attention to section 11105(b)(2) which is designed to demonstrate the effectiveness of joint initiatives between community action agencies and State welfare programs to provide high-quality, comprehensive programs which support families in their efforts to become self-sufficient.

Testimony before the Education and Labor Subcommittee on Human Resources, which I chair, has highlighted the efforts of various community action agencies across the Nation to provide comprehensive services designed to assist families to move from situations of dependency to self-sufficiency. Programs such as the family development approach in Michigan, the total family approach in Iowa, and the supported work program in Massachusetts have demonstrated successes in both providing, and coordinating, a range of support services in response to the individual needs of participating families.

All programs recognize and deal with the three stages through which most families in poverty must pass before they can be assured of their independence. These stages are:

First, the capacity to meet basic survival needs and family emergencies;

Second, the ability to address other important barriers such as financial obligations, individual or family problems, and their children's school difficulties; and

Third, employment for potential earners.

The concept behind the family support plan proposed under title XI is similar to what many community action agencies already are doing very successfully.

Coordinating the efforts of CAA's and State welfare agencies utilizes the expertise of both in ways that will greatly enhance our efforts to move families from situations of dependency to self-sufficiency.

For this reason, I want to emphasize that it is our intent in authorizing these demonstrations that the Department of Health and Human Services solicit proposals from States and community action agencies to support joint projects of this nature.

Mr. HENRY. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I want to first of all commend the respective chairmen of the committees and subcommittees with jurisdiction of this bill for bringing this important legislation this far. While it is true that there is now broad agreement on the need for reforming the welfare system, reform of any system that involves various constituencies is never easy. The sponsors of H.R. 1720 have tried to soften the perceived harshness or toughness of "welfare reform" by promising considerable benefit increases for welfare recipients. At the same time, the bill does make some substantial improvements over current law in the direction which all of us, I think, agree that the system must move: that is, toward requiring those who receive welfare benefits to participate in education, training, and job-search programs in order to move off the welfare rolls as soon as possible, and requiring the Government to provide the necessary support services such as child care and transportation so that individuals can more easily overcome the cycle of dependency with which the current welfare system has been identified.

There is a great deal in the employment and training part of H.R. 1720 which I agree with and have, I think, great potential for truly improving our welfare system. I say that from the perspective of having in my district one of the model programs in the entire country for an effective "workfare"-type welfare program. And for that reason I want to make sure that a couple of aspects of H.R. 1720, which have not received much attention, are highlighted. These are aspects of the bill which have been greatly improved over earlier versions of the bill, and which I certainly hope will be carried forward into whatever final welfare bill emerges next year.

One is the provision on job-search activities, which has been somewhat ignored in favor of the separate education, training, and work experience provisions. We have found in our area that strong job-search/job-club requirements right from the moment the applicant walks in the door of the social services agency, is one of the most important components of an affective program. Such a job club does three things: First, it helps the applicant develop in a supervised way effective job-search skills; second, allows the applicant to be part of a group of people in similar conditions, and in that way provides a form of "group therapy" for persons who very much need that support; third, it is, quite frankly, a very effective way of "screening" those who have in fact have other means of support or unreported income.

Second, I applaud the bill's emphasis on coordination with the Job Training Partnership Act and the local private industry councils. And third, I want to draw attention to the importance of the section in the bill on performance standards. We talk a great deal in this debate about motivation and incentives. It is important that we create the right incentives not only for those who draw benefits from the welfare system, but also for those who administer that system. We have had the problem in Michigan that those areas of the State, which in the past have done the best job in terms of placing welfare recipients into jobs, are penalized in terms of the amount of administrative funds they are given, because those funds follow the size of the welfare roll. The incentives in the system need to be turned around. Section 436 of the bill requires the Secretary of HHS to recommend a system of making payments to States based on effectiveness, rather than caseload. That is certainly a step in the right direction, and I hope can be followed as well in terms of payments from the States to the local agencies.

However, as has been pointed out by others, several of the specific provisions of H.R. 1720 undercut the progress which welfare reform otherwise promises. That is true in the education, training, and work program component, as it is with other parts of the bill. Let me mention just two of those provisions.

First, H.R. 1720 exempts many of the people most in need of the work and training requirements of the bill. The bill provides that women who are pregnant and a parent of a child under 3 years of age are exempt from participation, except that a State may ask for a special waiver to serve parents of children between ages 1 and 3. But in any case a parent of a child under age 6 cannot be required to participate on more than a part-time—20 hours per week—basis. By contrast, the Michel substitute only exempts parents of children under 6 months of age, and Representative CARPER's parents of children under 2 years, or by State option, of those under 6 months.

There is, of course, a tendency to call such provisions for a shorter period of exemption harsh and unfair. In fact I think they are neither. No person would find such generous "leave policies" as are contained in H.R. 1720 if he or she were in the workplace. Furthermore, if we share the view that the dependency of welfare is what is really harsh, then the research is clear that the most important factor in overcoming dependency is early intervention in this largest of all groups of welfare recipients.

Second, H.R. 1720 uses terms which I think will have an unfortunate impact on the implementation of education, training, and work programs. Although the bill requires participation by those who are not in one of the exempt groups, it further provides that the contents of any participant's specific education and training program must be the subject of "negotiation" between the participant and the agency. If, after a 10-day review by the participant, he or she wants to renegotiate the specifics of the program, that is also provided. There is no limit in the legislation on either the time or scope of the negotiation. Furthermore, if any participant decides at any point that he or she does not like the particular training program to which he or she has previously agreed, the participant is guaranteed the right to a hearing before the State agency.

The impact of all of these provisions, which are in addition to existing "due process" protections, is likely to drown the program in redtape and litigiousness. Unlike earlier versions, H.R. 1720 does include a protection for the Federal Government from suit arising out of this negotiation/agreement process, but no similar protection is included for State and local governments and agencies, even though it is the Federal Government which is once again creating the cause of action.

□ 1355

Mr. HAWKINS. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. MARTINEZ].

Mr. MARTINEZ. Mr. Chairman, I rise to commend the tireless efforts of Mr. HAWKINS, chairman of the Education and Labor Committee in his attempt to reform our current welfare system. Chairman HAWKINS, along with others, has struggled diligently to push through legislation that will truly reform our welfare system and give meaningful job opportunity to welfare recipients.

As chairman of the House Employment Opportunities Subcommittee with jurisdiction over the training portions of the welfare bill, we have worked with Chairman HAWKINS to achieve legislation that will give real job skills, real job experience and real job opportunities to welfare recipients. Most of us want to see workers that fit into the working world of the future.

Early this year, I introduced H.R. 2245, the Economic Self-Sufficiency Act, to create reforms in the welfare job training system. This bill was incorporated into the Education and Labor Committee version of the welfare reform bill when it was voted out of committee. These provisions requiring performance standards, State welfare training plans, a menu of services provided by States, individual employability plans, and criteria for work experience programs, are contained in this recompilated welfare bill.

Mr. Chairman, as a nation we must do something to combat the welfare crisis facing our Nation. There are at least 12 million Americans living on aid to families with dependent children money, and as many as 35 million Americans are receiving some form of public assistance. As many as 60 percent of the AFDC recipients are long-term welfare dependents averaging 9-year stay on the welfare rolls. Now some might propose that we simply throw these welfare mothers and single parents off of welfare to fend for themselves without offering them a real alternative. The administration proposes that mothers with children over 6 months old can be compelled to leave home for welfare training. Clearly, this is not the enlightened or comprehensive way to approach this very complex problem.

There are many reasons for welfare recipients not to get off of welfare. Among them are the lack of adequate wages, the lack of meaningful or long-term employment, the lack of adequate job skills or literacy, inconvenient commuting distances, the lack of adequate child or infant care, the lack of medical benefits, the lack of family or peer support, and the inadequate financial support during training or schooling. Only if all of these concerns are addressed can we fashion a welfare reform with true impact on the recipient community. While I'm not convinced that the current welfare proposal will solve our welfare problems, I am certain that it is a significant first step in that direction. To sit back and do nothing while we have this opportunity to effect some reforms would be a dereliction of our responsibilities.

Fundamentally, if we take the hardest to serve in our society and equip them with the skills to get a meaningful job and stay in that job, as a society we will have saved ourselves enormous amounts of money which can then be refunneled into other efforts. Our Nation will benefit by the increased pool of qualified workers for jobs, as well as benefiting by the tax revenues that these former dependents will now be contributing.

In closing, I would like to sound a cautionary note to my colleagues. This current welfare reform effort, while laudable, may be doomed for failure if full funding is not made available for the program. I recognize the fiscal bind our Nation is in, requiring budgetary austerity. However, if we successfully accomplish a sound welfare reform, then these tax dollars will be returned to us in multiple for every dollar spent. If we undercut the funding to this program, then we will merely be applying Band-Aids in the effort to stop the major hemorhaging of our current governmental resources. What I'm saying is this: If we're going to reform the welfare system let's do it right, and not do it half baked. Let's provide the funding.

I urge my colleagues to take the reform proposals here seriously in an effort to reverse a bad governmental process and an inefficient current policy. But I also urge you to think of the Americans who will be affected by this legislation when you make your decisions. Do not be misled by those who will denounce and relegate our welfare citizens to the status of the throwaway dregs of our society. These Americans are part of our community and should be a concern to all of us. For if we as a great democratic nation, are to live by the ideal of "In God We Trust," then in God we should believe when he tell us we are our brothers's keeper. Let us practice these principles when we deliberate this bill.

Mr. HENRY. Mr. Chairman, I yield 2½ minutes to the gentleman from North Carolina [Mr. McMILLAN].

Mr. McMILLAN of North Carolina. Mr. Chairman, I rise in support of H.R. 3200.

No one has a monopoly on good ideas—Democrats or Republicans, Washington or the States. That's particularly true when it comes to welfare reform.

The loudest calls for reform result from the conviction that welfare is a web of dependency. Welfare has been based mostly on the assumption that its objective is to feed a lack of self-sufficiency, rather than solve the problem. The impetus for real welfare reform is to develop new means and incentives to enable people to move from dependency to self-reliance. The Republican substitute—and other bipartisan attempts to provide alternatives—seek to encourage that innovation. The committee bill does not, nor does the rule allow the development of a bipartisan package.

Many of us believe that officials and private agencies at the State and local level have good ideas. Let's face it; the Federal Government cannot be very proud of the results of its welfare programs. Bureaucratic inflexibility and lack of personal responsiveness have combined to institutionalize welfare, discouraging new initiatives by either local welfare providers or clients. It's an old idea, but we believe more initiative should be returned to States, local jurisdictions, and countless agencies for change if we really mean to reform welfare.

In recent years, States have demonstrated that they are willing and able to design innovative welfare programs. North Carolina, Massachusetts, California, Maryland, West Virginia, Illinois, and many others have tried exciting new approaches to helping welfare families achieve independence. The Federal Government has, if anything, restricted that reach for self-reliance—if you don't believe it, try to get waiver authority for a good program. The real initiative for welfare reform resides in the States and local communities where officials are dealing with people face-to-face.

We cannot rely on one welfare policy applied nationally. Each State differs in financial capacity, demographic composition, social and economic conditions, and in their capacity to manage change. We should follow the dictum that those closest to a problem understand it best and know best how to solve it. What is more important, new demonstration projects by the States will certainly produce many successful models that can be applied in other communities.

These arguments provide a powerful case for granting new flexibility to the States in designing innovations to encourage self-sufficiency. The Republican substitute provides the most flexibility within which to operate and a well-developed process for rapid coordination, review, and approval at the Federal level. The committee bill allows no flexibility.

Title V of H.R. 3200 authorizes State demonstration projects:

To allow States maximum flexibility to coordinate 22 programs that now support low-income families.

To find and test new ways, including private-sector coordination, to enable people to move from dependency to self-reliance.

To achieve speed and flexibility in Federal approval of State demonstrations—but with a clear mechanism for congressional approval.

Mr. Chairman, one of the fundamental failures of Congress is its practice of institutionalizing solutions in a way that stifles initiative. We've done that in welfare for over 50 years. Let's try something new.

Let's unleash the dynamic back there in our districts that can provide new paths to self-reliance and opportunity.

I urge my colleagues to support the Republican substitute.

Mr. HAWKINS. Mr. Chairman, I yield 1 minute to the gentleman from New York [Mr. OWENS].

Mr. OWENS of New York. Mr. Chairman, why the rush? Why not wait until the atmosphere is less hostile if we are going to have real welfare reform?

H.R. 1720 is an emperor that has no clothes on. H.R. 1720 talks about providing jobs. There are no jobs. Unemployment has gone down but in the areas and in the neighborhoods and congressional districts where unemployment is highest those are the areas where we have the largest number of welfare recipients.

There are no day care provisions, there are no places for children to be taken care of.

We are going to take away protections that have been provided to children for 50 years and more. We are going to take it away.

If H.R. 1720 were to be enacted, I would be willing to accept some positive features and take my chances on the negatives if I thought this bill would be the bill we come out with after it goes to a conservative Senate and after a hostile administration in the White House finishes bargaining over it. We are going to make matters far worse. It would be far better to wait for a more objective atmosphere, a less hostile administration, and we can then have real welfare reform to protect young children who are poor.

The sponsors of the Family Welfare Reform Act (H.R. 1720) are absolutely right: Our present education and training system for AFDC recipients is an unmitigated disaster which badly needs reform. But to the extent that the current debate about reform has suggested that the system has failed because there previously has been some great mystery about the best means to help AFDC recipients achieve self-sufficiency, it has been intellectually dishonest. We do know what kind of programs work and we have known it for a long time—we just have not used that knowledge because it has not been politically expedient to do so.

Rather than challenging the ugly mythology which exists in this country about who poor people are and why they are poor, we have permitted it to drive State and Federal welfare policies. AFDC benefits have been kept at indecently low levels in nearly every State, and education and training programs that we know would be effective in helping people to escape the poverty trap have not been put in place because they either cost too much money or lack the punitive edge the stereotypes demand. And, not surprisingly, our policies have failed. Starved of resources and constructed around falsehoods, they have only succeeded in making the miserable more miserable.

Unfortunately, few of the self-described welfare reform initiatives that have been floated over the last several years have departed from the destructive, stereotypical thinking of the past; indeed, most would exacerbate the current problems rather than help correct them. In several critical ways, however, the Family Welfare Reform Act does manage to break free from our past mistakes. It deemphasizes, but regrettably, does not reject, the inadequate and often purely punitive work and training programs that are now in wide use and requires that States provide education and training programs which we know from years of research and experience to be effective. It also does not assume that all AFDC recipients are essentially the same and rejects the ineffective one-size-fits-all training strategy popular in many States, requiring instead that a diversity of training opportunities, appropriate for a variety of needs and interests, be made available in each State. And it recognizes that meaningful training programs cannot be done on the cheap and provides the substantial resources which are needed to make these programs work.

Most significantly, H.R. 1720 recognizes, as previous efforts have not, that an inadequate education is the principal obstacle to self-sufficiency for most AFDC recipients. The current lack of attention to this critical need is inexcusable. In New York City today, an estimated 70 percent of AFDC recipients read at or below the eighth-grade level and fully a third read below the fifth-grade level but only a fraction of those recipients who want to enroll in an educational program are currently able to do so. Since nearly all job training programs available through WIN and JTPA require that participants have at least an eighth-grade education, this failure to provide adequate educational opportunities has effectvely shut those with educational needs out of the best and most successful training programs, forcing them instead into Dickensian workfare assignments which do not even pretend to address their needs. Perversely, recipients who are relatively well educated and need the least assistance in obtaining employment get the most attention and help; recipients with the greatest needs get nothing.

H.R. 1720 promises to help remedy the current lack of availability of educational programs for AFDC recipients by requiring that each State provide a full range of educational services, including basic skills and English-as-a-second-language instruction and high school and high school equivalency education, to every recipient who needs them. An amendment I offered in the Education and Labor Committee additionally requires that educational services be offered first, before any other activity or program, to all who need them, further ensuring that States give full and immediate priority to addressing this critical problem.

As a result of an amendment offered by Chairman HAWKINS in the Education and Labor Committee, H.R. 1720 also provides the strong Federal mandate which is needed to ensure that adequate postsecondary educational opportunities are made available to AFDC recipients. Current law gives States complete discretion to decide whether or not and under what conditions recipients may enroll at a postsecondary educational institution and most States use—or rather, abuse—that discretion to sharply limit access to higher education, either prohibiting it altogether or limiting access to short-term vocational training courses only. AFDC recipients with the drive and ability to do well in college are thus now finding themselves funneled into cosmetology school and other less challenging "matchbook" training programs instead. It is a tragic, and foolhardy, waste of human talent.

H.R. 1720 would remove these inequitable and arbitrary limits on the aspirations of AFDC recipients. Access to higher education would be assured for all qualified persons, funded either by the Federal and State student aid system or, if the State wished, by NETWork training moneys and could take the form of vocational training, a 2-year community college, or a 4-year baccalaureate program. Decisions concerning an individual's enrollment in a postsecondary program would be based upon that person's interests and actual abilities, not on preconceived notions about what is appropriate for AFDC recipients or their capabilities.

H.R. 1720 also breaks from the demeaning Big-Brother-knows-best mentality which typifies many AFDC training programs and gives each participant the opportunity to select the education and training programs he or she wants to pursue. Amendments made by the Education and Labor Committee assure that this emphasis on individual choice is taken seriously by the States and is not sabotaged by rushed and incomplete orientations and skills assessments during the intake process. This is particularly important for New York City because of the outrageously inadequate job the city now does in informing clients of their rights and options and ensuring that training assignments are tailored to individual needs and interests. While many States now spend several hours on the orientation and assessment of work programs participants, New York, incredibly, spends an average of less than 15 minutes on these activities for each participant in its mandatory work programs—less time than it takes for many fast food restaurants to fry a burger. The most basic information about the program goes unexplained; participants are frequently never informed of their right to child care and are, in any event, never given any help in finding such care; testing of academic skills is only rarely performed; and few, if any, clients are given any say at all about the training program to which they are assigned—people consider themselves lucky, in fact, if they are able to figure out what their assignment is before they are hurried out the door.

H.R. 1720 prohibits the slipshod approach to intake now in use in New York and requires that the orientation and assessment processes be given the time they obviously require to be effective and meaningful. The opportunities, rights, and requirements of the NETWork Program must be explained in detail both orally and in writing. The State's obligation to provide child care to participants must be explicitly stated and assistance must be provided in locating that care whenever it is needed. Assessements of skills and needs must be thorough and individualized and must, in each case, include testing of reading skills so that no educational needs go overlooked. Finally, as a result of an amendment I offered in committee, each participant is given up to 10 working days to review the training options he or she selects during intake and to make any changes in those initial choices that he or she wants to make. This provision was recommended by Statewide Youth Advocacy of New York and should help ensure that the decisions made by NETWork participants are fully informed and truly reflects the needs and goals of each individual.

H.R. 1720 not only requires States to offer education and training programs of demonstrated effectiveness to AFDC recipients, it also imposed long-overdue restrictions on a program which the research tells us is practically worthless in preparing AFDC recipients for the workforce: the Community Work Experience Program [CWEP] or workfare. In many cases, CWEP assignments are demeaning make-work jobs, such as handing out flyers on streetcorners, filling soap dispensers, and wandering around parking lots watching cars, which are more effective at humiliating people than building the skills they need to find a real job. In other cases, State and local governments have used CWEP to both displace and undercut the wages of their employees by forcing workfare participants to perform jobs usually performed by civil servants and for which they should rightfully be paid a regular salary, such as in New York City's now exclusive use of workfare participants to perform the civil service position of pest control aide and its apparent use of workfare enrollees to displace civil service custodians through attrition. Perhaps the best example of the fundamental unfairness of workfare is the case of one Michigan man who lost his $13,000 a year job as a city dogcatcher due to budget cuts, got his job back again under CETA for $9,000 a year and then, after CETA was eliminated, was ordered to do the same job again CWEP for a $6,000 annual welfare grant. This man is performing the same work he has always had, only now he is receiving less than half the pay.

Although H.R. 1720 does not, as it should, eliminate this 20th century form of serfdom and prohibit workfare altogether, it does at lease reform CWEP to prevent some of the worst abuses of the program. Workfare assignments may no longer be open-ended and are limited to a maximum of 3 months for 30 hours per week or a maximum of 6 months if the number of hours of work per month is based upon the size of the individual's AFDC grant. Dead-end make-work jobs are prohibited; each CWEP assignment must develop marketable job skills or be integrated with a regular training program which imparts such skills. Finally, the weak current law protections against the displacement of employees through the use of participants in CWEP and work supplementation programs are significantly strengthened and are generally made to conform with the labor standards which now govern work experience and on-the-job training programs provided under the Job Training Partnership Act.

While these are important, path-breaking improvements, H.R. 1720 also includes other provisions which are just plain destructive. In particular, I am very concerned about the legislation's elimination of the current law exemption for parents of children between the ages of 3 and 5—and down to age 1 at the State's option—from the requirement that they participate in a work or training program in order to receive AFDC benefits. This dramatic change in the law has serious implications which, unfortunately, have been largely glossed over by H.R. 1720's proponents.

Expanding the mandatory participation requirement is distressing, first and foremost, because it is unnecessary and is based on the self-serving lie that the unemployed do not want to work and will not work unless we force then to do so. No one who has ever spent any time in an economically depressed community can make such a claim; the desperation, the anguished pleas for jobs and job training are obvious and everywhere. After having fought for years with other Members to try to address these needs with meaningful full-employment legislation, only to be continually turned back by complacency and indifference, I cannot help but be astonished by all of the sudden, pompous accusations that the poor, of all people, have breached some social contract and must be compelled to make amends. Suddenly, poverty and unemployment no longer have anything to do with badly conceived economic policies and backward budgetary priorities; it's not our fault, it's theirs. Poor people, the twisted message seems to be, have brought their misery on themselves through their own laziness, immorality and bad habits and getting them off welfare can only be accomplished through some crude kind of behavior modification, forcing them to do this and that, and chasing them like so many lab rats through a bureaucratic maze with a panoply of carrots and sticks.

It is a dishonest ruse which demeans and insults poor people, but this is hardly the worst of it. What makes a broader mandatory participation requirement most objectionable is that it will hurt precisely those who the AFDC Program is intended to help and protect: young children.

Although H.R. 1720 ostensibly guarantees child care for children under age 6 to those parents who are compelled to participate in a work or training program, it establishes only nominal standards for the quality of that care and limits funding for it to no more than $175 per month for children ages 2 and over and $200 per month for infants. For cities like New York, where child care is in drastically short supply and the monthly cost of care far exceeds the limits established in H.R. 1720, this sort of guarantee is about as meaningful as an "all you can eat" sign on Mother Hubbard's cupboard. Inevitably, the enactment of this legislation will mean that at least some mothers, and perhaps most in some communities, will be forced to leave their children and infants in substandard child care arrangements. Such a result would be distressing in any event, but that it would ensue from legislation which purports to be profamily welfare reform is particularly disturbing.

The mandatory participation requirement will also hurt children by reducing benefits to many families who desperately need them to survive. For political reasons, we have concocted the Orwellian fiction that sanctions really do not affect children because the AFDC grant is not terminated outright, but is merely reduced by the amount that is supposed to go toward the needs of the parent. The reality, however, is that if you reduce assistance to a household you cannot help but hurt everyone it includes. It is not likely, for example, that a sanctioned parent will cease to eat for the duration of the sanctions; nor is it likely that a landlord will evict only the sanctioned parent when the rent comes up short. Inevitably, children will suffer.

To make matters worse, in most cases sanctions will be imposed for no good reason. In theory at least, sanctions are supposed to punish only the lazy and most recalcitrant, the recipients who absolutely refuse to participate, but in the real world they are far less precise and operate more like a grotesque lottery of pain. We know from experience that every time you demand that AFDC recipients fill out one more new form or fulfill one more administrative requirement in order to retain their benefits, you increase the likelihood that more and more people will lose benefits simply because they cannot keep up with the paperwork or cannot jump high or fast enough to make it through all of the bureaucratic hoops we put in their way. Mandatory work requirements have proven to be the most effective at producing this kind of churning of the AFDC rolls because they create so many more hoops through which recipients are expected to continuously leap and frequently involve the making of arbitrary judgments by harried caseworkers about what is and is not a good-cause reason for missing a compulsory training class or workfare assignment. Our experience in New York City is a good example of just how devastating an effect compulsory participation requirements can have. Since 1985, fully 30 percent of the persons required to participate in our workfare program—8,000 AFDC recipients—have been sanctioned. Most of these sanctions were imposed not because recipients were lazy or uncooperative, but because of mixups and misunderstandings: After putting families through weeks and sometimes months of financial hardship, a consistent 98 percent of the sanctions have been found to be unjustified and thrown out in fair hearings. By expanding the coverage of the mandatory participation requirement to include most persons now receiving AFDC benefits, H.R. 1720 guarantees that many more thousands of families nationwide will be subjected to this kind of random, bureaucratic terrorism.

If H.R. 1720 were to be enacted into law as it is currently drafted, it might be persuasively argued that these and other destructive elements in the bill are acceptable tradeoffs for the significant improvements over current law which are also contained in the legislation. The problem is that there is no reason to believe that the final version of welfare reform will look anything like H.R. 1720. There is instead every indication now that there will be relentless pressure in conference and in negotiations with the White House to whittle away or jettison altogether all that is progressive and worthwhile about H.R. 1720 or, alternatively, to accept dangerous proposals like granting States broad waiver authority as the price for retaining the positive elements of H.R. 1720 in the final compromise. Under these circumstances, the odds of producing an equitable, decent compromise seem very long indeed. By the time the process is completed, we are just as likely to end up with a welfare reform bill that makes the system worse than one that makes it modestly better.

If NETWork were a voluntary job training program, we could afford to be more sanguine about the prospects of losing much of what is good about this bill and gaining many negative additions because a less than optimum outcome would mean simply that the bill would not be as helpful or as successful as it might otherwise be. But because NETWork is a compulsory program, the stakes are much higher; an unfavorable compromise and inadequate bill will not merely be less helpful to people—it will actively hurt them. For this reason, as much as I support many of the provisions in H.R. 1720 and appreciate the sincerity and dedication of our colleagues HAROLD FORD and TOM DOWNEY, I believe that the risks of proceeding with welfare reform have grown unacceptably great. I have an obligation to the people of the 12th Congressional District to vote "no."

Mr. HENRY. Mr. Chairman, I want to commend the gentleman from New York [Mr. OWENS] for his remarks.

Mr. Chairman, I yield 3 minutes to the gentleman from Wisconsin [Mr. GUNDERSON].

Mr. GUNDERSON. Mr. Chairman, today the House is considering vitally important legislation, not only extremely important in human terms, but integral to our country's general economic well-being and position in the world marketplace. While no one will disagree on the absolute need for welfare reform, there are many different opinions on how we should go about making changes to this troubled system.

There is broad-based agreement that the current welfare program fosters dependency. The fiscal cost of the current system alone is devastating to the Nation, with total AFDC annual benefits having grown from $4.2 billion in 1970 to over $15 billion in 1986. Just in my home State of Wisconsin this amount increased from $41 million in 1970 to $556 million in 1985. And, these numbers do not take into account the cost to society in terms of lost human resources, with the AFDC caseload growing from 1.9 million families in 1970 to 3.7 million in 1985. At a time when U.S. competitiveness is so dependent on the skills levels and contribution of its work force, we cannot afford to lose these individuals.

These issues present many difficult questions for the Congress. How are we going to make changes in the welfare system to reverse these grim statistics? How can we foster independence humanely, in the best interest of both welfare recipients and the Nation as a whole?

The State of Wisconsin has already taken steps toward reform by committing sizable State resources to an employment and training program for welfare recipients in its Work Experience and Job Training Program. Under Gov. Tommy Thompson the State was granted waivers from HHS to make the following changes in its Work Incentive Demonstration Program: First, teen school requirement—"Learnfare"—to require teenage recipients—13-18 years of age—who have not attained a high school diploma or GED, to attend school; second, work registration requirement—to require mothers of children over age 6 months to register for work, with participation dependent on child care availability, training needs, and so forth; third, earned income disregard—to make changes in the present income disregard system, extending the disregard to 12 months, lengthening the time period so a welfare recipient's total income is higher if working than if on straight benefits; and fourth, Medicaid extension—to extend Medicaid eligibility for 12 months to all recipients when entering work after AFDC.

There are all changes in the WIN program that will enable Wisconsin to run a more efficient and beneficial program. And all are issues that have been under consideration in the reform effort.

First and foremost, in any effective reform of the welfare program we must develop a system of mutual obligations. The government's obligation to see that welfare recipients are able to acquire skills necessary to be self-sufficient, and recipients' obligation to contribute to their own support by working or participating in training to make them job ready. In other words, a progam where recipients are always better off by working than they would be on welfare, but where quality child care is available, even after the recipient has gained employment. And where medical benefits are continued for a long enough period of time to enable mothers of young children to work without the threat of losing vital health care coverage.

While I would have much preferred to act on welfare reform under a rule allowing us to consider alternatives other than just H.R. 1720, and the substitute to be offered (H.R. 3200), we have only two choices to make today. First, whether to spend over $6 billion additional over the next 5 years, 70 percent of which would go toward increased benefits as provided for under H.R. 1720. Or second, to spend an additional $1.1 billion over the next 5 years, but to spend that money on moving welfare recipients into employment and training programs and on increased child support enforcement efforts, efforts that will move AFDC recipients to independence.

While any effective reform of the welfare program requires increased costs upfront, we must take great care to put our money where it will reap the greatest benefits. And, I am concerned that H.R. 1720 does not do this.

During development of this welfare reform package, the Education and Labor Committee shared jurisdiction with the Ways and Means Committee on the employment and training component of the bill. Therefore, I feel that title I of H.R. 1720, a compromise of the two committees' efforts, has some very positive provisions for work and training. However, even this title contains several provisions over which I hold concerns that I must raise today.

Both H.R. 1720 and the Republican substitute focus increased emphasis on education and employment training of able welfare recipients, including mothers of young children. And both bills envision that much of the training will be provided through existing education and job training networks, particularly JTPA, existing vocational/technical, and remedial education programs. However, H.R. 1720 contains several potential disincentives to work.

By adding provisions prohibiting AFDC client assignments to work unless paying current pay scales, and by prohibiting States from requiring participants to accept jobs where income and benefits will not at least equal the income and benefits received under welfare, H.R. 1720 makes it especially difficult for States to place recipients into unsubsidized work. This would be particularly difficult in high benefit States such as Wisconsin and California. And these requirements are even more troublesome since the bill also substantially increases benefits levels. Further, by limiting the number of months States may require AFDC recipients to participate in work experience programs and by prohibiting reassignment to work experience, State flexibility in designing work programs to meet local needs is sharply curtailed.

Another concern is that H.R. 1720 continues to exempt large numbers of welfare recipients from participation in the work and training programs due to its lack of participation requirements for States. H.R. 1720 does reduce the age of children from 6 months to 3 years where mothers are exempt from the welfare program's work and training requirements. It even allows States to further expand the requirements to mothers of children ages 1 and above, if child care is guaranteed. However, H.R. 1720 only requires participation as resources permit, setting no minimum participation levels as provided for under the Republican substitute. Therefore, concern arises that very few additional participants will be served under the Democratic bill.

The Republican substitute however sets strict participation levels States must meet, forcing States to assure provision of services. And it reduces the age of children to 6 months whereby AFDC mothers are exempt from the work and training requirements. While the 6 months age level is controversial, we must keep in mind that while the welfare program was originally designed to allow mothers to stay at home to raise their children at a time when few mothers worked, now over 61 percent of mothers with young children work. Is an AFDC Program that does not expect the same for its recipients either realistic or fair in today's society? Provided of course that quality child care, medical benefits, and necessary training are assured.

However, possibly of most concern are the provisions in H.R. 1720 which provide increases in benefits that not only add to the overall cost of the bill in a time when budget conservation is absolutely crucial, but that serve to make welfare more attractive than work. Of most concern is the provision which would provide a 25 percent increase in the Federal match to States that increase AFDC benefits. Even if amending the bill to phase out this increase after 1991, the gains already provided for prior to 1991 under H.R. 1720 will serve to discourage movement off of the welfare program.

Very honestly, some aspects of H.R. 1720 are preferable to the Republican alternative. H.R. 1720 requires an education component for all individuals who did not complete their high school education or its equivalent, including adults. H.R. 1720 extends health care coverage under medicaid for a longer period of time when making the transition from welfare to work than does the Republican substitute. However, H.R. 1720 is unrealistic, both in its costs due to benefit increases, and because it does not foster the necessary mutual obligation needed to move long-term public assistance recipients into independence.

As I previously mentioned, I would prefer that the House act on an alternative that brings together the positive aspects of both bills. However this Nation can no longer afford to foster the dependency that the current welfare system has encouraged, to do so is only doing an extreme disservice to the individuals that the program serves. We must create a new system that expects participation and contribution. And the Republican substitute is much more in line with this goal than is H.R. 1720.

Mr. HAWKINS. Mr. Chairman, may I inquire of the Chair as to the remaining time on both sides?

The CHAIRMAN. The Chair will announce that the gentleman from California [Mr. HAWKINS] has 17 minutes remaining, and the gentleman from Michigan [Mr. HENRY] has 21 minutes remaining.

Mr. HAWKINS. Mr. Chairman, I yield 2 minutes to the gentleman from Illinois [Mr. HAYES].

Mr. HAYES of Illinois. Mr. Chairman, I rise in support of H.R. 1720, the Family Welfare Reform Act of 1987. The overall legislation promotes the primary welfare policy goals, to promote self-supporting families and decrease dependency on welfare, and to reduce poverty. But I have strong reservations about the child care provisions in the bill before us.

I represent the First Congressional District of Illinois, the South Side of Chicago, which is 92 percent black. My district is one of the poorest in this country, it has extremely high unemployment and many of my constituents are on welfare.

One of the best ways to decrease welfare dependence is to help welfare families increase work efforts. Many studies of welfare families have indicated that these parents want to work if a job can be found and when given the opportunity, will choose work over welfare. The current system discourages parents on Aid to Families with Dependent Children [AFDC]. In addition, the studies show that the potential loss of health benefits for the children often discourages AFDC parents from working and that the staggering cost of child care deters many parents who are otherwise eager to return to the work force.

Today, one out of five American children lives in poverty. Among minority groups, the figures are far higher: Almost half of all black children and more than one-third of Hispanic children are poor.

H.R. 1720, changes the current welfare system to encourage families to support themselves through work and through payment of child support by absent parents, while improving family assistance programs for those who need them.

The General Accounting Offices' report on work and welfare, issued in January 1987, noted that about 60 percent of the AFDC work program recipients were unable to participate due to lack of adequate child care. Reports from California's Greater Avenues for Independence [GAIN] Program and Massachusetts Employment and Training [ET] Choices Program illustrate the fact that quality child care is a necessary ingredient to successful transition from welfare to work programs.

The demand for quality, affordable child care has skyrocketed to an all time high. This year the Federal Government will spend close to $10 billion in tax dollars on the [AFDC] Program. While AFDC recipients would prefer to have meaningful employment, two out of every three recipients report that the biggest problem they face in joining the work force is finding quality, affordable child care.

The average cost of full-time child care for just one child is $3,000 a year. We have to keep in mind the average income of American mothers and fathers when looking at these cost figures. In 1983, the average earnings of a female worker was only $12,758. That means paying $3,000 a year for one child's care is one-quarter of the average mother's income. And we must keep in mind that two out of every three women who work are either the sole support for their families or have husbands who earn less than $15,000 a year.

Welfare reform should eliminate the barriers to work by creating work incentives and easing their transition from welfare to work by providing the support services for these families.

Cost, alone, is not the only factor that determines the quality of child care services. Consider the adult to child ratio, licensing requirements, provider qualifications, and the type of program. The reality is that the child care costs are already much higher in some States than the maximum reimbursement—$175 over 2 years old, $200 under 2 years old—available in H.R. 1720. Under this legislation, many families with young children will be left out particularly in my congressional district.

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Mr. HENRY. Mr. Chairman, I yield 4 minutes to the gentleman from Pennsylvania [Mr. RIDGE].

Mr. RIDGE. Mr. Chairman, I rise in strong support of H.R. 3200, offered by my colleagues, BOB MICHEL and HANK BROWN, and in reluctant but adamant opposition to H.R. 1720.

Under the guise of reform, H.R. 1720 deceptively consumes billions of dollars without addressing and correcting major defects in the existing system. It rests on several incorrect assumptions be that insures this measure will enlarge the welfare system, not reform it.

The first assumption: In order to reduce the number of people on welfare, we must first increase the number of people on welfare. Novel approach, isn't it. The proponents of 1720 expand eligibility requirements, increase benefit levels and argue that this timeworn, traditional approach will magically reduce dependency. It won't happen.

The second assumption: More dollars means greater compassion and less dependency. Proponents argue that spending $6.2 billion above current levels will reduce the rolls. Yet benefits are not coupled with meaningful work requirements. The CBO estimates that only 210,000 recipients will participate in employment and training programs under the Ways and Means approach. The Michel-Brown reform package puts nearly a million people into those programs. Which one is truly more compassionate? The measure that spends the most money or the approach that provides the most training and work experience to the most people.

Third assumption: People should not work for less than minimum wage or less than entry level wage. Mr. Chairman, hundreds of thousands of Americans rebut this assumption every day.

Mr. Chairman, believe it or not, people are willing to work for less than the benefits they might obtain on welfare for several reasons, but primarily, and I know some of you may have difficulty accepting this, but primarily because they do not want to be on welfare. Most people on welfare want to work and Ways and Means shouldn't discourage them from entering the work force when they choose to do so. It's a matter of pride. It is also a difficult decision that belongs to the welfare recipient, not the proponents of H.R. 1720.

Fourth assumption: Proponents know more about parenting than welfare parents. This bill is misnamed and misdirected. Mothers are encouraged not to work until their youngest child is 3. Child care options for low-income parents are restricted. The possibility that welfare parents would not receive support for daycare in homes of family members or friends is real, unfortunate, and wrong.

Finally, proponents assume the Federal Government, alone, has all the answers. The current welfare system restricts what States can do and H.R. 1720 offers little relief. State governments should have much greater latitude in developing their own system, but the proponents have concluded those responsible for administering the welfare system aren't qualified to reform it. A regrettable, but not surprising approach from a group that limited debate and denied access to Congressmen who sought to offer alternatives and amendments to the bill itself.

H.R. 1720 is good news for the institutions of welfare. There will undoubtedly be more public employees, additional facilities, new day care centers, and yes, more people on welfare.

H.R. 1720, inspite of its multibillion-dollar price tag, will do precious little to remove people from the rolls. Its more of the same. Its a trap, not an exit. Calling it reform, does not make it so.

H.R. 3200 ties benefits to work requirements, gives parents more options, gives States more flexibility, and ultimately and most importantly gives more people a better chance to escape the welfare system.

Mr. HAWKINS. Mr. Chairman, I yield such time as he may consume to the gentleman from Mississippi [Mr. ESPY].

Mr. ESPY. Mr. Chairman, I thank the gentleman for yielding me this time. I am an advocate of H.R. 1720 and urge its passage.

Mr. Chairman, I am pleased with the promise of jobs for our Nation's welfare recipients; and education and training for those who must begin by acquiring the very basics in order to reach higher. The Family Welfare Reform Act of 1987, H.R. 1720, is a major adjustment in Federal welfare policy, and I am glad to be a supporter of this new direction.

As an original cosponsor to H.R. 1720, I had hoped to express the needs of my district, as well as the feelings of our Nation, that the current welfare system is cumbersome and lacked the incentives that would usher welfare participants away from Federal support and onto self-support. The system we have today has not been entirely ineffective if the goal was to simply maintain millions of Americans at or below the Federal poverty level; but it has been a failure if the objective was to move these people out of poverty and onto self-support. H.R. 1720 appropriately moves us toward a strengthened foundation for our public welfare policy.

Mr. Chairman, if one of five children in America today lives in poverty, it may be a reflection of our weak economy, but it is more a sign of our failed public assistance policies. Twenty percent of all of the children in America are raised in poverty and the chances that their children will also grow up with poverty as part of their heritage is very likely. Among all black children in this great Nation, about one-half are living in poverty. These statistics are striking, but in my Delta district, the Second District of Mississippi, the numbers are exaggerated.

Twenty-seven percent of all the people in my district live below the Federal poverty level. This represents nearly 136,000 people, and reflects an average annual unemployment rate of 13.1 percent is more than twice the national average. Several of the 22 counties in my district have annual unemployment averages above 20 percent, and the outlook for improvement is poor but slowly improving.

As we begin to re-expand our economic base in the Delta, our concerns become focused and committed to growth beyond the business community, and stretches into the common community. We realize that economic development can change a community, a town, and a region; and very important in that equation are the changes in the lives of our people. The individual changes and personal triumphs are where the battles are won, and the new direction of public welfare reform runs tandem to these efforts.

As much as we must include the element of compassion, the design and structure of our welfare reform must include accountability and attractive incentives that urge participants to become self-supporting. What can be more motivating than the self-dignity that is the light at the end of the welfare tunnel? Guiding people out of poverty and dependency, and into the habits and routines of working people is the process and goal of H.R. 1720.

I have seen too often the desire of a people slowly diminished by failing hopes. I have seen firsthand the despair of repeated failure and needs unmet. Surely, the Family Welfare Reform Act is not a panacea, but I believe it is a very positive step and holds great promise for all Americans, including those who support it, those who need it, and those who are on the margin and hope never to need it. It becomes a give-and-take safety net that will obviously require initiative on the part of all parties, most importantly, welfare recipients.

The features of H.R. 1720 make it attractive and workable. While replacing the existing Aid to Families with Dependent Children [AFDC] Program with a new Family Support Program [FSP], an initiative designed to encourage families to support themselves by working and with payment of child support by absent parents. States would be required to establish education, training, and work programs that include a variety of services including remedial education, job search assistance, skills training, on-the-job training, benefit subsidies for work, and community work experience.

It is practical and appropriate that welfare recipients be required to participate in the National Education, Training and Work Program [NETWork], if space is available. However, it is just as reasonable to exempt parents with children under 3 years of age and the elderly; and provide a modification of part-time participation for parents with children ages 3 to 6 when adequate child care is guaranteed. Just as there are exempted categories, there should also be targeted priority groups such as teenage parents and parents who did not graduate from high school, and those who have been on welfare for more than 2 years or more.

Based on 1980 Census data, 48 percent of the adults in my district were without a high school diploma, and among those who attempted to enter one of the U.S. armed services, 35 percent were turned away because they could not pass the written entrance exams. Mr. Chairman, I know that many of my constituents will fall into one of the high priority categories. But since the single highest source of personal income in my district is through public assistance transfer payments, I am not surprised.

During my campaign for Congress in 1986, I often spoke of the need to reform our welfare system. Now we have the chance to pass and implement a system of support and transition for people on welfare. Moving them from the welfare roll on to the payroll. In support of the transition, States will be required to subsidize day care expenses for working families for 6 months after leaving AFDC or FSP.

There is one provision in the bill which is long overdue. To prevent needy two-parent families from having to split up to gain eligibility for welfare benefits, effective January 1, 1990, all States will be required to extend benefits to these families when the principal wage earner is unemployed. Until now, the incentive for unemployed, two-parent families was to split up so the single-parent household could qualify for benefits. Too often the economy of circumstances forced the "able-bodied man" to leave in order to insure the benefit entitlements for his family. We are moving forward and casting out this disincentive, and replacing it with a hopeful and compassionate requirement.

Mr. Chairman, many of my colleagues and opponents of H.R. 1720 have said the price tag on this bill is too high. Outlays totaling $1.7 billion over 3 years—fiscal year 1988, fiscal year 1989, fiscal year 1990—are estimated to fund this new thrust in welfare reform. H.R. 1720 does not only create a new direction in serving welfare eligible families, it does so without adding to the Federal budget deficit. H.R. 1720 includes financing measures that are expected to raise all of the funds for the 3 years of authorization. The financing measures offset the direct spending costs in the bill.

By the following measures, the costs for the welfare reform provisions will be offset. The bill includes modifications to existing tax credit laws for child and dependent care expenses. Under H.R. 1720, the credit would be reduced for households with adjusted gross incomes exceeding $65,000, and be entirely eliminated for incomes above $95,000. The bill also eliminates the credit entirely for expenses incurred to send children to overnight camps. Also contained in the bill is a measure that denies any tax credits or deductions for amounts incurred while carrying out illegal activities.

Mr. Chairman, the State of Mississippi is the poorest State in our great Nation. The percentage of welfare recipients in Mississippi is higher than any of our sister States; and the Second District is the highest in the State. I am not ashamed of my State or my district for this dubious distinction, but I am made painfully aware that a new policy and a new philosophy of public assistance is needed. And now, as an early supporter of H.R. 1720, I am heartened with the prospects of moving the spirit and broadening the opportunities for our poorest Americans.

Let us work together in the passage of this revenue-neutral welfare reform and administer the provisions with a "can do" attitude. I believe our Nation and its people will gain in abundance for beyond the financial costs of this bill, and allow dignity and self-respect back into the lives of millions of our neediest citizens.

Mr. HAWKINS. Mr. Chairman, I yield 2 minutes to the gentleman from New York [Mr. SOLARZ].

Mr. SOLARZ. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I rise in strong support of H.R. 1720, the Family Welfare Reform Act. In my view, the measure before us represents a comprehensive system to attack the overwhelming problem of poverty in this country. By allowing our poorest citizens to make the critical transition from welfare to work, the bill provides a sound starting point from which we can turn our current Welfare System into a program that will help our poor become self-reliant and our Nation more productive.

I would like to pay tribute to the efforts of my colleagues who have put this legislation together. My friend and neighbor from New York, Mr. DOWNEY, has done a magnificent job as the bill's key sponsor. The gentleman from Illinois, and the chairman of the Ways and Means Committee, Mr. ROSTENKOWSKI, is to be commended for his leadership. And my own chairman, the chairman of the Education and Labor Committee, Mr. HAWKINS, deserves tremendous credit for shaping the education and training provisions in the bill, as well as for his leadership on a number of important pieces of legislation that have come before the Congress during this session.

Mr. Chairman, I would like to take a moment to focus on one small provision in the bill—but one that is extremely important to me and to my constituents—and to engage the sponsor, Mr. DOWNEY, in a brief colloquy.

Mr. Chairman, one progressive feature of the legislation, as I understand it, is that the bill does not limit the options of welfare recipients to short-term education or training programs. My understanding is that H.R. 1720 assures that any welfare recipient with the ability and motivation to successfully complete a postsecondary education program, up to the bachelor's level, would have the right to do so without losing his or her benefits.

This provision, which I might add was worked out with the gentleman from New York together with Chairman HAWKINS, the gentleman from Michigan, Mr. FORD, and the chairman of the Subcommittee on Postsecondary Education, Mr. WILLIAMS, is extremely important to me because it will have a profound effect on the educational opportunities of the students at the City University of New York. There are approximately 15,000 students currently enrolled at CUNY who receive public assistance.

I think it is clear, Mr. Chairman, that people with a college education are in a much better position to eventually obtain productive employment than those who are not. In fact, Secretary Bennett himself has testified before the Education and Labor Committee that college graduates throughout the course of their lifetimes earn an average of $650,000 more than people who are not college graduates. A postsecondary education is, perhaps, the finest example of an education or training program that could enable a welfare recipient to become self-reliant. We should do everything that we can to help those who are on welfare—and who are able to attend institutions of higher learning—pursue and complete their education.

We have all heard complaints over the years that the welfare system discourages people from improving themselves. In my view, this language will ensure that this does not occur.

In order to firmly establish some legislative history on this subject, I would like to turn to the sponsor of the bill, Mr. DOWNEY, and ask the gentleman if he concurs with my reading of this provision—that a welfare recipient could fulfill the obligation to seek education or training under the bill by progressing satisfactorily in postsecondary education and that the recipient cannot be told that he or she must reject college for a work experience or a short-term training program?

Mr. DOWNEY of New York. Mr. Chairman, if the gentleman will yield. Yes. The Network Program will build on the initiative of welfare recipients. Those attending an accredited postsecondary institution in a program consistent with the individual's employment goals will have that activity incorporated into their work and training plan.

Mr. SOLARZ. Does the gentleman agree with my understanding that the provision does not mean that the welfare system would be forced to pay for anyone's college education?

Mr. DOWNEY of New York. That is correct. The legislation specifically provides that the cost of such school or training shall not constitute federally reimbursable expenses under the AFDC program.

Mr. SOLARZ. Does the gentleman read the provision—as I do—to cover all accredited postsecondary institutions that offer a vocational or undergraduate program, including 4-year colleges?

Mr. DOWNEY of New York. Yes.

Mr. SOLARZ. And finally, is my understanding correct that the welfare agency retains the authority to require welfare recipients who are in postsecondary education to participate in other work or educational activities as long as these activities are not allowed to interfere with his or her college program?

Mr. DOWNEY of New York. Yes.

Mr. SOLARZ. I thank the gentleman for his assistance on this issue, and I commend him again for his leadership on H.R. 1720.

The bill—and this provision in particular—assures that those relatively few welfare recipients who can make it all the way out of the cycle of poverty through higher education are not prevented from doing so by the very system designed to offer them self-sufficiency.

I urge my colleagues to support H.R. 1720.

Mr. HENRY. Mr. Chairman, I yield 1 minute to the gentlewoman from New Jersey [Mrs. ROUKEMA].

Mrs. ROUKEMA. Mr. Chairman, I would like to point out, following the colloquy we have just heard here, it would seem to me that the colloquy has reinforced the point I made earlier, Mr. Chairman, that there is a de facto entitlement here, an educational entitlement under this bill, one that would permit full-time baccalaureate programs to substitute for a job-training program.

There are two points that should be made here. One, it is obvious to me that this welfare reform program was originally designed for welfare recipients who are not skilled. Anyone skilled enough to gain admission, it would seem to me, for a 4-year baccalaureate degree would seem to me to be per se qualified with certain skills for entry-level employment. But the most important thing is that we are denying the fact that one-quarter of American college students, enrollees today are working on a part-time basis and working their way through college. I think this is unequal treatment and most egregious.

Mr. HENRY. Mr. Chairman, I yield 2 minutes to the gentleman from New Hampshire [Mr. SMITH].

Mr. SMITH of New Hampshire. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, national attention today is focused on the budget summit agreement and our Federal deficit. It is regrettable that Congress has chosen not only not to focus on those problems, but to ignore them. They are ignoring them by enacting a $6 billion program today of welfare benefits.

H.R. 1720 is badly mislabeled. It is simply not welfare reform. It is welfare expansion.

The American public should know that more than $4 billion of this money is purely for benefit increases, 80 percent. If H.R. 1720 is supposed to help people move off the welfare rolls and onto the payrolls, then why does it have no State standards for participating in the work and training programs, why does it limit to 6 months the length of time recipients are required to participate in work experience programs, why does it actually allow welfare recipients to refuse jobs that do not pay the prevailing wage, why is it making welfare the more lucrative option?

Finally, this bill represents a gross injustice. There are millions of single mothers in the United States today who get up every day, leave their children, go to work for the minimum wage or a little more so that they can feed their children. They have never collected a nickel of public assistance, and instead of paying taxes all their working lives, these women will continue to work and continue to live on the brink of poverty.

Then there is another group of women with children who collect AFDC, many deservedly so, but all should have the goal of getting off welfare and onto a job.

Instead, we are telling these women by passing this bill that they can turn down a job that does not pay high enough. In essence we are telling them that work is optional. That is right, Mr. Chairman, we are telling them work is optional.

Their bill is antiwork and it is unfair. The best cure for welfare is a job, and this bill discourages people from getting one.

The substitute before us today, however, sets up real incentives that will encourage people to go back to work.

Mr. HAWKINS. Mr. Chairman, I yield 1 minute to the gentleman from Massachusetts [Mr. MOAKLEY].

Mr. MOAKLEY. Mr. Chairman, I thank the gentleman for yielding this time to me.

Mr. Chairman, title I of H.R. 1720 would authorize general authority for work, education, and training demonstration projects.

Yesterday, during general debate, my colleague from Massachusetts [Mr. DONNELLY], a member of the committee, addressed the committee to discuss a demonstration project, being proposed by Emmanuel College in Boston, MA.

Mr. Chairman, I would like to strongly associate myself with the remarks of the gentleman from Massachusetts, and to express my strong support for a demonstration project specifically aimed at assisting single women heads of household, who lack skills to enter the work force.

Mr. Chairman, Emmanuel College, a women's college in my district, is seeking to establish a women's resource center to provide educational opportunities to female heads of household who might otherwise be required to depend on welfare benefits to survive.

I am convinced that demonstration projects, like that proposed by Emmanuel College, would help break the cycle of poverty by removing long-term dependents from welfare. I agree with my colleague from Massachusetts that the college's proposal is precisely the type of demonstration project that should be supported under title I of the bill.

Mr. HAWKINS. Mr. Chairman, I yield 2 minutes to the gentleman from Montana [Mr. WILLIAMS].

Mr. WILLIAMS. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, this bill is a start. Too bad we did not take this start when it was offered to us under former President Nixon. That proposal was not perfect, but it would have been improved by now and we should have taken it back then.

It seems to me that the members of my party were wrong in holding out for something closer to what was really needed.

This legislation is not perfect either, but we ought to take it. We ought to get started on welfare reform.

One other point I want to make in the minute or so remaining to me is this. Let us say this passes, about 10 years from now we will look back and say, what did it do? I suggest to my colleagues that perhaps the criteria for whether or not welfare reform really works will be what it did for the children of the welfare mothers.

□ 1425

I suggest we keep our eye on the day-care portion of this bill, because it is not unlikely, although I hope it will not happen, it is not unlikely that we may be educating, training a good many welfare mothers for jobs that do not exist. That is what happens under any training bill, unfortunately.

So the most important thing in this bill might be what we are doing with their children while we are training them for jobs that do or do not exist.

What kind of day care centers are their children going into, what kind of an education head start or even start are children of welfare mothers going to receive under this legislation?

In my work on the Committee on Education and Labor on this bill, that has been my primary focus, because I think in the end that may be the criteria which judge this bill, which hopefully will become law. This bill's success or failure may well be what it offers not to the welfare mothers but rather to their children.

Mr. HAWKINS. Mr. Chairman, I yield 2 minutes to the gentleman from New Mexico [Mr. RICHARDSON].

Mr. RICHARDSON. Mr. Chairman, I rise in strong support of H.R. 1720, the Family Welfare Reform Act of 1987. In New Mexico alone, approximately 51,000 people receive welfare benefits at a State and Federal cost of over $51 million a year. Frankly, I am concerned that New Mexican's are paying 30 percent of this tab for a program long criticized as contributing to long-term dependence and the deterioration of the family.

Welfare recipients, however, don't become dependent by choice. Ask any mother on welfare if she wants her children to grow up and become dependent on welfare. The response will be an emphatic "No." Rather, this dependency lies in the design of our current welfare program which imposes no obligations, other than absolute poverty, in return for benefits. Witness the increasing numbers who fail to complete high school or training that will prepare them for employment, and the increasing numbers of children born out of wedlock. In fact, 46 percent of the over 7 million children currently on welfare were born out of wedlock. It is these same children who are likely to become high school dropouts.

For these reasons, I am a strong supporter of H.R. 1720. The Family Welfare Reform Act addresses the most important criticisms lodged against the current program. First and foremost, the new family support program is designed to get welfare recipients out of the cycle of poverty and into productive society. The heart of this legislation, for which 65 percent of the funds are earmarked, is network.

The National Education, Training, and Work Program, which requires all welfare recipients, with few exceptions, to participate in job search, on-the-job training, counseling, or education programs. In other words, network sets in place a comprehensive framework to provide welfare recipients with what they need most to become self-reliant: education and employment opportunities.

The new family support program also contains components to strengthen rather than weaken the family unit—one of the most important building blocks of society. Significantly, benefits will now be provided for all qualifiying two-parent families. Currently only half of the States give benefits to families. The other half, reserve benefits only for single-parent families, ignoring the plight of poverty stricken two-parent families. A second critical element is the provision of quality day care while welfare parents fulfill job training requirements and for 6 months after they find employment. Parents are more likely to succeed in becoming independent if they know their children's emotional and developmental needs are being met.

Additionally, H.R. 1720 gives business and States maximum flexibility in designing work and training programs so that they can be tailored to the needs of business and the resources of States. I urge my colleagues to support this legislation.

Mr. HENRY. Mr. Chairman, I yield 2 minutes to the gentleman from Illinois [Mr. FAWELL], a member of the committee.

Mr. FAWELL. Mr. Chairman, I rise in opposition to H.R. 1720, the welfare expansion measure, and, instead, urge my colleagues to support the Michel substitute, which provides much-needed reform to our welfare system.

The proponents of H.R. 1720 would have us believe that their bill is "the" welfare reform proposal. I wish it were. Unfortunately, it is little reform burdened with massive expansion of the welfare bureaucracy.

The major objective of welfare reform is to break the cycle of dependency for welfare recipients and improve the standard of living for those trapped in the welfare bureaucracy. H.R. 1720 fails miserably in reaching this goal. Mothers with children under age 3—those most in need of education, training, and work—would not be required to participate in NETWork. Those with children between ages 3 and 6 would only have to participate on a part-time basis. Consequently, 60 percent of welfare mothers would not have to participate in NETWork on a full-time basis. I ask, where is the reform?

Breaking the dependency cycle requires that mothers with young children participate in NETWork. The Michel substitute better fulfills this primary objective of welfare reform by requiring all welfare mothers with children older than 6 months of age to participate in NETWork.

The substitute also eliminates a double standard created by H.R. 1720. Whereas a majority of nonwelfare mothers with children under age 3 work, H.R. 1720 exempts welfare mothers with such children from participating in NETWork. To the working woman supporting a household, this double standard tells her that not only does she have to work, but that she must find suitable day care, pay for that day care, and pay taxes to support the welfare mothers who remain at home with their children.

Another major objective of welfare reform is to move welfare recipients into worthwhile employment opportunities. Here again, H.R. 1720 misses the mark. Welfare recipients could not be forced to take a job that pays less than their welfare benefits, including the value of health and other noncash benefits. To understand how pernicious this provision is, California officials would be barred from requiring welfare mothers to accept a job paying $4.50 per hour. Furthermore, employers would be prohibited from paying lower wages to welfare recipients for a position which would normally command higher pay.

These provisions will have tragic consequences on NETWork participants. We all realize that getting a foot in the door is key to gaining full access to the job market. Welfare recipients, already lacking job skills, will be effectively denied entry-level job opportunities. Recognizing that entry-level jobs lead to sustained and better employment in the future, the Michel substitute reasonably prohibits NETWork participants from refusing minimum wage jobs.

Finally, it does not take $6.2 billion over 5 years to reform the welfare system. In fact, less than one-fifth of H.R. 1720's cost can be traced to reforms. The remainder is associated with expansion of the welfare system by increasing AFDC benefit levels, extending mandatory benefits to two-parent families, and liberalizing the Food Stamp Program.

CBO has verified that throwing indiscriminate amounts of money at the welfare problem does not necessarily promise results. The Michel substitute, which costs $1.2 billion over 5 years, will provide services to almost three times the number of welfare recipients than will H.R. 1720. For one-fifth the cost, the reforms included in the Michel substitute will lift more individuals up from dependency.

If H.R. 1720 were a reform bill, I would support it. But it isn't. I agree with the Wall Street Journal's assessment that H.R. 1720 is a Trojan horse. The Journal stated:

> By adding several welfare programs to what already exists (without eliminating any), the House bill adds another layer to an already complex welfare system. By further increasing rather than gradually reducing the level of benefits available to recipients, it makes welfare more, not less, enticing. By diluting proposed work-for-welfare requirements, it diminishes the importance of work.

Welfare reform should open doors of opportunity to AFDC recipients; H.R. 1720 closes them. I urge my colleagues to close the doors on this Trojan horse by rejecting H.R. 1720 and supporting the Michel substitute.

Mr. HAWKINS. Mr. Chairman, I yield such time as he may consume to the gentleman from Minnesota [Mr. VENTO].

Mr. VENTO. Mr. Chairman, I rise in support of H.R. 1720.

Mr. Chairman, I rise in support of H.R. 1720, the Family Welfare Reform Act of 1987, legislation that will make good on our commitment to better serve those people in need of assistance to attain self-sufficiency. H.R. 1720 is the result of months of hard work and compromise by four House committees, which will bring our welfare system into the 1980's. The committee deliberations have finally brought us to where we are today—considering a very necessary revision to our welfare system that will assist in maintaining our families and protecting our Nation's most precious resource; children.

Essential to this legislation are the provisions to establish education, training, and work programs targeted toward individuals who have the most difficulty in achieving self-sufficiency. Contrary to some public opinion, which would suggest that all welfare recipients are benefit abusers, the majority of people on welfare desperately want to get off welfare. Provisions to upgrade job search programs, skills training, high school equivalency classes and counseling are all integral parts of this Federal/State initiative to provide people with the resources and the skills to help themselves return to the mainstream of the world of work in our society. There, they can remain in a job, contributing their talents, creativity, and there, they can serve as a taxpayer rather than as a dependent.

I am pleased with the priority H.R. 1720 affords to child day care services. Mothers and fathers must simply be assured that their children are being provided for while they strive to fill their niche in the world of work. We should not be surprised that this is a major concern of parents on welfare, because it is undoubtedly one of the most important issues facing families with two working parents from all walks of life. By providing adequate day care services for children of those participating, by providing for a transitional program for parents who move off of welfare, by providing the Federal matching dollars to get this program off the ground and running, Congress properly acknowledges the importance of day care services.

H.R. 1720 is profamily legislation. This legislation will provide for the required implementation of the currently optional AFDC-UP [Aid to Families With Dependent Children—Unemployed Parents] Program. Studies have demonstrated that when welfare benefits are tied to the marital status of applicants, many families simply split up. This is, of course, an outrageous assault on the families of the poor. A mandatory AFDC-UP Program for all States would prevent this "backhanded encouragement" for parents, usually fathers, to leave their family in order to obtain benefits.

Congress must be clear, however, that the word "family" carries with it implicit responsibility for the care of children. This legislation includes provisions to improve the enforcement of child support awards. It raises the performance standards for paternity establishment, tightens Federal matching funds for States not complying with the Child Support Enforcement Amendments of 1984, while maintaining matching levels for States that do comply and have automatic wage withholding laws. The bill also establishes uniform guidelines for determining the amounts for child support awards.

Mr. Chairman, I would ask that my colleagues take a good hard look at these and the other solid provisions of this bill. H.R. 1720 approaches welfare reform from all sides, providing a balanced and appropriate response to the needs of our welfare system today. It does not make a show of establishing mandatory programs without adequate Federal support, as the substitute does. It does not promote the demise of the family unit through shortsighted programs, as the substitute. Rather, H.R. 1720 is a prowork, proeducation, profamily, prochildren bill that is deserving of our approval.

The policy established by these proposed changes would serve us today and tomorrow. Mandating requirements without support or backup service simply glosses over the real problems. Placing clients in short term deadend jobs will foster a different type of dependence. True independence will occur by meeting the client, the welfare recipient where he or she is at, and then moving that person back into the world of work and the mainstream of our Nation.

I urge my colleagues to vote for this bill and to oppose the substitute when it is offered.

Mr. HAWKINS. Mr. Chairman, I yield 2 minutes to the gentleman from Massachusetts [Mr. Atkins].

Mr. ATKINS. Mr. Chairman, I rise in strong support of H.R. 1720.

Mr. Chairman, in recent months much has been said about the bipartisan consensus that has formed to overhaul the existing welfare system. No one denies that the current system is a costly failure. But, there is still disagreement about how to create a system which will promote independence instead of dependence. In the last few years, a handful of States have tried new programs which have proven successful. We've learned a few things from these experiences which form the cornerstones of the Family Welfare Reform Act.

From the experiences of the States we've learned that moving welfare recipients from dependency to self-sufficiency requires more than telling them to get jobs, while building a system where they lose money when they leave welfare to go to work. We've learned that comprehensive training, education, and employment programs must be supplemented with child care and other support services to turn a recipient into a taxpayer.

Most welfare recipients are jobless because they lack the education and skills required to be employable, not because they want to be jobless. Give them the tools, the training, and the skills, the support and the services, and they will go to work. That's what this bill does.

I'd like to tell you the story of Monica M. At 28, Monica was a typical welfare recipient, with two children, no high school diploma, and no ability to get or stay in a job. Monica wanted to work. She hated welfare, describing it as a system where—

> I lost my name and my identity. I became #MO7060050M4. * * * When you receive assistance on a long-term basis then welfare becomes like a drug. People lose their desire to better themselves because the system doesn't offer them the opportunity to become better.

Monica was fortunate. She lived in a State which had a program to help her. She was enrolled in a supported work program which trained and placed her as a processor in a bank and assisted her in securing child care. Today Monica supports herself and her children.

Over the past months and years of debate, we have heard from people who are concerned about the system, but are not trapped in it themselves. Monica knows how the system really works. In voting for H.R. 1720 we are finally listening to Monica who said:

> If you really want to help us, then help us to get off welfare and into jobs so that we can become providers for our families.

This bill is a major assault on welfare dependency in our society. I urge my colleagues to vote for H.R. 1720.

Mr. HAWKINS. Mr. Chairman, I yield 2 minutes to the gentleman from Maryland [Mr. Mfume].

Mr. MFUME. Mr. Chairman, the greatness of a nation is measured most not by the strength of its military or the caliber of its technological sophistication, but by the depth of its commitment to ensuring a quality standard of living for all of its people. When we talk about welfare and its reform, what we are really talking about is working together to best fulfill a basic American ideal—caring for our neighbors.

In 1962, an era began which sought to modify the role of the Federal Government to include compassion for the unfortunate and most assailable members of our society—the handicapped, the elderly and the poor. There was declared an "unconstitutional war" on poverty.

Today, it seems that the American appetite for compassion has been curbed and again we see the once popular assumption that individuals are responsible for the condition in which they find themselves and not the Government. President Reagan, in his 1986 State of the Union Address, spoke of welfare as a narcotic, and warned that it was time for this country to abandon the War on Poverty.

Mr. Chairman, it is not time to abandon the War on Poverty when this Nation is blighted with homelessness and hunger. It is not time to abandon the War on Poverty when proper health care and child care is not available for all of a nation's people. But it is true that we do not want this system to be a narcotic and this is exactly the premise that H.R. 1720 is fashioned behind.

The essence of the approach behind the Family Welfare Reform Act of 1987 is captured by the popular slogan, "Give a Hand, Not a Handout." This legislation would provide recipients with education, on-the-job training, day care services, and extended Medicaid, and also promotes the "family" by allowing two-parent families to receive benefits. We are not giving handouts here; we are providing incentives to work and opportunities to break the cycle of dependency on welfare.

So many speeches have been made on the floor of this House yesterday and today concerning this legislation and concerning the values of this Nation. I urge my colleagues to take a step toward upholding the values of this Nation and let the greatness of this Nation show in an affirmative vote for H.R. 1720. Mr. Chairman, let us care for our neighbors on this day.

Mr. HAWKINS. Mr. Chairman, I yield 3 minutes to the gentleman from New York [Mr. Downey].

Mr. DOWNEY of New York. I thank the gentleman for yielding to me.

Mr. Chairman, I want to deal with the point that has lamentably been raised by our Republican colleagues over and over again. That is: What responsibility does a single woman raising her children have to care for them? Should it be the same as a man who is at home or an intact family, or should it be different? That is the question. Do we expect female household heads to work like husbands or do we expect them to work like wives?

For the statistically minded, let us take a look at some of the statistics.

In order for single mothers to be self-supporting, they would have to work as much as husbands, even though many of them are poor. Many working husbands cannot ensure the family income will exceed the poverty line. For women, wages are lower still. According to the Bureau of Labor Statistics, women on average earn 70 percent of what men make. So that even in families where the man works full time, the mother is often required to work part or full time just to have family income near the poverty line.

Only 27 percent of married mothers work full time, full year and, given the limited opportunity costs for day care and child rearing, it is very difficult for even married women to find full-time jobs and have adequate day care.

The burdens of work are greater for a single mother than for a married mother. That should be quite clear.

The married woman has a husband to help her raise children; a single poor woman does not. A single mother must fill the dual role of both provider and nurturer with no help of a partner.

So I would urge my colleagues when we compare women in the work force, let us recognize a couple of things: Poor women do not like being poor. Many of them do not have skills. They certainly do not have husbands.

To expect from them more than you would expect from a woman with a full-time spouse working full time, it seems to me is just slightly unrealistic.

□ 1440

But then again "unrealistic" is the only way to characterize the arguments we have heard from our Republican friends.

Mr. HENRY. Mr. Chairman, I yield such time as he may consume to the gentleman from Pennsylvania [Mr. Clinger].

Mr. CLINGER. Mr. Chairman, I rise in opposition to the committee bill and in support of the Michel substitute.

Mr. Chairman, our welfare system is screaming for real reform. We have spent billions of dollars in Federal assistance to America's poor, but today, there is no real indication that we have actually helped them escape the poverty they are mired in. In 1968, as President Johnson left office, 13 percent of Americans were poor, using the official defintion. Over the next 12 years, Federal assistance for social welfare programs quadrupled, and in 1980, the percentage of poor Americans remained at 13 percent.

Rather than just throw money at the problems, which is what H.R. 1720 does, I believe we should do everything in our power to encourage welfare recipients to find jobs and become contributing members of our society, instead of permanent members of a welfare culture. The bill before us today calls for spending $6.6 billion over 5 years for assistance to the poor. Supporters claim it would continue funding of welfare programs while providing incentives for the poor to become more self-supporting through enhanced job training and education. I believe this bill has some major problems. Although characterized as a measure designed to find jobs for welfare recipients, I was shocked to find that nearly 90 percent of the bill's funding would actually be devoted—not to work incentives—but to increasing welfare benefits and expanding eligibility. The bill fails to require able-bodied recipients to work, and actually contains several provisions that prohibit work by welfare families such as the one prohibiting recipients from taking jobs that do not pay the standard wage and a prohibition on jobs that pay less than the value of welfare benefits. I also found that the bill would prevent the individual States from being allowed to test innovative, broad-based alternatives to the current welfare system, and that it would raise welfare benefits above the wages of entry-level jobs in many States.

There is one other welfare reform bill up for consideration in the House—one that I plan to vote for—that would only cost $1.1 billion over 5 years. Unlike the bill before us today, this one would not expand welfare benefits, but instead, would funnel money into real programs to get people off of welfare and into jobs.

In my opinion, H.R. 1720 would create the most expensive welfare system in American history at a time when we are trying to cut billions from the Federal deficit and send a positive signal to financial markets. Even worse, it does not even begin to accomplish what should be the primary goal of any welfare reform program—getting people off the welfare rolls and into productive lives.

Mr. Chairman, if welfare is to be a truly charitable act, then society needs a welfare program that focuses as much on cashing in on work incentives as on cashing benefit checks. Enacting reforms that amount to "paper tigers" are a cruel fraud on those people they are supposed to help.

Mr. HENRY. Mr. Chairman, I yield myself such time as I may consume to close debate for our side.

Mr. Chairman, I want to return to a theme that I tried to open our debate with. It is simply this: The responsibilities that have to be addressed on both sides of the equation when we deal with the problem of welfare reform.

We are not going to get any member of either party here saying that he or she is opposed to welfare reform. I think it is well established in terms of the public perception of this issue and our own understanding of the issue much needs to be done to restructure the present system.

The point of contention, however, is not that of reform but the issue of balancing responsibilities, responsibilities of the public to client populations and at the same time the responsibilities of client populations to the public which seeks to be just and fair to them.

The committee bill does much to strengthen and to acknowledge the public responsibilities to those in need. Unfortunately, it falls far short in establishing with an equal degree of intensity and discipline in force of law client responsibilities to the public that seeks to address their needs. It fails to recognize the fact that, first of all, the nature of the client population being served has changed substantially from that in which the AFDC Program and from which many other areas of the welfare program initially grew.

Second, it fails to adequately acknowledge changes in society which have affected the general public and reflecting those changes in the criteria outlined for client responsibilities in their welfare proposal. Fifty-four percent of women with children under age of 6 do indeed work in the workplace whether they are on welfare or not, and the question is simply whether or not those who are in a welfare situation ought to be exempted from the same kinds of disciplines, quite frankly, that the general society shares in.

I would review how we came to this impasse. It may very well be true that the substitute bill focuses too much on client responsibility and not enough on public responsibility to the clients. In fact, I would argue that in some areas. I disagree with the ACDU provisions, for example, in the substitute bill, and unfortunately my wish was denied by the process which allowed those of us who saw good in both bills that could be brought to this floor together with the Carper substitute, which was denied the opportunity for coming to this floor. That is not our fault. We are in the minority, but as the majority knows, a good number on the majority side felt, too, that the whole package would have been strengthened if in fact we could have taken what is good in each bill and brought them together, rather than having us on both sides bashing what is weak in the other guy's bill.

Mr. Chairman, that is really what we have been doing. There is no doubt that the majority bill faces responsibility toward those in need. There is no doubt that ours deals with responsibility toward the public.

Mr. MILLER of California. Mr. Chairman, I rise in support of H.R. 1720, the Family Welfare Reform Act of 1987, which contains important provisions to substantially improve the economic and health status of our Nation's poor children and families. Two-thirds of current welfare recipients are children who are poor through no fault of their own. Will we choose for them a welfare reform bill that is punitive or one that offers them hope for a better future?

I especially want to commend Chairman Ford and Acting Chairman Downey of the Subcommittee on Public Assistance and Unemployment Compensation, Committee on Ways and Means, and Chairman Hawkins of the Committee on Education and Labor, and Chairman Panetta, Subcommittee on Domestic Marketing, Consumer Relations, and Nutrition, Committee on Agriculture, for their leadership on welfare reform. Credit is also due Chairman Waxman of the Subcommittee on Health and the Environment, Committee on Energy and Commerce. Thanks to his efforts, the Omnibus Budget Reconciliation Act of 1987, passed by the House last month, allows States to continue Medicaid coverage for up to 24 months during the transition from welfare to work. It is my hope that this provision will remain in the final version of budget reconciliation.

The three committees have agreed on a welfare reform package that replaces the current AFDC program with a new Family Support Program. H.R. 1720 recognizes that if we expect poor families to ultimately make it on their own, then we have an obligation to ensure that they have opportunities to receive the education and training they need, earn a decent wage and receive adequate health and child care benefits.

The Republican substitute, H.R. 3200, operates on the principle that forcing a single mother to take a job—any job—before her newborn is out its cradle will somehow wean her from welfare dependency. Lost in this logic is the fact, in 40 percent of all poor families today, there is a parent working in a full-time job. In fact, over the past few years, the number of persons working and living in poverty has continued to rise. A job without a decent wage or without minimal health and child care protections is no ticket to economic independence.

Mr. Chairman, since the events of Black Monday, we in Congress have been shaken into dealing seriously with the Federal deficit. But we equally cannot ignore the mounting economic and social deficits for poor families brought about in part by Federal neglect. For the past 7 years, we have been trying to cut the Federal budget with little success yet we have gone far in slashing the budgets of our most vulnerable families.

Mr. Chairman, we should not be persuaded by rhetoric that states that because H.R. 3200 is cheaper, it's a better bill. Reducing our investments in poor children and their families may satisfy our deficit consciousness in the short term but will ultimately shortchange all of us.

In my district, the Contra Costa County Board of Supervisors has adopted a resolution urging Congress to adopt the Family Welfare Reform Act of 1987. Contra Costa County will implement its GAIN [Greater Avenues to Independence] Program in March 1988. Training programs, including education and literacy, are anticipated as critical needs for the majority of their clients. By supporting H.R. 1720, the Contra Costa County Board of Supervisors recognizes that cutting corners on children and society's future workers is penny-wise and pound-foolish.

CHILD SUPPORT ENFORCEMENT

Reforming our Nation's welfare system is critical if we ever hope to quell the explosion of child poverty over the past decade. Strong child support enforcement is one component. In hearings before the Select Committee on Children, Youth, and Families, which I chair, we learned that divorce is the crisis that pushes many female-headed families into poverty. The child support provisions in this bill will help prevent many children from falling into poverty and help us cut Federal expenditures on welfare programs.

But many other children are born to parents who lack the means to provide for them. Investing in the future for these children means investing in their parents today. By helping poor families improve their performance in the labor market, this bill ensures that children living in poverty will stand a better chance.

Work alone is not enough. After scores of hearings and investigations, by the select committee and others, it is clear that a parent's ability to gain productive employment depends on the availability of quality education and training, as well as child care and health care.

EDUCATION AND JOB TRAINING

Mr. Chairman, I am pleased that the bill before us recognizes that basic education and literacy skills are critical to self-sufficiency. In California, where the GAIN [Greater Avenues to Independence] Program was instituted last year, program officials have been shocked to learn that almost half of the participants require remedial education before even entering a job training program.

This bill would provide that important first step, by requiring that enrollees without a high school diploma participate in a high school completion program. States would also be obliged to offer a range of services including remedial education, English as a second language, specialized advanced educations as appropriate, job counseling, skills training, and on-the-job training.

This bill would also require states to provide activities designed to keep AFDC children in school, and would require coordination with early childhood education programs in the State. The select committee has documented that early investments in children's education can prevent high school dropouts and improve labor market performance. For instance, in a select committee report on cost-effective programs for children, we noted that for every $1 invested in quality pre-school education like the Head Start Program, the return is $4.75 due to the lower costs of special education, public assistance and crime. Business leaders are now advocating similar cost-effective programs.

H.R. 3200 seriously neglects these investments. The bill prohibits all educational activities except remedial education, and emphasizes work experience projects over more comprehensive employment and training. In addition, the meager Federal outlays authorized in the Republican substitute must cover both child care expenses and training programs, in addition to serving a much greater number of mandatory participants.

CHILD CARE

We have heard repeatedly from parents who want to enter employment or maintain jobs that finding someone to care for their children is a major obstacle to employment. In studies from Washington State, California, Massachusetts, and Florida, millions of parents have reported that a lack of child care, or inadequate care, prevents them from working or attending training programs.

Massachusetts' highly successful Employment and Training [ET] program demonstrates the point. In testimony before the Select Committee, the state's Deputy Commissioner of Employment argued that child care was the critical element in ET's success: "Without it, ET would not work. It's that simple."

Our findings show that without new investments, the current child care system cannot meet the needs of welfare participants and their children:

The supply of child care is grossly inadequate. In Florida alone, 25,000 children are already on the waiting list for subsidized child care. In California, less than 10 percent of the 1.1 million children eligible for subsidized child care are served. In my home district of Contra Costa County, CA, more than 25,000 children are in need of child care, but are not receiving it. The projected growth in population, employment and parents working outside the home will increase this number to 28,000 by 1990. And just last week, in nearly Loudoun County, VA, the county stopped subsidizing child care for some 55 families.

The cost of child care is prohibitive. While all families spend roughly 10 percent of their income on child care, low-income families spend as much as 26 percent of their income on child care, comparable to what some families spend on housing.

The quality of child care varies dramatically from State to State.

Some States allow one adult to care for seven infants, which far exceeds safe levels. Most States exempt thousands of child-care providers and thus millions of children. From accountability for basic health and safety.

H.R. 1720 guarantees that child care will be provided during education and training activities, and that this care will meet minimum health and safety requirements established by the States. To overcome the critically short supply of infant care, and to ensure that families will be able to pay for this more costly care, the bill allows a higher reimbursement for infant care. States would also be required to assess the availability and reliability of child care services, and to develop new child care resources as needed. I am especially pleased that the bill guarantees child care assistance on a sliding scale during the critical 6 month transition from AFDC to productive employment.

In contrast, H.R. 3200, the substitute bill, does not guarantee that child care will be available. No specific funding for child care is authorized. Providing child care to AFDC families during the transition to employment is left to State option. The absence of guaranteed child care in H.R. 3200 is a sure prescription for failure.

Mr. Chairman, Congress can choose to neglect the child care needs of welfare families as H.R. 3200 does. We should be mindful, however, that the cost of not providing that support is far greater in the long run. The investment that Massachusetts has made in child care has already paid off. Eighty-six percent of ET participants who go off welfare are still off the welfare rolls one year later saving the State $100 million dollars in 1986 alone.

The fact is, as Massachusetts has demonstrated so clearly, the "transition" for most families takes longer than 6 months. While H.R. 1720 is an essential first step but I would hope that in the future Congress would assist States in extending child care support to families on a sliding fee basis, until their employment is sufficiently secure to enable them to pay for child care on their own.

While H.R. 3200 does not guarantee child care, equally disturbing is the fact that it requires mothers to participate in workfare programs when their children are only 6 months old. Forgetting for a moment the strain such a requirement will place on the supply of infant care, H.R. 3200 imposes a punitive double standard on poor single mothers. Many nonpoor mothers today have a choice to stay home with their children in the vital first years of life. The select committee has documented how important this is to a child's emotional and intellectual development, forming the building block for confidence and success in late life. H.R. 1720, by mandating participation for mothers with children over 3 years of age permits poor mothers the same choices conferred on nonpoor mothers and the opportunity to give their infants a head start on building a productive life.

MEDICAID

While transitional Medicaid benefits are not included in the bill under consideration today, we should not forgive that providing health care assistance to families plays a similiar role as child care in their ability to obtain and retain employment.

While some 37 million Americans lacking health insurance, I would certainly urge the members of this House to recognize, particularly in the face of the current budget deficit, that failure to extend Medicaid benefits to low income families will ultimately be more costly to the Federal treasury.

AFDC-UNEMPLOYED PARENT (UP)

Mr. Speaker, it is a myth that all children only come from single parent homes. In fact, the number of poor children living in two-parent families is growing faster than is the number of poor children in single parent homes. Currently, 28 States and the District of Columbia have adopted the AFDC-UP program which provides AFDC benefits to needy children in two-parent families whose principal earner is unemployed or works fewer than 100 hours per month. By requiring that all States adopt AFDC-UP, H.R. 1720 will ensure that poor families need not split up in order to get the education, training and basic income support that they need.

The President has made it clear that all social programs should be measured by how well they keep families together. Yet H.R. 3200, the substitute bill which this administration supports, defies that very objective by retaining the current AFDC eligibility rules.

While some would argue that it is too expensive to commit ourselves to poor children in all families, the facts tell us that it is too expensive not to. When Iowa dropped its AFDC-UP program to save money, 73 percent of the families who went back on welfare did so because the father had left the home. The same thing happened in the State of Washington. Both Washington and Iowa have since reinstated their AFDC-UP programs.

FOOD STAMPS

I am pleased that H.R. 1720 coordinates the Food Stamp Program with the new Family Support Program; this will both eliminate bureaucratic confusion and prevent the possibility that families eligible for the Family Support Program may find themselves ineligible for food stamps. H.R. 1720 would make permanent a temporary provision in current law that automatically entitles AFDC families to food stamps, an important reform in food stamp law necessary to combat the surge of hunger in America. Despite nearly 6 years of economic expansion, 20 million Americans go hungry every day and most of these victims are young children.

Profamily policies in H.R. 1720 would also permit families who receive food stamps and child support to disregard the first $50 per month in child support payments when calculating food stamp benefits. In addition. H.R. 1720 would change current law that limits the deduction for child care expenses in the Food Stamp Program to $160 per month per household. Instead, the dependent care expenses deduction would increase to $200 per month for each child under age 2 and $175 per month for each child 2 years or older.

CONCLUSION

Mr. Chairman, over 8.7 million children rely on AFDC. They deserve our generosity, not cheap tricks to balance the budget. The investments we make in them today will reduce the likelihood that they will need costly help from us tomorrow. Ultimately, a strategy of compassion will prove the most fiscally prudent.

By freeing impoverished families from a world of few options, H.R. 1720 is an important first step in rebuilding the dashed dreams of our Nation's poor.

The CHAIRMAN. All time of the gentleman from Michigan [Mr. HENRY] has expired.

One minute remains to the gentleman from California [Mr. HAWKINS].

Mr. HAWKINS. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The Chair will now recognize the gentleman from California [Mr. PANETTA] for 30 minutes and the gentleman from Missouri [Mr. EMERSON] for 30 minutes.

The Chair recognizes the gentleman from California [Mr. PANETTA].

Mr. PANETTA. Mr. Chairman, I yield myself 10 minutes.

Mr. Chairman, I rise in strong support of the Food Stamp Family Welfare Reform Act, which has been included under the rule as title X of H.R. 1720.

The food stamp welfare reform package was ordered reported by a voice vote of the Committee on Agriculture on October 15, 1987, as H.R. 3337. The bill is designed to increase coordination between the benefits and administration of the Food Stamp Program and the rest of the welfare system, complement other welfare reform initiatives under consideration in Congress, and improve the employment and training features of the Food Stamp Program.

We cannot have a truly reformed and coordinated welfare system if we ignore food stamps, the largest nutrition assistance program for low-income families. The food stamp title ensures that this program will be coordinated with the benefit structure and employment and training activities of the rest of the reformed welfare system.

The Committee on Agriculture took steps to ensure that the cost of the food stamp provisions would be fiscally responsible. The cost was dramatically pared back. In addition, implementation of the food stamp welfare reform provisions is contingent on the Congress paying for this provision. We must exceed our reconciliation instructions by the cost of this title. The CBO estimate of the cost of the food stamp welfare reform provisions is $11 million in fiscal year 1988 and $322 million over the next 3 years.

This year, the leadership of both parties in the House of Representatives and the President of the United States have called for reform of the welfare system. Welfare reform will be neither quick or easy, but a start must be made.

The food stamp welfare reform provisions build on the bipartisan employment and training program the committee fashioned 2 years ago in the Food Security Act of 1985—Public Law 99-198. Based on the experience gained this year as the program has been implemented, some changes will be made to the employment and training program that retain the essential elements of what the committee approved 2 years ago—States should have the flexibility to determine which approaches to employment and training have the best potential to provide food stamp recipients with the opportunity to work and to make meaningful changes in their lives.

The improvements include:

Increased reimbursement for work expenses and day care for persons participating in employment and training;

Performance standards for the States based on success in placing individuals in jobs, not simply processing them through training and job search activities; and

A requirement that food stamp offices be open at hours convenient for persons participating in employment and training.

The food stamp title includes a number of provisions both to improve coordination between the current programs and also to test ways to simplify the welfare system. These include the following:

A requirement that applicants for AFDC benefits be informed they can simultaneously apply for food stamp benefits;

Making permanent the provision in current law that authorizes AFDC and SSI beneficiaries to be categorically eligible for food stamps;

Authorization for a limited demonstration in Washington State to provide a combined cash benefit equal to food stamp-AFDC benefits for households with one or more members participating in an innovative employment and training program approved by the legislature of that State; and

Authorization for up to 10 additional States to conduct a similar demonstration to the Washington State demonstration, except that food coupons would have to be provided.

The demonstration authority provisions were developed, in consultation with officials from Washington State and others, to ensure that the benefits and due process rights of food stamp recipients would be protected; but States would have the flexibility to test ways to simplify the administration of the welfare and training systems.

The food stamp title also includes provisions to help low-income persons escape the trap of welfare dependency through education. However, the title does not reopen the student issue so that food stamps become an education subsidy for college students from middle- and upper-income families. Rather, the bill contains two narrowly drawn provisions affecting student eligibility.

The first will standardize the food stamp income exclusion for education assistance so that it applies equally to all types of education assistance, not just Federal aid, and make clear that all education and training programs leading to increased employment opportunities are recognized. This provision will ensure that members of households currently eligible for food stamps who receive education aid can participate in all recognized training and education programs without jeopardizing food stamp benefits.

The second will allow students who are living with a parent, grandparent, or legal guardian in a low-income household that is otherwise eligible for food stamps to retain food stamp benefits while completing their education.

The food stamp title contains two provisions to strengthen families.

First, higher dependent care deductions would be allowed in recognition that day-care expenses can often be a significant obstacle to a welfare recipient seeking work.

Second, for participants in the aid to families with dependent children program families—or the successor program authorized by H.R. 1720, the family support plan—who also receive food stamps, the first $50 a month in child support payments would not be counted as income. This change will ensure that food stamp benefits will not be reduced as a result of not counting as income the first $50 a month in child support payments in the AFDC Program which was approved by the Committee on Ways and Means in H.R. 1720.

The food stamp welfare reform title includes a number of provisions designed to ensure that farm families in rural America who have fallen on hard times receive food stamps if they are entitled to them. We have taken steps to ensure that the particularly complicated finances of family farms will be taken into account when social workers process food stamp applications from farm households. We also authorize States to request reimbursement for one-half of the cost of providing special training to caseworkers in how to handle applications from families and also to inform low-income farm families of the availability of food stamp benefits.

Some will say that this is not the best time to undertake welfare reform. Frankly, we have been debating welfare reform now for over 18 years. Welfare reform is such a difficult political and programmatic issue that the only good time would be if we achieved political utopia here on Earth in which there were no difficult votes. Frankly, we owe it to the poor of America to act now. Should we ask them to wait another 18 years to see if there is a time which it would not be a difficult vote for us. I say "no." Let us act now and fulfill our responsibility to America of equal participation for all.

□ 1450

Mr. EMERSON. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in opposition to the bill before us today. I will address myself primarily to the food stamp title of the bill. There are several committees of the House of Representatives that have reported measures aimed at reforming the current welfare system. These committees—Ways and Means, Education and Labor, Energy, and Commerce and Agriculture—have managed to spend billions of dollars and yet do not reform the welfare system.

My dear friend and colleague, the chairman of the subcommittee, the gentleman from California [Mr. PANETTA] indicated that welfare reform is going to be costly any way we look at it, and I agree with the gentleman. I am not sure that I would mind paying what is necessary if we were indeed having true structural welfare reform. The gentleman refers to the need to address this problem incrementally, and I suggest that all we are doing here is throwing a few more pennies at existing programs, and certainly further complicating the burden of regulation and the maze of requirements that people must comply with, rather than relieving them.

The Agriculture Committee followed the principles established by those other committees. However, I do not consider this or the work of other committees to be reform of the current welfare system and find I must oppose the bill.

Nevertheless, the chairman, the gentleman from California [Mr. PANETTA] has worked very hard on his bill and I commend him for his diligence. He has attempted to take a very complex system and make sense out of it. I do not quarrel with his goals. I believe, however, that real welfare reform means an indepth look at the structure we now have in place and restructuring our system to simplify and coordinate both the process of applying for and administering welfare benefits for needy individuals and families.

The system we now have is a complicated maze. Families in need must go from office to office—in some cases to different persons within the same office—to make application for help. Different applications, different rules, different standards of eligibility all conspire to make the process very difficult for these families. On top of that, the persons administering the programs must not only know the rules of the programs for which they are responsible, but also the rules of the many other programs the family has or may participate in. It is no surprise that there are gaps and overlaps in the entire welfare system and that current programs are replete with errors, paying too much or too little to families receiving benefits.

Welfare reform means looking at the current system and devising programs that will enable the poor who are able-bodied to be self supporting, to decrease their dependency on welfare and to reduce the level of poverty in the United States.

In the Select Committee on Hunger we have resumed one debate on this issue. As you all may know, the Federal Government operates 95 assistance programs for needy people. These programs are under the jurisdiction of several different Committees of the Congress, different Federal agencies and in some cases different State and local agencies. Some of this disparity is appropriate—because of the nature of the individual program itself. However, for the major income and food assistance programs, this lack of coordination and resolution of the differences is extremely troublesome.

When a family is in need of help, that need is often found to cross current program lines. Need for income aid often means a need for food aid, medical assistance, and for some help in finding and keeping jobs. The hurdles that families must scale in applying for help are immense. They often have to go to different agencies in their home counties, meet different eligibility standards, and abide by different and sometimes conflicting rules and regulations. That they are able to receive help is often a reflection on their abilities rather than the system presented to them.

Administrators of these programs, both on the State and local levels, have similar problems. The resolution of differences among programs is often not within their ability. Many efforts have been made by administrators to reconcile these differences to coordinate and simplify assistance programs. They may have gone as far as they can go.

This is where, I believe, the congress must step in to do what it can to resolve the dilemma we all face—a confusing and complex array of delivering help to families in need and to ensure that wherever possible able bodied participants become self sufficient.

As I said earlier, the committee working on the welfare reform package have not truly addressed structurally reforming the system.

The food stamp title will cost $11 million in 1988 and $691 million over 5 years. In addition, that title provides that unless the Congress meets its self-imposed deficit reductions and covers the 3-year cost of this package the bill will not take effect.

I only wish the entire welfare reform package could be governed by that principle. That package, including the costs of amendments from the four committees, will exceed $7 billion by 1992.

The food stamp title does include one provision that I find intriguing. The administrators of welfare programs in the State of Washington have proposed a 5-year demonstration project to replace the AFDC and Food

Stamp Programs with what they call a Family Independence Program. Under the Washington State proposal the new program would have an education, training, and work component with requirements and an incentive system for seeking employment. Job development, subsidized employment when necessary, and funds for employment in public and nonprofit agencies, as well as training funds for private sector jobs are proposed. Support services, such as child care and medical care subsidies, for enrollees who participate in education, training, and work programs are also proposed.

This program will offer families specific levels of income based on their individual efforts and a basic level that would be similar to the present level of payments in the AFDC and Food Stamp Programs. Different levels would be established based on family size and the degree to which the enrollee participated or failed to participate in employment and/or training activities.

The food stamp title allows Washington to proceed with its plan so that a single application process and single eligibility standards for certain AFDC and food stamp participants who participate in employment and training programs can be initiated. The Ways and Means bill contains similar language. However, the food stamp title expands this demonstration proposal to 10 other States as well. If similar flexibility is provided in the overall House welfare reform package, 10 States will be given the flexibility to try out this concept, and I think that is a meritorious undertaking.

But in sum, Mr. Chairman, I urge my colleagues to reject this bill. It is not truly a reform bill. We may call it that, but as everyone knows, you may call a chicken a duck, but it is nonetheless still a chicken. There is a genuine lack of reform in this bill and it perpetuates the programs and the problems that we face in our welfare system.

The **CHAIRMAN.** The Committee will rise informally in order that the House may receive a message.

FURTHER MESSAGE FROM THE SENATE

The **SPEAKER** pro tempore (Mr. HUTTO) assumed the chair.

The **SPEAKER** pro tempore. The Chair will receive a message.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed without amendment a joint resolution of the House of the following title:

H.J. Res. 425. Joint resolution making further continuing appropriations for the fiscal year ending September 30, 1988, and for other purposes.

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, a joint resolution of the House of the following title:

H.J. Res. 90. Joint resolution to authorize and request the President to call and conduct a White House Conference on Library and Information Services to be held not earlier than September 1, 1989, and not later than September 30, 1991, and for other purposes.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 1777) "An Act to authorize appropriations for fiscal years 1988 and 1989 for the Department of State, the United States Information Agency, the Voice of America, the Board for International Broadcasting, and for other purposes."

The message also announced that from the Committee on Agriculture, Nutrition, and Forestry: Mr. COCHRAN, vice Mr. DOLE; from the Committee on Armed Services: Mr. NUNN, Mr. GLENN, and Mr. WARNER; from the Committee on the Budget: Mr. NICKLES, vice Mr. KASTEN; from the Committee on Governmental Affairs: Mr. CHILES and Mr. RUDMAN; be conferees on the part of the Senate, on the bill (H.R. 3545) "An act to provide for reconciliation pursuant to section 4 of the concurrent resolution on the budget for the fiscal year 1988."

The **SPEAKER** pro tempore. The Committee will resume its sitting.

□ 1505

FAMILY WELFARE REFORM ACT OF 1987

The Committee resumed its sitting.

The **CHAIRMAN.** The Chair recognizes the gentleman from California [Mr. PANETTA].

Mr. **PANETTA.** Mr. Chairman, I yield 4 minutes to the gentleman from West Virginia [Mr. STAGGERS], a distinguished member of the Subcommittee on Domestic Marketing, Consumer Relations, and Nutrition.

Mr. **STAGGERS** Mr. Chairman, it's Christmastime and we in the House have the opportunity today to provide the proverty-stricken children of America a Christmas stocking filled with a bright future and one which provides to them a life filled with the promise of hope and opportunity. These children are not asking for a handout but just a chance. Let's not allow the Republican substitute to provide them with a stocking filled with imported coal.

The Family Welfare Reform Act is an essential rescue measure for the millions of children who have been thrust into or have been born into poverty through no fault of their own. This welfare measure would provide an avenue of escape from poverty for welfare recipients through increased, meaningful employment opportunities, enhanced child support enforcement measures, and the elimination of barriers to employment.

The growing number of children living in poverty is a tragedy we can no longer ignore. To do so would mean to throw away the future of our country by allowing an increasing segment of our society to be sentenced to a life of poverty.

This bill is prolife. This vote will allow my prolife colleagues to respond to those critics who charge that our concern begins at conception and ends at birth. It is also profamily. This bill would rectify the injustice of the current welfare system which forces a father in a family where both parents are unemployed to leave the home in order for his children to be eligible for AFDC benefits.

For rural America, where poor residents outnumber their urban counterparts, the bill contains a number of provisions designed to ensure that barriers to obtaining benefits are removed. One such provision would require that food stamp offices be open at hours convenient for persons participating in employment and training. This is important in areas, such as West Virginia, where travel time and distances to food stamp offices may be great.

My colleagues, I urge you to vote for the Family Welfare Reform Act, it will provide the critical initial investment which is needed today to lead families out of the pit of welfare dependency and down a path of hope, responsibility and independence.

Mr. **EMERSON.** Mr. Chairman, I yield 5 minutes to the gentleman from Georgia [Mr. SWINDALL].

Mr. **SWINDALL.** Mr. Chairman, I would like to commend to my colleagues an article that appeared in the most recent issue of Insight magazine. In fact I received my copy today. I could not help but notice the timeliness of the article. The cover story is on the very subject which we are addressing here today, and part three of that cover story is entitled "The Help That Is Self-Sown."

The summary of the article is, for all the money and compassion spent on the elimination of poverty in America, the country may have bought what amounts to a permanent underclass. The problem is dependency, say many social policy thinkers. The solutions, say workers in inner-city programs, is to redefine the approach, stressing self-reliance and local initiative.

I recognize that both the proposal of the majority as well as the proposal of the minority intend to do exactly that. Regrettably, neither does it well but one does it better than the other, the minority proposal is certainly head and shoulders better than the majority proposal primarily because it recognizes that at the heart of the problem is what this article says is at the heart of the problem, and that is compassion has been misdefined.

Specifically, Robert Woodson, who is president of the National Center for Neighborhood Enterprise, Inc., is quoted as saying the fault lies not with compassion, then, but with how compassion is defined.

> Theirs, the liberal elite's, has been a self-centered, narrow, mushy-headed definition of compassion. Compassion is not defined by how you feel about somebody. It has to be judged by its results.

His solution promotes self-reliance in poor black neighborhoods by among other things encouraging resident self-management. He then goes on to say that in the cloak of compassion many have in effect been harming the poor by "giving them a special dispensation that says you don't have to compete." He says that it is just as debilitating as racial oppression that attempts to deny black people the right to compete.

He finds, "a subtle measure of racism in liberal attitudes that also blast conservatives who think blacks can suddenly act like adults when they have been treated like children all their lives."

The gentleman from New York [Mr. OWENS] unfortunately has left the Chamber, but I could not help but notice in many of his remarks that undoubtedly that is who Mr. Woodson was describing.

The real tragedy of this bill is that we are at a point where we could redefine American history. We could reverse the curve that has been heading us into this permanent underclass. We have the solution. According to this article, there was a study conducted by the American Enterprise Institute of 5,000 lower income families that had been tracked since 1968 and the bipartisan consensus report was, and I quote, the answer is "finish high school, find a job, any job, even one paying minimum wage, and keep it."

We recognize in our nomenclature here that workfare is the answer. The tragedy is we do not define workfare commensensically. Talk to the American public about what workfare means, and they will tell us that it ought to mean that if one is able-bodied and has no dependent children 6 months of age or under, and a job is available, that they ought to take that job.

The gentleman from New York [Mr. OWENS] earlier, and a number of others, have said the problem here is there are no jobs. That is not true. There are jobs, otherwise there would be no necessity of defining some of the barriers that have been defined in the majority approach.

They specifically say they cannot take a job unless it pays greater than or equal to the cumulative welfare benefits.

I say to my colleagues if we want to solve this problem, let us approach it commonsensically. Let us recognize that compassion means measuring your intent by the actual results.

We know that the ledger thus far has been tragic because the results have been disastrous. We also know that by commonsensically defining workfare as the minority bill does, taking a job at minimum wage or more, if one is able-bodied and has no dependent children under the age of 6 months, take the job and at least get into the economic ladder that carries beyond that.

If we lock someone out of a job by saying that they are being compassionate because they believe in dependency, that is irresponsible.

In closing, Mr. Chairman, I would like to say that we need to stop this notion of saying that one is more compassionate than the other. Let us start measuring compassion by the results. If we do so, I guarantee my colleagues that we can give the American people the hope that they richly deserve.

Mr. PANETTA. Mr. Chairman, I yield 5 minutes to the gentleman from Kansas [Mr. SLATTERY].

Mr. SLATTERY. Mr. Chairman, I am convinced there is a large part of our population that is basically ignored by our political system—perhaps because they can't vote.

Our children are our future and we should all be deeply concerned that—

More than 20 percent of them currently live in poverty;

Most of them live in households headed by single women who live in large urban areas—but a growing number live in rural America.

Many of these children live with poor medical care, inadequate housing, inadequate nutrition, and are required to attend some of the worst public schools in our country.

Adding insult to injury is the fact that over the last 7 years the Federal Government has handed these kids—and the next generation—about $2 trillion of our unpaid bills because we didn't have the courage to pay our bills and live within our means.

Some studies have indicated that young workers entering the job market today will have to pay $50,000 in additional taxes over their life time to pay the principal and interest on the debt that has accumulated in the last 7 years.

I happen to believe this is one of the most fundamental injustices ever perpetrated on one generation by another, in the history of our country.

I believe the legislation before us today offers a historic change in the way we approach welfare, and is a sound investment in the next generation. This legislation may help some of our kids pay the bills they are being handed.

This legislation requires each State to establish a training and work program and requires all welfare recipients to participate except those who have children under 3 years of age, or who are ill, incapacitated, or 60 years of age or older.

The bill requires States to first serve those who are in danger of becoming long-term welfare recipients such as teenage parents, parents who are high school dropouts, and those who have been receiving welfare for 2 or more years.

If this legislation passes, the day of the welfare parent sitting home and doing nothing to enhance their employability will end.

This legislation recognizes that child care is one of the major barriers to seeking and maintaining a job for many welfare mothers.

It also recognizes that transportation costs to and from a low-paying job can be a very serious disincentive to work.

With this legislation we are attempting to deal with the fundamental reality that if we are ever going to get welfare parents off of welfare rolls and on the tax rolls, they must be able to earn enough to pay for child care, transportation, and health care in addition to life's basic necessities.

For some welfare parents, it may take months or several years before they obtain the training and develop the skills necessary to hold a job that enables them to become self-supporting.

And let us not kid ourselves. Training, child care, transportation costs, and health care during this transition period will cost money.

But if we really want to break the welfare cycle, we don't have a choice. We can't afford not to make this investment in the next generation.

Many have expressed deep concerns about the costs of this bill. I share your concerns. But please consider these basic facts:

First, we are talking about less than one-tenth of 1 percent of the entire Federal budget—a pittance compared to the overall cost of welfare;

Second, over the next 5 years, more than $3.1 billion of the total $4.5 billion cost will be spent on the child care services that are absolutely necessary to free welfare parents to leave the home to get a job;

Third, two-thirds of all people on welfare are children and this bill will improve their quality of life. Please keep in mind the real value of average AFDC benfits to children has dropped 33 percent since 1970.

Fourth, the balance of the money, or about $1.5 billion over 5 years, is to help fund training and educational programs mandated on the States. If we are going to mandate programs on the States, I hope we will have the courage to help pay the cost.

In closing, if we ask the next generation to pay several trillion dollars of our unpaid bills, the least we can do is make sure they have the opportunity to obtain the training and skills necessary to become productive, taxpaying citizens.

Training and educating the next generation is one of the few things we are justified in borrowing money to pay for.

As the old saying goes "Let's Not be penny-wise and pound foolish" especially when it comes to our kids.

I urge my colleagues to support the family welfare reform act.

Mr. EMERSON. Mr. Chairman, I yield 5 minutes to the gentleman from Colorado [Mr. BROWN.]

Mr. BROWN of Colorado. Mr. Chairman, we have debated and fussed at each other and we have not really given credit where credit is due. I think it is time that we at least acknowledged the superb craftsmanship that has gone into the majority bill before us. We can fuss about the qualities it has, we can fuss about the money it spends, we can be concerned about how it discourages work, but we should at least admire the legislative skill and craftsmanship that have gone into this document. After all, what we are looking at is a document that will cost $11.5 billion over 5 years when it is fully implemented, and yet it is described as $6.2 billion over 5 years.

Mr. Chairman, even the worst critic has to admit that that involves exceptional skill. It is worth noting that there are five unique qualities that have combined to make this misdescription possible.

First the bill is open-ended, so all we are dealing with is an estimate. It really could be much higher than that.

Technique No. 2, it is an entitlement program. It goes on whether we want to appropriate the money or not.

Technique 3, delayed implementation, it is a delayed implementation plan so that we put it in law but delay the implementation so that the full fiscal impact is not apparent in the first 5 years.

□ 1520

Technique 4, a gradual increase in programs. We will talk about that, but it is a very effective technique where you have a program that escalates dramatically and you only disclose the front-end costs of it.

Technique 5 in this championship effort at budgeting creatvity is to hide the costly factors in the legislation in other pieces of legislation.

But I want to recognize the folks who have crafted this. I believe they are entitled to the Heisman Trophy for budget obfuscation.

But let us take a look at what the bill should receive. We talked about a hat trick or fiscal subterfuge, but inasmuch as that deals with hockey, we thought that was hardly appropriate.

There is, of course, the possibility of describing this as a "triple double" in cost concealment, but that hardly seemed appropriate, even though there were three major new techniques they employed. They clearly are a triple threat, not just at pass, punt and kick, but a triple threat to the taxpayers as well.

Let us take a look though at the very creative techniques they have used to achieve these remarkable results. One, the hidden ball trick. A $1 billion increased cost to the Federal Government over 5 years was hidden in the reconciliation bill., That is right. In the Medicaid costs that were part of the welfare reform bill they took it out of welfare reform and hid it in reconciliation.

The old hidden ball trick that works well, so when you count the cost of the welfare reform bill you have missed the $1 billion that was shuffled off to the other piece of legislation.

The second unique feature that they have employed is the fullback delay. We are all familiar with this in football. Here the major spending provisions have been delayed until after the first year. An example of that would be the AFDC-UP. It does not fully impact until the third year, so you have the program, you have the increase, but you do not really show the cost until the program is in its third year.

Third, the exploding ball trick. This particular feature is very skillfully done. It begins by having programs start at a very low level but rapidly expanding.

Take a look at how this works here. Year 1, we have a cost by CBO of $251 million. But thanks to this useful device, by year 5 the costs will be $1.96 billion a year, an eightfold increase in 5 years. Surely that deserves a championship of some kind.

Mr. Chairman, it is difficult to find the right adjectives to describe the skill that goes into this bill. Baseball does not really adequately provide it. The nomenclature of the switch hitter perhaps does apply to the fact that this is called a prowork bill and it is really and antiwork bill. But I think the wording, the terminology that is most appropriate is a grand slam. This bill is a grand slam. It increases the cost, it restricts job referral, it increases the bureaucracy, and it increases taxes.

But please do not call it compassion. There is no compassion for the taxpayer and none for those in need, because restricting work does not help, but hurts.

Mr. EMERSON. Mr. Chairman, will the gentleman yield?

Mr. BROWN of Colorado. I yield to the gentleman from Missouri.

Mr. EMERSON. Mr. Chairman, I think the gentleman has with his play on words given us a very good lesson here this afternoon. I suggest perhaps we should dip into the Orwellian well as well, because if we called this welfare reform in Orwellian terms, we are calling it right.

I thank the gentleman for yielding.

The CHAIRMAN. The Committee will rise informally.

ENROLLED JOINT RESOLUTION SIGNED

The SPEAKER pro tempore (Mr. MACKAY) assumed the chair.

The SPEAKER pro tempore. The Chair lays before the House the following enrolled joint resolution:

ENROLLED JOINT RESOLUTION SIGNED

H.J. Res. 425. Joint resolution making further continuing appropriations for the fiscal year ending, September 30, 1988, and for other purposes.

The SPEAKER pro tempore. The Committee will resume its sitting.

FAMILY WELFARE REFORM ACT OF 1987

The Committee resumed its sitting.

Mr. EMERSON. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. PANETTA. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, we have no further speakers on this side, but just in summation let me make clear that I think the choice here is really whether we are going to continue a system that is unacceptable, because if in fact we vote down these reforms, either version of these reforms, then we are left with a system that is extremely costly. Let us not pretend that the existing system does not involve costs. We are paying somewhere in the vicinity of $30 billion for AFDC and food stamps, and if we add other programs that serve the poor, it is almost $60 billion. So we all recognize that there are serious costs there, and we recognize that there are problems with these programs in terms of work, in terms of family unity and in terms of other issues here that have been discussed.

It seems to me we simply have to make an effort to try to deal with those issues. We cannot just walk away from it and just say no.

So for that reason I think the bill before us at least gives us an effort to try to make some of the changes that need to be made. The choice is simple: whether we are going to accept a system that continues to emphasize dependence, or whether we are going to try to make work in terms of these areas a requirement, whether we are going to try to protect family unity or family dependence, or whether we are going to try to accept the incredible costs involved in human waste that we cannot calculate all of the time but we know are there, or whether we are trying to accept the limited costs of making incremental changes.

I think the ultimate choice is between indeed whether we are a compassionate society or whether we will turn our back on our own.

For those reasons, I urge Members to support the Welfare Reform Act, and I yield back the balance of my time.

Mr. WEISS. Mr. Chairman, there can be no doubt that our welfare system is in need of reform. Policymakers, academics, and religious and community leaders have been working diligently over the last few years to identify the problems with the current system and form proposals for a better one. The problems have been easy to target; solutions are harder to find.

The desperation we have felt to correct the situation is fueled by the startling and humiliating fact that under the current system, or in spite of the current system, 1 in 5 children in America lives in poverty. This figure rises for American children of color and children living with a single parent. The key to reaching these children is in reaching their parents.

But, the problem of single women in poverty defies easy solution. For example, providing a single woman with two children with a full-time job at the minimum wage means they will still be living below the poverty level. The expected growth of low-wage jobs in the service sector, where most women are employed, will continue to make self-sufficiency an elusive goal, even for many working women. Employment, however, is still our best hope for reducing the numbers of female-headed families in poverty. Public policy must reflect this understanding and provide compassionate solutions:

Education, training, and employment programs are a key link in the transition from income support to income earning.

Support services such as day care, transportation, and guaranteed health care are crucial to the success of these programs.

The Subcommittee on Human Resources and Intergovernmental Relations of the Government Operations Committee, which I have the honor to chair, has taken a great interest in the issue of welfare reform. First, it is charged with overseeing the activities and programs of the Department of Health and Human Services which administers the Aids to Families with Dependent Children Program [AFDC]. Second, welfare employment policy is an important intergovernmental issue, not only because of the nature of Federal/State funding, but also because it has been a major area of State and local initiative. I have chaired comprehensive hearings on the barriers to self-sufficiency for single female heads of household.

Through the subcommittee, I have also been actively involved in the issue of homelessness. The subcommittee has conducted four hearings and has issued two major reports on the issue of homelessness in this country. In a hearing conducted last year by the subcommittee on the plight of homeless families we found that the scarcity of affordable housing is the main cause of homelessness among families. AFDC emergency assistance statistics indicate that more than 100,000 members of families are homeless each month. That figure is increasing rapidly. The number of homeless families using city-run shelters in New York City alone increased by 60 percent since our report was issued.

The subcommittee also examined a Harvard University study of homeless families in Massachusetts, the first study of its kind. Harvard found that, in Boston, 85 percent of homeless families are comprised of a single mother with 2.4 children. The majority of these families were receiving AFDC benefits, but the level of payments was not sufficient to prevent homelessness. Between 1969 and 1980, AFDC benefits failed to keep pace with the inflation rate, lagging behind by approximately 56 percent in real dollars. In 1985, the poverty level for a family of three was defined as $8,550. Yet AFDC cash benefits combined with food stamps fell well below this level, at $7,000. Affordable housing simply does not exist for a family living at AFDC income levels.

I am very pleased that a provision of the welfare reform bill being considered today is an outgrowth of my subcommittee's work. The provision, which will provide housing for homeless families at the same time it will save the Federal Government money, was introduced on April 1, as H.R. 1906, by me and three of my distinguished colleagues from New York, Representatives CHARLES SCHUMER, TOM DOWNEY, and CHARLES RANGEL.

The measure amends title IV of the Social Security Act by establishing a grant program, using funds from the AFDC Program, to conduct demonstration projects to reduce current AFDC housing costs by constructing and rehabilitating permanent housing for rental to families who would otherwise be homeless.

Current usage of AFDC funds for housing for homeless families has become impractical and outrageously expensive. In cities like New York and Washington, DC, a single hotel room for a family of four can cost as much as $3,000 a month. These costs are subsidized by the AFDC Program. Moreover, the "Welfare Hotels" are dangerous places where prostitution and drug dealing are often known to take place. They are clearly not the proper environment for homeless families with children.

Yet these hotels are the only places available in some cities for homeless families. Our cities would rather use AFDC funds for the construction or rehabilitation of permanent housing for these families, but the Social Security Act disallows this more logical use of funds.

Our provision does not ask for a wholesale change in the Social Security Act. We ask only that the AFDC Program fund temporary demonstration projects to test the theory that the Federal Government can save money by using funds to establish safe and inexpensive housing instead of squandering money on dangerous and exorbitant emergency shelter.

The demonstration project in the welfare reform bill will not solve the problem of homelessness among families, but it is a major first step.

Another section of the bill under consideration today incorporates a bill I introduced earlier this year. This provision increases the maximum dependent care deduction allowed under the Food Stamp Act of 1977.

In the 98th Congress and again in the 99th Congress, I introduced legislation to amend the Food Stamp Act to separate and raise the excess shelter and dependent care deductions. The excess shelter deduction was enacted to allow food stamp households paying in excess of 50 percent of their monthly net income for shelter to deduct the difference up to the cap from their net income to calculate food stamp benefit levels. Any shelter costs not covered by the deduction were paid with income considered available to supplement the food stamp benefits and purchase other essentials. Because the deduction cap was so low, recipients with very high shelter costs were forced to choose between "heating or eating."

The dependent care deduction was created to allow unemployed and working-poor adults to work by financing part of their day care costs. But, under the coupled deduction formula, 75 percent of all child care costs incurred by food stamp recipients could not be deducted.

I was pleased that the substance of my proposal to separate the two deductions was included in the Food Security Act of 1985. The Urgent Relief for the Homeless Act, which passed earlier this year, raised the excess shelter deduction to a level more realistic for food stamp recipients.

The dependent care deduction, however, continues to be insufficient. The Food Security Act set the per household dependent care deduction at $160 per month in order to be consistent with the deduction allowed under AFDC. One key difference remains between the two deductions: under AFDC, the deduction may be taken per dependent, while the food stamp deduction is for the entire household. The legislation which I introduced on March 26, H.R. 1843, eliminates this inequality by allowing food stamp recipients to deduct up to $160 for the care of each dependent.

The House welfare reform proposal incorporates this provision and goes even further by increasing the deduction to $200 per month per dependent under 3 years of age and $175 per month for older dependents. This is a responsible and necessary action to aid an important segment of those in need and I am pleased that it was included in the House bill.

As increasing numbers of food stamp recipients move into training programs and jobs, many more households will be able to benefit from the deduction. Assured that their dependent care needs can be addressed, the transition will undoubtedly be an easier one, and the successes will be much more far reaching.

Other provisions of H.R. 1720 are also worthy of praise. Its efforts to provide quality education and training programs will assist participants in finding meaningful, long-term employment. By targeting teen parents and long-term welfare recipients, the bill will serve first those most in need. The bill provides necessary incentives to work by allowing participants to earn more than under current law before their benefits are reduced. It improves enforcement of child support orders and guarantees day care and health coverage. It supports families by requiring all States, beginning in 1990, to permit two-parent families in which the principal earner is unemployed to qualify for benefits. Finally, it encourages States to increase their welfare benefits by increasing Federal matching funds.

While I believe that the bill as a whole does not, and, given the current political climate, can not, go nearly far enough, it clearly moves us in the right direction toward our related goals of creating avenues for self-sufficiency for welfare recipients and bringing our children out of poverty.

I urge the bill's adoption.

Mr. JEFFORDS. Mr. Chairman, Republican members of the Education and Labor Committee agree with the intent of both welfare reform and the particular changes that have been made to the education, training and employment portions of this proposal. That is, to provide to welfare recipients the opportunity to become self-sufficient and productive in our society.

The demographics of our future work force provide sufficient incentive alone for us to find the means by which all individuals can have the skills and education necessary to meet the demands of the labor force. If we do not find a way to achieve this goal, not only will this country become less competitive, but our overall standard of living will suffer as well.

Unless every person has the opportunity to obtain basic literacy and skills, we will not be able to fill the jobs of the future. Over 80 percent of the new entrants into the work force by the year 2000 will be minorities, women and immigrants. Unfortunately, there are the very same individuals that are traditionally overlooked by our education and training institutions.

The changes that have been made to the education, employment, and training components of welfare are a step in the right direction. The proposal requires that recipients who do not have a high school diploma participate in education programs. It provides the opportunity for literacy and skill assessment, for job search and employability enhancement, and for work experience to gain actual labor market experience. Further, the proposal encourages the provision of day care to meet the developmental needs of younger children and infants. However, even with the changes that have been made, I continue to be concerned that the lack of resources in this bill for day care will be a barrier to meaningful participation in the program.

Further, there were several other concerns expressed by the Republican members of the Education and Labor Committee as we considered this proposal. Some of those concerns have been addressed; a few have not.

Of particular concern are two provisions which have been retained in some form in the welfare proposal before us. The first is incorporated as part of the procedures to develop the recipient's plan of services. Within the process, the welfare agency is to "negotiate" with the recipient regarding the components of the family support plan and the client-agency agreement. These two particular words, "negotiate" and "agreement," have the potential of creating an adversarial setting for the development of the plan of services. Even though additional language has been included in this bill that limits the ability to bring a cause of action against the Federal Government or any officer or agency thereof, we remain uncertain that such language relieves our basic concerns.

Second, during the Education and Labor Committee's consideration of this proposal, we were able to include a provision which would have increased the likelihood that recipients would move into unsubsidized employment. An individual could not refuse a placement which offered a job at the minimum wage or greater. Further we assured no loss in net income by making provision that the difference between the benefits that would have been received and the wage received would be accommodated by the agency.

The proposal before us reinstates language that would instead assure that recipients can continue to refuse legitimate job offers because the wage offered would result in a loss of income relative to the total family support supplement. In some States this would allow an individual to refuse a job offering less than $4.50 an hour. Not only do I view this as a disincentive to the recipient to take the job, I also see it as disincentive to employers to make offers for jobs at entry level wages, thereby closing out many jobs to participants in these programs. I feel that it is unfortunate that this proposal did not include the language that we adopted in our full committee consideration of the bill.

Finally, I must voice my objection to the use of incentives to encourage States that pay relatively low benefits to increase those benefits. By stepping in and bailing out those who we believe have failed to pay sufficient benefits, we are sending the wrong message to the administrators of those programs. In effect, this provision rewards States that have traditionally paid low benefits, while discriminating against States that have paid greater benefits.

Despite agreement with the intent of this proposal, I am not sure that this is the right time to be considering such a bill, especially when some critical concerns with the bill remain and we are attempting to reduce the budget deficit. This is not the time to be holding out false hope or expectations for welfare reform, either in terms of the participants of the program or in terms of potential savings, particularly when we are not sure that either can be achieved or afforded. Our efforts in this area must be constructive, effective and fiscally responsible. I am not certain that we have met these challenges with this bill.

However, with the hope that my matters of concern will be corrected in the Senate, I will reluctantly support the bill.

The CHAIRMAN. All time has expired.

Pursuant to the rule, an amendment in the nature of a substitute consisting of the text of H.R. 3644 is considered as an original bill for the purpose of amendment under the 5-minute rule in lieu of the committee amendments now printed in the reported bill.

The text of the amendment in the nature of a substitute is as follows:

H.R. 3644

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION. 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Family Welfare Reform Act of 1987".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents.
Sec. 2. AFDC replaced by family support program.

TITLE I—NATIONAL EDUCATION, TRAINING, AND WORK (NETWORK) PROGRAM

Sec. 101. Requirement of State programs.
Sec. 102. Establishment and operation of State programs; amendments to title IV-A and related provisions.
Sec. 103. Operation of State programs; amendments to title IV-C and related provisions.
Sec. 104. WIN transition.
Sec. 105. Additional activities.
Sec. 106. Technical and conforming amendments.
Sec. 107. Effective date.

TITLE II—DAY CARE, TRANSPORTATION, AND OTHER WORK-RELATED EXPENSES

Sec. 201. Payment of expenses by States.
Sec. 202. Development of new child care resources.
Sec. 203. Effective date.

TITLE III—REAL WORK INCENTIVES

Sec. 301. Changes in earned income disregards.
Sec. 302. Effective date.

TITLE IV—TRANSITIONAL SERVICES FOR FAMILIES; EXTENSION OF MEDICAID ELIGIBILITY

Sec. 401. Medicaid extension in cases of FSP ineligibility resulting from caretaker's employment.
Sec. 402. Medicaid extension in cases of FSP ineligibility resulting from collection of child or spousal support.
Sec. 403. Effective date.

TITLE V—CHILD SUPPORT ENFORCEMENT AMENDMENTS

Sec. 501. State guidelines for child support award amounts.
Sec. 502. Establishment of paternity.
Sec. 503. Demonstration projects to address visitation and custody problems.
Sec. 504. Disregarding of child support payments for FSP purposes.
Sec. 505. Requirement of prompt State response to requests for child support assistance.
Sec. 506. Automated tracking and monitoring systems.
Sec. 507. Costs of interstate enforcement demonstrations excluded in computing incentive payments.

Sec. 508. Federal matching reduced for States which are not in compliance with 1984 amendments, and increased for States which require immediate income withholding upon issuance of court order.
Sec. 509. Commission on interstate enforcement.
Sec. 510. Study of child-raising costs.
Sec. 511. Demonstration projects to test voluntary work, education, and training for fathers who are unable to pay child support.
Sec. 512. Collection and reporting of child support enforcement data.
Sec. 513. Assistance in locating absent parents.
Sec. 514. Effective date.

TITLE VI—PRO-FAMILY WELFARE POLICIES

Sec. 601. Requirement that aid be provided with respect to dependent children in two-parent families.
Sec. 602. Special provisions for families headed by minor parents.

TITLE VII—BENEFIT IMPROVEMENTS

Sec. 701. Periodic re-evaluations of need and payment standards.
Sec. 702. Encouragement of States to increase FSP benefit levels.
Sec. 703. Study of new national approaches to welfare benefits for low-income families with children.

TITLE VIII—MISCELLANEOUS PROVISIONS

Sec. 801. Coordination of family support and food stamp policies.
Sec. 802. Uniform reporting requirements.
Sec. 803. State reports on expenditure and use of social service funds.
Sec. 804. Evaluation of education, training, and work programs and related programs.
Sec. 805. Demonstration program of grants to provide permanent housing for families that would otherwise require emergency assistance.
Sec. 806. Child support demonstration project in New York State.
Sec. 807. Demonstration of family independence program in Washington State.
Sec. 808. Study of housing problems of FSP families.
Sec. 809. Requirement of continued treatment for drug addiction or alcoholism as condition of eligibility.
Sec. 810. Inclusion of American Samoa in FSP program.
Sec. 811. Increase in limitation on payments to Puerto Rico, the Virgin Islands, and Guam.
Sec. 812. Technical and conforming amendments relating to replacement of AFDC program by family support program.
Sec. 813. General effective date.

TITLE IX—FUNDING PROVISIONS

Sec. 901. 3-year extension of provisions relating to collection of non-tax debts owed to Federal agencies.
Sec. 902. Expenses of overnight camps not allowable for dependent care credit.
Sec. 903. Phaseout of dependent care credit where taxpayer's adjusted gross income exceeds $65,000.
Sec. 904. Disallowance of deductions for expenditures in connection with criminal activities.

TITLE X—FOOD STAMP PROGRAM

Sec. 1001. Short title.
Sec. 1002. Categorical eligibility.
Sec. 1003. Exclusion for certain educational expenses.
Sec. 1004. Exclusion of child support payments received.
Sec. 1005. Exclusion for two-party payments made for agricultural commodities.
Sec. 1006. Exclusion for advance payment of earned income credit.
Sec. 1007. Deduction for dependent care.
Sec. 1008. Annualizing self-employment income and expenses from farming.
Sec. 1009. Reliance on past self-employment income from farming.
Sec. 1010. Exclusion of certain property from resources.
Sec. 1011. Eligibility of students.
Sec. 1012. Employment and training programs.
Sec. 1013. Farm households.
Sec. 1014. Hours of operation.
Sec. 1015. Notice of expiration; coordinated application.
Sec. 1016. Washington Family Independence Demonstration Project.
Sec. 1017. Family Independence Demonstration Projects.
Sec. 1018. Issuance of rules.
Sec. 1019. Severability.
Sec. 1020. Effective dates; application of amendments.

SEC. 2. AFDC REPLACED BY FAMILY SUPPORT PROGRAM.

The program under part A of title IV of the Social Security Act, heretofore known as the program of aid to families with dependent children, shall hereafter be known as the Family Support Program. The aid payable to needy families with dependent children in accordance with State plans approved under section 402 of such Act shall hereafter be called family support supplements, or aid in the form of family support supplements, as more specifically provided in the amendments made by this Act; and all references to "aid" under such plans shall hereafter (to the extent that they relate to periods on or after the date of the enactment of this Act) be deemed to be references to such aid in the form of family support supplements.

TITLE I—NATIONAL EDUCATION, TRAINING, AND WORK (NETWORK) PROGRAM

SEC. 101. REQUIREMENT OF STATE PROGRAMS.

Section 402(a)(19) of the Social Security Act is amended to read as follows:

"(19) provide that the State has in effect and operation an education, training, and work program approved by the Secretary (in consultation with the Secretary of Labor) as meeting all the requirements of section 416 and of part C of this title;".

SEC. 102. ESTABLISHMENT AND OPERATION OF STATE PROGRAMS; AMENDMENTS TO TITLE IV-A AND RELATED PROVISIONS.

(a) In General.—Part A of title IV of such Act is amended by adding at the end thereof the following new section:

"NATIONAL EDUCATION, TRAINING, AND WORK PROGRAM

"Sec. 416. (a) Purpose.—It is the purpose of this section to assure that needy children and parents obtain the education, training, and employment which will help them avoid long-term welfare dependence.

"(b) Establishment and Operation of Programs.—(1) As a condition of its participation in the Family Support Program under this part, each State shall establish and operate an education, training, and work program which has been approved by the Secretary (in consultation with the Secretary of Labor) as meeting all of the requirements of this section (and of part C), and shall make the program available in each political subdivision of the State where it is feasible to do so after taking into account the number of prospective participants, the local economy, and other relevant factors. The Secretary's approval shall be based on a plan setting forth and describing the program in such detail as will enable the Secretary to determine whether all of the requirements of this section are met, and estimating the number of persons to be served, which shall be submitted by the State on or before the effective date of this section and which, if the State has determined that the program is not to be available in all of its political subdivisions, shall include appropriate justification for that determination.

"(2) Each State education, training, and work program under this section shall include private sector and local government involvement through administrative entities under section 4(2) of the Job Training Partnership Act in planning and program design to assure that participants are trained for jobs that will actually be available in the community.

"(3) The State agency which administers or supervises the administration of the State's plan approved under section 402 shall be responsible for the operation and administration of the State's education, training, and work program under this section.

"(4) Federal funds made available to a State for purposes of the program under this section shall be used to augment and expand existing services and activities which promote the purpose of this section, and shall not in whole or in part replace or supplant any State or local funds already being expended for that purpose.

"(c) Participation.—(1) Each adult recipient of family support supplements in the State who is not exempt under paragraph (4) shall be required to participate in the program under this section to the extent that the program is available in the political subdivision where he or she resides and State resources otherwise permit. The State agency shall take such action as may be necessary to ensure that each recipient of such supplements (including each such recipient who is exempt under paragraph (4)) is notified and fully informed concerning the education, training, and work opportunities offered under the program.

"(2) The State may require participation in the program under this section by recipients who are not exempt under paragraph (4) (hereinafter referred to as 'mandatory participants'), and shall also extend the opportunity to participate in the program to recipients who are exempt under paragraph (4) (hereinafter referred to as 'voluntary participants'). The State shall actively encourage voluntary participants to participate in the program, and shall from time to time furnish to the Secretary appropriate assurances that it is doing so.

"(3) With the objective of making the most effective possible use of the State's resources and identifying the families which most urgently need the services and activities provided under the program under this section, the program shall establish (and the plan submitted under subsection (b)(1) shall designate) specific target populations including—

"(A) families with a teenage parent, and families with a parent who was under 18 years of age when the first child was born;

"(B) families that have been receiving aid to families with dependent children or family support supplements continuously for two or more years;

"(C) families with a parent who lacks a high school diploma or its equivalent; and

"(D) families in which the youngest child is within two years of being ineligible for family support supplements because of his or her age.

For purposes of subparagraph (B), a family that has received aid to families with dependent children or family support supplements for at least 20 months out of any period of 24 consecutive months shall be treated as having received such aid or supplements continuously during that period.

"(4) The following are exempt from participation in the program under this section:

"(A) an individual who is ill, incapacitated, or 60 years of age or over;

"(B) an individual who is needed in the home because of the illness or incapacity of another family member;

"(C) the parent or other caretaker relative of a child under 3 years of age (subject to the last sentence of this paragraph), except as provided in paragraph (6);

"(D) an individual who is working 20 or more hours a week;

"(E) a child who is under the age of 16 or attending, full time, an elementary, secondary, or vocational (or technical) school, except in the case of a minor parent with respect to whom the State has exercised its option under section 417(c);

"(F) a woman who is pregnant; and

"(G) an individual who resides in an area of the State where the program is not available.

In the case of a two-parent family to which section 407 applies, the exemption under subparagraph (C) shall apply only to one parent or other caretaker relative; but the State may at its option make such exemption inapplicable in any such case to both of the parents or relatives involved (and require their participation in the program, at least one of them on a full-time basis) if appropriate child care is guaranteed in accordance with the applicable provisions of such subparagraph.

"(5) If the parent or other caretaker relative or any dependent child in the family is attending (in good standing) a school, an accredited postsecondary institution (as defined in section 4(18) of the Job Training Partnership Act), or a course of vocational or technical training (not less than half time) consistent with the individual's employment goals, at the time he or she would otherwise commence participation (as a mandatory participant or a voluntary participant) in the program under this section, such attendance shall constitute satisfactory participation in the educational or training component of the program (by that caretaker or child) so long as it continues; and the family support plan (entered into under subsection (f)) shall so indicate. Any other activities in which the individual participates may not be permitted to interfere with such school or training. The costs of such school or training shall not constitute federally reimbursable expenses for purposes of section 403 (but this sentence shall not prevent the State from providing or making reimbursement for the cost of day care, transportation, and other services which are necessary for such attendance in accordance with section 402(g)(1) and are included in the family support plan).

"(6) With respect to the application and administration of paragraph (4)(C)—

"(A) the State may not require participation in the program by a parent or other caretaker relative of a child who has attained 3 years of age but not 6 years of age unless day care is guaranteed to such relative and his or her participation is on a part-time basis;

"(B) the State shall permit and encourage participation in the program (and waive the exemption provided by such paragraph) in the case of parents and other caretaker relatives of children who have not attained 3 years of age, where day care is guaranteed to the relative involved and his or her participation is on a part-time basis; and

"(C) the Secretary may permit the State at its option to require participation in the program (and waive the exemption provided by such paragraph) in the case of parents and other caretaker relatives whose youngest child has attained 1 year of age but not 3 years of age if (i) the State demonstrates to the satisfaction of the Secretary that appropriate infant care for each such child who has not attained 3 years of age can be guaranteed within the applicable dollar limitations set forth in section 402(g)(1), and (ii) such relative's participation will be on a part-time basis and will emphasize, as a first priority, education and training including parenting and nutrition education (especially in the case of first-time parents).

For purposes of this paragraph, participation is on a part-time basis only if it is for no more than 20 hours per week.

"(d) Priorities.—(1) To the extent that the resources available to a State are not adequate to accommodate the provision of services to all mandatory participants and voluntary participants, the selection of the families to whom services are to be provided under the program under this section shall be made (subject to paragraphs (2), (3), and (4) of this subsection) in accordance with the following priorities:

"(A) First priority shall be given to voluntary participants who are members of families which meet the requirements of two or more of the four subparagraphs in subsection (c)(3).

"(B) Second priority shall be given to mandatory participants who are members of families which meet the requirements of two or more of the four subparagraphs in subsection (c)(3).

"(C) Third priority shall be given to voluntary participants not described in subparagraph (A).

"(D) Fourth priority shall be given to all other mandatory participants.

"(2) Among the mandatory participants described in subparagraph (B) or (D) of paragraph (1), first consideration shall be given to those who actively seek to participate in the program.

"(3) In the case of a State which provides satisfactory assurances that it will make available the resources to serve all mandatory participants and voluntary participants within a 3-year period after the effective date of this section, paragraph (1) shall not apply until the expiration of such 3-year period.

"(4) If a voluntary participant drops out of the program under this section after having commenced participation in such program, he or she shall thereafter be given no priority under paragraph (1) so long as other mandatory or voluntary participants are actively seeking to participate.

"(e) Orientation.—(1)(A) The State agency shall provide each applicant for family support supplements with orientation to the program under this section, including full information (verbally and in writing) about the opportunities offered by the program, the obligations of the State agency, and the rights, responsibilities, and obligations of participants in the program. The orientation shall include descriptions of all supportive services including day care services and available health coverage transition options; and the applicant shall be explicitly informed that day care must be provided, in accordance with section 402(g), to any parent who needs it, and that child care must be appropriate for the age and individual needs of the child or children involved. Such orientation shall also be available at any time to recipients of family support supplements who did not receive orientation under this subsection at the time of their initial application for such supplements or who need additional information about the program.

"(B) As part of such orientation, an agency representative knowledgeable about child care, or the local resource and referral agency where available, shall also (i) provide information on the types and locations of child care services within the geographical area reasonably accessible to participants, (ii) inform participants that assistance is available to help them select appropriate child care services, and (iii) upon request, provide assistance to recipients who will be participating in the program to obtain such child care services.

"(2) During the orientation described in paragraph (1), each applicant for or recipient of family support supplements shall be informed of the exemptions provided under subsection (c)(4), and of the consequences of a refusal to participate in the program if not so exempt. Whether or not such applicant or recipient is so exempt, he or she shall be informed of the opportunity to receive first consideration for services by actively seeking to participate in the program and shall be given appropriate opportunities to indicate his or her desire to participate at the end of the orientation session. Each such applicant or recipient shall also be notified in writing, within a month after the orientation, of the opportunity to indicate his or her desire to participate in the program, including a clear description of how to enter the program.

"(f) Assessment and Family Support Plan.—The State agency shall make an initial assessment of the educational, child care, and other supportive services needs as well as the skills, prior work experience, and employability of each participant in the program under this section, including a review of the family circumstances and of the needs of the children as well as those of the adult caretaker. The assessment of the educational needs of each participant shall include testing of literacy and reading skills. On the basis of such assessment, the State agency and the participating members of the family (or the caretaker relative with respect to any such participant who is a minor) shall negotiate a family support plan for the family. The family support plan shall set forth and describe all of the activities in which participants in the family will take part under the program, including child care and other supportive services, and shall, to the maximum extent possible and consistent with this section, reflect the respective preferences of such participants. Child care must be appropriate for the age and individual needs of the child or children involved.

"(g) Agency-Client Agreement and Case Management.—(1)(A) Following the initial assessment and the development of the family support plan with respect to any family under this section, the State agency and the participating members of the family (or the caretaker relative in the family with respect to participants who are minors) shall negotiate and enter into an agency-client agreement including—

"(i) a commitment by the participants (or caretaker relative) to participate in the program in accordance with the family support plan,

"(ii) a description in detail of the activities in which the participants will take part and the conditions and duration of such participation, and

"(iii) a description in detail of all of the activities, including child care and other supportive services, which the State will arrange and the services which the State will provide in the course of such participation.

"(B) Each participant (or caretaker relative) shall be given such assistance as may be required in reviewing and understanding the family support plan and his or her obligations and those of the agency as specified in the agency-client agreement. Prior to signing the agency-client agreement, each participant shall be afforded an opportunity, for a period not to exceed 10 days, to review the proposed agreement, to request additional information concerning its terms and contents, and to renegotiate any appropriate provision of the agreement which he or she deems necessary. The agency representative responsible for implementation of the agreement shall also sign it.

"(2)(A) Each participant shall be guaranteed an opportunity for a fair hearing before the State agency in the event of a dispute involving the contents of the family support plan, the contents or signing of the agency-client agreement (in the event that the agency representative and the participant are unable to reach an agreement), the nature or extent of his or her participation in the program as specified therein, the availability of child care and other supportive services specified in the family support plan, or any other aspect of such participation which is provided for under this section (including a dispute involving the imposition of sanctions under subsection (l) and the participant's right to conciliation before any such sanction is imposed); and the agency-client agreement shall so provide.

"(B) In no case shall any agency-client agreement entered into pursuant to this subsection give rise to a cause of action against the Federal Government or any officer or agency thereof on the grounds of the failure of any party to such agreement to observe its terms.

"(3) The State agency shall assign to each participating family a member of the agency staff to provide case management services to the family; and the case manager so assigned shall be responsible for (A) obtaining or brokering, on behalf of the family, any other services which may be needed to assure the family's effective participation, (B) monitoring the progress of the participant, and (C) periodically reviewing and renegotiating the family support plan and the agency-client agreement as appropriate. Amounts expended in providing case management services under this paragraph shall be considered, for purposes of section 403(a)(3)(C), to be expenditures for the proper and efficient administration of the State plan.

"(h) Range of Services and Activities.—In carrying out the program under this section, each State must make available, in accordance with the applicable provisions of this section and part C, a broad range of services and activities designed to assist in carrying out the purpose of this section.

"(i) Work Supplementation Programs.—(1) Any State may institute a work supplementation program under which such State, to the extent it considers appropriate, may reserve the sums which would otherwise be payable to participants in the program under this section as family support supplements under the State plan approved under this part and use such sums instead for the purpose of providing and subsidizing jobs for such participants (as described in paragraph (3)(C) (i) and (ii)), as an alternative to the supplements which would otherwise be so payable to them under such plan.

"(2)(A) Notwithstanding any other provision of law, Federal funds may be paid to a State under this part, subject to the provisions of this section, with respect to expenditures incurred in operating a work supplementation program under this subsection.

"(B) Nothing in this part, or in any State plan approved under this part, shall be construed to prevent a State from operating (on such terms and conditions and in such cases as the State may find to be necessary or appropriate) a work supplementation program in accordance with this subsection.

"(C) Notwithstanding any other provision of law, a State may adjust the levels of the standards of need under the State plan to the extent the State determines such adjustments to be necessary and appropriate for carrying out a work supplementation program under this subsection.

"(D) Notwithstanding any other provision of law, a State operating a work supplementation program under this subsection may provide that the need standards in effect in those areas of the State in which such program is in operation may be different from the need standards in effect in the areas in which such program is not in operation, and such State may provide that the need standards for categories of recipients of family support supplements may vary among such categories to the extent the State determines to be appropriate on the basis of ability to participate in the work supplementation program.

"(E) Notwithstanding any other provision of law, a State may make further adjustments in the amounts of the family support supplements paid under the plan to different categories of recipients (as determined under subparagraph (D)) in order to offset increases in benefits from needs-related programs (other than the State plan approved under this part), to the extent the State determines such adjustments to be necessary and appropriate to further the purposes of the work supplementation program.

"(F) In determining the amounts to be reserved and used for providing and subsidizing jobs under this subsection as described in paragraph (1), the State may use a sampling methodology.

"(G) Notwithstanding section 402(a)(8) or any other provision of law, a State operating a work supplementation program under this subsection may reduce or eliminate the amount of earned income to be disregarded under the State plan to the extent the State determines such a reduction or elimination to be necessary and appropriate to further the purposes of the work supplementation program.

"(3)(A) A work supplementation program operated by a State under this subsection shall provide that any individual who is an eligible individual (as determined under subparagraph (B)) shall take a supplemented job (as defined in subparagraph (C)) to the extent that supplemented jobs are available under the program. Payments by the State to individuals or employers under the program shall be treated as expenditures incurred by the State for family support supplements under the State plan for purposes of section 403(a) (1) and (2), except as limited by paragraph (4).

"(B) For purposes of this subsection, an eligible individual is an individual (not exempt under subsection (c)(4)) who is in a category which the State determines should be eligible to participate in the work supplementation program, and who would, at the time of his or her placement in the job involved, be eligible for family support supplements under the State plan if such State did not have a work supplementation program in effect.

"(C) For purposes of this subsection, a supplemented job is—

"(i) a job provided to an eligible individual by the State or local agency administering the State plan under this part; or

"(ii) a job provided to an eligible individual by any other employer for which all or part of the wages are paid by such State or local agency.

A State may provide or subsidize any job under the program under this section which such State determines to be appropriate.

"(D) At the option of the State, individuals who hold supplemented jobs under a State's work supplementation program shall be exempt from the retrospective budgeting requirements imposed pursuant to section 402(a)(13)(A)(ii) (and the amount of the aid which is payable to the family of such individual for any month, or which would be so payable but for the family's participation in the work supplementation program, shall be determined on the basis of the income and other relevant circumstances in that month).

"(E) Subsections (a) through (f) of section 435 shall apply with respect to assignments of eligible individuals to supplemented jobs under this subsection.

"(4) The amount of the Federal payment to a State under section 403(a) for expenditures incurred in making payments to individuals and employers under a work supplementation program under this subsection shall not exceed an amount equal to the amount which would otherwise be payable under paragraph (1) or (2) of such section if the family of each individual employed in the program had received the maximum amount of family support supplements payable under the State plan to such a family with no income (without regard to adjustments under paragraph (2) of this subsection) for a period of months equal to the lesser of (A) nine months, or (B) the number of months in which such individual was employed in such program. Expenditures so incurred shall be considered to have been made for family support supplements under the State plan for purposes of section 403(a) (1) and (2).

"(5) Wages paid under a work supplementation program shall be considered to be earned income for purposes of any provision of law.

"(6) Any State which chooses to operate a work supplementation program under this subsection must provide that any individuals who participate in such program, and any child or relative of such individual (or other individual living in the same household as such individual) who would be eligible for family support supplements under the State plan approved under this part if such State did not have a work supplementation program, shall be considered individuals receiving family support supplements under the State plan approved under this part for purposes of eligibility for medical assistance under the State plan approved under title XIX.

"(j) COMMUNITY WORK EXPERIENCE PROGRAMS.—(1)(A) Any State which chooses to do so may establish a community work experience program in accordance with this subsection. The purpose of the community work experience program is to provide marketable work experience and training for individuals who are not otherwise able to obtain employment through a combination of work experience and training or educational activities as part of a planned sequence set forth in the participant's family support plan. Such programs shall be designed to move participants into regular public or private employment.

"(B) Such programs must be able demonstrably—

"(i) to provide marketable skills to participants without previous work experience,

"(ii) to upgrade the existing skills of people with limited previous work experience, or

"(iii) to transform obsolete skills into marketable skills.

"(2) Community work experience programs shall be limited to projects which serve a useful public purpose in fields such as health, social service, environmental protection or conservation, education, urban and rural development and redevelopment, welfare, recreation, public facilities, public safety, and day care. To the extent possible, the prior training, experience, and skills of a recipient shall be used in making appropriate work experience assignments. Participants in a program under this subsection may not fill established unfilled position vacancies.

"(3) A State which elects to establish a community work experience program under this subsection shall operate such program so that each participant (as determined by the State) either—

"(A) works and undergoes training for a period not exceeding 6 months, with the maximum number of hours that any such individual may be required to work and undergo training in any month being a number equal to the amount of the family support supplements payable with respect to the family of which such individual is a member under the State plan approved under this part, divided by the applicable wage rate determined under section 435(d)(1) (and the portion of a recipient's benefit for which the State is reimbursed by a child support payment shall not be taken into account in determining the number of hours that such individual may be required to work); or

"(B) performs unpaid work experience and training (for a combined total of not more than 30 hours a week) for a period not exceeding 3 months.

Subsections (a) through (f) of section 435 shall apply with respect to the assignment of participants to positions under this section.

"(4) No participant shall be assigned to a position under this subsection unless—

"(A) the participant's initial assessment identifies lack of recent work experience as a barrier to immediate placement in regular public or private employment;

"(B) the participant is unable to be placed in employment;

"(C) the assignment is part of a planned sequence of activities, specified in both the family support plan and the agency-client agreement, which is designed to prepare the participant for regular public or private employment; and

"(D) the participant has not been employed during the preceding 6 months.

"(5) Nothing contained in this subsection shall be construed as authorizing the payment of family support supplements under this part as compensation for work performed, nor shall a participant be entitled to a salary or to any other work or training expense provided under any other provision of law by reason of his participation in a program under this subsection.

"(6) Participants in community work experience programs under this subsection may perform work in the public interest (which otherwise meets the requirements of this section) for a Federal office or agency with its consent, and, notwithstanding section 1342 of title 31, United States Code, or any other provision of law, such agency may accept such services, but such participants shall not be considered to be Federal employees for any purpose.

"(7) If at the conclusion of his or her participation in a community work experience program the individual has not become employed, a reassessment with respect to such individual shall be made and a new family support plan developed as provided in subsection (f). In no event shall any individual who has completed the work and training activities described in subparagraph (A) of paragraph (3), or the work experience and training activities described in subparagraph (B) of such paragraph, be required to repeat such activities under either such clause.

"(8) The State shall provide coordination between a community work experience program operated pursuant to this subsection, any program of job search under subsection (k), and the other work-related activities under the program established by this section and part C so as to insure that job placement will have priority over participation in the community work experience program.

"(9) In the case of any State which makes expenditures in the form described in paragraph (1) under its State plan approved under section 402, expenditures for the provision of training under a program under this subsection, for purposes of section 403(a)(4) (and expenditures for the proper and efficient administration of the State plan, for purposes of section 403(a)(3)), may not include the cost of making or acquiring materials or equipment in connection with such training services or the cost of supervision of work or training under such program, and may include only such other costs attributable to such program as are permitted by the Secretary.

"(k) JOB SEARCH.—(1) The State agency shall establish and carry out a program of job search for applicants and participants in the program under this section. Job search services may include training in job seeking skills, job search and job club activities, job and career counseling, testing and assessment, labor market information, and referral to employers.

"(2) Participants in the program under this section shall be encouraged and may be required to take part in job search under this subsection, at such times, for such periods, and in such manner as the State agency determines (in each particular case) will be most effective in serving the special needs and interests of the individual involved and in carrying out the purpose of this section. Job search by an applicant may be required or provided for while his or her application is being processed; and job search by a participant may be required or provided for after his or her initial assessment, after his or her education or training, and at other appropriate times during his or her participation in the program under this section, as may be set forth in the agency-client agreement entered into between such individual and the State agency under subsection (g)(1) and as otherwise provided by the State agency. No requirement imposed by the State under the preceding provisions of this paragraph may be used as a reason for any delay in making a determination of an individual's eligibility for family support supplements or in issuing a payment to or on behalf of any individual who is otherwise eligible for such supplements.

"(3) Participation by an individual in job search under this subsection, without participation in one or more other services or activities offered under the program under this section, shall not be sufficient to qualify as participation in the program for any of the purposes of this section after it has continued for 8 weeks without the individual obtaining a job. In any such case (after 8 weeks of job search without obtaining a job) the individual must engage in training, education, or other activities designed to improve his or her prospects for employment; and the family support plan developed under subsection (f) shall so provide.

"(l) SANCTIONS.—(1)(A) If any mandatory participant in the program under this section fails without good cause to comply with any requirement imposed with respect to his or her participation in such program—

"(i) the needs of such participant (whether or not section 407 applies) shall not be taken into account in making the determination with respect to his or her family under section 402(a)(7), and

"(ii) if such participant is a member of a family which is eligible for family support supplements by reason of section 407, and his or her spouse is not participating in the program, the needs of such spouse shall also not be taken into account in making such determination.

The sanction described in subparagraph (A) (and the sanction described in subparagraph (B) if applicable) shall continue until the participant's failure to comply ceases; except that such sanction shall continue for a minimum of 3 months if the failure to comply is the participant's second or a subsequent such failure.

"(B) Failure by the State agency to carry out its obligations under the agency-client agreement entered into with a participant under subsection (g) (including failure to provide child care that is appropriate for the age and individual needs of the child or children involved) shall constitute good cause for the participant's failure to comply.

"(2) No sanction shall be imposed under paragraph (1) until appropriate notice thereof has been provided to the participant involved, and until conciliation efforts have been made to discuss and resolve the participant's failure to comply and to determine whether or not good cause for such failure existed. In any event, when a failure to comply has continued for 3 months the State agency shall promptly remind the participant in writing of his or her option to end the sanction by terminating such failure.

"(m) Loss of Income.—The State may not require a participant in the program to accept a position under the program (as work supplementation or otherwise) if accepting the position would result in a net loss of income (including the insurance value of any health benefits) to the participant or his or her family; and in the event of a dispute over whether or not the acceptance of a position would in fact result in such a loss the participant shall be entitled thereon to a fair hearing of the type described in section 402(a)(4).

"(n) Regulations.—Within 6 months after the date of the enactment of this section, the Secretary shall issue proposed regulations for the purpose of implementing and carrying out the program under this section and part C (except as otherwise provided in section 435(h)), including regulations establishing uniform data collection requirements; and within 9 months after such date the Secretary shall publish final regulations for that purpose. Regulations issued under this subsection shall be developed by the Secretary in consultation with the Secretary of Labor and with the responsible State agencies described in subsection (b)(3).".

(b) Federal Financial Participation.—(1) Section 403(a) of such Act is amended by inserting after paragraph (3) the following new paragraph:

"(4) in the case of any State, an amount equal to—

"(A) 90 percent of the total amount of expenditures made during such quarter for education, training, and other nonadministrative activities under the program established pursuant to section 416 (including expenditures made for such activities under part C), to the extent that such expenditures do not cause the total amount of expenditures made for such activities, during the fiscal year in which such quarter falls, to exceed the total amount which was allotted to the State under part C for the fiscal year 1987, plus

"(B) 65 percent of the total amount of any additional expenditures made during such quarter for education, training, and other nonadministrative activities under the program established pursuant to section 416 (including expenditures made for such activities under part C); and".

(2) Section 403(a)(3) of such Act is amended—

(A) by striking out "and" after the comma at the end of subparagraph (B);

(B) by redesignating subparagraph (C) as subparagraph (D); and

(C) by inserting after subparagraph (B) the following new subparagraph:

"(C) one-half of so much of such expenditures as are incurred in connection with the administration of the education, training, and work program established pursuant to section 416 and part C, and".

(c) Demonstration Authority: Projects To Test the Elimination of the 100-Hour Rule Under the AFDC-UP Program.—Section 1115 of such Act is amended—

(1) by inserting "(1)" before "In the case of" in subsection (a);

(2) by striking out "(1) the Secretary" and "(2) costs" in subsection (a) and inserting in lieu thereof "(A) the Secretary" and "(B) costs", respectively;

(3) by striking out subsection (b);

(4) by redesignating subsection (c) as paragraph (2) of subsection (a), and in such subsection as so redesignated by striking out "subsection (a)", "(1)", "(2)", and "(3)" and inserting in lieu thereof "paragraph (1)", "(A)", "(B)", and "(C)", respectively; and

(5) by adding at the end thereof the following new subsection:

"(b)(1)(A) In order to permit States to test whether (and the extent to which) eliminating the 100-hour rule under section 407, and requiring parents under that section to accept any reasonable job offers while preserving the eligibility of their families for aid under the applicable State plan approved under section 402, would effectively encourage such parents to enter the permanent work force and thereby significantly reduce program costs, up to 5 States and localities may undertake and carry out demonstration projects under which—

"(i) each parent receiving aid pursuant to section 407 is required to accept any reasonable full- or part-time job which is offered to him or her, without regard to the amount of the parent's resulting earnings as compared to the level of the family's aid under the applicable State plan, and

"(ii) the family's eligibility under the plan is preserved notwithstanding the parent's resulting earnings, so long as such earnings (after the application of section 402(a)(8)) do not exceed the applicable State standard of need, without regard to the 100-hour rule or any other durational standard that might be applied in defining unemployment for purposes of determining such eligibility.

"(B) The Secretary shall consider all applications received from States desiring to conduct demonstration projects under this paragraph, shall approve up to 5 applications involving projects which appear likely to contribute significantly to the achievement of the purpose of this paragraph, and shall make grants to the States whose applications are approved to assist them in carrying out such projects.

"(C) Each demonstration project approved under this paragraph shall provide for the payment of aid under the applicable State plan, as though section 407 had been modified to reflect the provisions of clauses (i) and (ii) of subparagraph (A) but shall otherwise be carried out in accordance with all of the requirements and conditions of section 407 (and any related requirements and conditions under part A of title IV); and each such project shall meet such other requirements and conditions as the Secretary shall prescribe.

"(2)(A) Any demonstration project undertaken pursuant to this subsection—

"(i) must be designed to improve the financial well-being of families with children or otherwise improve the operation of the program or programs involved; and

"(ii) may not permit modifications in any program which would have the effect of disadvantaging children in need.

"(B) There are authorized to be appropriated such sums as may be necessary to enable the Secretary to make grants with respect to the demonstration projects which are provided for under any of the preceding paragraphs of this subsection (and for which an authorization in specific dollar amounts is not included in the paragraph involved).".

SEC. 103. OPERATION OF STATE PROGRAMS; AMENDMENTS TO TITLE IV-C AND RELATED PROVISIONS.

(a) In General.—Part C of title IV of the Social Security Act is amended to read as follows:

"PART C—EDUCATION, TRAINING, AND WORK PROGRAM

"DEFINITIONS

"Sec. 431. Except to the extent otherwise specifically indicated, terms used in this part have the meanings given them in or under part A.

"EDUCATION AND TRAINING PROVISIONS FOR STATE PLANS

"Sec. 432. In order to satisfy the requirements of section 402(a)(19) with respect to a State's education, training, and work program under section 416, such State's plan approved under section 402 must set forth—

"(1) a description of relevant coordination arrangements with other Federal and State agencies, including the State educational agency;

"(2) a description of the services to be provided under section 434 and the methods and priorities to be used in the allocation of such services;

"(3) assurances that the operation of the program meets the criteria for coordination established in the Governor's coordination and special services plan pursuant to section 121(b)(1) of the Job Training Partnership Act;

"(4) procedures for selecting service providers under the program which take into account past performance in providing similar services, fiscal accountability, and ability to meet performance standards;

"(5) assurances that services provided under the program are in addition to, and do not duplicate, services that are otherwise available from other Federal or State agencies on a nonreimbursable basis;

"(6) assurances that the program includes private sector and local government involvement through administrative entities under section 4(2) of the Job Training Partnership Act, in planning and program design to assure that participants are trained for jobs that are likely to be available in the community;

"(7) assurances that community-based organizations (as defined in section 4(5) of the Job Training Partnership Act) are involved in planning and program design to facilitate outreach in the client community, and in the delivery of services (meeting the conditions set forth in section 107(a) of the Job Training Partnership Act);

"(8) a description of the distribution of services under the program within the State (A) identifying for each area within the State the resources to be made available for training, on-the-job training, and transitional employment opportunities, and (B) explaining the economic and demographic reasons for such distribution;

"(9) assurances that necessary supportive services will be available to participants under the program; and

"(10) such other information and assurances as the Secretary may require in accordance with regulations.

"COORDINATION REQUIREMENTS

"Sec. 433. (a) Coordination With JTPA Requirements.—(1)(A) Program activities under this part and section 416 shall be coordinated in each State with programs operated under the Job Training Partnership Act and with any other relevant employment, training, and education programs available in that State. Appropriate components of the State's plan developed under section 416(b)(1) which relate to job training and workplace preparation shall be consistent with the coordination criteria specified in the Governor's coordination and special services plan required under section 121 of the Job Training Partnership Act.

"(B) The State plan so developed shall be submitted to the State job training coordinating council not less than 90 days prior to its submission to the Secretary, for the purpose of review and comment by the council on those provisions of the plan related to delivery of job training services and of coordinating activities under this part and section 416 with similar activities under the Job Training Partnership Act. Concurrent with submission of the plan to the State job training coordinating council, the proposed State plan shall be published and made reasonably available to the general public through local news facilities and public announcements, in order to provide the opportunity for review and comment through such means as public hearings.

"(C) If the recommendations of the State job training coordinating council under subparagraph (B) are different from any of the provisions of the State's plan developed under section 416(b)(1), the State job training coordinating council may appeal to the Governor of the State and the final decision with respect to such provisions shall be made by the Governor.

"(2) Program activities under this part and section 416 shall be coordinated in each State with existing early childhood education programs in that State, including Head Start programs, preschool programs funded under chapter 1 of the Education Consolidation and Improvement Act of 1981, and school and nonprofit child care programs (including community-based organizations receiving funds designated for preschool programs for handicapped children).

"(b) ARRANGEMENTS WITH SERVICE PROVIDERS.—The education, training, and work programs under this part shall be carried out by the State agency directly or through arrangements or under contracts with administrative entities under section 4(2) of the Job Training Partnership Act, with State and local educational agencies, and with other public agencies or private organizations (including community-based organizations as defined in section 4(5) of the Job Training Partnership Act). Arrangements and contracts entered into under the preceding sentence may provide for the provision or conduct of any services or activities, including outreach, made available under the program to the extent that such services or activities are not otherwise available on a reimbursable basis. Such arrangements and contracts shall be developed in consultation with the private industry councils for service delivery areas designated under section 101 of the Job Training Partnership Act, shall be transmitted to the State job training coordinating council for review and comment, and shall be subject to the approval of the Governor of such State. In selecting service providers, States must take into account past performance in providing similar services, demonstrated effectiveness, fiscal accountability, and ability to meet performance standards.

"(c) PRIVATE INDUSTRY COUNCILS.—The State agency shall utilize the services of each private industry council (as established under section 102 of the Job Training Partnership Act) to identify and provide advice on the types of jobs available or likely to become available in the service delivery area of such council. The State agency shall not conduct, in any area, training for jobs of a type which are not likely to become available.

"SERVICES AND ACTIVITIES UNDER THE PROGRAM

"SEC. 434. (a) RANGE OF SERVICES AND ACTIVITIES.—(1) The services and activities to be offered to participants under the program under section 416 may include (subject to the succeeding provisions of this section)—

"(A) high school or equivalent education (combined with training when appropriate) designed specifically for participants who do not have a high school diploma, in accordance with subsection (b);

"(B) basic and remedial education to achieve a basic literacy level, bilingual education for individuals with limited English proficiency, and specialized advanced education in appropriate cases;

"(C) group and individual job search as described in section 416(k);

"(D) on-the-job training;

"(E) job skills training;

"(F) work supplementation programs as provided in section 416(i);

"(G) community work experience programs as provided in section 416(j);

"(H) job readiness activities to help prepare participants for work;

"(I) counseling, information, and referral for participants experiencing personal and family problems which may be affecting their ability to work;

"(J) job development, job placement, and follow-up services to assist participants in securing and retaining employment and advancement as needed;

"(K) other education and training activities as determined by the State and allowed by regulations of the Secretary; and

"(L) supportive services, including day care and transportation, that are reasonably necessary to participation as provided in section 402(g).

"(2) Such services and activities may also include transitional employment as described in section 105(a) of the Family Welfare Reform Act of 1987, but only to the extent that funds are specifically appropriated therefor as required by 105(a)(3) of such Act.

"(3) The State must in any event make available the services and activities described in subparagraphs (A), (B), (C), (E), (H), (I), (J), and (L) of paragraph (1) along with the services and activities described in at least one of the remaining subparagraphs of paragraph (1). The provisions of sections 435, 436, 437, and 438 shall apply with respect to all of the services and activities described in this subsection.

"(b) EDUCATION SERVICES.—(1)(A) Any participant lacking a high school diploma shall, before being required to participate in any other services or activities, be required (subject to subparagraph (B)) to participate in a program which addresses the education needs identified in the participant's initial assessment, including high school or equivalent education designed specifically for participants who do not have a high school diploma, remedial education to achieve a basic literacy level, or bilingual education for individuals with limited English proficiency; and both the family support plan and the agency-client agreement shall so provide. Any other services or activities to which such a participant is assigned under the agreement may not be permitted to interfere with his or her participation in an appropriate education program under this paragraph.

"(B) No requirement shall be imposed under subsection (a)(1)(A) or this subsection with respect to any participant who demonstrates a basic literacy level and whose family support plan identifies a long-term employment goal that does not require a high school diploma.

"(2) Children in participating families who are not themselves participants in the program under section 416 shall be encouraged to take part in any suitable education or training programs available under the program; and the program must also provide to such children additional services specifically designed to help them stay in school (including financial incentives as appropriate), complete their high school education, and obtain marketable job skills (including services provided under a demonstration program conducted pursuant to section 1115(b)(2)). Activities in which such children participate may not, however, be permitted to interfere with their school attendance.

"(3) An individual who attends an accredited postsecondary institution (on not less than a half-time basis), as long as such individual is making satisfactory progress in a vocational or undergraduate education or training program consistent with the individual's employment goals, shall constitute satisfactory participation in the educational or training component of the program so long as it continues; and the family support plan under section 416(f) shall so provide. Any other activities in which the individual participates may not be permitted to interfere with such vocational or undergraduate education or training program.

"(4) Education services provided to an individual under the program shall be consistent with such individual's employment goals.

"PROVISIONS GENERALLY APPLICABLE TO PROVISION OF SERVICES

"SEC. 435. (a) ADMINISTRATION BY SECRETARY OF LABOR.—The Secretary of Labor shall be responsible for implementing and carrying out the provisions of this section, in accordance with the regulations developed and prescribed under subsection (h); and the term 'Secretary' as used in this section (unless otherwise specifically indicated) means the Secretary of Labor.

"(b) WORKING CONDITIONS.—(1) Each assignment of a participant under the program shall be consistent with the physical capacity, skills, experience, health, family responsibilities, and place of residence of such participant. Any requirement for part-time participation shall in no event exceed 20 hours per week. Individuals assigned to any position under the program shall not be discriminated against on the basis of race, sex, national origin, religion, age, or handicapping condition and such individuals shall have such rights as are available under any Federal, State, or local law prohibiting discrimination.

"(2) Before assigning a participant to any activity under the program, the State shall assure that—

"(A) appropriate standards for health, safety, and other conditions are applicable to participation in such activity;

"(B) the conditions of participation in such activity are reasonable, taking into account the geographic region, the residence of the participant, the proficiency of the participant, and the child care and other supportive service needs of the participant; and

"(C) the participant will not be required, without his or her consent, to travel an unreasonable distance from his or her home or remain away from such home overnight.

"(c) Displacement.—No assignment under the program shall result in—

"(1) the displacement of any currently employed worker or position (including partial displacement such as a reduction in the hours of nonovertime work, wages, or employment benefits), or result in the impairment of existing contracts for services or collective bargaining agreements;

"(2) the employment or assignment of a participant or the filling of a position when (i) any other individual is on layoff from the same or any equivalent position, or (ii) the employer has terminated the employment of any regular employee or otherwise reduced its workforce with the intention of filling the vacancy so created with a participant subsidized under the program; or

"(3) any infringement of the promotional opportunities of any currently employed individual;

and section 143(c)(1) of the Job Training Partnership Act shall apply.

"(d) Wage Rates; Worker's Compensation and Tort Claims Protection.—(1) The wage rate for any position to which a participant is assigned shall not be less than the highest of (A) the minimum wage under section 6(a)(1) of the Fair Labor Standards Act of 1938, (B) the minimum wage under applicable provisions of the State or local minimum wage law, or (C) the rates of pay for individuals employed in the same or similar occupations by the same employer.

"(2) Appropriate worker's compensation and tort claims protection shall be provided to all participants on the same basis as such compensation and protection are provided to other employed individuals in the State.

"(e) Grievance Procedure.—(1) Each State agency shall establish and maintain a grievance procedure for dealing with complaints about its programs and activities as described in subsection (g) from participants, subgrantees, subcontractors, and other interested persons. Hearings on any complaint shall be conducted within 30 days after the date on which the complaint is filed and a decision shall be made no later than 60 days after such date.

"(2) The decision of the State agency may be appealed to the Secretary of Labor under the procedures established in paragraph (3), and the complaint itself may be appealed to the Secretary under such procedures if the State agency fails to make a decision within the prescribed 60-day period.

"(3)(A) Whenever the Secretary of Labor receives an appeal under paragraph (2) or has reason to believe that subsection (b), (c), or (d) has been violated, the complaint shall be transmitted at the same time to the entity alleged to have committed the violation. An opportunity shall be afforded to such entity to review the complaint and to submit a reply to the Secretary within 15 days after receiving the copy of such complaint.

"(B) An official who shall be designated by the Secretary shall review any complaint submitted in accordance with subparagraph (A), and conduct such investigation as may be necessary, to ascertain the accuracy of the information set forth or alleged and to determine whether there is substantial evidence that the affected activities fail to comply with subsection (b), (c), or (d). Such official shall report his findings and recommendations to the Secretary within 60 days after commencing the review and investigation.

"(C) The Secretary, within 45 days after receiving the report under subparagraph (B) shall issue a final determination as to whether a violation of subsection (b), (c), or (d) has occurred.

"(D) The Secretary shall institute proceedings to compel the repayment of any funds determined to have been expended in violation of subsection (b), (c), or (d).

"(4) The existence of the remedies provided by this section shall not preclude any person who alleges that an action of a State agency violates any of the provisions of this section from instituting a civil action or pursuing any other remedy authorized under Federal, State, or local law.

"(f) Funds Not To Be Used for Construction.—None of the funds made available to a State for purposes of the programs and activities described in subsection (g) shall be used for construction.

"(g) Application of Section.—The provisions of this section apply to any work-related programs and activities under this part, under section 416, or under any other work-related programs and activities authorized (in connection with the family support program) under section 1115.

"(h) Regulations.—The Secretary of Labor shall issue regulations for the purpose of implementing and carrying out this section, in consultation with the Secretary of Health and Human Services, in accordance with the timetable established in section 416(n).

"PERFORMANCE STANDARDS

"Sec. 436. (a) In General.—(1) The Secretary, on the basis of recommendations received pursuant to subsection (b), shall establish performance standards for the program established under section 416 and this part. Such standards shall be designed to evaluate the success of services provided and activities conducted under such section and shall at a minimum (in the following order of priority)—

"(A) provide methods for measuring the degree to which States are targeting their programs to those individuals within each priority group (as described in section 416(d)) who will have the most difficulty finding employment;

"(B) provide methods for determining whether States are providing intensive services under the program, tailored to the individual needs of participants and fully calculated to produce self-sufficiency;

"(C) take into account the extent to which the program results in long-term job retention by participants, reduced welfare dependency, educational improvements, and placement in jobs in which health benefits or child care are provided;

"(D) provide methods for measuring the degree to which States are placing strong emphasis on participation by volunteers among the priority groups described in section 416(d);

"(E) give appropriate recognition to the likelihood that unemployment and other factors will influence the success of the employment program;

"(F) measure the cost effectiveness of the employment portion of the program and the welfare savings that result from the program;

"(G) establish expectations for placement rates, including the minimum rate at which participants within each priority group (as described in section 416(d)) are to be placed in jobs or complete their education or both; and

"(H) take into account such other factors as are deemed important.

"(2) Performance shall be measured by outcome and not by levels of activity or participation, and shall be based on the degree of success which may reasonably be expected of States, in carrying out work-related programs under section 416 and this part which help such individuals achieve self-sufficiency and in reducing welfare costs. The performance standards so developed and published shall be periodically reviewed by the Secretary and modified to the extent necessary to reflect the continuing implementation of the program.

"(b) Procedures for Establishing Initial Standards.—(1) The Secretary shall contract with the National Academy of Sciences to develop the performance standards described in subsection (a). Under the terms of the contract, the Academy shall establish an advisory committee to develop and recommend proposed performance standards meeting the requirements of such subsection. The advisory committee shall include representatives of the Congress, State and local agencies administering programs under section 416 and this part, the Secretary of Labor, the Secretary of Health and Human Services, State job training coordinating councils, labor organizations, business organizations, education agencies, researchers, community based organizations, and organizations representing eligible participants.

"(2) The proposed performance standards developed by such advisory committee shall be submitted to the appropriate committees of Congress prior to their submission to the Secretary.

"(3) The Secretary may collect preliminary program information from the States, including information developed pursuant to this section and section 403(e), to assist in the development of performance standards.

"(c) Preliminary and Final Standards.—Preliminary guidelines intended to facilitate compliance with performance standards referred to in subsection (a) shall be established within 12 months after the date of the enactment of the Family Welfare Reform Act of 1987. Final standards shall be established, prescribed, and published no later than 24 months after enactment of such Act.

"(d) Evaluations and Annual Report.—(1) The Secretary shall conduct evaluations of each State's progress toward meeting the performance standards developed under this section. Evaluations shall be conducted at the completion of each fiscal year for which a State may be held accountable for such standards. An annual report shall be submitted to Congress describing State activities and State performance.

"(2) If a State fails to meet the performance standards at the conclusion of any such evaluation period, the Secretary shall provide such necessary technical assistance to the State as will facilitate meeting such standards. The Secretary shall review the State's compliance within a reasonable period after providing such assistance (as determined by the Secretary and the Governor), except that such period may not exceed 6 months.

"(e) Review and Revision of Standards.—The Secretary shall periodically (but not more frequently than once each three years) review the performance standards developed under this section.

"(f) Proposal for Modification in Federal Payment Rate To Reflect State Effectiveness.—The Secretary shall develop and transmit to the Congress, for appropriate legislative action, a proposal for modifying the rate of the Federal payments to States under section 403(a)(4) so as to reflect the relative effectiveness of the various States in carrying out the program under this section and achieving its purpose.

"CONTINUING EVALUATIONS

"SEC. 437. The Secretary shall provide for the continuing evaluation of the programs established under section 416 and this part by the several States, including their effectiveness in achieving the purpose of that section and their impact on other related programs. The Secretary shall also—

"(1) provide for the conduct of research on ways to increase the effectiveness of such programs, including research on—

"(A) the effectiveness of giving priority to participants who actively seek to participate,

"(B) appropriate strategies for assisting two-parent families,

"(C) the wage rates of individuals placed in jobs as a result of such programs,

"(D) the approaches that are most effective in meeting the needs of specific groups and types of participants (such as teenage parents, older parents, and families including disabled persons), and

"(E) the effect of targeting on families which include children below 6 years of age; and

"(2) provide technical assistance to States, localities, schools, and employers who may participate in the programs and who request or require such assistance.

"UNIFORM REPORTING REQUIREMENTS

"SEC. 438. The Secretary shall establish uniform reporting requirements under which each State will be required periodically to furnish such information and data as the Secretary may need to ensure that the purposes and provisions of section 416 and this part are being effectively carried out, including at a minimum (1) the average monthly number of families participating in the program under that section, the types of such families, and the amounts expended under the program (as family support supplements and otherwise) with respect to such families; (2) the length of time for which such families are assisted; (3) the child care costs for such families and the nature of their child care arrangements; and (4) the numbers of children in each age group (infants, toddlers, preschool, and school age) receiving child care assistance. The information and data so furnished shall be separately stated with respect to each of the services and activities enumerated in section 434(a) and with respect to each of the activities described in subsections (i), (j), and (k) of section 416.

"AUTHORIZATION AND ALLOCATION OF FUNDS

"SEC. 439. Funds appropriated pursuant to section 401 for payments to States under sections 403(a)(3)(C) and 403(a)(4), or for otherwise carrying out the education, training, and work program under section 416, shall be available to carry out this part.".

SEC. 104. WIN TRANSITION.

Part C of title IV of the Social Security Act is amended by adding at the end thereof the following new sections:

"TRANSITION TO NETWORK PROGRAM

"SEC. 446. (a) In any case where a State notifies the Secretary of Health and Human Services of its desire to become subject to the amendments made by title I of the Family Welfare Reform Act of 1987 and such amendments accordingly become effective with respect to that State as of the first day of a calendar quarter beginning before October 1989 as described in section 107(1) of such Act, the preceding provisions of this part, and the other provisions of this Act as they would relate to the program under this part in the absence of such amendments, shall cease to be effective with respect to that State as of the first day of such quarter.

"(2) In any other case, the preceding provisions of this part (including section 445) and the other provisions of this Act which would relate to the program under this part in the absence of such amendments shall cease to be effective on October 1, 1989 (as provided in section 107 of the Family Welfare Reform Act of 1987); and this part is repealed effective on that date.

"(3)(A) The Secretary of Labor, from funds appropriated for fiscal years 1988 and 1989 to carry out this part, is authorized to provide financial assistance under this part, in the same manner as such assistance was provided under this part as in effect on the day before the enactment of the Family Welfare Reform Act of 1987, until September 30, 1989.

"(B) Notwithstanding any other provision of law, States may expend funds received under this part during fiscal years 1988 and 1989, in order to conduct any activity deemed necessary to provide for an orderly transition to the operation, as of October 1, 1989, of programs under this part as amended by the Family Welfare Reform Act of 1987.

"(b) During the fiscal years 1988 and 1989, any State with an approved program under section 416 may also use funds allocated to it under this part for any purpose authorized under section 416.

"(c) The termination of the effectiveness of this part with respect to any State pursuant to subsection (a) or (b) shall not affect any administrative or judicial proceeding, arising under this part, which is pending on the date of such termination.

"(d) Funds for carrying out this part for the fiscal year 1988 which were allocated to any State and are not obligated prior to the end of such fiscal year shall remain available for obligation during fiscal year 1989. No reduction shall be made in the allocation for any State from appropriations made to carry out this part for the fiscal year 1989 on account of the carryover of funds from the fiscal year 1988 under the preceding sentence.

"INITIAL STATE EVALUATIONS

"SEC. 447. (a) With the objective of—

"(1) providing an in-depth assessment of potential participants in the program under section 416 and this part in each State, so as to furnish an accurate picture on which to base estimates of future demands for welfare services in conducting such program and to improve the efficiency of targeting under such program,

"(2) assuring that training for welfare recipients under such program will be realistically geared to labor market demands and that the program will produce individuals with marketable skills, while avoiding duplication and redundancy in the delivery of services, and

"(3) otherwise assuring that States will have the information needed to carry out the purposes of the program,

each State shall undertake and carry out an evaluation of demographic characteristics of potential participants in the program under section 416 and this part within the 6-month period beginning on the date of the enactment of the Family Welfare Reform Act of 1987. Such evaluation shall be carried out in each State by the agency which administers the State's program under part A of title IV.

"(b) In carrying out the evaluation under subsection (a) the State shall give particular attention to the current and anticipated demands of the labor market or markets within the State, the types of training which are needed to meet those demands, and any changes in the current service delivery systems which may be needed to satisfy the requirements of the program under section 416 and this part.

"(c) The evaluation shall be structured so as to produce accurate and usable information on the age, family status, educational and literacy levels, duration of eligibility for family support supplements, and work experience of the individuals and families who are potential participants in the program under such section 416, including the actual numbers of such individuals and families in each such category.

"(d) The Secretary of Health and Human Services, in consultation with the Secretary of Labor, shall provide each State with such technical assistance and data as it may need in order to carry out its evaluation under subsection (a); and each State shall transmit its evaluation to the Secretary by the close of the 6-month period specified in that subsection. The Secretary shall transmit a copy of such evaluation to the advisory committee established under section 436(b) and to the National Academy of Sciences for use in the preparation and review of performance standards.

"(e) The Secretary of Health and Human Services, in consultation with the Secretary of Labor, shall pay to each State the sum of $100,000 to assist that State in designing and carrying out its evaluation under this section; and of the total amount available to the Secretary for fiscal year 1988 for purposes of the program under section 448(b) the sum of $5,200,000 shall be available only for this purpose.

"(f) As used in this section, the term 'potential participant population' with respect to any State means collectively all individuals in such State who are recipients of family support supplements under part A and who are members of the target populations identified in section 416(c)(3).

"AUTHORIZATION AND ALLOCATION OF FUNDS

"SEC. 448. (a) There are authorized to be appropriated to carry out this part, for the fiscal years 1988 and 1989, such sums as may be necessary.

"(b) Ten percent of the amount so appropriated for fiscal year 1988 and ten percent of the amount so appropriated for fiscal year 1989 shall be made available by the Secretary to the States for initial State evaluations in accordance with section 447(e) and for technical assistance and planning grants.

"(c) In each of the fiscal years 1988 and 1989, the Secretary shall allocate 90 percent of the amount so appropriated for that fiscal year among the States to carry out plans approved under this part. In allocating amounts among the States, the Secretary shall take into account each State's prior year allocations and the relative number of recipients in the various States during the most recent year for which satisfactory data are available.

"(d) Each State receiving an allocation under subsection (c) shall ensure that there will be available, from non-Federal sources, a portion of the costs of providing the services under this part equal at least to 10 percent of such costs. Contributions from non-Federal sources may be provided in cash or in kind.

"(e) As used in this section, the term 'prior year allocation' means the amount allocated to a State from appropriations made pursuant to subsection (a) for the fiscal year 1986.".

SEC. 105. ADDITIONAL ACTIVITIES.

(a) TRANSITIONAL EMPLOYMENT.—(1) RESTRICTIONS ON TRANSITIONAL EMPLOYMENT.—Transitional employment provided under section 434(a)(2) of the Social Security Act is short-term subsidized employment, on a transitional basis, for individuals who have completed their participation in the program under section 416 and part C of title IV of such Act but are still unable to find and obtain regular employment, and includes only employment (for wages) which shall be—

(A) with a public or nonprofit private employer; and

(B) for a period not to exceed 6 months, unless at the end of such 6-month period additional transitional employment is determined to be necessary in a review and modification of the family support plan under section 416(f) of such Act.

(2) ELIGIBILITY FOR TRANSITIONAL EMPLOYMENT.—An individual may not be provided with transitional employment under section 434(a)(2) of the Social Security Act unless such transitional employment is part of the family support plan entered into under section 416(f) of such Act and the individual—

(A) has been a participant for at least 6 months in services or activities as described in section 434 of such Act, including job search, or for such longer period as may be required for the participant to achieve substantial progress in the education component of such services; and

(B) has been unable to secure unsubsidized employment.

(3) PRIORITIES.—In providing transitional employment for such individuals, priority shall be given to transitional employment which—

(A) provides services to other eligible participants, such as child care and transportation; or

(B) is likely to lead to unsubsidized employment, directly or through on-the-job training.

(4) AUTHORIZATION.—There are authorized to be appropriated to carry out this section (and section 434(a)(2) of the Social Security Act), for any fiscal year, such sums as may be necessary.

(b) STATE DEMONSTRATION PROGRAMS.—(1) PROJECTS TO ENCOURAGE INNOVATIVE EDUCATION AND TRAINING PROGRAMS FOR CHILDREN AND TO TEST THE EFFECT OF EARLY CHILDHOOD DEVELOPMENT PROGRAMS.—Section 1115(b) of the Social Security Act (as added by section 102(c) of this Act) is amended by redesignating paragraph (2) as paragraph (4), and by inserting after paragraph (1) the following new paragraphs:

"(2) In order to encourage States to develop innovative education and training programs for children receiving aid under State plans approved under section 402, any State may establish and conduct one or more demonstration projects, targeted to such children, designed to test financial incentives and interdisciplinary approaches to reducing school dropouts, encouraging skill development, and avoiding welfare dependence; and the Secretary may make grants to States to assist in financing such projects. Demonstration projects under this paragraph shall meet such conditions and requirements as the Secretary shall prescribe, and no such project shall be conducted for a period of less than one year or more than 5 years.

"(3)(A) In order to test the effect of in-home early childhood development programs and pre-school center-based development programs (emphasizing the use of volunteers and including academic credit for student volunteers) on families receiving aid under State plans approved under section 402 and participating in the education, training, and work program under section 416 and part C of title IV, up to 10 States may undertake and carry out demonstration projects utilizing such development programs to enhance the cognitive skills and linguistic ability of children under the age of 5, to improve the communications skills of such children, and to develop their ability to read, write, and speak the English language effectively. Such projects may include parents along with their eligible children in family-centered education programs that assist children directly in achieving the goals stated in the preceding sentence and also help parents contribute to the proper development and education of their young children. Demonstration projects under this paragraph shall meet such conditions and requirements as the Secretary shall prescribe, and no such project shall be conducted for a period of more than 3 years.

"(B) The Secretary shall consider all applications received from States desiring to conduct demonstration projects under this paragraph, shall approve up to 10 applications involving projects which appear likely to contribute significantly to the achievement of the purpose of this paragraph, and shall make grants to the States whose applications are approved to assist them in carrying out such projects.

"(C) The Secretary shall submit to the Congress with respect to each project undertaken by a State under this paragraph, after such project has been carried out for one year and again when such project is completed, a detailed evaluation of the project and of its contribution to the achievement of the purpose of this paragraph.".

(2) OTHER DEMONSTRATIONS.—Any State, using funds made available to it from appropriations pursuant to paragraph (3) in conjunction with its other resources, may—

(A) conduct demonstrations to test the effectiveness of arrangements under which private organizations will operate supported-work programs to place participants in full-time jobs in the private sector, with the Federal subsidy of wages not to exceed 9 months, through performance-based contracts conditioned upon retention in such private sector employment after the Federal subsidy ends;

(B) conduct demonstrations to test more effective methods of providing coordination and services to ensure long-term family self-sufficiency through community-based comprehensive family support services involving a partnership between the State agency administering the State's plan under section 402 of the Social Security Act and community-based organizations having experience and demonstrated effectiveness in providing services; and

(C) provide financial assistance to nonprofit community development corporations to demonstrate their effectiveness in creating employment opportunities for recipients and other low-income individuals.

(3) AUTHORIZATION.—There is authorized to be appropriated to carry out activities conducted under the amendment made by paragraph (1) and activities conducted under paragraph (2), for any fiscal year, a total sum not exceeding $50,000,000.

(c) CAREGIVERS AND CHILD CARE.—(1) TRAINING OF CAREGIVERS.—Each State, using funds appropriated pursuant to paragraph (3), shall institute a program to provide grants for training child care personnel in areas such as child growth and development, communication with families, health and safety, instruction, and administration and management. Child care personnel eligible for such training may include employees of child care centers as well as family day care providers and others meeting the standards enumerated in section 402(g)(1)(B) of the Social Security Act (as amended by subtitle B of this title).

(2) CHILD CARE SUPPLY.—Any State, using funds appropriated pursuant to paragraph (3), may institute a program to provide grants to local nonprofit child care programs to establish or renovate child care centers and family day care homes which meet the standards enumerated in section 402(g)(1)(B) of the Social Security Act (as amended by title II of this Act) and which will be used to serve participants in the other activities described in section 434 of such Act, including on-site or nearby child care centers operated as part of the education, training, or employment programs, as well as other child care centers which will be used by program participants. Such grants may also be made available to local child care agencies (such as resource and referral programs) to recruit, train, and provide other essential supports to new family day care providers. These grants may also be used to assist centers and family day care providers to come into compliance with applicable health and safety standards.

(3) AUTHORIZATION.—There is authorized to be appropriated to carry out paragraphs (1) and (2), for any fiscal year, a total sum not exceeding $150,000,000.

(d) FUNDING OF ACTIVITIES.—Notwithstanding any other provision of this Act or of part A or C of title IV of the Social Security Act, the cost of providing transitional employment under the program established by section 416 of the Social Security Act as described in subsection (a), and the costs of carrying out the activities described in subsections (b) and (c), shall be paid only from funds specifically authorized by those subsections and appropriated for that purpose.

SEC. 106. TECHNICAL AND CONFORMING AMENDMENTS.

(a) IN PART A OF TITLE IV.—(1) Section 402(a)(8)(A)(iv) of the Social Security Act is amended by striking out "(but excluding" and all that follows and inserting in lieu thereof a semicolon.

(2) Section 402(a)(9)(A) of such Act is amended by striking out "B, C, or D" and inserting in lieu thereof "B or D".

(3) Section 402(a)(35) of such Act is repealed.

(4) Section 403(a)(3) of such Act is amended—

(A) by striking out all of subparagraph (D) (as redesignated by section 102(b)(2) of this Act) which follows "such expenditures" and inserting in lieu thereof a comma; and

(B) by striking out all that follows "section 2002(a) of this Act" in the matter following such subparagraph and inserting in lieu thereof "other than services furnished under section 416 or under section 402(g); and".

(5) Section 403(c) of such Act is repealed.

(6) Section 403(d) of such Act is repealed.

(7) Section 407(b)(2)(A) of such Act is amended by striking out "will be certified" and all that follows down through "within 30 days" and inserting in lieu thereof "will participate or apply for participation in the national education, training, and work program under section 416 within 30 days".

(8) Section 407(b)(2)(C)(i) of such Act is amended by striking out ", unless exempt" and all that follows down through "is not registered" and inserting in lieu thereof "is not currently participating in the national education, training, and work program under section 416, unless such parent is exempt under section 416(c)(4), or, if such parent is exempt under such section 416(c)(4) and has not volunteered for such participation as described in section 416(c)(2), is not registered".

(9) Section 407(c) of such Act is amended by striking out "to certify such parent" and all that follows and inserting in lieu thereof "to participate in the national education, training, and work program under section 416.".

(10) Section 407(d)(1) of such Act is amended by striking out "under section 409" and all that follows and inserting in lieu thereof "under section 416(j);".

(11) Section 407(e) of such Act is repealed.

(12) Section 409 of such Act is repealed.

(13) Section 414 of such Act is repealed.

(b) IN OTHER PROVISIONS.—(1) Section 471(a)(8)(A) of such Act is amended by striking out "A, B, C, or D" and inserting in lieu thereof "A, B, or D".

(2) Section 1108(b) of such Act is amended by striking out "section 402(a)(19)" and inserting in lieu thereof "section 416".

(3) Section 1902(a)(10)(A)(i)(I) of such Act is amended by striking out "section 414(g)" and inserting in lieu thereof "section 416(i)(6)".

(c) JOB TRAINING PARTNERSHIP ACT.—Section 102(a)(2) of the Job Training Partnership Act is amended by striking out "and" and inserting before the period a comma and the following: "and the State public assistance agency administering part A of title IV of the Social Security Act".

SEC. 107. EFFECTIVE DATE.

The amendments made by this title shall become effective October 1, 1989; except that—

(1) if any State theretofore makes the changes in its State plan approved under section 402 of the Social Security Act which are required in order to carry out such amendments, and formally notifies the Secretary of Health and Human Services of its desire to become subject to such amendments as of the first day of any calendar quarter beginning on or after the date on which the proposed regulations of the Secretary of Health and Human Services (and the Secretary of Labor) are published in accordance with section 416(n) of such Act and before October 1, 1989, such amendments shall become effective with respect to that State (subject to paragraphs (2), (3), and (4) of this section) as of such first day;

(2) section 416(n) of the Social Security Act (as added by section 102(a) of this Act), sections 436, 437, and 438 of the Social Security Act (as added by section 103(a) of this Act), and section 105 of this Act shall be effective on the date of the enactment of this Act;

(3) section 1115(b)(3) of the Social Security Act (as added by section 102(c) of this Act) shall become effective October 1, 1987; and

(4) the amendments made by section 104 shall become effective October 1, 1987; and section 446 of the Social Security Act (as added by subsection (a) of such section 104) shall apply with respect to the preceding provisions of part C of title IV of such Act (and with respect to the other provisions of such Act which are referred to in that section) in the manner provided in that section.

TITLE II—DAY CARE, TRANSPORTATION, AND OTHER WORK-RELATED EXPENSES

SEC. 201. PAYMENT OF EXPENSES BY STATES.

(a) IN GENERAL.—(1) Section 402 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"(g)(1)(A) Each State shall, for each family, either—

"(i) provide day care for each dependent child, and incapacitated individual living in the same home as a dependent child, receiving family support supplements under the State plan and requiring such care, or

"(ii) reimburse the caretaker relative in the family (in advance whenever possible) for the costs of such care incurred in any month,

if and to the extent that such care (or reimbursement for the costs thereof) is determined by the State agency to be (I) directly related to an individual's participation in work, education, or training (including participation as a mandatory participant or volunteer in the program under section 416, and including participation in other work, education, or training by individuals who are not participating in such program by reason of exemptions granted under any of the subparagraphs in section 416(c)(4)), (II) reasonably necessary for such participation, and (III) cost-effective. Amounts expended under the preceding provisions of this subsection (in providing day care directly, or in making reimbursement for the costs of such care), to the extent that such amounts do not exceed $175 per month for any child age 2 or over or $200 per month for any infant under age 2, shall be considered, for purposes of section 403(a) (1) and (2), to be amounts expended as aid in the form of family support supplements under the State plan (and Federal contributions may be made under section 403(a) with respect to amounts so expended only to that extent).

"(B)(i) No amount shall be expended under subparagraph (A) for any child care services involving more than 2 children at the same time unless such services meet applicable standards of State and local law.

"(ii) No amount shall be expended under subparagraph (A) for any day care services unless the entity providing such care (I) provides parental access; (II) posts in clear public view the appropriate telephone number for filing any complaint regarding child care quality, or health or safety violations; and (III) complies fully with all local health and fire safety standards (as required by clause (i)).

"(iii) No State receiving funds under this section shall reduce the level of child care licensing requirements or other standards applicable to child care provided within the State on the date of enactment of the Family Welfare Reform Act of 1987.

"(C) Reimbursement for the costs of day care under subparagraph (A)(ii) may be accomplished through contracts or certificates, or through the disregarding of such costs from the earned income of the family (within the applicable dollar limitations set forth in subparagraph (A)) as though such disregarding were specifically provided for in section 402(a)(8) immediately after the disregards provided for in clauses (ii) and (iii) thereof (and were applied to both applicants and recipients but only with respect to earned income not otherwise disregarded under the preceding provisions of that section). No change made by a State in its method of reimbursing day care costs may have the effect of disadvantaging individuals or families receiving aid under the State plan on the date of the enactment of this subsection, by reducing their income or otherwise.

"(D) For purposes of the first sentence of subparagraph (A), day care shall be considered 'cost-effective' only if it is furnished within the applicable dollar limitations set forth in the second sentence of such subparagraph; but nothing in this subsection shall be construed as preventing any State from making reimbursement from its own funds (without any Federal contribution under section 403(a)) for day care which is not furnished within such limitations.

"(2)(A) In the case of an individual participating in the program of education, training, and work under section 416 (including participation in the form of job search under subsection (k) thereof), the State (in addition to providing day care or reimbursing the costs thereof as provided in paragraph (1)) shall reimburse the participant (in advance whenever possible) for transportation and other work-related costs incurred in any month, in an amount (subject to subparagraph (B)) not exceeding the dollar amount then in effect (for purposes of disregarding earned income) under section 402(a)(8)(A)(ii).

"(B) In the case of a participant who must travel 100 miles or more to reach his or her education or training site under the program, the reimbursement for transportation and other work-related costs under subparagraph (A) may be in an amount up to twice the dollar amount referred to in that subparagraph.

"(3) The Federal contribution with respect to day care, transportation, and other work-related costs incurred by a State under this subsection shall be determined under section 403(a) (1) or (2) as though such costs had been incurred in paying aid in the form of family support supplements, rather than under section 403(a) (3) or (4).

"(4) The value of any day care provided (or any amount received as reimbursement for day care costs incurred) under paragraph (1)—

"(A) shall not be treated as income of any person for purposes of any other Federal or federally-supported program which bases eligibility for or the amount of benefits upon need, and

"(B) may not be claimed as an employment-related expense for purposes of the credit under section 21 of the Internal Revenue Code of 1986.".

(b) CONTINUATION AFTER ELIGIBILITY FOR AID CEASES.—(1) Subparagraph (A) of section 402(g)(1) of such Act (as added by subsection (a) of this section) is amended by inserting after the first sentence the following new sentence: "The caretaker relative of any dependent child or incapacitated individual whose family ceases to be eligible for family support supplements under the State plan as of the close of any month (if at that time the family has earnings) shall continue to be entitled to reimbursement for the costs of any day care (subject to the applicable dollar limitations specified in the succeeding sentence) which is determined by the State agency to be reasonably necessary for his or her employment, for a period of 6 months after the close of such month, under a sliding scale formula established by the State which shall be based on the family's ability to pay (and under which such applicable dollar limitations are appropriately reduced to reflect such ability).".

(2) Subparagraph (D) of section 402(g)(1) of such Act (as so added) is amended by striking out "second" and inserting in lieu thereof "third".

(c) Demonstration Authority: Projects To Encourage States to Employ AFDC Mothers as Paid Day Care Providers, and To Test the Effect of a Larger Exclusion of Automobiles From Resources.—Section 1115(b) of such Act (as added by section 102(b) of this Act and amended by section 105(b)) is amended by redesignating paragraph (4) as paragraph (6), and by inserting after paragraph (3) the following new paragraphs:

"(4)(A) In order to encourage States to employ or arrange for the employment of parents (of dependent children receiving aid under State plans approved under section 402(a)) as providers of day care for other children receiving such aid, including any training which may be necessary to prepare the parents for such employment, up to 5 States may undertake and carry out demonstration projects designed to test whether such employment will effectively facilitate the conduct of the education, training, and work program under section 416 by making additional day care services available to meet the requirements of section 402(g)(1) while affording significant numbers of families receiving such aid a realistic opportunity to avoid welfare dependence.

"(B) The Secretary shall consider all applications received from States desiring to conduct demonstration projects under this paragraph, shall approve up to 5 applications involving projects which appear likely to contribute significantly to the achievement of the purpose of this paragraph, and shall make grants to those States whose applications are approved to assist them in carrying out such projects. Each project under this paragraph shall meet such conditions and requirements as the Secretary shall prescribe.

"(5)(A) In order to test the effect of increasing the maximum excludable value of automobiles under State plans approved under section 402, up to 5 States may undertake and carry out demonstration projects under which the resources of any individual are determined as though the amount prescribed by the Secretary under section 402(a)(7)(B) with respect to such individual's excludable ownership interest in an automobile were the same as the amount that would be excluded or disregarded in similar circumstances under the Food Stamp Act of 1977 (and such section 402(a)(7)(B) shall be deemed to have been modified accordingly for purposes of any such project). Demonstration projects under this paragraph shall meet such conditions and requirements as the Secretary shall prescribe, and no such project shall be conducted for a period of more than 5 years.

"(B) The Secretary shall consider all applications received from States desiring to conduct demonstration projects under this paragraph, shall approve up to 5 applications involving projects which appear likely to contribute significantly to the achievement of the purpose of this paragraph, and shall make grants to the States whose applications are approved to assist them in carrying out such projects. Both urban and rural States must be included among the States whose applications are approved.".

SEC. 202. DEVELOPMENT OF NEW CHILD CARE RESOURCES.

(a) In General.—Each State agency administering the education, training, and work program under section 416 of the Social Security Act shall (as more particularly described in subsections (b) and (c)) regularly assess the availability and reliability of the child care services which are available to participants in such program, and shall take such action as may be necessary or appropriate—

(1) to develop new child care resources as the need may indicate; and

(2) to ensure the coordination of child care provided under section 402(g)(1) of the Social Security Act with other child care programs, including child development programs.

The actions required under the preceding sentence shall be taken by the State agency in cooperation with the agency of the State having jurisdiction over the provision of child care services, and shall reflect and take full account of the information set forth in the reports submitted by the State under section 2006(c) of the Social Security Act (as added by section 803 of this Act).

(b) Assessment.—Prior to and in conjunction with the expenditure of funds available under section 402(g) of the Social Security Act for child care for participants in the program, each State shall conduct an assessment of the adequacy and appropriateness of child care resources in the State or particular communities in the State to meet the child care needs of participants in the program and those of other families receiving family support supplements. Such assessments shall specifically address the adequacy of resources available for children in different age groups, including infants, toddlers, preschools, and school-age children, and for children requiring part-time care.

(c) Coordination.—In order to encourage and facilitate coordination in the delivery of child care services, each State may provide that funds to participants for child care services under section 402(g) may be available to supplement early childhood development programs within a State, including Head Start programs, preschool programs funded under chapter 1 of the Education Consolidation and Improvement Act of 1981, schools and nonprofit child care programs (including community-based organizations receiving State or local funds designated for preschool programs for handicapped children), so as to extend these programs to provide full day, full year services to children in participating families.

(d) Treatment of Expenditures.—Amounts expended by a State or State agency in carrying out this section shall be treated for purposes of section 403(a)(3)(C) of the Social Security Act as having been made for the proper and efficient administration of the State plan approved under section 402 of that Act.

SEC. 203. EFFECTIVE DATE.

The amendments made by this title shall become effective October 1, 1987; except that—

(1) if the legislature of any particular State is not in regular session on the date of the enactment of this Act, and State legislation is required to provide the funds needed to carry out the amendments made by this title (or otherwise to implement such amendments) in that State, such amendments shall become effective with respect to that State on the first day of the first fiscal year which begins after the legislature has subsequently convened for a regular session during which a budget is (or is scheduled to be) adopted by the State; and

(2) section 402(g)(2) of the Social Security Act (as added by section 201(a) of this Act) shall become effective on the date on which the amendment made by section 102(a) of this Act becomes effective.

TITLE III—REAL WORK INCENTIVES

SEC. 301. CHANGES IN EARNED INCOME DISREGARDS.

(a) In General.—Section 402(a)(8) of the Social Security Act (as amended by section 106(a)(1) of this Act) is further amended to read as follows:

"(8)(A) provide (subject to subsection (g)(1)(C)) that, with respect to any month, in making the determination under paragraph (7), the State agency—

"(i) shall disregard all of the earned income of each dependent child receiving family support supplements who is (as determined by the State in accordance with standards prescribed by the Secretary) a full-time student or a part-time student who is not a full-time employee attending a school, college, or university, or a course of vocational or technical training designed to prepare him or her for gainful employment;

"(ii) shall disregard from the earned income of any child or relative applying for or receiving family support supplements, or of any other individual (living in the same home as such relative and child) whose needs are taken into account in making such determination, the first $100 of the total of such earned income for such month;

"(iii) shall disregard from the earned income of any child or relative receiving family support supplements, or of any other individual (living in the same home as such relative and child) whose needs are taken into account in making such determination, an amount equal to 25 percent of the total of such earned income not disregarded under any other clause of this subparagraph;

"(iv) shall disregard the first $50 of any child support payments received in such month with respect to the dependent child or children in any family applying for or receiving family support supplements (including support payments collected and paid to the family under section 457(b));

"(v) may disregard the income of any dependent child or minor parent applying for or receiving family support supplements which is derived from a program carried out under the Job Training Partnership Act, but only in such amounts and for such period of time (not to exceed 6 months with respect to earned income) as the Secretary may provide in regulations;

"(vi) may disregard all or any part of the earned income of a dependent child who is a full-time student and who is applying for family support supplements, but only if the earned income of such child is excluded for such month in determining the family's total income under paragraph (18); and

"(vii) shall disregard any refund of Federal income taxes made to a family receiving family support supplements by reason of section 32 of the Internal Revenue Code of 1986 (relating to earned income credit) and any payment made to such a family by an employer under section 3507 of such Code (relating to advance payment of earned income credit); and

"(B) provide that (with respect to any month) the State agency shall not disregard, under clause (ii) or (iii) of subparagraph (A), any earned income of any one of the persons specified in subparagraph (A)(ii) if such person—

"(i) terminated his or her employment or reduced his or her earned income without good cause within such period (of not less than 30 days) preceding such month as may be prescribed by the Secretary;

"(ii) refused without good cause, within such period preceding such month as may be prescribed by the Secretary, to accept employment in which he or she is able to engage which is offered through the public employment offices of the State, or is otherwise offered by an employer if the offer of such employer is determined by the State or local agency administering the State plan, after consulting with the employer, to be a bona fide offer of employment; or

"(iii) failed without good cause to make a timely report (as prescribed by the State plan pursuant to paragraph (14)) to the State agency of earned income received in such month;".

(b) Increases in Amounts To Be Disregarded.—(1) Section 402 of such Act (as amended by the preceding provisions of this Act) is further amended by adding at the end thereof the following new subsection:

"(h)(1) Any State may at its option increase the dollar amount under clause (ii) or (iv) of subsection (a)(8)(A) or the percentage figure under clause (iii) of such subsection (or increase both of such dollar amounts, or either or both of such dollar amounts as well as such percentage figure), effective on the first day of any calendar quarter beginning on or after the effective date of this subsection, so long as such increase (or the combination of such increases) does not have the effect of permitting a family to be eligible for aid under the State plan for any month in violation of subsection (a)(18).

"(2) Whenever benefit amounts under title II are increased by any percentage effective with any month as a result of a determination made under section 215(i), the dollar amount under subsection (a)(8)(A)(ii), as specified therein or as previously increased under paragraph (1) of this subsection or this paragraph, shall be increased by the same percentage (and rounded, when not a multiple of $1, to the next lower such multiple), effective on the first day of the following month; but no increase under this paragraph shall be effective to the extent that it would permit a family to be eligible for aid under the State plan for any month in violation of subsection (a)(18).".

(2) Section 457(b)(1) of such Act is amended by inserting after "monthly support payments" the following: "(or such larger portion of the amounts so collected as the State may have established, for purposes of section 402(a)(8)(A)(iv), under section 402(h)(1))".

(c) Conforming Amendment.—Section 402(d) of such Act is repealed.

SEC. 302. EFFECTIVE DATE.

The amendments made by section 301 shall be effective on and after October 1, 1988; except that if the legislature of any particular State is not in regular session on the date of the enactment of this Act, and State legislation is required to provide the funds needed to carry out the amendments made by section 301 (or otherwise to implement such amendments) in that State, such amendments shall become effective with respect to that State on the first day of the first fiscal year which begins after the legislature has subsequently convened for a regular session during which a budget is (or is scheduled to be) adopted by the State.

TITLE IV—TRANSITIONAL SERVICES FOR FAMILIES; EXTENSION OF MEDICAID ELIGIBILITY

SEC. 401. MEDICAID EXTENSION IN CASES OF FSP INELIGIBILITY RESULTING FROM CARETAKER'S EMPLOYMENT.

Section 402(a) of the Social Security Act (as amended by the preceding provisions of this Act) is further amended by striking paragraph (37) and by inserting after paragraph (36) the following new paragraph:

"(37) provide that if any family becomes ineligible to receive family support supplements because of the hours of or income from employment of the caretaker relative, having received such supplements in at least 3 of the 6 months immediately preceding the month in which such ineligibility begins, the family shall remain eligible for medical assistance under the State's plan approved under title XIX for an extended period or periods as provided in section 1924, and that the family will be appropriately notified of such extension (in the State agency's notice to the family of the termination of its eligibility for such supplements) as required by such section 1924;".

SEC. 402. MEDICAID EXTENSION IN CASES OF FSP INELIGIBILITY RESULTING FROM COLLECTION OF CHILD OR SPOUSAL SUPPORT.

Section 406(h) of the Social Security Act is amended by striking "for an additional four calendar months beginning with the month in which such ineligibility begins" and inserting "for an additional six calendar months beginning with the month in which such ineligibility begins, as provided in section 1902(e)(1)(B); and the family shall be appropriately notified of such extension (in the State agency's notice to the family of the termination of its eligibility for such aid)".

SEC. 403. EFFECTIVE DATE.

The amendments made by this title shall apply with respect to families that cease to be eligible for family support supplements on or after the applicable date specified (for purposes of the amendments made by sections 4131 and 4132 of the Omnibus Budget Reconciliation Act of 1987) in section 4133 of that Act.

TITLE V—CHILD SUPPORT ENFORCEMENT AMENDMENTS

SEC. 501. STATE GUIDELINES FOR CHILD SUPPORT AWARD AMOUNTS.

(a) Automatic Updating of Guidelines.—Section 467(a) of the Social Security Act is amended by striking out "guidelines for child support award amounts within the State" and all that follows and inserting in lieu thereof the following: "guidelines for child support award amounts within the State, along with procedures for the periodic review and updating of all child support orders in accordance with the procedures described in section 466(a)(10). The guidelines may be established by law or by judicial or administrative action, and must be reviewed and updated if necessary at least once every three years.".

(b) Guidelines To Create Rebuttable Presumption.—Section 467(b) of such Act is amended—

(1) by inserting "(1)" after "(b)";

(2) by striking out ", but need not be binding upon such judges or other officials"; and

(3) by adding at the end thereof the following new paragraph:

"(2) There shall be a rebuttable presumption, in any judicial or administrative proceeding for the award of child support, that the amount of the award which would result from the application of such guidelines is the correct amount of child support to be awarded. A written finding or specific finding on the record that the application of the guidelines would be unjust or inappropriate in a particular case shall be sufficient to rebut the presumption in that case.".

(c) State Law Requirements.—Section 466(a) of such Act is amended by inserting immediately after paragraph (9) the following new paragraph:

"(10) Procedures (including expedited procedures of the type described in paragraph (2)) requiring—

"(A) the uniform application of the guidelines established under section 467, and

"(B) the updating of child support orders at least once every two years on the basis of the reapplication of the State's child support guidelines to the current circumstances of the parties in accordance with the due process requirements of the State, including at a minimum the provision to both parties of all information necessary to determine a new award level under the guidelines and notice and opportunity for a hearing if desired by either party (but nothing in this paragraph or in such procedures shall require the lowering of any support award fixed by contract between the parties).".

SEC. 502. ESTABLISHMENT OF PATERNITY.

(a) In General.—(1) Section 466(a)(5) of the Social Security Act is amended by inserting "(A)" after "(5)", and by adding at the end thereof the following new subparagraph:

"(B) Procedures under which the State is required (except in cases where the individual involved has been found under section 402(a)(26)(B) to have good cause for refusing to cooperate)—

"(i) to establish the paternity of every child within the State who is a member of a family receiving aid under the State plan approved under section 402(a), as soon as possible after such child's birth but in any event prior to such child's eighteenth birthday;

"(ii) to require the child and all other parties, in a contested paternity case, to submit to genetic tests upon the request of any such party; and

"(iii) to use a 95-percent probability index from blood tests as a rebuttable presumption of paternity.".

(2) In the administration of the child support enforcement program under part D of title IV of the Social Security Act, each State is encouraged to establish and implement a simple civil process for voluntarily acknowledging paternity and a civil procedure for establishing paternity in contested cases.

(3) A State shall be deemed to have satisfied the requirement of section 466(a)(5)(B)(i) of the Social Security Act in the fiscal year 1989 if the number of cases in which paternity is established in that State in that fiscal year is at least 50 percent higher than the number of such cases in the fiscal year 1986, and to have satisfied such requirement in any of the 4 fiscal years following the fiscal year 1989 if the number of cases in which paternity is established in that State in that fiscal year is at least 15 percent higher than the number of such cases in the preceding fiscal year.

(4) As of August 16, 1984, the requirements of section 466(a)(5)(A) of the Social Security Act (as designated by paragraph (1) of this subsection) apply to any child for whom paternity has not yet been established and any child for whom a paternity action was brought but dismissed because a

statute of limitations of less than 18 years was then in effect in the State.

(b) IMPUTATION OF SUPPORT IN COMPUTING INCENTIVE PAYMENTS.—Section 458(c) of such Act is amended—

(1) by inserting "(1)" after "(c)";

(2) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively; and

(3) by adding at the end thereof the following new paragraph:

"(2) In determining the State's combined FSP/non-FSP administrative costs for any fiscal year under this section, the State shall be deemed to be collecting support in the amount of $100 a month, for a period of up to 12 months, in every case in which paternity has been established but actual collections have not commenced or the amount being actually collected is less than $100 a month.".

SEC. 503. DEMONSTRATION PROJECTS TO ADDRESS VISITATION AND CUSTODY PROBLEMS.

Section 1115(b) of the Social Security Act (as added and amended by the preceding provisions of this Act) is further amended by redesignating paragraph (6) as paragraph (7), and by inserting after paragraph (5) the following new paragraph:

"(6)(A) In order to encourage States to identify the problems arising in connection with visitation by absent parents and to address problems involving child custody, to determine the magnitude of such problems, and to test possible solutions thereto (including but not limited to the creation of special staffs of mediators to deal with disputes involving court-ordered child access privileges or custody), any State may establish and conduct one or more demonstration projects in accordance with such terms, conditions, and requirements as the Secretary shall prescribe (except that no such project may include the withholding of child support payments pending visitation). No such project shall be conducted for a period of more than 3 years.

"(B) The Secretary may make grants to any State, in amounts not exceeding $5,000,000 per year, to assist in financing the project or projects established by such State under this paragraph.".

SEC. 504. DISREGARDING OF CHILD SUPPORT PAYMENTS FOR FSP PURPOSES.

(a) IN GENERAL.—Clause (iv) of section 402(a)(8)(A) of the Social Security Act (as amended by section 301(a) of this Act) is further amended by striking out "of any child support payments received in such month" and inserting in lieu thereof the following: "of any child support payment received in such month which was due for that month, and the first $50 of any child support payment received in such month which was due for a prior month if such payment was timely made when due by the absent parent,".

(b) CONFORMING AMENDMENT.—Section 457(b)(1) of such Act (as amended by section 301(b)(2) of this Act) is further amended by inserting immediately before "shall be paid" the following: ", including a payment received in one month which was due for a prior month if it was timely made when due by the absent parent,".

SEC. 505. REQUIREMENT OF PROMPT STATE RESPONSE TO REQUESTS FOR CHILD SUPPORT ASSISTANCE.

(a) IN GENERAL.—Section 452 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"(g) The standards required by subsection (a)(1) shall establish limitations on the period of time (after the determination of a family's eligibility for aid under a State plan approved under section 402 or the filing of an application for services under this part) within which a State must (1) respond to requests for assistance in locating absent parents or establishing paternity, and (2) begin proceedings to establish or enforce child support awards.".

(b) STATE PLAN REQUIREMENT.—Section 454 of such Act is amended—

(1) by striking out "and" after the semicolon at the end of paragraph (22);

(2) by striking out the period at the end of paragraph (23) and inserting in lieu thereof "; and"; and

(3) by inserting immediately after paragraph (23) the following new paragraph:

"(24) provide that the State will observe and comply with the time limits established under section 452(g).".

SEC. 506. AUTOMATED TRACKING AND MONITORING SYSTEMS.

(a) IN GENERAL.—Section 454 of the Social Security Act (as amended by section 505(b) of this Act) is further amended—

(1) by striking out "and" after the semicolon at the end of paragraph (23);

(2) by striking out the period at the end of paragraph (24) and inserting in lieu thereof "; and"; and

(3) by inserting immediately after paragraph (24) the following new paragraph:

"(25) provide that, if it does not already have in effect an automatic data processing and information retrieval system meeting all of the requirements of paragraph (16), the State—

"(A) will submit to the Secretary by October 1, 1989 (for his review and approval no later than October 1, 1990) an advance automatic data processing planning document of the type referred to in that paragraph; and

"(B) will have in effect by October 1, 1992, an operational automatic data processing and information retrieval system meeting all the requirements of that paragraph.".

(b) REPEAL OF 90-PERCENT FEDERAL REIMBURSEMENT RATE FOR AUTOMATED DATA SYSTEMS.—Effective October 1, 1992, section 455(a)(1) of such Act is amended by striking out "an amount—" and all that follows down through "except that" and inserting in lieu thereof the following: "an amount equal to the percent specified in paragraph (2) of the total amounts expended by such State during such quarter for the operation of the plan approved under section 454; except that".

SEC. 507. COSTS OF INTERSTATE ENFORCEMENT DEMONSTRATIONS EXCLUDED IN COMPUTING INCENTIVE PAYMENTS.

Section 458(d) of the Social Security Act is amended by inserting immediately before the period at the end thereof the following: ", and any amounts expended by the State in carrying out a special project assisted under section 455(e) shall be excluded".

SEC. 508. FEDERAL MATCHING REDUCED FOR STATES WHICH ARE NOT IN COMPLIANCE WITH 1984 AMENDMENTS, AND INCREASED FOR STATES WHICH REQUIRE IMMEDIATE INCOME WITHHOLDING UPON ISSUANCE OF COURT ORDER.

Section 455(a)(2) of the Social Security Act is amended—

(1) by striking out "The percent" and inserting in lieu thereof "(A) Except as provided in subparagraphs (B) and (C), the percent";

(2) by redesignating the existing subparagraphs (A), (B), and (C) as clauses (i), (ii), and (iii), respectively; and

(3) by adding at the end thereof the following new subparagraphs:

"(B) In the case of a State that is not fully in compliance with the Child Support Enforcement Amendments of 1984, as determined by the Secretary, at any time after the expiration of 6 months after the date of the enactment of this subparagraph, the percent applicable to any quarter for purposes of paragraph (1) is 66 percent.

"(C) In the case of any State that has in effect a law (whether enacted before, on, or after the date of the enactment of this subparagraph) under which—

"(i) income withholding in accordance with section 466(b) is required in cases where an individual residing in the State owes child support under a court order issued or modified in the State on or after the date of the enactment of such law (or under an order of an administrative process established by a law of the State and issued or modified on or after that date), without the necessity of any application therefor or of any determination as to whether or not such individual is in arrears, and

"(ii) an exemption from the requirement described in clause (i) is permitted in any case where (I) one of the parties demonstrates, and the court (or administrative process) finds, that there is good cause not to require immediate income withholding, or (II) a written agreement is reached between both parties which provides for an alternative arrangement,

the percent applicable to any quarter for purposes of paragraph (1) for any fiscal year (unless subparagraph (B) of this paragraph applies) is 70 percent.".

SEC. 509. COMMISSION ON INTERSTATE ENFORCEMENT.

(a) ESTABLISHMENT OF COMMISSION; PURPOSE.—There is hereby established a study commission to examine the problems of interstate child support enforcement and to develop a new model interstate law to facilitate and strengthen such enforcement.

(b) MEMBERSHIP.—The commission shall consist of 15 members, as follows:

(1) Two Members of the Senate, one selected by the Majority Leader of the Senate and the other by the Minority Leader of the Senate.

(2) Two Members of the House of Representatives, one selected by the Speaker of the House and the other by the Minority Leader of the House.

(3) The Secretary of Health and Human Services.

(4) A representative of the Commissioners on Uniform State Laws.

(5) A director of a State child support enforcement agency.

(6) A State or local prosecutor.

(7) Seven advocates for or representatives of custodial and non-custodial parents.

The members specified in paragraphs (4) through (7) shall be selected jointly by the Speaker of the House and the Majority Leader of the Senate in consultation with the Minority Leader of the House and the Minority Leader of the Senate.

(c) REPORT.—No later than one year after the date of the enactment of this Act, the commission shall submit to the President and the Congress a full and complete report of the results of its study, including a draft of a model State law designed to facilitate and strengthen interstate child support enforcement, along with such recommendations as the commission may have for further legislative, administrative, and other actions at every level.

(d) Authorization of Funds.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

SEC. 510. STUDY OF CHILD-RAISING COSTS.

The Secretary of Health and Human Services shall conduct a study of the patterns of expenditures on children in two-parent families, in single-parent families following divorce, and in single-parent families in which the parents were never married, giving particular attention to the relative standards of living in households in which both parents and all of the children do not live together. The Secretary shall submit to the Congress no later than two years after the date of the enactment of this Act a full and complete report of the results of such study, including such recommendations as the Secretary may have for legislative, administrative, and other actions. There are authorized to be appropriated such sums as may be necessary to carry out this section.

SEC. 511. DEMONSTRATION PROJECTS TO TEST VOLUNTARY WORK, EDUCATION, AND TRAINING FOR FATHERS WHO ARE UNABLE TO PAY CHILD SUPPORT.

Section 1115(b) of the Social Security Act (as added and amended by the preceding provisions of this Act) is further amended by redesignating paragraph (7) as paragraph (8), and by inserting after paragraph (6) the following new paragraph:

"(7) In order to permit States to test methods of improving child support enforcement in cases where the noncustodial parent is financially unable to meet his support obligations, any State may undertake and carry out a demonstration project under which absent parents who owe child support, but whose income is insufficient to pay such support, are encouraged by all possible means to participate in the State's education, training, and work program established under section 416, in an appropriate State program under the Job Training Partnership Act, or in a similar program. Demonstration projects under this paragraph shall be established and carried out in accordance with such conditions and requirements as the Secretary shall prescribe; and the Secretary shall make grants to the States conducting such projects to assist in their financing.".

SEC. 512. COLLECTION AND REPORTING OF CHILD SUPPORT ENFORCEMENT DATA.

(a) In General.—The Secretary of Health and Human Services shall collect and maintain up-to-date statistics, by State, with respect to each of the services specified in subsection (b) (separately stated in the case of each such service for families receiving aid under plans approved under part A of title IV of the Social Security Act and for families not receiving such aid), on—

(1) the number of cases in the child support enforcement agency caseload under part D of title IV of the Social Security Act which need the service involved;

(2) the number of such cases in which the service has actually been provided; and

(3) the number of cases described in paragraph (2) as a percentage of the number of cases described in paragraph (1).

(b) Services Involved.—The services referred to in subsection (a) are—

(1) paternity determination;

(2) location of an absent parent for the purpose of establishing a child support obligation;

(3) establishment of a child support obligation; and

(4) location of an absent parent for the purpose of enforcing or modifying an established child support obligation.

SEC. 513. ASSISTANCE IN LOCATING ABSENT PARENTS.

(a) Provision of Information by Secretary of Labor.—The Secretary of Labor shall make available to the Parent Locator Service established under section 453 of the Social Security Act and to any State child support enforcement agency which requests it, for child support enforcement purposes, from the cross-match system used by the Secretary in determining eligibility for unemployment insurance and accessed by INTERNET, all available information on the name, social security account number, current address, and place of employment of any specified individual.

(b) Reimbursement.—The Parent Locator Service and each State child support enforcement agency, upon receiving information from the Secretary of Labor under subsection (a), shall reimburse the Secretary for the reasonable cost of providing such information (and, in the case of a State child support enforcement agency, such reimbursement shall constitute an expenditure made for the operation of the plan approved under section 454 of the Social Security Act).

SEC. 514. EFFECTIVE DATE.

Except to the extent otherwise specifically indicated, the amendments made by this title shall become effective on the first day of the first calendar quarter which begins one year or more after the date of the enactment of this Act.

TITLE VI—PRO-FAMILY WELFARE POLICIES

SEC. 601. REQUIREMENT THAT AID BE PROVIDED WITH RESPECT TO DEPENDENT CHILDREN IN TWO-PARENT FAMILIES.

(a) In General.—Section 402(a) of the Social Security Act is amended—

(1) by striking out "and" after the semicolon at the end of paragraph (38);

(2) by striking out the period at the end of paragraph (39) and inserting in lieu thereof "; and"; and

(3) by inserting immediately after paragraph (39) the following new paragraph:

"(40) provide that payments of family support supplements will be made under the plan with respect to dependent children of unemployed parents, in accordance with section 407.".

(b) Conforming Amendments.—(1) Section 407(b) of such Act is amended by striking out "(b) The provisions" and all that follows down through "(1) requires" and inserting in lieu thereof the following:

"(b) In providing for the payment of family support supplements under the State's plan approved under section 402 in the case of families which include dependent children within the meaning of subsection (a) of this section, as required by section 402(a)(40), the State's plan—

"(1) shall require".

(2) Section 407(b)(2) of such Act is amended by striking out "provides—" and inserting in lieu thereof "shall provide—".

(c) Quarters of Work Based on Education or Training.—(1) Section 407(d)(1) of such Act (as amended by section 106(a)(10) of this Act) is further amended—

(A) by inserting "(A)" after "means a calendar quarter"; and

(B) by inserting before the semicolon at the end thereof the following: ", or (B) if the State plan so provides (but subject to the last sentence of this subsection), in which such individual (i) was in regular full-time attendance as a student at an elementary or secondary school, (ii) was in regular full-time attendance in a course of vocational or technical training designed to fit him or her for gainful employment, or (iii) participated in an education or training program established under the Job Training Partnership Act".

(2) Section 407(d) of such Act is further amended by adding at the end thereof (after and below paragraph (4)) the following new sentence:

"No individual shall be credited during his or her lifetime (for purposes of subsection (b)(1)(C)(i)) with more than 4 'quarters of work' based on attendance in a course or courses of vocational or technical training as described in paragraph (1)(B)(ii) of this subsection.".

(3) Section 407(b)(1)(C)(i) of such Act is amended by inserting after "6 or more quarters of work (as defined in subsection (d)(1))" the following: ", including 2 or more quarters of work as defined in subsection (d)(1)(A),".

(d) GAO Study.—The Comptroller General shall conduct a study of the administration by the States of the family support program in cases involving unemployed parents under section 407 of the Social Security Act, with particular reference to the policies and regulations governing the administration of such program in those cases, and shall recommend to the Congress within 6 months after the date of the enactment of this Act such changes in current law and regulation as in his judgment would make such administration less cumbersome and less prone to error in the payment of such aid. There are authorized to be appropriated such sums as may be necessary to carry out this section.

(e) Effective Date.—The amendments made by subsections (a), (b), and (c) shall become effective January 1, 1990.

SEC. 602. SPECIAL PROVISIONS FOR FAMILIES HEADED BY MINOR PARENTS.

(a) Case Management Services; Living Arrangements and Payments of Aid.—(1) Section 402(a) of the Social Security Act is amended by inserting after paragraph (28) the following new paragraph:

"(29) provide for the assignment of a case manager to each family which is receiving family support supplements under the plan and which is headed by a minor parent, as described in section 417, and include the other provisions and conditions required by that section;".

(2) Part A of title IV of such Act (as amended by section 102(a) of this Act) is further amended by adding at the end thereof the following new section:

"SPECIAL PROVISIONS FOR FAMILIES HEADED BY MINOR PARENTS

"Sec. 417. (a)(1) The State agency shall assign an individual case manager to each family, receiving family support supplements under the State's plan approved under section 402, which is headed by a minor parent. The case manager so assigned shall be responsible for assuring that the family receives and effectively uses all of the aid and services which are available to it under the plan and under related laws and programs, and for supervising and monitoring the provision and use of such aid and services. Each case manager assigned under this subsection shall maintain a caseload sufficiently small to assure the provision of intensive services to and close supervision of the families to which he or she is assigned.

"(2) If the family is participating in the program under section 416, only one case manager shall be assigned to perform all case management functions for the family.

"(b)(1)(A) Each family headed by an unmarried minor parent shall be required to live with a parent, legal guardian, or other adult relative of such minor parent or in a foster home, maternity home, or other supportive living arrangement, except to the extent that the State agency determines that it is impossible or inappropriate to do so (as more particularly described in subparagraph (B)). The case manager assigned to the family may in any event require that payments of family support supplements with respect to the family be made when appropriate to a third party in the manner described in section 406(b)(2) (which in such a case shall be without regard to clauses (A) through (D) thereof); and if the minor parent is not living under adult supervision, and an appropriate relative or other representative payee cannot be found, the case manager may serve as representative payee.

"(B) The State agency may determine that it is impossible or inappropriate for a minor parent to live with a parent or legal guardian if—

"(i) the minor parent has no living parent or legal guardian whose whereabouts are known;

"(ii) the health or safety of the minor parent or the child would be jeopardized if they lived with the parent or guardian, or the living conditions of the parent or guardian are overcrowded;

"(iii) the parent or guardian refuses to allow the minor parent and child to live in his or her home; or

"(iv) the minor parent has lived apart from the parent or guardian for at least a year prior to the birth of the child or prior to making application for supplements under the plan.

"(2) In any case where the parent with whom the minor parent is living is also eligible for family support supplements (by reason of the presence in the household of one or more other children of such parent), the State must provide (notwithstanding paragraph (38)) that the minor parent and the minor parent's child or children constitute a family unit separate from that of the minor parent's parent and such other children.

"(c) The State may at its option (1) require school attendance by the minor parent on a part-time basis as a condition of such parent's eligibility for aid under the State plan, or (2) require that the minor parent participate in training in parenting and family living skills, including nutrition and health education, as a condition of such eligibility (without regard to the age of the child or children); but in either case only if and to the extent that day care for the child or children is guaranteed (and is guaranteed within the applicable dollar limitations set forth in section 402(g) if the child or any of the children is below 3 years of age).

"(d) Amounts expended by a State under this section in providing case management services with respect to families headed by minor parents shall be considered, for purposes of section 403(a)(3)(D), to be expenditures for the proper and efficient administration of the State plan.

"(e) For purposes of this section, the term 'minor parent' means a parent who has not yet attained the age of 18.".

(b) Repeal of Provision Attributing Grandparent's Income to Dependent Child in Minor Parent Family.—Section 402(a) of such Act is further amended by striking out paragraph (39).

(c) Effective Date.—The amendments made by this section shall become effective on October 1, 1987.

TITLE VII—BENEFIT IMPROVEMENTS

SEC. 701. PERIODIC RE-EVALUATIONS OF NEED AND PAYMENT STANDARDS.

Section 402 of the Social Security Act (as amended by the preceding provisions of this Act) is further amended by adding at the end thereof the following new subsection:

"(i) Each State shall annually re-evaluate its need standard and its payment standard under the family support program, giving particular attention to whether or not the amount which it has assumed to be necessary for shelter, in setting such standards, is adequate in the light of current housing costs in the State and in different regions within the State. The result of each such re-evaluation shall be reported by the State to the Secretary, to the Congress, and to the public.".

SEC. 702. ENCOURAGEMENT OF STATES TO INCREASE FSP BENEFIT LEVELS.

(a) In General.—(1) Section 403 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"(k)(1)(A) In the case of any State which, effective on or after October 1, 1988, increases the level of the family support supplements which are payable under its approved State plan, the percentage of the total amount expended during any quarter as family support supplements under such plan which would otherwise be payable to the State (without regard to this subsection) as the Federal share of such expenditures under subsection (a)(1) or (2) (with or without the application of section 1118), to the extent that the total amount so expended is attributable to such increase, shall be equal to the percentage of the Federal share of the expenses attributable to such increase, as it would be determined by the application of subsection (a)(1) or (2) without regard to this subsection, increased by 25 percent (but not to more than 90 percent).

"(B) If the increase involved becomes effective on the first day of a quarter, subparagraph (A) shall apply with respect to expenditures made on and after such first day. If the increase becomes effective at any other time during a quarter, subparagraph (A) shall apply only with respect to expenditures made on and after the first day of the following quarter.

"(C) The resulting net Federal share of the total amounts expended during such quarter as family support supplements under the State plan (including both the expenditures to which this paragraph applies and the expenditures to which it does not) shall be determined as provided in paragraph (2).

"(2)(A) Whenever a State (effective on or after October 1, 1988) increases the level of the family support supplements which are payable under its approved State plan, the Secretary shall determine with respect to each particular size of family separately specified under the plan (assuming for this purpose that no family has any other income)—

"(i) the level of such supplements (expressed as a monthly dollar amount) as of September 30, 1988;

"(ii) the level of such supplements (expressed as a monthly dollar amount) immediately after such increase becomes effective;

"(iii) the dollar amount of the increase (if any) in such level; and

"(iv) the percentage of the State's total FSP caseload (i.e., of the total number of families receiving family support supplements under the plan) which is represented by families of that particular size.

"(B) The Federal share of the expenditures which are made as family support supplements under the State plan with respect to families of any particular size during any quarter commencing with the later of the quarter beginning October 1, 1988, or the first quarter in which the increase is effective, and which (if any) are attributable to such increase, shall be a percentage equal to—

"(i) the sum of (I) the level determined under subparagraph (A)(i) for such families multiplied by the net Federal percentage determined under subsection (a) (1) or (2) or section 1118 without regard to this subsection, and (II) the amount of the increase (if any) determined under subparagraph (A)(iii) for such families multiplied by the percentage of the Federal share of the expenditures attributable to such increase as determined under paragraph (1)(A),

divided by—

"(ii) the level determined under subparagraph (A)(ii),

with the resulting quotient multiplied by—

"(iii) the percentage of the State's total FSP caseload which is represented by families of that particular size as determined under subparagraph (A)(iv).

"(C) The net Federal share of the total amounts expended during the quarter involved as family support supplements under the State's approved plan for purposes of subsection (a) (1) or (2) shall be a percentage equal to the sum of the percentages determined for all family sizes by the application of clauses (i), (ii), and (iii) of subparagraph (B) to families of each such size separately; and the percentage of such net Federal share as so determined shall be in lieu of the percentage which would otherwise be applied under subsection (a) (1) or (2) or under section 1118.".

(2)(A) Section 403(a) of such Act is amended by striking out "an amount equal to" in paragraphs (1) and (2) and inserting in lieu thereof in each instance "an amount (subject to subsection (k)) equal to".

(B) The first sentence of section 1118 of such Act is amended by inserting "(subject to section 403(k))" after "be determined".

(3) The Secretary of Health and Human Services shall monitor and study the implementation of the amendments made by this subsection and the effect of such amendments on benefit levels and related aspects of the program under part A of title IV of the Social Security Act, and shall submit to the Congress on or before October 1, 1991, and again on or before October 1, 1993, a detailed report on such implementation and effect.

(b) Prohibition Against Benefit Reductions.—Section 402(a) of such Act (as amended by sections 601(a) and 602(b) of this Act) is further amended by inserting after paragraph (38) the following new paragraph:

"(39) provide that the State will not reduce the level of the aid payable under the State plan to families of any size or composition below the level in effect for such families on June 10, 1987 (or below a level scheduled to become effective for such families after that date (and on or before September 30, 1988) under a State law enacted on or before June 10, 1987); and".

SEC. 703. STUDY OF NEW NATIONAL APPROACHES TO WELFARE BENEFITS FOR LOW-INCOME FAMILIES WITH CHILDREN.

(a) In General.—The Secretary of Health and Human Services shall enter into a contract or arrangement with the National Academy of Sciences for the study of a new national system of welfare benefits for low-income families with children, giving particular attention to what an appropriate national minimum benefit might be and how it should be calculated. The study shall give consideration to alternative minimum benefit proposals including proposals for benefits based on a family living standard, on weighted national median income, on State median income, and on the poverty level, and shall take into account the probable impact of a national minimum benefit on individuals and on State and local governments.

(b) Methodology.—(1) The study under this section shall include the development of a uniform national methodology which could be used to calculate State-specific family living standards and benefits based on other minimum benefit proposals.

(2) The methodology so developed shall be designed to identify a single uniform measure suitable for application in each State, and shall—

(A) take into account actual living costs in each State while permitting variances in such costs as between the different geographic areas of the State;

(B) take into account variations in actual living costs in each State for families of different sizes and composition; and

(C) specify an effective process for reassessing and updating both the methodology and the resulting family living standards and benefits based on other minimum benefit policies at least once every four years.

(3) The methodology so developed shall reflect the costs of basic necessities including housing, furnishings, food, clothing, transportation, utilities, and other maintenance items; and the study shall take into account variations in costs for different geographic areas of the State where such costs may be substantially different, and variations in costs for families of different sizes and composition.

(c) Other Considerations; Progression to Proposed Minimum Benefit Levels.—In order to assess the implications of States moving to a new system of welfare benefits, the study shall include an analysis of the relationship between a State's fiscal capacity and other circumstances and constraints and the application of a full family living standard or other minimum benefit policy. The study shall propose a formula designed to achieve a uniform progression from the level of assistance currently being provided for low-income families with children under the family support program, the food stamp program, and the low-income energy assistance program, by each State, to a level based on the full family living standard or other minimum benefit policy for that State. For this purpose the Secretary shall define the term "low-income families with children" in a manner which reflects all families that include dependent children as defined for purposes of the family support program.

(d) Report and Recommendations.—The Academy shall report its recommendations resulting from the study under this section to the Secretary no later than 24 months after the date of the enactment of this Act; and the Secretary shall promptly transmit such recommendations to the Congress.

(e) Authorization of Funds.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

TITLE VIII—MISCELLANEOUS PROVISIONS

SEC. 801. COORDINATION OF FAMILY SUPPORT AND FOOD STAMP POLICIES.

(a) Appointment and Membership of Commission.—There is hereby established a Commission on the Coordination of Family Support and Food Stamp Policies (hereinafter referred to as the "Commission"), consisting of 15 members as follows:

(1) The Secretary of Health and Human Services.

(2) The Secretary of Agriculture.

(3) Two Members of the Senate, one selected by the Majority Leader of the Senate and the other by the Minority Leader of the Senate.

(4) Two Members of the House of Representatives, one selected by the Speaker of the House and the other by the Minority Leader of the House.

(5) Two State Governors, one selected jointly by the Speaker of the House and the Majority Leader of the Senate and the other selected jointly by the Minority Leader of the House and the Minority Leader of the Senate.

(6) Seven other members, including State and local officials responsible for administering the family support and food stamp programs, representatives of welfare advocacy organizations, and individuals with demonstrated expertise in welfare policy, to be selected jointly by the Speaker of the House and the Majority Leader of the Senate in consultation with the Minority Leader of the House and the Minority Leader of the Senate.

(b) Purpose.—It shall be the purpose of the commission—

(1) to study and consider the policies and definitions being implemented or used (under law or administrative practice) in the administration of the family support program under part A of title IV of the Social Security Act and those being so implemented or used in the administration of the food stamp program under the Food Stamp Act of 1977;

(2) to identify the policies and definitions being implemented or used under each such program which are inconsistent or in conflict with those being implemented or used under the other; and

(3) to make recommendations for developing common policies and definitions for use under both programs and thereby eliminating such inconsistency or conflict to the maximum extent possible.

(c) Report.—The commission shall submit to the President and the Congress within one year after the date of the enactment of this Act a full and complete report on its study under this section, including its recommendations for such legislative, administrative, and other actions as may be considered appropriate.

(d) Authorization of Funds.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

SEC. 802. UNIFORM REPORTING REQUIREMENTS.

Section 403 of the Social Security Act is amended by inserting immediately before subsection (f) the following new subsection:

"(e) In order to assist in obtaining the information needed to carry out subsection (b)(1) and otherwise to perform his duties under this part, the Secretary shall establish uniform reporting requirements under which each State will be required periodically to furnish such information and data as the Secretary may determine to be necessary to ensure that sections 402(a)(37), 402(g), and 417 are being effectively implemented, including at a minimum the average monthly number of families assisted under each such section, the types of such families, the amounts expended with respect to such families, and the length of time for which such families are assisted. The information and data so furnished with respect to families assisted under section 402(g) shall be separately stated with respect to families who have earnings and those who do not, and with respect to families who are receiving aid under the State plan and those who are not.".

SEC. 803. STATE REPORTS ON EXPENDITURE AND USE OF SOCIAL SERVICES FUNDS.

Section 2006 of the Social Security Act is amended—

(1) by striking out that part of the second sentence of subsection (a) which precedes "as the State finds necessary" and inserting in lieu thereof "Reports shall be prepared annually, covering the most recently completed fiscal year, and shall be in such form and contain such information (including but not limited to the information specified in subsection (c))";

(2) by redesignating subsection (c) as subsection (d); and

(3) by inserting after subsection (b) the following new subsection:

"(c) Each report prepared and transmitted by a State under subsection (a) shall set forth (with respect to the fiscal year covered by the report)—

"(1) the number of individuals who received services paid for in whole or in part with funds made available under this title, showing separately the number of children and the number of adults who received such services, and broken down in each case to reflect the types of services and circumstances involved;

"(2) the amount actually spent in providing each such type of service, showing separately for each type of service the amount spent per child recipient and the amount spent per adult recipient;

"(3) the criteria applied in determining eligibility for services (such as income eligibility guidelines, sliding fee scales, the effect of public assistance benefits, and any requirements for enrollment in school or training programs); and

"(4) the methods by which services were provided, showing separately the services provided by public agencies and those provided by private agencies, and broken down in each case to reflect the types of services and circumstances involved.

The Secretary shall establish uniform definitions of services for use by the States in preparing the information required by this subsection.".

SEC. 804. EVALUATION OF EMPLOYMENT, TRAINING, AND WORK PROGRAMS AND RELATED PROGRAMS.

(a) Statement of Purpose.—It is the view of the Congress that there is now a broad national consensus on the importance of work and preparation for work as a means of avoiding the dependency often associated with poverty. In recent years, the States have undertaken impressive new job search, education, training, and employment programs designed to help welfare recipients achieve financial independence. Evaluations of these programs provide some reason to think they may be successful in moving welfare recipients into the workforce. In enacting this Act the Congress is attempting to help the States pursue these programs by providing generous new resources and a great deal of flexibility in designing and implementing the programs. In addition, the Congress is granting the States great latitude in using funds currently addressed to meeting the needs of low-income citizens and citizens living in poverty. But the Congress also intends to learn as much as possible from this new investment of public funds and this new enrichment of Federal-State relations. In recent years the Congress has profited from the knowledge produced by large-scale evaluations; it is the intent of the Congress to pursue the strategy of careful evaluation of social programs in order to improve and perfect the legislation upon which these programs are based. It is the purpose of this section to carry out this objective.

(b) ESTABLISHMENT OF INTERAGENCY PANEL.—Within 3 months after the enactment of this Act, the Secretary of Health and Human Services shall convene an Interagency Panel consisting of representatives from the Office of Management and Budget, the Congressional Budget Office, the Congressional Research Service, and the General Accounting Office. The Panel shall meet periodically to design, implement, and monitor a series of implementation and evaluation studies to assess the methods and effects of the programs initiated under this Act. Insofar as possible, the Panel shall work in a collegial fashion; but if consensus cannot be reached among Panel members on particular decisions the Secretary of Health and Human Services is authorized to make all final decisions about program design, use of contractors, conduct of particular studies, and any other matters which may come before the Panel.

(c) ADVISORY BOARD.—Within 6 months after the enactment of this Act, the Interagency Panel shall select and appoint an advisory board of not more than 12 members. The advisory board shall include representatives of business, labor, academia, children's groups, State government, local government, welfare rights organizations, religious organizations, and community self-help organizations. The advisory board shall meet at least twice during the first year following its formation and at least once a year thereafter. It shall be the function of the advisory board to provide the Interagency Panel with advice and counsel on all aspects of its operation.

(d) OPERATION OF INTERAGENCY PANEL.—(1) The Interagency Panel shall identify the significant questions to be pursued in its studies, and shall also adopt an overall design that maximizes the knowledge gained from contrasts and comparisons between the individual studies. The Panel shall make special efforts to coordinate with the States and to use control groups and other methods of scientific evaluation whenever possible.

(2) The Panel may request the Secretary of Health and Human Services to supply any information, in the possession of or available to the Secretary, which may be of assistance in carrying out the Panel's functions under this section, and may request the Secretary to obtain any such information from States by requiring its inclusion in any of the State reports provided for under this Act or otherwise provided for by law. To the maximum extent possible, the Secretary shall comply with any request received from the Panel under this subsection.

(e) REPORTS.—The Interagency Panel shall report to the Congress and the President at such times as it sees fit to do so, but at least once each year, during the 5-year period beginning on the date of the enactment of this Act. The first such report shall cover the implementation of the programs under this Act during the period prior to the submission of that report; and the subsequent reports shall include an overview of each study the Panel has conducted or authorized, an overall assessment of the State programs initiated under this Act, and a set of specific recommendations to the Congress and the President on needed changes in legislation, regulations, and program administration at the State and Federal levels. The final report shall cover the first four years of program implementation and shall be published no later than five years after the enactment of this Act.

(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated the total sum of $20,000,000 to enable the Panel to perform its functions during the first five years of its existence.

SEC. 805. DEMONSTRATION PROGRAM OF GRANTS TO PROVIDE PERMANENT HOUSING FOR FAMILIES THAT WOULD OTHERWISE REQUIRE EMERGENCY ASSISTANCE.

(a) ESTABLISHMENT OF PROGRAM.—Section 1115 of the Social Security Act (as amended by the preceding provisions of this Act) is further amended by adding at the end thereof the following new subsection:

"(c)(1) In order to ensure that States which incur particularly high costs in providing emergency assistance for temporary housing to homeless FSP families may have an adequate opportunity to test whether such costs could be effectively reduced by the construction or rehabilitation (with the assistance of Federal grants) of permanent housing that such families can afford with their regular family support supplements, there is hereby established a demonstration program under which the Secretary shall make grants to those States, selected in accordance with paragraph (2), which conduct demonstration projects in accordance with this subsection.

"(2)(A) Any State which desires to participate in the demonstration program established by paragraph (1) may submit an application therefor to the Secretary.

"(B) To be eligible for selection to conduct a demonstration project under such program, a State—

"(i) must be currently providing emergency assistance (as defined in paragraph (6)(A)) in the form of housing, including transitional housing;

"(ii) must have a particularly acute need for assistance in dealing with the problems of homeless FSP families by virtue of the large number of such families, and the existence of shortages in the supply of low-income housing, in the political subdivision or subdivisions where such project would be conducted; and

"(iii) must submit a plan to achieve significant cost savings over a 10-year period through the conduct of such project with assistance under this subsection.

"(C) The Secretary shall select up to 3 States, from among those which submit applications under subparagraph (A) and are determined to be eligible under subparagraph (B), to conduct demonstration projects in accordance with this subsection. In the event that more than 3 States are determined to be eligible, the 3 States selected shall be those whose cost savings (as described in clause (iii) of subparagraph (B)) will be the greatest.

"(D) Grants for each demonstration project under this subsection shall be awarded within 6 months after the date of the appropriation of funds (pursuant to paragraph (8)) for the purposes prescribed in this subsection.

"(3) For each year during which a State is conducting a demonstration project under this subsection, the Secretary shall make a grant to such State, in an amount determined under paragraph (8)(B)), for the construction or rehabilitation of permanent housing to serve individuals and families who would otherwise require emergency assistance in the form of temporary housing.

"(4) A grant may be made to a State under paragraph (2) only if such State (along with or as a part of its application) furnishes the Secretary with satisfactory assurances that—

"(A) the proceeds of the grant will be used exclusively for the construction or rehabilitation of permanent housing to be owned by the State, a political subdivision of the State, an agency or instrumentality of the State or of a political subdivision of the State, or a nonprofit organization;

"(B) all units assisted with funds from the proceeds of the grant will be used exclusively for rental to families which—

"(i) are eligible, at the time of the rental, for aid under the State's plan approved under section 402 (and a family with one or more members who meet this requirement shall not be deemed ineligible because one or more other members receive benefits under title XVI),

"(ii) have been unable to obtain decent housing at rents that can be paid with the portion of such aid allocated for shelter, and

"(iii) if such housing were not available to them, would be compelled to live in a shelter for the homeless or in a hotel or motel, or other temporary accommodations, paid for with emergency assistance, or would be homeless;

"(C) the local jurisdiction in which such housing will be located is experiencing a critical shortage of housing units that are available to families eligible for aid under the State plan at rents that can be paid with the portion of such aid allocated for shelter; and

"(D) whenever units assisted with grants under the project become available for occupancy, the State will discontinue the use of an equivalent number of units of the most costly accommodations it has been using as temporary housing paid for with emergency assistance, except to the extent that such accommodations are demonstrably needed—

"(i) in addition to the units so assisted, to take account of increases in the caseload under the emergency assistance program, or

"(ii) because, due to the condition or location of such accommodations, or other factors, discontinuing the use of such units would not be in the best interests of needy families, provided that the State discontinues the use of an equivalent number of other units it has been using as temporary housing paid for with emergency assistance;

and only if the State, along with or as a part of its application, includes such documentary and other materials as may be necessary to establish its eligibility under paragraph (2)(B) and such provisions as may be necessary to carry out the requirements of subparagraph (D) of this paragraph.

"(5)(A) The average cost to the Federal Government per unit of housing constructed or rehabilitated with a grant under a project under this subsection shall be an amount no greater than the calculated yearly payment of emergency assistance that would be required to provide housing for a family in a shelter for the homeless, a hotel or motel, or other temporary quarters for one year, in the jurisdiction or jurisdictions where the project is located.

"(B) The total of Federal payments to a State under part A of title IV over the 10-year period beginning at the time construction or rehabilitation commences under the State's project under this subsection, with respect to the families who will live in housing assisted by a grant under such project (the 'total grant cost' as more particularly defined in paragraph (6)(C)), must be lower as a result of the construction or rehabilitation of permanent housing with the grant than it would be if the State made emergency assistance payments with respect to the families involved at the level of the standard yearly payment (as defined in paragraph (6)(B)) during such 10-year period.

"(C) Any grant to a State under paragraph (1) shall be made only on condition (i) that such State pay a percentage of the total cost of the construction or rehabilitation of the housing involved equal at least to the percentage of the current non-Federal share of family support supplements under the State's plan approved under section 402 (as determined under section 403(a) or 1118), increased by 10 percentage points, and (ii) that such State not require any of its political subdivisions to pay a higher percentage of the total costs of the construction or rehabilitation of such housing than it would pay with respect to family support supplements pursuant to such State plan.

"(6) For purposes of this subsection—

"(A) the term 'emergency assistance' means emergency assistance to needy families with children as described in section 403(e), and regular payments for the costs of temporary housing authorized as a special needs item under the State plan;

"(B) the term 'standard yearly payment', with respect to emergency assistance used to provide housing for a family in a shelter for the homeless, a hotel or motel, or other temporary quarters during any year in any jurisdiction, means an amount equal to the total amount of such assistance which was needed to provide all housing in temporary accommodations in that jurisdiction (with emergency assistance), in the most recently completed calendar year, at the 75th percentile in the range of all payments of emergency assistance for temporary accommodations, based on the State's actual experience with emergency assistance in such jurisdiction; and

"(C) the term 'total grant cost', with respect to housing constructed or rehabilitated under a demonstration project under this subsection, means the sum of (i) the Federal share of payments attributable to such housing during the 10-year period beginning on the date on which its construction or rehabilitation begins (including the grant provided under this subsection), (ii) the Federal share of payments of emergency assistance for temporary housing to the families involved during such construction or rehabilitation (at a level equal to the standard yearly payment), and (iii) the Federal share of regular payments of family support supplements under the State plan to such families during the remainder of such 10-year period.

"(7) Whenever a grant is made to a State under this subsection, the assurances required of the State under subparagraphs (A) through (D) of paragraph (4) and any other requirements imposed by the Secretary as a condition of such grant shall be considered, for purposes of section 404, as requirements imposed by or in the administration of the State's plan approved under section 402.

"(8)(A) There is authorized to be appropriated for grants under this subsection the sum of $15,000,000 for each of the first 5 fiscal years beginning on or after October 1, 1987.

"(B)(i) The amount appropriated for any fiscal year pursuant to subparagraph (A) shall be divided among the States conducting demonstration projects under this subsection according to their respective need for assistance of the type involved and their respective numbers of homeless FSP families, as determined by the Secretary.

"(ii) If any State to which a grant is made under this subparagraph finds that it does not require the full amount of such grant to conduct its demonstration project under this subsection in the fiscal year involved, the unused portion of such grant shall be reallocated to the other States conducting such projects in amounts based on their respective need for assistance of the type involved, as determined by the Secretary.

"(iii) Amounts appropriated pursuant to subparagraph (A), and grants made from such amounts, shall remain available until expended.

"(9) The Secretary shall prescribe and publish regulations to implement the provisions of this subsection no later than 6 months after the date of its enactment.".

(b) Effective Date.—The amendment made by subsection (a) shall become effective October 1, 1987.

SEC. 806. CHILD SUPPORT DEMONSTRATION PROJECT IN NEW YORK STATE.

(a) In General.—Upon application by the State of New York and approval by the Secretary of Health and Human Services, the State of New York (in this section referred to as the "State") may conduct a demonstration project in accordance with this section for the purpose of testing its Child Support Supplement Program as an alternative to the existing AFDC program and the Family Support Program.

(b) Nature of Project.—Under the demonstration project conducted under this section—

(1) all custodial parents of dependent children who are eligible for family support supplements under the State plan approved under section 402(a) of the Social Security Act, and/or such types or classes of such parents as the State may specify, may elect to receive benefits under the Child Support Supplement Program in lieu of family support supplements under such plan; and

(2) the Federal Government will pay to the State with respect to families receiving benefits under the Child Support Supplement Program the same amounts as would have been payable with respect to such families under section 403 (or 1118) of the Social Security Act if they were receiving family support supplements under the State plan, calculating the Federal payments without regard to any increased earnings by such families which may arise from their participation in the Program.

(c) Waivers.—The Secretary shall (with respect to the project under this section) waive compliance with any requirements contained in title IV of the Social Security Act which (if applied) would prevent the State from carrying out the project or effectively achieving its purpose.

(d) Required Assurances.—As a condition of approval of the project under this section, the State must provide assurances satisfactory to the Secretary that it will continue to make assistance available to all eligible children in the State who are in need of financial support, and will continue to operate an effective child support enforcement program.

(e) Effective Date and Duration of Project.—The Secretary shall approve or disapprove the application of the State within 90 days after the date of its submission; and if the application as initially submitted is disapproved the Secretary and the State shall negotiate the revisions necessary for its approval. The project under this section shall commence no later than the first day of the third calendar quarter beginning on or after the date of its approval and shall continue for five years.

SEC. 807. DEMONSTRATION OF FAMILY INDEPENDENCE PROGRAM IN WASHINGTON STATE.

(a) In General.—Upon application by the State of Washington and approval by the Secretary of Health and Human Services, the State of Washington (in this section referred to as the "State") may conduct a demonstration project in accordance with this section for the purpose of testing whether the operation of its Family Independence Program enacted in May 1987 (in this section referred to as the "Program"), as an alternative to the existing AFDC program and the FSP program, would more effectively break the cycle of poverty and provide families with opportunities for economic independence and strengthened family functioning.

(b) Nature of Project.—Under the demonstration project conducted under this section—

(1) every individual eligible for family support supplements under the State plan approved under section 402(a) of the Social Security Act shall be eligible to enroll in the Program, which shall operate simultaneously with the family support program so long as there are individuals who qualify for the latter;

(2) cash assistance shall be furnished in a timely manner to all eligible individuals under the Program (and the State may not make expenditures for services under the Program until it has paid all necessary cash assistance), with no family receiving less in cash benefits than it would have received under the family support program;

(3) individuals may be required to register, undergo assessment, and participate in work, education, or training under the Program, except that—

(A) work or training may not be required in the case of—

(i) a single parent of a child under 6 months of age, or more than one parent of such a child in a two-parent family,

(ii) a single parent with a child of any age who has received assistance for less than 6 months,

(iii) a single parent with a child under 3 years of age who has received assistance for less than 3 years,

(iv) an individual under 16 years of age or over 64 years of age,

(v) an individual who is incapacitated, temporarily ill, or needed at home to care for an impaired person,

(vi) a woman who is in the third trimester of pregnancy, or

(vii) an individual who has not yet been individually notified in writing of such requirement or of the expiration of his or her exempt status under this subparagraph;

(B) participation in work or training shall in any case be voluntary during the first two years of the Program, and may thereafter be made mandatory only in counties where more than 50 percent of the enrollees can be placed in employment within 3 months after they are job-ready;

(C) in no case shall the work and training aspect of the Program be mandated in any county where the unemployment level is at least twice the State average; and

(D) mandated work shall not include work in any position created by a reduction in the work force, a bona fide labor dispute, the decertification of a bargaining unit, or a new job classification which subverts the intention of the Program;

(4) there shall be no change in existing State law which would eliminate guaranteed benefits or reduce the rights of applicants or enrollees; and

(5) the Program shall include due process guarantees and procedures no less than those which are available to participants in the AFDC or FSP program under Federal law and regulation and under State law.

(c) WAIVERS.—The Secretary shall (with respect to the project under this section) waive compliance with any requirements contained in title IV of the Social Security Act which (if applied) would prevent the State from carrying out the project or effectively achieving its purpose.

(d) FUNDING.—(1) The Secretary shall reimburse the State for its expenditures under the Program—

(A) at a rate equal to the Federal matching rate applicable to the State under section 403(a)(1) (or 1118) of the Social Security Act, for cash assistance and child care provided to enrollees;

(B) at a rate equal to the applicable Federal matching rate under section 403(a)(3) of such Act, for administrative expenses; and

(C) at the rate of 75 percent for an evaluation plan approved by the Secretary.

The State shall be required to pay the same portion of all expenditures made for cash assistance and services under the Program as it would be required to pay if such expenditures were made under its State plan approved under section 402(a) of the Social Security Act.

(2) As a condition of approval of the project under this section, the State must provide assurances satisfactory to the Secretary that the total amount of Federal reimbursement over the period of the project will not exceed the anticipated Federal reimbursements (over that period) under the current family support program; but this paragraph shall not prevent the State from claiming reimbursement for additional persons who would qualify for aid under the family support program, for costs attributable to increases in the State's payment standard, or for any other federally-matched benefits or services.

(e) DURATION OF PROJECT.—(1) The project under this section shall begin on the date on which the first individual is enrolled in the Program, and (subject to paragraph (2)) shall end 5 years after that date.

(2) The project may be terminated at any time, on 6 months written notice, by the State or (upon a finding that the State has materially failed to comply with this section) by the Secretary.

SEC. 808. STUDY OF HOUSING PROBLEMS OF FSP FAMILIES.

(a) INTERAGENCY WORKING GROUP.—The Secretary of Health and Human Services and the Secretary of Housing and Urban Development, acting jointly, shall establish, appoint, and convene an Interagency Working Group to study and report on the housing problems of families under the family support program.

(b) PURPOSE OF STUDY.—It shall be the purpose of the study conducted by the Interagency Working Group to identify and examine the programs being implemented by the Department of Health and Human Services and the Department of Housing and Urban Development which could be better coordinated so as to—

(1) stem the transiency of the welfare population;

(2) upgrade the public and private housing stock occupied by recipients of family support supplements;

(3) require private housing stock for which rentals are paid from family support supplements to meet minimum HUD standards; and

(4) facilitate coordination between the two Departments as well as local welfare agencies and local housing authorities to facilitate the achievement of these objectives.

(c) REPORT.—(1) Within 6 months after the date of the enactment of this Act the Interagency Working Group shall submit to the Congress a full and complete report on its study under this section. Such report shall include the information and data required by paragraph (2) and such other information, and such recommendations for legislative, administrative, and other action, as the Interagency Working Group considers appropriate.

(2) The report submitted under paragraph (1) shall in any event include—

(A) the total dollar amount of family support supplements spent on housing, by service area;

(B) the demographic characteristics of transient recipients of family support supplements;

(C) an estimate of the number of transient welfare families and the frequency of their transiency;

(D) an estimate of the number of evictions for nonpayment of rent, by service area;

(E) an examination, by service area, of those properties which are occupied by recipients of family support supplements and which do not meet minimum HUD standards;

(F) examples of models and innovative programs which have successfully forged local housing and welfare cooperation to upgrade housing stock and stem welfare population transiency; and

(G) recommendations on ways in which local housing and welfare agencies can economically provide tenant unit management training.

SEC. 809. REQUIREMENT OF CONTINUED TREATMENT FOR DRUG ADDICTION OR ALCOHOLISM AS CONDITION OF ELIGIBILITY.

Section 402 of the Social Security Act (as amended by the preceding provisions of this Act) is further amended by adding at the end thereof the following new subsection:

"(j)(1) If—

"(A) any individual who is a recipient of family support supplements under the State plan has been medically determined to be a drug addict or an alcoholic and is enrolled in a program for the treatment of his or her drug addiction or alcoholism, and

"(B) the institution, facility, or other entity responsible for providing such treatment notifies the State agency that such individual (prior to the satisfactory completion of the treatment) has terminated his or her enrollment or otherwise ceased to participate in such program or to comply with its terms, conditions, and requirements,

then (notwithstanding any other provision of this title) the needs of such individual shall not be taken into account in making the determination with respect to his or her family under subsection (a)(7) until such individual is again enrolled in such a program or a medical determination is made (and notification thereof communicated to the State agency) that he or she is no longer a drug addict or alcoholic.

"(2) Each State agency shall establish such procedures and take such other actions as may be necessary or appropriate to encourage and facilitate the making (by the institutions, facilities, and other entities involved) of the notifications described in paragraph (1).".

SEC. 810. INCLUSION OF AMERICAN SAMOA IN FSP PROGRAM.

(a) INCLUSION IN PROGRAM.—Section 1101(a)(1) of the Social Security Act is amended by inserting after the first sentence the following new sentence: "Such term when used in part A of title IV also includes American Samoa.".

(b) LIMITATION ON PAYMENTS.—Section 1108(a) of such Act is amended—

(1) by striking out the period at the end of paragraph (3)(F) and inserting in lieu thereof "; and"; and

(2) by inserting immediately after paragraph (3) the following new paragraph:

"(4) for payment to American Samoa shall not exceed $1,000,000 with respect to any fiscal year.".

(c) EFFECTIVE DATE.—The amendments made by this section shall become effective on October 1, 1987.

SEC. 811. INCREASE IN LIMITATION ON PAYMENTS TO PUERTO RICO, THE VIRGIN ISLANDS, AND GUAM.

(a) IN GENERAL.—(1) Section 1108(a)(1) of the Social Security Act is amended—

(A) by striking out "or" after the comma at the end of subparagraph (E); and

(B) by striking out subparagraph (F) and inserting in lieu thereof the following new subparagraphs:

"(F) $72,000,000 with respect to each of the fiscal years 1979 through 1987, or

"(G) $81,270,000 with respect to the fiscal year 1988 and each fiscal year thereafter;".

(2) Section 1108(a)(2) of such Act is amended—

(A) by striking out "or" after the comma at the end of subparagraph (E); and

(B) by striking out subparagraph (F) and inserting in lieu thereof the following new subparagraphs:

"(F) $2,400,000 with respect to each of the fiscal years 1979 through 1987, or

"(G) $2,709,000 with respect to the fiscal year 1988 and each fiscal year thereafter;".

(3) Section 1108(a)(3) of such Act (as amended by section 810 of this Act) is further amended—

(A) by striking out "or" after the comma at the end of subparagraph (E); and

(B) by striking out subparagraph (F) and inserting in lieu thereof the following new subparagraphs:

"(F) $3,300,000 with respect to each of the fiscal years 1979 through 1987, or

"(G) $3,725,000 with respect to the fiscal year 1988 and each fiscal year thereafter;".

(b) Effective Date.—The amendments made by this section shall apply with respect to fiscal years beginning on or after October 1, 1987.

SEC. 812. TECHNICAL AND CONFORMING AMENDMENTS RELATING TO REPLACEMENT OF AFDC PROGRAM BY FAMILY SUPPORT PROGRAM.

(a) Amendments to Part A of title IV.—(1) The heading of part A of title IV of the Social Security Act is amended by striking out "Aid to Families With Dependent Children" and inserting in lieu thereof "Family Support Program".

(2) Section 406(b) of such Act is amended by striking out "aid to families with dependent children" where it first appears and inserting in lieu thereof "family support supplements".

(3) The following provisions of part A of title IV of such Act are each amended by striking out "aid to families with dependent children" wherever it appears and inserting in lieu thereof "aid in the form of family support supplements": Paragraphs (4), (7), (10), (11), (14), (17), and (21) of section 402(a); subsections (a), (b), and (f) of section 403; section 405; subsections (b) (the second place it appears), (f), (g), and (h) of section 406; and subsections (b) and (c) of section 407.

(b) Amendments to Other Provisions of the Social Security Act.—(1) The following provisions of the Social Security Act are amended by striking out "aid to families with dependent children" wherever it appears and inserting in lieu thereof "aid in the form of family support supplements": Section 452(a)(10); section 454(4); section 457(d)(3); section 472(h); and section 473(b).

(2) Section 454(16) of such Act is amended by striking out "aid to families with dependent children program" and inserting in lieu thereof "Family Support Program".

(3) Subsections (b) and (c) of section 458 of such Act are each amended by striking out "AFDC" and "non-AFDC" wherever those terms appear and inserting in lieu thereof "FSP" and "non-FSP", respectively.

(c) Other References in General.—Any reference to aid to families with dependent children in any provision of law or regulation other than those provisions of law specified in the preceding subsections of this section shall be deemed to be a reference to family support supplements, or to aid in the form of family support supplements, consistent with the amendments made by the preceding provisions of this Act.

SEC. 813. GENERAL EFFECTIVE DATE.

Notwithstanding any other provision of this Act, none of the provisions of this Act shall become effective before November 20, 1987.

TITLE IX—FUNDING PROVISIONS

SEC. 901. 3-YEAR EXTENSION OF PROVISIONS RELATING TO COLLECTION OF NON-TAX DEBTS OWED TO FEDERAL AGENCIES.

(a) General Rule.—Subsection (c) of section 2653 of the Deficit Reduction Act of 1984 is amended by striking out "January 1, 1988" and inserting in lieu thereof "January 1, 1991".

(b) Clarification of Congressional Intent As to Scope of Provision.—

(1) Nothing in the amendments made by section 2653 of the Deficit Reduction Act of 1984 shall be construed as exempting debts of corporations or any other category of persons from the application of such amendments.

(2) It is the intent of the Congress that, to the extent practicable, the amendments made by section 2653 of the Deficit Reduction Act of 1984 shall extend to all Federal agencies (as defined in the amendments made by such section).

(3) The Secretary of the Treasury shall issue regulations to carry out the purposes of this subsection.

(c) Study by the General Accounting Office.—The Comptroller General of the United States shall conduct a study of the operation and effectiveness of the amendments made by section 2653 of the Deficit Reduction Act of 1984. The study shall compile and evaluate information on the effect of those amendments on voluntary compliance with the income tax laws. Not later than April 1, 1989, the Comptroller General shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report of the study conducted under this subsection, together with such recommendations as he may deem advisable.

SEC. 902. EXPENSES OF OVERNIGHT CAMPS NOT ALLOWABLE FOR DEPENDENT CARE CREDIT.

(a) General Rule.—Subparagraph (A) of section 21(b)(2) of the Internal Revenue Code of 1986 (defining employment-related expenses) is amended by adding at the end thereof the following new sentence:

"Such term shall not include any amount paid for services outside the taxpayer's household at a camp where the qualifying individual stays overnight."

(b) Effective Date.—The amendment made by subsection (a) shall apply to expenses paid in taxable years beginning after December 31, 1987.

SEC. 903. PHASEOUT OF DEPENDENT CARE CREDIT WHERE TAXPAYER'S ADJUSTED GROSS INCOME EXCEEDS $65,000.

(a) In General.—Paragraph (2) of section 21(a) of the Internal Revenue Code of 1986 (relating to expenses for household and dependent care services necessary for gainful employment) is amended to read as follows:

"(2) Applicable percentage defined.—The term 'applicable percentage' means 30 percent reduced (but not below zero) by the sum of—

"(A) 1 percentage point for each $2,000 (or fraction thereof) by which the taxpayer's adjusted gross income for the taxable year exceeds $10,000 but does not exceed $30,000, and

"(B) 1 percentage point for each $1,500 (or fraction thereof) by which the taxpayer's adjusted gross income for the taxable year exceeds $65,000."

(b) Effective Date.—The amendment made by this section shall apply to taxable years beginning after December 31, 1987.

SEC. 904. DISALLOWANCE OF DEDUCTIONS FOR EXPENDITURES IN CONNECTION WITH CRIMINAL ACTIVITIES.

(a) General Rule.—Section 280E of the Internal Revenue Code of 1986 (relating to expenditures in connection with the illegal sale of drugs) is amended to read as follows:

"SEC. 280E. EXPENDITURES IN CONNECTION WITH THE ILLEGAL SALE OF DRUGS OR OTHER CRIMINAL ACTIVITIES.

"No deduction or credit shall be allowed for any amount paid or incurred during the taxable year in carrying on any trade or business if such trade or business (or the activities which comprise such trade or business)—

"(1) consists of trafficking in controlled substances (within the meaning of schedule I and II of the Controlled Substances Act) which is prohibited by Federal law or the law of any State in which such trade or business is conducted, or

"(2) consists of other activities prohibited by any Federal criminal law or the criminal law of the State in which such activities are conducted."

(b) Clerical Amendment.—The table of sections for part IX of subchapter B of chapter 1 of such Code is amended by striking out the item relating to section 280E and inserting in lieu thereof:

"Sec. 280E. Expenditures in connection with the illegal sale of drugs or other criminal activities."

(c) Effective Date.—The amendments made by this section shall apply to amounts paid or incurred after December 31, 1987, in taxable years ending after such date.

TITLE X—FOOD STAMP PROGRAM

SEC. 1001. SHORT TITLE.

This title may be cited as the "Food Stamp Family Welfare Reform Act of 1987".

SEC. 1002. CATEGORICAL ELIGIBILITY.

The second sentence of section 5(a) of the Food Stamp Act of 1977 (7 U.S.C. 2014(a)) is amended—

(1) by striking out "during the period", and

(2) by striking out "and ending on September 30, 1989,".

SEC. 1003. EXCLUSION FOR CERTAIN EDUCATIONAL EXPENSES.

Section 5(d) of the Food Stamp Act of 1977 (7 U.S.C. 2014(d)) is amended—

(1) in clause (3)—

(A) by inserting "(A)" after "the like", and

(B) by striking out "at an institution" and all that follows through "handicapped, and", and inserting in lieu thereof the following: "(including the rental or purchase of any equipment, materials, and supplies required to be obtained by all other students in the same course of study) at a recognized post-secondary school, institution of higher education, or school for the handicapped, or in a training program that prepares individuals for employment or a program that provides for completion of a secondary education or obtaining the equivalent of a secondary school diploma, (B) to the extent they do not exceed an allowance determined by such school, institution, or program for books, supplies, transportation, and miscellaneous personal expenses (other than living expenses) of the student incidental to attending such school, institution, or program, and (C)", and

(2) in the proviso to clause (5)—

(A) by inserting "and" after "child care expenses,"

(B) by striking out "non-Federal", and

(C) by striking out ", and no portion of any Federal" and all that follows through "mandatory school fees,".

SEC. 1004. EXCLUSION OF CHILD SUPPORT PAYMENTS RECEIVED.

Section 5 of the Food Stamp Act of 1977 (7 U.S.C. 2014) is amended—

(1) by amending subsection (d)(13) to read as follows: "(13) child support payments that are disregarded under part A of title IV of the Social Security Act for recipients of benefits under such part", and

(2) by striking out subsection (m).

SEC. 1005. EXCLUSION FOR TWO-PARTY PAYMENTS MADE FOR AGRICULTURAL COMMODITIES.

Section 5(d) of the Food Stamp Act of 1977 (7 U.S.C. 2014(d)), as amended by section 1004, is amended—

(1) by striking out "and (13)" and inserting in lieu thereof "(13)", and

(2) by inserting before the period at the end the following: ", (14) payments for agricultural commodities (including products of such commodities) produced by a household member engaged in farming if such payments are made payable jointly to any member of the household and a person (including a governmental entity) that holds a security or similar interest in such commodities, except to the extent that such payments are actually available to the household".

SEC. 1006. EXCLUSION FOR ADVANCE PAYMENT OF EARNED INCOME CREDIT.

Section 5(d) of the Food Stamp Act of 1977 (7 U.S.C. 2014(d)), as amended by sections 1004 and 1005, is amended by inserting before the period at the end the following: ", (15) any payment made to the household under section 3507 of the Internal Revenue Code of 1986 (relating to advance payment of earned income credit)".

SEC. 1007. DEDUCTION FOR DEPENDENT CARE.

(a) Conforming Amendment.—Section 5(d) of the Food Stamp Act of 1977 (7 U.S.C. 2014(d)), as amended by sections 1004, 1005, and 1006, is amended by inserting before the period at the end the following: ", and (16) any payment made to the household under section 6(d)(4)(H) for dependent care".

(b) Deduction.—Section 5(e) of the Food Stamp Act of 1977 (7 U.S.C. 2014(e)) is amended—

(1) in the matter preceding clause (1) of the fourth sentence by inserting "and expenses that are paid under section 6(d)(4)(H) for dependent care" after "third party",

(2) in clause (1) of the fourth sentence—

(A) by striking out "$160 a month" and inserting in lieu thereof the following: "the sum of $200 a month for each dependent who is less than 2 years of age and $175 a month for each other dependent without regard to age", and

(B) by striking out ", regardless of the dependent's age,", and

(3) in clause (B) of the last sentence by striking out ", regardless of the dependent's age,".

SEC. 1008. ANNUALIZING SELF-EMPLOYMENT INCOME AND EXPENSES FROM FARMING.

Section 5(f)(1)(A) of the Food Stamp Act of 1977 (7 U.S.C. 2014(f)(1)(A)) is amended—

(1) in the second sentence by striking out "preceding" and inserting in lieu thereof "first", and

(2) by inserting after the first sentence the following: "Notwithstanding the preceding sentence, household income from the self-employment of a member who is self-employed in farming, who has income from farming, and who has irregular expenses to produce that income may, at the option of the household, be calculated by averaging such income and expenses over a twelve-month period.".

SEC. 1009. RELIANCE ON PAST SELF-EMPLOYMENT INCOME FROM FARMING.

Section 5(f)(1)(A) of the Food Stamp Act of 1977 (7 U.S.C. 2014(f)(1)(A)) is amended by adding at the end thereof the following: "Notwithstanding any other provision of this subparagraph, past income from the self-employment of a household member who is self-employed in farming may not be used as an indicator of anticipated income if changes in such past income have occurred or if changes in income from such self-employment can be anticipated to occur during the certification period.".

SEC. 1010. EXCLUSION OF CERTAIN PROPERTY FROM RESOURCES.

Section 5(g) of the Food Stamp Act of 1977 (7 U.S.C. 2014(g)) is amended by adding at the end the following: "In the case of property (including land, equipment, and supplies) that is essential to the self-employment of a household member in farming, the Secretary shall exclude from financial resources such property until the expiration of the 1-year period beginning on the date such member ceases to be self-employed in farming.".

SEC. 1011. ELIGIBILITY OF STUDENTS.

Section 6(e) of the Food Stamp Act of 1977 (7 U.S.C. 2015(e)) is amended—

(1) in clause (2)—

(A) by striking out "assigned to or placed in" and inserting in lieu thereof "attending, or awaiting placement after being assigned to or accepted by,", and

(B) by inserting after "the Job Training Partnership Act," the following: "an employment and training program (as defined in section 6(d)(4)(B)), a program under section 236 of the Trade Act of 1974 (19 U.S.C. 2296), or a training program of a State or local jurisdiction,", and

(2) in clause (3)—

(A) in subclause (C) by inserting "to enable such individual to satisfy the requirements of subclause (A)" before the semicolon,

(B) in subclause (D) by striking out "aid to families with dependent children under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.)" and inserting in lieu thereof: "benefits under a State plan approved under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) or under a State or local general assistance program",

(C) by striking out "or" before "(E)", and

(D) by striking out the period at the end and inserting the following: "; or (F) is not a member of a household that is otherwise eligible to participate in the food stamp program and that includes a parent, grandparent, or legal guardian of such individual.".

SEC. 1012. EMPLOYMENT AND TRAINING PROGRAMS.

(a) Transportation and Related Costs Incurred by Participants.—

(1) Dependent care expense.—(A) Section 6(d)(4)(H) of the Food Stamp Act of 1977 (7 U.S.C. 2015(d)(4)(H)) is amended—

(i) by inserting "(i)" after "(H)",

(ii) by striking out "reimburse" and inserting in lieu thereof "pay",

(iii) by inserting "(including actual costs for dependent care)" after "other actual costs",

(iv) by striking out "such reimbursement" and inserting in lieu thereof "such payment (I)",

(v) by inserting before the period the following: "for actual costs other than dependent care and (II) to each household to the sum of $200 a month for the care of each dependent who is less than 2 years of age and $175 a month for the care of each other dependent, without regard to age", and

(vi) by adding at the end the following:

"(ii) Payments under this subparagraph may be made to such participants directly or to the providers of the services for which payments are authorized by this subparagraph. Payments made directly to such participants—

"(I) may be made in cash, or in certificates redeemable by the State agency upon presentation by such providers if such certificates are readily usable by such participants; and

"(II) shall be made in advance to the maximum extent practicable.".

(B) Section 16(h)(3) of the Food Stamp Act of 1977 (7 U.S.C. 2025(h)(3)) is amended—

(i) by inserting "(including expenses for dependent care)" after "other expenses",

(ii) by inserting "(A)" after "exceed",

(iii) by striking out "and such reimbursement" and inserting in lieu thereof "for such expenses, other than expenses for dependent care, and (B) an amount representing, per household, the sum of $200 a month for the care of each dependent who is less than 2 years of age and $175 a month for the care of each other dependent without regard to age. Such reimbursement".

(2) Payments.—(A) Section 6(d)(4)(H)(i) of the Food Stamp Act of 1977 (7 U.S.C. 2015(d)(4)(H)(i)), as amended by paragraph (1)(A)(i), is amended by striking out "to each participant to $25" and inserting in lieu thereof "required by this subclause to each participant to any amount that is not less than $25 and not more than $75".

(B) Section 16(h)(3) of the Food Stamp Act of 1977 (7 U.S.C. 2025(h)(3)), as amended by paragraph (1)(B), is amended—

(i) by striking out "per centum" and all that follows through "connection with", and inserting in lieu thereof "percent of the aggregate amount paid by the State agency to participants for",

(ii) by striking out "such total amount" and inserting in lieu thereof "such aggregate amount", and

(iii) by striking out "$25" and inserting in lieu thereof "the payment made under section 6(d)(4)(H)(i)(I)".

(b) Performance Standards.—Section 6(d)(4)(J) of the Food Stamp Act of 1977 (7 U.S.C. 2015(d)(4)(J)) is amended to read as follows:

"(J)(i) The Secretary shall establish in accordance with this subparagraph performance standards that are applicable to employment and training programs carried out under this paragraph.

"(ii) The performance standards referred to in clause (i) shall be developed by the Secretary after consultation with the Office of Technology Assessment, the Secretary of Labor, the Secretary of Health and Human Services, appropriate State officials designated for purposes of this clause by the chief executive officers of the States, other appropriate experts, and representatives of households participating in the food stamp program. Such performance standards (which shall be coordinated with the corresponding performance standards under the Job Training Partnership Act and the performance standards under section 416(n) of the Social Security Act, taking into consideration the differing characteristics of such households)—

"(I) shall be measured by employment outcomes and shall be based on the degree of success that may reasonably be expected of States (in carrying out employment and training programs) in helping individuals to achieve self-sufficiency;

"(II) shall take into account the extent to which persons have elected to participate in employment and training programs under this paragraph, job placement rates, wage rates, job retention rates, households ceasing to need benefits under this Act, improvements in household members' educational levels, and the extent to which household members are able to obtain jobs for which they receive health benefits;

"(III) shall encourage States to serve those individuals who have greater barriers to employment and thus have greater difficulties in achieving self-sufficiency; and

"(IV) shall include guidelines permitting appropriate variations to take account of the differing conditions (including unemployment rates and rates of elective participation under subparagraph (G) in employment and training programs under this paragraph) that may exist in different States.

"(iii) Proposed measures for the performance standards referred to in clause (i) shall be published by the Secretary not later than 1 year after the date of the enactment of the Food Stamp Family Welfare Reform Act of 1987. The performance standards shall be established, issued, and published not sooner than October 1, 1989, and shall be implemented not later than 180 days after the publication of such measures.

"(iv) The performance standards developed and issued under clause (ii) shall be varied in any State, to the extent permitted under clause (ii)(IV), to the extent necessary to take account of specific economic, geographic, and demographic factors in the State, the characteristics of the population to be served, and the types of services to be provided.".

(c) DEVELOPMENT OF MODEL PERFORMANCE STANDARDS.—Not later than 180 days after the Secretary publishes the proposed measures for the performance standards under subparagraph (J) of section 6(d)(4) of the Food Stamp Act of 1977 (7 U.S.C. 2015(d)(4)), as amended by subsection (b), the Office of Technology Assessment shall—

(1) develop model performance standards suitable for application to employment and training programs carried out under such section 6(d)(4) and that satisfy the criteria specified in such subparagraph,

(2) compare such standards with the performance standards established under such subparagraph by the Secretary, and

(3) submit to the Speaker of the House of Representatives, the President pro tempore of the Senate, and the Secretary of Agriculture a report describing the results of the comparison required by paragraph (2) of this subsection.

(d) INCENTIVE PAYMENTS.—Section 16(h) of the Food Stamp Act of 1977 (7 U.S.C. 2025(h)) is amended by adding at the end the following:

"(6) The Secretary shall develop, and transmit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, a proposal for modifying the rate of Federal payments under this subsection so as to reflect the relative effectiveness of the various States in carrying out employment and training programs under section 6(d)(4).".

(e) CURRENT PERFORMANCE STANDARDS.—The performance standards in effect under section 6(d)(4)(J) of the Food Stamp Act of 1977 (7 U.S.C. 2015(d)(4)(J)) shall remain in effect during the period beginning on October 1, 1988, and ending on the date the Secretary of Agriculture implements the performance standards required to be issued under section 6(d)(4)(J) of the Food Stamp Act of 1977, as amended by subsection (b).

SEC. 1013. FARM HOUSEHOLDS.

(a) AUTHORITY TO PROVIDE INFORMATION.—Section 11(e)(1)(A) of the Food Stamp Act of 1977 (7 U.S.C. 2020(e)(1)(A)) is amended by inserting after "homeless individuals" the following: "and food stamp informational activities directed at households that include a member who engages in farming".

(b) SPECIAL TRAINING OF STATE PERSONNEL.—

(1) TRAINING.—Section 11(e)(6) of the Food Stamp Act of 1977 (7 U.S.C. 2020(e)(6)) is amended—

(A) by striking out "and (C)" and inserting in lieu thereof "(C)", and

(B) by inserting before the semicolon at the end the following: ", and (D) the State agency, at its option, may undertake intensive training to ensure that State agency personnel who undertake the certification of households that include a member who engages in farming are well qualified to perform such certification".

(2) TRAINING MATERIALS.—Section 16 of the Food Stamp Act of 1977 (7 U.S.C. 2025) is amended—

(A) by redesignating subsection (h), as added by section 121(b)(5) of the Immigration Reform and Control Act of 1986 (Public Law 99-603), as subsection (j), and

(B) by adding at the end the following:

"(k) Not later than 180 days after the date of the enactment of the Food Stamp Family Welfare Reform Act of 1987, and annually thereafter, the Secretary shall publish instructional materials specifically designed to be used by the State agency to provide intensive training to ensure that State agency personnel who undertake the certification of households that include a member who engages in farming are well qualified to perform such certification.".

SEC. 1014. HOURS OF OPERATION.

(a) STATE PLAN REQUIREMENT.—Section 11(e)(2) of the Food Stamp Act of 1977 (7 U.S.C. 2020(e)(2)) is amended by adding at the end the following: "The State agency shall ensure that its offices and points of issuance are open at sufficient locations and during sufficient hours to ensure that applicants and participants who are employed or who are participating in an education, training, work, or rehabilitation program under section 6(d) of this Act, under title IV of the Social Security Act (42 U.S.C. 601 et seq.), or under title I of the Rehabilitation Act of 1973 (29 U.S.C. 720 et seq.) may (A) comply with the requirements of the food stamp program (including reporting changes, providing verification, appearing at interviews, and submitting applications and requests for recertification), and (B) obtain and use certification documents and coupons without missing or rescheduling hours of employment or hours of participation in such education, training, work, or rehabilitation program.".

(b) STANDARDS.—Section 16(b)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2025(b)(1)) is amended by inserting ", and individuals participating in employment and training programs," after "employed individuals".

SEC. 1015. NOTICE OF EXPIRATION; COORDINATED APPLICATION.

(a) NOTICE OF EXPIRATION.—Section 11(e)(4) of the Food Stamp Act of 1977 (7 U.S.C. 2020(e)(4)) is amended by inserting "informing the household of its rights under subsections (i) and (j) and" after "last month of its certification period".

(b) COORDINATED APPLICATION.—The second sentence of section 11(i) of the Food Stamp Act of 1977 (7 U.S.C. 2020(i)) is amended to read as follows:

"In addition to implementing clauses (1) through (4) of the preceding sentence, the State shall inform applicants for benefits under part A of title IV of the Social Security Act that they may file, along with their application for such benefits and without a separate food stamp interview, an application for benefits under this Act.".

SEC. 1016. WASHINGTON FAMILY INDEPENDENCE DEMONSTRATION PROJECT.

The Food Stamp Act of 1977 (7 U.S.C. 2011-2029) is amended by adding at the end the following:

"WASHINGTON FAMILY INDEPENDENCE DEMONSTRATION PROJECT

"SEC. 21. (a) On the written application of the State of Washington (in this section referred to as the 'State') and after the approval of such application by the Secretary, the State may conduct a Family Independence Demonstration Project (in this section referred to as the 'Project') in all or part of the State in accordance with this section to determine whether the Project, as an alternative to providing benefits under the food stamp program, would more effectively break the cycle of poverty and would provide families with opportunities for economic independence and strengthened family functioning.

"(b) In an application submitted under subsection (a), the State shall provide the following:

"(1) Except as provided in this section, the provisions of chapter 434 of the 1987 Washington Laws, as enacted in May 1987, shall apply to the operation of the Project.

"(2) All of the following terms and conditions shall be in effect under the Project:

"(A)(i) Except as provided in clause (ii), individuals with respect to whom benefits may be paid under part A of title IV of the Social Security Act, and such other individuals as are included in the Project under chapter 434 of the 1987 Washington Laws, as enacted in May 1987, shall be eligible to participate in the Project in lieu of receiving benefits under the food stamp program and cash assistance under any other Federal program covered by the Project.

"(ii) Individuals who receive only child care or medical benefits under the Project shall not be eligible to receive food assistance under the Project. Such individuals may receive coupons under the food stamp program if eligible.

"(B) Individuals who participate in the Project shall receive for a month an amount of cash assistance that is not less than the total value of the assistance such individuals would otherwise receive, in the aggregate, under the food stamp program and any cash-assistance Federal program covered by the Project for such month, including income and resource exclusions and deductions in effect as of January 1, 1988, and as adjusted to reflect all subsequent increases in exclusions, deductions, and benefit levels.

"(C)(i) The State may provide a standard benefit for food assistance under the Project, except that individuals who participate in the Project shall receive as food assistance for a month an amount of cash that is not less than the value of the assistance such individuals would otherwise receive under the food stamp program.

"(ii) The State may provide a cash benefit for food assistance equal to the value of the thrifty food plan.

"(D) For purposes of subparagraphs (B) and (C), the value of the assistance such individuals would otherwise receive under the food stamp program shall be determined without regard to individuals who are not participating in the Project.

"(E) Each month participants in the Project shall be notified by the State of the amount of Project assistance that is provided as food assistance for such month.

"(F) The State shall have a program to require participants to engage in employment and training activities carried out under chapter 434 of the 1987 Washington Laws, as enacted in May 1987.

"(G) Food assistance shall be provided under the Project—

"(i) to any individual who is accepted for participation in the Project, not later than 30 days after such individual applies to participate in the Project;

"(ii) to any participant for the period that begins on the date such participant applies to participate in the Project, except that the amount of such assistance shall be reduced to reflect the pro rata value of any coupons received under the food stamp program for such period for the benefit of such participant; and

"(iii) until—

"(I) the participant's cash assistance under the Project is terminated;

"(II) such participant is informed of such termination and is advised of the eligibility requirements for participation in the food stamp program;

"(III) the State determines whether such participant will be eligible, after terminating participation in the Project, to receive coupons as a member of a household under the food stamp program; and

"(IV) coupons under the food stamp program are received by such participant if such participant will be eligible to receive coupons as a member of a household under the food stamp program.

"(H)(i) Paragraphs (1)(B), (8), (10), and (19) of section 11(e) of this Act shall apply with respect to participants in the Project in the same manner as such paragraphs apply with respect to participants in the food stamp program.

"(ii) Each individual who contacts the State in person during office hours to make what may reasonably be interpreted as an oral or written request to participate in the Project shall receive and shall be permitted to file, on the same day that such contact is first made, an application form to participate in the Project.

"(iii) The Project shall provide for telephone contact by, mail delivery of forms to and mail return of forms by, and subsequent home or telephone interview with, elderly persons, physically or mentally handicapped persons, and persons otherwise unable, solely because of transportation difficulties and similar hardships, to appear in person.

"(iv) An individual who applies to participate in the Project may be represented by another person in the review process if the other person has been clearly designated as the representative of such individual for that purpose, by such individual or the spouse of such individual, and, in the case of the application review process, the representative is an adult who is sufficiently aware of relevant circumstances, except that the State may—

"(I) restrict the number of individuals who may be represented by such person; and

"(II) otherwise establish criteria and verification standards for representation under this clause.

"(v) The State shall provide a method for reviewing applications to participate in the Project submitted by, and distributing food assistance under the Project to, individuals who do not reside in permanent dwellings or who have no fixed mailing address. In carrying out the preceding sentence, the State shall take such steps as are necessary to ensure that participation in the Project is limited to eligible individuals.

"(3) An assurance that the State will allow any individual to apply to participate in the food stamp program without applying to participate in the Project.

"(4) An assurance that the cost of food assistance provided under the Project will not be such that the aggregate amount of payments made under this section by the Secretary to the State over the period of the Project will exceed the sum of—

"(A) the anticipated aggregate value of the coupons that would have been distributed under the food stamp program if the individuals who participate in the Project had participated instead in the food stamp program; and

"(B) the portion of the administrative costs for which the State would have received reimbursement under—

"(i) subsections (a) and (g) of section 16 of this Act (without regard to the first proviso to such subsection (g)) if the individuals who participated in the Project had participated instead in the food stamp program; and

"(ii) section 16(h) of this Act if the individuals who participated in the Project had participated in an employment and training program under section 6(d)(4) of this Act;

except that this paragraph shall not be construed to prevent the State from claiming payments for additional households that would qualify for benefits under the food stamp program in the absence of a cash out of such benefits as a result of any change in an economic, demographic, and other condition in the State or a subsequent change in a benefit level approved by the State legislature. For purposes of this paragraph, the value of the coupons that would have been distributed under the food stamp program if the individuals who participate in the Project had participated instead in the food stamp program shall be determined without regard to individuals who are not participating in the Project.

"(5) An assurance that the State will continue to carry out the food stamp program while the State carries out the Project.

"(6) If there is a change in existing State law that would eliminate guaranteed benefits or reduce the rights of applicants or participants under this section during, or as a result of participation in, the Project, the Project shall be terminated.

"(7) An assurance that the Project shall include procedures and due process guarantees no less beneficial than those that are available under Federal law and under State law to participants in the food stamp program.

"(8)(A) An assurance that, except as provided in subparagraph (B), the State will carry out the Project during a 5-year period beginning on the date the first individual is approved for participation in the Project.

"(B) The Project may be terminated 180 days after—

"(i) the State gives notice to the Secretary and to the Secretary of Health and Human Services that it intends to terminate the Project; or

"(ii) the Secretary, after notice and an opportunity for a hearing, determines that the State materially failed to comply with this section.

"(c) If an application submitted under subsection (a) by the State complies with the requirements specified in subsection (b), then the Secretary shall—

"(1) approve such application; and

"(2) from funds appropriated under this Act, pay the State for—

"(A) the actual cost of the food assistance provided under the Project; and

"(B) the percentage of the administrative costs incurred by the State to provide food assistance under the Project that is equal to the percentage of the State's aggregate administrative costs incurred in operating the food stamp program in the most recent fiscal year for which data are available that was paid under subsections (a), (g), and (h) of section 16 of this Act.

"(d)(1) Unless and until an application to participate in the Project is approved, and food assistance under the Project is made available to the applicant—

"(A) such application shall also be treated as an application to participate in the food stamp program; and

"(B) section 11(e)(9) shall apply with respect to such application.

"(2) Coupons provided under the food stamp program with respect to an individual who—

"(A) is participating in such program; and

"(B) applies to participate in the Project;

may not be reduced or terminated because such individual applies to participate in the Project.

"(3) For purposes of the food stamp program, individuals who participate in the Project shall not be considered to be members of a household during the period of such participation.

"(e) The Secretary shall waive (with respect to the Project) compliance with any requirement contained in the Food Stamp Act of 1977 (other than this section) that (if applied) would prevent the State from carrying out the Project or effectively achieving its purpose.

"(f) For purposes of any other Federal, State, or local law—

"(1) cash assistance provided under the Project that represents food assistance shall be treated in the same manner as coupons provided under the food stamp program are treated; and

"(2) participants who receive food assistance under the Project shall be treated in the same manner as recipients of coupons under the food stamp program are treated.

"(g) The Comptroller General of the United States shall—

"(1) conduct periodic audits of the operation of the Project to verify the amounts payable to the State from time to time under subsection (b)(4); and

"(2) submit to the Secretary of Agriculture, the Secretary of Health and Human Services, the Committee on Agriculture of the House of Representatives, and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report describing the results of each such audit.

"(h) With funds appropriated under section 18(a)(1), the Secretary shall conduct, in consultation with the Secretary of Health and Human Services, an evaluation of the Project.".

SEC. 1017. FAMILY INDEPENDENCE DEMONSTRATION PROJECTS.

(a) AUTHORITY FOR PROJECTS.—The Food Stamp Act of 1977 (7 U.S.C. 2011-2029), as amended by section 1016, is amended by adding at the end the following:

"OTHER FAMILY INDEPENDENCE DEMONSTRATION PROJECTS

"SEC. 22. (a) On the written application of a State and after the approval of such application by the Secretary, the State may conduct a Family Independence Demonstration Project (in this section referred to as the 'Project') in all or part of the State in accordance with this section to determine whether the Project, as an alternative to providing benefits under the food stamp program, would more effectively break the cycle of poverty and would provide families with opportunities for economic independence and strengthened family functioning.

"(b) In an application submitted under subsection (a), the State shall provide the following:

"(1) Except as provided in this section, laws of the State identical in substance to the provisions of chapter 434 of the 1987 Washington Laws, as enacted in May 1987, shall apply to the operation of the Project.

"(2) All of the following terms and conditions shall be in effect under the Project:

"(A)(i) Except as provided in clause (ii), individuals with respect to whom benefits may be paid under part A of title IV of the Social Security Act, and such other individuals of the kind as are included in the Project conducted under section 21 and pursuant to chapter 434 of the 1987 Washington Laws, as enacted in May 1987, shall be eligible to participate in the Project in lieu of receiving benefits under the food stamp program and cash assistance under any Federal program covered by the Project.

"(ii) Individuals who receive only child care or medical benefits under the Project shall not be eligible to receive food assistance under the Project. Such individuals may receive coupons under the food stamp program if eligible.

"(B) Individuals who participate in the Project shall receive for a month—

"(i) an amount of cash that is not less than the total value of the assistance such individuals would otherwise receive, in the aggregate, under any cash-assistance Federal program covered by the Project, and

"(ii) coupons that have a cash value that is not less than the total value of the assistance such individuals would otherwise receive under the food stamp program,

for such month, including income and resource exclusions and deductions in effect as of January 1, 1988, and as adjusted to reflect all subsequent increases in exclusions, deductions, and benefit levels.

"(C)(i) The State may provide a standard benefit for food assistance under the Project, except that individuals who participate in the Project shall receive as food assistance for a month coupons that have a total value that is not less than the value of the assistance such individuals would otherwise receive under the food stamp program.

"(ii) The State may provide a benefit for food assistance equal to the value of the thrifty food plan.

"(D) For purposes of subparagraphs (B) and (C), the value of the assistance such individuals would otherwise receive under the food stamp program shall be determined without regard to individuals who are not participating in the Project.

"(E) Each month participants in the Project shall be notified by the State of the amount of Project assistance that is provided as food assistance for such month.

"(F) The State shall have a program to require participants to engage in employment and training activities carried out under laws identical in substance to chapter 434 of the 1987 Washington Laws, as enacted in May 1987.

"(G) Food assistance shall be provided under the Project—

"(i) to any individual who is accepted for participation in the Project, not later than 30 days after such individual applies to participate in the Project;

"(ii) to any participant for the period that begins on the date such participant applies to participate in the Project, except that the amount of such assistance shall be reduced to reflect the pro rata value of any coupons received under the food stamp program for such period for the benefit of such participant; and

"(iii) until—

"(I) the participant's assistance under the Project is terminated;

"(II) such participant is informed of such termination and is advised of the eligibility requirements for participation in the food stamp program;

"(III) the State determines whether such participant will be eligible, after terminating participation in the Project, to receive coupons as a member of a household under the food stamp program; and

"(IV) coupons under the food stamp program are received by such participant if such participant will be eligible to receive coupons as a member of a household under the food stamp program.

"(H)(i) Paragraphs (1)(B), (8), (10), and (19) of section 11(e) of this Act shall apply with respect to participants in the Project in the same manner as such paragraphs apply with respect to participants in the food stamp program.

"(ii) Each individual who contacts the State in person during office hours to make what may reasonably be interpreted as an oral or written request to participate in the Project shall receive and shall be permitted to file, on the same day that such contact is first made, an application form to participate in the Project.

"(iii) The Project shall provide for telephone contact by, mail delivery of forms to and mail return of forms by, and subsequent home or telephone interview with, elderly persons, physically or mentally handicapped persons, and persons otherwise unable, solely because of transportation difficulties and similar hardships, to appear in person.

"(iv) An individual who applies to participate in the Project may be represented by another person in the review process if the other person has been clearly designated as the representative of such individual for that purpose, by such individual or the spouse of such individual, and, in the case of the application review process, the representative is an adult who is sufficiently aware of relevant circumstances, except that the State may—

"(I) restrict the number of individuals who may be represented by such person; and

"(II) otherwise establish criteria and verification standards for representation under this clause.

"(v) The State shall provide a method for reviewing applications to participate in the Project submitted by, and distributing food assistance under the Project to, individuals who do not reside in permanent dwellings or who have no fixed mailing address. In carrying out the preceding sentence, the State shall take such steps as are necessary to ensure that participation in the Project is limited to eligible individuals.

"(3) An assurance that the State will allow any individual to apply to participate in the food stamp program without applying to participate in the Project.

"(4) An assurance that the cost of food assistance provided under the Project will not be such that the aggregate amount of payments made under this section by the Secretary to the State (including the cash value of coupons provided to the State for distribution under the Project) over the period of the Project will exceed the sum of—

"(A) the anticipated aggregate value of the coupons that would have been distributed under the food stamp program if the individuals who participate in the Project had participated instead in the food stamp program; and

"(B) the portion of the administrative costs for which the State would have received reimbursement under—

"(i) subsections (a) and (g) of section 16 of this Act (without regard to the first proviso to such subsection (g)) if the individuals who participated in the Project had participated instead in the food stamp program; and

"(ii) section 16(h) of this Act if the individuals who participated in the Project had participated in an employment and training program under section 6(d)(4) of this Act;

except that this paragraph shall not be construed to prevent the State from claiming payments for additional households that would qualify for benefits under the food stamp program in the absence of food assistance provided under the Project as a result of any change in an economic, demographic, and other condition in the State or a subsequent change in a benefit level approved by the State legislature. For purposes of this paragraph, the value of the coupons that would have been distributed under the food stamp program if the individuals who participate in the Project had participated instead in the food stamp program shall be determined without regard to individuals who are not participating in the Project.

"(5) An assurance that the State will continue to carry out the food stamp program while the State carries out the Project.

"(6) If there is a change in existing State law that would eliminate guaranteed benefits or reduce the rights of applicants or participants under this section during, or as a result of participation in, the Project, the Project shall be terminated.

"(7) An assurance that the Project shall include procedures and due process guarantees no less beneficial than those that are available under Federal law and under State law to participants in the food stamp program.

"(8)(A) An assurance that, except as provided in subparagraph (B), the State will carry out the Project during a 5-year period beginning on the date the first individual is approved for participation in the Project.

"(B) The Project may be terminated 180 days after—

"(i) the State gives notice to the Secretary and to the Secretary of Health and Human Services that it intends to terminate the Project; or

"(ii) the Secretary, after notice and an opportunity for a hearing, determines that the State materially failed to comply with this section.

"(c) If an application submitted under subsection (a) by the State complies with the requirements specified in subsection (b), then the Secretary shall—

"(1) approve such application; and

"(2) from funds appropriated under this Act, pay the State for—

"(A) the actual cost of the food assistance provided under the Project; and

"(B) the percentage of the administrative costs incurred by the State to provide food assistance under the Project that is equal to the percentage of the State's aggregate administrative costs incurred in operating the food stamp program in the most recent fiscal year for which data are available that was paid under subsections (a), (g), and (h) of section 16 of this Act;

except that the Secretary may not approve more than 10 applications submitted under subsection (a).

"(d)(1) Unless and until an application to participate in the Project is approved, and food assistance under the Project is made available to the applicant—

"(A) such application shall also be treated as an application to participate in the food stamp program; and

"(B) section 11(e)(9) shall apply with respect to such application.

"(2) Coupons provided under the food stamp program with respect to an individual who—

"(A) is participating in such program; and

"(B) applies to participate in the Project;

may not be reduced or terminated because such individual applies to participate in the Project.

"(3) For purposes of the food stamp program, individuals who participate in the Project shall not be considered to be members of a household during the period of such participation.

"(e) The Secretary shall waive (with respect to the Project) compliance with any requirement contained in the Food Stamp Act of 1977 (other than this section) that, if applied, would prevent the State from carrying out the Project or effectively achieving its purpose.

"(f) For purposes of any other Federal, State, or local law—

"(1) food assistance provided under the Project shall be treated in the same manner as coupons provided under the food stamp program are treated; and

"(2) participants who receive food assistance under the Project shall be treated in the same manner as recipients of coupons under the food stamp program are treated.

"(g) The Comptroller General of the United States shall—

"(1) conduct periodic audits of the operation of the Project to determine the amounts payable to the State from time to time under subsection (b)(4); and

"(2) submit to the Secretary of Agriculture, the Secretary of Health and Human Services, the Committee on Agriculture of the House of Representatives, and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report describing the results of each such audit.

"(h) For purposes of this section, the term 'State' means any of the fifty States, except that such term does not include the State of Washington.

"(i) With funds appropriated under section 18(a)(1), the Secretary shall conduct, in consultation with the Secretary of Health and Human Services, an evaluation of the projects carried out under this section.".

(b) Technical Amendment.—Section 3(m) of the Food Stamp Act of 1977 (7 U.S.C. 2012(m)) is amended by striking out "'State'" and inserting in lieu thereof "Except as provided in section 22(h), 'State'".

SEC. 1018. ISSUANCE OF RULES.

Not later than January 1, 1988, the Secretary of Agriculture shall issue rules to carry out the amendments made by this title, other than the amendments made by sections 1016 and 1017.

SEC. 1019. SEVERABILITY.

If any provision of this title or of an amendment made by this title, or the application of such provision to any person or circumstance, is held to be invalid, the remainder of this title and of the amendments made by this title, and the application of such provision to other persons or circumstances, shall not be affected thereby.

SEC. 1020. EFFECTIVE DATES; APPLICATION OF AMENDMENTS.

(a) General Effective Dates.—(1) This section and section 1019 shall take effect on the date of the enactment of this Act.

(2) Except as provided in subsections (b) and (c), this title (other than this section and section 1019) and the amendments made by this title shall take effect on the date, if any, on which the Director of the Congressional Budget Office certifies to the Congress that the Director has made the determination specified in subsection (d).

(b) Specific Effective Dates.—Except as provided in subsections (c) and (d)—

(1) the amendments made by sections 1003, 1004, and 1011 shall take effect on July 1, 1988,

(2) the amendments made by section 1012 shall take effect on October 1, 1988, and

(3) the amendments made by sections 1016 and 1017 shall take effect on January 1, 1988.

(c) Application of Amendments.—An amendment made by this title shall not apply with respect to any certification period beginning before the effective date of such amendment.

(d) Contingency.—(1) This title (other than this section and section 1019) and the amendments made by this title shall take effect only if the aggregate reduction in the Federal deficits in fiscal years 1988, 1989, and 1990, as determined by the Director of the Congressional Budget Office in accordance with paragraph (2), exceeds the aggregate reduction in the Federal deficits for such fiscal years required to be achieved under the budget reduction instructions contained in section 4 of the concurrent resolution on the budget for fiscal year 1988 (H. Con. Res. 93), as adopted by the 100th Congress, by an amount not less than the aggregate cost of carrying out the amendments made by this title for such fiscal years.

(2) The determination described in paragraph (1) shall be made by the Director of the Congressional Budget Office by comparing the aggregate reductions in the Federal deficits for fiscal years 1988, 1989, and 1990 achieved under the reconciliation legislation, as adopted by Congress pursuant to the deficit reduction instructions in section 4 of the concurrent resolution on the budget for fiscal year 1988 (H. Con. Res. 93) against the baseline estimates of the Federal deficits for such fiscal years issued by the Congressional Budget Office in February 1987.

The CHAIRMAN. No amendments to said substitute or to the bill are in order except the amendments printed en bloc in House Report 100-472 accompanying House Resolution 331, by and if offered by Representative Andrews, and an amendment in the nature of a substitute printed in House Report 100-448 accompanying House Resolution 310, by and if offered by Representative Michel.

Each amendment is considered as having been read, is not subject to amendment or to a demand for a division of the question, and shall be debatable for 60 minutes, equally divided and controlled by the proponent and a Member opposed thereto.

AMENDMENTS EN BLOC OFFERED BY MR. ANDREWS

Mr. ANDREWS. Mr. Chairman, I offer amendments en bloc.

The CHAIRMAN. The Clerk will designate the amendments en bloc.

The text of the amendments en bloc is as follows:

Amendments en bloc offered by Mr. Andrews: Page 98, strike the comma in line 11 and all that follows through the end of line 13, and insert "; REQUIREMENT OF IMMEDIATE INCOME WITHHOLDING".

Page 98 line 14, strike "Section" and insert the following:

(a) Matching Reduced for States Not in Compliance With 1984 Amendments Section

Page 98, lines 17 and 18, strike "subparagraphs (B) and (C)" and insert "subparagraph (B)".

Page 98, line 23, strike "subparagraphs" and insert "subparagraph".

Page 99, line 3, strike "percent" and insert "percent.".

Page 99, strike line 4 and all that follows through line 3 on page 100 and insert the following:

(b) Requirement of Automatic Withholding.—(1) Section 446(b)(3) of such Act is amended to read as follows:

"(3) Such withholding shall apply in every case where an individual residing in the State owes child support under a court order which has been issued or modified in the State (or under an order of an administrative process established by a law of the State), without the necessity of any application therefor or of any determination as to whether or not such individual is in arrears; except that an exemption from this requirement must be permitted by the State in any case where (A) one of the parties demonstrates, and the court for administrative process finds, that there is good cause not to require immediate income withholding, or (B) a written agreement is reached between both parties which provides for an alternative arrangement.".

(2) The amendment made by paragraph (1) shall become effective on October 1, 1988.

Page 77, line 3, strike "(if at that time the family has earnings)" and insert "because of earnings".

Page 77, line 8, strike "for a period of 6 months" and insert "for a period (determined by the State) of at least 12 months".

Page 77, line 12, immediately before the first period insert "; but this sentence shall not apply with respect to any family for any month in a calendar quarter if the family income for the preceding quarter was equal to or exceeded the quarterly equivalent of 150 percent of the nonfarm income official poverty line defined by the Office of Management and Budget (and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981)".

Page 82, line 11, strike "and".

Page 82, line 15, strike the period and insert "; and ".

Page 82, after line 15, insert the following new paragraph:

(3) the amendments made by section 201(b) of this Act shall become effective on March 1, 1988.

Page 116, after line 25, add the following new subsection:

(c) Sunset Provision.—The amendment made by subsection (a) shall not apply with respect to any increase (made by a State in the level of the family support supplements payable under its approved State plan) which becomes effective after October 1, 1991 (but such amendments shall continue to apply, after October 1, 1991, with respect to any such increases which became effective on or before that date).

The CHAIRMAN. Under the rule, the gentleman from Texas [Mr. ANDREWS] will be recognized for 30 minutes, and a Member, if any, opposed, will be recognized for 30 minutes.

Is there a Member opposed?

Mr. BROWN of Colorado. Mr. Chairman, I am opposed to the amendment.

The CHAIRMAN. The gentleman from Colorado [Mr. BROWN] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Texas [Mr. ANDREWS].

Mr. ANDREWS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, H.R. 1720 is a combination of some four committees of the House. Our deliberations started over a year ago. They have continued up until today by all of us on the Ways and Means Committee attempting to weigh the suggestions and the arguments of those Members not in our committee.

This amendment today proposes I think to complement H.R. 1720 by adding three major provisions to the bill. The first has to do with child support.

We know that this has got to be the lynchpin of a genuine welfare reform. Three out of every four welfare cases begin because of divorce or a child being born out of wedlock or separation. We have to stop the hemorrhage of support payments not being made available to spouses trying to care for young children.

This amendment would mandate wage withholding for payment of child support obligations. Texas and Massachusetts have done this kind of law and it has worked very very well.

Under current law, States are required to use wage withholding when an absent parent is 30 days late with child support payment. The amendment eliminates this waiting period. By October 1, 1988, States would be required to implement automatic wage withholding on all orders issued or modified in a State court.

Two exceptions would be permitted. First, the requirement would not apply if either party demonstrates and a court finds that there is a good cause to not require immediate wage withholding; and second, the requirement would not apply if a written agreement is reached between both parties which provides for an alternative arrangement.

The inclusion of this amendment into H.R. 1720 will save $139 million in costs. This provision was included in the Republican substitute that will be offered later today. It was included in Senator MOYNIHAN's bill and it was a major part of the proposed substitute amendment of the gentleman from Delaware, TOM CARPER.

Second, we have asked in the second amendment that we target and better expand the day-care transition rules of H.R. 1720. Under current law a mother on welfare is assured of no help with her child-care expenses when she takes a job. H.R. 1720 subsidizes her child-care costs for only 6 months after she leaves AFDC. This amendment improves on this policy.

First, it better targets the child-care transition to those who need the assistance the most, families who leave welfare because of increased earnings.

Second, it would extend those transition benefits beyond 6 months to 12 months.

A State has the right to extend even further those benefits if it so chooses. In no event, however, could a family with an income in excess of 150 percent of poverty receive any subsidy at all.

We can save $270 million by this amendment off the total cost of the bill. This amendment was another major part of the Carper proposed substitute. It is included in the Republican substitute and is also a part of the bill introduced by the gentlewoman from Connecticut, NANCY JOHNSON. It is an important complement to H.R. 1720. It makes good sense and it saves us money.

Third, Mr. Chairman, we have asked that enhanced match provisions of the bill have a sunset provision. H.R. 1720 creates incentives for States to improve their AFDC benefits by increasing the Federal match for States that choose on their own to increase AFDC benefits.

This is an extremely important part of the bill, especially for States like mine. In Texas since 1980 we have increased our benefits some 60 percent, and yet we still remain near the bottom of all States in the country in terms of our minimum benefit levels. This is the carrot that encourages States to do more in welfare benefits.

At the same time, by this amendment we sunset this provision to 1991. We allow the Congress to revisit this issue, to reassess whether this program is working. That is a new idea. It is one that the Congress should look at again.

This amendment will save $100 million. In total, Mr. Chairman, by these three amendments we take $509 million off the total cost of the bill, a 10-percent reduction. I believe these three amendments are prudent, they are expeditious in terms of moving our welfare reform forward, they make good sense, and they address some of the concerns that other Members of the House have expressed about H.R. 1720.

□ 1535

Mr. Chairman, I yield 2 minutes to the gentleman from Illinois [Mr. ROSTENKOWSKI], the Chairman of the Committee on Ways and Means.

Mr. ROSTENKOWSKI. I thank the gentleman.

Mr. Chairman, we all, as members of the various committees of the House bring bills to the floor of the House of Representatives seeking the support of a majority of the membership of the House. I would like to take this opportunity to congratulate the members of the Committee on Ways and Means who have developed this bill. I think they have done a commendable job in the pursuit of reaching a majority to support this bill. The distinguished gentleman from Texas who serves on the committee has fashioned an amendment that will go even further by making the bill before us today, H.R. 1720, the Family Welfare Reform Act of 1987, more palatable to a majority of the membership.

The Andrews amendment would reduce the cost of H.R. 1720 by $500 million over the next 5 years. This is a 10-percent reduction, as was pointed out by my colleague, Mr. ANDREWS, of the cost of the bill. But it does not just reduce the cost, it also improves the bill by establishing tougher wage withholding requirements for absent parents and by fine-tuning our child care policy to extend child care benefits for a longer period of time to those who need it the most.

I think this is a commendable gesture. I think the amendment is worthwhile.

Mr. Chairman, I urge my colleagues to accept this responsible approach and to vote for the Andrews amendment.

The CHAIRMAN. The Chair recognizes the gentleman from Colorado [Mr. BROWN].

Mr. BROWN of Colorado. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I would like to publicly thank the sponsor of this amendment. I think he has made a very positive contribution to the debate. He has been a force for moderation of this measure. I think his inclination and his tendency to look and search for a reasonable welfare bill is one that deserves commendation.

I personally favor the direction that he is trying to move the bill in. In fact, his amendment has been reviewed by folks on our side and I think met with near unanimous support.

Mr. Chairman, I reserve the balance of my time for additional comments.

Mr. ANDREWS. Mr. Chairman, I yield 3 minutes to the gentleman from Ohio [Mr. PEASE] a member of the subcommittee.

Mr. PEASE. Mr. Chairman, I rise in support of the Andrews amendment and in so doing would like to commend my colleague from Texas not only for this amendment which makes this bill a better bill, but also for his hard work as a member of the Subcommittee on Public Assistance in getting the bill to the floor in the first place.

Mr. Chairman, the Andrews amendment is a reasonable proposal which seeks to make the welfare reform package less costly. Many Members have legitimate qualms about the 5-year cost of the Ways and Means Committee bill. The amendment would cut the cost of the bill by 10 percent over that period.

The amendment would improve the targeting of the provision dealing with the day-care transition. A common criticism of the bill from some quarters has been that it is too generous. Mr. ANDREWS' targeting of the day-care transition benefit to those who leave welfare because of earnings properly directs this valuable benefit on those most in need of it.

Targeting the day-care transition benefit also enables this important benefit to be stretched out to 12 months, thus improving the chances of those who qualify for it to succeed in staying in the work force for good.

The provision of the amendment mandating immediate wage withholding for payment of child support obligations is another good idea that puts Congress on the side of the rights of children to support from their parents. The entire structure we have evolved for welfare centers on the primary importance of making sure that the needs of children are met.

Finally, the Andrews amendment would sunset the provision in the bill which gives States an incentive to improve welfare benefits. This sunset is a prudent move which would ensure that Congress would revisit and review the policy in light of experience with the new welfare program.

Mr. Chairman, we have had a lot of controversy over the last 2 days, disagreement on both sides of the aisle as to the merits of this bill and the Republican alternative.

I submit that this is an amendment which ought to be able to be supported by both sides of the aisle. From the Democratic side, it makes it a better bill. Certainly from the Republican side it ought to also.

I hope this amendment will be passed by an overwhelming margin.

Mr. ANDREWS. Mr. Chairman, I yield 2 minutes to the gentleman from Florida [Mr. MACKAY].

Mr. MACKAY. Mr. Chairman, I rise in support of H.R. 1720 and Mr. ANDREWS' amendment to it. With one out of five American children living in poverty, this legislation is of utmost importance.

Last year, I had the privilege of cochairing a Democratic Task Force on Social Policy with my colleague MARCY KAPTUR. The task force report entitled "The Road to Independence: Strengthening America's Families in Need" demonstrated that rather than providing incentives for the working poor, Government has placed new obstacles in their path. We raised the issue of whether assistance programs are part of the solution or part of the problem.

The report stressed nonwelfare approaches to assisting and stengthening poor families. The Tax Reform Act made important progress in this direction and several States have initiated innovative programs that help low-income families achieve self sufficiency and work their way out of poverty.

The Family Welfare Reform Act implements many of the recommendations of our social policy task force. I am particularly encouraged by the education, training, health care, and child support provisions of this bill. Our welfare system needs to be revamped and the Family Welfare Reform Act targets scarce Federal resources to programs and activities that will help families support themselves.

Mr. ANDREWS' amendment improves the bill requiring States to immediately withhold wages for child support payments instead of the current method of withholding wages only after an absent parent is 30 days late in making child support payments. This would reduce the cost of the bill by $139 million over 5 years. Making sure as few as possible default on their financial obligations is a good way to pay for legislation to help the poorest of American families.

The Andrews amendment will more sharply target the bill's day care transition program and terminate in 1991 the Federal match for States that increase their welfare benefits. This will reduce the cost of the bill by $370 million while still providing the States the incentive to increase AFDC benefits.

This legislation improves the chances of the 7 million children and their parents who rely on AFDC benefits for daily support by creating strong incentives for their parents to get off welfare, and into the work force.

Two-thirds of the added costs are for work, education, and training programs, to get people off welfare. This is a reform that is long overdue and over the long haul, this legislation will save far more than it costs.

I support the Andrews amendment, and I urge my colleagues to do the same.

Mr. BROWN of Colorado. Mr. Chairman, I yield 3 minutes to the gentleman from Minnesota [Mr. FRENZEL].

Mr. FRENZEL. Mr. Chairman, the amendment of the gentleman from Texas makes three major modifications in the bill, reducing its cost because of: First, the child support language by about $140 million; second, reduction of day care expenses by about $270 million; and third, sunsetting the 25-percent benefit enhancement by about $100 million.

I do have a couple of comments. The first one is on the child support reduction. I note that it was lifted verbatim out of the Republican substitute. It is said that imitation is the most sincere form of flattery, and I hope Mr. BROWN accepts the amendment as a compliment. He should.

With respect to the sunsetting of the 25-percent benefit enhancement, anyone who believes that it is a reduction in cost will believe in the Easter Bunny, in the Tooth Fairy, and in the Great Pumpkin.

What that amendment does is to sunset an increased benefit which will, in 1991, October 1 when it expires, simply be extended. Anybody who believes he or she is saving the full load here ought to disabuse himself or herself of that particular notion. There is no saving in this phony provision.

Even though 20 percent of the amendment is a fake, that $100 million in the sunsetted 20-percent benefit enhancement, the other $400 million is worth taking.

Because on the golf course it would qualify as a "gimme", I suggest that the amendment of the gentleman from Texas should be adopted. But so should the amendment of the gentleman from Colorado [Mr. BROWN] and the gentleman from Illinois [Mr. MICHEL] for only then you will have true welfare reform.

In the Andrews amendment, you are merely nibbling at welfare reform. A nibble is better than no bite at all.

Mr. ANDREWS. Mr. Chairman, I yield 2 minutes to the gentleman from Texas [Mr. FROST].

Mr. FROST. Mr. Chairman, today, I rise to indicate my wholehearted support for the Andrews amendment. This amendment, which will reduce the cost of H.R. 1720 by one-half of a billion dollars, offers us the opportunity to do the right thing—to reduce the cost of welfare reform while providing an increased incentive for poor families to become self-supporting and productive.

I believe that this amendment clearly addresses the concerns of many who object to H.R. 1720 because of its long-term costs. During this time of budget summits and fiscal responsibility all of us are seeking ways to limit expenditures. Reducing the cost of welfare reform by $509 million over 5 years by implementing the Andrews amendment will help achieve that objective.

But, we are not just interested in savings, we are interested in helping people help themselves. The expanded child care provisions of the Andrews amendment provides this extra help by expanding child care assistance for an additional 6 months to those who have found jobs. Given the increasing cost of child care, this extra 6 months can be the difference between a parent becoming a productive member of the work force or a long-term welfare recipient.

We all know there is a need for welfare reform. And, the Andrews amendment is a sound alternative which offers us an option we should all be able to agree on. It gives us the chance to break the cycle of public dependence for thousands of Americans.

Let's do the responsible thing. Let's reduce the cost of welfare reform. Let's improve our social services system. Let's pass the Andrews amendment.

Mr. ANDREWS. Mr. Chairman, I yield 2 minutes to the gentleman from Kansas [Mr. SLATTERY].

Mr. SLATTERY. I thank the gentleman for yielding.

Mr. Chairman, I rise in support of the Andrews amendment. It not only saves $509 million, but the Andrews amendment, which is virtually identical to provisions of the Carper proposal, I think makes some other very important and needed changes, especially the change with respect to providing tougher language for the wage withholding requirements for absent parents which saves $100 million of the $509 million.

Then in addition to that it better targets the child care benefits during the transition period.

By so doing, we are able to provide the benefits for child care to some more needy mothers for a longer period of time. It is a good idea; it makes sense.

Mr. Chairman, I commend my friend from Texas for offering the amendment. I also would like to pay special treatment to my friend from Delaware, Mr. CARPER, who authored the language that we are discussing here today and he came up with this idea.

I know that the gentleman from Colorado was involved in this and they deserve recognition for it and I would like to pay them that recognition.

Mr. BROWN of Colorado. Mr. Chairman, I yield 2 minutes to the gentleman from Michigan [Mr. KILDEE].

Mr. KILDEE. Mr. Chairman, I thank the gentleman for yielding and I rise in opposition to the amendment and wish to direct my comments to the section dealing with transitional child care assistance.

Mr. Chairman, the amendment takes a positive step in extending the transition child care assistance for 12 months and I commend the gentleman for this. However, the eligibility limit of 150 percent of poverty is below the level of assistance currently provided in 19 States under title XX.

Under this amendment, the cutoff would be approximately $13,950.

Now quality child care costs about $3,000 a year. Under this amendment, a mother of two making $14,000 could be facing a $6,000 a year child care bill without any assistance. The eligibility limit in this amendment could result in mothers falling back on welfare because they would lose their child care assistance and without assistance they would be unable to pay for the child care which enables them to work.

Equally concerning, is the possibility that this amendment could be interpreted by those States with higher title XX eligibility limits as a signal that their existing levels of assistance are too high.

I think that is the wrong kind of signal to send. I also think that really in a sense that we do not have a child care system in this country. We should be ashamed of that. I have a bill, the ABC bill introduced that would help set up a child care program.

□ 1550

We are asking people to seek child care where that child care does not really exist, and we do not give them adequate funds to get safe child care.

Mr. BROWN of Colorado. Mr. Chairman, I yield 5 minutes to the gentleman from Montana [Mr. WILLIAMS.]

Mr. WILLIAMS. Mr. Chairman, I thank the gentleman for yielding me this time.

Although I admit to some ambivalence about my opposition to the Andrews amendment and although I find it kind of a close call, I am nonetheless in opposition to it because the amendment says that a person formerly on welfare who now has taken a job and receives only half again as much as it takes to get above the poverty level will not be granted any financial assistance for their child or children who are in a day care center.

Now, it seems to me that that might be pennywise and pound-foolish, because it may mean that many of these mothers who receive education and training then may find themselves unable to take and continue with a job because they cannot afford the child care costs. For example, a mother earning just half again as much as it takes to get above the poverty level would find that out of her rather small $800 a month in take-home pay she would be required perhaps to pay as much as $300 or $350 of it just for child care, and I suggest that that may mean that many of these mothers, after we spend these hundreds of millions of dollars to educate them with a job skill, may find that they cannot afford to take the job because they come just above the poverty level, and if the Andrews amendment passes, the law will say they get no help from the Federal Government.

Mr. Chairman, I have discovered in looking at the gentleman's amendment that many States are not going to be affected because they would take care of these mothers to whom I am referring through a separate program, title XX, which in many States would be used to pay for the child care. However, I have found at least four States, in addition to my own, where title XX money cannot be used under current State law to pay for those child care benefits. Those States, in addition to my own State of Montana, are Florida, Delaware, Indiana, and Rhode Island. That is just a cursory look. There may be more.

A recent review by the National Social Science and Law Center showed this: They surveyed welfare recipients in Washington State and found out that two-thrids of the mothers said that lack of child care kept them from work, that is lack of good affordable child care kept them from holding a job.

GAO not long ago concluded a study called Work and Welfare and found that 60 percent of those welfare mothers not participating in work cited lack of affordable child care as the primary reason they did not take and hold a job.

My final example is that Legal Services did a study in upstate New York and found out that 50 percent of the unemployed mothers were unemployed because they said again, "We cannot find affordable child care." Mr. Chairman, the Andrews amendment, we are told, is going to save $270 million over a 5-year time period, but if we find that there are perhaps tens of thousands of mothers who come just above the poverty level but cannot afford to take and hold a job because if the Andrews amendment is passed, there will be no financial assistance for their child care costs in the law, then we are going to spend a lot more than the $270 million that this bill will have saved.

As I say, Mr. Chairman, it is a close call, but on balance it seems to me we are being pennywise and pound-foolish to accept this amendment.

Mr. ANDREWS. Mr. Chairman, I yield 5 minutes to gentleman from North Carolina [Mr. VALENTINE].

Mr. VALENTINE. Mr. Chairman, welfare reform is among the most controversial, and most important, matters to come before the House this year. I commend the many Members who have played essential roles in finally bringing this measure before the full House.

Even after months of study, hearings, and discussion, the Family Welfare Reform Act remains the object of intense disagreement. Like others, I have real concerns and serious misgivings. I am deeply concerned about the cost of this legislation and the uncertain prospects for the success of the reform program.

In the view of some observers, we are running a serious risk of making a bad situation worse—of perpetuating the problem of welfare dependency while actually increasing costs and decreasing effectiveness.

Certainly, we are taking a risk. Yet, the bill before us today offers the best available alternative to the present welfare system that everyone agrees is in dire need of reform.

This welfare reform bill accomplishes four vital goals:

First, it brings welfare recipients into the work force.

Second, it provides education and training to give those citizens a fighting chance to build productive careers and become permanently self-supporting.

Third, it provides a level of short-term support that will enable welfare recipients to complete their preparation for work.

Fourth, it increases the incentives for work rather than dependency.

Mr. Chairman, we have an opportunity that may not last long. I hope we take advantage of this chance.

I want to call my colleagues' attention to another serious national problem that is addressed in this legislation. According to the last census statistics, more than 24 million Americans over the age of 25 do not have an eighth grade education and are considered functionally illiterate. In other words, more than 18 percent of adult Americans cannot read and write well enough to hold many jobs, to understand a newspaper, or even to participate minimally in modern American society.

In the State of North Carolina, nearly one in four residents is functionally illiterate. In some counties the rate is as high as 36 percent. These are deeply troubling statistics, which are even worse in other States.

I am proud that North Carolina was the first State in the Nation to approve a State plan for adult education to help fight illiteracy.

Currently, all 58 of the community colleges that serve North Carolina's 100 counties offer adult education programs at no charge. The Adult Basic Education Program served 57,000 in 1986 and 1987. The General Education Development Program served 45,000 individuals during that same period.

Although my State has taken steps to combat illiteracy, no State can solve the problem alone. By cutting adult education and other literacy programs in the recent past, the Federal Government has restricted the efforts made by North Carolina and the other States to educate its citizens.

Witnesses at a Science, Research, and Technology Subcommittee field hearing on technical literacy reiterated the need for a work force with a good education.

Richard L. Daugherty, site general manager of IBM at Research Triangle Park, told the subcommittee that his company considers it essential to hire "individuals who have basic skills to adapt to change," he said "* * * things are changing so quickly that almost half of the jobs today won't exist in the same form at the turn of the century. That suggests massive retraining. And massive retraining requires people with a good solid, basic education."

Mr. Daugherty also explained that, in choosing an employee, IBM looks for "a well prepared individual who can be trained and retrained as the winds of commerce and competition shift."

Who will fill these positions in a rapidly changing, technologically advanced economy if one fourth of those over 25 years old cannot read or write beyond an eighth grade level? How will we continue to remain competitive when many of our citizens are uneducated and undermotivated?

One of the most important features of the Family Welfare Reform Act, in my opinion, is that it takes steps to identify, educate, and train people for jobs so that they can become independent of welfare. In other words this legislation should help to reduce adult illiteracy in America.

Under this legislation, welfare recipients would receive high school or equivalent education; remedial education, English instruction, and advanced education as appropriate; group and individual job search assistance; skills training; job preparation; counseling, information, and referral services; and job development, job placement, and followup services.

The substitute bill, on the other hand, does not require the States to provide these programs. It permits the States to require high school or the General Education Development Programs for parents 16 to 19 years old.

Although the substitute may sound attractive because of its lower price tag, it is important to note that, according to the Congressional Budget Office estimates, this alternative would cost the States approximately $435 million over 5 years. According to the same study, H.R. 1720 will save the States about $145 million in 5 years.

Many State officials, including a number in my State, have expressed the fear that the Federal Government will require new programs but deny the funding needed to implement them fully.

According to figures I have seen, there is not enough money at the State and local levels to support people in the long-term programs required to enable hardcore welfare dependents gain the skills they need to become independent. County programs are understaffed and underfunded, yet they are struggling to offer more and better services to help educate and train people.

Mr. Chairman, our citizens must be freed from the confinements of illiteracy.

Until they are, all our efforts to increase productivity, improve our balance of trade, and reduce the deficit will be seriously hampered. Our workers need this basic education to have any hope of remaining competitive in an increasingly sophisticated world economy.

The Family Welfare Reform Act with the Andrews amendment is a large step in combatting illiteracy, and I urge my collegues to support it.

□ 1600

Mr. BROWN of Colorado. Mr. Chairman, I yield 9 minutes to the gentleman from Texas [Mr. BARTLETT].

Mr. BARTLETT. Mr. Chairman, I do thank the gentleman for this generous amount of time.

Mr. Chairman, I rise in support of the Andrews amendment, although I would comment that I rise in extremely mild support of an extremely mild amendment.

It seems to me that the tragedy of the day is that we are reduced to commenting, and I will not even say debating, but commenting on such an inconsequential portion of an overall bill.

It is about like buying or preparing a plate of nachos, of hot nachos, expecting to get some pepper and some fire into your belly, and then discover that someone has left off the jalapenoes; so I have a great deal of respect for my colleague, the gentleman from Texas [Mr. ANDREWS], and so far as it goes, the gentleman's amendment is somewhat an improvement of this legislation, but I would rise to damn that amendment with faint praise.

This amendment is better so far as it goes because it does somewhat lower the cost of a bill that basically expands benefits and expands costs of an already too costly welfare system, but that is not the problem. It lowers the costs that were built in to be increased. It does not lower the existing costs.

The tragedy is that we are reduced to debating and considering on the floor of this great body such inconsequential amendments as this amendment.

Now, there has been too much partisanship on this issue, so I do not rise to add any more to that partisanship. In fact, it was my hope, and it was my hope all the way through the Ways and Means Committee and the Education and Labor Committee and on to the floor that this body would have been permitted to have considered such bipartisan approaches as the gentleman from Delaware [Mr. CARPER] prepared, so that we could break through the partisan rhetoric and actually debate a bill such as the gentleman from Delaware [Mr. CARPER] was prepared to offer, but not allowed to be able to assist in the rather tragic lives of welfare recipients in this country, but was denied that opportunity to do so.

Mr. Chairman, the tragedy of today, the tragedy of this day and this debate is that we had a chance at real reform. We had an opportunity. The base was built in this country and this Congress to replace a tragic system that holds people down, that we call the welfare system, to remove disincentives to work from that system, to consolidate that system so the system could be allowed to permit people to go back to work instead of keeping them under the system. We had that chance and we blew it. We blew it for whatever reason, but the fact is that we do not have that opportunity with this bill, with this amendment, on this day.

You know, we had that support around the country. There have been volumes written in the last 5 years. The Governors have called for true welfare reform. Local officials are for welfare reform. Welfare recipients have been asking us for welfare reform that would allow those recipients to go back to work, but in this case Congress has turned its back on bona fide welfare reform.

What does the bill or the amendment not do? It does not simplify an already too complicated welfare system. It is so complicated that it is virtually a full-time job for a welfare recipient just to make sure that they stay a part of the system. It does not put very many, if any, people back to work. In fact it could have. The States wanted to put people back to work. A majority of the people in Congress wanted to put people back to work. It was cheaper in the long-run and the welfare recipients themselves were clamoring to go back to work.

It does not permit consolidation. The Carper bill, the Michel-Brown bill, would have permitted consolidation of some 22 different transfer payment systems, 22 systems that could have been consolidated so that welfare recipients and local officials could begin to understand it; but this system does not make that possible.

It does do one beneficial thing, and out of respect for the sponsors of the bill, I will comment that it does do one thing, and that is it does set out to remove the barrier of access to health insurance by providing a Medicaid transition card for 24 months. That provision is already included in the House reconciliation bill and will be adopted, whether or not H.R. 1720 were to be passed.

It does one other thing and it does this in the wrong direction. It increases costs. It expands benefits, as if the level of benefits was ever the problem or any part of the problem, it was not. The problem has never been the level of benefits. The problem has been that the system itself used these benefits to keep people from working, and this bill with the exception of the Medicaid transition card does not do one thing to allow those people back to work.

The Andrews amendment so far as it goes, I think, provides for a lessor expansion of the benefits, a lessor expansion by $500 million out of a total of $5.9 billion of expansion that is included in the bill.

I want to take a special moment to mention some of the new disincentives to work that are created in this bill, and perhaps that is the tragedy. It is tragic enough that we did not remove any of the existing disincentives to work out of the existing welfare system. It is tragic enough that we did not simplify the system by one iota, that is tragic enough, but worse is now with the passage of H.R. 1720 we are going to create new disincentives to work and we are going to be telling people that there are now more reasons that they are not able to go back to work.

First, the bill says that anyone with a child aged 3 or under is exempted from the program altogether. That exempts in and of itself 21.6 percent of AFDC recipients from work, and worse than that, a hidden portion of the bill that says anyone with a child under the age of 6 is exempted, except for part-time work, and thus exempting virtually another 21 percent of the recipients.

Second, the bill says that unless an AFDC recipient is offered a job which pays as much as all of their welfare benefits combined, a total of some 22 different programs that are available, they would not be required—they could not be required by the State to accept that job, even though that recipient would be far better off, as would their families, accepting the job. This bill would say they cannot be required to accept the job.

Now, I would note that even the Education and Labor Committee did better than that. Even the Education and Labor Committee said that a person could be required to participate in the program so long as it paid the minimum wage, but that amendment was not allowed on this floor. That amendment is not contained in the Andrews amendment. What the amendment says now is that in a high-benefit State this could be as much as $16,248 of welfare benefits before a person could be required to take a job.

Third, title I of the bill, which the Andrews amendment does not address, explicitly prohibits, explicitly bars an AFDC recipient to continue a job or to do a job under the Community Work Experience Program for more than 6 months. What does that mean? That means a recipient who is put to work on a job training program under Community Work Experience is required to be fired and sent back to welfare after 6 months and is not permitted to participate in Community Work Experience again.

Fourth, H.R. 1720 as drafted and not amended by the Andrews amendment contains no mandatory participation levels. So all else is naught. We may have some nice words in the bill telling States what we think they ought to do, but nowhere in this bill, this bill as it is presently drafted, would it require mandatory participation levels for the States.

So Mr. Chairman, I would just say that the Andrews amendment is good so far as it goes. It does not go very far. It does reduce some of the increases in costs, about 10 percent of those increases, but it does not do anything about the basic problem of the bill. It does not increase the simplification. It does not provide for additional work.

Mr. Chairman, as House Members look at this bill, if we care about the welfare recipients, if we want those welfare recipients to be able to break the cycle of poverty that this Government has forced them into, then we should indeed vote for the Andrews amendment. It is good so far as it goes, but we also should vote for the Michel-Brown substitute that will build a work component into the system, and if that fails, we should vote no on final passage of the bill. We can do better. We should do better. We have an obligation to those recipients now and in the future to do better.

Mr. BROWN of Colorado. Mr. Chairman, I yield 5 minutes to the gentlewoman from Connecticut [Mrs. JOHNSON], who has provided such great leadership on this issue.

Mrs. JOHNSON of Connecticut. Mr. Chairman, I rise in support of the Andrews amendment and congratulate my colleague on making these adjustments in the bill. They are indeed extraordinarily important adjustments. At previous times in debate on this bill and during 1-minute speeches during the weeks preceding, I have repeatedly pointed to what I considered to be a fatal weakness in H.R. 1720, and that was the provision of a mere 6 months of day-care subsidies. It is not wise and it is not fair to require taxpayers to fund better education work training programs and then after 6 months, because a woman cannot pay both rent and day care, to cut her off, throwing her back onto welfare.

So I commend my colleague for now improving the 6-month provision of day care in H.R. 1720 and expanding it to a year, with the States having the option to extend those subsidies as long as they choose.

I would just remind the body that at a hearing held in Florida, over and over again the testimony was, "We don't need work training programs. We don't need education. We need some source of funding for day care so that we can be in the work force. We can earn enough to pay rent. We can earn enough to support our children. We cannot earn enough to pay rent and provide day care."

So I think this provision makes a considerable improvement in H.R. 1720; however, I also want to commend my colleague, the gentleman from Texas [Mr. ANDREWS] on the inclusion of the stronger child support enforcement provisions, which for the first time require mandatory wage withholding.

I regret that you do not adopt the Republican provisions for stronger interstate enforcement. One of the strengths of the Republican proposal was that we allowed enforcement agencies to go directly to employers to get information, for example, on a name, address, Social Security number, so we could better go after nonsupporting parents, and I regret that you did not adopt that important provision.

I also regret that your provisions on paternity determination are not as strong as they need to be. We do need to require that blood tests in disputed cases of paternity be used. Those kinds of tools will help us to refocus welfare to make it a system that insists on fathering's importance as well as mothering's importance.

So while I commend my colleague on the substance of this amendment, I regret that it does not go quite far enough.

Further, I want to note that this amendment demonstrates the tremendous overriding importance in a legislative body of bipartisan deliberations, and of bipartisan crafting of policies to serve our Nation.

The tragedy of the welfare debate on the floor of the House and in our process has been its partisanship, its partisanship in the committee and its partisanship since.

I went before the Rules Committee and asked for the right to propose amendments that would have addressed specifically these issues and was denied that right.

My colleague, the gentleman from Delaware [Mr. CARPER] and I worked hard on a bipartisan bill from which this day care provision was drawn, because it was a compromise between my initial proposal in the Republican bill and some concerns on the other side. It is unfortunate that we have not been able to proceed with this kind of bipartisan dialog and amending process outside of the tough control of the majority party through the committee leadership.

Mr. DOWNEY of New York. Mr. Chairman, will the gentlewoman yield?

Mrs. JOHNSON of Connecticut. I am happy to yield to the gentleman from New York.

Mr. DOWNEY of New York. Mr. Chairman, I thank the gentlewoman for yielding.

I want to engage in a colloquy with the gentlewoman if I can on the question of child care, because the gentlewoman had addressed it on several occasions.

Is it fair for me to assume that the gentlewoman is supporting the Republican substitute.

Mrs. JOHNSON of Connecticut. Yes.

Mr. DOWNEY of New York. Is the gentlewoman aware that under the Republican substitute there is absolutely no requirement for transitional day-care services.

□ 1615

Mrs. JOHNSON of Connecticut. That is absolutely a wrong statement. There is a requirement in H.R. 3200 that day care be provided and that if day care is not available that the person cannot be required to participate in programs nor to engage in work.

Mr. DOWNEY of New York. I am talking about transitional services, and this is after someone is presumably off the welfare rolls transitioning to work.

The CHAIRMAN. The time of the gentlewoman from Connecticut has again expired.

Mr. ANDREWS. Mr. Chairman, I yield 1 minute to the gentleman from New York [Mr. DOWEY].

Mr. DOWNEY of New York. Mr. Chairman, let me make the point, and if I then might defer to the gentlewoman from Connecticut [Mrs. JOHNSON], I will certainly make sure she has time to respond to my comments.

Let me read your provision:

SEC. 302. STATE PLANS.

(a) IN GENERAL.—Each State which desires to receive Federal reimbursement (under section 417 of the Social Security Act) for costs incurred in providing child care services for individuals described in subsection (b)(2)(A) shall submit a State plan under this title to the Secretary of Health and Human Services (in this section referred to as the "Secretary") at such time and in such manner as the Secretary may require.

The question of desire is important here because the gentlewoman from Connecticut and others on the Republican side have said that day care is available. The problem is that the transitional day care is not required, because "desire" does not mean "require."

Second, under the Republican plan there is no money for day care. There is $422 for all child care if the $500 million is authorized, let along appropriated, and it is very likely that it would not be.

The fact is that child care under both the Andrews amendment——

The CHAIRMAN. The gentleman's time has expired.

Mr. ANDREWS. Mr. Chairman, I yield the gentleman from New York [Mr. DOWNEY] 1 additional minute.

Mr. DOWNEY of New York. Health care provisions under H.R. 1720 are required not only during the period of time that the person is educated and trained but also during the transition period, but most importantly it is paid for.

That provision is perfected in part by the Carper language for 12 months under the Andrews substitute, so we tailor it to the people who need it the most.

So to continually make the argument, as others have made on this floor, that the day care is somehow better under the Republican substitute when it is, (A) not required; and (B) not funded, I think is stretching it a bit.

Here we provide child care. Here we make sure that it is a requirement because we understand that there is an absolute connection between getting someone to work and keeping him there and we have to provide the child care.

Mrs. JOHNSON of Connecticut. Mr. Chairman, will the gentleman yield?

Mr. DOWNEY of New York. I yield to the gentlewoman from Connecticut.

Mrs. JOHNSON of Connecticut. Mr. Chairman, I agree with the gentleman from New York [Mr. DOWNEY] that this is very important for the body to understand, and for the public to understand, as our bills are different in slightly different ways on this matter. Our bill allows the States to provide day care subsidies.

The CHAIRMAN. The time of the gentleman from New York has expired.

Mr. BROWN of Colorado. Mr. Chairman, I yield 30 seconds to the gentlewoman from Connecticut [Mrs. JOHNSON].

Mrs. JOHNSON of Connecticut. Mr. Chairman, our bill allows the States to provide day care subsidies that are not related to any time period but are merely related to salary. It allows likewise the States to provide work, education, training programs and transition day care subsidies and we provide according to CBO essentially the same money. We do not, however, allocate for the States how much money should go to day care and how much should go to work training.

We do that for a reason. The States have been the leaders in reforming welfare. It is because of the States' leadership on welfare reform that we are here today. So it is very important to retain State flexibility to provide that money that is necessary for day care and only so much as is necessary for work and training.

Mr. BROWN of Colorado. Mr. Chairman, I yield 30 seconds to the gentlewoman from New Jersey [Mrs. ROUKEMA].

Mrs. ROUKEMA. Mr. Chairman, I rise to congratulate the gentleman from Texas [Mr. ANDREWS], the author of this amendment. I especially want to commend him for what he is doing on child support enforcement including the mandatory wage withholding requirement from the day of the court order. This is the linchpin of child support enforcement reform, and I commend that gentleman from Texas for his assistance.

It is what every professional has said is necessary. It is included in the Senate bill, and it is included in the Republican substitute. I am now happy that it is included with his amendment.

Mr. BROWN of Colorado. Mr. Chairman, I yield 2 minutes to the gentleman from Illinois [Mr. HAYES].

Mr. HAYES of Illinois. Mr. Chairman, I want to thank the gentleman from Colorado [Mr. BROWN] for yielding me this time. I also want to say at the outset that I have a lot of respect for the gentleman from Texas [Mr. ANDREWS] who has introduced this amendment, but I must be honest with my own conscience and advise that I am in opposition to this amendment, having been one who is somewhat of an authority, having been a recipient of welfare as a child during the Hoover administration. I could not live with my conscience and sit here and see this kind of amendment pass because I think it is going to be to the detriment of people who need help. I would like to support the position taken by my two colleagues, the gentleman from Michigan [Mr. KILDEE] and the gentleman from Montana [Mr. WILLIAMS], in opposing this amendment. I just cannot see us being in the position, when I read part of what this amendment does, and that first it would target child care transition to who needs assistance the most, and families that need welfare because of earnings.

Who makes that determination as to who needs it most bothers me very much. When one reads further down, it says that in no event could a family with an income in excess of 100 percent of poverty receive a subsidy. This means that people when they go off of ADC, and I have many in my district who are on ADC, Aid for Dependent Children, when they go off the welfare and out to seek a job, most times if they are lucky it will be a job at the current Federal minimum wage level. We are talking about less than $7,000 a year out of which they have an allowance for child care not to exceed $200 a month. One cannot even find anybody who is worthy on that kind of money who could take care of a child who needs care, and some guidance, and some help.

If that mother has to go back on welfare, it would not be unexpected; it just cannot be done, I just do not see how they can do it.

I have to oppose the Andrews amendment, Mr. Chairman.

Mr. BORSKI. Mr. Chairman, I rise in support of H.R. 1720, the Family Welfare Reform Act, and in support of the Andrews amendment to the bill.

For many years, there has been a general consensus that our welfare system is both inefficient and ineffective in meeting the needs of the poor. Many taxpayers and public policy experts believe that our welfare program discourages economic independence and self-sufficiency. There is agreement that, as it is now structured, welfare is too often a dead end, offering little hope for a better future.

Clearly, there is a critical need to reform the existing welfare system so that the poor can break the cycle of poverty, unemployment, and long-term dependence. I believe that H.R. 1720 offers us the opportunity to make meaningful and necessary improvements toward this goal.

The bill will enable welfare recipients to enter the work force by establishing comprehensive work, education, and training programs, improving day care services, and increasing incentives for recipients to work. It also extends benefits to two-parent families in all States so the family is not forced to split up and it strengthens procedures for ensuring that absent parents pay child support. The legislation also contains financing provisions that offset the bill's cost and thereby avoid increases in the deficit.

Furthermore, the inclusion of the Andrews amendment will strengthen H.R. 1720 by reducing the cost of the bill and improving the targeting of child care benefits. It will cut costs by $509 million over 5 years by requiring immediate wage withholding for child support payments, more carefully focusing the child care transition program, and terminating by 1991 the increased Federal match for States that increase their AFDC benefits.

Mr. Chairman, H.R. 1720 is the product of much compromise and negotiation. As such, it is not perfect. But it does offer the best hope for ending the cycle of poverty for millions of Americans.

Mrs. SMITH of Nebraska. Mr. Chairman, I rise today in opposition to H.R. 1720, the Family Welfare Reform Act, and in favor of the amendment that will be offered in the form of a substitute.

It is no secret the general public's perception of our country's welfare programs is not favorable. Hundreds of my own constituents in Nebraska have written to share with me their personal observations of waste and abuse of welfare dollars. And it is also no secret that the current program is not working. Something is obviously quite wrong with a system that encourages dependence, family breakup, illegitimacy, low educational attainment, and the waste of human potential.

It is, therefore, incumbent upon this Congress to take this opportunity and reform the current welfare programs so that, while providing help for the truly needy, those that are perfectly capable of providing for themselves have the opportunity and impetus to do so.

As we are all aware, both H.R. 1720 and the substitute require the States, for the first time, to set up work, job training and other programs to help parents shift from the AFDC welfare roles to payrolls. However, the similarity ends there.

H.R. 1720 is loaded with benefit increases and does not require strict participation in training programs.

In contrast, the substitute does not increase benefits, which studies have shown may decrease work incentive, and the substitute mandates that at least 70 percent of eligible mothers participate in training programs after 9 years.

Also, H.R. 3200 would cost about $1.1 billion over the first 5 years, while the big spenders version, H.R. 1720, breaks the budget by more than $6 billion over 5 years. At a time when Congress is straining to cut a few billion dollars from the budget to reduce the deficit and reassure financial markets, the House should not pass this costly bill.

But, most importantly, CBO estimates that three times as many AFDC recipients will be involved in employment and training programs under the substitute versus H.R. 1720. Isn't this the name of the game—to get welfare recipients off welfare and into the work force?

Clearly the substitute, which closely resembles my welfare reform bill, H.R. 598, is the better legislation. It provides States with greater flexibility in helping citizens who request aid and contains strong child support enforcement provisions.

And there is already a record of success for the type of reforms proposed in the substitute. States that have initiated their own welfare reform programs with greater independence from the Federal Government, as the substitute allows, are achieving tremendous results.

Of note, there are the successes achieved by Nebraska's Job Support Program.

One aspect of the Job Support Program is the Job Search Initiative. Job Search offers classroom instruction aimed at helping recipients improve their job hunting skills, including interviewing skills, and strategies to improve upon the recipient's self-esteem.

Nebraska's Job Support Program also includes a Community Work Experience Program. This is essentially, a workfare program. Two-parent AFDC households in which neither parent has found employment within 3 months are required to participate.

Currently, 7,200 low-income Nebraskans are required to participate in Job Support. This success rate offered a projected savings of over $6 million in AFDC costs in fiscal year 1986 alone.

In addition, administrators of the Job Support Program in Nebraska have found that the earlier AFDC recipients become involved in the program, the better the employment prognosis. For this reason, Nebraska asked for a Federal waiver so that women in the State whose children are age 6 months or older are required to participate—just as the substitute will require. Under H.R. 1720, some mothers with children under 6 years of age will be given the option to participate.

Women with younger children, of course, tend to be younger themselves and have been dependent on welfare for a shorter period of time. For them, the chains of dependency are more easily broken. Mr. Chairman, 25 percent of those getting jobs out of the Job Support Program come from this waiver population.

Clearly, when States are given more flexibility to develop experimental welfare demonstration projects, sizable results are obtainable.

There is nothing inherently punitive or unfair about requiring welfare recipients to work if able to do so. Through effective training of marketable skills, participants can build a work history to further their chances for permanent employment. At the same time, taxpayers can save money as the welfare rolls are trimmed.

I hope the historic 100th Congress will take decisive action on the issue of welfare reform by voting for the true welfare reform measure, the substitute bill, and against H.R. 1720.

Mr. BROWN of Colorado. Mr. Chairman, I yield myself the remaining 15 seconds.

Mr. Chairman, I would simply like to say that I started off this debate expressing concern about the amendment of the gentleman from Texas [Mr. ANDREWS]. I found his comments and his reasoning so thoughtful and so compelling that I now find myself persuaded to his point of view and I will support his amendment.

The CHAIRMAN. The Chair announces that all time allocated to the opponents has expired, and the proponents have 8 minutes remaining.

Mr. ANDREWS. Mr. Chairman, I yield 5 minutes to the gentleman from Delaware [Mr. CARPER], whom I would like to take this opportunity to compliment for his contribution to this debate. This has been an arduous and tedious debate. The ultimate product that we will accomplish in this Congress, I think, will be a better one because of the contribution made by the gentleman from Delaware [Mr. CARPER].

Mr. CARPER. Mr. Chairman, I want to thank my friend, the gentleman from Texas [Mr. ANDREWS], for his comments and also for his equally valuable, if not more valuable, contributions.

Let me just say that I certainly support this amendment. I think this amendment improves the bill in the three ways that have been discussed: one, we can reduce the price tag a little, and we do by roughly $500 million. That is a plus in my book. We have cut by enhanced Federal match by roughly one-third. As the gentleman from Minnesota [Mr. FRENZEL] has suggested earlier in the debate, however, there is going to come a point in time, roughly October 1991, when we will have the opportunity to let the stipulated sunset take place, or to make the Sun rise again. I just hope those of us who are still here in October 1991 will keep that in mind and will indeed elect to make the Sun set rather than have the Sun rise once more.

The second point is in regard to the child care initiatives that are part of this amendment. The 12 months versus 6 months of transition child care is a positive change that was part of our bipartisan attention. We sought to target this assistance to families whose income does not exceed 150 percent. I think that this is a most positive change.

With respect to the immediate wage withholding, there are noncustodial parents in this country who do not do a good job of meeting their financial obligations as parents to their children. This provision will make sure, will better ensure, that those noncustodial parents keep their part of the bargain to look after their kids. It is fair to the kids, it is also fair to us as taxpayers because we will not have to pay for what the noncustodial parents should be paying for anyway. This part of the Andrews' is also drawn from our bipartisan bill.

I believe this amendment is fine as far as it goes. The gentleman from Colorado [Mr. BROWN] has accepted the amendment, and many of us on both sides of the aisle are praising it. I only wish that we could have had this kind of consensus around a broader bipartisan measure. I had hoped we might cut the cost a bit further. I had hoped we might mandate AFDC for two-parent families but to provide a cap for it, an outside limit, perhaps of 1 year or 2 years.

I had hoped we would be less generous with the Federal match. A Federal match of 65-35 in a country which is running a deficit of $150 billion is too generous.

I had hoped we might mandate the training and employment programs for parents when their children reach age 2, instead of age 3. We have a lot of parents out there now, working women who go to work when their kids are 2 or 3 weeks old. They don't have the luxury of waiting until they are 3 years of age.

Finally, I think that those people who are on AFDC should be expected to take a job, even a minimum wage job in order to move off of welfare, as long as we are providing them with health care assistance and as long as we are providing them with child care assistance for a 1-year period of time to ease the transition from welfare to employment.

The last point I would make is that if a welfare reform bill comes out of conference, I would hope that bill at least pays lip service to greater demonstration authority, some flexibility, the kind that the Governors of this country have sought and which is certainly sought by the administration.

Having said that, Mr. Chairman, I am glad we could agree on this much. I would hope that if indeed a bill does emerge from conference, I would certainly hope that that bill would look a bit more like the bipartisan alternative that I introduced. If there is a veto by the administration, and I suspect there will be, those of us who would like to support genuine welfare reform would then be able to work to override that veto.

I would close again by thanking my good friend, the gentleman from Texas [Mr. ANDREWS], for his amendment and for yielding me this time.

Mr. ANDREWS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the time for welfare reform is now. H.R. 1720 is a good bill. It is a step in the right direction. It will fundamentally change our Nation's welfare system for the better.

The amendments that I have proposed this afternoon will give us a final welfare reform bill that is tougher on child support, better on child care, and more likely to avoid welfare dependency.

□ 1630

I urge my colleagues to vote for these amendments and then let us move to vote for final passage of H.R. 1720.

Mr. Chairman, I yield back the balance of my time.

Mrs. COLLINS. Mr. Chairman, I rise in opposition to the Andrews amendment to H.R. 1720. This amendment, designed to reduce the overall cost of the the Family Welfare Reform Act by $509 million over 5 years, makes a number of damaging changes.

First, the amendment would require States to implement immediate wage withholding for child support payments, even if a parent is not in arrears. As a strong supporter of the Child Support Program, I find the automatic and immediate withholding of child support money, absent a delinquent showing, to be a bit dramatic. If a parent misses a payment, then we should initiate immediate action.

In addition to the day care subsidy, a major feature of the measure before us is that it allows individuals a chance to further their education and job training while ultimately easing themselves off the welfare rolls. We do this by providing those families a transition period—from welfare to productive employment—by maintaining them on the program for 6 months.

Under the Andrews amendment, States would provide a day care subsidy for 12 months after they leave welfare, only if their income is less than 150 percent of the poverty level. Unfortunately this serves only to prolong a welfare system, not reward those who have finally been able to stand on their feet and become productive members of our society.

In the bill, a 6-month subsidy of day care costs is provided for mothers who have become employed. This is designed as an "exit benefit" if you will. To stretch this out to a 12-month period only keeps people on welfare.

I hope my colleagues will keep these facts in mind and vote against this amendment.

The CHAIRMAN. The question is on the amendments en bloc offered by the gentleman from Texas [Mr. ANDREWS].

The question was taken; and the chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. DOWNEY of New York. Mr. Chairman, I demand a recorded vote.

A recorded was ordered.

The vote was taken by electronic device, and there were—ayes 336, noes 87, not voting 10, as follows:

[Roll No. 485]

AYES—336

Akaka
Alexander
Andrews
Annunzio
Anthony
Applegate
Archer
Armey
Aspin
AuCoin
Badham
Baker
Ballenger
Barnard
Bartlett
Barton
Bateman
Bates
Bennett
Bentley
Bereuter
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Bonker
Borski
Bosco
Boucher
Boulter
Brennan
Brooks
Broomfield
Brown (CA)
Brown (CO)
Bruce
Buechner
Bunning
Burton
Bustamante
Byron
Callahan
Campbell
Cardin
Carper
Carr
Chandler
Chapman
Chappell
Cheney
Clarke
Clinger
Coats
Coble
Coelho
Coleman (MO)
Coleman (TX)
Combest
Conte
Cooper
Coughlin
Courter
Craig
Crane
Daniel
Dannemeyer
Darden
Daub
Davis (IL)
Davis (MI)
de la Garza
DeFazio
DeLay
Derrick
DeWine
Dickinson
Dicks
Dingell
DioGuardi
Dornan (CA)
Downey
Dreier
Duncan
Dwyer
Dyson
Early
Eckart
Edwards (OK)
Emerson
English
Erdreich
Espy
Fawell
Fazio
Feighan
Fields
Fish
Flake
Flippo
Foley
Ford (TN)
Frenzel
Frost
Gallegly
Gallo
Gaydos
Gekas
Gibbons
Gilman
Gingrich
Glickman
Gonzalez
Gordon
Gradison
Grandy
Grant
Green
Gregg
Gunderson
Hall (TX)
Hamilton
Hammerschmidt
Hansen
Harris
Hastert
Hatcher
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hiler
Hochbrueckner
Holloway
Hopkins
Horton
Houghton
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
Jeffords
Jenkins
Johnson (CT)
Johnson (SD)
Jones (NC)
Jones (TN)
Kanjorski
Kaptur
Kasich
Kleczka
Kolbe
Kolter
Konnyu
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
Latta
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Lewis (CA)
Lewis (FL)
Lightfoot
Lipinski
Livingston
Lloyd
Lott
Lowery (CA)
Lujan
Luken, Thomas
Lukens, Donald
Lungren
Mack
MacKay
Madigan
Marlenee
Martin (IL)
Martin (NY)
Matsui
Mazzoli
McCloskey
McCollum
McCurdy
McDade
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
Meyers
Mfume
Mica
Michel
Miller (OH)
Miller (WA)
Mineta
Molinari
Mollohan
Montgomery
Moorhead
Morella
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Nagle
Neal
Nelson
Nichols
Nielson
Oberstar
Obey
Ortiz
Owens (UT)
Oxley
Packard
Panetta
Parris
Pashayan
Patterson
Pease
Penny
Pepper
Petri
Pickle
Porter
Price (NC)
Pursell
Quillen
Ravenel
Ray
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Rogers
Rostenkowski
Roth
Roukema
Rowland (CT)
Rowland (GA)
Sabo
Saiki
Sawyer
Saxton
Schaefer
Schneider
Schuette
Schulze
Sensenbrenner
Sharp
Shaw
Shays
Shumway
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solomon
Spence
Spratt
St Germain
Stallings
Stangeland
Stenholm
Stratton
Stump
Sundquist
Sweeney
Swift
Swindall
Synar
Tallon
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Udall
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walgren
Walker
Watkins
Weber
Weldon
Whittaker
Wilson
Wise
Wolf
Wolpe
Wortley
Wyden
Wylie
Yatron
Young (AK)
Young (FL)

NOES—87

Ackerman
Anderson
Atkins
Beilenson
Berman
Boggs
Boland
Bonior
Boxer
Bryant
Clay
Collins
Coyne
Crockett
Dellums
Dixon
Donnelly
Dorgan (ND)
Durbin
Dymally
Edwards (CA)
Evans
Fascell
Florio
Foglietta
Ford (MI)
Frank
Garcia
Gejdenson
Goodling
Gray (IL)
Gray (PA)
Guarini
Hawkins
Hayes (IL)
Howard
Hoyer
Jontz
Kastenmeier
Kennedy
Kennelly
Kildee
Leland
Levine (CA)
Lewis (GA)
Manton
Markey
Martinez
Mavroules
McCandless
Miller (CA)
Moakley
Moody
Morrison (CT)
Natcher
Oakar
Olin
Owens (NY)
Pelosi
Perkins
Pickett
Price (IL)
Rahall
Rangel
Rodino
Roe
Rose
Roybal
Russo
Savage
Scheuer
Schroeder
Schumer
Smith (IA)
Solarz
Staggers
Stark
Stokes
Studds
Towns
Traficant
Traxler
Waxman
Weiss
Wheat
Williams
Yates

NOT VOTING—10

Biaggi
Conyers
Dowdy
Gephardt
Hall (OH)
Kemp
Lowry (WA)
Nowak
Roemer
Whitten

□ 1645

Mr. MOAKLEY, Mr. SCHEUER, Ms. PELOSI, and Ms. OAKAR changed their votes from "aye" to "no."

Mr. MARLENEE and Mr. FAZIO changed their votes from "no" to "aye."

So the amendments en bloc were agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. It is now in order to consider the amendment in the nature of a substitute by, and if offered by, Representative MICHEL, consisting of the amendment printed in House Report 100-448 accompanying House Resolution 310.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. MICHEL

Mr. MICHEL. Mr. Chairman, I offer an amendment in the nature of a substitute.

The CHAIRMAN. The Clerk will designate the amendment in the nature of a substitute.

The text of the amendment in the nature of a substitute is as follows:

Amendment in the Nature of a Substitute Offered by Mr. MICHEL: Strike out all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "AFDC Employment and Training Reorganization Act of 1987".

(b) TABLE OF CONTENTS.—

Section 1. Short title; table of contents.

TITLE I—TWO-TIER SYSTEM UNDER AFDC PROGRAM

Sec. 101. Statement of purpose.
Sec. 102. Establishment of first and second tiers.
Sec. 103. Households headed by unmarried minors.

TITLE II—COMPREHENSIVE EMPLOYMENT AND TRAINING PROGRAM

Sec. 201. Statement of purpose.
Sec. 202. State plan requirements; registration for work-related counseling, assessment, and assignment.
Sec. 203. Coordinated administration of work-related programs.
Sec. 204. Participation standards.
Sec. 205. Special rules for the territories.
Sec. 206. Establishment of office of work programs.
Sec. 207. Recordkeeping and reporting requirements.

Sec. 208. Hours of participation in CWEP.
Sec. 209. Technical, conforming, and miscellaneous amendments.

TITLE III—CERTIFICATE SYSTEM FOR CHILD CARE

Sec. 301. Authorization of Federal reimbursement for costs of providing child care services for certain families no longer receiving AFDC payments.
Sec. 302. State plans.
Sec. 303. Withholding for noncompliance.
Sec. 304. Treatment of benefits.
Sec. 305. Definitions.
Sec. 306. Reports regarding use of Federal funds and State regulation of child care services.

TITLE IV—CHILD SUPPORT ENFORCEMENT AMENDMENTS

Sec. 401. Statement of purpose.
Sec. 402. State guidelines for child support award amounts.
Sec. 403. Periodic updating of child support orders.
Sec. 404. Demonstration projects requiring participation in work-related programs by noncustodial parents unable to pay child support.
Sec. 405. Requirement of data in birth records.
Sec. 406. Paternity establishment.
Sec. 407. Interstate enforcement of child support cases.
Sec. 408. Automated data systems.
Sec. 409. Mandatory income withholding.
Sec. 410. Use of employment security information obtained through Federal and State telecommunications networks.
Sec. 411. Time limitations.
Sec. 412. Effective date; GAO evaluation report.

TITLE V—STATE DEMONSTRATION PROGRAMS

Sec. 501. Statement of purpose.

PART A—STATE DEMONSTRATIONS

Sec. 511. Filing to conduct demonstration.
Sec. 512. Responsibility of Board.
Sec. 513. Priority goals.
Sec. 514. Content of filing.
Sec. 515. Funding and budget.
Sec. 516. Exclusivity of eligibility under demonstration.
Sec. 517. Interim evaluations and reports; changes in demonstration.
Sec. 518. Termination of project.
Sec. 519. Reports by State.
Sec. 520. Annual report to Congress.

PART B—SUBMISSION OF BOARD RECOMMENDATION TO CONGRESS AND CONGRESSIONAL ACTION

Sec. 521. Board approval of programs; submission of demonstration proposal; congressional action.

PART C—INTERAGENCY LOW-INCOME OPPORTUNITY BOARD

Sec. 531. Establishment and mission of Board.

PART D—MISCELLANEOUS

Sec. 541. Definitions.

TITLE VI—EVALUATION OF EMPLOYMENT AND TRAINING PROGRAMS AND STATE DEMONSTRATION PROGRAMS

Sec. 601. Statement of purpose.
Sec. 602. Establishment of interagency panel.
Sec. 603. Advisory board.
Sec. 604. Operation of interagency panel.
Sec. 605. Study of transition child care.
Sec. 606. Reports.
Sec. 607. Authorization of appropriations.

TITLE VII—MISCELLANEOUS AND RELATED PROVISIONS

Sec. 701. Demonstration of family independence program in Washington State.

TITLE VIII—FUNDING MECHANISM

Sec. 801. 3-year extension of provisions relating to collection of non-tax debts owed to Federal agencies.

TITLE I—TWO-TIER SYSTEM UNDER AFDC PROGRAM

SEC. 101. STATEMENT OF PURPOSE.

It is the purpose of this title—

(1) to create a cash assistance program under title IV of the Social Security Act that is based on the view of Congress that nearly all welfare recipients are potentially able employees capable of self-support; and

(2) to provide a two-tier system of cash assistance that imposes minimum requirements on recipient parents with very young children and recipients who have participated in the program for only a brief period of time, while clarifying societal expectations that other recipients will cooperate with local agencies by participating in education, training, and employment programs in good faith and in this way fulfilling their civic responsibility to accept welfare benefits only while they prepare for independence and for the briefest possible period of time.

SEC. 102. ESTABLISHMENT OF FIRST AND SECOND TIERS.

(a) IN GENERAL.—Part A of title IV of the Social Security Act is amended by adding at the end thereof the following new section:

"ESTABLISHMENT OF TWO-TIER SYSTEM

"SEC. 416. (a) All applicants for and recipients of aid to families with dependent children under the plan of any State approved under section 402 shall be assigned to the first tier or the second tier in accordance with this section.

"(b)(1) The first tier shall consist of all families applying for or receiving aid under the plan (other than two-parent families eligible pursuant to section 407) which include a child or children under 6 months of age.

"(2) The registration requirements of section 402(a)(19) and the employment and training requirements of section 417 shall not apply to any family in the first tier.

"(c)(1) The second tier shall consist of all two-parent families applying for or receiving aid under the plan pursuant to section 407, and all other families applying for or receiving such aid which do not include any child under 6 months of age.

"(2)(A) Each family in the second tier receiving aid under the plan shall be subject to the registration requirements of section 402(a)(19) and required to participate in the employment and training program under section 417, except as provided in subparagraph (B) and paragraph (4).

"(B) If the caretaker relative in a family in the second tier, or any child in such a family who has attained age 16 but not age 19, does not have a high school diploma (and has not completed a GED program), he or she may be required by the State (instead of registering and participating in the employment and training program under section 417) to enter and maintain satisfactory progress in an accredited high school or GED program, and (if the caretaker relative is the individual (or one of the individuals) so required) the family shall not be subject to such registration requirements or required to participate in such employment and training program until the caretaker relative has obtained a high school diploma or completed the GED program, or until 18 months have elapsed after he or she would initially have been required to register and participate in such program (without regard to paragraph (4)) but for this subparagraph, or, in the case of a caretaker relative who is under the age of 17, until 12 months have elapsed after he or she (if regularly enrolled and in good standing) would normally have graduated from high school and received such a diploma.

"(3) The sanctions provided under section 402(a)(19)(F) shall apply with respect to a family described in paragraph (2)(B), when the caretaker relative (or a child to whom such paragraph applies) fails to enter and maintain satisfactory progress in an accredited high school or GED program, in the same manner and to the same extent as they apply with respect to families described in paragraph (2)(A) which refuse to participate in good faith in the employment and training program under section 417.

"(4) A State may at its option provide that families in the second tier which do not include a child under 6 months of age, applying for aid under the State's plan approved under section 402, need not register under section 402(a)(19) or participate in the employment and training program under section 417 until the expiration of a period of up to 6 months after the date of their application.

"(d) For purposes of this section, the determination of whether a family is in the first tier or the second tier for any month shall be made as of the beginning of such month.".

(b) CONFORMING AMENDMENTS.—Section 402(a)(19)(A) of such Act is amended—

(1) by striking out clause (v) and inserting in lieu thereof the following:

"(v) the parent or other relative of a child under 6 months of age who is personally providing care for the child with only very brief and infrequent absences from the child;"; and

(2) by striking out "or" after the semicolon at the end of clause (viii), adding "or" after the semicolon at the end of clause (ix), and inserting after clause (ix) the following new clause:

"(x) a member of a family described in section 416(c)(2)(B), or a member of any family in the second tier (as described in section 416(c)(2) (A) or (B)) during the period in which it need not register by reason of section 416(c)(4);".

SEC. 103. HOUSEHOLDS HEADED BY MINORS.

(a) IN GENERAL.—Section 402(a) of the Social Security Act is amended—

(1) by striking out "and" at the end of paragraph (38);

(2) by striking out the period at the end of paragraph (39) and inserting in lieu thereof "; and"; and

(3) by inserting after paragraph (39) the following new paragraph:

"(40) provide (A) that in the case of any individual who is under age 18 and is not and never has been married, and who is responsible for the care of a dependent child (or is pregnant and on that basis eligible for aid under the plan), such individual and such dependent child shall be eligible for such aid only if such individual is living with his or her parent in a place of residence maintained as such parent's own home, except that, if the State agency determines that—

"(i) such individual has no parent who is living and whose whereabouts are known;

"(ii) the health and safety of such individual or such dependent child would be seriously jeopardized if such individual lived in the same residence with his or her parent; or

"(iii) such individual has lived apart from his or her parent for a period of at least one year prior to the birth of the dependent child for whose care the individual is responsible or the making of a claim for aid under this part, whichever is later,

this paragraph shall not apply to such individual, and (B) that whenever an individual to whom this paragraph applies is eligible for aid under the plan, the State agency shall pay such aid to the parent with whom such individual is living (instead of making payment to such individual) unless the State agency determines that the parent is unable to manage funds to such extent that making payment to the parent would be contrary to the welfare of such individual and dependent child.".

(b) Conforming Amendment.—Section 402(a)(39) of such Act is amended by striking out "or legal guardian" and "or legal guardians".

(c) Effective Dates.—The amendments made by subsection (a) shall become effective October 1, 1987; and the amendment made by subsection (b) shall become effective upon its enactment.

TITLE II—COMPREHENSIVE EMPLOYMENT AND TRAINING PROGRAM

SEC. 201. STATEMENT OF PURPOSE.

It is the purpose of this title—

(1) to put the States on a path of gradually expanding employment and training programs, perfected over a period of years on the basis of evaluation data, that leads to increased participation in the labor force and decreased dependence on public assistance among welfare applicants and recipients;

(2) to expand the opportunities for education, training, and employment of participants in the program of aid to families with dependent children (the "AFDC" program) and thereby reduce welfare dependency in the United States;

(3) to provide substantial flexibility to States, allowing each of them to design employment and training programs tailored to the needs of AFDC clients in the particular State involved;

(4) to coordinate the administration of AFDC training and employment programs at the Federal and State levels;

(5) to promote efficiency and Federal-State cost sharing in the financing of AFDC training and employment programs;

(6) to provide financial incentives for the States to increase the focus of their employment and training activities on AFDC clients that are at risk of long-term dependency;

(7) to establish a new Federal office to coordinate AFDC employment and training programs and to collect and summarize information about such programs;

(8) to provide resources and incentives to help States facilitate the welfare-to-work transition of AFDC clients; and

(9) to stimulate collection and analysis of data requisite to evaluation of the long-term effects of the AFDC employment and training programs.

SEC. 202. STATE PLAN REQUIREMENTS; REGISTRATION FOR WORK-RELATED COUNSELING, ASSESSMENT, AND ASSIGNMENT.

(a) Requirement of Registration.—Section 402(a)(19) of the Social Security Act is amended—

(1) in subparagraph (A) (as amended by section 102(b) of this Act)—

(A) by striking out "shall register" and all that follows down through "regulations issued by him," in the matter preceding clause (i) and inserting in lieu thereof "shall register with the State agency, in accordance with regulations issued by the Secretary, for work-related counseling, assessment, and assignment to employment, training, education, and other employment-related activities as described in section 417(b),";

(B) by striking out "a child" in clause (i) and inserting in lieu thereof "a dependent child";

(C) by striking out clause (iii);

(D) in clause (vi)—

(i) by striking out "(iii), or (iv)" and inserting in lieu thereof "or (iii)";

(ii) by striking out "the Secretary of Labor" and inserting in lieu thereof "the State agency"; and

(iii) by striking out "to participate under a work incentive program or accept" and inserting in lieu thereof "to participate in good faith in counseling and assessment offered by the State agency under section 417 and in employment, training, or education pursuant to an assignment under that section, or to accept";

(E) by striking out "any individual referred to in clause (v)" in the matter following clause (x) (as added by section 102(b)(2) of this Act) and inserting in lieu thereof "any individual exempt from registration under the preceding provisions of this subparagraph"; and

(F) by redesignating clauses (iv) through (x) (as amended by the preceding provisions of this paragraph and by section 102(b) of this Act) as clauses (iii) through (ix), respectively;

(2) in subparagraph (B), by striking out "or the individual's certification" and all that follows and inserting in lieu thereof "or the individual's certification to the State agency under subparagraph (G) of this paragraph, or by reason of an individual's participation in employment, training, or education pursuant to an assignment made by such agency under section 417(b)(1)(D);";

(3) in subparagraph (C), by striking out "a non-Federal contribution to the work incentive programs" and all that follows and inserting in lieu thereof "a non-Federal contribution by appropriate State and local agencies and private organizations to the work incentive programs established by part C, and to any other work-related programs to which individuals are assigned by the State agency under section 417(b)(1)(D), equal to the portion of the cost of such programs not specifically financed by Federal contributions;";

(4) in subparagraph (D), by striking out "under section 434" and "a program established by section 432 (b)(2) or (3)" and inserting in lieu thereof "under a program to which individuals are assigned by the State agency under section 417" and "such a program", respectively;

(5) in subparagraph (F)—

(A) by striking out "that if" and all that follows down through "purposes of such part C" (in the matter preceding clause (i)) and inserting in lieu thereof "that if (and for such period as is prescribed under regulations of the Secretary) any child, relative, or individual required to register under subparagraph (A) has been found by the State agency to have refused without good cause to so register, or has refused without good cause to participate in good faith in counseling and assessment offered by the State agency under section 417 or in employment, training, or education activities pursuant to an assignment made by such agency under section 417(b)(1)(D) or the imposition of a job search requirement under section 417(b)(2)(B),"; and

(B) by adding after and below clause (v) the following:

"and for purposes of this subparagraph a refusal by an individual to accept employment shall be considered to have been made with good cause if the acceptance of such employment would result in a net loss of earned income by such individual;";

(6) in subparagraph (G)—

(A) by striking out "for the administration of programs established pursuant to section 432(b) (1), (2), or (3)" and inserting in lieu thereof "by the State agency established or designated under section 417";

(B) by striking out "the order of priority listed in section 433(a)" and inserting in lieu thereof "the order of priority applicable under the work-related program involved";

(C) by striking out "under section 432(b) (1), (2), or (3)" each place it appears and inserting in lieu thereof "under the work-related program involved";

(D) by striking out "the Secretary of Labor" each place it appears and inserting in lieu thereof "the State agency";

(E) by striking out "accepts employment" and "retain such employment" and inserting in lieu "accepts employment, training, or education" and "retain such employment or continue in such training or education", respectively; and

(F) by striking out clause (iii) and redesignating clause (iv) as clause (iii); and

(7) in subparagraph (H), by striking out "under section 432(b) (1), (2), or (3)" and inserting in lieu thereof "under section 417".

(b) Requirement of Coordinated Administration of Work-Related Programs.—Section 402(a) of such Act (as amended by section 103(a) of this Act) is further amended—

(1) by striking out "and" after the semicolon at the end of paragraph (39);

(2) by striking out the period at the end of paragraph (40) and inserting in lieu thereof "; and"; and

(3) by inserting immediately after paragraph (40) the following new paragraph:

"(41) coordinate the administration of the State's work-related functions under this part, by providing for the assignment of registered individuals by the State agency to employment, training, and education programs as described in section 417 and for the performance by such agency of its other duties under that section and under paragraph (19) of this subsection.".

SEC. 203. COORDINATED ADMINISTRATION OF WORK-RELATED PROGRAMS.

Part A of title IV of the Social Security Act (as amended by section 102(a) of this Act) is further amended by adding at the end thereof the following new section:

"COORDINATED ADMINISTRATION OF WORK-RELATED PROGRAMS

"Sec. 417. (a)(1) The State agency administering or supervising the administration of the plan approved under this part shall perform the functions specified in this section, section 402(a)(19), and section 402(a)(41).

"(2) It shall be the general purpose of the State agency, in carrying out its duties under this section and section 402(a)(19), to assist applicants for and recipients of aid to families with dependent children in finding gainful employment and in obtaining training and education which may be appropriate to enable them to perform such employment, with the objective of reducing the number of individuals on the welfare rolls by providing such applicants and recipients with a realistic opportunity to become self-sufficient.

"(3) Federal funds made available to a State for purposes of the program under this section shall be used only to augment and expand education, training, job search, and other employment-related activities which promote the purpose of this section, maintaining any such activities not included in the program under this section at or above their levels in the fiscal year 1987, and shall not in whole or in part replace or supplant any other funds (Federal, State, or local, public or private) already being expended for the same general purpose.

"(b)(1) In carrying out the purpose described in subsection (a)(2), the State agency (in addition to performing its other duties under this part) shall—

"(A) establish a single intake and registration process for all applicants for and recipients of aid to families with dependent children, consistent with section 402(a)(19);

"(B) administer, or enter into arrangements with administering authorities of the programs involved for, the participation of such recipients in appropriate employment, training, and education activities in furtherance of the objective stated in subsection (a)(2), including activities authorized in—

"(i) the work incentive program under part C of this title,

"(ii) the work incentive demonstration program under section 445,

"(iii) the State's community work experience program under section 409,

"(iv) the State's work supplementation program under section 414,

"(v) any program of job search and related services, including services offered by vocational education agencies and the public employment offices of the State, and

"(vi) a work demonstration program under section 1115;

"(C) promote the participation of such recipients in appropriate employment, training, and education activities in furtherance of the objective stated in subsection (a)(2), including activities authorized in—

"(i) any program under the Job Training Partnership Act, and

"(ii) any other program (Federal, State, local, or private) which could be made effectively available to such recipients and participation in which would further such objective;

"(D) assign each such recipient to one or more of the programs described in subparagraphs (B) and (C) which are determined by the State agency to be appropriate for such recipient, and provide all possible assistance to such recipient in preparing for, enrolling in, and participating in such program or programs; and

"(E) take all other actions, not inconsistent with the provisions of this section or of the law governing the program or programs involved, which may be necessary or appropriate to achieve the objective stated in subsection (a)(2).

"(2) In carrying out such purpose and performing its functions under paragraph (1), the State agency may—

"(A) assess the employment capabilities of each registered applicant and recipient in order to determine whether immediate employment is a realistic possibility or whether training or education is needed in order to prepare such applicant or recipient for employment;

"(B) provide (notwithstanding any other provision of law) that any applicant for aid to families with dependent children will be required to undertake an immediate program of job search;

"(C) provide counseling for each such applicant and recipient with respect to his or her potential for such immediate employment or such training or education and with respect to the program or programs (Federal, State, local, or private) which might be available to such applicant or recipient and most appropriately serve his or her interests; and

"(D) develop an employment plan for each such recipient, in partnership with the administering authorities of the programs described in paragraph (1) (B) and (C).

"(3) The arrangements authorized under paragraph (1)(B) may include contracts providing (in the case of both public and private organizations) for incentive payments or for compensation in accordance with specified performance-based criteria.

"(c)(1) The terms and conditions of participation in employment, training, and education activities as described in subsection (b)(1)(B), and the manner in which the provisions of the programs involved are to apply with respect to registered applicants and recipients, shall be determined (subject to the specific requirements of this title and of such programs) by the State agency in consultation with the administering authorities of such programs.

"(2) The provisions of sections 142(a) and 143 of the Job Training Partnership Act shall apply to employment, training, and education activities conducted under a program specified in subsection (b)(1)(B) in the same manner as they apply to comparable activities conducted under such Act (except that the minimum rate of compensation or wages, referred to in paragraphs (2) and (3) of section 142(a) of such Act, shall in all cases be the rate specified in section 6(a)(1) of the Fair Labor Standards Act of 1938).

"(3) To the maximum extent possible, the steps taken in providing for participation in employment, training, and education activities as described in subsection (b)(1)(B) shall include coordination of the services furnished and activities conducted under the various programs involved with respect to applicants and recipients in order to avoid inefficiency and duplication of effort and to assure the widest possible availability to such applicants and recipients of services and activities which will further the objective stated in subsection (a)(2). Under regulations prescribed by the Secretary, this section and all functions performed by State agencies and entities under this section shall be coordinated with the work and training requirements which apply to applicants for and recipients of benefits under the Food Stamp Act of 1977.

"(4) Education activities to which participants are assigned under subsection (b)(1)(D) must be remedial in nature, and training activities to which participants are so assigned (except to the extent otherwise provided with respect to activities under the Job Training Partnership Act) must be directed toward immediate employment.

"(5) Individuals whose participation in the program under this section consists solely of education or training (or both) shall receive no cash payments in the nature of stipends under this part (in addition to their regular payments of aid under the State plan approved under section 402) by reason of such participation; and no part of the cost of any such cash payments made under other programs in connection with such participation shall be federally reimbursable.

"(d)(1) Activities conducted under this section which relate to job training and orientation for work, the terms and conditions of participation in such activities, and the manner in which the programs involved are to apply to registered applicants and recipients shall be consistent with the coordination criteria specified in the Governor's coordination and special services plan required under section 121 of the Job Training Partnership Act. Each State agency shall submit to the State job training coordinating council, not less than 90 days prior to the effective date of this section, a full and complete description of such activities and such terms and conditions (and of the manner in which the programs involved are to apply), for the purpose of review and comment by the council on matters related to the delivery of job training services and of coordinating activities under this section with similar activities under the Job Training Partnership Act.

"(2)(A)(i) Any local agency responsible for providing services under this section (including the State agency itself in cases where the AFDC program is State-administered) shall develop, in coordination with each appropriate private industry council and with the chief local elected official or officials for the service delivery area involved (as designated under section 101 of the Job Training Partnership Act), plans related to the job training and work preparation activities which are to be conducted under this section and which are applicable to such area.

"(ii) Each such plan shall be developed taking into consideration programs and activities developed in coordination with the appropriate private industry council and the chief elected official or officials in the service delivery area.

"(B)(i) The local agency shall develop, in coordination with the private industry council and chief elected official or officials, the job training components of the plan to be provided in the service delivery area.

"(ii) No funds may be used for job training activities under this section in any area without a cooperative agreement developed under clause (i), assuring effective coordination with other similar programs and services in the area.

"(C) The local agency shall provide to the private industry council and chief elected official or officials such information concerning the operation of the program under this section as is necessary to refine and improve the effectiveness of the program components.

"(e)(1) The State agency shall provide recipients who are assigned for employment, training, or education under subsection (b)(1)(D) (and applicants who are required to engage in job search under subsection (b)(2)(B)) with such child care services and transportation, and such other assistance not inconsistent with law, as may be necessary and appropriate to achieve the objective stated in subsection (a)(2). The State agency shall take all appropriate steps to ensure that only child care services which meet acceptable levels of health and safety (as defined by the State) are so provided.

"(2) Any applicant or recipient to whom child care services or transportation are unavailable may not be required to participate in education, training, or work programs under this section. If any applicant or recipient is to be sanctioned for failure to participate in good faith, he or she must be notified thereof at least 30 days in advance of any benefit reduction, and given the opportunity for a fair hearing; and if the issue at any such hearing is the availability of necessary child care services, the burden shall be upon the State or local agency to demonstrate that child care services are available.

"(f)(1) Notwithstanding any other provision of law, the Federal contribution to the costs incurred by the State agency under this section in any fiscal year, and to the costs incurred by any other agency or entity in carrying out a program referred to in clause (i), (ii), (iii), (iv), (v), or (vi) of subsection (b)(1)(B) with respect to individuals assigned to that program under subsection (b)(1)(D) (or in carrying out a program of job search with respect to individuals required to participate therein under subsection (b)(2)(B)) in any fiscal year to the extent that such costs are paid by the State agency consistently with subsection (a)(3) (including in both such cases administrative costs and the costs of providing support services to individuals for whom work-related services are being provided), shall be determined as follows (and as so determined shall be in lieu of any Federal contribution under section 403(a)):

"(A) With respect to costs not exceeding in the aggregate the amount of the costs incurred in the fiscal year 1987 (for activities specified in clauses (i) through (vi) of subsection (b)(1)(B)) with respect to which the Federal payments referred to in subsection (h)(2)(A) were made, such contribution shall be equal to the applicable percentage of such costs determined under paragraph (2); and

"(B) with respect to any additional costs, but not exceeding in the aggregate twice the amount allotted to the State under subsection (h)(2)(B) for such fiscal year, such contribution shall be equal to 50 percent of such additional costs.

Any non-Federal contributions made in kind by a State with respect to costs described in subparagraph (A) in any fiscal year may not exceed the total contributions made in kind by that State with respect to the costs of the program or programs involved in the fiscal year 1987; and no non-Federal contributions may be made in kind by a State with respect to any costs described in subparagraph (B).

"(2) For purposes of paragraph (1)(A), the applicable percentage of the costs described in that paragraph which are incurred by the State agency or any other agency or entity, for any fiscal year, shall be a percentage equal to a fraction the denominator of which is the total amount of the expenditures made by the State in carrying out the programs referred to in clauses (i) through (vi) of subsection (b)(1)(B) for the fiscal year 1987 (including related administrative expenses), and the numerator of which is the total amount of the Federal payments made to the State under sections 403(a) and 435 with respect to such expenditures for the fiscal year 1987.

"(g)(1) The Secretary shall determine for each fiscal year, in the case of each State having a plan approved under this part—

"(A)(i) the total number of individuals who are receiving aid under the State's plan approved under section 402 (or whose needs are included in making the determination under section 402(a)(7)) and who are not exempt from registration under section 402(a)(19) by reason of subparagraph (A) thereof (including applicants who are participating in job search under subsection (b)(2)(B) and individuals who are in school pursuant to the State's exercise of its option under section 416(c)(2)(B), but not including individuals whose registration and participation are being delayed by reason of the State's exercise of its option under section 416(c)(4)) (in this subsection referred to as the State's 'mandatory AFDC population'), and (ii) of such total number, the number of individuals who have attained age 16 but not age 19; and

"(B)(i) the greatest number of individuals described in subparagraph (A)(i) who are satisfactorily participating under this section in education, training, or employment activities scheduled for not fewer than 20 hours per week, the scheduled hours being measured, in accordance with regulations of the Secretary, by the mean of the scheduled hours for all individuals included in such number, and (ii) the number of individuals described in subparagraph (A)(ii) who are satisfactorily enrolled in and attending school as full-time students as determined by the appropriate State or local agency.

"(2) For purposes of this subsection, the term 'participation rate' with respect to individuals within a State's mandatory AFDC population in any fiscal year means—

"(A) with respect to all of the individuals comprising such population as described in paragraph (1)(A)(i), a percentage which is equal to a fraction the denominator of which is the total number of the individuals so described and the numerator of which is the number determined under paragraph (1)(B)(i); and

"(B) with respect to individuals described in paragraph (1)(A)(ii), a percentage which is equal to a fraction the denominator of which is the number of the individuals so described and the numerator of which is the number determined under paragraph (1)(B)(ii).

"(3)(A) The participation rate for the mandatory AFDC population of each State during any fiscal year (as determined under paragraph (2)(A)) must be at least—

"(i) 15 percent in the case of the fiscal year 1988;

"(ii) 20 percent in the case of the fiscal year 1989;

"(iii) 20 percent in the case of the fiscal year 1990;

"(iv) 25 percent in the case of the fiscal year 1991;

"(v) 30 percent in the case of the fiscal year 1992;

"(vi) 40 percent in the case of the fiscal year 1993;

"(vii) 50 percent in the case of the fiscal year 1994;

"(viii) 60 percent in the case of the fiscal year 1995; and

"(ix) 70 percent in the case of the fiscal year 1996 and each succeeding fiscal year.

"(B) In the case of individuals described in paragraph (1)(A)(ii), the participation rate for each State (as determined under paragraph (2)(B)) must be at least 80 percent for the fiscal year 1990 and for each succeeding fiscal year.

"(4)(A) Subject to subparagraph (B), if any State fails to comply with the requirement of subparagraph (A) or (B) of paragraph (3) with respect to any fiscal year, the amount of the Federal reimbursement to such State under section 403(a) (1) or (2) for quarters in the succeeding fiscal year (as determined without regard to this subsection) shall be reduced by 2 percent.

"(B) If any State fails to comply with the requirements of both subparagraph (A) and subparagraph (B) of paragraph (3) with respect to any fiscal year, the amount of the Federal reimbursement to such State under section 403(a) (1) or (2) for quarters in the succeeding fiscal year (as determined without regard to this subsection) shall be reduced by 3 percent.

"(h)(1) Notwithstanding any other provision of law, there are authorized to be appropriated—

"(A) $500,000,000 for fiscal year 1988, and

"(B) such sums as may be necessary for each succeeding fiscal year,

to carry out this section. It is the intention of the Congress that the annual amount of Federal funding for fiscal years after 1988 should be increased if and to the extent that the education and training programs operated by the States under this section are proving to be successful in reducing dependency among welfare clients.

"(2) Of the amount appropriated pursuant to paragraph (1) for any fiscal year, the Secretary—

"(A) shall first allot to each State an amount equal to the total amount of the Federal payments which were made to such State (under sections 403(a) and 435) for the activities specified in clauses (i) through (vi) of subsection (b)(1)(B) for the fiscal year 1987, including related administrative costs incurred by the State agency; and

"(B) shall thereafter allot to each State—

"(i) in the case of the fiscal year 1988, an amount which bears the same ratio to the remainder of the amount so appropriated as the eligible AFDC population of such State bears to the total eligible AFDC population of all the States;

"(ii) in the case of the fiscal year 1989, an amount which bears the same ratio to the remainder of the amount so appropriated as the participating AFDC population of such State for the preceding fiscal year bore to the total participating AFDC population of all the States for such preceding fiscal year; and

"(iii) in the case of the fiscal year 1990 and each succeeding fiscal year, the amount determined under paragraph (3).

"(3)(A) Of the amount appropriated pursuant to paragraph (1) for any fiscal year after the fiscal year 1989—

"(i) 50 percent shall be allotted to the States on the basis of the ratio of the participating AFDC population of each State for the preceding fiscal year to the total participating AFDC population of all the States for such preceding fiscal year (adjusted by the Secretary in accordance with subparagraph (B)); and

"(ii) 50 percent shall be allotted to the States on the basis of their relative efficiency ratios determined under subparagraph (C).

"(B) For purposes of making allotments under clause (i) of subparagraph (A) for a fiscal year, the Secretary shall adjust the amounts determined pursuant to the formula specified in such clause for that fiscal year to the extent necessary to reflect changes in the relative unemployment rates of the various States during the preceding fiscal year.

"(C)(i) For purposes of making allotments under clause (ii) of subparagraph (A) for any fiscal year, the Secretary shall determine the efficiency ratio of each State for the preceding fiscal year by dividing the total amount paid to the State for the activities specified in clauses (i) through (vi) of subsection (b)(1)(B) for such preceding fiscal year by the number of high-priority applicants and recipients who were placed in school or jobs under this section in such State for such preceding fiscal year and have remained in school or jobs for 6 months or more.

"(ii) For purposes of clause (i)—

"(I) the term 'high-priority applicants and recipients' (subject to clause (iii)) includes individuals who have failed to complete high school (or an equivalent course of instruction), unwed mothers with children under 3 years of age, and recipients of aid who are under 22 years of age, and

"(II) in order to count as a job, employment must yield an income equal at least to the income from a half-time job at the applicable minimum wage.

"(iii) The Secretary shall have authority to modify the definition of the term 'high-priority applicants and recipients' for purposes of clause (i), before making the initial Federal contributions to the cost of the program under this section (in consultation with the Interagency Panel established under section 602 of the AFDC Employment and Training Reorganization Act of 1987 if he so desires) and at such later times as may appear appropriate, if the Secretary determines on the basis of empirical evidence that the modification or modifications involved will better promote the purpose and objectives of this section. The Secretary shall publish any such modification in the Federal Register, no later than the time at which the modification becomes effective, along with a full statement of the evidence on which the modification was based.

"(D) For purposes of this paragraph—

"(i) the term 'eligible AFDC population' means, with respect to a State for a fiscal year, the total number of individuals who are required to be registered with the State agency pursuant to section 402(a)(19) for purposes of assignment to and participation in employment-related activities under this section during such fiscal year (including applicants who are participating in job search under subsection (b)(2)(B) and individuals who are in school pursuant to the State's exercise of its option under section 416(c)(2)(B), but not including individuals whose registration and participation is being delayed by reason of the State's exercise of its option under section 416(c)(4)); and

"(ii) the term 'participating AFDC population' means, with respect to a State for a fiscal year, a number of individuals (registered with the State agency) equal to (I) the 'greatest number' as that number was determined under subsection (g)(1)(B)(i) with respect to such fiscal year plus (II) the number of individuals satisfactorily enrolled in and attending school as full-time students (as determined under subsection (g)(1)(B)(ii)) during such year.".

SEC. 204. PARTICIPATION STANDARDS.

Each State, as a condition of receiving full Federal reimbursement under section 403(a) of the Social Security Act, must maintain rates of participation in the program established by section 417 of such Act at least equal to the applicable percentages specified in subsection (g)(3) of such section 417.

SEC. 205. SPECIAL RULES FOR THE TERRITORIES.

(a) ALTERNATIVE STATE PLAN REQUIREMENT.—In the case of Puerto Rico, the Virgin Islands, and Guam, section 402(a)(19) of the Social Security Act is amended to read as follows (rather than as amended generally by section 202(a) of this Act):

"(19) provide that the State agency will, to the maximum extent feasible, implement a coordinated program of activities designed to afford greater opportunities for individuals to achieve self-sufficiency through employment;".

(b) CERTAIN PROVISIONS INAPPLICABLE.—Sections 402(a)(41), 416, and 417 of such Act (as added by sections 102(a), 202(b), and 203, respectively, of this Act) shall not be applicable to Puerto Rico, the Virgin Islands, or Guam.

(c) AUTHORIZATIONS.—There are authorized to be appropriated, for each fiscal year after 1987, for payments to Puerto Rico, the Virgin Islands, and Guam, to carry out section 402(a)(19) of the Social Security Act as amended by subsection (a) of this section (and without regard to the provisions for financial participation by such jurisdictions under section 403 of the Social Security Act)—

(1) $775,000, in the case of Puerto Rico,

(2) $130,000, in the case of the Virgin Islands, and

(3) $95,000, in the case of Guam,

which shall be the maximum amount to which each of those jurisdictions may become entitled to carry out section 402(a)(19) of such Act as so amended. If, for any fiscal year, no amount is appropriated pursuant to this subsection, the requirement of such section 402(a)(19) shall not be applicable to Puerto Rico, the Virgin Islands, or Guam.

(d) CONFORMING AMENDMENTS.—(1) Section 1108(a) of such Act is amended by striking out "applies" and inserting in lieu thereof "or section 205(c) of the AFDC Employment and Training Reorganization Act of 1987 applies".

(2) Section 1108(b) of such Act is amended by striking out "and services provided under section 402(a)(19)".

SEC. 206. ESTABLISHMENT OF OFFICE OF WORK PROGRAMS.

Title VII of the Social Security Act is amended by adding at the end thereof the following new section:

"SEC. 711. There shall be established in the Office of Family Assistance an Office of Work Programs (in this section referred to as the 'Office'). The Office shall be headed by a Director, who shall have responsibility for (1) coordinating and facilitating the employment and training programs under title IV of this Act, (2) collecting data relating to the operation and effectiveness of such programs, and (3) providing or arranging for the provision of technical assistance to the States in carrying out the requirements of sections 402(a)(40), 402(a)(41), and 417 of this Act.".

SEC. 207. RECORDKEEPING AND REPORTING REQUIREMENTS.

(a) RECORDKEEPING.—Section 402(a)(25) of the Social Security Act is amended to read as follows:

"(25) provide that—

"(A) information is requested and exchanged for purposes of income and eligibility verification in accordance with a State system which meets the requirements of section 1137 of this Act, and

"(B) complete information of the type described in section 1137(a)(2) is maintained for each family receiving aid under this title for the period beginning with the first month in which such aid is received and ending with (and including) the twenty-fourth month after such family has ceased to receive such aid;".

(b) REPORTING.—Section 402(a) of such Act, as amended by the preceding provisions of this Act, is further amended—

(1) by striking out "and" at the end of paragraph (40);

(2) by striking out the period at the end of paragraph (41) and inserting in lieu thereof "; and"; and

(3) by inserting immediately after paragraph (41) the following new paragraph:

"(42) provide that the State agency will collect and report to the Secretary (in such form and with such frequency as the Secretary may require) data on—

"(A) the number of families and individuals receiving assistance under this title;

"(B) the number of such individuals who enter training pursuant to paragraph (19)(A) (and the number who enter such training voluntarily);

"(C) the number of such individuals who complete such training;

"(D) the number of such individuals who engage in job search under section 417;

"(E) the number of such individuals who are in school;

"(F) the number of such individuals who are placed in subsidized and unsubsidized jobs;

"(G) the number of such individuals who received aid under the State plan and are employed six months after initial placement in a job (setting forth such number separately for high-priority applicants and recipients as described in section 417(h)(3)(C) and for other individuals);

"(H) the impact such training has on the total amount of the benefits paid to families in the State under this title; and

"(I) such other matters relating to the employment, training, and education activities described in section 417(b) as the Secretary deems appropriate.".

SEC. 208. HOURS OF PARTICIPATION IN CWEP.

Section 409(a)(1)(E) of the Social Security Act is amended—

(1) by inserting "(i)" after "equals", and

(2) by striking out "divided by" and inserting in lieu thereof "increased (if the State so desires) by the cash value of any food stamps received by the family in such month, divided by (ii)".

SEC. 209. TECHNICAL, CONFORMING, AND MISCELLANEOUS AMENDMENTS.

(a) AMENDMENTS TO PART A OF TITLE IV.—(1) Section 401 of the Social Security Act is amended by inserting "(other than section 417)" before the period at the end of the first sentence.

(2) Section 402(a)(8)(A)(iv)(II) of such Act is amended by striking out "under the programs established by section 432(b) (2) and (3)" and inserting in lieu thereof "under any training, education, or public service employment program to which such child or relative has been assigned pursuant to section 417(b)(1)(D)".

(3) Section 402(a)(35)(A) of such Act is amended by striking out "(or who would be required to register under paragraph (19)(A) but for clause (iii) thereof)".

(4) Section 403(c) of such Act is repealed.

(5) Section 407(b)(2)(C)(i) of such Act is amended by striking out "for the work incentive program" and all that follows and inserting in lieu thereof ", and".

(6) Section 407(d)(1) of such Act is amended by striking out "a community work experience program under section 409, or the work incentive program established under part C" and inserting in lieu thereof "a program with respect to which the State agency has provided under section

417(b)(1)(B) for participation by registered individuals in employment, training, and education activities".

(7) Section 407(e) of such Act is amended—

(A) by striking out "and the Secretary of Labor shall jointly" and inserting in lieu thereof "shall";

(B) by striking out "for the work incentive program" and all that follows down through "or in connection" and inserting in lieu thereof "and in connection"; and

(C) by striking out "both the work incentive program" and inserting in lieu thereof "both the programs referred to in section 417(b)(1)(B)".

(8) Section 409(b)(2) of such Act is amended by striking out "but for" and all that follows and inserting in lieu thereof "but for the exception contained in clause (iv) of such section (but only if child care is available for the child for whom the parent or relative is caring)".

(9) Section 414(h) of such Act is amended by striking out "or part C".

(b) Amendments to Part C of Title IV.—(1) Part C of title IV of such Act is amended—

(A) in section 431, by striking out the text of the section and inserting in lieu thereof the following:

"Sec. 431. The amounts necessary to carry out the purpose set forth in section 430 with respect to individuals assigned to the work incentive program (or the work incentive demonstration program) pursuant to section 417(b)(1)(D) shall be made available for that purpose from the sums appropriated to the Secretary pursuant to section 417(h)(1), and shall be used for making payments to States in accordance with this part.";

(B) in section 432(a), by striking out "The Secretary of Labor (hereinafter in this part referred to as the Secretary)" and inserting in lieu thereof "The Secretary";

(C) in section 436(b), by striking out "prescribed jointly by him and the Secretary of Health and Human Services" and inserting in lieu thereof "prescribed by him";

(D) in section 439—

(i) by striking out "and the Secretary of Health and Human Services" where it first appears, and

(ii) by striking out ", jointly by the Secretary and the Secretary of Health and Human Services," and inserting in lieu thereof "by the Secretary";

(E) in section 441, by striking out "(jointly with the Secretary of Health and Human Services)";

(F) in section 443—

(i) by striking out "of Health and Human Services" in the first and second sentences, and

(ii) by striking out "and shall be paid by the Secretary of Health and Human Services to the Secretary" in the fourth sentence;

(G) in section 444(a), by striking out "by the Secretary of Health and Human Services"; and

(H) in section 445—

(i) by striking out "of Health and Human Services" each place it appears in paragraphs (1) and (2) of subsection (b) and in subsection (e), and

(ii) by striking out paragraph (3) of subsection (b).

(2) Section 433(a) of such Act is amended—

(A) by striking out "certified to him by a State, pursuant to section 402(a)(19)(G)" and inserting in lieu thereof "assigned to the work incentive program pursuant to section 417(b)(1)(D)"; and

(B) by striking out "certified to him under section 402(a)(19)(G)" and inserting in lieu thereof "assigned to the work incentive program pursuant to section 417(b)(1)(D)".

(3) Section 433(b)(3) of such Act is amended by striking out "certified to him pursuant to section 402(a)(19)(G)" and inserting in lieu thereof "assigned to the work incentive program pursuant to section 417(b)(1)(D)".

(4) Section 433(g) of such Act is amended by striking out "certified to the Secretary pursuant to section 402(a)(19)(G)" and inserting in lieu thereof "assigned to the work incentive program pursuant to section 417(b)(1)(D)".

(5) Section 435(a) of such Act is amended by striking out "shall not exceed 90 per centum of the costs of carrying out this part" and inserting in lieu thereof "shall be determined in accordance with under section 417(f)".

(6) Section 444(a) of such Act is amended by striking out "individuals certified" and all that follows and inserting in lieu thereof "individuals assigned to the work incentive program pursuant to section 417(b)(1)(D).".

(7) Section 444(d) of such Act is amended by striking out "certified to the Secretary by such agency under section 402(a)(19)(G)" and inserting in lieu thereof "assigned to such agency under section 417".

(8) Section 445 of such Act is amended—

(A) by striking out "Not later than June 30, 1984, the" in subsection (b)(1) (in the matter preceding subparagraph (A)) and inserting in lieu thereof "The";

(B) by striking out ", and shall be required to participate in," in subsection (b)(1)(B); and

(C) by striking out "shall be in force for a three-year period" in subsection (d) and inserting in lieu thereof "shall be in force for such period as may be specified in the letter of application submitted under subsection (b)(1), and may be renewed (upon the submission by the Governor of an appropriate letter of application, subject to approval in the manner described in subsection (b)(2)) for an additional period or periods".

(c) Relationship With Other Work-Related Programs.—Whenever a provision of section 417 of the Social Security Act, or any other provision of such Act which is amended by the preceding provisions of this Act, is determined to be inconsistent with a provision of any of the work-related programs referred to in section 417(b)(1)(B) of such Act or of any other work-related program which may involve or affect individuals who have registered under section 402(a)(19) of such Act and are assigned to such program under section 417(b)(1)(D) of such Act, the provision of section 417 of the Social Security Act (or other provision of such Act as amended by this Act) shall govern.

TITLE III—CERTIFICATE SYSTEM FOR CHILD CARE

SEC. 301. AUTHORIZATION OF FEDERAL REIMBURSEMENT FOR COSTS OF PROVIDING CHILD CARE SERVICES FOR CERTAIN FAMILIES NO LONGER RECEIVING AFDC PAYMENTS.

Section 417(f)(1) of the Social Security Act (as added by section 203 of this Act) is amended by inserting immediately after "individuals for whom work-related services are being provided" the following: ", for this purpose treating the costs of providing child care certificates to individuals under a plan approved and being implemented in accordance with title III of the AFDC Employment and Training Reorganization Act of 1987 as though they were costs incurred in providing child care services as described in subsection (e)(1) to individuals who are assigned for employment, training, and education under subsection (b)(1)(D) and for whom work-related services are being provided under this section".

SEC. 302. STATE PLANS.

(a) In General.—(1) Each State which desires to receive Federal reimbursement (under section 417 of the Social Security Act) for costs incurred in providing child care services for individuals described in subsection (b)(2)(A) shall submit a State plan under this title to the Secretary of Health and Human Services (in this section referred to as the "Secretary") at such time and in such manner as the Secretary may require.

(2) Under regulations prescribed by the Secretary, such plan (instead of being submitted separately) may be incorporated, by an appropriate amendment, in the State's plan for aid and services to needy families with children approved under section 402.

(b) Contents of State Plans.—Each State plan under this title shall meet the requirements of each of the following paragraphs:

(1) Description of program.—A plan meets the requirements of this paragraph only if it describes the certificate program under the plan and its proposed implementation.

(2) Certificates available only to low-income individuals for child care necessary for employment.—A plan meets the requirements of this paragraph only if it meets the requirements of subparagraphs (A) and (B).

(A) In general.—A plan meets the requirements of this subparagraph only if it provides that certificates will be available under the plan only to individuals in families which—

(i) have a family income of less than 150 percent of the nonfarm income official poverty line defined by the Office of Management and Budget (and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981),

(ii) received aid to families with dependent children within the past 3 months but are no longer receiving such aid solely because of increased earnings (or because of a reduction in the amount of earnings disregarded under section 402(a)(8) of the Social Security Act), and

(iii) are paying at least a part (no less than 10 nor more than 90 percent) of the cost of the child care services involved,

and only for child care services which are necessary to permit the certificate recipient to be employed or actively seeking employment.

(B) Certificates available for child care services provided by documented providers.—A plan meets the requirements of this paragraph only if it provides that certificates will be available under the plan for child care services provided by (and only by)—

(i) a child care provider which is required by State law to be licensed or certified and which is so licensed or certified, or

(ii) a family day care provider which is required by the State to be licensed or certified and which is not so licensed or certified, or a child care provider which is not required by State law to be licensed or certified, but which agrees (I) to provide the State with the operator's name and address, and (II) to comply with applicable State licensing or certification requirements (if any) within 2 years.

(C) PUBLIC INFORMATION; ASSISTANCE FOR FAMILY DAY CARE PROVIDERS.—A plan meets the requirements of this paragraph only if it includes an agreement—

(i) to disseminate to the public, through public libraries and appropriate State and local agencies, the names and addresses of all registered, licensed, or certified child care providers in the State;

(ii) to establish communication by the State with each child care provider which is registered, licensed, or certified for the purposes of providing information on—

(I) child care provider support groups and training opportunities if any are in existence in the provider's geographical area;

(II) requirements for certification and licensure of child care providers;

(III) programs on child development and health in the provider's geographical area; and

(IV) the availability of, and application procedures for, any publicly funded child nutrition programs for children in child care; and

(iii) to establish regular communication by the State with parents for the purpose of providing information on the parents' role in selecting and monitoring child care and on where to report complaints against child care providers.

(D) EXCEPTION FROM REGISTRATION REQUIREMENTS.—This paragraph shall not apply to the family day care providers in any State if such State demonstrates to the satisfaction of the Secretary that not less than 80 percent of the children likely to be served by family day care providers for full-day child care are likely to be served by family day care providers the names and addresses of which are recorded by the State.

(3) ADMINISTRATIVE PROVISIONS.—A plan meets the requirements of this paragraph only if it—

(A) BUDGET.—Includes a budget for administrative expenses under the plan and a description of how the designated State agency will distribute administrative funds to local agencies operating under the plan.

(B) LIMIT ON ADMINISTRATIVE EXPENSES.—Provides that not more than 8 percent of the costs incurred under the plan which are subject to reimbursement under section 417(f) of the Social Security Act may be incurred for administrative expenses directly related to providing certificates under the plan (including staff training, planning, and evaluation).

(C) ACCOUNTING PROCEDURES.—Provides that fiscal control and fund accounting procedures will be established to assure the proper disbursement of and accounting for all funds which are used by the State under the plan and are subject to Federal reimbursement under section 417(f) of the Social Security Act.

(D) OTHER ADMINISTRATIVE PROCEDURES.—Describes administrative procedures to be used in carrying out the certificate program, including procedures for establishing handling complaints from child care providers or recipients, handling allegations of fraud or abuse under the certificate program, and determining compliance with the terms of the certificate program.

(4) PUBLICITY; OTHER INFORMATION.—A plan meets the requirements of this paragraph only if it—

(A) provides for publicizing the availability of certificates under the plan, including eligibility criteria for participation; and

(B) includes such other information as the Secretary may require with respect to the certificate program.

(c) PLAN APPROVAL, ETC.—

(1) IN GENERAL.—The Secretary shall approve any State plan under this title, or modification thereof, which meets the requirements of this section (whether such plan or modification is separately submitted or is incorporated into the State's plan approved under section 402), and shall not finally disapprove (in whole or in part) any plan or modification without first affording the State reasonable notice and opportunity for a hearing within the State. Whenever the Secretary disapproves a plan or modification, the Secretary shall, on a timely basis, assist the State to overcome the deficiencies involved.

(2) APPROVAL OR DISAPPROVAL WITHIN 60 DAYS OF RECEIPT.—The Secretary shall approve or disapprove any plan or modification within 60 days after its receipt by the Secretary.

(3) OTHER TIMETABLES.—The Secretary shall, as soon as practicable after the date of the enactment of this title, establish criteria and standards for the State plan requirements under this section, together with timetables for carrying out the plan.

SEC. 303. WITHHOLDING FOR NONCOMPLIANCE.

Whenever the Secretary, after providing reasonable notice and opportunity for hearing to any State, finds that there has been a substantial failure to comply with any provision set forth in the State plan of such State under this title, the Secretary shall notify the State that further Federal contributions will not be made with respect to the expenses involved under section 417(f) of the Social Security Act until the Secretary is satisfied that there is no longer any such failure to comply. Until the Secretary is so satisfied, no further Federal contributions shall be made with respect to such expenses under such section 417(f).

SEC. 304. TREATMENT OF BENEFITS.

Notwithstanding any other provision of law, the amount of any certificate provided under this title shall not be considered income or resources for purposes of any Federal or State law, including any law relating to taxation, public assistance, or welfare programs.

SEC. 305. DEFINITIONS.

For purposes of this title—

(1) CHILD CARE.—The term "child care" means care of an individual—

(A) who is a dependent (as defined in section 152 of the Internal Revenue Code of 1986) of the certificate recipient, and

(B) who has not attained age 12.

(2) SECRETARY.—The term "Secretary" means the Secretary of Health and Human Services.

(3) STATE.—The term "State" includes the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, and the Commonwealth of the Northern Mariana Islands.

SEC. 306. REPORTS REGARDING USE OF FEDERAL FUNDS AND STATE REGULATION OF CHILD CARE SERVICES.

(a) IN GENERAL.—Each State shall prepare reports on its activities carried out under this title. Such reports shall be in such form, contain such information, and be of such frequency (but not less often than every 2 years) as the Secretary determines is necessary to provide an accurate description of such activities and to secure a complete record of the purposes for which funds were spent in implementing the State's plan under this title. Such reports shall describe—

(1) the number and ages of children who receive child care services as a result of the certificate program;

(2) the setting of services provided; and

(3) the amount of assistance provided from the reimbursement for child care services under the certificate program as compared with title XX and other Federal and State child care assistance programs.

(b) SUBMISSION OF REPORTS, ETC.—Each State shall make copies of the reports required of it by this section available for public inspection within the State and shall transmit a copy of the reports to the Secretary.

(c) SUBMISSION TO CONGRESS.—

(1) IN GENERAL.—The Secretary shall compile such reports and submit a report to the Congress summarizing the results of the Secretary's analysis of the State reports. The Secretary's report shall be submitted not later than 180 days after the filing of the State report to which it relates.

(2) CONTENT.—The Secretary's analysis shall include the Secretary's assessment of the certificate programs.

TITLE IV—CHILD SUPPORT ENFORCEMENT AMENDMENTS

SEC. 401. STATEMENT OF PURPOSE.

It is the purpose of this title to expand the program of child support enforcement established under part D of title IV of the Social Security Act by improving the process of paternity establishment, by improving the available techniques of collecting child support payments, by standardizing the amounts of child support orders, and by strengthening the enforcement of interstate child support cases.

SEC. 402. STATE GUIDELINES FOR CHILD SUPPORT AWARD AMOUNTS.

Section 467(b) of the Social Security Act is amended—

(1) by inserting "(1)" after "(b)";

(2) by striking out ", but need not be binding upon such judges or other officials"; and

(3) by adding at the end thereof the following new paragraphs:

"(2) There shall be a rebuttable presumption, in any judicial or administrative proceeding for the award of child support, that the amount of the award which would result from the application of such guidelines is the correct amount of child support to be awarded. A written finding or specific finding on the record that the application of such guidelines would be unjust in a particular case shall be sufficient to rebut the presumption.

"(3) The guidelines must specify (as a part of such rebuttable presumption) that the correct (and legally required) total amount of support awarded to two or more children of an absent parent for any period (whether or not all of such children are being awarded support in the same proceeding) shall be equal at least to (A) the amount that would be determined in accordance with such guidelines for an award to one of such children if there are no other children of the absent parent to whom support is being or has been awarded, plus (B) an additional amount for each additional child up to a total of at least four such children.".

SEC. 403. PERIODIC UPDATING OF CHILD SUPPORT ORDERS.

(a) IN GENERAL.—The first sentence of section 467(a) of the Social Security Act is amended by inserting before the period at the end thereof the following: ", along with procedures for the periodic review and routine updating of all child support orders, at least once every two years, so as to ensure that (taking into account any changes which may have occurred in the custodial or noncustodial parent's financial situation and in other circumstances) they remain in full compliance with such guidelines".

(b) STATE PLAN REQUIREMENT.—Section 466(a) of such Act is amended by inserting immediately after paragraph (9) the following new paragraph:

"(10) Procedures requiring the uniform application of the guidelines established under section 467(a), and the periodic updating of child support awards in accordance with that section, in full compliance with all procedural due process requirements of the State.".

SEC. 404. DEMONSTRATION PROJECTS REQUIRING PARTICIPATION IN WORK-RELATED PROGRAMS BY NONCUSTODIAL PARENTS UNABLE TO PAY CHILD SUPPORT.

Section 1115 of the Social Security Act is amended by redesignating subsection (c) as subsection (d), and by inserting after subsection (b) the following new subsection:

"(c) In order to encourage and permit States to improve child support enforcement in cases where the noncustodial parent is financially unable to meet his support obligations, up to 10 States (under subsection (a)) may undertake and carry out demonstration projects specifically requiring (1) that absent parents who owe child support, but whose income is insufficient to pay such support, participate in the State's AFDC employment and training program established under section 417, in an appropriate State program under the Job Training Partnership Act, or in a similar program of work or training, and (2) that the State office having responsibility for child support enforcement will ensure that all such absent parents are complying with clause (1) by confirming their participation in the relevant programs at least once every 6 months.".

SEC. 405. REQUIREMENT OF DATA IN BIRTH RECORDS.

Section 466(a) of the Social Security Act (as amended by section 403(b) of this Act) is further amended by inserting immediately after paragraph (10) the following new paragraph:

"(11) Procedures which require that the names and social security account numbers of the father and mother of every child born in the State will be recorded in the child's birth records. The State shall take such action as may be necessary to ensure that the social security account numbers so recorded are disclosed or made available only to duly authorized officials.".

SEC. 406. PATERNITY ESTABLISHMENT.

(a) IN GENERAL.—Section 466(a)(5) of the Social Security Act is amended by inserting "(A)" after "(5)", and by adding at the end thereof the following new subparagraphs:

"(B) Procedures under which the State is required—

"(i) to open and take action on the question of paternity within 60 days after the date on which any case involving that question is opened under part A;

"(ii) to require the child and either or both parents to submit to blood tests upon the request of any party in a contested paternity case; and

"(iii) to use a 95 percent probability index from blood tests as a rebuttable presumption of paternity.

"(C) Procedures under which all court decisions in contested cases involving paternity are required to be based on the same standard of proof as the standard of the State's burden of proof in civil cases.".

(b) INCENTIVE PAYMENTS.—Section 458(d) of such Act is amended by inserting after "In computing incentive payments under this section," the following: "(1) each State shall be deemed to be collecting support in the amount of $100 a month, for a period of up to 12 months, in every case in which paternity has been established but actual collections have not commenced, and (2)".

SEC. 407. INTERSTATE ENFORCEMENT OF CHILD SUPPORT CASES.

(a) REQUIRED STATE PROCEDURES.—Section 466(a) of the Social Security Act (as amended by the preceding provisions of this title) is further amended by inserting immediately after paragraph (11) the following new paragraph:

"(12) Procedures under which—

"(A) employers are required to disclose to the child support enforcement agency of the State the address, earnings, social security number, date of birth, and length of employment of any employee who is obligated under court order to pay child support (to the extent the information is available in the employer's business records), notwithstanding any other provision of law which would make the information confidential, upon the written request of such agency; and

"(B) the most recent version of the Uniform Reciprocal Enforcement of Support Act, or a law containing equivalent provisions, is in effect in the State.

Failure to provide the information requested under subparagraph (A) or a statement that any or all of it is not known or available, within 30 days after receiving the agency's request, shall subject the employer to civil penalties; but any employer responding to the agency's request in good faith shall be immune from any liability, civil or criminal, that might otherwise result from the release of the requested information. The State shall ensure that the use or disclosure of information obtained from employers under subparagraph (A) is limited to purposes directly connected with the administration of the plan under this part or with an investigation, prosecution, or civil proceeding conducted in connection with the administration of such plan.".

(b) MODIFICATIONS OF SUPPORT ORDERS ISSUED IN OTHER STATES FOR INCOME WITHHOLDING PURPOSES.—Section 466(b)(9) of such Act is amended by inserting before the period at the end thereof the following: "; but when one State duly requests another State to modify a support order (on behalf of a custodial parent residing in the requesting State) so as to permit income withholding from an absent parent residing in such other State, such other State shall not have jurisdiction (in complying with such request) to modify any other aspect of the order".

SEC. 408. AUTOMATED DATA SYSTEMS.

(a) IN GENERAL.—(1) Section 454(16) of the Social Security Act is amended by striking out ", at the option of the State," and inserting in lieu thereof ", in accordance with the requirements of section 452(d)(3),".

(2) Section 452(d) of such Act is amended by adding at the end thereof the following new paragraph:

"(3)(A) No later than October 1, 1989, each State shall either have in effect an automatic data processing and information retrieval system meeting all the requirements of section 454(16) or have submitted an advance automatic data processing planning document of the type referred to in that section.

"(B) By October 1, 1990, the Secretary shall have reviewed and approved the advance planning document of each State which has submitted such a document; and by October 1, 1992, every State shall have in effect an operational automatic data processing and information retrieval system meeting all the requirements of section 454(16).".

(b) REPEAL OF 90-PERCENT FEDERAL REIMBURSEMENT RATE FOR AUTOMATED DATA SYSTEMS.—Effective October 1, 1992, section 455(a)(1) of such Act is amended by striking out "an amount—" and all that follows down through "except that" and inserting in lieu thereof the following: "an amount equal to the percent specified in paragraph (2) of the total amounts expended by such State during such quarter for the operation of the plan approved under section 454; except that".

SEC. 409. MANDATORY INCOME WITHHOLDING.

(a) COMMENCEMENT OF AUTOMATIC WITHHOLDING UPON ISSUANCE OF COURT ORDER.—Paragraph (3) of section 466(b) of the Social Security Act is amended to read as follows:

"(3) Such withholding shall apply in every case where an individual residing in the State owes child support under a court order which has been issued or modified in the State (or under an order of an administrative process established by a law of the State), without the necessity of any determination as to whether the absent parent is or is not in arrears and without regard to whether or not the obligation involved is one which has been assigned to the State under section 402(a)(26) or which has been (or could upon application have been) undertaken to be collected by the State under section 454(6); except that an exemption from this requirement (A) may be permitted by the State in cases where (i) the support order involved was in existence on the effective date specified in section 412 of the AFDC Employment and Training Reorganization Act of 1987, and (ii) the parent paying child support pursuant to such order has at all time maintained a satisfactory record of timely support payments (as determined by the State), and (B) must be permitted in any case where (i) the parent paying child support posts a bond in an amount equal to 6 months of child support payments, with provision for the forfeiture of such bond if such parent is 30 days in arrears or the equivalent thereof, at which time income withholding would be initiated, or (ii) a written agreement is reached between both parties which provides for an alternative arrangement.".

(b) CONFORMING AMENDMENTS.—(1) Section 466(b)(2) of such Act is amended by striking out "in the case of a child" and all that follows down through "In either case such withholding must occur", and inserting in lieu thereof ", and must occur".

(2) Section 466(b)(4)(A) of such Act is amended by striking out all that follows "the proposed withholding" and inserting in lieu thereof a period.

SEC. 410. USE OF EMPLOYMENT SECURITY INFORMATION OBTAINED THROUGH FEDERAL AND STATE TELECOMMUNICATIONS NETWORKS.

(a) IN GENERAL.—Section 454 of the Social Security Act is amended—

(1) by striking out "and" after the semicolon at the end of paragraph (22);

(2) by striking out the period at the end of paragraph (23) and inserting in lieu thereof "; and"; and

(3) by inserting immediately after paragraph (23) the following new paragraph:

"(24) provide that the State agency administering the plan, and the Parent Locator Service, will be given access to all employment security information which is in the possession or control of any Federal or interstate telecommunications network or which is available through any other data exchange method (including information made available under section 1137(a)(4)(B)), subject to reimbursement for the reasonable cost of furnishing such information as agreed to by the parties, and will use such information for child support enforcement purposes in carrying out their duties under this part, so long as such information is adequately protected against unauthorized disclosure for other purposes under safeguards established in regulations prescribed by the Secretary.".

(b) State Law Requirements.—Section 466(a) of such Act (as amended by the preceding provisions of this title) is further amended by inserting immediately after paragraph (12) the following new paragraph:

"(13) Procedures under which the agency or official responsible for the State's participation in any interstate telecommunications network or other data exchange arrangement that gathers, provides, or coordinates employment security information will make such information available upon request to the State agency administering the plan of the State under this part or the agency administering the plan of any other State under this part, or to the Parent Locator Service, subject to reimbursement for the reasonable cost of furnishing such information (as agreed to by the parties) and to the safeguards against unauthorized disclosure referred to in section 454(24), for use in child support enforcement as provided for in that section.".

(c) Federal Authority.—Section 452 of such Act is amended by adding at the end thereof the following new subsection:

"(g) In accordance with regulations prescribed by the Secretary, the head of each Federal agency which operates or participates in a telecommunications network or other data exchange arrangement that gathers, provides, or coordinates employment security information shall make such information available upon request to any State agency administering a plan under this part, and to the Parent Locator Service, subject to reimbursement for the reasonable cost of furnishing such information (as agreed to by the parties) and to the safeguards against unauthorized disclosure referred to in section 454(24), for use in child support enforcement as provided for in that section.".

SEC. 411. TIME LIMITATIONS.

(a) In General.—Within 12 months after the date of the enactment of this Act, the Secretary of Health and Human Services shall develop and publish standards for the amount of time a State may take to complete each of several actions in child support cases. In publishing these standards, the Secretary shall include, but is not limited to, the following milestones in the enforcement process:

(1) the time from opening an AFDC case until the State child support enforcement office under part D of title IV of the Social Security Act opens the case and takes some documented action;

(2) the time to take documented action on a case received from another State;

(3) the time from opening a child support enforcement case under part D of title IV of the Social Security Act until a child support order is established when expedited process is used;

(4) the time required to establish paternity;

(5) the time required to establish a support order;

(6) the time required to collect the first payment in intrastate cases; and

(7) the time required to collect the first payment in interstate cases.

Each standard shall specify the percentage of cases that should have received the specified action within the time allotted.

(b) Penalties for Failure to Comply.—Section 403(h) of the Social Security Act shall apply with respect to any failure by the State to comply with the standards developed and published under subsection (a), as though such failure were the failure of a State program operated under part D of the Social Security Act to comply with requirements imposed by such part.

SEC. 412. EFFECTIVE DATE; GAO EVALUATION REPORT.

(a) Effective Date.—Except as otherwise specifically indicated, the amendments made by this title shall become effective on the first day of the first calendar quarter which begins one year or more after the date of the enactment of this Act.

(b) GAO Report.—The Comptroller General shall conduct a study to evaluate the implementation by the various States of the amendments made by this title, and shall submit to the President and the Congress, no later than 4 years after the date of the enactment of this Act, a report setting forth the results of such study together with his recommendations for any further legislative or administrative actions that he considers necessary or appropriate.

TITLE V—STATE DEMONSTRATION PROGRAMS

SEC. 501. STATEMENT OF PURPOSE.

It is the purpose of this title—

(1) to find and test new ways to use Federal and State funds to help families and individuals achieve financial independence through education, training, and work experience;

(2) to allow States maximum flexibility in using funds that now support low-income families and individuals in order to relieve poverty and its effects; and

(3) to ensure that there will be an opportunity for congressional consideration of demonstration programs that alter the nature of Federal entitlement programs.

PART A—STATE DEMONSTRATIONS

SEC. 511. FILING TO CONDUCT DEMONSTRATION.

In order to conduct a demonstration in accordance with the provisions of this title, a State shall submit a filing, consistent with the requirements of this subpart, to the Interagency Low-Income Opportunity Board established pursuant to part C of this title (hereinafter referred to as the "Board").

SEC. 512. RESPONSIBILITY OF BOARD.

(a) In General.—The Chairman (appointed pursuant to section 531(a)), in consultation with the Board, shall have continuing responsibility for the certification and evaluation of each demonstration conducted pursuant to this part, and shall perform, with advice and assistance from such other Federal departments and agencies as may be appropriate, such other functions as are required to implement the demonstrations.

(b) Policy Goals.—The Chairman and the Board, in exercising their responsibility with respect to the certification and evaluation of each demonstration conducted pursuant to this part, shall consider the following policy goals:

(1) to ensure that public assistance is an adequate supplement for other resources in meeting essential needs;

(2) to focus public assistance resources on efforts to reduce future dependency on public assistance;

(3) to individualize determinations of need for public assistance, and to make such determinations, to the extent possible, through local decisions;

(4) to make work more rewarding than welfare;

(5) to require that those who are able to work do so for their public assistance benefits;

(6) to encourage the formation and maintenance of economically self-reliant families;

(7) to require public assistance recipients to take greater responsibility for managing their resources, and to encourage community-based administration of public assistance;

(8) to create opportunities for self-reliance through education and enterprise; and

(9) to reduce the future costs of public assistance by reducing the need for it.

SEC. 513. PRIORITY GOALS.

State demonstration filings may be addressed to any aspect of reform to achieve one or more of the policy goals identified in section 512(b), but special consideration shall be given to demonstrations designed to investigate the following issues:

(1) effective means of helping American citizens avoid poverty;

(2) improved methods of helping welfare recipients achieve economic independence;

(3) coordination of employment and training programs currently supported by Federal or State funds, including but not limited to programs under the Job Training Partnership Act, United States Employment Service programs, adult education programs, vocational education programs, and the various employment, training, and work programs associated with the AFDC program;

(4) establishing paternity and obtaining child support orders in AFDC cases for which paternity was not established when the case was opened; and

(5) facilitating efforts by nongovernmental organizations to help welfare clients achieve economic independence.

SEC. 514. CONTENT OF FILING.

(a) In General.—A filing to conduct a demonstration under this part may include any or all of the following programs:

Food stamps.

Temporary food assistance (TEFAP).

Housing.

Rent supplements.

Community development block grants.

Women, infants, and children (WIC).

Head start.

Job Training Partnership Act.

Work incentives (WIN).

U.S. employment service.

Vocational rehabilitation.

Vocational education.

Adult education.

Chapter I (money to public schools based on poverty).

Low-income home energy assistance (LIHEAP).

Medicaid.

Maternal and child health.

Aid to families with dependent children (AFDC).

Supplemental security income (SSI).

Emergency assistance.

Social services block grants.

Child support enforcement.

(b) PARTICULAR MATTERS TO BE INCLUDED.—A filing shall be submitted by the Governor or his designee, and shall describe in detail the demonstration to be conducted, with particular reference to—

(1) the program or programs to be included in the demonstration;

(2) the classes of individuals and families who will be eligible to participate;

(3)(A) the principles for determining eligibility for and maximum total benefits under the programs included in the demonstration, including income and asset limits to be applied, the form or forms in which benefits are to be provided (such as cash, in kind, vouchers, insurance, or services), and the dollar value to be assigned to benefits to be provided in a form other than cash; and

(B) information sufficient (i) to demonstrate that benefit levels will be adequate to allow individuals and families to reasonably meet the needs previously addressed by the programs included in, but superseded by, the demonstrations, when such benefits are used to supplement individual, family, and community resources, and (ii) to reasonably assure that the demonstration will not adversely affect those in need;

(4) the way in which the demonstration is expected (A) to improve low-income individuals' and families' opportunities and abilities to achieve economic independence through employment, (B) to improve the functioning of low-income communities in support of the efforts of such individuals and families to attain independence, and (C) to improve the efficiency and effectiveness of the programs included in the demonstration.

(c) EMPLOYMENT-RELATED ACTIVITIES.—The filing shall specify the employment-related activities, such as job search, and work and training activities designed to directly improve employability, that will be required of individuals receiving assistance under the demonstration, and the circumstances in which such individuals will not be required to participate in such activities.

(d) OTHER MATTERS TO BE INCLUDED.—The filing shall also—

(1) specify the geographic area or the political subdivisions within which the demonstration will be conducted and designate the agency responsible for the day-to-day conduct of the demonstration;

(2) describe steps that will be taken to make the information required by subsections (b) and (c) readily available to the public in the geographic areas or political subdivisions affected;

(3) specify the time period during which the demonstration will be conducted and the reasons that such period was selected;

(4) specify the laws or parts thereof, and the regulations thereunder or parts thereof, applicable to any Federal or federally assisted program to be included in the demonstration, for which waiver is requested;

(5) describe a plan for evaluating the results of the demonstration, including (A) the way in which provision has been made by the State for the use of control or comparison groups to assess the extent to which dependency on welfare has been reduced in excess of the reduction that would have occurred in the absence of the demonstration or, if the use of such groups is infeasible, the alternative methods that will be adopted to obtain measurable results during and after the completion of the demonstration, and (B) the measures that the State proposes for use in assessing the extent to which dependency on welfare and other programs serving low-income populations has been reduced;

(6) contain a budget setting forth the amounts and sources of funding for the demonstration (including Federal funds that would have been made available under the programs included in the demonstration, determined in accordance with subsection (a)), and non-Federal funds that would have been required in order to obtain such Federal funding under the rules of the programs to be included in the demonstration, and any other sources;

(7) provide for the conduct of audits in accordance with the provisions of chapter 75 of title 31, United States Code; and

(8) contain an agreement to submit an annual report and to cooperate as necessary for the Board's review and evaluation of the demonstration.

The agency designated in paragraph (1) may conduct the demonstration directly, or may do so, in whole or in part, through grants to or contracts with public or private agencies, or individuals, but the Governor must in any case retain final responsibility for compliance with all requirements imposed by or pursuant to this part, or with action agreed to by the State in its certified filing.

(e) PROCEDURES.—The filing shall describe the procedures for determining the initial and continuing eligibility of, and benefits for, individuals and families, and all administrative and fiscal procedures to be applied in the conduct of the demonstration. These procedures must ensure that all eligibility and benefit amount standards will be accurately applied and that funds under the demonstration will be expended consistent with principles of sound fiscal management. Such procedures may be the same as those already applicable to a program included in the demonstration, or may differ in whole or in part from currently established procedures, but must clearly and reliably assure responsible program administration.

SEC. 515. FUNDING AND BUDGET.

(a) IN GENERAL.—(1) Prior to submission of the filing to Congress, the head of each Federal department or agency with responsibility for a program to be included in the demonstration shall, with respect to each such program (or part of a program), estimate the amount of Federal funds that would, but for the demonstration, be provided to the State, or an entity within the State eligible to receive such funds, to operate such program (or part of a program) during each fiscal year that the demonstration is in effect and the amount of non-Federal funds that would be required in order that the State be eligible for such Federal funds. Each Federal department or agency head shall provide a statement of the principles and assumptions to be employed in making such estimates, including, in the case of any programs with respect to which the department or agency head has discretion in the provision of funds, the recent experience of such State (or grantees or contractors within the State) with respect to fund awards under such program. The principles and assumptions shall be consistent with all Federal laws and regulations applicable to the programs, and the funding of those programs, as in effect at the time the estimates are made. The amounts and the principles and assumptions shall be reported to the Board.

(2) The State shall provide to the Board a statement of the principles and assumptions it employed in developing its budget and funding levels referred to in section 514(d)(6).

(b) DETERMINATIONS WITH RESPECT TO CONSISTENCY AND ADEQUACY OF FUNDING AND BUDGET.—The Chairman shall determine whether the funding determined by the Federal agency heads referred to in subsection (a)(1), and the budget and underlying principles and assumptions described in subsection (a)(2) as submitted by the State, are consistent and are adequate to carry out the demonstration.

(c) EFFECT OF FEDERAL LAWS AND REGULATIONS.—If, during any fiscal year that the demonstration is in operation, the Federal laws or regulations under which such funding is authorized or provided are amended, or new Federal law applicable to any such program is enacted (or new regulations adopted), the Chairman shall adjust the amounts reflected in the budget in accordance with applicable Federal law and regulations and the principles and assumptions referred to in subsection (a). In any event the budget shall be reviewed and revised, in accordance with such principles and assumptions and all currently applicable Federal law and regulations, not less frequently than annually.

(d) AMOUNT OF FEDERAL FUNDS TO BE AVAILABLE.—The amount determined pursuant to subsection (b), or the adjusted amount adopted pursuant to subsection (c), shall be the amount of Federal funds available for carrying out the demonstration in any fiscal year.

(e) SCHEDULE FOR PAYMENTS.—The Board shall establish a schedule pursuant to which payments will be made by each agency responsible for the administration of a program included in the demonstration from the funds appropriated to carry out such program.

(f) REDUCTIONS IN FEDERAL PAYMENTS IN CERTAIN CASES.—Notwithstanding the preceding provisions of this section, if it is determined at any time that the State received, prior to the commencement of the demonstration, an amount of Federal funds under any program included in the demonstration in excess of the amount to which it was entitled, or which it should have received, by reason of the application of any provision regarding erroneous expenditures under the program or because of overpayment by the Federal Government to the State for any other reason, the amount which the State would otherwise receive to carry out the demonstration shall be reduced to the same extent and in accordance with the same procedures as would have been applied had the State continued to operate, apart from the demonstration, the program in which the overpayment is determined to have been made.

(g) ESTABLISHMENT OF NON-FEDERAL SHARE REQUIREMENT.—The Chairman may establish a single non-Federal share requirement for each year for purposes of accounting for funds expended under each demonstration. Such share shall be established on the basis of the relative proportion of Federal and non-Federal funds contained in the demonstration budget. The Chairman shall also establish a single set of technical grant or contract requirements applicable to the conduct of the demonstration.

(h) No Adjustment for Savings Achieved in Conduct of Demonstration.—Notwithstanding any other provision of law, to the extent that the amount of Federal funds necessary to carry out the demonstration, either for assistance to individuals or families or for the costs of administration, is less than the amount contained in the budget by reason of the effectiveness of the demonstration in achieving the objectives of this title, no adjustment shall be made in amounts payable to the State for such demonstration, and the State may treat such Federal funds as reimbursement for expenditures properly made by the State under the programs concerned, to the extent that such funds are used by the State to improve the demonstration or otherwise benefit individuals and families included in the demonstration.

(i) Specific Requirements.—The State's filing must conform to the following requirements:

(1) the proposed demonstration must be structured to permit sound evaluation of the effectiveness of the demonstration in meeting the objectives of this title;

(2) the rights of individuals and families under title VI of the Civil Rights Act of 1964, the Age Discrimination Act of 1973, title IX of the Education Amendments of 1972, title VIII of the Civil Rights Act of 1968, and all other applicable law prohibiting discrimination must be protected; and

(3) all requirements of this part, including the budget, must be met.

SEC. 516. EXCLUSIVITY OF ELIGIBILITY UNDER DEMONSTRATION.

Notwithstanding any other provision of law, once the demonstration has been approved, if an individual or family is within a class eligible to participate in the demonstration, then such individual or family shall only be eligible for benefits (whether provided in cash, in kind, in the form of services, or in any other form or manner) under a program included in the demonstration under the terms and as part of the demonstration (including individuals or families who are ineligible for benefits under the demonstration solely by reason of their income or assets or their failure to comply with a condition of eligibility for benefits under the demonstration).

SEC. 517. INTERIM EVALUATIONS AND REPORTS; CHANGES IN DEMONSTRATION.

(a) In General.—(1) The Board shall, during the period throughout which the demonstrations are conducted under this part, carry out activities appropriate to evaluate the progress and effect of the demonstrations.

(2) The Board shall require a State to submit annual reports on the progress of the demonstration.

(b) Changes To Improve Demonstrations.—If (1) the State determines that an amendment to the demonstration, as described in its filing as originally submitted, would improve the likelihood of its accomplishing the objectives of this title, (2) the amendment meets all the requirements for submission under this part that applied to the filing as originally submitted and approved, and (3) the cash, in-kind benefits, and services to which individuals are entitled under the demonstration are not substantially altered, the Chairman shall submit the amendment to the Congress for its consideration (and the provisions of section 521 shall apply to such amendment in the same way they apply to the initial demonstration proposal). The Chairman shall notify the State of the effective date of the amendment, the increased Federal and non-Federal funding (if any) that will be made available, determined as provided in section 514(c), and any other matters necessary to implement the amendment without adversely affecting the conduct of the demonstration.

SEC. 518. TERMINATION OF PROJECT.

(a) By State Governor.—If, after the commencement of a demonstration, the Governor of the State concerned determines that the demonstration is not achieving (or is not likely to achieve) the purposes of this part, and that the interests of the Federal Government, the State, or the participating individuals would be better served by returning to the separate conduct of the included programs, the Governor may terminate the demonstration upon the provision to the Chairman of at least 3 months' advance notice (or such greater advance notice as may be necessary so that the separate conduct of the programs involved will resume at the beginning of a quarter in the fiscal year), or at such other time as the Governor, in consultation with the Chairman, may find appropriate.

(b) By Chairman.—If, after the commencement of a demonstration, the Chairman determines that the demonstration is not meeting the conditions specified in section 515(i) or the applicable laws and regulations not waived in the filing, the Chairman may terminate the demonstration upon the provision to the Governor of at least 3 months' advance notice (or such greater advance notice as may be necessary so that the separate conduct of the programs involved will resume at the beginning of a quarter in the fiscal year), or at such other time as the Chairman, in consultation with the Governor, may find appropriate.

SEC. 519. REPORTS BY STATE.

Not later than 6 months following the completion of a demonstration, the Governor of the State concerned shall submit to the Board a final report containing (1) a review of the demonstration, including both its achievements and its shortcomings, and (2) such other findings, comments, and recommendations as he may deem appropriate to assist in restructuring the Federal programs involved to better achieve the objectives of this title and serve the needs of their beneficiary populations.

SEC. 520. ANNUAL REPORT TO CONGRESS.

The Chairman shall prepare and transmit annually a report to the Congress describing the demonstrations being conducted during the relevant year. The report shall provide information about the interim or final results of the demonstrations, and their success in achieving the objectives of this title, based on the reports furnished by States conducting demonstrations, and on the data and conclusions contained in interim and final evaluations of these demonstrations.

PART B—SUBMISSION OF BOARD RECOMMENDATION TO CONGRESS AND CONGRESSIONAL ACTION

SEC. 521. BOARD APPROVAL OF PROGRAMS; SUBMISSION OF DEMONSTRATION PROPOSAL; CONGRESSIONAL ACTION.

(a) Selection and Approval.—The Board shall select and approve the demonstration programs it judges to be worthy of implementation, in accordance with criteria established by the Board and communicated to the States.

(b) Preparation and Submission of Demonstration Proposal.—(1) The Board shall then prepare a single demonstration proposal containing all information pertinent to the demonstration programs selected (and if one or more additional demonstration programs are selected after the initial demonstration proposal is prepared and submitted, a supplementary demonstration proposal, containing all information pertinent to such additional programs, shall be prepared (and treated under this section in the same way as the initial proposal)). Special emphasis shall be given to showing how, if at all, the demonstrations selected would alter the nature of entitlements and other benefits for individuals.

(2) The demonstration proposal shall be submitted to the Congress, and referred to each committee of the House and Senate having jurisdiction over any of the demonstration programs involved in the proposal.

(3) The respective committees may hold hearings, receive written testimony, conduct investigations, and initiate legislative action to reject the demonstration proposal if they consider it necessary.

(c) Proposal Effective After Consideration by Congress.—Unless legislation rejecting the demonstration proposal has been enacted within 60 days after its submission by the Board, the demonstration proposal shall become effective according to its terms.

PART C—INTERAGENCY LOW-INCOME OPPORTUNITY BOARD

SEC. 531. ESTABLISHMENT AND MISSION OF BOARD.

(a) In General.—In order to provide a focal point within the Federal Government for the development and coordination of innovative policies and activities to improve opportunities for low-income individuals and families, and to encourage the provision of assistance by both the public and private sectors in a more effective manner, there is established an Interagency Low-Income Opportunity Board. The Board shall be comprised of a Chairman appointed by the President by and with the advice and consent of the Senate, the Secretaries of Agriculture, Health and Human Services, Housing and Urban Development, Labor, and the Interior, the Attorney General, and the Director of the Office of Management and Budget (or, with respect to each such official, his designee), as permanent members. In addition, for the purpose of carrying out the Board's responsibilities with respect to a particular filing under part A to conduct a demonstration, or with respect to the certification and evaluation of a particular demonstration, the Board shall include the head of each department or agency (or his designee) having responsibility for the administration of a program to be included in the demonstration.

(b) Compensation of Chairman.—(1) The Chairman shall be compensated at the rate provided for level II of the Executive Schedule.

(2) Section 5313 of title 5, United States Code, is amended by adding at the end the following new item:

"Chairman, Interagency Low-Income Opportunity Board.".

(c) Other Personnel.—The Chairman is authorized to appoint and fix the compensation of such personnel as may be necessary to assist the Board in carrying out its responsibilities, in accordance with chapter 51 and subchapters III and VIII of chapter 53 of title 5, United States Code.

(d) Assistance From Other Departments and Agencies.—The head of each Federal department or agency who is a permanent or other member of the Board shall make available to the Board such assistance as it may require to carry out its activities.

(e) Use of Mails.—The Board may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

PART D—MISCELLANEOUS

SEC. 541. DEFINITIONS.

As used in this title—

(1) the term "State" means the 50 States, the District of Columbia, Puerto Rico, and any Indian tribe;

(2) the term "Governor" includes the Chief Executive Officer of the District of Columbia, and the federally recognized governing body of an Indian tribe; and

(3) the term "Indian tribe" means any Indian Tribe, Band, Nation, Rancheria, Pueblo, Colony, or Community, including any Alaska Native village, which is recognized as eligible by the United States Government through the Secretary of the Interior for the special programs and services provided to Indians because of their status.

TITLE VI—EVALUATION OF EMPLOYMENT AND TRAINING PROGRAMS AND STATE DEMONSTRATION PROGRAMS

SEC. 601. STATEMENT OF PURPOSE.

It is the view of the Congress that there is now a broad national consensus on the importance of work and preparation for work as a means of avoiding the dependency often associated with poverty. In recent years, the States have undertaken impressive new job search, education, training, and employment programs designed to help welfare recipients achieve financial independence. Evaluations of these programs provide some reason to think they may be successful in moving welfare recipients into the workforce. In enacting this Act the Congress is attempting to help the States pursue these programs by providing generous new resources and a great deal of flexibility in designing and implementing the programs. In addition, the Congress is granting the States great latitude in using funds currently addressed to meeting the needs of low-income citizens and citizens living in poverty. But the Congress also intends to learn as much as possible from this new investment of public funds and this new enrichment of Federal-State relations. In recent years the Congress has profited from the knowledge produced by large-scale evaluations; it is the intent of the Congress to pursue the strategy of careful evaluation of social programs in order to improve and perfect the legislation upon which these programs are based. It is the purpose of this title to carry out this objective.

SEC. 602. ESTABLISHMENT OF INTERAGENCY PANEL.

Within 3 months after the enactment of this Act, the Secretary of Health and Human Services shall convene an Interagency Panel consisting of representatives from the Office of Management and Budget, the Congressional Budget Office, the Congressional Research Service, the General Accounting Office, and the Low-Income Opportunities Board. The Panel shall meet periodically to design, implement, and monitor a series of implementation and evaluation studies to assess the methods and effects of the programs initiated under titles II and V of this Act. Insofar as possible, the Panel shall work in a collegial fashion; but if consensus cannot be reached among Panel members on particular decisions, the Secretary of Health and Human Services is authorized to make all final decisions about program design, use of contractors, conduct of particular studies, and any other matters which may come before the Panel.

SEC. 603. ADVISORY BOARD.

Within 6 months after the enactment of this Act, the Interagency Panel shall select an advisory board of not more than 12 members. The advisory board shall include representatives of business, labor, academia, children's groups, State government, local government, welfare rights organizations, religious organizations, and community self-help organizations. The advisory board shall meet at least twice during the first year following its formation and at least once a year thereafter. It shall be the function of the advisory board to provide the Interagency Panel with advice and counsel on all aspects of its operation.

SEC. 604. OPERATION OF INTERAGENCY PANEL.

(a) In General.—The Interagency Panel shall identify the significant questions to be pursued in its studies, and shall also adopt an overall design that maximizes the knowledge gained from contrasts and comparisons between the individual studies. The Panel shall make special efforts to coordinate with the States and with the Low-Income Opportunities Board and to use control groups and other methods of scientific evaluation whenever possible.

(b) Obtaining Information From Secretary.—The Panel may request the Secretary of Health and Human Services to supply any information, in the possession of or available to the Secretary, which may be of assistance in carrying out the Panel's functions under this title, and may request the Secretary to obtain any such information from States by requiring its inclusion in any of the State reports provided for under this Act. To the maximum extent possible, the Secretary shall comply with any request received from the Panel under this subsection.

SEC. 605. STUDY OF TRANSITION CHILD CARE.

The Interagency Panel shall ensure that a study of child care during the welfare-to-work transition period is conducted during the first 3 years of its operation. Questions addressed by the study shall include, but not be limited to, the following: How many former welfare recipients used the transition child care financial assistance; in the case of families that did not use the public financing, what types of child care arrangements did they select and why did they elect not to use public funding; whether the funds made available under title III of this Act were adequate to meet the child care needs of parents leaving welfare; and an overall assessment of the role of transition child care financing in encouraging families to leave welfare and enter the labor force. The study shall include an assessment of how many families below 150 percent of the poverty level but not receiving public assistance would participate in a publicly-funded child care program and how much money would be required to provide such child care with a public subsidy similar to the one contained in title III of this Act.

SEC. 606. REPORTS.

The Interagency Panel shall report to the Congress and the President at such times as it sees fit to do so, but an interim report shall be submitted no later than 30 months after the enactment of this Act covering the implementation of the programs under this Act during their first two years. The Panel shall also submit a final report providing an overview of each study it has conducted or authorized, an overall assessment of the State programs initiated under titles II and V of this Act, and a set of specific recommendations to the Congress and the President on needed changes in legislation, regulations, and program administration at the State and Federal levels. The final report shall cover the first four years of program implementation and shall be published no later than five years after the enactment of this Act.

SEC. 607. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated the total sum of $20,000,000 to enable the Panel to perform its functions during the first five years of its existence.

TITLE VII—MISCELLANEOUS AND RELATED PROVISIONS

SEC. 701. DEMONSTRATION OF FAMILY INDEPENDENCE PROGRAM IN WASHINGTON STATE.

(a) In General.—Upon application by the State of Washington and approval by the Secretary of Health and Human Services (in this section referred to as the "Secretary"), the State of Washington (in this section referred to as the "State") may conduct a demonstration project in accordance with this section for the purpose of testing whether the operation of its Family Independence Program enacted in May 1987 (in this section referred to as the "Program"), as an alternative to the existing AFDC program, would more effectively break the cycle of poverty and provide families with opportunities for economic independence and strengthened family functioning.

(b) Nature of Project.—Under the demonstration project conducted under this section—

(1) every individual who would be eligible for aid under the State plan approved under section 402(a) of the Social Security Act shall be eligible to enroll in the Program, which shall operate simultaneously with the AFDC program so long as there are individuals who qualify for the latter;

(2) cash assistance shall be furnished in a timely manner to all eligible individuals under the Program (and the State may not make expenditures for services under the Program until it has paid all necessary cash assistance), with no family receiving less in cash benefits than it would have received under the AFDC program;

(3) individuals may be required to register, undergo assessment, and participate in work, education, or training under the Program, except that—

(A) work or training may not be required in the case of—

(i) a single parent of a child under 6 months of age, or more than one parent of such a child in a two-parent family,

(ii) a single parent with a child of any age who has received assistance for less than 6 months,

(iii) a single parent with a child under 3 years of age who has received assistance for less than 3 years,

(iv) an individual under 16 years of age or over 64 years of age,

(v) an individual who is incapacitated, temporarily ill, or needed at home to care for an impaired person,

(vi) a woman who is in the third trimester of pregnancy, or

(vii) an individual who has not yet been individually notified in writing of such requirement or of the expiration of his or her exempt status under this subparagraph;

(B) participation in work or training shall in any case be voluntary during the first two years of the Program, and may thereafter be made mandatory only in counties where more than 50 percent of the enrollees can be placed in employment within 3 months after they are job-ready;

(C) in no case shall the work and training aspect of the Program be mandated in any county where the unemployment level is at least twice the State average; and

(D) mandated work shall not include work in any position created by a reduction in the work force, a bona fide labor dispute, the decertification of a bargaining unit, or a new job classification which subverts the intention of the Program;

(4) there shall be no change in existing State law which would eliminate guaranteed benefits or reduce the rights of applicants or enrollees; and

(5) the Program shall include due process guarantees and procedures no less than those which are available to participants in the AFDC program under Federal law and regulation and under State law.

(c) Waivers and Adjustments.—(1) The Secretary shall (with respect to the project under this section) waive compliance with any requirements contained in title IV of the Social Security Act which (if applied) would prevent the State from carrying out the project or effectively achieving its purpose.

(2) The Secretary shall make such adjustments in the determination of allotments and related matters under section 417 of such Act as may be necessary to take appropriate account of the project under this section and the State's resulting nonparticipation in the allotment process under such section 417.

(d) Funding.—(1) The Secretary shall reimburse the State for its expenditures under the Program (from funds available for Federal contributions under section 403(a) of the Social Security Act)—

(A) at a rate equal to the Federal matching rate applicable to the State under section 403(a)(1) of such Act, for cash assistance and child care provided to enrollees;

(B) at a rate equal to the applicable Federal matching rate under section 403(a)(3) of such Act, for administrative expenses; and

(C) at the rate of 75 percent for an evaluation plan approved by the Secretary.

The State shall be required to pay the same portion of all expenditures made for cash assistance and services under the Program as it would be required to pay if such expenditures were made under its State plan approved under section 402(a) of the Social Security Act.

(2) Under no circumstances may the State receive Federal reimbursement for its expenses incurred in carrying out the project under this section (and in simultaneously carrying out the AFDC program during any part of the period of the project) in excess of the Federal reimbursement it would have received under section 403(a) of the Social Security Act over the period of the project if the project were not being conducted; and, as a condition of approval of the project, the State must provide assurances satisfactory to the Secretary that the total amount of such Federal reimbursement over the period of the project will not exceed the anticipated Federal reimbursements (over that period) under the current AFDC program. However, this paragraph shall not prevent the State from claiming reimbursement for additional persons who would qualify for aid under the AFDC program, for costs attributable to increases in the State's payment standard, or for any other federally-matched benefits or services.

(e) Duration of Project.—(1) The project under this section shall begin on the date on which the first individual is enrolled in the Program, and (subject to paragraph (2)) shall end 5 years after that date.

(2) The project may be terminated at any time, on 6 months written notice, by the State or (upon a finding that the State has materially failed to comply with this section) by the Secretary.

(f) Reports and Evaluation.—The State shall design and conduct, in consultation with the Secretary, a rigorous scientific evaluation of the project under this section. In addition, the State shall prepare and submit to the Secretary one or more interim reports on the progress of the project under this section while the project is being conducted, and shall prepare and submit a final report on the project upon its completion.

TITLE VIII—FUNDING MECHANISM

SEC. 801. 3-YEAR EXTENSION OF PROVISIONS RELATING TO COLLECTION OF NON-TAX DEBTS OWED TO FEDERAL AGENCIES.

(a) General Rule.—Subsection (c) of section 2653 of the Deficit Reduction Act of 1984 is amended by striking out "January 1, 1988" and inserting in lieu thereof "January 1, 1991".

(b) Clarification of Congressional Intent As To Scope of Provision.—

(1) Nothing in the amendments made by section 2653 of the Deficit Reduction Act of 1984 shall be construed as exempting debts of corporations or any other category of persons from the application of such amendments.

(2) It is the intent of the Congress that, to the extent practicable, the amendments made by section 2653 of the Deficit Reduction Act of 1984 shall extend to all Federal agencies (as defined in the amendments made by such section).

(3) The Secretary of the Treasury shall issue regulations to carry out the purposes of this subsection.

(c) Study by The General Accounting Office.—The Comptroller General of the United States shall conduct a study of the operation and effectiveness of the amendments made by section 2653 of the Deficit Reduction Act of 1984. The study shall compile and evaluate information on the effect of those amendments on voluntary compliance with the income tax laws. Not later than April 1, 1989, the Comptroller General shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report of the study conducted under this subsection, together with such recommendations as he may deem advisable.

The CHAIRMAN. Under the rule, the gentleman from Illinois [Mr. Michel] will be recognized for 30 minutes and a Member in opposition to the substitute will be recognized for 30 minutes.

The gentleman from Illinois [Mr. Rostenkowski] will be recognized in opposition.

The Chair recognizes the gentleman from Illinois [Mr. Michel].

Mr. MICHEL. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, when we think of reform in connection with welfare we normally think of changing the system in a way that will move welfare recipients off of welfare rolls on to payrolls and in a fashion that will ultimately make people self-reliant and self-sustained.

Under this commonly accepted definition, there is only one proposal before us today that qualifies as reform and that is our Republican initiative.

The committee bill, blessed and brought to the floor by the Speaker, for the second time, is primarily welfare expansion rather than welfare reform with open-ended programs and a price tag in excess of $6 billion over 5 years.

CBO estimates that this $6 billion bill will add 90,000 2-parent families to the welfare rolls by 1992. Assuming an average-sized family of 4, that represents an additional 360,000 people on welfare at a minimum during the next 4 years. Is that what we want? Is that the direction the House wants to take? More importantly, is that the direction the American people want to take? I'm sure their response would be: heavens no.

Our House Republican initiative, on the other hand, moves in the other direction toward true welfare reform. It moves people off the rolls and into productive employment. CBO estimates that our proposal should result in 50,000 families leaving welfare dependency and becoming privately-employed. That adds up to nearly 200,000 individuals moving off welfare. But more than the cost, it will result in self-reliance, individual freedom and opportunity.

That is what reform is supposed to accomplish, if indeed reform is our goal.

The cost of the Speaker's plan actually becomes more costly the longer we go—to the point where we end up with additional welfare expenditures of nearly $2 billion a year. That's not reforming—it's regressing, dragging us back to the discredited, disgraceful welfare philosophy we are seeking to escape.

Our Republican proposal, in contrast, would cost only $1.1 billion over 5 years, and in fact according to OMB estimates, would save money in the out years. That is reform.

It should also be noted that of the total cost of the Democratic plan, less than 40 percent is allocated to employment, training, and day care programs—the programs designed to move people off the welfare rolls. The other 60 percent goes for increased welfare benefits and adding people to the welfare rolls. Is that reform?

Our Republican proposal, on the other hand, would direct all its expenditures into work and training programs, which explains why our proposal would enable 935,000 welfare families to participate in work programs compared to only 210,000 under the Democratic plan.

There are many other areas where our Republican proposal is superior, including the mandatory participation in job search and training programs by all welfare recipients except those with children under 6 through child support enforcement provisions, greater flexibility for the States to experiment with alternative approaches, and continued option for the States in whether or not to extend welfare benefits to two-parent families.

Then there is the matter of the future of this legislation. Our proposal stands the best chance of being enacted into law. The others will be vetoed, in their present form. Now the question is not welfare versus reform. The question is something or nothing. Do you want the legislation, or do you want the political issue to play with?

Even more important, however, is the larger budgetary picture and the impact of welfare legislation on our efforts to reduce the deficit.

The Speaker's proposal clearly violates the spirit of the deficit reduction summit agreement. It flies in the face of all we are trying to do around here. It will add over $2 billion a year in spending at a time when we're supposed to be cutting back on expenditures. It contains some offsetting revenues in the first 2 years, but throws the deficit out of whack in the out years when its costs are the greatest.

Our Republican substitute reflects the new American consensus on welfare, based on training, jobs, and effective use of tax dollars.

We have a choice here today between the documented failure of the past and new hope for the future. I urge you join with us in moving toward the new consensus on welfare.

□ 1700

Mr. Chairman, I would say finally that I guess if it were my druthers, in a measure that is as comprehensive as this whole business of welfare reform, I would say the rule should have been such as to permit Members to offer amendments if they saw fit and to have a variety of options here. The rule foreclosed an effort on the part of Members of the Democratic side to marry with Members on the Republican side in a truly bipartisan approach. I regret that that was not an option for us to vote for today. We are limited under the rule to the amendment that was just adopted, reflecting really a small pittance of reduction from the base bill, and our substitute here, which frankly offers the best alternative to what the committee has reported.

Mr. Chairman, I urge that Members support our substitute.

Mr. Chairman, in view of the obligations that we have to try and get this Congress adjourned before the weekend is out, I ask unanimous consent that the gentleman from Colorado [Mr. BROWN] be given the balance of my time to manage the amendment on this side.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield myself such time as I may consume, and I rise in strong opposition to the Republican substitute.

Mr. Chairman, as many of my colleagues know, I am fairly conservative when it comes to welfare issues. I believe that hard work is the cornerstone of success, that our welfare system should reward work, and that it should give welfare recipients the tools they need—be that training, education or support services—to be independent. I am not alone in this view. Most Americans also want a welfare system that places a premium on work.

I urge my colleagues to vote against the Republican substitute for one simple reason. It fails to deliver on its promise. It sells the American people a bill of goods by claiming to help welfare recipients find work when its real goal is to punish them.

The Republican substitute would punish welfare recipients by requiring them to work at jobs that would make them and their children worse off. After 4 months on the job, most welfare recipients would lose their AFDC benefits completely. Although it claims to create new work, education, and training opportunities for welfare recipients, it does not require the necessary education and training to help them become independent. Instead, it raises hopes with its work rhetoric and then dashes them with insufficient funding and punitive requirements.

The lack of funds will not relieve welfare recipients of the requirement to participate, however. They will walk a bureaucratic treadmill, working off their welfare benefits but never getting a real job. The few that do find a job will be rewarded in a perverse way: they will be required to take that job even if it means that the family has less to live on. And who will foot the bill? The States.

The Republican substitute doesn't just punish those who go to work. It also punishes children whose only crime is that they live with both parents. The Republican substitute fails to eliminate the single most notorious antifamily policy of our welfare system: in half the States poor children can qualify for financial assistance only if one parent deserts them. The sponsors of this substitute would prefer to let the States decide whether to help these children.

That is not what the American people want. They want a welfare system that rewards and is profamily. The Republican substitute fails on both counts. The Republicans are selling you snake oil with this substitute. I urge my colleagues not to buy it.

Mr. Chairman, I reserve the balance of my time.

Mr. BROWN of Colorado. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I think it should be noted for the record that the amount of money available for programs that break down barriers for work is roughly equal to the bill. The Republican substitute is in no way deficient in that. The difference is that the Democratic bill provides 80 percent of its funds for higher benefits, whereas the Republican bill concentrates on barriers. So when we talk about programs that help people find work, there is no deficiency in the Republican bill.

Mr. Chairman, I yield 3 minutes to the gentleman from Minnesota [Mr. FRENZEL].

Mr. FRENZEL. Mr. Chairman, we are now getting to the important votes on welfare reform. We have had two easy ones. Now we have two tough ones ahead.

In the Michel-Brown amendment, which is the Republican substitute, we have a chance for real reform, not simply an increase in welfare benefits such as is represented by the Democratic committee bill.

The Michel amendment bears his name, but it is really an amalgam of Republican ideas, and he puts it forth for our entire caucus. Its main thesis is to put people back to work, to give them a chance, to make the States train a greater number of them, and to make work more attractive than welfare. That is the central theme of the Republican bill.

A secondary theme, however, is to give the States a chance to do their thing without having the Federal Government impose standards on them that they think are unworthy, to give the States a chance to experiment, to make work more attractive, and to improve their training.

Finally, the third leg on which the Republican substitute stands is that we do not intend to further ruin the already weakened fiscal condition of the United States of America. The Democratic committee bill, on the other hand, keeps and actually increases the number of people on welfare. It does so in two ways, the first of which is it makes work difficult; that is, it makes it difficult for people to get off welfare; and second, it increases welfare benefits so that benefits are more attractive than work.

It adds $6 billion to the growing spending burden of this country in 5 years, but the spending curve gets much worse after the first 5 years.

I want to repeat what I said previously about these barriers to work. They are the three barbed-wire strands that are going to fence in welfare claimants and prevent them from getting jobs.

The first is the little Davis-Bacon Act which we discussed in general debate. The second is the limit on CWEP; that is work fare. Our communities will not be able to keep people on work fare beyond 6 months and in some cases 3 months under this bill. Third, they shall not accept a job under this bill if the job delivers them less money than the combination of the entire range of welfare benefits available to them.

So the House has an excellent opportunity today, and the choices are quite clear. We can vote for reality; we can vote for jobs; we can vote for opportunity; and we can vote for fiscal restraint by voting for the Michel amendment for real welfare reform.

On the other hand, Mr. Chairman, if Members feel obliged to vote for the Democratic committee bill, they will be voting for barriers to work; for increased welfare spending; and for fiscal despair. If it passes, and it seems likely, we will be sending the bill forward to a certain veto.

□ 1710

Those who really want welfare reform, who are anxious to see more training and more work and more opportunities, will vote for the Republican bill. It is a bill that can be signed into law and it is real welfare reform.

Mr. DOWNEY of New York. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, before I begin my tirade against the Republican position, I want to first recognize the gentleman from Colorado [Mr. BROWN] with whom I have worked with great friendship and some harmony over the last year on this provision. He is a pleasure to work with. Notwithstanding that we come to some radically different views, I respect and admire him greatly, as I do the other Republican members of the subcommittee.

Mr. Chairman, we have spent 20 years in this Nation studying the entire question of welfare, what works and what does not work. Democrats and Republicans have come, remarkably enough, to a consensus on certain things that work. They recognize the simple make-work programs, mandatory participation rates, do not work. They are wonderful bumper stickers and they are terrific campaign slogans, but they are bad welfare policy.

It is easy to say that we are going to make 50 percent of all the welfare recipients work, but then when you only provide them $500 million, you wind up providing for education, for training, for child care, $422 a year per recipient. That is assuming that the money is fully authorized and appropriated, $422. That is not 2½ months of day care, let alone any money for services.

So by providing, as you do, my Republican friends, no money, you provide no hope.

Your day care provision is a fraud, and that is being charitable, a fraud. You designed a day care system that you say will provide day care, except there is no money. When I had a conversation before with one of my Republican colleagues, he said, "Well, you know, we mandated it, but there was a drafting problem."

Well, one of the problems with drafting problems in legislation is that the legislation, the bill becomes law, and if you do not mandate something in the language, lo and behold, when it is enacted, it does not happen. This may come as a revelation to some, but it is an immutable law. You have got to say if it is mandated in the legislation in order for it to be mandated when it is signed by the President.

Your day care provision is inadequate. It is underfunded and it is a hopeless mirage for many people.

Now, the other thing, have you ever spoken, and I know many of you have, to State or local officials? The one principal argument they will make to you on any subject is, "Please, before you provide us with a requirement, give us the money." I mean, that is a simple point, an obvious one, for State officials to make. We make lots of requirements for the States, but we do not provide them the money.

You have raised this to a cardinal virtue, my Republican colleagues. You say to the States, "Everyone shall participate and the States shall pay for it." Where will they get the money? Where will they find it? They do not have it. What they will do is they will run a program that is inadequate and will provide absolutely no one with the opportunity to be educated, to work, or to be trained.

Last, during the early years of the Reagan administration the Republicans made a great deal about the fact that they were the party of the family; yet amazingly enough, under your bill if a father, a poor father, has the temerity to stay home with his family, the children, the children do not receive benefits. This is very odd to me. This strikes me as inimical to the idea of keeping families together. It says to me that it is all right to talk about the family, but when it comes to doing anything about it, we do not have the money.

Now, let me be very clear. All through this painful period for both of us in the discussions of this, we have not talked about children. We have talked about welfare recipients. I remind you, two-thirds of the people on welfare are children under the age of 16. We provide welfare benefits because we want them not to be hungry. We want them to have housing and we want them to have some small opportunity that their lives can be like the lives of the millions of other children who have parents with some money. That is not much to ask.

Now, recognizing this is a bill for children, we have spent most of our time, you have, talking about all the barriers to work, that if they accept a minimum wage, if they do this, if they do that, they will not want to work. Welfare recipients do not like being on welfare. They do not like the indignity of it. No one would. They want to work.

Our bill provides them the opportunity to work, not barriers to work. Welfare recipients do not sit home like tax attorneys with the rules and the regulations and say, "Aha, I found a provision that will allow me another 2 months on the public dole." That is not what they are about. They are poor people. In most instances they are women attempting to raise children, with very few skills. That is a painful, unpleasant, but unfortunate reality.

Now, I did not think it was possible to find a way to take the current welfare system, which is not working, and make it worse, but you have. That is why we will not pass it. That is why it deserves no one's support, and thankfully that is why it has no one's support. It does not have a governor, it does not have anyone who has studied this issue, it only has people who want to repeat shopworn tired cliches about the welfare system. I hope, my colleagues, that we will send a loud message about the Republican substitute. Just say no. It is a very bad idea.

Mr. BROWN of Colorado. Mr. Chairman, I could not quite tell from the last speaker's remarks if he was in favor of our alternative or not.

Mr. Chairman, the cold facts that the CBO puts out, not from me, but from the CBO, are that $2.4 billion in our bill is made available for those programs, 935,000 recipients, $2,600 per recipient; that does not work out to 400 and some dollars. I do not know where the 400 and some dollars came from but it certainly did not come from the CBO or any sources that we are familiar with.

Mr. Chairman, I yield such time as he may consume to the gentleman from New York [Mr. WORTLEY].

Mr. WORTLEY. Mr. Chairman, I rise in support of the Michel-Brown amendment. It does offer meaningful reform.

Mr. Chairman, we are all in agreement that welfare reform is a necessity. The current system is a disincentive to work. I recently received a letter from a woman, a single parent, who would like to go back to school. She has the intellectual capability and the motivation, but if she borrows the money from the bank, she would lose her welfare benefits. If she loses her welfare benefits she can't provide child care and food for her son. It is a complete disgrace that we continue to encourage dependency.

Today, we have the opportunity to improve the lives of many disadvantaged Americans, but, at the same time, we should be careful. We must avoid creating disincentives to work. For this reason, I support the Michel substitute, because it establishes a definitive program to independence without confusing welfare recipients by adding new benefits while taking away others.

Contrary to the misinformation being distributed about provisions in the substitute, the substitute does not immediately strip the beneficiary of benefits as soon as employment is found, nor does it leave young children at home alone. These are provisions that we sought to improve upon from the current welfare program.

Last, but not least, is the financial aspect of this legislation. On its cover, H.R. 1720 looks attractive because it offers many benefits to families trying to become independent. However, reality tells us that given the current fiscal status of our country, we cannot continually promise programs that we know that we cannot fund. This is an unfair and cruel hoax. I encourage my colleagues to face up to the current budgetary problems and make a responsible financial decision. Don't promise what you can't deliver. I urge support of the alternative Michel-Brown substitute.

Mr. BROWN of Colorado. Mr. Chairman, I yield 3 minutes to the gentleman from Washington [Mr. CHANDLER]

Mr. CHANDLER. Mr. Chairman, I, too, want to join with my colleague, the gentleman from New York, in complimenting the gentleman from Colorado [Mr. BROWN] for his hard work and dedication on this bill. I frankly think for both of them this is a thankless, tireless task. There is not much political reward in it and they have both done a good job. I just happen to side with the gentleman from Colorado on my conclusion.

Mr. Chairman, in developing this bill in committee and considering it here on the floor of the House, we have been presented with conclusive incontrovertible evidence that benefits for those in need of public assistance have declined dramatically in recent years.

And we have been presented with equally compelling evidence that, even allowing for inflation, the value of most benefit packages has actually increased.

And we've examined indisputable evidence that most families receiving public assistance do so for a relatively brief period of time.

But, then again, we know that most families who are on welfare at any given moment will remain on welfare for a number of years.

Simply put, Mr. Chairman, there are studies and surveys and numbers and statistics to confirm every prejudice or underscore just about anything anyone wants to believe about welfare.

But it seems to me that there are three fundamental principles on which all of us can agree:

The first is this: Over the years, the Federal Government has devoted substantial resources to trying to help people find a way out of poverty. And there's still a lot we don't know about the problem. Perhaps that's because we haven't done enough. Even so, I think it's time to admit that the Federal Government doesn't have all the answers.

Second, a welfare reform package can increase benefits or it can address dependency, but it can't do both. When you subsidize something, you get more of it. If the objective is to raise benefits, that's a legitimate goal. Do so, and say so. But don't try to have it both ways. Don't raise benefits and pretend that the result will be diminished dependency.

And, finally, Mr. Chairman, any welfare package worthy of the designation "reform" should target our limited resources to those who remain on public assistance year in and year out. That's the tragedy we have to address.

DEMONSTRATION AUTHORITY

The choice between H.R. 1720 and the Michel substitute is a choice between perpetuating the status quo and encouraging innovation.

As a Representative from the State of Washington, I'm pleased that both the bill before us and the Michel substitute include waivers and demonstration authority for Washington State's Family Independence Plan.

The Governor and his Secretary of Social and Health Services believe they have found a way to put more welfare recipients to work, and there is gratifying support here in the House for letting them give it a try. I'd like to thank the gentleman from Tennessee [Mr. FORD] and the gentleman from New York [Mr. DOWNEY] for their critical support of this effort.

Clearly, the Federal Government doesn't have all the answers. And no one takes more pride than I do in the State of Washington. But in noting that Washington, DC isn't the seat of all wisdom, I would have to admit that Washington State doesn't have the corner on innovation either.

That's why I'm supporting the Michel substitute, because it would unleash the energy and imagination of State governments throughout the Nation. My efforts to help secure waivers for the Family Independence Plan have given me a profound appreciation of the obstacles to innovation that exist in current law.

The Michel substitute, while providing safeguards for beneficiaries, would encourage States to find a better way to do the job.

BREAKING THE CYCLE OF DEPENDENCY

The choice between H.R. 1720 and the Michel substitute is a choice between increasing benefits and ending dependency.

If we believe that those who are receiving public assistance are incapable of leading productive lives, by all means, let's increase benefits and make their lives more comfortable.

But if we believe, as I do, that most of the people who remain on public assistance year after year have been trapped by a system that no longer makes sense, then our policy should be directed at breaking the cycle of dependency, not at making it financially unattractive for people to go to work.

There aren't too many people in our society, whether they are working or receiving relief, who jump at the chance to diminish their income. Let's not ask welfare recipients to make that choice.

TARGETING LIMITED RESOURCES

The choice between H.R. 1720 and the Michel substitute is a choice between a shotgun and a rifleshot approach to welfare reform.

Mr. Chairman, it is no secret that even as we debate this measure, some of the most talented men and women in this city are engaged in hand-to-hand combat over how to trim the Federal budget deficit.

Against the backdrop of the chaos that has resulted from our inability to deal with the deficit crisis, it is imperative that we carefully target our limited resources.

The Michel substitute identifies those who are most likely to remain on welfare for long periods of time and directs our resources toward helping them find a way out. We now know that mothers with children under the age of 3, high school dropouts, and those who are under the age of 22 are most likely to remain trapped. These are the people our current programs have failed.

The Michel substitute provides more money to States that place these clients in jobs. In a time of such scarce resources, isn't this really the only approach that makes sense?

Some time ago, a man fell off a ferry crossing Puget Sound, and, fortunately, a couple of bystanders decided to take action.

One of them was a conservative. The reason I know he was a conservative is that the victim was thrashing about in the water about 50 feet from the boat. Our Good Samaritan threw him a life preserver on a 25-foot rope, reasoning that swimming half way would be good for his character.

The other man was a liberal, and was offended by the conservative's insensitivity. He threw the man a life preserver on a 75-foot rope, but dropped the end of the rope and went off to search for another victim.

Mr. Chairman, the Michel substitute offers a life preserver and just the right length of rope. It is a balanced, compassionate, sensible approach to welfare.

Let's not turn our backs on those in need, and let's not keep them trapped in a system that doesn't work.

Mr. DOWNEY. Mr. Chairman, I yield 4 minutes to the distinguished gentleman from Ohio [Mr. PEASE], a member of the subcommittee.

Mr. PEASE. Mr. Chairman, the Republican substitute is nothing more but welfare reform on the cheap. It fails utterly to meet even the most minimal standards of common sense and fairness that any program of welfare reform needs to have.

The Republican substitute fails to adequately address the transition problems the welfare recipients have, and is thus doomed to failure. We heard time and time again in hearings before our committee that you simply cannot have welfare reform unless you have child care and unless you have medical benefits continuation, and unless you have compensation for transportation. It will not work without those provisions.

People who are unused to regular employment have very real problems joining or rejoining the work force. If we cannot face up to such real world considerations as health coverage and child care, we cannot hope to see any long-term improvement in the wellbeing of welfare recipients.

The Republican substitute does not face up to those realities.

Furthermore, and I am rather surprised by this in a way, the Republican substitute takes the fiscal approach so often used by the Reagan administration. When it comes to education and training, the substitute mandates enrollment, while leaving the funding up to the States. It is the old game of shifting the cost from the Federal Government to States and localities. The program will not cost any less just because the Federal Government is not contributing to the pot. It will cost the same, only the States will pay the price, not the Federal Government.

That is why it is that the National Governors Association supports the Democratic version, not the Republican version.

Republicans have railed for years against welfare queens who have child after child without bothering with a husband, just to qualify for what Republicans like to characterize as generous welfare benefits. Well, we deal with that in our bill. The unemployed parent program, now in existence in Ohio and 25 other States, is a way to keep families together. I thought the Republicans were profamily, believed in the family, and yet in their version they propose to cut out this part of our bill which would provide a way to keep families together.

Now, I would like to particularly mention the provision suggested or mentioned by the gentlewoman from New Jersey [Mrs. ROUKEMA] earlier on. She said that 25 percent of all college students worked part time while they are going to school, and we ought to similarly require welfare mothers who are going to school full time to do the same. I do not think there are 25 percent of college students generally who happen to have young children at home to take care of when they get back to their homes. It seems to me that is an invalid comparison, to put it charitably.

The Republicans ought to call their program "SOS," because what it boils down to is "sink or swim" for welfare mothers, and because it fails to address the real problems that welfare recipients face in trying to move to self-sufficiency, it expects them to swim with their hands tied behind their backs. This is not welfare reform we are hearing from the other side of the aisle. It is a cruel joke on those in our society who need help the most.

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Mr. BROWN of Colorado. Mr. Chairman, only in the Congress of the United States would one propose a new spending program of over $1 billion and be referred to as cheap.

Perhaps it says more about us than it does about the program.

Mr. Chairman, I yield 4 minutes to the gentleman from Connecticut [Mr. ROWLAND].

Mr. ROWLAND of Connecticut. Mr. Chairman, first let me say that this particular alternative was not put together overnight or over the weekend. It was brought together after months and months of debate among ourselves. We had to make a number of changes and moderates, conservatives, and liberals on our side of the aisle worked diligently to come to agreement.

I would like to make reference to a few remarks that have already been made. One, the gentleman from New York [Mr. DOWNEY], made reference to the child-care provisions both in the previous debate and earlier on today. He made reference to the fact that perhaps these benefits should be mandated to ensure that the States will comply.

Indeed they are mandated in the Democrat proposal.

I would argue that maybe he is right, that if we want to see real action in welfare reform perhaps there should be mandated efforts, perhaps there should be mandated participation. In other words, if my colleagues want to see real action and real results by the States, perhaps we should be mandating that individual welfare recipients participate in all the great programs that we have been talking about for the last 2 days, training programs, workfare programs, employment programs, education programs, and perhaps we should put some teeth into these plans.

Unfortunately, the Democrat proposal does not do that. There is no mandated participation. There is no goal for the States. There is no requirement for the States. There is no effort to make sure that there is mandatory efforts for the next 5 years, 9 years, or whatever, it just does not make any difference, no goal to accomplish the things that we have been talking about for the past 2 days.

Under the Republican proposal we put together some very, very moderate participation schedules and according to CBO, which we have been talking about here, over 900,000 welfare recipients would participate in these programs. Why? Because of the goals we set. We are saying to the States in the first year we want them to get at least 15 percent of the workload to participate in education, to participate in work training programs, to at least become involved, to cross the bridge to get out of the welfare system. That is a stark difference. I do not think the mandatory participation, the schedule we put together, is tough. As a matter of fact the Reagan administration had a much tougher proposal that I introduced about a year ago.

We hope in the first 9 years that we can go from 15 to 20 percent, and after 9 years we can get a near 70 percent of the people on welfare to be involved in work training programs or education programs. Mr. Chairman, I would ask does it make any sense under a voluntary program that someone on welfare is automatically going to be involved in the education programs, to be involved in the work training programs, especially if we consider the fact that with the Democrat plan it gives more money to stay home. It defies logic.

Mr. Chairman, I understand the politics of this issue. We have been dealing with that for a number of months now. We see the arm twisting, and we realize that there was a tremendous amount of debate on these issues.

This is the fourth time the Democrat plan has come to the floor. It does not have a tremendous amount of support from either side of the aisle. It does not have a tremendous amount of support from the Democrat side of the aisle as we have seen over the past few days. I want to say that we all understand the politics of this issue. That situation is a shame. We are talking about a $6 billion welfare plan that is not going to help anyone. It is not going to get anybody into the work process, but if my colleagues must vote for the Downey plan, for the Democrat proposal, then go ahead but please do the American taxpayers a favor, do not call it welfare reform.

Mr. DOWNEY of New York. Mr. Chairman, I yield such time as he may consume to the gentleman from Texas [Mr. Andrews].

Mr. ANDREWS. Mr. Chairman, I rise in opposition to the Republican substitute.

Mr. Chairman, as a southerner and a member from an economically depressed State, I must oppose the Republican substitute.

Let there be no mistake about it, the Republican substitute will devastate the South's efforts to assist its unemployed and its uneducated.

Today, 2 of 10 southerners live in poverty. By the year 2000, 8 of 10 people added to the Nation's welfare rolls will live in the South.

This burden will be tremendous for Southern States' governments; for local civic leaders, for educators, for local police officers.

We must not compound their burden with the Republican substitute. States need reform, not more mandates without funding from the Federal Government. The Republican substitute imposes restrictions that States cannot achieve.

Not one Governor in the South supports the Republican substitute, not one. Surely, this is proof enough of the impact on the South.

In fact, 49 of our Nation's 50 Governors oppose this substitute.

It is true that the Republican substitute gives the States flexibility in designing and implementing work incentive programs. However, at the same time it mandates unrealistic participation quotas.

The quota mandated requires a participation rate of at least 70 percent in the work incentive program by 1996. States that fail to meet this level of participation will be hit with a 3-percent reduction in reimbursements.

Where does this 70-percent participation figure come from? I have seen nothing to suggest that this goal is obtainable.

CBO estimates this provision alone will increase State costs by $435 million.

This participation quota will force States to spend their already limited dollars so thinly as to be counterproductive.

This means too few dollars being spent on targeting more intensive education, work, and training treatments for those who remain on the welfare rolls for more than 8 years.

In fiscal year 1988 the Republican substitute provides a total of $500 million for work training programs. In 1996, when this bill requires full participation, the cost of the program in Texas will be $409 million.

I know my home State could not afford to write the check for this legislation.

We should all remember the words of Abraham Lincoln as we reflect upon our positions on the Republican substitute:

> The true rule in determining to embrace anything is not whether it has any evil in it; but whether it has more evil than good. There are few things wholly evil or wholly good. Almost everything, especially of governmental policy, is an inseparable compound of the two.

Let me assure you that the Republican substitute has more evil than good. The facts can not be refuted or more importantly ignored.

In an effort to enact less expensive welfare reform the Republican substitute becomes a burden;

A burden on States where welfare rolls are predicted to swell by 30 percent by the year 2000; and

A burden on States that can least afford it.

I urge you to vote against the Republican substitute.

Mr. DOWNEY of New York. Mr. Chairman, I yield myself 30 seconds.

Mr. Chairman, I want to respond to the gentleman from Connecticut who just spoke about mandatory participation. He is no doubt familiar with the bill that allows the States, indeed the State of Connecticut and the State of New York require some of their counties have mandatory participation. The States have told us, States like Texas, for example, they do not. Many States do not because they cannot afford it. Second, in some instances the States have found it to be counterproductive.

With respect to mandatory participation, when our bill passes, the gentleman from Connecticut [Mr. Rowland], can go to his very fine and capable State welfare administrator and ask for mandatory participation.

Mr. Chairman, I yield 2½ minutes to the gentlewoman from Connecticut [Mrs. Kennelly].

Mrs. KENNELLY. Mr. Chairman, if wishes were horses, beggars would ride, and if wishes were H.R. 3200, welfare children all would have placements in day care.

I really look at the Republican bill and find the funding for transitional child care in the Republican substitute is limited. As a result, the fact is that many States will not be able to provide this day care and here are also States that will not provide this day care. I also think that we have to remember that the Republican substitute mandates that women with children 6 months and older must go to work. This is an unbelievable requirement considering there is no child care guaranteed for these women once they have worked for 4 months and become ineligible for welfare.

Faced with a large child care bill, many of the same women will simply have to return to welfare.

Mr. Chairman, one of the things we did in the Democratic bill, we tried to provide for so much and that we would not have just hope there, that we could come to grips with those problems, that we would not make promises that we could not keep.

The gentleman from California [Mr. Matsui] and I introduced a bill that we worked very hard on with the American Public Welfare Association. We should have liked to have provided 1 year of day care for everybody going from a welfare situation to work program. We were told it would cost millions of dollars and we could not do that.

We would have loved to have said to everybody who goes from welfare to work that their children could have unlimited day care. We could not do that.

Yes, we only go to 3 years of age, but do my colleagues know what the facts are in this country? This is not an affordable safe day care center for people like Donald Trump's children, it is just not fair. I am very glad our bill only went as far as it went. Day care is a serious subject. We have to be sure that we are giving Federal dollars of taxpayers' money for day care, that we have safeguards for that day care.

Did we learn nothing from the convalescent situation when hundreds of thousands of Medicare dollars went bad and we saw what happened until we had regulations.

Our bill does not give promises that it cannot keep. It gives a beginning. We have worked very hard on the bill. We would have liked to have done more. We have done the best we could do but we have certainly not held out wild hopes.

Mr. BROWN of Colorado. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, let me note for the Record that the statement made by the gentlewoman from Connecticut [Mrs. Kennelly], for whom I have the deepest admiration, quoted that our bill forces women to go to work whose children are over 6 months of age.

That is simply not a whole description of the matter. Let me be clear on this. The Republican substitute requires either work or training or education, only on the condition that child care is available.

So to say it requires work would not be completely fair, and I thought that the Members of the Chamber would appreciate that explanation.

Mr. KENNELLY. Mr. Chairman, will the gentleman yield?

Mr. BROWN of Colorado. Mr. Chairman, I yield to the gentlewoman from Connecticut.

Mrs. KENNELLY. Mr. Chairman, I would just like to point out that it provides $400 a year for all these things and whether one is in an education program or working, it does not make any difference, one cannot put a child in a drawer.

Mr. BROWN of Colorado. Reclaiming my time, I know the gentlewoman is sincere in making her statement, but I am quoting the source of our figures, the figure that the gentlewoman from Connecticut quoted. I do not know whether the gentlewoman from Connecticut gets that number. It clearly does not coincide with any of the numbers that are in our bill or have been made available to us. Inasmuch as we have documented our figure, I would very much appreciate her doing me the favor of letting us know where the source of that information is because as far as we can tell, it is completely inaccurate.

Mr. DOWNEY of New York. Mr. Chairman, would the gentleman yield?

Mr. BROWN of Colorado. Mr. Chairman, I yield to the gentleman from New York.

Mr. DOWNEY of New York. Mr. Chairman, I would be happy to give the gentleman the source of the figure. We divided the amount of money that the Republican substitute makes available by the required number of participants.

Mr. BROWN of Colorado. We have indicated from the Congressional Budget Office an amount of money provided for the recipients, and it amounts to $2,600 according to the CBO. The last time I heard, that was more than $400.

Mr. Chairman, I yield 6 minutes to the gentlewoman from Connecticut [Mrs. JOHNSON].

Mrs. JOHNSON of Connecticut. Mr. Chairman, I rise in support of H.R. 3200, which as the chief cosponsor of the Carper-Johnson substitute, I know needs some improving, but which is based more squarely on America's fundamental values as well as her sympathies.

When you strip away all the details of the differences between the Republican and Democratic welfare reform bills on the range of education and training programs that must be provided, and the details of the transitional benefits, there remains a glaring difference that can be summed up in one word: Volunteerism.

The people I represent in Connecticut believe that if you have a child you are obliged to support that child.

Ask any woman or man, working in a small machine shop, grocery store, or dry cleaners and you will find that not one of those people believes parents should volunteer to support their children. Not one of those people believes that parents should be required to support their children part time.

They believe parents are obliged to support their children.

That's why, even though by passage of the Andrews amendment we addressed two of the fatal flaws of H.R. 1720, the bill is unacceptable. It is unacceptable because it is not squarely founded on American values that place on parents an obligation to support their children.

Twenty-five percent—one-fourth—of the women in the workforce today have children under 3 years old. These women are working because they believe it is both their responsibility and their moral obligation to support their children.

Yet this bill says clearly that it is not a parent's obligation to support their child until the child is 6 years old. Until that moment, parents may volunteer to support their child, and while they may be required once the child is 3 years old to work half-time, they are not obligated to work full-time to support their child until that child is 6 years old.

That is absurd in today's world. While originally, welfare was a program whose mission it was to support widows and orphans, it is now a support program in a time when most women with children work. Therefore, it is absurd and unfair to prevent States from requiring participation in education, working or training programs until a recipient's youngest child is 3 years old (half-time) or 6 years old (full-time). Further, facts prove the folly of this constraint on our welfare system. Fully two-thirds of long-term welfare recipients began taking welfare when they had a child under 3 years of age.

Hence, one cannot prevent long-term dependence unless you get women involved in programs to focus their growth on independence before their youngest child is three. Millions of Americans resent the double standard that the majority party in the House is forcing on us here today. Good, solid working Americans who are Democrats resent this. And women on welfare resent the second class citizen label plastered on them as a result of the resentment of working people, not that people need help, but that they are not required to put out their best effort.

The honest issues in welfare reform are the availability of education and work-training programs, and the availability of child care subsidies during those early years of employment when a recipient's salary can't possibly pay for rent and child care?

These are the real issues that drove the consensus on the need for welfare reform, and certainly among the major reasons a large number of Democrats and Republicans fought hard for the right to offer amendments to this bill. It is why, with a 2 to 1 majority in the House, the Democratic leadership lost the fight to keep welfare reform in reconciliation and was unable to bring welfare reform to the floor under their first, very restrictive rule. It is why they feel it is necessary to buy us off with the Andrews amendment.

But without early participation in education and training programs we cannot hope to prevent long-term dependence. The statistics prove this. Common sense confirms it. This House deserves the right to vote on the critical issue of voluntary versus mandatory participation in national education, training and work programs for those who are able.

But having been denied the right to vote on this narrow issue, as I sought before the Rules Committee, I urge this chamber now to support H.R. 3200 and send a clear signal to the other body that the approach taken in Senator Moynihan's bill, which affirms parental responsibility, is fundamentally right and reflects America's values.

This is not just one issue. It is one of the profoundly significant issues that occasionally rises to challenge us. It deserves your attention and directs a yes vote for H.R. 3200.

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Mr. DOWNEY of New York. Mr. Chairman, I yield 2 minutes and 30 seconds to the gentleman from Michigan [Mr. LEVIN].

Mr. LEVIN of Michigan. Mr. Chairman, they say if you say something that is untrue enough you can turn it into the truth. You cannot do it on the House floor, at least while we in the majority are here.

It is argued there are no mandates. There are. Read the bill. The Secretary can mandate for people on welfare where there are children 1 to 3. Read the bill. This is a bill with tough mandates.

Second, it is said only 20 percent of the money goes for training and work. Untrue. The gentleman from Illinois [Mr. MICHEL] said 40 percent just an hour ago. A majority of the money here goes for training, for work, for education, period.

We have worked through these figures and do not throw untrue figures around.

Barriers to work? A little Davis-Bacon? There is no Davis, there is no Bacon in this. There simply is not, and do not keep on saying it.

Our bill talks about requirements as to pay in the same kind of employment in the same shop.

It ties the hands of the States. That is another argument, it ties the hands of the States. The minority bill has participation rights. Nothing ties the hands of the States more than that, and it shifts costs to the States. Talks about Pearl Harbor attacks, the substitute says to the States you must meet participation rates, and you are going to have to pick up the costs.

The Governors, why are the Governors for the essence of our bill? If you are talking about States, they are saying within their experience the approach within our bill makes sense.

I have heard a lot of Republicans talk about the AFDC for unemployed parents. Let me just read from a publication from the Heritage Foundation. Here is what it says. It calls for extending AFDC to two-parent families in all States, observing that "since family stability should be a major policy goal, it would be a wise exercise in prevention for all States to provide this assistance to help intact families in hard times rather than restricting their assistance only to families that have already collapsed."

Our bill combines opportunity and obligation. Let us give it a ringing sendoff to the U.S. Senate and then to the White House.

Mr. BROWN of Colorado. Mr. Chairman, I yield 1 minute to the gentleman from Wisconsin [Mr. ROTH].

Mr. ROTH. Mr. Chairman, I am going to oppose this bill, a bill that has the finest of intentions but will result in the worst of outcomes, which can be said for the entire philosophy of the liberal welfare State, which is really what we are debating here today, the difference between the opportunity society and a society of the liberal welfare State.

One reason I, and others in this body, oppose this legislation is its $5.5 billion price tag. That's a strong reason for opposition, especially when this Congress is wrestling to reduce historic budget deficits.

But that's not the most compelling argument against this bill. The most compelling argument has to do with the type of society we hope to achieve in America. It has to do with the quality of life in this Nation. It has to do with the difference between self-reliance and dependency, with opportunity and hopelessness.

Mr. Chairman, there isn't a single Member of this body that doesn't believe in welfare reform. A vote against this bill is a vote for true welfare reform—a vote for the less fortunate in society.

This bill, because it simply does not reform the Welfare System, it will not bring a significantly brighter future to one single family in America currently dependent upon this Federal assistance.

Instead, if we adopt this legislation, we will be extending the cycle of poverty. We will make it more difficult for millions of people to make the transition from a welfare check to a paycheck. The bottom line, Mr. Chairman, is that we are moving tragically in the wrong direction.

The difference between a welfare check and a paycheck is a critical one in this debate. The person drawing a welfare check can never advance. There is no career ladder in the Welfare System. There is no promotion capability. There is no chance to achieve, to grow, to better oneself. It is human stagnation at its very worst.

We have to move people from that stagnant environment into one that encourages and rewards initiative and productivity. If we do that, we also create more role models for children to emulate. We have to put a premium on the individual's ability to create a better life for himself or herself.

Yet, this bill makes it more attractive to stay within the Welfare System. It will make it more difficult for the welfare recipient to find a job that will bring a better income than that already received from the Federal Government.

What kind of society are we creating by doing that? What kind of example are we setting for children in welfare homes?

If we don't make it both possible and attractive for a teenage welfare mother to work for a living, then we are condemning her to a life of dependency. And her children will, in all likelihood, follow the same course. That is not compassion in any sense of the word.

Let's break the cycle of poverty, Mr. Chairman. Let's emphasize more opportunity over dependency. Let's reject H.R. 1720 and then move ahead with true welfare reform.

Mr. DOWNEY of New York. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Tennessee [Mr. FORD].

Mr. FORD of Tennessee. Mr. Chairman, time has come now to replace the Nation's Welfare System with an overhaul and a reform program that will respond to the human needs of the 12 million people who are a part of the welfare population.

When we think in terms of the current Welfare System, we know it is not well and there is nothing fair about it. As we look at H.R. 3200, the Michel-Brown substitute, we would know that we would not strengthen the current program, we would weaken that program.

I would hope that my colleagues today would vote it down and vote for the final passage of this bill.

When we think in terms of the NETWork Program, we know that we are replacing the current system with a program that we feel strongly will respond to those who are dependent and make them self-sufficient of the welfare state.

Or if we look at the 24 States that say right away that the father who is unemployed cannot be a part of the family, if we are talking about family stability, then we would support H.R. 1720.

Or if we think in terms of the child care that is needed for those parents who have dropped out of school, who need to go back to school or receive some type of skill or training, that we provide the necessary Medicaid protection as well as day care protection for those parents.

I think it is time, Mr. Chairman, we all take a closer look at what is in H.R. 3200, and the time that has been spent on this bill, H.R. 1720, the Family Welfare Reform Act. We have spent some 5 years studying the trends from the public and private sector, and we have studied those trends and we have heard from more than 200 witnesses. I would hope that we would take the information that we have prepared here in H.R. 1720 and act on it today and say to the welfare population that we are instituting a new program.

Mr. DOWNEY of New York. Mr. Chairman, I yield 1 minute to the gentleman from North Dakota [Mr. DORGAN].

Mr. DORGAN of North Dakota. Mr. Chairman, the minority substitute is an empty vessel, and I hope we will turn it down.

I must admit that my friends on the minority side did lead the cry for welfare reform. In fact, they began the march toward welfare reform, but when we reached the finish line they were not there. Why? I suspect it is because this requires real investments in order to get real results, and they were not prepared to do that.

But let me talk about investment just a minute. There are three States that have some experience in this area, and maybe we can learn from that experience. Arkansas and New Jersey have similar programs. In their first and third year of those programs they are at break-even. Massachusetts has a program that is very similar to what we are doing here. They spend $80 million a year, and do you know what they save, $100 million a year.

To my friends on the minority side I say if you make the right investments, the Federal Government will save a great deal of money. We not only are going to help people who need help to get off the welfare rolls and unemployment rolls, but the right investment will help this Federal Government save an enormous amount of money with this kind of welfare reform bill.

No, the substitute is an empty vessel. Let us vote that down. Let us vote for welfare reform that has been carefully constructed by the committee and that I am proud to support here today.

Mr. DOWNEY of New York, Mr. Chairman, I yield 2 minutes to the gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. Mr. Chairman, I oppose the substitute and I will support the bill.

What bothers me is this bill looks like a filler today, to be quite honest, and I have to agree with the gentleman from New York, MAJOR OWENS, who earlier today said this looks good, but where are the jobs. I do not think anybody yet is really listening or understands the problems for districts such as mine.

Ladies and gentleman, we have no job opportunities. There are no jobs for welfare people to go to. How many more welders are we going to train, how many more automobile mechanics and automobile body repairmen are going out trying to find jobs? We do not need more training, we need some jobs, and that is as simple and as blunt as I can make it.

I am going to support this bill. It is better than anything else. But 20 percent of the residents in my county, Mahoning County, live at or below the poverty level.

That is an indictment. The Committee on Ways and Means in the House should be attacking the trade problems of this country.

I will oppose this substitute. It is a watered-down emasculation of a bill that is halfway decent.

I ask the gentleman from New York [Mr. DOWNEY] and the gentleman from Illinois [Mr. ROSTENKOWSKI] and the Ways and Means Committee to get off their free-trade ride before there are more people on welfare in America, before we keep giving the country away.

So I support the bill. I guess it is better than anything else, but we do not need any more training, really we do not. We need some jobs and we had better work out a way to find those jobs.

Mr. DOWNEY of New York. Mr. Chairman, I yield 1 minute to the gentleman from Missouri [Mr. VOLKMER].

Mr. VOLKMER. Mr. Chairman, I had not planned to speak on this legislation, but after hearing some of the speakers from the opposing side that are supporting the Republican substitute, I just felt compelled to come over here, because it is very obvious to me that even though, as the previous speaker says, I am not wholeheartedly in support of the Democratic bill, I do support it overwhelmingly over the Republican substitute, because the Republican substitute, when you look at it, really would not provide the welfare reform that we need. It simply will not permit unemployed mothers who have children, who are on welfare to get training, to get the education, to get the jobs, because it does not provide the child support, it does not provide the medical care. They cannot do it on minimum wage, so you are really doing nothing.

Then also the Republican substitute is not profamily because it is just the opposite. As one who was in the State legislature back in Missouri, when we provided those welfare benefits for unemployed parents in the household, we fought that fight. The Republicans do not see the light, do not see that we need to provide welfare benefits for unemployed parents as well as single parents.

Mr. DOWNEY of New York. Mr. Chairman, I yield my remaining 3½ minutes to the gentleman from California [Mr. COELHO], the distinguished majority whip.

Mr. COELHO. Mr. Chairman, we are concluding debate on the most significant reform of our Nation's system of caring for the disadvantaged in two decades. For that, we should stop and pay tribute to the Ways and Means Committee—to Chairman ROSTENKOWSKI, to Mr. FORD, Mr. DOWNEY of New York; to the Energy and Commerce; Education and Labor; and Agriculture Committees; their distinguished chair people and others. They've written a compassionate and caring bill.

It has always been said of welfare: we need a comprehensive reform of the system, but now is not the right time to do it. And we're hearing that today: the ship of state is in distress so women and children should be kicked out of the lifeboats. Well, I think that's wrong.

The system today is sick and there is no time like the present to fix it. Under today's system, one in five children overall live in poverty, and its worse if you are young and black or young and Hispanic.

In most States, benefits are higher if the father is dead or disabled. Benefits are cut off if the father is at home. If we don't seize the moment now; if we don't reform the welfare system, we are condemning an entire generation of children to poverty, dependency, and despair. And that's not right.

The House bill seeks to solve some of these problems. It creates new, education and training programs to encourage work by recipients. It extends benefits to two-parent families, a long-overdue reform. This legislation is prowork. This bill is structured to move welfare recipients off the dole into paying jobs. And that is what the American people—who are themselves caring and compassionate—want for the disadvantaged people of this country.

H.R. 1720 does not solve all of the problems of the current welfare system. It does make an investment in America's poor families. Although that investment will cost money now, it can be expected to save money in the long run as it creates a future of hope and economic independence for many of America's poor children.

Some have suggested, as they always do, that now is not the right time to reform the welfare system. We should've done it while the Sun was shining, while America's economy was riding high. Well, we didn't. And if we are headed for turbulent economic times, why should poor people wait further until they are given the work opportunities they need? Why should they wait; for how long; until when—who, if not the Members of this Congress will extend their hands?

There was time when the gentleman from California was headed toward the seminary and a life in my church. I have taken a different path in the service of the public, but I still read the Scriptures and believe their message.

When I read in the Bible—"That you do unto the least of these, my Brethren, you have done unto me"—I believe those words. I take them to heart. I believe a proud and generous country wants them to be the watchword in public policy for the way we treat our disadvantaged.

Let us pass legislation that gives poor people a chance—an opportunity to work, to reclaim their dignity, their hope, and their dreams. It is in the spirit of the season; it is consistent with the values that make this country great.

I urge adoption of the bill.

☐ 1755

Mr. BROWN of Colorado. Mr. Chairman, I yield myself the balance of my time.

The CHAIRMAN. The gentleman from Colorado [Mr. BROWN] is recognized for 2½ minutes.

Mr. BROWN of Colorado. Mr. Chairman, we are essentially comparing two alternatives. This is a sincere debate. I think both sides sincerely want to help those on welfare. Let us compare what the two alternatives do and what they cost.

First of all, how many people are brought off welfare because of these bills? The Congressional Budget Office—not my source, the Congressional Budget Office—has done a comparison. The Democratic bill, when all is said and done, will take 15,000 people off welfare because of work. The Republican bill will take 50,000 off welfare. In other words, the substitute takes more than three times as many off welfare. That is results, and it is three times better.

How many will participate in work programs? Surely that is a good way to measure the two alternatives. The Democratic bill is estimated by the CBO to take 210,000 off welfare. It will make 210,00 families participate in work programs. The Republican bill has 935,000 participating in work programs, more than four times as much. That is an enormous difference.

What is the cost to the States? That is discussed, and the Congressional Budget Office has addressed that.

The Congressional Budget Office indicates these figures: the Democratic bill overall costs the States $916 million more, not less. The Republican bill saves the States $479 million, not less, not more. In other words, the Republican bill is the one that saves the States money, and the Democratic bill is the one that imposes additional costs on the States.

What is the cost of these two bills? The Republican bill costs a fourth as much, in other words, giving significantly better results as a fourth of the cost.

Mr. Chairman, there is no question about which alternative is the better. Unless our only standard is spending money, the Republican bill gives the best results for the least cost. But the most important factor, I believe, is this: We ought to be concerned about helping the people on welfare. The best way to help them is to give them opportunity. The best way to help them is to help them overcome the barriers to work. This is the best way to help them realize their own potential. If we care about those people, we are going to look for a bill that gives them an opportunity, not a dole. This gives them a chance, not the security of the welfare state. It lets them be fruitful and productive.

That is what this debate is all about. Do we make them prisoners of a welfare system that does not work, or do we give them the ability to realize their own opportunities and abilities in the future?

Mr. Chairman, let us give those on welfare a chance. Let us show them that we care. Let us make them independent and productive and creative. Let us vote for the substitute.

Mr. DREIER of California. Mr. Chairman, although it is almost impossible to sort out exactly how much the Government spends on welfare, few dispute it has skyrocketed since the war on poverty began. In fact, some say Federal spending on welfare has increased more than tenfold from the $7.7 billion in 1964. And yet, widespread poverty persists. Thirty-three million Americans—the same number as 1965—are still poor. If Congress is unanimous on one thing, it is that the present welfare system has failed. Unfortunately, that is about the only point on which Congress agrees when it comes to welfare reform.

At the same time as we wrangle over cutting almost $32 billion from the Federal deficit, H.R. 1720 proposes spending an additional $5.2 billion for welfare. Let me make it clear that I have no objections to spending money if it will have an equivalent positive impact on reducing poverty and helping the needy become self-sufficient. But, 70 percent of the total cost of H.R. 1720, will go toward increasing welfare benefits, according to the Congressional Budget Office.

As for work and training provisions in H.R. 1720, they promise the same discouraging results as the current program. Polls have shown that as many as 94 percent of all people believe some form of workfare should be required for welfare recipients. The current welfare program does not mandate participation in education, employment or training programs. Consequently, the participation level is a low 4 percent. H.R. 1720 continues this pattern, as it too has no requirement for participation, while handing out more money.

On the other hand, the Republican alternative concentrates on putting individuals to work, because welfare recipients need assistance, not just higher welfare benefits, to become self sufficient. Rather than specifically telling States how to fight welfare dependency, the Republican alternative outlines a policy and lets States fill in the details to meet the unique needs of their caseload. The Republican alternative addresses the current, unacceptably low participation rate by requiring beneficiaries to participate or else lose benefits. Consequently, CBO estimates that three times as many AFDC recipients will be involved in employment and training programs under the Republican plan versus H.R. 1720. And, the Republican alternative does all this at less than one-fourth of the cost of H.R. 1720.

The primary difference is that our approach focuses on welfare reform, while H.R. 1720 focuses on more of the same failed program—$5.2 billion more. With leadership like this, why should anyone be surprise that the Federal deficit is hovering around $148 billion.

Mr. LAGOMARSINO. Mr. Chairman, I rise in support of the Republican alternative to H.R. 1720. I am a cosponsor of the Republican substitute, the AFDC Employment Training and Reorganization Act of 1987. While the committee bill proposes to put people to work, H.R. 1720 would actually encourage more able-bodied people to join the welfare rolls. The GOP plan creates an employment and training program to help welfare applicants and participants enter the labor force and leave the dependency of welfare. The Republican alternative also addresses two critical aspects of welfare independence—child support enforcement mechanisms and child care opportunities.

In addition, the Republican substitute sets mandatory participation standards for States that increase the number of people actually helped. CBO estimates that the Republican bill will involve as many as 1 million AFDC recipients during the first 5 years—nearly three times greater than those estimated to participate under H.R. 1720, the Democratic version. Ironically, these figures do not directly correlate to cost. H.R. 1720 would cost $6.2 billion over a 5-year period, 80 percent of which goes directly to increasing benefits. The Republican alternative would cost only $1.1 billion over the same 5-year period. It is not difficult to see which measure is truly welfare reform and not just welfare expansion.

The time to reform our welfare system has come. The GOP plan encourages people to work, while the Democrats would rather simply issue them a check. In a time when the need to reduce our national deficit is so crucial, I urge you to support a measure that would not only truly help welfare recipients, but would also alleviate some of the taxpayers' burden.

Mr. BONKER. Mr. Chairman, I rise in strong support of H.R. 1720, the Family Welfare Reform Act of 1987 and welcome the opportunity to share my thoughts on one of the most critical and challenging issues on the 1987 legislative agenda.

Today, Congress has the opportunity to save millions of dollars. Our current welfare system not only costs a lot of money, but it is designed to keep our welfare recipients on the welfare rolls. Members should not be questioning whether this Nation can afford welfare legislation; the question is really whether Congress can afford not to reform our welfare system.

The legislation before us represents a well-reasoned approach to welfare with an emphasis on economic independency, family, and child support. The bill encourages families to support themselves, establishes education, training and work programs, reforms the Food Stamp Program, provides work incentives and child care. Provisions are included which improve the enforcement of child support payments and expand State efforts to establish paternity.

This year, child care has emerged as one of the most important legislative issues in Congress and this welfare reform measure would address child care in a very direct way. Welfare recipients who attend school, training programs or who are working would have their child-care expenses reimbursed. A day-care transition program would reimburse working families for day-care expenses for 6 months after leaving the Family Support Program.

Mr. Chairman, Washington State is currently pursuing its own welfare reform legislation; Gov. Booth Gardner's Family Independence Program [FIP]. Six days ago, the U.S. Senate voted to approve FIP as part of the Budget Reconciliation Act and I am hopeful that this measure will be adopted by the House during the House-Senate conference on the bill. The welfare reform bill before us includes the State exemption for FIP which is necessary for our State of Washington to proceed with its own welfare reform plan.

Economic independence is the paramount goal of Washington's Family Independence Program. Governor Gardner's welfare bill includes measures that would place job training and education at the top of the list of public service programs. In the past, public assistance programs have often failed to provide the sense of personal accomplishment and dignity that goes hand in hand with having a job and making a livable wage. In short, FIP reflects the same goals and principles as the welfare reform bill we are debating here today.

Mr. Chairman, we can no longer afford to subsidize families without offering them opportunities for self-sufficiency. I therefore urge my colleagues to support this legislation.

Mr. HUGHES. Mr. Chairman, I intend to support final passage of the welfare reform package we are considering today. But I will do so with great reservation.

I recognize that our present welfare system is in desperate need of reform. Under existing law, there is simply too little incentive, and too little opportunity, for welfare recipients to go out and find productive jobs that will end their dependency on public assistance. As a result, millions of Americans—including 7 million children—now rely on meager welfare benefits as their sole means of survival.

I believe that the work incentives and the education and training opportunities contained in H.R. 1720 will go a long way toward improving our welfare system and breaking the cycle of welfare dependency that the present system has fostered. I also believe, however, that this bill has a great deal of room for improvement.

I would like to see a bill that better recognizes the particular needs of individual States by providing them with the opportunity to devise their own demonstration projects. I would like to see some changes in the work program wage requirements. Most of all, I would like to see a lower Federal price tag.

I understand the reasons behind the benefit increases that the bill would provide, but I cannot help reflecting upon our Federal budget crisis when I calculate the cost involved. I believe that we should ask our States to be better partners in our efforts at welfare reform, to provide greater assistance in shouldering the financial burden of this gigantic and expensive task.

I opposed the rule under which this bill has been considered in hopes that the House would have a greater opportunity to address some of the problems that I see in this package. I regret that this effort to open the bill up to more substantial improvement was not a success. I am hopeful that negotiations with the Senate will ultimately provide us with a better bill, in particular, one that reflects a greater sensitivity to the Federal Government's present financial crisis. I will, however, support passage of H.R. 1720—albeit reluctantly—in recognition of the dire need for comprehensive welfare reform.

Mr. BRENNAN. Mr. Chairman, I rise in support of the Family Welfare Reform Act.

I believe that the best human service program is a job. And that is exactly what this legislation is trying to achieve.

In my home State of Maine, we put together a demonstration program similar to the education, training, and work program contained in the bill—called the Welfare Employment, Education, and Training Program, or WEET. The point was to help AFDC recipients get jobs.

And it worked.

Since 1982, the Maine WEET Program has placed over 6,000 people in jobs. A recent sampling of 300 WEET clients showed that 74 percent were still working after 1 year.

This is a very impressive percentage when you consider that, for the most part, these were people with very poor work histories.

The Maine Division of Welfare Employment is convinced that the WEET Program is cost effective—that it has actually saved them money over the long haul. They recently estimated that the WEET Program had cost them approximately $9 million to operate since 1982, but that it would have cost them over $16 million if those people had stayed on welfare.

But the WEET Program is much more than just numbers. As Governor, I had the chance to see for myself the difference this program could make.

I remember vividly a mother with three children who had been on AFDC for 5 years. Through the WEET Program, she was trained, got a job, and went to work.

And she told me what that job meant to her. Simply, but eloquently.

She told me she no longer had to be stared at, embarrassed, humiliated.

When she paid with food stamps at the check-out counter.

The fact is, she really got more than a job. She got human dignity. She got self-respect. And that is what this bill is all about.

This is not to say that the bill doesn't have its weaknesses. I am particularly concerned about the child care provisions, because—if you are going to require mothers with small children to work—I think that the child care standards should be spelled out in more detail.

But the basic issue is human dignity—getting people off welfare and into a job. The details can be worked out later in conference. I would urge each of my colleagues to support the bill.

Mr. OBERSTAR. Mr. Chairman, when the 100th Congress convened in January, we had high hopes for a true reform of the welfare system. A strong bipartisan consensus that the current system neither adequately addresses the problems of the poor and unemployed nor encourages their economic independence are the principal factors that gave impetus to the numerous welfare reform proposals. Though the bills varied widely in their approach, all were developed in a congressional climate more favorable to the complex and difficult task of reform than we had seen in more than a decade.

When the Aid to Families with Dependent Children Program was established in 1935, it was intended to be temporary, to provide aid to widows and their children who fell through the cracks of the newly created and evolving Unemployment and Social Security Programs. Though Social Security and Unemployment Insurance Programs have provided invaluable aid to millions of Americans since the 1930's, AFDC and other welfare programs have remained vital to the survival of a large and growing group of poor Americans, mostly mothers and children whose father is deceased or otherwise absent and unable or unwilling to provide support.

The magnitude of the burgeoning poverty crisis in the United States is staggering. Statistics alone cannot adequately depict the desperate plight and suffering of a growing portion of our Nation's citizens, many of them children. Yet, a few statistics do serve to highlight the severity of the problem. Between 1960 and 1985, the total number of children in the United States declined by over 1 million. During the same period, the number of children living with an unmarried parent increased by 3.5 million. Three-fourths of these children are poor and most of them depend on welfare assistance to survive. Overall, one child in four born in the United States today is born into poverty. Nearly 40 percent of all persons living in poverty in this Nation are children. That's over 13 million children living in poverty. Under our current welfare system, many, maybe even most of these children will remain in poverty their entire lives. Clearly, something must be done to reform a system which so poorly serves the needs and goals of the poor and underprivileged of one of the wealthiest nations on Earth.

I believe a comprehensive effort to address the problems of the poor is long overdue and in the best interests of our Nation. That's why I am a cosponsor of H.R. 1720, the welfare reform legislation before the House today. This legislation was developed with the considerable input of a multitude of Government agencies and human service organizations, joining the two key components vital to a new and redirected war on poverty: Improved benefits to alleviate poverty and requirements as well as incentives to encourage and facilitate work and independence.

Through hearings, markups, and less formal processes of evaluation and modification, we have changed and refined the original bill to better reflect a consensus vision of welfare reform and fiscal limitations. I congratulate the House leadership and the many members of the committees with jurisdiction for their hard work and perseverance in fashioning a well-constructed compromise welfare reform bill.

The State of Minnesota and numerous human service providers and organizations in my congressional district have endorsed H.R. 1720 as a good welfare reform proposal deserving strong congressional support. All agree that the bill does not provide every reform necessary for a complete overhaul of the family welfare system, but they are agreed that it is an important step in the right direction.

St. Louis County, which comprises over 40 percent of the population of my district, has been a leader of recent welfare reform efforts in Minnesota. Based on their experience, county human service coordinators endorse the concept of productive work requirement as part of the social contract for qualified financial assistance recipients. Of course, some recipients, such as those with very young children, should be exempted from this requirement. St. Louis County has found that the key to a successful work/assistance program is proper emphasis on work experience as a road to independence and a productive contribution to society, not as a punitive measure designed to extract the Government's due for the assistance we provide.

The problems of St. Louis County and much of my district are also illustrative of the changing demographics, characteristics and needs of welfare recipients in the 1980's. Northeastern Minnesota is a region dotted with small towns and a few small- to medium-sized cities. The problems of the region differ substantially from those of the larger urban areas. Many current welfare recipients do not fit traditional profiles and stereotypes. For example, young unmarried mothers with several children and few job skills. Instead, many recipients are unemployed steelworkers and their families whose lives have been turned inside out in the wake of taconite mine and steel mill closings and the permanent layoffs that accompanied them. These unemployed workers are the victims of economic dislocation caused by a depression in the steel industry. The majority have strong skills and work experience. Most do not require substantial fundamental training to develop job skills. What they do need are job opportunities.

For many of my constituents and a large and growing number of Americans across the country, the primary barrier to work and renewed independence is not inadequate basic skills, but rather lack of jobs paying a reasonable wage. Workers dislocated by industrial change and transition, the farm crisis and numerous other consequences of the dynamic and interdependent world economy constitute an increasingly significant number of those forced to rely on public assistance programs. These nontraditional public assistance recipients are ready, willing and able to work, but a lack of living wage jobs forces them to continue to rely on assistance programs.

Two recent studies by the Joint Economic Committee describe the significance of this problem. One study concludes that, since 1979, "poverty has greatly expanded among working-age, two-parent families." The greatest increases in poverty since 1979 have occurred in families with two parents present. Since 1979, 2.19 million additional persons mired in poverty were members of single-parent, female-headed families. During the same period, 3.13 million additional Americans living in two-parent families swelled the ranks of persons living in poverty. "Persons in married-couple households account for 44.9 percent of the increase in poverty since 1979. Persons in single-parent, female-headed families account for 31.5 percent of new poverty in the same period."

A second Joint Economic Committee study concludes that, between 1979 and 1984, 60 percent of the net new jobs created in the United States paid less than $7,000 per year. During the same period, 97 percent of net new jobs filled by white males paid less than $7,000 per year. Clearly, the new jobs available to the unemployed and the poor are not adequate to maintain a decent standard of living or allow independence from public assistance.

Reform of the welfare system is a complex task and resolution of the problems of the system and assistance recipients will require attacks on many fronts, including earnest efforts to encourage and facilitate the creation of reasonable wage jobs which will allow those receiving public assistance to achieve true independence and a decent standard of living. Training, job search assistance, day care for children, improved benefits and the other important provisions of H.R. 1720 will not be fruitful if adequate living-wage employment is not available.

What is most needed in many areas, particularly in the Midwest and in rural areas, is economic development—jobs. Government strategies should be directed toward stable, long-term economic recovery and growth in economically distressed areas of the Nation. To that end, in 1982 I introduced the National Investment Development Act, legislation which focuses on the economic development needs of distressed areas and sectors of the country which genuinely need development assistance. The House overwhelmingly passed that bill and subsequent similar versions in the 97th, 99th, and 100th Congresses. Unfortunately, the Senate has never acted on the bill. I hope, in the 100th Congress, our colleagues in the other body will see the wisdom and the benefits of this legislation (H.R. 2686) and give it serious consideration as a piece of the comprehensive solution to the problems of welfare, poverty and dependency in the United States.

Mr. Chairman, I urge my colleagues to support the bill before us today. H.R. 1720 is an important part of a comprehensive approach to the urgent and vexing problems of unemployment, poverty, and dependence in America. I think the bipartisan consensus that welfare reform is both necessary and overdue remains strong in the 100th Congress. Although Members may disagree on the best means to achieve successful reform, I believe most of us still want to take advantage of the current consensus of political opinion and the rare opportunity to effect beneficial reform of the welfare system. The Family Welfare Reform Act, though far from perfect, is a big step in the right direction, away from poverty and joblessness, toward independence and self-sufficiency.

The CHAIRMAN. All time has expired.

The question is on the amendment in the nature of a substitute offered by the gentleman from Illinois [Mr. MICHEL].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. BROWN of Colorado. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 173, noes 251, not voting 9, as follows:

[Roll No. 486]

AYES—173

Archer
Armey
Badham
Baker
Ballenger
Bartlett
Barton
Bateman
Bentley
Bereuter
Bilirakis
Bliley
Boehlert
Boulter
Broomfield
Brown (CO)
Buechner
Bunning
Burton
Callahan
Chandler
Cheney
Clinger
Coats
Coble
Coleman (MO)
Combest
Coughlin
Courter
Craig
Crane
Daniel
Dannemeyer
Daub
Davis (IL)
DeLay
DeWine
Dickinson
DioGuardi
Dornan (CA)
Dreier
Duncan
Edwards (OK)
Emerson
Fawell
Fields
Fish
Frenzel
Gallegly
Gallo
Gekas
Gilman
Gingrich
Gradison
Grandy
Green
Gregg
Gunderson
Hammerschmidt
Hansen
Hastert
Hefley
Henry
Herger
Hiler
Holloway
Hopkins
Horton
Houghton
Hunter
Hyde
Inhofe
Ireland
Johnson (CT)
Kasich
Kolbe
Konnyu
Kyl
Lagomarsino
Latta
Leach (IA)
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Livingston
Lott
Lowery (CA)
Lujan
Lukens, Donald
Lungren
Mack
Madigan
Marlenee
Martin (IL)
Martin (NY)
McCandless
McCollum
McDade
McEwen
McGrath
McMillan (NC)
Meyers
Michel
Miller (OH)
Miller (WA)
Molinari
Moorhead
Morrison (WA)
Myers
Nielson
Oxley
Packard
Parris
Pashayan
Penny
Petri
Porter
Pursell
Quillen
Ravenel
Regula
Rhodes
Ridge
Rinaldo
Ritter
Roberts
Rogers
Roth
Roukema
Rowland (CT)
Saiki
Saxton
Schaefer
Schuette
Schulze
Sensenbrenner
Shaw
Shays
Shumway
Shuster
Skeen
Slaughter (VA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solomon
Spence
Stangeland
Stump
Sundquist
Sweeney
Swindall
Tauke
Tauzin
Taylor
Thomas (CA)
Upton
Vander Jagt
Vucanovich
Walker
Weber
Weldon
Whittaker
Wolf
Wortley
Wylie
Young (AK)
Young (FL)

NOES—251

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Aspin
Atkins
AuCoin
Barnard
Bates
Beilenson
Bennett
Berman
Bevill
Bilbray
Boggs
Boland
Bonior
Bonker
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Brown (CA)
Bruce
Bryant
Bustamante
Byron
Campbell
Cardin
Carper
Carr
Chapman
Chappell
Clay
Coelho
Coleman (TX)
Collins
Conte
Conyers
Cooper
Coyne
Crockett
Darden
Davis (MI)
de la Garza
DeFazio
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dorgan (ND)
Downey
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
English
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Flake
Flippo
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Frank
Frost
Garcia
Gaydos
Gejdenson
Gibbons
Glickman
Gonzalez
Goodling
Gordon
Grant
Gray (IL)
Gray (PA)
Guarini
Hall (TX)
Hamilton
Harris
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefner
Hertel
Hochbrueckner
Howard
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Jacobs
Jeffords
Jenkins
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kaptur
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kostmayer
LaFalce
Lancaster
Lantos
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Lloyd
Luken, Thomas
MacKay
Manton
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McHugh
McMillen (MD)
Mfume
Mica
Miller (CA)
Mineta
Moakley
Mollohan
Montgomery
Moody
Morella
Morrison (CT)
Mrazek
Murphy
Murtha
Nagle
Natcher
Neal
Nelson
Nichols
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Panetta
Patterson
Pease
Pelosi
Pepper
Perkins
Pickett
Pickle
Price (IL)
Price (NC)
Rahall
Rangel
Ray
Richardson
Robinson
Rodino
Roe
Rose
Rostenkowski
Rowland (GA)
Roybal
Russo
Sabo
Savage
Sawyer
Scheuer
Schneider
Schroeder
Schumer
Sharp
Sikorski
Sisisky
Skaggs
Skelton
Slattery
Slaughter (NY)
Smith (FL)
Smith (IA)
Solarz
Spratt
St Germain
Staggers
Stallings
Stark
Stenholm
Stokes
Stratton
Studds
Swift
Synar
Tallon
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Valentine
Vento
Visclosky
Volkmer
Walgren
Watkins
Waxman
Weiss
Wheat
Whitten
Williams
Wise
Wolpe
Wyden
Yates
Yatron

NOT VOTING—9

Biaggi
Clarke
Dowdy
Gephardt
Hall (OH)
Kemp
Lowry (WA)
Roemer
Wilson

☐ 1810

The Clerk announced the following pair:

On this vote:

Mr. Kemp for, with Mr. Gephardt against.

Mr. HALL of Texas changed his vote from "aye" to "no."

So the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. The question is on the amendment in the nature of a substitute, as amended.

The amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore. [Mr. FOLEY] having assumed the chair, Mr. SPRATT, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 1720), to replace the existing AFDC program with a new Family Support Program which emphasizes work, child support, and need-based family support supplements, to amend title IV of the Social Security Act to encourage and assist needy children and parents under the new program to obtain the education, training, and employment needed to avoid long-term welfare dependence, and to make other necessary improvements to assure that the new program will be more effective in achieving its objectives, pursuant to House Resolution 331, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. FRENZEL. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 230, noes 194, not voting 9, as follows:

[Roll No. 487]

AYES—230

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Aspin
Atkins
Bates
Beilenson
Bennett
Berman
Bevill
Boehlert
Boggs
Boland
Bonior
Bonker
Borski
Boucher
Boxer
Brennan
Brooks
Brown (CA)
Bryant
Bustamante
Cardin
Carper
Clay
Coelho
Coleman (TX)
Collins
Conte
Conyers
Cooper
Coyne
Crockett
Davis (MI)
de la Garza
DeFazio
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dorgan (ND)
Downey
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Flake
Flippo
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Frank
Frost
Garcia
Gaydos
Gejdenson
Gibbons
Gilman
Glickman
Gonzalez
Gordon
Grant
Gray (IL)
Gray (PA)
Green
Guarini
Hamilton
Harris
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefner
Hertel
Hochbrueckner
Horton
Howard
Hoyer
Hubbard
Huckaby
Hughes
Jacobs
Jeffords
Jenkins
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kaptur
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kostmayer
LaFalce
Lancaster
Lantos
Lehman (CA)
Lehman (FL)
Leland
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Luken, Thomas
MacKay
Manton
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McHugh
McMillen (MD)
Mfume
Mica
Miller (CA)
Mineta
Moakley
Mollohan
Moody
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Nagle
Natcher
Neal
Nelson
Nowak
Oakar
Oberstar
Obey
Ortiz
Owens (NY)
Owens (UT)
Panetta
Patterson
Pease
Pelosi
Pepper
Perkins
Pickle
Price (IL)
Price (NC)
Rahall
Rangel
Richardson
Rinaldo
Robinson
Rodino
Roe
Rose
Rostenkowski
Roybal
Russo
Sabo
Savage
Sawyer
Scheuer
Schneider
Schroeder
Schumer
Sharp
Shays
Sikorski
Sisisky
Skaggs
Slattery
Slaughter (NY)
Smith (FL)
Smith (IA)
Smith (NJ)
Solarz
Spratt
St Germain
Staggers
Stark
Stokes
Stratton
Studds
Swift
Synar
Tallon
Tauzin
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Valentine
Vento
Visclosky
Volkmer
Walgren
Watkins
Waxman
Weiss
Wheat
Whitten
Williams
Wise
Wolpe
Wyden
Yates
Yatron

NOES—194

Archer
Armey
AuCoin
Badham
Baker
Ballenger
Barnard
Bartlett
Barton
Bateman
Bentley
Bereuter
Bilbray
Bilirakis
Bliley
Bosco
Boulter
Broomfield
Brown (CO)
Bruce
Buechner
Bunning
Burton
Byron
Callahan
Campbell
Carr
Chandler
Chapman
Chappell
Cheney
Clinger
Coats
Coble
Coleman (MO)
Combest
Coughlin
Courter
Craig
Crane
Daniel
Dannemeyer
Darden
Daub
Davis (IL)
DeLay
DeWine
Dickinson
DioGuardi
Dornan (CA)
Dreier
Duncan
Dyson
Edwards (OK)
Emerson
English
Fawell
Fields
Fish
Frenzel
Gallegly
Gallo
Gekas
Gingrich
Goodling
Gradison
Grandy
Gregg
Gunderson
Hall (TX)
Hammerschmidt
Hansen
Hastert
Hefley
Henry
Herger
Hiler
Holloway
Hopkins
Houghton
Hunter
Hutto
Hyde
Inhofe
Ireland
Johnson (CT)
Johnson (SD)
Kasich
Kolbe
Konnyu
Kyl
Lagomarsino
Latta
Leach (IA)
Leath (TX)
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Livingston
Lloyd
Lott
Lowery (CA)
Lujan
Lukens, Donald
Lungren
Mack
Madigan
Marlenee
Martin (IL)
Martin (NY)
McCandless
McCollum
McCurdy
McDade
McEwen
McGrath
McMillan (NC)
Meyers
Michel
Miller (OH)
Miller (WA)
Molinari
Montgomery
Moorhead
Myers
Nichols
Nielson
Olin
Oxley
Packard
Parris
Pashayan
Penny
Petri
Pickett
Porter
Pursell
Quillen
Ravenel
Ray
Regula
Rhodes
Ridge
Ritter
Roberts
Rogers
Roth
Roukema
Rowland (CT)
Rowland (GA)
Saiki
Saxton
Schaefer
Schuette
Schulze
Sensenbrenner
Shaw
Shumway
Shuster
Skeen
Skelton
Slaughter (VA)
Smith (NE)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solomon
Spence
Stallings
Stangeland
Stenholm
Stump
Sundquist
Sweeney
Swindall
Tauke
Taylor
Thomas (CA)
Thomas (GA)
Upton
Vander Jagt
Vucanovich
Walker
Weber
Weldon
Whittaker
Wolf
Wortley
Wylie
Young (AK)
Young (FL)

NOT VOTING—9

Biaggi
Clarke
Dowdy
Gephardt
Hall (OH)
Kemp
Lowry (WA)
Roemer
Wilson

☐ 1840

The Clerk announced the following pair:

On this vote:

Mr. Gephardt for, with Mr. Kemp against.

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. DOWNEY of New York. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore (Mr. DYMALLY). Is there objection to the request of the gentleman from New York?

There was no objection.

ALLOWING OBSOLETE U.S. NAVY SUBMARINE "BLENNY" TO BE TRANSFERRED TO THE STATE OF MARYLAND

Mr. BENNETT. Mr. Speaker, I ask unanimous consent that the Committee on Armed Services be discharged from further consideration of the bill (H.R. 3427) to allow the obsolete submarine U.S.S. *Blenny* to be transferred to the State of Maryland before the expiration of the otherwise applicable 60-day congressional review period, and ask for its immediate consideration in the House.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

Mr. HASTERT. Mr. Speaker, reserving the right to object, I would ask the gentleman from Florida to explain the bill.

Mr. BENNETT. Mr. Speaker, will the gentleman yield?

Mr. HASTERT. I yield to the gentleman from Florida.

Mr. BENNETT. Mr. Speaker, the bill H.R. 3427 would waive the normal 60-day congressional notification-and-wait period for the transfer of the obsolete U.S. Navy submarine, *Blenny*, to the State of Maryland.

The *Blenny* is a decommissioned submarine of World War II vintage that saw action in both that war and the Korean conflict. She received four battle stars for her World War II service. Since her decommissioning *Blenny* has been used for experimental purposes, most recently at the naval air test facility at Patuxent River, MD. She was about to be sold for scrap when the State of Maryland requested her use.

Maryland would use the hulk to create an artificial reef in its coastal waters off Ocean City. The Navy is agreeable to the transfer under the usual conditions that Maryland pay all associated costs and assume liability for the transfer. The State of Maryland, through its department of natural resources, has agreed to the conditions and accepts the donation of the ship by the Navy. On November 25, the Secretary of the Navy notified the Congress of his intent to transfer the hulk, and the 60-day clock specified in section 7308 of title X has started.

We understand that the State of Maryland would like to move the hulk before the onset of colder weather makes its transfer more difficult, hence the request for the waiver.

Mr. Speaker, because the Navy is amenable to this transfer and the hulk has no military value, I strongly urge the adoption of this bill.

Mr. DYSON. Mr. Speaker, will the gentleman yield?

Mr. HASTERT. I yield to the gentleman from Maryland.

Mr. DYSON. Mr. Speaker, I thank the gentleman from Illinois for yielding. The chairman of our Subcommittee on Seapower has very adequately explained what we intend to do here and what we would like to do here.

I would like to initially thank the rest of the members of the Armed Services Committee, my colleague from Illinois and our very fine staff on the committee for helping us put this together. As the chairman has stated, we would like to move this surplus submarine before the weather changes and before we get bad weather, so we are asking the Congress today to in fact do this.

Mr. Speaker, I thank the chairman and my distingushed colleagues of the Armed Services Committee for their support of H.R. 3427. In addition, I wish to thank the excellent committee staff for their outstanding efforts.

This bill will waive the statutory 60-day review period for transfer of the submarine ex-*Blenny* to the State of Maryland. The State will sink this vessel off of its coastal resort town of Ocean City where it will serve generations to come as an artificial reef for fish. From this point on, there will be no cost to the Government.

By waiving this review period, we will permit the State's department of natural resources to move the submarine from its current location in the Chesapeake Bay to a site where the State can prepare it for sinking, before the severe winter weather postpones the move. Quite simply, an early move will permit the submarine to be sunk early next year. Because of a declining fish population and the proven success of artificial fish reefs, the State has made this reef a priority item.

The ex-*Blenny* served our country proudly during the Second World War and again during the Korean conflict. Although the submarine was commissioned late in the war—July of 1944—it still sank nine Japanese ships. Its most successful day was March 20, 1945, when the ex-*Blenny* and its 85-member crew sank three Japanese ships. In its brief, but outstanding career, the ex-*Blenny* earned four battle stars in World War II and one more during the Korean conflict. The ex-*Blenny's* name was struck from the Navy's submarine list on August 15, 1973, and the Navy now has no use for the vessel.

The legislation we are considering today will permit the ex-*Blenny* to continue her service to our country and to my State. The fish population along that portion of the coast will benefit greatly from this transfer. In addition, the commercial and sport fishermen who use those waters will also prosper from future harvests.

Mr. Speaker, I would also like to extend my deep appreciation to the U.S. Navy whose donation of this submarine has made the artificial reef possible. I also thank the House leadership for its assistance in bringing this important legislation to the floor.

Mr. HASTERT. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

The Clerk read the bill, as follows:

H.R. 3427

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That clauses (2) and (3) of section 7308(c) of title 10, United States Code, shall not apply with respect to the transfer, under section 7308(a) of such title, by the Secretary of the Navy of the obsolete submarine United States ship Blenny to the State Maryland.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. BENNETT. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

TEMPORARY EXTENSION OF CERTAIN PROGRAMS RELATING TO HOUSING AND COMMUNITY DEVELOPMENT

Mr. GONZALEZ. Mr. Speaker, I ask unanimous consent that the Committee on Banking, Finance and Urban Affairs be discharged from further consideration of the joint resolution (H.J. Res. 427) to provide for the temporary extension of certain programs relating to housing and community development, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

Mr. WYLIE. Mr. Speaker, reserving the right to object, I do not intend to object, but I reserve the right to object so that the gentleman from Texas [Mr. GONZALEZ] may have an opportunity to explain what we are doing.

Mr. GONZALEZ. Mr. Speaker, will the gentleman yield?

Mr. WYLIE. I yield to the gentleman from Texas.

Mr. GONZALEZ. Mr. Speaker, I thank the distinguished ranking minority member of the full Committee on Banking, Finance and Urban Affairs for his continued support and leadership and cooperation.

Mr. Speaker, this resolution is to extend until March 15, 1988, the authorities of the Secretary of HUD under the National Housing Act to insure mortgages. This authority expires today. We are again placed in the position of coming before the House for a temporary extension of authority for FHA because the Senate has been unable to deal with the conference report on the housing authorization bill which passed the House on November 9 by a vote of 391 to 1.

I know that I speak for my colleagues who were conferees on the housing conference report, both from the majority and minority side, and regret that the Senate has been unable to get an up or down vote on the conference report to accompany S.

825. I believe if the Senate were to be in a position to pass on the substance of our housing authorization bill they, too, would have an overwhelming vote and support of our bipartisan housing bill. Since the Senate is apparently unable to conclude consideration on our housing issues in the closing days of this session, it is most important that we pass this extender to carry us over into the second session with enough time so that we can have this important legislation clear the Senate.

Early in 1988 we will continue to press for a housing bill similar to the agreement reached by the House and Senate conferees on S. 825. A critical provision of that agreement was intended to prevent the eviction of thousands of vulnerable lower income families by including restrictions on the prepayment of FHA-insured multifamily projects after November 1, 1987. Every owner of such a project should now be on notice that when the housing bill does become law in 1988, the prepayment restrictions will be effective as of November 1, 1987. No owner should take advantage of this temporary postponement of the enactment of the housing bill to prepay their mortgage. This is no time to reduce the number of housing units affordable to lower income families.

Mr. WYLIE. Mr. Speaker, we do need to pass this bill expeditiously.

Mr. Speaker, I rise in reluctant support of House Joint Resolution 427. This legislation is once again necessary in order to avoid the closing down of the FHA. The House and Senate both approved permanent extensions in the each House's housing bill—but negotiations have apparently broken down so in this fifth extension so far in this fiscal year to enable FHA to continue with its needed authority to provide homeownership for thousands of American families.

This system is counterproductive and unfair. Early this year, in anticipation of this problem, I introduced H.R. 1228 which was coauthored by the gentleman from Oregon [Mr. AuCoin]. H.R. 1228 simply provides for the permanent extension of the FHA and will get us out of the dilemma which now necessitates turning FHA on and off every few days and which disrupts a vital mortgage financing system, creating severe economic hardships for homebuyers and sellers. H.R. 1228 enjoys broad-based, bipartisan support and currently has 219 cosponsors.

I wish I could find a way to bring the bill up for a vote. Membership, we need to go along with House Joint Resolution 427, providing for a temporary stopgap FHA extension until March 15, 1988. Hopefully, we will be better able to produce a reasonable housing authorization bill next year.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. Res. 427

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That each provision of law amended by Public Law 100-179 is amended by striking "December 16, 1987" each place it appears and inserting "March 15, 1988".

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

CORRECTION IN APPOINTMENT OF CONFEREES TO H.R. 3545, BUDGET RECONCILIATION ACT OF 1987

The SPEAKER. Without objection, the Chair makes the following correction in the appointment of conferees on H.R. 3545, Budget Reconciliation Act of 1987:

To the panel from the Committee on Merchant Marine and Fisheries, Mr. Hughes and Mr. Fields are appointed for consideration of section 3001 of the Senate amendment, in lieu of Mr. Tauzin and Mr. Lent, respectively. Additionally, for purposes of consideration of that portion of sections 2002 and 2008 of Senate amendment, Miss Schneider and Mr. Bateman are appointed in lieu of Mr. Young of Alaska and Mr. Lent, respectively.

There was no objection.

The SPEAKER. The Clerk will notify the Senate of the change in conferees.

CONGRATULATIONS TO DR. JAMES A. SADDORIS, AMERICAN DENTAL ASSOCIATION PRESIDENT FOR 1988

(Mr. INHOFE asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. INHOFE. Mr. Speaker, I rise today to introduce Dr. James A. Saddoris of Tulsa, OK, newly elected president of the American Dental Association [ADA], the largest dental organization in the world.

Dr. Saddoris has been a dentist for over 30 years and in his inaugural speech he said his top priority as ADA president will be to conduct a national campaign to enhance public perception of dentistry. Already, Dr. Saddoris has implemented a three-phase national communications campaign to do just that. The ADA's goal is to remind Americans that dentistry, which is essential to good health and a positive self-image, should not longer be dreaded by the general public.

In his speech, Dr. Saddoris highlighted the ADA agenda for 1988. In October 1988, the ADA will join France's Federation Dentaire Internationale for "The World Dental Congress" in Washington, DC. The hearing's theme is "Dentistry—Caring for the World". It will focus attention on the new technologies of the dental industry and its goal to provide better services to the public in the area of dental hygiene.

I include the revised text of Dr. Saddoris' speech for printing in the Congressional Record as it read, as follows:

Speech by Dr. James A. Saddoris, President of the American Dental Association, Tulsa County Dental Society, Tulsa, OK, November 16, 1987

Thank you for your warm reception, I'm delighted to be here today, to get to hear your ideas and to share some thoughts with you.

And this year—the year I serve as your president—I am thinking a lot about the values we share in common. I believe that foremost among these is the concept of professionalism. That concept is central to my objectives as president of the American Dental Association.

This time-honored ideal will always seem timely and current, even against today's social backdrop, a backdrop in which moral and ethical values often appear to be in decline.

Some people say that integrity is going out of style, that heroism is passe. That fame and money are the main values prized by growing numbers of people. Some people say that ours is an era of sizzle without substance, where thought and contemplation give way to mindless jingles and media hype, and striving for excellence has been replaced by acceptance of mediocrity.

Dentistry. Which makes you look better. It makes you feel better. In fact, dentistry is just plain, absolutely, good—and in this shades-of-gray world, that's pretty impressive. In a world searching for its moral bearings, where concepts like good and evil too often lack clear definition, dentistry is a positive good, and oral disease a clear-cut evil.

And I believe it is our responsibility to get this message across. I want people to know just how good our profession is. I want people to know that the values of dentistry are made of substance, not sizzle, that our devotion to professionalism transcends the trappings of our throwaway society.

I want people to know that dentists care about them, that we have made dental treatment pleasant for them, that far from causing pain, we prevent or relieve it.

I want people to know that terror need not strike their hearts when they hear words like "root canal" or "filling" or "TMJ".

I want Americans to know, that in our lifetime, dentists have made curable a disease that has caused untold suffering throughout the ages, a disease as old as humankind itself.

I want people to realize that the history of modern dentistry tells the story of a miracle—a miracle that has been accomplished in five brief generations.

In my great-grandparents' generation, most people could not expect to benefit from dental care of any kind.

In my grandparents' generation, people expected to lose their teeth and then to wear dentures.

My own parents lost some teeth, and had to learn to live with partial bridges and dentures.

Adults in my generation tend to have many restorations, but they are much more likely to keep their teeth for life.

People in the baby boom generation have restorations, too, but fewer of them, and they don't waste much time worrying about edentulousness.

And many of their children have no cavities at all.

That's the miracle. In five generations—not a long period of time—most people have gone from expecting that they would some day lose all their teeth, to never even thinking about it at all.

Why? Because we and our predecessors believed in excellence, believed in professionalism, believed in service above self, and believed that dentistry was good for people.

I want the American public to believe in dentistry as much as we do.

Not a passive belief, the kind that is expressed to pollsters, but an active belief, a belief in prevention, teamed with a commitment to good oral care, and to visiting the dentist when it is needed.

It's nice to know that people say good things about us—but LIP service alone will do nothing to help their oral health. Actions speak louder than words, and good dental health requires positive, continuous, committed action.

How do we get this message across? A "national communications campaign" may be one answer. And we are moving ahead with such a program.

Phase 1, to be completed this year, will determine and test the program's creative strategy.

Phase 2, to be completed in 1988, calls for researching the concept and developing print and television messages and collateral materials.

Phase 3, would be full-scale implementation of the program. This is slated tentatively for 1989. To underwrite the costs involved that year, we would solicit private industry sources. These same sources might also offset a portion of the 1988 costs.

This is an appropriate first step for consolidating our communications objectives.

If we really believe in the values of our profession, we have a responsibility to bring that message beyond our offices, to America, and to the world.

Moreover, I believe that all of dentistry's communications programs, including programs long in existence; should continue to emphasize professionalism—not commercialism.

Dentistry is a caring profession. Our primary objectives are the care, the health, the wellness of our patients.

And it is this commitment to professionalism and ethics, versus commercialism, that presents a dilemma for me.

It's a personal dilemma for me; but it's also a dilemma for our profession.

I do not now, nor will I ever, feel comfortable with the word "marketing." To me it rings of commercialism. But I will tell you that our younger members are comfortable with it—so much so, that 86 of them, tell us they want the ADA to launch a national marketing program.

And so—the dilemma. Do our younger members want something for the profession and for the public that is fundamentally different from what I want?

Something different from what I think is good for them or good for our profession? Do they embrace commercialism and decry professionalism? No, I don't think so.

In every city and town, every county and State, from Maine to California, from sea to shining sea, are millions and millions of Americans who need us—people who need our care. Our message must let them know that we are on their side. As professionals, we owe it to our patients and ourselves to get this message out front.

But how do we do this? Do we: (a) Educate the public, (b) launch a public relations campaign or (c) embrace marketing?

I'm not sure I am willing to let semantics stand in the way of what's needed. Let each dentist's own comfort zone dictate what he or she calls it. But call it what you will, we offer a message for the noblest of reasons: Because our charge is the improvement of the health of the American public.

Yet our charge as professionals extends far beyond the boundaries of our Nation. We have an international obligation to exchange knowledge and ideas with other dentists all over the world.

Just as no man is an island, no profession of dentistry's stature can afford to drift away from the world community.

While America's standard of dental care is the highest in the world, pain and suffering are rampant in many impoverished nations. Think of Nepal, where less than 30 dentists serve more than 16 million people. Just imagine what that means in human terms.

And this is where our challenge lies, a challenge whose implications may be great, yet one which is not beyond the capabilities of a globally united profession. Just look at what we have done for the dental health of American children. I ask you, why can't we do the same for all children everywhere?

Dentistry in America is highly organized, so we have what it takes to make a start. The American Dental Association, the largest dental organization in the world, is worthy of this world-class challenge.

It is a challenge that can't be met overnight. But we can make a good and healthy start. We need better information about the world dental situation. And so, as your president, I will appoint a special committee of the board of trustees to study this issue.

We must increase our awareness of international matters so that the ADA can move into a position of world leadership.

While the Federation Dentaire Internationale and the American universities have done their part on behalf of us all, the ADA must do its part, too. And I know that the ADA/FDI joint 1988 World Dental Congress will energize us all from an international perspective. I chose that meeting's theme with high hopes and deep conviction. The theme is: "Dentistry: Caring for the World." I can think of no higher calling, and I can imagine no worthier goal.

The key to success in this endeavor, as in any, is planning. And planning for the future is the key to our profession's viability.

The ADA has already shown great initiative and foresight in such matters. The future of dentistry report and strategic plan exemplified long-range planning at its best.

Since that report was published, half a decade has come and gone, whizzing by fast as a bullet. We need to reexamine the report, using its framework to measure its meaning within the context of today. The future of dentistry report was never meant to be filed and forgotten. It is a living document.

We need to account for emerging trends. Trends that we may have been unable to predict 5 years ago. If they impact on our profession, it is time to make midcourse adjustments as needed.

We must take a critical look at which goals we have fully or partly accomplished. And we must develop revised action plans that will advance goals we have not yet met. This is constructive action at its finely honed best. These are steps we must take if dentistry is to remain on the cutting edge of the future.

And one critical mechanism that will help us remain on this cutting edge is the newly reorganized ADA. This reorganization. Now ready for a 1-year review, has enabled us to maximize our resources and our responsiveness to you.

I must commend the association's trustees, council members, and staff for carrying out our plan so effectively. The result is a new energy and vitality in the association, an energy so unmistakable that you can feel it in our programs, in our services, in the ADA headquarters and Washington offices, and even over the telephone when you call our WATS line.

I am also pleased to report to you that the five guiding objectives of the reorganization plan have blended seamlessly into the 1988 budget process. As a result, the Board was able to present this year a balanced budget, "without the increase in national dues that we had anticipated"—a budget that prioritized programs, as the house of delegates requested.

Also, the board, acknowledging that delegates need access to a comprehensive range of information about the budget, established a special hearing at this year's annual meeting to give everyone the opportunity to discuss the ramifications of the financial plan for 1988.

So, I am very pleased that the entire budget development and approval process went along smoothly, methodically, and most of all, professionally.

And this brings me to a final aspect of Professionalism—the role of quality assurance in the future of dentistry.

Traditionally, dentistry has been a self-regulating profession, assuring the quality of service through a variety of activities. These include: Education and specialty training; accreditation of educational programs; testing programs for licensure and certification; and peer review.

These programs have well served our efforts toward quality assurance in dentistry.

But today's health care picture, set against a backdrop of consumerism and cost consciousness, demands that quality assurance play an even larger role than in the past. Indeed, this may be our protection against intervention by third parties for whom cost may take precedence over quality. It may also be our best defense against professional liability actions.

It is on our record of leadership that our professional reputation is based, and it is on this leadership that our future effectiveness depends.

And I deeply believe that our future is a bright one. It is a future beset by challenges but filled with potential and hope. Its ultimate challenge to us, as professionals, is to bring dentistry's standards of excellence and service to a higher level than ever before, in America and thoughout the world. Together, I know we can accomplish this goal.

TRIBUTE TO VINCENT MAURO

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from Connecticut [Mr. MORRISON] is recognized for 5 minutes.

Mr. MORRISON of Connecticut. Mr. Speaker, it is in sadness that I come before my colleagues of the House tonight to announce the tragic and untimely death of a good friend of mine and important political leader in my congressional district. Vincent Mauro of New Haven, 45 years old, married, with two young children was taken from us today following a tragic automobile accident

We are all so saddened by this tragic accident, and first and foremost our thoughts and our prayers go out to his wife, Gigi, and to their two children in this moment of great sadness and tragedy for them.

Vinnie was a wonderful man and a good friend, and he had recently turned down an opportunity to become the State Democratic chairman in Connecticut because he wanted to be sure to have enough time to devote to his young children who were growing up and who needed his fatherly attention and guidance.

□ 1855

That makes this occurrence ever so much more ironic and causes us to reflect about the needs that his wife and children will now have. We all expect and hope to gather around them and give them the support that they need to get through this most difficult period.

This certainly is a terrible tragedy for me and for others who worked closely with Vinnie Mauro in the political arena, working together to see to it that the people we served got the kind of representation and government service to which are are certainly entitled.

Just a month ago Vinnie Mauro was honored by the New Haven chapter of the Sons of Italy, who gave him an award for community service and made reference to all the things he had done to make the city of New Haven and surrounding communities a better place for people to live. At that gathering, Vinnie's family and friends of many years came together and told him about their pride in the work that he had done. It is an occurrence that I am sure we will all look back on with fond memories, because we saw Vinnie there in the prime of his life with all his friends and supporters around him having an opportunity to tell him the words that many of us will now speak in his memory, about how proud we were to be associated with him and with his work.

He was a great political leader. He helped make the Democratic Party in New Haven one of the strongest in the State of Connecticut. He was able to carry that town for statewide candidates and Presidential candidates in good years and bad. And he did it because of his unique personal qualities, qualities that I think we hope to find in many people involved in political life but are so often disappointed about.

Let me tell you about two facets of Vinnie's approach to politics.

First of all, Vinnie Mauro had an extraordinary commitment to openness in the political process. He believed the process works best when all have an opportunity to have their say and to participate. He was always a supporter of registration drives to see to it that all would be registered, in no way wanting to keep any group or any group of individuals from participating in the process. He saw in registration drives the opportunity to bring people in, give them a stake in the result, and give them an opportunity to make a difference.

Under his leadership, many, many new voters were registered in New Haven, especially many members of the black and Hispanic communities who historically had not been registered in such large numbers as we would have liked. Vinnie Mauro was always there encouraging their registration and participation in the political process.

I remember his openness to newcomers to the political process. When I first ran for Congress, having never run for office before, I sought his advice and support. He did not turn me away and say, "Get some more experience. You really don't belong here. You don't have the experience." He said the opposite.

He said, "Go out there and demonstrate what you have to offer. Get support. Show people what you can do, and if you can show that kind of support, I can be there to help you." And he was there, playing a significant role in all three of my elections to the Congress. It was that kind of open spirit and desire to get people to participate that was particularly unique and important.

Second, he was a man of great integrity, someone on whom you could depend. When you ask Vinnie Mauro a question, you got a straight answer. That kind of integrity is essential to the political process.

Mr. Speaker, we have lost a very good man, a man who understood that good government and good politics go together. He will be missed very much, most of all by his family, but also by all of us who worked with him. Once again, our prayers and thoughts are with his family tonight.

WHAT COSTS $20 MILLION AND CANNOT BE USED

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. ANNUNZIO] is recognized for 5 minutes.

Mr. ANNUNZIO. Mr. Speaker, under the auspices of the Advanced Counterfeit Deterrent Committee, the Treasury Department's Bureau of Engraving and Printing is preparing to spend up to $20 million to develop a counterfeit deterrent that cannot be seen, smelled, felt, heard, or tasted. This deterrent will only be detectable with machines that can cost up to $50,000 each, and which would only be owned by Federal Reserve banks.

It takes just a moment's reflection to see the "Alice in Wonderland" qualities of this measure. One could almost chuckle at the idea that the secret addition of an undetectable element would deter counterfeiters until one heard that it could cost as much as $20 million.

Within the next month or two a request for proposals will be published, requesting bids on providing the Bureau of Engraving and Printing with a so-called covert, or high-level counterfeit deterrent. This deterrent would add a secret element to our currency. Only Federal Reserve banks would have the equipment capable of detecting the element. Up to 400 detection machines would be required, at a cost of up to $50,000 each. The total cost could be as high as $20 million. This $20 million cost does not include the expense of adding the system to each of the 6 billion notes printed annually.

This system might be justified if large numbers of counterfeit notes were passing undetected through the Federal Reserve banks and being returned to circulation. However, at hearings held by the Consumer Affairs and Coinage Subcommittee 2 years ago, the Federal Reserve reported that it detects virtually all counterfeit notes that enter Federal Reserve banks.

Since the sophisticated machinery and expert currency examiners at the Federal Reserve banks already detect virtually all counterfeits sent to the Federal Reserve banks, the expenditure of $20 million will not increase detection or enhance the authentication of U.S. currency. A covert anticounterfeiting device then would only make sense if it would help deter counterfeiters.

Yet at those same subcommittee hearings, the Secret Service told us that was not the case. In response to a question concerning the deterrent effect of covert devices, the Secret Service answered that question directly. Its answer was simple: "invisible anticounterfeiting devices will not deter counterfeiters."

So what then is the purpose of a covert anticounterfeiting device? It will not deter counterfeiting. It will not increase the detection of counterfeit notes. All it will do is waste $20 million.

In 1985, the Federal Reserve told the subcommittee that a covert system would cost betwen $2.7 million and $4 million, with annual operating costs of $300,000 to $900,000. In 2 years, the estimated cost has grown sevenfold to tenfold. This could become the Bureau of Engraving and Printing's version of the Pentagon's $640 toilet seat. At least you could sit on that.

I note that Chairman Alan Greenspan of the Federal Reserve has recently suggested that not only should Congress try to balance the budget, but should consider running a budget surplus. That advice could also be heeded by the Advance Counterfeit Deterrent Committee, of which the Federal Reserve is a member. The Bureau of Engraving and Printing could make the first contribution toward cutting unnecessary Government spending by scrapping this invisible, illogical, and undetectable deterrent.

THE EIGHTH ANNIVERSARY OF THE SOVIET INVASION OF AFGHANISTAN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan [Mr. LEVIN] is recognized for 60 minutes.

Mr. LEVIN of Michigan. Mr. Speaker, this month marks the eighth anniversary of the Soviet invasion of Afghanistan, and it seems appropriate that we might take some time, if only a few minutes during this week, to note that tragic event. In 8 years, over a million Afghans have been killed, and fully one-third of their population has been displaced.

This is a multifold tragedy. Most of these refugees remain in limbo in camps in Pakistan. It is a generation torn from its roots, with themselves and their children condemned to a harsh, unproductive existence, and placing a burdensome weight on Pakistan's social and economic system.

It was reported that Secretary Gorbachev said to President Reagan in one of their meetings when the President raised the human rights issue: "You are not the prosecutor," he said to the President, "And I am not the accused. I am not on trial."

Well, we in this country may not be the prosecutor, but the Secretary General is the accused and he is on trial. He is the accused because of their actions. He is on trial because of their actions. I applaud the INF Treaty. I bemoan the lack of obvious progress in the area of human rights, whether it relates to Soviet Jewry or to many other places in this world, and certainly as to Afghanistan.

Politically, pressure outside the Soviet Union is increasing against Afghanistan. In a recent U.N. General Assembly vote, an unprecedented 123 nations voted for a resolution calling for an "immediate unconditional and total withdrawal of Soviet troops." Moreover, inside the Soviet Union, where open dissent remains indeed a dangerous pastime, public discontent with the Afghan war has nonetheless begun to surface.

There have been at least eight rounds of talks at Geneva regarding a timely withdrawal by the Soviet Union, and another round will possibly convene in February. Moscow's apparent support of these talks would seem to indicate that the Politburo wants to negotiate an escape from the Afghan war. That is the appearance of it.

What is the reality? Well, we will see. The Soviets have reduced their proposed timetable for pull out to 12 months, but that is much too long and the conditions still much too uncertain. A swift Soviet pullout is a necessary step if the Afghans are to establish a government on their own without any Soviet interference.

Human rights is the basis for our strong opposition to the Soviet presence. Human rights should be at the foundation of any democratic society, including Afghanistan in the aftermath of a Soviet withdrawal.

That war is not fully televised. If it were, world pressure would be even more apparent and even more vigorous. We cannot tonight replace the lack of television. What we can do, though, is to raise our voices, and that is what we are doing.

Therefore, Mr. Speaker, I would like to call on several of my colleagues who would like to make their statements on this subject. If I might, I would first go to the other side of the aisle, since we are together on this, and yield to the gentleman from Pennsylvania. After that, I will yield to the distinguished gentleman from North Carolina [Mr. PRICE].

I now yield to my colleague, the gentleman from Pennsylvania [Mr. SCHULZE].

Mr. SCHULZE. Mr. Speaker, I thank my colleague, the gentleman from Michigan, for yielding, and I would like to pay tribute to him for requesting this special order on this critical issue. It is one that I know is near to his heart. The depth of concern to my colleague on the Ways and Means Committee is obvious. He is doing an outstanding job.

Mr. Speaker, it has now been 8 years since the Soviet Union invaded Afghanistan; the date that a free people were invaded, subjected to tyranny and compelled to fight for their basic liberties against the world's largest standing army. It should surprise no one that so many of my colleagues are present to mark this day; we are representatives of the world's premier democracy, and we support Afghanistan in its struggle for freedom and liberty. We have heard others speak in this Chamber on the incalculable loss of human lives, the atrocities of war, and the examples of torture and terror that are all too often heard when discussing armed conflict. But I would like to direct my remarks toward what the Afghan invasion tells us about the true nature of Communist Russia and how we need to keep a balanced approach in our dealings with the Soviets.

It may be fashionable to compliment the Russians these days on their willingness to come to the negotiating table and to work toward the elimination of nuclear weapons in Europe. To some extent, I must agree. The recently signed INF agreement can be the first step in a dialog which could ultimately eliminate the chance of nuclear war.

The Soviets do not want nuclear war. They probably realize that there is no winner in nuclear annihilation. But I do not think the Soviets believe they can lose in Afghanistan. Quite the opposite, they think they can win. Communist Russia may want to save the world from complete destruction—but they most certainly want the complete destruction of Afghanistan. The workers' paradise has become the Afghans' slaughterhouse.

For 8 years, the world has had a grisly and tragic reminder of the value of the Soviet ideal. We have seen the Russians invade Afghanistan, saying they were invited and assisting a friend and ally; but 5 million Afghan natives left their homeland when their Soviet guests arrived.

We have heard the Russians promise that they would only be visiting for a while; 8 long years have passed. Just before the summit, we heard suggestions from the Soviets that maybe the time had come, that maybe the Soviets might reconsider their position. The killing and repression continues.

The United States needs to reaffirm its desire to see the Afghan people free from Soviet domination. Continued support for the freedom fighters in those mountains is essential. Support must continue, and the story of this tragic invasion must be known to everyone who believes in freedom. Let us make sure that, at the next summit, the question of freedom for Afghanistan is on the agenda.

I urge all to remember the people of Afghanistan.

Mr. Speaker, once more, I pay tribute to the gentleman from Michigan [Mr. LEVIN] for holding this special order.

Mr. LEVIN of Michigan. Mr. Speaker, I thank my friend and distinguished colleague on the Ways and Means Committee.

If I may, Mr. Speaker, I now yield to the gentleman from North Carolina [Mr. PRICE] who has already made a mark in this body, although he has been here just a year.

Mr. PRICE of North Carolina. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, the signing of the INF Treaty between the United States and the Soviet Union represents a significant step in the pursuit of world peace. We can hope that this treaty will begin a new era of reductions in nuclear arms and better relations between the superpowers. Unfortunately, however, the summit's achievements in arms control were not matched by progress in human rights and regional conflicts, particularly Afghanistan.

Moscow's new party chief, Lev Zaikov, called the INF agreement "a triumph of the new political thinking which the Communist Party laid as the foundation of its struggle to establish a lasting nuclear free and nonviolent world." But surely the waging of war against the people of Afghanistan and Soviet domination of that country neither represent "new political thinking" nor contribute to the "struggle for a nonviolent world."

It is 8 years ago this month that the Soviet Union invaded Afghanistan. The Prime Minister was executed and the exiled head of the Communist Party faction was installed in his place.

Over a million Afghans have died in the resulting war. Approximately 2.8 million Afghan refugees, settled in more than 300 camps, are also casualties of this savage conflict.

It is imperative that the Soviets withdraw their forces from this war-torn country and allow the Afghan people to live in peace and freedom. We must vigorously and firmly pursue this objective.

It is my strong hope that the discussions surrounding the INF Treaty between American and Soviet leaders have laid the foundation for progress on this issue. World pressure must be brought to bear to ensure the withdrawal of Soviet troops and the establishment of a government amenable to the people of Afghanistan. The November 1987 U.N. resolution calling for the withdrawal of Soviet troops has the support of 123 nations. Our Government must continue to support this resolution and negotiations aimed at complete withdrawal of Soviet troops, restoration of Afghanistan's independent and nonaligned status, Afghan self-determination, and the creation of conditions that would enable the refugees to return home with safety and honor.

I'm pleased to join Mr. LEVIN and other distinguished colleagues in expressing my concern over the continued violation of the human rights of the Afghan people and in urging that our Government place the highest priority on the resolution of this important issue.

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Mr. LEVIN of Michigan. Mr. Speaker, I thank the gentleman very much for his ringing words. I yield to the gentleman form California [Mr. LAGOMARSINO], who is cochairman of the Task Force on Afghanistan.

MR. LAGOMARSINO. Mr. Speaker, I join Congressmen LEVIN, FRANK, and RITTER as well as the other friends of Afghanistan in participating in this important special order to mark the eighth anniversary of the brutal and illegal Soviet invasion of Afghanistan. I am very encouraged that Members are once again taking time out of their busy schedules to bring the tragic plight of the Afghan people to the world's attention.

Secretary Gorbachev made quite an impression and scored a few "public relations" points during his recent visit to Washington. However, before we get carried away with his friendliness and policies of "glasnost," I urge Members and citizens alike to consider the Soviet rape and plunder of innocent Afghanistan. It is our duty, especially with reports that the Soviets and their leader Gorbachev are more cognizant of world public opinion, to use greater public pressure and private diplomacy to end the occupation of Afghanistan. This special order is one of those types of public pressure. Today, I seek to remind my colleagues of the grave injustice and suffering borne by the Afghan people and caused by the Soviets. The ghastly situation in Afghanistan must remain on the "front burner." Afghanistan must remain as a part of the United States-Soviet dialog.

December 27, 1987, marks the eighth anniversary of the Soviet invasion of the independent nation of Afghanistan. In examining the events of the past 8 years, it is obvious that this is a day of mourning, not celebration. Recently, the reports of the U.N. special rapporteur, Dr. Felix Ermacora, and the independent lawyers of "project on war crimes in Afghanistan" serve to educate Americans on the genocide happening today in Afghanistan. It is not hard to compile a long list of barbarous crimes the Soviets and their Afghan collaborators have commited against the innocent Afghan population. The 13-page annex of Dr. Ermacora's findings that the U.N. wrongly refused to make part of the official report is even more revealing. The following heinous crimes are frequently being committed by the Soviets in Afghanistan. Incidentally, these are the same Soviets who came to Washington proclaiming a policy "glasnost" or openness. Apparently this means "open season" on Afghans.

The Soviets are engaged in a scorched-Earth policy designed to force Afghans to become refugees. The Soviets have purposely burned villages and crops. They have destroyed irrigation systems, schools, and mosques. Their goal is the destruction of the Afghan nation as a whole.

The Soviets have purposely bombed innocent civilian targets. There has been extensive use of napalm and high explosives against nonmilitary targets. Often times the Soviets will opt for maiming rather than killing innocent Afghan women and children to increase their suffering and burden on the rest of the population. The use of landmines is widespread and the dropping of bombs designed to look like toys means that young children are deliberate targets.

Those Afghans who have stayed or have become internal refugees in the Soviet-controlled cities are subject to indiscriminate arrest and torture. The Soviet and puppet Afghan jails have absolutely no concept of even rudimentary human rights. Violent torture is common and executions routine. A December 1986 UPI report detailed the brutal execution of prisoners at Kabul's Puli Charki Prison to relieve "over-crowding."

In their efforts to eradicate traditional Afghan culture and heritage, the Soviets have kidnaped Afghan children from their parents and have forceably sent them to the Soviet Union for Communist indoctrination. Other children, yes children, have been conscripted into the military. According to the U.N. rapporteur, the conscription system is governed by severe discriminatory methods.

The brutality unleashed against the brave Mujahideen freedom fighters is almost incomprehensible. Prisoners are not taken, they are executed. Medical treatment is denied. Unfortunately, as we have recently experienced, the Soviets and their Afghan puppets have not constrained themselves to Afghanistan. Their bombings and the terrorist actions carried out by the KGB and the Khad have killed many Afghan refugees in Pakistan as well as Pakistani citizens. In fact, because the Pakistanis have been so helpful, the Soviets have deliberately tried to destabilize this important American ally. And, with all of the attention we have focused on the Persian Gulf, we must not forget that the Soviets have always coveted this region. Their actions in Afghanistan and Pakistan and the geographical proximity of these countries to the gulf are further reasons for concern.

Finally, a picture is worth a thousand words. I recently received a very revealing book from the Writers Union of free Afghanistan. It was filled with pictures of innocent Afghan villages and villagers who were subject to the Red Army's inhuman policies. I urge concerned citizens to review this book. However, I must warn them to do so only when they have a strong stomach—the brutality is gut wrenching.

As I previously mentioned, the list of atrocious human rights violations and blatant disregard for numerous international laws, treaties, and conventions is very, very long. It is incumbent upon us to continue to try to focus international attention on this Afghan genocide. I hope my colleagues, especially those who argued during the debate on the defense bill that the Soviets can be trusted and that the Soviets really aren't that bad, to carefully review the sorrowful happenings in Afghanistan. Talk to our colleague

Charlie Wilson, who has traveled with the Mujahideen into occupied Afghanistan, and has seen the destruction first hand. The rape of Afghanistan is the policy of the Soviet Union. The Afghan genocide is the result of the Red Army. Let us not fool ourselves, the Soviet advisors who murder Afghans in coldblood are the same Soviet advisors "teaching" the MPLA in Angola and the Sandinistas in Nicaragua. The tragic situation in Afghanistan cannot be looked at as if it were in a vacuum.

The courage and resolve of the Afghan people, despite these great burdens, is very inspiring. On the battlefield, the Afghan Mujahideen have routed the Red Army and confined their control to only the largest cities. The arrival of new weapons, like the Stinger Sam, have challenged Soviet air power and strengthened the capabilities as well as the morale of the freedom fighters. Eight years ago, many believed the Afghans would be unable to last for long against the Soviets. They were wrong. The Soviets have signaled that they are tiring of their Afghan quagmire and are looking for a way out. I strongly believe we must continue to support the Mujahideen to provide even greater incentive for the Soviets to get out of Afghanistan. As long as the Soviets continue with their brutal policies in Afghanistan, we must stand by the Mujahideen and their struggle for liberty.

As the U.N. special rapporteur said, "the only solution to the situation in Afghanistan is a withdrawal of foreign troops." It is very important for Congress to once again condemn the brutal, inhuman Soviet policy in innocent Afghanistan. I strongly urge my colleagues to continue joining me in supporting the struggle for freedom in Afghanistan.

Mr. LEVIN of Michigan. Mr. Speaker, I thank the distinguished gentleman for his leadership and his moving words. With the gentleman's help, I am sure the issue will stay on the front burner. There are lots of issues that divide us on this floor, including the defense issue the gentleman referred to, but there are some issues that bind us closer together. This is clearly one on which we will move forward.

In that spirit, I yield to the distinguished Congresswoman from California [Ms. Pelosi], who has been here a short time, but we are so pleased that she is here with us and working so effectively on many, many issues in her short period of time here.

Ms. PELOSI. Mr. Speaker, I thank my colleague, the gentleman from Michigan [Mr. Levin], for calling this special order and giving me the opportunity to speak on the floor of the House of Representatives about an issue of concern to the people of my district and people throughout the world who care about human rights.

Mr. Speaker, 8 years ago this month the Soviet Union invaded Afghanistan. To no one's surprise, the occupation of Afghanistan has turned into a bloody war with no victors, only losers. The Soviets have suffered over 30,000 casualties and have spent close to $3 billion a year to fight this Vietnam-like war that has no end in sight. But what about the people of Afghanistan? Some reports indicate that 1½ million Afghans have lost their lives due to the Soviet invasion and occupation. One out of three Afghans has left the country since the Soviets marched in, in 1979. Imagine if 80 million Americans fled our country for refuge in Canada and Mexico. Today, fully one out of two refugees in the world is an Afghan. This is the legacy of Soviet "intervention" in Afghanistan.

The Soviets' flagrant disregard for human rights in this country has not gone unnoticed. A report based on interviews with Afghan refugees, issued by an independent counsel on international human rights, a group of human rights lawyers from the United States, Britain, Sweden, and Malta, documents countless acts of terror perpetuated against the Afghan people. The report tells of the widespread use of torture by the Kabul government's secret police; massacres and summary executions of civilians by Soviet troops;, and the deportation of Afghan children to the Soviet Union. Soviet troops are systematically destroying villages, burning crops, and poisoning water supplies. It is clear that the Soviet Union is trying to destroy traditional Afghan society.

These atrocities must be stopped and the people of Afghanistan must be given the right to determine their country's future. I firmly believe that all peoples and countries must be allowed the right to self-determination. The fact that Afghanistan is located on the Soviet border should not preclude this right.

One issue on the recent Reagan-Gorbachev summit agenda was the resolution of regional conflicts. Unfortunately, the summit meeting between President Reagan and General Secretary Gorbachev accomplished little in the form of an agreement on Afghanistan. Reports indicate that when the President brought up the subject of Afghanistan, the General Secretary dismissed it as a topic of true dialog.

Various statements by high-ranking Soviet officials, including Mr. Gorbachev, have made reference to a Soviet desire to withdraw from Afghanistan and end this pointless 8-year debacle. Statements, however, are not enough. Real questions of how and when the Soviets withdraw from Afghanistan, what they leave behind, and the repatriation of Afghan refugees must be addressed and acted on. In order to stop this tragic and senseless bloodbath, the Soviets should leave Afghanistan immediately. I urge the Reagan administration to press hard on this issue in the next summit meeting between President Reagan and Mr. Gorbachev. Let's return the country of Afghanistan to its rightful occupants, the people of Afghanistan.

Mr. LEVIN of Michigan. Mr. Speaker, I thank the gentlewoman, and as we leave this subject, let me just reiterate a few of the statistics that the gentlewoman mentioned. Over 1 million Afghans have lost their lives, perhaps 1½ million. A third of the population is displaced, and to translate this into American figures, if the same thing would happen to us, one out of two refugees in the world is an Afghan.

What we want to do tonight is to try to take this data and place it in a human context and try to imagine what it really has meant and what it will mean if there is no change.

So I deeply appreciate the gentlewoman joining with me. We will be together on many other efforts.

Mr. Speaker, if there is no one else here tonight, many others wanted to participate, but we are beginning a little later than expected, so Mr. Speaker, I yield back the balance of my time.

Mr. ECKART. Mr. Speaker, Thomas Jefferson said:

> We are not afraid to follow truth wherever it may lead, nor to tolerate error so long as reason is left free to combat it.

Mr. Speaker, this evening we call attention to the truth about human rights violations in Afghanistan, and we call upon the Soviet Union to restore dignity to the Afghan people by withdrawing their troops from that country immediately. In the 8 years since the Soviet Union invaded Afghanistan, the United Nations has passed eight resolutions demanding that the Soviet Union withdraw from Afghanistan. The latest resolution—passed last month—was supported by an unprecedented 123 nations.

Mr. Speaker, we cannot tolerate the murder of 1 million Afghans or the displacement of over 5 million more, whose homes and lives have been destroyed by the Soviet occupation. The American people are necessarily encouraged by the arms control agreement signed by President Reagan and Secretary Gorbachev. But this treaty cannot dispel the outrage of the American people over the Soviet Union's invasion of Afghanistan and the reports of widespread atrocities perpetrated against the Afghan people.

Last month, the independent counsel on international human rights issued a comprehensive report on the human rights situation in Afghanistan. Their facts and conclusions are no less than horrifying.

In interviews in Pakistan with Afghan refugees, the independent counsel reports receiving testimony from over 40 alleged torture victims, most of whom had been captured in their homes. The victims were allegedly subjected to electric shock, beatings, and worse.

In clear violation of the Geneva accords, civilians are targeted for military attacks. Villages are bombarded, civilians seeking refuge from the war are attacked, homes are regularly searched, the use of aerially dispersed mines is widespread. Individual citizens, such as village elders or religious leaders, are attacked to warn others against oppostiion to the Soviet intruders. The Soviet Army continues heavy bombardment of the frontier regions in an attempt to clear border areas of civilians and to deter civilians from seeking refuge outside the country. Chemical weapons have been used by Soviet Armed Forces against civilians.

The Soviet Army routinely destroys crops, kills livestock, and contaminates water supply in villages. Following armed attacks, Soviet troops leave explosives disguised as children's toys, cassette recorders, pens, radios, watches, and other "consumer"items.

Perhaps most disturbing of all, innocent children have been abducted from school without their parents' knowledge and forced to undergo indoctrination in the Soviet Union for weeks or even years.

After 8 years of these and other atrocities, one-third of the Afghan population has been forced to leave Afghanistan, and another one-third are living in internal exile in their own country. Ten thousand refugees per month pour out of Afghanistan into Pakistan.

Mr. Speaker, the American people, and free men and women around the world, join in condemning the Soviet Union's invasion of Afghanistan. In the spirit of the renewed communication between this country and the U.S.S.R., the President must continue his efforts to secure a complete withdrawal of Soviet troops from Afghanistan.

Mr. TRAFICANT. Mr. Speaker, I am pleased to be able to participate in this important special order commemorating the eighth anniversary of the Soviet invasion of Afghanistan. Mr. Speaker, actions speak louder than words. Soviet leader Mikhail Gorbachev has stated that he wants to withdraw the estimated 120,000 Soviet troops in Afghanistan. He says he wants to end the war. Yet, the troops remain. Civilians continue to die, children continue to have their arms and legs blown up by Soviet "toys," and the Afghan people continue to be denied their freedom.

As a cosponsor of House Resolution 277, condemning Soviet human rights abuses in Afghanistan, I believe that the U.S. Congress must continue to speak out fervently for the Soviet Union to end their brutal occupation of Afghanistan. Mr. Speaker, despite the new leadership of Mikail Gorbachev and his glasnost policies, the Soviet Union continues to maintain a huge military presence in Afghanistan and the Soviet Army continues to oppress the Afghan people. Contrary to recent Soviet pronouncements, an estimated 120,000 Soviet troops remain in Afghanistan and another 30,000 are posed on the border ready to attack. Despite these overwhelming military odds, the mujaheddin continue to struggle against their Communist oppressors.

As a Nation dedicated to freedom and the protection of basic human rights, it is vitally important for the United States to continue to speak out against human rights abuses—no matter where they occur. To turn a deaf ear on the plight of the people of Afghanistan would be a great crime. This special order is so important because it reaffirms to the world how the American Congress and the American people feel about human rights and it further shows the resolve of Congress and the Nation to continue to support the struggle for freedom in Afghanistan.

In the Gorbachev era of glasnost I believe it is crucial that the United States seize this window of opportunity to not only negotiate with the Soviets on issues such as arms control, Soviet Jewry, and conventional force reductions—but also discuss other aspects of Soviet behavior around the world. Glasnost may be just a cosmetic change, but the fact is the Soviets are talking. Mr. Gorbachev may be growing weary of the war in Afghanistan. As a result, he may in fact pull out of Afghanistan. But, as far as we here in this Chamber are concerned, our policy should not concentrate on what the Soviets may or may not do, rather, it should continue to stress and call for the withdrawal of all Soviet troops in a timely fashion, and the establishment of an independent government—free from the shackles of Soviet-sponsored Communist oppression.

No future Soviet action can wipe out the 8 years of suffering and repression the Afghan people have endured at the hands of the Soviet Union. The refugee problem alone will take years to resolve. On the eighth anniversary of the Soviet invasion we here in the free world should rededicate ourselves to working toward peace and freedom in Afghanistan. Let us not only mark this grim anniversary, but let us also express our undying support and admiration for the brave Afghan freedom fighters. As long as they continue to struggle for their freedom, the United States must continue to support their noble cause.

Mr. CLARKE. Mr. Speaker, it was 8 years ago this month that the Soviet Army invaded Afghanistan. During the subsequent war, the Afghan people have shown their fierce determination to be independent. They have fought one of the world's superpowers to a stalement, despite the tanks, artillery, modern air force, and over 100,000 soldiers on the other side. The brutal Soviet strategy in Afghanistan has included destruction of the villages which support freedom fighters, forcing millions of Afghans to flee their country. The U.N. General Assembly has voted several times, by overwhelming margins, to demand a Soviet withdrawal.

In a recent poll, 53 percent of Moscow residents surveyed favored total withdrawal from Afghanistan. General Secretary Gorbachev himself may not recognize that the Soviet cannot win there. He has urgent internal problems to solve, and must be considering coming to terms with Afghan independence. The moral force of world opinion has not been enough. Our aid to the Afghan freedom fighters, together with help from other friendly countries, has been crucial. We should continue our assistance until Gorbachev makes up his mind to withdraw.

Mr. Speaker, I join my colleagues in saluting the Afghan people and in condemning the Soviet occupation which has inflicted such terrible suffering on them. It is time for the Soviets to get out of Afghanistan.

GENERAL LEAVE

Mr. LEVIN of Michigan. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend his remarks on the subject of my special order tonight.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

□ 1925

THE SITUATION IN THE DEPARTMENT OF EDUCATION, THE REHABILITATION SERVICES ADMINISTRATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York [Mr. OWENS] is recognized for 60 minutes.

Mr. OWENS of New York. Mr. Speaker, I am here in my capacity as the chairman of the Subcommittee on Select Education to address a very serious problem that we have encountered in the Department of Education, the Rehabilitation Services Administration.

The remarks that I am about to make I consider to be quite serious. They involve a very important part of the responsibilities of my duties as a Congressman and as the chairman of a subcommittee responsible for this particular program.

The total funding that is the responsibility of the Rehabilitation Services Administration amounts to nearly $1.5 billion. I think most of the American people are not aware of the fact that we have such an extensive program designed to help the disabled of this country. The fiscal year 1986 appropriation for the Rehabilitation Services Administration was $1.3 billion, almost $1.4 billion, and for fiscal year 1987 the amount is $1.487, almost $1.5 billion.

The number of persons served in fiscal year 1986 was 923,774 people served, almost a million, by this program for the disabled.

The number of persons rehabilitated was 223,354.

It is an enormous program. I think it is to the credit of the Congress and of previous administrations over long numbers of years, over several decades, that America stands without equal in its services to the disabled. There is not a single nation in the world that does a better job at serving the disabled than our country does.

We have made a definite commitment. Over the years these programs have evolved. They reflect a great deal of wisdom on the part of Congress, they reflect a great deal of skill on the part of Congressmen and administrators, and they have been fashioned to care for vast arrays of people who suffer from all kinds of disabilities. It is also to the credit of the Congress and the administration, and to the credit of Democrats and to Republicans that despite the massive cuts that human services programs have undergone in the last 8 years, despite cuts that most other programs have endured, no significant cuts, no disabling cuts have been inflicted on this particular program.

There has been an understanding of the need to keep these programs functioning at a reasonable level. They have had strong support from the Senate, from both parties in the Senate, and strong support from both parties in the House of Representatives.

It appears that the problems that most of our human services programs suffer from, the greatest problems are funding problems. The greatest problems are legislative problems, for they are fighting to maintain themselves because legislation has been introduced to dismantle the program or discontinue it.

These kinds of fights have not been necessary in the case of services to the disabled through the Rehabilitation Services Administration. We have had substantial funding. We have had tremendous support. All things have been going well and even new programs have been introduced which are very much needed and may be long overdue. They have been introduced anyway.

A program called supported employment, which is a program designed to guarantee that the people who suffer from the worst kinds of injuries and disabilities are given special attention and somehow brought into the mainstream by being given extra help, this program was introduced fairly recently and has received a great deal of attention at a time when everything else has been cut back and everything else that the Federal Government does in the area of human services is being placed under a microscope and is scrutinized to the point of being wiped out by such scrutiny.

So with all of these things going on we were shocked in the Subcommittee on Select Education to discover that we were receiving a barrage of complaints about the way in which the department was being managed. These are basic problems of management in this $1.5 billion program, problems brought to our attention by people all across the country.

They are saying that suddenly they were finding situations where not only were they not being given any assistance but a great deal of confusion was being created by the fact there seemed to be internal problems within the headquarters administration here in Washington, DC.

I think it is very important to note that many of these people were reacting because their expectations had been lifted greatly at the time that a well-known administrator and advocate for the disabled was appointed as the Commissioner for Rehabilitation Services. The Commissioner for Rehabilitation Services is a position which is at the pinnacle of programs which serve the disabled. It is to their credit that this position is a Presidential appointment despite the fact that it is located within the Department of Education under the jurisdiction in one sense of the Secretary of Education, but it is the President of the United States who appoints the Commissioner for the Rehabilitation Services Administration.

Mr. Speaker, Justin Dart was appointed as Commissioner after having served in the same capacity as the chief executive for the rehabilitation program in Texas. Justin Dart came as a person who was well-known throughout the disabled community. He came with impeccable credentials, not only credentials as an advocate but also credentials in terms of his competency, management skills, and his proven abilities.

So expectations were understandably raised quite high that, given the fact that there was this tremendous support of the Congress, given the fact that the funding wars had not destroyed the effectiveness of the agency, given now a top-notch administrator, that the Rehabilitation Administration would surge forward. But that did not happen.

Instead, we have heard of complaints. We have begun to receive a barrage of complaints from all across the country that they were not better, things were getting steadily worse.

Our first concern was, are these problems related to the fact that despite the fact that Congress fought hard for these programs and they have been maintained at a reasonable level, they have strong legislative support, previous administrations have supported them, are these programs of poor management and complaints about lack of technical assistance due to the fact that there is a hostile atmosphere that has been created by this administration and that it is really a policy of this administration to make life difficult for this Rehabilitation Services Administration which serves the disabled in America?

We began looking at the fact that the administration did propose zero funding in fiscal year 1987 for State-supported employment programs, for example, one of the major new initiatives.

We also looked at the fact that the administration later tried to rescind the funds for this same program. So there was some basis for believing that perhaps the difficulties were due to the fact that some policy on high had been determined to treat this program in a spirit of benign neglect, that the difficulties were not accidental, not matters of management, but matters of policy.

Upon investigation more closely, we found that if this is the case very little of it is at the heart of the problem. It appears that the detailed micromanagement problems really are the problems that are there. We passed no judgment. We did have staff make inquiries. We read the letters. Then we decided to have a hearing on the functioning of the Rehabilitation Services Administration.

This was not a hearing that was held divorced from all other things that were happening at the same time. The Senate was concerned, and the Senate had had hearings, so the concern about the Rehabilitation Services Administration was widespread and our hearing was just one more inquiry into exactly what was happening.

We had been told that a program which had been given priority, the program I mentioned before, the last great initiative of the Rehabilitation Services Administration for the disabled community, a program called supported employment program with grants related to this, State-supported employment grants, it took 11 months for the procedure and the grant process to become final. The funds for this same program were released not until the very last day of the fiscal year. The basic State grant regulations also took 1 year to be published in proposal form. The draft took another year. And this is a priority program, and not much else was happening other than this. It was given a priority.

Yet it took all this time of people receiving the regulations late, receiving the funds late, and as a result the one great initiative, the priority program is suffering greatly.

So we invited representatives of the administration to testify at the hearing. We invited Assistant Secretary Madeline Will to testify, we invited Commissioner Justin Dart, who is the Commissioner appointed by the President for the Rehabilitation Services Administration.

We did not expect to do more than continue to explore what it is that prevents this program from fully realizing its potential, what it is that prevents this program from going forward in view of the fact that it has so much support from so many areas, so much support from the Congress, and so much past positive history from other administrations.

The Assistant Secretary testified and then of course the Commissioner for Rehabilitation Services Administration testified. We were shocked by the fact that the Commissioner for Rehabilitation Services Administration put aside his written statement that had been submitted to us and instead gave another presentation. He made another statement which I think was a courageous statement. I think it was a profound statement. I think it was a statement which deserves close attention by all of us who are concerned about the state of services for the disabled in America.

I believe that it represented what I have termed as a high-level act of whistleblowing, executive whistleblowing.

I do not use that term lightly. I think it is very serious. We take very seriously certain kinds of matters in Government, such as when there is corruption, or when there is waste in the Department of Defense. We welcome people who whistleblow and alert those of us who are responsible outside of the Department of Defense to the waste and corruption. In other areas of Government we recognize the need for courageous people to step forward and finger corruption and finger massive waste. I think that what is happening in the Rehabilitation Services Administration is as serious as any activity anywhere else in the Government.

We have so much money being spent, if we have so many years of positive legislation to build on, and suddenly it comes to naught, suddenly there is confusion and then it is a serious matter. It is a $1.5 billion operational matter that is all confused and ineffective and when a person who is working in the middle of all of this, a man who really has been given the responsibility for operating this decides to make a statement of this kind, it is a thing of great importance.

□ 1940

I am going to read from the statement made by Commissioner Justin Dart at the hearing that was called by my subcommittee.

To quote Mr. Dart:

Mr. Chairman, it is a privilege to appear today before a committee composed of and staffed by individuals who have been dedicated and successful advocates for the cause of human development.

Mr. Chairman, I would like to apologize to you and to my distinguished colleague advocate for my necessary absence due to a call of nature during her testimony.

Mr. Chairman, my prepared statement and other material has been and will be submitted to you. Because the issues we address today involve the fundamental human rights of millions of people with disabilities and the basic principles of democracy and good government of the President, the Congress, and the Nation, I am going to depart from politics as usual protocol to make a statement of conscience.

Our agency and our community is confronted by grave challenges, magnificent opportunities, and historic decisions. The time has come to rise above pride and protocol, to face reality, and to unite in responsible democratic action. During my tenure as Commissioner RSA has, thanks to the valiant efforts of our undermanned staff, accomplished much that is positive. Certainly OSERS/RSA and the rehabilitation profession have recorded the significant progress during the past years reported by our great supporter, Congressman Bartlett, and my distinguished colleague, the Assistant Secretary.

But, Mr. Chairman, based on my experience as Commissioner and my personal research in each of the 50 states and five of our largest Native American Nations, I must report to you that OSERS/RSA has been for many years and is today afflicted, particularly in its central office, by profound problems in areas such as management, personnel, and resource utilization. We are ravaged by disunity and hostility, internally and in our vital relationships with our State agency and grantee partners and certain other segments of the disability community. As I reported to Senator Harkin last month, I believe that these problems are negatively impacting services to citizens with disabilities.

Mr. Chairman, I have had very little effective authority to contribute to management solutions, but that is an acceptable excuse. I took an oath and I accept a salary as Commissioner of the Rehabilitation Services Administration. I apologize to you and to the Nation that in spite of 14 months of struggle, working literally seven days a week, in spite of eight months of appeals for serious attention and definitive action through the regular channels, efforts by my colleagues and myself to resolve our problems have not been successful.

Faced now with the possibility that paternalistic central control, non-professional management, and policies of hostility will be institutionalized for years by current revisions of organization and policy, I ask for your help and for that of the community. The basic problem here is not simply that Justin Dart is involved in a trivial turf and personality conflict with Madeline Will. Certainly it is not that the President, who campaigned on a platform of productive independence for all citizens and who endorsed the very progressive concepts advocated toward independence, is personally dedicated to dismantling vocational rehabilitation and independent living.

The problem with our external relations is not that the State vocational rehabilitation agencies oppose supported employment and other progressive rehabilitation services. My personal research has convinced me that while the problems of people with very severe disabilities have only begun to be solved, the great majority of the rehabilitation profession have, within the constraints of law, limited resources, and massive public prejudice, been effectively dedicated to solutions. They have, along with great advocacy groups like ARC, NFB, NAD, ACB, TASH, NAPUS, NAMI, NCIL and others, created a firm foundation from which solutions can occur.

Our problems are more complex. We are confronted by a vast, inflexible Federal system which, like the society it represents, still contains a significant proportion of individuals who have not yet overcome obsolete, paternalistic attitudes about disability and indeed about Government itself. There is a resistance to any sharing of centralized authority with people with disabilities, their families, advocates, and professional service providers in or out of the Federal service. Good managment is too often subordinated to the protection of power and, tragically, a small but all too effective minority in the Federal service and in the community seem dedicated to a divide-and-conquer strategy of promoting hostility among Government advocates and professional service providers.

At issue here are principles squarely endorsed by the President, the Congress, and all the great leaders of our major political parties and the overwhelming majority of the American people: participatory democracy, based on true Federal-State-community-citizen partnership; responsible administration of tax dollars in faithful pursuance of the law; quality, productivity, and independence-oriented, professionally administered services; and, most important, the civil and basic human rights of people with disabilities to have more than rubber-stamp, figurehead representation in Government, to liberate themselves finally from the subservient dependency produced by millennia of prejudice and authoritarian paternalism, and to participate in the productive mainstream of society as fully independent, fully equal citizens of the first class.

The problems of OSERS/RSA must be solved, and with good faith by all who truly support the independence and equal rights of people with disabilities, they can be solved and they can be solved without asking any party to compromise on any legitimate issue of principle. Mr. Chairman, I respectfully appeal to you and your colleagues in the Congress and to all present for guidance, inspiration, moral leadership and, if necessary, support for legislative action which will enable RSA to meet its historic and expanding responsibilities. Help us, above all, to overcome hostility and to unite. Let us not seek scapegoats; let us seek solutions. We have no irredeemable enemies, only enemy attitudes.

We stand at an historic crossroads. We are approaching foundational decisions about the future of rehabilitation and the fundamental rights of people with disabilities. We live in the richest Nation in the history of mankind. We have great programs like basic vocational rehabilitation, independent living, supported employment, and rehabilitation engineering. We have all the human, technological, economic, and political resources necessary to effect a cultural revolution which will utilize the methods and products of science for the dignity and quality of human life.

We are responsible to millions of Americans and, because of the extraordinary influence of our culture, to hundreds of millions of people with disabilities throughout the world in this and future generations. We are responsible to human beings who are forced to exist in conditions to which we would not subject our pet dogs and cats. We are responsible to potentially proud, productive people who are jobless, homeless, penniless, and hopeless. We are responsible to hundreds of thousands who died years and decades before their time.

We have no excuse to sacrifice these responsibilities to self-indulgence and self-destructive hostility. We have no excuse to fail and we cannot afford to fail. Like the founders of our independence and our constitutional government, we must transcend politics, personality, turf, and the corruption of power. We must join together in complementary unity with all who love justice, to build on the firm foundation which you in the Congress and others in this room have laid.

We must create a continuum of services, attitudes, and environments which will

> enable all of our children's children in every nation to live lives of productivity, dignity, and quality in the mainstream of society. I will do anything, including if necessary playing another role, to cooperate with you and your colleagues in the Congress, with the administration and with my colleagues in the disability community as we strive together to fulfill this sacred responsibility.
>
> Thank you, Mr. Chairman.

Mr. Speaker, that is the end of the statement of Mr. Justin Dart at the hearing held by the Subcommittee on Select Education at oversight hearings dealing with the Rehabilitation Services Administration.

Mr. Speaker, I am certain that Mr. Dart knew the seriousness of the statement he was making. I am certain he knew the possible consequences.

When I say that he is an example of a high-level executive whistleblower. I am also aware of the fact that there are certain mores, certain understood procedures and management understandings that require that people who are at a certain level go along with the program, to never criticize their superiors. All of that we are aware of. I am always saying it is unfortunate that we do not have avenues to encourage whistleblowing at high levels and that we cannot protect whistleblowers at high levels, people who can make a great contribution by the very fact that they are willing to speak frankly and willing to jeopardize their careers by stating the facts as they are.

I have had numerous protests of the fact that Mr. Justin Dart was asked to resign, he was forced to resign. As I said before, I suspect he expected that would be the reaction to the courageous statement that he made where he confirmed what people had been saying from all over the country. I had letters calling for action to reinstate him. People have written to me, they have written to their own Congressmen who have sent copies to me, and Congressmen have written to me. I am not here today to make an appeal for the reinstatement of Justin Dart. I think that Mr. Dart operates on a much higher level than that, and I am here to operate on a much higher level also.

I am here because I lament the fact that we have so much going, there have been so many advances, there has been so much good will, there have been so many good programs legislated, there is so much support for this program, and yet it is floundering at this moment, it is tragically at sea.

I am here to lament the fact that it appears that in this great Nation of ours, the greatest colossus that ever existed on the face of the Earth, in the executive branch administering a $1.5 billion program there are people who insist on operating as if they are running a mom-and-pop candy store, there are people who insist that personalities must prevail.

Mr. Dart did not say it in his statement, but later on in questioning as committee members asked him, he made the following statement indicating how petty, how trivial things have become in this agency responsible for $1.5 billion. I am quoting Mr. Dart again. He said "All personnel decisions as well as all other significant executive-nature decisions are made at the level above me, the Office of Assistant Secretary, including sending one Federal Express package. And it requires a signature in advance so all of those decisions are made finally in that office and not as a matter of ritual process by the individual decisions being made on their merits," not as a matter of they just sign off, but they actually make the decisions in that office as if they "were executing the duties of the Commissioner." It is that trivial, that ridiculous.

What is the end product of that kind of management and that kind of administration? We have what I noted before, the important business of the agency does not go forward. The agency took 11 months to get out the State-supported employment grants. The agency released on the last day of the fiscal year the funds for fiscal year 1987, and the agency did not prepare the regulations until the end of the fiscal year. Important, major tasks are not accomplished because we have this petty candy-store approach to administration.

When the Assistant Secretary was questioned about these problems in management, why the regulations did not go out, why the funds were not released, she made statements like "We did the best we could, we worked hard." She wanted applause for her staff working very hard.

At the same time there were enormous amounts of vacancies in the Department, vacancies that were not filled, vacancies that the Commissioner was not allowed to fill. At the same time we have glaring errors and examples of mismanagement, the Assistant Secretary wanted some kind of trophy or reward for the hard work of her staff.

It is our assumption at this point that the least we need to do is to have a much more thorough investigation of the administration and management of the Rehabilitation Services Administration.

□ 1955

What Mr. Dart says on the basis of his first-hand experience deserves the best attention and the most attention we can give it. We have asked the General Accounting Office to conduct an investigation, a review and audit, whatever is necessary, of the Rehabilitation Services Administration. We have been in conference with them, but we expect the attitude is going to be: "Yes, we will get around to it, but after all, this is not the Department of Defense. Nobody is charging corruption, nobody is charging major malfeasance, patronage, or any serious matter that might get on the front pages of our major newspapers."

I think management is serious. I think that throughout this whole civilized world, mismanagement, bureaucratic ineptitude, and blundering are as serious as any evil one might want to encounter. For a large number of people in the world, probably the majority of the suffering in the world is caused by blundering and mismanagement by people who are attempting to cover up their blundering and mismanagement. They often resort to criminal activity or to arms and war to cover up their blundering. Blundering and mismanagement are very serious. Blundering in a program which is designed to serve some of the most helpless people in our society is serious. With people who have been neglected for a long time but who are, after all, being supported now by the Congress and by legislative intitiative and funding, blundering which prevents that from happening is serious enough to be given the highest priority.

Mr. Speaker, I want to close by reading a few examples from some of these letters because there has been an attempt made to make it appear that this is a personal battle. The Assistant Secretary of Education was battling with the former Commissioner, and it was said it was just a matter of personalities. They dismissed the seriousness of the situation by making it appear to be just a matter of personalities.

I do not think it was a matter of personalities. There will not be any great improvement now that one personality is gone unless these major inequities in management are corrected, unless there is a whole new attitude and this kind of candy-store approach to management is discarded.

This is a letter from a person who was an administrator of rehabilitation services in one of the States, and I quote from his letter:

> This past year has been a very trying time for state directors without having appropriate leadership in our efforts to implement the October 21, 1986, Rehabilitation Amendments, P.L. 99-506. The state agencies have been required to submit supplements to the Title I, Title VII, and a new plan for Title VI, Part C, without benefit of regulations which are required to implement the law. Proposed regulations for the Title I Program were not published until November 18, 1987. These regulations will also have a significant impact on the regulations for the Title VI, Part C, program which became final in October 1987 after the State Plan was due. I realize you have been sensitive to those matters and have tried to restore quality leadership to our State and Federal partnership. For this we are grateful.

I read that because it is not about personalities. He is talking about specific kinds of major errors that were committed, major management shortcomings that caused great hardship in the administration of the program, and if there were diffculties in administration at the delivery level, the State level, then the people, the recipients of the services, the clients, will not receive the services, of course.

Mr. Speaker, the full text of the letter from which I quoted is as follows:

STATE OF TENNESSEE,
DEPARTMENT OF HUMAN SERVICES,
Nashville, TN, December 4, 1987.

Mr. JUSTIN W. DART, Jr.,
Commissioner, Office of Special Education and Rehabilitation, U.S. Department of Education, Washington, DC.

DEAR JUSTIN: I was filled with extreme sadness when I learned of your "resignation". The Tennesseans with a disability have indeed lost a friend, an advocate, and an administrator of one of the most successful programs that this Great Country has ever implemented.

I have been with the Vocational Rehabilitation program for the past twenty years. Most of the staff in the State Office are approaching 30 years. Several of the field supervisors have been in Vocational Rehabilitation for over 30 years. We are all profoundly committed to this program.

In my region the most knowledgeable staff on financial matters took early retirement, as well as several other experienced program staff. The loss of knowledgeable and experienced staff in the regional office has hampered the Federal-State partnership which has worked so well for us since 1921.

This past year has been a very trying time for state directors without having appropriate leadership in our efforts to implement the October 21, 1986, Rehabilitation Amendments, Public Law 99-506. The state agencies have been required to submit supplements to the title I, title VII, and a new Plan for title VI, part C, without benefit of regulations which are required to implement the law. Proposed regulations for the title I program were not published until November 18, 1987. These regulations will also have a significant impact on the regulations for the title VI, part C, program which became final in October 1987 after the State Plan was due. I realize you have been sensitive to those matters and have tried to restore quality leadership to our State and Federal partnership. For this we are grateful.

Let me assure you my staff have supported you one hundred percent. Frank Lee, Jack Van Hooser, and Terry Smith have related to me on several occasions how you came to our State before you became Commissioner of RSA and got grass roots information on problems, issues, needs, and knowledgeable leaders in the field of Rehabilitation. We feel you know first-hand the needs of individuals with handicaps and had a plan, if it could have been implemented, to help us improve our programs and service delivery for individuals with handicaps.

Sincerely yours,
PATSY J. MATHEWS,
Assistant Commissioner, Rehabilitation Services.

Mr. Speaker, I have another letter here by a person who is on the National Council for the Handicapped. He still sits on the National Council. At one point he was chairman of the council.

He said,

> By actions that I endured during that period as chairman, before the council became independent—the council is now independent by an act of Congress—I know firsthand of the inside workings at the Department of Education that Justin Dart has experienced. I know personally that Justin Dart is as competent a person as anyone would want. He is extremely loyal to the President and has acted in every way possible to perform his duties as Commissioner. He has been caught up in the same kind of ineffective, inefficient administration that in a sense has open hostility toward the Rehabilitation Services Administration. I am personally incensed over Justin Dart's being fired, and I would again urge you in your responsible position to see to it that there is a thorough and complete investigation, including an inquiry of all those persons who have left the Rehabilitation Services Administration, either by transfer, resignation, or early retirement in the past 6 years. We either need to transfer this Department, make it independent like you did the National Council or, once and for all, announce that nothing can be done to improve in the administration of this most cost effective program that you sponsor. I urge you not to consider this as a simple matter of misunderstanding between individuals. It goes far beyond any activities that Justin Dart and Madeleine Will may have been involved in.

That comes from a person who serves on the National Council on the Handicapped.

The full text of the letter is as follows:

SOUTH CAROLINA
VOCATIONAL REHABILITATION
DEPARTMENT,
West Columbia, SC., December 7, 1987.

Hon. MAJOR R. OWENS,
House Committee on Education and Labor, U.S. House of Representatives, Washington, DC.

DEAR CONGRESSMAN OWENS: You may remember that at the request of Senator Thurmond and other members of the Congress from South Carolina I was appointed Chairman of the National Council on the Handicapped in 1982. It was my responsibility to reorganize the National Council because all prior members had been excused from duty by President Reagan. Immediately after the official swearing in, in the Treaty Room of the old Executive Office Building, I was summoned to meet with a number of officials in the Executive Office Building, at which time I was told just exactly how I was to carry out my responsibilities and how everything that was done or said had to have prior approval of the then Acting Assistant Secretary of the Department of Education, George Conn. This was done in George's presence. At this same conference I was told that I could not communicate with Members of Congress even though the legislation called for the Council to be an advisor for the Congress as well as the President. I tried to maintain my composure and to operate the Council in a constructive manner but after I was refused staff that had been authorized by Congress with the appropriations in place, it was apparent that I could not have the Council function like the law required. Under the circumstances, instead of being accused a whistle blower as such, I quietly went to appropriate officials in the Congress in both the Senate and House and requested that the Council become independent and that legislation be enacted to provide for that independence. With outstanding support and forthrightness from Senator Weicker in the Senate and Representative Paul Simon in the House of Representatives, this was done. Shortly thereafter, I was removed from the chairmanship by a letter from White House personnel indicating that it was the decision of the President to rotate the chairmanship on an annual basis. However, no further rotation has taken place. I accepted that as the President's prerogative even though I knew it was punitive action for my participation with the Congress.

I continued my membership on the Council and was as supportive as I could possibly be because of the great lifetime respect I have for Senator Thurmond. By actions that I endured during that period as Chairman, before the Council became independent, I know firsthand of the inside workings at the Department of Education that Justin Dart has experienced. I know personally that Justin Dart is as competent a person as anyone would want. He is extremely loyal to the President and has acted in every way possible to perform his duties as Commissioner. He has been caught up in the same kind of ineffective, inefficient administration that in a sense has open hostility toward the Rehabilitation Services Administration. I am personally incensed over Justin Dart's being fired, and I would again urge you in your responsible position to see to it that there is a thorough and complete investigation, including an inquiry of all those persons who have left the Rehabilitation Services Administration, either by transfer, resignation, or early retirement in the past six years. We either need to transfer this Department, make it independent like you did the National Council or, once and for all, announce that nothing can be done to improve in the administration of this most cost effective program that you sponsor. I urge you not to consider this is a simple matter of misunderstanding between individuals. It goes far beyond any activities that Justin Dart and Madeleine Will may have been involved in.

I am attaching a copy of Justin Dart's resignation. It, in itself, will show you what a gracious individual he is, even though he has experienced such a hostile environment in the Department of Education.

Again, I urge your getting to the bottom of this very disgraceful situation and act with proper legislation.

Sincerely,
JOE S. DUSENBURY,
Commissioner.

Mr. Speaker, I also want to read this letter, because I am stressing management problems, problems of bureaucracy, and the evils that result from problems in management and bureaucracy. This is a letter that comes from John L. Cooper of the John Jay College of Criminal Justice.

The text of the letter is as follows:

JOHN JAY COLLEGE OF
CRIMINAL JUSTICE,
New York, NY, December 8, 1987.

Hon. MAJOR R. OWENS,
The United States House of Representatives, Select Subcommittee on Education, Washington, DC

DEAR MR. OWENS: I write to you as a concerned citizen who has been recently reminded, once again, of the ongoing problems of public bureaucracy; that of, administrative malingering and abject malfeasance. Generally in the halls of academia, public bureaucracies are often described as "red tape machines" and "fudge factories." Policy implementation and direct services to clients, by the nature of these organizations, must inevitable go slow. However, when policies are ignored and services denied this goes far beyond the normal inbred malaise of a people-pushing organization, and here I speak specifically of the Rehabilitation Services Administration (RSA).

During his first administration, Ronald Reagan called for a re-evaluation of all governmental services to disabled citizens throughout the country. For those of us who were aware, we knew that disabled persons were not only a disadvantaged minority, but for too many years they had been a forgotten minority. Then, under the auspices of the National Council on the Handicapped, many disability related organizations were consulted and a "National Policy for Persons with Disabilities," was submitted to the President.

Upon receiving the Disability Agenda, President Reagan said, "Let us rededicate ourselves to the tasks ahead. Let the spirit of the National Decade of Disabled Persons capture our imagination in partnership between the public and private sector, among national, state and local organizations and between the disabled and non-disabled we can win the battle for dignity, equality and increased economic opportunity for all Americans."

The Disability Agenda was mandated to RSA for implementation, and a new Commissioner, Justin W. Dart, Jr., was appointed to carry it out. However, even with this good start, RSA has apparently succumbed to the organizational sickness of modern times consensus politicking and bureaupathology. In mid-November, Commissioner Dart reported to the Select Subcommittee on Education that RSA was "affiliated—particularly in its central office—by profound problems in areas such as management, personnel, and resource utilization. We are ravaged by disunity and hostility internally and in our vital relationships with our state agency and grantee partners, and certain other segments of the disability community . . . . I believe that these problems are negatively impacting services to citizens with disabilities."

It is my guess that Mr. Dart was being more than a bit considerate in his description of RSA's internal problems. Nevertheless, there is no uncertainty about the failure of the Agency to fulfill the mandate allocated to it by the President.

Disabled people have not gained the services promised by the "National Policy for Persons with Disabilities." Bureaucrats at RSA have turned the implementation process into an administrative joke and folly, playing power games and one-upmanship with the services for disabled people and now Commissioner Dart has been "sacked." RSA, the Secretary of Education, and indeed the Executive Branch of government, seems unable to correct the Agency's administrative and organizational problems. Therefore, it seems to be left to the Congress, under the authority of its oversight functions, to look into the matter of bureaucratic dereliction of duty at RSA. The disabled people of America turn to you as a last resort. Investigate!!!!

Thank You,

JOHN L. COOPER,
Professor.

Mr. Speaker, I am going to conclude and not read any further letters. I do want to state that one of the statements made called attention to the fact that there have been a large number of people who have been forced out of RSA in the last few years, transferred, forced out, or forced to retire early. Various people had great expertise and great dedication and were well-known advocates, respected throughout the country, but they have left the agency and left the administration. All of this points to the fact that we are talking about more than a battle between two personalities. We are talking about the conception of the administration of a very vital agency.

We are concerned here with what the executive branch of a great nation should do. We should all be shocked. I was very much shocked that some of the things that were related could occur in the executive administration of a nation that has a budget of nearly a trillion dollars and this unit that has a $1.5 billion funding level. We deserve better.

Mr. Speaker, the Subcommittee on Select Education is dedicated to taking steps necessary to see that we get better.

Mr. GEPHARDT. Mr. Speaker, with the firing of Mr. Justin W. Dart, Jr., as Commissioner of the Rehabilitation Services Administration [RSA], the administration has drastically sidetracked the development of Federal disability programs that truly begin to serve Americans with disabilities without the paternalistic attitudes of the past.

Mr. Dart, who has been a courageous leader in the disability movement, spoke out honestly about the inflexible Federal system that is not providing opportunities for disabled persons and their families to participate in programs that enable them to lead productive and independent lives.

With Mr. Dart, we were finally making a breakthrough in, first, appointing disabled individuals to high level decisionmaking positions and, second, having a person in office who comes from the national disability movement. He met with the wholehearted approval of the disabled leadership nationwide and this administration, and was also in touch with what disabled Americans need to live independently.

Most important, we finally were enabling people with disabilities to enjoy their basic civil rights by eliminating paternalism and prejudice in our Federal programs.

We, in the Congress, cannot allow our federally-funded programs to be wasted like this. We must take a leadership role to assure that the legislation we enacted will enable RSA to meet its responsibilities to help improve the lifestyles of persons with disabilities.

I applaud the actions of the Select Education Subcommittee calling for an investigation by the GAO of the activities of the Department of Education. I also encourage the disabled leadership across the country to advise us about making RSA truly effective.

Through legislation enacted by the Congress, RSA has funded more than 175 consumer-controlled independent living centers covering every State in the Nation. These centers constitute a small portion of the RSA budget but are already having tremendous impact by enabling people with disabilities to live independent and free lives. Isn't that the goal of our rehabilitation program?

We in Congress have a responsibility to our constituents, 36 million of whom have disabilities, to insure that such programs are allowed to continue without being bogged down by prejudice and authoritarian paternalism.

I have great admiration and respect for Mr. Dart's integrity in speaking out on an issue long overdue. It is my most sincere hope that we can join Mr. Dart and his fellow citizens with disabilities, who are so deeply concerned about, the affected by, the quality of programs developed by RSA, in their effort to make that agency function efficiently and without internal disunity and hostility.

We must work toward the development of programs which will open up every opportunity for people with disabilities to achieve the equality and quality of life that we want for all of our citizens.

Mr. FRANK. Mr. Speaker, I congratulate the gentleman from New York [Mr. OWENS] for giving us this opportunity to express our profound disappointment at the Reagan administration decision to fire Justin Dart, Jr., as Commissioner of the Rehabilitation Services Administration.

The gentleman from New York is well qualified to preside over this discussion because of his dedication to improving public policy with regard to people with disabilities. Because of his diligence in discharging his duties in this area, he called the hearing at which Mr. Dart made the mistake of telling the truth, and was, for this sin, fired by the Reagan administration. The central point that is underlined by these sad events is that this administration, for all its self-congratulatory rhetoric about its commitment to a safety net, fails time and again to formulate or advocate public policies that are fair to various vulnerable segments of our society.

Justin Dart courageously fought for fair, sensible treatment of people with disabilities. His thoughtful and determined advocacy was incompatible with the policies of this administration and he was therefore fired. I join my colleagues in saluting Mr. Dart's integrity, and in lamenting the insensitivity of an administration which regards a committed and honest public official like Mr. Dart as an enemy rather than an asset.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. HASTERT) to revise and extend their remarks and include extraneous material:)

Mr. DANNEMEYER, for 60 minutes, today.

Mr. Craig, for 60 minutes, on December 17.

Mr. Dornan of California, for 5 minutes, today.

(The following Members (at the request of Mr. Gonzalez) to revise and extend their remarks and include extraneous material:)

Mr. Morrison of Connecticut, for 5 minutes, today.

Mr. Annunzio, for 5 minutes, today.

Mr. Gonzales, for 60 minutes, today.

Mr. de la Garza, for 30 minutes, on December 17.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mrs. Collins, immediately preceding rollcall vote No. 485 on the Andrews amendment to H.R. 1720 in the Committee of the Whole today.

(The following Members (at the request of Mr. Hastert) and to include extraneous matter:)

Mr. Broomfield.
Mr. Goodling.
Mr. Wolf.
Mrs. Vucanovich.
Mr. Lagomarsino in three instances.
Mr. Solomon.
Ms. Snowe.
Mr. Smith of New Hampshire.
Mrs. Roukema.
Mr. Moorhead.
Mr. Blaz.
Mr. Stangeland.
Mr. Mack.
Mr. Bereuter.
Mr. Porter.

(The following Members (at the request of Mr. Gonzalez) and to include extraneous matter:)

Mr. Oberstar.
Mr. Lipinski.
Mr. Downey of New York.
Mr. Markey.
Mr. Dorgan of North Dakota.
Mr. Hamilton.
Mr. Volkmer.
Mr. Levin of Michigan in two instances.
Mr. Torres.
Mr. Skelton.
Mr. Hoyer.
Mr. Bonior of Michigan.
Mr. Feighan.
Mr. Lehman of Florida.
Mr. Coelho.
Mr. Yatron.
Mr. Hertel.
Mr. Miller of California.
Mr. McCloskey.
Mr. Nelson of Florida.
Mr. Dixon.
Mr. Manton.
Mr. Weiss.

ENROLLED BILLS SIGNED

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 1994. An act to amend the boundaries of Stones River National Battlefield, TN, and for other purposes; and

H.R. 3700. An act to designate the Federal building located at 600 West Madison, Chicago, IL, as the "Harold Washington Social Security Center".

ADJOURNMENT

Mr. OWENS of New York. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 8 o'clock and 5 minutes p.m.), under its previous order, the House adjourned until tomorrow, Thursday, December 17, 1987, at 12 noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2576. A letter from the President of the United States, transmitting a report on United States capabilities to engage in low intensity conflict and conduct special operations, pursuant to 10 U.S.C. 167nt; to the Committee on Armed Services.

2577. A letter from the Secretary of Health and Human Services, transmitting a report on prevention activities by the Alcohol, Drug Abuse, and Mental Health Administration for fiscal year 1986, pursuant to 42 U.S.C. 290aa(e)(2); to the Committee on Energy and Commerce.

2578. A letter from the Comptroller General of the United States, transmitting a report entitled, "Deficit Reductions for Fiscal year 1988—Compliance With the Balanced Budget and Emergency Deficit Control Act of 1985" (GAO/OCG-88-1), pursuant to 2 U.S.C. 903; to the Committee on Government Operations.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. DIXON: Committee on Standards of Official Conduct. House Resolution 335. Resolution in the matter of Representative Austin J. Murphy (Rept. 100-485). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. DAVIS of Illinois (for himself, Mr. Ravenel, Mr. Donald E. Lukens, Mr. Jeffords, Mrs. Collins, Mrs. Schroeder, Mr. Holloway, Mr. Hastert, and Mr. Inhofe):

H.R. 3771. A bill to require the Secretary of Defense to reduce United States troops in countries that do not reimburse the United States for certain costs of negative currency fluctuations; jointly, to the Committees on Foreign Affairs and Armed Services.

By Mr. LAGOMARSINO (for himself, Mr. Davis of Michigan, Mr. Young of Alaska, Mrs. Saiki, Mr. Herger, Mr. Gallegly, and Mr. Shumway):

H.R. 3772. A bill entitled, "The Santa Barbara Channel Protection Act"; to the Committee on Merchant Marine and Fisheries.

By Mrs. PATTERSON:

H.R. 3773. A bill to suspend temporarily the duty on MDBS and HPBA; to the Committee on Ways and Means.

By Mr. SKAGGS:

H.R. 3774. A bill to require that any pay adjustment for Members of Congress be made by a recorded vote; to provide that any such adjustment be deferred until the start of the Congress following the Congress in which it is enacted into law; and for other purposes; jointly, to the Committees on Post Office and Civil Service, House Administration, and Rules.

By Mr. SPENCE:

H.R. 3775. A bill to amend the Internal Revenue Code of 1986 to allow taxpayers to designate that part or all of any income tax refund is to be used to reduce the public debt of the United States; to the Committee on Ways and Means.

By Mr. WOLF:

H.R. 3776. A bill to provide technical corrections to the act incorporating the Naval Sea Cadet Corps; to the Committee on the Judiciary.

By Mr. GEKAS (for himself, Mr. Moorhead, Mr. Lungren, Mr. DeWine, Mr. Hyde, Mr. Shaw, Mr. Slaughter of Virginia, Mr. Dannemeyer, and Mr. Smith of Texas):

H.R. 3777. A bill to reform procedures for enforcement of the fourth amendment to the Constitution, for collateral review of criminal judgments, and for the imposition of capital punishment, and for other purposes; to the Committee on the Judiciary.

By Mr. WHITTEN:

H.J. Res. 425. Joint resolution making further continuing appropriations for the fiscal year ending September 30, 1988, and for other purposes; considered and passed.

By Mr. FOLEY:

H.J. Res. 426. Joint resolution authorizing the hand enrollment of the budget reconciliation bill and of the full-year continuing resolution for fiscal year 1988; considered and passed.

By Mr. GONZALEZ (for himself, Mr. St Germain, Mr. Wylie, and Mrs. Roukema):

H.J. Res. 427. Joint resolution to provide for the temporary extension of certain programs relating to housing and community development, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

By Mrs. VUCANOVICH (for herself, Mr. Akaka, Mr. Anderson, Mr. Applegate, Mr. Badham, Mr. Bateman, Mrs. Bentley, Mr. Bilirakis, Mr. Berman, Mr. Bevill, Mr. Biaggi, Mr. Bilbray, Mr. Blaz, Mr. Bliley, Mr. Boehlert, Mr. Bonior of Michigan, Mr. Borski, Mr. Boucher, Mr. Boulter, Mrs. Boxer, Mr. Brooks, Mr. Bryant, Mr. Callahan, Mr. Carper, Mr. Carr, Mr. Chandler, Mr. Chapman, Mr. Chappell, Mr. Clay, Mr. Coelho, Mrs. Collins, Mr. Conte, Mr. Coyne, Mr. Craig, Mr. Crane, Mr. Crockett, Mr. Daniel, Mr. DeFazio, Mr. Dellums, Mr. DeWine, Mr. Dickinson, Mr. Dingell, Mr. DioGuardi, Mr. Dixon, Mr. Donnelly, Mr. Dorgan of North Dakota, Mr. Dornan of California, Mr. Dowdy of Mississippi, Mr. Dwyer of New Jersey, Mr. Dymally, Mr. Dyson, Mr. Early, Mr. Emerson, Mr. English, Mr. Erdreich, Mr. Espy, Mr. Evans, Mr. Fawell, Mr. Feighan, Mr. Fields, Mr. Fish, Mr. Flippo, Mr. Foglietta, Mr. Foley, Mr. Ford of Tennessee, Mr. Ford of Michigan, Mr. Frenzel, Mr. Gallo, Mr. Garcia, Mr. Gingrich, Mr. Gonzalez, Mr. Goodling, Mr. Green, Mr. Hansen, Mr. Hatcher, Mr. Hopkins, Mr. Horton, Mr. Howard, Mr. Hubbard, Mr. Hughes, Mr. Hunter, Mr. Jones of North Carolina, Mr. Kasich, Mr. Kolter, Mr. Lagomarsino, Mr. Lantos, Mr. Latta, Mr. Leach of Iowa, Mr. Leath of Texas, Mr. Lehman of California, Mr. Leland, Mr. Lewis of California, Mrs. Lloyd, Mr. Lowry of Washington, Mr. McCollum, Mr. McDade, Mr. McEwen, Mr. Mack, Mr. MacKay, Mr. Matsui, Mr. Mazzoli, Mr. Miller of California, Mr. Mineta, Mr. Moakley, Mr. Murphy, Mr. Myers of Indiana, Mr. Neal, Mr. Nielson of Utah, Ms. Oakar, Mr. Owens of Utah, Mr. Panetta, Mrs. Patterson, Mr. Pepper, Mr. Price of Illinois, Mr. Rahall, Mr. Rangel, Mr. Roe, Mrs. Roukema, Mr. Rowland of Georgia, Mr. Sabo, Mrs. Saiki, Mr. Schaefer, Mr. Schumer, Mr. Sharp, Mr. Shumway, Mr. Sisisky, Mr. Skelton, Mr. Smith of Florida, Mr. Solarz, Mr. Tallon, Mr. Tauke, Mr. Thomas of California, Mr. Towns, Mr. Traxler, Mr. Valentine, Mr. Vander Jagt, Mr. Walgren, Mr. Waxman, Mr. Weldon, Mr. Wilson, Mr. Wolf, Mr. Wortley, Mr. Wyden, Mr. Gray of Illinois, and Mr. de Lugo):

H.J. Res. 428. Joint resolution designating the period commencing February 8, 1988, and ending February 14, 1988, as "National Burns Awareness Week"; to the Committee on Post Office and Civil Service.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 382: Mr. Erdreich, Mr. Florio, and Mr. Sisisky.

H.R. 388: Mr. Pickett.

H.R. 458: Mr. Kolbe, Mr. Ridge, and Mr. Roth.

H.R. 579: Mr. de la Garza and Mr. Coleman of Texas.

H.R. 778: Mr. Perkins.

H.R. 1016: Mr. Bunning and Mr. Markey.

H.R. 1076: Mr. Borski, Mr. Dwyer of New Jersey, Mr. Florio, Mr. Gejdenson, Mrs. Kennelly, Mr. Kleczka, Mr. Kostmayer, Mr. McGrath, Mr. Mrazek, Mr. Rowland of Connecticut, Mr. Oberstar, Mr. Pickett, Mrs. Saiki, Mr. Smith of Florida, Mr. Torres, Mr. Weldon, and Mr. Wise.

H.R. 1442: Mr. Markey.

H.R. 1481: Mr. Dellums, Mr. Beilenson, and Mr. Bonior of Michigan.

H.R. 1692: Mr. Hopkins, Mr. Cooper, Mr. Rowland of Georgia, Mr. Kolbe, Mr. Traficant, Mr. Lowry of Washington, Mr. Synar, and Mr. Craig.

H.R. 1734: Mr. Kolter, Mr. Richardson, Mr. St Germain, and Mr. Staggers.

H.R. 1782: Mr. Combest and Mr. Wheat.

H.R. 1786: Mr. Chandler, Mr. Traxler, and Mr. Courter.

H.R. 2041: Mr. Kolter.

H.R. 2148: Mrs. Martin of Illinois, Mr. Traficant, and Mr. Green.

H.R. 2157: Mrs. Schroeder.

H.R. 2238: Mr. Lowery of California, Mr. Bruce, Mr. Visclosky, Ms. Snowe, Mr. Regula, Mr. Lipinski, Mr. Volkmer, and Mr. Gibbons.

H.R. 2487: Mr. Lowry of Washington and Mr. Coble.

H.R. 2717: Mr. Campbell, Mr. Oberstar, Mr. Richardson, Mr. Florio, and Mr. Torricelli.

H.R. 2856: Mr. Bilbray and Mr. Packard.

H.R. 3199: Mr. Blaz, Mr. Spence, Mr. Daub, Mr. Hansen, and Mr. Bunning.

H.R. 3250: Mr. Gallegly and Mr. Synar.

H.R. 3292: Mr. Dellums and Mr. Savage.

H.R. 3433: Mr. Vento.

H.R. 3501: Mr. Lagomarsino.

H.R. 3503: Mr. Torricelli.

H.R. 3504: Mr. Eckart and Mr. Sikorski.

H.R. 3553: Mrs. Boxer.

H.R. 3562: Mr. Rahall, Mr. Solarz, Mr. Bates, Mr. Jacobs, Mr. Yates, Mr. Borski, Ms. Pelosi, Mr. Kolter, Mr. McHugh, Mr. Lowry of Washington, Mr. de Lugo, Mr. Fawell, Mr. Boehlert, Mr. Barnard, Mr. Mfume, Mr. Downey of New York, Mr. Gibbons, Mr. Mineta, Mr. Jontz, Mr. DioGuardi, Mr. Gordon, Mr. Jeffords, Mr. Fascell, Ms. Kaptur, and Mr. Campbell.

H.R. 3628: Mrs. Kennelly, Mr. Pursell, Mr. Kolter, Mrs. Byron, Mr. Dellums, Mr. Aspin, Mr. Lehman of California, Mr. Gordon, Mr. Gingrich, Mr. Richardson, Mrs. Vucanovich, Mr. Markey, Mr. Jontz, and Mr. DeFazio.

H.R. 3635: Mr. Craig, Mr. Lagomarsino, and Mr. Shays.

H.R. 3639: Mr. Marlenee, Mr. Schuette, Mr. Buechner, Mrs. Meyers of Kansas, Mr. Kanjorski, Mr. Herger, Mr. Gaydos, Mr. Kolter, and Mr. Weldon.

H.R. 3654: Mr. Fawell, Mr. Panetta, Mr. Badham, Mr. Young of Florida, Mrs. Martin of Illinois, Mr. Bateman, and Mrs. Boxer.

H.R. 3698: Mr. Dornan of California, Mr. English, Mr. Livingston, Mr. Neal, and Mr. Oxley.

H.R. 3715: Mr. Kildee.

H.J. Res. 289: Mr. de Lugo.

H.J. Res. 315: Mr. Young of Florida.

H.J. Res. 369: Mr. McEwen, Mr. Spence, Mr. Lent, Mr. Manton, Mr. Holloway, and Mr. Young of Florida.

H.J. Res. 390: Mr. Morrison of Connecticut.

H.J. Res. 391: Mr. Akaka, Mr. Gray of Illinois, Mr. Gallo, Mr. Howard, Mr. Fazio, Mr. Dymally, Mr. McDade, Mr. Dwyer of New Jersey, Mr. Biaggi, Mr. Kostmayer, Mr. Fauntroy, Mr. Bliley, Mr. Smith of Florida, Mr. Coelho, Mr. de la Garza, Mr. Lehman of California, Ms. Pelosi, Mr. Horton, Mr. Richardson, Mr. Daub, Mr. Wortley, Mr. Neal, Mr. McGrath, Mrs. Lloyd, Ms. Kaptur, Mr. Quillen, and Mr. Mineta.

H. Con. Res. 96: Mr. Fields.

EXTENSIONS OF REMARKS

PERSECUTION OF THE ALBANIAN MINORITY IN YUGOSLAVIA: AN ONGOING TRAGEDY

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 16, 1987

Mr. BROOMFIELD. Mr. Speaker, while I commend President Reagan for raising the issue of human rights violations in the Soviet Union with the Soviet leader during his recent visit to Washington, now is the time for the administration to express our Government's deep concerns about the ongoing human rights abuses in Yugoslavia, and in particular, the persecution of the Albanian minority in that country.

This year Amnesty International reported that there were hundreds of prisoners of conscience in Yugoslavia and that many political prisoners were denied fair trials. Amnesty also reported that in the Autonomous Province of Kosovo, an area where many Albanian ethnics live, courts apparently have relied heavily on evidence that has been obtained under pressure. Amnesty further noted that there was concern that political prisoners may have been ill-treated and that prison conditions in some facilities in Yugoslavia where political prisoners were housed were unacceptable.

Amnesty International also reported that 466 people were charged with political crimes in 1986. Of that number, 258 were ethnic Albanians. Official statistics show that 1,400 people, most of them ethnic Albanians, were charged with political crimes in Kosovo between 1981 and 1986. Between April and July 1986, more than 120 ethnic Albanians were sentenced in a series of group trials in Kosovo and were generally convicted of membership in illegal nationalist groups.

I am certain that my colleagues will remember the tragic story of Peter Ivezaj, an ethnic Albanian from Michigan. He and his family traveled to Yugoslavia last year in order to visit relatives in Kosovo. Yugoslavian authorities harassed him and put him in prison for no apparent reason. He was later put on trial, convicted and sentenced to 7 years in prison. He was released after I introduced legislation that would have suspended most-favored-nation status for Yugoslavia.

Last December, a young Albanian ethnic being held in a prison in Yugoslavia allegedly committed suicide a month after his arrest in protest over the abuse he had suffered.

I want to share with my colleagues the most recent Amnesty International report concerning prison conditions for prisoners of conscience. While most Albanian ethnics who are prisoners of conscience serve their sentences in facilities outside Kosovo Province, the conditions of their transport to those prisons as well as conditions inside the prisons, are unacceptable. The reported torture of the prisoners is inexcusable. As a signatory to the Universal Declaration of Human Rights and the Helsinki accords, systematic abuse of human beings by the Government of Yugoslavia is shocking and reprehensible.

With these concerns in mind, I commend the following extracts from a recent Amnesty International report entitled "Yugoslavia: Conditions of Imprisonment of Prisoners of Conscience" to my colleagues in the Congress:

The extracts follow:

YUGOSLAVIA: CONDITIONS OF IMPRISONMENT OF PRISONERS OF CONSCIENCE

2 CROATIA

2.1 GOSPIĆ

Many ethnic Albanian prisoners from the province of Kosovo serve their sentences in prisons outside the province. Amnesty International continues to receive allegations that such prisoners are ill-treated during their transfer from Kosovo. The following are extracts from a letter of complaint to the Croatian Secretary of Justice, written some time in early 1982 by 17 political prisoners, then in Lepoglava prison, about their experiences on route to and in Gospić prison.

When we were brought out of Priština District Prison we were stripped and then loaded into a special truck containing cages, each for two prisoners. We were all chained like animals, with our wrists suffering most. The doors of the truck were shut and we were left there for several hours. As there were no air-holes we soon began to suffocate. Imagine: there were 43 of us and we could feel the lack of oxygen. We thought we would burst. Regardless of the consequences we began to bang on the doors but no-one took any notice. Much later, when half of us had fainted, they opened the doors. We were bathed in sweat, deathly pale and in pain.

During the journey, which lasted 17 hours, we were given no food except for a cup of tea in Zagreb. In Belgrade, where the guard was changed, we were taken in pairs to the W.C. where we were continually kicked and beaten with guns. The new head guard informed us that from then on there would be a new "regime" and that firearms would be used in reply to any disciplinary offence. (We do not know what disciplinary offence can be committed by a person who is chained and locked in a special truck!)

As soon as we arrived at Gospić prison and were escorted to the fourth floor we were met by a special group of warders. They forced open Nexmi Balaj's mouth and rammed a truncheon down his throat. He was unable to eat for two weeks. Abdyl Zymberi was knocked down and a warder put his boot in this prisoner's mouth and ordered him to kiss it. Halit Osmani was knocked down and received injuries to his nose and body. The same happened to Jakup Rexhepi.

One warder was especially active in this torture. He aimed mainly at the genitals, nose, chest and mouth. While hitting N.N. in the genitals, he said that N.N. would be unable to father more Albanians.

We were taken in threes and locked in cells. We were not allowed to sit down and were ordered to stand to attention. This was even inflicted on Sadik Sadiku who had only one leg. They beat him on the leg and said, "We will cut off that one and then you'll have to walk on your hands."

On the third day the prison director arrived and said to the warden on duty to "carry on". The prisoners in cell 82, Avdi Latifi and Hilmi Muzaqi, demanded to see the director. They pointed out to him that we were already sentenced and were therefore being tortured without reason. The director said quite openly that they would "wring our necks" and ordered a warden from Lepoglava to give us what we deserved. Almost immediately the prisoners Latifi and Muzaqi were beaten until they were unconscious.

Besides being subjected to daily torture we were forced to stand to attention for four or five hours at a stretch. We were not allowed to move and were checked carefully through the spyhole. If any of us was unable to sleep because of the injuries we had received we were dragged out and questioned as to why we were moving.

On 17 December 1981 Riza Demaj was ordered to clean the W.C. and then go to his cell. He did exactly as he had been told and went to his cell, but, on the pretext that he had opened the cell door himself, two wardens beat him so fiercely that he was left lying in the corridor for several hours. In brief, torture had here become part of the system and it was no longer a question of certain wardens exceeding their authority.

The old man Avdi Latifi for example was beaten by all twelve wardens merely because they found out that his grandson was in Stara Gradiska prison.

Another method of torture used in Gospić was pushing a cotton mattress through the corridors. This was done in the following way: the wardens soaked the corridors with water. After this the prisoners were forced to push the mattress along the soaking wet concrete floors. The prisoners were forced to do this with their heads held down so that the blood ran to their heads. We soon tired and either fainted or fell in front of the cell doors.

And it was never enough. Despite all this we still had to stand to attention. It happened many times that we were woken in the middle of the night and made to stand to attention. We had to stand to attention at meal times, in the W.C., when the bells rang . . . if not we would have been made to answer for it.

Because of the distance involved our relatives seldom came to visit us. At the very beginning no visits were allowed. Later when the prison authorities allowed us to meet our loved ones, the visits used to last about five minutes. These occasions were often unbearable for both the visitors and the prisoner because the wardens refused to allow us to speak our native tongue. We were not even allowed to speak Albanian with our mothers although they knew no other language.

We have much to write about the nightmare of Gospić prison but we believe that the facts we have given are sufficient to give

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

a clear picture of how the law is being applied.

As you know, treatment which causes physical or psychological pain to the prisoner is forbidden by law. Infringement of the prisoner's human dignity and humiliation of prisoners is forbidden under Yugoslav law and according to international agreement. Judging by our own experiences these are obviously not isolated incidents.

SANTA BARBARA CHANNEL PROTECTION ACT

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 16, 1987

Mr. LAGOMARSINO. Mr. Speaker, I am today introducing the Santa Barbara Channel Protection Act. This bill, which is being cosponsored by my colleagues BOB DAVIS, DON YOUNG, PATRICIA SAIKI, WALLEY HERGER, ELTON GALLEGLY, and NORM SHUMWAY is the result of hearings last week before the House Subcommittee on Coast Guard and Navigation, on legislation I offered last January addressing vessel traffic in the Santa Barbara Channel of California.

As a result of those hearings and submissions by the Coast Guard, Department of Interior, National Oceanic and Atmospheric Administration, county and city officials, the University of California at Santa Barbara, fishermen, industry representatives, conservationists and private citizens, we have developed a five-part bill addressing the issues of international cooperation, environmental protection, navigation, liability, and Federal, State, and local coordination on the matter of vessel traffic in the channel.

The first title directs the Secretary of Transportation to support and encourage the ratification of the International Convention on Standards of Training, Certification, and Watchkeeping for Seafarers and to report back next June on progress made toward ratification. The Secretary is also directed to prepare and submit proposals to the International Maritime Organization by next June to designate the islands of the Santa Barbara National Marine Sanctuary as an area to be avoided, and to establish an alternate traffic separation scheme to the existing sealanes through the channel.

Title II establishes a Santa Barbara Environmental Protection Zone over the sanctuary and directs the Secretary of Transportation to report to Congress by next June on the equipment, safety and crew standards that should be required on all vessels, including oil tankers, in the zone. The report shall include recommendations on: First, whether to require U.S. citizen pilots to navigate vessels operating in the Santa Barbara Channel; second, whether to institute tug and fireboat requirements in the Santa Barbara Harbor; and third, whether to establish a vessel traffic system to monitor and control shipping operations in the channel.

Title III directs the Secretary of Transportation to report by next June on progress toward establishment of a fairway within the Santa Barbara Channel traffic separation scheme; to establish, as soon as practicable, a NAVTEX radio safety service to provide navigational, weather, and other urgent safety information in the channel; and to conduct a study on the amount of vessel traffic in the channel and on whether additional navigational aids are needed. In addition, title III directs the Secretary of Commerce, in cooperation with the Secretary of Transportation, to report on whether to establish a weather station in Santa Barbara.

Title IV of the bill establishes a system to recover civil damages when sanctuary resources are damaged, and earmarks the damages for sanctuary protection programs.

Title V directs the Secretary of Transportation, in cooperation with other Federal agencies, to investigate and coordinate all Federal, State, and local studies presently being conducted on shipping hazards in the channel and report on the effectiveness of contingency planning, the adequacy of existing Federal, State, and local resources in the event of a pollution incident. The Secretary is also directed to recommend whether Congress should establish a Santa Barbara Channel Advisory Committee to recommend ways of dealing with shipping hazards in the channel.

Mr. Speaker, I feel this bill addresses an urgent problem, as demonstrated by the recent shipwreck off Point Conception, and look forward to working with Federal, State, and local agencies and interested parties to develop a comprehensive response to traffic problems in the Santa Barbara channel.

EAGLE SCOUTS

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 16, 1987

Mr. LIPINSKI. Mr. Speaker, it gives me great pleasure to bring to the attention of my colleagues an outstanding young man from my distict who has completed a major goal of his Scouting career, Daniel Szymanski, of Troop 326 in Cicero, IL.

Daniel will be awarded the rank of Eagle Scout at the court of honor to be held Sunday, January 10, 1988, at the Wesley Methodist Church in Cicero.

The Boy Scouts of America represents some of the finest youth in our country and the training and values that they receive and develop during their years of Scouting are invaluable to them and to their country in all the years later.

I am sure that my colleagues join me in intending heartfelt congratulations to Daniel on this outstanding achievement.

SANDER LEVIN ANNOUNCES U.S. SERVICE ACADEMY NOMINATIONS

HON. SANDER M. LEVIN

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 16, 1987

Mr. LEVIN of Michigan. Mr. Speaker, one of my most pleasant duties since coming to the Congress in 1983 has been my participation in the U.S. Service Academy Program. Through this program, Members of Congress may nominate outstanding young people to our Nation's academies. In the 17th District of Michigan, we have developed an outstanding committee of hard working, dedicated individuals who meet every year for the purpose of recommending young men and women to me for nomination to the academies. Their work has resulted in great success. As I look forward to the graduation of our first nominees in 1988, it is with great pride that I announce the principal candidates nominated to the classes of 1992.

Conrad Orloff, a senior at Dondero High School, has been named the principal nominee to the Navy Academy. Conrad is the son of Frederick and Heidemarie Orloff of Royal Oak. Suzanne Stokes, the principal candidate named to the Air Force Academy, is a senior at Bishop Borgess High School. She is the daughter of Ronald and Carolyn Stokes in Detroit. Marek Stobbe, a senior at Oak Park High School, has been named the principal candidate for one vacancy at the Military Academy. Marek is the son of Ryszard and Krystyna Stobbe of Oak Park. Named principal nominee for the other vacancy at West Point was Timothy Zacharias, address of record Redford Township. Tim resides with his parents, Andrew and Lynn Zacharias, in West Germany and attends the Vilseck American School.

The members of the selection committee join me in offering heartiest congratulations to these fine young people on their outstanding accomplishments and we wish them the very best.

STRATEGY IS VITAL

HON. HAROLD L. VOLKMER

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 16, 1987

Mr. VOLKMER. Mr. Speaker, our colleague from Missouri, IKE SKELTON, has recently been named chairman of a special House Armed Services Committee Panel on Military Education. The panel was formed in order to take a good, hard look at the way we educate our military officers. What follows is an editorial from a Missouri newspaper, the Camdenton Reveille. I think the editorial speaks for itself.

[From the Camdenton (AR) Reveille, Nov. 19, 1987]

STRATEGY IS VITAL IN OUR OPINION

(By Vaughn Poertner)

The lake area's Congressman Ike Skelton has been beating the drums lately for something that should be as plain as anything can be: America needs a long-range cohesive military strategy.

We need a plan coinciding with our national goals that will protect our national interests—a plan not only to stave off catastrophe in the current world so rife with conflict, but to solve problems affecting our position in the global scheme as troubles arise.

Our congressman this week was appointed chairman of a House panel charged with exploring professional military education and coming up with ways to teach professional military people to formulate strategy and pass it on to the president and congress.

His appointment is the outgrowth of his series of speeches calling for a national military strategy. He has told his House colleagues that he wonders:

"If professional military strategists, educated and trained to view the world from a national perspective, trusted by their military leaders, had been available to advise the president in 1982, would he have made the same decision about leaving our Marines in Lebanon? Would we, in 1967, have continued to fight a war in Vietnam that most commentators, civilian and military, in retrospect, believe was unwinnable?"

Skelton points out that, while the president (largely with the consent of Congress) makes the final decision on what military strategy will be, the president must make his decisions based on the advice of such agencies as the Joint Chiefs of Staff, the National Security Council staff, the Defense Department, and the State Department. If the advice is incomplete, poorly considered, or just plain bad, the president blunders the nation into the kind of thing that further erodes national unity—as did Vietnam and the Lebanon debacle.

Skelton believes that good military strategy can arise only from the development of a corps of professional military experts. And he believes no such corps is being trained today; hence, his panel to decide how to train such a corps.

Our congressman's idea is one whose time has long since come.

National leaders must begin thinking ahead on how we can use our capability as a multi-dimensional superpower to maintain our own interests and those of the free world. If they don't, we will continue muddling along under the kind of crisis-management policy that provides no viable results. We will continue to suffer from a military spread too thin to be effective in any area. And we will continue to be divided over questions of our nation's role in world events.

The implementation of Ike Skelton's idea of formulating strategy is vital to the very survival of our nation. A long-range military strategy, as well as a national policy with specified goals, is something that should have long been a fact of life. Since it obviously hasn't, we must delay no longer in developing a body of strategic thought that can produce trustworthy advice on the use of America's might.

SUPPORT FOR H.R. 3100

HON. CONNIE MACK

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 16, 1987

Mr. MACK. Mr. Speaker, on Thursday, December 10, 1987, I was unable to cast a vote on final passage of H.R. 3100, the International Security and Development Assistance Act. Unfortunately, in the CONGRESSIONAL RECORD for December 10, 1987, I was inadvertently paired against passage of H.R. 3100. However, if I had been present, I would have voted in favor of the bill.

There are certain provisions in H.R. 3100 to which I object. One such measure could prevent the administration from even discussing with a recipient of United States aid or a purchaser of United States arms the possibility of their support for the Nicaraguan resistance. I also find excessive aid to pro-Soviet African nations highly disturbing.

Despite these and other concerns I have about the bill, H.R. 3100 authorizes important aid to our friends and allies around the world. These nations maintain close relationships with the United States and offer important base rights for U.S. forces. It is vital that Congress express the importance of these relationships by maintaining its commitment to international security and development assistance.

I preferred the international policy contained in the Broomfield substitute to H.R. 3100, but I believe, for the sake of maintaining a viable foreign aid authorization process, that H.R. 3100 deserves congressional support.

THOSE "AGING" B-52'S JUST NEVER SEEM TO DIE

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 16, 1987

Mr. MARKEY. Mr. Speaker, you may remember that a few years ago we used to have some pretty heated debates around here about whether or not this country should spend over $20 billion to build the B-1 bomber. We used to hear over and over again from the administration and the Pentagon about those "aging" B-52s that were older than the pilots that flew them. The B-52, we were told, was reaching the end of its useful life and needed to be replaced. Those of us who opposed the B-1 pointed out that the B-52 could continue to operate as a stand-off strategic bomber it armed with long-range cruise missiles.

Despite our arguments a majority in Congress voted to fund the B-1 bomber and you would think that as a result we would be putting those "aging" B-52s to rest. But lo and behold, it turns out that the Air Force thinks the B-52 still has some life left in it. According to an article in today's New York Times, the Air Force now plans to arm the B-52 with nonnuclear missiles for use as a stand-off conventional bomber. Meanwhile, reports continue to trickle in about serious technical deficiencies with the B-1, deficiencies that GAO says will cost the taxpayers at least $2.5 billion to rectify.

It appears to me that those of us who argued against the B-1 and in favor of ALCM-equipped B-52s were right all along. If the B-52 can be used as a conventional stand-off bomber, it can certainly be used as a strategic stand-off bomber.

Mr. Speaker, I commend the New York Times article to my colleagues atttention:

AIR FORCE WOULD ARM B-52'S WITH NONNUCLEAR MISSILES

(By Richard Halloran)

WASHINGTON, December.—The Strategic Air Command is planning to equip a fleet of B-52 bombers with small, non-nuclear cruise missiles that have been secretly developed by the United States and with highly accurate short-range missiles made in Israel, Air Force officers said today.

The missiles would be among the main weapons in a project devised by the SAC commander, Gen. John T. Chain Jr., to convert the bombers from nuclear to conventional missions to support American land and naval forces in Europe or the developing third world regions.

The project, which would cost $3.3 billion over seven years, is supported by senior field commanders of all services, Air Force leaders and policy-making officials in the Defense Department said. But it must pass the review in which about $33 billion is to be sliced from the Pentagon's 1989 budget.

The American missile, officially designated the Joint Tactical Missile System, has a high-explosive warhead and would be fired at supply depots, headquarters bunkers and communications centers more than 50 miles away.

THE POPEYE IS ACCURATE

The Israeli missile, informally referred to as Popeye, would be fired at tanks and artillery or bridges and rail junctions less than 50 miles away. The Air Force has fired the missile in tests at least twice, and it has been found to have pinpoint accuracy, the officers said.

The SAC plan, which calls for converting about 150 of its 240 B-52's to the conventional mission, appears to reflect two trends in military thinking.

One is to move away from nuclear weapons and back to conventional arms. More and more officers believe that while nuclear weapons are vital to deter the Soviet Union, they cannot be used in conflicts that are more likely to engage the United States, such as those in the Persian Gulf.

The second trend emphasizes weapons that permit the user to fire while standing off at a safe distance from the target rather than expose pilots and crews, or airplanes and ships, to anti-aircraft or shore-based missiles.

In both trends, the increasing accuracy of the weapons, which is achieved with advanced guidance devices and sensors, makes them more destructive than weapons that had to blanket a target in hopes of hitting it.

The Navy is acquiring more cruise missiles armed with conventional warheads than with nuclear warheads. Within the next two years the Army expects to field a missile similar to the one the Air Force is buying for the B-52's. The Army's new missile would also be able to strike deep behind enemy lines.

In a way, the Strategic Air Command's plan for the B-52's appears to emulate the Soviet Union, whose armed forces never throw anything away but find new uses for aging equipment. The B-52's, the youngest of which is 25 years old, were scheduled to be retired in the 1990's but will be kept in service if SAC's plan is approved.

Officers at the SAC headquarters in Omaha said that General Chain, who was previously chief of staff of American forces in Western Europe, had been concerned with what he perceived to be the superiority in the conventional forces of the Soviet Union and its allies.

So he instructed staff officers to find ways to put SAC back into conventional fighting. After the Vietnam conflict, SAC bombers reverted to the nuclear mission for which they had been designed.

For the past few months, SAC officers have been briefing senior field commanders, beginning with Gen. George Crist, the Marine officer who heads the Central Command in Tampa, Fla. General Crist is re-

sponsible for American military operations around the Persian Gulf.

General Chain has set several rules for the B-52's that would carry the American and Israeli missiles and other conventional weapons.

The first was that the bombers would be armed with standoff weapons and would not carry bombs. Many nations today, including those in the third world, have extensive anti-aircraft radar and missiles bought from the Soviet Union or Western nations.

The second was that weapons would be acquired from existing stocks and would not require a long and expensive development program. Both the American missile and the Israeli missiles fit that description.

LIKE A FLYING TORPEDO

The Joint Tactical Missile System is a cruise missile that looks like a flying torpedo into which radar-detection technology has been incorporated. It is just coming into operation; details of its performance remain secret.

The Israeli missile is made by Rafael, a quasi-government company, and was reportedly used with success in the Israeli campaign against Syrian forces in the Bekaa region of eastern Lebanon in 1982 and 1983. Its accuracy was said to be measured in inches, not feet.

The third of General Chain's rules was that the B-52's would be based overseas and under the control of the field commander when engaged in operations.

THE PLIGHT OF THE UKRAINIAN CATHOLIC CHURCH IN THE SOVIET UNION

HON. GUS YATRON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 16, 1987

Mr. YATRON. Mr. Speaker, in the positive atmosphere surrounding the recent superpower summit here in Washington, it is important that we do not forget that the Soviet Union has a long way to go in improving its human rights record. As chairman of the House Foreign Affairs Subcommittee on Human Rights and International Organizations, I am particularly concerned about the repression of religious freedom in the U.S.S.R. Like many other religions in the Soviet Union, the Ukrainian Catholic Church has faced severe repression and persecution over the years. Fortunately, through the dedication and commitment of many brave Ukrainians, the Ukrainian Catholic Church has survived and continues to command the faith of countless citizens in the U.S.S.R. and in the West. I recently read an interesting article on this legacy from America magazine. I commend this enlightening editorial to my colleagues' attention and place it in the RECORD at this point:

CATHOLICS OF THE WORLD SHOULD KNOW

When President Reagan and Soviet leader Gorbachev meet in Washington next week the name of Yosyf Terelya will almost certainly not come up, but it should. The 44-year-old Mr. Terelya accumulated a painful total of 19 years in Soviet prisons, work camps and the punitive confinement of psychiatric wards in his struggle to secure legal status for the Ukrainian Catholic Church. He is, therefore, a living challenge to Mr. Gorbachev's policy of *glasnost*, or tolerance, and to Mr. Reagan's insistence that human-rights issues must be part of the U.S.-Soviet agenda.

As a matter of fact, the U.S. State Department paid attention to Yosyf Terelya in a first-rate report it published last January under the title "Soviet Repression of the Ukrainian Catholic Church." This document notes that in 1982 Mr. Terelya addressed a bold statement to the Central Committee of the Communist Party of the Ukraine in which he promised that a newly formed group of which he was the chairman would be publicizing the stepped-up repression of the Ukrainian Catholic Church. "The Catholics of the world should know," he wrote, "and be reminded in what conditions we exist."

Many people outside the U.S.S.R. also need to be reminded that the Urkranians, whose homeland is the second largest and most Christian of the Soviet Union's 15 republics, are not, properly speaking, "Russians, "but a people with a noble culture of their own. Next year will mark the first millennium of Christianity in the European regions of the Soviet Union. Russian Orthodox, Catholics and Protestants will all be justifiably observing this anniversary, but the celebration belongs in a special way to the Ukrainian Catholics.

It was in the Ukrainian city of Kiev that Prince Vladimir, the uproarious pagan ruler of a principality then known as Kievan Rus, accepted baptism in 988 and promptly proceeded not only to reform his own life, but also to organize a mass baptism in the Dnieper River of many of his subjects. At that time, however, the churches of the East and the West had not yet separated. Vladimir joined the Byzantine rite of Constantinople but he also exchanged ambassadors with the Pope. Although the Greek Church became estranged from the papacy in the 11th century, Rome and the Eastern-Rite Ukrainian Catholic Church have been formally united ever since the synod of Brest-Litovsk in 1596.

In the 20th century, the history of the Ukraine has often been tragic. After having been ruled by their neighbors for centuries, the Ukrainians formed an independent national republic for a short time after World War I, but the U.S.S.R. absorbed it in 1922. When Stalin was engineering his disastrous collectivization of agriculture, he allowed several million Ukrainians to die of starvation during the 1932-33 drought. During World War II, the Ukraine suffered greater losses than any other country. It is estimated that some 5 million to 10 million of its people were killed either by the Nazis or by the Soviet secret police.

But if Ukrainians of all faiths endured famine and war, the Catholics among them have borne additional bitter burdens. The Soviet rulers instituted a systematic persecution of Ukrainian Catholicism in 1946. Bishops, priests and lay people were killed, jailed or deported, and by a combination of force and trickery Catholic congregations were amalgamated with the Orthodox.

Yet Catholicism survives in the Ukraine. In this socialist republic of 50 million, there are somewhere between 3 million and 7 million members of the underground Catholic Church and uncounted others are secretly Catholic within Orthodox parishes. Moreover, as that State Department document accurately remarks, the "Ukrainian Catholic faithful" are supported by "the strong Ukrainian Catholic diaspora in the West." In the United States, for instance, there are four Ukrainian Catholic dioceses with a combined total of 208 churches and missions and more than 150,000 communicants.

It is a millennium of glorious but bloodstained history that all these Ukrainians, together with Catholics everywhere, will commemorate next year. But Yosyf Terelya will celebrate far from home. Last February, he was suddenly released from his most recent imprisonment and exiled. Before leaving, however, he delivered to the Kremlin a petition calling for legalization of the Ukrainian Catholic Church. To someone who met him in detention three years ago, he said that overcoming fear is of first importance because "where there is fear there is no faith." Of course, that is not always the case, but no doubt it is because their faith is so great that witnesses like Yosyf Terelya are so brave.

DR. CAREY STANTON

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 16, 1987

Mr. LAGOMARSINO. Mr. Speaker, I rise to inform my colleagues of the death of a well-known conservationist and philanthropist, and a close personal friend, Dr. Carey Stanton.

Dr. Stanton had an unusual mailing address. If you wanted to send him a parcel, it generally had to go out on a U.S. Navy launch. That's because Carey Stanton was one of the few people in the world to own his own island. Fortunately, he was as generous with his good fortune as he was dedicated as a conservationist. Trained in medicine at Stanford University, he left his practice in 1957 to return to the place where he had spent his boyhood, Santa Cruz Island off the coast of Ventura and Santa Barbara Counties. From that time until his death earlier this month, he lived on the island, recording its natural history and hosting thousands of students, researchers, sportsmen, and conservationists at his early California style ranch. Today, the island is part of the Channel Islands National Park, our Nation's 40th national park, created in 1980 under legislation I was privileged to author.

Santa Cruz is one of a group of islands extending offshore from Point Mugu westward to Point Conception. Like the other islands, it is actually part of a chain of mountains originating near Griffith Park in Los Angeles, known as the Santa Monica Mountains. Once connected to the mainland, the islands were isolated millenia ago by the rising sea, so that the valley they defined is now the Santa Barbara Channel. The sea which created the islands also insured their preservation, and today the islands are a microcosm of the flora and fauna of southern California before the arrival of Western civilization. The isolation also produced several unique species of plants and animals, distinct from their cousins on the mainland.

The sea surrounding the islands added its own richness and diversity, and today the islands and the channel are home to thousands of seals, sea lions, elephant seals, and other marine mammals, including whales and sea otters. Pelicans and other sea birds nest on the cliffs, and abalone and other mollusks and crustaceans live in the waters.

In 1978, Dr. Stanton agreed to sell the 55,000 acres he owned on the island to the Nature Conservancy, turning 12,500 acres over at the time and arranging for the conservancy to take title to the remainder at his death. This original bequest formed the nucleus of the soon-to-be created park, which now encompasses five islands. The waters surrounding the islands became a State sanctuary in 1972 under legislation I authorized in the California Legislature, and in 1980, the sanctuary was enlarged with the creation of the Channel Islands Federal Marine Sanctuary.

I am today introducing legislation—the Santa Barbara Channel Protection Act—to further insure the protection of this magnificent resource against the threat of pollution.

I had the privilege of knowing Dr. Stanton, and I know he was dedicated to the preservation of the unique national treasures which constitute the park and sanctuary. I know that I speak for all my colleagues when I say that the legacy of Cary Stanton will continue to inspire millions of students and visitors in the years to come.

I will miss him; however, his legacy will survive.

WORLD PEACE DAY

HON. SANDER M. LEVIN

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 16, 1987

Mr. LEVIN of Michigan. Mr. Speaker, December 31, 1987, shall be observed as "World Peace Day" throughout the Nation. I am proud to join with my colleagues, the President, and the residents of the 17th District of Michigan in recognizing this important day.

The recent United States/Soviet summit in Washington is evidence that the arms race is not inevitable. The agreement signed by the President and Soviet leader Gorbachev calls for the elimination of 2,800 intermediate nuclear weapons based in Europe. The agreement is a small first step down the road toward reduced superpower tensions. Other agreements are possible, but a prerequisite to any agreement is a willingness on all sides to sit down and talk.

I urge everyone to participate in the activities planned in their communities and places of worship to commemorate World Peace Day.

STATIC—AND UNFAIRNESS—AT THE FCC

HON. MARGE ROUKEMA

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 16, 1987

Mrs. ROUKEMA. Mr. Speaker, the FCC's fairness doctrine has been a cornerstone of our broadcasting policies and has served the public interest for decades. Earlier this month the House voted to restore the fairness doctrine, abolished on August 4, 1987, by the FCC. I supported the Dingell amendment to that effect. An article appeared in the Christian Science Monitor on December 3, 1987, titled, "Static—and unfairness—at the FCC." Author of the article, Michael Hirrel, is a former FCC staff member and presently counsel to the law firm of Davis, Graham & Stubbs. I commend Mr. Hirrel for his incisive comments in support of codifying the fairness doctrine. The article follows for the benefit of my colleagues.

STATIC—AND UNFAIRNESS—AT THE FCC

(By Michael J. Hirrel)

A little-noticed dispute now taking place in Congress will determine much of the future for broadcasting in the United States. The dispute concerns the Federal Communications Commission's former "fairness doctrine," but its impact ranges far beyond that specific policy. The FCC abolished the fairness doctrine Aug. 4. Congress promptly passed a bill, by large margins in both Houses, overturning the commission's decision. President Reagan vetoed the bill, however, and an override was not attempted.

Congressional supporters of the doctrine had a different plan. They would attach the doctrine to some piece of "veto proof" legislation which the President would have no choice but to sign. Until a few weeks ago, the precise details of the plan were a closely guarded secret. Then several plans emerged. The most important, by Rep. John Dingell, would attach the doctrine to one of the continuing funding resolutions pending in the House.

The outcome of this legislative activity will profoundly affect the future of broadcasting. In abolishing the fairness doctrine, the FCC held that the doctrine violated the First Amendment. This rationale calls into question virtually every form of broadcast regulation that concerns programming. Such regulation now includes, for example, broadcasters' obligations to carry programming responsive to their communities' needs, to avoid exploitative children's programming, and to provide reasonable access for advertising by federal candidates.

Such forms of program regulation have been upheld by the courts against previous First Amendment challenges. The courts have consistently used the same rationale, one last used by the Supreme Court when it upheld the fairness doctrine in a 1969 case, Red Lion vs. FCC. By attacking Red Lion and its underlying rationale, the commission has in effect challenged the constitutionality of all program regulation.

The courts give great deference to the FCC's opinions, so it is possible that they will now abandon their support of program regulation. On the other hand, the courts give even greater deference to Congress. Legislation adopting the fairness doctrine will almost certainly reinforce the courts' traditional approach.

Failure by Congress to enact legislation is likely to have another very different, but equally profound, effect on broadcasting. To understand why, it is necessary to go back to the origins of the Communications Act.

Before 1927, anyone who wanted a broadcast license needed only to apply for one. By the mid-'20s, however, this policy had created so many stations that interference in the broadcast spectrum made reliable reception difficult or impossible. In 1927, Congress passed the Radio Act, predecessor of today's Communications Act. The Radio Act severely restricted the number of stations to be licensed, but it also contained a quid pro quo. Those stations that received the privilege were now required to broadcast in a way that serves the public interest.

From the beginning, the FCC held that a broadcast station serves the public interest through its programming. A station's public-interest responsibilities included, the FCC held, duties to cover controversial issues of public importance and to cover all significant points of view concerning those issues. These two duties ultimately became the fairness doctrine.

If the public-interest standards and its subordinate fairness doctrine are now abandoned, the quid pro quo in the Communications Act will no longer exist. Broadcasters will receive an exclusive public franchise, but they will have no public obligation in return. Nature abhors a vacuum, and Congress is a natural animal. Although Congress has rejected substantial spectrum fees in the past—in effect, broadcast rental fees—the vacuum may make such fees inevitable.

In light of the profound effect this legislative activity will have, it is important to examine whether the FCC, rationale for abolishing the fairness doctrine is valid. The commission held that the doctrine violates the First Amendment even though the Supreme Court unanimously held to the contrary in Red Lion.

The commission attempts, of course, to distinguish Red Lion, but are its reasons sufficiently sound to justify the course into which it has pitched the American public and the broadcast industry?

The commission says there are many more stations now than in 1969. This is true, but irrelevant. Red Lion was based not on the number of stations then in existence, but on the practical necessity to exclude speakers from the broadcast spectrum. The court recognized that additional stations may appear. It held, however, that the additional stations may not be enough to accommodate everyone who seeks to broadcast. The court's reasoning has even more force today. Precisely because of the increase in stations, there is today very little spectrum left to accommodate new stations.

Nor has the rising number of broadcast stations produced a rising number of broadcast voices, as the commission seems to suggest. Concentration of control has grown at just about the same pace as the increase in stations.

Now demand greatly exceeds supply. New radio channels draw 20 to 40 applicants. Prices for existing stations in the United States have soared far above the rate of inflation.

The fairness doctrine ensures that although the public may be denied access to broadcast stations, it will not be denied access to a diversity of viewpoints. This purpose is consistent with the First Amendment, as the court held in Red Lion. If Congress fails to reinstate the doctrine, broadcasting will be fundamentally altered for an invalid reason.

A HEALTH CARE TEST THAT GEORGE BUSH FLUNKED

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 16, 1987

Mr. MILLER of California. The Washington Post's David Broder put Vice President GEORGE BUSH to the test, and as far as children and families are concerned, he flunked.

One would hope a man who would be President knows about those he would govern. But Mr. BUSH revealed a startling ignorance of the conditions in which millions of his fellow citizens live.

He did not know the number of people in the United States who have no health insurance, the number of unemployed without unemployment insurance, and that one child in five is born into poverty—all conditions that have been exacerbated by the policies of the administration in which he serves.

Such a performance by BUSH is not surprising. If we graded the current administration on most of its policies toward children and families over the last 8 years, the failing grade would be the same. Every year since his administration took office, they have proposed drastic cuts in Medicaid, maternal and child health, the immunization program, child welfare, AFDC, and other prevention programs which protect children and families, and save taxpayers dollars as well.

BUSH went on to say that the United States has the "best medical attention system in the world." That may be true, if you have the means to pay for it. But there are 37 million people in the United States without any health insurance, primarily because they can't afford it. Of the uninsured, 12 million are children, representing an unprecedented increase of 25 percent just since 1982.

For the poorest children, public health insurance programs fail to provide adequate, if any, coverage. Millions of poor children are still not covered at all, and millions more are not protected in the event of a catastrophic illness.

BUSH would probably be shocked to know that the private sector is not doing its share. Nearly 30 percent of today's uninsured children have employed parents with employer-sponsored health plans—but the plans do not cover their children.

I suppose it would also come as a huge surprise to Mr. BUSH that the United States ranks last among industrialized nations of the world in its infant mortality rate, and in recent years, we have failed to make any progress. Since 1979, there has been no improvement in the percentage of women receiving prenatal care in the critical first trimester of pregnancy. Today in the country with the "best medical attention system in the world," one in four pregnant women still do not receive early prenatal care.

Testimony presented to the Select Committee on Children, Youth, and Families in its hearings on the continuing infant mortality crisis, show that the major barrier to comprehensive prenatal care is the lack of adequate insurance for working families and the limited Medicaid coverage for families below the poverty line. Tragically, the predictable result has occurred: Progress in reducing the Nation's infant mortality rate has come to a virtual halt.

As startling is the erosion of the immunization status of the Nation's youngest children. For each of the seven targeted diseases, immunization rates for children age 2 years fell during the 1980-85 period. All of this comes at a time when UNICEF has embarked on a worldwide campaign to immunize children against preventable diseases. Once again, as a Nation, we have been given the dubious distinction of running behind the pack, instead of in front.

Richard Cohen's article on the Vice President's performance, which appeared in yesterday's Washington Post, follows.

[From the Washington Post, Dec. 15, 1987]

A HEALTH CARE TEST THAT GEORGE BUSH FLUNKED

(By Richard Cohen)

How many Americans do not have health insurance? How many of the jobless do not have unemployment insurance? How many children are born into poverty? These questions were posed to George Bush on NBC's "Meet the Press," and the vice president could not answer them. He did say, though, that the United States has the best health care system in the world. He should have said the best money can buy.

The questions to Bush were asked by The Post's David Broder. He prefaced them by noting that, more than his GOP rivals for the nomination, Bush has lived in a privileged world. Bush not only is a millionaire but for the past seven years has lived within the cocoon of the vice presidency. Air Force Two might not be Air Force One, but it's not a Greyhound bus, either.

Given the Broder Test, Bush flunked. He did not know the number of people without health insurance (37 million). He did not know the number of unemployed without unemployment insurance—his guess of 50 percent was low. (The figure is close to 70 percent.) And he did not know that one child in five is born into a family living below the poverty line.

What Bush did know was that the United States has "the best medical-attention system in the world." Scanning the globe with ideologically tinted glasses, he singled out England as having precisely the sort of health care system he wants to avoid: "I don't want to see it [the United States] go into the mode of England or this whole concept of socialized medicine."

Well, neither do I. But the infant mortality rate for the United Kingdom is 11 per 1,000 live births. The figure for the much wealthier United States is precisely the same—hardly a triumph. In fact, the American triumph evaporates entirely when compared with infant mortality figures for other industrialized nations. Japan's is six per 1,000 live births; Holland's is eight, Canada's 10, Australia's 10, France's 10, Germany's 10, and Spain's (yes, Spain!) yet another 10.

In a comparison of infant death among 20 industrialized nations made by the Children's Defense Fund, the United States ranked—are you ready for this, Mr. Vice President?—last. Most of the other countries have some form of what Bush might call socialized medicine—extensive government programs to provide health care to the needy.

Of course, these figures are averages. The sort of people Broder had in mind—the poor, the unemployed—have much higher rates of infant mortality. In Washington, the resplendent capital of the recent summit, the rate is 21 per 1,000 (24 for nonwhites). This is approximately the rate for Rumania. Detroit's rate is 21, Atlanta's 19.3, Newark's 18.6—figures that are a national disgrace. In some parts of America, a newborn has about the same chance of dying in his first year as a child in a poor, backward country. Tell his parents that we have the "best medical-attention system in the world."

Bush's sorry performance is not necessarily the result of wealth. Franklin Roosevelt, maybe the most radical of American presidents, was as close as we have to an aristocrat—and his equally wealthy wife, Eleanor, was denounced by some conservatives as "a flaming Red." Their older relative, Theodore, was likewise a progressive—and he didn't have to work for a living, either. And John F. Kennedy, another liberal, was the son of one of America's richest men. (Indeed, another son, Edward, is the Senate's foremost liberal.) No, some people can overcome the handicap of wealth.

In fact, Bush's resounding F on the Broder Test is not necessarily a reflection of his privileged life (although it may be), but of the Reagan administration's and the nation's lack of interest in the plight of the poor. It's not likely any of the other candidates, including some Democrats, would have done any better. Over the past seven years, greed has been exalted, the poor ignored—and all of it has been excused by a sort of social Darwinism: we all get what we deserve.

But infant mortality—as good a measure of health care as there is—ought to give even social Darwinists pause. Can it be said that an infant has earned an early death—or, maybe even worse, a life crippled at birth? How can someone who exalts life as Bush does, who denounces abortion as the killing of the unborn, care so little about these children after they are born that he pronounces our pathetic health system "the best in the world"? The answer, I fear, is not that he's uncaring, but that he's ignorant. Either way, to a struggling newborn and its parents, it hardly matters. It amounts to the same.

H.R. 3765, COMMERCIAL SPACE LAUNCH ACT AMENDMENTS

HON. BILL NELSON

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 16, 1987

Mr. NELSON of Florida. Mr. Speaker, I have just introduced, along with 21 cosponsors, legislation to amend the Commercial Space Launch Act to facilitate commercial access to space. The bill, H.R. 3765, introduced on December 15, 1987, addresses many of the near- and long-term problems affecting the competitiveness of America's launch industry.

An American commercial launch industry is a vital component of our Nation's space recovery efforts and an important link to future U.S. leadership in space. Congress understood the importance of this industry in 1984 when it passed the Commercial Space Launch Act, Public Law 98-575, designed to encourage the private sector to provide space launch services and to create a regulatory framework for the conduct of commercial launch activities consistent with governmental responsibilities to provide for the public safety and satisfy foreign policy and national security considerations.

Much has happened since the enactment of this legislation, and today, the presence of an American launch industry is ever more essential for getting American satellites to space. A painful lesson of the *Challenger* accident is that as a nation, we mistakenly relied on the space shuttle as our sole means of access to space for Government and commercial users. Since January 1986, we have taken steps to legislate a mixed-fleet philosophy for access to space which envisions reliance on both the space shuttle and expendable launch vehicles for access to space. We are implementing those plans today, and Government use of commercial launch services is part of our planning.

Certainly, one of the most painful consequences of the *Challenger* accident was the decision by the President to ban commercial payloads from the space shuttle. What alternative means to space did commercial users have available to them when notified of this Presidential policy decision in August 1986? Access to space was not available from an American launch provider and the French Ariane rocket was booked through 1990. Moreover, the Government was not prepared to address problems associated with the accelerating demand in starting up this industry to serve commercial and Government users.

In September, the Subcommittee on Space Science and Applications of the Committee on Science, Space, and Technology conducted hearings on the health of the commercial launch industry, receiving testimony from America's launch providers, satellite owners and operators and the three major Government agencies involved in commercial space transportation: Department of Transportation, Air Force, and NASA. Their testimony forms the basis for the legislation I have introduced along with 21 of my colleagues, which will address the major problems associated with the competitiveness of this industry.

The bill's themes are not new: The bill defines a risk sharing relationship between Government and industry that more closely resembles Government policies related to commercial use of the space shuttle. Obviously, the Government cannot assume industry's risk, but the Government can certainly assume risks commensurate with its responsibilities under law to foster this industry and Government obligations under international treaty. It is also about time for the Government to recognize the damaging impact of policy flip-flops concerning commercial access to the space shuttle.

Mr. Speaker, my colleagues and I want an American launch industry to be available for the launch of American satellites. I personally do not believe in our Nation relying on foreign launch systems for our access to space. Other nations are actively marketing their launch capabilities.

Let me be clear that we have a choice here in this international launch contest. I have made mine: America needs this important industry. According to a NASA Advisory Committee report presented to my subcommittee last week, the inability of the United States to win a competition for a $100 million launch contract is equivalent in economic terms to the import of 10,000 Toyotas or the loss of 5,000 jobs.

I invite Members to cosponsor H.R. 3765. The Subcommittee on Space Science and Applications plans hearings on this important legislative initiative early next year. Anyone wishing to submit a statement can do so by writing: Subcommittee on Space Science and Applications, U.S. House of Representatives, Washington, DC 20515.

THE 100TH ANNIVERSARY OF SHEET METAL WORKERS' INTERNATIONAL ASSOCIATION

HON. MARY ROSE OAKAR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 16, 1987

Ms. OAKAR. Mr. Speaker, I rise today to offer congratulations and praise to the Sheet Metal Workers' International Association on the occasion of their 100th anniversary. Founded in Toledo, OH, on January 25, 1888, this organization is one of the oldest of America's trade unions. At the same time, it is one of the most modern and responsive to the ever changing needs of its members and the challenges of the sheet metal industry.

Throughout the United States and Canada, this union represents over 150,000 construction and production workers who contribute their craftsmanship to improve the quality of life where people live, work, worship, learn, and play. Appropriately, they have chosen as the theme for their centennial, "Generations of Sheet Metal Craftsmanship," which symbolizes the proud traditions of skilled workers in building their trade.

This is no insulated union. The cooperative efforts of the sheet metal industry, through its union workers and contractors, has helped raise the quality of workmanship, increase productivity, introduce new work devices and processes, and promote safety in the workplace. Apprenticeship and training programs provide the bedrock for quality construction in the building trades. The national training fund, founded in 1971, keeps its members up to date on the demands of changing technology. Extending from the apprentice to the journeyman, the competitive ability of the unionized sheet metal industry is considerably enhanced.

Enlightened leadership throughout its history has kept the Sheet Metal Workers' International Association on the leading edge of the labor movement. The late general president emeritus, Edward F. Carlough, championed health, welfare, and pension benefits for union workers. His untiring efforts will be a central focus of the 100th anniversary celebration with the dedication of the first gallery at the National Building Museum in Washington, DC, in his name on January 25, 1988.

Another characteristic of this proud union should also be noted. It is a caring and concerned organization with a strong commitment to its public responsibilities. In the past 2 years, it has undertaken a major effort to examine the effects of asbestos exposure and other occupational health hazards on the sheet metal industry. The results of their studies and examinations will benefit not only sheet metal workers and their families, but all persons affected by occupational health hazards.

Another facet of this great union will be given international prominence throughout its centennial year. On January 25, 1988, the premier of a major exhibition will take place at the National Building Museum with the opening of "Sheet Metal Craftsmanship: Progress in Building." Through the cooperative efforts of the SMWIA, the Sheet Metal and Air-Conditioning Contractors' National Association, and the industry's national training fund, one of the Nation's outstanding architectural designers, Frank Gehry, has created a towering exhibition of sheet metal work and its history. Visitors to the Nation's Capital will marvel at the construction, all volunteer work of union sheet metal workers, who are at this moment beginning work on the exhibition which will be on display through August 1988.

I extend my congratulations to the officers of the Sheet Metal Workers' International Association, particularly to its dynamic general president, Edward J. Carlough. He has pioneered the development of a broad range of programs that have improved the lives and security of members and their families while, at the same time, strengthening and stabilizing the sheet metal industry. His efforts have been furthered considerably through the advice and support of the association's general secretary treasurer, Lonnie A. Bassett, its general vice presidents, international representatives, international organizers, business managers, business agents, and the sheet metal workers in locals throughout the United States and Canada.

I am proud of the achievements of the Sheet Metal Workers' International Association in its first 100 years. Its record is a tribute to dedication, integrity, and foresight. They, unlike so many others content on reveling in past glories, recognize that significant milestones provide an excellent opportunity to contribute something of lasting value to future generations. Their contributions to the sheet metal industry, the trade labor movement, and the Nation are cause to celebrate not only a proud past but a promising future.

"THE ORTEGA DOCTRINE"

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 16, 1987

Mr. LAGOMARSINO. Mr. Speaker, the Wall Street Journal today pulled no punches when its editorial told it like it is in Nicaragua.

As the editorial states, "The real nature of the Sandinista regime has been perfectly obvious for years."

No one should have been surprised at the revelations over the weekend of Sandinista intentions to build a 600,000-man army and to import Soviet missiles and Mig fighters.

The editorial speaks of the Ortega doctrine, which if allowed to go unchallenged will make a mockery of the Monroe Doctrine. I don't doubt there are some who would be pleased to see that happen, but I know the majority of the American people will not accept the expansion of Communist power in this hemisphere.

The time has come to recognize that before Americans need to fight to protect American interests in Central America, there are Nicaraguans who are already giving their lives to protect their interests and ours. Let us help them.

[From the Wall Street Journal, Dec. 16, 1987]

THE ORTEGA DOCTRINE

The Sandinistas' declaration that they intend to more than double the size of Nicaragua's military and to import Soviet missiles, artillery and Mig fighters has shocked House Speaker, Jim Wright. "It's ridiculous . . . intemperate and irrational," said the speaker, who only a month ago was predicting that peace was at hand in Central America.

What's in fact ridiculous is that it should have taken so long for the speaker and a lot of other people to learn that the Sandinistas act exactly like the Maxists they say they are. The real nature of the Sandinista regime has been perfectly obvious for years. Yet Mr. Wright and his allies in Congress have insisted all along that the Sandinistas only want to be left alone. Year after year, the congressional Democrats have passed Boland amendments and other measures to cut off U.S. aid to the Contras, the only viable resistance to the Sandinistas short of a U.S. invasion.

Certainly, it should no longer be possible to persist in the illusion that the Sandinistas have built a 250,000-man armed force purely for defensive reasons. Defense Minister Humberto Ortega boasted over the weekend that the Sandinistas plan to expand that force to 600,000 by 1995. They also hope to introduce offensive weapons such as Mig fighters, building the second largest military in Latin America (after Brazil).

President Ortega also has postponed indefinitely the Wright-endorsed peace talks with the Contras and announced that the Sandinistas will never yield power. "In the hypothetical case that the Sandinista front lost an election," he said, "the Sandinista government would hand over government, not power." It is now clear that the belief that the Sandinistas can be weaned to democracy is also an illusion.

The question now is how Contra opponents will respond to the Sandinistas' intentions. To do nothing would make a mockery of the Monroe Doctrine. In its place Central America would now confront the Ortega Doctrine. Yet Mr. Wright and the congressional Democrats still adamantly oppose the Contras.

Many prominent Democrats already are on record as saying an invasion would be justified if the Sandinistas ever imported MiGs. Gov. Michael Dukakis, on Oct. 11 to the Los Angeles Times: "If the Soviet Union were to introduce offensive weapons such as MiGs in Nicaragua, that would be grounds for military action." Senator Pat Moynihan in 1984 suggested force might be necessary if the Sandinistas accepted MiGs. The Democratic House voted in June 1985—by 312 to 111—that the President could commit troops to Nicaragua if it imported MiG aircraft or nuclear weapons (the measure died in conference).

It does seem strange, however, for these Democrats to talk about asking young Americans to fight for freedom in Nicaragua when Nicaraguans are willing to do it themselves. By all accounts the Contras are now doing better than ever. Newspaper accounts last month described how the Contras have won nearly total peasant support in Jinotega province in the north. Indeed, the Contras' success may account for some of the Ortegas' current bluster. Conveying the impression that their military machine is 10 feet tall probably would convince more than a few congressmen that opposing them is simply too difficult.

U.S. aid for the Contras' effort expires today. A current Reagan administration request for humanitarian aid was dropped by the House and chopped to only $9 million in the Senate. Speaker Wright has hinted he may allow some aid to emerge from the House-Senate conference this week, but he still opposes any military support.

The Reagan administration, for its part, ought to make it clear that it will not take its cues from the Ortega brothers rather than Oscar Arias's quixotic peace plan. President Reagan says Mikhail Gorbachev told him he'd be willing to withhold military aid from the Sandinistas, but it seems evident the general secretary has been telling the Ortegas something else. A new administration aid request for as much as is needed for the Contras to prevail or at least force a clear standoff—$500 million or $1 billion if necessary—would force Congress to finally confront the issue of freedom in Nicaragua directly.

If after all that we know about the Sandinistas' intentions for that country, Mr. Wright and the congressional Democrats still vote to deny aid, then the administration might consider airlifting the Contras out. If the Ortega brothers then roll up Nicaragua, the American people need to understand who made their victory possible.

TRADE BILL AND PROCESS PATENTS NEED PROTECTION

HON. CARLOS J. MOORHEAD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 16, 1987

Mr. MOORHEAD. Mr. Speaker, buried deep within the 1,000-page trade bill is a section dealing with the esoteric issue of process patents. The provision would grant to U.S. process patent owners the same protection that is currently enjoyed by all of our major trading partners.

Under current law, an entrepreneur who wants to manufacture a product using a process that is patented by someone else would have to get a license from the patent owner or risk infringing the patent and suffer the legal penalties. The entrepreneur could, however, import the product which was manufactured using the U.S. patented process and sell that product without infringing the patent.

Both the Senate and House versions of the trade bill include provisions to plug this hole in our patent system. However, there are major differences between the Senate- and House-passed versions which need to be reconciled in conference. For the benefit of my colleagues, I'd like to highlight three major differences between the two bills.

Inventory—What is an entrepreneur to do with his product inventory once he has been notified by a patent owner that the product was manufactured by his patented process. The House bill would allow the infringing entrepreneur to sell off all the inventory he has on hand and any product in transit to him. The Senate bill goes further and would allow the entrepreneur to receive from his foreign manufacturer and sell any product for which he has made a binding commitment and which is wholly or partially manufactured.

The Senate inventory provision is far too generous to the infringer, especially in light of the give-away grandfather clause that both Houses adopted in order to mollify current importers. Both bills allow anyone who is currently engaged in importing goods manufactured with a U.S. patented process to continue importing with total impunity. Consequently, the questions of how much inventory can be sold after notice only applies to the person who starts importing the infringed goods after the trade bill becomes law.

The Senate provision is also unworkable. A U.S. patent owner cannot determine whether imported and infringing products were or were not "wholly or partially manufactured" when the binding commitment was made with the importer. These acts in a foreign country cannot be proven. Consequently, the U.S. court would be unable to assess damages or even determine if there was infringement.

Request for Disclosure—The Senate bill establishes a scheme whereby an entrepreneur who plans to compete in a market with a patent owner has a right to request information about the process patents that could be infringed if the entrepreneur entered the market. This provision says that patent owners must "identify all process patents owned * * * or licensed * * * that * * * could be asserted to be infringed."

The "Request for Disclosure" provision in the Senate bill turns conventional business practice on its head: the bill creates a situation where a competitor gets from the patent owner a list of patents that could be infringed if used by that competitor. Such a scheme protects infringers, imposes burdensome requirements on patent owners, creates a situation that is totally contrary to conventional business practice, and encourages foreign manufacturing over domestic manufacturing.

There is no precedent in Federal law requiring a private business to disclose commercial information to competitors or suffer a penalty. indeed, a fundamental purpose of our entire patent system is to exchange a measure of protection to the patent owner in return for the public disclosure of the invention. Disclosure of all patented processes are available to any entrepreneur through a patent search in the Patent and Trademark Office.

The request for disclosure provision in effect takes away a protection currently enjoyed by U.S. process patent owners. The Senate provision requires the U.S. patent owner to take some affirmative action in order to defend the patent protection initially granted. In fact, the patent owner has less protection under the Senate bill than is available under current law. It is ironic that a measure designed to protect U.S. intellectual properties in effect takes away some of the protections already available to U.S. inventors.

In addition, U.S. manufacturers who plan to export their products investigate the status of foreign patents to avoid infringement. Foreign manufacturers should be required to do at least as much to protect U.S. patents as our domestic manufacturers do to avoid infringing foreign patents.

Notice—Both the Senate and the House bills contain provisions describing when an infringer is given notice that the product in question has been manufactured by a U.S. patented process. The House bill defines notice as actual knowledge or a written notification that sets forth facts which are sufficient to establish that there is a "substantial likelihood" that the product was made by the infringing process. Likewise, the Senate bill also defines notice as actual knowledge. However, the Senate bill states that notice can be written notification sufficient to persuade a reasonable person that it is "likely" that the product was made by the U.S. patented process.

I plan to encourage my House colleagues to accept the Senate standard but not the other provision in the Senate bill which would impose the requirement that patent owners include in the notice provision information on "other commercially feasible processes." The effect of this provision is to eliminate the pressure on potential infringers to seek indemnity agreements with their foreign suppliers.

Clearly, the entrepreneur/importer is in the best position to determine what process is being used in the manufacture of the product. The entrepreneur who contracts with a foreign manufacturer and who commits substantial amounts of money for the purchase of those foreign manufactured goods can simply ask his supplier to provide information on the manufacturing process or to indemnify the entrepreneur from patent infringement suits. If the manufacturer is reluctant to disclose the process or indemnify the entrepreneur, that should be a very strong signal to the importer that the supplier may be using a U.S. patented process. In such a case, the entrepreneur can take his money and his business elsewhere. Perhaps the entrepreneur would even like to consider using a U.S. manufacturer who either owns the process, has a license for the process, or uses a nonpatented process.

It has been argued that both the request for disclosure provision and the notice provision are simply designed to allow all parties as much information as possible so as to avoid infringement. The Senate sponsors seem to take the attitude that the entrepreneur is an orphan child in need of Federal Government protection. We must keep in mind that the entrepreneur/importer of the foreign-manufactured goods is planning to compete in the U.S. market with other businesses that have invested money in research and development to create new processes. The Federal Government, in this legislation, should be providing the protection to U.S. patent owners; it should not be the purpose of this legislation to protect one segment of U.S. industry, especially if that segment wants to buy foreign-manufactured goods and sell those goods in the United States.

The process patent provisions of the trade bills are very important, but it's not so important that we end up producing a weak law just for the sake of having something on the books in this area. I have received many letters from corporations saying that they would rather have no bill than have the Senate version of the process patent bill. Given our serious trade deficit, it's important that this Congress bite the bullet and produce a meaningful trade bill, one that our President can accept and one that's going to put our trading partners on notice that for trade to be free, it must be open and that means open in other countries as well, with fewer and fewer barriers for U.S. producers.

LEONARD ABESS, JR.: CARRYING ON THE TRADITION

HON. WILLIAM LEHMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 16, 1987

Mr. LEHMAN of Florida. Mr. Speaker, in the 50 years that my wife Joan and I have lived in Miami, both sides of Leonard Abess' family have been among our oldest and closest friends.

His grandfather, Arthur Ungar, was a traditional business leader—hard working and very successful but community spirited. Ungar Buick Co. provided my used care business with an opportunity to buy the cleanest of "trade-ins." His father, Leonard, Sr., as president of Industrial Savings Bank, afforded my company its first substantial line of credit. In the 1800's, Leonard's great-grandparents on his mother's side lived in Greenville, MS, in the same large Victorian house as did my great aunt, Hannah Schwab.

This long, long-time family relationship gives me a special pride and pleasure in the growing leadership role of Leonard Abess, Jr. He could have chosen many occupations—he has a long association with and affinity for the arts and an enviable understanding of nature gained through firsthand experience—but he has chosen to make his mark in banking, an occupation that is a tradition in his family. I would like to share with my colleagues an article that appeared in this month's edition of Florida Trend magazine which provides some additional insight into this decision.

It has been said that the apple does not fall far from the tree. Leonard Abess, Jr., is a good apple from a solid family tree. I think he will become one of our community's great leaders.

The article follows:

[From Florida Trend magazine, December 1987]

FAMILY TIES

(By Jeffrey W. Tucker)

Back in the late 1950s, when Leonard Abess Jr. was 10 years old, his family used to give him a hug and a handshake and pack him off to summer camp in the Northeast. For young Leonard, the son of a prominent Miami banking family, the part of the summer he liked best was what came before he actually pitched his tent around a campfire. Each year, a chauffeured limousine would meet him at Idlewild Airport (it was later renamed John F. Kennedy International), whisk him downtown and deposit him at 1 Wall St.

There, in a private dining room behind the imposing art nouveau facade of the 50-story Irving Trust Bank, little Leonard would order peanut butter and jelly sandwiches and talk about baseball with a group of bankers who seemed perfectly willing to baby-sit the son of a prized banking customer.

Abess, 39, is now chairman of Miami-based City National Bank, which his family started in the 1940s. In between lunches on Wall Street and moving into the executive suite at City National, Abess rafted the icy waters of the Yukon and trekked to base camps at the foot of Mount Everest. But he never forgot his annual outings to the altar of capitalism at Irving Trust.

For a brief time, he even worked for the bank while his dad was still in charge. Then, in the late 1970s, the Abess family was forced out of City National when minority shareholders pooled their stock and sold out to Alberto Duque, the so-called Colombian coffee king.

In 1979, the Abess family sold Duque their stake in City National, too. They ended up with some cash, plus stock in Duque's newly private City National operation. The Abess family then severed their ties with day-to-day management of the family business, and Leonard, who earned a degree in finance at the University of Pennsylvania's Wharton School of Business, started a slick monthly art magazine called Marquee.

Under its new owners, City National changed dramatically. The bank's once rock-solid earnings—$3.5 million in 1980—disappeared. In 1983, the bank lost $5.3 million.

Duque, it turned out, was a well-packaged scam artist. Scion of a wealthy Colombian coffee exporting family, he burst on the business scene when he bought the Chase & Sanborn Division of Nabisco Brands, merged it with his own General Coffee Co. and sewed up 8% of the U.S. coffee market in one transaction.

Meanwhile, rumors spread that Duque was endangering City National's depositors by engaging in shaky, self-serving deals. Inside the bank, managers did their jobs in a state of stunned subservience. One afternoon 120 City National managers were fired and told to clear out as Duque attempted to "trim overhead."

Duque approved $200 million in new lines of credit to foreign banks—some as far away as China—as he tried to expand City National's business in all directions. He closed the bank's employee cafeteria, calling it too expensive, while handing out expensive memberships in Miami's most exclusive business and social clubs to his cronies. He bought a fleet of high-priced company cars and passed them out as perquisites to 20 senior bank executives.

As overseer of his family's minority position in Duque's bank, Leonard Abess, Jr., became curious about the antics at City National. He wondered about the overall stability of Duque's coffee kingdom. One afternoon, Abess paid a surprise visit to Duque's coffee roasting plant in north Dade County. Instead of a bustling industry, he found five employees with three one-pound bags of coffee moving along a frayed conveyor belt.

He vowed to stop Duque before City National's depositors got hurt. By suing Duque for mismanagement, however, he could cause a run on the bank. Sitting back meant running the risk that hundreds of depositors could be wiped out by a band of thieves.

Abess decided to use the court in more subtle ways to bring pressure on Duque. As a minority shareholder, he filed a request in court asking permission to see City National's records. Duque refused, but by Florida law, he was required to explain in court why he turned it down. The day of the hearing, Duque failed to appear. An ensuing investigation ended in the government filing criminal charges against Duque and his management team.

A complicated six-month trial then paved the way for Abess to return where he longed to be, City National. Duque and nine others were convicted of a massive scheme to defraud City National and two dozen other U.S. banks of $105 million using phony collateral for loans. Duque, who is serving a 15-year prison term, declared personal bankruptcy and sold his shares in City National back to the Abess family.

As Abess tells it, the government could trace City National's and other bank losses back to Colombia, but there the trail disappeared. Abess says the Duque regime cost City National another $33 million in bad loans, lost interest, overhead and mismanagement.

After the Duque affair, Leonard Abess, Sr., in his 80s and retired, had no desire to return to business. He proposed that his son take over the family bank, and City National's creditors agreed so long as a new board of directors was formed under close government supervision.

So Leonard Abess, Jr., closed his magazine and headed back into banking. Besides canceling the foreign bank credit lines extended by Duque, Abess turned in the fancy fleet of company cars and refused to pay any more club dues. He bought up the employment contracts of Duque's bank managers and showed them to the door. He canceled the bank's loans to buy its own computer firm and got out of a plan to sell the bank's headquarters, a valuable chunk of downtown Miami real estate that it owned outright.

Since coming back to City National in late 1983, Abess has stressed conservative banking practices. "I think we have to be very sensitive about maintaining a sense of safety and soundness at City National," he says. "I want us to seem as rock solid as I remember Irving Trust seemed when I was a kid."

City National now has assets of $550 million. Its loan portfolio stands at $260 million. Last year, City National reported earnings of $10.4 million. That figure might have been higher had Abess not set aside $4.1 million in loan loss reserves. Though the funds may never be needed, Abess says he likes having the cushion.

City National expects a return on assets of about .75% this year, slightly lower than the average for most Florida banks, but Abess, who now controls 100% of the bank's stock, says he would rather have the bank's capital in cash and short-term instruments than in risky loans. By accurately forecasting the recent stock market crash, he cashed in City National's own stock portfolio just in time. He also has paid off $30 million in long-term debts built up during the Duque reign.

City National intends to cater to individual depositors with a high net worth. Its trust department already has about $300 million in assets and manages several medium-sized pension fund accounts.

Abess says he isn't pressuring his lending officers to rush out and make loans just to make some short-range goals. "I told them I am a man of patience," says Abess, who finds tending tropical orchids in his spare time just as thrilling as white-water rafting.

"There is an old Chinese proverb which says, 'Think not of the harvest while planting; plant well and the harvest will take care of itself,'" Abess says. "I can afford to give employees time to get everything back in place. I may own the bank, but it was the employees who saved it. As long as our values are well-rooted, I'm not going to worry about City National's future harvests."

A SOBERING WESTERN EUROPE—AN ANALYSIS OF THE INF TREATY

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 16, 1987

Mr. BEREUTER. Mr. Speaker, as a balance to the rather general euphoria concerning the signing of the INF Treaty in this city last week, the following article by Jean-Marie Benoist, Hans Huyn, and Gerald Frost should be read. As the article notes "Mr. Benoist is a senior fellow of the College de France. Count Huyn is a former member of the Bundestag and a diplomat. Mr. Frost is director of the London-based Institute for European Defense and Strategic Studies."

I encourage my colleagues to also examine the following opinion contributions to the December 9, 1987 issue of the Wall Street Journal which is written in the form of an open letter to President Ronald Reagan:

[From the Wall Street Journal, Dec. 9, 1987]

EUROPE'S INF MESSAGE TO PRESIDENT REAGAN

Mr. President:

As longstanding admirers of your great personal contribution to the cause of freedom we wish to draw your attention, and that of the Senate, to the risks inherent in the agreement now signed to eliminate intermediate-range nuclear forces from Europe. Although we would like to convince ourselves otherwise, we believe that the accord will seriously and adversely change the balance of military and political forces within Europe in favor of the Soviet Union.

We are also fearful that unless NATO defenses are buttressed by a range of compensatory measures the agreement may set in train a course of events that will progressively undermine the fragile cohesion of the Western Alliance.

Ours is not, we think, a Euro-centric view. We fear that the accord will damage the influence and reputation of the United States, upon which all free, democratic societies remain dependent. It also will damage the vital interests of the U.S. itself. We must therefore decline to join in the summit euphoria that has gripped so many and that brings to mind unfortunate historical precedents. Rather, we would respectfully ask you—and by means of this open letter, members of the Senate who will soon be asked to ratify the accord—to consider the following:

The zero-zero option will remove a vital part of the architecture of deterrence that cannot be replaced soon. The cruise and Pershing II missiles serve a combination of functions that are essential to NATO strategy in an age of growing Soviet military superiority. The missiles make a general contribution to deterrence through their ability to reach targets deep within the Soviet Union—a capability not matched by any other U.S. land-based missile in Europe. The missiles link the European pillar of the alliance to the American pillar. They provide a crucial element between the level of tactical missiles and the strategic level. Take away that vital rung in the escalatory ladder and you immediately throw into question the mutual transatlantic involvement and solidarity that have preserved the peace in Europe for 40 years.

It is also important to bear in mind that the Soviet SS-20s no longer present the same threat to Western Europe they once did: the strategic and political value of their removal may therefore be exaggerated. This is partly because, by the latest standards, the SS-20 lacks accuracy and sophistication. Indeed, it will soon be obsolete.

Meanwhile, the Soviets are modernizing their nuclear arsenals by the inclusion of such weapons as the SS-24 that are outside the scope of the agreement. Thus, although the Soviets will give up many more warheads than the U.S., there is no balance or symmetry in this exchange. Even in the short term the accord will not exclude the possibility of an intermediate-range nuclear strike against Europe: The Warsaw Pact may simply re-target a proportion of its Intercontinental Ballistic Missiles against Europe.

It should also be remembered that if the Soviets break the agreement—as they have violated earlier deals—or find ways of avoiding its provision, it is unlikely that any American president will be able to put the missiles back. It is doubtful, too, whether it would be possible to create a European consensus in favor of the missles' re-deployment. At a later date some European nations may have been effectively neutralized.

We regret that you have not followed the advice of European political leaders who urged that what was needed to preserve deterrence in Europe was not the zero-zero option but a balanced reduction of INF forces. Perhaps the Europeans did not speak sufficiently clearly and consistently. We fully understand that Americans must be irritated by Europeans who appear ambivalent or hostile to the U.S. position when so many of their fellow Europeans have pushed you relentlessly in the direction of the negotiating table.

These comments, however, come from those who have publicly supported both the case for INF deployment throughout and the case for SDI program. We are not partisans of the arms race for its own sake and we emphatically are not opposed to arms reduction in principle. Indeed, we are saddened to read that you recently dismissed informed criticism of the INF deal as coming from those who believed nuclear conflict was in any case inevitable.

SDI, the British and French strategic nuclear deterrents, Pershing II, cruise missiles, shorter-range intermediate nuclear weapons, the N-bomb and conventional weaponry—all these interdependent assets complicate the calculations of the Soviet military planner and so deter attack. This may not be the case if the Soviet Union comes to believe that a conventional land battle waged in Europe can be successfully fought without risk of a nuclear response. Clearly, the Soviet political leadership already believes the new agreement brings it closer to securing its related objectives of achieving a nuclear-free Europe and of dividing that continent from its Atlantic partner.

All this we have explained at length to our countrymen. Our friends will be baffled and our adversaries delighted if the great political and strategic victory represented by the INF deployment is now to be canceled. Such an eventuality would provide the most unexpected and welcome encouragement to neutralists and unilateralists who in Holland, Belgium, West Germany and Britain lost the game and were proved wrong.

Americanism scarcely provides evidence of brilliant statecraft. Whatever show of unity Western politicians may now feel obliged to provide, the inescapable truth is that the West has been comprehensively outplayed. We run the risk of a denuclearized, neutralist West Germany, which in our view would be fatal to the alliance. Europe generally may be plunged into a worse state of doubt than that which existed prior to INF deployment. All this because in our haste for an agreement the arms-control process became an end in itself.

As Frank Barnett has written: "We have played at the arms-limitation table now for more than 60 years, first against Nazi Germany and Japan, then against the Soviet Empire. For the most part we gained little more than the euphoria of being seen at the Peace Casino while our adversaries went home to convert 'lawful' winnings into larger stockpiles of more advanced weapons."

It is one thing to strike a spectacular arms deal with one's adversary. It is another to preserve the conditions of peace and freedom. We remember the president who once denounced the "empire of evil" and who courageously scorned fashionable opinion in order to build up Western defenses. To that president we wish renewed courage, resolve and good fortune. We extend no less to the members of the United States Senate to whom the burden of a historic responsibility now passes.

AGRICULTURAL MARKETING ORDERS

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 16, 1987

Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington Report for Wednesday, December 16, 1987, into the CONGRESSIONAL RECORD:

AGRICULTURAL MARKETING ORDERS

Ordinarily, we think that free markets work the best. Agreements which permit a group of producers to substantially control supply run counter to principles of free markets. Yet our system of agricultural marketing orders appears to be an exception. Here is a system that permits farmers to reach agreements about the amount of their products reaching the consumer, and yet it has been reasonably successful in bringing stability to agricultural markets.

Unlike the traditional system of agricultural subsidies and price supports covering major commodities nationwide such as milk, wheat, and corn, marketing orders cover fruits, nuts, vegetables, and other perishable commodities grown in particular regions. Marketing orders give groups of producers the authority to solve supply problems and encourage demand as a way of promoting orderly marketing of their goods. A marketing order is first initiated and adopted by a two-thirds vote of producers of a particular commodity, and is approved by the Secretary of Agriculture. The order is then issued as a federal regulation and has the force of law. Producer assessments pay for administration of the order. More than half of U.S.-produced fruits and nuts and about 15 percent of our vegetables are covered by more than 40 federal marketing orders. In combination with state marketing arrangements, virtually all the fruit, vegetable, and specialty crops in the U.S. are affected by marketing orders. Yet most of us know little about them.

The Congress created marketing orders with the 1937 Agricultural Marketing Agreement Act to help stabilize supplies and prices of perishable commodities during the Depression. Since then, the Congress has revised the Act to include more consumer goals. About one-fourth of orders include supply controls such as quantity requirements or reserves, while half advertise and promote products. For example, some orders require producers to place a portion of their crops in reserve pools to be made available off season or during bad crop years, as in the case of almonds, raisins, and cranberries. Most orders require minimum standards of quality, so that demand for a commodity is not harmed. Almost all, including the orange, potato, and olive orders, provide for research into ways of improving products to meet consumer expectations. Many marketing orders are similar to the more familiar national "check-off" or assessment programs for the advertising and marketing of commodities such as pork or dairy products. Marketing orders are most prevalent in western and southern states. Although there are no federal orders covering commodities produced in the Midwest, they affect many of the commodities we buy.

Any pure free market advocate would object to marketing orders because they interfere with natural market forces affecting supply, demand, and prices. The Reagan Administration, which took office under a banner of deregulation, initially sought to curtail marketing orders, but soon backed off. Likewise, consumer groups are not as opposed to marketing orders as might be expected. Some marketing orders do influence free market prices by controlling the amount of a crop that may be sold, but there is much evidence that most of the current orders are not fundamentally anticonsumer. Commodities now covered by marketing orders were once subject to large fluctuations in price and availability to consumers, and many producers were driven out of business because of boom/bust cycles. Moreover, almost all marketing order crops are subject to competition from goods from areas not covered by orders or from foreign goods. For example, California peaches, which have a marketing order, cover about 36% of the U.S. peach market. Yet consumers can instead purchase a peach from Florida or Mexico, or a substitute item, such as a nectarine or a pear.

Marketing orders have helped deal with a common agricultural problem: overproduction. When a market is saturated, prices fall, and many farmers cannot turn a profit. In order to stabilize prices, the government has paid farmers to limit production of various commodities not involved in marketing orders, or has bought and stored commodities to take them off the market. These federal price support programs currently cost the government some $25 billion a year. On the other hand, with a marketing order an industry can decide voluntarily to limit its own production, at no cost to the government.

A major congressional study recently found that marketing orders serve a legitimate purpose in improving and promoting quality crops, enhancing demand, and providing for the orderly marketing of commodities. It also found that the trend in marketing orders is toward increasing demand for products as opposed to controlling supply. In some cases, marketing orders could be considered as an alternative to extending the traditional, and expensive, farm programs to new commodities.

Yet marketing orders are not a cure-all for the problems of agriculture. While many work reasonably well, some are wasteful and harmful to their markets. For example, 400,000 tons of California wine grapes were allowed to rot on their vines in 1982. In addition, various commodities currently not covered by marketing orders may not need them or may be too large and diverse to be handled efficiently. Many proposed orders are voted down by producers. Clearly, marketing orders must be carefully monitored and assessed on a case-by-case basis. Although numerous private studies have been done, there is no systematic method for the government to evaluate the effectiveness of the orders, or to improve those not working in the best interests of consumers and producers. Because of the broad extent of orders and their major impact on consumers, we need to monitor them as carefully as we do the traditional commodity programs. A more active government effort to regulate, evaluate, and clear up misconceptions about marketing orders could save the government money, and benefit farmers and consumers in the long run.

Our system of marketing orders does not work perfectly, yet for many commodities it has helped both producers and consumers. The free market generally serves us well, but good policy must take into account the weaknesses of the market system and develop and encourage mechanisms which improve it.

WHITE EARTH MAN HELPED ISLANDERS LEARN AGRICULTURE

HON. BYRON L. DORGAN

OF NORTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 16, 1987

Mr. DORGAN of North Dakota. Mr. Speaker, I think it's important that we recognize the vital contributions our Peace Corps volunteers are making throughout the world. One such volunteer from North Dakota is Greg Krieger who spent 2 years on a tiny Philippine island called Baston. Greg taught and worked with the farmers on improving soil conservation practices and also helped the islanders diversify their crops.

It wasn't always so easy, but Greg persevered and his contribution is detailed in Wayne Lubenow's recent article in the Pierce County Tribune:

[From the Pierce County (ND) Tribune, Aug. 10, 1987]

WHITE EARTH MAN HELPED ISLANDERS LEARN AGRICULTURE

(By Wayne Lubenow)

WHITE EARTH, ND.—Greg Krieger is a 25-year-old from the beautiful White Earth Valley, and he got to shake hands with Corey Aquino, lady president of the Philippines.

But more than that, Greg hopes he left some ideas that will germinate on a tiny Philippine island called Baston.

He lived on the 20-square-mile island in a bamboo shack for two years as a member of the Peace Corps, returned to his father's White Earth ranch last February.

Greg's job: to help the 5,000 islanders with their primitive agriculture.

"It's a coconut island," Gregg says. "That's primarily what they grow. It's also a mountainous volcanic island and there's lots of water erosion. The terrain is rocky and rugged and erosion is a real problem."

So one of Greg's pet projects was soil conservation using contour planting. He wanted them to plant leguminous greenery on the contour lines to hold the soil from water erosion.

It wasn't easy to get his ideas across because it was something new for the islanders.

When he got there he was assigned to the Minister of Health and Food on the island and he was the only Peace Corps volunteer there.

"We had some disagreements," Greg smiles. "He wanted them to use pesticides and herbicides which they couldn't afford. I wanted them to diversify, to plant other things like coffee and cocoa."

But the islanders and the Health and Food Ministry had been doing it their way for years and Greg says, "I tried to be understanding, not pushy. I tried to think what would happen if some young guy came and tried to tell a bunch of old North Dakota farmers how to do it."

Greg says the islanders had a "slash and burn" system of agriculture. They'd burn the stubble off the old coconut crop and the ashes would mix with the volcanic soil and the next crop would be great. But after three years the soil was worn out and they moved on and let the old land sit for a few years.

There were other disagreements, too. Because Greg was a college graduate, he wasn't supposed to work with his hands. What's more, he was supposed to live in the little village.

"I wanted to live in the country with the farmers," Greg says, "but the minister thought it was more honorable to live in the village."

Greg compromised. He lived in a bamboo shack on the outskirts of the village and just a 10-minute walk to the countryside and the farmers.

He graduated from North Dakota State University in Fargo in 1984 with a degree in agronomy and horticulture with minors in botany and chemistry.

"I was unsure of what to do," he says, "because there weren't many job opportunities in those fields." I was mulling it over and talking to a friend when he suggested the Peace Corps and it kind of clicked.

He got to his island on an old wooden boat at 2 a.m. and it was dark. From the boat he took a little rowboat ashore and the islanders found him a place to stay—the mayor's house—where he lived for a month before getting his bamboo shack.

"There were no big landowners where I was, no big haciendas like in other parts of the Philippines."

He spent his days working with the farmers and conferring with the Philippine minister on the island.

He learned the customs and he learned the people and he went native to better fit in.

In 1986, it was the 25th anniversary of the Peace Corps that was started by President John Kennedy, and there was a big observation of it in Manila.

But communications were poor in the island and Greg didn't hear about it officially.

"But I heard on the grapevine that other Peace Corps volunteers had been asked by telegraph to come to Manila so I just went."

He went to the big home of Catholic Cardinal Jaime Sin, a powerful man in the Philippines. Other Peace Corpsmen were there and there was a big breakfast.

Greg left the Philippines on December 1, 1986, after his two-year tour ended. He came home the long way—via Hong Kong, Thailand, Paris, Belgium (for Christmas), Germany, Italy (Rome and the Vatican) and London for 10 days.

It was a month-long trip home, and Greg got to see much of the world.

In his living room here on the ranch he has hundreds of pictures and souvenirs; it's difficult to compress two years into two hours.

Yes, some of the islanders eat dogs and yes, he had left his two dogs on the island for them. He couldn't bring them along home.

He's home now, "just trying to figure out my priorities." He's thinking of graduate school, maybe in Arizona. Yes, he'd do another two years in the Peace Corps.

Greg feels he accomplished something on that island despite being confronted by tradition and a natural reluctance to new ideas.

"My supervisor (minister) didn't think erosion was a problem when I got there," Greg says, "but he finally understood and now for that one little island the official cause is land conservation."

The islanders didn't want to plant leguminous greenery on the contour lines and they didn't.

Says Greg, "But I left them some seeds and maybe some are doing it now."

He also got a nursery started while he was there to plant things to grow under coconut trees—things like coffee and cocoa and other varieties.

And maybe they will start growing under the coconut trees to diversify the agriculture.

It's one small step and it came from a Peace Corps volunteer from the White Earth Valley; and as Greg says, "Maybe some of my ideas will germinate."

HONORING THE BALDWIN PARK UNIFIED SCHOOL DISTRICT PARENT INVOLVEMENT PROJECT

HON. ESTEBAN EDWARD TORRES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 16, 1987

Mr. TORRES. Mr. Speaker, I would like to bring to the attention of my colleagues the Baldwin Park Unified School District Parent Involvement Project. This program was selected as one of nine exemplary projects in the State of California by superintendent of public instruction, Bill Honig. The program was chosen as a result of the effective participation of parents and community members from Sierra Vista High School and Baldwin Park Adult School providing outstanding services to limited English proficient pupils.

The awards are part of the California State Department Exemplary Bilingual Program. In order to be considered for the award, the Baldwin Park Office of Bilingual Education had to submit data to support its claims of effectiveness, coordinate a project visitation from a State Official, and defend the project before a panel of experts selected by the Bilingual Office of the State Department of Education.

The project activities included combining of student tutorial systems and specialized materials with the intensive training of parents in English language, parenting, and school coping skills. The training activities were conducted through the Baldwin Park Bilingual Education Office staff at Sierra Vista High School and Baldwin Park Adult School.

Anna Perez, Baldwin Park Unified School District Coordinator of Bilingual Program received the recognition award at the California ESEA Title VII Management Institute, conducted by the State Department of Education. The plaque accompanied by a certificate from Bill Honig, State superintendent, recognized Baldwin Park Unified School District for outstanding and valuable service to the academic excellence of limited English proficient students.

At this time, I wish to recognize the following parents who participated in the program to make it a success: Celia Abundiz, Guadalupe Acevedo, Gloria Bautista, Domilila Campos, Shirley Carson, Laura Dance, Blanca Diaz, Geraldine Felix, Angela Galindo, Vicloria Gameochipe, Lonnie Garcia, Isabel Guerra, Maria Jimenez, Betty Lowes, JoAnne Luces, Maria Madueno, Cruz Esperanza Osorio, Jacinta Mercado, Marta Miramontes, Gloria Morales, Oralia Morales, Florencio Muro, Estela Ortega, Beatriz Pimentel, Angelina Sanchez, Gulnargis Sharif, Socorro Solorzano, Irma Tarango, Evangelina Trujillo, Rose Vicario, Anna Zarato, Angelina Flores, Francis Cabrales, Maria Del Refugio Garcia, Alice Sandoval, Maria de Dolores Hernandez, Carmen Garcia, Romelia Gutierrez, Miriam Merino, Eloisa Nava, Carmen Diaz, Maria Vergara, Maria Fragosa, and Elba Miranda.

Mr. Speaker, I ask my colleagues to join me in applauding Ms. Anna Perez and the Baldwin Park Unified School District Parent Involvement Project for reaching out to the community to make education work for both parents and children of limited English proficiency.

TRIBUTE TO KEYS MACMANUS

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 16, 1987

Mr. PORTER. Mr. Speaker, rapid population growth is a global issue described as second in importance only to the threat of thermonuclear war. But it is an issue far down on the list of U.S. priorities. Virtually all of us would agree that overpopulation is a major contributing factor, if not the root cause, in myriad environmental, ecological, economic, and health problems. But many harbor doubts that much really can be done to slow down high fertility rates. Yet it is vitally important that we find answers because rapid population growth is an endemic characteristic of the world's poorest countries and most international experts believe that until their populations are stabilized few of these countries can make meaningful progress toward development.

On December 14 I was present at a ceremony in the Rayburn House Office Building honoring an individual who believes rapid population growth trends can be reversed. The woman is Keys MacManus, senior representative of the U.S. Agency for International Development. She is the recipient of the 1987 Distinguished Service Award presented by the Population Institute to the Government official who has made the most significant contribution to population and development activities.

Following are the comments of John Karefa-Smart, a member of the Institute's Board of Directors and former Deputy Director of the World Health Organization, who presented Ms. MacManus with the award:

> Elizabeth Keys MacManus has had a long and distinguished career in the government working in Egypt, Indonesia, Latin America, and Vietnam, where she has consistently supported and promoted population and family planning. At present, Ms. MacManus is serving as the U.S. Agency for International Development affairs officer in Nigeria.
>
> In early 1983, when Ms. MacManus started her tour in Nigeria, the head of the National Population Commission would not mention the words "family planning." Family planning information and services were not readily available in either the public or private sector. Less than 2 percent of the eligible population used any modern method of contraception; and only 30 percent of the adult population knew of family planning as an option.
>
> The picture has dramatically changed over the past 5 years. There is a strong national population policy which supports far-reaching population and development activities as well as the delivery of integrated family planning services.
>
> Family planning services are available in more than 1,000 Government facilities and through commercial retail sales programs utilizing more than 2,000 pharmacy outlets. Many other innovative approaches to service delivery are being tried in the private sector, through market vendors, private voluntary organizations and church groups. A contraceptives logistics management and reporting system has been put into place. An organized program for training of all levels of administrative and clinical personnel has been developed. An aggressive information, education and communication program has been designed.
>
> Ms. MacManus has greatly contributed to this radical change. She made contact at the highest Government levels and personally visited the leadership in each of the 19 States to promote the introduction of family planning. Through central and regional funds, she marshaled USAID resources and orchestrated a massive assistance effort—amounting to $7.8 million a year—in population policy development, training, alternative service delivery systems, and information, education and communication.
>
> Ms. MacManus took the leadership in designing and securing funding for a 5-year $100.5 million integrated family health program.
>
> By the end of this innovative 5-year project, which Ms. MacManus spearheaded, it is expected that there will be a broad political and social constituency supportive of family planning policies and programs.
>
> Family planning information and services will be widely available at reasonable cost through both the private and public sectors. This will be reflected in a nationwide contraceptive prevalence rate of 12 percent or approximately 2.5 million users.
>
> Seventy percent of the users will be served by the private sector through more than 12,000 commercial, community level or private outlets.
>
> In the public sector, information and services will reach 30 percent of the contraceptive users, through 3,600 Government hospitals, maternity facilities, health centers, and dispensaries.
>
> The project will ensure that a cadre of administrative, clinical and educational personnel exists to plan, execute, supervise and evaluate clinic-based family planning services in public facilities from teaching hospitals to basic grassroots dispensaries.
>
> Trained physicians, nurses, midwives, and pharmaceutical personnel as well as vendors in the private sector will be providing basic contraceptive information and products. Trained community leaders will be actively promoting smaller family norms and the use of modern contraceptive methods.
>
> Finally, teachers will be trained to include family life education in teacher colleges and urban secondary schools. More than 12,000 individuals in both the private and public sectors will be trained under this project. An innovative, broad-based information, education and communication program will be in place to build social support, encourage smaller family norms, and explain the availability and use of modern family planning methods. Consequently, 80 percent of the population aged 15-44 will be aware of modern contraception and its benefits by 1991.
>
> Without question, Ms. MacManus' commitment and devotion to family planning and use of her skills to marshall resources and to develop a comprehensive program strategy to increase the accessibility and availability of high quality family planning services in Nigeria will impact on the lives of millions of individuals.

THE FUTURE OF FREEDOM IN CENTRAL AMERICA

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 16, 1987

Mr. SOLOMON. Mr. Speaker, it has now become crystal clear what the Nicaragua Communists intend to do with the Central American peace process.

Maj. Roger Miranda, who has just defected from the highest level of the Sandinista regime, has begun telling us what he knows from sitting in on the secret talks of Daniel Ortega and his fellow Communists.

What does Daniel Ortega say secretly about the Arias peace plan? That they will make sure that it becomes nothing more than the Communists' weapon to consolidate their dictatorship over the suffering Nicaraguan people.

What does Daniel Ortega do while claiming publicly that his regime has no designs against its democratic neighbors? He continues to secretly arm and train the Communist terrorists in El Salvador.

While Members of this Congress are distracted by Communist claims that the Nicaraguan freedom fighters are nothing but mercenaries, what does Major Miranda tell us? "I went looking for these mercenaries * * *. What I found was humble peasant families that had risen up in arms * * *."

While the Nicaraguan freedom fighters are attacked with malicious and baseless claims that they are corrupt drug pushers, what does Major Miranda say? Communist officials at the highest levels are taking drug bribes and helping drug traffickers. That secret Swiss bank accounts have been set up to deposit the loot the Sandinistas have stolen from the impoverished Nicaraguan people.

Mr. Speaker, are we deaf? Are we dumb? Are we blind? Why are we letting this Communist atrocity destroy freedom in Nicaragua? Why are we undermining the victories that the freedom fighters have won in recent months? The peasant fighters Major Miranda tells us about are bleeding and dying in those battles for freedom while we speak. Without pay. Without medical evacuation. Really, without much hope of survival. Just for the sake of freedom. Why can't the American Congress give them the weapons they need to fight the monster Major Miranda knows so well?

Mr. Speaker, if you and I care about the future of freedom in Central America, why are we giving the Communists free rein to violate the peace plan and to violate Nicaraguan liberties while freedom fighters lie bleeding and dying?

A TRIBUTE TO SHERIFF GERALD T. McFAUL

HON. EDWARD F. FEIGHAN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 16, 1987

Mr. FEIGHAN. Mr. Speaker, today I would like to pay tribute to a man of whom I am both a good friend and great admirer, Cuyahoga County Sheriff Gerald T. McFaul. In 1978, Sheriff McFaul created a narcotics unit in Cuyahoga County, OH, because of his deep concern for the young people of our county, who are being targeted by drug pushers, for the senior citizens who are being victimized by those who need to support their dependency, and for many others who need his help.

In conjunction with these efforts, the sheriff has led a full-scale assault on suppliers of illegal drugs. He is truly the type of sheriff that parents are proud to have in their country; they know he is looking out for their children.

The reputation of the sheriff's narcotic unit has spread well beyond the borders of Cuyahoga County, primarily because of the sheriff's commitment to doggedly fight all aspects of drug-related crime. He has worked closely with Federal agencies, such as the FBI, DEA, IRS, and many others. These agencies, realizing the expertise of Sheriff McFaul's unit, have sent many of their own officers to be trained under the sheriff's watchful eye.

The department's cooperation does not end there. The unit has been instrumental in solving drug-related crimes throughout the State and the country, and has even spread its reach as far as Canada. Sheriff McFaul's narcotic unit is one that the whole Nation can certainly be proud of.

Sheriff McFaul's work has been recognized by others in law enforcement, and by many in his community. They know that they can come to him with any problem concerning drug abuse and drug dealers. This trust can be credited to the sheriff's wideranging public awareness and public education projects.

Sheriff McFaul's efforts have not stopped with the drug problem in the community. His department has been successful in uncovering a major illegal weapons distribution and manufacturing operation in Cleveland. After taking office in 1976, the sheriff investigated the county correction and found many employees participating in drug trafficking and bribery. The sheriff acted quickly and decisively, bringing about the arrest or resignation of 26 officers.

This action demonstrates the sheriff's strong commitment to keeping corruption and drugs out of the county correction center and is a lasting tribute to his firm administrative ability.

In the area of drug-related crimes, the submission of evidence handled by the narcotics unit is up 503 percent, and undercover drug purchases made by the unit are up 392 percent. The sheriff does not compromise when it comes to cracking down on the drug threat in the community.

The sheriff's busy schedule includes speeches to many organizations, a clear indication of the sheriff's past and continuing efforts to fight drugs, not just on the street, but at civic forums, and in the classroom as well.

Drug abuse and other criminal activities are hurting our young people, but thanks to dedicated elected officials like Sheriff McFaul, we know that these problems are being met headon. We all owe a debt of gratitude to Sheriff McFaul; even if you do not live in his community, you must admire and thank him for the precedent he sets as a law enforcement official of the highest caliber.

HONORING THE ASIAN AMERICAN VOTERS COALITION

HON. BEN BLAZ

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 16, 1987

Mr. BLAZ. Mr. Speaker, this past weekend the Asian American Voters Coalition held its national leadership banquet in Washington, DC.

Dr. Kyo R. Jhin was installed as the coalition's new chairman. I am submitting a copy of Dr. Jhin's fine acceptance speech for the RECORD for my colleagues' perusal:

ASIAN AMERICAN VOTERS COALITION—AN ACTION AGENDA AND CHALLENGES

INTRODUCTION

It is a great honor and privilege for me to serve as the Chairman of the Asian American Voters Coalition. I would like to take this opportunity to salute our two previous chairmen, Dr. Jane Hu and Dr. Joy Cherian. I hope to build upon their foundation to promote and go forward on Asian American needs. We are celebrating our progress at this third annual leadership conference for Asian Americans and making new commitments to improve our role in this great nation of ours.

I wish to express our sincere appreciation to Phillip Morris Company and the Asian Pacific Chamber of Commerce for their support for our conference. I also wish to give special thanks to the Convention Committee and Mrs. Vi Dela Pena for effectively planning this historic convention.

We are privileged to live in the greatest nation on earth, the United States of America. America is great because it is beautiful, powerful, scientific, wealthy, a land of opportunity and a land of freedom.

Asian Americans have been like frogs in a well, we need to come out and reach out to accomplish our goals. We have been called "others" too long. Affirmative action did not include us.

AAVC AGENDA

1. We will be working on more appointments at Federal, state and local levels.

2. We will oppose the new Immigration Bill before the Senate and House of Representatives. The new Immigration Bill will hinder the current law which provides for family reunification.

3. We need to continue our voter registration drive and voter education. We can make an impact upon candidates through voter registration.

4. We will be developing regional AAVCs through our regional vice-chairmen. National organizations should submit their directories, so the regional vice-chairmen can identify regional leaders.

5. We will be presenting an Asian American platform to the Democratic and Republican National Committees for their consideration. We are challenging both parties to include our concerns in their national platforms.

6. We will promote excellence in education for all Americans which includes Asian Americans.

7. We need to work toward economic equity, by insuring that minority definition includes Asian Americans.

8. We need to promote equal employment opportunities for all Asian Americans. At the present time, there are no Asian Americans as Ambassadors, while we have many other ethnic Ambassadors. We also need to have more judges who are Asian Americans.

9. We need to have a comprehensive human resources program to address the needs of Asian American children and senior citizens.

STRATEGY

In order to accomplish the above agenda, we must become more active politically. Some of these are:

1. I would like to challenge many Asian Americans to run for delegates and alternates to the local, state and national conventions of both parties. We should work toward having 200 delegates and alternates to the Democratic National Convention and 200 delegates and alternates to the Republican National Convention.

2. We need to register more voters at the citizenship ceremony, and other community activities. We should strive to have at least 90% of Asian Americans to register and vote. Then, we can be the important factor in selecting winners at the local, state and federal elections.

3. We need to become more vocal at local, state, and national levels to address our Asian American Advocate voice for the six million Asian Americans in our nation.

4. We need to challenge more Asian Americans to become candidates for political offices.

5. We need to support Asian American candidates with funds and time.

6. We need to get involved in local, state, and national politics and collect I.O.U.s and utilize them effectively.

CONCLUSION

I have a dream that someday, our sons and daughters will become Congressmen, Senators, Governors, Mayors and yes, even President of our great republic. We are an important factor in American politics. Let us maximize our role in the American political process.

If we are united, we are strong, but if we are divided, then we are nobody. We need to show a united front in order to move forward. Ten and twenty years from now, how powerful we are will be determined by how we are united for common causes during the next ten to twenty years.

SUMMIT RALLY FOR SOVIET JEWS

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 16, 1987

Mr. HOYER. Mr. Speaker, on Sunday, December 6, more than 250,000 people—Christian and Jew, black and white, men and women, old and young—gathered on the Washington Mall in a massive rally for Soviet Jews. Those assembled raised their voices to those Jews who are oppressed and repressed in the Soviet Union. The message was clear: "Let our people go."

One of the most compelling speakers on that day, was Morris B. Abram, the chairman of the National Conference on Soviet Jewry, and the Conference of Presidents of Major Jewish Organizations and one of the leaders throughout the world in the Soviet Jewry struggle.

Mr. Speaker, I would like to share Mr. Abram's compelling remarks with my colleagues.

ADDRESS AT THE SUMMIT RALLY FOR SOVIET JEWS

(By Morris B. Abram)

We, who lost one third of our people in this generation, gather on this Freedom Sunday to rescue over two million Soviet Jews from their forced exile in a country now at war with their religion and culture—where even the teaching of their sacred language is forbidden.

Our hopes were raised when General Secretary Gorbachev joined President Reagan in the call to this Summit which pledged "significant headway"—for the first time ever—on human rights.

We are encouraged by the persistence of the United States in making Soviet compliance with its international human rights obligations a test of Soviet credibility on the full range of Summit agreements. We thank God that in the Free World we do not stand alone. This vast assembly, representing every creed and color from the four corners of the United States, Canada and abroad, has gathered in our support. We all believe as John F. Kennedy said a few weeks before he was slain: "And is not peace, in the last analysis, basically a matter of human rights?"

We are encouraged that the Administration in advance of this Summit confronted the Soviets with an authoritative study, describing Soviet emigration law and practice as "outside * * * the common core on which civilized nations agree."

We note that this is a unique rally—one in support of our government and the purposes of the Summit as agreed by President Reagan and ostensibly by Secretary Gorbachev.

We want to believe that glasnost applies to Jews; but so far it has not. Indeed, this very week on American television, Mr. Gorbachev repudiated the right to leave the Soviet Union—a fundamental human right to which his predecessor Brezhnev pledged the Soviet state at Helsinki in 1975.

We want to believe that the release of highly visible refuseniks is not a publicity stunt, but we observe that in 1979 Brezhnev released six times as many Jews as Gorbachev in 1987.

We want to believe that the Soviets will honor their agreements with the United States, and especially their month-old commitment to make "significant headway" on human rights at this Summit. But we know that up to now Mr. Gorbachev's government is in flagrant violation of its human rights commitments.

We demonstrate today not to change the Soviet form of government but to insist that it comply with promises that government made at Helsinki to obtain American concessions.

These promises were merely a restatement of previous Soviet guarantees, including those in the Universal Declaration on Human Rights: "Everyone has the right to leave any country, including his own"—a right enjoyed as early as 2,500 years ago by every citizen of Athens.

We are here not only to denounce the broken promises of the Soviet Union.

We are here to affirm the unbroken spirit of a people.

We are here to affirm a unique history of untold generations of Jews who through Exodus, Exile and Dispersion have yearned to be reunited.

We are here to affirm our ties with Soviet Jews—cut off from their brethen—persecuted—denied the right to practice their religion, and prohibited from fulfilling their covenant with Israel.

We shall not rest until they are free. This is the duty of our generation; it is our opportunity; it is our turn to say to the would be Pharaoh, "Let them go"—home.

OUTSTANDING YOUNG PEOPLE FROM THE 10TH DISTRICT OF VIRGINIA

HON. FRANK R. WOLF

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 16, 1987

Mr. WOLF. Mr. Speaker, on December 2, I had the honor of presenting Bronze, Silver, and Gold Congressional Awards to 35 young people from the 10th District of Virginia for their outstanding voluntary public service and achievements. The ceremony was the third local ceremony and was held in the Cannon Caucus Room.

The Congressional Award Program was established by Congress in 1979 and is designed for Members of Congress and the private sector to recognize the initiatives and achievements of young people. It is the only award given to youths ages 14 to 23, in recognition of voluntary public service, personal development, and physical fitness activities.

This program serves the important purpose of motivating our young people to succeed and achieve personal excellence while making a contribution through service to their communities. As honorary chairman of the 10th District Awards Program, I believe it is important to recognize the achievements of America's youth and will continue to support this important program.

The 10th District Congressional Award Council is composed of community leaders representing business, education, religious, political, and youth services who recommend young people to receive Congressional Award medals. Through the hard work of the council, the program has grown and prospered in northern Virginia. I would like to call attention to the outstanding work in preparation for the ceremony by George Layne and Murriel Price, council presidents; Lorraine Whitfield, executive vice president; Anne Morton, vice president for communications and public relations; Robert Dix, vice president for financial resources; Ernest Berger, vice president for corporate relations; Sheldon Bentley, vice president for civic clubs and professional organizations; Jan Schar, treasurer; and Dr. Margaret Stimpfle, award review committee chairman.

Recipients of this year's award were:

Bronze Medal Award winners (for 100 hours voluntary public service, 50 hours personal development and 50 hours physical fitness): Elizabeth Boxley Bowies, James Madison High School; Eric Jefferson Chuang, Langley High School; Matthew Jefferson Crawford, James Madison High School; Garren Wade Goodrich, James Madison High School; Stephen Westerfield Greene, James Madison High School; Adrian David Havill, Langley High School; James Fernando Herrera, Langley High School; Francesca Min-ah Hong, Langley High School; Julie Y. Hong, Langley High School; Margaret Meejean Kim, Langley High School; Karen Ruth Mankin, Langley High School; Kathleen Ann McGee, Langley High School; Emily Christine McNeal, Langley High School; Paul Darden Meadows, Fairfax High School; Kirsten Leigh Olshan, Langley High School; Reneé Costin Olshan, Langley High School; Henry Chih-Yuan Ou, Langley High School; David Scott Pearson, Jefferson Science and Technology High School; James Raymond Phillips, James Madison High School; Elizabeth Michelle Picardi, Langley High School; Thomas Michael Quirk, McLean High School; Clifford Raymond Shearer, James Madison High School; Andrea Marie Sullivan, Herndon High School; Jill Suzanne Thomas, James Madison High School; Shanna K. Verma, James Madison High School; Jennifer Leigh Wade, James Madison High School; Brian Patrick Walsh, Langley High School; Stephen Timothy Wells, Washington-Lee High School.

Silver Medal Award winners (for 200 hours voluntary public service, 100 hours personal development and 100 hours physical fitness): Christopher Geoffrey Donahue, James Madison High School; Rebecca Ann Picco, McLean High School; Danielle Andrea Picco, Jefferson Science and Technology High School; John Bradford Picco, Bishop Ireton High School.

Gold Medal Award winners (for 400 hours in voluntary public service, 200 hours in personal development and 200 hours physical fitness): Cathleen Dolores Himchak, Marymount University; David Chittim Konur, Loundon Valley High School; Loretta Isabel Ortiz, Graduate, Langley High School.

MARGARET CHASE SMITH FOUNDATION ENDOWMENT

HON. OLYMPIA J. SNOWE

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 16, 1987

Ms. SNOWE. Mr. Speaker, on December 14, I introduced legislation, along with Congressman BRENNAN, to authorize an endowment for the Margaret Chase Smith Library Foundation. This measure was introduced to coincide with Margaret Chase Smith's 90th birthday, which I was privileged to help celebrate in Augusta, ME, along with over 500 of her friends and admirers.

My legislation, H.R. 3761, would authorize $5 million for a permanent endowment for the Margaret Chase Smith Library Foundation. The library, to which the Senator has dedicated her time to since retirement, would use this endowment to expand its work through lectureships on public issues and grant programs to allow students to study the history and operation of the Congress. The library has provided Senator Smith with the opportunity to continue sharing her knowledge and her experience with the people of Maine and the Nation.

Margaret Chase Smith served this country with integrity and courage during three of the most tumultuous decades in our history. For over 34 years, Senator Smith worked tirelessly for this country. During her tenure in Congress, she became the first woman to serve in both the House and the Senate, the first woman to be nominated for President at a major party convention, and the first woman to serve on the Armed Services Committee. She also was the first Senator to publicly speak out against McCarthyism, in her well remembered declaration of conscience speech.

Margaret Chase Smith has led an extraordinary life and has spent most of it sharing her knowledge and her insight with us. I welcome my colleagues' support for this endowment as a show of respect for the esteemed former Senator from Maine.

TRIBUTE TO THE FALLEN FIREFIGHTERS OF 1986

HON. WILLIAM F. GOODLING

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 16, 1987

Mr. GOODLING. Mr. Speaker, on October 4, 1981, the people of the United States dedicated a monument at the National Emergency Training Center in Emmitsburg, MD, known as the National Fallen Firefighters Memorial. The monument pays tribute to America's firefighters, who have been the bulwark of the Nation's civil defense effort since the founding days of our country. Throughout our history, patriotic Americans have risked their lives to defend their communities against fire and disasters. Therefore, it is only fitting to remember those who have given their lives unselfishly in service to their fellow man.

On Sunday, October 11, 1987, the sixth annual Fallen Firefighters Memorial ceremony was held on the campus at the monument site, honoring those who made the ultimate sacrifice, the sacrifice of their life, in an effort to save others during 1986.

Public interest and participation continues to grow since the 1981 dedication with a large attendance on that Sunday. Over 60 families of deceased persons were present on this special occasion. The observance, as is traditional, started in the chapel on the campus. The memorial service was concluded at the monument.

The program for the sixth year again was orchestrated in a very professional manner under the able leadership of Timothy S. May of Frederick, MD, and a staff member of the National Fire Academy [NFA], who served as project officer for the occasion. This successful memorial recognition was the result of a great team effort on the part of many NETC staff members and volunteers. The special efforts of NETC Frank Davis and his wife, Julie Davis, were of inestimable value in contributing to the services of this day. Others who made a contribution of special note were Mary Ellis, program coordinator at the NFA, members of the national Joint Fire Council Service, Marvin Gibbons, the liaison officer of Maryland State Firemen's Association; Baltimore City Honor Guard; Baltimore County Honor Guard; Prince Georges County Honor Guard; Prince William County Honor Guard; Honor Guard of the Attleboro, Massachusetts, Fire Department; and Montgomery County Honor Guard; just to name a few.

For those Americans who did not have the privilege to attend this special occasion, a copy of the day's program is submitted for all to share.

PROGRAM—SIXTH ANNUAL NATIONAL MEMORIAL SERVICES FOR FALLEN FIREFIGHTERS, SUNDAY, OCTOBER 11, 1987

9:45 a.m.: Organ Prelude, Sister Maria Seitz, St. Josephs Provincial House Choir, Messiah College Singers, Messiah College, Grantham, Pennsylvania.

10:00 a.m.: Welcome, Honorable Julius W. Becton, Jr., Director, Federal Emergency Management Agency.

MEMORIAL

10:45: Concert, Messiah College Singers.

11:00: Invocation, Reverend Pierce Damewood, Maryland State Firemen's Association.

Posting of Colors: Baltimore County Fire Department Honor Guard.

National Anthem.

Introduction of Guests: Honorable Clyde A. Bragdon, Jr., Administrator, United States Fire Administration.

Memorial Address: Congressman Curt Weldon, Seventh District-Pennsylvania.

Flag Presentation to Families: W.M. Neville, Jr., Superintendent, National Fire Academy.

Unveiling of 1986 Memorial Plaque.

Placing of Wreath.

Taps: Baltimore City Fire Department.

Benediction: Monsignor John Sammon, California.

The participation for the second year of the occasion was enhanced by the Messiah College Singers under the direction of Dr. Ronald L. Miller, Director, accompanied by Lisa A. Aulenbach, Thomas A. Bream, Douglas M. Curry, Virginia Domsten, Joy Ebersole, Regina Hershey, Dennis R. Hoover, Leslie J. Lange, Doug LaRue, Stephen Lias, Audra Martin, Donna Musser, Neil Ostrander, Daniel Ragatz, Jennifer Schrier, Gina Shreckengast, Christine Stanco, Brian D. Trostle and Stacey Willett.

1:00: Buffet Luncheon, Dining Room.

Mr. Speaker, it is proper and a privilege for me to bring the names of these everyday patriots to your attention and the attention of the Nation as a permanent record of their honorable and selfless deeds.

Date, name, and department

1/1/86; Gary Carter Pruitt; Alpharetta Fire Department, GA.

1/06/86; Howard A. Cooper; Fort Lee Fire Department, NJ.

1/07/86; Thomas L. Conley; Boston Fire Department, MA.

1/21/86; Glen Edward Miller; Jessieville Fire Department, AR.

1/26/86; Edmond P. Coglianese; Chicago Fire Department, IL.

1/27/86; Albert P. Dingle; Madison Fire District, OH.

1/31/86; Lawrence F. Gingell, Sr.; Harrisonville Hose Co. 1, RI.

2/08/86; Wilbur E. Anderson; Wright Township Volunteer Fire Department, Midland, IN.

2/14/86; Sean P. McGuire; Vails Gate Fire Company, NY.

2/19/86; Charles T. Richardson; Alvarado Volunteer Fire Department, TX.

2/26/86; Robert E. Smith; Vera Community Volunteer Fire Department, Inc., OK.

2/26/86; Jerry A. Prince; Atlanta Bureau of Fire Services, GA.

3/2/86; William L. Simpson; Bloomfield Township Fire Department, MI.

3/16/86; Michael R. Veuleman; Pleasant Hill Volunteer Fire Department, LA.

3/21/86; Edward R. Connolly; Boston Fire Department, MA.

3/26/86; Michael Brian Bassett; Boones Mill Volunteer Fire Department, VA.

3/28/86; Robert K. Bell; Tennessee Division of Forestry, Dayton, TN.

3/29/86; Harold Wayne Seek; Liberty Township Volunteer Fire Department, Londonderry, OH.

3/30/86; Vincent H. Eckrote; Askam Volunteer Fire Department, Wilkes Barre, PA.

3/30/86; Ray E. Scott, Liberty Township Volunteer Fire Department, Londonderry, OH.

3/31/86; Jeffrey D. Copeland; Warren Fire Department, AR.

3/31/86; Edwin E. Raynor; Riviera Beach Volunteer Fire Company, Pasadena, MD.

4/1/86; John Hurter; Chicago Fire Department, IL.

4/1/86; Timothy J. Wells; USNAS Air Operations Fire Department, Pensacola, FL.

4/2/86; Edgar J. Schneider; Evendale Fire Department, OH.

4/4/86; William R. VanGilder; Bunners Ridge Volunteer Fire Company, Fairmont, WV.

4/12/86; Jerrold W. Branch, Sr.; Dendron Volunteer Fire Department, VA.

4/16/86; Steven D. Chapman; Milton Volunteer Fire Department, WV.

4/18/86; Louis DeSantis; Revere Fire Department, MA.

4/20/86; Richard D. Standafer; Muncie Fire Department, IN.

4/20/86; George A. Kelly; Wallingford Fire Department, CT.

4/22/86; Joseph J. McNally, Sr.; Albany Fire Department, NY.

4/27/86; Herbert J. Pinkowicz; Aston Beachwood Fire Company, PA.

4/29/86; John W. Tuttle; Gallatin-Sunnyside Volunteer Fire Co., Monogahela, PA.

5/3/86; Raymond B. Watkins; Shively Fire Department, KY.

5/3/86; Edward D. Friel; Philadelphia Fire Department, PA.

5/4/87; Gerald J. Franz; Bayview Fire Protection District, Athol, ID.

5/5/86; Rayford D. Coston; International Paper Company, NC.

5/13/86; Arthur J. Girty; Mount Healthy Fire Department, OH.

5/14/86; John A. Rose; Easthampton Fire Company, Mount Holly, NJ.

5/16/86; Randy S. Branch; Jasper County Rural Fire Department, Ridgeland, SC.

5/17/86; Randy E. Patrick; Pine Hill Volunteer Fire Department, AL.

5/22/86; Harry J. Henz; Philadelphia Fire Department, PA.

5/24/86; Charles R. Frederick, Sir.; Kilgore Fire Department, TX.

5/26/86; Matthew T. Wyatt; Fern Creek Fire Department, KY.

5/28/86; Michael Allen Lehman; USDA Forest Service, OR.

6/2/86; William Bryan Gray, Sir.; Fairfield Township Fire Division, Hamilton, OH.

6/3/86; Teddy Jezuit; Chicago Fire Department, IL.

6/5/86; Stephen T. Wade; Oceanside Fire District, NY.

6/12/86; Paul E. Farmer; West Jefferson Volunteer Fire Department, NC.

6/15/86; James H. Combs; Galveston Fire Department, TX.

6/15/86; Robert J. Liesz; Chicago Fire Department, IL.

6/17/86; John Curtis Barker; Bartow County Fire Department, Cartersville, GA.

6/21/86; Warren F. Morris, Jr.; Johnsonville Fire District, SC.

6/21/86; Robert W. Martin; Lexington Fire Department, KY.

6/28/86; John J. Rhodes, Sr.; Estill Fire Department, SC.

6/30/86; Jack R. Stevens; Mesa Fire Department, AZ.

7/4/86; George R. Kennedy; Edgewater Volunteer Fire Department, FL.

7/7/86; Richard D. Harbour; Topeka Fire Department, KS.

7/17/86; James N. Eddy; Berkey-Richfield Township Fire Department, OH.

7/17/86; Mark Milton Blair; Lawrence Fire Department, KS.

7/18/86; Victor Weinzierl; Frederic Rural Fire Association, WI.

7/22/86; George E. Anders; Alexandria Fire Department, LA.

7/30/86; Billie D. Combs; Las Vegas Fire Department, NV.

8/2/86; Joseph Minore; Setauket Fire Department, NY.

8/4/86; Robert J. Mizopalko; Trenton Fire Department, NJ.

8/4/86; Joseph F. Woods, Jr.; Trenton Fire Department, NJ.

8/5/86; Phillip T. Hamilton; US. Department of Interior, CO.

8/5/86; Harald Siewers; U.S. Department of Interior, CO.

8/5/86; Lee S. Steingoetter; U.S. Department of Interior, CO.

8/6/86; William E. Albritton, Jr.; Jacksonville Fire Department, FL.

8/7/86; John B. Gannon; Lowell Fire Department, MA.

8/9/86; Carl A. Bettis, Jr.; Chattanooga Fire Department, TN.

8/15/86; Cash L. Hopkins; Washington Department of Natural Resources, WA.

8/24/86; Allen M. Baca; U.S.D.A. Forest Service, ID.

8/24/86; Anthony M. Pecos; U.S.D.A. Forest Service, ID.

8/24/86; Andrew V. Waquie; U.S.D.A. Forest Service, ID.

8/24/86; Benjamin P. Waquie; U.S.D.A. Forest Service, ID.

8/26/86; John W. Savage; Quitman Fire Department, TX.

8/27/86; Merle C. Baker; Smithsburg Community Volunteer Fire Department, MD.

8/29/86; Cordell W. Stewart; U.S. Department of Interior, ID.

8/31/86; Joseph A. Daddona; Beacon Hose Company #1, Beacon Falls, CT.

9/04/86; Ronald Dean Marsh; North Monterey County Fire District, Castroville, CA.

9/04/86; Louis P. Pellegrino; Terry's Corner Volunteer Fire Company, Inc., Lockport, NY.

9/06/86; Vergil L. Cavin; El Paso Fire Department, TX.

9/12/86; Bernard J. Spillman; Rochester Fire Department, NY.

9/21/86; Albert Fisher; Deptford Fire Department, Blackwood Terrace, NJ.

9/22/86; James A. Beshears; Winston-Salem Fire Department, NC.

9/29/86; David J. Clapp; West Webster Fire District, NY.

10/04/86; Dennis J. Donelson; Orange County Fire Department, CA.

10/10/86; Carl E. Bird, Sr.; Point Township Fire Company, Northumberland, PA.

10/10/86; George A. Glenn, Sr.; Harrisonville Fire Department, MO.

10/18/86; Richard L. Tomlinson; West Haven Fire Department, CT.

10/20/86; Edwin K. Jacquet; Biloxi Fire Department, MS.

10/20/86; Carl Monroe Ohr; Biloxi Fire Department, MS.

11/01/86; Brinton C. Moyer; Fairmont Fire Company #1, Lansdale, PA.

11/06/86; Edgar A. Cowart; Jacksonville Fire Department, FL.

11/11/86; William M. Hathaway; Bridgeport Fire Department, CT.

11/15/86; Ferrell D. Hood; Westarea Volunteer Department, Inc., Fayetteville, NC.

11/15/86; Stanley R. Konefal, Sr.; Cornwell Fire Company #1, Bensalem Township, PA.

11/16/86; Paul P. Shannon; Yonkers Fire Department, NY.

11/20/86; Bruce E. Hoffman; Keenan Georgetown Volunteer Fire Department, WI.

11/23/86; Daniel R. Lohr; Snohomish County Fire District #5, Sultan, WA.

11/29/86; Jack E. Schafstall; Hamilton Township Volunteer Fire Department, Courtland, IN.

12/01/86; Donald Gene Crum; Columbia Fire Department, MO.

12/06/86; Walter J. Borek; Yonkers Fire Department, NY.

12/06/86; Frank Biancorosso; Mizpah Fire Company, NJ.

12/14/86; Herve Y. LeBlanc; Lynn Fire Department, MA.

12/17/86; Kenneth A. Boyd; Los Angeles County Fire Department, CA.

12/21/86; Walter A. Lukaszewski; Slackwood Volunteer Fire Company, Lawrenceville, NJ.

12/23/86; Edward J. Duggan; Buffalo Fire Department, NY.

12/24/86; Norman A. Lukken; Battle Lake Fire Department, MN.

12/27/86; John M. Barry; Columbia Fire Department, SC.

12/27/86; Darrel D. Sutton; Boulder Fire Department, CO.

A FIREFIGHTER'S PRAYER

Give Me Concern
A willingness to seek out those in need
Give Me Courage
Strength of heart, to bear whatever burden might be placed on me and strength of body to deliver safety all those placed in my care.
Give Me Wisdom to Lead
The Compassion to comfort, and the love to serve unselfishly wherever you take me
And please Lord, through it all, be at my side.

CONDOLENCES TO BROOKE JOHNS' FAMILY

HON. CONSTANCE A. MORELLA

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 16, 1987

Mrs. MORELLA. Mr. Speaker, Montgomery County and the area has lost one of its finest citizens with the death of Brooke Johns, who died December 3 at his home at the age of 93.

Brooke Johns was the consummate vaudeville performer. Billed as "Six-Foot-Three and Oh! So Different," he was a well-known song-and-dance man in the 1920's renowned for his nasal voice and quick-fingered banjo playing. He starred in the Ziegfeld's Follies, and knew such great entertainers as W.C. Fields, Eddie Cantor, Al Jolson, and Will Rogers.

At his peak in 1930, he retired from show business, and bought a 207-acre farm outside Olney, MD, upon which he built a home and raised six children.

In the 1940's Brooke Johns turned his energies to politics as a Montgomery County commissioner. As Republican chairman of the county commissioners in 1946, Mr. Johns warned against rapid postwar land development. Throughout his life, he kept a unique blend of public service and entertainment; he served Maryland as a State racing commissioner and also hosted a children's show on television. Into his nineties, he still entertained us, performing numerous benefits for schools and nursing homes in the area.

Mr. Speaker, on behalf of the House, I would like to extend our condolences to Brooke Johns' family: his wife of 62 years, Hazel; their four surviving children; 17 grandchildren and 12 great-grandchildren.

BURN VICTIMS

HON. BARBARA F. VUCANOVICH

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 16, 1987

Mrs. VUCANOVICH. Mr. Speaker, one of the leading causes of death in the United States is burns. Each year over 2 million people are victims of burn injury, giving our country the dubious distinction of having the worst burn problem of any industrialized nation in the world.

An even more tragic aspect of this startling statistic is the fact that the majority of burn victims are children, elderly, and the disabled, with a death rate of five times that of any other group.

No one is immune to the tragedy of burns. Unfortunately, the problem is ignored or little noticed until a tragedy occurs. Especially now, with the cold weather upon us, and with the holidays at hand, our awareness level should be attuned to this matter. How often at this time of year have we opened our newspapers, or turned on the local news broadcast and learned of families forced to flee their homes because of fire started by faulty heating, wiring, or from a dry Christmas tree.

The contrasting merriment of the holidays makes us all the more poignantly aware when we see or hear such reports; however, these type of accidents happen by the thousands throughout the year, causing severe physical, emotional, and financial devastation.

Each year millions of dollars are spent trying to remedy the effects of burns and burn-related incidents; each year 70,000 individuals are hospitalized and another 12,000 die as a result of burns. And yet, recent studies show that approximately 75 percent of all burns can be prevented by proper education.

It is toward this goal of education that I am today introducing a House joint resolution designating the week of February 8, 1988, as "National Burn Awareness Week," providing for a public awareness program designed to familiarize everyone with methods of burn prevention, treatment, and rehabilitation.

We are all vulnerable to this type of tragedy. I ask all my colleagues to join in helping to educate the public about fire hazards, and thereby reduce the incidence of burn injury.

PERSONAL EXPLANATION

HON. JAMES M. INHOFE

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 16, 1987

Mr. INHOFE. Mr. Speaker, on Friday, December 11, 1987, I was unavoidably absent from House proceedings because of previous commitments in my district office. Had I been present, I would have voted:

"No" on rollcall vote 476, a motion to approve the Journal of the previous day's business.

"Aye" on rollcall vote 477, the rule for consideration of H.R. 1467, a bill to authorize appropriations to carry out the Endangered Species Act.

On Monday, December 14, 1987, I was detained in Tulsa, OK, because of a snowstorm. Had I been present I would have voted:

"Aye" on rollcall vote 478, H.R. 3399, to develop a national alternative motor fuels policy and to coordinate efforts to implement such policy.

"Aye" on rollcall vote 479, H.R. 2790, the Public Buildings Act of 1987 to improve efficiency and effectiveness by requiring the GSA to adopt new rules regarding public buildings.

I request that my statement be included in the permanent RECORD.

A SPOONFUL OF SUGAR ISN'T HELPING THE MEDICINE GO DOWN

HON. THOMAS J. DOWNEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 16, 1987

Mr. DOWNEY of New York. Mr. Speaker, yesterday the Department of Agriculture announced that it will once again slash the import sugar quota for the coming year. This cut, the fourth in a row, slices the current import quota of just over 1 million tons by 25 percent to just about 750,000 tons.

I recall that it was once said that the domestic sugar program would operate at "no cost". That clearly isn't true. Now the question has to be, "Who pays?" For the answer, I suggest you turn to the American consumer and our sugar exporting allies.

American consumers are paying about 22¢ a pound for domestic sugar. That's three times what sugar goes for on the world market. Because of a sugar program that keeps the domestic price of sugar artificially high, through quota manipulations and other means, Americans are paying an extra $3 billion in added food and beverage costs. As if this isn't enough, keep in mind that the domestic price is likely to go even higher next year. How much more will the American consumer be forced to bear in order to shield a limited number of domestic growers from outside competition?

And what about our sugar exporting allies? They have seen the sugar quota cut by 75 percent since the beginning of this program. Their economies suffer because there is no longer a market for the product, so often they turn to other crops—often drug-related crops—where there is a market. And, as export related income drops, so does the ability of these nations to pay off their foreign debts. Most of this debt is owed to U.S. banks.

The current U.S. sugar program is a bitter and expensive pill to swallow. Sugar coating won't help. The time has come to change the program, to introduce some common sense into the picture. I have introduced legislation that will provide that much-needed rationale. My bill, H.R. 3646, gradually drops the loan support price from its current 18 cents to 12 cents while gradually increasing the quota level by 500,000 short tons per year. This is a measured and appropriate response to a program that is out of control. Now, more than ever, it deserves your support.

CONGRESSIONAL TRIBUTE TO LU HERRERA OF CULVER CITY

HON. JULIAN C. DIXON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 16, 1987

Mr. DIXON. Mr. Speaker, it is with great pride and admiration that I rise to recognize a dedicated public servant, Culver City's treasurer, Lu Herrera. Lu will retire at the end of her term of office this April after 36 years of service to Culver City, 12 years as a municipal staff member, followed by 24 years as city treasurer.

In May of 1952, Lu entered the Culver City municipality, working in the communications and internal affairs department. She advanced steadily up the hierarchy of municipal government to deputy city treasurer, and in April of 1964, she won her first election for city treasurer. She has held this position for an unprecedented six terms.

In both her professional life and off-duty activities, Lu Herrera has distinguished herself as a highly effective, hardworking government official and dynamic personality. Her professional effectiveness was recognized by her peers when they unanimously elected her, first, as the president of the California Municipal Treasurers' Association, and subsequently as the president of the Municipal Treasurers' Association of the United States and Canada. Yet, she has also found time to devote herself to community organization projects, working with, among others, the Culver City Historical Society, Culver City Guidance Clinic Guild, the Culver City Womens' Club, the Emblem Club, the Culver City Business and Professional Womens' Club, and the Culver City Sister City Committee.

Lu's dedication to her job and to the Culver City community has been well-recognized. She has received honors for her service to the public at both the local and national levels; from the President of the United States as well as the California State Legislature, and the Los Angeles County Board of Supervisors. She was recently awarded the "Recognition of Municipal Excellence" by the League of California Cities.

In 1984, the Municipal Treasurer's Association of the United States and Canada presented Mrs. Herrera with the Dr. Jackson R.E. Phillips Award, the highest honor given by her peers. Lu was the fifth recipient ever of this award, and the first woman to be chosen for it.

Mr. Speaker, Lu Herrera has worked hard to improve the quality of life for the residents of Culver City. With her record of effectiveness and political success over the past 36 years, she has been a source of inspiration for women, and a role model for civil servants. In a final tribute to Lu, the City Council of Culver City has proclaimed January 9, 1988, "Lu Herrera Day." Now, on the eve of her retirement, I ask my colleagues in the House of Representatives to join me in congratulating Lu on her achievements, and wish her much happiness and further success in her future.

CONFORMITY MODIFICATION PROVISION URGED FOR CPA'S AND TAXPAYERS

HON. ARLAN STANGELAND

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 16, 1987

Mr. STANGELAND. Mr. Speaker, I rise today in support of fairness for the American taxpayer and our Nation's beleaguered accountants.

On December 10, 1987, the Senate passed their budget reconciliation package, but neglected to include an important House-approved provision. The so-called yearend conformity modification provision would assist our Nation's certified public accountants who play a vital role in assisting taxpayers.

This provision would allow corporations, partnerships, and other similar entities to utilize a fiscal year. Without change, many CPA's will be forced to work under great personal and financial stress throughout the upcoming tax filing season for no legitimate reason.

The modifying provision is revenue neutral. It has 191 House cosponsors and 45 Senate cosponsors. It demands our attention before the end of this year. CPA's and taxpayers must plan accordingly; next year is not soon enough.

I urge House conferees to firmly hold their ground and retain this vital provision in the final reconciliation bill.

TRIBUTE TO MR. EUGENE L. PLUTO

HON. DENNIS M. HERTEL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 16, 1987

Mr. HERTEL. Mr. Speaker, I rise today to pay tribute to Mr. Eugene L. Pluto, a man who exemplifies public service.

Mr. Pluto is a lifelong resident of Hamtramck, MI. Many years ago, he chose to serve his community and ensure the quality of life he knew was possible for his friends and neighbors. To this end, he was appointed deputy city assessor of the city of Hamtramck on September 14, 1954, over 33 years ago.

Seven years later, in 1961, Eugene Pluto was appointed assessor of the city. He served in this position for 12 productive years until he decided to run for office. Because of his long record of effective public service and obvious caring for his community, Mr. Pluto was elected councilman of the city of Hamtramck on November 6, 1973.

Over the last 14 years of service, Eugene Pluto has shown outstanding initiative and dedication to the residents of Hamtramck. He has been involved in a number of significant economic development efforts, and worked to improve the economy and reduce unemployment in Hamtramck. Mr. Pluto is also a dedicated family man to his wife, Joann, and his three children Kathleen, Wayne, and Lynne.

I ask my colleagues to join me in honoring Mr. Eugene Pluto, a good friend to all of us who are privileged to know him.

PERSONAL EXPLANATION

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 16, 1987

Mr. BONIOR of Michigan. Mr. Speaker, during consideration of the International Security and Development Act on December 10, I was unavoidably detained and was not able to vote on two of the amendments. I would like the record to show that had I been present, I would have voted "no" on rollcall No. 469 and "aye" on rollcall No. 470.

MICHELLE ALEXANDER'S QUEST FOR PEACE

HON. TONY COELHO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 16, 1987

Mr. COELHO. Mr. Speaker, last week, at the same time the disarmament negotiations were taking place between President Reagan and Soviet General Secretary Gorbachev here in Washington, I had the opportunity to meet with Michelle Alexander of Fresno, CA. This remarkable young lady is on a personal mission of peace that has taken her from these venerable Halls of the U.S. Capitol to the Kremlin in Moscow.

Michelle is currently a fifth grade student at Manchester Elementary School in Fresno. As part of a class project 2 years ago, Michelle developed a game called "Give Peace a Chance" in which players score points for their ability to compromise and their willingness to give up nuclear stockpiles. Points are deducted for invading other countries, and a player automatically loses if he uses nuclear weapons.

In 1985 Michelle was awarded the International Children's Peace Prize by the Children as Peacemakers Foundation for her efforts to raise international awareness about the dangers of nuclear war. During a world tour earlier this year sponsored by the foundation, Michelle had the opportunity to share her game and her hopes for peace with children and leaders in London, Norway, Denmark, the U.S.S.R., India, Thailand, Hong Kong, and Japan. During the tour Michelle had the opportunity to play "Give Peace a Chance" with such leaders as Soviet President Andrei Gromyko, Indian Prime Minister Rajiv Gandhi, and King Olav of Norway.

Michelle is a shining example of just how much one individual citizen can achieve for the cause of international peace. Her views are simple—she feels that world leaders should stop spending so much money on dangerous weapons that threaten to kill us all, and devote their resources to feeding the hungry. She doesn't discuss issues such as "deterrence," "strategic superiority," or "mutually assured destruction;" instead, Michelle talks about people and peace. She understands, so much better than many adults, that the real issue with nuclear weapons is the survival of the human race. All other issues are secondary. Talking with Michelle and other young people like her fills my heart with hope—hope that the younger generation will someday be able to achieve that which my generation has failed to—a stable international order based on peace and understanding among all peoples.

I would like to commend Michelle Alexander for her noble efforts towards this end, and urge her to continue her quest for peace. As long as there are children who believe as she does, there can be hope that the nuclear peril will someday be eliminated from the face of the Earth.

TRIBUTE TO HOLDEN, MO: MISSOURI COMMUNITY BETTERMENT WINNER

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 16, 1987

Mr. SKELTON. Mr. Speaker, today, I rise to extend congratulations and praise to the city of Holden, MO. That Show-Me-State city recently placed first in its division in the 1987 Missouri community betterment awards competition.

As a first-place winner in the competition, Holden received a $500 cash prize to be used in future community betterment projects. Holden also received an honorable mention award in the Governor's Treescape Award competition.

Among Holden's efforts in the community betterment project were cleaning up and painting 23 downtown buildings, erecting 20 3-foot by 5-foot banners and planting 42 flowering pear trees in downtown Holden, resurfacing the tennis courts at the senior high school and erecting an 18-foot by 8-foot sign on U.S. Highway 50.

I salute the citizens of Holden for their work in improving and beautifying their town. Their success with the community betterment project reflects the character of rural America at its best.

FIRST STRIKE WEAPONS AT SEA

HON. TED WEISS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 16, 1987

Mr. WEISS. Mr. Speaker, the Center for Defense Information recently published an issue of its Defense Monitor titled "First Strike Weapons at Sea: The Trident II and the Sea-Launched Cruise Missile." I believe that this issue contains a succinct and insightful analysis of these two weapon systems.

Over the past 3 years, I have attempted to call attention to the threat posed by the Trident II missile, which I view as highly dangerous and outrageously expensive. I have offered repeated amendments to eliminate the Trident II program and to transfer the funds to further production of the Trident I or C-4 missile. The CDI analysis confirms my contention that the Trident II is a weapon that we don't need, shouldn't want, and can't afford.

I am submitting for the RECORD that section of the report that deals specifically with the Trident II. I urge my colleagues to review this portion of the report and to familiarize themselves with the other sections of the report as well:

FIRST STRIKE WEAPONS AT SEA: THE TRIDENT II AND THE SEA-LAUNCHED CRUISE MISSILE

U.S. RETALIATORY CAPABILITY

In order to deter a Soviet attack, the U.S. maintains a strategic nuclear force of bombers, land-based intercontinental ballistic missiles (ICBMs) and a fleet of submarines carrying submarine-launched ballistic missiles (SLBMs). The U.S. is also placing nuclear-armed sea-launched cruise missiles (SLCMs) on submarines and surface ships. In addition to these forces the U.S. has a significant number of nuclear weapons on aircraft carriers and nuclear-armed aircraft in Europe. This combination of planes, ships, submarines and missiles is capable of delivering over 14,000 nuclear weapons on Soviet territory.

If the Soviet Union ever decides to attack the U.S., it is possible, but by no means certain, that it would be able to destroy most of our 1000 land-based ICBMs. But it is certain that the Soviet Union would be able to destroy only a few and perhaps none of the 20 U.S. ballistic missile submarines that are at sea at all times.

Because submarines are hidden in the depths of the world's vast oceans, they are extremely difficult to detect. This means that if the Soviets ever are foolish enough to attack the U.S. we can retaliate with over 3000 nuclear explosions on Soviet territory with our SLBMs alone. Each of these explosions would have at least 3-7 times the explosive power of the bomb that destroyed Hiroshima in 1945. Clearly, the U.S. already has a robust retaliatory force with which to deter a Soviet attack.

NUCLEAR WARFIGHTING

U.S. strategic nuclear forces currently do not have the capability to eliminate in a surprise attack most of the Soviet Union's means of retaliation. Nine years ago, however, the U.S. began development of the MX, a land-based missile with sufficient accuracy and destructive force to destroy Soviet land-based missiles in their silos. The Soviet Union has over 60 percent of its strategic nuclear warheads on its land-based missiles. Their destruction in a U.S. surprise attack would severely inhibit the Soviet Union's ability to retaliate.

President Jimmy Carter requested and the Congress authorized money for the Pentagon to begin developing the super-accurate, silobusting MX missile. The first 10 out of a planned 100 MX missiles became operational in December 1986. Each missile carries 10 nuclear warheads.

Under President Ronald Reagan the United States has continued in the same direction. Reagan has explicitly stated his Administration's goal to build a military force capable of successfully waging nuclear war. In his first request for military funding he said: "U.S. defense policies ensure our preparedness to respond to and, if necessary, successfully fight either conventional or nuclear war."

Secretary of Defense Caspar Weinberger has reiterated the Administration's desire to achieve this goal. He has frequently requested funding from Congress for nuclear forces that would give the U.S. the capability to "prevail" in a nuclear war. In 1982, Weinberger defended this position: "You show me a Secretary of Defense who's planning not to prevail and I'll show you a Secretary of Defense who ought to be impeached."

TRIDENT II: FIRST STRIKE MISSILE

Under President Reagan, Congress has provided billions of dollars for the development and testing of another nuclear war fighting missile to augment the MX missile. The new missile is to be placed in the Trident submarine and it will also have, if deployed, sufficient accuracy and destructive power to destroy Soviet missiles in their silos. The new Trident II (D-5) is scheduled for initial operation in 1989. The first flight test was conducted in January 1987. Soon after flight testing is completed the Trident II missile will be ready for deployment on U.S. Trident ballistic missile submarines. Each missile will carry at least 8 nuclear warheads.

Each submarine will carry twenty-four of these missiles. Currently, there are 8 Trident submarines operational, all of which now carry the Trident I (C-4) SLBM. The Trident II will be more accurate and more destructive than the Trident I. The 9th Trident submarine will be the first submarine to be armed with the Trident II missile, starting in December 1989. All new Trident submarines deployed subsequent to the ninth will also have the Trident II and the first 8 now in service will be modified during their regularly scheduled overhauls to carry it as well. The Navy plans to have a total of about 20 Trident submarines by the end of the century, with a building rate of one per year. This will provide the Navy with a total of about 4,800 Trident II missile warheads by the late 1990s.

MORE EXPLOSIVE POWER

The Trident II will carry nuclear warheads that are more destructive than any of those currently deployed on U.S. SLBMs. Each Trident II missile is expected to have either ten to twelve 100 kiloton warheads or eight 475 kiloton warheads. The latter are nearly 5 times as destructive as those carried by current U.S. SLBMs. The existing Poseidon (C-3) missile has warheads of 40-50 kilotons. The Trident I (C-4) carries 100 kiloton warheads.

INCREASED ACCURACY

The Trident II will be much more accurate than any of its predecessors. In 1987, Dr. Lawrence Woodruff, the Deputy Under Secretary of Defense for Strategic and Theater Nuclear Forces, reported that the Trident II "will have better than twice the accuracy" of existing U.S. SLBMs.

SURPRISE ATTACK WEAPON

With its increased accuracy and destructive power the Trident II (D-5) will have a far different military role from that of the current SLBM force. Secretary of Defense Weinberger has stated, "The D-5's significant increase in accuracy and payload over today's Poseidon (C-3) and Trident I (C-4) missiles will provide the SSBN [nuclear-powered ballistic missile submarine] force with the capability to hold hardened targets at risk . . . Trident II (D-5) will be effective against most of the hardened military targets, including missile silos and launch control facilities."

The Trident II will have a "kill" probability against hardened targets that is more than 5 times that of any existing U.S. SLBM. A 1986 Congressional Budget Office (CBO) study states that with its combination of increased accuracy and destructive power, one 475 kiloton warhead on the Trident II missile will have about an 80 percent chance of destroying even the hardest targets in the Soviet Union. A single Trident I (C-4) warhead, by contrast, has only about a 15 percent chance of destroying such targets.

ILLUSORY GOAL

The combination of the land-based MX missile and the new submarine-based Trident II missile will give the U.S. a very evident capability to launch a surprise attack against the Soviet Union with sufficient destructive force to prevent the Soviets from retaliating against the U.S. with a significant number of their land-based missiles. Approximately two-thirds of the Soviet Union's strategic nuclear warheads are atop these land-based missiles.

In theory, after initiating a surprise attack with Trident II and MX missiles in which most of the Soviet Union's retaliatory forces are destroyed, the U.S. could then defeat most of the surviving remnants of the Soviet forces with its new "Star Wars" ballistic missile defense systems. The Trident II—MX-Star Wars combination could be seen as giving the U.S. a first strike nuclear war-fighting capability.

Nevertheless, even if the U.S. achieved the capability to eliminate 90 percent of the Soviets land-based missiles and other nuclear forces such as strategic bombers, the U.S.S.R. would still retain more than enough nuclear weapons to devastate the U.S. in retaliation. Ten percent of Soviet ICBM warheads plus all the Soviet SLBMs at sea, would give the Soviet Union a surviving retaliatory force of over 1,000 nuclear warheads. Even the most ardent supporters of Star Wars admit that the system would not be leak proof. A 90 percent effective system, which is clearly optimistic, would allow at least 100 nuclear warheads to explode on U.S. territory. Such a catastrophe would destroy the U.S. as a functioning society.

These conservative figures are based on existing Soviet nuclear forces, not on the greatly expanded forces that are likely to come about if the U.S. continues to pursue its present course. The first strike capability that the Reagan Administration seeks is illusory and attempts to gain such a capability will never result in the desired political benefits. In the 1960s, for example, when the U.S. still had so-called "strategic superiority" over the Soviets, it was unable to translate that into political or military clout in the Vietnam war.

SHORT-LIVED ADVANTAGE

The U.S.-Soviet nuclear arms competition is driven by fear and mistrust, not by logic. Neither side will accept being put at any sort of disadvantage in terms of nuclear hardware. If the U.S. arms its submarines with the Trident II missile, it may achieve a nuclear warfighting capability that the Soviets do not have for some time. In the past, however, U.S. advantages in strategic nuclear weapons have always been short-lived. The Soviets will be under great pressure to acquire the same silo-busting capability for their missile submarines and could possibly acquire such capability much earlier than it now appears likely.

As former Secretary of Defense Robert McNamara has pointed out, "our newest submarine force will soon carry missiles accurate enough to destroy Soviet missile silos. When the Soviets follow suit, as they surely will, their offshore submarines will, for the first time, pose a simultaneous threat to our command centers, our bomber bases and our Minuteman ICBMs."

INCREASED DANGER

If we proceed to arm our missile submarines with super-accurate, silo-busting missiles and the Soviets eventually do the same, we will enter a new and much more dangerous era in the nuclear arms competition.

In a period of crisis, with both nations armed with offensive first strike weapons, such as the Trident II and the MX, each side may become convinced that the other is about to launch a surprise attack. If this mutual suspicion exists then one or the other may decide to strike first to beat the other to the punch. U.S. and Soviet leaders may conclude that if they wait too long to "push the button" most of their nuclear weapons would be destroyed. ICBMs can hit their targets in under 30 minutes, SLBMs in under 15. This means that the warning of a surprise attack would be minimal. Leaders would have literally only five to ten minutes to decide whether to launch their retaliatory forces before they were destroyed.

The deployment of the Trident II would increase the pressure on Soviet leaders to try to beat the U.S. to the punch by launching their nuclear weapons first. Because the Trident II can destroy Soviet means of retaliation in a matter of minutes, its deployment increases the likelihood of a Soviet decision in a crisis to preempt an anticipated U.S. attack or to "use 'em before they lose 'em." The development and deployment of the Trident II increases the likelihood of a nuclear war starting in situations in which neither the U.S. nor the U.S.S.R. originally intended to initiate nuclear attack.

ACCIDENTAL NUCLEAR WAR

The introduction of Trident II missiles into the U.S. nuclear arsenal will increase pressure on the Soviet Union during times of tension to adopt a policy of launching their nuclear weapons at the first indication of an attack, even before that indication can be confirmed as valid. This means that the Soviets might base a decision to launch their land-based ICBMs on the early indication of a perceived attack rather than on the confirmed evidence of a real attack.

False warnings are not uncommon. Between 1977 and 1984, the satellites and radars that make up the U.S. early warning system generated over 20,000 false indications of a Soviet missile attack. More than 5 percent of these were serious enough to merit a second look. Certainly, the Soviet early warning system creates many false warnings as well. Just one of these false warnings could result in the Soviet Union launching its nuclear weapons, even though no U.S. attack was underway. The deployment of the Trident II, by putting Soviet nuclear forces on a hair-trigger in a crisis, would increase the likelihood of an accidental nuclear war caused by a technical malfunction.

TOO EXPENSIVE

In addition to increasing the likelihood of nuclear war, arming our submarines with Trident II missiles will be exorbitantly expensive and will not enhance our ability to deter a Soviet attack.

A decision now to end funding for the Trident II missile would save the U.S. about $25 Billion between now and the year 2000.

Since President Reagan has been in office, the U.S. has spent about $10 Billion on the development of the Trident II. In 1987, the Pentagon estimated that the whole program, a total of 845 missiles, will cost more than $35 Billion. That is more than $42 million per missile. This figure does not include the costs of early research, related support and maintenance or Department of Energy nuclear warheads. These additional costs would raise the total price of the Trident II to about $50 Billion, making it the most expensive strategic missile system the U.S. has ever paid for.

The Navy is asking over $3.5 Billion for the Trident II missile program for FY 1988. It is the single highest military budget. In these times of ballooning federal budget deficits, the exorbitantly priced Trident II program is a heavy burden on our national economy.

UNNECESSARY MISSILES

The Trident II's capability to destroy hardened targets, such as ICBM silos and command and control facilities, is militarily unnecessary. Such a capability would only be needed if one were to try to fight and win a nuclear war. But as both President Reagan and General Secretary Gorbachev have said, a nuclear war can never be won. The only purpose of nuclear weapons is to convince a potential aggressor that he should never use his nuclear weapons because the inevitable retaliation would bring about his own devastation. The U.S. has more than enough nuclear weapons to meet this test.

With our current invulnerable submarine-based force alone, composed of less accurate and less destructive Poseidon and Trident I missiles, we could destroy the Soviet Union as a functioning society. The capability to destroy most Soviet targets—Soviet cities, virtually all of the Soviet Union's economic resources, and many military targets—does not require missiles like the Trident II.

Further, if the U.S. intends to use its nuclear weapons only for retaliation, it does not need the capability to destroy hardened Soviet ICBM silos which will likely already be empty by the time the U.S. retaliatory missiles arrive. Even if the Soviet Union were planning a "limited nuclear strike," in which only some of its ICBMs would be fired, those remaining ICBMs would be put on a high level of alert to insure that they could also be launched well before the Trident IIs arrived. Therefore, there is no logical military justification for the Trident II missile at all.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Thursday, December 17, 1987, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

DECEMBER 18

10:00 a.m.

Labor and Human Resources

Education, Arts, and Humanities Subcommittee

To resume oversight hearings on the problem of default in the guaranteed student loan program.

SD-430

POSTPONEMENTS

DECEMBER 17

10:00 a.m.

Foreign Relations

Terrorism, Narcotics and International Operations Subcommittee

To hold hearings on the Voice of America transmitter in Northern Costa Rica.

SD-419

STANDING COMMITTEES OF THE HOUSE

Committee on Agriculture

Messrs. de la Garza (chairman), Jones of North Carolina, Jones of Tennessee, Brown of California, Rose, English, Panetta, Huckaby, Glickman, Coelho, Stenholm, Volkmer, Hatcher, Tallon, Staggers, Evans of Illinois, Thomas of Georgia, Olin, Penny, Stallings, Nagle, Jontz, Johnson of South Dakota, Harris, Campbell, Espy Madigan, Jeffords, Coleman of Missouri, Marlenee, Hopkins, Stangeland, Roberts, Emerson, Morrison of Washington, Gunderson, Lewis of Florida, Robert F. Smith, Combest, Schuette, Grandy, Herger, and Holloway.

Committee on Appropriations

Messrs. Whitten (chairman), Boland, Natcher, Smith of Iowa, Yates, Obey, Roybal, Stokes, Bevill, Chappell, Alexander, Murtha, Traxler, Early, Wilson, Mrs. Boggs, Messrs. Dicks, McHugh, Lehman of Florida, Sabo, Dixon, Fazio, Hefner, AuCoin, Akaka, Watkins, Gray of Pennsylvania, Dwyer of New Jersey, Boner of Tennessee, Hoyer, Carr, Mrazek, Durbin, Coleman of Texas, Mollohan, Conte, McDade, Myers of Indiana, Miller of Ohio, Coughlin, Young of Florida, Kemp, Regula, Mrs. Smith of Nebraska, Messrs. Pursell, Edwards of Oklahoma, Livingston, Green, Lewis of California, Porter, Rogers, Skeen, Wolf, Lowery of California, Weber, DeLay, and Kolbe.

Committee on Armed Services

Messrs. Aspin (chairman), Price, Bennett, Stratton, Nichols, Daniel, Montgomery, Dellums, Mrs. Schroeder, Byron, Messrs. Mavroules, Hutto, Skelton, Leath of Texas, McCurdy, Foglietta, Dyson, Hertel, Mrs. Lloyd, Messrs. Sisisky, Ray, Spratt, McCloskey, Ortiz, Darden, Robinson, Bustamante, Mrs. Boxer, Messrs. Hochbrueckner, Brennan, Pickett, Dickinson, Spence, Badham, Stump, Courter, Hopkins, Davis of Michigan, Hunter, Martin of New York, Kasich, Mrs. Martin of Illinois, Messrs. Bateman, Sweeney, Blaz, Ireland, Hansen, Rowland of Connecticut, Weldon, Kyl, Ravenel, and Davis of Illinois.

Committee on Banking, Finance and Urban Affairs

Messrs. St Germain (chairman), Gonzalez, Annunzio, Fauntroy, Neal, Hubbard, LaFalce, Ms. Oakar, Messrs. Vento, Barnard, Garcia, Schumer, Frank, Roemer, Lehman of California, Morrison of Connecticut, Ms. Kaptur, Messrs. Erdreich, Carper, Torres, Kleczka, Nelson of Florida, Kanjorski, Manton, Mrs. Patterson, Messrs. McMillen of Maryland, Kennedy, Flake, Mfume, Price, ——, Wylie, McKinney, Leach of Iowa, Shumway, Parris, McCollum, Wortley, Mrs. Roukema, Messrs. Bereuter, Dreier of California, Hiler, Ridge, Bartlett, Roth, McCandless, McMillan of North Carolina, Saxton, Swindall, Mrs. Saiki, and Mr. Bunning.

Committee on the Budget

Messrs. Gray of Pennsylvania (chairman), Foley, Lowry of Washington, Derrick, Miller of California, Williams, Wolpe, Frost, Fazio, Russo, Jenkins, Leath of Texas, Schumer, Mrs. Boxer, Messrs. MacKay, Slattery, Atkins, Oberstar, Guarini, Durbin, Espy, Latta, Gradison, Mack, Goodling, Denny Smith, Boulter, Edwards of Oklahoma, Thomas of California, Rogers, Sundquist, Mrs. Johnson of Connecticut, Messrs. Armey, Buechner, and Houghton.

Committee on the District of Columbia

Messrs. Dellums (chairman), Fauntroy, Mazzoli, Stark, Gray of Pennsylvania, Dymally, Wheat, ——, McKinney, Parris, Bliley, and Combest.

Committee on Education and Labor

Messrs. Hawkins (chairman), Ford, Gaydos, Clay, Biaggi, Murphy, Kildee, Williams, Martinez, Owens, Hayes, Perkins, Sawyer, Solarz, Wise, Penny, Richardson, Robinson, Visclosky, Atkins, Jontz, Jeffords, Goodling, Coleman of Missouri, Petri, Mrs. Roukema, Messrs. Gunderson, Bartlett, Tauke, Armey, Fawell, Henry, Grandy, and Ballenger.

Committee on Energy and Commerce

Messrs. Dingell (chairman), Scheuer, Waxman, Sharp, Florio, Markey, Luken, Walgren, Swift, Leland, Mrs. Collins, Messrs. Synar, Tauzin, Wyden, Hall of Texas, Eckart, Dowdy of Mississippi, Richardson, Slattery, Sikorski, Bryant, Bates, Boucher, Cooper, Bruce, Lent, Madigan, Moorhead, Rinaldo, Dannemeyer, Whittaker, Tauke, Ritter, Coats, Bliley, Fields, Oxley, Nielson of Utah, Bilirakis, Schaefer, Barton of Texas, and Callahan.

Committee on Foreign Affairs

Messrs. Fascell (chairman), Hamilton, Yatron, Solarz, Bonker, Studds, Mica, Wolpe, Crockett, Gejdenson, Dymally, Lantos, Kostmayer, Torricelli, Smith of Florida, Berman, Levine of California, Feighan, Weiss, Ackerman, Udall, Atkins, Clarke, Fuster, Bilbray, Owens of Utah, Sunia, Broomfield, Gilman, Lagomarsino, Leach of Iowa, Roth, Ms. Snowe, Messrs. Hyde, Solomon, Bereuter, Dornan of California, Smith of New Jersey, Mack, DeWine, Burton of Indiana, Mrs. Meyers of Kansas, Messrs. Miller of Washington, Donald E. Lukens, and Blaz.

Committee on Government Operations

Messrs. Brooks (chairman), Conyers, Mrs. Collins, Messrs. English, Waxman, Weiss, Synar, Neal, Barnard, Frank, Lantos, Wise, Owens, Towns, Spratt, Kolter, Erdreich, Kleczka, Bustamante, Martinez, Sawyer, Skaggs, Ms. Slaughter of New York, Messrs. Grant, Horton, Walker, Clinger, McCandless, Craig, Nielson, DioGuardi, Lightfoot, Boulter, Donald E. Lukens, Houghton, Hastert, Kyl, Konnyu, Inhofe, ——, and ——.

Committee on House Administration

Messrs. Annunzio (chairman), Gaydos, Jones of Tennessee, Rose, Panetta, Swift, Ms. Oakar, Messrs. Coelho, Bates, Clay, Gejdenson, ——, Frenzel, Dickinson, Badham, Gingrich, Thomas of California, Mrs. Vucanovich, and Mr. Roberts.

Committee on Interior and Insular Affairs

Messrs. Udall (chairman), Miller of California, Sharp, Markey, Murphy, Rahall, Vento, Huckaby, Kildee, Coelho, Mrs. Byron, Messrs. de Lugo, Gejdenson, Kostmayer, Lehman of California, Richardson, Sunia, Darden, Visclosky, Fuster, Levine of California, Clarke, Owens of Utah, Lewis of Georgia, Campbell, DeFazio, Young of Alaska, Lujan, Lagomarsino, Marlenee, Cheney, Pashayan, Craig, Denny Smith, Hansen, Emerson, Mrs. Vucanovich, Messrs. Blaz, Rhodes, Gallegly, and Baker.

Committee on the Judiciary

Messrs. Rodino (chairman), Brooks, Kastenmeier, Edwards of California, Conyers, Mazzoli, Hughes, Synar, Mrs. Schroeder, Messrs. Glickman, Frank, Crockett, Schumer, Morrison of Connecticut, Feighan, Smith of Florida, Berman, Boucher, Staggers, Bryant, Cardin, Fish, Moorhead, Hyde, Lungren, Sensenbrenner, McCollum, Shaw, Gekas, DeWine, Dannemeyer, Swindall, Coble, Slaughter of Virginia, and Smith of Texas.

Committee on Merchant Marine and Fisheries

Messrs. Jones of North Carolina (chairman), Biaggi, Anderson, Studds, Hubbard, Bonker, Hughes, Lowry of Washington, Hutto, Tauzin, Foglietta, Hertel of Michigan, Dyson, Lipinski, Borski, Carper, Bosco, Tallon, Thomas of Georgia, Ortiz, Bennett, Manton, Pickett, Brennan, Hochbrueckner, Davis of Michigan, Young of Alaska, Lent, Shumway, Fields, Mrs. Schneider, Messrs. Bateman, Saxton, Miller of Washington, Mrs. Bentley, Messrs. Coble, Sweeney, DioGuardi, Weldon, Mrs. Saiki, Messrs. Herger, and Bunning.

Committee on Post Office and Civil Service

Messrs. Ford of Michigan (chairman), Clay, Mrs. Schroeder, Messrs. Solarz, Garcia, Leland, Yatron, Ms. Oakar, Messrs. Sikorski, McCloskey, Ackerman, Dymally, Udall, de Lugo, Taylor, Gilman, Pashayan, Horton, Myers of Indiana, Young of Alaska, Burton of Indiana, and Mrs. Morella.

Committee on Public Works and Transportation

Messrs. Howard (chairman), Anderson, Roe, Mineta, Oberstar, Nowak, Rahall, Applegate, de Lugo, Savage, Sunia, Bosco, Borski, Kolter, Valentine, Towns, Lipinski, Rowland of Georgia, Wise, Gray of Illinois, Visclosky, Traficant, Chapman, Lancaster, Ms. Slaughter of New York, Messrs. Lewis of Georgia, DeFazio, Cardin, Grant, Skaggs, Hayes of Louisiana, Perkins, Hammerschmidt, Shuster, Stangeland, Gingrich, Clinger, Molinari, Shaw, McEwen, Petri, Sundquist, Mrs. Johnson of Connecticut, Messrs. Packard, Boehlert, Gallo, Mrs. Bentley, Messrs. Lightfoot, Hastert, Inhofe, Ballenger, and Upton.

Committee on Rules

Messrs. Pepper (chairman), Moakley, Derrick, Beilenson, Frost, Bonior of Michigan, Hall of Ohio, Wheat, Gordon, Quillen, Latta, Lott, and Taylor.

Committee on Science, Space, and Technology

Messrs. Roe (chairman), Brown of California, Scheuer, Mrs. Lloyd, Messrs. Walgren, Glickman, Volkmer, Nelson of Florida, Hall of Texas, McCurdy, Mineta, MacKay, Valentine, Torricelli, Boucher, Bruce, Stallings, Traficant, Chapman, Hamilton, Nowak, Perkins, McMillen of Maryland, Price of North Carolina, Nagle, Hayes of Louisiana, ——, Lujan, Walker, Sensenbrenner, Mrs. Schneider, Messrs. Boehlert, Lewis of Florida, Ritter, Morrison of Washington, Packard, Smith of New Hampshire, Henry, Fawell, Slaughter of Virginia, Smith of Texas, Konnyu, Buechner, Hefley, and Mrs. Morella.

Committee on Small Business

Messrs. LaFalce (chairman), Smith of Iowa, Gonzalez, Thomas A. Luken, Skelton, Mazzoli, Mavroules, Hatcher, Wyden, Eckart, Savage, Roemer, Sisisky, Torres, Cooper, Olin, Ray, Hayes of Illinois, Conyers, Bilbray, Mfume, Flake, Lancaster, Campbell, DeFazio, ——, ——, McDade, Conte, Broomfield, Ireland, Hiler, Dreier of California, Slaughter of Virginia, Mrs. Meyers of Kansas, Messrs. Gallo, McMillan of North Carolina, McKinney, Combest, Baker, Rhodes, Hefley, Upton, and Gallegly.

Committee on Standards of Official Conduct

Messrs. Dixon (chairman), Fazio, Dwyer of New Jersey, Mollohan, Gaydos, Atkins, Spence, Myers of Indiana, Hansen, Pashayan, Petri, and Craig.

Committee on Veterans' Affairs

Messrs. Montgomery (chairman), Edwards of California, Applegate, Mica, Dowdy of Mississippi, Evans, Ms. Kaptur, Messrs. Penny, Staggers, Rowland of Georgia, Bryant, Florio, Gray of Illinois, Kanjorski, Robinson, Stenholm, Harris, Kennedy, Mrs. Patterson, Messrs. Johnson of South Dakota, Jontz, Solomon, Hammerschmidt, Wylie, Stump, McEwen, Smith of New Jersey, Burton of Indiana, Bilirakis, Ridge, Rowland of Connecticut, Dornan of California, Smith of New Hampshire, and Davis of Illinois.

Committee on Ways and Means

Messrs. Rostenkowski (chairman), Gibbons, Pickle, Rangel, Stark, Jacobs, Ford of Tennessee, Jenkins, Gephardt, Downey of New York, Guarini, Russo, Pease, Matsui, Anthony, Flippo, Dorgan of North Dakota, Mrs. Kennelly, Messrs. Donnelly, Coyne, Andrews, Levin of Michigan, Moody, Duncan, Archer, Vander Jagt, Crane, Frenzel, Schulze, Gradison, Thomas of California, McGrath, Daub, Gregg, Brown of Colorado, and Chandler.

UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT

Washington, DC 20001, Phone 535-3300

Spottswood W. Robinson III, Chief Judge

Circuit Judges

J. Skelly Wright
Patricia M. Wald
Abner J. Mikva
Harry T. Edwards
Ruth Bader Ginsburg
Robert H. Bork
Kenneth W. Starr
Laurence H. Silberman
James L. Buckley
——

Senior Circuit Judges

David L. Bazelon
Carl McGowan
George E. MacKinnon

UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT

National Courts Building, 717 Madison Place NW.,
Washington, DC 20439, Phone 633-6550

Howard T. Markey, Chief Judge

Circuit Judges

Daniel M. Friedman
Giles S. Rich
Oscar H. Davis
Phillip B. Baldwin
Edward S. Smith
Helen W. Nies
Pauline Newman
Jean Galloway Bissell
Glenn L. Archer, Jr.

Senior Circuit Judges

Don L. Laramore
Wilson Cowen
Byron G. Skelton
Philip Nichols, Jr.
Jack R. Miller
Marion T. Bennett

UNITED STATES DISTRICT JUDGES

District of Columbia

Washington, DC 20001, Phone 535-3515

Aubrey E. Robinson, Jr., Chief Judge

District Judges

Gerhard A. Gesell
John H. Pratt
Charles R. Richey
Louis F. Oberdorfer
Harold H. Greene
John Garrett Penn
Joyce Hens Green
Norma H. Johnson
Thomas P. Jackson
Thomas F. Hogan
Stanley S. Harris
George H. Revercomb
Stanley Sporkin

U.S. COURT OF MILITARY APPEA

Fifth and E Streets NW.,
Washington, DC 20042, Phone 272-14

Chief Judge	Robinson O. Evere
Judge	Walter T. Cox III
Judge	Eugene R. Sullivan

SENATE—*Thursday, December 17, 1987*

(Legislative day of Tuesday, December 15, 1987)

The Senate met at 12 noon, on the expiration of the recess, and was called to order by the Honorable Bob Graham, a Senator from the State of Florida.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

For unto us a child is born, unto us a son is given: and the government shall be upon his shoulder: and his name shall be called Wonderful, Counsellor, The mighty God, The Everlasting Father, The Prince of Peace. Of the increase of his government and peace there shall be no end, upon the throne of David, and upon his kingdom, to order it, and to establish it with judgment and with justice from henceforth even for ever.—Isaiah 9:6-7.

Eternal God of majesty, power, and light, the magnificent promise of the prophet Isaiah speaks to the deepest instincts of humanity. With profound longing, we hear his word of a perfect government of justice and endless peace. We celebrate the birthday of a babe born in a stable who promises fulfillment of that hope. The whole Earth is silenced under the spell of that matchless event. Midst all our busyness—the tinsel and the trappings of commercialism and consumerism—quiet our hearts by Your love. Fill them with the "peace that passes understanding," and the radiant joy of that glorious pronouncement "glory to God in the highest and on Earth, peace goodwill toward men." Praise be to God. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The **PRESIDING OFFICER**. The clerk will please read a communication to the Senate from the President pro tempore [Mr. Stennis].

The assistant legislative clerk read the following letter:

U.S. Senate,
President pro tempore,
Washington, DC, December 17, 1987.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable Bob Graham, a Senator from the State of Florida, to perform the duties of the Chair.

John C. Stennis,
President pro tempore.

Mr. GRAHAM thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The **ACTING PRESIDENT** pro tempore. Under the standing order, the majority leader is recognized.

Mr. BYRD. Mr. President, I thank the Chaplain for his prayer. His words bring us back to the true meaning and spirit and Christmas. I hope that we will all read that prayer in tomorrow morning's Record.

I thank the Chaplain again. Those words were fitly spoken.

Mr. President, I ask unanimous consent that the time of both leaders be reserved.

The **ACTING PRESIDENT** pro tempore. Without objection, it is so ordered.

MORNING BUSINESS

The **ACTING PRESIDENT** pro tempore. Under the previous order, there will now be a period for the transaction of morning business, not to exceed 30 minutes, with Senators permitted to speak therein for not to exceed 5 minutes each.

WHY THE DEBT BOMB SPELLS DEEP ECONOMIC TROUBLE

Mr. PROXMIRE. Mr. President, the most serious difficulty with the American economy today is the massive and widespread increase in debt. All of us are deeply conscious of the huge increase in the Federal Government's debt. But the American economy's debt problem is worse. The increase in business debt has been even more breathtaking. It also makes our economy far more vulnerable than it has ever been in the past. Did I say ever? I did, indeed. I meant it. Is the increase in debt of this size a new and different phenomenon in our economic experience? Yes, indeed. Have we passed through periods of similarly heavy debt in the past without paying the price of deep depression? Never. We are moving through a dangerous minefield of debt. Americans have never before traveled through such deadly economic terrain.

Consider the findings of the country's outstanding expert on public and private debt in this country, former Harvard Prof. Benjamin Friedman. Dr. Friedman now serves in the National Bureau of Economic Research. Friedman's studies revealed that for the 37 years between 1953 and 1980, the ratio between debt and GNP was remarkably stable. The Nation's total nonfinancial debt averaged $1.37 in debt for every $1 in GNP. The low point came in 1956, with $1.31 in debt to $1 in GNP. The high was 1964—$1.42 to $1. That same stability characterized our economy since at least 1920 with a single exception. In the depths of the Great Depression of the 1930's, overall debt remained fairly stable. But the economy and GNP went into a freefall. As a result, the ratio of debt to GNP soared to $2.10 in debt for every $1 in GNP.

Dr. Friedman explains the general stability of the past 45 years as coming from the countercyclical nature of borrowing. When economic growth slows down—short of a major depression—public borrowing, especially Federal Government borrowing, increases as deficits rise. But this is counterbalanced by a drop in private-sector borrowing. When the economy recovers, the rate of growth increases, public borrowing diminishes, and private borrowing increases. But that ever-balancing pattern has changed dramatically in the 1980's. In this decade, private borrowing, as expected, has continued to rise through the long economic recovery, but public borrowing did not fall as it has in previous recoveries. It rose. In fact, it increased more rapidly than GNP. As a result, the stable average $1.37 ratio of debt for every $1 of GNP that the country experienced with such remarkable stability between 1953 and 1980 increased to $1.70 in debt to every $1 in GNP, an increase of 25 percent. Result: The economy as a whole is now about 25 percent more in debt in relation to GNP than it was during the period 1953 to 1980.

What is especially wrong here is that the Federal Government has failed so dismally to follow its longer term constructive pattern of reducing its borrowing during recovery. Certainly, it was a cardinal sin for the Federal Government to permit the deficit in fiscal 1986 to soar to a horrendous record, $221 billion. The year 1986 was a recovery year. Unemployment in 1986 was well below 7 percent. The most gifted economist to serve in this body was Senator Paul Douglas of Illinois. Senator Douglas was elected to the presidency of the American Economic Association before he came to this

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

body. That election by his fellow economists attests to the enormous respect Senator Douglas enjoyed from his peers in the economic profession. Douglas contended that the Federal Government should balance its budget whenever unemployment fell below 7 percent. The Douglas philosophy would have called for a $30 or $40 billion surplus in 1986. Instead, this administration and this Congress permitted the country to suffer by far its biggest deficit in history in that recovery year of 1986.

So, consider the economic dilemma that faces our country. We suffer this enormous Federal debt. We also must endure a huge business debt. The scandal is that this public debt has grown during the longest peacetime recovery in our Nation's history. In our present dilemma, can the Federal Government come to the rescue of the economy when the next recession comes? If it does that, won't we skyrocket the deficit? Won't we massively increase the national debt? As we meet here, American business has plunged into its heaviest debt ever. Think of it. In the 1950's, business debt averaged about $3 for every dollar of earnings. Today it is a huge, unprecedented $9 on the average for every dollar of earnings. That means many American firms stagger along with $15 and $20 of a debt for every dollar of earnings. So, what happens to these businesses when recession strikes? Answer: They fail by the hundreds of thousands.

Mr. President, we face a situation that is unparalleled in American economic history. This past year, the Federal deficit sharply declined. But much of that decline was a mirage. The deficit will surely rise in 1988. It will rise even if times remain good and the Congress holds down spending. And some time soon, next year or the following year, the long awaited recession will come. When it does, this country and, indeed, the free economic world will be in more serious economic trouble than we have ever known.

BITE THE DEFICIT, NOT SOCIAL SECURITY

Mr. PROXMIRE. Mr. President, the press and many Members of Congress have somehow accepted the argument that the Congress will not show that it is serious about reducing the deficit until we reduce "entitlements," a shorthand for cutting the biggest entitlement of all—Social Security. The leading target for cutting Social Security is the cost-of-living adjustments for elderly retirees. I have spoken at length on the floor on this issue.

Today, I call the attention of my colleagues to an article by two distinguished economists. One is Henry Aaron, the Nobel Prize-winning economist from the Brookings Institution. The other is a highly respected University of Maryland expert, Robert Reischauer. As these thoughtful experts write: "To suggest that Social Security is part of the current deficit problem is lunacy."

I ask unanimous consent that the article from the December 16, 1987, Washington Post be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Dec. 16, 1987]

BITE THE DEFICIT, NOT SOCIAL SECURITY

(Henry J. Aaron and Robert D. Reischauer)

Having observed Congress and the President labor mightily to bring forth a deficit-reduction mouse, some commentators, self-designated wise men, and a few elected officials have concluded that real progress in cutting the deficit cannot be made until Congress cuts Social Security benefits. A little bit off the cost-of-living adjustments, commentators like Peter Peterson and Martin Feldstein speculate, wouldn't hurt anyone.

But a case for singling out Social Security can be made only if this program has contributed significantly to the budget deficit, if benefits are excessively generous or if recipients are economically privileged. The facts clearly do not support any of these conditions.

The Social Security program is big (some 20 percent of the budget), and it has been growing rapidly (144 percent over the last decade). But it has not contributed to the deficit problem. Financed by a dedicated tax that is yielding far more than benefits and program administration cost, the Social Security system is an island of budgetary surplus in the midst of an ocean of red ink. During fiscal year 1987 the surplus in the Social Security system was $19 billion. The surplus will jump to $38 billion in 1988 and $69 billion by 1992.

The surpluses exist largely because of payroll tax increases enacted by Congress in 1983 and signed into law by President Reagan. And these surpluses are being accumulated for a reason: to pay the anticipated costs of the pensions due when the baby-boom generation retires. But to suggest that Social Security is part of the current deficit problem is lunacy.

In fact, the surpluses being accumulated by the Social Security system are already a big part of the apparent "solution." They offset a portion of the deficit in the rest of the budget and, therefore, reduce the deficit estimates widely cited in the press. Without the increases in the Social Security surpluses, the deficit anticipated for 1992 would be $50 billion larger.

What about the possibility that benefits may, in some sense, be unneeded or too generous? While much has been made of the recent improvement in the economic position of the elderly, it is important to realize that this has only brought the aged into approximate economic parity with the rest of the American population. This major accomplishment should not be confused with economic privilege. The average Social Security benefit in September 1987 was $491 per month for retirees, $449 for aged widows and widowers.

Although average benefits are modest, no one should doubt that the economic status of the aged hinges critically on these payments. Social Security benefits make up 38 percent of the income of the elderly. Social Security constitutes more than half of the income for 53 percent of the elderly. Any large cuts in benefits would push some of them below the poverty threshold and return many to the position of economic inferiority from which they only recently emerged. Fully 8.1 percent of the elderly have incomes less than 25 percent over official poverty thresholds, compared with 4.7 percent of the nonelderly.

While the case for cutting Social Security benefits is weak, it is only responsible to expect that all segments of American society will have to sacrifice something if significant deficit reduction is to be achieved. In this spirit, Social Security recipients should make some contribution.

But across-the-board reductions are not the way to impose them, and cutting the annual COLA is just about the worst. To understand why, consider the proposal advocated by Martin Feldstein and some others to provide cost-of-living adjustments only for inflation in excess of 2 percent per year. In time, this formula would ensure that the oldest and most vulnerable in society would suffer the greatest income loss. An 85-year-old retiree, who probably has used up most of her savings and faces high medical bills, would receive benefits nearly one-third smaller than she received at age 65. A totally disabled 25-year-old could rest assured that his benefit would be cut in half by the time he turned 60. Such a grotesque proposal deserves not serious debate, but derision.

Another proposal, to grant cost-of-living adjustments only on the first 2 percent of inflation, is equally nonsensical. This formula would protect beneficiaries from small adversities, but leave them unprotected against the calamity of rapid inflation.

If Congress and the president decide to take a real bite out of the deficit, not the $30 billion nibble announced Nov. 20, the most sensible way to curtail net Social Security is to subject an increased portion of the benefits to the income tax. Currently, a couple must include in its taxable income the lesser of (1) half of its Social Security or (2) the amount by which its adjusted income exceeds $32,000 if its regular income plus half of its Social Security income and all of its tax-free interest income exceed $32,000. The comparable threshold for single individuals is $25,000. These thresholds could be lowered or eliminated, or the fraction subject to tax could be increased to 60 or 70 percent.

Such changes would make the tax treatment of Social Security more comparable to that of private pensions. They could contribute to a grand deficit-reduction compromise that included other spending cuts and significant tax increases. Moreover, they could do so without reducing the income of that large portion of the retired population that is clinging percariously to its modest, but not sumptuous, standard of living.

Mr. PROXMIRE. Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Wisconsin has yielded the floor.

The Senator from Alabama.

A TROJAN HORSE AT OUR GATES

Mr. SHELBY. Mr. President, the summit drama of the past week has tended to obscure events happening in our own backyard. If these events are not acted upon, they will adversely affect the national security of the United States.

Last Saturday, December 12, 1987, the Defense Minister of Nicaragua startled the world by disclosing plans for Nicaragua to more than double the size of its armed forces to 600,000 by 1995.

Defense Minister Humberto Ortega claimed that signed protocols existed with the Soviet Union. These would support the planned Nicaraguan buildup with small arms, artillery, tanks, armored personnel carriers, and a squadron of Mig-21's. More than 20 percent of their population would be placed under arms.

Such a buildup is not acceptable to our national security. Nor is it likely to bode well for Nicaragua's neighbors. Already, the Sandinista Army is larger than the combined forces of Honduras, Guatamala, Costa Rica, and El Salvador.

There are many apologists for the Sandinistas. They would say that we must give peace a chance, even if it compromises our own security. They would say we should legitimize the Sandinista government and its electoral calendar. They would say we must negotiate directly with the Sandinistas, but not raise the issue of democratization in such talks. They would say we must embrace the Arias peace plan, and abandon not only the Contras, but also the peaceful opposition to the Sandinistas.

I suggest that those who say these things are blind to reality. They are deluding themselves, and with their wishful thinking, are deceiving the Nation as to the real threat to democracy in Central America.

Shakespeare has written, "What's past is prologue." If that is true, and I believe it is, then I am concerned for the future of Central America.

I wish that in 1979 the Sandinistas had not excluded other groups from sharing power. I wish that in 1980 Daniel Ortega had not postponed plans for national elections, or that in 1981 Defense Minister Humberto Ortega had not confirmed that their Government has guided by Marxist-Leninist ideology. I wish that the Sandinistas had not begun to export their Marxist revolution to El Salvador, or trampled the rights of Nicaraguan citizens by declaring a state of emergency in 1982. I wish that Nicaragua had not become a base for Soviet, East European, and Cuban military advisers. I wish that Miskito Indians had not been forcibly transferred; or that Daniel Ortega had not visited Moscow just 14 days after the House had voted against Contra aid in 1985; or that Sandinista troops had not invaded Honduras in 1986.

However, these events are history. I cannot wish them away. They stand as the shadow to a specter that is forming, just a few hours away from the United States.

With Soviet and Cuban assistance, the Nicaraguan Army has expanded over eightfold in the past 5 years. It is the most powerful force in the history of Central America. It has more than 150 tanks, 200 armored vehicles, 146 artillery pieces, and 50 helicopters, including more than a dozen Hind armored helicopter gunships. Now, with more than 120,000 men under arms, it is in a position to invade, intimidate, and undermine its neighbors. Thus, a Communist Nicaragua could threaten, in collusion with Cuba, not only the stability of the region, but, in time of conflict, vital United States and NATO supplies.

Many Americans don't realize it, but 45 percent of all our imports and exports transit the Caribbean. We import almost 55 percent of our crude oil through this region, and about 65 percent of all ships transiting the Panama Canal carry goods to or from the United States. More than 60 percent of NATO resupplies would be shipped through U.S. Caribbean ports in time of war. In other words, Central America is vital to our national security, which is the end game.

However, too many have lost sight of the end game. We have gotten bogged down in recriminations from the Iran-Contra affair. We have failed to effectively and consistently articulate our national policy in this vital region.

The ends to which I speak are simple enough: To remove the Soviet block military presence from Nicaragua; reduce the size of the military threat Nicaragua poses its neighbors; halt Sandinista attempts to destabilize its neighbors; and promote internal democratization with Nicaragua.

Let us make the Caribbean a fertile ground for democracy. Let us not be taken in by the empty promises of the Sandinistas.

It may be that Mr. Humberto Ortega has done us a favor. By forecasting a stupendous Nicaraguan military buildup, Ortega may have let the cat out of the bag too soon. Yet, we do not have the luxury of time. Left to themselves, the Sandinistas will become another Soviet Trojan horse; only this time, the horse is on the mainland of the new world. We should not allow it in democracy's gates.

I yield back the remainder of my time.

The ACTING PRESIDENT pro tempore. The Senator from Alabama has yielded.

The Senator from North Carolina.

AGENDA FOR HIGHER EDUCATION

Mr. SANFORD. Mr. President, there was released yesterday an extremely important document, a concise agenda for higher education in the United States, directed to the next President of the United States.

It is entitled "Memorandum to the 41st President of the United States." Copies will be presented formally and directly to all Presidential candidates, but this is also of immediate interest to all Members of Congress, and to all others who care about the future of higher education and its influence on our Nation and on society.

This memorandum was prepared under the sponsorship of the American Council on Education, by the Commission on National Challenges in Higher Education, specifically organized for this purpose. A number of distinguished citizens served on the commission, with William C. Friday, president emeritus of the University of North Carolina, serving as chairman.

I ask unanimous consent to print in the RECORD this document, including a preface, a list of the commission membership, along with the "Memorandum to the 41st President" which includes a remarkable agenda.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

MEMORANDUM TO THE 41ST PRESIDENT OF THE UNITED STATES

(From the Commission on National Challenges in Higher Education)

In September 1986, the American Council on Education, the umbrella organization representing colleges and universities in the United States, established a Commission on National Challenges in Higher Education.

Announcing its establishment, Robert H. Atwell, president of the Council, stated his hope that the Commission would prepare a higher education agenda for the consideration of the 1988 presidential candidates. He especially asked that we examine the relationship of higher education to the nation's future and recommend steps the next President of the United States can take to keep the relationship vigorous and productive.

We have responded to that mandate by preparing a memoradum for the next Presidernt which places the problems and perspectives of higher education in the context of the larger challenges facing the nation. Although this memorandum is directed to the 41st President, we believe that Congress, which has played such a central role in development of policy for American higher education, will also find much value in the document.

It has been my privilege to chair this distinguished Commission. Although each member of the panel might have expressed our views in a different manner, all agree with the spirit and direction of the report. On behalf of the members of the Commission I am pleased to transmit this Memorandum to the 41st President. By issuing this document in advance of the 1988 election, we hope to contribute to the election debate and suggest a leadership agenda for the candidate who prevails.

WILLIAM C. FRIDAY, *Chairman.*

COMMISSION ON NATIONAL CHALLENGES IN HIGHER EDUCATION

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INTRODUCTION

We write as 33 individuals committed to American higher education to convey our sense of urgency about the great challenges facing the United States, and to offer our assistance as you prepare to take up the responsibilities of your office. Our message is not the private statement of the particular interests of higher education. It is the public expression of our conviction that, in its efforts to shape the next decade and century, your Administration must draw on our colleges and universities if the Nation is to succeed.

Five challenges will preoccupy the American people during your Administration and into the next century:

Preserving peace and security in an increasingly interdependent world;

Revitalizing the economy;

Expanding educational opportunity;

Meeting essential human needs and improving the quality of life; and

Restoring respect for fundamental values and ethical behavior.

In this document we describe how the 3,400 colleges and universities in the United States can help the nation meet these challenges. But if the resources of these institutions are to be brought fully into play, a new spirit of partnership between the federal government and higher education must be forged. For we are, in Woodrow Wilson's phrase, "engaged in a common enterprise".

The partnership between colleges and universities and government, although recently strained by cuts in federal funds and disagreements on policy, has had an outstanding record over four decades. The partnership, since the Second World War, opened the doors of opportunity for millions of veterans and other needy students. It built the finest scientific enterprise in history. It provided new perspectives about other countries and cultures.

The partnership equipped women to participate as equals in our national life. It improved the skills of the work force by expanding the public community college system. It developed a network of colleges and universities that made the American system of higher education the envy of the world.

As the country prepares to enter a new decade and a new century, there must be a renaissance of the partnership of higher education and government, a partnership reinforced by the private sector. Your leadership in renewing this partnership is essential. Our greatest presidents have made clear that America's progress would falter unless our people were sustained by the spirit of critical inquiry and a fully engaged community of learning. Our colleges and universities have always responded to such leadership. They can do so again during your Administration.

In this memorandum, we present an agenda for you and for higher education that will draw forth the best our institutions can offer the nation. We urge you to adopt it. For our part, we pledge to become advocates of this agenda—with our colleagues and with the American people.

THE ROLE OF HIGHER EDUCATION

To overcome its problems and take advantage of its opportunities, America depends on educated men and women and the ideas they generate. Our colleges and universities are the nation's principle source of both these vital ingredients.

Educate Americans for an Increasingly Interdependent World

Finding ways to protect our national interests while promoting regional and international cooperation is a task of preeminent importance for the United States. In a world increasingly divided by military, political, economic, religious and racial conflict, it is imperative that we diminish the risk of nuclear destruction while maintaining the security of the nation.

For more than half a century, American colleges and universities, resisting a tradition of isolationism deeply ingrained in our nation's history, have emphasized the study of foreign cultures. During this period higher education has played a central role in developing public understanding of economic, defense and foreign policy issues; in preparing diplomats and other experts in foreign and military affairs; and in providing critical analysis for national decision making. To help formulate the nation's foreign policy and defend our interests abroad, every modern President has drawn heavily on the resources of higher education.

Nevertheless, many Americans are uninformed about other peoples and countries, and poorly prepared for an increasingly interdependent world. Foreign languages and cultures are a mystery to many of our young people. As we learned in Vietnam, our nation lacks sufficient knowledge to comprehend all the distant areas of the world in which crises can suddenly erupt.

To overcome these deficiencies, we must strengthen all fields of international study, encourage the teaching and study of foreign languages and cultures, and provide more opportunities for exchange of students and teachers between the United States and other countries. Professional schools, particularly those concerned with law, public policy and business, must devote far more attention to international issues.

Help Revitalize the Economy

Mounting budget and trade deficits, shrinking economic growth rates and the loss of important markets to foreign competitors are all clear signals that the American economy suffers from serious structural weaknesses.

As major sources of discovery, innovation and invention, colleges and universities can contribute significantly to the renewal of our advanced, technology-based economy. To do so effectively, we must work to translate discoveries into useful products by creating relationships with industry that neither corrupt nor divert basic academic research.

We in higher education must also increase our efforts to secure private funds to upgrade and replace outmoded facilities for research and technology. But the need for enhanced investment in facilities and equipment—the laboratories, libraries and classrooms that constitute the infrastructure of the academic enterprise—will also require substantial public funds, both federal and state.

If the nation is to become more competitive, we must take a series of steps.

We must improve management training in business schools by emphasizing production, engineering and design, while placing greater emphasis on the special problems and opportunities of doing business abroad.

Universities should both strengthen their courses in industrial engineering and provide stronger mid-career programs for training engineers.

In a period when corporate executives, professionals and public officials must negotiate with foreign firms and governments and work in countries all over the world, schools of law, business and public administration must devise curricula with an international dimension.

Colleges and universities must also help strengthen elementary and secondary education by upgrading teacher training, attracting more mathematics and science teachers, and fostering local partnerships with the elementary and secondary schools. Adult illiteracy remains a problem for which colleges and universities must help develop solutions.

Efforts to restore economic competitiveness will transform the workplace and cause shifts in employment among regions and industries that will create unprecedented demands for retraining large sectors of the labor force.

If the American people are to make these adjustments, colleges and universities must recognize that they have a host of new constituents whom they must serve more effectively. These include part-time and mid-career students, displaced workers, the unemployed and underemployed and those who lack the skills necessary to compete in tomorrow's labor markets.

Expand Educational Opportunity

For more than four decades the partnership between higher education and government has provided a powerful engine for expanding educational opportunity. Financial aid programs supported by governments and institutions have opened doors to millions of students, transforming and revitalizing our colleges and universities, and diversifying leadership in our society.

Over the last decade, however, we have seen the re-emergence of barriers that threaten the progress made in equalizing opportunity. Disagreement about adequacy of federal support for student assistance is the most obvious difficulty. Rising tuitions, growing student debt burdens, declining minority participation, increased dropout rates—these are all signs of a decline in access to higher education. These ominous trends come at time when the job requirements of a technological society are demanding much higher levels of preparation. Between now and the year 2000, according to a recent study sponsored by the Department of Labor, a majority of all new jobs will, for the first time in history, call for some form of postsecondary education.

With the specter of chronic unemployment and a vast and growing underclass, we must expand opportunities at all levels of our educational system. We must make strenuous efforts to improve the quality of elementary and secondary schools, and to insure access to colleges and universities. At the same time, the nation must act to reduce unemployment among minorities and youth as well as to lift out of poverty millions of children. Otherwise, we face the consequences of remaining, in the words of the National Commission on Excellence in Education, "a nation at risk."

Colleges and universities should intensify their current efforts to reach disadvantaged students early in their junior high school years with academic support services and information about financial aid for college. High school teachers and counselors should be senior partners in this endeavor. Higher education should help strengthen respect for teaching as a career by recruiting outstanding students, improving the quality of professional preparation, and experimenting with loan forgiveness programs for students entering teaching and other public service occupations. Undergraduate institutions and graduate and professional schools should supplement government assistance by increasing their own financial aid for needy students.

Help Meet Essential Human Needs and Improve the Quality of Life

America has long maintained a high standard of living relative to other nations. But our people face growing problems of environmental deterioration, a crumbling urban infrastructure, the uncertainty of energy supplies, inadequate health care delivery, poverty, hunger and disease.

In the past, academic research has contributed to the quality of life through dramatic discoveries in such fields as food production, pest control, environmental protection, space exploration and communications. Aided by federal funds, academic science has produced remarkable breakthroughs in eradicating disease and prolonging life. There is every reason to believe that eventually the incurable illnesses of today will likewise yield their secrets to research, secrets that lie as much in changing human behavior to prevent disease as in discovering expensive new cures.

In recent years, however, higher education and the federal government have not performed in all these respects as effectively as they should. As public officials have increased the proporation of federal research funds for defense, they have scaled back support of social science research directed at a wide range of problems, including housing, unemployment, adult literacy and poverty. In consequence, we know much less today than we should about these persistent national concerns. Government support for the arts and humanities has also, in recent years, been accorded a lower priority, weakening their capacity to make their indispensable contributions to the quality of our civilization.

To assure that the essential needs of the American people are met and the quality of their lives is enhanced requires public policies that are at once enlightened and effective. To develop such policies requires in turn a strong base of knowledge, made possible only by a healthy partnership between government and higher education.

Help Restore Respect for Values and Ethical Behavior

Widely publicized scandals in government and business suggest to many that we have lost touch with fundamental values and standards of ethical behavior. As abuses in intercollegiate athletics and incidents of scientific fraud attest, colleges and universities have not been immune from such troubling developments.

The effort to strengthen the values and character of students is less a task for government than for other institutions in our society—families, schools, and churches and synagogues. Because nearly every future politician, businessman, physician, lawyer, teacher, journalist and clergyman will attend our colleges and universities, higher education can also play a vital role. Institutions of higher learning can fulfill their responsibility through offering traditional courses on philosophy, religion, literature, history and political science as well as newer courses specifically directed to moral reasoning and professional ethics.

In addition to improving curricula in these areas, colleges and universities should appreciate that the ways in which they create, explain and enforce rules of conduct on campus afford opportunities to teach respect for such fundamental principles as telling the truth, honoring agreements and respecting the rights of others. Campus officials should also encourage wide participation by students and faculty in community service activities by providing seed money, recognition and staff support.

Institutions should also set the highest possible example for students and faculty in making decisions on such issues as recruitment of minorities and women, investment of endowments and relations with their local communities. In classrooms and dormitories, there are countless opportunities to convey the message that ethical awareness and personal integrity are essential goals of education.

AN AGENDA FOR THE NEXT PRESIDENT

In setting forth these five challenges to the nation, we believe the higher education agenda for the next President is clear and compelling. We believe that your Administration must assume leadership in renewing the historic partnership with American colleges and universities. Education must be seen as a vital investment in the country's future.

Here is the agenda we propose:

1. Educate Americans for an Increasingly Interdependent World

When history looks back on your presidency, it should record that you helped prepare our young people for an increasingly competitive and interdependent world.

We recommend that your Administration:

Support strengthening of international studies and research—including area studies centers, and teaching at all levels about foreign countries and cultures.

Encourage student and faculty exchanges to enable Americans to study and teach abroad and students and teachers from other countries to attend American institutions.

Expand the teaching and study of foreign languages in our schools, colleges and universities.

Assist colleges and universities in the United States in developing joint educational and research programs with institutions in other countries.

2. Support Education and Research to Help Revitalize the Economy

To increase productivity and revitalize our economy, we must insure that the American work force is the best prepared on the face of the globe.

We recommend that your Administration:

Initiate programs to add to the supply of teachers at all levels of our educational system, and to improve their training. We urge emphasis on scientific, quantitative and technological subjects where the shortage of qualified teachers is acute.

Reinforce existing national programs for short-term employment training by providing tuition assistance for dislocated and displaced workers. Such an effort can help those most affected by economic change become contributing members of society.

Make permanent the current provisions of the tax code that exempt from taxation the educational benefits that members of the work force receive from their employers.

Encourage state governments, in cooperation with the private sector, to monitor labor force needs so that educational institutions can design training programs to serve their communities more effectively.

The vitality of our economy will also depend heavily on maintaining America's preeminence in research. As the White House Science Council concluded in 1986, we must improve the facilities and instrumentation on which scientific progress depends, while insuring an adequate supply of talented scientists and engineers.

We recommend that your Administration:

Respond to the nation's need for more scientists and engineers by expanding federal support for graduate student assistantships and for faculty research. The evidence of shortages is clear; for example, over half of all doctoral recipients in engineering last year were citizens of other countries.

Support the construction and renovation of research and teaching facilities through matching grants and low interest loans by the National Science Foundation, the National Institutes of Health and other agencies whose missions include research support. Matching provisions should be waived for institutions with a limited financial base that demonstrate a commitment to upgrade their science programs.

Implement existing legislative authority to help colleges and universities obtain access to capital markets for construction, renovation and equipment of facilities; and provide private colleges and universities the same access to the tax-exempt bond market that public institutions already enjoy.

Encourage the development of new partnerships between business and education, to stimulate the industrial and commercial applications of academic research.

3. Reaffirm the National Commitment to Expanded Educational Opportunity

Expanding educational opportunities can help prepare all of our people for the challenges of the 21st century. This is especially important when the proportion of minorities among our young people is expected to reach one-third by the year 2000, while their participation is declining at each successive level of education. It is time for a basic review of the federal role in student aid to assure a stable and consistent public policy that regards education at all levels—and the students who pursue it—as vital national resources.

We recommend that your Administration:

Intensify federal efforts to encourage disadvantaged students to complete school and to pursue a college education. Such successful programs as Head Start and Upward Bound should be strengthened and expanded.

Increase funds for grant assistance to needy students. Funds for other student aid programs—including enhanced opportunities for students to support their own education by working—should also be expended and modified both to target funds effectively, and to insure students a choice among institutions.

Continue action to reduce student loan defaults. As the real value of federal grants declined in recent years, increasing numbers of low-income students have been forced to assume unreasonable debt burdens to finance their education. More adequate grant support can mitigate excessive reliance on loans, especially in the first two years of undergraduate study. Colleges and universities, lending institutions, and federal and state governments must cooperate to assure that borrowers repay their loans.

Propose incentives for parents and families to save systematically for their children's education. A college savings bond or educational savings account that allows for participation by low-income families deserves consideration as a supplement to existing student aid programs.

Expand graduate fellowships for minorities and, in the physical sciences and engineering, for women. Colleges and universities should encourage such fellowship recipients to pursue academic careers. Fellowship programs should include summer research grants, assistantships, advanced research and training opportunities, and early identification of potential recipients.

Coordinate federal, state and local welfare policies so that welfare recipients who receive student aid do not risk losing their maintenance benefits.

4. Encourage Educational Activities that Address Human Needs and the Quality of Life

Experience and common sense tell us that there is no single set of remedies for such problems as poverty, unemployment and inadequate health care. But in each case, finding solutions requires new knowledge and research.

We recommend that your Administration:

Increase support for applied social science research in areas vital to the formulation of national policy by agencies such as the Department of Health and Human Services, the Department of Labor, the Department of Housing and Urban Development, and the Department of Education.

Initiate programs to study and improve the quality of public and preventive health care and the delivery of health care services.

Strengthen the capacity of the federal government to collect and disseminate statistical data about the demography of the work force, patterns of health and education, and other social and economic indicators.

Reaffirm the importance of the liberal arts tradition in our society. Federal support for the arts and humanities, libraries and museums, for example, should resume its rightful place among the nation's priorities.

Increase support for the preservation and maintenance of books and other scholarly resources, and for the development of new computerized capabilities for information storage and retrieval, through the Library of Congress and other federal agencies.

5. Restore Respect for Fundamental Values and Ethical Behavior

As leader of our country, you are in a unique position to help mold our purposes as a nation, give meaning to the lives of our people and rekindle a spirit of social obligation. In all these respects, you and your Administration can build upon successful existing programs that provide opportunities for college and university students to serve society.

We urge that you:

Expand such programs as the Peace Corps and Vista for community service at home and abroad.

Strengthen, through federal student aid programs, incentives to students for community service work.

Explore ways to encourage students to enter public service careers in such fields as teaching, public health and social welfare.

CONCLUSION

Although the agenda we have set before you is ambitious, the responsibility for carrying it out does not fall to you solely or to the government you lead. This memorandum not only describes the issues to which we believe you must attend; it also defines the contributions that higher education can make to the progress of the nation. We believe that the agenda we propose will, if adopted, reinforce a partnership that has been of great benefit to our people in the past and holds rich promise for the future.

In offering this agenda, we ask no more of you than we ask of ourselves. Extensive and serious study and revision of academic programs are already underway. Our institutions are also in the midst of a sweeping reevaluation of the quality of teacher preparation. Working with secondary schools, we are establishing more demanding standards for college admission. We are striving to renovate our scientific laboratories and to strengthen our links with business and industry.

We intend to intensify our self evaluation and to continue to enhance the education that we provide. We realize that the vitality of the United States is, in crucial ways, directly dependent on the quality of our institutions and their graduates. To insure that quality is our obligation; we pledge to you our determination to maintain it.

You begin your presidency at a critical moment in the life of our country. The American people are entering a new century and a new world. Challenged as never before, will our people be prepared? We believe the answer must be yes.

Working together, we are confident that you and we can serve the nation and fulfill the aspirations of the American people.

Mr. SANFORD. I yield.

The ACTING PRESIDENT pro tempore. The Senator from North Carolina yields the floor.

The Senator from Pennsylvania.

JUDGE KENNEDY

Mr. SPECTER. Mr. President, with the conclusion of the Judiciary Committee hearings, I believe it is timely and appropriate to state my intention to vote to confirm Judge Anthony M. Kennedy for the Supreme Court of the United States unless some significant adverse information is forthcoming between now and floor action which appears unlikely in view of the evidence already presented on his record including witnesses from his home town from diverse backgrounds.

I have concluded that Judge Kennedy is qualified for the Supreme Court after studying many of his opinions, reading his speeches, meeting with him privately for some 3 hours and participating in the Judiciary Committee hearings including extensive questioning of the nominee.

The evidence shows a man of intellect with sound values, an excellent academic record, extensive experience as a practicing lawyer, and balance as a Federal Court of Appeals judge.

He does not wear an ideological straitjacket but has demonstrated judicial restraint in sharply limiting his opinions to the narrow issues of the cases without legislating. His opinions, speeches and answers show a capacity for growth and an appreciation of the "spacious" liberty clause of the Constitution to enable a "people (to) rise above its own injustice" to correct "the inequities that prevail at a particular time."

While Judge Kennedy's overall record shows balance, there are significant areas of concern arising from some decisions on women's issues and minorities' rights. Nathaniel S. Colley, Sr., a black civil rights leader from Sacramento, Judge Kennedy's home town, provided key insights into the nominee's approach to constitutional rights based on his contacts with the Kennedy family since 1949 and personal knowledge of Judge Kennedy for 20 years. While disagreeing with some of Judge Kennedy's specific decisions, Mr. Colley testified that the nominee had a solid record on civil rights, saying he was a grown man who would grow more.

The confirmation process itself may contribute to such growth. At the conclusion of my meetings with Judge Kennedy, he asked me if the advise and consent function of the Senate was designed to give advice to the nominee. I responded that it was up to the nominee; but there is no doubt that the numerous "courtesy calls" and the extensive hearing process containing more Senators' speeches than questions provide the nominee with substantial, albeit unsolicited, advice. This expanded process in recent confirmation proceedings has the potential to add a new element to Justices' thinking as Senators transmit a distillation of constituent or populist views to the nominee.

It is, of course, not a one-way street. In the last two confirmation hearings, the Senate Judiciary Committee has opened a busy thoroughfare eliciting the nominee's judicial philosophy with Senators seeking to influence, openly and properly in the public arena, the nominee's views on important constitutional issues.

Judge Kennedy's hearings significantly advanced the important precedent that judicial philosophy is within the proper scope of inquiry in the confirmation process and hopefully Judge Kennedy's hearings also provided the nominee with additional insights on legitimate concerns of the American people on important constitutional issues.

I thank the Chair and I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Pennsylvania has yielded the floor.

The Senator from New Mexico is recognized.

Mr. BINGAMAN. Thank you, Mr. President.

INDICATORS OF STANDARD OF LIVING

Mr. BINGAMAN. Mr. President, since the spectacular 508-point drop in the Dow Jones average on October 19, our attention has been focused on reassuring world financial markets by reducing the Federal budget deficit. While calming a jittery market and reducing the budget deficits are worthy goals in and of themselves, they should not be our only priority. This Nation has serious structural economic problems, of which the stock market crash is only one. These problems predate the stock market crash and will persist after the implementation of the budget reduction plan.

OUR DECLINING STANDARD OF LIVING

The administration continues to insist that the fundamentals of the economy are sound and that Americans really are better off than they were before 1980. To back up this claim, the administration points to two common indicators of standard of living: Real disposable income per capita and real personal income per capita. These indicators represent the average of American annual income, adjusted for inflation. Disposable income is after-tax income and personal income is before-tax income. Between 1970 and 1986, real personal income per capita rose by 37 percent, while real disposable income per capita rose by almost 35 percent. Real personal income per capita has risen from almost $12,000, 1982 dollars, in 1980 to almost $13,400, 1982 dollars, in 1986.

Yet, despite these figures, Gallup Polls taken in each of the past 4 years show a majority of Americans saying that they were financially the same or worse off than they were the year before. To clarify the picture, I asked the Congressional Research Service [CRS] to look at various indicators of standard of living. Today, I am releasing their report, "Measures of Real Earnings Since 1970." This report shows that common measures of standard of living, specifically real personal income per capita, are misleading. These measures present statistical averages that say little about the actual financial condition of average American families.

The report concludes that, despite administration claims to the contrary, key measures of standard of living have either stagnated or fallen, not risen, since the 1970's. Average real wages and salaries per hour for all persons in the private sector—business owners, managers, and workers—remain below their peak in the mid-1970's. For average American workers—production and nonsupervisory workers in the private sector—average hourly wages "declined from 1973 to 1975 and then dropped precipitously from 1978 through 1982 * * * [and] have shown no appreciable recovery since then. In 1986, this gauge was 10 percent below its 1973 peak."

Thus, the Reagan expansion following the Reagan recession has produced not a higher standard of living for average Americans, but rather, lower wages than they received in the 1970's.

HOW THE FIGURES MISLEAD

According to the CRS study, much of the increase in real personal income per capita has been due to two factors: Rising nonlabor income, specifically transfer payments and interest income, and rising hours worked per capita due to an increase in labor force participation. Between 1970 and 1986, real nonlabor income per capita, including income from interest and transfer payments such as Social Secutiry, Medicare, unemployment compensation, and AFDC, rose 81 percent. Nonlabor income now makes up almost one-third of personal income compared to less than one-quarter of personal income in 1970.

The second factor in the increase in these personal income statistics is a rise in the labor force participation rate—that is, a rise in the number of people working per capita. There is today a greater percentage of the population and of family members in the labor force, working or looking for jobs, than there was in 1970. The rise in the number of working wives and two-income households is part of this trend. Because per capita is based on the total population and not on the size of the labor force, an increase in the percentage of the population in the labor force artificially increases the income per capita figures.

As an example of how this is an artificial increase, take the economy of a family of four where only the husband works. Income per capita in his family's world equals his wages divided by four. If the wife then goes to work, income per capita will go up. But the husband is not earning more per hour; the wife has just sacrificed time at home with her children in order to increase her family's per capita income. The same thing happens in the general economy—more people working as a percentage of the population means more income as a percentage of the population, per capita, not more earnings per individual working.

In other words, real personal income per capita has grown because of high real interest rates paid to people with capital to invest, because of expanded entitlement programs, and because more family members are working—not because Americans are earning more.

Another technical factor also overstates the rise in real personal income. Economists use two different measures of inflation: The GNP price deflator and the Consumer Price Index [CPI]. To calculate real—that is inflation adjusted—personal income per capita, the GNP price deflator for personal consumption is used. This measure rose slower between 1970 and 1986 than did CPI. Using CPI to calculate real income, our standard of living has declined since its peak in the 1970's.

To translate real personal income per capita into a more realistic measure of standard of living, CRS adjusted for these three factors. They separated labor income from nonlabor income, translated this from per capita to per hour, and used the Consumer Price Index to adjust for inflation. The resulting measure of real labor income per hour matched the stagnation in real wages and salaries.

When they excluded fringe benefit program costs, paid by employers, which bear no necessary relation to the dollar value of any benefits actually received by any particular employee, the situation was even worse. It turns out that this modified calculation requires the same conclusion compelled by the hourly wage data. Real labor income per hour excluding fringe benefits was, in 1986, well below the same figures for almost every year in the entire decade of the 1970's.

THE ILLUSION OF PROSPERITY

Mr. President, the CRS report makes clear that real income per capita is a misleading indicator of our standard of living. That indicator is useful as a gross measure of wealth, but it fails to point out the true situation in which most Americans find themselves. Real labor income per hour presents a more realistic picture of America's standard of living in the 1980's. And that picture is far from the rosy one that some would have us accept.

The conclusions of the CRS report are worth quoting directly—

> Dealing in averages is a very imperfect way of evaluation changes in society. It greatly oversimplifies the complex changes that are taking place. If the typical American household were the same in 1986 as it was in 1970, these data would show clearly that the fruits of its labors in the paid economy have grown little if at all since that earlier time. But the typical household has also changed.

The report goes on to say:

> * * * the typical couple, for instance, has fewer children, and, if both parties work for pay, they should have more real income per household and per capita, if not hours worked, then households of similar ages and circumstances in the 1970's. In many cases women prefer to work for pay over remaining out of the labor force. In other cases they work outside the home mainly to earn income to maintain or increase the family's material living standard, at the sacrifice of some amenities that would have resulted from having more time at home. In most cases the extra income is partly expended on child care and other outlays necessary to permit both parties to work. In many instances, however, transformation of the household means a single parent, typically female, raising children. * * * This study suggests that these families, whose prevalance has increased, typically are trying to make ends meet on real hourly take-home pay that averages less than it did 15 years ago.

The conclusions of the CRS report are reinforced by other data on household and family incomes. According to data collected by the Census Bureau, median family income, in 1985 dollars, was over $29,000 in 1979. By 1982, in the midst of the Reagan recession, family income had dropped to just over $26,000. By 1985, it had recovered to approximately $27,700—which is close to where it was at the start of the 1970's.

The situation is even worse when one looks at the distribution of family income. According to the Congressional Budget Office's [CBO] recent report, "The Changing Distribution of Federal Taxes: 1975-90," real family incomes for 90 percent of all American families declined between 1977 and 1984. And for 80 percent of all American families, real incomes are projected to remain, by 1988, below their 1977 levels. It is clear from this data that the benefits of our supposed economic growth have gone to only a very few.

Thus, contrary to what some would like us to believe, we have not created a great new era of prosperity in America; we have created the illusion of prosperity. We are simply running harder to stay in the same place. And those who cannot run fast enough are falling further and further behind.

FACING REALITY

This is not an encouraging picture. At the end of over 60 months of economic expansion, we are, in many respects, simply back to where we were at the end of the 1970's, or worse off.

Over the next few years, we must confront these threats. This is not something we can do quickly or easily. We did not create our economic problems overnight and we will not solve them overnight.

The first step is for the administration to stop pretending that it has wrought great prosperity for average American workers. It needs to acknowledge that the fundamentals of this country's economy are not sound at all.

Only when the leaders of this country share this realization will we see that the important recent budget compromise is just one small step on a very long road ahead. Only when we stop deluding ourselves will we be able to mobilze the concerted effort required of business, government, and labor, to work together to improve productivity, innovation, and the ability of our industry to compete in the international marketplace. And only then will we begin to reverse the demonstrable decline in the American standard of living.

The ACTING PRESIDENT pro tempore. The Senator from Delaware.

WELFARE AND IN-KIND CONTRIBUTIONS

Mr. ROTH. Mr. President, one of the most sensitive issues that we deal with as representatives of the American people is welfare reform. It is over the myriad questions concerning social programs that our ranks become divided and our rhetoric heated. To a great extent, the emotion accompanying the issue of welfare originates with the fact that we are a land of promise in a world of finite resources. This fact alone is one we would do well to keep in mind as we consider all the proposals that entertain our attention on this floor, whether they be developing social programs or tending to matters of taxation—there's only so much to go around.

However the promise of America offers a sense of security amid a sense of opportunity, and it is incumbent upon this distinguished body to take the necessary actions and make the necessary decisions to determine how our resources are used, and to what best advantage. I believe we would do well to heed the advice of the British statesman, Edmund Burke, who wrote:

> Mere parsimony is not economy (either). * * * Economy is a distribution that consists of careful selection.

In the months ahead, it will fall on the responsibility of this Senate to debate the heated issue of welfare reform. This is good, because it will give us an opportunity to examine and reevaluate the economic ideology and process of selection that governs our Nation's welfare programs. I don't need to remind anybody that this reexamination is perhaps more critical now than ever—as our $2 trillion debt looms like a foreboding shadow daring us to go on. But we must go on. We must go on with a spirit of careful selection as we engage in the economy of distribution.

And to this end, to insure that our selections are made carefully and responsibly—and so we may see the facts as they are—as we consider welfare reform, I am releasing a report by the General Accounting Office that provides necessary information about the income of welfare recipients. This report is the second in a series that I have requested to assist Congress in dealing with this important reform issue.

The first report, that I released in March of this year, assessed the numerous issues that need to be considered in the reform process. It raised important questions in four areas of the welfare system, including: Benefit targeting and adequacy, system complexity, work incentives versus dependency, and the impact of welfare on the family unit. Each of these is an area that we will have to take into consideration as we move into our future debate, especially as our objective must be to encourage the formation of stable, economically, self-reliant families.

With this second report, there arises an even more important question: What are the real demographics of poverty in America? Most recently, the poverty level has been determined by an equation that multiplies the thrifty food plan by three. The total dollar amount then represents the established—or at least most widely accepted—economic milestone in determining poverty. Below the line is considered impoverished; above it is not.

Clearly one important question that we must address as we move into welfare reform is where do we stand now. To borrow a well-worn cliche, we must know where we are, to know where we're going. And we can begin to know where we are by knowing what percentage of people receiving Government assistance are over the established povety level? My recent report begins by stating how difficult it is to establish this one figure as "little is known about the incomes of welfare families." Many families may be receiving incomes from sources that might be considered under the table. Others might be accepting Government assistance while they live with boy friends or girl friends, parents, or relatives, who are working and assisting in their support.

However, when it comes to measuring combined Government assistance going to specific individuals, we can get a clearer reading on who is above, and who is below, our established povety level. And the most ironic element of our attmept to measure this level is that Government does not include all the contributions it makes as it determines the status of poverty in America.

In other words, Mr. President, the method of quantifying the poverty profile of America is so seriously flawed that we can't establish an agreement on the most fundamental issue of the welfare reform debate, that of who is and who is not above the poverty line. And my next question follows naturally: How can we responsibly—carefully—discuss the distribution of our Nation's resources when we don't have a consensus understanding on this most basic point?

Interestingly enough, in the method used for calculating the official poverty rate, the Bureau of Census counts only cash income, using poverty and antiquated poverty and income definitions that were developed in the 1960's. Since then, as we all know, the bulk—or 70 percent—of our Federal assistance programs have been designed around "in kind" contributions—or contributions such as food stamps and housing assistance and Medicaid—that are not provided as cash payments.

Frankly, as we begin to treat the issue of welfare reform, our solutions will be as ill-founded as our perception of the problem, unless we begin to take into account the real demographics of poverty in our country.

Fortunately, my report provides valuable information in helping us form a more perfect picture of the real situation. It provides information that can be used in determining the current financial status of welfare recipients. And most notably, it graphically presents how misleading the poverty numbers can be.

For example, when both cash and noncash assistance are counted for a welfare-recipient family of two to four in determining its financial status, the monthly income averaged $819. When only cash is counted—which again is our present way to determine this status—the average income was $646—about $170 lower than it really is.

I believe this a critically important point. And while some may feel otherwise, I strongly believe that if we're going to look at how our welfare families are faring economically, we must consider all assistance that contributes to their support. At the same time, it is important how we value that assistance. For example, a nonwelfare family must pay a part of their earnings to purchase such necessities as food, shelter, and health care. Therefore, when the Government provides food, shelter, and health care through vouchers and noncash subsidies, clearly the market value of those items should be considered as income.

The report becomes even more telling when we look at the percent of welfare recipients living, what we call, below the poverty line. To exclude noncash assistance, we find that only 21 percent of those receiving welfare are above the poverty line. But when we include the housing subsidies and the food stamps, and the other "in-kind" contributions, we see that number come up to 60 percent.

Now, this is both good news and bad news. Because while it means the numbers of Americans living in poverty are not as great as some would report, it also means that there are 40 percent of our welfare recipients who do live beneath the poverty line.

But this is not the only news. GAO also reports that those recipients of AFDC who have other earnings have distinctly higher incomes than those who rely on AFDC alone. Consequently, I believe that as we look to welfare reform, we should look to those programs that emphasize employment and avenues to opportunity.

Another interesting fact, highlighted by this report is that as many as 40 percent of those recipients receiving aid to families with dependent children live in a household with an individual who is not receiving AFDC. While it might be assumed that these non-AFDC individuals are second earners—relatives, friends, boyfriends or girlfriends with second incomes—we cannot be certain. Some may undoubtedly be parents or grandmothers receiving Social Security or pensions.

However, we do know that the average income of these homes is $855 higher per month than those simply receiving AFDC. And consequently, often the conditions that are reported impoverished, under our current method, are not. To determine exactly who these non-AFDC individuals are, I have asked GAO to provide another report that will be released in January.

Mr. President, I bring this new information to the floor of the Senate for one reason: Because as welfare reform continues to remain an issue of great debate, it provides valuable information that can be used in determining the real needs that we must address. It will allow us to make more effective decisions, and to act as more responsible stewards of the taxpayers' trust. I recommend this report, entitled "Welfare: Income and Relative Poverty Status of AFDC Families," to all of my colleagues. And it is my hope that it will provide much needed facts that will be critical in the debate that awaits us next session.

Mr. President, I yield the floor.

Mrs. KASSEBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas.

THE CONTINUING RESOLUTION

Mrs. KASSEBAUM. Mr. President, in the very near future the conference report on the continuing resolution for fiscal year 1988 will be before the Senate. That measure is one of two bills that must be enacted to put in place the White House summit agreement on deficit reduction. Enactment is also necessary to provide continued funding of Federal Government programs, agencies, and activities into next year. The CR is critical legislation.

That being the case, I was most disturbed to learn that the conferees on the CR have been playing games with the aviation trust fund.

I know this is of great concern to the chairman of the Commerce Committee, Senator HOLLINGS, who is a conferee, as well as the chairman of the Aviation Subcommittee, Senator FORD.

Specifically, I am advised that the conferees have been giving serious consideration to funding $1.8 billion of FAA operation and maintenance costs out of the trust fund, when the conference agreement on the authorization for FAA programs stipulates that—consistent with funding levels provided for FAA capital accounts—O&M funding out of the trust fund for fiscal year 1988 should be limited to approximately $475 million.

This is clearly a raid on the trust fund, Mr. President, that was not agreed to in our authorizing legislation.

Mr. President, this is not a minor matter. It goes to the very heart of the agreement that was struck between the Government and aviation users when the trust fund was first authorized. Aviation users agreed to pay increased aviation taxes in return for a Government promise to increase funding for capital improvements in the system. Notwithstanding the question of whether or not the so-called penalty provision of the authorizing legislation is in effect, the Government-aviation user agreement is in effect.

If that agreement is ignored by the conferees on the CR, and a conference report is sent to the Senate that funds FAA operations and maintenance from the trust fund at a level above what the conference report reauthorizing FAA operations would allow, I will vote against enactment of the continuing resolution.

Mr. President, I suggest the conferees on the CR think long and hard about this issue. It has serious implications for the future—not only in terms of aviation programs—but also in terms of the continuing relationship between those who authorize and those who appropriate aviation funding in this body. The jurisdictional questions riding on the outcome of this matter are both serious and lasting. For that reason, I suggest the better part of wisdom is for those who appropriate to concentrate on the task of funding the Government rather than trying to rewrite aviation policy.

CEASE-FIRE TALKS IN NICARAGUA

Mrs. KASSEBAUM. Mr. President, another very serious concern I have is related to today's Washington Post report about the next round of cease-fire talks in Nicaragua.

According to the press reports, the Sandinistas and the Nicaraguan resistance have agreed to name teams of "technical advisers" who would then meet face to face to iron out the details of a cease-fire.

I am very concerned about President Ortega's announcement that the Sandinista team will be foreign advisers and that, according to the press reports, he is trying to find Americans to serve in that capacity.

Mr. President, I think it would be a grave mistake for anyone from Capitol Hill to get involved as a technical adviser in these negotiations. And it would be an equally grave mistake for any American private citizen to get involved in such a capacity.

As I have stated before, one of the main reasons I believe the Esquipulas II agreement has any chance for success is because it is a Central American peace plan. The conflicts in the region will only be resolved if the region itself is willing to make the compromises necessary for national reconciliation.

Daniel Ortega's attempt to engage Americans as technical advisers to represent the Sandinistas in the negotiations to iron out a cease-fire completely undermines this regional effort.

If the problems in the region were not so tragic, I would go so far as to say, Mr. President, that Daniel Ortega's idea is ludicrous. I would hope that our response to these efforts will be to urge the Sandinistas to keep the peace plan within the regional context because only this approach offers the best chances of success.

Mr. President, I yield the floor.

EXTENSION OF MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that there be an extension of time for morning business until 1 p.m. today and that Senators may speak therein up to 5 minutes each.

The **ACTING PRESIDENT** pro tempore. Without objection, it is so ordered.

GOLDEN GAVEL FOR SENATOR GRAHAM

Mr. BYRD. Mr. President, may I inquire of the Chair what is the correct time?

The **ACTING PRESIDENT** pro tempore. Twelve forty-six p.m.

Mr. BYRD. Mr. President, right this moment, the Senator from Florida [Mr. GRAHAM] became the fourth Senator to earn the Golden Gavel Award, right at this precise moment, 12:45 p.m. He has held this valuable assignment for 100 hours in a session, and that is not an easy task because he has so much other work he had to do at the same time. He has to take care of his correspondence. I would like to see his desk at this moment. I will bet there is a lot of mail on it. But he is doing his duty in this Chair, also.

The hours of presiding are beneficial to all of us, but they are also beneficial to him and to his constituents because any training and experience that he can get in knowing more about the rules and precedents of the Senate, knowing more about the legislation as it passes, what the pros and cons are, benefits him as a Senator and, more importantly, the people he represents as a Senator. It benefits them from their standpoint. It makes him a more experienced, more able, and more seasoned Senator.

So his valuable time that he has given to all of us is valuable time that he has to take away from himself during the day.

Senator GRAHAM has been particularly diligent in carrying out the duties of the Presiding Officer.

The scriptures say, "Seest thou a man diligent in his business? He shall stand before kings." Senator GRAHAM is diligent in his work here.

During the consideration of the continuing resolution, House Joint Resolution 395, last Friday, the Senator from Florida was in the Chair for 6 hours. This was service above and beyond the usual requirements for presiding and was a major contribution to the successful conclusion of that measure during the early hours of Saturday morning. In fact, if my recollection is correct, when the Senate adjourned at 3:18 a.m. on Saturday, December 12, it was Senator GRAHAM who was in the Chair..

I congratulate the Senator from Florida [Mr. GRAHAM] on his many contributions to the Senate during his first year as a Member of this body, and I particularly thank him for his service as Presiding Officer.

As we begin the 2d session of the 100th Congress next year, I trust that we can call upon the distinguished Senator from Florida [Mr. GRAHAM] to continue to be a faithful and frequent occupant of the Chair and that he will give us another 100 hours in the next session.

Mr. President, I yield the floor.

Mr. LEAHY addressed the Chair.

The **ACTING PRESIDENT** pro tempore. If I may, as the Chair, I would like to express my appreciation for the very kind remarks of the distinguished majority leader, and to indicate that I will certainly continue to serve in this very valuable post. I appreciate all courtesies the majority leader and the entire Senate have made available to me, which have made this a special year in my life.

Mr. BYRD. Mr. President, first of all, I deeply appreciate the distinguished Senator's remarks. I hope this does not become a precedent that Presiding Officers address the Senate. On this occasion, I will not raise any objection.

Mr. CHILES addressed the Chair.

The **ACTING PRESIDENT** pro tempore. The Senator from Vermont.

Mr. LEAHY. Mr. President, I yield to the Senator from Florida. I know the seniority system, Mr. President.

Mr. CHILES. I thank the Senator for yielding.

I just wanted to associate myself with the remarks of our distinguished leader and say congratulations to the Senator from Florida on his award of the Golden Gavel.

I think many people do not understand what that award means. It really does mean that a Senator has been willing to give so much of his time and effort to come carry on a task for the Senate. Having had a chance to preside in the chair at earlier times and having been a recipient of the Golden Gavel I remember it well. When you get that call, there are always a lot of other things that you have going, things that you have to do, people you need to see, meetings that you need to hold, and for someone to be able to amass this number of hours in this period of time I think is very, very remarkable and it shows that one cares about this body.

One of the things we need is Senators who do love and are willing to give of themselves for the Senate as opposed to all of us being willing to take from the Senate for ourselves.

The Senator from Florida has displayed that throughout, and I know of no Senator beginning his term who has been held in more respect by his colleagues. I have had great pleasure watching him grow in the Senate. He will continue to grow, and this award is just one more statement to that fact.

I congratulate Senator GRAHAM. I also congratulate the Senate because I think we have in Senator GRAHAM an outstanding Senator who is going to distinguish himself, and therefore bring credit on the Senate for many, many years to come. I have been delighted to be associated with him.

Mr. LEAHY. Mr. President, I commend both Senators from Florida. I cannot think of any State that has two Members who bring more prestige to the Senate and reflect better on the Senate.

Mr. President, I also wish to commend the distinguished majority leader. He has commended, quite rightly, the Senator from Florida in his time of presiding over the Senate. I note that the distinguished Senator from West Virginia is here in the morning usually well ahead of anybody else and is always here at night after everybody else has gone. He is the keeper of the gate, the preserver of the flame, the one who gets us in here and I know is working very hard to get us out of here.

We sometimes forget that each one of us can line up at that bench when it is announced there will be no more rollcalls; there is this sudden queuing up of Senators prepared to charge out of this Chamber, but there are two Senators who must remain, the Presiding Officer and the majority leader.

We always are very kind, we always wave goodbye to them in a friendly fashion as we head off for home or to our offices or to our States, but they have to stay here and make sure the fires are banked for the next day, that the schedule is put in place, and that all the loose ends the rest of us leave in their care with a sense of trust are taken care of after we are gone. So I commend them.

I might say, Mr. President, I know what it is to preside. It is sometimes a great honor, especially when there are difficult matters ongoing. The distinguished Presiding Officer has handled those, as has the distinguished majority leader and the distinguished minority leader. They have handled difficult times. There are also other times when you are there when it is not so exciting, when it can be tiresome, tedious.

I remember, Mr. President, when I was a brand new Senator. I was a little bit heftier than I am now and we were having one of these all-night sessions. It was about 2 or 3 o'clock in the morning. I think I had been in the Senate only a few weeks.

The then distinguished majority leader, Senator Mansfield, came to me and he said, "PATRICK, I want you to preside from 3 to 5 o'clock this morning." I said, "Mr. Leader, of course, I will be glad to. I am glad you repose that trust in me; knowing that there may be a difficult parliamentary procedure that will come up, that you want me in the chair, a brand new, freshman Senator." In fact, we were a 99-Member Senate at that time, Mr. President, because we had an unfilled seat in New Hampshire. I was No. 99 and I was so pleased that this trust was being reposed in me. But he said, "No, PATRICK, I think tempers are frayed and you are the largest person in the Senate and that is why I want you in the chair because nobody can pull you out of it."

I presided. I presided and, fortunately, did not have to rule on anything and, even more fortunately, did not have any position in the chair challenged physically, perhaps only parliamentarily.

AMERICA'S FUTURE COMPETITIVENESS IN BIOTECHNOLOGY

Mr. LEAHY. Mr. President, this Nation is on the verge of a revolution—a revolution which would determine the fate of our economic future. It is the scientific revolution generated by biotechnology.

Like all revolutions, the biotechnology revolution presents us with both risks and opportunities.

Biotechnology is going to create a vast new 21st century marketplace—not just for American farm products but for numerous industries. Biotechnology may provide solutions to many of the world's major problems—hunger, disease, energy needs, and pollution. In fact, the opportunities are tremendous.

Yet we must face the fact that the biotechnology revolution involves risks—risks to the environment, to public health, and to business itself. Generally, Americans are more accepting of new technologies than people in other nations. They recognize that new technologies will provide remarkable benefits. We must not take the American public's good faith for granted. Government must protect the public and encourage economic growth with a workable and worthwhile regulatory policy.

Right now, America is the world's leader in biotech innovation. We are in an enviable position, but it is one which we cannot take for granted. A fierce international competition is underway. Our greatest trade rivals are devoting enormous resources to obtaining equality—if not eventual superiority—in this area. Countries like Japan, France, the United Kingdom, and West Germany have initiated national and international programs promoting biotech. In fact, the lead article in today's Wall Street Journal describes in disturbing detail Japan's campaign to overtake the field.

American scientists are the best researchers in the world—just look at our collection of Nobel Prizes. But somewhere between the petri dish and the product bin we lose control over American technological innovation. Our competitors, on the other hand, make that transition very well. They capture markets that should be ours. The United States lost its control of the electronics industry and has had to design a major project to recapture the semiconductor industry.

Biotechnology has diverse applications and cuts across many market sectors, including agriculture, pharmaceuticals, and chemicals. The biotech race is a race we cannot afford to lose.

Now is the time for America to develop a strategic and long-term agenda for the future of biotechnology. We must show the necessary foresight to protect and move forward with our scientific know-how.

As a start, I brought together the Agriculture, Nutrition and Forestry Committee and the Judiciary Committee's Subcommittee on Technology and the Law in a joint hearing addressing our competitive position in biotechnology.

We heard some good news. Companies involved in biotech research have made great breakthroughs. Within the past month alone, one American firm received FDA approval for its drug designed to dissolve and prevent blood clotting in humans. A second firm received approval to manufacture a genetically engineered pseudorabies vaccine for pigs. And a third received a patent for a new class of bioengineered proteins. American products are making their way to market.

Committee members were honored by the appearance of Dr. Lewis Thomas, eminent biologist, physician and author of "Lives of a Cell," the book that has made biology understandable for millions of readers. Dr. Thomas told us that biotechnology is creating a revolution. He said:

The only safe prediction for the decades ahead is that we are now out in the open, on new high ground, and if we keep our wits about us, we are in for one exciting innovation after another, as far as the eye can see.

But the panel of experts also told us that our biotech industry needs help. America's competitive position in biotechnology is not secure. Our witnesses outlined several weaknesses which deserve our attention.

I urge my colleagues to consider the importance of biotech, not just to America, but to all the world. We have much work to do.

We cannot afford a wait-and-see attitude in biotechnology—we must act now. Mr. President, today I am announcing eight principles that should guide us in the formulation of a National Biotechnology Policy.

The principles are:

First, we must make agriculture applications of biotechnology a national priority. We must ensure that family farmers benefit from new biotech farming tools.

Second, America must support the world's premier research program.

Third, we must support shall biotechnology firms that pioneer new discoveries.

Fourth, the tools of biotechnology must be used to protect and enhance our environment.

Fifth, patenting issues must be resolved.

Sixth, America's commitment to open exchange of scientific information must continue.

Seventh, the biotechnology regulatory structure must be reworked. It must provide safety for the public and fairness, timeliness, and predictability to all.

Eighth, we must establish international mechanisms that prevent runway research, protect biotech innovators, and aid developing nations in using the tools of biotechnology.

Mr. President, I would like to elaborate on each of these important principles.

First, agricultural applications of biotechnology must be a national priority. We must ensure that all farmers—big and small—benefit from new biotech tools.

"Biotechnology offers the most exciting and dramatic prospect for improving the reliability and efficiency of farming since man first began tilling the soil." That testimony is from Earle Harbison, president of Monsanto Co., and it pinpoints the importance of biotechnology. American agriculture will not survive unless we all—farmers, the U.S. Department of Agriculture, land grant universities, the Cooperative Extension Service, agribusinesses, and the U.S. Congress—focus on the significance of biotech.

We need to increase our emphasis on agricultural biotechnology. We spend many times more dollars on potential human therapeutic products than we spend on potential agricultural biotech products. Because of our war on cancer, the state of basic knowledge about biomedical science has advanced rapidly and the tools to exploit biotechnology in the medical field have been developed. Today, we know very little about basic plant biology and other biological areas in agriculture. Many of the of the basic tools to promote biotech in agriculture have not been developed.

Since we are all human, we all anxiously await human health applications of biotech. Yet agriculture will be the first industry to be revolutionized by biotechnology. Stronger and more productive herds of livestock, custom-designed crops, plants better able to grow in harsh environments, plants and animals better able to resist insects and disease, and plants and animals offering more nutritious protein are on our immediate horizon.

The development of biotechnology through new agricultural products is critical. America will need to carve out new agricultural markets for its future. Biotechnology may enable the Russians to engineer frost resistant wheat and the Brazilians to develop new bean crops able to withstand scorching heat. In this shifting world agricultural marketplace, America certainly will lose markets if new agricultural goods are not discovered.

Currently the Department of Agriculture spends less than 5 percent of its annual research budget on biotechnology. We need to redirect USDA's research budget so that it properly reflects agriculture's future, rather than its past. We have to increase the Department's research budget to ensure that America remains the world's agricultural leader.

The success of agricultural biotechnology ultimately will depend upon the American farmer. Farmers will be asked to try out new products and production techniques. We need to develop an extension program that ensures that biotech tools complement—but do not replace—traditional farming practices. The Cooperative Extension Service should help ensure that farmers are at the top of the list of those who benefit from the biotech revolution.

To do this, the Cooperative Extension Service will have to modernize. Staff training and retraining is necessary since biotech is new to many extension agents.

We have to develop an extension program that is designated to help family farmers use this new technology to their advantage. Extension agents need to concentrate their efforts on providing information to the family and part-time farmer. Large corporate farms have the resources to bring the latest technologies to the farm almost immediately but small and moderate-sized farms suffer from a lag in information transfer. Family farmers must rely upon extension agents for explanations of, and help in, evaluating new technologies.

Farmers will be the most important judges of what biotech products work and extension agents must provide feedback to the research community and policymakers about what technologies are good and applicable.

Second, America must support the world's premier biotech research program

We must ensure that America continues to lead the world in biotech research by supporting basic and applied science. The success of our research program will depend upon adequate funding, the establishment of cooperative programs, and the availability of highly trained personnel.

We must develop a coordinated national research strategy for biotechnology. This strategy should address our weaknesses in the field. Our most glaring problem is America's inattention to applied research—the research which transforms the basic understanding of living organisms into valuable products. Instead of commercializing innovations, important American discoveries stagnate in reports coming out of Federal labs and universities. Remember our experience with the videocassette recorder. It was an American invention yet today, not one American company makes VCR's. We must start moving our ideas into products.

Furthermore, we are losing time and money through duplicative research and development projects. Cooperation between industry, government, and academia is an important part of a coordinated national strategy. Many emerging biotechnologies require multidisciplinary action. By pooling our financial and intellectual resources, we can make scientific breakthroughs like never before. We can work together on joint projects to gain basic scientific information and to bring specific biotech products to market.

The idea of consolidating and coordinating research programs is not new. As a matter of fact, our greatest competitors are pros at it. In Japan, the government's plan to consolidate and coordinate biotech research began in 1971. Most recently, 830 Japanese companies received governmental support for a cooperative research advancement program.

The Europeans have created several international organizations to promote biotech research and development. Right now, no single European nation poses a serious threat to our lead in biotechnology. But those cooperative projects are designed to change all that.

A highly trained work force is our most important resource. As biotechnology industries grow, so grows the demand for trained employees. Yet witness Dr. Ralph Hardy, president of Boyce Thompson Plant Research Institute, told us that "agriculture does not attract its fair share of the most creative people." Several studies pinpoint the need for researchers in agricultural biotechnology. The National Research Council's 1987 study, "Agricultural Biotechnology, Strategies for National Competitiveness," found that—

> Major increases in Federal support for training programs are urgently needed to provide a high-quality research capability that ensures the future of U.S. agriculture.

We need strong incentives like graduate and postdoctoral fellowships to bring creative students to agriculture. Retraining programs are needed to update midcareer researchers in biotechnology.

Third, we must support small biotechnology firms that pioneer new discoveries.

Small firms have been a remarkable catalyst for technological advances in this country. We cannot afford to lose their innovative contribution in biotech. It is critical for America to have a variety of small and large firms. If we allow small biotech firms to disappear, we will not only damage our creative potential. We will be concentrating the U.S. biotech industry in the hands of a few corporations, and possibly handing it to our international competitors on a silver platter.

As part of our national agenda, we should recognize how tough it is for small biotech firms to survive. It takes years—sometimes decades—and millions of dollars to bring biotech products to market. Small companies do not have the capital needed to survive this lengthy process. Our small innovators are latching onto large American and foreign companies for financial support.

Mr. Harbison told us of weekly shopping trips by Japanese representatives to small American firms still in their infancy. The Japanese offer money for American ideas and innovations. Sometimes this temptation is hard to resist. The result: our economy is hurt as technology spills out from our borders. Foreign companies transform the ideas of American companies into marketable products made overseas.

Fourth, we must use the tools of biotechnology to protect and enhance our environment.

Biotechnology can make agriculture and agricultural products safer and healthier for people and our environment. Right now, American scientists are developing new, environmentally safe fuels made from agricultural crops. Microbial pesticides are being tested in the field. Soon we may have plants that can more efficiently fixate nitrogen, and thus require little, or no, fertilizer supplements to the soil. Biotech makes the possibility of decreasing this country's chemical dependence and protecting farmworkers, ground water, and food from dangerous contamination very real. We must support such efforts in every possible way.

While biotech products can benefit the environment, they can also save us time and money. Serious ground water contamination caused by the overuse of farm chemicals threatens our rural communities. As a result, we expend tremendous resources on ground water protection and reclamation projects. Rural America needs to find an economical solution to the problem of ground water protection—new biotech products which decrease the use of farm chemicals offer that solution.

Our public research agenda must seek to use biotechnology to solve environmental problems, not mask them. Researchers are working on acid rain resistant trees. It would be a better use of biotech if we found ways to desulfurize coal and thus protected our trees, lakes, and fish from acid rain.

As we go forward with new products, we must simultaneously work to preserve traditional plants and animals. Recent reports by the Office of Technology Assessment and the National Research Council call for strengthening our national commitment to maintaining biological diversity.

The importance of biodiversity is illustrated by the following example. A seemingly useless wild wheat plant from Turkey passed disease-resistant genes to commercial wheat varieties and resulted in $50 million annual savings for U.S. farmers alone. Our biodiversity already has been threatened by the development of hybrid crops. Genetic engineering will reduce diversity further as scientists expedite the selection of "best" traits and develop new species. Germplasm centers, historical farms, and other methods of retaining a diverse genetic pool must be supported.

Fifth, we have a responsibility to resolve patenting issues.

It is time for Congress to establish a workable mechanism to protect biotechnology patents. Thus far, we have failed our constitutional mandate. We have not been rewarding successful inventors with patents that compensate them for investing their time, money, and energies on unprecedented experiments.

Congressional inaction has contributed to an environment where 6,000 biotechnology-related patents are sitting at the Patent and Trademark Office waiting to be reviewed. This extraordinary backlog chokes innovation. It is a slap in the face to the companies that spend millions of dollars in research each year. It is time for us to act.

We may have to adopt a patent policy that precludes the patenting of certain biotech products. Indeed, that might be the correct thing to do. But we must make that decision soon so that America's innovators will have fair notice of those areas that are out of bounds.

Biotechnology presents unresolved patenting questions.

Can patents be enforced when the patented organism is self-replicating? Will patents extend to its progeny?

U.S. patent law does not protect processes. But biotechnology is itself a process. Does that put biotech discoveries up for grabs?

Our patent laws require that an application include a detailed description of how the new product is made and how to use it. This requirement makes sense for electric can openers. Is that requirement appropriate when the product is a genetically altered living microbe that eats up oil spills?

A patent will not be granted to inventions that, although entirely new, may be considered obvious "to a person of ordinary skill in the art." So a mousetrap with a larger spring may not gain patent protection since that design change is obvious. But in biotech, the issue is not a new product as much as it is how to make a new product. How will the Patent Office make an obviousness determination when the change involved is a living organism's genetic makeup?

Thus far, in response to these and other serious legal and ethical questions, Congress imposed a temporary moratorium on patenting genetically altered animals. That was not the answer. When the moratorium expired, the questions remained. And they are not going to go away. The Congress has a responsibility to address these difficult questions and come up with workable solutions. Other nations of the world are doing so. Our American inventors and the people of this Nation deserve no less.

Sixth, we must reaffirm our commitment to the open exchange of scientific information.

While we are protecting American ideas, we must continue to encourage free exchange of those ideas. As we move into the 21st century, we have to take a careful look at the relationship between the free flow of scientific information and America's ability to compete in international markets. Dr. Thomas told us that the future of our biotech industry will be lost without the open exchange of information.

I know that some see a conflict between strengthening America's firms and disseminating the fruits of their research. But that is looking at the glass as half empty. America does not hold a monopoly on scientific knowhow. American scientists can and do learn from their colleagues overseas. Foreign scientific journals, conferences and research exchanges must be used to derive the benefits of rapid gains in new technologies.

Superconductor research is a good example. Superconductivity is an international effort—an outstanding example of the progress that can be made in the absence of national barriers. Discoveries in Zurich, followed by research in Tokyo and Beijing initiated the great race. Then in Houston, Chinese and Chinese-American scientists made an enormous breakthrough.

Similarly, biotechnology discoveries are coming and will come from around the world. We have to ask ourselves if those ideas will come into American labs if we, in a misguided effort to protect our own research, prevent our scientists from exchanging ideas with their international counterparts.

The Japanese have invested considerable resources in the translation of technical documents. As a result, they learn from scientists throughout the world. In contrast, the United States rarely translates research materials from Japan and other nations. We need to explore foreign opportunities for information, invest in translation, and encourage our scientists to study in other countries.

Seventh, we must untangle our regulatory system so that it provides adequate protection to the public and clear guidelines to industry.

The American biotech industry is not overregulated—it is poorly regulated.

As the science of biotech evolved, old statutes were massaged to fit this new technology. As a result, several agencies, including EPA, USDA, FDA, and NIH regulate biotechnology today. The system is cumbersome and inefficient, with overlapping responsibilities among the U.S. agencies.

The system needs streamlining. We need to cut out duplicative regulations that slow the development of new products and do not provide additional safety to the public. Industry deserves a fair and predictable regulatory system. Mr. Harbison told us that industry "needs to be sure that the rules of the game will not change, that they won't have to throw out their applications for project testing and approval for no good scientific reason. Entrepreneurs large and small need to know that their considerable financial risks are worth taking."

We must design a regulatory system that differentiates risky biotechnologies requiring extensive review from those needing a brief evaluation. Dr. Thomas explained that bacteria have been exchanging genetic material in nature for billions of years. It does not make sense to treat all biotechnology products in the same way. And we may want to consider establishing a priority review schedule so that products which meet critical environmental needs, receive regulatory attention first.

We need to add regulations where gaps in coverage exist. The regulation of transgenic research, involving the injection of a piece of genetic material into a fertilized egg of an animal, is not clearly defined. A research and development exemption in one statute means that much of the work in research and university labs escapes regulation altogether. And no agency requires the extensive ecological data necessary to assess all the risks of deliberately releasing genetically engineered organisms in the environment.

History is full of examples of technology preceding without an adequate regulatory framework—and then becoming mired down in public opposition. Nuclear power never fulfilled its promise because an adequate regulatory system was not developed and broad public acceptance was never achieved. Public safety must always be the first priority.

Eighth and finally, we must establish international mechanisms that prevent runaway research, protect biotech innovators, and aid developing nations in using the tools of biotechnology.

All revolutions contain the seeds of anarchy. The threat of international anarchy in biotech research is very real.

As Dr. Hardy told us, "Harmonization, to any degree possible, of regulation and proprietariness on an international basis will favor competitiveness of U.S. biotech companies because of their strong technology position."

An international agreement is necessary to prevent runaway research. Runaway research occurs when unscrupulous researchers move their experiments to nations with few, if any, research standards. We must work to ensure that countries around the world uphold safe biotech research standards because genetic accidents can affect the environment in many countries, including our own.

We must also develop an international patent licensing regime which protects our inventors and entrepreneurs. We know it takes time. It took 6 years for the U.S. Congress to craft legislation protecting semiconductor chips and we're still working on an international treaty in that area. But it must be done. No country will invest huge resources in biotech development if inventions can be duplicated overnight by competitor nations at no cost.

Many developing world scientists and governments hope that biotechnology will offer a way out of their chemical dependencies and a way to feed their millions of hungry citizens. As biotechnology transforms agriculture around the world, we must work with the international community to coordinate a research and extension program that helps developing nations reap the benefits of the biotech revolution.

Our economic rivals are actively engaged in the biotech revolution. This international interest was made perfectly clear to me when, within 1 hour of the completion of our hearing, the Japanese Embassy contacted my office and requested the hearing testimony. We cannot afford to wait. We must act now.

The future competitiveness of America's biotech industry depends on how effectively Government addresses the revolutionary questions biotech poses for our Nation. As Mr. Harbison said during our hearing, "There is no discernible official attitude toward this or any other emerging industry * * *. The industry, and those who regulate it, operate largely in a political vacuum. There is no clear signal from our political leaders to 'go for it.' "

We should go for it, Mr. President. I intend to find active, responsible ways to promote biotechnology in this country, and I urge my colleagues and the administration to join me.

Today, I am announcing that the Agriculture Committee and the Judiciary Subcommittee on Technology and the Law will begin an indepth exploration of eight key areas which must be addressed by a national biotechnology policy.

Last month's hearing is just the beginning. We must continue to work with the talented individuals who work in this area every day to clarify the problems and recommend solutions.

Early next year, the committees will conduct a hearing to define the regulatory and patenting issues that must be addressed.

I am asking the Congressional Research Service to catalog and analyze studies of biotech and to identify missing information.

I am asking the Office of Technology Assessment to update our data on American biotech competitiveness. Since OTA's 1984 international analysis of biotechnology, there have been many developments in the field. New products and processes present new dimensions to the competitiveness issue. I will ask OTA to include in its study answers to many questions, including:

Can we encourage the type of industrial consortia that are found in Japan and Western Europe? What changes or modifications to our laws are needed in order to increase such cooperation? Are there any demonstration projects which we could initiate right away?

What can we do to improve our ability to market U.S. biotechnology products? How can we create joint manufacturing facilities? Should we modify our antitrust and intellectual property laws to promote such joint manufacturing projects?

How can we ensure the survival of small firm innovators in biotechnology?

I am calling for international agreements on research safeguards and on intellectual property protection. And, I am consulting with the international community to determine how to use biotechnology to aid developing nations.

I am evaluating USDA research priorities and the impact of biotechnology on the family farmer. Senator KENT CONRAD, chairman of the Subcommittee on Agricultural Research, will be leading the Agriculture Committee's efforts in this area.

I am working for increased agricultural biotechnology research funding.

Mr. President, I ask unanimous consent that the Wall Street Journal article I mentioned earlier in my statement be inserted in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, Dec. 17, 1987]

GENE SQUAD—JAPANESE NOW TARGET ANOTHER FIELD THE U.S. LEADS: BIOTECHNOLOGY

THEIR COMPANIES HAVE CASH AND PATIENCE, PLUS ACCESS TO SUPERIOR U.S. SCIENCE

(By Bernard Wysocki, Jr.)

TOKYO.—You already know about the Japanese challenge in cars, cameras, copiers, TV sets, motorcycles, watches, calculators, robots, optical fibers, supercomputers and semiconductors.

Now comes yet another one: in biotechnology.

Biotech is still in its infancy, of course, but over the next few years a multibillion-dollar market seems sure to develop in genetically engineered products ranging from cancer treatments to new kinds of pigs and plants. And the U.S. and Japan, despite current joint ventures and alliances, are emerging as archrivals.

So far the U.S. holds a commanding lead, thanks to the creativity of its scientists. But Japan's government, its universities and scores of its big corporations are putting a huge effort into the field. "Biotechnology is a magic word in Japan," says Mataru Yamaya, managing director of Mitsubishi Chemical Industries Ltd. His company, with a $233 million research and development budget, now devotes 40% of it to biotechnology.

DELAYED GRATIFICATION

For the U.S. most recently bloodied by the Japanese in semiconductors, there is reason for concern in this field, too. Biotech research consumes much time and money, with any payback far in the future. This isn't a problem for most of the Japanese players, because they tend to be huge corporations loaded with cash from their other operations. But many of the most promising American biotechnology firms are small and don't have any profitable businesses to sustain them.

Equally important, in the Japanese corporate world a manager is free to take a long-term approach, investing for years without showing any results. American companies constantly have to worry about their quarterly results and what stockholders, analysts and corporate raiders are thinking.

Finally, the Japanese threaten to neutralize America's advantage by gaining access to its scientific breakthrough. Japanese companies have set up bioscience labs in the U.S. and Japanese money sponsors bioscience research at noted American universities like Rockefeller and Harvard. Some 300 Japanese scientists currently study in America under National Institutes of Health grants. Most perilously, large Japanese corporations are bankrolling some hard-pressed American start-up firms in exchange for a look at their best scientific secrets.

WHAT HAPPENED?

"The American R&D companies, they need the money," says Yaichi Ayukawa, a prominent Japanese venture capitalist with an American doctorate. "They're really hungry. They make a deal with the Japanese. But then the Japanese tap you, strip you down. And three or four years later, the American side doesn't know what's going on."

Even while this is going on, the Japanese are working feverishly to build up their own ability to do biotech research. For one thing, they know the lopsided flow of scientific information is causing friction, which could, in the most extreme scenario, lead to moves in the U.S. toward technological protectionism. But another reason is that in biotechnology, patent law, which is still evolving, may strongly favor originators over copycats. So the link between basic science and commercial success may prove particularly close.

Meantime, Japan, preparing for the day when biotechnology markets are developed, is working on the so-called scale-up processes: fermentation and other techniques needed to make genetically engineered substances in volume. This is a phase in which Japan has excelled in such fields as autos, shipbuilding and steel.

TOP DOWN

The clearest indication of Japan's biotechnology ambitions may be the attention being given the field by the Ministry of International Trade and Industry. When MITI gets involved, it's a safe bet the nation's senior strategists have targeted an industry for a big push. Though MITI does some biotech research, its main role is to spur and guide work by others. Like a fishing boat tossing chum in the water, it first charts a course and then plants money to attract more.

MITI has seeded four areas of biotechnology with money and set up groups of companies to work on them. The first three areas, established six years ago, are gene-splicing, large-scale cultivation of cells and "bioreactors," or microbes that can change one chemical into another. Then last year, the ministry started a 10-year research effort in the futuristic field known as bioelectronics, which envisions computers that would function more like the human brain and perhaps even use biological substances.

Other Japanese government agencies have dozens of other programs: to develop new types of proteins, to work up new rice hybrids, to let maverick scientists follow their instincts. And, using Japan's technological skill for a foray into fundamental research, they are trying to automate the attempt to map human genes (see adjoining story).

Japan also is proposing an international joint effort in basic bioscience, which it calls the Human Frontier Science Program. Other nations haven't been very enthusiastic. "People are skeptical that the notorious MITI has a basic-research program," says Katsuhiko Umehara, MITI's deputy director of the project. He concedes what others suspect: One of the program's aims is to improve Japanese science through increased contact with American and European researchers.

The Japanese seem to feel acutely vulnerable about their basic science. They have indulged much self-criticism, which only intensified when the Nobel Prize in medicine recently went to a Japanese who had moved to the U.S. 24 years ago. Touring Japan recently, the scientist, Susumu Tonegawa, appealed for change. "Japan has developed its technology on foreign scientific achievements" in this century, he said. "Now that Japan is a large economic power, we cannot keep using the basic scientific achievements of others."

Many observers trace the weakness in scientific creativity to elements of Japanese society, such as the stress on group harmony over individual excellence. Academic scientists seem sealed within their departments, content to do a competent job there rather than excel world-wide, says Hajime Nishimura, the head of Tokyo University's department of chemical engineering. Some Japanese also say that their country has been fully occupied absorbing foreign science; now that it is technologically caught up, they add, it is ready to innovate.

BIOTECH FOCUS

The effort certainly is being made. Prof. Nichimura's department, which in the 1970s was concentrating on environmental and pollution studies, now focuses tightly on biotechnology research. He tells of a junior colleague who was studying environmental microbiology: "Seven years ago I ordered him to convert his field to recombinant DNA," he says.

Prof. Nishimura says the U.S. is several years ahead in biotechnology, "and the gap isn't closing." But some U.S. scientists see the Japanese getting stronger in some areas, among them enzymes, the proteins that act as catalysts in biological reactions. The British science journal Nature reports a sharp increase in the number of published articles by Japanese scientists, especially in bioscience.

In a country flooded with cash from trade surpluses, some of the progress flows from the sheer power of money. For instance, some big companies stuck in slowgrowth businesses see biotechnology as a possible route to diversification. Chemical, food and liquor companies, for instance, are using biotechnology to build on their skills in brewing, fermentation or chemical processing. And they are willing to pour money into it.

CASE HISTORY

An example is Suntory Ltd., a distiller that got into biotech eight years ago in hopes of developing drugs. It began by hiring an executive, Teruhisa Noguchi, who had pioneered the drug business elsewhere, and he quickly began spending Suntory's money. Hearing that an Australian marine laboratory was closing, he bought 400 species of marine life from it as a possible source of drug ideas.

Then he began trying to bring back Japanese scientists working in the U.S., managing to snag a genetic engineer from California Institute of Technology, a chemist from Columbia and a biologist from Harvard. With some of Suntory's own talent he put together a core group and built it a big laboratory.

The group focused on interferons, one of which, gamma interferon, now is being tested against leukemia, solid tumors and rheumatoid arthritis. By 1982 Suntory had synthesized the gamma interferon gene, and then—in a notable reversal of the usual direction of technology transfer—it licensed the know-how to an American company, Schering-Plough Corp.

Gamma interferons and three other drugs Suntory is working on now are in clinical, or human, trials. Though a commercial payoff is uncertain, Suntory continues to pour in money. Next spring it plans to open a $100 million development center.

Meanwhile, it has been aggressively acquiring U.S. technology. Suntory does joint research with Rockefeller University on brain function, seeking drugs for the ills, like senile dementia, of the world's growing elderly population. It licensed from Biogen the right to produce a natural cancer fighter called tumor necrosis factor. (The work is on hold because of TNF's unexpected side effects.) Finally, Suntory is looking for a broad partnership with a U.S. company.

One candidate is Genetics Institute, of Cambridge, Mass. Its officials know the risks in this: "We terminated one possible joint venture," says Kuni Yamamoto, the manager of the U.S. company's Japanese unit. "We didn't feel very comfortable giving away proprietary information and scientific know-how." Yet he says the company remains interested in forming close ties with one or more Japanese partners.

Why would U.S. companies license their hard-won biotech breakthroughs to a larger company that might turn around and beat them? The answer lies in the pressure they are under because of biotechnology's heavy costs, high risk of failure and, even with the successes, long delays before commercial payoff. The stockmarket crash, pounding biotechnology stocks, only added to the pressure and the uncertainty of financing. Small biotech companies find that when it comes to venture capitalism, the Japanese are more patient.

DIFFERENT CLIMATE

They are more patient, also, when investing in large companies. A lot of Japanese shares are cross-held by friendly Japanese firms that buy and hold, not demanding big dividends or regular jumps in quarterly profit. For financing, Japanese companies—those that aren't cash-rich, as many are—tend to rely on bank debt, and the bankers, too, take a long view.

Large American companies have to worry much more about investor sentiment. And in the matter of biotechnology, it has blown hot and cold. In agriculture, for instance, securities analysts once rhapsodized about the prospect of new crops that would grow in the tundra or the desert. Now the view is more sober, among corporations as well as among analysts.

In these shifts lie a problem for the U.S. and an advantage for Japan. Rohm & Haas Co., the Philadelphia chemical concern, started trying to develop a new strain of rice with Sumitomo Chemical Co. in the more optimistic days. It has since abandoned the idea. "We pretty much got cold feet," says Ruben Salazar, the president of Rohm & Haas's Japanese unit. "We believe there will be a potential, but the time it will take is so long, and the investment is so big."

Sumitomo, in contrast, is continuing to pursue better rice through chemistry. And so are two other big Japanese companies, Mitsubishi Chemical and Mitsui Toatsu. In the end, Japanese willingness to stay in the biotechnology race, no matter how long the wait or how big the investment, may prove to be the greatest competitive advantage of all.

BIOTECH'S GLOBAL COMPETITION AND COOPERATION

[Some examples of Japanese, American, and European ventures in 3 key areas of biotechnology]

Lead company and partner	United States status [1]	Japanese status [1]
Tissue plasminogen activator (heart attacks):		
Genentech (United States): Mitsubishi (Japan), Boehringer (Germany).	Approved	Phase 2.
Genetics Institute (United States): Wellcome PLC (Britain), Sumitomo (Japan).	Phase 2	Do.
Integrated Genetics (United States): BASF (Germany), Toyobo (Japan).		Do.
Asahi Chemical (Japan): None		Do.
Meiji Milk (Japan): Meiji Seika (Japan).		Phase 1.
Biogen (United States): SmithKline Beckman (United States).	Preclinical	
Chiron (United States): Hoechst (Germany).	do	
Damon (United States): SmithKline Beckman (United States) Yamanouchi (Japan).	do	Preclinical.
Bil-Response (United States): None	do	
Green Cross (Japan): None		R&D.
Monsanto (United States): None	R&D	
Lilly (United States): None	R&D	
Sankyo (Japan): Cell Technology (United States).		R&D.
Gamma interferon (cancer, rheumatoid arthritis):		
Biogen: Baxter Travenol (United States), Shionogi (Japan).	Phase 3	
Amgen (United States): Johnson & Johnson (United States).	Phase 2, 3	
Green Cross: None		Phase 2.
Genentech: None	Phase 2	
Interferon Sciences (United States): None.	Phase 1	
Takeda (Japan): None		Preclinical.
Kyowa (Japan): Hayashibara (Japan)		Do.
Daiichi/Toray (Japan): None		Do.
Human growth hormone:		
Genentech: None	Approved	Approved.
Lilly: None	do	
Biotech. General (United States): Du Pont (United States).	Phase 3	
Cell Technology: Serono Labs (United States).	do	
Sumitomo Chemical (Japan): None	Phase 1	
Yamanouchi: Nordisk (Denmark)	Phase 2	Do.
Kabivitrum (Sweden): Sumitomo		Do.
Calif. Biotech. (United States): None		

[1] Notes on Status: Preclinical: Animal or lab tests. Phase 1: Human tests to determine safety. Phase 2: Human tests to determine dosage range. Phase 3: Large-scale human tests of effectiveness.

Source: Prudential-Bache Securities.

Mr. LEAHY. Mr. President, I thank the distinguished majority leader for providing the extra time.

Mr. BYRD. Mr. President, I thank the Senator.

EXTENSION OF MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that morning business be extended for 15 minutes additionally and that Senators may speak therein up to 5 minutes each.

The **ACTING PRESIDENT** pro tempore. Without objection, it is so ordered.

The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I want to say to the distinguished leader that I had intended to proceed to call up a bill that we have agreed upon here. I am just wondering if I might be permitted to do that at this point, even though he has asked for additional morning business.

I am supposed to be in the conference on appropriations and that is why I seek to do it as expeditiously as I can.

Mr. BYRD. Mr. President, this is a matter that has been cleared on this side of the aisle. And I have no objection to it being called up at this point.

EL MALPAIS NATIONAL MONUMENT AND MASAU TRAIL

Mr. DOMENICI. Mr. President, I call up from the Consent Calendar item No. 226, H.R. 403, a bill establishing the El Malpais National Monument in New Mexico.

The **ACTING PRESIDENT** pro tempore. The clerk will report.

The legislative clerk read as follows:

Calendar Order No. 226, a bill (H.R. 403) to establish the El Malpais National Monument and the El Malpais National Conservation Area in the State of New Mexico, to authorize the Masau Trail, and for other purposes.

There being no objection, the Senate proceeded to the immediate consideration of the bill, which had been reported from the Committee on Energy and Natural Resources, with an amendment to strike all after the enacting clause and insert in lieu thereof, the following:

TITLE I—EL MALPAIS NATIONAL MONUMENT

ESTABLISHMENT OF MONUMENT

SEC. 101. (a) In order to preserve, for the benefit and enjoyment of present and future generations, that area in western New Mexico containing the nationally significant Grants Lava Flow, the Las Ventanas Chacoan Archeological Site, and other significant natural and cultural resources, there is hereby established the El Malpais National Monument (hereinafter referred to as the "monument"). The monument shall consist of approximately 114,000 acres as generally depicted on the map entitled "El Malpais National Monument and National Conservation Area" numbered NM-ELMA-80,001-B and dated May 1987. The map shall be on file and available for public inspection in the offices of the Director of the National Park Service, Department of the Interior.

(b) As soon as practicable after the enactment of this Act, the Secretary of the Interior (hereinafter referred to as the "Secretary") shall file a legal description of the monument with the Committee on Interior and Insular Affairs of the United States House of Representatives and with the Committee on Energy and Natural Resources of the United States Senate. Such legal description shall have the same force and effect as if included in this Act, except that the Secretary may correct clerical and typographical errors in such legal description and in the map referred to in subsection (a). The legal description shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior.

TRANSFER

SEC. 102. Lands and waters and interests therein within the boundaries of the monument, which as of the day prior to the date of enactment of this Act were administered *by the Forest Service, United States Department of Agriculture, are hereby transferred to the administrative jurisdiction of the Secretary to be managed as part of the monument in accordance with this Act. The boundaries of the Cibola National Forest shall be adjusted accordingly.*

MANAGEMENT

SEC. 103. The Secretary, acting through the Director of the National Park Service, shall manage the monument in accordance with the provisions of this Act, the Act of August 25, 1916 (39 Stat. 535; 16 U.S.C. 1 et seq.), and other provisions of law applicable to units of the National Park System. The Secretary shall protect, manage, and administer the monument for the purposes of preserving the scenery and the natural, historic, and cultural resources of the monument and providing for the public understanding and enjoyment of the same in such a manner as to perpetuate these qualities for future generations.

PERMITS

SEC. 104. Where any lands included within the boundary of the monument on the map referred to in subsection 101(a) are legally occupied or utilized on the date of enactment of this Act for grazing purposes, pursuant to a lease, permit, or license which is—

(a) for a fixed term of years issued or authorized by any department, establishment, or agency of the United States, and

(b) scheduled for termination before December 31, 1997,

the Secretary, notwithstanding any other provision of law, shall allow the persons holding such grazing privileges (or their heirs) to retain such grazing privileges until December 31, 1997, subject to such limitations, conditions, or regulations as the Secretary may prescribe to insure proper range management. No grazing shall be permitted on lands within the boundaries of the monument on or after January 1, 1998.

TITLE II—MASAU TRAIL

DESIGNATION OF TRAIL

SEC. 201. In order to provide for public appreciation, education, understanding, and enjoyment of certain nationally significant sites of antiquity in New Mexico and eastern Arizona which are accessible by public road, the Secretary, acting through the Director of the National Park Service, with the concurrence of the agency having jurisdiction over such roads, is authorized to designate, by publication of a description thereof in the Federal Register, a vehicular tour route along existing public roads linking prehistoric and historic cultural sites in New Mexico and eastern Arizona. Such a route shall be known as the Masau Trail (hereinafter referred to as the "trail").

AREAS INCLUDED

SEC. 202. The trail shall include public roads linking El Malpais National Monument as established pursuant to title I of this Act, El Morro National Monument, Chaco Cultural National Historical Park, Aztec Ruins National Monument, Canyon De Chelly National Monument, Pecos National Monument, and Gila Cliff Dwellings National Monument. The Secretary may, in the manner set forth in section 201, designate additional segments of the trail from time to time as appropriate to link the foregoing sites with other cultural sites or sites of national significance when such sites are designated and protected by Federal, State, or local governments, Indian tribes, or nonprofit entities.

INFORMATION AND INTERPRETATION

SEC. 203. With respect to sites linked by segments of the trail which are administered by other Federal, State, local, tribal, or nonprofit entities, the Secretary may, pursuant to cooperative agreements with such entities, provide technical assistance in the development of interpretive devices and materials in order to contribute to public appreciation of the natural and cultural resources of the sites along the trail. The Secretary, in cooperation with State and local governments, Indian tribes, and nonprofit entities, shall prepare and distribute informational material for the public appreciation of sites along the trail.

MARKERS

SEC. 204. The trail shall be marked with appropriate markers to guide the public. With the concurrence and assistance of the State or local entity having jurisdiction over the roads designated as part of the trail, the Secretary may erect thereon and maintain signs and other informational devices displaying the Masau Trail Marker. The Secretary is authorized to accept the donation of suitable signs and other informational devices for placement at appropriate locations.

TITLE III—EL MALPAIS NATIONAL CONSERVATION AREA

ESTABLISHMENT OF AREA

SEC. 301. (a) In order to protect for the benefit and enjoyment of future generations that area in western New Mexico containing the La Ventana Natural Arch and the other unique and nationally important geological, archeological, ecological, cultural, scenic, scientific, and wilderness resources of the public lands surrounding the Grants Lava Flows, there is hereby established the El Malpais National Conservation Area (hereinafter referred to as the "conservation area"). The conservation area shall consist of approximately 262,690 acres of federally owned land as generally depicted on a map entitled "El Malpais National Monument and National Conservation Area" numbered NM-ELMA 80,001-B and dated May 1987. The map shall be on file and available for inspection in the offices of the Director of the Bureau of Land Management of the Department of the Interior.

(b) As soon as practicable after the date of enactment of this Act, the Secretary shall file a legal description of the conservation area designated under this section with the Committee on Energy and Natural Resources of the United States Senate and the Committee on Interior and Insular Affairs of the United States House of Representatives. Such legal description shall have the same force and effect as if included in this Act, except that the Secretary may correct clerical and typographical errors in such legal description. The legal description shall be on file and available for public inspection in the offices of the Director of the Bureau of Land Management, Department of the Interior.

MANAGEMENT

SEC. 302. (a) The Secretary, acting through the Director of the Bureau of Land Management, shall manage the conservation area to protect the resources specified in section 301 and in accordance with this Act, the Federal Land Management and Policy Act of 1976 and other applicable provisions of law, including those provisions relating to grazing on public lands.

(b) The Secretary shall permit hunting and trapping within the conservation area in accordance with applicable laws and regulations of the United States and the State of New Mexico; except that the Secretary, after consultation with the New Mexico Department of Game and Fish, may issue regulations designating zones where and establishing periods when no hunting or trapping shall be permitted for reasons of public safety, administration, or public use and enjoyment.

(c) Collection of green or dead wood for sale or other commercial purposes shall not be permitted in the conservation area.

(d) Except as otherwise provided in section 402(b), within the conservation area the grazing of livestock shall be permitted to continue, pursuant to applicable Federal law, including this Act, and subject to such reasonable regulations, policies, and practices as the Secretary deems necessary.

TITLE IV—WILDERNESS

DESIGNATION OF WILDERNESS

SEC. 401. (a) In furtherance of the purposes of the Wilderness Act (78 Stat. 890; 16 U.S.C. 131), there are hereby designated as wilderness, and, therefore, as components of the National Wilderness Preservation System, the Cebolla Wilderness of approximately 60,450 acres, and the West Malpais Wilderness of approximately 22,426 acres, as each is generally depicted on the map entitled "El Malpais National Monument and National Conservation Area" numbered NM-ELMA 80,001-B and dated May 1987. The map shall be on file and available for inspection in the offices of the Director of the Bureau of Land Management, Department of the Interior.

(b) As soon as practicable after the date of the enactment of this Act, the Secretary shall file a legal description of each wilderness area designated by this Act with the Committee on Interior and Insular Affairs of the United States House of Representatives and with the Committee on Energy and Natural Resources of the United States Senate. Such legal description shall have the same force and effect as if included in this Act, except that the Secretary may correct clerical and typographical errors in such legal description. The legal description shall be on file and available for public inspection in the offices of the Director of the Bureau of Land Management, Department of the Interior.

MANAGEMENT

SEC. 402. (a) Subject to valid existing rights, each wilderness area designated under this Act shall be administered by the Secretary, through the Director of the Bureau of Land Management, in accordance with the provisions of the Wilderness Act governing areas designated by that Act as wilderness, except that any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the date of enactment of this Act.

(b) Within the wilderness areas designated by this Act, the grazing of livestock, where established prior to the enactment of this Act, shall be permitted to continue subject to such reasonable regulations, policies, and practices as the Secretary deems necessary, as long as such regulations, policies, and practices fully conform with and implement the intent of Congress regarding grazing in such areas as such intent is expressed in the Wilderness Act and section 108 of Public Law 96-560 (16 U.S.C. 1133 note).

TITLE V—GENERAL PROVISIONS

MANAGEMENT PLANS

SEC. 501. (a) Within three full fiscal years following the fiscal year of enactment of this Act, the Secretary shall develop and transmit to the Committee on Interior and Insular Affairs of the United States House of

Representatives and the Committee on Energy and Natural Resources of the United States Senate, separate general management plans for the monument and the conservation areas which shall describe the appropriate uses and development of the monument and the conservation area consistent with the purposes of this Act. The plans shall include but not be limited to each of the following:

(1) implementation plans for a continuing program of interpretation and public education about the resources and values of the monument and the conservation area;

(2) proposals for public facilities to be developed for the conservation area or the monument, including a visitors center in the vicinity of Bandera Crater and a multiagency orientation center, to be located in or near Grants, New Mexico, and adjacent to Interstate 40, to accommodate visitors to western New Mexico;

(3) natural and cultural resources management plans for the monument and the conservation area, with a particular emphasis on the preservation and long-term scientific use of archeological resources, giving high priority to the enforcement of the provisions of the Archeological Resources Protection Act of 1979 and the National Historic Preservation Act within the monument and the conservation area. The natural and cultural resources management plans shall be prepared in close consultation with the Advisory Council on Historic Preservation, the New Mexico State Historic Preservation Office, and the local Indian people and their traditional cultural and religious authorities; and such plans shall provide for long-term scientific use of archaeological resources in the monument and the conservation area, including the wilderness areas designated by this Act; and

(4) wildlife resources management plans for the monument and the conservation area prepared in close consultation with appropriate departments of the State of New Mexico and using previous studies of the area.

(b)(1) The general management plan for the conservation area shall review and recommend the suitability or non-suitability for preservation as wilderness of those lands comprising approximately 17,468 acres, identified as "Wilderness Study Area" (hereafter in this title referred to as the "WSA") on the map referenced in section 101.

(2) Pending submission of a recommendation and until otherwise directed by an Act of Congress, the Secretary, acting through the Director of the Bureau of Land Management, shall manage the lands within the WSA so as to maintain their potential for inclusion within the National Wilderness Preservation System.

(c)(1) The general management plan for the monument shall review and recommend the suitability or non-suitability for preservation as wilderness of all roadless lands within the boundaries of the monument as established by this Act except those lands within the areas identified as "potential development areas" on the map referenced in section 101.

(2) Pending the submission of a recommendation and until otherwise directed by Act of Congress, the Secretary, through the Director of the National Park Service, shall manage all roadless lands within the boundaries of the monument so as to maintain their potential for inclusion in the National Wilderness Preservation System, except those lands within the areas identified as "potential development areas" on the map referenced in section 101.

ACQUISITIONS

SEC. 502. Within the monument and the conservation area, the Secretary is authorized to acquire lands and interests in lands by donation, purchase with donated or appropriated funds, exchange, or transfer from any other Federal agency, except that such lands or interests therein owned by the State of New Mexico or a political subdivision thereof may be acquired only by exchange. It is the sense of Congress that the Secretary is to complete the acquisition of non-Federal subsurface interests underlying the monument and the conservation area no later than three full fiscal years after the fiscal year of enactment of this Act.

STATE EXCHANGES

SEC. 503. (a) Upon the request of the State of New Mexico (hereinafter referred to as the "State") and pursuant to the provisions of this section, the Secretary shall exchange public lands or interests in lands elsewhere in the State of New Mexico, of approximately equal value and selected by the State, acting through its Commissioner of Public Lands, for any lands or interests therein owned by the State (hereinafter referred to as "State lands") located within the boundaries of the monument or the conservation area which the State wishes to exchange with the United States.

(b) Within six months after the date of enactment of this Act, the Secretary shall notify the New Mexico Commissioner of Public Lands what State lands are within the monument or the conservation area. The notice shall contain a listing of all public lands or interest therein within the boundaries of the State of New Mexico which have not been withdrawn from entry and which the Secretary, pursuant to the provisions of sections 202 and 206 of the Federal Land Policy and Management Act of 1976, has identified as appropriate for transfer to the State in exchange for State lands. Such listing shall be updated at least annually. If the New Mexico Commissioner of Public Lands gives notice to the Secretary of the State's desire to obtain public lands so listed, the Secretary shall notify the Commissioner in writing as to whether the Department of the Interior considers the State lands within the monument or conservation area to be of approximately equal value to the listed lands or interests in lands the Commissioner has indicated the State desires to obtain. It is the sense of the Congress that the exchange of lands and interests therein with the State pursuant to this section should be completed within two years after the date of enactment of this Act.

MINERAL EXCHANGES

SEC. 504. (a) The Secretary is authorized and directed to exchange the Federal mineral interests in the lands described in subsection (b) for the private mineral interests in the lands described in subsection (c), if—

(1) the owner of such private mineral interests has made available to the Secretary all information requested by the Secretary as to the respective values of the private and Federal mineral interests to be exchanged; and

(2) on the basis of information obtained pursuant to paragraph (1) and any other information available, the Secretary has determined that the mineral interests to be exchanged are of approximately equal value; and

(3) the Secretary has determined—

(A) that except insofar as otherwise provided in this section, the exchange is not inconsistent with the Federal Land Policy and Management Act of 1976; and

(B) that the exchange is in the public interest.

(b) The Federal mineral interests to be exchanged under this section underlie the lands, comprising approximately 15,008 acres, depicted as "Proposed for transfer to Santa Fe Pacific" on the map referenced in subsection (d).

(c) The private mineral interests to be exchanged pursuant to this section underlie the lands, comprising approximately 15,141 acres, depicted as "Proposed for transfer to U.S." on the map referenced in subsection (d).

(d)(1) The mineral interests identified in this section underlie those lands depicted as "Proposed for transfer to Santa Fe Pacific" and as "Proposed for transfer to U.S." on a map entitled "El Malpais Leg. Boundary, HR3684/S56", revised 5-8-87.

(2) As soon as practicable after the date of enactment of this Act, the Secretary shall file a legal description of the mineral interest areas designated under this section with the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate. Such legal description shall have the same force and effect as if included in this Act, except that the Secretary may correct clerical and typographical errors in such legal description. The legal description shall be on file and available for public inspection in the offices of the Director of the Bureau of Land Management, Department of the Interior.

(e) It is the sense of the Congress that all exchanges pursuant to this section shall be completed no later than three years after the date of enactment of this Act.

ACOMA PUEBLO EXCHANGES

SEC. 505. (a)(1) Upon the request of the Pueblo of Acoma, the Secretary shall acquire by exchange any lands held in trust for the Pueblo of Acoma (hereinafter referred to as "trust lands") located within the boundary of the conservation area which the Pueblo wishes to exchange pursuant to this section. Such trust lands shall be exchanged either for—

(A) lands described in subsection (c) (with respect to trust lands west of New Mexico Highway 117); or

(B) public lands of approximately equal value located outside the monument and outside the conservation area but within the boundaries of the State of New Mexico which are selected by the Pueblo of Acoma, so long as such exchange is consistent with applicable law and Bureau of Land Management resource management plans developed pursuant to the Federal Land Policy and Management Act of 1976.

(2) All lands selected by and transferred to the Pueblo of Acoma at its request pursuant to this section shall thereafter be held in trust by the Secretary for the Pueblo of Acoma in the same manner as the lands for which they were exchanged.

(3) Any lands west of New Mexico Highway 117 which are acquired by the Secretary pursuant to this section shall be incorporated into the monument and managed accordingly, and section 104 and all other provisions of this Act and other law applicable to lands designated by this Act as part of the monument shall apply to such incorporated lands.

(b) For purposes of acquiring lands pursuant to subsection (a) of this section, the Secretary, consistent with applicable law and Bureau of Land Management resource man-

agement plans described in subsection (a), shall make public lands within the boundaries of the State of New Mexico available for exchange. Nothing in this Act shall be construed as authorizing or requiring revocation of any existing withdrawal or classification of public land except in a manner consistent with applicable law.

(c)(1) The Secretary shall make the lands within the areas identified as "Acoma Potential Exchange Areas" on the map referenced in section 301 available for transfer to the Pueblo of Acoma pursuant to this subsection.

(2) Upon a request of the Pueblo of Acoma submitted to the Secretary no later than one year after the date of enactment of this Act, lands within the areas described in paragraph (1) shall be transferred to the Pueblo of Acoma in exchange for trust lands of approximately equal value within that portion of the conservation area west of New Mexico Highway 117. The Secretary may require exchanges of land under this subsection to be on the basis of compact and contiguous parcels.

(3) Any lands within the areas described in paragraph (1) not proposed for exchange by a request submitted to the Secretary by the Pueblo of Acoma within the period specified in paragraph (2), and any lands in such areas not ultimately transferred pursuant to this subsection, shall be incorporated within the conservation area and managed accordingly. In addition, any lands in that portion of the areas described in paragraph (1) lying in section 1, township 7N, range 9W, New Mexico Principal Meridian, not transferred to the Pueblo of Acoma pursuant to this subsection shall be added to and incorporated within the Cebolla Wilderness and managed accordingly.

EXCHANGES AND ACQUISITIONS GENERALLY; WITHDRAWAL

SEC. 506. (a) All exchanges pursuant to this Act shall be made in a manner consistent with applicable provisions of law, including this Act, and unless otherwise specified in this Act shall be on the basis of equal value; either party to an exchange may pay or accept cash in order to equalize the value of the property exchange, except that if the parties agree to an exchange and the Secretary determines it is in the public interest, such exchange may be made for other than equal value.

(b) For purposes of this Act, the term "public lands" shall have the same meaning as such term has when used in the Federal Land Policy and Management Act of 1976.

(c) Except as otherwise provided in section 505, any lands or interests therein within the boundaries of the monument or conservation area which after the date of enactment of this Act may be acquired by the United States shall be incorporated into the monument or conservation area, as the case may be, and managed accordingly, and all provisions of this Act and other laws applicable to the monument or the conservation area, as the case may be, shall apply to such incorporated lands.

(d)(1) Except as otherwise provided in this Act, no federally-owned lands located within the boundaries of the monument or the conservation area shall be transferred out of Federal ownership, or be placed in trust for any Indian tribe or group, by exchange or otherwise.

(2) Except as otherwise provided in this Act, and subject to valid existing rights, all Federal lands within the monument and the conservation area and all lands and interests therein which are hereafter acquired by the United States are hereby withdrawn from all forms of entry, appropriation, or disposal under the public land laws and from location, entry and patent under the mining laws, and from operation of the mineral leasing and geothermal leasing laws and all amendments thereto.

(e) The acreages cited in this Act are approximate, and in the event of discrepancies between cited acreages and the lands depicted on referenced maps, the maps shall control.

(f) The Secretary is authorized to accept any lands contiguous to the boundaries of the Pecos National Monument (as such boundaries were established on the date of enactment of this Act) which may be proposed for donation to the United States. If acceptance of such lands proposed for donation would be in furtherance of the purposes for which the Pecos National Monument was established, the Secretary shall accept such lands, and upon such acceptance such lands shall be incorporated into such monument and managed accordingly.

(g)(1) Capulin Mountain National Monument is hereby redesignated as Capulin Volcano National Monument.

(2) Any reference in any record, map, or other document of the United States of America to Capulin Mountain National Monument shall hereafter be deemed to be a reference to Capulin Volcano National Monument.

(3) Section 1 of the Act of September 5, 1962 (76 Stat. 436) is hereby amended by striking the remaining portion of section 1 after "boundaries of the monument" and inserting "shall include the lands and interests in lands as generally depicted on the map entitled 'Capulin Volcano National Monument Boundary Map' which is numbered 125-80,014 and dated January 1987.".

(4) Jurisdiction over federally-owned lands within the revised boundaries of the monument is hereby transferred to the National Park Service, without monetary consideration, for administration as part of the monument.

ACCESS

SEC. 507. In recognition of the past use of the monument and the conservation area by Indian people for traditional cultural and religious purposes, the Secretary shall insure nonexclusive access to the monument and the conservation area by Indian people for such traditional cultural and religious purposes, including the harvest of pine nuts. Such access shall be consistent with the purpose and intent of the American Indian Religious Freedom Act of August 11, 1978 (42 U.S.C. 1996). As a part of the plans prepared pursuant to section 501, the Secretary, in consultation with appropriate Indian tribes and their traditional cultural and religious authorities, shall define the past cultural and religious uses of the monument and the conservation area by Indian people.

COOPERATION

SEC. 508. In order to encourage unified and cost effective interpretation of prehistoric and historic civilizations in western New Mexico, the Secretary is authorized and encouraged to enter into cooperative agreements with other Federal, State and local public departments and agencies, Indian tribes, and nonprofit entities providing for the interpretation of prehistoric and historic civilizations in New Mexico and eastern Arizona. The Secretary may, pursuant to such agreements, cooperate in the development and operation of a multiagency orientation center and programs on lands and interests in lands inside and outside of the boundaries of the monument and the conservation area generally, with the concurrence of the owner or administrator thereof, and specifically in or near Grants, New Mexico, adjacent to Interstate 40 in accordance with the plan required pursuant to section 501.

WATER RIGHTS

SEC. 509. (a) Congress expressly reserves to the United States the minimum amount of water required to carry out the purposes for which the national monument, the conservation area, and the wilderness areas are designated under this Act. The priority date of such reserved rights shall be the date of enactment of this Act.

(b) Nothing in this section shall affect any existing valid or vested water right, or applications for water rights which are pending as of the date of enactment of this Act and which are subsequently granted: Provided, That nothing in this subsection shall be construed to require the National Park Service to allow the drilling of ground water wells within the boundaries of the national monument.

(c) Nothing in this section shall be construed as establishing a precedent with regard to any future designations, nor shall it affect the interpretation of any other Act or any designation made pursuant thereto.

AUTHORIZATION

SEC. 510. There is authorized to be appropriated $16,500,000 for the purposes of this Act, of which $10,000,000 shall be available for land acquisition in the national monument; $1 million shall be available for development within the national monument; $4 million shall be available for land acquisition within the conservation area; $1 million shall be available for development within the conservation area; and $500,000 shall be available for planning and development of the Masau Trail.

AMENDMENT NO. 1363

Mr. DOMENICI. Mr. President, in behalf of Senator BINGAMAN and myself, I send to the desk an amendment and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The clerk will report.

The legislative clerk read as follows:

The Senator from New Mexico [Mr. DOMENICI], for himself and Mr. BINGAMAN, proposes an amendment numbered 1363.

Mr. DOMENICI. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

On page 43, line 10 strike all through line 23, and insert in lieu the following:

Revise section 507 to read as follows:

SEC. 507(a) In recognition of the past use of portions of the monument and the conservation area by Indian people for traditional cultural and religious purposes, the Secretary shall assure nonexclusive access to the monument and the conservation area by Indian people for traditional cultural and religious purposes, including the harvesting of pine nuts. Such access shall be consistent with the purpose and intent of the American Indian Religious Freedom Act of August 11, 1978 (42 U.S.C. 1996), and (with respect to areas designated as wilderness) the Wilderness Act (78 Stat. 890; 16 U.S.C. 131).

(b) In preparing the plans for the monument and the conservation area pursuant to Section 501, the Secretary shall request that the Governor of the Pueblo of Acoma and the chief executive officers of other appropriate Indian tribes make recommendations on methods of—

(1) assuring access pursuant to subsection (a) of this section;

(2) enhancing the privacy of traditional cultural and religious activities in the monument and the conservation area; and

(3) protecting traditional cultural and religious sites in the monument and the conservation area.

(c) In order to implement this Section and in furtherance of the American Indian Religious Freedom Act, the Secretary, upon the request of an appropriate Indian tribe, may from time to time temporarily close to general public use one or more specific portions of the monument or the conservation area in order to protect the privacy of religious activities in such areas by Indian people. Any such closure shall be made so as to affect the smallest practicable area for the minimum period necessary for such purposes. Not later than seven days after the initiation of any such closure, the Secretary shall provide written notification of such action to the Energy and Natural Resources Committee of the United States Senate and the Interior and Insular Affairs Committee of the House of Representatives.

(d) The Secretary is authorized to establish an advisory committee to advise the Secretary concerning the implementation of this section. Any such advisory committee shall include representatives of the Pueblo of Acoma, the Pueblo of Zuni, other appropriate Indian tribes and other persons or groups interested in the implementation of this section.

Mr. DOMENICI. Mr. President, this amendment will protect the religious use of the Malpais area by the members of the Acoma Pueblo and other Indians. I urge its immediate consideration and adoption by the Senate.

The Acoma have voiced strong concerns about H.R. 403, the El Malpais/Masau Trail Act. In the reported version of the bill, the Energy Committee and the New Mexico congressional delegation included a number of provisions designed to protect the Acoma's interests.

This amendment clarifies and perfects those provisions.

Before describing the amendment, let me explain what this bill as reported achieves in an effort to protect the interests of the Acoma. This bill creates a national monument, a national conservation area, and wilderness areas at El Malpais east of the Acoma Indian Pueblo.

The Acoma's concerns about El Malpais arise from historical claims they have to the area. The Acoma have claimed that an 1877 U.S. Government survey deprived them of certain tribal lands, including El Malpais. In 1951, the Acoma petitioned the Indian Claims Commission over the survey. The Claims Commission found that the Acoma had lost some lands during the Spanish and Mexican periods and that the Federal Government was responsible for the loss of 1.5 million acres of Acoma land.

In order to settle the dispute, the Acoma in 1972 relinquished their rights to the 1.5 million acres, including the Malpais area, in exchange for $6.2 million. However, they continue to assert aboriginal claims to the area. This legislation does not extinguish those claims or prevent the Acoma from pursuing those claims in a court of law.

The Acoma have used the cash settlement to purchase several ranches in the vicinity of their pueblo. One of these is the Berryhill Ranch, which is in the Malpais area. The fee lands of the Berryhill Ranch are held in trust. In conjunction with that ranch, the Acoma lease approximately 13,000 acres of Federal grazing lands in the Malpais.

Originally, some of the trust lands of the Acoma would have been in the national monument and others would have been in the conservation area. At the request of the Acoma, all of their trust lands—with the exception of 800 acres in isolated tracts—have been excluded from the land protected by the legislation.

The 800 acres originally would have been within the national monument. In response to concerns expressed by the Acoma, the monument boundary was shifted so that the 800 acres were excluded from the national monument, and placed within the boundaries of the national conservation area, which is the least restrictive land classification in the bill. The legislation specifically allows grazing, hunting, trapping, and wood gathering to continue on these lands. The Acoma would not be precluded from continuing to use those lands as they have in the past.

Additionally, the legislation gives the Acoma the opportunity to exchange those 800 acres for other public lands contiguous to their ranch and reservation, or other public lands in the State.

The delegation was also concerned about the effect of national monument designation on the ability of the Acoma to continue to graze on BLM lands in the area. The national monument boundary, therefore, was pushed back to assure that the Acoma could continue to graze on the lands on which they now graze east of Highway 117. Specific language protecting that grazing has been included in the reported bill.

A portion of the Acoma's ranch is surrounded by public lands that would be protected under this bill. In order to assure that the Acoma continue to have access to those lands, an access corridor has been carved out.

The Acoma have water rights to Cebollita Spring and they want to continue to develop those water rights. Cebollita Spring was originally proposed to be included in a wilderness area, but because of the Acoma's desire to develop those water rights, the spring was carved out of the wilderness. The bill also protects all valid existing water rights and pending well applications of the Acoma.

The New Mexico congressional delegation is sensitive to the religious practices of the Acoma people. That is why the bill includes language specifically protecting the right of the Acoma to continue to have access to the Malpais area for their traditional cultural and religious purposes. It also mandates that the Acoma will be closely consulted as the National Park Service and the Bureau of Land Management develop the management plans for these area.

In addition, the designation of El Malpais as a national monument and a conservation area will ensure that these lands are protected against those who would disturb the traditional religious and cultural sites of Acoma that are on Federal land. A strong Federal presence in the area should deter any potential vandals.

The designation of the lands that have religious significance as wilderness provides additional protection to these areas. As wilderness, they will be protected from desecration forever.

All of these provisions protecting the Acoma are in the bill as reported by the Energy Committee. Despite these protections, the Acoma have stated that additional assurances of religious protection are needed. Therefore, the New Mexico congressional delegation developed this amendment to address the concerns brought to our attention by the Acoma.

Essentially, the amendment accomplishes four things:

First, it assures the Acoma people that they can continue to utilize the Malpais area for their traditional cultural and religious activities; this is language that is quite similar to what was in the reported version of the bill.

Second, the amendment would direct the Secretary of the Interior to seek the recommendations of the Acoma on the methods of assuring access to El Malpais for religious purposes, enhancing the privacy of religious activities, and protecting religious sites in the area.

Third, the amendment specifically permits the Secretary of the Interior to close portions of El Malpais for reasonable periods so that the Acoma people may conduct their cultural and religious activities in private.

Finally, it authorizes the Secretary of the Interior to establish an advisory committee to oversee the implementation of the provisions of the bill that protect the religious rights of the Indian people in the Malpais areas. The committee would include representatives of the Acoma and other

Indian peoples who are affected by these provisions.

It is my firm belief that this amendment, if adopted, would guarantee the Acoma people a greater say in the operation of El Malpais. It would also provide a greater level of protection for religious sites and activities in the Malpais area.

I, therefore, urge its adoption.

The ACTING PRESIDENT pro tempore. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from New Mexico [Mr. DOMENICI].

The amendment (No. 1363) was agreed to.

The ACTING PRESIDENT pro tempore. Are there further amendments?

Mr. DOMENICI. There are no further amendments, Mr. President.

Mr. President, I understand the distinguished Senator from Colorado, Senator ARMSTRONG, wants a few minutes on this bill. I assumed he would be here. He is not here yet. But I have a brief statement. I will make it, and hopefully he will arrive.

The ACTING PRESIDENT pro tempore. The Senator from New Mexico.

Mr. FORD. Mr. President, will the distinguished Senator from New Mexico yield? If he is waiting on another Senator, would he mind setting this aside and letting us bring up the Airport Improvement Act, and then ask unanimous consent for regular order? It will only take a couple of minutes.

Mr. DOMENICI. If my distinguished colleague will allow me to finish it will only take a couple of minutes. Then I will have no objection to that.

Mr. FORD. That will be fine. I thank my friend.

The ACTING PRESIDENT pro tempore. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, have we adopted the committee substitute as amended?

The ACTING PRESIDENT pro tempore. We have not. We adopted the amendment offered by the Senator from New Mexico.

Mr. DOMENICI. I believe it is now in order to adopt the committee substitute as amended.

The ACTING PRESIDENT pro tempore. Is there debate?

The bill is open to further amendment. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

Mr. BINGAMAN. Mr. President, today we consider legislation introduced by Senator DOMINICI and myself to establish an El Malpais National Monument and National Conservation Area. The bill is similar to legislation already passed by the House and was reported unanimously out of the Energy and Natural Resources Committee. The legislation is the result of a great deal of effort by all interested parties to reach an acceptable compromise.

The proposal establishes a 114,000-acre El Malpais National Monument to be administered by the National Park Service. It includes an El Malpais Visitors Center. It calls for the designation of the Masau Trail, an auto touring route to link prehistoric and historic cultural sites in western New Mexico. It authorizes a Masau Trail Visitors Center in Grants, NM.

The bill creates a 262,690-acre National Conservation Area to be administered by the Bureau of Land Management. Grazing, hunting, trapping, and noncommercial wood gathering would be permitted in the BLM area. The bill also creates 98,210 acres of BLM wilderness, including the Cebolla and the West Malpais wilderness areas. The bill calls for the study of roadless areas of the national monument and the restudy of the Chain of Craters Wilderness Study Area for possible designation as wilderness.

The legislation also goes further than any previous public lands bill in protecting traditional native American uses. The bill directs the BLM and the Park Service to work with Indian tribes, including the Acoma Pueblo, to develop management plans for the protection of areas with valued cultural, religious and archeological resources. The legislation does not interfere with the Acoma Pueblo's right to seek available remedies under existing law regarding their previous settlement for some of these lands.

This bill is a delicate balance which will foster important economic development and increased tourism in the Grants Area and provides important environmental protection of this region of the country.

The Malpais is a unique area of the State of New Mexico and the Nation and it is deserving of Park Service and wilderness protection. The name Malpais is the historic Spanish name meaning "bad country." It is the name of the lava formation located in western New Mexico also known as the "Grants Lava Flow." It also contains a variety of beautiful volcanic features, including some of the largest and most extensive lava tubes reported in the United States; many cinder cones of classic symmetry; and some astonishingly magnificent ice caves, full of ice stalagmites crystalline ceilings, and other unique formations. It also contains lava tude sinkholes and uniquely angled formations not found anywhere else on the North American Continent.

The surrounding wilderness areas are also deserving of protection as they shield beautiful natural areas of tall pines and pinons, as well as sandstone bluffs and extinct volcanoes.

The bill also calls for the creation of a scenic tour route along existing public roads linking prehistoric and historic cultural sites in New Mexico and eastern Arizona. The trail would be renamed the Masau Trail and would include El Morro National Monument, Chaco Cultural National Historic Park, Aztec Ruins National Monument, Canyon Del Chelly National Monument, Pecos National Monument, and Gila Cliff Dwellings National Monument.

There is tremendous local and public support for protecting these scenic areas. The package that has been developed takes the best features of the proposals by the Park Service and the BLM and combines them into a well organized management plan for the area.

The legislation includes a section dealing with reserved water rights. I would like to clarify my intent in supporting the language in this legislation. Section 509 of the bill expressly reserves water to fulfill the purposes of the new monument, conservation area, and wilderness area. It is consistent with a long and well-established line of U.S. Supreme Court cases for Congress or the executive branch, in designating federally protected lands, to reserve sufficient water to ensure that Congress' intent in setting aside those lands is not defeated for lack of water. These cases, which date back to the 1899 Rio Grande decision—174 U.S. 690—and the 1908 Winters case, 207 U.S. 564, have usually involved instances in which Congress' intent to reserve the water could be implied from the purposes and values for which the lands were set aside.

This is not the first occasion that Congress has spoken directly to the need for a Federal water right for Federal land. Last year, for example, Congress recognized the Federal reserved right in the Wild and Scenic Rivers Act by expressly reserving water to fulfill the purposes of designating the Cache la Poudre Wild and Scenic River in Colorado.

Thus, while Congress may approach the water right issue in several different ways, the key is whether water is needed to fulfill the purposes of an area. The rules for adjudicating this issue were addressed in United States versus New Mexico. In creating these new areas in New Mexico, Congress has decided explicitly to reserve the necessary water. Consistent with the Federal reserved right doctrine, as stated by the U.S. Supreme Court, this reserved water right is subject to valid existing rights, for the doctrine allows only the reservation of waters which are unappropriated at the time of designation, and gives them a priority date of the date of passage of this legislation. Further, this relationship has resulted in the Federal reserved right, once it has been adjudicated, having the same relationship to other water rights as would any State water right having the same priority date. Thus, the reserved right has the same legal right to prevent injury to itself, and the same remedies under the law, as would other water rights.

Congress intends any right it creates through section 509 to be, in all respects, like the many other Federal reserved rights which have been decided in cases such as Arizona versus California, Cappaert versus United States, and others. The courts have defined and administered these rights by reference to the growing body of State and Federal case law and by reference to Congress' intent in setting aside the Federal lands to which the water is appurtenant. Congress, in section 509 of this bill, intends to continue to adhere to this body of case law. It further intends that the relationship that exists between Federal and State water law which incorporates the well-settled reserved water doctrine be continued. This relationship includes, among other things, jurisdiction to quantify and provide for the administration of Federal reserved water rights in the same courts or administrative agencies otherwise involved. It is not the intent of section 509 to determine or quantify the amount of water reserved.

In short, as section 509(c) states, Congress intends that this bill not be considered a precedent, nor as indicative of Congress' intent in enacting any other legislation, past or present.

Given these unique circumstances and the language which we have used in section 509, I feel that the additional views which accompany the report of the Committee on Energy and Natural Resources are not germane to the issues raised here. There are no secondary reservations being made and there is no impact on any compact. Congress has made its intent clear, in section 509, in the committee report, and in these remarks.

Congress, in enacting section 509, has taken an important step in protecting the necessary water resources of these newly-designated lands. The reserved rights doctrine serves its intended function when it acts to protect Congress' very purpose in setting lands aside, and it is that which Congress clearly intends here.

I encourage my colleagues to support this legislation.

Mr. BINGAMAN. I want to know if the distinguished chairman of the Public Lands, National Parks and Forests Subcommittee has any questions regarding this legislation.

Mr. BUMPERS. I do have a question as a point of clarification. Are there any pending claims, based on aboriginal use and occupancy, on any of the lands within the monument or the conservation area?

Mr. BINGAMAN. No. There have been claims in the past which included most of the land designated. Those claims were settled by an agreement between the Acoma tribe and the Justice Department in 1972.

Mr. BUMPERS. Are there any appeals pending with regard to that settlement?

Mr. BINGAMAN. To my knowledge there have been no appeals filed.

Mr. BUMPERS. Does this bill address the validity of the past Indian claim settlement or in any way affirm or deny the right of any party to pursue an appeal?

Mr. BINGAMAN. No. This legislation does not address that issue. I understand that the Acomas believe they have new information relevant to the settlement of their claim. It is not the intent of this legislation to make any ruling regarding whether the settlement can or should be reopened. Those decisions should be made through the procedures established under existing law. However, this legislation in no way prevents the Acoma Pueblo from availing itself of any courses of action that might be available under existing law.

Mr. ARMSTRONG. Mr. President, S. 56, establishing El Malpais Wilderness, creates the first express Federal reserved water right for wilderness purposes. S. 56 water language imposes a federal water right on New Mexico's State water system without requiring the Federal Government to go through State water adjudication to perfect the right. Neither the quantity nor the purposes of the Federal water right are defined. In addition, the language imposes federal instream flow rights incongruous with the historic priority water diversion systems of the West.

My concern with S. 56 is, how can such a right be incorporated into the State water administration system without major disruption of existing private water rights?

I support S. 56 language which states the Federal Reserve water right being created does not set precedent for other areas and in other States

Mr. DOMENICI. Mr. President, as the sponsor of this bill in the Senate, I rise to encourage my colleagues to lend their enthusiastic support to H.R. 403, the Masau Trail/El Malpais Act. This legislation, which will create the El Malpais National Monument and National Conservation Area and designate the Masau Trail, will provide protection to the El Malpais lava flows and surrounding lands in New Mexico and will ensure that this magnificent area is preserved for our children and generations to come.

Just south of Grants, NM, lies a large volcanic region, an area of dark beauty and stark contrasts, an area rich in history: El Malpais, "the bad country." Within El Malpais, visitors can find lava flows, volcanic craters, ice caves, a sandstone bluff overlook, the largest natural arch in New Mexico, the ruins of ancient Indian settlements, a historic exploration trail, and a multitude of other natural and cultural treasures.

El Malpais consists of at least five different lava flows, the most recent of which is estimated to be only 600 to 1,300 years old, making it one of the most recent lava flows in the continental United States. It contains examples of both the smooth pahoehoe lava and the more jagged lava of lava flows. The tortured Earth of the lava flows holds a number of unique physical features of lava eruptions, including blocky flows, grooved lava, kipukas, squeeze ups, collapsed depressions, pressure ridges, spatter cones, and large cinder cones. The longest known lava tubes in North America are found in El Malpais, including one 16 miles long.

The central feature of El Malpais is Bandera Crater. Bandera Crater rises to a height of 1,000 feet and spreads across nearly a half a mile, forming what geologists consider to be a classic example of its type of volcanic activity. Ice caves occur within the Bandera Crater lava flow. Within them, magnificent ice crystals, some as long as 50 feet, hang from the ceilings.

The scenic landscape on the eastern edge of the El Malpais area is highlighted by a sandstone ridge and bluff that towers above the lava flows. Here, two forces of nature are frozen where they met, the black lava flows clashing with the pink sandstone bluffs. La Vieja, a rock formation resembling the profile of an elderly woman, towers above this battleground of nature. La Ventana, "the window," spans a portion of the bluff, forming the largest and most dramatic natural arch in New Mexico.

Over the centuries, the Indian peoples, from the Anasazi to the modern-day Acoma, have roamed El Malpais. As a result, El Malpais contains many notable archeological resources in thousands of separate archeological sites. Many of the sites are associated with the Acoma culture, which is centered at the Sky City of Acoma Pueblo, 25 miles away. Throughout El Malpais visitors can examine the ruins of ancient pueblos, pithouses, rock art, ancient roads, great kivas, and other treasures. At the edge of the lava flow lies the Las Ventanas site, and abandoned Indian pueblo that was once part of the Anasazi society that was centered at Chaco Canyon to the north.

Many centuries after the Indian people settled in the El Malpais area, the Spaniards arrived. The Dominguez-Escalante Trail, which crosses the lava flow, offers visitors the opportunity to retrace the steps of early explorers of the Southwest. This was the route pioneered in 1776 by Father Silvestre Velez de Escalante and his Franciscan superior, Fransisco Atanasio Dominguez, as they sought a route from Santa Fe to California in order to unite the northern and western portions of Spain's American empire.

Mr. President, El Malpais, because of its scenic beauty and rich history, deserves to be preserved for future generations. The bill that we now have before us, H.R. 403—the Masau Trail/El Malpais Act—embodies a responsible approach to protecting El Malpais and providing visitors with the opportunity to experience the natural and cultural treasures of this area of New Mexico.

Specifically, H.R. 403 will establish a 114,000-acre El Malpais National Monument. The national monument will be administered by the National Park Service with standard Park Service management: hunting and trapping will be prohibited; grazing will be phased out in 10 years. A visitors' center will be constructed near Bandera Crater.

The bill also will create a 261,000-acre El Malpais National Conservation Area surrounding the national monument. The conservation area will be administered by the Bureau of Land Management. Grazing, hunting, trapping, and noncommercial wood gathering will be permitted in the conservation area.

H.R. 403 will designate approximately 98,000 acres of land within the conservation area as wilderness. In addition, the Park Service is directed to study the roadless areas of the national monument for possible designation as wilderness.

The legislation provides mechanisms to exchange lands within the proposed national monument and conservation area currently owned by the State of New Mexico, the Pueblo of Acoma, and Santa Fe Pacific Industries.

Because of the historical use of the area by Indian people, H.R. 403 guarantees that native Americans can continue to have access to the area for traditional uses.

The bill directs the National Park Service and the Bureau of Land Management to develop management plans, including plans for the protection of archeological, cultural, natural, and wildlife resources. It also withdraws the lands within the national monument and the conservation areas from the operation of the mining and mineral leasing laws.

Two provisions in H.R. 403 affect other National Park Service units in New Mexico. One authorizes the Park Service to accept the donation of land to expand Pecos National Monument. Another changes the name of Capulin Mountain National Monument to Capulin Volcano National Monument and adds 17 acres of BLM land to the monument.

The final, and most exciting, provision of this legislation is the creation of Masau Trail, and automobile touring route that will link various historic and prehistoric sites of interest in New Mexico and Arizona. The trail is named after the great god-man Masau, who welcomed the Indian people to the Earth from the underworld as they came through the sipapu, or place of emergence.

According to the history of the Pueblo Indians, mankind has existed since the beginning of time, but lived for a long time underground. Eventually, mankind emerged from the underworld and was welcomed to the surface of the Earth by Masau. Masau warned the people that they could not just wander over the Earth haphazardly until they found a place to settle. He instructed them on how to migrate across the land, gave them clues on how to recognize the place where they were to settle permanently, and taught them the way they were to live once they got there.

Given a magic water jar to supply them on their migrations, the Pueblo people began their journey, following Masau's huge footprints, each as long as a man's arm. The journey eventually brought them to what is now New Mexico.

As modern travelers follow the Masau Trail, they will follow signs with giant footprints, the footprints of Masau, to Aztec Ruins, Bandelier, Chaco Canyon, El Malpais, El Morro, Pecos, and Gila Cliff Dwellings National Monuments, as well as other sites of interest.

The trail will introduce visitors to the wealth of historic, cultural, and natural sites in northwestern New Mexico, providing a comprehensive perspective on the history of the Indian peoples of the region.

In addition to creating the Masau Trail, H.R. 403 authorizes the construction of a Masau Trail Visitors' Center along Interstate 40 near Grants, NM.

It has taken many years for this legislation to reach the floor of the U.S. Senate. The first effort at creating a national monument at El Malpais dates back to the 1920's. The bill now before the Senate has taken over 2 years to perfect. What we have is the product of some intense negotiations.

In 1985, the Congressman from the area, Representative RICHARDSON, introduced legislation which would create a national monument to be administered by the Bureau of Land Management. Senator BINGAMAN, Representative RICHARDSON, and I then began to work together to refine this proposal. We were helped greatly by members of the community of Grants, NM, conservationists, and professionals from the Bureau of Land Management and the National Park Service.

Working together, we were able to put together a bill in the waning days of the 99th Congress, but time ran out. We reintroduced the bill on the first day of this session. The bill was further refined during its consideration by the Committee on Energy and Natural Resources. After the bill was approved by the Energy Committee, the Acoma Indians came forward with concerns that they have about the protection of their religious use of the area. Additional language was crafted to address those concerns. The result is the bill that is now before the Senate.

During this process, the boundaries of the areas were adjusted to protect ongoing grazing operations and other uses and to ensure that the national monument boundary more closely tracked the natural features of the area.

In addition, a number of changes were made in the bill to address the concerns of the Acoma Indians, whose pueblo abuts El Malpais. H.R. 403 contains a number of provisions to protect the Acoma. They include:

An adjusted boundary that excludes most Acoma trust lands;

Authority for the Acoma to exchange the remaining trust lands;

The exclusion of most Acoma grazing lands from the national monument;

Protection of grazing in the conservation area and wilderness;

The creation of an access corridor so that the Acoma can reach their Berryhill ranch;

The exclusion of Cebollita Spring, which is religiously significant to the Acoma, from wilderness designation;

Protection of valid existing water rights and pending well applications;

Protection of religious use of the area by the Acoma;

Permission for the Secretary of the Interior to close portions of the monument and the conservation area upon the request of the Acoma, so that the Acoma can conduct their religious activities in private;

Authorizations for the Secretary of the Interior to establish an advisory committee, which shall include representatives of the Acoma, to oversee the implementation of the provisions protecting religious use; and

Direction to the National Park Service and the Bureau of Land Management to consult with the Acoma in the development of a management plan, including a requirement that the Secretary of the Interior shall solicit the recommendations of the Acoma on methods of assuring religious access, enhancing the privacy of religious activities, and protecting religious sites.

The bill before the Senate also includes language offered by Senators

WALLOP and MCCLURE to resolve the sticky issue of water rights. The amendment specifically reserves water for the national monument, conservation area, and wilderness. The amount reserved is the minimum amount necessary to meet the requirements of the act. The priority date of the water rights is the date of enactment of the act. The amendment also protects valid existing water rights and pending water applications which are eventually granted.

This Federal water right does not preempt the water law of the State of New Mexico. Rather, it simply creates a reserved water right in the Federal Government that is then subject to the law of the State of New Mexico. For instance, the water right would be perfected pursuant to the procedural requirements of the law of the State of New Mexico. To the extent that changes in location and use are permissible under New Mexico State law, those changes would be protected under section 509.

I know that some Senators are concerned about the impact of this language on their States. Let me make clear that the water rights language of section 509 has been crafted to address the peculiar and particular situation present in the areas designated by this bill.

I do not view the language of section 509 as language that is applicable to the Nation as a whole, or even to other areas of New Mexico. The language of section 509 does not, to the best of my knowledge, reflect the intent or will of Congress regarding water rights in other wilderness areas.

Mr. President, let me describe for you the support for this bill. Last February, I went to Grants to discuss this legislation with government officials, community leaders, and other interested parties. Senator BINGAMAN joined me.

I don't know if many of my colleagues are aware of it, but Grants, NM, 75 miles west of Albuquerque, was once proudly known as the uranium capital of the world. With the collapse of the uranium industry, that title has become an empty one. Seven thousand jobs were lost in Grants due to the uranium bust. A calamity of that nature would kill most small cities, but it hasn't stopped Grants. Grants is a community with spunk and heart. The citizens have worked together to save the community. They've attracted new industry, revitalized old ones, and diversified their economy. And they're coming back.

A key to the economic renewal of Grants is the attraction of tourists through the establishment of an El Malpais National Monument. At the meeting I held in Grants, more than 125 persons came to express their support for this bill. Governor Carruthers, the State secretary of natural resources, the State land commissioner, the State representative and State senator from the area, the mayors of Grants and the nearby towns of Milan and Gallup, city and county commissioners, Indian pueblo governors, chamber of commerce officials, a Boy Scout troop, and representatives of the Sierra Club and the Wilderness Society attended.

The support for this legislation was overwhelming. After my visit, I received petitions signed by 843 local citizens expressing support for this proposal. It is clear that the city of Grants, Cibola County, and the State of New Mexico all want this bill.

Mr. President, the well-known travel expert Arthur Frommer recently declared New Mexico to be 1 of the 10 best vacation spots in the world. It is an area of magnificent beauty and proud history. This bill will protect this area for the future and will increase New Mexico's attraction to travelers from all over the world.

I am excited about this legislation. I believe that it will provide protection for an important area. It will provide visitors with a comprehensive and rewarding education on the history of this region. And it will give an area of New Mexico which has suffered much from the collapse of the uranium industry a much-deserved shot in the arm.

Mr. President, in light of the tremendous support which this legislation has received, I hope that the Senate will act quickly and favorably on this legislation.

In closing, Mr. President, I would like to thank a few people without whom this bill would have never made it to the floor of the U.S. Senate: Jean Fisher of the Grants Chamber of Commerce; Chuck Wiggins, Jim Norton, and Terry Sopher of the Wilderness Society; John Somers and Debbie Sease of the Sierra Club; Director William Mott, John Cook, and Doug Faris of the National Park Service; and Director Robert Burford, Larry Woodard, and Rick Hanks of BLM. There are many, many others who played major roles. I thank them also.

Mr. President, let me just say that this is a historic day for us in New Mexico because this very significant area of our State called El Malpais has been considered and reconsidered since the early twenties in an effort to preserve it and to designate it as nationally significant. Today we are adopting a measure that has been 2 years in the process of consultation between the House and the Senate and between various interests in the State of New Mexico. Now we finally will create a national monument and a national conservation area and preserve this magnificent treasure for the people of our State and the people of our Nation.

There is one issue that I must address just for a couple of minutes. This particular area in New Mexico is adjacent to a very distinguished Indian group called the Acoma Indians and in the process of developing this bill we have made nine amendments to the bill to address concerns they have. The amendments protect the Acoma's trust lands, grazing allotments, water rights, and other activities. A 10th amendment, the one that was just adopted, contains four separate provisions to protect the Acoma Indians in the exercise of the religious activities that they have conducted for centuries.

We are now confident that with addition of these protections, the creation of an advisory committee that will be part of this, and the right to close parts of this area for their religious activities, we will do what we set out to do, which was to create a magnificent area for people of this country and at the same time protect the Acoma Indians.

So I want to repeat to the U.S. Senate, to the people of my State, and to the Acoma Indians that we have done everything we can, and everything that we think is reasonable to do to accommodate the concerns of the Acoma Indians. What we could not do, what the committees would not let us do, and what precedent did not permit was to give to the Acoma Indians or sell to them some 13,000 acres of Federal land that they desire to have so they can continue their religious activities.

We just cannot do that. We do not do it for other Indian groups around the country. So we have done the next best thing and that is to protect their rights to conduct religious activities on those lands and on the rest of this Federal land that is in the monument and the conservation area.

I hope our Indian friends understand that we have not been silent in the face of their pleas and their concerns. We have made 10 amendments, one of which is a very detailed amendment protecting their religious activities, and we think and hope that this will address their concerns.

In the meantime, we will continue dialog with them—I am sure the Federal agencies will also—and we always have an open ear.

I thank the Senate for permitting me to move this bill in behalf of Senator BINGAMAN and myself. It has been a long time coming.

Now I want to report to the majority leader that Senator ARMSTRONG does not desire to be heard. Therefore, I believe it is time for third reading, and I yield the floor.

The PRESIDING OFFICER (Mr. SHELBY). The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendment and the third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

Mr. DOMENICI. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. FORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOMENICI. Mr. President, I thank the entire committee and staff of the Committee on Energy and Natural Resources for their help in connection with this matter, as well as innumerable Senators who have had input on many issues, including water issues, as related to this bill.

AIRPORT AND AIRWAY IMPROVEMENT ACT—CONFERENCE REPORT AMENDMENTS

Mr. FORD. Mr. President, I submit a report of the committee of conference on H.R. 2310 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2310) to amend the Airport and Airway Improvement Act of 1982 for the purpose of extending the authorization of appropriations for airport and airway improvements, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of December 15, 1987.)

Mr. FORD. Mr. President, after nearly a year of hearings, committee markups, floor debate and conference committee deliberations, the Congress is now completing action on legislation to ensure continued development of our aviation infrastructure and a renewed commitment to enhancing aviation safety.

H.R. 2310, the Airport and Airway Safety and Capacity Expansion Act of 1987, as approved by the conferees, will authorize more than $20 billion in expenditures over the next 5 years from the Airport and Airway Trust Fund. These funds are needed for the development and expansion of our Nation's airports, for continued modernization of the Federal Aviation Administration's air traffic control system, and to ensure adequate staffing of FAA controller, inspector, and maintenance work forces. And, just as importantly, this legislation will ensure that a number of critical safety initiatives are undertaken by the FAA, commercial airlines, and general aviation pilots.

This legislation is within the budget Congress passed earlier this year. And probably more importantly, the funds authorized under this bill are available right now—in the Airport and Airway Trust Fund. With a surplus of funds exceeding $5.6 billion, the trust fund should be used for purposes outlined in H.R. 2310—not allowed to continue to languish as an offset to our Federal budget deficits.

A great deal of attention has been focused on the state of our air transportation system and the need for improvements to ensure its long-term viability. For example, in the area of airport development, the FAA estimates that we will need some $24.3 billion over the next 10 years to accommodate existing traffic levels and projected growth in air travel. New airports, each costing billions of dollars, are being considered in Denver, Los Angeles, Austin, TX and Farmington, NM. With this bill, we are establishing the framework under which the concrete will be poured and the record delays of the past year will be forever eliminated.

H.R. 2310 will provide $8.7 billion over the next 5 years for airport development and noise abatement, beginning with $1.7 billion in fiscal year 1988. This is a longer authorization than proposed in the Senate bill, but this timeframe will better enable airport managers to plan for those construction projects that will enhance aviation safety and expand system capacity.

I am pleased that the conference committee continued several key changes in the Airport Improvement Program that were proposed in the Senate bill. Specifically, it continues the emphasis on developing capacity at the major airports, while enabling the smaller commercial service airports—those that have annual passenger enplanement levels of 10,000 people—to become designated as primary airports. And the creation of a cargo hub airport entitlement will correct an oversight in the 1982 law that deprived those airports of a dedicated source of funds. The rapid growth of air package express companies, such as United Parcel Service and Federal Express has translated into a significant number of operations at a variety of airports, and this bill will now ensure that those airports receive a share of the funds made available each year under the AIP Program.

Just as importantly, this legislation authorizes the continuation of the FAA's National Airspace System plan, the 10-year, $16 billion effort to modernize and upgrade the air traffic control system. Specifically, this legislation will authorize over $5.3 billion over the next 3 years to replace aging air traffic control computers, navigational aids, and radar systems.

H.R. 2310 will also ensure safe and efficient operation of the airways by requiring the hiring of approximately 1,000 additional air traffic controllers. Our bill specifically requires that by the end of fiscal year 1988, the FAA has a total controller work force of 15,900. And while this may not be enough, it is a major improvement over the current situation. Additionally, I am pleased that this legislation puts renewed emphasis on the FAA's Contract Tower Program. By enabling low level activity air traffic control towers to be operated by contracted personnel, this program allows better utilization of limited numbers of FAA personnel and ensures continued safety at smaller airports.

H.R. 2310 also continues limitations on the funds to be taken from the trust fund for FAA operating expenses. I strongly believe that the trust fund was established for capital development—not to cover operating expenses. This legislation continues current law, by allowing up to 50 percent of total O&M costs to come from the trust fund. Also continued are the penalties designed to encourage full funding of aviation capital programs.

In addition to the airport and airway authorization, H.R. 2310 extends, for 10 years, the Essential Air Service Program. Initiated in 1978 as a part of the Airline Deregulation Act, the EAS Program has ensured that some 150 communities throughout the United States have access to our Nation's air transportation system. It is a credit to the efforts of Senators EXON and BAUCUS that this legislation was enacted nearly 1 year in advance of its scheduled expiration date.

This legislation also includes a number of critical initiatives designed to improve air safety. Among others, H.R. 2310 requires the installation and operation of airborne collision avoidance systems, it will increase those penalties imposed on commercial airlines which violate FAA safety requirements, and it requires the DOT to undertake several rulemaking proceedings to consider the need for mandating new safety equipment aboard commercial aircraft.

Finally, H.R. 2310 extends aviation taxes at existing levels for an additional 3 years. More importantly, perhaps, the bill has a trigger that will ensure that if the funds authorized by this bill are not appropriated during the next 2 years, taxes will be reduced in 1990 by 50 percent. I am pleased that the Finance Committee and House Ways and Means Committee reached this compromise, for I strongly believe that if the Congress is not going to spend this money, it should no longer be collected.

Mr. President, I am extremely pleased with this legislation. It will ensure that the trust fund is used for its intended purpose—capital improvements. And it will ensure that the efficiency and safety of our air transportation system is enhanced to meet the continuing needs of the traveling public.

I urge my colleagues to support this legislation, so that we can send it to the House and then to the President.

Mr. President, I ask unanimous consent that a summary of the major provisions of the conference agreement be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD as follows:

SUMMARY OF MAJOR PROVISIONS

H.R. 2310 THE AIRPORT AND AIRWAY SAFETY AND CAPACITY EXPANSION ACT OF 1987

Title I—Airport and Airway Improvement Act Amendments

Airport Improvement Program (AIP)

Authorization—Five-year authorization totalling $8.7 billion in following years:

Fiscal year 1988—$1.7 billion.
Fiscal year 1989—$1.7 billion.
Fiscal year 1990—$1.7 billion.
Fiscal year 1991—$1.8 billion.
Fiscal year 1992—$1.8 billion.

Primary Airports—Reduce current primary airport enplanement level from approximately 40,000 passengers each year to 10,000, making an additional 150 airports eligible for annual AIP entitlement funds.

Funding Minimum/Maximum—Increase the minimum apportionment to any primary airport to $300,000 (current law—$200,000) and the maximum annual apportionment to $16.5 million (current law—$12 million).

Cargo Hub Entitlement—Establish a cargo entitlement program under which 3 percent of total AIP funds apportioned each year (up to $50 million) will go to airports with 100 million pounds landed weight by all-cargo aircraft.

Noise Abatement—Increase the percentage set-aside for funding airport noise abatement projects to 10 percent of total amounts made available annually under AIP (current law—8 percent).

Discretionary Funds—Require that no less than 75 percent of all discretionary funds be used for preserving and enhancing safety, capacity, and security at primary and reliever airports, as well as noise compatibility programs at those airports.

Disadvantaged Business Enterprise—Require that not less than 10 percent of total AIP funds be set-aside annually for disadvantaged business enterprise (DBE) contractors, and that at each airport, to the maximum extent practicable, 10 percent of concessions go to DBE's.

Advanced Construction Reimbursements—Permit issuance of a Letter of Intent to an airport allowing it to begin construction in advance of the availability of Federal funds. If a Letter of Intent is issued, the Secretary shall pay construction costs incurred by the airport as funds become available.

Construction of Foreign Airports—Prohibit the use of funds for certain projects or services from a foreign country if the United States Trade Representative determines that that country denies fair and equitable market opportunities for U.S. suppliers or contractors, with certain exceptions.

State Block Grant Program—Allow up to 3 states to participate in a two-year State Block Grant Pilot Program, with states administering grants to all airports other than primary airports.

Sponsor Assurances—Establish several sponsor assurances that must be agreed to by each airport as a condition for it to receive Federal funds, relating specifically to nondiscrimination; approval of non-aeronautical closings; terminal airspace restrictions; use of revenue; disposal of land; airport layout plans; and contracting for engineering and design services.

Withholding of Funds—Prohibit DOT from withholding AIP funds for a new or existing grant on the grounds an airport violated a sponsor assurance, unless a hearing is held and determination of noncompliance is made within 180 days of the date that payment was due.

Facilities and Equipment (F&E)

Authorization—Three-year authorization totalling $5.3 billion for following years, of which, up to $35 million must be expended each year on the procurement and installation of Instrument Landing Systems at both primary and reliever airports:

Fiscal year 1988—$1.377 billion.
Fiscal year 1989—$1.730 billion.
Fiscal year 1990—$2.191 billion.

Flight Service Stations—Prohibit closing or reducing hours of any Flight Service Station unless that area is served by an Automated Flight Service Station with Model One or better equipment. Require re-opening of stations closed between 3/25/87 and 7/14/87 if that area is not served by Model One equipment.

Research, Engineering & Development

Authorization—Three-year authorization totalling $638 million for following years, of which not less than $25 million is authorized annually for research and development programs related to enhancing airport capacity:

Fiscal year 1988—$201.5 million.
Fiscal year 1989—$215.0 million.
Fiscal year 1990—$222.0 million.

Handicapped Access Equipment—Not less than $250,000 shall be made available in FY 1988 for research and development relating to equipment designed to provide improved access by handicapped persons to commuter aircraft.

Operations and Maintenance (O&M)

Authorization—Three-year authorization for Trust Fund share of FAA O&M (calculated as an amount equal to 50 percent of combined appropriations for AIP, F&E, and R&D programs) totalling no more than $5.519 billion in following years:

Fiscal year 1988—$1.639 billion.
Fiscal year 1989—$1.823 billion.
Fiscal year 1990—$2.057 billion.

Penalty—Require a $2 reduction for every $1 appropriated for AIP, F&E, and R&D short of authorized amounts in any year.

Title II—Federal Aviation Act Amendments

Essential Air Service (EAS)

Extend EAS program for 10 years, through September 30, 1998. Basic service is continued for those communities currently receiving EAS service and at least 45 highway miles from a hub airport.

Require each designated community to receive two flights per day, 6 days a week at reasonable times, with one stop allowed on the way. Aircraft size is specified.

Require any carrier wanting to reduce or terminate service to provide DOT and community with 90-day notice. DOT, in turn, must prohibit that termination or reduction in service until a replacement is found. Hold-in compensation is specified to cover carrier's fully allocated cost of service and a return on investment and opportunities foregone.

In selecting a carrier, DOT is required to take into account carrier's reliability, contractual and marketing arrangements to assure service beyond a hub, interline arrangements, and user preferences.

Allow communities to receive enhanced service (e.g., more frequency of flights) if the community and DOT agree on need, and community agrees to share percentage of costs, unless agreement is reached where DOT would pay 100 percent of cost (under a use-or-lose option).

Allow communities not currently eligible for EAS service to receive subsidized service if the community submits a reasonable proposal and Secretary agrees to pay 50 percent of subsidy cost, with community paying remaining 50 percent. Certain communities, meeting geographical criteria, would be eligible for EAS service if they agreed to pay 25 percent of subsidy cost.

Require that if an airline wants to end its basic EAS service to a High Density airport, it must turn its slots over to the incoming replacement carrier, unless that carrier does not need those slots to provide EAS service.

Other Provisions

Airborne Collision Avoidance Systems—Require FAA to undertake certification of airborne collision avoidance equipment (TCAS-II) not later than 18 months after enactment, with subsequent installation required on all commercial aircraft with more than 30 seats within 30 months of certification. Require FAA to develop and certify TCAS-III as soon as possible. Direct FAA to require installation, within 36 months of enactment, of altitude encoding transponders in all areas where radar service is provided, with certain exemptions.

Civil Penalties—Increase from $1,000 to $10,000 civil penalties for commercial air carriers for violations of safety provisions of the Federal Aviation Act. Clarify that penalties may be imposed based on each flight or each day that a violation occurs. Increase penalty for interfering with an accident investigation to a fine of up to $250,000 and imprisonment of 10 years. Establish a two-year demonstration program allowing the FAA to assess civil penalties not in excess of $50,000.

Hazards to Navigable Airspace—Require notice to Secretary (and subsequent report) on construction of structures which may limit safety or efficiency of aviation system. FAA and Federal Communications Commission are directed to coordinate actions in considering applications for construction of broadcast towers.

Public Aircraft Accident Reporting—Change definition of public aircraft and authorize National Transportation Safety Board to require reports on accidents involving public aircraft other than those operated by military and intelligence agencies.

Title III—Miscellaneous Provisions

Noise Abatement Funding/Study—Authorize funds for soundproofing of schools and hospitals even though an airport has not obtained approval of a comprehensive noise abatement program. Require DOT to undertake an 18-month study to determine whether FAA procedures for preparing and submitting noise compatibility programs could be simplified, as well as to determine whether expedited and simplified procedures could be developed to take into account special circumstances at certain airports. During this 18-month period, the Secretary may make grants for noise abatement projects at certain airports.

Air Traffic Controller Workforce—Require that by the end of Fiscal Year 1988, the FAA air traffic controller workforce total no less than 15,900, including traffic management coordinators and first-line supervisors who control traffic, and not counting Air Traffic Assistants and students at the air traffic controller academy.

Cockpit Voice/Flight Data Recorders Rulemaking—Require DOT to initiate a rulemaking to consider required use of cockpit voice recorders and flight data recorders on commuter aircraft and other aircraft. Monthly status reports to Congress are required.

Flotation Devices/Seat Standard Rulemaking—Require DOT to initiate a rulemaking to consider the need for requiring uniform life preservers and other flotation devices on overwater flights, and to require that all aircraft seats meet improved crashworthiness standards. Monthly status reports to Congress are required.

National Driver Register—Authorize airmen to request the transmission of information in National Driver Register to FAA to verify information reported by individuals with respect to medical certification.

Contract Tower Program—Direct DOT to keep open those existing low level air traffic control towers operated under the Contract Tower Program, while encouraging that the program be extended to other towers as practicable.

Control Tower/Navigational Aids Selection—Require DOT to promulgate regulations establishing criteria, including aircraft operations and passengers served, for installation of control towers and navigational aids.

Airport Capacity Study—Require DOT to conduct a study to develop an overall airport system plan through the year 2010 which will ensure long-term availability of adequate system capacity.

Radio Navigation Systems—Require FAA to synchronize Loran C master transmitters and to study the impact on users of the synchronization of secondary transmitters. Require a study of coordination of time reference of Loran C transmitters and the Global Position Satellite System.

Title IV—Extension of Taxes

Extension of Taxes—Authorize collection of aviation taxes at same levels as in current law (8 percent passenger ticket tax, $.12–.14/gallon general aviation fuel tax, $3 dollar international departure tax, 5 percent freight waybill tax) through December 31, 1990.

Tax Reduction Trigger—Require an automatic 50 percent reduction in tax levels (other than $3 departure tax) in calendar year 1990 if the total appropriations for AIP, F&E, and RE&D are less than 85 percent of the total amounts authorized for these three programs for fiscal years 1988 and 1989.

Helicopter Exemptions—Provide a general exemption from passenger, freight, and fuel taxes for emergency medical helicopters when engaged in providing emergency medical services, where helicopters (1) do not use the Federal assisted airport and airway system, and (2) are owned or leased by a health care facility and are operated exclusively under the control of such facility.

Mr. HOLLINGS. Mr. President, I am pleased to report to my colleagues that the conferees have completed action on the conference report for H.R. 2310, the Airport and Airway Capacity Expansion Act of 1987. This legislation will provide significant increases in funding from the airport and airway trust fund for airport development, modernization of the air traffic control system, and the hiring of 1,000 additional air traffic controllers.

We in Congress have spent the better part of the past year expressing our collective concern over the State of our Nation's air transportation system. We have vented our outrage and frustration regarding scheduling practices and the increasing number of delays in air travel. We have been critical of the margin of safety, as statistics on near misses, controller errors, and pilot deviations continue to soar. Now, after months of deliberation, we are at the final stage of the process, as we have put our words into action and provided the framework for addressing these problems.

H.R. 2310 will authorize more than $20 billion over the next 5 years for aviation safety and modernization of our air transportation system. This amount is well within the amounts available in the airport and airway trust fund, which currently has a surplus in excess of $5.6 billion. So there can be no denying the fact that the funds are available. To not spend them on these badly needed capital programs—especially given the problems we all have seen—would be unconscionable.

Before final consideration of this legislation, I would like to highlight two provisions that I believe merit special attention. First, is the requirement to hire additional air traffic controllers. We desperately need more full performance level controllers to handle our current traffic levels. There is some 30 percent more air traffic today than in 1978, and yet, we have fewer controllers. Our bill will require the FAA to have in place a controller work force of no less than 15,900 by the end of fiscal year 1988. While this is still not enough, it is a strong signal that the Congress fully expects the FAA to hire enough controllers to safely accommodate today's traffic levels.

A second provision of which I am pleased survived the conference is the required installation of the Mode C and TCAS-II collision avoidance systems. Mode C transponders are critical for ensuring positive identification of general aviation aircraft in the airspace. I offered an amendment on the Senate floor earlier this year to require that all aircraft operating in terminal radar airspace have these altitude reporting transponders, and I believe that this provision must be vigorously pursued. I also look forward to early certification of the TCAS-II and TCAS-III airborne collision avoidance systems so that commercial pilots have advance warning of possible conflicts and can take the necessary action to avoid airborne collisions.

Mr. President, H.R. 2310 presents a good compromise between the Senate and House bills. I believe that it will address many of our concerns about our air transportation system. And I believe that it should be adopted by the Congress and signed into law as quickly as possible. I therefore urge the Senate to approve this conference report.

Mr. METZENBAUM. Mr. President, I would like to ask some questions about the safety provisions contained in the conference report on the airport trust fund reauthorization. I hope that the distinguished chairman of the Aviation Subcommittee would be able to respond to my concerns.

Mr. FORD. I will be glad to try to help clear up any questions my colleague from Ohio might have about these matters.

Mr. METZENBAUM. As my colleague from Kentucky knows, during Senate consideration of the airport trust fund reauthorization bill, the Senate adopted, without objection, my amendment to require DOT to issue several air safety regulations within a specific time period. For instance, my amendment would have ensured that no later than 425 days after the bill's enactment, regulations would have to be issued requiring life vests and life rafts on any flight over water. It further required that life vests be available to fit infants and small children. The amendment would also have set a 425-day deadline for issuing regulations to ensure that seats on all aircraft meet improved crashworthiness standards and that new aircraft be designed and equipped in such a way as to minimize the risk of postcrash fires.

The conferees changed these provisions. The conference report as agreed to does not contain any deadlines for issuing final regulations on life preserver and crashworthiness. In fact, it only requires the FAA to begin rulemakings to consider these matters. Futhermore, the conferees agreed to have the FAA study the feasibility of using technologies such as crash-resistant fuel tanks and break-away fuel lines to reduce the incidence of postcrash fires.

I wish the conferees had done more. The truth is the longer there is a delay in rectifying these crucial safety matters, the greater the risks to airline passengers.

Today only one in four aircraft carry life vests, despite the fact that many takeoffs and landings occur over significant bodies of water. It's also a shocking fact that those life vests which are available are not appropriate for small children and infants. On top of this, there can also be several different style vests on board one flight making it almost impossible to give adequate instructions on how to put them on during emergencies. We can ill-afford to give the FAA the opportunity to ignore or delay acting on such crucial safety matters. The same holds true about the agency when it comes to ensuring the crashworthiness of seats and seeing to it that aircraft are designed to cut down on the risk of fires.

I know that the Senator from Kentucky wishes to see the FAA move ahead in these areas. He attempted to strengthen the language on life preservers and seat crashworthiness during conference deliberations, and I thank him for his efforts. But without specific deadlines and directives, the FAA may, and in all probability will, drag its feet on these important safety matters. Also, the decision to opt for a study on ways to reduce postcrash fires troubles me because Congress, more often than not, will call for a study when it wants to shove aside a problem. I am concerned that that was the intent of some of the conferees.

Can I ask my distinguished colleague from Kentucky if he intends to use his position as the chairman of the Aviation Subcommittee to stay on top of the FAA in all of these areas to make sure that the FAA issues regulations which ensure greater safety for air passengers?

Mr. FORD. Absolutely. I share the Senator from Ohio's deep concern for improving air safety. The language agreed upon by the conferees provides the FAA the necessary flexibility to promulgate regulations on expanding the uniform availability of life preservers on flights over water and making aircraft seats more crashworthy. It in no way lets the FAA off the hook from moving forward on these matters. In fact, to ensure progress on these critical matters the conferees agreed to require the FAA to submit monthly status reports to the committee enabling us to monitor each step the agency takes toward meeting these directives. Also, we want to find the best available technology to minimize the incidence of postcrash fires, hence the call for a study. Let me thank the Senator from Ohio for his persistence and concern about these important safety matters and give him my assurances that the Aviation Subcommittee will be watching the FAA carefully to ensure that it moves quickly and in the right direction to stengthen air safety.

Mr. METZENBAUM. I thank the Senator from Kentucky for his cooperation. I plan to watch the FAA closely as well. In fact, I have already written to FAA Administrator T. Allan McArtor about these matters. I ask unanimous consent that a copy of that letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

SUBCOMMITTEE ON LABOR, COMMITTEE ON LABOR AND HUMAN RESOURCES,
Washington, DC, December 11, 1987.

Mr. T. ALLAN MCARTOR,
Federal Aviation Administrator, Federal Aviation Administration, Washington, DC

DEAR MR. MCARTOR: As you know, the House and Senate are about to pass the Airport and Airways Improvement Act and the President is expected to sign this legislation into law. I would like to take this opportunity to share my views with you on a few air safety provisions which are of particular interest to me and for which the FAA will have a direct role.

The legislation directs the FAA to consider rulemakings on life preservers and seat crashworthiness standards. The language as adopted by the conferees does not contain deadlines for completing these rulemakings or issuing final regulations. As the sponsor of the Senate amendment which included deadlines, it is my strong hope that the FAA will move expeditiously to address some very serious safety concerns revolving around these matters.

Current FAA regulations on life vests are inadequate. Only one in four aircraft carry life vests while over 200 airports have significant bodies of water in their approach and departure paths. According to FAA's own data, 90 percent of all airline accidents occur on or in approach and departure zones of airports.

Such statistics are frightening. But there are also problems with those vests that are available. I have heard reports that life vests do not always work as intended and that there can be different styles on board a single plane making donning instructions in an emergency impossible. But perhaps most disturbing is the fact that these life vests do not fit small children and infants. Surely, the FAA should move forward to correct this dangerous situation promptly.

As I understand it, the FAA has issued a proposed rulemaking to modernize its testing standards to improve the crashworthiness of aircraft seats. But the FAA's proposal would only apply to new aircraft types—those that are still on the drawing board. Consequently, the FAA proposal would not have much effect until well into the next century when totally new aircraft types would start constituting a large percentage of the fleet. The technology exists to make the seats on planes now operating more safe. The FAA should act promptly on this matter.

Finally, although the Senate-passed bill included my provision to mandate the issuance of regulations to reduce the risk of post-crash fires, the legislation as agreed to in conference directs the FAA to study possible aircraft designs, including crash-resistant fuel tanks and break-away fuel lines, which could help in this regard. There may be other ways to accomplish this crucial objective. The FAA must move aggressively in this area to help avoid future tragedies and save lives.

Please advise as to your timetable with respect to the above matters. I feel that every day's delay results in another day of exposure for hundreds of thousands of airline passengers.

I appreciate your careful attention to these concerns and look forward to your reply.

Very sincerely yours,
HOWARD M. METZENBAUM,
U.S. Senator.

Mr. DANFORTH. Mr. President, the Airport and Airway Safety and Capacity Expansion Act represents the best efforts of Congress, over the past year, to address the problems caused by the success of airlines deregulation, which made it possible for tens of millions of people to fly who had been unable to afford to do so before. This bill authorizes major increases in spending from the airport and airway trust fund for airport improvement and for expansion and modernization of the Air Traffic Control System. H.R. 2310 provides the resources for the FAA, together with local airport authorities, to ease some of the congestion in the air and on the tarmac which has led to record airline delays and consumer problems.

Mr. President, this bill authorizes a 70-percent increase in funding for airport improvements, such as additional runaways, and an 85-percent increase in funding for the Air Traffic Control System. At the same time, it requires the FAA to hire another 900 air traffic controllers, bringing the total number of controllers to almost the number on the job before the PATCO strike. This legislation makes it clear that when Congress deregulated the airlines, it did not abdicate responsibility for the condition of the air transportation system or in any sense deregulate safety.

Under H.R. 2310, safety and capacity related projects at our major airports will be given top priority by the FAA in determining eligibility for airport improvement funding. In addition, many more airports will be eligible for guaranteed annual funding based on the number of passengers at these airports.

This bill will also enable the FAA to continue implementation of the national airspace system plan, which provides for the replacement of outdated air traffic control equipment with safer, more reliable technology. H.R. 2310 will fund a variety of FAA programs directly related to keeping our skies safe and improving air safety wherever possible.

Mr. President, this bill requires the FAA to undertake several important safety rulemakings. One of these mandates increased use of altitude-encoding transponders by aircraft flying near the Nation's busiest airports. Use of these devices is critical to the ability of air traffic controllers to identify aircraft and determine trheir position in the air related to other aircraft. This provision of the bill also requires the use of a traffic collision avoidance system, or TCAS, by airlines. Together, these requirements will make an enormous contribution toward reducing the risk of mid-air collisions.

Mr. President, I would like to congratulate the chairman of the Aviation Subcommittee, Senator WENDELL FORD, for his leadership on H.R. 2310. I would also like to express my gratitude to the ranking Republican, Senator NANCY KASSEBAUM, for her able and extensive work on the bill. Finally, I would like to thank the chairman of the full committee, Senator ERNEST HOLLINGS, for his skillful efforts on this critical piece of legislation.

Mrs. KASSEBAUM. Mr. President, this conference agreement reauthorizes the major aviation accounts on which this Nation's airport and airway systems depend. Both the Senate and the House produced constructive reauthorization measures that, through this conference agreement, have been merged into a workable legislative compromise. The compromise measures should be quickly approved by both bodies and sent to the President for his signature.

The immediate enactment of this conference agreement is vital. The traveling public has serious doubts about the safety of air travel. That lack of confidence is truly disturbing because, in reality, we have a national air transportation system that is remarkably safe. This conference agreement is designed to provide the authorized levels of program activity that are required to ensure that the current level of safety in the system is maintained.

I would like to commend Senator HOLLINGS and Senator DANFORTH, who in their capacities as chairman and ranking member of the Senate Commerce Committee, guided the Senate-passed bill through committee. A special commendation must go to Senator FORD, chairman of the Aviation Subcommittee, who labored long and hard in the trenches to produce the Senate bill, and who crafted the many compromises, and exerted the floor leadership that produced the overwhelming Senate vote for passage of the Senate bill.

Mr. President, this conference report includes a provision relating to the utilization of disadvantaged business enterprises, or DBE's, as they are otherwise known, for airport improvement projects. This provision is virtually identical to the DBE provision in the Surface Transportation Act approved earlier this year. The provision requires that at least 10 percent of the Airport Improvement Program funds be expended with firms owned by women and traditional ethnic minority groups as defined by the Small Business Act.

This is a modification from the present program administered for airport improvement projects. Currently, there is no statutory national goal for minority and women business participation in FAA funded projects, and the program is administered with two separate goals, one for minority owned firms and one for firms owned by women.

The conference agreement before us will consolidate that existing two-goal system into a one-goal system for DBE's. Airport improvement projects utilizing Federal funds would be permitted to contain only one goal for DBE's, giving contractors bidding on these projects the flexibility to make best efforts to meet DBE goals by utilizing qualified minority-owned businesses, women-owned businesses, or a combination of both.

Since passage of the Surface Transportation Act in April, the Department of Transportation has implemented the same DBE provisions with respect to highway and mass transit projects. That provision continued the 10-percent requirement already in law, and consolidated an existing two-goal system into a one-goal system by including women within the definition of DBE.

Since the Highway, Mass Transit, and Airport Improvement Programs constitute virtually all the Federal-aid construction programs of the Department of Transportation, I believe it is important that there is consistency in the implementation of the DBE provisions applying to these programs. In view of the successful implementation of the DBE provisions in the Highway and Mass Transit Programs, and to assure consistency and uniformity in the implementation of the virtually identical DBE statutory provisions, I believe the same DBE regulations that apply to federally assisted highway and mass transit projects should also apply to federally assisted airport improvement projects.

Mr. WILSON. Mr. President, I rise today in support of the conference report on H.R. 2310, the Airport and Airway Safety and Capacity Expansion Act of 1987. Passage of this legislation is crucial to making our skies more safe and our aviation system more efficient.

As a member of the Senate Committee on Commerce, Science, and Transportation, the committee with jurisdiction over the Federal Aviation Administration [FAA], I am proud to report that H.R. 2310 will improve safety in our skies in a number of ways. First, it increases spending for the Federal Airport Improvement Program—funds which are used to expand airports throughout the country. Overall, Federal spending for aviation programs are slated to increase by 70 to 80 percent during the next 5 years due to this legislation.

Second, this bill mandates that the FAA hire an additional 900 air traffic controllers in 1988, this in addition to its previous commitment to hire more controllers. An improved and expanded controller work force is a necessary part of any aviation safety program.

Third, the Senate and House conferees agreed to two provisions, which I coauthored, designed to improve our aviation safety system. The first amendment, which was sponsored by Senator HOLLINGS and cosponsored by Senator DANFORTH and myself, mandates the installation of onboard collision avoidance systems in commercial aircraft—devices which should help prevent tragic mid-air collisions such as those which took place in the skies over San Diego in 1978 and Cerritos in 1986. This provision also requires private general aviation pilots who fly in the Nation's busiest airports to install in their planes automatic transmitting equipment which will inform air traffic controllers of their exact position. The second provision which I proposed dramatically increases the penalties levied by the FAA on air carriers which violate FAA safety regulations. In addition, its strengthens the FAA's ability to prosecute general aviation pilots who, deliberately or accidentally, fly into restricted airspace without proper clearance, or who violate other safety rules.

Overall, Mr. President, I believe that passage of this legislation will vastly improve our aviation safety system. I want to thank Senators HOLLINGS, DANFORTH, FORD, and KASSEBAUM of their tireless efforts to ensure passage of this legislation, and I look forward to continuing to work with them on the Committee on Commerce, Science, and Transportation as we review the FAA and its safety regulations.

Mr. LAUTENBERG. Mr. President, I rise in support of the conference report on H.R. 2310, the bill amending the Airport and Airway Improvement Act of 1982.

Our national aviation system is in need of repair. The margin of safety in our skies has eroded to dangerously thin levels. This bill addresses many of the problems in the system, and puts us on a course toward safer skies.

I would like to commend the conferees for their work on this important legislation. Senators HOLLINGS, FORD, EXON, DANFORTH, and KASSEBAUM have done an outstanding job in ensuring that a strong, effective bill has emerged from conference.

This bill will authorize greater spending on airport development and aviation safety programs. That's a goal I strongly favor. Budgetary constraints make it difficult to provide the level of Federal spending many of us would like to see. As chairman of the Senate Transportation Appropriations Subcommittee, I want to see greater, more effective spending on aviation programs.

There are many important safety provisions in this bill. It increases our commitment to noise abatement, a matter of great concern to residents of my State, New Jersey. It would increase the air traffic controller work force to 15,900 by the end of fiscal year 1988. It directs the Department of Transportation to initiate rulemaking on floatation equipment, seat crashworthiness, and cockpit voice recorders and flight data recorders. I'm pleased to note that last provision was included as the result of an amendment I offered on the Senate floor.

H.R. 2310 also contains a provision this Senator authored to provide the Federal Aviation Administration with access to information in the National Driver Register when evaluating pilots' medical certification applications. The lack of this access is a major safety loophole identified by the DOT inspector general earlier this year, and I'm pleased to see it retained in the conference version of this bill.

This bill also contains a provision encouraging the creation of a regional authority to operate the Atlantic City International Airport. I offered this provision as an amendment to the Senate bill. My distinguished colleague from New Jersey, Congressman HUGHES, offered the same provision to the House bill. This is an important provision that will help ensure that this facility is developed to its potential, and that the region receives the economic benefits of a developed airport.

Mr. President, this is a good bill. It makes important improvements in our national aviation system. I urge my colleagues to support this conference report.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. FORD. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. FORD. Mr. President, I thank the distinguished majority leader.

Mr. BYRD. Mr. President, I thank the distinguished Senator from Kentucky, not only for the hard work he has done but also for his patience and courtesy. He has been here on the floor close to an hour. Notwithstanding the fact that conference reports are privileged, he has time and again yielded to allow other Senators to proceed, which is very good of him.

HOUSING AND COMMUNITY DEVELOPMENT

Mr. BYRD. Mr. President, I understand that this consent request has been cleared, and Mr. ARMSTRONG is here to speak on the matter.

I ask unanimous consent that the Senate proceed to the consideration of House Joint Resolution 427 and that no amendment be in order thereto.

The PRESIDING OFFICER. Is there objection?

Mr. BYRD. I add to the request that there be a time limitation of not to exceed 10 minutes, to be equally divided between Mr. ARMSTRONG and Mr. CRANSTON.

The PRESIDING OFFICER. Without objection, it is so ordered.

The joint resolution will be stated by title.

The legislative clerk read as follows:

A joint resolution (H.J. Res. 427) to provide for the temporary extension of certain programs relating to housing and community development, and for other purposes.

The Senate proceeded to consider the joint resolution.

Mr. ARMSTRONG. Mr. President, the majority leader, in turning to this matter, has asked, with my full approval, for a very short time limit for consideration of this measure. It comes to us almost as an anticlimax, because at one point I thought the consideration of this legislation might be the occasion of a pitched battle over housing policy and whether or not we were going to settle the housing issue for the year and even for the decade, because it has been 7 years since we have had a housing authorization.

It turns out, however, that behind the scenes there is movement. So, once again, we are going to have a temporary extension of the FHA bill. Under the circumstances, I am not going to argue with that, and I do not seek any opportunity to move to make FHA permanent at this time. Clearly, that is where we must go. The idea of having an on again, off again FHA program in this country makes no sense.

This I point out, is the fifth occassion on which we have had a short-term extension of FHA in the past 2 months.

Mr. President, back in the 1930's we had what were known as make-work projects in this country. The FHA extension, the task of periodically considering and extending the FHA Program, is on the verge of becoming a congressional make-work project. Every few days, we call this matter up, vote on it, pass it, send it to the President for his signature. It is a little ludicrous. It is also disruptive of the housing industry, and it denies to some people who whould like to sell their houses an opportunity to do so.

FHA has lapsed over and over again. I hope this will be the last time we temporarily extend the FHA program.

The reason why I have some hope that this will be the last time is that we are on the verge, I think, of getting an agreement that would be broadly acceptable on housing policy. The outline of it is a bill which would be about $3 billion or $4 billion less expensive than the conference report on housing which was considered here and defeated a few days ago; a bill which would contain substantial elements of reform; which would target the new, subsidized Nehemiah program below those in the median income; a bill which would not, as the House would have us do and the conference report would have required, furnish subsidized housing money to persons in the country illegally; a bill which in general is slimmer and less extravagant and better targeted to needy people than the earlier legislation.

It is a bill that is still too expensive for my taste, but that is the nature of a compromise. Maybe it is more expensive than I would like and less expensive than somebody else would like. I am advised that the first reaction of Members of the other body was not favorable to the package which was put together by some of us on this side, to which we have the assent of the President. He has indicated that he would sign such a bill, in contrast to his earlier disposition to veto the conference report originally considered.

I was disappointed when the House said, "No, we're not going to take up this matter and we're not going to parley with you." But the latest weather report from the south end of the Capitol indicates that cooler heads are prevailing; that, in the spirit of compromise and in the spirit of the season, they are at least going to take a look at it.

So I hope that sometime later today, tomorrow, or soon, we will be able to come back with a housing bill. I will explain it more fully at that time. For the moment, may I tantalize my colleagues with the prospect that, for the first time in 7 years, we may be ready to pass a housing bill. I urge all Senators who are in touch with Members of the other body to urge them to pass it. This is the best chance we will have to get a housing bill within the next year or two.

And so it would be a very timely and appropriate thing.

With that word of explanation, Mr. President, I think we are ready to go ahead and pass hopefully for the last time a temporary extension of the FHA program.

The PRESIDING OFFICER. Does the Senator yield back his time?

Mr. ARMSTRONG. I do, indeed.

Mr. CRANSTON. Mr. President, this joint resolution would extend authority for FHA insurance through March 15, 1988. It is needed to give Members of Congress and the administration time to complete action on S. 825, the Housing and Community Development Act, which contains a provision to make FHA insurance authority permanent.

I has hoped that an identical Senate resolution could have been passed yesterday. The House would have then passed it last evening and the shutdown of FHA insurance, which happened at midnight last night, would not have occurred. Unfortunately, when I attempted to move adoption of that resolution on the floor, objection was raised from the other side of the aisle.

The House then went ahead to pass the House resolution that is now before us. I am pleased that we now have obtained unanimous consent to pass it.

However, because of the delay, FHA's authority to insure home mortgages expired at midnight last night.

Although this shutdown of FHA's home mortrgage insurance was unnecessary, we can still minimize any disruption by passing this resolution without delay and sending it promptly to the President's desk for his signature.

Mr. President, there had been concern that an amendment would be offered to this resolution purporting to provide permanent authority for FHA insurance. I strongly support permanent FHA insurance authority, but I am very pleased that such an amendment will not be offered today. It could have served no useful purpose.

Recently, the House leadership reaffirmed the other body's determination to provide permanent FHA authority only in the context of a balanced housing bill. They certainly would not support this resolution with amendment.

Some Senators have disagreed with the House position, but the simple fact is that adoption of an amendment to this resolution today would not have and could not have achieved permanent mortgage insurance authority for FHA.

Permanent authority for FHA will be provided when we enact the Housing bill. We suffered a setback yesterday in our movement toward final passage. But I still think we have a reasonable chance to get a sound bill signed into law this year. And I intend to do all I can to achieve that objective.

That is very important. In every working day, FHA processes about 3,800 mortgage applications. But one application can affect a chain of transactions involving several home sales and home purchases. So every day that FHA is shut down many more than 4,000 homebuyers have their plans disrupted—many of them are forced to incur needless, additional costs.

That is why the major housing organizations are calling strongly for passage of this resolution without amendment.

Mr. President, almost a year ago, when I became chairman of the Senate Housing Subcommittee, I made a commitment to do all I can to get permanent authority for FHA enacted into law. That is why I have been working hard for the enactment of a responsible Housing bill. We now are close to achieving that objective and putting FHA on a stable footing.

I therefore thank my colleagues for permitting this resolution to pass without amendment.

The PRESIDING OFFICER. The question is on the third reading and passage of the joint resolution.

The joint resolution (H.J. Res. 427) was ordered to a third reading, was read the third time, and passed.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. ARMSTRONG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The majority leader.

Mr. BYRD. Mr. President, I thank the distinguished Senator from Colorado, [Mr. ARMSTRONG].

How much longer will the Senate be in morning business?

The PRESIDING OFFICER. The time for morning business has expired.

EXTENSION OF MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that the time be extended for 10 minutes and that Senators may speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from North Dakota.

THE ECONOMY

Mr. CONRAD. Mr. President, the headline in the Washington Post this morning on the front page was quite remarkable. The headline read "Study Warns of Economic Collapse."

The lead paragraph reads:

> The global economy faces a collapse not equaled since the Great Depression of the 1930s if the major nations fail to take quick and drastic steps to cut the U.S. trade deficit and equivalent surpluses in Europe and Asia, 33 leading economic experts warned yesterday.

Who are these experts? These experts are former Government officials from the United States, Japan, Germany, and Mexico, and includes two Nobel award-winning economists. Their assessment was unanimously grim in terms of our economic future.

They said the November agreement between the White House and Congress for an American budget reduction package was grossly inadequate and called for an additional $40 billion of deficit reductions in each of the next 4 years designed to slice domestic demand by 1-to-1½ percentage points in each of these years.

At the same time, they said that Europe and Japan should take steps that would boost their domestic demand.

Their report concluded by saying that unless we make this move, we are faced with a potential of a serious recession not only in this country but worldwide.

This report reflects my concerns. I have said and joined with others over and over to urge my colleagues to take on greater deficit reduction this year, next year, the year after until we get the deficit down.

The news media of this country has not served us well. The news media of this country has reported over and over that the budget summit has agreed to $79 billion of deficit reduction over the next 2 years.

Mr. President, I was just home this last weekend. I went from town to town. I visited with the people of my State, and I asked them, "When you read in the paper and you hear television reports and radio reports that say we are going to be reducing the deficit $79 billion over the next 2 years, what do you conclude?" And without exception they said to me, "Senator, we conclude that 2 years from now the deficit will be $70 billion less than it is today."

Not so.

They were mighty surprised, when I told them the deficit will not be reduced by one nickel 2 years from now from what it is today. That is the sad reality. We have almost achieved George Orwell's 1984, "War Is Peace, Love Is Hate"; we are reducing the deficit.

The $79 billion of deficit reduction that has been reported over and over to the people of this country is not compared to what the deficit was last year. Instead, it is compared to what people project the deficit will be 2 years from now. In fact, those who participated in the budget summit, their own estimates say that if this is the plan we adopt the deficit will be almost identical 2 years from now to what it is today.

The reality is we are increasing spending $52 billion in this next budget cycle if we adopt the proposal that came out of the budget summit. That is a proposal that is now in conference committee that will be coming back to the floor.

Contained in this agreement in the midst of these budget deficits is a tax cut of some $9 billion for individuals. At a time of massive budget deficits, we will be giving a tax cut averaging $4,500 for people earning over $200,000 a year. I submit that makes absolutely no sense in the midst of the budget crisis which we face.

It is not just on the taxing side that it makes no sense. As I have indicated, we will be increasing spending $52 billion. But over and over people are also being told we are cutting military spending in this package by $5 billion.

I asked the people at home in the series of meetings I have just concluded, "When you read that we are cutting military spending by $5 billion, do you conclude that that means we will be spending $5 billion less than last year?" And without exception, that is precisely what they conclude.

Mr. President, we know better. In fact, we will be increasing military spending by $12 billion over what we spent last year.

There is no way in my judgment we are going to be able to solve this problem or even begin to meaningfully address the budget deficit problem without talking straight to each other and to the American people. There is no way that we can talk about deficit reduction that is not really deficit reduction without misleading people. But that is what we are doing.

I am sure there are some who are thinking, "I just saw Senator CONRAD on the floor yesterday opposing cuts in farm target prices. This fellow seems to be contradictory. On the one hand, he is calling for deficit reduction. On the other hand, just yesterday he was opposing further cuts in farm target prices."

Mr. President, there is no contradiction. The fact is farm target prices are scheduled to go down 10 percent over the next 3 years. That is already provided for. Agriculture already took its hit in the 1985 farm bill. Agriculture's spending will be going down $11.5 billion over the next 3 years and those are not cuts off of a projection. Those are reductions from the spending levels of last year. Those are real cuts.

Agriculture is willing to take its share. But I would submit agriculture took its share in the 1985 farm bill. We had scheduled reductions and now this administration came into the summit conference and said we want agriculture to take even deeper reductions, not only a 2-percent cut in target prices this year and 3 percent the next and 5 percent the next, but we want you to take an additional 5-percent cut this year.

That results in agriculture which represents less than 3 percent of Federal spending being asked to take 10 percent of the cuts. That is not fair.

Let me just put in context the article which appeared in today's Washington Post, put in context what is happening in our economy.

In just the last 7 years, we have tripled the national debt.

At this point, Mr. President, perhaps I could inquire how much time is remaining.

The PRESIDING OFFICER. The Senator from North Dakota has 1 minute remaining.

Mr. CONRAD. I ask unanimous consent for an additional 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CONRAD, Again, I would just like to put in context what is happening to us in this country.

As I said, in the last 7 years, the national debt has tripled. We have gone from less than $800 billion of debt to $2.4 trillion today. We have a sixfold increase in our trade deficit and, for the first time since 1914, we have become a debtor nation.

Mr. President, these things have occurred because of an economic policy out of Washington, DC, that simply makes no sense. And now we have the warnings of the results of the fiscal folly of the last 7 years. I hope that in the next year we will turn our attention to new steps to reduce budget deficits, to reduce trade deficits, and get this economy back on track. If we do not, the failure will be enormous.

Other steps are available—new ideas, things that we have thought of but not implemented. One of them is burden sharing.

For the last 40 years, our country has provided the defense umbrella for our friends in Europe and Japan. That currently is costing us over $100 billion a year—$100 billion a year. That may have made sense after World War II when Japan lay in ruins and Europe was flattened.

I think we must ask ourselves: "Can we afford to continue to provide the defense umbrella for our friends in Western Europe and Japan when their economies are resurging, they are strong economically and enjoying tremendous trade surpluses with this country?" I think the conclusion is clear. We simply cannot. It is time to ask our friends in Japan and Western Europe to take on their fair share of the defense burden.

Mr. President, one other idea that I think deserves full attention in the next Congress is what I call a fair share approach to revenue. We are losing $100 billion a year in tax revenue that is owed but is not being collected—$100 billion a year. The California Institute of Technology just completed a study that said if we had the same rates of audit in 1985 that we had in 1977, we would have collected $47 billion more in 1 year—$47 billion more in revenue, with no tax increases, not a nickel of tax increase, but collecting what is owed.

I am a former tax commissioner. In my State, we put into effect a fair-share program to assure those who honestly pay their taxes that everyone else is paying theirs. We received $14 for every $1 invested.

Since I have been in the Senate, I have met with four of the previous revenue commissioners of this country. And I have asked each of them: "Is there any reason that we could not have an enforcement operation nationally that would give us the same kind of return that we experienced in my State?" And, without exception, the answer was, "No, there is no reason that we could not aggressively attack this tax gap and generate rather substantial new revenues without a tax increase."

Mr. President, I want to conclude by simply saying we are threatened in this country. There is no greater threat than our economic vulnerability. Not only are we threatened, but the world economy is threatened, and it is threatened by a set of economic policies that did not add up, that did not make sense, and that we still have not addressed.

So, I am very hopeful that, in the next session, we will aggressively turn our attention to the greatest challenge of our time—the dificits of budget and trade that threaten our future.

I ask unanimous consent to have printed in the RECORD the Washington Post article of this morning.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Dec. 17, 1987]

STUDY WARNS OF ECONOMIC COLLAPSE—TRADE IMBALANCES SEEN AS BIG DANGER

(By Hobart Rowen and Paul Blustein)

The global economy faces a collapse not equaled since the Great Depression of the 1930s if the major nations fail to take quick and drastic steps to cut the U.S. trade deficit and equivalent surpluses in Europe and Asia, 33 leading economic experts warned yesterday.

That danger, they said, was signaled by the stock market collapse around the world in October and by an earlier plunge of the U.S. bond market.

The economists' conclusions were contained in a report issued here by the Institute for International Economics and simultaneously published by eight other international research centers.

The economists said Americans would have to accept a sharp cut-back in personal consumption in the years ahead so that more U.S.-made goods could be shipped abroad to reduce the trade deficit.

As this somber forecast was issued, the Reagan administration was nearing completion of its official estimates for economic growth next year, lowering its prediction by about 1 percent point to reflect the impact of the October stock market collapse.

A group of administration economists at the sub-Cabinet level has compiled several predictions of inflation-adjusted growth for 1988 ranging from about 2.4 percent to about 2.7 percent, officials said, compared with a 3.5 percent forecast issued last August. The administration's bi-annual economic forecasts are closely watched as measures of the president's success in achieving his goals.

The three Cabinet members responsible for making the final recommendation to the president—Treasury Secretary James A. Baker III, Budget Director James C. Miller

III, and chief White House economist Beryl W. Sprinkel—will probably choose a figure within that range, the officials said. The forecast is expected to be released early next week.

Such a forecast wouldn't be far above the average estimate of private economists. The Blue Chip Economic Indicators, a widely used consensus of private forecasts, is currently projecting 2.0 percent growth for 1988.

Officials stressed that new developments could lead Baker, Miller and Sprinkel to choose a growth figure higher or lower than the range recommended by their top economists. They cited as one such development the recent slide in world oil prices, which they described as highly favorable.

In general, administration officials said, the economy presents a particularly confusing picture right now. "You're buffeted by diametrically opposed economic advice," one official said. "Anything you predict or do stands to be wrong, more than any time I can think of."

But the assessment of the group of 33 international economists, which included two Nobel award winners and former high-ranking government officials from the United States, Europe, Japan and Mexico, was unanimously grim.

Specifically, the economists warned that a new meeting of the Group of Seven finance ministers and central bankers—reported likely to take place next month—would be futile and even counterproductive "unless more decisive action is taken to correct existing imbalances at their roots."

They said the November agreement between the White House and Congress for an American budget reduction package was "grossly inadequate," and called for additional $40 billion deficit reductions in each of the next four years, designed to slice domestic demand by 1 to 1.5 percentage points in each of these years.

That step, "the most critical single requirement," would free up resources that would be used to expand exports, reversing the experience of the past four years, when gross national product was growing at about 2.5 percent but domestic demand was expanding by about 4 percent, sucking in imports, the report said.

Europe and Japan, meanwhile, should take steps that would boost their domestic demand by about the same amounts, notably to stimulate investment: "The [European] Community, as a group, could temporarily swing into external deficit for a period, reimporting some of the domestic savings that have flowed abroad so as to be able to finance the investment needed at home to reduce unemployment," the report said.

The United States' goal should be to cut its trade deficit by $150 billion to $200 billion by 1990—avoiding protectionist measures—with corresponding surplus reductions of $70 billion to $100 billion for Japan, $50 billion to $70 billion for Europe and $30 billion for the newly industrializing nations (NICs) in Asia, particularly Taiwan and South Korea.

The report counseled against trying to stabilize exchange rates now, suggesting that it would merely be repeating what the economists regard as a mistake made at the Luvre Palace last February, when six of the seven major nations pledged to hold rates at "around [then] current levels."

If the suggested steps were taken, the economists predicted that the dollar would decline to about 115 yen and 1.45 West German marks.

But the report warned that if the major nations do not reduce international imbalances, the dollar "could fall a lot further, and attempts to prevent it from doing so would be fruitless."

Such a plunge—"by increasing inflation in America and the threat of recession elsewhere, and further undermining confidence in the world's key currency—could lead to a financial crisis and a serious world recession.

"Indeed, it is particularly because of these dangers that we believe the national measures described . . . are so greatly in the interests of both the countries concerned, and the world economy as a whole," the report said.

Stephen Marris of the Institute for International Economics, one of the authors of the report, said that this "directly refutes the view of a number of American economists that all you need to do is to let the dollar go down. The important point in addition to that is that the group is saying that 'leaving it to the market' will lead to disaster."

Several of the participants in the study acknowledged at a Washington news conference that since it is unlikely that such major steps as steeper U.S. budget deficit reduction and a faster, simultaneous expansion in all leading European countries will be taken in time, the probability is that market forces—including a further unwelcomed decline in the dollar—will bring on a recession.

"The main danger today is that failure to correct these [trade] imbalances could lead to a serious world recession," the report said.

C. Fred Bergsten, director of the institute, said European participants were especially vigorous in urging strong action by West Germany, and other European countries to shrink their international surpluses.

"There was a strong feeling that West Germany has become a major brake on growth in Western Europe," said Marris, former economic adviser to the Organization for Economic Cooperation and Development. He said 80 percent of the increase in the West German trade surplus since 1983 has come at the expense of other European countries.

The economists, who met here Nov. 23 and 24, represented a range of political and ideological viewpoints, and included the two Nobel award winners—Lawrence B. Klein of the University of Pennsylvania and Franco Modigliani of the Massachusetts Institute of Technology—as well as a number of former high government officials.

Among the others were Marris; the dean of West German conservative economists, Herbert H. Giersch; former Japanese foreign minister Saburo Okita; Jesus Silva-Herzog, former minister of finance of Mexico; Rudolph Penner, former director of the Congressional Budget Office; Paul McCracken, chairman of the Nixon administration's Council of Economic Advisers; Richard O'Brien, chief economist of the American Express Bank in London; Rimmer de Vries, senior vice president, Morgan Guaranty Trust Co.; and Isamu Miyazaki, former vice minister of Japan's Economic Planning Agency.

BURDEN SHARING

Mr. CONRAD. Mr. President, I am pleased that the conferees on H.R. 1777, the State Department authorization bill, included the Conrad-Sasser amendment with respect to allied burden sharing. I thank the members of the conference committee and the distinguished chairman of the Senate Foreign Relations Committee, Senator PELL, for their efforts in this regard.

The language reported by the conference committee is nearly identical to the original Conrad-Sasser amendment attached to the authorization bills for the Department of State and Department of Defense. The Senate spoke clearly when it attached the amendment to the DOD authorization bill by a vote of 90 to 4 and the State Department authorization bill by a voice vote. These votes send a strong signal to our allies that the United States is serious about achieving a more equitable division of the costs of defending our alliances.

Forty years after the end of World War II, America can no longer afford to provide the defense umbrella for our allies in Japan and Western Europe. The economies of Western Europe are strong and the economy of Japan is robust. The nations devastated by World War II now compete aggressively against the U.S. economy. Meanwhile, the U.S. budget deficit has mushroomed, our trade deficit has skyrocketed, and real interest rates are at near record levels.

The world has changed dramatically since the end of World War II, and there must be a commensurate change in the way in which defense burdens are shared between our allies. Indeed, our allies recognize that they must do more. As Jean-Pierre Bechter of the French Parliament's National Defense Committee asked recently, "Do you think 320 million Europeans can continue forever to ask 240 million Americans to defend us against 280 million Soviets?" The Japanese have also tacitly acknowledged the inequity of the status quo by increasing their defense spending above 1 percent of GNP for the first time since World War II.

As I have indicated before, the greatest danger to America's alliances does not spring from diminished American military capability, but rather from American economic vulnerability. Given the gravity of the Federal budget deficit, the enormous potential for decreasing U.S. defense expenditures abroad, and the growing public awareness of this issue, the time is right to lay the foundation for further congressional action on this issue. The amendment incorporated in the conference committee report urges the President to enter discussions with our allies for the purpose of reaching an agreement on a more equitable distribution of the burden of financial support for the alliances. Moreover, the amendment calls upon Congress to review the progress of the discussions at the end of 1 year, and, if, in the judgment of the Congress, the President's report does not reflect substantial progress, the Congress should consider whether additional legislation is appropriate.

The Congress has enacted similar amendments before without significant responses from the executive branch. It is time to send a clear message to the President and to our allies that mutual defense costs will be shared equitably. I look forward to revisiting this issue in the future so that meaningful steps can be taken to assure a more equitable distribution of the costs of defending our alliances.

RECESS FOR 30 MINUTES

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess for 30 minutes.

There being no objection, the Senate, at 1:36 p.m., recessed until 2:06 p.m.; whereupon, the Senate reassembled, when called to order by the Presiding Officer [Mr. DIXON].

MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that there be a period for morning business not to extend beyond 30 minutes and that Senators may speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

JAPANESE SECURITY EFFORTS

Mr. ROCKEFELLER. Mr. President, last month Yasuhiro Nakasone stepped down after having served 5 years as Japanese Prime Minister. His successor, Noboru Takeshita, will make his first official visit to Washington next month. This leadership change in Japan, coupled with the current instability in the world economy, makes this a particularly appropriate time to reflect on the relationship between the United States and Japan.

With a cumulative trade deficit of roughly $225 billion with Japan over the last 5 years, trade tensions have understandably dominated United States-Japanese relations. And the events of Black Monday assure that the entire economic agenda—trade, fiscal, monetary policy—will continue to be the most urgent issue facing our two countries. But, as important as the economic agenda is, we should not let it obscure other aspects of the relationship, a relationship fundamentally important to both countries but also to the entire world.

Today I would like to speak to the security dimension of the United States-Japan partnership. While trade friction between our two countries has grown significantly over the last several years—and in spite of the fact that Japan continues to spend significantly less on defense as a percentage of GNP than the United States or NATO allies—the level and quality of cooperation on security matters has never been better.

Much of the credit for strengthening security relations between our two countries is in fact due to former Prime Minister Nakasone. He brought extraordinary vision to the management of Japanese foreign and security policy at a very critical time in Japan's modern history. Prime Minister Takeshita's considerable political skills provide a unique opportunity to consolidate his predecessor's gains in these foreign policy and security areas, and in fact to build on those gains.

To American observers, the evolution of a more defense-minded consensus with Japan has moved at a snail's pace. But by Japanese standards, the Nakasone years have seen an impressive shift in terms of Japanese attitudes toward military questions. During Prime Minister Nakasone's first official visit to the United States in January 1983, he deliberately referred to the importance of the alliance with the United States. It would seem to be a very benign turn, the word "alliance", which caused great consternation and great controversy in Japan when Prime Minister Suzuki used the term "alliance" only 2 years before. In 1981, Mr. Nakasone went even further in stressing the importance of Japan's role in the strategic make-up of Asia when he referred to his country as "an unsinkable aircraft carrier."

The commitment to strengthen Japan's alliance with the United States was given real substance in 1983 when the Nakasone government agreed to a defense technology sharing agreement with the United States—the only such case of Japanese export of defense materiel or know-how. In May of his first year in office, Prime Minister Nakasone signed the Williamsburg Summit Declaration stating that Western security is "indivisible and must be approached on a global basis," thereby firmly identifying Japan for the first time as a full-fledged member of the Western security system.

These statements of principle were met with opposition within Japan, but Prime Minister Nakasone continued to stress the importance of a more responsible and effective security policy. The defense budget was increased significantly during his term in office—at a time when every other budget, that is, foreign aid, item—with the exception of overseas development assistance—was either stagnant or undergoing real cuts. Nakasone's unwavering commitment to fulfill the 5-year defense program for 1986-90 led last year to exceeding Japan's 1976 policy guideline that defense expenditures be limited to 1 percent of GNP. For the period 1982-86, the Japanese defense budget has increased by an annual average of 5.6 percent in real terms—compared with a United States average annual increase for the same period of 6.2 percent and 1.8 percent for NATO Europe.

So let those figures be understood.

Although Japan spends proportionately much less on defense than does the United States, it has the sixth largest military budget in the world—the second largest of the nonnuclear powers—just behind West Germany. This represents a very sizable military force—more than many Americans realize. Japan now deploys more tactical aircraft than United States forces in all of Asia; it has nearly twice as many destroyers as the United States 7th Fleet. Pentagon officials predict that by 1990 Japanese defense spending will overtake British and French military budgets, putting it in fourth place in the world in terms of overall defense spending.

The Japanese 5-year defense plan provides for procurement of a wide range of military systems, including 50 P-3C antisubmarine warfare patrol aircraft, 63 F-15 fighters, 7 C-130 transport aircraft, as well as 6 Patriot air defense missile squadrons, 9 destroyers, and 5 submarines. The current Japanese "Defense White Paper" calls for further modernization of air and naval defenses through the acquisition of over-the-horizon radar, airborne early warning aircraft, the Aegis shipboard air defense system, and other "state of the art" defense systems.

Completion of the current 5-year defense plan will enable Japan by 1990 to assume responsibility for sea lane defense 1,000 miles from Japan's home islands, and from Japan's borders. This functional division of labor is particularly significant as it will provide needed flexibility for the United States 7th Fleet operating in the Western Pacific. The ability of United States and Japanese Armed Forces to operate together has been greatly enhanced by an impressive increase in the number of joint exercises and defense planning studies conducted by our two countries. This has been made possible in large measure through Prime Minister Nakasone's advocacy of a broad interpretation of the Japanese Constitution—a Japanese constitution which Douglas MacArthur and the United States gave to Japan to allow Japanese forces to defend not only Japan which was the original purpose, but also United States military forces operating outside Japanese territorial waters in the defense of Japan.

Tokyo also has recently agreed to the deployment of two squadrons of United States F-16's at Misawa and to contribute financially to the costs of maintaining this enhanced deterrent to growing Soviet air power in the Northwest Pacific. In addition, the

Japanese Government is planning to increase further the roughly $2 billion it currently provides to offset the cost of United States forces deployed in Japan. I want to make my point on this, Mr. President. At $35,000 for every American soldier, sailor and airman stationed in Japan, this is a much higher level of host nation support than provided by any of America's NATO allies.

While striving to improve incrementally Japanese self defense forces, the Nakasone government has also led the way in increasing the level of foreign assistance provided by Tokyo. The overseas development assistance [ODA] budget has consistently been increased during the Nakasone years. The United States is the non-Communist world's largest provider of foreign aid, and we all know that—Japan is now the second. Last year, the Nakasone government announced that it would double its foreign aid budget—now approximately 0.35 percent of GNP—by 1990. It is expected that by the early 1990's, Japan will surpass the United States as the free world's largest provider of foreign assistance.

Japan's foreign aid program is becoming more oriented toward non-Asian countries and less tied to trade. Japan provides $350 million in annual assistance to the strategically vital Philippines. Tokyo is the second largest donor to Pakistan and provides critical aid to Egypt, Turkey and many countries in the Western Hemisphere. Through a more active foreign aid program, Japan is increasingly playing a key role in development and stability in areas of common concern. While this is not a direct military contribution of Western security, it is clearly a step toward a greater international role for Japan in promoting global stability.

Another indicator of how far Japan has moved on security matters during the Nakasone years is reflected in the shifting views within the major opposition party—the Japanese Socialist Party [JSP] has undergone an adjustment over the last several years from a party which stridently opposed the very maintenance and legality of Japanese self-defense forces to a more centrist party on security issues. The newly-elected head of the JSP traditionally visits the Soviet Union or China before any other country. The current leader, Takako Doi, visited the United States first. During my meeting with her, I was impressed by the changed attitudes in the JSP on foreign policy issues.

Clearly, the willful sale of militarily sensitive technology to the Soviet Union by the Toshiba Machine Corp., has contributed to public concern in the United States about Japan's commitment to Western security. There is no doubt about that. But the Japanese Government has moved rapidly and firmly to put in place tough new laws on illegal technology diversion—laws which are tougher in most cases than our NATO allies have on the books. And during the October visit to Washington of former Japanese Defense Agency Chief Yuko Kurihara, it was agreed that Japan will build additional antisubmarine surveillance ships to be equipped with SURTASS detection systems as partial compensation for the damage done to Western antisubmarine warfare capability resulting from the Toshiba sale.

The lack of early Japanese support for the increased United States naval presence in the Persian Gulf also has aroused a sense of resentment in the United States toward Japan. The very country most dependent on Persian Gulf oil was providing no support at all for our efforts in that region. Yet after prolonged debate within Japan, the Nakasone government announced that it would provide a sophisticated navigation system to aid all gulf shipping to avoid mines in the Persian Gulf. It also signalled its intent to increase even further "host nation support" for United States forces in Japan, as well as a willingness to contribute to U.N. peacekeeping forces in the gulf and to provide increased aid to Oman and Jordan. Japanese diplomats have been very actively engaged in bilateral and multilateral efforts to bring the Iran-Iraq war to an end.

Most importantly, Prime Minister Nakasone indicated in a speech to the Diet in August that article 9 of the Japanese Constitution—interpreted to restrict Japan's forces to self-defense purposes only—does not proscribe Tokyo's ability to send naval minesweepers to the Persian Gulf. That is what the Prime Minister said to the Diet in August. While the Nakasone government had no intention of sending minesweepers to the gulf, yet another political and psychological barrier to a more assertive role for Japan has been broached through the vigorous leadership of the Prime Minister.

And finally, Mr. President, the recently announced Japanese decision to forego development and production of an indigenous air-defense fighter replacement for the F-1 must be seen as a positive contribution to United States-Japan relations and sound defense policy. While pressure was strong from Japanese industrialists to proceed with a domestic fighter, Prime Minister Nakasone withstood this pressure in favor of the less-costly option of joint development of an advanced version of the United States F-16.

Had Tokyo proceeded to develop an indigenous fighter, it would have sent an extraordinarily negative message on their willingness to deal responsibly with the trade problems in our relations. But it also would have sent a negative message about Japan's commitment to bolstering its own self-defense: To squander billions on development of an indigenous FSX might have helped some sectors of the Japanese economy, but it surely would have represented a waste of scarce defense resources. The decision to proceed with joint development of an advanced F-16 is good news for Japan's defense and for our mutual relations. A potentially divisive point of confrontation has been turned into an opportunity to expand United States-Japanese technology exchange and defense cooperation.

Mr. President, our twin budget and trade deficits have caused increasing numbers of Americans to focus on our surplus in defense expenditures for Western security: The United States—in spite of our severe economic problems—continues to subsidize other nations' security and economies by providing a far greater proportion of national wealth to defense than our allies. And Japan is perceived by many critics as a double culprit: Enjoying the single largest bilateral trade surplus with the United States while contributing the least of America's allies to the common defense.

The Senate on three separate occasions has recently expressed by overwhelming margins its concern over the issue of more equitable sharing of the common defense burden among industrial democracies. Senator CONRAD'S amendment to the fiscal years 1988 and 1989 Defense authorization bill called upon the President to enter into negotiations with our allies with an eye toward increasing their share of GNP spent on defense. Senator MCCAIN'S amendment to the same bill urged Japan to increase by tenfold the level of overseas development assistance provided by Tokyo as a nonmilitary contribution to a more stable and secure world. And during consideration of the fiscal year 1988 State authorization bill, the Senate passed an amendment by Senator MELCHER calling upon our allies to share on a pro rata basis the costs of defending the free passage of oil in the Persian Gulf. Similar concern on burden-sharing has been expressed in the House of Representatives—most notably Representative PAT SCHROEDER'S proposal for a "Defense Protection Fee."

I believe that Japan must do a great deal more to contribute to global development and security than it now does. It is an economic superpower—and must begin to match that global economic success with commensurate political responsibilities. But while Americans are right in arguing for a more balanced relationship, we should not neglect to note the important strides that have been made in the last several years—nor ignore the realistic limits of what can be accomplished in the future.

Prime Minister Nakasone, throughout his 5 years in office, often moved Japan forward on foreign and security policy by taking positions that were well ahead of public opinion at the time. Building on some of the groundwork laid by his predecessor, Zenko Suzuki, Nakasone left office with a record of solid achievements. Prime Minister Takeshita has already indicated that he intends to continue the foreign and security policies established under Nakasone.

But there are very real political limits within Japan as to how far and how quickly Nakasone, Takeshita or any national leader might go in pursuing a more assertive foreign policy. This limitation is compounded by the real concerns of Japan's Asian neighbors about Japanese rearmament. These are not convenient excuses for doing less than Japan should, but are very real political facts of life in Japan and in East Asia.

Nonetheless, within these limits a great deal more can and should be done on the part of Japan. To begin with, it is critical that Japan continue at a minimum to fulfill the guidelines established in the 5 year defense plan. Takeshita and his new Defense Agency Director Tsutomu Kawara have pledged to do this. The ability of Japan's Self Defense Forces to carry out their assigned roles could be further strengthened by speeding up development of critical systems, such as the FSX, as well as improving the sustainability of Japanese forces in order to make them a more credible military deterrent.

Although the 1983 United States-Japan technology sharing agreement provides an opportunity for Japan to contribute more to common defense efforts, there has been little technology transfer to date. Both sides need to breathe new life into this agreement. Cooperative development of FSX technology and strategic defense technologies are two areas in which greater cooperation may be actively pursued.

It has been reported that Prime Minister Takeshita during his Washington visit next month will announce that Japan intends to increase its contribution to the cost of supporting the 50,000 United States forces based in Japan from the current level of $2 billion. I hope that that happens. This additional indirect support would raise Japan's share of the cost of Japanese workers at United States bases and would be a welcome gesture toward more equitable cost-sharing. Prime Minister Takeshita, however, should make clear that additional Japanese cost-sharing contributions not come at the expense of modernizing the Japanese Self Defense Forces. In other words, that host nation support should not come out of Japan's self defense budget.

In a broader context, Japan should be prepared in the future to act in accord with its stated policy of support for Western foreign policy interests. Through Prime Minister Nakasone's efforts, the door has been opened toward the prospect of a Japanese "defensive" presence in the Persian Gulf. While Japan has no current intent of deploying naval forces in the Gulf, as a result of Nakasone's position it should no longer automatically be assumed that Japan will sit on the sidelines during international contingencies involving the security interests of the industrial democracies.

The opportunities to contribute a greater share to Western security efforts are perhaps greater in the nonmilitary sphere. Japan has already signalled its intent to increase overseas development assistance, as I have indicated. This effort should be accelerated and conducted with a view toward providing grant assistance to strategically critical areas—without reference to expected trade benefits, the traditional rationale for such aid. Japanese loan aid to Manila, for instance, could be converted into grant aid. Prime Minister Takeshita's offer of $2 billion in economic and development aid this week at the ASEAN summit is a very encouraging indication of Tokyo's increased awareness of the need to do more in this area.

One area in which Japan continues to act solely on the basis of economic self-interest is its observance of the Arab embargo on trade with Israel. Reversal of this blatantly self-interested and unjustifiable policy is long overdue. Japanese willingness to take responsible positions on difficult international questions would enhance Tokyo's image in the United States and the West and serve to diminish recrimination over the burden sharing issue. Japanese refusal to adhere to a trade embargo against Iran reflects a similarly shortsighted approach to national self-interest.

Mr. President, one of the greatest sources of trade friction between the United States and Japan has been the perception that Japan, while benefitting enormously from the Western trading system, has been reluctant to accept the reciprocal responsibilities which allow that system in fact to thrive. Perhaps to an even greater degree, Japan has during the postwar period reaped the benefits of the Western security system. The demands that Japan shoulder a greater share of responsibility in the economic sphere will increasingly be matched by similar demands in the security domain.

A great deal of progress on security questions has been made in Japan over the last 5 years. Prime Minister Nakasone has provided resolute leadership at a critical period in postwar Japan in moving his country toward greater acceptance of its international responsibilities. But much remains to be done. It is now up to Noboru Takeshita's government and responsible leaders in Washington to build on the Nakasone government's efforts over the last 5 years—and not allow differences over economic and trade policy to impede further strengthening of the security relationship.

Mr. NUNN. Mr. President, will the Senator yield?

Mr. ROCKEFELLER. I yield the floor.

Mr. NUNN. Mr. President, I have had an opportunity to work with the Senator from West Virginia and to discuss with him his views and his expertise on the role of Japan in trade matters, economic matters, national defense matters, foreign assistance matters, and foreign policy matters. I have read his speech very carefully.

I have to attend a meeting of the Intelligence Committee; they are about to vote on a matter, and I have to take part.

I commend the Senator for his very positive and constructive role in making this presentation to the Senate and, more important, in staying very closely in touch with developments in Japan, certainly our most important security partner in that area of the world and our most important trading partner in that area of the world, and certainly one of the leading nations in the world.

The Senator from West Virginia has presented a very balanced approach. There are a lot of people in Congress who are concerned about the role the Japanese are playing. While there are reasons from time to time to be critical, particularly in the trade and economic areas, and while many of us are impatient as to some of the Japanese cultural barriers that prevent them from moving vigorously in certain areas and as timely as we would like, I think it is important for Congress and the Senate in particular to keep a balanced view of what this economic giant is doing and this friend of the United States is doing.

The Senate from West Virginia has played an important role in pointing out that balance, pointing out that there are significant improvements that have been made by the government that is departing office in the next few days, and pointing out the challenge to the next Japanese Government, as well as the importance of our two nations working together in economic, trade, and national security matters.

Mr. President, I congratulate Senator ROCKEFELLER for his insightful statement on Japan's security efforts. I welcome his constructive contribution to the ongoing discussion of this issue and hope that he will continue to be actively involved in legislation affecting our relations with Japan. My brief comments today will simply reinforce the broad message of Senator ROCKEFELLER's statement.

During the 5 years in which Mr. Nakasone served as Prime Minister, Japan strengthened its contributions to Western security. Senator ROCKEFELLER has enumerated the various changes in Japan's policies and spending that have promoted Western stability. I would point out that some of these initiatives could have been undertaken more quickly, although I think that the pace of Japanese decisonmaking has been more of a problem in the area of trade. Nonetheless, Prime Minister Nakasone's government did make some difficult decisions that should be recognized and encouraged.

Now that a new government is leading Japan, I urge it to sustain the progress that has been generated and maintained for several years. Despite domestic and regional constraints that preclude dramatic increases in its defense spending and roles, Japan can steadily continue to build the military capabilities necessary to defend its territory and the air and sea lanes out to 1,000 miles.

An especially promising area in which Japan can further enhance its security role is overseas development assistance. Although Japanese spending on foreign aid is already scheduled to double by 1990, further substantial increases could be achieved. More importantly, the effectiveness of Japan's overseas development assistance could be greatly improved by making more of it available without conditions and by facilitating its delivery to strategically important countries in East Asia, the South Pacific, the Middle East, and Latin America. Of course, beyond Japan's official overseas development assistance is the tremendous pool of private earnings that are available to be recycled into investments. I encourage the Japanese Government to continue its efforts to direct much of these investment funds into important projects in developing countries. The combination of private investment and official foreign assistance offers Japan a powerful tool for contributing to the security of Japan and the broader Western family of nations.

In conclusion, Mr. President, I would like to cite some advice from the U.S. Ambassador to Japan, Mike Mansfield. In a recent interview with the National Journal, he was asked for the single most important piece of advice that he would give his successor. Ambassador Mansfield answered:

> Just treat them as you would like to be treated. I think it paid dividends in the Senate, and I think it's paying dividends out here. It's a question of mutual respect and a recognition that we have established the most important bilateral relationship in the world . . . We ought to quit finding so much fault and express appreciation of the things which we each have done on behalf of each other. In many respects, we hold in our hands jointly the future of the Pacific Basin—which could well determine over a period of time the future of the rest of the world as well.

Ambassador Mansfield's commonsense call for mutual respect seems to me to be especially appropriate for the security relations between the United States and Japan. Although our two countries will certainly disagree from time to time, we should remember to keep those disagreements in perspective. The statement that Senator ROCKEFELLER has made today is a constructive and balanced example of that kind of approach.

I thank the Senator for his splendid leadership in this important area, and I look forward to continuing to work with him.

Mr. ROCKEFELLER. I thank the Senator from Georgia for his remarks. I am grateful that the Senator, who is, after all, preeminent in these matters, took the time to comment on my remarks. Of course, his views are listened to carefully by all.

Mr. NUNN. It is my understanding that the Senator from West Virginia went to school for awhile in Japan. I know he has visited there, and he follows developments there probably closer than anybody else in this body.

Mr. ROCKEFELLER. I thank the Senator.

SALUTE TO THE 388TH AND 419TH

Mr. HATCH. Mr. President, with great pride, I submit for the RECORD the Gunsmoke '87 official results and an article from the Air Force Times on the Gunsmoke competition at Nellis Air Force Base. I congratulate the commanders and members of the 388th Tactical Fighter Wing and the 419th Air Force Reserve Tactical Fighter Wing, and special congratulations are in order for Maj. Danny Hamilton, the meet's top gun. Both fighter wings and Major Hamilton are from Hill Air Force Base, UT. The members of the 388th and 419th have proven beyond a doubt that America's tactical air forces are mission ready and air superior.

The 388th and 419th, by taking first and second place respectively and by producing the meet's top gun in the recent Nevada Gunsmoke competition, have proven to rank among the best fighter wings in the country. The soldiers of these units outgunned the best of the best in America's tactical air forces; the 419th for the second time in as many years. The comraderie that these respective units have developed in these competitions will benefit the Air Force for years to come. The leadership of the 388th and 419th is especially commendable. These units certainly are exemplary of the Air Force's proud history and tradition. Utah and America appreciate the dedication to duty and commitment to excellence exhibited by the members of the 388th and 419th.

May God bless the 388th, 419th and all American Armed Forces personnel and bring them home safely from every mission.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Air Force Times, Nov. 2, 1978]

388TH TFW KEEPS GUNSMOKE CROWN AT HILL

NELLIS AFB, NEV.—For the second straight Gunsmoke, an F-16 wing from Hill AFB, Utah, took top overall honors.

But the title still changed hands.

The 388th Tactical Fighter Wing was the overall winner among 18 teams entered in the latest edition of the Air Force's worldwide tactical fighter gunnery meet. The defending champions, Hill's 419th TFW (AFRes.), came in second and produced the meet's Top Gun, Maj. Danny Hamilton. The 388th scored 9,169.5 of 10,000 possible points; the 419th recorded 9,048.

The Utah wings dominated the final standings in Gunsmoke '87. Finishing second in the Top Gun rankings was the 419th's team chief, Lt. Col. Tom King. Teammate Maj. Wayne Conroy finished fifth. Capt. Eric Best of the winning 388th TFW was third, and teammate Lt. Col. Gail Jones was eighth.

The 388th was also named best F-16 load team, while the 419th had the best F-16 maintenance team and recorded the only perfect bomb-loading score of the meet with 1,500 points in the static load event.

"I wish we'd have won it overall, but if anyone else had to win it, there's no unit I'd rather see get it, than the 388th," King said.

"We work with the 388th on a daily basis," Hamilton said. "We have a good relationship which helps out both units.

"I'm glad we have some trophies to take back to Hill to show we were here."

Hill's one-two F-16 punch was part of a trend; six of the top eight teams in the overall standings fly the aircraft. Finishing third overall was the 401st TFW, Torrejon AB, Spain, with 9,013.5 points. The fifth-place 31st TFW, Homestead AFB, Fla., scored 8,845; the seventh-place 8th TFW, Kunsan AB, Korea, finished with 8,741; and the 169th Tactical Fighter Group, McEntire ANGB, S.C., came in eighth with 8,702.5.

The other two wings in the top eight overall fly the A-7—the fourth-place 121st TFW, Rickenbacker ANGB, Ohio which scored 8,862 points, and the sixth-place 140th TFW, Buckley ANGB, Colo., which scored 8,771.

The top A-10 team in Gunsmoke '87 was the 81st TFW, RAF Bentwaters, England, which finished ninth overall with 8,612.5 points. The top F-4 unit was the 37th TFW, George AFB, Calif., which came in 145h with 8,056 points.

Aircrews in Gunsmoke were judged in three areas—basic bomb delivery, tactical bomb delivery and navigation/attack. Crews were provided two opportunities to complete their mission.

Final maintenance crew scores were based on effectiveness checks conducted throughout the competition. Munitions crews competed in loading exercises where precision, technical expertise and safety were weighed equally with speed.

GUNSMOKE 1987

[Official results—overall top team standing]

Place	Unit	MDS	Profile 1	Profile 2	Profile 3	Total
1	338th TFW	F-16	2982.5	2761	3426	9169.5
2	419th TFW	F-16	2921.0	2611	3516	9048.0

OVERALL TOP GUNS STANDINGS (72 PILOTS)

Place	Rank/name/unit	MDS	Profile 1	Profile 2	Profile 3	Total
1	Maj. Danny Hamilton, 419th TFW	F-16	807.5	696	888	2391.5
2	Lt. Col. Waldo King, 419th TFW	F-16	774.5	710	854	2338.5
3	Capt. Eric Best, 388th TFW	F-16	746.5	702	882	2330.5
5	Maj. Wayne Conroy, 419th TFW	F-16	724.0	700	878	2302.0
8	Lt. Col. Gail Jones, 388th TFW	F-16	756.0	657	876	2289.0

Place	Rank/name/unit	MDS	CEA	Bombs
30-degree dive bomb leaders				
1	Capt. Tom Wingo, 388th TFW	F-16	2.75	4
2	Major Hamilton, 419th TFW	F-16	4.00	4
20-degree low angle low drag bomb leaders:				
2	Colonel King, 419th TFW	F-16	4.75	8
3	Maj. Wayne Conroy, 419th TFW	F-16	5.13	8
4	Captian Wingo, 388th TFW	F-16	5.25	8
10-degree low angle high drag bomb leaders:				
3	Colonel King, 419th TFW	F-16	4.88	8
4	Major Hamilton, 419th TFW	F-16	5.00	8

STRAFE LEADERS

Place	Rank/name/unit	MDS	Average Hits	Missions
2	Major Hamilton, 419th TFW	F-16	94.0	2

200-FOOT-LEVEL BOMB LEADERS

Place	Rank/name/unit	MDS	CEA	Bombs
2	Captain Wingo, 388th TFW	F-16	4.75	4

NAVIGATION ATTACK LEADERS

Place	Rank/name/unit	MDS	Score	Missions
3	Maj. Kent Clark, 419th TFW	F-16	1742	2
5	Major Hamilton, 419th TFW	F-16	1738	2

AIRCRAFT CATEGORY LEADERS

Top Team	Category	Top Gun
388th TFW	F-16	Major Hamilton, 419th TFW (AFRES)

MAINTENANCE LEADERS (F-16)

Place	Unit	Aircraft appearance	Day 1	Day 2	Day 3	Day 4	Day 5	Day 6	Daily subtotal	Total
1	419 TFW	485	976	992	996	990	995	995	5944	6429
3	388 TFW	430	966	993	995	993	1000	990	5937	6367

WEAPONS LOAD LEADERS (F-16S)

Place	Unit	Static	ICT	Total
1	388th TFW	1225.00	1480.00	2705.00
4	419th TFW	1500.00	620.00	2120.00

DEPOSITORY INSTITUTION AFFILIATION ACT

Mr. CRANSTON. Mr. President, recently Senator D'AMATO and I introduced S. 1905, the Depository Institution Affiliation Act, a comprehensive financial services bill intended to restructure fundamentally the antiquated regulatory system governing the various components of the financial services industry. Presently, this bill is before the Senate Banking Committee.

I am extremely pleased that the legislation Senator D'AMATO and I have introduced has been so well received by numerous witnesses who have come before the committee. The need for comprehensive legislation has been endorsed in concept by the Department of the Treasury, Comptroller of the Currency, the FDIC, and the SEC. In addition, numerous industry groups testified in favor of the basic features of the bill; namely, the elimination of barriers to affiliations created by the Bank Holding Company Act and the Glass-Steagall Act between banking, securities, and nonfinancial firms; functional regulation; increased insulation and protection of insured depository organization in the form of high capital requirements and broader examination and enforcement powers; and preservation of State law as well as expanded consumer protection.

Earlier this week, Louis V. Gerstner, Jr., president of American Express Co., endorsed the bill in a thoughtful and substantive speech. Mr. Gerstner draws upon his and his company's experience as a worldwide provider of financial services. He examines closely developments in foreign financial markets affecting foreign financial intermediaries that require the comprehensive changes proposed in our legislation. He underscores the significance of S. 1905 in promoting a sounder and more stable financial system that will better enable our financial intermediaries to compete nationally as well as internationally. Finally, Mr. Gerstner relies heavily on the landmark reports developed by Congressman DOUG BARNARD and FDIC Chairman Bill Seidman which document the need for fundamental and comprehensive change as well as the feasibility of promoting a more open and competitive financial system while still safeguarding the Federal depository insurance funds.

Mr. President, I commend Mr. Gerstner's speech as must reading since the Senate will soon be considering legislation to modernize our financial system. I ask unanimous consent that Mr. Gerstner's remarks be placed in full in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

REGULATORY REFORM: LET'S END THE REIGN OF ERROR

(By Louis V. Gerstner Jr., President, American Express Company)

Charles Dickens captured the dizzying topsy-turvy social climate of France at the time of the Revolution in a memorable phrase: "It was the best of times; it was the worst of times." That opening line has been invoked any number of occasions since Dickens wrote "A Tale of Two Cities" a century ago. But there are few periods it suits more precisely than the month of October 1987.

For the Wall Street community, October was Clearly the worst of times. Two words—"Black Monday"—say it all.

For the U.S. thrift industry, on the other hand, that month must definitely be ranked in the category "best of times." A record-breaking $6.1 billion of net deposits threw a welcome tidal wave of black ink over the balance sheets of thrift institutions nationwide.

What makes this period most like a revolution is not just the contrasts but the sharp *breaks,* the sudden *reversals* from all that had happened just before. On Wall Street, an unprecedentedly strong five-year bull market dropped dead in its tracks. As for the thrift industry, the first nine months of the year were mainly the continuation of a long and sorrowful saga, with total net-deposit outflows of almost $14 billion. As the Wall Street Journal noted recently, as of March 31 this year S&Ls in the two-year-old federal Management Consignment Program had run up total losses of $5.88 billion that would have to be met by the FSLIC. And that doesn't even inlcude the losses of American Savings & Loan Association—the biggest loser of them all.

I mention October 19th *not* because I see that day and month marking the start of stable new long-term trends. No, what I see is volatility, choppiness, the continued potential for sudden reversals—the same as occurs in any revolutionary upheaval.

Now, a revolution can lead to a new regime where most are better off than they were before; that's what happened in the American Revolution.

On the other hand, volatility itself can take over, and the resulting incessant turmoil will produce—not winners and losers—but just losers and more losers; that was the tragedy of France under the Reign of Terror.

Now, I don't want to paint too grim a picture. We in financial services do not face a Reign of Terror. We are restricted in dealing with our problems because we are burdened with antiquated laws and regulations and, also, governmental unwillingness to press hard for reform. Thus our fate, unfortunately, is to live under a Reign of Error.

Today:

"I'd like to look very briefly at the global operating environment. It's a paradoxical world that we must deal with—a world that simultaneously grows more interdependent and more competitive each day.

"Then, I'd like to discuss the actions needed to rectify our Reign of Error. In terms of regulatory reform, we have experienced a legislative gridlock in Washington that would put any New York City holiday traffic tie-up to shame. The fault falls as much on our shoulders as it does on those of our elected representatives. The financial services industry has been generous in offering advice but pretty stingy in offering consistency; quite simply, we have been speaking with too many voices."

This cannot continue. Today I'll focus on a legislative package—the D'Amato-Cranston Bill, introduced in Congress last week—that is supported by a wide spectrum of financial firms and that could help strengthen both the stability of the financial system and our ability to compete worldwide. Let me stress in advance that I shall not speak of deregulation; I will discuss a way to achieve more effective regulation through a new holding-company mechanism.

One final introductory note: I do not view this occasion as an opportunity to kibitz and do not propose to offer any advice on how to run your businesses. Clearly, you're much better prepared to decide yourselves how to position your firms in today's marketplace and make plans that will meet tomorrow's challenges. My aim is to discuss the regulatory changes that are needed so that all of us—whatever our goals—are free to make the most of our opportunities.

Now, what does American Express have in common with every firm here today? However much our strategies may vary, we all share a deep and abiding interest in the safety and soundness of the financial system and, in that fundamental and very real sense, our destinies are joined together. I hope I will succeed in persuading you to support the reforms of the D'Amato-Cranston Bill—a measure that already enjoys broad support throughout the financial services community. Ben Franklin, on signing the Declaration of Independence, offered advice that could serve us well today: "We must indeed all hang together," he said, "or, most assuredly, we shall all hang separately." And that's where we are today.

Right now, to put these regulatory issues in context, let's take a look at our global environment:

Worldwide economic interdependence has grown steadily since World War II. The U.S. was a relative latecomer to this global movement—but we're making up for lost time. As recently as 8 years ago, for instance, only 5.5 percent of goods purchased by U.S. consumers came from abroad. Now that figure is 12 percent. Eight years ago, businesses purchased 12 percent of their equipment from abroad. Now foreign goods account for 40 percent of business equipment outlays. Trade turnover (exports plus imports) accounts for over 20 percent of U.S. GNP. One-third of U.S. farmland grows crops for export.

The trend line of interdependence appears vividly in data on financial transactions:

In 1950, U.S. bank claims on foreigners totaled only about $1 billion. By 1980, that amount had soared to $170 billion, and in 1985 it topped $400 billion.

In the same way, foreign bank claims on the United States also grew prodigiously—more than doubling between 1980 and 1985, to reach over $435 billion.

And consider these figures on foreign exchange:

As recently as 1969, the average daily volume of foreign exchange trading in the U.S. was less than $1 billion.

It grew to more than $23 billion in 1980.

And last year it topped $63 billion.

All of this is a long way of saying that, in 1987, when the dollar fluctuates a pfennig's worth in Frankfurt, that movement might be tracked, within hours, by mortgage rates in Phoenix.

As I said, globalization is a two-edged concept—one that means not only growing interdependence, but also growing competition. Certainly, there is no better recognized symbol of that competitive challenge than Japan—for good reason. Consider:

Japan now numbers 6 of the world's 10 largest banks in assets and 7 of the top 10 in deposits.

By contrast, only one U.S. bank is now among the top in deposits, versus 30 years ago when 5 of the top 10—including the 3 biggest—were American.

By the third quarter of last year, the Japanese had become the largest lenders in the world—holding nearly a third of the international assets of banks reporting the Bank of International Settlements; at the same time, U.S. banks accounted for less than 20 percent of those assets.

Also last year, the four top Japanese securities houses earned a combined total of about $3 billion. Those four firms, in other words, earned far more than all the 380-old U.S. savings banks put together.

Most symmetrical of all: In the next decade, Japan's net external assets will reach $1 trillion dollars; at the same time, the U.S. will also hit a $1 trillion milestone—ours, unfortunately, will be in external indebtedness.

Now I don't know where all of Japan's $1 trillion in foreign assets will be found, but a fair fraction will be located right here in the U.S. Consider real estate investment: In 1986, the Japanese bought some $6 billion of U.S. property, and this year's buying could top $8 billion. Or consider active business operations: Japanese companies have been expanding their U.S. operations at a rate 400 percent faster than overall U.S. economic growth. In fact, if the U.S. subsidiaries of Japanese companies were treated as stand-alone businesses, 30 of them would even now be in the Fortune 500.

I might also note some figures cited by New York Fed President Gerald Corrigan in his Senate Budget Committee testimony in May. Japanese banks, he said, now account "for nearly half of the total assets and commercial loans outstanding at foreign banks in the U.S. In certain markets—such as standby letters of credit and standbys associated with U.S. municipal bond offerings—Japanese banks now account for between one-quarter and one-half of the total U.S. market."

Let me pause to say that this is not meant as a prelude to Japan-bashing—far from it. My company, for one, is delighted to have a strategic alliance with Nippon Life, Japan's largest life insurer, which has a substantial equity position in the American Express subsidiary Shearson Lehman Brothers. All in all, I expect the marketplace will afford Americans as many chances to join forces with Japanese players as to compete with them. The point is, one way or the other, the Japanese have been a prime mover among the global factors that have tattered the traditional insularity of American markets and changed our operating environment for good.

It's scarcely news to point out that the Japanese have been tremendously innovative at everything from high-tech consumer electronics to zaitek financial management skills. But here's an item that is relatively newsworthy and that indicates the Japanese are clearing the way to be even more innovative and flexible in financial services. I refer to the recent report that Japan is seriously considering abolishing the barriers between its banking and securities businesses and between different types of banking. Major reforms of this nature have been under review for some time, of course, but it is only now that they are being proposed specifically by an advisory council of the Ministry of Finance.

In his Senate testimony a half year ago, Gerald Corrigan noted that Japan's present financial system was patterned on the U.S. model—a legacy of the postwar years. At that time, he viewed the implications this way: ". . . Japan faces many of the same problems in the financial area that we are so conscious of here in the United States: namely, much of its overall banking and financial structure—as well as the regulatory and supervisory apparatus associated with that structure—were not designed for the current international market environment. The Japanese will have to come to grips with these issues, just as we and others will have to . . . ."

I'm afraid chances are excellent that we will see "*deja vu* all over again," as Yogi Berra is reputed to have said. Once again, the Japanese seemed poised to leapfrog ahead of us with bold actions to accommodate the global dimensions, technological imperatives and customer demands of today's marketplace. Moreover, it's not just the forward-thinking Japanese who challenge us, but also the Big Bangs, Little Bangs and Bangs of other sizes set off by Britain, Canada, France, Italy, et cetera. And what have we done? Not a heck of a lot.

To stay competitive, we in the United States must conquer our "R" and "D" problem. No, I'm not talking about Research & Development; I'm talking about the first letters of the words "Reregulate" and "Deregulate." We waste a phenomenal amount of energy in a narrow argument over these alternatives—debating whether we should add to or subtract from our existing regulations.

There are two things wrong with this debate:

First and foremost, the time for this—or any debate—is over. Period. Just as with the federal budget deficit, the time for definite action is here; otherwise, our nation will simply waffle its way to irreversible decline.

Secondly, the quantitative dispute over adding or subtracting regulations misses the point: The criterion of regulatory success is not how many or how few rules we have but how effective they are in promoting an efficient, competitive marketplace and protecting the stability of the overall system.

In essence, we need to strike a new balance between two qualities that are often at odds—flexibility and stability:

Yes, we must have a statutory framework that allows capital to go where it's needed—to finance securitization and other new forms of intermediation—and thus meet the challenges of international competition;

At the same time, we must ensure the enduring soundness of the financial system through safeguards against potential abuses of government guarantees, primarily depository insurance.

Two other qualities are also essential: consistency and clarity. Both of those are entirely lacking in our present hodgepodge of regulations, where banks have some securities-dealership powers and securities firms have some banking powers. This situation is unstable and ambiguous: On the one hand, it makes it difficult for financial institutions to form coherent strategies; on the other, it makes it hard for regulators to do their job well or even know whom they are supposed to be regulating!

The current regulatory situation resembles an immense caldron of moldering stew. People have tried to freshen it over the years by adding a little of this, a little of that—and the taste has only gotten worse. Rather than waste more time and ingredients, we should throw out the pot and start over again, with a new recipe directed to feed our needs today.

This brings me to the D'Amato-Cranston Bill. The important thing about this bill is not that I, as a representative of American Express Company, support it. What's significant, I believe, is that the bill has been endorsed by an extraordinarily diverse coalition of financial services providers. This inter-industry coalition—the Financial Services Council, or FSC—includes banks, investment companies, stock and mutual insurance companies, thrifts, diversified financial services companies and commercial concerns. These are their names:

The insurance company, the Acacia Group; American Express; The consumer finance company, Associates Corporation of North America; Bankers Trust; Calfed; the insurance company, Capital Holding Corporation; Chemical Bank; Citicorp; Commercial Credit Company; Dean Witter; First Interstate Bancorp; Ford Motor Credit Company; Household Financial Services; John Hancock Mutual Life; J.P. Morgan & Co.; Merrill Lynch; and Security Pacific.

That's the FSC at present. It's broadly, but not totally, representative of the financial services industry overall. The FSC is open to any institution that's interested and willing to pay dues. If that description fits any of you, I would bid you welcome.

It's fair to say that many FSC members have been regulatory sparring partners in the past. No longer. They are now unanimous in supporting a landmark piece of legislation that I'll describe in general outline:

First, the D'Amato-Cranston Bill—or, more formally, the Depository Institution Affiliation Act, filed last week as S. 1905—would create a new category of financial service holding companies authorized to engage in any financial activity through separately regulated subsidiaries.

Second, the Act would eliminate existing restrictions on ownership or affiliation between depository and non-depository firms. In plain terms, anybody can own, or affiliate with, anybody, in separate subsidiaries.

Third, through inter-affiliate lending barriers and strict capital requirements—backed by equally strict civil and criminal penalties—the Act would effectively insulate government-insured depositories from the business activities of other affiliates as well as from the parent holding company.

Fourth, under this Act, affiliates would be regulated by function. This would allow banking and securities regulators to sort out their respective responsibilities without confusion.

Fifth, the Act would improve coordination and supervision of the total financial system by permitting more effective monitoring of the system's vulnerability to crisis.

And sixth, the Act would promote removal of unnecessary barriers to competition between providers of financial service within the U.S. and in international markets.

This act embodies the right ideas at the right time:

They are the right ideas not just because they have broad industry endorsement, but also because they are consistent with the findings of recent landmark studies—those by Congressman Doug Barnard Jr., Chairman of the House Subcommittee on Commerce, Consumer and Monetary Affairs, and by FDIC Chairman Bill Seidman. "And as I said, this is the right time for these ideas. Despite warnings about the need, Congress has shilly-shallied for years about regulatory reform. But as Samuel Johnson noted—if I may use another 18th-century hanging anecdote without being morbid: '. . . when a man knows he is to be hanged in a fortnight, it concentrates his mind wonderfully.' That crash that echoed round the world October 19 sounded to some like the trapdoor on a hangman's scaffold; it was a suggestion of mortality—economically speaking—that Congress will find difficult to ignore. I think this will help focus legislative energies on strengthening the system."

I'd like now to look at reasons why this legislation would help strengthen the financial system.

The Barnard Committee Report sees one of the main problems of our regulatory structure in these terms, and quote: "The effects of the . . . [Glass-Steagall and the Bank Holding Company Act barriers] are strongly anticompetitive because they protect other industries, particularly the heavily concentrated and highly profitable investment banking industry, from bank competition. Moreover, by effectively locking the corporate capital of banking firms into a restricted range of activities that now exhibit both declining profitability and substantially increased risk, these barriers have contributed to the recent impaired financial condition of the banking industry."

And the Report continues: "These two legal barriers likewise constitute an effective barrier to the mobility of outside corporate capital *into* banking. By preventing entry into federally insured depository banking by major nonbank corporations, except through the device of the nonbank bank or through a thrift holding company, they protect existing banks from potentially strong new competition that could be expected to improve banking industry efficiency and vigor."

In other words, the Glass-Steagall and Bank Holding Company Acts severely inhibit the interplay of marketplace opportunity and entrepreneurial initiative that is *supposed* to furnish the driving force of our economy. In most cases, this dynamic interaction does occur; as the Barnard Report notes, these Acts "have no counterpart in other industries."

And it's worth pointing out that the FDIC report prepared by Bill Seidman concludes that Glass-Steagall was, even in its day, a poor idea. The FDIC report is unequivocal on this, saying: "Scholars have studied the record with great care since 1933. There is little or no evidence that the investment banking activities of commerical bank affiliates were a major cause of bank failures." The problems that did occur, the FDIC states, "could have been remedied without having to resort to a forced separation of commercial and investment banking."

What was misbegotten to begin with has certainly not improved with age. For more than 50 years, financial institutions have been put under different statutes by different lawmakers in different eras. Segregation naturally led to powerful special interests that have managed to halt reform that doesn't promise special gain. Like pit bulls on short chains, each interest of the financial services industry has protected its turf against encroachment. The status quo, no matter how dangerous down the line, was preferable to the rise of even marginal loss. The result has been legislative gridlock. And Glass-Steagall, the Bank Holding Company Act and other crumbling statutory walls between institutions remain.

Let me pause and say that perhaps the notion of a "Brave New Holding Company" is not quite so compelling, at first glance, to a smaller financial services company that is quite content with its niche and has no intention of exploring new markets, even if authorized to do so. The question arises: What's in it for them? What advantages would flow to the smaller institution under this plan for liberalized holding companies?

First, assurance of the safety and soundness of our financial infractructure—the structure that supports all of us, whatever our size or mission.

Second, if you are content with your current strategic opportunities, fine. While this legislation introduces fundamental changes that will increase systemic stability, it does not force any institution to operate differently than it does now. The smaller-sized institution that knows its market will continue to have competitive advantages over large institutions that lack that marketing insight.

Third, conversely, a smaller institution that wants to broaden its reach will not enjoy a much wider range of options for forming strategic alliances with larger institutions.

And let me stress that the D'Amato-Cranston Bill directly addresses the most serious challenges facing the thrift industry. This omnibus bill eliminates outmoded and onerous restrictions on affiliations between thrift institutions. And it creates conditions that would attract capital to the industry and would bolster the savings and loan insurance fund.

The purpose of this reform, I hasten to add, is not to eliminate risk; that would be a stultifying aim, even if it weren't impossible. The goal is to channel risk so that financial company investors—not government agencies or, ultimately, taxpayers—suffer the consequences of loans or investments that sour. This means that holding-company subsidiaries that are government-insured depositories would be insulated from risk assumed by other subsidiaries.

Effective insulation means a number of things:

One, the D'Amato-Cranston Bill includes rules to limit the amount of intramural loans from an insured depository to other holding company affiliates. Similarly, an insured depository would be restricted from buying the investment assets, debt or equity of other subsidiaries.

Two, the legislation would forbid any government-insurance rescue of a financial services holding company, beyond the actions needed to safeguard depositors.

And three, the legislation calls for vigorous enforcement and higher capital standards. In a sense, this is the key to the success of the whole concept. Setting higher capital levels for banks and thrifts owned by a depository holding company would improve regulatory oversight, since it would reduce the incentive for subtle abuses of a depository's government-insured status.

Now, the topic of capital levels brings us back to a theme I discussed earlier: the globalization of the financial services marketplace. To reduce the risks of this enormous structural change requires greater coordination of regulations and enforcement among nations. National banking regulators, led by the United States and Britain, have recently had productive discussions on harmonizing capital levels for commercial banks. This followed similar multilateral negotiations—initiated by the Bank for International Settlements—that led to the Basel Concordats of 1975 and 1983, establishing guidelines for international bank supervision. Unfortunately, we have no equivalent to the Bank for International Settlements that answers the needs of the international securities business.

In seeking greater conformity in regulation worldwide, we should bear in mind that international financial flows, though invisible, are true exports and imports—just like machinery, shoes or wheat. And—just like tangible commodities—financial and other services are subject to trade barriers, whether overt or subtle. We at American Express have worked closely with other service providers and with the U.S. Trade Representative's Office to broaden existing fair-trade agreements so that they'll apply to services as well as goods. The stakes are high: Services now account for almost 30 percent of total world trade. We are hopeful that the current Uruguay round of GATT negotiations will achieve progress in this area.

While progress on the multilateral level will take time, we've made real advances on a bilateral level through our recent trade pact with Canada, which includes provisions for free trade in services. This could considerably enhance what is already the greatest trading partnership in the world—a fact that would stun most Americans, who believe that Japan and Germany are our most active traders. But consider:

One, the United States did more trade last year with the Province of Ontario than we did with the entire country of Japan;

And two, our exports to Canada roughly equal our exports to all 12 countries in the European Economic Community.

Yet, while the Canadian trade pact offers opportunity to U.S. businesses, it also presents a challenge—particularly to the U.S. financial services sector. After all, under Canada's more modern regulatory structure, Canadian banks will be able to underwrite Canadian securities in the United States—still another reminder that the Glass-Steagall Act is an idea whose time has past.

In short, our legislators and regulators have their work cut out for them: to create and administer a regulatory framework that squares with the reality of today's global marketplace and promotes the competitiveness of U.S. institutions.

Just as important, we on the playing field have our work cut out for us. Marketplace volatility and flux are here to stay. We will each have to rethink our strengths and weaknesses to meet the new challenges ahead. In fact, borrowing the slogan of the World Future Society, I'd like to suggest a two-part strategic watchword for the coming decade: "Think globally; act locally."

Both parts are indispensable:

Whatever our scope of business—whether international or community level—we must indeed think globally. As I said, the distance from Frankfurt to Phoenix, from Tokyo to Tuscaloosa or from London to Larchmont is negligible when you're dealing with a totally fungible commodity like money that can be transmitted virtually anywhere at the push of a button.

At the same time, it is equally imperative that we act locally—again, whatever our total scope of operation. Some very large players have taken some very large losses in recent years because they tried to run their business by the numbers; they lost their gut feeling for vital nitty-gritty details of the marketplace that vary region by region. A community-based institution that really knows its customers will invariably give a true run-for-the-money to any larger institution that fails to understand local circumstances and customer needs.

Overall, I'm convinced that we in the U.S. financial services sector have the know-how it takes to be fully competitive with the rest of the world in a business sense. The problem is: Increasingly, we are not competitive with everybody else in a regulatory sense. We are saddled with an archaic regulatory system that inhibits institutional flexibility and stifles our capacity for innovation. When he introduced S. 1905 with Senator D'Amato, Senator Cranston noted the price exacted by obsolete regulations in these terms: ". . . American consumers and businesses pay billions more for financial services than they need to, and the financial products they purchase are not as good as they could otherwise be if it were not for the constraints of our present legal structure."

Again, the issue is not reregulation or deregulation but effective regulation. Our regulators and the institutions they oversee have shown they can work together to serve the public interest. Clearly, we're not lacking in terms of cooperation and good will. What we're lacking is relevant rules.

The need for entirely new rules is as clear to us today as it was in Philadelphia in 1776 or in Paris in 1789. Half measures won't succeed. After the American Revolution, our nation experimented for a while with an awkward, compromise form of government created by the Articles of Confederation; it didn't work. It wasn't until government leaders decided to wrestle directly with the issues and take bold action that we developed a government framework that could stand the test of time. I'm talking, of course, about the form of government described in our Constitution—200 years old this year.

Our system as a whole has functioned well in the best of times, the worst of times and all times in between because of this remarkable document. We face an easier task: We do not have to draft a form of government that will serve for countless ages hence, but we do have to devise a regulatory structure that will meet the stress tests of today's financial services marketplace.

By modeling our efforts on the Constitution—a document notable for both clarity and flexibility—we could put an end to our Reign of Error and make our financial system more stable and our financial services sector more competitive, once again.

Thank you.

IMPACT OF S. 1894, CLEAN AIR ACT ON THE TEXTILE INDUSTRY

Mr. THURMOND. Mr. President, a vital industrial sector of our Nation's economy may be subject to additional and burdensome regulatory controls, while at the same time facing large foreign imports. I am referring to the many textile production plants throughout the United States and in my home State of South Carolina. These plants are—with increasing regularity—being required to devote additional resources to health and environmental controls, in many cases without sound justification.

In the last several years, the textile industry has become subject to various Federal environmental statutes including the Hazardous and Solid Waste Amendments of 1984, title III requirements of the Superfund reauthorization legislation, the Clean Water Act, and the Safe Drinking Water Act. Though I voted in favor of most of these measures, it is wise to continue to evaluate new regulatory legislation both in terms of its costs and benefits. In October of this year, the Senate Environment and Public Works Committee adopted several provisions that would amend the Clean Air Act by substantially speeding up the regulation of toxic and hazardous air pollutants. All Americans support clean air, and reasonable regulation of toxic and hazardous air pollutants is much needed. However, the Congressional Budget Office estimates annual compliance costs for these new provisions to range from $2.9 billion to $16 billion. A portion of these costs would fall on the textile industry at a time when it is competing against foreign manufacturers, who would not be subject to these same costly regulations.

While I am concerned about the air toxic problems of this country, I am also concerned with proposed compliance requirements, which would impose large capital and operating costs on textile facilities that must compete globally in a cost-sensitive environment. For example, the bill reported by the Environment and Public Works Committee requires automatic listing of some 224 chemical substances for technology-based regulation. Mr. President, this list sweeps too broadly. With this proposed change, we risk stunting the competitive position of this industry, in order to gain only marginal improvements in environmental quality.

Another provision in this legislation, concerning sudden catastrophic releases, imposes a statutory duty to design and maintain a safe facility. Though the intent behind this provision is laudable, it imposes duplicative obligations on textile companies. Existing Federal regulations such as OSHA's Hazard Communication Standards Program, require in-depth inspections and audits of textile facilities, which ensure that the industry will maintain and review its safety measures.

Another existing safeguard for preventing accidental releases, but separate from OSHA's program, is title II of the Superfund reauthorization law. This law imposes major new obligations on industry to report extensively about chemical releases and to develop emergency plans in coordination with local emergency planning committees, for its own plants and for the community at large. Title III requirements, along with other EPA programs designed to prevent catastrophic releases, already place new duties upon the industry.

In addition, Mr. President, as chairman of the Judiciary Committee, I was pleased to work closely with the chairman of the Environment and Public Works Committee, Senator STAFFORD, in 1985 and 1986 on judicial review provisions of the Superfund reauthorization legislation. I continue to be interested in environmental matters and was pleased to support the Superfund conference report last year.

Textile companies, even now, are reviewing and improving their operations and training procedures to help ensure a safer workplace and community.

Mr. President, we must be careful not to impose excessive additional regulations on an industry which is already burdened by large imports of textile and apparel products. Accordingly, I urge my colleagues to give this matter their careful consideration.

NERVE GAS PRODUCTION

Mr. HATFIELD. Mr. President, at 8 a.m. this morning, the United States began production of what President Richard Nixon once called "weapons whose use has been repugnant to the conscience of mankind." After years of debate, after more than 20 votes in this body in the past 7 years, the United States began production of nerve gas today for the first time in 18 years—not with a bang but a whimper.

I could give a lengthy speech on the immorality of these weapons and our decision to produce them again—I have given those speeches in years past. But today I will let the facts speak for themselves—the fact that negotiators in Geneva are making tremendous progress on the Chemical Weapons Convention, the fact that the Soviets stopped producing nerve gas weapons last spring, the fact that one of these weapons can kill hundreds of people in minutes, and the fact that these weapons destroy civilian targets, not military ones.

I ask unanimous consent that an article from the Washington Post noting the renewed production, and a public interest report from the Federation of American Scientists on the chemical disarmament negotiations and the history of nerve gas, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ARMY BEGINS PRODUCING CHEMICAL WEAPONS, ENDING 18-YEAR MORATORIUM

(By R. Jeffrey Smith)

Without public announcement, the Army ended an 18-year moratorium on U.S. production of chemical weapons yesterday and began filling containers at a remote Arkansas site with a component of the World War II-era poisonous nerve gas known as GB.

The production, which reverses a 1969 decision by then-President Nixon to stop making "weapons whose use has been repugnant to the conscience of mankind," kicks off an intensive effort by the Reagan administration to replenish America's aging, leaking stockpile of chemical weapons with a new generation of so-called "binary" munitions.

It follows a little-noticed certification by President Reagan on Oct. 16 that production of the chemical shells "is necessitated by national security interests of the United States and the interests of other NATO member nations," and would comply with environmental and safety regulations.

His statement fulfilled a requirement imposed by Congress in 1986, when after a series of bitterly contested votes, it narrowly approved funds for chemical weapons production to begin no earlier than this month.

Binary munitions are unlike the thousands of U.S. bombs and artillery shells filled with lethal chemical agents in the 1940s and 1950s. Instead, they contain two comparatively harmless chemicals that combine to form deadly gases only after being released in bombs from airplanes or fired in artillery shells.

The Army says binary weapons are safer to store and thus are more versatile. The Army claims chemical weapons are needed to deter a possible attack on NATO in Europe by the Soviet Union, which Western officials say has a larger chemical stockpile than the United States.

The Soviets, in a move to forestall U.S. binary production, announced last spring they had ceased making chemical weapons. Soviet leader Mikhail Gorbachev repeated past Soviet criticism of the U.S. binary program during his summit meeting with Reagan last week.

The start of production yesterday at the Pine Bluff Arsenal in south Arkansas is seen by Defense Department officials as a symbolically important event partly because of the Soviet criticism.

It also ends a 14-year Army battle to overcome domestic opposition and win congressional approval for more than a million binary artillery shells, each capable of killing hundreds of people within two to five minutes by attacking their central nervous systems.

Inhalation or absorption of about a drop of the GB agent causes immediate nasal congestion, sweating, bronchial spasms, wheezing, muscular twitching, convulsions, and ultimately death through paralysis and suffocation. The 155-millimeter shells can be fired 12 to 15 miles by self-propelled or towed artillery guns.

The Bigeye binary bomb, to be produced beginning next year, will contain components of a poison known as VX that is roughly twice as toxic as GB, killing more swiftly. Unlike GB, which remains lethal for less than an hour, VX remains lethal for days. Another secret chemical killing agent will be put into binary battlefield rockets in the early 1990s, according to Army plans. Poison-filled cruise missiles are also being considered for production in the late 1990s.

Phyllis Bledsoe, public affairs officer for the Pine Bluff Arsenal, said workers began filling artillery shell canisters with one chemical component of GB at 8 a.m. The canisters were then sealed and readied for storage.

Other canisters, already filled with the second GB component, are to be loaded into artillery shells later this month at an Army munitions plant in Shreveport, La.

Congress demanded several years ago that canisters containing GB components be stored in separate states, and Army doctrine calls for adding the Pine Bluff component to the artillery shells on the battlefield just prior to firing.

The shell is designed so that the firing ruptures a thin wall separating the two chemical containers; the chemicals mix as the shell rotates on the way to the target. The shell is timed to explode above the target, releasing GB in a deadly mist.

Bledsoe declined to disclose Pine Bluff's production rate, but said it would be "limited" at the outset and increased gradually to the maximum rate next spring. She said production equipment is still being improved and modified.

Army officials said Shreveport binary shell production will also be limited until next summer.

[From the Journal of the Federation of American Scientists, December 1987]

Chemical Weapons Convention: Major Progress and Remaining Problems

Chemical warfare has been a threat since its massive employment in WWI. Huge stockpiles of chemical agents were accumulated, although not used, by the US and the European belligerents during WWII. Since then large stocks of nerve gas and other agents have been produced by the US and the USSR and lesser quantities have been made by France, Iraq and perhaps others. Although the military utility of chemical weapons in modern warfare is a matter of uncertainty and debate, the US maintains that its chemical capability is a deterrent against chemical attack by the Warsaw Pact. But the overwhelming threat of chemical weapons to unprotected civilian populations and the repugnance in which chemical weapons are generally held have singled them out for special efforts at prohibition. These efforts have recently been spurred by the proliferation of chemical weapons in the third world.

Chemical warfare re-emerged from potential to fact when Iraq resorted to the use of mustard and possibly nerve gas in its ongoing war with Iran. Other third world countries in the middle east and elsewhere are reported to be pursuing a chemical capability. With the advent of binary nerve gas munitions, soon to enter production in the US, and increased world-wide interest in chemical weapons, a chemical arms race and the assimilation of chemical warfare into military doctrine and actual combat becomes a serious possibility.

But a dramatic challenge to the threat is in sight. The Geneva negotiations on a Chemical Weapons Convention (CWC) have leaped forward during the past two years. General Secretary Gorbachev's willingness to agree to a verification regime that includes international onsite challenge inspection without right of refusal has brought the US to a surprising moment of truth. Many analysts had considered the US insistence on such inspections to be an unnegotiable position intended to preclude any agreement. Now, can we accept "yes" to our own proposal and then show the political will to complete the negotiation of the remaining details? Or will we backpedal?

The Convention is now complete in most major aspects. It provides for the complete elimination of all means of offensive chemical warfare—munitions, agents and key precursor stockpiles; production and testing facilities; and dedicated delivery systems—over a 10 year period. All parties must declare at the outset any such means that they presently possess or have transferred since WWII. These declarations will be verified by international onsite inspection teams within the first six months after the treaty enters into force and will be rechecked periodically. Relevant portions of the chemical industry will be monitored through information exchanges and inspection visits. Further, challenge inspections will be allowed within 48 hours of the request being made, without right of refusal, for any instances of suspected violations of the CWC, including alleged use. Chemical protective equipment and chemical protective training will be permitted. Chemical disarmament and chemical protection will replace chemical deterrence and the chemical arms race.

If achieved, the Convention will provide an unprecedented international regime for eliminating chemical warfare and for preventing the exploitation of chemical and medical technology for hostile purposes.

The possibility of a signed convention within a year or two is much greater than could have been expected even last Spring. And momentum continues to build—the Soviets made the last necessary major accommodation in August; the agreed draft text continues to grow; the Soviets have provided some date on their stockpile and have signaled a willingness to continue the process bilaterally with the US, subject to verification, even before signing of the Convention; and reciprocal international visits to Soviet and US chemical weapons facilities took place in October and November. Senior representatives of major chemical industries have indicated their support. The conclusion of an INF treaty will probably enhance the prospects of the CWC. The two agreements share many features of a reliable verification regime; and a treaty eliminating chemical weapons would remove an element that is counted as a Soviet advantage in NATO assessments of the conventional force balance in Europe.

Sustained progress is essential. Now that agreement has been reached on the most fundamental issues of verification, failure to achieve a Convention within a reasonable period risks provoking disillusionment and cynicism regarding the intentions of the major powers, and the momentum required for success might then be dissipated.

Nevertheless, there are significant problems yet to be dealt with, including:

The perceived threat of the challenge inspection regime to military secrecy concerning intelligence and advanced weaponry;

Civil legal issues raised by the verification regime. Procedures must be worked out for inspections or other satisfactory assurance regarding facilities and activities not under the jurisdiction of national governments;

The stated desire of France to maintain and even augment its stocks until the superpowers bring theirs down to near parity with the French;

Completion of the lists of prohibited and controlled chemicals (including toxins) and establishment of procedures for amending them as circumstances and technological change may require;

Persuading third world states involved in regional confrontations to join the Convention; and

Design of the International Authority and the procedures by which it would perform the necessary functions of the Convention.

The Chemical Weapons Convention negotiations are taking place in a window of opportunity and urgency. A century-long quest to eradicate chemical warfare is close to fruition. But important problems of implementation remain to be solved. FAS will make research on these problems and public education regarding the Chemical Weapons Convention a priority for the coming year.

RECENT PROGRESS TOWARD CHEMICAL DISARMAMENT

(By Gordon Burck)

The Chemical Weapons Convention (CWC) now being negotiated in Geneva is intended to eradicate the means and threat of chemical warfare. Chemical arms control efforts predate the large-scale use of gas in WWI. Yet modern stockpiles are more deadly, and are spread more widely around the world, than ever before. And Iraq has repeatedly used chemical weapons in its war with Iran.

The urgent need for a verifiable ban fortuitously coincides with the vast change in Soviet openness to onsite verification. In fact, the onsite verification demands, which some Administration officials championed in full confidence that they would be refused by the Soviets, are now cornerstones of the Soviet position and are causing intense debate in the military and intelligence communities.

As discussed in a sidebar, the Conference on Disarmament (CD) has been negotiating the draft CWC since 1981. Contrary to expectations, the Soviets have agreed to all of the major provisions of the verification regime proposed by the US in 1984, although numerous important details of procedure remain to be worked out. Following the successful reciprocal international visits to Soviet and US chemical weapons facilities in October (Shikhany) and November (Tooele, Utah), the normally scheduled December US-Soviet CW technical consultation and the January meeting of the Ad Hoc Committee on Chemical Weapons will next take place in Geneva. The full spring negotiating session begins in February. If the recent pace of agreement continues, we could have a signed Convention within a year or two, which could not have been expected even last spring.

This issue provides background for consideration of the draft Convention and of the military, legal, and political issues raised by it.

SUMMARY OF THE DRAFT CHEMICAL WEAPONS CONVENTION

The following is a digest of the negotiating ("rolling") text of the Chemical Weapons Convention, as of the end of the 1987 summer session of the Conference on Disarmament. Many details are still being negotiated, but primarily the disagreements involving the US and USSR are highlighted in the text and sidebar (which also shows the record of Soviet concessions). Bracketed words or alternative clauses remain to be determined. Many of the terms peculiar to this treaty are further defined in the Glossary.

1. Scope

Prohibits—

Development, production, acquisition, possession, transfer, or use of chemical weapons, or any preparations for use; and

Assistance, encouragement or inducement to anyone to violate Convention prohibitions.

Requires—

Destruction of Chemical Weapons and [elimination] of CW production facilities in possession or under [jurisdiction] of each State Party.

2. Definitions

Chemical Weapons or CW(s) are:

(1) Specified toxic chemicals, including supertoxic lethal chemicals, other lethal and harmful chemicals, precursors including key precursors, key components of binary and/or multicomponent CW systems, and enhancement chemicals. Lists of chemicals of each type are attached.

(2) Munitions/devices designed specifically to carry CW.

(3) Any equipment designed specifically to deliver CW.

"Chemical Weapons Production Facilities" are any building or equipment designed, constructed or used since 1 Jan 1946 to produce CW or for filling of CW.

3. Initial Declarations

Within 30 days of Convention obligation, each Party must declare:

Existing Chemical Weapons, and CW production facilities which existed at any time since 1 Jan 1946, under its [jurisdiction] anywhere, or on its own territory under the [jurisdiction] of others;

Precise location, nature and general scope of any laboratories, test and evaluation sites, or other facilities or establishments, on its territory or under its [jurisdiction] anywhere, designed, constructed or used since 1 Jan 1946 to develop Chemical Weapons; and

Transferral/receipt by the Party of any Chemical Weapons, equipment [and relevant documentation] for CW production, or control over any such, since 1 Jan 1946.

4. Detailed Declarations—Chemical Weapons

Within 30 days of Convention obligation, each Party must:

Specify precise locations with aggregate quantities and detailed inventory of any declared Chemical Weapons under its [jurisdiction] (Feb 1987);

Report other declared Chemical Weapons on its territory, to be removed within . . . months:

Specify declared tranfers/receipts (1000 kg/year/chemical minimum); and

Provide a general plan for destruction of CW. Declaration is subject (Feb 1987) to immediate verification by international onsite inspection, followed by continuous onsite instrument monitoring and systematic inspection of storage (Feb 1987) and destruction sites. Inspection of Chemical Weapons destruction sites is continuous during destruction activities (1984).

Destruction must begin within 1 year and end within 10. Detailed plans, including composition and location of Chemical Weapons to be destroyed in each annual destruction period (at a rate of at least 1/9 of stockpile taken cumulatively [accounting method and "Order of destruction" remain to be set]), are submitted [3-6] months prior to the period, and annual progress reports are made.

Chemicals on the several control lists requiring declarations may be shifted, removed, or added to the lists.

5. Detailed Declarations—CW Production Facilities

In addition to detailed specification within 30 days of declared facilities and transfers, and immediate verification of the declaration,

Production facilities shall immediately cease all production activity, and no other facilities may be built or modified; and

Within 30 days, Parties must report specific actions to render inoperable and close plants, to be completed within 3 months, and general plans for [elimination] or temporary conversion.

After closure, declared facilities are subject to immediate inspection and verification, the same as for Chemical Weapons (1986). All production facilities must be [eliminated] within 10 years, with submission of plans in advance and annual progress reports. [Rate will probably be 1/9 of capacity per year.]

6. Allowed Facilities and Activities

Within 30 days and then annually, Parties must declare the amounts of chemicals used for "purposes not prohibited" and the facilities where they are produced. The latter are subject to systematic inspection and monitoring, and to the following limitations:

All supertoxic lethal Chemical Weapons, and certain key components and key precursors specified in the Convention which are possessed for permitted purposes, may not exceed a stock of 1000 kg or an acquisition by any means of 1000 kg per year. Such chemicals may be produced by each Party at only one approved small-scale facility, with capacity not exceeding 1000 kg/yr. Verification is by [systematic/permanent] inspection and continuous monitoring;

[Other approved facilities may synthesize up to 100 g of each chemical and ——g in total per year for research or medical purposes. Verification is by annual reporting];

For key precursors, Parties report initial and annual national and specific facility-wise data (above a cutoff to be set.) Verification is by immediate and systematic inspection (1986);

For large volume commercial chemicals with potential Chemical Weapons use, on the Convention list, Parties report national data and capacity and approximate production/consumption at each specific facility (above a threshold). Verification is by data reporting and analysis; and

For other commercial toxic chemicals, with toxicity above a threshold and probably with production above 10 kg/chemical/facility (and a capacity consideration), Parties report similar data as for key precursors (but not for specific chemicals); and verification, above a higher production threshold, also is similar.

7. Challenge Inspection

Specific short-notice inspection requests concerning doubts about compliance or ambiguous related matters will immediately be forwarded (probably without being filtered) by the International Authority. Compliance within [24/12 hours] will be mandatory in all cases (Feb, Aug 1987).

Parties may also request information from another Party directly or through the International Authority, which may set up a group of experts to study problems, convene special meetings including involved non-Party States, and implement fact-finding missions.

8. Administration

States are to enforce Convention prohibitions by a National Authority as well as appropriate domestic measures.

The International Authority will consist of a Consultative Committee with 1 representative of each State Party and an elected Executive Council [composition to be negotiated]. The Technical Secretariat will perform all analyses of plans, reports, and inspections. It includes the Inspectorate, composed of international inspectors who are preassigned to each Party, subject to nonacceptance by the Party. (No Party will be inspected by any of its own nationals.) Repeated nonacceptance may be referred to the Executive Committee as impeding inspections.

The Inspectorate/Technical Secretariat may also trigger an immediate onsite inspection, if monitoring system irregularities cannot be explained, and may refer unsatisfactory results of routine inspections to the Executive Council.

CONSEQUENCES AND IMPLICATIONS OF THE CONVENTION

The goal of the CWC is to eliminate and prevent the recreation of any means of offensive chemical warfare.

The treaty has two parallel purposes:

To eliminate the military means for chemical warfare and to halt and reverse the assimilation of chemical weapons into military plans and doctrine; and

To create public confidence in the treaty prohibitions and to avert international tension arising from unfounded suspicions and allegations.

A primary role of verification during the ten-year period projected by the CWC for eliminating the means of chemical warfare is to confirm that such elimination is actually taking place. This involves detailed initial declarations, routine inspections and periodic reporting during the destruction process. A further role is to make sure that the declarations submitted by states include all relevant stocks and facilities. Analysis of the declarations themselves and other collateral information will be useful for this purpose. Importantly, such information, generated by the CWC, will make national technical means (NTM) more informative. Finally, the option of challenge inspections should increase confidence in the initial and routine information and decrease reliance on ambiguous NTM.

Military and Industrial Perspectives

From the military perspective, the threshold of danger is the minimum stock of chemicals that could reasonably change the course of a critical battle. Depending on meteorological and other factors, approximately a ton of agent is required to attack a square kilometer, forcing opposing troops into chemical protective posture. For artillery projectiles, this corresponds to at least 10 tons of munitions, or, for example, a few hundred 155-mm chemical artillery shells per square kilometer per attack. Scaling up to a 30 day war on the NATO central front, using a variety of chemical munitions and delivery systems in coordination with conventional munitions, Julian Perry Robinson, the eminent CW expert at the U. of Sussex, has estimated that an attacker might expend some 20-30,000 tons of chemical munitions.

An alternative case would be a one-time attack against 100 airbases, intended to reduce sortie generation rates for a day or so, which could require some 2,000 tons of munitions, primarily bombs.

According to French statements, a stock containing approximately 1000 tons of agent is the minimum militarily significant size. Detailed considerations of the likelihood of producing or hiding such quantities and of maintaining the necessary doctrine, training and other arrangements for their use have not been published. But it is clear that the potential violator under the CWC regime faces a substantial probability of detection.

Whether such attacks would be significantly more (or less) effective than efforts of similar magnitude using other weapons is of course highly relevant. Here is where the maintenance of an effective chemical protective capability, by degrading the utility of chemical weapons, reinforces the security provided by the Convention. Official public estimates of the utility of chemical weapons have tended to be anecdotal and self-serving. Openly published objective information and studies of the military usefulness of chemicals are needed.

The verification system which is outlined in the Convention causes certain concerns in the United States, as well as the USSR, W. German, Japan and other countries, for both commercial and military reasons.

To the extent that the declared chemical production facilities are in commercial chemical plants, and to the extent that challenge inspections open other plants to international view, there is concern about the loss of trade secrets. It seems likely, however, that the considerable Western experience with systems such as the US EPA's Confidential Business Information, the highly professional character of the Technical Inspectorate, and the possibility of distinguishing between the kinds of information needed for the CWC and the kinds that would be considered proprietary will assure the business communities. Recent comments from a number of industry spokesmen have tended to support this view.

Of further concern, particularly following the change in the US position on INF verification, are leaks of sensitive military information. Challenges could include frivolous requests to see sensitive installations not related to the CWC (though retaliation in kind seems a likely deterrent). The US and the USSR are currently discussing ways to deal with this matter.

Other Negotiation Issues

Several issues have yet to be resolved in the negotiations. One of these concerns the "order of destruction," or constraints on the choice of weapons to be destroyed in each year of the destruction period. France, in isolation, has argued that it (and numerous other small possessors) be allowed to retain and even augment a stockpile until the last year as assurance against use by non-signatories, abrogators or violators of the CWC. Verification would be made more difficult by the French proposal. Not only would this encourage short term proliferation but would destroy the advantages of verifying compliance with nonproduction. Unsupported by other states, the French position is likely to evolve as negotiations continue.

The CWC goal is particularly dependent on certain critical states becoming parties. One idea is to have a major international signing ceremony, with appropriate behind-the-scene diplomatic activity by the major powers in order to focus maximum interest and priority on the Convention on other governments. In areas of tense local confrontation, such as the middle east, special diplomatic efforts and ingenuity will be needed to coordinate signing and ratification.

Domestic Legal Implications

Despite the problems, it is apparent that an intrusive system is required, both to eliminate existing capabilities and to provide assurance that new ones do not come into existence. This will probably require domestic legislation to implement the CWC insofar as it applies to facilities not already under federal jurisdiction. Such legislation may need to address provisions such as:

Mandatory challenges that involve search and certain types of sampling; and

Specified amounts of destruction which must be carried out within defined 1-year intervals. This will not allow lengthy judicial challenges based on environmental concerns. (A revised draft Environmental Impact Statement is nearly complete for the 90% demilitarization now mandated by the Congress to be accomplished by 1994.)

Implications for U.S. Binary Production

As shown in the graph, US spending on CBW has increased rapidly in the past decade. This escalation will increase because of the several billion dollars required for destruction of the existing stockpile, and possibly by a similar amount due to the production of new binary weapons, particularly if the program is compressed into a few years before a CWC is signed.

Pressure for production may increase from three directions. First, some officials believe the Soviets will negotiate sincerely only in response to such moves. Second, the proponents of deterrence will argue that there is a need to produce binary weapons so as to have a modernized deterrent during the 10-year period allowed for weapons destruction after the Convention's ban on further production comes into force. Third, there will also be bureaucratic pressure, stemming from the 40 year research program, 15 years of lobbying, and a just-completed plant for making binary artillery projectiles.

However, there are problems with the stick and deterrence arguments. A stick is likely irrelevant to the Soviet positions in Geneva, which are more probably linked to overall changes in Soviet policy regarding military doctrine and secrecy. Further, new production would a) be a poor example for stemming proliferation in the third world; b) be of little military utility, since there is a compelling case that the weapons ready for production are not appropriate to current US military doctrine; and c) exacerbate the European basing problem—what good are new artillery shells in the US for deterrence or immediate retaliation in Europe?

Is the replacement of the existing unitary nerve agent artillery munitions with binary ones worth incurring these liabilities? Unfortunately, France's position also threatens most of these outcomes. These dangers, and the negative effect on negotiations, make forbearance from new production worth reconsidering.

CORRECTION OF THE RECORD

Mr. JOHNSTON. Mr. President, as most of my colleagues know, some 68 amendments to the continuing resolution were adopted Friday of the more than 150 that were being discussed around and about the Senate floor. In the crush of business, the full list of cosponsors of amendment No. 1320 relating to section 1581(b) of the Food Security Act of 1985 was not included in the amendment I sent to the clerk. I, therefore, ask unanimous consent that the permanent RECORD indicate the following list of Senators who had requested to be listed as cosponsors but were inadvertently excluded: Senators WEICKER, GORE, BENTSEN, and COHEN.

The PRESIDING OFFICER. Without objection, it is so ordered.

BICENTENNIAL MINUTE

DECEMBER 19, 1974: VICE PRESIDENT ROCKEFELLER SWORN IN

Mr. DOLE. Mr. President, 13 years ago this weekend, on December 19, 1974, the Senate added two "firsts" to its extensive catalog of historic events.

That day marked the first time that television cameras were allowed in the Senate Chamber to record floor proceedings. Also, for the first time under the new 25th amendment to the Constitution, an appointed Vice President took his oath here in the Senate Chamber.

The chain of events that led to this occasion began in 1963 with the assassination of President John F. Kennedy. Under the Constitution, when Vice President Johnson became President, the Vice Presidency remained vacant. Fearing a repeat of this tragedy, Congress within 4 years had approved and the necessary number of States had ratified a constitutional amendment providing, in part, for the filling of a Vice Presidential vacancy. When Vice President Spiro Agnew resigned his office in October 1973, President Richard Nixon nominated Gerald Ford as Vice President. Mr. Ford was confirmed by Congress and took his oath on December 6, 1973, in the House Chamber. When Mr. Nixon resigned the Presidency on August 9, 1974, Mr. Ford became President and subsequently nominated Nelson Rockefeller as his Vice President.

At a few minutes after 8 o'clock on the evening of December 19, the House, following earlier Senate action, voted to confirm Mr. Rockefeller. At 10 p.m., a House messenger arrived at the door of the Senate Chamber to announce that action. With nearly every Senator in his seat and with 100 House Members crowded at the rear of the Chamber, Chief Justice Warren Burger, President Ford, and the Vice President-designate entered the Chamber. At 10:12 p.m., the Chief Justice administered the oath to the Nation's 41st Vice President, amidst a sweltering blaze of television lights. This event opened the door for regular television of Senate proceedings, beginning in 1986.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Emery, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

PRESIDENTIAL APPROVALS

A message from the President of the United States announced that he has approved and signed the following enrolled bills and joint resolutions:

On November 17, 1987:

S.J. Res. 174. Joint resolution designating the week beginning November 15, 1987, as "African American Education Week";

S.J. Res. 205. Joint resolution expressing the sense of the Congress that United Nations General Assembly Resolution 3379 (XXX) should be overturned, and for other purposes; and

S.J. Res. 220. Joint resolution to provide for the extension of certain programs relating to housing and community development, and for other purposes.

On November 19, 1987:

S. 423. An act for the relief of Kil Joon Yu Callahan.

S.J. Res. 53. Joint resolution to designate the period commencing November 22, 1987, and ending November 28, 1987, as "American Indian Week";

S.J. Res. 97. Joint resolution to designate the week beginning November 22, 1987, as "National Adoption Week."

On November 24, 1987:

S. 247. An act to designate the Kern River as a national wild and scenic river.

On November 30, 1987:

S.J. Res. 98. Joint resolution to designate the week of November 29, 1987, through December 5, 1987, as "National Home Health Care Week."

On December 1, 1987:

S. 1158. An act to amend the Public Health Service Act to establish a National Health Service Corps Loan Repayment Program and to otherwise revise and extend the program for the National Health Service Corps.

On December 4, 1987:

S. 1452. An act to extend and amend the authorization of appropriations for the Securities and Exchange Commission, and for other purposes.

On December 7, 1987:

S. 1822. An act to amend title 18, United States Code, and other provisions of law relating to sentencing for criminal offenses; and

S.J. Res. 105. Joint resolution to designate December 7, 1987, as "National Pearl Harbor Remembrance Day" on the occasion of the anniversary of the attack on Pearl Harbor.

On December 11, 1987:

S. 860. An act to designate "The Stars and Stripes Forever" as the national march of the United States of America;

S. 1297. An act to amend the National Trails System Act to provide for a study of the De Soto Trail, and for other purposes;

S.J. Res. 136. Joint resolution to designate the week of December 13, 1987, through December 19, 1987, as "National Drunk and Drugged Driving Awareness Week"; and

S.J. Res. 146. Joint resolution designating January 8, 1988, as "National Skiing Day."

On December 14, 1987:

S.J. Res. 35. Joint resolution relating to the commemoration of January 28, 1988, as a "National Day of Excellence."

On December 16, 1987:

S. 578. An act to amend the National Trails System Act to designate the Trail of Tears as a National Historic Trail.

MESSAGES FROM THE PRESIDENT RECEIVED DURING RECESS

ENROLLED JOINT RESOLUTION SIGNED

Under the authority of the order of the Senate of February 3, 1987, the Secretary of the Senate, on December 16, 1987, during the recess of the Senate received a message from the House of Representatives announcing that the Speaker has signed the following enrolled joint resolution:

H.J. Res. 425. Joint resolution making further continuing appropriations for the fiscal year ending September 30, 1988, and for other purposes.

Under the authority of the order of the Senate of February 3, 1987, the enrolled joint resolution was signed on December 16, 1987, during the recess of the Senate, by the Acting President pro tempore [Mr. CONRAD].

MESSAGES FROM THE HOUSE

At 12:04 p.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the Speaker makes the following correction in the appointment of conferees in the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3545) entitled "An act to provide for reconciliation pursuant to section 4 of the concurrent resolution on the budget for the fiscal year 1988," to the panel from the Committee on Merchant Marine and Fisheries, Mr. HUGHES and Mr. FIELDS are appointed for consideration of section 3001 of the Senate amendment, in lieu of Mr. TAUZIN and Mr. LENT, respectively. Additionally, for purposes of consideration of that portion of sections 2002 and 2008 of the Senate amendment, Miss SCHNEIDER and Mr. BATEMAN are appointed in lieu of Mr. YOUNG of Alaska and Mr. LENT, respectively.

The message also announced that the House has passed the following bills and joint resolution, in which it requests the concurrence of the Senate:

H.R. 1720. An act to replace the existing AFDC program with a new Family Support Program which emphasizes work, child support, and need-based family support supplements, to amend title IV of the Social Security Act to encourage and assist needy children and parents under the new program to obtain the education, training, and employment needed to avoid long-term welfare dependence, and to make other necessary improvements to assure that the new program will be more effective in achieving its objectives;

H.R. 3427. An act to allow the obsolete submarine United States ship Blenny to be transferred to the State of Maryland before the expiration of the otherwise applicable 60-day congressional review period; and

H.R. Res. 427. Joint resolution to provide for the temporary extension of certain programs relating to housing and community development, and for other purposes.

MEASURES REFERRED

The following bill was read the first and second times by unanimous consent, and referred as indicated:

H.R. 1720. An act to replace the existing AFDC program with a new Family Support Program which emphasizes work, child support, and need-based family support supplements, to amend title IV of the Social Security Act to encourage and assist needy children and parents under the new program to obtain the education, training, and employment needed to avoid long-term welfare dependence, and to make other necessary improvements to assure that the new program will be more effective in achieving its objectives; to the Committee on Finance.

MEASURES PLACED ON THE CALENDAR

The Committee on the Judiciary was discharged from the further consideration of the following joint resolution; which was placed on the calendar:

H.J. Res. 255. Joint resolution designating the third week in May 1988 as "National Tourism Week."

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. LEAHY, from the Committee on Commerce, Science, and Transportation, with an amendment:

S. 747. A bill to establish a motor carrier administration in the Department of Transportation, and for other purposes (Rept. No. 100-264).

By Mr. PROXMIRE, from the Committee on Banking, Housing, and Urban Affairs, with an amendment in the nature of a substitute:

S. 1323. A bill to amend the Securities Exchange Act of 1934 to provide to shareholders more effective and fuller disclosure and greater fairness with respect to accumulations of stock and the conduct of tender offers (Rept. No. 100-265).

By Mr. PELL, from the Committee on Foreign Relations, with an amendment in the nature of a substitute and an amended preamble:

S. Res. 302. A resolution expressing the concern of the Senate regarding the situation in Fiji.

By Mr. BURDICK, from the Committee on Environment and Public Works, without amendment:

S. 1901. A bill to designate the Federal Building located at 600 Las Vegas Boulevard in Las Vegas, NV, as the "Alan Bible Federal Building."

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. BIDEN, from the Committee on the Judiciary:

Jerry E. Smith, of Texas, to the United States Circuit Judge for the Fifth Circuit;

Rodney S. Webb, of North Dakota, to be U.S. district judge for the district of North Dakota; and

Kenneth Conboy, of New York, to be U.S. district judge for the southern district of New York.

By Mr. BURDICK, from the Committee on Environment and Public Works:

Rear Adm. Wesley V. Hull, National Oceanic and Atmospheric Administration, to be a member of the Mississippi River Commission:

Grant C. Peterson, of Washington, to be an Associate Director of the Federal Emergency Management Agency;

Linda J. Fisher, of Ohio, to be an Assistant Administrator of the Environmental Protection Agency; and

Marvin T. Runyon, of Tennessee, to be a member of the Board of Directors of the Tennessee Valley Authority for the term expiring May 18, 1996.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. PELL, from the Committee on Foreign Relations:

Treaty Doc. 99-20. Certified Copy of the Convention (No. 144) Concerning Tripartite Consultations To Promote the Implementation of International Labor Standards, adopted by the International Labor Conference at Geneva on June 21, 1976 (Exec. Rept. No. 100-11)

Treaty Doc. 99-21. Certified Copy of the Convention (No. 147) Concerning Minimum Standards in Merchant Ships, adopted by the International Labor Conference at its 62d Session in Geneva on October 13, 1976 (Exec. Rept. No. 100-12).

Marcolm Forbes, Jr., of New Jersey, to be a Member of the Board for International Broadcasting for a term expiring April 28, 1989;

Kenneth Y. Tomlinson, of New York, to be a Member of the Board for International Broadcasting for a term expiring April 28, 1990; and

Kathleen C. Bailey, of California, to be an Assistant Director of the United States Arms Control and Disarmament Agency.

The following to be members of the General Advisory Committee of the U.S. Arms Control and Disarmament Agency:

Peter H. Dailey, of California;
Martin Anderson, of California;
James T. Hackett, of Virginia;
Richard Salisbury Williamson, of Illinois;
Jack R. Lousma, of Michigan;
Marjorie S. Holt, of Maryland; and
William Schneider, Jr., of New York.

Henry Anatole Grunwald, of New York, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Austria.

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: Henry Anatole Grunwald.

Post: Ambassador to Austria.

Contributions, amount, date, and donee. (if not, write none)

1. Self: None.

2. Spouse: Louise Grunwald, $100, 1981, Mayor Washington of Chicago; $1,000, 1985, Kenneth Lipper—running for Mayor of New York.

3. Children and spouses names: Daughter, Lisa Grunwald, $50, 1986, Mark Green running for NY Senate. Daughter Madeleine Grunwald, $500, February 12, 1986, Hamilton Jordan running for Georgia Senate; $100, January 1986, friends of McWherter Committee, for Governor of Tennessee; $100, January 1985, Bill Bradley's Tax Foundation Committee (amount, date and name of fund approximate); $100, January 1983, John Glenn for President Campaign (amount and date approximate); $100, June 1987, friends of Marlene Johnson running for Lt. Gov. of Minnesota; $100, 1984, Jim Hunt for Senate of North Carolina (amount and date approximate); son Peter Grunwald, none.

4. Parents names: Dead.

5. Grandparents names: Dead.

6. Brothers and spouses names: None.

7. Sisters and spouses names: Meta Maas, Walter Maas, none.

Marjorie B. Kampelman, of the District of Columbia, to be a member of the Advisory Board for Radio Broadcasting to Cuba for a term of 1 year.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

Mr. PELL. Mr. President, for the Committee on Foreign Relations, I also report favorably three nomination lists in the Foreign Service which appeared in full in the CONGRESSIONAL RECORDS of October 2, November 20, and November 30 and, to save the expense of reprinting them on the Executive Calendar, I ask unanimous consent that these nominations lie at the Secretary's desk for the information of Senators.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. McCAIN (for himself and Mr. GRAMM):

S. 1957. A bill to reestablish the authority of the Small Business Administration to make disaster assistance loans in the case of economic injury resulting from currency devaluation; to the Committee on Small Business.

By Mr. PROXMIRE (for himself and Mr. GRASSLEY):

S. 1958. A bill to establish regional government fraud law enforcement units for effective investigation and prosecution of fraud against the government; to the Committee on the Judiciary.

By Mr. PROXMIRE:

S. 1959. A bill for the relief of the Menominee Indian Tribe of Wisconsin; to the Committee on the Judiciary.

By Mr. EXON:

S. 1960. A bill to designate the Federal building located at 215 17th Street in Omaha, NE, as the "Edward Zorinsky Federal Building"; to the Committee on Environment and Public Works.

By Mr. DECONCINI (for himself, Mr. LAUTENBERG, Mr. MOYNIHAN, Mr. RIEGLE, Mr. D'AMATO, Mr. GRASSLEY, Mr. HEINZ, Mr. WILSON, Mr. DIXON, Mr. Chiles, Mr. Hatch, Mr. Boschwitz, Mr. Mitchell, Mr. Bradley, Mr. Murkowski, Mr. Karnes, Mr. Dodd, Mr. Metzenbaum, Mr. Durenberger, Mr. Lugar, Mr. Leahy, Mr. Sarbanes, Mr. Cochran, Mr. Wirth, and Mr. Biden):

S.J. Res. 235. A joint resolution deploring the Soviet Government's active persecution of religious believers in Ukraine; to the Committee on Foreign Relations.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. PROXMIRE:

S. Res. 346. A resolution to refer S. 1959 entitled "A bill for the relief of the Menominee Indian Tribe of Wisconsin" to the chief judge of the United States Claims Court for a report thereon; to the Committee on the Judiciary.

By Mr. LEAHY (for himself, Mr. Danforth, Mr. Durenberger, Mr. Pryor, and Mr. Fowler):

S. Con. Res. 94. A concurrent resolution to express the sense of the Congress regarding relief for the United States Soybean Industry under section 301 of the Trade Act of 1974; to the Committee on Finance.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. McCAIN (for himself and Mr. Gramm):

S. 1957. A bill to reestablish the authority of the Small Business Administration to make disaster assistance loans in the case of economic injury resulting from currency devaluation; to the Committee on Small Business.

SMALL BUSINESS DISASTER ASSISTANCE LOANS

● Mr. McCAIN. Mr. President, today I am introducing legislation to reestablish the authority of the Small Business Administration to make disaster assistance loans to businesses that have incurred economic injury resulting from currency devaluation. I am assisted in the endeavor by my distinguished colleague from Texas, Senator Gramm.

Most Americans are well aware of the recent—November 1987—dramatic devaluation of the Mexican peso. In fact, many Members of Congress have closely monitored the economic woes of our southern neighbor for quite some time. But what many individuals fail to fathom is the drastic economic impact this plunge has had on American businesses located along the United States-Mexico border.

Before its 1-day 45 percent drop in value, the peso had been steadily losing ground to the American dollar. This constant fluctuation, however, was not wreaking havoc with the ability of Mexican consumers to purchase American products. There had been a relatively uninterrupted volume of trade among American businesses and Mexican shoppers. But as a result of the sudden and significant 1-day decline, the purchasing power of Mexico's citizenry has been cut almost in half. Unfortunately, this reduction in buying power has also diminished the volume of sales for American businessmen and women along the border by over 50 percent.

Let there be no doubt of the importance of the United States-Mexico economic relationship along the border. The economic futures of our countries are inextricably intertwined and United States businesses depend heavily on Mexican trade. Consequently, any economic problems that beset Mexico have a deleterious effect on American business on this side of the border.

To alleviate some of the financial burdens these American businesses are experiencing and will undoubtedly encounter in the future due to the unexpected and spasmodic economy of Mexico, I have proposed the reestablishment of the "Peso Devaluation Program." I will not deal with the specifics of the bill at this time, because I will request that it be printed in the Record immediately following my remarks. However, it is important to note that the bill will provide low interest—4 percent—SBA disaster assistance loans to businesses that incur economic injury because of foreign currency fluctuations. The Governor of a State is required to certify to the SBA that small business concerns within the State have suffered substantial economic injury and that the injury is not the product of normal market fluctuations. Additionally, loans made under the program shall not exceed $100,000.

Mr. President, I hope my colleagues will see the merits of supporting S. 1957. It is not a handout, it is a loan that is designed to assist U.S. businesses during a period of economic flux. I need not reiterate the consequences of our failing to do nothing. I only have to mention that the economic health and survival of many American businesses rests in our ability to provide them with the financial assistance they require to keep their heads above water. I urge my colleagues to cosponsor this measure, and I ask unanimous consent that the text of S. 1957 be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 1957

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION. 1. DISASTER ASSISTANCE FOR CURRENCY DEVALUATION.

(a) In General.—Section 7(b) of the Small Business Act (15 U.S.C. 636(b)) is amended—

(1) by striking out the period at the end of paragraph (2) and inserting in lieu thereof a semicolon and "and"; and

(2) by adding after paragraph (2) the following new paragraph:

"(3) to make such direct low interest disaster loans as the Administration may determine to be necessary to assist, or refinance all or part of the existing indebtedness (specifically including any direct loans under section 7(a) of this Act which were made to small businesses affected by currency fluctuations and exchange freezes), of any small business concern located in an area of economic dislocation that is the result of the drastic fluctuation in the value of the currency of a country contiguous to the United States and adjustments in the regulation of its monetary system if such concern is unable to obtain credit elsewhere and if such concern can demonstrate its ability to repay such loan. The Governor of a State may certify to the Administration (A) that small business concerns within the State have suffered substantial economic injury as a result of such economic dislocation, and (B) that such concerns are in need of financial assistance which is not available on reasonable terms. Such economic dislocations must be of such magnitude that without the benefit of disaster loans provided hereunder a significant number of otherwise financially sound small businesses in the impacted regions or business sectors would either become insolvent or be unable to return quickly to their former level of operation. No disaster loan made hereunder shall exceed $100,000, nor shall the proceeds thereof be used to reduce the exposure of any other lender. The Administration may permit deferral of payments of principal and interest for one year on loans made hereunder. Notwithstanding the provisions of any other law, the interest rate on any direct loan made to a business concern under this paragraph shall not exceed 4 percent per annum.".

(b) Conforming Amendments.—

(1) Section 20(z) of the Small Business Act (15 U.S.C. 631 note) is amended by adding at the end thereof the following new sentence: "For the program authorized by section 7(b)(3) of this Act, the Administration is authorized to make available in direct loans from the Small Business Administration Disaster Assistance Program such sums as are necessary to carry out the purposes of such section.".

(2) Section 4(c) of the Small Business Act (15 U.S.C. 633(c)) is amended by striking out "7(b)(4)" each place it appears.

(c) Effective Date.—The amendments made by this section shall apply to economic injuries certified by any State Governor to the Small Business Administration after the date of the enactment of this Act if such injuries occurred after November 16, 1987.●

By Mr. PROXMIRE (for himself and Mr. Grassley):

S. 1958. A bill to establish regional government fraud law enforcement units for effective investigation and prosecution of fraud against the Government; to the Committee on the Judiciary.

GOVERNMENT FRAUD LAW ENFORCEMENT ACT

Mr. PROXMIRE. Mr. President, I am today introducing a bill for myself and Senator Charles Grassley to establish a system of regional government fraud law enforcement units to investigate and prosecute cases of fraud against the Federal Government. The Department of Justice itself has estimated that fraud against the U.S. Government drains as much as 10 percent of the entire Federal budget. Actions that would even partially stop the hemorrhaging of taxpayers' money as a result of fraud in Government programs and especially defense procurement could save tens of millions of dollars.

The fact is that the Department of Justice, as presently constituted, does not have an effective organization or adequate resources to combat fraud against the Government. The prosecution of fraud in Government programs involves a specialized and complex area of law and frequently requires sustained effort and commitment of resources on the part of the Federal Government. Investigations of major defense contract fraud cases have taken as long as 4 years, and sometimes longer. Neither the Defense Procurement Fraud Unit of the Department of Justice nor the U.S. Attorney Offices around the country are capable by themselves of meeting the demands of the growing number of Government fraud cases.

Unfortunately, the experience with major Government fraud cases in recent years shows a pattern of mismanagement and failure. There has been inadequate staffing, a lack of expertise, excessive staff turnover, and poor supervision. A number of cases have suffered lengthy delays and periods of inactivity while government lawyers were shifted from one case to another.

Extensive investigations by the General Accounting Office and subcommittees of the Senate Judiciary Committee and the Joint Economic Committee demonstrate these problems and others such as the inadequate coordination between the Justice Department and other agencies of Government.

The solution proposed by my bill is modeled after the organized crime strike force approach. Regional fraud units, under the direction of the Department of Justice, would be located in a number of regions around the country. The units would be composed of experienced attorneys and investigators assigned exclusively to Government fraud cases. The regional fraud units would supplement the existing resources in Washington, DC, and at the local level.

It is time that the Federal Government organized itself to get on with the job of investigating and prosecuting those who commit fraud against the Government. My bill takes a necessary step toward this objective.

By Mr. PROXMIRE:

S. 1959. A bill for the relief of the Menominee Indian Tribe of Wisconsin; to the Committee on the Judiciary.

RELIEF OF MENOMINEE INDIAN TRIBE

Mr. PROXMIRE. Mr. President, I am today introducing legislation to provide to the Menominee Indian Tribe of Wisconsin its long-awaited day in court—the U.S. Claims Court—on merits of its claims against the United States resulting from enactment of the Menominee Termination Act of June 13, 1954, and the Government's alleged mismanagement of Menominee assets held in trust by the United States prior to April 30, 1965, the date the termination of Government supervision of the Menominee Tribe and reservation was effective.

The bill I am introducing merely sets out the claims of the tribe. It is accompanied by a Senate resolution (S. Res. 346) which, upon enactment, will refer this bill to the Chief Judge of the U.S. Claims Court for judicial determination of facts for congressional use in deciding whether this claim merits legislative relief.

Mr. President, I want to emphasize that the Claims Court has no jurisdiction to make a monetary award in this matter and the Congress will not be obligated to follow the court's recommendations, even if the court believes that the claim warrants legislative relief.

The Menominee Tribe's claim appears tailor made for the so-called legislative reference procedure established by the title 28, United States Code, sections 1492 and 2509, so that claims against the United States based on negligence or fault, or based on fair and honorable dealings should receive consideration regardless of technical defenses that the United States may assert. Here, the tribe charges that it and its members suffered grievous economic loss through termination of their rights and BIA mismanagement of their forest resources.

Although they obtained a trial court judgment on these claims in 1978 an appellate court dismissed the suit on technical grounds, without disturbing the factual findings.

The legislative reference here will permit the court to adjudicate the case on its merits, and make appropriate recommendations to Congress in the interests of justice.

By Mr. EXON:

S. 1960. A bill to designate the Federal building located at 215 North 17th Street in Omaha, NE, as the "Edward Zorinsky Federal Building"; to the Committee on Environment and Public Works.

EDWARD ZORINSKY FEDERAL BUILDING

Mr. EXON. Mr. President, I rise to offer legislation to designate the new Federal building in Omaha, NE, as the Edward Zorinsky Federal Building.

The Federal building located at 215 North 17th Street is the office in Omaha where our late beloved friend and colleague, Ed Zorinsky, worked. In his Nebraska offices, as in his Washington office, Senator Zorinsky maintained an open door policy.

Ed Zorinsky served Omaha well as the city's most popular mayor, as a tight-fisted manager on the Omaha Public Power District Board, and as a successful member of the Omaha Business Community.

It is fitting that the Federal building where Ed met with scores of Nebraskans be known as the Edward Zorinsky Building.

Although no commemoration can ever fill the emptiness that this body felt with the passing of Ed Zorinsky, this tribute will serve as a reminder to future generations that the State of Nebraska was served by a great Senator: Edward Zorinsky.

By Mr. DECONCINI (for himself, Mr. LAUTENBERG, Mr. MOYNIHAN, Mr. RIEGLE, Mr. D'AMATO, Mr. GRASSLEY, Mr. HEINZ, Mr. WILSON, Mr. DIXON, Mr. CHILES, Mr. HATCH, Mr. BOSCHWITZ, Mr. MITCHELL, Mr. BRADLEY, Mr. MURKOWSKI, Mr. KARNES, Mr. DODD, Mr. METZENBAUM, Mr. DURENBERGER, Mr. LUGAR, Mr. LEAHY, Mr. SARBANES, Mr. COCHRAN, Mr. WIRTH, and Mr. BIDEN):

S.J. Res. 235. Joint resolution deploring the Soviet Government's active persecution of religious believers in Ukraine; to the Committee on Foreign Relations.

RELIGIOUS PERSECUTION IN THE UKRAINE

● Mr. DECONCINI. Mr. President, in commemoration of the Millennium of Christianity in Kievan Rus', I am pleased to introduce with several of my colleagues a joint resolution deploring the Soviet Government's active persecution of religious believers in Ukraine. One thousand years ago next year, in 988, Prince Volodymyr the Great of Kiev adopted Christianity as the state religion of his realm. Since then, Christianity has played a central role in the cultural and historical development of the Ukrainian people. Ukrainians the world over will be observing this joyous occasion and significant event in their history, mindful of the religious freedoms denied to Ukrainians in the Soviet Union.

Despite the Soviet Government's proclaimed policies of glasnost and perestroika, the Ukrainian Catholic and Orthodox Churches were both forcibly liquidated by Soviet authorities in the 1930's and 1940's, respectively, and have remained outlawed. Their clergy and laity have suffered untold repressions for their beliefs. Their story over the last 40 years is one of enduring faith against the often brutal power of an atheistic state committed to wiping out any vestiges of Ukrainian catholicism and

Ukrainian Orthodoxy. Ukrainian Catholic, Ukrainian Orthodox, Baptist, Pentecostal, Adventist, and other believers are prevented from practicing their faiths freely and openly, are denied access to religious literature and the opportunity to receive religious instruction, and are harassed and even imprisoned for their faith. Even today, in the age of glasnost, we hear of harassment of Ukrainian Catholics and Baptists, and of the continuing desecration, closing and destruction of over 150 churches in Ukraine in the last 2 years.

It is ironic that the Soviet state, an atheistic state, which suppresses religion in Ukraine, whose capital of Kiev was the center of Prince Volodymyr's state, is promoting the millennium to serve its own ends. International conferences and expensive book publications are destined for export in order to cultivate an image of a new, democratic U.S.S.R. which tolerates religion. If the Soviet Government truly wants to commemorate the millennium of Christianity, it can legalize the Ukrainian Catholic and Ukrainian Orthodox Churches and stop persecuting believers of all denominations.

Mr. President, I would like to thank my colleagues who have already joined in sponsoring this joint resolution. Congressman Lipinski is introducing a companion measure in the House today, and I urge all Members of Congress to give this legislation favorable consideration.

I ask unanimous consent that the text of the joint resolution be printed in the Record at this point.

There being no objection, the joint resolution was ordered to be printed in the Record, as follows:

S.J. Res. 235

Whereas 1988 marks the Millennium of the Christianity of Kievan Rus', adopted by Prince Volodymyr in a ceremony on the banks of the Dnieper River;

Whereas today freedom of religion is a fundamental right which is explicitly guaranteed by the Universal Declaration of Human Rights, the International Covenants on Human Rights, and the Final Act of the Conference on Security and Cooperation in Europe;

Whereas the Soviet Government has violated the Universal Declaration of Human Rights, the International Covenants on Human Rights, and the Final Act of the Conference on Security and Cooperation in Europe by engaging in the persecution of religious believers in the Soviet Union, including the systematic liquidation of the historic and national churches in Ukraine;

Whereas the Ukrainian Orthodox and Ukrainian Catholic churches, both forcibly liquidated in the 1930's and 1940's, respectively, have remained outlawed while their clergy and laity have been murdered, imprisoned, or exiled for their religious beliefs;

Whereas, despite decades of severe persecution, Ukrainian Orthodox and Ukrainian Catholic believers to this day continue to practice their faiths clandestinely for fear of persecution by Soviet authorities;

Whereas the Soviet Government has, in addition, sought to restrain and undermine the spiritual mission of the Evangelical Church in Ukraine, and has established restrictive legislation in direct contravention of the Biblical precepts that undergird the evangelical movement;

Whereas many members of the Ukrainian Evangelical churches, in particular unregistered Baptist and Pentecostal congregations, are currently imprisoned and harassed for their faith;

Whereas suspected clergy and lay members of the Ukrainian Orthodox, Ukrainian Catholic, Baptist, and Pentecostal churches are victimized by job discrimination, their access to religious literature is restricted, and they are subject to various forms of harassment such as house searches, interrogations, and arbitrary arrests by Soviet authorities;

Whereas, despite the Soviet government's policies of religious persecution in Ukraine, faith in God is widespread among Ukrainians as evidenced by the underground Ukrainian Catholic movement which embraces hundreds of priests headed by a number of secret bishops assisted by more than 1,000 religious women in orders; and

Whereas Ukrainian Catholic catacomb bishops, priests, and laity have placed themselves in direct danger of persecution by appealing to the Kremlin to end its prohibition of the Ukrainian Catholic Church: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress of the United States deplores the Soviet Government's active persecution of religious believers in Ukraine, as well as the forcible liquidation of the Ukrainian Orthodox and Ukrainian Catholic Churches.

Sec. 2. On the occasion of the Millennium of Christianity in Kievan Rus', the Congress of the United States—

(1) discourages offical participation by the Government of the United States in ceremonies of the Millennium in the Union of Soviet Socialist Republics, so long as individuals remain harassed and imprisoned for their religious beliefs, are denied access to religious literature and the opportunity to receive religious instruction, and the Ukrainian Catholic and Ukrainian Orthodox Churches remain outlawed;

(2) sends its greetings to the Ukrainian people as they mark this solemn event in the history of the Ukrainian nation;

(3) voices its concern for those Ukrainian religious believers who are presecuted for attempting to exercise their rights to religious worship;

(4) urges the President of the United States, the Secretary of State, the United States delegation to the United Nations, the United States Delegation to the Vienna Review Meeting of the Conference on Security and Cooperation in Europe to continue to speak out forcefully against violations of religious liberty throughout the Soviet Union and specifically in Ukraine during this anniversary year;

(5) calls upon the Soviet Government to abide by the Universal Declaration of Human Rights, the International Covenants on Human Rights, and the Final Act of the Conference on Security and Cooperation in Europe, and release all those imprisoned for their religious beliefs; and

(6) urges, in observance of the Christian Millennium, the Soviet Government to legalize the Ukrainian Orthodox and Ukrainian Catholic Churches.●

● Mr. GRASSLEY. Mr. President, I join with Senator DeConcini and my other colleagues in introducing this resolution condemning the Soviet Union for its denial of basic religious freedom to Ukrainians.

In the last year and a half, the Soviet Government has systematically closed or destroyed Ukraninian churches. In addition, citizens are denied the right to practice their religion and have been harassed and even imprisoned for exercising their religious beliefs.

Next year, 1988, marks the 1,000-year anniversary of the adoption of Christianity by Ukrainians as their state religion.

For the official Soviet policy of glasnost to be a reality, it is absolutely critical for the Soviet Union to honor its obligations to the Universal Declaration of Human Rights and other agreements and to end its persecution of the Ukrainians in the exercise of their religion.

This resolution calls for our Government to continue to speak out against the Soviet Union's inhumane policies and practices. I ask you to approve this resolution unanimously so that, on the eve of the millennium of the Ukraninian adoption of Christianity, we can send this important message to the Soviet Government and these words of support to Ukrainians.●

● Mr. D'AMATO. Mr. President, I rise as an original cosponsor and an enthusiastic supporter of the Senate joint resolution introduced today by Senator DeConcini deploring the Soviet Government's active persecution of religious believers in Ukraine. I want to take this opportunity to commend my friend, the distinguished senior Senator from Arizona, for his leadership on this issue.

When I was first elected to the U.S. Senate, I joined the Commission on Security and Cooperation in Europe, better known as the Helsinki Commission. During the 99th Congress, I had the honor and privilege to serve as the Commission's Chairman.

During my continuing service as a Helsinki Commissioner and during my chairmanship, I learned a great deal about conditions inside the Soviet Union. I came to understand the determination of the Communist Party of the Soviet Union to stamp out religion—all forms of religion—as a viable force in Soviet society.

Through the testimony of activists, dissidents, and refuseniks, I learned about the hardship and suffering the Soviet authorities have inflicted upon religious believers of all faiths in the Soviet Union. The Soviets have a long history of murdering, torturing, imprisoning, and exiling those people who seek to exercise their religious faiths outside the state-controlled religious institutions.

The Soviet Government's brutal treatment of the faithful in Ukraine stands out even against the tapestry of terror and oppression which forms the history of the Soviet Union. Let me quote briefly from the United States Department of State special report No. 159, entitled "Soviet Repression of the Ukrainian Catholic Church," issued in January 1987:

> During the nearly seven decades that have elapsed since the Bolsheviks seized power, the Communist Party of the Soviet Union has sought to eliminate religion or, failing that, utilize it for the purposes of the state. In this deliberate attack on religion, no institution has suffered more than the Ukrainian Catholic Church. Claiming the devotion of millions in western Ukraine, the church—leaders and laity alike—has been systematically repressed by Soviet rule. Official Soviet historiography even goes as far as to claim that the church "liquidated itself" in 1946, that its followers "voluntarily joined" the Russian Orthodox Church.

These repressive activities took place against the background of Stalin's deliberately created famine associated with the collectivization of Soviet agriculture and the terrible death and destruction caused by the Nazi invasion of the Soviet Union in World War II. The awful scope and impact of the Ukrainian famine is chronicled in authoritative detail in Robert Conquest's book entitled "The Harvest of Sorrow," which was published in 1986.

The famine struck all Ukrainians, believers and nonbelievers alike. So did World War II. But World War II held special horrors for Ukrainian Catholics. I quote again from the State Department's special report:

> [Soviet authorities] drew up plans for the liquidation of the Ukrainian Catholic Church: These became reality with the Soviet acquisition in 1939 of western Ukraine and western Belorussia, which had large congregations of Catholics. With Soviet occupation, there immediately followed the abolition or state takeover of longstanding church institutions—including schools, seminaries, monasteries, and publishing houses—and the confiscation of all church properties and lands. Finally, as the Nazis invaded the Soviet Union in June 1941, Soviet Secret Police rounded up a large number of Ukrainian Catholic priests who were either murdered or deported to the east.
>
> Following the Nazi attack on the U.S.S.R., Stalin altered substantially his tactics toward religious communities. Fearing for the very survival of the Soviet regime, he reduced antireligious propaganda and offered significant concessions to the Russian Orthodox Church, as well as other denominations, in the hope of harnessing all the potential of the Soviet Union in its struggle against Nazi Germany. But with the Soviet reoccupation of Ukraine in 1944, repression of Ukrainian Catholics, already suffering under Nazi occupation, was resumed once again, culminating in the official "liquidation" of the church in 1946.

Also, just before World War II:

> Soviet authorities destroyed what remained of the Ukrainian Autocephalous Orthodox Church * * *, killing most of its bishops and many thousands of its followers.

This church had its origin in eastern Ukraine after the Bolshevik revolution.

Soviet authorities have also acted against Ukrainian Baptist churches and Pentecostal churches, seeking to suppress them as well. They fear any activity independent of state control which could form a focus for Ukranian cultural or political consciousness.

Religious belief also bolsters individual independence, because it proposes a moral basis for the life of the individual believer. These moral values have often run counter to official Soviet policy, prompting the faithful to oppose state actions. Since the Communist Party of the Soviet Union will not tolerate opposition of any kind in any form, Soviet authorities have acted to suppress and destroy any system of beliefs or values which can provide an alternative to Soviet Marxism-Leninism.

This resolution is timely and necessary. Those of us who are committed to the cause of improved Soviet human rights compliance were disappointed by the outcome of the recent summit meeting. We had expected some additional progress in United States-Soviet discussions of our human rights concerns. What happened was that General Secretary Gorbachev held to a hard line.

One of my deep human rights concerns remains Soviet violation of their promises under the Universal Declaration of Human Rights, the International Covenants on Human Rights, and the Helsinki Final Act, to respect the freedom of religion, thought, conscience, and belief. The Soviet Union's continuing contempt for its solemn international obligations in highlighted by its mistreatment of religious believers in Ukraine.

By passing this joint resolution, the Senate will send a clear signal to the Soviet Government that human rights remain prominent on our agenda. We have not been captured by the glamor of glasnost. We are still looking for the deeds to go with the words, the actions to go with the smiles.

I urge my colleagues to study this resolution and its background information. I hope it will be passed unanimously and swiftly. Our approval of this resolution will send a message of hope to all believers in Ukraine—and indeed, to all faithful throughout the Soviet Union.●

● Mr. **LAUTENBERG.** Mr. President, I am pleased to join as an original cosponsor of this joint resolution deploring religious persecution in the Ukraine. As the commemoration of the Millenium of Chirstianity in the Ukraine approaches, we should join in solidarity with those in the Ukraine still denied the basic right to religious freedom.

The year 1988 marks the 1000-year anniversary of the introduction of Christianity into the Ukraine by St. Volodymyr the Great of Kiev. Since the introduction of Christianity in the Ukraine in 988, religion has played an important role in the lives of the Ukrainian people.

But the fight for religious freedom in the Ukraine and the Soviet Union has been a long one. Today, nearly 1,000 years after Christianity was introduced in the Ukraine, religious freedoms in the Soviet Union are severely restricted.

I recently returned from a factfinding mission to the Soviet Union to see what kind of impact glasnost was having on the lives of the people in that country. Despite General Secretary Gorbachev's proclamations about glasnost and openness, religious persecution is still a stark reality in the Soviet Union, especially in the Ukraine. That glasnost has yet to touch the lives of the courageous individuals who dare to observe their religion was apparent from what I saw and heard in the Soviet Union.

Despite the fact that religious freedoms are guaranteed by the Helsinki accords, the International Covenant on Civil and Political Rights, and the Universal Declaration of Human Rights, severe restrictions remain. The Ukrainian Orthodox and Ukrainian Catholic churches are still outlawed. Their religious leaders have been harassed, imprisoned, murdered, and even exiled for daring to practice their religion.

Other denominations have suffered as well. Like the Ukrainian Orthodox and Ukrainian Catholics, the Ukrainian Baptists, Pentacostals, and Adventists have been prevented from learning about and practicing their religion. They have been forced to observe their faith secretively, always fearing government persecution.

That the Soviets have destroyed more than 150 churches in the Ukraine in the last 2 years indicates to me a serious contradiction in the policy of glasnost. If the Soviets are really serious about glasnost and openness, they would show respect for religion. They would not talk about reform while at the same time desecrating, closing, and destroying the churches of its citizens.

All that the people in the Ukraine desire is the opportunity to freely and openly practice their religion. But the Soviets have denied them that right again and again, and have continually sought to crush their faith.

But, Mr. President, the faith of those in the Ukraine and throughout the Soviet Union is undying. And for that reason, the Soviets will never succeed in eliminating religion from the lives of its citizens. We should join Ukrainians in America and in the

Soviet Union this year in commemorating the millenium of Christianity in the Ukraine by approving this joint resolution. I urge my colleagues to support religious freedom in the Ukraine by cosponsoring this joint resolution.●

ADDITIONAL COSPONSORS

S. 533

At the request of Mr. Thurmond, the name of the Senator from Utah, [Mr. Hatch] was added as a cosponsor of S. 533, a bill to establish the Veterans Administration as an executive department.

At the request of Mr. Karnes, his name was added as a cosponsor of S. 533, supra.

S. 1009

At the request of Mr. Karnes, his name was withdrawn as a cosponsor of S. 1009, a bill to accept the findings and to implement the recommendations of the Commission on Wartime Relocation and Internment of Civilians.

S. 1600

At the request of Mr. Ford, the name of the Senator from Alaska [Mr. Stevens] was added as a cosponsor of S. 1600, a bill to enhance the safety of air travel through a more effective Federal Aviation Administration, and for other purposes.

S. 1673

At the request of Mr. Chafee, the name of the Senator from Nevada [Mr. Hecht] was added as a cosponsor of S. 1673, a bill to amend title XIX of the Social Security Act to assist individuals with a severe disability in attaining or maintaining their maximum potential for independence and capacity to participate in community and family life, and for other purposes.

S. 1877

At the request of Mr. Bradley, the name of the Senator from Connecticut [Mr. Weicker] was added as a cosponsor of S. 1877, a bill to restore balance among sources of supply for the Nation's sweetener needs, and for other purposes.

SENATE JOINT RESOLUTION 214

At the request of Mr. Lautenberg, the names of the Senator from Ohio [Mr. Metzenbaum], the Senator from Illinois [Mr. Dixon], and the Senator from North Dakota [Mr. Burdick] were added as cosponsors of Senate Joint Resolution 214, a joint resolution to designate the week of February 7-13, 1988, as "National Child Passenger Safety Awareness Week."

SENATE JOINT RESOLUTION 215

At the request of Mr. Durenberger, the name of the Senator from Alabama [Mr. Heflin] was added as a cosponsor of Senate Joint Resolution 215, a joint resolution to authorize the Vietnam Women's Memorial Project, Inc., to establish a memorial to women of the Armed Forces of the United States who served in the Vietnam war.

SENATE JOINT RESOLUTION 218

At the request of Mr. Specter, the name of the Senator from Tennessee [Mr. Sasser] was added as a cosponsor of Senate Joint Resolution 218, a joint resolution to designate March 25, 1988, as "Greek Independence Day: A National Day of Celebration of Greek and American Democracy."

SENATE JOINT RESOLUTION 224

At the request of Mr. Chiles, the names of the Senator from New Jersey [Mr. Bradley], the Senator from North Dakota [Mr. Burdick], the Senator from Rhode Island [Mr. Chafee], the Senator from Illinois [Mr. Dixon], the Senator from Kansas [Mr. Dole], the Senator from Minnesota [Mr. Durenberger], the Senator from Florida [Mr. Graham], the Senator from Nevada [Mr. Hecht], the Senator from Hawaii [Mr. Inouye], the Senator from Massachusetts [Mr. Kennedy], the Senator from Michigan [Mr. Levin], the Senator from Arizona [Mr. McCain], the Senator from Ohio [Mr. Metzenbaum], the Senator from New York [Mr. Moynihan], the Senator from Alaska [Mr. Murkowski], the Senator from Oregon [Mr. Packwood], the Senator from Rhode Island [Mr. Pell], the Senator from Nevada [Mr. Reid], the Senator from Michigan [Mr. Riegle], the Senator from West Virginia [Mr. Rockefeller], the Senator from Maryland [Mr. Sarbanes], the Senator from Alabama [Mr. Shelby], the Senator from Vermont [Mr. Stafford], the Senator from Mississippi [Mr. Stennis], the Senator from California [Mr. Wilson], and the Senator from Hawaii [Mr. Matsunaga] were added as cosponsors of Senate Joint Resolution 224, a joint resolution to designate the period commencing on September 5, 1988, and ending on September 11, 1988, as "National School Dropout Prevention Week."

SENATE CONCURRENT RESOLUTION 94—RELATING TO RELIEF FOR THE UNITED STATES SOYBEAN INDUSTRY

Mr. LEAHY (for himself, Mr. Danforth, Mr. Durenberger, Mr. Pryor, and Mr. Fowler) submitted the following concurrent resolution; which was referred to the Committee on Finance:

S. Con. Res. 94

Whereas in 1962 the European Communities agreed to provide duty-free treatment for United States soybeans and soybean meal in return for offsetting cmpensation from the United States;

Whereas at the time the European Communities granted the duty-free bindings to the United States, it was not self-sufficient in feed protein and vegetable oil production, and it maintained no internal production subsidies for oilseeds and protein crops;

Whereas by 1982 the European Communities had become the market for nearly one-fourth of total United States soybean production, with United States exports to the European Communities reaching $3,500,000,000 that year;

Whereas in recent years the European Communities have instituted extremely lucrative internal production subsidies for rapeseed, sunflowerseed, and soybeans that have resulted in a 340 percent increase in Community production since 1981;

Whereas the European Communities subsidizes the purchase and consumption of Community-origin oilseeds by European oilseed processors and feed manufacturers in such a manner as to discourage the utilization of lower-priced United States soybeans and soybean meal;

Whereas the European Communities' oilseed production and processing subsidies have nullified and impaired United States benefits accruing from the European Communities' duty-free bindings on soybean and soybean meal, resulting in a 40 percent decline in the value of United States soybean and soybean meal exports to the European Communities between 1982 and 1986;

Whereas the European Communities' duty-free bindings on soybeans and soybean meal are among the most important agricultural trade concessions ever received by the United States in multilateral trade negotiations;

Whereas the United States has made it clear that it would not tolerate any attempts to unilaterally withdraw or otherwise nullify or impair these duty-free bindings on soybeans and soybean meal; and

Whereas on December 16, 1987, the American Soybean Association filed a petition under chapter 1 of title III of the Trade Act of 1974, alleging that the European community's internal oilseed and protein-crop subsidies to farmers, oilseed processors and feed compounders nullify and impair United States benefits achieved through agreements which provide duty-free treatment and are inconsistent with the obligations of the European Communities under the General Agreement on Tariffs and Trade: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of the Congress that—

(1) the United States Trade Representative should initiate an investigation under chapter 1 of title III of the Trade Act of 1974 with respect to internal subsidies of the European Communities and the petition filed by the American Soybean Association under such chapter, and

(2) the President should use the authority provided under section 301 of the Trade Act of 1974 to restore the benefits due the United States soybean industry which arise from the agreement of the European Communities to provide duty-free treatment for United States soybean and soybean meal.

Mr. DANFORTH. Mr. President, I am pleased to join with my distinguished colleague from Vermont in offering this concurrent resolution expressing support for the American Soybean Association's section 301 petition.

On December 16, the American Soybean Association filed a section 301 petition charging that the European Community's [EC] internal oilseed and protein crop subsidies to farmers, oilseed processors and feed compounders are inconsistent with the Community's obligations under the General Agreement on Tariffs and Trade [GATT], and that they nullify and impair the duty-free bindings on soybeans and soybean meal granted to the United States 25 years ago.

In 1962, during the Dillon round of multilateral trade negotiations, the EC granted the United States duty-free import bindings on soybeans and soybean meal in exchange for offsetting compensation from the United States. In retrospect, these duty-free bindings have proven to be perhaps the most significant agricultural trade concessions ever received by the United States in multilateral trade negotiations. By 1982, United States sales of soybeans and soybean meal to the EC climbed to $3.5 billion. The Community is the single largest foreign market for our soybeans and related products, absorbing nearly a quarter of total U.S. production.

When the EC granted duty-free treatment to U.S. soybeans and soybean meal, it was not self-sufficient in oilseed, protein meal and vegetable oil production, and it maintained no internal subsidies for such production. All that has changed now, however. Since the late 1960's, the EC has implemented a series of internal production subsidies for farmers, oilseed processors and feed compounders. The Community's support level for European soybeans is roughly $15 per bushel—that's three times the United States loan rate of $4.77 per bushel and triple the current world price for soybeans. At those rates, it is not surprising that European soybean production has increased 8,000 percent, from 14,000 metric tons in 1980 to an estimated 1.3 million metric tons this year.

Unfortunately, this increase in European soybean production came at the expense of American farmers. Since 1982, the volume of U.S. soybean and soybean meal exports to the EC has declined by 35 percent. The decline in value is roughly 40 percent. It is absolutely unacceptable that highly competitive American soybean exports are losing ground to less efficiently produced European crops because of an exceedingly expensive network of subsidies. It is intolerable for the EC to take back with one hand what it agreed to give with the other in 1962, in the form of duty-free bindings.

Mr. President, the EC has been trying for a long time to force American farmers to pay for its costly and inefficient farm programs. Most recently, the European Commission proposed a tax on the consumption of vegetable fats and oils as means of raising $2 billion for its bloated oilseed and protein crop regime. The tax would have amounted to 90-percent increase in the price of soybean oil, with devastating consequences for American soybean farmers. The United States made it clear to the Europeans that we would not tolerate such an attack on our competitive exports, and the Europeans backed down.

A similar show of resolve on this section 301 petition is not in order. We must not allow the EC to stick U.S. farmers with the bill for the failure of Europe's farm policies. We cannot permit the benefits of the duty-free bindings on soybeans and soybean meal to be undercut because of outlandish European subsidies. Energetic enforcement of U.S. rights is a must: Our farmers are entitled to it, and it represents an excellent spur to meaningful multilateral negotiations to reduce agricultural subsidies all around. I urge the administration to expeditiously pursue its investigation of Europe's internal oilseed and protein crop subsidies, and to do all that it can to restore the benefits due U.S. farmers.

SENATE RESOLUTION 346—TO REFER THE BILL S. 1959 TO THE COURT OF CLAIMS

Mr. PROXMIRE submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 346

Resolved, That S. 1959 entitled "A bill for the relief of the Menominee Indian Tribe of Wisconsin" now pending in the Senate, together with all the accompanying papers, is referred to the chief judge of the United States Claims Court. The chief judge shall proceed according to the provisions of sections 1492 and 2509 of title 28, United States Code, and report back to the Senate, at the earliest practicable date, providing such findings of fact and conclusions that are sufficient to inform the Congress of the nature, extent, and character of the damages referred to in such bill as a legal or equitable claim against the United States or a gratuity, and the amount, if any, legally or equitably due from the United States to the Menominee Indian Tribe of Wisconsin by reason of such damages.

AMENDMENTS SUBMITTED

El MALPAIS NATIONAL MONUMENT AND EL MALPAIS NATIONAL CONSERVATION AREA

DOMENICI (AND BINGAMAN) AMENDMENT NO. 1363

Mr. DOMENICI (for himself and Mr. BINGAMAN) proposed an amendment to the bill (H.R. 403) to establish the El Malpais National Monument and the El Malpais National Conservation Area in the State of New Mexico, to authorize the Masau Trail, and for other purposes; as follows:

On page 43, line 10 strike all through line 23, and insert in lieu the following:

SEC. 507. (a) In recognition of the past use of portions of the monument and the conservation area by Indian people for traditional cultural and religious purposes, the Secretary shall assure nonexclusive access to the monument and the conservation area by Indian people for traditional cultural and religious purposes, including the harvesting of pine nuts. Such access shall be consistent with the purpose and intent of the American Indian Religious Freedom Act of August 11, 1978 (42 U.S.C. 1996), and (with respect to areas designated as wilderness) the Wilderness Act (78 Stat. 890; 16 U.S.C. 131).

(b) In preparing the plans for the monument and the conservation area pursuant to Section 501, the Secretary shall request that the Governor of the Pueblo of Acoma and the chief executive officers of other appropriate Indian tribes make recommendations on methods of—

(1) assuring access pursuant to subsection (a) of this section;

(2) enhancing the privacy of traditional cultural and religious activities in the monument and the conservation area; and

(3) protecting traditional cultural and religious sites in the monument and the conservation area.

(c) In order to implement this Section and in furtherance of the American Indian Religious Freedom Act, the Secretary, upon the request of an appropriate Indian tribe, may from time to time temporarily close to general public use one or more specific portions of the monument or the conservation area in order to protect the privacy of religious activities in such areas by Indian people. Any such closure shall be made so as to affect the smallest practicable area for the minimum period necessary for such purposes. Not later than seven days after the initiation of any such closure, the Secretary shall provide written notification of such action to the Energy and Natural Resources Committee of the United States Senate and the Interior and Insular Affairs Committee on the House of Representatives.

(d) The Secretary is authorized to establish an advisory committee to advise the Secretary concerning the implementation of this section. Any such advisory committee shall include representatives of the Pueblo of Acoma, the Pueblo of Zuni, other appropriate Indian tribes and other persons or groups interested in the implementation of this section.

COMMERCIAL FISHING INDUSTRY VESSEL ANTIREFLAGGING ACT

HOLLINGS AMENDMENT NO. 1364

Mr. BYRD (for Mr. HOLLINGS) proposed an amendment to the bill (H.R. 2598) entitled the "Commercial Fishing Industry Vessel Antireflagging Act of 1987"; as follows:

Strike all after the enacting clause and insert the following:

That Section 3 (27) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1802(27)) is amended to read as follows:

"(27) The term 'vessel of the United States' means—

"(A) any vessel documented under chapter 121 of title 46, United States Code;

"(B) any vessel numbered in accordance with chapter 123 of title 46, United States Code, and measuring less than 5 net tons;

"(C) any vessel numbered in accordance with chapter 123 of title 46, United States Code, and used exclusively for pleasure; or

"(D) any vessel not equipped with propulsion machinery of any kind and used exclusively for pleasure.".

Sec. 2. (a) Item 12101 of the analysis of chapter 121 of title 46, United States Code, is amended to read as follows: "12101. Definitions and related terms in other laws.".

(b) The caption of section 12101 of title 46, United States Code, is amended to read as follows:

"12101. Definitions and related terms in other laws".

(c) Section 12101 of Title 46, United States Code, is amended—

(1) by striking paragraph (6);

(2) by inserting "(b)" immediately before "When";

(3) by inserting immediately before subsection (b), as so redesignated, the following:

"(a) In this chapter—

"(1) 'fisheries includes processing, storing, transporting (except in foreign commerce), planting, cultivating, catching, taking, or harvesting fish, shellfish, marine animals, pearls, shells, or marine vegetation in the navigable waters of the United States or in the exclusive economic zone of the United States.".

"(2) 'rebuilt', as applied to a vessel, means building upon or substantially altering any considerable part of the hull or superstructure of the vessel.".

(d) Section 12108(a)(2)(A) is amended by striking "States;" and inserting in lieu thereof the following: "States and if rebuilt, was rebuilt in the United States;".

Sec. 3. (a) Notwithstanding the requirements of section 12108(a)(2) of title 46, United States Code, a fishery license or an appropriately endorsed registry may be issued—

(1) for a vessel that was not built in the United States, if prior to January 1, 1987, such vessel was documented under chapter 121 of title 46, United States Code; and

(2) for a vessel that was not rebuilt in the United States, if such vessel was built in the United States and was purchased under a contract entered into prior to July 28, 1987, for use as a fishing, fish processing, or fish tender vessel, and if any foreign rebuilding of such vessel is completed no later than two years following the date of enactment of this Act.

(b) Any fishery license or an appropriately endorsed registry issued under subsection (a)(1) of this section to a vessel built in a foreign country shall be endorsed to restrict such vessel from catching, taking, or harvesting fish.

(c) The terms used in this section have the same meaning as in subtitle II of title 46, United States Code, as amended by this Act.

Sec. 4. (a) Section 8103(b) of title 46, United States Code, is amended to read as follows:

"(b)(1) On each departure of a documented vessel, 75 percent of the unlicensed seamen must be citizens of the United States, except for—

"(A) a yacht;

"(B) a fishing vessel;

"(C) a fish processing vessel; or

"(D) a fish tender vessel.

"If the Secretary decides, on investigation, that qualified citizen seamen are not available, the Secretary may reduce the percentage.

"(2) On a documented fishing, fish processing, or fish tender vessel that is engaged in the fisheries as defined by section 12101(a)(1) of this subtitle and does not fish exclusively for highly migratory species as defined in Section 3(14) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1802(14)), the employment of citizens, aliens, immigrants, or individuals who may otherwise acquire the status of aliens lawfully admitted to the United States for permanent residence shall be governed by the Immigration and Nationality Act (8 U.S.C. 1101 et seq.), regardless of point of departure.".

(b) Subsection (a) of this section shall not be effective until 12 months after the date of enactment of this Act.

Sec. 5. (a) Section 2101 of title 46, United States Code, is amended by inserting immediately after paragraph (10) the following:

"(10a) 'exclusive economic zone of the United States' means the zone established by Presidential Proclamation numbered 5030, dated March 10, 1983.".

(b) Section 12106(b) of title 46, United States Code, is amended to read as follows:

"(b) Subject to the laws of the United States regulating the coastwise trade, only a vessel for which a coastwise license or an appropriately endorsed registry is issued may be employed in the coastwise trade.".

(c) Section 12107(b) is amended—

(1) by inserting "and" immediately after the semicolon at the end of paragraph (1);

(2) in paragraph 2, by striking "Canada; and" and inserting in lieu thereof "Canada."; and

(3) by striking paragraph (3).

Sec. 6. (a) Section 4311(a) of the Revised Statutes of the United States (46 App. U.S.C. 251(a)) is amended by adding at the end the following: "The Secretary of Commerce may issue such regulations as the Secretary considers necessary to obtain information on the transportation of fish products by vessels of the United States from foreign fish processing vessels to points in the United States.".

(b) Within 6 months after of the date of enactment of this Act, the Secretary of Commerce shall submit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives, setting forth—

(1) an evaluation of the potential impact, on the development of the United States fishing industry, of the transportation of fish products by vessels of the United States from foreign fish processing vessels to points in the United States; and

(2) recommendations, if any, for legislation or other action to regulate such transportation of fish products in a manner most beneficial to the future development of the United States fishing industry.

(c) Within 6 months after the date of enactment of this Act, the Secretary of Commerce shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Merchant Marine and Fisheries Committee of the House of Representatives a report discussing the trends in the development of northwest fishery resources under the exclusive fishery management authority of the United States as specified in section 101 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1811) and analyzing the effects of such trends upon the United States fishing industry and the conservation and management of such resources. The report shall include—

(1) an evaluation of the extent to which the development of domestic harvesting and processing capacity has been or is likely to be affected, if at all, by this Act;

(2) an evaluation of the extent to which harvesting vessels currently engaged in joint venture operations with foreign vessels have been or are likely to be affected, if at all, by this Act; and

(3) such other matters relating to northwest fishery development, including recommendations for legislation or other action, as the Secretary deems appropriate.

MURKOWSKI AMENDMENT NO. 1365

Mr. HECHT (for Mr. Murkowski) proposed an amendment to the bill H.R. 2598, supra; as follows:

In the pending amendment in the nature of a substitute, redesignate sections 4 and 5 as sections 5 and 6, respectively, and insert immediately after section 3 the following new section:

Sec. 4. (a) Section 12102 of title 46, United States Code, is amended by adding at the end the following:

"(c)(1) A vessel owned by a corporation is not eligible for a fishery license under section 12108 of this title unless the controlling interest (as measured by a majority of voting shares in that corporation) is owned by individuals who are citizens of the United States. However, if the corporation is owned in whole or in part by other United States corporations, the controlling interest in those corporations, in the aggregate, must be owned by individuals who are citizens of the United States.

"(2) The Secretary shall apply the restrictions on controlling interest in section 2(b) of the Shipping Act, 1916 (46 App. U.S.C. 802(b)) when applying this subsection.".

(b) Section 12102(c) of title 46, United States Code (as enacted by subsection (a) of this section) applies to vessels issued a fishery license after July 28, 1987. However, that section does not apply if before that date the vessel—

(1) was documented under chapter 121 of title 46 and operating as a fishing, fish processing, or fish tender vessel in the navigable waters of the United States or the Exclusive Economic Zone; or

(2) was contracted for purchase as a fishing, fish tender, or fish processing vessel in the navigable waters of the United States or the Exclusive Economic Zone, if the purchase is shown by the contract or similarly reliable evidence acceptable to the Secretary to have been made for the purpose of using the vessel in the fisheries.

VETERANS' COMPENSATION COST-OF-LIVING ADJUSTMENT ACT

CRANSTON (AND MURKOWSKI) AMENDMENT NO. 1366

Mr. BYRD (for Mr. Cranston) (for himself and Mr. Murkowski) proposed an amendment to the bill (H.R. 2945) to amend title 38, United States Code, to provide a 4.1-percent increase in the rates of compensation and of dependency and indemnity compensation [DIC] paid by the Veterans' Administration, and for other purposes; as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE; REFERENCES TO TITLE 38, UNITED STATES CODE.

(a) SHORT TITLE.—This Act may be cited as the "Veterans' Compensation Cost-of-Living Adjustment Act of 1987".

(b) REFERENCES.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

TITLE I—COMPENSATION RATE INCREASES

SEC. 101. DISABILITY COMPENSATION.

(a) IN GENERAL.—Section 314 is amended—

(1) by striking out "$69" in subsection (a) and inserting in lieu thereof "$71";

(2) by striking out "$128" in subsection (b) and inserting in lieu thereof "$133";

(3) by striking out "$194" in subsection (c) and inserting in lieu thereof "$202";

(4) by striking out "$278" in subsection (d) and inserting in lieu thereof "$289";

(5) by striking out "$394" in subsection (e) and inserting in lieu thereof "$410";

(6) by striking out "$496" in subsection (f) and inserting in lieu thereof "$516";

(7) by striking out "$626" in subsection (g) and inserting in lieu thereof "$652";

(8) by striking out "$724" in subsection (h) and inserting in lieu thereof "$754";

(9) by striking out "$815" in subsection (i) and inserting in lieu thereof "$849";

(10) by striking out "$1,355" in subsection (j) and inserting in lieu thereof "$1,411";

(11) by striking out "$1,684" and "$2,360"in subsection (k) and inserting in lieu thereof "$1,754" and "$2,549"; respectively;

(12) by striking out "$1,684" in subsection (l) and inserting in lieu thereof "$1,754";

(13) by striking out "$1,856" in subsection (m) and inserting in lieu thereof "$1,933";

(14) by striking out "$2,111" in subsection (n) and inserting in lieu thereof "$2,199";

(15) by striking out "$2,360" each place it appears in subsections (o) and (p) and inserting in lieu thereof "$2,459";

(16) by striking out "$1,013" and "$1,509" in subsection (r) and inserting in lieu thereof "$1,055" and "$1,572", respectively; and

(17) by striking out "$1,516" in subsection (s) and inserting in lieu thereof "$1,579".

(b) SPECIAL RULE.—The Administrator of Veterans' Affairs may adjust administratively, consistent with the increases authorized by this section, the rates of disability compensation payable to persons within the purview of section 10 of Public Law 85-857 who are not in receipt of compensation payable pursuant to chapter 11 of title 38, United States Code.

SEC. 102. ADDITIONAL COMPENSATION FOR DEPENDENTS.

Section 315(1) is amended—

(1) by striking out "$82" in subsection (A) and inserting in lieu thereof "$85";

(2) by striking out "$138" and "$44" in clause (B) and inserting in lieu thereof "$143" and "$45", respectively;

(3) by striking out "$57" and "$44" in clause (C) and inserting in lieu thereof "$59", and "$45", respectively;

(4) by striking out "$67" in clause (D) and inserting in lieu thereof "$69";

(5) by striking out "$149" in clause (E) and inserting in lieu thereof "$155"; and

(6) by striking out "$126" in clause (F) and inserting in lieu thereof "$131".

SEC. 103. CLOTHING ALLOWANCE FOR CERTAIN DISABLED VETERANS.

Section 362 is amended by striking out "$365" and inserting in lieu thereof "$380".

SEC. 104. DEPENDENCY AND INDEMNITY COMPENSATION FOR SURVIVING SPOUSES.

Section 411 is amended—

(1) by striking out the table in subsection (a) and inserting in lieu thereof the following:

"Pay grade	Monthly rate	Pay grade	Monthly rate
E-1	$518	W-4	$743
E-2	534	O-1	656
E-3	548	O-2	677
E-4	583	O-3	725
E-5	598	O-4	766
E-6	611	O-5	845
E-7	641	O-6	952
E-8	677	O-7	1,029
E-9	[1]707	O-8	1,128
W-1	656	O-9	1,210
W-2	682	O-10	[2]1,327
W-3	702		

"[1] If the veteran served as sergeant major of the Army, senior enlisted advisor of the Navy, chief master sergeant of the Air Force, sergeant major of the Marine Corps, or master chief petty officer of the Coast Guard, at the applicable time designated by section 402 of this title, the surviving spouse's rate shall be $763.

"[2] If the veteran served as Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, Commandant of the Marine Corps, or Commandant of the Coast Guard, at the applicable time designated by section 402 of this title, the surviving spouse's rate shall be $1,422.";

(2) by striking out "$58" in subsection (b) and inserting in lieu thereof "$60";

(3) by striking out "$149" in subsection (c) and inserting in lieu thereof "$155"; and

(4) by striking out "$73" in subsection (d) and inserting in lieu thereof "$76".

SEC. 105. DEPENDENCY AND INDEMNITY COMPENSATION FOR CHILDREN.

Section 413(a) is amended—

(1) by striking out "$251" in clause (1) and inserting in lieu thereof "$261";

(2) by striking out "$361" in clause (2) and inserting in lieu thereof "$376";

(3) by striking out "$467" in clause (3) and inserting in lieu thereof "$486"; and

(4) by striking out "$467" and "$94" in clause (4) and inserting in lieu thereof "$486" and "$97"; respectively.

SEC. 106. SUPPLEMENTAL DEPENDENCY AND INDEMNITY COMPENSATION FOR CHILDREN.

Section 414 is amended—

(1) by striking out "$149" in subsection (a) and inserting in lieu thereof "$155";

(2) by striking out "$251" in subsection (b) and inserting in lieu thereof "$261"; and

(3) by striking out "$128" in subsection (c) and inserting in lieu thereof "$133".

SEC. 107. EFFECTIVE DATE FOR RATE INCREASES.

The amendments made by this title shall take effect as of December 1, 1987.

TITLE II—VETERANS' EMPLOYMENT TRAINING EXTENSIONS

SEC. 201. EXTENSION OF DEADLINE FOR VETERANS' JOB TRAINING ACT APPLICATIONS.

Section 17(a)(1) of the Veterans' Job Training Act (Public Law 98-77; 29 U.S.C. 1721 note) is amended by striking out "December 31, 1987" and inserting in lieu thereof "June 30, 1988".

SEC. 202. INCREASE IN LIMIT ON VOCATIONAL-TRAINING EVALUATIONS OF VETERANS RECEIVING PENSIONS.

Section 524(a)(3) is amended by striking out "2,500" and inserting in lieu thereof "3,500".

AUTHORITY FOR COMMITTEES TO MEET

SELECT COMMITTEE ON INTELLIGENCE

Mr. BYRD. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Thursday, December 17, 1987, to hold a markup on S. 1721 and S. 1818.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS AND FORESTS

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Public Lands, National Parks and Forests of the Energy and Natural Resources Committee be authorized to meet during the session of the Senate on Thursday, December 17, 1987, to receive testimony on S. 850, a bill to amend the Wild and Scenic Rivers Act to designate a segment of the Rio Chama River in New Mexico as a Component of the National Wild and Scenic Rivers System.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

SEMINOLE INDIAN LAND CLAIMS SETTLEMENT ACT OF 1987

● Mr. GRAHAM. Mr. President, I stand before you today to encourage my colleagues' support for S. 1684, the Seminole Indian Land Claims Settlement Act of 1987. The bill settles a longstanding dispute involving the Seminole Tribe, the State of Florida and the Federal Government.

In September, Senator CHILES and I introduced the Seminole Indian Land Claims Settlement Act of 1987 which will compensate the Seminoles for land taken by the Federal Government.

It will resolve a Seminole grievance over a critical water flowage easement controlled by the South Florida Water Management District. It will secure the continued use of that easement which is essential for the provision and regulation of the water supply for the residents of south Florida coastal cities, including Miami and Fort Lauderdale, and of large agricultural areas.

By monetary compensation and by the transferral of some lands to the United States to be held in trust for the Tribe, an 11-year dispute over water rights and land claims will be put to rest. That action will remove the cloud over many land titles in Florida, and the attendant hardship to present landowners.

Under the act, a 9,600 acre tract of land which is now in the East Big Cypress Reservation, will be added to an existing Seminole Reservation and held as a Federal reservation for the Seminole Tribe. Those lands will be subject to Florida civil and criminal law—specifically, Florida laws on alcoholic beverages, gambling and cigarette sales.

Seminole land and water rights in Florida have been disputed since before the 1839 Presidential Executive order which attempted to resolve the claims the Seminoles had nearly 150 years ago. Both Senator CHILES, who is an enthusiatic co-sponsor of this legislation, and I are relieved to have at last reached an accommodation agreeable to all parties.

Expeditious passage of this legislation will allow us to finally put this longstanding dispute to rest.●

DAVE DURENBERGER ON ARMS CONTROL

● Mr. BOSCHWITZ. Mr. President, it has been my very great pleasure and honor for the last 9 years to serve with my colleague and fellow Minnesota Senator, DAVE DURENBERGER. He has served our State and its people with distinction and dedication. DAVE recently spoke, via satellite, to the Minneapolis/St. Paul Chambers of Commerce on arguably the most important issue facing our country and the world today: arms control. As usual, his remarks were insightful and well-reasoned.

DAVE's keen views always merit close attention, and this speech is no exception. Dave argues forcefully in favor of the recently concluded INF Treaty. I heartily recommend it to all my colleagues, and ask that it be placed in the RECORD.

The remarks follow:

TOWARD A SAFER WORLD: ARMS CONTROL AS AN INSTRUMENT OF U.S. FOREIGN POLICY

(Remarks by U.S. Senator Dave Durenberger)

It is a pleasure for me to be with you today, if only by satellite. I had expected to be back among you in the flesh by now. But a 500 point stock market drop, like a view of the gallows, has focused a lot of minds around here to the dangers of the deficit.

I've been working all day today behind closed doors with the members of the Finance Committee on implementing the so-called budget summit.

Bob Dole has said of the whole process that the patient is ready to take the medicine, but we can't find anyone to hold the spoon. I'm not particularly enthused with the dosage, the spoon holders or even the spoon itself, but that is a discussion for another day, or perhaps, technology willing, for your questions at the end of our time today.

What I want to focus on today is an event of far greater import and potential for changing the structure of the international system * * * the upcoming summit meeting between President Reagan and General Secretary Gorbachev in Washington next week. In an increasingly interdependent and dangerous world, super-power diplomacy is a matter of day-to-day consequence to all of us, and it deserves our attention as consumers, taxpayers and citizens.

For the last twelve months, America has been riveted on foreign policy gone wrong. I'm sure you recall that a year ago this time, as Chairman of the Intelligence Committee, I was deep into the first comprehensive investigation of the Iran Contra scandal.

The report of our committee provided the "edge pieces" of the puzzle, and the Tower Report and the report of the Select Committee have added immense amounts of detail to the basic picture the Intelligence Committee assembled. Like other such watershed events of our history, we will be learning and living the lessons of Irangate. But it is important that the failures of Irangate not distort the historic and fundamental value of the progress America has made in the last seven years, which reaches a culmination in the meetings in Washington next week. The center-piece of the summit, the INF agreement, and the other issues which will be addressed in the private meetings between these two leaders, are testaments to foreign policy done right.

There will be many voices who will either bemoan or belittle what takes place next week, for the instant gratification of a media rush or a political bump in the polls. It is just that trend in our conduct of foreign policy which makes summits of this kind rare, and the achievements it will bring welcome.

Ronald Reagan, if nothing else, is resolute in pursuit of his vision of a stronger, more secure America. He brings to the summit table a life-time of anti-communism, and a seven year commitment to building America's defense, come deficits or high water. Just as Richard Nixon was able to make the opening to China . . . and just as Menachem Begin was able to negotiate peace with Egypt . . . Ronald Reagan has unique credibility to negotiate and get ratified an arms control agreement with the Soviet Union.

Mr. Gorbachev, is a striking change from traditional Soviet leaders who have sat across the table from U.S. presidents over the last three decades. As Rekyavik demonstrated, he is both tough and resourceful; and he has shown the staying power which may keep him in power well into the next century, through three or more American administrations.

There can be no doubt, given the detailed preparation of the two sides, and the expanded stakes for both Superpowers, that we are on the verge of and event of major historical significance.

The Reagan Administration approach to negotiating restraints on nuclear weapons is a text book example of the supreme value of constancy in foreign policy in general, and in dealing with the Soviets in particular. It illustrates how we can legitimately expect to enhance our security through the pursuit of arms control. And it illustrates how a president can work with Congress, over the long haul, to establish the precursors for negotiation, and carry the process through to completion and hopefully ratification by two thirds of the Senate next year. Ronald Reagan deserves the full credit for that achievement.

I don't know about you, but I didn't see an overabundance of resolution or constancy on that stage in Washington last night. We had best make the most of the opportunity which is upon us, rather than give in to the hand-wringers of "too much, too soon" and "too little, too late".

The history of the INF issue shows, I believe, four basic principles that formed the foundation for the agreement we now have. First, the "zero-zero option" was a proposal that addressed the security concerns of the U.S. and our allies and was formulated in concert with our overall defense policy and our INF modernization program.

The December, 1979 NATO decision to respond to Soviet deployments of SS-20 missiles was based on "dual tracks:" move ahead with modernizing NATO forces while pursuing arms control negotiations. Shortly after coming into office in 1981, President Reagan proposed the zero option: NATO would not deploy Pershing II and Ground Launched Cruise Missiles (GLCMs) if the Soviets would dismantle their SS-4s, 5s, and 20s. But Reagan made it very clear that we would proceed with our modernization to address the SS-20 threat in the absence of an arms control solution.

This is the essence of good arms control—propose a formula that responds to the same security threat that a concurrent defense program addresses. By subordinating arms control to overall security policy, the Soviets were given a clear choice: either bargain seriously on the basis of the zero option or face a modernized NATO INF force.

The second principle that we see in the administration approach to INF is to formulate positions that have the whole-hearted support of our allies. No issue in the 1980s has been more politically explosive for the Western European democracies than the INF modernization. The zero option was a proposal that even the most committed peace activists could support.

It is true that when the INF deployments began in 1983, many in Europe argued that we should delay or defer the process to "give arms control a chance." But that is putting the arms control cart before the security policy horse. And governments supporting both tracks of the 1979 NATO decision were re-elected in western Europe. Our allies were able to argue that the U.S. was working toward the goal of eliminating an entire class of nuclear weapons—but do do that, INF modernization had to proceed.

The third principle we can learn from the INF history is that arms control must have broad support in the United States—among the American people and in Congress. We cannot sustain defense policies that are out of touch with political realities in the U.S. The zero option was an easily understandable formula that garnered the support of a large segment of our population—both those traditionally distrustful of arms control negotiations with the Soviet Union and among those traditionally distrustful of a Republican administration's commitment to arms control.

The fourth principle, and the one I began with, is the virtue of constancy and persistence. When the zero option was first proposed, it was denounced by many administration opponents as "not serious" or a propaganda ploy. Many argued that it would not be accepted by the Soviets and therefore should not have been put forward. And after 1981, the chorus of voices arguing for its modification grew louder. When the time came for deployment, many arms control advocates—including former high-ranking Carter administration officials—argued that deployment should be delayed or deferred because the Soviets threatened to halt negotiations if the deployment began.

In 1983, the deployment did commence on schedule and the Soviets did walk away from negotiations. But the administration held firm in its commitment to achieving a total elimination of INF. President Reagan and his advisers were harshly criticized, but through their persistence, we will now have a comprehensive INF Treaty before the Senate early next year. And they were able to hold firm because the zero option did address fundamental security issues, did have the support of our allies, and did have the support of American people and Congress. And most important, President Reagan was convinced that his approach was right and that modifying our position simply to get an agreement was not what arms control should be about.

I have supported this President's efforts to achieve progress in INF arms control. I remember the pressure against deployment in 1982 and 1983. I remember the strong arguments made against the Pershing II in particular, because it is able to reach Soviet territory in less than ten minutes. But because the U.S. and our NATO allies did not give in to that pressure, and because Mikhail Gorbachev finally saw that Pershing II's were in Germany to stay, we now have an historic agreement on intermediate range nuclear forces.

I must admit that I have been disturbed by the tendency of many supporters of arms control to downplay the importance of the INF Treaty. It is true that a relatively small portion of the superpower's nuclear arsenals are affected by the agreement. And it is true that a deal on strategic forces would be even more important than the current INF agreement. Nonetheless, the INF Treaty is a crucial landmark in the history of arms control for at least four central reasons.

First, the INF Treaty is the first accord in history to actually reduce the number of nuclear weapons. SALT I and the unratified SALT II agreement only capped U.S. and Soviet arsenals—they did not reduce overall numbers.

Second, the INF Treaty represents the first time an entire class of weapons—missiles with ranges of 300 to 3,400 miles—has been eliminated through arms control. I would expect supporters of arms control to understand the importance of this precedent.

Third, the verification provisions negotiated in the INF process are far more intrusive than anything the Soviet Union has ever agreed to in the past. The verification clauses of the INF Treaty include inspection teams stationed on each other's soil for more than ten years, multiple short-notice "challenge" inspections of sensitive facilities, and agreement on "uncovering" numerous sites to ease satellite verification. These provisions set vital precedents for future arms control agreements. And the fact that over 2000 warheads will be destroyed—along with their launchers—means that the superpowers will establish a workable system for destroying nuclear weapons.

Fourth, the INF Treaty is based on the concept of asymmetrical reductions. That is, while the Soviets are required to destroy nearly 1600 weapons, the U.S. is only required to destroy less than 500. We forgo future deployments while the Soviets must dismantle existing missiles. This treaty is a very good deal for the U.S. and for NATO.

Despite these important advantages, the politics of INF ratification will be contentious. Some of my colleagues will cloak their opposition to the treaty under the veil of verification concerns or worries about the balance of conventional forces in Europe, but I suspect many of their doubts about the treaty simply stem from their feeling that any proposal accepted by the Soviet Union must not be in the US interest. Other senators may try to use the INF ratification process to further their personal policy concerns about issues ranging from ABM Treaty interpretation to Soviet withdrawal from Afghanistan.

I have made my decision to actively and strongly support this treaty and to work with the administration to build the 67 votes the president needs to achieve these reductions and build momentum for the future.

There may not be many Republicans fighting on the Senate floor for President Reagan's treaty, as last night's debate indicated. But the President is right, this treaty is worth fighting for, not just because it is an inherently good deal, but also because we need to seize this present opportunity for even more progress in nuclear arms control.

The real question for the nation—and the world—is where do we go next on arms control. The fundamental issues are well known. For the first time in history, U.S. and Soviet leaders have accepted the concept of a 50 percent reduction in strategic forces. The Soviets have agreed to reduce their most threatening "heavy" missiles by 50 percent as well. Agreement has been reached on the overall numbers of launchers and of warheads. This progress is further testimony to the soundness of the Reagan approach to arms control.

Negotiating work still needs to be done to further our goal of directing Soviet forces away from land-based missiles—and this is being done through discussion on warhead sublimits. But the major remaining disagreement is on how to link strategic force reductions with limitations on stategic defense. The so-called "grand compromise" envisioned by many analysts would trade reductions in offensive arms for a modus vivendi on defensive weapons. Secretary Gorbachev has done his utmost to force the U.S. into concessions on SDI. The October, 1986 Reykjavik summit failed to reach agreement at the last minute because of President Reagan's firmness on SDI. The Soviets want a ten-year commitment to the ABM Treaty while the U.S. has offered to abide by its terms for seven years—until 1994. The problem is that each side has a different view of what the ABM Treaty is.

As I indicated above, one of the ingredients in the successful Reagan approach to arms control has been persistence. On the issue of discussing what the ABM Treaty allows, the President has been nothing if not persistent. The time has come to heed the calls for a more reasonable stance on reconciling U.S. and Soviet interpretations of the ABM Treaty. I do not think there is time to work out a complete treaty on the full range of space and strategic force issues by the end of this administration. But there is time to develop a framework that lays out the basic principles in a "grand compromise" much as the 1975 Vladivostok Accord between Brezhnev and Ford laid the foundation for the SALT II agreement.

To develop such a framework, however, means that the U.S. must be willing to negotiate about SDI and the ABM Treaty—about what kinds of tests are permitted and what the ABM Treaty means for SDI research and development. Some in the administration, notably Paul Nitze, have advocated negotiating about what the ABM Treaty allows while others claim we do not yet know what tests will be necessary. What President Reagan could build is a framework for an ABM II which puts in place a process for communicating and allow for technological advances. But so far, the President has refused to do more than agree to abide by the ABM Treaty until 1994—without specifying which interpretation would apply.

While the administration has followed the persistence principle, its inflexible position on SDI is out of step with the other three principles that led to a successful outcome in the INF negotiations. Persistence without support is doomed. And refusing to even discuss ABM interpretation is not a position that serves our security interests. The administration is concerned, properly, with the pace and scope of the Soviet SDI program. The administration is also interested in exploring technologies that hold the promise of eventually ending the "mutual balance of terror" the world has lived with for over four decades.

The forty year history of the offensive nuclear arms race should have taught us that when technology determines our strategy and force structure, political efforts to turn the clock back are exceedingly difficult. The U.S. and Soviet Union deployed multiple warheads in the early 1970s without fully understanding how much more dangerous our world would become. I see a tremendous opportunity for a debate over the political and doctrinal implications of strategic defense to precede any deployment decisions. I do not think it is beyond the capacities of the superpowers to make political decisions now on defensive weapons that will insure technology does not drive strategy.

There is no contradiction between well-paced research on strategic defense and conducting negotiations with the Soviets on acceptable activities under the ABM Treaty. In fact, a continued refusal to even discuss the issues will endanger the entire SDI effort. Allied support to date has been lukewarm at best. What support there is, exists in large part because we have let foreign firms play a significant role in lucrative SDI research and development contracts.

And support in the U.S. for the strategic defense program laid out by the administration is tenuous. In September, Vice-President Bush cast the deciding vote to break a tie on cutting SDI spending to last year's level. I co-sponsored the effort to limit SDI funding and the administration could not fail to notice the fragility of support for large increases in the SDI budget.

The administration also saw how much its "reinterpretation" of the ABM Treaty cost in terms of Congressional support. The defense authorization bill was held for months because Democrats wanted to make their point about the "narrow" or traditional interpretation of the treaty.

While I was not pleased with the process or the results of the administration's legalistic approach to a vital national security issue, I did not support an effort which would legislate a treaty interpretation. I opposed the effort for a number of reasons but chiefly because the administration had no plans to engage in tests which would violate the traditional interpretation. My view was vindicated when the House-Senate conference on the defense bill dropped the provision precisely because the administration repeated its commitment to take no action in fiscal year 1988 which would undermine the narrow interpretation of the ABM Treaty.

But the votes on SDI funding and ABM interpretation illustrate that Congress is NOT convinced of the merits of the administration approach to SDI. For SDI to have any of the achievements its strongest proponents envision, it must be more than the creature of one administration. Few observers feel that strategic defense in any meaningful form can be operational in the short-term—that is, in the next 3-5 years. For SDI to live up to any of its promise, there must be a stronger consensus behind the program's direction. And the consensus must be broad enough to insure long-term support.

It is clear that the best way to forge the necessary consensus that will endure beyond President Reagan's term in office is to negotiate a framework with the Soviet Union that links deep reductions in offensive arms while establishing a regime for space and defensive weapons. I realize that my advocacy of negotiating with the Soviets on what the ABM Treaty means will upset many strong SDI proponents. But to them I would say SDI does not have much of a future without serious negotiations. I am hopeful that after the departure of the architects of the hard-line "no negotiations" position—principally Cap Weinberger and Richard Perle—that the administration will understand the need to move forward on SDI in concert with negotiations.

I fully believe substantial—and unprecedented—progress in arms control is possible if the U.S. moves in the direction I outlined today. But I also believe that it is a mistake to place the entire weight of US-Soviet relations on the condition of progress in arms control. Whether we move ahead on a "grand compromise" or not, there are many important areas of US-Soviet relations that should not be held hostage to advances in arms control negotiations.

We have sincere and legitimate concerns about the Soviet Union living up to its obligations under the Helsinki Agreement to respect fundamental human rights. Because the Soviets signed the Helsinki accord, they must recognize that basic freedoms—such as the right to emigrate—are not purely "internal" matters; they are part of the terms of a binding international agreement.

And important regional security issue will be on the summit agenda next week. Gorbachev is likely to make another offer to withdraw from Afghanistan and Reagan has pledged to raise the Soviet role in conflicts ranging from Angola to Nicaragua.

As a nation we must recognize that at true strategic defense of the United States will come from our ability to deal with "low intensity conflicts" in Central America, in Asia, in the Mideast, and in Southern Africa. Dealing with revolution, religious ferment, and ethnic turmoil in the third world rarely receives the media attention lavished on arms control summits. But, in many ways these conflicts threaten our security as we move toward the 21st century more than a direct US-Soviet confrontation.

As we witness the first visit of a Soviet leader to the United States in over a decade next week, we must keep in mind the historic success and the historic opportunity that the summit represents. It was said that the Soviets came to Reykjavik to play chess and the U.S. to play checkers. This president, with the American people strongly behind, is ready to play chess with the Soviets.

And now, I would be pleased to answer your questions.

DISPOSAL OF SOLID WASTE

● Mr. GLENN. Mr. President, today I rise to call to the attention of my colleagues, an editorial which appeared in the November 15 Akron Beacon Journal, from my State of Ohio.

The editorial highlights the problem facing our Nation regarding disposal of solid waste. Although it is the cheapest method of disposal, landfills are not the answer. We are finding out that landfills, are becoming very expensive as well as dangerous, as more and more landfills contaminate our ground water with cancer causing chemicals.

Not only are these sites costly in the long run, but they are no longer the solution as we rapidly run out of room in our landfills. An article which appeared on the front page of the Washington Post yesterday, reiterated our need to find an alternative.

Mr. President, I ask that the following editorial entitled, "Injustice in Uniontown," and the Washington Post article be printed in the RECORD.

The material follows:

[From the Akron Beacon Journal, Nov. 15, 1987]

INJUSTICE IN UNIONTOWN

Families living near the Uniontown Industrial Excess Landfill live with the fear that cancer-causing chemicals are in their water, in the air around their homes, and in their blood.

In many cases, families feel trapped: Virtually no one will buy their homes. Unable to sell, they cannot afford to move.

That these families live a nightmare is a social injustice. That the federal EPA, the government agency with authority to help them, adds to their problems in an outrage.

Events of last week make it clear that the health and safety risks are too great for the EPA to continue wasting time and playing politics. The time for action is now.

As a citizens' group learned this week, government documents show the EPA botched its analysis of air tests in homes near the Uniontown landfill. According to the documents, a dangerous cancer-causing chemical was probably present.

By mistake, the EPA previously identified this chemical as one less dangerous.

This frightening news came just as seven Uniontown residents learned the result of new blood tests: In each case, a wide range of dangerous chemicals was found.

For the Uniontown residents, the fears are greater now than ever before. Yet what is the EPA doing about it?

In Washington, it remains embroiled in disputes over how to use Superfund money to clean up dumps such as the one in Uniontown. Local communities end up suffering the consequences; what action the EPA does take is usually too little and too late.

Recently, for example, the EPA agreed to connect 110 homes in Uniontown to a new water supply when 1,500 were in possible danger. Fortunately, Gov. Celeste saw no reason to threaten the rest and agreed to spend state money to build a new water system for all the homes.

Gov. Celeste rightly saw that any error should be on the side of safety.

The federal EPA's approach seems to be the opposite. A telling example was the release of documents showing the air tests had been bungled. The documents became public only after citizens invoked the federal freedom of information law to obtain them.

Information about mistakes in the air tests had been known to the EPA since Oct. 21. A responsible EPA would have informed the public immediately.

Uniontown residents are tired of the shenanigans and demand action now. Who could blame them?

The EPA should immediately send its chemists to Uniontown for thorough environmental testing, accurate analysis of the results and a frank reporting of those results to the public. If the residents are in danger, then the federal government should buy the homes at a fair price, so the families could move.

So far, the EPA has said it has no plans for such additional tests. If that is the case, then the federal government should buy the homes based on hazards now suspected.

Uniontown residents are legitimately frightened. Their health and their homes are on the line.

This is a case where government can make a difference. So far, it has not done so in a positive way. The Uniontown residents are right to be angry. Government has failed them and they do not know where to turn next.

Any of us—any family—faced with the same situation and an apparently indifferent government bureaucracy would be frustrated, scared and angry. Congressmen from Northeast Ohio ought to heed these fears and put enough heat on the EPA to get action on this serious problem in our region.

[From the Washington Post, Dec. 14, 1987]

LANDFILL CLOSINGS: COSTLY CRISIS FOR THE NORTHEAST

(By Howard Kurtz)

LYNDHURST, N.J.—One by one, the battered trucks rumble up the winding dirt road until they reach the top of the hill, where the debris is thickest, the stench overpowering and the view of Manhattan unimpeded but for thousands of swirling sea gulls.

For more than a century, this swath of the Hackensack Meadowlands has served as New Jersey's biggest garbage dump, the place where millions sent their wretched refuse. But its days as an urban landfill are numbered, and that has created an economic, environmental and political crisis for every city and township in the northern part of the state.

Paterson, which as barred from dumping at the Meadowlands Dec. 1, watched its trucks wander from state to state like wayward garbage barges on wheels. Newark, whose landfill here was closed in August, is reeling from a 400 percent increase in costs as its trucks its waste to Pennsylvania.

And Bergen County, whose 70 towns have less than three months to find a new dump site, has considered shipping its waste as far away as Panama and Costa Rica.

From Rutland, Vt., to Washington, D.C., the Northeast is struggling to make an uneasy transition from landfills, which are rapidly filling up and shutting down, to modern incinerators, which provoke fierce opposition wherever they are proposed. Dozens of cities are facing stiff tax increases to cover their soaring garbage disposal costs, which now rank just behind police and fire protection in many municipal budgets.

Burning garbage locally is decidely cheaper than sending it to faraway locales. But whether they are called resource recovery, waste-to-energy or trash-to-steam plants, the specter of large-scale incinerators has spawned a wave of litigation and community opposition.

This in turn has delayed proposed incinerators in New York, New Jersey, Boston, Philadelphia and elsewhere, at precisely the time when this densely populated region is running out of landfill space.

"No one wants garbage in their back yards, that's a given fact," said Anthony Scardino, executive director of the Hackensack Meadowlands Development Commission. "No politician wants to be on the 'yes' side of a vote that puts garbage in someone's back yard. If they could have kept it coming to the Meadowlands, they wouldn't have had to face the issue."

At their peak, two dozen landfills in the Meadowlands were taking in 11,000 tons of garbage a day, enough to fill Giants Stadium every five weeks. But by February, despite heated protest, Scardino's state commission will have closed one of the two remaining landfills in this wetland district. The last landfill is to be closed in three years.

In 1974, when it was a net importer of garbage, New Jersey barred out-of-state trash from its landfills, only to see the Supreme Court strike down the law. Now, several New Jersey counties are citing that decision in an effort to force reluctant Pennsylvania authorities to take in the Garden State's trash.

By next month, officials say, more than half of New Jersey's garbage will be headed beyond the state's borders. But no part of the region is immune:

In Boston, waste disposal costs tripled last summer, from $23 to $70 a ton. "This is a municipal finance issue of the biggest order," said Neil Sullivan, policy director for Mayor Raymond L. Flynn.

After plans to use an out-of-town incinerator collapsed, Flynn decided to build a $185 million incinerator in an industrial area near his native South Boston. But state Senate President William Bulger, also from South Boston, has blocked that plant through parliamentary maneuvers, pushing instead for a larger incinerator in Weston, one of Boston's wealthiest suburbs. Flynn's plan remains caught in the political cross fire.

In Philadelphia, which weathered a 20-day garbage strike last year, Mayor W. Wilson Goode has been unable to win city council approval for a $280 million incinerator slated for a naval shipyard in South Philadelphia. Hundreds of protesters, bearing signs such as "Goode's Taking Our Breath Away," have turned out at public hearings on the plant.

Pennsylvania, whose rural landfills are already taking in 6,000 tons of trash a day from New Jersey and New York, has gone to court to enforce strict limits on its landfills. "Other states should start taking care of their own trash," said Susan Woods, spokeswoman for the state's environmental protection agency.

Another interstate war broke out when New Jersey blamed New York for a 50-mile garbage slick that washed up on its shores last August, forcing many beaches to close at the height of the tourist season. New York officials, facing court sanctions, denied responsibility for the floating garbage but agreed to pay $1 million in reparations and install new pollution controls on their side of the ocean.

New York City also faces a possible shutdown of its last remaining landfill, Fresh Kills on Staten Island, within five years. The city wants to build five incinerators to burn its 27,000 daily tons of garbage, but environmentalist lawsuits have delayed the first project, a $400 million incinerator at the Brooklyn Navy Yard, until at least 1992.

The New York-New Jersey metropolitan area is the only section of the country that has not agreed to end ocean dumping of sludge. But disposal costs are mushrooming because the closest offshore site is closing and barges must now ferry the sewage to an area 106 miles of Cape May, N.J.

In the Washington area, Montgomery, Fairfax and Arlington counties are planning controversial incinerators. Montgomery County, like many urban areas, has just proposed a major mandatory recycling program to reduce the flow of garbage.

With landfill space dwindling and recycling a partial answer at best, municipal incinerators—many of which help produce electricty—seem clearly the wave of the future. More than 100 have been built in the United States and 200 more are planned. But this multibillion-dollar investment in new technology is not without environmental drawbacks.

The burning of so much garbage leaves behind millions of tons of toxic ash, which is widely shunned and must be buried in special landfills. That toxic ash has produced a Philadelphia version of the garbage barge, the Long Island ship whose 6,000-mile odyssey up and down the Atlantic seaboard last spring became a symbol of the trash crisis.

Under a $600,000 contract last year, Philadelphia was to ship ash wastes from its two aging incinerators to Panama. In September 1986, after Panamanian authorities changed their minds, the city's contractor dispatched a ship with 15,000 tons of ash to the Bahamas, where it was also turned away. Fifteen months later, the ship is still looking for a place to unload its cargo.

Besides creating the ash waste, incinerators produce smoke that can carry dioxins, a cancer-causing chemical. But some experts view the cancer risk as low and regard incineration as a marked improvement over continued dumping at landfills.

Nowhere is the toll exacted by landfills more evident than here in the Meadowlands, where 800 garbage trucks still make daily deposits.

The 20,000-acre district is gradually being transformed into corporate offices, townhouses and sports arenas. But decades of dumping fouled the water and eliminated many of the species of birds and mammals that lived in the marshlands.

When one of the mountains of garbage reached its maximum height, towering 150 feet above the New Jersey Turnpike, it simply would be closed and a new one opened nearby.

"There are acres and acres of old garbage dumps that smoldered for years," said Scardino, who grew up in Lyndhurst. "Every once in awhile it would erupt and you'd see black smoke and the fire would spread into the weeds."

The Meadowlands commission had hoped to get out of the garbage business by the late 1970s, after New Jersey had ordered its 21 counties to develop new methods of waste disposal. But deadlines came and went, and it was not until this year that the commission began closing the major dumps used by four surrounding counties.

For Passaic County, the days since it was barred from the Meadowlands have been marked by chaos. Restaurant trash, old mattresses and other bulk items have piled up on the streets of Paterson as contractors proved unable to handle the influx of garbage suddenly destined for out-of-state landfills.

On a dusty street near Paterson's city hall, yellow bulldozers shove mounds of raw garbage onto waiting tractor-trailers at the A. Capone Sanitation Plant. But the operation has been shutting down by noon after running out of trailers.

The trailers, turned away by Pennsylvania landfills, were forced to search for dump sites in Ohio and other states. Meanwhile, the local garbage trucks that failed to unload at A. Capone had to park overnight and try again the next morning.

"When I was there at 7 a.m., there were 20 trucks lined up," Paterson Mayor Frank X. Graves, Jr. said the other day. He complained that New Jersey officials were "completely insensitive" to the problem they had foisted on his county.

Newark and surrounding Essex County have become more practiced at the art of shipping trash to Pennsylvania in the 4½ months since their landfill was closed. But the sudden hike in disposal costs—from $25 to $102 a ton—is taking its toll.

Newark officials had to arrange a $6 million emergency appropriation last month to pay the trash bill, which now consumes 10 percent of the budget. "It's costing us $58,000 a day just to dump garbage," said Pam Goldstein, spokeswoman for Newark Mayor Sharpe James.

Bergen County faces a similar increase when its landfill closes in February, a fact that will quickly be reflected in rising property taxes. In the county seat of Hackensack, where 36,000 people live, the annual garbage bill is expected to jump from $375,000 to $2 million.

"That's enough to knock the socks off anybody," said City Manager Robert F. Casey. "It's at least a 10 percent increase in taxes with no increase in services. And it's a cost a municipality has no control over."

Like its neighbors, Bergen plans to build an incinerator by the early 1990s, but, as elsewhere, opponents have tied up the project in court.

The litigant in this case is Ridgefield, a Meadowlands town of 10,000 where the county plans to build the incinerator. Although Ridgefield faces the same trash crisis as the rest of the county, 89 percent of the town's voters opposed the incinerator in a recent referendum.

"The whole corridor is already polluted," said Ridgefield Mayor Stewart Veale. "There's tremendous concern about the emissions, dioxin and other pollutants going into the air."

This put-it-somewhere-else approach is hardly unusual. At the A. Capone plant in Paterson, a large sign warns, "Passaic County Waste Only—All Others Refused." In central New Jersey, Middlesex County is trying to divert a Dec. 31 shutdown of its privately run landfill by taking over the site, then barring three neighboring counties from using it.

Scardino, for one, has no regrets about triggering this crisis. If his commission had not put a lid on landfills, he said, the counties would not be moving to build incincerators and the dumping would have continued indefinitely.

Looking out his office window at the foot of the Bergen landfill, Scardino points to Saw Mill Creek, a peaceful stretch of salt water and marshy weeds where the quiet is broken only by the sound of ducks and birds. The site had once been slated as yet another landfill.

"All of this would have been under garbage," he said.●

TERRORISM

● Mr. McCONNELL. Mr. President, as the ranking minority member of the Foreign Relations Subcommittee on Terrorism, Narcotics, and International Communications, I want to draw the attention of my colleagues to the interesting subject of terrorism.

For that reason, Mr. President, I would like to have printed in the RECORD two works that deal with the subject of terrorism and our understanding of it. The first is a speech delivered by Mr. L. Paul Bremer III, the State Department's Ambassador-at-Large for Counterterrorism. The speech was delivered November 21 to alumni of American University's School of International Service and deals with commonly held myths about terrorists.

The second piece is an article written by Mr. David Ignatius, and appeared in the Washington Post on November 22. It includes comments by terrorism expert Terrell Arnold and details his advice for the development of prudent antiterrorism policies in the future.

I hope these passages will prove interesting to my colleagues who may get an opportunity to read them over the Christmas recess.

The material follows:

MYTHS ABOUT TERRORISM

(Address by L. Paul Bremer III)

Good evening, I always enjoy dealing with a knowledgeable audience, and the alumni of the School of International Service certainly qualify. Regardless of your current occupation, your presence here tonight shows a continuing interest in foreign affairs. And no one who follows foreign affairs can be unaware of the impact terrorism has had on the modern world.

The impact of terrorism has spawned a huge volume of literature and commentary from academics, pundits, journalists and a new genre of self-styled experts and consultants. Analyzing and explaining terrorism has become a growth industry.

This is healthy because we cannot begin to suppress terrorism without understanding it. Sadly, however, much of what has been written and said about terrorism has created a mythology which has served to confound the public and—in some cases—to romanticize terrorists. If we are to have a sound conterterrorism policy we must know the facts and debunk the myths.

Three myths in particular confuse much thinking about terrorism. They are:

1. that terrorism will disappear if its underlying causes are addressed;
2. that terrorists are crazy;
3. that initiating action against terrorism only increases terrorism.

Tonight I would like to talk a bit about these myths and tell you about our government's strategy for countering terrorism.

MYTH ONE: SOLVE THE UNDERLYING PROBLEMS AND TERRORISM WILL CEASE

Terrorism, it is often argued, is the weapon of the weak, the only means an oppressed people have to secure their goals. According to this line of reasoning, a just settlement of grievances will put an end to terrorism. I find this myth particularly pernicious—because it implicitly justifies terrorism.

The contention that responding to the underlying causes of terrorism will diminish or eliminate terrorism is unsupported by the facts. Let us examine some cases: Again and again terrorist attacks in the Middle East have been specifically designed to derail progress towards a settlement.

In 1984, UN mediator Count Bernadotte was assassinated as he worked on a cease fire to end the fighting during Israel's war for independence.

In the early fifties, King Hussein's grandfather, King Abdallah was assassinated in part because of his talks with Israel.

In 1974, while I was accompanying the Secretary of State Henry Kissinger on a peace mission, Palestinian terrorists seized and eventually killed most of a group of Israeli school children in the town of Ma'alot.

In the spring of 1975, on the night before Secretary Kissinger's arrival on yet another peace mission, Palestinian terrorists landed in Tel Aviv in rubber boats and launched another attack. After failing to gain entrance to a movie theatre, they seized a small hotel—several innocent hotel guests were killed.

President Anwar Sadat was assassinated largely because he made peace with Israel.

In 1983, the Abu Nidal Organization—at the urging of Syria—conducted a series of attacks against Jordanian interests when Jordan seemed to be taking a more accommodationist approach to a Middle East settlement.

It is not just in the Middle East that terrorism and the hope of solution seem to rise together.

In 1975, the year Franco died, Basque terrorists killed 16 Spaniards. Five years later, after the implementation of democratic rule and the granting of significant autonomy in the Basque region, terrorists killed 96 Spaniards—a six-fold increase.

In Turkey, Kurdish PKK terrorists, in addition to kidnaping and murdering Kurdish village guards and headmen, have attacked bridges, roadbuilding equipment and other economic targets which might improve conditions for impoverished Kurds in Southeast Turkey.

In El Salvador, after the declaration of an amnesty and a cease fire, terrorists abducted and murdered a Salvadoran driver at the American Embassy.

Terrorism occurs in the most free and just societies ever known to mankind.

In the United States, there have been terrorist actions by the Weathermen, the Order, the Aryan Brotherhood, the Ku Klux Klan and the Symbionese People's Liberation Army.

In the Federal Republic of Germany, the Badder-Meinhof Gang and the Red Army Faction have practiced terror.

In France, Action Direct has carried out vicious terrorist acts. Terrorists have also been active in other democratic, free countries—Belgium; Italy. Canada and Japan.

Terrorists cite their "cause" as justification for their acts, and they may well intend to right the wrongs they condemn. But this supposed justification often conceals the real purpose of terrorist acts: Gaining political power. For example:

The Provisional Irish Republican Army seeks more than the incorporation of Northern Ireland into the Irish Republic. They also seek to supplant the current government in Ireland.

Palestinian terrorists no doubt want to resolve the grievances of the Palestinian people, but they also want to destroy Israel.

In Peru, the Sendero Luminoso tries to appeal to impoverished Indians whose cause they espouse. But the group's stated intention is to destroy Peruvian Society and supplant it with a new order which they will head. Unless we understand that most terrorism is carried out in the pursuit of political power, we risk becoming bogged down in weighing the relative worth of various "causes."

Individuals frequently join groups because of a need to "belong."

Moreover, recent psychiatric research makes it clear that many of the terrorists themselves are not truly motivated by the "cause." For example, Dr. Jerrold M. Post of George Washington University concludes that the "cause" is not the fundamental reason most terrorists join up. The "cause" provides the rationale, but the motivation is the terrorist's desire to belong to a group.

Social isolation and personal failure are frequently seen in pre-terrorist histories. Studies in Italy and Germany have shown that members of the Red Army Faction and the Red Brigades were often from incomplete family structures and had shown a high frequency of educational and job failure. Fully a third had been convicted in juvenile court before they joined a terrorist group. While the leadership remains focused on the political goal, many of the rank and file join, not out of deep ideological commitment to a "cause," but because the terrorist group in effect offers a "home," a "family."

The clearest example of the this phenomenon may be found the Basque ETA organization. In the Basque region only eight percent of the population is from mixed Spanish-Basque heritage. Their children have a very hard time being accepted in Basque society. Yet fully 40 percent of ETA members are from mixed heritage.

Causes can be addressed without giving in to terrorism

Of course we cannot and should not ignore underlying problems while we devote ourselves to countering terrorism.

No country has done more to promote a peace settlement in the Middle East than the United States. We recognize the legitimate grievances of many groups in the region. But we will continue our counterterrorism efforts even as we seek a settlement.

The FBI and other law enforcement agencies will continue to pursue a Symbionese Liberation Army even as our society attempts to deal with poverty and racial justice.

It is our view that nothing justifies terrorism. Accepting a cause as just does not require accepting terrorism as the solution.

MYTH TWO: TERRORISTS ARE SUICIDAL LUNATICS

It is important that we understand the distinction between behavior that is sick—the product of a mental disorder; and behavior that is sickening—so grotesque that we cannot imagine doing it ourselves.

Most terrorists are not crazy. In fact, it is their sanity which makes them dangerous. Instead, we should regard terrorists as calculating fanatics. They may use unstable or violence-prone people in their operations, but it is their ability to calculate and plan which makes them dangerous. Terrorism, in this sense, is rarely "mindless."

Nor does their distortion of good and evil make terrorists insane. Russian terrorist Mikhail Bukanin put it this way: "To the revolutionist, whatever aids the triumph of the revolution is ethical; all that hinders it is unethical and criminal."

Perhaps a few examples can illustrate:

At first glance, the 1985 Rome and Vienna airport massacres carried out by the Abu Nidal Organization with Syrian and Libyan assistance, would seem the work of lunatics. What could be gained by slaughtering holiday travelers at random?

The attacks were not random, but directed against the El Al counters. The purpose was to terrify El Al passengers and travelers to Israel, thus weakening Israel's economy and contacts with the rest of the world.

That people with no connection to the Middle East conflict might die was of no interest to the terrorists. All that mattered was that ANO believed the attacks would "further the revolution."

Last month, Sendero Luminoso occupied a small village in the Department of Ayacucho and captured eight members of the local civil defense force. After a mock trial, the villagers were tortured and beheaded.

Such grotesque treatment of the very people whose support Sendero seeks might seem counter-productive. Actually, it is an example of "enforcement terrorism." The intention is to terrify the campesinos into supporting Sendero, or at a minimum, to prevent them from collaborating with the government in any way.

"Enforcement terrorism" is widespread in the Middle East. Most Palestinian terrorism over the years has been directed against rival Palestinians and other Arabs. For example, while the Abu Nidal Organization's goal is the destruction of the state of Israel, only 14 percent of its attacks have been against Israeli or Jewish targets. Sixty-three percent of all attacks have been against Palestinian and Arab targets. Clearly, "enforcement" is a major goal for the ANO. And most of what they are enforcing is a hardline against negotiation or accommodation with Israel.

Few terrorist attacks are intended to end in the death of the terrorist

Spectacular bombings, such as those against the Marine barracks and U.S. Embassies in Beirut have drawn attention to suicide attacks. The large numbers of deaths and the difficulty of defending against someone who intends to die make these attacks quite literally terrifying. Yet, very few terrorist attacks are deliberately suicidal.

According to a study of terrorist missions between 1968 and 1974, less than two percent of all terrorist attacks are genuinely suicidal. Specifically, of the international terrorist acts covered by the study:

In only 1.2 percent of the cases was the mission truly suicidal, that is a successful mission required the death of the perpetrator.

In 35.4 percent of the cases, the terrorists were willing to die but preferred to live.

In a full 62.8 percent of the cases, elaborate escape plans were made.

While the United States in particular has suffered grievous losses from suicide missions since this study was completed, more recent events do not suggest dramatic variations in these figures.

MYTH THREE: MILITARY RETALIATION ONLY FUELS TERRORISM

This myth is dangerous because it can paralyze us into inaction. We have so often heard that violence is not the solution to all problems that we run the risk of believing that violence is not the solution to any problem.

For example, a day after the U.S. strike on Libya on April 15, 1986, 97 Western terrorism experts meeting at a seminar in Aberdeen, Scotland, unanimously agreed that the United States had committed an error.

Neither the morality of nor the justification for the strike was at issue; efficacy was. The view was that the air strike would just stimulate Qadhafi to more terrorism, that terrorist attacks would spiral upward.

The predictions of these experts were wrong. What happened was the opposite. The attack demonstrated that the prudent application of force can deter future terrorism: we believe that as many as 35 attacks planned by Libya were averted within weeks after the attack.

Yes, Qadhafi still practices terrorism—witness his continued campaign to assassinate dissidents abroad and the recently intercepted shipment of 150 tons of arms to the IRA. But he has become increasingly secretive about his movements and has tried to paint a more moderate self-portrait.

Moreover, we must recall that military actions have non-military consequences far removed from the scene. While some friendly governments questioned the wisdom of our actions, the message of U.S. resolve to respond to terrorism was unequivocal and as surely understood in Western capitals as in terrorist training camps. Overall, there was a dramatic drop in Middle East sponsored terrorism in Europe following our Libya attack and the accompanying diplomatic and political measures we and our allies took.

CONCLUSION

The American people, indeed much of the world, have become preoccupied with terrorism. A recent poll showed that some 69 percent of the American people wanted government action on terrorism.

Well, our government is taking action, but action based on not myths, but understanding:

We understand that we will not stop terrorism solely by addressing the "root causes." While a cause may be worthy of our support, terrorists are not. Their "solutions" are always predicated on the terrorists coming to power.

We understand that most terrorists are not crazy. They are fanatics whose actions are purposeful steps designed to advance their political agenda.

We understand that military or other forceful reactions do not necessarily lead to more terrorism. Indeed, progress toward dealing with the "causes" of terrorism may well increase terrorism in the near term.

Based on our understanding of these realities, our government has fashioned a three-part policy designed to suppress terrorism:

One: Firmness toward terrorists

We believe that terrorists are logical and goal-oriented. Thus we should make no concessions to them. If we make concessions, give into their demands, there is every reason to believe that we will be attacked again. Behavior rewarded is behavior repeated.

Two: Pressure on terror-supporting states

Some nations use terrorist surrogates as a foreign policy tool, as just one more way of accomplishing national goals. If we can raise the cost to those states, we can go a long way towards reducing terrorism.

Three: Practical measures to bring terrorists to justice

In spite of myths to the contrary, we know that most terrorists are not eager to be killed or imprisoned. If we can identify, track, arrest and punish terrorists—treat them like criminals—we can reduce the number of terrorist attacks.

This strategy is working. In 1983 and 1984, international terrorism increased 30 to 40 percent each year. It leveled off in 1985 and declined slightly in 1986. There would be a dramatic drop off in the number of incidents in 1987 were it not for increased Afghan-government supported terrorism in Pakistan.

Why these improvements? Because the international political and philosophical climate is changing. Governments which used to tolerate terrorists have become tougher. More and more we are seeing world debate focusing on the effects of terrorism, not the "causes."

But I don't want to mislead you. Dealing with terrorism is a long-term project. We are not likely to eliminate terrorism completely. But by demythologizing it, by dealing with realities and concentrating on common sense responses, we can set about the business of making the world a safer place.

Thank you very much.

[From the Washington Post, Nov. 22, 1987]

AFTER IRAN-CONTRA: LET'S GET SMART ABOUT TERRORISM

(By David Ignatius)

This week's report on the Iran-contra affair was a reminder of the ability of terrorists to drive America crazy. For nearly a decade, the hostage-takers have been winning. They have kidnaped our citizens, driven our presidents to acts of desperation and folly and paralyzed our political system in a seemingly endless cycle of bungling, cover-ups and recriminations.

More than a year of investigating the Iran-contra affair has taught us all something about how *not* to fight terrorism. Next time, our leaders undoubtedly will be wise enough to refrain from trading arms for hostages. But what other lessons does this fiasco teach? If we decide as a nation to say "Never Again!" to our past disorderly approach to terrorism, what policies should we adopt instead?

We should begin by avoiding the erratic swings of the past few years. The Reagan administration got into trouble as it lurched from one ill-considered policy to another: It declared war on Iranian-sponsored terrorism in 1984, then shipped weapons to Tehran in 1985 and '86, and then lurched back toward war this year by sending an armada to the Persian Gulf. Somehow, there ought to be a balanced and sustainable policy that avoids these extremes.

The outlines of a sensible anti-terrorism strategy emerged last week at a symposium hosted by the Center for Strategic and International Studies. The lead-off speaker was Terrell Arnold, a terrorism consultant and former head of the State Department's counter-terrorism program. Here's a sampling of some of the advice offered by Arnold and the other speakers:

Treat terrorism as a crime, rather than as a political problem. We should try, to the extent possible, to handle international hostage-taking the same way we do domestic kidnaping—with a combination of quiet negotiation and tough law enforcement. The same rules that our police apply in domestic kidnaping cases should prevail abroad. That means dialogue with the kidnapers, especially initially. But if the hostages aren't released quickly, we should be prepared to use force to free them. Since normal police tactics probably won't work in places like Lebanon, we should be ready to use stealth and trickery to lure terrorists out of their sanctuaries to jurisdictions where they can be apprehended and prosecuted. Finally, we should try in Beirut—as in Boston—to put kidnapers in the crosshairs of a sharpshooter's rifle. If they threaten to harm their captives, we should shoot to kill. This isn't assassination, but simply the application of standard law-enforcement techniques. It won't be easy to apply this approach in Lebanon, but it's worth a try.

Tone down the rhetoric. The anti-terrorism tirades by President Reagan and Secretary of State George Shultz in 1984 and 1985 only inflamed the problem and added to the atmosphere of political crisis. We could have done without Reagan's 1985 attack on Iran and Libya as "outlaw states run by the strangest collection of misfits, looney tunes and squalid criminals since the advent of the Third Reich." Ditto for Shultz's bellicose 1984 warning that we were becoming the "the Hamlet of nations . . . wallowing in self-flagellation." Explains Terrell Arnold: "Exaggerated rhetoric pushed us to pay too much to get our people back . . . . It excited the kidnapers to raise the ante."

Recognize that military force has its uses. The American raid on Libya last year worked. It frightened Col. Gadhafi and probably deterred Libya attacks against American targets. Perhaps more important, the American air raid prodded European Libyan terrorist networks in Europe (if only to forestall further air raids by the crazy Americans). The F-111 turned out to be a surprisingly effective anti-terrorism weapon, and the next time we're provoked, we should be ready to use it.

Don't be afraid to talk with terrorists. Negotiation is a tactic used by most police departments in domestic hostage incidents, and it should be used abroad as well—but quietly, by trained intelligence officers, rather than by ham-fisted NSC staffers. Terrorists can even become good sources of intelligence. During the 1970s, for example, the United States maintained a security-cooperation relationship with Yasser Arafat's chief of intelligence. The PLO man provided timely information that helped save many American lives. That sort of relationship makes sense today—provided it's done discreetly. Says Arnold: "It doesn't make sense to say that you won't talk."

Never say "never." A rigid anti-concession policy is at odds with common sense," says Arnold, and he's right. Just because we've learned the folly of trading arms for hostages doesn't mean that we should reject, out-of-hand, the sort of modest concessions that may allow kidnapers to release their hostages without losing face. Instead of maintaining an inflexible no-concessions policy (one that we will probably have to abandon eventually), we should say "no concessions of substance," argues Arnold. And we shouldn't specify—even—what concessions we might or might not be prepared to offer.

Keep the president away from hostage politics. Our chief executive shouldn't meet hostage families, and he shouldn't welcome the hostages home when they're freed. That may sound heartless, but the Iran affair shows how vulnerable presidents and their advisers are to the human tragedy of kidnaping and the pleas of hostage families for help. The cold fact is that we probably help our hostages most when we appear to be helping them least. Public attention only enhances the hostages' value to their captors. To reinforce this harsh lesson of the Iran-contra affair, Congress should enact a law banning any public celebrations at the White House when hostages are released. Such occasions provide terrorists with an incentive to grab the next American and begin the psychodrama all over again.

No more yellow ribbons. The American public should act with the same dignity and restraint as the president. We shouldn't allow terrorists to exploit our compassion. Television networks may continue to broadcast interviews with grieving widows and tearful relatives, but the rest of us should resolve not to watch. The image of "America Held Hostage" that emerged during the 1979 seizure of our embassy in Tehran and the 1985 TWA hijacking should never be repeated.

Maintain a dialogue with Iran and other states that support terrorism. The Reagan administration was right in trying to make contact with political moderates in Iran and repair relations between the two countries. The mistake was that we did so clumsily—piggybacking on an ongoing Israel arms-trading operation and using dubious characters like the Iranian "prevaricator" Manucher Ghorbanifar and Saudi tycoon Adnan Khashoggi. Selling arms to the Iranians was a monumentally bad idea. But continuing the political dialogue makes sense. It would be disastrous if the Soviets were the only superpower talking to both sides in the Iran-Iraq war. Terrorism expert Robin Wright of the Carnegie Endowment explains: "America must come to grips with militant Islam, for which Iran has become a leading symbol. The time for rapprochement with Iran was almost ripe when the Reagan administration began the folly of the arms-for-hostages swap."

Curb our obsession with the Middle East. Americans show little interest in terrorist incidents in most part of the world; but when they happen in the Middle East, they drive us crazy—in ways that make it harder to deal with the problem. American hostages have been released quietly this year in Mozambique, Sudan and the South Pacific. In these instances, says Arnold, "negotiators could work quietly to get the hostages out."

Because of our focus on the Middle East, we often forget that terrorism is a worldwide problem. State Department statistics [see accompany chart] show that terrorism is actually declining, and that the recent growth areas have been Asia and Latin America, rather than the Middle East. Between 1985 and 1986, the number of international terrorist incidents increased 83 percent in Asia and 33 percent in Latin America—but not at all in the Middle East. In Europe, terrorist incidents of Middle East origin declined 47 percent from 1985 to 1986 and were down 71 percent during the first half of 1987 compared to a year earlier.

Depoliticizing terrorism in the way Arnold recommends may be impossible in our democracy. When the U.S. government wants to stay cool during a terrorist incident, the news media will often be working overtime to keep the story hot. That tension is inescapable in a democratic nation, and it probably means that we'll never be as disciplined or efficient as a closed society in dealing with problems like terrorism.

Bringing terrorists to justice will also be easier said than done. The Iran-contra report offers depressing evidence of how few intelligence resources we have available in Beirut. If it's too dangerous to try to rescue the hostages now, it may also be too dangerous to try to apprehend their captors. But the terrorists can't hide behind their hostages forever.

We also have some new legal tools that can help achieve Arnold's goal of handling terrorism as a criminal problem, rather than a political one. Congress passed an anti-terrorism act last year that extends U.S. legal jurisdiction to terrorist crimes that are committed against Americans overseas. That means that when terrorists attack Americans, they may be extradited to face prosecution in the United States. In areas like Lebanon where the machinery of law enforcement has collapsed, the United States should look for creative ways to capture terrorists and bring them to justice.

The Reagan administration, alas, violated nearly every one of Arnold's simple rules during the Iran-contra affair. Starting in 1984, when Lt. Col. Oliver North was briefing reporters on his plans for gung-ho tactics against terrorism, administration policy began to jump the tracks. North and CIA Director William Casey tried everything in their increasingly frantic efforts to deal with the captors of the Beirut hostages from an alleged assassination attempt against a Moslem sheik in West Beirut to the shipment of weapons to Iran. None of it worked. As the congressional report on the Iran-contra affair states bluntly, they were "taken to the cleaners."

Never again.●

REV. ABERNATHY AND ANGOLA

● Mr. DeCONCINI. Mr. President, the recent meeting between President Reagan and General Secretary Gorbachev culminated in the signing of an INF Treaty, and paved the way for future talks regarding a broad range of issues. Human rights issues were discussed as well as regional conflicts. I am hopeful that we will see continued progress in all three of these areas.

Specifically, in regard to regional conflicts, the war in Angola has rendered the country a disaster area. The continued battles between the Marxist MPLA and the UNITA democratic resistance fighters have lead to a shattered economy and deteriorating human rights conditions. I have been interested in this area for the last few years, and have noticed an increased awareness on the part of domestic organizations and individuals in addressing this tragic situation.

I would like to submit for the Record two letters written by Rev. Ralph David Abernathy, a human rights activist. His letters to President Reagan and General Secretary Gorbachev request that the conflict in Angola be placed on the agenda of topics to be discussed both at the summit meeting and in future talks. He further urges a peaceful resolution to the war with the assistance of the United States and the Soviet Union. These letters, written in good faith and in the spirit of cooperation, demonstrate the possibility of a binding, lasting, and peaceful solution to the 12-year war in Angola.

Mr. President, I request that these letters be inserted in the RECORD.

The letters follow:

WEST HUNTER STREET BAPTIST CHURCH;
Atlanta, GA, November 13, 1987.

Hon. RONALD REAGAN,
President of the United States, the White House, Washington, DC.

DEAR MR. PRESIDENT: I am writing to humbly suggest that "Peace in Angola" be placed on your agenda when you meet General Secretary Gorbachev at the Summit Conference in December.

I see "Peace in Angola" as the centerpiece for a southern Africa regional plan. Millions of lives are at stake. Your commitment to a peacemaking process in Nicaragua, Afghanistan, and Iran-Iraq must be matched by a commitment to Peace and Democracy in Angola.

The recent victory of the "Freedom Fighters" against Soviet-led MPLA and Cuban-Warsaw Pact offensive provides a window of opportunity for bringing the MPLA leadership to the negotiation table. Perhaps Secretary Gorbachev would use his influence with Mr. Dos Santos as he apparently has with Mr. Ortega.

South Africa must also be a part of the solution. If they agree to leave Namibia as the the Cubans leave Angola, your leadership will have initiated a genuine peace-making process.

We would be so pleased if you and Secretary Gorbachev would include such an agreement in your consideration of regional issues.

Mr. President, just as the aid of the United States to Israel continues while simultaneous efforts are made to bring Peace to the Middle East, aid to Free Angola can continue while peacemakers negotiate in southern Africa.

I am, therefore, calling for a Reagan "Peace in Angola" initiative to curtail Soviet expansionism and hasten the dismantling of apartheid. South African apartheid and Soviet communism must both go out of this land.

Sincerely,
REV. RALPH DAVID ABERNATHY.

WEST HUNTER STREET BAPTIST CHURCH,
Atlanta, GA, November 13, 1987.

Hon. MIKHAIL GORBACHEV,
General Secretary, Union of Soviet Socialist Republics, 1125 16th Street NW., Washington, DC.

DEAR MR. GENERAL SECRETARY: Your Glosnost and President Reagan's Peace through strength concepts can build bridgeheads of understanding across which bridges of cooperation can be built.

Your Summit meeting in December can bring new hope and renewed faith to an entire generation.

That is why I am writing you to request your favorable consideration for initiating a Peace in southern Africa Plan based on a cease-fire and a negotiated settlement in Angola and linking Namibia, Angola, Mozambique and South Africa in the solution.

Withdrawal of all foreign troops from Namibia and Angola would be a historic breakthrough in which a dramatic peace-making process would have a chance to succeed.

Mr. Gorbachev, I am writing President Reagan at the same time urging him to consider the same thing.

The recent offer of the President of Nigeria and the President of Kenya to send an African peace-keeping force into Angola and get the Cuban and other foreign troops out would make possible an African solution.

Won't you think carefully about the possibility of peace in our time in southern Africa just as you and President Reagan are seeking it in Central America, Afghanistan, and the Middle East?

I am sincerely committed to seeking an end to the wars in Angola and Namibia in the same spirit that my friend Martin Luther King, Jr. made a commitment to seek an end to the war in Vietnam.

I see a stable, free and Independent Angola and Namibia as the first step, leading inevitably to the stabilization of the southern region and the dismantling of apartheid.

Mr. Gorbachev, I would like to see your representative here so that we might discuss these matters.

I would consider it a great honor if I could meet with you personally when you come to the United States, following my preliminary discussions with your people at the Soviet Embassy.

I am sincerely yours,
REV. RALPH DAVID ABERNATHY.●

BATTELLE MEMORIAL INSTITUTE

● Mr. GLENN. Mr. President, the Battelle Memorial Institute, headquartered in Columbus, OH, has proven to be one of the world's most innovative engineering and technology research organizations over the past 60 years. The Wall Street Journal recently profiled Battelle's new chief executive officer, Douglas E. Olesen. I know that Doug Olesen will continue to provide Battelle with the leadership it needs to help America compete in the international marketplace, and I ask that the text of the article be included in the RECORD at this point.

The article follows:

[From the Wall Street Journal, Nov. 20, 1987]

AN ENGINEER HEADS FOR THE MARKETPLACE

(By Ralph E. Winter)

COLUMBUS, OHIO.—Douglas E. Olesen helps run an international concern with 8,100 employees and annual revenue of nearly $600 million—and no shareholders. He says he likes it that way.

"Pressure from Wall Street is something we don't have," says the former engineer.

Mr. Olesen, 48 years old, is executive vice president and chief operating officer of Battelle Memorial Institute, an engineering and research organization with research centers in the U.S., Switzerland and West Germany. Next month, he is expected to become president and chief executive officer, succeeding Ronald S. Paul, who turns 65 in January.

He will take charge of a strange hybrid. While Battelle operates like a business, it was founded as a charitable trust. The will of Gordon Battelle, heir to a modest steel fortune, established the concern "for the encouragement of creative research . . . and the making of discoveries and inventions."

For nearly 60 years it has done just that. Battelle researchers originated many of the concepts behind the office copier, developed the "sandwich" of copper and nickel alloys that replaced silver U.S. coins in the late 1960s, devised the universal product code used in grocery checkouts and invented a holographic identification that appears on credit cards.

THE DRIVING FORCE

Like any other business executive, Mr. Olesen's major task is maximizing return on assets. He notes that Battelle's assets are mainly "intellectual property"—patents and concepts arising from research, rather than plants and working capital. That's a plus, he contends, because "technology is the driving force of industry," replacing natural resources and merchant fleets.

The slim 6-footer is determined to get Battelle a better return on its technology. He thinks that's possible by insisting that Battelle participate in marketing its technology, rather than simply accept a fee from a client to find solutions to a problem.

Battelle is at the forefront in a wide range of fields, including superconductivity, artificial intelligence, ceramic materials, biotechnology and the marriage of optics and electronics. It is also developing new methods for making steel, energy-saving materials for melting aluminum and more effective manufacturing automation. Much of the work seeks to better apply computers to business and scientific activities, an activity Mr. Olesen says is "still in its infancy."

"There isn't any fixed model" as to how Battelle will try to market its own technology, he says. For instance, it set up separate companies to exploit some of its computer expertise, and it formed an optoelectronics joint venture with two Japanese concerns.

SUCCESS WITH XEROX

Battelle's marketing effort will benefit because Battelle is both a major government contractor and a supplier of research to hundreds of industrial concerns—from International Business Machines Corp. to tiny companies that can't afford their own labs. Battelle's biggest commercial success came in the early 1960s, when it sold patents on xerography to Xerox Corp.—for stock that soon soared in value.

Yet even if Mr. Olesen succeeds in expanding marketing, Battelle won't report a profit. While it paid $6.6 million of federal income taxes last year, Battelle's annual report doesn't even have a net income line. The bottom line—$8.3 million last year—is merely labeled "excess of revenues over expenses."

Battelle's charitable contributions, which totaled about $1 million last year, roughly equates to the dividends publicly held companies pay, Mr. Olesen says. But Battelle's driving force is technology, not charity.

"There's a premium on getting technology from development through commercialization faster than before," he says. In industry, "intellectual property that leads to products for niche markets is more and more the name of the game."

At the same time, technology is more complex and comes from more sources. "It is more difficult for a single organization or company to be self-sufficient," he maintains, giving Battelle an opportunity to become an important player in the entire process of developing and marketing technology rapidly.

For years, Battelle has had close relationships with businesses, but usually at this technician level. Mr. Olesen wants to move contacts up to the executive suite.

"Doug is much more aggressive in the marketplace," says James E. Sorenson, Battelle's senior vice president for manufacturing. "he gets out and has one-on-one meetings with chief executives of companies and learns where the market is going." Battelle must anticipate commercial demand five to eight years ahead, Mr. Sorenson adds.

Yet Mr. Olesen has little commercial business experience. He has worked at Battelle nearly all his adult life, signing on as an engineer at Battelle's Richland, Wash., unit in 1967.

His parents' small grocery store in Wenatchee, Wash., in the heart of the state's apple country, provides his only personal involvement with textbook private enterprise.

To fully exploit Battelle's marketing opportunities, Mr. Olesen will have to keep it from becoming a bureaucracy that rewards the status quo.

"Doug is a merchant of change," says Merwyn R. VanderLind, senior vice president for electronics and defense systems. "He tells us that if we can't be a part of, deal with and manage change, we might want to find someplace else to work."●

STOP THE TRADE HYSTERIA

● Mr. HEINZ. Mr. President, over the years I have not always agreed with Paula Stern, former chairwoman of the International Trade Commission, but I have always respected her carefully thought out arguments and the rigor of her analyses. Now I am pleased to see her recent comments on trade legislation, which not only meet her usual standards, but with which I can agree as well.

I refer to her recent article in the New York Times entitled "Stop the Trade Bill Hysteria." In it Ms. Stern makes a clear and convincing refutation of those who blame the stock market crash on pending trade legislation and then seek to use that very event as an argument against taking any action on trade. She points out quite properly the differences between 1987 and 1929 and demonstrates the weakness of the arguments made by the bill's opponents by referring to two of its more controversial elements.

Much of the trade bill deals with unfair trade practice legislation, which has led to cries of protectionism from those who either have not read the bill or do not understand the nature of the contemporary trading system. Ms. Stern points out that in the most recent fiscal year, all the cases filed under those statutes involved less than one percent of total imports, a number, I might add, which has been fairly consistent for several years. Even if the effect of the trade bill is to increase the number of cases filed, the amount of trade affected will continue to be insignificant—hardly a reason to attack the bill. I would also add my own view, Mr. President, that more aggressive enforcement of those laws, which the trade bill will promote, will contribute to an increase of discipline in the trading system that will promote market principles.

Second, Ms. Stern comments on the Gephardt amendment, noting that its essence is market opening, not market closing. Its objective is not to protect domestic industry but to force open foreign markets. Obviously people can—and have—disagreed strongly over the merits of the provision, but its intent is unmistakeable and clearly at odds with the concept of protectionism however it is defined.

Finally, Ms. Stern concludes with the most compelling point of all—it is not the bill itself but the panic being sown by its opponents that will lead to another crash. The President's choices are to cooperate with the Congress in producing an intelligent bill or to sow the seeds of that panic by misrepresenting the legislation. Needless to say, both Ms. Stern and I favor the former choice.

Mr. President, I ask that Ms. Stern's article be printed in the RECORD.

The article follows:

[From the New York Times, Dec. 15, 1987]

STOP THE TRADE BILL HYSTERIA

(By Paula Stern)

WASHINGTON.—The latest terrible news on America's trade deficit has raised cries in Congress for passage of the trade bill. That, in turn, will surely drive economists and editorial writers back to their keyboards to condemn any trade bill as protectionist.

Yet, with the monthly deficit having reached $17.6 billion in October and the dollar now diving to postwar lows, the last thing we need is another round of hysterical descriptions of the trade bill as "son of Smoot-Hawley."

By conjuring up images of Depression-era trade wars, such ignorant prattle can't help but unsettle the financial markets, which are altogether too skittish right now.

Only if the jittery markets falsely conclude that any sort of trade legislation equals protectionism will passage of a trade bill have a measurable effect on the economy.

With that in mind, let's set a few things straight.

Black Monday, Oct. 19, 1987, was not Black Tuesday, Oct. 29, 1929; the Omnibus Trade Bill is not the infamous Smoot-Hawley Tariff Act of 1930; Representative Richard A. Gephardt, Democrat of Missouri, is neither Representative Willis C. Hawley nor Senator Reed Smoot.

It takes a tremendous leap of faith to equate the proposed trade bill, even including the Gephardt amendment, with Smoot-Hawley. The latter, signed by President Herbert Hoover, raised tariffs on tens of thousands of items, which in turn triggered retaliation by America's trading partners, shrunk world trade and deepened the devastating worldwide depression that had begun after the 1929 stock market crash.

The Omnibus Trade Bill is not the ominous trade bill that the media have so glibly dismissed as protectionist. Granted, it is not ideal legislation. And, debate over trade legislation should not distract us from the real issues that we must tackle to restore international competitiveness. But the bill would not directly raise tariffs or quotas. Instead, it would impose new rules dictating import and export policies.

Much of the talk of protectionism centers on two areas—changes in the unfair-trade laws and the Gephardt amendment. Let's look closely at both.

The unfair-trade laws are the device most often resorted to by industries seeking relief from subsidized or dumped imports. In the latest fiscal year, the amount of imports challenged under these laws amounted to less than 1 percent of total imports. Thus, as noisesome as some of the proposed changes are, they will nevertheless have an imperceptible impact on our trading partners.

Second, comparing Mr. Gephardt to Smoot or Hawley on the basis of legislation they have written is a distortion either of history or of Mr. Gephardt's proposal. The Gephardt amendment does not raise tariffs. Instead, it would trigger Presidential negotiations with major trade-surplus nations that exclude American goods or services.

The height of the Gephardt amendment's sway on trade policy was reached last March when it passed the House of Representatives by a margin of four votes. Since then, the Senate has overwhelmingly passed bipartisan legislation as an alternative to the Gephardt amendment. So it is highly unlikely that the amendment would survive a House-Senate conference intact.

But to set the record straight again, the Gephardt amendment is designed not to protect domestic markets as much as to open foreign markets. It has built-in safeguards that give the President discretion to retaliate against surplus nations as he sees fit. If negotiations fail, staged reductions of 10 percent a year in the bilateral trade deficit would follow. However, the President retains the right not to retaliate if he concludes such action is against the national interest.

President Reagan, who is leery of any trade bill, has an important choice to make. He can work quietly with Congress to produce a bill that is satisfactory to all sides and that would not send the markets into a panic. Or he can flatly condemn the bill as "kamikaze protectionism," as he did with the 1986 trade bill. That kind of rhetoric in this volatile economic environment could bring about just the thing we are all trying to avoid: another crash●

NATIONAL BURN AWARENESS WEEK

● Mr. D'AMATO. Mr. President, I rise today in support of Senate Joint Resolution 210, introduced by my distinguished colleague, Senator WILSON, recognizing a common, but overlooked, medical tragedy—fire and burn-related injury and death.

Every hour of every day, 2 people die and 114 people are injured in or from fire and burn-related incidents. Burn injuries cause more than 12,000 deaths and 70,000 hospitalizations annually. Treating these injuries results in millions of dollars in hospital bills every year.

Fire hazards are especially devastating to our children and the elderly; 35 percent of all deaths and injuries from fire and burn-related causes are children. Many children are unprepared to avoid fire, their parents often lacking the education and resources to respond effectively to fire and smoke.

Over one-fourth of fire-related deaths involve the elderly. These deaths often result from carelessness with cigarettes and smoking materials. Many could be avoided with adequate warning; yet only 34 percent of the elderly have smoke detectors installed in their homes. Too many of our senior citizens, unequipped to handle fire hazards, are left vulnerable to catastrophe.

National Burn Awareness Week will bring needed visibility to this significant issue. I hope that this resolution will help familiarize people of all ages with methods of burn prevention, treatment, and rehabilitation. By educating people to recognize fire hazards and to practice appropriate precautions, we can greatly reduce the incidence of burn-related injury and death in this country. I encourage my colleagues to join me in this effort.

Thank you, Mr. President.●

BILL DUFFY MEMORIAL SCHOLARSHIP FUND

● Mr. D'AMATO. Mr. President, it is indeed an honor and a privilege to join my two distinguished colleagues in the House, Congressman Gerald Solomon and Samuel Stratton in serving as honorary cochairmen of the Bill Duffy Memorial Scholarship Fund. Bill, a television news reporter for WRGB-TV in Schenectady for over 20 years, died suddenly on September 29, 1987. The scholarship fund will be made available to aspiring journalism students in the Capital district, having been set up by members of the Capital district media in Bill's memory because of his dedication to journalism and interest in teaching young people entering into the field.

During his career, Bill worked his way up from a radio news reporter to one of the most respected journalists in the Capital district as the Albany Bureau Chief of WRGB. Since 1974 he had been the host of "Capital News Conference," a weekly half-hour interview show. Bill was the president of the New York State Associated Press Broadcasters Association and president of the Schenectady chapter of the American Federation of Television and Radio Artists. He was also named to the State Committee on Open Government by Gov. Mario M. Cuomo.

Bill was not only an outstanding professional but a friend to many. As an elected official it is often difficult to label a journalist a true friend, but Bill was the obvious exception to the rule.

Mr. President, I am confident that Bill Duffy's commitment to journalism will serve as an inspiration to the recipients of this scholarship fund.

Thank you, Mr. President.●

THE "RAOUL WALLENBERG MONUMENT RESOLUTION"

● Mr. D'AMATO. Mr. President, I rise today to give my most heartfelt support to the resolution introduced by the distinguished Senator from Rhode Island, Senator Pell, authorizing the establishment of a privately funded monument on Federal lands in or near the District of Columbia to honor the man who saved the lives of thousands of Jews during the Holocaust, Raoul Wallenberg. I am proud to be an original cosponsor of this resolution which is a companion to the measure introduced by Congressman Lantos of California.

Raoul Wallenberg went to Hungary in July 1944, at the request of the United States as Secretary of the Swedish Legation in Budapest. His mission, simply put, was to save as many Jewish lives as possible—a monumental challenge, considering the dangerous consequences facing him and the hundreds of thousands of Jews awaiting certain death in concentration camps.

By January 1945, 6 months after his arrival in Hungary, Wallenberg had managed to assign over 20,000 passports to Jews in Budapest. He had set up "safe" houses for another 13,000 Jews and, when the Soviet forces were closing in on Budapest, he helped prevent the last-minute slaughter of the 70,000 Jews who remained in the city's ghettos. He literally pulled condemned individuals from deportation trains, gave them passports, and arranged for food and medical supplies for the ill-treated. Altogether, Wallenberg is responsible for saving the lives of nearly 100,000 men, women, and children from certain death in Nazi extermination camps.

In 1981, I was a cosponsor of the successful resolution making Raoul Wallenberg an honorary American citizen, and I am most pleased to once again pay tribute to this courageous man whose selfless actions saved the lives of thousands and to whom all Americans are in debt of gratitude. The establishment of a Raoul Wallenberg monument would act as a constant reminder to all Americans who owe him so much for his bravery and dedication to humanity. I urge my colleagues to cosponsor this resolution.

Thank you, Mr. President.●

INF: TWO MORE TREATY CONCERNS

● Mr. QUAYLE. Mr. President, with the INF Treaty signed, the serious business of Senate review gets underway. The key question, as I've noted before, is whether or not the agreement is in our national security interest.

To answer this question two sorts of concerns have to be addressed. First, what do we need to do after the treaty is ratified to preserve its benefits? Here four things matter—NATO's relative weakness in conventional forces, the imperative to improve rather than remove NATO's remaining battlefield nuclear weapons, the need to avoid extending dubious INF precedents on verification and conventional cruise missiles to START, and the need to provide for a response to probable Soviet cheating. Each of these issues, as I indicated a week ago, can be addressed in Congress and the President work together to take appropriate action. One possibility is to commit legislatively to a multiyear package of military purchases contingent upon NATO cooperation in sharing the costs.

The second type of concern—what needs to be corrected or clarified in the treaty—is tougher. It must be addressed by the Senate itself and be resolved by reservation or amendments to the treaty itself. Here the first issue is the adequacy of the treaty's verification provisions. The second is the treaty's clarity concerning what future systems and deployments the treaty will cover.

Verification, of course, has been talked about the most. The reason why is simple: Effective verification is popularly understood to be the minimal condition necessary for any arms agreement to succeed. With adequate verification there's hope that whatever has been agreed to will be implemented; without it, uncertainty.

Of course, if in addition, the agreement is itself unsound, the uncertainties concerning verification and implementation are sure to be compounded by further bad consequences. In this regard, I have already indicated that there are four concerns outside of the treaty, which if unaddressed, would make the agreement risky for our national security. The good news is that these concerns can be addressed. The bad news is that it will take at least several years to get satisfaction.

It is precisely because of this that fairly strict verification will be necessary to safeguard the treaty against its worst potential effects. How good is verification under INF? It's a mixed bag.

As a Wall Street Journal editorial last Friday made clear, the Soviets have denied the existence of at least 39 SS-20 launchers whose existence our intelligence agencies had previously confirmed. In addition, we have no way to independently verify how many spare missiles the Soviets have stockpiled covertly. The Soviets admit to having 245 SS-20 spares. This is less than one reload per launcher; a suspiciously low figure given past Soviet production and operational practices.

In fact, in a recent Washington Post article and a New York City Tribune series on INF verification, it was revealed that our intelligence agencies assumed that each SS-20 has more than one reload and perhaps as many as five.

As for the shorter range weapons between 500 and 1,000 kilometer range, the Soviets have admitted to having only slightly more spares than launchers, which again is very suspicious. Perhaps just as important there is no high confidence method to verify the range of these missiles. This is particularly true of cruise missiles, which the Soviets are now perfecting.

The INF treaty, of course, does provide for onsite inspections. The problem is that we can only conduct these inspections at sites specified in the treaty itself. Even if we suspect the Soviets of cheating at other locations, we cannot visit them to inspect.

One of the things the Senate needs to consider, then, is if this sort of limited inspection is enough or whether the United States should reserve the right to demand additional nondesignated site inspections.

This brings us to the second major treaty concern: it is overly vague or silent about which future deployments are legal. There is no discussion in the treaty, for example, how future ground-launched missiles or upgrades are to be examined or challenged to assure they do not exceed the treaty's 500 kilometer limit or, if they do, that they meet the treaty's requirement of not carrying any warheads—chemical, conventional, or nuclear.

Clarifying the procedures under which any future system or missile upgrade would be verified against these limits is of no small moment when you consider the variety of cruise missile types each side is likely to deploy before the year 2000.

Exact intelligence on these missiles outside dimensions will only afford range estimates good to within a factor of two or three. Similarly, even if we could establish that they carried no warheads but only surveillance payloads, warheads could be fitted back on fairly quickly. More important, conventional warheads could be switched to lighter nuclear or conventional payloads, which, in turn, would significantly extend these missiles range. Finally, these missiles engines can be improved or flown at slower speeds or at less stressing trajectories to extend their range even further.

How are we to verify or consider each of these specifics? Here the treaty text is silent. Perhaps it's discussed in the negotiating record. The Senate needs to find out and make explicit whatever was agreed to or reserve our rights against overly broad interpretations.

Finally and related, is the probability that the negotiators tacitly agreed to a noncircumvention clause. Although no such clause exists in the treaty itself, it has been mentioned by several officials and is said to be present in unpublished materials.

Here, again, clarification is called for. Does noncircumvention mean that we can't deploy nuclear SLCM's or ALCM's to compensate for the INF systems we will destroy? What about long-range conventional ALCM's and SLCM's? What about modernizing our battlefield nuclear forces as called for by NATO's Montebello decision? What about deploying more dualcapable aircraft?

Unfortunately, there is nothing in the treaty's text to guide us. Are we to interpret this obligation broadly or narrowly? Given the Senate debate over the ABM Treaty, the Senate can hardly afford to ignore these questions with regard to INF. Again, reservations and clarifications may be in order.

Mr. President, I believe these two concerns—the adequacy of the treaty's verification provisions and its vagueness concerning the legality of future deployments—will be critical in the Senate's examination of the INF Treaty. Unlike the other four concerns I have spoken about before—NATO's need for conventional and nuclear improvements, the need to avoid extending the treaty's bad precedents to START, and the need to secure appropriate action if the Soviets cheat—these two can only be addressed by focusing on the treaty itself.

This is precisely what I intend to do when hearings begin next January to review the treaty.

Mr. President, in hopes that wider distribution of the Washington Post, the New York City Tribune and the Wall Street Journal articles will help focus Senate attention to these problems, I ask that their full text be entered into the RECORD.

The material follows:

[From the Wall Street Journal, Dec. 11, 1987]

SECRET NUMBERS

An observer jaded by watching too many arms-control treaties immediately fastens on the curious flap about publication of an "annex" to the new treaty on intermediate nuclear forces. The annex, or "memorandum of understanding," tells how many missiles each side says it has and where. American officials initially decided not to publish it, from fear, they said, of telling terrorists. Soviet officials said they'd published it, leading to much tizziness about which is the free society and so on. To the jaded observer, it's all perfectly clear: The annex is an embarrassment to the U.S.

Lo and behold, "New Data Reduce Russian Missile Force," reads a New York Times headline over a story on what its sources say is in the secret annex. For the Soviet SS-20 missile, the centerpiece of the treaty, the Times reports the annex lists 405 SS-20s deployed, and 245 additional SS-20s that are not deployed.

Deployed means sitting on launchers. The SS-20 launchers are reloadable. Not deployed covers reloads, plus any spares somewhere in the system.

Western intelligence has long listed 441 SS-20 launchers, but in signing the treaty the U.S. has accepted a number of 405 deployed missiles. Now, some SS-20 bases have recently been dismantled. But the U.S. didn't know what had happened to the launchers it had seen there, so it continued to count 441 launchers. Apparently, it has accepted the idea that 36 launchers from these bases have vanished and no longer need to be destroyed to achieve the zero option.

The 36 launchers are a detail compared with the problem of reloads. Mobile, easily concealable missiles are inherently unverifiable, and we have no way to know how many SS-20 reloads the Soviets have produced and squirreled away in warehouses. Public American documents don't even try to estimate the number of reloads available, but private estimates have typically been at least one reload per launcher. Or more than 441 reloads compared with the 245 admitted in the annex.

Now, a little arithmetic: 441 plus 441 equals 882; 405 plus 245 equals 650; 882 minus 650 equals 232; 232 times 3 (the number of warheads per missile) equals 696. This is about the size of the SS-20 force that originally led to the Western deployment of Pershing and ground-launch cruise missiles the U.S. will destroy under the treaty.

Now, conceivably, the number of reloads may be only 245, as the Soviets claim. But for all we know, it might be 1,764, or four per launcher instead of one.

Early in the negotiations, the American side hoped to solve this problem by banning the SS-20 infrastructure, the production, assembly, maintenance and training facilities for the missile. But it turns out that the infrastructure for the SS-20 is identical to the infrastructure for the intercontinental SS-25. Under the treaty the U.S. will have no right to inspect SS-25 facilities; competent analysts suspect SS-20 missiles could be launched from SS-25 launchers. In a sense, it doesn't matter, since the treaty is pretty much cosmetic to begin with. Without any cheating whatever the Soviets can simply replace SS-20s with unlimited SS-25s, which can hit targets in either the U.S. or Europe.

It does matter, though, in terms of summit euphoria and the arms-control process. The issue is whether the U.S. has once again put aside its own best judgment to accept on faith the kind of Soviet assurances history teaches will prove empty.

[From the Washington Post, Dec. 16, 1987]

U.S. MAY HAVE MISCOUNTED SOME SOVIET MISSILES—NUMBER OF SS23'S UNDERESTIMATED, CRUISE WEAPONS OVERLOOKED, INF DATA INDICATES

(By Walter Pincus)

U.S. intelligence agencies may have underestimated the number of 300-mile-range SS23 nuclear-armed missiles deployed by the Soviets in Eastern Europe and totally missed the placement of Soviet ground-launched cruise missiles in Latvia if data provided by Moscow as part of last week's Intermediate-Range Nuclear Forces (INF) Treaty proves correct, according to government and congressional sources who have analyzed the information.

On the other hand, the analysts said the data indicate that the Pentagon's Defense Intelligence Agency (DIA) for several years may have overestimated by more than 30 percent the overall size of the Soviet intermediate-range nuclear SS20 mobile missile force.

New and sometimes unexpected information on Soviet nuclear weaponry was contained in the "memorandum of understanding," signed by Soviet leader Mikhail Gorbachev and President Reagan, published as part of the treaty and released to the public last week.

It has since caused the DIA and the Central Intelligence Agency to review their past estimates, according to informed sources.

The data also have put new life in longstanding intelligence community disputes and promises to provide fuel to congressional critics of the treaty who argue the Soviets cannot be trusted.

After the INF Treaty takes effect, the Soviets will provide an updated data base and U.S. teams will carry out on-site inspections of listed facilities to verify the data.

Until early this year, according to sources, U.S. intelligence could confirm only that about 10 SS23 missiles had been deployed at a base in the western Soviet Union. Then, according to these sources, a second base was discovered by chance by a U.S. military attache in East Germany.

But last week, the Soviets reported a total of 82, SS23 launchers and 167 missiles deployed in East Germany and the western Soviet Union. Sources said two Soviet bases with nuclear missiles were unknown to the United States. "That just proves smaller missiles are tougher to find," a congressional intelligence expert said.

Soviet disclosures about its SSCX4 ground-launched cruise missile, which was not projected for deployment until 1988 or 1989, have caused the biggest stir in U.S. intelligence circles.

The Soviets said last week they had 84 of the 1,800-mile range missiles "in storage," and six launchers in a site near Jelgava, south of Riga, capital of Latvia. They said "elimination facilities';' are at the same site. The Soviets describe their cruise missile as "tested but not deployed."

One source said moving the weapons to Jelgave showed how easy it may be to hide a usable nuclear force. Another said it was likely the Soviets made the move from the Kapustin Yar test range south of Moscow to Latvia to keep U.S. inspection teams away from the test facility.

The SS20 controversy shows how the United States tried to deal with a missile never seen by reconnaissance satellites. In 1975, before the first SS20 was built, sources said, a U.S. spy in the Soviet Union said Moscow planned five missiles for each launcher. Caught and executed in 1979, the spy's early information guided subsequent U.S. estimates.

SS20 deployment was cloaked in secrecy; missile, transporter vehicle, and protective transport cannister were never seen by the United States, which estimated the number of SS20s in the field by counting the garages for launchers and transporters.

"We counted garages, which we could see, not missiles," one intelligence sources said.

As the number of garages increased above U.S. projections, the CIA lowered its estimate of the "refire" SS20 force; DIA did not. Pentagon and DIA officials continued to insist on at least one extra "refire" SS20 for every deployed missile.

The Defense Department's 1985 edition of the unclassified "Soviet Military Power" estimates "about 400 deployed [SS20] launchers—with a . . . 3-warhead missile and reload." The 1987 edition indicated up to 900 SS20s in all, to go with the 441 missiles DIA reported as having been deployed.

This year's edition said that "the SS20 launcher can be reloaded and refired, and the Soviets stockpile refire missiles."

Last week, the Soviets reported having 659 SS20s, deployed or in some form of storage.

They said 405 of the mobile SS20s along with their launchers were deployed at 39 bases, 15 missiles with launchers were stored at 10 of those same sites, and 164 SS20 missiles were at two storage facilities.

In addition, 36 missiles were at the production facility and 29 missiles and 68 launchers were at an "elimination facility."

Senate critics of the INF Treaty have focused on the DIA numbers and charged, according to a congressional analysis done for one Republican legislator, "the Soviets may secretly be able to retain at least 250 more [SS20s]."

Treaty supporters said the Soviet numbers are within the range estimated by the CIA, and that the DIA estimates were wrong.

[From the New York Tribune, Nov. 13, 1987]

INTELLIGENCE COMMUNITY SKEPTICAL ON ARMS PACTS WITH SOVIET UNION: ITS MOBILE MISSILES CAN BE HIDDEN

LIKELIHOOD OF SPOTTING SS-20'S PUT AT 20 PERCENT

(This series describes the enormous, and perhaps insurmountable, difficulties that lie ahead for Washington in verifying compliance with an intermediate-range nuclear forces (INF) treaty such as will most likely be signed at the summit between President Reagan and Mikhail Gorbachev, scheduled for Dec. 7 in Washington.)

(By Peter Samuel)

WASHINGTON.—The U.S. intelligence community has told the Reagan Administration there is only a 20 percent probability of detecting illegally deployed Soviet SS-20 missiles, even with the most modern satellite detection systems.

A high-level intelligence report to the administration as it enters the final round of post-Reykjavic negotiations on the Intermediate-range Nuclear Forces (INF) Treaty calls the current capability to monitor mobile Soviet missiles very limited.

Major increases in intelligence manpower and expertise and radical changes in methods will be needed, as well as significant increases in satellite and other technical sensors to provide minimal intelligence on field deployments of mobile ballistic missiles, the report says.

An earlier report by the Critical Intelligence Problems Committee of the Central Intelligence Agency, called The Soviet Land-Based Mobile Missile Study, concludes: "There currently are large uncertainties in our knowledge of the deployment, operations and characteristics of Soviet mobile missiles."

The study has the number TCS 1715-85/1 and is highly classified at what is called "codeword" level. Access to large portions of the document was provided to the New York City Tribune by a responsible, experienced senior civil servant, one who believes that national decisions on arms control treaties should be made only with greater public knowledge of the limitations of current U.S. means of verification.

The executive summary of the study says: "Uncertainties in our ability to monitor Soviet compliance with any treaty limiting Soviet mobile missiles will continue.

"Even with a NRT [near real time] continuous monitoring system, the IC [intelligence community] would not be able to guarantee that it could quickly detect all possible forms of Soviet cheating."

The United States at present relies entirely on KH-1, photographic reconnaisance satellites for possible pictures of Soviet mobile missiles, but these satellites are useless at night and in times of heavy cloud, snow or rain. Averaged over a year that is about 60 to 70 percent of the time, and the Soviets can then conduct exercises with their missiles or move them without fear of being photographed by U.S. cameras overhead.

A new synthetic aperture radar (SAR) imaging system—which can operate at night and through clouds—was originally due to go into orbit this past October, but awaits the rejuvenation of the space shuttle. Due to provide the "near real time continuous monitoring" mentioned in the study, this satellite, previously code-named Indigo-Lacrosse, will not be available in orbit until at least the middle of 1988.

Its full capabilities in terms of picture resolution will not be known until it has been in operation for some time.

OVERHEAD VIEW LIMITED

The senior U.S. official points out that even with very fine resolution imaging that is expected from the Indigo-Lacrosse, there are inherent limits to overhead observation of mobile missiles, especially if—as Soviet military doctrine dictates—concealment and deception techniques are used.

Identification of particular missiles depends almost entirely on the Soviets' standardizing the size and shape of the canisters, vehicles and support facilities and distinguishing them from those of other missile systems.

If the Soviets deliberately avoid standardized equipment or if they are able to intermix illegal missile systems with treaty-legal missiles, the finest all-weather and nighttime imaging will not be able to verify illegally deployed systems.

Illegal missiles kept in store under roofs pose an even greater verification problem and will be dealt with in a subsequent report.

U.S. reliance so far on photography and the Soviets' practice of moving their mobile missiles at night or under cloud cover, and their routine use of camouflage, have made it very difficult for U.S. intelligence to gather data on how Soviet mobile missile teams operate.

It is not even known for sure whether Soviet SS-20 transporter-erector-launcher trucks are five- or six-axled, at what speed they can travel, or their cross-country capabilities.

'LARGE UNCERTAINTIES' TO STAY

The CIA study confirms that there currently are "large uncertainities" in U.S. knowledge of the deployment, operations and characteristics of Soviet mobile missiles. It will not get much better either in the forseeable future.

"For approximately the rest of this century, there will be uncertainties associated with monitoring any arms control treaty limiting mobile missiles. These uncertainities will be greater than those associated with monitoring fixed silo-based systems."

Even cooperation by the Soviet Union in identifying and distinguishing its missiles would only marginally improve the U.S. ability to count missiles, the study says.

"Even with passive and active cooperative measures in place, only very modest improvements in counting deployed missiles seems likely."

The CIA advised the administration as the policymaker that it will have to take responsibility for what levels of uncertainity are acceptable in verification.

The CIA in the 1985 study therefore washes its hands of responsibility for verifying mobile missiles.

"It would therefore remain for the policy community in consultation with the IC [intelligence community] to determine what degree of uncertainty will be acceptable and to determine what monitoring tasks will be required."

[From the New York Tribune, Nov. 16, 1987]

SOVIET MOBILE MISSILES COULD MAKE IT EASY TO FOIL VERIFICATION OF AN ARMS ACCORD

(By Peter Samuel)

WASHINGTON.—Despite President Reagan's repeated statements that he will insist on high standards of verification in the new arms control treaties being negotiated with the Soviets, such accuracy and veracity are increasingly difficult in an era of mobile missiles.

Such weapons not only can be manufactured under roofs but deployed inside garage-type sheds and transported between different pre-surveyed firing points on large multi-wheeled trucks. Or they can be put on railroad cars and disguised as freight trains.

The Soviets can apply a double layer of concealment by scheduling movements and exercises of their mobile missiles at times when no U.S. observation satellite is overhead. To cover the whole of the Soviet Union continuously with observation satellites would require about a thousand spies-in-the-sky, but the U.S. defense budget only provides for a handful—so the Soviets, by careful identification of U.S. satellites and monitoring of their tracks, can produce schedules of their coverage ahead of time.

Last Dec. 11, the director of the Central Intelligence Agency received a report from a Mobile Missile Task Force Intelligence Requirements and Analysis Working Group (IRAWG), numbered TCS-601151/86 TS RZU GP, portions of which were shown to us by a senior civil servant concerned that verification problems of mobile missiles are not being adequately revealed to Congress or the American people.

The report says on page 2: "Our current capability to meet adequately the demands placed upon our resources to address effectively the mobile missile problem is limited."

In an appendix at the back of the report, the group estimates that there is only a 20 percent probability of the U.S. detecting Soviet SS-20 mobile ballistic missiles in the field, even with the use of significantly improved satellites, which are not yet in orbit.

The 20 percent probability of detection assumes that a huge, new, allweather, day and night imagining system using a synthetic aperture radar (SAR) will live up to expectations. Codenamed at one stage Indigo-Lacrosse (it now has a new secret code name), this satellite is too large to be lofted into space by any operating U.S. launchers and will have to await the refurbishment of the space shuttle, which is not expected before the middle of next year.

With present photo-reconnaissance satellites, SS-20s and other mobile missiles can be moved and exercised at night or in cloudy weather, so the probability of the United States detecting them is extremely low.

The report says "a true capability to locate, identify and track mobile missiles . . . is evolutionary and will require significant enhancement over present capabilities."

It outlines requirements not only for new all-weather and night-time imaging systems but greatly increased analytical skills, human intelligence on the ground in the Soviet Union and a considerable period of study to understand Soviet mobile missile operations.

Page 5 of the report says: "The state of analysis on mobile missiles is currently hampered by the lack of a uniform data base of information."

The first long-range mobile ballistic missiles deployed by the Soviets were three-stage intercontinental missiles dubbed SS-16s in the late 1960s, but these were supposed to be banned under the SALT I agreement. The intelligence community reported indications of continued deployment of a limited number of SS-16s on occasions through the 1970s and into the early 1980s, but heavy camouflage and concealment practices prevent the U.S. government lawyers from finding evidence strong enough to go beyond describing it as a "probable violation" of SALT I.

Complicating the problem of verifying SS-16s was the fact that the legal SS-20 was an outgrowth of the banned SS-16, making use of the first two stages of the intercontinental rocket and equipped with a rather similar transporter-erector-launcher truck. Even though a decade has passed since SS-20s were first deployed and over 441 launchers have been counted, Soviet concealment has prevented the United States from learning much about how they are operated.

"Many data bases relating to mobile missile issues need to be developed, including data bases on Soviet terminology for mobile missile equipment, Soviet arms control statements relating to mobile missiles, Soviet CP (command post) exercises involving mobile missiles, information on production of mobile missile, and construction projects in the USSR that may be related to mobile missiles," reads page 8 of the report.

The report recommends "that a number of analytical projects be undertaken to improve the state of knowledge on Soviet mobile missiles."

It continues: "One of the most important of these [projects] is to develop a model of the concept of operations for mobile missile units that are deployed in the field. A great deal of information will be required to model how Soviet missile forces operate, including how often they deploy to the field, how far from their bases and from other units they deploy, how often they are deployed, and how long they stay in one place. The development of such a model should be viewed as a longterm goal that will involve much research and coordination of effort . . ."

"It is clear that the development of strategies to improve our capabilities will require many more experts than currently are available."

The report too is blunt about the fact that satellites and other technical means, however good, cannot be expected to substitute for improved human intelligence, from agents in the Soviet Union or inspectors.

On page 9 the report says: "We cannot obtain information on many aspects of mobile missile operations through technical sensors."

The intelligence community is not yet prepared to cope with Soviet mobile missiles and this will "require radical changes in the way intelligence community has done business in the past."

"In addition to significant increases in collection resources, the [intelligence] community would see substantial expenditure in additional personnel to exploit and analyze the information.

[From the New York Tribune, Nov. 17, 1987]

1977 SPY DATA ON SS-20'S CAST SHADOW OVER INF TALKS

(By Peter Samuel)

WASHINGTON.—In 1979 a colonel of the General Staff of the Soviet Army, found guilty of espionage and treason, was strapped to a post, blindfolded and gagged and, following a quickly barked order, his body riddled by a firing squad.

Described by a U.S. government source as Boris, the colonel helped U.S. intelligence for several years before being caught by the KGB.

In 1976 Boris provided the CIA with one of his most intriguing pieces of information. He said the Strategic Rocket Forces planned to build 225 new mobile missile launchers for a system dubbed "Pioneer" during the Five Year Defense Plan 1976-80.

In 1977, U.S. reconnaissance satellites began observing the Pioneers, which were dubbed SS-20s. The presence of these two-stage, three-warhead ballistic missiles on multi-wheeled launchers forced the West German government of Helmut Schmidt to ask the United States to deploy a counter-system.

That system, in the form of the Pershing II and ground-launched cruise missiles now being placed in Western Europe (and being negotiated out again under the imminent INF treaty), has been deployed in an atmosphere of great political turmoil.

The deployment schedule did not quite match the Five Year Plan as outlined by Boris, but given the imperfections of execution of any plan, the information tracked well enough to confirm his credibility as an intelligence source. By now there are some 441 known SS-20 or Pioneer launchers.

Looking back to 1976, the most intriguing thing Boris told the United States was that the Five Year Defense Plan specified the assignment of five Pioneer missiles per Pioneer launcher vehicle, to result in a strength of 1,225 missiles at the end of the plan period.

Each Pioneer firing unit was designed with one first-shot missile and four reloads. It would fire from a presurveyed location; then the vehicles would speed to a second point, reload and fire the second missile.

The Pioneer was designed to fire, move, fire, move—until all five missiles were sent on their way into space and toward the release of their three warheads apiece (each with the explosive power of 150,000 tons of dynamite).

U.S. reconnaissance satellites have observed the SS-20 units carrying one reload and on one occasion two reloads. Signals intelligence has picked up indications of possible exercises including multiple reloads, according to our source.

The United States has never publicly gone beyond saying that SS-20 units carry a single reload missile and that the Soviet army stockpiles reload missiles, without specifying the number.

The official tables of warheads carried usually count only the warheads on the initial missile, so the Pentagon's Soviet Military Power in its INF table talks of the SS-20 force as 441 missiles and three warheads per missile making a total of 1,323 nuclear warheads.

Now that the United States and the Soviet Union are haggling over the INF treaty that is supposed to abolish these intermediate-range missiles, American officials are wondering how many SS-20s they should demand be dismantled. If Boris was right, then the SS-20 force is much bigger than anyone has publicly recognized and consists of 2,205 missiles and 6,615 warheads.

In comparison, the United States has roughly 6,000 nuclear warheads on all its different types of land- and submarine-based ballistic missiles combined.

One of America's leading nuclear weapons experts, Dr. Sam Cohen—perhaps best known for his advocacy of the neutron weapon—has long maintained that the SS-20 is not even a theater weapon but designed as an all-purpose strategic weapon.

One of the distortive effects of arms control counting rules is that missiles are classed according to the maximum range over which they are known to have been tested, which may differ considerably from their real capability. Similarly, their warhead numbers are totaled on a basis of the maximum number tested in a test firing.

DESIGNED AS AN ICBM?

Cohen says in his recent book, Mesmerized by the Bear, The Soviet Strategy of Deception (Dodd, Mead & Co):

"There would seem to be very good reasons to believe that from the very beginning the Soviets planned the SS-20 as an ICBM [intercontinental ballistic missile] and then proceeded to deceive our technically marvelous but mentally gullible spy satellites into believing it was a theater missile by restricting their flight tests to theater missile ranges.

"Even then these test ranges have been barely—only 10 percent—below the accepted definition of an ICBM range, hardly enough to seriously reduce confidence in the missile's performance at intercontinental ranges."

The Soviets' testing the missile in a trajectory across the North Pole provided a further indication that the SS-20 was designed as an all-purpose strategic nuclear weapon system. The only possible target for such a track would be in North America, and the tests would be valuable in providing the Soviets with data on magnetic and gravitational anomalies that could affect SS-20 accuracy when fired against Canada or the United States.

Given the CIA's estimate that once new nighttime and all-weather satellites are in orbit the United States will probably be able to detect only about 20 percent of SS-20s, the Soviets have little incentive under the INF Treaty to do more than dismantle their lead missiles and to keep the reloads.

Given the great uncertainties U.S. intelligence has about how many SS-20 reload missiles exist, the negotiators are in a weak position to bargain for their being dismantled.

[From the New York Tribune, Nov. 18, 1987]

INF TALKS GROW SHAKY AS CONCERNS OVER MISSILE VERIFICATION MOUNT IN WASHINGTON

INF "GOOD DEAL" MAY BE A DISASTER

(By Peter Samuel)

WASHINGTON.—Some U.S. officials are concerned that the Soviets are eager to sign an intermediate nuclear forces (INF) treaty because it will remove an important American deterrent force from Europe while allowing the Soviets to continue their nuclear build-up unhampered.

On the face of it, the treaty seems to favor the West, as Secretary of State George Shultz often says.

Superficially, the impending INF Treaty is a great victory for the West since it results in the removal of 441 SS-20 missiles with 1,323 warheads and 112 SS-4 launchers, making a total reduction of 1,435 Soviet warheads. In return, the United States is removing only about 300 warheads—on 108 Pershing II ballistic missiles and on 208 ground-launched cruise missiles.

In addition, almost as a goodwill bonus, the Soviets have agreed to give up about 600 shorter-range SS-12 Scaleboard and SS-23 missiles that have no American counterpart at all. The whole package has combined to make Soviet leader Mikhail S. Gorbachev look like a virtual strategic philanthropist!

But a senior U.S. government official, who wished to remain annonymous, told the New York City Tribune this week that the outlines of an alarming Soviet "cheat plan" have emerged.

Under the pressure of the Dec. 7 Washington summit deadline for signing the treaty, and on account of the U.S. intelligence community's complete bafflement over how many SS-20 missiles the Soviets have manufactured, Washington will agree to the dismantling of the 441 first-shots and perhaps a token 150 reloads, together with the demolition of some old sheds at known SS-20 bases, and SS-20 trucks.

But if the ill-fated Colonel "Boris"—a spy for America on the Soviet General Staff who was caught and executed in 1979—was accurate in is reporting to the CIA in 1976, and the SS-20 units were designed to consist of five missiles per launcher, the Soviets now have at least 2,205 tripple-warhead missiles, the U.S. official said. They have been producing them since 1976 at the rate of perhaps 200 a year. If, in accordance with the upcoming INF Treaty, they agree to take apart roughly 600, they can fulfill the terms of the agreement by scrapping 11-, 10- and 9-year-old missiles, the official said—and the Soviets will still have around 1,600 SS-20s left, enough to carry 4,800 warheads.

Indeed, the official told the City Tribune, Moscow need not even lose the 600 missiles. In the past year, the Soviets have been testing a new, improved version of the SS-20, dubbed the SS-20 Mod 2, with considerably improved accuracy. If this refined missile is produced at the same rate of 200 a year as the old, and the destruction of the 600 old SS-20s is strung out over 3 years, the Soviets will actually be able to conduct a modernization of their force in the guise of a withdrawal, the administration source said. They will be making no net reduction at all.

The Kremlin has conducted such cosmetic withdrawals before, in Afghanistan, where with much fanfare, troop divisions have been pulled out, only to be quietly replaced by fresh units.

Now the CIA, in a classified report obtained by the City Tribune, estimates that even with the new imaging radar reconnaissance satelite it will only have a 20 percent probability of detecting SS-20s in the field, so the United States will find it difficult to build a case for Soviet non-compliance.

The SS-20s have perfect cover in the form of the new SS-25 single-warhead, three-stage mobile intercontinental ballistic missile, which is a derivative of the SS-20. According to some analyses, the first two stages of the SS-20 and SS-25 are very similar, if not interchangeable, and the two can use the same transporter-erector trucks and base facilities.

Having been test-fired consistently over intercontinental range, the SS-25s are not covered by the intermediate-range treaty. Already the new SS-25s are being deployed to SS-20 bases, and one intelligence estimate is that the present 100 units will grow to 400.

One theory is that the Soviets have developed a modular "family" of mobile missiles, starting with the SS-16 of the 1960s, through the SS-20 to the SS-25, parts of which can be mixed and matched to various missions. According to this hypothesis, the various stages and transporters can be assembled like building blocks depending on the range of the targets they are to fire at, and the number and weight of warheads needed. Troops that train on one system are equally capable of operating the others.

William Van Cleave, a leading academic authority on strategic weapons, has long argued that the SS-25 is part of such a "family" of missiles.

The probable truth is that U.S. intelligence does not know enough about the details of any of these systems to form a firm assessment. The report that was obtained by the City Tribune, the Soviet Land-Based Mobile Missile Study done by the CIA's Critical Intelligence Problems Committee, delineated the problem in its executive summary when it said:

"There currently are large uncertainties in our knowledge of the deployment, operations and characteristics of Soviet mobile missiles."

Thus, some Washington analysts see the administration's situation as follows: A politically battered and bewildered President Reagan seems to have developed quite unwarranted enthusiasm for the pomp and ceremony of arms control and the feel-good effervescence of summitry. And advisers who should be cautioning him about the severe limits of verification are urging him on to sign a treaty that purports to regulate weapons it cannot count or even accurately characterize.●

COMPETITIVE EQUALITY BANKING ACT OF 1987

● Mr. BOSCHWITZ. Mr. President, as you know, the Competitive Equality Banking Act of 1987 suspends, until March 1988, Federal regulatory approval for banks seeking to offer new services in insurance, securities underwriting, or real estate.

At this time, I would like to put into the RECORD an interview with John A. Berg, chairman of ABA Community Bankers Council which appeared in the ABA Bankers Weekly in November 1987. I recently met with Mr. Berg, a fellow Minnesotan, to discuss banking issues, specifically the moratorium against expanded powers.

As Mr. Berg points out, the moratorium against expanded powers for banks restricts their ability to offer customers a full range of financial services. He feels that if given the option, most banks would like to offer new services such as real estate, insurance or securities underwriting in order to hold on to existing customers and to attract new customers.

The interview also discusses legislation introduced by Senator PROXMIRE and Senator GARN, which would repeal the Glass-Steagall Act—an act which separates banking from other commercial activity. As Mr. Berg points out, expanded powers would increase income and profit opportunities as well as benefits from asset diversification.

Quite frankly, I am inclined to agree with him. We need to give our financial institutions some expanded powers. A logical first step, would be to allow banks to enter the securities business in some fashion. We must, however, ensure that the banking activities, including the savings accounts of our citizens, are separated from the securities activities. As we all know, our banks are competing in an international marketplace. And in that marketplace, our banks are losing their competitive position. While banks in other countries are relatively unrestricted, our banks are very restricted. I commend Mr. Berg's ideas to my colleagues for their consideration.

The interview follows:

[From ABA Bankers Weekly, Nov. 24, 1987]

What Is Important to Community Bankers?

COUNCIL CHAIRMAN EXPLAINS WHY EVERYONE IS CONCERNED ABOUT MORATORIUM

Killing the moratorium that prevents banks from offering new products and services is as important to community bankers as it is to money-center bankers, said ABA Community Bankers Council Chairman John A. Berg.

In a special interview with ABA Bankers Weekly, Berg discussed the moratorium, banking regulations and ABA activities that will affect community banks' profitability and productivity. Berg is president and chief executive officer of The Bank Wayzata, Wayzata, Minn.

Q. Why is killing the moratorium so important to community bankers?

A. The moratorium prevents banks of all sizes from meeting our customers full range of financial-services needs. It forces us to continue to watch our best customers go elsewhere, often to securities firms or insurance companies that can offer more services than we can.

At my $170 million bank, I would like to distribute mutual funds. And I know that there are many community bankers who would like to sell insurance or broker real estate as well. We should have the choice, at the very least, and the moratorium prevents us from having the freedom of choice.

Recently the members of the ABA Community Bankers Advisory Board met in Washington, D.C., and visited our congressmen to tell them that it is critical to all bankers that the moratorium is not extended one day beyond March 1, 1988.

Now is the time for every bank president and his or her employees to write to their congressmen urging their support. Congress must be made to realize that their constituents will be the major beneficiaries if the moratorium is allowed to expire. Their constituents will have more choice and better prices for their financial services.

Q. Senate Banking Committee Chairman William Proxmire (D-Wis.) is introducing legislation that would repeal the Glass-Stegall Act. What would this mean to community banks?

A. There would be numerous income and profit opportunities for community banks.

With mutual funds and investment unit trusts, there could be profits from sales commissions associated with distributing shares and there could be fees for custodial and accounting services.

If banks were permitted into securitized commercial and industrial loan underwriting, large banks would probably do most of the underwriting, but community banks would be the sellers.

We could earn originating and servicing fees and the spread income on the portion of the loan retained in our portfolios, while substantially reducing the cost associated with capital adequacy and reserve requirements, deposit insurance and other regulatory costs.

It has been estimated that if the profit potential from commercial and industrial loan securitization was fully realized, a participating bank's loan return on equity could be increased by as much as 600 basis points. Even if that is unrealistically high, I'd more than happily settle for a 200 basis-point increase in my return on equity.

There are also the benefits of greater asset diversification and more efficient use of available liquidity and capital that could lead to profit improvement.

ABA Bankers Weekly in its last edition analyzed how community banks could benefit from the repeal of the Glass-Steagall Act. I understand this study is available from ABA's Office of the Chief Economist.

Q. What role do community bankers play in shaping ABA lobbying positions?

A. One of the primary roles of the 100-member Community Bankers Advisory Board is to develop consensus positions and provide input to ABA's 400-member Banking Leadership Conference.

Also, community bankers have substantial representation on the ABA Banking Leadership Conference and Government Relations Council. As vice chairman of the Community Bankers Council last year, I served on both.

Community bankers also have six seats on the ABA Board of Directors—one of which currently is held by a past Community Bankers Council chairman, John Moore of Vero Beach, Fla.

Q. On what regulatory issues has ABA's Community Bankers Council been active?

A. Members of the council are serving on several ABA task forces focusing on bank regulation: to provide input to the bank regulatory agencies on the effect of regulations on community banks; to develop guidelines to assist bank directors to conduct effective directors' examinations; and to determine the implications of the Federal Savings and Loan Insurance Corp. problems on the banking industry.

The council also has a representative on ABA's Consumer Issues Task Force, which interacts with various consumer and community groups on issues like basic banking and home-equity loans.

Q. How would you describe the mission of the Community Bankers Council and the Advisory Board?

A. Our mission is to aggressively represent and support community bankers in the ABA's policy-making process and to develop a broad range of high-quality products and services that reflect the carefully determined needs of our constituency.

Our goals for the coming year are:

To expand the number of community banders involved in our programs through increased awareness of what we offer and by carefully addressing the needs of community bankers.

To actively support the ABA's legislative and regulatory process and increase community-banker involvement through enhancement of our grassroots efforts.

To provide direct support to the ABA's ongoing membership program; and

To be a strong advocate for the future of community banking.

Q. What are some of the products and services that the council sponsors for community bankers?

A. There are enough for several articles, but let me mention a few.

Coming up soon is the 1988 ABA National Conference for Community Bankers, Feb. 25-28, in Century City, Calif., near Los Angeles. The location is great because it is close enough to Hollywood and L.A. to take advantage of what they have to offer but it's much more attractive—more suburban than urban.

The conference offers a carefully designed mix of general sessions, workshops, small-group discussions and exhibits aimed at arming attendees with ideas they can use to make a difference in their banks' bottom line.

A fairly new Community Bankers Council program is the ABA Network. Chief executives of community banks of similar size from different parts of the country are combined into small groups which meet to discuss the challenges and opportunities facing them and share ideas about how to address them.

There is also Laser Pro, a loan-documentation software package, and Bank Taxtrak, a tax-planning software package.

I would urge every community banker to call the Community Bankers Council staff [(202) 663-5121] and request a copy of "Meeting Bankers' Needs," which describes these activities and many more.

Q. How would you describe the future of community banking?

A. In three words—challenging but bright.

Five years ago there was not much difference in performance between well-managed and poorly-managed banks. Today, however, deregulation and the constantly changing economic environment mean that there will be a direct correlation between good management and success. We must act rather than react.

Every bank should have a strategic plan that gives it a clear sense of direction about what it wants to be in five years. Does it want to buy other banks, be bought or remain independent? Does it want to pursue any business it can get or focus on those specific market segments it feels it can best serve and are most profitable?

With a strategic plan in place, a community bank can have specific goals. It gives direction to the essential actions that all banks must take, such as reducing expenses, finding new sources of fee income and improving staff training.

Community bankers have strengths—the ability to really know our customers' needs and provide high quality personal service. We also have excellent resources—the American Bankers Association, our state bankers associations, consultants and others bankers.

The future is bright for the community banker who takes advantage of these strengths and resources.●

REGARDING INCREASED CAPITAL GAINS TAX RATES

● Mr. BOSCHWITZ. Mr. President, I rise today to speak again about the need for reduced capital gains tax rates. Although I strongly support most of the reforms in the Tax Reform Act of 1986, the elimination of the capital gains exclusion was not something I agreed with. In fact, last October Senator CRANSTON and I attempted to amend the TRA to preserve the exclusion.

This past February, I renewed my effort to reinstate a capital gains exclusion because I firmly believe it will generate additional tax revenues and spur capital formation and investment. As an example of the impact lower capital gains tax rates have on investment decisions by taxpayers, the Congressional Budget Office projects that increased capital gains tax rates under the TRA triggered a massive sale of capital assets resulting in additional tax revenues of between $14 and $21 billion. Earlier estimates anticipated a revenue gain of only $7.9 billion.

Mr. President, at this time I ask that a recent column by Warren Brookes, which appeared in the Washington Times, be inserted in the RECORD in connection with my statement. Although I do not agree with Mr. Brookes on all points, I do agree that eliminating the capital gains exclusion may have played a role in bringing about the crash of the stock market last month.

As related by Mr. Brookes, when the capital gains exclusion was repealed.

> You took away the tax-inertia from the capital markets, and increased the incentives to turn equities over, and over, rather than to hold them.

Prior to tax reform, the top tax rate on capital gains for equities held 6 months or longer was 20 percent. Under the Tax Reform Act, however, the maximum capital gains tax rate for 1987 jumped to 38.5 percent, an increase of almost 93 percent. At the same time, the maximum tax rate on short-term gains was reduced from 50 percent to 38.5 percent. The short-term rate will be lowered again in 1988 to 33 percent.

The conclusion reached by Mr. Brookes is that the dramatic increase in captial gains tax rates had a profound impact on investor psychology in favor of a short-term mentality. I commend Mr. Brookes' article to my colleagues because I think he makes some valid points for us to consider in connection with Black Monday 1987.

The article follows:

HOW TO STABILIZE A SHAKY MARKET

(By Warren Brookes)

Over the past nine months stock market watchers and exchange management itself have grown increasingly concerned about the sudden rise in market volatility, culminating in the Great Crash of October 19.

The focus of these concerns almost exclusively has been on the use of computerized "program trading" coupled with "portfolio insurance" in the form of purchasing stock index futures contracts on the Chicago Mercantile Exchange.

While those may well have contributed to market moves, almost everyone has overlooked the likely role of tax reform in the new level of volatility—everyone, that is, except a financial planner named John Austin of San Francisco.

Mr. Austin reminded this writer of a simple fact: "Tax reform ended the special preference for capital gains, a preference that depended on holding capital for at least six months.

"When that preference ended, you took away the tax-inertia from the capital markets, and increased the incentives to turn equities over, and over, rather than to hold them"

As of Dec. 31, 1986, the top marginal tax rate on capital gains for equities held six months or more was 20 percent. As of Jan. 1, 1987, that rate jumped to 38.5 percent, almost a 93 percent rise in the cost of holding capital for that length of time.

At the same time, the tax on short-term capital gains fell from 50 percent to 38.5 percent, a 23 percent drop, massively increasing the incentive to make and realize short-term capital gains; and this incentive will grow in 1988 when the top rate falls to 33 percent.

"This immediately changed the whole tax incentives and psychology of the market," Mr. Austin said, "from stable investment horizons to short-term churning and trading."

In fact, with the elimination of the time-period preference for capital gains, there was an immediate and powerful incentive for more and more volatility, the quicker and quicker realization of any market gains, or profits from short selling during market drops, and it reinforced the use of futures contracts.

Harvard economist Lawrence Lindsay agrees: "I frankly hadn't thought of this before, but, although there is no way to quantify this, I think Mr. Austin has it exactly right. We have changed all the tax incentives away from long-term investment to short-term trading."

This, Mr. Lindsay admits, "would tend to reinforce the speculative appetites, and act as a disincentive for long-term investment."

We then asked him if we couldn't easily kill two birds with one stone: increase market stability and long-term investment, and still raise revenues for deficit reduction, by reinstating the capital gains preference, offering the 15 percent base rate for any capital gains realized on investments held more than six months, or even a year?

"Absolutely," he said, "that would be a remarkably useful policy move—and completely consistent with our research that shows that raising the capital-gains tax rate, as tax reform did, was counterproductive for raising revenues, and that lowering that rate would actually raise more money."

Mr. Lindsay's study for the National Bureau of Economic Research looked carefully at the patterns of raising and lowering capital-gains tax rates in 1969 (from 36 percent to 49 percent), 1978 (from 49 percent to 28 percent) and 1981 (from 28 percent to 20 percent), and how these changes affected revenues.

He found that revenues rose when you cut rates, and fell when you raised them. And based on these experiences, the "ideal" or "revenue-maximizing" rate for capital gains is 18 percent—and such a rate would raise capital-gains revenues as much as 72 percent over the new tax reform's 28 percent rate.

Indeed, he estimates that, by raising the capital gains rate from 20 to 28 percent in last year's tax reform, "the government will actually lose between $11 billion and $42 billion in the next two years alone, and between $27 billion and $105 billion over the next five years."

In short, Congress could easily increase market stability, promote more investment growth, and at the same time raise revenues simply by doing what what some Republican and Democratic House members have been promoting since last summer (endorsed by Vice President George Bush, Rep. Jack Kemp, and Gov. Pete du Pont)—apply the 15 percent base rate on long-term capital gains.

This would raise $3-9 billion immediately in 1988, and some $12-32 billion over the next three years, up to 75 percent of what the Democrats originally proposed. But this would be constructive relief for battered markets instead of the assault on those markets contained in the take-over tax bill passed in a bitterly divided Hosue back on Oct. 22.●

DAVE OTTO

● Mr. McCONNELL. Mr. President, I rise today to have printed in the CONGRESSIONAL RECORD an article by Carl Horst that appeared in the Campbell County Recorder, a newspaper that is published in my State. The article details the selection of Dave Otto, of Fort Thomas, KY, as the Northern Kentucky Chamber of Commerce's Outstanding Local Elected Official.

This year, 1987, is the fifth year that the Northern Kentucky Chamber of Commerce has awarded this honor. Selection is open to any elected official and is presented to the one who has demonstrated a commitment to community activities above and beyond the requirements of their normal duties. Mr. Otto, who was elected as a Campbell County commissioner just 2 years ago, was selected from a group of more than a dozen officials and was chosen by a panel of four representatives of the chamber of commerce and three representatives of the Municipal Government League of Northern Kentucky.

In the last paragraph of the article, he says his philosophy is to "Stay busy doing what I like and it will all pay off." There is no question that Mr. Otto stays busy. He has worked for over 20 community service organizations, working tirelessly for the good of his community, county, and State.

I have entered this article into the RECORD so that my colleagues will be aware of this man's accomplishments as a dedicated public servant who insists on spending his free time for the betterment of his community.

The article follows:

OTTO HONORED BY CHAMBER

(By Carl Horst)

Dave Otto's accomplishments in his brief political career didn't go unnoticed, as he was named Northern Kentucky's Outstanding Local Elected Official by the Chamber of Commerce.

It marks the first time an official from Campbell County has received the honor since its inception in 1983.

Otto, 37, of Ft. Thomas, has served as a county commissioner for the past two years. He is also very active in many community organizations.

"I think what may have put me above everyone else is my community activities," Otto said.

He has worked on behalf of over 20 organizations, including: the Campbell Lodge Home for Boys, where he served for four years as chairman of their Cadillac raffle; the Campbell County Jaycees, where he is a longtime member and served as that organization's president; the 1987 chairman of the Ft. Thomas Fourth of July celebration; and Ways and Means Chairman of the 1987 Riverfest Committee.

"I was quite suprised and pleased," Otto said. "I knew I had a good possibility—but it was still pretty much a surprise.

"When you look at my position, being a newcomer, it makes this even more gratifying."

Otto was presented with the award by Ken Lucas, chairman of the Board of Chamber, at the Commonwealth Hilton, Dec. 5.

The award is presented each year to a local official who has been outstanding in serving the people of Northern Kentucky. Past winners include John Weaver (1983), Fred Thomas (1984), William Goetz (1985) and Robert Aldemeyer (1986).

"I really hadn't given (the award) a thought, until it all came about."

Otto credited the award to his wife of 17 years, Gail, for supporting him in his many commitments.

"I can only accept half the award. Gail has always been there right beside me.

"It's nice to be picked for an award like this, because Northern Kentucky has some great leaders."

Winning this distinction won't slow him down any, though.

"I'll keep on going with the same philosophy: Stay busy doing what I like and it will all pay off."●

A BANK FOR THE PEOPLE

● **Mr. HEINZ.** Mr. President, recently the Wall Street Journal had a front page story on the Amalgamated Bank of New York, an institution that has been a pacesetter for over 60 years and which is still teaching us some important lessons.

Amalgamated Bank is owned by the Amalgamated Clothing and Textile Workers Union and was founded by its predecessor union. It is first and foremost a labor bank—a bank of the people, by the people, and for the people, as it were. Amalgamated Bank pioneered a consumer-oriented approach to banking that puts its customers first, and at the same time demonstrates that caring about working people can be profitable. The bank is far from the biggest in New York, but it has reported 44 consecutive years of profit and has nearly $1.5 billion in assets. It has been three times named the top bank for consumers in New York City. One survey concluded that a typical depositor with $600 in checking and $1,000 in savings would earn $105 per year at Amalgamated Bank and lose $100 per year at one of the large banks.

It is also apparent that depositors and borrowers have responded to the bank's faith in them. Bad loans written off are far below the average for banks this size. Delinquent auto loans at the end of November were 11 out of 13,044.

Edward Katz, the bank's president, and Jack Sheinkman, the bank's chairman and the president of the union, can be proud of what they and their predecessors have accomplished—a human, caring, worker-oriented institution in a sector not known for those attributes—and one which has grown and prospered over the years because of its sound management and philosophy.

Mr. President, I ask that the article I referred to be printed in the RECORD at this point.

The article follows:

[From the Wall Street Journal, Dec. 14, 1987]

HOW A UNION SURVIVES IN BANKING BY PUSHING SERVICES OVER PROFITS

AMALGAMATED BANK PITCHES FREE CHECKING AND SHUNS RISK, THEN NEEDLES RIVALS—SLOW DANCE IN THE CONGA LINE

(By Robert L. Rose)

NEW YORK.—When Amalgamated Bank of New York introduced a free checking account last fall, it wasn't content to quietly inform its customers. The bank bought an ad opposite the editorial page in the New York Times and asked: "Why is free checking only for those who can afford to pay for it?"

The bank's inclination to tweak its big corporate rivals isn't surprising. Amalgamated is a union bank, founded in 1923 by the Amalgamated Clothing Workers and still owned by the 284,000 members of its successor, the Amalgamated Clothing and Textile Workers.

Heralded as the wave of the future by labor leaders earlier in the century, labor banking was a flop. Out of some 36 labor banks founded in the 1920s, only Amalgamated in New York and Brotherhood Bank & Trust in Kansas City, Kan., survive as labor-owned institutions.

Now, with some labor experts predicting a comeback in union membership and influence, Amalgamated provides one of the oldest examples of a kind of labor-owned business that may multiply. In the past several years, about half a dozen new labor banks have opened, and more are on the way. Like the clothing workers who started Amalgamated, other unions see a chance to own a bank friendly to their members' needs and find new investment outlets for their growing assets.

A ROGUE BANK

Amalgamated survived largely because its union owner insisted on conservative banking and professional management. In contrast, the Brotherhood of Locomotive Engineers set up banks across the country during the 1920s and quickly branched into securities and even Florida land development. Losses piled up, and the union eventually charged four of its officers with mishandling funds. By 1931, the engineers were out of the banking business.

Amalgamated has also benefited from being something of a rogue bank, loudly touting a consumer ethic and often de-emphasizing profits in favor of services. Its free checking account is only the latest evidence: Amalgamated claims to have pioneered the unsecured installment loan in the 1920s, lending money to borrowers with no collateral but a steady job. Three times a survey has named it the top bank for consumers in New York City. "They give me the best treatment," says Mike Garcia, an officer of the Leather Goods, Plastic and Novelty Workers' Union, who says he banks at Amalgamated because of its labor roots.

OVERLAPPING CONSTITUENCIES

Amalgamated has reported 44 consecutive years of profit and has grown to $1.47 billion in assets by serving two overlapping constituencies: middle-class consumers and organized labor. Now, the union-owned bank is exploring other ways to use its labor ties and financial muscle to expand in new areas.

Earlier this year, Amalgamated teamed up with Metropolitan Life Insurance Co. in a proposal to offer a comprehensive money-management program for the AFL-CIO's 14.5 million members. On a smaller but no less innovative scale, Amalgamated is helping three New York locals of the Bridge, Structural and Ornamental Iron Workers union use some of their pension money to finance below-market, no-points home mortgages for their members. The bank is considering expanding the service to other unions, many of which have retirement trust funds under Amalgamated's care.

The recent mini-resurgence of labor banking is led by unions in the construction trades. Massachusetts members of the carpenters' union opened a Boston bank in September, and California carpenters plan to open a separate institution next year. Two-year-old Union Savings Bank in Albuquerque, N.M., another construction-trades bank, use its $10 million in assets for loans to small businesses and other customers.

"I think there's been a realization that we should be generating jobs with our own money wherever possible," says Anthony Ramos, the retired leader of the California State Council of Carpenters.

Amalgamated's loud voice on consumer issues is partly a marketing ploy to set itself apart from the pack. As other banks cater to big depositors and raise fees for small accounts, Amalgamated promotes treats for the little guy, such as its free checking and low-interest personal loans.

Highly conscious of its labor roots, Amalgamated also likes to take shots at the establishment banks. In one of its radio commercials, a stuffy banker tells a customer he needs a password to sit down. "The name of any Ivy League school will do," says the banker. "P.S. 188?" asks the customer, naming the public school he attended. In other ads, comedians, Jerry Stiller and Anne Meara imitate rank-and-filers with names like Rocco and Blanche, and pitch "America's Labor Bank."

"If we give [the industry] an uncomfortable feeling for a couple of hours, it will be worth it," concludes Edward M. Katz, Amalgamated's president and chief executive.

The bank's five-story brick headquarters, which it shares with its union owner, overlooks, New York's Union Square, the site of labor and political rallies earlier in the century. Back in the old days, Amalgamated's services even included a travel agency and foreign-exchange desk for the immigrant population that dominated the clothing workers' union. Today, customers in open shirts and work boots outnumber those in business suits. Proclaims a plaque on the lobby wall: "New York's First Labor Bank, dedicated to the service and advancement of the labor movement."

Mr. Katz, too, is quick to prove his allegiance. After ushering a visitor into his office, he flips open his suit jacket and proudly shows the union label. A soft spoken man of 66 who started as a part-timer at the bank in 1946, Mr. Katz raises his voice when he talks about how small depositors have fared under banking deregulation. Not too well, he believes. "When you have a special industry using Uncle Sam as an umbrella in times of difficulty, don't you owe something to the public?" he asks. "What would be so wrong with having an account on which you don't make money?"

Amalgamated, though, is bucking a strong trend. A national survey conducted by the Consumer Federation of America and others found that fees for routine banking services are rising sharply for most depositors.

In some ways, Amalgamated has a lot less to offer those customers than its competitors. Small by big-bank standards, it doesn't generally offer credit cards or home mortgages. With only three branches and two newly opened automated teller machines, it lacks what many consumers want most: convenience. And in the ranks of big-league banks, Amalgamated is an also-ran, shunning such trends as interstate expansion and the hot competition for corporate loans.

"I'm not conscious of their presence" as a competitor, says Richard Ravitch, the chairman and chief executive of Bowery Savings Bank, which has about four times the assets and eight times the branches of Amalgamated. Contends another New York banking official: "If they were the best, they'd be bigger.

But what Amalgamated does have, it pushes hard, especially its reputation as a low-cost consumer bank. Last year, when an annual survey by New York State Sen. Franz S. Leichter dropped Amalgamated to No. 11 from No. 1 as the least expensive bank for New York City consumers, Amalgamated officials phoned the legislator and angrily complained. (The bank is back up to No. 2 this year.) In 1985, the Better Business Bureau of Metropolitan New York challenged Amalgamated's boast of having the lowest auto-loan rates of any bank in the city. But the bank quickly backed up the claim, the bureau says.

Amalgamated says its current 9.2% interest rate on new auto loans is still the best in the city. According to the Bank Rate Monitor, seven of the largest bank and thrift institutions in the New York City area charge an average of nearly 12.5%. On the deposit side, the bank's 6.25% annual yield on money-market accounts is a third of a point higher than the average paid by 10 big institutions tracked by the monitor.

Amalgamated also pays interest and charges no fees on savings accounts with a $5 minimum. And it is not unusual for the bank to get thank-you notes from longtime customers surprised to find the bank honored their checks—and charged no penalty—on their overdrawn accounts.

Customers' main complaint centers on what bank employees call "the conga line" that often slowly snakes its way to 23 tellers in the lobby of the main office. Still, other factors outweigh the long waits, depositors say. Edward Soorko, for example, says he moved his account to Amalgamated after Citibank bounced a check for his son's tuition—even though he covered the check with a deposit the same day.

Charles Nabelle, a dapper 82-year-old customer in a white hat and sports coat, walks 13 blocks to get to Amalgamated's Union Square office. There are plenty of closer banks, but he says he chose Amalgamated because he likes the personal attention he gets there. After cashing a $40 check, Mr. Nabelle offers a short lecture on the importance of shopping for bank services. "A poor sucker will go for Chase Manhattan as opposed to Amalgamated because Chase or Citibank is an important bank," he says. "That is unfortunate."

And perhaps costly. Sen. Leichter's latest survey found that a typical bank customer with $600 in checking and $1,000 in savings would earn $105 in a year at Amalgamated and lose $100 at Manufacturers Hanover Trust Co. Amalgamated, says Glenn von Nostitz, the legislative aide who oversees the survey, shows "you can give people a break and still make money."

Not surprisingly, Amalgamated has kept a close relationship with organized labor. Unions account for up to two-thirds of its $1.1 billion in deposits, and its trust department holds an additional $3.2 billion in pension and health-and-welfare funds. Amalgamated manages $1.6 billion of the trust funds, shunning stocks and corporate bonds in favor of safer government securities.

In 1973, Amalgamated officials worked over a weekend to fill out hundreds of bail checks to keep striking Philadelphia teachers out of jail. Nine years later, when the National Football League Players Association ran out of money during its strike, it turned to Amalgamated for a $200,000 loan. The players' union didn't have an account with the bank at the time, but "we did after that," says Ed Garvey, then the union's executive director.

Although neither the Amalgamated Clothing and Textile Workers union nor the bank likes to admit it, the goal of giving consumers and unions a break often conflicts with the goal of making money. But Mr. Katz has the luxury of working for owners who aren't constantly pressing for higher profits. "You make a little less," concedes Jack Sheinkman, the president of the union and chairman of the bank. "Despite that, we've done very well in terms of our return on equity and on capital," which exceed the average for banks Amalgamated's size.

That attitude makes it easier for the bankers to concentrate on another priority of the union—financial safety. The bank has few corporate customers and, as a matter of policy, turns down offers to participate with other banks in corporate lending. "I don't want to rely on my big brothers" to determine if a loan is safe, says Mr. Katz. Nor does he like to gamble on investments. Mr. Katz prefers buying U.S. government securities, and the shorter the maturity the better. "All the money's tied up in cash," jokes Howard Lee, the executive vice president and cashier.

The result is steady, if not spectacular, profits. Last year, Amalgamated earned $12.2 million, sending $7 million of that in dividends to its union owners. Government bank examiners often do double takes when they pore over Amalgamated's books. Bad loans charged off in 1986: $195,000 out of $313.5 million, far below the average for banks its size. Auto loans delinquent 30 days or more at the end of November: 11 out of 13,044.

Says William A. Goldberg, who runs the bank's personal-loan department: "We're here for the average guy—so long as we are reasonably assured he'll pay us back."●

A TRIBUTE TO WILLIAM VICTOR SINNOTT

● Mr. HECHT. Mr. President, on October 4, 1987 Nevada and, indeed, America lost a great citizen. William Victor Sinnott succumbed to cancer, a disease he fought quietly yet courageously for the past several years.

Among Bill's numerous contributions to his State and country was his service to our friend and former colleague, Senator Paul Laxalt. Senator Paul was terribly saddened by Bill's passing, and understandably so, for Bill had ably and faithfully assisted Paul Laxalt for many years.

I think it appropriate that Senator Laxalt's reminiscenses about William V. Sinnott be included in the CONGRESSIONAL RECORD. They are as follows:

Bill Sinnott was the quintessential public servant.

Never in my 30 years in public office did I come across an individual who handled the affairs of government service with such competence and dedication. Bill set a standard that the rest of us could only hope to achieve.

He was a patriot, a pioneer, a family man and a dear friend.

Bill's story began on March 31, 1916 in Jersey City, New Jersey when he arrived as the third child of John L. and Margaret Casserly Sinnott.

After attending local schools, Bill attended Villanova University on an athletic scholarship. He was elected junior class president and played on the Villanova basketball team that went to the National Collegiate Athletic Association tournament in 1940.

After attending Georgetown University Law School in Washington, D.C., Bill began his distinguished career in public service when he joined the Federal Bureau of Investigation. He served as an FBI agent for nine years, working in the southern, eastern and northeastern sections of the United States.

A former FBI colleague, Robert Maheu, called Bill "one of the greatest agents of the entire Bureau."

In a lighthearted remark that described Bill's characteristic avoidance of public acclaim, Mr. Maheu said, "Bill and I were the only former agents who didn't claim to have killed John Dillinger."

Mr. Maheu concluded on a serious note: "I've never met a person who could exude so much confidence while at the same time having the ability to temper that confidence with humility."

Bill left the FBI to become the assistant chief of staff of the Senate Appropriations Committee's Investigations Division. His sponsor of the committee was former New Hampshire Senator Styles Bridges.

It was during Bill's service in the Senate that the Laxalt family first came into contact with this remarkable individual. My brother John, then an employee of the Appropriations Committee, worked on many matters with Bill.

At about the same time, the federal government was becoming increasingly skeptical of Nevada's ability to eradicate organized crime from the state's gaming industry.

Governor Charles Russell decided to strengthen gaming enforcement by replacing the old tax commission with a gaming commission and a gaming control board, the latter having investigative responsibilities.

In appointing people to the gaming control board Governor Russell was looking for law enforcement professionals who were combat veterans in the war against organized crime. My brother John felt that Bill was a natural for the position and I recommended him to the Governor who wholeheartedly agreed that Bill had exactly the qualifications he wanted for the sensitive position. Bill accepted the appointment and moved to Carson City to become a member of the original gaming control board.

Bill was a central figure in the establishment of many of the gaming enforcement policies that are still in place today. He was instrumental in establishing mechanisms by which the state could ferret out hidden and unsavory ownerships. Nevada gaming survived and prospered in large part due to Bill's efforts.

It was during this period that Bill Sinnott took under his wing a young Carson City district attorney named Paul Laxalt. I looked up to Bill as the ideal public servant, a person lacking any ambition other than to carry out his responsibilities in an honest and effective fashion.

When I was elected Lieutenant Governor in 1962, Bill was there to offer valuable advice. When I was elected Governor in 1966, one of my first actions was to hire Bill Sinnott. It was probably the wisest decision I made as Governor.

In his capacity as "special assistant," Bill served as my link with the state legislature, my closest advisor on gaming matters and my "sounding board" on issues as diverse as the environment at Lake Tahoe and the top secret activities at the Nevada Test Site.

During my governorship, we passed a law that would allow for the first time "corporate" ownership of gaming establishments. Our administration felt that by permitting publicly traded corporations into the gaming business, we would be taking a significant step toward legitimizing an industry that was economically indispensable to Nevada. Bill was "on the point" during the ensuing fight to pass this legislation and he, as much as anyone, was responsible for its eventual success.

Bill's maturity and calmness were valuable assets in those days. When a particularly unpleasant news story would appear, Bill was always there to put perspective on the situation. I remember one of his more profound lines: "The extent of a crisis can be measured in direct proportion to the reaction to that crisis." Those words of wisdom often prevented us from turning "brush fires" into "forest fires."

When I left politics for a brief period during the early 1970s, the Laxalt family opened a hotel-casino in Carson City. Bill came with us and he was as valuable in the private world as he was in the public.

When I was elected to the Senate in 1974, I hired Bill once again as a special assistant. He ran my regional office in Carson City and continued to serve as a close confidant and advisor until my retirement in 1987.

Paul Laxalt was not the only person to benefit from the wisdom of Bill Sinnott. I've often said that Bill was the "E.F. Hutton" of Nevada: When he spoke, people listened. Senators, Governors, state legislators, staff officials, all came to Bill for advice.

Sought after as he was, Bill never confused his priorities. His real pride was his beautiful family. He and his lovely wife Peggy, who passed away in 1979, were blessed by four sons and a daughter. They are great people and a credit to their wonderful parents.

In recent years, cancer took its toll on this courageous man. But he handled even the most difficult periods with courage and dignity right to the very end.

I thank the good Lord for giving Bill a graceful exit. I'm so pleased that he will now have his richly deserved rest in peace with Peggy.

Following Bill's funeral service, a reporter came up to my brother Robert and asked him for his thoughts. Bob simply replied. "The quiet man went down." How true. But Bill's contributions, understated as they were, continued to have influence and impact across Nevada and the nation. Indeed, he lives through his legacy of accomplishments.

All of us owe a profound debt of gratitude to this fine man and I, more than any other public servant, thank the good Lord for having blessed our presence with the likes of a Bill Sinnott.

Mr. President, I associate myself with the thoughts of Senator LAXALT and commend them to each Senator for consideration and appreciation.●

TESTIMONY OF ANN ROCKEFELLER ROBERTS BEFORE SELECT COMMITTEE ON INDIAN AFFAIRS

● Mr. INOUYE. Mr. President, on November 18, 1987, the Select Committee on Indian Affairs and the Committee on Rules and Administration held a joint hearing on S. 1722, a bill to authorize the establishment of the National Museum of the American Indian, Heye Foundation within the Smithsonian Institution, and to establish a memorial to the American Indian, and on S. 1723, a bill to authorize the establishment of certain regional exhibition facilities as part of the Museum of the American Indian. Although many witnesses presented testimony at the hearing, I found the testimony of Mrs. Ann Rockefeller Roberts particularly moving and inspiring and it is for that reason that I wish to share her statement with my colleagues. Mrs. Roberts is the daughter of the late Nelson D. Rockefeller, and in appearing before the committees in support of the establishment of a Museum of the American Indian on the national mall as part of the Smithsonian Institution, she carries on the proud work her father began in the early 1970's to achieve this long overdue commemoration honoring this Nation's first Americans.

Mr. President, I ask that the testimony of Mrs. Ann Rockefeller Roberts be printed in the RECORD.

The testimony follows:

STATEMENT OF ANN ROCKEFELLER ROBERTS

It is an honor and a privilege to have the opportunity to testify today on behalf of a National American Indian Museum on the Mall in Washington, D.C.

In preparing these remarks I asked myself what was important here? Why has this issue mattered so much for so long? Why should there be a permanent collection of American Indian art and artifacts on the mall? Why should the great collections of the Heye Foundation be in such a museum? Why persist in this path that has engendered so much difficulty and disappointment, so much controversy?

Margaret Mead always said that we should raise the level of the dialogue in order to understand more fully what we do. I understand that to mean that we must look to the heart of the matter, that we need to seek the truths that are central to the situation and lie behind our disagreements.

It seems to me that the answer lies simply in the character of our nation's capitol, in the nature of the Heye Collection and in the relationship between our two cultures.

Washington is the symbolic center of our nation. It is the seat of our national government and furthermore it houses in its extraordinary museums the materials that reflect the general American experience. It is the place we go in order to understand who we are. We send our young in bus loads each year to teach them what it means to be American. We invite our visitors here to show them our ideals and our government.

Washington is in a district rather than a state—the District of Columbia—setting it apart from the states with their own governing bodies. It is therefore a neutral zone that speaks to all Americans, is available to all Americans—not political or partisan. It is a place where we can reflect, where we can renew our ideals without being limited by any particular region or group.

It is a giant living archive, a repository for our legacy—our past and present—our hopes for the future. It seeks to be complete—we need it to be complete—to describe the American experience in its entirety. That experience includes the legacy of the American Indians, the original inhabitants of this land.

Their history, culture and art. Their understanding of the land, their ideology and spiritual values are a part of what this country is and of who we all are. Now that piece is missing—like the front tooth.

It seems inevitable, normal, necessary that there is one remaining space on the mall. Having a National American Indian Museum in that space would allow a fullness of how we understand ourselves, a completion of the experience that is uniquely American.

The Heye Foundation Collection indicates itself to be a collection of major significance suitable to be in such a museum. It is the only collection existing of comparable breadth and depth. There are other superb local or regional collections across the country but none that represent the fullness of the Indian experience in both North and South America as extensively as it does. Shouldn't such a collection be in the symbolic center of our country where it can speak to all Americans? Shouldn't it be available to the public at large and not just the citizens of one city? Eight to ten million visitors come to Washington each year, one to two million to New York City. Shouldn't such a collection be located next to other museums of a similar cosmopolitan nature? Shouldn't such a collection be where the people it represents can have more extensive access to it?

The Heye Foundation is located in New York simply because that is where George Heye lived. It is not in New York because its collections are intrinsically related to New York or particular to one kind of expression—such as the Iroquois-Mohawk Confederacy. It is not a regional or provincial collection. It is national even continental in its scope and it demands to be in a national setting.

Native American culture permeates our white European culture at every level. In the 1920's when C.G. Jung visited the U.S. he spoke about the "mysterious Indianization" of the American soul as the result of living on this shared soil. He commented that the Yankee-American presence was remarkably different from the European presence both physically and psychologically. He went on to say that as he worked in depth with white Americans in analysis he found over and over that our symbols of the ideal were Indian. "The hero," he says, "is always the embodiment of man's highest and most powerful aspiration, or of what this aspiration ought ideally to be and what he would gladly realize. It is therefore of importance what kind of fantasy constitutes the hero motif. In the American hero fantasy the Indians' character plays a leading role."

We have put an idealized Indian Head on our five cent piece. Many of our public buildings and public spaces have Indian sculpture as adornment—signifying our desire to emulate traits of dignity, courage, endurance and personal strength.

At the level of governance our constitution and our representative system of government are based on that of the Five Nations. There are records in the New York State Museum in Albany of a meeting of colonists in Lancaster in 1744 where an Iroquois orator suggested they form a union. In 1775 commissioners of the Continental Congress officially thanked the Iroquois for suggesting such a union to them. It is also known that both Benjamin Franklin and Thomas Paine recommended the Iroquois system of government to the colonies. Felix S. Cohen wrote, "Politically, there was nothing in the kingdoms and empires of Europe in the 15th and 16th centuries to parallel the democratic constitution of the Iroquois Confederacy with its provisions for initiative, referendum, and recall, and its suffrage for women as well as men." And Sylvester M. Morey wrote, "Today the union of our Thirteen Colonies is so obviously right that no one ever wonders what North America would be like if it had become a land of numerous small countries like South America. By keeping the states separate and yet binding them together, we brought the strength of the union into each individual state and at the same time allowed enthusiasm and love of liberty to pour from the states back into the union." This is truly a unique and ingenious system.

Then there is the Eagle—the emblem of the U.S. and a central symbol to the Indian people as well. To the Indians and to all ages it is honored as the messenger from heaven. He is referred to constantly in the Bible

"They that wait upon the Lord shall renew their strength; they shall mount up with wings as eagles."

"The bird of the air shall carry the voice and that which hath wings shall tell the matter.

The names of many of our towns and cities, our lakes and rivers bespeak our Indian heritage as well. Names such as The Penobscot, Mt. Kaatahin, The Mohawk Valley, Sebago Lake, The Kennebunk River, Niagara Falls, Saratoga Springs. We give our businesses and our teams Indian names as well. These names are everywhere in the east and west, in the north and south.

In the world of sports and the outdoors we are indebted to the Indian for lacross, the canoe and canoeing, snow shoes, camping, summer camps, the Boy Scouts and the Girl Scouts.

Our Boy Scout movement and later the Girl Scouts became a way of character building through contact with the out-of-doors—a way of recognizing the importance of the values of native people.

When we shop or sit down at a table we are surrounded by the foods of Native Americans. We use their cooking techniques as well. Avocados, beans, both white and sweet potatoes, peanuts, peppers, pineapples, sunflower seeds, squash, pumpkins, turkey, tomatoes, wild rice and, of course, the fundamental, sacred grain corn were all under cultivation here when the first colonials arrived. The clambake, baked beans and the idea of barbecue, steamed lobster, spoonbread, cranberry sauce and mincemeat pie—many of our classic American dishes are American Indian as well.

American Indian arts and crafts have greatly enriched our heritage and are perhaps the most well-known, acknowledged and accepted influence and contribution. Their skills in silversmithery, pottery, basketry, sculpture, beadwork, leatherwork, featherwork and quilt work are outstanding. Their workmanship is beautiful and of high technical quality. Their imagery is not only precise and particular to them it is universal. Yet the materials they use are immediate, particular to the earth—wool from the sheep, birch bark, grasses, feathers, quills.

It is this combination of precise images, universal symbols going beyond the object to something larger combined with the particulars of the earth resonant materials that speak immediately to our earth rootedness, our humanness.

Finally the land—the earth common to us all—our Indian brothers and sisters have always understood that the land is sacred that it is our life, our mother. We have largely ignored this teaching until recently. Now we again can turn to the Indian traditions and find much to guide us in understanding how to live in harmony. They have practiced the ideals of Thoreau and Emerson always—accepting the divine presence as manifest in the natural world.

"This we know. The earth does not belong to man; man belongs to the earth. This we know. All things are connected like the blood which unites one family. All things are connected.

Whatever befalls the earth befalls the sons of the earth. Man did not weave the web of life, he is merely a strand in it. Whatever he does to the web, he does to himself.

One thing we know—our God is the same God. He is the God of man and His compassion is equal for the red man and the white. This earth is precious to Him and to harm the earth is to heap contempt on its Creator." Chief Seattle.

And the depth of their spiritual tradition is as equal to all the other great traditions—their great spiritual leaders speak the same universal truths.

All these things are what come to my mind not as a scholar or an expert of any kind but as one white American living in the most urban of cities. As a child, a young girl, a woman, my psyche was informed by these things. They were part of a growing awareness of this culture that began to be cumulative. They evoked a response in my humanness from the depth of their humanness.

We have taken all of that richness all these years while refusing to fully receive its people or to recognize the integrity of their culture. It is surely time that we honored the source of so much. This we can do by creating an outward, visible form—a building—a museum in our country's center and sacred place—filling it with the signs and symbols of these people.

We can do this with admiration, not pity or guilt. With a final realization of the true value of this part of ourselves as Americans. By so doing we can restore the balance within our culture.

We each are Indian in that sense—my life experience is of theirs—the totality of who I am includes them—their values inform mine, their health or sickness is my health or sickness.

So why do we wait? Let us give up the arguments born of partisanship's politics and cleave to the truth that we are indeed one people born of this land of America and it is surely time to acknowledge our Indianness by building a monument at our sacred center to house its presence.

It is time to celebrate our Indian heritage—to make manifest in an outward form what is already so within us.

"It is in remembering that our power lies,
and our future comes
This is the Indian way."
Anna L. Walters, "Come My Sons".

"Heritage is people: people are the earth:
earth is heritage
By remembering these relationships—to the
people.
The land, the past—we renew in strength
our continuance as a people."
Geary Hodson "The Remembered
Earth."●

SUPPORT FOR A DENNIS CHAVEZ COMMEMORATIVE STAMP

● **Mr. DOMENICI.** Mr. President, recently I introduced Senate Joint Resolution 206 to declare April 8, 1988, as "Dennis Chavez Day." My colleague from New Mexico, Senator BINGAMAN, joined me as an original cosponsor.

April 8 next year marks the 100th anniversary of Dennis Chavez' birth.

Born to humble beginnings, Dennis Chavez was the first native-born Hispanic elected to the U.S. Senate. Serving as New Mexico's Senator for 27 years, he was also served in the House of Representatives for 4 years.

For more than three decades, Dennis Chavez was the highest ranking Hispanic in the Federal Government.

I have also proposed to the U.S. Postal Service honor the man and his service to our Nation by issuing a commemorative stamp.

Support for the Chavez stamp proposal is widespread. The Senator Dennis Chavez Centennial Committee is working hard for approval of such a stamp. And a recent editorial in the Albuquerque Tribune supports this proposal.

For those who may know little about this great man, the excellent editorial provides a comprehensive list of Senator Chavez's struggles and accomplishments. I ask unanimous consent that a copy of the editorial be printed at the conclusion of my remarks.

Mr. President, I believe a Dennis Chavez stamp is justified. One option might be to issue the Chavez stamp as one of a series of commemoratives that I have also proposed to the U.S. Postal Service.

In just over 4 years from now, the entire world will begin our celebration of the 500th anniversary of the discovery of the New World by Christopher Columbus. I have suggested that as a part of this celebration, the Postal Service issue a series of commemorative stamps to honor the two ethnic groups most closely associated with this discovery; Italians and Hispanics.

Christopher Columbus exemplified the Renaissance, a period of great intellectual curiosity and growth. However, his voyage and great discovery might never have occurred had it not been for the foresight and confidence of the King and Queen of Spain.

What better way to recognize this heritage than to honor those who followed, men such as Dennis Chavez, men and women who built upon the adventurous spirit of Columbus, men and women who made life better for all of us.

Mr. President, it is for that reason that I encourage the Congress to honor Dennis Chavez by passing Senate Joint Resolution 206, and I encourage the Postal Service to issue a stamp in his honor. The symbolism and greater understanding that goes with a commemorative stamp would help to recognize the contribution of Hispanic Americans as we begin to honor the greatest event in the exploration of the world.

A STAMP FOR SENATOR CHAVEZ

We'll wager that few people in Albuquerque today—let alone the rest of the nation—have more than a small idea of who the late U.S. Sen. Dennis Chavez, D-N.M., was.

We see his name around town, on the Dennis Chavez Elementary School and on the Dennis Chavez federal building Downtown, for instance. But he died 25 years ago, before many of us either were born or moved here. Grandstanding noisily in the Senate was not his usual practice, so he didn't become a household word around the nation.

This is too bad, because Chavez, the first native-born Hispanic senator, was a remarkably decent person with an inspirational history—someone everybody in America ought to get to know.

To this end, The Tribune is joining a large group of Chavez fans in urging the U.S. Postmaster General to issue a commemorative stamp in the senator's honor. The stamp would bring attention to Chavez as well as pay homage to Hispanics' contributions to the nation's political life.

The Citizens Stamp Advisory Committee has rejected the request and the postmaster now appears to be the only recourse.

Chavez's supporters are hoping for approval of the idea by April 8, 1988, in time for the centennial of the senator's birth. The stamp would be issued in 1992, the 500th anniversary of the discovery of America.

Why a Chavez stamp? There are many, many reasons. We will recount just a few.

One consideration is that there hasn't yet been a stamp honoring a Hispanic American. This omission ought to be corrected. And Chavez is an excellent candidate.

He was a U.S. senator for nearly 28 years, a U.S. representative for four years and a New Mexico legislator for seven years. For more than 30 years he was the highest-ranking Hispanic official in federal office.

He accomplished a lot during the time, but the guiding consideration for us is his generous and consistent concern for the poor and the unfairly treated—with whom he at one time had much in common.

Chavez was born in a dirt-floor adobe home in Los Chavez. He dropped out of high school at age 14 to aid his family by driving a grocery wagon for 12 hours a day, at a wage of $2.75 a week.

Through grit and good fortune he passed an entrance exam for Georgetown Law School, from whence he graduated in 1920.

He began living a better life after that, but never forgot his origins.

His law practice in Albuquerque always accommodated the underprivileged. In the state Legislature, he introduced the first bill to provide free textbooks to children in New Mexico.

He was appointed to a U.S. Senate seat following the death of Sen. Bronson Cutting in 1935, but won reelection by handsome margins every time afterwards.

In the Senate, he fought constantly for human rights and against discrimination of all kinds, pushing to set up a permanent Fair Employment Practices Committee and struggling to integrate Indians and Hispanics into the mainstream.

He won a bid to provide equal pay for Army nurses. He initiated a national health insurance program which served as a model for Medicare. He worked hard to improve relations with Central America, winning Mexico's highest honor for foreigners—the Aztec Cross. Would that he were around today!

Our favorite story about Chavez is the time he stood up to red-baiting Sen. Joe McCarthy in 1950, during the height of the communist-witch hunting frenzy. Many have credited Chavez's stand with turning the tide against McCarthyism in Congress.

When Chavez's funeral procession wound through Albuquerque's poorer neighborhoods in 1962, people lined the streets for miles to pay their respects.

It's time for the rest of us to do the same.●

INFORMED CONSENT: MINNESOTA

●Mr. HUMPHREY. Mr. President, every day in America nearly 4,000 abortions are performed on women who, in most cases, do not know the full ramifications of their decisions. They are not told of the basic medical risks that are involved in any surgical procedure. They are not informed about fetal development or the true nature of the children that they are carrying. They are often unaware that positive alternatives are available that avoid the killing of their unborn children. I believe that if women are given such information, they will be in a position of making informed and responsible decisions in favor of life. My informed consent legislation will ensure that women receive this basic information. I ask unanimous consent that two letters from women in Minnesota who support informed consent be entered into the CONGRESSIONAL RECORD. The letters follow:

MARCH 18, 1987.

DEAR SENATOR HUMPHREY: Thank you for your work on informed consent. I am one who had an abortion in 1973. When I entered Meadowbrook Women's Clinic in a Minneapolis suburb, I did not receive adequate counseling or information. Even as I was scheduled for the abortion, I was hesitant, and when they called me from the waiting room, I had decided not to go through with it. The doctor came out and escorted me to his office where he told me I wasn't doing anything but getting rid of a bean (his description of the unborn). He informed me that a one month pregnancy was not a pregnancy at all, and that I should know better. So after that talk, I went ahead with the abortion.

I've been plagued with unbearable guilt ever since. I certainly wasn't a minor, but the facts on abortion were withheld from me. Had I known all the facts, I would never had had that abortion. Every year I mourn for my aborted child.

Please continue your fight and don't give up. The biggest lie that the abortion supporters tell is that it is just the woman's body. It involves so many others and she can't make that decision alone. Once again, thank you for actively working for the informed consent bills. God bless you and I'll support you in this effort and in my prayers.

Sincerely,

NORMA THOMPSON,
Roseau, MN.

APRIL 21, 1987.

Dear Mr. Humphrey: In March of 1971, I found myself pregnant. I was twenty years old, engaged to be married, and a student in business education at the University of Minnesota. Rather than face my fiance's parents or my own, we went to see a man who arranged abortions. He was operating out of his home at that time and made all of the necessary arrangements for us to go to California to have an abortion. Not once did he ever suggest that since we were already engaged, it might be better to have the baby and just move up the wedding date. Instead, he simply talked about the necessity of a "speedy decision," and about the cost. It was assumed that because we were both students, we could not continue our educations as parents. Of course, abortion was assumed to be a "simple medical procedure." I was never told about the consequences, about the developing baby or about alternatives to help in maintaining the pregnancy.

My fiance and I flew out to San Francisco since California had already legalized abortion. When I was on the table I started sobbing uncontrollably, saying, "Why am I here? I don't believe in this, I'm Catholic and I wasn't raised this way." The response was simply, "Now, there, there, you'll be O.K." After it was over, the doctor asked me about birth control and wanted to know if I had birth control pills.

As you can glean, not once was self-esteem, consequences, belief system or values ever discussed. I left the clinic, missed the plane connection home, and had to stay all night in the airport. Six weeks later I was married to the man, seven years later separated and three years after that divorced. The whole first year of our marriage was devoted to having me treated for infections and bleeding problems. I flunked out of school that quarter and become very despondent. It was not until I had my daughter three years later that my life began to straighten out enough so that I could return to school by petitioning to be allowed to return and makeup the 18 credits worth of "F"s. Two years later I graduated from college and taught school for two years before having my next child. However, it wasn't until I began to work as a Birthright counselor when my son was approximately four that I began to realize how the abortion had affected my life. Because of the circumstances, a whole network of lies were perpetrated to cover up my whereabouts at the time of the abortion, and the reason for dropping out of school. It was really a nightmare. My spouse reacted by becoming a full-blown alcoholic.

Thank you for doing your part by introducing legislation regarding abortion and informed consent. I wish that I had chosen differently, and would like to believe that if I had been counseled in the manner that I now counsel as a crisis pregnancy counselor that perhaps my "choice" would have been different.

Most sincerely,

MAUREEN ANDERSON●

MAYOR FLYNN'S CONTRIBUTIONS TO SOLVING THE PROBLEMS OF HUNGER, HOMELESSNESS, AND POVERTY

● **Mr. KERRY.** Mr. President, no one has been more dedicated to the cause of combatting the problems of homelessness, hunger, and poverty in urban America than Mayor Raymond Flynn of Boston. Mayor Flynn is the Chair of the Task Force on Hunger and Homelessness of the U.S. Conference of Mayors. In that capacity, he is responsible for the issuance of a superb report which has just been released, entitled "The Continuing Growth of Hunger, Homelessness and Poverty in America's Cities: 1987."

In his introduction to the report, Mayor Flynn points out that this survey shows "a rising tide of homelessness and hunger in our cities, including a growing number of families with children." One out of every seven Americans, a total of 32 million people, are now living below the poverty line, an increase of more than 3 million poor since 1980. These figures are a stark indictment of the failure of the policies of the Reagan administration. In the wealthiest Nation on Earth, it is simply unacceptable that so many of our citizens should be without adequate food and shelter.

Mayor Flynn's outstanding contributions to solving these problems have been recognized by the people of Boston, who recently reelected him by a large margin. His report should be read by all Americans who are concerned about the continuing tragedies of hunger and homelessness in America. I ask that the text of the report be printed in the RECORD.

The text follows:

THE CONTINUING GROWTH OF HUNGER, HOMELESSNESS AND POVERTY IN AMERICA'S CITIES: 1987

(26-City Survey, December 1987—By Lilia M. Reyes and Laura Dekoven Waxman)

OFFICE OF THE MAYOR,
Boston, MA, December 1987.

DEAR FRIEND: I am both pleased and distressed to present the latest report of the U.S. Conference of Mayor's Task Force on Hunger and Homelessness—*The Continuing Growth of Hunger, Homelessness, and Poverty in America's Cities: 1987.* I am pleased, because the report reflects the ongoing commitment of local officials—and their allies in the advocacy, shelter, and private sectors—to provide the nation's homeless and hungry persons with the basic necessities of life so that they may live with dignity and respect. I am distressed, however, because the survey's findings report a rising tide of homelessness and hunger in our cities, including a growing number of families with children.

The facts reported in this survey underscore a terrible human tragedy. What is most tragic is that all this suffering is unnecessary in a nation as wealthy as ours. The growing epidemic of hunger and homelessness in the United States is the result of the failure of federal government policies.

These include drastic cutbacks in federal housing assistance, job training funds, food stamps, health care and nutrition programs, AFDC benefits, and resources to provide community-based services for the de-institutionalized mentally ill. Federal cuts have ripped huge holes in the so-called "safety net." Many Americans who have fallen through the "net" are now hungry and homeless.

Over 32 million (one out of seven) Americans are living below the poverty line according to government census figures. This represents an *increase of over 3 million poor since 1980.* Moreover, the poor have grown even poorer. Poor families are now further below the poverty line than at any time since 1963. More than one-fifth of all children live below the poverty line. The "working poor"—those whose results primarily from low wages—constitute the fastest growing portion of the poverty population.

Homelessness and hunger are perhaps more understandable during periods of economic distress such as the Great Depression, but not during a period of economic recovery and at a time of national prosperity. As a nation, we have no greater shame than the vast numbers of our fellow citizens who live on the streets, in alleyways, and in shelters. We have no greater tragedy than the estimated 20 million Americans (including 12 million children) who are hungry, according to Dr. Larry Brown of the Harvard School of Public Health, author of *Hunger Reaches Blue-Collar America.* We have no greater responsibility than to address their immediate needs while solving the underlying problems of which homelessness and hunger is a symptom.

During the 1980's, as the homeless and hungry population increased each year, state and local governments—working with non-profit groups, social service agencies, religious institutions, and foundations—developed many innovative programs to serve the needy. In cities across America, they have been stretching their limited resources to cope with the consequences of federal government failures.

In Boston, for example, the number of shelter beds has increased by 141 percent in the last four years—from 972 to 2,351. Additional shelters are in the pipeline. HealthLink, Boston's health care program for the homeless, provides comprehensive health care services for homeless persons. The number of soup kitchens and meals programs has expanded; the Boston Food Bank this year is distributing more food to non-profit agencies than ever before. The City has established a job-training program for the homeless and works closely with the shelters to help individuals and families find permanent housing in Boston's tight housing market. In addition, the protection of existing affordable housing, as well as the production of new affordable housing, has been a top priority.

If the record number of people on America's streets and soup kitchens had been driven there by a natural catastrophe, many parts of our country would be declared disaster areas. But even though homelessness and hunger are national problems, the national government has just begun to address these issues. Those of us on the front lines of these issues—including the nation's mayors—have lobbied hard to get the federal government to take some responsibility for solving the problem.

The Stewart B. McKinney Act, enacted in July, which provides $355 million in FY 1987 for homeless programs, is a significant first step. But truly meeting the needs of America's homeless—much less achieving the goal of eliminating homelessness itself—will require far greater resources. It will require a new commitment on the part of the federal government to deal with the basic problems of permanent housing, poverty, and mental illness.

Toward that end, we need to adopt national policies that reflect our national will to eliminate homelessness, poverty, and hunger.

Our top priority must be a national housing policy that will restore the federal government's role in promoting affordable housing, including the preservation of existing housing and the production of new housing for low-income and working-class persons. We also need a universal system of national health insurance that guarantees decent, affordable health care to every citizen.

We must reward people who work full-time by raising the minimum wage so that they can provide a decent standard of living for their families. By restoring job training programs, we can help the poor lift themselves out of poverty by taking advantage of economic opportunities.

Increasing food stamp benefits and expanding outreach efforts will guarantee that all persons who qualify for food stamps can receive them. Expanding the WIC (women, infants, and children) nutrition program will reduce infant mortality and give children a healthy start in life.

Adequate resources are needed for the mentally ill so that they can have community-based housing, supportive social services, and necessary treatment in order to live as independently as possible. Providing families with children adequate AFDC benefits as well as childcare and job-training opportunities will make it possible to move off welfare and become self-sufficient.

Promoting economic justice for all is the most important challenge facing this nation. We must clarify and reorder our national priorities to meet this challenge. The American people are up to the task. It is critical that our nation's elected leaders in the White House and Congress make room for the homeless—and the near-homeless—on the nation's agenda.

Sincerely,

RAYMOND L. FLYNN,
Mayor of Boston.

SUMMARY

[This Report is Dedicated to the Memory of Harold Washington, The 42nd Mayor of the City of Chicago: His untiring efforts on behalf of the hungry, the homeless and the poor must not be forgotten and shall serve as an inspiration to all who work to improve the lives of the disadvantaged citizens of our cities]

To assess the current status of hunger, homelessness and poverty in urban America during 1987, the U.S. Conference of Mayors surveyed 26 major cities whose mayors are members of its Task Force on Hunger and Homelessness. The survey sought information from each city on (1) the demand for emergency food assistance and emergency shelter, and the capacity of local agencies to meet that demand; (2) the causes of hunger and homelessness and the demographics of the populations experiencing these problems; (3) the status of housing affordable by low-income people—a key factor in the increasing incidence of homelessness; (4) economic conditions relating to poverty and unemployment; (5) the impact of the national economic recovery on these problems; and (6) the outlook for these problems in 1988.

Hunger

The demand for emergency food assistance increased by an average of 18 percent in all but two (92 percent) of the survey cities. The number of families with children requesting assistance increased in all but one of the survey cities, also by an average of 18 percent. Two-thirds of those requesting emergency food assistance in the survey cities are members of families—children and their parents.

An average of 18 percent of the demand for emergency food assistance is unmet in the survey cities. In two out of three of the survey cities, emergency food facilities must turn away people in need because of lack of resources.

All but one of the survey cities expect the demand for emergency food assistance to increase during 1988. That one city expects it to remain the same during the next year.

Leading the list of causes of hunger in the survey cities are unemployment and other employment-related problems; inadequate income assistance levels and problems with income assistance programs; and poverty and inadequate income.

During the last year every survey city used its funds (either locally generated revenues or federal or state grants) to support local emergency food assistance efforts. Seventy-three percent of the cities used locally generated revenues, 39 percent used state grants, and 88 percent used federal funds.

Homelessness

In every survey city save one the demand for emergency shelter increased during 1987, by an average of 21 percent. The demand did not decrease in any of the cities.

An average of 23 percent of the demand for emergency shelter in the survey cities goes unmet. In nearly two-thirds of the cities (65 percent) emergency shelters must turn away people in need because of lack of resources.

Homelessness is expected to continue to increase in 92 percent of the survey cities during 1988.

The causes of homelessness most frequently identified by the survey cities are the lack of housing affordable by low-income people; mental illness and the lack of services needed by mentally ill persons; and unemployment and other employment-related problems.

On average, the composition of the cities' homeless population was 49 percent single men, 33 percent families with children, 14 percent single women, and four percent unaccompanied youth. An average of 35 percent of the homeless in the responding cities are substance abusers, 23 percent are severely mentally ill, and 22 percent are employed, in either full or part-time jobs.

As in the past years, the number of families with children who are homeless continued to grow in 1987, with all but one of the cities reporting an increase among this group. In 71 percent of the responding cities, families constitute the largest group for whom emergency shelter and other needed services are lacking.

All of the survey cities use city government funds to support local shelters or other services for homeless people. Eighty-five percent use locally generated revenues; just over two-thirds use state grants; and all but one use federal grants.

Housing

During 1987 the demand by low-income households for assisted housing increased in 84 percent of the survey cities; the demand increased on average by just over one-fourth. In none of the cities did it decrease.

The average wait for assisted housing in the survey cities is nearly two years (22 months); waiting lists for assisted housing programs have been closed in 65 percent of the cities. Assisted housing programs are serving one-third of the eligible low-income households in the survey cities.

With the decline in federally-assisted housing programs, none of the survey cities expect to be able to meet the housing needs of low-income households in the foreseeable future.

Economic conditions

Seventy-two percent of the survey cities reported that the number of poor people increased during 1987. Six cities said the number remained the same, and one city reported a decrease in the number of the poor.

The unemployment situation improved in 12 (48 percent) of the cities and remained the same in nine (36 percent). The situation worsened in the remaining four survey cities. All but two of the survey cities reported that their "official" unemployment rate does not reflect the actual unemployment problem; failure to count discouraged workers was the explanation most frequently cited for this.

While nearly two-thirds of the survey cities (64 percent) reported that they had benefited in general from the national economic recovery, 81 percent said that the economic recovery had not helped hungry, homeless or other poor people. In the five cities where the economic recovery has helped the poor, that help has often been indirect, through increased charitable giving and availability of services.

INTRODUCTION

In October, 1982 the U.S. Conference of Mayors and the U.S. Conference of City Human Services Officials brought the shortage of emergency services—food, shelter, medical care, income assistance, energy assistance—to national attention through a 55-city survey. That survey showed that the demand for emergency services had increased in cities across the nation, and that on average only 43 percent of that demand was being met.

Since that time the Conference has done numerous reports on hunger, homelessness and poverty in cities. These reports have documented the causes and magnitude of the problems, how cities were responding to them and what national responses were required. They include:

Hunger in American Cities, June, 1983.

Responses to Urban Hunger, October, 1983.

Status Report: Emergency Food, Shelter and Energy Programs in 20 Cities, January, 1984.

Homelessness in American Cities: In Case Studies, June, 1984.

Housing Needs and Conditions in America's Cities, June 1984.

The Urban Poor and the Economic Recovery, September, 1984.

The Status of Hunger in Cities, April, 1985.

Health Care for the Homeless: A 40-City Review, April, 1985.

The Growth of Hunger, Homelessness and Poverty in America's Cities in 1985: A 25-City Survey, January, 1986.

Responding to Homelessness in America's Cities, June, 1986.

The Continued Growth of Hunger, Homelessness and Poverty in America's Cities in 1986: A 25-City Survey, December, 1986.

A Status Report on Homeless Families in America's Cities: A 29-City Survey, May, 1987.

Local Responses to the Needs of Homeless Mentally Ill Persons, May, 1987.

To spearhead the Conference's efforts to respond to the emergency services crisis in cities, the President of the Conference of Mayors appointed 20 mayors to a Task Force on Hunger and Homelessness in September, 1983. That Task Force is now chaired by Boston Mayor Raymond L. Flynn, and the number of mayors serving on it has increased to 30. The Task Force meets at least twice each year; many of its members have testified before Congress; and the cities represented on it have provided information to Conference staff on conditions relating to hunger and homelessness for the various reports that have been prepared.

This report provides information on the current status of hunger, homelessness and the conditions which have affected them in 26 of the cities represented on the Task Force. It is made possible by a grant from the Primerica Foundation. The data were collected from the cities for the period of November 1, 1986 to October 31, 1987 during November and December, 1987.

HUNGER

The demand for emergency food assistance in general, and by families in particular, increased in more than nine out of ten of the survey cities during the last year, by an average of 18 percent. Two-thirds of those requesting emergency food assistance in the survey cities are families with children. The capacity of emergency food assistance facilities increased in just over one-half of the survey cities, by an average of nine percent. Every survey city has used city government funds to support local emergency food assistance efforts. An average of 18 percent of the demand for emergency food assistance goes unmet in the survey cities, and in two-thirds of the cities emergency food assistance facilities must turn away people in need because of lack of resources. All but one of the survey cities expect the demand for emergency food assistance to increase during 1988.

The demand

The demand for emergency food assistance during the last year increased in all but two, or 92 percent, of the survey cities. The average amount of the increase was 18 percent, ranging from seven percent in San Antonio, eight percent in Los Angeles and Nashville, and 10 percent in Cleveland to 25 percent in Philadelphia and Portsmouth, 30 percent in San Franscisco and Trenton and 46 percent in San Juan. Louisville and Salt Lake City reported that the demand for emergency food assistance remained the same during the last year. No city reported a decrease in demand.

The number of families with children requesting emergency food assistance during the last year increased in all but one of the survey cities. Once again, the average amount of the increase was 18 percent, ranging from five percent in Louisville, six percent in Detroit and San Antonio, 14 percent in Seattle and 15 percent in Kansas City, Portland, and San Francisco to 25 percent in Phoenix, Providence and Trenton, 30 percent in Norfolk and San Juan and 32 percent in Chicago. Nashville reported that the number of families with children requesting assistance remained the same during the last year. No city reported a decrease in demand by families with children.

Two out of every three people requesting emergency food assistance in the survey cities are either children or their parents. The percentage of families with children requesting emergency food assistance was below 50 percent in four cities—Chicago, San Juan, San Francisco and Seattle. In seven cities, three-quarters or more of those requesting emergency food assistance were families with children: Charleston, Cleveland, Los Angeles, New York City, Providence, San Antonio and Trenton.

The capacity

The unduplicated count of people provided emergency food assistance on a typical day during the last year in the survey cities varied significantly, usually reflecting the size of the city. Assisting under 500 people on an average day were Louisville, Minneapolis, New Orleans, Norfolk, Saint Paul, San Juan and Trenton. Assisting over 2000 per day were Chicago, Kansas City, Los Angeles, Portland, San Antonio and the District of Columbia.

The Level of Resources Available

The level of resources available to emergency food assistance facilities increased in 13 of the cities (52 percent), decreased in six cities (24 percent) and stayed the same in another six. Those cities which registered an increase were Boston, Charleston, Chicago, Kansas City, Louisville, New Orleans, Norfolk, Philadelphia, Phoenix, San Juan, San Antonio, San Francisco and Washington, DC. Experiencing decreased resources were Detroit, Portsmouth, Saint Paul, Salt Lake City, Seattle and Trenton.

Across the survey cities there was an overall increase of nine percent in the level of resources available to emergency food assistance facilities. Norfolk had a two percent increase in the level of available resources, Chicago a ten percent increase, San Francisco a 15 percent increase, San Antonio an 18 percent increase, Boston a less than 20 percent increase, Kansas City a 20 percent increase and New Orleans a 30 percent increase. In Detroit resources available to emergency food assistance facilities decreased by 25 percent.

The city officials commented on the changes in the level of resources available to emergency food assistance facilities:

Charleston: "The Charleston Interfaith Crisis Ministry added food assistance one year ago to the city's pool of food resources, but demand still outweighs the resources available."

Chicago: "In 1987 there were increases in local (the City's corporate supplement), state (Illinois Department of Public Aid) and federal (FEMA) funds."

Kansas City: "Resources have increased as a result of increased awareness. This awareness has produced increased local food drives and volunteer projects. More commodities were distributed during the year as well, and there were increases in donations through the Second Harvest National Food Bank."

San Antonio: "The number of emergency food pantries increased 19 percent; there was an increase of 28.4 percent in the amount of food distributed; the number of volunteers assisting in food distribution increased seven percent."

San Francisco: "(1) The San Francisco Food Bank reports a record-setting amount of food in the first quarter of 1987. (2) Major congregate food sites have experienced an increase in the number of volunteers. (3) New major food drives have been mounted in 1987—San Francisco 49'ers collect donations at games, Tower Records gives discounts for food donated, Safeway began a new food drive and 250 small businesses are involved in food drives with their employees."

Los Angeles: "Funds decreased by 20 percent, food stayed the same and volunteers increased by five percent. The city's largest emergency food provider reported a 50 percent decrease in local food donations. However, they were able to keep up with the previous year's level by increasing food donations from sources outside the area. Funding sources have decreased, particularly from foundations and corporations."

New York City: "The level of resources has remained unchanged from last year. New York City funding continues at just above $2 million; the number of volunteers fluctuates, as under normal circumstances; privately donated food resources have shrunk."

Portland: "It is more difficult to obtain donated food from major manufacturers due to mergers and the sale of salvaged food. With the threatened reductions in USDA foods, there will be less food next year with an anticipated increase in demand."

Detroit: "The costs of food and operating increased, some volunteer 'burn-out' has occurred and the number of private donations has decreased."

Portsmouth: "Area church groups and volunteer agencies are exhausting their funding sources."

Saint Paul: "There has been a loss in financial support, an increase in volunteers and a 15 percent increase in food donations, but we are still short of meeting the need."

Seattle: "There has been a decrease in funding (approximately 20 to 30 percent) below the previous year's level and volunteer help remains steady. While the amount of food stuffs donated has increased, through Safeway and Associated Grocers (AG) Salvage, the amount of junk food and other items (i.e. cat litter, pet food, charcoal) has increased dramatically."

Trenton: "The organization and distribution of federal food commodities has been difficult to arrange on a consistent basis. Emergency food agencies tend to receive less funds than emergency shelter programs. This is attributed to the more complex nature of the area's food needs and the food distribution system."

Emergency Food Assistance Facilities, For Emergencies Only or a Steady Source of Food

Just over three-fourths of the cities (77 percent) reported that emergency food assistance facilities were used for emergencies only; just under three-fourths (73 percent) said they were used as a steady source of food for a long time. Thirteen cities reported that facilities were used both for emergencies and as a steady source of food: Boston, Chicago, Detroit, Kansas City, Los Angeles, Philadelphia, Portland, Providence, Saint Paul, Salt Lake City, San Juan, Seattle and Washington, D.C. The city officials commented on the way in which emergency food assistance facilities are used:

Boston: "'Hunger has become a chronic issue with the need for food assistance an ongoing one for some people, a temporary one for others."

Chicago: "Overall, 40 percent of the food clients used the program only once, while 60 percent were repeaters, receiving food an average of six times per year. This latter use of the 'emergency' food program constitutes a heavy drain on limited resources."

Detroit: "Emergency food pantries provide bags of food for clients to take home. They have their own criteria which varies with each program, but generally they all impose some kind of limit on the number of times a client can use their particular service—once-a-month, or only once every 90 days or once every six months. Soup kitchens, onsite feeding programs, do not usually require proof of need and serve anyone as often as they come in."

Los Angeles: "Agencies that have restrictions requiring them to provide only emergency food do so. However, agencies with fewer funding limitations have been put in the position of providing a steady source of food due to the increased number of families that keep coming back."

Minneapolis: "Up to three days of food per month is used as a supplement for minimum wage jobs."

Nashville: "Although some programs provide emergency food assistance only, some others provide food assistance on a continuing basis. Consequently, the initial provision of food could very well be the response to an emergency, but if the need for food assistance continues, the same person or family who received an emergency service can continue to receive food assistance from some agencies in this community."

New Orleans: "Most emergency food assistance consists of a three-day emergency food box. It is not meant to be given out as a food supplement. Persons are limited to one box in a three month period."

New York City: "It is the nature of food emergencies in New York City that they are recurrent, i.e. monthly. As family funds dwindle during the month, food emergencies increase."

Norfolk: "Churches and other agencies are contacted when people do not qualify for or are delayed in receiving food stamps."

Philadelphia: "Emergency food assistance is intended for emergencies. There are consistent repeaters, however, due to changes in federal and state regulations regarding income and the Mayor's policy not to turn away anyone who is hungry."

Phoenix: "Emergency food boxes are on a one-time basis, but more and more repeated requests are made, which documents a continuing need for emergency food services."

Portland: "Agencies using the food bank have income requirements and certain restrictions, such as once-a-month or once every three months. The average is two to three times a year. The shelter and food line programs, however, are a steady source of food for many.

Providence: "Many families are repeatedly using emergency food assistance facilities as a stop-gap measure until their next food stamp allotment is issued."

Salt Lake City: "Emergency food orders are limited at food banks, but many persons rely on soup kitchens as a steady supply of food."

San Antonio: "Food assistance facilities strive to maintain a sufficient food supply to respond to emergency situations. These facilities do not have the capability to provide a steady source of food for periods of long duration. However, there are a significant number of families that require additional food every month."

San Francisco: "Staff at food sites report seeing an increase in the number of single persons and families who are fed on a regular, daily basis."

Seattle: "Some clients use facilities as an emergency food source, such as those who are underemployed or earning minimum wage. While others, the unemployed, tend to use programs as a steady source of food."

The Quantity and Quality of Food Provided

Emergency food assistance facilities are able to provide an adequate quantity of food to recipients in 12 (46 percent) of the survey cities; they are unable to provide an adequate quantity of food in the remaining 14. Those cities in which facilities were able to provide an adequate quantity of food were Chicago, Cleveland, Louisville, Nashville, New Orleans, Norfolk, Philadelphia, Phoenix, Portland, Portsmouth, San Antonio and San Francisco. Facilities were able to provide nutritionally-balanced food in 65 percent (17) of the survey cities: Charleston, Chicago, Detroit, Louisville, Minneapolis, Nashville, New Orleans, New York City, Philadelphia, Phoenix, Portland, Portsmouth, Providence, Salt Lake City, San Juan, San Francisco and Trenton. Emergency food assistance facilities are unable to provide nutritionally-balanced food in the remaining nine cities. Commenting on the quantity and quality of the food provided, the city officials said:

Phoenix: "Every effort is made to provide nutritionally balanced food boxes of four basic staples, but it is not always possible, so what is on hand and in supply is provided."

Chicago: "The family food box contains 31 items and 34 pounds (net weight) of food and is sufficient to feed a family of four for four days. Its contents are reviewed annually by a nutritionist, who also prepares sample menus for inclusion in the box."

Portland: "Food boxes are somewhat adequate and are required to be nutritionally balanced. However, if the USDA surplus commodities are eliminated or drastically reduced, then it would not be possible to provide nutritionally balanced food. It would be too expensive to purchase the food staples now received through USDA."

New Orleans: "The food bank has a nutritionist who plans the food box so that it contains food that is healthy and nutritious. The adequate quantity of food is only for the three-day emergency supply, not an adequate quantity for larger periods of time."

Boston: "The food supply is constrained by what is contributed; the food industry is not donating high-quality, nutritious foods."

Cleveland: "Distribution depends on supply, which is a function of cyclical funding and donations and food availability."

Kansas City: "Food pantries are limited in what they can provide, to those items which have been donated. They attempt to provide nutritional balances, but it is not always possible."

Los Angeles: "The demand for emergency food assistance is greater than the food and money available. For instance, it was reported that 80 percent of the United Way food providers are food pantries which provide only donated foods. These foods are not nutritionally balanced. The reporting organizations indicated that a few agencies are able to provide nutritionally balanced meals when they are able to supplement the donated food with food purchased with FEMA money, specifically nonperishable protein."

Minneapolis: "People are limited to three days of emergency food per month. It is believed that people would ask for more."

New York City: "The ability of kitchens and pantries to stock an adequate quantity of food is severely limited due to space and resources. In general, food donations increase during holidays and fall off during other times. Given the high cost of space in this city, storage facilities are generally small, thus reducing an organization's capacity to maintain adequate quantities of food."

Seattle: "The quantity of food available is never consistent: Some months (November to February) the types and quantity of food are high, while other months (May to September) food programs scrape together what they can. Overall, the nutritional value of food given away in any given month could be improved considerably."

Providence: "Due to increased demand, food baskets contain one to two days supply. Families must return more frequently and find that the supply is exhausted."

Saint Paul: "Because food assistance facilities rely totally on donations to fill the void, nutritionally-balanced meals may not be available."

San Antonio" "Every effort is made to provide food that is nutritiously balanced. However, the large majority of food in San Antonio is distributed through the food bank, which has no control over the food donated. Meat and other protein items are in particularly short supply. Many pantries are able to purchase additional food; however, their budget is limited."

The funding

During the last year every survey city used city government funds (either locally generated revenues or federal or state grants) to support local emergency food assistance efforts. The funds come from a variety of sources:

Nineteen cities (73 percent) used locally generated revenues: Boston, Charleston, Chicago, Kansas City, Los Angeles, Louisville, Nashville, New York City, Norfolk, Philadelphia, Phoenix, Portland, Saint Paul, San Antonio, San Francisco, San Juan, Seattle, Trenton and Washington, D.C.

Ten cities (39 percent) used state grants: Chicago, Detroit, Los Angeles, Norfolk, Philadelphia, Providence, San Antonio, San Francisco, Seattle and Trenton.

Federal funds were used in 23 cities (88 percent): Boston, Chicago, Cleveland, Detroit, Los Angeles, Louisville, Minneapolis, Nashville, New Orleans, New York City, Norfolk, Philadelphia, Phoenix, Portland, Portsmouth, Providence, Saint Paul, Salt Lake City, San Antonio, San Francisco, San Juan, Seattle and Trenton.

The Community Development Block Grant was used by 11 cities: Boston, Chicago, Cleveland, Detroit, Los Angeles, New Orleans, Portland, Providence, Salt Lake City, San Francisco and Seattle.

Nine cities used the Community Services Block Grant: Chicago, Cleveland, Detroit, Los Angeles, Phoenix, Portland, Providence, San Antonio and San Francisco.

Nineteen cities used the FEMA Emergency Food and Shelter grant for to support emergency food assistance efforts: Boston, Chicago, Cleveland, Detroit, Los Angeles, Louisville, Minneapolis, Nashville, New Orleans, New York City, Norfolk, Philadelphia, Portland, Portsmouth, Providence, San Antonio, San Francisco, Seattle, and Trenton.

The unmet need

An average of 18 percent of the demand for emergency food assistance goes unmet in the survey cities. The unmet need ranges from two to three percent in Philadelphia, five percent in San Antonio and San Francisco and nine percent in Kansas City to 50 percent in Trenton and 66 percent in San Juan. Minneapolis and Portland reported that none of the demand for emergency food assistance goes unmet.

Two out of every three of the survey cities reported that emergency food assistance facilities have to turn away people in need because of lack of resources. Inadequate supplies of food was the reason most frequently cited. Among the comments from the city officials:

Charleston: "When food supplies are depleted, those in need cannot be served."

Chicago: "We turned away some family maintenance users during the third quarter of 1987 in order to conserve the supply of food for families with true emergencies."

Louisville: "A client can visit the food bank sites only four times a calendar year, so clients are turned away. But the centers review each case individually. . . . Dare to Care (our food bank program) is already predicting a very tight budget for 1988 because contributions are down."

Providence: "Emergency food resources are expended at a greater rate, resulting in a growing gap between the allocation of resources to sites and the distribution of food by the sites."

Salt Lake City: "Sometimes food supplies are limited and the number and frequency of visits are restricted. The problem is especially severe at the end of each month, when food stamp allotments have been exhausted."

San Antonio: "The quantities of food being distributed to those in need has increased every year since 1983. The demand, however, simply exceeds the resources available."

San Juan: "There are different reasons to turn away people in these programs: waiting lists, excessive demand, eligibility criteria."

Trenton: There is a "lack of staff and resources in most cases."

New York City: "Resources in this sense are not only characterized by food and financial reources, but also by the administrative skills necessary to maintain an organization. Many small, local efforts require professional attention toward functions such as grants acquisition and inventory control, as well as general operations. A shortfall, or problem, in these areas may create a situation in which people are turned away."

The causes

Unemployment and other employment-related problems, inadequate benefit levels, poverty and inadequate income lead the list of causes of hunger in the survey cities.

A total of 18 cities cited employment-related problems as a cause of hunger.

Specifically citing unemployment were Chicago, Cleveland, Los Angeles, New Orleans, Philadelphia, Phoenix, Portland, Portsmouth, Salt Lake City, San Antonio, San Juan, Seattle and Washington, D.C.

Underemployment was mentioned by Boston, Los Angeles, Louisville, New Orleans, Phoenix, Portland, and Seattle.

Low wages was a cause cited by Los Angeles, Louisville, New Orleans, Phoenix, Portland, Saint Paul and San Francisco.

Season employment was cited by Charleston and Portsmouth.

Thirteen cities listed inadequate benefit levels in public assistance programs as a cause: Boston, Chicago, Detroit, Los Angeles, Louisville, New Orleans, Norfolk, Philadelphia, Providence, Salt Lake City, San Francisco, San Juan and Trenton. Cuts in food assistance programs were mentioned by Boston and Seattle; cuts in social services by Phoenix and Providence. Lack of information and difficulty in accessing benefits were cited by Kansas City, Nashville, Portland, Saint Paul and San Francisco. Problems with benefit programs, such as delayed processing, were mentioned by Charleston, Kansas City and San Antonio.

Ten cities listed inadequate income as a cause of hunger: Chicago, Kansas City, Minneapolis, Nashville, Portsmouth, San Antonio, San Juan, Seattle, Trenton and Washington, D.C. Nine cities listed poverty: Boston, Kansas City, Los Angeles, New Orleans, New York City, Norfolk, San Antonio, San Juan and Washington, D.C.

Other causes identified for the problem of hunger were:

Lack of affordable housing—by Boston, Los Angeles, Providence, San Francisco, Trenton and New York City;

Family crisis—by Chicago, Kansas City, Norfolk, Portsmouth and Saint Paul;

Changing economy—by Cleveland and Louisville;

Substance abuse—by San Francisco and San Juan; and the

Increased cost of basic necessities—by Providence and New York City.

Additional causes cited include lack of day care, homelessness, lack of utilities or cooking facilities, and lack of transportation.

The outlook

All but one of the survey cities (96 percent) expect the demand for emergency food assistance to increase during 1988. Cleveland expects the demand to remain the same next year. The reasons given by the city officials for the expected increase are often complex:

Boston: "The expected increase in the demand for emergency food assistance in 1988 is based on the continued lack of federal commitment to addressing the root causes of hunger. Despite the efforts of Dr. Larry Brown of the Harvard School of Public Health to draw attention to the breadth of the nation's hunger problem, and to those of Congressman Leon Panetta of California to sponsor effective approaches to the problem, hunger in the United States will continue to increase due to inadequate federal action. Irresponsible and inequitable approaches to reducing the federal budget deficit, such as Gramm-Rudman-Hollings legislation, will only worsen the problem.

"In Boston, the generosity of our citizens—corporate as well as individual—has done much to mitigate the hunger problem at the local level. With a food pantry system which serves as a national model, and an annual food drive which will generate 50,000 cans of food, and a monthly food drive among public transit commuters, Boston's contribution to the fight against hunger is substantial. However, despite this magnanimity, the need for food assistance continues to grow. One can only point to the unfairness and lack of generosity in Washington as the reasons."

Chicago: "There has been no significant improvement in the economic status of the City's poor and near poor."

Detroit: "Both Chrysler and GM have announced lay-offs. The Detroit Board of Education has announced lay-offs and the government of Wayne County has announced lay-offs. These will have a domino effect on industries and services which tie in to the auto industry, as well as in the area of government and education. Sustained unemployment with benefits eventually running out, and no reabsorption back into the labor force, will add to the food emergency."

Kansas City: "There has been a continued increase in demand for food assistance in Kansas City over the past 12 months. Unlike 1986, demand has not decreased at any point during 1987. Local officials consider this a trend not likely to change without significant permanent economic intervention."

Louisville: "Individuals and families are going to continue to be unable to meet their basic needs of food, shelter and clothing."

Los Angeles: "In the event of a recession, the demand for emergency food will increase. The increased number of applicant agencies to United Way to provide emergency food assistance and consistent agency reports that they were serving at capacity were indicators that the demand for emergency food will continue to increase."

Nashville: "There are seasonal increases in the demand for emergency food assistance which occur each year. However, based upon the projections for population growth in this community over the next 10 years, we would expect some of that growth to take place in 1988 with an accompanying increase in the demand for emergency food assistance by those people with low or no income."

New Orleans: "Economic conditions among the poor are not better. With economic cuts on the federal and state levels and unemployment and underemployment, needs will increase."

Norfolk: "With the closing of low-income housing such as Lafayette Shores, more people will be forced to pay more for housing and will have less money for food. Federal cutbacks in social service programs will also increase the need."

Philadelphia: "The demand will increase 'specifically as a response to federal legislation effective October 1, 1987, reducing the income entitlements to disabled, elderly and blind.' "

Phoenix: We "do not foresee the dramatic increases of the past. Many of the 'new poor' are unaware of their eligibility for food stamps or emergency food resources. Many are unwilling or unprepared to use resources for which they are eligible."

Portland: "The food bank is anticipating a dramatic increase; the first quarter of this fiscal year showed a 21 percent increase. The problem is expected to continue due to the USDA cut, reductions and delay in LIHEAP, and other domestic cutbacks at the federal level."

Portsmouth: "We expect an 'increase in requests due to loss of employment, based on the overall economic outlook.' "

Providence: "Because of increasing rents and property values, more people are being forced to lose limited emergency resources. In a two-wage earner family, when one loses a job, the family is forced to seek assistance."

Saint Paul: "The problem of underemployment will likely continue. Much of the level of demand is tied to the health of the national economy. Recent economic indicators suggest a possible recession or economic slowdown on the horizon."

Salt Lake City: "Due to poor economic conditions, it is expected that demand will continue to increase significantly."

San Antonio: "If the economic trend of previous years continues, it is anticipated that the demand for emergency food assistance will increase."

San Francisco: "(1) Individuals and families are going to continue to be unable to meet their basic needs for food, shelter and clothing. (2) There has been a steady increase in need for the last few years and nothing has happened to indicate a change for the better. Current experiences, in fact, indicate a worsening of the situation. (3) Because of rent controls, rents will continue to rise and benefit levels will not keep pace with those increases. (4) Minimum wage for low-skilled jobs will not be sufficient to meet rising costs."

Seattle: "(1) The continual erosion of the WIC and other food programs (school breakfast and lunch) will cause more people to depend on emergency food programs to supplement their diet. (2) Maintenance of the minimum wage at $3.35 per hour forces people to rely on emergency food programs. This is a result of payment of housing and utility costs before purchasing food."

Trenton: "(1) The welfare reform package fails to include sufficient supportive services to welfare families. (2) The cost of basic needs continues to increase while income remains stable. (3) Less money is being appropriated to help the poor. As a result there are less housing assistance, adequate jobs and job training."

HOMELESSNESS

During the last year, the demand for emergency shelter increased in 96 percent of the survey cities and is expected to continue to increase in the next year. The number of families with children who are homeless continue to grow, with 96 percent of the cities also reporting an increase among this group. In 65 percent of the survey cities shelters must turn away people in need because of lack of resources. Many of those persons are children and their families. In 71 percent of the cities, families comprise the largest group for whom emergency shelter and other needed services are particularly lacking.

The demand for emergency shelter

During the past year the demand for emergency shelter increased in 96 percent of the cities. The average increase was 21 percent. In none of the cities did the demand decrease; one city—Louisville—reported no change. Kansas City reported the highest increase, 44 percent, followed by Philadelphia with 40 percent; San Juan with 35 percent; Providence with 30 percent, Los Angeles, San Francisco, and Seattle with 25 percent, Charleston and Nashville with 23 percent; and Minneapolis, New Orleans and Salt Lake City with 20 percent. Increases of less than 20 percent were reported by Boston, Chicago, Cleveland, Detroit, New York City, Norfolk, Phoenix, Portland, Saint Paul, San Antonio, Trenton, and Washington, D.C.

The population

Although there are significant variations in the composition of the homeless population in the survey cities, on average, almost half (49 percent) of the homeless persons are single men, 33 percent are families with children, 14 percent are single women, and four percent are unaccompanied youth (age 18 and under). Minneapolis has the highest percentage of single men, with 80 percent, followed by Louisville with 75 percent, Phoenix with 70 percent, Cleveland with 66 percent, Boston with 65, and New Orleans and Salt Lake City with 60 percent. Other cities where half or more of the homeless population are single men are Nashville, Norfolk, San Antonio, San Juan, and Seattle.

Families with children comprise 65 percent of those persons who are homeless in Providence. In New York City 17,839, or 63 percent, of the 28,439 persons currently housed by the City in shelters or transitional housing are members of families. Half or more of those who are homeless in Portsmouth, and Trenton are families with children. In Portland, 52 percent of those served in the voucher/shelter system are family members. Other cities where families comprised 30 percent or more of the homeless population include Kansas City (43 percent), Philadelphia and Saint Paul (33 percent), and Los Angeles, Salt Lake City, San Antonio and Seattle (30 percent).

On average, single women comprise 14 percent of the homeless population in the responding cities. Estimates of the percentage of homeless single women range from 32 percent in San Francisco, 24 percent in Philadelphia, 20 percent in Chicago, Saint Paul and Salt Lake City, and 15 percent in Boston to three percent in Charleston and San Juan.

Unaccompanied youths (18 years of age or under) on average constitute four percent of the homeless population in the cities. (It should be noted, however, that in many cities statistical data on homeless youths are not separated from those on single adults. Therefore, a zero percentage does not necessarily mean that there are not homeless youths in that city.) Cities where unaccompanied youths comprise ten percent or more of the homeless population include San Juan (20 percent), San Antonio (14 percent), Nashville (11 percent), New Orleans and Los Angeles (10 percent).

An average of 26 percent of the homeless persons in the responding cities are considered to be severely mentally ill, ranging from 50 percent in San Juan, 45 percent in San Francisco, 40 percent in Louisville, Minneapolis and Seattle, 25 percent in Chicago, New York City and Salt Lake City, and 20 percent in Charleston, Phoenix, Portland, Philadelphia and Providence to nine percent in Detroit. Detroit officials noted, however, that the nine percent includes only individuals who have a documented history of mental illness. Local studies report, they add, that about 25 percent of the homeless population suffer from severe stress and disorientation as a result of being homeless. According to a report conducted this year in Saint Paul, 23 percent of the homeless individuals interviewed indicated that they have a mental health problem; nine percent reported that they are currently being treated for mental illness.

On average, 35 percent of the responding cities' homeless population are substance abusers. Half or more of the people who are homeless in Minneapolis, Philadelphia, Portland, and San Juan have substance abuse problems. Other cities where 30 percent or more of the homeless individuals are substance abusers are Charleston, Detroit, Louisville, New Orleans, New York City, Providence, Saint Paul, Salt Lake City, San Francisco, Seattle and Trenton.

An average of 22 percent of the homeless people in the responding cities are employed, in either full-time of part-time jobs. Over half, 54 percent, of the homeless persons in San Antonio work. Other estimates range from 39 percent in San Juan, 35 percent in Kansas City; 30 percent in Charleston, Chicago and Seattle, 25 percent in Philadelphia and Salt Lake City to 10 percent in Los Angeles, Louisville, San Francisco and Trenton and five percent in Minneapolis. Detroit officials reported that "while figures on the number of employed homeless persons are not available at this time, recent monitoring of this phenomenon indicates that the working poor are beginning to come into shelters in greater numbers." In Nashville, where approximately 28 percent of the homeless persons have some type of job, a special transitional shelter which can accommodate about 12 men at a given time has been established to serve the special needs of this group. Boston officials stated "the seriousness of the problem of homelessness is reflected in the fact that increasing numbers of homeless persons are employed yet unable to find or afford housing due to high housing costs, low vacancy rates, and conversion of rental housing to condominiums." Officials in San Antonio and Salt Lake City noted, however, that the jobs available to homeless persons are mostly temporary and unstable, such as day labor.

Changes in the homeless population

All of the survey cities reported that the characteristics of their homeless population had changed in the past year. The most significant difference, as indicated in the Conference of Mayors' last two annual reports, continues to be the growing number of families, with children who are homeless, with 96 percent of the cities indicating an increase among this group. The average increase was 32 percent, ranging from 144 percent in Charleston, 75 percent in Providence, 66 percent in Philadelphia, 40 percent in Los Angeles, 30 percent in Norfolk, 20 percent in Cleveland, Salt Lake City and San Antonio, and 15 percent in Detroit, Portland and Trenton, to two percent in Saint Paul. Only one city—Louisville—reported no change. In none of the cities did the number of homeless families decrease

The number of homeless single women increased in 21, or 84 percent, of the responding cities, by an average of 16 percent. Providence reported the highest increase among this group, 63 percent, followed by Los Angeles, with 25 percent; Salt Lake city with 20 percent; and New York City, Portland, and Philadelphia with 15 percent. Increases of less than 15 percent were reported by Boston, Detroit, Kansas City, Saint Paul, San Antonio, San Francisco and Trenton. The number of homeless single women stayed the same in Charleston, Louisville, Norfolk and Phoenix.

Sixteen cities, or 64 percent of those which responded, said that the number of single men had grown. The average increase was 21 percent, ranging from 50 percent in Providence, 25 percent in Los Angeles and Trenton, 20 percent in Detroit and Salt Lake City, and 15 percent in Portland, to two percent in San Francisco. Louisville officials indicated that although the total number of homeless single men did not change, they "are seeing a growing number of young males between the ages of 18 and 25 who are homeless. Many are the hard core unemployed and lack job skills." The number of homeless single men decreased in four cities, by an average of 14 percent. The estimated decrease ranged from 24 percent in San Antonio, 20 percent in Detroit, 16 percent in Kansas City, and seven percent in Saint Paul, to two percent in San Francisco. Charleston, Louisville, Norfork and Phoenix reported no change in this group.

Nine of the twelve cities able to respond to the question regarding changes in the number of homeless unaccompanied youths, reported an increase in this group. They are Cleveland, Los Angeles, Minneapolis, New Orleans, Portland, Portsmouth, Providence, Salt Lake City and Seattle. The number of homeless youths did not change in Charleston, Louisville and Norfolk.

In the past year, the number of homeless persons who work in either full-time or part-time positions increased in 72 percent of the responding cities. The average increase was 13 percent, ranging from three percent in San Francisco, and five percent in Charleston and Kansas City, to 25 percent in Los Angeles and Salt Lake City. The number of working homeless persons stayed the same in Louisville, Phoenix, Providence, Saint Paul and Trenton. It did not decrease in any of the cities.

An increase in the number of homeless persons who are severely mentally ill was reported by 12 cities, or 80 percent of those which responded. They include Chicago, Cleveland, Minneapolis, New Orleans, Portland, Portsmouth, Seattle and Trenton. The estimated increase among this group ranged from ten percent in Providence, to 20 percent in Salt Lake City and 25 percent in Los Angeles. Officials in Louisville indicated that "for whatever reason, our community is seeing more homeless mentally ill, both men and women. This is a national tragedy that should be addressed at the national level." The number of severely mentally ill persons who are homeless stayed the same in three cities: Charleston, Phoenix, and Washington, D.C.

Seventy-eight percent of the responding cities indicated that the number of homeless persons who are substance abusers increased in the past year. The average increase was 26 percent, ranging from two percent in Saint Paul, 12 percent in Portland, 20 percent in Philadelphia and Salt Lake City, and 25 percent in Los Angeles, to 50 percent in Providence and 75 percent in Trenton.

Causes

A number of diverse and complex factors have contributed to the growing problem of homelessness in cities. Many of those causes are interrelated. Those most frequently identified by the cities are the lack of affordable housing and other housing problems, mental illness and the lack of services needed by mentally ill persons, and unemployment and other employment related problems. Other major causes of homelessness include a high incidence of poverty, the high cost of living and other economic problems, low benefit levels and other problems related to income maintenance programs, substance abuse and lack of needed services, population shifts, and domestic violence.

Lack of Adequate Low-Cost Housing

Twenty-two, or 85 percent, of the survey cities indentified lack of housing affordable by low-income people and other housing related problems as a principal cause of homelessness. Among those cities are Boston, Charleston, Chicago, Los Angeles, New Orleans, Norfolk, Philadelphia, Portsmouth, Salt Lake City, San Antonio, Seattle, Trenton, and Washington, D.C. The "loss of low-income rental housing that is suitable, safe and sanitary" was cited by Detroit, Kansas City and Norfolk referred to the loss of low-income substandard housing that is declared uninhabitable. Officials in Phoenix and Salt Lake City identified the destruction of single room occupancy hotels and other low cost housing, as a factor which has contributed to the problem. In Philadelphia, a principal cause of homelessness is "the lack of subsidized housing and low-cost, single room occupancies units." Nashville, Providence and Kansas City mentioned gentrification, which often results in the displacement of low-income persons. Boston officials specifically identified cuts in federal housing assistance programs as a principal cause of homelessness. Other comments offered by city officials include:

Louisville: "Lack of affordable housing is a primary casual factor of homelessness in Louisville. Section 8 and public housing have all but disappeared for the poor, and there is now very little low-income housing available in the city. It is critically important for the federal government to realize that subsidized housing is its responsibility and a vital need in most urban areas."

New York City: "The undiminished poverty population and the shortage of low-income housing are primary causes of homelessness. The housing shortage results from the deterioration and abandonment of low-income subsidies. Between 1982 and 1986, New York City experienced cumulative net losses in excess of $172 million due to federal housing disinvestment. One-third of the city's housing is over 60 years old and the vacancy rate for non-luxury apartments has remained below two percent since 1984."

Saint Paul: "A combination of economic and social problems contribute to homelessness. For some families, those whose family heads are able to live independently, the primary problem is economic—the housing they are in is either not affordable, or inadequately sized, or suffers from code deficiencies. These families could live independently and need not be homeless if they had adequate income and housing choices. The federal government's retreat from its traditional role as the provider of affordable permanent housing for low-income families with children is a basic factor contributing to the city's inability to keep pace with the increasing demand for affordable, large-bedroom units.

Mental Illness/Lack of Needed Services

Mental illness combined with a lack of services needed by mentally ill individuals was identified as a cause of homelessness by almost two-thirds of the cities (65 percent). These cities include Boston, Charleston, Chicago, Minneapolis, Nashville, New York City, Norfolk, Portland, San Antonio, and Seattle. Officials in San Francisco indicated "mental health treatment monies have never followed patients who have been released from the state hospitals, resulting in the inavailability of needed services within the community." Similarly, Salt Lake City officials noted that the "release of institutionalized mentally ill patients without adequate community residential placement" has led to an increase in the number of homeless persons in the city. The lack of mental health facilities is a principal cause of homelessness in San Juan. Limitations of the mental health system were identified as a cause of the problem in New Orleans.

Employment Related Problems

Sixty-two percent of the cities cited unemployment and other employment related problems, which directly affect a person's ability to afford housing as a principal cause of homelessness. Among them are Chicago, Portland, Salt Lake City, New Orleans, San Antonio, Kansas City, Philadelphia, and Washington, D.C. One-third of those cities—Nashville, New Orleans, Norfolk, Philadelphia and San Francisco—specifically mentioned lack of non-skilled jobs or of work skills needed to compete in the labor market. San Francisco officials reported there is a "shortage of blue collar, nontechnical jobs." Several cities cited the lack of full-time, and steady employment. Charleston and Portsmouth, for example, indicated that many of the jobs available are seasonal; Portsmouth also mentioned that the jobs are often part-time.

Over half (56 percent) of the cities which identified employment related problems as a cause of homelessness, specifically cited low wages which are insufficient to meet the high cost of housing and other necessities. Those cities include Chicago, Kansas City, Portland, Cleveland, Norfolk, Nashville and San Francisco. Louisville officials indicated that a local study "states very clearly that in order for a family of three to meet the basic needs of life, it will require working at least 40 hours a week at $7.00 an hour. Many of the families on entitlements or the working poor make considerably less."

Economic Factors

Over half (53 percent) of the survey cities economic factors, such as the high incidence of poverty, inadequate income, and the high cost of living as principal causes of homelessness. Among those cities are Los Angeles, Kansas City, Louisville, New Orleans, Norfolk, New York City, and Trenton. Kansas City officials indicated that "homelessness is another of the faces of poverty in this community. Persons become homeless when they can no longer afford permanent housing . . ." Officials in San Francisco stated: "fixed and low incomes have not kept pace with the increasing costs of living."

Inadequate Income Assistance Programs

Eleven cities, or 42 percent, specifically mentioned problems with income maintenance programs, primarily low benefit levels which are not sufficient to meet the high cost of living. Among them are Louisville, Boston, Chicago, Norfolk, Seattle, and Cleveland. Detroit officials indicated that "benefit levels have not kept pace with inflation." San Francisco reported that "benefits (and minimum wages) are not sufficient to last the entire month." They also indicated that "there is a steady increase in the numbers of persons whose benefits have expired (e.g., unemployment insurance) or have been temporarily curtailed due to procedural problems." Kansas City officials stated that delays or denials of state entitlements contribute to homelessness. Cuts in federal income assistance programs were specifically cited as a cause of homelessness by officials in Salt Lake City.

Substance Abuse/Lack of Services

Substance abuse, primarily alcoholism, was identified as a principal cause of homelessness in eight, or 31 percent, of the cities, including Charleston, Minneapolis, Nashville, Portland, Seattle, and Trenton. According to officials in San Francisco "cutbacks in federal subsidies for substance abuse treatment programs have not permitted any expansion of those services to the ever-growing number of homeless people who require assistance."

Family Crises/Domestic Violence

Another eight cities cited domestic violence as a major cause of the growing problem of homelessness. Among them are Detroit, San Antonio, San Juan, and Trenton. Norfolk officials identified increased family stress resulting from domestic violence and/or overcrowding living situations as contributing factor to the problem.

Population Shifts

Population shifts resulting from migration into the city from other areas of the nation and/or other countries were reported to have contributed to the problem of homelessness in five cities (19 percent) Norfolk, Portsmouth, Phoenix, San Antonio, and San Juan. Phoenix, as in previous years, continues to experience an influx of people from other parts of the country who are drawn there by the city's relatively low unemployment rate and temperate climate. Homeless persons in San Juan include large numbers of undocumented immigrants, particularly from other countries in the Caribbean, as well as many others who migrate to the city from other parts of the island. In Norfolk, many of the women who come to the city when their partner (to whom they are not legally married) is stationed at the Navy base find themselves without any resources and often become homeless.

Evictions

An increase in the number of evictions, due primarily to an inability to pay rent, was also reported by five cities—Detroit, Norfolk, Portsmouth, San Francisco, and Washington, DC.—as a cause of homelessness. In Detroit, "there has been an increase in the number of evictions due to unemployment and domestic problems." Portsmouth officials indicated that evictions resulting from persons no longer being able to afford their rent or from overcrowding have contributed to the problem.

Overcrowding

An increase in the number of families and individuals who have moved in with friends and relatives because they are unable to maintain their own home has led to overcrowding conditions, which in turn have resulted in an increase in the number of homeless persons in four cities—Norfolk, New York City, Portsmouth, and Washington, D.C. New York City officials reported that "the State's Department of Social Services estimates that over 100,000 households double-up in existing housing. A study conducted in 1985 indicated that approximately 70 percent of the families coming into emergency housing had been doubling-up prior to becoming homeless."

Other factors identified by the city officials as contributing to the problem of homelessness include:

Cuts in federal assistance programs, by Detroit, Salt Lake City, and Norfolk. Officials in Detroit stated that "serious cutbacks in a variety of Federal programs have displaced the mentally ill and others who ordinarily would have resources and financial support."

Lack of supportive services for vulnerable populations, by New Orleans, and Trenton;

Poor money management skills, by San Francisco, Trenton, and Washington, D.C.;

The loss of homes as a result of fire, by Norfolk, Portsmouth and Trenton; and

Economic inequities, by Norfolk and Trenton.

Capacity

During the past year, the number of shelter beds increased in over three-fourths (77 percent) of the survey cities. The average increase was 16 percent, ranging from three percent in Chicago, 11 percent in Kansas City and Los Angeles, 20 percent in Detroit, Minneapolis, New Orleans and 27 percent in San Juan to 47 percent in Boston.

Three cities reported a decrease in the number of shelter beds available to homeless persons: Seattle (by four percent), Charleston (by 11 percent), and Phoenix (by 25 percent). Officials in Phoenix, however, noted that the decrease is due to a reduction in the number of occupants allowed at the city's outdoor shelter, to a total of 325. The number of shelter beds did not change in another three cities—Portsmouth, Salt Lake City, and San Antonio.

The number of individuals who, on an average night during the last year, were housed in emergency shelters varies considerably among the survey cities. In 13 of the survey cities, 200 or less individual family members were provided emergency shelter on a average night. Among those cities are Charleston, Cleveland, Providence, Phoenix, San Juan, and Trenton. In four cities—Minneapolis, Portland, San Antonio and Seattle—between 200 and 500 children and their parents slept in emergency shelters. Between 500 and 1,000 members of families were housed in emergency shelters in Boston, Los Angeles, Norfolk, and San Francisco. In Washington, D.C., approximately 1,083 children and their parents were provided emergency shelters; 1,976 in Philadelphia; and 13,760 in New York City.

In eight cities, including Trenton, Providence, San Juan, New Orleans and Cleveland, 200 or less homeless single adults were provided emergency shelter on an average night during the last year. In six other cities—Charleston, Detroit, Minneapolis, Nashville, Phoenix and Saint Paul—there were between 200 and 500 single individuals in shelters. In addition to the 427 individuals who were provided shelter in indoor facilities in Phoenix, 325 persons are allowed to sleep in the outdoor living facility that has been established for homeless persons in that city. In Louisville, Portland, Salt Lake City and San Antonio between 500 and 1,000 single adults were sheltered on a given night; and over 1,000 in Boston, Chicago, Los Angeles, New York City, San Francisco, Philadelphia, and Washington, D.C.

In more than half of the responding cities (56 percent), the number of children and their parents who were in transitional housing on an average night during the last year totalled 100 or less. They include Boston, Los Angles, Minneapolis, New Orleans, Nashville, Phoenix, Salt Lake City, Seattle and San Antonio. Cities where more than 100 family members were housed in transitional housing include San Francisco, with 125 persons; Portland, with 149; Washington, D.C., with 417; Philadelphia, with 520; and New York City, with 4,079.

For single adults who were housed in transitional housing on an average night during the last year in the responding cities, the number of those served ranges from 12 in Nashville, 43 in Phoenix and 50 in Los Angeles to 130 in San Antonio and San Francisco and 181 in Boston.

Services Other than Emergency Shelters

In all 26 survey cities, services other than emergency shelter have been established to assist homeless people. The specific services available and the extent to which they are able to meet the need, however, vary significantly among the cities. Those services most often identified as being available in the cities, in rank order, are mental health, health care, counseling, case management, housing assistance, transitional housing for mentally ill persons, outreach, job training, transitional housing for families, day centers for single adults, child day care and day centers for families. Most often, however, these services are not able to meet the needs of homeless persons. Those services which are the least able to meet the needs, also in rank are: transitional housing for mentally ill individuals, transitional housing for families with children, mental health services, child day care, housing assistance, case management, outreach, day centers for single adults, day centers for families, counseling, job training, and health care. An Official in Los Angeles stated: "Although all of these services are available within our city, many exist only as model programs and are not widely available."

Mental Health/Health Care

Mental health services and health care are available in all survey cities. Sixteen cities (58 percent), including Charleston, Chicago, Kansas City, Louisville, Seattle and Trenton, reported that health care services are not able to meet the need. Portsmouth, one of the ten cities which reported meeting the health care needs of homeless persons, noted that only emergency health services are sufficiently available. Only two cities—New York and Portsmouth—reported that existing mental health services are able to meet the need. New York City officials indicated, however, that only emergency mental health services are sufficiently available to meet the needs of homeless people. "There is a shortage of long-term institutional and community mental health beds in the city," they noted.

Counseling/Case Management

Counseling is the only service other than mental health and health care that has been established in all the survey cities to assist homeless persons. However, 77 percent of the cities indicated that counseling services are not sufficiently available to meet the need. Those cities include Boston, Charleston, Chicago, Cleveland, Los Angeles, Minneapolis, Portland, San Juan and Trenton. In all but one city, assistance in linking with other needed services is provided to homeless persons through case management. However, 21 of those cities, or 84 percent, indicated that the need for case management is not being met.

Housing Assistance/Transitional Housing

Housing assistance is available to homeless persons in 24, or 92 percent of the cities. However, 88 percent of those cities, including Boston, Charleston, Chicago, Cleveland, Detroit, Kansas City, Los Angeles, New Orleans, Providence, Saint Paul, Seattle and Trenton, indicated that the housing assistance that is available is unable to meet the need.

Transitional housing for mentally ill homeless individuals is also available in 92 percent of the cities. Among them are Boston, Los Angeles, Minneapolis, Saint Paul, San Antonio, San Francisco, Seattle and Washington, D.C. In none of the survey cities, however, is the need for this service being met.

Transitional housing for families was reported to be available in 20, or 77 percent of the cities, including Boston, Chicago, Kansas City, Los Angeles, Louisville, New Orleans, New York City, Philadelphia, Phoenix, Providence, Saint Paul, Salt Lake City, San Francisco, Seattle and Trenton. Only one of those cities reported that the need for those types of facilities is being met. Trenton officials noted that the only transitional housing program in the city serves teen-age mothers exclusively. In six cities—Charleston, Detroit, Norfolk, Portsmouth, Providence, and San Juan—there are no transitional housing facilities for homeless families with children.

Day Programs/Day Care

Day centers which serve single adults have been established in 19 cities. Among them are Boston, Chicago, Cleveland, Kansas City, Los Angeles, Louisville, Minneapolis, New Orleans, New York, Nashville, Phoenix, Salt Lake City, and Seattle. Fifteen, or 79 percent of these cities, however, reported that existing day programs are not sufficient to meet the needs of single homeless persons. In response to this question, Salt Lake City officials noted that the local shelters recently began to be open 24-hours-a-day, but that a permanent day center is still needed.

Fourteen cities, including Cleveland, Los Angeles, Saint Paul, and Trenton, indicated that day centers have been established to serve homeless families. In some cases, however, these may be 24-hour shelters, rather than separate day time facilities. Seventy-nine percent of those cities said that the day programs that are available cannot meet the need.

In 18 cities, some form of child day care is available to homeless families. Those cities include Boston, Cleveland, Kansas City, New Orleans, New York City, Phoenix, Portland, Saint Paul, San Francisco, and Trenton. Eighty-nine percent of those cities, however, reported that they are not able to meet the need for child day care. In Chicago officials noted that day care is available to families in "transitional shelter" facilities only on an informal basis, in which parents make arrangements with other residents or with staff so that they can look for jobs and/or permanent housing.

Outreach

Outreach services are available to assist homeless persons in 21 of the cities, including Boston, Charleston, Chicago, Cleveland, Los Angeles, Louisville, New York City, Saint Paul, San Antonio and Seattle. Of those cities, 81 percent indicated that outreach services cannot meet the need.

Job Training

In 20 cities, or 77 percent, job training programs have been established to serve homeless persons. Among those cities are Charleston, Chicago, Los Angeles, Louisville, Nashville, Portland, Salt Lake City, San Antonio and Trenton. In 70 percent of those cities job training programs can not meet the need.

Other Services

Other services available to homeless persons, in the survey cities include:

Literacy and adult education classes conducted in shelters, by San Antonio;

Transitional housing for employable men, in Saint Paul:

A special education program for children in shelter facilities, in Salt Lake City;

Legal assistance, in Cleveland and San Juan;

Substance abuse programs, in Charleston, and Nashville; and,

Programs for homeless youth and veterans, in Cleveland;

Except for Saint Paul's transitional housing facility for men, none of the programs mentioned above are able to meet the need.

The funding

All 26 survey cities reported that the city governments have used their funds—either locally generated revenues or federal or state grants—to support local shelters or other services specifically for homeless persons. The funds come from a variety of sources:

Twenty-two, or 85 percent, of the cities use locally generated revenues: Boston, Charleston, Chicago, Detroit, Kansas City, Los Angeles, Lousiville, Minneapolis, New York City, Nashville, Norfolk, Philadelphia, Phoenix, Portland, Portsmouth, Saint Paul, Salt Lake City, San Francisco, San Juan, Seattle, Trenton and Washington, D.C.

Eighteen cities, or 69 percent, use state grants: Boston, Chigaco, Cleveland, Detroit, Los Angeles, Louisville, Minneapolis, New York City, Norfolk, Nashville, Philadelphia, Phoenix, Portland, Saint Paul, Salt Lake City, San Francisco, Seattle, and Trenton.

Twenty-five of the survey cities use federal grants. Of these:

Nineteen cities use the Community Development Block Grant: Boston, Chicago, Cleveland, Detroit, Los Angeles, Louisville, Nashville, New Orleans, New York City, Norfolk, Philadelphia, Phoenix, Portland, Portsmouth, Providence, Salt Lake City, San Francisco, San Juan, and Seattle.

The Community Services Block Grant is used by 13 cities: Cleveland, Detroit, Los Angeles, Minneapolis, New York City, Nashville, Phoenix, Portland, Providence, Salt Lake City, San Antonio, San Francisco, and Seattle.

The Emergency Food and Shelter Program, administered by the Federal Emergency Management Agency, is used in 21 cities to provide shelter and other services to homeless individuals: Boston, Charleston, Chicago, Cleveland, Detroit, Los Angeles, Louisville, Minneapolis, Nashville, New Orleans, New York City, Norfolk, Philadelphia, Portland, Portsmouth, Providence, Salt Lake City, San Antonio, San Francisco, Seattle, and Trenton.

Among the other sources of funds listed by the cities are:

HUD's Emergency Shelter Grant Program (first round) by Boston, Los Angeles, Louisville, New York City, Norfolk, Providence, Saint Paul, San Antonio, San Juan, Washington, D.C. and

The Mayor's Fund for the Homeless, by San Francisco; and the Mayor's Emergency Relief Fund, by Detroit.

Every survey city has received funds or a commitment of funds under the Stewart B. McKinney Homeless Assistance Act. According to officials of the U.S. Department of Housing and Urban Development, every survey city that was eligible for direct funding under the Emergency Shelter Grants Program has received a funding commitment. The only survey city that was not eligible in Charleston. Also according to HUD officials, Boston and Louisville received funding commitments under the first round of the Transitional Housing Demonstration Program and New York City, Portland, Philadelphia, Phoenix, San Francisco, Seattle, and Trenton have received funding commitments under the Section 8 SRO Moderate Rehabilitation Program. Information from the Department of Health and Human Services indicates that applications from 22 of the survey cities for the Health Services to the Homeless Program have been approved. Those cities include Boston, Charleston, Chicago, Kansas City, Saint Paul, Minneapolis, Trenton, Philadelphia, Louisville, New Orleans, and Seattle.

The unmet need for emergency shelter

On average, 23 percent of the demand for emergency shelter in the survey cities goes unmet. Estimates of unmet need range from seven percent in Chicago, 20 percent in Cleveland and Providence, 25 in Portland, 35 percent in New Orleans and San Francisco, 40 percent in Charleston, Los Angeles and Norfolk, 45 percent in Phoenix and Seattle, 58 percent in Kansas City, and 75 percent in Phoenix, to 98 percent in San Juan. Portland officials specificlaly mentioned that the reported percentage of unmet demand refers primarily to homeless families who cannot be accommodated in existing shelters.

Nine cities—Boston, Detroit, Minneapolis, New York City, Philadelphia, Saint Paul, Salt Lake City, San Antonio and Washington, D.C.—reported meeting the demand for emergency shelter. Several of those cities qualified their answers, however. Officials in San Antonio reported that there is currently underway a project to expand the number of shelter beds in the city in order to accommodate the growing number of homeless persons. "We hope that this will meet the increased demand," they noted. In Detroit, "those who are turned away from shelters are usually turned away because they are reluctant to abide by program's rules, i.e., they have substance abuse or alcohol problems. If a shelter is operating at full capacity, the Department of Social Services' protective services division is available to secure assistance in an emergency." Three cities—New York City, Washington, D.C. and Philadelphia—have official policies to provide shelter to all individuals in need who request assistance. Commenting on the City's ability to meet the demand for shelter, Philadelphia officials stated "when the demand increases beyond our current systems's ability to respond, public (city) facilities which are normally used for other purposes are converted into temporary emergency shelters until more long-term shelter alternatives can be found."

Sixty-five percent of the survey cities reported that emergency shelters have to turn away people in need because of lack of resources. Among the comments from the city officials:

Los Angeles: "In-Fo-Line reported that it turned away 39 percent of those requesting emergency shelter for the first six months of 1987. A study entitled 'The Short-term Housing System of Los Angeles County,' prepared by Shelter Partnership, Inc., in cooperation with United Way and the City of Los Angeles Redevelopment Agency, found that 'all sample shelters continuously operate at full capacity due to the shortage of sufficient beds to meet the needs of the homeless.' "

Chicago: "There are still more homeless persons than shelter beds available."

Seattle: There is a lack of space and resources to meet the critical demand for emergency shelter."

San Juan: "There are several reasons why emergency shelters must turn away people in need, including the fact that existing facilities are operating at full capacity and that those requesting assistance often do not meet the programs' eligibility requirements. There is also an increasing number of men with AIDS (mostly drug addicts) who are excluded from services."

New Orleans: "Some homeless persons are turned away if they have already used their free night which some shelters provide once in a three-month period. Homeless individuals are often unable to afford the fee which some of the shelters must charge in order to maintain their operation. Several of the area's churches will sponsor homeless individuals for an additional night. If possible, no one is turned away, but the available shelters are generally packed to capacity. During the city's freeze plan (when temperatures fall to 32 degrees Farenheit or below) no one is turned away."

Some of the cities specifically mentioned families with children as a group turned away from emergency shelters.

Portland: "An overflow network has been established for the shelter system (which primarily serves single adults) so that no one would be turned away when it is cold. However, no shelter is open during the day. There are also insufficient shelter facilities available to accommodate all the families are only open during the night, and families have no place to go during the day."

Providence: "There are currently a limited number of units available for families in need of emergency shelter. As a result, we plan to expand our capacity to serve this at-risk population."

Cleveland: "Single men are turned away on cold winter nights due to lack of capacity. Women with children are occasionally turned away in the summer during the period of peak demand, also as a result of lack of space."

Norfolk: "The family shelter usually has a waiting list. We do not have enough beds to meet the requests for shelter which we receive, primarily due to lack of available space."

Phoenix: "Resources to assist homeless families with children and chronically mentally ill individuals are inadequate. Facilities that serve single, unattached men operate at full capacity during winter months, the peak demand period for emergency shelter."

Homeless people in particular need of assistance

Officials from the survey cities were asked to identify in order of need three specific groups of homeless people for whom emergency shelter or other needed services are particularly lacking in their city, as well as the services most needed by each of those groups. Families with children was identified as the group most in need by 17 of the responding cities (71 percent): Charleston, Chicago, Cleveland, Detroit, Kansas City, Los Angeles, New Orleans, Norfolk, Phoenix, Portland, Providence, Saint Paul, San Antonio, San Francisco, Seattle, Trenton and Washington, D.C. Another three cities—Louisville, Nashville and Philadelphia—reported that families were the group second most in need of services.

Homeless mentally ill persons were ranked second as the group for whom emergency shelter and other needed services are particularly lacking by nine cities: Chicago, Cleveland, Kansas City, Los Angeles, New Orleans, Phoenix, Providence, Saint Paul and Washington, D.C. They were identified, however, as the group most in need of services by six other cities: Boston, Louisville, Minneapolis, Nashville, Philadelphia, and San Juan.

Substance abusers, primarily alcoholics, were ranked third as the group lacking needed services by eight cities—Charleston, Cleveland, Los Angeles, Nashville, Philadelphia, Providence, Saint Paul and San Francisco. They were identified by Boston and Minneapolis as second on the list of those most in need. Officials specifically identified individuals who have both mental illness and substance abuse problems.

Other groups of the homeless population were also ranked among those most in need of services:

Single women were identified as the second group most in need of services by six cities: Norfolk, Portland, Portsmouth, San Francisco, Seattle and Portland. Officials in Portland, however, noted that women with substance abuse and/or mental health problems are in particular need of services. Three other cities—San Antonio, San Juan and Washington, D.C.—listed single women third as the group particularly lacking services.

Single men were ranked first by Portsmouth, second by San Francisco and Trenton, and third by Louisville, Minneapolis, New Orleans and Portland. Officials in Portland again indicated that single men, particularly those with mental illness and/or substance abuse problems, particularly lack the assistance they need.

Unaccompanied youths were ranked second by San Juan and San Antonio, and third by Chicago, Kansas City, Phoenix and Portsmouth.

Employed homeless persons were identified second as the group most in need by Charleston and third by Norfolk.

Although they did not rank them in order of need, Norfolk and San Juan specifically mentioned homeless persons with AIDS as a group for whom needed services are particularly lacking.

Services Most Needed

City officials identified a wide range of services needed by the various groups of homeless people:

Families With Children

Emergency shelters, transitional housing and child day care, each cited by ten cities, were identified as the services most needed by the homeless families, but which are particularly lacking. The cities which reported the need for additional emergency shelters for homeless families include Charleston, Cleveland, Kansas City, New Orleans, Norfolk, Phoenix, Portland, and Trenton. Charleston officials noted the need for "long-term shelter appropriate for families." In Trenton more shelters are needed, including those which can provide "adequate sized arrangements" to accommodate homeless families. The need for transitional housing was specifically mentioned by Boston, Chicago, Cleveland, Detroit, New Orleans, Phoenix, Portland, Saint Paul, San Antonio and Seattle. San Antonio officials noted that transitional housing is needed for families awaiting entitlement benefits or seeking permanent employment. The need for day care, to allow families to seek employment and housing opportunities, was identified by Chicago, Kansas City, Los Angeles, Louisville, New Orleans, Norfolk, Philadelphia, Portland, Seattle and Trenton.

Permanent housing affordable by low-income people was identified by nine cities as a service needed by homeless families but which is particularly lacking. Those cities are Chicago, Kansas City, Louisville, Norfolk, Philadelphia, Seattle, Trenton, San Francisco and Washington, D.C. Officials in Philadelphia specifically cited the need for subsidized housing.

Employment services, including job training, counseling and placement, were identified by Cleveland, Louisville, New Orleans, Norfolk, Portland and Seattle. The need for counseling was reported by Chicago, Los Angeles, Louisville, Norfolk and Philadelphia. Los Angeles officials specifically mentioned the need for counseling and psychological services for children; officials in Philadelphia noted the need for intensive residential counseling for families.

Other services identified which are needed by homeless families and children but lacking include:

Transportation, by Kansas City, Norfolk, Portland and Seattle;

Day shelters or centers, by Portland and Seattle;

Food, by Norfolk and Trenton;

Health care, by Louisville and Norfolk;

Case managment, by Los Angeles and Washington, D.C.

Substance abuse programs, by Portland and Trenton; and

Legal advocacy, by Norfolk.

Mentally Ill Persons

Transitional and permanent housing alternatives with supportive services lead the list of programs needed by homeless mentally ill persons but currently lacking in cities, with 15 cities reporting a lack of those services. Saint Paul, for example, cited the "need for transitional housing with special case management support services for this population." Other cities which reported a lack of transitional housing needed by homeless mentally ill individuals include Trenton, Phoenix, San Juan, Washington, D.C., Cleveland and Los Angeles. Louisville officials stated that they "need more housing assistance, especially in the area of permanent group homes, to serve the growing numbers of mentally ill men and women." Among the other cities which specifically mentioned the need for group homes or half-way houses with on-site supportive services are Charleston, New Orleans and Washington, D.C. Officials in Kansas City noted the need for supervised permanent housing for persons with severe mental illness. Chicago officials reported that more "low-cost housing (SROs) and shared apartments with supportive services" are needed.

Six cities—New Orleans, Norfolk, Phoenix, Philadelphia, San Juan and Saint Paul—cited emergency shelter as a service needed by homeless mentally ill persons, but currently lacking. New Orleans and Norfolk specifically mentioned the need for emergency shelters which provide psychological evaluations and/or counseling. In Saint Paul "there is a need for more shelters where this population can live for at least a 30-day peroid."

Mental health services for homeless mentally ill individuals were cited as services particularly lacking by Los Angeles, Philadelphia, New Orleans, San Juan, and Trenton. Other services mentioned include case management, by Chicago, Los Angeles and Trenton; outreach, by San Juan and Trenton; counseling, particularly in the area of socialization and other living skills, by Los Angeles and San Juan; job training and placement, by San Juan, Cleveland and Portland; day programs, by Kansas City; and clothing, by San Juan.

Substance Abusers

Residential facilities, particularly those with on-site rehabilitative and other needed services, and detoxification/treatment programs were most frequently identified as those services needed by homeless individuals with substance abuse problems but which are lacking in cities. Five cities—Boston, Cleveland, Los Angeles, Philadelphia and Washington, D.C.—cited each of those services. Boston officials reported a need for "detox programs for homeless persons suffering from both mental illness and substance abuse." Cities which indicated that residential facilities with on-site services for substance abusers are particularly needed include Charleston, Philadelphia, San Francisco and Portland. Other needed services identifed include case management, by Los Angeles, Minneapolis and Saint Paul; outreach by Saint Paul; and jobs, by Portland.

Services Needed by Other Groups

Specific services needed by other groups of homeless persons which are lacking in cities were also identified:

Single women: emergency shelter, by Norfolk, San Antonio, San Juan, and Portsmouth; affordable permanent housing, by San Francisco, Seattle, San Juan; job training and/or placement, by Washington, D.C., Seattle, and San Juan; counseling, by Norfolk, and San Juan; transportation, by Portland; outreach and clothing, by San Juan.

Single men: jobs and job training, by New Orleans, Minneapolis, Portland and Louisville; emergency shelters, by New Orleans, Portsmouth and Trenton; transitional and/or permanent housing, by New Orleans and San Francisco; food, by Trenton;

Employed individuals: affordable housing, by Charleston and Norfolk, health care, by Norfolk; transportation, by Charleston; affordable child care, by Norfolk; and counseling, by Charleston.

Unaccompanied youth: emergency, transitional and/or permanent housing, by Chicago, Kansas City, Phoenix, San Juan, and San Antonio. Chicago officials identified the need for "transitional shelters with specialized counseling in areas of living skills, parenting, and job training." In San Antonio "detention facilities are available. However, shelter space for numerous youth waiting to be emancipated is lacking." Other services needed by homeless youths but which are particularly lacking include advocacy, mental health, pregnancy counseling, education, outreach, and counseling.

Detroit and Salt Lake City identified various services needed by all homeless persons.

Salt Lake City officials reported that jobs and job training, affordable housing and case management are particularly needed by all groups of homeless persons. Officials in Detroit indicated that, in addition to transitional housing for homeless families (the group most in need in that city) all groups of homeless persons need additional support services, including education and job training and day care. Convalescent care is needed but lacking for those homeless individuals recovering from illness or recent hospitalization; men and women over 55 years of age also need a more protective environment, they noted.

The outlook

Twenty-four of the cities, or 92 percent, expect the demand for emergency shelter to increase in 1988. Two cities—Louisville and Saint Paul—indicated that they expect the demand for shelter to stay the same. Saint Paul officials noted "the transitional housing alternatives we have available and recently provided single room occupancy units are helping move some of the homeless persons into the mainstream." According to officials in Louisville, local "statistics show that the number of homeless people is staying about the same as last year. If the grant applications we have submitted under the Stewart McKinney Homeless Assistance Act are approved, we will have sufficient units to meet the demand. However, we are finding it extremely costly to operate these facilities, especially if supportive services which are critical in making these individuals self-sufficient are provided." In none of the survey cities is the problem of homelessness expected to decrease next year.

Reasons given for the expected increase in the demand for emergency shelter include:

Chicago: "There has been no significant improvement in the economic status of the city's poor and near poor and no increase in available low-income housing."

Portland: "Economically, things are becoming worse for very low-income, low-skilled people. There are insufficient entry level jobs available, and the low-paying jobs do not provide sufficient income to support a family. In addition, federal funding reductions continue to have a drastic impact on marginal people."

Trenton: "Development of permanent housing is not keeping pace with the demand, and the availability of low-income housing is decreasing. Economic and inflationary pressures are forcing the poor and other vulnerable people out of the housing market."

Washington, D.C.: 'As market rents continue to skyrocket, and federal support for vital 'safety net' programs continue to decrease, we can expect a rise in the number of poor and working poor families and individuals joining the ranks of the homeless population."

New Orleans: "Cuts in federal assistance programs, poor housing conditions in the city, and the inability of many families to continue supporting each other will continue to result in an increase in homeless persons."

Los Angeles: "The demand far exceeds the availability of emergency shelters. At the same time, City data indicates that poverty will continue to increase. In addition, the loss of existing housing stock due to housing that does not meet seismic safety standards, as well as buyouts of HUD subsidized housing (i.e., apartments that will be converted to market rate rental if owners prepay their mortgages) will increase the number of homeless persons."

Norfolk: "High rents, the demolition of low-income housing which are not being replaced, and evictions of persons already on a low or fixed income as a result of the closing of low-income housing will lead to an increase in homelessness. Also, until the criminal justice system better meets the needs of victims of domestic violence, the number of battered women who are homeless will increase."

Philadelphia: "Due to multiple factors, including the reduction and elimination of low-cost housing subsidies, homelessness has increased by approximately 25 percent each year for the last six or seven years, and is expected to continue to increase in the next year."

Salt Lake City: "The number of homeless persons needing services, shelter, housing, food, clothing, etc., continues to increase by approximately 20 percent per year."

Phoenix: "The city's nationally publicized relatively low unemployment rates and mild winter weather will continue to attract persons from other parts of the country that are economically depressed, particularly Louisiana, Oklahoma and Texas."

Detroit: "Recently announced lay-offs in the automotive industry . . . will exacerbate the factors which contribute to the problem of homelessness. In addition, if benefit levels and low-income housing stock are not increased, the problem will continue to grow."

Charleston: "Unfortunately, trends indicate a steady increase in the number of homeless persons. And an unstable national economy won't help."

Boston: "Very little has changed to eliminate the causes of homelessness—deinstitutionalization, inadequate welfare benefits, federal cuts in housing programs. The federal government must renew its commitment to affordable housing in order for the supply to increase sufficiently."

Portsmouth: "Due to a loss of employment and the lack of affordable housing for low-income persons, requests for emergency shelter are expected to increase."

San Antonio: "Unless there is an improvement in the causes of homelessness, there will continue to be an increase in the number of homeless persons."

San Francisco: "Conditions which contribute to the problem of homelessness, such as the shortage of low-cost housing, inadequate levels of public assistance benefits and minimum wages, and the lack of services needed by persons with mental illness and substance abuse problems, are not expected to improve. In fact, they will probably worsen."

Kansas City: "The need for emergency shelter is likely to increase until the causal factors are fully addressed. However, a more important need which is growing is the need for programs which assist the homeless in achieving economic stability and permanent housing. Thus, emergency shelter is being replaced as a priority in this community, by transitional housing and related services."

Nashville: "Some local agencies serving homeless persons report 'ever increasing' waiting lists for their services. Other agencies indicate that some of the services needed to enable homeless persons to reenter the mainstream of community life are not available to the degree needed to address adequately the problems which create or contribute to homelessness."

HOUSING

During 1987 the demand for assisted housing by low-income households increased in 84 percent of the survey cities, by an average of 26 percent. It stayed the same in four cities, and decreased in none. The average wait for assisted housing in the survey cities is nearly two years, and in 65 percent of the cities waiting lists for assisted housing progams have been closed. One-third of eligible low-income households in the survey cities are currently being served by assisted housing. With the decline in federally-assisted housing programs, none of the survey cities expect to be able to meet the housing needs of low-income households in the foreseeable future.

The demand

The demand for assisted housing by low-income households increased in 21 of the survey cities during 1987. Four cities—New York City, Phoenix, Salt Lake City and Washington, DC.—reported that it remained the same. No city reported a decrease in demand. The average percent of the increase in demand was 26 percent, ranging from 10 percent in Cleveland, Louisville, Nashville, San Antonio and San Francisco to 30 percent in Kansas City, Los Angeles, and San Juan.

The average wait from the time of application for assisted housing until an applicant actually receives assistance in the survey cities is 22 months. The wait ranges from three to six months in Portland and six to 18 in Kansas City to 24 months or more in Charleston, Los Angeles, Louisville, Nashville, New Orleans, and Trenton. Several cities commented that the length of the wait depends on the type of housing requested. Chicago officials noted a 10-year wait for Section 8; Washington, DC. an eight-year wait for family housing.

Waiting lists for assisted housing have been closed in 65 percent of the cities due to their extensive length. These cities are Charleston, Chicago, Kansas City, Los Angeles, Louisville, Minneapolis, Nashville, New Orleans, Phoenix, Portland, Portsmouth, Providence, Saint Paul, San Juan, San Antonio, San Francisco and Seattle. Five of these cities—Kansas City, Louisville, Nashville, Portland and Seattle—noted that the lists had been closed for Section 8 assistance only. In Saint Paul, the list for larger units had been closed.

The capacity

The city officials identified a number of locally-designed housing innovations aimed at assisting low-income people which are currently underway. An annotated listing of them is included in the Appendix.

Across the survey cities one-third of the eligible low-income households are currently being served by assisted housing. This ranges from five percent in Los Angeles, 10 percent in Philadelphia, 13 percent in Detroit and Providence and 15 percent in Minneapolis and San Antonio to 50 percent in Nashville, Salt Lake City and Washington, D.C., 60 percent in Kansas City and 63 percent in Boston. Seattle officials noted that 70 percent of the low-income elderly are served by assisted housing in their city.

The outlook

Given the decline in federal housing assistance, none of the 26 survey cities expects that local housing programs will be able to meet the housing needs of low-income households in the future. Explaining their responses, the city officials said:

Boston: "Despite assistance from state government and our locally-developed programs, the increasing levels of demand for housing assistance and escalating housing costs will constrain the City of Boston from meeting the total need for low-income housing."

Charleston: "Our waiting list for housing assistance is excessively long. Federal funds for new construction have been drastically reduced. Funds to maintain existing housing stock also have been cut. The city does not have money to renovate many of the units and, as a result, they often are sold and do not remain affordable by their current tenants."

Chicago: "Despite city leverage, programs cannot meet the true low-income housing needs of the over 200,000 families currently living in inappropriate housing."

Detroit: "Approximately 77,000 households are determined eligible for assisted housing under the Housing Assistance Plan."

Kansas City: "Over 41,000 households in Kansas City are competing to live in just under 25,000 housing units available for rent at $125 per month or below. Over 22,000 households cannot afford their current living arrangements.

"Local housing programs do not have the capacity to develop the estimated 18,000 low-income units needed in this city. Given the continued generosity and willingness of private developers to enter into partnerships with the public sector, their efforts will, at best, result in small (40 to 80 unit) developments for low- and moderate-income housing. Governmental subsidies are clearly needed for the development and maintenance of housing for very low and no-income persons. The private sector cannot be realistically expected to support such housing completely.

"Federal attention to the issue of homelessness must shift from the establishment of emergency shelters to the development of decent, affordable housing for the very poor."

Los Angeles: "The limited number of existing units, the limited production of new units, the demolition of existing units, the loss of units to buyouts (low-income units converted to market rate rentals if owners prepay their mortgages) and the nonexistence of funding mechanisms in the private market insure that the housing needs of low-income households will *not* be met in the near future."

Louisville: "Affordable housing is a critical issue in our community. It is of dire importance that the federal government realize that subsidized housing is its responsibility and a vital need in most urban areas."

Minneapolis: "Local resources cannot make up for the loss of federal funds."

Nashville: "There are no local housing subsidies to replace those lost through federal housing assistance."

New Orleans: "The demand for public housing is constantly increasing. Even some of the existing housing is being lost because of the cost of repairs; more than 100 units were recently lost. Federal, state and local funding is being cut back."

New York City: "The Mayor's 10-year, $4.2 billion housing plan will attempt to make up for some of the loss of federal housing funds. In no way can this local effort, however, be a complete substitute for federal housing assistance. In addition, it is being done at great cost to the City, diverting resources from other critical needs."

Norfolk: "There is no available, affordable housing for low-income residents except through Section 8, and the waiting list for Section 8 is 24 to 36 months."

Phoenix: "The decline in federal housing assistance has made a major impact on the need for affordable housing which is beyond the ability of local resources to meet."

Portland: "We cannot meet the need now, how can we do so in the future with fewer resources?"

Providence: "Real estate values have quadrupled in the last two years, reducing the availability of affordable housing for low-income housing and raising rents above affordable levels."

Salt Lake City: "Local government's resources are limited. The national commitment to housing and other programs for low-income persons needs to be increased."

San Antonio: "There is very little construction of low-income housing by the private sector because there is no margin of profit in the construction of this type of housing."

Trenton: "Housing programs cannot match clients with housing. The City of Trenton has over 95 percent of the county's poverty population, which is increasing annually. Housing programs are losing subsidies and the rental market is geared towards more affluent tenants."

ECONOMIC CONDITIONS

Seventy-two percent of the survey cities reported that the number of poor people increased during 1987. At the same time the unemployment situation improved in 12 cities (48 percent), stayed the same in nine cities (36 percent) and worsened in four. While nearly two-thirds of the survey cities (64 percent) reported that they had benefited generally from the national economic recovery, 81 percent said that the economic recovery had not helped hungry, homeless or other poor people.

Poverty

The city officials reported that the number of poor people increased in 18 of the survey cities, or 72 percent. These cities are Boston, Chicago, Cleveland, Detroit, Kansas City, Los Angeles, Louisville, Nashville, New Orleans, Norfolk, Phoenix, Portland, Providence, Salt Lake City, San Juan, San Francisco, Seattle and Trenton. Philadelphia cited a decrease in the number of poor people; six cities said the number remained the same.

The city officials identified several different indicators of the increase in the number of poor people. Most frequently cited was an increased demand for basic services including food, shelter, social services, by Louisville, Nashville, New Orleans, Phoenix, Portland, San Francisco and Trenton. The high cost of housing or increased demand for housing assistance was listed as indicators by Boston, Portland, New Orleans, Providence and San Juan. Other factors cited were an increased public assistance caseload, increased food stamp caseload, and increased homelessness.

The New Poor

In commenting on what has happened to the new poor during the last year, city officials primarily cited the complex nature of the new poor population and their difficulty in coping with the social services system and in obtaining new, appropriate employment.

Charleston: "This group is increasing rapidly. They defy labels: Some are deinstitutionalized mentally ill persons, some are on SSI. Some are young males with low job skills. Some are single-parent families awaiting either employment or public assistance. They often end up living in shelters."

Kansas City: "This group had grown to include persons who were previously marginal. They include persons displaced by plant closings, and those whose marginal incomes (public assistance, child support, minimum wages) could not keep pace with rising costs for shelter, food, clothing and medical care. The new poor have also experienced high frustration levels in that poverty is a 'new' experience and has mental as well as economic impacts for them. Those working with the 'new poor' are likewise frustrated by the fact that they often 'fall between the cracks' of various social services support program eligibility criteria."

Los Angeles: "The new poor became the old poor, some became the minimum wage, working poor. Twenty-six percent of the influx of poor from other states came from the four 'oil bust' states—Oklahoma, Arkansas, Louisiana and Texas—according to a survey of two inner city emergency shelters operated by the City of Los Angeles during the winter months of 1986-87."

Louisville: "This group is finding it difficult to get into the system to seek emergency assistance and/or human services. It is also difficult for them to find employment, and if they do so it is usually at minimum wage."

New Orleans: "People from upper income jobs, who suddenly found themselves unemployed or retired with the reduction in staff of several oil companies locally, have at this point either moved out of New Orleans to look for work in some other area of the country, have accepted lower paying positions in another field, or have become a part of the hardcore unemployed or underemployed."

Norfolk: "The problem of a lack of adequate, affordable housing affects each of these groups. The percent of family income spent on shelter is constantly increasing, leaving very little money to meet other needs. The new poor have been rejected for public assistance because of strict regulations. They have gone to the streets or shelters, or become names on waiting lists. Some are being served by a shelter and are making constructive steps toward self-sufficiency, but the largest percentage are still in need."

Phoenix: "This group is experiencing, for the first time, what it means to be dependent upon the social welfare system. They find the red tape and eligibility determination cumbersome, frustrating, and demeaning. This group is very vocal regarding the inadequacy of the system."

Portland: "The new poor should have been doing better during the past year, with the increased activity in the economy. More jobs are available and people who were recently unemployed should be able to find new employment, if not at the same wage as their former employment."

San Antonio: "Many families in this category have to seek assistance from social service agencies. Many families have lost their homes to foreclosure. Foreclosure and bankruptcies have increased."

San Francisco: "Many are relying on social service agencies for the first time in their lives, and are frustrated and confused by that 'turn' in their lives. Cutbacks in social service funds have severely impacted on the ability to respond to the growing demand for those services."

San Juan: "The increase in the unemployment rate, together with the lack of education and job skills, creates a new poor population which needs support assistance from the government because they have no available income for housing, food and other basic needs."

Seattle: "All populations, whether 'newly homeless,' working and living in a shelter, or chronically poor, are facing the same cycles and obstacles of poverty. These factors include minimum wage jobs, lack of sufficient income, lack of affordable and appropriate housing and homelessness caused by crisis and economic conditions."

Trenton: "The new poor are struggling to compete in an upscale economic and inflationary climate where basic needs are being pulled out of their reach."

The Working Poor

Many survey cities reported that the working poor have a very difficult time making ends meet, often need public assistance to supplement their wages, and sometimes are ineligible for benefits and other needed services:

Boston: "The working poor, if not currently residing in regulated housing, were particularly hard-pressed by the continued swell in condominium conversions and the economic consequences of this real estate transaction. . . . In response to the conversion problem, Mayor Flynn has instituted a system of protections for low- and moderate-income and elderly persons."

Charleston: "The numbers are growing. They are often young, unskilled workers, seasonally employed workers, or single-parent families. They move between dependency and self-sufficiency, often needing assistance."

Kansas City: "The working poor are vulnerable to the economic and social conditions of the community. They are increasingly applying for emergency assistance as they attempt to maintain a certain level of independence and self-sufficiency. However, most are finding themselves falling further and further behind. Temporary or permanent layoffs are more likely for them, and they are likely to join the ranks of the 'new poor' when such occurs."

Louisville: "In our city a family of three needs at least $7.00 per hour to meet their basic needs. Many of the working poor make considerably less."

Los Angeles: "It became more difficult to pay the rent. The cost of living increased."

New Orleans: "The working poor have not experienced many changes in New Orleans in the past year. While wages in the lower paid jobs of the services industry have not increased during the past year, the cost of goods in this area has also remained stable. Those individuals who have been forced out of their occupations of choice, due to changes in the job market, have been unable to find work at comparable wages, and have been forced to take positions in the low-skilled, low-paying service sector. This has caused a further difficulty for those low skilled individuals, particularly teenagers, who traditionally have held these positions."

Norfolk: The working poor are experiencing "more stress and, therefore, more domestic violence. Housing and cost-of-living increases are not matched by wage increases. There has been a decrease in low-income housing and an increase in service jobs that only pay minimum wage."

Philadelphia: "Marginal and minimum wage employment have become more available. The gap between the cost of available housing, however, and the capacity to pay has also expanded. Consequently, more persons in the shelter systems are working but cannot afford to leave the shelters."

Phoenix: "In many instances, the working poor are the most deprived. They are not entitled to many benefits because they are employed. For example, a working mother does not receive subsidized day care. Because the system does not support the working poor, there is little hope that they will ever escape poverty."

Portland: "The working poor are not doing any better than last year. The cost of living has not dropped and low wages have not risen."

Portsmouth: "These persons still receive minimum wages and continually depend upon assistance from public and private agencies."

San Antonio: "A large percentage of persons in this category require some type of public assistance on a regular basis. There is minimal expectancy among the working poor that their situation can be improved."

San Francisco: "High, and constantly rising, costs of rent, food, shelter and clothing have reached a level far in excess of the income of the working poor. The working poor are constantly losing ground in their battle to survive—this often leads to a deterioration of their mental health and family interactions."

Trenton: "The working poor are put in direct competition with other low-income groups, but are many times ineligible for subsidies."

The Chronic Poor

City officials commented on the inability of the chronic poor to break out of the cycle of poverty, and their growing disaffection with society:

Boston: "The chronic poor have continued to suffer from the loss of federal supports—ranging from decreased job training efforts, to curtailed surplus food distribution. This group has also suffered by the country's failure to undertake any major new domestic initiatives, such as nationally sponsored child care which would enable chronically poor families to find safe environments for their young children while they enter training and the workforce. In Boston, with the continued rise in basic costs of housing, food and clothing, the chronic poor, in particular families and children, have increasingly joined the ranks of the homeless and the hungry."

Charleston: "Role models were often chronically poor. They rely on public assistance. Their situation is sadly predictable. They depend on agencies and institutions to meet their needs, and find that an acceptable life style."

Kansas City: "The support system has continued to *support* this group, but the comprehensive system overhaul which would be required to move them out of poverty does not exist. The chronic poor are victimized by no or inadequate job training, which limits their employment opportunities. They often have physical and mental health problems, and are relatively immobile. Social service systems have prioritized their limited resources to alleviate immediate suffering rather than to address longer term solutions."

Louisville: "These individuals continue to move into a lower economic strata because they now are in competition with the new and working poor."

Minneapolis: The chronic poor have grown, "with a third generation in poverty and the in-migration of unemployed people from the urban ghettos of the South and the Midwest."

New Orleans: "The chronic poor have faced worsening conditions in the last year. While more attention has been paid to this group through social service programs, state, federal and local budget cuts have adversely impacted all health and social program delivery systems, as well as cash available to the poor. The chronic poor are often functionally illiterate and unskilled, which make employment extremely hard to find. Housing availability is also limited for this group, which often results in multiple family households in public housing. The chronic poor may be growing younger in New Orleans with the increase in teenage pregnancies."

Norfolk: The Chronic poor include "more of the street people, living in boxes and sleeping in parks. There has been burn-out among public assistance workers who tire of providing services to the chronic poor, who then receive lower quality services. There has been more domestic violence, because there has been more stress."

Phoenix: "This group has developed a dependency on the system as a way of life. They are knowledgeable about entitlement programs, and have learned to use them to their benefit. The system does not facilitate or reward any movement toward self-sufficiency, except through special projects."

Portland: The situation of the chronic poor has remained essentially the same. Although programs for the homeless have continued to provide services and opportunities for those with the desire to work their way out of homelessness, the ranks of the homeless continue to swell."

Portsmouth: "Lack of training, job skills and education make this group more prone to remaining in need of assistance."

San Antonio: "The chronic poor require a great deal of assistance with little expectation that their situation will ever change."

San Francisco: "The 'spiraling downward syndrome' is intensified for this group. The ability to improve the conditions of their lives diminishes everyday for them. This further impacts on their alienation and disaffiliation with a 'society' in which they no longer hold 'membership.' "

Trenton: "The chronic poor are also the chronically homeless, fast becoming disassociated from the mainstream of society. Many of these people are undereducated and vulnerable, such as the severely mentally ill, the elderly and children."

Poverty Case Studies

Officials in the survey cities were asked to provide a brief case study which describes the conditions faced by a family of individuals in poverty in their city:

CHARLESTON—A TWO-PARENT FAMILY

"The husband is a construction worker injured on the job, but not covered by workmen's compensation and ineligible for unemployment compensation. The wife and two children are eligible for AFDC ($199 a month) and food stamps after the husband's temporary disability is medically documented and applications are processed (six to eight weeks).

"The family falls behind on the rent and is evicted from their home. They go into one shelter and become ineligible for AFDC and food stamps because they lack a 'stable home. When the shelter's seven-day limit arrives they must move on to another shelter. The family stays with relatives during the day, sleeping at the shelter at night.

"Finally, when the situation becomes too intolerable, the family splits up and stays with two different sets of relatives. When the husband is able to return to work—four months after his injury occurred—the family begins to look for their own home."

CHICAGO—AN UNEMPLOYED, SINGLE MOTHER

A typical poor family in Chicago is headed by a minority, youth-adult female with two or three children. She is one of the hardcore unemployed and has not worked in 18 months or more. She has been unemployed because of a lack of skills, illness or a lack of child care. She receives various government benefits, but still has an income of less than half of the poverty line. Her needs include emergency food, child care, employment training, housing and energy assistance."

KANSAS CITY—THREE GENERATIONS

"A female head of household, age 56, her son and his two children applied for emergency utility assistance after the son suffered a job-related injury, disabling him for several weeks. He was not covered by workmen's compensation or sick leave benefits. The only income in the home was an $80 per month general relief check, received by the head of household, who also had serious health problems. The household had pending food stamp and ADC applications, but due to a long delay in processing these applications, the family was in a truly desperate situation and could expect to remain that way for an indefinite period."

LOS ANGELES—AN AFDC MOTHER

"Dee is a black woman, 28, with three children, ages nine, seven and three. Dee's primary means of support is AFDC. She was living in a housing authority complex, but moved because of the environment. 'We had drug dealers in every apartment and gangs that would terrorize us. I had to move,' she said. She moved in with her sister-in-law just outside of Los Angeles County. It was safe, but there were seven children and two adults living in a two-bedroom apartment. She left after three months. She saved money, but not enough. She moved several times after that, sometimes living with family, friends or strangers. Bit by bit she saved $400 from her AFDC checks, however, all her hard work disappeared when she was robbed by drug-user friends of the women she was staying with. She was hit on the head with an iron. By the time she was stitched up, she had no food, no money and nowhere to go. The doctor's office called In-Fo-Line for her. They found her a room and the doctor gave her the money for the bus. While Dee wanted very much to stabilize her housing situation, she expected to remain on AFDC. Even if she had been able to find a job, she had no one to watch her children, and her oldest son had a serious case of sickle cell anemia."

LOUISVILLE—A SINGLE-PARENT, WELFARE FAMILY

"A typical family living in poverty in Louisville might be a single mother and two children. This size family can expect to receive $197 in AFDC benefits and $211 worth of food stamps a month. The market rate for a three-bedroom apartment is $395; even a sub-standard, below-market apartment of the same size will likely rent for at least $225. Obviously, without subsidized housing it is literally impossible for this family to meet the most basic living expenses."

NEW ORLEANS—A SINGLE-PARENT FAMILY, INELIGIBLE FOR WELFARE

"A mother with two children, ages six and 13, who was eight months pregnant, lost her state position in May. In August, she received a $2800 retirement check, which was mainly used to pay back money that she borrowed to survive. She was honest and told her welfare worker that she had received this check. The welfare worker denied her benefits until April, 1988. In the meantime, the mother has tried to commit suicide, and her children are hungry. Even with rent assistance of $265, she is not able to provide for her family. The woman is receiving food and a lot of support and advocacy services. Eventually she will need to move in with relatives until April, when the welfare payments start up again. She has been referred to the job search program for a sitter's position, but it is unlikely that she will be hired."

NORFOLK—A PREGNANT MOTHER WITH TWO CHILDREN

"Jane Doe, age 22, is pregnant, has two small children, no pre-natal care. She was abandoned by an abusive husband with no financial support and has no relatives nearby. Jane has a ninth grade education and no work experience outside the home. It will take 45 days to receive public assistance after she applies, but ADC will not even cover the rent on her apartment."

NORFOLK—A TWO-PARENT FAMILY

"In a two-parent family with one spouse working, the spouse was fired, and the wife gave birth to their sixth child. Based on the former employer's refusal to verify income, the family was ineligible for food stamps. It had no medical coverage. The husband went back to school; the family lives on VA benefits. The school-age children needed clothes and supplies. The wife had no employable skills. Pride was an issue with this family."

PHILADELPHIA—A MOTHER WITH THREE CHILDREN EVICTED

"Mary Jones and her three children were evicted from public housing because of failure to pay rent. They are now living in the city-funded shelter system at a cost of $52 per day, waiting for a public housing unit. The primary cause of the family's failure to pay rent was insufficient income to meet the costs of feeding, clothing and transporting the family. Payment of rent can be perceived as a less immediate need than other necessities."

PHOENIX—A TWO-PARENT FAMILY MUST BREAK UP

"Mr. and Mrs. X and their three small children moved to Phoenix from Ohio. Both are unemployed. They had enough money to get a small apartment. Mr. X has been actively seeking employment for several months, but was unable to obtain steady employment which would allow him to support the family. Therefore, Mr. X left the family in order to enable them to get AFDC, which they were not eligible for as long as he was in the home."

PORTLAND—A HOMELESS FAMILY

"A family which finds itself homeless with no resources is placed in a church shelter for as long as it needs shelter. The family receives case management from a neighborhood-based social service agency and prepares a plan for getting out of their homeless situation. The shelter provides food for the evening meal and the following morning. During the day, however, the family leaves the shelter and is on its own, hopefully looking for work, following-up on interviews, making contacts to obtain services such as welfare and SSI. The older children are registered in the local elementary school, using the church address as home. The younger children are on the streets with the parents. If the family qualifies, they will be placed in transitional housing after a couple of weeks in the shelter. They then would have longer-term housing and case management to help them break the cycle."

PORTSMOUTH—AN EVICTED, SINGLE MOTHER WITH FOUR CHILDREN

"One mother of four children on ADC assistance could not pay her rent and was subsequently evicted. She tried to find public and private agencies to place her in new housing. However, she was in need of utility and rental deposits and moving expenses totalling $700, and funds were not available. Lack of sufficient income prevents her from maintaining any permanent, affordable residence. Subsidized housing is not available. She and her children are now at the PARC Place shelter until relocation is made."

SAINT PAUL—A SINGLE MAN

"Bob, 26, is from Wisconsin. He went to school and became a registered nurse. He was working at a hospital and due to funding cuts he was laid off. He had an old car and drove to the Twin Cities looking for work, and his car broke down. He had no money to have it fixed and no way to look for work. Some of the interviews were across town at 5:30. If he took a bus and came back, he'd be out in the street because they lock the doors of the shelter at 7:00—no exceptions."

SAINT PAUL—A BATTERED WIFE

"Mary was raped and had to leave home out of fear. She has two children, and nothing but AFDC payments to help her start all over again. If it had not been for the shelter, she would probably have returned to the same place and possibly suffered a second attack. 'There were no other choices,' she said."

SAN ANTONIO—A HOMELESS, SINGLE FATHER WITH THREE CHILDREN

"The family consists of a 31-year-old Hispanic male with three children, aged five, three and two. The father lost his job several months ago and the family moved in with relatives temporarily. The children's mother died recently. The father was unable to find employment and the relatives were not financially able to continue to support this family so they moved to a shelter. Social workers are attempting to find employment for the father, but have been unable, so they are still at the shelter."

SAN FRANCISCO—A SKILLED, TWO-PARENT, HOMELESS FAMILY

"The mother has a Ph.D. in astrophysics. The father was a computer operator for 25 years. The father lost his job due to staff cutbacks. They used up their savings while he looked for a job, but he was unable to locate new work in his field because he was unable to compete with younger workers with skills more recent and up-to-date than his, and who had college degrees which he did not have. The mother was unable to find employment due to the highly technical nature of her training. They are living in an emergency family shelter while being processed for AFDC."

SAN JUAN—A HOMELESS, DRUG ADDICT

"A single, young man, 28 years of age with a drug addiction problem, is living in an abandoned car. He's unemployed and receives no income. He doesn't qualify for food stamps because he doesn't have a residence. He has physical and mental health problems, too. His family's address is unknown."

SEATTLE—A HOMELESS COUPLE

"A couple in their early forties called the FPA shelter for assistance. They are from the King County area and both are unemployed. As single adults who are capable of employment, they are ineligible for public assistance. They have been working odd jobs and going to missions for their meals. As there are very few shelters in Seattle and King County that provide couples with emergency housing, they have been living in their car off and on for several weeks."

Employment

Officials in all but two of the survey cities (92 percent) indicated that the official unemployment rate for their city does not reflect the actual unemployment problem. The explanation most frequently given for this—the fact that unemployment statistics do not include discouraged workers—was cited by 11 cities: Boston, Charleston, Chicago, Cleveland, Los Angeles, New Orleans, Phoenix, Portland, Providence, San Antonio and San Francisco. Factors of underemployment, such as part-time employment and low wage jobs, were listed by Kansas City, Louisville, and New Orleans. Los Angeles, Norfolk, and Portland explained that transients, who are often homeless, are not counted. Some of the comments from the city officials included:

Detroit: "The City of Detroit has sustained a high unemployment rate for a long period of time. As a result, a very low percentage of those who are unemployed are receiving unemployment compensation."

Kansas City: "The official unemployment rate does not reflect the growing number of persons who are employed at low-wage jobs, in part-time or contract positions with no employee benefits, such as medical insurance. Such employment situations are not likely to provide long-term or adequate support to the households dependent upon such underemployed wage earners."

Minneapolis: Although the official unemployment rate for Minneapolis is between five and six percent the 1980 Census showed that one-half of the American Indian adults and 30 percent of black males were out of the work force. The official unemployment rate has little to do with the lack of employability for a substantial portion of the potential work force."

Los Angeles: "The official unemployment rate does not include the highly transient homeless and the undocumented, nor does it include the discouraged workers."

Louisville: "Unemployment is decreasing but the positions that these individuals apply for are usually part-time, and at minimum wage. And because of its declining value, the minimum wage is not sufficient."

Phoenix: "The unemployment rate reflects those individuals who are actively seeking employment. It does not reflect those who have given up hope and no longer are job seeking."

San Francisco: "The rate does not reflect the growing numbers of 'discouraged workers,' nor does it reflect numbers of persons who have left the job market because they have used up unemployment benefits."

Nashville and Saint Paul officials indicated that the official unemployment rate reflects their cities' actual unemployment situation.

Officials in 12 of the survey cities, 48 percent, reported that the actual unemployment situation in their city had improved during the last year. Those cities are Cleveland, Los Angeles, Louisville, Nashville, New York City, Philadelphia, Portland, Providence, Saint Paul, San Juan, Seattle and Washington, D.C. Nine cities (36 percent) said it remained the same; four—Kansas City, Phoenix, Salt Lake City and San Antonio—said it got worse. Comments about the unemployment situation by the city officials included:

Chicago: The actual unemployment situation "probably improved for persons with experience, education and job skills, but worsened for the increasing number of poor and hard-core unemployed."

Phoenix: "The continuing increase in the overall population and the seasonal influx of people during the warmer months has tended to worsen the actual unemployment situation here and throughout the southwest."

Portsmouth: "Employment may have improved slightly, however, the General Electric plant closing affected the overall statistics."

Trenton: "Employment opportunities are generally to be found in surrounding suburban areas. Linkages to these areas are still in the development stages. Urban residents with limited transportation are stranded in accessing the suburban employment opportunities."

Six cities (29 percent) expect the actual unemployment situation to improve during 1988: Cleveland, Louisville, Nashville, New Orleans, Providence and Seattle. Ten (45 percent) expect it to remain the same and another six expect it to worsen. Those expecting it to worsen are Detroit, Kansas City, Los Angeles, Phoenix, Salt Lake City, San Francisco and Washington, D.C.

Among the city officials' comments on expectations for 1988:

Boston: "Overall Boston's unemployment situation should stay just about the same, with a potential for a slight deterioration depending on the health of the national and regional economy following the stock market crash and subsequent nervousness in the financial markets. In general though, it should be noted that the Boston area suffers from a labor shortage in many of the service industry jobs and this is likely to reverse itself in the near future. Unfortunately, many of these jobs entail wages which may contribute to a household income, but will not alone sustain it given the rising cost of living in the area."

Cleveland: "A number of development projects, with the expectation of significant job creation, are expected to begin or be completed in 1988."

New Orleans: "The convention center expansion, the continuation of the Mississippi River Bridge construction, the aquarium, and the approved municipal bonds all create construction jobs. The convention center and the aquarium will add to the service-related jobs. If the city is awarded the NASA contract, the employment rate will increase, but the skilled workers required for the Michoud Plant will probably move into the city from other parts of the country. Other projects underway will provide tourism, retail and service jobs."

Portsmouth: "Unless defense spending is cut, which may negatively affect the unemployment figures, the unemployment rate will probably remain the same."

Providence: "The planned development for retail shopping and the continued growth of service industries should provide increased employment opportunities, if there is no turn down in the economy."

Los Angeles: "The unemployment situation would worsen in the event of a recession."

Phoenix: "Labor market demand for skilled and experienced workers in the high technology industries is expected to worsen the unemployment situation during 1988 for the homeless and the poor."

Saint Paul: "The performance of the national economy during 1988 will play a large role in determining our unemployment rate."

San Francisco: "As the size of the unemployed labor force increases, there will be greater competition for jobs. There is no anticipated improvement for the marginally employed."

The economic recovery

Officials in 16 of the survey cities (64 percent) reported that their city has benefited from the national economic recovery. Nine cities said their city had not benefited from the recovery. In contrast, officials in 20 of the survey cities—81 percent—said that the economic recovery has not helped hungry, homeless or other poor people in their city. In the five cities where the economic recovery has helped the poor, that help has often been indirect, through increased charitable giving and availability of services.

While many of the cities reported that they have benefited from the national economic recovery, they explained how the hungry, homeless and other poor people have not:

Boston: "The national recovery has had little impact on those in need in the city—as Boston and the region have been on an economic roll for some time. The local economic boom has, however, been felt by the poor. While the opportunity for employment has never been better, the challenge confronting Boston is to help those at the bottom of the economic ladder take their first few steps up while coping with the wild escalation in costs associated with basic needs for housing, food, clothing. The economic health of Boston continues to squeeze those at the bottom, making the goal of self-sufficiency increasingly illusive for many of Boston's families."

Philadelphia: "The chronically unemployed are not affected. The access to affordable housing has worsened. More persons are in shelter each day."

Portland: "The 'economic recovery' appears to have helped the middle income, employed person and to have some impact on those workers who recently were unemployed. They are finding other work. However, it appears to have no impact on the very poor in the city. The demand for hunger and homeless programs has increased. There visibly are more homeless people on the streets. Social service providers feel that there has been no economic recovery for the homeless or marginal people they work with. In fact, providing agencies question whether there has been much overall recovery at all."

Providence: "The economic recovery has not reached the poor because of the rise in the cost of housing. They've been unable to participate in the economic upturn. Any increases have been offset by high housing costs, and there are many low-paying jobs."

San Francisco: "Generally the business climate has improved, however this improvement has not been experienced by all segments of the population, particularly the poor, hungry, homeless or unemployed. Their situation has seriously deteriorated over the past two to three years; for them the gap is widening."

Trenton: "The economic recovery is currently reshaping the urban area. Neighborhoods and development areas are being demolished for renewal projects aimed at middle and upper-income populations. In fact, due to this, housing for low-income people has been reduced, and little or no federal funding is available to construct new, affordable housing projects."

Several of the cities which indicated that neither their city nor the hungry, homeless or other poor people in the city have benefited from the economic recovery described their problems:

Kansas City: "Economic growth in Kansas City is expected to increase by 2.5 percent in 1987, which is about the same as in 1986. This slow rate is the result of tax law changes which will inhibit business expansion. Consumer spending is expected to be slow, due to high debt levels and high prices. Thus, the national 'economic recovery' is not predicted to have a particularly favorable impact on the local economy in 1987. The poor in general have not been favorably impacted by local and national policies designed to treat the symptoms of their poverty. A major national thrust toward addressing the causes of poverty is no longer just a good idea; it is the only way this battle can be won."

Louisville: "The national recovery is a myth for many. We see less unemployment, but the positions are usually part-time without benefits. . . . Many families cannot meet their basic needs on their salary. That is why it is so very important that supportive services such as affordable housing, health care and child care be provided until they reach a salary level that meets their basic needs."

New Orleans: "The inability of the state to have an adequate tax base has meant that services are linked to the price of oil. We provided government service to residents with oil-related funds, which disappeared with the oil industry collapse. The dependence of the state on oil, the city on state and federal revenues, and health and social service agencies on these same sources has meant that resources continue to be scarce for the poor of the city."

Phoenix: "There hasn't been any noticeable or verifiable benefit from the nation's overall economic recovery in the Phoenix area, particularly as it relates to the depressed copper industry in Arizona. There hasn't been any significant increase in employment or economic opportunities for the homeless or other poor people."

San Antonio: "San Antonio has attracted much new industry; however, the city is also growing at a fast rate. The net increase of new jobs has not kept pace with the numbers of persons in the work force. There have been many programs that have been initiated or expanded to address the problems of the needy in recent years. However, budget deficits at federal, state and local levels have resulted in the same funding or reduction in funding for these programs at a time when the numbers of needy and poor persons are increasing."

Seattle: "The needs for stabilization are so severe and rooted in long-term change that the economic recovery has not positively impacted those who need long-term, substantial changes in their lives to break the cycle of homelessness."

Five cities reported that the economic recovery has helped the hungry, homeless and other poor people. Three explained this in terms of increased services and assistance:

Minneapolis: "Rent credits, which were cut, will be restored because of increasing tax revenues. Money allocated to homeless programs is growing."

Nashville: "There are many programs for homeless and poor people, including those operated by local government and charitable organizations. We feel that these programs might not have the funding available if we did not have the degree of prosperity which we have in this area."

San Juan: "Some categories of federal funds were used to help the San Juan homeless population by providing food, clothing, shelter."

Two cities cited some small gains for the poor. In Portsmouth, "new jobs have been created, however, the overall unemployment rate has not decreased significantly." Saint Paul officials said: "The economic recovery has probably helped some of the marginally poor of our city, who have benefited to a certain extent. However, it is not a case of "a rising tide lifting all boats." Many of the hard core impoverished are insulated from a general economic upturn and will not see any benefits without government assistance."

CITY DATA ON HUNGER

City	Percentage increase in demand for emergency food	Percentage increase in families' demand for emergency food in 1987	Percentage of families requesting emergency food in 1987	Level of resources	Food assistance facilities provide: Adequate quantity of food	Food assistance facilities provide: Nutritionally balanced food	Percentage of unmet need	Are people being turned away
Boston	20	20+	60	Increased	No	No	10	Yes
Charleston	NA	NA	95	do	No	Yes	NA	Yes
Chicago	32	32	47	do	Yes	Yes	28	Yes
Cleveland	10	NA	85	Same	Yeso	No	10	Yes
Detroit	21	6	60	Decreased	No	Yes	NA	Yes
Kansas	15	15	80	Increased	No	No	9	Yes
Los Angeles	8	20	75	([1])	No	No	20	Yes
Louisville	0	5	68	Increased	Yes	Yes	10	Yes
Minneapolis	16	NA	NA	Same	No	Yeso	0	No
Nashville	8	0	61.5	do	Yes	Yes	NA	No
New Orleans	20	20	70	Increased	Yes	Yes	20	Yes
New York City	20	20	85	Same	No	Yes	NA	Yes
Norfolk	17	30	63	Increased	Yes	No	23	NA
Philadelphia	25	NA	NA	do	Yes	Yes	2–3	Yes
Phoenix	18	25	50	do	Yes	Yes	20	No
Portland	11	15	50+	Same	Yes	Yes	0	No
Portsmouth	25	NA	60	Decreased	Yes	Yes	NA	No
Providence	20	25	90	Same	No	Yes	25	Yes
Saint Paul	15–18	20	70	Decreased	No	No	NA	No
Salt Lake City	0	NA	70	do	No	Yes	NA	No
San Antonio	7	6	92	Increased	Yes	No	5	Yes
San Francisco	30	15	40	do	Yes	Yes	5	No
San Juan	46	30	43	do	No	Yes	66	Yes
Seattle	12	14	46	Decreased	No	No	NA	Yes
Trenton	30	25	75	do	No	Yes	50	Yes
Washington	NA	NA	NA	Increased	No	No	NA	NA

[1] Funds decreased by 20 percent; food stayed the same; volunteers increased by 5 percent.

CITY DATA ON HOMELESSNESS

[Percentage composition of homeless population]

City	Percentage increase in demand for emergency shelter	Percentage increase in number of families	Families	Single men	Single women	Youth[1]	Mentally ill	Substance abusers	Working	Are people turned away	Yes No
Boston	10	10	20	65	15	0	32	29	[2] 25/10		X
Charleston	23	144	27	70	3	0	20	30	30	X	
Chicago	7		40	40	20	0	25	20	30	X	
Cleveland	10	20	13	66	16	5	10		6	X	
Detroit	15	15	40	35	23	2	[3] 9	30			X
Kansas City	44	3	43	29	22	6	30	16	35	X	
Los Angeles	25	40	30	45	15	10	27	27	10	X	
Louisville	0	0	15	75	10	0	40	40	10		
Minneapolis	20		16	80	4	0	40	50	5		X
Nashville	23		18	53	18	11	14	23	28	X	

CITY DATA ON HOMELESSNESS—Continued

[Percentage composition of homeless population]

	Percentage increase in demand for emergency shelter	Percentage increase in number of families	Families	Single men	Single women	Youth[1]	Mentally ill	Substance abusers	Working	Are people turned away Yes	No
New Orleans	20		20	60	10	10	35	30	15	X	
New York City	16	18	63	33	4	0	25	30			X
Norfolk	17	30	35	50	15	0				X	
Philadelphia	40	66	33	43	24	0	20	60	25		X
Phoenix	15	10	25	70	5	0	20	20	20	X	
Portland	12	15	52	31	12	5	20	60		X	
Portsmouth			60	27	13	0				X	
Providence	30	75	65	20	11	4	20	30	20	X	
Saint Paul	8	2	33	47	20	0	23	30	13		X
Salt Lake City	20	20	30	60	10	0	25	30	25		X
San Antonio	7	20	30	52	4	14			54		X
San Francisco	25		20	45	32	3	45	45	10	X	
San Juan	35	25	24	53	3	20	50	50	39	X	
Seattle	25		30	55	10	5	40	40	30	X	
Trenton	15	15	50	35	15	0	10	40	10	X	
Washington, DC	30	40	23	51	26	0	18		[2] 65/11		X

[1] Data on homeless youth is often not separated from those on single adults. Zero percentage does not necessarily mean that there are no homeless youth in the city.

[2] 25 percent single adults; 10 percent members of families; 65 percent single adults; 11 percent members of families.

[3] Includes only homeless individuals with documented history of mental illness.

CITY DATA ON HOUSING

City	Assisted housing demand in 1987	Average wait in months	Stopped accepting applications Yes	No	Percent low-income households served
Boston	Increased	([1])		X	63
Charleston	do	24+	X		40
Chicago	do	([2])	X		45
Cleveland	do	12		X	85
Detroit	do	14		X	13
Kansas City	do	6–18	[3] X		60
Los Angeles	do	24	X		5
Louisville	do	36	[3] X		NA
Minneapolis	NA	12	X		15
Nashville	Increased	36	[3] X		50
New Orleans	do	24–48	X		25

CITY DATA ON HOUSING—Continued

City	Assisted housing demand in 1987	Average wait in months	Stopped accepting applications Yes	No	Percent low-income households served
New York City	Same	NA		X	NA
Norfolk	Increased	NA		X	40
Philadelphia	do	12–48		X	10
Phoenix	Same	4–36	X		20
Portland	Increased	3–6	[3] X		38
Portsmouth	do	18	X		NA
Providence	do	24	X		NA
Saint Paul	do	NA	X		NA
Salt Lake City	Same	18		X	50
San Juan	Increased	NA	X		30
San Antonio	do	12–36	X		15

CITY DATA ON HOUSING—Continued

City	Assisted housing demand in 1987	Average wait in months	Stopped accepting applications Yes	No	Percent low-income households served
San Francisco	do	30	X		NA
Seattle	do	5–24	[3] X		([4])
Trenton	do	24–36		X	25
Washington, DC	do	([5])		X	50

[1] Varies by type.

[2] Section 8, 10 years, otherwise varies by type.

[3] Have stopped accepting applications for section 8 only.

[4] 44 percent for families, 70 percent for elderly.

[5] 12 months for elderly, 96 months for families.

CITY DATA ON ECONOMIC CONDITIONS

City	Poverty in 1987	Unemployment situation in 1987	Unemployment situtation in 1988	Economic recovery helped city	Economic recovery helped poor
Boston	Increased	Same	Same	Yes	No
Charleston	Same	do	do	No	No
Chicago	Increased	do	do	No	No
Cleveland	do	Improved	Improve	NA	NA
Detroit	do	Same	Worsen	No	No
Kansas City	do	Worsened	do	Yes	No
Los Angeles	do	Improved	do	Yes	No
Louisville	do	do	Improve	No	No
Minneapolis	Same	Same	Same	Yes	Yes
Nashville	Increased	Improved	Improve	Yes	Yes
New Orleans	do	do	do	Yes	Yes
New York City	NA	do	NA	Yes	No
Norfolk	Increased	NA	NA	Yes	No
Philadelphia	Decreased	Improved	Same	Yes	No
Phoenix	Increased	Worsened	Worsen	No	No
Portland	do	Improved	Same	Yes	No
Portsmouth	Same	Same	do	Yes	Yes
Providence	Increased	Improved	Improve	Yes	No
Saint Paul	Same	do	NA	Yes	Yes
Salt Lake City	Increased	Worsened	Worsen	No	No
San Antonio	Same	do	NA	No	No
San Francisco	Increased	Same	Worsen	Yes	No
San Juan	do	Improved	Same	Yes	Yes
Seattle	do	do	Improve	Yes	No
Trenton	do	Same	Same	No	No
Washington, DC	Same	Improved	do	NA	No

TASK FORCE ON HUNGER AND HOMELESSNESS

(Raymond L. Flynn, Boston, Chair)

(Federico Pena, Denver, Vice Chair)

Jerry Abramson, Louisville.
Marion S. Barry, Jr., Washington, DC.
Sidney J. Barthelemy, New Orleans.
Richard Berkeley, Kansas City, MO.
William H. Boner, Nashville.
Tom Bradley, Los Angeles.
Henry Cisneros, San Antonio.
J. E. "Bud" Clark, Portland.
Baltasar Corrada del Rio, San Juan.
Palmer DePaulis, Salt Lake City.
Dianne Feinstein, San Francisco.
Donald Fraser, Minneapolis.
Terry Goddard, Phoenix.
W. Wilson Goode, Philadelphia.
Arthur J. Holland, Trenton.
James W. Holley III, Portsmouth.
Edward I. Koch, New York City.
George Latimer, Saint Paul.
Joseph A. Leafe, Norfolk.
Angelo R. Martinelli, Yonkers.
Joseph Paolino, Jr., Providence.
Joseph P. Riley, Charleston, SC.
Charles Royer, Seattle.
Xavier Suarez, Miami.
George V. Voinovich, Cleveland.
Coleman A. Young, Detroit.●

THE GUARANTEED STUDENT LOAN PROGRAM

● Mr. HATCH. Mr. President, along with Senator KENNEDY, I would like to state that last week the Senate passed the deficit reduction package proposed

by the Leadership Summit Agreement on the Budget. With respect to the Guaranteed Student Loan, or GSL Program, which falls within the authorizing jurisdiction of the Labor and Human Resources Committee, the Summit Agreement required a reduction in outlays in fiscal year 1988 by collecting approximately $250 million in "excess reserves" now held by guaranty agencies participating in the GSL Program. This proposal was based on a study done by the General Accounting Office. Legislative language drafted by the House and Senate Budget Committees to accomplish this result was included in the deficit reduction package passed by the Senate.

Time did not allow the Subcommittee on Education, Arts and Humanities or the Labor and Human Resources Committee to review this proposal fully or to develop alternative savings. We, as chairman and ranking minority member, informed the Senate Budget Committee that the Labor and Human Resources Committee has grave concerns about the impact of the spend-down proposal on the viability of some guaranty agencies and, thus, on the stability of the GSL Program as a whole. We note that approximately a decade ago, at a time when only about half of the States had guaranty agencies, Congress enacted changes in the GSL Program to ensure a guaranty agency in each State. Congress believed that reform necessary to guarantee access to the Guaranteed Student Loan Program to students across the country.

Mr. President, many of our colleagues on both sides of the aisle have informed us of their concerns, and the concerns of their States' agencies, about the effect of this spend-down of reserves proposal. Therefore, at their request we would like at this time to insert into the RECORD the letters of several guaranty agencies and various State officials on this subject. This package articulates the range of reservations shared by the members of the Labor and Human Resources Committee.

The material follows:

MASSACHUSETTS HIGHER
EDUCATION ASSISTANCE CORP.,
December 15, 1987.

Hon. EDWARD M. KENNEDY,
Committee on Labor and Human Resources, Washington, DC.

DEAR SENATOR KENNEDY: The executive officers of Massachusetts Higher Education Assistance Corporation strongly oppose the guarantee agency spend-down concept as proposed in the 1987 reconciliation bill for the following reasons:

1. The proposed spend-down recommendation seriously violates existing contracts between the Department of Education and guarantors or guarantors and their lending community. In addition, the spend-down appears to ignore the impact on guarantors of 1986 reauthorization and proposed regulatory changes.

2. The spend-down recommendation appears to suggest that all agency funds including past accumulations would be subject to this spend-down requirement. Present funds have been accumulated under current and past contracts which may not have restricted our use of funds. The proposal appears to suggest the retroactive altering of the current contractual relationship between agency and the Department by encumbering previously unencumbered funds.

3. The spend-down mechanism calls for guarantee agencies to pay lender claims as a method to reduce "excess reserves." Our reinsurance agreement with the Department of Education stipulates that we will be paid reinsurance at a set rate based on specific criteria. Changing the rate on loans already guaranteed is a violation of our contract.

4. The use of agency funds to pay default claims without the Department providing reinsurance results in a non-reinsured loan. This would create an ownership conflict and confusion regarding the administration of collections on the default portfolio.

5. Finally, a spend-down proposal carries a fundamental flaw—it ignores future expenses and liabilities relating to current activity.

Thank you for your attention.

Sincerely,

JOSEPH M. CRONIN,
President.

STATE BOARD OF REGENTS,
UTAH SYSTEM OF HIGHER EDUCATION,
Salt Lake City, UT, December 4, 1987.

Senator ORRIN HATCH,
Washington, DC.

DEAR SENATOR HATCH: The Utah Higher Education Assistance Authority (UHEAA) has analyzed the impact of the proposed deficit reduction legislation designed to recover "excess cash reserves" under the Guaranteed Student Loan Program. The implementing language contained in the enclosed draft section (SAC 333) contains provisions that would threaten the ability of UHEAA to continue to function under current conditions. The proposal is not equitable among guarantee agencies. It is unworkable for Utah and probably for the eleven other states with statutory minimum reserve requirements.

First, it appears that combined guarantee and operating fund reserves would have to be reduced to the State minimum level. This represents a classic "catch 22" for Utah, Colorado, Georgia, Iowa, Kentucky, Michigan, Nevada, North Dakota, Ohio, Tennessee, Vermont and Virginia. These States would be required to have reserves no larger than the minimum required by state law unless their default loan claims rate in the previous year had been excessively high. Since there would be no operating balances allowed and no way to pay claims without violating state law, the programs in these states would not be able to continue operating under current conditions.

For example, Utah's reserves apparently would be reduced by three-fourths, or $8.7 million (from $11.8 million to $3.1 million), if the draft language is applied to FY 1987 figures. This would leave the guarantee agency with a total cash reserve of 1.0% of the total amount guaranteed as of 9/30/87. That is the minimum required by state law. But the next additional loan guaranteed would cause the reserves to be below the legal requirement. Also, there would be no funds retained to pay operating expenses. The 1987-88 operating budget for UHEAA is $1.9 million and defaulted claim purchases are expected to be about $5.0 million. (The circumstances would be similar if the present draft language is applied to FY 1986 figures.)

Even in states without statutory minimum guarantee fund reserve ratios, existing bond covenants in many cases would be violated at the reserve levels proposed in the deficit reduction legislation. It is imperative that additional reserve amounts be allowed to cover claims in process for federal insurance plus an amount of operating reserves equal to a minimum of the previous year's operating budget. (See suggested change number 1).

Second, the proposed action as outlined in the draft language would remove for Federal budget purposes state funds advances designed to provide added fiscal stability. The Utah Board of Regents advanced $2.5 million to the Utah Guarantee fund for the purpose of strengthening the guarantee fund above statutory minimums. The advance was made explicitly on the basis it will be returned to the Board of Regents when no longer needed to strengthen the guarantee fund. The proposed Federal action would treat these funds as "excess" and capture them. State funds, whether appropriations or advances from other agencies, should be excluded from a calculation of "excess reserves." (See suggested change number 2).

Finally, approximately $2.7 million of the balance reflects a prudent management decision—based on accounting recommendations by Touche Ross under contract with the U.S. Department of Education—to amortize a portion of guarantee fees to future years to cover operating expenses associated with those loans in that period. In our survey response to the GAO, these operating reserves were excluded from funds currently available to meet State legal minimums. The proposed legislation makes no such distinction and would capture all balances, even the deferred revenues accounted for with previous Federal concurrence and in accordance with sound accounting principles. These funds should be excluded from the calculation of current excess reserves. (See suggested change number 3).

We need your help—urgently! We are aware that significant Federal deficit reductions are needed and that the Guaranteed Student Loan Program must bear its fair share. We are of course prepared to contribute our fair share from the Utah Program. We cannot believe that there is an intention to jeopardize the soundness of the guaranteed loan program, which makes higher education opportunities available for more than 20,000 students annually in Utah alone, or to penalize those states that have been conservative in their program and financial management and have loaned other state funds to improve the soundness of their guarantee reserve funds. Yet, perhaps inadvertently and unintentionally, these results will occur if the present draft language is not changed.

We are enclosing a markup with some suggested changes in the draft legislation, which would correct the most serious errors in the present draft and enable the guarantee agencies to continue operating while at the same time leaving the requirement for elimination of true "excess reserve." We hope you and the other members of the Utah Congressional Delegation will advocate the incorporation of the suggested changes in the final version.

Sincerely,

W. EUGENE HANSEN,
Chairman, Utah State Board of Regents.
W. HUGHES BROCKBANK,
Chairman, Utah Higher Education Assistance Authority.

STATE OF UTAH,
OFFICE OF THE GOVERNOR,
Salt Lake City, December 15, 1987.
Hon. JAKE GARN,
U.S. Senate, Washington, DC.

DEAR SENATOR GARN: I am strongly committed to the requirement for bold action to reduce the federal budget deficit, and the need for participation and sacrifice by all recipients of federal financial assistance.

However, as I have reviewed the provisions applicable to the Guaranteed Student Loan Program, it appears to be unworkable for Utah and probably for eleven other states with statutory minimum reserve requirements. Over the long run, it could put Utah's Guaranteed Student Loan Program and other state programs out of business. The Utah program makes higher education opportunities available to 20,000 students.

The draft legislation creates a "Catch 22" for Utah, Colorado, Georgia, Iowa, Kentucky, Michigan, Nevada, North Dakota, Ohio, Tennessee, Vermont, and Virginia. These States would be required to have reserves no larger than the minimum required by state law unless their defaulted loan claims rate in the previous year had been excessively high. Under the draft proposal, no operating balances would be allowed and claims couldn't be paid without violating state law, therefore, the programs in these states could not continue operating.

Utah's reserves, for example would apparently be reduced by three fourths or $8.7 million—from $11.8 million to $3.1 million—if the draft language is applied to FY 1987 figures. This would leave the guarantee agency with the 1 percent reserve required by state law. However, the next additional loan guaranteed would cause the reserves to fall below the legal requirement. Also, no funds would be available for operating expenses. Utah's 1987-88 operating budget for UHEAA is $1.9 million and defaulted claim purchases are expected to be approximately $5 million.

Second, the draft proposal would remove for federal budget purposes state fund advances designed to provide added fiscal stability. The Utah Board of Regents advanced $2.5 million to the Utah Guarantee Fund for the purpose of strengthening the guarantee fund above statutory minimums. The advance was made on the basis it will be returned to the Board of Regents when no longer needed to strengthen the guarantee fund. I think it is inappropriate for these state funds to be captured by the federal government as "excess." State funds should be excluded from a calculation of excess reserves.

Third, approximately $2.7 million of Utah's reserves reflects a prudent management decision based on accounting recommendations from Touche Ross under contract with the U.S. Department of Education. The $2.5 million is to amortize a portion of guarantee fees to future years to cover operating expenses associated with those loans in that period. These funds should be excluded from the calculation of current excess reserves.

Utah is, of course, willing to contribute its fair share to reducing the federal deficit. However, in accomplishing this I hope Congress endeavors to avoid punishing states such as Utah that have been conservative in their financial management.

I have conferred with Utah higher education leaders on this subject and endorse the markup copy of the Board of Regents sent to you with some suggested changes in the draft legislation. These changes would maintain the spirit of the draft legislation by eliminating true excess reserves, but it would protect state dollars and necessary operating funds from being calculated as "excess reserves." I hope you and other members of the Utah Congressional Delegation will seriously consider these suggested changes.

Sincerely,

NORMAN H. BANGERTER,
Governor.

HEAF,
Overland Park, KS, December 4, 1987.
Hon. ORRIN G. HATCH,
Russell Senate Office Building, Washington, DC.

DEAR SENATOR HATCH: The pending budget reconciliation bill contains a provision that requires the Guaranteed Student Loan Program to make a significant contribution to reducing the federal deficit. I am compelled to advise you that the manner in which guarantee agencies may be required to reduce the federal cost of the program by $250 million in FY 1988 has adverse potential consequences that will have to be rectified soon.

Our concerns about the legislation as it has been described to me are:

1. The criteria for limiting the amount of cash reserves a guarantee agency may retain do not adequately protect agencies that have rapidly increasing risks and costs of defaults in their loan portfolios. Conversely, the criteria allow agencies with declining risks and costs of defaults to retain reserves.

2. Legislation that compromises existing agreements of guarantee agencies with lenders, bond underwriters and investors will jeopardize loan availability, because the affected parties will no longer be able to rely on existing contracts to assure their future interests.

3. Using 1986 data to judge the financial viability of guarantee agencies is unnecessary and inappropriate when 1987 will be available.

We are willing to work with Congress to reach its goal of significantly reducing the federal deficit even if it means reducing reserves of agencies. However, the proposed legislation, if as described to me, will force us to seek relief through the appeal procedure and the courts if necessary to protect our lenders and assure them of our ability to fulfill our existing obligations and future responsibilities to them.

Sincerely,

RICHARD C. HAWK,
Chairman of the Board.

STATE STUDENT
ASSISTANCE COMMISSION,
Indianapolis, IN, November 20, 1987.
Re Committee on the Budget.
Hon. DAN QUAYLE,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR QUAYLE: The State Student Assistance Commission of Indiana (SSACI) serves as a guarantee agency for the Guaranteed Student Loan Program (GSL) in the state of Indiana. This agency has been advised that recently the General Accounting Office (GAO) prepared certain recommendations for dealing with the federal budget deficit. Among the recommendations, we are informed that the GAO has suggested a spend-down of guarantee agency reserves to 0.4% of the original principal amount of outstanding guaranteed student loans as of September 30, 1986 (this recommended formula would apply only to states, such as Indiana, with no statutory reserve requirements in effect on October 17, 1986).

This agency has maintained cash reserves in excess of 1% of the aggregate amount of unpaid principal and interest on SSACI-guaranteed student loans. This practice has been followed pursuant to the requirements of SSACI Regulation 15. This regulation mandates this agency to maintain the reserve designated in the lender agreements for participating GSL lenders in this state. Indiana has executed more than 470 such agreements requiring a 1% reserve pursuant to the above requirements. As this agency is required to maintain a 1% reserve under our lender agreements, the GAO proposal would run contrary to the terms of our existing lender agreements. The implications of this deviation from the terms of our agreements include a threat of litigation against the state of Indiana and jeopardy to the continued availability of the GSL Program in this state.

This office would strenuously oppose the recommended reduction of our reserve requirement for the reasons stated above and because it is felt the GAO's proposals need more study and that these proposals could be counter-productive.

Thank you for your consideration.

Respectfully submitted.

DENNIS A. OBERGFELL,
Director, Indiana Education Loan Programs.

MARYLAND HIGHER EDUCATION
LOAN CORP.,
Baltimore, MD, November 30, 1987.
Mr. KEN MANNELLA,
Governor of Maryland's Office, Washington, DC.

DEAR MR. MANNELLA: Maryland Higher Education Loan Corporation, created in 1963 by the General Assembly of Maryland, is non-profit non-stock corporation. The Corporation's business purpose is to provide student assistance through a guarantee to the lenders in the program that, in the event of default, the Corporation will purchase the outstanding principal and interest of any loans defaulted.

The current budget proposals being discussed by the Congress, specifically, the proposed spend down plan of agency reserves, will significantly impact the operation of this Corporation. The reserves in question are designed to pay for defaulted loans. In addition, the income earned on the reserves contribute approximately 40% to the payment of our operating expenses. The proposed plan to reduce the reserve levels will reduce operating income by approximately $1,000,000. This loss of income will have to be replaced by another source or the Corporation will have a problem in paying its daily operating expenses. Another issue to consider is the agreements in effect with the lending community that require the Corporation to maintain 1.6% of all outstanding loans in reserve. The proposed spend down plan will leave our reserves at a level less than the required level and will weaken the confidence in our program. Some lenders have stated they would be unwilling to participate in the program without a negotiated change in the lender agreements.

The reserves were $25,174,992 at September 30, 1986 per the Department of Education. The reserves at September 30, 1987 are $29,474,878 excluding the Federal Advance outstanding of $716,706. The proposed spend down plan would require the Corporation to return $11,453,650 to the Federal Government. I have enclosed a draft report showing DOE's calculations.

The reserve balance has accumulated over the past 23 years from several sources. The first is the initial $1,000,000 provided by the State of Maryland to get the program off the ground. The second and the largest source is from the students who pay an insurance premium to get the guarantee. Since inception of the program through September 30, 1987, students have paid $17,196,220 in excess of the Secretary's Equitable Share; i.e. the 10 and 20 percent of defaulted loans in the Federal Fiscal years that the default rate exceeded 5%, which was paid by the Corporation. Another major source is from investment income earned on the reserve. Cumulatively this amount is $15,181,765. Through June 30, 1982 the State of Maryland provided all operating expenses through General Fund appropriation. This enabled the Corporation to build the reserves to the level they are today. Through June 30, 1986 the State of Maryland funded all lender incentive fee payments. Any Administrative Cost Allowance received for the periods prior to June 30, 1986 was returned to the State in the proportion of state funding to total operating expenses. The ACA is used to cover operating expenses and has been expended for that purpose. Thus, there are no federal funds included in the amount proposed to be returned to the Federal Government through deficit reduction. I have enclosed a statement of sources and uses of funds at September 30, 1986 and 1987 that may give you a better idea of how the reserves have been built up over the years.

If I can be of any further assistance do not hesitate to call me.

Very truly yours,

DAVID MANNING,
Deputy Director.

STATE OF MICHIGAN,
DEPARTMENT OF EDUCATION,
Lansing, MI, December 10, 1987.

Hon. CARL LEVIN,
U.S. Senator, Senate Russell Office Building, Washington, DC.

DEAR SENATOR LEVIN: I am writing to you to call your attention to a serious problem impacting the Guaranteed Student Loan (GSL) Program here in Michigan. The problem results from an item in the current Budget Reconciliation/Deficit Reduction Proposal which would result in the elimination of $234 million nationally in reserve funds held by state student loan guaranty agencies. While I recognize the importance of the deficit reduction efforts, the proposal relative to the Guaranteed Student Loan Program has potentially damaging impacts for a number of states throughout the country and the proposal is further flawed in that it unfairly discriminates on a relatively small number of states, including Michigan.

It is my understanding that the proposal relating to the Guaranteed Student Loan Program is based upon a recent report from the General Accounting Office even though that report has not been adequately reviewed and even though some of the conclusions drawn in that report are subject to serious dispute. The proposal is discriminatory in that approximately ten states, including Michigan will be required to provide more than 50% of the $234 million in savings to be achieved nationally. Michigan will be expected to spend $14.9 million of its reserve funds while several other states such as California, Illinois, New York and Texas will not be required to spend any of their reserve funds. Several of the other states which will be required to make a heavy contribution include North Carolina, Ohio, Virginia and Wisconsin.

In our estimation it is unfair to penalize those states which have been frugal in utilizing student loan reserves in prior years. It is our understanding, for example, that at least one or two other states will escape the need to spend down their reserve funds because several years ago they transferred some of their reserve funds from the loan program to supplant state appropriations for scholarship and grant programs. Here in Michigan, despite the severe economic problems of recent years, we have always restricted revenues from the student loan program to cover legitimate expenses of operating a guaranty agency. It now appears that this conservative administrative practice will result in our having to bear an inordinately heavy portion of the proposed GSL reduction as part of the budget deficit reduction program.

It should be further noted that the proposed spend-down of guarantee reserves will place some states, including Michigan, in potential violation of contractual obligations. Our guaranty agency has contracted with hundreds of Michigan lenders on the premise that the guaranty agency would maintain a reserve fund equal at all times to at least 2.0% of outstanding loan obligations. As of September 30, 1987, had we been required to spend down our reserve fund by the proposed $14.9 million while also returning $2.8 million of federal loan advances, our total reserve fund would have been reduced to 1.89% of the outstanding loan obligations. This in effect would result in the shutdown of the GSL Program in Michigan.

A further point of concern is that the loss of reserve funds and the return of federal advances will result in an estimated $1.25 million loss in interest earnings during the next fiscal year. The loss of the investment earnings will further weaken the financial stability of our state guaranty reserve.

We have no objection to efforts to achieve cost savings in the Guaranteed Student Loan Program. There are alternatives available including fairer ways of achieving cost reductions rather than imposing mandatory spending on the part of a limited number of state guaranty agencies. Because of the limited timeframe within which the Budget Reconciliation/Deficit Reduction Proposals are being debated, I urge you to take immediate action to share our concerns with your colleagues. In particular, I urge you to convey our concerns to Senator Lawton Chiles of Florida whose committee will be instrumental in the final disposition of this matter.

Mr. Ronald Jursa, Director of our Student financial aid programs, has previously discussed this matter with Jackie Parker of your staff. If additional details are needed, please feel free to call Mr. Jursa at (517) 373-3399.

Sincerely,

GARY D. HAWKS.

THE MONTANA UNIVERSITY SYSTEM,
Helena, MT, December 9, 1987.

Hon. MAX BAUCUS,
U.S. Senate,
Washington, DC.

DEAR MAX BAUCUS: I have been examining the fiscal impact from the proposed legislation that recovers excess cash reserves accumulated under the Montana Guaranteed Student Loan Program. I believe the proposed legislation is in Senator Childs' Senate Budget Committee.

Senator, this is a very close call for Montana. It places us on the brink of violating a contractual agreement with Montana's secondary market, MHESAC. We are required to maintain a minimum guarantee fund as of any date of calculation of one and one half percent (1 & ½%) of the unpaid principal amount of all student loans guaranteed by the Board of Regents.

Maintaining a reserve of less than 1 & ½% jeopardizes the bonding agreement with the secondary market. The secondary market would lose their credibility with the investors which would place their present financings in a precarious position by potentially lowering their rating and marketability. Future bond issues would also be jeopardized. If we can not honor this agreement, the agency would be contractually obligated to stop guaranteeing additional student loans. Such action would deprive Montana students access to this financial aid program.

My calculations are based on our cash reserves of $3,946,935 as of September 30, 1987. From that deduct the "422 (c) advances" that have been made to the agency amounting to $734,173. Further deduct excess cash reserves identified by the GAO report amounting to $1,067,761. This would leave us a cash reserve balance of $2,145,001. My best estimate of loans outstanding today is $146,525,030. Since our agreement requires a minimum cash reserve of 1 & ½% of loans outstanding, we would be obligated to have a cash reserve of $2,197,876. Our cash reserve would be short by $52,825. I have provided the calculation on the enclosed attachment.

Since September 30, 1987 we have guaranteed numerous loans that are still outstanding. Since this is a peak loan period, guaranteeing more loans than are being paid off would exasperate our dilemma.

I realize that I have assumed that the agency could send the excess cash reserves immediately. This may not be the case, but since the figures are so borderline, prudent management requires me to request your help in defeating the proposed legislation.

I am asking you to approach Senator Childs and request that the committee take negative action on the proposed legislation. If the bill is through the committee, I request you vote "nay" on the bill.

Do I have an alternative solution? Several have been offered and I am sure Senator Childs has heard most of them. I guess one that is most appealing to me at this time is:

1. Maintain the Gramm-Rudman requirement: 5.5% origination fee on guaranteed student loans and a 3% special allowance rate.

2. Allow the following amendments to the proposed legislation (copy attached):

a. Page 2, line 1—replace—"(D) $500,000; or" with "A five million dollar minimum reserve."

b. Page 2, between line 4 and 5—insert—"The amount required to comply with contractual obligations plus an amount equal to the budgeted fiscal obligations for the next fiscal year."

Your senatorial colleagues from other rural states like ourselves have been contacted as well by their respective guarantee agencies. Many, if not all, are in a similar predicament.

I appreciate your assistance and would gladly discuss this with you or your staff further.

Sincerely,

BILL LANNAN,
Director, Montana Guaranteed Student Loan Program.

Montana Guarnateed Student Loan Program—Cash Reserve Analysis

1. Cash Reserves (as of 9/30/87)	$3,946,935
2. Less 422(c) advances	734,173
3. Less "GAO" excess reserves	1,067,761
4. Net cash reserves	2,145,001
5. Estimated loans outstanding	146,525,030
6. Times 1.5% (required net cash reserves)	2,197,876
7. Difference line 6 minus line 4. This is a best case scenario	−52,875

Our projection for the difference (line 7) as of Jan. 1, 1988, will be approximately (−$400,000).

NEW MEXICO STUDENT
LOAN GUARANTEE CORP.,
Albuquergue, NM, December 9, 1987.

To: Hon. Pete V. Domenici, U.S. Senator; Hon. Jeff Bingaman, U.S. Senator; Hon. Manuel Lujan, U.S. Representative; Hon. Bill Richardson, U.S. Representative; Hon. Joe Skeen, U.S. Representative; Hon. Orrin Hatch, U.S. Senator—Utah.

From: John H. Merrett, President, New Mexico Student Loan Guarantee Corp.

NEW MEXICO STUDENT LOAN
GUARANTEE CORP.,
Albuquerque, NM, December 7, 1987.

Hon. PETE V. DOMENICI,
U.S. Senator, Dirksen Senate Office Building, Washington, DC.

DEAR SENATOR DOMENICI: I am writing to convey my concerns about the impact that a provision of the proposed budget deficit reduction plan will have on the New Mexico Guaranteed Student Loan Program. The New Mexico Student Loan Guarantee Corporation (NMSLGC) was created by the state legislature as of July 1, 1981 to act as the non-profit guarantor for the New Mexico Guaranteed Student Loan Progam.

Over the years, the Corporation has accumulated a guarantee fund of about $2.76 million. The deficit reduction plan would reduce this guarantee fund by $1.5 million by requiring the NMSLGC to fund 100% of the defaults submitted up to that amount. This provision would have a serious, negative impact on both the financial condition of the NMSLGC and the continued operation of the student loan program in New Mexico. The financial condition and revenues of NMSLGC would be substantially impaired. With total assets of $3.38 million currently, the proposed reduction would wipe out about 44% of the Corporation's asset base. In addition, NMSLGC relies on investment earnings as a substantial portion of the revenues which are necessary to pay its ongoing operating expenses. During past years, investment earnings have ranged from 13.5% to 18% of total revenues. Operating expenses for the year ended June 30, 1987 were $1,157,000. Total earnings retained by the NMSLGC in excess of the $2.7 million total only $59,470. Obviously, the loss of this revenue source will seriously impair the Corporation's ability to meet its operating expenses.

Even more important, however, is the impact of this provision on the overall operation of the New Mexico Guaranteed Student Loan Program. The program in New Mexico has operated effectively through the years due to the active participation of over 40 lenders throughout the state, the existence of the secondary market provided by the state's non-profit lender, the New Mexico Educational Assistance Foundation (NMEAF), and the vigorous collection effort pursued by both NMEAF and NMSLGC. The financial stability of NMSLGC and the existence of strong reserves for claims payments provides lenders with the confidence necessary for them to participate in the program. A few years ago, the private lending community within New Mexico completely ceased participation in the previously existing Federally Insured Student Loan (FISL) program. This was due in part to problems they encountered having their default claims paid. It has been the existence of a local guarantor and the assurance, by the maintenance of a strong guarantee fund, that claims would be adequately covered that have provided a basis for renewed participation. Maintenance of a strong guarantee fund was a primary concern at the time that NMSLGC was incorporated. In order to insure that the desired strength would be maintained, the by-laws were written to include a requirement that a guarantee fund of at least 1.5% of total guaranteed loans outstanding be maintained. The guarantee fund currently is approximately 2% and would fall below the 1.5% level if the provision were implemented.

The strength of the guarantee fund has also contributed greatly to the ability to issue bonds to provide funding for the program. Bonds to provide funding for loan originations and secondary market purchases are issued by the NMEAF. A favorable rating is obtained by having in place a credit facility to guarantee bond payment in the event of default. The credit facility is obtained based not only on the strength of NMEAF, but also the underlying guarantee fund which exists within NMSLGC that provides the assurance that default claims can be 100% paid, even if the default rate should dictate a reduced federal reinsurance.

In addition to the direct financial impact on the New Mexico program, there also is what I believe to be an unintended result from this provision which affects all guarantee agencies. Guarantee fees received by any guarantee agency are not restricted to use in paying claims. They may also be legitimately used for operating expenses, capital acquisition or any other expenditure consistent with the organization's purpose. The prudent, frugal use of the organization's resources allows it to accumulate guarantee funds. Extravagant use of the same resources would result in little or no guarantee funds having been developed. Under this provision, the organization which has accumulated guarantee funds through efficient utilization has the funds stripped from it. The organization which has squandered its revenues with no regard for the development of a strong guarantee fund is left untouched. This certainly implies that there has been little consideration given to whether the programs that exist are contributing to or reducing the deficit problem by their operations.

The New Mexico program has had a default rate below 5% since the inception of NMSLGC and NMEAF in 1981. This is due directly to the vigorous collection effort pursued by both organizations. NMSLGC has maintained a strong guarantee fund because it has operated within its available revenues, restricting the amount of excess of revenues over expenses attributable to guarantee fees to the payment of claims. The operation of NMSLGC in this manner would be severely threatened by this action, as would the continuation of the New Mexico Guaranteed Student Loan Program at the current level of service to the residents and students of New Mexico.

The more serious consequences are that the NMSLGC has contracts with lenders, bondholders and banks that require that the NMSLGC maintain at least a 1.5% reserve fund. If the NMSLGC were to drop below this level we have been advised by bond counsel that we are in default of our contractual obligations and would be subject to legal actions by the parties that we have breached our obligations. The consequences of these events could be very serious.

We have been advised by Bond Counsel that NMSLGC would have to stop guaranteeing loans for New Mexico residents and resist any efforts on the part of the Federal Government to take reserve funds in order for us to maintain our contractual commitments and not subject ourselves to legal actions.

In light of these circumstances I am asking that serious consideration be given to this entire matter but at a minimum that the legislation provide for treating our contractual obligations in the same manner as those obligations that are required by state statutes.

I want to assure you that we are willing to do our part in reducing the deficits, however, we must maintain our ability to comply with our contractual obligations.

Sincerely,

JOHN H. MERRETT,
President.

NORTH CAROLINA STATE EDUCATION
ASSISTANCE AUTHORITY, UNC RESEARCH TRIANGLE PARK BUILDING,
ALEXANDER DRIVE, RESEARCH TRIANGLE PARK,
Chapel Hill, NC, November 25, 1987.

Hon. TERRY SANFORD,
U.S. Senate, Hart Building, Washington, DC.

DEAR SENATOR SANFORD: I write to you on behalf of the Board of Directors of the North Carolina State Education Assistance Authority to register our serious objection to a provision of the budget deficit compromise reached last Friday by conferees. It is our understanding that contained within the budget savings proposed by conferees is an amount of $234 million in FY 88 to be derived by the imposition of a provision to require States to "spend down" their reserves for the Guaranteed Student Loan Program (GSLP) before payment of Federal reinsurance claims.

Under the GSLP program, guarantors consisting of state agencies and nonprofit entities would be required to first spend guarantee reserves before exercising the reinsurance provision that requires the Secretary to reimburse an agency for a defaulted student loan claim paid to an eligible lender. While not expressing a legal opinion on the matter, we feel this change is a violation of contractual rights.

The General Accounting Office (GAO) told conferees that immediate savings of $234 million could be realized in the GSLP if their recommendations were adopted. The proposal for savings was contained in a draft report that never was given the opportunity to be debated by affected parties but rather was rushed to the conferees without adequate study of the impact it will have. We believe the GAO draft was not adequately reviewed nor commented upon and contains factual errors. The forecast savings clearly cannot be realized since the data were for the year ending September 1986, one year old information.

One of the most disturbing effects of the the GAO formula is the reward it gives to the States or agencies that have the highest default rates and, in most cases, the lowest recovery rates. These States or agencies will be rewarded by not being required to "spend down" their reserves before applying for a reinsurance payment (see attached table). An agency such as North Carolina that ranks, according to Federal FY 86 data, 45th in the nation in net default rate and sixth in recovery rate of those defaulted dollars would be penalized by being required to spend $17.2 million of our funds before being eligible for Federal reinsurance. We have, incidentally, voluntarily returned all Federal advances under this program to the Secretary.

We strongly object to implementation of the "spend down" agreed to by the conferees on the following grounds:

1. The process is unfair and unjust in that a State is asked to use its own reserves in order to carry out Federal policy in a Federal program where virtually all cost control elements are vested in the Secretary of Education's ability to write regulations.

2. Adoption of this principle proposed by the GAO gives completely the wrong signals to participants. Guarantee entites with high default rates get rewarded while guarantors such as North Carolina, Virginia, Georgia and South Carolina with low rates of default are penalized.

3. The GAO report was adopted in a "rush to judgment" atmosphere. It contains many ill thought-out consequences if pursued as public policy.

4. The savings forecast by the GAO report are not real since the data calculation was at 9/30/86. If the same formula is carried out in our case for the 9/30/87 period, the "reserves available for spend down" decrease from $17.2 million to less than half that figure.

5. The reserve "spend down" is an abrogation of contract rights of suspect legal validity both with respect to the contract rights that exist between the Secretary and the States or agencies and between the guarantors and eligible lenders who have advanced funds for loans with the assurance of the intergrity of the reserves behind such guarantees.

We are not unmindful of the task before the conferees or before the Congress in reducing the Federal deficit. However, we do not believe that the reserve "spend down" provision of the conferees' agreement will achieve that objective without rendering substantial damage to the credibility of the agreements that exist between the States and the Federal government.

Very truly yours,

STAN C. BROADWAY,
Executive Director.

STATES REQUIRED UNDER GAO FORMULA TO PAY NOTHING AS RESULT OF "SPEND DOWN" PROVISION

[Dollar amounts in millions]

State	Rank in volume of loans made fiscal year 1986	Default claims paid fiscal year 1986	Rank net default rate	Rank recovery rate	Reserves required to be spent
Arizona	14	$34.0	2	46	0
California	4	170.8	4	33	0
Connecticut	16	24.8	30	22	0
Florida	12	58.5	9	49	0
Illinois	8	80.9	14	15	0
Louisiana	42	18.6	16	26	0
Minnesota	33	6.5	10	51	0
Nevada	51	4.0	11	44	0
New Jersey	11	51.6	22	7	0
New York	2	189.3	17	12	0
Texas	10	34.1	25	53	0
USAF	1	28.6	37	4	0
Vermont	38	1.7	49	11	0
Washington	27	16.0	23	32	0
West Virginia	30	15.1	8	50	0
North Carolina	28	3.1	[1] 45	[2] 6	$17.2

[1] A high number connotes low default.

[2] A low number connotes high recovery.

Data based upon the GAO draft report and the "FY 1986 GSLP Data Book, Oct. 1987."

RHODE ISLAND HIGHER EDUCATION ASSISTANCE AUTHORITY,
December 16, 1987.

Senator CLAIBORNE PELL,
Russell Senate Office Building, Room 335, Washington, DC.

DEAR SENATOR PELL: This is to advise you that if legislation currently under consideration is passed requiring Guarantee Agencies to "spend down" their reserve funds to a level of four tenths of one percent, that will probably be the final blow in a series of financial setbacks for our Rhode Island Authority. Please consider the following:

(1) Our budget for fiscal year 1988 includes a reduction in guarantee fee income from $739,000 in 1987 to $300,000. This is because one of our major lenders anticipated seeking guarantees from other states or national guarantors unless we could establish a competitive fee. Massachusetts is charging 1%, we set our fee at 1.25%, but because of new legislation we are required to pay the quarter of a percent to the Department of Education.

(2) Because of generally lower volume, we expect our federal Administrative Cost Allowance to be reduced $150,000.

(3) We anticipated interest income on the investment of our reserve funds of $300,000, but that would diminish substantially as we "spend down" the reserve.

(4) We also anticipated a 23% increase in our net default recoveries over 1987 which, by the way, would represent a 92% increase over 1986.

(5) With all of the above, we originally thought we had established a "break even" budget. Unfortunately, the reduction of reserves, and the accompanying loss of interest income, will result in a fiscal year where expenses begin to exceed income.

(6) Any reduction in expenses will start to affect our ability to continue our default recovery improvement and result in lost income to the government. Please remember that our $750,000 income represents only 30% of our total default recoveries. The other 70%, or $1,750,000, would be paid to the Department of Education.

(7) Finally, as our reserves are reduced to a mere $1,250,000 (four tenths of one percent of our $305,000,000 of loans outstanding), it becomes clear that our base resource for meeting the cost of administering those outstanding accounts becomes totally inadequate. It seems impossible to believe that the Department of Education personnel and members of the Office of Management and Budget do not understand that our primary income is always based on our current year guarantee volume (i.e. ACA and guarantees fees), but our expenses must be planned for over the 10 to 15 years average life of our outstanding loan volume. If we made no new loans after this year, our total reserve of approximately seven million dollars would just barely be adequate to meet the operating costs of maintaining a guarantee process through the life of the loans under guarantee.

It is very discouraging to see legislation being proposed which would clearly require us to break contracts which we and our lenders have entered into in good faith (i.e. our agreement to maintain a minimum 1% reserve on outstanding loans).

It is also disillusioning to think that the legislative process should fail to recognize that our agency and its employees have taken on a long term obligation, also in good faith, on the strength of agreements with the government that our losses would be reinsured, and that our operating costs would be at least partially subsidized, provided we operated in an appropriate and responsible way in administering our guarantee operation, and then take away the resources we need to fulfill our agreement.

I sincerely believe that this legislation will result in greater long term cost to the federal government, will exacerbate the default and the default recovery program, will cause lenders to shy away from participation in the program, and will ultimately result in higher cost for those families who can afford to borrow and lowered educational access opportunities for those who cannot.

I can only suggest that the legislation is being too hastily moved forward with too little analysis of its long term effects, and that postponing its passage until more appropriate study can be carried out can only help in the carrying out of a financially sound and educationally oriented student assistance policy.

Sincerely,

JOHN E. MADIGAN,
Executive Director.

EDUCATION ASSISTANCE CORPORATION,
Aberdeen, SD, December 9, 1987.

Hon. LARRY PRESSLER,
U.S. Senate,
Washington, DC.

DEAR SENATOR PRESSLER: Education Assistance Corporation ("EAC") is a South Dakota nonprofit corporation organized in 1978 to operate a guarantee program for the State of South Dakota under the federal guaranteed student loan program ("GSLP"). EAC also administers and operates such programs and provides related services to students, schools or lenders in other states.

EAC commenced guaranteeing loans on January 16, 1979. Prior to that time in South Dakota, lender participation in the federal GSLP and access to student financial assistance was limited. In 1978, less than $12 million principal amount of student loans were originated under the federal GSLP. From January 16, 1979 through November 30, 1987, EAC guaranteed $407,790,103 principal amount of loans under the federal GSLP. EAC currently guarantees loans originated by approximately 200 lenders in South Dakota. In the federal fiscal year which ended September

30, 1987, EAC guaranteed $50,811,943 principal amount of loans for 197 lenders, representing 25,258 loans. Since inception of its program, EAC has guaranteed loans made to any students meeting federal eligibility criteria, regardless of the type of school attended. Through EAC's efforts, together with the efforts of South Dakota Student Loan Corporation, a South Dakota nonprofit corporation which provides a local secondary market in South Dakota, students in South Dakota have complete access to funds for higher education under the federal GSLP.

EAC has maintained complete access to student loan credit in South Dakota while maintaining the financial integrity of its guarantee obligations to its lenders and by minimizing costs to the federal government through maintenance of low default rates. EAC's claims rate for purposes of calculating the amount of federal reimbursements have always stayed below 5%, and have generally declined as follows:

Fiscal year ending September 30	*Claims rate (percent)*
1984	4.23
1985	4.17
1986	2.10
1987	*1.65

*The actual claims rate for 1987 reflects only nine-months worth of claims due to 1986 changes in the Higher Education Act. If an adjustment was made to annualize this claims rate it would have been 2.20%, still well below the 5% limit.

The security of an EAC guarantee and the efficiencies of its program are well recognized in the educational and financial community. EAC currently guarantees loans from regional banking institutions with respect to students outside of the state of South Dakota.

We are very proud of the contribution that EAC has made to assure access to student loan credit in South Dakota. Proposed provisions of the budget bill, however, threaten to entirely disrupt EAC's guarantee program. You have advised us that the budget bill is likely to include provisions that will require EAC to arbitrarily spend down its reserves to levels which are based on a GAO study conducted in August of 1986. As we understand the proposal, it will implement the most restrictive guidelines suggested in the GAO study, which even the study appeared to recognize would not take into consideration unforeseen circumstances (some of which have already occurred).

As we have discussed with you, the GAO framework contains numerous flaws. The major flaw is its failure to recognize that while a guarantee agency's principal sources of income are derived at the time a loan is guaranteed, such income must cover expenses relating to such loan over the life of the loan. The proposal's impact on EAC exemplifies this and other problems with the GAO approach.

As we understand the proposal, the maximum reserve which EAC would have been permitted to maintain as of September 30, 1986 would have been approximately $1,254,000. At that time, according to GAO's records EAC's cash reserves equaled $9,993,463 and its cash reserves plus accruals from the federal government equaled $11,066,192. Accordingly, EAC would be required to pay a total of $8,739,079 to the federal government by October 1, 1988. (Our records indicate relatively minor differences from those used by GAO.) At the invitation of the staff of the Senate Budget Committee, we have presented to them information regarding the devastating impact of such reduction on EAC and the provision of access to student loans in South Dakota.

EAC has developed cash flow projections commencing October 1, 1988 to evaluate the impact on EAC's ability to meet its financial and legal obligations if it cooperates in the payment of this amount. EAC's cash flow projections were developed assuming that the current volume in the program remains the same, that volume is reduced by one-half, and that the program ceases. It also assumed that EAC would charge the maximum insurance fee permitted by the Higher Education Act, that it would continue to receive 100% reimbursement of its claims, and that its cost of operation would remain constant (i.e., no assumption was made for inflation or volume increases). Using these assumptions, EAC began running deficits either immediately or within a few months of October 1, 1988. As with any business, EAC could not continue to operate at a deficit each month. In addition to the pure financial impact, EAC has contractual obligations to maintain its reserves at higher levels than those contemplated in the guidelines. Although the proposal in the budget bill would recognize state law requirements relating to reserves, we understand that the Budget Committee staff is unwilling to grant the same recognition to preexisting contractual obligations of guarantee agencies.

Because of the devastating financial impact of the excess reserve limitations contained in the budget bill as we understand it. EAC expects that it will immediately cease guaranteeing student loans if this law becomes effective. Although EAC is strongly committed to providing complete access to student loan credit in South Dakota, its overriding concerns must be to continue its business in a manner which will allow it to meet its existing legal and financial obligations. Based on the statutory guidelines that are contemplated, EAC cannot be assured that its reserves will be adequate to meet such obligations. We are aware that the proposed bill would provide a limited appeal and waiver process through the Department of Education. Although the conditions for waiver appear too limited, even if they were broadened, the actions of the Department of Education over the last five years provide little comfort to EAC that the Department would provide sufficient reserves for EAC to satisfy its obligations. The legislative history of the 1986 reauthorization of the Higher Education Act provides sufficient examples of our concerns (*e.g.*, failure to pay administrative cost allowances to guarantee agencies despite clear Congressional intent to do so). The Department of Education's comments on the GAO study, moreover, indicated that they favored the most restrictive provisions from a range of provisions suggested by the GAO study.

Based on our current understanding of the expected impact of the implementation of the maximum reserve limitations on EAC, together with the uncertainties inherent in an appeals process through the Department of Education, EAC must take all steps necessary to assure its ability to meet its existing financial and legal obligations. Although we recognize and regret the disruption that the immediate cessation of loan guarantees will cause in South Dakota, we currently believe that this proposed legislation may leave us little choice. By ceasing the guarantee of new loans, EAC strongly believes that any attempt by the federal government to force EAC to spend down its reserves would result in a repudiation and abrogation of the federal government's contractual obligations to EAC.

Sincerely,

JAMES G. A. BISHIOP,
Executive Director & Vice President.

COLORADO STUDENT LOAN PROGRAM,
Northglenn, CO, December 4, 1987.

Hon. CLAIBORNE PELL,
U.S. Senate, 335 Russell Senate Office Building, Washington, DC.

DEAR SENATOR PELL: The Colorado Student Loan Program has been made aware that the Budget Reconciliation Package being considered by the House and Senate will result in student loan guarantors being required to spend down to a 1% reserve. Unfortunately, the reduction in reserves as proposed by the GAO fails to consider the value of those reserves to the guaranteed student loan program.

The reserves are a critical part of the confidence that allows the guaranteed student loan program to function. Since the Federal Government has no legislated responsibility to protect private lenders in the event a guarantor fails financially, many lenders are reviewing the financial stability of guarantors to determine their own continuation in the student loan programs. The reserves provide financial security to lenders and, if the Congress plans to proceed with its proposal to reduce reserves, the obvious result would be lenders losing faith in the whole guarantee structure and dropping out of the Program.

In addition to the reserve issue, Budget Reconciliation continues the reduction in lender yield initiated by the Gramm/Rudman/Hollings legislation. As a result, not only will the lenders' confidence in the guarantee be shaken, but they will be expected to loan money at reduced margins. Again, the outcome could be fewer participating lenders. This may very well prohibit access to higher education for many Colorado students, as well as students across America. Such an outcome is in direct opposition to the objectives that Congress has put forth with the GSL Program, and undermines the expectations that guarantors and lenders were given by Congress in 1976.

The decisions you must make for various programs in order to meet budget targets will be very difficult, we realize. However, if the goal of educating the youth of our Nation is still a top priority with Congress, it is critical that the above-mentioned issues be reconsidered.

If we can provide additional information or clarification, please contact the Colorado Student Loan Program at telephone number 303/450-9911 ext. 24. Thank you for your kind attention to this matter.

Sincerely,

ROBERT FOMER,
Director.

COMMONWEALTH OF VIRGINIA, STATE EDUCATION ASSISTANCE AUTHORITY,
Richmond, VA, November 30, 1987.

MEMORANDUM

Re Federal Efforts to Seize Trust Funds.
To: Hon. John W. Warner.
From: Muriel Johnson Murray, Executive Director.

Background

The State Education Assistance Authority (SEAA) is the Commonwealth's designated guarantee agency for the federal Guaranteed Student Loan Program (GSLP). In 1960, 5 years before the GSLP was enacted, the SEAA was created by an Act of the General Assembly to operate, without federal assistance, a program of guaranteed student loans for Virginia residents attending state-supported colleges within the Commonwealth.

After the enactment of the Higher Education Act of 1965, the SEAA Board of Directors voted to execute the participation agreement with the U.S. Commissioner of Education to become Virginia's designated GSLP guarantor, and petitioned the General Assembly to make the necessary changes to the SEAA enabling legislation to comply with the requirements of the Act. Thus, in 1966 Virginia became one of the first states to participate in the GSLP.

Between 1965 and the Reauthorization of 1980, the Act was amended in various respects to improve access to GSLs by broadening eligibility, encouraging lender participation, and increasing the incentives for states to participate as guarantors in order to enhance lender recruitment and default prevention efforts.

The guarantor incentives included 100 percent reinsurance on the loans (conditional on maintaining a default "trigger" rate below 5 percent; the SEAA trigger has always been below 5 percent), seed money advances for default reserves (the SEAA paid back its federal advances in 1984), and Administrative Cost Allowance (ACA). The guarantee agencies are also permitted to retain 30 percent of the dollars collected on defaulted loans, to cover the cost of collection; the remaining 70 percent is remitted to the Department as a reimbursement for the reinsurance on the loan. The SEAA program has been made progressively more accessible to borrowers in order to take full advantage of these incentives.

Beginning with the 1980 Gramm-Latta budget reconciliation, a series of changes have been enacted to reduce the cost of the GSLP to the federal government. Many of these changes have the effect of reversing the earlier incentives: restricting borrower eligibility and reducing the subsidies to lenders and guarantee agencies while increasing their administrative responsibility for the program.

The result of shifting federal costs to borrowers, lenders, and the state guarantee agencies, including changes made in the 1986 Reauthorization, has been a reduction of over $1 billion in the cost of the GSLP to the federal government. The 1988 federal budget reconciliation package now pending before the Congress seeks an additional $250 million reduction in the GSLP, to be achieved primarily by requiring the guarantee agencies to spend down their default reserves. Of this sum, nearly $30 million would come from the SEAA.

Guarantee agencies to be required to spend down reserves:

The pending reconciliation provision derives from an unpublished recommendation of the General Accounting Office that the state guarantee agencies' reserves are "excessive" if they exceed arbitrary minimum cash flow requirements. The 1986 Reauthorization of the Higher Education Act directed the GAO to develop guidelines for the return of the federal seed money advances from guarantee agencies whose reserves were adequate to permit their return. As stated above, the SEAA returned its federal advances in 1984. The GAO recommendation has gone beyond reclaiming the federal advances to suggest that the agencies be required not only to return the advances, but also to spend down their reserves to the guideline level.

The spend down requirement is unfair to Virginia:

The GAO formula takes no account of how those reserves were built up; in the case of the SEAA, the guarantee feeds paid by borrowers and the investment income on those fees have simply exceeded operating expenses. The formula penalizes Virginia for its prudent, sound fiscal administration and low default rate. The SEAA was one of the first guarantee agencies (and one of the few to date) to return the federal advances. The SEAA receives no state appropriations. It charges borrowers one of the lowest guarantee fees of any guarantee agency.

The SEAA reserves are not the federal government's to recapture; they originate from guarantee fees paid by Virginians for the services of the SEAA. The SEAA is "paying back" its reserves in the only fair and appropriate way; by providing the lowest possible program cost and highest possible quality of service to Virginians.

It is patently unfair to require Virginia, which conducts one of the most sound student loan programs in the nation, to pay the single largest amount of the federal budget savings sought for the GSLP. It is not fair for the SEAA to be expected to make up nearly 13 percent of the federal budget savings, when it guarantees only 1 percent of the annual loan volume in the program. Those guarantee agencies who have spent their money less wisely, have made major capital investments, or have transferred or otherwise "hidden" it, will pay correspondingly less or nothing at all under the GAO formula.

Spending down reserves will cause irreparable harm to Virginia's Guaranteed Student Loan Program:

The SEAA cannot support its current level of operation without the investment income on its reserves. The investment income is the single largest source of operating income for the SEAA. In order to preserve even the necessary minimal agency operation, the guarantee fee would have to be raised to the legal maximum of 3 percent (it is now 1 percent). The increase in that fee to fund the operations of the SEAA would be deducted from loan funds that would otherwise be available to Virginia students to purchase books or pay other expenses of their education. This reduction in available financial aid dollars is equivalent to the loss to Virginia of a small grant program. Borrowers in those states who have spent or "hidden" their reserves are not being taxed to pay any part of the savings.

Spending down the reserves will cause irreparable harm to the SEAA. Liquidation of the reserves would lock in losses from the recent stock market crash, and would result in loss of value due to forced liquidation of long term investments. These investments were built up over 25 years; once they are gone the fund will never be made whole.

In fact, the SEAA guaranteed student loans for 17 years without federal reinsurance. The so-called "excess" reserve includes approximately $10.5 million of investments that pre-dated SEAA involvement in the federal GSLP. That sum had been earmarked as a guarantee reserve for the Commonwealth's new Edvantage loan program. Uncertainty concerning the reserves may make it difficult or impossible to obtain the financing for the new program, due to be implemented in January.

The spend down requirement is unwise:

The investment income permits the SEAA a number of program enhancements, including default prevention efforts and program review beyond federal requirements. Our other sources of income are volume-driven; because of our comparatively small annual guarantee volume, those sources are insufficient to maintain our program. Moverover, the investment income is the only source of income that is inflation-sensitive; all operating expenses are subject to inflation. Also, all other sources of income are vulnerable to reduction with further federal cuts in program eligibility. Frequent federal program changes make expensive data processing system changes and other increases in operating costs unavoidable.

The federal government also saves from SEAA investments; we have one of the lowest default rates, and one of the highest collection rates of any guarantee agency. Both of these factors result from the program enhancements listed above: program review, debt management materials for default prevention, etc. If the reserves are spent down, we will have to curtail those activities, as well as cancel plans for further enhancements designed to further save costs and prevent defaults: a fraud and abuse investigator, communications with the borrower during the grace period to urge repayment, etc.

An increase in the guarantee fee to maintain operations would cause a loss in loan volume to the larger interstate guarantors, whose default rates are much higher, and collection rates much lower, than the SEAA's. With the elimination of reserve investment as a source of income those interstate guarantors will become more aggressive in pursuing loan volume, further weakening the state guarantee agencies and increasing the federal government's default costs.

In addition to cash flows and operating expenses, the agencies need reserves to continue operations in the event of a termination of the program. A student loan will remain on the books for 7-15 years; the guarantor must continue to provide services and insure the lender against default throughout the life of the loan. To maintain lender confidence and continued participation in the program, the guarantee agency must maintain the lender's reasonable expectation that those claims will be paid.

The Federal Funds Information for States (FFIS), a joint program of the National Conference of State Legislatures and the National Governors' Association Center for Policy Research, conducted a study for the Kentucky guarantee agency which took these factors into account and revealed that the GAO grossly underestimated the level of reserves needed.

The budget instructions should give the authorizing committees latitude to find other, less destructive, ways to achieve savings in the GSLP.

I urge your support in resisting the inclusion of this provision in the reconciliation package, and opposing its implementation by legislation. If you have questions or comments, please let me know.

Thank you very much.

U.S. SENATE,
Washington, DC, December 2, 1987.

Hon. EDWARD M. KENNEDY,
Chairman, Committee on Labor and Human Resources, U.S. Senate, Washington, DC. 20510

DEAR TED: We are writing to express our objection to the undue burden being imposed upon Virginia's educational system. We are concerned about the summit's recommendation to withdraw $29.9 million from Virginia's educational financial reserves. This provision will have a severe impact on our state.

This provision is inequitable in a number of ways. First, the share of the budget reductions borne by Virginia is the largest among the states. Secondly, despite having one of the lowest default rates in the country, Virginia will be required to bear the entire cost of their student defaults. Other states however, with higher default rates, would continue to receive federal assistance.

Currently, the State Education Assistance Authority (SEAA) supports $736 million in loans. The proposed "spend down" would leave Virginia with less than $7 million in reserve to meet these obligations. The SEAA estimates that if the entire $29.9 million were depleted as proposed, this would leave the SEAA with insufficient reserves to meet the minimum ratio required by state statute. As a result, Virginia would have to cease guaranteeing loans.

The "seed money" initially given by the federal government for its default reserves was fully repayed by Virginia in 1984 making it one of the first states to repay. The state is currently operating without federal monies, using funds they have invested as well as fees collected from students.

The costs of this provision will primarily be borne by Virginia's students. The SEAA estimates that the guarantee fee paid by students would have to be raised from 1 percent to 3 percent—this is an estimated cost to Virginia students of $1.77 million per year (based on FY 1987 volume).

The intent of the Graduate Student Loan (GSL) program is to help students achieve a higher education. However, this proposal jeopardizes Virginia's ability to meet this objective. Lenders, fearful of not recovering their money from the state, will tighten restrictions on borrowers. As you are aware, the GSL qualifying criteria was already recently tightened by the federal government creating a heavy burden on the student borrower.

Virginia has offered a quality education at a reasonable price. Two of our public universities were recently rated as among the top 20 universities in this country. The proposed reduction in our education reserves jeopardizes this opportunity for many Virginians. Virginia has been an example to other states in this area, we would like to continue this tradition. We appeal to you not to let this proposal take place.

Sincerely,

John W. Warner,
Paul S. Trible.

Commonwealth of Virginia
Office of the Governor,
Richmond, VA, November 30, 1987.

Hon. John W. Warner,
U.S. Senate, Russell Senate Office Building, Washington, DC.

Dear Senator: It has come to my attention that the 1988 federal budget reconciliation package now pending before the Congress includes a provision that would require the Virginia State Education Assistance Authority (SEAA) to spend down $29.9 million from its guarantee reserve. This represents eighty-six percent of the total reserve.

The SEAA is the Commonwealth's guarantee agency for the federal Guaranteed Student Loan Program. As you may know, the SEAA conducted a guaranteed student loan program on behalf of Virginia college students for a number of years before the federal Guaranteed Student Loan Program came into existence

The 1986 Reauthorization of the Higher Education Act directed the General Accounting Office to develop guidelines for the return of the federal seed money advances from guarantee agencies whose reserves were adequate to permit their return. The SEAA had, however, returned its federal advance in 1984. The pending reconciliation provision is based on the unpublished recommendation of the General Accounting Office that the state guarantee agencies' reserves are "excessive" if they exceed arbitrary minimum cash flow requirements, and that the agencies should be required, not only to return the federal advances, but also to spend down their reserves to the guideline level.

The General Accounting Office formula does not take into account how the Virginia reserve was developed. In the case of the SEAA, the reserve is the result of the guarantee fees paid by borrowers, the investment income on those fees, and prudent management.

The reconciliation proposal penalizes Virginia for its prudent administration and low default rate in the program. The SEAA was one of the first state guarantee agencies, and one of the few which has returned its federal advance. In addition, because of its prudent management, it is currently able to charge borrowers one of the lowest guarantee fees of any guarantee agency. This is a significant financial benefit to students.

I am sympathetic to the difficulties of the federal budget situation. I am aware that Virginia will have to bear its fair share of fiscal reality. However, it is inappropriate public policy to require Virginia, which conducts one of the soundest student loan programs in the nation, to pay the single largest amount of the federal budget savings sought for the Guaranteed Student Loan Program. The Virginia SEAA is expected to make up nearly 13 percent of the federal budget saving in this one item, when it guarantees only one percent of the annual loan volume in the nation. Those state guarantee agencies which have spent their money less wisely, have made major capital investments, or have transferred funds, will pay much less or nothing at all under the proposed reconciliation approach.

Spending down the reserves will cause irreparable harm to the SEAA. Liquidation of the reserves would lock in losses from the recent stock market crash, and would result in loss of value due to forced liquidation of long-term investments. These investments were built up over 25 years. Once they are gone, the reserve fund can never be made whole.

The $29.9 million includes $8 million which pre-dates the SEAA involvement in the federal Guaranteed Student Loan Program. That sum has been earmarked as a guarantee reserve for the Commonwealth's new Edvantage Loan Program recently announced by Governor Baliles. The loss of the $8 million jeopardizes the state's ability to obtain financing for the new program, due to be implemented in January.

I ask for your support in insuring that states are provided with adequate flexibility to address this problem and that all states are treated equitably.

Sincerely,

Donald J. Finley.

Commonwealth of Virginia,
Education Assistance Authority,
Richmond, VA, December 11, 1987.

Hon. John W. Warner,
U.S. Senate, Russell Office Building, Washington, DC.

I have been asked to provide specific information concerning the effect of the spend down of guarantee agency reserves as proposed by the General Accounting Office and adopted in the 1988 federal budget package. Nearly $30 million of the $250 million savings sought for the Guaranteed Student Loan Program would come from the Virginia State Education Assistance Authority.

Currently, the investment income on reserves is the single largest source of operating income for the SEAA. Our other sources of income depend on annual loan volume; because of our comparatively small annual volume relative to outstandings, those sources are insufficient to maintain our current level of services.

The investment income permits the SEAA a number of program enhancements, including default prevention efforts, program review beyond federal requirements, debt management materials, training, and highly automated processing at no cost to students, schools or lenders.

Moreover, the investment income is the only source of income that is inflation-sensitive; all operating expenses are subject to inflation. Also, all other sources of income are vulnerable to reduction with further federal cuts in program eligibility.

The GAO formula penalizes most severely the agencies with prudent, sound fiscal administration and low default rate. Those guarantors who have spent their money less prudently, have made major capital investments, or have transferred funds, will pay correspondingly less under the GAO formula.

Taking away the "excess" reserves as proposed in the 1988 Budget Reconciliation Package leaves the SEAA in a financially unstable position.

If the entire $29.9 million proposed by GAO were spent down, with the recent stock market losses and reduction in reserves due to the new 90-day lag in reinsurance payments, the SEAA would be left with insufficient reserves to meet the minimum ratio required by State statute, and would have to cease guaranteeing loans. Even assuming the SEAA were left with an amount equal to the statutory minimum, and thus could continue operation, the financial situation is marginal at best.

First of all, the guarantee fee paid by students would have to be raised from 1 percent to 3 percent; this is a cost to Virginia's students of nearly $2 million per year that would otherwise be available to the borrowers to purchase books or pay other expenses of their education.

In order to assume continued operation at the statutory minimum reserve ratio, you must assume a 3 percent guarantee fee and all of the following (see attachment 1):

New loan volume remains at the same level as in FFY1987 or higher;

Operating expenses increased by 5 percent or less each year;

The default rate remains at its current 3 percent;

Federal reinsurance remains at 100 percent; and

The post-default collection rate remains at 30 percent or higher, and the share retained by the agency remains at 30 percent or higher.

Federal Administrative Cost Allowance (ACA) remains at 1 percent or higher, and the reinsurance fee paid by the SEAA to the U.S. Department of Education remains at 0.25 percent or lower.

If all of these assumptions are correct, the SEAA could continue to operate at a 1 percent reserve level. However, all of the assumptions are subject to a good deal of risk:

New loan volume is likely to be reduced in a number of ways (attachments 2 and 3 show the effect of reduction in volume):

Congressional Methodology need analysis, which goes into effect in the 1988-89 academic year, is expected to reduce loan eligibility by up to 25 percent.

With the loss of investment income on the reserves as a major source of income, all sources of income are dependent on maintaining or increasing new loan volume; thus, interstate and neighboring state guarantors will become more and more aggressive in attempts to capture some of the loan volume now guaranteed by the SEAA.

One or more of the 150 lenders who have agreements with the SEAA may decide to leave the program, or to use another guarantor whose financial situation is sounder.

Inflation is very likely to exceed 5 percent; even if it does not, operating expenses are subject to increases above the inflation rate. Frequent federal program changes make expensive data processing system changes and other increases in operating costs unavoidable. Attachment 4 shows the effect of a 10 percent per year increase in operating expenses.

With recent and future limitations of borrower eligibility to lower income students, default rates are likely to increase. Lower income status is highly correlated with default, because unemployment is the cause of most defaults, and lower income students are more likely to be unemployed when they leave school. If the default "trigger" rate increases to above 5 percent, the reinsurance income decreases to 90 percent, and the reinsurance fee increases to .50 percent. Attachment 5 shows the effect of these changes.

With defaults coming from lower income borrowers, SEAA post-default collection efforts are likely to be less successful.

Reinsurance rates and fees, the ACA rate, the permissible guarantee fee, the agency share of collections, and the total new guarantee volume are either set by, or a result of, federal law.

Thus, without the current level of reserves, the SEAA is totally vulnerable to any further budget cuts or program changes; with the current level of reserves, the amount of investment income is sufficient to maintain default prevention and other administrative functions of servicing the guarantee portfolio during the life of the loans now on the books.

The proposed spend down renders impossible any meaningful new investment in default prevention systems, services, or personnel, and may require the elimination or curtailment of existing efforts not explicitly mandated by federal law.

It should be a matter of some concern to the Congress that this proposal not only takes away from the guarantee agencies the means of reducing default rates, but also takes away the incentive to do so. An increase in default rate, so long as the "trigger" rate is not reached, actually improves the guarantee agencies' financial situation (see attachment 6).

Thus the costs of this proposal will be passed along to borrowers, lenders, and schools, in the form of higher fees and curtailed services, and to the federal government, in the form of higher default costs.

Requiring the guarantee agencies to pay the first 10 percent of a default claim would save $120 to $160 million a year and would make the guarantee agencies share in the risk of defaults; this would result in immediate budget savings, as well as long term savings due not only to a reduction in the federal share of defaults but also a reduction in the overall volume of defaults. Increasing the guarantee agency share of collections to 40% would offset the reduction in reinsurance and increase the agencies' incentive for effective collections without substantially reducing the budget savings.

These proposals, which would save many more federal dollars in the long run, are made impossible without guarantee agency reserves. Removal of the reserves will force the guarantee agencies into permanent total dependence on continued federal funding at existing levels, rendering more substantial long term federal budget savings impossible.

I hope you find this information useful in your deliberations. Thank you very much.

Sincerely,

MURIEL JOHNSON MURRY,
Executive Director.

PROJECTION OF THE TRUST FUND OF THE STATE EDUCATION ASSISTANCE AUTHORITY RESERVE RATIO: TRUST FUND BALANCE AS A PERCENTAGE OF LOANS OUTSTANDING, 1988–97

[In thousands]

	Year ended Sept. 30—									
	1988	1989	1990	1991	1992	1993	1994	1995	1996	1997
Loans outstanding (BOY)	800,040	848,154	892,956	934,539	973,045	1,008,638	1,041,500	1,071,810	1,099,749	1,125,489
Interim (BOY)	273,069	282,949	289,667	294,236	297,342	299,455	300,891	301,868	302,532	302,984
Inrepayment (BOY)	526,971	565,205	603,289	640,304	675,702	709,184	740,608	769,942	797,217	822,505
Enter repayment	87,382	90,544	92,694	94,155	95,150	95,826	96,285	96,598	96,810	96,955
Claims	19,431	19,672	20,879	22,034	23,126	24,150	25,107	25,996	26,821	27,584
Paid in full	30,718	32,787	34,799	36,723	38,543	40,250	41,845	43,327	44,701	45,973
In repayment (EOY)	565,205	603,289	640,3043	675,702	709,184	740,608	769,942	797,942	822,505	845,903
New loans	97,262	97,262	97,262	97,262	97,262	97,262	97,262	97,262	97,262	97,262
Loans outstanding (EOY)	848,154	892,956	934,539	973,045	1,008,638	1,041,500	1,071,810	1,099,749	1,125,489	1,149,194
Trust fund:										
Beginning	7,358	8,518	9,573	10,527	11,366	12,075	12,636	13,031	13,240	13,245
Receipts:										
Investment income	52	0	0	0	0	0	0	0	0	
Guarantee fees	2,918	2,918	2,918	2,918	2,918	2,918	2,918	2,918	2,918	2,918
Reinsurance	18,431	19,672	20,879	22,034	23,126	24,150	25,107	25,996	26,821	27,584
Collections	5,035	5,529	5,902	6,264	6,610	6,938	7,245	7,532	7,799	8,046
Administrative cost allowance	729	729	729	729	729	729	729	729	729	729
Total receipts	27,165	28,849	30,429	31,945	33,383	34,735	35,999	37,176	38,267	39,277
Disbursements:										
Claims	18,431	19,672	20,879	22,034	23,126	24,150	25,107	25,996	26,821	27,584
Operating expenses	4,049	4,251	4,464	4,687	4,922	5,168	5,426	5,697	5,982	6,281
U.S. Department of Education	3,525	3,870	4,131	4,385	4,627	4,856	5,072	5,272	5,459	5,632
Total disbursements	26,004	27,794	29,475	31,106	32,674	34,174	35,604	36,966	38,262	39,497
Ending trust fund balance	8,518	9,573	10,527	11,366	12,075	12,636	13,031	13,240	13,245	13,025
Trust fund as percent of EOY outstanding loans	1.00	1.07	1.13	1.17	1.20	1.21	1.22	1.20	1.18	1.13

Assumptions: Loans entering repayment—32 percent of interim loans at the end of the preceding year. Loans in default—3 percent of the sum of loans in repayment at the beginning of the year and loans entering repayment during the year. Loans paid in full—5 percent of the sum of loans in repayment at the beginning of the year and entering repayment during the year. Investment income—8 percent of beginning trust fund balance minus 40 percent of claims paid prior year (cash flow on claims paid pending reinsurance reimbursement). Claims paid—defaults. Reinsurance—100 percent of claims paid. Collections—30 percent of previous year's claims. Administrative cost allowance—0.75 percent of new loans (net of reinsurance fee). Operating expenses increase by 5 percent each year. Remittance to U.S. Department of Education—70 percent of collections. New loan volume remains at 1987 levels. All fiscal year 1988 beginning figures are actual 1987 ending figures, except beginning trust fund balance, which is per GAO. Guarantee fees—3 percent of new loans.

PROJECTION OF THE TRUST FUND OF THE STATE EDUCATION ASSISTANCE AUTHORITY RESERVE RATIO: TRUST FUND BALANCE AS A PERCENTAGE OF LOANS OUTSTANDING, 1988–97

[In thousands]

	Year ended Sept. 30—									
	1988	1989	1990	1991	1992	1993	1994	1995	1996	1997
Loans outstanding (BOY)	800,040	923,838	844,947	863,834	880,846	896,250	910,255	923,024	934,695	945,379
Interim (BOY)	273,069	259,633	248,817	242,142	237,603	234,517	232,418	230,991	230,020	229,360

PROJECTION OF THE TRUST FUND OF THE STATE EDUCATION ASSISTANCE AUTHORITY RESERVE RATIO: TRUST FUND BALANCE AS A PERCENTAGE OF LOANS OUTSTANDING, 1988–97—Continued

[In thousands]

	Year ended Sept. 30—									
	1988	1989	1990	1991	1992	1993	1994	1995	1996	1997
In repayment (BOY)	526,471	565,205	596,130	621,692	643,243	661,734	677,837	692,034	704,675	716,019
Enter repayment	87,382	82,763	79,622	77,486	76,033	75,045	74,374	73,917	73,606	73,395
Claims	18,431	19,439	20,273	20,975	21,578	22,103	22,566	22,979	23,348	23,682
Paid in full	30,718	32,398	33,788	34,959	35,964	36,839	37,611	38,298	38,914	39,471
In repayment (EOY)	565,205	596,130	621,692	643,243	661,734	677,837	692,034	704,675	716,019	726,261
New loans	72,947	72,947	72,947	72,947	72,947	72,947	72,947	72,947	72,947	72,947
Loans outstanding (EOY)	823,838	844,947	863,834	880,846	896,250	910,255	923,024	934,695	945,379	955,172
Trust fund:										
Beginning	7,358	7,607	7,749	7,770	7,643	7,345	6,855	6,153	5,223	4,044
Receipts:										
Investment income	52	0	0	0	0	0	0	0	0	0
Guarantee fees	2,188	2,188	2,188	2,188	2,188	2,188	2,188	2,188	2,188	2,188
Reinsurance	18,431	19,439	20,273	20,975	21,578	22,103	22,566	22,979	23,348	23,682
Collections	5,035	5,529	5,832	6,082	6,293	6,473	6,631	6,770	6,894	7,005
Administrative cost allowance	547	547	547	547	547	547	547	547	547	547
Total receipts	26,253	27,704	28,840	29,793	30,606	31,312	31,933	32,484	32,977	33,422
Disbursements:										
Claims	18,431	19,439	20,273	20,975	21,578	22,103	22,566	22,979	23,348	23,682
Operating expenses	4,049	4,251	4,464	4,687	4,922	5,168	5,426	5,697	5,982	6,281
U.S. Department of Education	3,525	3,870	4,082	4,257	4,405	4,531	4,642	4,739	4,825	4,903
Total disbursements	26,004	27,561	28,819	29,920	30,905	31,802	32,634	33,415	34,156	34,867
Ending trust fund balance	7,607	7,749	7,770	7,643	7,345	6,855	6,153	5,223	4,044	2,599
Trust fund as percent of EOY outstanding loans	0.92	0.92	0.90	0.87	0.82	0.75	0.67	0.56	0.43	0.27

Assumptions: Loans entering repayment—32 percent of interim loans at the end of the preceding year. Loans in default—3 percent of the sum of loans in repayment at the beginning of the year and loans entering repayment during the year. Loans paid in full—5 percent of the sum of loans in repayment at the beginning of the year and loans entering repayment during the year. Investment income—8 percent of beginning trust fund balance minus 40 percent of claims paid prior year (cash flow on claims paid pending reinsurance reimbursement). Claims paid—defaults. Reinsurance—10 percent of claims paid. Collections—30 percent of previous year's claims. Administrative cost allowance—0.75 percent of new loans (net of reinsurance fee). Operating expenses increase by 5 percent each year. Remittance to U.S. Department of Education—70 percent of collections. New loans volume drops 25 percent from 1987 levels. All fiscal year 1988 beginning figures are actual 1987 ending figures, except beginning trust fund balance, which is per GAO. Guarantee fees—3 percent of new loans.

PROJECTION OF THE TRUST FUND OF THE STATE EDUCATION ASSISTANCE AUTHORITY RESERVE RATIO: TRUST FUND BALANCE AS A PERCENTAGE OF LOANS OUTSTANDING, 1988–97

[In thousands]

	Year ended Sept. 30—									
	1988	1989	1990	1991	1992	1993	1994	1995	1996	1997
Loans outstanding (BOY)	800,040	799,523	796,939	793,128	788,648	783,863	799,010	774,238	769,641	765,233
Interim (BOY)	273,069	234,318	207,967	190,049	177,864	169,579	163,944	160,113	157,508	155,733
In repayment (BOY)	526,971	565,205	588,972	603,079	610,783	614,284	615,065	614,125	612,133	309,532
Enter repayment	87,382	74,982	66,549	60,816	56,917	54,265	52,462	51,236	50,403	49,883
Claims	18,431	19,206	19,666	19,917	20,031	20,056	20,026	19,961	19,876	19,731
Paid in full	30,718	32,009	32,776	33,195	33,385	33,427	33,376	33,268	33,127	32,939
In repayment (EOY)	565,205	588,972	603,079	610,783	614,284	615,065	614,125	612,133	609,532	606,318
New loans	48,631	48,631	48,631	48,631	48,631	48,631	48,631	48,631	48,631	48,631
Loans outstanding (EOY)	799,523	796,939	793,128	788,648	783,863	779,010	774,238	769,641	765,269	761,150
Trust fund:										
Beginning	7,358	6,695	5,926	5,014	3,920	2,615	1,074	(724)	(2,795)	(5,157)
Receipts:										
Investment income	52	0	0	0	0	0	0	0	0	0
Guarantee fees	1,459	1,459	1,459	1,459	1,459	1,459	1,459	1,459	1,459	1,459
Reinsurance	18,431	19,206	19,666	19,917	20,031	20,056	20,026	19,961	19,876	19,781
Collections	5,035	5,529	5,762	5,900	5,975	6,009	6,017	6,008	5,988	5,963
Administrattive cost allowance	365	365	365	365	365	365	365	365	365	365
Total receipts	25,341	26,558	27,251	27,640	27,830	27,889	27,866	27,792	27,688	27,563
Disbursements:										
Claims	18,431	19,206	19,666	19,917	20,031	20,056	20,026	19,961	19,876	19,781
Operating expenses	4,049	4,251	4,464	4,687	4,922	5,168	5,426	5,697	5,982	6,281
U.S. Department of Education	3,525	3,870	4,033	4,130	4,183	4,207	4,212	4,205	4,192	4,174
Total disbursements	26,004	27,327	28,163	28,734	29,135	29,431	29,664	29,864	30,050	30,236
Ending trust fund balance	6,695	5,926	5,014	3,920	2,615	1,074	(724)	(2,795)	(5,157)	(7,826)
Trust fund as percent of EOY outstanding loans	0.84	0.74	0.63	0.50	0.33	0.14	−0.09	−0.36	−0.67	−1.03

Assumptions: Loans entering repayment—32 percent of interim loans at the end of the preceding year. Loans in default—3 percent of the sum of loans in repayment at the beginning of the year and loans entering repayment during the year. Loans paid in full—5 percent of the sum of loans in repayment at the beginning of the year and loans entering repayment during the year. Investment income—8 percent of beginning trust fund balance minus 40 percent of claims paid prior year (cash flow on claims paid pending reinsurance reimbursement). Claims paid—defaults. Reinsurance—10 percent of claims paid. Collections—30 percent of previous year's claims. Administrative cost allowance—0.75 percent of new loans (net of reinsurance fee). Operating expenses increase by 5 percent each year. Remittance to U.S. Department of Education—70 percent of collections. New loan volume drops 50 percent from 1987 levels. all fiscal year 1988 beginning figures are actual 1987 ending figures, except beginning trust fund balance, which is per GAO. Guarantee fees—3 percent of new loans.

PROJECTION OF THE TRUST FUND OF THE STATE EDUCATION ASSISTANCE AUTHORITY RESERVE RATIO: TRUST FUND BALANCE AS A PERCENTAGE OF LOANS OUTSTANDING, 1988–97

[In thousands]

	Year ended Sept. 30—									
	1988	1989	1990	1991	1992	1993	1994	1995	1996	1997
Loans outstanding (BOY)	800,040	848,154	892,956	934,539	973,045	1,008,638	1,041,500	1,071,810	1,099,749	1,125,489
Interim (BOY)	273,069	282,949	289,667	284,236	297,342	299,455	300,891	301,868	302,532	392,984
In repayment (BOY)	526,971	565,205	603,289	640,304	675,702	709,184	740,608	769,942	797,217	822,505
Enter repayment	87,382	90,544	92,694	94,155	95,150	95,826	96,285	96,598	96,810	96,955
Claims	18,431	19,672	20,879	22,034	23,126	24,150	25,107	25,996	26,821	27,584
Paid in full	30,718	32,787	34,799	36,723	38,543	40,250	41,845	43,327	44,701	45,973
In repayment (EOY)	565,205	603,289	640,304	675,702	709,184	740,608	769,942	797,217	822,505	845,903
New loans	97,262	97,262	97,262	97,262	97,262	97,262	97,262	97,262	97,262	97,262
Loans outstanding (EOY)	848,154	892,956	934,539	973,045	1,008,638	1,041,500	1,071,810	1,099,749	1,125,489	1,149,194

PROJECTION OF THE TRUST FUND OF THE STATE EDUCATION ASSISTANCE AUTHORITY RESERVE RATIO: TRUST FUND BALANCE AS A PERCENTAGE OF LOANS OUTSTANDING, 1988–97—Continued

[In thousands]

	Year ended Sept. 30—									
	1988	1989	1990	1991	1992	1993	1994	1995	1996	1997
Trust fund:										
Beginning	7,358	8,518	9,423	9,941	10,078	9,781	8,988	7,636	5,653	2,960
Receipts:										
Investment income	52,	52	0	0	0	0	0	0	0	0
Guarantee fees	2,918	2,918	2,918	2,918	2,918	2,918	2,918	2,918	2,918	2,918
Reinsurance	18,431	19,672	20,879	22,034	23,126	24,150	25,107	25,996	26,821	27,584
Collections	5,035	5,529	5,902	6,264	6,610	6,938	7,245	7,532	7,799	8,046
Administrative cost allowance	729	729	729	729	729	729	729	729	729	729
Total receipts	27,165	28,901	30,429	31,945	33,383	34,735	35,999	37,176	38,267	39,277
Disbursements:										
Claims	18,431	19,672	20,879	22,034	23,126	24,150	25,107	25,996	26,821	27,584
Operating expenses	4,049	4,454	4,899	5,389	5,928	6,521	7,173	7,890	8,679	9,547
U.S. Department of Education	3,525	3,870	4,131	4,385	4,627	4,856	5,072	5,272	5,459	5,632
Total disbursements	26,004	27,997	29,910	31,808	33,681	35,528	37,351	39,159	40,959	42,763
Ending trust fund balance	8,518	9,423	9,941	10,078	9,781	8,988	7,636	5,653	2,960	(526)
Trust fund as percent of EOY outstanding loans	1.00	1.06	1.06	1.04	0.97	0.86	0.71	0.51	0.26	−0.05

Assumptions: Loans entering repayment—32 percent of interim loans at the end of the preceding year. Loans in default—3 percent of the sum of loans in repayment at the beginning of the year and loans entering repayment during the year. Loans paid in full—5 percent of the sum of loans in repayment at the beginning of the year and loans entering repayment during the year. Investment income—8 percent of beginning trust fund balance minus 40 percent of claims paid prior year (cash flow on claims paid pending reinsurance reimbursement). Claims paid—defaults. Reinsurance—100 percent of claims paid. Collections—30 percent of previous year's claims. Administrative cost allowance—0.75 percent of new loans (net of reinsurance fee). Operating expenses increase by 10 percent each year. Remittance to U.S. Department of Education—70 percent of collections. New loan volume remains at 1987 levels. All fiscal year 1988 beginning figures are actual 1987 ending figures, except beginning trust fund balance, which is per GAO. Guarantee fees—3 percent of new loans.

PROJECTION OF THE TRUST FUND OF THE STATE EDUCATION ASSISTANCE AUTHORITY RESERVE RATIO: TRUST FUND BALANCE AS A PERCENTAGE OF LOANS OUTSTANDING, 1988–97

[In thousands]

	Year ended Sept. 30—									
	1988	1989	1990	1991	1992	1993	1994	1995	1996	1997
Loans outstanding (BOY)	800,040	835,867	868,783	893,864	926,247	951,104	973,618	993,979	1,012,370	1,023,937
Interim (BOY)	273,069	282,949	289,667	294,236	297,342	299,455	300,891	301,868	302,532	302,984
In repayment (BOY)	526,971	552,918	579,115	604,628	628,905	651,649	672,727	692,111	709,832	725,934
Enter repayment	87,382	90,544	92,694	94,155	95,150	95,826	95,285	96,598	96,310	96,955
Claims	30,718	32,173	33,590	34,939	36,203	37,374	38,451	39,435	40,332	41,147
Paid in full	30,718	32,173	33,590	34,939	36,203	37,374	38,451	39,435	40,332	41,147
In repayment (EOY)	552,918	579,115	604,628	628,905	651,649	672,727	692,111	709,338	725,984	740,645
New loans	97,262	97,262	97,262	97,262	97,262	97,262	97,262	97,262	97,262	97,262
Loans outstanding (EOY)	835,867	868,783	898,864	926,247	951,104	973,618	993,979	1,012,370	1,028,967	1,043,936
Trust fund:										
Beginning	7,358	5,203	3,903	2,380	626	(1,367)	(3,609)	(6,113)	(8,889)	11,951)
Receipts:										
Investment income	52	0	0	0	0	0	0	0	0	0
Guarantee fees	2,918	2,918	2,918	2,918	2,918	2,918	2,918	2,918	2,918	2,918
Reinsurance	27,646	28,956	30,231	31,445	32,582	33,636	34,606	35,492	36,299	37,032
Collections	5,035	9,215	9,652	10,077	10,482	10,861	11,212	11,535	11,831	12,100
Administrative cost allowance	486	486	486	486	486	486	486	486	486	486
Total receipts	36,137	41,575	43,287	44,927	46,468	47,901	49,222	50,431	51,534	52,536
Disbursements:										
Claims	30,718	32,173	33,590	34,939	36,203	37,374	38,451	39,435	40,332	41,147
Operating expenses	4,049	4,251	4,464	4,687	4,922	5,168	5,426	5,697	5,982	6,281
U.S. Department of Education	3,525	6,451	6,756	7,054	7,337	7,603	7,848	8,075	8,281	8,470
Total disbursements	38,291	42,875	44,811	46,680	48,462	50,144	51,725	53,207	54,596	55,989
Ending trust fund balance	5,203	3,903	2,380	626	(1,367)	(3,609)	(6,113)	(8,889)	(11,951)	(15,313)
Trust fund as percent of EOY outstanding loans	0.62	0.45	0.26	0.07	−0.14	−0.37	−0.61	−0.88	−1.16	−1.47

Assumptions: Loans entering repayment—32 percent of interim loans at the end of the preceeding year. Loans in default—5 percent of the sum of loans in repayment at the beginning of the year and loans entering repayment during the year. Loans paid in full—5 percent of the sum of loans in repayment at the beginning of the year and loans entering repayment during the year. Investment income—8 percent of beginning trust fund balance minus 40 percent of claims paid prior year (cash flow on claims paid pending reinsurance reimbursement). Claims paid—defaults. Reinsurance—90 percent of claims paid. Collections—30 percent of previous year's claims. Administrative cost allowance—0.5 percent of new loans (net of reinsurance fee). Operating expenses increase by 5 percent each year. Remittance to U.S. Department of Education—70 percent of collections. New loan volume remains at 1987 levels. All fiscal year 1988 beginning figures are actual 1987 ending figures, except beginning trust fund balance, which is per GAO. guarantee fees—3 percent of new loans.

PROJECTION OF THE TRUST FUND OF THE STATE EDUCATION ASSISTANCE AUTHORITY RESERVES RATIO: TRUST FUND BALANCE AS A PERCENTAGE OF LOANS OUTSTANDING, 1988–97

[In thousands]

	Year ended Sept. 30—									
	1988	1989	1990	1991	1992	1993	1994	1995	1996	1997
Loans outstanding (BOY)	800,040	835,867	868,783	898,864	926,247	951,104	973,618	993,979	1,012,370	1,028,967
Interim (BOY)	273,069	282,949	289,667	294,236	297,342	299,455	300,891	301,868	302,532	302,984
In repayment (BOY)	526,971	552,918	579,115	604,628	628,905	651,649	672,727	692,111	709,838	725,984
Enter repayment	87,382	90,544	92,694	94,155	95,150	95,826	96,285	96,598	96,810	96,955
Claims	30,718	32,173	33,590	34,939	36,203	37,374	38,451	39,435	40,332	41,147
Paid in full	30,718	32,173	33,590	34,939	36,203	37,374	38,451	39,435	40,332	41,147
In repayment (EOY)	552,918	579,115	604,628	628,905	651,649	672,727	692,111	709,838	725,984	740,645
New loans	97,262	97,262	97,262	97,262	97,262	97,262	97,262	97,262	97,262	97,262
Loans outstanding (EOY)	835,867	868,783	898,864	926,247	951,104	973,618	993,979	1,012,370	1,028,967	1,043,936
Trust fund:										
Beginning	7,358	8,518	10,679	12,741	14,741	16,611	18,349	19,934	21,345	22,559
Receipts:										
Investment income	52	0	0	0	0	0	0	0	0	0
Guarantee fees	2,918	2,918	2,918	2,918	2,918	2,918	2,918	2,918	2,918	2,918
Reinsurance	30,718	32,173	33,590	34,939	36,203	37,374	38,451	39,435	40,332	41,147
Collections	5,035	9,215	9,652	10,077	10,482	10,861	11,212	11,535	11,831	12,100

PROJECTION OF THE TRUST FUND OF THE STATE EDUCATION ASSISTANCE AUTHORITY RESERVES RATIO: TRUST FUND BALANCE AS A PERCENTAGE OF LOANS OUTSTANDING, 1988–97—Continued

[In thousands]

	Year ended Sept. 30—									
	1988	1989	1990	1991	1992	1993	1994	1995	1996	1997
Administrative cost allowance	729	729	729	729	729	729	729	729	729	729
Total receipts	39,452	45,036	46,890	48,664	50,332	51,882	53,310	54,618	55,910	56,894
Disbursements:										
Claims	30,718	32,173	33,590	34,939	36,203	37,374	38,451	39,435	40,332	41,147
Operating expenses	4,049	4,251	4,464	4,687	4,922	5,168	5,426	5,697	5,982	6,281
U.S. Department of Education	3,525	6,451	6,756	7,054	7,337	7,603	7,848	8,075	8,281	8,470
Total disbursements	38,291	42,875	44,811	46,680	48,462	50,144	51,725	53,207	54,596	55,898
Ending trust fund balance	8,518	10,679	12,758	14,741	16,611	18,349	18,934	21,345	22,559	23,555
Trust fund as percent of EOY outstanding loans	1.02	1.23	1.42	1.59	1.75	1.88	2.01	2.11	2.19	2.26

Assumptions: Loans entering repayment—32 percent of interim loans at the end of the preceding year. Loans in default—5 percent of the sum of loans in repayment at the beginning of the year and loans entering repayment during the year. Loans paid in full—5 percent of loans in repayment at the beginning of the year and loans entering repayment during the year. Investment income—8 percent beginning trust fund balance minus 40 percent of claims paid prior year (cash flow on claims paid pending reinsurance reimbursement). Claims paid—defaults. Reinsurance—90 percent of claims paid. Collections—30 percent of previous year's claims. Administrative cost allowance—0.5 percent of new loans (net of reinsurance fee). Operating expenses increase by 5 percent each year. Remittance to U.S. Department of Education—70 percent of collections. New loan volume remains at 1987 levels. All fiscal year 1988 beginning figures are actual 1987 ending figures, except beginning trust fund balance, which is per GAO. Guarantee fees—3 percent of new loans.

WISCONSIN HIGHER EDUCATION CORP.,
Madison, WI, December 10, 1987.
Hon. ROBERT W. KASTEN, Jr.,
Senate Office Building,
Washington, D.C.

DEAR SENATOR KASTEN: I am writing to protest as strongly as possible and to solicit your help in modifying the capricious and arbitrary draw-down of guarantee agency reserves proposed in the deficit reduction legislation. The Wisconsin Higher Education Corporation is a Wisconsin based private non-profit corporation organized in 1967 to provide services under the Guaranteed Student Loan Program.

Some states, particularly the largest such as New York, New Jersey and Illinois would contribute nothing. In other middle size and smaller states, however, the impact would be devastating. Wisconsin would be hit particularly hard. $17 million or approximately 50% of our reserves would be confiscated. Three states, Wisconsin, Michigan and Ohio, would be expected to contribute 25% of the funds captured under the proposal.

The guarantee funds together with federal reinsurance is the guarantee behind the Guaranteed Student Loan program. Wisconsin, for example, currently guarantees over $1.7 billion in loans with a cash reserve of about $29.1 million. With an increasing number of loans failing to qualify for reinsurance and as more and more guarantee enterprises hit the claims rate trigger, lenders are beginning to examine seriously the financial capacities of guarantee agencies. From the beginning of the program 2% of loans outstanding has been accepted as a minimum cash reserve standard. Currently WHEC's guarantee cash reserve is 1.7%. With nearly a 50% drop in the size of WHEC's guarantee fund, lenders will reconsider their participation in the program generally and most certainly consider alternative investments in the event of a recession. Lender yield is already being pressured. To now undermine lender confidence in the guarantee reserves could well have dangerous unintended results.

Our reserves were accumulated over a 20-year period. They are comprised largely of lender fees which are passed on to the borrower, investment earnings, and monies from default recoveries. Contrary to popular belief there are relatively few federal dollars in the cash reserves of most guarantee enterprises.

Those of us who have run fiscally sound programs are now being ordered to bear the full burden while those states which have made other decisions about their programs are required to do nothing. Congress is sending a perverted message to the industry in adopting this proposal. It is saying to guarantee enterprises to spend everything you can get and ignore changing fiscal conditions because 100% federal reinsurance will bail you out. Just the opposite message should be sent by Congress.

There is reason to believe that the proposed legislation constitutes an illegal taking under the Fifth Amendment. Most certainly, litigation will be commenced upon enactment of this provision. If this litigation is successful, Congress will not capture these funds and the deficit reduction target will not be reached. When the GAO first posed this proposal well over a year ago, it was informed by the industry, National Council of Higher Education Loan Programs, Consumers Bankers Association, etc. in detail why the proposal was without merit. Since they chose to pursue it anyway with the budget "summit" committee, one can only conclude that the GAO acted irresponsibly and, in effect, misinformed the Committee.

Reduction can be made in the Guaranteed Student Loan Program. In fact, some significant reductions would actually improve the program. For example, 100% federal reinsurance was a mistake. The program was established with only 80% federal reinsurance. It was shifted to 100% in the mid-seventies to encourage the development of a larger number of guarantee enterprises and to make the program more attractive to the tax exempt market, somewhat dubious long-term objectives. At any rate, to provide an allusion of 100% reinsurance serves as a disincentive to the development of rigorous administrative practices. Definitive shared risk between the guaranteee enterprises and the federal government should be restored. Reducing federal reinsurance to 90% alone would reduce federal costs by about $100 million. There are other reductions which can be made as well which would have the effect of reducing costs and fostering better administrative practices in the program. The budget crisis is an opportunity to improve programs like the GSL for the long-term benefit of both providers and recipients. Unfortunately, the proposal now under consideration does neither.

We are prepared to contribute constructive recommendations to fiscally improve the program. Student credit is becoming as important to the financing of post-secondary education as mortgage debt is to home ownership. The GSL system is the basis of student credit in the country. Therefore, care must be exercised to insure the long-term health and development of this national resource.

I am one of the few people in the country who have been with the GSL program since it began. I have seen many changes in the program, not all of them desirable; but the change being proposed now is unique in its thoughtless and harmful effects on the program which could prove to be fatal. Such an action should not be taken, particularly when there are alternatives available which will do the job.

Sincerely,

JAMES A. JUNG,
President.

STATE OF WISCONSIN,
December 10, 1987.
Hon. ROBERT KASTEN,
U.S. Senate, Washington, DC.

DEAR SENATOR KASTEN: I would like to bring to your attention a major problem concerning the proposed treatment of Guaranteed Student Loan reserves resulting from the federal budget "summit" agreement.

Control of federal spending and reduction of the federal budget deficit are critically important. Legitimate savings should be expected for many programs, including the Guaranteed Student Loan Program. However, the specifics of the current proposal for the reduction of reserves in state Guaranteed Student Loan Programs is highly inequitable and fraught with legal barriers which may undercut the actual realization of the expected savings.

A few of the best-managed programs would bear the major burden of the proposed reserve reductions. For example, forty-four percent of the total $250 million to be raised by the federal government through reserve reductions would come from Guaranteed Student Loan reserves in only five states—Michigan, North Carolina, Ohio, Virginia and Wisconsin.

These five programs, and the other state programs which will be hardest hit, have most effectively and responsibly managed their resources and held down loan default rates. Conversely, those programs with higher default rates and lower reserves will be little affected.

The Guaranteed Student Loan Program has been criticized for poor loan repayment performance. It therefore makes little sense to penalize those state programs which have been managed most effectively.

Alternative methods to achieve savings within the Guaranteed Student Loan Program have been proposed which would be more equitable and longer lasting. I urge Congress to immediately consider such alternatives.

Sincerely,

TOMMY G. THOMPSON,
Governor.●

RECESS UNTIL 3:30 P.M.

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess until 3:30 p.m. today.

There being no objection, the Senate, at 2:33 p.m., recessed until 3:30 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. DASCHLE].

SENATE SCHEDULE

Mr. BYRD. Mr. President, shortly, I will proceed to take up some small matters.

For the moment, let me say that I would anticipate the Senate's coming in tomorrow around noon. Conference reports are not ready for tomorrow morning's action, and this is what we are awaiting in the main—the conference report on the continuing resolution, the conference report on the reconciliation measure.

These have to be dealt with before Congress can adjourn sine die over to the next session in January. Both of them will go to the other body before they come to the Senate, in these instances.

The conferees are still working on both measures. Progress is being made, but they are enormous measures, and there is a tremendous amount of paper work, which all points to the likelihood that the Senate will be in late tomorrow evening and Saturday and late Saturday evening.

I have every hope and expectation of our completing our work and adjourning sine die without having to be in next week.

I would say that rollcall votes can be expected on these measures. The farm credit conference report will be coming along tomorrow at some point. So Senators should not leave town. They should not believe that there will not be additional rollcall votes.

I feel that I owe it to my colleagues to state what I see ahead of us and to explain why we have not been very active on the floor in this week, the reason being that we have been waiting on the conferees to do their work. Not wanting to disturb them with rollcall votes and quorum calls, I believe that this has been the best way to approach our remaining work.

ORDER FOR RECESS

Mr. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until the hour of 12 noon tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that there be a period for morning business for 15 minutes and that Senators may speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE STATE OF OUR NATIONAL SECURITY

Mr. EXON. Mr. President, this is a season and time for peace, but let us not forget or neglect the critical next few months in our search for man's elusive goal.

With the aura of hope for peace that has followed the historic summit meeting; with the distraction of the rush to adjournment and accompanying difficulties; with the wonderful spirit of Christmas and Hanukkah gracing this land; we nevertheless must pursue, with realism, the treacherous and tedious path to understanding that is thrust upon us and mankind today.

Tomorrow is today, next week is next month and 1987 is already 1988, a telltale year as far as long-term pursuits are concerned.

As the first, enthusiastic supporter in the Senate for ratification of the INF Treaty, I have cautioned that it is nothing more than a knock that has tenuously opened the door to truly meaningful agreements between the superpowers. The startling realities are, and they must be understood today, that the summit, while a success in a narrower sense, essentially ignored the gravest problems of real superpower mutual understandings. The Persian Gulf and the Middle East, Afghanistan, the NATO conventional imbalance, human rights, the strategic defense initiative and Central America, among others, were hardly touched, even with a 10-foot pole.

To this Senator it is alarming that the focus now is upon concluding a START 50-percent reduction in the United States and Soviet nuclear forces within the next 6 months. I am startled at the revelations from high Reagan administration and naval sources that consideration is being given to cancellation of all or a substantial portion of our Trident II submarine system. The Trident is far and away our most survivable and formidable deterrent force. It makes one wonder if the tooth fairy is not driving the political bandwagons of the peacemakers. It is as if we could have been more successful in the Indian wars of the mid-1800's had we convinced the native Americans to beat their clandestinely obtained guns into plowshares and return to reliance on the caveman's bows and arrows. We in turn could have destroyed all of our inventory of bows but not necessarily the arrows. Like the Indians of yesteryear, such defense planning on our part today might lead us to their fate. Peace, true enough, but on whose terms?

In conclusion, let me turn to the situation in Central America. This Senator has not been a supporter of military aid to the Contras since I have felt they could not, even with our money, be successful on their own. I am concerned that a failure on their part could, Vietnam-like, drag us into another jungle war in Nicaragua.

I have never trusted the Ortega brothers but would be hopeful their Central American neighbors can pressure them into a peaceful relationship, if not democracy.

When Daniel Ortega was here last month I had an opportunity to visit frankly with him in the company of a few other Senators. I specifically told him of my concerns as to his real intentions and that, I for one, was watching his actions as a result of the Arias peace initiative very closely. He was told that as far as I was concerned his actions in this regard in the next few weeks would be critical as to what my future position would be on the Central American problems.

I reminded Mr. Ortega that I had opposed the initial aid to his Sandinista government after the revolution, because I was fearful of their Marxist ties. I cited his letting down my late friend and colleague, Senator Zorinsky, who sincerely tried to assist in resolving the difficulties from the beginning. I lectured him on his frequent visits to the Kremlin, despite his protestations that he was not intent on making Nicaragua a satellite state. I congratulated him on requesting the intervention of Cardinal Obando Y Bravo in the peace process but that we were looking for positive steps and would be unsatisfied with only more of what we had heard and seen of his peace understandings over the years.

It is vitally true then that our international relations are at a critical stage and focus must be kept on them. The threat of hostilities involving our forces is very real and very possible in several of the world hot spots.

This is not time to rest on our laurels. This is a time to recognize time is of every essence. We should quicky ratify the INF pact and in doing so understand that we must carefully proceed toward further treaties with the understanding that there must be a far larger movement toward understandings and agreements on Soviet-

United States issues and Soviet-United States trouble spots around the globe.

Our overall national security interests must take precedence over only affable gatherings. This is true notwithstanding our and others' good intentions. It is time for vigilance in the cause of pursuing peace in the national defense interest of the United States of America and the free world.

Mr. President, I suggest the absence of a quorum.

The **PRESIDING OFFICER**. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. **BYRD**. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

Mr. **BYRD**. Mr. President, I inquire of the distinguished acting Republican leader if the following order numbers on the Calendar of Business have been cleared on that side: Calendar Orders Nos. 490, 493, and 494?

Mr. **HECHT**. They have been cleared.

Mr. **BYRD**. Mr. President, I thank the Senator.

THE CALENDAR

Mr. **BYRD**. Mr. President, I ask unanimous consent that the Senate consider en bloc Calendar Orders Nos. 490, 493, 494, and that amendments where shown to the measures and/or to the titles be adopted and that Senators' statements be located in appropriate places in the RECORD and that the motion to reconsider en bloc be laid on the table.

The **PRESIDING OFFICER**. Is there an objection? Without objection, it is so ordered.

SEMINOLE INDIAN LAND CLAIMS SETTLEMENT ACT

The Senate proceeded to consider the bill (S. 1684) to settle Seminole Indian land claims within the State of Florida, and for other purposes, which had been reported from the Select Committee on Indian Affairs, with an amendment to strike all after the enacting clause and insert in lieu thereof, the following:

SHORT TITLE

SECTION 1. This Act may be cited as the "Seminole Indian Land Claims Settlement Act of 1987".

FINDINGS AND POLICY

SEC. 2. Congress finds and declares that—

(1) there is pending before the United States District Court for the southern district of Florida a lawsuit by the Seminole Tribe which involves certain lands within the State and there are also claims by the tribe to other areas of Florida by virtue of an 1839 Executive order of the President and by right of non-extinguishment of aboriginal possession which has been asserted but not filed in court;

(2) the pendency of this lawsuit and these claims may result in economic hardships for residents of the State by clouding the titles to lands in the State, including lands not now involved in the lawsuit;

(3) the pendency of this lawsuit and these claims also have clouded the easement rights of the South Florida Water Management District in lands necessary for use as a water flowage and storage area, which is part of a federally authorized project for flood control and water management in central and southern Florida, and which is being used to provide and regulate a water supply for the residents of south Florida;

(4) the State, the district, and the tribe have executed agreements for the purposes of resolving tribal land claims and settling the lawsuit—

(A) which include conveyance of land and payment of consideration to the tribe; and

(B) which require implementing legislation by the Congress of the United States and the Legislature of the State of Florida;

(5) Congress shares with the parties to such agreements a desire to settle these Indian claims in the State of Florida without additional cost to the United States;

(6) there is considerable uncertainty as to the nature and extent of the water rights of the tribe, and that continued controversy over this should be settled by agreement; and

(7) the State, the district, and the tribe have entered into a compact which, if approved by Congress and the Florida Legislature, creates specifically defined water rights in lieu of the undefined water rights claimed by the tribe.

DEFINITIONS

SEC. 3. For purposes of this Act—

(1) The term "tribe" means the Seminole Tribe of Indians of Florida or Seminole Tribe of Florida, a tribe of American Indians recognized by the United States and organized under section 16 of the Indian Reorganization Act of 1934 (25 U.S.C. 476) and recognized by the State of Florida pursuant to chapter 285, Florida Statutes, and its successors.

(2) The term "State" means the State of Florida and its agencies, political subdivisions, constitutional officers, officials of its agencies and subdivisions and their successors.

(3) The term "district" means the South Florida Water Management District, the agency of the State of Florida created by chapter 25270, laws of Florida (1949) to operate pursuant to chapter 373 Florida Statutes, and its successors.

(4) The term "Secretary" means the Secretary of the Interior.

(5) The term "lands or natural resources" means any real property or natural resources, or any interest in or right involving any real property or natural resources, including minerals and mineral rights, timber and timber rights, water and water rights, and rights to hunt and fish.

(6) The term "Settlement Agreement" means the instrument—

(A) executed by the Seminole Tribe, the State of Florida, and the South Florida Water Management District; and

(B) which will be presented for approval by all three parties to the United States District Court for the southern district of Florida for the purpose of terminating the lawsuit entitled Seminole Tribe of Indians of Florida, v. State of Florida, et al., (Docket No. 78-6116-CIV), and for the extinguishment of rights to all potential or unsettled claims which the tribe may have to lands or natural resources in the State and the purchase of certain tribal interests in real property.

(7) The term "settlement funds" means those funds which the State of Florida and the South Florida Water Management District have agreed to pay to the tribe under the Settlement Agreement.

(8) The term "compact" means the Compact incorporated in the Settlement Agreement between the tribe, the State, and the district, which specifically defines the nature and extent of Seminole water rights and the manner of their use within the confines of the area of the district.

FINDINGS BY THE SECRETARY

SEC. 4. (a) Section 5 shall not take effect until 180 days after the effective date of this Act, or the date the last of the events described in subsection (b) have occurred and the Secretary so finds, whichever date occurs later.

(b) The events referred to in subsection (a) are—

(1) the State and district pay settlement funds pursuant to the terms of the Settlement Agreement for the case captioned Seminole Tribe of Indians of Florida v. State of Florida et al., or equivalent consideration by land exchange to the tribe; and

(2) the State enacts appropriate legislation to carry out the commitments under the Settlement Agreement including the compact between the State, the district and the tribe, and the State and the district have given the waiver specified in paragraph 5c of such agreement.

APPROVAL OF PRIOR TRANSFERS AND EXTINGUISHMENT OF CLAIMS AND ABORIGINAL TITLE INVOLVING FLORIDA INDIANS

SEC. 5. (a)(1) Effective on the date of enactment of this Act, the Congress does hereby approve the Settlement Agreement, including the compact, and any exhibits attached thereto.

(2) Subject to the provisions of section 4, the Secretary shall publish findings required by section 4 and the Settlement Agreement in the Federal Register, and upon such publication—

(A) the transfers, waivers, releases, relinquishments and other commitments made by the tribe in the Settlement Agreement with the State and the district, including the compact provided for in the Settlement Agreement, shall be in full force and effect on the terms and conditions stated in such settlement, and

(B) the transfers, waivers, releases, relinquishments and other commitments validated by subparagraph (A) and the transfers and extinguishments approved and validated by paragraphs (1) and (2) of subsection (b) shall be deemed to have been made in accordance with the Constitution and all laws of the United States that are specifically applicable to transfers of lands or natural resources from, by, or on behalf of any Indian, Indian nation, or tribe of Indians including but not limited to the Trade and Intercourse Act of 1790, Act of July 22, 1790 (25 U.S.C. 177, ch. 33, sec. 4, 1 Stat. 137).

(b)(1)(A) Subject to subparagraph (B), all claims to lands within the State based upon aboriginal title by the tribe or any predecessor or successor in interest, are hereby extinguished. Any transfer of lands or natural resources located anywhere within the State, including transfers pursuant to a statute or treaty with any State or the United States, by, from, or on behalf of the tribe or any predecessor or successor in interest, shall be deemed to be in full force and effect, as provided in subsection (a)(2).

(B) Nothing in this paragraph shall be construed as extinguishing any aboriginal right, title, interest, or claim to lands or natural resources solely to the extent of the rights or interests defined as "excepted interests" in paragraph 4a of the Settlement Agreement between the tribe, State and the district.

(2)(A) By virtue of the approval of a transfer of lands or natural resources effected by this section, or an extinguishment of aboriginal title effected thereby, all claims against the United States, the State or subdivision thereof, or any other person or entity, by the tribe or any predecessor or successor in interest, arising subsequent to the transfer and based upon any interest in or right involving such lands or natural resources, including claims for trespass damages or claims for use and occupancy, shall be extinguished as of the date of the transfer.

(B) The United States shall not be liable directly or indirectly for any claim or cause of action arising from the approval of the Settlement Agreement and compact or exhibits attached thereto.

(3) Nothing in this Act shall be construed as extinguishing any right, title, interest, or claim to lands or natural resources in the State based on use and occupancy or acquired under Federal or State law by any individual Indian which is not derived from or through the tribe, its predecessor or predecessors in interest, or some other American Indian tribe.

(4) Any Indian, Indian nation, or tribe of Indians, other than the Seminole Tribe as defined in section 3(1), or any predecessor or successor in interest, or any member thereof, whose transfer of lands or natural resources is approved or whose aboriginal title or claims is extinguished by paragraph (1) or (2) of this subsection may, within a period of one year after publication of the Secretary's finding pursuant to subsection (a) of this section, bring an action against the State and the United States in the United States District Court for the southern district of Florida. Such action shall be in lieu of a suit against any other person, agency, or political subdivision on a cause of action which may have existed in the absence of this subsection.

(c) Neither subsection (a) of this section nor section 7 of this Act—

(1) enacts present or future laws of the State as Federal law,

(2) grants consent to any future changes in the Settlement Agreement or compact that could impose any obligation or liability on the United States, or

(3) commits the United States to finance any project or activity not otherwise authorized by Federal law.

SPECIAL PROVISIONS FOR SEMINOLE TRIBE

SEC. 6. (a) Notwithstanding any clouds on title, the Secretary is authorized and directed, as soon as practicable after the date of enactment of this Act, to accept the transfer to the United States, to be held in trust and as a reservation for the use and benefit of the Seminole Tribe of Florida, the approximate 15 sections of land being described as follows:

Beginning at the southwest corner of section 31, township 48 south, Range 35 east; thence easterly along the south border of sections 31, 32 and 33, township 48 south, Range 35 east, to the westernmost boundary of the levee 28 works in section 33, township 48 south, Range 35 east; thence continuing north along the westernmost boundary of the levee 28 works to the point at which the westernmost boundary of the levee 28 works intersects the southernmost boundary of the levee 4 works in section 9, township 48 south, Range 35 east; thence continuing westerly along the southernmost boundary of the levee 4 works to the point at which the southernmost boundary of the levee 4 works intersects the dividing line between township 48 south, Range 35 east and township 48 south, Range 34 east at the Broward County and Hendry County line; and thence continuing south along said line to the point of beginning; said lands situate, lying and being in Broward County, Florida.

(b) Before the expiration of the 3-year period beginning on the date of enactment of this Act, the Secretary shall—

(1) conduct a cadastral survey of those portions of the Seminole Federal Reservations in Florida not previously surveyed by the Department of the Interior, including all lands taken into trust as reservations under the authority of this Act;

(2) publish the correct legal descriptions of the Seminole Reservations in the Federal Register within 180 days after the survey is completed.

(c) If, pursuant to paragraph 6 of the Settlement Agreement, there is a subsequent agreement between the tribe, the State, and the district providing that lands exchanged with the tribe or acquired by the tribe may be taken into Federal trust as a reservation for the tribe, the Secretary shall accept the transfer of such lands to the United States, to be held in trust for the use and benefit of the tribe pursuant to the terms and conditions of the subsequent agreement unless—

(1) the total amount of land previously taken in trust under this subsection exceeds the amount of land transferred to the State and Water District by the tribe under the Settlement Agreement;

(2) the Secretary determines in writing that either the size, location, or condition of the land, or the terms and conditions under which it is transferred would place an unreasonable burden on the United States as trustee;

(3) the land is not in Florida; or

(4) the land is not agricultural in nature.

(d)(1) Notwithstanding the acquisition of any land under subsection (a) or (c) of this section by the United States in trust for the tribe, the assumption of jurisdiction in favor of the State contained in section 285.16, Florida Statutes, pursuant to section 7 of the Act of August 15, 1953, (67 Stat. 588; Public Law 280), shall continue in full force and effect on such lands unless the United States accepts a retrocession by the State of such civil or criminal jurisdiction in whole or in part under section 403 of the Act of April 11, 1968 (82 Stat. 79; 25 U.S.C. 1323). The laws of Florida relating to alcoholic beverages, gambling, sale of cigarettes, and their successor laws, shall have the same force and effect within said transferred lands as they have elsewhere within the State. The State, with respect to the transferred lands, shall also have jurisdiction over offenses committed by or against Indians under said laws to the same extent the State has jurisdiction over said offenses committed elsewhere within the State.

(2) Nothing in this subsection shall be construed as permitting the exercise of the above jurisdiction by the State regarding matters to which section 1162(b) of title 18, United States Code, and section 1360(b) of title 28, United States Code, apply.

(3) The scope of tribal sovereignty over transferred lands, with the specific exceptions of law relating to cigarettes, gambling and alcohol described in this subsection, shall be as required by applicable law with regard to existing tribal lands held in reservation or Federal trust status. Such transfer shall not confer upon the tribe, or upon the lands within the reservation, any additional water rights. Tribal water rights shall be deemed to be defined in the compact.

WATER RIGHTS COMPACT

SEC. 7. The compact defining the scope of Seminole water rights and their utilization by the tribe shall have the force and effect of Federal law for the purposes of enforcement of the rights and obligations of the tribe.

JUDICIAL REVIEW

SEC. 8. (a) Notwithstanding any other provision of law, any action to contest the constitutionality of this Act shall be barred unless the complaint is filed within 180 days after the date of enactment of this Act. Exclusive jurisdiction over any such action is hereby vested in the United States District Court for the southern district of Florida.

(b) Notwithstanding any present immunity from suit enjoyed by any of the parties, jurisdiction regarding any controversy arising under the Settlement Agreement or compact or private agreement between the tribe and any third party entered into under authority of the compact is hereby vested in the United States District Court for the southern district of Florida. Such jurisdiction shall be exclusive except that the court shall not have jurisdiction to award money damages against the State, the district or the tribe. Proceedings in the district court under this section shall be expedited consistent with sound judicial discretion.

REVOCATION OF SETTLEMENT

SEC. 9. In the event the Settlement Agreement or any part thereof is ever invalidated—

(1) the transfers, waivers, releases, relinquishments and any other commitments made by the State, the tribe, or the district in the Settlement Agreement shall no longer be of any force or effect;

(2) section 5 shall be inapplicable as if such section was never enacted with respect to the lands, interests in lands, or natural resources of the tribe and its members; and

(3) the approvals of prior transfers and the extinguishment of claims and aboriginal title of the tribe otherwise effected by section 5 shall be void ab initio.

EFFECTIVE DATE

SEC. 10. This Act shall take effect upon the date of its enactment.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

AWARD OF CONGRESSIONAL GOLD MEDALS TO LAWRENCE EUGENE DOBY AND JACK ROOSEVELT ROBINSON

The Senate proceeded to consider the bill (S. 1519) to authorize the President of the United States to award congressional gold medals to Lawrence Eugene Doby and posthumously to Jack Roosevelt Robinson in recognition of their accomplishments in sport and in the advancement of civil rights and to authorize the Secretary of the Treasury to sell bronze duplicates of those medals, which had been reported from the Committee on

Banking, Housing, and Urban Affairs, with amendments, as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets, and the parts of the bill intended to be inserted are shown in italic.)

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, [That it be authorized by the Congress assembled,]

SECTION 1. FINDINGS.

The [Senate] *Congress* finds that—

(1) Lawrence Eugene (Larry) Doby and Jack Roosevelt (Jackie) Robinson broke baseball's color line, being the first black players in the American and National Leagues, respectively;

(2) their entrance into the major leagues opened the doors of opportunity in sports for blacks and other minorities;

(3) their entrance into the major leagues helped raise public consciousness, and helped to promote civil rights;

(4) their play was exemplary, earning each numerous all-star awards, and election to the Hall of Fame for Jackie Robinson;

(5) Jackie Robinson, despite his death, and Larry Doby have continued to serve as role models for youth throughout the country;

(6) Larry Doby continued to play a role in baseball, and was one of the first black managers in the major leagues;

(7) Jackie Robinson had a successful business career, and was a spokesman for the civil rights movement;

(8) Larry Doby continues to be involved in community and civic affairs;

(9) Larry Doby and Jackie Robinson demonstrated the ideals of equal opportunity and racial understanding that are a cornerstone of our nation;

(10) major league baseball is this year celebrating the fourtieth anniversary of Larry Doby's and Jackie Robinson's entrance into the major leagues; and

(11) major league baseball should continue to expand its efforts to promote the role of blacks and other minorities in management and leadership roles, and fulfill the goals set by Jackie Robinson and Larry Doby.

SEC. 2. CONGRESSIONAL GOLD MEDAL.

(a) Award.—The President of the United States is authorized and requested to present, on behalf of the Congress, a gold medal to Lawrence Eugene Doby in recognition of his achievements in baseball and contribution to the advancement of civil rights in this country, and to the wife of Jack Roosevelt Robinson in recognition of Jackie Robinson's achievements in baseball and his contribution to the advancement of civil rights in this country.

(b) Design and Construction.—For purposes of the presentation referred to in subsection (a), the Secretary of the Treasury (hereinafter in this bill referred to as the "Secretary") shall cause to be struck two [gold medals] *copies of a gold medal* with suitable emblems, devices, and inscriptions, to be determined by the Secretary.

(c) Authorization of Appropriations.—There are authorized to be appropriated not to exceed $30,000 to carry out the provisions of this section.

SEC. 3. DUPLICATE MEDALS.

(a) Construction and Sale.—The Secretary may cause duplicates in bronze of the gold [medals] *medal* provided for in section 2 to be coined and sold under regulations prescribed by the Secretary, at a price sufficient to cover the cost of such duplicates and such gold [medals] *medal*, including labor, material, dies, use of machinery, and overhead expenses.

(b) Reimbursement of Appropriations.—Any appropriation made under section 2 shall be reimbursed out of the proceeds of the sales referred to in subsection (a).

SEC. 4. NATIONAL [MEDALS] *MEDAL*.

The [medals] *medal* provided for in this bill shall be considered to be *a* national [medals] *medal* for purposes of section 5111 of title 31, United States Code.

The amendments were agreed to.

Mr. LAUTENBERG. Mr. President, I am pleased to rise today in support of passage of S. 1519, a bill to authorize the awarding of congressional gold medals to Larry Doby and Jackie Robinson.

With passage of this bill, the Senate honors the role these two men played in advancing civil rights in this country. As sponsor of this legislation, I'm particularly pleased and proud to see the Senate taking this action. I am also pleased to note that 59 of my colleagues have joined me by cosponsoring S. 1519.

This year marks the 40th anniversary of the breaking of major league baseball's color line. That event changed not only the game of baseball, but our society, for the better. Jackie Robinson and Larry Doby, as the first two blacks to join major league clubs, deserve to be honored not only as great athletes, but as courageous advocates of civil rights.

And it's in this vein that it was so appropriate that baseball honored Larry Doby at this year's All-Star game. Along with Jackie Robinson, Larry opened the doors of the major leagues to blacks. In the 40 years since then, the game has changed greatly. Blacks and other minorities now fill the ranks of players, and have produced some of the game's greatest heroes. I hope that players and fans alike will come to more fully recognize the accomplishments of Larry Doby, and appreciate the courage and conviction he showed 40 years ago.

The Jackie Robinson story is well known. He was born in Cairo, GA, and moved to Pasadena, CA, shortly thereafter. He was a standout athlete in high school, and attended the University of California at Los Angeles on an athletic scholarship. Following a stellar career in several sports at UCLA, he joined the Brooklyn Dodgers' AAA minor league team in 1946. Incidentally, his first game as a minor leaguer was played in Jersey City, NJ.

Jackie Robinson broke into the major leagues in 1947, and was named rookie of the year. Over his career, he batted .311, played on six pennant winning teams, and helped the Brooklyn Dodgers win one world championship. He was widely heralded as a top infielder, and led the league in stolen bases. His accomplishments were rewarded with his election to the Hall of Fame in Cooperstown in 1962.

Although not as many people immediately recognize the name of Larry Doby, he's no less deserving of acclaim.

Larry, a native of Paterson, NJ, was the second black to join the major leagues, only a short time after Jackie Robinson became a member of the National League Brooklyn Dodgers. Larry Doby, as a member of the Cleveland Indians, was the first black in the American League.

Larry Doby was with the Newark Eagles until 1947 when Bill Veeck, owner of the Cleveland Indians, recognized Larry's potential for the major leagues and signed him as an infielder and pinch hitter. In 1948, Larry led the Indians to the American League pennant, with a .301 average in 121 games. He continued to play well during the World Series. Cleveland fans still remember the tremendous home run that he hit to help win the series. In the following seasons, Larry Doby built a reputation as a fine outfielder and long-ball hitter.

In 1952 and again in 1954, Larry Doby was first in the American League in home runs. He also led the league in runs batted in in 1954 with 126, to go along with 32 home runs. Larry played for the American League in six consecutive All-Star games from 1949 to 1954, where he batted .300.

Larry went on to coach several major league teams. He became one of the first black managers when he took over the Chicago White Sox in 1978. Since leaving baseball, he has served as an executive with the New Jersey Nets basketball team. He remains an important and valued member of our community.

Today, there is serious concern about the lack of blacks in managerial and front office positions in baseball. I share this concern. Attention to the issue by Commissioner Ueberroth raises hopes for the future. By bringing in players such as Robinson and Doby, baseball has in the past helped pave the way for enhanced racial relations. I hope that the sport will not delay further in promoting able blacks to leadership positions. Perhaps Larry Doby will be among them.

I am proud to be able to call Larry Doby a friend. Our long-lasting friendship dated back to our high school days in Paterson. Larry is a valued and respected member of the New Jersey community.

Along with Jackie Robinson, Larry Doby opened up new doors and new opportunities for black youth. And he helped open our eyes to a new era of racial understanding. For that, we should all be grateful.

Larry Doby left his mark on baseball like few others. He showed greatness, not only in his play, but also in character. Unfortunately, he has not yet taken his place among those honored in baseball's Hall of Fame. I hope the selection committee will correct this egregious oversight, and I look forward to the day when Larry joins baseball's other greats in Cooperstown.

Mr. President, this legislation pays tribute to Larry Doby and Jackie Robinson. It authorizes the Department of the Treasury to strike two gold medals, each with the images of both these leaders, and replicas thereof. I urge my colleagues to join me in supporting this worthwhile legislation.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The title was amended so as to read "A bill to authorize the President of the United States to award a congressional gold medal to Lawrence Eugene Doby and posthumously to Jack Roosevelt Robinson in recognition of their accomplishments in sport and in the advancement of civil rights, and to authorize the Secretary of the Treasury to sell bronze duplicated of that medal".

PRESENTATION OF SPECIAL GOLD MEDAL TO MARY LASKER

The bill (H.R. 390) to provide that a special gold medal be presented to Mary Lasker for her humanitarian contributions in the area of medical research and education, urban beautification and the fine arts, and for other purposes, was considered, ordered to a third reading, read the third time, and passed.

ORDER FOR STAR PRINT OF SENATE JOINT RESOLUTION 199

Mr. BYRD. Mr. President, I ask unanimous consent that there be a star print of Senate Joint Resolution 199, a joint resolution designating the month of May 1988 as "Trauma Awareness Month," and I send the appropriate text to the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXPRESSING APPRECIATION TO RAY A. BARNHART

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 3734.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 3734) to recognize the significance of the administration of the Federal-Aid Highway System and to express appreciation to Ray A. Barnhart for his dedicated efforts in improving the Federal-Aid Highway System.

The Senate proceeded to consider the bill.

Mr. LUGAR. Mr. President, on December 31, Mr. Ray A. Barnhart will step down as Administrator of the Federal Highway Administration. Ray joined the Reagan administration in January 1981 and his tenure at FHWA has been marked by successful efforts to return management authority to the States while protecting the integrity of the Federal Highway Trust Fund. In 1982, he played a lead role in persuading Congress to adopt long-postponed increases in highway user taxes. The 5-cent increase in the gasoline tax helped fund needed improvements in the Nation's highway and bridge network. He has also pursued initiatives to improve FHWA's presence on the international scene, where America's technological leadership is in strong demand.

I rise to congratulate Ray in his 7-year leadership of an agency of 3,400 employees and management of a $14 billion annual budget with offices in all 50 States, the District of Columbia, and Puerto Rico. He has been charged with completion of the interstate highway system and repair and rehabilitation of America's interstate and primary roads and bridges. His administration also has responsibility for truck safety for the Nation's 5 million commercial motor vehicles. In each of these areas, Ray has worked to advance the Nation's best interest and to achieve workable solutions.

I commend Mr. Ray Barnhart for his significant contributions to our Nation, and wish him well as he returns to private life.

Mr. SYMMS. Mr. President, I am very pleased that the Senate is taking a few minutes in the waning hours of this session to commend Ray Barnhart for his long and distinguished tenure as Administrator of the Federal Highway Administration. Ray will retire from that position on December 31, so it is appropriate that we take this opportunity to praise his commitment to the Federal-aid Highway Program and his principled service to the President, Congress, and the Nation.

All Americans, even those few who may never have occasion to travel on our highways, benefit from a safe, efficient network of highways and bridges. Through his hard work to build political support and increase financial resources for the Federal-aid Highway Program, Ray has helped improve our economy and expand our freedom of mobility. It is no exaggeration to say that during his 7 years of leadership at the Federal Highway Administration, Ray Barnhart has done more to improve the standard of living in this country than most people could claim in a lifetime of public service.

As chairman of the Environment and Public Works Subcommittee on Transportation for 6 years, I was privileged to work closely with Ray on several bills of importance to the continued operation of the Federal-aid Highway Program, including two major reauthorization bills. In that time, we have nearly doubled the size of this user-financed program and brought our surface transportation infrastructure away from the brink of collapse. I am proud of those accomplishments and pleased to have had the benefit of Ray's thoughtful counsel during those deliberations.

Mr. President, Ray Barnhart is, and will always be, my colleague and friend, and I wish him Godspeed.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be offered, the question is on the third reading and passage of the bill.

The bill (H.R. 3734) was ordered to a third reading, was read the third time, and passed.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. HECHT. Mr. President, I move to lay the motion on the table.

The motion to lay on the table was agreed to.

COMMERCIAL FISHING INDUSTRY VESSEL ANTI-REFLAGGING ACT OF 1987

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 440.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 2598) entitled the "Commercial Fishing Industry Vessel Anti-reflagging Act of 1987."

The Senate proceeded to consider the bill.

AMENDMENT NO. 1364

Mr. BYRD. Mr. President, I send a substitute amendment to the desk on behalf of Mr. Hollings and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD], for Mr. HOLLINGS, proposes an amendment numbered 1364.

Mr. BYRD. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

That section 3(27) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1802(27)) is amended to read as follows:

"(27) The term 'vessel of the United States' means—

"(A) any vessel documented under chapter 121 of title 46, United States Code;

"(B) any vessel numbered in accordance with chapter 123 of title 46, United States Code, and measuring less than 5 net tons;

"(C) any vessel numbered in accordance with chapter 123 of title 46, United States Code, and used exclusively for pleasure; or

"(D) any vessel not equipped with propulsion machinery of any kind and used exclusively for pleasure.".

SEC. 2. (a) Item 12101 of the analysis of chapter 121 of title 46, United States Code, is amended to read as follows: "12101. Definitions and related terms in other laws.".

(b) The caption of section 12101 of title 46, United States Code, is amended to read as follows:

"12101. Definitions and related terms in other laws.".

(b) The caption of section 12101 of title 46, United States Code, is amended to read as follows:

"12101. Definitions and related terms in other laws".

(c) Section 12101 of Title 46, United States Code, is amended—

(1) by striking paragraphs (6);

(2) by inserting "(b)" immediately before "When";

(3) by inserting immediately before subsection (b), as so redesignated, the following:

"(a) In this chapter—

"(1) 'fisheries' includes processsing, storing, transportating (except in foreign commerce), planting, cultivating, catching, taking, or harvesting fish, shellfish, marine animals, pearls, shells, or marine vegetation in the navigable waters of the United States or in the exclusive economic zone of the United States.".

"(2) 'rebuilt', as applied to a vessel, means building upon or substantially altering any considerable part of the hull or superstructure of the vessel.".

(d) Section 12108(a)(2)(A) is amended by striking "States;" and inserting in lieu thereof the following:

"STATES AND IF REBUILT, WAS REBUILT IN THE UNITED STATES;".

SEC. 3. (a) Notwithstanding the requirements of section 12108(a)(2) of title 46, United States Code, a fishery license or an appropriately endorsed registry may be issued—

(1) for a vessel that was not built in the United States, if prior to January 1, 1987, such vessel was documented under chapter 121 of title 46, United States Code; and

(2) for a vessel that was not rebuilt in the United States, if such vessel was built in the United States and was purchased under a contract entered into prior to July 28, 1987, for use as a fishing, fish processing, or fish tender vessel, and if any foreign rebuilding of such vessel is completed no later than two years following the date of enactment of this Act.

(b) Any fishery license or an appropriately endorsed registry issued under subsection (a)(1) of this section to a vessel built in a foreign country shall be endorsed to restrict such vessel from catching, taking, or harvesting fish.

(c) The terms used in this section have the same meaning as in subtitle II of title 46, United States Code, as amended by this Act.

SEC. 4. (a) Section 8103(b) of title 46, United States Code, is amended to read as follows:

"(b)(1) On each departure of a documented vessel, 75 percent of the unlicensed seamen must be citizens of the United States, except for—

"(A) a yacht;

"(B) a fishing vessel;

"(C) a fish processing vessel; or

"(D) a fish tender vessel.

"If the Secretary decides, on investigation, that qualified citizen seamen are not available, the Secretary may reduce the percentage.

"(2) On a documented fishing, fish processing, or fish tender vessel that is engaged in the fisheries as defined by section 12101(a)(1) of this subtitle and does not fish exclusively for highly migratory species as defined in Section 3(14) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1802(14)), the employment of citizens, aliens, immigrants, or individuals who may otherwise acquire the status of aliens lawfully admitted to the United States for permanent residence shall be governed by the Immigration and Nationality Act (8 U.S.C. 1101 et seq.), regardless of point of departure.".

(b) Subsection (a) of this section shall not be effective until 12 months after the date of enactment of this Act.

SEC. 5. (a) Section 2101 of title 46, United States Code, is amended by inserting immediately after paragraph (10) the following:

"(10a) 'exclusive economic zone of the United States' means the zone established by Presidential Proclamation numbered 5030, dated March 10, 1983.".

(b) Section 12106(b) of title 46, United States Code, is amended to read as follows:

"(b) Subject to the laws of the United States regulating the coastwise trade, only a vessel for which a coastwise license or an appropriately endorsed registry is issued may be employed in the coastwise trade.".

(c) Section 12107(b) is amended—

(1) by inserting "and" immediately after the semicolon at the end of paragraph (1);

(2) in paragraph 2, by striking "Canada; and" and inserting in lieu thereof "Canada."; and

(3) by striking paragraph (3).

SEC. 6. (a) Section 4311(a) of the Revised Statutes of the United States (46 App. U.S.C. 251(a)) is amended by adding at the end the following: "The Secretary of Commerce may issue such regulations as the Secretary considers necessary to obtain information on the transportation of fish products by vessels of the United States from foreign fish processing vessels to points in the United States.".

(b) Within 6 months after the date of enactment of this Act, the Secretary of Commerce shall submit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives, setting forth—

(1) an evaluation of the potential impact, on the development of the United States fishing industry, of the transportation of fish products by vessels of the United States from foreign fish processing vessels to points in the United States; and

(2) recommendations, if any, for legislation or other action to regulate such transportation of fish products in a manner most beneficial to the future development of the United States fishing industry.

(c) Within 6 months after the date of enactment of this Act, the Secretary of Commerce shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Merchant Marine and Fisheries Committee of the House of Representatives a report discussing the trends in the development of northwest fishery resources under the exclusive fishery management authority of the United States as specified in section 101 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1811) and analyzing the effects of such trends upon the United States fishing industry and the conservation and management of such resources. The report shall include—

(1) an evaluation of the extent to which the development of domestic harvesting and processing capacity has been or is likely to be affected, if at all, by this Act;

(2) an evaluation of the extent to which harvesting vessels currently engaged in joint venture operations with foreign vessels have been or are likely to be affected, if at all, by this Act; and

(3) such other matters relating to northwest fishery development, including recommendations for legislation or other action, as the Secretary deems appropriate.

AMENDMENT NO. 1365

(Purpose: To amend the pending amendment in the nature of a substitute)

Mr. HECHT. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Nevada (Mr. HECHT) on behalf of Mr. MURKOWSKI, proposes an amendment numbered 1365 to amendment No. 1364.

Mr. HECHT. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In the pending amendment in the nature of a substitute, redesignate sections 4 and 5 as sections 5 and 6, respectively, and insert immediately after section 3 the following new section:

SEC. 4. (a) Section 12102 of title 46, United States Code, is amended by adding at the end the following:

"(c)(1) A vessel owned by a corporation is not eligible for a fishery license under section 12108 of this title unless the controlling interest (as measured by a majority of voting shares in that corporation) is owned by individuals who are citizens of the United States. However, if the corporation is owned in whole or in part by other United States corporations, the controlling interest in those corporations, in the aggregate, must be owned by individuals who are citizens of the United States.

"(2) The Secretary shall apply the restrictions on controlling interest in section 2(b) of the Shipping Act, 1916 (46 App. U.S.C. 802(b)) when applying this subsection.".

(b) Section 12102(c) of title 46, United States Code (as enacted by subsection (a) of this section) applies to vessels issued a fishery license after July 28, 1987. However, that section does not apply if before that date the vessel—

(1) was documented under chapter 121 of title 46 and operating as a fishing, fish processing, or fish tender vessel in the navigable waters of the United States or the Exclusive Economic Zone; or

(2) was contracted for purchase as a fishing, fish tender, or fish processing vessel in the navigable waters of the United States or

the Exclusive Economic Zone, if the purchase is shown by the contract or similarly reliable evidence acceptable to the Secretary to have been made for the purpose of using the vessel in the fisheries.

Mr. MURKOWSKI. Mr. President, the amendment I am offering today will ensure that future development in the fastest growing sector of the United States seafood industry remains in the hands of American citizens.

The amendment will mandate that at least 51 percent of the interest in U.S. fisheries vessels owned by corporations is held by U.S. citizens.

This provision will not remove the privilege of fishing from any person or company that is presently operating or that can demonstrate that it already has undertaken to purchase a vessel for use in the fishery. It simply ensures that future entrants are controlled by the interests of the United States, rather than those of other nations.

This amendment is a needed—in my opinion, a mandatory—step in the process of Americanizing our fisheries. Only a few years ago, Americanization seemed like a goal that would never be reached. Then, after our objectives were given form by the Magnuson Act, we began at last to make rapid progress. Our biggest lapse, however, has been to ignore the fact that much of our industry is financially subject to foreign interests.

I will be the first to admit that foreign investment in our fishing industry has brought some benefits. It has, for example, helped our fishermen learn new techniques, provided access to new markets for some processors who employ U.S. workers, and made it possible for both at-sea and onshore capacity to expand rapidly.

But now is the time to say, "Enough!"

We are no longer near-shore fishermen with no knowledge of offshore techniques. We are no longer restricted to old fashioned processing techniques and products. The United States industry is ready to take its rightful place on the world fishing scene.

Over the past few years we have seen seafood consumption in the United States pull out of the doldrums and surge ahead. Together with growth in markets elsewhere, the change in U.S. eating habits sparked intense interest in the offshore fisheries of the North Pacific. This was one of the last remaining major underdeveloped fisheries in the world, and one capable of sustained annual harvests in the billions of pounds. Interest has been especially strong for groundfish such as pollock and cod and sablefish, and flatfish such as flounder and sole.

I want to stress my earlier words: It was one of the last remaining major underdeveloped fisheries. That label no longer truly applies.

Only in the at-sea processing industry—and in the marketing activity it supports and controls—is there still tremendous potential for growth. And only in these areas is there still time to exert control over our own destiny.

Most of the rest of the industry is either already fully capitalized, or is growing at a slower, sensible pace. But the pace in the at-sea industry is frantic, hectic, explosive.

Foreign investment is heavy in the industry segments that developed earlier. Many companies are almost, if not entirely, controlled from overseas. And despite the impetus for rapid growth provided by that investment, there are many drawbacks.

Take, for example, this fact: Although the North Pacific produces billions of pounds of high quality seafood products every year, by far the greatest share of it goes overseas in raw or primary-processed forms. Then, much of it comes home again as products that have gone through secondary processing procedures to increase its value, and any money we may have earned on the original sale—plus some—goes back overseas. This factor contributes to the fact that the United States exports a little over one billion dollars of seafood, but imports almost five billion dollars' worth.

There will be those who say this measure will make it difficult to find financing for new processing and catcher-processor vessels, but they are wrong. Once the basic loophole that allows reflagging to occur has been closed, the investment market will stabilize.

In the past, a U.S. investor could never be sure the outlook for earnings would not be jeopardized by a sudden change in the number of competitors. Without a reflagging prohibition, such a change could occur virtually overnight, perhaps even before the investor's vessel could begin operating. With the prohibition contained in the bill before us, such uncertainty is eliminated. As a banker, I can tell you that will make investment in the fishing industry far more attractive. The value of the billions of pounds of raw fish products produced by the United States each year is immense. It is well worth the attention of the U.S. investment community, when that community is assured of a stable environment and a guarantee of American control.

Others may say foreign interests can easily avoid the effects of this amendment by creating a series of U.S. "shell" corporations to hide their interest. Let me point out, however, that we are far more likely to see a profusion of "shell" companies if we do not commit to this step. With this amendment, we are assured the law will be clear: There must be no strings attached, no arrangement whatsoever that allows foreign control over a corporation owning a vessel.

Additionally, existing law provides for strong penalties. When a documentation application is submitted, ownership information must be provided. The penalty for a false claim of U.S. control is forfeiture of the vessel in question. I submit that that alone provides a substantial disincentive to anyone contemplating such a false claim.

Finally, I want to point out that ownership requirements for vessels are nothing new. Current law already requires U.S. control be demonstrated by the purchasers of any vessel. Lacking at least 51 percent U.S. control, a purchaser must week the specific approval of the Maritime Administration.

Furthermore, even more restrictive provisions apply to vessels involved in the coastwise and Great Lakes trades. For all these vessels—including towing boats, as a result of action in the 99th Congress—the U.S. ownership requirement is for fully 75 percent American control.

Mr. President, we are capable of developing our own fisheries, our own processing capacity, and our own markets.

I urge my colleagues to join me in supporting this amendment.

Mr. ADAMS. Mr. President, I rise to ask my friend from Alaska a question about the effect of his amendment. It is my understanding that the amendment is designed to ensure that corporations owning fishing, fish tendering, and fish processing vessels are under the majority control of U.S. citizens. It is also my understanding that the amendment does not speak to and is not intended to change the rules or administrative practice with respect to the documentation of vessels owned by partnerships, including those composed of one or more corporations as partners. I ask my good friend if that is his understanding as well.

Mr. MURKOWSKI. I thank the Senator for his question. That is also my understanding of the effect of this amendment. I would like, however, to clarify one point with regard to the question of partnerships composed of corporations. It is my understanding that the Coast Guard currently requires only that the general partner in such a partnership be controlled by corporate U.S. citizens as defined in the documentation statutes (title 46 U.S.C. 12102). It is my belief that this constitutes a loophole. However, it is also my understanding that the Coast Guard is presently engaged in an administrative process intended to close this loophole.

Mr. ADAMS. I thank the Senator from Alaska for helping me clarify the purpose of his amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1365) was agreed to.

The PRESIDING OFFICER. Are there further amendments? If there be no further amendments to be proposed, the question is on agreeing to the amendment (No. 1364), in the nature of a substitute, as amended.

The amendment, as amended, was agreed to.

Mr. HOLLINGS. Mr. President, I rise in support of the proposed amendment in the nature of a substitute to H.R. 25698, which restricts benefits under the Magnuson Fishery Conservation and Management Act [MFCMA] for foreign-built and foreign-rebuilt fishery vessels. The bill, entitled the "Commercial Fishing Industry Vessel Anti-Reflagging Act of 1987", is the House counterpart to S. 377, which was introduced by Senator STEVENS on January 22, 1987. The proposed amendment has been developed in the Commerce Committee this year based upon testimony and other information received from representatives of the National Oceanic and Atmospheric Administration [NOAA], Coast Guard, Alaskan coastal communities, American shipbuilding interests, labor organizations, and the processing and harvesting sectors of the U.S. fishing industry.

Under the MFCMA the right to catch and process fish in the U.S. 200-mile exclusive economic zone [EEZ] is allocated according to a system of preferences based on nationality. First priority is given to activities in which both harvesting and processing are handled by Americans. Second priority is assigned to joint ventures in which Americans harvest the fish and deliver them to foreign-flag processing vessels, any remaining portion from the overall catch quota can then be caught and processed by foreign vessels. Under the MFCMA, a vessel is a "vessel of the United States" if it is documented by the Coast Guard under U.S. law. While vessels that catch fish are required by the U.S. documentation laws to have been built in this country before they are permitted to operate in the EEZ or navigable waters, no similar construction requirements apply to foreign-built vessels that only process, store, or transport fish.

Because of U.S. fishing industry growth in recent years, the amount of fish available for purely foreign operations has declined dramatically. In addition, joint venture fishing, which has been carried out mostly in the waters off Alaska, has also been threatened because of impending competition from large U.S.-built vessels that both catch fish and process them on board. These developments have led to a growing concern on the part of U.S. shipbuilding, labor, and commercial fishing groups that the foreign interests would attempt to shift their processing vessels to U.S. flag. By doing so, they would receive the first priority for fish allocation, even though the processing vessels are foreign built.

Proponents of legislation to limit the benefits under the MFCMA for these large capacity vessels argue that such "reflagging" would enable foreign interests to dominate the U.S. fishing industry in the Northwest. In addition to containing no construction restrictions for processing vessels, U.S. documentation laws also permit American-flag processors to operate with foreign crews if the crews are picked up in a foreign port. Thus, if foreign processing vessels are reflagged and crewed with foreign nationals, they will, first, have the advantage of lower capital and operating costs than their U.S. competitors, and second, have a higher priority under the MFCMA than the existing U.S. catching operations that deliver to foreign processing ships.

The proposed amendment addresses these concerns that foreign-built processing vessels with foreign crews might be permitted to operate under U.S. flag in our EEZ. It also deals with a concern about major overseas shipyard projects in which U.S.-built vessels are converted into catcher-processors that can both catch fish and process them on board. At the hearing on S. 377, several witnesses argued that it is inequitable to bar U.S. fisheries documentation for foreign-built processing vessels when these foreign conversions, often subsidized by foreign interests, are permitted to proceed without similar limitation.

The central provision of the amendment makes changes to the vessel documentation laws in order to prohibit foreign-built and foreign-rebuilt vessels from operating as U.S. vessels in the processing, storing, transporting, or catching of fish in the EEZ or navigable waters of this country.

To soften the impact on owners and operators of vessels that are affected by these changes in the documentation laws, the amendment sets forth transition protection. This protection is provided in a way that will discourage a race to reflag foreign-built processing vessels or to obtain U.S.-built vessels suitable for overseas conversion into fishing or fish processing vessels.

Finally, the proposed amendment requires that regardless of its port of departure, a U.S.-flag fishing, fish processing, or fish tender vessel operating in U.S. waters must comply with the Immigration and Nationality Act for all members of its crew. This eliminates the loophole allowing foreign crew members if picked up in a foreign port. In addition, it provides a 12-month transition period for businesses to adjust to the new requirement.

I would like to add to the RECORD on this bill the following section-by-section analysis of the amendment in the nature of a substitute that we are considering today:

AMENDMENT IN NATURE OF SUBSTITUTE FOR H.R. 2598

SECTION-BY-SECTION ANALYSIS

Section 1

Section 1 makes several technical changes and a minor addition to the definition of "vessel of the United States" in the Magnuson Fishery Conservation and Management Act (MFCMA), which is the principal law governing the fishery activities of U.S. and foreign vessels within the 200-mile exclusive economic zone (EEZ) of the United States. The existing law contains three categories of vessels that qualify as "vessels of the United States": (1) vessels documented under the laws of the United States, (2) vessels numbered under the Federal Boat Safety Act of 1971 that measure less than 5 net tons, and (3) vessels numbered under the Federal Boat Safety Act of 1971 that are used exclusively for pleasure. The amendment contained in this section retains these three categories, but alters the MFCMA to reflect the 1983 codification of title 46 of the U.S. Code. The codification covered both the vessel documentation laws and the Federal Boat Safety Act of 1971. As requested by the Administration, the amendment in this section also adds a fourth category of vessels of the United States that had been overlooked previously: unpowered pleasure craft that are neither required to be documented nor numbered.

Section 2

This section amends key provisions of chapter 121 of title 46, U.S. Code, regarding the documentation of fishing, fish processing, and fish tender vessels that have not been built or rebuilt in the United States. Existing documentation law prevents vessels from catching fish in our EEZ unless they have been built in the United States. However, vessels constructed abroad are not barred from conducting at-sea processing activities in the EEZ nor from storing or transporting fish products in support of EEZ fisheries. There are no restrictions at present regarding fishing, fish processing, and fish tender vessels that have been built in this country and rebuilt abroad.

Under current documentation laws, U.S. vessels that catch fish in the EEZ or navigable waters of the United States must have a license or endorsement under section 12108 of title 46, U.S. Code, to engage in the "fisheries". To receive such documentation under section 12108, a vessel must be United States-built. U.S. floating processors and tender vessels that do not actually harvest fish, however, have customarily conducted their activities pursuant to a "registry" under section 12105 of title 46, which contains no restrictions against vessels built or rebuilt abroad.

This section of the bill changes the status quo first by amending the meaning of "fisheries" for documentation purposes. The term now only applies to catching activities in the EEZ and navigable waters. The amended definition adds the processing, storing, and transporting of fish to the list of activities in the "fisheries". The effect of this altered definition is to require not only U.S. catching vessels to obtain fisheries documentation under section 12108 but also U.S. vessels that only process, transport, or store fish. The consequence is that vessels must be built in the United States if they are to be permitted as U.S.-flag vessels to process, store, transport, or harvest fish in our EEZ and navigable waters.

Another set of amendments in this section requires that vessels be rebuilt in the United States as well if they are to be U.S.-documented and eligible to take advantage of the MFCMA preferences for domestic harvesting and processing in the EEZ. This rebuilding restriction for vessels documented for the fisheries under section 12108 is prompted by the recognition that the Coast Guard's longstanding interpretations allow a U.S.-built vessel to be stripped virtually to its keel and nearly completely rebuilt without being characterized as a foreign-built vessel.

This section adds a provision to the documentation chapter of title 46, U.S. Code, that defines "rebuilt" as "building upon or substantially altering any considerable part of the hull or superstructure of the vessel". This provision is patterned on the Coast Guard's regulatory definition used to interpret the Second Proviso of section 27 of the Merchant Marine Act, 1920, which prohibits coastwise trade vessels of over 500 gross tons from being documented under U.S. law unless rebuilt entirely within the United States. It is contemplated that in administering requirements for U.S. fishing, fish processing, and fish tender vessels to be rebuilt in the United States, the Coast Guard will rely on precedents established by its letter rulings interpreting the Second Proviso.

Section 3

This section contains transition protection for the owners and operators of vessels that are affected by the changes in the documentation laws set forth in section 2. Subsection (a)(1) permits a fishery license or an appropriately endorsed registry to be issued for a foreign-built vessel if that vessel was documented under the documentation chapter of title 46 prior to January 1, 1987. The January 1 date, included in the original version of S. 377, was selected to avoid a stampede among vessel owners to reflag foreign processing vessels prior to enactment of foreign-construction restrictions.

Subsection (a)(2) permits a fishery license or appropriately endorsed registry to be issued for a vessel built overseas if (1) the vessel was built in this country, (2) the vessel was purchased under a contract entered into prior to July 28, 1987, for use as a fishing, fish processing, or fish tender vessel, and (3) any foreign rebuilding of the vessel is completed within two years after the date of enactment of this legislation. The July 28 date was selected to avoid rewarding speculators who, as a result of House committee action on similar legislation on July 28, realized that rebuilding limitations were about to be imposed and promptly purchased U.S.-built vessels which could be converted into fishery vessels.

Subsection (b) simply ensures that a fish processing or fish tender vessel that receives a fishery license or appropriately endorsed registry under subsection (a)(1) cannot engage in catching fish in our EEZ or navigable waters unless it was built in the United States. This is in recognition that existing law bars foreign-built vessels from catching fish.

Section 4

This section changes the citizenship requirements with respect to the crew of American-flag fishing, fish processing, and fish tender vessels. Existing law states that whenever a U.S.-documented fish processing or fish tender vessel leaves a United States port, at least 75 percent of the nonlicensed seamen must be citizens of the United States. Such a citizenship limit does not apply when that vessel leaves a foreign port, however. There are presently no requirements for citizenship of the crew of an American-flag fishing vessel.

Subsection (a) of this section amends section 8103(b) of title 46, U.S. Code, mainly to do two things. First, the requirement for 75 percent of the nonlicensed seamen to be U.S. citizens will not apply to any of the three categories of fishery vessels. Second, with minor exceptions, whether a fishing, fish processing, or fish tender vessel of the United States departs from an American port or a foreign port, the employment of all on board must be in accordance with the Immigration and Nationality Act. The exceptions apply to vessels that fish outside our EEZ and those that fish exclusively for tuna.

Subsection (b) of this section states that the new manning requirements set out in subsection (a) shall not be effective until 12 months after the date of enactment of this bill. This provides vessel owners and operators with a period of transition so as to comply with the new law.

Section 5

This section makes technical and conforming changes to title 46, U.S. Code. Subsection (a) adds a definition to section 2101 of title 46, U.S. Code, of "exclusive economic zone of the United States". Subsections (b) and (c) amend sections 12106 and 12107 of title 46 to clarify that documentation for employment in the coastwise trade or on Great Lakes waters is not sufficient to entitle a vessel to be employed in the fisheries.

Section 6

Subsection (a) of this section amends the Revised Statutes of the United States to authorize the Secretary of Commerce to issue regulations to obtain information on the transportation of fish products by United States vessels from foreign processing vessels to points in this country. Subsection (b) states that within 6 months after the date of enactment of this bill, the Secretary shall submit to this Committee and the House Merchant Marine and Fisheries Committee a report on this transportation of fish products. The report is to include any recommendations for legislation or other action to regulate this transportation in a manner most beneficial to the future development of the United States fishing industry.

Subsection (c) also requires a report from the Secretary of Commerce to this Committee and the House Merchant Marine and Fisheries Committee within 6 months after the date of enactment of this bill. The report is to discuss the trends in the development of northwest fishery resources and to analyze the effects of those trends on the United States fishing industry and the conservation and management of the resources involved. The report is required to include an evaluation of the impact on the development of domestic harvesting and processing capacity resulting from the changes in documentation and manning requirements in this legislation. It is also to include an evaluation of the impact of those changes on harvesting vessels that are currently engaged in joint venture operations with foreign processing vessels.

Mr. BREAUX. Mr. President, I am pleased to rise in support of the Senate Commerce Committee substitute amendment to H.R. 2598 that I believe directly addresses the fundamental and clearly stated objective of Congress to achieve the full utilization of U.S. fishery resources by U.S. harvesters and by U.S. processors.

In 1979, not long after the enactment of the Fishery Conservation and Management Act [FCMA], many will recall that we were confronted with a situation in which foreign fishing vessels indicated an interest in documenting under the laws of the United States and thereby qualify for first priority access to U.S. fishery resources normally accorded to U.S. fishermen by that act. At that time, substantial growth and investment had already occurred in the U.S. harvesting sector in response to the protections promised by the FCMA. Congress was quick to respond to this situation with an amendment that protected this growth and investment by requiring U.S.-flag harvesting vessels to be constructed in the United States.

Because this growth and investment was not occurring in the U.S. processing sector, however, no similar restrictions were placed on foreign processing vessels. This was done to ensure the availability of adequate processing capacity, whether United States or foreign, for U.S. harvested fish. Therefore, under current law, foreign-flag processing vessels constructed overseas can reflag under U.S. documentation law and thus qualify for first priority access to process U.S. fishery resources.

Today, we are confronted with a very analogous situation to that which occurred with the U.S. harvesting sector in 1979. It is my understanding that very substantial U.S. growth and investment has now occurred in displacing foreign fish processing capacity. Literally dozens of catcher-processor-type vessels have entered the fisheries in areas traditionally dominated by foreign motherships. Furthermore, all forecasts are that if this trend continues uninterrupted, the U.S. processing industry can realistically be expected to have full capacity to process U.S. fishery resources by the early 1990's. Nor surprising, as in 1979, foreign-flag-foreign-built vessels have again indicated a desire to reflag under U.S. law in order to permanently capture, this time, the processing industry.

In furthering the interests of "Americanization" of the U.S. fishery industry, this legislation would protect existing American investments in processing vessels, and ensure that future expansion of the U.S. processing fleet is on U.S.-built vessels and is in the hands of a U.S. crew.

The legislation also makes an important change with respect to the conversion of U.S.-built nonfishery vessels into U.S.-flag fishery vessels by requiring that such conversions be carried out only in U.S. shipyards. As many are aware, there are a substantial number of surplus vessels in the merchant and offshore supply fleet. Many of these vessels can be readily converted to perform as first-rate harvesting and processing vessels. However, under current law, such conversions can take place in foreign shipyards with almost no restrictions on the degree of foreign conversion that can take place while still legally qualifying the vessel as "U.S. built." In the interest of equity for those processing or harvesting vessels that are required to meet the costs of fully constructing in U.S. shipyards, the bill puts conversions on the same playing field by requiring them to be conducted in U.S. shipyards as well.

Again, Mr. President, I feel strongly that the committee substitute represents the requisite changes to U.S. fishery policy to achieve what has always been the objective of Congress to fully "Americanize" the utilization of U.S. fishery resources. I ask my colleagues to support this important legislation.

I am concerned, however, that the amendment offered by my distinguished friend and colleague from Alaska may run counter to this objective of "Americanization". I have spent much of my career in Congress trying to attract foreign investment to my State of Louisiana where it is certainly no secret that foreign investment has translated to American development and American jobs—particularly in the Louisiana fisheries. I am very concerned that any effort to restrict the flow of foreign capital into the U.S. fishery industry will impede the rapid and full development of this industry that we all desire to achieve nationwide. While I appreciate the concern of my colleague from Alaska that foreign financial control over the fish harvesting and processing fleet may have implications for the manner in which fisheries are conducted in the northwest region, I do not want to see the larger national objective of full and rapid development compromised. Indeed, many of the outstanding fishery development achievements in the Northwest were made possible through the infusion of foreign capital. Furthermore, we are all quite familiar and frustrated with the general lack of interest displayed by American banks in this regard.

Therefore, while I will reluctancly support the inclusion of the amendment by my colleague from Alaska in this very important legislation, I call for the Congress, particularly the House Merchant Marine and Fisheries Committee and the Senate Commerce, Science, and Transportation Committee, to closely monitor the impact this amendment has on the development of American fisheries over the next year. I would also call on the National Marine Fisheries Service, as this Nation's lead Federal agency responsible for promoting the development of U.S. fisheries, to likewise carefully monitor and study the effect of this amendment of this industry.

Finally, I would like to thank my colleagues on the Commerce, Science, and Transportation Committee and the committee staff for all their hard work and diligence on what was a very difficult but worthwhile legislative effort.

Mr. STEVENS. Mr. President, on January 22, 1987, I brought to the attention of this Congress an immediate and potentially devastating threat to the development of the U.S. fishing industry in the North Pacific. This threat is a loophole in the vessel documentation laws and the Magnuson Fishery Conservation and Management Act [MFCMA] which would allow foreign-built fish processing vessels to be redocumented as U.S.-flag vessels for the purpose of gaining access to the primary allocation of fish within the U.S. exclusive economic zone.

Since the introduction of the original bill, S. 377, both the House and the Senate have held hearings to examine a number of related issues to this situation. One issue which has been discussed at length is a second loophole in the current vessel documentation laws which allows a U.S.-built vessel to be almost entirely rebuilt in a foreign shipyard while still retaining the primary domestic processing preference under the MFCMA.

The committee amendment would close both loopholes in the vessel documentation laws and the loophole in the Magnuson Act and thereby limit the ability of foreign-built and foreign-rebuilt vessels to qualify for the primary allocation of fish under the three tier system of allocation in the MFCMA.

This amendment would prohibit foreign-built vessels which received U.S. documentation after January 1, 1987 from use as a fish processing vessel. In addition to the original bill language this amendment prohibits U.S.-built vessels which have been rebuilt in foreign shipyards from use in the fisheries if such vessel was purchased under a contract entered into after July 28, 1987.

If the Americanization of the U.S. fishery resources within the U.S. exclusive economic zone is to continue, the domestic processing industry must be allowed to operate on a level playing field. This legislation will create such a playing field. I urge my colleagues to give the committee amendment favorable consideration.

Mr. MURKOWSKI. Mr. President, the legislation before us is extremely important to the continued development of the domestic fishing industry as well as to other U.S. industries.

At present, the U.S. fishing industry is undergoing a period of tremendous new growth, unparalleled since the latter half of the 19th century. The focal point of that development is the North Pacific Ocean—the vast stretches of sea off the coast of Alaska. There, the domestic fishing industry has begun to mature. More and more we are harvesting, processing, and marketing the resources of our own 200-mile economic zone. That is no mean feat. It means billions of pounds of products for which we now have a substantial trade deficit, and billions of dollars to U.S. fishing, processing, cold storage, transportation, distribution, food service, and retail businesses.

This legislation is needed to ensure that our progress continues by closing a loophole allowing a foreign company to create a paper U.S. corporation and assign a major interest in an existing processing vessel to the new company. Under existing law such a vessel can be documented as a U.S. ship, giving it access to the highest priority level of the fisheries allocation system created by the Magnuson Act.

When the Magnuson Act was adopted, the processing-vessel loophole was seen as a way to encourage more rapid growth in the U.S. industry by making lower cost vessels available to U.S. companies. At the time, there was little danger of paper reflagging, because the foreign ships were in no danger of losing their access to U.S. resources.

Now, however, the steadily expanding U.S. industry has drawn close to full utilization, and the foreign fleets are threatened with the loss of the virtual monopoly they have enjoyed in the past.

Now, an incentive for paper reflagging exists.

And now is the time for us to close the loophole that makes it possible, and I urge my colleagues to support this measure.

I also want to extend my thanks to my distinguished senior colleague from Alaska for his leadership on this important issue, and to my friend Senator ADAMS from Washington for his efforts to work with other members to resolve the many complex matters examined in connection with this bill.

Mr. ADAMS. Mr. President, I rise to express my support for this important legislation.

This bill is designed to help implement one of the major goals of the Magnuson Act—the gradual increase of domestic control over the fisheries resource in the U.S. exclusive economic zone. In the decade since the passage of the Magnuson Act, the development of the American fishing industry has been a major success story, particularly in the Northwest States like my home State of Washington. Our task over the last year has been to develop legislation which closes obvious loopholes in existing law that threaten our goals, while maintaining market flexibility that will encourage continued growth in this industry. The bill before the Senate today, does not, in my opinion, do a perfect job, but it is in the final analysis an acceptable piece of legislation.

This bill takes four major steps toward solidifying American control of the fishing industry. First, the Magnuson Act intended that as American processing capability increased, foreign processors would be slowly phased out. Concern has developed that as the large foreign processors are phased out, they will reflag as American vessels in order to stay in the fishery. This legislation closes this loophole.

Legitimate concerns have been raised about the effect that banning the reflagging option will have on the American fishermen who operate joint ventures with these foreign processors. I assure those fishermen who have these concerns that I am committed to seeking oversight hearings by the Commerce Committee some time next year that will examine the effect of this new law on joint venture fishermen.

The bill also provides that all new rebuilding and conversion work on fishing vessels must be done in American shipyards. The recent growth of the fishing industry has produced a lot of this type of work; but, unfortunately much of it has been done in foreign shipyards due to cheaper costs and financing. This bill provides that all such work must now be done in American shipyards. Fishermen who had purchased vessels before July 28 with the intent of using them in the fisheries may proceed with overseas conversions, because those earlier purchases were made in reliance on existing law.

I believe this new restriction on doing rebuilding and conversion work in foreign yards is desirable because the overall economic health of our shipbuilding industry is so important, not only to a healthy fishing and maritime industry, but to our national defense as well.

Further, the bill provides for the application of the U.S. Immigration laws to the off-shore fishing industry. The Immigration Reform and Control Act of 1986 represented a significant commitment by this Nation toward gaining control of our borders, and ending the economic exploitation of illegal aliens in this country. Many industries in this country are expending significant effort in bringing their operations into compliance with this new law. I believe that we can ask the same of the fishing industry. There are sufficient provisions in the immigration laws to allow the industry to hire foreign specialized technicians to run their processing equipment if appropriate American workers are not available; and I believe that this bill provides an adequate grace period for the offshore fleet to bring itself into compliance with these new regulations.

Finally, the bill will contain an amendment providing that in order for a corporation to own a fishing, fish tendering, or fish processing vessel, that corporation must be under the majority control of American citizens. I must confess to having serious concerns about this provision. The growth of our industry in the Northwest has been aided significantly by the availability of foreign investment capital. No hearings were ever held in the Senate on the effect of this new restriction on our industry. There has never been an opportunity to thoroughly explore the questions that I have about this proposal. For instance, I'm not sure why it is important to restrict foreign investment in fishing vessels; but not to apply same new restrictions to the shore-based processing industry, some of which is completely foreign owned.

I have shared these concerns with the proponents of this amendment, and together we have worked out what I think is an acceptable compromise. It is my understanding that this amendment deals only with fishing vessels owned by corporations, and that it does not speak to and is not intended to change the rules or administrative practice with respect to the documentation of vessels owned by partnerships, including those composed of one of more corporations as partners. The Coast Guard currently requires only that general partners in such a partnership be controlled by corporate U.S. citizens as defined in the documentation statutes. I know that some Senators believe this to be a loophole, and while I disagree, I respect their views. The Coast Guard is currently reviewing their policy, and may decide to adopt a more restrictive documentation policy. I simply want to make clear my understanding that current law and administrative practice on the issue of partnerships, including partnerships composed in whole or in part of corporate partners, has not been altered or affected by this legislation. I would also like to express my hope that there will be an opportunity next year to hold hearings on this entire issue, and explore it with the depth of attention that I believe that it deserves.

In conclusion, Mr. President, this is not a perfect bill. It is a bill, however, that takes necessary steps toward solidifying American control of our invaluable fisheries resource. For that reason I support it, and I urge my colleagues to do the same.

The **PRESIDING OFFICER.** The question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read a third time.

The **PRESIDING OFFICER.** The bill having been read the third time, the question is, Shall the bill pass?

So the bill (H.R. 2598), as amended, was passed.

Mr. **BYRD.** Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. **HECHT.** Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. **BYRD.** On behalf of Mr. HOLLINGS, I send to the desk an amendment to the title of the bill.

The title was amended so as to read: "An act to limit the ability of foreign-built and foreign-rebuilt vessels to qualify for certain benefits under the Magnuson Fishery Conservation and Management Act, and for other purposes.".

Mr. **BYRD.** Mr. President, I move to reconsider the vote by which the amendment to title was agreed to.

Mr. **HECHT.** Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

INCREASE IN VETERANS COMPENSATION

Mr. **BYRD.** Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order 274, H.R. 2945.

The **PRESIDING OFFICER.** The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 2945) to amend Title 58, United States Code, to provide a 4.1 percent increase in the rates of compensation and dependency and indemnity compensation (DIC) paid by the Veterans Administration and for other purposes.

The **PRESIDING OFFICER.** Without objection, the Senate will proceed to its immediate consideration.

The Senate proceeded to consider the bill.

AMENDMENT NO. 1366

(Purpose: To amend title 38, United States Code, to provide a 4.2-percent cost-of-living adjustment in the rates of Veterans' Administration disability compensation for veterans and dependency and indemnity compensation for survivors and an increase in the number of vocational training evaluations of veteran pensioners; and to amend the Veterans' Job Training Act to extend the deadline for veterans to apply for participation)

Mr. **BYRD.** Mr. President, on behalf of Senators CRANSTON and MURKOW-

SKI, I call up the substitute amendment which is at the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD], for Mr. CRANSTON (for himself and Mr. MURKOWSKI) proposes an amendment numbered 1336.

Mr. BYRD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE; REFERENCES TO TITLE 38, UNITED STATES CODE.

(a) Short Title.—This Act may be cited as the "Veterans' Compensation Cost-of-Living Adjustment Act of 1987".

(b) References.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

TITLE I—COMPENSATION RATE INCREASES

SEC. 101. DISABILITY COMPENSATION.

(a) In General.—Section 314 is amended—

(1) by striking out "$69" in subsection (a) and inserting in lieu thereof "$71";

(2) by striking out "$128" in subsection (b) and inserting in lieu thereof "$133";

(3) by striking out "$194" in subsection (c) and inserting in lieu thereof "$202";

(4) by striking out "$278" in subsection (d) and inserting in lieu thereof "$289";

(5) by striking out "$394" in subsection (e) and inserting in lieu thereof "$410";

(6) by striking out "$496" in subsection (f) and inserting in lieu thereof "$516";

(7) by striking out "$626" in subsection (g) and inserting in lieu thereof "$652";

(8) by striking out "$724" in subsection (h) and inserting in lieu thereof "$754";

(9) by striking out "$815" in subsection (i) and inserting in lieu thereof "$894";

(10) by striking out "$1,355" in subsection (j) and inserting in lieu thereof "$1,411";

(11) by striking out "$1,684" and "$2,360"in subsection (k) and inserting in lieu thereof "$1,754" and "$2,459", respectively;

(12) by striking out "$1,684" in subsection (l) and inserting in lieu thereof "$1,754";

(13) by striking out "$1,856" in subsection (m) and inserting in lieu thereof "$1,933";

(14) by striking out "$2,111" in subsection (n) and inserting in lieu thereof "$2,199";

(15 by striking out "$2,360" each place it appears in subsections (o) and (p) and inserting in lieu thereof "$2,459";

(16) by striking out "$1,013" and "$1,509" in subsection (r) and inserting in lieu thereof "$1,055" and "$1,572", respectively; and

(17) by striking out "$1,516" in subsection (s) and inserting in lieu thereof "$1,579".

(b) Special Rule.—The Administrator of Veterans' Affairs may adjust administratively, consistent with the increases authorized by this section, the rates of disability compensation payable to persons within the purview of section 10 of Public Law 85-857 who are not in receipt of compensation payable pursuant to chapter 11 of title 38, United States Code.

SEC. 102. ADDITIONAL COMPENSATION FOR DEPENDENTS.

Section 315(1) is amended—

(1) by striking out "$82" in clause (A) and inserting in lieu thereof "$85";

(2) by striking out "$138" and "$44" in clause (B) and inserting in lieu thereof "$143" and "$45", respectively;

(3) by striking out '$57" and "$44" in clause (C) and inserting in lieu thereof "$59", and "$45", respectively;

(4) by striking out "$67" in clause (D) and inserting in lieu thereof "$69";

(5) by striking out "$149" in clause (E) and inserting in lieu thereof "$155"; and

(6) by striking out "$126" in clause (F) and inserting in lieu thereof "$131".

SEC. 103. CLOTHING ALLOWANCE FOR CERTAIN DISABLED VETERANS.

Section 362 is amended by striking out "$365" and inserting in lieu thereof "$380".

SEC. 104. DEPENDENCY AND INDEMNITY COMPENSATION FOR SURVIVING SPOUSES.

Section 411 is amended—

(1) by striking out the table in subsection (a) and inserting in lieu thereof the following:

"Pay grade	Monthly rate	Pay grade	Monthly rate
E-1	$518	W-4	$743
E-2	534	O-1	656
E-3	548	O-2	677
E-4	583	O-3	725
E-5	598	O-4	766
E-6	611	O-5	845
E-7	641	O-6	952
E-8	677	O-7	1,029
E-9	[1] 707	O-8	1,128
W-1	656	O-9	1,210
W-2	682	O-10	[2] 1,327
W-3	702		

"[1] If the veteran served as sergeant major of the Army, senior enlisted advisor of the Navy, chief master sergeant of the Air Force, sergeant major of the Marine Corps, or master chief petty officer of the Coast Guard, at the applicable time designated by section 402 of this title, the surviving spouse's rate shall be $763.

"[2] If the veteran served as Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, Commandant of the Marine Corps, or Commandant of the Coast Guard, at the applicable time designated by section 402 of this title, the surviving spouse's rate shall be $1,422.";

(2) by striking out "$58" in subsection (b) and inserting in lieu thereof "$60";

(3) by striking out "$149" in subsection (c) and inserting in lieu thereof "$155"; and

(4) by striking out "$73" in subsection (d) and inserting in lieu thereof "$76".

SEC. 105. DEPENDENCY AND INDEMNITY COMPENSATION FOR CHILDREN.

Section 413(a) is amended—

(1) by striking out "$251" in clause (1) and inserting in lieu thereof "$261";

(2) by striking out "$361" in clause (2) and inserting in lieu thereof "$376";

(3) by striking out "$467" in clause (3) and inserting in lieu thereof "$486"; and

(4) by striking out "$467" and "$94" in clause (4) and inserting in lieu thereof "$486" and "$97", respectively.

SEC. 106. SUPPLEMENTAL DEPENDENCY AND INDEMNITY COMPENSATION FOR CHILDREN.

Section 414 is amended—

(1) by striking out "$149" in subsection (a) and inserting in lieu thereof "$155";

(2) by striking out "$251" in subsection (b) and inserting in lieu thereof "$261"; and

(3) by striking out "$128" in subsection (c) and inserting in lieu thereof "$133".

SEC. 107. EFFECTIVE DATE FOR RATE INCREASES.

The amendments made by this title shall take effect as of December 1, 1987.

TITLE II—VETERANS' EMPLOYMENT TRAINING EXTENSIONS

SEC. 201. EXTENSION OF DEADLINE FOR VETERANS' JOB TRAINING ACT APPLICATIONS.

Section 17(a)(1) of the Veterans' Job Training Act (Public Law 98-77; 29 U.S.C. 1721 note) is amended by striking out "December 31, 1987" and inserting in lieu thereof "June 30, 1988".

SEC. 202. INCREASE IN LIMIT ON VOCATIONAL-TRAINING EVALUATIONS OF VETERANS RECEIVING PENSIONS.

Section 524(a)(3) is amended by striking out "2,500" and inserting in lieu thereof "3,500".

Mr. CRANSTON. Mr. President, as chairman of the Committee on Veterans' Affairs, I rise in support of the amendment, which I have submitted on behalf of myself and the committee's distinguished ranking minority member, Mr. MURKOWSKI, to H.R. 2945 to provide for a 4.2-percent cost-of-living adjustment [COLA], effective as of December 1, 1987, in the rates of Veterans' Administration compensation paid to service-connected disabled veterans and the rates of dependency and indemnity compensation [DIC] paid to the survivors of those who died from, or while rated totally disabled as the result of, a service-connected disability. In addition, our amendment would extend by 6 months, until June 30, 1987, the deadline for veterans to apply for a program of job training under the Veterans' Job Training Act [VJTA] and would increase from 2,500 to 3,500 the annual limit on the number of veteran-pensioners whom the VA evaluates to determine the feasibility of their participation in vocational training.

In the cases of the compensation/DIC COLA and the increase in vocational-training evaluations, the amendment reflects the final outcome of negotiations between the Committees on Veterans' Affairs of the Senate and House of Representatives on title I of H.R. 2945 as passed by the House on July 28, and section 101 of S. 9 as agreed to by the Senate on December 4 and passed by the Senate in H.R. 2616 on that date, each of which provided for a compensation/DIC COLA, effective December 1, 1987, and section 304 of H.R. 2945, relating to vocational training evaluations. In H.R. 2945, the House proposed a 4.1-percent COLA with amounts rounded down to the next lower dollar amount, and in S. 9/H.R. 2616, the Senate proposed a COLA equal to the December 1987 Social Security COLA—4.2 percent—with amounts of 50 cents or more rounded up to the next higher dollar and amounts of 50 cents or less rounded down. The compromise agreement provides for a 4.2-percent COLA, effective as of December 1, 1987, with amounts rounded down.

In no other respect does this legislation reflect a resolution of the provisions of various bills that the two

Houses have passed this year in the area of veterans' programs. Thus, as is noted in the explanatory statement on H.R. 2945 which I will ask to be printed in the Record at the conclusion of my remarks, there remain a very wide range and number of legislative provisions—well over 100 provisions in more than a dozen bills—which have been passed by one body or the other and on which the committees have not yet reached a final resolution. We expect to complete our negotiations and be in a position to recommend final congressional action on them at the outset of the second session of this Congress.

COMPENSATION/DIC COLA

Mr. President, Congress has acted periodically to provide COLA's in compensation and DIC benefits in order to ensure that those benefits keep pace with inflation. In fact, Congress has provided for annual increases in these rates every fiscal year since 1976, and it is important that we move ahead now with a COLA for more than 2,210,000 veterans who have service-connected disabilities and for more than 312,000 surviving spouses and children. I believe that our highest priority with respect to VA benefits and services should be to meet the needs of our veterans who suffer from disabilities resulting from their service and of the survivors of those who made the ultimate sacrifice for our Nation. Enactment of this COLA is an essential part of our efforts to try to meet our obligations to those individuals.

Regarding the timing of the payment of this COLA, the committees in their explanatory statement have urged the VA to reflect the COLA in compensation/DIC checks as expeditiously as feasible and appropriate. However, the increases will take effect retroactively to December 1, the VA's Chief Benefits Director of the VA has advised that the legislation will not be enacted in time for them to be reflected in the payments—made on about January 1—for the month of December. However, he has also advised that if this legislation is enacted the envelopes for the payments for January 1988, which will be delivered on about February 1, 1988, will contain an enclosure notifying all compensation and DIC recipients about the COLA and how it will be paid, and that the increase will be included, together with the amounts of the increase for previous months, in the payments made for January—about February 1—or February—about March 1—depending on how quickly the VA can program the COLA into the computer system it uses for paying compensation and DIC benefits.

EXTENSION OF DEADLINE FOR VJTA PARTICIPATION

Mr. President, section 201 in our amendment would amend section 17 of VJTA (Public Law 98-77; 29 U.S.C. 1721 note) in order to extend from December 31, 1987, to June 30, 1988, the deadline for eligible veterans to apply for training under that act. Section 901 of the Stewart B. McKinney Homeless Assistance Act (Public Law 100-77), enacted into law on July 22, 1987, extended the application date to December 31, 1987, and the date by which an applicant must begin participation in VJTA training to June 30, 1988, and authorized appropriations of a total of $65 million for fiscal years 1986, 1987, and 1988. Our amendment to extend the application date from December 31, 1987, to June 30, 1988, is necessary so that veterans can continue to apply for the program while the House and Senate continue work on a compromise agreement on the provisions of S. 999, the proposed Veterans' Employment, Training, and Counseling Amendments of 1987, as reported, which the Senate passed on August 4, 1987, as a substitute text for H.R. 1504, and the comparable House measures, H.R. 1504, the proposed Veterans' Employment and Education Amendments, and H.R. 3460, the proposed Veterans' Employment and Training Act of 1987, which were passed by the House on June 30 and October 27, 1987, respectively. In this regard, I would note that both Houses' versions of H.R. 1504 would provide for substantial extensions of various VJTA provisions, including the application deadline.

INCREASE IN LIMIT ON VOCATIONAL-TRAINING EVALUATIONS OF PENSIONERS

Mr. President, section 202 in our amendment contains the provision in section 304 of H.R. 2945 as passed by the House on July 28 increasing from 2,500 to 3,500 the number of vocational-training evaluations that may be conducted annually in connection with the temporary VA program of vocational rehabilitation for certain younger VA pensioners.

In Public Law 98-543, Congress enacted a 4-year program, to be conducted from February 1, 1985, through January 1, 1989, under which veterans who are awarded VA nonservice-connected-disability, need-based pension and for whom vocational training is determined to be feasible are provided the opportunity to participate in a program of vocational training at VA expense. Subject to the 2,500-evaluation cap, which applies to the 12-month period beginning February 1 of each year, all new pensioners under age 50 are to be evaluated by the VA with respect to the feasibility of their participation in vocational training.

During the House Veterans' Affairs Committee's June 24, 1987, hearing on the program, a VA representative testified that, unless the ceiling on the evaluations were lifted, the VA would have to suspend the evaluations for a period of up to 3 months. More recently, the VA has advised that if the cap is not raised a suspension of evaluations is imminent.

Mr. President, these evaluations are critical to those VA pensioners wishing to pursue a vocational training program, and I believe that it is desirable to increase the cap to a level that is reasonable and not likely to be exceeded during the last 2 years of the temporary program.

COST

Mr. President, the cost of the entitlement spending in this measure, $344 million in budget authority and $308 million in outlays in fiscal year 1988, is fully consistent with the Veterans' Affairs Committee's budget crosswalk allocation filed under section 302(b) of the Budget Act on October 22, 1987. All but $1 million in both budget authority and outlays is attributable to the COLA.

CONCLUSION

Mr. President, I urge all of my colleagues to support this very important measure, and I ask unanimous consent that the explanatory statement on this legislation, which the committees have prepared in lieu of a joint explanatory statement accompanying a conference report and which will be printed in the Record in the course of the debate on this measure in the House, be printed in the Record at this point.

There being no objection, the explanatory statement was ordered to be printed in the Record, as follows:

Explanatory Statement on the Compromise Agreement on H.R. 2945 as Amended, the Proposed "Veterans' Compensation Cost-of-Living Adjustment Act of 1987"

This document explains the provisions of a compromise agreement between the Committees on Veterans' Affairs of the Senate and House of Representatives embodied in a Senate amendment to H.R. 2945 as passed by the House on July 28, 1987 (hereinafter referred to as "H.R. 2945 as passed"). The agreement consists of (1) a compromise between the provisions passed by both bodies providing for a cost-of-living adjustment (COLA) in the rates of Veterans' Administration service-connected disability compensation paid to veterans and dependency and indemnity compensation (DIC) paid to survivors (in title I of H.R. 2945 as passed and section 101 of S. 9 as agreed to by the Senate on December 4 and incorporated in H.R. 2616 as passed by the Senate on that date); (2) a provision extending the Veterans' Job Training Act application deadline; and (3) a provision increasing from 2,500 to 3,500 the annual limit on the number of veteran-pensioners who may be evaluated for vocational training.

The Committees note that they have agreed to pursue the enactment of H.R. 2945 with only these three provisions in order to achieve enactment, during the First Session of the 100th Congress, of a compensation/DIC COLA and extensions of the two training programs. The Committees are currently engaged in extensive negotiations on an extremely wide range of issues arising out of veterans provisions that have been passed by either of the two Houses.

The Committees expect to conclude their negotiations on these measures at the outset of the Second Session of the 100th Congress.

The Committees' recommendation that the Congress now enact H.R. 2945 with only the provisions noted does not in any way indicate the outcome of negotiations on any remaining provisions in that measure as passed by the House or on any of the other veterans measures passed by the two Houses. For example, the Committees note that they have not concluded their negotiations on section 307 of H.R. 2616 as passed by the House on June 30, under which the VA would be required to establish an outpatient clinic in southern New Jersey. In this regard, the Committees note that funding for the lease of such a clinic was included both in the Administration's FY 1988 budget request for the VA medical care account and in H.R. 2783, the proposed "Department of Housing and Independent Agencies Appropriations Act, 1988", as initially passed by both bodies, and that the VA is proceeding with its plans to enter into a lease for the clinic during the current fiscal year.

Similarly, the Committees have not concluded their negotiations on section 406 of H.R. 2616 as passed by the Senate on December 4, under which the VA would be required to accept a transfer of the Arizona State Cemetery and operate the cemetery as part of the National Cemetery System.

The provisions of the compromise agreement are as follows:

TITLE I—COMPENSATION RATE INCREASES

House Bill: Title I of H.R. 2945 as passed would provide for a 4.1-percent COLA, effective December 1, 1987, in the rates of VA compensation and DIC.

Senate Bill: Section 101 of S. 9 as incorporated in H.R. 2616 as passed by the Senate on December 4 would provide for the rates to be increased by the same percentage as the December 1, 1987, Social Security/VA pension COLA—4.2 percent—effective on the same date.

Compromise Agreement: The compromise agreement provides for a 4.2-percent COLA, effective December 1, 1987.

The Committees expect the VA to provide for the COLA to be reflected in veterans' and survivors' payments as soon as administratively feasible and appropriate and to include with their compensation and DIC payments—no later than the payments for January, which are delivered on or about February 1—notification to all recipients that the COLA has been enacted with retroactive effect as of December 1 and a description of when and how the COLA will be implemented and a retroactive payment made.

TITLE II—VETERANS' EMPLOYMENT TRAINING EXTENSIONS

Extension of Deadline for Veterans' Job Training Act Applications (Section 201)

Both the Senate, in section 11(e) of S. 999 as passed by the Senate on August 4, and the House, in section 2 of H.R. 1504 as passed by the House on June 30, have passed long-term extensions of various provisions in the Veterans' Job Training Act (VJTA). Pending the outcome of negotiations on those measures and in order to avoid a hiatus in the eligibility of veterans to apply to participate in VJTA programs, the compromise agreement contains a provision extending by 6 months, through June 30, 1988, the deadline for veterans to apply for such training.

Increase in Limitation on Vocational-Training Evaluations of Veterans Receiving Pension (Section 202)

Section 304 of H.R. 2945 as passed would increase from 2,500 to 3,500 the cap on the number of vocational-training evaluations which, during the 12-month period beginning February 1 of each year, the VA may provide to veterans under age 50 who receive new awards of VA non-service-connected-disability pension. (These evaluations are conducted in order to assess the feasibility of a new pensioner participating in vocational training). In view of the advice to the Committees that the 2,500-evaluation cap will very soon result in the termination of evaluations during the 12-month period that expires on January 31, 1988, the compromise agreement contains the House provision.

Mr. MURKOWSKI. Mr. President, I am pleased to join with my distinguished colleague from California in urging Senators to support this legislation. This bill addresses veterans' issues which require immediate action by the Congress; the most important of which is a cost-of-living adjustment [COLA] in the compensation received by veterans who were disabled while on active duty and the survivors' benefits received by the survivors of individuals who die of a service-connected cause.

I have restated many times the commitment of the Congress to provide a COLA for veterans' benefits if the beneficiaries of other Federal programs receive a COLA. The bill before the Senate today fulfills that commitment.

The rates in the Senate-passed COLA provision would have been computed on the basis of rounding up all fractions of 50 cents or more. The House-passed COLA provision would have rounded down all fractions, irrespective of their amount. The compromise agreement is based on the House provision with all fractional rates rounded down.

The Senate originally provided for a COLA in the Omnibus Veterans' Benefits and Services Act passed earlier this month. I could speak at length on the reasons why it is now necessary to pass separate legislation; but, let me just say that, while members of both the House and Senate committees have made a diligent effort to resolve the enormous number of issues presented by bills passed by both bodies, it is apparent that the clock will run out on the first session before a comprehensive agreement can be reached. I assure my colleagues, and America's veterans, that our work will continue during the recess and that I expect a comprehensive compromise agreement will come before the Senate early in the next session.

I urge my colleagues to join me in support of this legislation.

The PRESIDING OFFICER. If there be no further amendment to be proposed, the question is on agreeing to the amendment.

The amendment (No. 1366) was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read a third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is Shall the bill pass?

The bill (H.R. 2945), as amended, was passed.

Mr. BYRD. On behalf of Mr. CRANSTON and Mr. MURKOWSKI, I send to the desk an amendment to the title of the bill.

The title was amended so as to read:

An act to amend title 38, United States Code, to provide a 4.2-percent cost-of-living adjustment in the rates of Veterans' Administration disability compensation for veterans and dependency and indemnity compensation for survivors and an increase in the number of vocational-training evaluations of veteran-pensioners; and to amend the Veterans' Job Training Act to extend the deadline for veterans to apply for participation.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the bill, as amended, was passed.

Mr. HECHT. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

EXPRESSING RECOGNITION OF DR. FRANK G. BURKE, OF THE NATIONAL ARCHIVES

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be discharged from further consideration of Senate Concurrent Resolution 93, expressing recognition to Dr. Frank G. Burke for his faithful service to the National Archives, and that the Senate proceed to the immediate consideration of the concurrent resolution, that statements by Senators GLENN and HATFIELD appear as though fully read, that the concurrent resolution be agreed to, and a motion to reconsider be laid on the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolution (S. Con. Res. 93) is as follows:

S. CON. RES. 93

Whereas Dr. Frank G. Burke has spent the past two-and-a-half years in the Presidentially appointed role of Acting Archivist of the National Archives;

Whereas in the capacity of Acting Archivist he also has served as Acting Chairman of the National Historical Publications and Records Commission;

Whereas from 1975 through 1985 he served as the Executive Director of the National Historical Publications and Records Commission;

Whereas from 1974 through 1975 he also served as an assistant to the Archivist of the United States;

Whereas from 1968 through 1974, he served as Director of Educational Programs for the National Archives;

Whereas in all of these positions he has demonstrated leadership and dedication in the preservation and availability of historical documents in both National and State archives;

Whereas he worked tirelessly to achieve the goal of returning the National Archives and Records Administration to the status of an independent Federal agency;

Whereas as Acting Archivist he directed the transition of the National Archives from the General Services Administration to its independent status;

Whereas taking immediate advantage of the new status of the National Archives and Records Administration, he led an aggressive campaign to rejuvenate and establish healthy growth in the Archives;

Whereas he implemented a program focusing upon technological advancement to enhance archival preservation and the overall documentation of historical records;

Whereas such program pioneered an electronic imaging system and a life-cycle system of records;

Whereas representing the Office of Presidential Libraries in the National Archives he joined President Reagan in Atlanta, Georgia, on October 1, 1986, in order to preside over the Opening of the Carter Presidential Library;

Whereas in an effort to enhance the collection of important historical documents he secured the transfer of the Vietnam War Records from the United States Army to the National Archives on April 27, 1986;

Whereas he successfully organized the National Archives celebration of the 200th anniversary of the signing of the Constitution of the United States of America, which is preserved and displayed at the National Archives; and

Whereas through his long and decorated service to the National Archives and the field of public records he has remained steadfast in his quest to protect our national memory and keep the ties to our history alive for the future: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of the Congress to recognize and express the sincere gratitude of the Congress with respect to the tremendous contributions to the United States of Dr. Frank G. Burke.

SEC. 2. The Secretary of the Senate shall transmit a copy of this resolution to Dr. Burke.

Mr. GLENN. Mr. President, as chairman of the Senate Committee with legislative jurisdiction over the National Archives, I wish to join with Senator HATFIELD in recognizing the outstanding job performed by Dr. Frank G. Burke during the last 2 years as the Acting Archivist of the United States.

Dr. Burke assumed his position at a very critical time. The National Archives and Records Administration, through legislation reported by the Governmental Affairs Committee, had just achieved its independence from the General Services Administration. With any new agency, there are growing pains and obstacles to overcome. Throughout the last couple of years, Dr. Burke's professional and administrative talents have minimized such disruptions. Indeed, the smooth transition under Dr. Burke's leadership has provided a sense of pride and commitment throughout the agency.

I would also like to say that Dr. Burke was eminently qualified to serve in this post. He fully comprehended the mission of the Archives to collect, preserve, and make available documents of historical value. He knew clearly that we, as a people and as a nation, have to understand from whence we came to appreciate where we are headed. It is nothing less than the preservation of our legacy for the benefit of future generations.

While safeguarding our past, Dr. Burke also possessed the foresight to plan for the future—namely, our capability, in both physical and human resource terms, to process, catalogue, and store the massive amounts of materials produced each year by the Federal Government, including Congress. More significantly, he has set in motion procedures whereby historically important records will, in fact, be preserved in an age where policy is being made increasingly by computers or telecommunications. The projects Dr. Burke has undertaken will enhance the Archives ability to deal effectively with these challenges, internally and externally, in the years ahead.

So I think it only fitting, in this year celebrating the bicentennial of the signing of our Constitution, enshrined at the Archives, that we honor the valuable services rendered on our behalf by Dr. Burke, and compliment him on a job "well done".

Mr. HATFIELD. Mr. President, I am very grateful to the majority leader and minority leader who have made possible the consideration today of a resolution that I introduced on December 3, 1987, to recognize the work of the departing Acting Archivist of the United States, Dr. Frank Burke.

Also, it is a pleasure to add as cosponsors of Senate Concurrent Resolution 93 the chairmen and ranking minority members of the committee and subcommittee to which the resolution was referred.

As enumerated in my introductory remarks, Dr. Frank Burke has played an unusually high-profile, important, and long role as the acting head of a Federal agency. Dr. Burke served as Acting Archivist of the United States for 2 years, during which time the National Archives and Records Administration became an independent agency.

With the swearing in of Dr. Donald Wilson as the first permanent Archivist of the United States under the Archives newly independent status, Dr. Burke relinquished his duties and brought to a close an important chapter in the history of the institution. It was a critical time for the National Archives and Frank Burke served his country well. Senate Concurrent Resolution 93 recognizes his achievements.

I ask unanimous consent that Senator GLENN, chairman of the Senate Governmental Affairs Committee, Senator ROTH, ranking minority member of the committee, Senator SASSER, chairman of the Subcommittee on Government Efficiency and Senator HEINZ, ranking minority member of that subcommittee, be added as cosponsors at this time.

MILITARY RETIREMENT REFORM ACT AMENDMENTS

Mr. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 2974.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House agree to the amendment of the Senate to the bill (H.R. 2974) entitled "An Act to amend title 10, United States Code, to make technical corrections in provisions of law enacted by the Military Retirement Reform Act of 1986", with the following amendment:

At the end of the amendment of the Senate, insert:

At the end of the House engrossed bill, insert:

SEC. 4. INVOLUNTARY RELEASE FROM ACTIVE DUTY FOR CERTAIN RESERVE MEMBERS

Section 1163(d) of title 10, United States Code, is amended by inserting "(other than for training)" after "active duty".

SEC. 5. OTHER TECHNICAL CORRECTIONS

(a) PUBLIC LAW 100-180.—(1) The table relating to warrant officers in section 305a(b) of title 37, United States Code (as amended by section 621(a) of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (Public Law 100-180)), is amended by striking out "Over 13" and inserting in lieu thereof "Over 14".

(2) Section 301c(b) of title 37, United States Code (as amended by section 623(b) of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (Public Law 100-180)), is amended in the matter preceding the tables by striking out "(b) The monthly rates for special pay under subsection (a) are as follows:".

(3) Section 803(b) of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (Public Law 100-180) is amended by striking out "Section 2437" and inserting in lieu thereof "Section 2437(a)".

(4) The amendments made by this subsection shall apply as if included in Public Law 100-180 as enacted on December 4, 1987.

(b) TITLE 10.—(1) Section 1450(f)(3)(A) of title 10, United States Code, is amended by striking out the second comma after "required by a court order to make such an election".

(2) Section 2327 of such title is amended by inserting "App." after "(50 U.S.C." in subsections (a) and (b)(2).

(3) The item relating to section 2690 in the table of sections at the beginning of

chapter 159 of such title is amended to read as follows:

"2690. Fuel sources for heating systems; prohibition on converting certain heating facilities.".

(4) The item relating to section 5898 in the table of sections at the beginning of chapter 549 of such title is amended to read as follows:

"5898. Action on reports of selection boards.".

Mr. GLENN. Mr. President, I support the passage of H.R. 2974. I want to take a moment to point out that the provision in the bill which amends section 1163(d) of title 10, United States Code, is a technical correction in the broad sense of that term. However, I think it is a good correction and support its inclusion in the bill.

Specifically, section 4 of this bill restores the original definition of "active-duty" in section 1163(d) of title 10 which excluded any active duty for training periods. Research of the legislative history of this section shows that a later recodification of this section changed the definition to include periods of active duty for training based "on the definition of 'active Federal service' in the source statute, since it is believed to be closer to general usage than the definition—which excludes active duty for training from the general concept of active duty." The intent in this recodification was to avoid making new law and report language stated "the pertinent provisions of law precaution against disturbing existing rights, privileges, duties, or functions." Unfortunately, the recodification had the unintended effect of providing a loophole that has been found by one court to allow certain reservists on active duty for training to claim the 18-year retirement sanctuary—a point at which no military officer can be involuntarily separated from active duty without cause. The correction restores the original intent of the section and is appropriate.

Mr. President, I only make this point so that all Members know why we are making this change. In the broad sense, it is technical in nature and corrects a change that clearly had unintended effects.

Mr. President, I urge passage of this bill.

Mr. BYRD. Mr. President, I move that the Senate concur in the House amendment.

The motion was agreed to.

HOUSE JOINT RESOLUTION 255 PLACED ON THE CALENDAR

Mr. BYRD. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of House Joint Resolution 255, designating the third week in May 1988, as "National Tourism Week," and that it be placed on the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

U.S.S. "BLENNY"

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 3427.

The PRESIDING OFFICER. Is there an objection? The Chair hears none, and it is so ordered. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 3427) to allow the obsolete submarine U.S.S. *Blenny* to be transferred to the State of Maryland before the expiration of the otherwise applicable 60-day congressional review period.

The Senate proceeded to consider the bill.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be offered, the question is on the third reading and passage of the bill.

The bill (H.R. 3427) was ordered to a third reading, was read the third time, and passed.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. HECHT. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

HAND ENROLLMENT OF THE BUDGET RECONCILIATION AND CONTINUING RESOLUTION FOR 1988

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of House Joint Resolution 426.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The clerk will report the joint resolution.

The assistant legislative clerk read as follows:

A joint resolution (H.J. Res. 426) authorizing the hand enrollment of the budget reconciliation bill and of the full year continuing resolution for fiscal year 1988.

The Senate proceeded to consider the joint resolution.

The PRESIDING OFFICER. The joint resolution is before the Senate and open to amendment. If there be no amendment to be offered, the question is on the third reading and passage of the joint resolution.

The joint resolution (H.J. Res. 426) was ordered to a third reading, was read the third time, and passed.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the Senate adopted the joint resolution.

Mr. HECHT. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER FOR RECORD TO REMAIN OPEN UNTIL 5:30 P.M.

Mr. BYRD. Mr. President, I ask unanimous consent that Senators may have until 5:30 p.m. today to submit their statements for the RECORD and that committees may have until 5:30 p.m. to submit reports.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE CALENDAR

Mr. BYRD. Mr. President, I inquire of the distinguished acting Republican leader as to whether or not the following calendar orders which appear on the Executive Calendar have been cleared on that side of the aisle: Calendar Order No. 426 under the Department of Defense on page 2; Calendar Order No. 456 under Department of State on page 2; Calendar Orders numbered 462, 463, 464, 466, on page 3 under Selective Service System and the Department of Defense; Calendar Orders numbered 467, 468, and 469 on page 4 under Navy; all nominations placed on the Secretary's desk in the Air Force, Army, and Navy appearing on page 5.

That completes my list.

Mr. HECHT. I say to the distinguished majority leader that they have been cleared.

EXECUTIVE SESSION

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider the confirmation of Calendar Order No. 456.

The PRESIDING OFFICER. Without objection, it is so ordered.

There being no objection, the Senate proceeded to the consideration of executive business.

The PRESIDING OFFICER. The nomination will be stated.

DEPARTMENT OF STATE

The assistant legislative clerk read the nomination of William Caldwell Harrop, of New Jersey, a career member of the Senior Foreign Service, class of career minister, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Zaire.

MISMANAGEMENT AT THE STATE DEPARTMENT

Mr. HELMS. Mr. President, the nomination of William Harrop to be Ambassador to Zaire presented an opportunity to question him about his role as the Inspector General of the Department of State.

I have been especially concerned for more than a year about Ambassador

Harrop's role in monitoring the State Department Emergencies fund, which, according to reliable information I had obtained, was being used illegally to fund multimillion dollar remodeling projects for the Secretary of State's offices and reception areas.

I had been assured at the time that these remodeling projects were being funded completely from non-taxpayer funds. But during questioning of Ambassador Harrop that taxpayer funds were being illegally used for this purpose.

The conference report on State Department authorization bill H.R. 1777, as passed by the Senate contains a provision strengthening the congressional oversight of the expenditures from this emergencies fund, by requiring a quarterly report from the Department on all expenditures. This will go a long way in controlling any further abuses of the authority to make classified expenditures of taxpayer funds.

Another issue which I raised with the nominee concerned the abuse of diplomatic immunity by the Zairian Embassy in Washington and its Mission to the UN in New York. It has been reported to me that these organizations are among the worst of all the foreign missions in this country in terms of indebtedness, refusal to pay legitimate bills, and other financial abuses. We have just passed the State Department Authorization bill conference report. I regret that that conference report did not include my amendment reforming the diplomatic immunity laws of this country. It is only right that American businesses and individuals who provide supplies and services to foreign embassies not be deprived of their property by the failure of an embassy to pay its bill. Ambassador Harrop has committed himself to raising this matter with the Zairian Government once he arrives in Kinshasa, and I look forward to his report back to the Congress on the progress he is able to make on this issue.

I ask unanimous consent that relevant questions and answers submitted in connection with Ambassador Harrop's nomination be printed in the RECORD at this time.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ADDITIONAL QUESTIONS SUBMITTED TO WILLIAM C. HARROP BY SENATOR JESSE HELMS

[Excerpts]

Question 5. I have been told that the Zairian missions in the United States have established a reputation for extreme delinquencies with respect to paying for goods and services contracted for with U.S. companies and individuals. What is the present delinquent indebtedness of Zaire's missions in the U.S.? What has the State Department done to encourage payment of these bills? Will you raise the subject of Zaire's indebtedness to U.S. citizens and firms with the government of Zaire.

Unfortunately, it is true that Zaire's missions in New York and Washington have appreciable outstanding debts. According to State Department records, claims for payment lodged by Americans against the Zairian missions exceed $750,000. This figure is not an entirely accurate reflection of Zaire's delinquent indebtedness, since some of the claims include amounts for penalties and interest. Approximately $400,000 of the total is a bill for packing and storage of household effects that is continuing to accrue charges. Some of the claims are disputed, and some have no doubt been paid. On the other hand there may be other American claimants who have not contacted the State Department. This has been a matter of great concern to the Department, which has raised the issue on a number of occasions, not only with the heads of the missions, but directly with the Government of Zaire. We have not been diffident about pursuing these claims—the Secretary of State has personally raised the problem at a senior level—and have begun to meet with some success. The Government of Zaire has undertaken to clear up these arrears. It has recently made substantial payments to some of the claimants, and has worked out a schedule of payments for some others. The underlying problem comes from Zaire's difficult economic situation and acute shortage of foreign exchange to be allocated among a number of US and foreign creditors, all with legitimate and pressing claims. I will have no hesitation about raising this problem with the Government of Zaire. It is a fundamental duty of any American Ambassador to pursue the legitimate claims of individual American citizens and corporations. I might add that the Administration has proposed to Congress that the Department submit an annual report on the indebtedness owed by foreign missions and their staff and dependents that is more than six months delinquent.

Question 6. In your 1986 report to the Congress on the Emergencies in the Diplomatic and Consular Services account you stated that you had uncovered certain unspecified deficiencies in the Department's handling of this account. What were these deficiencies? What steps were taken to rectify them?

Answer. In my report to the Congress dated April 8, 1986 on the audit of Fiscal Year 1985 expenditures from the Emergencies in the Diplomatic and Consular Service Appropriation (Secretary's Emergency Fund), I stated:

"In our opinion, no significant expenditures were made which were not in accord with criteria established by the Act. We did note, however, that while the Department has improved its stewardship of the fund since our last audit in 1984, a number of opportunities remain for further improvements in policies, procedures, and controls. Appropriate recommendations were made to Departmental officials to initiate these improvements."

The audit resulted in 36 recommendations, which focus upon procedural adjustments in accounting, monitoring, and controls. All but two of these recommendations are resolved, and compliance action is completed or in progress on 28 of the other 34 recommendations. To supplement my response to this question with more specific information, Inspector General Funk is forwarding a copy of the audit report to Chairman Pell.

Question 7. Funds from the Emergencies account were used to remodel the office suite of the Secretary of State, although the Congress and the American taxpayers were being told that the remodeling was funded solely with private contributions to the Department. Do you believe that the remodeling of the Secretary's office suite can be funded with appropriated funds from the Emergencies in the Diplomatic and Consular Services appropriations? If so, please explain your rationale.

Answer. The Inspector General's audit of Fiscal Year 1984 expenditures from the Emergencies in the Diplomatic and Consular Service Appropriation (Secretary's Emergency Fund) found that $250,000 was loaned in August, 1984 from the Fund to the Curator of the Diplomatic Reception Rooms. An additional disbursement was made in October, 1984. These advances were made in order to resolve a cash flow problem in the resources obtained from private contributions to finance remodeling of the Diplomatic Reception Rooms on the 8th floor of the Department. (I do not believe that these advances were related to remodeling of the Secretary's office suite, although the principle would be the same.)

An opinion by the Office of the Legal Advisor found the advance to be legal, but the auditors did not believe the practice complied with the intent of Congress. They recommended that the Fund Manager ensure prompt reimbursement of loaned funds and that he not permit further use of the Secretary's Emergency Fund for a similar purpose. I concur with the auditors.

The Curator of the Diplomatic Reception Rooms repaid the advances to the Secretary's Emergency Fund. The Fund Manager fully concurred with the auditors and stated that the Secretary's Emergency Fund would not be used in this way again.

Question 8. An anonymous senior State Department official, presumedly Under Secretary Spiers, told The New York Times recently that the Inspector General's office was a blatant example of congressional interference in the Department's operations and that "the office is spending much more money than it saves." Do you agree with Under Secretary Spiers' assertion? When you were Inspector General, how much did it cost to operate your office? How did your office expenditures compare to the specifically identified cost savings you were able to implement?

Answer. The New York Times article in question was a discussion of the State Department's current budget crisis. I am not aware of the source of the statement you quoted from the article.

While I find it inappropriate to speak of "congressional interference in the Department's operations," I believe that the tendency of the Congress to earmark a growing proportion of the Department's appropriations to specific purposes—in this instance to the Office of the Inspector General—unwisely limits the flexibility of State Department managers and complicates the administration of foreign affairs.

Whether or not "the office is spending much more money than it saves" is only a partial measure of the effectiveness of the Inspector General of the Department of State. Compared to other federal agencies, the State Department manages relatively limited funds from which to identify savings. It does not administer entitlement distributions or other substantial spending programs. Its basic mission is to advise the President in the formulation of American foreign policy, and to carry out that policy. A major responsibility of the Inspector General under the Foreign Service Act of 1980 is to evaluate and improve the implementation of U.S. international relations, but the effectiveness and accuracy of foreign policy representation is not readily stated in dollar terms. This being said, I should note that the new Inspector General, despite this lack of grant or other entitlement programs, believes that his office will be directly responsible for hard savings substantially in excess of his budget.

I was Inspector General from September 1983 until August 1985, when Section 150 of Public Law 99-93 created a new Inspector General under the 1978 Inspector General Act, renaming me Program Inspector General with reduced responsibilities and authorities. I provide below the cost of operating my office during Fiscal Years 1984 and 1985, when its scope was comparable to that of the new Office of Inspector General.

[In thousands of dollars]

	Fiscal year—	
	1984	1985
Funds managed by the Inspector General	$1,174	$1,351
Centrally managed salaries and benefits [1]	3,814	4,650
Totals	4,988	[2] 6,001

[1] Figures based upon average number of employees.

[2] The 20 percent increase between fiscal year 1984 and fiscal year 1985 represents the addition of 13 positions to expand audit and investigation activity, and an acceleration of overseas inspections.

Savings from Inspector General operations are reported to the President semiannually by the President's Council on Integrity and Efficiency, in three categories:

(1) Investigative Recoveries,

(2) Management Commitments to Seek Recoveries, and

(3) Management Commitments to More Efficient Use of Funds.

I regard the first two categories as meeting the definition, "specifically identified cost savings you were able to implement" (although actual implementation is of course done by the Department itself).

Savings figures so defined were:

Fiscal year:	
1984	$1,096,602
1985	188,283

The third category of savings is an effort to quantify the longer term anticipated results of management actions, pursuant to Inspector General recommendations, to prevent improper obligations for expenditure of Department funds or to improve Department systems and operations, thereby avoiding further unnecessary expenditures. If this rather less tangible category of savings is added, the totals become:

Fiscal year:	
1984	$2,442,748
1985	3,365,047

Question 9. It is reported that the Inspector General's office vets candidates for Ambassadorial nominations prior to their submission to the White House. Did you participate in any way in the selection or review of the candidacy of Richard Viets to be Ambassador to Jordan? If so, please provide complete details, including any and all documents sent, received, or cleared by your office.

Answer. Richard Viets was appointed Ambassador to Jordan well before my tenure as Inspector General, and this question undoubtedly means to refer to Mr. Viets's candidacy as Ambassador to Portugal. Neither I nor my office participated in his selection or in the review of his candidacy by the Department for that appointment prior to its submission to the White House. The new Inspector General's office did, however, provide information and documentation to the appropriate Congressional Committee in connection with the confirmation process.

The PRESIDING OFFICER. Is there further debate on the nomination? If not, the question is on the confirmation of the nomination.

The nomination was considered and confirmed.

Mr. BYRD. Mr. President, I ask unanimous consent that the remainder of the foregoing nominations be considered en bloc, confirmed en bloc, the motion to reconsider all nominations thusly confirmed en bloc be laid on the table, that the President be immediately notified of the confirmations of the nominees, and that the several nominations appear severally and individually in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed are as follows:

DEPARTMENT OF DEFENSE

Robert B. Costello, of Michigan, to be Under Secretary of Defense for Acquisition.

SELECTIVE SERVICE SYSTEM

Samuel K. Lessey, Jr., of New Hampshire, to be Director of Selective Service.

DEPARTMENT OF DEFENSE

Robert Clifton Duncan, of Massachusetts, to be Director of Defense Research and Engineering.

Robert W. Page, Sr., of Texas, to be an Assistant Secretary of the Army.

IN THE ARMY

The U.S. Army National Guard Officer named herein for appointment in the grade indicated below, under the provisions of title 10, United States Code, sections 593(a), 3371 and 3384:

To be major general

Brig. Gen. Martin E. Lind, Jr., [redacted]

IN THE NAVY

The following-named officer to be placed on the retired list in the grade indicated under the provisions of title 10, United States Code, section 1370:

To be vice admiral

Vice Adm. Joseph Metcalf III, [redacted]/1110, U.S. Navy.

The following-named officer, under the provisions of title 10, United States Code, section 601, to be assigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be vice admiral

Rear Adm. Joseph S. Donnell III, [redacted]/1110, U.S. Navy.

The following-named officer, under the provisions of title 10, United States Code, section 601, to be assigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be vice admiral

Rear Adm. John W. Nyquist, [redacted]/1110, U.S. Navy.

NOMINATIONS PLACED ON THE SECRETARY'S DESK IN THE AIR FORCE, ARMY, NAVY

Air Force nominations beginning Thomas E. Koss, and ending Nicholas D. Boley, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of November 17, 1987.

Air Force nominations beginning Maj. Dennis C. Daly, [redacted] and ending Maj. Bonee B. Erickson, [redacted] which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of November 17, 1987.

Air Force nominations beginning Walter S. Mohn, and ending James D. Russell, Jr., which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of November 17, 1987.

Air Force nominations beginning Collins E. Smith, Jr., and ending John F. Courtney, which nominations were received by the Senate on November 24, 1987, and appeared in the CONGRESSIONAL RECORD of November 30, 1987.

Air Force nominations beginning John F. Courtney, and ending Joseph F. Vansickle, which nominations were received by the Senate on November 24, 1987, and appeared in the CONGRESSIONAL RECORD of November 30, 1987.

Air Force nominations beginning Colney B. Gainer, and ending Martin B. Yules, which nominations were received by the Senate on November 24, 1987, and appeared in the CONGRESSIONAL RECORD of November 30, 1987.

Air Force nominations beginning Alvin N. Aramburo, Jr., and ending Henry C. Woodcock, which nominations were received by the Senate on November 24, 1987, and appeared in the CONGRESSIONAL RECORD of November 30, 1987.

Air Force nominations beginning Gerald M. Friedman, and ending Stewart A. Vernooy, Jr., which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of December 4, 1987.

Air Force nominations beginning Cary D. Hardison, and ending Joseph E. Botta, which were received by the Senate and appeared in the CONGRESSIONAL RECORD of December 4, 1987.

Army nominations beginning James W. Abbott, and ending Andrew T. *Zygmuntowicz, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of November 17, 1987.

Army nominations beginning Richard D. Allen, and ending 109x, which nominations were received by the Senate on November 24, 1987, and appeared in the CONGRESSIONAL RECORD of November 30, 1987.

Army nominations beginning Alvin D. Aaron, and ending Nancy J. Zizunas, which nominations were received by the Senate on November 24, 1987, and appeared in the CONGRESSIONAL RECORD of November 30, 1987.

Navy nominations beginning Hugh R. White, and ending Peggy Faye Simpson, which nominations were received by the Senate on November 24, 1987, and appeared in the CONGRESSIONAL RECORD of November 30, 1987.

IN SUPPORT OF ROBERT CLIFTON DUNCAN, DIRECTOR OF DEFENSE RESEARCH AND ENGINEERING

Mr. SHELBY. Mr. President, I rise today in strong support of Dr. Robert Clifton Duncan to be Director of Defense Research and Engineering. Dr. Duncan, who currently serves as the

Assistant Director of Defense for Research and Technology and the Director of the Defense Advanced Research Projects Agency [DARPA], brings a wealth of experience to this position. From 1960 to 1961 he was the Chief of the Space Program branch, Office of Naval Operations. His next assignment was that of special assistant to the Director of Defense Research and Engineering, in the Office of the Secretary of Defense from 1961 to 1963. Dr. Duncan went on to serve as the Chief of the Guidance and Control Division of NASA's Manned Spacecraft Center in Houston, TX, where he was responsible for developing the guidance and control system for the Apollo spacecraft used in the lunar missions.

He received a bachelor of science degree from the U.S. Naval Academy and a bachelor of science in aeronautical engineering from the U.S. Navy Postgraduate School. Dr. Duncan continued his studies at the Massachusetts Institute of Technology where he attained both a masters degree and a doctor of science degree in aeronautical engineering.

This most extensive background of Government service will serve Dr. Duncan well in his new role. He will have to make very difficult policy decisions concerning new starts at a time when defense spending is shrinking rather than growing. Dr. Duncan will also have to fight hard to ensure that the U.S. technological base receives the funding necessary to achieve long-term goals. Now, more than ever, we need to use the technological expertise that is available in our country to overcome the quantitative advantages that our adversaries hold. We also need an individual who can reduce the time it takes to move research projects out of the laboratory and into production. Dr. Duncan, in his confirmation hearing before the Senate Armed Services Committee, stated that he will be the "point man" for Dr. Robert Costello, the Undersecretary of Defense for Acquisition, on reducing acquisition time.

I am very satisfied with Dr. Duncan's qualifications and the enthusiasm that he will bring to his new post. He is the right man for the job.

I urge my colleagues to support the nomination of Robert Clifton Duncan to be the Director of Defense Research and Engineering.

LEGISLATIVE SESSION

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

IN SUPPORT OF ROBERT W. PAGE TO BE ASSISTANT SECRETARY OF THE ARMY FOR CIVIL WORKS.

Mr. SHELBY. Mr. President. I rise today in strong support of Robert W. Page, Sr. for the position of Assistant Secretary of the Army for Civil Works.

I find Mr. Page to be very well qualified to hold this position. He is a professional engineer, having graduated from Texas A&M University with a degree in civil engineering and has spent the past 35 years in private industry carving out for himself a very distinguished career in the construction field. Mr. Page has also served his country well; first in the U.S. Navy during the Second World War and then in the Central Intelligence Agency from 1950-52.

The Army's Civil Works Program, which is the Nation's major Federal water resources and development activity, is the responsibility of the Corps of Engineers and dates back to 1824. The Assistant Secretary oversees engineering works such as major dams, reservoirs, levees, harbors, waterways and locks. These works provide flood protection for cities and major river valleys, reduce the cost of transportation, supply water for municipal and industrial use, generate hydroelectric power and proved recreational opportunities for millions of Americans. The Tennessee-Tombigbee Waterway is testimony to the excellent job that the corps performs in my home State of Alabama.

Mr. Page will be filling the very large shoes of Robert Dawson, an Alabama native and arguably one of the most effective Assistant Secretary's of the Army for Civil Works. However, Bob Page, who has spent a large portion of his career working in Alabama, certainly has the capability to reach the high standards set by Bob Dawson.

I urge my colleagues to support Robert W. Page, Sr., as the Assistant Secretary of the Army for Civil Works.

LEGISLATIVE SESSION

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR FRIDAY

RECESS UNTIL 12 NOON

Mr. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until the hour of 12 noon tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that on tomorrow, after the two leaders have been recognized under the standing order, there be a period for the transaction of morning business not to extend beyond the hour of 1 o'clock p.m., and that Senators may speak therein for not to exceed 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I yield the floor.

THE INF TREATY

Mr. DOLE. Mr. President, I have just returned from a meeting with President Reagan. Two weeks ago when the INF Treaty arrived in the Senate I told the President that I wanted to study it carefully before making any final decision, and I have done precisely what I told the President I would do.

I have not only read the treaty, I have also had the opportunity to have it analyzed by a lot of people who know much more about verification and other technical aspects of the treaty than I would ever know even if I spent full time on it.

I have talked with people inside and outside of Government in the past couple of weeks, starting first with Secretary Shultz, General Rogers, Colin Powell, and this week a number of others.

I was able to reach Margaret Thatcher by telephone yesterday, to make certain that the allies were fully on board; and to get what I perceived to be real concerns about conventional weapons imbalance.

I also talked to Chancellor Helmut Kohl, because West Germany is in a rather critical position in the event anything should happen in Europe.

Then, of course, the Prime Minister of Italy, Mr. Goria, was in Washington yesterday, and I had an opportunity to visit with him.

We did on this side what the distinguished majority leader did earlier—we put together a little coordinating group. There are members of the Intelligence Committee, the Armed Services Committee, and the Foreign Relations Committee.

We met with the President on Tuesday. We also discussed the treaty at an earlier bipartisan leadership meeting with the President. We met with Secretary Shultz; Secretary of Defense Carlucci; Admiral Crowe; General Odom, the NSA Director; General Perroots, the DIA Director; Jeane Kirkpatrick; Richard Perle; General Scowcroft; and former Presidents Ford and Nixon.

As a Member of the House for about 25 years, former President Ford, was a member of the House Defense Appropriations Subcommittee and is very knowledgeable on defense issues. He was kind enough to spend 30 minutes with me on the telephone a few days ago. Former President Nixon does have a lot of expertise in dealing with the Soviets.

What I was trying to do was to make some judgment, based not only on what I have been able to determine, but also what others, experts in the field, have determined.

I wanted to make the point to the President that there are Senators on both sides of the aisle who feel very positive about the treaty but have also expressed some concerns about compliance and verification, concerns about troops in Afghanistan or conventional imbalance. I explained to the President today that now the focus has shifted to the Senate.

The Senate will decide whether this treaty goes into effect or not. As Republican leader, I will lead the fight for its approval in the Senate as part of this process.

Now, the majority leader and the minority leader, particularly the majority leader, will determine how soon we may have the treaty before us. I think it is fair to say that as far as the majority leader is concerned the sooner the better.

But there will be hearings. There will be a lot of testimony from experts.

Mr. President, I have been point man in the Senate for the President's national security programs. Over the years, we have won the big, critical fights—and I told the President today, I will be there to make sure we win this one, too.

As I indicated to the President, as Republican leader I would certainly do what I could to be helpful in the Senate. But I did indicate, as I said, that there were certain areas of concern among Senators. And I talked primarily about the coordinating group on the Republican side and in our first meeting some of my colleagues expressed concerns about verification, compliance, and the imbalance of conventional forces in Europe.

By addressing these areas, the Senate can strengthen the treaty even further, while not requiring renegotiation with the Soviets. The President has assured me he is open to constructive ideas and will work with me on these concerns.

The President indicated today, as he did earlier, and General Powell did in a meeting we had last week, that they would be willing to work with us, all of us, Republicans or Democrats, in these areas. Obviously, they do not want anything that is going to require negotiations, whether it is a declaration, understanding, reservation, or amendment, and I do not know of anybody who has any language drafted. All the experts are looking at it and there are a lot of experts in this body.

I do not know of any language, but I do know there are a lot of concerns and I think out of that may come a number of different ideas from different Members.

So, as I have said from the beginning, my goal has been to be sure—sure about verification, sure about alliance support. I owe that to the President, to my Senate colleagues and to the American people. I can say today that I am sure—I support the treaty and will fight to win Senate approval.

It seems to me that we have a big job to do ahead of us, and I would like to include in the Record at this time first the President's statement, and then a statement I made in the White House pressroom and ask unanimous consent they be printed in the Record.

There being no objection, the statements were ordered to be printed in the Record, as follows:

President Reagan's Statement Following Meeting With Senator Robert Dole, Thursday, December 17, 1987

It has been a great pleasure for me today to meet with Senator Dole and to discuss his support for the treaty signed here during last week's summit. The INF Treaty was the end result of a process that took over six years to arrive at the moment of signing. I, in fact, proposed the zero option in the first year of our administration. Many of the points contained in the agreement were hammered out through tough negotiations on both sides. I welcome the support of the Senate Republican leader and count on his efforts to help insure Senate ratification.

Now I understand there is a certain degree of apprehension about reaching any agreement with the Soviet Union. But I believe that, once the details have been closely examined, the consensus will be that the INF Treaty is a solid step forward, a recognizably positive move for America.

The treaty is consistent with the goals set out by my administration from its first days. Building up our defensive strength was designed to convince the Soviet leadership that they could not win an arms race. The second half of the formula is reaching agreements to reduce weapons on both sides to an equal and verifiable level. Such reductions are in our interest and in the interest of world peace.

This treaty accomplishes exactly what we set out to do. First and foremost, it is the first agreement in history to reduce, not simply limit the build-up of nuclear weapons. The Soviets are, in fact, giving up more weapons in order to reach equality at a lower level. This is a breakthrough precedent that can serve as the basis for progress in other areas.

Furthermore, this treaty is not based on some notion that the Soviets can now be implicitly trusted. Given their record, I would never have signed a treaty that did not contain the most stringent verification regimen. There has been an impressive exchange of data, and there will be continuing exchanges after the treaty goes into effect. There will also be the right to on-site inspections to confirm what we've been told.

During the entire process of destroying the I.N.F. missiles, each side has the right to observe in order to ensure compliance with the treaty. We will even be monitoring the facility where their SS-20 missiles were assembled and have the right to visit other I.N.F. missile facilities on short notice. It is not a matter of trust. We will watch, inspect, and be present for the destruction of these missiles. And for 13 years after the treaty enters into force, American personnel will be on-site in the Soviet Union to make sure there are no more SS-20's being produced.

Succinctly put, this treaty contains verification provisions and other safeguards that should impress even hardened skeptics.

However, I believe some of our opposition is not just a result of a perceived defect in the treaty, but also flows from a concern that our country will continue to deal with the Soviets from a position of realism and candor. This treaty is reason for hope, it is a good first step, but we are not letting our guard down and we do not want anyone to have expectations that cannot be met or verified. As Jefferson and other Presidents before me have stated and restated, eternal vigilance is the price of liberty. That has never been more true than today.

We will remain vigilant and realistic in dealing with the Soviet Union. This treaty is consistent with that commitment—a verifiable trust.

I am confident that over these next several weeks, as more senators have the opportunity to review the terms and provisions of this agreement, that they will come to the conclusion that it deserves ratification.

And now I'll turn this over to Senator Dole.

Statement of Senator Bob Dole In Support of the INF Treaty

Two weeks ago when the Treaty arrived in the Senate, I told the President I wanted to study it carefully before making a final decision. I have done precisely what I told the President I would do: I've not only read the Treaty, I've had the opportunity to have it analyzed by experts in and out of government, I've spoken directly with our key NATO allies and I've had a series of meetings with the President and members of the Administration, to address my concerns. In all of this, I've been concerned not only about the Treaty itself, but also about its strategic and political implications.

Now that the Treaty has been negotiated and signed, the focus shifts to the Senate. The Senate will decide whether this Treaty goes into effect or not. As Republican Leader, I will lead the fight for its approval in the Senate.

I've been point man in the Senate for the President's national security programs. Over the years, we've won the big, critical fights—and I told the President today, I will be there to make sure we win this one, too.

I also told the President that there are three key areas I have identified, which are of special concern to me and my colleagues: verification, compliance and the imbalance of conventional forces in Europe. By addressing these areas, the Senate can strengthen the Treaty even further, while not requiring renegotiation with the Soviets. The President has assured me he is open to constructive ideas and will work with me on these concerns.

So, as I have said from the beginning, my goal has been to be sure—sure about verification, sure about Alliance support. I owe that to the President, to my Senate colleagues and to the American people. I can say today that I am sure—I support the treaty and will fight to win Senate approval.

Mr. DOLE. Most Senators are trying to get information, trying to make judgments, and I assume when we leave here tomorrow night or hopefully no later than Saturday night, many Senators will have some time during the recess period to study it. But the next real opportunity will be when the Senate comes back and when Senator

PELL starts hearings in the Foreign Relations Committee. I am not certain whether that is going to be January 19.

Mr. BYRD. Yes, that is when it is set.

Mr. DOLE. It is still going to be January 19.

Mr. President, I yield the floor.

Mr. BYRD. Mr. President, I compliment the distinguished Republican leader on the step that he has taken to make his tentative decision. I take it that all our decisions are tentative to the extent that they are based on what we know now and what we understand at this point.

As I listened, he has attempted to touch base with people, including former Presidents, who have considerable knowledge of treaties, the work that goes into the formulation of treaties, and I think that Mr. DOLE has been wise in doing this.

He as the Republican leader is in a little different situation from that in which I find myself. He is the leader of the party whose occupant is in the White House, and I am the leader of the party which does not control the White House at this point.

But notwithstanding, he has shown that he is his own man. He does not wear someone else's collar and he is not a knee jerk. He took the pains and the time, went to the effort of contacting the people that he has named, and I commend him on doing that.

He and I are going to have to work together closely if we both are to do our job here and do it properly. He has already set the machinery in motion on his side as I have done on mine.

The two of us together will see that the job is done right, that the debate is thorough and is not overly drawn, but that this treaty gets the attention that it deserves and the Senate will conduct its role under the Constitution as it should and the people of the United States will be well served in their interest and the interest of our allies with whom he has already made contact will be protected.

I have not contacted allied leaders yet but I have a little more time in that respect, and I will be doing that as I have indicated I will.

Mr. President, does the distinguished Republican leader have anything further?

Mr. DOLE. No.

PROGRAM

Mr. BYRD. Mr. President, I will anticipate that tomorrow will be a day more busy than this one or the days that have preceded this day already this week. Conference reports will begin to be finalized. So tomorrow and Saturday I would urge all Senators to be available and be ready, especially beginning late tomorrow, and as we continue to make progress I will attempt as best I can to keep Senators informed of what I hear regarding the progress of the conference reports so that everybody can act accordingly.

RECESS UNTIL TOMORROW

Mr. BYRD. Mr. President, if no other Senator seeks recognition, I move, in accordance with the order entered earlier, that the Senate stand in recess until the hour of 12 noon tomorrow.

The motion was agreed to; and, at 4:26 p.m., the Senate recessed until tomorrow, Friday, December 18, 1987, at 12 noon.

NOMINATIONS

Executive nominations received by the Senate December 17, 1987:

DEPARTMENT OF JUSTICE

CHARLES A. BANKS, OF ARKANSAS, TO BE U.S. ATTORNEY FOR THE EASTERN DISTRICT OF ARKANSAS FOR THE TERM OF 4 YEARS VICE GEORGE WASHINGTON PROCTOR, RESIGNED.

IN THE COAST GUARD

THE FOLLOWING REGULAR OFFICERS OF THE U.S. COAST GUARD FOR PROMOTION TO THE GRADE OF LIEUTENANT:

DONALD P. WILLIS
KEVIN S. WELLS
JAMES N. BLYTHE
BRADLEY A. SHEFKA
JOHN S. EARLY
ROBERT S. HOLZMAN
MICHAEL E. LEHOCKY
NORMAN S. SELLEY
DENNIS M. SENS
EDWARD SINCLAIR
MARK A. TORRES
THOMAS S. KUHANECK
DOUGLAS A. BLAKEMORE
DAVID R. CALLAHAN
MARTIN J. LANGLOIS
WILLIAM F. MCMEEKIN
MICHAEL E. SULLIVAN
MICHAEL A. PLOTYCIA
KARL BALDESSARI
LANCE O. BENTON
ROBERT G. MUELLER
KEVIN B. ASBURY
STEPHEN M. WHEELER
JOHN C. OWENS
RICHARD G. BRUNKE
LEONARD L. RITTER, JR.
DAVID R. LITTLEJOHN
FRANK W. POLK, JR.
JOSEPH S. PUNTINO
MICHAEL D. DAWE
KENNETH A. RAMSDELL
LLOYD A. GUTHRIE
TERRENCE M. MURPHY
MICHAEL T. DEBETTENCOURT
FRANK M. REED, JR.
MARVIN L. EVANS
LEONARD W. ALLEN III
KIMBERLY J. DAVIS
EDMUND L. BROWN
STANLEY A. GOLD
PETER C. JANDREAU
ROBERT L. DESH
BENJAMIN B. CLOUGH
DANIEL B. ABEL
RICHARD T. GROMLICH
LINCOLN D. STROH
MATTHEW E. CUTTS
KEITH G. CURRAN
STEPHEN C. SWEYKO
ROBERT W. JACKMORE
KEITH A. TAYLOR
ROBERT L. BERRIGAN
JAMES W. SEEMAN
MARK R. HIGGINS
JOHN J. JENNINGS
BRIAN K. WRIGHT
ROBERT M. PYLE
THOMAS D. WADE
KEVIN H. MILLER
GILBERT E. TEAL
RICHARD H. SCHLATTER, JR.
JON V. TURBAN
JAMES E. RENDON
JOHN P. PHILBIN
DAVID H. BOYD
GREGORY A. TAYLOR
MARTIN J. DUKESHIRE
CARLOS D. ORTIZ, JR.
RICHARD L. WHARTON
GARY R. COLLINS
EDWARD D. ZACHARIAS
PATRICK A. TIMMERMAN
DUANE E. STENBAK
DAVID A. FLAGG
RICHARD A. BOYD
PHILIP B. SERINIS
DAVID K. SEAVEY
STEVEN R. BAUM
ANDREW L. DALY
LYLE A. RICE
PAUL J. CORMIER
JAMES B. MCPHERSON
JAMES W. RICE III
RONALD J. EVANS
SPENCER L. BYRUM
FREDERICK W. TUCHER
KRISTY L. PLOURDE
PATRICK J. GALVIN
ROBERT V. FOGEL
JEAN A. WILCZYNSKI
LAURENCE W. FISHLER
GLENN A. RYERSON
RICHARD D. BELISLE
MAURA S. VASSAR
DAVID H. GORDNER
PAUL E. WIEDENHOEFT
JOHN C. ODELL
WILLIAM H. TIMBS, JR.
KARL L. SCHULTZ
BRUCE L. TONEY
ANDREW N. CZAPOWSKYJ
TERRY A. BOYD
EDWIN B. THIEDEMAN
JANELLE L. KASER
KENNETH K. MOORE
THOMAS C. HICKMAN
MATHEW D. BLIVEN
LURILLA J. LEE
SCOTT BURLINGAME
TODD GENTILE
VINCENT WILCZYNSKI
HARRY G. MACGREGOR III
CHRISTOPHER W. HOPPER
RICHARD K. MURPHY
ROBERT P. FORGIT
KIRK E. HILES
EUGENE GRAY
HELEN H. RYERSON
STANLEY J. CARSON
KARL H. CALVO
TERRY D. GILBREATH
ROBERT M. DIEHL
RODERICK L. SMITH
SHELDON B. BLUE
LIAM J. SLEIN
STEVEN S. LOWRY
JOHN J. MACALUSO
SCOTT P. LARCOHELLE
TODD R. PELLMANN
DONALD F. KAROL
MICHAEL A. TEKESKY
ROBERT S. LENTZ
PATRICK H. KNOWLES
THOMAS M. CULLEN
JOHN M. SENYARD
GERARD R. DOSTIE
ANDREAS M. SAGER
JAMES A. SWEET
NICHOLAS J. STAGLIANO
ROBERT F. FINLEY
KENNETH C. HRICZ
MICHAEL L. HUMPHREYS
THOMAS A. TAZELAAR
KEITH J. PATTERSON
BRAD A. ROBINSON
JOHN L. STURTZ
DAVID J. SWATLAND
ERIC J. MOSHER
JACQUELINE A. STAGLIANO
MARY K. JAGER
GEOFFREY T. MERRELL
PETER J. BERGERON
PAUL T. FERGUSON
BRYAN J. SEALE
PETER J. ZOHORSKY
PAUL F. GUINEE
DOUGLAS J. SMITH
ANTHONY J. PALAZZETTI
THOMAS J. VITULLO
SCOTT B. BEESON
EDWARD P. NAGLE
SCOTT W. ROBERT
CHARLES V. STRANGFELD
ROBERT H. RANDOLPH
ROBERT F. KELLY
STEVEN L. HUDSON
ALAN M. MARSILIO
DAPHNE REESE
STEVEN L. KOSKA
LISA R. TAMBLINGSON
JENNIFER E. LAY
EDWARD P. SEEBALD
BRIAN J. MARVIN
SARAH J. KRUPA
JOSEPH C. SINNETT
PAUL D. LARZELERE
JAMES B. ROBBINS
KENNETH D. NORRIS
MICHAEL J. BACA
PAUL J. RODEN
ERIC D. HULTMARK
PAUL L. HUMPHREYS
BRADLEY R. LEE
MARK L. PORVAZNIK
MICHAEL F. LEONARD
CHARLES JAGER
JAMES J. O'CONNOR
PAUL A. STEWARD
RANDY C. SCOTT
JAMES B. KIDWELL
CHRISTOPHER E. ROBERTS
ORLANDO A. ARENAS
MICHAEL W. SNIVELY
KENNETH R. ARMSTRONG
GREGG R. FONDACABE
ROBERT S. WALTERS
JAMES J. DRISCOLL
STEVEN E. MOREHOUSE
ROBERT B. BIRTHISEL
THOMAS D. GREGORY
LESTER M. SECHRIST
BRUCE A. MCINTOSH
MICHAEL D. HARGADON
WILLIAM E. PATTERSON
MARK S. FRETWELL
EUGENE G. MORTORFF
MOLLY K. KRIZ
JEFFREY A. DAVIS
JONATHAN F. TRUMBLE
THOMAS F. TABRAH
SAM M. NEILL
MICHAEL S. KAZEK
JOHN B. MCDERMOTT
BRIAN FLORY
ROBERT P. SHEAVES

THE FOLLOWING CADETS OF THE U.S. COAST GUARD ACADEMY FOR APPOINTMENT TO THE GRADE OF ENSIGN:

ARNOLD D. ABE
WILLIAM J. ANTONAKIS
ALAN N. ARSENAULT
SCOTT V. AUSTIN
EDGARS A. AUZENBERGS
RAYMOND C. AYALA
JOSEPH E. BALDA
STEVEN A. BANKS
KIRK A. BARTNIK
BRADLEY M. BELANGER
KATHLEEN J. BOGAN
JAMES M. BOUSE
BASIL F. BROWN
SCOTT A. BUDKA
SEAN M. BURKE
CHARLES S. CAMP
JAMES D. CARLSON
MICHAEL P. CAROSOTTO
CHARLES S. CASHIN
GARY A. CHARBONNEAU
BRADFORD D. CLARK
JOSEPH E. CROUSE
DAVID P. CROWLEY
EDWARD J. CUBANSKI
MARK F. CULLINANE
STEPHEN P. CZERWONKA
CARLTON H. DAY
DAVID W. DERMANELIAN
PETER N. DECOLA
PAT DEQUATTRO
ERIC R. DIAMOND
DOMINIC DIBARI
JOSEPH F. HESTER
MICHAEL W. JACKSON
DONALD W. JILLSON
ERIC G. JOHNSON
BRENDA A. KELLEY
MATTHEW D. KELLY
LARRY R. KENNEDY
DAVID A. KINDT
MARK E. KOTEK
ROBERT L. KROEGER
JEFFREY R. KUNST
AMY S. LANDWEHR
STUART L. LEBRUSKA
MARK H. LENOX
PAUL G. LINDSAY
ANTHONY S. LLOYD
IAN LIU
MICHAEL J. LOPEZ
MICHAEL S. LOZICH
JOSEPH J. LOSCIUTO
STEPHANIE J. LYON
JOEL D. MAGNUSSEN
TINA L. MANCINI
JOSEPH E. MANJONE
KIRSTEN R. MARTIN
DOUGLAS B. MATHIEU
ROBERT T. MCCARTHY
STEVEN R. MCDERMOTT
PATRICK J. MCGUIRE
GREGORY L. MCHENRY
JEFFREY J. MCSPADEN
SANDRA A. MEAD
GARY C. ARMSTRONG
JOEL D. DOLBECK
ROMUALDO M. DOMINGO
TODD C. DUBOIS
GEORGE W. ELDRIDGE
JAMES E. ELLIOTT
JANET M. EMERSON
JEFFREY K. ENOMOTO
CARL M. FERLAUTO
DONALD L. FLEMING
PATRICK J. FOLEY
RICHARD D. FONTANA
PATRICK G. FORAN
ANDREW J. FORDHAM
JASON A. FOSDICK
MARK A. FRANKFORD
KEVIN P. FREEMAN
JULIE L. FRITZ
ADELL L. FULLAWAY
DAVID R. GAHN
FRANCIS E. GENCO
MARK R. GOING
AUSTIN J. GOULD
KARL R. GRAMS
THOMAS A. GREGER
ROBERT P. HAYES
JOHN A. HEALY
JAYSON L. HELSEL
CHRISTOPHER A. HERR
CHRISTIAN J. HERZBERGER
CHRISTOPHER J. MEADE
WILLIAM R. MEESE
STEVEN C. MELANSON
TIMOTHY E. MEYERS
JAN S. MILLER
JESSE K. MOORE
JOHN F. MORIARTY
PHILIP L. MORRIS
LEONARD C. MURPHY
CAMERON T. NARON
KEVIN W. NELSON
THOMAS G. NELSON
JAMES M. NEUSCHWANDER
CHRISTOPHER D. NICHOLS
MARY E. NICOSIA
JAMES R. OLIVE
KURT C. O'BRIAN
MATTHEW J. O'CONNER
ANNE M. O'NEILL
JAMES E. PAIGE
FRANK R. PARKER
JORGE PEREIRA
JOSEPH M. PESCI
WALTER E. PETIG
TIMOTHY F. PETTEK
SCOTT D. PISEL
RICHARD G. POTTIEGER
LAURENCE J. PREVOST
BRENT M. PRISTAS
CHARLES E. RAWSON

JOHN C. RENDON
CHARLEES A. RICHARDS
RICHARD F. RONCONE
VITO D. ROSELLI
KEITH A. RUSSELL
MICHAEL P. RYAN
PATRICK J. RYAN
THOMAS F. RYAN
STEPHEN M. SABELLICO
GREGORY J. SANIAL
JAMES E. SCHEYE
KURT A. SEBASTIAN
ADAM J. SHAW
PHILIP J. SKOWDRONEK
JOEL D. SLOTTEN
PETER F. SMITH
SUSAN M. SMITHHOUSER
THOMAS E. SNIDER
SCOTT A. SODERGREN
ANDREW J. SORENSON
JAMES F. STORY
TIMOTHY G. STUEVE
JOHN B. SULLIVAN
GLENN M. SULMASY
JULIE A. SUTHERLAND
BRIAN J. SWAYNE
JAMES A. TABOR
JAMES W. THILENIUS
AMY B. UNREIN
VICTORIA A. VANVALKENBURG
IVAN J. VIKIN
ALAN S. WATKA
KEITH T. WHITEMAN
SHADD D. WILLIAMS
WILLIAM J. WOLTER
JOHN D. WOOD
MARIBETH YASINSKI
MATTHEW J. ZAMARY
GEORGE M. ZEITLER

IN THE MARINE CORPS

THE FOLLOWING-NAMED NAVAL RESERVE OFFICERS TRAINING CORPS GRADUATES FOR PERMANENT APPOINTMENT TO THE GRADE OF SECOND LIEUTENANT IN THE U.S. MARINE CORPS, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTIONS 531 AND 2107:

ROBERT F. BUZBY, JR. xx...
CHRISTOPHER J. CHIVERS, xx...
MARK D. FREEMYER, xx...
DUANE S. GRAY, xx...
JULIA L. GRAY, xx...
JAMES S. HALL, xx...
BRIDGER E. JIMINEZ, xx...
DAVID L. ROSS, xx...
DENNIS S. SIMMONS, xxx...
THOMAS C. UTZ, xx...

IN THE ARMY

THE FOLLOWING-NAMED OFFICERS FOR PERMANENT PROMOTION IN THE U.S. ARMY IN ACCORDANCE WITH THE APPROPRIATE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTIONS 624 AND 628:

ARMY

To be colonel

JOSEPH E. STULL, xxx-xx-xxxx

To be major

FORREST R. NEWTON, xxx-xx-xxxx

THE FOLLOWING-NAMED OFFICERS FOR PERMANENT PROMOTION IN THE U.S. ARMY IN ACCORDANCE WITH THE APPROPRIATE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTIONS 624 AND 628:

ARMY

To be lieutenant colonel

JACK L. LEVENS, xxx-xx-xxxx
THOMAS M. TYRELL, xxx-xx-xxxx

To be major

JOSEPH S. JABLECKI, xxx-xx-xxxx

THE FOLLOWING-NAMED OFFICERS FOR PERMANENT PROMOTION IN THE U.S. ARMY IN ACCORDANCE WITH THE APPROPRIATE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTIONS 624 AND 628:

VETERINARY CORPS

To be lieutenant colonel

CLIFFORD J. HIXON, xxx-xx-xxxx

DENTAL CORPS

To be major

ADOLFINA M. POLK, xxx-xx-xxxx

ARMY

To be major

JOSEPH L. FLYNN, xxx-xx-xxxx
EDWARD N. FORSTER, xxx-xx-xxxx
JAMES M. HOOVER, xxx-xx-xxxx
GLENN M. PEACH, xxx-xx-xxxx
RICHARD A. RUBY, xxx-xx-xxxx
STEPHEN C. SCOTT, xxx-xx-xxxx

THE FOLLOWING-NAMED OFFICERS FOR PERMANENT PROMOTION IN THE U.S. ARMY IN ACCORDANCE WITH THE APPROPRIATE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTIONS 624 AND 628:

ARMY

To be major

DOUGLAS R. ARNDT, xxx-xx-xxxx
DENNIS G. BLEDSOE, xxx-xx-xxxx
DAVIS R. CHRISTENSEN, xxx-xx-xxxx
CLEMENT W. HALUPKA, xxx-xx-xxxx
NICHOLAS E. KREEL, xxx-xx-xxxx
JAMES W. MCDOWELL, xxx-xx-xxxx
BRUCE A. MESSINGER, xxx-xx-xxxx
MICHAEL P. WILSON, xxx-xx-xxxx
MARY B. WITT, xxx-xx-xxxx

THE FOLLOWING-NAMED OFFICERS FOR PERMANENT PROMOTION IN THE U.S. ARMY IN ACCORDANCE WITH THE APPROPRIATE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTIONS 624 AND 628:

MEDICAL CORPS

To be major

DANIEL F. BATTAFARANO, xxx-xx-xxxx
ROBERT T. GARBACZ, xxx-xx-xxxx

THE FOLLOWING-NAMED OFFICERS FOR PERMANENT PROMOTION IN THE U.S. ARMY IN ACCORDANCE WITH THE APPROPRIATE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTIONS 624 AND 628:

MEDICAL CORPS

To be major

CLIFFORD L. SIMMANG, xxx-xx-xxxx

THE FOLLOWING-NAMED OFFICERS FOR PERMANENT PROMOTION IN THE U.S. ARMY IN ACCORDANCE WITH THE APPROPRIATE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTIONS 624 AND 628:

ARMY MEDICAL SPECIALIST CORPS

To be major

JAMES R. BROWN, xxx-xx-xxxx

VETERINARY CORPS

To be major

GEORGINA A. FARNSWORTH, xxx-xx-xxxx
RAYMOND K. HINES, xxx-xx-xxxx

THE FOLLOWING-NAMED OFFICERS FOR PERMANENT PROMOTION IN THE U.S. ARMY IN ACCORDANCE WITH THE APPROPRIATE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTIONS 624 AND 628:

DENTAL CORPS

To be major

MILTON L. SMITH, xxx-xx-xxxx

THE FOLLOWING-NAMED OFFICERS FOR PERMANENT PROMOTION IN THE U.S. ARMY IN ACCORDANCE WITH THE APPROPRIATE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTIONS 624 AND 628:

MEDICAL CORPS

To be major

JENNIFER L. CALAGAN, xxx-xx-xxxx
FRANK J. MALINOSKI, xxx-xx-xxxx
JOHN H. POLAK, xxx-xx-xxxx
CRAIG E. SMITH, xxx-xx-xxxx
CHARLES R. SOULIERE, xxx-xx-xxxx

IN THE ARMY

THE FOLLOWING-NAMED OFFICERS FOR APPOINTMENT IN THE REGULAR ARMY OF THE UNITED STATES IN THEIR ACTIVE DUTY GRADE, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 531, 532, AND 533.

MEDICAL CORPS

To be colonels

EGAN, THOMAS J., xxx-xx-xxxx
PEARLMAN, ELIOT J., xxx-xx-xxxx

To be lieutenant colonel

IAPAOLO, FELICE M., xxx-xx-xxxx

To be majors

OYEWOLE, MORAKINYO A., xxx-xx-xxxx
SERWATKA, LINDA M., xxx-xx-xxxx
WILSON, MARY H., xxx-xx-xxxx

To be captains

CRABTREE, THOMAS G., xxx-xx-xxxx
DYKES, DARYLE G., xxx-xx-xxxx
FINGER, MICHAEL J., xxx-xx-xxxx
FISHBAIN, JOEL T., xxx-xx-xxxx
FURUKAWA, KENNETH, xxx-xx-xxxx
KISHBAUGH, DAVID, xxx-xx-xxxx
KOHANSKI, PHILLIP, xxx-xx-xxxx
JOLISSANT, JAMES, xxx-xx-xxxx
PARRADO, CARLOS M., xxx-xx-xxxx
SILKOWSKI, PETER A., xxx-xx-xxxx

DENTAL CORPS

To be majors

BELFIGLIO, JAMES E., xxx-xx-xxxx
HOMIAK, ALAN W., xxx-xx-xxxx
KERN, DAVID A., xxx-xx-xxxx
MARKHAM, JOHN W., III, xxx-xx-xxxx
NIXON, LARRY L., xxx-xx-xxxx
WEST, EUGENE, xxx-xx-xxxx
WOODSON, JAMES D., xxx-xx-xxxx
WYATT, DAVID L., xxx-xx-xxxx

To be captains

ARCURI, MICHAEL R., xxx-xx-xxxx
BUMGARDNER, GEORGE R., xxx-xx-xxxx
CARMICHAEL, WILLIAM W., xxx-xx-xxxx
CZERW, RUSSELL J., xxx-xx-xxxx
HAMMOND, TED W., xxx-xx-xxxx
ROACH, ROBERT B., JR., xxx-xx-xxxx

VETERINARY CORPS

To be majors

SHERMAN, STEPHANIE J., xxx-xx-xxxx
TAYLOR, DEWAYNE G., xxx-xx-xxxx

To be captain

LAYTON, RICHARD C., xxx-xx-xxxx

ARMY MEDICAL SPECIALIST CORPS

To be majors

BRYAN, JEAN M., xxx-xx-xxxx
CHIANG, SUZANNE S., xxx-xx-xxxx
COHEN, NOREEN M., xxx-xx-xxxx
CROPPER, JAMES R., xxx-xx-xxxx
HALLE, JOHN S., xxx-xx-xxxx
JANSEN, RICHARD, xxx-xx-xxxx
JENIK, CAROL A., xxx-xx-xxxx
JOSEPH, RICKY, xxx-xx-xxxx
KURTZ, THOMAS W., xxx-xx-xxxx
OSBORN, ROY W., xxx-xx-xxxx
RANDOLPH, BILLIE J., xxx-xx-xxxx
RONAT, RAYMOND C., xxx-xx-xxxx
SCOVILLE, CHARLES, xxx-xx-xxxx
TEFFT, ROBIN J., xxx-xx-xxxx
UNDERWOOD, FRANK, xxx-xx-xxxx
WINMILL, CATHERINE A., xxx-xx-xxxx

To be captains

BEMIS, TERRY A., xxx-xx-xxxx
STOREY, REBECCA S., xxx-xx-xxxx

To be first lieutenant

MOORE, JOSEF H., xxx-xx-xxxx

ARMY NURSE CORPS

To be majors

ABRAKS, EDWARD B., xxx-xx-xxxx
ALLMON, NANCY F., xxx-xx-xxxx
ANDERSON, ALICE Y., xxx-xx-xxxx
ANDERSON, MARGARET, xxx-xx-xxxx
ARNDT, ROBERT A., xxx-xx-xxxx
BABB, KATHERINE, xxx-xx-xxxx
BABCOCK, KENT A., xxx-xx-xxxx
BARUM, CAROL A., xxx-xx-xxxx
BERGMANN, KAREN, xxx-xx-xxxx
BEUS, JOHN M., xxx-xx-xxxx
BROWN, DAVID G., xxx-xx-xxxx
CALDWELL, CARL G., xxx-xx-xxxx
CALTRIDER, RANDA, xxx-xx-xxxx
CHING, CARMEN K., xxx-xx-xxxx
CUTHBERTSON, LOU, xxx-xx-xxxx
DUELTGEN, DAVID, xxx-xx-xxxx
FELTZ, JAYE P., xxx-xx-xxxx
FITZPATRICK, JUDY, xxx-xx-xxxx
FLETCHER, DALE A., xxx-xx-xxxx
FLOYD, WILLIAM C., xxx-xx-xxxx
GENITON, DANIEL, xxx-xx-xxxx
GOINS, SANDRA L., xxx-xx-xxxx
GOODWIN, BARBARA, xxx-xx-xxxx
GRIFFIN, JANICE, xxx-xx-xxxx
HARWOOD, RICHARD, xxx-xx-xxxx
HEFNER, LLOYD L., xxx-xx-xxxx
HERMAN, DEBBIE W., xxx-xx-xxxx
HERNANDEZ, JIM R., xxx-xx-xxxx
HIGGINS, WILLIAM, xxx-xx-xxxx
HODGE, NANCY S., xxx-xx-xxxx
JAMES, JANE C., xxx-xx-xxxx
JONES, JEFFREY, xxx-xx-xxxx
KEEGAN, ANN S., xxx-xx-xxxx
KELSCH, STEVEN P., xxx-xx-xxxx
KESSLER, DEBORAH, xxx-xx-xxxx
KOHRMANN, SARAH, xxx-xx-xxxx
LAFAVERS, JOSEPH, xxx-xx-xxxx
LANKFORD, BILLY, xxx-xx-xxxx
LEPPART, LOUIS A., xxx-xx-xxxx
LEWIS, KIM W., xxx-xx-xxxx
LUDWIG, JOHN H., xxx-xx-xxxx
MALLOY, VIVIAN T., xxx-xx-xxxx
MCCONEGHY, MARIL, xxx-xx-xxxx
MINER, WILLIAMS DENISE A., xxx-xx-xxxx
MITCHELL, EVELEN, xxx-xx-xxxx
MITTLESTAEDT, ELIZABETH, xxx-xx-xxxx
MULHALL, DEBRA L., xxx-xx-xxxx
MULHERN, RICHARD, xxx-xx-xxxx
NABRARRETE, SYNTHIA B., xxx-xx-xxxx
NARCHET, MARIE B., xxx-xx-xxxx
NEELY, MARY E., xxx-xx-xxxx
NEFF, CAROL L., xxx-xx-xxxx
NORGAN, PATRICIA, xxx-xx-xxxx
OSULLIVAN, ANNE, xxx-xx-xxxx
PAGE, NINA W., xxx-xx-xxxx
PEREZ, DEBRAH L., xxx-xx-xxxx
PETERS, KATHARIN, xxx-xx-xxxx
PHILLIPS, ROY A., xxx-xx-xxxx
PORISCH, LEE A., xxx-xx-xxxx
RIDER, GARY W., xxx-xx-xxxx
ROCKWELL, LYNELE, xxx-xx-xxxx
ROOT, PAUL L., xxx-xx-xxxx
SHACKLE, KATHLEE, xxx-xx-xxxx
SILVANI, CONRAD, xxx-xx-xxxx
SKIDMORE, MARK V., xxx-xx-xxxx
SPITTLER, DEBRA, xxx-xx-xxxx
SPIVEY, JAMES, xxx-xx-xxxx
STROUD, DENISE K., xxx-xx-xxxx
SULLIVAN, KENNETH, xxx-xx-xxxx
SUVERKROP, DANA, xxx-xx-xxxx

TATEISHI, RICHARD, [redacted]
TAYLOR, TIMOTHY, [redacted]
TROMPLER, MARIE, [redacted]
TURNER, JIMMIE C., [redacted]
VEIT, NAHID, [redacted]
WALKER, PAMELA S., [redacted]
WASECHEK, SUSAN, [redacted]
WEIDENBACH, BRAD, [redacted]
WHITEFIELD, JOHN, [redacted]
WHITTEMORE, JOHN, [redacted]
WIGGALL, JENNIFER, [redacted]
WILD, JOHN, A., [redacted]
WOODLING, CYNTHIA, [redacted]
ZELENKA, BARBARA, [redacted]
ZILLA, JOSEPH, G., [redacted]
ZYGMOND, MARK, K., [redacted]

To be captain

OBITS, CATHERINE A., [redacted]

To be first lieutenant

RODGERS, MELVIN, E., [redacted]

MEDICAL SERVICE CORPS

To be lieutenant colonels

DEMOUY, RICHARD, W., [redacted]
HARRELL, JOHN, C., [redacted]
MANNING, JOHNNIE, R., [redacted]

To be majors

ADAMS, BONNIE, C., [redacted]
ALLEN, REX, [redacted]
ALLMOND, TERRY, T., [redacted]
APELL, LAURENCE, W., [redacted]
BALES, JOEL, D., [redacted]
BAXTER, SHEILA, R., [redacted]
BEAUDOIN, DENNIS, [redacted]
BERO, CURT, N., [redacted]
BLUM, DANIEL, R., [redacted]
BODLIEN, JOHN, M., [redacted]
BRAGA, ALFREDO, [redacted]
BRANNEN, STEPHEN, J., [redacted]
BROWN, DALE, [redacted]
BROWNING, LARRY, J., [redacted]
BURGIN, MARTIN, J., [redacted]
CHAMBERS, JOHN, R., [redacted]
CLARK, ELIZABETH, M., [redacted]
CONDRA, GARY, A., [redacted]
CRAWFORD, GEORGE, A., JR., [redacted]
CROUGH, GARY, L., [redacted]
CUTTIE, VALLARIE, S., [redacted]
CZACHOWSKI, JOHN, B., [redacted]
DEMBECK, THOMAS, J., [redacted]
DICKSON, DAVID, J., [redacted]
DUFFEY, DENNIS, J., [redacted]
DUSTIN, RICHARD E., [redacted]
DYDEK, GEORGE J., [redacted]
EDLEFSEN, DAVID, [redacted]
EISCHENBERG, JAMES R., [redacted]
EVANS, JOHN K., [redacted]
FERRELL, PAUL A., [redacted]
FERPER, ANGEL R., [redacted]
FRANCO, SAMUEL D., [redacted]
GORDON, STARLING A., [redacted]
HALVORSON, JAMES A., [redacted]
HASSETT, ROBERT J., [redacted]
HAYNIE, JOHN A., [redacted]
HEATH, WILLIAM A., [redacted]
HICKS, LARRY G., [redacted]
HIGHTOWER, JOSEPH C., [redacted]
HODGES, KIRK B., [redacted]
HOGAN, RICHARD A., [redacted]
HOLLIDAY, JAMES A., [redacted]
HOLLIS, GREGORY [redacted]
HUDDLESTON, DAVID A., [redacted]
JANSEN, JOHN C., [redacted]
JONES, ROBERT E., [redacted]
KAEHLER, DANIEL C., [redacted]
KENNEDY, MICHAEL H., [redacted]
KIMBALL, MICHAEL L., [redacted]
KNAPP, BRIAN B., [redacted]
KNEISEL, FORREST W., [redacted]
KNIGHT, TERRY J., [redacted]
KRAFT, ALLEN J., [redacted]
KUNK, ROGER B., [redacted]
LAUMER, DENNIS L., [redacted]
LERMAN, LOUIS M., [redacted]
LEWIS, GLENN E., [redacted]
MACALPINE, STEVE [redacted]
MATYNIAK, NORBERT P., [redacted]
MCNAUGHAN, JAMES K., [redacted]
MEHR, ZIA A., [redacted]
MILLER, KATHARINE D., [redacted]
MOKRI, MICHAEL J., [redacted]
MOON, JEFFREY P., [redacted]
MOORE, MARK D., [redacted]
MORRIS, MARTIN D., [redacted]
PARKER, WILLIAM [redacted]
PFEIFFER, EUGENE H., [redacted]
PLAKUS, ROBERT D., [redacted]
RABREN, DOUGLAS [redacted]
SADLON, GARY L., [redacted]
SCHILHAB, JOHN C., [redacted]
SCHROEDER, DUDLEY J., [redacted]
SHERMAN, RICHARD A., [redacted]
SHRUM, GARY L., [redacted]
SILL, DAVID S., [redacted]
SPEETZEN, WAYNE L., [redacted]
STARK, RICHARD L., [redacted]
SULLIVAN, MICHAEL H., [redacted]
TENNEY, DEBRA J., [redacted]
THOMAS, ROBERT W., [redacted]
TURNER, STEPHEN J., [redacted]
VANDAELE, WALTER, [redacted]
VAUSETAPLETON, NANCY, [redacted]
WAECHTER, DONNA M., [redacted]
WATTS, JOHN T., [redacted]
WILLIAMS, KENNETH M., [redacted]
WILLIAMS, THOMAS V., [redacted]
WILSON, PARKS M., [redacted]

To be captains

BOLAND, EDWARD H., [redacted]
FERRER, ANGEL R., [redacted]
GILL, DEBBIE M., [redacted]
HALL, JOSEPH A. JR., [redacted]
HARMER, STANLEY D., [redacted]
HERSCHBERGER, GARY A., [redacted]
INMAN, NICHOLAS M., [redacted]
LYNCH, LARRY C., [redacted]
MANEVAL, KENT W., [redacted]
MOORE, LINWOOD, [redacted]
NABORS, RONALD D., [redacted]
SHIMOMURA, ERIC T., [redacted]
UZOMBA, GRACE M., [redacted]
WEHNER, MICHAEL A., [redacted]
WITTMAN, THOMAS, E., [redacted]

To be first lieutenants

COMBS, GREGORY M., [redacted]
HOFF, BARBARA H., [redacted]
HOSKINS, KELLY B., [redacted]
MARTIN, ROGER K., [redacted]
PANIERO, ROBERT M., [redacted]
SCHWALLIE, RANDAL A., [redacted]
SERGENT, PATRICK D., [redacted]

To be second lieutenants

JACOBSEN, SCOTT K., [redacted]
MURPHY, BRENT D., [redacted]

IN THE ARMY

THE FOLLOWING-NAMED OFFICERS FOR APPOINTMENT IN THE REGULAR ARMY OF THE UNITED STATES, IN THEIR ACTIVE DUTY PROMOTION GRADES, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTIONS 531, 532, AND 533:

To be lieutenant colonel

STROUD, ROBERT A., [redacted]

To be major

ADDICOTT, JEFFREY F., [redacted]
COOLEY, HOWARD G., [redacted]
HARTMAN, MICHAEL, [redacted]
HINSON, ALAN L., [redacted]
HOHENSEE, JAMES M., [redacted]
HUDSON, STEWART C., [redacted]
JOHNSON, ROBERT S., JR., [redacted]
MACINNES, DOUGLAS B., [redacted]
MCDONALD, THOMAS, [redacted]
RAU, THOMAS W., [redacted]
WILLIAMSON, EDDY, [redacted]

THE FOLLOWING-NAMED DISTINGUISHED HONOR GRADUATES OF OFFICER CANDIDATE SCHOOL FOR APPOINTMENT IN THE REGULAR ARMY OF THE UNITED STATES UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTIONS 531, 532, AND 533:

To be second lieutenant

HOLMES RICKY L., [redacted]
LIPINSKI, MICHAEL J., [redacted]

THE FOLLOWING-NAMED CADET, GRADUATING CLASS OF 1987, U.S. MILITARY ACADEMY, FOR APPOINTMENT IN THE REGULAR ARMY OF THE UNITED STATES, IN THE GRADE OF SECOND LIEUTENANT, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTIONS 531, 532, AND 4353:

WILLIAMS, SPENCER, [redacted]

THE FOLLOWING-NAMED OFFICERS FOR APPOINTMENT IN THE REGULAR ARMY OF THE UNITED STATES, IN THEIR ACTIVE DUTY GRADES, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTIONS 531, 532, AND 533:

To be major

ASHTON, RONALD I., [redacted]

To be captain

ABERCROMBIE, HENRY E., [redacted]
AHEARN, JOSEPH J., [redacted]
AIELLO, JAMES P., [redacted]
AKIN, MARK W., [redacted]
ALGER, TOSHIO A., [redacted]
ANDERS, HAROLD C. III, [redacted]
ANGELLO, JAMES W., [redacted]
ARMSTRONG, MICHAEL P., [redacted]
ARNO, JOAN C., [redacted]
ASHLEY, WILLIAM G., [redacted]
ATKINSON, VERNON C., [redacted]
AUSTIN, MICHAEL D., [redacted]
AYCOCK, BRUCE L., [redacted]
AYLWARD, ARTHUR T., [redacted]
BAILEY, GILBERT L., [redacted]
BAILEY, TODD A., [redacted]
BAKER, JEFFERY, [redacted]
BALKCUM, ALEX O., [redacted]
BARR, JOHN M., [redacted]
BARTON, MICHAEL J., [redacted]
BASKIN, JOHN R., [redacted]
BEATTY, YVONNE A., [redacted]
BECK, GILL P., [redacted]
BEECH, WILLIAM E., [redacted]
BEHRENS, MARLENE A., [redacted]
BERKENHOFF, LARRY J., [redacted]
BERRY, JANICE M., [redacted]
BIANCA, DAMIAN P., [redacted]
BIGELOW, DONOVAN R., [redacted]
BIRD, DONALD A., [redacted]
BLAKE, HARLAN H., [redacted]
BLAKE, THOMAS M., [redacted]
BLEDSON, DONALD K., [redacted]
BLOCK, GREGORY O., [redacted]
BLOHM, DARYL W., [redacted]
BLOOMER, HARRY D., [redacted]
BOLING, JAMES L., [redacted]
BOLLENBERG, CRAIG L., [redacted]
BOYKIN, WILLIAM C., [redacted]
BOWMAN, QUINTON V., [redacted]
BRADNER, GREGORY J., [redacted]
BRANNON, JAMES R., [redacted]
BRAY, ARNOLD N., [redacted]
BRISTOW, JAMES S., [redacted]
BRITTON, STEVEN H., [redacted]
BROOKS, RICHARD W., [redacted]
BRUCE, WANDA K., [redacted]
BRUMBALOW, RONALD W., [redacted]
BUFFKIN, RONALD M., [redacted]
BUNTING, TIMOTHY L., [redacted]
BUONO, CLEMENT M., [redacted]
BURKART, RALPH C., [redacted]
BURKE, JOHN D., [redacted]
BUSHNER, ROGER D., JR., [redacted]
BUTLER, NANCY N., [redacted]
CALVE, JAMES P., [redacted]
CARGILL, RANDY V., [redacted]
CAROTHERS, JAIME K., [redacted]
CARROLL, MAXWELL G., JR., [redacted]
CATER, LORENZO, [redacted]
CELSKI, ROBERT J, [redacted]
CHAMBERS, CLYDE F., III, [redacted]
CHANDLER, CLATON D., [redacted]
CHANDLER, MARK T., [redacted]
CHARTIER, VANCE G., [redacted]
CHARVAT, JOHN L., [redacted]
CHERRY, TIMOTHY D., [redacted]
CHESTER, LEONARD G., [redacted]
CHILSON, MICHAEL J., [redacted]
CHRISTIAN, GREGORY A., [redacted]
CHUBER, DAVID C., [redacted]
CLAIRMONT, RICHARD R., [redacted]
CLARKE, EDWARD C., [redacted]
CLAY, PAUL L., [redacted]
CLINE, LAWRENCE E., [redacted]
CLYMER, PETER E., [redacted]
COSTELLO, KERRY H., [redacted]
CURSIO, ROBERT L., JR., [redacted]
DAFONTE, RICHARD J., [redacted]
DANGELO, MICHAEL S., [redacted]
DAVIS, JEFFREY S., [redacted]
DAVIS, IRA J., [redacted]
DAVIS, JODY R., [redacted]
DEERING, JAMES P., [redacted]
DEROSA, RAYMOND R., JR., [redacted]
DEVINE, THOMAS J., [redacted]
DIPPOLD, DAVID G., [redacted]
DOUX, JULES T., JR., [redacted]
DUFF, DONALD R., [redacted]
DUMAIS, RICHARD E., [redacted]
DUNN, DAVID W., [redacted]
ELLIOTT, MICHAEL D., [redacted]
ELLIS, VICTOR M., [redacted]
EMBERTON, KENNETH E., [redacted]
FARRISEE, DAVID G., [redacted]
FARRISEE, GINA S., [redacted]
FITZGERALD, WILLIAM E., [redacted]
FLANAGAN, BRENDAN F., [redacted]
FERGUSON, BYRON W., III, [redacted]
FLOYD, RAYMOND A., JR., [redacted]
FLYNN, PAUL J., [redacted]
FRANK, GARY L., [redacted]
FURR, PHILIP L., [redacted]
GAINEY, GERALDINE G., [redacted]
GALE, MARION F., JR., [redacted]
GAULDIN, KENNETH L., JR., [redacted]
GAY, LINDA G., [redacted]
GERMAN, JOHN M., [redacted]
GINN, LOUIS H., [redacted]
GOODMAN, ROBERT A., [redacted]
GRAHAM, ONEY M., [redacted]
GRAY, HERBIN L., [redacted]
GREEN, CHARLES W., [redacted]
HAMMERSTONE, STEVEN J., [redacted]
HANSEN, ROGER A., [redacted]
HANZES, RICHARD D., [redacted]
HARDMAN, SUSAN B., [redacted]
HARPER, RONALD H., [redacted]
HARRIS, MARK W., [redacted]
HARROP, JEFFERY L., [redacted]
HAUGHS, MARK I., [redacted]
HAYES, MARK W., [redacted]
HAYWOOD, DAVID W., [redacted]
HELTON, EMORY R., [redacted]
HEMMINGER, EARL E., [redacted]
HENRY, GREGORY L., [redacted]
HERITAGE, GREGORY M., [redacted]
HILL, KENNETH D., [redacted]
HILLEARY, JAMES E., [redacted]
HOLLENBACH, DWIGHT D., [redacted]
HOLLEY, STEVEN L., [redacted]
HOOVER, JERRY W., [redacted]

HORRELL, CARL M., JR., xxx-xx-xxxx
HUDSON, RODNEY E., xxx-xx-xxxx
IMPELLIZZERI, ROBERT D., xxx-xx-xxxx
IRVIN, DAVID L., xxx-xx-xxxx
IVES, JAMES M., xxx-xx-xxxx
JENKINS, RAY B., xxx-xx-xxxx
JOHNSON, KENNETH D., xxx-xx-xxxx
JOHNSON, STEVEN J., xxx-xx-xxxx
JONES, DONALD M., xxx-xx-xxxx
JONES, FRANKLIN K., xxx-xx-xxxx
JONES, KEITH P., xxx-xx-xxxx
JONES, LYNDA S., xxx-xx-xxxx
JONES, PAUL F., xxx-xx-xxxx
JONES, ROBERT G., xxx-xx-xxxx
JORDAN, EDWARD F., JR., xxx-xx-xxxx
JORDAN, KEITH F., xxx-xx-xxxx
KARR, JAMES J., xxx-xx-xxxx
KASHISHIAN, JOHN P., xxx-xx-xxxx
KEIFER, BRYAN D., xxx-xx-xxxx
KELLER, HARRY H., III, xxx-xx-xxxx
KENNEY, RICHARD P., xxx-xx-xxxx
KENT, JAMES E., JR., xxx-xx-xxxx
KITTS, DRAKE A., xxx-xx-xxxx
KOEHLER, GERARD J., xxx-xx-xxxx
KOWALCZIK, SHERRICK T., xxx-xx-xxxx
KRECK, MICHAEL E., xxx-xx-xxxx
LAMPLOUGH, JOHN P., xxx-xx-xxxx
LANEY, MARK V., xxx-xx-xxxx
LEONARD, KEVIN A., xxx-xx-xxxx
LIGON, CLAUDE M., JR., xxx-xx-xxxx
LINTON, DEBRA E., xxx-xx-xxxx
LOCKLEAR, BOBBY, xxx-xx-xxxx
LONG, STEVEN W., xxx-xx-xxxx
LOWEN, JAMES M., xxx-xx-xxxx
LUARCA, PAUL U., xxx-xx-xxxx
LUDWIG, MIKIO E., xxx-xx-xxxx
LUNT, ALFRED E., III, xxx-xx-xxxx
LUONGO, JOSEPH P., xxx-xx-xxxx
MACK, DANIEL B., xxx-xx-xxxx
MACCARY, KEVIN G., xxx-xx-xxxx
MAIERS, MARK W., xxx-xx-xxxx
MAIZEL, SAMUEL R., xxx-xx-xxxx
MARTIN, JAMES N., xxx-xx-xxxx
MARTINEZ, JOSE M., xxx-xx-xxxx
MATTOX, KEITH E., xxx-xx-xxxx
MAXEY, GEORGE P., xxx-xx-xxxx
MCCARTHY, DANIEL J., xxx-xx-xxxx
MCCORMACK, DANIEL F., xxx-xx-xxxx
MCCOUCH, NELSON, III, xxx-xx-xxxx
MCCRACKEN, MATTHEW T., xxx-xx-xxxx
MCCREIGHT, JAMES R., xxx-xx-xxxx
MCDOWELL, ELAINE M., xxx-xx-xxxx
MCGHEE, WILLIAM R., xxx-xx-xxxx
MCGUIRE, PAUL A., JR., xxx-xx-xxxx
MCKNIGHT, JOHN L., JR., xxx-xx-xxxx
MCNEILL, DEBORAH L., xxx-xx-xxxx
MEALER, ROBIN L., xxx-xx-xxxx
MEEKS, MICHAEL T., xxx-xx-xxxx
MEEKS, ROBERT W., xxx-xx-xxxx
MERCADANTE, VINCENT F., xxx-xx-xxxx
MICUCCI, KATHLEEN M., xxx-xx-xxxx
MILES, CHERYL L., xxx-xx-xxxx
MILLER, ELIZABETH M., xxx-xx-xxxx
MINYARD, CHARLES M., xxx-xx-xxxx
MOELLER, KIRK A., xxx-xx-xxxx
MOORE, BUDDY K., xxx-xx-xxxx
MORING, JOHN J., xxx-xx-xxxx
MORRIS, BILLY W., xxx-xx-xxxx
MOSTELLER, SAMUEL F., xxx-xx-xxxx
MOYE, MYRON D., xxx-xx-xxxx
MULLIN, PAUL J., xxx-xx-xxxx
NEAL, BARRY W., xxx-xx-xxxx
NESTOR, MICHAEL A., xxx-xx-xxxx
NEWTON, GARRY L., xxx-xx-xxxx
NOCK, DAVID B., xxx-xx-xxxx
NOGLE, DEAN S., xxx-xx-xxxx
NORRIS, DONALD L., JR., xxx-xx-xxxx
NYE, BRIAN T., xxx-xx-xxxx
OATNEY, CECILIA K., xxx-xx-xxxx
OBLAK, THOMAS H., xxx-xx-xxxx
O'DONNELL, JAMES J., JR., xxx-xx-xxxx
O'SHANSKY, DAVID J., xxx-xx-xxxx
OTERI, BONITA, xxx-xx-xxxx
OWLES, KEVIN J., xxx-xx-xxxx
PAGAN, ANGEL L., xxx-xx-xxxx
PERKINS, STEPHEN P., xxx-xx-xxxx
PERRITT, CHRISTINE B., xxx-xx-xxxx
PERRY, MICHAEL D., xxx-xx-xxxx
PERRYMAN, JIMMIE D., xxx-xx-xxxx
PETERS, RALPH H., JR., xxx-xx-xxxx
PETERSON, PAUL M., xxx-xx-xxxx
PICKENPAUGH, DAREL W., xxx-xx-xxxx
PLANA, ANTHONY T., JR., xxx-xx-xxxx
PROSCH, JOHN C., JR., xxx-xx-xxxx
PRUETT, THOMAS K., JR., xxx-xx-xxxx
QUINN, FLOYD F., xxx-xx-xxxx
ROMAS, RAMON L., III., xxx-xx-xxxx
REESE, TOBY D., xxx-xx-xxxx
REILLY, WILLIAM B., xxx-xx-xxxx
REISIG, DAVID N., xxx-xx-xxxx
RICKERSON, DONALD E., JR., xxx-xx-xxxx
RIETH, JOHN K., xxx-xx-xxxx
RIFFLE, ROBERT D., xxx-xx-xxxx
RIVERA, GUILLERMO A., xxx-xx-xxxx
ROBRECHT, THOMAS L., xxx-xx-xxxx
RODEN, TERRY L., xxx-xx-xxxx
ROMINE, DERIEL W., xxx-xx-xxxx
SABATELLO, JOHN J., xxx-xx-xxxx
SANDERS, SANDY M., xxx-xx-xxxx
SANDFORD, JAMES D., xxx-xx-xxxx
SARNECKY, JOHN xxx-xx-xxxx
SCHAFF, WILLIAM S., xxx-xx-xxxx
SCHISSER, JAMES S., xxx-xx-xxxx
SCHUYLER, MARGARET A., xxx-xx-xxxx
SCHWARTZMAN, ROBERT D., xxx-xx-xxxx
SEAGER, STEVEN M., xxx-xx-xxxx
SEIFERTH, GEORGE F., xxx-xx-xxxx
SEWARD, SHELDON S., xxx-xx-xxxx
SHEA, MICHAEL E., xxx-xx-xxxx
SHEA, MORTIMER C., xxx-xx-xxxx
SIVAS, MITCHELL C., xxx-xx-xxxx
SLOCUM, PHILLIP J., xxx-xx-xxxx
SMITH, DARREL A., xxx-xx-xxxx
SMITH, JIM S., xxx-xx-xxxx
SMITH, RICHARD S., xxx-xx-xxxx
SNEAD, LAWRENCE R., III., xxx-xx-xxxx
SNIDER, WILLIAM G., xxx-xx-xxxx
SNOW, DOUGLAS C., xxx-xx-xxxx
SPENCER, DON P., xxx-xx-xxxx
SPILDE, RANDY D., xxx-xx-xxxx
SPINELLI, JOHN J., xxx-xx-xxxx
STEED, TERENCE L., xxx-xx-xxxx
STEVENSON, LARRY K., xxx-xx-xxxx
STIVASON, KENNETH E., xxx-xx-xxxx
STOVALL, JANN E., xxx-xx-xxxx
STRANKO, WILLIAM A., xxx-xx-xxxx
STUCKEY, BARRY L., xxx-xx-xxxx
STURGEON, STEVEN J., xxx-xx-xxxx
SWENSON, MICHAEL T., xxx-xx-xxxx
TAYLOR, JACK A., xxx-xx-xxxx
THOMPSON, GARY J., xxx-xx-xxxx
THORSON, PAUL W., xxx-xx-xxxx
TORREY, MARK L., xxx-xx-xxxx
TRAX, TIMOTHY A., xxx-xx-xxxx
TRIBOLET, CHARLES G., xxx-xx-xxxx
TUGGLE, RONALD D., xxx-xx-xxxx
TURBAN, DAVID M., xxx-xx-xxxx
TYNDALL, HUGH H., III, xxx-xx-xxxx
UTLEY, JOSEPH R., JR., xxx-xx-xxxx
VALADEZ, DAVID A., xxx-xx-xxxx
VARELA, RICHARD, JR., xxx-xx-xxxx
VAUGHN, JAMES E., xxx-xx-xxxx
VELTEN, FRANCIS, J., JR., xxx-xx-xxxx
VESELICKY, FRANK, xxx-xx-xxxx
VILLAN, WALTER R., xxx-xx-xxxx
VISKER, EDWARD R., xxx-xx-xxxx
WAGNER, JOHN H., xxx-xx-xxxx
WALKER, ROSE A., xxx-xx-xxxx
WARREN, JAY L., xxx-xx-xxxx
WASSON, JAMES N., xxx-xx-xxxx
WATSON, EARL B., xxx-xx-xxxx
WATSON, KATHY L., xxx-xx-xxxx
WILBUR, MICHAEL H., xxx-xx-xxxx
WILLIAMSON, THOMAS S., xxx-xx-xxxx
WINKLER, STEPHEN E., xxx-xx-xxxx
WINTER, MATTHEW E., xxx-xx-xxxx
WOODRUFF, DANNY L., xxx-xx-xxxx
WORSHAM, MICHAEL H., xxx-xx-xxxx
ZACOVIC, WILLIAM R., xxx-xx-xxxx

To be first lieutenant

ADENDORFF, ADRIAAN P., xxx-xx-xxxx
AGENA, CRAIG J., xxx-xx-xxxx
ARMEAU, JOHN T., xxx-xx-xxxx
BENTING, MARK A., xxx-xx-xxxx
BINNS, MICHAEL F., xxx-xx-xxxx
BLAIN, DAVID L., xxx-xx-xxxx
BRETTMANN, MICHAEL J., xxx-xx-xxxx
BRIGGS, STEVEN M., xxx-xx-xxxx
BROWN, CLIFFORD G., xxx-xx-xxxx
CALLAHAN, TIMOTHY J., xxx-xx-xxxx
CARLSON, RICHARD E., xxx-xx-xxxx
CHAMBERLAIN, SCOTT, xxx-xx-xxxx
CHAPPIN, WILLIAM P., xxx-xx-xxxx
CREDLE, IRA O., xxx-xx-xxxx
CRICHTON, JANE E., xxx-xx-xxxx
CROUCH, THOMAS W., xxx-xx-xxxx
CUNNINGHAM, WILLIAM J., xxx-xx-xxxx
DEAS, THEOPIA A., xxx-xx-xxxx
ERTMAN, MICHAEL N., xxx-xx-xxxx
FUNK, PAUL E., xxx-xx-xxxx
GLENN, MICHAEL B., xxx-xx-xxxx
GOBIN, TIMOTHY R., xxx-xx-xxxx
GRAZIANO, PAUL J., xxx-xx-xxxx
GREEN, WILLIAM L., III, xxx-xx-xxxx
GRIFFIN, ROGER K., xxx-xx-xxxx
HAINES, THOMAS J., xxx-xx-xxxx
HARRIS, KEVIN O., xxx-xx-xxxx
HASKINS, RICHARD F., xxx-xx-xxxx
HEBERT, PAUL V., xxx-xx-xxxx
HERMALIK, GEORGE C., xxx-xx-xxxx
HILSMAN, WILLIAM M., xxx-xx-xxxx
IHLI, GREGORY S., xxx-xx-xxxx
JACOBS, MICHAEL S., xxx-xx-xxxx
JOHNSON, DON A., xxx-xx-xxxx
JUDD, JOHNNY C., xxx-xx-xxxx
KAPPENMAN, JEFFREY T., xxx-xx-xxxx
KELLEY, WILLIAM J., III xxx-xx-xxxx
KIM, JOHN C., xxx-xx-xxxx
KINCAID, ALAN D., xxx-xx-xxxx
LORIGAN, REBECCA, xxx-xx-xxxx
MALAPIT, JOHN E., xxx-xx-xxxx
MARKOW, RICHARD A., xxx-xx-xxxx
MCBRIDE, MICHAEL T., xxx-xx-xxxx
MCLAUGHLIN, ALISA M., xxx-xx-xxxx
MERCER, THOMAS E., xxx-xx-xxxx
MILHISLER, ROBERT E., xxx-xx-xxxx
MOELLER, DONALD M., xxx-xx-xxxx
PALMATIER, THOMAS H., xxx-xx-xxxx
PALMERO, TONY J. JR., xxx-xx-xxxx
PARKER, WALTER Z., xxx-xx-xxxx
PATTERSON, MARK C., xxx-xx-xxxx
POPE, DARRELL L., xxx-xx-xxxx
POPE, MICHAEL C., xxx-xx-xxxx
QUEEN, CHRISTOPHER E., xxx-xx-xxxx
RAY, DAVID G., xxx-xx-xxxx
REYNOLDS, MICHAEL M., xxx-xx-xxxx
ROSARIO, MARCO A., xxx-xx-xxxx
SCHULER, STEVEN E., xxx-xx-xxxx
SCOTT, ELIZABETH S., xxx-xx-xxxx
SERIANNI, ROBERT W., xxx-xx-xxxx
SHARPE, TRACY, xxx-xx-xxxx
SMITH, HUGH T., xxx-xx-xxxx
SMITH, JEFFOREY A., xxx-xx-xxxx
SPARBEL, HANS B., xxx-xx-xxxx
SPEECE, VINCENT R., xxx-xx-xxxx
STARK, DAVID P., xxx-xx-xxxx
STEINER, STEPHEN L., xxx-xx-xxxx
STOCKS, PAMELA L., xxx-xx-xxxx
STOCKTON, RICHARD E., xxx-xx-xxxx
STURR, KURT T., xxx-xx-xxxx
TURNER, KEVIN R., xxx-xx-xxxx
VONROEDER, DOUGLAS, xxx-xx-xxxx
WALLACE, STEPHEN M., xxx-xx-xxxx
WARREN, MICHAEL C., xxx-xx-xxxx
WILL, KEVIN E., xxx-xx-xxxx
WILLIAMSON, DAVID J., xxx-xx-xxxx

To be second lieutenant

MAXWELL, DAVID J. xxx-xx-xxxx
SIMPSON, WILLIAM R. JR., xxx-xx-xxxx
WALTERS, ROBERT P. JR., xxx-xx-xxxx
WEAVER, RANDY A., xxx-xx-xxxx
WHITE, ANTONIO R., xxx-xx-xxxx

IN THE ARMY

THE FOLLOWING-NAMED RESERVE OFFICERS' TRAINING CORPS CADETS FOR APPOINTMENT IN THE REGULAR ARMY OF THE UNITED STATES, IN THE GRADE OF SECOND LIEUTENANT, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTIONS 531, 532, 533:

ADAMS, JOHN M., JR., xxx-xx-xxxx
AGOSTINI, BRETT H., xxx-xx-xxxx
AGUE, PAUL S., xxx-xx-xxxx
AGUILAR, REGIONAL B., JR., xxx-xx-xxxx
AHL, PETER D., xxx-xx-xxxx
AICHS, CLINTON E., xxx-xx-xxxx
AIKINS, WILLIAM D., xxx-xx-xxxx
AIMI, ALAN T., xxx-xx-xxxx
ALBINA ADAM R., xxx-xx-xxxx
ALFORD MANLEY R., xxx-xx-xxxx
ALLEN CHARLES H., xxx-xx-xxxx
ALLEN SHAWN D., xxx-xx-xxxx
AMES WILLIAM N., xxx-xx-xxxx
ANDARY GEORGE A., xxx-xx-xxxx
ANDERSON BRIAN D., xxx-xx-xxxx
ANDERSON LOIS J., xxx-xx-xxxx
ANDERSON MATTHEW A., xxx-xx-xxxx
ANDERSON MATTHEW W., xxx-xx-xxxx
ANDERSON THOMAS J., xxx-xx-xxxx
ANDERSON VALERIA S., xxx-xx-xxxx
ANE GUY JR., xxx-xx-xxxx
ANGELI MARTY A., xxx-xx-xxxx
ANGELO SCOTT M., xxx-xx-xxxx
APICELLA CARMINE C., xxx-xx-xxxx
ARCANGELI PAUL J., xxx-xx-xxxx
ARCHIE DARLENE M., xxx-xx-xxxx
ARMERDING NOEL L., xxx-xx-xxxx
ARMSTRONG REGINALD A., xxx-xx-xxxx
ARNOLD DAVID T., xxx-xx-xxxx
AHSBURNER JAMES W., xxx-xx-xxxx
ASHLEY SAMUEL L., xxx-xx-xxxx
AUFSCHLAGER PAUL A., xxx-xx-xxxx
AULT ROBERT B., JR., xxx-xx-xxxx
AVALOS FERNANDO xxx-xx-xxxx
AXELBERG MARC D., xxx-xx-xxxx
BABASA RODEL B., xxx-xx-xxxx
BADO CHRISTOPER M., xxx-xx-xxxx
BAGDASARIAN DOUGLAS G., xxx-xx-xxxx
BAILEY JOHN G., xxx-xx-xxxx
BAILEY RUSSELL N., xxx-xx-xxxx
BAIRD BILLY W., xxx-xx-xxxx
BAIRD STEVEN L., xxx-xx-xxxx
BAKER BRUCE W., xxx-xx-xxxx
BAKER, PRENTISS O., xxx-xx-xxxx
BAKER, ROBERT A., JR., xxx-xx-xxxx
BAKUM, MARK, xxx-xx-xxxx
BANDY, LEIGH M., xxx-xx-xxxx
BARBOZA, MARK A., xxx-xx-xxxx
BAREFOOT, WAYNE S., JR., xxx-xx-xxxx
BARKER, BRIG, xxx-xx-xxxx
BARKSDALE, DELPHERD L., xxx-xx-xxxx
BARRAGAN, ALEXANDER, III, xxx-xx-xxxx
BARRAGAN, PAUL D., xxx-xx-xxxx
BARRETT, ROBERT B., xxx-xx-xxxx
BARRIS, BENJAMIN J., xxx-xx-xxxx
BARTH, TIMOTHY D., xxx-xx-xxxx
BAUCOM, LATTA M., xxx-xx-xxxx
BAUMBERGER, ROBERT S., xxx-xx-xxxx
BAXTER, MARK D., xxx-xx-xxxx
BAYER, JOHN M., xxx-xx-xxxx
BEAN, KEITH A., xxx-xx-xxxx
BEAN, LAUREL D., xxx-xx-xxxx
BEATY, DALE M., xxx-xx-xxxx
BEAUCHEMIN, WILLIAM A., xxx-xx-xxxx
BECHTOL, JOHN G., xxx-xx-xxxx
BECK, ANTHONY F., xxx-xx-xxxx
BECK, CURTIS L., xxx-xx-xxxx
BECK, DONNA M., xxx-xx-xxxx
BECKER, ERIC D., xxx-xx-xxxx
BECKMAN, WILLIAM R., xxx-xx-xxxx
BECTON, JULIUS W., xxx-xx-xxxx
BEECH, DAVID A., xxx-xx-xxxx
BEHEL, STEVEN D., xxx-xx-xxxx
BEIM, PETER J., xxx-xx-xxxx
BELL, RONNIE L., xxx-xx-xxxx
BELL, THOMAS G., xxx-xx-xxxx
BENISH, AMY S., xxx-xx-xxxx
BENNETT, SUSAN E., xxx-xx-xxxx

BENNETT, TERRY, [redacted]
BENTON, STEVEN D., [redacted]
BERGIN, JANE F., [redacted]
BERRIOSCARRERAS, CARLOS G., [redacted]
BESSASPARIS, MICHAEL J., [redacted]
BETOURNE, RICHARD A., [redacted]
BIALOZOR, WILLIAM L., [redacted]
BIDDLE, GLEN A., [redacted]
BIEL, LAUREN T., [redacted]
BIERDEN, ELIZABETH, [redacted]
BILLINGS, KIRK T., [redacted]
BILVAIS, MICHAEL E., [redacted]
BIRCH, STEPHEN M., [redacted]
BIRD, JAMES E., III, [redacted]
BISCARDI, JAMES E., [redacted]
BISHOP, DANIEL G., [redacted]
BISSEN, KARL S., [redacted]
BISSETT, MICHAEL A., [redacted]
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LABIB, FARAH J., [redacted]
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SCHAEFER, CRAIG P., [redacted]
SCHAEFER, GEOFFREY, [redacted]
SCHAUDEL, GEORGE L., III, [redacted]
SCHELLY, KARL R., [redacted]
SCHIER, RONALD A., [redacted]
SCHINSTOCK, MICHAEL J., [redacted]
SCHMIDT, MARK T., [redacted]
SCHMOYER, TIMOTHY R., [redacted]
SCHNEIDER, JAMES T., [redacted]
SCHNEIDER, REBECCA L., [redacted]
SCHOENIG, PHILIP, [redacted]
SCHOLL, LINDA G., [redacted]
SCHRADER, SCOTT W., [redacted]
SCHULER, HOWARD E., [redacted]
SCHWARTZ, THOMAS, [redacted]
SCHWENINGER, JOSEPH M., [redacted]
SCOTT, JOSEPH R., [redacted]
SCOTT, RONALD R., [redacted]
SEAGRIST, THOMAS A., [redacted]
SEAL LOWELL A., [redacted]
SEARS, DAVID M., [redacted]
SEAY, SAM R., [redacted]
SEBENICK, TIMOTHY, [redacted]
SEXTON, JOHN M., [redacted]
SHAFFER, DANIEL F., [redacted]
SHALER, LORETTA K., [redacted]
SHALER, LISA M., [redacted]
SHALOSKY, STEPHEN W., [redacted]
SHANAHAN, TIMOTHY P., [redacted]
SHANE, TARIQ N., [redacted]
SHANNON, DEBRAH D., [redacted]
SHANNON, JOSEPH C., [redacted]
SHAVER, JAMES P., [redacted]
SHEA, TIMOTHY J., [redacted]
SHEDROFF, DANIEL N., [redacted]
SHELTON, MICHAEL L., [redacted]
SHEVLIN, JOSEPH P., [redacted]
SHIMP, DAVID K., [redacted]
SHLOSSER, BARBARA M., [redacted]
SHOOK, WILLIAM S., [redacted]
SHOTTS, CHRISTOPHER R., [redacted]
SHREVE, THOMAS L., [redacted]
SIDHU, HERPAUL S., [redacted]
SIDLE, ANDREW M., [redacted]
SIEGFRIED, VAL A., [redacted]
SILL, CHARLES F., JR., [redacted]
SIMMONS, TANJA J., [redacted]
SIMON, GEORGE, III, [redacted]
SIMPSON, JAMES G., [redacted]
SINCAVAGE, KEVIN P., [redacted]
SKEBA, RALPH A., [redacted]
SKIDMORE, JAMES C., [redacted]
SKILLING, JEFFREY K., [redacted]
SLADE, WILLIAM C., [redacted]
SLEDD, JOE K., [redacted]
SMITH, BARNEY I., [redacted]
SMITH, EDWARD W., JR., [redacted]
SMITH, LISA M., [redacted]
SMITH, RAYMOND C., JR., [redacted]
SMITH, RICHARD R., [redacted]
SMITH, ROBERT V., [redacted]
SMITH, THOMAS J., [redacted]
SNDYER, ROBERT A., JR., [redacted]
SNEED, BRUCE K., [redacted]
SNODGRASS, JAMES S., [redacted]
SNYDER, DAVID A., [redacted]
SNYDER, KELLY L., [redacted]
SNYDER, MATTHEW O., [redacted]
SOBIESK, EDWARD J., [redacted]
SONES, BRUCE V., [redacted]
SOUTAR, MARGARET M., [redacted]
SPADE, JAYSON M., [redacted]
SPALLUZZI, ALAINE F., [redacted]
SPARKS, PHILLIP M., [redacted]
SPEARS, BENJAMIN, [redacted]
SPENARD, ARTHUR E., [redacted]
SPENCE, GEORGE C., [redacted]
SPIES, HAROLD D., [redacted]
SPIKES, HELEN G., [redacted]
SPINKS, ANTHONY R., [redacted]
SPITZER, MARY C., [redacted]
STACKHOUSE, HAYWARD, [redacted]
STACKHOUSE, KIRK, [redacted]
STALCUP, STEVEN E., [redacted]
STAMMER, MARK R., [redacted]
STANLEY, MARK E., [redacted]
STANTON, ROY N., [redacted]
STARESINIC, STEPHEN J., [redacted]
STEPHENS, ALLANNA R., [redacted]
STEPHENSON, TROY A., [redacted]
STERBENZ, ANDREW A., [redacted]
STERLING, ANDREA J., [redacted]
STEVENS, DAVID J., [redacted]
STEVENS, KEVIN J., [redacted]
STEVENS, RONALD M., [redacted]
STEVES, MATHEW A., [redacted]
STIGLIANO, JAMES M., [redacted]
STILWELL, WAYNE P., [redacted]
STOREY, DAVID S., [redacted]
STORZILLO, CHRISTOPHER P., [redacted]
STOUT, KELLEIGH A., [redacted]
STOVALL, KATHERINE M., [redacted]
STRAITON, ROBERT E., [redacted]
STRICKLAND, CHERIE L., [redacted]
STRICKLAND, DONALD L., [redacted]
STROM, THOMAS L., [redacted]
STRONG, MARK A., [redacted]
STROTHMAN, VERA E., [redacted]
STROUD, DAVID M., [redacted]
STUBBS, KEITH F., [redacted]
STUART, ROBIN L., [redacted]
STUMPH, TIMOTHY R., [redacted]
STURGILL, PATRICK C., [redacted]
STURTZ, JOHN C., [redacted]
SUCHOMSKI, SCOTT L., [redacted]
SUHOSKY, MICHAEL J., [redacted]
SULLIVAN, JOHN P., [redacted]
SUMTER, RODNEY W., [redacted]
SUPPER, RICHARD E., [redacted]
SWIFT, GEORGE L., [redacted]
SWINEY, MICHAEL W., [redacted]
TACKITT, KARL D., [redacted]
TARBLE, BURKE A., [redacted]
TATE, WADE S., [redacted]
TAYLOR, BRADLEY S., [redacted]
TAYLOR, KIRK D., [redacted]
TAYLOR, STEPHEN L., [redacted]
TENNANT, JAMES M., [redacted]
TERRY, JEROME P., [redacted]
THEODOSS, MICHAEL D., [redacted]
THIESCHAFER, PETER, [redacted]
THOM, BRYAN R., [redacted]
THOMAS, BARBARA J., [redacted]
THOMPSON, ROBERT A., [redacted]
THORLIN, PHILIP S., [redacted]
THURSTON, CHARLES W., [redacted]
THURSTON, TIMOTHY J., [redacted]
TILLER, STEVEN R., [redacted]
TIMMERMAN, JANE A., [redacted]
TINDAL, ELIZABETH, [redacted]
TOBIAS, JOHN M., [redacted]
TOBIN, MICHAEL J., [redacted]
TOMPKINS, STEFANIE, [redacted]
TONER, CHRISTOPHER R., [redacted]
TOOMEY, BRIAN G., [redacted]
TORRES, EVELYN M., [redacted]
TORRISI, ANNETTE L., [redacted]
TOUMAJAN, STEPHEN A., [redacted]
TOWNSHEND, BRUCE D., [redacted]
TRAGAKIS, JAMES C., [redacted]
TRAINOR, JAMES C., [redacted]
TREVINO, MANUEL C., [redacted]
TRIAS, PROSANTHY Q., [redacted]
TRIPPETT, LAURA T., [redacted]
TROUTMAN, DAWN M., [redacted]
TRUED, PHILLIP M. JR., [redacted]
TUCKER, CARL L., [redacted]
TUCKER, STEVEN L., [redacted]
TUOHY, GREGORY T., [redacted]
TURNBULL, DAVID S., [redacted]
TUTTLE, MICHAEL R., [redacted]
TYMNIAK, ANDREY M., [redacted]
UYEDA, TANYA R., [redacted]
VALEDON, ALBERTO L., [redacted]
VALENTIN, ROSENDO, [redacted]
VALLE, HECTOR R., [redacted]
VANDEVELDE, MICHAEL C., [redacted]
VANHIEL, LEZLIE L., [redacted]
VARADY, DESMOND P., [redacted]
VARNEY, DEAN A., [redacted]
VERCHIO, ANTHONY D., [redacted]
VERGOT, ADRIAN D., [redacted]
VERTREES, WILLIAM M., [redacted]
VICK, JAMES A., JR., [redacted]
VIEIRA, JEFFREY J., [redacted]
VLIET, ANDREW J. III, [redacted]
VOCI, JACQUELINE M., [redacted]
VOLLER, STEVEN P., [redacted]
VONFAHNESTOCK, FRANK M., [redacted]
WAGNER, MARTIN S., [redacted]
WALENCIS, PETER J., [redacted]
WALLACE, ROBERT W., [redacted]
WALKER, CARLOS L., [redacted]
WALKER, ROBERT M., [redacted]
WALLACE, DAVID B., [redacted]
WALROD, TIMOTHY W., [redacted]
WALTER, ROBERT B., [redacted]
WALTERS, WAYNE M., [redacted]
WALTON, NATHANIEL P., [redacted]
WANOVICH, WILLIAM J., [redacted]
WARD, PATRICK L., [redacted]
WARD, VELMA L., [redacted]
WARNER, CHRISTOPHER L., [redacted]
WARREN, PAUL S., [redacted]
WASHINGTON, GARY A., [redacted]
WASHINGTON, JANICE M., [redacted]
WASKOM, JAMES B., [redacted]
WATSON, KENNETH D., [redacted]
WATSON, MARCELL [redacted]
WATSON, VIVIAN G., [redacted]
WATSON, WESLEY E., [redacted]
WATT, MARCIA A., [redacted]
WEBB, JOHN M., [redacted]
WEBBER, ANTHONY S., [redacted]
WEBER, WILLIAM J., [redacted]
WEED, SHAWN C., [redacted]
WEIDENSEE, ROCHELLE M., [redacted]
WEINGARTEN, PAULA J., [redacted]
WEINGAST MATTHEW S., [redacted]
WEIR, RUSSELL A., [redacted]
WEISER, DAVID A., [redacted]
WEISHAAR, KARL B., [redacted]
WEISZ, THOMAS M., [redacted]
WELCH, EDWARD A., [redacted]
WELLBORN, ROBERT M., [redacted]
WELLS, CHARLES A., [redacted]
WELLS, THOMAS W., [redacted]
WEST, PHILIP W., JR., [redacted]
WEST, SCOTT R., [redacted]
WESTBURY, LARRY [redacted]
WESTERGREN, BRAD L., [redacted]
WESTERN, SHARON A., [redacted]
WESTOVER, JACQUELIN K., [redacted]
WETZEL, JAMES P., [redacted]
WHEELER, DARRELL A., [redacted]
WHEELER, TODD H., [redacted]
WHITAKER, DAVID O., [redacted]
WHITE, MARK [redacted]
WHITE, ROBERT J., JR., [redacted]
WHITEHEAD, DONNA M., [redacted]
WILCOX, RALPH M., [redacted]

WILCOXON, DAVID L., [redacted]
WILDE, STEFANIE L., [redacted]
WILEY, DANNY A., [redacted]
WILKERSON, DON L., [redacted]
WILKINS, LLOYD H., III, [redacted]
WILLIAMS, DAVID F., [redacted]
WILLIAMS, DEAN M., [redacted]
WILLIAMS, JANET A., [redacted]
WILLIAMS, KEITH [redacted]
WILLIAMS, PAUL V., [redacted]
WILLIAMS, RICKEY L., [redacted]
WILLIAMS, RODNEY M., [redacted]
WILLIAMS, SENORA D., [redacted]
WILLIAMS, STEPHEN D., [redacted]
WILSON, GEORGE H., JR., [redacted]
WILSON, MICHAEL R., [redacted]
WINBUSH, JAMES O., [redacted]
WINTERFELD, STEVEN P., [redacted]
WISECARVER, MARK E., [redacted]
WITHERSPOON, ERIC, [redacted]
WITHROW, KENT A., [redacted]
WITTNEBEL, JENNIFER R., [redacted]
WOLF, TODD E., [redacted]
WOLFE, MARGUERITE D., [redacted]
WOLFF, JAMES J., [redacted]
WOMACK, BRIDGET A., [redacted]
WOOD, AUBREY L., III, [redacted]
WOOD, JEFFREY P., [redacted]
WOODRUM, MARK E., [redacted]
WOOLDRIDGE, JAMES E., [redacted]
WYLLIE, RUSS A., [redacted]
WYNNE, FRANCIS E., [redacted]
YATES, MARC G., [redacted]
YOU, HONG S., [redacted]
YOUNG, DAVID A., [redacted]
YOUNG, GARETH S., [redacted]
YOUNG, WILLIAM R., [redacted]
YOUNGMAN, PAUL A., [redacted]
ZABEL, JOHN E., [redacted]
ZAENGER, DOUGLAS A., [redacted]
ZENNER, PETER M., [redacted]
ZENTAR, ALAN E., [redacted]
ZERBA, THOMAS M., [redacted]
ZERO, GUY M., [redacted]
ZIEGLER, CHARLES R., [redacted]
ZIEMER, DOUGLAS K., [redacted]
ZIKES, MICHAEL K., [redacted]
ZIMMERMAN, WALTON D., [redacted]
ZINSER, MARK A., [redacted]
ZIPPERER, JULIE E., [redacted]
ZISCHKE, WARD E., [redacted]

IN THE ARMY

THE FOLLOWING NAMED OFFICERS, ON THE ACTIVE DUTY LIST, FOR PROMOTION TO THE GRADE INDICATED IN THE UNITED STATES ARMY IN ACCORDANCE WITH SECTION 624, TITLE 10, UNITED STATES CODE. THE OFFICERS INDICATED BY ASTERISK ARE ALSO NOMINATED FOR APPOINTMENT IN THE REGULAR ARMY IN ACCORDANCE WITH SECTION 531, TITLE 10, UNITED STATES CODE:

DENTAL CORPS

To be lieutenant colonel

LEWIS W. *. AARON, JR, [redacted]
CARLOS M. ALVAREZ, [redacted]
RICHARD D. AMSTUTZ, [redacted]
ROBERT A. *. ANSON, [redacted]
E. J. *. BELFIGLIO, [redacted]
ESMOND E. *. BLANTON, JR, [redacted]
CONRAD F. *. BODAI, [redacted]
JOSEPH *. CARASTRO, IV, [redacted]
MICHAEL J. *. CARINO, [redacted]
JAMES G. CASE, [redacted]
PETER A. *. CASO, [redacted]
EDMUND A. CASSELLA, [redacted]
GARY W. COX, [redacted]
GERALD D. *. COX, [redacted]
JOHN W. DAVIS, [redacted]
ORDIE L. DAY, II, [redacted]
NATHAN C. DICKERSON, [redacted]
CARL F. DRISCOLL, [redacted]
PHILIP B. *. ELLEDGE, [redacted]
NORMAN B. FARRAR, [redacted]
PUSHPINDER S. GROVER, [redacted]
FRANCIS R. GRZEJKA, [redacted]
STEVEN C. GUY, [redacted]
BENJAMIN S. *. HANSON, III, [redacted]
KARL K. HARRIS, [redacted]
GENOUS S. *. HODGES, III, [redacted]
MICHAEL M. HOEN, [redacted]
MURRAY C. *. JOHNSON, [redacted]
HERSCHEL L. JONES, [redacted]
MARK G. *. KOCH, [redacted]
ANTHONY P. KOSSA, [redacted]
RONALD J. *. LAMBERT, [redacted]
MICHAEL J. LECLAIR, [redacted]
NORMA M. *. LONGO, [redacted]
ROBERT J. LOUSHINE, [redacted]
CRAIG T. LUCCY, [redacted]
DOUGLAS F. LUND, JR, [redacted]
JOHN W. *. MARKHAM, III, [redacted]
PAUL E. *. MCKENZIE, [redacted]
JACK B. *. MEYER, JR, [redacted]
SCOTT G. *. MINNICH [redacted]
JAMES L. NEMEC, [redacted]
JAY E. NYLANDER, [redacted]
CHARLES W. PALIAN, [redacted]
PANTELIS A. *. PAPAFOTIS, [redacted]
RICHARD L. *. PARSONS, [redacted]
PAUL R. *. PHELAN, [redacted]
RANDALL B. PINA, [redacted]
JOHN H. *. PITCHFORD, [redacted]
JAMES M. PODNAR, [redacted]
PHILIP K. *. RADTKE [redacted]
THOMAS D. *. RICHARDSON, [redacted]
CHARLES L. *. RINGGOLD, JR, [redacted]
JOHN J. ROSS, JR, [redacted]
DENNIS A. RUNYAN, [redacted]
MARILYN A. RUSSELL, [redacted]
GRETCHEN A. *. SCHACH, [redacted]
DENNIS L. SLOPEY, [redacted]
JAMES W. *. STRIDER, JR [redacted]
BRETT C. *. STRONG, [redacted]
EDWIN A. TRIPP, JR, [redacted]
JAMES D. VALENTINE, JR, [redacted]
ROBERT H. *. VANDRE, JR [redacted]
JOHN E. VOLZ, [redacted]
ANDREW A. *. VORONO, [redacted]
RICHARD D. *. WARRINGTON, [redacted]
JOHN M. *. WHITLEY, [redacted]
DAVID A. WITWER, [redacted]
ROBERT A. YARD, [redacted]

MEDICAL CORPS

To be lieutenant colonel

RICHARD L. *. ALLEN, [redacted]
FREDRICK W. *. AMMERMAN, [redacted]
ROBERT C. *. ANDERSON, [redacted]
GREGORY A. *. ANTOINE, [redacted]
JUAN B. *. ARGUINZONI, [redacted]
STEPHEN C. *. ARNY, [redacted]
THOMAS R. BABONIS, [redacted]
WARREN P. *. BAGLEY, [redacted]
WILLIAM R. *. BALLOU, JR, [redacted]
EDITH V. *. BARNES, [redacted]
RICHARD K. *. BAUMGARTEN, [redacted]
VICTOR C. *. BELL, [redacted]
WILLIAM R. BERRY, JR, [redacted]
MICHAEL J. BRANTLEY, [redacted]
JAMES H. BRIEN, [redacted]
ALFRED B. *. BROOKS, [redacted]
JOHN F. *. BRUNDAGE, [redacted]
ARTHUR B. *. BUCKNER, [redacted]
JO A. *. BURKHALTER, [redacted]
BILL F. *. BYRD, [redacted]
JONATHAN H. *. CHANG, [redacted]
BRUCE A. *. COOK, [redacted]
GERALD M. *. CROSS, [redacted]
RICHARD L. *. DALES, [redacted]
PHILLIP L. *. DAY, [redacted]
DAVID P. DEETER, [redacted]
NGUYEN H. DICH, [redacted]
BENEDICT M. *. DINIEGA, [redacted]
KENZER J. *. DIRKSON, [redacted]
WILLIAM E. *. DUNCAN, [redacted]
JOSEPH E. *. DYER, [redacted]
JOSEPH E. *. DZIADOS, [redacted]
JAMES A. *. EARHART, [redacted]
EUGENE T. *. ETZKORN, [redacted]
HENRY G. *. FEIN, [redacted]
MIRIAM L. *. FIELDS, [redacted]
DAVID S. *. FINBLOOM, [redacted]
JOSEPH B. FITZHARRIS, [redacted]
JAMES L. *. FLEMING, [redacted]
GARY L. *. FRANCIS, [redacted]
EDWARD B. *. FREYFOGLE, JR, [redacted]
THOMAS G. *. FRY, III, [redacted]
BLAKE P. GENDRON, [redacted]
MERLYN D. GIBSON, [redacted]
HAYWOOD S. *. GILLIAM, [redacted]
ARTHUR T. *. GLOVER, [redacted]
WILLIAM P. *. GOODWIN, JR, [redacted]
JAMES A. *. HALEY, [redacted]
JOHNNIE B. *. HALL, [redacted]
MICHAEL F. *. HARTSHORNE, [redacted]
WALTER H. *. HARVEY, [redacted]
CHARLES E. *. HENLEY, JR, [redacted]
CHARLES B. *. HICKS, [redacted]
CHI K. HO, [redacted]
STEPHEN D. *. HOADLEY, [redacted]
KHANH G. *. HOANG, [redacted]
PATRICK J. *. HOGAN, III, [redacted]
BRUCE L. INNIS, [redacted]
MICHAEL E. *. JACKSON, [redacted]
ROBERT E. *. JACKSON, III, [redacted]
GAIL M. *. JOHNSON, [redacted]
ROBERT V. *. JONES, [redacted]
RONALD J. *. JONES, [redacted]
WALTER E. *. JORDAN, III, [redacted]
DONALD J. *. KASPERIK, [redacted]
PATRICK C. *. KELLY, [redacted]
SUSAN B. *. KERN, [redacted]
HOWARD M. *. KIMES, [redacted]
STUART B. *. KINCAID, [redacted]
ROBERT D. KNIGHT, [redacted]
MARK J. *. KRANSDORF [redacted]
KURT K. *. KROENKE [redacted]
JOHN P. *. KUGLER, [redacted]
WAYNE M. *. LEDNAR, [redacted]
RONALD R. *. LILJEDAHL, [redacted]
ETHRIDGE J. *. LOVETT, JR, [redacted]
JOSEPH J. MANCUSO, JR, [redacted]
ARTHUR S. *. MASLOW, [redacted]
WILLIAM M. *. MAULDIN, [redacted]
ALLAN R. *. MAYER, [redacted]
MICHAEL H. *. MAYER, [redacted]
MICHAEL T. *. MCDERMOTT, [redacted]
KERRIANNE K. *. MCMURDO, [redacted]
JAMES F. MCNAB, JR, [redacted]
LARRY B. *. MELLICK, [redacted]
CHRISTIAN L. *. MONCRIEF, [redacted]
ALAN G. *. MOORE, [redacted]
LAURA K. *. MORRIS, [redacted]
STEPHEN A. *. MORRIS, [redacted]
WILLIAM J. MORRIS, [redacted]
FRANK M. *. MOSES, [redacted]
PAMELA J. *. MURARI, [redacted]
JOHN C. *. NORBECK, [redacted]
STEPHEN G. *. OSWALD, [redacted]
MORAKINYO A. *. OYEWOLE, [redacted]
MICHAEL T. *. PARKER, [redacted]
RICHARD H. *. PEARL, [redacted]
VINCENT D. *. PEARSON, [redacted]
JOHN R. *. PETERS [redacted]
STEVE E. *. PHURROUGH, [redacted]
NICHOLAS F. *. PINILLA, [redacted]
JAMES L. *. PITTMAN, [redacted]
MICHAEL E. *. PURCELL, [redacted]
CAROLYN D. RANDLE, [redacted]
ROBERT R. *. REDFIELD, JR [redacted]
MATTHEW M. *. RICE, [redacted]
JOHN H. *. ROSEMOND, JR, [redacted]
DAVID M. *. ROSS, [redacted]
JANET L. *. ROWE, [redacted]
JADE S. *. SCHIFFMAN, [redacted]
ROBERT H. *. SMALL, [redacted]
PAUL N. SMITH, [redacted]
ROBERT *. SOLENBERGER, I, [redacted]
LAWRENCE M. *. SPETKA, [redacted]
KWEON I. *. STAMBAUGH, [redacted]
RICHARD A. STEINER, [redacted]
WARREN I. *. TAMAMOTO, [redacted]
PETER G. *. TARASSOFF, [redacted]
WILLIAM J. *. UPHOUSE, [redacted]
STEPHEN C. *. VANCE, [redacted]
DEAN E. *. WADE, [redacted]
MICHAEL R. *. WATTERS, [redacted]
DOUGLAS N. WHATMORE, [redacted]
WILLIE R. *. WHITAKER, [redacted]
MICHAEL S. *. WILBERGER, [redacted]
WILLIAM F. WINECOFF, [redacted]
THOMAS E. WISWELL, [redacted]
HOWARD G. *. WOLD, [redacted]
RULY YOEDIONO, [redacted]
JEREL M. *. ZOLTICK, [redacted]

CONFIRMATIONS

Executive nominations confirmed by the Senate December 17, 1987:

DEPARTMENT OF STATE

WILLIAM CALDWELL HARROP, OF NEW JERSEY, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF CAREER MINISTER, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF ZAIRE.

DEPARTMENT OF DEFENSE

ROBERT B. COSTELLO, OF MICHIGAN, TO BE UNDER SECRETARY OF DEFENSE FOR ACQUISITION.

ROBERT CLIFTON DUNCAN, OF MASSACHUSETTS, TO BE DIRECTOR OF DEFENSE RESEARCH AND ENGINEERING.

ROBERT W. PAGE, SR., OF TEXAS, TO BE AN ASSISTANT SECRETARY OF THE ARMY.

SELECTIVE SERVICE SYSTEM

SAMUEL K. LESSEY, JR., OF NEW HAMPSHIRE, TO BE DIRECTOR OF SELECTIVE SERVICE.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

IN THE ARMY

THE U.S. ARMY NATIONAL GUARD OFFICER NAMED HEREIN FOR APPOINTMENT IN THE GRADE INDICATED BELOW, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTIONS 593(A), 3371 AND 3384:

To be major general

BRIG. GEN. MARTIN E. LIND, JR., [redacted]

IN THE NAVY

THE FOLLOWING-NAMED OFFICER TO BE PLACED ON THE RETIRED LIST IN THE GRADE INDICATED UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370.

To be vice admiral

VICE ADM. JOSEPH METCALF III, [redacted]/1119, U.S. NAVY.

THE FOLLOWING-NAMED OFFICER, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 601, TO BE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY DESIGNATED BY THE PRESIDENT UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be vice admiral

REAR ADM. JOSEPH S. DONNELL III, [redacted]/1110, U.S. NAVY.

THE FOLLOWING-NAMED OFFICER, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 601, TO BE ASSIGNED TO A POSITION OF IMPOR-

TANCE AND RESPONSIBILITY DESIGNATED BY THE PRESIDENT UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be vice admiral

REAR ADM. JOHN W. NYQUIST, [redacted]/1110, U.S. NAVY.

IN THE AIR FORCE

AIR FORCE NOMINATIONS BEGINNING THOMAS E. KOSS, AND ENDING NICHOLAS D. BOLEY, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF NOVEMBER 17, 1987.

AIR FORCE NOMINATIONS BEGINNING MAJOR DENNIS C. DALY, [redacted] AND ENDING MAJ. BONEE B. ERICKSON, [redacted] WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF NOVEMBER 17, 1987.

AIR FORCE NOMINATIONS BEGINNING WALTER S. MOHN, AND ENDING JAMES D. RUSSELL, JR., WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF NOVEMBER 17, 1987.

AIR FORCE NOMINATIONS BEGINNING COLLINS E. SMITH, JR., AND ENDING JOHN F. COURTNEY, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE NOVEMBER 24, 1987, AND APPEARED IN THE CONGRESSIONAL RECORD OF NOVEMBER 30, 1987.

AIR FORCE NOMINATIONS BEGINNING JOHN F. COURTNEY, AND ENDING JOSEPH F. VANSICKLE, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE ON NOVEMBER 24, 1987, AND APPEARED IN THE CONGRESSIONAL RECORD OF NOVEMBER 30, 1987.

AIR FORCE NOMINATIONS BEGINNING COLNEY B. GAINER, AND ENDING MARTIN B. YULES, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE ON NOVEMBER 24, 1987, AND APPEARED IN THE CONGRESSIONAL RECORD OF NOVEMBER 30, 1987.

AIR FORCE NOMINATIONS BEGINNING ALVIN N. ARAMBURO, JR., AND ENDING HENRY C. WOODCOCK, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE ON NOVEMBER 24, 1987, AND APPEARED IN THE CONGRESSIONAL RECORD OF NOVEMBER 30, 1987.

AIR FORCE NOMINATIONS BEGINNING GERALD M. FRIEDMAN, AND ENDING STEWART A. VERNOOY, JR., WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF DECEMBER 4, 1987.

AIR FORCE NOMINATIONS BEGINNING CARY D. HARDISON, AND ENDING JOSEPH E. BOTTA, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF DECEMBER 4, 1987.

IN THE ARMY

ARMY NOMINATIONS BEGINNING JAMES W. ABBOTT, AND ENDING ANDREW T. *ZYGMUNTOWICZ, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF NOVEMBER 17, 1987.

ARMY NOMINATIONS BEGINNING RICHARD D. ALLEN, AND ENDING 109X, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE ON NOVEMBER 24, 1987, AND APPEARED IN THE CONGRESSIONAL RECORD OF NOVEMBER 30, 1987.

ARMY NOMINATIONS BEGINNING ALVIN D. AARON, AND ENDING NANCY J. ZIZUNAS, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE ON NOVEMBER 24, 1987, AND APPEARED IN THE CONGRESSIONAL RECORD OF NOVEMBER 30, 1987.

IN THE NAVY

NAVY NOMINATIONS BEGINNING HUGH R. WHITE, AND ENDING PEGGY FAYE SIMPSON, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE ON NOVEMBER 24, 1987, AND APPEARED IN THE CONGRESSIONAL RECORD OF NOVEMBER 30, 1987.

HOUSE OF REPRESENTATIVES—*Thursday, December 17, 1987*

The House met at 12 noon.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

We admit, gracious God, that our lives are imperfect and so often given to foolish acts and limited perspective. Yet, we pray this day that our actions and thoughts may be used by Your forgiving spirit in ways that bring good out of evil and light out of darkness. May our humble efforts, O God, be blessed by Your spirit so that we may weave together lives of love and joy and peace. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. HEFLEY. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. HEFLEY. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently, a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 270, nays 132, answered "present" 1, not voting 30, as follows:

[Roll No. 488]

YEAS—270

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Aspin
AuCoin
Barnard
Bartlett
Bateman
Bates
Beilenson
Bennett
Bevill
Bilbray
Boggs
Bonior
Bonker
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Broomfield
Brown (CA)
Bruce
Bustamante
Byron
Campbell
Cardin
Carper
Carr
Clarke
Clinger
Coelho
Coleman (TX)
Collins
Combest
Conte
Conyers
Cooper
Crockett
Darden
Davis (MI)
de la Garza
DeFazio
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dorgan (ND)
Downey
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
English
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Fish
Flake
Flippo
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Frost
Garcia
Gaydos
Gejdenson
Gibbons
Gilman
Glickman
Gonzalez
Goodling
Gordon
Gradison
Grant
Gray (PA)
Guarini
Gunderson
Hall (TX)
Hamilton
Harris
Hatcher
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Hertel
Hochbrueckner
Horton
Houghton
Howard
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Jeffords
Johnson (CT)
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kaptur
Kasich
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kostmayer
LaFalce
Lancaster
Lantos
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Livingston
Lloyd
Lujan
Luken, Thomas
MacKay
Manton
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCollum
McCurdy
McDade
McEwen
McHugh
McMillen (MD)
Mfume
Mica
Miller (CA)
Miller (WA)
Mineta
Moakley
Mollohan
Montgomery
Moody
Morrison (CT)
Morrison (WA)
Mrazek
Murtha
Myers
Nagle
Natcher
Neal
Nelson
Nichols
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Panetta
Patterson
Pease
Pelosi
Perkins
Petri
Pickett
Pickle
Price (IL)
Price (NC)
Rahall
Rangel
Ravenel
Ray
Regula
Richardson
Rinaldo
Ritter
Robinson
Roe
Rose
Rostenkowski
Rowland (GA)
Roybal
Russo
Sabo
Savage
Sawyer
Scheuer
Schneider
Schulze
Schumer
Sharp
Shaw
Shumway
Shuster
Sisisky
Skaggs
Skelton
Slattery
Slaughter (NY)
Smith (IA)
Smith (NE)
Smith (NJ)
Solarz
Spence
Spratt
St Germain
Staggers
Stallings
Stark
Stenholm
Stratton
Studds
Swift
Synar
Tallon
Tauzin
Taylor
Thomas (GA)
Torricelli
Towns
Traficant
Traxler
Udall
Valentine
Vento
Visclosky
Volkmer
Walgren
Watkins
Waxman
Weiss
Wheat
Whitten
Williams
Wilson
Wise
Wolpe
Wortley
Wyden
Wylie
Yates
Yatron

NAYS—132

Armey
Badham
Baker
Ballenger
Barton
Bereuter
Bilirakis
Bliley
Boehlert
Brown (CO)
Buechner
Bunning
Burton
Callahan
Chandler
Cheney
Clay
Coats
Coble
Coleman (MO)
Coughlin
Courter
Craig
Crane
Dannemeyer
Daub
Davis (IL)
DeLay
DeWine
Dickinson
DioGuardi
Dornan (CA)
Dreier
Duncan
Edwards (OK)
Emerson
Fawell
Fields
Frenzel
Gallegly
Gallo
Gekas
Gingrich
Grandy
Gregg
Hammerschmidt
Hansen
Hastert
Henry
Herger
Hiler
Holloway
Hopkins
Hunter
Inhofe
Ireland
Jacobs
Kolbe
Konnyu
Kyl
Lagomarsino
Latta
Leach (IA)
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Lowery (CA)
Lowry (WA)
Lukens, Donald
Lungren
Mack
Madigan
Marlenee
Martin (IL)
McCandless
McGrath
McMillan (NC)
Meyers
Michel
Miller (OH)
Molinari
Morella
Murphy
Nielson
Oxley
Packard
Parris
Pashayan
Penny
Porter
Pursell
Quillen
Rhodes
Ridge
Roberts
Rogers
Roth
Roukema
Rowland (CT)
Saiki
Saxton
Schaefer
Schroeder
Schuette
Sensenbrenner
Shays
Sikorski
Skeen
Slaughter (VA)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solomon
Stangeland
Stump
Sundquist
Sweeney
Swindall
Tauke
Thomas (CA)
Upton
Vucanovich
Walker
Weber
Weldon
Whittaker
Wolf
Young (AK)
Young (FL)

ANSWERED "PRESENT"—1

Hawkins

NOT VOTING—30

Atkins
Bentley
Berman
Biaggi
Boland
Boulter
Bryant
Chapman
Chappell
Coyne
Daniel
Dowdy
Frank
Gephardt
Gray (IL)
Green
Hall (OH)
Hyde
Jenkins
Kemp
Lott
Martin (NY)
Moorhead
Pepper
Rodino
Roemer
Smith (FL)
Stokes
Torres
Vander Jagt

☐ 1215

So the Journal was approved.

The result of the vote was announced as above recorded.

INTRODUCTION OF LEGISLATION TO ADDRESS PROBLEM OF HOME HEALTH DENIALS

(Mr. DONNELLY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DONNELLY. Mr. Speaker, there is a crisis in home health care in this country.

The Medicare Program will reimburse for home health care. The problem is that the law is very unclear about just what benefits will be paid for. So, it's up to a group of fiscal intermediaries to sit down and look at each case individually.

In the past year, there has been a 400-percent increase in denials of home health benefit claims in Massachusetts alone. Clearly, there's something wrong with the system when such a huge—and I would say unwarranted—increase in coverage denials occurs. Furthermore, when the elderly

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

receive notices that their home health benefits will no longer be paid for, they are needlessly frightened and confused. Something has to be done.

I am introducing legislation today which will take one giant step toward resolving Medicare's inconsistent, arbitrary, and confusing system of home health denials. My bill will create a 15-member commission to study the coverage of and payments for home health benefits under the Medicare Program. I expect that the Commission study will focus on the adequacy of coverage, the need to better define the terms of coverage, the need for improvement of benefit and administration, and the need for reform of the denial process.

The Medicare Home Health Care Benefits Commission will be appointed by the Administrator of the Health Care Financing Administration, and will consist of at least seven individuals representing visiting nurse or home health agencies. Representatives of fiscal intermediaries, physician groups, and senior citizen groups will compose the remainder of the Commission.

Mr. Speaker, the need for clarification of the denial process is clear. If this increase in denials occurred in other areas of the Medicare Program—such as hospital or physician services—there would be an outcry of outrage here in Washington. There is no need to give hard-working visiting nurses and home health agencies, as well as deserving senior citizens, such second-class treatment. The need is just as real for adequate and understandable Medicare coverage for home health care. My bill takes us one step further down that road.

Home health care is the most cost-effective, and humane health delivery system, and it should not be given such a low priority.

AMERICAN AGRICULTURE EXPERIENCING A SLOW RECOVERY

(Mr. LIGHTFOOT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LIGHTFOOT. Mr. Speaker, as chairman of the House rural communities task force, I believe we owe it to our rural communities to help them help themselves. The rural communities task force sees this as its top priority. The ordeal we have experienced in agriculture has made us justifiably gun shy and it would be going too far to declare that we have won the war. But to ignore the remarkable progress we have made would be a harmful step backward.

We need to recognize that farm income is up and rural communities are helping themselves. It's time we start pointing out some of these successes and finding ways to further encourage such efforts. To name a few of the positive signs cropping up in rural America:

Net cash farm income in 1987 is expected to reach the highest level since 1975.

Iowa farmland values rose 5.5 percent in the third quarter of 1987. Top grade farmland in States like Iowa, Illinois, and Minnesota may rise between 10 and 20 percent in value this year.

Corn exports were up 21 percent in 1987 and should increase by another 15 percent by 1988.

The United States is showing its muscle in the international market, boosting its markets and taking over a growing share of total global trade.

Last year, farm production expenses fell to an estimated 76 cents per dollar of income, the lowest level since 1975.

By the end of 1987, U.S. farm debt, excluding CCC loans, will be down about 25 percent from the peak reached in 1983 representing an absolute decline of $50 billion.

These reports and dozens of others just like them are the new message coming out of farm country. Cautiously but steadily people are stepping away from the gloom and doom view of American agriculture and recognizing that we have made substantial progress from the troubling days of the early and mid 80s.

This is a message that should be heard and heeded. Without acknowledging both improved current conditions and future prospects in agriculture, we may miss opportunities to further solidify the recovery.

Also, by acknowledging these gains, we can improve the likelihood of our young farmers staying on the land. This, as much as anything, is vital if we are going to retain the ideal of the family sized operation.

NEW LEGISLATION WOULD TARGET GOVERNMENT AGENCIES GUILTY OF POLLUTING

(Mr. ECKART asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ECKART. Mr. Speaker, today my colleagues TOM LUKEN, MIKE SYNAR, AL SWIFT, RON WYDEN, and I, are introducing a package of five bills to end the double standard that now exists in the application of our Nation's hazardous waste laws to Federal facilities.

The environmental record of our Federal agencies, particularly the Departments of Energy and Defense, is a national disgrace. It is the ultimate hypocrisy for the Federal Government to beat private industry over the head about violations of environmental laws when its own track record is so abysmal. The list of environmental disasters is long—DOD's Rocky Mountain Arsenal in Colorado; DOE's Hanford Reservation in Washington; the Fernald Nuclear Materials Production Center in my own State of Ohio just to name a few.

Mr. Speaker, there is no room in our Government or our country for rogue agencies that put themselves above the law. This package of bills will end guilty Federal agencies avoiding blame for willfully and recklessly polluting our environment.

FUTURE CALIFORNIA FARM OUTLOOK BRIGHTER

(Mr. SHUMWAY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SHUMWAY. Mr. Speaker, today I would like to join my colleagues in highlighting some encouraging signs for the future of rural Americans in agricultural regions of our Nation. In my home State of California, where agriculture is a $14.5 billion industry, farmers have greeted the recent USDA forecasts for 1987-88 of over $31 billion in U.S. farm exports, up from $26.3 billion, with hope and optimism. During the 69th annual California Farm Bureau meeting held earlier this month, after noting the stabilization of the State's agricultural economy after several tough years, California Farm Bureau Federation president, Henry J. Voss, stated,

> Future profitability and prosperity in agriculture will have to come less from harvesting farm-program dollars and more from working harder than ever in the marketplace.

I couldn't agree with Mr. Voss more—the continued future prosperity of American agriculture depends on our farmers aggressiveness in and sensitivity to opportunity in world markets.

WOMEN IN THE MILITARY LEGISLATION

(Mrs. BYRON asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BYRON. Mr. Speaker, as chairman of the Military Personnel and Compensation Subcommittee, one of the areas we have focused on recently is women in the military. We have held two hearings on the subject thus far and plan at least one more early next year. As I stated at the first hearing: It's clear that the Armed Forces need women; it's clear that women are doing a fine job, and its clear that women are here to stay—and as long as I'm in charge of the subcommittee with jurisdiction over military personnel, I'll do everything in my power to see that female soldiers, sailors, and airmen are treated equitably and fairly. With these goals in mind, today

I am introducing legislation to open up on a test basis additional combat support positions to women in the military.

As my colleagues know, current law and policy prohibit the assignment of women to combat positions. My bill would do nothing to change this. Rather, it would require the Secretary of Defense to establish a test program to utilize women in each of the services in combat support positions currently closed to them—like service on Navy combat logistics force ships and P3C aircraft and Air Force strategic reconnaissance aircraft to name just a few.

I want to make clear, Mr. Speaker, that at the outset of our hearings, this Member had serious concerns about how much further the military could go in utilizing women. I still have concerns—but having heard testimony from a number of outside experts on this issue, I do believe that several areas deserve a closer look. After all, if you don't try something new, at least on a trial basis, how will you ever know whether the idea is feasible? That's why I think the idea of a test program has a great deal of merit. I'll conclude, Mr. Speaker, by relating one story from our hearings on women. The subcommittee heard from two experts on how the NATO allies utilize women in their Armed Forces. Surprisingly, we learned that some of our NATO allies have gone even further than the United States, and have been completely satisfied with the results. We were told that the Netherlands, for example, uses women in virtually all categories of military jobs as does Belgium and Norway. It was sad and ironic, however, that one woman from the Netherlands was recently trained as a combat pilot in an American program even though American women are excluded from such training.

As the pool of military eligible young men continues to shrink, women are an increasingly valuable manpower resource. My sense, however, is that current policies may be working against them. I hope that my legislation will promote constructive and measured change within the services and provide female military personnel with the same opportunities for promotion and career advancement as their male counterparts. We owe our military women and the Armed Forces no less.

AMERICAN AGRICULTURE IS HERE TO STAY

(Mrs. SMITH of Nebraska asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mrs. SMITH of Nebraska. Mr. Speaker, I rise today along with fellow farm State Members of Congress to say that the 1985 farm bill is beginning to make a real difference in agricultural trade.

One of the main goals of the 1985 farm bill is to restore competitioness in the production and trade of farm commodities worldwide. Back in 1985, foreign producers were not only exploiting our weakened trade position as a result of grain embargoes, the overvalued dollar, and other factors, they were embarking on a suicidal campaign of heavy subsidies for production and export.

A USDA study of farm subsidies worldwide—ERS Report AGES861216, January 1987, Government Intervention in Agriculture—found that the Japanese Government supplied over 70 percent of its farmers income, the Common Market farmers received almost 50 percent of their income from government subsidies, compared to about 20 percent in the United States.

Well, first of all, agriculture exports are finally turning around. According to the lastest edition of the U.S. Agricultural Exports Outlook published by the Foreign Agriculture Service, the total volume of grain exports in 1987 will be 18 percent greater than in 1986, the first gain in 7 years. The value of our agricultural exports is expected to rise by about 7 percent, while the U.S. share of world trade is recovering.

We are achieving these results while steadily reducing Federal expenditures for farm programs. The November edition of Agricultural Outlook published by the Department of Agriculture predicts the cost of the farm bill will be almost $3 billion less than last year, and will continue to decline next year, perhaps as much as 40 percent below 1986.

We have a long way to go before agriculture is back on its feet. But we are beginning to get results, especially in the realm of agricultural trade. The 1985 farm bill has put the rest of the world on notice that American agriculture is here to stay.

□ 1230

INTRODUCTION OF RESOLUTION MARKING MILLENNIUM OF CHRISTIANITY IN UKRAINE

(Mr. LIPINSKI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LIPINSKI. Mr. Speaker, along with more than 50 of my colleagues, I am introducing a resolution today that marks the millennium of Christianity in Ukraine. In 988, St. Volodymyr of Kiev, proclaimed the Christian faith to be the state religion, believing this was the best way to enrich the moral and spiritual values of his people.

Ukrainians in the free world will be observing this most solemn and beautiful occasion, but with the sad knowledge that religious freedoms are denied their brothers and sisters in their native land. Despite Secretary Gorbachev's proclaimed policy of glasnost, the Soviet Union is still refusing to recognize the Ukrainian Catholic and Orthodox Churches. Catholic, Orthodox Baptist, and Pentecostal believers are still denied access to religious literature, are harassed and even imprisoned for their faith.

Josyp Terelya, a leading Ukrainian Catholic activist and former prisoner of conscience who left the Soviet Union in September of this year, has testified before Congress about the continuing repressions against religious believers in Ukraine. He described in detail the harassment and fear suffered by Ukranian Catholics because of a recent appeal to Gorbachev asking for legalization of their church, and revealed that since May 1986, more than 150 churches have either been desecrated, closed or destroyed.

My resolution is very straightforward. Among other things, it simply discourages participation by the U.S. Government in ceremonies of the millennium in the U.S.S.R. so long as the Soviet record on religious liberty remains so deplorable. It calls for the President, the Secretary of State, and other high-ranking officials to speak out forcefully against Soviet violations of religious freedom, specifically in Ukraine during this anniversary year. It urges the Soviet Government, in observance of the millennium, to legalize the Ukranian Orthodox and Ukranian Catholic Churches. And, finally, it sends greetings to the Ukranian people as they mark this milestone in the history of their nation. I urge my colleagues to lend their names to this most worthy piece of legislation and make it official U.S. policy.

THE 1985 FARM BILL STARTING TO SHOW POSITIVE RESULTS

(Mr. DAUB asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DAUB. Mr. Speaker, the 1985 farm bill is starting to take hold. It is sustaining farm income, spurring exports, and stabilizing farmland values.

However, we still face the challenge of rural development. We have to confront the problems in rural America that lie beyond the farm gate.

As I travel around rural Nebraska, I meet individuals and rural organizations striving to bring back that spark of rural community energy we once had.

The Rural Electrification Administration is moving into a leadership role on rural development. Other agricultural cooperatives are taking up the challenge. The local chambers of commerce are pitching in.

The Federal role in this effort is to help these people help themselves. Small business is the lifeblood of rural jobs. We have to get Federal roadblocks out of the way of small business growth. This means our Federal tax and regulatory policy must provide small business incentives instead of inhibitions.

It means we must bring rural health care up to par with its urban counterpart.

It means we must get cracking on a more effective policies to revamp rural infrastructures like bridges, roads, and water and sewer facilities.

It means better coordination among the Federal agencies like SBA and REA and block grants.

Mr. Speaker, rural America is about an old, but vital set of ideals. We need to nurture and protect these ideals, because if they die, the best part of America dies with them.

WHERE IS THE TRADE BILL?

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, our trade deficit for October was $17.6 billion, a record. That is $17,630,000,000, a 1-month record; yet we keep exporting $12 per hour jobs and in their place we create three minimum wage jobs, and then they send out press releases around here saying, "That's real growth."

Who are we kidding? Let us face it, America won the war. Japan and Germany has won the peace.

What bothers me is we still have no trade bill. The Constitution says Congress shall regulate commerce. The only commerce we regulate are profits for Japan.

Our trade deficits make this body look like a bunch of wimps to the American people, stone-cold free-trading wimps.

CALLING ON THE PRESIDENT TO CONDUCT A WHITE HOUSE CONFERENCE ON RURAL DEVELOPMENT AND THE FAMILY FARM

(Mr. GRANDY asked and was given permission to address the House for one minute and to revise and extend his remarks.)

Mr. GRANDY. Mr. Speaker, the 1985 farm bill has helped American agriculture recover from a deep depression. Farm income has risen, land values have begun a steady climb, and fewer family farms are being lost. Indeed, with tomorrow's expected passage of the Farm Credit Conference Report family farms believed lost will be saved.

We must continue the progress that has been made to ensure that rural America will never again have to endure the economic hardships of the early eighties. I believe the role of the Federal Government in addressing the farm crisis could be expanded to include a comprehensive economic development and stabilization effort. We should not limit our efforts strictly to the family farm, but must, out of economic necessity, broaden our development horizons so that rural America, including agriculture, will thrive in the 1990's and beyond.

I am announcing today my intention to introduce legislation when the 2d session of the 100th Congress convenes which would call on the President to conduct a White House conference on rural development and the family farm. Senator GRASSLEY has introduced similar legislation in the other body.

The purpose of the conference would be to develop a strategy of preserving economic and cultural health in our rural communities. Specifically, this would include a strategy for building on our network of health care providers, small businesses, education, and the rural infrastructure.

We must provide hope for mid-America's youth and guarantee that they have a future in their hometowns which have sustained generations of entrepreneurs, farmers, laborers, doctors, and teachers, to name just a few, and will continue to offer opportunities for generations to come.

I hope my colleagues will join me in urging the President to convene the National Conference on Rural Development and Revitalization.

TRIBUTE TO GRASSROOTS CAMPAIGN OF PARCHMENT HIGH SCHOOL

(Mr. WOLPE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WOLPE. Mr. Speaker, our country is passing through a very difficult time. It's not surprising that many Americans are ready to give up on the system, feeling that average citizens count for little nowadays, and that events are beyond their control.

I rise today to pay tribute to a very special group of constituents who refused to give up on the system—a group of teenagers who got organized and made a difference. When the Parchment School District found itself unable to afford the planned renovation of its outdoor track, Parchment High School students organized a grassroots campaign to mobilize community support for a modest, 1-year milleage request to finance the construction. Nearly 100 students helped launch the campaign, which was dedicated to the memory of Jeff Springer, an outstanding Parchment High School track athlete who was tragically killed in an automobile accident this summer.

Under the direction of student council president Dan Hammer and a small group of key organizers including Debbie Stafford, Suneel Goud, Kyle Tiller, Holly Phielman, and Tammy Randt, these teenagers staged an aggressive campaign that was destined for success. They pounded the pavement. They knocked on doors. They distributed yardsigns and leaflets, initiated a direct mail program, staged press conferences and media events. They launched a voter registration drive and coordinated the kind of get-out-the-vote effort that any candidate for office would be proud to call his own. And when all was said and done, not a bill was left unpaid.

As a direct result of their efforts, voters in the community of Parchment turned out in large numbers to approve a 1-year, 1-mill levy to finance the $170,000 track renovation.

Mr. Speaker, this small group of students can remind us all of a very important lesson—they have shown us that when we focus on specific problems, we can win important battles. That's a lesson that we need to remember now more than ever before. I am convinced that the financial problems now confronting our Nation can be just as effectively resolved if this Congress can muster the same kind of determination and conviction that a small band of high school students from Parchment, MI demonstrated last month. Together, we can and must make a difference.

IMPROVED HEALTH OF AGRICULTURE

(Mr. BEREUTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BEREUTER. Mr. Speaker, let us look at what has happened in American agriculture. Total farm expenses, which peaked at $140 billion in 1984 have declined markedly to less than $120 billion in 1987. In real terms, net farm income has now recovered to 1979 levels, primarily due to falling farm production costs, coupled with the subsidy payments contained in the Food Security Act of 1987.

For the first time this year, real estate values, along with total farm asset values, have stabilized. In fact, agricultural land values have risen by an average of 4 percent this year, and total farm debt which peaked at over $200 billion in 1982–83 has fallen sharply to about $155 billion in 1987.

And finally, provisions contained in the 1985 farm bill have led to more competitive prices for U.S. grain on the world market. This has forced our competitors, such as Australia, Argentina, and Canada, to cut their feed grain and wheat production and sales, as well as to reevaluate their own domestic agricultural programs. U.S. agricultural export value will reach an estimated $31 billion during this fiscal year, an 11-percent increase over the 1986-87 level, and the American farmer will again provide nearly one-half of the world trade in the major crops grown in the heartland for the 1987-88 crop year.

The crisis has not yet passed. We must be cognizant of how fragile is our enhanced position in the world agricultural markets; but the basic programs springing from the 1985 farm program and a tougher stance on agricultural trade have helped turn the tide.

SALUTING OUTSTANDING ACCOMPLISHMENTS OF OUR NATION'S FARMERS

(Mr. UPTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. UPTON. Mr. Speaker, it gives me a great deal of pleasure today to join my friend Jim Lightfoot, chairman of the Republican Task Force on Rural Communities, in saluting the outstanding accomplishments of our Nation's farmers in the past few years.

I would like to begin by pointing out that while the media continues to report only those farming failures, there is a lot of good news in the U.S. agricultural sector. Land values are beginning to rise again, net farm income is improving, and rural communities have been able to expand the services they provide. Even agricultural exports, which have been too low in recent years to provide much assistance to U.S. efforts to lower our trade deficit, are on the rise.

Indeed, Mr. Speaker, things are looking up for a large portion of rural America. That is not to say, however, that we should pat ourselves on the back and go on with business as usual.

There is much left on rural America's agenda. I am confident that the Republican Rural Task Force will continue to search for ways to improve the quality of life for America's farmers. I urge my colleagues from both sides of the aisle to join in our efforts.

A SAD WEEK FOR THE STATE OF NEVADA

(Mrs. VUCANOVICH asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. VUCANOVICH. Mr. Speaker, This week of the conference on budget reconciliation has been a sad one for the State of Nevada. It will be remembered in history as the week when Congress exercised its influence to turn our State into a Federal colony and force us to take, without question, all of this Nation's high-level radioactive waste.

I have heard great praise this week from my colleagues for the valiant fight I have waged to protect Nevada. At the same time, Congress is behaving like a pack of wolves going in for the kill.

In this entire process of making arbitrary decisions to force the nuclear waste repository on Nevada, no one from our State has been permitted to participate or argue on behalf of our interests.

Mr. Speaker, this is a travesty. This destroys once and for all any illusions we may have had about a statesmanlike approach to the Nuclear Waste Policy Act, or any pretense of interest in scientific deductions or safety. The major interest of both bodies, it appears, is to go back to their districts at Christmas gloating about having kept it kept out of everyone else's backyard while sticking it in Nevada's.

While these may be the days for gloating, the irresponsibility of this approach will be the burden of future generations. They will point the finger at this 100th Congress, and hold us accountable for the environmental consequences or these politically motivated and cowardly decisions.

I would like to remind the Members of this House that there are more than 2,500 miles of road and railroads between Massachusetts powerplants and Yucca Mountain, and between Pennsylvania powerplants and Yucca Mountain; that 80 percent of this high-level waste is produced east of the Mississippi River, and none of it is produced in Nevada. You may have kept the nuclear waste dump out of your back yard, but the roadways and railroad tracks of your States will now be involved in the transportation of the most deadly substance man has yet produced. For short-term gains, you have put your constituents potentially at risk in every train derailment, and every semitruck accident for generations to come. Members of this Congress may be smiling today, but they should study at the same time how to look over their shoulders.

SUPPORT FOR NICARAGUAN RESISTANCE MORE IMPORTANT THAN EVER

(Mr. INHOFE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. INHOFE. Mr. Speaker, I would like to bring to my colleagues' attention a recent survey that shows that 67 percent of Americans think that a Communist government in Central America represents a threat to the United States. Eighty percent think it is important for the United States to eliminate communism from Central America. And for the first time most Americans favor military aid to the Nicaraguan resistance.

These results may be surprising to some of my colleagues in this Chamber. But the results are not the whole story. This survey was conducted before people knew about the Sandinistas' military plans and arms accords with the Soviet Union.

Since the poll was taken, the Sandinistas have made their plans and intentions clear:

Ortega stated last week that—if they should ever lose an election, they would give up the government, "but not the power."

He also stated that they will continue with their plans to build their army to a force of 600,000, equipped by the Soviet Union and their puppets, regardless of whether the Nicaraguan resistance is defeated or relations with the United States are normalized.

Mr. Speaker, there should be no doubt left as to the militaristic nature of the Sandinista regime and its complete lack of intent to fulfill its commitments under the Central American peace plan. Support for the Nicaraguan resistance is more important now than ever.

□ 1245

RESIST EFFORTS TO TAMPER WITH 1985 FOOD SECURITY ACT

(Mr. CLINGER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CLINGER. Mr. Speaker, over the past decade the farmers of America have suffered some of the hardest times in the history of our Nation; land values dropped, prices dropped, and surpluses mounted. In answer to this crisis, the Congress, in a bipartisan effort, crafted the 1985 Food Security Act, a bill that covers almost every facet of American agriculture.

Over the past 2 years, the 1985 farm bill has shown great promise—promise that it is beginning to work and work well. A good example of this is the reduction in levels of farm products that are given away. Because of declining surpluses, the administration recently announced that it planned to cut the amount of commodity donations given away under the Temporary Food Assistance Program to half of the 1987 levels. Surely this shows us that these debilitating stocks of farm products are starting to be reduced.

Rural America is starting to benefit from our present farm policy, farmers are being helped to become more competitive. We, as guardians of a public trust, must make sure that the law is able to finish the job it was intended for: to rebuild American agriculture. In the next session of the 100th Congress and in future Congresses, we must resist all efforts to tamper with or change the 1985 Food Security Act.

ENDANGERED SPECIES AND THE PRESERVATION OF TROPICAL FORESTS

(Mr. PRICE of North Carolina asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PRICE of North Carolina. Mr. Speaker, today, we are considering the Endangered Species Act which renews our country's commitment to the preservation of native species. On this day, it is particularly appropriate to remind ourselves of the need to protect the world's tropical forests since they are crucial to the continued existence of many endangered species.

Tropical forests are habitat for over 80 percent of the plant and animal species on Earth. They help regulate world weather systems, control flooding, halt wind erosion, and store and cycle nutrients. In addition, the abundant ecological wealth of tropical forests has been translated into dramatic and tangible advances in medicine, agriculture, and industry.

Unfortunately, these tropical forests are rapidly disappearing. Scientists estimate the annual rate of deforestation to be 1 to 2 percent, and this phenomenon threatens millions of plant and animal species.

H.R. 3010, introduced by Representatives John Porter and David Obey, will begin to combat this destructive trend. The bill will allow developing countries to exchange their World Bank debt for conservation in critically endangered areas, particularly tropical forests and wetlands.

The bill also complements existing local efforts to preserve endangered species. For instance, the North Carolina Zoological Park, located in Asheboro and my district, is already actively providing a habitat for many species until they can be safely returned to their natural environment. H.R. 3010 will support their worthy effort, and I strongly urge my colleagues to cosponsor this legislation.

AIR TRAFFIC CONTROLLER PERFORMANCE RESEARCH ACT

(Mr. BUECHNER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BUECHNER. Mr. Speaker, many of our Nation's air traffic control towers and centers are currently being modernized through the National Air Space plan or NAS plan. It is hoped that the NAS plan will help alleviate an overburdened and increasingly congested air traffic control system.

Yet one vital ingredient is missing. Despite the potential benefits of automation, it is not certain how automation will affect the role of the air traffic controller.

That is why 11 of my colleagues from the Science, Space, and Technology Committee and I are introducing the Air Traffic Controller Performance Research Act. This bill will permit the FAA and NASA to conduct research to determine how automation will affect controller work load and staffing requirements. It also will develop new criteria and training methods for the next generation of air traffic controllers. Finally, the bill will accelerate controller training to make sure that all the components of the NAS plan are implemented properly.

I am pleased that the FAA and NASA in addition to many of my colleagues on the Science, Space and Technology Committee support this legislation.

OBSCENITIES FROM MANAGUA

(Mr. DORNAN of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DORNAN of California. Mr. and Mrs. America, all the ships at sea and all our aircraft in flight; Managua calling mayday, mayday, Managua calling. Here is the latest obscenity against liberty in that once beautiful Nicaraguan city. Here is today's paper.

No kidding, folks, three of the seven Supreme Court justices in Managua quit in anger, charing contempt on the part of the government, the reaction to the Ortega brothers and the other thugs in the military junta. The junta then fired the other four justices—a clean sweep, all seven out so that Daniel Ortega can appoint a whole new Supreme Court.

Mr. Speaker, are we going to share in this? Are you suggesting any names, anybody on your staff you want down there to serve on the Supreme Court?

Next obscenity tomorrow, Mr. and Mrs. America.

THIS IS DEFICIT REDUCTION PROGRESS?

(Mr. PORTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PORTER. Mr. Speaker, what would happen if tomorrow, when our third short-term CR of fiscal year 1988 expires and probably must be renewed, we defeated the previous question on the rule and made in order an amendment to extend the next CR not for a few days as we complete the omnibus CR, but until September 30, 1988, for the rest of the fiscal year?

Sound scary? It shouldn't, because that's exactly in effect what we are about to do. Yes, after all of our efforts, the omnibus CR for fiscal year 1988 is going to be almost the same in outlays as the CR for fiscal year 1987.

Well, if we're going to be freezing discretionary spending in fiscal year 1988, and a growing economy is going to produce tens of billions of dollars in new revenues, we're going to make real progress in reducing the deficit. Right?

Wrong. Entitlements are going to increase and cover all the new revenue and no progress will be made on the deficit.

Now, does anybody doubt the need to address entitlement increases to reduce the deficit?

HAZARDOUS WASTE MANAGEMENT

(Mr. MILLER of Washington asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MILLER of Washington. Mr. Speaker, today, I join a number of my colleagues in introducing five bills that, when enacted will greatly improve the management of nuclear and other hazardous wastes at Federal facilities.

Of course, Mr. Speaker, as a Member from the State of Washington, home to the Hanford Nuclear Reservation, I can tell you that those responsible would be hard put to do a worse job of disposing of this dangerous nuclear garbage.

An estimated 200 billion gallons of liquid waste and waste water with chemical and radioactive contaminants has been dumped into Hanford's soil since that nuclear reservation was established in 1945.

Now, Mr. Speaker, I know that hindsight is always 20-20 vision. But 40 years of virtually indiscriminate dumping of potentially lethal materials could have a devastating impact on the Pacific Northwest region.

The ground water at Hanford has, according to a Department of Energy memo, "Been degraded with tritium, nitrates and iodine-129." The General Accounting Office and the Environmental Protection Agency have identified over 700 toxic waste sites on the Hanford Nuclear Reservation and there are 24 soil sites contaminated with plutonium and transuranic wastes.

Credible estimates of the cost of cleaning up these wastes range from $20 billion to $100 billion. Today, Mr. Speaker, Hanford has about 45 million gallons of high level nuclear waste in single wall storage tanks. There are another 75 million gallons of high level nuclear wastes in double-walled storage tanks. That's 120 million gallons.

Think of it this way: You could fill 200 olympic swimming pools with the dangerous high level nuclear wastes now in temporary storage at Hanford.

The stuff is still coming in by the truckload and we are years away from a permanent site or storage method.

These problems are not unique to Hanford. Waste management has been badly botched at other Federal nuclear and nonnuclear installations around the Nation posing a public health and safety threat to the populations of South Carolina, California, and Ohio.

The problem of unsafe and inefficient Federal waste management requires from Congress a hands-on approach. The five bills we introduce tomorrow are the fingers of that hand.

First, by clarifying existing waivers, Congressman ECKERT's bill would permit penalties and other sanctions if hazardous waste laws are violating Federal facilities. Congressman LUKEN's bill requires the Environmental Protection Agency to regulate mixed wastes—those containing both hazardous and radioactive wastes—found at Federal facilities.

My colleague from Washington State, Mr. Swift, would create a special environmental counsel to enforce RCRA at Federal facilities if the Agency and EPA are unable to negotiate a consent order to address a clean up of a waste site.

Congressman SYNAR's bill calls for separate accounting and budgeting for hazardous waste management and cleanup activities to make it easier to determine how much of DOE's budget is devoted to these programs. Finally, Congressman WYDEN's bill gives the EPA leverage to force contractors operating Federal nuclear facilities to comply with Federal environmental laws.

Mr. Speaker, I congratulate my colleagues on this comprehensive approach to a problem that will always be with us in this technological age. These bills continue an effort I initiated last Congress with Mr. WYDEN.

Nuclear garbage can't be simply heaped on a scow and set out to sea, to float around aimlessly, until we figure out what to do with it. Unfortunately, until we enact this package of bills, that just about describes our waste management policy—dangerously aimless. I urge timely consideration and passage of this legislation.

THE GOOD NEWS ON FARM DEBT

(Mr. WEBER asked and was given permission to address the House for 1 minute.)

Mr. WEBER. Mr. Speaker, at a time when we like to look back and review the year, those of us from rural America have reason to be encouraged. This year has seen a marked improvement in the battered rural economy. Farm income is up. Farm exports are up. And Farm debt is down.

The reduction in farm debt is perhaps the most important development. From its peak of $220 billion only a few years ago, farm debt has now declined to $165 billion. As farmers have reduced their debt load, their operations have become more stable and profitable.

Three things have combined to stabilize agricultural credit. First, net farm income has increased dramatically, enabling farmers to both service and, in many cases, reduce their debt load.

Second, lenders and borrowers across the farm sector have worked together to restructure debt. In Minnesota, for instance, the Farm Credit System has implemented an aggressive restructuring program, reducing debt to a manageable level and turning delinquent loans into performing ones.

Third, Congress is completing work this week on a broad farm credit bill that will support a recovering Farm Credit System and assist both lenders and borrowers. I speak as someone who opposed the last two farm credit bills, because I felt they did not address the problem adequately. This bill does. It implements a broad program of loan restructuring, provides assistance to stabilize the system, and bolsters borrowers' rights. In addition, it establishes a secondary mortgage market to give all of rural America access to competitive, low-cost capital.

We're not out of the woods yet. But a year that has seen improved farm income, declining farm debt and a good farm credit bill is a big step in the right direction.

FACING THE REALITY IN NICARAGUA

(Mr. WALKER asked and was given permission to address the House for 1 minute.)

Mr. WALKER. Mr. Speaker, if four of the nine Supreme Court justices in this country resigned on one day saying that they had utter contempt for the Government because the Government had abandoned all legal systems, I think that probably we would regard that as a very serious crisis in this country.

If the Government had a proposal in mind to arm 40 million of the United States' citizens at one time, my guess is that we would regard that as a fairly serious incident.

That is the comparison of what is happening in Nicaragua right now. The Government has announced they are going to put 20 percent of their population under arms.

They have also faced within the last day the resignation of almost half their Supreme Court citing contempt of the Government.

The reaction of the Sandinistas has been to fire the rest of the Supreme Court and to say they are going to appoint justices more in keeping with Sandinista policy.

What has been the reaction by the Democratic Caucus in this body? Today they voted to support the Sandinista Communists.

In light of the information that is before us, the Democratic Caucus in this body voted to support the Sandinista Communists. I think it is very serious what is happening here, and I think we had better wake up to the realities of what is happening in Central America, particularly in Nicaragua.

NEW OPTIMISM DOWN ON THE FARM

(Mr. HUNTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HUNTER. Mr. Speaker, I am thrilled about the improvements in our farm economy that we are hearing today on the floor, especially when they are compared to the gloomy forecasts of just last year.

In my district of Imperial County, CA, our leading agricultural sector is cattle-feeding. In the good old days, there were over 100 feedlots around the county, but in the past 5 years that number dropped to less than a dozen. There were several factors for this startling decline; however, there were a couple of events which had a very damaging impact on the industry: First, American consumers were inundated with report after report alleging how bad it was for you to eat red meat and they drastically cut their consumption; and second, that decline in demand was happening at the same time we had the huge milk surplus and the resulting herd buy-out—I'm sure we all remember the wholesale buy-out of surplus dairy cows and the impact it had on the cattle industry.

But things are starting to turnaround for us. Beef is again gaining favor with the American consumer, especially lean, Imperial Valley beef. Our hot, year-round climate gives the Imperial Valley cattlemen and feedlot operators the opportunity to continue feeding cattle while cold winter weather brings those operations to a standstill in other parts of the country. Imperial cattlemen and feeders have developed a Brahma cross-breed which thrives in the valley's arid climate.

These examples are truly reflected in the numbers—the cattle in Imperial Valley feedlots are expected to show an increase of 71 percent for 1987 and the price per 100 pounds of beef will have risen almost $10 in the past year. The upswing in the cattle business is great for my cattlemen and it is certainly extremely good news for the whole regional economy.

There is one other thing I want to briefly mention. Most trade experts agree that American beef has the most potential for export growth than any other agricultural commodity. Our cattlemen are doing their jobs and producing a quality product that should enjoy tremendous worldwide appeal. Today, the Congressional Beef Caucus hosted Japanese trade officials at a steak lunch to push our demand for the elimination of Japanese trade barriers to our agricultural products. A new United States-Japan Beef Agreement in March of next year, without tariffs and quotas, will solidify the gains the cattle industry has made and we can come back here next year with even better stories about the health of the American farmer.

Mr. Speaker, as I said earlier, we seem to be turning the corner with our farm economy—at the least the picture looks brighter for thousands of hard-working people. I am honored to have the opportunity to talk about some of the positive things going on in American agriculture.

THE SANDINISTA GOVERNMENT IN NICARAGUA

(Mr. BURTON of Indiana asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BURTON of Indiana. Mr. Speaker, Major Miranda, the second most powerful man in the Defense Ministry in Nicaragua, defected recently and he told the American people and he told the Congress about what the Sandinistas plan to do.

He said they plan to build a 500,000-man army. He said they plan to bring Mig-21 and Mig-23 fighter-bombers into Nicaragua to threaten not only Central America but ultimately the United States.

As well he said they are training Communist guerrillas from El Salvador in Nicaragua in surface-to-air missiles and other weaponry for exportation of revolution.

Mr. Speaker, not only that, but they are raping that country. The value of the cordoba has dropped dramatically. The people cannot even afford to buy food to survive, and yet today the Democratic caucus in this House voted 144 to 25 to support the Communist Sandinistas by denying aid to those who are fighting for freedom in Nicaragua.

Mr. Speaker, when will the Democratic caucus wake up, when will you wake up? When the Communists are in Mexico, Honduras, Guatemala, maybe even Texas?

UNITED STATES POLICY IN NICARAGUA

(Mr. DORGAN of North Dakota asked and was given permission to address the House for 1 minute.)

Mr. DORGAN of North Dakota. Mr. Speaker, it is not a responsible statement, in my judgment, to suggest that the Democratic caucus supports the Communists in Nicaragua. That is not a responsible statement.

The fact is the Democratic caucus, most of the Democrats that I know and work with feel the same way about the Sandinista government as do people on the Republican side of the aisle. We all abhor the outrages and human rights violations of the Sandinistas. What we do not support, on this side, is the policy that this administration and my friends on the Republican side of the aisle have supported these last years that says "let us take gobs of money from the American taxpayer and just throw it down south and hope it will land someplace that will effectively fight communism." That is nonsense.

I stood up on the floor of the House here with an invoice that showed that the American taxpayer and our State Department paid $15,700 to a drugstore in Honduras in Tegucigalpa. The fact is it was a one-room drugstore. The State Department paid $15,700 for uniforms for Contra soldiers.

This one-room drugstore does not sell uniforms. It has not even got $15,000 worth of inventory, let alone uniforms.

This only symbolizes how Contra aid fraud, massive fraud with the taxpayer's; money. Pure and simple. You folks do not seem to care about that as long as it sends money south under the guise of fighting the Communists.

I think we ought to start using the taxpayers' money effectively, and I think we ought to develop a policy that responds to the Communist threat in Central America effectively. I think we ought to stop all demagoguery about who supports communism and who does not. That is nonsense.

We all oppose Communist expansionism and totalitarian governments. The question is how can we do so most effectively. Since Contra aid has not produced results, we need to develop a more convincing alternative. That is precisely what the Democratic caucus is propounding.

□ 1300

A RESPONSE ON CONTRA AID

(Mr. FIELDS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FIELDS. Mr. Speaker, I yield to the gentleman from Pennsylvania [Mr. Walker].

Mr. WALKER. I thank the gentleman for yielding, because we just heard a statement here which I think separates us a good deal from reality. The gentleman said that the Democratic caucus had not voted to help the Sandinistas and that the Sandinistas happen to be Communists. The fact is that they voted 144 to 25 today in their caucus not to send any aid to the Contras. The only opposition force that is being effective in Nicaragua today is the Contra force. When in fact you are voting against the Contras, what you are doing is saying that you want no effective opposition to what is happening in Nicaragua.

The situation in Nicaragua is very serious. I did not hear the gentleman say what he is going to do about the fact that the Supreme Court is resigning, I did not hear the gentleman say what he is going to do about the 600,000-man army in Nicaragua. All I heard the gentleman say was that "we, too, oppose the Sandinistas."

How do you oppose the Sandinistas? It was your Speaker, it was your Speaker that helped the Sandinistas write their peace plan. Now, for Pete's sake, where in the world are you going to take a stand. You cannot just come to the floor and say you are against the Sandinistas when in fact you do absolutely nothing to stop the Sandinistas from doing to their country the evil things that are being done.

THOSE WHO SUGGEST THAT THE DEMOCRATIC CAUCUS SUPPORTS COMMUNISTS IN NICARAGUA SUGGESTS THAT IRRESPONSIBLY

(Mr. LEVIN of Michigan asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEVIN of Michigan. Mr. Speaker, I yield to the gentleman from North Dakota [Mr. Dorgan].

Mr. DORGAN of North Dakota. I thank the gentleman for yielding.

Mr. Speaker, the point I was making was very simple: I said carefully those who suggest the Democratic caucus supports the Communists in Nicaragua suggests that irresponsibly in my judgment. That is a very simple point and I feel it very strongly.

Mr. LEVIN of Michigan. Mr. Speaker, I just want to reiterate I think it is scurrilous to come here and say that the Speaker wrote the Sandinista peace plan. That is total nonsense.

Let me finish, the gentleman from Pennsylvania has already had a lot of time.

Second, let me also say that the majority of the American people oppose the administration's program in Nicaragua and for anyone on this floor to get up and call the majority of the American people supportive of Communists in Nicaragua, that betrays any faith at all in the American people.

THE APPEASEMENT POLICIES OF THE MAJORITY SIDE ARE LEADING US DOWN THE LONG SLIPPERY ROAD TO MILITARY CONFLICT IN NICARAGUA

(Mr. YOUNG of Alaska asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. YOUNG of Alaska. Mr. Speaker, I yield to the gentleman from Indiana.

Mr. BURTON of Indiana. Mr. Speaker, in 1938 everybody believed that Lord Chamberlain was taking the right steps when he flew to Munich and had the agreement signed with Adolf Hitler and he came back to London waving that piece of paper saying, "Peace in our time."

Appeasers throughout history have been popular, very, very popular. I submit to you that the appeasement policies of the majority side in this House are leading us down the long slippery road to military conflict in Nicaragua by not doing anything about the Communist expansionist movement down there. They are building, by their own admission, a 600,000-man army and they plan, under a secret agreement with the Soviets, to bring Mig-21 and Mig-23 fighter-bombers in there and a lot of other weapons.

Now if we continue to follow policies of appeasement, you are going to have our kids down there fighting and dying because you will not face up to the fact that they are building a huge military arsenal and they told us they plan to expand that revolution throughout that area.

I thank the gentleman for yielding.

THE PROBLEM WITH PERMANENT NUCLEAR REPOSITORIES

(Mr. BILBRAY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BILBRAY. Mr. Speaker, in the next couple of days, in one of the bills, either the reconciliation or the CR, the Members of this House will be addressing the problem of a permanent nuclear repository.

Many of you should become alarmed not because Yucca Mountain, NV, is being the only site to be studied, but you will be receiving letters from me with maps showing you where those high-level nuclear trucks are going to be passing. Most of you in this room, except the gentleman from Alaska maybe, will be receiving trucks in the numbers of the thousands per month that will be passing through your States on your interstate highways through your communities endangering the lives of your citizens.

It is very popular to take a State like Nevada that has done so much and given so much of its land to Nellis Air Force Base, Fallon, the naval station, the Nevada test site, to decide that Nevada is fit for nothing but casinos, wasteland, and nuclear repository.

But look at it yourself from your own side: Your State will be endangered by the transportation of nuclear waste. I think you had better look at it very closely because I think your constituents will be looking at it very closely.

ENDANGERED SPECIES ACT AMENDMENTS OF 1987

The SPEAKER pro tempore. Pursuant to House Resolution 328 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 1467.

□ 1305

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 1467) to authorize appropriations to carry out the Endangered Species Act of 1973 during fiscal years 1988, 1989, 1990, 1991, and 1992, with Mr. LEVIN of Michigan in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose on Friday, December 11, 1987, the committee amendment in the nature of a substitute, printed in the reported bill was open to amendment at any point.

Are there further amendments to the bill?

Mr. JONES of North Carolina. Mr. Chairman, I move to strike the last word.

Mr. Chairman, we are now resuming consideration of H.R. 1467, the reauthorization bill for the Endangered Species Act. Last Friday, we dealt with several amendments and controversies. The bill is now open for amendment at any point.

We expect to have debate today on Mr. WATKIN'S delisting amendment and Mr. ORTIZ' sea turtle amendment. There may be other items raised as well.

Members may expect rollcall votes on two amendments and perhaps on final passage.

Mr. WEISS. Mr. Chairman, I want to express my strong support of H.R. 1467, a bill to reauthorize the Endangered Species Act through 1992. This act has been exceptionally effective in creating specific plans of action for the recovery of species listed as endangered and threatened.

The bill provides $307 million over fiscal years 1988 through 1992 for Federal endangered species programs. In addition, the bill amends the act to include new requirements for increased monitoring of species awaiting listing as either threatened or endangered; increased protection against the theft or destruction of endangered plants; and increased civil and criminal penalties for violators of the act.

Nearly 1,000 species are currently listed as threatened or endangered under the act. The increased funding levels provided for in this legislation, along with key provisions designed to improve the act's protections, will considerably aid our efforts to save these threatened plants and animals. I urge my colleagues to join in support of this urgently needed measure.

I also call on my colleagues to oppose a number of weakening amendments to this needed legislation. The most controversial of these amendments is the Ortiz amendment, which would put a 2-year moratorium on mandatory use of turtle excluder devices [TED's] in offshore waters of the Gulf of Mexico.

Turtle excluder devices are used to filter out turtles that might otherwise be caught in the nets of U.S. shrimp fishermen. The accidental capture and drowning of sea turtles in shrimp trawls is a serious problem which threatens the very existence of these endangered animals. In fact, the National Marine Fisheries Service [NMFS] estimates that 11,000 turtles drown annually in these shrimp nets.

The NMFS has developed an effective TED which has been shown to reduce sea turtle mortality without reducing, and at times actually increasing, shrimp catch. TED's are inexpensive, safe, and they have been scientifically tested in both the Atlantic and the Gulf of Mexico. I believe that these devices should be put into use as soon as possible. Therefore, I strongly oppose the Ortiz amendment, and I urge my colleagues to oppose it as well.

In addition, amendments may be offered to delist certain species under the Endangered Species Act. These amendments, concerning the gray wolf, the concho river snake, and the leopard darter, would preempt the administrative mechanisms that have been devised for listing endangered species. These amendments would set back the fight to protect these species. In addition, they would set a bad precedent by bypassing the act's scientifically established listing process.

I also urge the defeat of other weakening amendments that may be raised during the course of debate on this legislation. We need to preserve and improve the effectiveness of the Endangered Species Act, rather than picking it apart with exceptions for local interests. The result will be an enhanced outlook for many species that are struggling to survive and an improved ecosystem for all living creatures.

Once again, Mr. Chairman, I urge the support of my colleagues for H.R. 1467, which will strengthen our commitment to the preservation of the world's wildlife and natural resources.

Mr. GALLO. Mr. Chairman, I join with my colleagues in strong support of H.R. 1467, a bill to reauthorize the Endangered Species Act.

We have seen consistently strong support among the American people for the goal of this important program—to stop the accelerating loss of wildlife, plants, animals, and fish through a coordinated national commitment to research and the enforcement of tough laws to punish those who further endanger the well-being of wildlife already identified as threatened.

This bill authorizes $305 million over 4 years to continue these Federal efforts to protect various animals and other wildlife from extinction.

A great deal of progress has been made in this country to protect wildlife of all sorts since this law was first passed in 1973.

At the time this law was passed 14 years ago, the bald eagle, the symbol of our Nation, was gravely threatened. Today, the eagle is making a strong recovery everywhere.

This story of success has been repeated because of efforts to save the brown pelican, the peregrine falcon, the whooping crane, and many other species.

Much of the progress in this area has been done by private organizations and individual volunteers, with the help of our major universities.

This private effort is a prime example of the positive results that come from volunteer efforts by individuals who are committed to a cause that has been supported by a vast majority of the American people.

By creating new living environments and protecting existing ones, these dedicated individuals have been able to increase populations of a number of animals to the point where they are no longer listed as endangered.

The Federal program is designed to emphasize enforcement of laws to stop the killing of wildlife listed as endangered.

The legislation expands our protection of endangered plants, based on new information that has been gathered since passage of the current authorization legislation.

It increases the monitoring of species that are candidates to be included on the list of endangered species and increases fines and other penalties imposed on violators of the law.

In addition, this legislation reauthorizes existing Federal programs to identify and protect our valuable and irreplaceable natural diversity of life on Earth.

With this 4-year reauthorization, we can keep this important effort moving forward. This bill deserves the full support of all Members of the House.

Mr. GILMAN. Mr. Chairman, I rise in strong support of H.R. 1467, to authorize appropriations to carry out the Endangered Species Act. I would like to commend the gentleman from Massachusetts [Mr. Studds] for his fine work on this bill and for his commitment to the preservation of our endangered species, as well as the ranking minority Member, the gentleman from Alaska [Mr. Young], for his assistance on this bipartisan bill.

H.R. 1467 authorizes a total of $305.7 million over fiscal years 1988–82 to the Departments of Interior and Commerce, and USDA to carry out protection and preservation activities under the Endangered Species Act. In this time of fiscal restraint, this is a bill that is easy to support. In addition, this legislation is fiscally responsible by increasing various penalties for violating the Endangered Species Act and authorizes Commerce to use funds received from penalties to implement recovery plans. This also stresses the high priority this Congress has given to the preservation of our wildlife.

This is the most important wildlife legislation which we will be considering this year. The committee has provided us with a bill that will hopefully put a halt to the loss of wildlife plants and animals, allowing future generations to enjoy the beauty of our wildlife for years to come. Accordingly, I will vote against any amendments that will undermine the Endangered Species Program, including the amendment by the gentleman from Texas [Mr. Ortiz], that would postpone until 1990 the implementation of National Marine Fisheries regulations requiring shrimp nets in offshore waters of the Gulf of Mexico to be equipped with turtle excluder devices [TED's].

The National Marine Fisheries Service estimates that over 11,000 threatened and endangered sea turtles accidentally drown each year in shrimp trawls, 4,000 of which occur in the gulf. TED's have been extensively tested in offshore areas of both the gulf and South Atlantic and tests show that they have dramatically reduced the drowning of threatened and endangered turtles without causing loss of shrimp.

Mr. Chairman, I pride myself in being supportive of measures protecting our environment. Accordingly, I strongly support the reauthorization of the Endangered Species Act, the most important wildlife bill ever to be enacted by Congress, and will oppose any weakening amendments. I urge my colleagues to join me in voting for H.R. 1467.

The CHAIRMAN. Are there further amendments to the bill?

AMENDMENT OFFERED BY MR. WATKINS

Mr. WATKINS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. Watkins: Page 2, between lines 17 and 18, insert the following:
>
> (b) Exception to Listing.—On or after the date of the enactment of this subsection, the species Percina pantherina (leopard darter) may not be considered to be an endangered species or a threatened species under the Endangered Species Act of 1973.

Mr. WATKINS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

Mr. WATKINS. Mr. Chairman, the amendment I have before you today would not significantly affect any other congressional district but my own. My amendment simply removes the leopard darter from the threatened and endangered species list. The facts I have today prove beyond a shadow of a doubt that such action should occur.

When I first reviewed the material on Percina panterina, or the leopard darter minnow, compiled by the Office of Endangered Species in 1977, I strongly disagreed with the Agency's decision to list the fish as a threatened species. My study to date has revealed serious errors in fact, shallow analysis and improperly drawn conclusions on behalf of the biologists and ichthyologists whose advice the Office of Endangered Species sought in preparing its findings.

I found it interesting at the time that the staff of the Office of Endangered Species completely discounted the evidence presented by the U.S. Army Corps of Engineers and noted leopard darter biologist, Dr. Rex L. Eley. That evidence indicated the leopard darter is not a threatened species and that its existence is not threatened. The leopard darter was placed on the list because of opponents of a dam project. The project is no longer being considered as a viable project.

A water project is not why I am here today, but the reason I am here is simply the principle of this issue that has contributed to the likely demise of any potential economic development plans for this area, especially since all the facts point to the lack of a need for designating the leopard darter as threatened.

Over the last 10 years much of what was thought to be true about the leopard darter has been in gross error. Thus, this is my reason for coming to you today. I would like to present a portion of that evidence.

Point No. 1: Statements of biologists and ichthyologists used in preparing the Office of Endangered Species' original determination that the leopard darter is a threatened species admit that the habitat of the species is much more extensive and the population greater than originally thought.

Henry W. Robison, George A. Moore, and Rudolph J. Miller concluded in "Treatened Fishes of Oklahoma."

> Recent collection in Arkansas and Oklahoma has revealed a much wider distribution of leopard darters in the Little River system than in the headwaters of Mountain Fork River, as previously believed. Discovery of additional populations establishes the species more firmly in Oklahoma.

Robison also concluded in "Threatened Fishes of Arkansas," "* * * recent collecting has revealed a range much larger than previously believed."

Point No. 2: The Office of Endangered Species was wrong in concluding that portions of Glover Creek, Little River, and Mountain Fork River are "the only known streams still inhabitated by the species."

The above quotation was taken from the Agency's Designation of Critical Habitat. Appendix II of the Agency's conclusion also stated, "the fish is restricted to Glover Creek and the upper reaches of Little River and Mountain Fork."

At the time of designation, specimens of leopard darters had been collected in a tributary to Mountain Fork River in Polk County, AR (University of Oklahoma Museum of Zoology expedition, June 29, 1927); Boktukola Creek (Finnell, Jenkins, and Hall, July 8, 1955); Cow Creek (Finnell, et al., Aug. 3, 1955); Black Fork Creek (M. Curd, April 28, 1957); Six Mile Creek (Miller and Robison, June 19, 1970); Cedar Creek (W.F. Wade, April 3, 1972); and Big Eagle Creek (Army Corps of Engineers, Oct. 31, 1975), as well as numerous collections in Cossatot River. At least 35 specimens had been collected in Cassatot River.

Point No. 3: The Office of Endangered Species is wrong in concluding that leopard darters do not exist below the fall line, or in the coastal plain region of the Little River system in McCurtain County.

The conclusion that the species does not exist below the fall line was disputed by Gay Gannaway Ethridge, who wrote in her 1975 master's thesis for Northeastern Louisiana University:

> In this survey, leopard darters were collected, not in the upper, swifter portions of the river, but, instead, in the middle portion of the river, where it transforms from a clear mountain stream into a sluggish lowland stream.

Mrs. Ethridge collected 19 specimens at two locations on the Cossatot: Where Arkansas Highway 24 crosses the river and where Arkansas Highway 380 crosses the river. The 19 specimens were obtained in only 17 collections. Because of the extremely difficult nature of collecting leopard darters, this would indicate a very large population of the fish exists below the fall line.

A copy of Mrs. Ethridge's thesis, which was well-documented, is in the files of the Office of Endangered Species and was readily available for that Agency's study.

Point No. 4: The Office of Endangered Species was wrong when it concluded that leopard darters will not exist within impoundments or immediately below impoundments.

The U.S. Army Corps of Engineers has stated in its public information brochure, dated March 23, 1977:

> In recent (specimen collection) trips, District biologists have collected specimens in the floodpool of Broken Bow Lake and below Gillham Lake where it was thought by fish and wildlife agencies that the population would be eliminated by the dam.

Corps of Engineers biologists had collected at least seven leopard darters below the Gillham Dam after the impoundment was completed. This information has also been submitted to the Office of Endangered Species, and can be found in that Agency's files.

A spokesman of the Office of Endangered Species has indicated that his Agency does not believe the leopard darter could survive below an impoundment because (a) the dissolved oxygen content below the dam would not be adequate for propagation; and (b) cold water coming from the bottom of the lake and emptied into the stream below the dam would kill the species or would make the downstream area unsuitable for habitation.

The U.S. Army Corps of Engineers provided some useful information on this subject in its proposed final environmental impact statement on the now defunct proposed Lukfata Dam:

> It is unlikely that Lukfata Dam will reduce daily fluctuations in temperature and oxygen in Glover Creek significantly and certainly not to an extent that would be deleterious to aquatic life * * * The impoundment will lessen the effect of high flows and augment low flows which act as major disturbances and in this sense, Lukfata Lake will promote stability of the Glover ecosystem * * * The best available method for predicting the impact of Lukfata Lake on the community metabolism of Glover Creek is to determine the impact that other impoundments in the region have had on similar streams * * * Based on data collected by the Corps of Engineers, rates of primary production in the Mountain Fork River were found to be comparable above and below Broken Bow Lake and below the Broken Bow spillway. The source of the water below the spillway is at or near the surface of Broken Bow Lake. . . . It appears that the primary productivity of the Mountain Fork River above and below Broken Bow Lake is within the range of daily variability of primary productivity of primary productivity in the river prior to impoundment.

As indicated in the corps' assessment, temperature variation of the Glover River and other areas would be minimal because of multiple level outlets. However, the Office of Endangered Species has attempted to refute this conclusion in its proposed final rulemaking by referring to statements by Dr. Rex Eley, a corps biologist, that "other operating priorities may prevent operation—of the dam—to maintain optimum downstream temperatures."

In a telephone conversation, Dr. Eley said that the Office of Endangered Species had overstated his conclusion about downstream temperature effects. He indicated that the downstream temperatures would be upset to the point of impacting the leopard darter only when large quantities of cold water are released during major flooding conditions, and then only during the summer. He added that this would impact the leopard darter's habitat for only 4 miles downstream at maximum, and this could not be considered to be a serious impact.

Those familiar with the Glover River and the weather conditions in this area must conclude that such drastic flooding conditions on the Glover River during the summer months is an unlikely as the possibility that an additional impoundment on the Little River system would threaten extinction of the leopard darter.

Point No. 5: Because of the inherent characteristics of the leopard darter and the extreme difficulty of collecting specimens, failure to collect the species does not in itself indicate that the leopard darter's habitat does not include the areas sampled.

Because of the leopard darter's small size and tendency to live on the bottom of riffles and gravel bottoms of streams, it is not possible to merely seine a stream and expect to obtain specimens if the species habitates the area. Dr. Robison, on whose expertise and experience the Office of Endangered Species has drawn heavily in reaching its conclusion that the leopard darter is threatened, said in a telephone conversation that an area known to include the species could be sampled many times without success in obtaining a specimen, "You can't be sure you're going to get the animal," he said, "because he's there one time, and when you go back again, he's not there."

The Office of Endangered Species eliminated many areas of potential habitat from the critical habitat listing simply because no known specimens had been obtained from that area. There are two reasons why this is not necessarily a correct assumption: First, the difficulty in obtaining specimens even in known ranges of habitat, as mentioned earlier; and second, failure of most collectors to use adequate equipment while making collections. Also, many areas of potential habitat have not been sampled simply because of the inaccessibility of these areas in the rugged and often remote terrain of the Ouachita Mountains.

Because the leopard darter primarily lives on the bottom of streams and can quickly dart away from collections, an electric shocker is an essential piece of equipment for collection field trips. And because of the low concentration of dissolved solids in most of the Little River system, an extremely sophisticated shocker capable of transmitting a very strong electric charge is necessary. Most of the collection attempts have been made without the benefit of this vital equipment, leading some biologists, the Office of Endangered Species included, to conclude that leopard darters do not populate those areas where collection attempts have been futile.

Further, even those collection attempts made with the benefit of adequate equipment are not always successful because of the aforementioned inherent characteristics of the species. Hence, any determination that the habitat of the leopard darter does not include those areas where no successful collections have been recorded is an inaccurate assumption.

Point No. 6: The Office of Endangered Species used an inaccurate premise in concluding that the upper portion of Glover Creek contains the most populous and most stable habitat of the leopard darter.

Both the Office of Endangered Species and the biologists on whose date it drew the conclusion advanced the conclusion on the premise that the largest number of known specimens of the species have been collected in this area. While it is true that most known specimens have been collected in this area, these collections have resulted from the most extensive sampling taken from any stream or portion of a stream in the Little River system. The reason for the extensive sampling of Glover Creek has been primarily because of the now defunct proposed construction of Lukfata Dam and the resultant impoundment of this area. To advance the premise that the largest population of a species exists in an area simply because most of the collections have been taken in this area is inaccurate and unobjective, to say the least.

The only other extensive survey of the Little River system was made by Mrs. Ethridge, and that survey has revealed an apparently large population of leopard darters on the Cossatot River. Although the Office of Endangered Species has dismissed this area from its critical habitat findings because "for all purposes (the species is) gone" from the river (letter from Jerry L. Stegman, OES Regional Director, to District Engineer, Tulsa District of the Army Corps of Engineers, May 10, 1976), subsequent collections have revealed that the species continues to exist both above and below Gillham Lake after the dam was completed.

It can be assumed, however, that if surveys of other streams in the system were conducted as extensively as those in Glover Creek, additional large and viable populations might be found. To dismiss these other areas of potential habitat from the critical habitat finding simply because extensive surveys have not been made in those areas is extremely arbitrary.

Point No. 7: The Office of Endangered Species used an inaccurate premise that is not supported by factual data in concluding that the numbers and distribution of the leopard darter have been greatly reduced in recent years.

The Office of Endangered Species based its conclusion on the premise that construction of six impoundments on the Little River system has greatly reduced the number and habitat of the leopard darter. Yet, as stated earlier, this premise cannot be accepted because the species has been collected above the impoundments, in the floodpool of Broken Bow Lake and below the Gillham Dam.

The Office of Endangered Species has not pointed to any actual collection data proving that the numbers of the species have decreased. Indeed, no estimate of the population of the leopard darter has ever been made. As mentioned earlier, failure to collect cannot be relied upon in itself to prove that the species no longer populates a given area. Yet the collection data in recent years has actually extended the range and population of the leopard darter.

During the past two summers, additional darters have been found in Robison Fork of the Rolling Fork River in Arkansas. The leopard darter has now been found in five of the six streams feeding into the Little River. The Saline River is not the only river where darters have not been located.

A 1984 Oklahoma Department of Pollution Control confirmed that losses of sensitive species within the Little River Basin has not been significant in recent years when compared to 50 years of historic collection data.

In conclusion, the leopard darter continues to be found where the Office of Endangered Species claimed that the species could not survive. Areas which might include populations of the species have been excluded from the critical habitat listing simply because collections have failed to yield specimens. Other areas have been excluded which have never been sampled because of the areas' inaccessibility. The areas which have been listed in the critical habitat have been included simply because the most extensive surveys and collections have been made in these areas.

The agency has failed to cite any factual evidence that the number of the species has substantially decreased in recent years. No accurate estimate of the species' numbers have been advanced. The feeding, reproduction and other important characteristics of the species have not been determined and, therefore, there is no evidence from which to deduce what elements would be necessary to support a population and what regions would include these elements.

Because of these misleading, inaccurate and false assumptions, premises and conclusions, the Office of Endangered Species has failed to prove that the leopard darter is a threatened species. While it can be concluded that the species is rare, there is no evidence that it is threatened, endangered or that it might become extinct at some time in the future without Federal protection.

Finally, a few other additional facts that you might not be aware of regarding the darter minnow. To date, there are 144 different species of darters. I have been told that the leopard darter is the seventeenth or eighteenth mutation of a pure darter species. By the untrained eye and the majority of the time by the trained eye the leopard darter species can not be distinguished from the pure darter species from which it evolved—the black darter. In order to determine if a leopard darter is not a black darter it must be subjected to a close microscopic test of counting the gills. While the leopard darter is considered a threatened species, the black darter from which it evolved is not protected. I submit to you that if anything should be protected it should be the pure species and not the mutation of another. Furthermore, I ask you to consider the possibility that all of those black darters that can not be visually distinguished from the leopard darter may in fact be the same leopard darter.

Today, we have 425 species found in our country on the threatened and endangered species list. Without question, many of the species listed are deserving of this protection. I know many of you have gone through the frustration of trying to keep a species from being listed or to remove one that has already been listed. I want to point to a few statistics as to why you are not successful. From 1973-78, the Office of Endangered Species admitted that in only four cases the species was not in as much danger as was originally thought. The four were removed from the list. Since 1978, 21 petitions have been filed seeking the removal of 20 species from the list of over 400. Of those petitions, do you know how many have been successful in removing a species from the list? Only one petition has been successful.

My amendment allows the Congress the opportunity to send a message to the Office of Endangered Species that Members and many constituents are tired of the lack of response in trying to reach resolution where information has been gathered that contradicts the data that allowed for a species to be listed.

Mr. Chairman, Members of this distinguished body, I will appreciate your help, support and an affirmative vote for this amendment.

Mr. UPTON. Mr. Chairman, will the gentleman yield?

Mr. WATKINS. I yield to the gentleman from Michigan [Mr. UPTON].

Mr. UPTON. I thank the gentleman for yielding.

Mr. Chairman, the gentleman cites his personal experience. I noticed in a "Dear Colleague" and some other leaflets circulated around the House floor, the gentleman's former days of skinny-dipping.

Mr. WATKINS. Yes, that is correct.

Mr. UPTON. I would be curious to know if the gentleman still participates in that type of activity.

Mr. WATKINS. Well, I have not recently. I might say to my colleague, growing up as a kid out in the farming ranch lands, we used to go skinny-dipping in the creek, in the rivers, and that is why I said I had a very personal experience knowing these leopard darters exist in abundance. Some Members have kiddingly said, "This is a skinny-dipper amendment." I guess it is in some respects because I do have firsthand knowledge and experience swimming in the creeks, rivers, and lakes with the leopard darter.

Mr. UPTON. If the gentleman will continue to yield, as a Member of the House gym and one who uses the pool and now sees those signs saying, "Swimming suits are now required," and as one that served as Indian guides with the name Little Dipper and my brother was Skinny-Dipper, I would like to know whether the gentleman no longer skinny-dips because of the great preponderance of leopard darters that are still remaining in the great State of Oklahoma.

The CHAIRMAN. The time of the gentleman from Oklahoma [Mr. WATKINS] has expired.

By unanimous consent, Mr. WATKINS was allowed to proceed for 2 additional minutes.

□ 1315

Mr. WATKINS. Mr. Chairman, I wish to add the leopard darter is growing in number. They are multiplying, and they are numerous. You cannot find many streams without them in southeast Oklahoma. Let me say that during this holiday season, this holy time, sometimes I think our water is not quite as holy because of the leopard darter.

Mr. UPTON. Mr. Chairman, that is a very persuasive, and I will certainly support the gentleman's amendment.

Mr. WATKINS. Mr. Chairman, let me say in closing that I want to be serious about this, because I am sincere in what I am asking my colleagues to do. I ask the Members for their vote and I ask for their support this afternoon in removing the leopard darter from the endangered species list.

Mr. JONES of North Carolina. Mr. Chairman, I rise in opposition to the amendment to delist the leopard darter. I am not a biologist and neither is anyone else in this Chamber. The only endangered fish that most of us are familiar with are the sport fish that have the misfortune to bite on our hooks. None of us, therefore, have the professional background to make the complicated scientific value judgment as to what's an endangered fish and what isn't. Those types of technical scientific decisions should be left to the fish and wildlife experts in the U.S. Fish and Wildlife Service and National Marine Fisheries Service.

Maybe the leopard darter should be delisted. Maybe the scientific evidence justifies a delisting. If so, the law already provides a way to do it.

If people are dissatisfied with the listing of a particular endangered species, they should take advantage of the formal petition process that exists under the endangered species regulations and present their case to the Fish and Wildlife Service for delisting the species. If objective scientific data supports such a petition, the Fish and Wildlife Service can and will delist the species. This has already occurred for such well known species as the American alligator and the brown pelican.

No one has petitioned the agency to delist the leopard darter. That is the route that should be followed. Perhaps my friend from Oklahoma could be prevailed upon to file a delisting petition himself.

While the U.S. Fish and Wildlife Service may be well equipped to assess complicated and often contradictory biological information, we in Congress are not. During the 14 years that the Endangered Species Act has been in existence, Congress has never statutorily delisted a species. That is a tradition that we should keep, for if we make an exception for one species, we soon will be asked to do it for another species and another species and so on with no end in sight. We have empowered the U.S. Fish and Wildlife Service to deal with these issues and that is where these types of decisions should remain. I, therefore, urge my colleagues to vote against the amendment to delist the leopard darter because I believe that it establishes a very bad precedent.

Mr. YOUNG of Alaska. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, it is rare that I rise in opposition to my good chairman, the gentleman from Massachusetts [Mr. STUDDS] and the gentleman from North Carolina [Mr. JONES], but as one of the originators, as they were, of the Endangered Species Act, let me say that when we first structured this act, we had thought that this would be an act to protect and perpetuate species.

After due studies, consultations, and, very frankly, with considerations of human beings, from the time of the passage of the act it has been misused, abused, and used as a tactic by those who oppose many worthwhile human projects to delay those projects. A case in point was the snail darter. They delayed and delayed and delayed the construction of a dam because it was supposed to be endangered. That was not the leopard darter; it was the snail darter. They probably are cousins. They are both about that long.

Lo and behold, after 11 years of delay, there was in fact a finding of an abundance of snail darters all over the countryside. They found snail darters in every stream, above and below, as the gentleman has said. The Office had no right to put this leopard darter on the endangered species or the threatened species list, none whatsoever. They did it without any scientific research.

They also tried to do it with the mud turtle. Their so-called biologist went out to an area in Missouri, and they looked at the mud turtle. Lo and behold, there were no mud turtles in this lake. The lake had gone dry. They did not know why there were no mud turtles there, so they put it on the endangered species list. When it rained, the turtles came back out of the mud. That is why they call them mud turtles.

So, I am suggesting that what the gentleman is doing is bringing to this Congress what is being used by those in the environmental community as a delaying tactic, an impeding tactic, and misusing the act.

I do not know all the facts about the leopard darter, but I do know this: From information I have gathered and even from a study that has been authorized, a study that, by the way, put money in the pockets of the biologists—that is all it really does—there is an abundance of leopard darters. They live in impoundment areas. There have been dams built and they have got to a point now where there is an overabundance of the species. In no way, shape or form should this ever have been put on the list.

I am going to support the gentleman's amendment because he is bringing home to the Congress the facts about how this act is being misused and abused by certain environmental groups and, yes, even by the Office that sets these species on the list.

Later on I am going to bring up something else as we debate these amendments.

As I say, this is not just about this fish. We have something called the locoweed. We used to dig it up, and it is called the locoweed because it made all the cows and horses crazy. It is a weed, and somebody decided it should be on the endangered species list about 8 years ago. We got that lifted.

We have to bring the attention of those people who make these decisions to the fact that they cannot do it willy-nilly, and how they make those decisions affects the human beings of this Nation.

Later on the gentleman from California [Mr. PACKARD] will offer an amendment, and I want the Members to listen to that. It is an amendment to try to at least let this agency take into consideration the human involvement. Right now they are not doing that.

So, Mr. Chairman, I urge support of this amendment, and I would respectfully suggest that, if nothing else, it is time that the agency recognizes that they just do not do these things on the word of one biologist without the proper research. They should do the research and then put in on the endangered species list, not put it on the endangered species list and then do the research.

Mr. STUDDS. Mr. Chairman, I move to strike the last word and I rise in opposition to the amendment.

Mr. Chairman, I have to suggest to my colleagues that notwithstanding the beguiling warmth of the gentleman from Oklahoma and the usual color of the gentleman from Alaska, this is not a particularly sound activity for the House to be engaged in.

My good friend, the gentleman from Alaska, probably knows as little about this particular critter as I do or any other Member of the House, with the exception of the gentleman from Oklahoma.

Let me say briefly that the argument here is not over the leopard darter. The real question faced by the House is whether or not this is a responsible procedure for us to follow in any case of controversy or question under the act. First, Members should know that there are adequate mechanisms in law for the delisting of species which someone has reason to think ought to be delisted, and there are several such mechanisms.

First, there is an administrative procedure whereby any interested person can petition the Fish and Wildlife Service to remove a species from the list. That has not been pursued in this case.

Second, there is a review under the law that the Fish and Wildlife Service must conduct every 5 years for every species that is on the list.

Finally, in the event a project of some kind may be blocked or is threatened to be blocked by the existence of a species on the list, there is a provision whereby an exemption from the act can be applied for. That is not the case here. In fact, the gentleman from Oklahoma is not making a case at this moment that a project is being blocked.

In fact, in the case of the leopard darter, shortly after it was first listed, those who objected to it did file a court challenge and withdrew it subsequently because they themselves could not make their case.

The administrative procedures that have been carefully crafted by this Congress are in law and have not been used by those who believe this species should be delisted. They have never petitioned the Fish and Wildlife Service to delist the darter, nor has an exemption been applied for under the provisions of the law which allow them to do that.

The Fish and Wildlife Service and the States of Oklahoma and Arkansas have listed this species as threatened, and the Members should know that both Oklahoma and the U.S. Fish and Wildlife Service are currently conducting the mandatory 5-year review of the status of the species. That report is due in the summer of 1988.

May I also suggest to Members that the endangered species delisting should be left to scientists with biological expertise and not to Members of Congress, who ought to have at least enough humility, if only barely, to acknowledge the fact that whether the gentleman from Oklahoma is right or wrong in this particular instance, there are few bodies on the face of the Earth less competent to make that judgment than this one. We are not comprised for the most part of scientists who have spent a good many years studying this creature or any other creature.

Mr. YOUNG of Alaska. Mr. Chairman, will the gentleman yield?

Mr. STUDDS. Certainly, I yield to the gentleman from Alaska.

Mr. YOUNG of Alaska. Mr. Chairman, I am in agreement with what the gentleman is saying. My problem, as I mentioned in my statement, is that we are not allowing the scientists the time, or the scientists do not take the time, before they put the species on the list.

I go back to the mud turtle. That mud turtle, by one person's action cost a company tremendous amounts of money that they put up to prove that they were in the mud.

Why do they not make them do the research first and then put it on the list?

Mr. STUDDS. This species has been on the list, I say to the gentleman, for 10 years. This is not the mud turtle; it is the leopard darter.

Mr. YOUNG of Alaska. I realize that.

Mr. STUDDS. I know that.

Mr. Chairman, let me say finally to the Members, as the gentleman from North Carolina has indicated, this is not a precedent, it seems to me, that the House wants to engage in. Not once in the 14 years of this act by the Congress, by statute, attempted to delist a species.

☐ 1325

Such an undertaking would seem to me to constitute an act of presumption of scientific knowledge and expertise on our part that we would be hard pressed to justify.

As I said before, with all due respect and affection to the proponent of the amendment, and of course to the distinguished gentleman from Alaska, this is a course of action I think the House should not take.

Miss SCHNEIDER. Mr. Chairman, I move to strike the requisite number of words, and I rise in strong opposition to the amendment to statutorily remove the leopard darter from the endangered species list. Certainly as the previous speaker and my colleague has already delineated, it is a move in the wrong direction because Congress has never delisted a species in the 14-year history of the Endangered Species Act, and I think this could be a very bad precedent to set.

I think that the administrative mechanisms which do exist for delisting species are adequate, but I also want to point out that anyone is allowed to file a petition to delist an endangered or threatened species if the species is recovered or if the biological data used in the listing process is alleged to be incorrect.

In addition to that, the Fish and Wildlife Service is required to periodically review the status of all listed endangered and threatened species, and such review, as has been pointed out, is currently underway for the leopard darter and it will be completed next year.

Furthermore, the opponents to the darter have never initiated the administrative delisting petition process, and so now to statutorily delist the darter would only reward those who wish to sidestep this process. Delisting would be left to the Federal and State agencies with the scientific expertise who administer endangered species programs.

There is no question that the evaluation is highly technical. It is complex, scientific, and biological, and it should not be put into the hands of Congress. It should be entrusted to those with proven expertise in biology and wildlife conservation.

There is no question in my mind that such decisions have a time and a place, and we have in place right now a delisting process which works.

In addition to that, the endangered species bill recently reported by the other body, S. 675, actually improves this process by requiring that recovery plans which are developed after listing include more specific critieria for delisting and specific steps and the time necessary to achieve those recovery criteria.

Mr. Chairman, I urge all my colleagues to let the delisting process remain in the hands of the experts and reject this amendment.

Mr. THOMAS of Georgia. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, let me first say I certainly rise in reluctant opposition to my good personal friend, the gentleman from Oklahoma, WES WATKINS, and to differ with my other good friend, the gentleman from Alaska, Mr. YOUNG, but I would also like to associate myself with the remarks of the gentlewoman from Rhode Island, Miss SCHNEIDER, and my good former chairman, the gentleman from North Carolina, Mr. JONES, and my subcommittee chairman, the gentleman from Massachusetts, Mr. STUDDS.

Mr. Chairman, I think the pertinent points have been made that we do have a process set up, perhaps the single most important mechanism that we have ever put in place to protect endangered species in the biological diversity of this planet is this very act that we are talking about or discussing and considering possibly changing here for the first time. I think it is a terribly dangerous precedent.

I think the important point has been made that there are absolute endless mechanisms set up and those that work for delisting the species, which should be followed.

The point has been made that there is a study underway being carried out by the very State agency officials at this time to determine the status of this little fish.

Let us take just a moment and look at this little fish. There is a book here which pictures some of the various species of the darter. They are highly diversified, highly specialized, highly colorful creatures, and just like every other living species of plant or animal on the face of this Earth, they deserve a right to exist and to survive.

You know, we come here often and talk about the fact that this generation of Americans in charge of this country's status today, what it has inherited, its economy and security and all of these things, that we have no right to carry on to forward generations the indebtedness that results from our mismanagement of economic policy.

Well, let me submit to this Congress, and think very seriously about this, neither do we have the right to sit here without being properly educated and skilled in the profession and make the decision that some species of animal plant that we have inherited from the Creator of all life, that will not be here for future generations of Americans, either.

Mr. Chairman, I urge the Members of Congress to think hard about that, and I urge that they oppose this amendment by my good friend, the gentleman from Oklahoma [Mr. WATKINS].

Mr. WATKINS. Mr. Chairman, I move to strike the requisite number of words.

The CHAIRMAN. Without objection, the gentleman from Oklahoma is recognized for 5 minutes.

There was no objection.

Mr. WATKINS. Mr. Chairman, I would like to make the point to my colleagues, I have studied this species for 10 years. For 10 years I have collected important data. I will not belabor you with a great deal more of the discussion, but I have 10 pages of documentation that I will enter into the RECORD. However, I think it is wrong for the Congress to subordinate itself to any agency. I do not think the Congress should take the lead when any agency is wrong. Some of us have as much knowledge, and maybe more so, than they have.

I think it is time that we sent a message.

Let me talk about the procedure, in answer to the question of the chairman. To my colleagues who may be concerned and have a question to procedure.

Since 1978, there have been 20 petitions filed trying to remove 20 species from the list of over 400 endangered species. Only one, my colleagues, only one have they yielded to repealing by petition. They have refused to take action and refused to admit that they have been wrong. I think it is time for the Congress to stand up and say we know that people can be in error. We know that we are not 100 percent pure, that all of us can make mistakes and, my colleagues, OES made a mistake and they were wrong in putting the leopard darter on that list.

Mr. Chairman, I ask for a vote.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Oklahoma [Mr. WATKINS].

The question was taken; and on a division (demanded by Mr. WATKINS) there were—ayes 17, noes 7.

RECORDED VOTE

Miss SCHNEIDER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 136, noes 273, not voting 24, as follows:

[Roll No. 489]

AYES—136

Akaka
Alexander
Annunzio
Anthony
Applegate
Armey
Badham
Baker
Ballenger
Bartlett
Barton
Bevill
Boggs
Boucher
Brooks
Broomfield
Brown (CO)
Burton
Byron
Callahan
Chappell
Cheney
Clarke
Coelho
Coleman (TX)
Collins
Craig
Crane
Daniel
Dannemeyer
Daub
de la Garza
DeLay
Dickinson
Dornan (CA)
Downey
Duncan
Dymally
Edwards (OK)
Emerson
English
Fields
Ford (TN)
Frost
Gekas
Gray (IL)
Hall (TX)
Hammerschmidt
Hansen
Hastert
Hatcher
Hayes (LA)
Hefley
Hefner
Herger
Holloway
Hopkins
Howard
Hoyer
Huckaby
Hunter
Inhofe
Jones (TN)
Kasich
Kyl
Lancaster
Leath (TX)
Lewis (CA)
Lightfoot
Livingston
Lloyd
Lott
Lowery (CA)
Lujan
Luken, Thomas
Lukens, Donald
Manton
Marlenee
Martin (NY)
Martinez
McCurdy
McEwen
Michel
Molinari
Mollohan
Montgomery
Murtha
Myers
Natcher
Nichols
Ortiz
Oxley
Packard
Parris
Pashayan
Perkins
Price (IL)
Quillen
Rhodes
Robinson
Rogers
Rostenkowski
Roth
Sabo
Schulze
Shumway
Shuster
Skeen
Skelton
Slaughter (VA)
Smith (IA)
Smith (NE)
Smith (TX)
Solomon
Stallings
Stangeland
Stokes
Stratton
Stump
Sundquist
Sweeney
Swindall
Tauzin
Taylor
Upton
Vander Jagt
Visclosky
Volkmer
Vucanovich
Watkins
Wheat
Whittaker
Whitten
Wilson
Wise
Young (AK)

NOES—273

Ackerman
Anderson
Andrews
Aspin
Atkins
AuCoin
Barnard
Bateman
Bates
Beilenson
Bennett
Bereuter
Berman
Bilbray
Bilirakis
Bliley
Boehlert
Boland
Bonior
Bonker
Borski
Bosco
Boxer
Brennan
Brown (CA)
Bruce
Bryant
Buechner
Bunning
Campbell
Cardin
Carper
Carr
Chandler
Chapman
Clay
Clinger
Coats
Coble
Coleman (MO)
Combest
Conte
Conyers
Cooper
Coughlin
Courter
Coyne
Darden
Davis (IL)
DeFazio
Dellums
Derrick
DeWine
Dicks
Dingell
DioGuardi
Dixon
Donnelly
Dorgan (ND)
Dreier
Durbin
Dwyer
Dyson
Early
Eckart
Edwards (CA)
Erdreich
Evans
Fascell
Fawell
Fazio
Feighan
Fish
Flake
Flippo
Florio
Foglietta
Foley
Ford (MI)
Frank
Frenzel
Gallegly
Gallo
Garcia
Gaydos
Gejdenson
Gibbons
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Gradison
Grandy
Grant
Gray (PA)
Green
Gregg
Guarini
Gunderson
Hamilton
Harris
Hawkins
Hayes (IL)
Henry
Hertel
Hiler
Hochbrueckner
Horton
Houghton
Hubbard
Hughes
Hutto
Hyde
Ireland
Jacobs
Jeffords
Johnson (CT)
Johnson (SD)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Konnyu
Kostmayer
LaFalce
Lagomarsino
Lantos
Leach (IA)
Lehman (CA)
Lehman (FL)
Leland
Lent
Levin (MI)
Levine (CA)
Lewis (FL)
Lewis (GA)
Lipinski
Lowry (WA)
Lungren
Mack
MacKay
Madigan
Markey
Martin (IL)
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McDade
McGrath
McHugh
McMillan (NC)
McMillen (MD)
Meyers
Mfume
Mica
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Moakley
Moody
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Nagle
Neal
Nelson
Nielson
Nowak
Oakar
Oberstar
Obey
Olin
Owens (NY)
Owens (UT)
Panetta
Patterson
Pease
Pelosi
Penny
Petri
Pickett
Pickle
Porter
Price (NC)
Pursell
Rahall
Rangel
Ravenel
Ray
Regula
Richardson
Ridge
Rinaldo
Ritter
Roberts
Roe
Rose
Roukema
Rowland (CT)
Rowland (GA)
Roybal
Russo
Saiki
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schneider
Schroeder
Schuette
Schumer
Sensenbrenner
Sharp
Shaw
Shays
Sikorski
Sisisky
Slattery
Slaughter (NY)
Smith (FL)
Smith (NJ)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Spence
Spratt
St Germain
Staggers
Stark
Stenholm
Studds
Swift
Synar
Tallon
Tauke
Thomas (CA)
Thomas (GA)
Torricelli
Traficant
Traxler
Udall
Valentine
Vento
Walgren
Walker
Waxman
Weber
Weiss
Williams
Wolf
Wolpe
Wortley
Wyden
Wylie
Yates
Yatron
Young (FL)

NOT VOTING—24

Archer
Bentley
Biaggi
Boulter
Bustamante
Crockett
Davis (MI)
Dowdy
Espy
Gephardt
Hall (OH)
Jenkins
Kemp
Kolter
Latta
Moorhead
Pepper
Rodino
Roemer
Skaggs
Solarz
Torres
Towns
Weldon

□ 1340

The Clerk announced the following pair:

On this vote:

Mr. Boulter for, with Mr. Rodino against.

Mr. NAGLE, Mr. PICKETT, Mrs. SAIKI, Messrs. SCHAEFER, PICKLE, DWYER of New Jersey, RANGEL, HORTON, ANDREWS, ROBERT F. SMITH, GRAY of Pennsylvania, RUSSO, and FAZIO, Mrs. KENNELLY, and Messrs. ROWLAND of Georgia, GARCIA, FLIPPO, FEIGHAN, and BENNETT, and Ms. OAKAR changed their votes from "aye" to "no."

Mr. CRAIG, and Mrs. VUCANOVICH changed their votes from"no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

□ 1355

AMENDMENT OFFERED BY MR. ORTIZ

Mr. ORTIZ. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ORTIZ: Page 7, line 9, strike out "inshore areas." and insert "all inshore areas and in the offshore areas of the Gulf of Mexico.".

Page 7, lines 22 and 23, strike out "in inshore areas," and insert "in all inshore areas,".

Page 7, line 25, strike out "effect." and insert "effect) and in the offshore areas of the Gulf of Mexico.".

Page 8, line 1, after "inshore areas" insert "and the offshore areas of the Gulf of Mexico".

Page 8, line 7, strike out "$1,500,000" and insert "$3,000,000".

Mr. ORTIZ (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

(By unanimous consent, Mr. ORTIZ was allowed to proceed for 2 additional minutes.)

The CHAIRMAN. The gentleman from Texas [Mr. ORTIZ] is recognized for a total of 7 minutes.

Mr. ORTIZ. Mr. Chairman, my amendment is very simple. It provides a 2-year delay in the implementation of regulations requiring the use of turtle excluder devices, commonly called TED's, by shrimpers in the Gulf of Mexico. It is an extension of a delay that has already been provided for those shrimping in inshore waters. All I am asking my colleagues is to be fair.

I strongly believe that a 2-year delay in the enforcement of the TED regulations in the Gulf of Mexico is both fair and necessary. Passage of my amendment by this House is the only acceptable and equitable solution for a problem that has been brewing for the shrimp industry for the last year and a half.

I believe that the Endangered Species Act is one of the most important pieces of environmental protection legislation ever enacted. I have consistently supported the goals of the Endangered Species Act to protect our plant and animal life and continue to do so.

I must stress that my amendment does not in any way weaken the Endangered Species Act. My amendment is strictly as extension of a provision already approved by the Merchant Marine and Fisheries Committee.

If my amendment is enacted, the sea turtle will continue to be protected by the full force of Federal law. Any shrimper, or anyone else for that matter, who takes an endangered sea turtle is still subject to fines, which under current law is $10,000 and may be increased to $25,000 in the near future. Any violator is also subject to criminal prosecution under the Endangered Species Act.

My amendment does not exempt the shrimping industry from the Endangered Species Act. My amendment does not stop protection of the turtle under the Endangered Species Act.

Many of you are familiar with regulations issued this past summer by the National Marine Fisheries Service which require shrimpers in the Gulf of Mexico and the South Atlantic to use equipment called turtle excluder devices or TED's. These devices are designed to protect endangered sea turtles from being incidently caught in shrimp nets.

The shrimp industry is adamantly opposed to these regulations at this time and for many good reasons.

These regulations, which could cost the shrimping industry millions of dollars and completely put them out of business, are based on assumption and extrapolation.

Opposition to immediate implementation of the TED regulations stem from concern that the regulations will have a devastating impact on the shrimping industry without being fully justified.

Shrimpers contend that TED's are unsafe for crew and will cause up to a 30-percent loss of catch. This loss in catch alone translates to a loss in gross catch revenue of $30,000 to $45,000 per vessel. This is a matter of great concern since these regulations, which could cause a multimillion-dollar economic loss in Gulf States, were issued on the basis of data that is incomplete and sketchy at best.

The Merchant Marine and Fisheries Committee recently adopted an amendment offered by the chairman of the committee to delay for 2 years the implementation of TED regulations for inshore waters. This delay was considered necessary because of lack of adequate research regarding sea turtles and the use of TED's and the need for additional TED testing during actual shrimping operations.

These same inadequacies are overwhelmingly apparent for offshore waters in the Gulf of Mexico. The situation is no different in the inshore waters than it is in many areas of the Gulf of Mexico.

There have been limited studies of sea turtle biology in the offshore waters of the Gulf of Mexico, there has been inadequate and inconclusive testing of the TED, and there has been no NMFS TED testing conducted in the Gulf of Mexico under actual shrimping conditions with TED's in all nets. I ask you. What is the difference?

Let me say that in conversations with representatives from the National Marine Fisheries Service, I have been informed on more than one occasion that there are no real or accurate estimates of any of the sea turtle populations in the Gulf of Mexico. Furthermore, NMFS reports state that stranding data cannot be accurately used to determine sea turtle population because of contradictory evidence.

This is particularly distressing since the regulations were issued on the basis of extrapolated data that assumed that sea turtles are found in uniform quantities throughout the Gulf of Mexico. Sufficient studies have not been conducted to determine the actual rate of occurrence of the endangered sea turtle in inshore or offshore waters of the Gulf of Mexico. Because current patterns, bottom conditions, and food supply vary greatly in the gulf, it should not be assumed that sea turtles occur with the same frequency throughout that body of water.

Furthermore, in 16,785 observer hours in the Gulf of Mexico, only three endangered sea turtles were found drowned in shrimp trawls. We are not certain that those three turtles were actually killed by shrimpers. No cause of death studies were done and it is entirley psssible that the trutles were already drowned by the time they were picked up in shrimp nets. This is especially conceivable considering that well over half of stranded sea turtle deaths are attributable to plastic ingestion.

In many areas of the gulf, not one endangered sea turtle was caught or found drowned. In waters off the coast of my congressional district, NMFS documented over 1,000 observer hours and caught a grand total of zero drowned endangered sea turtles. Requiring shrimpers in these areas to pull TED's without further research is not justified. The current statistics simply do not prove the assumption that many thousands of endangered sea turtles are killed each year by drowning in shrimp trawls.

Supporters of the regulations often claim that NMFS has been working on TED's for the shrimp industry for over 10 years and have been extensively tested in most offshore areas of the gulf. That is simply not correct.

Despite allegations to the contrary, TED testing by NMFS has been inadequate. There have been zero hours of testing of the NMFS TED in more than half of the 21 statistical zones in the entire gulf where bottom conditions vary greatly. Furthermore, NMFS has conducted less than 100 total hours testing of the other four certified TED's for turtle exclusion, and zero hours of testing for performance on shrimp boats under actual fishing conditions.

In my congressional district, which is home to one of the largest shrimping fleets in the Nation, NMFS conducted zero hours of TED testing of any kind. I do not believe it is fair to require these shrimpers to use devices that have not ever been tested in their shrimping grounds.

In addition to inadequate testing of all certified TED's, crew safety is of paramount concern. Officials of the marine insurance industry have testified that the proposed metal TED's create a hazard to the fishermen that cannot be justified by the alleged efficiency of the device. Furthermore, in a time of skyrocketing insurance costs for the fishing industry, at least one insurance surveyor from my congressional district believes that P&I losses could, and no doubt will, arise if the TED becomes a required portion of the trawling array.

The implementation of the NMFS TED regulations will put many shrimpers out of business due to anticipated loss in catch with the use of a TED. They cannot sustain the estimated $45,000 per vessel loss in gross catch revenue. With approximately 13,000 shrimp vessels and boats operating in the Gulf of Mexico, even the most simple calculations indicate astronomical losses to the area. The economic loss in Texas alone due to the use of TED's has been conservatively estimated to be over $400 million in the first year. The loss gets worse when you add the totals for other Gulf States.

Contrary to popular opinion, TED's are not cheap. The cost of the least expensive installed soft TED is approximately $250. The NMFs TED, on which most testing has been conducted, will cost about $550 per TED to be installed.

On small boats which trawl with two nets, four installed TED's are required per boat. The larger gulf vessels require eight installed TEDs. Based on these figures, the initial capital cost associated with purchasing the TED for all shrimpers in the Gulf of Mexico can range from a low of $18 million to a high of $40.7 million. Replacement costs of an equal level can be expected at regular intervals.

Furthermore, 34,438 people are directly employed by the gulf shrimp industry on board boats and vessels. This figure does not include indirect employment derived from unloading houses, processing plants, wholesalers, retailers, door and net shops, ice plants, supply houses, shipyards, machinery and equipment suppliers, repair shops and fuel docks.

In States with relatively high unemployment rates already hard hit by the drop in oil prices, the decline in agriculture and various other fiscal problems, it does not make sense to cause further economic decline on the basis of incomplete and unsubstantiated data.

The economy in the States that border the Gulf of Mexico can not sustain the loss of the shrimping industry.

I feel at this time that I am obligated to refute some of the erroneous information that I know that many of you have received in the last few days in opposition to my amendment.

First and foremost, let me say that I have never and will never attempt to deliberately mislead any of you. I have long been a supporter of protection of endangered species and would not have taken this fight on if I had in any way believed that the shrimp industry is the primary cause of the decline in the endangered sea turtle population.

Just last year, I received the Texas Conservationist Legislator of the Year Award for my work on behalf of endangered species in south Texas. My commitment has not changed. However, the shrimp industry is not the main problem.

Just this week I received a flyer entitled "Eight Reasons to Oppose the Ortiz Amendment to the Endangered Species Act."

First, reason was that shrimp trawls kill endangered turtles. It is documented that the primary cause of the decline in the endangered sea turtle is loss of habitat and widespread poaching of nesting grounds. The shrimp industry is not the primary cause! That assertion cannot be proved.

Second, reason to oppose my amendment was that NMFS has the right solution which produces benefits for shrimp fishermen. I have not ever heard one shrimp fisherman support the TED. From coast to coast there is universal opposition by the industry.

The shrimp industry is the most innovative fishery in the United States. In the last 30 years it has risen to the height of the most valuable fishery in the United States without one red cent of Federal money. If TED's were the solution, this highly advanced fishery would not so adamantly and universally oppose the TED.

The third reason stated to oppose my amendment was the allegations that TED's are already successfully in use. According to supporters of the regulation, in the first area where TED's have been required, they have been an unqualified success. To that, I say no way.

I have received a letter from a shrimp fisherman out of Cape Canaveral, FL, indicating major problems with the TED in that area.

One fisherman stated, and I quote, "I do a lot of shrimping off the Cape Canaveral area for white shrimp until this year. Knowing of the clogging problems, with the Morrison 'soft' TED with shell, tree stumps, plastic, and fish gilling in the webbing, made a believer out of me. I knew I could not survive white shrimping, so I regeared my trawler for rock shrimping where TED's are not required."

The shrimpers using TED's are having problems, don't be fooled.

The fourth objection to my amendment was based on the statement that TED's do not affect shrimp catch rates and that TED-equipped nets actually caught 7.2 percent more shrimp.

Who are they kidding. If TED's caught more shrimp, the shrimpers sitting in the gallery today hoping that you will grant them the opportunity to survive would be at home right now trying to catch that 7.2 percent additional shrimp with the TED.

Testing conducted by shrimpers in my congressional district indicates a great shrimp loss. The following results were recorded after 60 days of testing of soft TED's installed on 3 test vessels by Sydney Herndon of Herndon Marine Products of Arkansas Pass and Corpus Christi, TX.

According to his report, tests showed that the three standard nets all caught within 1 pound of each other. The soft TED-equipped net lost between 10-20 percent each tow depending on the poundage caught. It was observed that as the poundage of the catch increased the higher the percentage of shrimp loss in the TED equipped net. The percentage of shrimp loss decreased as the poundage of the catch decreased. I quote Mr. Herndon who said, "The losses we see now lead to the complete destruction of the U.S. shrimp industry."

Point number five of the supporters of TED use is that TED's are inexpensive. I've already talked to you about the costs ranging up to $40 million in initial outfitting of the boats and vessels with TED's. If you know where the shrimpers in the gallery can purchase a $12 TED, I am sure they would like you to let them know. It can't be done.

TED's save fuel and valuable fisheries. Says who? The soft TED destroys the popular bull redfish, the choice of the sports and commercial fishermen. Other bycatch claimed to be eliminated by the TED such as flounder is used to feed hungry fishermen families in my district. Inedible bycatch is used to supply food to other species in the ecosystem.

Supporters of the TED regulations say that TED's are safe. I have already read part of a letter to you from an insurance company in my district indicating that safety is a problem and that insurance costs will definitely increase. Just because a soft TED has been invented does not mean it will work and does not mean it will be used. Even the soft TED's bulk and extra weight can cause a problem on board a shrimping vessel in the frequently choppy waters of the gulf.

Opponents of my amendment say that TED's have been extensively tested in the Gulf of Mexico. I have already told you of the statistics. I don't know about you, but I don't think zero hours of TED testing in my district translates into extensive testing.

The final reason listed by those in opposition to my amendment is that program-specific amendments are harmful to the Endangered Species Act and all the necessary mechanisms for exemptions and consideration of public needs are provided. If that were so, we would not be here today. I bet there are few of you who have not encountered problems associated with the Endangered Species Act. If shrimpers needs had been taken into full consideration, this Chamber would not be involved in this debate.

This should not be an industry versus environmentalists debate. The shrimpers are environmentalists. They are also small, mostly family-owned and -operated businesses trying to survive.

My amendment is very simple. It is actively supported by the leadership of the Texas, Louisiana, Mississippi, Alabama, and western Florida congressional members. It is supported by the State and local governments of the Gulf States. We can't all be wrong.

A vote in favor of my amendment is a vote for jobs, a vote for safety, a vote for consumers, a vote for small business, a vote for labor, a vote for minority employment, a vote for our Nation's balance of trade, and most importantly, a vote for fairness.

A 2-year delay in TED regulations for shrimpers in the Gulf of Mexico is all we ask.

I urge a "yes" vote on the Ortiz amendment.

Mr. YOUNG of Alaska. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I rise in support of the amendment that is being offered and urge its adoption by this body.

Mr. Chairman, the purpose of this amendment is quite simple. It is to avoid penalizing a group of fishermen for doing their job. There is similar language in the bill which protects fishermen in the inshore waters. This amendment would extend that same protection to fishermen in offshore waters. It is not designed to destroy an endangered species, it is not designed to dismantle the Endangered Species Act, it merely provides a 2-year delay to ensure that we have properly analyzed all data involving the mortality of sea turtles.

None of us are attempting to seek the destruction of all sea turtle populations in the Atlantic Ocean and the Gulf of Mexico. That is the farthest thing from our minds. At the same time, as every fisherman knows, you cannot go out and catch a species of fish without incidentally taking other marine animals. This is a fact of life; it is a fact of the operations of fishing gear which has been true for years and years. The fishermen involved are very careful; they try to avoid catching sea turtles. It does them no good to have to remove sea turtles—whether they be dead or alive—from their nets. It does them no good to catch sea turtles and not catch shrimp. When turtles are removed from the nets, the fishermen make every effort to return them to the sea alive, including giving them artificial respiration. In fact, the National Marine Fisheries Service has published regulations complete with diagrams demonstrating how fishermen are to provide artificial respiration to turtles. But, this doesn't seem to be enough for those who seek to further encumber our Nation's fishing industry.

Let's look at the facts. The amendment will delay certain regulations for 2 years to analyze what kind of data we have on hand. These regulations requiring the use of turtle excluder devices or TED's have been put in place with no guarantee that they will work. Will they cost the fishermen money to install? Yes. Will they reduce the amount of shrimp taken in fishermen's nets? Yes. Will they save sea turtles? Nobody knows the answer. In fact, the National Marine Fisheries Service has not conducted any major analysis of sea turtles that have been found washed up on beaches to determine what was killing them. Could it be shrimp fishermen? That is a possibility. Could it be other sources? That is a more likely possibility. The National Marine Fisheries Service just has no good data on what is causing the mortality of sea turtles and cannot guarantee that the mortality will be reduced if fishermen are required to use TED's. But rather than trying to figure out what the cause of the problem is, the National Marine Fisheries Service, with the full support of the environmental community, has taken the easy way out. They put the burden on the fishermen.

Mr. Chairman, there is no reason for some fishermen to have to comply with these new regulations and other fishermen to be exempted from them. There is no reason to impose a costly regulation on commercial fishermen when there is no data available to guarantee that that regulation will work. The facts just don't exist to completely support the regulations which will be imposed by the National Marine Fisheries Service and I urge all Members to join me in supporting Mr. ORTIZ' amendment.

Mr. Chairman, people not supporting this amendment fail to recognize what is occurring on the high seas by the Mexican Government and the Mexican fishermen themselves. If we are to protect this species, it has to be together.

I have with me a series of pictures taken in Mexico. They have sea turtle belts you can buy down there for $25, they have sea turtle boots that you can buy for $150, they have in fact sea turtle eggs that you can buy in restaurants, sea turtle meat. More than that, just last week I was flying back from Seattle after visiting Alaska and there were two students from Harvard University who had been down to Mexico. I asked them what did they buy and what did they think about the devalued peso, and they said they bought lots of good things including two quart jars of sea turtle oil so that they could be nice and smooth and do good things for their skin.

Here we are in this bill, the Endangered Species Act, requiring my Texas shrimp fishermen, and they are mine because I eat the shrimp, requiring them to compete unfairly with the Mexican shrimp fishing industry.

I support this amendment because all it asks is for a 2-year study. Let us find out whether in fact this is the appropriate thing to do.

Let us think of people. Let us think of our people. Let us think of the turtle, yes, but let us think of it being caught on the high seas by people from another country without any restrictions at all, and I think in this case we ought to be thinking of the shrimp fishermen in the gulf.

Mr. RAVENEL. Mr. Chairman, will the gentleman yield?

Mr. YOUNG of Alaska. I yield to the gentleman from South Carolina.

Mr. RAVENEL. Mr. Chairman, if I am following the gentleman's line of thinking, what we should do is that we should exclude the turtles and catch the Mexicans.

Mr. YOUNG of Alaska. That is not necessarily what I said. I am suggesting respectfully we are penalizing our people, our fishermen, our loggers, our miners, while right across the border we allow the turtles to be caught by another country. That is ridiculous when we think about it. That is absolutely ridiculous when we think about it.

Let us start thinking about people.

Miss SCHNEIDER. Mr. Chairman, will the gentleman yield?

Mr. YOUNG of Alaska. I yield to the gentlewoman from Rhode Island.

Miss SCHNEIDER. Mr. Chairman, I think is it important to bring the information to the forefront that the United States Government is aware, and there are currently negotiations taking place between the United States Government and the Mexican Government.

Mr. YOUNG of Alaska. Reclaiming my time, we have been negotiating, we have been negotiating, we have been negotiating. In the meantime we are putting our fishermen out of business, we are putting Americans out of work.

Mr. STUDDS. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I do not want Members to get the wrong impression about the way the Merchant Marine and Fisheries Committee generally operates. The gentleman from Alaska [Mr. YOUNG] and I normally are in unanimity on most matters of consequence. This is unfortunately an exception, and it is not easy to oppose people like our colleague, the gentleman from Oklahoma on the previous amendment or the gentleman from Texas, to say nothing of the State of Texas, on an amendment like this.

Mr. Chairman, I rise in opposition to the gentleman's amendment today because of what it proposes to do to endangered sea turtles and to the entire process by which this country implements its Endangered Species Program. The amendment would have us reject a constructive solution to an avoidable conflict and return instead to the confrontation, stalemate, and polarization that has prevailed far too long already in the Endangered Species Program. Rather than recognizing a serious problem, it denies it. Rather than getting on with solutions, it postpones them. Rather than resolving differences, it exacerbates them. It is bad policy and bad precedent. The administration opposes it, a bipartisan Merchant Marine Committee opposes it, and I urge my colleagues in the House to oppose it as well.

This amendment seeks to postpone regulations to protect sea turtles from drowning in shrimp trawls. The origins of the problem are simple: Shrimpers inadvertently catch turtles in their nets. Turtles, like people, can hold their breath for only so long: when caught in shrimp trawls and dragged underwater for an extended time, they drown.

You will hear today that we don't know for sure if shrimping kills turtles because only 15 dead turtles were found in trawls during over 17,000 hours of observation in the gulf. Few turtles were caught because there are few of them left to catch, which is precisely why they are listed as endangered and in dire need of protection.

The shrimping industry trawls for over 4.3 million hours each year in the Gulf of Mexico. By extrapolating from the results of 17,000 hours of observations to the total time spent trawling, shrimpers in the gulf capture over 13,000 turtles each year, of which 4,000 drown. Shrimping, in short, is a significant source of sea turtle mortality.

The regulations in question today require shrimpers to use what is called a turtle excluder device—or TED—that deflects turtles entering a shrimp trawl out of an opening in the net, preventing them from being caught and drowning. You will hear today that these TED's will reduce the amount of shrimp a trawl will catch, or that they have not been demonstrated to work in certain areas of the gulf. There is no scientifically reliable study that shows that shrimp catches will be lower when TED's are properly used. To the contrary, every such study has shown no significant decrease in shrimp retention. Moreover, the TED's were tested in every area where the industry would agree to participate: in the western gulf off the Louisiana coast, very little testing occurred because the industry refused to cooperate.

These devices are not new to the industry. For years, the industry itself developed and installed them voluntarily in certain areas to rid their trawls of unwanted fish and garbage. Where the regulations have already taken effect off Cape Canaveral, FL, they have been a resounding success and have caused none of the troubles that some now fear so greatly.

I rise today in opposition to the amendment because it is unnecessary and because it seeks to reject an enormously constructive precedent for the Endangered Species Program. The regulations originate out of a lengthy negotiation between conservationists, industry representatives, and the Government which yielded an agreement on how, when and where TED's would be used, the basic components of which are embodied in the regulations we discuss here today. Rather than ignore the problem, the parties faced it. Rather than obfuscate and litigate, they developed a proposal that would save turtles and minimize burdens on the shrimp industry. Rather than polarize the problem, they sought to solve it.

It is that solution which the Ortiz amendment asks us to overturn. In deciding whether to support or oppose the amendment, I believe that Members should understand its implications for the Endangered Species Program overall. If you wish to reject constructive solutions and return to the polarized confrontations that have too long characterized the program, you should support the amendment. If you choose to promote efforts to solve problems rather than exacerbate them, support the regulations and reject the amendment. The administration has done so, the bipartisan Committee on Merchant Marine and Fisheries has done so, and I urge my colleagues to do so as well.

□ 1410

Mr. HUTTO. Mr. Chairman, I move to strike the requisite number of words and I rise in favor of the amendment.

Mr. Chairman, I think we need to distinguish between this amendment and the previous amendment and I believe that we are being led to believe that it is something similar to the last amendment. This should not be classified as an environmental vote. We have just voted on an amendment that would delist or take off of the endangered species the leopard darter. We are not trying to take the sea turtles off the endangered species list. I believe everyone should know that.

This is a very reasonable amendment by the gentleman from Texas [Mr. ORTIZ] who is concerned about the environment. He has received awards for his conservationist work. This is a very reasonable amendment to help people who need help and those are the shrimpers who have already had their problems. We are going to require them to have a very cumbersome, even dangerous, device called the TED or the turtle excluder device which would cause them to lose a lot of shrimp. It causes their nets to get clogged. It is something that we do not need.

I submit to you that the testing has not been done properly. Also, we would like to point out that in the committee there was an amendment that would exclude the turtle excluder devices from in-shore waters. If they are going to do it for in-shore waters then we should do it in the Gulf of Mexico.

So I would ask all of the Members to support the Ortiz amendment. There have been only three, I am told, three turtles of the endangered species type in a total of 12 years that have been caught, drowned in shrimp trawlers' nets.

So you see, there is no big problem here except that we are trying to force onto the shrimp industry something that the other industries do not have.

So I would say that this should not be an environmental vote, because we are not trying to take sea turtles off the endangered list. We are merely saying let us postpone for 2 years and give the shrimpers a chance to work with the National Marine Fisheries Service, a chance to work with them in designing a better turtle excluder device so indeed we can continue to protect the turtles but at the same time allowing our shrimpers to be able to earn a living.

Mr. DELAY. Mr. Chairman, will the gentleman yield?

Mr. HUTTO. I yield to the gentleman from Texas [Mr. DELAY].

Mr. DELAY. I thank the gentleman for yielding.

Mr. Chairman, the gentleman talked about three turtles that were found in a 17-hour survey.

Mr. HUTTO. 17,000 hours, I believe.

Mr. DELAY. 17,000 hours of survey. Three turtles were found dead. Now the gentleman said they were drowned. But is it not true that even in this "suspected" scientific study that they did not even do a post mortem on those three turtles to find out why they were dead, that they just assumed they were drowned? They do not know why they were dead, whether it was from disease or any other sort of problem that the turtles may have had, or they may have been dead before they were even caught.

Mr. HUTTO. The gentleman may be right. I have not heard of a post mortem.

Mr. DELAY. Well, I have. I am a biologist and I have read this study and there is nowhere in that study that it says that they did a post mortem on those three turtles. So we do not even know if the turtles were dead before they even got into the net.

Mr. HUTTO. Yes; it is very possible that they drowned because of some other reason. But at least there have been only those three. I think it is kind of ridiculous to force onto shrimpers this turtle excluder device which is very cumbersome, as I said, and deterimental to the shrimping industry.

Mr. THOMAS of Georgia. Mr. Chairman, will the gentleman from Florida yield?

Mr. HUTTO. I would be glad to yield to the gentleman from Georgia [Mr. THOMAS].

Mr. THOMAS of Georgia. I thank the gentleman for yielding.

Mr. Chairman, I intend to ask for my own time, but I simply found it necessary to take some issue with one comment that my good friend and colleague from Florida made and that was the statement as to whether or not this would be viewed as an environmental vote. I would say to the gentleman when we talk about endangered species, changing the law, when we talk about altering something that is the result now of years of study and careful determination and that deals with endangered species, I cannot imagine a vote that will be cast on the floor this year that would be viewed anymore so as an environmental vote than this one.

Mr. HUTTO. I disagree with the gentleman from Georgia because of the very few turtles that have even been taken, and, as has been pointed out, there is no evidence that the three taken were drowned because they were in the shrimp trawler's net.

Mr. TAUZIN. Mr. Chairman, will the gentleman from Florida yield to me?

Mr. HUTTO. I yield to the gentleman from Louisiana.

Mr. TAUZIN. I thank the gentleman for yielding.

As I understand the amendment, there is no change in the law in the manner in which endangered species are determined or in the manner in which they are protected by law. If anyone catches a turtle and is caught catching an endangered turtle, or eating it or cooking it or making oil out of it, they have a fine to pay and it is a very stiff fine under the law. This does not change the law at all.

Mr. HUTTO. Absolutely.

Mr. TAUZIN. What we are doing is suspending a regulation.

Mr. HUTTO. That is right.

Mr. TAUZIN. That is all, suspending it for 2 years in order to get sufficient data in order to make a good decision instead of a political one.

Mr. HUTTO. Absolutely.

The CHAIRMAN. The time of the gentleman from Florida [Mr. HUTTO] has expired.

(By unanimous consent, Mr. HUTTO was allowed to proceed for 2 additional minutes.)

Mr. HUTTO. The gentleman from Louisiana is exactly right. This is not in law that the shrimpers should have a turtle excluder device, it is a regulation by the National Marine and Fisheries Service. Incidentally, the National Marine and Fisheries Service has no way to enforce this. It is going to be thrust upon the Coast Guard. Every Member in this body knows that the Coast Guard is having a tough time because of a lack of funding for the many missions that we have thrust on the Coast Guard. It is a regulation, it is not a law now. We are just saying let us postpone this regulation for 2 years until a better excluder device can be devised.

Mr. DELAY. Mr. Chairman, will the gentleman yield?

Mr. HUTTO. I yield to the gentleman from Texas.

Mr. DELAY. I thank the gentleman for yielding.

Mr. Chairman, we are talking about changing the law, but we are not changing the law here, but would it not be good to change the law, because in my instance it might happen that the endangered species law kills more turtles because when the shrimpers bring them in the nets they can be resuscitated. But if the shrimper is caught with that resuscitating turtle on the deck of his boat he is subject to a $20,000 fine and a year in jail. Now what would you do if that were the case? You would throw the turtle over and the turtle would not be resuscitated and would drown.

How many turtles have been drowned because of this law where people are scared to resuscitate the turtles?

Mr. HUTTO. Perhaps more studies should be done in the Gulf of Mexico. But I would like to make it clear that we are not advocating taking the turtles off the endangered species list. It still will be a violation if you get caught killing a turtle, it is still a violation. We are not trying to take it off the list. We are merely saying let us postpone for 2 years the requirement to use the turtle excluder device.

Miss SCHNEIDER. Mr. Chairman, I move to strike the requisite number of words and I rise in strong opposition to the amendment.

Mr. Chairman, I think it is critical that we point out that we have learned after 14 years of experience with the Endangered Species Act that it is almost always possible to conserve endangered species and thereby promote our long-term welfare without significantly harming our short-term welfare.

□ 1425

I would like to point out that a few years ago we heard the same type of human cry from the tuna industry which was concerned about the regulations that were being issued as a result of an effort to help save the porpoises. Those regulations did in fact take place, and today we see that the tuna industry is alive and well and prospering more than ever before.

I firmly believe that is also possible to insure the protection of the sea turtles and the stability of the shrimp industry at the same time. What we must do, however, is remove the emotionalism from this issue. I think it is prehistoric in terms of discussing environmental issues versus industry issues.

We have come a long way, and I think it is quite clear that both the industry and the preservation of an endangered and/or threatened species can coincide as a result of the technological development. That technological development happens to be TED's. The TED's have been used for a long period of time. As a matter of fact, since October 1 the TED's regulations have been in effect in the Cape Canaveral area in Florida. Somehow or other, the fisheries off the coast of

Florida have no problem complying, but those in the Gulf of Mexico are asking for special exemption. I think that this type of special exemption is inappropriate.

I would like to point out that with the variety of studies that have been done, the scientific studies, in the 1,500 hours of testing aboard and underlying commercial shrimp boats in the gulf, it has been documented by NMFS and also by sea grants that trawls did not show any significant shrimp loss in comparison with those without nets. This has been documented by the Marine Fisheries Review.

I might also point out that most recently in a study conducted by the Mississippi Sea Grant Advisory Service, TED's-equipped nets caught 7.2 percent more than nets without TED's. The shrimp catches have not been diminished, and the fishermen are complying with the regulations without safety or other problems in other parts of the United States.

I think that we have to also keep in mind that segments of the shrimp industry must accept its responsibility under the Endangered Species Act, just as other users of the marine environment have already done. Coastal industrial discharges, military maneuvers, offshore oil and gas activities, and many other offshore activities have been regulated in order to protect endangered marine animals, including sea turtles. It is only appropriate that the gulf shrimping industry also be flexible in this regard.

All that is needed is the will to make the transition, just as the farmers did when they had to stop using DDT or the tuna industry did to protect porpoises. Change comes hard in fact, and the adoption or acceptance of new systems or new technological methods is often slow, as in the case of TED's.

While some in the shrimp industry are forward thinking and aggressive and willing to help solve this dilemma, others are vowing to never change or at least are asking for time to delay over 2 years, time to change. I believe they are hoping to avoid the responsibility for protecting this endangered species.

I understand the pressures of my colleagues, including the gentleman from Texas, to try to put off until another day the requirement that the shrimp industry make the transition to these new gear modifications. However, I am satisfied that there is no valid reason for this delay on the transition any longer. We have to admit that there is a problem and act decisively to correct it. I believe that delaying the mandated use of total turtle excluder devices in the offshore waters of the Gulf of Mexico would only encourage continued resistance to their eventual use while sea turtle populations continue to decline.

Mr. DELAY. Mr. Chairman, will the gentlewoman yield?

Miss SCHNEIDER. I am happy to yield to the gentleman from Texas.

Mr. DELAY. Mr. Chairman, the gentlewoman cited many studies, and let me say once again that I am a biologist. I have read the studies the gentlewoman cited. I want to ask a couple of questions about how these studies were done.

First, she said that the TED's have been used off Cape Canaveral since October 1.

Miss SCHNEIDER. Yes.

Mr. DELAY. Does the gentlewoman realize that it is rock shrimp season since October 1 where TED's are exempted, so they have not been used but by 14 boats?

Certainly there are not going to be any complaints if they are not using them.

Miss SCHNEIDER. The fact that the shrimpers off the coast of Cape Canaveral have been using them since October 1 is not a conclusive study. These studies take much more than a 3-month period?

Mr. DELAY. The gentlewoman cited that they have been using them off Cape Canaveral and there have been no complaints.

Miss SCHNEIDER. Not yet.

Mr. DELAY. Is it not rock shrimp season?

The CHAIRMAN. The time of the gentlewoman from Rhode Island [Miss SCHNEIDER] has expired.

(On request of Mr. DELAY, and by unanimous consent, Miss SCHNEIDER was allowed to proceed for 2 additional minutes.)

Miss SCHNEIDER. Mr. Chairman, if I have 2 additional minutes, let me quickly answer the question and make one more point.

The fact is that rock shrimp are deep water shrimp. And the other thing that I need to point out is this——

Mr. DELAY. Mr. Chairman, will the gentlewoman yield?

Miss SCHNEIDER. I would like to make two other points. The administration is strongly opposed to the Ortiz amendment, and despite my colleague's mentioning earlier that this should not be an environmental vote, we do not have the say over whether it is or is not an environmental vote, because the entire environmental community is opposed to the Ortiz amendment.

I might also point out that it will be one of the test votes by the League of Conservation Voters.

Mr. TAUZIN. Mr. Chairman, will the gentlewoman yield?

Miss SCHNEIDER. Mr. Chairman, I yield back the remainder of my time.

Mr. TAUZIN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I, of course, rise, as many of the Members do, in strong support of the Endangered Species Act itself. It is a good act and an important one that indeed carries forth to future generations the legacy we received from our forefathers and the bounty God has bestowed on this Earth, and it is a very important act if we are to be good stewards of this bounty.

It does, however, every now and then have some kind of strange consequences. When I came to Congress in 1980, the alligator was on the Endangered Species Act list. I first came to Congress and paid a visit to the Secretary of the Interior with an urgent plea on behalf of the Cajun population of the State of Louisiana. I said, "If you do not take the alligator off the endangered species list soon, you will have to put us on." There were so many alligators out there that they were eating dogs and pets and even beginning to threaten our children.

As we know, the alligator was eventually relegated to a threatened category, and there is now a harvest of alligators in our State and in many other States. The act worked, and there was, in fact, relief granted to us.

Unfortunately, sometimes some strange results, however, come out of an act, as good as the Endangered Species Act is. The TED is one of those strange results. If it were based on good scientific information, if there were a fair negotiated settlement, I would not be here today urging the Members to give us these 2 years to work on information and on better solutions to save the sea turtles and at the same time save the shrimpers of our districts.

Let me correct the gentlewoman from Rhode Island on her statement that there have been no studies that indicate shrimp loss. Let me correct the chairman of our subcommittee in his statement that there have been no studies indicating significant shrimp loss from the use of TED's. Louisiana State University just completed a 9-month study that involved commercial fishermen in the Gulf of Mexico, the very waters where we are asking for this 2-year delay so we can be given some time to develop good data. They completed a 9-month study. In all the drags that were made in this study by commercial fishermen, with biologists on board, one kemp's ridley sea turtle was caught. It was alive, and they turned it loose alive.

In the test drags that were done with the TED's, these are the numbers: Using the Morrison soft TED, there was an 11.1 average percentile of shrimp loss. Using the Georgia Jumper, there was an 11.3-percent loss, and using the NMFS TED, there was 23.4-percent loss of shrimp.

These are the shrimpers who are already sorely pressed to make a living in plying the waters of the Gulf of Mexico, trying to catch shrimp for this Nation. The shrimpers already suffered discrimination in international trade. Mexican shrimpers are allowed to import their shrimp, using diesels supplied to it by Pemex at one-third or one-sixth of the diesel cost of the Louisiana shrimper and those who work in the Gulf of Mexico.

Shrimpers already hard pressed will suffer the loss of significant amounts of shrimp if the TED's as currently devised are implemented without proper testing. One kemp's ridley sea turtle was caught in the test drags in 9 months of testing, and that turtle was turned loose alive.

In Texas A&M, studies have been conducted in the last 2 years, and we are waiting for the final reports. The gentleman from Texas has given me the preliminary results. A 29-percent loss of shrimp in the Texas A&M studies in Texas waters was occasioned by the use of TED's in their test drags. Imposition of this TED's requirement is based upon insufficient data, inconclusive data. It is based upon no data at all in some circumstances.

Do the Members know how NMFS came to the conclusion that TED's should be required in Louisiana gulf waters? They did not come to that conclusion because they were catching turtles in drags in shrimp nets. They came to that conclusion on the basis of counts of dead sea turtles on the beach strandings. We did some research on the times in which they did their stranding studies. We found out it correlated significantly with the use of explosives and demolition of the rigs that were used and destined for the scrap metal heaps after they had been used to produce oil and gas in the gulf. Those demolitions coincided directly with the strandings of dead sea turtles, and yet that was ignored.

□ 1435

Instead, the TED's requirement is being imposed upon the shrimpers who have unfortunately to deal with more than just the weather, just the abnormalities of whether there is a shrimp crop, but indeed have to deal with more and more Federal regulations.

Finally, let me point out that so political was this negotiated settlement that the in-shore waters of one State were exempted in the original TED regulations, of one State, when there had been no research done on in-shore waters anywhere, one State was exempted. The other States of the Atlantic and gulf coast regions were required to have the TED's in in-shore waters.

The CHAIRMAN. The time of the gentleman from Louisiana has expired.

(By unanimous consent, Mr. TAUZIN was allowed to proceed for 2 additional minutes.)

Mr. TAUZIN. Our Merchant Marine and Fisheries Committee correctly totally exempted for 2 years the imposition of TED's on all in-shore waters. We are suggesting we ought to do the same thing for the off-shore waters until we get the facts.

One final point, and I will yield. There would not be a chicken left walking the face of this Earth if there were no chicken hatcheries somewhere. Colonel Sanders would have wiped them out a long time ago. We came up with chicken hatcheries to supply this Nation with its diet of chicken.

We ought to have turtle hatcheries as one of our solutions. The shrimp industry is prepared and is now assisting in turtle hatchery programs. We ought to have good programs to increase the population of the sea turtles on our Nation's shores, rather than imposing regulations that are unfairly imposed upon an industry that cannot bear the burden without having the facts to back it up.

Mr. FIELDS. Mr. Chairman, will the gentleman yield?

Mr. TAUZIN. I am happy to yield to my friend, the gentleman from Texas.

Mr. FIELDS. Mr. Chairman, I think the point the gentleman was making that the real problem here is overharvesting of turtles, particularly in Mexican waters off Mexican beaches.

I just happen to have a menu from the Rio Mar from Guerro, Mexico. I want to point this out not only to the gentleman, but to the House, that when you begin to look at the delicacies that are advertised in this menu, you have turtle soup, you have pickled turtle, you have turtle casserole, you have turtle with green sauce, you have turtle Mexican style.

Is that not the real problem? If we really want to address this issue, should we not deal bilaterally with Mexico for them to deal with this in a strict and a sensible environmental sense?

The CHAIRMAN. The time of the gentleman from Louisiana has expired.

(By unanimous consent, Mr. TAUZIN was allowed to proceed for 2 additional minutes.)

Mr. TAUZIN. The gentleman is correct. There are other sensible ways of dealing with this problem. I do not think there is a gentleman or lady in this room who does not want to save the turtles. I do not think any of us want to get off the endangered species list. We are not asking for that. We simply want rational rules and regulations, rational international agreements, rational regulations that will give us a chance to save the turtles without putting the shrimpers out of business.

The gentlewoman pointed out that the tuna industry had to accept this regulation. Let me point out that the tuna industry just wrote to us and said that they sympathize with our plight and they were glad to know that this Congress gave the tuna industry 2 years, exactly what we are asking for, 2 years additional research before that regulation was put into effect.

Mr. Chairman, the tuna industry got its 2 years. We are asking for our 2 years to get the facts and do it right.

Mr. FIELDS. Mr. Chairman, will the gentleman yield for one last time?

Mr. TAUZIN. I yield to the gentleman from Texas.

Mr. FIELDS. I was being a little facetious in using this menu, but I was trying to point out something, that it has been estimated that the total annual kill of kemp's ridleys by humans is twice as large in Mexican waters as in the United States, so again if we really want to address this problem, we must address the problem bilaterally with Mexico.

Mr. TAUZIN. The gentleman is abundantly correct.

Let me urge you all to consider two quick facts. First, we are not amending the Endangered Species law. We are not amending it nor are we taking the Endangered Species Act and changing it in any respect nor taking the turtle off that list. We are simply saying give us 2 years to find a better solution, one based upon real scientific data instead of interpolations about data, instead of incorrect data, instead of improper studies. There are studies that contradict one another. There are studies that indicate gross loss of shrimp to Louisiana and Texas shrimpers.

We are asking to give us 2 years to get the data. If the data says the TED has to be employed, by golly, we will not ask for another year. We will accept it and use it to save the turtle. Give us the 2 years to do it right. At the end of the 2 years we will have a decent respectable plan based upon facts, rather than upon political judgments.

Mr. LOTT. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, I do very aggressively support this amendment, and I want to commend the gentleman from Texas for offering the amendment and for the work that he has done on it in the committee. I also want to commend the gentleman from Louisiana for his very fine statement and the statistics that he cited, and of course, the fact that we would be facing concerns about chickens if we did not have some other solution to deal with it, and that is raising chickens in other areas other than where they might normally be available.

But there are some real problems in this area. What do we do about the turtle exluder devices?

First of all, there is a safety component here. There is also the cost factor, and not just the cost factor of the shrimp that might be lost, and clearly there are many studies that indicate we would lose some of the shrimp, but also the cost of having to buy the device, whatever device you might choose. It has been estimated here reliably that it would cost between $2.4 and $9 million for the shrimping industry to purchase one of these TED's, so there is definitely a cost favor.

There are also some questions about effectiveness, not only how effective they are in excluding the turtles, but how much shrimp loss we might have. Surely there are some other alternatives, some better alternatives than we have had here already, perhaps a different device, or no device.

Now, we clearly should be involved in negotiations with Mexico in trying to deal with this problem, and we should even look at the possibility of hatcheries, of raising them. The gentleman from Alabama [Mr. CALLAHAN] has talked quite a bit about that.

Also I want you to think about who the people are who would be affected by this. Who are the shrimpers that we are talking about off the coast of Texas, Louisiana, Mississippi, Alabama, and Florida? These are hard-working people that work long hours within prescribed seasons that they must work in. They have not been making a lot of money. They have had all kinds of problems in recent years, including assaults from imports coming into this country, but they are quite often husband and wife teams that go out and trawl for these shrimp for long hours, and they are barely making it.

In our area you are even talking about Vietnamese who have come into our area now that are relying on the shrimping industry to make a living, and we are talking about making it more difficult, perhaps even impossible for them to make a living.

We are just asking here for you to give us more time to make sure that we have the right solution.

Also, I want to point out that this is the kind of thing that hurts the Endangered Species Act. The Endangered Species Act has broad support across party lines, across philosophical lines. We clearly want to protect certain endangered species, but there are some problems like this that we have dealt with in the past. For instance, in my own State, in my own area, we have the now infamous Mississippi sandhill crane. These are 40 cranes that flew over my State, my area, saw such a nice deal that they landed and decided to stay in Mississippi, 40 sandhill cranes indigenous to Mississippi only, and when you go to Nebraska and Texas you find they are all over the place; but because they were designated as being indigenous and endangered, we have now spent millions of dollars preserving these 40 sandhill cranes, including delaying interstate highways, including buying up hundreds of acres, and the people say, "Why do you do these things when it is not even necessary?"

The same is true here. We want to preserve the turtles. We do not want to destroy them, but at the same time we do not want to destroy the ability of people to make a living or to force them to have more costs when it is not necessary; so this amendment strictly asks for 2 more years to deal with the problem, for NMFS to work on it so that we can find the right solution. We can have it both ways this time. We can preserve the turtles and we can preserve the shrimpers.

I urge my colleagues to support the Ortiz amendment.

Mr. BROOKS. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, everybody knows I am an environmentalist. In my district we have a ridley turtle experimental program. The Head Start Program down there has been difficult to fund because Congress is very reluctant to put up much money to save ridley turtles.

The shrimp people have volunteered to have turtle stamps. Each boat in the United States that shrimps would buy a stamp and earmark the money for the ridley turtle's continuation for the Head Start Program. It is a worthwhile effort. That is the kind of thing we ought to be doing.

This amendment will not delist the turtle. Sea turtles will still be fully protected by the Endangered Species Act. The * * * would affect the gulf coast disastrously.

I want to say that I live in a district where we have hundreds and thousands of people involved in the shrimp business, hundreds of boats and sea captains.

Many people do not understand what kind of a livelihood they have. You take a boat out and it can be very rough. You work all night. It is hard work. It is dangerous work. One of those nets banging around made out of stainless steel can hit you on the head and knock you overboard when you are working. We are not hiring Phi Beta Kappas, you know, running those shrimp boats. It is not an easy life. It is a tough life.

They come in, and they are a little tired. Sometimes they are not what you call the black tie set of our society, but they are decent, hard-working people, and I want them to make a living.

I think if we are going to cost every boat in the gulf $35,000 or $40,000 per boat a year, you are just cutting out their profits. They are not going to survive, and there is no reason to do it, no necessity.

Why do they not take 2 years and find out how to design a way, to save turtles, as I do, that will not be so costly to the shrimp industry which is already having difficulties.

It is not an unfair request. They did it for the tuna people. We can wait 2 years and let these scientists figure out how they want to do it that will be livable for the shrimp people and let them make a living.

I tell you what, I eat a lot more shrimp than I do turtles.

I want to remind you that we import millions of pounds of shrimp every year from other competitors who do not use turtle nets or anything else. They use nets to catch turtles and sell them. We are going to buy shrimp from those same people. It is an unreasonable test that they want to set up for American shrimpers.

I believe that it is a lot more important for us in this country to try to save the shrimpers who are trying desperately to make a living than it is to try to expedite an unproven TED that never was used in the gulf coast to any extent. They do not know what a mud bottom is where they test them.

Mr. DELAY. Mr. Chairman, will the gentleman yield?

Mr. BROOKS. I yield to my friend, the gentleman from Houston, TX [Mr. DELAY], a biologist by training.

Mr. DELAY. The Chairman probably knows shrimpers better than anybody in this House.

Now, these shrimpers are not making a fortune off shrimping, are they, Mr. Chairman?

Mr. BROOKS. No. They are just trying to pay their bills.

Mr. DELAY. A shrimper makes about $18,000 to $20,000 a year, is that not true, Mr. Chairman?

Mr. BROOKS. I believe that is about right, and I would have to be out shrimping every night and then do that heading and getting them ready, sorting them, sleep all day and then work all night again trawling around out there. It gets old.

Mr. DELAY. And watch 30 percent of your catch go out of the hold on top of your net.

Mr. BROOKS. That is right.

Mr. FIELDS. Mr. Chairman, will the gentleman yield to me?

Mr. BROOKS. I yield to the gentleman from Texas.

Mr. FIELDS. Mr. Chairman, to me, and to the gentleman and others, this is a very important jobs issue, because we are talking about the loss of jobs, not only in the Gulf of Mexico, but throughout this country, and we are also——

Mr. BROOKS. You mean for the processor when they come in?

Mr. FIELDS. That is exactly right, and we are talking about the importation of Mexican shrimp and shrimp from other countries. We are talking about the decline and the loss of a basic American industry.

Mr. BROOKS. The gentleman is correct.

Mr. THOMAS of Georgia. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I certainly would not want to get a colloquy going here between the University of Georgia and the University of Louisiana, but I wanted to point out to my good friend, the gentleman from Louisiana, for his edification, that the University of Georgia also carried out extensive tests with various types of TED's sanctioned by the National Marine Fisheries Service, on the Georgia bulldog for years and years, and their findings were absolutely contrary to the findings of the gentleman and the study he cited from Louisiana.

Mr. TAUZIN. Mr. Chairman, will the gentleman yield?

Mr. THOMAS of Georgia. I yield to the gentleman from Louisiana.

Mr. TAUZIN. I think, Mr. Chairman, it should be fair to point out that the Georgia study was done in Atlantic waters. It was not done in the Gulf of Mexico waters, which this amendment addresses. The LSU study was done in Gulf of Mexico waters, and so was the NM study done in Gulf of Mexico waters, so we are talking about apples and oranges. Indeed, the Atlantic conditions are different, and I concede that the Georgia studies should have produced different results.

Mr. THOMAS of Georgia. It sounds that the gentleman would be right, if I can reclaim my time, that the Atlantic waters and gulf waters would be highly different, but let me point out that the tests that were done in the Atlantic were done in many different circumstances of ocean terrain and bottom terrain and it was felt that these tests were comparable to the conditions that would exist in the Atlantic as well.

Mr. TAUZIN. Mr. Chairman, will the gentleman yield further?

Mr. THOMAS of Georgia. I will not yield at this time, if the gentleman would please permit me. I would like to complete my statement and then I will be happy to yield.

Mr. TAUZIN. I will be back.

Mr. THOMAS of Georgia. Mr. Chairman, I rise in reluctant opposition to the amendment of my good friend from Texas. In fact, I have many good friends on the other side of this issue, and they are men and women of good conscience and concern for the environment.

But after much soul-searching, I must oppose this amendment and stand with the committee. I say that as the Member of Congress who represents the entire Georgia coast. I say that as the Congressman who represents all of the shrimpers of Georgia, a State where commercial shrimping is our largest fishing industry.

When sea turtles are killed in shrimp nets, it is by accident. The turtles are trapped, held underwater and drowned without the shrimper being aware of what has happened.

But if we pass this amendment and ultimately kill this bill, it will not be an accident. We will be doing it with our eyes wide open. We will be doing it with the certain knowledge that when we talk about saving an endangered species, we do not mean business.

I have presided over a number of face-to-face meetings with my Georgia shrimpers on the TED's issue, and I will have to go back and look them in the eye after this vote. Under the act, Georgia shrimpers will be required to pull TED's next year in Georgia waters, and they would be required to pull TED's when they fish the gulf waters. I can assure you they are not looking forward to it.

I am a friend of those shrimpers. They are tough, proud, good people who struggle and fight against the odds to earn their living from the sea, and we do very few things around here to help them. But we would not be doing the shrimpers a favor with this amendment, and we would be doing grave damage to the Endangered Species Act.

Here's why:

If ever there has been a regulation that has been implemented in conformance with a congressional mandate, and with great care and compromise, it is the TED regulation. This is a process that has been going on for 10 years. It has been studied, reviewed, proposed, withdrawn, modified, tested, delayed, compromised, and retested. If we cannot adopt this rule, then we are sending a signal that the Endangered Species Act should be implemented only when it can be done without controversy or trouble.

TED's work, and in some cases they help shrimpers. They reduce turtle kills dramatically. The State of Georgia has determined that a majority of Georgia shrimpers have been pulling them during certain seasons of the year on a voluntary basis—not necessarily because they reduce turtle kills, but because they reduce the catch of trash fish and jellyfish. That means they can keep their nets in the water longer, and catch more shrimp at a lower operating cost because they do not have to stop and pull up their nets to rid them of excess weight.

TED's are not the big, clumsy devices that they were originally. They have been modified by everyone from scientists to backyard inventors. In my State, we have a light-weight, collapsible rig called the Georgia Jumper that is fully approved and much easier to use than the original Federal model.

TED's have been subject to thousands of hours of offshore testing. Two more years of testing is going to contribute virtually nothing other than cause the needless destruction of another 8,000 turtles. As I said earlier, the majority of the Georgia fleet already pulls them at certain times of the year, and they work, and they do not reduce shrimp catches by 40 percent.

Are shrimp nets the only thing that kills sea turtles? No, but they kill a great many of them, and they will kill the mature turtles that represent the greatest possible loss in terms of saving the species.

What will we lose if the sea turtles are gone? No one knows. Sea turtles have been a part of our coastal environment since well before man—not just civilized man, but man himself—first set foot on Earth.

Do they serve as a major predator to the jellyfish that harass humans and clog shrimp nets? Are they a key element in the food chain of other living creatures? We do not know. But we do know that when they are gone, we will not be able to bring them back.

Many shrimpers understand that. They know that when we tinker with the interdependent nature of the ocean ecosystem, we can devastate their catches. Shrimpers, like farmers, are the real environmentalists because they must earn their living through a healthy natural environment. They see the cause-effect of the pollution of the Chesapeake Bay and the decline in commercial fishing.

We recently learned that sea turtles are capable of diving deeper beneath the ocean than any other air-breathing creature known. What scientists don't know yet, is how the turtle does it. We do not know what we might learn from that ability, or how that knowledge may help us.

The bottom line is this:

After thousands of hours of testing in the gulf and the Atlantic, the catch of shrimp in nets equipped with TED's has been fully as good as the catch in standard nets without TED's. There has been no statistically significant difference in catch rates.

Finally, if we pass this amendment, we will be sending a message to all of the shrimpers and State officials who have been working in good faith to implement the rules required through the Endangered Species Act. We will be telling them that the best way to work this process is to stand aside and ignore the regulations—just go for an exemption.

Many of my colleagues have stated that we're not changing the law.

That is the kind of message that will do more than kill sea turtles. It will kill the Endangered Species Act. If we pass this amendment, we will have no reauthorization. The other body has made that clear.

Mr. Chairman, TED's save turtles, and they can save the Endangered Species Act itself by showing that we have the commitment to make it work.

Sea turtles don't vote. They are not pretty. Their destruction goes on out of our sight. No fisherman kills them on purpose. It's all by accident.

But as I said earlier, if we pass this amendment and ultimately kill this bill, it will not be an accident. We will be doing it with our eyes wide open, and with the certain knowledge that when we talk about saving endangered species, we do not mean business.

With respect to my good colleagues on the other side of this issue, I urge that we defeat this amendment.

☐ 1450

Mr. FIELDS. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the Ortiz amendment.

Mr. Chairman, first of all I want to commend my friend, the gentleman from Texas [Mr. ORTIZ], for bringing this amendment that makes a lot of sense to the floor today. I have been listening to the debate and there seems to be a lot of emotionalism. I think it is very important to point out facts about turtle excluder devices.

There are six points that I would like to make.

First of all, there is a lack of consistent data. From only 15 actual observed turtle mortalities, the National Marine Fisheries Service has extrapolated the figure of 7,000 turtle drownings each year in shrimp trawls in the Gulf of Mexico.

In 16,785 observed hours in the Gulf of Mexico only three endangered sea turtles were found drowned in shrimp trawls.

In nearly 10,000 hours aboard commercial shrimp boats in the South Atlantic, only five endangered sea turtles were killed.

So there is a lack of consistent data.

Second, there is a lack of adequate TED testing. In half of the 20 statistical zones in the Gulf of Mexico there has been no testing of the NMFS TED.

In addition, NMFS has conducted less than 100 total hours testing on the other four certified TED's for turtle exclusion and zero hours of testing for performance on shrimp vessels.

The third point is there will be a loss of shrimp catch. Shrimpers argue that TED's are unsafe and will cause up to a 30-percent loss of catch which is a loss of $30,000 to $45,000 per vessel. This loss of catch is devastating to an industry that operates on a 10-percent profit margin.

Mr. Chairman, fourth, there will be loss of fuel efficiency. The shrimping industry has estimated that the pulling of TED's will result in a 10-percent increase in fuel consumption at a time that our Nation should begin to think about conserving fuel.

Point No. 5, the shrimpers are only one of many factors in the decline of the sea turtle population. Other important factors include the growth of beachside development, destruction of their marine habitat, ocean pollution meaning particular plastic pollution which we have begun to address, poaching and the past destruction of their nesting areas in Mexico.

The final point, Mr. Chairman, and this is a bit parochial because there is an impact, a direct impact on my State of Texas. The gentleman from Texas [Mr. ORTIZ] may have already talked about this but in the State of Texas, for example, there are 10,434 people who are directly employed in the shrimp industry. There are 4,228 shrimp boats in Texas.

The shrimping industry stands to lose between $98 and $135 million per year. When we factor in the multiplier of three, that loss totals between $294 and $409 million.

TED's are a bad idea. The Ortiz amendment is a good idea, and it should pass.

Mr. Chairman, I rise in strong support of the Ortiz amendment.

While I am a proponent of the Endangered Species Act and have previously cosponsored legislation to extend this historic law, it is my firm belief that the Ortiz amendment should be adopted.

This amendment, which was narrowly defeated in our full committee markup, would delay for 2 years the implementation of regulations issued by the National Marine Fisheries Service to require the use of so-called turtle excluder devices [TED's] in offshore shrimping operations in the Gulf of Mexico.

Mr. Chairman, let me emphasize at the outset that no one is asking that sea turtles be exempted from the Endangered Species Act. Quite the contrary, they will remain on the threatened and endangered list and will continue to receive the full protection of the Federal law. In short, anyone found killing a sea turtle can be subjected to both civil and criminal penalties carrying fines of up to $20,000 and 1 year in Federal prison; and if H.R. 1467 is enacted, those penalties will actually be more severe since section 5 contains provisions to increase the level of fines for those who violate the act.

Mr. Chairman, let me tell you why I and many others, including the Governor of Texas, support the Ortiz amendment. During our committee's deliberation, an amendment was offered and adopted which delayed for 2 years the implementation of these same TED regulations for those shrimpers working in inshore waters.

Although I supported that amendment, it is wrong to only postpone these regulations for inshore waters and not for those fishermen who make a living offshore. Fairness and equity demand that we treat these two areas in exactly the same manner. If we are going to postpone for one, then we must not discriminate against the other, which in this case represents the vast majority of U.S. shrimpers.

While it is true that there has been some testing of TED's in certain offshore waters, these tests have not been conducted under actual shrimping conditions but, rather, only under the most ideal weather and geographical circumstances—a situation, Mr. Chairman, that has greatly skewed the scientific data on the need for TED's.

Mr. Chairman, in half of the 20 statistical zones in the Gulf of Mexico, there has been no testing of the NMFS TED, and there has been less than 100 total hours of testing on the other four certified turtle excluder devices. In short, the amount and quality of testing has been totally inadequate.

In fact, the best illustration of just how inadequate this testing program has been in the Gulf of Mexico is that there has been none in the district represented by the author of this amendment, Mr. ORTIZ, which is recognized as the shrimp capital of the world.

Regrettably, instead of admitting that these TED's needed more time and testing, NMFS hypothetically created data which became the basis for the issuance of their regulations on June 29. From only 15 actual observed turtle mortalities, NMFS has extrapolated the figure of 7,000 turtle drownings each year in shrimp trawls in the Gulf of Mexico.

Mr. Chairman, this conclusion is preposterous and it contrasts radically with what has actually occurred. In nearly 17,000 observed hours in the Gulf of Mexico, only three endangered sea turtles were found drowned in shrimp trawls and, since there were no cause-of-death studies, it may even be unfair to conclude that these were caused by gulf shrimpers. In short, it has not been conclusively proven that shrimpers, either inshore or offshore, are a major cause in the decline of the sea turtle population.

While I recognize it is sometimes necessary to extrapolate data, I am amazed that some have suggested that NMFS' findings in this case should be accepted without question. I am reminded of those so-called energy experts who were predicting back in the late 1970's that crude oil would now be selling for $100 a barrel. As history has proven, that conclusion was no more accurate than NMFS' data is today.

Mr. Chairman, the bottom line is we don't know how many sea turtles will be saved by TED's or how many are killed without them.

What we do know is that three endangered sea turtles do not justify the mandatory use of TED's at this time—especially in light of the many unanswered questions concerning the adverse impact this new gear requirement will have on the shrimping industry in terms of lost harvest, added fuel consumption, worker safety, increased insurance premiums and the cost of complying with these regulations.

In fact, it is interesting to note that many shrimpers who have tried TED's argue that they are unsafe and will cause up to a 30-percent loss of catch which represents a loss of $30,000 to $45,000 per vessel. This loss is devastating to an industry that operates on a 10-percent profit margin.

Mr. Chairman, the U.S. shrimping industry is not an enemy of the sea turtle. In fact, it is one of its best friends. The industry has done much in the past and will do more in the future to ensure that sea turtle mortality is as low as humanly possible.

The industry has pledged to cooperate in a number of important activities which will help ensure the survival of the sea turtle. These include: First, the establishment of a captive breeding facility for kemp's ridley sea turtles; second, an expansion of the successful head start turtle program; third, the establishment of a holistic research effort on the kemp's ridley sea turtle; fourth, support of gear research and development leading to an acceptable and efficient trawling device; and fifth, active participation in an organized effort to penalize those countries which do not meet internationally recognized standards for the protection of sea turtles.

The shrimping industry is already doing, and is prepared to do more than, its part to help ensure the survival of both threatened and endangered sea turtles. It is not, nor should it be, forced to spend millions of dollars on untested gear which will reduce their harvest, their productivity, their safety, and their ability to make a living.

In the final analysis, there must be a balance between the need to protect these sea turtles and the more than 41,000 Americans who make a living shrimping in the offshore waters of this Nation.

If one objectively evaluates the facts, and not unfounded data produced through conjecture or extrapolation, then there is no other conclusion than it is premature to mandate the use of turtle excluder devices.

While no one is suggesting that TED's should never be used—in fact, a number of shrimpers already use them voluntarily—we are asking that the Secretary of Commerce conduct a comprehensive investigation of sea turtle biology and the need for appropriate conservation measures, including TED's before and not after their mandated use.

Finally, Mr. Chairman, sea turtles have not become threatened or endangered because of shrimping but because of the loss of their habitat, onshore coastal development, ocean pollution, widespread poaching and, most importantly, the wanton destruction of their nesting areas in Mexico.

While I am told that the beaches at Rancho Nuevo, which are a prime nesting area, are now finally protected, regrettably, the damage has been done and hundreds of Kemp's Ridley sea turtles have already been slaughtered in Mexico.

At the same time, it is clear that the Mexican appetite and fondness for sea turtle products has not diminished. I have in my possession a number of articles which: indicate that street vendors in Mexico City bribe government inspectors in order to sell sea turtle eggs; tell how United States Customs agents along the Mexican border confiscate boots made from endangered sea turtles; and depict the sale of sea turtle boots, belts and such products as Mazatlan's famous sea turtle cream oil.

I also have a current menu from a restaurant in Mexico which prominently sells sea turtle meat as both an appetizer and a main course.

Mr. Chairman, instead of forcing these untested TED's upon our shrimpers, we should be diligently working to solve this international problem by urging the Mexicans and others in Central America to give up their turtle eating habits.

Mr. Chairman, the great irony is that if we do not delay the mandatory use of TED's in the Gulf of Mexico, then we will end up rewarding the very people who helped create this declining population problem in the first place—the Mexicans.

Since the American public's appetite for shrimp is likely to increase in the future, seafood wholesalers will have no choice but to buy an increasing amount of Mexican imports to offset those no longer caught by United States shrimpers because of this new and costly TED requirement.

In our haste to help protect sea turtles, let us not put our shrimpers on the endangered list. Give us this brief time so that the National Marine Fisheries Service can properly conduct adequate TED testing under real-life shrimping conditions in the Gulf of Mexico. And, in the interim, let us strongly encourage the Mexican Government to join with us in trying to protect this important species.

Mr. Chairman, a 2-year delay in the implementation of a mandatory TED requirement in the offshore waters of the Gulf of Mexico is proper, just, and consistent with the amendment the Merchant Marine and Fisheries Committee adopted to postpone those regulations for inshore waters.

I would say to my colleagues that you can support the Ortiz amendment which will help save the jobs of thousands of Americans without harming the Endangered Species Act. I urge an "aye" vote on this important amendment.

Mr. TAUZIN. Mr. Chairman, will the gentleman yield?

Mr. FIELDS. Mr. Chairman, I am happy to yield to the gentleman from Louisiana.

Mr. TAUZIN. Mr. Chairman, the gentleman from Georgia [Mr. THOMAS] earlier argued that tests by the University of Georgia in the Atlantic water bottoms duplicated conditions in the Gulf of Mexico.

Is that the suggestion, that the water bottoms off Georgia are similar to those off Texas and Louisiana, or are they quite different?

Mr. FIELDS. Mr. Chairman, as the gentleman from Louisiana knows, since he represents a district that is adjacent to the Gulf of Mexico, there is quite a bit of difference.

Mr. TAUZIN. If the gentleman will continue to yield, in fact is it not true that recent beach cleanups have indicated that your State and mine accumulated some 300 tons of logs and trash accumulated from the drainage of the Mississippi River into the Gulf of Mexico, as opposed to point-five tons collected off the Georgia coast indicating a great deal more debris in our water bottoms, on our muddy bottoms, compared to their hard sand bottoms, which create significantly different conditions for pulling shrimp trawls with TED's in them ?

Mr. FIELDS. The gentleman is correct. He may be aware that the State of Texas is trying to do something about that not only on the beaches but in the ocean habitat.

Mr. TAUZIN. And if the gentleman will continue to yield, is he not also aware with all the tests done with regard to that kind of debris-laden water bottom, that TED's actually jam open when debris is caught in them, releasing all the shrimp and it simply does not work the same way in nice hard sandy bottoms off the Atlantic coast?

Mr. FIELDS. The gentleman knows that is also correct.

I sense the gentleman is about to say, too, that that creates a very dangerous condition for the shrimpers operating out of those waters.

The point the gentleman is trying to make is of course tests done in the Atlantic by the University of Georgia bear no relationship to the situation in the Gulf of Mexico which is the topic of this amendment.

Mr. MILLER of Washington. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the Ortiz amendment.

Mr. Chairman, I rise in opposition to the Ortiz amendment to the Endangered Species Act. My colleagues propose undercutting the administration of the Endangered Species Act by delaying for 2 years the use of turtle excluder devices or TED's by offshore shrimp trawlers.

Over the past several years, the National Marine Fisheries Service has spent $4 million for 27,000 hours of observer data aboard shrimp vessels and thousands of additional hours testing turtle excluder devices.

The arguments my colleagues made during full committee markup and make again here today sound simple enough. They say there have been no specific tests done in specific areas. Therefore, they reason, TED's should not be required in those areas. If we accept this reasoning, we are saying that established scientific methods and models should not be used to formulate public policy.

This issue was also the subject of a thorough debate when the Merchant Marine and Fisheries Committee approved H.R. 1467. Let me take a few moments to highlight what the facts tell us:

First, shrimp trawlers kill endangered turtles. Specifically they kill ridley sea turtles—one of the 12 most endangered animals in the world.

Second, we have a solution to the problem. TED's work. They save sea turtles. The tests by the National Marine Fisheries Services demonstrate this beyond a doubt.

Third, TED's do not reduce the shrimp harvest. They do, however, actually reduce by-catch. That is to say, they reduce the catch of sting rays, sharks, and finfish as well as turtles. This means that the shrimp trawler actually gets a purer catch.

The proponents of this amendment are trying to convince us that TED's do not help reduce the killing of endangered sea turtles but instead they increase costs to shrimp fishermen. Mr. Speaker, this simply is not an accurate reflection of the facts. The data from the National Marine Fisheries Service has led me and a majority of the Merchant Marine and Fisheries Committee to reject this amendment.

Mr. Chairman, there is an issue here that is larger than the continued existence of the ridley sea turtles. It is the purpose of the Endangered Species Act. The Endangered Species Act recognizes that our ability to coexist successfully on this planet with other species, will determine the quality of our environment, the quality of human existence. If we do not act to save the ridley sea turtle, what then is the purpose of the Endangered Species Act?

Here in this instance we have scientific data which demonstrates the problem, we have available technology to solve the problem and this solution will mean little or no dislocation to the human population. I urge my colleagues to vote "no" on this amendment.

□ 1505

Mr. BONKER. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, while I appreciate the concerns about possible economic impact upon the shrimp industry in the Gulf of Mexico, and incidentally I used to live along the coast of Mexico, of Texas, and realize the importance of the shrimping industry to that area. But I think we must also realize that the endangered sea turtles that are incidentally caught in these nets do drown, and that could precipitate their endangered status.

As a result, NMFS has decided that TED's are necessary if we are going to protect the sea turtles against possible drowning, and it seems to me that this proposal is reasonable and should be acceptable both to the environmental community as well as to the shrimping industry.

Recent studies have shown that TED's placed within the shrimp nets are extremely effective at excluding turtles without interrupting the shrimp trawl.

Mr. Chairman, I think the arguments that were advanced a few moments ago by my colleague, the gentleman from Washington [Mr. MILLER], are relevant and merit repeating. First of all, TED's do not cause reduced shrimp catches. There are five TED designs for shrimpers to choose from. They are inexpensive. They exclude other by-catch marine life such as finfish, jellyfish and sharks.

TED testing has been extensive. More than 1,500 hours of TED testing has been conducted in the Gulf of Mexico alone. There is strong evidence for the effectiveness of this device.

The bill reported by the Merchant Marine and Fisheries Committee addresses concerns expressed by the industry. The committee bill would delay for 2 years the TED requirements for shrimp fishermen operating in inshore waters where additional information is needed in order to proceed with regulations. Further studies will be conducted during this time to determine the impacts of shrimping on turtle populations in those areas.

Mr. Chairman, in conclusion I would say that we often are dealing with these dilemmas, how we can preserve a resource on the one hand without impairment to the industry on the other. But given the NMFS testing of the equipment, I think we have achieved both objectives, and as a result I think the Ortiz amendment ought to be opposed.

Mr. VENTO. Mr. Chairman, will the gentleman yield?

Mr. BONKER. I yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Chairman, I associate myself with the remarks of the gentleman from Washington [Mr. BONKER].

Mr. Chairman, I rise in opposition to the amendment.

The passage of the Endangered Species Act in 1973 was a recognition of our vital role as stewards of our Nation's precious plant, fish, and wildlife resources. H.R. 1467 is a strong reaffirmation of the importance of protecting endangered species, and I strongly support its passage.

The amendment now before us undermines the effort to protect one such endangered species, the sea turtle. The National Marine Fisheries Service estimates that 11,000 endangered and threatened sea turtles drown every year in shrimp trawls. Thousands of hours of tests have shown that turtle excluder devices [TED's] are effective in preventing the needless drowning of sea turtles. Furthermore, TED's do not reduce shrimp catches and would not have a harmful effect on the important shrimp industry in the Gulf of Mexico. Amendments to delete the use of TED's suggest that netting has an insignificant impact on sea turtles but that is simply not correct and misleading—thousands of sea turtles will be lost if this long-life reptile—each of whose loss impairs entire generations of specific species. The Merchant Marine Committee has crafted a satisfactory compromise in the implementation of TED's regulations. This compromise allows for continued testing and development of TED's for inshore areas for 2 years yet requires their immediate implementation for offshore areas. This compromise is preferable to the amendment now before us, which is opposed by the committee chairman, the ranking member, and the administration. I urge my colleagues to vote against this amendment.

Mr. DE LA GARZA. Mr. Chairman, I move to strike the requisite number of words and I rise in support of the Ortiz amendment.

Mr. Chairman, first let me give a little bit of my credentials on this issue. I doubt that but a very few in this body heard of the kemp's ridley turtles until the debate on this issue began.

Mr. Chairman, I have been a sincere and dedicated conservationist all my life. My involvement in the preservation and protection of endangered species began before there was an Endangered Species Act.

Although the plight of endangered sea turtles has come quickly to the forefront as a major conservation question of 1987, my personal involvement extends back many years—to February 1984.

At that time, the administration had requested elimination of a very modest budget item for the National Marine Fisheries Service [NMFS]. The appropriation in question amounted to just less than $1 million in the NMFS budget used to operate a unique Head Start Program with endangered kemp's ridley sea turtles.

In early 1984, Linda Calhoun, a constituent of mine in south Texas, wrote of her concern for sea turtle preservation and that is when I began to examine the NMFS budget figures which the administration had recommended.

In conjunction with the normal appropriations processes, I worked the best I could to advocate on behalf of continued funding for this turtle program in Galveston, TX, and we turned the tables on the administration and ever since 1984 the tiny budget for turtle headstarting has been secured.

During late 1984 we visited the NMFS laboratory in Galveston where each year several thousand kemp's ridley turtles are given the opportunity of reaching maturity in controlled captivity before being released into the Gulf of Mexico.

I have for nearly 4 years maintained close contact with both NMFS and the private Houston support group for the Head Start Program—an organization called HEART [Help Endangered Animals—Ridley Turtles], and my friend, Carole Allen of Houston, who has led a great effort to save the ridley turtle.

The cooperative NMFS-HEART Program to acquire ridley eggs from Rancho Nuevo in Mexico and to headstart the turtle hatchlings in Galveston represents the best current hope for preservation of kemp's ridley turtles which are among the most endangered of the several sea turtle species.

I helped in the effort. I went to the highest levels of the Mexican Government to request that they allow us into Mexico to secure and bring back the eggs. I know of no other Member of this body that did that, very respectfully. Those are the credentials.

Mr. Chairman, in my own thinking there is no conflicting issue here—the sea turtles are an integal part of the marine life system and they must, they will, survive. If they are lost as a species, they are lost forever.

Perhaps it is this fear of losing another precious form of life that has given rise to the current debate over the role of the shrimp trawl in sea turtle mortality figures.

I adhere to the saying of long ago about endangered species. When the last of a single creature is gone from the face of the month—it is gone until this world ends and another begins; there will not be another one that walks upon the land or lives in the sea until another world begins. That is my motto, that is my creed.

So do not talk to me about doing damage to the Endangered Species Act. I was there, I have been there, I am still there.

The problem is we have here two endangered species. One is a turtle and one is the shrimper, a human being who needs the jobs, who needs to feed his family and house his family and provide for the community wherein he lives.

The Nation's shrimp harvesting industry has been facing economic troubles during this decade as it attempts to compete with foreign imports, fuel oil costs, and exorbitant marine insurance bills—just to name a few of the factors hitting hard on the shrimpers.

It is my feeling that sea turtle preservation and shrimp industry success are not conflicting objectives—we do not need to choose between the two in our actions this day.

We have before us a plan to delay the use of TED's on shrimp trawls operating in offshore waters to complement some existing language that delays TED usage for inshore shrimpers.

Those who adamantly oppose this delay are those who believe that shrimpers are responsibile for significant turtle mortality. This word "significant" is key to our work today. The yeas and nays may hinge on the extent to which the mortality data can convince us beyond any shadow of doubt.

But why only inland waters and not in the gulf? Where is the equity, where is the fairness? Why the difference? Everybody has his own figures. I have heard someone say I have different figures from you. I say everybody is entitled to have his own figures, every researcher is entitled to write his own paper. That is the study. Put them off to the side.

The fact is—what is it doing right there on the field. The biggest problem in the gulf is plastics and ocean dumping. The commissioner of the land office in Texas that has jurisdiction over the coast has been instrumental in getting people to be apprised of that. He is Garry Mauro. He has been up here before your committee in favor of the MARPOL amendments which you approved. The Senate has also approved the MARPOL amendments. My daughter, Angela de la Garza Farias, is in charge under Commissioner Mauro of the "Clean Up the Beach" Program operated by the Texas General Land Office.

I have seen the dead turtles and I have seen the dead dolphins and I have seen the devastation in the gulf. It has not been from the shrimpers. It has been from what is being dumped into the gulf—the plastics and all of the trash and all of the material that is dumped into the gulf. Habitat destruction is the greatest threat to marine life.

We are trying to clean them up, we are trying to do what we can. But here anyone who says we are trying to destroy the Endangered Species Act is not correct. We are not. We are not changing one word.

You are trying to delist. We are not. We are not delisting anything. All we are saying is equity. You are going to do it inland—do it out in the gulf. Give us a little time, give us little time.

The shrimpers, as my colleague, the gentleman from Texas [Mr. BROOKS], mentions, they are not the most educated people. They are good, decent, hardworking people. But the fact is that we have got problems in our area. First they got cut off from the Mexican waters. Then we have all of the other environmental problems and the costs of insurance for their boats is a major burden. Imports of shrimp from other countries have no protection.

I was there when we were protecting the whales. I was there when we were protecting the baby seals. I was there when we were protecting the alligators. We are now overrun by alligators. We have protected them too well.

So do not question credentials. The issue is very simple: equity and justice. You are going to do it for one, you have to do it for the other.

Two, we are not asking to change the legislation. All we are asking is a little delay, further study so the economics can come down. That is what we are asking for. In the end, I think all of us will benefit, all of us will benefit.

Studies by this university and that university, they are all good and well, but each one can come up with its own end result. The fact is what is happening right there on the ground. What will happen to the shrimper, what will happen to the hundreds of women who work in the processing plants, what will happen to the people who build the boats. What will be the economic impact?

The CHAIRMAN. The time of the gentleman from Texas [Mr. DE LA GARZA] has expired.

(By unanimous consent, Mr. DE LA GARZA was allowed to proceed for 2 additional minutes).

Mr. DE LA GARZA. That is what we are asking for, that we look further to see how we minimize the economic impact.

More turtles are killed, 90 percent of the turtles die from the beach to the water, for those who are not enlightened in that area. More turtles die from the nature of the ecosystem. More turtles die because of the natural evolution of what happens in the ocean.

It is not man. It is not the shrimper. We are trying to get the money to have more turtles. We are seeing that they get from the beach to the water. We are trying to see how they can survive better. That is the positive side, and both can be done. It is not a contradictory need that we are expressing today. It is a collateral need; it is collateral because you can, and I can, work to save the turtle.

But we have to work to save the shrimper, and both can be done in unison, one helping the other. So do not make this an issue of you are doing away with the Endangered Species Act. We are not. Do not make this an issue that you do not care about the endangered species. Here is one who does.

The issue is very simple: fairness. You are going to do it inland, you do it in the gulf.

Two, look at the economic impact, and that economic impact can be disastrous or it can be positive, as it goes hand in hand to save the turtle. That is the end result that I am looking toward—to save the turtle, but the other endangered species called the shrimper needs to be helped along the way.

Mr. RAVENEL. Mr. Chairman, I move to strike the requisite number of words and I rise in opposition to the amendment.

Mr. Chairman, I represent 125 miles of South Carolina coastline, about 60 percent of the shrimpers down there, and I would say to the gentleman from Lousiana [Mr. TAUZIN] and others who have commented, we do it all for the turtles and for the shrimpers. We have got those turtle hatcheries, and there is nothing we do not do to try to preserve them.

Mr. Chairman, the loggerhead turtle has been with us unchanged for about

175 million years. Imagine that. They grow to great size and are a wondrous sight to behold, and I know that a lot of my colleagues are knowledgeable and know what I am talking about, when they come up to breathe, gracious goodness, we see this great big turtle head about as big as a football come on up, and they look at you with those great big eyes, and then they go on down, and you see them lazing around on the surface. I have seen many of them.

But now the loggerhead, and that is the turtle I am particularly interested in, is threatened, not endangered, but threatened with extinction.

Beach erosion and maldevelopment—the lady who helped me write this said this is not a word, and I said if it is not a word, it ought to be—maldevelopment are destroying the nesting areas. When it does not nest successfully, humans, feral hogs, and a feral hog is a domesticated hog gone wild, and raccoons often steal the eggs.

If hatching does occur, and I have seen many nests hatch, the infant turtles have to run a gauntlet of rapacious gulls, ghost crabs, and predator fish on the way from their nest to deep water.

Now listen to this: it is estimated that possibly only 1 percent, and I wish Kika were still here because he alluded to this and the problem we have, it is estimated that only 1 percent of those that hatch reach maturity. When the adults enter the offshore waters in anticipation of nesting, they do so at the time in my area of the shrimping season. Thousands are caught in shrimpers' trawl nets and are drowned. We view between 250 and 300 every year. That has been the count, the actual count that our wildlife resources commissioner has been recording. Their bodies subsequently wash ashore and are viewed with alarm and dismay by many, because it is in the summertime and naturally people would be dismayed.

Thankfully our South Carolina shrimpers have begun using turtle excluder devices which they helped to develop, and are continuing to refine. They do not have to use them until May 1 next year. We are now using the soft TED which is manufactured in the district, and of course my colleagues have the Georgia jumper just south of us.

Since their introduction, the numbers of drowned turtles occurring on our beaches are declining.

□ 1520

I pray that the shrimpers of the gulf coast will be as environmentally conscious and as innovative as the shrimpers of the east coast and that my respected colleague from Texas will withdraw his amendment and remove its threat to the soul of our country's very successful endangered species legislation.

John Muir, a giant in the conservation movement said long ago, "Everything in nature is connected." So it is with our Endangered Species Act. Any amendments not recommended by the Committee will start an unraveling of its protective fabric and all America will be the loser for it.

Mr. DeLAY. Mr. Chairman, will the gentleman yield?

Mr. RAVENEL. I yield to the gentleman from Texas [Mr. DeLay].

Mr. DeLAY. I thank the gentleman for yielding.

Mr. Chairman, the gentleman quoted that thousands were caught in the trolling nets off the Altantic coast of South Carolina.

Mr. RAVENEL. East coast, yes.

Mr. DeLAY. The Altantic coast.

Mr. RAVENEL. Atlantic coast.

Mr. DeLAY. What study is the gentleman citing? Because in the study that underlies the regulation of using TED's, in almost 27,000 hours of study only found 161 turtles on both coasts, in both waters, 161 dead turtles.

Now you cannot say they were drowned, because nobody did postmortems on them.

So which study is the gentleman citing that thousands were caught drowned in the trawling nets off the coast of South Carolina?

Mr. RAVENEL. No, I said off the east coast. The figures I am citing are the figures our South Carolina Wildlife Commission gave me. They estimate between 11,000 and 12,000 per year are caught. Thankfully they do not all drown. A great many of them are turned loose.

Mr. BUSTAMANTE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the amendment. From time to time, Congress is forced to make decisions that encourage the development of marine resources and preserve the vital species that inhabit them. Once in a while those interests clash, and we struggle to find a balanced solution.

The amendment offered by my dear friend and colleague, Mr. Ortiz, offers an attempt to arrive at a balanced compromise in our commitment to preserving vital marine life.

Mr. Ortiz's amendment proposes a 2-year delay in the implementation of the turtle excluder device regulations in the offshore waters of the Gulf of Mexico.

By adopting this amendment, there would be more time to test the turtle excluder device and to issue a more accurate study of the impact of the shrimp industry on the endangered sea turtle.

At debate here is the methodology which is used to measure shrimpers' impact on the sea turtle population. Opponents of the amendment contend that thousands of sea turtles are lost each year during the shrimp harvest.

However, over 17,000 observer-hours produced evidence that only 3 dead endangered sea turtles have been caught in the Gulf of Mexico over the course of 12 years.

While we can debate the numbers, let us keep in mind the certainty of economic loss to the Texas shrimping industry if this amendment is not adopted.

Over 10,000 people are employed in the Texas shrimp industry. The Texas shrimp industry stands to lose between $98 to $135 million per year in nominal terms.

That loss will certainly lead to greater job losses in the shrimping industry.

The National Marine Fisheries Service claims that turtle excluder devices have been adequately tested.

Yet, the Sea Grant Advisory Service of the Mississippi Cooperative Extension Service claims that the statistics compiled by NMFS are—and I quote "inconclusive."

The Ortiz amendment seeks to extend the testing period for 2 additional years, so we can obtain conclusive results by which we can make an informed decision of the safety and effectiveness of this device.

I urge my colleagues to join with me in supporting the amendment offered by Mr. Ortiz.

Mr. CALLAHAN. Mr. Chairman, I move to strike the requisite number of words and I rise in favor of the amendment.

Mr. Chairman, the debate this afternoon seems to be revolving in a parochial sense, those of us that are truly in touch, directly affected by the shrimpers of America, especially the Gulf of Mexico, seemingly are on one side and some from the inland areas of this country are on the other side. But only those of us who have looked into the weather-beaten faces of those shrimpers who ply the Gulf of Mexico, not in quest of shrimp so much as in quest of a living for their families, only we can recognize the true problem here. We are just as concerned about the environment as anyone in this Congress. It is our area that we are trying to protect.

These turtles we want to protect and this amendment that Mr. Martinez is offering here today will in no way, in my opinion, impact the population of the ridley turtle. Indeed, if they were to give me and let me deliver to the State of Alabama one half of the $1.5 million included in this issue that is going to be used to study the problems of the ridley turtle, I would take that $750,000 and I would create a hatchery at Gulf Shores, AL. The mayor has already given me the indication that he wants to do it because it would be a tremendous tourist attraction. I will assure every Member of this body that we will raise more ridley turtles, to remove them from the endangered species list. Think about the people involved in this, these people who are so proud, too proud to accept welfare, people who are struggling to make ends meet on a mere $18,000 a year average take, who are crippled in every instance, not only by nature in weathering the storms in the Gulf of Mexico, but the economic storms that also impact them, the liability costs of operating these shrimp boats, the escalating costs of the gasoline and diesel that goes into these boats.

Think about these poor people who are faced already with tremendous competition from foreign nations in a country where they pay their taxes—and I am talking about the American shrimpers—where they pay their fuel taxes when they purchase their gasoline in the United States of America, only to be faced with competition from shrimpers from Mexico and all over the world who bring these shrimp into the ports of Mobile, Texas, Florida, Mississippi, Louisiana, to send them to those of you who demand this delicacy at your country clubs in Chicago and Kansas City and Minnesota and other areas of the world.

Let us think about the economic plight that these people are in. We do not, as I have emphasized, want in any way, shape or form to endanger the Endangered Species Act. As a matter of fact, most every one of us who are debating this today are going to support the continuation of the Endangered Species Act.

We are not asking that the ridley turtle be taken off the Endangered Species Act. I have read the entire report from cover to cover that came out and there is inconclusive evidence that the National Marine and Fisheries Service is absolutely wrong. Let us plead with you to recognize common courtesy with respect to our district, with knowledge that only we can know. Let us represent our people which is why we are here and why you are here.

We are here fighting for the welfare and the well-being of our people and we want to join with you in seeing that America and all the endangered species are protected for all mankind. But I will assure you, if you have an economic problem pending, a cloud which is rising and coming to your districts and you come to SONNY CALLAHAN from Alabama and you say that this is going to seriously "impact my district, it is going to cost jobs and it is possibly going to cost lives, because of the danger, it is going to increase the liability cost, liability insurance costs for these poor shrimpers" in the Gulf of Mexico, you bring your parochial problems to me and I am going to support you.

And I ask those of you within listening audience today and those of you in this body today to join with those of us that only are interested in this from a financial and economic viewpoint as well and join with us in supporting the Ortiz amendment.

Mr. DINGELL. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I rise in support of H.R. 1467, and in opposition to the amendment offered by the gentleman from Texas [Mr. ORTIZ]. Almost 14 years ago, the Endangered Species Act became law. I had the Honor of serving then as the chairman of the subcommittee in which the act originated and of having introduced the bill that was eventually to become the Endangered Species Act.

The goal we set almost 14 years ago was unparalled in all of history, for we sought to do what no one had even done before. We resolved to put an end to the decades—indeed, centuries—of neglect that had resulted in extinction after extinction of species with whom we once shared this great country. If it were possible to avoid causing the extinction of another species, we resolved to do exactly that.

There were some people then, and there are unfortunately still some today, who belittle the goals of this great act by belittling the species it seeks to protect. How easy it is for Members of this body to dismiss the protection of a fish, a mollusk, even a plant, as an example of an environmental excess. But who will step into this well today and belittle the lowly mold from which the wonder drug, penicillin, was discovered? Who will step forward to belittle the rosy periwinkle, A species of African violet? Had it been allowed to become extinct, we would be without the drug that has made it possible for most victims of childhood leukemia to survive that dreaded disease.

Preventing the extinction of our fellow creatures is neither frivolity or environmental excess. It is simply the means by which we keep intact the great storehouses of natural diversity that make progress in medicine, agriculture, science, and human life itself possible. In only 14 years, we have shown that it is in fact possible to reverse the road to extinction for species already well down that road. In 1973, the symbol of our Nation—the bald eagle—could no longer lay hatchable eggs because the pesticide DDT had so poisoned its habitat. When the Federal Government proposed to ban DDT, cotton farmers, citrus growers, and countless others rushed to tell us that the sky would surely fall, that they couldn't possibly stay in business without continuing to use DDT. Well, the sky didn't fall, we still have strong cotton and citrus industries, and we have the bald eagle well on the road to recovery.

Now many years after that, the tuna industry was told to change the nets it was using and the way that it fished in order to stop killing hundreds of thousands of porpoises each year. The tuna industry sent up a similar clamor; the sky was about to fall, they would have been forced out of business if they had to change the way they were fishing. Well, the sky didn't fall, the American tuna industry remains a strong one, and the number of porpoises drowned in the fishery has been reduced by over 95 percent.

Today, it is the shrimp industry telling us that the sky is again about to fall. They say they have to keep killing over 11,000 endangered and threatened sea turtles each year or they too will be put out of business. That, they claim, will be the result of regulations under the Endangered Species Act requiring them to use inexpensive and extensively tested gear that has been shown to save turtles and reduce the extremely wasteful bycatch of recreationally valuable finfish without reducing the catch of shrimp.

Mr. Chairman, let me assure you that the sky is not going to fall this time either. Shrimpers have been required to use these devices in parts of Florida since October 1, and they have been an unqualified success. In light of the extensive testing that has been done, there is every reason to believe that this gear will be successful elsewhere as well. We can get the five magnificent species of sea turtles that inhabit our coastal waters off the road of extinction and on the road of recovery, and we can do so without harming the shrimp industry, if we keep on the course this great act has set. We can do that—and avoid a regrettable retreat from the noble and critically important goal that we set 14 years ago—by voting for H.R. 1467 and against the amendment.

□ 1535

Mrs. MORELLA. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the amendment which the distinguished Member from Texas is offering. It will only impose further delays in addressing the unnecessary and avoidable capture of endangered and threatened sea turtles.

I am concerned with a delay because it ignores the considerable scientific literature that exists about the damage done to sea turtle populations in shrimp trawls. The amendment fails to acknowledge the extensive work done by the Federal Government and commercial fishermen in devising means for eliminating this problem with minimum burden upon industry.

The 2-year delay that is being sought for the off-shore waters of the Gulf of Mexico is in addition to the many previous years of delay in addressing the loss of sea turtles in shrimp trawls. As far back as 1973, scientists had identified shrimp trawling as the major threat to one of the world's most endangered species, the kemp's ridley sea turtle. Since then, this finding has been confirmed by study after study.

Mr. DELAY. Mr. Chairman, will the gentleman yield on that point?

Mrs. MORELLA. I yield to the gentleman from Texas.

Mr. DELAY. Mr. Chairman, does the gentlewoman from Maryland understand that the U.S. Fish and Wildlife Service has stated many times that shrimp trawling is the most minor cause of catching turtles and harming turtles on the coastline, that it is not the major cause?

Mrs. MORELLA. Mr. Chairman, I would be glad to share with the gentleman, immediately following the completion of my statement, the literature that states that it has been considered since 1973 the major threat.

Mr. DELAY. By whom? Is that the same study that has been cited here today that is less than scientific? Even the National Marine Fisheries Service says it is one of the minor causes. On the list, it is at the very bottom.

Mrs. MORELLA. Mr. Chairman, there are so many studies, and many of them have been cited especially in opposition to this amendment, because the gentleman must admit that studies have been going on for years and years because of the endangered sea turtle, and unavoidably one of the reasons, whether the gentleman wants to call them major or minor, depending on the particular study, certainly has to do with shrimp trawling. At any rate, not only is there that study since 1973, but there are many other studies, and I would be glad to get them specifically for the gentleman.

Since 10 years ago, when the National Marine Fisheries Service began developing their version of a turtle excluder device, the nesting population of kemp's ridleys has fallen more than 25 percent. Now, there are no more than 550 adult female ridleys in the world's oceans, a stark contrast to the 100,000 adult female ridleys that nested just 40 years ago.

The loggerhead sea turtle, likewise, has suffered a loss of 2 to 3 percent a year in recent years. According to estimates at several nesting sites on the beaches of North and South Carolina, this year's nesting is down to a quarter of last year. Even taking into consideration fluctuations due to natural migratory patterns, scientists are deeply concerned with this decline. The use of turtle excluder devices will help to reverse this loss.

The argument is made that another 2 years will make little difference. But it will for sea turtle populations that have already fallen so dramatically. In those 2 years, another 8,000 sea turtles will drown in shrimp nets in the Gulf of Mexico. The consensus of the scientific community is that we can not wait—the stakes are too high not to heed the warning signals.

Most of this debate is focused upon the Gulf of Mexico's sea turtles. However, many sea turtles, including kemp's ridleys and loggerheads, regularly feed in the Chesapeake Bay. Along with other members of the Maryland delegation, I am dedicated to seeing that these turtles once again become a common visitor to our waters. But, as a recent study published in the scientific journal, Ecology, concludes, our efforts in the States bordering the Chesapeake Bay will be for naught unless the drowning of sea turtles in shrimp trawls ends. The prompt implementation of the use of the new, greatly improved net would be a fitting salute to the new Chesapeake Bay agreement, which was signed this Tuesday, December 15, in Baltimore.

Let's make use of the solution we have available. I urge my colleagues to support H.R. 1467 without this delaying amendment.

Mr. JONES of North Carolina. Mr. Chairman, I ask unanimous consent that all debate on this amendment and all amendments thereto end in 15 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from North Carolina?

Mr. LIVINGSTON. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. SCHEUER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in strong opposition to this amendment and to all weakening amendments that would make Swiss cheese out of this bill and would rob it of its integrity and its strength.

All of us heard from a distinguished colleague of ours a few minutes ago that we should think about the weather-beaten faces of the shrimp fishermen.

Mr. Chairman, I suggest we have a higher duty, to think about the smooth and soft faces of our children and grandchildren who will inherit this globe of which we are now custodians. We do not own it; we have only borrowed it, and we will pass it on to our children and grandchildren. Let us think of their smooth and soft faces and the kind of a world we will deliver to them.

The amendment seeks to delay implementation of a technology that has been carefully designed, developed, and tested to save endangered species. The debate about whether we will take a little effort to save endangered sea turtles is really a microcosm of this whole debate about endangered species.

One of our colleagues told us a few moments ago that we owe common courtesy to each of our colleagues in this House whose people might suffer some economic damage if we continue to enforce this Endangered Species Act. I suggest that we have a higher mission, and that is to think of the uncommon destruction of the biota—of living things on this planet. If we concentrate on common courtesy to our colleagues, we will wreak uncommon devastation to our environment and to the globe we inherited.

Since the Pilgrims landed, Mr. Chairman, we have lost more than 500 species and subspecies of plant and animal life. We have lost the passenger pigeon once the most abundant land bird in the world with a population estimated between 3 and 5 billion only 250 years ago.

Just this year we lost the dusky seaside sparrow, of which there were 20,000 only two decades ago.

There are approximately 1,000 endangered species now on the list, with some 3,000 additional candidates awaiting administrative action and evaluation. But globally the situation is worse. In this last year we have lost 1,000 species irretrievably, irrevocably, never to come back. Our experts tells us that this rate of loss may soon increase to 5,000 extinctions annually unless mankind establishes an environmental ethic that we are custodians and trustees with a fiduciary responsibility to our children and our grandchildren to save the biological diversity of this planet.

□ 1645

Mr. Chairman, we are heading if we do not mark our words toward an unprecedented extinction crisis that is manmade and far more devastating than the catastrophic extinctions that have occurred only twice before in the 4½ billion years of life on Earth.

The rhino is a case in point. It survived 60 million years on this planet until it met one predator that it could not cope with—mankind. Are we to see the rhino extinguished on our watch?

The global environment is facing a variety of threats. Tropical rain forests are disappearing. According to my colleague, we ought to think about the livelihood of the people, the poor Amazonian peasants, who are cutting down the tropical forests. Should that be our only concern, or should we also be looking beyond those concerns to the concerns of our Earth—a planet of 5½ billion people who desperately depend on biological diversity for their health, for their food, for their morality, for their aesthetics, and for their life.

Desertification, the reversion of good arable land to deserts, is spreading around the world, including our own country, because of our contempt for the land and because we overburden the land and the fragile ecosystems with too many grazing animals and too many people. How long will we tolerate developers who are out to make a quick buck by razing tropical forests and selling off the riches? How long can we survive in a world in which developing nations are under such a burden of exploding populations that they will wipe out the Amazon jungles and they will overstress their arable environment to the point where it disappears and becomes desert?

The CHAIRMAN. The time of the gentleman from New York has expired.

(By unanimous consent, Mr. SCHEUER was allowed to proceed for 2 additional minutes.)

Mr. SCHEUER. Mr. Chairman, these species extinctions that we are suffering now are our early warning systems, our canary in the coal mine. Which canaries will be extinguished next? Will it be the great whales? Will it be the elephants, the rhinos, the pandas, the grizzly bear, or the sea turtles?

How many of the little things, the darters, the pupfishes, the little plants that may not be as beautiful as orchids, the little animals that may not be as beautiful as peacocks, are going to go down the drain and disappear forever from the face of the Earth?

The world conservation strategy reminds us that, "we do not inherit the world from our parents. We borrow it from our children."

Biological diversity is not a luxury, Mr. Chairman. It is a necessity. We depend on all those living organisms for our food, our medicine, and our economy, and this includes far more than the living organisms that we have domesticated for our use.

The value of wild resources produced and imported into the United States last year exceeded $27 billion, much of that in the form of lumber. More than 50 percent of all the pharmaceutical products sold in this country last year contained an active agent derived from plants, with a market value of over $8 billion last year.

Mr. Chairman, we lack the knowledge to say that this species or that species lacks utility, lacks usefulness, and can safely be discarded. Rather, everything we know tells us that the biota, the ecosystems with all their plant, animal, and microbial elements are useful, and that the more we learn, the more we understand that every element has its place.

Aesthetic, ecological economic, and moral arguments all point to the same conclusion—we need to save as much of everything as we can. The Endangered Species Act is our last line of defense in the fight to save biological diversity.

I urge my colleagues to resist the temptation to weaken this act by exempting certain species from coverage as urged by special interest groups. It is often difficult, in the face of economic pressure, to see the case for preserving some arcane, apparently useless species.

To quote Aldo Leopold, environmental ethicist, whose centennial we commemorate this year and the founder of the modern science of wildlife ecology:

> If the biota, in the course of aeons, has built something we like but do not understand, then who but a fool would discard seemingly useless parts? To keep every cog and wheel is the first precaution of intelligent tinkering.

Mr. Chairman, let's pass this Endangered Species Act reauthorization without weakening amendments.

Mr. Chairman, I strongly support the committee's reauthorization of the act and urge my colleagues to support this national commitment to "save all the parts."

Mr. LIVINGSTON. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, the Ortiz amendment to delay implementation of the turtle excluder devices for 2 years in the offshore waters of the Gulf of Mexico is eminently fair.

Even the National Marine and Fisheries Agency of the Commerce Department recognized that need for delay in implementation last summer when they issued their final regulations, which do not even take effect until next spring or possibly next summer.

The Department of Commerce, NMFS, and even most environmentalists admit to the fact that testing in inshore waters and the Gulf of Mexico offshore areas has not been properly or extensively conducted.

When my staff met with the NMFS officials on October 1, they told us that they were in the process of developing a program for the gulf on TED testing and an evaluation of its impact on the shrimping industry, and to this day that program has not been implemented, to the best of my knowledge, even if it has just this week begun, and I doubt it, it will not be completed by the time the turtle excluder device enforcement is expected to begin or planned to begin this spring. That is why we need the 2-year grace period. We need a delay. We need to ascertain what exactly are the facts, how these TED's are going to be implemented, how they are going to impact the area in the Gulf of Mexico.

There is no question that there is a need for them on the Atlantic coast, we will concede that. The gulf is another matter.

We are simply seeking temporary relief for thousands of people who are engaged in the business of shrimping, people who make it their primary source of living, supporting their families in the offshore waters of the Gulf of Mexico.

In Louisiana alone, this delay would help prevent adverse and detrimental economic impact on over 4,000 shrimpers, and of course, their families as well.

Mr. Chairman, Louisiana leads the Nation in shrimp production. We produce over 182 million pounds of shrimp a year. This industry is critical to our economy, which as every Member of this House knows is especially on hard times. We have a depression from the oil and gas and farming industries and we lead the Nation in unemployment. To adversely impact the shrimpers at this time just adds insult to injury.

There have been arguments that enough testing has been done, that turtle excluder devices work, that they are safe; but the people who use them, the shrimpers, tell us from experience that the conclusions reached by those who do not normally use TED's and who are not shrimpers, in fact, are not accurate.

Our shrimpers have tested them, and they maintain that the turtle excluder devices currently approved for us can cause up to 30 percent of the loss of their catch. They tell us that the rigid TED's, the turtle excluder devices, are unsafe for use. They can actually knock a man off his boat in rough waters. They can cause the loss of nets. They increase fuel consumption of a vessel. They pose hazards to aquatic life other than shrimp, obviously such items as sponges, various fin fish of all sorts, recreational fish, gill sharks; in fact, often times even to the turtles themselves.

Our shrimpers tell us that TED's do not always work the same in the many unique waters off the Gulf of Mexico, off the coast of Louisiana, Texas, and other areas. The effectiveness varies, actually, with the nature of the bottom of the water, whether it is hard and sandy or soft and muddy or otherwise.

Our shrimpers and even the Commerce Department admit that TED testing hs not been conducted in half or perhaps even much less than half of the 28 statistical areas or zones in the Gulf of Mexico.

Mr. Chairmam, I have received mail and have heard from well over a thousand shrimpers opposed to implementation of the TED's. There have been meetings all up and down the gulf coast area attended by thousands and thousands of those people and their families. Some are very severely going to be impacted adversely by the imposition of these turtle excluder devices. They are going to suffer very adverse consequences that may be suffered by thousands of innocent people if these turtle excluder devices and the imposition of them are not delayed.

The CHAIRMAN. The time of the gentleman from Louisiana has expired.

(By unanimous consent, Mr. LIVINGSTON was allowed to proceed for 1 additional minute.)

Mr. LIVINGSTON. So I believe, Mr. Chairman, that the Ortiz amendment is in order, that the delay should be granted, that this House should vote for the Ortiz amendment to include it in this bill. It is the only right thing to do.

Mr. BROWN of California. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I know that we have debated this amendment long enough and that we are probably getting to the repetitive stage. I do not want to prolong it anymore than necessary.

I have a great deal of respect for the author of the amendment, the gentleman from Texas [Mr. ORTIZ], and for those who have spoken in support of the amendment, as well as those who have raised objections to it.

I know that there are economic issues at stake here and that they need to be considered. There is no simple black and white answer to most of these environmental situations. It involves a balancing of forces which has to be done.

I have been involved, I might say, in debates on environmental issues for more than 30 years. I remember 30 years ago conducting hearings on the impact of lead in gasoline on health. We were told then in much the same way we are hearing today that we needed more research, that it was conflicting, that it would have an adverse economic impact if we did something to remove lead from gasoline. We had witnesses who actually testified that the more lead in gasoline you had, the healthier it was for people.

We see a repetition of the kinds of arguments that we have here. We have seen those repetitions with regard to air pollution, with regard to acid rain, with regard to toxic chemicals, with regard to nuclear radiation, with regard to endangered species. You can always argue that we do not have enough research, and you are right. We do not have enough research. You can always argue that there is an adverse economic impact, and you are right. There is an adverse economic impact.

What you have to do is to have rational people balance these factors and come to a conclusion that represents the best for the public welfare.

Now, do any of you think for one minute that this administration is going to propose an action which they consider radical in terms of its economic impact on the shrimpers or on any other segment of society? That has not been their record. I have criticized this administration over and over again for not acting with sufficient aggressiveness on environmental issues. In this case, they happen to agree with the position of the committee.

Do any of you for a minute think that the distinguished chairman, the gentleman from North Carolina [Mr. JONES], would adopt some radical provision that a majority of this great Committee on Merchant Marine and Fisheries would come up with something that represented an unusual hardship, a lack of concern for the marine industries of this country? No. I do not think in all good faith you can make that kind of an assertion.

You will continue to hear the arguments that we need more research, or the economic impact. You have to recognize those will always exist, and they have to be balanced.

Do you want that balance to be done by some radical people, like me, or do you want them to be done by this administration or distinguished leaders, like the gentleman from North Carolina [Mr. JONES]?

I say that in this bill you have a reasonable balance, that in this administration you have an administration which will preserve against undue hardship the shrimpers or any other economic aspect of this society.

I think that on that basis alone we should be willing to take the product of the committee and reject the amendment of the gentleman from Texas.

Mr. DELAY. Mr. Chairman, will the gentleman yield?

Mr. BROWN of California. I am happy to yield to the gentleman from Texas.

Mr. DELAY. Is the gentleman aware, and I agree that Chairman JONES is very reasonable, but is the gentleman aware that those who sat in the committee and heard the testimony voted 2 to 1 for the Ortiz amendment, and by proxies the amendment failed?

Mr. BROWN of California. I have not been aware of that particular fact, but I depend upon the judgment of the chairman to see that this bill reflects the will of the committee, and I think it does.

□ 1600

Mr. HAYES of Louisiana. Mr. Chairman, I move to strike the last word, and I rise in support of the Ortiz amendment.

Mr. Chairman, I know what it is like to be an endangered species, I am a freshman Congressman and a conservative Democrat who lives next door to the gentleman from Texas [Mr. BROOKS], and I live with this on a daily basis.

I have been asked by opponents not to put any kind of emotional issues into this debate so I will not do that.

Let us turn our backs on the people in Cameron Parish who shrimp for a living. Let us leave emotion behind. Let us forget about their children and their livelihood and their rising and facing the sun each day. Let us instead leave that behind and talk about logic and reason. Let us explain to them logically and reasonably how it can be that when they spend months and years trying to find out what to do about coastal erosion in Cameron Parish, losing 40 square miles of coast per year, they are told, no, we have to do a study. We need a study of that.

When we go to the Corps of Engineers and say, we have to have blockage here because we are losing commercial fishing, they are told, no, we need a study. The study takes a decade.

When they who know more then anyone else about the shrimping industry tell us that they are not catching sea turtles, that they are not a part of this problem to any substantial degree, they are told, wait, the last thing we need is a study, what we need is to shut off your livelihood now.

Let us explain that to them logically and reasonably. Let us explain to them when they are coming back and meeting people who have traveled to Mexico, who walk into Cozumel, and see sea turtles hanging on clotheslines in the afternoon markets, and explain to them how logically and reasonably the turtle caught in their nets and freed had an impact on the world decline.

Let us explain to people who understand south Louisiana who are not environmentalists but who are naturalists and who live in the area painted by John Audubon, let us explain to them how when they dig up sea turtles eggs on the coasts in Mexico, and when Japan imports over 400,000 tons of turtle meat annually, that it is their small boats supporting a family of two with a kid trying to go to college in south Louisiana that affects the global loss of sea turtles.

No, I tell my colleagues what they conclude, they conclude logically and reasonably that those who do the studies are not only not smarter than the shrimpers in south Louisiana, they are also not so smart as either the shrimp or the sea turtles.

Mr. DELAY. Mr. Chairman, I move to strike the last word.

Mr. Chairman, after that eloquent speech by the gentleman from Louisiana [Mr. HAYES] I would like to discuss reasonableness also because I want to interject into this discussion reason. I have said before on this floor that I am a biologist and I am trained to gather and analyze statistical information, and as a result I consider myself qualified to evaluate much of the data that has been presented in this debate.

I do so in an effort to point out that the arguments put forth by the proponents of TED's are based on emotion rather than reason. I must say that as to some of the studies that were done, I think the conclusions were written before the study was actually attempted.

A number of our colleagues have cited Department of Commerce estimates that about 48,000 turtles are caught and over 11,000 die in shrimp nets each year. These estimates, or perhaps we ought to call them guesstimates, are based on statistically questionable extrapolations from a 12-year observer report of only 17,000 hours.

First, let me point out that these figures included not only the Gulf of Mexico but the Atlantic Ocean as well. The true figures for the Gulf of Mexico are a little over 13,000 caught and a little over 4,000 killed.

These extrapolations assume that turtles and shrimpers are evenly dispersed throughout the gulf, but they are not.

They assume that every gulf shrimper trawls 24 hours a day 365 days a year, and in reality shrimpers work less than 220 days a year and their average trawl is less than 14 hours.

But the strongest indictment of these estimates come from the misleading language of the report. The report discusses turtles in general, not endangered turtles. Every Member of this body should know that during this 12-year study and over 17,000 hours or surveying, only three endangered turtles were found dead in the gulf trawls, and as no postmortems were performed on these turtles, it cannot be proven that the turtles died in the nets.

The study even includes—and it is in the report of the committee—includes the fact that 125 hawksbill turtles will be killed every year even though not one hawksbill turtle was caught in the surveys.

Similarly, dubious studies have cited as evidence that TED's do not cause significant shrimp loss. The most frequently cited study claims that in over 4,000 hours of testing, including 1,500 hours of testing in the gulf, the use of TED's resulted in insignificant shrimp loss, but there is a critical problem with this study, and that is that the data is based on selected runs. In other words, the data is biased selection of perfect runs under ideal conditions.

If a TED was not perfectly tuned—and with the trash on the bottom of the gulf perfect tuning is impossible—the results of that trawl were not selected. If the TED became twisted in the net, if conger eels clogged the TED or any basic shrimping conditions changed from ideal to atypical, the results of these trawls were not selected.

Shrimpers whose livelihoods depend on the amount of shrimp they catch do not have the luxury of selecting the conditions of their runs, much less the runs that they want to eliminate retroactively.

Even more absurd, statistics often cited—and they have been cited on this floor—are that a Mississippi sea grant advisory service study concluded that TED-equipped nets caught 7.2 percent more shrimp than nets that were not equipped by TED's. I think it was cited by the gentlewoman from Maryland.

This 7.2-percent statistic is the result of only four runs during perfect conditions and with the investor of the TED on board. The investor probably had some extra TED's that he needed to sell.

Any shrimper can tell my colleagues that it is possible, it is even common, to hit a school of shrimp in such a manner than one side of the boat catches shrimp and the other does not. In a study based on only four runs it is probable that this occurred in one of the runs.

It is irresponsible at best to cite a study of four nights when considering legislation which would so profoundly affect the lives of thousands of American citizens.

Mr. Chairman, I might say that we are at the point here, and we have talked about shrimpers trying to make their living, but I have been told by Members of this body that this is a throwaway environmental vote, and we have heard that it has been said that this is going to be an environmentally rated vote.

All I ask is that my colleagues should look within themselves and ask, is it better to have a good rating with the environmentalists and disregard the livelihood of shrimpers on the coast and in the Gulf of Mexico. That is the choice. The data does not support the regulations. All we are asking for in the Gulf of Mexico is a moratorium of 2 years so that significant, good scientific data can be collected before these regulations are instituted.

Mr. TRAFICANT. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I am not going to take 5 minutes, and I am sure my colleagues will be glad about that.

I am going to support the Ortiz amendment.

Mr. Chairman, I have listened to all the debate, but what bothers me is that we have spent more time on turtles than we did on star wars, we have spent more time on turtles than we did on jobs, and we have spent more time on turtles than we did on the American farmers and coal miners. When the Members from my district in years past came to this floor about problems in the steel industry, all the free traders pushed them aside.

How I am hearing terms on the floor like "economic impact," "adverse economic climate," and I will tell my colleagues that I am on the side of the Ortiz amendment in this debate but I am sick and tired of the fact that we do not talk about farmers, we do not talk about trade, we do not talk about budget deficits, we do not talk about trade deficits, but we do worry about flies on our faces while an elephant eats our behind.

So I am going to vote for the Ortiz amendment.

Mr. Chairman, when I come here on the floor, after having lost 55,000 jobs in the steel industry, and now with 20 percent poverty, I want to see the same sensitivity.

Mrs. BOGGS. Mr. Chairman, I move to strike the last word, and I rise in support of the Ortiz amendment.

Mr. Chairman, first of all I would like to congratulate the Committee on Merchant Marine and Fisheries for bringing to us a very fine bill. Certainly I am very much in favor of the many elements of the bill that they brought to this floor and I congratulate them, I congratulate both sides of ths aisle, and I congratulate the staff members who have brought this bill to us.

Mr. Chairman, I would like to say to our colleagues that this amendment does not amend the bill, it does not do anything to destroy the bill that has been brought us. All it does is to extend for 2 years a moratorium so that the gulf waters offshore can be given the same kind of treatment that the in-shore inland water shrimpers have been able to effect.

I would hope that the House would recognize the difference here. We are not really asking to amend this fine bill in any kind of way. All we are doing is asking for a 2-year moratorium so studies can be done in the appropriate places where the shrimpers are having a very, very difficult time.

Certainly the turtles deserve our interest just as all endangered species do, and I would be the last person in this House to do anything that would be detrimental to the endangered species of this world.

Mr. Chairman, I hope that we will vote for this amendment, which is really an amendment to be able to study for only 2 years the appropriate places that are referred to in the amendment.

Mr. ORTIZ. Mr. Chairman, I move to strike the requisite number of words.

The CHAIRMAN pro tempore (Mr. LEVIN of Michigan). Without objection, the gentleman from Texas [Mr. Ortiz] is recognized for 5 minutes.

There was no objection.

Mr. ORTIZ. Mr. Chairman, I would like to close debate, and I know that my colleagues are very anxious to vote in favor of my amendment, so I am going to be very, very brief.

All we want is something uniform. What we have done for the east shore shrimpers we want to do for the inshore shrimpers. The law is not going to change. Nothing is going to be deleted. The turtle will continue to be protected by Federal law.

A vote in favor of my amendment is a vote for jobs, a vote for safety, a vote for consumers, and a vote for small business. Vote in favor of the Ortiz amendment.

Mr. LEHMAN of Florida. Mr. Chairman, I would like to take this opportunity to express my support for H.R. 1467, legislation to reauthorize the Endangered Species Act. I would also like to express my opposition to Congressman Ortiz's amendment to delay for 2 years the required use of turtle excluder devices [TED's] by shrimpers in the offshore waters of the Gulf of Mexico.

In the United States there are very few States that have as much diversity in their wildlife as the State of Florida. In Florida we have taken special steps to protect alligators, brown pelicans, and manatees, and the results have been remarkable. The alligators and pelicans have recovered and even been removed from the protected list. Manatees are now safer than ever before, and I am hopeful that with boating speed limits and other efforts they will continue to survive.

However, as a Representative from the State of Florida, I am especially concerned about the sea turtle population. Thousands of Floridians now watch our beaches to ensure their safety onshore. However, we need the TED's to protect these harmless, wonderful, and endangered creatures offshore. They are helpless when entangled or trapped in shrimp nets, and this is the major factor in their rapid decline in the last 15 years. Recent studies have shown that we cannot depend on just hatching or releasing young turtles to make up for the loss of mature and nearly mature breeding turtles in shrimp nets.

Since October 1, TED's have been successfully used by shrimpers in the Cape Canaveral area of Florida. Shrimp catches have not been reduced, and fishermen are not experiencing safety problems. Even more important, turtles are no longer being accidentally caught and drowned.

I would, therefore, like to urge my colleagues to support this bill, and vote against Congressman Ortiz' amendment.

Mr. CONTE. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Texas. Fourteen years ago when we enacted the Endangered Species Program, we did so with the goal of protecting those wildlife and plants that were threatened or in danger of extinction. This legislation was not intended to make exceptions for those industries which feel they will be inconvenienced by its provisions. Today it's the same old story: the little boy who cried wolf.

I can remember, back in 1973, when the Federal Government proposed to ban the pesticide DDT because it was causing the demise of the bald eagle, symbol of our Nation. We heard from every cotton grower imaginable—crying—that they couldn't survive without DDT. Well, as we all know, these cries of wolf turned out to be malarkey as the cotton industry is as healthy as ever and the bald eagle is now making a strong comeback.

Then just 1 year later, we heard those same cries of wolf, only this time it was the tuna industry that was howling. They yelped that they couldn't survive the new Federal regulations intended to save porpoises caught and drowned in their nets. Once again, these cries of wolf turned out to be fish stories as our tuna industry is still prospering without the tremendous slaughter of porpoises.

Today, its the shrimp industry's turn to cry wolf. They claim that Federal regulations requiring them to use turtle excluder devices will force them out of business—that they can't survive without killing 11,000 turtles each year—that these turtle excluder devices haven't been tested long enough and the list of arguments goes on and on. I know one thing for sure, at a rate of 11,000 per year, those sea turtles aren't going to survive much longer unless we take immediate action to restore their numbers.

So, Mr. Chairman, let's recognize these cries of wolf for what they're worth, defeat this amendment, and get on with our business of passing this legislation to reauthorize the act. The Endangered Species Act was meant to protect those species in danger of extinction without making exceptions.

Mr. WALGREN. Mr. Chairman, I urge my colleagues' to oppose the Ortiz amendment to H.R. 1467, the Endangered Species Act. As reported by the Committee on Merchant Marine and Fisheries, this bill includes a provision requiring the use of turtle excluder devices by shrimp fishermen on the Atlantic and in the Gulf of Mexico. Turtle excluder devices are slatted grates placed halfway down the interior of tubular-shaped shrimp nets, designed to allow sea turtles to escape from the shrimp net while allowing shrimp to pass through and remain in the net. They cost as little as fifty dollars.

Sea turtles are an endangered species, yet Government estimates warn that approximately 11,000 sea turtles drown annually when caught in shrimper nets. The breeding female population of one species, the kemp's ridley sea turtle, stood at 60,000 40 years ago. Today only 600 females remain—a 98 percent reduction. The kemp's ridley turtle faces near certain extinction if steps are not taken to reverse this decline. This species may cease to exist within several years if we do not act. And not just this species. The green, the hawksbill and the leatherback turtle are also in danger.

The most practical solution to the problem of accidental drowning of endangered sea turtles in shrimp nets is the turtle excluder device. Unlike many steps that require a sacrifice from industry to protect wildlife, agency tests and the experience of those already using them show that none of the certified devices reduce the level of shrimp take, and some may even increase the quantity and quality of the catch.

For instance, the Mississippi Advisory Services, one group responsible for supervising the testing of turtle exclusion devices, has found cases where TED's have actually increased the intake of shrimp by at least 7 percent. In Cape Canaveral, FL, where TED's have been required since October 1, studies show that the use of TED's has not reduced the total amounts of shrimp caught.

Man's activities cannot be allowed to threaten the survival of an entire species. It is necessary to act now to protect sea turtles. The means are at our disposal. They are not expensive nor are they difficult or unreasonably burdensome to implement.

The issue before us is larger than sea turtles. As Rachel Carson wrote 25 years ago in "The Silent Spring," human beings are the ones who are ultimately damaged if we are indifferent to nature, its viability, and our interdependence with other species. Plants and animals have evolved the means of coping with disease, drought, and a myriad of other threats. Understanding the mystery of how other species have solved the problems of life has enabled man to improve pest resistance, discover new medicines and make other advances vital to our welfare. Someone has said, "The first rule of intelligent tinkering is to save all the parts." We must be mindful of the need to maintain "all the parts" so necessary to our welfare in the long run.

I urge my colleagues to oppose the Ortiz amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas [Mr. Ortiz].

The question was taken; and the Chairman pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. STUDDS. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 147, noes 270, not voting 16, as follows:

[Roll No. 490]

AYES—147

Alexander
Andrews
Anthony
Applegate
Armey
Badham
Baker
Bartlett
Barton
Bentley
Bevill
Bilirakis
Boggs
Brooks
Bryant
Bunning
Bustamante
Byron
Callahan
Chapman
Cheney
Coelho
Coleman (MO)
Coleman (TX)
Combest
Craig
Crane
Daniel
Dannemeyer
Daub
Davis (IL)
de la Garza
DeLay
Dickinson
Dorgan (ND)
Dymally
Dyson
Emerson
English
Erdreich
Espy
Fields
Flippo
Frost
Gallegly
Garcia
Gaydos
Gekas
Grant
Gray (IL)
Gunderson
Hall (TX)
Hammerschmidt
Hansen
Harris
Hastert
Hatcher
Hayes (LA)
Hefner
Herger
Holloway
Hubbard
Huckaby
Hughes
Hunter
Hutto
Jones (TN)
Kleczka
Latta
Leath (TX)
Lent
Lewis (CA)
Lightfoot
Livingston
Lloyd
Lott
Lowery (CA)
Lujan
Luken, Thomas
Lukens, Donald
Lungren
Mack
Manton
Marlenee
Martinez
McCandless
McEwen

Miller (OH)
Mollohan
Montgomery
Murphy
Murtha
Myers
Natcher
Nichols
Olin
Ortiz
Oxley
Packard
Pashayan
Penny
Pepper
Perkins
Petri
Pickle
Quillen
Rhodes
Richardson
Roberts
Robinson
Rogers
Rose
Rostenkowski
Roth
Roybal
Schaefer
Scheuer
Shumway
Shuster
Skeen
Skelton
Slaughter (VA)
Smith (NE)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (OR)
Solomon
Staggers
Stangeland
Stenholm
Stratton
Stump
Sweeney
Tauzin
Taylor
Torres
Traficant
Vander Jagt
Visclosky
Vucanovich
Watkins
Whitten
Wilson
Wortley
Yatron
Young (AK)
Young (FL)

NOES—270

Ackerman
Akaka
Anderson
Annunzio
Archer
Aspin
Atkins
AuCoin
Ballenger
Barnard
Bateman
Bates
Beilenson
Bennett
Bereuter
Berman
Bilbray
Bliley
Boehlert
Boland
Bonior
Bonker
Borski
Bosco
Boucher
Boxer
Brennan
Broomfield
Brown (CA)
Brown (CO)
Bruce
Buechner
Burton
Campbell
Cardin
Carper
Carr
Chandler
Chappell
Clarke
Clay
Clinger
Coats
Coble
Collins
Conte
Conyers
Cooper
Coughlin
Courter
Coyne
Crockett
Darden
Davis (MI)
DeFazio
Dellums
Derrick
DeWine
Dicks
Dingell
DioGuardi
Dixon
Donnelly
Dornan (CA)
Downey
Dreier
Duncan
Durbin
Dwyer
Early
Eckart
Edwards (CA)
Evans
Fascell
Fawell
Fazio
Feighan
Fish
Flake
Florio
Foglietta
Foley
Ford (MI)
Frank
Frenzel
Gallo
Gejdenson
Gibbons
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Gradison
Grandy
Gray (PA)
Green
Gregg
Guarini
Hamilton
Hawkins
Hayes (IL)
Hefley
Henry
Hertel
Hiler
Hochbrueckner
Hopkins
Horton
Houghton
Howard
Hoyer
Hyde
Inhofe
Ireland
Jacobs
Jeffords
Jenkins
Johnson (CT)
Johnson (SD)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kastenmeier
Kennedy
Kennelly
Kildee
Kolbe
Kolter
Konnyu
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
Leach (IA)
Lehman (CA)
Lehman (FL)
Leland
Levin (MI)
Levine (CA)
Lewis (FL)
Lewis (GA)
Lipinski
Lowry (WA)
MacKay
Madigan
Markey
Martin (IL)
Martin (NY)
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McDade
McGrath
McHugh
McMillan (NC)
McMillen (MD)
Meyers
Mfume
Mica
Michel
Miller (CA)
Miller (WA)
Moakley
Molinari
Moody
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Nagle
Neal
Nelson
Nielson
Nowak
Oberstar
Obey
Owens (UT)
Panetta
Parris
Patterson
Pease
Pelosi
Pickett
Porter
Price (IL)
Price (NC)
Pursell
Rahall
Rangel
Ravenel
Ray
Regula
Ridge
Rinaldo
Ritter
Roe
Roukema
Rowland (CT)
Rowland (GA)
Russo
Sabo
Saiki
Savage
Sawyer
Saxton
Schneider
Schroeder
Schuette
Schulze
Schumer
Sensenbrenner
Sharp
Shaw
Shays
Sikorski
Sisisky
Skaggs
Slattery
Slaughter (NY)
Smith (FL)
Smith (IA)
Smith (NJ)
Smith, Robert (NH)
Snowe
Solarz
Spence
Spratt
St Germain
Stallings
Stokes
Studds
Sundquist
Swift
Swindall
Synar
Tallon
Tauke
Thomas (CA)
Thomas (GA)
Torricelli
Towns
Traxler
Udall
Upton
Valentine
Vento
Volkmer
Walgren
Walker
Waxman
Weber
Weiss
Weldon
Wheat
Whittaker
Williams
Wise
Wolf
Wolpe
Wyden
Wylie
Yates

NOT VOTING—16

Biaggi
Boulter
Dowdy
Edwards (OK)
Ford (TN)
Gephardt
Hall (OH)
Kemp
McCollum
Mineta
Moorhead
Oakar
Owens (NY)
Rodino
Roemer
Stark

□ 1630

The Clerk announced the following pairs:

On this vote:

Mr. Roemer for, with Mr. Rodino against.

Mr. Boulter for, with Mr. Mineta against.

Ms. SLAUGHTER of New York and Messrs. NAGLE, SUNDQUIST, MOAKLEY, FRENZEL, KASICH, HAYES of Illinois, WHEAT, PRICE of Illinois, and BURTON of Indiana changed their votes from "aye" to "no."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. PARRIS

Mr. PARRIS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. PARRIS: On page 2, line 25, after "such area; or" insert the word "knowingly."

Mr. PARRIS. Mr. Chairman, before explaining the purpose of this amendment. Let me preface my explanation of this amendment by saying that I am as concerned as anyone about the preservation of various endangered species of plants, and would support any realistic and responsible approach to achieving that goal.

I believe that section 3 of this bill goes a long way toward this end, with one caveat. While my amendment is a very simple one, it is, in my view, critically important in that it makes a clear distinction between the malicious and willful destruction of a known endangered plant species and the individual who innocently stops along the highway to pick what appears to be just another pretty little purple flower—with no malice of forethought and no knowledge that he or she is commiting a criminal act.

As an example, let's take the situation in Virginia as regards the endangered Virginia round leaf birch tree. In expressing its support for section 3 of the bill, the Virginia Wildflower Preservation Society explained in a letter to me that there are only six of these trees surviving today. They noted that their biggest problem is attempting to save this species is with the so-called freelancers—individual botanists who know full well that this tree is an endangered species—going in and cutting off limbs or digging up plants in order to add that plant to his or her collection. The problem is not so much with the unknowing individual innocently damaging the tree as it is with the individual who knows what he is after and yet does so with knowledge and intent.

At this point, I would yield to the distinguished chairman of the committee, Mr. JONES of North Carolina, for any comments or insight he might wish to add.

Mr. JONES of North Carolina. Mr. Chairman, will the gentleman yield?

Mr. PARRIS. I yield to the chairman of the full committee, the gentleman from North Carolina [Mr. JONES].

Mr. JONES of North Carolina. I thank the gentleman for yielding.

Mr. Chairman, the committee's intent in adopting this provision was to prosecute only truly guilty parties who destroy or collect endangered plants. Therefore, I thank Mr. PARRIS for bringing this matter to our attention and I have no objection to the amendment.

Mr. YOUNG of Alaska. Mr. Chairman, will the gentleman yield?

Mr. PARRIS. I yield to the gentleman from Alaska [Mr. YOUNG].

Mr. YOUNG of Alaska. I thank the gentleman for yielding.

Mr. Chairman, I want to compliment the gentleman for bringing this amendment to the committee. The chairman of the full committee has no objection, and we have no objection on this side.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Virginia [Mr. PARRIS].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. PACKARD

Mr. PACKARD. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. PACKARD: Page 2, between lines 17 and 18, insert the following:

SEC. 3. INTERAGENCY COOPERATION.

Section 7(a)(2) of the Endangered Species Act of 1973 (16 U.S.C. 1536(a)(2) is amended to read as follows:

"(2)(A) Except as provided in subparagraph (B), each Federal agency shall, in consultation with and with the assistance of the Secretary, insure that any action authorized, funded, or carried out by such agency (hereinafter in this section referred to as an 'agency action') is not likely to jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of habitat of such species which is determined by the Secretary, after consultation as appropriate with affected States, to be critical. In fulfilling the requirements of this subparagraph each agency shall use the best scientific and commercial data available.

"(B) Subparagraph (A) does not apply to the following:

"(i) Any agency action if—

"(I) the Secretary determines, after consideration of the impacts of such action upon public health and safety, that failure to proceed with the agency action is likely to jeopardize human life; and

"(II) such action is carried out in conformity with such reasonable and prudent measures as the Secretary shall require to minimize the impact of the agency action on the endangered species or threatened species or critical habitat.

"(ii) Any agency action for which the Federal agency has been granted an exemption by the Committee under subsection (h)."

Renumber the succeeding sections of the bill accordingly.

Mr. PACKARD (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. PACKARD. Mr. Chairman, I support the Endangered Species Act and intend to vote for it. I support the extensive steps that have been taken over the many years this act has been in force to preserve and protect our plants and animals.

However, in our efforts to protect and preserve the habitat and the environment, we have somehow lost sight and track of human lives.

□ 1645

We have somehow reached the unbelievable conclusion that the protection of a plant or animal is more important than protecting the lives of our children, our neighbors, and friends.

Let me illustrate by relating an experience with a project in my area. In the city where I live, there is a poorly designed major collector street. It collects two freeways and carries far more traffic than it was designed for. The results have been that 18 lives have been lost in the last 3 years, and during those 3 years we have proposed a well-designed bypass that would have saved most of these lives. But it cannot be built because of five pairs of endangered birds. For 3 years the city has worked with the agencies involved to develop an acceptable mitigation plan without result. I finally met with the leaders of the Fish and Wildlife Service and the EPA and explained that in the 3 years 18 lives have been lost to preserve these birds.

After meeting with the agencies, I was told that the act does not permit the consideration of protecting human lives, only endangered species.

Mr. Chairman, I repeat that I support the extreme, expensive steps we have taken to preserve and protect the habitat. However, how do we tell the mother of a child that was killed on the deadly highway that a bypass road cannot be built because of protecting the environment? How do we explain to that mother that the reason we cannot build a bypass is because we cannot consider human life in the process?

My amendment, Mr. Chairman, will simply do this. I should tell the Members what it will not do first. It does not remove any plant or animal from the endangered species list. It does not change one word of the stringent requirements of the act to protect our environment. It does not add any public interest provision to the act. It does not eviscerate or gut the act, and it does not benefit property owners or builders.

My amendment makes this simple addition to the act: It simply gives the Secretary of the Interior the discretion—it does not mandate—and only the option to consider in a project application the protection and preservation of human lives. If this simple inclusion guts the act, then something is wrong with the act. If the act does, in fact, deny us the right to protect human life, then we must at least change that portion. I contend that we cannot continue to leave the protection of human health and safety at the mercy of protecting plants and animals. We can do both. We should do both. Let us protect the environment as well as people.

Mr. Chairman, that is all I am asking for in this amendment.

Mr. HUNTER. Mr. Chairman, will the gentleman yield?

Mr. PACKARD. I am pleased to yield to the gentleman from California.

Mr. HUNTER. Mr. Chairman, do I understand that the gentleman's amendment basically elevates human life to the same level as that of salamanders and endangered birds, and it says, as one example, as in the gentleman's case, that if 18 human beings have been killed because they do not have a particular section of highway that cannot be built because of an endangered species, those human lives can be considered in the balancing of whether or not to go ahead with the project?

Mr. PACKARD. The gentleman is absolutely correct. We have projects across this country, flood control projects and highway projects and a variety of other projects, where human lives are being lost because those projects cannot move forward.

Mr. HUNTER. Mr. Chairman, do I further understand that if it is decided that perhaps one or two people may be killed annually because a particular project does not go forward and we are saving a substantial amount of habitat for animals, the decision may still be not to go forward with the project, but it simply allows the administration to evaluate the effect on human life that the project or its lack of construction would involve?

Mr. PACKARD. The gentleman is correct. This does not require any less stringent mitigation plans or negotiating with the project and the problems it creates. It simply allows the Secretary of the Interior to consider human life as a part of evaluating whether a project ought to be built or not.

Mr. HUNTER. Mr. Chairman, I thank the gentleman. I rise in full support of his amendment, and I hope my colleagues will support it.

Mr. JONES of North Carolina. Mr. Chairman, I rise in opposition to this amendment.

It would put in place an entirely new process for exemption from the requirements of the Endangered Species Act. This is totally unnecessary. Congress already addressed this question in 1978, when it carefully considered and approved the so-called exemption committee process.

This provision allows individuals to apply for an exemption to the Endangered Species Act, and provides for the consideration of the public welfare during this process. In addition, Congress further modified and streamlined this process in 1979 and 1982. The 1982 amendments in particular cut 170 days out of the timetable for completing the exemption process.

Thus Congress has already considered this question three times and made a number of changes to streamline the exemption process. Despite these considerable improvements, no one has sought an exemption under the new process. If you have never tried it, how can you claim it isn't working? To my knowledge, none of the projects of concern to Mr. PACKARD have sought an exemption from the exemption committee.

Mr. PACKARD. Mr. Chairman, will the gentleman yield?

Mr. JONES of North Carolina. I yield to the gentleman from California.

Mr. PACKARD. Mr. Chairman, I appreciate the gentleman yielding.

It is true that there is an appeal process in the act that allows for an exemption, but that has been in effect since the act was passed, and only twice in the history of that act has an exemption been granted. To me it places human life subservient to the lives of plants and animals, which I think is unconscionable. I think it is wrong to refuse to allow human life in the process to be considered.

It is true that there are appeals available, but in the processing of an application human life cannot be considered until after it has been disapproved, and then you have to go through the appeals. That is saying that the lives of plants and birds and animals are more important than human life as we go through the process, and I think that is wrong.

Mr. JONES of North Carolina, Mr. Chairman, if that is the procedure, indeed it is wrong, but that is not my understanding.

Mr. PACKARD. Mr. Chairman if the gentleman would yield further, let me ask, is there anything in the act that would permit the evaluation of human life as the process is moving through the Federal Government? It is only in the appeal process, after action has already been taken on the project, it it not?

Mr. JONES of North Carolina. The committee is under the impression that there is an emergency regulation which permits speedup decisions on applications.

Mr. Chairman, if I may continue with my presentation, let me repeat my last sentence.

If you have never tried it, how can you claim it is not working? To my knowledge, none of the projects of concern to Mr. PACKARD have sought an exemption from the exemption committee

So in effect, I say if it is not broken, don't fix it. The exemption process should be given a chance to work before we eliminate it altogether. We should leave it alone until it is proven to be inadequate. I therefore urge my colleagues to vote against the Packard amendment, which would seriously undermine the effectiveness of the ESA.

Mr. DANNEMEYER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I find it very interesting to note that this law came into our statute books in 1973. Now, it so happens that was the same year that the U.S. Supreme Court handed down that infamous decision called Roe versus Wade which makes abortion on demand available to any woman in American, at least during the first two trimesters.

□ 1655

Look at the different courses our society had gone in the same year. We have made human beings, the unborn, an endangered species. Literally, we are killing about 1.5 million humans a year just because it is inconvenient for our society to have those children born, but at the same time we have manifested this great tender mercy in our hearts for endangered species, and we thought so much of this cause we have designated roughly 450 of these as endangered species.

I have a question I would like to ask the proponent of this amendment, the gentleman from San Diego County, Mr. PACKARD. I want to make sure I understand what the gentleman is doing. Is the gentleman contending that with this amendment this House will now say that we are going to consider human life on the same par with animals, trees, and birds, is that what the gentleman is saying?

Mr. PACKARD. That is all my amendment is designed to do is to allow human beings to be considered in the processing of an application.

Mr. DANNEMEYER. Is that not a revolutionary idea? Where did the gentleman come up with this idea that our society should equate human life on a par with trees, animals, and birds?

Mr. PACKARD. Well, the families of 18 dead people in my area have cried out for something to be done to allow human life to be considered.

Mr. DANNEMEYER. Well, I must admit, I am not privileged to serve on the committee and I have not heard all the testimony about how this benevolent air is being exhibited to endangered species, but let me express my thanks to the gentleman for raising the level of interest of the Members of the House on the possibility that we will have the courage here and now today to say that we equate and accept human life on the same par with animals, birds, and trees. I hope we will have the courage to do that.

Mr. STUDDS. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment. I do not intend to take the 5 minutes.

Let me just point out to Members, since there has been a good deal of emotional debate, and without any reference whatever to the substance of the amendment, there has for the 14 years of the act been a provision providing for consultation in the event that there was a conflict or even a perceived or potential conflict between a planned or proposed project, or development, a dam or highway or whatever, and the possibility of a threat to endangered species coming into conflict one with the other. That entire section 7 consultation process will be dropped from the act by this amendment in the event that the Secretary, and the Secretary alone, one person, determines, and I read from the amendment, that "failure to proceed with the action is likely to jeopardize human life."

So a simple finding by one officer of the Government, the Secretary of the Interior, would vitiate the entire decade long plus experience we have had in consulting.

It has worked, Mr. Chairman and my colleagues. On this amendment if such a claim were made, with or without foundation, there would be no consultation with other agencies. There would be no provision for the consideration of reasonable and prudent alternatives which the statute and current regulations require and our long history of successful negotiating and consultation would have been ignored and blotted out.

This is if there ever was one, my colleagues, a gutting amendment. It would remove the heart of the act in any kind of a controversy, and I urge its rejection.

Mr. SCHEUER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, under the current provisions of the law, the Secretary has all the authority he needs to consider the public interest. I would defy anybody to say that the public interest does not include the saving of human life.

The system is working. "If it ain't broke, don't fix it."

Mr. LOWERY of California. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I am proud to join with the gentleman from California [Mr. PACKARD] in offering this amendment to the Endangered Species Act reauthorization, an amendment that will, for the first time, require the Secretary of the Interior to at least consider threats to human life when evaluating jeopardy to endangered species.

This amendment is not intended to gut the act. It does not seek to bypass those portions of the law and regulations which allow consideration of human concerns in situations of emergency or so-called irreconcilable conflicts. It is not designed to tip the environmental balance in favor of development.

I support the Endangered Species Act. It was enacted for sound reasons—to keep man from running roughshod over the environment. At the same time, no laws enacted by this Congress can exist in a vaccum. The reason the act provides for interagency consultation is because there are projects proposed that will benefit people. It would seem logical, therefore, that some attention would be given to human concerns.

Ironically, the act, as written, allows consideration of those interests or needs in only two situations: When there is an emergency or disaster, and if, after the entire consultation process, no agreement can be reached that will allow a project to proceed without jeopardizing an endangered species or critical habitat.

Unfortunately, real life does not always fit neatly into these two categories. Let me cite just one example. Roughly 90 percent of San Diego County's water supply is imported by pipelines which cross over numerous earthquake faults, including the San Andreas. A major earthquake could sever the entire region's water supply for up to 6 months. Existing reserves can supply only one-quarter of the region's 2 million people with water for a maximum of 20 days. Yet construction of a new dam and reservoir in Pamo Valley has been derailed largely to protect critical habitat and 3 to 4 pairs of endangered birds seen nesting in the valley.

Half a million people versus eight birds and their habitat. That does not make sense. Under the act, this project would be exempt if San Diego had a major earthquake—but then it's too late. Or after 6 years of planning and months or years of further consultation, the project may be granted an exemption—but again, that may be too late.

Lack of water jeopardizes public health. It jeopardizes human safety. And ultimately it jeopardizes human life. This amendment would require the Secretary to consider these impacts when evaluating whether or not a project threatens endangered species or critical habitat. That is common sense.

A vote against this amendment means that protecting certain plants and animals is more important than protecting human life. I strongly urge all Members to consider this when they vote.

I urge my colleagues to support the amendment.

Mr. YOUNG of Alaska. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the Packard amendment, and I want to compliment the gentleman for bringing it forth. I do support this amendment. I think it is time, and it raises the crux of the whole matter; but this Congress because of certain interest groups today has forgotten man, forgoten the shrimpers, because we were more worried about the turtles, and now we are forgetting the families of at least 18 people and how they have to grapple with the agony and the anguish of losing their families because we cannot build a bypass because of 10 birds.

Again, I know the outcome of this vote. It is a cheap giveway environmental vote.

I have also watched this Congress today in this body ignore the district in which those people are represented and the anguish that comes to their people in stricken areas.

Now the gentleman from California [Mr. PACKARD] is bringing an amendment to the floor and because we are told it is going to gut the Endangered Species Act, there will probably be 259 votes against the amendment; but I can assure you that those who vote for the Packard amendment are doing right for the human factor in this country. Those of you who are going to vote against this, and now some of you may say, "I am doing this because I believe it is the correct thing to do," and I commend you; but some of you are going to vote against the amendment just because you do not want to put up with the nonsense you are getting from certain environmental groups.

Now, I have heard on this floor today numerous people say that there cannot be any amendments to the Endangered Species Act. Now, whoever said this was a perfect act? Has it worked? Yes; in many cases it has, but I submit to you through regulations it has been misused and abused.

All this gentleman is asking is for the Secretary to have the right to consider the human factor. What is wrong with that? What is wrong with considering those lives that were lost and saying this bypass should be built? There is nothing wrong with that.

Before I finish, I would like to compliment the chairman of the full committee and the subcommittee for their fine work and their ability to put the votes on their side, but the Packard amendment should have a "yes" vote. It is the human thing to do.

Mr. HUNTER. Mr. Chairman, I move to strike the requisite number of words. I will make this very brief.

I disagree with my friend, the gentleman from Alaska. I think that the body is going to have the good sense to pass the Packard amendment.

Over the next 12 months we can expect another six people to be killed on this particular pass. It is only about 3 miles of highway between I-15 and I-5 in San Diego, CA. We can expect six people a year to die on that particular stretch of highway until we build the bypass.

I hope that people will take this measured, commonsense step, toward at least giving the human race and human safety some consideration in the endangered species evaluation.

Mr. PACKARD. Mr. Chairman, will the gentleman yield?

Mr. HUNTER. I yield to the gentleman from California.

I have no ulterior motives. I am frankly not even looking at single projects as I present this amendment. I believe that many of you have in your districts projects either pending of in the future where human lives will be lost. This simply allows that to become a part of the formula of evaluating whether projects are to move forward under this act or not.

Mr. Chairman, I urge my colleagues to vote "yes" to save people.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California [Mr. PACKARD].

The question was taken; and the Chairman announced that the nos appeared to have it.

RECORDED VOTE

Mr. PACKARD. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 151, noes 266, not voting 16, as follows:

[Roll No. 491]

AYES—151

Alexander
Anderson
Applegate
Archer
Armey
Badham
Baker
Ballenger
Bartlett
Barton
Bateman
Bereuter
Bilirakis
Bliley
Broomfield
Brown (CO)
Buechner
Bunning
Burton
Byron
Callahan
Chandler
Cheney
Clinger
Coats
Coble
Combest
Courter
Craig
Crane
Daniel
Dannemeyer
Daub
Davis (IL)
DeLay
Derrick
DeWine
Dickinson
DioGuardi
Dornan (CA)
Dreier
Duncan
Edwards (OK)
Emerson
English
Fields
Flake
Gallegly
Gallo
Gekas
Gibbons
Gingrich
Goodling
Gradison
Grandy
Gray (IL)
Hall (TX)
Hammerschmidt
Hansen
Hastert
Hatcher
Hayes (LA)
Hefley
Herger
Hiler
Holloway
Hopkins
Houghton
Huckaby
Hunter
Hyde
Inhofe
Johnson (CT)
Kasich
Kolter
Kyl
Lagomarsino
Latta
Leath (TX)
Lewis (CA)
Lewis (FL)
Lightfoot
Livingston
Lloyd
Lott
Lowery (CA)
Lujan
Lukens, Donald
Mack
Madigan
Marlenee
Martin (IL)
Martin (NY)
McCandless
McCollum
McEwen
McMillan (NC)
Michel
Miller (OH)
Molinari
Montgomery
Morrison (WA)
Murphy
Murtha
Myers
Nichols
Nielson
Ortiz
Oxley
Packard
Pashayan
Quillen
Regula
Rhodes
Robinson
Rogers
Roth
Schaefer
Schulze
Sensenbrenner
Shaw
Shumway
Shuster
Sisisky
Skeen
Smith (NE)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (OR)
Solomon
Stangeland
Stratton
Stump
Sundquist
Sweeney
Swindall
Tauzin
Taylor
Thomas (CA)
Traficant
Upton
Vander Jagt
Vucanovich
Walker
Watkins
Whittaker
Wilson
Wolf
Wylie
Young (AK)
Young (FL)

NOES—266

Ackerman
Akaka
Andrews
Annunzio
Anthony
Aspin
Atkins
AuCoin
Barnard
Bates
Beilenson
Bennett
Bentley
Berman
Bevill
Bilbray
Boehlert
Boggs
Boland
Bonior
Bonker
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Brown (CA)
Bruce
Bryant
Bustamante
Campbell
Cardin
Carper
Carr
Chapman
Chappell
Clarke
Clay
Coelho
Coleman (MO)
Coleman (TX)
Collins
Conte
Conyers
Cooper
Coughlin
Coyne
Crockett
Darden
Davis (MI)
de la Garza
DeFazio
Dellums
Dicks
Dingell
Dixon
Donnelly
Dorgan (ND)
Downey
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Fish
Flippo
Florio
Foglietta
Foley
Ford (MI)
Frank
Frenzel
Frost
Garcia
Gaydos
Gejdenson
Gilman
Glickman
Gonzalez
Gordon
Grant
Green
Gregg
Guarini
Gunderson
Hamilton
Harris
Hawkins
Hayes (IL)
Hefner
Henry
Hertel
Hochbrueckner
Horton
Howard
Hoyer
Hubbard
Hughes
Hutto
Ireland
Jacobs
Jeffords
Jenkins
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz

Kanjorski
Kaptur
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Konnyu
Kostmayer
LaFalce
Lancaster
Lantos
Leach (IA)
Lehman (CA)
Lehman (FL)
Leland
Lent
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Lowry (WA)
Luken, Thomas
MacKay
Manton
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McDade
McGrath
McHugh
McMillen (MD)
Meyers
Mfume
Miller (CA)
Miller (WA)
Mineta
Moakley
Mollohan
Moody
Morella
Morrison (CT)
Mrazek
Nagle
Natcher
Neal
Nelson
Nowak
Oberstar
Obey
Olin
Owens (UT)
Panetta
Parris
Patterson
Pease
Pelosi
Penny
Pepper
Perkins
Petri
Pickett
Pickle
Porter
Price (IL)
Price (NC)
Pursell
Rahall
Rangel
Ravenel
Ray
Richardson
Ridge
Rinaldo
Ritter
Roberts
Roe
Rose
Rostenkowski
Rowland (CT)
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Savage
Sawyer
Saxton
Scheuer
Schneider
Schroeder
Schuette
Schumer
Sharp
Shays
Sikorski
Skaggs
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NJ)
Smith, Robert (NH)
Snowe
Solarz
Spence
Spratt
St Germain
Staggers
Stallings
Stark
Stenholm
Stokes
Studds
Swift
Synar
Tallon
Tauke
Thomas (GA)
Torres
Torricelli
Towns
Traxler
Udall
Valentine
Vento
Visclosky
Volkmer
Walgren
Waxman
Weber
Weiss
Weldon
Wheat
Whitten
Williams
Wise
Wolpe
Wortley
Wyden
Yates
Yatron

NOT VOTING—16

Biaggi
Boulter
Dowdy
Ford (TN)
Gephardt
Gray (PA)
Hall (OH)
Kemp
Lungren
Mica
Moorhead
Oakar
Owens (NY)
Rodino
Roemer
Roukema

□ 1710

Mr. DORNAN of California changed his vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

□ 1725

AMENDMENTS OFFERED BY MR. STUDDS

Mr. STUDDS. Mr. Chairman, I offer several technical amendments, and I ask unanimous consent that they be considered en bloc and considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The Clerk read as follows:

Amendments offered by Mr. STUDDS: Page 2, line 4, strike out "Paragraph 15 of section 3" and insert "Section 3(15)".

Page 2, line 8, strike out "(a) CANDIDATE SPECIES.—Subparagraph" and insert "Section".

Page 2, lines 15 and 16, strike out "paragraph 7 of this Subsection" and insert "paragraph (7) of this subsection".

Page 2, line 19, strike out "Subparagraph" and insert "Section".

Page 2, line 20, insert "of 1973" after "Act".

Page 3, lines 5 and 13, strike out "Subparagraph" and insert "Section".

Page 3, line 8, strike out " 'Any" and insert " '(8)(A) Any".

Page 3, line 16, strike out "Paragraph" and insert "Section".

Page 4, line 1, strike out "Subsection" and insert "Section".

Page 4, lines 5 and 9, strike out "Paragraph" and insert "Section".

Page 4, lines 5, 9, and 13, insert "of 1973" after "Act".

Page 5, line 2, strike out "(a)." and insert "(a)".

Page 6, line 14, after "each" insert "of".

Page 6, lines 18 and 21, insert "of 1973" after "Act".

Page 7, lines 2 and 14, insert "of 1973" after "Act".

Mr. STUDDS. Mr. Chairman, the amendments at the desk are purely technical and have the support of the minority, and I inform the Members that so far as we know there are no remaining amendments to the bill.

Mr. YOUNG of Alaska. Mr. Chairman, will the gentleman yield?

Mr. STUDDS. I yield to the gentleman from Alaska.

Mr. YOUNG of Alaska. Mr. Chairman, we agree with these technical amendments that have been offered by the gentleman from Massachusetts and have no objection to them.

Mr. BONKER. Mr. Chairman, I rise in strong support of H.R. 1467, the reauthorization of the Endangered Species Act [ESA]. The bill reauthorizes this historic conservation legislation for 5 years and includes several perfecting amendments. I would like to take this opportunity to thank Mr. JONES, the distinguished chairman of the Merchant Marine and Fisheries Committee, and Mr. STUDDS, the subcommittee chairman, for their hard work and dedication to this very worthy legislation.

The Endangered Species Act was passed in 1973 in response to our Nation's concern about the number of species of fish, wildlife and plants that were in danger of becoming extinct. Since enactment, hundreds of "threatened" and "endangered" species have been listed and in some cases their populations are recovering. The key to the law's success lies in its approach to species protection through protection of habitat. While this is often difficult given vigorous and competing land development interests, I believe that it is the only way to preserve species diversity, worldwide.

The act directs the U.S. Fish and Wildlife Service to monitor species which have been identified as endangered species list candidates and it provides for additional protection and enforcement for endangered species of plants. I certainly agree with this approach, but I do have concerns about the growing number of candidate species that receive no protection at all during the lengthy and bureaucratic determination process. While this concern has not been directly addressed by the bill before us, I feel that this issue merits some attention in the near future.

Mr. Chairman, the Endangered Species Act is without question one of the most effective conservation laws that we have in this country and its provisions have protected many domestic plants and animals. But the act also includes international provisions including the implementation, for the United States, of the Convention on International Trade in Endangered Species of Wild Fauna and Flora, or "CITES," signed by the United States on March 3, 1973. In contrast to the ESA, CITES focuses exclusively on monitoring the international trade of endangered species. Because most endangered species occur in the warm, tropical forests found in other countries, the international conservation provisions of this legislation are vital and essential to any meaningful conservation measure.

I hope that Members of the House will support this important conservation legislation without weakening amendments and I urge Members in the other body to act quickly to reauthorize the Endangered Species Act.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Massachusetts [Mr. STUDDS].

The amendments were agreed to.

The CHAIRMAN. The question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore [Mr. COELHO] having assumed the chair, Mr. LEVIN of Michigan, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 1467) to authorize appropriations to carry out the Endangered Species Act of 1973 during fiscal years 1988, 1989, 1990, 1991, and 1992, pursuant to House Resolution 328, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, an amendment striking lines 13 through 21 on page 4 of the committee amendment in the nature of a substitute is considered as adopted in the House, and the previous question is considered as ordered.

Is a separate vote demanded on any other amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. GARCIA. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 399, noes 16, not voting 18, as follows:

[Roll No. 492]

AYES—399

Ackerman
Akaka
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Armey
Aspin
Atkins
AuCoin
Baker
Ballenger
Barnard
Bartlett
Barton
Bateman
Bates
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Boggs
Boland
Bonior
Bonker
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Broomfield
Brown (CA)
Brown (CO)
Bruce
Bryant
Buechner
Bunning
Burton
Bustamante
Byron
Callahan
Campbell
Cardin
Carper
Carr
Chandler
Chapman
Chappell
Clarke
Clay
Clinger
Coats
Coble
Coelho
Coleman (MO)
Coleman (TX)
Collins
Combest
Conte
Conyers
Cooper
Coughlin
Courter
Coyne
Crane
Crockett
Daniel
Darden
Daub
Davis (IL)
Davis (MI)
de la Garza
DeFazio
Dellums
Derrick
DeWine
Dickinson
Dicks
Dingell
DioGuardi
Dixon
Donnelly
Dorgan (ND)
Dornan (CA)
Downey
Dreier
Duncan
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
Edwards (OK)
Emerson
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Flake
Flippo
Florio
Foglietta
Foley
Ford (MI)
Frank
Frenzel
Frost
Gallegly
Gallo
Garcia
Gaydos
Gejdenson
Gekas
Gibbons
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Gradison
Grandy
Grant
Gray (IL)
Green
Gregg
Guarini
Gunderson
Hall (TX)
Hamilton
Harris
Hastert
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hiler
Hochbrueckner
Holloway
Hopkins
Horton
Houghton
Howard
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Hyde
Inhofe
Ireland
Jacobs
Jeffords
Jenkins
Johnson (CT)
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kaptur
Kasich
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kolter
Konnyu
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
Latta
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Lott
Lowery (CA)
Lowry (WA)
Lujan
Luken, Thomas
Lukens, Donald
Lungren
Mack
MacKay
Madigan
Manton
Markey
Martin (IL)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCurdy
McDade
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
Meyers
Mfume
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Moakley
Molinari
Mollohan
Montgomery
Moody
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Nagle
Natcher
Neal
Nelson
Nichols
Nielson
Nowak
Oberstar
Obey
Olin
Ortiz
Owens (UT)
Oxley
Packard
Panetta
Parris
Pashayan
Patterson
Pease
Pelosi
Penny
Pepper
Perkins
Petri
Pickett
Pickle
Porter
Price (IL)
Price (NC)
Pursell
Quillen
Rahall
Rangel
Ravenel
Ray
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Roe
Rogers
Rose
Rostenkowski
Roth
Rowland (CT)
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schneider
Schroeder
Schuette
Schulze
Sensenbrenner
Sharp
Shaw
Shays
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Robert (NH)
Snowe
Solarz
Solomon
Spence
Spratt
St Germain
Staggers
Stallings
Stangeland
Stark
Stenholm
Stokes
Studds
Sundquist
Sweeney
Swift
Swindall
Synar
Tallon
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Walgren
Walker
Watkins
Waxman
Weber
Weiss
Weldon
Wheat
Whittaker
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wortley
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)

NOES—16

Badham
Cheney
Craig
Dannemeyer
DeLay
Hammerschmidt
Hansen
Hunter
Marlenee
Myers
Shumway
Shuster
Smith, Denny (OR)
Smith, Robert (OR)
Stump
Vucanovich

NOT VOTING—18

Alexander
Biaggi
Boulter
Dowdy
Ford (TN)
Gephardt
Gray (PA)
Hall (OH)
Kemp
Mica
Moorhead
Oakar
Owens (NY)
Rodino
Roemer
Roukema
Schumer
Stratton

□ 1740

The Clerk announced the following pair:

On this vote:

Mr. Rodino for, with Mr. Boulter against.

So the bill was passed.

The result of the vote was announced as above recorded.

The title of the bill was amended so as to read: "A bill to authorize appropriations to carry out the Endangered Species Act of 1973 during fiscal years 1988, 1989, 1990, 1991, and 1992, and for other purposes."

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. JONES of North Carolina. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. (Mr. COELHO). Is there objection to the request of the gentleman from North Carolina?

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate has passed without amendment a joint resolution of the House of the following title:

H.J. Res. 427. Joint resolution to provide for the temporary extension of certain programs relating to housing and community development, and for other purposes.

The message also announced that the Senate had passed with an amendment in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 403. An act to establish the El Malpais National Monument and the El Malpais National Conservation Area in the State of New Mexico, to authorize the Masau Trail, and for other purposes.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2310) "An act to amend the Airport and Airway Improvement Act of 1982 for the purpose of extending the authorization of appropriations for airport and airway improvements, and for other purposes."

REPORT ON RESOLUTION WAIVING CERTAIN POINTS OF ORDER AGAINST CONFERENCE REPORT AND AGAINST CONSIDERATION OF CONFERENCE REPORT ON H.R. 3030, AGRICULTURAL CREDIT ACT OF 1987

Mr. PEPPER, from the Committee on Rules, submitted a privileged report (Rept. No. 100-486) on the resolution (H. Res. 336), waiving certain points of order against the conference report on the bill (H.R. 3030) to provide credit assistance to farmers, to strengthen the Farm Credit System, to facilitate the establishment of secondary markets for agricultural loans, and for other purposes, and against consideration of such conference report, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 3674, PROVIDING CONGRESSIONAL APPROVAL OF GOVERNING INTERNATIONAL FISHERY AGREEMENT BETWEEN UNITED STATES AND JAPAN

Mr. PEPPER, from the Committee on Rules, submitted a privileged report (Rept. No. 100-487) on the resolution (H. Res. 337), providing for the consideration of the bill (H.R. 3764) to provide for congressional approval of the Governing International Fishery Agreement between the United States and Japan, which was referred to the House Calendar and ordered to be printed.

PERMISSION FOR COMMITTEE ON AGRICULTURE TO FILE CERTAIN REPORTS ON H.R. 3030, AGRICULTURAL CREDIT ACT OF 1987

Mr. de la GARZA. Mr. Speaker, I ask unanimous consent that the Committee on Agriculture may have until midnight tonight, December 17, 1987, to file certain reporting on H.R. 3030, the Agricultural Credit Act of 1987.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

AGRICULTURAL COMMODITY DISTRIBUTION ACT OF 1987

Mr. FORD of Michigan. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 1340), to improve the distribution procedures for agricultural commodities and their products donated for the purposes of assistance through the Department of Agriculture, and for other purposes, with a Senate amendment thereto, and concur in the Senate amendment with an amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment and the House amendment to the Senate amendment as follows:

Senate amendment:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Commodity Distribution Reform Act of 1987".

SEC. 2. SENSE OF CONGRESS.

(a) Distribution of Agricultural Commodities.—It is the sense of Congress that the distribution of commodities and products—

(1) should be improved as an effective means of removing agricultural surpluses from the market and providing nutritious high quality foods to recipient agencies for assistance to needy persons; and

(2) is inextricably linked to the agricultural support and surplus removal programs administered by the Secretray of Agriculture and is an important mission of the Secretary.

(b) Commodity Distribution Programs.—It is the sense of Congress that the Secretary of Agriculture should—

(1) adopt such policies and rules as are necessary to make the commodity distribution programs administered by the Secretary more efficient and responsive to eligible recipient institutions and the needy persons relying on the programs; and

(2) improve the quality of the commodities so distributed and the manner in which the commodities are distributed.

SEC. 3. COMMODITY PROCESSING EXTENSION.

(a) In General.—Section 1114(a)(2)(A) of the Agriculture and Food Act of 1981 (7 U.S.C. 1431e(2)(A)) is amended by striking out "1987" and inserting in lieu thereof "1989.".

(b) Conforming Amendments.—

(1) Section 4404 of the Child Nutrition Amendments of 1986 (Public Law 99-661) is amended by striking out "In" and inserting in lieu thereof "Effective through June 30, 1989, in".

(2) Section 364 of the School Lunch and Child Nutrition Amendments of 1986 (Public Laws 99-500 and 99-591) is repealed.

SEC. 4. COMMODITY DISTRIBUTION PROGRAM REFORMS.

(a) Application.—This section shall apply to—

(1) the commodity distribution and commodity supplemental food programs established under sections 4(a) and 5 of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c note);

(2) the program established under section 4(b) of the Food Stamp Act of 1977 (7 U.S.C. 2013(b));

(3) the school lunch, commodity distribution, and child care food programs established under sections 6, 14, and 17 of the National School Lunch Act (42 U.S.C. 1755, 1762a, and 1766);

(4) the school breakfast program established under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773);

(5) the donation of surplus commodities to provide nutrition services under section 311 of the Older Americans Act of 1965 (42 U.S.C. 3030a); and

(6) to the extent practicable—

(A) the temporary emergency food assistance program established under the Temporary Emergency Food Assistance Act of 1983 (7 U.S.C. 612c note); and

(b) programs under which food is donated to charitable institutions.

(b) Quality and Form of Commodities and Products.—

(1) Development of specifications.—The Secretary of Agriculture (hereinafter in this section referred to as the "Secretary") shall develop specifications for commodities and products that are distributed by the Secretary that ensure that the commodities and products are of a quality, size, and form that is most useful to eligible recipient agencies, taking into account the duty of the Secretary—

(A) to remove surplus stocks of agricultural commodities through the Commodity Credit Corporation; and

(B) to purchase surplus agricultural commodities through section 32 of the Act entitled "An act to amend the Agricultural Adjustment Act, and for other purposes," approved August 24, 1935 (7 U.S.C. 612c).

(2) Optional sizes and forms.—The Secretary shall, to the maximum extent practicable, make the commodities and products available in optional package sizes and forms.

(3) Availability of specifications.—The Secretary shall make available summaries of the specifications of the commodities and products to State agencies.

(4) Testing for acceptability.—The Secretary shall establish an ongoing field testing program for present and anticipated commodity and product purchases to test product acceptability with program participants. Test results shall be taken into consideration in deciding which commodities and products, and in what form the commodities and products, should be provided to recipient agencies.

(c) Dietary Guidelines.—Commodities and products that are distributed by the Secretary shall, to the maximum extent practicable, be consistent with the Dietary Guidelines for Americans published by the Secretary of Agriculture and the Secretary of Health and Human Services.

(d) Commodities and Products That Are Not in Good Condition.—

(1) Replacement.—Commodities and products that are distributed to eligible recipient agencies and are found not to be in good condition shall be replaced under procedures established by the Secretary. On receiving a commodity or product that is not in good condition, a recipient agency shall expeditiously notify the State agency of the condition. The State agency shall take appropriate steps to ensure that the commodity or product is expeditiously replaced.

(2) Procedures.—The Secretary shall establish procedures governing the handling of commodities and products that are not in good condition when received by recipient agencies.

(3) Monitoring system.—The Secretary shall establish a system to monitor the age and condition of commodities and products that are stored by the Secretary, to ensure acceptable quality.

(e) Distribution and Delivery.—

(1) Distribution schedules.—The Secretary shall establish schedules, to the maximum extent practicable, for the distribution of commodities and products that are consistent with the needs of eligible recipient agencies, taking into account the duty of the Secretary—

(A) to remove surplus stocks of agricultural commodities through the Commodity Credit Corporation; and

(B) to purchase surplus agricultural commodities through section 32 of the Act entitled "An Act to amend the Agricultural Adjustment Act, and for other purposes", approved August 24, 1935 (7 U.S.C. 612c).

(2) Delivery systems.—The Secretary shall monitor the delivery systems used by State agencies, and require State agencies to implement an effective delivery system, for the intrastate delivery of donated commodities and products. The Secretary shall establish a value for donated commodites and products to be used by State agencies in the allocation or charging of commodities against entitlements.

(f) Recipes.—

(1) In General.—The Secretary shall distribute to all recipient agencies suggested recipes for the use of donated commodities and products.

(2) Distribution.—The recipe cards shall be distributed as soon as practicable after the date of enactment of this Act and updated on a regular basis taking into consideration the Dietary Guidelines for Americans published by the Secretary of Agriculture and the Secretary of Health and Human Services (as in effect at the time of the update of the recipe cards).

(g) Implementation.—

(1) Regulations.—Not later than 9 months after date of enactment of this Act, the Secretary shall issue such regulations as are necessary to carry out this section, including regulations concerning—

(A) reasonable intrastate fees if such fees are charged to local recipient agencies;

(B) minimum performance standards to be followed by State agencies responsible for intrastate distribution of donated commodities and products;

(C) procedures for commodity allocations among the States;

(D) delivery schedules; and

(E) procedures for local recipient agencies to return commodities and products delivered that are stale, spoiled, or similarly not in conformity with the product specifications of the Secretary.

(2) Uniform interpretation.—The Secretary shall take such actions as are necessary to ensure that regional offices of the Department of Agriculture interpret uniformly across the United States policies and regulations issued to implement this section.

SEC. 5. EXTENSION OF ELIGIBILITY OF CERTAIN SCHOOL DISTRICTS TO RECEIVE CASH OR COMMODITY LETTERS OF CREDIT ASSISTANCE FOR SCHOOL LUNCH PROGRAMS.

(a) In General.—Section 1581(b) of the Food Security Act of 1985 (Public Law 99-198; 99 Stat. 1594) is amended by striking out "1987" and inserting in lieu thereof "1989"

(b) Domestic Purchase Requirement.—Section 1581 of such Act is amended by adding at the end thereof the following new subsection:

"(d) Effective beginning July 1, 1987, in carrying out the pilot project referred to in subsection (a), a school district shall be required to provide through contract specifications that only items produced and processed in the United States be purchased with cash assistance and commodity letters of credit assistance provided under the project.".

(c) Conforming Amendment.—Section 14(g)(2) of the National School Lunch Act (42 U.S.C. 1762(g)(2) is amended by striking out "In" and inserting in lieu thereof "Effective through the school year ending June 30, 1989, in".

SEC. 6. COSTS FOR NUTRITION SERVICES AND ADMINISTRATION.

(a) In General.—Section 17(h) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(h)) is amended by adding at the end thereof the following new paragraph:

"(5)(A) In addition to the amounts otherwise made available under paragraphs (1) and (2), each State, agency may use 10 percent of the savings (as defined in subparagraph (C)) for the costs of nutrition services and administration of the State agency and local agencies associated with increases in the number of persons served. In the case of a State agency that instituted a competitive bidding or rebate system before the date of enactment of this paragraph, the State agency may use savings under this subparagraph only if the use of the savings does not result in a reduction in the number of persons served in the State.

"(B) In addition to the amounts otherwise made available under paragraphs (1) and (2) and subparagraph (A), each State agency may use up to 10 percent of the savings (as defined in subparagraph (C)) for the costs of nutrition services and administration of the State agency and local agencies to the extent that the additional expenditures are related to increases in the number of persons served due to an increased availability of supplemental food assistance. The Secretary shall issue rules to implement this subparagraph that take into account—

"(i) the types to be served and the per participant costs for nutrition services and administration in the State;

"(ii) incremental costs per participant of nutrition services and administration associated with serving an increased number of persons;

"(iii) amounts allocated and reallocated under paragraphs (1) and (2); and

"(iv) other factors considered appropriate to further efficient and effective administration, such as staffing needs, density of population, utilization of existing facilities and equipment, and other special circumstances that severely restrict the fiscal capacity of the State (such as a State economic crisis).

"(C) As determined under procedures developed by the Secretary, the savings specified under subparagraphs (A) and (B) shall be—

"(i) the amount of funds realized by a State agency as the result of a rebate system; or

"(ii) in the case of a direct distribution or home delivery system, the difference, in any fiscal year, between—

"(I) the total cost to the State agency of obtaining and providing one or more of the supplemental foods under any competitive bidding system under which a State or local agency contracts for the purchase of supplemental foods and products at reduced prices; and

"(II) the total cost that would have been incurred in obtaining and providing such supplemental foods based on an average Statewise retail price, as measured by price surveys conducted by the State agency or other means approved by the Secretary.

"(D) Paragraphs (3) and (4) shall apply to funds expended under this paragraph.".

(b) Effective Date.—The amendment made by subsection (a) shall become effective and implemented on the first day of the first quarter beginning 180 days after the date of enactment of this Act.

SEC. 7. COORDINATION OF WIC PROGRAM WITH MEDICAID COUNSELING.

Section 17(f)(1)(C)(iii) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(f)(1)(C)(iii)) is amended by striking out "and maternal and child health care programs" and inserting in lieu thereof "maternal and child health care, and Medicaid programs".

SEC. 8. STUDY OF MEDICAID SAVINGS FOR NEWBORNS FROM WIC PROGRAM.

(a) Study.—The Secretary of Agriculture shall conduct a national study of savings in the amount of assistance provided to families with newborns under State plans for medical assistance approved under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) and State indigent health care programs, during the first 60-day period after birth, as the result of the participation of mothers of newborns before birth in the special supplemental food program authorized under section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786).

(b) Report.—Not later than February 1, 1990, the Secretary shall submit to Congress a report that describes the results of the study conducted under subsection (a).

(c) Funding.—This section shall be carried out using funds made available under section 17(g)(3) of the Child Nutrition Act of 1966.

SEC. 9. SUPPLYING INFANT FORMULA FOR THE WIC PROGRAM.

Section 17(f) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(f)) is amended by adding at the end thereof the following new paragraph:

"(16) To be eligible to participate in the program authorized by this section, a manufacturer of infant formula that supplies formula for the program shall—

"(A) register with the Secretary of Health and Human Services under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321 et seq.); and

"(B) before bidding for a State contract to supply infant formula for the program, certify with the State health department that the formula complies with such Act and regulations issued pursuant to such Act.".

SEC. 10. OVERSPENDING AND UNDERSPENDING UNDER THE WIC PROGRAM.

Section 17(i)(3) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(i)(3)) is amended—

(1) in subparagraph (A)—

(A) by inserting "and subject to subparagraphs (B) and (C)" after "paragraph (2)"; and

(B) by striking out "or" at the end of clause (i) and inserting in lieu thereof "and"; and

(2) by adding at the end thereof the following new subparagraph:

"(C) The total amount of funds transferred from any fiscal year under clauses (i) and (ii) of subparagraph (A) shall not exceed 1 percent of the amount of the funds allocated to a State agency for such fiscal year.".

SEC. 11. EXTENSION OF QUALITY CONTROL STUDIES.

Section 12301(a)(3) of the Consolidated Omnibus Reconciliation Act of 1985 (42 U.S.C. 603 note) is amended by striking out "one year" and inserting in lieu thereof "15 months".

SEC. 12. EFFECTIVE DATE.

Except as otherwise provided in this Act, this Act and the amendments made by this Act shall become effective on July 1, 1987.

House amendment to Senate amendment: In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Commodity Distribution Reform Act and WIC Amendments of 1987".

SEC. 2. STATEMENT OF PURPOSE: SENSE OF CONGRESS.

(a) Statement of Purpose.—It is the purpose of this Act to improve the manner in which agricultural commodities acquired by the Department of Agriculture are distributed to recipient agencies, the quality of the commodities that are distributed, and the degree to which such distribution responds to the needs of the recipient agencies.

(b) Sense of Congress.—It is the sense of Congress that the distribution of commodities and products—

(1) should be improved as an effective means of removing agricultural surpluses from the market and providing nutritious high-quality foods to recipient agencies;

(2) is inextricably linked to the agricultural support and surplus removal programs; and

(3) is an important mission of the Secretary of Agriculture.

SEC. 3. COMMODITY DISTRIBUTION PROGRAM REFORMS.

(a) Commodities Specifications.—

(1) DEVELOPMENT.—In developing specifications for commodities acquired through price support, surplus removal, and direct purchase programs of the Department of Agriculture that are donated for use for programs or institutions described in paragraph (2), the Secretary shall—

(A) consult with the advisory council established under paragraph (3);

(B) consider both the results of the information received from recipient agencies under subsection (f)(2) and the results of an ongoing field testing program under subsection (g) in determining which commodities and products, and in which form the commodities and products, should be provided to recipient agencies; and

(C) give significant weight to the recommendations of the advisory council established under paragraph (3) in ensuring that commodities and products are—

(i) of the quality, size, and form most usable by recipient agencies; and

(ii) to the maximum extent practicable, consistent with the Dietary Guidelines for Americans published by the Secretary of Agriculture and the Secretary of Health and Human Services.

(2) APPLICABILITY.—Paragraph (1) shall apply to—

(A) the commodity distribution and commodity supplemental food programs established under sections 4(a) and 5 of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c note);

(B) the program established under section 4(b) of the Food Stamp Act of 1977 (7 U.S.C. 2013(b));

(C) the school lunch, commodity distribution, and child care food programs established under sections 6, 14, and 17 of the National School Lunch Act (42 U.S.C. 1755, 1762a, and 1766);

(D) the school breakfast program established under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773);

(E) the donation of surplus commodities to provide nutrition services under section 311 of the Older Americans Act of 1965 (42 U.S.C. 3030a); and

(F) to the extent practicable—

(i) the temporary emergency food assistance program established under the Temporary Emergency Food Assistance Act of 1983 (7 U.S.C. 612c note); and

(ii) programs under which food is donated to charitable institutions.

(3) ADVISORY COUNCIL.—(A) The Secretary shall establish an advisory council on the distribution of donated commodities to recipient agencies. The Secretary shall appoint not less than nine and not more than 15 members to the council, including—

(i) representatives of recipient agencies;

(ii) representatives of food processors and food distributors;

(iii) representatives of agricultural organizations;

(iv) representatives of State distribution agency directors; and

(v) representatives of State advisory committees.

(B) The council shall meet not less than semiannually with appropriate officials of the Department of Agriculture and shall provide guidance to the Secretary on regulations and policy development with respect to specifications for commodities.

(C) Members of the council shall serve without compensation but shall receive reimbursement for necessary travel and subsistence expenses incurred by them in the performance of the duties of the committee.

(D) The council shall report annually to the Secretary of Agriculture, the Committee on Education and Labor and the Committee on Agriculture of the House of Representatives, and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

(E) The council shall expire on September 30, 1992.

(b) DUTIES OF SECRETARY WITH RESPECT TO PROVISION OF COMMODITIES.—With respect to the provision of commodities to recipient agencies, the Secretary shall—

(1) before the end of the 270-day period beginning on the date of the enactment of this Act—

(A) implement a system to provide recipient agencies with options with respect to package sizes and forms of such commodities, based on information received from such agencies under subsection (f)(2), taking into account the duty of the Secretary—

(i) to remove surplus stocks of agricultural commodities through the Commodity Credit Corporation;

(ii) to purchase surplus agriculture commodities through section 32 of the Agricultural Adjustment Act (7 U.S.C. 601 et seq.); and

(iii) to make direct purchasers of agricultural commodities and other foods for distribution to recipient agencies under—

(I) the commodity distribution and commodity supplemental foods programs established under sections 4(a) and 5 of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c note);

(II) the program established under section 4(b) of the Food Stamp Act of 1977 (7 U.S.C. 2013(b));

(III) the school lunch, commodity distribution, and child care food programs established under sections 6, 14, and 17 of the National School Lunch Act (42 U.S.C. 1755, 1762a, and 1766);

(IV) the school breakfast program established under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773); and

(V) the donation of surplus commodities to provide nutrition services under section 311 of the Older Americans Act of 1965 (42 U.S.C. 3030a); and

(B) implement procedures to monitor the manner in which State distribution agencies carry out their responsibilities;

(2) provide technical assistance to recipient agencies on the use of such commodities, including handling, storage, and menu planning and shall distribute to all recipient agencies suggested recipes for the use of donated commodities and products (the recipe cards shall be distributed as soon as practicable after the date of enactment of this Act and updated on a regular basis taking into consideration the Dietary Guidelines for Americans published by the Secretary of Agriculture and the Secretary of Health and Human Services, as in effect at the time of the update of the recipe files);

(3) before the end of the 120-day period beginning on the date of the enactment of this Act, implement a system under which the Secretary shall—

(A) make available to State agencies summaries of the specifications with respect to such commodities and products; and

(B) require State agencies to make such summaries available to recipient agencies on request;

(4) implement a system for the dissemination to recipient agencies and to State distribution agencies—

(A) not less than 60 days before each distribution of commodities by the Secretary is scheduled to begin, of information relating to the types and quantities of such commodities that are to be distributed; or

(B) in the case of emergency purchases and purchases of perishable fruits and vegetables, of as much advance notification as is consistent with the need to ensure that high-quality commodities are distributed;

(5) before the expiration of the 90-day period beginning on the date of the enactment of this Act, establish procedures for the replacement of commodities received by recipient agencies that are stale, spoiled, out of condition, or not in compliance with the specifications developed under subsection (a)(1), including a requirement that the appropriate State distribution agency be notified promptly of the receipt of commodities that are stale, spoiled, out of condition, or not in compliance with the specifications developed under subsection (a)(1);

(6) monitor the condition of commodities designated for donation to recipient agencies that are being stored by or for the Secretary to ensure that high quality is maintained;

(7) establish a value for donated commodities and products to be used by State agencies in the allocation or charging of commodities against entitlements; and

(8) require that each State distribution agency shall receive donated commodities not more than 90 days after such commodities are ordered by such agency, unless such agency specifies a longer delivery period.

(c) QUALIFICATIONS FOR PURCHASE OF COMMODITIES.—

(1) OFFERS FOR EQUAL OR LESS POUNDAGE.—Subject to compliance by the Secretary with surplus removal responsibilities under other provisions of law, the Secretary may not refuse any offer in response to an invitation to bid with respect to a contract for the purchase of entitlement commodities (provided in standard order sizes) solely on the basis that such offer provides less than the total amount of poundage for a destination specified in such invitation.

(2) OTHER QUALIFICATIONS.—The Secretary may not enter into a contract for the purchase of entitlement commodities unless the Secretary considers the previous history and current patterns of the bidding party with respect to compliance with applicable meat inspection laws and with other appropriate standards relating to the wholesomeness of food for human consumption.

(d) DUTIES OF STATE DISTRIBUTION AGENCIES.—Before the expiration of the 270-day period beginning on the date of the enactment of this Act, the Secretary shall by regulation require each State distribution agency to—

(1) evaluate its warehousing and distribution systems for donated commodities;

(2) implement the most cost-effective and efficient system for providing warehousing and distribution services to recipient agencies;

(3) use commercial facilities for providing warehousing and distribution services to recipient agencies unless the State applies to the Secretary for approval to use other facilities, showing that other facilities are more cost effective and efficient;

(4) consider the preparation and storage capabilities of recipient agencies when ordering donated commodities, including capabilities of such agencies to handle commodity product forms, quality, packaging, and quantities; and

(5) in the case of any such agency that enters into a contract with respect to processing of agricultural commodities and their products for recipient agencies—

(A) test the product of such processing with the recipient agencies before entering into a contract for such processing; and

(B) develop a system for monitoring product acceptability.

(e) Regulations.—

(1) In general.—The Secretary shall provide by regulation for—

(A) whenever fees are charged to local recipient agencies, the establishment of mandatory criteria for such fees based on national standards and industry charges (taking into account regional differences in such charges) to be used by State distribution agencies for storage and deliveries of commodities;

(B) minimum performance standards to be followed by State agencies responsible for intrastate distribution of donated commodities and products;

(C) procedures for allocating donated commodities among the States;

(D) delivery schedules for the distribution of commodities and products that are consistent with the needs of eligible recipient agencies, taking into account the duty of the Secretary—

(i) to remove surplus stocks of agricultural commodities through the Commodity Credit Corporation;

(ii) to purchase surplus agricultural commodities through section 32 of the Act entitled "An Act to amend the Agricultural Adustment Act, and for other purposes," approved August 24, 1935 (7 U.S.C. 612c); and

(iii) to make direct purchases of agricultural commodities and other foods for distribution to recipient agencies under—

(I) the Commodity distribution and commodity supplemental food programs established under sections 4(a) and 5 of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c note);

(II) the program established under section 4(b) of the Food Stamp Act of 1977 (7 U.S.C. 2013(b)); and

(III) the school lunch, commodity distribution, and child care food programs established under sections 6, 14, and 17 of the National School Lunch Act (42 U.S.C. 1755, 1762a, and 1766);

(IV) the school breakfast program established under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773);

(V) the donation of surplus commodities to provide nutrition service under section 311 of the Older Americans Act of 1965 (42 U.S.C. 303a).

(2) Time for promulgation of regulations.—The Secretary shall promulgate—

(A) regulations as required by paragraph (1)(D) before the end of the 90-day period beginning on the date of enactment of this Act; and

(B) regulations as required by subparagraphs (A), (B), and (C) of paragraph (1) before the end of the 270-day period beginning on such date.

(f) Review of Provision of Commodities.—

(1) In general.—Before the expiration of the 270-day period beginning on the date of the enactment of this Act, the Secretary shall establish procedures to provide for systematic review of the costs and benefits of providing commodities of the kind and quantity that are suitable to the needs of recipient agencies.

(2) Information from recipient agencies.—Before the expiration of the 120-day period beginning on the date of the enactment of this Act, the Secretary shall establish procedures to ensure that information is received from recipient agencies at least semiannually with respect to the types and forms of commodities that are most useful to persons participating in programs operated by recipient agencies.

(g) Testing for Acceptability.—The Secretary shall establish an ongoing field testing program for present and anticipated commodity and product purchases to test product acceptability with program participants. Test results shall be taken into consideration in deciding which commodities and products, and in what form the commodities and products, should be provided to recipient agencies.

(h) Buy American Provision.—

(1) In general.—The Secretary shall require that recipient agencies purchase, whenever possible, only food products that are produced in the United States.

(2) Waiver.—The Secretary may waive the requirement established in paragraph (1)—

(A) in the case of recipient agencies that have unusual or ethnic preferences in food products; or

(B) for such other circumstances as the Secretary considers appropriate.

(3) Exception.—The requirement established in paragraph (1) shall not apply to recipient agencies in Alaska, Hawaii, Guam, American Samoa, Puerto Rico, the Virgin Islands, or the Commonwealth of the Northern Mariana Islands.

(i) Uniform Interpretation.—The Secretary shall take such actions as are necessary to ensure that regional offices of the Department of Agriculture interpret uniformly across the United States policies and regulations issued to implement this section.

(j) Per Meal Value of Donated Foods.—Section 6(e) of the National School Lunch Act (42 U.S.C. 1755(e)) is amended by—

(1) inserting "(1)" after the subsection designation; and

(2) adding at the end the following new paragraph:

"(2) Each State agency shall offer to each school food authority under its jurisdiction that participates in the school lunch program and receives commodities, agricultural commodities and their products, the per meal value of which is not less than the national average value of donated foods established under paragraph (1). Each such offer shall include the full range of such commodities and products that are available from the Secretary to the extent that quantities requested are sufficient to allow efficient delivery to and within the State.".

(k) Report.—Not later than January 1, 1989, the Secretary shall submit to the Committee on Education and Labor and the Committee on Agriculture of the House or Representatives and to the Committee on Agriculture, Nutrition, and Forestry of the Senate a report on the implementation and operation of this section.

SEC. 4. FOOD BANK DEMONSTRATION PROJECT.

(a) Demonstration Project.—The Secretary shall carry out no less than one demonstration project to provide and redistribute agricultural commodities and food products thereof as authorized under section 32 of the Act entitled "An Act to amend the Agricultural Adjustment Act, and for other purposes", approved August 24, 1935 (7 U.S.C. 612c), to needy individuals and families through community food banks. The Secretary may use a State agency or any other food distribution system for such provision or redistribution of section 32 agricultural commodities and food products through comunity food banks under a demonstration project.

(b) Recordkeeping and Monitoring.—Each food bank participating in the demonstration projects under this section shall establish a recordkeeping system and internal procedures to monitor the use of agricultural commodities and food products provided under this section. The Secretary shall develop standards by which the feasibility and effectiveness of the projects shall be measured, and shall conduct an ongoing review of the effectiveness of the projects.

(c) Determination of Quantities, Varieties, and Types of Commodities.—The Secretary shall determine the quantities, varieties, and types of agricultural commodities and food products to be made available under this section.

(d) Effective Period.—This section shall be effective for the period beginning on the date of the enactment of this Act and ending on December 31, 1990.

(e) Progress Reports.—The Secretary shall submit annual progress reports to Congress beginning on July 1, 1988, and a final report on July 1, 1990, regarding each demonstration project carried out under this section. Such reports shall include analyses and evaluations of the provision and redistribution of agricultural commodities and food products under the demonstration projects. In addition, the Secretary shall include in the final report any recommendations regarding improvements in the provision and redistribution of agricultural commodities and food products to community food banks and the feasibility of expanding such method of provisions and redistribution of agricultural commodities and food products to other community food banks.

SEC. 5. EXTENSION OF ELIGIBILITY OF CERTAIN SCHOOL DISTRICTS TO RECEIVE CASH OR COMMODITY LETTERS OF CREDIT ASSISTANCE FOR SCHOOL LUNCH PROGRAMS.

Section 18 of the National School Lunch Act (42 U.S.C. 1769) is amended by adding at the end the following new subsection:

"(e)(1) Upon request to the Secretary, any school district that on January 1, 1987, was receiving all cash payments or all commodity letters of credit in lieu of entitlement commodities for its school lunch program shall receive all cash payments or all commodity letters of credit in lieu of entitlement commodities for its school lunch program for the duration beginning July 1, 1987, and ending December 31, 1990.

"(2) Any school district that elects under paragraph (1) to receive all cash payments or all commodity letters of credit in lieu of entitlement commodities for its school lunch program shall receive bonus commodities in the same manner as if such school district was receiving all entitlement commodities for its school lunch program.".

SEC. 6. EXTENSION OF NATIONAL DONATED COMMODITY PROCESSING PROGRAMS.

Section 1114(a)(2)(A) of the Agriculture and Food Act of 1981 (7 U.S.C. 1431e(a)(2)(A)) is amended by striking out "June 30, 1987," and inserting in lieu thereof "September 30, 1990,".

SEC. 7. ASSESSMENT AND REPORT TO CONGRESS.

(a) Assessment.—The Comptroller General of the United States shall monitor and assess the implementation by the Secretary of the provisions of this Act.

(b) Report.—Before the expiration of the 18-month period beginning on the date of the enactment of this Act, the Comptroller General shall submit to the Committee on Education and Labor and the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report of the findings of the assessment conducted as required by subsection (a).

SEC. 8. FUNDS FOR NUTRITION SERVICES AND ADMINISTRATION.

(a) IN GENERAL.—Section 17(h) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(h)) is amended by adding at the end thereof the following new paragraph:

"(5)(A) In addition to the amounts otherwise made available under paragraphs (1) and (2), each State agency may convert funds initially allocated to the State agency for program food purchases to nutrition services and administration funds for the cost of the State agency and local agencies associated with increases in the number of persons served, if the State agency has implemented a competitive bidding, rebate, direct distribution, or home delivery system as described in its approved Plan of Operation and Administration.

"(B) The Secretary shall—

"(i) project each such State agency's level of participation for the fiscal year, excluding anticipated increases due to use during the fiscal year of any of the cost-saving strategies identified in subparagraph (A) of this paragraph; and

"(ii) compute, with an adjustment for the anticipated effects of inflation, each such State agency's average administrative grant per participant for the preceding fiscal year.

"(C) Each such State agency may convert funds at a rate equal to the amount established by the Secretary under subparagraph (B)(ii) of this paragraph for each food package distributed to each additional participant above the participation level projected by the Secretary under subparagraph (B)(i) of this paragraph, up to the level of increased participation estimated in its approved Plan of Operation and Administration.

(b) STATE PLAN OR PLAN AMENDMENT.—Section 17(f) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(f)) is amended by, in paragraph (1)(C)—

(1) striking out "and" at the end of clause (vii);

(2) redesignating clause (viii) as clause (ix); and

(3) adding the following new clause:

"(viii) if the State agency chooses to request the funds conversion authority established in clause (h)(5) of this section, an estimate of the increased participation which will result from its cost-saving initiative, including an explanation of how the estimate was developed; and".

(c) STUDY OF NUTRITION SERVICES AND ADMINISTRATION FUNDING.—The Secretary shall conduct a study of the appropriateness of the percentage of the annual appropriation for the program required by paragraph (h)(1) of this section to be made available for State and local agency costs for nutrition services and administration, and shall report the results of this study to the Congress not later than March 1, 1989. Such study shall include an analysis of the impact future years on per participant administrative costs if a substantial number of States implement competitive bidding, rebate, direct distribution, or home delivery systems and shall examine the impact of the percentage provided for nutrition services and administration on the quality of such services.

(d) EFFECTIVE DATE.—The amendment made by subsections (a), (b), and (c) shall take effect October 1, 1987.

SEC. 9. COORDINATION OF WIC PROGRAM WITH MEDICAID COUNSELING.

Section 17(f)(1)(C)(iii) of the Child Nutrition Act of 1966 (42 U.S.C. 178(f)(1)(C)(iii) is amended by striking out "and material and child health care programs" and inserting in lieu thereof "material and child health care, and medicaid programs".

SEC. 10. STUDY OF MEDICAID SAVINGS FOR NEWBORNS FROM WIC PROGRAM.

(a) STUDY.—The Secretary of Agriculture in consultation with the Secretary of Health and Human Services shall conduct a national study of savings in the amount of assistance provided to families with newborns under State plan for medical assistance approved under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) and State indigent health care programs, during the first 60-day period after birth, as the result of the participation of mothers of new borns before birth in the special supplemental food program authorized under section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786).

(b) REPORT.—Not later then February 1, 1990, the Secretary shall submit to Congress a report that describes the results of the study conducted under subsection (a).

(c) FUNDING.—This section shall be carried out using funds made available under section 17(g)(3) of the Child Nutrition Act of 1966.

SEC. 11. SUPPLYING INFANT FORMULA FOR THE WIC PROGRAM.

Section 17(f) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(f)) is amended by adding at the end thereof the following new paragraph:

"(16) To be eligible to participate in the program authorized by this section, a manufacturer of infant formula that supplies formula for the program shall—

"(A) register with the Secretary of Health and Human Services under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321 et seq.); and

"(B) before bidding for a State contract to supply infant formula for the program, certify with the State health department that the formual complies with such Act and regulations issued pursuant to such Act.".

SEC. 12. OVERSPENDING AND UNDERSPENDING UNDER THE WIC PROGRAM.

Section 27(1)(3) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(i)(3)) is amended—

(1) in subparagraph (A)—

(A) by inserting "and subject to subparagraphs (B) and (C)" after "paragraph (2)"; and

(B) by striking out "or" at the end of clause (i) and inserting in lieu thereof "and"; and

(2) by adding at the end thereof the following new subparagraph:

"(C) The total amount of funds transferred from any fiscal year under clauses (i) and (ii) of subparagraph (A) shall not exceed 1 percent of the amount of the funds allocated to a State agency for such fiscal year.".

SEC. 13. DEFINITIONS.

For purposes of this Act:

(1) The term "donated commodities" means agricultural commodities and their products that are donated by the Secretary to recipient agencies.

(2) The term "entitlement commodities" means agricultural commodities and their products that are donated and charged by the Secretary against entitlements established under programs authorized by statute to receive such commodities.

(3) The term "recipient agency" means—

(A) a school, school food service authority, or other agency authorized under the National School Lunch Act or the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.) to operate breakfast programs, lunch programs, child care food programs, summer food service programs, or similar programs and to receive donations of agricultural commodities and their products acquired by the Secretary through price support, surplus removal, or direct purchase;

(B) a nutrition program for the elderly authorized under title III of the Older Americans Act of 1965 (42 U.S.C. 3021 et seq.) to receive donations of agricultural commodities and their products acquired by the Secretary through price support, surplus removal, or direct purchase;

(C) an agency or organization distributing commodities under the commodity supplemental food program established in section 4 of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c note);

(D) any charitable institution, summer camp, or assistance agency for the food distribution program on Indian reservations authorized under section 4 of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c note) to receive donations of agricultural commodities and their products acquired by the Secretary through price support, surplus removal, or direct purchase; or

(E) an agency or organization distributing commodities under a program established in section 202 of the Temporary Emergency Food Asssistance Act of 1983 (7 U.S.C. 612c note).

(4) The term "State distribution agency" means a State agency responsible for the intrastate distribution of donated commodities.

(5) The term "Secretary" means Secretary of Agriculture, unless the context specifies otherwise.

SEC. 14. GENERAL EFFECTIVE DATE.

Except as otherwise provided in this Act, this Act and the amendments made by this Act shall take effect on the date of the enactment of this Act.

Mr. FORD of Michigan (during the reading). Mr. Speaker, I ask unanimous consent that the amendments be considered as read and printed in the RECORD.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The **SPEAKER** pro tempore. Is there objection to the initial request of the gentleman from Michigan?

Mr. PANETTA. Mr. Speaker, reserving the right to object, and I shall not object, I rise in strong support of this amendment which was worked out after negotiations between members of the Committee on Education and Labor and Agriculture.

This amendment is designed to ensure that the Commodity Distribution Program of the Department of Agriculture fulfills and balances two objectives:

First, to support U.S. agriculture by removing surplus commodities from the market; and

Second, to help protect the nutritional well-being of people throughout the country by providing nutrition assistance to schools, senior citizens centers, and other institutions through distribution of surplus commodities.

This amendment is a compromise. We have balanced the needs of the schools and other institutions which receive these commodities with the responsibilities to remove surplus agriculture commodities which the Congress has levied on the Secretary of Agriculture.

For the first time, H.R. 1340 as amended establishes the commodity distribution program on a strong statutory base to ensure that the Department of Agriculture can implement many of the recommendations which recipient agencies have made to both the Committee on Agriculture and the Committee on Education and Labor.

This amendment represents a compromise between the very legitimate perspectives of two of the committees of this body. I want to express my gratitude to the gentleman from Missouri, Mr. BILL EMERSON, the ranking minority member of the House Agriculture Subcommittee on Domestic Marketing, Consumer Relations, and Agriculture and also to the gentleman from Michigan, Mr. WILLIAM FORD, the ranking member of the Committee on Education and Labor, and the gentleman from Pennsylvania, Mr. GOODLING, the ranking minority member of the Subcommittee on Elementary, Secondary, and Vocational Education. These gentlemen and their staffs worked long and hard to develop a balanced compromise which will enable the commodity distribution program to meet the needs of recipient agencies, while not limiting the capability of the Secretary of Agriculture to remove surplus agricultural commodities from the market.

When H.R. 1340 was before the House just before the August district work period, I noted that some last minute concerns about the measure before the House had been raised, but we wanted to get the measure over to the Senate and resolve any remaining concerns in the subsequent legislative process. The Senate improved on the work of the House. Indeed, the Senate added some very significant improvements to the WIC program.

After the Senate approved the bill, we went to work to crafting a compromise which we could get to the Senate and get this bill down to the White House. I think that we have been able to craft an amendment to send over to the Senate which incorporates the best of both the House and Senate versions of H.R. 1340.

First, and foremost, the WIC program improvements are included. These amendments to the WIC program, which is under the jurisdiction of the Committee on Education and Labor, will be described by the members of that committee. What they are presenting to us today are program improvements, which are supported by the administration, the advocates, and both the House and Senate Committees with jurisdiction over WIC.

Second, we included some compromises which address legitimate concerns raised about possible adverse impact on the agricultural sector.

The requirement that in the House bill that the Secretary of Agriculture, except in emergency situation, must purchase donated food for delivery on a free on board [FOB] basis caused concerns that the Secretary would be unable to respond to market conditions and surpluses. The Department of Agriculture contended that large one-time purchases of canned fruits and vegetables would be difficult to make on an FOB basis. Special situations, such as the whole herd buyout for beef purchases, which had been authorized by the Food Security Act of 1985 (Public Law 99-198) would not have been possible under FOB. The Department further argued that support for certain markets, such as turkey or fruits and vegetables would be more difficult under FOB. As a result, the FOB requirement has been deleted.

The Department objected to the provision in the House bill that the Secretary must give 60 days notice to recipient agencies of the type and quantity of surplus commodities to be distributed.

The Department's concern was that the waiver authority given to the Secretary for emegencies was not sufficient. As a result, we changed this provision to provide that in the case of not only emergency purchases, but also purchases of perishable fruits and vegetables, as much advance notification must be given, as is consistent with the need to ensure that high quality commodities are distributed.

Another concern was that the House bill gave excessive authority to the advisory council on commodity distribution. The amendment limits the council's authority to an advisory role but requires that the Secretary of Agriculture give great weight to the recommendations of the advisory council regarding the quality, size, and form of commodities most usable by recipient agencies.

This amendment is a fair compromise. I urge its approval.

LEGISLATIVE HISTORY LANGUAGE TO ACCOMPANY HOUSE AMENDMENT TO SENATE AMENDMENT TO H.R. 1340 THE COMMODITY DISTRIBUTION REFORM ACT OF 1987 AND WIC AMENDMENTS, DECEMBER 17, 1987

1. SECTION 3(A)(3)

The advisory council established by this Act will conform to the requirements established by the Federal Advisory Committee Act Public Law 92-463, 5 U.S.C. Appendix), specifically section 3(2) and section 9(b).

2. SECTION 3(B)(1)(A)

The requirement that optional sizes and packages be made available to recipient agencies should not be interpreted to mean that any single recipient agency could require a size or package that is unique and not desired by other recipient agencies.

3. SECTION 3(B)(3)(A)

Nutrient content information should be in a form suitable for use by State and recipient agencies and should include such information that will enable them to better satisfy the dietary needs of program participants.

4. SECTION 3(C)(1)

Standard order sizes will be construed to mean not less than truckload quantities.

5. SECTION 3(D)(5)

State agencies which enter into contracts to process commodities for recipient agencies shall be required by regulation to test the processed products with recipient agencies before entering into contracts in instances of new products or products not regularly acquired through commercial channels. Generic products and processed products like those regularly acquired through commercial channels by recipient agencies, such as pizzas, or products with commercial item descriptions that can be defined through contract specifications, such as ground beef patties, shall not be subjected to testing.

6. SECTION 3(F)(1)

This cost-benefit analysis approach will be useful to the Secretary in carrying out his responsibilities under this Act, but the cost-benefit to recipient agencies, while it must be considered, may not always be a final determinant.

7. SECTION 5

Sites participating in the Cash/CLOC programs as of January 1, 1987, should receive cash payments or commodity letters of credit retroactive to July 1, 1987, in an amount equal to 12 cents for each school lunch served. In the case of sites which have accepted entitlement commodities in lieu of cash or CLOC payments, such sites shall only receive the difference between the 12 cents per meal entitlement and the value of entitlement commodities received. Receipt of bonus commodities shall have no effect on this provision.

8. Regulations should generally take effect 270 days after the date of enactment.

Mr. FORD of Michigan. Mr. Speaker, will the gentleman yield?

Mr. PANETTA. Reserving the right to object, I yield to the gentleman from Michigan.

Mr. FORD of Michigan. I thank the gentleman for yielding.

Mr. Speaker, I rise in support of the amendment in the nature of a substitute for the Senate-passed version of H.R. 1340, the Commodity Distribution Reform Act of 1987.

The first draft of this legislation was written in February 1987, and after many rewrites, my friend and colleague BILL GOODLING and I were able to introduce it as a bill (H.R. 2496) on May 21, 1987. From that beginning, we have before us today, H.R. 1340, the final product.

From its inception, this legislation was intended to reform the vitally important Commodity Distribution Program that serves our Nation's children under the National School Lunch and Child Nutrition Acts, and our Nation's elderly under the Older Americans Act.

The Commodity Distribution Reform Act of 1987 not only amends those programs mentioned above that fall under the jurisdiction of the Committee on Education and Labor, but amends also those programs vital to the mission of the Secretary of Agriculture to remove agricultural surpluses from the market, to provide for farm price supports, and to provide nutritious high quality food to recipient agencies.

A lot of effort, and a lot of compromise, has gone into this final version of the Commodity Distribution Reform Act. It is a joint product of the labors of three committees of Congress—in the House, Education and Labor and Agriculture; in the Senate, the Committee on Agriculture, Nutrition and Forestry.

I take this opportunity to thank my colleagues on the House Agriculture Committee, Chairman de la Garza, and Subcommittee on Nutrition chairman, Leon Panetta. Thanks also go to the ranking minority members, Bill Emerson and Edward Madigan for their contributions to this reform measure, and to their counterparts and colleagues on the Senate Agriculture Committee, Chairman Patrick Leahy and minority member Richard Lugar.

My special appreciation, of course, goes to Chairman Gus Hawkins of the Education and Labor Committee, who patiently helped us deal with H.R. 1340 under a sequential referral to our committee, and to our committee's able ranking minority member Jim Jeffords, who also wears his Agriculture Committe hat when we need both his expertise on agriculture matters and on matters under the Education and Labor Committee's jurisdiction.

Last but not least, I thank my good friend and colleague Bill Goodling, who is also the ranking minority member of the Elementary, Secondary and Vocational Education Subcommittee, for sticking with me over the years in a shared belief that we can improve the School Lunch, Child Nutrition and Older Americans Programs without harming Agriculture's ability and duty to remove surplus commodities from the market, or to keep farm price supports where they ought to be.

We expect one of the lasting effects of this reform bill will be to make certain that eligible recipient agencies not only receive high quality foods, but that such products be in the quantities, sizes and forms most useful and acceptable to them, and that they are delivered on a timely basis. In other words, we devoutly hope that instead of 50-pound chunks of frozen hamburger, recipient agencies will receive 50 pounds of preformed hamburger patties, and that Thanksgiving and Christmas turkeys will be delivered in time to be consumed on those holidays and not in January of the following year—as has been the case in the recent past.

In order to better serve recipient agencies, and particularly schools, we are requiring the Department of Agriculture to gather data at least semiannually from recipient agencies with respect to what are considered to be the most acceptable commodities, what the preferences of persons participating in the programs are. The Secretary is instructed to give serious weight to those recipient recommendations when developing the specifications for USDA purchases of commodities in the future. We have also created a new advisory council to assist the Secretary during the process of commodity specification development.

We will expect the Department of Agriculture to give at least 60 days notice—except in cases of emergency purchases—as to when commodities are becoming available and what types and quantities will likely be shipped to the States. Throughout the bill we have allowed for emergency situations.

Along those same lines, if commodities are received by a State or local recipient agency in a stale, spoiled, out-of-condition state—or otherwise not in compliance with the specifications developed under subsection (a)(1) of the act, such commodities must be replaced by USDA or the State, whichever was responsible for the initial shipment. USDA is further required to monitor closely those commodities and their products stored by or for the Secretary to assure that their high quality is maintained.

States are being asked to use the more cost-effective and efficient commercial facilities for transporting, delivering or storing commodities. If States can prove, to the Secretary's satisfaction, that other than commercial facilities are more cost effective and efficient, they will be authorized to utilize those other facilities.

We also require, under the reform bill, that the Secretary give at least 60 days notice before each distribution of commodities is due to begin, and to provide information relating to the types and quantities of such commodities to be distributed. Again, emergency waivers are provided in the event that perishable fruits and vegetables—but not including canned or frozen fruits and vegetables—must be bought to keep them from spoiling. We require the Secretary to establish procedures to provide for a systematic review of the costs and benefits of providing commodities of the kind and quantity most suitable to the needs of recipient agencies.

The act has a "Buy American" provision. I am pleased to be the author of the amendment; it is the first time such a policy-statement on the part of the Federal Government has been established by statute, requiring Federal food assistance dollars to be spent to purchase only food products produced in the United States. To be sure, the provision is not a mandate, but is replete with waivers: for those recipient agencies serving individuals with unusual or ethnic preferences in foods; for noncontiguous States and territories where "buying American" would be difficult if not impossible; or such other circumstances as deemed appropriate by the Secretary.

Mr. Speaker, under the current school lunch law there is a mandate that USDA offer a full range of available commodities to each State. The bill before us contains an amendment that extends that "must offer" provision to the States. It requires the State distribution agencies to offer a full-range of available commodities to school food authorities. The per meal value of this offer may not be less than the national average value of donated foods established under paragraph (1). This mandate is not effective unless a State receives sufficient quantities of commodities to allow efficient delivery to and within the State. Further, no school food authority is forced to accept an offer of a full range of available commodities, and any school food authority that can use double quantities may receive commodities rejected by another recipient.

The "Per Meal Value of Donated Foods" amendment described above was authored by my colleague Bill Goodling. I commend him for this effort. We became aware during our work on this legislation that some school food authorities, especially the small, poor and/or isolated ones, never receive an offer of the full range of available commodities, while other more affluent school food authorities received double shares. It is our desire to put a stop to this discriminatory practice within States.

Because many of the reforms in the legislation are unprecedented, they are therefore somewhat controversial in nature. I have added an amendment directing the General Accounting Office to monitor the implementation and operation of this act and to report the results to the House and Senate Committees of Jurisdiction within the first 18 months of operation.

Mr. Speaker, the substitute bill before us today contains a modification of the amendments to the Women, Infants and Children [WIC] programs as passed by the Senate several weeks ago. The modified amendments are intended to remove the troubling aspect of having given too much discretion to the USDA in deciding how much of food cost savings from a State-initiated rebate or competitive bidding system a State would be allowed to retain and use for adminstrative costs. The bill, as modified, now ties the conversion of such food funds to actual state performance in enrolling more participants in the WIC Program. This ensures that states which use food cost savings to increase participation rates would be rewarded appropriately.

I am aware that the State of Michigan is about to decide whether or not to implement a competitive bidding system, and in the interim Michigan's Legislature has appropriated just under a half-million dollars for indirect costs of the State's WIC Program. This is the first such appropriation in the State's history.

Mr. Speaker, you are going to hear several colloquies today concerning committee "turf" and jurisdictions—and arguments that the Committee on Agriculture ought to have, or does in fact already have, joint jurisdiction over some of Education and Labor's programs.

It is my strong belief that while we need Agriculture's distribution of surplus food products and direct purchase efforts for programs under Education and Labor's jurisdiction, and while I recognize they are an important link to the successes we have had in maintaining the child and senior citizen-type feeding programs that we authorize, I submit that our two committees serve two distinctly separate purposes. While we are grateful for the efficacy of this joint effort, the jurisdictions over how these related but separate programs will operate, and how the benefits will flow to intended beneficiaries, must continue to be the sole responsibilities of the two committees—just as they have operated for more than 52 years.

It has been only recently that our two committees have been pitted one against the other by outside interests. We regret this effort to drive a wedge into what has been a dual effort on the part of Congress to not only address the need to assist the growers and producers of farm products, but to provide the humanitarian services required of any nation—that of feeding its hungry citizens.

The Congress did not invent the National School Lunch Act in 1946 just to provide a handy dumping ground for the surplus commodities it had authorized the Agriculture Department to purchase under the Agriculture Adjustment Act of 1935. To all intents and purposes and despite our good intentions, that is what school food authorities have become over the years—dumping grounds for commodities over which they have no say, no control, and often, no real use.

The commodity reform bill that BILL GOODLING and I began drafting last February and which is before us today did not seek in its original form, nor does it now contain, any assumption of jurisdiction—sole or joint—over any program previously or currently under the Committee on Agriculture.

We also have in this bill, Mr. Speaker, a simple extension of what are known as the CASH and CLOC [Commodity Letters of Credit] pilot projects. These 64 pilot sites are school districts spread among 29 States who volunteered back in 1981 to participate in a study of alternatives to the traditional, commodity-based school lunch program. While the study has been completed, it is the position of the Education and Labor Committee that these 64 sites have earned the right to continue using either all cash or commodity letters of credit in lieu of donated entitlement commodities from USDA. While school food authorities at these 64 sites are still subject to notification by USDA as to what commodities need removing from the market, and the pilot sites are expected to use their cash or letters of credit at the local level to purchase as many of these items as possible, it is still much more efficient and cost effective to buy locally on the open market than it is to order, accept, transport and store USDA commodity purchases year in and year out with no control over the quantity, quality, sizes or forms of those commodity donations. School food authorities also have the responsibility for turning raw commodities into usable end-products that children will eat. This commodity processing adds to the expense of transporting bulk commodities to and from processors.

Mr. Speaker, because the CASH/CLOC pilot project authority was due to expire this past June 30, 1987, the House Education and Labor Committee passed a bill in April of this year, H.R. 1728, extending the pilot projects. That bill, which passed the House by unanimous consent, was never passed by the Senate.

School has been in session since at least the first week of September, Mr. Speaker, and because of the expired authority, the 64 school district pilot sites have not received any assistance through the CASH/CLOC alternative programs. For that reason, a short extension, through June 30, 1988, has been added to the continuing resolution. It is important that the legislative history reflect, Mr. Speaker, our intent that the longer extension of the programs as contained in H.R. 1340, extending these CASH/CLOC sites through December 31, 1990, is the intent of the authorizing Committee on Education and Labor, and the Congress as a whole.

In addition, Mr. Speaker, the conferees intend that sites participating in the CASH/CLOC Programs as of January 1, 1987 should receive cash payments or commodity letters of credit retroactive to July 1, 1987 in an amount equal to 12 cents for each meal served. In the case of sites which have accepted entitlement commodities in lieu of cash or CLOC payments, such sites are to receive only the difference between the 12 cents per meal entitlement and the value of entitlement commodities received. Receipt of bonus commodities, which do not count toward the 12-cents-per-meal value established by law, shall have no effect on the retroactive provision at all.

You will note that H.R. 1340 also extends the National Commodity Processing Program—which has become a new but vital link in the chain of events that see raw bulk commodities by the truckload—or railcar load—bought by USDA and sent to States, States then send them down to local recipient agencies, who in turn send them to food processing plants so they may be turned into edible end-products attractive to children and to the elderly, which are finally sent back to recipient agencies.

It is no secret that I strongly believe the USDA study of the two alternatives to the current, school lunch program, known as CASH or Commodity Letters of Credit [CLOC] Programs, if adopted nationally would have eliminated most of the problems described above—and particularly the expensive pickup, delivery, processing, and storage costs at the local level.

It is no secret, either, Mr. Speaker, that BILL GOODLING and I, may try again to offer the CLOC as an option at the local school district level under the National School Lunch Act. That is an action to be contemplated in the future. But if the reforms we are authorizing today are implemented in good faith, there may be no future need for an CLOC option. We shall have to wait and see.

Mr. Speaker, H.R. 1340, the Commodity Distribution Reform Act of 1987 is a bill of improvement that has been carefully worked out over the last 10 months by members and staff of three committees of Congress. I recommend that it receive the support of my colleagues and that it do pass.

Mr. PANETTA. Further reserving the right to object, I would like to conduct a colloquy with regard to jurisdictional issues. As the gentleman from Michigan knows, there has been some disagreement over committee jurisdictions as regards the content of this bill. My understanding, and I hope it is the gentleman's understanding, is that the passage of this bill would have no effect whatsoever in resolving the jurisdictional issues between the Committee on Education and Labor and the Committee on Agriculture.

Mr. FORD of Michigan. Mr. Speaker, will the gentleman yield?

Mr. PANETTA. I yield to the gentleman from Michigan.

Mr. FORD of Michigan. I thank the gentleman for yielding.

Mr. Speaker, I agree with the gentleman that by passing this bill we do not mean to decide any particular jurisdictional issues which are in dispute between the committees.

Mr. PANETTA. I thank the gentleman.

Further reserving the right to object, I would like to engage in a colloquy with my good friend and colleague, the ranking member of the Committee on Education and Labor, Mr. Goodling, to establish a legislative history on this amendment because we are not going to conference with the other body. I have before me a document dated December 17, 1987, entitled, "Legislative History Language to Accompany House Amendment to Senate Amendment to H.R. 1340, the Commodity Distribution Act of 1987 and WIC amendments." Does the gentleman from Pennsylvania have a copy of this document and does he agree that it should be inserted in the Record at this point to provide a legislative history on several items in this amendment?

Mr. GOODLING. Mr. Speaker, will the gentleman yield?

Mr. PANETTA. I yield to the gentleman from Pennsylvania [Mr. Goodling].

Mr. GOODLING. I thank the gentleman for yielding.

Mr. Speaker, I do have a copy of the document.

Mr. PANETTA. And the gentleman agrees that it should be inserted here as part of the legislative history?

Mr. GOODLING. The gentleman is correct.

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Mr. PANETTA. Mr. Speaker, the gentleman agrees that it will be inserted here as legislative history?

Mr. GOODLING. That is right.

Mr. PANETTA. Mr. Speaker, further reserving the right to object, I yield to the gentleman from Vermont [Mr. Jeffords].

Mr. JEFFORDS. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I, too, rise in support of the amendment to the amendment.

I would like to engage the gentleman from Michigan [Mr. Ford] in a little colloquy at this point also.

Mr. PANETTA. Mr. Speaker, I am pleased to yield to the gentleman for that purpose.

Mr. JEFFORDS. Mr. Speaker, is it the gentleman's understanding and intent that this bill enables States that have already implemented WIC cost containment programs such as those enumerated in the bill to receive a portion of the savings they are achieving and apply that portion to meet the increased administrative and nutrition service costs associated with an increased case load supported through their cost savings program?

Mr. FORD of Michigan. Mr. Speaker, if the gentleman will yield, yes, the gentleman from Vermont is correct.

Mr. JEFFORDS. Mr. Speaker, I thank the gentleman, and I urge my colleagues to support the amendment to the amendment.

Mr. Speaker, I rise in support of the amendment to the Senate amendment to H.R. 1340, the Commodity Distribution Reform Act of 1987.

Basically the measure before us today calls for a series of changes designed to improve the way in which commodities and their products now acquired by the Department of Agriculture through its price support, surplus removal, and direct purchase programs are made available to a host of local recipient agencies.

The reforms set forth in this measure are designed to ensure that we continue to meet our dual objectives of providing nutritious foods to children, senior citizens, and needy persons who participate in other federally assisted feeding programs and effectively using our agricultural surpluses.

Included in the bill is an extension, through December 31, 1990, of the authority for school districts that have participated in the cash and commodity letter of credit pilot programs to continue to do so, if they so desire. Two of the 64 school districts that were selected to participate in this pilot acitivity are the Morristown School District and the Lyndon Town School District in my own State of Vermont.

I would also like to call to my colleagues' attention several key changes provided for in the WIC Program. The first applies to States that implement competitive bidding, rebate, direct distribution, or home delivery systems—all of which are strategies that stretch WIC food dollars and allow additional persons eligible for WIC Program benefits to be served. States that elect to implement such cost-saving measures would be authorized to use a fixed portion of these dollars to meet the costs of administrative and nutrition services which will, of necessity, be incurred when additional eligibles are added to their WIC programs. I am pleased to see that a number of States have already implemented—and others are about to implement—changes that will make it possible for the WIC Program to serve—with existing Federal dollars—additional low-income women, infants, and children who are at nutritional risk and in need of WIC services. We in Vermont are especially proud of our WIC Program. We have implemented a home delivery system which is cost-effective and meets the special needs of our rural WIC participants. Our competitive bidding system for the purchase of infant formula has resulted in significant savings. And, thanks to successful outreach activities, we rank among the highest in providing quality nutrition and health services to the majority of those who are in greatest need of WIC Program benefits.

I am pleased to report that the measure under consideration today requires that a national study be conducted to give us some hard data on the savings that accrue to the Medicaid Program as a result of preventive health and nutrition services provided under the WIC Program. Many of us know from our own States' experiences with the WIC Program that dollars invested in WIC yield their return many times over in reduced Medicaid outlays. The study envisioned in this bill should provide us with current and specific dollar savings on a State-by-State basis.

I would like briefly to touch upon a concern that I have that we did not include in this bill. Should additional States move toward cost-saving systems—including the rebate system—in which States solicit bids from manufacturers of infant formula, or other items included in the WIC food package, USDA must work closely with the State agencies to ensure that all phases of bid solicitation and subsequent bid awards are conducted on a fair and equitable basis. While we have not mandated that the Department carefully monitor these activities, I firmly believe that prudent management of the Federal dollars invested in the WIC Program dictates that this issue be fully addressed on a nationwide basis.

I would like to engage the gentleman from Michigan in a brief colloquy. Is it the gentleman's understanding and intent that this bill will enable States that have already implemented WIC cost containment programs, such as those enumerated in the bill, to receive a portion of the savings they are achieving and apply that portion to meeting the increased administrative and nutrition services costs associated with an increased caseload supported through their cost savings programs?

Mr. Speaker, I would urge my colleagues on both sides of the aisle to join me in voting for this package of commodity distribution reform measures and amendments to the WIC Program.

Mr. PANETTA. Mr. Speaker, further reserving the right to object, I yield to the gentleman from Pennsylvania [Mr. Goodling] for a colloquy.

Mr. GOODLING. Mr. Speaker, I thank the gentleman for yielding.

First of all, I would like to make a brief statement, and then I would like to engage in a colloquy with the gentleman from California.

Mr. Speaker, I rise in support of the amendment in the nature of a substitute to H.R. 1340, the Commodities Distribution Reform Act and WIC amendments of 1987. This bill which has been carefully scrutinized by the two committees of jurisdiction represents a good compromise which balances the needs of the agricultural removal programs with those of providing a nutritious meal to school children, the elderly, and the needy.

A similar version of this bill passed the House on August 3, 1987 and passed the Senate on August 5, 1987. This bill includes changes to reflect further concerns for arriving at a bipartisan compromise. Without going to conference, we have worked out a bill which not only addresses the Committee on Agriculture's concerns regarding commodity removal, but of equal importance the bill addresses the Committee on Education and Labor's concerns to improve the commodity distribution system to program recipients, to make important WIC changes, and to extend the current existing CASH and CLOC Programs.

Our intent in this substitute is to grant the Department of Agriculture the statutory authority, which they believe they do not have, and yet need, to improve the program. We, therefore, are not only giving them this authority, but are giving them a mandate to use that authority in a timely manner. We are serious about these changes. We have relaxed the time lines in order to allow for meaningful comment to regulations which we expect the Department to implement. Maximum public comment will ensure the best promulgated regulations.

An important aspect of the bill is the pilot project extension. For years we have heard the continuous complaints and chronic problems about the distribution system involved in getting foods to the local recipient. Even though we commend the Department for recent changes to improve the program, I believe the pilots should be given credit for the serious reform of the commodity distribution program undertaken recently by the department. The competition of alternatives is forcing the department to perform better. These programs are not designed to dismantle the commodity removal program, but the alternatives to the current system for distributing agricultural surpluses. The bottom line is still removal no matter the method; then, using the surplus to feed people.

The Cash and CLOC Programs are extended through December 31, 1990. We have also extended these programs through the continuing resolution which should be presented to the President within the next few days. It is our intention that the Cash and CLOC Programs be extended through December 31, 1990.

Since the current commodity distribution program operates in the majority of school districts—only the 64 pilots and the State of Kansas do not participate—it continues to play a vital role in meeting the nutrition needs of most of the youngsters who participate in our child nutrition programs; therefore, we intend the commodity program to work and work well.

Again, I rise in support of this bill and urge my colleagues to join me in support of its passage. As the bill addresses the concerns of the interested parties, I look forward to quick action by the other body.

Mr. GOODLING. Mr. Speaker, I would now like to engage in a colloquy, if I may, with the gentleman from California.

Mr. PANETTA. I am pleased to yield to the gentleman for that purpose.

Mr. GOODLING. I would like to engage the gentleman from California, the distinguished chairman of the Subcommittee on Domestic Marketing, Consumer Relations, and Nutrition, in a colloquy on the duties of the Secretary of Agriculture with respect to the notification requirement for distribution of commodities to the recipient agencies.

Is it the understanding of the gentleman from California that the Secretary is required to give recipient agencies 60 days notification of the types and quantities of commodities that are available before he begins distribution of the commodities?

Mr. PANETTA. The gentleman is correct.

Mr. GOODLING. Is it also the understanding of the gentleman that there are two exceptions to this general rule and they are first, the Secretary does not have to give 60 days advance notification of distribution of items purchased under an emergency situation and second, the Secretary does not have to give 60 days advance notification of distribution of perishable fruits and vegetables?

Mr. PANETTA. Again the gentleman is correct.

Mr. GOODLING. Is it also the understanding of the gentleman from California that with respect to perishable fruits and vegetables that have already been purchased and are in storage in canned or frozen form, the Secretary is to give the recipient agencies 60 days notification of their distribution?

Mr. PANETTA. Again, the gentleman is correct.

Mr. GOODLING. Mr. Speaker, I thank the gentleman for yielding.

Mr. PANETTA. Mr. speaker, I thank the gentleman from Pennsylvania [Mr. GOODLING].

Further reserving the right to object, Mr. Speaker, I yield to the gentleman from Tennessee [Mr. COOPER].

Mr. COOPER. Mr. Speaker, I thank the gentleman from California for yielding, and I rise in strong support of the bill.

Mr. Speaker, I rise to express my strong support for H.R. 1340 and especially for the provision in this bill affecting the purchase of infant formula in the Women, Infants, and Children or WIC Program. This provision will allow States which realize savings on the purchase of infant formula to use those savings to serve more women and children.

Faced with budgetary constraints and rising prices, States have begun to develop innovative competitive bidding and rebate systems for the purchase of infant formula. I am proud that Tennessee has been a leader in pioneering this new approach. Based on its experience so far, Tennessee estimates that it will save $3 to $4 million a year and be able to serve close to 8,000 additional women and children each month with these savings. A recent GAO report estimates that up to 630,000 additional eligible WIC participants might be saved if all States purchased infant formula at reduced rates.

There is one catch: the U.S. Department of Agriculture will not let States use any of the savings for the nonfood costs of serving additional infants. Since Federal law requires States to provide health screenings and other services to WIC recipients, States cannot expand their WIC programs simply by buying more food; they must also be able to pay for these costly health services.

This has left Tennessee in the untenable position of not being able to spend the money it's saving. That money is just sitting in the bank while women and children go hungry. And while a few States have started to follow Tennessee's lead, the USDA policy has discouraged other States from adopting these innovative measures.

H.R. 1340 removes this bureaucratic roadblock by allowing States to use a certain amount of the money saved on the purchase of infant formula on the nonfood costs of serving more people. The House amendment makes needed changes to the original Senate language. These changes reward States that add more participants and eliminate the uncertainty about how much of the savings States can use for nonfood costs. In addition, it moves up the date of enactment. This will allow States like Tennessee that have already implemented a competitive bidding/rebate system to use their savings right away.

The WIC Program only serves 40 percent of those eligible. States with the initiative and commitment to serve more people for the same amount of money should be allowed to do so, and the House amendment to the Senate amendment will give them the needed money to go ahead. I hope my colleagues in this body and the other support the House amendment and promptly approve this important legislation.

Mr. DE LA GARZA. Mr. Speaker, I am pleased that the Committee on Agriculture and the Committee on Education and Labor have at long last reached an agreement on H.R. 1340, the Commodity Distribution Reform Act and WIC amendments of 1987.

This legislation was reported by the Committee on Agriculture on July 13 of this year and sequentially referred to the Committee on Education and Labor. It passed the House on August 3 and the Senate on August 5. Extensive changes have been made to the bill, and while I would have preferred the bill in the form it passed the Committee on Agriculture, the differing views of my colleagues resulted in the compromise bill before us today.

This bill is designed to improve the distribution of commodities that are donated to food assistance agencies by the U.S. Department of Agriculture under section 416 of the Agricultural Act of 1949 and section 32 of the act of August 24, 1935. The amendment to the bill does not change the responsibility of the Secretary of Agriculture in acquiring commodities or in removing surplus commodities from the market.

Further, the amendment does not in any way alter the current jurisdictional status of the Committees on Agriculture and Education and Labor regarding the commodity distribution programs of the U.S. Department of Agriculture.

I urge my colleagues' support of the bill as amended.

Mr. COMBEST. Mr. Speaker, I am pleased to be able to rise in strong support of the bipartisan agreement before this body today. The Agriculture Committee of the House and Senate have spent many long hours in reaching this compromise which addresses the serious problems facing the Farm Credit System.

The one overriding objective of any final remedial legislation for farm credit is to ensure that farmers and ranchers are assured a dependable source of credit, competitively priced, and readily available. The Congress created the system in the first place because there was a need—not being filled by other financial institutions—for credit in rural America. That's why the Congress wanted to help when it became apparent that the system was in trouble in 1985.

Our first efforts were not very successful. Imprudent application of the law resulted in a deluge of court cases which, in some instances, exacerbated the problems of the already troubled lending institutions. I hope the regulator and the system alike learned an important lesson as a result.

I am particularly pleased, as representative of the Texas farm credit district, that we adopted a plan which does not require healthy districts to draw down their capital positions to the point of nonviability. In return, we are willing to help repay our fair share of the assistance needed by other institutions to help the long-term viability of the system as a whole. In addition, I believe that the restructuring provisions in this compromise are a commonsense approach which will allow the system to make their own decisions regarding the future framework of its lending structure and will help to ensure the ability of the institutions to be competitive lenders in an increasingly competitive agricultural lending environment. Let me hasten to add, however, that we were careful to add adequate protections to protect the Government's investment.

Again, I urge my colleagues to support this carefully crafted agreement which will have infinite impact on the continued strength of our Nation's agriculture.

Mr. EMERSON. Mr. Speaker, the House of Representatives is now considering a bill to improve the administration of the Commodity Distribution Program. Through this program, surplus commodities are made available to several programs including the School Lunch Program and the nutrition programs for the elderly. In all, over $2 billion of commodities are made available each year. The purpose of the Commodity Distribution Program is a dual one: It is aimed at providing assistance to our Nation's farmers and it is aimed at providing food to schools and other organizations to help feed needy children. It is extremely important to remember the dual goals of the Commodity Distribution Program and to ensure that the design of the program adheres to both areas that are served.

In the subcommittee, we have held extensive hearings on commodity distribution programs and have consistently urged the USDA to improve its distribution methods. The Secretary of Agriculture demonstrated his further commitment in December 1985, by establishing a task force to report to him on means to improve USDA's commodity purchase and distribution activities. In June 1987, the task force issued its report which is comprehensive and lists specific improvements to be made. In recognition of this, the American School Food Service Association, which is a nonprofit association of 60,000 members comprised of employees that administer and staff the child nutrition programs at the State and local level, adopted a resolution on July 24, 1987. The association's resolution found that USDA has responded to their concerns in an "extremely constructive manner" and has made "substantial progress" in addressing their recommendations. In addition, that association of 60,000 now opposes adoption of a commodity letter of credit option at the State or local level to replace the Commodity Distribution Program as we know it today.

I am pleased to bring this matter to my colleagues' attention to demonstrate across-the-board commitment to improvements in the Commodity Distribution Program.

I am pleased that we have agreed on these goals and have reached resolution of the major points in disagreement. We agree that this bill does not, in any way, restrict the Secretary of Agriculture's ability to acquire commodities and that it is our intention to ensure that nutritious commodities are distributed. We agree that the Secretary must be able to respond quickly to accomplish surplus removal activities in a highly volatile market. We have always agreed on the need to constantly improve the administration of the Commodity Distribution Program.

It is important that price support and surplus removal programs which are vital to farmers not be restricted. The goals of the Commodity Distribution Program are consistent with this. We must ensure that good quality food is provided to schools and other agencies; that America's agricultural markets are strengthened and that the Commodity Distribution Program operates in an orderly fashion.

We do not need a complex, inefficient system providing fewer agricultural commodities. Nor do we need a system that provides highly processed food and reduces the amount of food acquired from farmers.

I am especially pleased that H.R. 1340 contains an amendment I offered concerning a food bank demonstration project and I wish to thank the chairman of the nutrition subcommittee for his assistance. Our subcommittee held a hearing in Sikeston, MO, on the subject of food banks and how they participate in the temporary Emergency Food Assistance Program. Chairman PANETTA presided over that hearing and heard the testimony of the people who operate the food bank in Sikeston. Following that hearing and after a review of information compiled in our other hearings, I offered an amendment in the committee to require the USDA to begin a demonstration project in which the variety of commodities provided to food banks will be expanded to include meat products, fruits and vegetables. That amendment remains a part of the bill before us today and I thank Chairman PANETTA for his assistance.

In addition, I thank the gentlemen from Michigan and Pennsylvania for their cooperation in resolving the differences in the bill before us today. We have discussed these matters over the past several weeks and I appreciate their assistance.

The legislation before us also provides that States using competitive bidding, rebates or other methods to make maximum use of the WIC dollars so that additional persons can be served under this very valuable program, can use a part of the additional money for administrative and nutrition services. I am very supportive of the WIC Program and I commend this effort to make the Federal dollar go as far as it can. In Missouri this provision will prove to be of great help to administrators and participants alike.

It is my hope that USDA will continue to work closely with the States to ensure that the competitive bidding process is fair and equitable, that the safety and the quality of the products under the bidding process continue to be of a high quality and that we are assured that the participants in the WIC Program are provided the benefits needed in an efficient and effective manner.

I urge my colleagues to support the bill before us.

Legislative History Language to Accompany H.R. 1340, The Commodity Distribution Reform Act of 1987

1. Advisory Council.—The advisory council established by this Act will conform to the requirements established by the Federal Advisory Committee Act, Public Law 92-463, 5 U.S.C. Appendix, specifically section 3(2) and section 9(b).

2. Optional sizes and packages.—The requirement that optional sizes and packages be made available to recipient agencies should not be interpreted to mean that any single recipient agency could require a size or package that is unique and not desired by other recipient agencies.

3. Information.—The conferees intend that nutrient content information be in a form suitable for use by State and recipient agencies and include such information as will enable them to better satisfy the dietary needs of program participants.

4. Standard order sizes.—Standard order sizes will be construed to mean not less than truckload quantities.

5. Commodity testing.—State agencies which enter into contracts to process commodities for recipient agencies shall be required by regulation to test the processed products with recipient agencies before entering into contracts in instances of new products or products not regularly acquired through commercial channels. Generic products and processed products like those regularly acquired through commercial channels by recipient agencies, such as pizzas, or products with commercial item descriptions that can be defined through contract specifications, such as ground beef patties, shall not be subjected to testing.

6. Cost-benefits analyses.—The Conferees believe this cost-benefit analysis approach will be useful to the Secretary in carrying out his responsibilities under this Act, but recognizes that the cost-benefit to recipient agencies, while it must be considered, may not always be a final determinant.

7. Cash/CLOC Programs.—The Conferees intend that sites participating in the Cash/CLOC programs as of January 1, 1987

should receive cash payments or commodity letters of credit retroactive to July 1, 1987 in an amount equal to 12 cents for each school lunch served. In the case of sites which have accepted entitlement commodities in lieu of cash or CLOC payment, such sites shall only receive the difference between the 12 cents per meal entitlement and the value of entitlement commodities received. Receipt of bonus commodities shall have no effect on this provision.

8. Regulations.—Regulations should generally take effect 270 days after the date of enactment.

Mr. PANETTA. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. COELHO). Is there objection to the initial request of the gentleman from Michigan?

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. FORD of Michigan. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill and the amendments thereto just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

LEGISLATIVE PROGRAM

(Mr. MICHEL asked and was given permission to address the House for 1 minute.)

Mr. MICHEL. Mr. Speaker, I have taken this opportunity for the purpose of inquiring of the distinguished majority leader of the program for the balance of this day and tomorrow.

Mr. FOLEY. Mr. Speaker, will the distinguished Republican leader yield to me?

Mr. MICHEL. I yield to the majority leader.

Mr. FOLEY. Mr. Speaker, this concludes the legislative business for today.

The House will meet tomorrow at 10 a.m. and consider two conference reports, the conference report on H.R. 2310, the Airport and Airway Improvement Act, and the conference report on H.R. 3030, the Farm Credit Act. The House will also consider H.R. 3674, Governing International Fisheries Agreement with Japan under an open rule, with 1 hour of debate. We will also consider unanimous consent requests.

There is the possibility of other matters being addressed if they are privileged, or we might address legislation as it comes from the conference committees. However, I think it is fair to say that it is doubtful that the conference report on reconciliation or the conference report on the continuing resolution will be available tomorrow. Those conference committees are still meeting. Although they are making very good progress, it is unrealistic to expect the necessary documents could be prepared by tomorrow.

The Members will understand that we have to consider the possibility of a Saturday session, and that we will have to make assessments on the probability of legislative action more accurately tomorrow when we see how far the conference committees have progressed.

Mr. BURTON of Indiana. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I yield to the gentleman from Indiana.

Mr. BURTON of Indiana. Mr. Speaker, as I understand it, we are supposed to pass all appropriation and tax bills traditionally by the end of the fiscal year, September 30. It is now almost Christmas Eve, and it is my understanding that we may be coming back here on Monday, and in all probability we will not get out of here by Tuesday or maybe Christmas Eve.

I just would like to know why our leadership cannot get this job done somewhere within a reasonable length of time. In addition to the American people thinking we are a bunch of clowns because we stuff all this pork-barrel legislation in at the last minute and we wrangle over it and that is why we are still here, we have families at home that have not seen some of us for 2 or 3 weeks. I think the leadership in this body ought to be a little more responsible and push these conferees along and get us out of here at a reasonable time.

Mr. FRENZEL. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I yield to the gentleman from Minnesota.

Mr. FRENZEL. Mr. Speaker, I wonder if the distinguished majority leader could tell us, will we be voting on a rule on the international fisheries bill tomorrow?

Mr. FOLEY. Yes; I expect we will have an open rule with 1 hour of debate.

Mr. FRENZEL. And do we have a committee report for that bill?

Mr. FOLEY. I cannot answer that question. I thought this matter had been cleared with the minority, and that there was no objection to scheduling this particular legislation.

Mr. FRENZEL. Mr. Speaker, I would ask further, is there a list of the unanimous consent requests which the majority leader has available?

Mr. FOLEY. I am sorry; in answer to the gentleman's question, we do have a committee report.

Mr. FRENZEL. Mr. Speaker, if the gentleman will yield further, I would like to give the majority leader and others notice that I do intend to object to unanimous consent requests, whether they are cleared by the minority or not, unless they seem to be reasonable under the circumstances. But if committees are simply cleaning out their broom closets again, they are going to have to find another way to do it.

Mr. Speaker, I thank the gentleman for yielding.

Mr. FOLEY. Mr. Speaker, if the gentleman will yield further to me, in the spirit of trying to work as closely as possible together in these final hours, we are undertaking to keep the minority advised of all unanimous-consent requests and to do so in advance of their being offered on the floor, to permit consultation with the committee members on the minority side that would have any jurisdictional interest in the matter or any other interest in the matter.

□ 1805

We have no desire to present ill-considered or controversial unanimous-consent requests, because they obviously would not be agreed to.

I think the gentleman's point is very well taken and that certainly would be the spirit in which we would approach unanimous-consent requests.

Mr. MICHEL. Mr. Speaker, I would like to ask the distinguished majority leader, and I know it is very difficult to try to predict how the flow of events might go tomorrow, but if there is continuing progress on the part of those working on the continuing resolution and reconciliation, how does the gentleman look at tomorrow as we move toward evening? Would we dispense with the conference reports that the gentleman spoke of and then take another reading, if it had been decreed that by 6 o'clock, no matter what, we are out of here? I think Members would kind of like to know if they have some option open to them with the weekend ahead of them.

Mr. FOLEY. With the understanding that there are conference reports, particularly reconciliation and the continuing resolution that are the remaining major business that the Congress must consider, when we reach the unanimous consent stage tomorrow, Members will not be called on for rollcall votes, it is assumed, except some procedural vote, which would be unlikely, and not one that we would be programming.

As to when the Congress might be advised that it would be likely we would be called back to vote on those conference reports, I wish I could tell the gentleman tonight that that would be to 5 p.m. on Saturday afternoon or 11 a.m. Sunday morning. We are not in a position yet to make that undertaking.

I understand the frustration of Members, but until these committees on conference have concluded their deliberations and reached agreement, it is impossible to say with any precision when a conference report might be prepared and available for action.

We are going to try to consult fully with the minority and keep the minority advised throughout the remainder of the day, tomorrow and into the weekend, so that we can jointly use our best judgment in making the greatest possible convenience for the Members out of a basically inconvenient situation. We will have to make some judgments about whether we should try to set in advance the date for consideration of the conference report and try to provide maximum advance notice to the Members.

I do not anticipate that tomorrow there will be rollcall votes, but I cannot say at this point that Members will be advised to leave the city tomorrow, either.

I am talking about rollcall votes after we conclude the conference reports and other matters.

Mr. MICHEL. I understand that, and I just have to assume then that we will have a similar kind of exchange so that we can update everybody on just about where we are and get any better kind of reading out of the conferees on reconciliation.

Mr. BURTON of Indiana. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I yield to the gentleman from Indiana.

Mr. BURTON of Indiana. Are we going to be required to vote on a short-term CR from tomorrow through the first of the week?

Mr. FOLEY. Mr. Speaker, if the gentleman will yield, I hope not. I hope we will not have to do that. I hope we will not have a situation where the Government will be closed down on Monday either.

Mr. BURTON of Indiana. In other words, the gentleman is going to ask for a short-term CR on a voice vote or by unanimous consent?

Mr. FOLEY. No. If the gentleman from Illinois will yield, we do not intend to ask at this time for any extension of the CR. I am not saying that will not happen. I am saying we have no intention of doing that at this time because we hope to be able to conclude the business of the House before Monday.

Mr. MICHEL. Well, I might reaffirm to the gentleman from Indiana that the whole idea when we agreed to a 2-day extension through Friday night was for the very purpose of keeping the pressure on to the degree that if we did not have any kind of agreement, that Saturday and Sunday would not be all that tragic so far as having a continuing resolution that ran through Sunday, because you could not shut anything down, anyway; but the point is that when you get to Monday, if you get to that point, then you have a different problem; but for the moment we have to live with what we are operating under currently, and I cannot look down the road any further, I guess, than the majority leader to what might happen after that.

Mr. BURTON of Indiana. Mr. Speaker, if the gentleman will yield further, if we need a short-term CR tomorrow and you need unanimous consent, you are not going to get it. I just want the gentleman to know that.

Mr. FOLEY. The gentleman is correct. We do not intend to request a short-term CR tomorrow. The gentleman is insisting on arguing a point that I am not disputing.

Mr. FRENZEL. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I yield to the gentleman from Minnesota.

Mr. FRENZEL. Mr. Speaker, is the distinguished majority leader prepared to answer my question about the committee report on the fisheries bill?

Mr. FOLEY. I am told that a report is available.

Mr. FRENZEL. Can the leader tell me whether it covers the whole bill after it has been decorated, or does it just cover the bill as it was originally considered?

Mr. FOLEY. I will tell the gentleman frankly that I have not read the report and I cannot advise him personally of the contents of the report.

Mr. FRENZEL. I understand we will vote on the farm credit conference report without benefit of language tomorrow, but that is a bona fide emergency situation.

I think the same is not true of the fisheries bill. I will be interested in seeing the committee report, and I thank the gentleman for yielding.

FURTHER LEGISLATIVE PROGRAM

(Mr. FOLEY asked and was given permission to address the House for 1 minute.)

Mr. FOLEY. Mr. Speaker, in order that my answer may be more complete, I am advised that the report covers everything in the fisheries bill, except an amendment added by the Rules Committee which covers the so-called Red Tide disaster in North Carolina. Other than that, there is no other extraneous matter in the bill.

ORDER OF BUSINESS

Mr. PARRIS. Mr. Speaker, I ask unanimous consent that my special order scheduled for this evening be moved forward in the schedule in front of those requested by the gentlewoman from Maryland [Mrs. BENTLEY] and the gentleman from Texas [Mr. GONZALEZ], with their approval.

The SPEAKER pro tempore (Mr. BARNARD). Is there objection to the request of the gentleman from Virginia?

There was no objection.

REVISION OF THE KASSEBAUM-SOLOMON AMENDMENT ON U.N. REFORM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York [Mr. SOLOMON] is recognized for 5 minutes.

Mr. SOLOMON. Mr. Speaker, the conference report on H.R. 1777, making authorizations for the Department of State and for the conduct of foreign policy in fiscal years 1988 and 1989, was passed by the House last Tuesday. It contained a very important provision that revised the Kassebaum-Solomon amendment, that was enacted in 1985, concerning reform of the United Nations.

The whole point of the original Kassebaum-Solomon amendment in 1985 was to involve the House Committee on Foreign Affairs and the Senate Committee on Foreign Relations in an ongoing oversight process of financial and administrative reforms at the U.N. Central to this oversight process was a congressionally mandated withholding of one-fifth of our Government's annual payment to the U.N.'s operating budget.

During consideration of the State Department authorization bill this year, Senator KASSEBAUM and I introduced amendments in our respective committees that had the effect of revising the original Kassebaum-Solomon language in order to bring it up to date. Here now is what happened in the conference committee this fall:

The conferees opted for a three-part dispersal of the annual U.S. payment to the United Nations. On October 1 each year, 40 percent of our assessment of the U.N. budget is to be provided to the United Nations. Subsequent to this initial dispersal of funds, the President is to report to Congress on progress that is being made at the United Nations toward the implementation of the budgetary reform process that was adopted by the U.N. General Assembly in 1986. The President is also required to report on what progress is being made toward eliminating the practice of secondment, whereby employees in the U.N. Secretariat—chiefly those from the Soviet Union—are placed on short-term contracts and are thus subject to manipulation by their home governments. Finally, this Presidential report is to contain a progress report on managerial reforms at the United Nations, particularly including reductions in the number of employees in the U.N. Secretariat.

Upon receipt by Congress of this Presidential report, a second installment representing 40 percent of our assessment of the U.N. budget is to be provided to the United Nations. Dispersal of this second installment of funds will set in motion a time period of 30 legislative days during which Congress may enact a resolution of disapproval that will withhold payment of the final installment that represents 20 percent of our assessment to the U.N. budget. If, after 30 legislative days, Congress has not enacted such a joint resolution of disapproval, this final payment to the United Nations will automatically be made.

This approach is known as the 40–40–20 formula. A problem will arise, however, if the appropriations committees do not, as seems likely, appropriate enough funds to pay the full

U.S. assessment to the U.N. budget. What happens to the 40-40-20 formula in this eventuality?

The conferees adopted a provision that will take one-fifth of whatever amount is appropriated for the U.S. assessment to the United Nations and make that one-fifth subject to the Presidential report and the congressional review process that are spelled out in the second and third installments of the 40-40-20 formula.

In other words, one-fifth of whatever amount is appropriated to pay our U.N. assessment would be held up until after the President has reported his findings on U.N. reform and Congress has had a chance to enact a joint resolution of disapproval. One difference to keep in mind, however, is that Congress will have 30 calendar days to enact a joint resolution of disapproval if the full assessment is not appropriated, compared to a period 30 legislative days in which to enact such a resolution if the full assessment is, in fact, appropriated.

A hypothetical example may clarify how this new process should work. Suppose the amount that is appropriated for our U.N. payment represents only 60 percent of our assessment to the U.N. budget. At the outset, 40 percent of our assessment would go to the United Nations on October 1 under the first installment of the first installment of the 40-40-20 formula—and one-fifth of the 60 percent was appropriated—12 percent of our overall assessment—would be set aside. Only 8 percent of our assessment would thus be available for dispersal under the second installment of the 40-40-20 formula. The final 12 percent of our assessment—one-fifth of the 60 percent that was originally appropriated—would go to the United Nations in the third installment, after Congress had a chance to enact a joint resolution of disapproval.

Thus, if only 60 percent of our U.N. assessment is appropriated, the three installments would be paid out in percentage amounts of 40-8-12. If only 50 percent of our U.N. assessment is appropriated, the payment schedule would be 40-0-10. If 40 percent of the assessment is appropriated, the formula would be 32-0-8. Of whatever amount is appropriated for our U.N. payment, regardless of whether or not it meets our full assessment, one-fifth will be set aside for congressional review.

The adoption of this provision by the conferees serves to maintain the spirit and intent of the original Kassebaum/Solomon amendment. I commend the conferees for their cooperation in seeing to it that this important legislative initiative was upheld.

JUSTICE DEPARTMENT INDICTED

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from Massachusetts [Mr. FRANK] is recognized for 5 minutes.

Mr. FRANK. Mr. Speaker, our colleague, the gentleman from Georgia, who is here—and I notified him that I would be doing this, circulated a Dear Colleague letter which he announced on the floor the other day and invited us to respond to some suggestions he had about what he said was a need to take special action to investigate the Speaker.

I want to tell the gentleman that I was disappointed with the quality of the material. I looked at his list of particulars. I found that it began with a compilation of criticisms. Not surprisingly, the first criticism came from the man who is about to be the Deputy Republican leader, and he does not like the way the Speaker runs the House in a parliamentary fashion. I am not surprised. Had the Deputy Republican leader, the crown prince as it were, or the crown-crown prince of the Republican Party, had he announced that the Speaker was a wonderful fellow, that might have been newsworthy.

We then go through some other comments. The National Review says it is time for the Reagan administration to investigate the Speaker, and it closes—the gentleman from Georgia's list of comments, hard-hitting comments—closes with a comment by none other than the gentleman from Georgia. I guess he is right. If you will not quote yourself, how do you expect anybody else to quote you, Mr. Speaker? So he quotes himself.

Then he listed these charges against the Speaker. Let me look at charge one here.

"Wright began political life as a certified lefty in 1947."

I do not remember who was in charge of certifying lefties in 1947. I would say this is not the comment of the gentleman from Georgia. He was quoting here the New Republic.

The New Republic goes on to say that after starting life as a certified lefty in 1947—and they neglected to tell us who certified him—WRIGHT became almost obsessively cautious.

Well, the charge that the Speaker became obsessively cautious is, of course, at direct variance with all the rest of the charges in here, which is that he is obsessively impulsive.

There are several other charges that come in here that will predate his speakership, leading me to believe that much of the motivation here is unclear, because we have references to 1947, references to entirely legal transactions he engaged in with campaign funds in 1976, and they quote Common Cause—always a source of great support and agreement to the gentleman from Georgia.

They quote some other things that long predated the Speaker's speakership.

The question then is, well, what should we do about these things? It does list some other charges which are of greater seriousness as charges and it gives us a choice of things to do. One is to ask Mr. GEPHARDT as a candidate for President and Mr. CHENEY, who is the crown-crown prince of the Republican membership in the House, to appoint a committee. That would not have a great deal of credibility.

One of them, and I think this is the nub of it, the Attorney General would be asked to appoint an independent counsel.

Some of the allegations here in the articles are that laws may have been violated. I have no reason to believe these or not. I do know that people get accused of various things. The Washington Times in distinguished journalistic fashion accused me a week ago Monday of eating a piece of cornbread without paying for it. They have since sort of apologized for accusing me of misappropriating a piece of cornbread, and I appreciate that, and presumably it will not be referred to the Ethics Committee. It may be referred to my dietitian.

But we have the question now in a newspaper article that the Speaker has done some things. The Justice Department is in charge of enforcing the law. The Attorney General has had for the entire Reagan administration covering the period of these charges the right to investigate himself or to appoint an independent counsel.

My point is that what we come down to is a condemnation apparently of the Justice Department. The gentleman from Georgia apparently feels that the Justice Department is delinquent, because it is they who have the power to do this investigation if one is warranted and if the Justice Department has not found one warranted, then I would conclude that maybe there is no investigation needed. Maybe my colleagues want to conclude that they are delinquent.

Now I yield to the gentleman from Indiana.

Mr. BURTON of Indiana. Well, the gentleman mentioned a couple of statements out of that document. Would the gentleman mind reading the charges?

Mr. FRANK. Yes, I would mind reading the charges.

Mr. BURTON of Indiana. Why would the gentleman mind reading the charges?

Mr. FRANK. I will tell the gentleman, because I took out a 5-minute special order. I said, if the gentleman was paying attention, that there were some charges that were more serious, that there were eight points.

Mr. BURTON of Indiana. Well, that is pretty ambiguous. Why does the gentleman not read the charges?

Mr. FRANK. Mr. Speaker, would the Chair please explain the rules to the gentleman from Indiana?

The **SPEAKER** pro tempore (Mr. BARNARD). The gentleman from Massachusetts has the time.

□ 1820

Mr. FRANK. If the gentlemen wanted to take out their own special order to read these charges, they could have.

There may be some people who cannot afford to spring for the New Republic themselves, so they would want the gentleman from Indiana [Mr. BURTON] to read it to them. That is their right. They can have the taxpayers' money used for that purpose.

I agree, some charges were more serious but when we get eight charges and some of them are palpably unbelievable, long predating the speakership of the Speaker, and they are all lumped together, it detracts from the seriousness of the enterprise. The point remains that the Justice Department is here charged with delinquency, and I think it is unfair.

A TRIBUTE TO HENRY G. LEAVELL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Kentucky [Mr. HUBBARD] is recognized for 5 minutes.

Mr. HUBBARD. Mr. Speaker, I appreciate this opportunity to pay tribute to the late Henry Gano Leavell, a Christian County, KY, farmer who has been prominent for many years in political, community, and church affairs.

Henry Leavell, age 75 when he died last August 12, was a long-time friend of mine whom I admired very much.

A lifelong Democrat, Henry Leavell was active on the State and local levels of political affairs. A former Christian County magistrate, he was a close friend of several Kentucky Governors, including A.B. "Happy" Chandler and Christian County's Edward T. "Ned" Breathitt.

A former director of the United Peoples Bank of Pembroke, Henry Leavell had served on the State agricultural board and the city-county public library board.

He also was noted for his work with the Christian County Sheriff's Posse, a sheriff's support and civic group that he helped organize in the early 1960's.

He was a charter member and past president of the Pembroke Ruritan Club and a deacon at the Pembroke Baptist Church, where he taught Sunday school for many years.

Survivors include two daughters, Mrs. Burnley (Anne) Glass and Mrs. John (Timmie) Brame; a brother, Richard L. Leavell Sr., all of Christian County, and four grandchildren.

His wife, Timmie, died in 1981. He also was preceded in death by a daughter, Kathleen Henry Leavell in 1941.

My wife Carol and I extend to the family of Henry Leavell our sympathy.

Mr. DREIER of California. Mr. Speaker, will the gentleman yield for just a brief moment?

Mr. HUBBARD. Mr. Speaker, I certainly yield to my friend from California.

Mr. DREIER of California. Mr. Speaker, I thank the gentleman from Kentucky for yielding. I would simply like to join, from this side of the aisle, in extending our condolences to the relatives of Mr. Leavell and congratulate the gentleman from Kentucky for taking out this special order for a very dear friend of his. It is very commendable that he would do such a thing.

FRENCH GOVERNMENT EXPULSION OF IRANIAN REFUGEES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. DYMALLY] is recognized for 5 minutes.

Mr. DYMALLY. Mr. Speaker, I would like to draw your attention today to an extremely important human rights issue which received some press coverage overseas but which also merits our attention.

On December 7, plainclothes French police raided the residence in and around Paris of a number of anti-Khomeini Iranian refugees who are sympathizers of the Mojahedin Resistance movement in Iran. Several dozen of the refugees were arrested, and some were reportedly roughed up in the process. Overnight, 14 of them were deported against their will to the west African country of Gabon.

The French Government says it arrested and expelled the anti-Khomeini Iranian exiles for "pressing reasons of national security." Reportedly, however, these people have lived peacefully for years on French soil. They have not caused disturbances, and as I said, most are political refugees. A couple of them are married to French nationals and had enjoyed special residency rights. Among them also are two refugees whose asylum had been granted originally by Britain and Sweden.

It has been said that the deportation of these individuals is part of a complicated secret agreement worked out with the Ayatollah Khomeini's government.

In the first step, two French hostages, kidnaped by pro-Iranian terrorists in Lebanon, were freed on November 27. Two days later, an unaccredited Iranian diplomat suspected of masterminding a series of bloody bombings in Paris in 1986, and wanted by French police, was allowed to leave the country. My colleagues will remember that the French police had surrounded the Iranian Embassy in an earlier attempt to obtain this individual. After this diplomat was granted safe passage, a French diplomat was released from Tehran. There had been reports that money and arms were also involved in the deal, and this aspect of the deal had been criticized by the United States and by other countries. Our own experience has demonstrated that paying ransom to hostage takers encourages further acts of terrorism. But aside from the inherent problems involved with arms-for-hostages deals with Iran, it should certainly not be a part of any deal in which the lives and liberties of refugees seeking escape from persecution should be endangered.

Any compassionate person feels some empathy with the efforts of the French Government to obtain release of French hostages. The taking of hostages is a matter of grave concern for all the countries whose citizens become victims of such terrorist acts. But the issue we must focus on is France's approach to winning the release of hostages. When lives are potentially being traded for other lives, the price may be too high. Ironically, the expulsion of the Iranian refugees took place on the day that is set aside to commemorate the signing of the U.N. Human Rights Declaration—a document inspired by France's own epochal declaration in 1789. I would add that it has been only days since the U.N. General Assembly condemned the Iranian regime for the brutal torture and execution of its own citizens.

As representatives of a free people and as compassionate people, I think we must do what we can to see that the lives of these people, who oppose a regime almost every country in the world has condemned, are protected. The actions of the French Government have aroused the protests of even France's closest allies who had expected France to adhere to the painful but ultimately effective policy of not negotiating with terrorists.

The U.S. State Department said in its statement:

> We would regret any action which would encourage more terrorism, particularly if it also prolonged the agony of other hostages.

Prime Minister Thatcher denounced this decision, and other British officials said it created a dangerous precedent that could affect other countries' attempts to recover hostages.

Even the French Secretary of State for Human Rights told a human rights commission at the National Assembly he had "doubts and reservations" about the expulsions. Many other French dignitaries have described their Government's decision as a "shame" for their country which has a tradition of providing "shelter for political refugees who fight against fascism and terrorism." The High Commissioners for Refugees has said that "questions remain" about the expulsions, and his organization is seeking satisfactory answers from the French Government.

France faced some embarrassment when it admitted that two of the expelled Iranians were only visiting France. They had been granted refugee status by Britain and Sweden. These two have been released from Gabon. The very fact that the two have been welcomed back by their countries of original asylum brings into question the French Government's original claim that they were threats to national security.

Elysee Palace has received thousands of telegrams and letters of protest from government representatives and from citizens since these events took place. I circulated a letter here in the House and many of you signed on. The text of the letter has been conveyed by telex to President Mitterrand. I think the protest of the French actions has had some modest impact. Two of the expelled refugees, as I said, have been released from Gabon. But 12 remain. Right here I wish to invite those of my colleagues who have not yet signed the letter to join us.

The welfare of the refugees is now a matter of concern on two fronts. There is the obvious concern that Khomeini might get his hands on these people. The refugees have also begun a hunger strike, which is being joined now by others in the United States and France. A physician who examined the refugees in Gabon says their condition is critical. According to international norms and standards, the Government of France is responsible for the safety of these refugees. I would call on the French Government to do what is necessary to see that these people are returned safely to France.

Protests, picket lines, and hunger strikes are now going on in front of the Elysee Palace and here in Washington outside the French Embassy. Perhaps these actions are beginning to have an effect. The New York Times on December 15 stated that Mr. Chirac has modified the explanation for the expulsions which was first voiced by his colleague Mr. Pasqua. A presidential representative has talked to the protesters in front of Elysee Palace, although the requests of the protesters have obviously not been fully met.

No free country can afford to comply with Khomeini's demands because by complying we turn control of the situation over to Khomeini. I invite my colleagues to pay special attention to this matter so that the lives of the expelled Iranian political refugees may be protected, and so that they might be returned to the protection of France.

THE CALAMITY THAT IS THE GOVERNMENT OF NICARAGUA AND THE OBSCENITIES THAT FLOW FROM IT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. DORNAN] is recognized for 5 minutes.

Mr. DORNAN of California. Mr. Speaker, we have such a rush of news each evening in our own country that sometimes we miss very important items out of Moscow, the headquarters of the world's largest repressive dictatorship.

I did not know until it appeared in the newspapers yesterday as a commentary in a column that the suspended priest in Nicaragua who functions as their Foreign Minister, and many people in our State Department and in our intelligence agencies believe the Foreign Ministry of Nicaragua is run by a hard-line Marxist named Victor Hugo Tinoco, received on June 16 of this year the Lenin Peace Prize. At the Moscow ceremony, when the once Father Miguel D'Escoto, who was the editor of Orbis magazine for the Maryknoll Fathers, born in Hollywood, CA and went to school there as Mike Brockman, I guess using his mother's maiden name, but now Miguel D'Escoto as he is known, said as he received the Lenin Peace Prize that the Soviet Union was truly the torch in the world for peace and freedom.

What an absolute obscenity to see a former priest, although he is still a Catholic priest, he has been suspended, do something like that. I recommended that the Vatican excommunicate him but they are not one to do that in this century. But this man who still purports to be a priest, although Cardinal Obando y Bravo said that he never saw him in a Catholic Church in Managua, but being generous said, but he may have been when he went to New York as he hung around the delegation up there at the United Nations. But to have this priest standing in the citadel, the Moscow head shed, the Kremlin itself, and say that this godless system that has killed 100 million more people than Adolph Hilter managed to kill by precipitating World War II in his short 12-year reich, Hitler accounted for 55 million dead human beings around the world together with the war lords under Tojo and Mussolini, but this man Lenin has killed 165 million people with his poisonous theory.

One of the distinguished Members of the other side, the gentleman from Missouri [Mr. SKELTON], told me that when he was questioning Miguel D'Escoto that this priest told him, this suspended priest, that every time the Soviet Union delivers a HIND helicopter to Nicaragua they are doing God's work.

I say to my colleagues on the majority side, ask your distinguished colleague, IKE SKELTON. He said it to his face, that it is God's work when the Soviets deliver HIND helicopters.

I wonder if Miguel D'Escoto would feel that way about the HIND's that are delivered to Afghanistan to genocide the Afghan people, and on the HIND helicopters delivered to the jungles of middle Africa to slaughter black young men and women fighting for their freedom in Angola?

Every day there is a mayday out of Managua, some other obscenity. As I said at the beginning of our session this morning, three of their seven supreme court justices have quit and they say they have contempt for their government. So, what do the Ortega brothers do? They do not reward the four remaining supreme court justices, they decide that nobody can be trusted on the supreme court so they fire the four remaining justices.

I am sure they now hold their government in contempt.

So, he is going to stuff it with a kangaroo court anyway with seven Communist Sandinista stooges.

The scene there is sick.

Here is what is going to happen after the Democratic caucus meeting this morning, and we in the minority figure out what happens in there sometimes, truth will out though it hath no tongue, thy most miraculous organ, as Shakespeare said in Hamlet. The truth is out. The fact is 88 or more from the other side did not show up for the Democratic caucus this morning. One person voted present. Twenty-five people stood up to about 144 or 150, I have heard two different figures, and they are going to support aid to the Contras. Mr. Speaker, 150 or so voted to instruct the conferees meeting right now that there be not a dime over this Christmas holiday for the Contras, let them shrivel up and come out a bedraggled mess like those from the Bataan death march as far as they are concerned.

What does that mean? That means the conferees will accept that as an issue in this agreement, it will come back to this House, and probably on Christmas Eve we will have an hour debate here.

So be it. I look forward to an hour debate here. I look forward to talking about the Ortega brothers saying they will build an army of 600,000 people in a little tiny country of 3 million where 1 of every 9 is already here in the United States having fled the repression, and 1 of every 250 is in jail.

It is an obscenity what is going on and we are not going to give humanitarian aid to these poor boys and girls who are fighting for our freedom, because they are closer to my home in California than I am standing here in the House of Representatives. We will help people, thank God we will help them, on the other side of the world of a different culture, a different religion, the Afghan Mujahideen noble struggle going on over there.

It is ridiculous. I look forward to the debate, Mr. Speaker.

□ 1835

RETIREMENT OF BOB BERRY, READING CLERK OF THE HOUSE OF REPRESENTATIVES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Virginia [Mr. PARRIS] is recognized for 60 minutes.

Mr. PARRIS. Mr. Speaker, I have requested this time today so that we might bid a proper farewell to a good friend and a dedicated servant of the people of these United States and to pay tribute to and honor a man who happens to be a constituent of mine.

After more than 17 years of dedicated service to the House of Representatives in the capacity of House reading clerk, Bob Berry has made the decision to retire at the end of this session of Congress. I know that Bob makes this move with some mixed emotions.

I believe it is fair to say that Bob's departure signals the end of a 36-year Berry dynasty on Capitol Hill. Many of my colleagues will recall that Bob's father, E.Y. Berry, served with distinction in this House as a Representative from the great State of South Dakota from 1951 to 1971.

Like his father before him, Bob has committed the better part of his adult life to public service.

Bob served on active duty in the Army from 1952 to 1954, including assignments in the U.S. Far East Command in Japan. He also served with the Combat Engineers 211th Battalion Headquarters of the South Dakota National Guard.

After a stint as a country lawyer in Lemmon, SD, and deputy States attorney for the county, Bob came to Capitol Hill to work for South Dakota Senator Karl Mundt—he's been here ever since.

After 7 years as a legislative assistant and legal counsel for Senator Mundt, Bob joined the staff of the Senate Government Operations Committee and served as minority counsel of the Intergovernmental Relations Subcommittee for the next 5 years.

It was in 1970, 17 years ago, that Bob Berry made the trek across the Capitol to assume the position of reading clerk for the House, and he has been here ever since. For 17 years, he has played a critical role in ensuring the efficient operation of this highly complex, often confusing, greatly charged and always frenetic machine of creating legislation here in the House of Representatives. How many times have my colleagues heard one Member get up and say, "I move to suspend the rules and consider," or "to take H.R. or Resolution so-and-so from the Speaker's desk and ask for its immediate consideration," and somehow magically Bob Berry pulls out the right bill from some desk somewhere, out of a drawer somewhere and starts to read the title. It just seems like magic, and he has been doing this for a long time, to his credit and with our gratitude.

Without the guidance of Bob Berry and others like him, it is highly unlikely in my view that we would make significant progress toward the accomplishment of our legislative business—this has proven especially true during the past couple of weeks. This may be the only stable factor in this entire bizarre affair.

I have always considered Bob Berry to be the equivalent to a chief operating officer for this House—but that is oversimplification. He must aid in the simultaneous implementation of the individual agenda of 435 corporate chairmen of the board, each of us, and to be sure, that is no easy task.

I know that I can safely speak for all of those "chairmen," my colleagues, when I say that Bob will be sorely missed around here for a long time to come. Bob, I join my colleagues in wishing you all the best in your new position with the American Gas Association. Farewell and thank you.

Mr. Speaker, I am glad to yield to my good friend, the gentleman from Illinois [Mr. MICHEL], the minority leader on the Republican side.

Mr. MICHEL. Mr. Speaker, I thank the gentleman very much for yielding and I applaud him for taking this time during a special order to honor our good friend, Bob Berry.

Mr. Speaker, I am delighted to join with our colleagues in honoring our good friend Bob Berry as he retires from his duties as House reading clerk.

In a world of high-speed computers and almost instantaneous electronic communications, we may sometimes forget that the human voice remains our most personal and most intimate form of communication.

The House of Representatives reflects this important truth in the title we give to our presiding officer—he is "the Speaker" Of all the titles that could have been chosen, the title of "Speaker" is, in my mind, the best to remind us that we are engaged here in a human endeavor.

We may vote by electronic device, but we decide through talking with each other, debating with each other, listening to the voice of those with whom we may disagree, but whose opinion needs to be heard.

In such a place the role of House reading clerk is particularly important. Our legislation, so cold and official on the printed page, takes on human dimensions when it is first read in this Chamber. And since 1970, Bob Berry's voice had been filling this Chamber with what might be called the official voice of the House.

His superb technical skills, his ability to read clearly and calmly amidst the chaos that often marks our alleged deliberations on the floor, his understanding of our intricate procedures, his sense of timing and the very rhythms in which he intones the various official documents he reads aloud, all of these combine to make Bob Berry an integral part of our process, reminding us every time he reads that, despite our mind-boggling complexity of duties, our first and last concern is the human person, the individual voice that deserves to be heard.

Bob, I realize, as we all do, that your mastery of your job neither begins nor ends with reading. You have had to decipher our scribbling and make certain that a bill is, quite literally, "put together" as you take the complex intricacy of dozens and often hundreds of pages and pieces of paper and put them together as they were meant to be.

The ancient Romans used to say "the Voice of the people is the Voice of God." In this House for so many years "The voice of Bob Berry has been the voice of the House"—official, yet human, cutting through the din and clatter of our often hectic proceedings with a calm, thorough, professionalism.

Bob, in the final result, the House is a place where Americans speak with each other, speak about our desires and our hopes for our country, our fears and our plans, our dreams and our destiny.

Your voice and the informed intelligence that marks it has been an important part of this continuing conversation of democracy for many years. We're going to miss your competence, your coolness under fire, and the sound of your voice.

Bob, as the Republican leader on our side, I want to especially take this opportunity to thank you again, yes, for the friendship of your father who I know so well and who served in this body, and to you for what you have done by way of competence and professionalism in the job that you have performed for our House of Representatives. All too frequently we take these folks at the rostrum and those who work around us so much for granted when in fact we have to rely so heavily on them for their professionalism in doing the kind of things that have to be done in a very nitty-gritty way, so to speak, to make this institution, the House of Representatives, work for the public good.

Bob, we wish you well in all that you do as you leave our body.

Mr. PARRIS. Mr. Speaker, I thank the minority leader for his contribution to this discussion.

I would just add in memory of Bob's voice, I remember when I first came to this body in January 1973, 15 years ago almost how when they called the roll of the new Members, and I was at that time a new Member, and I will never forget Bob standing at that rostrum, and he would call the name, and he would say, "Present," and he would call the next name and say, "Present," and my colleagues all remember that it was the highlight for all of us in our political careers.

Mr. Speaker, I yield to the gentlewoman from Maryland [Mrs. MORELLA].

Mrs. MORELLA. Mr. Speaker, I want to compliment my colleague from Virginia for putting together this special order for such a very special person. I certainly concur with the comments he has made, as well as the comments that were made in salute of Bob Berry by our minority leader.

Ecclesiastes says something like there is a time for all things under the Sun. I guess for Bob Berry he figures this is the time to move into another adventure, and I want him to know that from my very first year in Congress he has been a delight and an inspiration, somebody who has been able to keep his head when all about him have been losing theirs and sometimes blaming it on him. I guess I would have to attribute that sort of to Kipling. But he has been a quiet man, a gentle man. We know that he has known a great deal about what is going on behind the scenes and in the well and in the cloakrooms, and he has maintained a quiet demeanor about it, knowing a lot, but saying only what needs to be said to make this House run in a very orderly fashion.

There is no doubt, as has been mentioned, that he is a most conscientious person who knows backward and forward what has been going on here.

In terms of his record, he has served our country in active duty exceedingly well. He has been a lawyer both in the private sector and in the public sector. Then 30 years ago April 1, 1988, he started his career on Capitol Hill. He started over on the other side, and then his taste got better, and he got more mature, and for the last 17 years he has spent it here in the House of Representatives, as someone mentioned, as a member of the minority party that we hope someday will be the majority party. No offense, Mr. Speaker.

We have very much appreciated having him here. I have found him to be a great comfort. I have found him to be, as I said, very inspirational.

I wanted to simply add my voice in great tribute to him. Shakespeare once said something like those about him from him would learn the perfect ways of honor. I think we could all learn the perfect ways of honor from Bob Berry.

Just as an aside, I note that he is going to be leaving this Chamber to go with the American Gas Association. I do not know whether there is any kind of correlation between the ambience in this Chamber that would prepare him for that kind of transition. At any rate, as Emerson once said to Thoreau, I meet you at the beginning of a new adventure. We hope he enjoys his new adventure and never forgets us because we will not forget him.

So we salute Bob Berry.

Mr. PARRIS. Mr. Speaker, I thank the gentlewoman from Maryland for those very generous remarks. I am sure the similarity of the products between his present employment and his future employment is not an accident.

Mr. Speaker, I am glad to yield to the gentleman from California [Mr. DORNAN].

Mr. DORNAN of California. Mr. Speaker, goodnight, sweet prince, and may myriads of interns carry thee to thy 32 years' retirement. We are getting a little carried away here.

Let us get down to the Guinness Book of Records that this man holds. Unless there is some rooster-pecked wife or some henpecked husband who has been interrupted more in life than that man, he certainly holds the record. How many times have I stood up here rudely when in beautiful, dulcetory, stentorial tones he has been reading one of my carefully crafted works of legislation and I say I ask unanimous consent that the amendment or the bill be considered as read? Boom, he is cut off again, day in and day out, cut off, cut off, cut off. I do not think there is anybody in the Guinness Book of Records. I will tell you why.

His great distinguished predecessor, our beloved Brigadier General Bartlett, did not get interrupted as many times, because in those days the lights were not up there. We did not have to record our votes. I mean there were rollcalls and they would line up like sheep and go through these teller votes. We had maybe 200 votes a year into about the middle of Mr. Berry's 17 years here. When I was a freshman was voted 760-some times, and in my second year, 1978, it was the all-time record, 940 recorded votes.

□ 1850

Why we may chase that, if we stay here through New Year's Eve. We are already at 500 here. About 940 votes, and how many times were there amendments in that year where he was interrupted over and over again by unanimous consent?

But here is the more treasured Guinness Book record. This politically sacred spot, that beautifully built-in solid lectern up there is where Winston Churchill stood three times, John Joseph Pershing, General Douglas MacArthur, the leaders of 35 nations, 68 of them, including some people who won their elections and then went bad on us like Marcos. And then there was President Kennedy and Johnson.

I do not have any part of that, but that great podium up there where our great President Reagan has stood seven times, and an eighth to go, is where Presidents have stood for years giving their State of the Union Address; that spot is where Bob Berry has stood longer than any living person.

Again, our beloved Joe Bartlett maybe set the record. Our beloved Bob Berry came along, but he did not just stand there reading those plethora of amendments and bills for his 17 years.

I believe in the 200-plus years or actually 198 heading toward 200 years of this Chamber that Robert Berry of South Dakota, coming after his great Congressman father, has stood at that point, the pinnacle of this political temple, and has addressed this House more than any other human being, and all kidding aside, that is a Guinness Book record of which you can be proud.

We developed a friendship when I was a freshman. Bob seems to like freshmen and looks out for them as he stands over in the corner getting to know something about them, and I have never enjoyed so much any association in my 9 years now.

I am proud to know you, Bob, and I hope you will stay in the environs and that you will give us the counsel, what it is that you did on all subjects as you visited with both the majority and the minority Members in this House for almost two decades.

You are going to be sorely missed, and, as I just told you, you almost take a little of the pain out of hanging around here this week and next week. You would have disappeared early in December or November if we had adjourned early in this session, so at least we will get to enjoy you before those myriads of interns carry you off to your 32 years of deserved retirement.

Good night, sweet prince.

Mr. PARRIS. I thank the gentleman from California for his comments. I might just remind him immediately behind me chiseled into this Chamber is the word "liberty." On the other side is the word "justice," and in the middle, standing in front of Bob Berry all this period of time in which he stood behind it obviously is the word "tolerance." So, he has epitomized that word for all this period of time.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. PARRIS. I yield to the gentleman from Pennsylvania.

Mr. WALKER. I thank the gentleman for yielding, and I want to thank him for taking a special order so we may say a few words on behalf of Bob Berry.

Bob Berry has been a personal friend of mine for a long time. Before I served here, I served on the staff. I started off with the male staff aides called the bull elephants, and we have known each other for many years.

I think that it is appropriate to understand that Bob Berry did more than stand at that podium and read things that others have written so that the Chamber could understand what it was we were considering. He was also an observer and a student of the institution as well.

When he came down off the podium and sat out here in the Chamber and chatted with some of us about the things that were going on on that day or the great international and national events that were surrounding that which we were doing in this body, you understood that this man brought a great intellect to the job and understood thoroughly the processes that he helped to move along.

I might just add one other thing, too. It seems to me I have heard from a number of people over the years that I am one of the more recognizable people on C-SPAN as a result of television coverage. That is true. But possibly there is somebody more recognizable than I am on C-SPAN, and that is Bob Berry, because the television audience across the country gets to see him working day in and day out for all the hours we are on the floor. So, he is not only going to be missed here, but by a number of fans around the country.

We in particular on the minority side will miss him because he is a good friend and a great credit to this institution.

Mr. PARRIS. Mr. Speaker, I thank the gentleman from Pennsylvania.

I would add one quick comment, and that is when I got out of the Air Force and came back from the Korean conflict, I came to Washington, into this town, and brought my wife and two children and got a job on a mimeograph machine in the basement of this building on the Senate side. That seems like 1,000 years ago to me. It was really only 32.

But 32 years is a long time. I contemplate that this gentleman has served this House for 4 more years than that entire period. It is certainly a lengthy service and a contribution that cannot be overlooked.

Mr. DREIER of California. Mr. Speaker, will the gentleman yield?

Mr. PARRIS. I will be glad to yield to the gentleman from California.

Mr. DREIER of California. I thank my friend for yielding, and I, too, would like to join in the chorus.

It was 7 years ago this month that I had the opportunity to meet Bob Berry. It was when I, as BOB DORNAN mentioned, was a freshman and first came here, and I saw him in action. In a very short period of time I learned that he has one of the keenest political minds in this House. He has a tremendous grasp and understanding of congressional races all over the country.

Our colleague from Pennsylvania, Mr. WALKER, alluded to that, but it has been very impressive to me that when one begins to ask questions about races in either the House or Senate, gubernatorial races around the country, the one person on whom we can constantly rely for the best kind of input has been Bob Berry.

I want to state once again that I, like the gentleman from Virginia, have been very, very impressed over the past several years to see that all of a sudden an amendment, some piece of legislation, is called up instantaneously, it appears, on that lectern. And Bob Berry provided it to us.

He has had, as has been pointed out by many of my colleagues here, a very distinguished career. He entered the Army in a very important year to many of us and has served, as I said, for 17 years here, and I have been privileged and honored to know him for the past 7.

I have caught wind that he is going to be in these hallowed Halls in the years to come so there is no possibility whatsoever that any of us will be able to lose our association with Mr. Berry, and I will simply say that we want to wish him "Happy Holidays." We are going to be sorry to see him officially leave this Chamber, but we are going to be seeing him, all of us in another capacity, when the second session of the 100th Congress convenes.

I thank the gentleman.

Mr. PARRIS. I thank the gentleman from California [Mr. DREIER].

Mr. BURTON of Indiana. Mr. Speaker, will the gentleman yield?

Mr. PARRIS. I yield to the gentleman from Indiana.

Mr. BURTON of Indiana. I thank the gentleman for yielding.

Bob, I never thought of you as a sweet prince until tonight. The gentleman from California [Mr. DORNAN] who waxes so eloquently quoted Shakespeare. I will not be that eloquent.

I will just say that Bob Berry is one of the nicest people I have ever met. He has taken time out of his busy schedule to sit down and talk with us about problems, and it is well known around this Chamber that people have little time. Many times our colleagues do not have the time to sit around and talk with us about personal problems and legislative problems that we have to face because they have problems of their own. But Bob Berry has always had the time.

Bob Berry has not only been an eloquent reader of the legislation at that lectern, but he also has been a great guy, and we are really going to miss him very much.

Mr. PARRIS. I thank the gentleman.

Mr. REGULA. Mr. Speaker, will the gentleman yield?

Mr. PARRIS. I yield to the gentleman from Ohio.

Mr. REGULA. I thank the gentleman for yielding.

I simply want to say that Bob Berry has been a real professional in his service to this body. He has been a rock of dignity and class as he daily provides the glue that gives the activities of this body some semblance of coherence.

I am quite certain that as viewers watch the House in action that Bob Berry has been the individual that has consistently represented to them the better qualities of the U.S. Congress.

☐ 1900

We all cherish Bob as part of this institution and as a friend, and I am quite sure I speak for many Members in saying that we wish him well.

Mr. PARRIS. Mr. Speaker, I thank the gentleman from Ohio [Mr. REGULA].

Mr. HUNTER. Mr. Speaker, will the gentleman yield?

Mr. PARRIS. I yield to the gentleman from California.

Mr. HUNTER. Mr. Speaker, I thank the gentleman for yielding, and I want to thank him for taking out this special order.

I just want to say that Bob Berry, regardless of the weaknesses and frailties of individual Members who occupy the office of Representatives reminds us on a daily basis and has reminded me during my entire 7 years of the basic firmness and strength and decency of this institution and of our democracy.

Bob, thank you for all the help you have given me. One thing Bob has done, he has allowed junior Members of this House to at least get to the point where they can offer their amendments, where they can go through the correct litany, and have their particular issue presented before the House. That is a good help. It enables Members to make a difference early in their careers, and without people like Bob Berry, we could not do that.

Mr. Speaker, I want to thank the gentleman from Virginia [Mr. PARRIS] particularly for having the thoughtfulness to take out this special order, and I want to thank Bob Berry for helping me so much during the past 7 years.

Mr. PARRIS. Mr. Speaker, I thank my colleague, the gentleman from California [Mr. HUNTER].

Finally, I would say, for your unfailing cordiality, we are truly grateful to you, Bob. We will miss you.

Mr. ANDERSON. Mr. Speaker, I rise today to honor an individual who has dedicated his life for many years to the service of his Nation. I speak of Bob Berry, who is retiring from the position of House reading clerk. In leaving, Bob is creating a void that can never be filled in its entirety.

Bob came to Capitol Hill more than a quarter of a century ago, starting as a legislative assistant and legal counsel for South Dakota Senator Karl Mundt. After 7 years with the Senator, Bob joined the staff of the Senate Government Operations Committee and Minority Counsel of the Intergovernmental Relations Subcommittee.

In 1970, the House of Representatives gained a valuable asset when Bob assumed the position of House reading clerk. In a job where it is nearly impossible to be organized, Bob was efficient. In a job that is hopelessly tiring and confusing, Bob was energetic and determined. In a job where few do well, Bob enjoyed success.

Bob and I arrived at the House of Representatives at about the same time, and from one veteran to another, I would like to tell him that the House of Representatives will sorely miss him. He is a model public servant, dedicated to his colleagues, career, and country. I wish him a fond farewell, and all the best in the years to come.

Mr. BROOMFIELD. Mr. Speaker, it is with geat regret that I rise today to note the retirement at the end of this session of Bob Berry, the reading clerk for the minority, after 17 years of dedicated service to the House of Representatives.

I have known Bob for many years, and also enjoyed a good relationship with both his father and mother. I served with his father, the Honorable E.Y. Berry, in the House until he retired in 1971.

I have found Bob to be a man of high character, who has played a critical role in the running of this House. As one who has served in this body for more than 30 years, he is without a doubt one of the most outstanding reading clerks we have ever had. I have really enjoyed working with him over the years.

Bob Berry is truly liked and respected by both sides of the aisle, and his efforts will be sorely missed. All Members of this body recognize the excellent job he has done.

It was in 1970 when Bob Berry first assumed the position of reading clerk for the House, after having spent a number of years working in the other body for Senator Karl Mundt and others, and has been here ever since. Without his skill and intimate knowledge of the workings of this Chamber, it is doubtful that we could have gotten the peoples' work done.

Bob, you will be sorely missed here, and I want to join my colleagues in wishing you and your family the best of success in your future endeavors.

Mr. RODINO. Mr. Speaker, it is with mixed emotions that I rise today to honor my good friend Bob Berry on the occasion of his stepping down after 17 years of outstanding service as the reading clerk for the House.

On the one hand, I am saddened because we will no longer have the considerable good fortune to work with him on our every day basis. After 17 years, Bob's steadiness and exprience have become fixed characteristics of this institution for me. It is hard for me to imagine the workings of this body without Bob Berry expertly managing the procedings which at times can resemble a case study in the laws of confusion. Through it all, Bob never lost his composure or his patience when others would have understandably thrown up their hands in despair. It will be relatively easy to fill the vacancy left by Bob Berry; however, I doubt that we will ever be able to replace him.

On the other hand, I am extermely pleased that Bob is moving on the new challenges and new horizons in his position with the American Gas Association. I am confident that Bob will prove to be of immediate benefit to that organization.

Mr. Speaker, it is my great pleasure to join the with the rest of my colleagues in wishing Bob Berry the brightest of futures and the happiest of holidays. We are all deeply appreciative of his years of dedicated service to this great institution.

Mr. HORTON. Mr. Speaker, I have been a Member of this great body for 25 years. And for the last 17 of them, I have had the honor and pleasure of working with a good friend and an excellent, dedicated man. That man, Bob Berry, the House reading clerk, has decided to resign at the conclusion of this year. I want to join all of my colleagues in wishing him the very best as he reaches the twilight of nearly two decades of outstanding service to the House of Representatives.

Prior to becoming the House reading clerk in 1970, Bob worked on the Hill as a senior staffer on the personal staff of Senator Karl Mundt of South Dakota and later as minority counsel for the Senate Government Operations Committee's Subcommittee on Intergovernmental Relations.

Bob's steady hand—and voice—have become as synonymous to the proceeding of the House of Representatives as the lights and bells. I know I can speak for my colleagues not here today, both past and present, when I say that Bob Berry is a man who will be sorely missed.

I have known Bob for quite some time. In fact, I had the distinct pleasure of serving with his father, Ellis Y. Berry, a Republican Member of this body who served the great State of South Dakota with integrity from 1951 to 1971. E.Y.'s perseverance and good manner are as evident in Bob as they were in his father.

I understand that Bob is not leaving the Hill to retire, but moving on to work for a trade association. So this tribute is not really a "goodby," it's merely a "see you later."

Mr. Speaker, my wife Nancy and I want to wish Bob the very best in his new line of work. I am sure he will be as conscientious and dedicated working for his trade association as he has been working as the House reading clerk for the past 17 years.

Mr. QUILLEN. Mr. Speaker, I want to wish Bob Berry the best of everything in the years that lie ahead on the occasion of his retirement as House reading clerk at the end of this session.

Bob is a fine man, a good friend to many of us, and he has done an outstanding job for all of us over the past 17 years in his demanding job. Prior to his work with us in the House, Bob served Senator Mundt, of South Dakota, as legislative assistant for 7 years and was minority counsel of the Subcommittee on Intergovernmental Relations of the Senate Committee on Government Operations for 5 years. So Bob Berry has served the Congress for three decades. He has served well, and we will miss him.

To Bob, I say, "the best of luck to you and thanks for your help over the years."

GENERAL LEAVE

Mr. PARRIS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of my special order this evening.

The SPEAKER pro tempore (Mr. BARNARD). Is there objection to the request of the gentleman from Virginia?

There was no objection.

PROBLEMS AT HOME AND IN CENTRAL AMERICA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana [Mr. BURTON] is recognized for 60 minutes.

Mr. BURTON of Indiana. Mr. Speaker, I intend to talk more tonight about the problems in Central America that we have to face as a nation and that the freedom fighters have to face as a people who are fighting against tyranny down there. Before I do, I would just like to say that I feel a sense of frustration, as many of my colleagues do, and if any of the leadership happens to be watching on television, I hope they will take these remarks under advisement, because it is really sad that here we are very close to Christmas Eve and we have not completed the business of this House.

The fiscal problems that this House faces, the tax bills and the spending bills, are supposed to be on a fiscal year basis. We were supposed to have this done by September 30, over 2 months ago, and we are not done yet.

Today the leadership of the House came to this floor and said, well, they have been trying, and they have passed it off and blamed the conferees. Well, the conferees could have been picked long before now. This legislation we are bickering over could have brought to the conference committee status long before now, but here we are, right at the end, trying to pass a continuing resolution and a budget reconciliation act that is going to cost billions and billions of dollars in additional spending. And it is going to cost about $50 billion in new taxes over the next 3 years. That is what they are shooting for.

We have 13 appropriation bills that by law are supposed to be passed. We have not passed those bills in the last 5 years that I have been here. We continue to run our business in this country unlike any businessman would run a business because they would go bankrupt if they did. Yet they continue to tell us they are doing a good job.

I submit to my colleagues and to whoever might be watching that the leadership is doing a very poor job in this country, and if they do not do a better job of moving the legislative business of this country along in an expeditious manner and in a manner that is to the liking of the American people, they should be removed.

The legislation that is before this body and is going to be before this body before Christmas Eve, if we get finished by then, is going to contain billions of dollars of pork barrel spending, and a lot of that would not occur if we went through the regular appropriation process. But, no, they are not going to do it. They are going to come back at the last minute with a very voluminous bill that nobody will read, that is stuck full of pork.

I understand that many of the conferees are fighting over special projects for their districts and that is why the haranguing goes on and on and on. There are some other important issues yet to be decided, but there is an awful lot of pork being fought over in these committees right now. Instead of really working toward deficit reduction and cutting spending in this country, they are trying to feather their own nest, and the American people need to know that.

So I would just like to say that as one Congressman said, I protest. We should have had our business done in a timely fashion. We should not be stuffing all this pork in this legislation to the detriment of the American people, and we should not be fooling around trying to raise $50 billion in new taxes at a time when the stock market is unstable and we may be facing significant economic problems if we do that.

So I would just like to say to the leadership of this House that next year is right around the corner, we are going to have elections, and if they really value their positions as leaders, then they ought to conduct the business of this House in a proper and timely manner.

That goes for both sides of the aisle, Democrats and Republicans. The Republican Party can put heat on the Democrats. We need to get our job done. We need to cut out this pork barrel spending and do the job the American people elected us to do, and if we are not going to do it, then there should be some changes made.

The SPEAKER pro tempore. The Chair must remind the gentleman from Indiana [Mr. BURTON] that Members should not direct their remarks to any viewing audience. All remarks should be made to the Chair.

Mr. BURTON of Indiana. I apologize, Mr. Speaker, if I did that. I wanted to make my colleagues who are here in the Chamber aware of what my feelings were, as well as my colleagues in their offices. I will in the future address all my remarks to the Chair.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. BURTON of Indiana. I am happy to yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Speaker, I thank the gentleman for yielding.

Before we get into the issue that the gentleman took a special order on, Central America, I wonder if we might be able to raise one other issue that the gentleman discussed with the gentleman from Massachusetts [Mr. FRANK] here a few moments ago on the floor. The gentleman from Massachusetts came to the floor to discuss a letter sent by our colleague, the gentleman from Georgia [Mr. GINGRICH], to some of the Members regarding some questions that had been raised about the ethical conduct of the Speaker of the House. I was somewhat disappointed because I felt that the gentleman from Massachusetts [Mr. FRANK] came to the floor this evening seeking to somewhat trivialize some of those charges. I say I was surprised partly because generally the gentleman from Massachusetts [Mr. FRANK] has been one of those Members who has been quite concerned about ethical issues, and generally concerned about them, and I was really rather surprised that he took the kind of posture that he did.

But I think it is very important, since the gentleman from Indiana questioned him, to make the point that he raised a couple of very important issues. First of all, he did say in the course of his remarks that there are some serious charges contained in the articles cited by our colleague, the gentleman from Georgia.

Second, I believe I heard him say that in his opinion the one option which is there that the Attorney General appoint a special counsel to look into the matter is in fact something that can be instituted, and that the Department has been negligent in not so doing. Now, I would say that that is a rather important sequence that was developed by a very powerful Member of Congress on the other side of the aisle who, if not presently, has recently been the chairman of the Americans for Democratic Action. He is saying that there are serious charges that exist, and that the Department of Justice has been negligent in not moving on a special prosecutor.

I do not think that we ought to let that particular dialog escape the notice of our colleagues, because I think it was very important that his initial intent was obviously to trivialize, but the bottom line of what he told us is something that is very serious indeed and needs to be understood by the Members.

Mr. Speaker, I thank the gentleman for yielding.

Mr. BURTON of Indiana. Mr. Speaker, I would just like to say to the Members that there were a number of allegations and charges made in the document to which he alluded, and he declined to read those to the body. I think it is very important that if he is going to read part of it, he ought to read all of it.

Mr. WALKER. Mr. Speaker, will the gentleman yield further?

Mr. BURTON of Indiana. I am happy to yield to the gentleman from Pennsylvania.

Mr. WALKER. But he did say those things that he did not read were serious charges.

Mr. BURTON of Indiana. I think they are very serious, and I think everybody who has read those documents believes they are serious and that there should be a complete investigation.

Mr. WALKER. Mr. Speaker, I thank the gentleman.

Mr. BURTON of Indiana. I thank the gentleman for his participation.

Mr. Speaker, we have taken some special orders the last couple of nights on the Central American issue that faces not only Central America but the United States as well. I, along with seven of my colleagues, took a trip to Nicaragua this past weekend, and we had a chance to see first hand the problems the people of Nicaragua are facing in dealing with the Communist Sandinista government.

We participated in a rally in Leon and a parade in Leon that involved as many as 7,000 Nicaraguans who are very upset with the oppressive tactics of that government and the economic problems they face. We found that the average income of laborers down there is between $5 and $17 a month. That is about 3 cents an hour for a 60-hour work week. They cannot even feed themselves, let alone their families. The black market, which is the only place one can get commodities, is doing very well. Seventy percent of the business is conducted through the black market. The cordoba has been devalued time and time again to the point where it is almost worthless. The repression is just unbelievable,

While I was down there, I had the opportunity to spend some time with seven of the finest Members of this body. One of my colleagues, the gentleman from Florida [Mr. BILIRAKIS], after we returned, brought to my attention a letter that was published in La Prensa, the newspaper down there that at least in the short run is able to publish so the Nicaraguan people can get part of the truth about what is going on down there. The letter he was given by La Prensa was translated into English. I read it, and it touched my heart. I would like to have the gentleman from Florida, if he would not mind, read that letter to our colleagues, because I think it is something that every one of my colleagues and everybody in America ought to know about. It is a letter from the mother of a boy who was, I understand, killed in the field of battle.

So, Mr. Speaker, with that, I am happy to yield to my colleague, the gentleman from Florida [Mr. BILIRAKIS].

Mr. BILIRAKIS. Mr. Speaker, before I read the letter, first I would say that I very strongly endorse the remarks regarding the performance of the House that were made by the gentleman in the well, the gentleman from Indiana [Mr. BURTON].

I think it is important that we are all reminded every once in a while of the fact that all appropriation bills initiate in the House of Representatives. Since the American people seem to be concerned with the deficits and the large debt that has been accumulated over the last few years, this is something that I think is important. I feel it is important that we remind the people of these facts, and, of course, I remind the Speaker of the fact that the appropriation bills and all the spending bills initiate here in the House of Representatives. They do not initiate in the Senate, nor do they initiate with the President of the United States.

Getting to the subject at hand, Nicaragua, Mr. Speaker, much has been made here during the last couple of hours about the fact that we are being delayed, that our families are at home having to dress the Christmas tree, if you will, and our children and grandchildren and what not are at home waiting for us. That is a great concern, and I think it is very needless.

Yet, Mr. Speaker, I wonder if the people of Nicaragua, the average person in Nicaragua, would not like to have the same problem. We were down there a few days ago, and I had to ask my colleague, the gentleman from Indiana, if he remembered having seen very many Christmas trees down there.

Yes, I recall there is one in a hotel lobby, and I recall that there is one outside of that place—I guess I can call it a home—that place where the bus stopped on the highway near Leon in Nicaragua. There was one there. I don't think it had any bulbs that would light, but it had some sort of ornaments on it. I am not sure I recall any others. There may have been one in the Chamorro home, but I do not recall having seen it.

So I wondered whether those people down there might like to have problems insofar as Christmas is concerned.

We heard from the labor unions that the average wage of the ordinary worker down there—and these are union people—is $85 a month—not a day, not a week, but a month.

We asked the question, "How in the world can you feed yourself with that kind of money?" And somebody said, "Well, if we limit ourselves to a couple meals a day, we can do it."

□ 1915

Of course, they did not say too much about the rest of the family. They just said the rest of the family would have to get out and raise money on their own, or wages on their own, in order to feed themselves.

When we considered that in 1986 there were 26,000 metric tons of arms and military equipment shipped into Nicaragua from the Soviets and that for the first 9 months of 1987 this was equaled, which means they are going to exceed the import of military equipment, if you will, this year over last year, then I ask myself, was any of this humanitarian aid? We have great big battles here in the House regarding humanitarian aid to the Contras of Nicaragua.

You know, the difficulty is not only military aid, but humanitarian aid. We know that there has been negative gross national product growth in Nicaragua for the last 4 years. We know that all the oil that the people of Nicaragua use is basically, we were told, a gift from the Soviet Union. Why? Because they cannot pay for it.

We know that they have ration cards down there. We know that the allocation is 1 pound of rice per person per month; however, that allocation is even a false one because the state stores do not have an adequate stock to be able to even furnish that 1 pound per person per month of rice, and we know that the dependency down there is very strongly on the black market, the informal stores, as they call them.

So as we talk about Christmas and wanting to get home to our families, and God knows we are very anxious to do that, the people of Nicaragua certainly would like to have that problem.

My colleague in the well referred to a letter by this mother and I would like to share that with the Members, with the Speaker and with my colleagues. This was a letter that appeared in the editorial page on Thursday, this last Thursday as a matter of fact. I was told about it by Mrs. Chamorro, Dona Violeta Chamorro. I was given a copy. It was all in Spanish, of course, and just this week, earlier this week, I was able to get it translated. I would like to share it with the Speaker and with my colleagues.

Before I do this, I really do not have the time, but I see the gentleman from Massachusetts [Mr. FRANK] is here. I do not know whether he wants us to yield.

Mr. BURTON of Indiana. I think the gentleman from Massachusetts is going to want some time on another subject, which I will be happy to give. I believe the gentleman would like 1 minute.

I yield to the gentleman from Massachusetts.

Mr. FRANK. I will not impose on the gentleman from Indiana. I simply want to say that I wish the gentleman from Pennsylvania had told me he wanted to discuss it with me.

The gentleman grossly misstated what I said, grossly. I never said that the Justice Department was negligent for not investigating the Speaker. My point was that was the inescapable inference to be drawn if you agreed with the gentleman from Georgia.

My point was that if you believe that the charges were true, then you believe that the Justice Department was negligent. I have no basis for judging those charges. I see charges against a lot of people, but the gentleman from Pennsylvania, and I am glad he is now here, simply misstated me.

I never said that I thought the Justice Department was negligent. I said that if you agreed with the gentleman from Georgia that the charges were apparently true, then he was arguing that the Justice Department was negligent, because the Attorney General has the power and has had the power, either on his own or to appoint an independent counsel, or to investigate it.

It is the gentleman from Georgia who apparently finds the Justice Department culpable for not having moved. I am in no position to judge charges, because I read them in a magazine and I cannot judge them against anybody.

I never suggested that, and the gentleman was incorrect in his remarks.

I said that the clear inference that has to be drawn from the remarks of the gentleman from Georgia is that he is critical of the Justice Department for not instituting an investigation.

I thank the gentleman from Indiana.

Mr. WALKER. Mr. Speaker, will the gentleman yield to me?

Mr. BURTON of Indiana. Well, I hate to interrupt my colleague from Florida, but since the gentleman from Massachusetts brought this up——

Mr. BILIRAKIS. I do not mind, as long as it is abbreviated. The gentleman from Indiana has the time.

Mr. BURTON of Indiana. I yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Speaker, I thank the gentleman for yielding.

I think I did hear the gentleman from Massachusetts correctly when he indicated that some of the charges that he sought not to trivialize were in fact serious charges. I do not think I misunderstood the gentleman on that.

Mr. FRANK. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I think that the gentleman understands the rules of the House. He understands the gentleman from Indiana has yielded to me.

I think that I also heard the gentleman suggest that the gentleman from Georgia had listed four options for the House to deal with these matters.

The gentleman from Massachusetts seemed to indicate that one of those was in fact real, that the Attorney General does have that ability, and that if you believe there are serious charges, then the clear implication is that the Attorney General has been negligent in not moving on those serious charges.

The gentleman from Georgia is simply asking for some advice. It was my clear impression that perhaps the gentleman from Massachusetts was offering some advice. Maybe I was wrong. Maybe the gentleman from Massachusetts did in fact seek to trivialize the entire matter and therefore not want to deal with any of these issues, no matter how serious they are. If that was in fact the gentleman's intent, then I was wrong. But it seems to me that belies his entire record in the House of attempting to deal seriously with matters that are truly serious ethical matters.

Mr. FRANK. Mr. Speaker, will the gentleman yield to me for 15 seconds?

Mr. BURTON of Indiana. I yield to the gentleman from Massachusetts.

Mr. FRANK. I figured the gentleman acknowledging that he did not accurately state what I said.

My point was that I had confidence in this, and I mean this seriously, when it comes to investigating Members of this body on either side I believe that the Justice Department has been very diligent. I believe they have been tough. I believe they have been diligent and I think that the fact that they decide to not investigate is indicative that they do not find anything serious.

I find people who are making the kind of statements the gentleman from Georgia is making are in fact criticizing the Justice Department. They are accusing the Justice Department of not being sufficiently vigilant. I think the Justice Department in this administration, as in the previous one, has a very good record, some of our colleagues might think too good, of prosecuting Members of Congress on both sides of the aisle.

Mr. WALKER. Well, if the gentleman will yield further to me, I do not think I in any way suggested that my previous remarks were wrong. I simply was placing an interpretation on what I am sure I heard the gentleman say, and we will look at the Record tomorrow and find out; but the bottom line is that if there are serious charges here, if the gentleman will examine the Constitution, he will find that the House does in fact have the power to examine the disorderly behavior of its owe Members. That is one of the obligations that we have that is not purely a matter for the Justice Department. I do not think the gentleman wants us to ignore that very basic duty that this House has.

I thank the gentleman very much for yielding.

Mr. BURTON of Indiana. I think this colloquy or discussion has been very enlightening.

I would just like to say to my colleague, the gentleman from Florida, the next time the gentleman will not want to be this magnanimous.

I am happy to yield to my colleague, the gentleman from Florida.

Mr. BILIRAKIS. Well, I just thought that common courtesy should be offered there and I appreciate the gentleman's willingness to do that.

We were talking about this letter that appeared in the editorial page of La Prensa last Thursday morning. It was a letter addressed to Commandante Ortega, President Ortega, the President of Nicaragua, and it was sent to the newspaper for publication and it was published and we had it translated.

Mr. Speaker, I would like to share the following paraphrased letter to the editor taken from La Prensa regarding obligatory military service in Nicaragua. It is writtten by the mother of a young boy who was forced into what the mother calls "obligatory death service."

After my recent visit to Nicaragua, I feel compelled to share with you the injustice and brutalities the Sandinista government inflicts upon its people.

The mother of martyr writes Ortega:

> I address you and La Prensa, that symbol of liberty and strength, to bring to bear the echo of my lament, the lament of the mother of a martyr. I say I am the mother of a martyr because my tender young son Eduardo Santiago Luna Arevalo was sent against his will to burn himself for this dictatorship, to defend this government which is the actual cause of most of the problems in Nicaragua today. President Ortega had the gall to write me and send his condolences but I know that he cared less for my son and cares less for all others who are in his service.
>
> My son was 17 years old, a student in his third year of high school at the Alejandro Garcia Vado de Jinotepe Institute. One day before school break, one of the "planners of my son's death" came to his school and forced him to sign a military obligation form for obligatory death service. In signing this, he was promised he would not have to serve in combat because he was a student without military training. He was sent to Region IV, a region without much military action. But, as with all the (government) promises, this promise was broken and my son was sent to fight on the front. When he was there he took two separate opportunities to desert. Both times the "Sentinels of Public happiness" (motto of the CDS—Committee for the Defense of Sandinismo—Secret Police) had to come to my humble house with great military show to hunt down my son and return him to combat.
>
> On November 6, 1987, the CDS came again, this time with his decomposed body. They left it at my house at 5 a.m.
>
> Later I learned he was killed in Bocaycito a combat area. I had thought he was being trained in a military school (Facundo Picado) and being well fed. In fact, he was rationed food and fought and died on a mountain with other defenseless children.
>
> The day of the wake for my son the other children who went to school with my son gave much thought to the senseless sacrifice of children. I hope that the blood of my son will serve to excuse the sins of others, and not be used as fascist (government) propaganda. I would not let the CDS attend the funeral of my son.
>
> He was given a simple burial, without the celebration and the fancy flowers of a Sandinista propaganda burial. He was carried on the honest and strong shoulders of the poor citizens, and was laid to rest simply as he came into this earth. The odor of decomposition was strong and repulsive, reminding many of the tragedy of death.
>
> I told the mothers present not to offer the fruits of their womb to the war effort which has no moral purpose; not to give our children up to the slavery of the slaughterhouse.
>
> In conclusion, I ask one question to whomever wants to answer it: why is there a professional army in Nicaragua, better financed than most doctors, teachers and economists? Why don't the planners of the war go to fight, rather than send our children against their will? This is a war of men, not children.
>
> In Nicaragua there is infanticide more brutal that anywhere in history. This is the same atrocity Herod committed 2,000 years ago. Is this war the same as Herod's? Is the cause the same? Should our youth put aside all future plans to go and fight?
>
> History gives reason to whomever has it.
>
> Socrro Arevalo de Luna,
> *Mother.*

Mr. BURTON of Indiana. Well, if I might make just one comment, I met, along with the gentleman, Bayardo Arce, one of the nine commandantes at the Sandinista airport. He told us they would like to have a million-man army in that little country. I do not think that is feasible, but the defector, Major Mirada, the second in command to the Defense Minister, Humberto Ortega of that country, told us that they wanted to build to at least half a million-man army. That would be equivalent to about a 50-million-man army in this country if you equate the two populations.

Then we learn from Humberto Ortega, the Defense Minister himself, that he wants a 600,000 man army. So what is going to happen and is happening today is there are many, many thousands of mothers in Nicaragua, just like the mother who wrote that letter, who are suffering because their boys are being killed because of the forced tactics, the forced military tactics of the Communist Sandinista government, and it is not going to stop unless we help stop it by aiding the Contras.

Mr. BILIRAKIS. Mr. Speaker, if the gentleman will yield, that is certainly all true.

You know, I wonder, the gentleman was previously admonished, if you will, for playing to the folks back home, and certainly we cannot do that; but I say to the Speaker, even though we are probably preaching to the choir when we do this for the Speaker, that as a result of the vote today this morning in the Democratic caucus, and I believe it was 150 to 25 against any aid, any aid of any sort, as I understand it, to the Contras, I know we are spinning our wheels.

We stand here and we talk about these things and I am sure they read the same things that we read.

The Washington Post, Tuesday, December 15, I believe it appeared might have been the same morning or the morning before in the New York Times, it was read into the RECORD in a special order that the gentleman from Pennsylvania [Mr. RITTER] had last Monday, but let us repeat it again here.

In comments regarding his brother, General Ortega's statements regarding arming the people and whatnot, where he talks about arming 600,000 Nicaraguans, it is important that we realize we are talking about a country with less than 3 million people. I understood it was 3 million at one time. It is something like 2½ million now; but President Ortega warned that the ruling Sandinista National Liberation Front, the FSLN would not allow the so-called civic opposition to become an "internal front" of the United States backed Contras.

□ 1930

He made it clear that the party does not intend, and this is something the people on the other side of the aisle read, too, does not intend that the party give up the power it won for Nicaragua's working class in the July 1979 revolution against Anastasio Somoza.

President Ortega told about 600 Sandinista union delegates yesterday, and I quote for the newspaper, if the Sandinista front is ready to give up power in a hypothetical case, which is my emphasis, that it loses an election, what it would give up would be the government but not the power, and Ortega again added "In the hypothetical case that the people became deranged and an opposition party were elected, this opposition party could govern as long as it respected the established power," and we will be ready to defend repect for this established power.

In spite of all that, we had that kind of a vote in the Democratic caucus this morning, they had that kind of a vote as I understand.

Mr. BURTON of Indiana. Reclaiming my time, what the gentleman has just said in this quote by Daniel Ortega, that means simply that no matter if they have elections, he does not intend to give up power, the power they gained out of the barrel of a gun, they will keep through the control by a gun regardless of what the people of Nicaragua want. I say to my colleague we both know, as Members of our codel that was down there in Leon last week, that the people of Nicaragua overwhelmingly oppose the Sandinista government and want change because they are tired of the repressive tactics and the tactics of that Communist government.

Mr. HUNTER. Mr. Speaker, will the gentleman yield?

Mr. BURTON of Indiana. Mr. Speaker, I yield to the gentleman from California.

Mr. HUNTER. Mr. Speaker, I want to thank both the gentleman from Indiana [Mr. BURTON] and the gentleman from Florida [Mr. BILIRAKIS] for the commentary and for their enlightening the American people as to the results of their trip to Central America.

I was thinking as I was listening to the gentleman from Florida reiterating the statements or restating the statements that Mr. Ortega has made that he will allow the people of Nicaragua to have elections and to elect people as long as he is allowed to retain the power. I guess that means we could have, if this was the Nicaraguan Congress, we could have 435 Members elected, Republicans and Democrats, but we would not be able to do anything. We would be able to talk and to pass paper around but Mr. Ortega would be the person who decided what bills would pass, where the military went, what people were executed, and he would retain the power and so on.

I would like to ask the gentleman from Indiana [Mr. BURTON] if that statement by Mr. Ortega is consistent with the Arias peace plan and the statement that he signed in the Arias peace plan, presumably being one of the signatories, with regard to democracy. Did the Arias peace plan not say there will be a democratic election?

Mr. BURTON of Indiana. The Arias peace plan was so broad that it even said that they would not call for any new elections until the next election is scheduled in Nicaragua which I believe is 1990. But it did say that they would have to abide by the will of the people through the electoral process.

So what he has said is that he does not plan to abide by the Arias peace plan, and that is another abrogation of that agreement.

Mr. HUNTER. So Mr. Ortega is saying that having elections and having officials that are the elected representatives of the people does not mean him giving up power.

Mr. BURTON of Indiana. That is right.

Mr. HUNTER. He will retain his position as the dictator of Nicaragua, come heck or high water, and he does not care how many people are elected or who is elected by the voters of Nicaragua.

Mr. BURTON of Indiana. The gentleman from California well knows that there are no Communist governments that came to power the way they did in Nicaragua that has ever given up power voluntarily.

They are not going to give up power unless it is taken away from them.

Mr. HUNTER. If the gentleman will continue to yield, so that I understand correctly, it is that Mr. Arias received the Noble Peace Prize presumably for bringing Mr. Ortega into this agreement to have elections in Nicaragua that are not guaranteed at all, they are guaranteed to not deprive him of power.

Mr. BURTON of Indiana. That is right, and I do not believe anyone has ever heard President Arias make any comment after what happened over the past 3 or 4 days. I imagine he is very concerned about what to say.

Mr. HUNTER. And if the gentleman will continue to yield, let me say that there are many things that a Speaker of the House of Representatives must be but of all things I think it is most important that he be a realist.

Mr. BURTON of Indiana. Right.

Mr. HUNTER. Because if he allows himself to be conned, to be taken in, to indulge in fantasies, those fantasies will be paid for with human lives.

The Speaker of the House of Representatives has given a great deal of rope, I say to my colleagues, to the Sandinistas. He has been a signatory to "dear comandante" letters. He has voted consistently against giving support to the democratic resistance which is the only group that is resisting the Communist Sandinistas in Nicaragua. This has been done on the basis of his belief that these Sandinistas and particularly Mr. Ortega will at some point embrace free and fair elections, where the election goes against him they will voluntarily give up their power and leave their offices in the same sense that a Republican or a Democrat who has lost an election goes back to the citizenry and gives up that power of his office. It is very obvious now from the appearance of Mr. Miranda, and that has been buttressed by the statements in the press conference of the defense minister of Nicaragua, Humberto Ortega, that the Sandinistas very cynically have manipulated the Speaker of the House of Representatives of the United States of America and the majority of the House of Representatives itself because at the very same time that they have been sending out messages that they are willing to abide by a plan that would be a blueprint for democracy for their country, they have been meeting with Cuban and Russian senior military advisers blueprinting the doubling of the military buildup in Nicaragua that would include, if I read Mr. Ortega correctly and if I read Mr. Miranda correctly, include the introduction of Mig aircraft into Nicaragua, the introduction of another squadron of HIND helicopters with many guns that have the capability of killing a lot of people very, very quickly, and it is probably the most effective attack helicopter in the world today, and building up the military service level to some 600,000 personnel.

They have been doing that at the same time that they have been talking peace.

Mr. BURTON of Indiana. That is correct.

Mr. HUNTER. They have been talking peace with our Members of Congress while all of this was going on at the same time.

Mr. BURTON of Indiana. That is correct. After the peace accords were signed in Esquipulas, Guatemala, they were still negotiating these agreements. In fact a protocol was signed as I understand it after that time which would bring in the Mig-21's aircraft and surface-to-air missiles and other things.

I would like to make one other comment, and that is that the Speaker has gone way, way out on the end of a limb and now the communists, the defense minister, Mr. Humberto Ortega, Mr. Miranda, his former assistant, and they have said in no uncertain terms what they plan to do and this is the response of the Speaker of the House, and I would like to quote it, "The idea of having a 600,000-man army is preposterous." He said, "It is ridiculous, intemperate and irrational."

They have told us very clearly what they plan to do and after being sucked in, the Speaker will not admit that he has been sucked in. There is no question about it. The Speaker refuses to believe what they are telling us, that they plan to build a huge army down there and that they have signed these secret protocols with the Soviet Union that bring in Mig-21 and Mig-23 fighters as well as the other military products that were mentioned earlier.

So what we should hope and pray, I believe, is that the Speaker will listen to Mr. Miranda and listen to Humberto Ortega, the defense minister of Nicaragua, and believe them, take them at their word about what they plan to do.

To do otherwise is to risk a military conflict involving the United States down the road.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. BURTON of Indiana. Mr. Speaker, I yield to the gentleman from Pennsylvania.

Mr. WALKER. The gentleman may remember earlier today we had a dialog with our Democratic friends on the House floor with respect to these issues. The way that this dialog got started was because a number of us suggested that the vote in the Democratic caucus this morning, in light of the evidence that has come forward in the last few days, is just unbelievable.

Mr. BURTON of Indiana. It is unthinkable.

Mr. WALKER. What they voted to do by an overwhelming margin was to cut off funds to the opposition in Nicaragua and thereby endorse what the Sandinistas are doing. It is not good enough to do as some of them came to the well and do, say, "We are against the Sandinistas, too."

I say to my colleagues that they cannot just say they are against the Sandinistas if they are not willing to do anything which opposes what the Sandinistas are imposing upon their own country.

We pointed out that they are imposing upon their country a 600,000-man army and that they are imposing upon their country a system that totally wipes out all legalities. That is the reason why the supreme court justices resigned down there in contempt of their own government. That is their terminology, not mine. They resigned in contempt of their own government because of the fact that the legal processes in the country had been abolished and the government now routinely overturns the decisions of the courts.

Now, in light of those kinds of pieces of evidence coming to us, it would seem that the Democrats would want to move in some direction that would give substance to their supposed opposition to the Sandinista Communists. Instead, what we hear from them is a defense of what they have done in the past.

In fact, I made mention during that dialog this morning that the Speaker himself had assisted the Sandinista Communist dictator Mr. Ortega in drafting the peace plan that he presented. That particular charge of mine was termed ridiculous in dialog on the House floor, and that it was without substance.

I want to say to the gentleman from Indiana [Mr. BURTON] that what I have here is an unclassified Department of State memorandum that talks about a newspaper article that appeared on November 16, 1987, in Nicaragua in the government newspaper, El Nuevo Diario, and that article credited Speaker WRIGHT with helping President Ortega finalize an 11-point proposal, eliminating 4 of the 15 original government of Nicaragua points.

In other words, the Speaker was actively involved in drafting the final proposal that was presented the next day in a meeting with the Speaker, Ortega, and Cardinal Obando y Bravo.

So in fact what I said is absolutely the fact, if my colleagues are to believe what the Nicaraguan newspaper was saying, particularly the government-run newspaper.

The Speaker not only sat in as a friend listening to these people, he participated with dictator Ortega in drafting dictator Ortega's plan. That makes him a party to that which is going on within Nicaragua.

That is our concern, that the Democrats have been a party to Sandinista atrocities in Nicaragua. We think it is high time we move away from that and give substance to the opposition within that country.

Sure, there are problems with that opposition but one cannot go on suggesting that we can oppose everything down there while the Sandinistas continue to coalesce their power.

That is what is happening. That is what we are disturbed about, and it is very disturbing evidence when by a vote of 144 to 25, or 150 to 25, the Democrats say, "no money for the Contras," not even to support in a humanitarian way the opposition forces in Nicaragua.

Mr. BURTON of Indiana. If I might reclaim my time, let me make just one comment. Those who do not profit from history are destined to make the same mistakes over and over again.

In the early 1930's the Liberal Party in the British Parliament came out forthrightly against building up the military power of the British Empire. Even though they knew that Hitler was violating the Treaty of Versailles which was signed in 1918, they came up with this policy under the Liberal government. When the Treaty of Versailles was signed, it said very clearly that the Germans could not build up beyond a 100,000-man army and yet what they did was they took the military and built a 100,000-man elite corps that was to train millions of other people.

The Liberal Party and the British Parliament would not ever believe what was actually going on before their very eyes.

The problem is that once a group of people like the liberals in this body or the liberals in the British Parliament get their head set in a certain direction, it is almost impossible for them to turn it into another direction. The Liberal Party in England did not change their approach even though Hitler started violating the Treaty of Versailles and becoming very aggressive with the surrounding countries. In fact when Lord Chamberlain flew to Munich in 1938 and signed that infamous agreement and came back saying, "We have peace in our time," he had just sown the seeds of World War II. They still were committed to fighting for a disarmament policy and fighting for a paper peace.

That is what we see on the liberal side of this Congress. The liberals are committed to a disarmament program for Central America. They do not want to help the freedom fighters down there and if they do not profit from history and start seeing what tyrant Communists and Fascists have done in the past, we will be committed to the same kind of conflict that we faced in World War II. There is no question about it.

Appeasement policies did not work in 1938, 1939, and 1940, and they are not going to work in 1986, 1987, and 1988. What is going to happen is our position is going to be weakened to such a degree that the Communists are going to expand their sphere of influence into Nicaragua as they have promised, El Salvador, Guatemala, Honduras, and up into Mexico. And when that happens we will be forced, like Great Britain was, to face a monumental conflict which is going to cost us clearly dearly in money, economic problems and life, American blood.

□ 1945

Mr. WALKER. If the gentleman will yield just a moment, again I think it is important for us to understand that we continue to hear references to the need to help implement the Arias peace plan. I think many of us feel strongly that the Arias peace plan in the form in which it was signed is something that does have some merit to if it produces true democracy in Nicaragua.

But the thing that the Arias peace plan also does is it defines very clearly who the two forces are within Nicaragua. On one hand, you have the Sandinista Communist government. On the other hand, you have oppposition forces that are a whole series of political parties that consist of the Contras and so on, but there are two forces. If you are against the opposition forces, namely giving money to the Contras, you are by definition of the Sandinista Communists. There is no in-between position.

Cardinal Obando y Bravo is meeting with two different forces, the Sandinistas on the one side, and the opposition on the other side. You are either with the opposition or with the Sandinista Communists. The Democrats cannot have it and the liberals cannot have it both ways. They cannot be against the opposition without at least in substance having helped the Sandinista Communists. Those are the two groups that are negotiating under the provisions of the Arias peace plan.

Mr. BURTON of Indiana. I think what they are looking for is a paper settlement to the problem. If you are dealing with reasonable people on both sides you can sign a contractual agreement and that will solve the problem.

The problem is the Communists never live up to their agreements. They promised in 1979 free elections, they promised freedom of the press, they promised freedom of assembly, they promised freedom of religion. None of those things have taken place. They repromised those things in Esquipulas in Guatemala earlier this year. They are not keeping those now. The political prisoners are still in jail, there is still repression, there is still censorship, so they did not keep their promises in 1979 and now in 1987 they are not keeping the promises they made at Esquipulas. It is just like what happened back in 1938, 1939, and 1940, and these people on this side of the aisle must wake up.

Mr. BILIRAKIS. Mr. Speaker, will the gentleman yield?

Mr. BURTON of Indiana. I am happy to yield to my colleague, the gentleman from Florida.

Mr. BILIRAKIS. Mr. Speaker, the gentleman from Pennsylvania alluded to Cardinal Obando y Bravo. As the gentleman in the well knows, we had quite a lengthy, 45-minute to an hour I would say conference with the cardinal. The cardinal, in the process of giving us an opening statement, so to speak, of the overall situation, and I might add at this point in time that the cardinal did not at any time during the conference that we had known whether we were Republicans or Democrats, because at the tail end, after we went around the table and asked him certain questions, he flat out asked us are we Republicans or Democrats, and we came out and said we are Republicans. So what he said to us he would have I imagine said to anybody who approached him.

But in any case, one of the comments he made regarding the subject of what are the prospects for peace under the Arias peace plan or any other was that it will be difficult for the government to change its political objective. When it came time for us to ask him questions after he went through these opening statements I asked him what is the government's political objective. He said it is a socialist one, and it is a socialist government that can only live side by side with force.

I think it is just critical that people on the other side of the aisle somehow awaken to that fact. This is a man of God who is the most loved, as we found out, and I know the gentleman in the well knew this previously, the most loved person in Nicaragua. He talked about positive movement, but he also said that there would be difficulty, there would be great difficulty in getting any changes from the Sandinistas, and that is most of the difficulty would be as follows, and then he named them. First of all, he said, complete amnesty, they will never give insofar as a complete amnesty. Second of all, he said, complete freedom of the press, there would never be complete freedom of the press. And third of all, he said, there would never be a separation of the military from the government and the state because the Sandinistas are military and they are also the government.

I would ask the gentleman from California [Mr. HUNTER], who referred in his remarks to Miranda, is that Maj. Roger Miranda Bengoechea, the gentleman who defected from the Sandinistas in October 1987?

Mr. HUNTER. Mr. Speaker, will the gentleman yield?

Mr. BURTON of Indiana. I yield to the gentleman from California for a colloquy.

Mr. HUNTER. Mr. Speaker, the gentleman from Florida is right. Mr. Miranda we are referring to is really the No. 2 man in the Sandinista defense appartus. He was the top assistant for Humberto Ortega, the Defense Minister of the Communist Sandinistas.

Mr. BILIRAKIS. This is a man who would have had access to virtually all of the inside meetings and that sort of thing, is that correct?

Mr. HUNTER. Absolutely. Mr. Miranda brought his story and a number of documents to the United States when he defected.

The interesting thing was some people were aware of the fact that probably some liberals would attack his credentials and say well, he is just bitter or he does not like the Sandinistas for personal reasons. But interestingly, Humberto Ortega preempted his first public press conference by holding a press conference of his own. And Mr. Ortega, the Defense Minister of the Communist Sandinistas, said, for example, that they intended to build up the military to 600,000 armed personnel. Mr. Miranda has only said 500,000 armed personnel, so in some cases Mr. Miranda actually understated the severity of the Sandinista radical actions that they intended to take to maintain their power and to coalesce their power in Nicaragua.

Mr. BILIRAKIS. I thank the gentleman from California.

If the gentleman from Indiana will continue to yield, I attended, along with a few other Members of the House, a bipartisan, clearly it was referred to in the Washington Post as a bipartisan gathering in room H-227 right after our special order this past Monday when Mr. Miranda basically shared with us his experiences and his knowledge on the basis of the fact that he was an insider as far as the Sandinista government is concerned for many years. He was a part of the original revolution and became an insider as far as the Sandinistas are concerned.

But he said to us, if I remember correctly, and I tried to take notes, that before 1980 the Sandinistas drew up plans to subvert Central American governments, and they said words to the effect that the apparatus was drawn up by Bayardo Arce, our guide at the airport, and this gentleman is, of course, we know the Minister of Ideology in Nicaragua. He also talked about this Dirangen plan, the tripartite plan that the gentleman from Indiana referred to, and it was a planned strategy into the 1990's. He told us that by 1990 there would be no reason for the existence of the resistance, of the Contras. This is part of their plan, and he told us that the Contras would be eliminated between 1987 and 1990 due, No. 1, to the U.S. Congress' failure to assist the Contras. And then he also said it would be due to the establishment of anti-Contra settlements near areas to which the Contras now basically are based from, thus eliminating the social support of the Contras.

Mr. HUNTER. Will the gentleman yield?

Mr. BURTON of Indiana. I yield to the gentleman from California.

Mr. HUNTER. Mr. Speaker, I think the gentleman from Florida has just made an important point. Mr. Miranda, as the No. 2 military man for the Communist Sandinistas, had the blueprint for consolidating power in Nicaragua and for defeating the freedom fighters. And as I understand what the gentleman has said, he said that the Sandinistas expect this body, the U.S. Congress, to defeat the Contras.

Mr. BILIRAKIS. Quite clearly.

Mr. HUNTER. And abandon the Contras as we have abandoned the Cuban freedom fighters in the Bay of Pigs and we have abandoned the Cambodians.

Mr. BURTON of Indiana. This is a very salient point.

I talked to a lady from Nicaragua who has been married to an American and they have been down there for 30 years. She would not appear in a television interview she told me because she was scared to death. And I said why, and she said because I believe the United States is likely to have another Bay of Pigs in Nicaragua. And I said what do you mean? She said when the Cubans invaded Cuba, the free Cubans invaded Cuba at the Bay of Pigs, she said we withdrew our support, and the repression that took place in Cuba after that, and the people who died was unbelievable, and anybody who speaks out now, she said, in Nicaragua knowing that the Congress is about to pull the rug out from under the Contras is very likely to see their husband killed or imprisoned, or to see severely repressive tactics imposed upon them. And she said my husband and I, even though we are very much in favor of the Contras, are scared to death to say anything because we think you are likely to pull out, and that will leave us at severe risk.

So the people down there, many of them, they are being intimidated, they are afraid to speak out anymore. It was not that way in Leon, but in Managua I can tell you that people are scared to death.

Mr. HUNTER. If the gentleman will yield just a little bit further, I think we need to pursue this. So it is clear that the Sandinistas expect this Congress, this body where we are standing right now to kill the Contra movement.

Mr. BURTON of Indiana. Not only the Sandinistas, but many of the people who are for the Contras feel the same way. They really believe we are going to cut and run and leave them exposed.

Mr. HUNTER. So friends and adversaries alike feel we are ready to cut and run, and we are going to abandon them.

Now this body is controlled by the Democrat Party. The majority of the Republicans in this body vote to help the freedom fighters, and yet the Sandinistas are convinced that the Democrats who control the body who have a majority are going to abandon them.

Mr. BILIRAKIS. Not the Sandinistas, the Contras are convinced.

Mr. HUNTER. The Sandinistas are convinced that the Congress, the Democrat-controlled Congress is going to abandon the Contras.

Let me just ask if the gentleman from Florida has any insight as to how the Sandinistas view the Democratic Party in the United States?

Mr. BILIRAKIS. If the gentleman will yield, I am glad to answer that question.

In the process of our discussions with Major Miranda, and we all have to realize who this man is, and the fact he was privy to all of those very significant meetings, one of the Democratic colleagues who was in this closed meeting specifically asked, after the sympathetic Democratic Congressman, the liberal anti-Contra sympathetic Sandinistas Democratic Congressman had visited the country, Nicaragua, and then left to come back to the States, and who was asked do they have meetings, do they have basically post mortems regarding the trip, the answer was yes, and he asked whether he attends those meetings, and he attended those meetings and of course he said yes. So anyhow the question was what do they say, what do the Sandinistas say in those meetings after these sympathetic Sandinista U.S. Congressmen leave their country. His answer was as follows: the Sandinistas feel that the Democrats and Republicans both are their enemies. The difference is that they both have different strategies to do away with the revolution. They feel that the Democrats are more foolish, his exact words, more foolish than the Republicans. In fact, at that point in time I asked one of the Democratic colleagues sitting at my right if he was ready to change his party.

To go further, they feel the Democrats are more foolish than the Republicans, that they are more malleable, his exact word, they are more malleable, more easy to handle than the Republicans.

Mr. BURTON of Indiana. They can be molded?

Mr. BILIRAKIS. They can be molded.

Mr. HUNTER. If the gentleman will yield further, I think political pollsters and experts are asking themselves and have asked themselves for the last few Presidential elections why, even though the Democrat Party in the United States has a majority in registrations, why can they not win the White House? I think the gentleman from Florida has just answered the question. I think the American people understand that the Democrat Party is naive when it comes to foreign policy and that they are easily taken in, that they leap out and grab peace plans from people like Daniel Ortega even while Ortega is rallying his Soviet advisers to blueprint a rebuilding, a redoubling of the military efforts. And because of that they do not want to trust the highest office in the land to people who are not realists.

Mr. BURTON of Indiana. I agree with my colleague.

I just would like to end up by saying that we ought to restate for our colleagues and the Speaker who is in the chair behind me that the Sandinistas have signed a secret agreement that will bring Mig-21's and Mig-23's into Nicaragua by 1990 or 1991. They are building a 600,000-man army, they are training guerrillas, by their own admission, from El Salvador in surface-to-air missiles so they can expand their revolution even more rapidly into the surrounding countries, and they plan to revolutionize communism in all of Central America. That is the goal and it has been stated very clearly. And if we stand by and let that happen, then the U.S. Government and this body are a bunch of fools.

Mr. Speaker, I thank the Chair for his patience and I yield back the balance of my time.

OUR COUNTRY'S CRITICAL MINERALS SUPPLY AND RELATIONSHIP WITH SOUTH AFRICA

The SPEAKER pro tempore (Mr. BARNARD). Under a previous order of the house, the gentleman from Idaho

[Mr. CRAIG] is recognized for 60 minutes.

Mr. CRAIG. Mr. Speaker, I am here today to discuss our country's strategic and critical minerals supply and our relationship with the nation of South Africa.

I do this in response to those in this country, in this Congress, who propose that we extend the import prohibitions of the Anti-Apartheid Act to include these strategic and critical materials, that we refuse to deal in any way with the racially repressive Government of South Africa, that we simply turn to alternative sources for the materials so vital to our domestic industry and national defense.

These proposals, generally, are framed in terms of human compassion, of moral outrage, of righteous indignation, of wishful thinking.

They are seldom, however, framed in terms of reality.

It is the difference between a painting and a photograph. One can reflect the world as we would wish it to be; the other can only show it as it is.

And though we might wish to create a portrait of an equitable and peaceful world, we must live with a reality more frightening than most want to admit.

That reality is this:

South Africa is one of a few predominant sources of many of the strategic minerals the United States must have to survive as a nation. In the most important cases, the other major source is the Soviet Union.

It is this:

Even though the Anti-Apartheid Act at least initially exempted strategic minerals from its import bans, there still has been a demonstrable shift from reliance on South Africa—one of our allies—to reliance on the Soviet Union and its allies.

And it is this:

The United States is unprepared—and in many cases unable—to produce its own supplies of strategic materials at this time.

A headline in the August 3, 1987 issue of Barron's asked: "Anti-apartheid or pro-Soviet?" Our current course of action is both.

That is frightening. That is dangerous. And, like all reality, it is supported by fact.

In testimony prepared for a hearing before the House Subcommittee on Mining and Natural Resources on December 10, John Ferriter, Deputy Assistant Secretary of State for Energy and Resources Policy, outlined the vital mineral commodities South Africa supplies to the United States and other free world nations. A number of those commodities are strategic and critical materials, most notably:

Chromium, which is essential to stainless steel and superalloy production, and in the defense, aerospace, chemical, power generation and transportation industries;

Cobalt, which is used in jet aircraft engines and in tools, mining and drilling equipment, magnets and catalysts;

Manganese, which is necessary for steel and cast iron production;

Platinum, which is essential for reducing automotive exhaust emissions, refining petroleum and in the production of fertilizers, explosives and other chemicals and used in electrical and electronic equipment, and

Vanadium, which is used principally in steelmaking.

To say these materials are vital to our economy and our defense is not an overstatement. Economically, the U.S. Department of Commerce reports that more than 3 million American jobs are directly related to the processing and use of strategic and critical metals. Militarily, these materials may become even more critical, as our love affair with glasnost has produced a treaty that would force us to strengthen our conventional forces to meet the Soviet threat.

World supplies of these materials are available from only a limited number of sources. One of these sources—South Africa—will remain an important supplier for a number of reasons: nature has blessed it with an ample resource base, its economy depends upon their mining and export, its government encourages resource development, its realiability as a supplier in world markets and the quality of those supplies is highly regarded.

South Africa should remain an important supplier for another reason: for some applications of some materials, there are no substitutes or alternative sources of supply other than the Soviet Union and its allies.

This necessity, again, is reality. And the alternative is unacceptable.

The Anti-Apartheid Act prohibited United States imports of most commodities from South Africa. The act also threatened to prohibit currently legal imports of strategic minerals from South Africa if significant progress has not been made in establishing a nonracial democracy.

And, though these strategic and critical materials were initially exempted from the bans, the act has resulted in an increase in the number of strategic and critical materials purchased from Soviet-bloc countries.

As noted at the hearing, there are a number of possible explanations for such increases, including Soviet needs for hard currency in light of lower oil prices, increased minerals production in the Soviet Union and rapidly rising demand here in the United States. There is also reason to believe, however, that the act and the uncertainty it engendered with its threat of future sanctions have played a role in influencing American buyers to seek diversification of their sources.

Other factors, too, have surfaced. In testimony at the December 10 hearing, Robert Dale Wilson, executive director of the National Critical Materials Council, reported New York metals traders who said it was easier to trade with the Soviet Union than with South Africa, because—with the former—there were no protesters parading outside the office. Traders also reportedly have decided it is safer to deal with the Soviets, given the emotionalism of the South Africa congressional debate.

How significant are these increases? Information from the U.S. Department of Commerce, Bureau of Census and Office of Strategic Resources, shows that in the 12-month period since this Congress overrode a Presidential veto to pass the Anti-Apartheid Act, U.S. imports of key metals from the Soviet Union have risen as follows: platinum sponge, 17 percent; chrome ore (refrac.), 157 percent; platinum bars, 321 percent; ferrosilicon, 377 percent; rhodium, 386 percent; antimony, 4,783 percent; and industrial diamonds, 4,900 percent.

The irony here is that South African exports have not suffered. These primary products have a steady market the world over.

And, even if our Soviet swing might have played a role in the slowdown of real growth in South Africa, we would have contributed to both current unemployment and diminished prospects—both of which would target, and neither of which would benefit, nonwhite South Africans who seek participation in, and fairness from, their government.

Writing in Barron's weekly, Shirley Hobbs Scheibla summed it up for many of us when she said: "One must ask why the United States should believe that racial injustice in South Africa warrants action drastic enough to harm this country, but should embrace trade with the Soviet Union, which puts millions of its own people in gulags and commits untold atrocities abroad."

"U.S. foreign policy," Sheibla concluded, "should have two objectives: to achieve its intended aims and to advance the nation's interests. On both counts, sanctions against South Africa have failed."

This, again, is reality. It is not a pretty painting of what we wish would have happened, but an accurate picture of what has occurred.

What other choices do we have? Right now, not many.

Can we do without these materials? Of course not. As Malcolm Browne wrote in the New York Times this past July. "A total lack of these metals would shut down or throttle the steel, automotive, chemical, plastics, and petroleum industires. It would halt production of optical fiber for the communications industry. It would severely hobble the production of food, computer components and weapons."

Given this, I would ask my colleagues: Is it reasonable—and responsible—for us to trade a reliable business partner for a supplier who could shut us off in a word—who actually would benefit by doing so? or—to discuss a lesser degree—is it reasonable and responsible for us to trade a reliable business partner for a supplier who, through its exclusivity, could manipulate the price of materials to levels our industry could not afford or that would put our industry at a supreme competitive disadvantage worldwide? Is it reasonable and responsible to do this to the American consumer, who would suffer in the end?

Don't any nations other than South Africa and Soviet bloc produce these materials? Yes, but most of these producers are troubled lesser developed countries, which are unstable and unreliable sources of materials we depend upon.

What about our own resources?

Yes, what about them?

David S. Brown, Acting Director of the Bureau of Mines, testified that he believes that an economically viable domestic mining and mineral and materials processing industry is the most significant approach to reducing our vulnerability to strategic mineral supply disruptions. And the bureau is working to that end.

It has its work cut out for it.

The United States mining industry differs from that of South Africa in many ways, not the least of which is its reliance on a Federal Government that often does more to work against it than to help it, a government that doesn't think twice about channeling money to international institutions that lend it out to our competitors.

We know a far different situation exists in South Africa, where mining is important because the government made it important. Where mining has provided the impetus for South Africa's development from an agricultural into an industrial economy. Where the industry supports a large segment of the labor force, providing 16 percent of South Africa's gross domestic product and 60 percent of its export earnings. Where that government's policy is to encourage private enterprise to develop the country's mineral resources and, through its own auspices, provide leasing arrangements for exploration and infrastructure for development.

Among the bureau's suggestions for developing American mining are these:

A research and development program emphasizing more efficient domestic mining, process and recycling technology to facilitate domestic production of strategic and critical materials, and substitution for an conservation of available supplies;

A domestic research identification and evaluation program that focuses on identifying and evaluating strategic and critical mineral resources with high resource potential in all the coterminus States, Alaska, Hawaii, and the territories;

Analytic and information capabilities, which provide an early warning of potential vulnerability problems and help facilitate the planning of effective policy actions;

A regulatory initiative that seeks to reduce unnecessary cost burdens on the domestic industry;

And an advanced materials initiative which analyzes the impact of these materials on strategic and critical material requirements, and future supply vulnerability.

The bureau is to be applauded for its work and vision. But it should also be noted that some outside the bureau who see such solutions as long term, time-consuming, and costly.

As Malcolm Browne reported in the New York Times: "But many experts believe that short-term prospects are poor for reducing the dependence of Western industrial nations on a handful of mineral-rich countries, especially South Africa and the Soviet Union. One reason is that low metal prices have depressed the mining industry and hampered innovation and investment. In the words of Lorne A. Wrigglesworth, senior geologist at Falconbridge Nickel Mines in Toronto: 'The economic conditions of the minerals industries in the industrialized countries is bloody awful!' "

So while the problem is apparent, solutions are not. To further explain, let me quote from the testimony given before the Subcommittee on Mining and Natural Resources by James Santini, a representative of the National Strategic Materials and Minerals Program Advisory Committee and a former Member of Congress who once chaired the very subcommittee to which he spoke:

> The basic problem is very straightforward * * * how do we reduce our dependence so that, in event of a disruption, our industry and, concomitantly, our ability to defend this country are not crippled?
>
> But * * * while the problem is simple, the solution is not * * * to be sure, given unlimited funds, the solution would be a piece of cake. We could invest in the development of marginal deposits of critical materials both here and abroad. We could stockpile vast quantities of the materials. We could unleash a massive new research and development program aimed at developing exotic new materials to substitute for those on which we now rely. We could do many, many things, but the cost of such programs would make the current defense budget look like petty cash and would dislocate a good deal of the world economy in the process.
>
> So, as usual, we come down to the painful, prosaic task of making intelligent trade-offs among realistic options. And these must be options, it should be stressed, which incur little or no incremental costs.

Among suggestions made by the committee, Santini noted, were:

That the Bureau of Mines undertake a priority study to locate sources of critical materials and minerals in the United States and to recommend appropriate incentives that would be necessary to their exploitation and development;

And that the United States pursue a course of allowing the greatest access for environmentally sound development of domestic mineral resources, especially for commodities available from very limited foreign sources.

Let me dwell here for a moment. As a member of a mining State, as a citizen of a State that is 65 percent federally owned and the proposed site of millions of additional acres of wilderness, as a member of the Interior Committee, I have a special interest here.

And I concur wholeheartedly with the point Mr. Santini made at the hearing: This country must rethink its land-use policies; it cannot continue to lock up its lands blindly, not knowing—not even seeking to know—whether it is locking up materials crucial to its survival.

It especially cannot do this knowingly.

Are we doing this? You bet. It's going on right now and in a big way, as a matter of fact. One example comes immediately to mind: As we in Congress are extolling the virtues of the Super Conducting Supercollider and nearly coming to blows to get it installed in our respective States, we are—at the same time—considering a California desert bill that would lock up the very minerals we need for this innovation.

This may not be sensible, but it is typical. And it is the proverbial tip of the iceberg to our continued resource problems.

Much of what I have recounted here represents what a colleague at the hearing referred to as this Nation and this Congress "cutting off its nose to spite its face." It would say it is more, it is our closing our eyes to reality.

It is our responsibility as Members of Congress to represent the people of these United States, their best interests. We may have warm compassion for another's family; our cold duty is to our own. This does not mean we do not care and that we cannot help.

How can we do this? By continuing our call for equal economic rights for all in South Africa. By relying less on punitive actions and more on diplomatic and humanitarian efforts. By ensuring that our misguided attempts to help people does not actually harm them. By looking at the big picture, at the true picture and at the clear picture.

Let's look at that picture. Let's understand what we see. And let's set a course that is not only compassionate, but realistic and responsible as well. People—the world over—are depending on us.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. Hefley) to revise and extend their remarks and include extraneous material:)

Mr. Solomon, for 5 minutes, today.

Mr. Hunter, for 60 minutes, today.

Mr. Gingrich, for 60 minutes, today.

Mr. Walker, for 60 minutes, today.

Mr. Dannemeyer, for 5 minutes, today.

Mrs. Bentley, for 60 minutes, on December 18.

Mr. Dornan, for 5 minutes, on December 18.

Mr. Dornan, for 5 minutes, today.

(The following Members (at the request of Mr. Dymally) to revise and extend their remarks and include extraneous material:)

Mr. Frank, for 5 minutes, today.

Mr. Hubbard, for 5 minutes, today.

Mr. Annunzio, for 5 minutes, today.

Mr. Dymally, for 5 minutes, today.

Mr. Mica, for 5 minutes, today.

Mr. Gonzalez, for 60 minutes, on December 18.

Mr. de la Garza, for 30 minutes, on December 18.

Mr. Stokes, for 60 minutes, on December 18.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. Hefley) and to include extraneous matter:)

Mr. Solomon.

Mr. Swindall.

Mr. Miller of Washington.

Mr. Daub.

Mr. Bereuter.

Mr. Horton in two instances.

Mr. Young of Florida.

Mr. Crane.

Mr. Hefley.

(The following Members (at the request of Mr. Dymally) and to include extraneous matter:)

Mr. Weiss.

Mr. Biaggi in five instances.

Mr. McCloskey.

Mr. Dyson.

Mr. Rodino.

Mr. Oberstar.

Mr. Bustamante.

Mr. Clarke in two instances.

Mr. Garcia.

Mr. Leland.

Mr. Hawkins.

Mr. Levine of California.

Mr. Owens of Utah.

Mr. Nowak.

Mr. Torres.

Mr. Manton.

Mr. Skaggs.

Mr. Hochbrueckner.

Mr. Ray.

Mr. Owens of New York.

ENROLLED JOINT RESOLUTION SIGNED

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a joint resolution of the House of the following title, which was thereupon signed by the Speaker:

H.J. Res. 427. Joint resolution to provide for the temporary extension of certain programs relating to housing and community development, and for other purposes.

BILLS AND A JOINT RESOLUTION PRESENTED TO THE PRESIDENT

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee did on the following date present to the President, for his approval, bills and a joint resolution of the House of the following title:

On December 16, 1987:

H.R. 1191. An act for the relief of Jose Marie Vas;

H.R. 1390. An act for the relief of Chu Pei Yun (Zhu Bei Hun);

H.R. 1863. An act for the relief of Helen Ying-Yu Lin;

H.R. 2121. An act to authorize and direct the National Park Service to assist the State of Georgia in relocating a highway affecting the Chickamauga and Chattanooga National Military Park in Georgia;

H.R. 2325. An act to authorize the acceptance of a donation of land for addition to Big Bend National Park, in the State of Texas;

H.R. 2416. An act to establish the Jimmy Carter National Historic Site and Preservation District in the State of Georgia, and for other purposes;

H.R. 2689. An act to amend the Arms Control and Disarmament Act to authorize appropriations for the fiscal years 1988 and 1989 for the Arms Control and Disarmament Agency, and for other purposes;

H.R. 3319. An act for the relief of Susan A. Sampeck; and

H.J. Res. 425. Joint resolution making further continuing appropriations for the fiscal year ending September 30, 1988, and for other purposes.

ADJOURNMENT

Mr. CRAIG. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 8 o'clock and 23 minutes p.m.) the House adjourned until tomorrow, Friday, December 18, 1987, at 10:00 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2579. A letter from the Secretary of Agriculture, transmitting the Department's position concerning the agriculture provisions contained in the Senate reconciliation bill; to the Committee on Agriculture.

2580. A letter from the Acting Comptroller General, General Accounting Office, transmitting a list of reports issued during the month of November 1987, pursuant to 31 U.S.C. 719(h); to the Committee on Government Operations.

2581. A letter from the Chairman, Board of Directors, Panama Canal Commission, transmitting a report regarding the condition of the Canal which responds to the amendment—section 5—added to H.R. 2224, the Panama Canal Commission Authorization Act for Fiscal Year 1988; to the Committee on Merchant Marine and Fisheries.

2582. A letter from the Acting Secretary of the Army (Public Works), transmitting a report from the Chief of Engineers, Department of the Army, on Nonconnah Creek, TN and MS, together with other pertinent reports, pursuant to Public Law 94-587, section 101(a) (90 Stat. 2919); to the Committee on Public Works and Transportation.

2583. A letter from the American Legion, transmitting the proceedings of the 69th annual National Convention, San Antonio, TX, August 25-27, 1987, together with a financial statement and independent audit, pursuant to 36 U.S.C. 49 (H. Doc. No. 100-148); to the Committee on Veterans' Affairs and ordered to be printed.

2584. A letter from the Deputy Secretary, Department of Labor, transmitting the ERISA annual report for 1986, describing the Department's administration of its responsibilities under ERISA during calendar year 1986, pursuant to 29 U.S.C. 1143(b); jointly, to the Committees on Education and Labor and Ways and Means.

2585. A letter from the Secretary of Health and Human Services, transmitting a report on a national end-stage renal disease patient registry, pursuant to Public Law 99-509, section 9335(i)(2) (100 Stat. 2032); jointly, to the Committees on Energy and Commerce and Ways and Means.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of Committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. BONIOR: Committee on Rules. House Resolution 336. Resolution waiving certain points of order against the conference report and against the consideration of such conference report on H.R. 3030 (Rept. 100-486) referred to the House Calendar.

Mr. MOAKLEY: Committee on Rules. House Resolution 337. Resolution providing for the consideration of H.R. 3674, a bill to provide for congressional approval of the Government International Fishery Agreement between the United States and Japan (Rept. 100-487). Referred to the House Calendar.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 3290, a bill to settle

Seminole Indian land claims within the State of Florida, and for other purposes; with amendments (Rept. 100-488). Referred to the Committee of the Whole House on the State of the Union.

Mr. JONES of North Carolina: Committee on Merchant Marine and Fisheries. H.R. 3674, a bill to provide for congressional approval of the Governing International Fishery Agreement between the United States and Japan; with an amendment (Rept. 100-489). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. DAUB:

H.R. 3778. A bill to amend the Internal Revenue Code of 1986 to provide that the denial of the deduction for interest on indebtedness with respect to certain life insurance policies shall not apply to indebtedness used to fund postretirement medical benefits; to the Committee on Ways and Means.

By Mr. BUECHNER (for himself, Mr. Hayes of Louisiana, Mr. Henry, Mr. Lewis of Florida, Mr. Lujan, Mr. McCurdy, Mr. Ritter, Mr. Slaughter of Virginia, Mr. Nelson of Florida, Mr. Konnyu, Mr. Walker, and Mr. Sensenbrenner):

H.R. 3779. A bill to direct the Administrator of the Federal Aviation Administration to conduct research into the consequences for the air traffic control system of automation of such system, and for other purposes; to the Committee on Science, Space and Technology.

By Mr. TAUZIN (for himself and Mr. Flippo):

H.R. 3780. A bill to amend the Internal Revenue Code of 1986 and the Social Security Act to provide that individuals who process fish or shellfish are not treated as employees for Federal tax purposes; to the Committee on Ways and Means.

By Mr. SYNAR (for himself, Mr. Thomas A. Luken, Mr. Swift, Mr. Wyden, Mr. Eckart, Mr. Florio, Mr. Sikorski, Mr. Bates, Mr. Markey, Mr. Lowry of Washington, Mr. Skaggs, Mr. Miller of Washington, Mr. AuCoin, Mr. DeFazio, Mr. Gejdenson, and Mr. Feighan):

H.R. 3781. A bill to require the Secretary of Energy to establish a separate account and a separate office for waste management and cleanup activities of the Department of Energy, and for other purposes; to the Committee on Energy and Commerce.

By Mr. SWIFT (for himself, Mr. Thomas A. Luken, Mr. Synar, Mr. Wyden, Mr. Eckart, Mr. Lowry of Washington, Mr. Sikorski, Mr. DeFazio, Mr. Bates, Mr. Miller of Washington, Mr. Markey, Mr. Bonker, Mr. AuCoin, Mr. Feighan, Mr. Gejdenson, and Mr. Skaggs):

H.R. 3782. A bill to amend the Solid Waste Disposal Act to improve compliance by Federal facilities with the requirements of subtitle C of the act; to the Committee on Energy and Commerce.

By Mr. WYDEN (for himself, Mr. Eckart, Mr. Thomas A. Luken, Mr. Synar, Mr. Swift, Mr. Markey, Mr. Florio, Mr. Sikorski, Mr. Bates, Mr. AuCoin, Mr. DeFazio, Mr. Miller of Washington, Mr. Lowry of Washington, Mr. Bonker, Mr. Gejdenson, Mr. Skaggs, and Mr. Feighan):

H.R. 3783. A bill to amend the Solid Waste Disposal Act to improve compliance with hazardous waste laws at Federal facilities, and for other purposes; to the Committee on Energy and Commerce.

By Mr. THOMAS A. LUKEN (for himself, Mr. Swift, Mr. Synar, Mr. Wyden, Mr. Eckart, Mr. Markey, Mr. Florio, Mr. Sikorski, Mr. Bates, Mr. Feighan, Mr. Lowry of Washington, Mr. Miller of Washington, Mr. DeFazio, Mr. AuCoin, Mr. Skaggs, and Mr. Gejdenson):

H.R. 3784. A bill to amend the Solid Waste Disposal Act to clarify the regulation of certain Department of Energy waste under subtitle C of that act, and for other purposes; to the Committee on Energy and Commerce.

By Mr. ECKART (for himself, Mr. Thomas A. Luken, Mr. Synar, Mr. Swift, Mr. Wyden, Mr. Florio, Mr. Markey, Mr. Bates, Mr. Sikorski, Mr. Lowry of Washington, Mr. Miller of Washington, Mr. DeFazio, Mr. Bonker, Mr. Gejdenson, Mr. AuCoin and Mr. Feighan):

H.R. 3785. A bill to amend the Solid Waste Disposal Act to clarify provisions concerning the application of certain requirements and sanctions to Federal facilities: to the Committee on Energy and Commerce.

By Mrs. Byron:

H.R. 3786. A bill to direct the Secretary of Defense to conduct a 2-year test program under which female members of the Army, Navy, Marine Corps, and Air Force are assigned to combat support units, vessels, and aircraft; to the Committee on Armed Services.

By Mr. DONNELLY:

H.R. 3787. A bill to create a Medicare Home Health Care Benefits Commission to study home health care benefits under the Medicare Program; jointly, to the Committees on Ways and Means and Energy and Commerce.

By Mr. FORD of Tennessee:

H.R. 3788. A bill to amend title II of the Social Security Act to provide for a more gradual period of transition—and a new alternative formula with respect to such transition—to the changes in benefit computation rules enacted in the Social Security Amendments of 1977 as they apply to workers born in years after 1916 and before 1930—and related beneficiaries—and to provide for increases in their benefits accordingly, and for other purposes; to the Committee on Ways and Means.

By Mr. ROSE:

H.R. 3789. A bill to suspend until December 31, 1991, the duty on a herbicide intermediate; to the Committee on Ways and Means.

By Mr. ROWLAND of Georgia:

H.R. 3790. A bill to establish certain limitations on the approval of hydropower projects at Lake Tobesofkee in Bibb County, GA; to the Committee on Energy and Commerce.

By Mr. SAXTON:

H.R. 3791. A bill to require that the Office of Personnel Management devise a plan on ways to reduce or eliminate delays in processing applications for benefits under the civil service retirement system, in order to allow an individual to go from regular pay to retirement or disability retirement pay without interruption; to the Committee on Post Office and Civil Service.

By Mr. HOCHBRUECKNER.

H.R. 3792. A bill to direct the Administrator of the Small Business Administration to declare the recent Long Island brown tide contamination a disaster for purposes of providing disaster assistance under the Small Business Act, and for other purposes; to the Committee on Small Business.

By Mr. SKAGGS.

H.R. 3793. A bill to amend the Clean Air Act to establish more effective controls on emissions from motor vehicles; to the Committee on Energy and Commerce.

By Mr. LIPINSKI (for himself, Mr. DeLay, Mr. Annunzio, Mr. Archer, Mr. Coleman of Texas, Ms. Oakar, Mr. Fawell, Mr. Bilbray, Mr. Smith of Florida, Mr. Dwyer of New Jersey, Mr. Konnyu, Mr. Ackerman, Mr. Hall of Ohio, Mr. Mrazek, Mr. Frank, Mr. Hochbrueckner, Mr. Coughlin, Mr. Sabo, Mr. Neal, Mr. Gejdensen, Mr. Traficant, Mr. Chandler, Mr. Bustamante, Mr. Nowak, Mr. Cardin, Mr. Bateman, Mr. Wortley, Mr. Pease, Mr. Lantos, Mr. Lancaster, Mr. Biaggi, Mr. Hyde, Mr. Garcia, Mr. McGrath, Mr. Conte, Mr. Volkmer, Mrs. Martin of Illinois, Mr. Hughes, Mrs. Patterson, Mr. Dannemeyer, Mr. Bryant, Mr. Walker, Mrs. Meyers of Kansas, Mr. Moody, Mr. Badham, Mr. Rangel, Mr. Weldon, Ms. Kaptur, Mr. Skaggs, Mr. Inhofe, Mr. Smith of New Hampshire, Mr. Dornan of California, Mr. Yatron, and Mr. Richardson):

H.J. Res. 429. Joint resolution deploring the Soviet Government's active persecution of religious believers in the Ukraine; to the Committee on Foreign Affairs.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

255. By the SPEAKER: Memorial of the House of Representatives, Commonwealth of Pennsylvania, relative to pension funds; to the Committee on Education and Labor.

256. Also, a memorial of the House of Representatives, Commonwealth of Pennsylvania, relative to the Interstate Commerce Commission; to the Committee on Energy and Commerce.

257. Also, a memorial of the House of Representatives, Commonwealth of Pennsylvania, relative to working for a century of peace; to the Committee on Foreign Affairs.

258. Also, a memorial of the House of Representatives, Commonwealth of Pennsylvania, relative to establishing a cabinet-level Department of Veterans' Affairs; to the Committee on Government Operations.

259. Also a memorial of the Legislature, State of Michigan, relative to medicare rates; jointly, to the Committee on Energy and Commerce and Ways and Means.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 80: Ms. Oakar and Mr. Brennan.
H.R. 84: Mr. Miller of Washington.
H.R. 759: Mr. Revenel.
H.R. 1202: Mr. Morrison of Washington.
H.R. 1235: Mr. Smith of New Jersey.
H.R. 1251: Mr. Hansen.

H.R. 1546: Mr. Brennan and Mr. Clarke.

H.R. 1587: Mr. Bosco.

H.R. 1770: Mr. Kleczka.

H.R. 1885: Mr. Brennan.

H.R. 1933: Mr. Martinez and Mr. Foglietta.

H.R. 2041: Mr. Lehman of Florida.

H.R. 2508: Mr. Lowry of Washington.

H.R. 2669: Mr. Borski.

H.R. 2880: Mrs. Roukema.

H.R. 3049: Mr. Panetta, and Mr. Weiss.

H.R. 3078: Mr. Clinger, Mr. Lungren, and Mr. Denny Smith.

H.R. 3193: Mr. Coyne, Mr. Vento, Mr. Sunia, and Mr. Neal.

H.R. 3338: Mr. Coleman of Missouri, Mr. Wise, and Mr. Fields.

H.R. 3348: Mr. Florio and Mr. Jacobs.

H.R. 3489: Mr. Tauke and Mr. Nelson of Florida.

H.R. 3551: Mr. Sensenbrenner.

H.R. 3552: Mr. McMillan of North Carolina.

H.R. 3556: Mr. MacKay.

H.R. 3603: Mr. Levine of California, Mr. Wolpe, Mr. Feighan, Mr. Wise, Mr. Bustamante, Mr. Ackerman, and Mr. Vento.

H.R. 3619: Mr. Gilman, Mr. Hughes, Mr. Hayes of Ilinois, Ms. Pelosi, Mr. Mack, Mr. Wortley, Mr. Murphy, and Mrs. Boxer.

H.R. 3674: Mr. Bennett.

H.R. 3721: Mr. Stokes, Mr. Nielson of Utah, Mrs. Collins, Mr. DioGuardi, and Mr. Lagomarsino.

H.R. 3738: Mr. Wyden.

H.J. Res. 208: Mr. Hayes of Louisiana, Mr. Dorgan of North Dakota, Mr. Blaz, Mr. Pursell, Mr. Hochbrueckner, Mr. Upton, Mr. Morrison of Washington, Mr. Wise, Mr. Kildee, Mr. Fascell, Mr. Levine of California, Mr. Borski, Mr. Dyson, and Mr. Evans.

H.J. Res. 304: Mr. LaFalce and Mr. de Lugo.

H.J. Res. 314: Mr. DeLay.

H.J. Res. 332: Mr. Fields and Mr. Andrews.

H.J. Res. 342: Mr. Hammerschmidt, Mr. LaFalce, Mr. Staggers, Mr. Tauke, Mr. Roberts, Mr. Schuette, Mr. Gregg, Mr. Leach of Iowa, Mr. Hayes of Louisiana, Mr. Barnard, and Mr. Donnelly.

H.J. Res. 386: Mr. Campbell, Mr. Gunderson, and Mr. Matsui.

H.J. Res. 389: Mr. Courter, Mr. Savage, Mr. Towns, Mr. Hansen, Mr. Espy, Mr. Conte, Mr. Hall of Texas, Mr. Feighan, Mr. Gallo, Mr. Lehman of Florida, Mr. Parris, Mr. Kostmayer, Mr. Harris, Mr. Wolpe, and Mr. Jeffords.

H.J. Res. 422: Mr. LaFalce.

H. Con. Res. 192: Mr. Kanjorski.

H. Res. 131: Mr. Miller of California.

EXTENSIONS OF REMARKS

KEEPING AMERICA'S INDUSTRY AND WORKERS ON THE LEADING EDGE OF COMPETITIVENESS

HON. JAMES L. OBERSTAR

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 17, 1987

Mr. OBERSTAR. Mr. Speaker, the Congressional Leadership Institute was recently treated to an exceptionally thoughtful, perceptive speech analyzing the linkage between America's domestic economic problems and the pressures of unfair foreign competition. The remarks, by Lynn Williams, president of the United Steelworkers of America, are particularly noteworthy not only for probing deeply into the issues of trade and domestic production but, more significantly, for offering solutions, including some innovative initiatives that have proven to be effective, rather than merely reciting a shop-worn litany of the ills and their causes, which we all know so well.

Every person who cares about keeping America competitive in the international marketplace and who is involved in the challenge of invigorating our domestic and industrial base should read and reflect carefully upon USWA President Williams' stimulating presentation, which I submit to the RECORD for the benefit of my colleagues:

REMARKS BY LYNN WILLIAMS, INTERNATIONAL PRESIDENT, UNITED STEELWORKERS OF AMERICA

I have attended scores of meetings such as this in recent years where the subject has been a variation on today's theme: How to put America back to work. How to make America competitive in a global economy. Or how to, if you'll pardon the expression, win one for The Gipper.

I've heard and seen arguments on all sides of the question: statistics and theories, charts and graphs, pleas for workers to become more cooperative with management, for managers to make employees feel they're part of the team, discourses on fair trade, free trade, dumping, protectionism, Smoot-Hawley, trade bills, Congressional action and Presidential vetoes.

There's been merit to some of these arguments—some of which I've used myself—and there is a validity to making them, because we obviously need to draw the dimensions of the problem to arrive at a solution.

But while we've been talking, the problem and the dimensions have been growing. So we need to raise other questions: Are we simply talking to ourselves? Have we become fiddlers on the economic balcony, consumed by the flames of our own rhetoric?

There are some, suffering the pangs of an empty stomach, the finality of lost hope, overcome with despair, who would answer yes. We've all seen them, young and old, male and female, of different races and colors, and their numbers have been increasing. They are not merely entries on a ledger.

In Pittsburgh, across the street from the Steelworker headquarters, St. Mary's Catholic Church has been providing free lunches for years to the homeless and needy.

At one time, not all that long ago, the food line started forming about 11 a.m., usually populated by men, aged 40 or above.

These days, they begin queuing up at about 9:30, because the line is longer, swollen by younger people and women.

The story is much the same at the Rainbow Kitchen in Homestead, Pennsylvania, which serves one meal a day, five days a week to more than 100 people, among them pregnant women, and children as young as three.

In Kansas, according to a report last week in the New York Times, hunger has become a constant among many farm families. A sociology professor quoted by the Times says, "Third world conditions have reached the Middle West."

And a farmer featured in the report told the Times:

"The kids aren't getting enough to eat. There's times when my youngest says to me, 'Daddy, I'm hungry.' "

While farmers and their families go hungry in Kansas, while pregnant women eat at soup kitchens in Pennsylvania, we hear claims—truthful claims, no doubt—about record numbers of job holders, we read of fortunes being made every day on Wall Street, of aspirations for fancy cars and VCR's . . . paeans to Adam Smith and requiems for John Keynes.

I think it's time that less emphasis be placed on what is present in America's rec rooms, and more thought given to what is absent from America's dining rooms. If we don't, then we'll keep hearing the plaintive words, "Daddy, I'm hungry."

I think also that the spirit and dynamism that is America will help us emerge from this stifling dichotomy. In truth, we've made a start in that direction—and it is not in that vague area called competitiveness, a concept which has yet to be defined to my satisfaction and which I'll discuss in more detail shortly.

We've made our start with the trade bill, but it's only a start, and it's quite tentative, given the President's disposition toward it. Even though the bill is considerably less than we in labor believe it can be or should be, it demonstrates a growing awareness on the part of the Congress on the perils of the Administration's laissez faire policies.

Our larger problem, however, is not opposition to the bill per se, as expressed most forcefully by President Reagan, but the rationale generating that opposition, the willingness—indeed, the eagerness—to write off America's industrial base and herald its succession by services and high technology.

Such notions are ill-conceived. They post this transition on a natural economic progression in which each entity is self-sufficient. The fact is that there is an ordered interdependency, beginning with a healthy industrial base.

The issue is clouded even further by representations that the key to America's global economic success is lower wages.

What that would lead to, of course—what it already has achieved—is a drastic reduction in the standard of living for millions of Americans.

What is needed is a clear recognition that 18th century trade theories are not applicable to trade problems of the late 20th century.

Let's start with the idea being advanced by free traders that mature industries—such as steel—should be permitted to expire as their direct share of the GNP recedes, taking the nation into the post-industrial era of services and high technology.

Well, it's one thing for an industry to shrink and employ fewer people. It's something else again to say we can get along without that industry or that its reduced prominence significantly diminishes its contribution to the total economy.

The post-industrial service economy theory is refuted by Stephen Cohen and John Zysman, directors of the Berkeley Roundtable on the International Economy.

Here is what they say:

"We are not experiencing a transition to a post-industrial society, but from one kind of industrial society to another."

They cite agriculture to buttress their point. Agriculture hasn't gone offshore—as many American manufacturers have—nor has production suffered. The significant change has been toward automation.

While direct employment in agriculture is three million, there are support jobs—services—linked to the farms, pushing agricultural employment as high as eight million.

In the steel industry, for example, it is estimated that every job in a mill creates two to three jobs outside the mill.

Cohen and Zysman remind us that 25 percent of the gross national product consists of services purchased by American manufacturers. Eliminate the manufacturers and you eliminate not only the people in their employ, but also those employed in services.

In a nutshell, if I may borrow part of an expression used recently by the President, the evidence tells us that mature industries not only can survive, they can prosper and enhance our economy and our standard of living. What we ought to be doing is finding ways to make this happen, instead of engaging in a destructive debate on the merits of pulling the plug. The process isn't enhanced when the President uses epithets like "nuts" while dealing with the budget deficit, and the vice president, even tongue in cheek, demeans American autoworkers.

One element injected into this debate, and the subject I have been asked to address today, is competitiveness. It's a nice-sounding word, but what does it really mean? My office dictionary defines it as "inclined, desiring or suited to compete;" to compete is "to strive for an objective,' leading us into competition, described as an "effort * * * to secure business * * * by offering the most favorable terms."

Certainly we're inclined and desirous of competing, but are we suited? There's no question we have an objective, but can we offer the most favorable terms?

The major portion of the answers rests with the Administration and the Congress

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

and what they do about meaningful trade legislation, the budget deficit and the trade deficit. Labor has done its share and then some, and it is willing to do more—despite the heavy price working people have paid already in job losses, work rule changes, wage and benefit reductions, and altered lifestyles.

In the steel industry, for example, our members accepted wage reductions of more than $2 billion in 1983. But Wheeling-Pittsburgh Steel wound up in bankruptcy.

In 1986, many of our members again were called upon for sacrifices, including $3.60 an hour at LTV. LTV is now in bankruptcy.

At the same time, there has been a sharp increase in productivity and quality, notably in the steel industry where manhours per ton are the lowest in the world. Yet the spectre of bankruptcy remains real.

Despite these productivity advances and cost reductions, direct imports eat up 22 percent of the U.S. steel market, principally because foreign producers are dumping their product, or they are being subsidized by their governments, or their wages are as low as one-tenth what they are in this country—or any combination of these reasons.

It follows, then, that the American steel industry can't compete on the basis of wages; it can't compete when foreign producers—as in England, France and West Germany—are subsidized, and it can't compete when steel is sold here for less than its cost of production.

I would point out here that the import penetration of 22 percent represents only finished or semi-finished steel products. When indirect imports are included—that is, steel used in such things as cars, appliances or tools—the figure rises to 36 percent.

The results for the steel industry—and its employees and their communities—have been devastating. Multi-billion dollar losses, bankruptcies, three hundred thousand lost jobs, wage and benefit reductions, retirement incomes placed in jeopardy, elimination of essential municipal services. All to little avail.

Small wonder children are saying, "Daddy, I'm hungry."

The persistent and pervasive consequences of this devastation prompted a fundamental change in our approach to collective bargaining in recent years, requiring us not only to insure the best interests of our members, but to attempt to save an industry.

We have finally completed, more or less, our 1986 round of negotiations. In the process, we have had a short strike and two long, and bitter lockouts, based on principle and social conscience. We have made innovative strides in employment security and worker participation, and the industry seems to have stabilized, even if temporarily.

We also concluded that government had to play a major role, because neither labor nor management alone, nor the two of us acting jointly, could cure the industry problems created by unfair trade.

Government help notwithstanding, however, it is incumbent on labor and management to forge a new partnership to serve our mutual interests. In plain words, the companies should welcome our members' involvement. Give them a piece of the action. Utilize their skills and talents.

That's been an integral part of Steelworker philosophy for years, equally ignored for years by employers, until their deteriorating finances required them to do otherwise.

Whatever their motives, we seized upon this opportunity and negotiated, wherever we could, innovative changes in our collective bargaining agreements to involve workers in the full range of decisions that affect their working and personal lives.

We first did this with Labor Management Participation Teams in our 1980 contract. Some worked better than others. Some did not work at all. But they provided the foundation for quantum jumps in this area in our most recent bargaining.

During these talks, in the several cases where it was essential, our members accepted wage and/or benefit reductions of varying degrees.

In return, they received profit sharing and stock ownership plans, productivity bonuses, unprecedented participation in the decision-making process of their companies, and language that puts strict limits on the contracting out of work and provides a substantial measure of employment security.

Our agreement with National Steel guarantees employment security and first payment of profit sharing, even if the company fails to post a profit.

Employees who would otherwise be laid off are instead placed in an employment pool—with no reduction in pay. They are being assigned in one of several manners:

To traditional jobs that otherwise would be contracted out and to temporary vacancies that would be filled by overtime.

To non-traditional jobs such as work redesign teams, training and re-training, customer service, statistical process quality control, and technical problem-solving groups.

Profit-sharing and gain-sharing bonus plans are permitting National employees to more than recoup sacrifices they accepted in wages and cost of living allowances.

We also have a Cooperative Partnership Program in place at National Steel in which Union members have been participating in essentially all strategic decision-making including:

Capital investment, and short and long range business plans at the corporate level, and;

Scheduling, work assignments, safety questions, overtime, contracting out and other quality of worklife and organizational efficiency issues on the departmental level.

We've had a similar program at Wheeling-Pittsburgh Steel Corp. for nearly two years. There have been disagreements, which is not surprising, but from all reports the system is working well. It has been endorsed by both our people and the company's.

The mini-boards, as we call these teams at Wheeling-Pitt, have been identifying problems and generating efficient and cost-saving solutions, again including the retrieval of work from outside contractors.

Their most recent success was the modernization of a galvanizing line, which has resulted in improved yield, productivity gains and lower raw materials costs.

The conceptualization, design, construction and installation all were done in house at a savings of 60 percent on a job that in times past would have gone to an outside contractor.

We also have a Steelworker representative on the Wheeling-Pitt board of directors, which makes the commitment complete.

And, let me emphasize, if there is no commitment on the part of management to make these programs work, then they will not work. We've seen both sides of that coin in successive managements at Wheeling-Pitt. And we've seen the commitment to make the plan work at National.

While the National and Wheeling-Pitt developments have received the most public notice, they are not isolated occurrences.

At one plant, a group of union members and a foreman developed a new processing system that is saving $3 million a year in energy costs at that location alone.

A team of pipe-fitters at another mill put together a manual for repairing steam leaks that has saved $1 million a year and, in the process, returned to our members work that previously had been assigned to an outside contractor.

Steelworkers are meeting with their Autoworker counterparts to discuss questions of product quality, shipping deadlines and other matters that had been handled by sales and customer representatives. This puts whatever problems exist squarely in the hands of the people who know best how to resolve them.

Perhaps by demonstrating what competitive is not we have succeeded with these examples in showing how it can be achieved. These examples do something else. They illustrate graphically that workers are America's most valuable and least utilized asset, that they will go the extra mile when there is a genuine mutuality of trust and concern.

Managers who oppose union representation of their employees are wasting valuable resources. They should stop fighting us. workers are entitled to join unions. We should be putting our energies to much better use, such as repulsing the assault we're facing from foreign competition.

Some immediate help can come from trade legislation that gives American industry some breathing room. The longer haul requires several layers of actions:

It requires managing trade. It's been done for years in the European Common Market. We too have been involved in managed trade agreements, such as the multifiber agreement and the American-Canadian auto pact. While they're not perfect, they have served a good purpose. We need to refine these practices, not turn our backs on them.

It requires lowering the budget and trade deficits, offering realistic interest rates, and making a commitment to raising capital by increasing production, rather than generating capital for its own sake as occurs in such things as mergers and acquisitions where workers and their wages are the first victims.

It requires opening foreign markets to American products.

It requires reducing the dependency of foreign governments on export oriented economies, which involves several steps.

In Japan, for example, an increase in consumer spending.

In developing nations, an increase in wages and standards of living, and some debt relief. In countries such as Korea, the opening up of trade union and human rights.

We don't want to beggar our neighbors. We're not opposed to Third World development—far from it—but we must deal with it in some more integrated way, not exploit it as a source of cheap and disciplined labor.

We need an economy in which the world is advancing, moving forward. If workers are put under the gun in country after country to see who can exploit them the most, that creates a kind of world that surely none of us wants.

Competition doesn't make sense in a global economy when it results in a lowered standard of living, a reliance on the lowest common denominator.

A debate limited to free trade versus protectionism is sterile.

It isn't then, in my view, just a matter of having an industrial economy or a service economy, or of managing trade decently or being competitive. We must have all of them to have a fully rounded society, to provide unfettered opportunity.

American workers are more than willing to become partners in this. But they refuse to be silent victims, to accept on their backs alone the consequences of failed governmental and management policies.

They will not accept another air traffic controllers dismemberment; they will not permit unscrupulous managers to capitalize on economic conditions at their expense; they will continue to fight for what is right, not only for themselves, but for their friends, neighbors and co-workers.

With more than 30 million people living in poverty and chronic unemployment; with children facing the prospect of being less better off than their parents, that is the right thing to do, ethically and economically.

Working together, labor, management and government can overcome the difficulties we face.

SHANNON WALL AND SEA-LAND CORP.: MERCHANT MARINE HEROES

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 17, 1987

Mr. BIAGGI. Mr. Speaker, last month, the maritime industry gathered in New York to present two heroes of the American merchant marine with the Admiral of the Ocean Seas Award. The Admiral of the Ocean Seas Award, or AOTOS Award as it is known in the industry, is the most prestigious honor bestowed on leaders of the merchant marine. This year's recipients are Shannon Wall, the president of the National Maritime Union [NMU], and Sea-Land Corp. As a past recipient, I know how proud this year's honorees are to have been chosen for this high honor.

Shannon Wall is the second person to lead the National Maritime Union. The NMU recently celebrated its 50th anniversary, and during most of those years, Shannon Wall has been in the forefront. Shannon Wall and the National Maritime Union have led the fight for free and democratic unions, and they have not been reticent about confronting management to insure full protection of the rights of maritime workers. The union, well before the advent of the modern civil rights movement, insisted that all members were to be treated equally, regardless of the color of their skin. In peace and war, Shannon Wall has worked to assure the American merchant marine met its obligations to the people of the United States.

The Sea-Land Corp. has not been around as long as the NMU but, in its relatively short life, it has had an impact on the maritime world comparable to the invention of the sail and the development of steam propulsion. In 1956, Sea-Land's predecessor, the Pan Atlantic Steamship Corp., pioneered a new technology, which later became known as containerization, by placing a truck container on a barge. The transportation world justly refers to this event as the start of the container revolution.

Prior to this new technology, the loading of cargo had not changed in thousands of years. Cargo that had been packed into a truck or train was unloaded at dockside by longshoremen, who then carried it up the gangplank and into the hull of the ship. At the other end, the process was reversed.

The old system of loading and unloading cargo into numerous vehicles was replaced by a system that moves a large container from a truck flatbed to a rail flatcar to a ship. The cargo is not handled until it reaches its final destination. This revolution forever changed the nature of shipping and led to Sea-Land's emergence as one of the most successful American maritime enterprises.

I join the industry in saluting the accomplishments of Shannon Wall and the men and women of the National Maritime Union, and the Sea-Land Corp.

TURKEY, OUR DEMOCRATIC ALLY

HON. JAMES McCLURE CLARKE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 17, 1987

Mr. CLARKE. Mr. Speaker, the Turkish parliamentary election of November 29 was conducted freely and peacefully, as we expected, and yielded a majority of seats for Prime Minister Turgut Ozal. Extremist parties failed to get any seats in parliament. This is a welcome sign of the progress Turkey has made in building a strong and prosperous democracy.

One of the best commentaries I have seen on the election was an editorial in the Wall Street Journal, which I commend to the attention of my colleagues:

[From the Wall Street Journal, Dec. 4, 1987]

TURKEY'S PROGRESS

What more can Turgut Ozal do? Turkey's irrepressible prime minister has been pursuing a dynamic, Western-oriented economic policy since coming to power four years ago. He has launched his "trade, not aid," campaign for full Common Market membership. He has maintained Turkey as a reliable outpost on NATO's highly sensitive southeastern flank. Despite all this, his government is subjected to repeated criticism from West European moralists who claim to see flaws in Turkey's democracy.

Prime Minister Ozal's overwhelming new mandate in Sunday's election ought in put an end to the carping. Sunday's election was open, free and robust. Turkey's 26 million voters clearly indicated their desire for political stability, a continued strong commitment to the alliance, and a Western-oriented secular state. This is evident not only in the victory of Mr. Ozal's ruling Motherland Party, which took 37% of the votes; it is also reflected in the fact that the fringe Islamic fundamentalists and far-left parties, such as former Prime Minister Bulent Ecevit's Democratic Left Party, failed to win enough votes for representation in Parliament.

Mr. Ozal's mandate is clear. The call is not only for political stability but also for investment in Turkey's industrialization and modernization, for accelerated privatization, deregulation, and sweeping economic liberalization and expansion. Mr. Ozal's program to cool Turkey's 40% inflation rate and pay down its $32 billion of foreign debt is designed to achieve convertibility of its lira. It will enchance the country's ability to trade with the West. Mr. Ozal's own international standing should rise. His olive branch toward Greece in recent days has drawn a surprisingly graceful response from Prime Minister Andreas Papandreou.

One has to almost stand back to fully appreciate what is taking place here. Turkey—an Islamic country whose bordering neighbors include the Soviet Union, Iran, Iraq, Syria and Bulgaria—is becoming a Western-looking democracy with a serious, market oriented economy. Further, Mr. Ozal is widely regarded as the only major world leader who has managed to sustain a serious working relationship with the Middle East's warring nations.

Add to this the country's military and geographical importance to the defense of Western interests. It is worth noting that NATO's defense ministers are discussing the greater demands on their conventional forces in the aftermath of the INF treaty. Turkey, as is sometimes forgotten, has the alliance's largest ground army, not including the U.S. Its territory looks out on the eastern Mediterranean and is NATO's closest point to the Persian Gulf.

Taken together, these factors should logically lead to Western support for Turkey's progress.

Instead, Turkish products are kept away from many Western markets. And European leaders say privately that the chances of Turkey succeeding in its drive for full membership in the Common Market are minimal. But Turkey's campaign to join the EC is worth watching. The latest election should serve to highlight the hypocrisy of Turkey's opponents who say the country isn't up to Western democratic standards. The opposition is particularly strong in countries with large numbers of Turkish guest workers, making it more difficult to deny that the real problem here is anything other than racial.

Meanwhile, the West is trying to slough off an increasing proportion of its defense burden on Turkey. U.S. military aid, for example, has dropped from $714 million in 1986 to $570 million this year, and is likely to fall further in 1988. Turkey has eight divisions with inferior equipment along its 378-mile Soviet border against 12 Red Army divisions. It has found it necessary to hold up cabinet ratification of a new defense-economic cooperation agreement with the U.S. because of the declining assistance levels. Furthermore, Ankara apparently is coming under new NATO pressure to deploy short-range nuclear missiles, shifting risk from Western Europe into Turkey.

Mr. Ozal continues to assert that he will aggressively pursue his goals of EC entry and a more active Turkish foreign policy. Good. That will make it easier to identify the friends of developing democracies and Western security, of which Turkey is an essential part.

DR. DONALD STEWART: EDUCATION LEADER

HON. AUGUSTUS F. HAWKINS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 17, 1987

Mr. HAWKINS. Mr. Speaker, Dr. Donald M. Stewart, former president of Spelman College, and now the new president of the college board, is one of America's outstanding education thinkers and leaders. At a time when it is imperative that this Nation have dedicated persons at the helm of our educational institutions, and educational organizations, it is comforting to know that Dr. Stewart's voice will be an active voice in urging quality, access, equity, and equal opportunity in education for all of this Nation's citizenry.

On a recent occasion I shared a panel with Dr. Stewart. I was struck by the truth of his remarks concerning the education of this country's educationally deprived children. Since I was profoundly moved by his observations, I wish to share his remarks with my colleagues in the Congress.

His remarks are as follows:

REMARKS

I am delighted to be with you this morning to share a few thoughts about the education of black children. The College Board is deeply concerned about the question of educational equity for blacks and other minorities.

Before I begin, however, I'd like to extend my congratulations to the National Conference on Educating Black Children. Only one year old, this coalition of concerned organizations, associations, and individuals already has held two national meetings, created a thoughtful blueprint for action, produced a nationally televised talk show, developed a framework for effective schooling, conducted regional meetings—and now, published its first book, "Educating Black Children: America's Challenge."

This is an impressive list of achievements for such a young organization, and the College Board is proud to be one of its sponsors. I would also like to commend Congressman Hawkins and his staff for helping to lead this national effort.

The College Board itself is committed in a variety of ways to the goal of improving the elementary and secondary education of all students, particularly those who are members of minority groups.

Perhaps our most visible effort is the Educational Equality Project. This is a 10-year effort to help schools and colleges renew and implement a common agreement, based on the realities of today's world, on what students should know and be able to do when they leave school in order to succeed in college.

The aim of the project is to increase the number and success rate of minority and disadvantaged youth going on from school to college by improving both the quality and equality of educational opportunity in this nation.

The College Board strongly believes that the age of access must be transformed into the age of access plus enablement. We must continue to work to open the door to higher education for all students, but we must enable students to succeed after they pass through that door.

The College Board's Educational Equality Project represents a national effort to help blacks and other minorities participate fully in the intellectual life of this nation, and I submit that such a national effort is necessary today.

There are fewer black undergraduates on the nation's campuses today than there were six years ago. More blacks, particularly males, are turning to vocational schools, trade schools, and the military for advance training. At the graduate and professional level, the black student population fell almost 12 percent between 1980 and 1984, and the percentage of black faculty and administrators—which was low to begin with—dropped more than 4 percent.

In short, this country is entering a new era of decline in black achievement. Can we tolerate the erosion of some of the advances blacks made in higher education during the 1970s?

Given the complexity and magnitude of the problems facing the nation today, the answer must be an emphatic no—for black and all other minorities.

The College Board believes that the nation needs the full contribution of blacks and other minorities to meet its economic and technological challenges. It needs more blacks and other minorities in the college pipeline, succeeding in its graduate schools, and joining its college faculties.

As we at the College Board recognize, these changes won't happen overnight or from piecemeal solutions. They require help from child development specialists, parents, teachers, the community, school administrators, local agencies, state agencies, and the federal government. With such a united effort, we can produce a fundamental restructuring of the nation's school system from the ground up.

Such a restructuring holds the promise of a win-win scenario for everyone.

As Dr. Alvin Poussaint of Harvard University says in the new book being released today, "If it is any consolidation, it appears that American education is short-changing just about everyone—rich and poor, urban and suburban, advantaged and disadvantaged, black and every other color."

On a certain level, the issue is one of enlightened self-interest, for if this nation finally addresses the problems of educating the minority child, it will finally improve the education for all of its children.

HONORING CAPT. JOHN HUNT

HON. FRANK McCLOSKEY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 17, 1987

Mr. McCLOSKEY. Mr. Speaker, on October 16, 1987, the United States-flag oil tanker, the *Sea Isle City*, was struck by an Iranian silkworm missile. The ship's American captain, John Hunt, was blinded and seriously injured by the blast.

As the United States continues to escort Kuwaiti ships in the volatile Persian Gulf region, and as Americans become accustomed to daily reports on shootings and ship movements there, let us not forget those brave Americans—like John Hunt—who on a daily basis are risking their health and safety on behalf of the United States Government and the American people.

Captain Hunt is a member of the International Organization of Masters, Mates, and Pilots. Members of this organization, along with the men and women in our armed services, are the reason America can have a foreign policy. They are the reason others in the community of nations look to America for leadership. And their extraordinary sacrifice is the reason America cannot forget individuals like John Hunt.

EUROPE AFTER THE INF AGREEMENT

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 17, 1987

Mr. SOLOMON. Mr. Speaker, as a conservative Republican supporting the President's INF agreement, I believe we must have a detailed discussion of the pros and cons of this agreement.

Therefore, while some of my colleagues have focused on potential shortcomings of this treaty, there are nonetheless numerous arguments which can be made in support of this agreement.

For this reason I would like to insert in the RECORD an excellent article by my colleague from Michigan, WILLIAM S. BROOMFIELD, the senior Republican on the House Foreign Affairs Committee, as well as the senior Republican on the committee's Arms Control Subcommittee. This article appeared in the most recent issue of the highly respected defense publication, Janes Defence Weekly.

[From Jane's Defence Weekly, Dec. 12, 1987]

EUROPE AFTER THE INF AGREEMENT

(By William Broomfield)

There has been considerable discussion in recent months about the effect that the proposed Intermediate Nuclear Forces (INF) agreement will have on the conventional military balance in Europe.

A common argument has been that US INF systems in Europe currently help to counter the sizable advantage that the Soviet Union has in conventional forces.

Based upon this rationale, it would follow that total elimination of INF and Short Ranger Intermediate Nuclear Forces (SRINF) would further expose the NATO conventional imbalance.

While one must respect those who make this argument, a closer look may lead one to a different conclusion, that the INF agreement may improve our relative conventional position in Europe, not diminish it.

Whether one counts tanks, artillery pieces, aircraft or troops, the Warsaw Pact definitely has the numerical advantage.

UPPER HAND

While this general conclusion is based upon rather sterile figures which do not take into effect qualitative differences in NATO and Warsaw Pace military hardware, they nonetheless, reflect a commonly agreed fact—the Warsaw Pact currently holds the upper hand in conventional forces in Europe.

However, for the purpose of assessing the effect of an INF agreement on the conventional balance of forces in Europe, a purely quantitative comparison is a misleading and static way of looking at the issue.

It is "static" because it fails to take into consideration the damage caused by the use of Soviet and American INF and SRINF systems in a conventional conflict which might eventually escalate into a theatre nuclear exchange. A "static comparison" merely shows the conventional forces available to fight a war in Europe, if INF and SRINF systems are not used.

It is, however, more realistic to view these systems "dynamically", in conjunction with conventional forces. In other words, a truly accurate comparison of the conventional balance in Europe is based upon the assumption that INF and SRINF systems may be used in a possible NATO/Warsaw Pact conflict.

One can only assume that given the overall warhead numbers of both sides, the Soviet Union will be able to inflict considerably more damage to NATO conventional assets in Europe than we will be able to inflict on Warsaw Pact conventional assets.

Some will argue that since 171 of the Soviet Union's 441 SS-20s are deployed in Asia, this overstates the case. However, if a conventional war breaks out in Europe, systems currently dedicated to the Asian theatre may be redeployed to European sites.

In any event, the fact that SS-20 launchers may have at least one reload with three warheads means that even if we exclude the SS-20s deployed in Asia, a conservative estimate of Soviet INF/SRINF warheads targeted at Europe would be close to 1100.

Since the USA currently has approximately 370 deployed INF warheads, the Soviet warhead advantage is still quite significant.

Therefore, in a "dynamic" comparison of conventional forces—one in which INF/SRINF systems have been used and Warsaw Pact and NATO conventional forces have been reduced accordingly—NATO would be the loser.

After such an exchange the warfighting balance of conventional forces would be extremely bad for NATO. The remaining Warsaw Pact forces might in fact approach force ratios in certain key conventional areas which might lead them to believe that they could achieve victory in this type of conventional/INF conflict.

Another critical dimension of the INF forces is the threat of nuclear devastation represented by Soviet INF/SRINF forces, a threat which itself inhibits military massing, manoeuvre, and operating efficiency of NATO conventional forces.

A successful NATO defense against a Warsaw Pact attack is predicated upon rapid NATO reinforcement and mobilisation, with attendant massing of forces in Western Europe before moving them into combat positions; actions which would make them lucrative nuclear targets.

If one accepts these arguments, then an INF-free Europe is clearly a more favourable conventional position for the USA and its NATO allies to be in.

In this situation, the conventional balance, although still in the Soviet Union's favour, is nonetheless much better for NATO than it would be if the Soviet Union has a significant advantage in both conventional and INF/SRINF systems, an advantage which would translate into even greater NATO conventional inferiority if Warsaw Pact INF/SRINF systems were utilised.

IMBALANCE

It will be easier for the USA to redress the conventional imbalance if INF/SRINF systems are removed, since the conventional differential, while still considerable, will not be as extreme as in a "dynamic" conventional force comparison.

In this regard the verification provisions of the proposed INF/SRINF agreement become especially important.

Soviet cheating could seriously undermine the benefits of the INF/SRINF agreement. In order to make it really work, it must contain a rigorous verification regime.

Tough verification will safeguard the security gains this agreement makes possible, enabling NATO to restructure its conventional forces, confident the Soviet Union is not holding a hidden nuclear "wild card" which could dangerously disturb the delicate conventional balance in a supposedly INF and SRINF-free Europe.

H.R. 3781, DOE WASTE CLEANUP ACT OF 1987

HON. MIKE SYNAR

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 17, 1987

Mr. SYNAR. Mr. Speaker, the Department of Energy [DOE], like all Federal agencies and private entities, is subject to the requirements of the Resource Conservation and Recovery Act [RCRA], which regulates the management and control of hazardous waste from generation through its ultimate disposal, and the Comprehensive Environmental Response, Compensation, and Liability Act—CERCLA or Superfund—which provides for the cleanup of contamination from abandoned or uncontrolled hazardous waste sites.

The waste problem confronting the Department of Energy [DOE] at its nuclear facilities is massive. These installations harbor over 1,700 potential CERCLA sites and 270 RCRA units. The severity and scope of the problem has been documented through numerous hearings before the Energy and Commerce Committee and my Subcommittee on Environment, Energy, and Natural Resources, as well as a host of General Accounting Office [GAO] reports. Cleanup costs will range well into the billions of dollars.

Yet, instead of setting a positive example for the private sector, DOE has strongly resisted complying with RCRA and CERCLA requirements. It has been slow to fully assess its problem, or design an action plan to address it. It has been left to Congress, the States, and citizens' groups to force the Department to come into compliance with our hazardous waste laws. Clearly, it is time for DOE to take this problem seriously. Yet, DOE has failed to get the message.

The legislative initiatives my colleagues and I are introducing today attempt to rectify this situation by clarifying DOE's legal responsibilities, and establishing institutional structures and legal authorities which will enable others to get the job done if DOE will not.

Part and parcel of an effective, long-term strategy for cleaning up DOE's nuclear facilities is a budgetary scheme that is visible, understandable, and free from conflicting priorities. Early this year, I asked GAO to look at DOE's funding and expenditures for RCRA and CERCLA activities, because I was concerned that the Department was not allocating sufficient funds to ensure its facilities would be brought into compliance with those laws.

Today, I am releasing the results of GAO's investigation. Astonishingly, GAO could not answer my question, because DOE cannot identify how much it has spent on RCRA and CERCLA activities. It does not specifically budget or account for RCRA and CERCLA funds. Instead, RCRA and CERCLA funding is scattered within DOE's operating budgets. According to the GAO, neither DOE headquarters officials, DOE officials at the nuclear facilities, nor the contractors operating those installations can identify the amount of funds spent on RCRA and CERCLA activities.

This raises a number of questions about DOE's ability and commitment to fulfill legal responsibilities to clean up its facilities and operate them in an environmentally sound manner. As GAO noted, if DOE cannot identify how much it has spent on RCRA and CERCLA activities, there is no guarantee that it has the controls necessary to properly administer the billions of dollars which will be needed over the long term for the cleanup of these sites. Moreover, this lack of accounting leaves open the possibility that funds intended for environmental cleanup are diverted to production activities instead. I and others in Congress have long been concerned that DOE was sacrificing its environmental responsibilities for production goals, and GAO's findings provide no reassurance on that concern. Clearly, GAO has demonstrated that DOE has failed to comply with Executive Order 12088, which requires that all agencies ensure that sufficient funds have been budgeted to comply with environmental standards, and show that such funds are not being diverted to other purposes.

The GAO noted that DOE efforts to correct these problems are not sufficient, and recommended that the Secretary of Energy specifically budget and account for all of DOE's RCRA and CERCLA funds, including creating separate accounts and identifying the funds in DOE's future budgets to Congress.

The legislation I am introducing today, the DOE Waste Cleanup Act of 1987, incorporates the GAO's recommendations and takes them a step further. This legislation requires the establishment of a DOE Hazardous Waste Management and Cleanup Account, containing all DOE funds for RCRA and CERCLA waste management and cleanup activities. Once funds are in the account, they cannot be reprogrammed to other activities.

The account will be managed by a new Office of Waste Management and Cleanup within DOE, and headed by a Director appointed by the President. The Secretary of Energy is required to delegate all of his authorities and responsibilities for RCRA and CERCLA waste management and clean up activities to the Director of the Office.

Finally, the legislation contains a number of reporting requirements to enable Congress to keep track of long-term budgeting, spending levels and activities at all facilities, and project completions.

These provisions will increase the visibility of DOE's RCRA and CERCLA activities, ensure the development of a long-term cleanup and funding strategy, and establish the authorities and mechanisms within DOE to get the job done right.

I urge my colleagues to support this legislation.

"STOCKING STUFFERS FOR TERRORISTS"

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 17, 1987

Mr. BIAGGI. Mr. Speaker, I want to commend my good friend from New Jersey, Mr. HUGHES, and the Subcommittee on Crime he chairs for working long and hard toward moving a bill through Congress aimed at combating a serious new terrorist threat—undetectable plastic handguns. Just last week, the Subcommittee on Crime conducted another in a series of hearings over the last 2 years on the plastic gun issue. While the witnesses changed, the message was still the same—plastic handguns pose a major new terrorist threat that demands congressional action. Millions of lives are potentially at risk, including those who fly aboard commercial aircraft, as well as those of us who work and live in security-conscious environments.

Simply put, the security devices we have come to rely on so heavily for protection against terrorist and other criminal threats, particularly the metal detector and x-ray machines, are of absolutely no use at all against plastic handguns. That is why I first authored a bill 2 years ago to identify and limit public access to undetectable plastic firearms. My bill also required the Federal Aviation Administration to perform the necessary research and development activities to upgrade airport weapon detection systems.

I have authored similar legislation this Congress—H.R. 84 and H.R. 1785—and I have cosponsored a subsequent measure authored by Mr. HUGHES on this issue. At last week's hearing Chairman HUGHES expressed his intentions to move legislation on this issue next year. I fully share his concern and resolve in this very important matter. We must not delay.

Many others share this view, including the law enforcement community, and many of the respected editorial boards throughout the country. At this time, Mr. Speaker, I wish to insert two of those editorial endorsements of plastic gun legislation, which recently appeared in the Washington Post and on WCBS-TV in New York.

[From the Washington Post, Dec. 1, 1987]

STOCKING-STUFFERS FOR TERRORISTS

If there were a Christmas mail-order catalogue for globe-hoping terrorists, next year's hot item would surely be a snappy new plastic and—here's the best part—undetectable handgun, perfect for breezing right through those annoying security devices at airports and other places where unknowning victims gather. But if enough members of a Senate subcommittee vote today to side with the Secret Service, law enforcement organizations and every major association connected with air travel, legislation to ban this nasty little firearm could be on its way through Congress. While they're at it, these same senators can—and should—vote for another lifesaving proposal strongly supported by law enforcement groups; a reasonable waiting period on handgun sales.

As always, there is a thick gunpowder smoke screen being fired up by the National Rifle Association, strong political arm of the world's suppliers of deadly weapons. The NRA line on plastic handguns is that they don't really exist yet and that this is much ado about nothing. But at least one gun manufacturer has testified that the production of plastic handguns is just a year away, while security devices capable of detecting these weapons are two to 10 years in the future, S. 465—whose bipartisan supporters include Sens. Strom Thurmond, Howard Metzenbaum, Edward Kennedy, Nancy Kassebaum, John Chafee, Chris Dodd and Paul Simon—would ban these weapons.

At a hearing on the Hill in July, Stephen Garmon, deputy director of the Secret Service, endorsed this measure, noting that protection of presidential candidates would become extremely difficult if the production of plastic guns were allowed. An official of the Air Transport Association has noted that over the past 14 years, nearly 8 billion people have been screened at U.S. airports, with more than 36,000 firearms detected, resulting in roughly 16,000 related arrests and the prevention of an estimated 117 hijackings.

The pivotal vote in the six-member subcommittee today is said to be that of Sen. Arlen Specter of Pennsylvania. The decision for all members should be to support the men and women in law enforcement who are on the front lines to protect themselves and the public from the all-too-free trafficking in concealable deadly weapons. A vote for S. 465 is a vote for public safety.

[Editorial by WCBS-TV, New York, Nov. 16, 1987]

THE GUN LOBBY STRIKES AGAIN

It's a hassle going through those metal detectors at airports. But sane people feel a little safer knowing that anyone trying to bring a gun on board probably will get caught.

This simple fact fails to impress the nation's gun lobby. The National Rifle Association is lobbying hard to stop Congress from banning guns that can slip through metal detectors. These guns are made with plastic parts.

Sportsmen don't use them for hunting, so the NRA can't pull out that old chestnut about gun laws infringing on the rights of hunters. Instead, the gun lobby has resorted to the senseless chant we all know so well by now: "Guns don't kill people, people do."

That people without guns can't kill with guns is beside the point.

Congress has been trying to pass tougher gun control legislation for years. The package now being considered would include a ban on plastic guns. And the gun lobby already is lined up to shoot holes in it.

We've had enough tragedies involving people who started out on vacation and ended up hostages on planes or ships. Their captors always have been gun-toting terrorists. And we're sure to see even more mad gunslingers terrorizing innocent people . . . unless you raise a heck of a stink when the NRA tries to convince Congress to remove bans on undetectable plastic weapons from gun control legislation.

PERSONAL EXPLANATION

HON. JAMES McCLURE CLARKE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 17, 1987

Mr. CLARKE. Mr. Speaker, on Monday, December 14 and Wednesday, December 16, 1987, I was necessarily absent for several votes. I would like to make clear my position on those measures considered by the House.

On final passage of H.R. 3399, the Alternative Motor Fuels Policy Act of 1987, rollcall No. 478, I would have voted "yea."

On final passage of H.R. 2790, the Public Buildings Amendments Act of 1987, rollcall No. 479, I would have voted "yea."

On the Michel amendment to H.R. 1720, the Family Welfare Reform Act, rollcall No. 486, I would have voted "nay."

On final passage of H.R. 1720, the Family Welfare Reform Act, rollcall No. 487, I would have voted "yea."

CONTRA AID

HON. TED WEISS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursdday, December 17, 1987

Mr. WEISS. Mr. Speaker, the congressional debate on Contra aid is so often muddied by rhetoric and ideology that we tend to lose sight of the horror of the ongoing war in Nicaragua.

Recently, a number of leading physicians in this country forwarded a letter to me detailing the carnage which the Contra war has wreaked in Nicaragua. This letter cuts through the rhetoric and provides a glimpse of Nicaragua as it really is—subjected on a daily basis to the brutal attacks of Contra terrorists.

The letter argues that continued U.S. support of the rebel forces is inconsistent with our Nation's traditions and likely to set back the cause of peace. Instead, the writers suggest that support of a regional peace plan is far more likely to result in restored democracy and civil rights in this region.

I agree with the authors that bringing a halt to the carnage of the Contra war is a goal which transcends ideological differences. I believe that this letter is extraordinarily insightful, and I commend it to the attention of all of my colleagues.

Congressmen TED WEISS,
The U.S. Congress, Washington, DC.

DEAR TED: The Congress of the United States must soon decide whether to provide additional funds that would be used to continue a war against the government of Nicaragua. Certain facts seem to us to be relevant to that decision:

(1) Without the funding by the United States, there would be no war. There would still be opposition to the Sandinistas, but no Contra insurrection.

(2) The weapons we have supplied to the Contras now result in about 20 killings a day, the equivalent on a population basis of about 1500 deaths each day in the United States. Civilians have been the main victims. In addition to the innocent men, women and

children who have been killed, some have been tortured and many permanently maimed. The enclosed photographs show some effects on children of mines, bullets and shrapnel used by the Contras. There are now about 600 children awaiting prostheses because of limbs blown off; that is the equivalent of about 50,000 such children in the United States.

(3) The Sandinistas have made vigorous and quite successful efforts to improve health and to increase access to education. Illiteracy has been strikingly reduced, a massive immunization program has been carried out, and infant mortality has been reduced by about 40 percent. Now the war and our embargo are interfering with those efforts. For example, the incidence of severe diarrheal disease and malnutrition among children has increased, a needed hospital to treat cancer in young women had to be adandoned and an American-funded civilian hospital has been destroyed. (Our approval of the impressive public health advances does not, of course, mean that we approve of certain other actions of the government.)

We ask the Congress to help halt a war that is so destructive to innocent people, especially women and children. Some advocates of financial and other support of the Contras say that they do not anticipate direct overthrow of the Sandinistas. Rather, they hope that a continued war will destroy the Nicaraguan economy and result in the downfall of the Sandinista government. But we believe that our national interests are set back by the immense harm we are doing by prolonging the fighting. We believe further that there are better approaches to our goals, approaches that are more consistent with our traditions.

We do not think this is a partisan political issue. Many Republicans and Democrats, conservatives and liberals, share concerns about our Nicaraguan policies. In that spirit, the undersigned physicians are sending this letter and the accompanying photographs to every member of the Congress.

We ask that you look carefully at the enclosed photographs. We urge you to stop Contra funding. We hope that instead, you will support negotiations in partnership with the countries of Latin America to restore political democracy and civil rights and to have foreign powers withdrawn from Central America. We believe that the use of our resources to improve the health of the Nicaraguan people would create friendlier relationships between the two countries. Cancelling the embargo would be an impressive first step.

Please help to stop the killing by voting against Contra aid and thereby give the people of Nicaragua, particularly the children, a chance for a healthier, more peaceful future.

Signed,

Donald B. Louria, M.D., Chairman, Department of Preventive Medicine & Community Health—University of Medicine & Dentistry of New Jersey—New Jersey Medical School, Newark, New Jersey; Alfred Gellhorn, M.D., Director of Medical Affairs, State of New York, Department of Health, Albany, New York; Frank Oski, M.D., Chairman and Pediatrician-In-Chief, Department of Pediatrics, Johns Hopkins University, Baltimore, Maryland; Kevin Cahill, M.D., 850 Fifth Avenue, New York, New York; Howard Hiatt, M.D., Professor of Medicine, Brigham's & Women's Hospital, Boston, Massachusetts; Arnold Relman, M.D., Editor, New England Journal of Medicine, Boston, Massachusetts.

This letter reflects the views of the individual physicians signing this letter. The institutions/affiliations appearing above are listed solely for the purpose of identification of the signatories, and in no way implies review of this letter or support for the views expressed by those institutions/affiliations.

THE RECURRING PROBLEMS OF NATIONAL BILINGUALISM

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 17, 1987

Mr. BEREUTER. Belgium, as in Canada, continues to suffer severe political difficulties of bilingualism. This is a matter that all Americans and especially my colleagues should keep in mind when we pass legislation and fund programs that encourage bilingualism or multilingualism as the common parlance in the country. I invite my colleagues' attention to the following editorial in the December 16, 1987, edition of the Lincoln (Nebraska) Journal:

DIVIDED BY LANGUAGE

Belgium, a small but important member of the Western Alliance, is entering a period of political uncertainty and instability. Its problems illustrate anew the headaches that bilingualism can bring to a nation.

Premier Wilfried Martens' center-right coalition saw its majority shrink in this week's elections and the Socialists replace his Christian Democrats as the country's largest political force. Martens will continue temporarily in a caretaker capacity, but his government is finished and a new one must be formed. Meanwhile, Belgium's severe economic problems remain to be dealt with.

A struggle for power between the two major Belgian ethnic groups would have made the election a hard-fought one in any case. But the conflict of languages exacerbated the differences.

For decades after Belgium became a nation in the 19th century, it was dominated by French-speaking Wallonia. In recent years, however, Flanders has been in ascendance. The Flemings have been demanding more political power, more posts in government, and have seized on use of the Flemish language as a symbol of their growing strength.

A bitter battle, spreading upward to involve the national government, erupted when the French-speaking mayor of a Flemish district refused, as a matter of principle, to take a test proving he could speak Flemish.

Martens' chose to view the election outcome as a vote of no confidence in his policies of tax reform, economic austerity and employment programs. Whether he or someone else heads the new coalition that must be formed, Belgium's problems will remain to be solved. Achieving that will require cooperation between Flemings and Wallons, and a damping down of the inflammatory language issue.

INDEMNIFY VICTIMS OF LONG ISLAND BROWN-TIDE CONTAMINATION

HON. GEORGE J. HOCHBRUECKNER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 17, 1987

Mr. HOCHBRUECKNER. Mr. Speaker, today I am introducing legislation which would enable Long Island baymen affected by the brown-tide algae bloom to receive Federal disaster assistance.

This bill would indemnify scallop and oyster fishermen on Long Island's East End who have sustained severe economic losses due to the brown-tide contamination which has plagued the bays of Eastern Long Island since 1985. The legislation directs the Small Business Administration to declare as disaster areas the bays in Suffolk County which have been contaminated with the brown tide. This designation would enable local baymen to receive disaster assistance under the Small Business Act.

To give Members a little background on the problem my people are facing, the brown-tide phytoplankton bloom has appeared in Long Island's coastal bays in 1985, 1986, and again in 1987. While the exact cause of the algae bloom remains a mystery, it is known to overwhelm filter feeder organisms like shellfish. It impedes their ability to feed and eventually kills them. From the Great South Bay through the Flanders-Peconic-Gardiner's estuary in my district, the brown tide has severely diminished local oyster and scallop populations. It is estimated to have cost Long Island baymen $5 million.

Mr. Speaker, it is late in the session and passage of this bill in 1987 would appear to be unlikely. However, I am hopeful that during the second session of the 100th Congress the House will act on this legislation so that the baymen in my district will have some relief from this devastating algae bloom.

I am encouraged by the fact that the Committee on Merchant Marine and Fisheries has approved a similar measure which would provide disaster assistance to fishermen in North Carolina. The red-tide algae contamination has forced the closure of the shellfish fisheries in that State. The measure was adopted on December 16 in full committee as an amendment to H.R. 3674, a bill to approve the Governing International Fishery Agreement between the United States and Japan. With a precedent now established of congressional support for providing disaster aid to victims of algae contamination, I am hopeful that the brown-tide legislation will receive the support of my colleagues.

Mr. Speaker, the people of my district are anxious to find a solution to the brown-tide algae bloom. Whatever the cause of the brown-tide contamination may be, at this point I want to ensure that the Long Island baymen who have been directly affected by the problem receive assistance, so that the shellfish industry on Long Island will be able to survive.

IT'S LONG PAST TIME TO ENACT THE FAMILY AND MEDICAL LEAVE BILL

HON. DOUG WALGREN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 17, 1987

Mr. WALGREN. Mr. Speaker, today I join a number of other colleagues in the House to announce my support and cosponsorship of the Family and Medical Leave Act of 1987, H.R. 925.

This legislation would allow employees across the Nation to elect to take up to 10 weeks of family leave for the birth of a child or the serious illness of a family member in their household. In addition, the bill would provide up to 15 weeks of medical leave if the employee suffers a serious health problem.

Mr. Speaker, the workplace is changing in America. In fact, it has changed. And it is critical that our laws which govern employer-employee relationships change to take account of the new realities. The traditional family in which the father works and the mother stays home no longer describes most families in America. More than half of all women with children less than 1-year-old are working; two out of three women with children under 3 years old are working. In today's economy, that second income is esssential to provide most families the means to keep food on the table and a decent roof over their heads.

Of equal importance is the fact that America's population is living longer and therefore growing older. As more women leave the home to work and as families that used to stay in the hometown disperse, many elderly parents are left alone, without traditional family support nearby. The fact that we have almost no home medical or nursing care is leading us toward a major crisis in how to care for the elderly.

The Family and Medical Leave Act of 1987 recognizes that when both women and men work, employers must allow them to care for extraordinary medical needs of their family at home. It is time to recognize the importance of home care by family members as an important part of what all employees have a right to expect. Most employers do. All should.

This bill provides a good answer to those who have argued that provisions like these would unreasonably increase the cost of goods and services. The time away from work required will be unpaid leave, limited in the case of pregnancy to 10 weeks after the birth. Common sense tells us that few are in a position to forego their income for longer—and that for a mother not to be able to stay with a newborn child less than 10 weeks old without losing her job is unconscionable.

This bill goes far in recognizing the special needs of small businesses by exempting employers with less than 35 employees and by requiring 1 year on the job in order to be eligible for leave.

If "family" means anything of value to our society, Government must take these kinds of steps. As our work force changes, certainly it would not be right for employers who have benefited from women wanting to work, to be unwilling to recognize the importance of family and medical leave. This is a bill that will make America a better place to work—and live.

Senate—*Friday, December 18, 1987*

(Legislative day of Tuesday, December 15, 1987)

The Senate met at 12 noon, on the expiration of the recess, and was called to order by the Honorable Timothy E. Wirth, a Senator from the State of Colorado.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

The voice of him that crieth in the wilderness, Prepare ye the way of the Lord, make straight in the desert a highway for our God. Every valley shall be exalted, and every mountain and hill shall be made low: and the crooked shall be made straight, and the rough places smooth: And the glory of the Lord shall be revealed, and all flesh shall see it together * * *—Isaiah 40:3-5.

Lord God Almighty, with profound gratitude, we hear these prophetic words of Isaiah. In a world filled with confusion and threatened by extinction they fill our hearts with hope and peace—the hope of eternal life and the peace of God that transcends understanding. We praise You, Mighty God, for the word from Dr. Luke's gospel which reassures us that this gracious hope is fulfilled in Him whose birthday we celebrate at this season. Give us minds to understand, hearts to receive, and wills to believe the boundless hope we have in the divine promise and plan revealed by Isaiah and confirmed by Dr. Luke in his gospel. Blessed be the name of the Lord. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. Stennis].

The assistant legislative clerk read the following letter:

U.S. Senate,
President pro tempore,
Washington, DC, December 18, 1987.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable Timothy E. Wirth, a Senator from the State of Colorado, to perform the duties of the Chair.

John C. Stennis,
President pro tempore.

Mr. WIRTH thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE ACTING MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the standing order, the acting majority leader is recognized.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that the time of the majority and minority leaders be reserved for their use later today.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business for not to extend beyond the hour of 1 p.m., with Senators permitted to speak therein for not to exceed 5 minutes.

The Chair recognizes the distinguished Senator from the State of Wisconsin.

WHY ARMS CONTROL IS MORE REALISTIC THAN THE ARMS RACE

Mr. PROXMIRE. Mr. President, the most shocking reaction this Senator has seen in his colleagues here in the Senate in the 30 years I have been in this body is the appalling attitude that arms control won't work. The line runs: We can't devise verification procedures that will prevent those Communist Russians from cheating. They will violate any arms control limitations. The Soviets after all still believe "world revolution by force and violence if necessary" is an option. They will use arms control to lull us to sleep. These critics of arms control argue: Assume the two superpowers enter into an arms control agreement requiring that both nations reduce nuclear arms. We will reduce arms. They will not. So we will unilaterally disarm. And they will achieve their world Communist revolution.

If arms control is a delusion, does that mean nuclear war is inevitable? The arms control critics deny it. How then without arms control do we respond to the lesson of history that arms races have regularly brought on war. The arms control critics have two answers: First, they contend that bigger and better weapons will not push the superpowers into war. After all the very threat of the giant advance in military destruction ushered in by the nuclear age has been the exact reason why Europe has been at peace for more than 40 years—the longest period of peace in Europe in centuries. Second, they contend that a few more decades of work on the strategic defense initiative [SDI] or star wars and our country can develop a defense against nuclear attack that will save Americans from the terrible threat of wholesale nuclear destruction by the Soviet Union's massive nuclear arsenal. They see arms control as a threat to building that great American defense. After all the whole purpose of the Anti-Ballistic Missile [ABM] Arms Control Treaty was to prevent either superpower from building a defense against intercontinental missile attack. The ABM Treaty recognized that the principle of mutual deterrence was based squarely on the conviction on both sides that a nuclear war would finish in a double knockout. Both sides recognized that both would lose in any major nuclear war. The Senate overwhelmingly understood this nuclear deterrent theory when we ratified the ABM Treaty by a resounding 88-to-2 vote in 1972. But now we have an administration that has called for a "reinterpretation" of that treaty to permit them to test and develop the very antimissile system that the treaty was designed to stop. A more frank group of hawks both in the Senate and in the press has called for the prompt and straightforward repudiation of the ABM Treaty—giving the required 6 months' notice and pushing sledlength ahead.

It is not the notion that nuclear war is inevitable that drives this crowd. It is the notion that the United States with its superior military technology, backed up by the free world with a preponderance of the world's scientific genius should deliberately take on the Soviet Union in a technological arms race. These arms control critics believe the United States and the free world will win when we build and deploy SDI—as an eventually perfect defense against whatever offensive nuclear force the less gifted Soviet scientific establishment can throw at it. They see the consequences of an SDI world as the dominance of freedom. They believe war will not be fought because the U.S.S.R. will recognize they cannot win such a war. The arms control critics believe that with SDI the free world can win. They also believe that unlike the Communist world, the free world does not want domination. The free world does not want domination by the capitalist system, by the

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

United States or by any nation. It wants world peace with all people able to become free.

What's wrong with this vision? What's wrong is that it is unrealistic. Any technology that is designed to eliminate the deterrence of nuclear weapons is based on a will-o-the-wisp illusion. What is this vision of a future world based on? Consider: assume that the dreams of a fully successful SDI somehow come true. The United States and at a some later time the Soviet Union both have developed 100 percent effective defenses against nuclear weapons, whether delivered by intercontinental ballistic missile, low flying in-close cruise missiles, or by terrorist commandos or some other system. Can anyone believe that the technology arms race stops there without arms control agreements. Isn't it obvious that without effective arms control agreements, both sides would be pushing with all the momentum of their successful military technologies to develop even more effective countersystems that could penetrate, spoof, overwhelm, deceive the defensive technology of the other? Hasn't the whole history of the arms race between the United States and the Soviet Union since the end of World War II been that the United States made one big nuclear weapon breakthrough after another—the atomic bomb, the hydrogen bomb, the intercontinental missile, the multitargeted independent reentry vehicles, the immensely destructive bombers and the far more destructive nuclear arms submarines? Hasn't the Soviet Union matched or nearly matched the United States at each step of military technology progress? Hasn't the race gone on at immense, utterly wasteful cost for both sides? Hasn't it imposed an enormous arms burden on both sides? Haven't both countries suffered an even more tragic loss of scientific genius diverted from building a healthier, more abundant life for their people to building ever more lethal instruments of mass death?

Can there by any real answer in this continued, endless arms race regardless of the marvels of our technological developments? Isn't the real answer for all its risks and all its fault arms control?

THURGOOD MARSHALL, THE MAN

Mr. PROXMIRE. Mr. President, recently, the Columbia Broadcasting System carried a remarkable 1 hour, prime-time program on Associate Supreme Court Justice Thurgood Marshall. The highly respected columnist, Carl Rowan, carried the ball as the chief interrogator.

Mr. President, for any American concerned with justice in this country, this was a "don't miss" program. Racial discrimination has been and still continues to be the most serious weakness in this great American society. We have made some progress. But we still have a very long way to go to give our black citizens anything like the equal American opportunity in which all of us take such great pride. In the judgment of this Senator, the most stimulating remark made about our great Constitution in the past year of its 200th anniversary were the sharp criticisms of Justice Thurgood Marshall.

Mr. President, this is a very long transcript. But this program dealt with an enormously important American problem. And so I ask unanimous consent that the entire transcript be printed in the RECORD.

There being no objection, the transcript was ordered to be printed in the RECORD, as follows:

THURGOOD MARSHALL THE MAN

MARSHALL o/c: If you haven't been a Negro, you don't understand and I agree with that. They think you're just *sensitive* about something. Well, let's find out what you're sensitive about, when you're not eating, or you can't find a place to sleep, sure you get sensitive.,

But I think a man's home is his castle, and goodness knows, if his home is his castle, his bedroom is the middle of it. Nobody snooping around in my bedroom. I don't have a gun, but I might be tempted.

ROWAN o/c: What about women's rights?

MARSHALL: We have progressed from the stage of keeping them barefoot and pregnant. We have escaped that stage. But I think there's a lot further on that we have to go.

You know, everybody quotes Martin Luther King saying, "Thank God we're free again!" We're not free! we're nowhere near free.

ROWAN: I'm Carl Rowan. Those are the words of one of the most powerful persons in America, Justice Thurgood Marshall of the United States Supreme Court. And you've just heard portions of the only television interviews granted by Marshall during his 20 years on this Court.

For more than half a century Thurgood Marshall has stood before this bench arguing in behalf of millions of ordinary Americans, and he has sat behind that bench listening to the cries of others for justice. We are going to take a rare look inside the Supreme Court and inside the Mind of "Thurgood Marshall the Man."

BOB DOLE: Well I, I kind of wonder about the propriety of a Supreme Court Justice granting interviews and getting involved in politics and that's precisely what he did.

WILLIAM BRADFORD REYNOLDS: And the thing that is wonderful about this country is that we are not monolithic. There are blacks who don't think the same way Justice Marshall does, just as there are whites who don't think the same way Brad Reynolds does.

STROM THURMOND: If he is not satisfied with interpreting the law, then he ought to get off and run for Congress and have a part in making the law.

ROWAN v/o: What's all this fuss about? After 20 years of silence, Supreme Court Justice Thurgood Marshall broke tradition and spoke harshly of the original Constitution and about racism in America today.

ROWAN o/c: Have you been shaken by the criticism?

MARSHALL: I, I listened to it, but it doesn't change me at all. If I spoke because of what I expected, good or bad, I wouldn't be speaking what I wanted, and when I speak I don't care what's gonna happen afterwards.

ROWAN: Uh-huh. You know, you went out to Maui and Clarence Pendleton of the Civil Rights Commission said that you were not acting as a proper Justice when you said the Constitution was flawed at the beginning. Did that bother you to have a black man criticize you?

MARSHALL: Well, my dad always taught me that there's no difference between a black snake and a white snake; they'll both bite. And every day I seem to learn that.

ROWAN v/o: But Justice Marshall's friends praise and defend him, including Supreme Court Justice William Brennan.

BRENNAN: Nothing Thurgood says goes too far, as far as I'm concerned. Which is not to say I'd do the same thing myself.

ROWAN: But were you pleased to see him speak out?

BRENNAN: Oh, I certainly was. I've been trying so long to persuade him to. He can tell so much more than any of the rest of us can. No one is better able really than Thurgood to talk about it, I think.

ROWAN v/o: The "it" that Thurgood Marshall is able to talk about is the same thing that gave him a basis for speaking out against injustice with a candor that shocked many Americans. Marshall's former NAACP colleague, Wiley Branton, told me what makes this Justice different.

ROWAN o/c: If someone said to you, "Sum up for me what you think Thurgood Marshall has taken to the Supreme Court, what are his contributions to that institution?", what would you say?

BRANTON: I would say a, a feeling and an understanding of the effect of segregation and discrimination. He has lived it, been a part of it and a part of his life. It's one thing to read about it, it's another thing to experience it.

MARSHALL: I remember as a teenager in Baltimore, you couldn't, there were no rest facilities downtown for Negroes. And I had an urge and I started thinking where I could go, there's no place to go. So, I jumped on the trolleycar to go home and I got off at my stop and I ran to the home, to my house, and I climbed up the steps, the front steps, and had the key in the door, and in broad daylight, in the afternoon, it all went right there on the sidewalk, on the steps.

That's a little more than an inconvenience. And guess what? I remembered it!

ROWAN v/o: Perhaps Thurgood Marshall was destined to become a champion of Civil Rights. He was born in a cauldron of conflict just when Negroes were walking away from the cotton fields of the South, shucking off the mentality of slavery. Black Americans flocked from plantations and share-cropper farms to urban areas in the North and South, often finding themselves unwelcome.

Race riots erupted in Georgia and Ohio in 1904 and 1906, but 1908 was the fateful year. Thurgood Marshall was born in Baltimore, Maryland, on July 2, son of a school teacher and a steward at a no-Blacks, no-Jews country club. A month after his birth the nation was shaken by ghastly rioting in Springfield, Illinois, where a white woman's false accusation of rape led to two lynchings and many deaths and great destruction.

That riot inspired the founding of the NAACP, the organization through which

Marshall was to become an American legend.

Thurgood Marshall went to college at all-black Lincoln University in Pennsylvania, but only after his mother pawned her wedding ring to help pay tuition.

MARSHALL o/c: And didn't get it out.

ROWAN o/c: Never got it back? (Laughter.) I see. Well you were, as I understand it, a pre-dentistry student.

MARSHALL: Well, my parents and grandparents wanted my brother and I not to work as hard as they did, and they wanted us to take up a profession and that looked like a good one. And I was all for it, until I messed up in college in the pre-medical course.

ROWAN: What do you mean, you messed up?

MARSHALL: The professor and I didn't get along.

ROWAN: So that's when you decided to go to, into law?

MARSHALL: I'd' a made so much more money, if I'd gone into dentistry.

ROWAN v/o: Marhsall went to Howard University Law School, where he finished first in his class. He rushed into his first civil rights triumph in 1935, when he forced the University of Maryland to admit a Black law student, Donald Murray.

MARSHALL o/c: Well, number one, they wouldn't let me go to the law school because I was a Negro and, um, all through law school, I decided I'd make 'em pay for it, and so when I got out and passed the bar, I proceeded to make 'em pay for it.

ROWAN o/c: Was this sweet revenge?

MARSHALL: Wonderful! I enjoyed it no end.

ROWAN: (Laughter.)

ROWAN v/o: White law firms didn't hire Negroes in those days, so Thurgood Marshall went to work for the NAACP, when he became the nation's premier Civil Rights Lawyer.

ROWAN o/c: In those days, you're out as a young lawyer trying these cases, what kind of money were you earning?

MARSHALL o/c: I started out, what was it now? Twenty-four hundred a year. That was in '36, and in '38, it was raised to $200 to twenty-six hundred. And I remember when I came home to my wife and I was very carried away with this raise and I mentioned it to her and she said, "$200?" and I said "Yeah" and she said, "not that I don't appreciate it, but uh, how much is that a week?"

MARSHALL (film): We didn't have the slightest idea that this would be done. Tutors are coming in to Birmingham today to tutor her, to make up for these three weeks she's lost.

ROWAN v/o: Thurgood Marshall's "Justice on a Shoestring" stirred up emotions throughout the nation as he and his colleagues tore down long-standing racial restrictions. In Texas, fighting for the right to vote, in South Carolina and elsewhere proving that Jim Crow schools were inherently unconstitutional; in Alabama, trying to get a Black woman, Autherine Lucy, past a door blocked by Gov. George Wallace.

Marshall won an astounding 29 of 32 cases that he argued before the Supreme Court, in a national environment that his former secretary, Alice Stovall, recalls as hostile. She tells of an incident in Norman, Oklahoma.

STOVALL o/c: I'd asked him was it all right for me to use the ladies' room. He says, "Oh, yeah, baby, this is a federal court." And I went to the ladies' room and I was washing my hands and two young ladies came in . . .

ROWAN o/c: White?

STOVALL: * * * they were white, and much shorter than I was, and they looked up at me and one said, "I don't know," she says, "if you're with those Black lawyers who are arguing the case," she says, "if you're black," she says, "you're not supposed to be in here, and if you're white you're a communist." And I looked at her and said, "Well, Mr. Marshall told me that this was a federal building from top to bottom and I could be anywhere I chose in this particular building." And they just walked out.

BRANTON o/c: In the Dallas school case, we were before Judge T. Whitfield Davis, who was certainly an opponent to racial integration. And on one occasion, I noticed that he kept glancing out the courthouse window. Finally, the judge got up and walked over to the window and then he beckoned to all the lawyers to come over. And he said, "You see that tree out there?" He said, "You notice there's some white birds and there's some black birds. And you will notice black birds will not even go on the same limb as the white birds, and vice versa." And that was his argument as to the justification for segregation.

ROWAN v/o: Experiences like these seemed to spur Marshall onward. They lit a fire in his belly that still hasn't gone out.

MARSHALL o/c: If you haven't been a Negro, you don't understand if, I agree with that.

ROWAN o/o: Uh-huh.

MARSHALL: They think that you're just *sensitive* about something. Well, let's find out what you're sensitive about, when you're not eating or you can't find a place to sleep, sure you get sensitive. They think that segregation is just a little something aside, a little inconvenience. Segregation is the worst thing that ever happened; apartheid is an example of it.

MARSHALL o/c: In those days it was rough, it's not like it was now. We, you lived with your hands in your mouth, I guess. I don't know.

ROWAN: Uh, were you ever in physical danger as you went down to fight these cases?

MARSHALL: Oh boy! Well, most places they couldn't get to me because, I know for example in Mississippi wherever I stopped a friend of mine who's an undertaker would bring one of his big Cadillacs with thirty, thirty rifles in the back seat and, uh, three people in there and they, uh, well if anybody had any ideas they got rid of them right quick.

ROWAN v/o: There was indeed bloodshed. Murders of NAACP leaders, bombings of homes, bombings of churches, but Thurgood Marshall kept riding into harm's way, going to the rescue wherever and whenever a local lawyer cried for help.

REPORTER ON ARCHIVE FILM: Do you think that means then that these children should go back to Central High?

MARSHALL ON ARCHIVE FILM: Well I'm confident. I think Mr. Branton here who's represented them from the beginning of the case and I take the same position, which is that we want those children to have a constitutional education, which the Supreme Court said must be on a desegregated basis.

ROWAN v/o: Wiley Branton, who filed the celebrated lawsuit to desegregate the public schools of Little Rock, remembers the perilous days of tangling with violent Arkansas segregationists.

BRANTON o/c: These were dangerous times. Everything was segregated in the South, so you couldn't stay in hotels, you couldn't eat in restaurants. Frequently we'd stay at the home of Mrs. Daisy Bates in Little Rock, and we shared the front bedroom, and there were twin beds in there and we used to joke with each other. We both had signs made, one said "Wiley Branton," the other said "Thurgood Marshall." And I'd walk in and put the name Thurgood Marshall on the bed nearest the window which was most likely to be bombed and I'd go out and come back in 15 minutes later and there'd be a complete switch.

We used to play games like that. We tried to keep up a sense of humor, and yet these were dangerous times, because, as you know, Mrs. Bates' home was subject to being bombed, attacked and shot in, various things.

ROWAN v/o: Thurgood Marshall had a close brush with death in 1946 when he went to Columbia, Tennessee, to defend two black men who were charged with crimes in connection with race riots.

MARSHALL o/c: The mob followed me out 'cross Duck River and pulled us over, and the mob was a very interesting mob. It was composed equally of state troopers and city police. And they said they had a warrant to search the car and I said, "Go right ahead." And then I told the guy with me, I said, "Hey, let's watch him, don't let him put some liquor in there," 'cause it was a dry county.

ROWAN v/o: The posse took Marshall near the banks of the river, ordering the other blacks to go into town. As Marshall neared the river, he saw people waiting for the "party."

ROWAN o/c: By "party" you mean "lynch party"?

MARSHALL: Lynch party! Or something, I don't know.

ROWAN v/o: But the other Black lawyers refused to go into Columbia, and the mob leaders decided there could be no hanging that day. Instead, they charged Thurgood Marshall with drunk driving.

MARSHALL o/c: When I went in there was this little magistrate, a little short guy not more than five foot two at the most. And he said, "What's this guy charged with?" He said, "Drunken driving." And he turned to me and he says, "Look," he says, "I'm a teetotaler, never had a drink in my life. If you're willing to take my test I'll try you." I said, "What's your test?" He said, "Blow your breath in my face." I went, "No problem," 'cause I hadn't had a drink for a couple days. So I blew my breath and he rocked like this. He says, "You're crazy, this man hasn't even had a drink, he's certainly not drunk!"

The guy that was in the original car with me, they beat him bad enough for him to stay in the hospital for a month, so I mean, they played rough.

JIMMY STEWART: He was about the only lawyer that we had, which meant that if you had a problem in Oklahoma, Texas, Louisiana, any other place, Thurgood had to come to your rescue. And air transportation wasn't nearly as efficient as it is now, and many times Thurgood would even have to catch a train and come all the way from New York to Oklahoma to litigate some of our affairs.

STOVALL: You would see, uh, people would come, the Blacks would be some of them in their overalls and come down to court. And he would stop and chat with them and tell them that, uh, he needed their prayers and they were, he was giving a better fight and eventually, we would win it and things would be fine. And, uh, you might say that they worshiped him.

Rowan v/o: Despite the sense of awe Marshall inspired in those days, many of his most important successes were never entered into our nation's history books.

Branton: Following the special hearing before the Supreme Court in September of 1958 on the Little Rock case, that's where the Court came back the next day with an opinion, uh, now Dr. Martin Luther King had absolutely nothing to do with the Little Rock case, except to the extent that he did go out to Little Rock and attended the graduation for Ernest Green, who was the first student to graduate.

But when Thurgood and I left the Supreme Court we hailed a taxi to go back to our hotel, and the cab driver looked around over his shoulder and he said, "Isn't it great what Dr. King did today?" Well, we thought we'd been away from the news and we said, "Oh, what happened?" "Oh, he got that Court to let those black kids stay in Central High School."

Whereupon Thurgood turned to me and said, "Wiley, did you hear that? Did you hear what Dr. King did today?" And I said, "Gee, that's amazing!" And we just chuckled over it, but a typical matter of other people getting credit for something that Thurgood Marshall really did.

Rowan v/o: But Marshall's Supreme Court record spells out his victories in black and white, including one of the most dramatic Supreme Court cases of this century, *Brown* v. *Board of Education.* On May 18, 1954, full-page headlines across the nation proclaimed the unanimous verdict, "High Court Bans School Segregation."

Rowan o/c: Did you, uh, really entertain some doubts that you could win that case?

Marshall: Some doubts? Great doubts! One thing I would have bet all the tea in China that it wouldn't be unanimous.

Rowan: Would it have been the magic of Earl Warren that might have gotten that unanimous decision?

Marshall: I think so. I think so. I don't think there's anything to the contrary.

Rowan v/o: Alice Stovall gave us an idea of how Marshall and his NAACP staff celebrated their Supreme Court victories.

Stovall: He says, "You're in for a treat, *I'm* cooking today," And his favorite meal at that time was, uh, something he called crab soup. And he would make this huge pot and tell us how many hours he had worked over it, so we'd better show that we liked it. And it was good. And then if he decided some of the men there they wanted to play cards, they would go off into the dining room table and they'd play, uh * * *

Rowan o/c: Pinochle?

Stovall: * * * pinochle, poker, and they'd play and you'd hear a great deal of hilarious laughter, particularly from him, particularly if he has winning, and uh * * *

Rowan v/o: After *Brown* v. *Board of Education,* however, Marshall did not celebrate.

Stovall: There wasn't a great deal of excitement because he said, "We've still got a lot to do, a lot of work to do." But in our minds the schools were going to be desegregated the next couple years, and not realizing that it would go on and on and on. But he knew that the job really had not been finished.

Rowan v/o: Marshall was correct. *Brown* v. *Board of Education* did not signal an end to racial segregation and violence. More than 30 years later, he still sees a problem.

Marshall: You know, everybody quotes Martin Luther King saying, "Thank God we're free again!" We're not free. We're nowhere near free.

Years ago a Pullman porter told me that he'd been in every state and every city in the country and he'd never been anyplace in this country where he had to put his hand up in front of his face to know that he was a Negro. I agree with him. Segregation, we still have it. I still know when I'm certain places. I know that there are clubs here in this town that invite everybody else but me. I don't have an honorary membership in any club, any place, under any circumstance. How come?

Rowan o/c: All the other Justices do?

Marshall: I assume they do.

Justice Brennan: Ordinarily he's a very patient man and he knows with a subject like this one has to be patient and he has been. But on occasions now he manifests an increasing impatience with the failures of those who could be doing more.

Marshall: I don't know the last President who came out fully four-square for ending segregation in every place. I think it would be good for a President to say, "People are all people." Take the skin off! There's no difference." I think it'd be good to say so.

Pres. John F. Kennedy on archive film: One-hundred years of delay have passed since President Lincoln freed the slaves, yet their heirs, their grandsons, are not fully free. They are not yet free from the bonds of injustice, they are not yet free from social and economic oppression, and this nation, for all its hopes and its boasts, will not be fully free until all its citizens are free.

Rowan v/o: To buttress his call for action, Kennedy nominated Thurgood Marshall to the Second Circuit Court of Appeals. This was like waving a black flag in front of Senators like James Eastland of Mississippi and Strom Thurmond of South Carolina. They tried to stall the nomination to death.

Pres. John F. Kennedy, press conference archive: I think there's been much too much delay. I'm confident, in fact I'm sure, that the Senate will not adjourn and I've been given those assurances the Senators will not adjourn without action being taken by the United States Senate on the Thurgood Marshall appointment. When it does come for a vote, and it will, and in my judgment the Senate will confirm him overwhelmingly.

Rowan v/o: The Senate *did* confirm Marshall, but only after a long emotional filibuster.

Do you think it's right for various groups of Americans to try to deny the confirmation of someone appointed to this Court on the basis of their being too liberal or too conservative?

Marshall: I think that protest is a part of the American way of life. And the right to petition Congress is in the Constitution. So I think any individual, any group, has a specific *duty,* not only a right but a *duty,* to present to Congress their views on any matter that's before Congress.

The Senate committee held hearings for eleven months before they got around to confirming me, but I still think they had that duty.

Rowan v/o: I reminded Justice Marshall that former congresswoman Barbara Jordan and former Secretary of Transportation William Coleman had helped to block Judge Robert Bork from a seat on the Supreme Court and that they were criticized as being part of a lynch mob.

Marshall: They researched the whole problem and they presented their research to take it or leave it. I never heard of a lynch mob putting it up to somebody else—the lynch mob takes it upon themselves to do something. I just think it's an unfair statement for anybody to have made.

Rowan v/o: As Thurgood Marshall sat on the Court of Appeals, he had no idea that President Lyndon Johnson was planning and plotting the course of the rest of his life. Former Johnson aide Jack Valenti tells how Johnson conspired to make Marshall the first Black Justice of the Supreme Court.

Jack Valenti: He was determined that he was going to put a Black on the Supreme Court at the same time that he was trying to pass this monumental Voting Rights Act of '65. And I remember that in talking to me about it, he determined that he had to get somebody, a Black, who was going to survive the gauntlet of congressional intervention, hearings for confirmation. He wanted to so certify it so that there'd be absolutely no question at all this man would be confirmed and even lauded.

Rowan o/c: Now you mean the gauntlet of Southern opposition to a black person on the Supreme Court?

Valenti: I do so mean that.

Rowan: But, Jack, why Thurgood Marshall? Why did he pick a man who was a red flag to the Southern Senators?

Valenti: I think that was one of the reasons, Carl. He thought Thurgood Marshall was a brilliant lawyer whose credentials as a courtroom lawyer were unsurpassed. And, uh, but he determined that he had to outfit Thurgood Marshall and armor him with the kind of battleplates that no opposition could penetrate. And I remember he said that, "By God, I'm gonna take Thurgood and I'm gonna make him Solicitor General, and then when somebody says, 'Well, he doesn't have a lot of experience with the Supreme Court," he said, "By God, that son-of-a-bitch will have prosecuted more cases before the Supreme Court than any lawyer in America. So how is anybody gonna turn him down?"

Marshall on archive film: I'm certain that there's no possible reason that I could have to not adequately represent this government, which is after all my government, just as it is all of our government.

Rowan v/o: There was a bruising Senate battle over Marshall's nomination to become Solicitor General, the man who would speak for he government before the Supreme Court. But Marshall was confirmed and sworn in by a former member of the Klan, Justice Hugo Black, who had become one of the most esteemed members of the nation's highest tribunal.

Justice Black on archive film: You have the qualifications that are needed, you are a lawyer. I have seen you in action, you are the kind that can serve the people of this nation, and I welcome you on that basis.

Valenti: * * * Just as Johnson planned it. Justice Marshall's record as a Solicitor General was peerless and that was his great armorplate and that, uh, all the bullets fired at him just didn't penetrate.

Marshall: He always said, thought, that, "I'm not gonna put you on the Supreme Court," and tell you that, "Don't bank on it, it's not there."

Rowan o/c: Were you surprised when Johnson named you?

Marshall: Yes sir, I sure was, most surprised person in the world.

Dan Rather on archive film: Mr. Johnson never mentioned the word "Negro" as he nominated a Negro for the Supreme

Court, but his sense of pride in the historic occasion came through as he made the announcement.

PRES. LYNDON JOHNSON ON ARCHIVE FILM: I believe it's the right thing to do, the right time do it, the right man and the right place. I trust that his nomination will be promptly considered by the Senate.

ROWAN v/o: This time the storm lasted more than two months, but Marshall was confirmed to the highest court in the land.

There's still a lot of people who think Thurgood is on that Court only because he's a Black man.

JUSTICE BRENNAN: That's quite wrong. I know that's quite wrong. He would never have been appointed had he not been the able lawyer that, and judge, that he had proved to be, and Solicitor General that he proved to be. I'm confident that he would not have been.

ROWAN v/o: What is the proper relationship between the Justice Department and the Supreme Court?

MARSHALL: The Solicitor General is the government's spokesman in this court. He speaks for the government. It's always been true up until the past decade or so. Now it seems as though he speaks only for the President, and not the rest of the government.

ROWAN: Let's talk about Attorney General Meese who has led a campaign against judicial activism and the cries for a strict interpretation of what the framers meant.

MARSHALL: The people who listen to those statements should bear in mind that they are for the political arena, not for the judicial arena.

ROWAN: Are you saying that you Justices don't pay any attention to those statements?

MARSHALL: I don't.

ROWAN: Do you think Meese has given proper honor to the separation of powers?

MARSHALL: I don't think he understands it.

ROWAN: What do you personally think of Ed Meese as an Attorney General?

MARSHALL: No comment.

ROWAN: Do you and other members of the Court discuss him in private?

MARSHALL: No comment. No comment double.

ROWAN (Laughter): Have you had the feeling that somebody is trying to undermine and destroy the things you achieved as a private lawyer for the NAACP and as Solicitor General and what you've done on the Court?

MARSHALL: Oh, I don't think it's aimed at me at all. It's aimed at the Constitution; it's to try to, I think there are certain movements that the Department of Justice is making which could be interpreted as trying to undermine the Supreme Court itself, which is of course impossible. They can't separate the political from the legal. They write political speeches and put the word "brief" on them.

ROWAN: Does this rankle members of the Court when they get what you call a "political speech" with a label "brief" on it?

MARSHALL: Well, what I do, I don't read it.

ROWAN o/c: How do you feel, what do you think about on days when you realize what great power you wield?

MARSHALL: You don't think about it. It's there. And so far as I'm concerned when something has got to be done, I do it and go on to the next job. Like the question you're constantly asked is, "What was your most important case?" And I answered, "It'll be the next one."

ROWAN: Do you ever say to yourself, "There are limits beyond which I can't go, I must restrain myself"?

MARSHALL: Ooh, of course. There's, it's not judicial restraint, it's just restraint. You take an oath to hand out justice, you in your own mind have to take any prejudice you have or predilection that you might have and push it back out of your mind until I, you decide the case and then go back and pick it up again, if you want to.

ROWAN: You've been averaging 15 dissents per term. Shouldn't we call you "The Great Dissenter" or "The Great Unhappy Justice?"

MARSHALL: Well, I'm not unhappy at all. I enjoy the fight. I agree with that old saying that "I love peace but I adore a riot!" I think it would be horrible to have a court that was all one side or the other, I wouldn't want it.

ROWAN: Well, when you sit down to write some of those dissents, I'm sure you're going to be a little disappointed and maybe even angry now and then.

MARSHALL: Ooh, you gotta be angry to write a dissent.

ROWAN: Do you ever wish you were pulling teeth and filling teeth instead?

MARSHALL: Doing anything else. But, uh, when you once get into a dissent you begin to enjoy it, and the deeper you get into it, the more you enjoy it. Even though you wonder what would have happened if you had been in the majority.

ROWAN: Let's talk a little bit about, uh, some of the individuals who have made history interpreting this Constitution. Earl Warren, what, you had two years on the Court while he still was there?

MARSHALL: Two, I think it's two or three.

ROWAN: Was he the great leader that we . . .

MARSHALL: He was the greatest leader that I've ever run across in my life. He was likable but firm.

ROWAN: Is it true that you were a, or had been, a particular thorn in the side of Warren Burger?

MARSHALL: No. I'm sure I'm not. I might be in a group that he classifies as a, no, uh, outside of actual Court decisions, Chief Justice Burger's a very likeable guy.

ROWAN: What about Rehnquist? Do you think he's gonna be a really good Chief Justice?

MARSHALL: I think he's gonna be one of the best. Number one, his heart is set on doing one thing or the other, but I mean he has no problems, wishy-washy, back and forth. He knows exactly what he wants to do, and that's very important as a Chief Justice.

ROWAN: Justice Blackmun has said publicly that being on the Supreme Court "is a rotten way to earn a living." Blackmun said it's a weary place and there's no humor there. Do you * * *

MARSHALL: Well, he ought to come by my office some time.

ROWAN: Lots of laughs at your office?

MARSHALL: Ooh, yes sir! I know one time Justice John Harlan and Chief Justice Warren were really at loggerheads in an argument, and we broke for coffee. And during the coffee break, I sat beside John and he came over to me and he said, "Thurgood," he says, "you know I have great trouble with the English language." So I said, "You mean cursing?" and he said, "Yeah." He didn't curse.

ROWAN: This is Harlan you're speaking about?

MARSHALL: Yeah. And he said, "Give me some choice language." So I said, "No problem." So I gave him some choice language. Well, he got back down around the table, the Chief Justice started out and Warren (sic) let go with about five or six curse words in a row. (Laughter.) The whole joint said, "Aaahhh!" You didn't hear John curse, and the Chief Justice—you never put anything over on Justice Warren. The Chief Justice said, "Thurgood, you did that!" I said, "No, not me!" (Laughter.) Oh, sure, it's good to stick something in when things get real tense. It's easy.

ROWAN: It's easy?

MARSHALL: Yep.

ROWAN: You mean the way you . . .

MARSHALL: It's easy to be talking and nobody's listening. And there's nobody in that room, we don't allow anybody in there.

ROWAN: And you think that's, uh, that's better for the country that the Court operates that way?

MARSHALL: I sure hope so. I sure hope so. And we had some heated discussions in there sometimes. But they're not bad, they're understandable. We're all gentlemen and a lady, that's all.

ROWAN: Are you disturbed by recent efforts to curb and limit the power of the press?

MARSHALL: I've always been, except at times I get worried about the press when they print that I'm dead. Or that I'm ill, something like that. I begin to wonder then about how much free press I'm for.

ROWAN: Do you see a day when there'll be no such thing as real privacy in this society?

MARSHALL: Well, a couple of more decisions like that Georgia sodomy case and we won't have any privacy left. But I will raise my voice against it as long as I've got breath. You got Big Brother in the bedroom, I don't know any place else that you can keep Big Brother out of. I think a man's home is his castle, and goodness knows if his home is his castle the bedroom is the middle of it. Don't want anybody snooping around in my bedroom. I don't have a gun, but I might be tempted.

ROWAN: Your stand on a woman's right to abortion, does it apply there also, that you think a woman's body is her castle?

MARSHALL: Yes, no question about it. And I don't think anybody's got * * * I don't even need the lawyer's, I mean the doctor's, advice and all. I don't need that. I figure it's up to the woman. Well I mean the woman, well, we have progressed from the stage of keeping them barefoot and pregnant. We have escaped that stage. But I think there's a lot further on that we have to go.

ROWAN: One presidential aspirant, Pat Robertson, says that the rulings of this Court are not necessarily the law of the land, and that he would not be bound to uphold decisions that he thinks are contrary to the Constitution.

MARSHALL: Well than he should start reading Article VI of the Constitution, which says that this Court does speak for the government. He just hasn't read of, a lot of other Articles. I don't think he's read either.

ROWAN: You say that you believe in the Court. What does that mean? Does that mean you believe that anybody who sits on that Court is going to be influenced by the other eight members in a lot of ways or what?

MARSHALL: I don't think anybody is unreasonably influenced by anyone else. They might say so but I don't believe it. But I believe they'll listen to me and we listen to each other and we do it repeatedly and regularly, and I think we have absolute and complete mutual respect for each other.

And I see nothing to the contrary, or in the future either.

ROWAN: Should I and other Americans feel fairly secure that the Supreme Court is not about to let freedom of speech, privacy, freedom of religion get washed away or eroded to any degree?

MARSHALL: I don't see any problem at all.

ROWAN: No danger?

MARSHALL: No.

MARSHALL (archive footage): I believe that a man trained in the law, in a way his major job is to represent his country and do whatever he can most effectively.

ROWAN v/o: What will be the judgment of history regarding Thurgood Marshall the man? Has he been effective in representing the people of his country?

ROWAN o/c: Would you sum up his contributions to America as you see them and have thought about them?

ALICE STOVALL: He's changed the history books.

ROWAN: Changed the history books?

STOVALL: He has changed the history books. Don't you think so?

JACK VALENTI: President Johnson was quite proud of the appointment of Thurgood Marshall. Indeed, in retirement he counted that appointment as one of the two or three greatest accomplishments of his administration.

JUSTICE BRENNAN: Remember he can tell you from personal experience what it was like to ride for miles and miles and miles and couldn't even get a sandwich at any restaurant along the way. The knowledge of that sort of thing in cases that we've had to deal with has been very valuable to all of us on the Court.

ROWAN: When someone mentions Thurgood Marshall's name, what qualities do you think of?

WILEY BRANTON: I think of intellectual ability, commitment, loyalty, personal support.

ROWAN: Would you say he's changed the nation?

BRANTON: Oh, absolutely. He's certainly helped to change the nation.

ROWAN: There are some people who've said to me since you granted me those interviews, "Hey, why did Justice Marshall do this? Is this his swan song? Is he saying goodbye?"

MARSHALL: I'm gonna quit at the end of my term.

ROWAN: Which is life?

MARSHALL: Life!

ROWAN: Well, would you say then that genuine justice is not foreseeable as far down the road as we can look?

MARSHALL: Oh, no. I think it can come any day. I think it can come at any time. And when it comes, I just hope I'm here.

ROWAN: Somewhere down the road someone will ask a journalist like me, "What was Thurgood Marshall like?" What would you like the answer to be?

MARSHALL: He did the best he could with what he had. That's it. I can't beat that.

RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. The Chair recognizes the distinguished Republican leader.

THE RECONCILIATION PACKAGE AND THE CONTINUING RESOLUTION

Mr. DOLE. Mr. President, I wish to indicate, as I have previously, that there was a Republican leadership meeting this morning at the White House with the President to discuss the reconciliation package and the continuing resolution and, I guess, when we might depart from Washington, those of us in Congress.

I think the President made it quite clear that there were certain things he could not accept and those matters, I think, will now be in negotiation. I think he will be discussing some of those with the Democratic leadership in the House and Senate.

But, essentially, they fall into a couple of three or four major items. One is Contra aid. The President said he would not sign the CR unless it contained Contra aid, humanitarian aid. He would not sign the CR if it included the fairness doctrine. And there were problems within different committees—Agriculture, for example, the matter of REA on how much you attribute to savings because of REA funding.

So there were a series of things that I think are legitimate concerns that the President expressed, primarily because we had an agreement and we worked very hard on that, a bipartisan agreement. Some of our colleagues on both sides of the aisle spent I do not know how many hundreds of hours meeting for about 20 or 30 days. And we finally agreed we would do certain things and the President signed off on that and we signed off on that.

I think it is still the position of the joint leadership and the President that we ought to comply with that agreement. It was made in good faith. I hope that when all the dust settles we can reconcile any differences and that we can move on or move out, whatever the case may be.

I see the distinguished majority leader is just coming into the Chamber now. I indicated to those present this morning that we had had nothing but cooperation on the Senate side. We did not have any difficulties. We worked together. We believe the Senate bill complies with the agreement and we would hope that any differences there may be remaining can be resolved because I understand, based on comments by some of my House colleagues, that there may be difficulty getting an extension of the CR.

I would be prepared to extend it if necessary; I know the majority leader would. But I am not certain what would happen on the House side. So it is my hope that there is still willingness to work out any other problems; that we can leave here some time late this week or early next week.

I reserve the balance of my time.

The PRESIDING OFFICER. The majority leader.

Mr. BYRD. Mr. President, I am sorry I did not hear all that the distinguished Republican leader had to say. I got in on the end of it.

Permit me to say that I have been meeting since 10 o'clock this morning with Democrats from the House and Senate side. We have been discussing two of the problem areas, possibly even three. Let me say what my position is, so that, for what it is worth, everybody will know it.

My position is that we ought to stand by the agreement. I cannot explain the agreement in every detail. I assigned certain Senators from this side of the aisle to work on behalf of Senate Democrats. The distinguished Republican leader did the same on his side of the aisle, by way of assignments, to work on behalf of his side of the aisle. And we all had bipartisan meetings and met with the President's representatives.

But, in general terms, I am for keeping whatever we have agreed to unless there are reasons that were unforeseen at the time. Of course, those things can sometimes exist or come to light. I am also for working together, at this point, and getting this work done, if it means that we stay late tonight; if it means that we stay in late tomorrow night. I do not want to be in on Sunday. Sunday is the Sabbath. But if it means being here on Sunday, I will be here. If it means being here on Monday, I will be here, because we have got to get this work done.

There is a responsibility on all sides to keep our agreement; but also not become too confrontational. We all have to give and take, as I have said in meetings among Democrats. We had to give and take and the President had to give and take. We gave up some things we did not want to give up, but the President gave up some things he did not want to give up. This is not an ordinary bill. This is a unique package which came about as a result of bipartisan efforts, with both parties sitting down together and both the executive and legislative branches sitting down together. So it is a little late to engage in turf battles.

It is, now, the wrong time to be talking as though this is an ordinary bill. This is not an ordinary bill. The clock is running on sequester and the clock is running on our getting reconciliation and the CR passed.

If there is a political decision that has to be made, if it is hard to make, I will be glad to try to get myself named as a conferee in the Senate; I will make that decision if it has to be made; if that will help. And you can put it on me. But we have to get this work done, and we cannot take too much longer.

I have tried to come into this court with clean hands and I am going to try to operate in that way thoughout. I want us to keep our agreement. When one says: Well did we agree to this fine line or that fine line there, I cannot say. I left that up to the chairmen of committees whom I appointed and who are much more knowledgeable of the details than I would be. We all signed off on the agreement and I am for keeping that agreement.

I have faith, as I have always had faith; I am optimistic as I always am optimistic, because when it comes down to the clinches, I believe we have men and women here who will meet the requirements of the moment and finish work on the CR and reconciliation.

So let me just say again: I hope we will not hear too many veto threats. The President has his constitutional rights and responsibilities. But I hope we will not throw down gauntlets. I am hoping we can avoid those. That is all I have to say on this point.

Mr. President, the distinguished Republican leader has asked the question whether I feel we will have any votes today. I have been tied up this morning. I have not had an opportunity, as I usually might have, to get reports back which help me in having a better understanding of what the ensuing day will bring. I doubt that we will have votes today on the reconciliation or CR conference report. However, progress is being made and I think it has been good progress on both measures.

So, conceivably, "conceivably," late, late today it could be that we would find ourselves on one of these conference reports.

There is a good bit of paperwork to be done but once they reach the conceptual agreements, then they can fill in the details and do the papers.

The only answer I can give the distinguished Republican leader is that if it requires being here to midnight to finish, or after midnight to finish one of these conference reports here, the Senate will be in. I see no way to avoid a Saturday session. And the same will be said with respect to a late evening on Saturday.

Let me ask one question.

Mr. President, in further response to the distinguished Republican leader, there are some other conference reports, one of which is on the Farm Credit Administration bill. There may or may not be a rollcall vote on that conference report.

The committee funding resolution for agriculture has a time agreement on it, and I do anticipate a rollcall vote on that matter.

There is a nomination on which a request has surfaced for a rollcall vote.

So I can say to the Republican leader that there will definitely be some more rollcall votes before we go out sine die. Whether these rollcall votes, the two which I have mentioned at this point, occur today or whether they occur tomorrow remains to be seen. I would hope to schedule those in ample time that Senators may be prepared for those, but sometimes that is not easy. I think I shall just leave it at this: All Senators should remain prepared to answer the call of the roll today until further notice to the contrary, and tomorrow.

The leadership will certainly do everything it possibly can to inform Members at a point where it sees there will be no more rollcall votes. But as of now, until that message goes out from the leadership: Senators should be prepared for rollcall votes.

Mr. DOLE. If the distinguished majority leader will yield, we will proceed accordingly on this side on the hot line and indicate that there could be votes not later than tomorrow.

Mr. BYRD. Or Sunday.

Mr. DOLE. So I guess the message is, do not get too far away.

Mr. BYRD. Absolutely. The message is, there are going to be rollcall votes. Whether they are today or tomorrow or today and tomorrow cannot yet be stated.

Mr. DOLE. I thank the majority leader.

Mr. BYRD. I thank the distinguished Republican leader.

Mr. President, is the Senate still in morning business?

The ACTING PRESIDENT pro tempore. The Senate is in morning business until 1 o'clock.

Mr. BYRD. I thank the Chair. Do I still have 10 minutes?

The ACTING PRESIDENT pro tempore. The time of the majority leader has been reserved for the majority leader.

Mr. BYRD. I thank the Chair.

Mr. President, if other Senators will indulge me for a moment, I do need about 10 minutes, which I will use and I will charge that against my standing order.

1987, A YEAR OF CONSTITUTIONAL CHALLENGE

Mr. BYRD. Mr. President, the Congress is now nearing the end of its first session.

I believe it is important to make some assessment of the year we are just now completing and to sketch out, in broad brush form, the legislative areas which will be dealt with during the next session which will begin when we return.

We end the year on a positive and conciliatory note.

The President and the Congress appear to be of one accord on a number of previously contentious issues.

The President has held a successful summit with Mr. Gorbachev and the INF Treaty has been signed.

Here in the Senate there is a mood of guarded optimism and hope for the approval of the treaty.

The leadership package to reduce the deficit by $76 billion over 2 years continues to move forward with the President's support and the support of the joint leadership in both Houses.

A 6-year political stalemate between the Congress and the White House on the budget deficit has been broken at least for the moment.

And, Judge Kennedy, in marked contrast to Judge Bork's contentious hearings, has had a rather uneventful confirmation hearing for the vacant seat on the Supreme Court. The ideological rancor engendered by Judge Bork's nomination seems, in perspective, to be more and more out of place within the broad mainstream of American jurisprudence and American political thought.

Many Members of Congress, and I am sure many Americans, feel some sense of relief that the Congress and the President have found a way to talk and to compromise their strong differences.

And, it is heartening at least for this Senator that the moderate factions within the administration are winning some battles.

Indeed, we are in a rather paradoxical point in politics, where the President's most strident opponents seem to be most of the members of his own party, if not all.

It is my hope that a new and healthy balance is being struck between the Congress and the executive.

Power divided and shared gives us our representative form of democracy.

Power unchecked, whether it be in the legislative branch or in the executive, ultimately is destructive to the spirit of the Constitution.

This is how we are ending the year. But it was not how we began the year. Indeed, it is my belief that 1987 was a year of constitutional challenge and struggle regarding checks and balances and the separation of powers. From Iran-Contra, the arms-hostage deal, to the nomination of Robert Bork, to the ABM Treaty, to the debate over war powers, to the debate over the role of the independent prosecutor, the Congress and the administration were engaged in a vigorous and most serious debate over how the power of this Government, derived from the people, should be exercised.

Again and again the energy of the Congress was committed to maintaining the mainstream political consensus. Many of my Republican colleagues supported the desire to move beyond a rigid and limiting "litmus test" type of politics to a politics of positive solutions.

Unfortunately, the desire to do ideological battle, for deliberate confrontation, so exemplified in the nomination of Judge Bork, and the succeeding nomination of Judge Ginsburg, was more the rule than the exception within the administration. In case after case, Iran-Contra, Contra aid, the highway and clean water vetos, the nominations of Judge Bork and Judge Ginsburg, the ABM Treaty fight and the SALT II compliance battle some in the White House seemed unwilling to move beyond a narrow, ideological vision of America.

If our system of government, of checks and balances, is left unattended we leave it open to encroachment; to habits of power that are inherently undemocratic and unconstitutional. As I have said previously, a denial of democracy in defense of democracy is no virtue. I believe the 100th Congress has maintained the balance and checked the abuses and the would-be abuses.

When the year began the Congress had a three-part agenda: To come directly to terms with the budget and trade deficits; to maintain a strong defense while placing equal emphasis on arms control; and to begin playing catchup after years of social neglect—in other words to begin investing in America's future. I believe the Congress has made healthy and positive progress in each of these areas.

There was and remains a broad-based recognition within the Congress that the administration's policy of borrow and debt is ultimately destructive to the long-term fiscal health of the country. To that end the Congress sought to engage the President's support for a responsible, bipartisan deficit reduction program. The leadership package reflects this effort.

For some Members, indeed even for this Senator, the leadership package is not all that we would want it to be. Nevertheless, it is a positive step forward. It is important to remember that it took the extreme and the extraordinary to get the President to the negotiating table. In the extreme the Congress was forced to pass Gramm-Rudman. In other words, to put a gun to the temple of the President and the Congress. In the extraordinary the administration finally came to the negotiating table after the crash on Wall Street.

It is clear that the bipartisan leadership package is only one part of a continuing program of fundamental economic adjustment. Passage of the trade bill is the next great imperative. Congress must move quickly and responsibly in the next session to bring the bill out of conference and send it to the President. Every effort will be made by the leadership to that end.

I think that the example which has been set in the budget deficit reduction negotiations is a good benchmark that I hope will continue to be useful as we discuss the economic problems and the trade problems in the future.

In the case of the budget deficit, we put the gun back in the holster. Sequester will not take place if, as I optimistically believe, before we leave here sine die we pass a reconciliation bill and the President signs it. Otherwise, sequester takes place, and the gun comes out of the holster again. But let us hope and believe that that will not happen.

Approval of the INF Treaty will also be high on the congressional agenda next year. The Senate is keenly aware of its constitutional duties with regard to advice and consent. No stone will be left unturned with regard to the issue of verification.

So, as I said earlier, there is a mood of guarded optimism in the Senate with regard to the INF Treaty. There is a sense that it is good for both countries. But I am also aware that the approval of this treaty will raise up a host of other important national security questions. Uppermost in mind will be the state of our conventional forces and the ability of NATO to defend itself. The euphoria of the INF summit must now give way to a new realistic assessment of our national interests and the interests of our allies, not only now but in the future.

So Congress will continue to play catchup on domestic policy in the next year. Overriding the President's veto of the highway bill and the clean water bill should only be seen as first steps. A great deal of progress was made this year by the legislative branch in preparing for the passage of significant legislative reforms in the next session.

Here I mention only a few—catastrophic health insurance, welfare reform, a new housing bill, banking reform, and increased funding for AIDS research. I assure my colleagues that we will also once again revisit, or try to revisit campaign finance reform. Our representative democracy cannot and must not be lost to an aristocracy of the money baron.

I believe the Congress has served the people—and well. I believe the Congress has fulfilled its duties to guard the Constitution in this year of the anniversary of the Constitution, and that Congress has risen to the constitutional challenges that presented themselves this year, as I have already indicated, in foreign policy with the investigations by the joint committee between the two Houses, a bipartisan investigation into the arms-for-hostages deal and on the domestic front the investigatory, the hearings and confirmation role of the Judiciary Committee in the Senate and the vote by the Senate itself on the Bork nomination.

I believe the Congress, the great legislative body of the people, has kept faith with the basic aspirations of our constituents; namely, to secure America's interests in the world, to protect our citizens from the unexpected and the dangerous, and to build for the future.

Mr. President, I yield the floor.

THE INF TREATY

Mr. PRESSLER. Mr. President, I am today filing an amendment to the INF Treaty. It is a positive amendment dealing with the ratio of conventional forces in Europe which the Soviet Union and the Warsaw Pact are allowed to keep compared to what the United States and NATO are allowed to keep. Presently, the Soviet-Warsaw conventional forces have a 4-to-1 advantage over Western Europe. Some less pessimistic estimates say that it is a 3-to-1 advantage. But there is no question about it; in terms of conventional forces in Europe, the Soviets and the Warsaw Pact are 3-to-1 or 4-to-1 times stronger. In addition, their troops are combat ready and ours are not in such a high state of combat readiness.

Mr. President, I think it is quite clear that based on present projections this treaty will pass the Senate. It will probably sail through here very quickly. But I do expect a very serious effort to add an amendment regarding conventional force levels in Europe.

I say this as a Senator who voted for the Nunn amendment, 2 or 3 years ago, and as one who has been very interested in this subject. I have offered amendments on the floor to the defense authorization bill regarding the levels of troops in Europe. It has been my hope that both sides would reduce their levels. Indeed, I made a trip to Eastern Europe and to East Germany. In part in East Germany I was following the path of Martin Luther, looking at the place he was born and the place he was ordained, and so forth. But while there I became very aware of the spring maneuvers of the Soviet soldiers. I had with me two or three people who spoke German and who were experts in Eastern German matters. I learned that the 400,000 troops in that country are very present, conduct frequent operations, and are very much a burden on that population. But, more importantly, they are a threat to the rest of Europe.

The same is true in Czechoslovakia, Hungary, Poland, and many other Eastern European countries as well as, of course, the troops in the Soviet Union.

Mr. President, I think we all want to applaud President Reagan for meeting with Mikhail Gorbachev and for moving toward an agreement. But let us remember that the very purpose for which the missiles were placed in Europe from our point of view was to protect the lives of American soldiers in West Europe, to protect our ground troops there. The arguments that were used when I was a young Congressman in the other body were that we would not have such a buildup of conventional forces, we would instead be having a buildup of short-range missiles to stop tanks and stop advancing columns of troops. And this is thought to have brought a balance of forces of that area.

Over the years, it has. Indeed Margaret Thatcher gave a speech in Moscow and she talked about the deterrence of the intermediate and short range missiles in Europe, and that it has brought a period of peace to that area. At least in land wars they have not gone at each other for longer than any time in modern history.

So I think we need to think deeply before we take our trump card out. Our trump card there is our intermediate and short-range missiles on our side. I say "our" speaking of NATO and the United States. The Soviets will keep their trump card which is conventional troops and tanks.

Mr. President, I have a list of the Soviet advantages which I shall not dwell on heavily. I would point out that by all estimations it is 4- or 3-to-1 in favor of the Soviets and the Warsaw Pact in conventional force levels. The current specific imbalances as calculated from the Defense Department's unclassified estimates are as follows: Main battle tanks, Soviets, and Warsaw Pact, a 2-to-1 advantage; heavy artillery the Soviets and the Warsaw Pact 2.3-to-1 advantage; armored personnel carriers, the Soviet Warsaw Pact, 1.3-to-1 advantage; tactical aircraft, 1.2-to-1 advantage; interceptor aircraft, 2.4-to-1 advantage; intermediate range bombers, 6-to-1 advantage.

The ACTING PRESIDENT pro tempore. The time of the Senator has expired.

Mr. PRESSLER. I ask unanimous consent to proceed for an additional 2 minutes.

The ACTING PRESIDENT pro tempore. Is there objection? Without objection, it is so ordered.

The Senator is recognized for 2 additional minutes.

Mr. PRESSLER. Surface-to-air missiles, 10 to 1; armed helicopters, 1 to 1; antitank guided weapons 1.2 to 1; chemical and biological warfare capabilities 25 to 1; and finally, combat divisions, 2 to 1 Soviet-Warsaw Pact advantage.

So, Mr. President, my amendment states that:

> Notwithstanding any other provision of this Treaty including other provisions of this Article, this Treaty shall not enter into force until the President of the United States of America shall have certified to the United States Senate that the conventional force imbalance between the deployed and reserve conventional forces of the United States and the North Atlantic Treaty Organization and the reserve and deployed conventional forces of the Union of Soviet Socialist Republics and the Warsaw Pact does not exceed a ratio of 3:2 of advantage in favor of the Union of Soviet Socialist Republics and the Warsaw Pact. This certification could provide an agreement to reduce Soviet and Warsaw Pact forces within a certain time period simultaneously with the implementation of other portions of the treaty.

In other words, there would have to be an agreement to reduce Soviet and Warsaw Pact forces. They would still have a 3-to-2 ratio. They would still have hegemony in terms of ground forces in the area. And they probably would not agree to anything else. So this is a very reasonable amendment. It does not ask for parity. It does not ask for equality. We could ask for that. I believe this amendment will be offered in various forms in the Foreign Relations Committee or on the floor. I think it may well come from the other side of the aisle. It is an amendment that allows the Soviets a 3-to-2 superiority. It would be a reduction from their 4-to-1 superiority at present, but it is something that is very much in the United States' interest because if we do not have this, we will be very much changing the balance in Europe by eliminating our INF forces. That is not my intention.

Mr. President, I ask unanimous consent to print my amendment in the RECORD.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

> (Purpose: To provide that the proposed Treaty shall not be put into effect unless and until the President has certified to the Senate that an agreement has been reached that the conventional force imbalance does not exceed a ratio of three:two in favor of the U.S.S.R. and Warsaw Pact)
>
> Add at the end of Article XVII of the proposed Treaty the following new paragraph:
>
> "3. Notwithstanding any other provision of this Treaty including other provisions of this Article, this Treaty shall not enter into force until the President of the United States of America shall have certified to the United States Senate that the conventional force imbalance between the deployed and reserve conventional forces of the United States and the North Atlantic Treaty Organization and the reserve and deployed conventional forces of the Union of Soviet Socialist Republics and the Warsaw Pact does not exceed a ratio of 3:2 of advantage in favor of the Union of Soviet Socialist Republics and the Warsaw Pact. This certification could provide an agreement to reduce Soviet and Warsaw Pact forces within a certain time period simultaneously with the implementation of other portions of the treaty. In the event such certification is made the United States of America shall immediately notify the Union of Soviet Socialist Republics of such fact, and this Treaty shall enter into force ten days after such notification or upon the date of exchange of instruments of ratification whichever shall later occur."

Mr. HEFLIN addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Alabama.

Mr. HEFLIN. Mr. President, I ask unanimous consent to be allowed to proceed to finish my speech which I am convinced will not exceed 6 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

THE NOMINATION OF JUDGE ANTHONY M. KENNEDY TO BE AN ASSOCIATE JUSTICE OF THE U.S. SUPREME COURT

Mr. HEFLIN. Mr. President, I rise today in support of the nomination of Judge Anthony Kennedy to be an Associate Justice of the U.S. Supreme Court.

I do so only after examining his written opinions, reading his speeches, and listening to his testimony and the testimony of others during the Senate Judiciary Committee hearings.

I went to the hearings without any preconceived conclusions and have endeavored to keep an open mind and let fairness dictate my decision. I have followed the same procedure in Judge Kennedy's case that I have followed in all judicial nominations. The hearings are now over and no substantial evidence was produced against his confirmation. In the absence of any substantial evidence against him or the creation of any doubt about his fairness, temperament, and integrity, I feel I am now in a position to announce my support for Judge Kennedy, and can change hats, so to speak, from being a judge to now becoming an advocate.

During his 2 days' of testimony before the Senate Judiciary Committee, Judge Kennedy proved himself to be a conservative, not an extremist nor an activist. He is clearly within the mainstream of American judicial thought and there are no blemishes on his integrity, character, or temperament. While I do not agree with all of his decisions, I do believe he is well balanced to be a Supreme Court Justice. Judge Kennedy was very open in expressing his judicial philosophy, and I was heartened to hear that he has no single, simple constitutional theory for interpreting all cases including complex cases that come before the Supreme Court.

Much has been said about the seat that Judge Kennedy has been nominated to fill, and the Justice who vacated that seat. Justice Powell's presence will be missed. However, I believe that Judge Kennedy, if confirmed, will approach the position with the same sense of restraint, respect and humility that Justice Powell exhibited during his tenure on the bench.

The American Bar Association unanimously gave Judge Kennedy its highest rating for a Supreme Court nominee—well qualified. I questioned Mr. David Andrews of the ABA about Judge Kennedy's reputation among other ninth circuit judges and he testified that he had questioned almost all of the 27 judges on the ninth circuit, and that all of them had a "deep and abiding respect for [Judge Kennedy's] * * * sense of justice, for his ability to give everyone a fair hearing, and to make a decision on the facts before him." Mr. Andrews testified that this accolade "came from judges that enjoyed a reputation of being liberal and judges that also enjoyed a reputation of being conservative." Thus, Judge Kennedy has received the highest marks from those who have known him best during the past 12 years—his fellow judges of the ninth circuit.

As with any judicial nomination, especially one to the Supreme Court, there will be those who oppose the nomination. Such is the case with Judge Kennedy. However, his opponents' arguments, while deeply felt, are in my opinion, not supported by the nominee's judicial record or the preponderance of the evidence.

Judge Kennedy has written over 400 opinions while on the courts of appeals. These decisions demonstrate his commitment and sensitivity to civil rights. They also indicate that Judge Kennedy clearly understands the problems faced by law enforcement officials and that he is sensitive to the rights of the victims, as well as those of the accused. I am in complete agreement with a recent speech given by Judge Kennedy where he noted that, all too often in our criminal justice system, the rights of the victims are overlooked.

I was particularly moved by the testimony of Nathaniel S. Colley, Sr., a man who practices law in Sacramento and has known Judge Kennedy for many years. Mr. Colley, while stating that he doesn't agree with all of Judge Kennedy's opinions, fully supports his nomination. I fully agree with Mr. Colley's description of Judge Kennedy as a grown man but also a growing man.

Judge Kennedy has a remarkable understanding of our Constitution and its historical past and present. More importantly, I believe he is committed to safeguarding the Constitution—the greatest and most precious possession of the American people. I am convinced he believes the words of the Constitution are a lifeline that should be protected and extended to all regardless of their status or position. I believe that Judge Kennedy will work to achieve justice and equality under its provisions and the law.

I am proud to support Judge Kennedy, and hope he will be quickly confirmed by the Senate when Congress reconvenes in January.

TRIBUTE TO DR. JOHN WRIGHT

Mr. HEFLIN. Mr. President, Dr. John Wright recently announced that he will step down as president of the University of Alabama in Huntsville after 10 years of outstanding service to return to the classroom setting. While I certainly respect Dr. Wright's wishes and can understand his desire to teach, I am nevertheless, sorry to hear of his impending resignation. As President of UAH, Dr. Wright has demonstrated tremendous vision, energy, and direction that have been the driving force behind the many successes accomplished by the university during the last 10 years. Dr. Wright has brought to UAH a spirit of excellence that now extends to both the faculty and student body, alike, helping to make possible the period of incredible growth and revitalization UAH has experienced in academic offerings, in facilities, and in overall focus. During his tenure as president, Dr. Wright has helped to ensure that UAH will play a tremendous role in both the education and in the future of the citizens of Alabama and America.

I believe that each of the citizens of Huntsville, and of Alabama are deeply indebted to Dr. Wright for his extended efforts. On behalf of the people of Alabama I would like to express gratitude and admiration for a job well done. The search committee that is being formed to find a successor to Dr. Wright will be hard-pressed, indeed, to find an individual with the dedication, leadership abilities, and devotion to education that Dr. Wright has demonstrated.

My home State of Alabama is blessed to be the home of several institutions of higher education that daily challenge, enrich, and expand the minds, and make possible the discoveries that benefit Alabamians of all ages. However, even more importantly, Alabama is blessed that a few great men and women have dedicated their lives, their efforts, and their hard work to the goal of seeing that these learning institutions realize their full potential and provide the greatest gift that is available to the citizens of any State—a sound education that will guarantee a brighter future. Dr. Wright is one of these great individuals who have worked to make the educational opportunities available in Alabama the greatest in the Nation. I would like to take a moment to recount the tremendous achievements and remarkable service Dr. Wright has provided during the last 10 years that have led the university of Alabama in Huntsville to its present position as one of the most improving universities in our country.

Dr. Wright came to UAH in 1978, after serving for 4 years as vice chancellor and director of Academic Affairs for the West Virginia Board of Regents. The accomplishments he has made possible at UAH during the last few years are nothing less than remarkable. The student body has grown by more than 50 percent, from 4,000 students in 1978 to more than 6,000 students today. Dr. Wright has also worked to ensure that each of these students will be provided the finest instruction and facilities available. Since 1978, UAH has received State funding for two faculty chairs, and is working on a third. The university's annual budget has risen from $17 million in 1978 to $55 million today. Significantly, the research grants and contracts the university receives have increased by more than five times, growing from $2.5 million in 1978 to $14 million today.

During Dr. Wright's tenure, academic offerings and facilities have substantially grown and have been significantly enhanced. Bachelor's degrees are now offered in 39 disciplines, master's degrees are offered in 23 areas, and doctoral degrees are offered in 5 areas. The university has added a college of engineering, which will soon have a new building, and a college of administrative science. The U.S. Army Corps of Engineers training facility is nearly completed, and there are new facilities for the University Center, continuing education programs, and others.

Among the greatest of Dr. Wright's successes are the results of his efforts in bringing research and high technology to UAH. Dr. Wright has overseen the development of UAH into one of the Nation's leading research universities. As the home of the Center for Applied Optics, UAH is working to provide America with a poll of talented, well-trained personnel—educated above the broad range of optics—who will lead the Nation to greater discoveries in optics, thus ensuring America's position on the leading edge of this critical field. Dr. Wright has also worked to make UAH a leader in space research. Recently, the university was recognized by NASA as a center for space commercialism. Dr. Wright is now working to convince Government and education officials of the merits of a Space Grant University Act, which would encourage universities to initiate and undertake research efforts in space. This space grant concept is similar to the land grant and sea grant programs which promoted study and development of the land and sea, and from which we are now reaping significant benefits. Dr. Wright recognizes that our future lies in space, and is working to see that our Nation is prepared to meet the demands and challenges we will face in this realm in the coming years.

Mr. President, I have listed many ways in which Dr. John Wright has worked to benefit the University of Alabama in Huntsville, and, thus, the citizens of Alabama and America, but he has also contributed much to the community of Huntsville in civic affairs. He has worked to attract industry to and promote industry in Huntsville as a trustee of the Huntsville Industrial Associates, and through his work as a member of the Huntsville Chamber of Commerce. He has played an instrumental role in making Huntsville a center for research and technology, not only through the efforts I have mentioned at UAH, but also as chairman of the Cummings Research Park Board. Additionally, he is a member of the Huntsville Rotary Club, a member of the Botanical Garden Society Board of Advisors, and a trustee of the Randolph School Board.

As my colleagues can see, Dr. Wright has played a tremendous role in both the development of the University of Alabama in Huntsville, and in the development of the city of Huntsville. While, as I have said, I am sorry to see him relinquish his post as president of UAH, for he has done an outstanding job in this position, I know that he will continue in the future to contribute much to UAH and to the city of Huntsville. I salute Dr. John Wright for his outstanding work, and commend him for his extended efforts on behalf of my State and our Nation. He and his family should be proud of his work, a feeling I know is shared by the people of Huntsville and Alabama. I have the greatest admiration and respect for Dr. John Wright. I am glad that he came to Huntsville, and am gladder still that he will remain there. In closing, I would simply like to say, thank you, Dr. Wright, for your efforts as an Alabamian on behalf of Alabama and America.

Mr. President, I ask unanimous consent that two newspaper articles which described Dr. Wright's service and accomplishments be printed in the CONGRESSIONAL RECORD.

There being no objections, the articles were ordered to be printed in the RECORD, as follows:

[From the Huntsville (AL) Times, Dec. 6, 1987]

THE DECADE OF JOHN WRIGHT

When John Wright steps down next September as president of the University of Alabama in Huntsville, he will conclude—of his own volition—a decade of solid leadership, creative initiative and vigorous administration.

The story of UAH these past 10 years is one of remarkable growth and academic excellence. Wright would be embarrassed for us to say that he was responsible for every single positive development at the institution he guided, and yet that statement would be closer to the truth than not.

Statistics alone cannot fully account for the dynamic history of UAH under Wright's direction but they help:

During Wright's tenure, the UAH annual budget has grown from $17 million to $55 million, and of that figure, research grants and contracts have increased from $2.5 million to $14 million.

In 1978, UAH's total enrollment was 4,000. Today, it has passed 6,700, and 7,000 is well within reach.

The university's degreed programs have grown in number and quality. Today, there are bachelor's degrees offered in 39 disciplines, 23 master's degrees and five doctoral programs.

Ten years ago, the university had no on-campus housing; today it does. And the university's athletic programs have joined the National Collegiate Athletic Association.

Nor can statistics tell of the individual milestones that have both spurred this growth and benefitted from it.

The university has a College of Engineering and a College of Administrative Science, neither of which it had 10 years ago. There is a new building for engineering, and new facilities for the University Center, Continuing Education and others. The U.S. Army Corps of Engineers training facility is rapidly nearing completion.

Perhaps the most exciting changes have been the more recent ones. UAH now boasts centers for optics, microgravity, robotics and space plasma research. In this atmosphere of high-technology research, UAH was on the cutting edge of recent breakthroughs in superconductivity.

The university has aggressively worked to improve its resources. It has received state funding for two eminent scholars' chairs and is working on a third.

All the while, the university has continued to offer—and improve—studies in the humanities, in medicine, in business. UAH students represent all ages, all races, all socio-economic levels. The highly qualified faculty often add to the cultural life of the community in such endeavors as music and the literary arts.

And at long last, UAH has finally begun to receive the national and regional recognition it has deserved for so long.

As impressive as those accomplishments are, they say little about John Wright, the man. He has remained personable, interested and compassionate. He has participated energetically in the life of this community and has nurtured an atmosphere in which university staff members have followed his example.

In announcing his intention to step down, Wright noted that he recently turned 60 (although he seems younger) and that he decided it was time to return to teaching, his first love. In that, he should do equally well. he holds a Ph.D. in chemistry from the University of Illinois and has pursued post-doctoral studies at the universities of Michigan and London.

He will unquestionably bring to the UAH faculty a breadth of experience seldom seen in the classroom. And we have no doubt that John Wright the Huntsvillian will continue his active involvement in the community.

As our front-page Friday noted, Wright is the second university president here to step down in less than a month. It is natural, we suppose, to try to discern at UAH the same kind of campus discord that led to the resignation of Douglas Covington at Alabama A&M. True, UAH has faculty members with differing opinions, but that is only to be expected at (and even vital to) a university. But publicly and privately, those associated with UAH tell the same story as the statistics: John Wright is leaving a legacy of competence and accomplishment, and in that, the university and the community will long be in his debt.

[From the Birmingham (AL) News, Dec. 5, 1987]

KEEPING PROMISE TO WIFE, WRIGHT, UAH CHIEF, RESIGNS

(By Robert Dunnavant)

HUNTSVILLE.—The University of Alabama at Huntsville lost its president last week, somewhere between Huntsville and Nashville, Tenn., when John and Margaret Wright headed north for a holiday family reunion.

"I'd been thinking about quitting, about going back into my first love, classroom teaching, and as we were driving up to see our sons and daughters for Thanksgiving we had a lot of time for talking, a lot of time to make a decision," said Wright, 60, president at UAH since 1978, Friday afternoon.

The decision he made somewhere along the 120 mile route was to keep an old promise to his wife.

Friday he announced that promise will mean trading in his duties as president of the 6,500-student university to teach chemistry at UAH as soon as UA System trustees can choose the school's new chief executive.

"Twenty five years ago, when he left teaching and went into administration, John promised me it would only be for five years. This is an exciting step," Mrs. Wright said at the Friday news conference called to announce her husband's decision.

Ten years ago—in spring 1978—the Wrights came to Huntsville from West Virginia where John Wright had just spent four years as vice chancellor and director of academic affairs for the West Virginia Board of Regents. The Wrights now have four grown sons, two of them teachers at universities.

"My children were having to make appointments to see their father and . . . I wanted to enjoy life a little more, make a few more contributions in the classroom in the time I have left in my professional life," Wright said.

His resignation—expected to become effective as early as next spring—was accepted with "deep regret" by UA trustees in Tuscaloosa Friday.

UA System chancellor Dr. Thomas Bartlett, who flew to Huntsville for Wright's announcement, just before the trustee meeting, saluted the retiring university president as "a remarkable man who has done an outstanding job."

"As he comes to the end of ten years of service to the institution, a long time in the life of a university president, we have a lot to be grateful to him for," Bartlett said.

During Wright's tenure as UAH's second president, Bartlett said, the student body has grown by more than 50 per cent, from 4,000 to 6,500, annual state appropriations have grown from $8.7 million to $21 million, annual research grants are up from $2.5 million to $14 million and the annual overall university budget has grown from $17 million to $55 million.

During the same period Wright presided over creation of the university's colleges of engineering and administrative science and the founding of research centers in optics, microgravity, robotics and space plasma research designed to link the school to Huntsville's high tech growth and NASA space exploration programs.

One recent result of the university's dedication to new research was this year's new advances in superconductivity of electricity made on campus by physicist Dr. M.K. Wu.

During the past year UAH also survived a racial discrimination lawsuit brought by neighboring Alabama A&M University that some thought might have produced a court order for a merger of the two schools.

"As an administrator you're always asking yourself when is the right time to leave, when do you go back to the classroom, and I think this might be it. . . . and I think what I'm doing is running toward another challenge instead of running from one," Wright said Friday.

Bartlett said trustees were "concerned" that university "momentum" might be affected by Wright's resignation when they were first informed of his decision Thursday night.

But by Friday Bartlett said trustees had decided "with Dr. Wright's help there can be a smooth transition" and announced that the university will begin "immediately" to assemble an 18 person search committee to look for a new president.

"Before the end of the month I would expect we will identify the people who will be part of the process, talk about the university's next challenges and decide the direction in which we will go. By February I would expect we will be in hard pursuit of some candidates," Bartlett said.

He said UA trustees will not just advertise for applicants for the $90,000 per year job but will "target particular sources of people who will be invited to apply."

Mrs. Martha Simms, a member of the trustees from Huntsville, said the search will be "color and sex blind."

Wright's resignation comes barely a month after Dr. Douglas Covington, president of predominantly black Alabama A&M, Huntsville's other university, tendered his resignation in the face of controversy about his two year tenure.

"I can assure you there was no arrangement between Dr. Covington and myself to set things up like this," Wright said.

Wright also was asked if he was experiencing career burnout at UAH.

"I hope not," he replied.

"And I hope not too," Mrs. Wright added.

THE MONTANA NATURAL RESOURCES PROTECTION AND UTILIZATION ACT OF 1987

Mr. BAUCUS. Mr. President, John Steinbeck wrote: "Montana is a great splash of grandeur. Of all the States it is my favorite and my love."

I grew up in Montana, like my parents and grandparents before me. We Montanans knew what Steinbeck meant. All Montanans know what he meant.

Today, we are engaged in a great debate about our "splash of grandeur." How should it be used by the present generation of Montanans? How should it be preserved for the future?

For the benefit of my colleagues, I should like to explain briefly what this heated debate is all about.

There are more than 6 million acres of Federal roadless lands in Montana, referred to as RARE II lands. Currently, RARE II lands are tied up under this restrictive designation until Congress decides which acreage shall be preserved in its wild state, and which shall be released for other uses.

Only when Congress approves wilderness legislation for a State can the U.S. Forest Service develop comprehensive plans for managing that State's RARE II lands.

Wyoming, Colorado, Washington, Oregon, and at least 20 other States have taken advantage of this opportunity. But in Montana, the debate drags on and on.

Despite 6 years of hard work, the members of Montana's congressional delegation have not agreed on a comprehensive plan and thus have not enacted a Montana wilderness bill.

As a result, sound land management in these areas is almost impossible.

And Montana's natural resource industries which depend on these lands cannot plan for the future.

Montanans have waited long enough.

Indecision is paralyzing good policy. Whatever our disagreements about specific areas, all Montanans have a common interest in resolving the debate. Congress must quickly pass a Montana wilderness bill.

I have spent a lot of time and effort listening to Montanans' many concerns about wilderness legislation.

I have reviewed the maps. I have hiked our roadless areas. I have talked to county commissioners, chamber of commerce members, stockgrowers, timbermen, sportsmen, and conservationists. All around the State, I have talked to just plain folks.

The result is S. 1478—the Montana wilderness bill. This bill is, in my opinion, the best solution.

This bill is a balance between reasonable development of our natural resources on one hand, and responsible long-term protection on the other.

This bill is concerned with more than 6 million acres of Montana roadless land. S. 1478 designates nearly 1.3 million acres as wilderness. About 4 million acres would be released for motorized recreation and for managed natural resource development.

This includes virtually all of the areas where development is expected to occur.

For example, access to Montana's Rare II timber base is vital to local Montana mills.

My bill releases over 200 million board feet of harvestable timber from RARE II lands. This release will permit the harvesting of 99 percent of the Federal timberland that is currently planned for harvest by the Forest Service in Montana.

In addition, my bill would permit development of all known oil and gas reserves and all patented mining claims.

It would protect all existing development rights.

It would protect livestock grazing.

It would establish 250,000 acres of national recreation areas.

And it would protect all 2,655 miles of groomed snowmobile trails from restrictive designations.

Finally, after years of indecision, I believe there is an opportunity to resolve the debate.

At the top of my list of New Year's resolutions for 1988 is passing a Montana wilderness bill.

The Montana delegation has come a long way in 1987. We are each definitively and publicly stating our positions.

I have introduced a bill. Congressman PAT WILLIAMS has introduced a bill which he successfully guided through the House. And just a few days ago, the senior Senator for Montana, JOHN MELCHER, indicated that he, too, will introduce his own bill.

We have made a lot of progress, but it does not count unless we can bring the whole process home by enacting a Montana wilderness bill.

That is why I have asked the chairman of the Subcommittee on Public Lands, National Parks and Forests to schedule Montana wilderness hearings as soon as possible in the new year. Setting a definite hearing date now moves us a step closer to assuring that this vital legislation is passed as quickly as possible.

Senator MELCHER is on the public lands subcommittee. With his wisdom and guidance, I believe a solid Montana wilderness bill should be finished by no later than this spring.

We are actually quite close to agreement among all the major parties who have serious interests. Small disagreements may still exist. But, for the most part, we agree. It is time to stop splitting hairs and reach a decision.

Let us have public hearings on the bills, put our cards on the table, and resolve the few remaining differences. We must clarify the choices for all to see, and decide upon legislation that best serves the interests of Montanans.

If Montana is going to prosper, grow and reach for the future, we must finally decide, once and for all.

The opportunity to do so is within our grasp. We must not waste it.

The Montana wilderness story is not one of environmentalist against developer, camper against miner, or Montanan against Montanan. It is a story of jobs and opportunity for Montana.

The next chapter will be written here, in the Senate. I am urging as forcefully as I can that we get on with it and pass the Montana wilderness bill early in the new year.

DEDUCTIBILITY OF ACQUISITION RELATED DEBT

Mr. HEFLIN. Mr. President, I rise to bring to the attention of the conferees a provision in the House version of the Budget Reconciliation Act of 1987 concerning a limitation on the tax deductibility of acquistion related debt. I commend Senator BENTSEN and the Finance Committee for rejecting the House versions and I urge them to again reject them in conference.

Debt is used by business to finance productive, sound acquisitions that save and create jobs, as well as contribute to economic growth and competitiveness. The companies most affected by this provision will be small and medium-size businesses, the very companies which have created the most new jobs in the last 5 years. I would like to bring to the attention of the Senate and the conferees some of the acquisitions I know of in my State which are beneficial to my State's economy. One of the acquisition was made by a child day care chain, which used debt to acquire failing day care centers and thus provide greatly needed child day care to Alabama's working parents. Another business used debt to acquire and reinvigorate American Can's packaging division. These companies are not as well known as larger, Fortune 500 companies and cannot raise money as readily in the stock market. For them, borrowed money is the primary source of funds for growth.

The House merger and acquisition tax proposal amounts to de facto Federal credit control with the Federal Government dictating which business transactions are "good" and should be financed with debt in which are "bad." Contrary to the perception of some, most mergers and acquisitions are friendly transactions are in the ordinary course of business activity. In 1986, there were more than 2,200 acquisitions, fewer than 100 of these were hostile bids.

The House proposal would slow down the very promising trend in which conglomerates are selling off under performing divisions and subsidiaries to focus on their core or businesses. Frequently, it is the managers and workers who buy these assets, often to prevent their closing. With a greater commitment to the business and with direct ownership stakes financed by debt, the new owners turn these once stodgy units into more profitable, efficient, and competitive operations.

At a time of dangerous volatility in the financial markets, it is clearly unwise to enact a tax proposal which will have a significant effect on stock prices. Although the reasons for the October 19, 1987, stock plunge are still unclear, it would be unwise to increase investor fear over whether the House merger and acquisition tax provision will discourage hundreds of routine and productive business acquisitions, thus making it more difficult and costly for companies to take necessary steps to improve their efficiency and competitiveness.

The House Ways and Means provision gives tax advantages to foreign firms. Most foreign firms, since they don't pay U.S. taxes, would be able to deduct the interest on borrowing in their countries to finance acquisition of American companies. There will be fewer U.S. buyers, resulting in more foreign control of American businesses. Now is not the time to increase the cost of capital to American firms.

In the last 3 years, two major congressional committees have conducted exhaustive reviews of takeovers and decided not to adopt any proposal which would limit acquisition financing. Yet the House Ways and Means Committee, which has conducted no such examination, has now adopted a sweeping tax restriction on merger and acquisition financing. The Senate Banking Committee has reported a tender offer reform bill which excludes any financing restrictions. The House Telecommunications and Finance Subcommittee issued a massive report at the end of the last Congress concluding that it is impossible to determine whether mergers are good or bad for the economy.

Mr. President, I again commend Senator BENTSEN and the Finance Committee for rejecting these proposals. I urge them to insist on the Senate provisions when this bill goes to conference.

Thank you, Mr. President.

CALENDAR YEAR CONFORMITY REQUIREMENTS

Mr. HEFLIN. Mr. President, I rise today to bring a matter of great importance to the attention of the conferees on the budget reconciliation bill. The matter to which I refer is the repeal of the calendar year conformity requirement contained in the Tax Reform Act of 1986.

As the conferees know, the House-passed budget reconciliation bill contains a provision to repeal the calendar year conformity requirement contained in the Tax Refrom Act of 1986. This provision is revenue neutral. The original Senate version of the budget reconciliation bill as introduced in the Senate contained this same provision. Unfortunately, however, this provision was struck from the budget reconciliation bill when the leadership package was introduced.

I share the concerns and frustrations of the numerous CPA's, tax lawyers and tax preparers who have contacted me on this matter. It is absolutely imperative that the calendar year conformity requirement of the 1986 Tax Reform Act be repealed or modified. If not, it will place an overwhelming burden on our Nation's professional tax preparers. One constituent has written that this provision will double the amount of work his organization must perform during the busy tax season between January 1 and April 15. Another has told me that more than 80 percent of his annual work load will be compressed into this 3½ months. Yet another rise at this provision will have a devastating impact on his firm's ability to service its clients and will make it virtually impossible for them to meet all filing deadlines and requirements.

Mr. President, I urge the Senate conferees to recede to the House provision regarding the calendar year conformity requirements. For the benefit of our Nation's tax preparers and taxpayers, it is vital that this provision be adopted.

Thank you, Mr. President.

DIVIDENDS RECEIVED EXCLUSION

Mr. HEFLIN. Mr. President, I rise today to discuss the treatment of the dividends received exclusion in the budget reconciliation bill.

I would like to commend the Senate Finance Committee and its chairman, Senator BENTSEN, for rejecting the provisions in the House budget reconciliation bill which reduced the dividend received deduction to 75 percent and denied it outright to most classes of preferred stock. I feel their choice on this matter was very wise and I urge them to insist on the Senate provision in conference.

Present law allows corporations which own common and preferred stock of other corporations to exclude from their taxable income 80 percent of the dividends they receive. This was reduced from 85 percent by the 1986 Tax Reform Act. The rationale for the exclusion is that the same corporate profit should only be taxed twice: Once at the business level and once for individuals, not three or more times.

The budget reconciliation which the House of Representatives adopted would deny this "intercorporate dividend received deduction" for the new preferred stock which has any debt characteristics. At the same time, though, the bill would deny such stock tax treatment as debt. This means there would be no deduction for interest payments.

The provision as drafted is very broad and very vague. Three categories of stock would be attacked. Virtually all nonvoting stock, stock with dividends which vary with interest rates, and stocks with certain nonstock characteristics such as those which have features enhancing the likelihood of recovering the investment principal or dividends.

As a result, a huge portion of the kinds of preferred stock being issued today would not qualify as either debt or equity under the Internal Revenue Code. No sensible corporation would therefore issue such preferred stock in the future. A huge part of the market would simply be wiped out. Moreover, the bill reduces the dividend exclusion from 80 percent to 75 percent for a new and existing stock for no apparent reason. As a result, companies will have to pay higher returns on preferred and common stock to get the same return on investment as received by other businesses.

Thus, both provisions would increase the cost of capital of utilities, financial institutions, and industry companies, the primary issuers of preferred stock.

Mr. President, preferred stock is a means of raising capital which has some characteristics of common stock and some characteristics of debt. It does provide a very useful middle ground for corporations raising funds. Corporations issue preferred stock when they need to raise capital and they cannot or do not wish to issue new common stock—if, for example, interest rates or its overall debt are too high. In addition, preferred stock is often an important component in helping troubled or bankrupt companies raise funds to get back on their feet. Preferred stock pays a dividend, but has one critical additional feature: The dividend can be skipped and paid later if the company is pressed for cash. If the company were to issue debt and were to skip a payment, this would generally cause foreclosure or bankruptcy. Preferred stock has greater rights than common stock in bankruptcy, but cannot share in the profits of a firm beyond the stated dividend. Thus, it has attractive features to both companies and investors.

Mr. President, I would like to discuss some of the problems I see with House provision:

By reducing the dividends received deductions to 75 percent, this provision will increase the cost of capital of American business. Businesses will have to pay higher returns to their business investors to offset this increased partial triple tax. This makes little sense when we should be focusing on helping business be more competitive in an international marketplace.

Without the intercorporate dividends received deduction, income earned by a corporation would be subject to one corporate tax when initially earned, a second level of corporate tax on income is paid as a dividend to a corporate shareholder, and a third level when the second corporation pays dividends to its noncorporate shareholders. This is wholely at odds with a longstanding principle of tax law that corporate profits should only be taxed twice.

The provision has inconsistencies that suggest it is aimed solely at raising revenues, not refining tax law. On one hand, it would reclassify certain equity as debt, but on the other hand, it does not permit this debt to be treated as such for tax purposes. Why is this, Mr. President? Because if it did so, it would not raise as much tax revenue because most companies which issue preferred stock are in fact profitable so they would get an interest deduction. So logic has been cast adrift and along with it so are hundreds of corporations for whom this type of financing has yielded growth and job creation.

By eliminating flexible financing instruments which fall between pure stock, preferred stock, and pure debt, we have put businesses in a straitjacket, instead of allowing them to develop methods of raising funds which are tailored to their needs and those of their investors. Why should hybrid financial instruments which companies have designed to attract investors, using some of the benefits of both stock and debt in different combinations, be eliminated because they don't fit simplistic tax compartments?

These are just some of the problems which exist with these provisions. Again, I commend Senator BENTSEN and the Finance Committee for rejecting this proposal. I urge them to reject these proposals again as this bill goes to conference.

Thank you, Mr. President.

UNRECEIVED GAINS ON CORPORATE BONDS

Mr. HEFLIN. Mr. President, I rise today to bring to the attention of the Senate a provision in the House-passed budget reconciliation bill which taxes unreceived gains on corporate bonds. I commend the Senate Finance Committee and its chairman, Senator BENTSEN, on rejecting this proposal. I urge the conferees to again reject this proposal in conference.

The House budget reconciliation bill threatens the stability and liquidity of the secondary market for corporate bonds, particularly high yield bonds, by taxing each year, as ordinary income, unrealized gains on bonds bought at a discount below their face value. This annual tax on profits—which may or may not be received in the future when a bond is sold—would have an immediate and negative effect on the high yield bond market because it applies to existing bonds. In the future, some businesses will have to pay higher interest rates when they issue bonds to make up for the tax penalty which would attach to the purchase of those bonds if they lose value because the company fell on hard times or interest rates rose. Investors should pay tax on any gain on bond investments. However, I do not feel that investors should have to pay a tax on gains before the gain occurs.

I would like to discuss a few of the problems with this proposal:

By forcing a buyer of a discounted bond to immediately start paying tax on both the interest and the discount will clearly either reduce the number of buyers or force down the price of the bond to reflect the additional price. This result is not desirable at any time, much less now when all capital markets are so volatile.

A substantial portion of market discount is not the economic equivalent of interest. In many instances, a bond is purchased at a price below its face amount because the corporation that issued the bond has encountered financial difficulty in its ability to pay interest or principal is unclear. In such instances, the discount is, in effect, an equity investment in the issuer of the bond and the discount should not be considered interest currently—or upon disposition of the bond. This is not like bonds which are discounted at the time they are issued.

Mr. President, these are just some of the problems which exist with the House version of the Budget Reconciliation Act on this matter. I again commend Senator BENTSEN and the Finance Committee for rejecting these proposals. I urge them to reject them in conference.

Thank you, Mr. President.

HUMAN RIGHTS IN THE SOVIET UNION

Mr. BIDEN. Mr. President, we in Congress who have worked for the right of Soviet Jews to freely emigrate from the Soviet Union and to freely practice their religion within the Soviet Union have been encouraged by the increased level of Soviet Jewish emigration this year and by the freeing of a number of prominent refuseniks and prisoners of conscience. Despite these promising signs that Soviet General Secretary Gorbachev's policy of glasnost will bring real improvement in the area of human rights, too few Soviet Jews are being allowed to emigrate, too many Soviet Jews are being denied exit visas on the specious provision of "state secrets," and too little has been done by Soviet authorities to reform a system where anti-Semitism is the norm and psychiatry is maliciously used as a means to punish dissenters.

Secretary Gorbachev's recent comments on the subject of emigration give cause for skepticism as to his understanding of the plight of Soviet Jews and other repressed minorities in his country. It is unfortunate that the Soviet Government's concept of human rights extends only to the right to be told where to live, where to work, and what to say. Secretary Gorbachev's visit here last week no doubt opened his eyes to the American people's understanding of human rights and to their concern about the Soviet Union's human rights record.

The mass rally in support of Soviet Jews the Sunday before the summit was an inspiring display of the commitment of American Jews and all

Americans to keeping the international spotlight on the plight of those Soviet Jews who dream of one day emigrating. President Reagan and congressional leaders made it clear in their talks with General Secretary Gorbachev that human rights is a priority of the American people and that it will be high on the agenda of talks between our two nations.

Our calls for an improvement in human rights in the Soviet Union will not be muted by select exhibitions of humanity staged by Moscow. We celebrate the release of those heroic refuseniks, such as Natan Scharansky and Ida Nudel, who tirelessly fought oppression and won their freedom. But we will not lose sight of the thousands of other Soviet Jews who are denied exit visas by new, restrictive emigration laws, who are separated from loved ones, and who are harassed for practicing their religion and for preserving their cultural heritage.

Many of us anticipate that the improved relations between our country and the Soviet Union, highlighted by the signing of the INF Arms Control Agreement, will bring freer emigration and greater liberties for all religious and ethnic groups within the Soviet Union, and we look forward with determination to continuing our efforts to promote human rights.

MARTIN LUTHER KING, JR. HOLIDAY

Mr. SPECTER. Mr. President, on January 18, 1988, the Nation will pay tribute to one of the world's true heroes when we celebrate the third anniversary of the Martin Luther King, Jr., Federal holiday. In Philadelphia, the Martin Luther King, Jr. Association for Nonviolence, Inc., annually sponsors and cosponsors activities throughout the month of January commemorating the life and work of Dr. King. These programs include citywide youth celebrations and workshops, the Philadelphia 76'ers postgame program, a film festival, media events and a gala luncheon for approximately 3,000 individuals.

Throughout the year, the association sponsors other important events. In August, for example, it holds an annual Martin Luther King, Jr. Peace Fair to commemorate the anniversary of the August 28 March on Washington. The fair highlights the work of local organizations striving for nonviolent solutions to community conflicts and problems. Ongoing programs include a Nonviolent Action Program for youth ages 14-17; a student chapter assembly; Kingian workshops on the application of nonviolent social changes; and voter education.

The Philadelphia Martin Luther King, Jr. Association for Nonviolence, Inc., is a nonprofit regional resource and information center dedicated to the perpetuation of the philosophy of nonviolent social change as practiced by the late Dr. Martin Luther King, Jr. The Philadelphia Association is the first and only outreach affiliate of the Martin Luther King, Jr. Center for Nonviolent Social Change in Atlanta.

As an original cosponsor of legislation to establish the Martin Luther King, Jr., Federal holiday, I commend the Philadelphia Martin Luther King, Jr. Association for Nonviolence, Inc., for its work in helping us learn to "Live the Dream."

ORDER OF BUSINESS

Mr. BYRD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. ADAMS). Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. BYRD. Mr. President, rather than keep the Senate in a long quorum call and so as to give the officers, doorkeepers, and employees an opportunity to get other work done and get a breath of fresh air from time to time, I will ask that the Senate stand in recess.

May I say that I do not anticipate any business in the meantime. We are waiting on conference to complete their work and various other matters. This will also give conferees a better opportunity to work without being concerned about quorum calls.

RECESS UNTIL 4 P.M.

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess until the hour of 4 p.m. today.

There being no objection, the Senate, at 1:01 p.m., recessed until 4 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. GRAHAM).

Mr. DOLE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum having been suggested, the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BOREN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BOREN. Mr. President, I ask unanimous consent that I might proceed as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

TALLGRASS PRAIRIE PRESERVE

Mr. BOREN. Mr. President, I send a bill to the desk.

The PRESIDING OFFICER. The bill will be received and appropriately referred.

Mr. BOREN. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

S. 1967

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PURPOSE AND ESTABLISHMENT.

(a) PURPOSE.—In order to—

(1) preserve for the inspiration, education, and benefit of present and future generations a unique and nationally significant example of tallgrass prairie in a manner that depicts for the visiting public the vast, sweeping, and open scenes characteristic of the tallgrass ecology;

(2) foster the study and application of management practices applicable to the restoration and preservation of indigenous tallgrass prairie species;

(3) interpret the history of the arrival of the Osage Indian Tribe to the tallgrass prairie area and its use by the Tribe continuously for more than 100 years and to interpret the production of oil and gas from the Osage Indian Reservation since the early 1900's; and

(4) encourage an appreciation of our Western American heritage which was and continues to be intimately bound to the use of prairie grasslands for cattle grazing,

there is hereby established the Tallgrass Prairie National Preserve (hereafter in this Act referred to as the "Preserve").

(b) ESTABLISHMENT.—(1) The Preserve shall include the lands, waters, and interests therein within the boundary generally depicted on the map entitled "Boundary Map, Tallgrass Prairie National Preserve", numbered P-TGP/80,000-C and dated November 1987 which shall be on file and available for public inspection in the Office of the National Park Service, Department of the Interior. The Secretary of the Interior (hereafter in this Act referred to as the "Secretary") shall file a copy of any map depicting any revisions to the boundary of the Preserve, with the appropriate offices of Osage County, Oklahoma.

(2) After reasonable notice in writing to the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate, the Secretary may, by publication of a revised boundary map or other description in the Federal Register, make minor revisions in the boundary of the Preserve, consistent with the purposes set forth in subsection (a), except that the boundary of the Preserve may not be increased to encompass more than 50,000 acres in fee and 50,000 acres in easements.

SEC. 2. PROPERTY ACQUISITION.

(a) GENERAL RULE.—(1) The Secretary is authorized, subject to the provisions of this section, to acquire lands, waters, and interests therein and improvements thereon within the boundary of the Preserve by donation, purchase with the consent of the owner, transfer from any other Federal agency without a transfer of funds, or exchange. The Secretary shall apply normal Federal acquisition procedures, which shall include a process for determining fair market value. Property owned by a State or any political subdivision thereof may be acquired by donation or exchange.

(2) The Secretary may acquire, by any of the means described in paragraph (1), not to exceed 10 acres outside the boundary of the Preserve in the city of Pawhuska, Oklahoma, for use and development as an administrative and information site.

(3) Nothing in this section shall be construed to prevent the use by the Secretary of eminent domain proceedings as a necessary means to obtain clear and marketable title.

(4) After acquisition of any land in fee under this section, the Secretary shall develop, in consultation with the Range Management Committee established in section 8, a fire protection plan to protect lands within and outside the Preserve.

(b) Mineral Estate Retained by Osage Tribe.—The Secretary may not acquire any interest in the mineral estate within the boundary of the Preserve, it being the express intent of the Congress that the beneficial interest in such mineral interest as is held on the date of enactment of this Act in trust for the Osage Tribe shall continue to be so held in trust.

(c) Reservation of Improved Property by Owners.—(1) The owner of improved property acquired by the Secretary may, as a condition of such acquisition, retain for himself and his heirs and assigns a right of use and occupancy of the improved property for noncommercial residential purposes or for ranching purposes for a definite term of not more than 25 years or, in lieu thereof, for a term ending at the death of the owner or the death of his spouse, whichever is later. The owner shall elect the term to be reserved. Unless the property is wholly or partially donated to the United States, the Secretary shall pay the owner the fair market value of the property on the date of acquisition less the fair market value on that date of the right retained by the owner.

(2) A right retained pursuant to this subsection shall—

(A) be subject to termination by the Secretary upon his determination that it is being exercised in a manner inconsistent with the purposes of this Act; and

(B) it shall terminate by operation of law upon the Secretary's notifying the holder of the right of such determination and tendering to him an amount equal to the fair market value of that portion of the right which remains unexpired.

(3) Whenever an owner of property elects to retain a right of use and occupancy as provided in this subsection, such owner shall be deemed to have waived any benefits or rights accruing under sections 203, 204, 205, and 206 of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (845 Stat. 1894), and for the purposes of such sections such owner shall not be considered a displaced person as defined in section 101(6) of such Act.

(4) As used in this subsection, the term "improved property" means a detached, one-family dwelling—

(A) which serves as the owner's permanent place of abode at the time of acquisition construction of which was begun before January 1, 1987; and

(B) which is used for noncommercial residential purposes or for ranching purposes. Improved property includes such land in the same ownership as the dwelling, as the Secretary deems to be reasonably necessary for access thereto and continued use thereof for residential or ranching purposes and any structures accessory to the dwelling which are situated on such land.

(d) Management and Uses Within Easement Area.—Within that area of the Preserve depicted on the map referred to in section 1 as the Easement Area, the Secretary may acquire only interests in lands, waters, and improvements sufficient to ensure that—

(1) management practices, including grazing and the application of herbicides and burning of vegetation, shall be conducted in accordance with a plan that is mutually agreeable to the Secretary and the surface owner;

(2) existing ranching uses will continue and no other commercial use will be made of the property by the surface owner; and

(3) new construction will be limited to reasonable improvements to existing structures for noncommercial residential or ranching use and new structures required for ranching use compatible with the use as existed on the date of enactment of this Act.

In acquiring lands, waters, and improvements under this subsection, the Secretary may expend not to exceed 60 percent of the fair market value of fee simple title.

(e) Remnants Outside Boundary.—The Secretary may acquire uneconomic remnants outside the boundary of the Preserve in order to facilitate the acquisition process. Any such lands so acquired shall be exchanged for lands within the boundary or sold and the proceeds used for the purchase of lands and interests in lands within the boundary of the Preserve.

(f) Access by Private Owners.—Owners of non-Federal property within the Preserve shall be provided reasonable and unimpeded access to their property across Federal lands, consistent with the purposes of this Act.

SEC. 3. ADMINISTRATION.

(a) Applicable law.—The Secretary shall administer the lands, waters, and interests therein acquired pursuant to this Act in accordance with the provisions of this Act and the Act of August 25, 1916 (39 Stat. 535).

(b) Grazing Permits.—The Secretary shall, in accordance with a plan developed cooperatively with the range management committee established in section 8, issue permits allowing the holder of the permit to graze livestock on lands designated in the plan. Lands subject to grazing shall not include lands within the Easement Area depicted on the map referred to in section 1. The Secretary shall charge a reasonable fee for any such permit.

(c) Hunting and Fishing.—The Secretary, in accordance with applicable Federal and State laws, and in accordance with a plan developed cooperatively with the Oklahoma Department of Wildlife Conservation and the Range Management Committee, shall permit hunting and fishing on lands and waters under his jurisdiction within the Preserve. The Secretary may, at such times as are appropriate, designate zones where, and establish periods when, no hunting, fishing, or entry may be permitted for reasons of public safety, administration, floral or faunal protection and management, or public use and enjoyment. Except in emergencies, any regulations prescribing such restrictions relating to hunting or fishing shall be put into effect only after consultation with the Oklahoma Department of Wildlife Conservation.

(d) Criminal Jurisdiction.—The United States and the State of Oklahoma shall have concurrent criminal jurisdiction within areas acquired pursuant to section 2.

(e) Osage Tribal Museum.—Pursuant to a cooperative agreement with the Osage Tribe, the Secretary is authorized to provide technical assistance and advice with respect to the development, operation, and interpretation of a Tribal museum in Pawhuska.

SEC. 4. OIL AND GAS ACTIVITIES.

(a) Current Law Not Superseded.—Nothing in this Act shall be deemed to supersede or modify the provisions of the Act of June 28, 1906 (34 Stat. 539), as amended and supplemented by the Act of March 2, 1929 (45 Stat. 1478) or regulations of the Secretary issued pursuant thereto.

(b) Applicable Law.—(1) Oil and gas exploration, development, and production activities within the Preserve shall be subject to—

(A) regulations of the Secretary, acting through the Assistant Secretary for Indian Affairs, promulgated pursuant to the Act of June 28, 1906; and

(B) regulations of the Administrator of the Environmental Protection Agency, promulgated pursuant to the Clean Air Act and the Clean Water Act.

(2) National Park Service regulations applicable to oil and gas activities shall not apply within the Preserve and the National Park Service shall have no rights to oil and gas beyond those of any other surface owner.

SEC. 5. RESEARCH FACILITY.

(a) Establishment of Facility.—The Secretary shall establish and operate a facility within the Preserve or the administrative site for the purpose of conducting directly or by contract, research into the restoration, preservation, and management of tallgrass prairie flora and fauna.

(b) Contract Authority.—The Secretary may enter into contracts with public or private educational institutions or other qualified individuals or entities pursuant to which such institutions, individuals, or entities may conduct research, including experimental management techniques, on lands and waters within the Preserve under the jurisdiction of the Secretary. The Secretary may, pursuant to such contracts, make available temporarily lands and facilities to the contractor.

(c) Research Available to Public.—The results of any research conducted pursuant to this section shall be made available to the public.

(d) Use of Appropriated Funds.—Funds appropriated to the Secretary for operation of the Preserve shall be available for expenditure for research services authorized by this section.

SEC. 6. GENERAL MANAGEMENT PLAN.

(a) Plan.—Within 3 years from the date of enactment of this Act, the Secretary shall submit to the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a general management plan for the Preserve, prepared in accordance with section 12(b) of August 18, 1970 (84 Stat. 825; 16 U.S.C. 1a-1—1a-7) and in consultation with the Advisory Commission established in section 7.

(b) Contents of Plan.—The general management plan shall—

(1) specifically address ways in which the Secretary shall interpret the tallgrass prai-

rie ecosystem, the history of the Osage Tribe's association with the area, the discovery and production of oil and gas on the Osage reservation, and the history of cattle ranching and cattle drives;

(2) include a resources management plan for tallgrass prairie grasslands management; and

(3) designate a north entrance to the Preserve from Highway 18 and a visitor center located in the southern fee unit.

SEC. 7. ADVISORY COMMISSION.

(a) ESTABLISHMENT.—There is hereby established the Tallgrass Prairie National Preserve Advisory Commission (hereafter in this Act referred to as the "Commission"). The Commission shall be composed of 17 members appointed by the Secretary as follows:

(1) three members recommended by the Osage Tribe;

(2) three members appointed by the Secretary, at least one of whom shall have expertise in tallgrass prairie management;

(3) two members recommended by the Governor of Oklahoma;

(4) one member recommended by the Oklahoma State Cattlemen's Association;

(5) one member recommended by the Osage County Cattlemen's Association;

(6) one member recommended by the Director of the Oklahoma Department of Wildlife Conservation;

(7) one member with professional training in range management recommended by the State Soil Conservation Service;

(8) one member with professional training in range management recommended by the Dean of Agriculture of Oklahoma State University;

(9) one member recommended by the Osage County Commission;

(10) one member recommended by the Oklahoma Independent Petroleum Association;

(11) one member recommended by the Oklahoma Wildlife Federation; and

(12) one member recommended by the Oklahoma Department of Tourism.

(b) TERMS OF MEMBERS.—The terms of the Commission members shall be 3 years, except that for initial appointments under paragraphs (1) through (3), one member shall serve for a term of 1 year and one member shall serve for a term of 2 years, and except for the initial appointments under paragraphs (4), (6), (8), and (10), whose terms shall be 2 years.

(c) RESPONSIBILITIES AND ADMINISTRATION.—(1) The Commission shall elect its own chairman and adopt its own bylaws. Any vacancy on the Commission shall be filled in the same manner in which the original appointment was made.

(2) Members of the Commission shall serve without compensation as such, except that the Secretary is authorized to pay expenses reasonably incurred by the Commission in carrying out its responsibilities under this Act.

(3) The Secretary shall consult with the Commission on matters relating to the acquisition of lands, waters, and interests therein, and the management and development of the Preserve.

SEC. 8. RANGE MANAGEMENT COMMITTEE.

(a) ESTABLISHMENT.—There is hereby established a Range Management Committee, which shall be composed of 9 members appointed by the Secretary as follows:

(1) one member from those recommended in section 7(a)(1);

(2) two members from those recommended in section 7(a)(2);

(3) one member as recommended in section 7(a)(4);

(4) one member as recommended in section 7(a)(5);

(5) one member as recommended in section 7(a)(6);

(6) one member as recommended in section 7(a)(7);

(7) one member as recommended in section 7(a)(8); and

(8) one member as recommended in section 7(a)(9).

(b) MANAGEMENT PLAN.—The Secretary, through the National Park Service shall, with the concurrence of the Range Management Committee, develop a plan to govern livestock grazing pursuant to permits issued by the Secretary under section 3(b). This plan shall—

(1) provide reasonable protection to the holders of grazing leases who held such leases on the effective date of this Act;

(2) delineate length, terms, and conditions to be included in any grazing permit;

(3) determine what lands shall be the subject of grazing permits;

(4) provide a method to determine reasonable fees;

(5) determine payment of compensation to owners of non-Federal land within the Preserve who may suffer a loss in income from grazing leases due to the issuance of a grazing permit or permits by the Secretary; and

(6) provide for the reasonable fencing of non-Federal land within the Preserve upon the request of the property owner.

(c) RECOMMENDATIONS TO SECRETARY.—The Secretary shall consult with the Range Management Committee with respect to the resource management plan for tallgrass prairie management to be prepared pursuant to section 6. Such plan may authorize the following management tools:

(1) grazing by domestic and native animals;

(2) prescribed burning; and

(3) limited mechanical and chemical plant and animal controls.

SEC. 9. PAYMENTS IN LIEU OF TAXES.

There is hereby authorized to be appropriated the sum of $1,500,000, which shall be paid by the Secretary of the Treasury in proportionate shares to the Osage County government and Pawhuska and Shidler school districts for their use in the furtherance of the public business of these governments as they determine. The proportionate share shall be determined by the projected loss of taxes to the county government and the school districts at the time of enactment, including the ad valorem taxes and the bond indebtedness of each school district. Upon receipt of such payment the rights of the Osage County government and the Pawhuska and Shidler school districts to any funds which may thereafter be due to such entities under the provisions of Public Law 94-565 shall terminate for such land as is acquired by the Federal Government under this Act.

SEC. 10. LIABILITY OF OIL AND GAS OPERATORS.

There is hereby authorized to be appropriated to the Secretary, to be administered by the Superintendent of the Osage Agency, Pawhuska, Oklahoma, such sums as necessary which shall be made available in grants to the operators of oil and gas production, storage, transportation, or processing facilities within the fee area of the Preserve and to operators of such facilities where they are located within 500 feet of a public road elsewhere within the Preserve. Such grants shall be made only upon application therefor, and only for the construction of reasonable fencing or other barriers in furtherance of the Secretary's trust responsibility to protect and administer the Osage mineral estate in a manner that will not create liability claims inconsistent with the administration of the mineral estate for the benefit of the Osage Tribe.

SEC. 11. AGREEMENTS WITH OSAGE COUNTY.

(a) PARK AND COUNTY ROADS.—The Secretary shall enter into a cooperative agreement with Osage County pursuant to which—

(1) the Secretary may, with funds available to him for park roads, rebuild, reconstruct, and provide major maintenance with respect to county roads within the Preserve, regardless as to whether title thereto is in the United States; and

(2) the county may cooperate with the Secretary in the management and interpretation of the Preserve on road rights-of-way within and adjacent to the boundary of the Preserve.

(b) OTHER AGREEMENT.—The Secretary is authorized to enter into cooperative agreements with Osage County for the rendering, on a reimbursable basis, of rescue, firefighting, and law enforcement services and cooperative assistance by nearby law enforcement and fire protection.

SEC. 12. OSAGE MINERAL RIGHTS.

The Secretary shall not condemn or subordinate the mineral rights of the Osage Tribe. In matters relating to the mineral trust of the Osage Tribe, the Attorney General shall be responsible for proper representation of the interests of the Tribe.

SEC. 13. COOPERATIVE AGREEMENT WITH THE CITY OF PAWHUSKA.

The Secretary is authorized to negotiate and enter into a cooperative management agreement with the City of Pawhuska for the use of Blue Stream Lake as a recreational facility.

SEC. 14. AUTHORIZATION OF APPROPRIATIONS.

Effective October 1, 1988, there are authorized to be appropriated such sums as necessary to carry out the provisions of this Act.

Mr. BOREN. Mr. President, today I join with my colleague, Senator NICKLES, in introducing legislation that will create a Tallgrass Prairie Preserve in Oklahoma. Our proposal, which is being introduced in House by all six members of the Oklahoma delegation, calls for the purchase of 50,000 acres in fee and 50,000 easement acres of the finest tallgrass prairie existing in the United States.

I cannot adequately describe for my colleagues the imposing vastness of this tallgrass prairie. Suffice it to say that one must experience the beauty of these lands first hand to truly appreciate them. As one of our most biologically diverse ecosystems, the tallgrass prairie's living network of 300 bird and 80 mammal species once spanned 12 States. This landscape of bluestem grass and rolling plains is an extremely important and deeply loved part of America's cultural and natural heritage. The Nation's best native tallgrass remnant in a park-quality setting lies in Osage County in northeastern Oklahoma, and Congress now has the opportunity to establish a world-class preserve that all Americans can proudly cherish.

Mr. President, having viewed that area myself many times, I feel very strongly that we must preserve it for our children. I want our children, particularly those in the more populated parts of this country, to have the opportunity to come to that tallgrass prairie, to walk across it, or perhaps, as the Director of the National Park System, Mr. Mott, has suggested, to ride across it in replicas of our covered wagons so that they can experience the same sense, the same feeling that the pioneers experienced as they went across this country into the West; so that they can understand the feeling of opportunity, the feeling of freedom, the feeling of challenge that the pioneers who helped build this country felt as they went across these magnificent prairies which, unfortunately, have disappeared from most of the Great Plains States.

Prompt establishment of a Tallgrass Prairie National Preserve remains one of the highest priorities of the National Park Service and the Nation's conservation community. For among the millions of acres in our National Park System, there is no unit like it.

Conservationists see no small irony that in a century of Federal land-preservation efforts, Americans have failed to set aside for future generations a substantial acreage of the very ecosystem that has been called America's characteristic landscape.

John Madson perhaps best described the nature of this preserve in his book "Where the Sky Begins," "[A Tallgrass Prairie Preserve] would be a special place, with an essence not found in mountains, desert, or any other open lands. There is a mysterious something about the native grasses—a power, a spirit that both stirs the soul and quiets it. Whatever that mysterious essence, it lives only on true prairie under a broad vault of pure and intense light, * * *"

Establishment of a tallgrass prairie unit has been under consideration since the 1930's. Many studies have been undertaken most of which were directed by the National Park Service. The results of studies in the 1950's revealed that the most typical and suitable areas were in the Flint Hills region of Kansas and Oklahoma. National Park Service field reconnaissance studies conducted in the 1960's revealed that the Osage Hills, OK region provided the most desirable opportunity to establish a prairie unit with the least existing impacts. Attention was again directed to the Osage County area in 1984-85 when the Barnard Ranch, which is located northwest of Pawhuska, OK in the Osage Hills, became available for sale. My colleague Senator NICKLES asked a group of local residents to study the feasibility of a prairie preserve and to draft a report on the possibilities for a preserve. It was the report of that task force that provided the basis for our legislation.

I have worked with Senator NICKLES, Congressman EDWARDS, Congressman INHOFE, and the National Park Service to draft a proposal that will be acceptable to all parties. Our proposal is based on several main principles. First, we will hold the size to the minimum amount necessary to represent the area's uniqueness, not to exceed 50,000 acres. Second, the power of condemnation will not be used to coerce any landowner into selling his property. Transactions will occur on the strictly willing seller basis. Third, the rights of the Osage Tribe to their mineral trust will not be affected. Current law will continue to govern the development of oil and gas reserves within the preserve boundaries. Any and all National Park Service regulations applicable to oil and gas activities shall not apply within the preserve and the National Park Service shall have no rights to oil and gas beyond those of any other surface owner.

The introduction of this legislation is just the official beginning of a process that in reality began over 40 years ago. When this preserve is created we will have taken a step toward the preservation of a substantial part of our American heritage. Because we will all feel the impact of this preserve, the Oklahoma delegation has actively sought the input of all interested parties. This proposal is the result of the efforts of many people. No one has been excluded from the process. I look forward to working with my colleagues and all other interested parties as we proceed down the road toward the creation of the Tallgrass Prairie Preserve.

In closing Mr. President, I would like to leave you with the words of Walt Whitman: "While I know the standard claim is that Yosemite and the like afford the greatest natural shows, I am not so sure but that the prairies and the plains last longer, fill the esthetic sense fuller, precede all the rest, and make North America's characteristic landscape."

Mr. President, we have a rare opportunity to preserve something special for the next generation and succeeding generations of Americans. We have a unique situation as far as I know in which the entire congressional delegation from the State affected, the State of Oklahoma, Democrats and Republicans, Members of the Senate and Members of the House, have come together to offer this important proposal.

Mr. President, I urge my colleagues to join with us. Time is of the essence. Economic conditions and other factors have created a situation that may not arise again in which we have an opportunity on a willing seller basis to put together this important national prairie preserve.

Let us move thoughtfully, let us move together, and let us move with speed to accomplish this objective. Again, let me thank all of my colleagues who have worked with me, especially my colleague in the Senate, Senator NICKLES, with whom I am joining in introducing this legislation today. As I said, he has played a crucial and a very important role as we have moved toward the process of introducing this legislation. The task force which I mentioned earlier which he appointed has made an immeasurable contribution in recommending the kind of consensus product that will make it possible for this project to move forward.

Mr. NICKLES addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma yields the floor.

The junior Senator from Oklahoma is recognized.

Mr. NICKLES. Mr. President, I ask unanimous consent to proceed as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, reserving the right to object, and I certainly will not object, I ask unanimous consent there be a period for morning business for not to extend beyond the hour of 5 o'clock p.m. and that Senators may speak therein up to 10 minutes each; and once they use their 10 minutes, if they can get consent, to proceed for another 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NICKLES. I thank the majority leader.

Mr. President, I join my colleague, Senator BOREN, and I compliment him on his statement. It has been a pleasure working with Senator BOREN and also Congressman EDWARDS, Congressman INHOFE, and the rest of the Oklahoma delegation in proposing and introducing today the legislation to establish the Tallgrass Prairie National Preserve in Osage County, OK. We have been working on this preserve for over 2 years.

I believe we have a bill with which we, and future generations, can be proud. While forests, swamps, deserts, and seashores have been preserved by law, little protection has been afforded to the vanishing tallgrass prairie.

It is estimated only 2 to 3 percent of our Nation's original prairie lands remain untouched. And it is, I feel, largely for this reason there is such tremendous support for preserving this part of our national heritage.

In the Osage Hills, true tallgrass prairie exists in its pristine state. Untouched by the plow, one can see the acres we carefully selected as those which best represent what settlers encountered as they journeyed West in the early days of our Nation's history.

Whether you call it "interpretation" or "storytelling," there is a lot to be told about the Osage Prairie in both historical and present terms. There is the story of the Osage Indian Tribe, their culture, their history and how they lived on the prairie. There is the story of the cowboys, the cattle drives, and the building of ranching empires. There is the story of the settlers who crossed the prairie in search of a better life and the land runs that opened the West. And there is the story of the American oil industry, a boom and bust business that erupted in the Osage Hills in 1896, 11 years before Oklahoma attained statehood. And there is the prairie today, some untouched, some being grazed, but all of it quietly and all too quickly disappearing under the plow and blacktop.

In Oklahoma and here in Washington, much discussion and study has taken place in order for me to be here on the Senate floor offering this legislation. I have heard from more than 50,000 Oklahomans who want to see this preserve established. Conservation organizations from across the United States have lent their support. And support for this preserve actually goes back more than 50 years.

Since the 1930's, the National Park Service has considered establishing a tallgrass prairie unit. Studies in the late 1950's indicated areas in Kansas and Oklahoma, including the Osage Hills, were the most representative tallgrass prairie regions. A multitude of proposals and studies surfaced in the 1960's and 1970's with National Park Service analysis pinpointing the three most desirable locations. Published in 1979, this NPS review again cited the Osage Hills area as the key area worthy of inclusion in the National Park System.

In 1984, I appointed a seven-member task force to study and report on a potential tallgrass prairie preserve in Oklahoma. Seven months later, the task force recommended to me that authorization legislation be introduced.

National Park Service Director William Penn Mott, who recently toured the proposed site, noted its potential as "a jewel in the crown of the National Park Service" and has made the preserve's establishment a top priority.

The legislation we are introducing would authorize the National Park Service to acquire about 50,000 acres from willing sellers, and another 50,000 for easements. The mineral estate of the Osage Tribe and related oil and gas production are to remain as presently administered. Livestock grazing will continue while animals once native to the area may be reintroduced.

This project can succeed with a truly cooperative effort from all concerned. As you might expect, the preserve will not only be a national conservation treasure, but also a significant economic boost to Osage County and our entire State. Everyone stands to gain with the creation of this preserve.

There are a few individuals who should be commended for their perseverance as this preserve legislation was being created. For without their help, I'm sure we would not be here today. The chairman of the task force, Lee Holcombe, has simply done yeoman's work. Other task force members who have also done more than their share of work are: Harvey Payne, Tom Quinn, Bill Martin, and Harold Murnan. I would also like to thank William Mott, the Director of the National Park Service and William Horn, the Assistant Secretary of the Interior, for their contributions.

Needless to say, several staff members contributed mightily as well. Les Brorsen and Hagen Marshall of my staff; on Senator BOREN's staff, Cody Graves; on Congressman EDWARDS' staff, Jeff Pierson have worked countless hours putting together this proposal to make a consensus proposal not only amongst the delegation but also amongst most Oklahomans.

I am convinced the merits of this proposal are great and I believe I am joined by a majority of Oklahomans who have carefully weighed the advantages of this proposal over the years. We have worked to alleviate the concerns of every interested group, and we have developed a solid consensus. They know the original prairie is vanishing. And while it is alive and well in Osage County, it won't be there forever. Today we have the opportunity to enrich our lives and the lives of those who come after us by preserving a rich piece of our Nation's colorful history.

HOUSE-SENATE CONFERENCE AGREEMENT ON NUCLEAR WASTE

Mr. HECHT. Mr. President, you see before you a very angry U.S. Senator.

The House Democratic leadership has pulled a blatant political power play, and I am outraged, and greatly saddened. I am angry at the conspiracy which resulted yesterday in an agreement between the House and Senate conferees to stick Nevada with the Nation's first nuclear waste repository. The agreement rides roughshod over the rights of Nevada, it makes a mockery of the site characterization process, and it puts personal political ambition above what's best for the country.

The conferees on the budget reconciliation have agreed to a bad bargain on the nuclear waste issue. At the suggestion of the House conferees, the Yucca Mountain site in Nevada is being targeted without any pretense whatsoever of a scientific basis for the decision.

As angry as I am about this, however, I am not greatly surprised. The House conferees, who had duped some other politicans into thinking that they would protect Nevada, are the same ones who want to tell Nevada how much wilderness we should have. Well, I for one am tired of having these same individuals try to tell Nevada what to do with our State.

It is because I knew the political realities behind this debate that I pushed so hard to amend the legislation, in committee, on the floor of the Senate, and with the conferees in the House-Senate conference. Nevada only has 4 votes in Congress, out of 535. The other 531 people in Congress have a lot to gain by sticking Nevada with the Nation's nuclear garbage, and that makes Nevada's chances slim. That's why I amended the legislation as much as possible to protect Nevada in case it passed over my strong objections.

And I did amend it, attaching an unprecedented 17 amendments to the Senate legislation, and having 12 amendments accepted by the House-Senate conferees. These amendments, which force a search for alternatives and force DOE and Congress to treat Nevada a little more fairly and responsibly, is the only protection Nevada has in this legislation.

But I am going to keep fighting, against this bill, against those responsible for this travesty of a compromise, and against the very idea of deep-geologic disposal of nuclear waste—in Nevada, or anywhere else. Because, Mr. President, Congress has just put this country on the wrong path—a path which sends nuclear waste shipments through our neighborhoods, and buries it needlessly within an unwilling host State.

I know there is a better way to handle the waste—through reprocessing. Reprocessing and recycling spent nuclear fuel allows you to burn the waste for energy. Only when we can convince Congress of this utterly obvious fact will Nevada and the United States be really safe. If Congress is allowed to build a repository anywhere, unfortunately, it looks like it will be in Nevada. I am going to keep fighting to see that they don't build one—in Nevada, or anywhere.

I am going to fight this injustice tooth and nail. I will do everything within my power as a U.S. Senator to stop this costly, unscientific, and unfair policy.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. BOREN). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GRAHAM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

HAITI

Mr. GRAHAM. Mr. President, in a recent edition of the Palm Beach Post there was published a photograph of Haitians sitting below a legend in creole on the wall of a presidential candidate's headquarters. The sign read: "A people without memory are a people without future." The memory of the past is vivid in Haiti. The horrors of authoritarian repression linger in that country as grim reminders of what a future without a free and democratic government can hold.

Mr. President, the message in that poster, "A People Without Memory Are a People Without Future," is a message for the United States as well as for the people of Haiti. Haiti is not the first country in this hemisphere to edge into mortal danger while the attention of the United States was diverted elsewhere.

Within our own hemisphere in recent years, we have been diverted from the right, to see the reality of what was happening with this Somoza regime in Nicaragua, until we reached the point that our options are those that we deal with this week in Congress.

From the left, in Cuba, as recently as the experience of 1980, we were dealing with an administration which was at the end of its term, an administration which had been diverted by global events, an administration which assessed the options and decided that each was driven with risk, an administration which elected to tolerate, to accommodate, what Fidel Castro was doing to our country.

We have now spent the better part of almost 8 years dealing with the consequences of that decision not to decide. If we are not to pay too high a price for that neglect, repeated again this year in another country which calls out for U.S. affirmative attention, we must be prepared to pay a similar price, because we bear the responsibility of the protectors of democracy. We cannot tolerate to become tolerationists and accommodationists.

The United States talked to Haiti's interim government while they tried to abolish the constitutionally mandated provisional electoral council. The United States talked with the interim government while election headquarters burned and two presidential candidates were assassinated. Our exhortations to the Haitian Government fell on deaf ears.

Now it seems that the atrocities of the failed elections and the election day massacre have made us mute.

We are concerned about the clarity of the signals the administration is sending to the Namphy interim government. The situation in Haiti calls for direct and harsh language, backed up if need be, with direct and harsh action. The world knows whose hands wielded the machetes that slaughtered Haitian voters. It is morally offensive to respond to cold-blooded murder with quiet diplomacy.

Those of us in Congress who have tried to encourage democracy in Haiti are ready to work with the administration in making a strong public statement which leaves no doubt about how the United States views recent events in that country.

We need to consider every option available to this country individually and as the leader of the free world to bring to the attention of the interim Government in Haiti the depth of our objection and abhorrence and the commitment to action to reverse the free-fall into further authoritarian rule which that Government is currently experiencing.

The loss of a real chance for democracy is an intolerable loss for the Haitian people and a price too steep for this hemisphere to pay for inattention.

The United States has to adopt a comprehensive policy to isolate the Namphy government. We must make clear that we have no intention of supporting General Namphy and his friends in the Tontons Macoutes and the old guard Duvalierists. We must insist that Namphy reassemble the original provisional electoral council and restore a credible election process.

With new elections scheduled for January 17, time is short.

If elections are held on January 17 under conditions which are likely to be characterized by the restoration to the ballot of those persons who were intimately associated with the Duvalier regime and who were removed from the ballot as constitutionally required by the legitimate electoral process, if we are to be culpable in an election which is likely to be associated with repression and violence and intimidation we will see a puppet government installed in Haiti which will make our chances of effectively influencing for democracy, for justice, and for growth of that country much more difficult.

There is a coalition in Congress willing and anxious to fashion a strong, bipartisan policy toward Haiti in cooperation with the administration.

Mr. President, I know of your concern. You have spoken and written eloquently of the importance of a restoration of bipartisan foreign policy for this Nation. What better place to commence that process than in a relationship with a near neighbor crying out in desperate need for a strong, effective U.S. policy for its future?

Memory is overloaded with past and present horrors. The future of Haiti is in desperate trouble today. We have reached a point in which silence is complicity. The United States must take the side of the Haitian people and we must do it loudly and insistently and we must do it immediately.

Now is the time for our administration to lead through lending its advice to the cry of outrage at the arrogant theft of freedom and democracy in Haiti.

Thank you, Mr. President.

The PRESIDING OFFICER. The Senator from Virginia.

A TRIBUTE TO THE MEN AND WOMEN OF NEWPORT NEWS SHIPBUILDING

Mr. WARNER. Mr. President, on December 4, 1987, when President Reagan signed into law the Department of Defense Authorization Act for fiscal 1988, he assured the continuation of a proud tradition at one of the Nation's great shipyards.

For more than a century, the dedicated and highly skilled work force at Newport News Shipbuilding has built the finest vessels ever to sail the seven seas. In times of peace, in times of war, they have never failed the Nation. The *Nimitz*-class nuclear-powered aircraft carriers, "supercarriers" as they are called by the sailors, represent an achievement in naval construction and engineering unequaled anywhere in the world. The yard workers at Newport News Shipbuilding deserve much of the credit for this achievement.

Now with President Reagan's signing of the Defense Authorization Act, and with the action today of conference appropriations, the employees of Newport News Shipbuilding will begin work next year on two more *Nimitz*-class carriers. When they enter the fleet in the late 1990's, these new carriers will replace two others which will then have given 50 years of distinguished service to the Nation. One, and possibly both of the majestic vessels being considered for retirement, were built nearly a half century ago by ancestors of those undertaking the new construction. What more fitting tribute to the matchless abilities of these masters of their trade? From father to son is an old tradition at this shipyard.

Mr. President, the requirement for 15 carrier battle groups is well established. Naval aviation, based on these carriers and deployed to forward locations throughout the world, is an integral part of our strategy of deterrence as defense. In this way, we support our allies and deter aggression, preventing small conflicts from escalating into large wars. And, given the ever present uncertainty of our Nation's continued access to foreign military bases around the world, the role of air power based at sea is increasing. The mobility afforded by the sea, by international waters, is essential to our overall military deterence.

The Commonwealth of Virginia and Newport News Shipbuilding are proud to play such an important role in the construction of these new carriers. Born in the same year that the Statue of Liberty was dedicated, Newport News Shipbuilding has produced more than 700 ships—from tugboats to aircraft carriers, from submarines to passenger liners. Since its founding in 1886 as a repair facility for coal ships by industrialist Collis P. Huntington, one of the builders of the Transcontinental Railroad, the shipyard has grown to be Virginia's largest private employer and the Nation's largest private shipyard. And as the shipyard has developed over this century, it has become a vital national security asset. In fact, Newport News Shipbuilding is the only shipyard in the United States capable of building *Nimitz*-class carriers.

In becoming what I consider to be the finest shipyard in the country, Newport News Shipbuilding has done so by pioneering computer-aided ship design and advanced construction techniques which have made it a leader in ship construction repair. But the most impressive resource at the shipyard always has been its committed employees dedicated to building the best ships in the world.

During my many visits to Newport News Shipyard, there is an unmistakable feeling of pride among employees, many of whom are fourth and fifth generation shipbuilders. This proud tradition reflects the employee bond that has made the shipyard what it is today.

I have every confidence that the faith President Reagan has placed in the workers at Newport News Shipbuilding to build two new *Nimitz*-class carriers is well-placed. And I have further confidence that Newport News Shipbuilding will continue to build on its first 100 years of service to the Nation and remain the premier shipbuilding force in the United States for years to come.

Further, it is a great honor for Virginians to build one of these carriers to be named, in accordance with the wishes of the President of the United States and the Congress of the United States, for the senior Senator of Mississippi Senator JOHN C. STENNIS who has served the people of the United States in the Senate for over 40 years. He is one of the principal architects of the present force structure of the Armed Forces of the United States. For generations to come, Navy men and women will take great pride in sailing "his" ship.

Mr. President, seeing no other Senator seeking recognition, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. NUNN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. GRAHAM). Without objection, it is so ordered.

Mr. NUNN. Mr. President, in a few moments I think we will be considering a nomination, and I will go ahead and address that nomination at this moment.

I see the majority leader is here, and I will be glad to defer to him. I was about to make remarks relating to the nomination of General Powell, to be the National Security Adviser, which has, according to my understanding, been cleared with all parties. But I will defer and yield to the majority leader at this point.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I do wish to inform the majority leader that the nomination is clear on this side.

Mr. BYRD. Very well.

The PRESIDING OFFICER. Does the Senator from Georgia yield?

Mr. NUNN. I yield the floor.

The PRESIDING OFFICER. The Senator from Georgia yields the floor. The majority leader.

EXECUTIVE SESSION

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider the nomination of Calendar Order No. 465.

There being no objection, the Senate proceeded to the consideration of executive business.

The PRESIDING OFFICER. The nomination will be stated.

ARMY

The assistant legislative clerk read the nomination of Colin L. Powell, to be lieutenant general.

The Senate proceeded to consider the nomination.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. NUNN. Mr. President, on November 17 the Senate received the nomination of Lt. Gen. Colin Powell for reappointment to the grade of lieutenant general and to be assigned in that grade to the position of Assistant to the President for National Security Affairs.

Normally the appointment of an individual to serve as Assistant to the President for National Security Affairs does not require confirmation by the Senate. Lieutenant General Powell's appointment is different, however, because of the Senate's statutory role regarding confirmation of senior military officers. I want to take a minute to inform our colleagues why Lieutenant General Powell's nomination is before the Senate and what action the Armed Services Committee has taken on this nomination.

In considering the assignment of Lieutenant General Powell to be the Assistant to the President for National Security Affairs, the President had three options:

First, Lieutenant General Powell could have retired from active duty and been assigned to the position in a civilian status. This option would have restricted action by the Senate only to consideration of his retirement in the grade of lieutenant general. This is what happened in the case of Brent Scowcroft when President Ford appointed him to this job.

Second, Lieutenant General Powell could have elected to relinquish his temporary rank as lieutenant general and be assigned to the position in his permanent military rank of major general. This option would not have required any action by the Senate.

Third, Lieutenant General Powell could be assigned to the position with reappointment as a lieutenant general. This option requires action by the Senate under section 601 of title 10, United States Code. Under that statute, when a senior military officer—meaning a three- or four-star officer—changes assignments, the law requires that he or she must be reconfirmed by the Senate in that grade for the new position.

The President chose this third option.

Since the President has proposed that Lieutenant General Powell serve as the Assistant to the President for National Security Affairs and has nominated him to serve as a lieutenant general in that position, the Senate must confirm him to that rank for that position.

In this instance, the Senate, technically, will be deciding whether Lieutenant General Powell will hold three-star rank when he becomes the National Security Adviser to the President. However, I should note for the record that the committee has received a letter recently from Arthur Culvahouse, Counsel to the President, in which he says that the President will defer assigning Lieutenant General Powell to the position until the Senate has had a chance to act on Lieutenant General Powell's nomination.

I ask unanimous consent that Mr. Culvahouse's letter to me be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE WHITE HOUSE,
Washington, DC, November 20, 1987.
Hon. SAM NUNN,
Chairman, Committee on Armed Services, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: This is in response to your inquiry concerning the November 17, 1987, nomination of Lieutenant General Colin L. Powell for appointment to the grade of Lieutenant General, in conjunction with his assignment to a new position of importance and responsibility—Assistant to the President for National Security Affairs (National Security Advisor). General Powell is currently serving as the Deputy Assistant to the President for National Security Affairs in the grade of Lieutenant General, United States Army.

Upon Senate confirmation of Frank Carlucci as Secretary of Defense, General Powell will assume the additional duties of acting National Security Advisor. In order for General Powell to continue in the grade of Lieutenant General, the President will defer assigning him to the position of National Security Advisor until the Senate has had a chance to act on the November 17 nomination of General Powell.

I hope this information is satisfactory for your needs.

Sincerely,

ARTHUR B. CULVAHOUSE, Jr.,
Counsel to the President.

Mr. NUNN. This nomination raises the serious issue of whether a military officer should serve as the Assistant to the President for National Security Affairs.

The Assistant to the President for National Security Affairs is one of the most important positions in our Government. He or she must be able to provide the President with the best possible advice on national security matters. He must also be able to coordinate the advice from the major departments and agencies in the area of national security; namely, the Departments of State and Defense and the CIA. He must also be able to coordinate action among those agencies. Of course, that requires enormous knowledge and skill, but it also requires independence. A military officer knows that his next promotion depends on the Secretary of Defense and the top generals and admirals in the Pentagon. I do not suggest that General Powell does not have the required independence, and certainly I know he has the skills. I only raise the concern that any active duty officer who serves in that position may be subject to an inherent conflict between his responsibilities to the President and his own professional future in the service.

Assignment of a military officer to this senior, sensitive position also raises serious questions about civilian control of the military. The Assistant to the President for National Security often enjoys greater access to the President on a day-to-day basis than the senior civilian leadership in the Pentagon.

Senior military officers have expressed another but equally valid concern. Admiral Crowe said in his deposition before the Iran-Contra Committee: "I don't think an active military man should lead the NSC, I just really don't believe that." Admiral Crowe went on to say that if the President wants military views, he believed the President should turn to the Chairman of the Joint Chiefs of Staff and not the Assistant to the President for National Security Affairs.

In its final report, the Iran-Contra Committee recommended "that Presidents adopt as a matter of policy the principle that the National Security Advisor to the President should not be an active military officer." Legislation has already been introduced in the Senate to put this recommendation in statute. The Armed Services Committee has pending before us S. 715, a bill introduced by Senator HARKIN last March that would prohibit any active-duty commissioned officer from serving as the Assistant to the President for National Security Affairs.

Mr. President, Senator WARNER and I have discussed this matter. We have had committee meetings on the matter. We have not had any formal hearing. We have had conversations with the White House and with General Powell. I have had conversations on this subject with the President. I have also had conversations with Howard Baker and with Secretary of Defense Carlucci.

This is an unusual situation because, speaking only as an individual Senator—not as chairman of the committee, because our committee has not made this decision—I am very reluctant and will be reluctant to see this action we will be taking this afternoon, if the Senate concurs, repeated in the future.

Why, then, make an exception now? Why go ahead and have a confirmation on the three-star rank at this point in time?

Speaking again only for myself, I believe that this is a rather unique set of circumstances. We are at the end of a term of the President of the United States, the second term, with approximately 1 year left in the Reagan administration. We have had considerable turmoil in the office of the National Security Council. Without going into all of the details, we have had numerous people in that position over the last 4 or 5 years. We are in very important negotiations concerning not only arms control but critical foreign policy matters.

General Powell has been in the position of deputy to Frank Carlucci, who has now moved from the position of Adviser to the President on National Security Affairs to being the Secretary of Defense. We need a period of continuity. We need a period of understanding. We do not have a long time for someone else to come into this position and to go through the learning curve which would take, without any doubt, a considerable number of months.

So, for these unusual reasons, I am setting aside my overall concern in this respect, and I will support confirmation of this particular nomination.

Mr. WARNER. Will the Senator yield for one observation at this point?

Mr. NUNN. I am glad to yield to my friend from Virginia.

Mr. WARNER. I think the Senator would join me and add a further reason for taking this course of action, and that is the unusual distinction that this fine officer has brought to the Nation and himself through so many, many years as a professional officer.

I will ask at the conclusion of the remarks of the chairman and myself, to include, by unanimous consent, a detailed biography of General Powell.

Mr. NUNN. Mr. President, I concur with my friend from Virginia to the extent of the main thrust of his point, and that is that I believe General Powell has had an outstanding record. He is an outstanding officer. But, in the future, speaking again only as an individual, no matter how outstanding the military officer is that may be appointed by a President in the future, I would take a very dim view of that officer serving as the adviser in the national security position, even if he is the most outstanding member of the Armed Forces.

So I would agree with the main thrust and point that the Senator made, but not the implication that an outstanding officer would cause me to set aside my overall concerns in this area.

Mr. President, there are many people who believe that the President has a right to appoint anyone he wants as a personal adviser in this position. And, in general, I share that view. I have never really advocated the view that we should have to confirm the National Security Adviser, although I would reserve the right to reconsider that position in the future.

So I generally share that view, but I do have serious reservations about a military officer serving as Assistant to the President for National Security Affairs.

I also would have to say that I reserve judgment on whether we should prohibit this in the future by statute; whether we should actually pass a law that says the President cannot appoint a military officer. It is one thing to believe as a matter of policy we should not have that as a national policy, it is another thing to say whether we should pass a law precluding that. And we will be having hearings next year on Senator HARKIN's bill and that will be the crux of those hearings; whether, indeed, the Congress should say to the President; "We will not have any more active duty military officers in this position."

This is in no way denigrating military personnel. I do not know anyone that has served with more distinction in that position than Gen. Brent Scowcroft, under President Ford. He was one of the most capable National Security Advisers and still is one of the most capable individuals we have in our city and in our country. And yet he took the position that he did not believe he should be an active duty military person in that position, so he retired from active duty and served in a civilian capacity.

So this is not a question of whether our military personnel, many of them, are qualified to serve. I think they are among the most qualified to serve in these positions. The real question is whether they should serve in this important role while they are still wearing the uniform. I reserve judgment about whether this should remain a matter for the President to decide, even with a strong expression from Congress, or whether it should be a matter of law.

I believe, also, that it is important to point out that the National Security Adviser, when we are talking about civilian control, many times has almost daily or hourly access to the President of the United States. And the question has to be raised as to whether that impinges in any way, indirect though it may be, on civilian control, because the top two civilians in foreign policy and defense are in much more remote, although frequent, contact with the President; that is, the Secretary of State and the Secretary of Defense.

Mr. President, the Armed Services Committee has not considered yet S. 715. I should point out for the record that the President indicated his intention to nominate Lieutenant General Powell to the position just before the Iran-Contra Committee issued their final report. By all accounts, and from my own personal experience—as Senator WARNER already observed—Lieutenant General Powell is an extremely capable and talented military officer.

After careful discussion, the Armed Services Committee voted unanimously to favorably report Lieutenant General Powell's nomination to the Senate. We did not have a formal hearing. We did have informal dialog. Some of the members of the committee, including myself, submitted written questions to Lieutenant General Powell which he has answered in writing. Senator WARNER and I discussed this at some length with Senator INOUYE and Senator RUDMAN, the chairman and vice chairman of the Iran-Contra Committee, and we believe they would fully support the committee's recommendation on this nomination, although they stand by their committee's recommendation as a long-term policy.

In recommending that the Senate confirm the nomination of Lieutenant General Powell, I would like to make it clear that I, personally—again, I am not speaking for the whole committee—I, personally, will not support the nomination of another senior military officer to the position of Assistant to the President for National Security Affairs, at least until the Armed Services Committee has had an opportunity to address the larger question of whether an active duty military officer should serve in this important position. It is my intent to conduct a hearing in the Armed Services Committee on S. 715 next year to consider whether we should report legislation on this matter.

I thank my friend from Virginia for his usual splendid cooperation in this and I urge the Senate to approve this nomination.

The PRESIDING OFFICER. The Senator from Georgia yields the floor.

The Senator from Virginia.

Mr. WARNER. Mr. President, I wish to thank the distinguished majority leader and Republican leader and, most significantly, the chairman of the Armed Services Committee, Mr. NUNN, for expediting this nomination. It is vitally important to the President in the conduct of the affairs of this Nation that the Senate act expeditiously, and momentarily we shall do so.

Mr. President, while I differ with my distinguished colleague with reference to whether or not the Senate should take action in the future on this legislation proposed by Mr. HARKIN or other forms of legislation restricting a President's selection of his principal aids, I feel very strongly that all should be equally qualified.

I certainly join him and thank him once again for the support of this nomination, and likewise the members of the Armed Services Committee who joined with us this week in making the review that was necessary to bring the nomination to the floor.

At no time during the deliberations of the Armed Services Committee have I heard, nor have I heard from any other Member of the Senate, anything but the highest praise for this extraordinary professional officer and I anticipate that he will serve in this capacity with great distinction and that it will enable him to go along to even higher rank and post as a professional officer of the U.S. Army.

Mr. President, returning once again to the issue of a President's options to select members of his staff, I bring to the attention of the Senate a law, section 720 of our statutes, title X which reads as follows:

> The President, by and with the advice and consent of the Senate, may appoint a general officer of the Army, Air Force, or Marine Corps or a flag officer of the Navy as a Chief of Staff to the President and may designate such position as a position of importance and responsibility under section 601 of this title.

At the conclusion of my remarks, Mr. President, I ask unanimous consent that the legislative history on this particular section of our laws be included in the RECORD to follow my statement and just precede the biography of General Powell.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. WARNER. As the Senate addresses the issue of a President's ability to select his National Security Adviser, it most certainly must take into consideration the fact that the Congress has already spoken on the eligibility of an officer, a professional military officer, to take the position of the more senior member and the most senior member of the President's staff, namely, his Chief of Staff. It seems to me, if it was Congress' will that he could select a professional for that position, it would bear directly on any decision of the Congress with respect to the subordinate position of National Security Adviser.

Nevertheless, at an appropriate time the Congress, certainly the Senate, will address this issue and we will have further debate on it and I shall have further remarks with respect to my strong belief that a President should have a free hand to select whomever he wishes for the position of National Security Adviser as well as any other member of his staff.

EXHIBIT 1

Section 504(a) and (6) of the Officer Personnel Act of 1947, August 7, 1947, 61 Stat. 886

GENERAL OFFICERS—ASSIGNMENTS—POSITIONS CARRYING RANK OF GENERAL AND LIEUTENANT GENERAL

SEC. 504. (a) General officers holding office in any general officer grade, under permanent or temporary appointments, including general officers of the Army of the United States, or any component thereof, serving on active Federal duty, may be assigned or detailed to any duties or positions under regulations prescribed by the President.

(b) The President is authorized, from time to time, to designate certain positions of importance and responsibility which shall carry the rank of general and lieutenant general, respectively, and to designate and assign to such positions any of the general officers holding office in the grade of major general or higher grade, under permanent or temporary appointments (including general officers of the Army of the United States and general officers of each of the components thereof who may be serving on active Federal duty), and such officers, so designated and assigned, shall have the rank, title, pay, and allowances of a general or lieutenant general, as the case may be, while so serving, without vacation of their permanent grade, and, upon termination of such an officer's service in any such position he shall resume his permanent grade or whatever temporary grade he may, at that time, be entitled to hold: *Provided,* That such officers shall have the rank, title, pay, and allowances of a general or lieutenant general under the provisions of this section only when appointed in such positions by the President, by and with the advice and consent of the Senate: *Provided further*, That the number of such positions and the number of officers serving in such positions shall not exceed 15 per centum of the total number of general officers serving on active Federal military duty (including those holding office under temporary appointments and general officers of the Army of the United States, and the several components thereof), and, of such number not more than 25 per centum may be positions carrying the rank of general: *Provided further*, That, unless a national emergency is declared after the date of this Act and before July 1, 1948, there shall, after such date, and until a national emergency is thereafter declared, be no additional officers appointed in any grade above that of general and the total number of officers serving on active duty in grades above major general under this section or any other provision of law, shall not exceed the following: Forty-four in grade of lieutenant general or higher grade, of which not more than nine shall be above the grade of lieutenant general, and of the nine above the grade of lieutenant general, one shall be the Chief of Staff of the Army and one shall be the officer occupying the corresponding position of the Army Air Forces, and of the remaining seven above the grade of lieutenant general there shall be not more than four in the Army less the Air Corps and not more than three in the Air Corps and of the total forty-four in grade of lieutenant general or higher, there shall be not more than twenty-seven in the Army less the Air Corps and not more than seventeen in the Air Corps; *except that there may be a general officer, either of the Air Corps or other than of the Air Corps, appointed as Chief of Staff to the President, and such officer, unless he be entitled to rank, title, or grade, and the pay and allowances of a general, or of a higher grade under some other provision of law, shall, when appointed to such position by and with the advice and consent of the Senate, have the rank, title, pay, and allowances of a general and he shall be additional to the numbers hereinbefore set forth in this proviso: And provided further*, That the numbers of general officers set forth in this subsection and in the several provisos thereof shall be exclusive of general officers on the active list of Regular Army who are specifically authorized by Acts of Congress to hold appointments in the Diplomatic or Consular Service of the Government or to hold any civil office under the Government or any instrumentality thereof.

RÉSUMÉ OF SERVICE CAREER OF COLIN LUTHER POWELL, LIEUTENANT GENERAL

Date and place of birth: 5 April 1937, New York, New York.

Years of active commissioned service: Over 29.

Present assignment: Deputy Assistant to the President for National Security Affairs, 1st Floor, West Wing, The White House, Washington, DC 98431, since January 1987.

Military schools attended: The Infantry School, Basic and Advanced Courses, United States Army Command and General Staff College, The National War College.

Educational degrees: City University of New York—BS Degree—Geology George Washington University—MBA Degree—Business Administration.

Major duty assignments, (from, to, and assignment):

June 1958 to October 1958—Student, Unit Officer Course, Infantry Unit Commander Course, Infantry Officer Basic Course, Ranger Course, and Airborne School, United States Army Infantry School, Fort Benning, Georgia.

October 1958 to July 1959—Platoon Leader, Company B, 2d Armored Rifle Battalion, 48th Infantry, United States Army Europe.

May 1959 to July 1959—Assistant Adjutant, Combat Command B, 3d Armored Division, United States Army Europe.

August 1959 to October 1960—Platoon Leader and later Executive Officer, Company D, 2d Armored Rifle Battalion, 48th Infantry, United States Army Europe.

December 1960 to October 1961—Liaison Officer and later Executive Officer, Company A, 1st Battle Group, 4th Infantry, 2d Infantry Brigade, 5th Infantry Division (Mechanized), Fort Devens, Massachusetts.

October 1961 to February 1962—Commander, Company A, 1st Battle Group, 4th Infantry, 2d Brigade, 5th Infantry Division (Mechanized), Fort Devens, Massachusetts.

February 1962 to September 1962—S-1 (Personnel), 1st Battalion, 2d Infantry, 5th Infantry Division (Mechanized), Fort Devens, Massachusetts.

October 1962 to November 1962—Student, United States Army Special Warfare Center, Fort Bragg, North Carolina.

December 1962 to January 1963—Self Defense Corps Training Center Advisor, 2d Infantry Division, I Corps, Military Assistance Advisory Group Vietnam.

January 1963 to November 1963—Senior Battalion Advisor, Unit Advisory Branch, and later Assistant G-3 (Operations) Advisor, 1st Infantry Division, Army of the Republic of Vietnam, Military Assistance Advisory Group, Vietnam.

November 1963 to June 1964—Test Officer, United States Army Infantry Board, Fort Benning, Georgia.

August 1964 to May 1965—Student, Infantry Officer Advanced Course, United States Army Infantry School, Fort Benning, Georgia.

May 1965 to February 1966—Test Officer, Supporting Weapons Test Division, United States Army Infantry Board, Fort Benning, Georgia.

February 1966 to June 1967—Instructor/Author, Operations Committee, United States Army Infantry School, Fort Benning, Georgia.

August 1967 to June 1968—Student, United States Army Command and General Staff College, Fort Leavenworth, Kansas.

June 1968 to September 1968—Executive Officer, 3d Battalion, 1st Infantry, 11th Infantry Brigade, Americal Division, United States Army Vietnam.

September 1968 to July 1969—Assistant Chief of Staff, G-3 (Operations) and later Deputy G-3 (Operations), Americal Division, United States Army Vietnam.

September 1969 to July 1971—Student, The George Washington University, Washington, DC.

July 1971 to June 1972—Operations Research Analyst, Office of the Assistant Vice Chief of Staff, United States Army, Washington, DC.

September 1972 to August 1973—White House Fellow, Office of Management and Budget, The White House, Washington, DC.

September 1973 to September 1974—Commander, 1st Battalion, 32d Infantry, 2d Infantry Division, Eighth United States Army, Korea.

September 1974 to July 1975—Operations Research Systems Analyst, Office of the Deputy Assistant Secretary of Defense (Manpower Requirements and Analysis), Office of the Assistant Secretary of Defense (Manpower and Reserve Affairs), Washington, DC.

August 1975 to April 1976—Student, The National War College, Fort Lesley J. McNair, Washington, DC.

April 1976 to July 1977—Commander, 2d Brigade, 101st Airborne Division (Air Assault), Fort Campbell, Kentucky.

July 1977 to December 1978—Executive to the Special Assistant to the Secretary and Deputy Secretary of Defense, Washington, DC.

January 1979 to June 1981—Senior Military Assistant to the Deputy Secretary of Defense, Washington, DC.

June 1981 to August 1982—Assistant Division Commander, 4th Infantry Division (Mechanized), Fort Carson, Colorado.

August 1982 to June 1983—Deputy Commanding General, United States Army Combined Arms Combat Development Activity, Fort Leavenworth, Kansas.

July 1983 to June 1986—Military Assistant to the Secretary of Defense, Office of the Secretary of Defense, Washington, DC.

June 1986 to December 1986—Commanding General, V Corps, United States Army Europe, APO New York.

PROMOTIONS AND DATES OF APPOINTMENT

	Temporary	Permanent
Second Lieutenant	June 9, 1958	June 30, 1958.
First Lieutenant	December 30, 1959	June 30, 1961.
Captain	June 2, 1962	June 30, 1965.
Major	May 24, 1966	June 30, 1972.
Lieutenant Colonel	July 9, 1970	June 30, 1979.
Colonel	February 1, 1976	
Brigadier General	June 1, 1979	January 22, 1982.
Major General		August 1, 1983.
Lieutenant General		July 1, 1986.

U.S. decorations and badges:

Defense Distinguished Service Medal (with Oak Leaf Cluster).

Defense Superior Service Medal.

Legion of Merit (with Oak Leaf Cluster).

Soldier's Medal.

Bronze Star Medal.

Purple Heart.

Air Medal.

Joint Service Commendation Medal.

Army Commendation Medal.

Combat Infantryman Badge.

Parachutist Badge.

Pathfinder Badge.

Ranger Tab.

Army General Staff Identification Badge.

Source of commission: ROTC.

Summary of joint experience (Assignment, dates, and grade):

Self Defense Corps Training Center Advisor, later Senior Battalion Advisor, Unit Advisory Branch, 1st Infantry Division, Army of the Republic of Vietnam, Military Assistance Advisory Group, Vietnam, December 1962 to November 1963—Captain.

Fellow, White House Fellowship Program, The White House, Washington, DC, September 1972 to August 1973—Lieutenant Colonel.

Operations Research Systems Analyst, Office of the Deputy Assistant Secretary of Defense (Manpower Requirements and Analysis), Office of the Assistant Secretary of Defense (Manpower and Reserve Affairs), Washington, DC, September 1974 to July 1975—Lieutenant Colonel.

Executive to the Special Assistant to the Secretary and the Deputy Secretary of Defense, Office of the Secretary of Defense, Washington, DC, July 1977 to December 78—Colonel.

Senior Military Assistant to the Deputy Secretary of Defense, Office of the Deputy Secretary of Defense, Washington, DC, January 1979 to June 1981—Brigadier General.

Military Assistant to the Secretary of Defense, Office of the Secretary of Defense, Washington, DC, July 1983 to June 1986—Major General.

Deputy Assistant to the President for National Security Affairs, The White House, Washington, DC, January 1987 to Present—Lieutenant General.

Mr. NUNN. Mr. President, I ask the Chair to put the question.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of Lt. Gen. Colin L. Powell, U.S. Army, to be lieutenant general? Is there further debate? If not, all those in favor, signify by saying aye. All opposed, nay.

The ayes appear to have it. The ayes do have it.

So the nomination was confirmed.

Mr. NUNN. Mr. President, I move to reconsider the vote by which the nomination was confirmed.

Mr. WARNER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. WARNER. Mr. President, may the record reflect the vote was unanimous in the judgment of this Senator and, I think, the Chair.

The PRESIDING OFFICER. The record will so indicate.

Mr. NUNN. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of the nomination.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NUNN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNITED STATES-JAPAN NUCLEAR COOPERATION AGREEMENT

Mr. PELL. Mr. President, on November 9 the President submitted to the Congress a proposed United States-Japan Nuclear Cooperation Agreement. Yesterday, December 17, the Committee on Foreign Relations voted 15 to 3 to send a letter to the President expressing the conclusion of the committee that the proposed agreement is not in conformity with existing law with respect to nonproliferation. This letter expresses the deep concerns of many members of the committee. It calls upon the President to either renegotiate the agreement or to resubmit it with a waiver of certain provisions of the law, which would require congressional approval to take effect.

There are serious issues involved. The proposed agreement calls for long term, 30 year, advanced consent to the widespread commercial use of United States origin plutonium in Japan and for shipment of many tons of plutonium from reprocessing plants in Europe to Japan via a polar route. A likely refueling stop would be in Alaska.

The risk of nuclear terrorism, accident, or diversion of plutonium under the programmatic approval authorized in this agreement is of great concern to the committee. I therefore ask unanimous consent that a copy of the letter to the President be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
COMMITTEE ON FOREIGN RELATIONS,
Washington, DC, December 17, 1987.

The PRESIDENT,
The White House, Washington, DC.

DEAR MR. PRESIDENT: In accordance with the provisions of Section 123b. of the Atomic Energy Act of 1954, as amended, 42 U.S.C. S2153(b) (the "Act"), we are writing to advise you that the Senate Foreign Relations Committee has concluded that the proposed Agreement for Cooperation between the Government of the United States of America and the Government of Japan Concerning Peaceful Uses of Nuclear Energy, submitted to the Congress on November 9, 1987 (the "Agreement"), is not consistent with Section 123 of the Act. The Committee respectfully requests that you renegotiate the Agreement to bring it into conformity with U.S. law. If the Agreement is not renegotiated, then it must be resubmitted to the Congress with an exemption of statutory requirements, in accordance with Section 123a. of the Act, and must await affirmative action by Congress through enactment of a joint resolution of approval.

As made clear in the Conference Report accompanying the 1985 amendment to the Act, "(t)he Congress fully expects . . . that the President will resubmit any agreement for which he has not submitted an exemption if either (Foreign Affairs) Committee during the prior consultation period recommends that an exemption is required."

In submitting the Agreement to Congress, your Administration expressed the conclusion that the Agreement "meet all statutory requirements". The Committee cannot accept this assertion. The proposed Agreement would provide for thirty-year advance consent of extraction, transport and widespread commercial use of plutonium by Japan—activities which, as the Administration itself states, are "unprecedented in . . . nature and scope. . . ." In our judgment, Section 123 of the Act unqualifiedly requires that the United States retain prior approval rights in its agreements for cooperation over the transfer and reprocessing of nuclear material. While the Administration asserts that these requirements are met, the Implementing Agreement exercises in Article 1 the consent rights provisions on a one-time basis for the life of the Agreement, a proposal totally incompatible with the provisions of the Act.

The Committee also has serious reservations about the finding that the Agreement will promote, and will not constitute an unreasonable risk to, the common defense and security—inasmuch as this determination was made arbitrarily in the face of serious, written objections from both the Department of Defense and the Nuclear Regulatory Commission. The Committee also finds fault with the Administration's interpretation of the Act's requirements with regard to the "timely warning" criterion. Congress intended in the Nuclear Nonproliferation Act for timely warning to be something more than a mere restatement of the general test of "inimicality" which the Act provides for subsequent arrangements. Rather, Congress intended timely warning to be a technically-based criterion, judged in light of the workability of safeguards and physical security measures. Since the Administration has not made such a determination, we do not believe that the exercise of consent rights in the Agreement is consistent with the requirements of Section 131b(2) of the Act. Consequently, the safeguards and physical security criteria of Section 123 of the Act are not met.

The Committee is deeply concerned about the major policy implications of the precedents which would be established by entry into force of this Agreement. Testimony taken by the Committee indicates that the U.S. is preparing to give blanket authorization for the next 30 years to air-shipment of several hundred kilograms of weapons-usable plutonium each month over and through U.S. territory. Before embarking on such a perilous course—which could seriously jeopardize our nonproliferation interests while posing a grave environmental risk—we wish to consult with the Administration very closely. It is therefore our purpose in this letter to stop the "ninety day clock", and to begin a good faith dialogue with all parties on how the fundamental deficiencies in the Agreement can be corrected.

The Committee has reached these judgments of the basis of its own investigations, as well as its lengthy hearing conducted on December 15, 1987. Accordingly, the Committee finds that the Agreement must either be renegotiated, or, at a minimum, resubmitted with an exemption from the appropriate provisions of Section 123 of the Act. The Committee requests that your Administration communicate its intentions to the Chairman and to the Ranking Republican Member by January 11, 1988, in order to provide sufficient time to consider necessary legislative action and other remedial options.

Sincerely,

Claiborne Pell, Chairman; Jesse Helms, Ranking Republican Member; Alan Cranston, Chairman, Subcommittee on Asia and Pacific Affairs; Frank H. Murkowski, Ranking Republican Member, Subcommittee on Asia and Pacific Affairs; John F. Kerry, Rudy Boschwitz, Paul Simon, Terry Sanford, Paul S. Sarbanes, Brock Adams, Daniel P. Moynihan, Christopher J. Dodd, Nancy Landon Kassebaum, Larry Pressler, Joseph R. Biden, Jr.

THE MUST-CARRY RULE

Mr. PRESSLER. Mr. President, I would like to address an issue which should be of concern to every American. On December 11, 1987, the U.S. Court of Appeals for the District of Columbia ruled that the FCC's must-carry rules for cable television are incompatible with the first amendment. This is a regrettable decision.

The cable television industry, since its beginning in the early 1960's, has been subject to the must-carry rule. For over 20 years, this rule was quite simple. Cable systems were required, upon request and within the limits of their channel capacity, to carry the signals of all local broadcast television stations, including certain education television programming. This well-established policy was declared unconstitutional in the Quincy Cable TV decision in 1985. The FCC salvaged parts of the must-carry rule in a more narrow format, but we now find that even that version fails to satisfy the D.C. Court of Appeals.

I am concerned that the FCC may lose interest in pursuing the must-carry rule in the wake of this decision. I am more concerned about the possible effect this decision could have on the viewing choices of the American public. Since Quincy, over 200 public broadcasting stations have been dropped from cable systems across the country. Over 4 million homes have been affected. Many of those dropped had provided instructional services used by school systems at all levels.

The court stated that the FCC failed to show a sufficient governmental interest in sustaining the must-carry rule. I feel compelled to ask whether an investment of around $3 billion by the Federal Government in public broadcasting does not give us a sufficient interest in ensuring that this programming is carried by cable systems. Much more has been invested at the State and local levels.

The clear answer is that the government has an enormous interest, both educational and financial, in protecting public access to the full range of local programming. I believe we can and should enact legislation restoring our long-standing "must-carry" tradition, and that this can be accomplished within the confines of the first amendment. I plan to introduce such legislation in the near future, and am currently studying our options so that we can correct this situation as expeditiously as possible.

VOLUNTARY REUNION REGISTRY ACT OF 1987

Mr. PELL. Mr. President, I rise today to commend the Senator from Michigan for sponsoring such the Voluntary Reunion Registry Act of 1987. I am very pleased to join him as an original cosponsor of the bill.

All too often, birthparents, their children, and separated siblings are prevented from reestablishing contact because of the many years and many miles of separation. In most cases, if parents, children, and brothers and sisters are able to find each other, it is only after years and years of exhaustive searching and great expense. This bill offers an alternative.

The Voluntary Adoption Reunion Registry Act of 1987 authorizes a 3-year demonstration project that will allow biological parents and separated siblings to voluntarily contact each other through a centralized computer registry. The system is not designed to look for a missing family member and does not involve the opening of confidential or sealed records but instead, matches requests for those wishing to find each other. Both sides must have to be willing to meet the other.

In these times of budgetary concerns, the costs of this program are minimal. The first year costs are not expected to be any more than $300,000 and the future costs would be taken care of by the small registration costs that the applicants would be required to pay.

Mr. President, over the next few weeks, the news will be filled with stories of children and their biological parents who, after years and years of search, finally are reunited in time for this holiday season. Let us hope that this is the last year that such news stories begin with the phrase, "After years of exhaustive searching * * *".

I urge my colleagues to join Senator LEVIN, me, and 20 of our colleagues as cosponsors of this most worthwhile bill.

THE RETIREMENT OF ROBERT BERRY, CHIEF READING CLERK OF THE HOUSE

Mr. PRESSLER. Mr. President, when I first came to Congress in 1974 as a freshman Representative from South Dakota, I immediately found a close and common bond between myself and Bob Berry, Chief Reading Clerk of the House. We are both from South Dakota.

Bob Berry is witty and knowledgeable. He knows how to help out the new kids on the block—easing the way for the new and inexperienced. Bob always makes one feel in charge and is as helpful to the native sons and daughters of Alaska and Maine as he is to the native sons and daughters of his home State of South Dakota.

To Bob, the House of Representatives is a home, and even more so, a family. His father, Ellis Yarnal Berry, served as a Republican Representative in that great body for the 20 years from 1951 to 1971. I'm sure young Bob often watched with curiosity as his father took his place in history as a lawmaker. Like his father, Bob always has been proud to say he is from South Dakota.

Bob learned a great deal from E.Y., and the two are alike in many ways. Both are graduates of the University of South Dakota Law School. Both were practicing attorneys in South Dakota who explored a great number of routes from local to Federal Government. I feel, however, that the most important similarity between E.Y. and Bob is that they both share the desire to serve others, whether as a U.S. Representative or as Chief Reading Clerk of the House. Dedication to their State and country has been one of the most important values passed down to others by the Berry family through the years.

Bob served on the staff of Senator Karl Mundt of South Dakota for 8 years in various assignments. He served in the positions we now know as caseworker, legislative correspondent and legislative aide. Clearly, he learned the legislative process from the ground up. He also served for 5 years as minority counsel on the Intergovernmental Relations Subcommittee of the Senate Government Operations Committee. Here he learned the committee process and thoroughly mastered the inner workings of the Senate.

Bob always has willingly accepted his responsibility to the legislative process and to the people of this great Nation. We in Congress view his work with great respect and appreciate his crucial contribution to the smooth operation of the House of Representatives.

I speak for myself and countless others in saying that Bob will be missed. We all wish him the very best. He looks forward to spending more time with his wife, Marilyn, and their two children, Nancy, 2, and Brian, 19. Not only will he be leaving behind long hours and hard work, but also a great many friends and colleagues who admire and respect him.

I am proud to call Bob Berry a good friend and fellow South Dakotan. I wish him a successful and very happy retirement.

BICENTENNIAL MINUTE

DECEMBER 18, 1917: THE SENATE VOTES FOR PROHIBITION

Mr. DOLE. Mr. President, 70 years ago today, on December 18, 1917, the Senate approved the 18th amendment to the Constitution. That resolution provided that after 1 year from the ratification of this article the manufacture, sale, or transportation of intoxicating liquors within, the importation thereof into, or the exportation thereof from the United States and all territory subject to the jurisdiction thereof for beverage purposes is hereby prohibited.

Behind this amendment lay years of lobbying by those who believed that drinking, especially among the millions of newly arrived immigrants, posed a clear threat to the maintenance of national law and order. These advocates argued that working-class men were squandering money in local saloons, thus contributing to their families' poverty and social distress.

American entry into World War I earlier in 1917 paved the way for adoption of the 18th amendment. To preserve the morals of draftees, Congress had enacted legislation prohibiting the sale of alcoholic beverages on or near military camps. It also had banned the use of foodstuffs necessary to the war effort in the manufacture of distilled liquors. Ultimately, wartime hostility toward Germany fueled ill feelings against distillers and brewers of German descent and the prohibition amendment passed as the Nation became more deeply entangled in the European conflict.

Idaho Senator William Borah objected to the provisions of the amendment that provided 7 years for ratification and a 1-year delay before its implementation. With an eye to the forthcoming women's suffrage amendment, Borah saw no authority within the Constitution for Congress to impose such restrictions. Despite these objections, the Senate adopted the amendment by a 47-to-8 margin. But the "noble experiment," as prohibition was called, was not successful, and the amendment was repealed in 1933.

PANAMA

Mr. WARNER. Mr. President, the instability of the Government in Panama has led to serious concern over the Panama Canal and our national security interests in the region. As we attempt to deal with this situation and continue to encourage democratic government, a number of alternative courses of action are being proposed.

Lt. Gen. (Ret.) Victor H. Krulak has written a thought-provoking article, "The Isolation of the United States" which appears in the fall 1987 issue of Global Affairs. In addition to recommendations addressing a number of problems in the Central American region, General Krulak argues that our agreement to the 1978 canal treaty was predicated on the Republic of Panama being a free, democratic, stable, open and friendly country. He contends that abandonment of our military bases in the zone and relinquishment of our control over the canal should be held in abeyance until these conditions are established.

As we continue to search for the best means by which to encourage the return of Panama to a more stable democratic society, General Krulak's views should be given thoughtful consideration.

Victor Krulak is truly a superb individual with a depth of perspective matched by few if any. The author, having taken part in World War II campaigns across the Pacific, having served as Chief of Staff with the 1st Marine Division in the Korean conflict, and having been the Commanding General, Fleet Marine Force Pacific at the conclusion of his long career, is well qualified to write on this subject. His combat awards alone, attest to this man's patriotism. He was awarded the Navy Cross, three Legions of Merit, two with combat "V," and the Purple Heart among many other awards. He also served as the Director, Marine Corps Educational Center and as Special Assistant for Counter-Insurgency Activities, Organization of the Joint Chiefs of Staff. With such background, his thoughts indeed should be carefully weighed against the problems now faced in that region of the world.

He continues to cap his career as a journalist and lecturer. I value his wisdom.

Mr. President, I ask that this article be included in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE ISOLATION OF THE UNITED STATES

(By Victor H. Krulak)

On August 3, 1914, the steamship *Cristobal* made the first ocean-to-ocean transit of the Isthmus of Panama. The Great Canal, the largest single engineering project the world has yet seen, was complete. With that completion, the United States came of age.

The canal united two halves of a continent. It contributed materially to the effectiveness and profitability of the nation's inter-coastal commerce, and it served as a powerful strategic weapon in two world wars. The United States made the waterway available to everybody. As a result, its free and untrammeled use literally shrank the size of the globe, benefiting nations both large and small.

In 1922, Vladimir Lenin offered a prescient strategic judgment concerning the worth of the Panama Canal, declaring that "control of this jewel of the Western Hemisphere is an essential to the march of socialism." To all of the commissars who followed him, Lenin's strategic imperative became an article of faith, a key element of the Kremlin's global design.

The Soviet aspirations were subsequently advanced by three major developments that united to cause the Kremlin to reach far beyond the Panama Canal and make the conquest of all of Central America a prime aim. The first of these events was the 1960 overthrow of Cuban dictator Fulgencio Batista, followed by the installation of Fidel Castro's Marxist regime and the establishment—permanently, it now appears—of a major Soviet military presence in Cuba.

Over the ensuing quarter-century Cuba, as a totally dependent Soviet client state, has become the most formidable military power in the Western Hemisphere, after the United States. Some $1.5 billion worth of Soviet arms per year have provided the Cubans with an army of over 230,000, with 780,000 reserves; an air force comprising first-quality Soviet MiG-23, 25, and nuclear-capable MiG-27 aircraft; a navy of missile-firing surface ships and conventional submarines; plus a respectable logistic system.

However, the physical magnitude of the Cuban military is less significant than its operating philosophy which, responding to Soviet guidance, is overwhelmingly imperialistic. With almost 50,000 troops deployed overseas, Cuba serves as a dynamic surrogate for the Soviet acquisitive program. And nowhere is that imperial mandate more clearly visible than in Latin America.

President John F. Kennedy foresaw the threat to the hemisphere of a powerful and emboldened Cuba, as well as the threat of a set of Soviet bases on the island, and he made these two concerns the centerpiece of his confrontation with General Secretary Nikita Khrushchev. Removal of the Soviet nuclear missiles from Cuba was Kennedy's first priority, followed closely by a determination to curb the spread of Communist subversion into Latin America. He announced: "The United States is determined to prevent, by whatever means, including the use of arms, the Marxist-Leninist regime in Cuba from extending its aggressive or subversive activities to any part of this hemisphere."

This was a resolute pronouncement, admitting of no misinterpretation. In making it, Kennedy was benefiting from a multiple advantage subsequently enjoyed by none of his successors—strong bipartisan political support and substantial military superiority over the Soviets. Khrushchev knew that Kennedy meant business and backed off. The two leaders then exchanged letters confirming that we would not invade Cuba if the Soviets withdrew all offensive weapons from the island and if the Cubans agreed not to conduct "aggressive or subversive activity in any part of this hemisphere."

The agreement did not endure for long. In the following decade, taking advantage of the U.S. preoccupation with Vietnam, the Soviets brazenly flouted the Kennedy-Khrushchev agreement, built their formidable base in Cuba, and, with the Cubans, launched a widespread campaign of subversion in Central America. We did nothing about it. As a result, today we have a full-blown crisis in our hemisphere.

From their Cuban bases, Soviet forces are now in a position to dominate the Windward Passage and the Atlantic approaches to the Panama Canal, a strategic advantage that was strengthened by a second major development, the 1978 ratification by the U.S. Senate of two treaties with the Republic of Panama. The first treaty provided for a gradual takeover by Panama of the canal and Canal Zone, to which we had been granted "use, occupation and control" in the Panama Canal Treaty of 1903. The second accord provided that the canal shall be "neutralized" after the year 2000.

Our act of voluntary surrender of this great strategic asset, along with all rights to the U.S. bases required for its defense, has

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Footnotes at end of article.

been rendered more critical by the uncertain nature of Panama's leadership. Gen. Manuel Antonio Noriega, the country's strongman, came to power by violence. He is openly accused of political murder, vote fraud, drug dealing, and money laundering.[1] He proclaims himself a close friend of Castro[2] and of Daniel Ortega, Nicaragua's president, who visited Panama City in late June of this year.

Under pressure from conservative elements at home, the Noriega regime adopted the official stand that Panama's troubles stemmed from "the North American enemies of our country in collusion with . . . subversive radical sectors of the Panamanian right."[3]

Meanwhile, Noriega moved rapidly toward establishing full diplomatic relations with the Soviet Union. A procession of Panamanian legislators have visited Moscow since late 1986. Noriega's political party, the Democratic Revolutionary Party, joined the Socialist International in December of that year, and Aeroflot began regularly scheduled flights to Panama on January 6, 1987. The evidence is manifest: Noriega's government has a growing fraternal, political, and economic relationship with the Soviets.

These factors have greatly enhanced the prospect of achieving Lenin's aim respecting control of the Panama Canal. That strategic program, however, has now become just a part of the larger Soviet aspiration so feared by Kennedy—the projection of Marxist-Leninist subversion into other areas of the hemisphere, particularly Central America.

A third development that has encouraged the Soviets to move aggressively in the area is the widely applauded effort by Central American countries to replace oppressive dictatorships with open, democratic societies dedicated to human rights and individual dignity. Ten years ago, only Mexico and Costa Rica, in this region, had a tradition of elected civilian authority. All of their neighbors, long sufferers from social injustice and maldistribution of national income, were governed by military men who had come to power through the use of force, rigged elections, or both.

In the ensuing decade, military regimes in Guatemala, El Salvador, and Honduras have been toppled and replaced by embryonic democratic governments, a development described by Brazilian President Jose Sarney as "the most stunning and moving political fact of recent years."[4]

Because of their determination to seek freedom and democracy, all of these countries have become targets for Soviet/Cuban mischief. In El Salvador, for example, elections in 1982, 1984, and 1985 had to be held under the hazard of widespread violence from Marxist guerrillas—armed, supported, and guided by Cubans. Honduras and Guatemala also had to make their transition in the face of externally generated subversive action.

During the same period, the oppressive military dynasty of Anastasio Somoza was unseated in Nicaragua, with results well-known to the world. Most of the leaders of the anti-Somoza movement were determined that its successor regime would become a true democratic government, an aspiration that was completely thwarted by the Sandinista junta—hard-core Leninists advised and supported by Cuba and the Soviet Union.

Today there is no shred of democracy in Nicaragua. Freedom of speech, press, worship, and movement are put aside, as are all vestiges of political freedom. Trade unions and human rights agencies are harassed. Government wire-tapping, telephone bugging, and seizure of mail are now legal, as is imprisonment without stated cause.

Sandinista Nicaragua, beneficiary of $1.5 billion in Soviet aid, has the most potent military force in Central America—a 75,000-man army, 350 Soviet tanks, a dozen powerful Mi-24 helicopter gunships, a hundred long-range howitzers, and over 100 modern combat aircraft. Training is conducted under the watchful guidance of some 8,000 East bloc and Cuban advisers, and pilots and key technicians are trained in Bulgaria and East Germany. But, just as in the case of Cuba, the potential of Nicaragua as a Soviet base exceeds the formidable importance of its armed forces or even the physical threat those armed forces pose to its weaker neighbors.

The Soviets are developing a powerful military infrastructure on Nicaragua's west coast. There is a growing naval installation at San Juan Del Sur and a major air base at Punta Huete, with an 11,000-foot runway, revetments, and maintenance buildings, all capable of accommodating Soviet intercontinental bombers. When these are completed they will provide a counterpart, on the Pacific side of the Central American isthmus, to the existing Soviet air and naval bases in Cuba on the Atlantic side. Literally, they will have a strategic air/sea vise on the Panama Canal, one which we will be hard put to oppose militarily because, by treaty, we will have relinquished our military bases in the Canal Zone. If, someday, we were obliged to fight for the canal, it would have to be from bases in the continental United States or from our fleets at sea.

The Soviet military penetration of the hemisphere has been paralleled by corresponding social, economic, and political programs aimed at insinuating its influence into the affairs of the Central American countries that are struggling to enter the democratic world. The Soviet Union has sought to create a pro-Soviet atmosphere by establishing large diplomatic and cultural missions in the various capitals, which it has proceeded to use as convenient bases for espionage. It is giving 7,500 scholarships a year to Central American students for study in bloc countries while, at the same time, nourishing and encouraging local Communist parties to cause unrest and disruption. And it is making progress on every front.

Concurrently, the Soviets are pursuing a program of economic warfare to weaken these small struggling nations, using the guerrilla energies of their Cuban and Nicaraguan surrogates in campaigns against transportation, power, and communications. The economic offensive has been successful. The entire Central American area is now depressed. Its economic growth has dropped from 8 percent per year, a decade ago, to zero. Unemployment as high as 50 percent and inflation over 100 percent have created exactly the atmosphere for revolution sought by the Soviets. It is refugees from this condition that we are seeing in such great numbers at our border today.

The foregoing recital does not describe a succession of unpremeditated events that the Soviets had the perception to recognize and exploit. In a broader sense, it portrays the fruits of a coordinated campaign, one which has acquired powerful momentum and for which the Soviets are dictating both the strategy and the timing.

Their campaign stands in stark contrast to our own uncertain behavior in facing the same set of circumstances. With respect to the Panama Canal, at the time of the 1977 negotiations with the Republic of Panama, preference polls disclosed that a substantial majority of the American people (78 percent) opposed any action that would result in loss to the United States of full authority and control over the canal.[5] Despite this popular sentiment, the Carter administration negotiated the treaties that surrendered control of the strategic waterway and then succeeded in accumulating the advice and consent of sixty-eight senators who, according to Adm. Thomas Moorer, former chairman of the Joint Chiefs of Staff, "had no concept of the long-range implications of these treaties on the security and prosperity of the United States"[6] Here was further evidence that the people have an instinct that outstrips the judgment of the politicians whom they have elected.

Where other areas of Central America are concerned, our leadership has been equally reactive. It was not until the momentum and coordination of the energetic Soviet program became clearly evident that the 1983-1984 bipartisan commission on Central America was created and directed to advise on "a long-term United States policy that will best respond to the challenges of social, economic and democratic development in the region and to internal and external threats to its security and stability." It will be noted that the stated charge of the commission was to propose a policy "that will best respond"—a reaction to crisis circumstances that we, in our dilatory uncertainty, had allowed to grow.

With regard to Nicaragua, our behavior has exhibited a scenario of uncertainty, ambivalence, and indecision. Openly supportive of the overthrow of Somoza,[7] we were reluctant to abandon the revolutionary Sandinista junta long after their true character as Marxist-Leninists became manifest. As late as 1981 they received 21 percent of all U.S. aid to Central America ($38.7 million).[8]

Later, when the president asked for funds to support the anti-Sandinista Contras, the Congress gave a classic display of confusion, uncertainty, and micro-management. From December 1982 to October 1986, in four variations of the so-called Boland amendment, the lawmakers successively prohibited military aid to the Contras, permitted limited military aid, prohibited military aid, and then permitted humanitarian aid. Finally, they repealed the Boland amendment in its entirety.

The Sandinistas have been consequently emboldened by our uncertain actions. We have warned the junta that we would react vigorously if they persisted in enlarging their military strength. Their strength has grown, but we have done nothing beyond giving off-and-on support to the Contras. We have dabbled timidly in the murky waters of compromise—the "Contadora Formula" and the "Arias Plan"—in the face of the historical certainty that unenforced compromise is a Lorelei option when dealing with Communists. And we have carried water on both shoulders in giving support—sometimes overt, sometimes in secret under CIA control—to the anti-Sandinistas while still maintaining diplomatic relations with the arrogant and cocksure junta in Managua.

The plain truth is that we have forfeited the initiative in Central America, a strategically critical area that has traditionally been a U.S. sphere of influence. However, our having given up the initiative does not, by any means, foreclose its recapture, understanding that the price of such belated action is certain to be high.

At the very outset, redress of this hemispheric crisis must be undertaken in the context of broad diplomacy—actions on our part in every sector of the international arena that make clear the certainty of escalating costs to the Soviet Union and Cuba if they persist in the destabilization of Central America. Whether focused on economic relationship, international finance, or their political aspirations in Cambodia, Afghanistan, Angola, Ethiopia, the Horn of Africa, or the Persian Gulf, our actions should transmit a clear message: "Imperialism in Central America is going to be costly to you elsewhere." And, above all, what we do should reflect a sense of consistency and determination.

Where actions within Central America are concerned, the conclusions of the National Bipartisan Commission on Central America are a good point of departure. Considering the speed with which the commission worked and the disparate nature of its composition, its proposals were both sound and respectable. The plan's overall strategy is to:

Support democratic processes and institutions by backing free and competitive elections, the administration of justice, technical training, and the development of leadership skills;

Stop declines in income, employment, and economic activity by providing major balance-of-payments support;

Build the foundation for long-term economic growth by supporting improvements in economic policy and the infrastructure needed for efficient production and diversified exports;

Assure the widest possible distribution of the opportunities and benefits of growth by helping to create jobs and improve health, education, and housing for the poor; and

Provide military assistance to create a shield to protect democratization and growth.

The programs flowing from the commission's proposals are good. They cover the full spectrum of what is needed to see stability, tranquility, and plenty in Central America, other than Nicaragua. And they have already shown modest progress. But programs, to be effective, need energy, momentum, and consistency. And they need the assurance of continuity in funding. In some of these areas the implementation has been inadequate.

In terms of funding, the commission's proposal contemplated a five-year effort totaling $8.9 billion. The programs have already fallen $750 million short of the three-year target, due to the uncertain behavior of Congress. Overall bilateral assistance to the area was cut by 20 percent between 1986 and 1987. In economic assistance, Costa Rica, for example, was reduced 21 percent during that period, despite a constant growth in need." Military assistance in the area was reduced by about 7 percent. Guatemala, in great need of military hardware to meet a subversive guerrilla threat, has been foreclosed of such help because of congressional dissatisfaction with the human rights situation in the country.

The commission recommended that scholarships be provided for education in the United States of ten thousand Central Americans from non-elite backgrounds. The responsive program, however, has been funded at a level that has put fewer than a third of that number in training. And nothing further need be said on the subject of congressional uncertainty in our funding of the Nicaraguan resistance.

The lesson here is that a program aggressively and consistently pursued, even if in some respect flawed, transmits a positive message to everyone, friend and foe alike. That is what we have not yet done in Central America. That is what we must do.

The emerging countries of the region need to see comprehensive, dependable, long-range, non-military initiatives following the Bipartisan Commission guidelines, extending to social programs, education, health, and economics—a true Marshall Plan for Central America. On the military side they need the assurance of an adequate supply of modern hardware, consistent with their individual requirements. Each country should have its program of training for key military leaders and technicians in the United States, along with the assurance that we have neither the desire nor the intention to flood them with on-the-spot advisers. And we must make clear that we do not intend to come and fight their battles for them.

Where Nicaragua is concerned, the greatest need is to show them and their Soviet masters the same kind of U.S. unity and resolve that the White House and the Congress exhibited in the 1962 Cuban Missile Crisis. A unified national conviction—something they have not yet seen—should result in several positive actions, all aimed at achieving a major change in the nature and orientation of the Nicaraguan government.

First we should openly provide certain, continued, and enlarged arms, equipment, and humanitarian support for the Contras. Next, we should marshal every available economic stricture to create problems for the Sandinista leadership and financial burdens for their Soviet patrons. And we should terminate our hypocritical diplomatic relationship with Managua.

Finally, to underscore our position, we should make an open announcement that we will give our enthusiastic support to any "peace" plan for Nicaragua that ensures verifiable free elections, freedom of speech and press, freedom of movement, freedom of worship, respect for human rights, and a total withdrawal of foreign military advisers.

Turning finally to Panama, the geostrategic crisis that began this essay, the American people of 1987 owe their children a richer legacy than the melancholy confession that a national asset was given away by our generation, with neither reason nor prospect of benefit. This mischievous disservice to the nation needs to be reversed before it is too late.

Acknowledging that the policymakers, planners, and negotiators who designed this violence to our destiny did not contemplate the prospect of the canal falling into the hands of an uncertain, irresponsible, and hostile government, we are now justified in taking a strong and fresh stand what will protect our national interests. Specifically, we should announce that our acquiescence to the treaty in 1978 was predicated on the Republic of Panama being a free, democratic, stable, open, and friendly country. It is none of those things today.

We should therefore announce that until those conditions are established without any question, abandonment of our military bases in the zone and relinquishment of our control over the canal will be indefinitely in abeyance.

That forthright Monroe Doctrine-type action is certain to be followed by a firestorm of complaint, protest, and condemnation from everyone whom the Soviets can influence. However, in light of the stakes involved, the vilification will be well worth taking. That is so because it will do far more than just discharge an obligation to succeeding generations of Americans.

In addition, it will create a respectful understanding, by friends and enemies alike, that the United States is still alive and unified and that it possesses the courage to stand firm for what it believes.

FOOTNOTES

[1] *The New York Times*, June 12, 1986. As a result of this story, Noriega threatened, on June 13, 1986, to expel the entire U.S. diplomatic staff if the United States did not apologize for the *Times* story. He never carried out the threat.

[2] Interview, Noriega and John McLaughlin, NBC-TV, June 25, 1987.

[3] Statement by Panamanian President Eric Delvalle, June 27, 1987, reported in *The New York Times*, June 28, 1987.

[4] Address to the U.N. General Assembly, September 23, 1985.

[5] G. Russell Evans, *The Panama Canal Treaties Swindle—Consent to Disaster*. Signal Books.

[6] *Ibid.*

[7] S. Christian, *Nicaragua: Revolution in the Family*. Random House, New York, 1985.

[8] *The U.S. and Central America: Implementing the National Bi-Partisan Commission Report*. U.S. Department of State Report No. 148, August 1986.

[9] *Ibid.* Appendix A.

FIJI

Mr. PRESSLER. Mr. President, I am pleased that the Senate is taking timely action on Senate Resolution 302, expressing the concern of the Senate regarding the situation in Fiji. I introduced this legislation on October 23 and the Senate Foreign Relations Committee recently approved it.

On May 14 of this year, the Royal Fiji Military Forces, under the direction of Col. Sitiveni Rambuka, overthrew the duly elected Government of Fiji. That action ended over 16 years of successful political democracy in that small island nation.

Since May, political, economic, and social conditions in Fiji have deteriorated seriously. Despite the entreaties and appeals of Fiji's partners in the British Commonwealth, Fiji's military rulers have refused to restore the rights guaranteed to all Fijians under Fiji's 1970 Constitutional Act. In fact, at a meeting of its members in Vancouver, Canada, last week, the Commonwealth voted to expel Fiji from the organization.

It is clear that the military regime of Col. Sitiveni Rambuka has no intention of honoring the right of non-native Fijians to enjoy the liberties guaranteed by Fiji's Constitution. In particular, the Rambuka regime is determined to unilaterally rewrite that constitution to guarantee a minority of Fijian citizens political supremacy in perpetuity.

I am pleased that the United States Senate is going on record as opposing what has occurred in Fiji. Passage of this resolution will do that. Quite simply, it says that the United States Senate supports the restoration of democracy for all Fijians. It also expresses support for a reconsideration of Fiji's American sugar quota by the United States Government. This action is consistent with the economic sanctions already adopted by Australia, New Zealand, and other Commonwealth nations. It is also consistent with our administration's suspension of the very small amount of assistance we provide Fiji. This regime must quickly see and feel the penalties that will fall upon all Fijians if democracy is not restored soon. The longer we delay our denunciation of the abolition of democracy in Fiji, the more encouragement it will give to the enemies of democracy.

Mr. President, I want to thank the Senate leadership for bringing this matter before the Senate in such a timely matter.

RAY A. BARNHART, FEDERAL HIGHWAY ADMINISTRATION

Mr. WARNER. Mr. President, for some time now, the State of Virginia has pursued an important program to upgrade and improve the State's highways, roads, and streets. From the northern Virginia area to the Tidewater region, from the Atlantic shoreline to the western borders, Virginians are seeing highway construction projects whenever and wherever they drive. Clearly, much of the credit for this transportation renaissance can, and should, be attributed to the State's leadership, not only in Richmond but in all levels of government throughout the Old Dominion.

However, there is at least one non-Virginian to whom the State owes a debt of gratitude for the rebuilding of the Old Dominion's infrastructure—and that person is Ray A. Barnhart, the Federal Highway Administrator.

Without Ray Barnhart at the helm of the Nation's Federal highway program, Virginia—not to mention the other 49 States in the Union—would never have been able to get major rebuilding and rehabilitation projects underway as quickly and as efficiently as we have. It is particularly fitting that we Virginians pay tribute to Ray Barnhart now because he will be leaving his post as Federal Highway Administrator at the end of this year.

One doesn't have to look very hard, or very long, at Ray's service as the Nation's top highway officer to come across superlatives of every description. Ray Barnhart was first appointed adminstrator in February 1981, in the early days of the Reagan administration. His 7-year tenure is the longest term ever served by any Federal Highway Administrator. But it is quality, not quantity, that has characterized Ray Barnhart's time in office.

Ray was a mainstay in the joint efforts by both the administration and Congress to provide adequate funding for the rebuilding of America's highways. Ray's efforts paid off in the form of the watershed highway transportation bill passed by Congress back in late 1982, the Surface Transportation Assistance Act, which began America's highway rebuilding program. Always a forceful and articulate spokesman for highway programs and transportation efficiency, Ray's policies have been guided by common sense and fairness, particularly when it comes to local transportation issues. Ray Barnhart has been in the forefront of allowing State and local decisionmakers the necessary flexibility to determine their own transportation needs and solutions. At the same time, Ray Barnhart has also been a champion of a highway transportation network which is truly national in scope and character.

Ray has also been a sound fiscal manager of America's $14 billion a year highway program. When Ray Barnhart learned that the highway trust fund was losing nearly $1 billion a year through illegal gasoline tax evasion schemes, he worked with the Congress to correct the problem by improving collection techniques. Ray is currently working with Congress to correct a similar problem associated with diesel fuel tax evasion.

Throughout his career, Ray Barnhart has been a clear and steady voice supporting America's highway programs. His voice, and the policies he articulated, will be sorely missed.

THE IMPORTANCE OF PHYSICAL EDUCATION

Mr. DOLE. Mr. President, during the early hours of last Saturday morning, a resolution outlining the importance of physical education passed the Senate. This resolution was introduced by my distinguished colleague from Alaska, Senator STEVENS. I was pleased to be a cosponsor of Concurrent Resolution 43, which is designed to encourage State and local governments to provide quality daily physical education for all children in grades kindergarden through 12.

It is important for every person to be in good physical health, but it is especially important for children. Our school system must help get children into the habit of staying in shape. Good physical education training in school is preventive medicine which can help reduce the incidence of coronary heart disease and circulatory problems in adults. Many of the people who suffer from these problems were not encouraged to engage in aerobic and muscular exercise when they were in school. By encouraging schools to maintain quality physical education programs, we are investing in the future health of our Nation.

Children who receive a good physical education in school grow up to be more healthy and more physically fit than those who do not. Physical fitness, combined with proper nutrition, contributes significantly to good health during a lifetime. Physically fit adults have a much lower incidence of heart attacks and strokes, two of the biggest killers in the United States today. The large expenditures that are made in the area of health care could be reduced if the poor health practices of today's adults had been corrected when they were young.

A good physical education can also improve more than just a child's health. In many children, active involvement in sports and physical activity helps stimulate their interest in school. These children will perform better academically if their school has a quality physical education program.

In the United States, with the exception of a few progressive communities, physical education is not stressed as a preventive health measure. Many times, physical education programs are either inadequate or are not geared toward making all children physically fit. Many of these programs cultivate and encourage those with great athletic ability, but do not concern themselves with the potential health benefits to the average student. While many of us do regard physical fitness as an integral part of the educational system, I think we need to look at the attitude of many of our European allies. Their physical education programs demonstrate that it is possible to instill good health practices in children, as well as encouraging those students with athletic ability.

In recent years, many people in this country, including my colleague from Alaska, Senator STEVENS, have been trying to publicize the advantages of having quality physical education in our schools. In many places, new programs are being developed to encourage children to stay physically fit. One such program, called "movement education," requires all the children in a class to engage in continuous activity for a minimum of 30 minutes a day. This allows all of the students to become physically fit, regardless of their athletic ability. Physical education should encourage the development of proper fitness habits for schoolchildren—not just the ones with great athletic ability.

Physical education is a useful and cost-effective tool in teaching important life-style habits and combating health care costs. We should do everything we can to encourage State and local governments to provide high quality physical education programs to their children.

IN APPRECIATION OF MR. JAMES G.S. HORNE

Mr. WARNER. Mr. President, for the past 9 months I have been fortunate to have on my staff Mr. James Gregg Stansbury Horne. I would like to take this opportunity to commend Jim for his fine work and to express my appreciation for all his efforts.

Jim came to be a part of my staff on detail from the U.S. Environmental Protection Agency [EPA].

Jim joined my staff on April 1, leaving his then-current position as program analyst in the Office of the Comptroller within EPA's Office of Administration and Resources Management.

I well recall that my office was obliged to wait for Jim to join us until he could finish the important work he was doing on implementation of the Clean Water Act. As my colleagues recall, passage of H.R. 1, the Clean Water Act of 1987, of which I was an original cosponsor, was the premier act of the 100th Congress. It is significant that this young man was working to implement that law when he first came to my attention.

Since joining my staff in April, Jim has performed excellently on a wide range of topics. As with most Capitol Hill jobs, his duties ranged from the fascinating to the mundane.

Among the former issues, Jim provided me with valuable support and assistance on a number of issues before the Committee on Environment and Public Works, which I joined as a new Member in the 100th Congress.

I found Jim's assistance particularly valuable on legislation dealing with radon, pursuing an effective interstate and intergovernmental Chesapeake Bay agreement, dealing with wetlands issues, among many other duties too numerous to mention.

Jim also provided valuable support on the important issues of the day regarding the Arctic National Wildlife Refuge [ANWR], and when I visited Alaska earlier this year to learn more about ANWR, Jim's briefing could not have illustrated better on paper the issues I would soon witness firsthand.

There are a number of things about Jim that I find particularly interesting, not the least of which is that for the past 7½ years, Jim and his wife Barbara have been residents of the Commonwealth of Virginia. The Hornes and their daughter Sonya currently live in Falls Church.

While Jim received his bachelor of arts in English at the University of Texas at Austin, and his masters of public administration at the University of Washington, the far more notable feature of Jim's educational résumé is the 2 years he spent at VMI, though I will not force that opinion on Jim.

Mr. President, it is my pleasure to commend to the attention of my colleagues the valuable contribution that Jim Horne has made to the office of this Senator, to the U.S. Senate as a body, and to his country.

I want to extend my sincerest appreciation to him for the work he has done for me, and for the work he will perform when he returns to the EPA.

I know my colleagues will join me in wishing Jim continued success in his career, and best wishes for him and his family during this holiday season.

JAMES L. MAHER, A DISTINGUISHED RHODE ISLANDER

Mr. PELL. Mr. President, I rise today to observe the 80th birthday of a most accomplished and remarkable man, Mr. James L. Maher, of Newport, RI. Mr. Maher reached the distinguished age of 80 years on this past November 28. I speak today in tribute to his lifetime of compassionate achievement.

Mr. Maher has spent a significant portion of his long life in selfless service to others. He has been successful as a public servant, businessman, family man and pioneer for the rights and dignity of the handicapped.

James Maher's business career began in 1931 when, fresh from college, he founded a trucking firm with several other young ambitious friends. The firm has prospered and grown over the years, and Jim Maher is still an active and resourceful leader of this thriving company.

After spending several years establishing himself as one of Newport's foremost entrepreneurs, Jim decided to take an equally active role in politics. During the 1950's he served on the Newport City Council, and by 1959, having risen to the top of city government, he was elected mayor of the city of Newport. Despite the fact that Jim retired from that office in 1961, he has remained a positive force in both local and State politics, a man whose wisdom and advice are often sought on matters both political and personal.

Mr. President, Jim Maher has been no less tireless in his efforts to serve the less fortunate. In 1953 Jim cofounded the Newport County Chapter for Retarded Citizens, a branch of the National Association for Retarded Citizens. Since the beginning, and over the course of 35 years since, he has been one of the strongest advocates for the handicapped in the State of Rhode Island. The Newport County chapter has flourished under his leadership. It now serves over 350 mentally challenged individuals with resources that include 11 group homes, 2 workshops, a school and a horticultural center. In tribute to Jim's enduring and remarkable support, the Newport County Chapter has named the "James L. Maher Regional Center" in his honor.

The accolades given to Mr. Maher have been numerous and distinguished. In his 80th year of serving his fellow man I wish to add to them by offering my congratulations to this exemplary individual; a successful businessman, distinguished member of the community and social activist and leader. The State of Rhode Island is a better place because of his tireless and selfless efforts.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Emery, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting a nomination, which was referred to the Committee on Armed Services.

(The nomination received today is printed at the end of the Senate proceedings.)

MESSAGE FROM THE HOUSE

ENROLLED JOINT RESOLUTION SIGNED

At 12:03 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the Speaker has signed the following enrolled joint resolution:

H.J. Res. 427. Joint resolution to provide for the temporary extension of certain programs relating to housing and community development, and for other purposes.

The enrolled joint resolution was subsequently signed by the Acting President pro tempore (Mr. WIRTH).

At 5:16 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House agrees to the amendments of the Senate to the bill (H.R. 2945) to amend title 38, United States Code, to provide a 4.1-percent increase in the rates of compensation and of dependency and indemnity compensation [DIC] paid by the Veterans' Administration, and for other purposes.

The message also announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2310) to amend the Airport and Airway Improvement Act of 1982 for the purpose of extending the authorization of appropriations for airport and airway improvements, and for other purposes.

The message further announced that the House agrees to the amendment of the Senate to the bill (H.R. 1340) to improve the distribution procedures for agricultural commodities and their products donated for the purpose of assistance through the Department of Agriculture, and for other purposes; with an amendment, in which it requests the concurrence of the Senate.

The message also announced that the House agrees to the amendment of the Senate to the bill (H.R. 2210) to prohibit the use of certain antifouling paints containing organotin and the use of organotin compounds, purchased at retail, used to make such paints; with an amendment, in which it requests the concurrence of the Senate.

The message further announced that the House agrees to the amendment of the Senate to the bill (H.R. 2342) to authorize appropriations for the Coast Guard for fiscal year 1988, and for other purposes; with an amendment, in which it requests the concurrence of the Senate.

The message also announced that the House agrees to the amendment of the Senate to the joint resolution (H.J. Res. 376) calling upon the Soviet Union to immediately grant permission to emigrate to all those who wish to join spouses in the United States; with amendments, in which it requests the concurrence of the Senate.

The message further announced that the House has passed the following bill and joint resolution, in which it requests the concurrrence of the Senate:

H.R. 1467. An act to authorize appropriations to carry out the Endangered Species Act of 1973 during fiscal years 1988, 1989, 1990, 1991, and 1992, and for other purposes; and

H.J. Res. 430. Joint resolution calling upon the Soviet Union to immediately grant permission to emigrate to all those who wish to join spouses or finances in the United States.

MEASURES PLACED ON THE CALENDAR

The following bill and joint resolution were read the first and second times by unanimous consent, and placed on the calendar:

H.R. 1467. An act to authorize appropriations to carry out the Endangered Species Act of 1973 during fiscal years 1988, 1989, 1990, 1991, and 1992, and for other purposes; and

H.J. Res. 430. Joint resolution calling upon the Soviet Union to immediately grant permission to emigrate to all those who wish to join spouses or fiances in the United States.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-2283. A communication from the President of the United States, transmitting, pursuant to law, a report on United States experience with low intensity conflicts over the last several years; to the Committee on Armed Services.

EC-2284. A communication from the Acting Director of the Defense Security Assistance Agency, transmitting, pursuant to law, a report on the Department of the Navy's proposed letter of offer to Brazil for defense articles estimated to cost in excess of $50 million; to the Committee on Armed Services.

EC-2285. A communication from the Acting Director of the Defense Security Assistance Agency, transmitting, pursuant to law, a report on the Department of the Navy's proposed letter of offer to Spain for defense articles estimated to cost in excess of $50 million; to the Committee on Armed Services.

EC-2286. A communication from the Acting Director of the Defense Security Assistance Agency, transmitting, pursuant to law, a report on the Department of the Army's proposed letter of offer to Turkey for defense articles estimated to cost in excess of $50 million; to the Committee on Armed Services.

EC-2287. A communication from the Deputy Assistant Secretary of Defense (Administration), transmitting, pursuant to law, a report stating that the Department of the Navy intends to exercise the provision for exclusion of the clause concerning examination of records by the Comptroller General; to the Committee on Armed Services.

EC-2288. A communication from the Acting Director of the Defense Security Assistance Agency, transmitting, pursuant to law, a report on the Department of the Air Force's proposed letter of offer to Korea for defense articles estimated to cost in excess of $50 million; to the Committee on Armed Services.

EC-2289. A communication from the Secretary of Energy, transmitting a draft of proposed legislation to authorize the Secretary of Energy to sell the Government's ownership interest in the Naval Petroleum Reserve Numbered 1 or 3, or both, and to establish the conditions for the sale, to establish the Defense Petroleum Inventory, to assure the timely completion of the Strategic Petroleum Reserve, and for other purposes; to the Committee on Armed Services.

EC-2290. A communication from the Chairman of the Board of Directors of the Panama Canal Commission, transmitting, pursuant to law, the report required under the Panama Canal Commission Authorization Act for fiscal year 1988; to the Committee on Armed Services.

EC-2291. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a cumulative report on budget rescissions and deferrals dated December 1, 1987; pursuant to the order of January 30, 1975, as amended by the order of April 11, 1986, referred jointly to the Committee on Appropriations and the Committee on the Budget.

EC-2292. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting a draft of proposed legislation entitled the South Pacific Tuna Act of 1987; to the Committee on Commerce, Science, and Transportation.

EC-2293. A communication from the Chairman of the National Transportation Safety Board, transmitting, pursuant to law, the annual report of the Board for 1986; to the Committee on Commerce, Science, and Transportation.

EC-2294. A communication from the Secretary of Commerce, transmitting, pursuant to law, the 1987 "Directory of Japanese Technical Resources"; to the Committee on Commerce, Science, and Transportation.

EC-2295. A communication from the Secretary of Energy, transmitting, pursuant to law, the Quarterly Report of the Strategic Petroleum Reserve during the period July 1, 1987, through September 30, 1987; to the Committee on Energy and Natural Resources.

EC-2296. A communication from the Deputy Associate Director for Collection and Disbursement, Department of the Interior, transmitting, pursuant to law, a report regarding the refunds of offshore lease revenues where a refund or recoupment is appropriate; to the Committee on Energy and Natural Resources.

EC-2297. A communication from the Deputy Associate Director for Collection and Disbursement, Department of the Interior, transmitting, pursuant to law, a report regarding the refunds of offshore lease revenues where a refund or recoupment is appropriate; to the Committee on Energy and Natural Resources.

EC-2298. A communication from the Deputy Associate Director for Collection and Disbursement, Department of the Interior, transmitting, pursuant to law, a report regarding the refunds of offshore lease revenues where a refund or recoupment is appropriate; to the Committee on Energy and Natural Resources.

EC-2299. A communication from the Secretary of the Interior, transmitting, pursuant to law, a report entitled "High Plains States Groundwater Demonstration Program Phase I Report"; to the Committee on Energy and Natural Resources.

EC-2300. A communication from the Administrator of the Environmental Protection Agency, transmitting, pursuant to law, a report on the Municipal Lagoon Study; to the Committee on Environment and Public Works.

EC-2301. A communication from the Director, Office of Technology Assessment, transmitting, pursuant to law, the Third Report on the Prospective Payment Assessment Commission (ProPAC) and OTA's First Report on the Physician Payment Review Commission (PPRC); to the Committee on Environment and Public Works.

EC-2302. A Communication from the Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the semiannual report on the activities of the Inspector General of the Environmental Protection Agency; to the Committee on Environment and Public Works.

EC-2303. A communication from the Chairman of the Board of Governors, United States Postal Service, transmitting, pursuant to law, the Semiannual Report on the Civil Misrepresentation Activities of the United States Postal Service, April 1, 1987, through September 30, 1987; to the Committee on Governmental Affairs.

EC-2304. A communication from the Secretary of Education, transmitting, pursuant to law, a report concerning the surplus Federal property disposed of to educational institutions; to the Committee on Governmental Affairs.

EC-2305. A communication from the Acting Comptroller General, transmitting, pursuant to law, a report containing a list of General Accounting Office reports issued or released in November 1987; to the Committee on Governmental Affairs.

EC-2306. A communication from the Assistant Attorney General, transmitting, a draft of proposed legislation entitled "The

Federal Debt Collection Procedures Act of 1987;" to the Committee on the Judiciary.

EC-2307. A communication from the Chief Justice of the Supreme Court of the United States, transmitting, pursuant to law, a report of the Proceedings of the Judicial Conference of the United States; to the Committee on the Judiciary.

EC-2308. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report concerning information on the prevention activities undertaken by the Alcohol, Drug Abuse, and Mental Health Administration; to the Committee on Labor and Human Resources.

EC-2309. A communication from the Deputy Assistant Secretary of Defense, transmitting, pursuant to law, notification that the Defense Logistics Agency (DLA) intends to exercise the authority therein for the exclusion of the clause concerning examination of records relative to Title 10, U.S.C. Section 2313(c); to the Committee on Armed Services.

EC-2310. A communication from the Secretary of the U.S. Postal Rate Commission, transmitting, pursuant to law, notification of the U.S. Postal Service's Filing of Proposal to Authorize Restrictions on the Sale of Postal Money Orders and Order Designating Officer of the Commission and Fixing Procedural Dates; to the Committee on Governmental Affairs.

EC-2311. A communication from the Director of the Fish and Wildlife Service, Department of the Interior, transmitting, pursuant to law, a report on its Federal Lands Day activities for 1987; to the Committee on Energy and Natural Resources.

FOREIGN CURRENCY REPORTS

In accordance with the appropriate provision of law, the Secretary of the Senate herewith submits the following report(s) of standing committees of the Senate, certain joint committees of the Congress, delegations and groups, and select and special committees of the Senate, relating to expenses incurred in the performance of authorized foreign travel:

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95-384—22 U.S.C. 1754(b), COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY, FOR TRAVEL FROM JULY 1 TO SEPT. 30, 1987

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
John D. Podesta:									
Nicaragua	Dollar		330.25				50.00		380.25
United States	Dollar				635.00				635.00
Tim Rieser:									
Nicaragua	Dollar		304.00				50.00		354.00
United States	Dollar				635.00				635.00
Total			634.25		1,270.00		100.00		2,004.25

PATRICK J. LEAHY,
Chairman, Committee on Agriculture, Nutrition, and Forestry, Oct. 2, 1987.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95-384—22 U.S.C. 1754(b), COMMITTEE ON APPROPRIATIONS, FOR TRAVEL FROM JAN. 1 TO MAR. 31, 1987

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Jim Sasser:									
Honduras	Dollar		200.00						200.00
Robert M. Walker:									
Honduras	Dollar		200.00						200.00
Total			400.00						400.00

JOHN C. STENNIS,
Chairman, Committee on Appropriations, Sept. 25, 1987.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95-384—22 U.S.C. 1754(b), COMMITTEE ON APPROPRIATIONS, FOR TRAVEL FROM APR. 1 TO JUNE 30, 1987

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Richard A. Pierce:									
Italy	Dollar		400.00						400.00
United States	Dollar				2,426.00				2,426.00
Senator Patrick J. Leahy:									
Panama	Dollar		186.00						186.00
Costa Rica	Dollar		164.00						164.00
Honduras	Dollar		101.00						101.00
W. Proctor Jones:									
Sweden	Krona	5687.40	896.00					5687.40	896.00
France	Franc	5,282.28	876.00					5,282.28	876.00
Richard L. Collins:									
Hong Kong	Dollar		272.00						272.00
China	Dollar		672.00						672.00
Philippines	Dollar		240.00						240.00
John G. Shank:									
Russia	Dollar		355.00						355.00
United Kingdom	Dollar		320.00						320.00
Senator Ted Stevens:									
France	Franc	5,616	936.00					5,616	936.00
James D. Bond:									
France	Franc	5,616	936.00					5,616	936.00
Steven J. Cortese:									
France	Franc	5,616	936.00					5,616	936.00

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON APPROPRIATIONS, FOR TRAVEL FROM APR. 1 TO JUNE 30, 1987—Continued

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Penelope S. German:									
France	Franc	5,616	936.00					5,616	936.00
J. Keith Kennedy:									
France	Franc	5,616	936.00					5,616	936.00
Sean C. O'Keefe:									
France	Franc	5,616	936.00					5,616	936.00
Mary A. Shields:									
France	Franc	5,616	936.00					5,616	936.00
Francis J. Sullivan:									
France	Franc	5,616	936.00					5,616	936.00
Senator Thad Cochran:									
France	Franc	5,616	936.00					5,616	936.00
Senator Tom Harkin:									
France	Franc	5,616	936.00					5,616	936.00
James D. Bond:									
Ivory Coast	Dollar		136.00						136.00
Botswana	Dollar		231.00						231.00
James D. Bond:									
Kenya	Dollar		408.00						408.00
Morocco	Dollar		225.00						225.00
Senator Robert Kasten:									
Ivory Coast	Dollar		136.00						136.00
Botswana	Dollar		231.00						231.00
Kenya	Dollar		408.00						408.00
Morocco	Dollar		225.00						225.00
Total			15,842.00		2,426.00				18,268.00

JOHN C. STENNIS,
Chairman, Committee on Appropriations, Nov. 3, 1987.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON ARMED SERVICES, FOR TRAVEL FROM OCT. 1 TO DEC. 31, 1986

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Gregory B. Craig:									
Israel	Dollar		459.00						459.00
Jordan	Dollar		210.00						210.00
Egypt	Dollar		164.00						164.00
Switzerland	Dollar		182.00						182.00
Nancy Soderberg:									
Israel	Dollar		1,224.00						1,224.00
Jordan	Dollar		315.00						315.00
Egypt	Dollar		328.00						328.00
Senator Edward Kennedy:									
Israel	Dollar		459.00						459.00
Jordan	Dollar		210.00						210.00
Egypt	Dollar		164.00						164.00
Switzerland	Dollar		182.00						182.00
Michael Frazier:									
Israel	Dollar		1,224.00						1,224.00
Jordan	Dollar		315.00						315.00
Egypt	Dollar		328.00						328.00
Cynthia Waters:									
South Korea	Won	296,510	342.00					296,510	342.00
People's Republic of China	Yuan	2,651.52	714.00					2,651.52	714.00
Hong Kong	Dollar	2,113.46	272.00					2,113.46	272.00
Singapore	Dollar	486.74	222.00					486.74	222.00
Thomas Daffron:									
South Korea	Won	296,510	342.00					296,510	342.00
People's Republic of China	Yuan	2,651.52	714.00					2,651.52	714.00
Hong Kong	Dollar	2,113.46	272.00					2,113.46	272.00
Singapore	Dollar	486.74	222.00					486.74	222.00
Gordon Riggle:									
England	Dollar		113.46		43.52		2.00		158.98
Norway	Dollar		877.87				50.09		927.96
	Krone			3,380	867.00			3,380	867.00
Denmark	Dollar		567.47				43.76		611.23
	Krone			1,072.65	141.32			1,072.65	141.32
Germany	Dollar		105.25				27.50		132.75
United States	Dollar				962.17				962.17
Mark Robinson:									
England	Dollar		113.46		43.52		2.00		158.98
Norway	Dollar		877.87				50.09		927.96
	Krone			3,380	867.00			3,380	867.00
Denmark	Dollar		567.47				43.76		611.23
	Krone			1,072.65	141.32			1,072.65	141.32
Germany	Dollar		105.25				27.50		132.75
United States	Dollar				962.17				962.17
Gordon C. Kerr:									
Israel	Dollar		918.00						918.00
United States	Dollar				2,214.00				2,214.00
Jordan	Dinar	47,445	138.00					47,445	138.00
England	Pound	553.37	788.00					553.37	788.00
Senator Carl Levin:									
Israel	Dollar		918.00						918.00
United States	Dollar				2,214.00				2,214.00
Jordan	Dinar	47,445	138.00					47,445	138.00
England	Pound	553.37	788.00					553.37	788.00

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95-384—22 U.S.C. 1754(b), COMMITTEE ON ARMED SERVICES, FOR TRAVEL FROM OCT. 1 TO DEC. 31, 1986—Continued

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Ronald P. Kelly:									
Japan	Dollar		162.65						162.65
Korea	Dollar		176.79						176.79
Hong Kong	Dollar		1,061.09						1,061.09
Singapore	Dollar		241.83						241.83
Philippines	Dollar		322.13						322.13
Senator Jeff Bingaman:									
Israel	Dollar		765.00						765.00
Jordan	Dinar	47,445	138.00					47,445	138.00
United States	Dollar				2,079.00				2,079.00
Edward McGaffigan:									
Israel	Dollar		765.00						765.00
Jordan	Dinar	47,445	138.00					47,445	138.00
United States	Dollar				2,079.00				2,079.00
Robert F. Bott:									
France	Franc	4,092	620.00					4,092	620.00
Patrick A. Tucker:									
Japan	Dollar		537.00						537.00
United States	Dollar				2,588.96				2,588.96
Philippines	Dollar		160.00						160.00
Total			20,967.59		15,202.98		246.70		36,417.27

SAM NUNN,
Chairman, Committee on Armed Services, Oct. 8, 1987.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95-384—22 U.S.C. 1754(b), COMMITTEE ON ARMED SERVICES, FOR TRAVEL FROM JULY 1 TO SEPT. 30, 1987

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Robert G. Bell:									
Switzerland	Franc	1,235.60	784.00	80	50.76			1,315.60	834.76
Federal Republic of Germany	Deutsche mark	692.03	366.00					692.03	366.00
United States	Dollar				1,075.00				1,075.00
Robert E. Bayer:									
United Kingdom	Pound	281.70	452.00					281.70	452.00
Belgium	Franc	6,978	181.00					6,978	181.00
Spain	Peseta	37,945	308.00					37,945	308.00
Turkey	Lira	523,378	587.77					523,378	587.77
Greece	Drachma	54,313	393.00					54,313	393.00
Italy	Lire	698,472	534.00					698,472	534.00
United States	Dollar				3,682.00				3,682.00
Carl M. Smith:									
Japan	Yen	105,057	700.38	9,295.50	61.97	4,032	26.88	118,384.50	789.50
Judith A. Freedman:									
Japan	Yen	104,329.50	695.53	9,295.50	61.97			113,625	757.50
George K. Johnson, Jr.:									
Panama	Dollar		184.00						184.00
El Salvador	Colon	375	75.00					375	75.00
Honduras	Lempira	184	92.00					184	92.00
Costa Rica	Colon	225	75.00					225	75.00
Guatemala	Quetzal	375	150.00					375	150.00
Romie L. Brownlee:									
Panama	Dollar		291.00						291.00
El Salvador	Colon	375	75.00					375	75.00
Honduras	Lempira	184	92.00					184	92.00
Costa Rica	Dollar		75.00						75.00
Leon Fuerth:									
Israel	Dollar		220.00						220.00
Senator Carl Levin:									
Federal Republic of Germany	Deutsche mark	738.29	398.00					738.29	398.00
Gregory J. Weaver:									
Federal Republic of Germany	Deutsche mark	901.30	485.80					901.30	485.80
Total			7,214.48		4,931.70		26.88		12,173.06

SAM NUNN,
Chairman, Committee on Armed Services, Sept. 30, 1987.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95-384—22 U.S.C. 1754(b), COMMITTEE ON THE BUDGET, FOR TRAVEL FROM APR. 1 TO JUNE 30, 1987

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Douglas Olin:									
Oman	Dollar		288.00						288.00
Egypt	Dollar		225.00						225.00
Yemen	Dollar		121.00						121.00
Djibouti	Dollar		152.00						152.00
Somalia	Dollar		150.00						150.00

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON THE BUDGET, FOR TRAVEL FROM APR. 1 TO JUNE 30, 1987—Continued

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Kenya	Dollar		98.00						98.00
United States	Dollar				4,952.00				4,952.00
Charles O. Flickner:									
Oman	Dollar		288.00						288.00
Egypt	Dollar		225.00						225.00
Yemen	Dollar		121.00						121.00
Djibouti	Dollar		152.00						152.00
Somalia	Dollar		150.00						150.00
Kenya	Dollar		98.00						98.00
United States	Dollar				4,952.00				4,952.00
Total			2,068.00		9,904.00				11,972.00

LAWTON CHILES,
Chairman, Committee on the Budget, Oct. 14, 1987.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON ENERGY AND NATURAL RESOURCES, FOR TRAVEL FROM APR. 1 TO JUNE 30, 1987

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Allen P. Stayman:									
Marshall Islands	Dollar		394.29						394.29
United States	Dollar				3,052.73				3,052.73
Laura C. Hudson:									
Marshall Islands	Dollar		394.29						394.29
United States	Dollar				3,052.73				3,052.73
James P. Beirne:									
Marshall Islands	Dollar		394.29						394.29
United States	Dollar				3,536.71				3,536.71
Total			1,182.87		9,642.17				10,825.04

J. BENNETT JOHNSTON,
Chairman, Committee on Energy and Natural Resources, Aug. 7, 1987.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS, FOR TRAVEL FROM JULY 1 TO SEPT. 30, 1987

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Ronald Cooper:									
Canada	Dollar	256.76	194.00					256.76	194.00
United States	Dollar				273.59				273.59
Steven J. Shimberg:									
Canada	Dollar	1155.41	873.00					1155.41	873.00
United States	Dollar				273.59				273.59
Mark Reiter:									
Israel	Shekel	484.16	300.00					484.16	300.00
Total			1,367.00		547.18			1,914.18	

QUENTIN BURDICK,
Chairman, Committee on Environment and Public Works, Sept. 30, 1987.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON FOREIGN RELATIONS, FOR TRAVEL FROM JULY 1 TO SEPT. 30, 1987

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Janice O'Connell:									
Guatemala	Quetzal	950.40	352.00					950.40	352.00
United States	Dollar				684.00				684.00
Nancy H. Stetson:									
United Kingdom	Pound	142.40	226.00					142.40	226.00
South Africa	Rand	1,428	680.00					1,428	680.00
France	Franc	2,810.60	460.00					2,810.60	460.00
United States	Dollar				3,263.00				3,263.00
Amendments to 2d quarter of 1987:									
Senator Richard G. Lugar:									
United Kingdom	Pound	52.20	84.50					52.20	84.50
Switzerland	Franc	191	126.00					191	126.00

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON FOREIGN RELATIONS, FOR TRAVEL FROM JULY 1 TO SEPT. 30, 1987—Continued

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
West Germany	Deutsche mark	121.41	66.50					121.41	66.50
Charles N. Andreae:									
United Kingdom	Pound	104.41	169.00					104.41	169.00
Switzerland	Franc	191	126.00					191	126.00
West Germany	Deutsche mark	242.82	133.00					242.82	133.00
Kenneth A. Myers:									
United Kingdom	Pound	104.41	169.00					104.41	169.00
Switzerland	Franc	191	126.00					191	126.00
West Germany	Deutsche mark	121.41	66.50					121.41	66.50
Amendments to 4th quarter of 1986:									
Senator Daniel J. Evans:									
Philippines	Peso	4,906.32	240.50					4,906.32	240.50
Thailand	Baht	7,287	279.00					7,287	279.00
Indonesia	Rupiah	148,150	89.79					148,150	89.79
Malaysia	Ringgit	58.12	22.40					58.12	22.40
Singapore	Dollar	460.89	210.00	433.75	198.96	108.50	49.77	1,003.14	458.73
Hong Kong	Dollar	1,056.70	136.00					1,056.70	136.00
United States	Dollar				4,396.00				4,396.00
Christine L. Dawson:									
Philippines	Peso	4,906.32	240.50					4,906.32	240.50
Thailand	Baht	7,287	279.00					7,287	279.00
Indonesia	Rupiah	631,828	382.00					631,828	382.00
Malaysia	Ringgit	58.12	22.56					58.12	22.56
Singapore	Dollar	486.89	222.00	433.75	198.96	108.50	49.77	1,003.14	470.73
Hong Kong	Dollar	1,056.70	136.00					1,056.70	136.00
United States	Dollar				4,661.00				4,661.00
Total			5,044.25		13,401.92		99.54		18,545.71

CLAIBORNE PELL,
Chairman, Committee on Foreign Relations, Oct. 14, 1987.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON GOVERNMENTAL AFFAIRS, FOR TRAVEL FROM JULY 1 TO SEPT. 30, 1987

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Leonard Weiss:									
British Colombia	Dollar	1,103.80	834.00	430.05	324.94			1,533.85	1,158.94
United States	Dollar				520.81				520.81
R. Ian Butterfield:									
South Korea	Dollar		416.00						416.00
Total			1.250.00		845.75				2,095.75

JOHN GLENN,
Chairman, Committee on Governmental Affairs, Oct. 13, 1987.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON LABOR AND HUMAN RESOURCES, FOR TRAVEL FROM JULY 1 TO SEPT. 30, 1986

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Orrin G. Hatch:									
South Africa	Rand	1,375.50	531.08					1,375.50	531.08
Dee V. Benson:									
South Africa	Rand	1,375.50	531.08					1,375.50	531.09
Wendy Higginbotham:									
South Africa	Rand	1,375.50	531.08					1,375.50	531.08
Michael Pillsbury:									
South Africa	Rand	1,375.50	531.08					1,375.50	531.08
Total			2,124.32						2,124.32

ORRIN G. HATCH,
Committee on Labor and Human Resources, Sept. 3, 1987.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95-384—22 U.S.C. 1754(b), COMMITTEE ON LABOR AND HUMAN RESOURCES, FOR TRAVEL FROM JULY 1 TO SEPT. 30, 1987

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Robert H. Dockery:									
Guatemala	Quetzale	950.40	352.00					950.40	352.00
United States	Dollar				684.00				684.00
Total			352.00		684.00				1,036.00

EDWARD M. KENNEDY,
Chairman, Committee on Labor and Human Resources, Sept. 23, 1987.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95-384—22 U.S.C. 1754(b), SELECT COMMITTEE ON INTELLIGENCE, FOR TRAVEL FROM JULY 1 TO SEPT. 30, 1987

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
David Holliday			690.00		2,798.00				3,488.00
Larry Kettlewell			800.00		3,716.00				4,516.00
James Currie			400.00		1,170.00				1,570.00
Regina Genton			400.00		1,170.00				1,570.00
Sven Holmes			400.00		1,170.00				1,570.00
Senator Bill Bradley					1,005.00				1,005.00
John Despres			505.00		1,005.00				1,510.00
Charlene Packard			1,300.00		2,439.00				3,739.00
Sven Holmes			962.00		2,401.00				3,363.00
Robert Morgan			962.00		2,401.00				3,363.00
Marvin Ott			1,460.00		4,020.80				5,481.42
Regina Genton			1,486.00		5,178.00				6,664.00
Total			9,365.62		28,473.80				37,839.42

DAVID BOREN,
Chairman, Select Committee on Intelligence, Sept. 30, 1987.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95-384—22 U.S.C. 1754(b), SELECT COMMITTEE ON SECRET MILITARY ASSISTANCE TO IRAN AND THE NICARAGUAN OPPOSITION, FOR TRAVEL FROM JULY 1 TO SEPT. 30, 1987

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
David Faulkner			1,053.00		1,678.72				2,731.72
Olga Johnson			368.00		595.00				963.00
Thomas Polgar			368.00		595.00				963.00
Total			1,789.00		2,868.72				4,657.72

DANIEL K. INOUYE,
Chairman, Select Committee on Secret Military Assistance
to Iran and the Nicaraguan Opposition.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95-384—22 U.S.C. 1754(b), U.S. SENATE ARMS CONTROL OBSERVER GROUP, FOR TRAVEL JUNE 19-23, 1987

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Claiborne Pell:									
Switzerland	Franc	857.10	563.50					857.10	563.50
Senator J. Bennett Johnson:									
Switzerland	Franc	921.75	606.00					921.75	606.00
Senator Daniel Patrick Moynihan:									
Switzerland	Franc	921.75	606.00					921.75	606.00
Senator Arlen Specter:									
Switzerland	Franc	812.21	534.00					812.21	534.00
George W. Ashworth:									
Switzerland	Franc	848.05	557.55					848.05	557.55
Wallace D. Burnett:									
Switzerland	Franc	921.75	606.00					921.75	606.00
Lucia M. Chavez:									
Switzerland	Franc	921.75	606.00					921.75	606.00
Richard D'Amato:									
Switzerland	Franc	921.75	606.00					921.75	606.00
Kenneth Myers:									
Switzerland	Franc	921.75	606.00					921.75	606.00

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95-384—22 U.S.C. 1754(b), U.S. SENATE ARMS CONTROL OBSERVER GROUP, FOR TRAVEL JUNE 19-23, 1987—Continued

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Jan Paulk:									
Switzerland	Franc	921.75	606.00					921.75	606.00
David Smith:									
Switzerland	Franc	921.75	606.00					921.75	606.00
Delegation expenses [1]							9,271.99		9,271.99
Total			6,503.05				9,271.99		15,775.04

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[1] Delegation expenses include direct payments and reimbursements to the Department of State and to the Department of Defense under authority of sec. 502(b) of the Mutual Security Act of 1954, as amended by sec. 22 of P.L. 95-384, and S. Res. 179, agreed to May 25, 1977.

CLAIBORNE PELL, Chairman, Oct. 13, 1987.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95-384—22 U.S.C. 1754(b), FOR TRAVEL AUTHORIZED BY THE MAJORITY LEADER FROM JULY 1 TO SEPT. 30, 1987

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
C. Richard D'Amato:									
Guatemala	Quetzal	712.80	264.00					712.80	264.00
United States	Dollar				667.00				667.00
Greece	Drachma	23,540	168.00					23,540	168.00
Turkey	Lira	437,468	492.00					437,468	492.00
Cyprus	Pound	73.14	150.00			46.48	95.31	119.62	245.31
United States	Dollar				1,805.00				1,805.00
Edward L. King:									
Guatemala	Quetzal	712.80	264.00					712.80	264.00
United States	Dollar				667.00				667.00
Honduras	Lempira	184.00	92.00					184	92.00
Costa Rica	Dollar		82.00						82.00
Jan Heininger:									
United Kingdom	Dollar		176.00						176.00
Greece	Drachma	23,540	168.00					23,540	168.00
Cyprus	Pound	73.14	150.00			46.47	95.32	119.61	245.32
Turkey	Lira	437,468	492.00					437,468	492.00
United States	Dollar				2,125.00				2,125.00
Scott Harris:									
United Kingdom	Dollar		176.00						176.00
Greece	Drachma	23,540	168.00					23,540	168.00
Cyprus	Pound	73.14	150.00			46.47	95.32	119.61	245.32
Turkey	Lira	437,468	492.00					437,468	492.00
United States	Dollar				2,125.00				2,125.00
Senator Tom Harkin:									
Honduras	Lempira	184	92.00					184	92.00
Costa Rica	Dollar		82.00						82.00
Edward R. Long:									
Honduras	Lempira	184	92.00					184	92.00
El Salvador	Colon	25	5.00					25	5.00
Costa Rica	Dollar		82.00						82.00
Sharon Waxman:									
Poland	Zloty	108,204	381.00					108,204	381.00
Romania	Leu	27,417.22	414.00			20,705.96	312.66	48,123.18	726.66
Soviet Union	Dollar		950.00		400.00				1,350.00
United States	Dollar				2,796.00				2,796.00
James McQueeny:									
Poland	Zloty	104,654	368.50					104,654	368.50
Romania	Leu	26,589,40	401.50			20,705.96	312.66	47,295.36	714.16
Soviet Union	Dollar		950.00		400.00				1,350.00
United States	Dollar				2,921.60				2,921,60
Senator Bob Graham:									
Guatemala	Quetzal	66.75	25.00					66.75	25.00
United States	Dollar				405.00				405.00
Alfred Cumming:									
United States	Dollar				646.00				646.00
Total			7,327.00		14,957.60		911.27		23,195.87

ROBERT C. BYRD, Majority Leader, Nov. 18, 1987.

AMENDED CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95-384—22 U.S.C. 1754(b), FOR TRAVEL AUTHORIZED BY THE REPUBLICAN LEADER FROM APR. 1 TO JUNE 30, 1987

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Howard O. Greene, Jr.:									
France	Franc	7,020	1,170.00					7,020	1,170.00
Kathleen A. Bridenbaugh:									
France	Franc	8,424	1,404.00					8,424	1,404.00
United States	Dollar				1,443.00				1,443.00
Total			2,574.00		1,443.00				4,017.00

ROBERT J. DOLE, Republican Leader, Nov. 2, 1987.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. NUNN, from the Committee on Armed Services:

Thomas F. Faught, Jr., of Pennsylvania, to be an Assistant Secretary of the Navy; and

T. Burton Smith, Jr., of California, to be a Member of the Board of Regents of the Uniformed Services University of the Health Sciences for a term expiring May 1, 1993.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation:

Melvin N. A. Peterson, of California, to be Chief Scientist of the National Oceanic and Atmospheric Administration.

(The above nomination was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

Mr. HOLLINGS. Mr. President, for the Committee on Commerce, Science, and Transportation, I also report favorably four nomination lists in the Coast Guard which were printed in full in the Congressional Records of November 30 and December 17, 1987, and, to save the expense of reprinting these lists on the Executive Calendar, I ask that they lie at the Secretary's desk for the information of Senators.

The PRESIDING OFFICER. Without objection, it is so ordered.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. BIDEN (for himself, Mr. Thurmond, and Mr. Grassley) (by request):

S. 1961. A bill to amend title 28, United States Code, to provide Federal debt collection procedures; to the Committee on the Judiciary.

By Mr. METZENBAUM (for himself, Mr. Kennedy, Mr. Rudman, Mr. Bingaman, and Mr. Stafford):

S. 1962. A bill to amend the Clayton Act regarding antitrust enforcement, and for other purposes; to the Committee on the Judiciary.

By Mr. EXON:

S. 1963. A bill for the relief of Luis A. Gonzalez and Virginia Aguilla Gonzalez; to the Committee on the Judiciary.

S. 1964. A bill for the relief of Nebraska Aluminum Casting, Inc., of Hastings, Nebraska; to the Committee on the Judiciary.

S. 1965. A bill to provide certain financial and other protection to passengers holding unused tickets on an air carrier which has filed a petition under chapter 11 of title 11, United States Code; to the Committee on Commerce, Science, and Transportation.

By Mr. CHILES (for himself, Mr. Kennedy, Mr. Domenici, Mr. Leahy, Mr. Graham, and Mr. Wilson):

S. 1966. A bill to amend the Public Health Service Act to improve information and research on biotechnology and the human genome, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. BOREN (for himself and Mr. Nickles):

S. 1967. A bill to provide for the establishment of the Tallgrass Prairie National Preserve in the State of Oklahoma, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. KENNEDY (for himself, Mr. Hatch, Mr. Inouye, Mr. Dole, and Mr. Byrd):

S. 1968. A bill to amend the Public Health Service Act to provide for National and Regional Centers for Pediatric Emergency Medical Services, and for other purposes.

By Mr. HEINZ:

S. 1969. A bill to provide improved programs for training and self employment in the case of unemployment compensation; to the Committee on Finance.

By Mr. THURMOND (for himself, Mr. Hatch, Mr. DeConcini, Mr. Grassley, Mr. Trible, Mr. Wilson and Mr. D'Amato) (by request):

S. 1970. A bill to reform procedures for enforcement of the fourth amendment to the Constitution, for collateral review of criminal judgments, and for the imposition of capital punishments, and for other purposes; to the Committee on the Judiciary.

By Mr. HATCH (for himself and Mr. Thurmond) (by request):

S. 1971. A bill to amend title 17 of the United States Code to implement the Berne Convention for the Protection of Literary and Artistic Works, as revised at Paris on July 24, 1971, and for other purposes; to the Committee on the Judiciary.

By Mr. SARBANES:

S. 1972. A bill for the relief of Irma Purisch and Daniel Purisch; to the Committee on the Judiciary.

By Mr. BINGAMAN:

S. 1973. A bill to assure fair, regulatory treatment of imported natural gas, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. NICKLES (for himself, Mr. Boren, and Mr. Pressler):

S.J. Res. 236. A joint resolution to designate the week of January 17 through January 23, 1988, as "National Jaycee Week"; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. BYRD (for himself and Mr. Dole):

S. Res. 347. A resolution to authorize the appearance of the Committee on Foreign Relations in a legal proceeding, and representation by the Senate Legal Counsel; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BIDEN (for himself, Mr. Thurmond, and Mr. Grassley) (by request):

S. 1961. A bill to amend title 28, United States Code, to provide Federal debt collection procedures; to the Committee on the Judiciary.

FEDERAL DEBT COLLECTION PROCEDURES ACT

● Mr. BIDEN. Mr. President, today I join with the ranking member of the Judiciary Committee, Senator Thurmond, and other committee members to introduce, at the request of the Department of Justice, the Debt Collection Procedures Act of 1988. This legislation was drafted by a committee of U.S. attorneys and is intended to facilitate the collection of all debts owed to the United States.

The Justice Department is responsible for collecting debts owed to the United States by filing civil suits in Federal court. These debts include criminal fines and tax assessments, but mostly involve strictly civil matters, such as student loans and overpayments to veterans. In fiscal 1987, there were $68 billion in delinquent debts, of which approximately 10 percent were referred to Justice for collection.

The General Accounting Office has reported that the Justice Department has done a generally poor job of collecting these debts. The reasons: Justice must follow State enforcement procedures, which vary from State to State and may be inadequate to permit collection by the Government; and U.S. attorneys and the litigating sections of the Department have no incentive to make debt collection a high priority.

The proposed bill addresses both problems. First, it would create a uniform, nationwide system of Federal debt collection procedures. Under the act, the Government would be able to collect civil, criminal, and tax judgments through such means as attachments, garnishments, judgment liens and sales, confessed judgments, and restraining orders in all judicial districts.

Second, the bill would create an incentive to give debt collection a higher priority by creating a debt collection fund. Five percent of the moneys collected by Justice and the U.S. attorneys would be placed in the fund for later collection-related expenses. This would make it possible for the Department to devote attention to debt collection without diverting resources from other functions.

I would also like to point out that this legislation would be cost effective. The Department of Justice anticipates that the costs of implementing this proposal will be more than offset by the increased collections of money owed to the United States. In this time of tight budgets, we must take advantage of every opportunity to further reduce the deficit. Moreover, some of the collected money would be earmarked under existing law for certain priority items. For example, collection of unpaid criminals' fines would not only contribute to reduction of the deficit, but would put more money into the victims fund, which is financed, in part, from such collections.

This bill was drafted by U.S. attorneys who, as the officials responsible for litigating debt collection cases in the Federal courts, have experienced first hand the difficulties the Government has had in attempting to collect debts. This is the first time the U.S. attorneys have pooled their efforts to put together such an ambitious legislative product, and I applaud their efforts.

I hope my colleagues will join me in supporting this important legislation.●

● Mr. THURMOND. Mr. President, today, I am introducing along with Senator BIDEN, important legislation which would amend the Federal law by enhancing the remedies available to the United States for collection of debts owed to the Federal Government. This much needed measure will provide for uniform collection procedures that apply nationwide. This bill represents the first major Department of Justice legislative proposal conceived, drafted, and advanced by U.S. attorneys who are well aware of the procedures that are necessary to assure that those who owe money to the U.S. Government pay it back.

The Federal Debt Collection Procedures Act of 1987 was drafted in order to improve the manner in which the Department of Justice handles the process of litigation and other reasonable collection efforts necessary to recover moneys owed to the United States. Incredibly, it has been estimated by the Office of Management and Budget that the Federal Government has approximately $68 billion of delinquent debt.

Mr. President, currently the debts owed to the United States must be collected under the State law in which the debtor is found. These laws vary greatly from State to State, making enforcement of debt collection extremely difficult and expensive. For example, in some States, a debtor can exempt vast amounts of property from execution, whereas a similarly situated debtor in another State is granted no such exemption at all. It is unfair that Federal debtors who reside in States with strong collection laws are made to pay their Federal debts, while others use weak State collection laws to escape repayment of their debt to the Federal Government.

This legislation aims to correct the inequities that exist under the current system. This measure creates a firm but fair, comprehensive statutory scheme for the collection of Federal debt. This bill maintains State law leaving State remedies unaffected. This law is meant to be used by Federal litigators in Federal courts to collect debts owed to the United States.

The Department of Justice anticipates that the cost of implementing this proposal will be more than offset by the increased collections of money owed to the United States.

In summary, this bill represents a collaborative effort of the 94 U.S. attorneys across this country who perform the vast majority of debt collection litigation on behalf of the United States. Such legislation reflects their broad legal expertise and practical experience. We must not ignore their collective wisdom.

Finally, we should correct inequities in the Federal collection mechanism. A Federal procedural collection statute will allow for the creation of standard forms, policies, and procedures for the handling of Federal debt litigation and enforcement. Those who owe the Federal Government must not be allowed to ignore their financial responsibility because of ineffective collection procedures. This legislation is most appropriate and I look forward to its examination, making any necessary changes that may improve it, and its ultimate passage and enactment into law.●

● Mr. GRASSLEY. Mr. President, I am pleased to be an original cosponsor of this legislation to improve the procedures by which the Federal Government can enforce collection of delinquent debts owed to the Government.

Most conservative estimates show about $68 billion in delinquent debt owed to the Federal Government. I believe it's high time we started to collect it.

Under current law, debts owed the Federal Government must be collected under a patchwork quilt of State laws where the debtor is found. This system results in inequitable and inconsistent treatment of Federal debtors and impedes the effective recovery of debts owed to the Government.

These same Federal debtors however, incur obligations under uniform Federal loan standards. Congress ought to ensure that all Federal debtors are treated uniformly with regard to their financial obligations.

This proposal creates a firm but fair system for the collection of Federal judgments. It's not a scheme to oppress deadbeats. Each of the provisions is based on existing law.

This proposal is a cooperative effort of all of our U.S. attorneys around the Nation. These are the individuals charged with conducting litigation to protect the Government. We ought to provide them with suitable tools to do the job.

I hope we can hold hearings on this bill early next session, and look forward to Judiciary Committee approval of it.●

By Mr. EXON:

S. 1965. A bill to provide certain financial and other protection to passengers holding unused tickets in an air carrier which has filed a petition under chapter 11 of title 11, United States Code, to the Committee on Commerce, Science, and Transportation.

PROTECTION OF BANKRUPT AIRLINE TICKET HOLDERS

● Mr. EXON. Mr. President, I am pleased to introduce consumer protection legislation which will assist passengers holding advance purchase tickets on airlines which have filed for bankruptcy and ceased operation.

In such situations, the passenger, or should I say the would-be passenger, having purchased an airline ticket in good faith, suddenly finds himself or herself holding merely a claim in a bankruptcy proceeding. The problem is this person needs transportation and also some measure of fair play as an individual consumer. Since the 1978 Airline Deregulation Act, competition has driven a number of airlines from the market into bankruptcy, leaving passengers in the situation I have just described.

There have been a number of proposals advanced in Congress to address this problem. The airlines have raised a number of legitimate objections to them in light of the present highly competitive environment in the industry. It is my intent to try to find some type of middle ground that respects the needs of the individual airline passenger as well as the legitimate concerns of the airlines.

My legislation would provide that an airline ticket holder of a bankrupt airline be provided transportation by another airline on a standby basis. However, the replacement airline should not be expected to have to bear the full amount of the loss any more than the passenger. As a middle ground and distinction from most past proposals, my legislation allows the replacement airline to charge its regular coach fare, but also allows the passenger to offset that price with his original ticket. Thus, a passenger who originally had purchased a "supersaver" ticket would not lose his original investment, but on the other hand could not force a second airline to fly him at the low price and bear the entire burden of the loss.

The practical result of the bill will be that, when an airline goes bankrupt leaving ticket holders high and dry, the loss will be shared partially by passengers and partially by the industry. Currently, all loss is on the passengers and other proposals have shifted the loss entirely to the airlines. Because my proposal is a middle ground, it may not be supported strongly by those who may wish to have the risk of loss totally one way or another. However, I also believe that by spreading around the risk of loss, it also makes this proposal inherently fair.

I look forward to working with my colleagues on this legislation.●

By Mr. METZENBAUM (for himself, Mr. Kennedy, Mr. Rudman, Mr. Bingaman, and Mr. Stafford):

S. 1962. A bill to amend the Clayton Act regarding antitrust enforcement, and for other purposes; to the Committee on the Judiciary.

CONSUMER REMEDIES IMPROVEMENT ACT

● Mr. METZENBAUM. Mr. President, today we are introducing legislation to correct, at least in part, a glaring unfairness in the antitrust laws. This judicially created injustice prevents certain injured victims—those who did not deal directly with a member of an illegal conspiracy—from recovering antitrust damages for their injuries. While the legislative solution we are introducing today does not totally eliminate this unfairness—and, therefore, is not as broad as I would like—it takes a big step toward rectifying the injustice. It removes the current bar to Government suits seeking redress on its own behalf or on behalf of its citizens.

The courthouse door was closed to indirect purchases and sellers in 1977. See *Illinois Brick Co.* v. *Illinois,* 431 U.S. 720 (1977). At that time, the Supreme Court rules that the State of Illinois could not maintain a suit alleging a conspiracy to fix prices against manufacturers of concrete block used to build municipal buildings. The Court granted summary judgment in favor of the defendants because the State did not purchase the concrete block directly from the alleged conspirators.

Application of the Supreme Court's decision in Illinois Brick leads to anomalous results. For example, if all the car manufacturers in the country were to conspire to set the price of cars, only dealers—those who purchased the cars directly from the conspirators—would be able to sue under the antitrust laws for damages. This simply makes no sense.

Much of the Supreme Court's reason for prohibiting indirect purchasers from seeking relief under the antitrust laws focused on a previous Supreme Court decision called *Hanover Shoe, Inc.* v. *United Shoe Machinery Corp.,* 392 U.S. 481 (1968). In that case, the Court ruled that defendants could not defend themselves in an antitrust suit by claiming that the plaintiff/purchaser had passed on the illegal overcharge to its customers. The Court stated that, "Whatever rule is to be adopted regarding pass-on in antitrust damages actions, it must apply equally to plaintiffs and defendants," 431 U.S. at 719. Some previous legislative solutions to the inequity engendered by the Illinois Brick decision did not address both sides of the issue. The bill we are introducing today, to the contrary, would partially overrule both Illinois Brick and Hanover Shoe.

More than a dozen States have laws which allow for recovery of indirect antitrust injuries. Several of these States, including California, Minnesota, Colorado, Illinois, and Maryland, enacted statutes allowing indirect purchasers to bring antitrust claims for damages after the Supreme Court's ruling in Illinois Brick. Recently, however, the ninth circuit held that these statutes are preempted by the Supreme Court's decision in Illinois Brick. See in re: *Cement and Concrete Antitrust Litigation,* Nos. 84-2865, 85-1670, 85-1722, 85-1723, and 85-1724, D.C. No. MDL 296 (May 27, 1987). Whether or not this case was rightly decided, the mere existence of these State indirect purchaser statutes indicates the need for Federal legislative action.

The bill we are introducing is carefully crafted to be a fair and effective response to the concerns which led to the Supreme Court's decision in Illinois Brick and Hanover Shoe.

The bill states that the following provisions apply to suits by indirect purchasers or sellers. First, only the United States or a State attorney general may maintain a suit to recover damages for indirect antitrust injuries. The State attorney general may sue on its own behalf or on behalf of injured citizens in its State: either indirect purchasers or indirect sellers of agricultural products. These provisions reverse, in part, the Supreme Court's ruling in Illinois Brick. They would help governments recover illegal overcharges sustained in connection with the building of roads, public buildings, and other infrastructures. They would also allow States to sue on behalf of indirectly injured consumers.

Second, the bill allows the defendant to allege, as a complete or partial defense in a direct purchaser or seller suit, that the plaintiff passed its damages on. This provision ensures that the partial reversal of Illinois Brick is fair by reversing the Supreme Court's decision in Hanover Shoe. Furthermore, the bill specifically prohibits the defendant from being charged with duplicative awards.

Finally, the bill provides that certain procedures be used to facilitate litigation. Thus, if the defendant so requests, the court is directed to consolidate all cases, by direct or indirect plaintiffs, based on the same or substantially the same alleged behavior. The bill also requires that plaintiffs alleging illegal price fixing or market allocation schemes make a reasonable effort to notify other persons who may have been directly or indirectly harmed by the behavior described in the suit.

These provisions are intended to respond to the concerns raised by the Supreme Court and opponents of a legislative response to Illinois Brick by first, avoiding unduly complicated litigation; second, maintaining the incentive to enforce the antitrust laws; and third, preventing defendants from being held liable for multiple recoveries.

This same bill received very broad support last Congress from many governmental organizations. I urge my colleagues to join me and Senators Kennedy, Rudman, Bingaman, and Stafford in supporting this long overdue legislation. Its passage would facilitate the Government's fight against the rising cost of purchases and construction projects and against higher prices for consumers.

Mr. President, I ask unanimous consent that the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 1962

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Consumer Remedies Improvement Act of 1987".

Sec. 2. The Clayton Act is amended by adding between section 4H and section 5 thereof the following:

"Sec. 4I. (a) In any civil action by the United States under section 4A, or by a State attorney general under section 4 or section 4C, alleging a boycott or a contract, combination, or conspiracy to fix, maintain, or stabilize prices or to allocate markets, a claim for damages may be based on indirect purchases. In the case of a civil action on behalf of producers of agricultural products, a claim for damages may be based on indirect sales in addition to any other claim permitted.

"(b)(1)(A) If the United States or a State attorney general asserts a claim for damages based on indirect purchases or sales pursuant to subsection (a), the defendant shall be entitled to allege, as a partial or complete defense to a claim by a direct purchaser or seller based on the same or substantially the same alleged conduct, that some or all of what would otherwise constitute the direct purchaser's or seller's damages were passed on by the direct purchaser or seller to persons on whose behalf the claim for damages from indirect purchases or sales was brought.

"(B) In the case of a claim based on indirect purchases or sales, the award shall be treble the damages shown by the indirect purchaser or seller to be properly allocable to it (in addition to costs and attorneys' fees): *Provided,* That in the case where no claim by a direct purchaser or seller is pending, the defendant shall have the burden of establishing that the total overcharge or underpayment was not passed on to the indirect purchaser or seller.

"(C) The amount awarded to a plaintiff for a claim based on direct or indirect purchases or sales shall not duplicate amounts previously awarded to a direct or indirect purchaser or seller for the same overcharge or underpayment based on proof in fact of such injury.

"(2)(A) Any person entitled to maintain an action pursuant to subsection (a), alleging injury from indirect purchases or sales, may intervene in any action under section 4 alleging injury from direct purchases or sales based on the same or substantially the same alleged conduct, if a request for such intervention is made within six months after the date of the filing of the initial action. The failure to request intervention in a pending action by any person alleging injury from indirect purchases or sales, within such time, shall constitute a bar to a claim by such person for injury from indirect purchases or sales based on the same or substantially the same alleged conduct.

"(B) Any person initiating an action under section 4 may intervene in any action under subsection (a) which alleges injury from indirect purchases or sales based on the same or substantially the same alleged conduct.

"(C) Upon a request made by the defendant, the court shall order the consolidation of any pending actions pursuant to subsection (a) alleging injury from indirect purchases or sales and any other action under section 4 based on the same or substantially the same alleged conduct.

"(3) Upon the initiation of any action pursuant to subsection (a) alleging injury from indirect purchases or sales, the United States or State attorney general shall provide reasonable public notice of the allegations of the suit and, to the extent possible, a general description of any direct purchasers who may be entitled to maintain an action under section 4.

"(4) Upon the initiation of any action pursuant to section 4 alleging a boycott, or a contract, combination, or conspiracy to fix, maintain, or stabilize prices or to allocate markets, the plaintiff shall provide reasonable notice of the allegations of the suit to the United States and the State attorneys general.".●

By Mr. CHILES (for himself, Mr. Kennedy, Mr. Domenici, Mr. Leahy, Mr. Graham, and Mr. Wilson):

S. 1966. A bill to amend the Public Health Service Act to improve information and reseach on biotechnology and the human genome, and for other purposes; to the Committee on Labor and Human Resources.

BIOTECHNOLOGY COMPETITIVENESS ACT

● Mr. CHILES. Mr. President, I and many of my colleagues are concerned about the status of American research and the development of new technologies. Over and over, we have heard the refrain echo in this Chamber; American basic research is the best in the world. But other countries are quicker to develop new applications for that research. U.S. researchers and start-up companies lead the way, only to see foreign competitors develop products and dominate world markets. That is getting to be an old story indeed.

Another theme is frequently heard. That is the need for cooperation between industry, government and the research community. More than ever, government agencies, university and private researchers and industry need to communicate with each other. There needs to be a better flow of ideas, and understanding, between these groups.

A third theme is increasingly evident, and is of profound concern. American universities attract some of the best minds in the world. But foreign students now dominate our graduate science programs. I have personally pushed math and science education initiatives in this body. The decline in mathematics and science knowledge of U.S students will harm U.S. research and industry for years to come.

It is out of concern for continued U.S. excellence in an emerging group of new technologies that I and my colleagues are introducing legislation today. These are the new biotechnologies. They have emerged over the last decade from a new understanding of genetics, or the basic blueprint of living organisms. Mr. President, they will change our lives in the next few decades. In many ways, especially in the understanding and treatment of human disease, they already have.

Mankind has in a sense always utilized biotechnology. Centuries-old processes such as brewing are biotechnological. So is the process of selective breeding by which desirable traits in plants and animals have been enhanced. But mankind's new ability to directly analyze and manipulate genes and genetic processes has created new opportunities, new questions and new responsibilities.

Basic research in the United States, originating in the National Institutes of Health, gave rise to these new technologies. The United States continues to lead the world in its investment in the biological sciences. To date, the United States also is the world leader in developing applications and products utilizing new biotechnologies.

But other countries are making substantial investments in biotechnologies. Even more importantly, they are giving thought to how these new technologies and industries can be encouraged. Simply put, they are engaged in thoughtful, strategic planning.

Mr. President, on the front page of today's Wall Street Journal is an article outling Japan's extensive campaign to achieve superiority in the new biotechnologies. I ask unanimous consent that this article, and an accompanying article from today's Journal describing Japanese efforts to map and sequence the human genome, appear in the Record following my remarks.

The amount of cooperative planning, research and industrial targeting by the Japanese provides further evidence that we must get our house in order. We simply must begin to think strategically. If we do not, we risk squandering our advantages in this emerging field as we have in others.

This legislation, which was developed in close coordination with Senator Kennedy and Senator Domenici, provides a framework for strategic planning for all of the new biotechnologies. It establishes a panel devoted to one topic of tremendous importance and debate, a proposed project aimed at identifying the entire human genetic code. And it establishes a center to coordinate the collection of, storage of an access to rapidly accumulating genetic information. I am pleased that Senator Kennedy and Senator Domenici, and Senators Leahy, Graham, and Wilson, are joining with me in introducing the Biotechnology Competitiveness Act of 1987.

There are three initiatives contained in this legislation which I would like to briefly outline.

NATIONAL CENTER FOR BIOTECHNOLOGY INFORMATION

Genetic information is accumulating rapidly. At present, numerous databases hold portions of that information but these databases are incompatible. Advances in mapping and sequencing the human genome, in particular, will result in a great deal new information which must be properly organized and stored before it can be fully utilized. Research into the human genome is the cutting edge of biological science today. At the same time, much biomedical research on the human genome is dependent on study of animal and plant genetics, and that information as well needs to be properly organized and stored.

The National Center for Biotechnology Information would be established at the National Library of Medicine. The center would develop information handling systems allowing access to the various existing databases for analysis and comparison of genetic information. It would also encourage, coordinate, and develop methods for the organization of new human, plant and animal genetic information as it is developed. While the focus of the center is on biomedical research, the center would be an essential aid to nonmedical biotechnology research as well.

NATIONAL BIOTECHNOLOGY POLICY BOARD

Biotechnology emerged from basic biomedical research. But its implications cut across many fields. Due to the nature of the biotechnologies, involving as they do genetic manipulation, significant ethical and safety concerns have been raised. To a large extent, national policy has focused on those concerns. The Biotechnology Science Coordinating Committee, established by the President's Office of Science and Technology, developed the "Coordinated Framework for Regulation of Biotechnology." The Biomedical Ethics Board has been established to consider the ethical implications of gene manipulation. Ethical and safety considerations deserve continued public debate and private reflection. They will affect the development of biotechnology research and applications.

But there has been a lack of strategic thought and policy recommendations regarding the whole of the new biotechnologies. It is evident that they are, or will be, strategically important industries. But no successful attempt has been made to consider all governmental and private activities and research, biotechnology's importance to domestic and international policy goals, its long-term economic and national security implications, and how Federal policy should be changed in light of those goals and implications. No continual assessment of Federal or private activities is being made. No forum exists for relevant Federal agencies, industries, and the research community to communicate with each other. The very nature of the new biotechnologies, and the importance of strategic planning in a competitive global economy, demand the creation of a body which can examine these questions and make concrete recommendations to the President and the Congress.

The Board would be an independent entity in the executive branch, including representatives from the various Federal agencies funding biotechnology-related research or regulation, or promotion. In addition, four industry representatives would be appointed by the President, with the advice and consent of the Senate, as would four individuals representing the university research community also appointed by the President from recommendations made by the National Academy of Sciences. A representative of private biomedical research foundations, and a biomedical ethicist, would be similarly appointed. The nongovernmental representatives would serve 4-year terms. The Board is given an initial 5-year authorization.

The Board would review and appraise the programs and activities of the Federal Government relating to biotechnology, including the amount and type of biotechnology-related research. It would also review and appraise privately funded biotechnology activities, including both basic and applied research, and the development of commercial biotechnology-related industries and products.

The Board would make recommendations to the President and to Congress on policies:

To enhance basic and applied research;

To enhance the competitiveness of the United States in developing commercial biotechnology-related industries and products;

To assure the training of sufficient scientists, engineers and laboratory personnel for both research and commercial development; and

To enhance the transfer of technology from university and Federal research laboratories to commercial laboratories.

The Board would also make recommendations regarding:

Federal participation in proposed cooperative research initiatives involving governmental and private entities; and

Regulatory policies which affect biotechnology industries and products.

The Board would coordinate its activities with other boards and commissions, and may establish advisory panels as it deems appropriate.

NATIONAL ADVISORY PANEL ON THE HUMAN GENOME

This Advisory Panel to the Board is specifically established in the legislation. Recent advances in biomedical research have brought within sight the possibility of mapping and sequencing the human genome. The creation of genetic and physical maps, and the eventual identification of the sequence of nucleotides making up human DNA, will provide tools by which to understand human genetics. The development of new techniques of analysis will be beneficial to molecular biology research generally. And the development of instruments for this work may well provide spinoff benefits in fields far removed from biology.

But there are many unresolved questions regarding proposed human genome projects. What are the ethical implications of this new knowledge of human genetics? Should there be a massive effort at the Federal level, or would such an effort detract from other biological science research with more immediate human health benefits? If there is a new initiative, would it be a centrally planned big science project, at odds with traditional researcher initiative-based biological science? What are the appropriate roles of the Federal agencies involved, principally the Department of Energy and the National Institutes of Health? Since technology for mapping and sequencing is developing rapidly, at what point should a commitment be made? What is the proper relationship between Federal laboratories, university and private research institutions and biotechnology companies which will profit from this new information?

It is to resolve these questions that the panel would be created. The panel, co-chaired by National Institutes of Health and Department of Energy officials, would again have private industry and research community representatives, as well as one individual with expertise in biomedical ethics. Utilizing studies being carried out by the National Academy of Sciences and the Office of Technology Assessment, the Panel would make concrete recommendations within 18 months. The Panel would recommend the optimal strategy for the genome project, identify goals, establish standards for the collection and storage of genetic information, identify commercial opportunities, monitor relevant research, oversee interagency cooperation, assess the possibility of international cooperation, evaluate ethical considerations of research and product development, and evaluate patent and ownership questions.

Mr. President, this legislation covers a great deal of territory. Although the immediate focus is on human health and genetics, the long-range effects of the new biotechnologies will be felt strongly in agriculture, food processing, energy and waste management, and perhaps in other fields not yet imagined.

All of us know the fiscal restraints which will limit Federal expenditures for the foreseeable future. In a sense those restraints are a challenge—a challenge to better plan, to move wisely rather than rashly, to cooperate rather than argue meaninglessly. In the global economy, our Nation's continued research and industrial leadership depends on our ability to meet this challenge.

This legislation provides a framework for planning, judicious action and cooperation between government, university and private research institutions, and industry. It is critical legislation, introduced at a critical time in our Nation's history, and I hope the Congress moves quickly to adopt it.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, Dec. 17, 1987]

GENE SQUAD: JAPANESE NOW TARGET ANOTHER FIELD THE U.S. LEADS: BIOTECHNOLOGY—THEIR COMPANIES HAVE CASH AND PATIENCE, PLUS ACCESS TO SUPERIOR U.S. SCIENCE—MITI MOUNTS A CAMPAIGN

(By Bernard Wysocki, Jr.)

TOKYO.—You already know about the Japanese challenge in cars, cameras, copiers, TV sets, motorcycles, watches, calculators, robots, optical fibers, supercomputers and semiconductors.

Now comes yet another one: in biotechnology.

Biotech is still in its infancy, of course, but over the next few year a multibillion dollar market seems sure to develop in genetically engineered products ranging from cancer treatments to new kinds of pigs and plants. And the U.S. and Japan despite current joint ventures and alliances, are emerging as archrivals.

So far the U.S. holds a commanding lead, thanks to the creativity of its scientists. But Japan's government, its universities and scores of its big corporations are putting a huge effort into the field. "Biotechnology is a magic word in Japan," says Wataru Yamaya, managing director of Mitsubishi Chemical Industries Ltd. His company, with a $233 million research and development budget, now devotes 40% of it to biotechnology.

DELAYED GRATIFICATION

For the U.S., most recently bloodied by the Japanese in semiconductors, there is reason for concern in this field, too. Biotech research consumes much time and money, with any payback far in the future. This isn't a problem for most of the Japanese players, because they tend to be huge corporations loaded with cash from their other operations. But many of the most promising American biotechnology firms are small and don't have any profitable businesses to sustain them.

Equally important, in the Japanese corporate world a manager is free to take a long-term approach, investing for years without showing any results. American companies constantly have to worry about their quarterly results and what stockholders, analysts and corporate raiders are thinking.

Finally, the Japanese threaten to neutralize America's advantage by gaining access to its scientific breakthroughs. Japanese companies have set up bioscience labs in the U.S., and Japanese money sponsors bioscience research at noted American universities like Rockefeller and Harvard. Some 300 Japanese scientists currently study in America under National Institutes of Health grants. Most perilously, large Japanese corporations are bankrolling some hard-pressed American start-up firms in exchange for a look at their best scientific secrets.

WHAT HAPPENED?

"The American R&D companies, they need the money," says Yaichi Ayukawa, a prominent Japanese venture capitalist with an American doctorate. "They're really hungry. They make a deal with the Japanese. But then the Japanese tap you, strip you down. And three or four years later, the American side doesn't know what's going on."

Even while this is going on, the Japanese are working feverishly to build up their own ability to do biotech research. For one thing, they know the lopsided flow of scientific information is causing friction, which could, in the most extreme scenario, lead to moves in the U.S. toward technological protectionism. But another reason is that in biotechnology, patent law, which is still evolving, may strongly favor originators over copycats. So the link between basic science and commercial success may prove particularly close.

Meantime, Japan, preparing for the day when biotechnology markets are developed, is working on the so-called scale-up processes: fermentation and other techniques needed to make genetically engineered substances in volume. This is a phase in which Japan has excelled in such fields as autos, shipbuilding and steel.

TOP DOWN

The clearest indication of Japan's biotechnology ambitions may be the attention being given the field by the Ministry of International Trade and Industry. When MITI gets involved, it's a safe bet the nation's senior strategists have targeted an industry for a big push. Though MITI does some biotech research, its main role is to spur and guide work by others. Like a fishing boat tossing chum in the water, it first charts a course and then plants money to attract more.

MITI has seeded four areas of biotechnology with money and set up groups of companies to work on them. The first three areas, established six years ago, are gene-splicing, large-scale cultivation of cells and "bioreactors," or microbes that can change one chemical into another. Then last year, the ministry started a 10-year research effort in the futuristic field known as bioelectronics, which envisions computers that would function more like the human brain and perhaps even use biological substances.

Other Japanese government agencies have dozens of other programs: to develop new types of proteins, to work up new rice hybrids, to let maverick scientists follow their instincts. And, using Japan's technological skill for a foray into fundamental research, they are trying to automate the attempt to map human genes (see adjoining story).

Japan also is proposing an international joint effort in basic bioscience, which it calls the Human Frontier Science Program. Other nations haven't been very enthusiastic. "People are skeptical that the notorious MITI has a basic-research program," says Katsuhiko Umehara, MITI's deputy director of the project. He concedes what others suspect: One of the program's aims is to improve Japanese science through increased contact with American and European researchers.

The Japanese seem to feel acutely vulnerable about their basic science. They have indulged much self-criticism, which only intensified when the Nobel Prize in medicine recently went to a Japanese who had moved to the U.S. 24 years ago. Touring Japan recently, the scientist, Susumu Tonegawa, appealed for change. "Japan has developed its technology on foreign scientific achievements" in this century, he said. "Now that Japan is a large economic power, we cannot keep using the basic scientific achievements of others."

Many observers trace the weakness in scientific creativity to elements of Japanese society, such as the stress on group harmony over individual excellence. Academic scientists seem sealed within their departments, content to do a competent job there rather than excel world-wide, says Hajime Nishimura, the head of Tokyo University's department of chemical engineering. Some Japanese also say that their country has been fully occupied absorbing foreign science; now that it is technologically caught up, they add, it is ready to innovate.

BIOTECH FOCUS

The effort certainly is being made. Prof. Nishimura's department, which in the 1970s was concentrating on environmental and pollution studies, now focuses tightly on biotechnology research. He tells of a junior colleague who was studying environmental microbiology: "Seven years ago I ordered him to convert his field to recombinant DNA," he says.

Prof. Nishimura says the U.S. is several years ahead in biotechnology, "and the gap isn't closing." But some U.S. scientists see the Japanese getting stronger in some areas, among them enzymes, the proteins that act as catalysts in biological reactions. The British science journal Nature reports a sharp increase in the number of published articles by Japanese scientists, especially in bioscience.

In a country flooded with cash from trade surpluses, some of the progress flows from the sheer power of money. For instance, some big companies stuck in slow-growth businesses see biotechnology as a possible route to diversification. Chemical, food and liquor companies, for instance, are using biotechnology to build on their skills in brewing, fermentation or chemical processing. And they are willing to pour money into it.

CASE HISTORY

An example is Suntory Ltd., a distiller that got into biotech eight years ago in hopes of developing drugs. It began by hiring an executive, Teruhisa Noguchi, who had pioneered the drug business elsewhere, and he quickly began spending Suntory's money. Hearing that an Australian marine laboratory was closing, he bought 400 species of marine life from it as a possible source of drug ideas.

Then he began trying to bring back Japanese scientists working in the U.S., managing to snag a genetic engineer from California Institute of Technology, a chemist from Columbia and a biologist from Harvard. With some of Suntory's own talent he put together a core group and built it into a big laboratory.

The group focused on interferons, one of which, gamma interferon, now is being tested against leukemia, solid tumors and rheumatoid arthritis. By 1982 Suntory had synthesized the gamma interferon gene, and then—in a notable reversal of the usual direction of technology transfer—it licensed the know-how to an American company, Schering-Plough Corp.

Gamma interferons and three other drugs Suntory is working on now are in clinical, or human, trials. Though a commercial payoff is uncertain, Suntory continues to pour in money. Next spring it plans to open a $100 million development center.

Meanwhile, it has been aggressively acquiring U.S. technology. Suntory does joint research with Rockefeller University on brain function, seeking drugs for the ills, like senile dementia, of the world's growing elderly population. It licensed from Biogen the right to produce a natural cancer fighter called tumor necrosis factor. (The work is on hold because of TNF's unexpected side effects.) Finally, Suntory is looking for a broad partnership with a U.S. company.

One candidate is Genetics Institute, of Cambridge, Mass. Its officials know the risks in this: "We terminated one possible joint venture," says Kuni Yamamoto, the manager of the U.S. company's Japanese unit. "We didn't feel very comfortable giving away proprietary information and scientific know-how." Yet he says the company remains interested in forming close ties with one or more Japanese partners.

Why would U.S. companies license their hard-won biotech breakthroughs to a larger company that might turn around and beat them? The answer lies in the pressure they are under because of biotechnology's heavy costs, high risk of failure and, even with the successes, long delays before commercial payoff. The stockmarket crash, pounding biotechnology stocks, only added to the pressure and the uncertainty of financing. Small biotech companies find that when it comes to venture capitalism, the Japanese are more patient.

DIFFERENT CLIMATE

They are more patient, also, when investing in large companies. A lot of Japanese shares are cross-held by friendly Japanese firms that buy and hold, not demanding big dividends or regular jumps in quarterly profit. For financing, Japanese companies—those that aren't cash-rich, as many are—tend to rely on bank debt, and the bankers, too, take a long view.

Large American companies have to worry much more about investor sentiment. And in the matter of biotechnology, it has blown hot and cold. In agriculture, for instance, securities analysts once rhapsodized about the prospect of new crops that would grow in the tundra or the desert. Now the view is more sober, among corporations as well as among analysts.

In these shifts lie a problem for the U.S. and an advantage for Japan. Rohm & Haas Co., the Philadelphia chemical concern, started trying to develop a new strain of rice with Sumitomo Chemical Co. in the more optimistic days. It has since abandoned the idea. "We pretty much got cold feet," says Ruben Salazar, the president of Rohm & Haas's Japanese unit. "We believe there will be a potential, but the time it will take is so long, and the investment is so big."

Sumitomo, in contrast, is continuing to pursue better rice through chemistry. And so are two other big Japanese companies, Mitsubishi Chemical and Mitsui Toatsu. In the end, Japanese willingness to stay in the biotechnology race, no matter how long the wait or how big the investment, may prove to be the greatest competitive advantage of all.

BIOTECH'S GLOBAL COMPETITION AND COOPERATION

[Some examples of Japanese, American and European ventures in three key areas of biotechnology]

Lead company	Partner	U.S. status [1]	Japanese status [1]
Tissue Plasminogen Activator (heart attacks):			
Genentech (U.S.)	Mitsubishi (Japan), Boehringer (Germany)	Approved	Phase 2.
Genetics Institute (U.S.)	Wellcome PLC (Britain), Sumitomo (Japan)	Phase 2	Do.
Integrated Genetics (U.S.)	BASF (Germany), Toyobo (Japan)		Do.
Asahi Chemical (Japan)	None		Do.
Meiji Milk (Japan)	Meiji Seika (Japan)		Phase 1.
Biogen (U.S.)	SmithKline Beckman (U.S.)	Preclinical	
Chiron (U.S.)	Hoeschst (Germany)	do	
Damon (U.S.)	SmithKline Beckman (U.S.), Yamanouchi (Japan)	do	Preclinical.
Bio-Response (U.S.)	None	do	
Green Cross (Japan)	do		R&D.
Monsanto (U.S.)	do	R&D	
Lilly (U.S.)	do		Do.
Sankyo (Japan)	Cell Technology (U.S.)		Do.
Gamma Interferon (cancer, rheumatoid arthritis):			
Biogen	Baxter Travenol (U.S.), Shiongi (Japan)	Phase 3	
Amgen (U.S.)	Johnson & Johnson (U.S.)	Phase 2, 3	
Green Cross	None		Phase 2.
Genentech	do	Phase 2	
Interferon Sciences (U.S.)	do	Phase 1	
Takeda (Japan)	do		Preclinical.
Kyowa (Japan)	Hayashibara (Japan)		Do.
Daiichi/Toray (Japan)	None		Do.
Human Growth Hormone:			
Genentech	do	Approved	Approved.
Lilly	do	do	
Biotech, General (U.S.)	Du Pont (U.S.)	R&D	
Cell Technology	Serono Labs (U.S.)	do	
Sumitomo Chemical (Japan)	None	Phase 1	
Yamanouchi	Nordisk (Demark)	Phase 2	Approved.
Kabivitrum (Sweden)	Sumitomo		Do.
Calif. Biotech (U.S.)	None		

[1] Notes on Status:
Preclinical: Animal or lab tests.
Phase 1: Human tests to determine safety.
Phase 2: Human tests to determine dosage range.
Phase 3: Large-scale human tests of effectiveness.

Source: Prudential-Bache Securities.

JAPAN TRIES TO AUTOMATE TEDIOUS JOB OF READING HUMAN GENETIC BLUEPRINT

(By Stephen Kreder Yoder)

TOKYO.—Determined to find a better way to learn the body's secrets, Japanese government planners enlisted a watch manufacturer, a computer-software house, a maker of photographic film, an electronics concern and a soda-ash firm.

It didn't matter that none had any experience in biology. The mission was to use their manufacturing expertise to automate a task that has long daunted scientists—reading the body's internal blueprint.

Since embarking on the project in 1981, Japan's Science and Technology Agency has given 766 million yen ($5.8 million) to the five companies to design machines that automatically decipher DNA, or deoxyribonucleic acid, the genetic material that determines the development of every living organism.

Decoding genetic information—a process known as DNA sequencing—is increasingly regarded as top-priority research for future biotechnology industries. Biologists talk of compiling a catalog of all of the three billion pieces of genetic information in human DNA. Such data could hold many clues on how the body works and offer hope of treating various intractable diseases.

The work currently involves a tedious series of laboratory routines that researchers do largely by hand. This is where Japan sees a prime opportunity, because of its talent for applying established skills to new industries.

A REVOLUTION?

Seiko Electronic & Instruments Co., for instance, is adapting high-precision watchmaking robots to move minute pieces of genetic material. Fuji Photo Film Co. has used its skills to streamline a time-consuming laboratory task. "We want to use all the technologies available; computers, material science, electronics, robots and biology," says Akiyoshi Wada, a professor of molecular biophysics at the University of Tokyo who masterminded the Japanese effort.

Two other Japanese academics, in a paper published by Cambridge University Press, go further: "Automation of complex laboratory procedures could turn out to be the equivalent of the industrial revolution in biological and biochemical laboratories," they say.

The Japanese weren't the first to think of automating the lab process. The European Molecular Biology Laboratory in Heidelberg, West Germany, has pioneered methods of automating DNA sequencing, as has California's Lawrence Livermore National Laboratory. Several U.S. companies, such as Du Pont Co. and Applied Biosystems Inc., have built DNA-sequencing machines. Officials from the Japanese science agency say the U.S. Department of Energy has spent millions of dollars more than Japan to decipher genetic data.

ADVANTAGE JAPAN

But Japan, with its engineering muscle, money and ability to coordinate academic, government and corporate efforts, appears to have the advantage. There is no question that the Japanese are ahead in automating DNA sequencing, says Leroy Hood, a biology professor at California Institute of Technology. Besides Seiko and Fuji, the participants in Japan's automation project are Hitachi Ltd., Toyo Soda Manufacturing Co. and Mitsui Group's Mitsui Knowledge Industry Co.

Today's DNA-sequencing labs work much like early auto factories, where each car was built by hand. Most of the steps are low-tech, test-tube-and-eyedropper routines. Scientists go through manual steps to break DNA into sections, reproduce it in bacteria, separate it, purify it, separate it further and make an image on film that can be analyzed visually. It is tedious, error-prone work that takes scientists away from more creative research.

Automation could help in several ways, says Mr. Wada of Tokyo University: "It's just like with cars or semiconductors. If you mass-produce, costs come down and quality control goes up."

The science agency's strategy of drawing on unrelated industries seems to be working. One of Seiko's rebuilt watchmaking robots, originally used to apply tiny drops of oil in watch gears, has an electronic "eye" that sees tiny cultures of DNA. A robot's tiny arm quickly moves the DNA bits to test tubes.

Fuji's film-making technology helped it produce a gelatinous substance sandwiched between two sheets of plastic. The gelatin is used to separate genes into a visible pattern something like the bar codes used on consumer products. Fuji and Hitachi have developed computers that translate the "bar code" into computer data. (Currently, scientists have to tediously prepare the gelatin by hand and sandwich it between pieces of glass.)

The Japanese science agency will begin next year to tie individual machines together into a small scale DNA sequencing assembly line for laboratories.

While academics such as Mr. Wada call for international cooperation in DNA sequencing, some Japanese corporate players prefer secrecy. Seiko officials refuse to discuss their involvement. Mr. Hood, the Cal Tech professor, says researchers from Japanese companies visit U.S. labs to gather information, but when it comes to reciprocating, they are "far more secretive than is desirable in the international scientific community."●

● Mr. LEAHY. Mr. President, I am certain that biotechnology will greatly change our world. But I am less certain that America will remain in the forefront of biotech innovation. Many of our trade rivals are devoting enormous resources to capturing the world's biotech markets. Congress must act now to ensure American leadership in this emerging technology.

Senator CHILES is introducing a bill, the Biotechnology Competitiveness Act of 1987, which addresses many of the needs for policy coordination in biotech, especially relating to human health research.

I am pleased to cosponsor this bill. Coordinating our national resources is vitally important. The National Biotechnology Policy Board created by this bill would facilitate the sharing of resources among Federal agencies and help eliminate wasteful duplication of research efforts. And, the National Center for Biotechnology Information, also created by this bill, would coordinate the collection and storage of important data.

This legislation is an important step in advancing biotechnology development in this country. I urge my colleagues to consider the importance of biotech, not just to America, but to all the world. This technology, if used positively and safely, will someday provide solutions to the problems of hunger, disease, energy needs, and pollution.

Agriculture will be the first industry revolutionized by biotechnology. Breakthroughs in agricultural biotech will not only effect our farmers. Agricultural biotech will also have profound implications for human health. The genomes of plants and farm animals are far less complex than human genomes. Thus, we will first find methods to describe and manipulate genetic information important to agriculture. The knowledge gained in agricultural biotech will be tremendously useful as we seek to learn more about human health applications.

Agricultural biotech may produce supernutritional food for young and senior citizens. Vaccines engineered from animal products for human use are being researched. Through engineered plants that need less fertilizer and fewer pesticides we will reduce harmful chemical residues on our food products.

As Senator CHILES, along with Senators KENNEDY and DOMENICI, address health applications of biotech, I will work with my colleagues on the Agriculture, Nutrition, and Forestry Committee and Judiciary Committee's Subcommittee on Technology and the Law to address agricultural competitiveness in biotech. I am especially concerned that we use biotech to help the American farmer and to protect the environment. I hope that together our efforts will ensure success in biotechnology, a science so critical to many American industries.

I want to express my support for a national biotech policy. There is much to do. Yesterday I presented eight principles that provide a strong framework for a national biotech policy. Those principles merit repeating:

First, we must make agricutural applications of biotechnology a national priority. We must ensure that family farmers benefit from new biotech farming tools.

Second, America must support the world's premier research program.

Third, we must support small biotechnology firms that pioneer new discoveries.

Fourth, the tools of biotechnology must be used to protect and enhance our environment.

Fifth, patenting issues must be resolved.

Sixth, America's commitment to open exchange of scientific information must continue.

Seventh, the biotechnology regulatory structure must be reworked. It must provide safety for the public and fairness and predictability to industry.

Eighth, we must establish international mechanisms that prevent runaway research, protect biotech innovations, and aid developing nations in using the tools of biotechnology.

The future competitiveness of America's biotech industry depends on how effectively Government addresses the revolutionary questions biotech poses for our Nation. Mr. President I congratulate Senator CHILES for introducing this important legislation along with Senators KENNEDY, DOMENICI, GRAHAM, and WILSON and look forward to working with my colleagues on biotechnology concerns before this Congress.●

● Mr. KENNEDY. Mr. President, I rise to speak on behalf of the Biotechnology Competitiveness Act of 1987, introduced today by my colleagues Senator CHILES, Senator LEAHY, Senator DOMENICI, Senator GRAHAM, Senator WILSON, and myself. This legislation will provide essential policy direction in the critical areas of biotechnology research and product development, and the mapping and sequencing of the human genome and products developed from this research.

In 1960, the structure of DNA, the source of genetic information for most organisms, was elucidated. In 1973, scientists for the first time successfully transferred DNA from one life form into another. A whole new industry has sprung up in response to these scientific advances. Since that time, research in the areas of recombinant DNA and monoclonal antibodies has greatly expanded our knowledge of how animals and plants grow, reproduce, and protect themselves against disease. The impact of the diagnostic and therapeutic applications of this research have only begun to be appreciated in recent years. This impact may be more important than any previous advance in biology and science, including the development of antibiotics. These new techniques may lead to vastly improved treatment of disease and greatly improved efficiency and productivity in agriculture, to cite just a few examples.

The biotechnology industry has grown tremendously during the past decade, with exciting innovations from large and small companies. In the Commonwealth of Massachusetts, more than 60 small biotechnology companies are working to bring many exciting diagnostic and therapeutic products to market which will greatly improve our ability to diagnose and treat disease. The close interaction of many of the world's leading universities and these innovative companies has led to the development of several human hormones and agents used to treat cancer. I am confident that in the near future, some of these fledgling companies will grow to become major pharmaceutical and scientific firms, providing employment to many and revolutionary products for us all.

To maintain the world leadership of the United States in biotechnology, many in the private sector, Government and research community have called for improved policy direction and coordination. An article in today's Wall Street Journal concerning the progress made by the Japanese in biotechnology research and product development has been submitted for the RECORD. This article provides evidence of the need to focus the attention and energy of this Nation on biotechnology. The Biotechnology Competitiveness Act of 1987 would provide for just such direction. This legislation will initiate a National Biotechnology Policy Board to provide direction in terms of research and product development. The Board will assess current biotechnology research and product development, and recommend to the President and Congress policies that will enhance the advance of research and methods to improve the competitiveness of the United States in the development of commerical industries and products. Representatives will be drawn from relevant Government agencies, the biotechnology industry, the research and biomedical ethics communities.

In addition, a National Advisory Panel on the Human Genome will be established to guide resource allocation in the effort to determine the location and molecular composition of human genes. Ethical and regulatory issues concerning products developed from this revolutionary research will also be addressed. Finally, the National Center for Biotechnology Information will be established at the NIH National Library of Medicine. This center will serve as the focal point for coodination of all computer data and other information relating to the genetic composition of humans and other organisms.

To provide optimal policy direction in biotechnology, especially relating to human genetics, we should rely on experts within Government, the private sector and the research community. This legislation will provide for the formulation of critically important policy recommendations which will benefit the United States and people around the world. I would like to thank my colleagues for their hard work on this legislation, and I look forward to Senate passage of this important measure.●

● Mr. DOMENICI. Mr. President, within the next few decades many exciting breakthroughs are expected in biological science, particularly in the area of genetics. Research in this area has advanced dramatically over the past couple of decades and offers a great deal of hope for substantially improving the quality of life.

Within our genetic structure lie many of the secrets needed to understand and fight literally thousands of human diseases. Already, genetic research has given us the ability to detect susceptibility to certain diseases, and even artificially produce substances needed by the human body that could not otherwise be produced.

However, Mr. President, scientists are just at the beginning of a quest to understand our genetic structure—much is yet to be known. The hope for the future, of course, is to eventually be able to treat and even prevent diseases using a completely new-found understanding of human biology.

In addition, because our genetic structure determines how we grow and develop, this research may eventually yield valuable information about the aging process itself. Perhaps leading to ways of treating aging-related disabilities—even the aging process itself.

There is currently underway an ambitious, yet ever so important effort, to map out the entire set of human genetic code. Constructing a thorough map of the "human genome," as that code is known, and eventually determining the sequence of each part would create an enormously valuable biological tool.

Such a tool could provide the basis for biological research for decades to come—research that will revolutionize biology by unlocking the mysteries of the genetic building blocks of life.

These developments in biotechnology are very important to America not only because of the impact this will have on our Nation's physical health—but the significance it will have for our economic health as well. The coming revolution in the life sciences will greatly transform the biotechnology industry founded upon work in this field.

My good friend, Jack McConnell, who directs advanced technology at Johnson and Johnson predicts that as the genome project proceeds it will set off the "third revolution in biotechnology." Where biotechnology first brought vaccines, antibiotics and new drugs and progressed to devices like artificial hips and pacemakers, the genome project could bring with it new treatments for many genetically linked diseases—like Down's syndrome, cystic fibrosis, various forms of cancer, and maybe even AIDS.

Add to that an enormous array of high-tech spinoffs that will come from this work, and biotechnology's strategic importance becomes clear. Fortunately, the United States has been the world leader in basic biomedical and biotechnological research due to the first-rate work conducted and supported by the National Institutes of Health. Their preeminence in biological research has made our biotech industries the best in the world.

However, Mr. President, the United States is not alone in its pursuit of leadership in the biotechnology industry. Other countries have recognized the importance of research in genetics, and the genome in particular. They understand how important this research will be for the future of pharmaceutical, agriculture, and chemical fields, as well as for medicine itself.

According to articles in today's Wall Street Journal, that were submitted for the RECORD by Senator CHILES, Japan is working very hard to take over our lead in the biotech industry. Not only are they working hard to learn whatever they can from us, but are launching major research efforts of their own.

If we are to continue to be at the forefront of biotechnology, Mr. President, I firmly believe there must be changes.

First, we need to take greater opportunity of all our resources. Several Federal agencies, besides the NIH, possess expertise that needs to brought to biotechnology research—and the genome project in particular. Several of the national laboratories of the Department of Energy, for instance, have much to offer genome work, particularly in the areas of data handling and technology development.

We must also find ways to involve private commercial labs in long-range research efforts and develop strategies on how to organize all of these resources in a way that will assure U.S. leadership. This will require a lot of cooperation between groups that have not worked together much before.

Yet, the combination of expertise—at least at the Federal level—does have some precedent in this area. The Los Alamos National Laboratory in New Mexico operates an NIH supported genetic database called GenBank that has been invaluable to researchers in the field.

Fundamentally important in all of this is how do we get more from our research dollar. Quite frankly, Mr. President, I do not believe American industry takes full advantage of the research the Federal Government supports. I also believe we could be making better decisions about what research to sponsor if we could have the private sector more involved in the research process, involved in guiding it, doing it, and taking what Government-funded labs are doing and commercializing it.

Earlier this year I introduced a bill S.1480, "the National Laboratories Cooperative Research Initiatives Act," in which I proposed several ways to enhance the current effort going on to map and eventually sequence the human genome.

Critical to the human genome project and our nation's biotechnology industry are provisions in that bill that will improve technology transfer between the national laboratories of the Department of Energy and private businesses.

S. 1480 would establish the expeditious mapping and sequencing of the human genome as a national goal, and set up a national policy board to coordinate national genome activities and provide strategic guidance.

The bill is also designed to enhance opportunities for cooperative research between Government labs, universities, and private companies through a national genome consortium.

I am very pleased today to introduce, with Senators CHILES and KENNEDY, legislation that encorporates improvements to S. 1480 and includes several other proposals that could greatly enhance our country's biotechnology capability.

Title 1 would establish a National Center for Biotechnology Information at the National Library of Medicine [NLM] of the National Institutes of Health. This title would authorize $10 million annually over the next 5 years to enable the NLM to coordinate information bases and networks to handle the explosion of biotech research information and technologies.

Title 2 of this bill would establish a national policy board on biotechnology that would be charged with analyzing the state of biotechnology research and the biotechnology industry. The board would recommend policies needed to enhance U.S. competitiveness in biotechnology and be able to address a wide array of issues pertaining to biotechnology.

Also established within the national policy board would be the national advisory panel on the human genome. The panel would be cochaired by the Department of Energy and the NIH, and would develop a strategy for coordinating national gene mapping and genome technology efforts.

The membership on both the biotech board and the genome panel was designed to forge coordination between Government, universities, and relevant industry representatives. This, it is hoped, will help provide an appropriate and useful forum for improving Government-sponsored research, Government regulations, and commercial opportunities in biotechnology.

Because private, nonprofit foundations have been playing very important roles in genome and other biotechnology research, representatives from this sector have also been included on both the board and the panel.

In closing, Mr. President, there is one more important issue I would like to talk about. Many people are concerned about the kind of research we are hoping to move along in this bill, and in S. 1480 that I introduced earlier. Many people are fearful that the new power this genetic research could give us could be used in destructive and highly unethical ways.

They are concerned, as am I, that our ability to understand and manipulate the biological underpinnings of life may be advancing more quickly than our society's ability to handle our new abilities. Because these types of questions are very important and must be dealt with, we have included on both the board and the panel individuals with expertise in biomedical ethics. These members would serve to help each group consider the ethical implications of genetic research and policy needs in this area.

Let me just say to the Senate right now that I am firmly committed to assuring the ethical and moral implications of this work be appropriately considered and that necessary safeguards be taken. And it is because I know many, many scientists within the biotechnology field feel the same way that I am very optimistic about the future of this research.

Yes, Mr. President, many difficult questions about biotechnology developments will need to be addressed. Many questions about what is the best way to enhance biotechnology research and the industry it supports will have to be examined. Many questions even about provisions in this bill will have to be answered. Yet the payoff this research will generate for the Nation's physical health and economic vitality will be, I believe, enormous.

The basic goals and ideas in the bill we are introducing today are very good ones—that basic biomedical and biotechnology research, including the genome project, should be strongly encouraged and done so in a way that will keep the U.S. biotechnology industry the best in the world. I thank my colleagues, Senator CHILES and Senator KENNEDY, for working with me toward these goals, and I thank their staffs for their hard work.

I was very pleased with the many helpful comments I received on S. 1480, a number of which are incorporated in this bill, and I will continue to improve that bill. I look forward to working with my colleagues to improve this bill and making its goals reality.●

By Mr. BOREN (for himself and Mr. NICKLES):

S. 1967. A bill to provide for the establishment of the Tallgrass Prairie National Preserve in the State of Oklahoma, and for other purposes; to the Committee on Energy and Natural Resources.

(The remarks of Mr. BOREN and Mr. NICKLES and the text of the legislation appear earlier in today's RECORD.)

By Mr. HEINZ:

S. 1969. A bill to provide improved programs for training and self-employment in the case of unemployment compensation; to the Committee on Finance.

UNEMPLOYMENT TRAINING AND IMPROVEMENT ACT

Mr. HEINZ. Mr. President, in 1986 $16 billion were spent on unemployment insurance benefits in the United States. That represents a significant investment in our human capital. The question we need to ask today is what kind of return are we receiving on that investment?

Are we reemploying the unemployed as quickly as possible? Are we providing the recipients with the services they need to find a new job? I think not, and today I am introducing legislation to correct several deficiencies in our services to the unemployed.

The Unemployment Training and Improvement Act of 1987 will help fill the gaps that presently exist in our employment services. The legislation authorizes demonstration projects to promote training for individuals receiving unemployment compensation; allows unemployed workers who attempt small business development to receive a wage supplement when leaving the unemployment rolls; and also authorizes additional counseling and assessment services for workers on unemployment compensation.

Mr. President, let me emphasize the urgent need for this legislation. The Congress and the administration have called for improved training and education services for those who need additional help to begin or change their careers. Yet, at present, studies by the Office of Technology Assessment and the GAO have found that only a small percent, less than 10 percent, of displaced workers receive counseling and assessment services. In hearings I held throughout Pennsylvania earlier this year, displaced workers testified that they received virtually no support in their efforts to find new employment.

My legislation would enhance the partnership between the State employment services, which have faced repeated budget cuts, and existing job training services. The bill targets training to those now on unemployment insurance, and provides enhanced services to those on U.I. who need extra help to find new employment.

The costs of the additional services are made up through surplus funds in the unemployment insurance trust funds. These trust funds are already at their statutory limits, and will exceed those limits under proposals contained in the House and Senate reconciliation bills. No additional employer taxes would be required to make up the funds used on these small programs.

Mr. President, I urge all my colleagues to assist in the passage of this important legislation which fills gaps in our existing employment services. This legislation will reduce dependency among the unemployed and help get our workers back to work. I ask unanimous consent that the text of the bill and a summary of its contents appear in the RECORD at the conclusion of my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

UNEMPLOYMENT TRAINING AND IMPROVEMENT ACT: BILL SUMMARY

TITLE I—DEMONSTRATION PROJECTS

Objective: To improve and clarify unemployment training issues.

Description: The bill clarifies what is meant by the phrase "in training with the approval of the state." Under current law, it is unclear what approvable training consists of, particularly if a worker is to continue receiving compensation while in training. What is approved—the individual's participation, or the training program, or both—is ambiguous. The Department of Labor (DOL) has provided little guidance or technical assistance to the states on this matter.

The bill corrects this problem by mandating the governor of each state designate an agency to approve training programs for participation by Unemployment Insurance (UI) recipients and at the same time to approve which individual UI claimants will be allowed to enroll in a training program. The bill also directs DOL to collect data on UI recipients in training and to provide technical assistance to states on the approval process.

TITLE II—SELF-EMPLOYMENT

Objective: To allow UI recipients to receive compensation while starting a business

Description: Under current law, to be eligible to collect UI, an unemployed person must be available and looking for work. Thus, if a person decides to start a business he/she is not eligible to receive UI. This discourages entrepreneurship.

The bill permits persons who start a business to receive UI but does not allow the money to be used toward starting the business. This addresses business community concerns over the use of UI funds, to which they contribute, toward the start-up of potential competition.

TITLE III—ASSESSMENT

Objective: To improve assessment, testing, and counseling services for the unemployed.

Description: Because of service cutbacks assessment and counseling have seriously deteriorated. Currently, less than 5 percent of UI claimants receive any assessment services. Thus, choosing appropriate reemployment strategies is a matter of conjecture.

The bill uses some of the current surplus in the federal UI accounts to fund an increase in testing, assessment, and counseling services. These funds would be an addition to the regular Employment Service appropriation.

S. 1969

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Unemployment Training and Improvement Act of 1987".

TITLE I—DEMONSTRATION PROJECTS

SEC. 101. PROMOTION OF TRAINING PROGRAMS FOR INDIVIDUALS RECEIVING UNEMPLOYMENT COMPENSATION.

(a) Assistance to States.—The Secretary of Labor (hereinafter in this section referred to as the "Secretary") shall take steps to promote training programs for individuals receiving unemployment compensation. In carrying out this section, the Secretary shall—

(1) develop model criteria that States can use—

(A) in approving training programs for individuals receiving unemployment compensation; and

(B) in approving individuals to participate in such programs while receiving unemployment compensation;

(2) provide technical assistance to States in developing and implementing the criteria described in paragraph (1); and

(3) make available data and other information concerning State laws and regulations that are in effect with respect to such training programs for individuals receiving unemployment compensation.

(b) Responsibilities of Governors.—

(1) Approval of training programs.—

(A) The Governor of each State shall, in connection with the unemployment compensation program carried out under the State law approved under section 3304 of the Internal Revenue Code of 1986, designate a State agency that shall be responsible for making prompt determinations with respect to which training programs are approved for individuals receiving unemployment compensation.

(B) For purposes of determinations described in subparagraph (A), the State agency shall approve any training program offered by an accredited training or educational institution unless the agency determines, from a preponderance of evidence, that the training is entirely unrelated to employment or is for a vocation for which employment opportunities do not exist and are unlikely to become available.

(2) Approval of individuals' participation in training.—

(A) The Governor of each such State shall, in connection with the unemployment compensation program carried out under the State law approved under section 3304 of the Internal Revenue Code of 1986, designate a State agency that shall be responsible for making prompt determination of the eligibility of individuals to participate in training programs approved pursuant to paragraph (1).

(B) For purposes of determinations described in subparagraph (A), the State agency shall consider whether an individual's prospects for obtaining suitable employment in the area in which the individual resides will be improved as a result of such training, taking into consideration the employment opportunities that are or may be expected to become available in such area. The State agency shall approve an individual's participation in any training program approved pursuant to paragraph (1) unless the agency determines, from a preponderance of evidence, that the training is entirely unrelated to employment or is for a vocation for which employment opportunities do not exist and are unlikely to become available.

(c) Data Collection.—(1) The Secretary shall collect data on an annual basis for the purpose of evaluating the implementation of this section.

(2) In carrying out this subsection, the Secretary shall consider at least the following:

(A) The average period during which unemployment compensation was paid to individuals who participated in training programs and the average period during which such compensation was paid to other individuals.

(B) Whether individuals who participated in training programs received higher paying jobs than those who did not, although the individuals had similar skills before participation in such a program.

(C) Whether individuals' participation in training programs increased or reduced costs of administering and paying unemployment compensation.

(D) Whether participation in training programs had any effect on other State or Federal assistance programs, including the food stamp program, the aid-for-families-with-dependent-children program, medicaid, or general assistance programs.

(3) The Secretary shall report to the Congress not later than 1 year after the date of the enactment of this title. Such report shall include an evaluation of the effectiveness of the programs established under this section.

(d) Interest Credits.—Section 1202 of the Social Security Act (42 U.S.C. 1322) is amended by adding the following subsection at the end thereof:

"(c) Beginning with fiscal year 1988, the Secretary of the Treasury shall credit, by September 30 of the fiscal year with respect to which the credit is made, to the account (in the Unemployment Trust Fund) of a State an amount equal to the amount which the Secretary of Labor certifies to the Secretary of the Treasury as the amount paid, during such fiscal year, by such State (and not compensated for by the Federal Government) as unemployment compensation to individuals who, while receiving such compensation, were in training with the approval of a State agency. Any such amount shall be credited against, and shall operate to reduce, any interest owed with respect to such fiscal year by the State on the balance of advances made under section 1201 to the State."

(e) Reports.—(1) Each State shall submit a report to the Secretary of Labor on a quarterly basis with the following information:

(A) The amount of unemployment compensation paid by the State (and not compensated for by the Federal Government) during the quarter to individuals who, while receiving such compensation, were in training with the approval of a State agency.

(B) The number of such individuals.

(C) The total number of weeks with respect to which such compensation was paid during such quarter to all such individuals.

(D) The number of such individuals who during such quarter were in training programs conducted with funds provided under title III of the Job Training Partnership Act and the number of such individuals who were in other State approved training programs during such quarter.

(E) The number of individuals who, during such quarter, applied for a continuation of unemployment compensation benefits while in training with the approval of a State agency.

(2) The Secretary of Labor shall transmit to each House of the Congress an annual report, beginning not later than October 31, 1988, containing a detailed accounting of—

(A) the implementation of this section during the fiscal year preceding the fiscal year in which such report is transmitted; and

(B) the regulations and administrative procedures carried out by the various States during such preceding fiscal year in order to comply with section 3304(a)(8) of the Internal Revenue Code of 1986.

(f) State Solvency.—Notwithstanding any other provision of law, the provisions of this section and activities carried out pursuant to such provisions shall not be taken into consideration in determining whether there has been a net decrease in the solvency of any State unemployment compensation system.

TITLE II—SELF-EMPLOYMENT

SEC. 201. SHORT TITLE.

This title may be cited as the "Self-Employment Opportunity Act of 1987".

SEC. 202. AGREEMENTS WITH STATES.

(a) Entering Into Agreement.—The Secretary of Labor (hereinafter in this title referred to as the "Secretary") shall enter into an agreement under this title with at least 5 States that—

(1) desire to participate in such an agreement, and

(2) demonstrate to the Secretary that they are capable of implementing the provisions of such an agreement.

(b) Selection of States.—In determining whether to enter into an agreement with a State under this title, the Secretary shall take into consideration at least—

(1) the availability and quality of technical assistance currently provided by agencies of the State to the self-employed,

(2) existing local market conditions and the business climate for new, small business enterprises,

(3) the adequacy of State resources to fund a regular unemployment compensation program as well as anticipated levels of participation in an adjustment assistance program,

(4) the range and extent of services which are designed to assist individuals beginning new businesses and are to be provided by the State or private entities within the State and which would be targeted to individuals covered by such an agreement,

(5) the design of the evaluation to be applied with respect to the program, and

(6) the standards which are to be utilized by the State for the purpose of assuring that individuals who will receive adjustment assistance under this title will have sufficient experience (or training) and ability to be self-employed.

(c) Provisions of Agreement.—Any agreement with a State under subsection (a) shall provide that—

(1) each individual who is an eligible individual with respect to any benefit year beginning during a 4-year period beginning on the date on which such agreement is entered into shall be entitled to receive adjustment assistance in the form of self-employment allowances, as described in section 203 of this title, and

(2) if such individual receives such assistance, such individual shall not be eligible to receive, in addition to such assistance, extended compensation with respect to such benefit year or regular compensation with respect to such benefit year if payment is made under this title by the State in lieu of regular compensation.

(d) Eligible Individual.—

(1) Definition.—For purposes of this title, an individual is, subject to paragraph (2), an eligible individual with respect to any benefit year if—

(A) such individual is eligible to receive regular compensation under the State law during such benefit year,

(B) such individual submits an application to the State agency for adjustment assistance under this title,

(C) such application contains a business plan devised, after consultation with the State agency, for the self-employment to be assisted under this title; and

(D) such individual meets applicable State requirements.

(2) Limitation on number of eligible individuals.—Not more than 5 percent of the number of individuals eligible to receive regular compensation in a State at the beginning of a calendar year may be considered as eligible individuals for purposes of this title during such year.

(e) Amount of Adjustment Assistance.—

(1) In general.—The aggregate amount of adjustment assistance provided under this title in the form of a self-employment allowance to any individual with respect to any benefit year shall not exceed the maximum amount of regular compensation that a State makes available plus any extended compensation payable to such individual with respect to such benefit year.

(2) Limitation on amount of additional compensation to be included.—For purposes of paragraph (1), the maximum amount of extended compensation payable to any individual with respect to any benefit year shall be determined—

(A) as of the day on which the individual submits an application under subsection (d)(1)(B) by assuming that the unemployment conditions in the State during the week in which such application is submitted will remain constant, and

(B) without regard to any termination of a program under which payments of extended compensation are being made for the week in which such application is submitted.

SEC. 203. AWARDING SELF-EMPLOYMENT ALLOWANCES.

(a) Application.—An eligible individual may file an application for a self-employment allowance with the State agency responsible for administering an agreement under this title.

(b) Method of Payment.—The self-employment allowance payable to an eligible individual with respect to any benefit year shall be paid directly to or on behalf of such individual—

(1) on a weekly basis; or

(2) in a lump sum to pay costs associated with beginning the self-employment, but only if and to the extent called for as part of the business plan submitted with the individual's application.

(c) Requirement on State.—A State may not offer self-employment allowances unless it is implementing a program that is approved by the Secretary and is designed to select and assist individuals for self-employment, monitor such employment, and provide for a complete evaluation of the use of such allowances.

(d) Certain Requirements Not Applicable.—State and Federal requirements relating to availability for work, active search for work, or refusal to accept suitable work shall not apply to an individual receiving a self-employment allowance under this title as long as such individual is self-employed.

(e) Definition.—For purposes of this title, the term "self-employment allowance" means payments made for the purpose of providing supplemental income to an eligible individual while such individual is establishing self-employment.

SEC. 204. FINANCING AND OTHER PROVISIONS.

(a) Amount Payable to States.—

(1) In general.—There shall be paid to each State an amount equal to the Federal share of each payment (other than expenses of administration) made by the State agency on account of adjustment assistance provided to an individual under this title. Such share shall be paid from amounts available for payment of the Federal share of extended or supplemental compensation and from any amounts appropriated to carry out this title.

(2) Federal share.—For purposes of paragraph (1), the term "Federal share" means, with respect to adjustment assistance provided to any eligible individual, the percentage of the extended compensation taken into account under section 202(e)(2) for which the State would have been entitled to reimbursement if such additional compensation had been paid under the Federal-State Extended Unemployment Compensation Act of 1970.

(b) States Permitted To Make Payments From State Unemployment Funds.—Notwithstanding section 303(a)(5) of the Social Security Act and section 3304(a)(4) of the Internal Revenue Code of 1986, amounts in the unemployment fund of a State may be used by a State to make payments (exclusive of expenses of administration) on account of adjustment assistance provided under this title.

(c) Grants for Administrative Expenses.—For purposes of title III and IX of the Social Security Act, the provisions of this title shall be treated as an unemployment compensation law.

(d) Report to Congress.—(1) Not later than 30 months after the date of the enactment of this title, the Secretary shall submit an interim report to the Congress on the effectiveness of the demonstration program carried out under this title. Such report shall include—

(A) information on the level of utilization of this title by eligible individuals,

(B) an analysis of any barriers to the utilization of this title, and

(C) an analysis of the feasibility of extending the provisions of this title to individuals not covered by State unemployment compensation laws.

(2) Not later than 6 months after the completion of the last 4-year period described in section 202(c)(1), the Secretary shall submit a final report to the Congress on the implementation of such program.

(e) Fraud and Overpayments.—

(1) Recipients.—If an individual knowingly has made, or caused to be made by another, a false statement or representation of a material fact, or knowingly has failed, or caused another to fail, to disclose a material fact, and as a result of such false statement or representation or of such nondisclosure such individual has received adjustment assistance under this title to which he was not entitled, such individual—

(A) shall be ineligible for further adjustment assistance under this title and shall return any retraining payment authorization or education payment authorization not used by such individual, and

(B) shall be subject to prosecution under section 1001 of title 18, United States Code.

(2) Recovery of overpayments.—

(A) In general.—If any person received any adjustment assistance or payment under this title to which such person was not entitled, the State is authorized to require such person to repay such assistance; except that the State agency may waive such repayment if it determines that—

(i) the providing of such assistance or making of such payment was without fault on the part of such person, and

(ii) such repayment would be contrary to equity and good conscience.

(B) Hearing.—No repayment shall be required under subparagraph (A) until a determination has been made, notice thereof and an opportunity for a fair hearing has been given to the person, and the determination has become final. Any determination under such subparagraph shall be subject to review in the same manner and to the same extent as determinations under the State unemployment compensation law, and only in that manner and to that extent.

(f) State Solvency.—Activities taken by a State pursuant to an agreement under this title shall not be taken into consideration in determining whether there has been a net decrease in the solvency of the State unemployment compensation program.

(g) Definitions.—For purposes of this title, the terms "compensation", "extended compensation", "regular compensation", "benefit year", "base period", "State", "State law", and "week" have the respective meanings given to such terms by section 205 of the Federal-State Extended Unemployment Compensation Act of 1970.

(h) Effective Date.—The provisions of this title shall become effective on October 1 of the first fiscal year beginning after the date of enactment of this title.

TITLE III—ASSESSMENT

SEC. 301. ADDITIONAL SERVICES.

(a) IN GENERAL.—In addition to funds annually appropriated and allotted to States for the operation of State employment service agencies, there are authorized to be appropriated from the Federal Unemployment Account such sums as may be necessary annually to provide—

(1) assessment, testing, and counseling services to identify the skills and aptitudes of unemployed persons who are unlikely to return to their former occupations and to determine different occupations or training opportunities for which they may qualify; and

(2) instruction in job search techniques so that unemployed persons may find work without assistance from public or private employment agencies.

(b) ALLOTMENT.—Funds shall be allotted to States in the manner prescribed under the Act of June 6, 1933, known as the Wagner-Peyser Act.

(c) RESTRICTION.—Funds provided under this title shall be used only for activities which are in addition to those which would otherwise be available in the State in the absence of such funds.

(d) PRIORITIES.—(1) In providing services under this title, States shall give priority to those most in need of assistance, including—

(A) dislocated workers;

(B) other long-term unemployed who are receiving or have exhausted unemployment insurance benefits; and

(C) economically disadvantaged adults and youth.

(2) Priorities for services shall be established and services delivered in accordance with section 8 of the Wagner-Peyser Act.

(e) WORKERS LIKELY TO RETURN TO FORMER EMPLOYMENT.—If a State employment service agency determines that a worker has a reasonable chance of returning to his former employment within 8 weeks, such worker shall not be required to participate in a training program under this title.

(f) DEFINITIONS.—For purposes of this title—

(1) the terms "dislocated worker" and "economically disadvantaged" mean such individuals as defined in the Job Training Partnership Act;

(2) the term "long-term unemployed" means individuals who have been without jobs for 15 weeks and who want and are available for work; and

(3) the term "State" means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, and the Virgin Islands.

By Mr. HATCH (for himself and Mr. THURMOND) (by request):

S. 1971. A bill to amend title 17 of the United States Code to implement the Berne Convention for the Protection of Literary and Artistic Works as revised at Paris on July 24, 1971, and for other purposes; to the Committee on the Judiciary.

BERNE CONVENTION IMPLEMENTATION ACT

● Mr. HATCH. Mr. President, the position of the United States in worldwide trade and intellectual property negotiations has continually been undercut by our failure to participate in the Berne Convention for the Protection of Literary and Artistic Works. The benefits to American artists and copyright holders, rather than our posture in international negotiations, is the primary reason for joining the Convention. The Berne Convention extends copyright protections beyond our borders to the worldwide coverage provided by the 76 current signatories to the multilateral treaty.

In testimony before the House of Representatives on adherence to the Berne Convention, the late Secretary of Commerce, Malcolm Baldrige, noted that copyright industries earned a trade surplus of $1.2 billion in 1982. This means that the United States perhaps more than most signatories to the Convention, has an important stake in international copyright protections. The Secretary also highlighted the need for this protection by noting that in 1984 copyright industries lost as much as $1.3 billion to piracy in only 10 selected countries. Once again, this underscores the stake of the United States in the protections for intellectual property provided by the Convention.

As ranking member of the Senate's Patents, Copyrights, and Trademarks Subcommittee, I am today introducing the Reagan administration's bill to implement the Berne Convention. This will help set the stage for consideration of the issues raised by implementation of the Berne Convention. Of most importance in regard to these outstanding issues, I would note that the administration and a growing body of international legal scholarship finds no need to go beyond current Federal and State law to protect the moral rights required by the Berne Convention. Current law provides adequate protection for an author's right to be acknowledged as the creator of a work and the author's right to object to modification of those works. Indeed this bill proposes a congressional finding to establish that no additional changes in Federal copyright law, now or in the future, are needed to comply with the Berne Convention. This would mean that current copyright prerogatives and arrangements would not be altered now or in the future by implementation of Berne.

Mr. President, I ask unanimous consent that the text of this bill along with a sectional analysis of the bill and an explanatory statement by the late Secretary Malcolm Baldrige be included in the RECORD at this point. I look forward to working with Chairman DECONCINI, Senator LEAHY, and others to explore the issues raised by adherence to the Berne Convention early next year. In particular, I look forward to helping ensure that concerns about moral rights provisions of the treaty be rendered fully unfounded.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1971

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Berne Convention Implementation Act of 1987".

SEC. 2. (a) The Congress finds and declares that—

(1) the Berne Convention for the Protection of Literary and Artistic Works (the Berne Convention) is not self-executing under the Constitution and laws of the United States;

(2) the obligations of the United States under the Berne Convention may be satisfied only by appropriate domestic law;

(3) title 17 of the United States Code does not provide copyright protection for any work that is in the public domain in the United States; and

(4) title 17 of the United States Code does not provide an author with the right to be named as a work's author or to object to uses or changes to work that would prejudice the author's reputation or honor.

(b) It is the intent of the Congress that—

(1) any obligation of the United States to provide the author with the right to be named as a work's author or to object to uses or changes to the work as a consequence of adherence to the Berne Convention be satisfied by United States law as it exists on the effective date of this Act whether such rights are recognized under any relevant provision of Federal or State statutes or the common law and such rights shall neither be enlarged nor diminished by this Act;

(2) the United States, by the amendments made by this Act together with existing law, meets its obligations as a nation adhering to the Berne Convention and that no further legislation is necessary for that purpose; and

(3) the provisions of the Berne Convention shall be given effect solely under title 17 of the United States Code, as amended by this Act, and any other relevant provision of Federal or State law, including common law, and shall not be directly enforceable in any action brought on the provisions of the Berne Convention itself.

SEC. 3. The instrument of accession by the United States to the Berne Convention shall specify that the Convention will enter into force for the United States three months after the Director General of the World Intellectual Property Organization has notified other member countries of the deposit of the instrument of accession.

SEC. 4. Chapter 1 of title 17 of the United States Code is amended—

(a) in section 101, by—

(1) inserting between the definition of "anonymous work" and "audio visual works" the following:

"An "architectural work" is a work such as a building or other three-dimensional structure and related works such as plans, blueprints, sketches, drawings, diagrams and models relating to such building or structure."

(2) inserting between the definition of "audiovisual works" and "best edition", the following definitions:

"The Berne Convention" is the Convention for the Protection of Literary and Artistic Works signed at Berne on September 9, 1886, together with its later additional acts, protocols, and revisions.

"A work is a "Berne Convention work"; if—

"(1) in the case of an unpublished work, one or more of the authors is a national of a nation that is a party to the Berne Convention, or in the case of a published work, one or more of the authors is a national of a nation that is a party to the Berne Convention on the date of first publication, and for these purposes authors who are domiciled or have their habitual residence in a nation that is a party to the Berne Convention are considered nations of that nation;

"(2) the work is first published in a nation that is a party to the Berne Convention, or was simultaneously published in a nation that is a party to the Berne Convention and for these purposes a work is simultaneously published if it is published in a nation that is a party to the Berne Convention within 30 days of its publication in its place of first publication;

"(3) in the case of an audiovisual work: (A) if one or more of the authors is a legal entity, said author has its headquarters in a nation that is a party to the Berne Convention; or (B) if one or more of the authors is an individual, said author has a habitual residence or domicile in a nation that is a party to the Berne Convention;

"(4) in the case of an architectural work, the work was erected in a nation that is a party to the Berne Convention; and

"(5) in the case of a pictorial, graphic, or sculptural work, the work is incorporated in a building or other structure located in a nation that is a party to the Berne Convention."

"(b) in section 102(a) by—

(1) striking out "and" at the end of clause (6);

(2) striking out the period at the end of clause (7) and inserting"; and"; and

(3) adding a new clause (8) as follows:

"(8) architectural works.";

(c) in section 104, by—

(1) renumbering paragraph (4) of subsection (b) as paragraph (5); and

(2) adding between paragraph (3) and paragraph (5), as redesignated herein, a new clause as follows:

"(4) the work is a Berne Convention work; or"

(3) by adding new paragraph (6), as follows:

"(6) no right or interest in a work protectible under this title may be claimed under the provisions of the Berne Convention. Rights in works protected under this title that derive from other Federal or State statutes, or the common law, shall be neither expanded nor reduced by virtue of the provisions of the Berne Convention."

(d) in section 116 by replacing the present language in its entirety by the following:

"(a) Limitation on exclusive right—In the case of a nondramatic musical work embodied in a phonorecord, the exclusive right under clause 4 of section 106 to perform the work publicly by means of a coin-operated phonorecord player shall be limited if, one year after [the effective date of this Act], the Copyright Royalty Tribunal certifies by publication in the *Federal Register* that the negotiated license[s] authorized by paragraph (b) have not been ratified or come into force so as to provide copyright clearances for a quantity of musical works not substantially smaller than the quantity performed on coin-operated phonorecord players during the year prior to [the effective date of this Act]. If such certification is made, then section 116 as it existed immediately before [the effective date of this Act] shall be effective with respect to musical works that are not the subject of negotiated licenses.

"(b) Authority for negotiations.

"(1) Notwithstanding any provision of the antitrust laws, any owners of copyright in works specified by this subsection and any operators of coin-operated phonorecord players, respectively, may negotiate and agree upon the terms and rates of royalty payments and the proportionate division of such royalties paid among various copyright owners, and may designate common agents to negotiate, agree to, pay, or receive such payments.

"(2) Parties to such a negotiation, within such time as may be specified by the Copyright Royalty Tribunal by regulation, may determine the result of the negotiation by arbitration. Such arbitration shall be governed by the provisions of title 9, to the extent such title is not inconsistent with this section. The parties shall give notice of any determination reached by arbitration to the Copyright Royalty Tribunal and any such determination shall, as between the parties to the arbitration, be dispositive of the issues to which it relates.

"(c) License agreements superior to Copyright Royalty Tribunal determinations.

"License agreements between one or more copyright owners and one or more operators of coin-operated phonorecord players, negotiated in accordance with paragraph (b), shall be given effect in lieu of any determination by the Copyright Royalty Tribunal.

"(d) Negotiation schedule.

"Not later than 60 days after the effective date of this Act, the Chairman of the Copyright Royalty Tribunal shall either receive notice of the date and location of the first meeting between copyright owners and operators of coin-operated phonorecord players to commence negotiations authorized by paragraph (b) or if the Chairman is not notified of such a date, the Chairman shall set the date and location of such meeting. These dates shall be announced by publication in the *Federal Register*. In neither event shall such meeting be scheduled for a date later than 90 days after the effective date of this Act.

"(e) Copyright Royalty Tribunal to suspend various activities.

"The Copyright Royalty Tribunal shall conduct no ratemaking activity with respect to coin-operated phonorecord players unless, at any time more than one year after the effective date of this Act, the negotiated licenses adopted by the parties do not provide copyright clearances for a quantity of musical works not substantially smaller than the quantity performed on coin-operated phonorecord players during the year prior to the effective date of this Act.

"(f) Transitional provisions; retention of Copyright Royalty Tribunal jurisdiction.

"Until such time as licensing provisions are determined by the parties, the terms of the compulsory license in effect immediately before the effective date of this Act shall remain in force. It the negotiated licenses authorized by this Act come into force so as to supercede previous determinations of the Copyright Royalty Tribunal, as provided in paragraph (c), but thereafter are terminated or expire without replacement by subsequent agreements, then section 116 as it existed immediately before the effective date of this Act shall be effective with respect to musical works that are not the subject of negotiated licenses."

(e) by adding a new section 119 as follows:

"§ 119 Scope of exclusive rights in architectural works.

"(a) The exclusive rights of the owner of copyright in an architectural work are limited to the rights specified in clauses (1), (2), (3) and (5) of section 106 and in accordance with section 102(b) do not extend to any process, method of construction or purely utilitarian features of such works.

"(b) The copyright in an architectural work is not infringed by the making of a painting, drawing, photograph or other pictoral representation of the work.

"(c) The owner of copyright in an architectural work—

"(1) shall not be entitled to obtain an injunction under section 502 restraining the construction of an infringing building or structure if construction has substantially begun; and

"(2) shall not be entitled under the provisions of chapter 5 to obtain the impoundment, seizure, or destruction of an infringing building or structure.

"(d) The owner of a building or other structure embodying an architectural work, in the absence of contractual provisions to the contrary, may—

"(1) make or authorize the making of alterations to the building or structure that enhance its utility or are necessary for its maintenance or repair;

"(2) reconstruct or authorize the reconstruction of the building or structure; or

"(3) demolish or authorize the demolition of the building or structure."

(f) in the table of sections for chapter 1 by adding at the end thereof:

"119 Scope of exclusive rights in architectural works"

SEC. 5. Chapter 4 of title 17 of the United States Code is amended—

(a) in section 401(a), by striking out "shall" and replacing it with "may";

(b) in section 401(b), by replacing the introductory phrase "The notice appearing on the copies" with "If a notice appears on the copies, it";

(c) in section 401(c), by replacing "The notice" with "If a notice appears on the copy, it";

(d) in section 402(a), by striking out "shall" and replacing it with "may";

(e) in section 402(b), by replacing the introductory phrase "The notice appearing on the phonorecords" with "If a notice appears on the phonorecords, it";

(f) in section 402(c), by replacing "The notice" with "If a notice appears on the phonorecords, it";

(g) in section 403, by replacing the language beginning "the notice of copyright . . ." with the following language: "such copies or phonorecords shall include a statement identifying those portions of the copies or phonorecords that constitute a work of the United States Government, in accordance with regulations issued by the Copyright Office."

(h) by deleting section 404;

(i) in section 405 by striking the caption and replacing it with: "Notice of Copyright: Omission of notice on copies and phonorecords prior to [the effective date of this Act]";

(j) in section 405(a) by striking out the present language of section 405(a) (1) through (3) and replacing it with: "Effect of Omission—The omission of the copyright notice prescribed by sections 401 through 403, as they existed prior to the effective date of this Act from copies or phonorecords publicly distributed prior to the effective date of this Act does not invalidate the copyright in a work";

(k) in section 405(b) by adding the phrase "prior to the effective date of this Act" after the phrase "the copyright notice has been omitted,";

(l) in section 406 by striking the caption and replacing it with "Notice of copyright: Error in name or date in notice on copies and phonorecords prior to the effective date of this Act";

(m) in section 406(a) by inserting "prior to the effective date of this Act" following "publicly distributed";

(n) in section 406(b) by inserting "prior to the effective date of this Act" following "phonorecords distributed";

(o) in section 406(c) by inserting "prior to the effective date of this Act" following "publicly distributed" and by adding after "provisions of section 405", "as it existed immediately prior to the effective date of this Act";

(p) in section 407(a) by striking out "with notice of copyright";

(q) in section 408(a), by striking out "Subject to the provisions of section 405(a), such" at the beginning of the second sentence, and inserting in lieu thereof "Such";

(r) in section 408(c)(2), by—

(1) striking out "under all of" and inserting in lieu thereof "under";

(2) deleting subparagraph (A); and

(3) redesignating subparagraphs (B) and (C) as subparagraphs (A) and (B), respectively.

(s) in the table of sections for chapter 4 by striking out the reference to section 404 and the references to sections 405 and 406 and inserting in place thereof:

"405. Notice of copyright: Omission of notice on copies and phonorecords prior to the effective date of this Act;

"406. Notice of copyright: Error in name or date in notice on copies and phonorecords prior to the effective date of this Act."

SEC. 6. Chapter 8 of title 17 of the United States Code is amended by adding at the end of section 801(b) the following:

"In considering whether a return to a copyright owner under section 116 is fair, great weight shall be given to:

"(i) the rates in effect on the day before the effective date of this Act; and

"(ii) the rate contained in any license negotiated under the authorization of section 116(b) of this title."

SEC. 7. This Act and the amendments made by this act shall take effect on the same day the Berne Convention enters into force with respect to the United States.

SEC. 8. If any provision of this Act, or of title 17 of the United States Code, as amended by this Act, is declared unconstitutional, the remainder of this Act, and of title 17, and their application are not affected thereby.

SECTIONAL ANALYSIS

This legislation amends title 17 of the United States Code to permit the United States to adhere to the Berne Convention for the Protection of Literary and Artistic Works. It makes only those changes in the copyright law that are necessary to bring U.S. law into compliance with the standards of the Berne Convention. Some may argue that further change in U.S. law would be desirable or might be required. Such provisions of title 17 will be discussed in the analysis which follows:

Section 1 provides that this Act may be cited as the Berne Convention Implementation Act of 1987.

Section 2(a)(1) unequivocally states that the Berne Convention is not a self-executing treaty under the laws and Constitution of the United States. Section 2(a)(2) underscores the fact that, therefore, the United States' obligations under the Berne Convention can be satisfied only by the provisions of domestic law. Section 2(a)(3) declares that title 17 does not confer copyright protection on any work that is in the public domain in the United States, thus, making it clear that neither adherence to the Berne Convention nor the changes to title 17 made by this Act will provide retroactive copyright protection in the United States. Further, section 2(a)(4) recognizes that title 17 does not provide an author with the right to be named as the work's author or to object to uses or changes to the work that would prejudice the author's reputation or honor.

Section 2(b) states the intent of Congress. Section 2(b)(1) deals with the complex issues concerning Article 6(bis) of the Berne Convention, related to so-called "moral rights" of the author. Article 6(bis) of the Berne Convention provides that the author has a right to be named on the work as its author, and the right "to object to any distortion or other derogatory action in relation to, the said work, which would be prejudicial to his honor or reputation." While this right is not expressly provided in title 17 as stated in section 2(a)(4), existing State and Federal statutory laws as well as common law address the moral rights of authors. Section 2(b)(1) expresses the intent of Congress that the bundle of rights under existing laws meets the obligations under article 6(bis). This approach recognizes that one must consider the totality of a country's laws in determining if Convention obligations are satisfied. This conclusion is shared by the Ad Hoc Working Group on U.S. Adherence to the Berne Convention.

Section 2(b)(2) is a further statement of Congressional intent that the changes in title 17 made by this Act and existing U.S. law are adequate to permit adherence to the Berne Convention. Section 2(b)(3) emphasizes that the Berne Convention is not self-executing, and consequently, it is the intent of Congress that it is not enforceable directly in an action before the courts.

Section 3 provides that U.S. accession to the Berne Convention shall become effective as the bill provides.

Section 4 amends chapter 1 of title 17, first by inserting new definitions in 17 USC § 101. Section 4(a)(1) defines the term "architectural work" to bring the subject matter of U.S. law fully into compliance with the subject matter of the Berne Convention as specified in Article 2. Section 4(a)(2) defines the Berne Convention as including its original text as well as subsequently amended texts. It further defines a Berne Convention work in terms of the various points of attachment for protection set out in Article 3 of the Berne Convention. Unpublished works are protected if one or more of the authors is a national of a nation adhering to the Berne Convention, and similarly published works are protected if on the date of first publication one or more of the authors is such a national. Works which are first published or simultaneously published in a nation that adheres to the Berne Convention are protected. Simultaneous publication means publication within 30 days of a work's first publication in its country of origin.

Audiovisual works are protected if the author resides or, in the case of one of the authors being a legal entity, has its headquarters in a nation adhering to the Berne Convention. Architectural works erected and pictorial, graphic, and sculptural works incorporated in a building or other structure located in a nation that is a party to the Berne Convention are protected.

Section 4(b) amends section 102(a) to include architectural works. The inclusion of architectural works follows the practice of many Berne member states to recognize explicitly those works of architecture protected by copyright.

Section 4(c) amends section 104 of title 17 by extending protection to Berne Convention works in addition to the other bases for eligibility under that section. It also adds a new subparagraph 6 to section 104 to state that no rights or interests in works protected under title 17 may be claimed on the basis of the Berne Convention and that rights in such works that derive from other State or Federal statutes or the common law are neither expanded nor reduced by U.S. adherence to the Berne Convention.

Section 4(d) completely revises the provisions of section 116, the so-called "jukebox" compulsory license, that experts generally agree is incompatible with the Berne Convention. The intent of this revision is to encourage the parties to negotiate a private licensing arrangement to permit the public performance of protected music on coin-operated phonorecord players. It retains the possibility that, if these negotiations fail, the present compulsory licensing regime will be reinstituted.

The new section 116 provides an antitrust exemption for both copyright owners and jukebox operators to negotiate royalty payment terms and rates and how these royalties shall be distributed among copyright owners. Either party may designate common agents to negotiate, agree to, pay, or receive such payment.

It is further provided that the parties can refer the negotiations to binding arbitration in accordance with regulations to be developed by the Copyright Royalty Tribunal (CRT). Also, any such negotiated licenses are to be given effect in lieu of any CRT determination.

This new section also establishes a negotiation schedule, requiring that a date for the commencement of negotiations be scheduled not later than 60 days after the effective date of this Act, and that such negotiations must commence not later than 90 days after the effective date of this Act. The Chairman of the CRT shall be notified of these dates and shall publicly announce them in the Federal Register. If the Chairman is not so informed within 60 days, the Chairman shall set the date for a meeting and announce it in the Federal Register.

The CRT is further directed to suspend for one year all ratemaking activity with respect to jukeboxes. This suspension shall continue unless the parties fail to negotiate licenses that provide for access to a quantity of musical works not substantially smaller than the quantity performed on jukeboxes in the one year prior to the effective date of this Act.

Finally, the new section 116 provides that the terms of the compulsory license in force on the effective date of the Act shall remain in place until superseded by voluntary negotiated licenses. However, should the parties fail to negotiate such licenses, or should the licenses expire or be terminated without replacement, then the present regime in section 116 is reinitiated.

New section 119 defines the scope of protection in architectural works. Subsection (a) makes it clear that the rights in an architectural work are limited to exclude any public performance right, and that protection does not extend to any process, method of construction, or purely utilitarian feature of the work. Subsection (b) provides that it is not an infringement to make a pictorial representation of the work. Subsection (c) limits the remedies available by excluding injunctive relief against an infringing building or structure if construction has substantially begun, and that a court may not order the impoundment, seizure, or destruction of an infringing building.

Subsection (d) provides that, unless the parties to a building contract agree otherwise, the owner of a building or other structure may make or authorize the making of alterations to the building to enhance its utility or which are necessary for its maintenance or repair. It further authorizes the owner to reconstruct or destroy the building or to authorize such reconstruction or destruction.

Section 5 of this act amends Chapter 4 of title 17 in ways needed to make the use of the copyright notice wholly voluntary. Section 401(a) is amended to replace "shall" by "may" making it explicit that notice is no longer required. Sections 401 (b) and (c) are amended to provide for the voluntary nature of the notice. Parallel changes are included for the notice appearing on phonorecords.

Section 403 is amended to require that works that contain U.S. Government works have a statement identifying those portions of the work. The Copyright Office is authorized to issue regulations to implement this provision.

Section 404 relating to notice of copyright in contributions to a collective work is repealed as no longer needed.

Section 405 is amended to make it clear that publication of a work without a copyright notice before the effective date of this Act has no adverse effect on the copyright in such a work. As the provisions of 405(a)(1)-(3) relating to the consequences of publication without a notice are no longer needed, they are deleted. Section 405(b) retains the innocent infringer defense with respect to works from which, prior to the effective date of this Act, the notice was omitted.

Section 406 is amended to apply only to works published prior to the effective date of this Act.

Section 407 is amended to apply to all works published in the United States whether published with a copyright notice or not. This will maintain the integrity of the collection of the Library of Congress and will continue to permit the Register of Copyrights to exempt categories of works from these requirements.

Section 408(a) is amended to delete the reference to registration as a way to cure a publication of a work without a notice of copyright. This severs the last link between the registration system and the existence of copyright in a work. Thus, the U.S. registration system is only a procedural matter, and, in the view of many copyright experts, no longer creates any substantive formalities related to the existence of copyright rights. Section 408(c)(2) is amended by striking subparagraph (A) as section 404 relating to the copyright notice on collective works is deleted. Subsections (B) and (C) are renumbered (A) and (B) respectively.

Section 6 amends Chapter 8 to direct the CRT, should it have to reinitiate compulsory license rate adjustments, to give great weight to the voluntarily negotiated rates in effect prior to the date when such CRT proceedings became necessary.

Section 7 provides that the effective date of this Act shall be when the Convention goes into effect with respect to the United States.

Section 8 is a severability clause. If any provision of this Act or section of title 17 amended by this Act is held to be unconstitutional, the remaining sections are unaffected.

STATEMENT OF SECRETARY OF COMMERCE MALCOLM BALDRIGE

Mr. Chairman and Members of the Subcommittee: I am here today to talk about an increasingly important issue: assuring that there is adequate and effective protection for U.S. intellectual property throughout the world. The Department of Commerce has worked closely with the other Agencies represented here at the table today and the Library of Congress' Copyright office to improve levels of intellectual property protection worldwide. We've done this to eradicate piracy and counterfeiting of U.S. products. And we've had some amazing successes, but often only after a lot of hard work.

Traditionally, the Commerce Department focused its primary intellectual property concerns on patents and trademarks, perhaps because the administration of those laws is the responsibility of the Department of Commerce while the copyright laws are administered by the Library of Congress. In this Administration, however, we have increasingly devoted our attention to copyright issues. This is a natural and appropriate response to the growing importance of works protected by copyrights to the United States' domestic and international trade.

In a 1984 study, the Copyright Office estimated that in 1982 the copyright and information-related industries contributed over $153 billion to the U.S. economy and employed 2.2% of the civilian labor force. Also, in 1984 the International Trade Commission estimated that in 1982 the copyright industries earned a trade surplus of over $1.2 billion. All in all, an outstanding performance, but one that might even be better. As I noted earlier, the Administration wants to improve the protection of intellectual property. We believe that this will preserve or even improve the export earnings of such successful competitors in the world market. However, because of factors that I will discuss later, this already difficult task is made even harder.

In 1985, the International Intellectual Property Alliance estimated that in 1984 the copyright industries lost $1.3 billion to piracy in only ten selected countries. When I speak about improving the export earnings of successful competitors, I'm not talking about protectionist measures to keep foreign products out of our markets, I'm talking about stopping these staggering losses due to piracy. Inadequate intellectual property laws and ineffective enforcement where laws do exist are the fountainhead of this program.

In response to this problem, the Administration has undertaken several efforts to improve the international protection of copyrights. As Ambassador Yeutter will tell you, we are working in the new round of GATT negotiations to define and to develop a method to enforce compliance with high-level standards of intellectual property protection. To succeed in that work, we need to put ourselves in the best possible posture. But, presently our posture is not as good as it should be because we do not adhere to the Berne Convention for the Protection of Literary and Artistic Works.

There is absolutely no reason for us not to join Berne—at least no reason that takes into account the long-term interests of the United States, our creative community and U.S. copyright holders. Berne adherence requires only a few changes in U.S. law, and will not disturb the careful balance of public and private interests in our law.

The most important reason for joining Berne is that it will assure the highest available level of international protection for U.S. authors and copyright holders. The Berne Union has 76 members: nearly all of the developed countries, a number of developing nations, and several Eastern Bloc nations. The United States and the Soviet Union are conspicuously absent from this list.

Some argue that the benefits of adhering to Berne are speculative and remote. If this were true, why would U.S. publishers undertake the substantial expense (one firm's estimate is $10 million per year) to obtain rights under Berne through simultaneous publication in a Berne country?

Our copyright owners traditionally have obtained Berne protection through simultaneous publication in the United States and in a Berne country, often Canada. Some argue that we don't need to adhere to Berne because we can always get Berne-level protection through the "back door" in those countries that belong only to Berne. They argue further that we can get Berne-level protection through national treatment in those countries which adhere to both the UCC and Berne.

These arguments ignore several facts. First, only large U.S. copyright interests can afford the substantial expense of a program of regular simultaneous publication in a Berne country. This is too expensive and difficult or even impossible for many U.S. publishers and for most individual authors, artists and composers. For them, Berne protection through the "back door" is not economically feasible.

Another reason is that U.S. copyright holders may find the "back door" to Berne slammed in their faces. The Berne Convention allows its members to retaliate against the works of non-member states. Plainly put, the risk of retaliation will increase if the United States rejects Berne and continues to take a free ride through the "back door."

Additionally, adherence to Berne will give us copyright relations with 24 countries with which we have no current relations, some of which such as Egypt and Turkey are emerging copyright trouble spots. A twenty-fifth country, the People's Republic of China, with more than a billion potential users of copyrighted works, has given strong signals that it is considering adhering to Berne.

Some argue that we already have a major role in international copyright, and that the proposed inclusion of intellectual property in the GATT is far more likely to get us the high levels of international copyright protection that we want. These claims are just plain short-sighted.

It is true that the United States is the largest exporter of copyrighted works, and maybe on that basis you could call us a "leader" in international copyright. But, it doesn't follow that a large market for U.S. works is the same same as a strong role in setting and maintaining effective standards to help fight international copyright piracy.

New technologies like satellites, photocopiers, computers, and video and audio recorders have "internationalized" intellectual property, and U.S. participation in an effective international copyright organization is essential. We need an immediate and strong presence in the Berne Union.

Berne membership would let us participate fully in the administration and management of the Convention. As a Berne member, we will be able to block any decision that goes against our interest because revision of Berne requires a unanimous vote.

Membership in Berne will also strengthen our credibility in trade negotiations with countries that are havens for piracy. Thailand, a Berne member, is a good example. When we call on the Thai government to combat piracy, they ask us why we don't belong to Berne. They also ask why we take advantage of Berne benefits through national treatment and the "back door." At the same time we urge other nations to conform to Berne standards. U.S. adherence will only heighten or credibility and make it more likely that other nations will join the Convention or increase existing levels of copyright protection.

The argument that the proposed inclusion of intellectual property within the GATT eliminates the need for U.S. adherence to Berne cannot be taken seriously. Developing a GATT code on intellectual property which includes an effective dispute resolution mechanism may be a difficult and lengthy process. Also, when such a code is developed, it will be difficult to get pirate countries to join.

The United States position for implementation of high level standards within GATT may be seriously weakened if we don't adhere to the Berne Convention. Make no mistake about our position. Berne adherence is not a substitute for a GATT intellectual property code, but neither is a GATT intellectual property code a substitute for Berne adherence.

United States adherence to the Berne Convention will require minimal changes in U.S. law. You, Mr. Chairman, as the principal author of the 1976 Copyright Revision Act, recently stated that the copyright revision was drawn "with a weather eye on Berne." Last year I testified before you about the expiration of the manufacturing clause. My copyright experts advise me that the expiration of the clause removed one of the remaining obstacles to compatibility between our copyright law and Berne, and that only a few further changes are needed.

Commissioner Quigg has prepared a statement that I would ask you to accept for the record that explains the intent and purpose of H.R. 2962, the Administration's bill introduced by Mr. Moorhead and Mr. Fish. It also explains why our bill differs in certain respects from your bill and Senator Leahy's bill in the Senate. As I'm not a copyright expert I won't try to review the intricacies of such a specialized bill but I do want to make one observation.

A large number of copyright experts believe that the concern over the so-called moral rights issue is ill founded. Our law presently provides an adequate level of protection for an author's right to demand to be named as the author on his work and his right to object to uses of his works that may discredit his honor or reputation. It meets the minimum levels of the relevant provisions of the Convention. No additional changes are needed. Our bill proposes a Congressional finding to that effect.

I would like to emphasize that the Department of Commerce will be pleased to continue to work with you and your committee on this and other copyright issues. This concludes my prepared statement. I shall be pleased to respond to any questions you may have.●

By Mr. THURMOND (for himself, Mr. HATCH, Mr. DECONCINI, Mr. GRASSLEY, Mr. TRIBLE, Mr. WILSON, and Mr. D'AMATO) (by request):

S. 1970. A bill to reform procedures for enforcement of the fourth amendment to the Constitution, for collateral review of criminal judgments, and for the imposition of capital punishment, and for other purposes; to the Committee on the Judiciary.

CRIMINAL JUSTICE REFORM ACT

Mr. THURMOND. Mr. President, today, at the request of the administration, I am introducing the Criminal Justice Reform Act of 1987. This bill contains the following titles that address areas in the current criminal law which are in need of reform: First, exclusionary rule; second, habeas corpus; and third, death penalty.

As we all know, crime is an ever-increasing problem in this country. This legislation would provide the tools necessary to deal with this major problem. As many of my colleagues are aware, the provisions contained in this legislation are not new. In fact, they are substantially similar to bills which overwhelmingly passed the Senate in the 98th Congress. Further these issues have been the subject of extensive hearings in the Judiciary Committee and have been debated fully on the Senate floor. This bill is also similar to measures that I introduced on the first day of this Congress.

I will be submitting for the record a detailed section-by-section analysis of this bill that was prepared by the Department of Justice. Following is a brief overview of the bill.

Title I, the Exclusionary Rule Reform Act of 1987, would codify an exception to the exclusionary rule which has been recognized by the Supreme Court. The exclusionary rule is recognized by the Supreme Court. The exclusionary rule is a judicially created remedy for Government violations of the fourth amendment prohibition against illegal searches and seizures. More simply, if evidence is obtained by a law enforcement officer in violation of the fourth amendment then that evidence will be excluded in a criminal trial.

However, in some instances, the Supreme Court has recognized exceptions when the exclusionary rule should not apply. This measure would address one of those exceptions. This title would codify the Court's holding in United States versus Leon to provide that evidence obtained pursuant to a warrant which is later found to be defective will not be excluded if the law enforcement officer in executing the search exhibited an objectively reasonable belief that the search was in conformity with the fourth amendment. This bill would also extend this exception to warrantless searches.

Further, this title provides that the exclusionary rule shall not be used as a sanction for nonconstitutional violations of statutes and regulations. Of course, this provision would not apply if Congress provides in the specific statute or regulation that the exclusionary rule is an appropriate remedy.

Title II, the Reform of Federal Intervention in State Proceedings Act of 1987, would generally reform procedures for the review of habeas corpus petitions by the lower Federal courts in order to promote comity between State and Federal courts.

This title provides a 1-year time limit for filing of habeas corpus petitions by State prisoners and a 2-year time limit for filing of habeas petitions by Federal prisoners. This title would provide for deference to reasonable State court determinations made by using procedures consistent with due process and would clarify the standards for raising claims that were not properly raised in State court proceedings. This title would also make comparable changes to procedures for habeas petitions filed by Federal prisoners as well as technical improvements to procedures for reviewing State and Federal petitions.

Title III, the Capital Punishment Procedures Act of 1987, would establish constitutional procedures for the implementation of the death penalty for violation of those Federal crimes for which the death penalty is currently authorized. In addition, this title would also authorize the death penalty for new crimes such as an attempt to assassinate the President which causes or comes dangerously close to causing bodily injury or comes dangerously close, murder by a Federal prisoner while he is serving a life sentence, and death caused by a person while he is engaged in a continuing criminal drug enterprise.

In 1984, Congress passed the Comprehensive Crime Control Act which made sweeping reforms in the criminal justice system in areas such as sentencing and bail. Last session, we passed the Anti-Drug Abuse Act of 1986 which strengthened the ability of law enforcement to deal with the drug problem and provided funds for drug education. It is more appropriate that we now take time to seriously address the important issues contained in this bill. As I stated earlier, the issues addressed in this bill have been thoroughly considered. Therefore, I hope the Senate will act on this measure without further delay.

I ask unanimous consent that the bill and a section-by-section analysis be included in the CONGRESSIONAL RECORD immediately following my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1970

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE OF ACT.

This Act may be cited as the "Criminal Justice Reform Act of 1987".

TITLE I—EXCLUSIONARY RULE

SEC. 101. SHORT TITLE FOR TITLE I.

This title may be cited as the "Exclusionary Rule Reform Act of 1987".

SEC. 102. ADMISSIBILITY OF CERTAIN EVIDENCE.

(a) IN GENERAL.—Chapter 223 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 3508. Admissibility of evidence obtained by search or seizure

"(a) EVIDENCE OBTAINED BY OBJECTIVELY REASONABLE SEARCH OR SEIZURE.—Evidence which is obtained as a result of a search or seizure shall not be excluded in a proceeding in a court of the United States on the ground that the search or seizure was in violation of the fourth amendment to the Constitution of the United States, if the search or seizure was carried out in circumstances justifying an objectively reasonable belief that it was in conformity with the fourth amendment. The fact that evidence was obtained pursuant to and within the scope of a warrant constitutes prima facie evidence of the existence of such circumstances.

"(b) EVIDENCE NOT EXCLUDABLE BY STATUTE OR RULE.—Evidence shall not be excluded in a proceeding in a court of the United States on the ground that it was obtained in violation of a statute, an administrative rule or regulation, or a rule of procedure unless exclusion is expressly authorized by statute or by a rule prescribed by the Supreme Court pursuant to statutory authority.

"(c) RULE OF CONSTRUCTION.—This section shall not be construed to require or authorize the exclusion of evidence in any proceeding.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 223 of title 18, United States Code, is amended by adding at the end the following:

"3508. Admissibility of evidence obtained by search or seizure.".

TITLE II—HABEAS CORPUS

SEC. 201. SHORT TITLE FOR TITLE II.

This title may be cited as the "Reform of Federal Intervention in State Proceedings Act of 1987".

SEC. 202. FAILURE TO STATE CLAIM; PERIOD OF LIMITATION.

Section 2244 of title 28, United States Code, is amended by adding at the end thereof the following new subsections:

"(d) When a person in custody pursuant to the judgment of a State court fails to raise a claim in State proceedings at the time or in the manner required by State rules of procedure, the claim shall not be entertained in an application for a writ of habeas corpus unless—

"(1) actual prejudice resulted to the applicant from the alleged denial of the Federal right asserted; and

"(2)(A) the failure to raise the claim properly or to have it heard in State proceedings was the result of State action in violation of the Constitution or laws of the United States;

"(B) the Federal right asserted was newly recognized by the Supreme Court subsequent to the procedural default and is retroactively applicable;

"(C) the factual predicate of the claim could not have been discovered through the exercise of reasonable diligence prior to the procedural default; or

"(D) a constitutional violation asserted in the claim probably resulted in a factually erroneous conviction or a sentence predicated on an erroneous factual determination.

"(e) A one-year period of limitation shall apply to an application for a writ of habeas corpus by a person in custody pursuant to the judgment of a State court. The limitation period shall run from the latest of the following times:

"(1) The time at which State remedies are exhausted.

"(2) The time at which the impediment to filing an application created by State action in violation of the Constitution or laws of the United States is removed, where the applicant was prevented from filing by such State action.

"(3) The time at which the Federal right asserted was initially recognized by the Supreme Court, where the right has been newly recognized by the Court and is retroactively applicable.

"(4) The time at which the factual predicate of the claim or claims presented could have been discovered through the exercise of reasonable diligence.".

SEC. 203. APPEAL.

Section 2253 of title 28, United States Code, is amended to read as follows:

"§ 2253. Appeal

"(a) In a habeas corpus proceeding or a proceeding under section 2255 of this title before a circuit or district judge, the final order shall be subject to review, on appeal, by the court of appeals for the circuit where the proceeding is had.

"(b) There shall be no right of appeal from such an order in a proceeding to test the validity of a warrant to remove, to another district or place for commitment or trial, a person charged with a criminal offense against the United States, or to test the validity of his detention pending removal proceedings.

"(c) An appeal may not be taken to the court of appeals from the final order in a habeas corpus proceeding where the detention complained of arises out of process issued by a State court, or from the final order in a proceeding under section 2255 of this title, unless a circuit justice or judge issues a certificate of probable cause.".

SEC. 204. AMENDMENT TO RULES OF APPELLATE PROCEDURE RELATING TO APPEAL.

Rule 22 of the Federal Rules of Appellate Procedure is amended to read as follows:

"Rule 22. Habeas Corpus and Section 2255 Proceedings

(a) APPLICATION FOR AN ORIGINAL WRIT OF HABEAS CORPUS.—An application for a writ of habeas corpus shall be made to the appropriate district court. If application is made to a circuit judge, the application will ordinarily be transferred to the appropriate district court. If an application is made to or transferred to the district court and denied, renewal of the application before a circuit judge is not favored; the proper remedy is by appeal to the court of appeals from the order of the district court denying the writ.

"(b) NECESSITY OF CERTIFICATE OF PROBABLE CAUSE FOR APPEAL.—In a habeas corpus proceeding in which the detention complained of arises out of process issued by a State court, and in a motion proceeding pursuant to section 2255 of title 28, United States Code, an appeal by the applicant or movant may not proceed unless a circuit judge issues a certificate of probable cause. If a request for a certificate of probable cause is addressed to the court of appeals, it shall be deemed addressed to the judges thereof and shall be considered by a circuit judge or judges as the court deems appropriate. If no express request for a certificate is filed, the notice of appeal shall be deemed to constitute a request addressed to the judges of the court of appeals. If an appeal is taken by a State or the government or its representatives, a certificate of probable cause is not required.".

SEC. 205. SECTION 2254 AMENDMENTS.

(a) SUBSECTION (b) AMENDMENT.—Subsection (b) of section 2254 of title 28, United States Code, is amended to read as follows:

"(b) An application for a writ of habeas corpus in behalf of a person in custody pursuant to the judgment of a State court shall not be granted unless it appears that the applicant has exhausted the remedies available in the courts of the State, or that there is either an absence of available State corrective process or the existence of circumstances rendering such process ineffective to protect the rights of the applicant. An application may be denied on the merits notwithstanding the failure of the applicant to exhaust the remedies available in the courts of the States.".

(b) EFFECT OF STATE DETERMINATION OF FACTUAL ISSUE.—Section 2254 of title 28, United States Code, is amended by striking out subsection (d) and inserting in lieu thereof the following:

"(e) In a proceeding instituted by an application for a writ of habeas corpus by a person in custody pursuant to the judgment of a State court, a full and fair determination of a factual issue made in the case by a State court shall be presumed to be correct. The applicant shall have the burden of rebutting this presumption by clear and convincing evidence.".

(c) EFFECT OF STATE ADJUDICATION OF CLAIM.—Section 2254 of title 28, United States Code, is amended by inserting after subsection (c) the following:

"(d) An application for a writ of habeas corpus in behalf of a person in custody pursuant to the judgment of a State court shall not be granted with respect to any claim that has been fully and fairly adjudicated in State proceedings.".

(d) CONFORMING REDESIGNATION.—Section 2254 of title 28, United States Code, is amended by redesignating subsections (e) and (f) as subsections (f) and (g), respectively.

SEC. 206. SECTION 2255 AMENDMENTS.

Section 2255 of title 28, United States Code, is amended—

(1) by striking out the second paragraph and the penultimate paragraph, and

(2) by adding at the end thereof the following new paragraphs:

"When a person fails to raise a claim at the time or in the manner required by Federal rules of procedure, the claim shall not be entertained in a motion under this section unless actual prejudice resulted to the movant from the alleged denial of the right asserted—

"(1) the failure to raise the claim properly, or to have it heard, was the result of governmental action in violation of the Constitution or laws of the United States;

"(2) the right asserted was newly recognized by the Supreme Court subsequent to the procedural default and is retroactively applicable;

"(3) the factual predicate of the claim could not have been discovered through the exercise of reasonable diligence prior to the procedural default; or

"(4) a constitutional violation asserted in the claim probably resulted in a factually erroneous conviction or a sentence predicated on an erroneous factual determination.

"A two-year period of limitation shall apply to a motion under this section. The limitation period shall run from the latest of the following times:

"(1) the time at which the judgment of conviction becomes final;

"(2) the time at which the impediment to making a motion created by governmental action in violation of the Constitution or laws of the United States is removed, where the movant was prevented from making a motion by such governmental action;

"(3) the time at which the right asserted was initially recognized by the Supreme Court, where the right has been newly recognized by the Court and is retroactively applicable; or

"(4) the time at which the factual predicate of the claim or claims presented could have been discovered through the exercise of reasonable diligence.".

TITLE III—CAPITAL PUNISHMENT

SEC. 301. SHORT TITLE OF TITLE III.

This title may be cited as the "Capital Punishment Procedures Act of 1987".

SEC. 302. DEATH PENALTY PROCEDURES.

(a) Death Penalty Procedures.—Title 18 of the United States Code is amended by inserting after chapter 227 the following:

"CHAPTER 228—DEATH PENALTY PROCEDURES

"Sec.
"3591. Sentence of death.
"3592. Factors to be considered in determining whether a sentence of death is justified.
"3593. Special hearing to determine whether a sentence of death is justified.
"3594. Imposition of a sentence of death.
"3595. Review of a sentence of death.
"3596. Implementation of a sentence of death.
"3597. Use of State facilities.

"§ 3591. Sentence of death

"A defendant who has been found guilty of—

"(1) an offense described in section 794 or section 2381;

"(2) an offense described in section 1751(c), if the offense, as determined beyond a reasonable doubt at a hearing under section 3593, constitutes an attempt to murder the President of the United States and results in bodily injury to the President or comes dangerously close to causing the death of the President; or

"(3) any other offense for which a sentence of death is provided, if the defendant, as determined beyond a reasonable doubt at a hearing under section 3593 either—

"(A) intentionally killed the victim;

"(B) intentionally participated in an act, contemplating that the life of a person would be taken or intending that lethal force would be used in connection with a person, other than one of the participants in the offense, and the victim died as a direct result of the act; or

"(C) intentionally and significantly participated in an act, knowing that the act created a grave risk of death to a person, other than one of the participants in the offense, such that participation in the act constituted a reckless disregard for human life, and the victim died as a direct result of the act; shall be sentenced to death if, after consideration of the factors set forth in section 3592 in the course of a hearing held pursuant to section 3593, it is determined that imposition of a sentence of death is justified. However, no person may be sentenced to death who was less than 18 years of age at the time of the offense.

"§ 3592. Factors to be considered in determining whether a sentence of death is justified

"(a) Mitigating Factors.—In determining whether a sentence of death is justified for any offense, the jury, or if there is no jury, the court, shall consider each of the following mitigating factors and determine which, if any, exist:

"(1) Mental capacity.—The defendant's mental capacity was significantly impaired, although the impairment was not such as to constitute a defense to prosecution.

"(2) Duress.—The defendant was under unusual and substantial duress, although not such duress as would constitute a defense to prosecution.

"(3) Participation in offense minor.—The defendant was an accomplice whose participation in the offense was relatively minor.

The jury, or if there is no jury, the court, shall consider whether any other mitigating factor exists.

"(b) Aggravating Factors for Espionage and Treason.—In determining whether a sentence of death is justified for an offense described in section 3591(a), the jury, or if there is no jury, the court, shall consider each of the following aggravating factors and determine which, if any, exist:

"(1) Previous espionage or treason conviction.—The defendant has previously been convicted of another offense involving espionage or treason for which a sentence of life imprisonment or death was authorized by statute.

"(2) Risk of substantial danger to national security.—In the commission of the offense the defendant knowingly created a grave risk of substantial danger to the national security.

"(3) Risk of death of another.—In the commission of the offense the defendant knowingly created a grave risk of death to another person.

The jury, or if there is no jury, the court, may consider whether any other aggravating factor exists.

"(c) Aggravating Factors for Homicide and for Attempted Murder of the President.—In determining whether a sentence of death is justified for an offense described in section 3591 (b) or (c), the jury, or if there is no jury, the court, shall consider each of the following aggravating factors and determine which, if any, exist:

"(1) Death occurred during commission of another crime.—The death occurred during the commission or attempted commission of, or during the immediate flight from the commission of, an offense under section 751 (prisoners in custody of institution or officer), section 794 (gathering or delivering defense information to aid foreign government), section 844(d) (transportation of explosives in interstate commerce for certain purposes), section 844(f) (destruction of Government property by explosives), section 1118 (prisoners serving life term), section 1201 (kidnaping), or section 2381 (treason) of this title, section 1826 of title 28 (persons in custody as recalcitrant witnesses or hospitalized following a finding of not guilty only by reason of insanity), or section 902 (i) or (n) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1472 (i) or (n) (aircraft piracy)).

"(2) Previous conviction of offense for which a sentence of death or life imprisonment was authorized.—The defendant has previously been convicted of another Federal or State offense resulting in the death of a person, for which a sentence of life imprisonment or death was authorized by statute.

"(3) Previous conviction of other serious offenses.—The defendant has previously been convicted of two or more Federal or State offenses, each punishable by a term of imprisonment of more than one year, committed on different occasions, involving controlled substances or the infliction of, or attempted infliction of, serious bodily injury or death upon another person.

"(4) Grave risk of death to additional persons.—The defendant, in the commission of the offense, knowingly created a grave risk of death to one or more persons in addition to the victim of the offense.

"(5) Heinous, cruel, or depraved manner of commission.—The defendant committed the offense in an especially heinous, cruel, or depraved manner.

"(6) Procurement of the offense by payment.—The defendant procured the commission of the offense by payment, or promise of payment, of anything of pecuniary value.

"(7) Commission of the offense for payment.—The defendant committed the offense as consideration for the receipt, or in the expectation of the receipt, of anything of pecuniary value.

"(8) Substantial planning and premeditation.—The defendant committed the offense after substantial planning and premeditation.

"(9) Vulnerability of victim.—The victim was particularly vulnerable due to old age, youth, or infirmity.

"(10) Type of victim.—

"(A) In General.—The defendant committed the offense against—

"(i) the President of the United States, the President-elect, the Vice President, the Vice-President-elect, the Vice-President-designate, or, if there is no Vice President, the officer next in order of succession to the office of the President of the United States, or any person who is acting as President under the Constitution and laws of the United States;

"(ii) a chief of state, head of government, or the political equivalent, of a foreign nation;

"(iii) a foreign official listed in section 1116(b)(3)(A), if that official is in the United States on official business; or

"(iv) a public servant who is a Federal judge, a Federal law enforcement officer, an employee (including a volunteer or contract employee) of a Federal prison, or an official of the Federal Bureau of Prisons—

"(I) while that public servant is engaged in the performance of official duties;

"(II) because of the performance of that public servant's official duties; or

"(III) because of that public servant's status as a public servant.

"(B) Definitions.—For purposes of subparagraph (A) of this paragraph—

"(i) the term 'Federal law enforcement officer' means a public servant authorized by law or by a Government agency or Congress to conduct or engage in the prevention, investigation, or prosecution of an offense;

"(ii) the term 'Federal prison' means a Federal correctional, detention, or penal facility, Federal community treatment center, or Federal halfway house, or any such prison operated under contract with the Federal Government; and

"(iii) the term 'Federal judge' means any judicial officer of the United States, and includes a justice of the Supreme Court and a magistrate.

The jury, or if there is no jury, the court, may consider whether any other aggravating factor exists.

"§ 3593. Special hearing to determine whether a sentence of death is justified

"(a) Notice by the Government.—If, in a case involving an offense described in section 3591, the attorney for the Government believes that the circumstances of the offense are such that a sentence of death is justified under this chapter, he shall, a reasonable time before the trial, or before acceptance by the court of a plea of guilty, or at such time thereafter as the court may permit upon a showing of good cause, sign and file with the court, and serve on the defendant, a notice—

"(1) stating that the Government believes that the circumstances of the offense are such that, if the defendant is convicted, a sentence of death is justified under this chapter; and

"(2) setting forth the aggravating factor or factors, including a factor or factors not specifically enumerated in section 3592, that the Government, if the defendant is convicted, proposes to prove as justifying a sentence of death.

The court may permit the attorney for the Government to amend the notice upon a showing of good cause.

"(b) Hearing Before a Court or Jury.—If the attorney for the Government has filed a notice as required under subsection (a) and the defendant is found guilty of an offense described in section 3591, the judge who presided at the trial or before whom the guilty plea was entered, or another judge if that judge is unavailable, shall conduct a separate sentencing hearing to determine the punishment to be imposed. Prior to such a hearing, no presentence report shall be prepared by the United States Probation Service, notwithstanding the provisions of the Federal Rules of Criminal Procedure. The hearing shall be conducted—

"(1) before the jury that determined the defendant's guilt;

"(2) before a jury impaneled for the purpose of the hearing if—

"(A) the defendant was convicted upon a plea of guilty;

"(B) the defendant was convicted after a trial before the court sitting without a jury;

"(C) the jury that determined the defendant's guilt was discharged for good cause; or

"(D) after initial imposition of a sentence under this section, reconsideration of the sentence under the section is necessary; or

"(3) before the court alone, upon motion of the defendant and with the approval of the attorney for the Government.

A jury impaneled pursuant to paragraph (2) shall consist of 12 members, unless, at any time before the conclusion of the hearing, the parties stipulate, with the approval of the court, that it shall consist of a lesser number.

"(c) Proof of Mitigating and Aggravating Factors.—At the hearing, information may be presented as to any matter relevant to the sentence, including any mitigating or aggravating factor permitted or required to be considered under section 3592. Information presented may include the trial transcript and exhibits if the hearing is held before a jury or judge not present during the trial. Any other information relevant to a mitigating or aggravating factor may be presented by either the attorney for the Government or the defendant, regardless of its admissibility under the rules governing admission of evidence at criminal trials, except that information may be excluded if its probative value is outweighed by the danger of creating unfair prejudice, confusing the issues, or misleading the jury. The attorney for the Government shall open the argument. The defendant shall be permitted to reply. The attorney for the Government shall then be permitted to reply in rebuttal. The attorney for the Government and for the defendant shall be permitted to rebut any information received at the hearing, and shall be given fair opportunity to present argument as to the adequacy of the information to establish the existence of any aggravating or mitigating factor, and as to the appropriateness of imposing a sentence of death in the case. The burden of establishing the existence of an aggravating factor is on the Government, and is not satisfied unless the existence of such a factor is established beyond a reasonable doubt. The burden of establishing the existence of any mitigating factor is on the defendant, and is not satisfied unless the existence of such a factor is established by a preponderance of the information.

"(d) Return of Special Findings.—The jury, or if there is no jury, the court, shall consider all the information received during the hearing. It shall return special findings with respect to the mitigating and aggravating factors concerning which information is received at the hearing, stating—

"(1) whether some mitigating factor required to be considered under section 3592 exists;

"(2) whether some aggravating factor required to be considered under section 3592 exists; and

"(3) which specific mitigating or aggravating factor or factors exist.

A finding under paragraph (1) or (2) that some mitigating or aggravating factor exists must be unanimous. A finding under paragraph (3) that a specific mitigating or aggravating factor exists may be made by a majority of at least nine members of the jury.

"(e) Return of a Finding Concerning a Sentence of Death.—If, in the case of—

"(1) an offense described in section 3591(a), an aggravating factor required to be considered under section 3592(b) is found to exist; or

"(2) an offense described in section 3591 (b) or (c), an aggravating factor required to be considered under section 3592(c) is found to exist;

the jury, or if there is no jury, the court, shall then consider whether the aggravating factor or factors found to exist sufficiently outweigh all the mitigating factors found to exist to justify a sentence of death, or, in the absence of a mitigating factor, whether the aggravating factor or factors alone are sufficient to justify a sentence of death. Based upon this consideration, the jury by unanimous vote, or if there is no jury, the court, shall return a finding as to whether a sentence of death is justified.

"(f) Special Precaution to Assure Against Discrimination.—In a hearing held before a jury, the court, prior to the return of a finding under subsection (e) of this section, shall instruct the jury that, in considering whether a sentence of death is justified, it shall not consider the race, color, national origin, creed, or sex of the defendant or of any victim. The jury, upon return of a finding under subsection (e) of this section, shall also return to the court a certificate, signed by each juror, that consideration of the race, color, national origin, creed, or sex of the defendant or any victim was not involved in reaching the juror's individual decision.

"§ 3594. Imposition of a sentence of death

"Upon a finding under section 3593(e) that a sentence of death is justified, the court shall sentence the defendant to death. Upon finding under section 3593(e) that no aggravating factor required to be found exists or that a sentence of death is not justified, the court shall impose any sentence other than death that is authorized by law.

"§ 3595. Review of a sentence of death

"(a) Appeal.—In a case in which a sentence of death is imposed, the sentence shall be subject to review by the court of appeals upon appeal by the defendant. Notice of appeal must be filed within the time specified for the filing of a notice of appeal. An appeal under this section may be consolidated with an appeal of the judgment of conviction and shall have priority over all other cases.

"(b) Review.—The court of appeals shall review the entire record in the case, including—

"(1) the evidence submitted during the trial;

"(2) the information submitted during the sentencing hearing;

"(3) the procedures employed in the sentencing hearing; and

"(4) the special findings returned under section 3593(d).

"(c) Decision and Disposition.—

"(1) If the court of appeals determines that—

"(A) the sentence of death was not imposed under the influence of passion, prejudice, or any other arbitrary factor; and

"(B) the information supports the special findings of the existence of an aggravating factor or factors;

it shall affirm the sentence.

"(2) In any other case, the court of appeals shall remand the case for reconsideration under section 3593 or for imposition of another authorized sentence as appropriate.

"(3) The court of appeals shall state in writing the reasons for its disposition of an appeal of sentence of death under this section.

"§ 3596. Implementation of sentence of death

"A person who has been sentenced to death pursuant to this chapter shall be committed to the custody of the Attorney General until exhaustion of the procedures for appeal of the judgment of conviction and for review of the sentence. When the sentence is to be implemented, the Attorney General shall release the person sentenced to death to the custody of a United States marshal, who shall supervise implementation of the sentence in the manner prescribed by law of the State in which the sentence is imposed. If the law of such State does not provide for implementation of a sentence of death, the court shall designate another State, the law of which does so provide, and the sentence shall be implemented in the manner prescribed by such law. A sentence of death shall not be carried out upon a person who lacks the mental capacity to understand the death penalty and why it was imposed on that person or upon a woman while she is pregnant.

"§ 3597. Use of State facilities

"A United States marshal charged with supervising the implementation of a sentence of death may use appropriate State or local facilities for the implementation of a sentence of death; may use the services of an appropriate State or local official or of a person such as an official employed for the implementation of a sentence of death; and shall pay the costs thereof in the amount approved by the Attorney General.".

(b) CLERICAL AMENDMENT TO CHAPTER ANALYSIS.—Title 18, United States Code, is amended in the chapter analysis of part II, by adding the following new item after the item relating to chapter 227:

"**228. Death penalty procedures .... 3591**";

SEC. 303. CONFORMING AMENDMENT RELATING TO DESTRUCTION OF AIRCRAFT OR AIRCRAFT FACILITIES.

Section 34 of title 18, United States Code, is amended by striking out the comma after "imprisonment for life" and all that follows through the end of such section and inserting in lieu thereof a period.

SEC. 304. CONFORMING AMENDMENT RELATING TO ESPIONAGE.

Section 794(a) of title 18, United States Code, is amended by striking out the period at the end of the section and inserting in lieu thereof the following: ", except that the sentence of death shall not be imposed unless the jury or, if there is no jury, the court, further finds beyond a reasonable doubt at a hearing under section 3593 of this title that the offense directly concerned nuclear weaponry, military spacecraft and satellites, early warning systems, or other means of defense or retaliation against large-scale attack; war plans; communications intelligence or cryptographic information; sources or methods of intelligence or counterintelligence operations; or any other major weapons system or major element of defense strategy.".

SEC. 305. CONFORMING AMENDMENT RELATING TO TRANSPORTING EXPLOSIVES.

Section 844(d) of title 18, United States Code, is amended by striking out "as provided in section 34 of this title".

SEC. 306. CONFORMING AMENDMENT RELATING TO MALICIOUS DESTRUCTION OF FEDERAL PROPERTY BY EXPLOSIVES.

Section 844(f) of title 18, United States Code, is amended by striking out "as provided in section 34 of this title".

SEC. 307. CONFORMING AMENDMENT RELATING TO MALICIOUS DESTRUCTION OF INTERSTATE PROPERTY BY EXPLOSIVES.

Section 844(i) of title 18, United States Code, is amended by striking out "as provided in section 34 of this title".

SEC. 308. CONFORMING AMENDMENT RELATING TO MURDER.

The second undesignated paragraph of section 1111(b) of title 18, United States Code, is amended to read as follows:

"Whoever is guilty of murder in the first degree shall be punished by death or by imprisonment for life;".

SEC. 309. CONFORMING AMENDMENT RELATING TO KILLING OFFICIAL GUESTS OR INTERNATIONALLY PROTECTED PERSONS.

Section 1116(a) of title 18, United States Code, is amended by striking out "any such person who is found guilty of murder in the first degree shall be sentenced to imprisonment for life, and".

SEC. 310. MURDER BY FEDERAL PRISONER.

(a) IN GENERAL.—Chapter 51 of title 18, United States Code, is amended by adding at the end thereof the following:

"§ 1118. Murder by Federal prisoner

"(a) Whoever, while confined in a Federal prison under a sentence for a term of life imprisonment, murders another shall be punished by death or by life imprisonment.

"(b) For the purposes of this section—

"(1) the term 'Federal prison' means any Federal correctional, detention, or penal facility, Federal community treatment center, or Federal halfway house, or any such prison operated under contract with the Federal Government; and

"(2) the term 'term of life imprisonment' means a sentence for the term of natural life, a sentence commuted to natural life, an indeterminate term of a minimum of at least 15 years and a maximum of life, or an unexecuted sentence of death.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 51 of title 18, United States Code, is amended by adding at the end the following:

"1118. Murder by Federal prisoner.".

SEC. 311. DEATH PENALTY RELATING TO KIDNAPPING.

Section 1201(a) of title 18, United States Code, is amended by inserting "and, if the death of any person results, shall be punished by death or life imprisonment" after "or for life".

SEC. 312. DEATH PENALTY RELATING TO HOSTAGE TAKING.

Section 1203(a) of title 18, United States Code, is amended by inserting "and, if the death of any person results, shall be punished by death or life imprisonment" after "or for life".

SEC. 313. CONFORMING AMENDMENT RELATING TO MAILABILITY OF INJURIOUS ARTICLES.

The last undesignated paragraph of section 1716 of title 18, United States Code, is amended by striking out the comma after "imprisonment for life" and all that follows through the end of such paragraph and inserting in lieu thereof a period.

SEC. 314. CONFORMING AMENDMENT RELATING TO PRESIDENTIAL ASSASSINATION.

Subsection (c) of section 1751 of title 18, United States Code, is amended to read as follows:

"(c) Whoever attempts to murder or kidnap any individual designated in subsection (a) of this section shall be punished—

"(1) by imprisonment for any term of years or for life, or

"(2) by death or imprisonment for any term of years or for life, if the conduct constitutes an attempt to murder the President of the United States and results in bodily injury to the President or otherwise comes dangerously close to causing the death of the President.".

SEC. 315. CONFORMING AMENDMENT RELATING TO MURDER FOR HIRE.

Section 1952A(a) of title 18, United States Code, is amended by striking out "and if death results, shall be subject to imprisonment for any term of years or for life, or shall be fined not more than $50,000, or both" and inserting in lieu thereof "and if death results, shall be punished by death or life imprisonment, or shall be fined not more than $250,000, or both".

SEC. 316. CONFORMING AMENDMENT RELATING TO VIOLENT CRIMES IN AID OF RACKETEERING ACTIVITY.

Paragraph (1) of section 1952B(a) of title 18, United States Code, is amended to read as follows:

"(1) for murder, by death or life imprisonment, or a fine of not more than $250,000, or both; and for kidnapping, by imprisonment for any term of years or for life, or a fine of not more than $250,000, or both;".

SEC. 317. CONFORMING AMENDMENT RELATING TO WRECKING TRAINS.

The second to the last undesignated paragraph of section 1992 of title 18, United States Code, is amended by striking out the comma after "imprisonment for life" and all that follows through the end of the section and inserting in lieu thereof a period.

SEC. 318. CONFORMING AMENDMENT RELATING TO BANK ROBBERY.

Section 2113(e) of title 18, United States Code, is amended by striking out "or punished by death if the verdict of the jury shall so direct" and inserting in lieu thereof "or if death results shall be punished by death or life imprisonment".

SEC. 319. CONFORMING AMENDMENT RELATING TO TERRORIST ACTS.

Paragraph (1) of section 2331(a) of title 18, United States Code, is amended to read as follows:

"(1)(A) if the killing is a first degree murder as defined in section 1111(a) of this title, be punished by death or imprisonment for any term of years or for life, or be fined under this title, or both; or

"(B) if the killing is a murder other than a first degree murder as defined in section 1111(a) of this title, be fined under this title or imprisoned for any term of years or for life, or both so fined and so imprisoned;".

SEC. 320. DEATH PENALTY RELATING TO CONTROLLED SUBSTANCES CASES.

Section 408 of the Controlled Substances Act (21 U.S.C. 848) is amended by inserting after subsection (b) the following:

"CONDITIONS FOR DEATH PENALTY

"(c) Any person who engages in a continuing criminal enterprise shall be fined in accordance with subsection (a) and imprisoned for life or sentenced to death if, while so engaged, such person causes the death of another person.".

SEC. 321. CONFORMING AMENDMENT RELATING TO AIRCRAFT HIJACKING.

Section 903 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1473), is amended by striking out subsection (c).

SEC. 322. APPLICATION TO UNIFORM CODE OF MILITARY JUSTICE.

Chapter 228 (relating to death penalty procedures) of title 18, United States Code, does not apply to prosecutions under the Uniform Code of Military Justice (10 U.S.C. 801 et seq.).

CRIMINAL JUSTICE REFORM ACT OF 1987—SECTION-BY-SECTION ANALYSIS

The proposed Criminal Justice Reform Act of 1987 would enact a number of important reforms in the operation of the federal criminal justice system. Title I would revise standards relating to the admission of evidence obtained through searches and seizures. Title II would amend the procedures for collateral review of criminal judgments, including federal habeas corpus review of state judgments and the corresponding collateral remedy for federal prisoners. Title III would establish constitutionally sound procedures and standards for the imposition of capital punishment for especially heinous federal crimes.

TITLE I—EXCLUSIONARY RULE

Title I of the Criminal Justice Reform Act would (1) generally bar the exclusion of evidence obtained in circumstances justifying an objectively reasonable belief that a search or seizure was in conformity with the Fourth Amendment, and (2) clarify that evidence cannot be excluded on the basis of non-constitutional violations unless such exclusion is expressly authorized by law.

The principal reform proposed in Title I—an objective reasonableness standard for the admission of evidence—is very similar to exclusionary rule reform legislation that was passed by the Senate as S. 1764 in the 98th Congress and by the House of Representatives as section 673 of H.R. 5484 in the 99th Congress. A detailed discussion of the policy issues raised by this reform appears in the Senate Judiciary Committee's report on S. 1764 (S. Rep. No. 350, 98th Cong., 2d Sess. (1984)). The ensuing analysis briefly describes and explains the provisions of Title I.

Section 102 of Title I would add a new section 3508 to the federal criminal code. Subsection (a) of proposed section 3508 provides that evidence shall not be excluded in any federal proceeding on the ground that a search or seizure was in violation of the Fourth Amendment if the search or seizure was carried out in circumstances justifying an objectively reasonable belief that it was in conformity with the Fourth Amendment. This would apply the underlying principle of *United States* v. *Leon*, 468 U.S. 897 (1984), so as to bar the exclusion of evidence obtained in such circumstances in cases involving warrantless searches, as well as in cases involving searches pursuant to a warrant. The *Leon* decision specifically barred the suppression of evidence obtained in conformity with a warrant in circumstances justifying an objectively reasonable belief in the warrant's validity, noting that excluding evidence where an officer's conduct is objectively reasonable "will not further the ends of the exclusionary rule in any appreciable way; for it is painfully apparent that . . . the officer is acting as a reasonable officer would and should act in similar circumstances. Excluding the evidence can in no way affect his future conduct unless it is to make him less willing to do his duty." *Leon*, 468 U.S. at 920.

This principle has already been applied for several years by the federal courts in the Fifth and Eleventh Circuits in deciding on the admissibility of evidence obtained through searches and seizures in both warrant and non-warrant cases. *See United States* v. *Williams*, 622 F.2d 830 (5th Cir. 1980). The standard of objective reasonableness is also uniformly applied in determining an officer's exposure to civil liability based on an allegedly unlawful search or seizure. *See Anderson* v. *Creighton*, U.S. , No. 85-1520 (June 25, 1987).

Subsection (a) of proposed section 3508 perpetuates as a special case the specific holding of *United States* v. *Leon, supra*, that evidence is not subject to suppression if obtained in objectively reasonable reliance on a warrant. As in *Leon*, the circumstances relevant to the determination of objective reasonableness in warrant cases under subsection (a) would include the circumstances under which the warrant was obtained as well as the circumstances under which it was executed. *See Leon*, 468 U.S. at 923 n.24.

Subsection (a) also provides specifically that the fact that evidence was obtained pursuant to and within the scope of a warrant constitutes prima facie evidence of the existence of circumstances justifying an objectively reasonable belief that a search or seizure was in conformity with the Fourth Amendment. This reflects the fact that "[i]n the ordinary case, an officer cannot be expected to question the magistrate's probable-cause determination or his judgment that the form of the warrant is technically sufficient." *Leon*, 468 U.S. at 897. Thus, the fact that evidence was obtained in conformity with a warrant would be adequate to establish objective reasonableness in the absence of rebuttal by the defendant, such as a showing that the issuance of the warrant was predicated on a fraudulent affidavit or that the warrant was so patently deficient on its face that an officer could not reasonably believe it to be valid. *See generally Leon*, 468 U.S. at 922-23.

Subsection (b) of proposed section 3508 would bar the exclusion of evidence on the basis of non-constitutional violations, except as expressly authorized by statute or by a rule promulgated by the Supreme Court pursuant to statutory authority. Given the high price of the exclusionary rule to the truth-finding process, and the fact that the rule is not even applied in relation to all constitutional violations in light of the *Leon* decision and other Supreme Court decisions, it is desirable to codify explicitly the principle that evidence may not be excluded on the basis of non-constitutional violations in the absence of statutory authority for doing so. This restriction on the exclusion of evidence is already implicit in the broader rule of Federal Rule of Evidence 402, which provides that "[a]ll relevant evidence is admissible, except as otherwise provided by the Constitution of the United States, by Act of Congress, by these rules, or by other rules prescribed by the Supreme Court pursuant to statutory authority." Subsection (b) would clarify the import of the principle of Rule 402 in relation to evidence obtained in violation of non-constitutional provisions.

The value of such clarification is illustrated by the case of *United States* v. *Caceres*, 440 U.S. 741 (1979), in which a defendant accused of bribing an IRS agent attempted to secure the exclusion of evidence of his guilt on the ground that procedures specified in IRS regulations had not been complied with in obtaining the evidence. Under the plain terms of Rule 402, this argument should have been rejected summarily as an effort to secure the exclusion of relevant evidence in circumstances in which exclusion was not provided for by "the Constitution . . . by Act of Congress, by [the] rules [of evidence], or by other rules prescribed by the Supreme Court pursuant to statutory authority." The Supreme Court did reject the defendant's effort to create an exclusionary rule for violations of IRS regulations, but declined to address the government's argument that this result was required by Rule 402. *see* 440 U.S. at 755 & n. 22.

While the Supreme Court reached a result consistent with Rule 402 for independent reasons in the *Caceres* decision, it failed to produce any directive to the inferior courts to comply with the terms of that rule. Efforts by defendants to secure the exclusion of relevant and probative evidence of their guilt on the basis of alleged violations of non-constitutional provisions have accordingly continued to be a source of litigation in the lower courts. Subsection (b) would foreclose such litigation in the absence of a decision by Congress or by the Supreme Court pursuant to its statutory rulemaking authority to authorize the use of the exclusionary sanction and would ensure consistent compliance with the principle of Rule 402 in this context in future judicial decisions.

Subsection (c) of proposed section 3508 states that the section shall not be construed to require or authorize the exclusion of evidence in any proceeding. This makes it clear that the section is not to be construed as reflecting legislative approval of the exclusion of evidence as a sanction for official misconduct in any circumstances, and that the section's rules which explicitly bar the exclusion of evidence in certain circumstances should not be understood as implying that the exclusion of evidence is appropriate or permissible in other circumstances. The Supreme Court has recognized a number of important exceptions to the application of the exclusionary rule which are not confined to the "objective reasonableness" situation, including holding that the exclusionary rule is wholly inapplicable in grand jury and deportation proceedings and generally inapplicable in habeas corpus proceedings, *see United States* v. *Calandra*, 414 U.S. 338 (1947); *INS* v. *Lopez-Mendoza*, 468 U.S. (1948); *Stone* v. *Powell*, 428 U.S. 465 (1976), and that evidence inadmissable at trial in the government's case in chief under the exclusionary rule may nevertheless be used for impeachment, *see Walder* v. *United States*, 347 U.S. 62 (1954). In light of subsection (c), there would be no basis for arguing that these broader limitations of the exclusionary rule should be restricted or reconsidered in light of proposed section 3508, or that it would be inappropriate for the courts to create other broader limitations on the exclusionary rule in the future.

TITLE II—HABEAS CORPUS

Title II would amend various provisions of title 28, United States Code, and a related Rule of Appellate Procedure, concerning the availability of collateral relief in the federal courts for state and federal prisoners. Among the matters addressed by these amendments are the standard of review in habeas corpus proceedings, the effect of procedural defaults on the subsequent availability of collateral relief, the time within which collateral relief may be sought, the requirement of exhaustion of state remedies, and the procedure on appeal in collateral proceedings.

The proposal is generallly the same as S. 1763 of the 98th Congress, which was reported by the Senate Judiciary Committee and passed by the full Senate by a vote of 67 to 9 in 1984. The ensuing section-by-section analysis briefly describes the various provisions of title II. The Senate Judiciary Committee's report on S. 1763 (S. Rept. No. 226, 98th Cong., 1st Sess. (1983)) provides a more detailed explanation as well as extensive analysis of the policy issues addressed in the legislation.

Section 202 of title II would add two new subsections to section 2244 of title 28, United States Code. Proposed section 2244(d) relates to the effect of a state prisoner's failure to raise a claim properly in state proceedings on the subsequent availability of federal habeas corpus. Proposed subsection (d)(1) of section 2244 sets out a general standard under which such a procedural default would bar access to federal habeas corpus unless it was the result of state action in violation of federal law. Attorney error or misjudgment in failing to raise a claim properly would excuse a procedural default under this standard if it amounted to constitutionally ineffective assistance of counsel, but lesser degrees of attorney error or misjudgment would not excuse a default. *See Murray* v. *Carrier*, 106 S. Ct. 2639, 2645-46 (1986). Proposed subsection (d)(2)—(4) of section 2244 further provides for excuse of a procedural default where a claim raised in a habeas corpus proceeding asserts a new, retroactive right subsequently recognized by the Supreme Court, where the factual predicate of the claim could not have been discovered prior to the default through the exercise of reasonable diligence, or where a constitutional violation asserted in the claim has probably resulted in a factually erroneous conviction or a sentence predicated on an erroneous factual determination. Proposed section 2244(d) is generally a codification and clarification of the existing caselaw standards governing the excuse of procedural defaults in collateral proceedings. *See Murray* v. *Carrier, supra*, 106 S. Ct. at 2644-46, 2650; *Smith* v. *Murray*, 106 S. Ct. 2661, 2668 (1986).

Proposed new section 2244(e) in section 202 of the bill would establish a one year time limit on applications for federal habeas corpus, normally commencing at the time state remedies are exhausted. This would provide state defendants with ample time to seek federal review following the conclusion of state proceedings, but would avoid the acute difficulties of proof that currently arise when federal habeas corpus is sought by a prisoner years or decades after the state trial. The proposed limitation rule may be compared to various existing time limits on seeking review or re-opening of criminal judgments in the federal courts, such as the normal ten day limit on appeals by federal defendants under Fed. R. App. P. 4(b); the normal sixty day limit on a state defendant's application for direct review in the Supreme Court under Sup. Ct. R. 20; and the two year limit on motions for new trials based on newly discovered evidence under Fed. R. Crim. P. 33. Proposed section 2244(e) further provides for deferral of the start of the limitation period in appropriate cases, such as assertion of newly recognized rights or newly discovered claims.

Section 203 of the bill would amend section 2253 of title 28, United States Code, so as to vest in the judges of the courts of appeals exclusive authority to issue certificates of probable cause for appeal in habeas corpus proceedings. It would also create an identical certificate requirement for appeals by federal prisoners in collateral relief proceedings pursuant to section 2255 of title 28, United States Code. This would implement recommendations of Judge Henry Friendly of the Second Circuit Court of Appeals. See Friendly, *Is Innocence Irrelevant? Collateral Attack on Criminal Judgments*, 38 U. Chi. L. Rev. 142, 144 n.9 (1970). The reform would correct inefficiencies of the current system under which an appellate court is obliged to hear an appeal on a district court's certification, though it may believe that the certificate was improvidently granted, and under which a prisoner is afforded duplicative opportunities to persuade first a district judge and then an appellate judge that an appeal is warranted. Section 204 of the bill would amend Fed. R. App. P. 22 to conform it to the amendments of section 203.

Section 205 of the bill would make various changes in section 2254 of title 28, United States Code. Section 205(a) would amend current section 2254(b) to clarify that a habeas corpus petition can be denied on the merits notwithstanding the petitioner's failure to exhaust state remedies. This would implement a recommendation of Professor David Shapiro. See Shapiro, *Federal Habeas Corpus: A Study in Massachusetts*, 87 Harv. L. Rev. 321, 358-59 (1973). It would avoid the waste of state and federal resources that presently results when a prisoner presenting a hopeless petition is sent back to the state courts to exhaust state remedies.

Section 205(c) of the bill would add a new subsection (d) to section 2254, United States Code. Proposed subsection (d) would accord deference to the result of full and fair state adjudications. This may be compared to the standard of review stated by the Supreme Court in the case of *Ex Parte Hawk*, 321 U.S. 114, 118 (1944), prior to the unexplained substitution of the current rules of mandatory re-adjudication by the decision in *Brown* v. *Allen*, 344 U.S. 443 (1953). To be full and fair in the intended sense the state court determination must be reasonable, and must be arrived at by procedures consistent with applicable federal law, including the constitutional requirement of due process. In addition, re-adjudication by the federal habeas court would be allowed in cases in which new evidence of substantial importance came to light or a retroactive change of law of substantial importance occurred after the state proceedings. *See* S. Rep. No. 226, 98th Cong., 1st Sess. 24-27 (1983).

Section 205(b) of the bill would simplify current section 2254(d), which is verbose, confusing, and obscure; redesignate it as section 2254(e); and bring its formulation into conformity with that of proposed new section 2254(d). This provision would be of minor practical significance, coming into play only when the general standard governing deference to state determinations in proposed new section 2254(d) was found by the habeas court to be unsatisfied.

Section 206 of the bill would amend section 2255 of title 28, United States Code. It would carry out reforms in the collateral remedy for federal prisoners comparable to the rules proposed in section 202 of the bill governing excuse of procedural defaults and time limitation in habeas corpus proceedings.

TITLE III—CAPITAL PUNISHMENT

Title III would provide procedures to permit the death penalty for certain heinous federal offenses. Although various provisions of the United States Code now authorize the imposition of the sentence of death for crimes of homicide, treason, and espionage, in most instances these sentences have been unenforceable because they fail to incorporate a set of legislated guidelines to guide the sentencer's discretion in coming to a determination whether the sentence of death is merited in a particular case. This requirement was first articulated by the Supreme Court in its decision in *Furman* v. *Georgia*, 408 U.S. 238 (1972). In a series of decisions following *Furman*, the Court has given further guidance on the constitutional requisites of a statute authorizing the imposition of capital punishment. Notable in this series of cases was a group of landmark death penalty decisions—*Gregg* v. *Georgia*, 428 U.S. 153 (1976); *Proffitt* v. *Florida*, 428 U.S. 242 (1976); *Jurek* v. *Texas*, 428 U.S. 262 (1976); *Woodson* v. *North Carolina*, 428 U.S. 280 (1976); and *Roberts* v. *Louisiana*, 428 U.S. 325 (1976)—in which the Court held that the death penalty was a constitutionally permitted sanction if imposed under certain procedures and criteria which guarded against the unfettered discretion condemned in *Furman*, but which retained sufficient flexibility to allow the consideration of aggravating and mitigating factors in each case.

In the fifteen years since the *Furman* decision, forty-one of the fifty states have enacted laws to restore the availability of the death penalty as a sanction for the most serious crimes. During the same period, Congress has on several occasions considered legislation to provide constitutional procedures that would permit the restoration of the death penalty to the federal criminal justice system but with the exception of a death penalty provision included in anti-aircraft hijacking legislation in 1974, no such statute has been passed by the Congress.

In the 97th, 98th and 99th Congresses, the Senate Judiciary Committee devoted considerable effort to the development of legislation that would establish constitutional procedures for the imposition of the death penalty at the federal level. In the 98th Congress the Committee reported a bill, S. 1765, which was very similar to the Administration's death penalty proposal of the same vintage (S. 829). It incorporated provisions to comport with the Supreme Court's capital punishment decisions over the past several years and passed the Senate by a vote of 63-32. In the 99th Congress, the Senate Judiciary Committee favorably reported a death penalty bill, S. 239, which closely resembled S. 1765, but no further action was taken on this measure or on a House-passed death penalty, in H.R. 5484, which included similar procedures although limited in scope to killings in the course of a continuing drug enterprise offense.

The section-by-section analysis below briefly describes the various provisions of title III. The Judiciary Committee's Reports on S. 1765 S. Rep. No. 251, 98th Cong., 1st Sess. (1983) and S. 239 (S. Rep. No. 282, 99th Cong., 2d Sess. (1986)) provide a more detailed analysis as well as a lengthy discussion of the policy and constitutional issues addressed in this legislation.

Section 302 adds a new chapter 228 to title 18 of the United States Code consisting of sections 3591 through 3597, and makes necessary technical amendments. These sections provide that the punishment for certain crimes may extend to the death penalty and set forth the procedures for determining whether the death penalty should be imposed in a particular case involving a conviction of such a crime.

Section 3591 sets out the offenses for which the death penalty may be imposed if, after consideration of the mitigating and aggravating factors applicable to the case in a post-verdict hearing (described in subsequent sections), it is determined that the imposition of death is justified. The offenses are treason, espionage, certain types of homicides, and an attempt to kill the President of the United States under specified circumstances. The circumstances justifying the death penalty for attempted Presidential assassination are that the attempt resulted in bodily injury to the President or came dangerously close to causing the President's death.

The homicides for which the death penalty may be imposed are described in subsection 3591(c). They are those in which the defendant intentionally killed the victim (subsection 3591(c)(1)), those in which the defendant intentionally participated in an act contemplating that life would be taken or intending that lethal force would be used in connection with someone other than a participant in the crime and as a direct result of the act the vicitm died (subsection 3591(c)(2)), and those in which the defendant intentionally and significantly participated in an act, knowing that the act created a grave risk of death to a person other than a participant such that participation in the act constituted a reckless disregard for human life, and the victim died as a direct result (subsection 3591(c)(3)). These threshold criteria limit the death penalty to defendants with a high degree of culpable responsibility for the harm or attempted harm and are designed to meet the constitutional requirements under *Coker* v. *Georgia*, 433 U.S. 584 (1977), *Edmund* v. *Florida*, 458 U.S. 782 (1982), *Cabana* v. *Bullock*, 106 S. Ct. 689 (1986), and *Tison* v. *Arizona*, U.S. , No. 84-6075 (April 21, 1987).

The language in subsections 3591(c)(1) and 3591(c)(2) was contained in similar death penalty bills considered in previous Congresses. The language in subsection 3591(c)(3) was added because of the holding in the recent *Tison* case, which further explained the degree of culpability required to justify the death penalty in felony murder cases as set out in the earlier *Edmund* decision. *Tison* allowed the death penalty to be imposed in cases where the defendent was a major participant in the crime that resulted in the homicide and showed a reckless indifference to human life. Specifically, *Tison* held "that the reckless disregard for human life implicit in knowingly engaging in criminal activities known to carry a grave risk of death represents a highly culpable mental state, a mental state that may be taken into account in making a capital sentencing judgment when that conduct causes its natural, though also not inevitable, lethal result." (Slip op., p. 20.) Subsection 3591(c)(3) codifies the *Tison* holding. It does not require that the government prove the defendant knew that his act met the legal criteria for a reckless disregard for human life, merely that his act in fact involved such a disregard. Moreover, the term "act" as used in subsection 3591(c)(3), like the term "act" in subsection 3591(c)(2), is not limited to a single specific act such as pulling a trigger. Rather, it includes a series of acts or a course of conduct such as loading a gun just prior to a bank robbery, handing it to an accomplice while the robbery is in progress, and forcing bank tellers against a wall where the accomplice shot them to death.

Section 3591 precludes imposition of the death penalty on a person who was less than eighteen years old at the time of the offense. This limitation is not constitutionally required and in prior versions of the bill such youth was only a mitigating factor. However, this bill follows the most recent capital punishment bill approved by the Senate Judiciary Committee and does not allow the imposition of the death penalty on a person who committed the offense when less than eighteen years of age.

Section 3592 sets forth the statutory mitigating and aggravating factors to be considered by the jury or judge in determining whether a sentence of death is justified upon conviction of a crime for which the sentence is authorized. The section also allows, consistent with Supreme Court decisions, for the consideration of any other aggravating or mitigating factor, not listed in the section, which might affect such a determination. See *Skipper* v. *South Carolina*, 476 U.S.—(1986); *Lockett* v. *Ohio*, 438 U.S. 586 (1978); *Barclay* v. *Florida*, 463 U.S. 939 (1983); *Zant* v. *Stephens*, 462 U.S. 862 (1983).

Subsection (a) sets forth three mitigating factors which must be considered. They are that the defendant's mental capacity was signficantly impaired although not so impaired as to constitute a defense, that the defendant was under unusual and substantial duress although not such as to constitute a defense, and that the defendant was an accomplice whose participation in the offense was relatively minor. Subsection (a) further states that the jury or judge shall also consider whether other mitigating factors exist.

Subsection (b) sets forth the aggravating factors for treason and espionage. They are that the defendant had previously been convicted of an offense involving espionage or treason for which a sentence of life imprisonment or death was authorized by statute, that the defendant knowingly created a grave risk of substantial danger to the national security, and that the defendant knowingly created a grave risk of death to another person.

Subsection (c) sets forth the aggravating factors for the homicide offenses and for the attempted murder of the President. They are (1) that the death occurred during the commission, attempted commission, or the immediate flight from the commission, of one of several exceptionally dangerous crimes such as escape from prison, a murder by a prisoner serving a life sentence, aircraft hijacking, certain explosive offenses, and espionage; (2) that the defendant had previously been convicted of another federal or state offense resulting in death for which life imprisonment or death was authorized; (3) that the defendant had previously been convicted of two or more federal or state offenses, committed on different occasions, each involving the infliction or attempted infliction of serious bodily injury and each punishable by imprisonment for more than one year; (4) that the defendant in the commission of the offense knowingly created a grave risk of death to one or more persons in addition to the victim; (5) that the defendant committed the offense in an especially heinous, cruel, or depraved manner;[1] (6) that the defendant procured the commission of the offense by paying or promising to pay anything of pecuniary value; (7) that the defendant committed the offense for receiving or in the expectation of receiving something of pecuniary value; (8) that the defendant committed the offense after substantial planning and premeditation; (9) that the victim was particularly vulnerable due to old age, youth, or infirmity; and (10) that the defendant committed the offense against certain specified public officials.

It should be noted that subsections (b) and (c) do not define the instances where the death penalty is authorized. This authorization is in the penalty provision for each individual capital offense and generally carries forward the provisions in the current statutes that are or may be unenforceable due to the aforementioned constitutional procedural problems. The offenses in current law that are changed to capital offenses by this title are the murders of certain foreign officials under 18 U.S.C. 1116, kidnaping where a death results, murders for hire or in aid of racketeering, murders of American hostages abroad, terrorist murders of American nationals abroad, causing death while engaged in a continuing drug enterprise, and attempted assassination of the President. In addition, section 310 of title III creates a new Federal capital offense of murder committed by a Federal prison inmate serving a life sentence. The factors listed in subsections (b) and (c) merely specify the aggravated instances in which the commission of a capital offense will permit a jury to determine whether the death penalty is justified.

Section 3593 sets out the procedure for a special hearing to determine whether a sentence of death is justified. At the conclusion of the hearing the jury (or, as will be explained, in some cases the judge) will return a finding as to whether the sentence of death is justified.

Subsection 3593(a) provides that if the attorney for the government believes that the circumstances of one of the offenses for which the death penalty is authorized (the offenses set out in section 3591) justify the imposition of the death penalty, he or she must file with the court and serve on the defendant a notice of this conclusion and set forth the aggravating factors (including any not statutorily enumerated) the government proposes to show at the hearing. The notice must be filed and served on the defendant a reasonable time before trial or the accepting of a guilty plea or at such time thereafter as the court may permit upon a showing of good cause. The notice provision is intended to give adequate notice to the defendant so he can prepare for the post-conviction sentencing hearing and to ensure an appropriate *voir dire* that comports with applicable Supreme Court cases.

Subsection 3593(b) provides that if the attorney for the government has filed the notice required by subsection (a) and if the defendant is found guilty, a sentencing hearing shall be conducted by the judge who presided at trial or accepted the guilty plea or by another judge if the first one is unavailable. No presentence report is to be prepared in such a case inasmuch as the issue at the hearing is the existence of aggravating or mitigating factors and the justifiability of imposing the death sentence, and the issue is to be determined based solely on the information presented at the hearing. The hearing is to be conducted before the jury that determined the defendant's guilt, except that a jury may be impaneled for the purpose of the sentencing hearing in a case in which the defendant was convicted on a trail to the court or on a plea of guilty, in a case in which the original jury was discharged for good cause, or in a case where reconsideration of the sentence is necessary. This subsection also provides that the defendant may move that the sentencing hearing be conducted before the court alone but that the attorney for the government must concur. In the absence of this concurrence by the government, the sentencing hearing is before a jury.

Subsection 3593(c) deals with proof of the aggravating and mitigating factors. Any information relevant to the sentence may be presented including information concerning any mitigating or aggravating factor permitted or required to be considered under section 3592. The information may consist of trial transcripts and exhibits or relevant parts thereof if the hearing is before a jury or judge not present during the trial. Other relevant evidence may be presented regardless of its admissibility under the rules of evidence, except that the court may exclude information if its probative value is outweighed by the danger of its creating unfair prejudice, confusing the issues, or misleading the jury. The burden of establishing an aggravating factor is on the government and the standard of proof for such a factor is beyond a reasonable doubt. The defendant has the burden of establishing any mitigating factor but this burden is satisfied if the defendant proves such a factor by a preponderance of the evidence.

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[1] This aggravating factor encompasses situations involving "torture, aggravated battery, the deliberate prolonging of suffering, or the serious physical abuse of the victim before inflicting death." S. Rep. No. 251, 98th Cong., 1st Sess. 5. It would also cover other situations involving unusual, extraordinary depravity, such as "the execution style killing of a stranger for the thrill of it or the extended terrorizing of a victim before execution." Id. at 6.

Subsection 3593(d) deals with the return of special findings required in the sentencing hearing. It provides that the jury, or if there is no jury, the court, must consider all the information received at the sentencing hearing. The jury, or if there is no jury, the court must return a special finding as to each aggravating or mitigating factor concerning which evidence was received at the hearing. In cases where there is a jury, the special finding must indicate that the jury has found the existence of some mitigating or aggravating factor required to be considered by section 3592 by a unanimous vote, although it is not necessary that there be a unanimous vote on any specific mitigating or aggravating factor. A specific mitigating or aggravating factor can be established if at least nine members of the jury finds the existence of that factor. In cases where evidence of more than one mitigating or aggravating factor is introduced, simple fairness to both the government and the defendant requires that an aggravating or mitigating factor be considered established if at least nine of the twelve jurors find a particular factor, but cannot reach unanimous agreement as to which one, provided they reach unanimous agreement that *some* such factor has been established. Unanimity as to the presence of a particular aggravating or mitigating factor is not constitutionally required because the presence or absence of any one such factor is not determinative of whether the death penalty should or should not be imposed. In *Poland* v. *Arizona*, 106 S. Ct. 1749 (1986), the Court considered the fact-finding process engaged in during the sentencing phase of capital cases under Arizona law and stated it was "not prepared to . . . view the capital sentencing hearing as a set of mini-trials on the existence of each aggravating factor. . . . Aggravating circumstances are not separate penalties or offenses, but are 'standards to guide the making of [the] choice' between the alternative verdicts of death and life imprisonment . . ." 106 S. Ct. at 1755. Moreover, the Court has held that juror unanimity even on the question of guilt or innocence is not essential to the right to a trial by jury. See *Apodaca* v. *Oregon*, 406 U.S. 404 (1972).

Subsection 3593(e) provides that if one or more of the statutorily requires aggravating factors is found to exist (a constitutional requirement under *Zant* v. *Stephens* and *Barclay* v. *Florida, supra*) the jury, or the court if there is no jury, must then consider whether all the aggravating factor or factors which it has found outweigh all mitigating factors which it has found, or, if no mitigating factor has been found, whether the aggravating factor or factors alone are sufficient to justify a sentence of death. Based on this consideration, the jury by unanimous vote, or if there is no jury, the court, shall return a finding as to whether a sentence of death is justified.

Subsection 3593(f) is designed as a special precaution against discrimination by the jury against the defendant on the basis of the defendant's or the victim's race, color, national origin, creed, or gender. It provides that in a sentencing hearing in which the death penalty is sought, the jury shall be specifically instructed that it must not consider these factors. Moreover, the jury must return to the court a certificate signed by each juror stating that consideration of these factors was not involved in his or her individual decision.

Section 3594 provides that if the jury, or the court if there is no jury, returns a finding that a sentence of death is justified, the court must sentence the defendant to death. If, however, the finding was that no statutorily required aggravating factor was found to exist, or that even if such a factor was found a sentence of death was not justified, the court shall impose any sentence other than death authorized by law. This section also provides that notwithstanding any other provision of law, life imprisonment without parole is an authorized sentence for a conviction of an offense punishable by death if the maximum term of imprisonment for such an offense is life.

Section 3695 sets out the rules applicable to appeals from the imposition of the death sentence. A sentence of death shall be subject to review by the court of appeals upon an appeal of the sentence by the defendant. Notice of appeal of the sentence must be filed within the time for the filing of a notice of the appeal of the conviction. This permits the court to consolidate the appeal of the sentence and the appeal of the conviction, and such such consolidation is explicity provided for. The review of a case in which the death sentence has been imposed must be given priority over all other cases. The court of appeals must consider the entire record including the evidence submitted at trial, the information submitted during the sentencing hearing, the procedures employed at the sentencing hearing, and the special findings returned at the sentencing hearing as to the existence of the aggravating and mitigating factors. The court of appeals must affirm the sentence if it finds that the sentence of death was not imposed under the influence of passion, prejudice, or any other arbitrary factor, and the information supports the special findings of the existence of an aggravating factor or factors. See *Zant* v. *Stephens*, *supra* (death sentence valid even if an aggravating factor is invalidated or found inapplicable on appeal, provided at least one valid statutory aggravating factor remains). Proportionality review with other death cases is not a part of the review process. *Pulley* v. *Harris*, 465 U.S. 37 (1984).

In all other cases, the court of appeals must remand the case for reconsideration under section 3593 or for imposition of another authorized sentence, as appropriate. The court of appeals must state in writing the reasons for its disposition of an appeal of a sentence of death.

Section 3596 is concerned with the implementation of a sentence of death. A person sentenced to death shall be committed to the custody of the Attorney General pending completion of the appeal and review process. When the sentence is to be implemented, custody of the person would be given to a United States Marshal who would then supervise the implementation of the penalty in accordance with the law of the State in which the sentence is imposed. If that State has no death penalty, the court would designate another State which does have such a penalty and the execution would be carried out in the manner prescribed in that State. This part of the section generally carries forward a portion of the provisions of present section 3566 of title 18. This section also states that a sentence of death shall not be carried out on a person who lacks the mental capacity to understand the death penalty and why it was imposed on that person (this implements the constitutional bar on execution of the mentally incompetent, see *Ford* v. *Wainwright*, U.S. — (1986)) or on a woman while she is pregnant.

Section 3597 carries forward other parts of current section 3566 by authorizing the United States Marshal charged with implementing the sentence of death to use State facilities and to pay the costs thereof.

Section 303 of title III applies the procedures of the new chapter 228 concerning the death penalty to violations of chapter 2 of title 18 dealing with the destruction of or damage to aircraft and motor vehicles where death results. Such violations are punishable by death under current law but the penalty is unavailable due to the previously discussed procedural problems.

Section 304 prescribes the scope of the availability of the death penalty for espionage. In accordance with the view reflected in prior bills that the death penalty is both constitutional and appropriate for this offense, the penalty is retained as a possible punishment for peacetime espionage where it concerns certain major military matters, such as nuclear weapons or satellites which directly affect national defense. The death penalty, of course, remains applicable under 18 U.S.C. 794(b) to any instance of wartime espionage.

Sections 305, 306, and 307 apply the sentencing procedures of the new chapter 228 to three serious explosive offenses where death results. These sections, all of which deal with deliberate property destruction by explosives or the transportation of explosives in interstate commerce for the purpose of injuring persons or property, currently provide for the death penalty, but the penalty is unenforceable.

Section 308 applies the new death penalty procedure to the offense of first degree murder committed in the special maritime and territorial jurisdiction. Such a crime is presently punishable by the unenforceable death penalty provisions of current law.

Section 309 amends 18 U.S.C. 1116(a) to provide for the death penalty for the first degree murder of a foreign official, an official guest of the United States, or an internationally protected person. This offense was created after the *Furman* decision and so has not previously included the death penalty as a possible punishment. However, this section makes the penalty for this offense the same as for first degree murder in other situations subject to Federal jurisdiction.

Section 310 adds a new section 1118 to title 18 to provide that a person serving a life sentence in a Federal prison who murders another person will be punished by death or by life imprisonment without the possibility of parole.

Section 311 amends the Federal kidnaping statute, 18 U.S.C. 201, to provide for the imposition of the death penalty under the sentencing procedures of chapter 228, if death results from the kidnaping.

Section 312 provides for the death penalty under 18 U.S.C. 1203 (enacted in 1984) if death occurs in the course of a hostage-taking abroad of an American national such as occurred in the recent incident involving the cruise ship Achille Lauro.

Section 313 applies the new sentencing provisions to section 1716, dealing with the mailing of injurious articles where death results. This merely effectuates the presently unenforceable death penalty provision for this section.

Section 314 of the bill would for the first time provide for the death penalty for an attempt to kill the President if the attempt results in bodily injury to the President or otherwise comes dangerously close to killing the President. The procedures of the new chapter 228 would be applicable to such an offense.

Sections 315 and 316 provide for the death penalty under two related offenses enacted in 1984 proscribing murders for hire and killings in aid of racketeering activity (18 U.S.C. 1952A and 1952B).

Section 317 applies the new sentencing provisions of chapter 228 to violations of 18 U.S.C. 1992 involving the wrecking of trains where death results. This effectuates the presently unenforceable death penalty provision for this offense.

Section 318 restricts the application of the death penalty in cases of bank robbery and incidental crimes in violation of section 2113 of title 18 to cases where death results, and provides for life imprisonment as an alternative penalty in such cases.

Section 319 amends 18 U.S.C. 2331(a)(1), a provision enacted as part of the Omnibus Diplomatic Security and Antiterrorism Act of 1986 (P.L. 99-399, August 27, 1986), to provide for the death penalty in cases of first degree murder of a United States national while such national is outside the United States.

Section 320 provides for the death penalty for a person who causes the death of another while engaged in a continuing criminal enterprise offense under 21 U.S.C. 848. This in essence carries forward the death penalty provision twice passed by the House of Representatives in H.R. 5484 near the end of the 99th Congress.

Section 321 applies the procedures of chapter 228 to aircraft piracy where death results from the commission or attempted commission of the offense by repealing the capital punishment procedures in the Federal Aviation Act of 1958 (49 U.S.C. 1473(c)) while retaining the death penalty for air piracy where death results.

Section 322 provides that the capital punishment procedures of the new chapter 228 shall not apply to prosecutions under the Uniform Code of Military Justice inasmuch as the military code has its own set of death penalty procedures and provisions.

By Mr. BINGAMAN:

S. 1973. A bill to assure fair, regulatory treatment of imported natural gas, and for other purposes; to the Committee on Energy and Natural Resources.

IMPORTED NATURAL GAS FAIR TREATMENT ACT

● Mr. BINGAMAN. Mr. President: I rise today to introduce the Imported Natural Gas Fair Treatment Act of 1987. This legislation has become necessary because of the increasing concentration of Canadian natural gas in our domestic market. The unfair treatment of our domestic producers as a result of this imported Canadian gas must be addressed.

The primary concentration of Canadian gas is in the California market. New Mexico in the past has been a predominant supplier of natural gas to California. However, in the last 3 years, Canadian gas has displaced much of the New Mexico gas. In 1984, the Southwest satisfied 66 percent of the California market. This dropped to 57 percent of the market in 1986. From 1985 to 1986, gas production from New Mexico dropped 22 percent. It is clear that this displacement has occurred because the Canadians sell their gas cheaper than our domestic producers are able to—for several reasons: differences in rate design and hidden subsidies, such as royalty holidays and preferential tax treatment, provided by the Canadian Government to their domestic producers.

CANADIAN FREE TRADE AGREEMENT [FTA]

This issue becomes even more critical as we prepare to consider the United States-Canada Free Trade Agreement [FTA]. This historic agreement is intended to strengthen the trading and economic relationships between the United States and Canada and contribute to a "free and fair" market environment between the two countries. Unfortunately, the agreement does not treat some sectors of the economy as fairly as others. The outline of the FTA section on energy suggests that the discriminatory practices favoring Canadian natural gas could be allowed to continue.

I strongly believe that any agreement between the United States and Canada must not in any way prevent the United States from imposing terms and conditions on imports and exports of natural gas. For example, the Federal Energy Regulatory Commission [FERC] recently issued orders (Opinion Nos. 256 and 256-A) requiring interstate natural gas companies importing natural gas from Canada to provide equal rate treatment for production and transmission costs associated with both imported and domestic supplies. The trade agreement must not interfere with the Commission's authority to implement such decisions. I have addressed this issue in previous legislation and will continue to stress the importance of preserving equal rate treatment. Going even further, some would argue in favor of a one part rate, thus eliminating any basis for discrimination in rate design.

The legislation I introduce today covers several related issues. Not all of the regulatory agencies with responsibility for natural gas take into account the significant role that Canadian imports play relative to our domestic supplies when making important regulatory decisions. We can certainly improve our regulatory decisionmaking process for natural gas, and my legislation embodies those improvements.

Section 2 of my bill modifies the statutory test under section 3 of the Natural Gas Act by clarifying that the burden of proof in proceedings to authorize the importation and subsequent transportation and sale of gas should be on the applicant rather than on those contesting the application. Section 2(b) further amends section 3 to include a prohibition against regulatory treatment which favors imported natural gas over domestic gas. This language is necessary since existing law applies only to natural gas companies and not all importers are natural gas companies.

It is viewed by many that domestic supplies of natural gas may not be sufficient in all parts of the country to meet market needs, especially in the Northeast and upper Midwest. However, no one condones discriminatory practices that prevent domestic supplies from competing fairly with imports. I hope this section deals effectively with the issue of discriminating practices and pricing. In my view, the nondiscrimination standard added by section 2(c) incorporates the "level playing field" goals set by opinion No. 256.

Section 3 of my bill would clearly indicate that the grant of an import authorization does not preclude a review of the prudence of the purchasing practices of any subsequent purchaser of imported gas. This language is necessary to clarify the scope of the FERC's review under section 4 of the Natural Gas Act in existing and future purchasing practices.

In a related matter, it has always been the intent of Congress that first sales, as defined in section 2(21) of the Natural Gas Policy Act, should apply only to natural gas produced in the United States. While I do not deal specifically with the issue of first sale treatment under the NGPA, I wanted to make sure the intent is clear.

Finally, section 4 of my bill will transfer jurisdiction for section 3 of the DOE Organization Act from the Economic Regulatory Administration in the Department of Energy to the FERC. This move is necessary because many producers perceive the ERA as insensitive to issues of natural gas. Because of the limited scope of the ERA's responsibility for regulating gas at the border, the ERA has failed to develop a comprehensive understanding of the competing interest at issue under the Natural Gas Act. Why have one agency regulate gas as it crosses the border only to have a different agency take responsibility from the border to the burnertip? This type of conflict virtually guarantees inconsistency and inequities between domestic and Canadian producers. This section will eliminate that conflict.

CONCLUSION

I ask my colleagues to support this legislation to restore equity and fairness to the regulatory treatment of natural gas in this country●

By Mr. NICKLES (for himself, Mr. BOREN, and Mr. PRESSLER):

S.J. Res. 236. Joint resolution to designate the week of January 17 through January 23, 1988, as "National Jaycee Week"; to the Committee on the Judiciary.

NATIONAL JAYCEE WEEK

● Mr. NICKLES. Mr. President, I am introducing a joint resolution to designate the week of January 17-23 as "National Jaycees Week" in honor of the Jaycees volunteer organization composed of young men and women between 21 and 40 years of age.

The purpose of this joint resolution is to provide recognition to the U.S. Jaycees for their dedicated and faithful service to this country. Through a common belief that service to humanity is the best work of life, the Jaycees have contributed to the betterment of our society. They put this belief into action by rendering assistance and providing leadership for humanitarian projects.

This selfless philosophy be honored and I am sure that my colleagues will want to join in this deserving tribute.●

ADDITIONAL COSPONSORS

S. 559

At the request of Mr. Chafee, the name of the Senator from Virginia [Mr. Warner] was added as a cosponsor of S. 559, a bill to require the Administrator of the Environmental Protection Agency to conduct a study of the measures available to reduce the adverse effect discarding or dumping of plastics on land and in the waters have on the environment, including the effects on fish and wildlife; to make recommendations for eliminating or lessening such adverse effects; and to require the Administrator of the Environmental Protection Agency to control the pollution of the environment caused by the discarding of plastics on the land and in water.

S. 560

At the request of Mr. Chafee, the name of the Senator from Virginia [Mr. Warner] was added as a cosponsor of S. 560, a bill to implement the provisions of annex V to the International Convention for the Prevention of Pollution from Ships, as modified by the Protocol of 1978.

S. 676

At the request of Mr. Rockefeller, the name of the Senator from Wyoming [Mr. Simpson] was added as a cosponsor of S. 676, a bill to enhance rail competition and to ensure reasonable rail rates where there is an absence of effective competition.

S. 756

At the request of Mr. Lautenberg, the name of the Senator from Colorado [Mr. Armstrong] was added as a cosponsor of S. 756, a bill to ensure the amounts paid for home improvements to mitigate indoor air contaminants such as radon gas qualify for the tax deduction for medical care expenses.

S. 840

At the request of Mr. Thurmond, the name of the Senator from Michigan [Mr. Levin] was added as a cosponsor of S. 840, a bill to recognize the organization known as the 82d Airborne Division Association, Incorporated.

S. 1346

At the request of Mr. Specter, his name was added as a cosponsor of S. 1346, a bill to amend the National Labor Relations Act to give employers and performers in the performing arts rights given by section 8(e) of such act to employers and employees in similarly situated industries, to give employers and performers in the performing arts the same rights given by section 8(f) of such act to employers and employees in the construction industry, and for other purposes.

S. 1393

At the request of Mr. Heinz, the name of the Senator from Wyoming [Mr. Simpson] was added as a cosponsor of S. 1393, a bill to amend title 39, United States Code, to designate as nonmailable matter any private solicitation which is offered in terms expressing or implying that the offeror of the solicitation is, or is affiliated with, certain Federal agencies, unless such solicitation contains conspicuous notice that the Government is not making such solicitation, and for other purposes.

S. 1518

At the request of Mr. Rockefeller, the names of the Senator from Ohio [Mr. Glenn], and the Senator from Mississippi [Mr. Stennis] were added as cosponsors of S. 1518, a bill to amend the Motor Vehicle Information and Cost Savings Act to provide for the appropriate treatment of methanol and ethanol, and for other purposes.

S. 1678

At the request of Mr. Hatch, the names of the Senator from Alaska [Mr. Stevens], and the Senator from Iowa [Mr. Grassley] were added as cosponsors of S. 1678, a bill to establish a block grant program for child care services, and for other purposes.

S. 1727

At the request of Mr. Harkin, the names of the Senator from Hawaii [Mr. Inouye], and the Senator from Nevada [Mr. Hecht] were added as cosponsors of S. 1727, a bill to amend the Public Health Service Act to establish within the National Institutes of Health a National Institute on Deafness and Other Communication Disorders.

S. 1897

At the request of Mr. Thurmond, the name of the Senator from Minnesota [Mr. Boschwitz] was added as a cosponsor of S. 1897, a bill to recognize the organization known as the National Association of State Directors of Veterans' Affairs, Incorporated.

S. 1952

At the request of Mr. Kennedy, the names of the Senator from West Virginia [Mr. Byrd], the Senator from Mississippi [Mr. Stennis], the Senator from California [Mr. Cranston], the Senator from New York [Mr. Moynihan], the Senator from North Dakota [Mr. Burdick], the Senator from Arizona [Mr. DeConcini], the Senator from Maryland [Ms. Mikulski], the Senator from Washington [Mr. Adams], the Senator from Iowa [Mr. Harkin], the Senator from Illinois [Mr. Simon], the Senator from Connecticut [Mr. Dodd], the Senator from Hawaii [Mr. Matsunaga], the Senator from Ohio [Mr. Metzenbaum], the Senator from Rhode Island [Mr. Pell], the Senator from Vermont [Mr. Stafford], the Senator from Indiana [Mr. Quayle], the Senator from South Carolina [Mr. Thurmond], the Senator from Connecticut [Mr. Weicker], the Senator from Mississippi [Mr. Cochran], and the Senator from New Hampshire [Mr. Humphrey] were withdrawn as cosponsors of S. 1952, a bill to amend the Public Health Service Act to provide for national and regional centers for pediatric emergency medical services, and for other purposes.

SENATE JOINT RESOLUTION 59

At the request of Mr. Thurmond, the name of the Senator from Illinois [Mr. Dixon] was added as a cosponsor of Senate Joint Resolution 59, a joint resolution to designate the month of May 1987 as "National Foster Care Month".

SENATE JOINT RESOLUTION 199

At the request of Mr. Byrd, the names of the Senator from Ohio [Mr. Glenn], the Senator from North Carolina [Mr. Helms], the Senator from Pennsylvania [Mr. Specter], and the Senator from Montana [Mr. Baucus] were added as cosponsors of Senate Joint Resolution 199, a joint resolution to designate the month of April 1988 as "Trauma Awareness Week".

SENATE JOINT RESOLUTION 214

At the request of Mr. Lautenberg, the name of the Senator from Hawaii [Mr. Matsunaga] was added as a cosponsor of Senate Joint Resolution 214, a joint resolution to designate the week of February 7-13, 1988, as "National Child Passenger Safety Awareness Week."

SENATE JOINT RESOLUTION 218

At the request of Mr. Breaux, his name was added as a cosponsor of Senate Joint Resolution 218, a joint resolution to designate March 25, 1988, as "Greek Independence Day: A National Day of Celebration of Greek and American Democracy."

SENATE JOINT RESOLUTION 223

At the request of Mr. Nunn, the names of the Senator from Georgia [Mr. Fowler], the Senator from Hawaii [Mr. Matsunaga], and the Senator from Oregon [Mr. Packwood] were added as cosponsors of Senate Joint Resolution 223, a joint resolution to designate the period commencing on April 10, 1988, and ending on

April 16, 1988, as "National Productivity Improvement Week."

SENATE JOINT RESOLUTION 224

At the request of Mr. Chiles, the name of the Senator from Alaska [Mr. Stevens] was added as a cosponsor of Senate Joint Resolution 224, a joint resolution to designate the period commencing on September 5, 1988, and ending on September 11, 1988, as "National School Dropout Prevention Week."

SENATE JOINT RESOLUTION 235

At the request of Mr. DeConcini, the name of the Senator from Washington [Mr. Adams] was added as a cosponsor of Senate Joint Resolution 235, a joint resolution deploring the Soviet Government's active persecution of religious believers in Ukraine.

SENATE CONCURRENT RESOLUTION 88

At the request of Mr. Melcher, the names of the Senator from Texas [Mr. Bentsen], the Senator from Hawaii [Mr. Matsunaga], the Senator from North Dakota [Mr. Conrad], and the Speaker from Connecticut [Mr. Weicker] were added as cosponsors of Senate Concurrent Resolution 88, a concurrent resolution to facilitate the convening of a Silver Haired Congress.

AMENDMENT NO. 1320

At the request of Mr. Melcher, the names of the Senator from Nebraska [Mr. Karnes], and the Senator from North Dakota [Mr. Conrad] were added as cosponsors of amendment No. 1320 proposed to House Joint Resolution 395, a joint resolution making further continuing appropriations for the fiscal year 1988, and for other purposes.

SENATE RESOLUTION 347—TO AUTHORIZE THE APPEARANCE OF THE COMMITTEE ON FOREIGN RELATIONS IN A LEGAL PROCEEDING AND REPRESENTATION BY THE SENATE LEGAL COUNSEL

Mr. BYRD (for himself and Mr. Dole) submitted the following resolution; which was considered and agreed to:

S. Res. 347

Whereas, the Committee on Foreign Relations has requested the Department of Justice to provide it with non-public tapes and/or transcripts of telephone communications intercepted pursuant to an electronic surveillance order issued by the United States District Court for the Northern District of California in connection with the case of *United States* v. *Zavala*, 622 F. Supp. 319 (N.D. Cal. 1985);

Whereas, the Department of Justice has agreed to provide this material after it notifies the subjects of the electronic surveillance than an application for a protective order may be made to the United States District Court for the Northern District of California;

Whereas, pursuant to sections 703(a) and 704(a)(1) of the Ethics in Government Act of 1978, 2 U.S.C. §§ 288b(a) and 288c(a)(1)(1982), the Senate may direct its counsel to defend a committee of the Senate;

Whereas, pursuant to section 703(c), 706(a), and 713(a) of the Ethics in Government Act of 1978, 2 U.S.C. §§ 288b(c) and 288e(a), and 288l(a) (1982), the Senate may direct its counsel to appear in the name of a committee of the Senate in any legal action in which the powers and responsibilites of Congress under the Constitution are placed in issue: Now, therefore be it

Resolved, That the Senate Legal Counsel is directed to defend the Committee on Foreign Relations or to appear in the name of the Committee as amicus curiae or intervenor, in any proceeding in support of the Committee's access to the non-public records which the Department of Justice has agreed to provide to it.

AMENDMENTS SUBMITTED

RELIEF OF KUMARI RAJLAKSHMI BAIS

KENNEDY AMENDMENT NO. 1367

Mr. BYRD (for Mr. Kennedy) proposed an amendment to the bill (H.R. 526) for the relief of Kumari Rajlakshmi Bais; as follows:

At the end of the bill, add the following new Section:

Sec. . (a) Findings.—The Congress finds that the following individuals, now in the United States, were members of the Brigade 2506 and imprisoned in Cuba for 25 years following the Bay of Pigs Invasion: Ricardo Montero Duque of Union City, New Jersey, and the following five individuals of Miami, Florida: Ramon Bernardo Conte Hernandez; Jose Rafael Machado Concepcion; Nicolas Edigno Hernandez Mendez; Rogelio Milian Perez; and Pedro Armando Santiago Villa.

(b) Waiver.—Notwithstanding section 316 of the Immigration and Nationality Act, no continuous residence or physical presence requirement shall apply to the eligibility for naturalization of the persons named in subsection (a).

FEDERAL ENERGY REGULATORY COMMISSION

McCLURE (AND JOHNSON) AMENDMENT NO. 1368

Mr. WARNER (for Mr. McClure and Mr. Johnston) proposed an amendment to the bill (H.R. 519), an act to direct the Federal Regulatory Commission to issue an order with respect to Docket No. EL-85-38-000; as follows:

On page 6, at the end of line 18 add the following new sentence: "Nothing contained in this Act requires the Commission to take any action pursuant to such consideration, or authorizes or grants the Commission any authority to take any action, based upon the findings, recommendations, results, or conclusions of the study required by this section."

ADDITIONAL STATEMENTS

AID TO PAKISTAN

● Mr. GLENN. Mr. President, the Senate and House conferees agreed today to continue aid to Pakistan for 2½ years, despite overwhelming evidence that Pakistan is developing nuclear weapons in violation of United States laws. The conference committee would extend Pakistan's waiver of the Symington/Glenn amendments, which prohibit United States aid to any nation that imports or exports sensitive nuclear-weapon technology, without attaching any new conditions to the aid.

The committee's action coincides with the conviction of Mr. Arshad Pervez in Philadelphia on five counts of attempting to export tightly controlled United States nuclear equipment to Pakistan. Pervez was found guilty of conspiring to defraud the Government, attempting to export berylium metal used in the manufacture of nuclear weapons, and falsely stating the end use of nuclear materials to be exported to Pakistan. While this conviction would appear to eliminate any doubt that Pakistan's illegal procurement activities have triggered an aid cutoff under section 670 of the Foreign Assistance Act, the President has made no such determination.

Taken together, these events will encourage Pakistan to believe that it is above U.S. law when it comes to developing nuclear weapons. This exemption can only be interpreted by the more than 130 nations that have signed the Nonproliferation Treaty [NPT] as a weakening of America's resolve in preventing the spread of nuclear weapons.

On December 11, the Senate unanimously approved an amendment I offered that would have required the President to certify that Pakistan was not producing weapon-grade nuclear materials before military aid could be provided. While I remain convinced that preventing a nuclear arms race must be our top priority in South Asia, I recognize that the United States has other interests in the region. For this reason, my amendments allowed the President to waive this condition by certifying that the termination of military aid "would result in a serious threat to the national security interests of the United States."

In offering this compromise, I remarked: "I do not think I can honestly weaken this provision any more than that and still say that we have anything that would even resemble a nonproliferation policy in Pakistan." Pakistan's production of bomb-grade material has placed South Asia on the threshold of a devastating nuclear arms race. By failing to address this threat, the conference committee has downgraded America's historic commitment to nuclear nonproliferation.●

FEDERAL JUDICIAL NOMINEES

● Mr. LEAHY. Mr. President, on Wednesday the Judiciary Committee approved three Federal court nominations for action by the full Senate. All these nominees were examined at Judiciary Committee hearings, and full investigations were conducted by committee staff. For the benefit of Senators who will soon vote on whether to confirm these nominees to the Federal courts, I offer the following brief summaries of the qualifications of two of these nominees, and of the testimony elicited at the hearing and in response to written questions by committee members.

First, Jerry E. Smith has been nominated to be U.S. circuit judge for the fifth circuit. Mr. Smith has served since 1984 as city attorney for Houston, TX, where he formerly served as chairman of the city's Civil Service Commission. From 1973 to 1984, the nominee practiced with a major Houston law firm, specializing in litigation. Mr. Smith is 41 years old, and holds undergraduate and law degrees from Yale University. He is apparently well regarded within the legal community and by civic leaders in the Houston area. A majority of the American Bar Association's Standing Committee on the Federal Judiciary rated him qualified for the position to which he has been nominated, while a minority found him not qualified.

Mr. Smith's nomination was considered at a hearing of the Judiciary Committee on July 21, at which I presided. After being introduced by Senator GRAMM, the nominee was questioned concerning several topics. He was asked about derogatory remarks he made in the past concerning the International Women's Year Conference held in Houston in 1977, and about derogatory comments about the League of Women Voters which appeared in a political newsletter distributed under his supervision. Mr. Smith testified that while he did not retract his comments at the time, he has subsequently apologized for them, and now disavows them. He also discussed his record with regard to women's rights in the municipal positions he has held in Houston. The nominee was examined concerning a motion he filed on behalf of the city of Houston seeking the recusal of a black Federal judge in a voting rights case on the ground that she was a member of the class the plaintiffs sought to represent. He was also asked about constitutional interpretation and judicial activism.

Following the hearing, the committee addressed written questions to the nominee concerning his remarks about the International Women's Year Conference and the League of Women Voters; about the personnel practices he followed in the Houston city attorney's office; about his litigation experience; and about his ties with political action committees. His responses were satisfactory.

Speaking only for myself, I would offer the following comments on two issues raised by this nomination. First, Mr. Smith's remarks concerning the delegates who gathered in Houston, under the sponsorship of Federal Government, to discuss the status of women's rights were certainly distasteful. While Mr. Smith admitted that he was quoted accurately and in context in newspaper reports on these remarks, he did state in mitigation that these comments were an "unfortunate afterthought" to an extensive speech on other topics. More importantly, he has repeatedly disavowed and apologized for the remarks, and has since conducted himself in a manner that has convinced many observers, including some of the targets of his ill-conceived remarks, that he harbors no prejudice against advocates of women's rights. Under all the circumstances, I believe it is reasonable to view these remarks as an unfortunate but isolated incident that should not disqualify Mr. Smith from consideration for the Federal bench.

The second issue concerns the nominee's litigation experience. In his 13 years in private practice, Mr. Smith was involved in several pieces of complex litigation, and he supervises litigation in his current position. However, he has personally tried to verdict only three minor cases, and has never argued a case before the fifth circuit court of appeals, to which he has been nominated, although he has spent his entire legal career in practice within the geographical jurisdiction of that court. Indeed, the record reflects that the nominee has very little experience of any kind in appellate argument, which will be the staple of this work if he is confirmed.

I am not prepared to conclude that Mr. Smith's litigation experience is insufficient for favorable action on his nomination, but I am concerned by the gaps this record presents. The testimony of several nominees before the Judiciary Committee this year has underscored the importance of extensive trial and appellate experience for success as a Federal appellate judge. The fact that the Senate has confirmed appellate judges with even less experience in full trials and appellate oral advocacy should not prevent us from noting that this nominee does not appear to be exceptionally well qualified in this area.

Second, Rodney S. Webb has been nominated to be U.S. district judge for the district of North Dakota. The nominee has served since 1981 as U.S. attorney for the same district. Previously, he spent 22 years in a general private practice in Grafton, ND, where he also served in part-time roles as municipal judge, prosecutor, and North Dakota Special Assistant Attorney General. Mr. Webb is a 52-year-old graduate of the University of North Dakota, and received his law degree from the same institution. He is generally well regarded by his peers, and was rated qualified by the ABA.

Mr. Webb's nomination was considered at a hearing on October 26, at which Senator HEFLIN presided. The nominee was questioned on the following topics: his service as counsel to a State institution for the mentally handicapped; prosecutions resulting from the current crisis in North Dakota agriculture; prosecutions on Indian reservations, including one which presented issues of the free exercise of religion; his response to a confrontation in which a U.S. marshal was killed by a tax protestor; and the role of precedent.

Following the hearing, the committee directed extensive written questions to Mr. Webb concerning a variety of allegations that had been brought to the committee's attention by several present and former North Dakotans. The topics included Mr. Webb's activities as special assistant attorney general for the Grafton State School; allegations of improprieties in the administration of an estate whose personal representative was represented by Mr. Webb while he was in private practice; and several matters concerning Mr. Webb's conduct, or the conduct of his subordinates, since he has been U.S. attorney. Subsequently, further allegations came to the committee's attention, further interviews were conducted, and the allegations were reviewed with the nominee in a telephone interview. An extensive memorandum concerning the committee's investigation of more than a dozen such allegations was circulated to committee staff.

In short, the committee's investigation of this nomination was unusually extensive, because we received an unusually large number of allegations from a variety of sources concerning different aspects of the nominee's record. While many of these allegations were resolved in favor of the nominee, some of the complaints remain somewhat troubling. Several attorneys involved in criminal defense work told us of incidents which raise the question whether the nominee's zeal to obtain convictions may have sometimes overpowered his responsibility to see that justice is done. His role in the criminal investigation of an employee of the State institution for the mentally handicapped which he represented is still unclear. And some allegations about intemperate remarks and other incidents growing out of his representation of the Federal Government still give rise to concern.

Viewing the record as a whole, however, it is not clear that these allegations establish a pattern of recent improper conduct that would be sufficient to disqualify Mr. Webb from consideration for this nomination. The allegations must be placed in the context of the many favorable comments by knowledgeable observers that have been brought to the committee's attention. As I have noted, the committee reviewed the results of extensive investigations into these allegations, and concluded that the nomination should nevertheless be reported favorably to the full Senate.

Those citizens who brought these matters to the attention of the committee should be aware that they were thoroughly investigated and considered. The committee always benefits from having the perspectives of those who know the nominee's record first hand. Such comments contribute substantially to the committee's ability to make a reasoned and balanced recommendation on each nomination.

Mr. President, all three of the nominations reported by the Judiciary Committee this week are for Federal judicial posts that have been vacant for more than a year. In fact, the seat on the fifth circuit to which Jerry Smith has been nominated has been vacant since its creation on July 10, 1984, nearly 3½ years ago. Senators should be aware that although the administration waited 35 months before nominating Mr. Smith, it has taken the Judiciary Committee about one-sixth as long to investigate, hear and report the nomination. Similarly, in the case of the North Dakota vacancy, more than two-thirds of the vacancy period is attributable to the delay in the executive branch before Mr. Webb was nominated. In the case of the third nominee, Kenneth Conboy, the vacancy in the southern district of New York existed for 22 months before nomination; the committee has acted on the nomination within about 6 weeks of receiving it. In all, the Senate has acted six times faster in carrying out its role in the advice and consent process than the President has acted in carrying out his responsibiity to nominee candidates to fill these three vacancies.

This year, the Judiciary Committee has reported to the Senate 50 Federal judicial nominations—nearly three-quarters of all judicial nominations referred to the committee. Only one of these 50 nominations—that of Judge Bork—has been rejected by the full Senate. In its work this year, the Judiciary Committee has set a valuable precedent for thorough, tough but fair examination of nominees to the Federal courts. While the committee will be reporting in more detail to the Senate on our processing of judicial nominations, I believe that the new approach to the Senate's constitutional duty to advise and consent to judicial appointments has been successful, and has helped to give the American people a greater assurance of a competent, effective and independent Federal judiciary.●

FORMAL NOTIFICATION

PROPOSED ARMS SALE

● **Mr. PELL.** Mr. President, section 36(b)(1) of the Arms Export Control Act requires that Congress receive formal notification of proposed arms sales under the act in excess of $50 million, or, in the case of major defense equipment as defined in the act, those in excess of $14 million. Upon receipt of such notification, the Congress has 30 calendar days during which the sale may be reviewed. The provision stipulates that, in the Senate, the notification of proposed sales shall be sent to the chairman of the Foreign Relations Committee.

In keeping with my intention to see that such information is available to the full Senate, I ask to have printed in the RECORD the notification I have received.

The notification follows:

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, DC, December 18, 1987.

In reply refer to: I-17401/87ct.

Hon. CLAIBORNE PELL,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 88-08, concerning the Department of the Navy's proposed Letter(s) of Offer to Israel for defense articles and services estimated to cost $62 million. Shortly after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

CHARLES W. BROWN,
Director.

[TRANSMITTAL NO. 88-08]

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act

(i) Prospective Purchaser: Israel

(ii) Total Estimated Value:

	Millions
Major defense equipment [1]	0
Other	$62
Total	62

[1] As defined in Section 47(6) of the Arms Export Control Act.

(iii) Description of Articles or Services Offered: Joint development, integration and coproduction of a Night Targeting System (NTS) (40 NTSs for the Government of Israel, 80 NTSs for the U.S. Government (USG)) for use in AH-1 series Cobra helicopters owned by both of these governments. This sale will also provide five NTS prototypes, CADRE training, support equipment, technical assistance, spare and repair parts.

(iv) Military Department: Navy (LDU)

(v) Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid: None.

(vi) Sensitivity of Technology Contained in the Defense Articles or Defense Services Proposed to be Sold: None.

(vii) Section 28 Report: Case not included in Section 28 report.

(viii) Date Report Delivered to Congress: December 18, 1987.

POLICY JUSTIFICATION

Israel—Joint Development, integration and coproduction of a Night Targeting System

The Government of Israel (GOI) has requested the purchase of joint development, integration and coproduction of a Night Targeting System (NTS) (40 NTSs for the GOI, 80 NTSs for the U.S. Government (USG)) for use in AH-1 series Cobra helicopters owned by both of these governments. This sale will also provide five NTS prototypes, CADRE training, support equipment, technical assistance, spare and repair parts. Israel's one-third share of the research and development and production is estimated to be $62 million.

This sale will contribute to the foreign policy and national security of the United States by helping to improve the security of a friendly country which has been and continues to be an important force for political and military stability in the region.

This Night Targeting System (NTS) will allow the Israel Air Force (IAF) AH-1S Cobra helicopters to attack targets at night and in smoke or haze. These NTSs will increase the effectiveness of the IAF by providing capability for their helicopters to attack advancing enemy armored vehicles at night. Similar benefits will be available for U.S. Marine Corps AH-1W attack helicopters. This program is expected to lower acquisition costs of NTS for the United States by utilizing GOI's early development of this defense article and through efficiencies resulting from this cooperative effort. Israel will have no difficulty absorbing this night targeting system into its armed forces.

The sale of this equipment and support will not affect the basic military balance in the region.

The prime contractor will be TAMAM Precision Instruments Industries, Division of Israeli Aircraft Industries Limited, of Yahud, Israel.

Implementation of this sale will require assignment in Israel of two additional U.S. Government personnel for 5 years and four contractor representatives for 5 years.

There will be no adverse impact on U.S. defense readiness as a result of this sale.●

DR. JERRY C. LEE

● **Mr. HARKIN.** Mr. President, I raise today together with my distinguished colleague from Connecticut, Senator WEICKER, to pay tribute to Dr. Jerry Lee, the outgoing president of Gallaudet University. Dr. Lee, who will be returning to the corporate world effective January 1, 1988, has taken a progressive stand on assuring quality programs within this fine institution. His insight and commitment have been an important component in the educational service system for hearing-impaired persons of this country. The contributions Dr. Lee has made are well known and a source of great pride for both Gallaudet and this Nation.

Mr. President, I quote from a "Dear Colleague" letter written by the board of trustees of the university:

> The trustees recognize Dr. Lee's numerous and impressive contributions to broadening the mission and scope of Gallaudet. His demonstrated ability to make hard and significant decisions in time of budget restraints, while improving the quality of programs and services, has received recognition from a variety of constituencies, including leaders of our country. Moreover, it was through Dr. Lee's leadership, perseverance, and determination that Gallaudet acquired university status in October 1986. President Lee's performance has been exemplary and his many accomplishments are engraved in the history of this special institution. We will miss him.

Those of us who have had close relationships over the years with Gallaudet, and have known the men and women from our States who have benefited from its liberal arts educational programs, can take great pride in all that Gallaudet means to this Nation, as well as its international reputation.

Senator WEICKER and I well know, both from our professional responsibilities as well as our personal experiences, the challenges facing persons with disabilities, including deaf and hearing-impaired individuals. We know how significant research in language and communication as well as cultural accommodations, training, and liberal arts education can be in enhancing the quality of life for such individuals. Moreover, Dr. Lee has succeeded in advocating the use of new technology as a means of providing greater educational opportunities. He has established degree programs in the advanced study of gerontology, speech-language pathology with an emphasis on deafness as well as a school of management. He has also demonstrated the need to ensure extracurricular activities at Gallaudet, which include the restoration of Gallaudet's football team.

Dr. Lee's dedication has guided him to strive for quality and excellence in the education of the deaf and hearing impaired. During a time of fiscal restraint, Dr. Lee has demonstrated his ability to operate the university efficiently, by making the most out of available resources. While his resignation will be a loss to Gallaudet, his tenure has set new goals for achieving educational excellence for persons with hearing disabilities. We wish him every success in his future endeavors.●

JOINT COMMUNIQUE OF EUROPEAN AMERICAN BUSINESS ROUNDTABLES

● Mr. BENTSEN. Mr. President, recently the Business Roundtable and the Roundtable of European Industrialists issued a joint communique confirming the commitment of these two groups to the preservation of an open and stable international environment for trade and investment. The communique emphasizes the importance of the Uruguay round in helping to achieve this objective. I bring the joint communique to the attention of my colleagues because it highlights both the importance of the General Agreement on Tariffs and Trade [GATT] negotiations to the international business community and the important role that the international business community can play in the GATT negotiations. The joint communique was signed at a meeting in Europe on November 12, 1987. James D. Robinson III, the chairman and chief executive officer of American Express chaired the U.S. delegation and Pehr Gyllenhammar, the chairman and chief executive officer of Volvo, chaired the European delegation.

This communique, coming as it does at the very beginning of the negotiation, shows that business community support in both Europe and the United States exists for the Uruguay round. Obviously, however, this important effort cannot go forward without approval of trade negotiating authority in the United States. Moreover, I take it from the communique that there is a feeling of urgency about the negotiation in the business community on both sides of the Atlantic. This should encourage all of us in Congress and the executive branch to move as quickly as possible next year with enactment of the trade bill now pending in conference in order to assure that this communique can be implemented at an early date.

I would also like to note that at the same time the GATT negotiations are underway in Geneva, the European Community has embarked on an important initiative to eliminate all of its internal trade barriers by 1992. This initiative is as significant to U.S. companies as it is to European companies. We hope that the European Community's efforts will result in the opening of European markets to international trade and investment.

The joint communique and list of attendees at the meeting follow:

JOINT COMMUNIQUE

The meeting of the Roundtable of European Industrialists and the Business Roundtable on international trade took place at a critical time for the world economy due to imbalances which have led to instability in world financial markets.

Unless these imbalances are addressed quickly and decisively, world economic growth could be adversely affected.

Leadership in national economic and fiscal policies, as well as international policy coordination, are essential to correct these imbalances, strengthen confidence, and thereby maintain international stability. All countries share in this responsibility.

In the current economic environment, strengthening the GATT system is more important then ever.

Since World War II, trade liberalization has acted as a powerful force for world economic growth. Now the multilateral trading system is under severe strain.

Countries are pursuing more nationalistic trade policies, some of them reminiscent of the 1930s. Due to slower economic growth, worsening international trade and financial imbalances, and persistent and serious unemployment, pressures are mounting in many countries to protect national markets by means of trade restrictions or subsidies. Heightened global competition and the need for traditional industries to make the transition from old to new technologies are contributing to these pressures.

These developments are of serious concern to the business community. Economics have become highly interdependent, with the result that national policies inevitably have international consequences. Businesses themselves have also become more interdependent, forming international alliances and establishing markets and production facilities around the world. As a result, the business community has an important stake in maintaining an open trade and investment system.

Today's international economy is qualitatively different from that of a decade ago:

In a more interdependent and multipolar world, the economic leadership of the United States is no longer unchallenged. Europe is not yet united politically and economically, while Japan must now face a readjustement of its economic growth strategy.

International capital flows now dominate merchandise flows, complicating the problem of economic management and requiring greater economic policy coordination.

The enormous volume of capital flow—much of it short-term and therefore highly volatile-generates exchange rate volatility, which distorts international trade and investment flows.

The newly industrialized countries, which have become significant partners in international trade and investment, are not yet fully integrated into the discipline of the multilateral trading systems.

Third World debt continues to place a major constraint on world trade and to pose a threat to the stability of the international monetary system.

In the face of these dangers, it is imperative that business contribute to the preservation of an open and stable environment for trade and investment. Only increased access to world markets will ensure sound economic growth. Business needs firm, predictable rules for international trade and credible, workable mechanisms for resolving trade disputes.

It is our firm belief that the Uruguay Round of multilateral negotiations currently taking place within the General Agreement on Tariffs and Trade (GATT) offers a significant opportunity to reform and strengthen the multilateral trading systems. Because the business community has so much at stake, it must play an active role to ensure the successful outcome of these negotiations. Business has a responsibility to work for open trade abroad and to resist protectionism at home. Achieving a more open trading system will require broad support from a cross-section of the international business community.

The institutional processes of the GATT, which is forty years old this year, need to be reformed and strengthened, particularly in the area of dispute settlement. Inadequacies in the present system have encouraged governments to sidestep dispute settlements processes in favour of bilateral or even unilateral action. The most serious forms of trade restraint in recent years have been safeguard actions that circumvent GATT discipline.

In addition to these institutional problems, there are important sectors that are not yet covered by GATT rules, despite their importance in international trade. Services, intellectual property, and investment need to be incorporated into the GATT framework, and sectors that are largely exempt from coverage, notably agriculture and textiles, must also be subject to GATT discipline and liberalization.

In conclusion, The Business Roundtable and the Roundtable of European Industrialists express strong support for the Uruguay Round negotiations, we call on our governments and negotiators to abide by the commitments made in the Ministerial Declaration of September 1986. The negotiations should strive to eliminate the restrictive measures that are destabilizing the trading system and restricting the global activities of the international business community. We look forward to working with our governments and with each other to develop positive proposals to achieve this goal.

EUROPEAN ROUNDTABLE ATTENDEES

Pehr Gyllenhammar, Chairman & CEO, AB Volvo, Chairman, European Roundtable.

Umberto Agnelli, Deputy Chairman, Fiat SpA.

Jean-Louis Beffa, President Directeur General, Saint Gobain.

Viscount Etienne Davignon, Chairman, Sibeka (Societe Generale), Former Commissioner of Industry, EEC.

Wisse Dekker, Chairman, Supervisory Board, Philips Industries.

BUSINESS ROUNDTABLE ATTENDEES

Rand Araskog, Chairman & CEO, ITT.

Robert Malott, Chairman & CEO, FMC.

James D. Robinson III, Chairman & CEO, American Express.

David Roderick, Chairman & CEO, USX.

Edson Spencer, Chairman, Honeywell.

Henry Wendt, Chairman & CEO, Smithkline Beckman.●

ROBERT DESAUTELS

● Mr. LEAHY. Mr. President, today I rise to pay tribute to a good friend, Robert Desautels, who through perseverance has built Vermont's largest industrial food wholesale business, the Independent Food Co.

Recently, the Burlington Free Press wrote a fine article detailing exactly how Robert became Vermont's industrial food king. The road to success was certainly not always smooth. So that all Senators and their staffs may read about the efforts of this remarkable entrepreneur, I ask that this profile be printed in the RECORD.

The article follows:

FOOD FOR ALL REASONS—ROBERT DESAUTELS BUILDS VERMONT'S LARGEST FOOD WHOLESALER

(By Debbie Salomon)

Whoever said death and taxes are life's only certainties was talking on a full stomach. Morticians, tax collectors, everybody eats.

"Food is a fantastic, dynamic business—in its entirety, the largest industry in the country—with great entrepreneurial opportunity," said Robert Desautels Sr., 47, president and owner of Independent Food Co., Vermont's largest industrial food wholesaler.

The numbers bear Desautels out. According to the National Restaurant Association, food service industry sales alone—excluding agriculture—will reach $213.5 billion in 1988.

"Americans are born to take food for granted. Even during economic downturns, our business wasn't affected proportionately. We kept growing. That's our motto—Grow or go!" said Desuatels.

Desautels' personal business history includes some grow and some go, a 20-year route from a meat business that failed in five weeks to a diversified company with four divisions, 90 employees, a 100,000-square-foot facility, grossing $30 million a year. "But understand that in food, numbers are big, profit margin low," he said.

"Meat is the center of the plate, and central to our business," said Robert Ley, director of sales. "We're aggressive in responding to special demands, which once included procuring elephant and rhino meat for a hotel in Rutland." "Meat" and "aggressive" are the words most frequently used to describe the operation, from its president to warehouse employee John Provost.

Desautels' career began in meat sales for Swift & Co. "Theirs was my only job offer when I graduated from UVM in 1962." He grabbed it—the young man already had a wife and two children. Swift then had 44 New England units; now, only four. Swift moved Desautels around, finally to Boston as district manager of provisions. He collected contacts en route.

Swift was grooming Desautels for headquarters in Chicago. He demurred. His Vermont roots superceded ambition for company advancement. "Family considerations brought me back . . . but I had business prospects," he said.

Poor ones, it turned out. Plans for a meat purveying business in Rutland, in partnership with former Swift employees, fizzled financially before it opened, leaving him with no fallback and psychologically ready to return to Burlington."

Desautels was in for a jolt. His contemporaries had become "big shots buying apartment houses."

"The entire state economy had changed. Young people no longer had to leave Vermont to find opportunity, plus the quality of life here was superior."

With a $5,000 credit union loan obtained by his younger brother Gerald, now an attorney, he opened Metropolitan Meat Supply in Burlington. Five weeks later, it folded. "Chalk it up to inexperience. Luckily all I lost was 30 pounds," he said.

HIs next food foray was a pizza and grinder shop, opened in 1968 with Kerry Karkos. "I had no money. I'm not from a money family. My father was a mailman, and part-time employee at McKenzie Packing Co. The Pizza King venture began and ended with a handshake," he said. Karkos incorporated Pizza King into Kerry's Kwik Stop, his existing business.

During this period Desautels served one term, 1969–70, in the Vermont House of Representatives as a Democrat, returned to Swift, and worked for a restaurant supply house out of Boston, adding further contacts to his list.

In June 1970, a more experienced, business-wise Desautels, armed with his contact list and two silent partners, established Independent Beef Co.: 10,000 square feet in Fort Ethan Allen, four employees, wholesaling meat to restaurant accounts. Private funding and a small SBA loan stabilized the business.

By the end of the year, the company grossed a "fantastic" $500,000. "We had no direct competition. We were the first to target white-tablecloth restaurants"

Desautels hit a time when Vermont's restaurant scene was expanding and becoming more sophisticated. The company's growth followed that of the industry, expanding routes geographically and product lines at home base. "Our method was to acquire existing companies with their employees, their customers, their expertise, instead of starting divisions internally," he said.

W.S. Tilton of St. Johnsbury (groceries), Champlain Valley Fruit Co. and Greg Restaurant Equipment and Supplies of Burlington were purchased, creating Independent Food Co. Champlain Valley Fruit, including a beverage business (Champlain Valley Distributing), were later sold to longtime partner and associate Dick Lyford. Independent Beef, which accounts for 16 percent of total volume, became one of four divisions. As a one-stop supplier, IFC moved from "the center of the plate" to the periphery, and beyond. Frozen foods, fresh produce, dishes and cutlery, paper products, tables, chairs, pots and pans, stoves and refrigeration, sanitary supplies, even an institutional kitchen designer to put the pieces together, are part of the IFC service package.

Desautels says it's easy now to forget the bad times, like 1980:

"We were nearly on the rocks. Expansion had doubled our payroll and overhead, but business didn't keep pace. We suffered computer-oriented operational problems. We had to get a counsultant in to organize our huge facility on South Champlain Street. It took good, key people—Bob Peterson, our director of operations, and Bob Ley, sales manager—working seven days a week to pull out of it."

Through aggressive bidding, the company landed several anchor institutional accounts, like Beverly Enterprises of California, which operates nursing homes in New England. This account increased product lines further, to include special diet foods. Warehousing for state surplus commodities—cheese, butter, ground beef—turned empty space into revenue. Independent Cash & Carry, a retail market fronting the warehouse, opened in 1981, providing a high-visibility convenience outlet to residential and commercial customers, or caterers who needed daily fill-in orders.

Cash & Carry's manager, Bruce Macmillan, said the company is young, innovative, and sales oriented. "Our emphasis is educating the customer as to what they can do with our products," he said. "Our sales staff contacts every account every week." Computer backup enables sales staff to analyze a customer's requirements, then move in for the sell.

Despite IFC's success with area public schools and institutions ("The inmates at the Chittenden Community Correctional Center get hungry, too"), Desautels says their backbone is a network of smaller customers throughout Vermont, New Hampshire, Massachusetts and Connecticut. Route expansion targets a thickly populated destination, such as Albany, N.Y., picking up customers along the way. Maine is excluded, for reasons of inaccessibility and sparse population.

"A local company's 'we're here' concept" helps, said Desautels, who bids head-to-head against gigantic Sysco, a public company out of Houston whose yearly volume approaches $3 billion. As president of the National Association of Meat Purveyors, Desautels observers methods, trends, and proven successes in other markets, scaling them down to his.

At IFC, a customer can buy one onion, or store seven million pounds of cheese for aging. It is now a family enterprise. Three of Desautels' four children have been promoted from entry-level summer jobs to positions in sales, and meat processing. His wife Joyce is his sounding board: "I put him through school, but afterwards he wanted me to stay home and raise the kids."

"I have nice kids," smiles Desautels, with satisfaction.

THE DESAUTELS FILE

Born: July 16, 1940, Colchester.

Education: Bachelor of arts, economics, University of Vermont, 1962.

Family: Wife Joyce (Guyette), a former Ward 1 Democratic alderman, 1975-82, and only woman to be president of the Board of Alderman. Children: Rob, 27; Dan, 24; Mary, 22; Kristan, 19.

Professional recognition: Vermont Small Businessperson of the Year Award 1977, given by the U.S. Small Business Administration; president, Meat Purveyors of America.

Elected office: Vermont House of Representative, D-Burlington, 1960-70.

Interests: Skiing, golf, grandchildren.●

DRUG-FREE SCHOOLS AMENDMENTS

● Mr. DECONCINI. Last year Congress and the President finally got serious about waging a war against the drug epidemic in this country with the passage of the Anti-Drug Abuse Act of 1986. This $1.7 billion piece of legislation provided funding for enforcement, interdiction, treatment, and education. And we all know, curbing drug use depends on two things—reducing supply and cutting demand.

The Department of Education received a substantial portion of the antidrug funds in order to establish drug education programs in our schools. In fiscal year 1987, the Department spent $200 million on drug education, a huge increase over the $3 million spent in fiscal year 1986. The Department of Education is also expected to spend approximately $200 million in both fiscal year 1988 and 1989.

This week the Senate took an important step forward in helping to provide assurances that the drug education funds administered by the department of education are not abused. But spent wisely on effective drug education programs. On Tuesday, the Senate passed, by unanimous consent. The White House Conference on Library and Information Services bill. Included in this bill is an amendment reauthorizing the Drug-Free Schools and Communities Act. Senator D'AMATO and I have been concerned that with the significant increase in drug education funds, an improvement in accountability of those funds was needed. We attached an amendment to the Drug-Free Schools Act that will provide the Federal and State departments of education with increased accountability to better measure the drug education programs that have been initiated and to determine whether the programs are working effectively. Our amendment would also allocate drug prevention funds to local school districts on the basis of their current enrollment, rather than old 1980 census data, and would give the Secretary of Education the ability to use program funds for evaluation.

We cannot afford to provide ineffective drug education programs in our schools. The following statistics on drug abuse in this country provide the evidence.

Over half, 58 percent, of all America's youth use an illicit drug at least once before they finish high school, and 38 percent have used drugs in addition to marijuana.

At least 1 out of every 25 high school seniors smokes marijuana on a daily basis.

About 1 in 20 seniors drinks alcohol daily. Approximately 37 percent have had five or more drinks in a row on at least one occasion in the past 2 weeks.

Cocaine had been tried at least 17 percent of seniors in the class of 1986.

Approximately 82 percent of the seniors acknowledged the harmful effect of using cocaine regularly, an increase of 12 percent since 1979, but only 34 percent see much risk in experimenting with it.

The facts are alarming. We must provide solid, effective, drug education programs in our schools and we must do it now. The Senate has done its part to ensure this occurs.●

IOWA THIRD GRADERS JOIN FIGHT AGAINST RIVER BLINDNESS

● Mr. HARKIN, Mr. President, in recent weeks several of my colleagues have risen to pay tribute to Merck & Co. for donating its new drug, Mectizan, to the World Health Organization for combating river blindness. River blindness is a debilitating and disfiguring disease affecting millions of people in remote sections of the Third World. I, too, would like to offer high praise to both Merck and the World Health Organization for this unique collaborative effort to reach the millions of river blindness victims, many of whom might otherwise be left without treatment.

Further, I would like to also express my pride in, and gratitude to a group of third graders in Central City, IA, who read in the Cedar Rapids Gazette about Merck's efforts to reach these unfortunate men, women, and children and wanted to help. Donating part of their allowances, these schoolchildren raised $38.32 which they sent to Dr. Roy Vagelos at Merck as their contribution to "help pay for the medicine and for shipping it to the poor people."

This humanitarian gesture has not only warmed the hearts of Dr. Vagelos and many others at Merck, but it has also made this Senator tremendously proud of these young Iowans.

I would like at this time to enter a copy of the letter into the RECORD as well as the names of these 20 kind and generous third graders.

The letter follows:

CENTRAL CITY SCHOOL,
Central City, IA, November 24, 1987.

DR. P. ROY VAGELOS,
Merck, Sharp and Dohme, Division of Merck & Co., Inc., West Point, VA.

DEAR DR. P. ROY VAGELOS: We are Central City, Iowa, Third Graders. We read the article about River Blindness in the Cedar Rapids Gazette.

We feel very bad that some people in West Africa and Latin America are getting blind from the worm larvae that the flies spread causing itching, weight loss, ugly skin bumps and finally blindness.

We think that you are very nice because you are giving the medicine away free to the poor people in poor countries.

We would like to help pay for the medicine so we brought some of our allowances to school.

We also told the other classrooms about River Blindness and about the Merck Drug Company giving the medicine away free. Some of the boys and girls in the other rooms donated some money too.

We are sending a check for $38.32 to help pay for the medicine and for shipping it to the poor people.

Thank you for making and sending the medicine so that people will stop getting River Blindness.

Your friends,

Nichole Aldrich, Derek Anderson, Angela Chesmore, Crystal Dirks, Sandy Engen, Mike Fleming, Nick Franck, Jeremy Hagerman, Andrea Lawrence, Laura LeClere, Andy Markle, Jill McGovern, Chandra Meeker, Jeremy Oliver, Amanda Overett, Clint Pflughaupt, Nathan Rauch, Jenny Rickles, Crystal Silver, and Serena Simmen.●

TURKISH REFUGE

● Mr. BOSCHWITZ. Mr. President, for centuries, the Ottoman Empire and its modern descendant, Turkey, has provided a haven for Jewish refugees fleeing persecution. In 1492, for example, when the Jewish population of Spain was expelled during the Spanish Inquisition, the Ottoman Turkish sultan offered refuge and security in the Empire. We are approaching the 500th anniversary of the acceptance of these Jews—an event that will be celebrated in Turkey. In more recent times, we remember with gratitude that Turkey received tens of thousands of Jews escaping Nazi tyranny.

The World Sephardi Federation—made up primarily of the descendants of Jews expelled from Spain—recently met in Jerusalem and took note of the

Turkish contribution in accepting persecuted Jews. The Federation sent a letter to the Prime Minister of Turkey, and I ask that it be printed in the RECORD.

The letter follows:

MR. PRIME MINISTER: The World Sephard Federation, which held its congress in Jerusalem from November 30 to December 2, 1987, wishes to express to you its recognition and deep gratitude following the plenary session on Jewish Communities in Peril throughout the world. This gratitude is addressed also to the Turkish people.

We have not forgotten Turkey's policy of according persecuted Jews from all over the world refuge and hospitality for centuries.

Please accept, Mr. Prime Minister, the assurances of my high consideration.

ROGER PINTO,
Member of the Presidium, WSF, President of the Commission, Jewish Communities in Peril.●

SUCCESS OF AMALGAMATED BANK

● Mr. DIXON. Mr. President, this Monday's Wall Street Journal contained an article entitled "How a Union Bank Survives in Banking by Pushing Services Over Profits." The article describes the success of the Amalgamated Bank of New York. A bank, as the article points out, which is dedicated to serving the consumer and to providing quality financial service to American labor. The Amalgamated is able to achieve these noteworthy goals and still remain a strong player in the fiercely competitive New York market. It is nice to see a bank with such a human face do so well. I ask that this article be printed in the RECORD.

The article follows:

[From the Wall Street Journal, Dec. 14, 1987]

HOW A UNION SURVIVES IN BANKING BY PUSHING SERVICES OVER PROFITS—AMALGAMATED BANK PITCHES FREE CHECKING AND SHUNS RISK, THEN NEEDLES RIVALS

(By Robert L. Rose)

NEW YORK.—When Amalgamated Bank of New York introduced a free checking account last fall, it wasn't content to quietly inform its customers. The bank bought an ad opposite the editorial page in the New York Times and asked: "Why is free checking only for those who can afford to pay for it?"

The bank's inclination to tweak its big corporate rivals isn't surprising. Amalgamated is a union bank, founded in 1923 by the Amalgamated Clothing Workers and still owned by the 284,000 members of its seccessor, the Amalgamated Clothing and Textile Workers.

Heralded as the wave of the future by labor leaders earlier in the century, labor banking was a flop. Out of some 36 labor banks founded in the 1920s, only Amalgamated in New York and Brotherhood Bank & Trust in Kansas City, Kan., survive as labor-owned institutions.

Now, with some labor experts predicting a comeback in union membership and influence, Amalgamated provides one of the oldest examples of a kind of labor-owned business that may multiply. In the past several years, about half a dozen new labor banks have opened, and more are on the way. Like the clothing workers who started Amalgamated, other unions see a chance to own a bank friendly to their members' needs and find new investment outlets for their growing assets.

A ROGUE BANK

Amalgamated survived largely because its union owner insisted on conservative banking and professional management. In contrast, the Brotherhood of Locomotive engineers set up banks across the country during the 1920s and quickly branched into securities and even Florida land development. Losses piled up, and the union eventually charged four of its officers with mishandling funds. By 1931, the engineers were out of the banking business.

Amalgamated has also benefited from being something of a rogue bank, loudly touting a consumer ethic and often de-emphasizing profits in favor of services. Its free checking account is only the latest evidence: Amalgamated claims to have pioneered the unsecured installment loan in the 1920s, lending money to borrowers with no collateral but a steady job. Three times a survey has named it the top bank for consumers in New York City. "They give me the best treatment," says Mike Garcia, an officer of the Leather Goods, Plastic and Novelty Workers' Union, who says he banks at Amalgamated because of its labor roots.

OVERLAPPING CONSTITUENCIES

Amalgamated has reported 44 consecutive years of profit and has grown to $1.47 billion in assets by serving two overlapping constituencies: middle-class consumers and organized labor. Now, the union-owned bank is exploring other ways to use its labor ties and financial muscle to expand in new areas.

Earlier this year, Amalgamated teamed up with Metropolitan Life Insurance Co. in a proposal to offer a comprehensive money-management program for the AFL-CIO's 14.5 million members. On a smaller but no less innovative scale, Amalgamated is helping three New York locals of the Bridge, Structural and Ornamental Iron Workers union use some of their pension money to finance below-market, no-points home mortgages for their members. The bank is considering expanding the service to other unions, many of which have retirement trust funds under Amalgamated's care.

The recent mini-resurgence of labor banking is led by unions in the construction trades. Massachusetts members of the carpenters' union opened a Boston bank in September, and California carpenters plan to open a separate institution next year. Two-year-old Union Savings Bank in Albuquerque, N.M., another construction-trades bank, uses its $10 million in assets for loans to small businesses and other customers.

"I think there's been a realization that we should be generating jobs with our own money wherever possible," says Anthony Ramos, the retired former leader of the California State Council of Carpenters.

Amalgamated's loud voice on consumer issues is partly a marketing ploy to set itself apart from the pack. As other banks cater to big depositors and raise fees for small accounts, Amalgamated promotes treats for the little guy, such as its free checking and low-interest personal loans.

Highly conscious of its labor roots, Amalgamated also likes to take shots at the establishment banks. In one of its radio commercials, a stuffy banker tells a customer he needs a password to sit down. "The name of any Ivy League school will do," says the banker. "P.S. 188?" asks the customer, naming the public school he attended. In other ads, comedians Jerry Stiller and Anne Meara imitate rank-and-filers with names like Rocco and Blanche, and pitch "America's Labor Bank."

"if we give [the industry] an uncomfortable feeling for a couple of hours, it will be worth it," concludes Edward M. Katz, Amalgamated's president and chief executive.

The bank's five-story brick headquarters, which it shares with its union owner, overlooks New York's Union Square, the site of labor and political rallies earlier in the century. Back in the old days, Amalgamated's services even included a travel agency and foreign-exchange desk for the immigrant population that dominated the clothing workers' union. Today, customers in open shirts and work boots outnumber those in business suits. Proclaims a plaque on the lobby wall: "New York's First Labor Bank, dedicated to the service and advancement of the labor movement."

Mr. Katz, too, is quick to prove his allegiance. After ushering a visitor into his office, he flips open his suit jacket and proudly shows the union label. A soft-spoken man of 66 who started as a part-timer at the bank in 1946, Mr. Katz raises his voice when he talks about how small depositors have fared under banking deregulation. Not too well, he believes. "When you have a special industry using Uncle Sam as an umbrella in times of difficulty, don't you owe something to the public?" He asks. "What would be so wrong with having an account on which you don't make money?"

Amalgamated, though, is bucking a strong trend. A national survey conducted by the Consumer Federation of America and others found that fees for routine banking services are rising sharply for most depositors.

In some ways, Amalgamated has a lot less to offer those customers than its competitors. Small by big-bank standards, it doesn't generally offer credit cards or home mortgages. With only three branches and two newly opened automated teller machines, it lacks what many consumers want most: convenience. And in the ranks of big-league banks, Amalgamated is an also-ran, shunning such trends as interstate expansion and the hot competition for corporate loans.

"I'm not conscious of their presence" as a competitor, says Richard Ravitch, the chairman and chief executive of Bowery Savings Bank, which has about four times the assets and eight times the branches of Amalgamated. Contends another New York banking official: "If they were the best, they'd be bigger."

But what Amalgamated does have, it pushes hard, especially its reputation as a low-cost consumer bank. Last year, when an annual survey by New York State Sen. Franz S. Leichter dropped Amalgamated to No. 11 from No. 1 as the least expensive bank for New York City consumers, Amalgamated officials phoned the legislator and angrily complained. (The bank is back up to No. 2 this year.) In 1985, the Better Business Bureau of Metropolitan New York challenged Amalgamated's boast of having the lowest auto-loan rates of any bank in the city. But the bank quickly backed up the claim, the bureau says.

Amalgamated says its current 9.2% interest rate on new auto loans is still the best in the city. According to the Bank Rate Monitor, seven of the largest bank and thrift institutions in the New York City area charge an average of nearly 12.5%. On the deposit side, the bank's 6.25% annual yield on money-market accounts is a third of a point higher than the average paid by 10 big institutions tracked by the monitor.

Amalgamated also pays interest and charges no fees on savings accounts with a $5 minimum. And it is not unusual for the bank to get thank-you notes from longtime customers surprised to find the bank honored their checks—and charged no penalty—on their overdrawn accounts.

Customers' main complaint centers on what bank employees call "the conga line" that often slowly snakes its way to 23 tellers in the lobby of the main office. Still, other factors outweigh the long waits, depositors say. Edward Soorko, for example, says he moved his account to Amalgamated after Citibank bounced a check for his son's tuition—even though he covered the check with a deposit the same day.

Charles Nabelle, a dapper 82-year-old customer in a white hat and sports coat, walks 13 blocks to get to Amalgamated's Union Square office. There are plenty of closer banks, but he says he chose Amalgamated because he likes the personal attention he gets there. After cashing a $40 check, Mr. Nabelle offers a short lecture on the importance of shopping for bank services. "A poor sucker will go for Chase Manhattan as opposed to Amalgamated because Chase or Citibank is an *important* bank," he says. "That is unfortunate."

And perhaps costly. Sen. Leichter's latest survey found that a typical bank customer with $600 in checking and $1,000 in savings would earn $105 in a year at Amalgamated and lose $100 at Manufacturers Hanover Trust Co. Amalgamated, says Glenn von Nostitz, the legislative aide who oversees the survey, shows "you can give people a break and still make money."

Not surprisingly, Amalgamated has kept a close relationship with organized labor. Unions account for up to two-thirds of its $1.1 billion in deposits, and its trust department holds an additional $3.2 billion in pension and health-and-welfare funds. Amalgamated manages $1.6 billion of the trust funds, shunning stocks and corporate bonds in favor of safer government securities.

In 1973, Amalgamated officials worked over a weekend to fill out hundreds of bail checks to keep striking Philadelphia teachers out of jail. Nine years later, when the National Football League Players Association ran out of money during its strike, it turned to Amalgamated for a $200,000 loan. The players' union didn't have an account with the bank at the time, but "we did after that," says Ed Garvey, then the union's executive director.

Although neither the Amalgamated Clothing and Textile Workers union nor the bank likes to admit it, the goal of giving consumers and unions a break often conflicts with the goal of making money. But Mr. Katz has the luxury of working for owners who aren't constantly pressing for higher profits. "You make a little less," concedes Jack Sheinkman, the president of the union and chairman of the bank. "Despite that, we've done very well in terms of our return on equity and on capital," which exceed the average for banks Amalgamated's size.

That attitude makes it easier for the bankers to concentrate on another priority of the union—financial safety. The bank has few corporate customers and, as a matter of policy, turns down offers to participate with other banks in corporate lending. "I don't want to rely on my big brothers" to determine if a loan is safe, says Mr. Katz. Nor does he like to gamble on investments. Mr. Katz prefers buying U.S. government securities, and the shorter the maturity the better. "All the money's tied up in cash," jokes Howard Lee, the executive vice president and cashier.

The result is steady, if not spectacular, profits. Last year, Amalgamated earned $12.2 million, sending $7 million of that in dividends to its union owners. Government bank examiners often do double takes when they pore over Amalgamated's books. Bad loans charged off in 1986: $195,000 out of $313.5 million, far below the average for banks its size. Auto loans delinquent 30 days or more at the end of November: 11 out of 13,044.

Says William A. Goldberg, who runs the bank's personal-loan department: "We're here for the average guy—so long as we are reasonably assured he'll pay us back."●

THE SECURITIES AND EXCHANGE COMMISSION'S 1988 BUDGET

● Mr. RIEGLE. Mr. President, as chairman of the Securities Subcommittee I have worked throughout 1987 to assure that the Securities and Exchange Commission has adequate resources to fill its responsibilities at this critical time in our securities markets.

At the subcommittee's oversight hearings on the SEC's budget authorization earlier this year, it became apparent that the agency has not been permitted to keep pace with the growth in the securities industry. While the industry experienced record growth in volume and complexity between 1980 and 1987, the staff of the SEC was actually allowed to decrease by over 100 staff years. Chief executives of major securities firms urged the subcommittee to increase the Commission's budget by as much as 100 percent. The industry stressed the importance of investors' perception of fairness and integrity in the securities markets and the pivotal role of the SEC in maintaining this perception.

In response, the House and the Senate adopted S. 1452 without objection. This bill authorized the SEC's 1988 budget at about $158 million for a long overdue increase of about 30 percent over the 1987 level. The administration requested about $145 million for the agency and the Congress adopted the $158 million level in order to add back unwise reductions demanded by the Office of Management and Budget before the SEC was permitted to submit its request to Congress. Both the House and the Senate finally appropriated about $142 million for the Commission's 1988 budget. While this would have at least provided a beginning point in rebuilding the SEC, even this lower figure is not threatened in the ongoing appropriations process. In an effort to make the needed reductions in the overall budget, the SEC is now facing a funding level of $135.2 million. This restraint on the Commission is not logical; the SEC has been operating at over 100 percent profit-from-fee revenue for the past several years and is forecasted to continue to make high profits. As I have repeatedly noted, the Commission's budget could be doubled at no cost to the taxpayers.

At $135 million the agency may not even be able to sustain its 1987 level of activity much less keep pace with the historic events now occurring in the markets. SEC Chairman Ruder advised the subcommittee at a December 15 hearing that he was facing unprecedented demands on his staff from the expanding Boesky investigations of illegal securities trading and from the review of the October stock market crash. I believe that this is clearly not the time to shortchange the resource needs of the SEC—and 19 of the 20 members of the Banking Committee agree with me. We sent the following letter to the Appropriations Conference yesterday. The fact that all except one member of the committee signed this letter is compelling testimony to the pressing needs of the SEC.

The letter follows:

U.S. SENATE,
COMMITTEE ON BANKING,
HOUSING AND URBAN AFFAIRS,
Washington, DC, December 16, 1987.

Hon. ERNEST F. HOLLINGS,
Chairman, Subcommittee on Commerce, Justice, and State, the Judiciary and Related Agencies, Washington, DC.

DEAR CHAIRMAN HOLLINGS: We are writing to you in your capacity as a conferee in the ongoing effort to reach a final appropriations resolution. We know that this has been a particularly difficult ordeal this year and grateful for your efforts. We recognize that the competing stakes which you must balance in your endeavor are already great. But we feel that this one additional issue is so vitally important that we must bring it to your attention. This is to urge you to finally appropriate a Securities and Exchange Commission budget at the $142 million level passed by the Senate. As you will recall, this was already a decrease from the $145 million requested by the Administration and considerably lower than the $158 million authorized by both the House and the Senate. The SEC believes that it can begin to cope with the unprecedented demands facing the agency in 1988 only with a minimum budget of $142 million. With any lower funding the agency would face a staffing situation requiring reduction from the already strained 1987 level.

Yesterday the Chairman of the Securities and Exchange Commission, David S. Ruder, was a witness at a Securities Subcommittee hearing. Mr. Ruder described the current resource situation at the SEC in the most dire terms. Staff has been pulled away from continuing programs to support the investigations of illegal securities trading stemming from the Ivan Boesky scandal. These investigations apparently involve securities firms and traders across the industry and continue to generate a very high public profile. The SEC believes, and we agree, that the confidence and integrity of the securities markets requires the vigorous pursuit of all leads in this historic scandal and a complete resolution of the investigation and any resulting actions. It is clear that this important commitment is straining the resources of the SEC.

On top of this unprecedented investigation of trading scandals, the Commission has embarked on a complete review of the market events leading to the stock market crash last October. Again, this effort requires extraordinary staff resources draw from ongoing regulatory programs.

Finally, as some of us advised you in a letter earlier this year, it became apparent during our Subcommittee hearings on the SEC budget authorization that the Commission has been subjected to unrealistic budget levels for the last several years which have impacted the agency's ability to respond at a time of crisis in the securities industry. While the market grew at record levels in volume and complexity, the staff of the SEC was actually decreased between 1980 and 1987. Frankly, the Commission's ability to adequately execute even its routine regulatory functions was already stretched very thin before the onslaught of the October market break and the expanding securities trading scandal investigation. One of the most perplexing aspects of this situation is that the SEC is operated at an enormous profit from fee revenue. Money which should have been used to support growth in the agency to correspond with the growth in the industry has instead been turned back to the Treasury. The SEC's budget could be increased 100 percent at no cost to the taxpayers.

For these reasons we urge you to finally appropriate the $142 million funding level passed by the Senate. Based on our review of their resource level earlier this year, and our oversight of the current extraordinary market events, we agree that it is vital to meet this minimum funding level. Given the current conditions in the securities markets, it could well prove to be a shortsighted savings to reduce market oversight and regulation at this time.

Sincerely,

Donald W. Riegle, Jr., Chairman, Securities Subcommittee; Christopher S. Bond, Timothy E. Wirth, Christopher J. Dodd, Alan Cranston, John H. Chafee, Jake Garn, Ranking Minority Member; William Proxmire, Chairman; Richard C. Shelby, Paul S. Sarbanes, Chic Hecht, Bob Graham, David K. Karnes, James R. Sasser, William L. Armstrong, Ranking Minority Member, Securities Subcommittee; Alfonse M. D'Amato, Alan J. Dixon, John Heinz.●

ELUSIVE PEACE IN EL SALVADOR

● Mr. BINGAMAN. Mr. President, for the last few years U.S. attention on Central America has focused on Nicaragua. Unfortunately, our preoccupation with the situation in Nicaragua, it seems, has led many in the Government and the media to forget the ongoing tragedy in El Salvador.

On a recent visit to my hometown, Silver City, NM, the reality of continued violence and hardship in that poor Central American nation was brought to my attention in a very personal way. Phil and Kathy Dahl-Bredine handed me a letter from their 20-year old daughter, Erica, who has been working as a lay volunteer with the Sisters of Assumption in Santa Ana, El Salvador. Erica recently volunteered to go to the northern part of the country to help in the resettlement of 4,500 refugees returning from years of exile in Honduras.

Mr. President, I ask to insert into the RECORD at the end of my remarks Erica's letter describing her experiences and the conditions that hamper the resettlement of these refugees. The first-hand experiences of people like Erica who have dedicated themselves to working for peace and justice in Central America are vital to the ongoing debate on U.S. policy in the region. I hope that my colleagues will read and consider Erica's reflections. I commend her for her humanitarian work for peace and I hope that Congress will continue to work toward more constructive U.S. involvement in the Central American peace process.

The letter follows:

(Erica Dahl-Bredine—a 1983 graduate of Silver High School and a 1987 graduate of Notre Dame University—is accompanying the international church group that is trying to be a presence with the peasants who have just returned from Honduras to El Salvador after seven years of exile.

(She left Santa Ana, El Salvador, on October 20, 1987, to accompany volunteers to the War Zone in northern El Salvador, where these peasant refugees are trying to resettle.

(She is the daughter of Phil and Kathy Dahl-Bredine and writes this account to her family in Silver City, NM.)

October, 1987.

DEAR FAMILY: I'm hoping that I can send this with one of the Internationals (people from the U.S. or other countries who accompany the refugees) who may be going back to the U.S. soon. If not, it'll have to wait until I return. Like I thought, I am really out in the *campo* here. There are no bathrooms, real houses, electricity, cars, water—nothing—let alone a post office. This is really turning out to be an incredible experience.

I left Tuesday (Oct. 20, 1987) morning, 2 or 3 days after I talked with you. I got the clearance from the (El Salvador) military I needed, we drove up with letters from the *arzobispado* (archdiocese) and amazingly had no trouble getting through the road blocks. The situation here changes daily, so you never know what will happen. Two days before we left the Archbishop himself was turned back from visiting one of the repopulation sites.

We drove up first to the city of Suchitoto, which is very much a conflictive area. The city used to be a town of 25,000 people. Now there are about 7,000 and it's like a ghost town. Almost no one is in the streets except soldiers. Many houses and stores are boarded up or bombed out. It's really eerie driving through or walking around.

To get to Copapayo (our destination), you have to go through Suchitoto, then walk about a mile to the lake and take a *lancha* (small boat) about 45 minutes across to the island where Copapayo is. The lake is incredible. It's huge and beautiful, right in the middle of the hills and next to the volcano *Vasapa* where many of the massacres (by the government soldiers) occurred in 1980 and 1981.

But the lake is filled with this incredible lympha, or algae, which is really like a rubber plant. At times, half the lake is covered and you're sitting in the boat looking out and it's like you're sitting in the middle of a forest—in a boat. It's very difficult to get through, the *lanchas* are made out of trees, with men paddling them through the lympha, with forked sticks.

It's extremely rustic and takes forever when the lympha is bad. It's really an adventure, just like something you would see in *National Geographic* or something.

There are only two *lanchas* and I guess they belong to the community here or were donated. So they only go across when it's really necessary. Therefore, the people basically don't leave the island. It's really an isolated place. Also, they don't have their documents yet, so it's very dangerous for them to go into Suchitoto, for example, to shop or go to the market. I went yesterday with another International to accompany a couple of people who needed to buy vegetables for the community. That's the only way they feel safe is with an Internaitonal presence along.

That's really what we're here for—to be a sign of International presence to keep the military from bothering these people. We are spread out throughout the camp, so if they do come through we will be very visible. Every day so far, the bombers have been flying overhead, often circling the camp and the people really show their fear.

They can remember all the homes they left here. There have been a couple of sightings of soldiers down at the river a mile away where we walk to get water twice a day. But nothing serious yet.

At night in our tent, we can hear bombing and sometimes firing coming from somewhere near Suchitoto. It's really strange.

There are so many things, I could go on forever here. The people are so incredibly wonderful, you wouldn't believe it. They are so grateful for our presence because it eases their fears a bit.

Of course, when it come down to it, if they decided to bomb here, they would probably do it anyway. The real reason the soldiers have been taking out their anger on the *campesinos* for so long is because they are frustrated with the strength of the guerrillas. And the returned refugees are an even greater source of anger to them. All these people are automatically considered *comunistas.*

Let me describe things a bit here. There are about 750 people in this repopulation site. There are five sites in all. When I got here they had been here for three days. They had already set up camp, building houses of wood sticks—with plastic sheets for roofs which were donated—and dirt floors. Hammocks hang everywhere. I sleep sometimes in a hammock outside or in our plastic tent. The people really have nothing. Every family has a little plastic *champita,* a couple of hammocks, maybe two-three pots and a bag of possessions for eight or nine people—nothing more.

They came on busses with everything they had knowing only that they were coming home. Fortunately, this area has lots of trees for the wood, the hammocks and especially for the shacks, because it's so hot here in the sun.

MARIA ELENA: "OLA"

This is *"ola"* from my friend, María Elena. She is seven years old and an International in Mesa Grande, Honduras, was teaching her a few letters. She's a precious kid and very precocious. She is going to be a natural leader among her people when she grows up. She's already taught me several songs in Spanish and is a wonderful story-teller. When she begins to sing and tell a story, all the children gather around to listen.

The people are so kind, so generous, so friendly. They've been trying to do everything for us and we don't want anything . . . just to be here with them. We eat *tortillas* and rice and beans for every meal. We had fish last night, because the people were able to get a couple of hooks and some fishing lines to start fishing in the lake. We walk a mile to bathe in the river every day, and twice a day to carry water for drinking and washing. I wash my clothes along with the women on the rocks in the river. Our bathroom is the tall grass. They are building latrines, but as of yet haven't finished. This is really life in the *campo*. Nothing can be done if it doesn't exist in nature here. We go to bed around 8 or 8:30 p.m. because it's dark to do much.

These people are incredibly smart and well-organized. They have a *directiva* (leadership council) of seven people, which organizes everything—the work crews, the little clinic they've set up with a few health promoters who trained in Mesa Grande, the distribution of supplies . . . . everything. We've been meeting with this group every night just to hear about how everything is going, what problems they're having, etc.

It's really interesting, I have so much respect for all of them. I am finding though that *campesino* Spanish is really a language of its own. Many words are different and the style of speaking is quite different. At times, it's really difficult to understand.

People have been talking a lot about their experiences to us. The other night the leader of the *directiva* was talking to me and another person about the massacre here in 1983 (actually where they lived was a village about 20 minutes from here by boat). That was the final straw, when most of these people actually fled. His wife and four children were all killed. The only reason he was saved is because the men were all out working. About 150 people were killed in that one massacre.

Another woman today was describing how she and her two children had hidden for two days while the soldiers went from house to house, slaughtering and decapitating people. Her entire family—parents, husband, other children—were all killed and almost everyone here has a story like that. It's incredible.

And yet they have so much faith. At night, they gather together with their Delegate of the Word because there are no priests here right now, to sing and pray and give thanks for their return. I look around at all of them gathered there so peaceful and gentle and wonder how they can be called communists and terrorists by so many.

There are seven Internationals here, now. We don't do anything in particular. We are here just for accompaniment. We've been spending lots of time talking with the people, helping out wherever we can. I've been learning to make *tortillas* and grind the corn. One day I helped to weigh all the babies and check them out. Yesterday, I went to Suchitoto—whatever needs to be done. We also help haul water every day. It's really turning out to be a great experience, just being here among the people, learning so much from them.

The people hope to be here for just two and a half, or three months, and then to move to another place where they can actually set up life as a community—where there's a market, where they can build houses, etc.

Right now, they are very much pioneers. This is like a brand new colony just being put together. Without trying to romanticize it too much, it's a lot like the Swiss Family Robinson or something—of course, add a few bombs and regiments of soldiers and a civil war to it. They've already began to clear the land here so they can start planting corn pretty soon. This land is all land they used to work before they left, but now it's completely overgrown.

This morning a group of men and three of us went by boat to the actual village where the people had lived before they left. It was the first time any of them had been back and it was incredible. There were the ruins of all their homes, the bombed out church where 60-70 people had been killed right before they all fled—nothing left. The men all went to their homes and began to dig. It was amazing. They had all buried what possessions they had before they left and people were digging up dishes, photographs, stones for grinding corn. One man dug up and showed us a perfectly kept little white dress that had belonged to his little girl who was killed in the massacre. There was so much emotion present it was incredible to see and be a part of it. There was a whole field where the victims were quickly buried before they left—no markers, an occasional wooden cross, but every man knew where his family or friends were. No one said a word the whole way back and when we got back to the camp all the people were waiting. There was crying and sorting through possessions and reminiscing for the rest of the day—the men had dug up two bells from the church there and brought them back. Tonight, they hung them up on the trees in the middle of the camp and rang them for their rosary service. It was really moving.

It's incomprehensible the suffering these people have come through, and even more so, how strong and faith-filled they remain. White flags hang on all three sides of the camp which indicates that they are a neutral place and not to bomb. So far, there have been a few journalists out and other visitors and with the Internationals here, things are probably pretty safe now. But it's unclear how long the International presence will remain here and there will inevitably come a point when the trouble will start again. People voice these fears, but continue to believe that this time it will be different. It's extremely important then, to keep the public eye enough on all these repopulation sites so that the military won't be able to do anything in the future. Who knows what will happen?

The bombers continue to circle overhead to intimidate, the bombs continue to go off in the distance all day. Every now and then a group of women sitting around sewing or working will look up and then at each other and not say a word. You know they are all feeling the same fear. Right now, everyone is wondering if this whole thing is ever going to end. In the city, it's easy to imagine it isn't so bad anymore. Up here is where you really know who has suffered and continues to suffer . . . and you can feel it acutely. The *campesino* will continue to bear the brunt of it all; to watch his children die and his family live in fear, to have all his food taken by the soldiers and he begins to think it never will end.

I'm out of space but will write more when I get back.

Love to all,

ERICA.●

DOMESTIC TEXTILE INDUSTRY ON REBOUND

● **Mr. BOSCHWITZ.** Mr. President, I rise today to share with my colleagues two articles, regarding the textile industry. The first, "The Great Textile Robbery," appeared in the New York Times. The second, "Sun Finally Setting on Garment Industry," was printed in the China News. They were brought to my attention by a close friend and leader in the retail industry, Mr. Leslie H. Wexner. Les Wexner is the president and chairman of the Limited, Inc., the largest retailer of women's clothing in the world.

According to these articles, it is estimated that the U.S. textile industry employs 1.8 million workers. Although our domestic industry is diminishing in size, it remains profitable, with income of over $100 billion dollars a year. At this time, U.S. plants are operating close to capacity without large amounts of new investment capital. Furthermore, foreign clothing imports account for only about 30 percent of the American market. In fact, in recent years the industry has experienced increased domestic sales. U.S. buyers have reduced their reliance on foreign manufacturers and are turning to American manufacturers to meet their requirements.

Those in favor of more protection for textiles here in the U.S. claim that the American textile industry is losing money and no longer able to compete with foreign manufacturers. They promote increased reliance on quotas and tariffs in order to remain competitive.

Frankly, I disagree with this approach. Every year legislation is introduced to protect textile-related jobs. I'm concerned that the only result is to increase clothing costs by $20 billion a year. Quite frankly, protecting the textile industry is a vicious circle. Protectionist measures cause clothing costs to rise and domestic sales to fall, hurting the domestic textile industry and putting people out of work.

Mr. President, I respectfully request that both articles be printed in the RECORD and I encourage my colleagues to read them.

The articles follow:

[From the New York Times, Oct. 26, 1987]

THE GREAT TEXTILE ROBBERY

It's already an outrage: Quotas and tariffs raise clothing and textile prices in America by a whopping $20 billion a year. That means the public currently pays $86,000 for every job protected.

Now Congress wants to make it worse. Last month, the House voted to allow imports to rise by only a small fraction of the expected growth in demand, and the Senate is expected to go along. According to estimates by William Cline, a researcher at the Institute for International Economics, the added restrictions would double the current consumer cost by the year 2000. The only consolation is that the bill is certain to be vetoed by President Reagan.

The protectionists' case is simple. Apparel and cloth manufacturers employ 1.8 million and generate some $100 billion in income. If imports aren't tightly checked, the industry says, American producers will be unable to compete with foreign companies that pay pennies a day for workers. Even the best-run domestic manufacturers will fail, devastating families and communities.

It's a simple argument but it's disingenuous. In spite of their labor cost disadvantage, highly automated U.S. textile mills have remained competitive in world markets. The mills are currently operating close to capacity, and imports account for only 10 percent of domestic consumption.

Apparel manufacturers, who have invested very little in mechanization, have been pressed by imports. But foreign clothing still has only 30 percent of the American market. And thanks to rapid growth in total demand, domestic sales and profits have never been higher.

The House measure, restricting import growth to 1 percent annually, would check the slow decline in industry employment—but only at an incredible price to consumers. According to Mr. Cline, each of the 179,000 jobs saved would 10 years later add even more to Americans' clothing bills. And seen simply as a make-work program, it's far from clear that these jobs would be worth preserving at any price.

Apparel and textile wages average less than $7 an hour, $2 less than the average private sector wage. Moreover, with unemployment now below 6 percent and labor shortages forecast for the next decade, there is every reason to believe that workers laid off by the industry will be able to find jobs at comparable pay.

A plausible argument can be made for preventing high-tech industries from being overwhelmed by imports. Reasonable people can debate the merits of creating an effective safety net for workers and communities affected if any large employer collapses. But there is no basis for asking Americans to pay tens of billions more to save a relatively small number of poorly paid jobs in highly profitable industries.

Congressional eagerness to pander to the textile and apparel makers is sad evidence of the power of well-organized, big-money lobbying. It's hard to remember when legislation so richly deserved a veto.

[From the China News, Nov. 9, 1987]

SUN FINALLY SETTING ON GARMENT INDUSTRY

The garment industry is about to enter the Dark Ages Industry sources say total future orders and unit prices are looking "pessimistic."

The industry has forecast a shrinking business volume ever since the NT dollar began to rise against the U.S. dollar last year. Yesterday, industry representatives said the Dark Ages are finally coming.

The most convincing evidence for the grim future, they said, is that export orders received for between April and June next year are only 30 percent of the actual export amount for this year.

The buying will of the American public has diminished with the instability of the stock market, a spokesman of the Garment Maker's Association said.

Buyers from the United States either are buying less or are simply turning their backs on local manufacturers after hearing price quotations on routine visits to Taipei.

Price is another factor causing the industry to recede. Knit wear makers complain they used to sell by the piece. Now, they are requested to quote prices by the dozen.

In view of the bleak outlook, many garment makers are seriously considering transferring factories to the Philippines and Indonesia where labor is cheaper and quota restrictions are less tight.

According to a survey made by the Garment Makers' Association on export orders for the coming six months, shirtmakers stand out as they claim to have received orders equivalent to 70 percent of last year's orders. Makers of jackets, one-piece garments, trousers and windbreakers are reporting 40 percent to 50 percent of orders compared to the same period last year.●

CIVIL AIR PATROL'S DRUG-FIGHTING MISSION

● Mr. HARKIN. Last year I offered an amendment to the Anti-Drug Abuse Act of 1986 to authorize $7 million for equipment to expand Civil Air Patrol's efforts with the Federal Government in the war on drugs. The amendment, cosponsored by many of my colleagues, was adopted, and as a result, dedicated Civil Air Patrol volunteers and aircraft are today a vital component in the Federal war against drugs.

Civil Air Patrol's assistance to the U.S. Customs Service began in January 1986, along the coast of Florida. As volunteers, CAP members performed a mission for which Customs had few dedicated resources, "low and slow" over-water surveillance and patrol, reporting suspicious activity and vessels. Not only did CAP pilots perform this mission in a most professional manner but they did so at an incredibly low reimbursement cost to the Government, about $30 per hour flown. What the Civil Air Patrol did not have, however, was the funding to either buy aircraft dedicated to drug interdiction or to expand their operations across the Nation. The Anti-Drug Abuse Act provided the means to accomplish those goals.

Since the act's passage CAP's assistance to the Customs Service has steadily grown. CAP drug surveillance aircraft now operate over locations as diverse as the Chesapeake Bay and the desert border with Mexico. And, while much of the information concerning the nature and scope of their surveillance assistance is confidential, it is known that CAP aircraft have repeatedly identified suspicious activity which, upon the intervention of the Customs Service and other agencies, has proven to be illegal.

Today, I wish to report on two recent incidents involving CAP members and aircraft which show the beneficial impact of this amendment. The first, which occurred off the coast of Naples, FL last September, is illustrative of the major surveillance role CAP has repeatedly performed this past year. Flying for nearly 6 hours a CAP aircraft assisted the U.S. Customs Service, Collier County Sheriff's Department and other law enforcement agencies in the apprehension of several drug runners, 2 vessels, and about $14 million in illicit drugs.

Airborne at 9:45 a.m., a volunteer CAP pilot and a Customs Service special agent responded to a hot tip of a possible suspect vessel grounded off the coast. This vessel, a blue-hulled steel boat about 45 feet in length, had been reported to Customs the day before, prior to its grounding, by another CAP surveillance aircraft. After an hour and a half patrol, investigating several suspicious boats, the CAP aircraft located the stranded vessel. Once over the stranded vessel, the CAP aircraft spotted a possible contraband off-load vessel, described by Customs as a high-speed cigarette-type boat or "go-fast," slowly cruising south. Upon investigation by the CAP, the "go-fast" boat abruptly turned and proceeded north at a high rate of speed, about 55 to 60 knots. The CAP aircraft followed and during the next hour maintained visual contact of the racing boat, radioing both position reports and possible intercept vectors to Customs agents. The actual intercept took place about 55 miles north of the original grounded vessel when the "go-fast" was intercepted by Customs and Collier County Sheriff's vessels. Upon boarding, the "go-fast" crew was found to be armed. After the apprehension of the "go-fast" crew and boat, the CAP aircraft led the sheriff's vessel back to the grounded boat and directed other law enforcement vessels to the scene. Upon boarding, sheriff's deputies found about 14 million dollars' worth of contraband and illicit drugs. In a gesture of the close working relationship CAP has developed, one of law enforcement officers aboard the grounded vessel held up some of the contraband for the CAP aircrew to view. The CAP aircraft returned to its home base at 3:30 p.m. just short of 6 hours total flying time. When the paperwork was finally filed on this mission, the cost to the Federal Government for Civil Air Patrol's services was only about $180.

The second incident took place in southern Florida. This past October, Congressman ROD CHANDLER, who is also a CAP mission pilot, delivered a recently rebuilt Cessna 182 drug interdiction aircraft to the Florida wing commander, at Homestead Air Force Base, FL. This Cessna is one of 90 such used aircraft already bought, or scheduled to be bought, for CAP from the Anti-Drug Abuse Act funds. As I explained over a year ago, these general aviation, high-wing surveillance aircraft are to be completely dedicated to the war on drugs and will constitute a national force above and beyond that needed for CAP's traditional emergency services missions.

The high-performance aircraft that Congressman CHANDLER delivered was unique in that it was the first of 22 special remanufactured Cessna aircraft equipped for long-range, overwater surveillance missions. Since new single engine, high-wing aircraft are not now being manufactured, these aircraft will be remanufactured to a standard close to that of a new aircraft. Each will be equipped with retractable landing gear, bad weather instrumentation, state-of-the-art navigation units, and life vests and life rafts. The delivery of each aircraft to CAP represents a major expansion of CAP's ability to support the war against drugs.

But that is only part of the story. After presenting the Cessna's keys to the Florida wing commander, Congressman CHANDLER, along with a CAP mission pilot and observer, flew the first operational mission in the Cessna. Directed to a 2-hour patrol "low and slow" patrol off the coast, between the Florida Keys and Fort Lauderdale, Congressman CHANDLER routinely reported the sighting of three suspicious vessels, including two "go-fast" boats, to the Customs Service. A few minutes after the last sighting, however, Customs—who had cross-checked the three suspicious vessels in their computers—asked the plane to return, at high-speed, to one of the "go-fast" boats. Upon the arrival of the CAP aircraft overhead the "go-fast" stopped dead in the water for about a minute and then, suddenly, darted off to the west at high-speed. Over the next 15 minutes CAP would help direct three different interceptor boats to the suspect vessel. A dramatic water chase ensued as two of the interceptor boats, both slower than the go-fast boat, fell in trail behind the suspect vessel. Finally, a third interceptor was directed head-on to the suspect vessel's path in order to stop him. At this point the suspect boat stopped dead in the water and Customs agents boarded it. While no drugs were found—they may have been dumped overboard earlier—it was determined, that the two suspects on board were armed and wanted for questioning in connection with other illegal drug activities.

These are only two of the many successful missions that have been flown by the Civil Air Patrol during the past year. Thousands of flying hours have already been logged nationwide by the CAP. While there are other success stories, security and other considerations dictate that they must remain untold, at least for the time being.

I have also had the opportunity to inspect CAP's drug interdiction operations. I've not only flown on their drug surveillance missions, but also observed their operations, firsthand, from a Customs Service mission coordination center. After seeing the CAP in action two things are very clear to me. First, the CAP is performing a vital mission—low and slow aircraft surveillance over land and water—that the Customs Service would find very difficult to duplicate or even afford. Second, the CAP pilots, observers, and support staff are professionals who are willing to help our country, in a way, that is truly "above and beyond" that normally expected of volunteers.

A year after the Anti-Drug Abuse Act, CAP aircraft support the Customs Service operations over the waters surrounding Florida, along the Mexican border, and off both the Atlantic and Pacific coasts. And as more dedicated drug interdiction aircraft are delivered and aircrews trained, CAP will expand and improve its flight operations even more. They are truly a national asset worthy of both our attention and active support.●

SPEECH BY REPRESENTATIVE JACK KEMP

● Mr. WALLOP. Mr. President, last week summit fever seized the Nation as President Reagan met with General Secretary Gorbachev. In the afterglow of the summit, many Americans, including many in the Congress, have expressed hope for fundamental changes in the Soviet Union and many expect a new era of détente.

In the summit afterglow, I believe it is critically important that we recognize the sobering lessons of an earlier period of supposed détente, when the United States cut back its defenses and retrenched while the Soviet Union undertook an unparalleled military buildup, violated treaties, and increased its subversion and aggression around the wold. It is equally important that we recognize that the proposed INF agreement will not reduce major new dangers and that the new vocabulary and tactics of the new Soviet leaders have not brought any fundamental changes to Soviet repression at home and to its imperial expansionism abroad.

At this time, I would like to call special attention to an exceptionally insightful speech made by Congressman JACK KEMP on these and other fundamental issues in Concord, NH, on December 4. Regrettably, the speech received virtually no media attention, although it has a decidedly Churchillian quality in addressing both historical and current problems facing the United States and in suggesting practical approaches to handle the problems.

Mr. President, in order that many others throughout our country can readily draw upon the important insights in Congressman KEMP's speech, I ask that its full text be inserted into the RECORD.

The speech follows:

A WARNING AGAINST THE DANGERS OF SUMMIT FEVER—STRENGTHENING FREEDOM THROUGH REALISM IN U.S.-SOVIET RELATIONS

(Remarks by Congressman Jack Kemp)

I would like to thank you for joining me today, as we meet on the eve of the December 7 summit meeting between President Reagan and Mikhail Gorbachev. This will be a watershed moment for America and the world, and the President will carry our country's hopes and prayers that his discussions will lead to success.

Americans are a peace-loving people; it is natural for us to want to beat our swords into plowshares. But before the lamb decides to lie down with the lion, we would do well to remember the strength and stealth of our principal adversary, the Soviet Union.

The proposed INF arms control agreement about to be signed at the summit must be considered in the context of Soviet actions and of US and allied security. I believe that if our security is to be safeguarded, the agreement will require significant reservations and conditions before it is ratified or implemented.

The December 7 anniversary of Pearl Harbor is a sobering reminder of the drastic cost of past diplomatic dangers and illusions. In the 1930's, too many Americans, particularly in our Congress, refused to face up to the undeniably disturbing truths about the aggressive ambitions of Nazi Germany and Imperial Japan.

A few courageous leaders, a few lonely voices, tried to warn the West. But as Winston Churchill would write, England in 1936 was "determined only to be undecided, resolved to be irresolute, adamant for drift * * *" as he "watched this famous island descending the stairway which leads to a dark gulf" of war.

In the 1930's, peace was not preserved, our own freedom in America was nearly lost, when we fell into self delusion and weakness, signing paper agreements and cutting back our defenses.

We did not avert danger; our weakness provoked aggression; our illusions were paid for in drastic costs to life and to freedom.

Last year, immediately before, and then after the Reykjavik summit, I expressed concerns about aggressive Soviet ambitions under its younger, shrewder and far more resourceful regime. With the benefit of a year's hindsight, my concerns have not diminished but increased. The world has observed the Soviet Union moving surely and systematically to increase its military strength, and to seek to impose its will by weakening the resistance of the West, trying to divide NATO and exploiting western markets and western wealth.

When Mikhail Gorbachev lands on United States soil next week, his first words will be words of peace. But as he speaks words of peace, the Soviet Union will be at war.

The Soviet Union is waging war against the people of Afghanistan. The Soviet Union is shipping weapons of war in record levels, and its troops and military advisors are found today in nearly a score of pro-Soviet regimes, including Cuba and Nicaragua in our own hemisphere. The Soviet Union is also at war with its own people, continuing to confine thousands upon thousands of political dissidents inside its gulags, prison camps and psychiatric hospitals.

And while we will hear of new Soviet arms control proposals and new trust, the Soviet Union continues to be in clear violation of numerous existing arms control agreements as detailed in the President's most recent report to the Congress on Soviet noncompliance, just issued on December 2.

The Soviet Union continues to far outpace us in the conventional and chemical forces it has deployed. In the heartland of Europe, for example, where our conventional forces will take on heightened importance if the proposed INF Treaty is signed, the Warsaw Pact is fielding two to three times as many divisions, main battle tanks, and artillery pieces as NATO.

In strategic weapons, the Soviets are building and deploying new generations of mobile intercontinental missiles, with multiple warheads and pinpoint accuracy; and they recently fired two missiles near Pearl Harbor, temporarily blinding an American pilot.

The American people also need the information about the U.S.-Soviet space gap—a growing space gap. While the U.S. space program has been cut back and has emphasized commercial and scientific ventures, the Soviet Union is pursuing an extraordinary range of war-fighting capabilities in space.

The Soviets have a deployed anti-satellite capability and a space station conducting military experiments. We have neither. They have some 100 space launches a year. We have about 10. They have far more satellites in orbit than we have and they have a heavy lift launch capability which dwarfs ours. A report on the Soviet space challenge just released by the Department of Defense concludes that, "the Soviets have methodically designed their space systems to fight a war in space * * * (and) to acquire the military capability for military control of space." And military control of space would mean military control of earth.

Ladies and gentlemen, there is a great gulf between Soviet words and Soviet deeds. That is why I am expressing my growing concern, why we must not permit America's security, freedom and peace to be endangered by letting down our guard, by weakness or by a loss of resolve. The lesson of history is clear. Weakness is provocative. Weakness causes war and only a strong and vigilant America can remain free and at peace.

AMERICA'S PURPOSE AND THE CAUSE OF FREEDOM

The central drama of the twentieth century has been the struggle between democracy and totalitarianism, between freedom and tyranny. And an enduring lesson from these struggles is that when freedom is diminished for one people, it is inevitably reduced for all.

President John F. Kennedy, said in 1961 that we would "pay any price, bear any burden, support any friend, oppose any foe in the defense of liberty." Kennedy spoke with perhaps excessive zeal, for while we recognize that America should champion freedom for all people, we cannot simply win freedom for all people. What we can do, and must do, is to give our moral, material and economic support to men and women fighting for their own freedom.

But as many witnessed during Tuesday night's television debate, not one Democratic presidential candidate would even acknowledge the increasing Soviet threat, would even support a strong US defense program necessary to protect the peace, or would even pay the price of freedom in our own hemisphere—how can we expect them to pay the price of freedom in the world?

Ladies and gentlemen, I would like to say, as does my friend Congressman Jim Courter, "the Democrats aren't unpatriotic, they're just wrong."

TAKING STOCK—FREEDOM AND "DETENTE"

The Soviet leaders, and many in our Congress and the State Department, are telling us that the December 7 summit, could usher in a grand new period of US-Soviet "detente". This is to be a kind of "Detente II", to follow the "Detente I" of the 1970's.

I know the American people share the hope that we could, in fact, be witnessing the dawn of a new era, of real and lasting change within the Soviet Union. Can there be any deeper desire shared by our nation, and all mankind, than the emergence after 70 years of totalitarian rule, of a truly more democratic, tolerant and peaceful Soviet Union?

But before we leap blindly into new dangers, we need to recall the disastrous illusions and setbacks of the 1970's "detente". In the wake of Watergage and Vietnam, our leaders lectured us that Americans suffered from an inordinate fear of communism and that we needed to take greater risks for peace. They decided to pull the plug from those struggling for freedom across the world, cut our defense programs, sign arms control, exchange and trade agreements with the Soviet Union, even provide generous commercial credits and sophisticated technology to the Soviet regime.

All this, we were assured again and again, would produce a new web of US-Soviet relations and a genuine change in Soviet behavior. The assumption was, in the words of former Secretary of State Cyrus Vance, that Soviet and America leaders shared common hopes and aspirations for peace. Just as in the 1930's, voices were raised, sober warnings were given—and rejected. Senator Henry "Scoop" Jackson and then candidate Ronald Reagan, warned that peace would not be strengthend, that freedom would not be advanced and that the Soviet Union would never be transformed by US illusions, US trade or unilateral US disarmament. But they were dismissed as simplistic, archaic, and provocative.

How did the Soviet Union respond to our peaceful overtures? They abused our trust and ran roughshod over our restraint. They violated major agreements as soon as they were signed. They stepped up their military expansion, deploying a nuclear first strike capability. They intensified their disinformation campaigns, their espionage and their support of international terrorism. They exploited our trade, our technology and our credit, siphoning the wealth of the West to expand their huge military-industrial complex. They continued their harsh denial of fundamental human rights at home and their subversion and aggression abroad.

Almost everywhere in the world, America began retreating and the Soviet Bloc advanced. North Vietnam's Soviet-equipped divisions broke the international armistice accords and overran Vietnam, Cambodia and Laos. Mass imprisonments, genocide and the creation of hundreds of thousands of "boat people" refugees soon followed. Today, a major Soviet military base in Vietnam's Cam Ranh Bay threatens the Pacific's major trade routes and communist insurgents are closing in on the strategic Philippines.

Across the Atlantic Ocean, Castro sent over 40,000 troops to Africa as cannon-fodder for Soviet proxy wars in distant Angola and Ethiopia. In the Middle-East, Soviet paratroop divisions prepared to enter the Yom Kippur war against Israel. In Iran, radicals egged on by Soviet radio broadcasts, attacked our embassy, and took our diplomats hostage. Afghanistan was invaded by Soviet armored divisions and some 115,000 Soviet troops remain there after eight years of war.

Within the Soviet Bloc itself, meanwhile, those monitoring the human rights provisions of the Helsinki Act were jailed by the Communist regimes. In Poland the workers' free labor movement, Solidarity, was suppressed and Soviet invasion was threatened. And while the United States cut back, cancelled or postponed major military programs throughout the seventies—strategic defenses, the B-1 bomber, the Trident submarine—the Soviet Union undertook the greatest military build-up in offensive and defensive systems in world history, deploying an arsenal far exceeding any they legitimately needed to defend their own people.

All told, in this "Detente I" period of the 1970's, ten countries toppled into the Soviet Bloc. Soviet-sponsored subversion increased, terrorism exploded and the military balance began to shift dangerously toward the East.

THE REAGAN LEGACY

Ronald Reagan understood the core problem—that we had lost our realism about our principal adversary. He pledged to revive an America that would lead the West and stand up to the Soviet Union's revolutionary challenge. He ran on a platform of "peace through strength" and received a great mandate from the American people. He helped America cast off her illusions and any self-doubt that a free people, under God, could set things right again.

In the face of constant criticism from the liberal wing, the isolationist wing of the Democratic Party, Ronald Reagan spoke the truth about the Soviet regime and the need for a strong defense. He initiated major efforts to modernize our lagging deterrent forces and he proposed the Strategic Defense Initiative. He sought to support freedom fighters in Central America, Africa and Asia. He reaffirmed the American vision and brought us back from a time of lost confidence at home and set-backs abroad. We owe President Reagan a great debt.

SUMMIT FEVER AND THE NEW SOVIET CHALLENGE

But on the occasion of the US-Soviet summit, Ladies and Gentlemen, we need to resist the inevitable temptation of succumbing, once again, to summit fever. We must recognize that we do not, in fact, face a new Soviet Union; we face a new Soviet challenge.

Let us not be "Mesmerized by the Bear"—that's the title of an important new book published this month about the Soviet strategy of deception. And let us not judge Soviet intentions by the glow of Gorbachev's visit, or by how many times slick Soviet propagandists like Vladimir Posner and Georgi Arbatov appear on our television screens to repeat the words "peace", "glasnost" and "perestroika".

No, the questions I believe need to be asked of the Soviet leader are these: Mr. Gorbachev, how many treaties will you stop violating and will you begin to honor? How many labor camps and prison camps are you prepared to close down? How many political prisoners and slave laborers will you set free, and how many Jews and Christians and "refuseniks" will you allow to leave and finally live where they choose? When will you stop bombing Afghan villages? When will you tear down the Berlin Wall and the Iron Curtain and stop shooting innocent people for trying to escape to freedom? And when will you apologize to the families of loved ones struck down in the civilian Korean air liner, which killed one of my Congressional colleagues, Larry MacDonald and to the family of Major Arthur Nicholson, who was murdered in cold blood?

These questions need to be asked even if the answers are not encouraging. Yes, there have been some dramatic, but only highly selective, highly limited, releases of a few prominent dissidents. And yes, there have been some changes in Soviet vocabulary and some minimal changes in the rigidly centralized economy.

But the Communist Party of the Soviet Union continues to tolerate no meaningful dissent. There are no democratic checks and balances on Mr. Gorbachev's Politburo such as free press, free assembly, free elections, free labor organizations or an independent judiciary. And the Kremlin's leaders continue to direct a block of servile dictatorships united in their opposition to genuine democracy and peace and determined to keep high walls around their citadels of power and privilege.

SUMMIT CONCERNS—FREEDOM AND SECURITY ENDANGERED

I am by nature an optimist. But I am profoundly concerned that the Reagan legacy, the heritage of that peaceful, prosperous and secure future we want to hand over to our children, could be lost if we do not see clearly this challenge and unite to meet it. No one expressed this need better than New Hampshire's own, Daniel Webster, when he said, "God grants liberty only to those who are willing to guard and to defend it." The decisions made in these next few days and months could well shape our future for the 1990's and beyond.

As President Reagan meets with Mikhail Gorbachev, let me summarize six major concerns and how I would propose to deal with each:

First, Soviet Words versus Soviet Deeds: I am concerned lest the Soviet's new Madison Avenue style—constantly evoking warm images and reassuring words like "glasnost" and "perestroika"—not conceal the truth about Soviet conduct. In Russian, "glasnost" does not mean "openness" as it is often translated, but "publicity". And the "restructuring" supposedly intended by the Russian word "Perestroika" in no way means ending the monopoly of the Communist Party, or collectivization, or the centrally planned economy, or providing fundamental democratic rights.

A colleague in the Politburo once described Mr. Gorbachev as a man with "a nice smile but iron teeth." This week, in his interview with Tom Brokaw on NBC, we saw the teeth—Mikhail Gorbachev is no mellowed Marxist, he is a hard-core Communist.

To judge the sincerity of Soviet words, I urge that at the Summit, and in other forums, the United States and our allies press repeatedly for Soviet demonstrations of good faith: that the Soviets end their suppression of human rights; that they permit the reunification of families; that they expand the sphere of liberties for their people to include the uncensored right to watch and to listen to Western broadcasts, to read Western publications, and to see first-hand the reality of life in the West—show us, Mr. Gorbachev, that your "glasnost" is real.

Second, Arms Control and Soviet International Aggression: I am concerned about a summit meeting which will be focused principally on arms control issues while neglecting other fundamental aspects of international Soviet behavior. We should surely be treating Soviet aggression around the globe as sharing our top concerns in the US-Soviet relationship and as requiring fundamental changes in Soviet behavior.

To ensure that the summit does not give mere lip service to these issues, I believe that any commitments on future arms control agreements must be accompanied by explicit Soviet commitments to pull out its troops from Afghanistan and cease its military subversion in Central America and elsewhere.

Third, Soviet Treaty Violations and Arms Control: I am concerned about a rush to a new arms control agreement while the Soviet Union continues to violate major existing arms control agreements. Such a step violates the President's own policy as stated in his March 1986 report to the Congress on Soviet violations when he said that "compliance with past arms control commitments is an essential prerequisite for future arms control agreements." The President's latest report, just issued on December 2, details the continued pattern of Soviet treaty violations and describes a new Soviet violation of the ABM Treaty.

Further, while some people are ignoring the issue of compliance in their concern about verification—and I understand, incidentally, that the proposed Treaty does not provide us the safeguard of any "anywhere, anytime" challenge inspections at suspect sites—we must recognize that even the best US verification procedures will not assure Soviet compliance, so long as we accept a double standard, excusing and rewarding Soviet violations.

To be serious about arms control with the Soviet Union is to insist on Soviet compliance. We should not undertake, and certainly must not implement, any new arms reductions agreement unless and until the Soviets have ceased their violations of existing agreements. We must also reserve the right to take proportional responses to any Soviet violations.

Fourth, NATO Deterrence: I am concerned about a rush to eliminate by far the most effective and credible elements of our nuclear deterrent—especially the Pershing missiles, the only nuclear missiles that can rapidly reach Soviet territory from Western Europe. The remaining nuclear missiles and artillery are of such short range that they would principally devastate the territory of our own allies, while our longer-range aircraft would have a far slower response time and would have to fly into a very intense network of Soviet air defenses. Meanwhile, the Soviet Union, with its great surplus of strategic weapons, will be easily able to make up the loss of its SS-20 missiles by retargeting its new SS-25 strategic missiles, many of which it is deploying at the SS-20 bases.

I am equally concerned that the elimination of our best deterrent in Europe is occuring without having first reached agreement within the NATO Alliance on the essential modernization programs for nuclear, conventional and chemicial forces. Such a NATO modernization program will be more difficult following the signing or ratification of an INF agreement, since the INF agreement will greatly increase the political pressure from the Soviet Union and the European left for further cuts in NATO's remaining nuclear deterrent and in US conventional forces. And the INF agreement will increase pressures for new chemical weapons agreements that cannot be effectively verified, even while existing chemical and biological weapons agreements have been violated by the Soviet Union.

To reduce these dangers, I believe we should make it a condition that the US undertake no reductions, unless the Soviets have first come down to our own level of forces, and unless the NATO Alliance has agreed on the requisite modernization programs. We particularly need to accelerate development and deployment of anti-tactical ballistic missile defenses, but should also emphasize aircraft and a wide range of conventional force improvements. In this regard I am calling today for an early summit of NATO leaders, to adopt a comprehensive modernization program as NATO's most important security priority.

Fifth, SDI and A Strategic Arms Control Framework: I am very concerned that the Soviet Union's highest objective, their ultimate goal in this summit and the next is to pull off the strategic sell-out of the century—in effect, America bargaining away our Strategic Defense Initiative by agreeing not to begin any deployment for the next 7 or 10 years. As former Secretary of Defense, Cap Weinberger wrote me on November 21: "the thrust of the Soviet proposal is to impose artificial constraints on SDI that will prevent us from developing and deploying strategic defenses." Secretary Weinberger further added that the Soviet proposal "contains many loopholes and is unverifiable."

It is a frightening fact that as we meet today, America has no defense against a strategic missile attack from the Soviet Union, or even a terrorist. But there is a solution. The Strategic Defense Initiative is the greatest peace initiative and safeguard in post-war history. We cannot relax our guard until it is deployed, with each phase adding increased protection and deterrence. SDI is America's best insurance policy against Soviet cheating, against a Soviet monopoly with its own vast strategic defense program, against the developing US-Soviet space gap, and against the long-term instabilities of maintaining nuclear deterrence exclusively on the basis of Mutual Assured Destruction.

SDI is not a technological problem. It is a political problem of vision, guts, and leadership. The Democratic Presidential candidates, and regrettably Vice President Bush and Senator Dole as well, refuse to accelerate deployment of SDI, even though the Soviet Union has broken the ABM Treaty. I am proposing that we commit this nation to go forward, at the earliest possible date, to build and to deploy SDI for our country.

Sixth, Trade, Credits and Technology: I am concerned that in the aura of summit harmony, the US is being set up to bail out the Soviets with our sophisticated technology as well as generous credits, including untied loans, on terms far more favorable than any American taxpayer, any homebuyer, any small-business borrower, could obtain commercially.

Ladies and gentlemen, the United States of America must stop subsidizing Soviet aggression. It is high time that we cut off Mikhail Gorbachev's American Express Card, and that we put a stop to American taxpayers underwriting the Soviet Bloc, their deplorable economies and their military buildup to the tune of $24 billion a year, of which $18 billion are loans untied to specific purposes.

I have sponsored legislation to stop the flood of such Western credit, particularly the untied loans, and I strongly support appropriate restrictions on the flow of advanced technologies, which only strengthen the Soviet military effort while relieving the pressure for long overdue economic and political reforms in the Soviet regime.

A VOICE OF CONCERN, REALISM AND HOPE

In expressing these concerns today, I know many Americans, as well as many around the globe who look to America, share my concerns and pray that the United States will meet its responsibilities as leader of the Free World. I will continue to speak out vigorously on these fundamental questions during my campaign. They are not going to go away, and they cannot simply be wished away, much as some would like to ignore them.

I don't want it to be said of us, as Churchill had to say in his time, that our "* * * delight in smooth sounding platitudes, refusal to face unpleasant facts, desire for popularity and electoral successes * * * played a definite part in the unleashing upon the world of horrors and miseries."

That is the purpose of this discussion today and of the reservations I have expressed. I believe those reservations will emerge as the heart of the coming national debate on the INF Treaty, the future strategic arms control framework, and future of US-Soviet relations.

In this national debate, I will continue to work, and would be honored to have your support, for a policy of peace through strength in the cause of freedom. If we keep faith with our abiding principles, we will not fail America—and America true to her principles, will never fail the world.

Thank you very much.●

INFORMED CONSENT: MISSOURI

● Mr. HUMPHREY. Mr. President, I ask unanimous consent that two letters from the State of Missouri be entered into the CONGRESSIONAL RECORD. The women who wrote to me tell personal stories of how they were denied legitimate medical information concerning the risks and alternatives to abortion. Both of these women maintain that their decisions would have been different with the benefit of this information. I urge my colleagues to read their stories and to support S. 272 and S. 273, legislation to require informed consent prior to abortion. The letters follow:

FEBRUARY 20, 1987.

DEAR SENATOR HUMPHREY, I thank God for your efforts in introducing the informed consent bills. I was only 19 or 20 when I had an abortion. That was fifteen years ago. I was naive and thought that if there was a baby in my womb, surely they would tell me, and not refer to it as "tissue."

At the time of my abortion I was in great distress. I was separated from my husband of 10 months and was still very inexperienced at being on my own. I remember very little if any counseling. I was asked some short questions, for example: Did I have anywhere to go? Could I come up with $100? (The government would pay the rest). They kept using the term "therapeutic abortion," but I really didn't think that it applied to me. I was too young and scared to ask any questions.

The actual experience was very humiliating. We (15-20 girls) were told to undress and put on paper gowns and paper slippers in a classroom at City Hospital in Baltimore, Maryland (since then the name has changed). As our name was called, we went to the front of the classroom, got on a hospital bed, and received a shot in the hip. They then wheeled us out and lined up the beds outside the door of the operating room. We could hear the screams of pain coming from inside.

I don't remember the doctor, I don't believe that I was ever told his name. I do remember asking him while he was performing the abortion if he could tell if it was a boy or a girl. He replied that he could not. I felt relieved that it was probably too early in the development to be able to tell. Little did I know that he could not tell because my baby was in too many pieces.

I kept my secret for many years and, it wasn't until I was remarried and expecting my first child that I realized the horror of what I had done. I am a Christian now, so I know God's forgiveness. I have been blessed with four beautiful daughters. Each time I held one of my newborns in my arms, I would wonder about the little one I would never see or have the chance to hold. Every September I think about how old he would be.

Even though God has so graciously forgiven me, I must still live with the consequences of my sins. I wish someone would have told me the truth. I was very impressionable at that age. I thought that if the government would support it, abortion couldn't be wrong.

Thank you for hearing my story. I pray that it will help in some way.

Sincerely yours,

CAYA L. CONKLIN SPOTO.

MARCH 8, 1987.

Hon. GORDON J. HUMPHREY,
Hart Senate Office Building,
Washington, DC.

DEAR SENATOR HUMPHREY: I would like to help get the Informed Consent Bill that you are proposing, passed. Maybe the story of my abortion and how it has effected my life, will help.

When I became pregnant, it was not my wish to terminate my pregnancy, but I felt I had no choice since marriage was not being considered. If I had known then what I know now, I hope that I would have made a decision "for life" rather than "for death." For some people, that might be a pretty strong statement. They may feel that I am exaggerating the issue. The issue is very clear . . . Abortion Is Murder.

I am in favor of the Supreme Court reversing the Roe vs. Wade decision. However, until that time, I believe that every woman/girl who is considering abortion has the right to be informed about the truth of abortion. I was not informed and did not receive adequate counselling. I was led to believe that at 12 weeks gestation the procedure would simply involve removal of "the piece of tissue." I had no idea that what the "professional" staff was referring to as "tissue", actually was the same as a newborn baby, except on a smaller scale. It was several years later, when I learned the truth. This was a very difficult thing for me to face up to and I have many times over regretted the misinformed decision I made to have an abortion. It still is not easy and I don't think that it ever will be.

Another area of information that was not mentioned to me was that my having an abortion could cause me to be unable to have another baby. I don't know what the statistics are, but I know two women personally who are unable to have children because of their abortions. The thought of this being a consequence was almost more than my husband and I could bear. Even after I became pregnant, we were aware of the possibility of miscarriage.

This withholding of vital information is a deceptive ploy of the abortionist and it must be stopped. I cannot emphasize enough, how guilty I felt and the amount of emotional pain and suffering I have been through. I have been victimized and lied to, along with countless others. The consequences of abortion are far worse than if I had gone ahead and had the baby.

I am in favor of a bill being introduced that would require that anyone considering abortion would first be given a full report (including pictures) of the stages of the development of the unborn child; the information on how an abortion effects the unborn child; how an abortion can effect the reproductive organs and the statistics on the number of women who are unable to bear children after having an abortion; how an abortion negatively effects the emotional/mental/spiritual well-being of the person having the abortion; and I am in favor of information being distributed that would provide an alternative to abortion. What I would really like to see is a bill introduced that would require pro-life counselling and a waiting period of one week after hearing both sides of the abortion issue.

Senator, thank you for your involvement with this issue. I really appreciate the stand that you are taking. If I can be of further assistance, I would be glad to help.

Sincerely,

CONNIE COOPER,
Raytown, MO.●

TRIBUTE TO DR. DAVID VESCO

● Mr. RIEGLE. Mr. President, at this, the holiday season, as we plan gatherings and festivities with friends and family, we might also be reminded of how precious is our freedom.

I would like to bring to the attention of my colleagues the achievements of someone who valued freedom enough to escape from his native Bulgaria. Dr. Vesco made a dramatic escape from Bulgaria in 1983 by concealing himself under the frame of a freight car. After arriving in Yugoslavia, he made his way to Vienna and eventually to the United States.

Dr. Vesco's father, a lawyer, and mother, a mathematics and physics professor, voiced their anti-Communist views which limited their social interaction in Bulgaria. Dr. Vesco devoted much of his younger years to study and became interested in medicine. He graduated from medical school at the age of 22. After military service, he became an assistant professor of neurology at the University of Ivan Paulou.

Following his dramatic escape, Dr. Vesco was welcomed to the West. Within a year, he passed exams for admission to a U.S. hospital residency and has been fully licensed by the State of Michigan and the State of California. He was recently naturalized as a citizen of the United States.

Mr. President, I think Dr. Vesco's story illustrates how the United States still stands as a beacon to personal freedom for oppressed peoples. We are a Nation which has always provided refuge to individuals throughout the world fleeing oppression, by repeatedly demonstrating our support for people struggling for their rights to live as free individuals, we give renewed meaning to the democratic principles on which our own Nation was founded.●

BETTER CHILD CARE SERVICES

● Mr. LEVIN. Mr. President, today I am pleased to cosponsor S. 1885, the Act for Better Child Care Services. I applaud its principal sponsor, Senator DODD, for his leadership in recognizing the importance to this Nation of investing in the health and development of our children. This legislation would make child-care services more affordable for parents and more valuable for children. It is clearly a direction that we should move in.

I am, however, concerned about the cost of this legislation. In the environment of huge Federal deficits, even funding worthwhile programs cannot be taken for granted. Nevertheless, it is important that S. 1885 be given a thorough hearing. In the course of these deliberations I hope that it will be possible to formulate an approach which meets the admirable objectives of this legislation in a way that we can afford.●

NEW JERSEY CELEBRATES THE CONSTITUTION

● Mr. LAUTENBERG. Mr. President, it is with great pride that I pay tribute today to the 200th anniversary of New Jersey's ratification of the Constitution of the United States.

New Jersey played a tremendously important role in the birth of the Constitution. Four outstanding New Jerseyans represented the State at the constitutional convention in Philadelphia in the summer of 1787: William Livingston, the Governor of New Jersey; David Brearly, who had been an officer in the State militia, then served as chief justice of the State supreme court and subsequently a Federal district court judge; Jonathan Dayton, who at 27, was the youngest member of the constitutional convention and later a principle architect of the Electoral College; and William Paterson, perhaps the most influential member of the delegation.

A graduate of Princeton, Paterson had been the wartime attorney general of New Jersey and later became Governor, then a U.S. Senator, and an associate justice of the Supreme Court. It was the distinguished lawyer Paterson, who was responsible for developing and seeing adopted the famous "New Jersey plan."

That summer of 1787 was a summer where a group of men would shape the destiny of the Nation. During the long debates over the best possible form of Government for the United States, the man from New Jersey emerged as the leading proponent of the idea that each State in the union should have an equal voice in determining the fate of the Nation. That idea gave birth to the body I serve in today. Throughout the Constitutional Convention, Paterson held firm to the idea of equal representation for all States.

When the delegates from Virginia proposed a plan for a legislature composed of representatives of States according to population, Paterson feared that this plan would overshadow the small States like New Jersey, Delaware and Connecticut. "New Jersey will never confederate on the plan before the committee," James Madison recalled Paterson declaring in opposition to the Virginia plan. "She would be swallowed up." Along with David Brearly, Luther Martin of Maryland, Roger Sherman of Connecticut, and John Lansing of New York, the "New Jersey Plan" was presented to the Convention. The New Jersey Plan differed from the Virginia Plan by proposing a unicameral legislature where each State would have an equal vote. It was actually a hodgepodge of plans developed by delegates from other small States. The plan would expand the powers of Congress by allowing it to levy duties on foreign imports, to regulate trade, and to collect a stamp tax. Congress would elect a plural executive, and the executive would appoint justices of the Supreme Court.

By July of 1787, the delegates had yet to agree on a form of Government. But over the objections of James Madison, a special committee was formed made up of one delegate from each State. Thus, the "Great Compromise" was reached. It protected the small States by creating a Senate with an equal vote for each State, and a House of Representatives, based on a State's population.

On December 18, 1787, New Jersey became the third State to ratify the Constitution. A few months later, New Jersey became the first State to ratify the Bill of Rights.●

SOUTH KOREAN ELECTIONS

● Mr. ROCKEFELLER. Mr. President, on December 16 over 90 percent of eligible South Korean voters went to the polls for the first time in 16 years to elect a new president. Yesterday, ruling party candidate Roh Tae Woo was declared the winner over the three other contenders. Based on the election results available today, Roh Tae Woo won a 2-million vote plurality with 36 percent of the vote, while the opposition vote was split between Kin Young Sam and Kim Dae Jung.

Although the opposition parties are claiming that the election was marred by widespread fraud, election observers have not reported systematic irregularities in the polling process. At issue is not whether some irregularities occurred, but whether the election outcome would be altered by vote fraud. It appears that this is not the case.

If there is genuine evidence of vote fraud, the opposition leaders should bring it to light. But in the absence of such evidence, continuing to challenge the legitimacy of the ruling party's victory will only deepen distrust and factionalism—and hold at risk the promise of democratic rule in South Korea.

The recent election also surfaced the deep-seated regional loyalties which characterized Korean national life. Continuing political polarization over the election results may heighten regionalist sentiment and make the task of national reconciliation all the more difficult. The ongoing strife in Kwangju demonstrates the challenge Mr. Roh faces in bringing the South Korean nation together.

Roh Tae Woo deserves great credit for having moved the Seoul government to accept direct Presidential elections during the critical days of last July. The opposition demands for an election have been met. The great challenge now for Roh Tae Woo and responsible opposition party leaders is to build national reconciliation among students, workers, the military, business leaders—and across regional lines. National Assembly elections and the formation of a new Cabinet offer opportunities to begin that process. The harsh political environment of the past 16 years makes the task all the more difficult. But the risks of failure are enormous.●

THE PLIGHT OF THE BAHA'I COMMUNITY IN IRAN

● Mr. PELL. Mr. President, I am today calling attention to the arbitrary and inhumane treatment of the Baha'i community at the hands of the Government of Iran.

The Baha'i faith was founded in Iran in the midnineteenth century. The Bahai's believe that the purpose of our human existence is to know and worship God and to carry forward an ever-advancing civilization, with the ultimate goal being the unity of mankind. The Baha'i religion is a peaceful one, which poses no threat to the people or the Government of Iran. By the tenets of their faith, the Bahai's are barred from political activity and are prohibited from carrying out violent or subversive activity. They respect the divine origins of the world's religions, and do not impose their beliefs on others.

Despite their nonviolent and inoffensive behavior, the Baha'is have continuously been persecuted in Iran, solely on the basis of practicing their religion. With the change of government in 1979, this persecution has been systematically increased. Iranian officials have admitted to Bahai's that the persecution would cease if only they gave up their faith.

The forms of persecution are many, including detention, seizure of property, imprisonment, and in many cases, death. The current campaign by the Islamic Republic of Iran has placed 17 individuals in immediate danger of being summarily executed.

Mr. President, the Baha'i community has stressed the value of calling international attention to its plight in Iran and throughout the Molsem world. It is believed that by singling out these insidious and callous actions, we can bring pressure to bear on the Government of Iran to moderate its behavior.

Since 1980, the United Nations has continued to express its concern over the treatment of the Baha'is in Iran. In addition, many of our colleagues recently rose in the House of Representatives under a special order to call attention to the situation of the Bahi's. Finally, we in the Senate have passed a resolution condemning the persecution of the Baha'is and urging the President to take steps to publicize this tragic situation.

Mr. President, it is extremely important that we carry on in this spirit and continue to take every opportunity to focus international attention on the treatment of the Bahai's in Iran. Not only do the lives of 17 individuals hang in the immediate balance, but the very existence of this religion in Iran depends on it.●

THE DRUG-FREE SCHOOLS AMENDMENTS

● Mr. D'AMATO. Mr. President, on Tuesday the Senate passed by unanimous consent, a very important amendment reauthorizing and improving the Drug-Free Schools and Communities Act. This amendment, representing extraordinary bipartisan cooperation, was attached to House Joint Resolution 90, authorizing the White House Conference on Library and Information Services.

I would like to take this opportunity to explain the portion of that amendment that Senator DeConcini and I developed. Our amendment contains six key elements. It:

First, allocates drug prevention funds to local school districts on the basis of their current enrollment, rather than old 1980 census data;

Second, makes it clear that teachers in private, nonprofit schools have a full right to training and participation in drug prevention programs funded under the act; and

Third, requires local applicants for Federal drug prevention funds to describe the drug and alcohol problem in their schools.

Mr. President, at the December 2 hearing of the Senate Caucus on International Narcotics Control examining the first anniversary of the Anti-Drug Abuse Act, every Senator present was most impressed by the testimony of Mr. Don Skawski, the principal of the Greenway Middle School in Arizona, concerning the elements of a successful school drug prevention program.

Mr. Skawski has waged a real crusade against drugs in his school, and he is winning. Truancy and vandalism are down, and reading scores are up. According to Mr. Skawski, schools must evaluate their own drug problems. He has provided me with the following statement on this issue:

> A necessary first step in the prevention process is to conduct research into the scope of the problem. The research will provide the data so the problem can be defined. Also, the research will establish baseline data for future evaluation to determine if the drug prevention program is meeting with success. The following are the areas and groups for which data should be accumulated:
>
> 1. Conduct a basic review of the literature related to drugs, drug prevention, and drug cultures.
> 2. Carefully review the school's discipline records to establish a baseline for negative behaviors: possession of drugs or alcohol, possession or use of cigarettes, fighting, vandalism, truancy, student absentee rate, etc.
> 3. Survey parents to determine if they believe there is a drug problem on campus. Conduct the survey on a yearly basis to determine if parent perceptions about the school's drug problem are changing.
> 4. Survey students to determine to what extent they believe there is a drug problem on campus.
> 5. Survey staff to determine if they believe there is a drug problem on campus.

Mr. Skawski has done all this without great expense. He has proven that the requirements of the third key provision of our amendment can, and should, be met in the normal course of any school antidrug effort worthy of the name;

Fourth, obliges a local applicant to have disciplinary antidrug and alcohol policies and procedures, convey to students the message that drug use is not permissible, and monitor the effectiveness of its program;

Fifth, requires the local applicant, in order to receive funds for the third year of its plan, to submit to the State educational agency a progress report on the plan's first 2 years. This third-year report shall describe the applicant's significant accomplishments to date, and the extent to which the plan's objectives are being achieved. Schools are not expected to reverse in 1 or 2 years an epidemic that has been decades in the making, but only to demonstrate reasonable progress toward achieving their own stated objectives.

The purpose of this requirement is very simple and straightforward. It is to maintain the credibility of the national drug prevention effort by supporting programs that work and making the necessary corrections in those that do not.

Sixth, finally, the amendment seeks to ensure that Congress and the Department of Education will continue to review and evaluate our drug prevention program. It, therefore, requires States to report annually on their State and local programs funded under the Drug-Free Schools and Communities Act, including an assessment of the level of success those programs are having, and information on program participants and recipients. The amendment also permits the Secretary of Education to conduct periodic evaluations of the drug prevention programs his Department helps to fund.

As one who believes that the most critical step in winning the war on drugs is educating our children not to use drugs, I want to thank the very distinguished chairman and ranking member of the Senate Subcommittee on Education, Arts, and Humanities, Senator Pell and Senator Stafford, for their help and cooperation in passing this amendment. Without the generous assistance of these Senators and their staff, David Evans, Ann Young, and Elizabeth Hackett, this amendment could not have passed the Senate on Tuesday.

By passing our amendment, the Senate has gone on record in support of the effort to answer many of the most basic questions about drug prevention that parents everywhere are asking. What makes for a model drug prevention program? Why do some programs succeed, while others do not? What are the mistakes that we should be careful to avoid? What goals can we reasonably expect drug prevention programs to achieve?

The more we encourage the best possible drug prevention efforts, and the more we can document the success of these efforts, the better our Nation's—and especially our children's—future will be.●

MALL-WALKING IN WARREN, MI

● Mr. RIEGLE. Mr. President, I would like to take a moment today to recognize the unique way the city of Warren, MI, Parks and Recreation Department has been promoting exercise for senior citizens in its community.

Four years ago, Maureen Reynolds of the parks and recreation department established a program of "mall-walking" for senior citizens. Initially, this activity was started as a continuation of the seniors' hiking club to keep older citizens active during the winter months. But "mall-walking" soon grew into an activity for people of all ages and states of health.

"Mall-walking" now provides a year round, 5 days a week opportunity for people to exercise, receive free blood pressure checks and to share in each other's company. Walking can build heart and lung endurance, muscle strength, flexibility, coordination and balance. It provides an excellent atmosphere for people, especially seniors, to join together and improve their physical fitness.

So I would like to applaud the creativeness of the Warren Parks and Recreation Department and encourage others to work in their communities to take steps like this to promote the importance of physical fitness for senior citizens.●

H.R. 3030, FARM CREDIT AMENDMENTS CONFERENCE REPORT—TIME LIMITATION AGREEMENT

Mr. BYRD. Mr. President, I ask unanimous consent that at such time as the conference report on farm credit is laid before the Senate, that there be a time limitation of 40 minutes to be equally divided between the majority and the minority leaders or their designees; that no motions or points of order be in order, and that the time covering 40 minutes be an overall time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Overall. And that the reading of the conference report be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, will the distinguished majority leader yield?

Mr. BYRD. Yes, I yield.

Mr. DOLE. I would like the record to show that I designate the Senator from Indiana, Senator LUGAR, on this side.

Mr. BYRD. Mr. President, I thank the Republican leader. I designate the Senator from Vermont [Mr. LEAHY] on this side.

Mr. BOREN. Mr. President, will the distinguished majority leader yield?

Mr. BYRD. Certainly.

Mr. BOREN. I will ask the leader, would it be his intention that if the House acts on farm credit tonight, we would take this up after routine morning business in the morning?

Mr. BYRD. It is, and I hope to put that into an order at this moment.

ORDERS FOR SATURDAY

RECESS UNTIL 9:30 A.M. TOMORROW

Mr. BYRD. Mr. President, I ask unanimous consent that when the Senate complete its business today, it stand in recess until the hour of 9:30 a.m. tomorrow morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

PERIOD FOR MORNING BUSINESS, CONSIDERATION OF FARM CREDIT CONFERENCE REPORT

Mr. BYRD. Mr. President, I ask unanimous consent that after the two leaders have been recognized under the standing order tomorrow, there be a period for morning business, not to extend beyond the hour of 10 o'clock a.m., that Senators may be permitted to speak therein for not to exceed 5 minutes, and that at the hour of 10 a.m., if the conference report is available from the other body at that time, that the Senate proceed to its consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

AGENDA

Mr. BYRD. Mr. President, the Senate will be in tomorrow. I hope the conferees on both sides of the Hill will be encouraged to proceed and carry on with their work. I know that considerable progress has been made today on the continuing resolution and also on the reconciliation bill. We are all working hard to try to resolve the remaining differences. One by one they are being overcome. But we have to stay at our posts of duty. If we break and run to go home, everybody will go home. There is work to be done.

Mr. President, actions will be taken on the farm credit conference report tomorrow. I understand there may be a nomination on which a request for the yeas and nays has been lodged. A vote will undoubtedly occur on the appropriations for the Agriculture Committee and perhaps with respect to other items.

AMENDMENT OF ORDER NO. 451

Mr. BYRD. Mr. President, I ask unanimous consent that anent Order No. 451, entered on December 15, with respect to Senate resolutions 306, 311, 319, 321, 322, and 325, no amendments to any of these resolutions be in order and no motions to recommit be in order.

The PRESIDING OFFICER. Without objection, it is so ordered.

REPRESENTATION BY SENATE LEGAL COUNSEL

Mr. BYRD. Mr. President, on behalf of myself and Mr. DOLE, I send a resolution to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the resolution.

The legislative clerk read as follows:

A resolution (S. Res. 347) to authorize the appearance of the Committee on Foreign Relations in a legal proceeding and representation by the Senate legal counsel.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection. The Senate proceeded to consider the resolution.

Mr. BYRD. Mr. President, in aid of an investigation by its Subcommittee on Terrorism, Narcotics and International Operations, the Committee on Foreign Relations has requested access from the Department of Justice to certain nonpublic transcripts of court-ordered electronic surveillance in connection with the case of United States versus Zavala, a narcotics prosecution which occurred several years ago in the northern district of California. The Department has agreed to provide the transcripts to the committee. However, in accordance with its past practice, the Department will notify the subjects of the surveillance of its plans to do so.

If any subjects of the surveillance seek a court order precluding the Department from releasing the transcripts, the committee should be authorized to present to the court its interests in receiving information needed for its investigations. This resolution will authorize the Senate Legal Counsel to appear in the committee's name in any such proceeding.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 347) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

S. RES. 347

Whereas, the Committee on Foreign Relations has requested the Department of Justice to provide it with non-public tapes and/or transcripts of telephone communications intercepted pursuant to an electronic surveillance order issued by the United States District Court for the Northern District of California in connection with the case of *United States* v. *Zavala*, 622 F. Supp. 319 (N.D. Cal. 1985);

Whereas, the Department of Justice has agreed to provide this material after it notifies the subjects of the electronic surveillance that an application for a protective order may be made to the United States District Court for the Northern District of California;

Whereas, pursuant to sections 703(a) and 704(a)(1) of the Ethics in Government Act of 1978, 2 U.S.C. §§ 288b(a) and 288c(a)(1) (1982), the Senate may direct its counsel to defend a committee of the Senate;

Whereas, pursuant to sections 703(c), 706(a), and 713(a) of the Ethics in Government Act of 1978, 2 U.S.C. §§ 288b(c) and 288e(a), and 288l(a) (1982), the Senate may direct its counsel to appear in the name of a committee of the Senate in any legal action in which the powers and responsibilities of

Congress under the Constitution are placed in issue: Now, therefore be it

Resolved, That the Senate Legal Counsel is directed to defend the Committee on Foreign Relations or to appear in the name of the Committee as amicus curiae or intervenor, in any proceeding in support of the Committee's access to the non-public records which the Department of Justice has agreed to provide to it.

EXPORT-IMPORT BANK ACT AMENDMENTS

Mr. BYRD. Now, Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 320.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 3289) to amend the Export-Import Bank Act of 1945.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be offered, the question is on the third reading and passage of the bill.

The bill (H.R. 3289) was ordered to a third reading, was read the third time, and passed.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. WARNER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

RELIEF OF KUMARI RAJLAKSHMI BAIS

Mr. BYRD. Mr. President, I ask unanimous consent that Calendar Order No. 418 be called up and the Senate proceed to its consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 526) for the relief of Kumari Rajlakshmi Bais.

There being no objection, the Senate proceeded to the immediate consideration of the bill.

AMENDMENT NO. 1367

(Purpose: To waive certain naturalization requirements for certain former Cuban political prisoners)

Mr. BYRD. Mr. President, I send an amendment to the desk on behalf of Mr. KENNEDY, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD], for Mr. KENNEDY, proposes an amendment numbered 1367.

Mr. BYRD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill, add the following new Section:

SEC. . (a) FINDINGS.—The Congress finds that the following individuals, now in the United States, were members of the Brigade 2506 and imprisoned in Cuba for 25 years following the Bay of Pigs Invasion: Ricardo Montero Duque of Union City, New Jersey, and the following five individuals of Miami, Florida; Ramon Bernardo Conte Hernandez; Jose Rafael Machado Concepcion; Nicolas Edigno Hernandez Mendez; Rogelio Milian Perez; and Pedro Armando Santiago Villa.

(b) WAIVER.—Notwithstanding section 316 of the Immigration and Nationality Act, no continuous residence or physical presence requirement shall apply to the eligibility for naturalization of the persons named in subsection (a).

Mr. KENNEDY. Mr. President, this year marks the 26th anniversary of the Bay of Pigs. When the members of Brigade 2506 were finally returned to the United States after intense negotiations between the Government of Cuba and the Kennedy administration, there were nine who remained behind. These brave soldiers all served long and difficult terms in Cuban jails after their capture at the Bay of Pigs.

Last year, in response to my requests and to the appeals of many other interested Americans, the Government of Cuba finally released the last two members of the brigade. Ricardo Montero Duque—the last officer—was released last June, and Ramon Conte Hernandez—the last soldier—was released last October. After their capture at the Bay of Pigs, these two men were held for over 25 years in Cuban jails.

The purpose of this amendment is to waive the residency requirement for U.S. citizenship as it applies to these two Bay of Pigs veterans and to four other veterans who were similarly held for long periods of time in Cuban jails after their capture in 1961. This amendment does not waive any other citizenship requirements. Only the waiting period which is otherwise required for U.S. citizenship is eliminated. All other requirements will still apply. But because these Bay of Pigs veterans spent so many years in Cuban jails after their capture, the Congress should recognize that it is only fair that these six individuals be given special treatment in their efforts to become American citizens.

The American people owe these six individuals a debt of gratitude. They went to Cuba as patriots, and they have returned to the United States with a desire to become American citizens. They have already waited too long. No more waiting should be necessary.

Mr. President, this provision passed the Senate unanimously in October as an amendment to the State Department authorization bill. However, it was dropped in conference because it was considered more appropriate to pass it as a private immigration bill. I therefore urge my colleagues to again accept this provision as an amendment to H.R. 526, a private immigration bill that has already cleared the House, so that these six individuals may finally be granted the citizenship they so richly deserve.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from Massachusetts [Mr. KENNEDY].

The amendment (No. 1367) was agreed to.

The PRESIDING OFFICER. Is there further debate? If not, the question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed, and the bill to be read a third time.

The bill was read a third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass?

So the bill (H.R. 526), as amended, was passed.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. WARNER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

THE CALENDAR

Mr. BYRD. Mr. President, I inquire of the distinguished Senator from Virginia, Mr. WARNER, if the following Calendar Orders numbered 486, 487, 503, 504, and 505 have been cleared on his side.

Mr. WARNER. Mr. President, if the majority leader will indulge me just for a moment, yes, all are cleared on this side.

Mr. BYRD. Mr. President, I thank the Senator.

Mr. President, I ask unanimous consent that the Senate proceed to the consideration of the aforementioned calendar orders en bloc, that all amendments shown to the measures or to the preambles be agreed to, that the measures be agreed to en bloc, that the motion to reconsider en bloc be laid on the table, that the actions be spread severally upon the RECORD, and that Senators' statements in full be printed as though read.

The PRESIDING OFFICER. Without objection, it is so ordered.

NATIONAL FISH AND WILDLIFE FOUNDATION ESTABLISHMENT ACT AMENDMENTS

The Senate proceeded to consider the bill (S. 1389) to amend the National Fish and Wildlife Foundation Establishment Act with respect to management requisition, and disposition of real property, reauthorization, and participation of foreign governments, which had been reported from the Committee on Environment and Public Works, with amendments, as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets, and the parts of the bill intended to be inserted are shown in italics.)

S. 1389

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PURPOSES OF THE FOUNDATION.

(a) IN GENERAL.—Section (2)(b) of the National Fish and Wildlife Foundation Establishment Act (16 U.S.C. 3701(b)) is amended—

(1) by striking out "and" at the end of paragraph (1);

(2) by striking out the period at the end of paragraph (2) and inserting "; and"; and

(3) by adding at the end thereof the following:

"(3) to participate with, and otherwise assist, foreign governments, entities, and individuals in undertaking and conducting activities that will further the conservation and management of the fish, wildlife, and plant resources of other countries.".

(b) CONFORMING AMENDMENT.—Section 4(a)(2) of the National Fish and Wildlife Foundation Establishment Act (16 U.S.C. 3703(a)(2)) is amended by inserting "and abroad" after "United States".

[SECTION 1.] SEC. 2. ACQUISITION, MANAGEMENT, AND DISPOSAL OF REAL PROPERTY.

(a) IN GENERAL.—Section 4 of the National Fish and Wildlife Foundation Establishment Act (16 U.S.C. 3703) is amended by adding at the end thereof the following:

(a) "(e) ACQUISITION, MANAGEMENT AND DISPOSAL OF REAL PROPERTY.—(1) The Foundation may only use Federal funds for the acquisition of interests in real property if—

(A) the interest is a long-term property interest, and

(B) the Director of the United States Fish and Wildlife Service (hereafter in this subsection referred to as the "Director") consents to the acquisition in writing.

"(2) The Foundation shall convey to the United States Fish and Wildlife Service for inclusion within the National Wildlife Refuge System any real property acquired by the Foundation in whole or in part with Federal funds if the Director, within one year after the date on which the property was acquired by the Foundation, requests the conveyance in writing.

"(3)(A) Subject to subparagraph (B), the Foundation may—

"(i) convey to another person any real property acquired in whole or in part with Federal funds and not conveyed under paragraph (2); and

"(ii) grant or otherwise provide Federal funds to another person for purposes of assisting that person to acquire real property in whole or in part with such funds.

"(B) The Foundation may only make a conveyance or provide Federal funds under subparagraph (A) if—

"(i) the conveyance or provision is subject to terms and conditions that will ensure that the real property will be administered for the long-term conservation and management of fish and wildlife and in a manner that will provide for appropriate public access and use; and

"(ii) the Director finds that conveyance or provision of Federal funds meets the requirements of clause (i) and consents to it in writing.

"(4) All real property acquired by the Foundation in whole or in part with Federal funds and held by it shall be administered for the conservation and management of fish and wildlife and in a manner that will provide for appropriate public access and use.

"(5) The Foundation shall convey at not less than fair-market value any real property acquired by it in whole or in part with Federal funds if the Foundation and the Director determine, in writing, that—

"(A) the land is no longer valuable for the purposes of fish and wildlife conservation or management, and

"(B) the purposes of the Foundation would be better served by the use of the Federal funds for other authorized activities of the Foundation.".

(b) CONFORMING AMENDMENTS.—Section 4(c)(2) of the National Fish and Wildlife Foundation Establishment Act (16 U.S.C. 3703(c)(2)) is amended by striking "therein;" and inserting in lieu thereof the following: "therein, subject to subsection (e);"

(2) Section 7(b) of such Act (16 U.S.C. 3706(b)) is amended by inserting before the period the following: "; and a description of all acquisition and disposal of real property that is subject to section 4(e).".

SEC. [2.] <. REIMBURSEMENT FOR ADMINISTRATIVE SERVICES.

Section 5 of the National Fish and Wildlife Foundation Establishment Act (16 U.S.C. 3704) is amended—

(1) by inserting "(a) PROVISION OF SERVICES.—" before "The Secretary";

(2) by striking out "Act," and all that follows thereafter and inserting "Act."; and

(3) by adding at the end thereof the following:

"(b) REIMBURSEMENT.—The Foundation may reimburse the Secretary for any administrative service provided under subsecton (a). The Secretary shall deposit any reimbursement received under this subsection into the Treasury to the credit of the appropriations then current and chargeable for the cost of providing such services.".

SEC. [3.] ∝. AUTHORIZATION OF APPROPRIATIONS.

Section 10 of the National Fish and Wildlife Foundation Establishment Act (16 U.S.C. 3709) is amended to read as follows:

"SEC. 10. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to the Department of the Interior for each of fiscal years 1988 through 1993, inclusive, not to exceed $5,000,000 to be made available to the Foundation—

"(1) to match partially or wholly the amount or value of contributions (whether in currency, services, or property) made to the Foundation by private persons and State and local government agencies; and

"(2) to provide administrative services under section 5.".

The amendments were agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

FEDERAL ENERGY MANAGEMENT IMPROVEMENT ACT

The Senate proceeded to consider the bill (S. 1382) to amend the National Energy Conservation Policy Act to Improve the Federal Energy Management Program, and for other purposes, which had been reported from the Committee on Energy and Natural Resources, with an amendment to strike all after the enacting clause and insert in lieu thereof, the following: with amendments, as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets, and the parts of the bill intended to be inserted are shown in italic.)

S. 1382

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Federal Energy Management Improvement Act".

SEC. 2. (a) Title V, part 3 of the National Energy Conservation Policy Act (42 U.S.C. 8251-8261) is amended to read as follows:

"PART 3—FEDERAL ENERGY MANAGEMENT

"SEC. 511. FINDINGS.

"The Congress finds that—

"(1) the Federal Government is the largest single energy consumer in the Nation;

"(2) the cost of meeting the Federal Government energy requirement is substantial;

"(3) there are significant opportunities in the Federal Government to conserve and make more efficient use of energy through improved operations and maintenance, the use of new energy efficient technologies, and through the application and the achievement of energy efficient design and construction;

"(4) Federal energy conservation measures can be financed at little or no cost to the Federal Government using private investment capital made available through performance contracts as authorized by title VIII of the National Energy Conservation Policy Act; and

"(5) an increase in Federal Government energy efficiency would benefit the Nation by reducing the cost of government, reducing national dependence on foreign energy resources, and demonstrating the benefits of greater energy efficiency to the Nation.

"SEC. 512. POLICY.

"It is the policy of the United States that the Federal Government has the opportunity and the responsibility, with the participation of industry, to promote the efficient use of energy by the Federal Government.

"SEC. 513. PURPOSE.

"It is the purpose of this part to promote the conservation and the efficient use of energy by the Federal Government.

"SEC. 514. DEFINITIONS.

"For the purposes of this part—

"(1) The term 'agency' has the meaning given it in 5 U.S.C. 551(1).

"(2) [The term 'community of Federal buildings' means a collection of Federal buildings including but not limited to a National laboratory, a military base, buildings which are only part of a National laboratory or military base, and the energy consuming support systems for those building collections.] *The term 'community of Federal buildings' means a collection of Federal buildings and the energy consuming support systems for those building collections.*

"(3) The term 'construction' means construction and substantial retrofitting or renovation.

"(4) The term 'energy conservation measures' means measures that are applied to a

Federal building or community of Federal buildings that improve *energy efficiency and are* life cycle cost [efficiency] *effective,* and that involve energy conservation, cogeneration systems, renewable energy sources, improvements in operations and maintenance efficiencies, or retrofit [activities, such as architectural improvements, daylighting, and high efficiency lighting. The term includes modifications to a building or equipment] *activities.*

"(5) The term 'energy survey' means a procedure to be used in determining energy and cost savings likely to result from use of appropriate energy related maintenance and operating procedures and modifications, including the purchase and installation of particular energy-related equipment, and use of renewable energy sources.

"(6) [The term 'Federal building' means any building, structure, or facility which is constructed, renovated, leased, or purchased in whole or in part for use by the United States, and which consumes energy during the reporting period.] *The term 'Federal building' means any building, structure, or facility, or part thereof, and including the associated energy consuming support system, which is owned or leased by the United States, and which consumes energy.*

"(7) The term 'life cycle cost' means the total costs of owning, operating, and maintaining a building over its useful life, including such costs as fuel, energy, labor, and replacement components, determined on the basis of a systematic evaluation and comparison of alternative building systems; except that in the case of leased buildings, the life cycle cost shall be calculated over the effective remaining term of the lease.

"(8) The term 'renewable energy sources' includes but is not limited to sources such as agriculture and urban waste, geothermal energy, solar energy, and wind energy.

"(9) [The term 'cogeneration' means the sequential production of thermal and electrical energy; cogeneration applications will be limited to those approved under title VIII of NECPA.] *The term 'cogeneration' shall have the same definition as in section 3(18)(A) of the Federal Power Act (16 U.S.C. 796(18)).*

"(10) The term 'performance contracting' means a contract under which energy conservation measures are installed at reduced or no cost to the government and subsequent payments are linked to energy savings. [Total payments to the contractor over the term of the agreement should not be greater than the total energy savings achieved over the term of the contract, or in the case of cogeneration projects, no greater than the government's avoided energy cost. Examples of performance contracting include, but are not limited to, shared savings, guaranteed leasing, guaranteed installment sale and discounted energy prices for energy produced by cogeneration.]

"(11) The term 'Secretary' means the Secretary of Energy.

"SEC. 545. ESTABLISHMENT AND USE OF LIFE CYCLE COST METHODS.

"(a) Establishment of Life Cycle Cost Methods.—The Secretary, in consultation with the Director of the Office of Management and Budget, the Secretary of Defense, the Director of the National Bureau of Standards, and the Administrator of the General Services Administration, shall—

"(1) [establish practical and effective methods for estimating and comparing life cycle costs for Federal buildings or communities of Federal buildings, using the sum of all capital and operating expenses associated with the energy system of the building involved over the expected life of such system or during a period of twenty-five years, whichever is shorter, and using average fuel costs and discount rate as determined by the Secretary; and] *establish practical and effective present value methods for estimating and comparing life cycle costs for Federal buildings or communities of Federal buildings, using the sum of all capital and operating expenses of such buildings over the expected life of the proposed energy conservation measure or twenty-five years, whichever is shorter, and using average fuel costs and a discount rate as determined by the Secretary; and*

"(2) develop and prescribe the procedures to be followed in applying and implementing the methods so established.

"(b) Use of Life Cycle Costs.—*(1)* In the design of new Federal buildings and communities of Federal buildings, and the application of energy conservation measures to existing Federal buildings and communities of Federal buildings, selection of design or conservation alternatives by the Federal Government shall be made using life cycle cost methods and procedures established under subsection (a) of this section.

(2) Use in Leased Buildings.—In leasing buildings for its own use or that of another agency, each agency, shall give appropriate preference to buildings which minimize life cycle costs.

"(c) Use in Non-Federal Structures.—The Secretary shall make available to the public information on the use of life cycle cost methods in the construction of buildings, structures, and facilities in all segments of the economy.

"SEC. 546. BUDGET TREATMENT FOR ENERGY CONSERVATION MEASURES.

"Each agency, in support of the President's annual budget request to the Congress, shall specifically set forth and identify funds requested for energy conservation measures under section [550.] *549.*

["SEC. 547. LEASED BUILDINGS.

["In leasing buildings for its own use or that of another agency, each agency shall give appropriate preference to buildings which minimize life cycle costs through the use of energy conservation measures.]

"SEC. [548] *547.* INCENTIVES FOR AGENCIES.

"Each agency shall establish a program of incentives that uses internal resources to encourage that agency to conserve and make more efficient use of energy. Such a program shall consist of arrangements in which the managers of Federal buildings or communities of Federal buildings of the agency retain a portion of the dollar savings which result from their energy conservation [measures to undertake further conservation measures. An additional portion may be retained for furthering the objectives of that agency.] *measures. Such dollar savings shall remain available for obligation without further appropriation to undertake additional energy conservation measures.*

"SEC. [549] *548.* INTERAGENCY ENERGY MANAGEMENT TASK FORCE.

"(a) In order to assist the interagency committee organized under section 656 of the Department of Energy Organization Act (42 U.S.C. 7266) to coordinate the activities of the Federal Government in promoting energy conservation and the efficient use of energy and inform non-Federal entities of the Federal experience in energy conservation, an Interagency Energy Management Task Force, referred to in this section as the 'Task Force', shall be established.

"(b) The Task Force shall be composed of the chief energy managers of [the Departments of Energy, Defense, Transportation, Agriculture, Interior, Justice, Health and Human Services, and Housing and Urban Development; the Postal Service; the Veterans' Administration; the General Services Administration; and the National Aeronautics and Space Administration. The Assistant Secretary of Energy for Conservation and Renewable Energy shall be the Director of the Task Force and may request the participation of any other agency or office as is deemed appropriate] *agencies represented on the interagency committee organized under section 656 of the Department of Energy Organization Act (42 U.S.C. 7266).*

"(c) The Task Force shall meet when the Director requests, but not less often than twice a year, to assess the progress of the various agencies in achieving energy savings; to collect and disseminate to agencies, States, local governments, and the public, information on effective survey techniques, innovative approaches to the efficient use of energy, incentive programs developed under section [548,] *547,* innovative performance contracting methods, the use of cogeneration and renewable resources, and other information and technologies that would promote the conservation and the efficient use of energy; to coordinate energy surveys conducted by the agencies; to develop options for use in conserving energy; and to report to the committee organized under section 656 of the Department of Energy Organization Act (42 U.S.C. 7266).

"(d) The Task Force shall, from time to time, as may be necessary, review the regulations relating to building temperature settings to determine whether or not changes in such regulations would be appropriate to meet the goals of the Act.

"SEC[550.]*549.* ENERGY MANAGEMENT GOALS.

"(a) Energy Performance Goal for Federal Buildings.—Each agency shall apply energy conservation measures to and shall improve the design for the construction of its Federal buildings and communities of Federal buildings so that the energy consumption per gross square foot of its Federal buildings and communities of Federal buildings in use during the fiscal year ending September 30, 1995, is at least 10 per centum less than the energy consumption per gross square foot of its Federal buildings and communities of Federal buildings in use during the fiscal year ending September 30, 1985. *Except that a building, and the associated energy consumption and gross square footage, that houses energy intensive activities may, at the discretion of the agency operating that building, be excluded from the requirements of this section. Each agency shall identify and list those buildings designated for exclusion from coverage under this section in its periodic report required in section 550.*

"(b) Implementation Steps for Federal Buildings Goal.—To achieve the goal set in subsection (a), each agency shall—

"(1) prepare or update a plan describing how the agency intends to meet the goal including designation of staff and identification of high priority projects;

"(2) perform energy surveys of its Federal buildings and communities of Federal buildings to the extent necessary for implementation of this section;

"(3) using the results of the energy surveys, apply to its Federal buildings and communities of Federal buildings the most life cycle cost-effective energy conservation measures in accordance with the methods and procedures specified in section 545;

"(4) among federally funded measures, give priority to those having the highest savings to investment ratio, and

"(5) among measures accomplished with private investment capital, give priority to those having the highest estimated net benefit to the government; and

"(6) ensure that any operation and maintenance procedures applied are continued.

[["(7) maintain temperature control devices in Federal buildings and communities of Federal buildings in conformance with the requirements of 41 Code of Federal Regulations 101-20.116 in effect on July 1, 1986; and]]

"(c) ENERGY PERFORMANCE GOAL FOR FEDERAL PASSENGER AUTOMOBILES.—(1) Each agency shall apply appropriate procurement, operations, and maintenance policies to its passenger automobile fleet so that the fleet's energy consumption per mile driven during the fiscal year ending September 30, 1995, is at least 10 per centum less than the energy consumption per mile driven during the Fiscal Year ending September 30, 1985.

"(2) For purposes of this subsection the term 'passenger automobile' has the meaning given it in section 501(2) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2001(2)), except that the term does not include automobiles designed to perform combat related missions for the Armed Forces or designed to be used in law enforcement or emergency rescue work.

"SEC. [[551.]] *550.* REPORTS.

"Each agency shall periodically furnish the Secretary with complete information on its activities under this part; on its progress in achieving the goals set in section [[550;]] *549;* on the incentives, activities, and result of its program conducted under section [[548;]] *547;* on obstacles encountered and recommendations to overcome such obstacles; and on its progress in achieving the goals established in the Federal Ten Year Plan required by section 381(a)(2) of the Energy Policy and Conservation Act. The Secretary shall report annually to Congress on all activities under this part on the progress made toward achievement of the objectives of this part."

SEC. 3. Section 101(b) of the National Energy Conservation Policy Act (the Table of Contents) is amended to read as follows:

"PART 3—FEDERAL ENERGY MANAGEMENT

"Sec. 541. Findings.
"Sec. 542. Policy.
"Sec. 543. Purpose.
"Sec. 544. Definitions.
"Sec. 545. Establishment and use of life cycle cost methods.
"Sec. 546. Budget treatment for energy conservation measures.
[["Sec. 547. Leased buildings.]]
"Sec [[548.]] *547.* Incentives for Agencies.
"Sec. [[549.]] *548.* Interagency Energy Management Task Force.
"Sec. [[550.]] *549.* Energy Management Goals.
"Sec. [[551.]] *550.* Reports.".

SEC. 4. Section 381(c) of the Energy Policy and Conservation Act (42 U.S.C. 6361(c)) is amended to read:

"(c) The Secretary shall include in the report required under section [[553]] *550* of the National Energy Conservation *Policy* Act the steps taken under subsections (a) and (b) of this section.".

The amendments were agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

NATIONAL TOURISM WEEK

The joint resolution (H.J. Res. 255) designating the third week in May 1988 as "National Tourism Week," was considered, ordered to a third reading, read the third time, and passed.

The preamble was agreed to.

ALAN BIBLE FEDERAL BUILDING

The Senate proceeded to consider the bill (S. 1901) to designate the Federal building located at 600 Las Vegas Boulevard, in Las Vegas, NV, as the "Alan Bible Federal Building."

Mr. REID. Mr. President, I am pleased to follow in the footsteps of a great Senator from Nevada, Alan Bible. My bill, S. 1901, recognizes the contribution of this Senator to Nevada and the Nation by making a newly acquired Federal building in Las Vegas the "Alan Bible Federal Building."

Some of my colleagues remember Senator Bible and his work, but for those who do not know of the man and his accomplishments, let me give you a brief biography.

Alan Bible was born in Lovelock, Pershing County, NV, on November 20, 1909. He received his B.A. degree from the University of Nevada in Reno in 1930, and his law degree from Georgetown University in 1934. He practiced law and served in various State posts including attorney general, until he was elected to the Senate in 1954 to fill the unexpired term of Senator Pat McCarran. He was a champion of civil rights legislation and took an active interest in establishing national policies on land management and parks and recreation. During his term as chairman of the National Parks Subcommittee of the Appropriations Committee, more national parks were created than any other comparable period. As chairman of the District of Columbia Committee, he worked tirelessly for the District and was a proponent of home rule. Choosing not to seek reelection in 1974, he retired at the end of his term to teach at the University of Nevada, Reno.

This year Nevada got its first national park, and the Nation added another park to the National Park System after 15 years of no new additions. Senator Bible must be pleased because he attempted to create the Great Basin National Park many years ago, but the timing wasn't right. The timing was right in 1986, and I am pleased to have brought to fruition as a Member of the House of Representatives an idea that Senator Bible fostered during his term as a U.S. Senator.

Today, I am asking the Senate to help me bring to fruition the naming of an unnamed, newly acquired Federal building in Las Vegas. It's appropriate that the building in Las Vegas be named after Alan Bible because Senator Bible was instrumental in bringing water to this fabulous desert town. Senator Bible's interest in water resources led him to anticipate the need for more water long before the fast-growing city needed it. The Southern Nevada Water Project supplies water from the Colorado River to an internationally renowned city. Were it not for this project and the efforts of Senator Bible, Las Vegas would not be the vibrant city it is today.

Were it not for the efforts of Senator Bible, we might not have as many national parks as we have today. Those of us who enter those national parks that Senator Bible helped create may not know of, or remember, Senator Bible, but those of us who may enter the Alan Bible Federal Building will hopefully be reminded of a U.S. Senator from Nevada who gave all of us a better world to live in.

The bill was considered, ordered to be engrossed for a third reading, read the third time, and passed; as follows:

S. 1901

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION OF BUILDING.

The Federal Building located at 600 Las Vegas Boulevard in Las Vegas, Nevada, is hereby designated, and hereafter shall be known, as the "Alan Bible Federal Building".

SEC. 2. LEGAL REFERENCES TO BUILDING.

Any reference in any law, regulation, document, record, map, or other paper of the United States to the building referred to in section 1 is deemed to be a reference to the "Alan Bible Federal Building".

CONCERN OF THE SENATE REGARDING THE SITUATION IN FIJI

The Senate proceeded to consider the resolution (S. Res. 302) expressing the concern of the Senate regarding the situation in Fiji, which had been reported from the Committee on Foreign Relations with an amendment.

The amendment was agreed to.

The resolution, as amended, was agreed to.

The amendment to the preamble was agreed to.

The preamble, as amended, was agreed to.

The resolution, as amended, and the preamble, as amended, are as follows:

Whereas the Nation of Fiji has entered into a period of serious challenge to its democratic institutions;

Whereas Fiji has enjoyed a period of constitutional democratic government from independence in 1970 until May 1987;

Whereas the duly constituted government of Fiji, composed of members of both major ethnic communities was deposed by a military coup on May 14, 1987;

Whereas efforts to reconstitute a constitutional and democratic government were set back a further coup d'etat on September 25, 1987;

Whereas it is the expressed intention of the current military government to create a constitutional system in which the minority Fijian Community will have a greater voice in the government than the majority Indian Community;

Whereas the concept of equal voting strength for each citizen, regardless of ethnic identification, is inherent in the meaning of democracy; and

Whereas the establishment and maintenance of democratic political institutions in the Pacific Ocean region is in the national interest of the United States of America: Now therefore be it

Resolved, That the United States Senate—

(1) Supports the rapid return to democratic constitutional government in Fiji;

(2) Deplores the creation of any political system which would give citizens of a nation more or less political influence based simply on ethnic identity;

(3) Urges the Administration to undertake vigorous diplomatic efforts to convince the current government of Fiji to return to constitutional democracy; and

(4) Supports the continued cessation of U.S. foreign assistance to Fiji until it has a constitutional and democratic government.

ISSUANCE OF FEDERAL ENERGY REGULATORY COMMISSION ORDER

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 434.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 519) to direct the Federal Energy Regulatory Commission to issue an order with respect to Docket No. EL-85-38-000.

There being no objection, the Senate proceeded to the immediate consideration of the bill.

AMENDMENT NO. 1368

Mr. WARNER. Mr. President, I send an amendment to the desk on behalf of Mr. McCLURE and Mr. JOHNSTON, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER], for Mr. McCLURE, and Mr. JOHNSTON, proposes an amendment numbered 1368.

Mr. WARNER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 6, at the end of line 18 add the following new sentence: "Nothing contained in this Act requires the Commission to take any action pursuant to such consideration, or authorizes or grants the Commission any authority to take any action, based upon the findings, recommendations, results, or conclusions of the study required by this section."

Mr. McCLURE. Mr. President, I rise in support of H.R. 519, a bill to direct the Federal Energy Regulatory Commission to take certain action with respect to Docket No. EL-85-38-000, a matter commonly known as the Swan Falls agreement in the State of Idaho. While I support this legislation, I do so with some reservations. The companion measure, S. 214, which I sponsored along with my colleague, Senator SYMMS, passed this body on February 19, 1987, by unanimous consent. At the time, the bill had a very limited purpose and narrow intent, which was to insulate the Idaho Power Co. from attack regarding project property and a finding of imprudency under section 205 of the Federal Power Act on the basis of the Swan Falls agreement. Nothing more, nothing less. There was very little controversy regarding the bill. Indeed, the language of S. 214 had been passed by both Houses during the 99th Congress as an amendment to H.R. 5645, the appliance standards bill. That measure was vetoed by the President for wholly unrelated reasons. In fact, the President, in his veto message, indicated support for the provision related to Swan Falls.

Since Senate passage of S. 214 in the 100th Congress, the legislation has been subject to the demands of various interests to expand both the scope and intent of the original proposal. The heart of the issue was and is whether or not this legislation affected dispositively various fish and wildlife issues, including reserved rights, if any, which may be required for the downstream Deer Flat National Wildlife Refuge, and minimum stream flows on the Snake River.

Negotiations on the legislation among some of the interested parties proceeded under the auspices of the House. Unfortunately, interests such as the water users, specifically upstream irrigators, now believe that they were not adequately represented, despite the good faith efforts of Congressman STALLINGS and others. Nevertheless, the negotiations resulted in a new agreement on the legislative language. I might question whether certain parties should have agreed to this legislative language, but do not question that they did.

In due course, the House acted without change on the legislative language agreed to by the "negotiators," and added to the legislative history, as is normal, the report of the House Committee on Energy and Commerce. Unfortunately, that report created two basic problems. First, it seemed to present a one-sided view of the fish and wildlife effects of the legislation. Second, it created ambiguities as to the intent of the statutory language.

Addressing each of these issues in turn, I believe several documents have been supplied by various officials to balance the record in the position of the respective parties as to the effect of the legislation and the agreement on fish and wildlife and related issues. Certain of these documents were not included in the House report, although Congressman STALLINGS included them in his floor statement during House consideration. To coordinate that legislative history, I now ask unanimous consent to incorporate those documents as part of my statement.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

OFFICE OF THE GOVERNOR,
Boise, July 24, 1987.

Re: H.R. 519 (Swan Falls Legislation): Idaho's Comments on Issues Raised by FERC and NMFS.

Hon. JOHN D. DINGELL,
Chair, House Committee on Energy and Commerce, Rayburn House Office Building, Washington, DC.

DEAR REPRESENTATIVE DINGELL: This letter contains Idaho's requested comments on issues in the above-referenced matter that were raised recently by the National Marine Fisheries Service ["NMFS"] and by the Federal Energy Regulatory Commission ["FERC"], and that were referenced and discussed in your June 29, 1987 letter to the U.S. Fish and Wildlife Service and the National Oceanic and Atmospheric Administration. I welcome the opportunity to help clarify Idaho's understanding of H.R. 519 and the Swan Falls Settlement Agreement (the "Agreement") and Offers of Settlement pending before FERC in Docket No. EL-85-38-000 (Idaho Power Company Petition for Declaratory Order Amending Licenses). The bill and petition are of paramount importance to Idaho, and we urge prompt and favorable consideration by Congress and FERC respectively.

As I understand your letter of June 29, a document filed in the FERC proceeding by NMFS on June 17, 1987 and correspondence to you from FERC dated June 15, 1987 have raised certain concerns about the potential effect of H.R. 519 and the FERC Order on fish and wildlife. Upon review of these documents, it is my conclusion that any confusion arises principally from NMFS's fundamental misunderstanding of the facts underlying the Agreement.

In its June 17 filing with FERC, NMFS makes two primary assertions that demonstrate its misunderstanding, specifically that:

(i) Depletions of Snake River flow will exceed legal minimums at Murphy Gauge, producing adverse consequences for anadromous and resident fish; and

(ii) Depletions permitted under the Agreement will preclude Idaho from contributing to the Water Budget under the Columbia River Basin Fish and Wildlife Program, which is designed to help flush anadromous fish to the ocean during May and June downstream migration.

NMFS's arguments are based on faulty analysis. Following a description of the Agreement, I will discuss NMFS's claims individually and conclude my comments with brief remarks about H.R. 519 and possible amendments.

I. THE AGREEMENT

The Agreement contains three principal components that together provide for judicious management of the Snake River system:

(i) The legal minimum flow at Murphy Gauge is increased from 3,300 c.f.s. (daily average) to 3,900 c.f.s. during the high demand months of April 1 to October 31, and to 5,600 c.f.s. during the remaining low demand months. The Idaho Water Resource Board has included this provision in the State Water Plan, which the Idaho Legislature has ratified.

(ii) New water rights above Swan Falls may be approved only if in the public interest. Idaho Code Section 42-203B, C and D; Water Resources Rules and Regulations, Rule 5.3 (codification of Agreement provisions).

(iii) Water rights down to and including the Salmon River Drainage, including tributraries, federal reserved rights, and ground water, will be adjudicated in an action recently filed in Twin Falls County District Court ("Snake River Adjudication"). Idaho Code Section 42-1406A (codification of Agreement provisions).

The minimum flow provisions and the public interest review of new water uses are the cornerstones of the Agreement and ensure reasonable protection for fish and wildlife. A clear understanding of their history, operation and effect is crucial for responsible Congressional action.

1. *Brief History of Swan Falls Controversy.* The Swan Falls controversy has deep roots. Upstream farmers first moved to protect their water rights against downstream hydropower uses in 1928 when they successfully offered an amendment to the Idaho Constitution empowering the state to regulate and control the latter's water rights. Thereafter, many, but not all, hydropower licenses were subordinated to future consumptive uses upstream.

There was plenty of water for all, and peace reigned until the 1950's when Idaho Power Company ["IPCo"] applied for licenses on its proposed project at Hell's Canyon, a site simultaneously sought for development by the federal government. Fearing that federal ownership could preempt future upstream use, the state agreed to grant IPCo a license if IPCo would subordinate its water right to upstream uses. The deal was struck, with the accompanying "understanding" that other IPCo properties upstream were also subordinated. Although Idaho and IPCo conducted business in accord with this "understanding," there was no written agreement.

Through 1973, summer peak demand for IPCo's electricity increased ninefold with development of irrigated farmland by electrical pumping directly from the Snake River and its underlying aquifer. IPCo's dilemma was obvious: demand for power was up but water for hydrogeneration was in shorter supply. Not surprisingly, a ratepayer a few years later complained to the Idaho Public Utilities Commission that IPCo had overstated its ratebase because it had failed to protect its water rights against consumptive agricultural uses. The Swan Falls case was born in 1978 when IPCo sued the state to clarify the subordination question at Swan Falls Dam.

The Idaho Supreme Court's ruling on a pretrial motion for summary judgment in the Swan Falls case placed nearly all upstream water rights in doubt. The Court found that Swan Falls had a pre-1928 water right, and that neither the state water license nor the federal power license contained a subordination clause. Furthermore, the Court ruled that the Hell's Canyon subordination agreement in the 1950's did not subordinate Swans Falls by implication. Thus, it appeared many upstream water rights might not be worth the paper on which they were written.

Not wishing to press forward toward what promised to be a long and expensive trial, the parties moved their dispute into the political arena. A solution was not forthcoming, however. During legislative sessions in 1983 and 1984, upstreamers battled for superiority of water rights, and IPCo argued for just compensation if subordination was imposed. At loggerheads in the legislature and still wishing to avoid a trial, the parties embarked on negotiations that produced the Agreement in October, 1984.

2. *The Minimum Flow Compromise.* During negotiations IPCo expressed willingness to subordinate its rights to all existing uses. Hence, the remaining questions were how much water was available for future use and whether upstream uses or IPCo had superior rights. Employing a "worst case" analysis utilizing available historical flow data, the parties agreed that in a critical water year, assuming demand as projected for 1985, the lowest actual daily minimum flow expected at Murphy Gauge would still exceed the legal minimum (then 3,300 c.f.s.) by 1,200 c.f.s. Thus, if IPCo won the Swan Falls lawsuit, it could only hope to win an unsubordinated right that would produce about 4,500 c.f.s. during low flow periods. If Idaho won, however, the minimum flow of 3,300 c.f.s. is all IPCo could expect.

In settlement, the parties split the difference of 1,200 c.f.s. and agreed to increase the average daily minimum flow by 600 c.f.s. to 3,900 c.f.s., to which IPCo would have an unsubordinated right. The remaining 600 c.f.s. was reserved for future use. This new 3,900 c.f.s. daily minimum flow would apply during the peak demand season of April through October. Concomitant with the minimum flow agreement, Idaho promised to establish the statutory framework necessary to enable it to deliver the 3,900 c.f.s.

3. *Minimum Flow in Relation to Fish and Future Depletion.* As already explained, 600 c.f.s. is available for future development under the Agreement. One hundred fifty of the 600 c.f.s. are dedicated to domestic, commercial, municipal and industrial ("DCMI") uses, leaving 450 c.f.s. for future upstream consumptive uses. It is highly unlikely that either category will be fully utilized within the next 20 years.

a. *DCMI uses.* Parties to the Agreement recognized that DCMI uses were critical to development of the economy and protection of the health and welfare of Idaho citizens. Each c.f.s. used for such purposes delivers primary and secondary benefits, and much, if not most, of DCMI water is returned to the system. Even though 150 c.f.s. seems like a modest block of water, it is more than all DCMI uses above Swan Falls to date. Population growth will be insufficient to consume 150 c.f.s. anytime soon.

b. *Other consumptive demands.* As with DCMI uses, growth in agricultural demand for water above Swan Falls over the next 20 years is expected to be limited. Studies available to us suggest development of only about 147,000 acres of farmland during that time. This estimate is difficult to make because development will depend in large part on factors outside of Idaho's control, such as energy (power, oil) prices, trade policies and farm commodity prices. Moreover, the Agreement provides that future water rights will be approved only in the public interest. Thus, no approval will occur unless prospects for positive returns are evident. Nevertheless, assuming arguendo full development of the 147,000 acres, which would occur primarily by pumping from the underlying aguifer, our flow models suggest demand would draw down daily summer flows at Murphy Guage by only about 100-150 c.f.s. This still leaves a "development reserve" of 300-350 c.f.s. over the next 20 years and beyond.

In summary, the Agreement provides for an average daily minimum flow at Murphy Guage during peak demand summer months of 3,900 c.f.s., which is 600 c.f.s. higher than the current legal minimum. The lowest actual minimum flow is expected at 4,500 c.f.s. If demand absorbed the full 600 c.f.s. available for development and reduced flows to the 3,900 c.f.s. minimum, the stage change in Snake River at Murphy Guage would fall less than three inches. A similar fall could be expected in the vicinity of the Deer Flat National Wildlife Refuge. Also please note that the 3,900 c.f.s. average daily minimum flow under the Agreement would produce a minimum stage three inches higher than the current minimum of 3,300 c.f.s. As I have pointed out, however, demand sufficient to absorb the 150 c.f.s. available for DCMI uses and the 450 c.f.s. available for agriculture and other uses is not expected to occur in the foreseeable future.

From the description above, you can see why Idaho is satisfied that the Agreement would help preserve rather than compromise fish and wildlife habitats. Based on this explanation and background, I will address individually each of NMFS's assertions.

II. NMFS'S ASSERTIONS

1. *Depletions Will Exceed Idaho's Predictions.* NMFS asserts at page two of its June 17 filing with FERC that depletions will be six to twenty times greater than Idaho predicts. This claim is based on a faulty analysis of the facts. NMFS's arithmetic is inaccurate because it compares average daily minimum flow with average monthly flows. NMFS cites a survey of flows from 1976-85 that is expressed in monthly averages. NMFS then compares these averages to the Agreement's average daily minimum of 3,900 c.f.s. to derive estimated depletions of about 3,500-12,700 c.f.s. These depletions, NMFS argues, are six to twenty times greater than the 600 c.f.s. maximum depletions contemplated by the Agreement. NMFS's arithmetic is faulty because comparisons between monthly averages represent the average flow for the month. Average daily flows may range significantly above or below the monthly average. At Murphy Gauge, monthly averages are much higher than the lowest average daily flows for that month. The Agreement utilizes average daily flows rather than monthly averages because they more accurately describe stream flows during critical water years. NMFS's conclusions are simply invalid.

2. *Depletions Will Adversely Impact Anadromous Fish.* At pages three through five of its June 17 filing with FERC, NMFS argues that minimum flows under the Agreement will adversely impact downstream anadromous fish migrations. It claims the Agreement will limit Idaho's capacity to contribute to the Columbia River Basin Fish and Wildlife Water Budget, which was established by the Northwest Power Planning

Council to, among other things, provide for sufficient flows for downstream migration of anadromous fish during April through June. As a matter of policy, NMFS's argument injects an irrelevant consideration into the Swan Falls debate. The Agreement is designed to begin settlement of all Snake River water rights down to and including the Salmon River Drainage. Only after these rights are determined can Idaho begin to manage the Snake River System with consideration of the Water Budget and other demands. It is simply improper and counterproductive for NMFS to expect FERC or Congress to treat Water Budget considerations as functional equivalents of water rights to be settled by the Agreement. The Agreement simply does not contemplate such treatment.

As a factual matter, NMFS's assertion ignores the practicalities of management of water storage in the Snake River System. Storage management is divided between IPCo, the Corps of Engineers, Bonneville Power Administration ("BPA") and the U.S. Bureau of Reclamation, each having its own purposes in mind. Thus, Idaho's capacity to allocate water to the Water Budget is less dependent on availability of water than on coordination of management. If management was coordinated, water could be available. Contrast Idaho's situation with the mid-Columbia River where Water Budget allocations are accomplished with less pain because one entity (BPA) controls the dams. The consequence of Idaho's tangle of management is that Water Budget allocations of necessity depend significantly on streamflows. On that score, the Agreement improves flows for downstream migration becauser it increases the daily minimum flow to 3,900 c.f.s. from 3,300 c.f.s., which was the minimum when the Water budget was established. Moverover, the lowest minimum flows in the Snake River occur after the Water Budget demands in April through June because irrigation demands are heavier during summer months.

NMFS further confuses the Water Budget issue by assuming agricultural depletions will very correspondingly with the availability of water in any given year and concludes that depletions would exceed projections ". . . severalfold in average and above average water years." This assumption ignores the practicalities of agricultural economics that preclude such wide fluctuations in water demand. Because of arrangements with financial institutions, farmers must plan development years in advance. They do not enjoy the flexibility to expand in a good water year and contract when it is dry. Indeed, such ad hoc expansion and contraction has never happened in Idaho nor, to my knowledge, in any other western state on a significant scale. Furthermore, future upstream water rights will be approved under the Agreement only if in the public interest, which would likely preclude issuance of such high risk water rights.

Allow me to also point out that Idaho's State Water Plan addresses the need to increase our Water Budget contributions, and we are considering new reservoir projects and management techniques as well as water conservation programs to make more water available for downstream migration of anadromous fish.

III. H.R. 519 AND AMENDMENTS

In closing, I want to emphasize that Idaho will support amendments that will (i) clarify Section 1 of H.R. 519 to be consistent with your intent, and (ii) satisfy FERC that the Offers of Settlement are to be included in its Order. The Offers of Settlement are intended to preserve the rights of the parties to protect their interests in fish and wildlife in other forums, including the Snake River adjudication. The Offers are not intended to resolve such issues.

Thank you for requesting Idaho's comments. We urge your speedy and favorable action on H.R. 519 with amendments in order that our great state may get about the business of managing the Snake River to the benefit of all.

With appreciation for your thoughtful consideration and cooperation, I am,

Sincerely,

CECIL D. ANDRUS,
Governor.

IDAHO POWER CO.,
Boise, ID, July 16, 1987.

Re: Swan Falls Legislation H.R. 519 and S. 214.

Hon. JOHN D. DINGELL,
Chairman, Committee on Energy and Commerce, Rayburn House Office Building, Washington, DC.

DEAR CHAIRMAN DINGELL: Your letter of June 29, 1987, to Under Secretary Calio and Director Dunkle invited comments from Idaho Power Company, among others, on the matters discussed in your letter. On behalf of Idaho Power Company, I submit the following comments:

1. *The Offers of Settlement.*

One of the actions required of the State of Idaho by the Swan Falls Settlement Agreement was a complete adjudication of the Snake River. Legislation was enacted to require this adjudication, and the adjudication was commenced by the State of Idaho on June 17, 1987. A copy of the Petition is enclosed for your information. The judication will include the Deer Flat National Wildlife Refuge.

The Offers of Settlement referred to in your letter were entered into on the basis that the Idaho Power Company's request for a declaratory order from FERC was not the proper vehicle, and FERC was not the proper forum, for resolution of minimum flow rights issues associated with the refuge or with other federal reservations and programs. The adjudication was recognized as the proper place for resolution of those issues. The Offers of Settlement reflected the desire of the parties to make it clear that the FERC declaratory order would not adversely affect the ability of the parties to protect their interests in proper forums and proceedings. The Offers of Settlement were not intended to affect, much less resolve, any fish and wildlife issues.

2. *National Marine Fisheries Services Response of June 17, 1987.*

The NMFS response postulates a depletion of the Snake River greater than that estimated by the State of Idaho and Idaho Power Company. The response demonstrates a lack of understanding of the basis of the Settlement Agreement and the potential depletions of the Snake River.

The Settlement Agreement establishes a minimum average *daily* flow of 3900 cfs during the summer and 5600 cfs in the winter at the Murphy U.S.G.S. gauging station. The NMFS response is based on an average *monthly* flow analysis, and compares monthly average flows with the daily average flow stated in the Settlement Agreement. Average monthly flows are higher than minimum average daily flows, and the minimum average daily flow was selected for the minimum flow control mechanism because it is more restrictive than average monthly flows, and thus more protective of instream values, including power production. The minimum flows are intended to be the worst case that can happen. Therefore, in all but the critical period, the flow conditions will be better than minimum.

Further, irrigation depletions are planned by farmers to occur on an on-going basis. The investment in land, equipment and time necessary to carry on a successful farming operation do not permit farming only in some years and not in others.

The NMFS response assumes greater depletions in good water years than in critical waters years. This has not happened to date in irrigated farming in Idaho, or elsewhere in the west, and simply cannot happen, for the reason noted above. Agricultural development would not expand in the better years, with the risk that it would have to contract in the poorer years. Therefore, if agricultural development does occur, the depletions resulting from that development will be approximately the same every year.

Additionally, most agricultural expansion which would deplete flows at the Murphy Gauge will come by pumping from the Snake River Plain Aquifer. Stopping pumping in a dry year will not immediately result in increased river flows due to the effect of the aquifer. Therefore, the State of Idaho has no choice but to restrict further agricultural development to that amount which would potentially reduce flows to the minimums in a critical year. Therefore, the "substantially greater flow depletions" suggested by NMFS simply have no factual or realistic basis.

In 1987, 170,000 acres of irrigated land served by Idaho Power Company have gone out of production, presumably under the federal set-aside programs. This exceeds company and State of Idaho estimates of total new agricultural production which might occur if the entire 450 cfs were to be developed. Policies outside the Settlement Agreement have the potential for impacts on the Snake River which far exceed the effects of the Settlement Agreement.

3. *Impacts on Anadromous Fish Resources.*

The NMFS response suggests that the State of Idaho is incorrect in contending that the Settlement Agreement will not significantly impact fish habitat or flow releases under the Columbia River Basin Fish and Wildlife Program. MNFS asserts that "IPC reservoirs will lose 434,000 acre feet under the Swan Falls Agreement," (Page 4) and that those reservoirs are important to the Water Budget.

NMFS uses the State total potential agricultural *depletion* figure which was apparently arrived at by multiplying the daily loss of 1192 acre feet resulting from a 600 cfs depletion by 365 days. The NMFS analysis is inaccurate in two respects.

As pointed out in Idaho Power Company's responses to the FERC questions, 150 cfs of existing flow at the Murphy gage was reserved for domestic, commercial, municipal and industrial uses. Depletion of this reserved water will not take place for many years. A realistic analysis of potential depletion is limited to the 450 cfs which might be taken by new agricultural uses. [The Company's analysis indicates that it will be at least 30 years before even that amount is depleted.] 894 acre feet per day x 365 days results in a maximum potential depletion of 326,000 acre feet, spread over the entire twelve months.

However, the basic flaw in the NMFS approach is a confusion of "depletion" with "storage". The only storage on the Idaho Power Company system which is subject to Company control within the terms of its licenses is 1,000,000 acre feet at Brownlee Reservoir. [American Falls Reservoir is controlled by the United States Bureau of Reclamation. The Company power plant at American Falls Dam generates using USBR releases.]

Brownlee Reservoir is partially evacuated every year for flood control purposes as required by the U.S. Army Corps of Engineers. It is then refilled and remains full until drawn down if required for summer generation. Obviously, while the reservoir is drawn down for flood control or generation requirements, and when the reservoir is full, no "storage" is taking place.

The Water Budget requests usually occur in May and June. The impact on Company operations is realized in June. Therefore, the total potential new depletion for that month would only be 27,000 acre feet annually at the end of 30 years or more. Comparing potential annual depletion under the Settlement Agreement with the 450,000 acre feet in the 1987 Water Budget is an equation of apples and oranges. Water Budget needs relates to river flows and storage water availability during the spring and early summer. Potential depletion of river flows in other months is not material to Water Budget discussions, and certainly cannot be equated to "storage" as NMFS had done.

Reductions of river flows to levels permitted by the Settlement Agreement will have little or no impact on Water Budget operations.

Interpretation of Section 1 of H.R. 519 and S. 214.

Your statements in your letter concerning the intent of Section 1 of the bill, found at page 3 and carrying over to the top of page 4, are accurate. The language in the bill relates to utilization or retention of project property, including water rights. Possible FERC concerns over fish and wildlife and other environmental matters are not premised on the property retention articles of the various licenses and would not be affected by the bill. The disclaimer in Section 2 was intended to make that clear.

Interpretation of Section 2.

The Offers of Settlement were to be preserved by the bill as drafted, in order to prevent any arguments that the FERC order entered pursuant to the bill foreclosed consideration of fish and wildlife issues in other proceedings, or affected other existing agreements on those matters. If FERC does not agree with that interpretation, then the bill should indeed be amended.

Thank you for giving Idaho Power Company the opportunity to make these comments. If you need any further information, please let us know.

Sincerely,

LOGAN E. LANHAM,
Senior Vice President.

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE STATE OF IDAHO IN AND FOR THE COUNTY OF TWIN FALLS

(Case No. 39576)

[In Re the General Adjudication of Rights to the Use of Water from the Snake River Basin Water System]

The State of Idaho, *ex rel.* A. Kenneth Dunn in his official capacity as director of the Idaho Department of Water Resources, Petitioner, vs. the United States; the State of Idaho; and all claimants to the use of water from the Snake River Basin Water System, Defendants.

The State of Idaho, *ex rel.* A. Kenneth Dunn in his official capacity as director of the Idaho Department of Water Resources, by and through Attorney General Jim Jones, petitions and alleges as follows:

NATURE OF THE CASE

1. This is an action for the general adjudication *inter se* of all rights arising under state or federal law to the use of surface and ground waters from the Snake River basin water system and for the administration of such rights.

JURISDICTION

2. This court has jurisdiction under state law in accordance with chapter 14, title 42, Idaho Code.

3. This court has jurisdiction of all claims of the United States under the McCarran Amendment, 43 U.S.C. § 666 (1982), which states in part as follows:

"Consent is hereby given to join the United States as a defendant in any suit (1) for the adjudication of rights to the use of water of a river system or other source, or (2) for the administration of such rights, where it appears that the United States is the owner of or is in the process of acquiring water rights by appropriation under State law, by purchase, by exchange, or otherwise, and the United States is a necessary party to such suit."

PARTIES

4. Petitioner, A. Kenneth Dunn, is the director of the Idaho Department of Water Resources, and executive department of the State of Idaho.

5. The United States in its proprietary, governmental, trustee and representative capacities is the owner of or is in the process of acquiring water rights by appropriation under state law, by purchase, by exchange, by reservation under federal law or otherwise, and the United States is a necessary party to the general adjudication of rights to the use of water from the Snake River basin water system.

6. The State of Idaho in its proprietary, governmental and representative capacities claims some right, title or interest to the use of waters of the Snake River basin water system and is a necessary party to the general adjudication of rights to the use of water from the Snake River basin water system.

7. Though petitioner has knowledge of some defendants, the true names or capacities, whether individual, corporate, governmental, associate, representative, or otherwise, of defendants named herein as "all claimants to the use of water from the Snake River basin water system" are not known to petitioner however, petitioner will identify and serve all persons in accordance with the procedures set forth in Idaho Code § 42-1408A (Supp. 1986).

ALLEGATIONS IN SUPPORT OF COMMENCEMENT OF THE GENERAL ADJUDICATION

Authority

8. Idaho Code § 42-1406A(3)(a) (Supp. 1986) requires the petitioner to petition the district court to commence a general adjudication of all rights to the use of surface and ground waters of the Snake River basin water system within the state of Idaho upstream from the point at which the Snake River leaves the state of Idaho and enters the state of Oregon in section 14, T. 4 N., R. 6 W., B.M.

9. Idaho Code § 42-1406A(3)(b) (Supp. 1986) provides that the petitioner may petition the district court to commence a general adjudication of all rights to the use of water of the mainstem of the Snake River, which forms the boundary between the state of Idaho and the states of Oregon and Washington hereinafter referred to as the "mainstem," and of its unadjudicated tributaries.

10. Idaho Code § 42-1406A(3)(b) (Supp. 1986) also provides that the petitioner include adjudicated tributaries of the mainstem, only if the United States, or other parties whose consent to jurisdiction of the state district court is required by the McCarran Amendment, 43 U.S.C. § 666 (1982), refuse to consent because of the exclusion of the adjudicated mainstem tributaries.

Boundaries of the water system

11. Petitioner proposes to adjudicate the rights to the use of all surface and ground waters of the Snake River basin water system, hereinafter referred to as the "water system," within the state of Idaho upstream from and including the Salmon River basin, which is tributary to the Snake River in section 14, T. 29 N., R. 4 W., B.M.

12. The proposed boundaries of the water system are described as follows: "Beginning at the point where the southern boundary line of the state of Idaho meets the western boundary line of the state of Idaho, then following the western boundary of the state north to the northern border of the Salmon River basin in Section 14, T. 29 N., R. 4 W., B. M., then following the northern watershed divide of the Salmon River basin east to the eastern boundary line of the state of Idaho, which area is unsurveyed but with a projected location of approximately Section 26, T. 26 N., R. 15 E., B. M., then following the eastern boundary line of the state of Idaho southeast to the northern border of the Bear River basin in Section 35, T. 10 S., R. 46 E., B. M., then following the northern watershed divide of the Bear River basin southwest to the southern boundary line of the state of Idaho in Section 26, T. 16 S., R. 28 E., B. M., then following the southern boundary line of the state of Idaho west to the point of beginning, excluding those adjudicated tributaries described in paragraphs 15-19."

The proposed boundaries are illustrated on Exhibit A, which is attached hereto and incorporated herein by reference.

13. There are no hydrologic subbasins proposed to be separately adjudicated.

Adjudicated tributaries

14. The petitioner is unable to ascertain whether the United States refuses to consent to jurisdiction of the state district court, if the adjudication does not include the adjudicated tributaries of the mainstem.

15. The Boise River basin is a tributary to that portion of the mainstem of the Snake River upstream from the confluence of the Snake River and the Salmon River. The Seventh Judicial District Court for the County of Canyon entered two major decrees adjudicating the rights to the use of surface water from the Boise River. *Farmers' Co-operative Ditch Co.* v. *Riverside Irrigation District, Limited,* Civil Case No. 1323x, *aff'd,* 14 Idaho 450 (1908), *aff'd in part, rev'd in part;* 16 Idaho 525 (1909) (Stewart Decree); *Pioneer Irrigation District* v. *American Ditch Association,* Civil Case No. 5301½, 50 Idaho 732 (1931) (Bryan Decree). The Stewart Decree adjudicated the rights among over 200 named corporate and individual parties; the Bryan Decree adjudicated the rights among over 100 named

corporate and individual parties. The United States was not a party to *Farmers' Co-operative Ditch Co.* The United States, however, filed a complaint in intervention in *Pioneer* and was joined as a defendant-intervenor.

16. The Weiser River basin is a tributary to the mainstem of the Snake River upstream from the confluence of the Snake River and the Salmon River. The Seventh Judicial District Court for Washington County entered a decree adjudicating the rights to the use of surface water from the Weiser River. *Muir* v. *Allison*, Civil Case Nos. 823 and 1370, *rev'd in part and remanded*, 33 Idaho 146 (1920). This case adjudicated the rights to the use of the surface waters of the Weiser River among over 800 named corporate and individual parties, but the United States was not joined as a party.

17. The Payette River basin is a tributary to that portion of the mainstem of the Snake River upstream from the confluence of the Snake River and the Salmon River. The Fourth Judicial District Court for Gem County entered partial decrees adjudicating the rights to the use of surface and ground waters from the Payette River on December 20, 1985 and on March 28, 1986. *In the Matter of General Determination of the Right to the Use of Surface and Groundwaters of the Payette River Drainage Basin*, Civil Case No. 3667. This case adjudicated approximately 9,000 rights to the use of surface and ground waters of the Payette River. Approximately 100 contested claims to water rights appropriated under state law have yet to be decreed. The United States was joined as a defendant, but the claims of the United States to water rights reserved under federal law have not yet been determined.

18. The Lemhi River basin is tributary to the Salmon River. The Seventh Judicial District Court for Lemhi County entered a partial decree adjudicating the rights to the use of surface and ground waters from the Lemhi River on December 30, 1982. *In the Matter of General Determination of the Right to the use of Surface Water and Tributaries from Whatever Source of the Lemhi River Drainage Basin*, Civil Case No. 4948. This case adjudicated approximately 1,700 rights to the use of surface and ground waters of the Lemhi River basin among approximately 800 corporate and individual parties. A memorandum decision was entered June 8, 1987 as to the rights to the use of the surface water of Geertson Creek. Two private claims to the waters of the Lemhi River are unresolved. The United States was joined as a defendant, but the claims of the United States to water rights reserved under federal law have not yet been determined.

19. The boundaries of the previously adjudicated tributaries described in paragraphs 15 to 18 above are approximately illustrated on the map set forth in Exhibit A as follows: Boise River Basin 63, Payette River Basin 65, Weiser River Basin 67, Lemhi River Basin 74.

Counties

20. The counties wholly located within the proposed boundaries of the water system regardless of whether the previously adjudicated tributaries are included are as follows: Bingham, Blaine, Bonneville, Butte, Clark, Custer, Fremont, Gooding, Jefferson, Jerome, Lincoln, Madison, Minidoka, Owyhee, Teton, Twin Falls.

21. If the previously adjudicated tributaries described in paragraphs 15 to 19 are included in the adjudication, then the counties listed in this paragraph would be wholly within the boundaries of the water system: Ada, Adams, Boise, Camas, Canyon, Elmore, Gem, Lemhi, Payette, Valley Washington.

22. If the previously adjudicated tributaries described in paragraphs 15 to 19 are not included in the adjudication, then the counties listed in this paragraph would be partly located within the boundaries of the water system: Ada, Adams, Camas, Canyon, Elmore, Lemhi, Payette, Valley, Washington.

23. The counties partly located within the boundaries of the water system, whether or not the previously adjudicated tributaries described in paragraphs 15 to 19 are included in the adjudication, are as follows: Bannock, Caribou, Cassia, Idaho, Lewis, Nez Perce, Oneida, Power.

Scope of Adjudication

24. There are no classes of uses proposed to be excluded from the adjudication, and there are no classes of uses proposed to be separately adjudicated.

25. Idaho Code § 42-1409(6) (Supp. 1986) requires all claimants to file a notice of claim or a negotiated agreement in a general adjudication except persons claiming a water right based on application or permit as of the date of entry of the order commencing the general adjudication. Idaho Code § 42-1409(9) (Supp. 1986) authorizes the director to require persons holding a permit or license for which proof of beneficial use was filed after entry of the order commencing the general adjudication to file a notice of claim. Petitioner proposes to include persons holding a permit as of the date of entry of the order commencing the general adjudication for which proof of benefical use was filed on or prior to the date of entry of the order commencing the general adjudication to assure that all claimants of water rights are included in the general adjudication.

Service

26. The description of the general method recommended by petitioner to ascertain and to serve claimants not disclosed following compeltion of the service required by paragraphs (a) through (d) of subsection (2) of section 42-1408A, Idaho Code, is as follows:

a. The petitioner will compare the notices of claims to the use of water rights with the records of petitioner, including aerial photography and satellite imagery, and identify uses of water for which a notice of claim was not filed.

b. The petitioner will than review county assessor records, county recorder records, district court records, and Secretary of State records, as appropriate, to determine the actual owner of the land on which the water is used.

c. The petitioner will then serve a notice as described by Idaho Code § 42-1408A(1) (Supp. 1986) (notice of commencement order) by certified mail, return receipt requested, to each person with a record interest in the land at the address determined by the record search.

d. The petitioner will then request each city or town for which no person has claimed a municipal use to designate the name and address of the person that provides water service to that city or town.

e. The petitioner will then serve a notice of commencement order by certified mail, return receipt requested, to each person designated at the address provided by any city or town as the supplier of water for municipal use for the city or town.

f. The petitioner will then proceed with the investigation of the water system as described by Idaho Code §42-1410 (Supp. 1986), and will use any information reasonably available to determine if there are uses of water not of record with the petitioner for which a notice of claim has not been filed. If the petitioner discovers uses of water not of record with the petitioner for which a notice of claim has not been filed, the petitioner will then review the various records as stated in paragraph (b) above to determine the owner of record of the land on which the water is used. The petitioner will then serve a notice of commencement order by certified mail, return receipt requested, to each person with a record interest in the land at the address determined by the record search.

g. The petitioner will file affidavits of service or other documents to demonstrate compliance with the notice requirements of Idaho Code §42-1408A (Supp. 1986).

27. The method of service set forth at Idaho Code §42-1408A (Supp. 1986) and in paragraph 26 above is reasonably calculated to notify all claimants within the water system of the commencement of the general adjudication.

PRAYER FOR RELIEF

Wherefore, the petitioner petitions this court as follows:

1. To enter an order in accordance with Idaho Code § 42-1406A (Supp. 1986) that does all of the following:

a. Commences a general adjudication *inter se* of all rights arising under state or federal law to the use of surface and ground waters from the Snake River basin water system within the state of Idaho—upstream from and including the Salmon River basin, which is tributary to the Snake River in Section 14, T.29 N., R.4 W., B. M.;

b. Determines whether the United States refuses to consent to the jurisdiction of the district court, unless the district court includes the adjudicated tributaries described in paragraphs 15 to 19 in the general adjudication;

c. Describes the boundaries of the water system as set forth in paragraph 12 or as finally determined by the district court to be necessary to obtain the consent of the United States to the jurisdiction of the district court for the adjudication of the Snake River basin water system;

d. Lists the counties wholly or partly located within the boundaries of the water system;

e. Directs all claimants of rights to the use of surface and ground waters from the water system, including holders of permits for which proof of beneficial use was filed on or prior to the date of entry of the commencement order, to file a notice of claim or a negotiated agreement with the director as provided in Idaho Code § 42-1409 (Supp. 1986);

f. Approves the method of ascertaining and serving claimants not disclosed following the completion of the service required by Idaho Code § 42-1408A(2) (a)-(d) (Supp. 1986) as set forth in paragraph 26;

g. Authorizes the director to investigate all uses of water from the system in accordance with Idaho Code § 42-1410 (Supp. 1986) and to file a report in accordance with Idaho Code § 42-1411 (Supp. 1986); and

h. Contains a statement that the district court files will contain affidavits of service and other documents stating the persons served with a copy of the notice of commencement order.

2. To determine all rights to the use of water within the water system, including those of the United States.

3. To make all determinations necessary and proper for the administration of the water rights determined in the general adjudication.

4. For such other and further relief as the court deems just and proper.

VERIFICATION OF PETITION

I, A. Kenneth Dunn, being first duly sworn upon oath, deposes and states that I am the duly appointed Director of the Idaho Department of Water Resources and authorized to act on behalf of said Department, that I have read the foregoing petition and know the contents thereof, and that the statements contained therein are true and correct of my own knowledge, except as to matters stated on the information and belief and as to those matters I believe them to be true.

A. KENNETH DUNN,
Director.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, May 20, 1987.

Hon. JOHN D. DINGELL,
Chairman, Committee on Energy and Commerce, Washington, DC.

DEAR MR. CHAIRMAN: I am writing to express my concern about the lack of federal approval of the Swan Falls Water Rights Agreement and to request your personal support and help in resolving this critical issue. As you are aware, the State of Idaho has entered into a settlement agreement with Idaho Power Company which defines the utility's water rights at Swan Falls and several other licensed projects on the Snake River.

On January 7, I introduced legislation (H.R. 519) which directs the Federal Energy Regulatory Commission (FERC) to issue an order approving the Swan Falls Water Rights Agreement. This bill is identical to the provisions enacted in the last Congress, but vetoed by the President. As you know, the Subcommittee on Energy and Power voted unanimously to report the bill favorably at its first markup on February 11. Similar legislation passed the Senate on February 19.

As we have discussed, the passage of H.R. 519 is my top legislative priority. The Swan Falls agreement would resolve a long and difficult struggle over water rights that has confronted Idaho for many years. It has already been ratified by the Idaho State Legislature and several state agencies have all taken the necessary steps to implement the agreement.

All that remains to finalize the agreement is to obtain approval from FERC. As you know, federal action is necessary because the hydroelectric projects in question are all licensed under the Federal Power Act.

The bill would settle, on a one-time basis, a petition pending at FERC since 1984. The Commission's failure to take action on the agreement has left the future management of our water resources in a state of uncertainty and has threatened Idaho's economic well-ability or willingness to act upon this petition.

If the Swan Falls agreement is not implemented soon, Idaho will face years of litigation and uncertainty about the validity of existing water rights and the availability of water for new uses. In short, a political battle and bitter controversy could erupt in Idaho again.

The State of Idaho has sincerely tried to be responsive to concerns expressed by your staff, conservation leaders, FERC, and others regarding potential impacts of the proposed legislation and agreement. However, the extended delays that we have experienced with FERC on this issue have been unreasonable. Idaho has waited long enough. I strongly believe the only viable option to ratify the agreement is through a legislative solution.

While I appreciate the need for adequate information on this issue, I believe that all parties have been very patient during this process. I have not tried to force the legislation through the Committee in a hasty manner.

As a result of numerous meetings with conservation leaders, state officials, and utility representatives, I am willing to amend the bill to resolve the remaining questions that have been raised with regard to the agreement and proposed legislation. Copies of the proposed amendments are enclosed for your consideration.

The amendments are intended to respond to concerns expressed by several conservation groups that the bill should be amended and include appropriate legislative history to address problems related to fish and wildlife resources.

Several federal agencies and conservation groups have entered into a stipulation in which it was agreed that the Swan Falls settlement did not preclude recognition of federal reserved water rights for the Deer Flat National Wildlife Refuge.

The proposed amendment explicitly requires FERC to approve those settlement agreements between the State of Idaho, Idaho Power Company, the National Marine Fisheries Service, the Department of the Interior, and the Idaho Natural Resources Legal Foundation as part of the order.

In addition, the second amendment would expressly recognize that the bill and the order do not in any way affect the ability of a federal agency to perfect a reserved water right at a level sufficient to satisfy the purposes of the agency's reservation for the Wildlife Refuge or other fish and wildlife values.

I believe this is a very narrow piece of legislation and does not distrub any existing legal protections for fish and wildlife. Furthermore, the bill does not affect in any way the requirements that may be necessary as a result of the 1986 Electric Consumers Protection Act when the dams involved are subject to relicensing. Nor does it affect any requirements of the Northwest Power Act.

In addition to the two proposed amendments, I believe the remaining issues can be addressed satisfactory in the bill's legislative history. The legislative history should recognize that there is an important federal interest in protecting fish and wildlife in the Snake River Basin.

This interest has been expressed in a number of federal statutes including the Electric Consumers Protection Act, the Northwest Power Act, and the creation of the Deer Flat National Wildlife Refuge. The Committee report should expressly state that this legislation does not in any way prejudice or affect the requirements of these laws, the quantity of water which may be necessary to satisfy those requirements, or any federal reserved water rights.

I also agree that the appropriate federal agencies, particularly the U.S. Fish and Wildlife Service, should be adequately funded to better determine what their reserved water rights are. The Committee report could include language that directs the various federal agencies to submit to the Congress, in a timely fashion, a funding proposal for necessary studies to protect their interest. I offer my support to assist these agencies in obtaining the necessary funding for such studies.

For the first time, water rights on the Snake River will be adjudicated in formal State proceedings. A separate adjudication process is underway in Idaho to determine what those federal reserved water rights are. I support that process and believe it is the best forum available to resolve this question.

At that time, any reserved water rights which may be necessary for fish and wildlife values protected by the Deer Flat National Wildlife Refuge can be resolved, either through negotiation or litigation. The interests of the federal government should be protected by the appropriate agencies involved.

It has also been suggested by some that action by Congress dictating the specifics of a FERC order is inappropriate. In a letter to Senator McClure last October, you said the Swan Falls proposal was not a precedent for similar amendments in the future. Both Senator McClure and I share your views on this matter and do not believe the bill would invite congressional intervention on future matters.

The Swan Falls agreement was the result of a dedicated effort and hard work from many Idahoans. It has broad public support in the State of Idaho, including the Department of Fish and Game and many conservation leaders. The entire congressional delegation is also in full support of the bill.

Much time has passed since the bill's introduction last January. I believe the concerns raised by the interested parties can be adequately addressed and resolved through the proposed amendments and appropriate legislation history.

For these reasons, I request that you schedule the legislation for full Committee consideration as soon as possible. I pledge my support to assist you and your staff in developing mutually acceptable report language and floor statements on the bill.

Under your leadership, the Committee has shown great support in protecting our fish and wildlife resources. You have also been very fair and reasonable in dealing with unique state problems such as the Swan Falls Water Rights Agreement.

After many years of heated controversy and public debate, Idaho has an unusual opportunity to finally resolve one of its most important natural resource management issues. However, your assistance and support in resolving this issue is vital.

I look forward to hearing from you and would be happy to discuss this matter further. As always, your advice and counsel are deeply appreciated.

Sincerely,

RICHARD H. STALLINGS,
Member of Congress.

Mr. McCLURE. Mr. President, with respect to the ambiguities which have been raised with respect to the legislative language, particularly some of those raised by the attorney general of the State of Idaho, I believe they are not satisfactorily resolved by the legislative history of the House. Because this legislation is very important to my State, I subsequently posed a number of questions to Chairman Dingell on behalf of the House Energy and Commerce Committee and Chairman Hesse of the Federal Energy Regulatory Commission in order to clarify several points. These points are:

First, does H.R. 519 expand FERC jurisdiction over water or water rights, including reserved right and instream flows?

Second, does H.R. 519 provide FERC with any new authority to impose fish and wildlife conditions on any licenses subject to the Swan Falls Agreement?

Third, my reading of H.R. 519 and the committee report is that the participation and level of funding by the parties in the joint study under section 3 become mandatory when incorporated in an appropriate FERC order, but the findings, recommendations, results or conclusions of the study are not binding on any party including Idaho Power Company or the State (if it chooses to participate). Is this correct?

Fourth, on page 3 of House Report 100–418, the report states: "The second purpose is to ensure that the agreement, any order issued by FERC concerning the agreement, and subsequent adjudications and other actions will not be adverse to the needs of valuable fish and wild resources, including anadromous fish, and related habitat of the Snake River, including the Deer Flat National Wildlife Refuge."

Does not H.R. 519 merely ensure that the needs of fish and wildlife resources, including anadromous fish, and related habitat of the Snake River, including the Deer Flat National Wildlife Refuge, will be studied but not be affected in any way by H.R. 519 or the agreement?

I have received responses to my inquiries, which I believe principally lay to rest the vast majority of concerns related to the ambiguities of the House report. I ask unanimous consent to include those now as part of the legislative history of this bill.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON ENERGY AND COMMERCE,
Washington, DC, December 15, 1987.

Hon. JAMES A. MCCLURE,
Ranking Minority Member, Committee on Energy and Natural Resources, Washington, DC.

DEAR JIM; I appreciate the opportunity to discuss with you the provisions of H.R. 519 as it passed the House and thank you for your kind remarks about my efforts to pass this legislation. I know it is important to your State.

Enclosed is my reply to your questions relative to the legislation.

I think it is important to understand that there is no intention on the part of the House in passing this Idaho specific bill to upset or decide various water rights issues or to give the Federal Energy Regulatory Commission (FERC) new authority regarding fish and wildlife. I applaud the State's Attorney General for trying to guard the State's interest over this matter, but I really believe that he is finding controversy where none exists.

Let us review the bidding on this matter. You will recall that the idea for this legislation stemmed in the 99th Congress from the State, the Idaho Power Company, and the Idaho Congressional delegation, not from this Committee or myself. Indeed, the House Committee was skeptical. When our Committee reluctantly agreed, the clear understanding was that there was no environmental objection and that fish and wildlife resources, including the Federal refuge and anadromous fish, were not going to be adversely affected. As you know, the President vetoed the bill and after the legislation was repassed in the Senate, serious environmental and fish and wildlife concerns surfaced in Idaho which were communicated to me. Further, Chairman Heese's interpretation of the original bill and ours unfortunately were not the same.

No hearings on this matter have ever been held in either body. Our Committee relied on extensive correspondence which is printed in the Committee's report and in the Floor debate. That correspondence bore out the need to change the original bill as the House has done and to add the study. None of these bill changes were made, however, without the full participation of the State and power company officials, environmentalists, and others. All the parties to those discussions agreed to the language of the revised House bill which was adopted by our Committee and the House. I am pleased that you are generally satisfied with the provisions of the bill.

Obviously, the Senate always has the prerogative to amend the language further and return it to the House. However, if that occurs, I would find it necessary to refer the bill to the Subcommittee on Energy and Power for full hearings before the Committee considered it again. I could not promise when Chairman Sharp would hold those hearings or when his Subcommittee and the full Committee would reconsider the matter again. Also, such hearings could result in additional changes in the legislation.

I hope that the enclosed reply to your questions will be helpful to you and the Idaho Attorney General and will allay any fears in the State that there may be some hidden agenda. The legislation does no more than what it states. It does not affect water rights or FERC's present authorities, except in regard to the issuance of the two FERC orders. It is fair, reasonable, and limited. I hope the Senate will pass it without further change.

As always, I am glad to have the opportunity to once again work with you.

With best wishes.

Sincerely,

JOHN D. DINGELL,
Chairman.

Enclosure.

REPLY BY CHAIRMAN JOHN D. DINGELL TO QUESTIONS BY SENATOR JAMES A. MCCLURE

1. Does H.R. 519 expand FERC jurisdiction over water or water rights, including reserved right and instream flows?

The House-passed bill does not expand or contract whatever jurisdiction the Commission has under existing law.

2. Does H.R. 519 provide FERC with any new authority to impose fish and wildlife conditions on any licenses subject to the Swan Falls Agreement?

Except for the study provisions, the House bill does not affect in any way FERC's present authority under the Federal Power Act regarding fish and wildlife. Like water rights, the bill does not contract or expand FERC's fish and wildlife authority other than to require FERC, if necessary, to issue an order requiring the fish and wildlife study and to consider the results thereof. (See disclaimer in the bill on fish and wildlife and water rights.)

3. My reading of H.R. 519 and the Committee Report is that the participation and level of funding by the parties in the joint study under Sec. 3 become mandatory when incorporated in an appropriate FERC order, but the findings, recommendations, results or conclusions of the study are not binding on any party, including Idaho Power Company of the State (if it chooses to participate). Is this correct?

You are correct. The House believes a study is necessary, but obviously no one knows what will be the findings or results. It is quite possible that the Federal fish and wildlife agencies, the Indian tribes, or the environmentalists may have more concerns about the results than the power company and the State. In any event, there is no House intent to make the results binding on any party.

4. On page 3 of H Rpt. 100–418, the Report states: "The second purpose is to *ensure* that the Agreement, any order issued by FERC concerning the agreement, and subsequent adjudications and other actions will not be *adverse* to the needs of valuable fish and wild resources, including anadromous fish, and related habitat of the Snake River, including the Deer Flat National Wildlife Refuge." (Italic supplied.)

Does not H.R. 519 merely ensure that the needs of fish and wildlife resources, including anadromous fish, and related habitat of the Snake River, including the Deer Flat National Wildlife Refuge, will be studied but not be affected in any way by H.R. 519 or the Agreement?

I am not entirely clear what you mean by this question. The report language merely indicates this Committee's intent that in enacting H.R. 519, these fish and wildlife resources not be adversely affected by the bill and, as you point out, they "will be studied." As to the "Agreement," it must speak for itself. The bill does affect the Agreement.

FEDERAL ENERGY REGULATORY COMMISSION,
Washington, DC, December 16, 1987.

DEAR SENATOR MCCLURE: Thank you for your December 14, 1987 letter concerning H.R. 519, which is pending before the Senate. Enclosed is a Commission staff response to the questions attached to your letter.

I appreciate your inquiry. If I can be of any further assistance in this matter, please do not hesitate to contact me.

Sincerely,

MARTHA O. HESSE.

Enclosure.

STAFF RESPONSE

Question 1. Does H.R. 519 expand FERC jurisdiction over water or water rights, including reserved right and instream flows?

Answer. No, H.R. 519 does not expand nor otherwise change the Commission's jurisdiction over water or water rights, including reserved rights and instream flows. The savings provisions in Section 2, subsection (c), provide a specific disclaimer regarding water rights, including Indian water rights. Subsection (b) of Section 2 expressly provides that nothing in Section 1 (and presumably the order to be issued pursuant to Section 1) shall be construed to modify, change, expand, or limit the authority of the Commission under the Federal Power Act (FPA) or other applicable law relating to fish and wildlife. Thus there would be no expansion of jurisdiction over water or water rights, including reserved rights and instream flows.

Question 2. Does H.R. 519 provide FERC with any new authority to impose fish and wildlife conditions on any licenses subject to the Swan Falls Agreement?

Answer. No, H.R. 519 does not appear to provide the Commission with any new authority to impose fish and wildlife conditions on any licensees subject to the Swan Falls agreement.

Question 3. My reading of H.R. 519 and the Committee Report is that the participation and level of funding by the parties in the joint study under Sec. 3 become mandatory when incorporated in an appropriate FERC order, but the findings, recommendations, results or conclusions of the study are not binding on any party including Idaho Power Company or the State (if it chooses to participate). Is this correct?

Answer. Yes, the participation and level of funding by the parties in the Section 3 joint study would become mandatory, either by agreement among the parties or, in the absence of agreement, by a Commission order pursuant to Section 3(a)(2). Under paragraph (3) of Section 3(a), the licensee would pay its assigned share at the times and manner directed by the Commission. Under subsection (b) of Section 3, the Governor of the State of Idaho would have the option to participate in the negotiations required by Section 3, and in exercising the option, the Governor would agree to carry out the State's responsibilities under the agreement or any order issued by the Commission under subsection (a). *See* also the section-by-section analysis in H.R. Rep. No. 418, 100th Cong., 1st Sess. (1987) at pp. 15-17.

In response to the latter part of the question, it appears that the findings, recommendations, results, or conclusions of the study would not be binding on any party, including the State, if it chooses to participate. Under paragraph (4) of subsection 3(a), the evaluation and studies, and the report, must be made available by the Federal parties to the public and the Commission and must be considered by the Commission in accordance with existing and applicable law. Any further order, which the Commission may issue based on the studies and the report, would presumably be subject to judicial review under the FPA and would need to be supported by substantial evidence in the record.

Question 4. On page 3 of H. Rept. 100-418, the Report states: "The second purpose is to *ensure* that the Agreement, any order issued by FERC concerning the agreement, and subsequent adjudications and other actions will not be *adverse* to the needs of valuable fish and wildlife resources, including anadromous fish, and related habitat of the Snake River, including the Deer Flat National Wildlife Refuge." (Italic supplied)

Does not H.R. 519 merely ensure that the needs of fish and wildlife resources, including anadromous fish, and related habitat of the Snake River, including the Deer Flat National Wildlife Refuge, will be studied but not be affected in any way by H.R. 519 or the Agreement?

Answer. Yes, it appears that H.R. 519 would ensure that the needs of fish and wildlife resources would be studied. This would be accomplished by the provisions of Section 3 of H.R. 519 as amended by the Energy and Commerce Committee and passed by the House. The House Committee amendment and accompanying report language also provide further clarification that the purpose of the Section 1 order required by H.R. 519 is to afford protection at the Commission on the basis that the licensee was allowing some of the licensed project property assets to be dissipated or to otherwise act imprudently in agreeing to the settlement agreement. It is also further clarified that it is the intent of the legislation not to bar the Commission from considering whether the utilization of the eight licensed projects in accordance with the settlement agreement is consistent with all of the license conditions, including those that address various environmental matters, such as minimum flows. Thus the needs of fish and wildlife resources would not be affected by H.R. 519 or the settlement agreement.

Mr. McCLURE. There remain some continuing questions as to what is the effect of this bill on the State of Idaho with respect to existing water law and water rights, and further, what exactly the existing law is in this regard. To clarify these matters, I would like to ask the chairman of the Senate Committee on Energy and Natural Resources the following questions:

Mr. JOHNSTON. I would be happy to respond.

Mr. McCLURE. Does FERC have the authority to quantify reserved water rights, if any?

Mr. JOHNSTON. No.

Mr. McCLURE. Does FERC have authority to establish minimum stream flows that must be complied with by anyone other than the licensee?

Mr. JOHNSTON. No.

Mr. McCLURE. Does H.R. 519 expand FERC jurisdiction over water or water rights, including reserved right and instream flows:

Mr. JOHNSTON. No.

Mr. McCLURE. Does H.R. 519 provide FERC with any new authority to impose fish and wildlife conditions on any licenses subject to the Swan Falls Agreement?

Mr. JOHNSTON. No.

Mr. McCLURE. My reading of H.R. 519 and the committee report is that the participation and level of funding by the parties in the joint study under section 3 become mandatory when incorporated in an appropriate FERC order, but the findings, recommendations, results or conclusions of the study are not binding on any party including Idaho Power Co or the State—if it chooses to participate. Is this correct?

Mr. JOHNSTON. Yes.

Mr. McCLURE. On page 3 of H. Rept. 100-418, the report states:

> The second purpose is to ensure that the Agreement, any order issued by FERC concerning the agreement, and subsequent adjudications and other actions will not be adverse to the needs of valuable fish and wildlife resources, including anadromous fish, and related habitat of the Snake River, including the Deer Flat National Wildlife Refuge. (Emphasis supplied).

Does not H.R. 519 merely ensure that the needs of fish and wildlife resources, including anadromous fish, and related habitat of the Snake River, including the Deer Flat National Wildlife Refuge, will be studied but not be affected in any way by H.R. 519 or the agreement?

Mr. JOHNSTON. Yes.

Mr. McCLURE. Isn't it correct to say that the study will examine and analyze facts but may not require any specific actions?

Mr. JOHNSTON. The Senator is correct.

Mr. McCLURE. Does the chairman agree that the scope of the study, if required to be ordered by FERC, should be as limited as possible?

Mr. JOHNSTON. Yes.

I thank the chairman for his responses, and would only add that a major source of the concern is that the legislation is dispositive of certain issues but remains silent and/or neutral on others. The study is addressed to issues upon which the legislation is militantly neutral and some would suggest that the study is intended or will be used to affect those issues. The record is and must be absolutely clear that the legislation does not address those issues and the required study does not affect them.

With the clarifications that have now been made as part of the legislative history of this measure, and with the clear expression that this is the Senate intent in the passage of this bill, I will at this time send a clarifying amendment to the desk and ask for its immediate consideration.

Mr. President, this amendment does nothing more than add a new paragraph to the House-passed bill which states that this bill does not give the FERC authority to take any specific action based on the findings, recommendations or conclusions of the study prescribed in the bill. I would want my colleagues to understand that this amendment only places in statutory language the precise intent of the bill as agreed to by Chairman DINGELL and Chairman JOHNSTON. It does not restrict any activity of FERC outside the narrow scope of this bill nor does it amend any other law.

This amendment is supported by the entire Idaho delegation, including Congressman STALLINGS, and is acceptable to Chairman DINGELL. I might add that I appreciate their help and support and particularly wish to thank Chairman DINGELL and his staff for their assistance in passing this legislation so important to my State of Idaho.

I strongly urge my colleagues' support for this amendment and passage of H.R. 519.

Mr. SYMMS. Mr. President, today, the Senate will act again on the Swan Falls legislation, and I am pleased to be a cosponsor of the amendment offered by my senior Senator from Idaho, Mr. McClure. I want to commend Senator McClure and Jim Jones, our States attorney general, for their efforts to resolve the very troublesome ambiguities created by language in the House report. The entire Idaho delegation stands solidly behind Senator McClure in this matter.

Mr. President, this body passed S. 214, a bill to ratify the Swan Falls Agreement, by unanimous consent in February of this year. I had hope that the agreement would be ratified as quickly as possible. S. 214 did that and only that. However, after passage of the bill in the Senate, the legislation became vulnerable to changes desired by various interests in the House which sought to expand the proposal, and was, therefore delayed for quite some time. This has led to a number of concerns being raised in the State and by the State, specifically about language in the House report that appeared to give some authority to the Federal Energy Regulatory Commission over Idaho water. The water users greatly feared that FERC would try to establish minimum streamflows in derogation of State law. I share that fear.

It is my long-held conviction that the Federal Government does not have this right. The State of Idaho, not FERC, is sovereign and entitled to adjudicate the status of water rights in the State. The adequacy of the flows of the Snake River can and should be determined by the State courts under existing State and Federal law in the pending adjudication. FERC has not had authority in the past and should not be given the authority now to enforce or insert itself into the management of minimum flow regimes on the Snake River. The great majority of people in Idaho share this view and so the matter has become very controversial. I think it is in the best interests of all concerned that this matter be cleared up before we all go home for Christmas.

This amendment makes it clear that the legislation does not give the FERC any authority over Idaho water and that no future Federal action to regulate Idaho water is required or warranted by the bill. Therefore, the ambiguities created in the House report have been clarified, and the record shows the appropriate balance.

The PRESIDING OFFICER. Is there further debate on the amendments? If not, the question is on agreeing to the amendment of the Senator from Kansas [Mr. Dole].

The amendment (No. 1368) was agreed to.

Mr. WARNER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Is there further debate? Are there further amendments? If not, the question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed, and the bill to be read a third time.

The bill was read a third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass?

So the bill (H.R. 519), as amended, was passed.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. WARNER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

S. 1968 PLACED ON CALENDAR

Mr. BYRD. Mr. President, I ask unanimous consent that S. 1968, a bill introduced earlier today by Mr. Kennedy and others, including myself, be placed on the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

S. 1952 INDEFINITELY POSTPONED

Mr. BYRD. Mr. President, I ask unanimous consent that Calendar Order No. 497, S. 1952, an earlier pediatric nursing care bill, be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the following Senators' names, which were incorrectly listed as cosponsors of S. 1952, a bill to amend the Public Health Service Act to provide for national regional centers for pediatric emergency medical services and for other purposes, be removed as cosponsors: Mr. Adams, Mr. Burdick, Mr. Byrd, Mr. Cochran, Mr. Cranston, Mr. DeConcini, Mr. Dodd, Mr. Harkin, Mr. Humphrey, Mr. Matsunaga, Mr. Metzenbaum, Ms. Mikulski, Mr. Moynihan, Mr. Pell, Mr. Quayle, Mr. Simon, Mr. Stafford, Mr. Stennis, Mr. Thurmond, and Mr. Weicker. Withdrawal of individual Senators' names does not reflect opposition or support of this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. BYRD. Mr. President, does the distinguished acting Republican leader, Mr. Warner, have any further business or any further statement?

Mr. WARNER. Mr. President, I thank the majority leader for the inquiry. In a moment, I will be able to advise him.

ORDER FOR MORNING BUSINESS; ORDER FOR RECESS UNTIL 9:30 A.M. TOMORROW

Mr. BYRD. Mr. President, I ask unanimous consent that there be a period for morning business, that Mr. Bond be recognized for 5 minutes, and that upon the completion of his remarks, the Senate stand in recess under the order until 9:30 tomorrow morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. BYRD. Mr. President, I believe the orders have already been entered now for the early morning business for tomorrow.

There will be important matters transacted on tomorrow, and I hope that further progress can be made in the conferences that are ongoing with reference to reconciliation and the continuing resolution. I hope that all parties will be able to work together and that our work will be fruitful.

I just had a nice conversation with the President, in which I stated that we were working hard and I support standing by the agreement which was entered into on reconciliation, that I hope we will let the spirit of Christmas work its way in all our thoughts and actions as we proceed on those measures, that we will not become too confrontational or let our feet dig themselves into cement too deeply, that we will all continue to accept and act in the spirit of give and take.

Mr. President, I think that we will prevail if we continue along that road.

JAPANESE BEEF QUOTAS

Mr. BOND. Mr. President, I would like very much to be able to take this opportunity to commend the Japanese for the progress they have made with regard to agricultural trade. It saddens me, however, that I cannot do this and must once again condemn their failure to move away from obvious protectionist policies.

The Congressional beef caucus, of which I am a member, met yesterday to discuss the possibility of yet another trade dispute—the termination of the current Japanese Beef and Citrus Understanding.

Mr. President, the Japanese Beef and Citrus Understanding, signed in 1984, permitted the Japanese to retain their import quotas on beef. The quotas, which increased to 214,000 tons by the end of 1987 fiscal year, are due to expire on March 31, 1988.

The importance of this issue can be gauged by the attendance at yesterday's luncheon in this building. It was attended by many Congressmen and Senators, leaders of several commodity organizations, the Secretary of Agriculture, Dick Lyng, and the U.S. Trade Representative, Clayton Yeutter. We were honored to be joined by Acting Japanese Ambassador Watanabe and the former Minister of Agriculture, Mr. Tsutomo Hata.

Mr. President, Japan has been identified as having major market potential for beef if these restrictive import quotas are eliminated. Japan is currently the largest overseas market for United States beef. Last year, the value of United States beef exports to Japan reached $500 million. The United States Department of Agriculture believes that beef is the United States agricultural product with the most market potential in Japan.

Although the deadline is still 3 months away, it is imperative that the Japanese understand the seriousness of this issue. With this in mind, I am very concerned about the remarks made yesterday by Mr. Hata and Ambassador Watanabe.

Stating that the Japanese need more time to eliminate these barriers, Mr. Hata cited several reasons why beef imports may not be allowed to expand. Mr. Hata explained that because of a larger digestive tract Japanese consumers have trouble eating beef, which raises in my mind the question of why then do they import 24,000 tons of beef annually? Second, Mr. Hata cited Buddhist restrictions on eating meat from four legged animals.

Finally, Mr. Hata explained that the eliminaton of import quotas on beef would create many problems within his country. I suppose it would cause problems, problems such as much lower beef prices to Japanese consumers and little or no profit for the state controlled monopoly, the Livestock Industry Promotion Council, which controls 90 percent of the beef imported into Japan.

Anyone familiar with Japan realizes that fish is the predominate meat in consumers' diets. However, I believe that this great Nation of America would also be classified a fish-eating nation if the price of beef was $20 per pound.

Mr. President, this is not a new idea being dropped on the Japanese. They have known for 4 years that these tariffs would be eliminated. If Japanese consumers do not accept American beef then so be it. But the point here is that they should be given the opportunity to purchase our products. Let the Japanese consumers decide on the fate of United States beef.

The administration's position is, and has been, that the quotas are not negotiable. I support this position and would also encourage our negotiators to use their authority and retaliate if the quotas are not eliminated.

Mr. President, if the Japanese abide by their commitment to eliminate quotas of American beef it will go a long way toward easing the tensions now being experienced on the trade issue between our two countries. The next few months will be extremely important in that agricultural trade matters will dominate bilateral negotiations between our countries. Let us hope that the Japanese understand the importance of this issue and agree to eliminate these quotas in March.

I thank the Chair and I yield the floor.

The PRESIDING OFFICER. The Senator from Missouri yields the floor.

RECESS UNTIL SATURDAY AT 9:30 A.M.

The PRESIDING OFFICER. Under the previous order, the Senate is in recess until the hour of 9:30 a.m. tomorrow.

Thereupon, at 5:24 p.m., the Senate recessed until tomorrow, Saturday, December 19, 1987, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate after the recess of the Senate December 17, 1987, under authority of the order of the Senate of February 3, 1987:

DEPARTMENT OF DEFENSE

GRANT S. GREEN, JR., OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF DEFENSE, VICE ROBERT CLIFTON DUNCAN.

DEPARTMENT OF JUSTICE

ROBERT J. KABEL, OF VIRGINIA, TO BE A MEMBER OF THE FOREIGN CLAIMS SETTLEMENT COMMISSION OF THE UNITED STATES FOR THE TERM EXPIRING SEPTEMBER 30, 1989, VICE JOSEPH WENTLING BROWN, TERM EXPIRED.

Executive nominations received by the Senate December 18, 1987:

IN THE NAVY

THE FOLLOWING-NAMED CAPTAINS OF THE RESERVE OF THE U.S. NAVY FOR PERMANENT PROMOTION TO THE GRADE OF REAR ADMIRAL (LOWER HALF) IN THE LINE AND STAFF CORPS, AS INDICATED, PURSUANT TO THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 5912:

UNRESTRICTED LINE OFFICERS

ALEXANDER SCOTT LOGAN
JAMES JOSEPH CAREY
STANLEY DAVID GRIGGS
ROBERT SMITH, III

UNRESTRICTED LINE OFFICER (TAR)

MAURICE JOSEPH BRESNAHAN, JR.

SPECIAL DUTY OFFICER (CRYPTOLOGY)

THOMAS EDWARD COURNEYA

MEDICAL CORPS OFFICER

DONALD EUGENE ROY

DENTAL CORPS OFFICER

JOHN ROWLEY HUBBARD

JUDGE ADVOCATE GENERAL'S CORPS OFFICER

GERALD ERNEST GILBERT

SUPPLY CORPS OFFICER

FRANCIS WILLIAM KEANE

CIVIL ENGINEER CORPS OFFICER

MELVIN HIROAKI CHIGIOJI

CONFIRMATION

Executive nomination confirmed by the Senate December 18, 1987:

IN THE ARMY

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 601(A), IN CONJUNCTION WITH ASSIGNMENT TO A POSITION OF IMPORTANCE AND RESPONSIBILITY DESIGNATED BY THE PRESIDENT UNDER TITLE 10, UNITED STATES CODE, ECTION 601(A):

To be lieutenant general

LT. GEN. COLIN L. POWELL, [redacted], U.S. ARMY.

HOUSE OF REPRESENTATIVES—*Friday, December 18, 1987*

The House met at 10 a.m.

The Reverend J. Blaine Blubaugh, Christ United Methodist Church, Arlington, VA, offered the following prayer:

Almighty God, as we come from rest to labor grant us unencumbered minds to think and act. Give us the spirit of wisdom and understanding to execute the function of our responsible positions.

Sensitize us to Your presence and to the needs of others here and abroad. Help us to live in such a manner that we will not fear disclosure here or in the life to come. Help us not to lose sight of our calling and to keep our honor, hope, and moral principles alive.

We pray for wisdom to authenticate basic problems in order to avoid superficial or temporary solutions. Strengthen and encourage us to resist undue pressures that come from vested interests.

May all who serve here be examples to citizenry wherever they travel so that all with whom they come in contact may realize that service to our Creator and humanity is an honorable work of life.

We pray for the families of these who serve our Nation and ask for a measure of strength and grace for them to cope. We ask Your blessing upon the President, the Speaker, the Members of this House and all who serve with this Congress.

As we near the conclusion of the business of this 1st session of the 100th Congress may the spirit of peace and good will be present in our minds and hearts. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. BROWN of Colorado. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. BROWN of Colorado. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 252, nays 125, not voting 56, as follows:

[Roll No. 493]

YEAS—252

Ackerman
Akaka
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Aspin
Atkins
Barnard
Bartlett
Bateman
Bates
Beilenson
Bennett
Berman
Bevill
Bilbray
Bonior
Bonker
Borski
Bosco
Boucher
Boxer
Brennan
Broomfield
Brown (CA)
Bruce
Bryant
Bustamante
Byron
Campbell
Cardin
Carper
Carr
Chappell
Clarke
Clinger
Coelho
Coleman (TX)
Collins
Combest
Conyers
Cooper
Coyne
Daniel
Darden
de la Garza
DeFazio
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dorgan (ND)
Downey
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
English
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Fish
Flake
Florio
Foglietta
Foley
Ford (TN)
Frank
Frost
Garcia
Gaydos
Gejdenson
Gibbons
Gilman
Glickman
Gonzalez
Gordon
Gradison
Grant
Gray (IL)
Gray (PA)
Green
Guarini
Hall (TX)
Hamilton
Harris
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefner
Hertel
Hochbrueckner
Horton
Houghton
Howard
Hubbard
Huckaby
Hughes
Jeffords
Jenkins
Johnson (CT)
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kaptur
Kasich
Kastenmeier
Kennedy
Kennelly
Kildee
Kolter
Kostmayer
LaFalce
Lancaster
Lantos
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Livingston
Lloyd
Lowry (WA)
Luken, Thomas
MacKay
Manton
Markey
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McEwen
McHugh
McMillen (MD)
Mfume
Miller (WA)
Mineta
Moakley
Mollohan
Montgomery
Moody
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Myers
Nagle
Natcher
Neal
Nelson
Nichols
Nowak
Oberstar
Obey
Olin
Ortiz
Owens (UT)
Packard
Panetta
Patterson
Pease
Pelosi
Petri
Pickett
Pickle
Price (IL)
Price (NC)
Rahall
Rangel
Ravenel
Ray
Regula
Richardson
Rinaldo
Ritter
Robinson
Rodino
Roe
Rose
Rowland (GA)
Roybal
Russo
Sabo
Savage
Sawyer
Scheuer
Schneider
Schulze
Schumer
Sharp
Shaw
Shumway
Shuster
Sisisky
Skaggs
Skelton
Slattery
Slaughter (NY)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Solarz
Spence
Spratt
St Germain
Staggers
Stallings
Stenholm
Stokes
Studds
Swift
Synar
Tallon
Tauzin
Taylor
Thomas (GA)
Torricelli
Traficant
Traxler
Udall
Vento
Visclosky
Volkmer
Walgren
Watkins
Waxman
Wheat
Whitten
Wise
Wolpe
Wortley
Wyden
Wylie
Yates
Yatron

NAYS—125

Armey
Badham
Baker
Ballenger
Bereuter
Bilirakis
Bliley
Boehlert
Brown (CO)
Buechner
Bunning
Burton
Chandler
Coats
Coble
Coleman (MO)
Coughlin
Courter
Craig
Crane
Dannemeyer
Daub
Davis (IL)
DeLay
DeWine
Dickinson
Dornan (CA)
Dreier
Emerson
Fawell
Flippo
Frenzel
Gallegly
Gallo
Gekas
Gingrich
Goodling
Grandy
Gregg
Gunderson
Hammerschmidt
Hansen
Hastert
Hefley
Henry
Herger
Hiler
Holloway
Hopkins
Hunter
Hyde
Inhofe
Ireland
Jacobs
Kolbe
Kyl
Lagomarsino
Leach (IA)
Lewis (CA)
Lewis (FL)
Lightfoot
Lowery (CA)
Lujan
Lukens, Donald
Lungren
Mack
Madigan
Marlenee
Martin (IL)
Martin (NY)
McCandless
McCollum
McGrath
McMillan (NC)
Meyers
Miller (OH)
Molinari
Moorhead
Murphy
Nielson
Oxley
Pashayan
Penny
Porter
Pursell
Quillen
Rhodes
Ridge
Roberts
Rogers
Roth
Roukema
Rowland (CT)
Saiki
Saxton
Schaefer
Schroeder
Schuette
Sensenbrenner
Shays
Sikorski
Skeen
Slaughter (VA)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solomon
Stangeland
Stump
Sundquist
Sweeney
Swindall
Tauke
Thomas (CA)
Upton
Vander Jagt
Vucanovich
Walker
Weber
Weldon
Whittaker
Wolf
Young (AK)

NOT VOTING—56

Alexander
AuCoin
Barton
Bentley
Biaggi
Boggs
Boland
Boulter
Brooks
Callahan
Chapman
Cheney
Clay
Conte
Crockett
Davis (MI)
DioGuardi
Dowdy
Duncan
Dyson
Edwards (OK)
Fields
Ford (MI)
Gephardt
Hall (OH)
Hoyer
Hutto
Kemp
Kleczka
Konnyu
Latta
Leath (TX)
Leland
Lott
Martinez
McDade
Mica
Michel
Miller (CA)
Murtha
Oakar
Owens (NY)
Parris
Pepper
Perkins
Roemer
Rostenkowski
Stark
Stratton
Torres
Towns
Valentine
Weiss
Williams
Wilson
Young (FL)

☐ 1015

So the Journal was approved.

The result of the vote was announced as above recorded.

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface **indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.**

REV. J. BLAINE BLUBAUGH, GUEST CHAPLAIN

Mr. WRIGHT. Mr. Speaker, we are pleased to welcome as our guest chaplain, the Reverend J. Blaine Blubaugh, minister of the Christ United Methodist Church of Arlington, VA.

The Reverend Blubaugh has served as minister in Arlington since 1984 and prior to that, he served churches in Boykins and Harrisonburg, VA. He was graduated from Eastern Mennonite Seminary and has done graduate work at several institutions.

In addition to his parish ministry, the Reverend Blubaugh has been active in a variety of community activities and has given his leadership to numerous societies. He is the recipient of the Distinguished Service Award of the Society for Religious Organizational Management and the Jaycee Spoke and Spark Plug Awards. He has led seminars for church and society and has traveled extensively overseas.

The Reverend Blubaugh is married to Rosee Marie Thrasher and they have one child, Jon Marque.

It is a pleasure to welcome the Reverend Blubaugh to the Chamber and to thank him for his prayer.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed without amendment bills and a joint resolution of the House of the following titles:

H.R. 390. An act to provide that a special gold medal be presented to Mary Lasker for her humanitarian contributions in the area of medical research and education, urban beautification and the fine arts, and for other purposes;

H.R. 3427. An act to allow the obsolete submarine U.S.S. *Blenny* to be transferred to the State of Maryland before the expiration of the otherwise applicable 60-day congressional review period;

H.R. 3734. An act to recognize the significance of the administration of the Federal-aid highway system and to express appreciation to Ray A. Barnhart for this dedicated efforts in improving the Federal-aid highway system; and

H.J. Res. 426. Joint resolution authorizing the hand enrollment of the budget reconciliation bill and of the full-year continuing resolution for fiscal year 1988.

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 2598. An act entitled the "Commercial Fishing Industry Vessel Anti-Reflagging Act of 1987"; and

H.R. 2945. An act to amend title 38, United States Code, to provide a 4.1-percent increase in the rates of compensation and of dependency and indemnity compensation [DIC] paid by the Veterans' Administration, and for other purposes.

The message also announced that the Senate had passed bills and a concurrent resolution of the following titles, in which the concurrence of the House is requested:

S. 1519. An act to authorize the President of the United States to award a congressional gold medal to Lawrence Eugene Doby and posthumously to Jack Roosevelt Robinson in recognition of their accomplishments in sport and in the advancement of civil rights, and to authorize the Secretary of the Treasury to sell bronze duplicates of that medal;

S. 1684. An act to settle Seminole Indian land claims within the State of Florida, and for other purposes; and

S. Con. Res. 93. Concurrent resolution to express the sense of the Congress that Dr. Frank G. Burke is recognized for this faithful service to the National Archives of the United States of America.

The message also announced that the Senate agrees to the amendment of the House to the amendment of the Senate to the bill (H.R. 2974) "An act to amend title 10, United States Code, to make technical corrections in provisions of law enacted by the Military Retirement Reform Act of 1986."

PERSONAL EXPLANATION

Mrs. ROUKEMA. Mr. Speaker, yesterday I was unable to be in the Chamber for the last two rollcalls of the day. I would like to have included in the RECORD that had I been here on rollcall No. 491 I would have voted "no"; on rollcall No. 492, final passage of H.R. 1467, I would have voted "yes."

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 2859

Mr. NIELSON of Utah. Mr. Speaker, I ask unanimous consent to have my name removed as cosponsor of the bill, H.R. 2859.

The SPEAKER pro tempore (Mr. MCCURDY). Is there objection to the request of the gentleman from Utah?

There was no objection.

□ 1030

EXITING THE INSANE ASYLUM

(Mr. PORTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PORTER. Mr. Speaker, let me say to the Members: Welcome to the Washington Omnibus CR-Reconciliation Days of Insanity.

Mr. Speaker, this is the craziest, most irresponsible, nonsensical way of doing business any legislative body or organization, any government anywhere, has ever followed.

Never in my wildest dreams as a member of that responsible-only-by-comparison Illinois General Assembly, did I ever expect to see something like this. Every cent of discretionary spending for the entire year—$600 billion, with little debate and no chance to amend—on one vote, up or down, yes or no.

And soon, this omnibus continuing resolution will be upon us, hundreds of pages of printed, typewritten, and handwritten notes tied in a bundle with a string, known altogether to absolutely no one.

Over 60 percent of its spending will never have seen the House or Senate floor before. Over 85 percent of the Members will have had virtually no input to most of its provisions.

But, as before, the majority, glad they don't have to vote directly on the tough issues, will probably vote "aye," declare victory and go home for the holidays, happy to escape this asylum for a few weeks.

Happy holidays, fellow inmates. Happy holidays, Warden.

AMERICA'S AIRPORT SECURITY SYSTEM FOUND WANTING

(Mr. TALLON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TALLON. Mr. Speaker, last week's plane crash in California tragically confirmed what we already know: that airport security across our Nation is dangerously inadequate.

Last summer, a GAO comprehensive survey of our airport security system documented widespread failure to detect conventional firearms and explosives. At some airports, the failure rate reached an alarming 70 percent. Yet, we do nothing.

Clearly, we have a problem, but it's not one without a solution. Reliable, superior detection equipment is available now, it's just not in use here in the United States. Canada has developed an explosive vapor detector so sensitive that it can measure explosives in parts per trillion in the atmosphere.

Yet, our present detection system is 60 years out of date. The technology is present, but our commitment to using it is not.

I have joined Representative DEFAZIO in introducing legislation that will change this. Our bill would mandate that the FAA undertake a comprehensive study of its security problem and report on it to the appropriate authorizing committees of Congress, so that a realistic policy to correct the undeniable deficiencies in airport security can be worked out.

No gimmicks, no quick fix; just a sound first step toward safer skies. I urge my colleagues to act on it now. Don't let it take another tragedy to jolt us into action.

CRITICISM LEVELED AT INDEPENDENT COUNSEL IN DEAVER TRIAL

(Mr. HYDE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HYDE. Mr. Speaker, as a supporter of the independent counsel legislation, something that I fervently believe in, I want to express my considerable distaste for remarks made by Whitney North Seymour, the independent counsel who recently successfully prosecuted Michael Deaver.

I hold no brief for Mr. Deaver, but I am incensed that the special counsel would be sharply critical of Secretary of State Shultz for daring to testify as a character witness on behalf of Mr. Deaver without even having read the indictment. I wonder what Mr. Seymour would want the Secretary to do—to read the indictment, which is merely a statement of charges made by the independent counsel, and then say, "Oh, I can't testify on behalf of the reputation in the community for veracity and integrity of Mr. Deaver because he has been charged by somebody with something"?

I think that is an effort to intimidate character witnesses. I think what is charged in the indictment is absolutely irrelevant to Secretary Shultz' testimony, and I would like to see the independent counsel be a little more professional in commenting, especially after he has won and while the case may well be on appeal.

Secretary Shultz had every right to testify as to his personal knowledge concerning the reputation of Mr. Deaver for truth and veracity in the community, no matter what the indictment said.

So, Mr. Speaker, I would just like to see justice a little better served than I think it was in Whitney North Seymour's postconviction comments.

IN SUPPORT OF A RENEWED MORATORIUM ON CHEMICAL WEAPONS PRODUCTION

(Mr. DOWNEY of New York asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DOWNEY of New York. Mr. Speaker, I do not often find myself quoting the words of former President Richard Nixon. But I think Mr. Nixon was right on the mark when, calling a halt to the U.S. production of chemical weapons, he described the chemical arsenal as "weapons whose use has been repugnant to the conscience of mankind." That was 18 years ago. As Wednesday's resumption of chemical weapons production shows, time has not made us any wiser.

Despite the fact that both the United States and the Soviet Union have said that a chemical weapons treaty is perhaps tantalizingly close, the United States has, after an 18-year moratorium, begun to produce the components for binary chemical weapons. The logic of this development eludes me.

In 1984, Vice President BUSH offered a draft treaty in Geneva to implement a global ban on the production and stockpiling of chemical weapons. Progress was slow, but real, and the United States held the upper diplomatic hand. We were the only ones to acknowledge that we had chemical weapons, we were the only ones to have a entered a moratorium on their production, we had issued the challenge of onsite inspections.

Moscow began to come around to our way of thinking. The Soviets finally acknowledged that they have a chemical arsenal, they accepted the principle of challenge inspections, and, for the past year, they have not been producing weapons. All of this was good news. Then we decided to start up the production lines. So where is this going to end?

This is the time to break the cycle, not to start it up again. And I think all of my colleagues would agree that it is far better for us to be acting to bring about the final end to chemical weapons rather than reacting to another Soviet moratorium.

A TORCH FOR PEACE—MANAGUA STYLE

(Mr. DORNAN of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DORNAN of California. Mr. Speaker, let me begin this way: Attention, Mr. and Mrs. America and all the ships at sea and all the planes in flight, Manila is not calling; Managua is calling.

Here is the latest alert from that troubled capital in that small land bridge between North and South America. A coalition of 14 opposition groups marched in Managua yesterday and accused the Minister of the Interior, who is also the head of the secret police, Tomas Borge, of threatening their very lives. He has accused them all, all the opposition parties, of sedition.

Some of my good colleagues on the majority side asked that I not paraphrase the suspended priest, Miguel D'Escoto, the one the freedom fighters call the Flying Nun, with good cause. Here are the exact words of Miguel D'Escoto, who suspended from his priesthood by the Vatican, spoke in Moscow 2 days and 6 months ago, when he received the Lenin Peace Prize:

> The Soviet Union has become the personification of ethical and moral norms in international relations, a great torch which emits hope for the preservation of peace on our planet.

Mr. Speaker, I guess this ex-priest has not seen the hands blown off all the young children in the border hospitals of Pakistan, the victims of the Soviet-sponsored horror in Afghanistan. Some great torch for peace. some former Flying Nun ex-priest.

ACCUSATIONS AGAINST THE SPEAKER SET STAGE FOR BITTER FIGHT

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute*)

Mr. TRAFICANT. Mr. Speaker, over the past several weeks our distinguished and honorable Speaker has been subjected to one of the dirtiest smear campaigns ever in this House.

I do not know about other Members, but I am sick and tired of the self-rightous people who continue to make unjustified, unwarranted, and vicious attacks on one of America's great Speakers.

Mr. Speaker, people who live in glass houses should not throw stones. I think it takes a lot of gall for a person to stand up and talk about morality and ethics when their own lives back home have been anything but that.

Yes, I guess these are words of a challenge from a Democrat, and I think it is time the Democrats stand with their leader, and I think it is time that Republicans turn their backs on Members who take cheap, lowdown, vicious, unjustified shots at a Speaker who has been here for over 30 years and who every 2 years is sent back by a district that loves him, a district he has not turned his back on, and a nation that is learning to love him because he is not afraid to tell you what he thinks.

So as a Democrat here, I say the fight is on. I have even heard rumors that they are going to start with Members like me, but I am ready and I think you had better lay off the Speaker unless you are prepared for one tough fight. Think about it, Democrats.

THE PLIGHT OF ETHIOPIA

(Mr. ROTH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROTH. Mr. Speaker, this is the time of the year when we wish each other good fellowship and good fortune. It is also the time of the year when we want to make sure that we help each other around the world, and I am very happy that Time magazine has had its feature article this week on Ethiopia.

There are some 7 to 8 million in Ethiopia who are in danger of starvation. The Ethiopian Government has asked the West for 950,000 metric tons of food, and the West is responding. But we in this Chamber have an obligation to those people. We must ask ourselves again, why is it that these people year after year must live in starvation?

One of the main reasons is because of the Ethiopian Government. Name any freedom, and it does not exist in Ethiopia. If we in this Chamber are truly for civil rights and human rights and the rights of humanity, we must speak out against this government. We must give these people help, yes, but we must also raise our voices so that the heel of this repressive government is taken off the necks of these poor people in Ethiopia.

Mr. Speaker, Ethiopia's case cries to heaven for answers, and we in this Chamber must answer.

CONGRATULATIONS EXTENDED TO INDEPENDENT COUNSEL IN THE DEAVER CASE

(Ms. KAPTUR asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. KAPTUR. Mr. Speaker, this week former White House adviser Michael Deaver was convicted on three counts of lying about his lobbying activity, and I would like to congratulate Mr. Whitney North Seymour, Jr., for speaking the truth this week. He is the independent counsel who prosecuted Mr. Deaver.

What I liked particularly about Mr. Seymour's remarks was his forthrightness in telling the American people the extent of influence peddling in this city by former U.S. Government officials who use their personal friendship to obtain access for their lobbying clients.

The gentleman from Michigan [Mr. WOLPE] and myself have a bill, H.R. 1231, that would strengthen the law and prohibit the type of activity that we see where people who work in the White House in high positions of Government can leave it and then go to work on behalf of foreign interests earning upward of $300,000 a contract.

I think Mr. Seymour was correct when he stated that the problem is too much loose money and too little concern about ethics in Government, that vast sums of money are on call in this city to people who can then turn their personal friendships into lucrative post-government employment.

Mr. Speaker, I ask the Members to please cosponsor H.R. 1231 with the gentleman from Michigan and myself to stop the revolving door of Government officials who leave their high positions and then try to milk the service they have given to the people of this country.

□ 1045

UNFAIR CENSUS APPORTIONMENT FOR OVERSEAS SERVICE PERSONNEL

(Mr. RIDGE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RIDGE. Mr. Speaker, I would like to discuss just for a moment an issued that directly affects you, the people you represent, and the very essence of this Chamber; in fact, the essence of representative government. As presently designated, the 1990 census which is constitutionally mandated will count and will include illegal aliens, those who are here without the consent of the governed. The 1990 census as presently designated will exclude American servicemen and their dependents who are serving overseas.

Now, think about that for a moment. Those who are here without the consent of the governed will be counted and included to determine the apportionment in individual States and who will actually govern. Whether your State is adversely affected or not by that count, I suggest to you that it dilutes or at least compromises the votes of every American citizen.

The bitter irony is that while we are going to count and include illegal aliens, we are going to exclude servicemen who are defending the Government.

Now, Congresswoman KENNELLY and I are going to offer legislation, and we invite you to join us as cosponsors, to change that around, to exclude illegal aliens, to include servicemen and their dependents who are serving overseas solely for the purposes of reapportionment. It will not change the Federal funding formulas, but it will be much more consistent with the intent of the founders of our Constitution, and certainly most consistent with the preamble that says "We the people of the United States."

We must include the citizens of the United States for the census and exclude illegal aliens.

DON HASKINS EARNS WIN NO. 500

Mr. COLEMAN of Texas. Mr. Speaker, Mikhail Gorbachev isn't the only bear making the news this week. In fact, as far as west Texans are concerned, notching victory No. 500 last night by University of Texas at El Paso basketball coach Don "Bear" Haskins was at least as important and maybe more newsworthy because of the way he won them.

In a time where major sport college athletics are increasingly marked by payoffs, scandals and other unsavory dealings, Don Haskins and the school he represents stand out.

There have been no recruiting violations and no under-the-table gratuities by alumni to star players. No, Don Haskins won his 500 cleanly, forthrightly, and honestly. He won them the old-fashioned way—he earned them.

In his fifth year at UTEP, then called Texas Western, Don Haskins won the national championship by beating in the NCAA tournament Oklahoma City, Cincinnati, Kansas, Utah, and Kentucky. The Bear was also a pioneer in race relations, too. As an El Paso columnist pointed out in today's paper, it was also the first time where five blacks started against five whites in an NCAA championship game—and won.

Don Haskins stands as an inspiration to us all. His accomplishment and the way he did should serve as a sterling example to the rest of college athletics and the rest of the Nation. You can win the right way. You don't need the payoffs, the shady recruiting practices or unethical approaches that seem to have permanently scarred college athletics. You win the right way and you lose the right way because that's the way it has to be done.

Mr. Speaker, I am sure that my colleagues on both sides of the aisle will join me in this most fitting salute to the Bear, a man who did it his way—the right way, the only way—and who serves as an inspiration to us all.

I have attached an article from today's paper about Don Haskins, and I would like to take this opportunity to put it in the CONGRESSIONAL RECORD for the benefit of my colleagues.

Thank you very much.

[From the El Paso Times, Dec. 18, 1987]

HASKINS' 500 SPAN FROM CUPCAKES TO NCAA TITLE

It was almost four years ago, on one of those clear, calm beautiful El Paso December days.

Don Haskins leaned back in his office chair—trophies, basketballs marked with scores, pictures lining the shelves and walls—and grumbled, "Aw, winning 400 games isn't that big a deal. If you stay around long enough, you'll win your share. Now winning 500, that's a big deal."

Well, Haskins accomplished "a big deal" last night in the Special Events Center.

It came five days shy of four years since that 400th victory in Tempe, Ariz., a 60-55 victory over Arizona State.

It came 10 years and 15 days since the 300th victory, a 58-54 decision over Northwestern in Columbia, Mo.

Haskins has stayed around long enough. This is his 27th year at UTEP. That's a lot of big games, a lot of victories. Some big victories, some little victories.

Any civilized story must start with a beginning.

For Haskins, the beginning was Dec. 3 in Ames, Iowa. In his very first collegiate game, Haskins coached Texas Western to a 66-59 victory over Iowa State.

The other beginnings were much easier. Haskins saw to that.

The Miners did not lose an opener under Haskins until Washington ripped the Miners 82-53 in 1985. Not necessarily coincidentally, that was the next time the Miners played a road opener after that Iowa State victory. That Washington game was in Denver, the first round of the preseason NIT.

"Now don't make a big deal about all these openers that we've won," Haskins used to say. "People'll just talk about what easy teams we've played."

Easy?

In the years immediately preceding that Washington loss, UTEP opened against Fort Lewis, Texas Southern, Western State, Texas A&I, Angelo State, East Central Oklahoma, East Texas State, Abilene Christian, Lubbock Christian, Houston Baptist, Sul Ross State, Quincy College, Doan College, etc., etc., etc.

Of course, all those weren't saved for beginnings. Some, like Regis College, Cal State-Pomona and Illinois Tech—to name just a few—were sprinkled in the non-conference schedule. Illinois Tech was a special media favorite, because the school's sports information director also was the starting point guard.

The scores were atrocities like 70-35, 91-61, 74-42. The fans tolerate them. The players hate them.

"Those games were worthless," one former player said. "I hated 'em. You didn't get anything out of 'em. You couldn't even get excited. A scrimmage was about as exciting."

But this is not uncommon. Dean Smith has won more than 500 and last year his North Carolina team got to cruise past Hawaii Loa, Stetson and Furman. John Thompson has won over 350 games in 15 years, and last year Georgetown had fun with Quincy, Washburn, St. Leo and American.

So much for the beginning. So much for the little games. There have been plenty of big ones, too.

The biggest wasn't the 400th in Tempe. Nor was it the 500th in El Paso. The biggest was when Haskins, the young man just five seasons into collegiate coaching, took a bunch of unknowns from the desert to College Park, Md., and beat Adolph Rupp's Kentucky Wildcats for a national championship.

Not only was it small school against big, unknown against legend, it was also black against white. For the first time, five whites in an NCAA championship game. And won.

Just last year, Los Angeles Laker Coach Pat Riley, an all-American on that '66 Kentucky squad, smiled and said, "You know, I'm just happy to have been a part of that game—win, lose or draw. Bob McAdoo (a former Laker) told me it meant so much to black people everywhere in the country. It was a special game."

Don Haskins was not a man trying to change the social system in the racially troubled '60's. He's just a basketball coach. He lives to win games, to coach the games.

Some people say Haskins' job is his life.

It is not. That is exactly why he has lasted 27 years without crashing in flames, burning out. He lives on that 93-foot court from Oct. 15 until March or April. Then he closes his office door, heads for the golf course, goes hunting, goes fishing.

Maybe that's why he lasted long enough to reach that special event in the Special Events Thursday night. One of these days, he'll probably lean back in his office chair and say, "Aw, winning 600 games is no big deal . . ."

Yes it is.

LEADERSHIP ON SCHEDULING TREATS US LIKE CHILDREN

(Mrs. MARTIN of Illinois asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. MARTIN of Illinois. Mr. Speaker, some of you may wish to know the schedule for now and the rest of the weekend. I do, too.

I am a very minor part of the leadership on our side, and I must tell you the answers that everyone is getting just are not very good. So I am going to say publicly that I believe that we are being treated as children to push us toward a vote. I believe that is absolutely wrong.

Right now, the White House is contacting leadership on the Senate side, on the House side, and our own House Democratic leadership indicates that some time later today they may come to the floor and maybe tell us what we are going to do for the rest of the weekend.

I believe all of us should be asking them to come and step by step lay out potential alternatives, recognizing they cannot fully explain every hour and every minute, and that we who have elected them on both sides of the aisle deserve that, at least.

SUGAR PROGRAM HELPS CORN GROWERS

(Mr. VOLKMER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. VOLKMER. Mr. Speaker, I am from a corn-producing State and I support continuation of the sugar program because it helps preserve a domestic corn market for 541 million bushels of corn. That is about a third as much corn as we'll export this year.

Sweeteners made from corn account for more than half of all the sweeteners used in this country and it is the sugar program that keeps the entire U.S. sweetener industry going today against unfair subsidized foreign competition.

Foreign government subsidies have driven the price for residual sugar in the so-called world market to less than one-half its average cost of production. I do not think it is fair to expect any producer, here or abroad, to compete against such subsidized product.

The sugar program works. It is not broken. Let's not fix it.

THE CONGRESSIONAL CHRISTMAS TREE

(Mr. BUECHNER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BUECHNER. Mr. Speaker, Christmas is approaching. The Christmas tree has been put in many homes. I have not seen mine yet, because I am up here waiting for the great legislative Christmas tree, the one that has all kinds of boxes underneath it. The boxes are in the Senate, they are in the House, they are in the conference committees, they are in the leadership rooms. No one knows exactly what is in those boxes, but we are told to wait. It says, "Do not open until you are told to open them."

People back home say, "Well, when are you going to get things done up in Washington?"—you, meaning all of us.

Well, we do not know when things are going to get done. The reason we do not know is because the way that we operate here is under pressure. What does pressure mean? Does it mean that we are going to accomplish something good? No. It means we are going to come out with something that is expeditious. Expeditious means no time to debate, no time to analyze, no time to separate. We will be given one giant Christmas present, which will say, "Open, and surprise."

Mr. Speaker, the American public does not need any more surprises. It needs legitimate government done with good proper consideration. We are denying the American public that. We are denying ourselves that. We should be ashamed. Next year, things should change. The question is, Will we?

OUR TRADE DEFICIT AND IMPORTED CHRISTMAS CANDY

(Mr. HARRIS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HARRIS. Mr. Speaker, I rise today to bring to the attention of the House a seasonal example of a problem we have tried to deal with all year.

Our trade deficit. The box of candy canes I'm holding was purchased in my district in Alabama and is typical of a product being distributed nationwide. Yet these festive Christmas candies I hold are, in fact, imported from a Communist country. Thanks to a controlled labor market, subsidized sugar, and subsidized transportation to bring this product to our shores, this product is being offered at a wholesale price which is below the price of production, and which drives our own products from the American market.

Mr. Speaker, our present laws have been held not to apply to so-called nonmarket economies. At present, we have no legal or judicially enforceable standard to declare what constitutes an unfair trade advantage for a Communist country. We must close this loophole.

Mr. Speaker, these candy canes remind us of Christmas, and as we approach Christmas we should all be reminded that our trade problems are no better today than they were at the beginning of the year.

INTRODUCTION OF HUNTER PROTECTION ACT OF 1988

(Mr. MARLENEE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MARLENEE. Mr. Speaker, today I am introducing the Hunter Protection Act of 1988. This legislation is designed to protect the civil rights of the tens of thousands of American sportsmen who hunt on Federal lands throughout the country.

The Hunter Protection Act will establish penalties for individuals who seek to disrupt lawful hunting on Federal lands. It will also protect sportsmen from the sabotage activities of antihunting groups such as Friends of Animals and others who have published tips on how to disrupt hunts and have ruined sanctioned, lawful hunting in many parts of the country.

Mr. Speaker, 27 States—including your home State of Texas—have passed similar laws to protect the rights of hunters on State lands. I want to extend those same rights to the nearly 20 million hunters across the United States who hunt on Forest Service, BLM, and other Federal lands.

The sportsmen of America have rights and I intend to fight to protect those rights. I urge my colleagues to join me in this effort by cosponoring this bill.

The following States have passed antihunter harassment legislation in recent years: Arizona, Connecticut, Delaware, Georgia, Idaho, Illinois, Kansas, Louisiana, Maine, Maryland, Michigan, Montana, Nevada, New York, North Carolina, North Dakota, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Utah, Vermont, and West Virginia.

FARM CREDIT BILL

(Mr. SLATTERY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SLATTERY. Mr. Speaker, I am pleased with the compromise reached on the Farm Credit System rescue package and I will support it when it comes to the House floor.

Kansas farmers will benefit from this bill in several ways.

For financially troubled farmers, the bill requires the system to restructure delinquent loans when that would be cheaper than foreclosure.

This bill protects the stock of farmer borrowers.

And it creates a secondary mortgage market that will broaden credit opportunities for farmers and ensure the availability of long-term, fixed-interest rate mortgages for farmers.

In order to better serve farmers and save money, the System will be reorganized to reduce bureaucracy and improve competitiveness.

The Agricultural Credit Act is a rescue package for the ailing Farm Credit System which will help keep farmers on their farms.

HUMAN RIGHTS IN ROMANIA

(Mr. WOLF asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WOLF. Mr. Speaker, as we go home for Christmas, I would like all the Members to think of one important thing they may read about. In Romania in the last 3 weeks, the human rights situation has gotten so bad. Human rights activists have been arrested and have disappeared. The oppressive nature of the Ceausescu administration is growing worse, and keep in mind we give this country most-favored-nation status, and yet there seems to be no interest in the media and in the Reagan administration on this issue.

When similar human rights abuses happened in Poland, we got all worked up, and we should have gotten worked up, but maybe we got worked up because there was a large Polish interest group in the country, which I believe is fine.

There are few Romanian people in the United States, and quite frankly, the Romanian Government has hired a public relations firm, a Washington lobbyist, to lobby for them, and unfortunately, Mr. Speaker, sometimes our own State Department lobbies for them.

Things are so bad in Romania that the people there may be the only people in the Eastern bloc that would welcome a Soviet invasion because they think things might get better.

Mr. Speaker, I urge this administration, this Congress, the media and the American people to rally to the side of the 23 million Romanian people. Let us end MFN and put pressure on the repressive Ceausescu government, so the Romanian people can have the same rights as the people in other countries where human rights are respected.

SPONSORING LEGISLATION TO INCLUDE MILITARY PERSONNEL ABROAD AND EXCLUDE ILLEGAL ALIENS FROM CENSUS APPORTIONMENT

(Mrs. KENNELLY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. KENNELLY. Mr. Speaker, today I join Congressman RIDGE in sponsoring legislation to include military personnel abroad, and exclude illegal aliens from, census apportionment figures. This legislation deals with apportionment only and would not interfere with Federal funds distribution or benefits.

All of us know the enormous time and effort that goes into the redistricting process. While natural population shifts in this country make the redistribution of congressional seats necessary, this process should not be skewed by shifts caused by a population living in this country in violation of our law—particularly when our military personnel are purposely excluded from these figures.

The Census Bureau will be conducting its "census tryout" in the early part of next year and once that process begins it will be very difficult to make changes in who and how the census counts for reapportionment purposes. It is crucial for this legislation to be considered in a speedy and expenditious manner. I urge my colleagues to support this legislation.

□ 1100

READ THE CHARGES AGAINST SPEAKER WRIGHT

(Mr. GINGRICH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GINGRICH. Mr. Speaker, last night a gentleman from Massachusetts mocked the very serious charges which have been made about the ethics and the conduct of the Speaker of the House. Today a gentleman from Ohio defended in blanket terms the behavior of the Speaker of the House.

Today an Ohio Democrat focused attention on Whitney Seymour's comments on ethics and corruption as they relate to the executive branch, but concern about ethics and corruption should also focus on the legislative branch.

Before any Member ridicules or rejects the very serious charges against the Speaker, they should read what Seymour said about a witness who gave uninformed, irresponsbile testimony. And I quote:

> He stepped forward in his cross-examination, gave a ringing endorsement of the honesty and integrity of a defendant on trial in a criminal case charged with a serious felony and he never even bothered to read

what the charges were. The jury decided that was irresponsible. I don't see how any right-thinking citizen could conclude otherwise.

WELCOME NEWS FOR AMERICAN FARMERS

(Mr. DORGAN of North Dakota asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DORGAN of North Dakota. Mr. Speaker, the farm credit bill that we are going to pass today is welcome news for all American farmers and especially for North Dakota farmers.

About 10 months ago I and three other Members of the House, Messrs. PENNY, MARLENEE, and JOHNSON of South Dakota, began working on a package of reforms for the Farmers Home Administration. We wrote some legislation, put together a coalition of farm State Members of Congress, and that package of Farmers Home reform is now in this farm credit bill.

The reason it was important is the Farmers Home Administration was the only major farm lender consistently refusing to treat farmers the way they ought to be treated. The banks would restructure loans when the banks throught it was less costly to do that than it was to throw the farmer off the land. The Farm Credit System would restructure loans when it discovered that it was less costly to do than to throw the farmer off the land. But the Farmers Home Administration consistently and repeatedly over time refused to do so.

Why? Because the Farmers Home Administration was not fulfiling its task as being the lender of last resort and a lender that gave some thought to its responsibility to these farmers.

Yes, some farmers are still going to go broke, but this farm credit bill is going to save some farmers as well because it reforms the Farmers Home Administration and requires FHA officials to do what is necessary and what is right, what is right for the Federal Government and what is right for the family farmers. That is why this legislation is good legislation. I urge its passage.

When people say things cannot get done around here, passage of this farm credit bill will demonstrate that occasionally we make a difference. We can force changes in the Farmers Home Administration that are needed to save the Government some money and to save some family farmers from unwarranted foreclosures.

CONGRESSIONAL VOTE TO CLOSE PALESTINE LIBERATION ORGANIZATION'S U.N. OBSERVER MISSION

(Mr. BURTON of Indiana asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BURTON of Indiana. Mr. Speaker, I think everybody in the United States knows that the Palestine Liberation Organization is a terrorist organization that kills not only Israelis and Americans but its own people.

Mr. Speaker, this body and the other body passed in the State Department authorization bill an amemdment which would kick the PLO observer mission out of the United States of America, out of New York, out of Washington, DC. It passed overwhelmingly.

This week it was announced that the United Nations condemned the passage of that legislation. That is to be expected. The United Nations does not support us very much anyhow.

But the thing that was the most deplorable about that action was that our delegation, our State Department delegation over there did not vote. They said they did not vote because the bill was still in progress.

The fact of the matter is the State Department is trying to get the President to pocket veto this legislation even though the Congress overwhelmingly expressed its sentiment toward the PLO.

Mr. Speaker, I think this body ought to send the State Department a message to do what we ask them to do when we vote overwhelmingly on a measure like this.

A TRIBUTE TO HOWARD L. SHAW

(Mr. HUBBARD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HUBBARD. Mr. Speaker, I appreciate this opportunity to pay tribute to the late Howard L. Shaw.

Frequently, Members of Congress pay tribute to outstanding Americans who have died.

The 11,000 residents of my hometown of Mayfield, KY, are aware of how deserving of such a tribute is Howard L. Shaw.

This outstanding Kentuckian, who died at age 65 on October 19, was president of Liberty Savings Bank in Mayfield, KY, from 1962 until his death.

Howard Shaw was active in many civic, community, and church activities in Mayfield.

One of Howard Shaw's most enjoyable days was December 16, 1982. He and his Liberty Savings Bank were hosts at a dinner for Paul Volcker, then Chairman of the Federal Reserve Board, who honored all of us in my hometown by traveling from Washington, DC, to speak at Mayfield High School.

Howard Shaw, one of the founding officers of Liberty Savings Bank, led the bank over 25 years to be Mayfield's largest bank in assets.

Howard Shaw was a dear friend of mine.

He was an active deacon at Mayfield's First Baptist Church and taught an adult men's Sunday school class named for him for nearly 30 years. Mr. Shaw was a York Rite Mason in Mayfield Masonic Lodge No. 369, a member of Mayfield Chapter No. 69 and Mayfield Council No. 39 as well as Mayfield Knights Templar Commandery No. 49. He was a member of the dean's advisory council for the College of Business and Public Affairs at Murray State University, a member of the Mayfield-Graves County Industrial Development Board, and was active in the United Fund, acting as chairman of the Century Club of that organization in Mayfield.

Survivors include his wife, Bebe Wright Hunt Shaw, three sons, Donald H. Shaw of Murray, KY, Henry H. Hunt of Zanesville, OH, and Christopher K. Hunt of Philadelphia, PA, six daughters, Anna Gean Davidson of Marion, IL, Phyllis Lynn Hicks of Louisville, KY, Patricia K. Shaw of Lexington, KY, Ann Powers and Helen Shaw, both of Mayfield, KY, and Marilyn Rivers of Gainesville, FL.

My wife Carol and I extend to Howard Shaw's Wife Bebe, his three sons, six daughters, and the other members of his family our sympathy.

PRESIDENTIAL CONDITIONS FOR ADJOURNMENT

(Mr. MICHEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MICHEL. Mr. Speaker, those of us in the Republican leadership in both the House and the Senate just returned from meeting with the President to give him a report on how we are moving along here toward adjournment on the continuing resolution and reconciliation. I think it ought to be made abundantly clear to the Members that there are going to be several criteria under which the President is going to judge those two important pieces of legislation that will be brought to his attention as soon as we can conclude our action on them.

First, that the summit agreement and its parameters be agreed to, that it be consistent with what the President and the leadership in the Congress on both sides of the Capitol and both sides of the aisle agreed to. That is going to be fundamental and very important.

Second, the President is going to insist on the language with respect to the Contras that was adopted in the other body, and he will not give on any other kind of concession on that specific language. Frankly, to do otherwise would be unilateral disarmament of the Contras.

Third, if those of my colleagues who think they are going to still have a fairness doctrine added to that measure because the President vetoed it, never got an opportunity to have that constitutional requirement of a vote in either the House or the Senate on that and come back with another majority vote, that simply is not consistent with the way we see Government operating the way it ought to be.

So on those two grounds alone my colleagues are going to have a veto of either of those provisions.

And in reconciliation there are considerable hangups on the REA provision. We agreed in the summit to $2.5 billion. It is my understanding it is at the level of $5.2 billion. That has to be resolved.

Also the Medicaid, Medicare, several of the credit provisions, Buy American, GSA buildings, and user fee double counting are some items that have got to be resolved.

Frankly, the President from my reaction to what he said this morning is willing to forgo his Christmas vacation, and we are simply going to have to stay here and get it done right before he agrees to sign either one of those propositions.

POTENTIAL YUCCA MOUNTAIN, NV, NUCLEAR WASTE REPOSITORY

(Mr. BILBRAY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BILBRAY. Mr. Speaker, yesterday the State of Nevada, Yucca Mountain, was selected by the conference committee as being the only site for a potential nuclear waste repository.

Yesterday, I said to this membership, and those watching on their TV sets and in their offices, those sitting here in the audience to look at the map as to where these thousands of trucks are going to roll through your States with highly radioactive material. My colleagues also should note the site is in the Nevada test site. Geologists for the State of Nevada, independent witnesses have stated that there are over seven major faults in that site due to atomic testing.

Las Vegas, my district, my main valley, is not downwind from this area. The winds, the prevailing winds when this fault takes place, when this nuclear material is vented into the atmosphere, is going to blow not to southern Nevada, because 90 percent of the time the wind is blowing toward Utah, Kansas, Missouri, on into the Midwest. They are the ones who are going to get it, and southern California when those Santa Ana winds reverse, if there is venting they are going to get it.

My colleagues better think about that because this site is faulted. Scientifically it is not the site. But geographically all the States that were being submitted for this site were all terrified they were going to receive it. They did not look to the best interests of their country. They did not look at the best area for their people, and what is going to happen one day when this vents, when we have a Chernobyl type of problem and my colleagues' constituents are going to look at them and wonder why they did not stop it when they could.

REPRIMAND OF THE HONORABLE AUSTIN J. MURPHY

(Mr. DIXON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DIXON. Mr. Speaker, in just a few minutes I intend to call up a privileged resolution, House Resolution 335, dealing with a recommendation to the House of a sanction of reprimand against Congressman AUSTIN MURPHY.

Members of the House have asked me several questions this morning. One deals with the report. The report was available from 3 o'clock yesterday on. I understand and have just been informed there was a fire at the Government Printing Office last night and that may have delayed it. Nevertheless, I walked back behind the rail on the Democrat side and reports are available there. I am informed that the gentleman from Indiana [Mr. MYERS] walked behind the rail and reports are available there.

The second question that was asked was why bring it up today. This has been brought up today at the request of Congressman AUSTIN MURPHY and with the consent of the majority leadership.

CALL OF THE HOUSE

Mr. DIXON. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members responded to their names:

[Roll No. 494]

ANSWERED "PRESENT"—389

Ackerman
Akaka
Anderson
Andrews
Annunzio
Anthony
Armey
AuCoin
Badham
Baker
Ballenger
Barnard
Bartlett
Barton
Bates
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Boggs
Bonior
Bonker
Borski
Bosco
Boucher
Boulter
Boxer
Brennan
Broomfield
Brown (CA)
Brown (CO)
Bruce
Bryant
Buechner
Bunning
Burton
Bustamante
Byron
Callahan
Campbell
Cardin
Carper
Carr
Chandler
Chapman
Chappell
Cheney
Clarke
Clinger
Coats
Coble
Coelho
Coleman (MO)
Coleman (TX)
Collins
Combest
Conte
Cooper
Coughlin
Courter
Coyne
Craig
Crane
Dannemeyer
Darden
Daub
Davis (IL)
Davis (MI)
de la Garza
DeFazio
DeLay
Dellums
Derrick
DeWine
Dicks
Dingell
DioGuardi
Dixon
Donnelly
Dorgan (ND)
Dornan (CA)
Downey
Dreier
Duncan
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
Edwards (OK)
Emerson
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Flake
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Frenzel
Gallegly
Gallo
Gaydos
Gejdenson
Gekas
Gibbons
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Gradison
Grandy
Grant
Gray (IL)
Gray (PA)
Green
Gregg
Guarini
Gunderson
Hall (TX)
Hamilton
Hammerschmidt
Hansen
Harris
Hastert
Hatcher
Hawkins
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hiler
Hochbrueckner
Holloway
Hopkins
Horton
Houghton
Howard
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
Jeffords
Jenkins
Johnson (CT)
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kaptur
Kasich
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kolter
Konnyu
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
Latta
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Lowery (CA)
Lowry (WA)
Lujan
Luken, Thomas
Lukens, Donald
Lungren
Mack
MacKay
Madigan
Manton
Marlenee
Martin (IL)
Martin (NY)
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCurdy
McDade
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
Meyers
Mfume
Mica
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Nelson
Nichols
Nielson
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (UT)
Oxley
Packard
Panetta
Parris
Pashayan
Patterson
Pease
Pelosi
Penny
Perkins
Petri
Pickett
Pickle
Porter
Price (IL)
Price (NC)
Pursell
Quillen
Rahall
Rangel
Ravenel
Ray
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rogers
Rose
Rostenkowski
Roth
Roukema
Rowland (CT)
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Savage
Sawyer
Saxton
Schaefer
Schneider
Schroeder
Schuette
Schulze
Schumer
Sensenbrenner
Shaw
Shays
Shumway
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)

Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solomon
Spence
Spratt
St Germain
Staggers
Stallings
Stangeland
Stenholm
Stokes
Studds
Stump
Sundquist
Sweeney
Swift
Swindall
Synar
Tallon
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Traficant
Traxler
Upton
Valentine
Vander Jagt
Visclosky
Volkmer
Vucanovich
Walgren
Walker
Watkins
Waxman
Weber
Weldon
Wheat
Whittaker
Whitten
Williams
Wise
Wolf
Wolpe
Wortley
Wyden
Wylie
Yates
Yatron
Young (AK)

□ 1115

The **SPEAKER** pro tempore. On this rollcall, 389 Members have recorded their presence by electronic device, a quorum.

Under the rule, further proceedings under the call were dispensed with.

□ 1130

IN THE MATTER OF REPRESENTATIVE AUSTIN J. MURPHY

Mr. DIXON. Mr. Speaker, I call up a privileged resolution (H. Res. 335) in the matter of Representative Austin J. Murphy, and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. Res. 335

Resolved, That the House of Representatives adopt the report by the Committee on Standards of Official Conduct dated December 16, 1987, in the matter of Representative Austin J. Murphy of Pennsylvania.

The **SPEAKER** pro tempore. The gentleman from California [Mr. Dixon] is recognized for 1 hour.

GENERAL LEAVE

Mr. DIXON. Mr. Speaker, I ask unanimous consent that all Members have the customary 5 legislative days to revise and extend their remarks.

Mr. Speaker, I ask unanimous consent that all Members may have the customary 5 legislative days to revise and extend their remarks on the subject of this resolution, but that Members exercising this permission confine their corrections of remarks actually spoken to grammatical changes. It is essential that the printed record of these proceedings reflect the actual proceedings.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The **SPEAKER** pro tempore. The Chair would like to state that unanimous consent has been obtained for Members to extend their remarks on this matter. it is essential that the Congressional Record contain as true and accurate a record of the proceedings as possible. All insertions and extensions not delivered in debate will appear at the end of the proceedings printed in smaller type. The Chair trusts that Members will, in revising remarks they actually delivered in debate on this subject, confine their revisions to those which are necessary to correct grammatical errors and consistent with the permission obtained by the gentleman from California [Mr. Dixon] to refrain from making any changes in the substance of debate.

The Chair recognizes the gentleman from California [Mr. Dixon].

Mr. DIXON. Mr. Speaker, I yield 20 minutes to the gentleman from Indiana [Mr. Myers], 20 minutes to the gentleman from Pennsylvania, Mr. Austin J. Murphy, and I will retain 20 minutes for myself. I wish to state that the yielding of such time is for purposes of debate only.

Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, first let me say to the Members that I understand that the adjournment of our House for the Christmas recess is upon us, and I would like to thank the members of the committee for their diligence in pursuing this matter. As I said in the 1-minute speech earlier today, Members have asked, why on this occasion would we bring up this resolution, and as I indicated at that time, it was as a courtesy extended to Mr. Murphy, and it was his request that this matter be brought to the floor at this time.

Mr. Speaker, there were four counts that the committee sustained. Two counts dealt with what is commonly known as ghost voting. A third count dealt with the improper diversion of Government resources, and the fourth count dealt with what is known as a ghost employee; that is, Michael Corbett—from September 1981 to July 1982—failed to carry out the duties for which he was compensated.

I want to first take the time to deal with counts 1 and 2. The committee found that on July 14 and August 9, 1978, Representative Murphy was recorded as voting when he wasn't present in the Hall of the House.

He was recorded "present" on rollcall No. 543 at 10:23 a.m. on July 14, 1978. There was clear and convincing evidence and, as a matter of fact, it was stipulated to that he was in Washington, PA, serving as master of ceremonies at Judge Samuel Rogers' swearing in at 10:30 a.m.

On August 9, 1978, on rollcall No. 663 at 10:26 a.m., he was recorded as being present. He was in Carmichaels, PA, at a ground-breaking ceremony at 11 a.m.

As a matter of fact, Representative Murphy has stipulated that he was present at these particular places. The defense for these actions are that his card was placed in his desk drawer while he was out of town and he had no personal knowledge how these votes occurred. He also asserts that, as a defense, it was not a violation of House rules at that time to proxy vote.

In 1978, rule VIII said, in part: Every Member shall be present * * * and shall vote on each question put * * *.

The committee came to the conclusion that Representative Murphy permitted, either in the sense that he knew or that he didn't guard against being voted on the floor of the House by safeguarding his voting card. Furthermore, he didn't, a short time thereafter, notify the House to disavow the ghost votes.

With regard to count 3, the committee found by clear and convincing evidence that for 9 years, official resources were diverted to the use of Representative Murphy's former law firm which was physically adjacent to the congressional office. The committee found that a receptionist was paid by the Federal Government and did work both for the Federal Government and the law office and only received compensation from the Federal Government.

We further found that there was only one copy machine and FTS lines were used. Or were in a position to be used, by members of the law firm.

In fact, Representative Murphy stipulated that a diversion of resources occurred, but that he had no personal knowledge of this. The committee feels that because of the length of time, the responsibility for the improprieties has to be Austin J. Murphy's.

Turning to count 4, this violation dealt with a ghost employee. Michael Corbett admitted that he was a ghost employee; that his absence from work occurred over a period of some 10 months and, according to his own testimony, his attendance dropped off to nothing at all. Representative Murphy told us that he had no personal knowledge of this. The committee took into consideration that he was the subcommittee chairman, directly in charge of Mr. Corbett's activities, that he lived with Michael Corbett at the time, and that Michael Corbett is presently employed with him. Based upon these circumstances, we concluded that Representative Murphy either knew or should have known about the fact that Michael Corbett did not perform his work as Mr. Corbett admitted he did not.

It is the totality of this picture: That on at least two occasions ghost voting occurred; that there was an improper diversion of official resources; and that a ghost employee under Representative Murphy's direct supervision, did not carry out his job duties as subcommittee staff director, that this committee has recommended to you, on a vote of 11 ayes to 0 nays, that Representative Murphy be reprimanded.

Mr. Speaker, I reserve the balance of my time.

☐ 1140

Mr. MYERS of Indiana. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, each of us here has a number of responsibilities to carry out—the responsibilities placed upon us by the job that our electorate has given us. Your Committee on Standards of Official Conduct today is here, and we wish we were not, on this particular occasion to consider this issue. I am sure each of us here today who will eventually vote on this issue feels exactly the same way.

Back in 1968, the Congress, our House of Representatives, saw fit to create a committee charged with the responsibility of reviewing charges that might be brought against a Member and, if necessary, to refer those charges and any appropriate sanctions to the full House.

This is a committee that has grown from that. Our charge today is unfortunately to bring House Resolution 335 dealing with our colleague, Representative AUSTIN MURPHY, a Member of Congress from Pennsylvania.

I have served on this committee for 7 years, and in the 7 years I have served I do not know of any case involving one Member that the staff, the investigating staff, and members of this committee have spent more time being more thorough, examining more documents, than pertaining to this particular issue we are here on today. It has involved more of the committee's time, both the staff and membership, than any other issue, and here I want to thank our chairman, the gentleman from California, Mr. JULIAN DIXON, for the excellent job that he has done on this particular issue.

In fairness to the respondent, the gentleman from Pennsylvania [Mr. MURPHY], and in fairness to the majority and minority sides, there were six on each side, this is not a political issue. This committee has to be politically blind, and even friendship, as much as we like to think of all our friends, we have to be blind to all these things and weigh the evidence as presented. It is not an easy task, but our committee has done just that. We spent more hours, and our staff has, and I want to commend all of them for the job they have, and I also commend the respondent, the gentleman from Pennsylvania, Mr. AUSTIN MURPHY, for his willingness to cooperate and his counsel and the hours they spent in producing the documents that were required and cooperating, trying to help find what has happened here, so all have done a good job.

This started on June 23 this year. We started our investigation. We had a preliminary hearing and examined what had been presented to us, and we decided that there were six counts. At that time we eliminated one of them as not being sufficient in the evidence that was presented to us for us to pursue. We followed five.

The chairman has done a very fine job of presenting each of these.

We did eliminate, in the hearings, we did eliminate count No. 3, which you will find in the documents you all now have, and there are copies here.

There were 15 formal depositions taken by your committee and the staff. There were a great many interviews, both here and in Pennsylvania, and further. Even down in South Carolina, our staff traveled to get facts.

There were a great many sworn statements. We had a large amount of documentary evidence that was presented both by counsel for the committee, as well as counsel for the respondent. There were official House records, GSA records pertaining to office space and equipment. There were reports from the law firm, credit card transactions were examined, checks were examined, land transactions were examined, and then we followed by 6 days of hearings, long into the night on several of those occasions, that we were listening to witnesses, reading documents, examining what you are presented with here today.

On counts 1 and 2 involving the voting responsibilities of a Member of Congress, is there any more important responsibility that you assume when you become a Member of Congress than that vote—that your electorate sent you here to cast a vote in their behalf?

Does it end with the fact that you say, "Yes, I have that card, and I have the right to vote it," but is there not the responsibility of making sure that vote is cast right, even after it has left here? Is there not some responsibility we have to our electorate to protect that right?

I think there is no greater privilege and responsibility that your voters have placed upon you than voting and protecting your vote. I think it is one of the most important responsibilities that you have when you assume that office as a Member of Congress.

One of the first things you learn when you become a Member of Congress, you have an indoctrination. You are told that you have to be here present on the floor to vote and you are taught and told, every day you hear how vital it is to protect that vote that more than half a million people sent you here to cast for them.

On counts 1 and 2, that was not held to be the case here, there was not the responsibility to make sure that vote was cast and cast right.

On count No. 3, we felt there was not clear and convincing evidence that the gentleman from Pennsylvania [Mr. MURPHY] should be charged with count 3, so we did not come to the floor with count 3.

On count 4, the official resources diverted to private use, your committee found there was ample evidence that there were taxpayers' dollars used for resources, of equipment that was used for a private purpose.

Count No. 5 we eliminated very early, as I mentioned before.

On count No. 6, the so-called ghost voting, it was clear and convincing that an employee in the subcommittee that the gentleman from Pennsylvania [Mr. MURPHY] had the responsibility to chair and to administer certain supervisory responsibilities over that employee, that that employee had duties that were responsible duties commensurate with the salary that he received, and clearly he was not here when he should have been and was paid for. There is no question that there was an instance here that an employee that the gentleman from Pennsylvania [Mr. MURPHY] had the responsibility of supervising did not carry out the duties that the job called for him to do.

On a vote of 11 to nothing, your committee has come to the floor and recommended, as distasteful as it is, we recommend a reprimand of our colleague.

Mr. Speaker, we have responsibility to protect the honor of our Chamber here. We have a great responsibility to the people of this country that we do their kind of a job. We have today to set aside friendships and partisan responsibilities and vote for the integrity of the House of Representatives that we all love so much.

We in your committee have done a job that we wish we did not have to do. Today each of you has also to accept the responsibility that we wish we were not here to do, but it is a responsibility that we have accepted when we were sworn in here and those of us on the committee have accepted that responsibility. Regretfully, we are here today.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Pennsylvania [Mr. MURPHY] for 20 minutes.

Mr. MURPHY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would first like to call my colleagues' attention to a misprint in the committee report, whether it was provided by the brief that was submitted or by the printer or in what manner, but on page 12 it indicates that the voting violations occurred in 1987. That should be transposed to 1978.

I wish that all of the Members would have, as I was, been here this morning to hear the minister open our session with a prayer for wisdom of the Members and that we be delivered from outside pressures.

Several months ago, unfounded reports and stories appeared in a local newspaper of questionable reliability and with foreign financial backing, based allegedly on some statement that a former staffer of mine had made for his own or her own peculiar or perverted reasons for holding such information for over 9 years.

The committee had the wisdom to dispense or dispatch and not consider most of those unfounded allegations that appeared in that press item and have boiled it down here today to three separate items; one, that on two occasions, on two votes only, on July 14 and August 9, 1978, my vote was recorded somehow in this Chamber when I admittedly was back in Western Pennsylvania.

I established, I think, beyond a question of doubt that I returned on those 2 days. I showed them the clerk voucher of the commercial airliner that I believe brought me in here at 11:30 that morning or 12:30, we had difficulty in establishing the time.

I voted the remainder of that day, and a vote analysis would have perhaps shown that, but that was not taken.

The second instance was that I accommodated my former law partner in the use of the copy machine in the congressional office.

And the third was that I kept a staffer on subcommittee after his absenteeism had been disclosed to me.

First, let us deal with the count on the voting in 1978. I admitted that I was not here for the opening vote on two separate dates.

You know, we vote with a rather highly technical and mechanical computerized voting system in this House. Our votes are put in there and they are transcribed somewhere to here, and from here to the Rayburn Building, or if we choose we vote by one of these cards and at a busy time when the well is filled we sign our name and we throw it here and the clerks, hopefully, identify us and they hope to identify us correctly. I was a freshman Member. I hope they recognized me.

There were three Murphy's in the House at that time.

Now, where does this card go when we sign our name? It goes from this clerk who puts a number on, I believe, the rollcall number. It goes to the clerk on the upper dias, whom I believe puts the Member number that comes off an alphabetical list.

Now, did a clerk transpose that number wrong? Did Mr. Murphy of New York, who was not recorded as voting on either of those occasions, was his card transposed? I don't know.

Was my card left in one of the voting machines? Did this mechanical device that has failed six times since I have been in Congress, did this mechanical device somehow record me as voting? I don't know, and the committee does not know, because no vote analysis was taken.

I tried going through the journals to find out how it happened, and the committee uses the statement, well, if I would have disclosed it the day after it happened, that that would have been the honorable thing to do.

Well, I want to submit that in the Tennyson Guyer and Morgan Murphy cases, votes were cast in 1979 and in 1980 this committee and this House determined two factors: one, there was no clear evidence that they permitted anyone to vote for them; and second, there was no rule in the House of Representatives to specifically prohibit proxy voting.

Yes, the committee will read to you the rule that states every Member shall be present within the Hall of the House, unless excused or necessarily prevented.

Now, it does not say anything that he shall—that is where the committee in 1978 decided we needed to clarify this rule.

How many Members every day violate rule 8 as being given the strict interpretation by this committee? Every one of you in the course of a year somehow fails to sit in the sittings unless excused or necessarily prevented. That is the rule that I am here in the well for.

I invite the committee to look at us all who are not here and sitting for every word that is said.

□ 1155

I appeared before the committee and I denied, and I deny to you my colleagues, that I have ever permitted anyone to vote for me, just as the case was in 1979 and 1980. I do not know how or why any one of our votes can be recorded in this system unless we do it. The committee does not know how or why it was done in this instance. If the committee wants to be so technical, reach back 10 years, get the report that your committee did at that time, get the suspects at that time, a vote analysis was done.

No vote analysis was done for me. I suspect it is because I was here and voting.

Why did I not report it immediately? What their reason is, is I should have known. The next day I voted to approve the Journal. I should have known. I should have read the Journal. I should have known that I was recorded on that vote whej I was traveling down here.

Wehl, I dk not know any Member who reads the Journal every day before we vote, but I learned one thing, and if anyone has joticed and I know a colleague pointed it out to me this morning, I vote no on the Journals from now on because I cannot be held to constructive knowledge as to every word in that Journal.

Let me say there was no other evidence produced that I permitted anyone to vote for me. There was no other evidence produced identifying anyone that I may have permitted to vote for me* There was not vote analysis.

The only thing we have in this situation is exactly the same thing they had in 1979 in the Morgan Murphy and Tennyson Guyer cases, and that is a vote was somehow recorded when the Member admittedly was not on the floor.

In 1979 and 1980 and finally in January 1981 we decided as a body to have a rule of the House to prohibit any Member from permitting anyone else to vote for him. We clarified our rules. We accepted the report that there was not a sufficient rule in existence at that time, and we accepted the veracity of the members who said, "I did not permit it," and then we adopted a rule of the House. That rule of the House was the rule that they first went after me for until they found out it was not in existence, so they went back to this one that compels us all to sit here during every session of the House.

I can only say that the committee has decided somehow to have in this instance different justice than we had in 1979 and 1980. For some reason they have used this one instance to summon me out as having violated a rule which did not exist in 1978.

The facts are no more than that. They had a suspicion, and I admitted that I was not here and that is all they had.

I urge my colleagues in that first instance, pay heed, pay heed that if we can go ex post facto in this instance, then we are saving we have surrendered a constitutional right that is given to every person in court, because if we can say that Member can be prosecuted for the violation of a rule that did not exist when the alleged violation occurred, what is this body being subjected to?

In the second instance, my former partner, law partner, we had a two-man firm, and in the opening days of my congressional service nobody was really around to help much, my law partner let me use his offices without rent. He let me use his telephones, he let me use his equipment, not me, but my staff. We were trying to get organized, we were trying to set up five district offices. In the ensuing months my staff apparently decided to reciprocate, they needed a copy made or something else. The only testimony brought before the committee, and understand they operate from a briefing book that I do not have a copy of. They operate with evidence that is not submitted at the hearing.

But the only evidence, and I sat through every day of it, that was submitted was a junior associate of my former partner who came in and said, "well, on New Year's Eve I went down and Mr. France told me to make five copies on the copy machine, and it was the only one here. On a couple of occasions I went downstairs and I used the FTS line."

But in that entire record of testimony there is not one scrap of evidence that I knew or that I permitted or that I condoned, and even the junior associate they subpoenaed in said, "No, Mr. MURPHY was not around. I don't know whether he knew about it." Because I did not know about it. Let me tell my colleagues about something about the standard of proof that we have done. When we adopted the rules in 1978 and readopted them in 1981, we decided we had better be better than most people and everybody is used to watching TV in court trials where they must prove a person guilty beyond a reasonable doubt.

We removed that protection from ourselves and I think rightfully so, to a step lower in evidence, clear and convincing evidence. Not beyond a reasonable doubt.

The committee now tells this body, "Now we want you to reduce it further to suspicion." That is what we have. We have reduced the standard of proof to suspicion.

In the final count, Mike Corbett was a 15-year staffer on the Hill long before I got here, he worked for two other Congressmen. I got a bargain, I hired him at $30,000 a year. He was a good staff director.

In 1981 all of my colleagues know we had a great deal of subcommittee work in reconciliation, we were reducing and shuffling programs. Mike shepherded that through with a very fine staff. The only testimony that I knew of concerning this, and incidentally his absenteeism, he admitted to me and he admitted to the committee that in late 1981 his mother became terminally ill with cancer and she lived 60 or 70 miles from here, and he used to sneak off in the afternoon, and I did not know about it, to go take care of his mother and then come back to Washingtkn. He was in Washington all the time, my friends.

Then he would keep it from me.

The testimony was from their witness, a former staffer whom I had to let go, said, "Well, sometime maybe in late March or early April I told Mr. MURPHY, or I told his A.A."—she was not certain which one of us she told—"that Mr. Corbett was goofing off."

Attorney Clarence Norman came in and it is in the testimony, he was the attorney for the subcommittee at that time, and he said, "In June of 1982 we had a discussion in the subcommittee offices and we said, 'Who's going to tell Mr. MURPHY that Mike's goofing off'" and they were all participants including the staffer they had come in.

Well, then a week or two later right after the July 4 break 1982, that staffer they designated came in and told me that Mike had been absent.

I called him in. I gave him his choice and he said his choice was with his mother. He then said, "Will you let me serve to the end of the pay period?"

I perhaps was the first one to establish a policy of parental leave and I guess I might have to do the same again with compassion, and if my colleagues want to hold that against me that he remained on the payroll for somewhere from 4 to 6 weeks, or even if my colleagues want to believe the total of 8 weeks, then I have to take responsibility. But there is no record of evidence in there of what I heard at the hearing that there was any prior knowledge on my part.

When I learned of it I had the unfortunate duty of dismissing a very good employee and it was the first time in my life I had that bad experience.

I guess what I want to say, also, is that to my people in Pennsylvania that I have never betrayed the trust they have placed in me. I have not benefitted financially in any manner whatsoever and I was pleased that the committee report stated that, and that I have never compromised my trust or faith in this House or in our democracy, and there was no wanton wrongdoing involved in any of the allegations.

If I am guilty of anything, I guess it is in showing compassion and sympathy to a staff person who was caring for an ill parent, and that I did not properly instruct my district staff to guard the copy machine more closely.

I might say that my district staff persons testified that they allowed that to happen and that I did not know it, but what we have done when this goes through is that we will have reduced the system of proof from clear and convincing to suspicion.

Let me say that in the 16th and 17th centuries in England the star chambers did just that, they reduced the method of proof, they operated outside the law, they operated outside judicial procedure. There was no jury, only the investigator and prosecutor were allowed to hear the case.

I want to say to my colleagues that we have put Members of this House in the untenable position of being investigator, of being prosecutor, of being grand juror, and then reversing their roles and coming back to be a judge and a jury of the facts. No one can change hats that rapidly. No one can change from being an investigator to being a fair juror. I do hope that someday we will in this House establish a system of justice for ourselves that will not allow favoritism or lack thereof, that will not allow power or lack thereof, that will not allow extraneous pressures to influence us, pressures from the press, from the media, from constituents, from our peers, and that we establish an independent system of individual prosecutor, independent prosecutor or independent thorough judge that we invite in to hear this so that we can have a fair and just hearing and not a star chamber where accusers need not face their accused.

Incidentally, in the Washington Times several months ago the ex-staffer said, "Oh, I'll swear under oath about this voting business."

They never brought that person in to be faced by myself or subject himself to cross-examination to determine what his competence and what his motives were.

There are so many things that I could say but I do hope that my colleagues will now allow the enforcement of an ex post facto ruling and that my colleagues will now allow ourselves to be so diminished in matters of proof before this committee that we will no longer have an independent and reliable Congress, legislative body, operating this great democratic republic of ours.

Thank you very much, and I reserve the balance of my time.

The SPEAKER pro tempore (Mr. MCCURDY). The Chair would advise the gentleman from Pennsylvania that he has consumed 19 minutes, and he has 1 minute remaining.

The Chair recognizes the gentleman from California [Mr. DIXON].

Mr. DIXON. Mr. Speaker, I have no further requests for time, and I reserve the right to close debate.

Mr. MYERS of Indiana. Mr. Speaker, any time I yield will be for purposes of debate only. Mr. Speaker, I yield 3 minutes to the gentleman from Utah [Mr. HANSEN], a very valued member of our committee.

Mr. HANSEN. Mr. Speaker, I cannot think of a more difficult task that any of us have than to sit on this particular committee. It is a thankless task. It is a lot better to be on some other committees.

Let me, however, just say I have been on this committee now for 7 long years and in that time we have looked at a lot of Members of this body and let me say that I do not think there has been a time that we have not fulfilled our responsibility to look at it in great detail. I personally feel as we look at this particular case that we are looking at today, this is another situation where we looked at it in great detail. This is a nonpartisan type of committee. I cannot recall a time when we have had a partisan vote on that committee.

In this one, this investigation took 6 long months. This was a good staff of people, including the General Accounting Office investigators helping us out.

We looked at various parts of what had happened in this particular case. As I look at this, it comes down to those four counts, and on the one count, was there ghost voting?

I do not know of a more serious responsibility given to anyone in this House than when one is elected to represent almost half a million people and thus given a voting card. Forget the rule of 1978, go back to the others, look at the Constitution itself. Can my colleagues find anything in the Constitution that says a Member does not vote himself?

Yet, as we look at this electronic thing, we did not do it, the electronic analysis, on this because every day that has proven that it is right. Every day we have the opportunity to know whether we voted or we did not vote.

□ 1210

And the evidence is crystal clear that someone voted with that voting card.

I know a few things are sacred to any one of us, and what our people think, that when you go home that you actually had that card and honored that card and you keep that card. It is not only the idea that you put it in your desk, it is the idea that you take care of it.

We get into some other issues we are looking at at this particular time that were brought up. I do not know, but I think it is another sacred responsibility that you sign a certain document every month that says that those individuals who work for you actually did the work. Do you not sign that? I sign it. It says we certify that the people that work for us actually did the work.

Also in this particular case as we go through these areas, this ghost employee in deposition said that he was a no-show. He said he was not there. I do not see anything wrong with 435 independent businesses. Each one of us has a small business that we operate, and sure, we should have compassion and empathy in our hearts for those people having a hard time. But this is a person who was an absolute no-show using taxpayers' money.

We have empathy for those who come in front of us. No one likes to do this particular job, but I submit that the evidence is overwhelming. The committee did their work. It was exhaustive, and the facts were those that said we should come with those four counts.

We feel not good about it, but it is something that I would urge my colleagues to sustain the committee's recommendation.

Mr. DIXON. Mr. Speaker, I yield 2 minutes to the gentleman from New York [Mr. MOLINARI].

Mr. MOLINARI. Mr. Speaker, I thank the gentleman for yielding the 2 minutes to me.

Let me say quickly that I respect all of the work that has been done by committee members on both sides of the aisle, and I know that they have worked very hard on this subject.

Let me also say I do not know Mr. MURPHY. I do not know AUSTIN MURPHY at all. I came here like a lot of my colleagues to listen and to make an independent judgment of how I am going to vote on this thing.

But what I have heard so far has troubled me, and I have listened intently to both sides. I am troubled by the charges that have been raised and the way the charges have been raised and the way the charges have been articulated here today against this gentleman. I hear statements like "You have to look at the totality of the charges." What does that mean? To me it means each and every one of those charges may be weak on its face, and I think from what I have heard indeed they are weak on their face, but we have a number of charges to consider. And we are asked to consider the fact that the committee did in fact spend a lot of time, 6 days of hearings, and that they spent a lot of time reading. What does that mean? It means they worked hard, but because they worked so hard and because they worked so long and because the vote was 11 to 0, does that mean that we then go along with whatever the committee says?

This question of the voting card. We have all seen since we have been here instances where people have voted and found out at the end of the year a vote was not recorded. Time and time again I have heard Members get up on the floor and say I was here and I voted; that machine screwed up somehow.

When they say the evidence is crystal clear that somebody voted, I do not accept that. I do not accept that at all.

The statement was made that we have a responsibility to protect the honor of this Chamber. Yes, indeed we do. But we also have the responsibility to protect the integrity of everybody who serves in this Chamber, and from what I have heard here so far I am very, very troubled by the charges. I think that this man is being singled out by the media attention, and I must in my own case support the gentleman from Pennsylvania. Any doubt that I have would be resolved in his favor.

Mr. MYERS of Indiana. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. PASHAYAN], a member of the committee.

Mr. PASHAYAN. Mr. Speaker, I join with my colleagues on the committee in saying this is not a happy moment. It is a grim occasion. But it is a matter of duty.

I should like simply to address one point in all of the discussion here, and that is the point of whether or not a rule existed in 1978 that prohibited proxy voting in the House of Representatives. Putting aside inferences in the Constitution, the chief phrase of which reads in article I, section 5, clause 3, "The yeas and nays of the Members of either House shall be entered on the Journal," and other phrases suggesting presence in the House, putting that aside we can focus on a ruling by Speaker Nicholas Longworth on March 5, 1930. I quote:

> There is no rule that the Chair knows of in the House of Representatives for any sort of proxy. No man can transfer his vote or permit another Member to vote for him. A Member must vote in person.

Mr. Speaker, the law or a rule is laid down for at least two principal purposes. One is to establish the behavior or conduct that is expected of people, and in this instance that is expected of a Member of this institution. A second purpose of a rule or a law is to give notice to the people subject to the law of what is expected under the terms of the law.

POINT OF ORDER

Mr. KANJORSKI. Mr. Speaker, I have a point of order.

The SPEAKER pro tempore (Mr. MCCURDY). The gentleman will state his point of order.

Mr. KANJORSKI. Mr. Speaker, a very peculiar thing has been called to my attention and I would like to call it to the attention of the House. If they will look at the voting board there is presently a vote being cast on the board as present, in the second column of the third sheet, and I would like the record to so note.

The SPEAKER pro tempore. The gentleman from Pennsylvania fails to raise a proper point of order. There is no vote in progress.

Mr. MYERS of Indiana. Mr. Speaker, this is a serious matter and we do consider our responsibility here very seriously and not to be treated lightly.

Mr. Speaker, I yield 3 minutes to the gentleman from Idaho [Mr. CRAIG], a member of the committee.

Mr. CRAIG. Mr. Speaker, I am a new member of the committee, and I can tell my colleagues as a member of this committee I had a difficult experience. Most of us view our attendance on committees with some degree of regularity, but all of a sudden I realized I was being asked to be a jury, and it was very important that I be there because potentially an individual's career was at stake. I will tell my colleagues a good many of us attended all of that time.

Nor do I believe we can ask, as the gentleman from New York has asked, that this whole case be tried again on this floor, in this well with all of the details and all of the facts that we dealt with in that committee. So let me point out only a few, on two counts that I think are very important and that I dealt with a great deal of the time.

On the count of the diversion of Government resources, get the committee report. Find out in that report that there were checks, pictures of checks in which it says that checks were still being drawn in 1987 by the law firm of Murphy, France & Vanderman, and other individuals. And yet the gentleman from Pennsylvania [Mr. MURPHY] said before that committee that he terminated his relationship with that law firm, and that law firm was sold to his partner when he came to office. Yet there was a relationship that in my opinion was very clear.

A staff person said that when the Government copy machine came to the office, ours went to the basement. That is a fact. We believe it to be a substantial one. Also there was a receptionist being paid by Government funds who was receiving law firm phone calls on a daily basis and sat in the front of that law firm's office. That is believed to be a fact.

I could go on about those kinds of details, but if my colleagues want to try the case again as we did before the committee, hour after hour, then we ought to extend the time a great deal more than we are now doing.

A ghost employee, count No. 6, a difficult charge. The gentleman from Pennsylvania [Mr. MURPHY], our colleague, has a room in that employee's house during the time of that employee's absence from the committee that that employee admitted he was absent from.

Mr. MURPHY. Mr. Speaker, will the gentleman yield 2 seconds? Will the gentleman point in the testimony where that appears?

Mr. CRAIG. That was the evidence that was available to us and to the committee for decisionmaking.

Mr. MURPHY. It was not brought out at the hearing for explanation, was it?

Mr. CRAIG. Yes, it was asked.

It was also said by the gentleman from Pennsylvania [Mr. MURPHY] that when he decided that this employee needed to be discharged that he went to the "Man in the Green Hat" to find him. It appeared that he knew where the man was.

I am simply saying there were details involved, tremendous details that led the committee to the decision that we have brought you today in this report that my colleagues will have to decide upon.

Mr. MYERS of Indiana. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Speaker, the committee has done a difficult job and presents us with a difficult vote. Many of us regard the gentleman from Pennsylvania as a friend, and judgments of this type are very tough.

Based upon the information gathered by the committee, and I did take time last evening to read the report, a reprimand of the gentleman from Pennsylvania seems an appropriate response in fulfillment of our constitutional obligations. The gentleman from Pennsylvania apparently violated House standards. We should respond to the facts of the case as developed by the committee.

But we also need to be concerned about justice in this matter. Whatever punishment we decide is appropriate in this case should be a consistent standard. I believe the gentleman from Pennsylvania has come to understand why some of us in the recent past have called for looking at basic reforms in the way that we handle these matters, and this case does raise some serious consistency concerns.

If the gentleman from Pennsylvania is to be judged guilty of having his vote cast for him by someone else, who is that other guilty party? Should there not be two accused before us today?

If the gentleman from Pennsylvania is to be judged guilty of misusing official money and employing ghost staff, there are other cases where similar punishment seems warranted.

I will vote for this reprimand. I will vote to reprimand the gentleman from Pennsylvania for his mistakes I believe that the committee has established he made.

If the whole House decides that is an appropriate action to take, however, we have a problem, not just a problem for the ethics committee, but a problem for the House. We have a problem because there are other cases far more serious, in my opinion, that all of us must address with at least similar types of punishments. Simple justice demands it.

Mr. MYERS of Indiana. Mr. Speaker, I yield 1 minute to the gentleman from Georgia [Mr. GINGRICH].

□ 1225

Mr. GINGRICH. Mr. Speaker, I commend the committee for its report and its recommendation. Given the facts, a reprimand is a reasonable recommendation and I will vote "yes" but I sympathize with the plight of Mr. MURPHY. We must be careful not to make a scapegoat of the gentleman from Pennsylvania.

This committee's earlier report on the gentleman from Rhode Island should be reexamined with this new yardstick. The committee's letter on the gentlewoman from Ohio should be scrutinized with this new yardstick. The admission of $24,000 in election law violations by the gentleman from California should be held up to this new yardstick.

Finally, the numerous allegations about the Speaker must be——

Mr. ROBINSON. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore (Mr. McCURDY). The gentleman will state it.

Mr. ROBINSON. Mr. Speaker, I thought we were here today to hear a very serious charge against one of our colleagues from Pennsylvania, not from California or other States.

The SPEAKER pro tempore. Will the gentleman suspend? Does the gentleman from Georgia yield?

Mr. GINGRICH. No, I do not yield, Mr. Speaker.

POINT OF ORDER

Mr. ROBINSON. Mr. Speaker, I raise a point of order.

The SPEAKER pro tempore. The gentleman will state his point of order.

Mr. ROBINSON. Mr. Speaker, my point of order is that we are here to consider the committee's report against our colleague AUSTIN MURPHY and not against other Members today that the charges have not been substantiated or presented to the committee.

Mr. GINGRICH. Would the Chair——

The SPEAKER pro tempore. Will the gentleman suspend?

The Chair will yield on the point of order.

On the debate currently ongoing, there can be references made to other cases reported by the committee, not by individual or by name. The gentleman from Georgia, as the Chair understands, has not mentioned other individuals and the gentleman from Arkansas——

Mr. ROBINSON. Mr. Speaker, he has, too.

The SPEAKER pro tempore. The gentleman may compare disciplinary actions reported by the committee and should confine his remarks to the matters before the House.

Mr. ROBINSON. I have a further parliamentary inquiry, Mr. Speaker. To my knowledge, these charges are not before the committee.

The SPEAKER pro tempore. The gentleman from Georgia will proceed in order.

Mr. GINGRICH. The gentleman from Arkansas made my point. And my point is simple: You do not have the courage at this moment to raise the charges against those with power but just before Christmas you found a Member without power.

It is sort of shameful.

The SPEAKER pro tempore. The gentleman from Indiana [Mr. MYERS] has 1 minute remaining.

Mr. DIXON. Mr. Speaker, I yield 2 minutes to my colleague, the gentleman from California [Mr. FAZIO], a member of the committee.

Mr. FAZIO. Mr. Speaker, enough has been said about the difficulty of the task of the committee, the bipartisan nature of it, et cetera. But I think the committee needs to take a second to defend itself simply to the degree that we reaffirm the absolute conviction of all 12 of us that we are not engaging in any special treatment of any Member, we are not scapegoating any Member. We have taken heat before and we will take heat again, because we cannot please a body as diverse in their philosophy and their personality as this one.

We expect to take that heat, it is part of the job.

But I think it is important to point out that we have in the case of AUSTIN MURPHY rigorously reviewed all the matters that have come before us. We have whittled down the potential charges to a relative handful and we have not convicted him on all of those that he was originally charged with. We have tried to bring to the floor the simplest package that we think is indicative of a pattern of abuse. It is too much, I am afraid, for some of you, as jurists potentially, to accept that in what is really a limited amount of debate, only an hour. But I think you can place confidence in a group of 12 people who worked together endlessly to try to figure out what we can bring that will provide the best consensus of the group. We did not bring anything we could not defend. I am sure the chairman in his final remarks will do an adequate job—a better than adequate job, frankly, of rebutting those responses made by Mr. MURPHY on anyone else on this floor.

It is important, I think, however that you back the committee only to the degree that you are willing to assume that they have done the most thorough and comprehensive analysis of a lot of data, not just testimony, but thousands and thousands of pieces of paper and material. It, I think, attests to our efforts, to our validity and to our conclusions.

Mr. MYERS of Indiana. Mr. Speaker, I yield myself the time remaining.

The SPEAKER pro tempore. The gentleman from Indiana [Mr. MYERS] is recognized for 1 minute.

Mr. MYERS of Indiana. Mr. Speaker, it is, a difficult job we all have here today. Mr. MURPHY has cited that the machine has made mistakes. A colleague has cited that a "present" light is lit on the display panel when there is no vote being cast. If our electrical machine is that fragile, that prone to mistakes, would not a reasonable person as we all are, should we not also make sure that our vote is cast right?

Correspondingly, when we are not here, making sure that it did not cast a wrong vote in a way we do not want it to? Do we not have a responsibility to do that if that machine is that fragile? And, yes, we are—if there was any question as to guilt, we would have come down on the side of the respondent. Clear and convincing was the charge of the evidence that we considered.

We were just as compassionate as everyone else. We did drop two of the charges.

In closing, we are all parents, or most of us are parents here. There have been times in our lives as parents we had to discipline our children; not a happy experience. It bothered us.

Today we are being asked, with the responsibility and charged with the responsibility of disciplining a colleague, a friend. It is painful today. But just as we did what was right with our children, we do what is right today for the institution of the House of Representatives that we all love so much.

Mr. DONNELLY. Mr. Speaker, I ask unanimous consent that all sides be given an additional 10 minutes. It is my understanding that there are other Members who wish to speak on this matter and I think, just on the issue of fairness, that all Members should be allowed to be heard on this matter.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

Mr. RUSSO. Mr. Speaker, reserving the right to object, it seems to me that the way the debate has been handled today, the respondent only has one-third of the time and the committee has two-thirds of the time, and it seems to me that if you would make any extension of time, it would be divided equally, that the respondent would get half of the time and the committee get the other half.

Mr. DIXON. Mr. Speaker, will the gentleman yield?

Mr. RUSSO. I yield to the gentleman from California.

Mr. DIXON. I thank the gentleman for yielding.

The chairman of the committee divided the time that way because I felt that we have the burden to come forward and make our case. However, this Chair would ask unanimous consent to grant the gentleman from Pennsylvania [Mr. MURPHY] 15 additional minutes.

The SPEAKER pro tempore. Does the gentleman from California make that request for time for anyone else?

Mr. DONNELLY. Mr. Speaker, I have a unanimous-consent request pending.

The SPEAKER pro tempore. The gentleman from Massachusetts has requested 10 additional minutes for each side.

Mr. DIXON. Mr. Speaker, will the gentleman yield?

Mr. RUSSO. I yield to the gentleman from California.

Mr. DIXON. I thank the gentleman for yielding.

Mr. Speaker, my unanimous-consent request was not to take any more time, but to grant the gentleman from Pennsylvania an additional 15 minutes.

Mr. DONNELLY. Mr. Speaker, I withdraw my unanimous-consent request.

PARLIAMENTARY INQUIRY

Mr. MYERS of Indiana. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. MYERS of Indiana. Mr. Speaker, as I understand it, the unanimous-consent request was 15 minutes for the respondent and 15 minutes for the committee, both sides?

Mr. DIXON. No. Mr. Speaker, my request was 15 minutes for the gentleman from Pennsylvania [Mr. MURPHY].

Mr. MYERS of Indiana. And none for the committee?

Mr. DIXON. None for the committee.

Mr. MYERS of Indiana. That is satisfactory.

Mr. RUSSO. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The SPEAKER pro tempore. The time of the gentleman from Pennsylvania [Mr. MURPHY] will be extended by 15 minutes. The gentleman from California [Mr. DIXON] has 9 minutes remaining, the gentleman from Pennsylvania [Mr. MURPHY] has 16 minutes remaining, and the gentleman from Indiana [Mr. MYERS] has no time remaining.

Mr. MURPHY. Mr. Speaker, I yield 3 minutes to the gentleman from New York [Mr. LAFALCE].

Mr. LAFALCE. Mr. Speaker, I give tremendous respect to the unanimous judgment of the Ethics Committee. I came here feeling that if there were a unanimous judgment from these very fair men and women, the chances are in all probability I would vote to reprimand. In all candor, however, on the basis of the evidence that I have been able to assimilate thus far, on what I have been able to hear, and I have listened to every word, and what I have been able to read from the time that I was aware we would be considering this, it is difficult for me to vote to reprimand the gentleman. This causes me great personal difficulty.

Let me explain why: There are three basic charges. First of all, the vote. The allegations as I understand it are that twice, and I am not sure whether it was the electronic machine or whether or not it was the paper card which some name Murphy, when there were three Murphy's, indicated that Mr. AUSTIN MURPHY votes. Was it a paper card or was it the electronic machine? And worse, the evidence that he was involved, especially when on sometimes that day he voted and sometimes that day he did not vote. And if he were having somebody vote for him, would it not have been done with some consistency?

I have difficulty with that one.

Second, with the issue of pay for an employee. How many of you have been awakened to the fact that some employees of yours have not given you the performance that you thought they were and then you have let them go and perhaps you have let them go with 4 weeks' severance or 6 weeks' severance or 8 weeks' severance, and they did not work for you during that 4-week period or 6-week period or 8-week period and yet you signed the payroll which payroll said that they did work for you, but it was a severance pay.

And the third issue—I leave aside the issue of parental leave or sick leave or what have you—and maybe there are answers to all of these. Maybe if we had those answers we should reprimand. But I have not heard them yet.

The third issue is the use of the Xerox machine and the telephone. I just do not know to what extent it was used, to what extent the telephone was used, how cumulative it was, or how casual was it?

And was there any type of an informal relationship where Mr. Murphy was able to avail himself, for Government purposes, of secretarial help of the law firm, of the law books of the law firm, the physical building that the law firm was renting? I do not know. I do not know this.

But if there were, it troubles me that we might be reprimanding him without knowing the facts a little better.

Maybe the facts are in the record. Maybe the committee knows the facts, but I have not heard them yet today or read them yet today and they should come out before we can vote to reprimand.

Mr. MURPHY. Mr. Speaker, I yield 2½ minutes to the gentleman from California [Mr. Roybal].

Mr. ROYBAL. Mr. Speaker, first of all, I would like to thank the chairman of the committee for extending the time for an additional 15 minutes, for I am troubled by the rule as it exists at the present time where only 1 hour is allowed to decide the fate of a fellow Member. Forty minutes are given to the prosecution but only 20 minutes to the defense. And that is not equal nor fair.

I would, however, like to compliment the committee, for its procedure and ethics has improved tremendously, almost 100 percent in the last 6 years.

There was a time when investigators on the committee would actually break into a Congressman's office in the middle of the night, ransack the office and its contents looking for whatever information they wanted. Fortunately, that is no longer the case in the House of Representatives.

It is no wonder that the Supreme Court back in 1972 had this to say:

> An accused Member is judged by no specifically articulated standards and is at the mercy of an almost unbridled discretion of the charging body that functions at once as accuser, prosecuter, judge, and jury from whose decision there is no established right of review.

□ 1240

The Court went on to say:

> A Member would be compelled to defend in what would be comparable to a criminal prosecution without the safeguards provided by the Constitution.

That is what is happening now. The committee may be correct when it brings charges based on clear and convincing evidence. But even that does not seem to apply to all four charges in this case. We who act as the final jury would be wrong if we do not consider only those facts in evidence that are beyond a reasonable doubt. That is the way the courts are run in this country. The accused must be found guilty on presented evidence that is beyond a reasonable doubt. After hearing the evidence as presented and the defense that has been made, I have doubt. More than a reasonable doubt that these accusations as presented are beyond a reasonable doubt on all four counts, particularly since they are based on the fact that the alleged violation on at least two counts took place in 1978, when there was no direct prohibition against that violation, and since the committee itself corrected that discrepancy back in 1980 and had those rules changed by the House of Representatives. That was almost 2 years after the alleged violation.

Mr. MURPHY. Mr. Speaker, I yield 2 minutes to the gentleman from Iowa [Mr. Nagle].

Mr. NAGLE. Mr. Speaker, I have taken the opportunity during the debate to walk to the back of these hallways, and I think I can speak for a vast number of the Members when I say that many of us are frankly troubled by this case. We are caught on one hand with our legitimate desire to uphold the committee and support the committee and on the other hand by the very troublesome facts that have not come before us in this case.

We all believe in the sanctity of that voting machine and its accuracy, particularly when three Murphys were in this body at the same time when the phone system in this institution commences to work.

Second, I will believe that all of us have a responsibility to know what all of our employees are doing when we all know that. But we do not. I am also troubled by the fact that others who have had employees on phantom leave or ghost employees have been allowed to repay it without allegation.

We owe the committee our gratitude, but there is something else that is even more fundamentally at stake here. I do not even know Austin Murphy. I did not come here to speak today. But we owe him an obligation to vote and to recognize the consequences of that vote.

Committees come and committees go, but whatever stamp we put on Austin Murphy lives with him for the rest of the history of this Congress. I am not satisfied and I think many Members are not satisfied that we have seen enough for the pages of history to say that Austin Murphy is to be labeled as having been reprimanded by this institution on these allegations.

We are even down to accusing him of letting somebody use his Xerox machine, and that in my mind is nitpicking.

Mr. Speaker, I think we owe him our best judgment, not the committee. I think we owe it to each other when we are troubled to give each other the benefit of the doubt, and I, frankly, do not plan on voting, even though I respect the committee to uphold the committee.

Mr. MURPHY. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio [Mr. Traficant].

Mr. TRAFICANT. Mr. Speaker, to the Democrats and the Republicans, let me say I am here in the well as a friend of Austin Murphy. I have not seen any specific proof other than the fact that we have Members who have been clamoring lately for people's heads on these ethics issues. There have been so many unjustifiable types of slanderous statements made that both Democrats and Republicans alike should be monitoring the behavior of some of those attackers, who do not live in glass houses, by the way, and their behavior has not been pristine.

What bothers me today is that Congress is so concerned about these ethics issues that we have finally started to focus in on one, and it has been Austin Murphy. Austin Murphy is the scapegoat today. There are a whole lot of people who have done a lot of things in this body, but at some point you look your accusers in the eye and they give you facts and they present proof.

This is not going to make me very popular with some Members, but I am going to vote "no." That is not just because Austin Murphy is a friend of mine, but when you make these types of accusations, you should prove them, and Congress should not be letting some of these Members get away with cheap shots. They have been doing it with our Speaker, they have been doing it with a lot of Members, and the Ethics Committee, I believe, feels compelled to bring somebody before this body. I am not going to question the committee, but as a Member, I am not going to let them steamroll AUSTIN MURPHY either.

I am going to vote no, and I am asking the Members of this body who know of the good job AUSTIN MURPHY has done in his district, and that the people have sent him back because of that good job, not to let those few in here who cast stones get away with the type of behavior that runs us or herds us into a system of discipline that is not fair.

Mr. Speaker, I am voting "no."

The SPEAKER pro tempore. The gentleman from Pennsylvania [Mr. MURPHY] has 6½ minutes remaining.

Mr. MURPHY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I thank my colleagues for the comments they have made. I know that I have been a colleague as well of the members of the committee, and I know that they have had a painful task.

All of the Members know that I am here daily, that I am on the floor, and that I quietly do the work that I can do.

But I do want to call the attention of the Members to this: One or two of the Members made some comment appointing to 17 pages of checks that my former law partner drew for various accounts. My name is not on one of those checks, except that when I left the law firm and sold it to him—and I established that with proof to the committee, that I sold it and had no participation in it—he bought the name, Murphy & France, because I had been in the community for years. So I guess his checks may still read with the name "Murphy." I never saw the checkbook. I do not have anything to do with that, and the committee knows that.

Then they brought out the fact that I stayed with Mr. Corbett. Yes, my plumbing broke for a couple of months in the winter of 1981 and 1982, and Mike had an extra room on the third floor and I stayed at Corbett's, but that was long before his absenteeism occurred and certainly long before I knew about it. I do hope that the Members now will have some awareness that I truly believe the pressure is on the committee by the media, by their peers, and by their constituents, and perhaps feeling it themselves, they have decided to bring a case here before you that is certainly not ironclad. If they think it is, then I was in a different courtroom from them for that week it occurred. I was there everyday, and I want to say that that is another problem with our system.

We are asking 12 of our peers, after they have been investigators, to now sit and be a jury. Some of those Members would be astonished at the percentage of time that they were able to devote to those hearings. I can understand why, because we have busy lives, but it is unfair for them. But it is also unfair for you and for me to be charged to submit all the facts before a jury that comes and goes and comes and goes—not all of them, but enough of them that it is a little disturbing to a defendant who sits there and figures, "Holy smokes, they've got a swinging door in the jury room."

I have been a prosecuting attorney, and I know what standards of proof are. I know what rules of evidence are, and that is another place where our committee is sorely lacking. They have no Parliamentarian or any unbiased person to say what the rules of evidence are. They should not go by what was in some deposition where we had no opportunity to cross-examine. They should not go by a briefing book that I have never seen to this day, and they were constantly being requested by their counsel to refer to their briefing book. I wish we had had that opportunity to have a briefing book.

Let me say to my friends that as much as I feel singled out for this discipline, I feel very strongly that you must address this procedure. I would not want to serve on that committee, and I know the anguish they have. But how do they take off their prosecutorial cloak and all of a sudden become a fair and impartial judge and jury?

Never once in the testimony was there any evidence that I permitted anyone to vote for me, that I permitted the diversion of the copy machine, or that I permitted Mr. Corbett's absenteeism until the last 6 to 7 weeks that he was there.

□ 1250

I take responsibility for that. If I was too compassionate, that is my fault, but that is the only thing that I tell you, my colleagues, that I permitted.

Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey [Mr. TORRICELLI].

Mr. TORRICELLI. I thank the gentleman for yielding.

Mr. Speaker, I came here today as an attorney and one who believes in the high ethics of this House, to admonish the gentleman from Pennsylvania [Mr. MURPHY].

I did so because I, like you, wanted to uphold the very highest standards of this House. After listening to the report of the committee, I cannot do so.

The gentleman from Pennsylvania [Mr. MURPHY] is charged with four counts. There will not be four separate votes on this floor. In my judgment, if justice is to be done, you must each become convinced that each of those four separate counts are properly founded and supported by the evidence. There is no such evidence, make no mistake about it. Proxy voting is inappropriate. It is wrong. It should not be permitted, but it was not against the rules of this House when the gentleman from Pennsylvania [Mr. MURPHY] is alleged to have permitted another to have acted on his behalf.

I invite the Members of this body to read a letter written to the gentleman from California [Mr. FAZIO] on November 16 by the counsel of this House, Steven Ross, and I quote:

> Congressman Murphy can hardly be held to, and punished for, a standard of conduct that this committee determined two years after his alleged transgression. That hardly comports with either the House's admonition that the committee should only proceed against Members for allegations of breaches of standards of conduct that were in effect at the time of the conduct, or with such basic notions of fairness and due process which must attach to this committee's proceedings if they are to fulfill the important constitutional role assigned to this House.

That in the judgment of the counsel of this House.

I would further invite you to the conclusions of Mr. Ross when he wrote, and I quote:

> I believe that you should also have concerns regarding the committee's jurisdiction to proceed on these two charges.

Quoting further:

> The rules of the House are that no investigation shall be undertaken by the committee of any alleged violation of law, rule, regulation or standard of conduct not in effect at the time of the alleged violation.

My friends, you cannot in good conscience find that each of these four alleged violations have occurred. If the committee believes that it has evidence for the other three, proceed, return to this floor. I cannot in good conscience vote to find that all four have, indeed, occurred.

The SPEAKER pro tempore. All time of the gentleman from Pennsylvania [Mr. MURPHY] has expired.

The Chair recognizes the gentleman from California [Mr. DIXON].

Mr. DIXON. Mr. Speaker, I want to say to the Members of this body that I appreciate the attention that they have given to both sides of this issue.

I want to address in my closing the facts in this situation as the committee found them. We certainly could not bring to you all the evidence that we accumulated in an investigation in some 9 days of hearings on this matter, in a 1-hour resolution that the committee provides for. If you look at the resolution, the resolution requests an adoption of the committee report with the issue of reprimand.

It is the opinion of Steve Ross, the general counsel of the Clerk, as the gentleman in the well said, but I point out to you that, first, it was not his jurisdiction; second, he was not speaking for the House; and third, in fact he says, "The views expressed here are mine and provided to you in response to a question."

There is some confusion here as it relates to counts one and two, and let me tell you what the facts are. An analysis was made. The votes were not made here or anyplace else. They were made at station 33 with a card; so the issue of whether they were made here and all the confusion, in all respect to the respondent, he is trying to cloud the issue.

Prior to 1973, that was the year that the voting devices were installed, was there any doubt in any Member's mind that they have to be here physically on the floor and vote? I do not think so.

After that time in an honorable House with honorable men and women, no one thought to change the rule, and so there is an issue that arose in the Morgan Murphy case as to the crime or breach of confidence or House rule as it relates to someone who took the card, not the person that was responsible for their own vote; and yes, there was a rule change made in 1980 that said not only do you have to be present, but because of technology, the person who does the voting has breached the House rules. That is what occurred in the Morgan Murphy case.

Mr. Murphy in that case took the well on the Monday after and said he did not allow anyone to vote him.

Now, the gentleman from Pennsylvania, Mr. Austin Murphy, says that some of this came to the committee's attention, and he is correct in part, by a May 7 Times article. Did Mr. Murphy at that time look at the article, examine the dates, the specific two dates that were alleged, come to this well, notify the Speaker, "Yes, I was not here, and there was a recorded vote"? No, he waited until after a statement of alleged violation, after we knew where he was, and then he says, "Oh, yes, I leave my card—when I get this, now, when I in fact leave"——

Mr. MURPHY. Will the gentleman yield just for a question?

Mr. DIXON. I will not yield. The gentleman has placed his interpretation on the evidence. These are arguments I have a right to place my interpretation on the evidence.

I take my card and I put it in my desk drawer, and so when I leave here I do not have my identification card. With that, does he ever check his records to see if he has been recorded? No. He just does not know how it happended.

When you look at the fact that it did occur at station 33, there is no doubt that he either directed someone to do it, or he did not safeguard this card.

Mr. AuCOIN. Mr. Speaker, will the gentleman yield just for a split second?

Mr. DIXON. I am glad to yield to the gentleman from Oregon.

Mr. AuCOIN. Mr. Speaker, I apologize. I have no idea how I am going to vote, but I am deeply troubled by this question of the account on voting. I am looking at this board and I do not know who is recorded as voting "present."

Mr. DIXON. There is no vote on. Ladies and gentlemen of this House, this has been brought out twice. There is a light on.

If you want to accept that this light being on is not clear and convincing evidence that Mr. Murphy was recorded, by his own admission he left his card in his desk. He never disavowed it. If this light being on to this House is enough, so be it.

Every man here has to justify his vote. If this light on means that to you, vote it.

If you think that there was no House rule about being voted on this floor when you were not here, so be it.

This is not the committee's interest. This is this institution's interest.

If you think after the man stands in the well and says yes, Government supplies and property were used, he admits it, but he did not know anything about it. The evidence was it took place over 9 years.

There was one reception area. The person in that area was paid by the Federal Government. The evidence was that she received and did work for the law firm and the Federal Government. If you want to believe anything else, so be it. It is your vote. A ghost employee, by the man's own admission, for 10 months. He had a good reason in his heart. He had a parent that had cancer.

Do you think he lived with that man? He had on the surface a good reason, that Mr. Murphy as subcommittee chairman did not know it for 10 months? If you believe any of that, you have a responsibility to vote no, you do.

If you can say to yourself that there was no rule, because this case is about what a Member's responsibility is, it is a responsibility to be here and vote. If you think that light gets him off the hook, so be it.

It is an issue of what your responsibility is as a subcommittee chairman. For 10 months the man said, "I didn't show up." If you believe that the excuse is justified, so be it. Vote "no."

The man admits, you have seen him in the well say, yes, they used the equipment. He asserts some offset. "It didn't happen for 2 or 3 months when I was just starting up." It happened for 9 years, and the committee went thoroughly through all this evidence. If you can believe the story the gentleman from Pennsylvania [Mr. Murphy] and if you think there was no violation of House rules in 1978 that a Member must be present on the floor or at least safeguard about the Congressional Record and come to this well and disavow it, if you can believe any of that, it is your responsibility to vote no. This is an institutional problem. It is not the committee's problem. So anyone who stands up here in good conscience, if you can vote no after listening to the members of the committee, someone said they are troubled that they did not hear more Democrats speak. This is not a partisan issue. The gentleman from Indiana [Mr. Myers] and I have been speaking for the 11 Members that voted on this report.

If you can believe any of that, I say to you, you have a responsibility to vote no. You should protect this institution, and if you think in any way we are picking on this man, vote no.

If you read the report, if you listen to his own statements here today, he admits the violation.

I suggest to you that you must uphold the committee's recommendation of a reprimand. When you look at the totality of this picture, there is no other answer for me and the other members of my committee.

The SPEAKER pro tempore. All time has expired.

Mr. DIXON. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

Mr. DIXON. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 324, nays 68, answered "present" 20, not voting 21, as follows:

[Roll No. 495]

YEAS—324

Andrews
Anthony
Archer
Armey
Aspin
Atkins
Baker
Ballenger
Barnard
Bartlett
Barton
Bateman
Bates
Bennett
Bentley
Bereuter
Berman
Bilbray
Bliley
Boehlert
Boggs
Bonior
Bonker
Boucher
Boulter
Boxer
Brennan
Broomfield
Brown (CO)
Bruce
Bryant
Buechner
Bunning
Byron
Callahan
Campbell
Cardin
Carper
Carr
Chandler
Chapman
Cheney
Clarke
Clinger
Coats
Coble
Coelho
Coleman (MO)
Collins
Combest
Conte
Conyers
Cooper
Coughlin
Courter
Coyne
Craig
Crane
Daniel
Dannemeyer
Darden
Daub
Davis (IL)
Davis (MI)
de la Garza
DeFazio
DeLay
Derrick
Dickinson
Dicks
DioGuardi
Dixon
Dorgan (ND)
Dornan (CA)
Downey
Dreier
Duncan
Dwyer
Dyson
Eckart
Edwards (CA)
Edwards (OK)
Emerson
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Fields
Flippo

Foley
Frank
Frenzel
Frost
Gallegly
Gallo
Gekas
Gibbons
Gilman
Gingrich
Glickman
Gordon
Gradison
Grandy
Grant
Green
Gregg
Gunderson
Hall (TX)
Hamilton
Hammerschmidt
Hansen
Harris
Hastert
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hiler
Hochbrueckner
Holloway
Hopkins
Horton
Houghton
Hubbard
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
Jenkins
Johnson (CT)
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kaptur
Kasich
Kastenmeier
Kennedy
Kennelly
Kildee
Kolbe
Konnyu
Kostmayer
Kyl
Lagomarsino
Lancaster
Lantos
Latta
Leach (IA)
Lehman (FL)
Leland
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lightfoot
Lipinski
Livingston

Lott
Lowery (CA)
Lowry (WA)
Lujan
Luken, Thomas
Lukens, Donald
Lungren
Mack
MacKay
Madigan
Markey
Martin (IL)
Mazzoli
McCandless
McCloskey
McCollum
McCurdy
McDade
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
Meyers
Mfume
Mica
Michel
Miller (OH)
Miller (WA)
Mineta
Moakley
Mollohan
Montgomery
Moody
Moorhead
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Myers
Natcher
Nelson
Nichols
Nielson
Oakar
Oberstar
Obey
Olin
Owens (NY)
Owens (UT)
Packard
Panetta
Parris
Pashayan
Patterson
Pease
Petri
Pickett
Pickle
Porter
Price (NC)
Pursell
Ravenel
Ray
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Rogers
Rose
Roth
Roukema
Rowland (CT)
Rowland (GA)

Sabo
Saiki
Sawyer
Saxton
Schaefer
Schneider
Schroeder
Schuette
Schulze
Sensenbrenner
Sharp
Shaw
Shays
Shumway
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
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Thomas (CA)
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Walker
Watkins
Waxman
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Wolf
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Wyden
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Anderson
Applegate
Badham
Beilenson
Bevill
Bilirakis
Borski
Bosco
Burton
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Chappell
Coleman (TX)
DeWine
Dingell

Durbin
Dymally
Early
Flake
Foglietta
Ford (MI)
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Gejdenson
Gonzalez
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Kolter
LaFalce

Leath (TX)
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Lewis (GA)
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Miller (CA)
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Pelosi

Perkins
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Rangel
Rostenkowski
Roybal
Russo

Scheuer
Schumer
Shuster
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Torricelli
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Visclosky
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Wilson
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AuCoin
Dellums
Donnelly
Fish
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Gaydos
Goodling
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Neal
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Clay
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Dowdy
Gephardt
Hall (OH)
Huckaby
Kemp
Lloyd
Martin (NY)

Martinez
Pepper
Roemer
Towns
Vento
Weiss
Young (FL)

□ 1320

Messrs. FLAKE, VISCLOSKY, DYMALLY, WISE, DINGELL, and MATSUI changed their votes from "yea" to "nay."

Messrs. HOWARD, DONNELLY, and PENNY changed their votes from "nay" to "present."

Mr. DeFAZIO changed his vote from "present" to "yea."

Mr. ROE changed his vote from "yea" to "present."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

CONFERENCE REPORT ON H.R. 2310, AIRPORT AND AIRWAY SAFETY AND CAPACITY EXPANSION ACT OF 1987

Mr. MINETA. Mr. Speaker, I call up the conference report on the bill (H.R. 2310) to amend the Airport and Airway Improvement Act of 1982 for the purpose of extending the authorization of appropriations for airport and airway improvements, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER pro tempore (Mr. RICHARDSON). Pursuant to the rule, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of December 15, 1987.)

The SPEAKER pro tempore. The gentleman from California [Mr. MINETA] will be recognized for 30 minutes, and the gentleman from Arkansas [Mr. HAMMERSCHMIDT] will be recognized for 30 minutes.

The Chair recognizes the gentleman from California [Mr. MINETA].

Mr. HOWARD. Mr. Speaker, I rise in support of the conference report on H.R. 2310, the Airport and Airway Safety and Capacity Expansion Act of 1987. This legislation comes at a time when it is critical to expand and revitalize our aviation infrastructure to meet the demands being placed on it. Traffic is climbing rapidly. This year 450 million passengers are expected to fly compared with 415 million passengers last year. By 1990 it is estimated the load will be 500 million.

This legislation provides more than $20 billion of multiyear funding for airport grants, for continued modernization of the air traffic control system, for aeronautical research and development and for the user supported portion of the Federal Aviation Administration's operational expenses.

These programs are 100 percent supported by user taxes, particularly the 8-percent ticket tax and the general aviation fuel taxes. These taxes are reauthorized by this legislation. It is important to note that a significant change has been made in the user tax structure. In the past, the taxes have been collected irrespective of the funding levels provided through appropriations. This is a very significant reform which remedies the unfairness of users paying for programs that are not funded at the level anticipated.

Anyone who flies knows that the Nation' airport and air traffic control system is straining under the demands of rapidly growing traffic. This bill is a significant step in building an aviation system adequate to handle those demands as we move into the 1990's.

The bill also directs a number of very important safety initiatives in the areas of collision avoidance, airline seat strength, and commuter cockpit voice and flight data recorders.

This bill passed the House on October 1 on a 396-to-0 vote. The conference report before us today represents in large part, the House approach on the issues in dispute with the Senate. So I believe it is a conference report that we can all join in supporting.

I urge adoption of the conference report.

Mr. MINETA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of the conference report on the Airport and Airway Safety and Capacity Expansion Act of 1987.

The legislation reported by the conferees includes almost all of the provisions of the bill which passed the House on October 1, by a vote of 396 to 0. The conference bill also includes some highly desirable provisions from the Senate bill, including provisions which recently passed the House as part of other legislation. Overall, the conference bill will make a major contribution to aviation safety and to developing our Nation's airports and air traffic control system.

The conference bill reauthorizes the programs for capital development of airports and the air traffic control systems which are supported by the Airport and Airway Trust Fund. With these capital development programs, our aviation system should be able to accommodate the increased demand created by airline deregulation much better.

The conference bill authorizes more than $20 billion over the next 5 years for development of the aviation system. For capital development of the air traffic control system, the conference bill authorizes $1.3 to $2.2 billion a year for the next 3 fiscal years. These authorizations will keep FAA's plans for modernization of the air traffic control system, known as the National Airspace System plan, on track. The NAS plan will replace current air traffic control equipment, much of which is based on vacuum tube technology of the 1960's. The NAS plan includes approximately 90 individual products. I call particular attention to the terminal doppler weather radar program which will permit advance detection of hazardous weather conditions such as windshear which has been a primary cause of a number of major airline accidents.

The conference bill also provides for funding of $1.7 to $1.8 billion a year for 5 years for capital development of our Nation's airports. This funding level will make a substantial contribution to meeting airport capital development needs.

The conference bill also includes a number of provisions which will enhance aviation safety. The bill includes provisions, similar to those in a bill which recently passed the House, to facilitate the development of collision avoidance equipment known as TCAS. The bill requires airlines to install TCAS II within 48 months and requires general aviation aircraft to install altitude encoding transponders to permit these aircraft to be detected by TCAS II and by air traffic controllers. Installation of TCAS II and transponders should virtually eliminate midair collisions involving airline aircraft.

The conference bill takes another step for aviation safety by increasing the penalty for safety violations from $1,000 per offense to $10,000. In addition the bill includes provisions requiring FAA to go forward with important safety related rulemaking, including rulemaking to require higher standards for the strength of airline seats, the installation of cockpit voice recorders and flight data recorders in accordance with recommendations of the National Transportation Safety Board, and improved safety measures for flights over bodies of water.

The conference bill also requires FAA to hire 1,000 additional air traffic controllers by the end of fiscal 1988.

To improve the security of U.S. airports, the conference bill sets stiff criminal penalties for unlawful entry into secure airport ramp and operations areas. In addition, we require the Secretary of Transportation to report back to the Congress in 90 days on the DOT and FAA's progress in strengthening airport security requirements and the enforcement of improved standards.

The conference bill renews the Essential Air Service Program. This program ensures that small communities, particularly those which were served by certificated airlines at the time of deregulation, will continue to get at least a minimum level of air service. The bill makes many improvements in the Essential Air Service Program and will make the EAS Program even more effective in providing air service to isolated communities in all areas of the country.

The conference bill continues the requirement in current law for a National Plan of Integrated Airport Systems [NPIAS] to meet the needs of our national air transportation system. This plan will enable us to go forward with the critical task of developing in metropolitan areas an integrated system of airports designed to provide expeditious access and maximum safety for all airspace users.

Finally, Mr. Speaker, I would note that the aviation trust fund is fully supported by taxes paid by aviation users including an 8-percent tax on airline tickets and taxes on general aviation fuel. The provision of the conference bill within the jurisdiction of the Committee on Ways and Means includes a renewal of these taxes. We are pleased that the bill also includes a tax trigger which provides that taxes will be reduced by 50 percent in fiscal 1990 if less than 85 percent of the authorized amounts for capital development are appropriated over the next 2 years. This tax trigger will help encourage full spending of the funds contributed by aviation users for capital development. If this does not occur, the tax trigger will help ensure that the users are not requested to contribute more than the Government is willing to spend.

In conclusion, Mr. Speaker, the conference bill will make major contributions to improving the safety and efficiency of our air transportation system. I urge my colleagues to join in helping to pass this important legislation.

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the conference report on H.R. 2310.

This conference report represents the culmination of our efforts, which began with hearings last February, to address the needs of the aviation system during the remainder of this decade and beyond. I don't have to remind my colleagues of the problems we have seen this year—late flights, missed connections, lost luggage, and a rising tide of complaints about airline service from our constituents.

Although there were many reasons for these problems, the root cause was the failure of our Nation's airport and airway system to keep pace with the increase in demand from passengers and general aviation. This conference report begins to address these problems.

It addresses the problem by authorizing substantially more money for airport improvements and air traffic control modernization. This money can be used to build runways, to purchase sophisticated computers and navigation aids, and to take other steps that will enhance capacity and safety.

This increase in funding will not require any increase in taxes because the money will come out of the aviation trust fund which is entirely supported by user fees and already has a surplus of more than $5 billion.

There are several specific provisions in this conference report that I would like to briefly mention.

The legislation provides about $30 million per year over the next 3 years for additional instrument landing systems [ILS's]. Since the new microwave landing system is facing mounting delays, it is important that we move to intall more ILS's now. The legislation directs that 75 percent of these ILS's go to primary and reliever airports and 25 percent go to smaller general aviation airports. The airport at Rogers, AR, is one general aviation airport that we would expect to benefit from this 25 percent set-aside.

The conference report also contains a Senate provision requiring the FAA to continue their contract tower program. We have modified that provision, however, to direct the FAA to extend the program to other towers. Springdale, AR, which has purchased an air traffic control tower on its own, would be a good candidate for the expanded contract tower program.

In addition, the conference report retains the concept of the national plan of integrated airport systems (NPIAS), first articulated by the former ranking member of this committee, Mr. DON CLAUSEN. This requires the FAA to take a national systems approach to planning for airport development and capacity enhancement. It will require a major cooperative effort involving both the FAA and the airport sponsors.

It is in the national interest to develop, in metropolitan areas, an integrated system of airport s designed to provide expeditious access and maximum safety for all airspace users. This policy directive by the Congress takes on added significance as the Senate-House conferees emphasize the requirement for a systems' plan for our Nation's air transportation system.

Therefore, the conference continues the requirement for a national plan of integrated airport systems [NPIAS] for meeting the needs of our national air transportation system.

The plan shall include the type and estimated cost of eligible airport development necessary to provide a safe, efficient, and integrated system of public use airports to meet the needs of civil aeronautics, the national defense, and the Postal Service.

In reviewing and revising the NPIAS, the Secretary shall consider the needs of and consult with all segments of civil aviation and, where appropriate, military aviation.

The planning, preserving, and enhancing of airport system capacity, safety, and security must continue to be a priority objective of FAA and all State and local airport sponsors.

In defining the airport systems planning process, the Secretary shall consider the needs of and consult with all airspace users, the aviation industry, and community interests in determining the long-term airport system capacity requirements through the year 2010. The FAA should issue guidelines to States and local airport sponsors that will result in a master plan of airport sites within the framework of a statewide airport systems plan that can be coordinated with FAA's national plan of integrated airport systems.

The concept of integrated airport systems has special applications tk the metropolitan and regional areas of the country. The basic objectives of the integrated airport system is to develop a master plan of airport site selection based on the airspace capacity of a given metropolitan or regional area. It should be designed to enhance air traffic flow management and meet the needs of all segments of aviation. The same concept can be applied to rural areas throughout the United States where a number of commujities in need of air transportation and airport services could coordinate their mutual aviation interests, establish a regional airport authority, or adopt a "joint exercise of powers agreement" planning document embracing the integrated airport system concept.

The master plan of airport sites, once selected, should then be agreed to and adopted, by formal resolution of each political subdivision of the local council of governments and designed to optimize the service to all commujities of a metropolitan or regional area.

In establishing priorities for distribution of funds, the Secretary may give priority to projects that are consistent with integrated airport system plans.

In addressing airport capacity enhancement, the FAA should increase its usage of airport simulator models and apply the information to:

First, airport site specific capacity enhancement; and

Second, airport system capacity enhancement.

The national plan of integrated airport systems should maintain and improve the performance of individual airports, as well as the entire airport system. Rather than being only a listing of specific airport projects, the national plan of integrated airport systems should define and outline the Nation's overall airport systems' needs for the future.

The cornerstone of the integrated airport systems concept is its emphasis on airport system planning and capacity enhancement and, in particular, the development of new airports, the development and improvement of satellite reliever and general aviation airports, heliports, and hub airports serving all-cargo air carriers.

The satellite reliever and general aviation airports in an integrated airport system will not only relieve congestion in our major metropolitan areas by attracting air traffic away from the busier air carrier facilities, but also provide safe and assured access to those areas for commuters, business, and general aviation.

Expedited implementation of a viable satellite reliever system is critically needed to increase the safety and enhance the capacity of our Nation's airport systems.

The conference report also includes a disadvantaged business enterprise provision, or DBE provision as it is commonly called, for airport improvement projects. This provision is virtually identical to the DBE provision in the Surface Transportation Act that the House overwhelmingly approved back in March. The provision requires that at least 10 percent of the airport improvement program funds be expended with firms owned by women and the traditional ethnic minority groups defined by the Small Business Act.

This is a modification of the present Airport Improvement Program. Currently, there is no statutory national goal for minority and women business participation in FAA funded projects, but the program is administered with two separate goals, one for minority-owned firms and one for women-owned firms.

The conference agreement before us today will consolidate the existing two-goal system into a one-goal system for DBE's. Airport improvement projects utilizing Federal funds would have only one goal for DBE's, giving contractors bidding on these projects the flexibility to make best efforts to meet DBE goals by utilizing qualified minority-owned businesses, women-owned businesses, or a combination of both.

Since passage of the Surface Transportation Act in April, DOT has implemented the same DBE provision with respect to highway and mass transit projects. That provision continued the 10 percent requirement already in law, and consolidated an existing two-goal system into a one-goal system by including women within the definition of DBE. In reports from DOT and the States, I understand that the consolidation of the program into a one-goal system is working quite well.

Since the highway, mass transit, and airport improvement programs constitute virtually all the Federal-aid construction programs of the Department of Transportation, it is important that there be consistency in the implementation of the DBE provisions applying to these programs. In view of the successful implementation of the DBE provision in the highway and mass transit programs, and to assure consistency and uniformity in the implementation of the virtually identical DBE statutory provisions, the same DBE regulations that apply to federally assisted highway and mass transit projects should also apply to federally assisted airport improvement projects.

I would like to draw my colleagues' attention to the Essential Air Service [EAS] Program which is part of this legislation. Last October, the EAS amendment that I offered to H.R. 2310 was overwhelmingly adopted by this body. The provision included in this conference report is almost identical to the version we originally adopted. It ensures the continuation of air service to many small communities throughout the Nation. It offers them the opportunity to improve their air service and to increase passenger usage. It will also give additional communities a chance to benefit from the program with only a modest increase in cost. Finally, the EAS section addresses the problem of code-sharing, the use of a major airline's 2-letter identification code by a smaller airline. Major airlines will be required to take some responsibility for the service provided by their smaller code-sharing partners. This applies to all code-sharing relationships, not just to those where one carrier is providing essential air service.

I would like to thank Mr. HOWARD, Mr. MINETA, and Mr. GINGRICH for their support for my efforts to include the EAS Program in this legislation. I would like to also thank Mr. OBERSTAR, Mr. STANGELAND, and Mr. LIGHTFKOT for their contributions to this effkrt.

In sum, Mr. Speaker, I behieve this is a good conference report and I urge its immediate passage.

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Mr. Speaker, I reserve the balance of my time.

The SPEAKER pro tempore (Mr. RICHARDSON). The gentleman from Arkansas [Mr. HAMMERSCHMIDT] has consumed 3 minutes.

Mr. MINETA. Mr. Speaker, I yield 5 minutes to the distinguished gentleman from New Jersey [Mr. ROE] who chairs the Committee on Science, Space, and Technology.

Mr. ROE. I thank the gentleman for yielding me this time.

Mr. Speaker, I rise in strong support of the conference report to H.R. 2310, and especially for that portion of the bill committed to conference with the Science, Space, and Technology Committee for those expenditures by the FAA from the aviation trust fund for research, engineering and development.

In the research and development area, our differences with the other body were minor and we have reached a good compromise. I believe the result will lay the basis for real progress in the next few years.

Expenditures from the trust fund for R&D are vitally needed if we are to improve the safety and congestion of our air transportation system. For example, these funds will allow the FAA to develop better weather sensors that might prevent accidents like the Delta Airlines crash in Dallas 2 years ago. One hundred and thirty-five people lost their lives as a result of that tragedy. Research and development will go forward on improved collision avoidance systems. Such systems are needed to prevent accidents like the Aeromexico mid-air over California last year. And the money in this bill will support development of new fire-resistant cabin materials, the kind that might have prevented the Air Canada fire in 1983 in which 23 people died.

Additionally, this bill provides for the front-end costs of a long, overdue modernization of our Nation's air traffic control system, a project the FAA began in 1982, partly as a result of legislation originated by the Science, Space, and Technology Committee.

This work is key to solving some of the all-too-familiar problems faced by air travelers today. Furthermore, those air travelers are contributing all the resources that will be needed. The Government will not have to borrow any money. The deficit will not increase as a result of expenditures on air safety and productivity. In fact, if we don't spend the money, we will be guilty of bad faith with those who feed the trust fund, the traveling public.

I urge all of my colleagues to support this conference report.

Mr. Speaker, I yield back the balance of my time.

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield 2 minutes to the ranking member of the Subcommittee on Aviation, the gentleman from Georgia [Mr. GINGRICH].

Mr. GINGRICH. I thank the gentleman for yielding time to me.

Mr. Speaker, I rise in support of the agreement reached by the conferees on H.R. 2310.

This bill is a solid step toward a sound future for America's air transport system. While this is a multiyear reauthorization of capital development programs for expanding capacity at our Nation's airports, we can no longer just think in 3-year or 5-year cycles about infrastructure development. Congress needs to be asking about, and laying the groundwork for, the national air transportation system we want to have in the year 2000 and beyond.

That's the approach the conferees have taken in this bill, and in the decisions for funding levels for airport capacity improvements, facilities and equipment, and noise abatement. This bill, and the funding levels contained in it, represents an appropriate foundation on which to begin laying the structure for the future of American aviation.

There are changes to aviation programs in this agreement besides just increased authorization numbers. We've increased the entitlement for larger airports and established a new entitlement program for airports receiving scheduled all-cargo service. We've increased the funding for general aviation and earmarked money in a discretionary fund for capacity improvements.

It's important to note that the increased emphasis in this bill on expanding capacity at large airports has not been done at the expense of the smaller general aviation airports. They will continue to receive a percentage set-aside in the future. With our increased authorization levels, this means increased funding for general aviation airports.

This bill increases the set-aside in the airport improvement program for noise abatement. New airports and airport expansion are critical links in the development of America's air transport system. For that development to occur, we must continue to aggressively address noise problems. Noise is a public health, rather than a beautification problem.

This bill also includes a minimum level of funding for the installation of instrument landing systems and it prevents the Secretary of Transportation from closing or reducing the service level of flight service stations unless the area is served by automated equipment.

Mr. Speaker, this is a well thought out and comprehensive bill. I think it's an appropriate step in laying the groundwork for the future of American aviation. I urge my colleagues to support it.

Mr. MINETA. Mr. Speaker, I yield 2 minutes to our colleague, the gentleman from New Jersey [Mr. HUGHES].

Mr. HUGHES. Mr. Speaker, I rise in support of the conference report to accompany H.R. 2310, the Airport and Airway Improvement Amendments of 1987.

This legislation includes a provision which I sponsored here on the House side, and which was sponsored by Senator LAUTENBERG in the other body, which will defer funding for the Atlantic City Airport, in Pomona, NJ, until such time as a suitable regional authority has been created to operate that airport.

As some of my colleagues may know, Atlantic City has experienced tremendous growth in recent years. In fact, it is now the No. 1 tourist destination in the United States, with some 30 million people visiting the city each year.

Unfortunately, the transportation infrastructure of the region has just not kept pace with that growth. In particular, the region desperately needs a large, modern airport with regularly scheduled service by a major carrier.

The existing Atlantic City Airport at Pomona is an ideal candidate for expansion, but there are a number of serious legal and jurisdictional obstacles which have prevented needed planning and improvements from moving forward. For one thing, the ownership of the airport land is divided between the city of Atlantic City, with 83 acres, and the Federal Aviation Administration, which holds title to some 5,000 acres, including the acreage where a new terminal and runway extensions will be built.

A more serious problem, however, is that the governmental power to take effective action at the airport and surrounding environs is now fragmented among a number of local jurisdictions, including the city of Atlantic City, the county of Atlantic County, and three adjacent townships.

At the same time, whatever may happen with this airport in the future, the FAA and the Air National Guard have important missions which are carried out at this facility, which need to be protected.

As a result of these various problems, there in now general recognition that ownership and operation of the airport should be consolidated in a single entity which is capable of planning and implementing transportation policy on a regional basis.

Unfortunately, the local governments in the region have been slow to make the compromises which are essential to the formation of such an authority. Because of this political impasse, no major improvements have been made at the airport, except for Band-Aid plans to spruce up the old terminal building, which is obsolete and needs to be replaced with a new building located on land now owned by the FAA. Moreover, expansion of service has proven to be impossible, and the entire region has suffered.

Under the circumstances, it is very difficult to justify the expenditure of any further Federal funds at the Atlantic City Airport until such time as the local governments in the vicinity have compromised their differences and formed a regional authority that has the appropriate powers to undertake long-range planning and improvements.

The amendment sponsored by Senator LAUTENBERG and me defers further funding for the airport, except for safety-related needs, until such time as such an authority has been created. The amendment further prevents the transfer of any FAA land to the airport until such a regional authority has been created. The language of the amendment basically tracks the recommendations of the FAA's Atlantic City airport's role study, released in 1983, which set forth the characteristics required for an airport authority to operate and develop this important facility. In particular, that study called for a meaningful role by the local governments in the region.

Mr. Speaker, I am very optimistic that this amendment will achieve the desired results. Indeed, even though the amendment has not yet become law, ever since it was first approved on October 1 of this year, there has been notable progress. For the first time, the city, the county, and the local townships have been exchanging proposals and negotiating. While they have not yet found a complete solution, they are much closer together today than anyone would have dreamed possible just a few months ago. I am also pleased that Atlantic City has retained the services of the distinguished former Secretary of Transportation, William Coleman, in an effort to develop a proposal suitable to all of the parties.

I have every confidence that, in the not too distant future, we will see a renewal of Federal funding for the important airport facility at Pomona, NJ, on account of agreement by the local governments in the region to create a regional authority to operate the airport.

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. PACKARD], a member of the committee.

Mr. PACKARD* I thank the gentleman for yielding time to me.

Mr. Speaker, I rise in support of this conference report.

Mr. Speaker, I would like to thank the Public Works Committee leadership, particularly NORM MINETA and NEWT GINGRICH for crafting this legislation which I believe is very important.

As many of you know, the House passed H.R. 1517, the Aircraft Collision Avoidance Act of 1987, as a separate piece of legislation. That important legislation, which will require TCAS-II on all commerical airplanes has been added to H.R. 2310. I believe this will be a major step in improving air safety.

As a conferee on the section of H.R. 2310 that deals with collision avoidance, and as the sponsor of H.R. 1517, I urge my colleagues to support this conference report. This legislation is urgently needed to improve air safety and the infrastructure of our air transportation system.

Mr. MINETA. Mr. Speaker, I yield 3 minutes to the chairman of the Committee on Ways and Means, the distinguished gentleman from Illinois [Mr. ROSTENKOWSKI].

Mr. ROSTENKOWSKI. Mr. Speaker, I rise today in support of the conference report on H.R. 2310. The Airport and Airway Improvement Amendments of 1987.

The House revenue title was approved by the Committee on Ways and Means on August 3, 1987, and was included as title II of H.R. 2310 as passed by the House on October 1, 1987. As approved by the conferees, title II would extend the present law airport and airway trust fund excise taxes for 3 years and the authority to spend from the trust fund to fully fund all expenditures contemplated by this bill over 5 years. The airport and airway trust fund would be updated to reflect the new authorized expenditures in H.R. 2310.

Title II also contains a provision which provides for an automatic 50-percent reduction in fiscal year 1990 in the air passenger ticket, cargo, and fuels taxes if the total appropriations for fiscal years 1988 and 1989 for airport improvements, facilities and equipment, plus research, engineering and development are less than 85 percent of the total amounts authorized for fiscal years 1988 and 1989.

Title II also provides an exemption from all applicable airport and airway excise taxes for emergency medical helicopters owned or leased by both nonprofit and for-profit health care facilities which derive insignificant benefits from the federally assisted facilities funded by these taxes. This provision will be effective September 30, 1988.

In order to continue the necessary funding for support of our Nation's airports and airways, I urge my colleagues' support for title II of the conference report.

Mr. Speaker, I want to commend the gentleman from California for doing an outstanding job. I think the cooperation that has been in constant existence between the Committee on Public Works and the Committee on Ways and Means is something that I want to continue, and I want to work as hard as I can with both the minority and majority of the committee.

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield 3 minutes to the gentleman from Minnesota [Mr. STANGELAND], a member of the Subcommittee on Aviation of the Committee on Public Works and Transportation.

Mr. STANGELAND. Mr. Speaker, I rise in strong support of the conference report on H.R. 2310, the Airport and Airway Safety and Capacity Expansion Act of 1987. This timely legislation authorizes crucial funding, program extensions, and new policy directives for the Nation's airports and airways. Our compromise will allow us to soar into the 1990's and the 21st century with an aviation system that is safer and more responsive to small and rural communities.

First, let me thank all the conferees and committee leaders who crafted this legislation and shepherded it through the legislation process. In particular, I want to commend the leadership of the House Public Works and Transportation Committee: Chairman JAMES HOWARD; ranking minority member JOHN PAUL HAMMERSCHMIDT; chairman of the aviation subcommittee, NORM MINETA; and ranking minority member of the subcommittee, NEWT GINGRICH. I also want to congratulate the conferees and members of the Science, Space and Technology Committee; the Ways and Means Committee; the Senate Commerce, Science, and Transportation Committee; and the Senate Finance Committee.

Mr. Speaker, H.R. 2310 is a long-term, capital investment in the Nation's Airport Development Program. This $22 billion, multiyear reauthorization bill will expand airport capacity and improve air safety. By spending the money in the airport trust fund, we can provide a long-term solution to the growing concerns about safety, delays and poor passenger service.

I am particularly pleased the conference report contains two provisions I included as amendments during full committee markup. The two amendments, slightly modified by the conferees, will guarantee increased funding for small airports and allow greater opportunity for all airports to develop their terminals. With these provisions, H.R. 2310 will help to put smaller airports on equal footing with others.

The first amendment, in section 103(e) of the conference report, expands the number of airports entitled to receive $300,000 of guaranteed funding each year without expanding the amount of funding or affecting the funding for other airports. It revises the definition of "primary" airports to include airports enplaning more than 10,000 passengers per year. Current law requires approximately 41,000 enplanements before an airport is eligible for entitlements. My original amendment would have required 18,000 enplanements.

My second amendment, now in section 111(a) of the conference report, improves the eligibility requirements for airport terminal development grants. Specifically, it allows for airports to receive grants up to their full entitlement and increases the Federal cost share so that terminal projects receive the same treatment as all other eligible projects.

Mr. Speaker, I also strongly support the essential air service provisions in H.R. 2310. These sections will extend and improve the program, which is set to expire in October of 1988. Hundreds of communities across America depend on these small subsidies in order to survive, grow and diversify their economies. Many rural areas simply need some form of assistance to keep vital transportation routes and commercial opportunities available. Today's legislation soundly addresses those concerns.

Like other States, Minnesota certainly benefits from an extension and improvement of the essential air service program. Our State has many rural, small communities which need continued assistance. In Bemidji, for example, citizens have very limited transportation opportunities and rely on air travel. Ground transportation is just not as efficient in many cases.

I am especially pleased the final conference report includes my EAS provision from the House bill. New section 419(d)(2)(B) of the Federal Aviation Act report establishes an opportunity for towns that previously had scheduled air service to qualify for guaranteed air service. I drafted this language to supplement the two EAS bills of Congressman OBERSTAR and Congressman HAMMERSCHMIDT (H.R. 2219 and H.R. 2318) so that currently ineligible communities would have greater opportunities to participate in and afford the EAS program. The House overwhelmingly adopted these and other EAS provisions in a floor amendment to H.R. 2310. The conferees then agreed to the provision, as modified, to allow for an increase in the non-Federal cost share.

My provision establishes four criteria based on certificate status, mileage, and non-Federal cost sharing, to allow certain communities to receive EAS subsidies at less than the full 50-50 cost sharing required for other new, eligible points. The provision, which calls for a 25-percent non-Federal share rather than a 50-percent share, is an attempt to interject some fairness into the equation. It recognizes the previous status and current fiscal abilities of these communities.

Despite its limited impact on the national program, my provision will have a significant and beneficial impact on various communities such as Fergus Falls, MN. For the first time, they will be eligible to receive truly essential air service through an affordable cost sharing partnership. This is a small price to pay for such an important transportation service.

Mr. Speaker, this capital development legislation will ensure our continued progress and help to solve our increasing safety demands and service needs. Along with its comprehensive provisions on essential air service, H.R. 2310 offers greater promise and stability for our Nation's aviation system.

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Mr. MINETA. Mr. Speaker, I yield 2 minutes to the very distinguished gentleman from California [Mr. ANDERSON], a member of the Committee on Public Works and Transportation and the former chairman of the Subcommittee on Transportation, Aviation and Materials.

Mr. ANDERSON. Mr. Speaker, few issues this past year have generated the consensus for constructive Federal action more than the need to improve and expand the Nation's aviation system. This consensus was demonstrated when the House passed H.R. 2310 October 1 by a rollcall vote of 396 to 0. With that vote we recognized the need for a substantial authorization for airport expansion, improved safety systems, and a strengthened noise abatement program. The bill that returns from conference for consideration today retains the commitment to address these issues that created our consensus 2½ months ago. I again hope to see this bill passed without opposition.

The funding levels in this conference report correspond closely to the figures enumerated in the House version we accepted so overwhelmingly. In addition, by requiring altitude encoding transponders on all aircraft oprating in terminal control areas, the bill significantly reduces the risk of midair collisions. This provision, which closely mirrors the recently passed bill, H.R. 1617, will greatly enhance the abilities of air traffic controllers and for the first time enable commercial pilots to react to possible collisions independently. In short, H.R. 2310, is a comprehensive measure which addresses the major problems of capacity, noise and safety facing our aviation system today. I strongly recommend this bill with unqualified support.

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield 2 minutes to the gentleman from Nebraska [Mr. DAUB], who was very instrumental in the taxing provisions of this bill.

Mr. DAUB. Mr. Speaker, as a conferee, I want to extend my congratulations not only to my ranking member on the full committee and his associates on the subcommittee, the gentleman from Arkansas [Mr. HAMMERSCHMIDT] and the gentleman from Georgia [Mr. GINGRICH], but as well to the leadership of the gentleman from New Jersey [Mr. HOWARD] and the gentleman from California [Mr. MINETA] for their fine work.

I think it is a really fine accomplishment on one of our country's real priorities to move this legislation along and bring it to conference and bring it to the floor of each body so the President can sign this bill before the end of the year.

Included in the bill is a tax trigger mechanism which would automatically reduce by 50 percent the amount of taxes collected under the fund if the funds' current $5.6 billion surplus is not drawn down through the appropriations process.

I strongly supported this particular provision, of course, as an author of it in the Committee on Ways and Means. I really feel that we finally reached the point where we can say there is some truth in budgeting from the abuse that has occurred by using trust fund balances tk collateralize or to directhy hide and mask the true deficits that we have in our overspending in the accounts of Government.

So I would like to refer to this as a step in truth in taxing and truth in spending. I think that we were using general funds moneys for purposes unintended, allowing the trust fund balances to remain untouched.

So this process will require over the next 2 years that if the appropriations process does not pull that money out of the trust fund and spend the money from the passenger tax, the cargo tax, and/or the aviation fuel tax, three parts of this fund, and they do not use it for the purpose intended, then in fact the hammer goes down and we are going to cut what would then amount to very unfair excise taxes that were being collected.

But more than the tax cut, this trigger is a directive to the Appropriations Committee and to the White House and to our airports who are much in need of these funds that we want our systems to be safer. We need to have safer airports, we need to better fund our expansion and improvement needs, and we have to take a real look at our noise abatement problems. The moneys paid by those using our airways should be used for these purposes, not for making this sorry excuse for a budget look better. Hopefully, we will see the benefits of this trigger and continue to add similar legislative initiatives to our Nation's trust funds.

Maybe we can go even further in my dreams for truth in budgeting and make these trust funds off budget, take them off line, and put them where they belong.

Lastly, I say to my colleagues, as I conclude in support of this conference report, that the essential air service provisions are very important. I compliment the gentleman from Arkansas [Mr. HAMMERSCHMIDT] for the work he has done. I am especially pleased about this because 11 of our Nebraska communities will be much better off a a result.

We have to remember that 280 million passengers flew when we deregulated our airlines. About 400 million-plus flew this year, and by the turn of the century some 750 million people will be flying. This bill will make those airways safer.

Mr. MINETA. Mr. Speaker, I yield 5 minutes to the gentleman from Oklahoma [Mr. McCurdy], the Member who chairs the Subcommittee on Transportation, Aviation and Materials of our Committee on Science, Space, and Technology, and who has jurisdiction of the research and development part of this bill.

Mr. McCURDY. Mr. Speaker, I thank the gentleman from California [Mr. Mineta] for this time, and I certainly commend him and the gentleman from Arkansas [Mr. Hammerschmidt] for their efforts in bringing forth this conference committee report.

As a conferee on this bill, I rise in strong support of this conference report. The Subcommittee on Transportation, Aviation and Materials, which I chair, has a long-standing interest in aviation safety and in the FAA research and development programs. Each year we have held oversight hearings on the progress of that research, and this year we have found, as we have in recent years, that the principal problem facing the R&D program has been inadequate funding, even though the funding comes from the aviation trust fund which records a surplus.

This year's request from the administration provided only for near-term needs associated with completing the current ATC modernization, that is, the National Aerospace System plan. The far-term needs, however, beyond the NAS plan were not included.

The FAA research and development program must be planning many years into the future to assure a safe system and allow for growth in air traffic.

The conference reports adds $51 million to restore these long-term research projects that had been planned but were cut this year. Items included were: automatic generation and transmission of clearances; future communications systems; flight service station enhancements; controller human performance studies; advanced wind shear sensor development; civil uses of global positioning system; centralized weather information processing; weather sensor enhancements; and cabin fire safety.

Recent subcommittee hearings have shown this research to be necessary because the prototype collision avoidance system on one airline, the Piedmont Airline, encountered a near collision every 15 hours. In other words, out of every 15 hours of operation, there was one near miss or one near midair collision.

Reported near collisions are up 46 percent so far this year, compared to 1986. Reports of severe weather, which is a factor in half of all aircraft collisions, will not be sent to pilots automatically until the late 1990's.

Research msut be expedited to develop the full capability Threat Alert and Collision Avoidance System [TCAS III] and the data dissemination components of the advanced weather reporting system.

Mr. Speaker, again I want to commend the conferees on this bill. I want to take a special moment to commend the ranking member of the Subcommittee on Transportation, Aviation and Materials, the gentleman from Florida [Mr. Lewis], for his cooperation and fine work, as well as his staff and the staff on the majority side. We appreciate their efforts.

Mr. Speaker, I rise again in strong support of this measure. I think it is imperative for aircraft safety and airline safety that we continue the research and development programs and fund them at a rate that is necessary to insure the progress that we feel is necessary.

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield 3 minutes to the gentleman from Tennessee [Mr. Duncan], one of the conferees and the distinguished ranking member of the Committee on Ways and Means.

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Mr. DUNCAN. Mr. Chairman, the Airport and Airway Improvement Amendments of 1987 ensures essential financing of our airways and airports by extending for three additional years, through 1990, current excise taxes levied on passenger tickets, noncommercial fuel, air freight and international departures. In addition, authority to make expenditures from the trust fund is renewed for 3 fiscal years, and 5 years in the case of amounts for airport improvement grants.

Also of great importance is the inclusion of a "tax reduction trigger." The conference report calls for an automatic 50-percent reduction in aviation excise taxes—except for the international departure tax—in 1990 if appropriations for fiscal years 1988 and 1989 fall below 85 percent of authorizations during the same period. Although I would have preferred the exact trigger that the House passed, the compromise reached in conference does send a clear signal that revenues raised from aviation taxes should be spent for the purposes they were intended. I feel confident that the Committee on Ways and Means will exercise close oversight over trust fund expenditures, especially those amounts devoted for the safety of our air system.

Finally, the conference agreement expands upon a current exemption from aviation taxes in the case of emergency medical helicopters which do not use federally assisted airways.

Although I have some reservations about the report, particularly with respect to the trigger language, I do intend to vote for it, and suggest that my colleagues support it also.

Mr. MINETA. Mr. Speaker, I yield 3 minutes to my very fine colleagues on our Public Works and Transportation Committee who chairs the Investigations and Oversight Subcommittee, the very distinguished gentleman from Minnesota [Mr. Oberstar], who had a very essential part with the portion of this bill dealing with essential air service.

Mr. OBERSTAR. Mr. Chairman, I rise in strong support of H.R. 2310, the conference report on the Airport and Airways Development Act of 1987, and especially, of course, as the chairman just mentioned, of title II, which extends and improves the Essential Air Service Program.

I want to commend the chairman of the full committee [Mr. Howard] the ranking member of the full committee, the gentleman from Arkansas [Mr. Hammerschmidt], the gentleman from California [Mr. Mineta], and his counterpart on the Republican side, the gentleman from Georgia [Mr. Gingrich] for a superb job of negotiating with the other body and bringing back this report that retains essentially the bill which came out of the House, with a few enhancements; it is a superb piece of work.

The gentleman from Arkansas and I both introduced EAS extension legislation, and have worked together to bring to the House floor, and ultimately to the conference agreement, a program which will provide better air service to many of this Nation's smaller communities, while ultimately reducing the cost of the program to the American taxpayer.

Mr. Chairman, essential air service is precisely that—in this day and age air links to the major transportation routes of this country and abroad are absolutely essential to the survival, growth and diversification of the economies of small communities across the Nation. Air transportation is today what roads, rivers, and railroads were in the past: the sine qua non of commerce and growth.

It is the absolutely essential basic ingredient of commerce, growth and economic expansion. Air service is as essential as telephones today if a community expects to grow and regions expect to expand economically.

The Essential Air Service Program enacted in 1978 has preserved air service to eligible communities, and of equal importance, the costs of essential air service have been dropping each year. However, despite what we may have hoped in passing the original legislation, a number of communities, and a very substantial number of communities remain dependent on subsidies.

Part of the reason for the continued need for subsidies has been problems with the current program, including a Government policy, at best, passive indifference in the hope of running up the costs in the 1988 expiration deadline. In the wake of that policy service deteriorated to small communities and outlying areas, boardings dropped, service was therefore further reduced, and the downward spiral continued.

The program we have before us today in this conference report will improve service by providing the communities themselves a major role in designing the very kind of service they need, and if they want enhanced service, to pay an additional increment of cost as required to have that higher quality of service.

The bill creates three kinds of service: basic essential service, enhanced service, and service to other communities.

Basic essential air service must, for most eligible points, consist of two well-timed morning and evening flights, 6 days a week, to and beyond a hub airport. This will assure that travelers can catch morning flights out of their hub to other cities across the country. Generally, basic service means aircraft with an effective capacity of 15 seats or more, with two pilots, and pressurization for higher altitude flights.

One of the important elements of basic service is cargo. While cargo has generally taken a back seat to passenger service, the ability to move goods over the air routes of this country is equally essential to a community's economic health and growth. In communities like those in my northeastern Minnesota congressional district, essential air service means not only room for tourists but for their luggage, camping gear, and other equipment as well. A vacationer has limited time, to begin with; it does that visitor no good to arrive at his destination, ready to set off for a 2-week camping or fishing trip, if his sleeping bag and fishing gear are still sitting in Minneapolis because the plane couldn't carry them!

Businesses in distant parts of my geographically huge district rely on being able to get products out into the transportation mainstream on a daily basis; to get crucial replacement parts for machinery in; or to be able to respond, immediately, to an unexpectedly large request for, say, fish filets from a fancy restaurant in Chicago.

In order to assure that cargo is considered an integral element of essential service, the agreement before us defines basic service to include service which accommodates the estimated passenger and cargo traffic at an average load factor of not greater than 50 percent for smallest planes, or 60 percent for planes with 15 passengers seats or more. Further, the statement of managers states that, while the conferees do not expect DOT to force airlines to reconfigure their aircraft after their subsidy rate has been established in order to accommodate cargo, DOT should take the community's cargo needs into account when it establishes the frequency and aircraft size needed to meet the community's basic essential air service requirements. The load factor for cargo should be established by using a weight, cubic dimension, or passenger equivalency standard, depending on which measure will best ensure that the community's cargo needs are met.

Enhanced service means a higher level or quality of service. Many communities are convinced that they can generate more passengership if the service were better. Enhanced service gives the community a chance to try, with two options. A community has the option of agreeing to pay 50 percent of the additional costs above basic service. Alternatively, the community may receive a 100-percent subsidy if it agrees that if the proposed enhanced service is not successful within 2 years, it would lose its eligibility for all subsidies, including for basic.

Finally, there are provisions for communities, not otherwise eligible, to join the program under certain conditions, including cost sharing agreements.

Another problem with the existing EAS Program is that many carriers are not interested in providing such service. The conference agreement therefore also makes EAS more attractive to carriers, by providing improved compensation during the "hold-in" period, both to make the prospect of being "held in" less of a disincentive to providing EAS in the first place, and also to assure that DOT will diligently search for a replacement carrier once the original carrier wants to drop service.

Mr. Chairman, my original bill, H.R. 2271, was a good bill. It was improved when it was merged with H.R. 2318, the bill offered by the gentleman from Arkansas [Mr. HAMMERSCHMIDT], and both were, I believe, improved when we met with the Senate.

Again, I thank the gentleman from Arkansas [Mr. HAMMERSCHMIDT] for his cooperation and assistance on essential air service, and urge my colleagues to support it, and all of the conference agreement now before us.

Thank you.

Mr. MINETA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, at this time I would like to engage in a colloquy with our very distinguished Member from San Francisco, the gentlewoman from California [Ms. PELOSI], and I yield to her for that purpose.

Ms. PELOSI. Mr. Speaker, I, too, commend the committee for its fine work on this legislation. I have a question with respect to section 109 of the bill, which would revise section 511(a)(12) of the act pertaining to the use of airport revenues for transportation facilities. I wish to confirm that it is not the intent of the conference committee to have this amendment affect preexisting long-term agreements between airports and their tenants governing the accounting and disbursing of airport revenues. My understanding is that this amendment would not prevent airports from abiding by these preexisting agreements and continuing to receive airport grants.

Mr. MINETA. The understanding of the gentlewoman is correct. The amendment is intended to be prospective in effect. It is not the intention of the conference committee that this amendment would require an airport owner or operator to change a preexisting tenant agreement which was entered into before the date of enactment and which was consistent with the law then in effect on the use of airport revenues for transportation facilities.

Mr. HAMMERSCHMIDT. Mr. Speaker, will the gentleman yield?

Mr. MINETA. I yield to the gentleman from Arkansas.

Mr. HAMMERSCHMIDT. Mr. Speaker, I just want to concur in the remarks just made for the RECORD and support the gentlewoman's request, and support the colloquy just had between the gentleman from California and the gentlewoman from California.

Mr. MINETA. Mr. Speaker, I yield 2 minutes to our very fine colleague, the gentleman from Texas [Mr. PICKLE], who was on the conference committee as it relates to the Ways and Means Committee.

Mr. PICKLE. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, every city in America has air service problems, or potential problems, that affect us in scheduling, safety, regulations, or maintenance of facilities. This is a problem all across the land.

Now, you and I might have some variance of feelings about the formula and you might want it stronger or weaker, but I think the important thing for Members of this Congress to realize is the message we are sending. We are saying that it is the intent of Congress to spend more and more funds in the general area of improvement of airway systems. We will no longer let the OMB hold us hostage. If these facilities need improvement, we must move forward with this expenditure. This message ought to be clear and loud.

I want to add that I have visited with the FAA Commissioner, and I am very pleased with his response and his attitude. I think he will implement this particular legislation and move forward so that we can get relief in areas of the country where it is desperately needed.

So I not only endorse the thrust of this legislation, but I think the House as a whole is saying to this administration, "Let's improve these airlines. Let's try to relieve this congestion. Let's make this system safe." That is the message we hope we give to them loud and clear and I am very pleased at the response that the FAA is giving to us at this time

Mr. MINETA. Mr. Speaker, I would like to again compliment the chairman of our committee, the gentleman from New Jersey [Mr. HOWARD]; our ranking Republican member, the gentleman from Arkansas [Mr. HAMMERSCHMIDT]; the gentleman from Georgia [Mr. GINGRICH]; the gentleman from Minnesota [Mr. OBERSTAR]; the gentleman from Minnesota [Mr. STANGELAND]; the gentleman from New Jersey [Mr. ROE]; the gentleman from Illinois [Mr. ROSTENKOWSKI]; the gentleman from Nebraska [Mr. DAUB]; and the gentleman from Texas [Mr. PICKLE] for their part, and especially to everyone's respective staffs for their work on this bill.

Mr. ROWLAND of Georgia. Mr. Speaker, I am extremely pleased that this conference report is being considered today. While many criticize the Congress for lack of progress in other areas, I feel this bill is an excellent example of what can be done when we work together in a spirit of cooperation.

Apart from the obvious facts of increased funding for airport capacity and safety enhancements, this bill contains language which may not draw much verbal attention today but which I feel is particularly important in light of some of the news headlines we have all seen in the last several months. Namely, stories of pilot(maintenance personnel, and air traffic controller errors such as engines being inadvertently shut down, increased near midair collisions, flight delays resulting from equipment problems some say are nonexistent and really just work slowdowns from disgruntled employees.

These, to me, are all indications that we are not paying enough attention to the people problems inherent in any complex organization. Stress from workloads, poor management relations, and equipment designs which do not meld well with human limitations need more study. As a physician and as a member of the Aviation Subcommittee, I am strongly in support of the language contained which states that better use should be made of the Civil Aeromedical Institute. This institute has great potential to add to our understanding of pilot/controller errors and stresses and human performance standards. I look forward to the Administrator's report due in January, 1988.

Please support the conference report.

Mr. BROWN of California. Mr. Speaker, I rise today in support of the conference report of the Airport and Airway Improvement Act amendments. This conference agreement authorizes $20 billion between fiscal years 1988 and 1992 for a variety of airport and airway development programs funded by the airport and airway trust fund. However, one section of this agreement is of particular importance to my constituents, and no doubt to the many people throughout our Nation whose lives are daily affected by the noise generated by airports.

The conferees for this bill have had the wisdom to adopt language that makes it possible for local governments to apply for and receive funding to soundproof public buildings used for education or medical purposes that are adversely affected by aircraft noise. The conferees are to be commended for their foresight in doing so.

My district is located in one of the fastest growing areas of our Nation, with one of the country's fastest growing airports in its midst. That growth has been a boon and a help to the district, but it has also brought with it the following, intolerable situation. Every day teachers must interrupt their teaching of hundreds of schoolchildren as they wait for planes to take off and land at nearby Ontario International Airport. If we add up the amount of time lost for these students over the course of their education, we find that they are losing hours upon hours—if not days—of valuable education time. At a time when our Nation should be considering more, not fewer, hours of education, we must improve the learning environment for these children, who are all entitled to uninterrupted study.

I urge my colleagues to support the conference agreement, approved yesterday by the Senate, and I urge prompt action by the administration to implement those portions having to do with noise abatement and mitigation. We can only improve our children's education by doing so.

Mr. MOLINARI. Mr. Speaker, I rise today to lend my support to the conference report on H.R. 2310, to amend the Airport and Airway Improvement Act of 1982. I am rather pleased to note that the bill contains an increase in civil penalties for safety violations. I had offered a similar provision to the airline consumer protection bill, H.R. 3051, which passed the House earlier this year.

By increasing the civil penalty for aviation safety related violations tenfold, from $1,000 to $10,000, we are sending a strong and clear message to the airline industry that they must put safety first. A fine must be substantial if it is to serve as a deterrent. The current $1,000 fine was established in 1938. Time alone warrants an increase in the fine.

If this is not reason enough, the Department of Transportation has requested the increase in the penalty level. The Department requested the increase in order to serve as a greater deterrent to violating safety laws.

The civil penalty increase provision also clarifies the Federal Aviation Act by mandating that penalties be administered for violations which occur on each flight. The Federal Aviation Administration has interpreted the act in this fashion while airlines have interpreted the language as violations on a per-day basis. The purpose of the act is to ground aircraft that violate safety rules immediately not at the end of the day after finishing its routes across the country. The ultimate safety violation occurs when such a plane is in use. This language clarification will prevent any uncertainty in the minds of the carriers that we do not want them flying aircraft that do not meet the minimum standards of safety.

Mr. Speaker, I commend the conferees for agreeing to this important safety issue.

Mr. GALLO. Mr. Speaker, I join with my colleagues today in support of final passage of legislation to improve safety equipment at the Nation's airports and I urge President Reagan to sign the measure.

This 5-year reauthorization of Federal airport improvement projects will increase the level of safety at our major airports and will provide the tools needed to meet increased demand for quality service into the 21st century.

This reauthorization is a critical component in the master plan of the Port Authority of New York and New Jersey for Newark International Airport and its commitment to serve air travelers in northern New Jersey.

This bill strengthens the PA's overall position and increases the options available to their efforts to make Newark International Airport safer and more convenient.

Among the priorities is a redesign of the taxiways that bring planes to and from the runways on landings and takeoffs and installation of state-of-the-art air traffic control equipment.

The bill also requires air noise monitoring and reduction programs in response to the very real concerns expressed by residents near our major airports.

We have spent a great deal of time working out the specifics of this bill and I think the final product is one that deserves the support of the President.

The bill provides a 5-year $8.7 billion authorization for airport improvement and noise reduction and a 3-year $5.2 billion authorization to modernize the air traffic control system. The bill also extends the Essential Airline Service Program for another 10 years to ensure continued passenger service to smaller airports.

The Nation's 423 largest airports will receive funding on a formula basis for a variety of improvement projects and safety features, including installation of additional instrument landing systems and updated air traffic control equipment.

This legislation deserves the support of the Members of the House.

Mr. LIGHTFOOT. Mr. Speaker, I rise in support of the Conference Report on H.R. 2310, the Airport Development and Improvement Act of 1987.

As the volume of air traffic continues to increase into the next century, our primary goals must be to further enhance safety and increase the capacity of our airport and airway system. The programs and funding levels included in this bill will help us reach these goals.

With regard to safety, increased funding levels for air traffic control equipment, research, and engineering and development will be instrumental in making the technological improvements that are so critically needed in today's system. The bill also contains safety provisions requiring transponders, collision avoidance systems, and other aircraft equipment improvements. I am confident that through the regulatory process outlined in the bill we will be able to develop adequate safety requirements without imposing unnecessary costs and other burdens on users of the system.

I am pleased that the funding levels of the Airport Improvement program contained in the bill will help us to address a key aspect of our problem with capacity—the shortage of runways for both general aviation and commercial air service. Under this legislation, both general aviation and commercial air service airports will receive more funds for runway construction. General aviation airport construction funds are particularly important to communities in rural America that depend heavily on their general aviation or small commercial service airports in their efforts to diversify and expand their struggling economies.

I am also pleased that the conferees retained the 10-year extension of the Essential Air Service Program that was approved by the House. Although deregulation of the Airline industry has resulted in tremendous benefits for the consumer, the Essential Air Service Program is needed to fill the gaps in service that the free market would have left out in the cold. I also want to commend the gentleman from Arkansas [Mr. HAMMERSCHMIDT] for the provisions he sponsored that will allow communities to upgrade their Essential Air Service Program through a matching funds agreement. These improvements seek to halt the downward spiral in the quality of service that many communities, such as Fort Dodge, IA, have experienced under the old program.

I also want to thank the conferees for adopting a trigger tax provision similar to that I joined Mr. GLICKMAN in introducing earlier this year. This provision will reduce aviation excise taxes by 50 percent in fiscal year 1990 if total appropriations for aviation programs are less than 85 percent of the total in fiscal years 1988 and 1989. Short of taking the aviation trust fund off budget, this trigger tax provision will help restore equity for the users of the system who pay taxes on airline tickets, aviation fuel, and other items only to have the funds diverted to other uses. We must, however, continue with efforts to remove the aviation trust fund from the unified budget.

Mr. Speaker, I want to commend the conferees on their work on the Conference Report on HR.. 2310, and I urge my colleagues to support it.

Mr. SOLOMON. Mr. Speaker, I want to thank the ranking member, Mr. HAMMERSCHMIDT; chairman of the Public Works Committee, Mr. HOWARD; and the subcommittee chairman, Mr. MINETA, for helping to maintain my amendment in the conference between the House and the Senate. This amendment corrects a blatant injustice brought about when the Federal Aviation Administration closed a number of flight service stations in Upstate New York, including those at the Warren County and Albany-Schenectady Airports. This was done despite the FAA's knowledge that Congress intended to keep those stations open with language in a supplemental appropriations bill.

And I would like to also thank Mr. STRATTON of New York for his strong effort in seeing this provision enacted into law.

Mr. STRATTON. Mr. Speaker, I would like to thank Mr. Solomon for his Herculean efforts in maintaining the flight service station at the Albany-Schenectady Airport, which will insure both the safety and well-being of passengers and pilots using these and other airports. Mr. SOLOMON has done a very great service to all private pilots.

Mr. HAMMERSCHMIDT. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. MINETA. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. FRENZEL. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 410, nays 1, not voting 22, as follows:

[Roll No. 496]

YEAS—410

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Armey
Aspin
Atkins
AuCoin
Baker
Ballenger
Barnard
Bartlett
Barton
Bateman
Bates
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Boggs
Bonior
Bonker
Borski
Bosco
Boucher
Boulter
Boxer
Brennan
Broomfield
Brown (CA)
Brown (CO)
Bruce
Bryant
Buechner
Bunning
Burton
Bustamante
Byron
Callahan
Campbell
Cardin
Carper
Carr
Chandler
Chapman
Cheney
Clarke
Clinger
Coats
Coble
Coelho
Coleman (MO)
Coleman (TX)
Collins
Combest
Conte
Conyers
Cooper
Coughlin
Courter
Coyne
Craig
Crane
Crockett
Daniel
Dannemeyer
Darden
Daub
Davis (IL)
Davis (MI)
de la Garza
DeFazio
DeLay
Dellums
Derrick
DeWine
Dickinson
Dicks
Dingell
DioGuardi
Dixon
Donnelly
Dorgan (ND)
Dornan (CA)
Downey
Dreier
Duncan
Durbin
Dwyer
Dymally
Dyson
Eckart
Edwards (CA)
Edwards (OK)
Emerson
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Fields
Fish
Flake
Flippo
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Frank
Frenzel
Frost
Gallegly
Gallo
Garcia
Gaydos
Gejdenson
Gekas
Gibbons
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Gradison
Grandy
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Lipinski
Livingston
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Lott
Lowery (CA)
Lowry (WA)
Lujan
Luken, Thomas
Lukens, Donald
Lungren
Mack
MacKay
Madigan
Manton
Markey
Marlenee
Martin (IL)
Martin (NY)
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
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McMillan (NC)
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Smith, Denny (OR)
Smith, Robert (NH)
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Wilson
Wise
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Young (AK)

NAYS—1

Sabo

NOT VOTING—22

Badham
Biaggi
Boland
Brooks
Chappell
Clay
Dowdy
Early
Feighan

Gephardt
Hall (OH)
Huckaby
Kemp
Lent
Martinez
Pepper
Quillen
Roemer
Russo
Vento
Weiss
Young (FL)

☐ 1415

So the conference report was agreed to.

The result of the voting was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MINETA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report just agreed to.

The SPEAKER pro tempore (Mr. McCURDY). Is there objection to the request of the gentleman from California?

There was no objection.

☐ 1430

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 1259

Mr. DONNELLY. Mr. Speaker, I ask unanimous consent that my name be removed from the list of cosponsors of the bill, H.R. 1259.

The SPEAKER pro tempore (Mr. McCURDY). Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

VETERANS' COMPENSATION AMENDMENTS OF 1987

Mr. MONTGOMERY. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 2945) to amend title 38, United States Code, to provide a 4.1-percent increase in the rates of compensation and of dependency and indemnity compensation [DIC] paid by the Veterans' Administration, and for other purposes, with Senate amendments thereto, and concur in the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments as follows:

Senate amendments:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE; REFERENCES TO TITLE 38, UNITED STATES CODE.

(a) SHORT TITLE.—This Act may be cited as the "Veterans' Compensation Cost-of-Living Adjustment Act of 1987".

(b) REFERENCES.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

TITLE I—COMPENSATION RATE INCREASES

SEC. 101. DISABILITY COMPENSATION.

(a) IN GENERAL.—Section 314 amended—

(1) by striking out "$69" in subsection (a) and inserting in lieu thereof "$71";

(2) by striking out "$128" in subsection (b) and inserting in lieu thereof "$133";

(3) by striking out "$194" in subsection (c) and inserting in lieu thereof "$202";

(4) by striking out "$278" in subsection (d) and inserting in lieu thereof "$289";

(5) by striking out "$394" in subsection (e) and inserting in lieu thereof "$410";

(6) by striking out "$496" in subsection (f) and inserting in lieu thereof "$516";

(7) by striking out "$626" in subsection (g) and inserting in lieu thereof "$652";

(8) by striking out "$724" in subsection (h) and inserting in lieu thereof "$754";

(9) by striking out "$815" in subsection (i) and inserting in lieu thereof "$849";

(10) by striking out "$1,355" in subsection (j) and inserting in lieu thereof "$1,411";

(11) by striking out "$1,684" and "$2,360" in subsection (k) and inserting in lieu thereof "$1,754" and $2,459", respectively;

(12) by striking out "$1,684" in subsection (l) and inserting in lieu thereof "$1,754";

(13) by striking out "$1,856" in subsection (m) and inserting in lieu thereof "$1,933";

(14) by striking out "$2,111" in subsection (n) and inserting in lieu thereof "$2,199";

(15) by striking out "$2,360" in subsection (o) and (p) and inserting in lieu thereof "$2,459";

(16) by striking out "$1,013" and $1,509" in subsection (r) and inserting in lieu thereof "$1,055" and "$1,572, respectively; and

(17) by striking out "$1,516" in subsection (s) and inserting in lieu thereof "$1,579".

(b) SPECIAL RULE.—The Administrator of Veterans' Affairs may adjust administratively consistent with the increases authorized by this section, the rates of disability compensation payable to persons within the purview of section 10 of Public Law 85-857 who are not in receipt of compensation payable pursuant to chapter 11 of title 38, United States Code.

SEC. 102. ADDITIONAL COMPENSATION FOR DEPENDENTS.

Section 315(1) is amended—

(1) by striking out "$82" in clause (A) and inserting in lieu thereof "$85";

(2) by striking out "$138" and "$44" in clause (B) and inserting in lieu thereof "$143" and "$45", respectively;

(3) by striking out "$57" and "$44" in clause (C) and inserting in lieu thereof "$58" and "$45", respectively;

(4) by striking out "$67" in clause (D) and inserting in lieu thereof "$69";

(5) by striking out "$149" in clause (E) and inserting in lieu thereof "$155"; and

(6) by striking out "$126" in clause (F) and inserting in lieu thereof "$131".

SEC. 103. CLOTHING ALLOWANCE FOR CERTAIN DISABLED VETERANS.

Section 362 is amended by striking out "$365" and inserting thereof "$380".

SEC. 104. DEPENDENCY AND INDEMNITY COMPENSATION FOR SURVIVING SPOUSES.

Section 411 is amended—

(1) by striking out the table in subsection (a) and inserting in lieu thereof the following:

"Pay grade:	Monthly rate
E-1	$518
E-2	534
E-3	548
E-4	583
E-5	598
E-6	611
E-7	641
E-8	677
E-9	[1] 707
W-1	656
W-2	682
W-3	702
W-4	743
O-1	656
O-2	677
O-3	725
O-4	766
O-5	845
O-6	952
O-7	1,029
O-8	1,128
O-9	1,210
O-10	[2] 1,327

"[1] If the veteran served as sergeant major of the Army, senior enlisted advisor of the Navy, chief master sergeant of the Air Force, sergeant major of the Marine Corps, or master chief petty officer of the Coast Guard, at the applicable time designated by section 402 of this title, the surviving spouse's rate shall be $763.

"[2] If the veteran served as Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, Commandant of the Marine Corps, or Commandant of the Coast Guard, at the applicable time designated by section 402 of this title, the surviving spouse's rate shall be $1,422.";

(2) by striking out "$58" in subsection (b) and inserting in lieu thereof "$60";

(3) by striking out "$149" in subsection (c) and inserting in lieu thereof "$155"; and

(4) by striking out "$73" in subsection (d) and inserting in lieu thereof "$76".

SEC. 105. DEPENDENCY AND INDEMNITY COMPENSATION FOR CHILDREN.

Section 413(a) is amended—

(1) by striking out "$251" in clause (1) and inserting in lieu thereof "$261";

(2) by striking out "$361" in clause (2) and inserting in lieu thereof "$376";

(3) by striking out "$467" in clause (3) and inserting in lieu thereof "$486"; and

(4) by striking out "$467" and "$94" in clause (4) and inserting in lieu thereof "$486" and "$97", respectively.

SEC. 106. SUPPLEMENTAL DEPENDENCY AND INDEMNITY COMPENSATION FOR CHILDREN.

Section 414 is amended—

(1) by striking out "$149" in subsection (a) and inserting in lieu thereof "$155";

(2) by striking out "$251" in subsection (b) and inserting in lieu thereof "$261"; and

(3) by striking out "$128" in subsection (c) and inserting in lieu thereof "$133".

SEC. 107. EFFECTIVE DATE FOR RATE INCREASES.

The amendments made by this title shall take effect as of December 1, 1987.

TITLE II—VETERANS' EMPLOYMENT TRAINING EXTENSIONS

SEC. 201. EXTENSION OF DEADLINE FOR VETERANS' JOB TRAINING ACT APPLICATIONS.

Section 17(a)(1) of the Veterans' Job Training Act (Public Law 98-77; 29 U.S.C. 1721 note) is amended by striking out "December 31, 1987" and inserting in lieu thereof "June 30, 1988".

SEC. 202. INCREASE IN LIMIT ON VOCATIONAL-TRAINING EVALUATIONS OF VETERANS RECEIVING PENSIONS.

Section 524(a)(3) is amended by striking out "2,500" and inserting in lieu thereof "3,500".

Amend the title so as to read: "An Act to amend title 38, United States Code, to provide a 4.2-percent cost-of-living adjustment in the rates of Veterans' Administration disability compensation for veterans and dependency and indemnity compensation for survivors and an increase in the number of vocational-training evaluations of veteran-pensioners; and to amend the Veterans' Job Training Act to extend the deadline for veterans to apply for participation.".

Mr. MONTGOMERY (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendments be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

Mr. SOLOMON. Mr. Speaker, reserving the right to object, I will not object, but at this time I yield to the gentleman from Mississippi [Mr. MONTGOMERY] for an explanation of the bill.

Mr. MONTGOMERY. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, as the gentleman knows, because the other body decided to wrap the compensation and DIC COLA in a comprehensive bill which did not pass the Senate until about 2 weeks ago, we do not have the time to resolve all of the differences between the House and Senate-passed bills. Realizing that many members have received inquiries about the status of the veterans compensation COLA, yesterday the gentleman from New York and I sent a letter to each Member of the House explaining what we are doing today. I want to thank the very able gentleman from New York, Mr. SOLOMON; the chairman of the Subcommittee on Compensation, Pension and Insurance, Mr. APPLEGATE, and the ranking minority member of the subcommittee, Mr. MCEWEN, for their leadership and contributions in working something out with the Senate.

The gentleman from Ohio [Mr. APPLEGATE] is on the floor. As I stated, he has been involved in the negotiations and I would appreciate it if the gentleman from New York would yield to him for a brief explanation of the proposed Senate amendments.

Mr. SOLOMON. Further reserving the right to object, Mr. Speaker, I yield to the gentleman from Arkansas [Mr. HAMMERSCHMIDT] following which I will follow the recommendation of the gentleman from Mississippi and yield to the gentleman from Ohio.

Mr. HAMMERSCHMIDT. Mr. Speaker, I rise in strong support of H.R. 2945, as amended, the Veterans Compensation Cost-of-Living Adjustment Act of 1987. The COLA is of paramount concern to our Nation's veterans, and I am pleased that the Congress is taking bipartisan action on it, as has been customary in the past.

Mr. Speaker, this COLA of 4.2 percent treats veterans fairly and helps keep their compensatioj and that of their survivors at an adequate level. We are all mindful of the extreme difficulties of this country's fiscal situation, but we are also mindful of the high priority which veterans' benefits have in the Federal budget.

It is imperative that the sacrifices of our veterans never be forgotten. While there are efficiencies and economies which can be found for veterans' programs to contribute to deficit reduction, these cannot be permitted to reduce the fundamental commitment of the Congress to veterans. In a sense, we have become the protectors of the men and women who protected us.

Mr. Speaker, H.R. 2945, as amended, would also allow continuation of applications to the training program under the Veterans' Job Training Act until June 30, 1988, in order to give the House and Senate conferees additional time to resolve differences between the bodies on a number of veterans' employment and training issues.

Further, the bill would raise the CAP on evaluations from 2,500 to 3,500 for vocational training of veteran pensioners to prevent it from being reached long before the end of the 12-month period to which it applies. I highly recommend both of the provisions to my colleagues.

My old friend, SONNY MONTGOMERY, has been instrumental as chairman of our committee in reaching the compromise with the Senate to allow us to move this essential COLA legislation now. When I say old friend, I do not mean old in years; rather, I mean he has been my friend for a long time. Anyone who has worked with the gentleman from Mississippi knows that only a young man could keep up with a schedule like his.

Mr. Speaker, JERRY SOLOMON, the ranking member of the full committee, has been energetic and able in his leadership of the minority on this legislation, and I commend him for it. Also the chairman of the Subcommittee on Compensation, Pension and Insurance, DOUG APPLEGATE, and the committee's ranking member, BOB MCEWEN, have contributed greatly and I commend them as well.

Mr. Speaker, congressional approval of the COLA is of great importance to our veterans. I urge in the strongest possible terms a favorable vote on this bill.

Mr. SOLOMON. Mr. Speaker, continuing my reservation of objection, I yield to the gentleman from Ohio [Mr. APPLEGATE], chairman of the Subcommittee on Compensation, Pension and Insurance.

Mr. APPLEGATE. Mr. Speaker, before I describe the compromise agreement, I commend my chairman, SONNY MONTGOMERY, and the ranking minority member of the committee, JERRY SOLOMON, for their leadership in working out the details of this compromise and for bringing this measure to the floor so quickly. I also wish to recognize the valuable assistance I have received during the year from the ranking minority member of my subcommittee, Mr. BOB MCEWEN. I know the Nation's veterans will be grateful for their persistence in making sure that the Congress approved a COLA before the holidays.

Mr. Speaker, on July 28, the House passed H.R. 2945 to provide a 4.1-percent cost-of-living increase for our service-connected disabled veterans and their survivors. It was not until December 4 that the other body amended and passed H.R. 2616 with the provisions of S. 9, a comprehensive bill that contains 80 to 90 provisions in addition to a compensation and DIC COLA of 4.2 percent.

During the past 2 weeks we tried to resolve our differences with the other body, but there are just too many issues to clear before adjournment. So to be sure that we meet our responsibilities to service-connected disabled veterans and their families, we agreed with the other body to pass a COLA bill and keep working to resolve all the other issues. Hopefully, we will have an agreement ready for the House to consider when we return during the week of January 25.

The proposed Senate amendments would provide a 4.2-percent COLA to service-connected disabled veterans drawing compensation and widows drawing DIC effective December 1, 1987. This is consistent with the bill we passed several months ago. It also contains two minor provisions to cover expiring authorizations. It would provide a temporary 6-month extension, from December 31, 1987, to June 30, 1988, of the deadline for veterans to apply for benefits under the Veterans' Job Training Act, and increase from 2,500 to 3,500 the annual limit on the number of young pensioners who may be evaluated for vocational training.

Both the administration and the veterans organizations have urged a COLA that would match the inflation rate since the last increase. Social Security recipients will receive a 4.2-percent increase for December, which is based on the change in the Consumer Price Index. This is recognized as the amount necessary to offset inflation for veterans during the past 12 months.

Mr. Speaker, I am disappointed that the other body did not get its major legislation passed earlier because there are several worthy provisions, not only in their bill, but in several bills which we passed months ago. As I have said, it is our plan to continue to work with the other body so that we can bring the remaining issues to the floor soon after the second session begins in January.

Mr. Speaker, I urge the adoption of the proposed Senate amendments.

Mr. SOLOMON. Mr. Speaker, continuing my reservation of objection, I yield to the gentleman from Mississippi [Mr. MONTGOMERY], chairman of the Committee on Veterans' Affairs.

Mr. MONTGOMERY. Mr Speaker, I would point out to my colleagues that we have a blue summary sheet if Members would like to find out exactly what this COLA bill does.

Mr. Speaker, again, I want to express my appreciation to the gentleman from New York [Mr. SOLOMON], the gentleman from Ohio [Mr. APPLEGATE], and the gentleman from Ohio [Mr. MCEWEN], for agreeing to allow

the COLA bill to go to the President and to continue our negotiations with the other body on the remaining issues.

I also want to thank the very able chairman and ranking minority member of the Senate Veterans' Affairs Committee, Mr. CRANSTON and Mr. MURKOWSKI, for their cooperation in agreeing to move the COLA bill. It is a great pleasure to work with each of them and with their very able staff.

There follows a more detailed explanatory statement on the compromise agreement and I urge the adoption of the proposed Senate amendments:

EXPLANATORY STATEMENT ON THE COMPROMISE AGREEMENT ON H.R. 2945 AS AMENDED, THE PROPOSED VETERANS' COMPENSATION COST-OF-LIVING ADJUSTMENT ACT OF 1987

This document explains the provisions of a compromise agreement between the Committees on Veterans' Affairs of the Senate and House of Representatives embodied in a Senate amendment to H.R. 2945 as passed by the House on July 28, 1987 (hereinafter referred to as "H.R. 2945 as passed"). The agreement consists of (1) a compromise between the provisions passed by both bodies providing for a cost-of-living adjustment (COLA) in the rates of Veterans' Administration service-connected disability compensation paid to veterans and dependency and indemnity compensation (DIC) paid to survivors (in title I of H.R. 2945 as passed and section 101 of S. 9 as agreed to by the Senate on December 4 and incorporated in H.R. 2616 as passed by the Senate on that date); (2) a provision extending the Veterans' Job Training Act application deadline; and (3) a provision increasing from 2,500 to 3,500 the annual limit on the number of veteran-pensioners who may be evaluated for vocational training.

The Committees note that they have agreed to pursue the enactment of H.R. 2945 with only these three provisions in order to achieve enactment, during the First Session of the 100th Congress, of a compensation/DIC COLA and extensions of the two training programs. The Committees are currently engaged in extensive negotiations on an extremely wide range of issues arising out of veterans provisions that have been passed by either of the two Houses.

The Committees expect to conclude their negotiations on these measures at the outset of the Second Session of the 100th Congress.

The Committees' recommendation that the Congress now enact H.R. 2945 with only the provisions noted does not in any way indicate the outcome of negotiations on any remaining provisions in that measure as passed by the House or on any of the other veterans measures passed by the two Houses. For example, the Committees note that they have not concluded their negotiations on section 307 of H.R. 2616 as passed by the House on June 30, under which the VA would be required to establish an outpatient clinic in southern New Jersey. In this regard, the Committees note that funding for the lease of such a clinic was included both in the Administration's FY 1988 budget request for the VA medical care account and in H.R. 2783, the proposed "Department of Housing and Independent Agencies Appropriations Act, 1988", as initially passed by both bodies, and that the VA is proceeding with its plans to enter into a lease for the clinic during the current fiscal year.

Similarly, the Committees have not concluded their negotiations on section 406 of H.R. 2616 as passed by the Senate on December 4, under which the VA would be required to accept a transfer of the Arizona State Cemetery and operate the cemetery as part of the National Cemetery System.

The provisions of the compromise agreement are as follows:

TITLE I—COMPENSATION RATE INCREASES

House bill: Title I of H.R. 2945 as passed would provide for a 4.1-percent COLA, effective December 1, 1987, in the rates of VA compensation and DIC.

Senate bill: Section 101 of S. 9 as incorporated in H.R. 2616 as passed by the Senate on December 4 would provide for the rates to be increased by the same percentage as the December 1, 1987, Social Security/VA pension COLA—4.2 percent—effective on the same date.

Compromise agreement: The compromise agreement provides for a 4.2-percent COLA, effective December 1, 1987.

The Committees expect the VA to provide for the COLA to be reflected in veterans' and survivors' payments as soon as administratively feasible and appropriate and to include with their compensation and DIC payments—no later than the payments for January, which are delivered on or about February 1—notification to all recipients that the COLA has been enacted with retroactive effect as of December 1 and a description of when and how the COLA will be implemented and a retroactive payment made.

TITLE II—VETERANS' EMPLOYMENT TRAINING EXTENSIONS

Extension of Deadline for Veterans' Job Training Act Applications (Section 201)

Both the Senate, in section 11(e) of S. 999 as passed by the Senate on August 4, and the House, in section 2 of H.R. 1504 as passed by the House on June 30, have passed long-term extensions of various provisions in the Veterans' Job Training Act (VJTA). Pending the outcome of negotiations on those measures and in order to avoid a hiatus in the eligibility of veterans to apply to participate in VJTA programs, the compromise agreement contains a provision extending by 6 months, through June 30, 1988, the deadline for veterans to apply for such training.

Increase in Limitation on Vocational-Training Evaluations of Veterans Receiving Pension (Section 202)

Section 304 of H.R. 2945 as passed would increase from 2,500 to 3,500 the cap on the number of vocational-training evaluations which, during the 12-month period beginning February 1 of each year, the VA may provide to veterans under age 50 who receive new awards of VA nonservice-connected-disability pension. (These evaluations are conducted in order to assess the feasibility of a new pensioner participating in vocational training). In view of the advice to the Committees that the 2,500-evaluation cap will very soon result in the termination of evaluations during the 12-month period that expires on January 31, 1988, the compromise agreement contains the House provision.

Mr. SOLOMON. Mr. Speaker, I rise as ranking member of the Veterans' Affairs Committee in strong support of H.R. 2945, as amended, to provide for a 4.2-percent cost-of-living adjustment [COLA] for compensation of service-connected disabled veterans and for dependency and indemnity compensation [DIC], which goes to survivors of certain disabled veterans.

We have before us the COLA and, in addition, two noncontroversial extensions of program authority. The COLA for veterans is under the jurisdiction of the Veterans' Affairs Committees of the House and Senate and is set independently of the Social Security COLA. It represents a full allowance for inflation during 1987, which the Reagan administration has continued to keep under control.

Of course, the COLA is good news for America's veterans, who are especially deserving of it. Indeed, it is too bad that the willingness espoused by a number of veterans' service organizations to accept a delayed or reduced COLA, or none at all, if only other COLA's would be treated the same, is apparently not more widespread. If it were, we could really take more effective steps toward controlling the deficit.

Mr. Speaker, the filing time for applications under the Veterans' Job Training Act ends on December 31, 1987. H.R. 2945, as amended, would extend the application period until June 30, 1988. Additionally, vocational training evaluations for veteran pensioners are about to reach the program ceiling of 2,500. H.R. 2945, as amended, would raise the ceiling to 3,500 evaluations. Both of these worthwhile veterans' programs were generally expected and intended by our committee and the House to continue in operation, and they should.

This legislation, just passed by the Senate, evolved from the 4.1-percent COLA of H.R. 2945, which this body approved on July 28, 1987. Unfortunately, the Senate was unable to act until December 4, 1987, on its bill containing a COLA provision, S. 9(leaving insufficient time to complete work on a wide range of other proposals for veterans' programs from both bodies, including health care, employment and compensation. By an agreement with our counterpart Senate committee, the COLA was separated from the rest of the proposed legislation.

We could not in good conscience go home for Christmas without action on a COLA to let America's veterans know, that while the Congress may sometimes be slow, they will not be forgotten.

I want to acknowledge the vigorous leadership of our chairman, SONNY MONTGOMERY, in bringing this compromise bill to the floor, as well as the invaluable efforts of the chairman of the Subcommittee on Compensation, Pension and Insurance, DOUG APPLEGATE, and the subcommittees' ranking member, BOB MCEWEN. They are all truly devoted to American veterans.

Mr. Speaker, I am proud of our veterans. They have earned their benefits, and I strongly urge passage of this legislation to keep them equal with the cost of living and to extend the two needed program authorities.

Mr. DOWDY of Mississippi. Mr. Speaker, I want to express my strong support for H.R. 2945, amended, the Veterans' Compensation Cost of Living Adjustment Act of 1987.

Of particular interest to me as chairman of the Subcommittee on Education, Training and Employment is the provision in title II of the amended bill which would extend from December 31, 1987, to June 30, 1988, the deadline for eligible veterans to apply for employment and training assistance under the Veterans' Job Training Act [VJTA]. On June 30, 1987, the House passed H.R. 1504, a bill which would extend VJTA 3 years and enhance the effectiveness of this highly successful program. This measure was amended by the Senate with the provisions of S. 999, which also contained a long-term extension of VJTA. The limited extension in H.R. 2945, amended, will provide a bridge and avoid a stop-start situation while negotiations continue with the other body on this and other program amendments.

Since the enactment of the Veterans' Job Training Act in November 1983, more than 53,000 long-term unemployed veterans of the Korean conflict and the Vietnam era have found meaningful, long-term employment under this program. It is important that we continue to provide eligible veterans seeking employment the opportunity to participate in VJTA.

I want to commend the chairman of the full committee, my colleague from Mississippi, G.V. (SONNY) MONTGOMERY, and the distinguished ranking minority member, JERRY SOLOMON of New York, for their leadership. I also want to thank the chairman of the Senate Committee on Veterans' Affairs, ALAN CRANSTON of California, and the ranking minority member, FRANK MURKOWSKI of Alaska, for their support and cooperation in moving the legislation we are considering today.

I urge my colleagues to support H.R. 2945, as amended.

Mr. COLEMAN of Texas. Mr. Speaker, I wish to commend the authors of H.R. 2945, the Veterans' Compensation Cost of Living Adjustment Act, for bringing this bill to the floor. The House passed legislation authorizing the COLA nearly 5 months ago. The Senate passed its bill 2 weeks ago. I understand that there are some differences between the two versions. But I commend the chairmen of the committees, Mr. MONTGOMERY of Mississippi and Senator CRANSTON of California, for putting the needs of our veterans above their pride of authorship.

I am pleased that the veterans' COLA will be commensurate with those for retired Federal employees, military retirees and Social Security recipients. I know that the surviving relatives of veterans and the veterans themselves disabled by virtue of their service to our country deserve no less. There are many men and women in west Texas to whom these are vital issues affecting both their dignity and their wallets. They deserve the recognition accorded by the timely consideration of this legislation.

More comprehensive bills on VA compensation and programs are currently subject to negotiation in conference committees. But the issues of the COLA and continued eligibility for the Veterans' Job Training Act should be considered as expeditiously as possible. They refer in the first instance to modest increases in checks retroactive to December 1 and an extension, more than justified, to June 30 of next year in the second.

I urge immediate passage of this necessary and timely piece of legislation.

Mr. McEWEN. Mr. Speaker, I want to commend the chairman of our committee, SONNY MONTGOMERY, and the ranking minority member, JERRY SOLOMON, for their leadership in bringing this legislation to the floor in the waning hours of the 1st session of the 100th Congress.

I also want to express my deep appreciation to my friend and Ohio colleague, DOUG APPLEGATE, for his bipartisan spirit and cooperation. It is indeed an honor to work with him. As chairman of the Subcommittee on Compensation, Pension and Insurance, he has once again demonstrated his special commitment to America's veterans by shepherding this legislation through our discussions with Members of the Senate to the floor today.

Mr. Speaker, today the House of Representatives meets to consider the cornerstone of our responsibility. It is to assure that service-connected disabled veterans, their dependents and survivors receive that amount of compensation to which they are justly entitled. The bill before us, H.R. 2945, the Veterans Compensation Act, addresses that responsibility, and I wholeheartedly endorse it.

As the chairman indicated in his remarks, our committee has recommended a 4.2-percent cost-of-living increase for compensation and DIC recipients.

Mr. APPLEGATE has explained those issues as well as those pertaining to the DIC Program and Vocational Rehabilitation Training Program.

Mr. Speaker, H.R. 2945 is a good bill. Moreover, it illustrates our continuing commitment to America's disabled veterans and their families. I urge my colleagues to support the bill.

Mr. GILMAN. Mr. Speaker, I rise in strong support of H.R. 2945, the Veterans' Compensation Cost-of-Living Adjustment Act of 1987. I would also like to commend the distinguished chairman of the Veterans' Affairs Committee, the gentleman from Mississippi [Mr. MONTGOMERY], and the ranking minority member, my fellow colleague from New York [Mr. SOLOMON], for continuing their bipartison efforts to ensure equitable treatment for our Nation's veterans.

H.R. 2945 provides for a 4.2-percent cost-of-living adjustment in the rates of Veterans' Administration disability compensation for veterans and dependency and indemnity compensation for survivors. As we wind down the 1st session of this 100th Congress, it is gratifying to find both Chambers working together in an expeditious and a bipartisan fashion to ensure that our veterans receive their COLA's for the upcoming year. As many of us are aware, the other body provided for a cost-of-living increase in an omnibus veterans' bill, which they did not adopt until a few weeks ago. Although we did not have the time to work out the differences between the House and Senate bills, a compromise was agreed to allow us to consider this important legislation.

Mr. Speaker, the bill brought before us also contains provisions to cover expiring authorizations. H.R. 2945 extends the deadline by which a veteran must apply to participate in the on-the-job training program for Vietnam era and Korean conflict veterans established under the Veterans' Job Training Act [VJTA]. It also raises the cap on evaluations for vocational training of veterans pensioners from 2,500 to 3,500 to prevent it from being reached long before the end of the 12-month period to which it applies. The VJTA has provided more than 53,000 long-term unemployed veterans of the Korean and Vietnam era with meaningful and long-term employment since its enactment 4 years ago. Congress needs only to look as far as this successful and cost-effective program for guidance while working on legislation to assist the homeless or reducing welfare dependency.

Mr. Speaker, H.R. 2945 illustrates our continuing commitment to our veterans. Accordingly, I ask my colleagues to join me in supporting this legislation. This is the best holiday gift we can give to the men and women who gave of themselves for our great Nation.

Mr. SOLOMON. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Mississippi?

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MONTGOMERY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to include extraneous matter on the Senate amendments to H.R. 2945 just concurred in.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

CALLING UPON THE SOVIET UNION TO IMMEDIATELY GRANT PERMISSION TO EMIGRATE TO ALL WHO WISH TO JOIN SPOUSES IN THE UNITED STATES

Mr. FASCELL. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the joint resolution (H.J. Res. 376) calling upon the Soviet Union to immediately grant permission to emigrate to all those who wish to join spouses in the United States, with a Senate amendment thereto, and concur in the Senate amendment with amendments.

The Clerk read the title of the joint resolution.

The Clerk read the Senate amendment and the House amendments to the Senate amendment as follows:

Senate amendment:

Page 3, after line 19, insert:

SEC. 3. In honor of J. Strom Thurmond, and in recognition of his long and outstanding service as a United States Senator, Governor of South Carolina, and South Carolina State Senator, to promote flood control, soil conservation, and rural electrification, the Clarks Hill Dam, Reservoir, and Highway transversing the Dam on the Savannah River, Georgia and South Carolina, shall hereafter be known and designated as the J. Strom Thurmond Dam, Reservoir, and Highway, and shall be dedicated as a monument to his distinguished public service. Any law, regulation, map, document, or record of the United States in which such project is referred to shall be held and considered to refer to such project by the name of the J. Strom Thurmond Dam, Reservoir, and Highway.

House amendments to Senate amendment:

(1) Strike out "after line 19," and all that follows through "Sec. 3. In" and insert in lieu thereof the following:

strike out all that follows the resolving clause and insert in lieu thereof the following:

That in

(2) At the end of the amendment, add the following:

Strike out the preamble of the resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

Mr. BROOMFIELD. Mr. Speaker, reserving the right to object, I yield to the gentleman from Florida [Mr. Fascell] for an explanation of his unanimous-consent request.

Mr. FASCELL. Mr. Speaker, this action is necessary because of the following reasons:

First. Prior to the summit conference the House passed and sent to the other body a resolution calling on the Soviet Union to grant permission to emigrate to all those who wish to join their spouses or families in the United States.

Second. The other body passed that resolution with an amendment naming a dam and highway after the distinguished Senator from South Carolina Strom Thurmond.

Third. Since that action by the other body events have overtaken the basic resolution on divided spouses in that several of those named in the resolution have been given permission to emigrate. Furthermore, it is the thinking of the Committee on Foreign Affairs that the two issues should not be joined in one resolution.

Fourth. Therefore, the amendment that I offer amends the basic resolution to delete that portion dealing with the divided spouse issue.

Fifth. For the information of the Members, after passage of House Joint Resolution 376 it is my intention to ask unanimous consent for the immediate consideration in the House of a resolution dealing with the divided spouse problem.

Mr. HAMMERSCHMIDT. Mr. Speaker, I rise in strong support of House Joint Resolution 376, renaming the Clarks Hill Dam, Reservoir and Highway on the Savannah River in honor of the distinguished Senior Senator from South Carolina, the Honorable Strom Thurmond.

This resolution is a most appropriate tribute to one who throughout his distinguished career in both the South Carolina Senate and the U.S. Senate, worked tirelessly for adequate flood control, soil conservation and rural electrification.

As a State Senator, he authored legislation that helped bring Federal support to the Clarks Hill project, and since coming to Washington, he has continued to work for the project and especially for economic development along Clarks Hill Lake.

In fact, so appreciated are his efforts by the folks back home that the Clar ks Hill authority has adopted a resolution requesting that the project be renamed in Senator Thurmond's honor.

Health care for veterans has been a special concern of Senator Thurmond, and he has provided great leadership in efforts to recruit and retain nurses for the Nation's 173 VA hospitals. He has also been very active in having priority given to service-connected disabled veterans.

Most recently, he had really been the driving force in the Senate on behalf of legislation to provide the Veterans' Administration with Cabinet-level status. That measure, which had passed the House, now has 45 Senate sponsors.

Senator Strom Thurmond has a deep and abiding love for his country. As one small illustration of that, I recall that at last year's American Legion national convention in San Antonio, he marched and carried the American flag in the parade through downtown San Antonio in 101-degree heat.

Strom Thurmond is most deserving of the honor embodied in the resolution before us today, and I urge its support by iy colleagues.

Strom Thurmond has compiled an illustrious career of public service that few if any could ever hope to match. Even before he began his outstanding career in the U.S. Senate in 1954, he had already served as a judge, State senator, and Governor of South Carolina.

He is also a highly decorated veteran of World War II, A 36-year reserve officer, and a major general in the U.S. Army Reserve.

That outstanding military service obviously gave Strom Thurmond a keen awareness of the needs of the Nation's veterans, and he has beej a staunch supporter of veterans' programs throughout his long career in the Senate.

As a member of the Veterans' Affairs Committee and formerly ranking Republican member for a number of years, I have had the great privilege of working closely on veterans matters with Strom Thurmond. He is a long-term senior member of the Senate Veterans' Affairs Committee. In fact, we both have beej honored with the hifetime of service award from the Paralyzed Veterans of America and the Vietnam Veterans Institute.

Mr. BROOMFIELD. Mr. Speaker, further reserving the right to object, at the beginning of November, many of us in the House and the Senate were pleased to welcome a new resident to the United States—Mrs. Svetlana Braun.

Svetlana is the wife of a young Southfield, MI attorney, Mr. Keith Braun. Keith and Svetlana had been married since 1984. However, they were not able to live together as husband and wife should, because the Soviet Government refused to abide by accepted international agreements and let Svetlana emigrate to the United States to join her husband.

With encouragement from the administration, several congressional delegations to the Soviet Union, the news media and several other sources, the Soviet Government finally allowed Svetlana to emigrate.

However, while all of us were extremely happy to have Mrs. Braun with us in the United States, our joy was tempered by the knowledge of how difficult it was for her to emigrate, how difficult life was for her in the Soviet Union while she tried to come to the United States, and the fact that there are still many other divided spouses who are still separated because of Soviet emigration policy.

When Soviet officials denied Mrs. Braun and the many other divided spouses the opportunity to emigrate from the Soviet Union, they have ignored the 1975 Helsinki accords which the Soviet Union signed. That international agreement commits signatories to allow reunification of families and the right of binational couples to choose their country of residence.

Mr. Speaker, the Brauns and the other divided spouses should have been united years ago. House Joint Resolution 376, which is before us today, lets Soviet officials know that we do not take human rights lightly, and that we will hold the Soviet Government accountable to abide by the Helsinki accords which they signed.

I urge my colleagues to support this resolution and send this important message to the Soviet Government at this opportune time as we prepare for the visit of General Secretary Gorbachev.

Mr. BROOMFIELD. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

TITLE AMENDMENT OFFERED BY MR. FASCELL

Mr. FASCELL. Mr. Speaker, I offer an amendment to the title.

The Clerk read as follows:

Title amendment offered by Mr. Fascell:

Amend the title so as to read: "Joint resolution to designate the Clarks Hill Dam, Reservoir, and Highway transversing the Dam on the Savannah River, Georgia and South Carolina, as the J. Strom Thurmond Dam, Reservoir, and Highway."

The title amendment was agreed to.

A motion to reconsider was laid on the table.

CALLING UPON THE SOVIET UNION TO IMMEDIATELY GRANT PERMISSION TO EMIGRATE TO ALL WHO WISH TO JOIN SPOUSES IN THE UNITED STATES

Mr. FASCELL. Mr. Speaker, I offer a joint resolution (H.J. Res. 430) calling upon the Soviet Union to immediately grant permission to emigrate to all those who wish to join spouses or fiances in the United States, and ask unanimous consent for its immediate consideration.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

Mr. BROOMFIELD. Mr. Speaker, reserving the right to object, I do so to provide the gentleman from Florida [Mr. FASCELL], chairman of the committee, an opportunity to explain the joint resolution.

Mr. FASCELL. Mr. Speaker, I thank my colleague, the ranking member of the Committee on Foreign Affairs, for yielding.

Mr. Speaker, the joint resolution I have introduced calls upon the Soviet Union to immediately grant permission to emigrate to all those who wish to join their spouses or fiances in the United States. A similar resolution was considered by the Committee on Foreign Affairs in November and passed both the House and the Senate with broad, bipartisan support.

This measure, Mr. Speaker, expresses the Congress' continuing concern for the plight of the half-dozen cases of divided spouses and blocked marriages involving American and Soviet citizens. It calls upon the Soviet Union to grant to those Soviets who have been separated from their American spouses and fiances immediate permission to emigrate. It draws particular attention to those cases that have remained unresolved for years.

It is both appropriate and important that the House consider this measure after the summit here in Washington between President Reagan and General Secretary Gorbachev. The summit, which we all welcomed, provided an excellent opportunity for the Soviet Union to—at long last—resolve the divided spouse and blocked marriage cases which have hampered improved United States-Soviet relations. I am quite pleased that many of the longstanding divided spouses and blocked marriage cases were resolved just prior to and during the summit. Among those reunited were Anatoly and Galina Michelson who had the dubious distinction of being the longest unresolved family reunification case between the United States and the Soviet Union. Every President since John F. Kennedy has raised this case with his Soviet counterpart. After 31 years of forced separation, the Michelsons are finally living together in Florida. The Soviet leadership apparently saw the wisdom—indeed, the necessity—of once and for all removing this thorn from the side of our relationship.

To live together as husband and wife, as a family, is so basic a right that its denial would be absurd if it were not so tragic. The speedy resolution of the other outstanding cases should be at the top of our diplomatic agenda with the Soviet Union and should be a precondition to improved relations. But more than this, we must ensure that there will be no more cases of husbands and wives forcibly separated by cynical and vindictive government policies. People should not be pawns in the superpower relationship and family relations should not be the stuff of international negotiations. Closer ties between the governments of the United States and the Soviet Union will inevitably result in closer ties between our people. The Soviet Union must be prepared to deal in a positive and routine fashion with the subsequent requests to marry and to live together that will result from these increased contacts.

While we are delighted by the recent resolution of some of the divided family cases, we look forward to the speedy resolution of all other outstanding cases and to the day when this issue finally will be wiped off our bilateral agenda. I urge the Soviet Union to seize the opportunity afforded by the summit to bring us closer to that day.

I urge unanimous adoption of the resolution.

Mr. BROOMFIELD. Mr. Speaker, further reserving the right to object, I yield to the gentleman from Florida [Mr. MACK].

Mr. MACK. Mr. Speaker, I thank the gentleman for yielding. I want to also express my appreciation to the gentleman from Florida [Mr. FASCELL] for bringing this resolution back to the floor after it had been modified.

Mr. Speaker, I believe that all of us in the House are familiar with the problem of divided-spouses, a situation in which American/Soviet couples have been refused the right to live together in their country of choice.

This situation has hit home to me as I have worked on behalf of a constituent from my district, Anatoly Michelson. Mr. Michelson left the Soviet Union over 31 years ago. But still, after repeated appeals to the Soviet authorities, his wife Galina, daughter Olga and grandson Anatoly had not been granted permission to emigrate to the United States to be reunited with Mr. Michelson.

As State Department officials have pursued the issue of divided-spouses more vigorously in negotiations with the Soviets, we have seen progress in the resolution of these cases. On Monday, December 21, we will be celebrating the arrival of Mr. Michelson's family to the United States.

This arrival will mark the successful resolution of one of the most troublesome cases on record. In fact, many in Congress and in the diplomatic community feared that the case would never be resolved since Mr. Michelson was a defector from the Soviet Union.

Yet this case has proven to me that persistence coupled with courage can overcome even the most difficult of circumstances. Anatoly and Galina Michelson have never stopped pressing ahead despite the gloomy forecasts that many U.S. officials made.

We, in Congress, must remember this example of persistence, and emulate it as we address other difficult cases of Soviet intransigence in human rights.

□ 1445

It is a rare opportunity I think that Members have the opportunity to come to the floor and indicate success with what we are working on. But I have the great opportunity on Monday to meet with Anatoly Michelson when he is going to be reunited with his wife after 31 years of separation. His wife, daughter, and grandson will be flying into Dulles on Monday afternoon and , again, after 31 years will have the opportunity to be reunited. I think it is only fitting that as we move toward this Christmas season, these holiday seasons, that we remember how fortunate we are and how fortunate the Michelson family is now.

Mr. Speaker, I want to thank everyone who participated in this resolution.

Mr. BROOMFIELD. Mr. Speaker, further under my reservation, I yield to the ranking member on the Subcommittee on Human Rights, the gentleman from New York [Mr. SOLOMON].

Mr. SOLOMON. I thank the gentleman for yielding.

Let me commend both the gentleman and the chairman of the full committee, DANTE FASCELL, for bringing this resolution to the floor in a timely manner. Let me also commend a member of our committee, CONNIE MACK, for his sponsorship of the legislation. Mr. Speaker and my colleagues, you know when Mr. Gorbachev was here in the United States, he tried to create an image of being forthright and for human rights, but nevertheless every time human rights were brought up, before any of the discussions he would clam up. That means that when he went back to the Soviet Union it is a forgotten issue.

One of the greatest human rights abuses in the world is that philosophy, a Communist philosophy which would divide spouses, that would divide people from their loved ones.

The only way that we are ever going to get results from the Soviet Union is to keep the pressure on. This kind of resolution will help to keep that pressure on and to bring some kind of satisfaction to so many people who are oppressed by international communism today.

So I commend the gentleman.

Mr. BROOMFIELD. Mr. Speaker, further under my reservation, I yield to the gentleman from New York [Mr. GILMAN], a meiber of the comiittee.

Mr. GILMAN. Mr. Speaker, I rise to compliment the gentleman from Florida [Mr. MACK], for his consistent efforts, his continual efforts for human rights, particularly to help bring divided spouses together and bring fiances together. This is a battle that needs continual attention.

We appreciate the extensive efforts of the gentleman from Florida which he has undertaken in that regard. I want to commend the distinguished chairman from Florida, Mr. FASCELL, and our ranking minority member, the gentleman from Michigan, Mr. BROOMFIELD, for allowing us to bring this measure to the floor before we adjourn this session.

Mr. BROOMFIELD. Mr. Speaker, I yield to the gentleman from Florida [Mr. SHAW].

Mr. SHAW. I thank the gentleman for yielding.

I too would like to join my colleague from Florida in expressing my happiness as to what has happened with his divided spouse. However, I would like to ask you, my colleagues, to not forget those who remain divided. At these, the happiest of holiday seasons, it can be the loneliest for those who are separated. Galina Vileshina, a constituent of mine and her husband, Pyatras are again going to be separated.

This I believe is their seventh or eighth holiday season away from each other. Let us not forget, in expressing our appreciation and happiness, let us not forget those who are left behind.

Mr. BROOMFIELD. Mr. Speaker, I rise in strong support of this motion.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. MCCURDY). Is there objection to the request of the gentleman from Florida?

There was no objection.

The Clerk read the joint resolution as follows:

H.J. RES. 430

Whereas the Soviet Union is a signatory of the Final Act of the Conference on Security and Cooperation in Europe which states that "The participating States will deal in a positive and humanitarian spirit with the applications of persons who wish to be reunited with members of their family, with special attention being given to requests of an urgent character—such as requests submitted by persons who are ill or old.";

Whereas the Final Act further states that, "In dealing with requests from couples from different participating States, once married, to enable them and the minor children of their marriage to transfer their permanent residence to a State in which either one is normally a resident, the participating States will also apply the provisions accepted for family reunification.";

Whereas the Soviet Union has denied exit visas or marriage permits to several Soviet citizens who are married or engaged to Americans;

Whereas the United States officials have brought these divided spouses and blocked marriage cases to the attention of Soviet diplomats on numerous occasions, including during the recently concluded Washington summit meeting between President Reagan and General Secretary Gorbachev;

Whereas several similar long-term cases have been resolved within the last two years;

Whereas the Soviet Union has initiated a policy of "Democratizatsiya" which claims to give greater emphasis to basic human rights, including the right to live with one's family in the family's country of choice;

Whereas the Soviet Union and the United States have concluded a major arms reduction agreement, and the spirit of this agreement should foster progress between the Soviet Union and the United States in successfully addressing human rights concerns; and

Whereas the Soviet Union, as a signatory of the Final Act of the Conference on Security and Cooperation in Europe, is obligated to comply with the Act's provisions regarding the reunification of divided families and marriage between citizens of different states: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the United States—

(1) welcomes the recent granting by the Soviet Union of permission to emigrate to several Soviet citizens who have been divided for many years from their American spouses and fiances including Galina Goltzman Michelson, Yuri Balovlenkov, Victor Faermark, Elena Kaplan, Victor Novikow, and Leonid Scheiba; and

(2) calls upon the Soviet Union—

(A) to immediately grant to all those who wish to join spouses of fiances in the United States (including Tatyana Alexandrovich, Yeugeni Grigorishin, Vladislav Kostin, Lyubov Kurillo, Pyatras Pakenas, and Sergei Petrov) permission to emigrate with their family members to the United States; and

(B) to give special consideration to cases that have remained unresolved for many years.

SEC. 2. The Secretary of State shall transmit a copy of this joint resolution to the President of the Union of Soviet Socialist Republics.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. FASCELL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on House Joint Resolution 376 and House Joint Resolution 430.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

LEGISLATIVE PROGRAM

(Mr. MICHEL asked and was given permission to address the House for 1 minute.)

Mr. MICHEL. Mr. Speaker, I take this time for the purpose of inquiring of the distinguished majority leader the program for the balance of this day and any insight that he might be able to divulge on tomorrow and hopefully not too much beyond tomorrow.

Mr. FOLEY. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I yield to the distinguished majority leader, the gentleman from Washington [Mr. FOLEY].

Mr. FOLEY. I thank the gentleman for yielding.

Mr. Speaker, we intend to take up next a unanimous-consent request from the Committee on Merchant Marine and Fisheries, followed by a rule for a bill reported from the Committee on Merchant Marine and Fisheries, Governing International Fishery Agreement With Japan, following which we will return to unanimous consents offered by a number of committees, and later in the afternoon we hope to bring up the farm credit conference report.

That will be the last item on the agenda for today. It is my judgment that we could be adjourning between 6 and 7 tonight.

I hear behind me a voice saying "Until?" And the answer to that question is somewhat conceptual at this point, but let me give you the concept, with the understanding that this is not a firm announcement.

Our present intention would be to seek authority for a session tomorrow that would be pro forma but with recess permission so that we might take care of the presence of Members for conferences and the Rules Committee and so on. But Members would be assured that there would be no legislation of any kind scheduled for tomorrow and that we would then propose to return some time early Sunday afternoon, probably about 1 p.m., for the consideration of the conference reports on the continuing resolution and reconciliation bill and any accompanying rules. We would hope then to conclude the business of the Congress by early evening Sunday.

Now that is the concept, as I say, not an announcement for tomorrow and Sunday. But if that should be the program which we would more or less make official this afternoon later, Members would have an opportunity to leave tonight and to return Sunday afternoon and there would be at least that much assurance of the business to be taken up tomorrow, the lack of business to be taken up tomorrow.

Mr. MICHEL. Might I inquire of the gentleman: On the rule on the merchant marine item, we would consider the bill itself too, would we not?

Mr. FOLEY. Yes, the rule and the bill.

Mr. MICHEL. And then farm credit following that?

Mr. FOLEY. Then probably some unanimous-consent requests from various committees and then when it is ready and we hope it will be later this afternoon, the farm credit conference report.

Now there is a 2-hour availability under our procedures for that conference report and it would be helpful if we could perhaps in this particular case reduce that to some extent, make the adjournment tonight a little earlier.

Mr. MICHEL. I might make the observation for some Members who might inquire as to why we would even bother to have a pro forma session tomorrow with recess authority, we would grant the recess authority only on the condition that as the gentleman has very well said, we would not have any business scheduled for tomorrow and that, frankly, for the committees that are meeting on the CR and reconciliation, it facilitates their work if there are not interruptions of rollcalls similar to what we have had today. We really have got to get to that point where they are uninterruptedly sitting down, sitting around getting this thing hashed out or it will be forever. For those who may wonder why we would proceed that way, I think frankly that is the best alternative that we have.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I yield to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. I thank the gentleman for yielding.

Mr. Speaker, it is my understanding that the agreement with regard to legislative business for tomorrow would also include all unanimous consents, in other words, even unanimous consents that previously agreed to off the sheet would not come up under the pro forma session, is that correct?

Mr. MICHEL. The gentleman may want to direct that specifically to the majority leader.

Now, we reserve some time here after the Merchant Marine bill to take up some of those. I know there is a short list and a long list. We have been agitating for confining these considerations to the shorter list of those that are really urgent.

Mr. FOLEY. Well, our intention would be not to bring up unanimous consents tomorrow, to make our undertaking that there would be no legislation brought up by any means tomorrow.

Now we may want to extend that, in thinking about it, to procedural matters which should be, I think, subject to unanimous consent. That obviously involves the concurrence of the leadership. But as far as legislation is concerned, we would not offer legislation by unanimous consent.

Mr. DE LA GARZA. Would one of my colleagues yield? Who has the time?

Mr. MICHEL. I have the time and I would be happy to yield shortly.

I may be anticipating one question, a Member asked what would be the earliest time on Sunday? The majority leader just mentioned something in the neighborhood of 1 p.m. I do not think we are at that point yet where we could say specifically.

Mr. FOLEY. No, if the gentleman will yield.

Mr. MICHEL. Yes.

Mr. FOLEY. I want to emphasize again that my discussions about Saturday and Sunday are provisional and conceptual comments, not a firm announcement. But that is the concept which we would like to follow, I think. I think it would facilitate the convenience of Members as well as the expeditious conduct of our business.

Mr. DE LA GARZA. Mr. Speaker, will my colleague yield?

Mr. MICHEL. I yield to the gentleman from Texas [Mr. DE LA GARZA].

Mr. DE LA GARZA. I thank the gentleman for yielding.

I would like to inform my colleagues in the House that the problem with the Farm Credit System is the Government Printing Office's facilitating the report and having it available. But we do have the substance of that report which we have printed in a brief form available at both Cloakrooms. Copies of the substance of the conference report are available and have been for about an hour in both Cloakrooms.

What I would like to suggest, with the assistance of both the majority leader and my distinguished colleague, the minority leader, is that if that is available when we get the original printed copy, if we might ask your assistance in not having to wait the 2 hours with the actual report here; maybe half an hour or less of time, if possible, because the substance is in the summaries that are in both Cloakrooms at this time.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I yield to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. I thank the gentleman for yielding.

Mr. Speaker, I do not think from what I am hearing there would be very much difficulty in maybe getting done what the gentleman wants done in terms of changing the 2-hour availability so long as under unanimous-consent requests we could get a pretty reasonable description for purpose of legislative history of what it is we are going to be taking up. But having said that, I think we need to get some firmness in what it is we are agreeing to today with regard to the next 2 days. In other words, I do not think we want to say that we will allow the farm credit bill to come forward under something other than regular processes unless we know we have got a fairly firm commitment with regard to what is going to happen tomorrow. If we are going to be here voting tomorrow, we might as well be here voting on farm credit tomorrow.

Mr. FOLEY. If the gentleman would yield to me, I can give you firm assurance that we will not be taking up legislation tomorrow. The only thing I am reserving on is the precise times on Sunday. That is a matter I hope to be clarified this afternoon. But we would certainly be able to say definitely, before bringing up the farm credit bill this afternoon, that there would be no legislative business tomorrow.

Mr. DE LA GARZA. Mr. Speaker, will the gentleman yield to me?

Mr. MICHEL. I yield to the gentleman from Texas.

Mr. DE LA GARZA. I thank the gentleman for yielding.

Mr. Speaker, if I were to make a unanimous-consent request that we be allowed less than 2 hours, a period to be decided by the leadership on both sides, so that we might have the leeway as to what time to come up, what time the report would be ready, and knowing that then it would be up to the leadership to negotiate the less than 2 hours, so that we can move on with the legislation.

□ 1500

Mr. FOLEY. Mr. Speaker, will the gentleman yield for the purpose of a unanimous-consent request?

Mr. MICHEL. I am happy to yield to the distinguished majority leader.

AUTHORIZING THE SPEAKER TO DECLARE RECESSES ON TOMORROW

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that it shall be in order on the legislative day of tomorrow for the Speaker to declare recesses subject to the call of the Chair.

The SPEAKER pro tempore (Mr. MCCURDY). Is there objection to the request of the gentleman from Washington?

There was no objection.

REQUEST TO MAKE IN ORDER ON TODAY CONSIDERATION OF CONFERENCE REPORT ON H.R. 3030, AGRICULTURAL CREDIT ACT OF 1987

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that it shall be in order this afternoon to call up the conference report on the farm credit bill notwithstanding any rule regarding the availability of such conference report.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

Mr. WALKER. Mr. Speaker, reserving the right to object, what would be helpful on this particular request, it seems to me, is if we could have that unanimous consent at the time you are coming to the floor so we could ask questions at that point about the nature of the unanimous-consent request.

Mr. FOLEY. Mr. Speaker, I withdraw the unanimous-consent request.

Mr. Speaker, I think that is about as far as we can go today, but perhaps it does give Members some indication of the plan for the remaining 2 days.

Mr. LOTT. Mr. Speaker, will the gentleman yield so I may ask one more question?

Mr. MICHEL. I yield to the gentleman from Mississippi.

Mr. LOTT. Mr. Speaker, I think the gentleman is doing the best he can under the circumstances, but I want to ask a general question about the conferences and the conferees. I know they have been working hard and long hours, but this thing needs to be brought to a conclusion. Do we have a reason to expect that the conferees are going to reach an agreement this afternoon or tonight? Are we doing all we can to keep the pressure on the conferees to complete that work?

Mr. FOLEY. Mr. Speaker, the answer is yes to both questions. We have been meeting with the conferees and the chairmen of the conferences and urging them to proceed expeditiously, and they are doing so. We have every expectation that the conference agreements will be concluded tonight.

Mr. LOTT. Mr. Speaker, I thank the gentleman from Washington.

Mr. GINGRICH. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I yield to the gentleman from Georgia.

Mr. GINGRICH. Mr. Speaker, I just want to ask this of the distinguished majority leader: I would ask if there is a practical way to let the Members know, since in truth we do not know what we are doing, although we have hopes, so that we could plan to meet at 10 Monday, we could plan to pass this by 2 o'clock Monday, and then we could either get vetoed or not vetoed? But I would say on behalf of all the Members that to be held in suspension the Sunday before Christmas is sheer foolishness.

Mr. FOLEY. Mr. Speaker, I advise the gentleman that the continuing resolution expires at midnight tonight, and that unless there is action by the Congress, the Government stands in danger of being shut down on Monday. I think it might perhaps be difficult to justify, if legislation were ready for consideration on Sunday, that it should be deliberately postponed until Monday, at the risk of the Government being closed. I think that might be difficult to justify.

We understand the reluctance of the granting of any additional continuing resolution, any short continuing resolutions, so our intention is to try to conclude the business at the earliest possible time on this weekend, and, frankly, I think it will perhaps be more in the interest of the Members and their convenience if we can get the House adjourned on Sunday and get the business done and then have Members go home for the holidays rather than to use additional time.

Mr. MICHEL. Mr. Speaker, it is my understanding that the appropriators will be called back within an hour to resume their work, so there are things happening.

Mr. GINGRICH. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I am happy to yield to the gentleman from Georgia.

Mr. GINGRICH. Mr. Speaker, I guess all I am saying as a back bencher who is not in those rooms making those kinds of decisions, since there clearly are clerical problems and there is a multiple hour leadtime, is that I wonder if there is any procedure by which on both sides the Cloakrooms could notify the Members sometime tomorrow at a time that is clearly mechanically necessary, either yes, we will be in, or no, we will not; I think for most Members that would be of great benefit.

Mr. FOLEY. Mr. Speaker, if the gentleman will yield further, I welcome that suggestion from the gentleman from Georgia.

Both the House Republican and Democratic Cloakrooms maintain recording devices. It will be our intention and, I am sure, the intention of the leadership on the Republican side to see to it that those telephones are kept abreast of every late decision or information, so that if it appears that it would be impossible for the House to conclude its business on Sunday afternoon and some decision were made to go over until Monday, we do not intend that, but if that would be the decision, Members would be able to discover that fact by calling the Cloakrooms and they would not have to come in and find that out when they arrive.

Mr. Speaker, if the gentleman from Illinois will indulge me a few minutes more, I would urge all Members over this weekend to keep in constant contact with the Cloakroom recording machines so that they are aware of the current state of House activities.

Mr. GINGRICH. Mr. Speaker, if the gentleman will yield to me one more time, I would just say to our distinguished majority leader that in the generous spirit of Christmas we thank the gentleman for his accommodation, and we look forward to being with him briefly one more time and then adjourning until next year.

Mr. FOLEY. Mr. Speaker, I thank the gentleman. I share that hope.

Mr. GINGRICH. Mr. Speaker, I thank the gentleman from Illinois [Mr. MICHEL].

Mr. MICHEL. Mr. Speaker, I yield back the balance of my time.

COAST GUARD AUTHORIZATION ACT OF 1987

Mr. JONES of North Carolina. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 2342) to authorize appropriations for the Coast Guard for fiscal year 1988, and for other purposes, with a Senate amendment thereto, and concur in the Senate amendment with an amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment and the House amendment to the Senate amendment, as follows:

Senate amendment:

Strike out all after the enacting clause and insert:

That this Act may be cited as the "Coast Guard Authorization Act of 1987".

AUTHORIZATION OF APPROPRIATIONS

SEC. 2. Funds are authorized to be appropriated for necessary expenses of the Coast Guard for fiscal years 1988 and 1989, as follows:

(1) For the operations and maintenance of the Coast Guard, $1,949,813,000 for fiscal year 1988 and $2,085,000,000 for fiscal year 1989.

(2) For the acquisition, construction, rebuilding, and improvement of aids to navigation, shore and offshore facilities, vessels, and aircraft, including equipment related thereto, $277,893,000 for fiscal year 1988 and $289,000,000 for fiscal year 1989, to remain available until expended.

(3) For research, development, test, and evaluation, $20,119,000 for fiscal year 1988 and $20,500,000 for fiscal year 1989, to remain available until expended.

(4) For retired pay, including the payment of obligations therefor otherwise chargeable to lapsed appropriations for this purpose, and payments under the Retired Serviceman's Family Protection and Survivor Benefit Plans, and for payments for medical care of retired personnel and their dependents under the Dependents' Medical Care Act, $386,700,000 for fiscal year 1988 and $390,000,000 for fiscal year 1989, to remain available until expended.

(5) For alteration or removal of bridges over navigable waters of the United States constituting obstructions to navigation, $10,400,000 for fiscal year 1989.

AUTHORIZED LEVELS OF MILITARY STRENGTH AND MILITARY TRAINING

SEC. 3. (a) The Coast Guard is authorized an end-of-year strength for active duty personnel of thirty-nine thousand and forty-two for fiscal year 1988 and thirty-nine thousand five hundred for fiscal year 1989. The authorized strength does not include members of the Ready Reserve called to active duty under the authority of section 712 of title 14, United States Code.

(b) The Coast Guard is authorized average military training student loans as follows:

(1) For recruit and special training, 3,600 student-years for fiscal year 1988 and 4,100 student-years for fiscal year 1989.

(2) For flight training, one hundred and twenty student-years for fiscal year 1988 and one hundred and thirty student-years for fiscal year 1989.

(3) For professional training in military and civilian institutions, 400 student-years for fiscal year 1989.

(4) For officer acquisition, nine hundred student-years for fiscal year 1988 and nine hundred student-years for fiscal year 1989.

DEFENSE OF CERTAIN SUITS

SEC. 4. Section 1054 of title 10, United States Code, is amended—

(1) in subsection (a), by inserting "or the United States Coast Guard" immediately after "title 32)"; and

(2) in subsection (g), by inserting ", the Secretary of Transportation," immediately after "Defense".

INLAND NAVIGATIONAL RULES

SEC. 5. (a) Rule 3(g)(v), which appears under the heading of part A of section 2 of the Inland Navigational Rules Act of 1980 (33 U.S.C. 2003(g)(v)), is amended by sriking "minesweeping" and inserting in lieu thereof "mineclearance".

(b) Rule 27, which appears under the heading of part C of section 2 of the Inland Navigational Rules Act of 1980 (33 U.S.C. 2027), is amended—

(1) in subsection (b), by striking "minesweeping" and inserting in lieu thereof "mineclearance", and

(2) by amending subsection (f) to read as follows:

"(f) A vessel engaged in mineclearance operations shall, in addition to the light prescribed for a power-driven vessel in rule 23 or to the lights or shape prescribed for a vessel at anchor in rule 30, as appropriate, exhibit three all-round green lights or three balls. One of these lights or shapes shall be exhibited under the foremast head and one at each end of the fore yard. These lights or shapes indicate that it is dangerous for another vessel to approach within 1,000 meters of the mineclearance vessel."

DESIGNATION OF A NONNAVIGABLE WATERWAY

SEC. 6. The unnamed tributary of Newton Creek, located at block 641 in the city of Camden, New Jersey, is declared to be a nonnavigable waterway of the United States within the meaning of the General Bridge Act of 1946 (33 U.S.C. 525 et seq.).

HOUSING ASSISTANCE TO CERTAIN COAST GUARD EMPLOYEES

SEC. 7. Section 92 of title 14, United States Code, is amended by inserting immediately after paragraph (d) the following:

"(e) perform all functions of the Secretary of Defense under section 1013 of the Demonstration Cities and Metropolitan Development Act of 1966 (42 U.S.C. 3374), for purposes of assisting civilian and military employees of the Coast Guard as if they were employees of the Department of Defense with regard to any closing, in whole or in part, of an installation ordered by the Coast Guard, except that—

"(1) funds available to the Secretary for such purpose shall be limited to such sums as may, from time to time, be appropriated for operations and expenses of the Coast Guard; and

"(2) any such funds shall be maintained in a separate account in the fund established pursuant to section 1013(d) of the Demonstration Cities and Metropolitan Development Act of 1966 (42 U.S.C. 3374(d)) for activities of the Secretary under this paragraph.".

HELICOPTER BASE

SEC. 8. Not later than six months after the date of enactment of this Act, the Secretary of the department in which the Coast Guard is operating shall establish a full-time, permanent base at Charleston, South Carolina, for the operation of at least one HH65 short-range recovery helicopter, together with necessary support and operational personnel.

MOBILE LAW ENFORCEMENT BASE

SEC. 9. The Secretary of the department in which the Coast Guard is operating shall evaluate the advantages and disadvantages of acquisition by the Coast Guard of a mobile semisubmersible law enforcement base. Not later than three months after the date of enactment of this Act, the Secretary shall report the results of such evaluation to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives.

ICEBREAKER STUDY

SEC. 10. The Secretary of Transportation, in consultation with the Secretary of Defense, the Secretary of Commerce, the Director of the National Science Foundation, and the heads of affected departments or agencies of the Federal Government, shall review existing national needs for polar icebreakers with respect to all appropriate national security, scientific, economic, and environmental interests of the United States. Not later than January 1, 1988, the Secretary shall submit a report on such review to the Committee on Commerce, Science, and Transportation of the Senate and to the Committee on Merchant Marine and Fisheries of the House of Representatives. Such report shall include—

(1) an assessment of the number and capabilities of polar icebreaking vessels required in the national interest with respect to national security, scientific, economic, and environmental requirements;

(2) a comparison of the advantages and disadvantages of acquiring polar icebreaking vessels built in whole or in part in foreign shipyards as opposed to acquiring polar icebreaking vessels built in whole or in part in domestic shipyards, including any national security risks and economic costs and benefits;

(3) a comparison of the operational and economic costs and benefits that can be derived from leasing polar icebreaking vessels as opposed to the costs and benefits that can be derived from buying such icebreakers; and

(4) recommendations for such funding and legislation as may be necessary to obtain such polar icebreaking vessels as are needed to meet national needs.

CONSTRUCTION OF CERTAIN VESSELS

SEC. 11. (a) Chapter 17 of title 14, United States Code, is amended by adding at the end the following:

"§ 665. Restriction on construction of vessels in foreign shipyards

"(a) Except as provided in subsection (b), no Coast Guard vessel, and no major component of the hull or superstructure of a Coast Guard vessel, may be constructed in a foreign shipyard.

"(b) The President may authorize exceptions to the prohibition is subsection (a) when the President determines that it is in the national security interest of the United States to do so. The President shall transmit notice to Congress of any such determination, and no contract may be made pursuant to the exception authorized until the end of the 30-day period beginning on the date the notice of such determination is received by Congress.".

(b) The analysis of chapter 17 of title 14, United States Code, is amended by adding at the end the following:

"665. Restriction on construction of vessels in foreign shipyards.".

House amendment to Senate amendment: In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Coast Guard Authorization Act of 1987"

SEC. 2. AUTHORIZATIONS OF APPROPRIATIONS.

(a) Funds are authorized to be appropriated for necessary expenses of the Coast Guard for fiscal year 1988 as follows:

(1) For operation and maintenance, $1,978,000,000; and for increases in salary, pay, and other employee benefits authorized by law, such additional sums as may be necessary.

(2) For the acquisition, construction, rebuilding, and improvement of aids to navigation, shore facilities, vessels, and aircraft, including equipment related thereto, $325,500,000, to remain available until expended.

(3) For research, development, test, and evaluation, $20,119,000, to remain available until expended.

(4) For retired pay (including the payment of obligations therefor otherwise chargeable to lapsed appropriations for this purpose and payments under the Retired Serviceman's Family Protection and Survivor Benefit Plans under chapter 73 of title 10, United States Code), and for payments for medical care of retired personnel and their dependents under the Dependents' Medical Care Act, $386,700,000.

(b) If funds for carrying out the purposes described in subsection (a) are appropriated to an officer or agency of the United States other than the Secretary of the department in which the Coast Guard is operating or the Coast Guard, that officer or the head of that agency, respectively, may transfer to the Secretary of the department in which the Coast Guard is operating the full amount of those funds, and that Secretary shall allocate those funds to those purposes.

SEC. 3. AUTHORIZED LEVELS OF MILITARY STRENGTH AND MILITARY TRAINING.

(a) The Coast Guard is authorized a strength for active duty personnel as of September 30, 1988, of 39,121. The authorized strength does not include members of the Coast Guard Ready Reserve ordered to active duty under section 712 of title 14, United States Code.

(b) For fiscal year 1988, the Coast Guard is authorized average military training student loads as follows:

(1) For recruit and special training, 3,600 student-years.

(2) For flight training, 132 student-years.

(3) For professional training in military and civilian institutions, 400 student-years.

(4) For officer acquisition, 950 student-years.

SEC. 4. TRANSFER OF AMOUNTS FOR OPERATIONS AND MAINTENANCE.

(a) Whenever the Secretary of the department in which the Coast Guard is operating determines it to be in the national interest, the Secretary may transfer not more than 5 percent of the amounts appropriated for fiscal year 1988 for the purposes described in section 2(a)(2) to the Commandant of the Coast Guard for discretionary use in meeting unanticipated needs for Coast Guard operation and maintenance.

(b) A transfer of amounts under subsection (a) may not be made until 15 days after the Secretary provides to the Committee on Commerce, Science, and Transportation and the Committee on Appropriations of the Senate and to the Committee on Merchant Marine and Fisheries and the Committee on Appropriations of the House of Representatives written notice—

(1) describing the proposed transfers;

(2) stating the reasons for the determination under subsection (a); and

(3) describing the purposes for which the amounts to be transferred will be used.

SEC. 5. LIMITATION ON CONTRACTING PERFORMED BY COAST GUARD.

(a)(1) It is in the national interest for the Coast Guard to maintain a logistics capability (including personnel, equipment, and facilities) to provide a ready and controlled source of technical competence and resources necessary to ensure the effective and timely performance of Coast Guard missions in behalf of the security, safety, and economic and environmental well-being of the United States.

(2)(A) Not later than January 31 of each year, the Secretary of the department in which the Coast Guard is operating shall submit to the Committee on Commerce, Science, and Transportation of the Senate and to the Committee on Merchant Marine and Fisheries of the House of Representatives a list of Coast Guard activities that are necessary for maintaining the logistics capability described in paragraph (1). If the Secretary does not submit such list by that date, no activity performed by Coast Guard personnel may be contracted for performance by nongovernment personnel after that date until the list is submitted to such committees.

(B) The list submitted by the Secretary under this section shall not include—

(i) any activity that is being performed under contract by nongovernment personnel on the date of enactment of this Act; or

(ii) any activity for which the Congress received, prior to April 1, 1987, a written notification of intent to contract pursuant to section 14(b)(2) of Public Law 98-557 (98 Stat. 2864).

(b)(1) Except as provided in paragraph (2), performance by nongovernment personnel of an activity included in a list under subsection (a)(2)(A) may not be contracted for after the date on which the list is submitted by the Secretary in accordance with subsection (a)(2).

(2) The Secretary may waive paragraph (1) with respect to any activity if the Secretary determines that the performance of that activity by Government personnel is no longer necessary to ensure the effective and timely performance of Coast Guard missions.

(3) A waiver under paragraph (2) shall not take effect until after a period of 30 days in which either the Senate or House of Representatives is in session after the Secretary submits to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives a complete written statement concerning the waiver and the reasons therefor.

(c) At least 30 days before the beginning of each fiscal year, the Secretary shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives a list of activities that will be contracted for performance by nongovernment personnel under the procedures of Office of Management and Budget Circular A-76 during that fiscal year.

(d)(1) Notwithstanding any other provision of law, each contract awarded by the Coast Guard in fiscal year 1988 for construction or services to be performed in whole or in part in a State which has an unemployment rate in excess of the national average rate of unemployment (as determined by the Secretary of Labor) shall include a provision requiring the contractor to employ, for the purpose of performing that portion of the contract in that State, individuals who are local residents and who, in the case of any craft or trade, possess or would be able to acquire promptly the necessary skills. The Secretary of the department in which the Coast Guard is operating may waive this subsection in the interest of national security or economic efficiency.

(2) As used in this subsection, the term "local resident" means an individual residing in or within daily commuting distance of a State described in paragraph (1).

SEC. 6. BOAT SAFETY PROGRAM.

(a) Section 9503(c)(4) of the Internal Revenue Code of 1986 is amended—

(1) in subparagraph (A)(ii)(I), by striking "any fiscal year shall not exceed $60,000,000 for Fiscal Year 1987 only and $45,000,000 for each fiscal year thereafter" and inserting in lieu thereof "fiscal year 1988 shall not exceed $60,000,000";

(2) in subparagraph (A)(ii)(II), by striking, "Fiscal Year 1987 only and $45,000,000 for each fiscal year thereafter" and inserting "for fiscal year 1988"; and

(3) in subparagraph (E), by striking "1987" each place it appears and inserting in lieu thereof "1988".

(b) Section 13106 of title 46, United States Code, is amended—

(1) in subsection (a), by striking "Fiscal Year 1987 and two-thirds for each Fiscal Year thereafter" and inserting in lieu thereof "fiscal year 1988 only"; and

(2) in subsection (c), by striking "Fiscal year 1987 and one-third for each Fiscal Year thereafter" and inserting in lieu thereof "fiscal year 1988 only".

(c) Section 13103 of title 46, United States Code, is amended by adding at the end the following new subsection:

"(d) Before making any allocation under this section for a fiscal year, the Secretary shall retain not less than 1 percent nor more than 2 percent of the amount appropriated for that year for State recreational boating safety programs for the payment of costs of administration of this chapter.".

SEC. 7. MANNING REQUIREMENTS FOR MOBILE OFFSHORE DRILLING UNITS.

Section 8301(a)(2) of title 46, United States Code, is amended to read as follows:

"(2) A vessel of at least 1,000 gross tons and propelled by machinery shall have 3 licensed mates, except—

"(A) in the case of a vessel other than a mobile offshore drilling unit, if on a voyage of less than 400 miles from port of departure to port of final destination, the vessel shall have 2 licensed mates; and

"(B) in the case of a mobile offshore drilling unit, the vessel shall have licensed individuals as provided by regulations prescribed by the Secretary under section 8101 of this title.".

SEC. 8. TRANSFER OF COAST GUARD PROPERTY AT LAKE WORTH INLET, FLORIDA.

(a) The Secretary of the department in which the Coast Guard is operating may sell, in whole or in part, parcels of land, and any buildings and improvements thereon, located in and about Lake Worth Inlet in Palm Beach County, Florida, which have been held for the use of the Coast Guard. The exact acreage and legal description of the land to be sold shall be as described in such surveys as may be satisfactory to the Secretary.

(b) Each sale of property under this section shall be conducted in accordance with competitive bidding procedures described in section 2304 of title 10, United States Code. Property may not be sold under this section for less than its fair market value.

(c) In consideration for a sale of property under this section, the Secretary may accept cash or real property, or both, which the Secretary determines to be suitable for the use of the Coast Guard. Within 36 months after such a sale, the Secretary may use any proceeds of the sale for purchasing land along the shore of Lake Worth Inlet, and any buildings and improvements thereon, which the Secretary determines to be suitable for the use of the Coast Guard. After such period, any unused proceeds shall be deposited in the general fund of the Treasury.

(d) In any sale or purchase of property under this section, the Secretary may require such additional terms and conditions as the Secretary considers appropriate to protect the interests of the United States.

SEC. 9. COAST GUARD ACADEMY ADVISORY COMMITTEE TERMINATION DATE.

Section 193 of title 14, United States Code, is amended by adding at the end the following new sentence: "The committee terminates on September 30, 1992.".

SEC. 10. AUTHORITY FOR CIVILIAN AGENTS TO CARRY FIREARMS.

(a) Chapter 5 of title 14, United States Code, is amended by adding at the end the following new section:

"§ 95. Civilian agents authorized to carry firearms.

"Under regulations prescribed by the Secretary with the approval of the Attorney General, civilian special agents of the Coast Guard may carry firearms or other appropriate weapons while assigned to official investigative or law enforcement duties.".

(b) The table of sections for such chapter is amended by adding at the end the following new item:

"95. Civilian agents authorized to carry firearms.".

SEC. 11. RELOCATION ASSISTANCE FOR COAST GUARD PERSONNEL.

Section 1013 of the Demonstration Cities Metropolitan Development Act of 1966 (42 U.S.C. 3374) is amended by adding at the end the following new subsection:

"(n)(1) The Secretary of Defense shall provide assistance under this section with respect to Coast Guard bases and installations ordered to be closed, in whole or in part, after January 1, 1987.

"(2) Assistance under this subsection shall be provided under terms equivalent to those under which assistance is provided under this section for closings of military bases and installations which are under the jurisdiction of the Secretary of Defense.

"(3) The Secretary of the department in which the Coast Guard is operating, if other than the Department of Defense, shall reimburse the Secretary of Defense for expenditures under this section made by the Secretary kf Defense with respect to closings of Coast Guard bases and installations ordered when the Coast Guard is not operating as a service in the Navy. The Secretary of Defense and the Secretary kf the department in which the Coast Guard is operating shall ejter into an agreement under which the Secretary of the department in which the Coast Guard is operating shall carry out such reimbursement.".

SEC. 12. COAST GUARD ACADEMY CADET SERVICE OBLIGATION.

Section 182 of title 14, United States Code, is amended—

(1) by striking the next to the last sentence of subsection (a); and

(2) by striking subsection (b) and inserting in lieu thereof the following new subsections:

"(b) Each cadet shall sign an agreement with respect to the cadet's length of service in the Coast Guard. The agreement shall provide that the cadet agrees to the following:

"(1) That the cadet will complete the course of instruction at the Coast Guard Academy.

"(2) That upon graduation from the Coast Guard Academy the cadet—

"(A) will accept an appointment, if tendered, as a commissioned officer of the Coast Guard; and

"(B) will serve on active duty for at least five years immediately after such appointment.

"(3) That if an appointment described in paragraph (2) is not tendered or if the cadet is permitted to resign as a regular officer before the completion of the commissioned service obligation of the cadet, the cadet—

"(A) will accept an appointment as a commissioned officer in the Coast Guard Reserve; and

"(B) will remain in that reserve component until completion of the commissioned service obligation of the cadet.

"(c)(1) The Secretary may transfer to the Coast Guard Reserve, and may order to active duty for such period of time as the Secretary prescribes (but not to exceed four years), a cadet who breaches an agreement under subsection (b). The period of time for which a cadet is ordered to active duty under this paragraph may be determined without regard to section 651(a) of title 10.

"(2) A cadet who is transfered to the Coast Guard Reserve under paragraph (1) shall be transferred in an appropriate enlisted grade or rating, as determined by the Secretary.

"(3) For the purposes of paragraph (1), a cadet shall be considered to have breached an agreement under subsection (b) if the cadet is separated from the Coast Guard Academy under circumstances which the Secretary determines constitute a breach by the cadet of the cadet's agreement to complete the course of instruction at the Coast Guard Academy and accept an appointment as a commissioned officer upon graduation from the Coast Guard Academy.

"(d) The Secretary shall prescribe regulations to carry out this section. Those regulations shall include—

"(1) standards for determining what constitutes, for the purpose of subsection (c), a breach of an agreement under subsection (b);

"(2) procedures for determining whether such a breach has occurred; and

"(3) standards for determining the period of time for which a person may be ordered to serve on active duty under subsection (c).

"(e) In this section, 'commissioned service obligation', with respect to an officer who is a graduate of the Academy, means the period beginning on the date of the officer's appointment as a commissioned officer and ending on the sixth anniversary of such appointment or, at the discretion of the Secretary, any later date up to the eighth anniversary of such appointment.

"(f)(1) This section does not apply to a cadet who is not a citizen or national of the United States.

"(2) In the case of a cadet who is a minor and who has parents or a guardian, the cadet may sign the agreement required by subsection (b) only with the consent of the parent or guardian.".

SEC. 13. RETROACTIVE PAY FOLLOWING ADMINISTRATIVE ERROR.

(a) Chapter 13 of title 14, United States Code, is amended by adding at the end the following new section:

"§ 513. RETROACTIVE PAYMENT OF PAY AND ALLOWANCES DELAYED BY ADMINISTRATIVE ERROR OR OVERSIGHT

"Under regulations prescribed by the Secretary, the Coast Guard may authorize retroactive payment of pay and allowances, including selective reenlistment bonuses, to enlisted members if entitlement to the pay and allowances was delayed in vesting solely because of an administrative error or oversight.".

(b) The table of sections for such chapter is amended by adding at the end the following new item:

"513. Retroactive payment of pay and allowances delayed by administrative error or oversight.

SEC. 14. TECHNICAL AMENDMENTS TO INLAND NAVIGATIONAL RULES.

Section 2 of the Inland Navigational Rules Act of 1980 (33 U.S.C. chapter 2001 et seq.) is amended—

"(1) by striking "minesweeping" in Rule 3(g)(v) (33 U.S.C. 2003(g)(v) and inserting in lieu thereof "mineclearance";

(2) by striking "minesweeping" in Rule 27(b) (33 U.S.C. 2027(b)) and inserting in lieu thereof "mineclearance"; and

(3) by striking paragraph (f) of Rule 27 (33 U.S.C. 2027(f)) and inserting in lieu thereof the following:

"(f) A vessel engaged in mineclearance operations shall, in addition to the lights prescribed for a powerdriven vessel in rule 23 or to the lights or shape prescribed for a vessel at anchor in Rule 30, as appropriate, exhibit three all-round green lights or three balls. One of these lights or shapes shall be exhibited near the foremast head and one at each end of the fore yard. These lights or shapes indicate that it is dangerous for another vessel to approach within 1,000 meters of the mineclearance vessel.".

SEC 15. DEFENSE OF CERTAIN SUITS ARISING OUT OF LEGAL MALPRACTICE.

(a) Section 1054 of title 10, United States Code, is amended—

(1) in subsection (a), by inserting "or within the Coast Guard" after "title 32)"; and

(2) in subsection (g), by striking "or the Secretary of a military department" and inserting in lieu thereof ", the Secretary of a military department, or the Secretary of the Department in which the Coast Guard is operating, as appropriate".

(b) The amendments made by subsection (a) shall apply only to claims accruing on or after the date of the enactment of this Act, regardless of when the alleged negligent act or omission occurred.

SEC. 16. EXEMPTION FROM GENERAL BRIDGE ACT OF 1946.

(a) The waters described in subsection (b) are declared to be nonnavigable waters of the United States for purposes of the General Bridge Act of 1946 (33 U.S.C. 535 et seq.).

(b) The waters referred to in subsection (a) are a drainage canal which—

(1) is an unnamed tributary of the creek known as Newton Creek, loated at block 641 (formerly designated as block 860) in the city of Camden, New Jersey;

(2) originates at the north bank of Newton Creek approximately 1,200 feet east of the confluence of Newton Creek and the Delaware River; and

(3) terminates at drainage culverts on the west side of Interstate Highway 676.

SEC. 17. CLARIFYING AMENDMENT TO TITLE 14.

Section 2 of title 14, United States Code, is amended by striking "on and under" the first place it appears and inserting in lieu thereof "on, under, and over".

SEC. 18. BRIDGE DEEMED UNREASONABLE OBSTRUCTION TO NAVIGATION.

Notwithstanding any other provision of law, the Mississippi River Railroad Bridge between East Hannibal, Illinois and Hannibal, Missouri, mile 309.9, Upper Mississippi River, is deemed to be an unreasonable obstruction to navigation.

SEC. 19. REPORT ON POSSIBLE PROCUREMENT FOR ANTISUBMARINE WARFARE MISSION.

Not later than February 15, 1988, the Secretary of the department in which the Coast Guard is operating shall submit to the Congress a report on the plans to fulfill the responsibilities of the Coast Guard in the Maritime Defense Zone through possible procurement of AN/SQR-17 acoustic processors and other equipment for the antisubmarine warfare mission of Coast Guard medium-endurance cutters.

SEC. 20. CLARIFICATION OF MEMBERSHIP OF NATIONAL BOATING SAFETY ADVISORY COUNCIL.

(a) Paragraph (1) of section 13110(b) of title 46, United States Code, is amended by striking "members from" each place it appears and inserting in lieu thereof "representatives of".

(b) The Secretary of the department in which the Coast Guard is operating shall carry out the amendments made by subsection (a) as vacancies in the membership of the National Boating Safety Advisory Council occur.

SEC. 21. DRAWBRIDGE OPENINGS.

Section 5(a) of the Act entitled "An Act Making appropriations for the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes", approved August 18, 1894 (33 U.S.C. 449), is amended by adding at the end the following: "Any rules and regulations made in pursuance of this section shall, to the extent practical and feasible, provide for regularly scheduled openings of drawbridges during seasons of the year, and during times of the day, when scheduled openings would help reduce motor vehicle traffic delays and congestion on roads and highways linked by drawbridges.".

SEC. 22. MOBILE LAW ENFORCEMENT BASE.

The Secretary of the department in which the Coast Guard is operating shall evaluate the advantages and disadvantages of acquisition by the Coast Guard of a mobile semi-submersible law enforcement base. Not later than 3 months after the date of the enactment of this Act, the Secretary shall submit a report on the results of such evaluation to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives.

SEC. 23. ICEBREAKER STUDY.

The President shall review existing national needs for polar icebreakers with respect to all appropriate national security, scientific, economic, and environmental interests of the United States. Not later than March 1, 1988, the President shall submit a report on such review to the Committee on Commerce, Science, and Transportation of the Senate and to the Committee on Merchant Marine and Fisheries of the House of Representatives. Such report may be in the form of an update of the Polar Icebreaker Requirements Study of 1984 and shall include—

(1) an assessment of the number and capabilities of polar icebreaking vessels required in the national interest with respect to national security, scientific, economic, and environmental requirements;

(2) a comparison of the operational and economic costs and benefits that can be derived from leasing polar icebreaking vessels as opposed to the costs and benefits that can be derived from buying such icebreakers; and

(3) recommendations for such funding and legislation as may be necessary to obtain such polar icebreaking vessels as are needed to meet national requirements.

SEC. 24. TWO-YEAR BUDGET CYCLE FOR COAST GUARD.

(a) It is the opinion of the Congress that the programs and activities of the Coast Guard could be more effectively and efficiently planned and managed if funds for the Coast Guard were provided on a 2-year cycle rather than annually.

(b) The President shall include in the budget for fiscal year 1990 submitted to the Congress pursuant to section 1105 of title 31, United States Code, a single proposed budget for the Coast Guard for fiscal years 1990 and 1991. Thereafter, the President shall submit a proposed 2-year budget for the Coast Guard every other year.

(c) Not later than April 1, 1988, the Secretary of the department in which the Coast Guard is operating shall submit to the Committee on Commerce, Science, and Transportation and the Committee on Appropriations of the Senate and to the Committee on Merchant Marine and Fisheries and the Committee on Appropriations of the House of Representatives a report containing the Secretary's views on the following:

(1) The advantages and disadvantages of operating the Coast Guard on a 2-year budget cycle.

(2) The Secretary's plans for converting to a 2-year budget cycle.

(3) A description of any impediments (statutory or otherwise) to converting the operations of the Coast Guard to a 2-year budget cycle beginning with fiscal year 1990.

SEC. 25. COAST GUARD BUDGET ESTIMATES.

(a) Section 663 of title 14, United States Code, is amended by adding at the end the following new sentence: "Not later than 30 days after the date on which the President submits to the Congress a budget under section 1105 of title 31 which includes a proposed 2-year budget for the Coast Guard, the Secretary shall submit to the Committee on Commerce, Science, and Transportation and the Committee on Appropriations of the Senate, and to the Committee on Merchant Marine and Fisheries and the Committee on Appropriations of the House of Representatives, detailed Coast Guard budget estimates for the fiscal years covered by such proposed 2-year budget.".

(b) Not later than 30 days after the date on which the President submits to the Congress a budget for fiscal year 1989 under section 1105 of title 31, United States Code, the Secretary of the department in which the Coast Guard is operating shall submit to the Committee on Commerce, Science, and Transportation and the Committee on Appropriations of the Senate, and to the Committee on Merchant Marine and Fisheries and the Committee on Appropriations of the House of Representatives, detailed Coast Guard budget estimates for fiscal year 1989.

SEC. 26. CONSTRUCTION OF CERTAIN VESSELS.

(a) Chapter 17 of title 14, United States Code, is amended by adding at the end the following new section:

"§ 665. Restriction on construction of vessels in foreign shipyards

"(a) Except as provided in subsection (b), no Coast Guard vessel, and no major component of the hull or superstructure of a Coast Guard vessel, may be constructed in a foreign shipyard.

"(b) The President may authorize exceptions to the prohibition in subsection (a) when the President determines that it is in the national security interest of the United States to do so. The President shall transmit notice to Congress of any such determination, and no contract may be made pursuant to the exception authorized until the end of the 30-day period beginning on the date the notice of such determination is received by Congress.".

(b) The analysis of such chapter is amended by adding at the end the following new item:

"665. Restriction on construction of vessels in foreign shipyards.".

SEC. 27. MANNING REQUIREMENTS.

(a)(1) Section 8103(a) of title 46, United States Code, is amended by inserting "radio officer," after "chief engineer,".

(2) Section 8103(b) of title 46, United States Code, is amended to read as follows:

"(b)(1) Except as provided in paragraph (2) of this subsection, on a documented vessel—

"(A) each unlicensed seaman must be a citizen of the United States or an alien lawfully admitted to the United States for permanent residence; and

"(B) not more than 25 percent of the total number of unlicensed seamen on the vessel may be aliens lawfully admitted to the United States for permanent residence.

"(2) Paragraph (1) of this subsection does not apply to—

"(A) a yacht;

"(B) a fishing vessel fishing exclusively for highly migratory species (as that term is defined in section 3 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1802)); and

"(C) a fishing vessel fishing outside of the exclusive economic zone.

"(3) The Secretary may waive a citizenship requirement under this subsection, other than a requirement that applies to the master of a documented vessel, with respect to—

"(A) an offshore supply vessel or other similarly engaged vessel of less than 1,600 gross tons that operates from a foreign port;

"(B) a mobile offshore drilling unit or other vessel engaged in support of exploration, exploitation, or production of offshore mineral energy resources operating beyond the water above the outer Continental Shelf (as that term is defined in section 2(a) of the Outer Continental Shelf Lands Act (43 U.S.C. 1331(A)); and

"(C) any other vessel if the Secretary determines, after an investigation, that qualified seamen who are citizens of the United States are not available.".

(b) Subsections (c) and (d)(1) of section 8103 of title 46, United States Code, are each amended by striking "from the United States".

(c) Section 8103(e) of title 46, United States Code, is amended—

(1) by inserting "and the radio officer" after "the master"; and

(2) by striking "until the vessel's first return to a United States port at which" and inserting in lieu thereof "until the vessel's return to a port at which in the most expeditious manner".

(d) Section 8103 of title 46, United States Code, is amended by adding at the end the following:

"(i)(1) Except as provided in paragraph (3), each unlicensed seaman on a fishing, fish processing, or fish tender vessel that is engaged in the fisheries in the navigable waters or the exclusive economic zone of the United States must be—

"(A) a citizen of the United States;

"(B) an alien lawfully admitted to the United States for permanent residence; or

"(C) any other alien allowed to be employed under the Immigration and Naturalization Act (8 U.S.C. 1101 et seq.).

"(2) Not more than 25 percent of the unlicensed seamen on a vessel subject to paragraph (1) of this subsection may be aliens referred to in subparagraph (C) of that paragraph.

"(3) This subsection does not apply to a fishing vessel fishing e xclusively for highly migratory species (as that term is defined in section 3 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1802)).".

(e) Section 8702(b) of title 46, United States Code, is amended by striking "depart from a port of the United States" and inserting in lieu thereof "operate".

(f)(1) Chapter 87 of title 46, United States Code, is amended by adding at the end the following new section:

"§ 8704. Alien deemed to be employed in the United States

"An alien is deemed to be employed in the United States for purposes of section 274A of the Immigration and Nationality Act (8 U.S.C. 1324a) if the alien is an unlicensed individual employed on a fishing, fish processing, or fish tender vessel which—

"(1) is a vessel of the United States engaged in the fisheries in the navigable waters or the exclusive economic zone of the United States; and

"(2) is not engaged in fishing exclusively for highly migratory species (as that term is defined in section 3 of the Magnuson Fishery Conservation and Management Act (16 U.SC. 1802)).".

(2) The table of sections at the beginning of that chapter is amended by adding at the end the following new item:

"8704. Alien deemed to be employed in the United States.".

(3) With respect to an alien who is deemed to be employed in the United States under section 8704 of title 46, United States Code (as amended by this subsection), the term "date of the enactment of this section" as used in section 274A(i) of the Immigration and Nationality Act means the date of the enactment of this section.

SEC. 28. RESCUE HELICOPTER PRESENCE AT CHARLESTON, SOUTH CAROLINA.

As soon as may be practicable after the date of enactment of this Act, the Secretary of the Department in which the Coast Guard is operating shall maintain a rescue helicopter presence at Charleston, South Carolina, at such times as may be required to meet peak search and rescue demands in the Charleston area. The Secretary shall ensure that maintaining such presence shall in no way result in a permanent relocation of helicopters from any Coast Guard Air Station.

Mr. JONES of North Carolina (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendment and the House amendment to the Senate amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore (Mr. MCCURDY). Is there objection to the request of the gentleman from North Carolina?

Mr. WALKER. Mr. Speaker, reserving the right to object, I would just like to ask a couple of questions about the bill before we move forward with it.

Where are we with regard to House authorization figures in this bill the gentleman is bringing back to us?

Mr. JONES of North Carolina. Mr. Speaker, if the gentleman will yield, I would say to the gentleman that in the broad spectrum this so-called two-bill conference result is $75 million less than the House version.

Mr. WALKER. Less than the House version. Where are we with regard to the Senate version?

Mr. JONES of North Carolina. Approximately $70 million more.

Mr. WALKER. About $70 million more than the Senate version. Where are we with respect to the President's original request?

Mr. JONES of North Carolina. It is $70 million more than the President's original request.

Mr. WALKER. So we are $70 million above the President's request, we are $70 million above the Senate's request, and we are $75 million below the House-passed version?

Mr. JONES of North Carolina. The gentleman is correct.

Mr. WALKER. Are we within the budget figures of the House-passed budget as well as under the figures that would be in the agreement between the President and the Congress with regard to spending?

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Mr. JONES of North Carolina. On that question, I would like the gentleman to yield to the chairman of the Coast Guard Subcommittee.

Mr. WALKER. Mr. Speaker, I yield to the gentleman from Florida [Mr. HUTTO].

Mr. HUTTO. Mr. Speaker, I appreciate the gentleman yielding.

As the gentleman from Pennsylvania knows, when we had the Coast Guard authorization on the floor, the point was made that it was well below the needs of the Coast Guard, and with regard to the budget constraints it was well below that. As far as the appropriation is concerned, even the figure we are talking about now has been reduced, as I understand, by the conference by 4 percent. They took the Senate figure and then reduced it by 4 percent. So this is a very, very lean budget. Probably the Coast Guard is going to have to make some very significant cuts, even with what we are authorizing and appropriating.

Mr. WALKER. Do I understand that the Department of Transportation does in fact favor the bill in its present form, including the funding figures?

Mr. HUTTO. I believe that is correct. Perhaps the chairman of the full committee could answer that.

Mr. WALKER. That is correct. Has OMB signed off on the bill in its present form?

Mr. JONES of North Carolina. Mr. Speaker, if the gentleman will yield, I cannot answer that.

Mr. WALKER. The gentleman is not certain of that?

Mr. JONES of North Carolina. No.

Mr. YOUNG of Alaska. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I am glad to yield to the gentleman from Alaska.

Mr. YOUNG of Alaska. To my knowledge, they have not objected.

Mr. WALKER. In other words, the gentleman knows of no Office of Management and Budget objection to the bill that we bring back?

Mr. YOUNG of Alaska. They have not notified the majority or the minority, to my knowledge.

Mr. WALKER. Mr. Speaker, I thank the gentleman, and I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from North Carolina?

Mr. YOUNG of Alaska. Mr. Speaker, I reserve the right to object, merely to allow the gentleman from North Carolina, Mr. JONES, to explain the legislation under consideration.

I yield to the gentleman from North Carolina.

Mr. JONES of North Carolina. Mr. Speaker, the bill before us today, H.R. 2342, authorizes appropriations and manning levels for the Coast Guard in fiscal year 1988. While this measure originally passed the House on July 8, and was subsequently amended by the Senate on October 13, the bill before us today represents a compromise between the House and Senate.

I would like to briefly outline some major differences between this version of H.R. 2342 and the July 8 version. First, the bill we are considering today authorizes appropriations of $1.978 billion for operating expenses and $325.5 million for acquisition, construction, and improvements. These authorization levels are lower than those which the House originally authorized because we split the difference between the House and Senate bills. These levels represent modest increases over the administration's budget request and I believe that it provides a bare minimum level of funding for the Coast Guard. We have also split the difference on the active duty manning levels which the two bills authorized.

A new provision contained in this bill is a requirement for the Coast Guard to report on the advantages and disadvantages of a mobile law enforcement base. As most members know, the majority of the drugs smuggled into this country originate from South America. To stop this flow, the Coast Guard spends considerable time and money interdicting drugs on the waters of the Caribbean and off the Pacific coast of South America. Since these waters are a long way from our shores, the logistics of these interdiction efforts are great. Therefore, the mobile law enforcement base may greatly improve logistic support for Coast Guard vessels on patrol in these waters.

H.R. 2342 also directs the President to report to Congress by March of 1988 on the Nation's icebreaker needs. The Coast Guard operates the Nation's fleet of four icebreakers. Two of these vessels are over 40 years old and require constant, costly repairs. The Coast Guard has been unsuccessfully trying to obtain funding to replace these two icebreakers for several years. This language requires the President to determine how many icebreakers this country needs and to recommend how they should be procured.

The final new provision in H.R. 2342 directs the Secretary of Transportation to report to Congress by April 1, 1988, on the feasibility of putting the Coast Guard on a 2-year budget. Specifically, this provision directs the Secretary to report on: First, the advantages and disadvantages of a 2-year budget cycle; second, plans to convert to a 2-year budget cycle; and third, the impediments to converting to a 2-year budget cycle. This language is modeled after language used prior to the Department of Defense's shift to a 2-year budget cycle.

Several provisions have been dropped from this version of H.R. 2342. Most notable of these is the Persian Gulf tanker amendment which was the subject of a great deal of floor debate. This amendment has been overtaken by time and events. The bill also does not contain language which establishes an offshore advisory committee. This section was dropped because we no longer have offshore industries advocating its inclusion. Several other minor provisions have been dropped as a result of our discussions with the Senate.

In conclusion, this bill enjoys strong bipartisan support within the committee on Merchant Marine and Fisheries. It will authorize funds for an important agency which we in Congress have called upon time and time again and I urge all Members to support its adoption.

Mr. YOUNG of Alaska. Mr. Speaker, I yield to the ranking member, the gentleman from Florida [Mr. HUTTO].

Mr. HUTTO. Mr. Speaker, I appreciate the gentleman's yielding.

Mr. Speaker, I rise in support of the House amendment to the Senate amendment to H.R. 2342, the fiscal year 1988 Coast Guard authorization bill.

Our distinguished full committee chairman has explained the basic differences between this version of H.R. 2342 and the bill as passed by the House in July. Although it authorizes appropriations at a lower level than we originally had approved, I believe it is the best we can achieve this year, and I urge all Members to support the amendment.

Mr. YOUNG of Alaska. Further reserving the right to object, Mr. Speaker, I strongly endorse this legislation, and I would like to add my recognition of the Coast Guard, the Coast Guard which has been charged by this Congress with numerous tasks and we have not adequately funded them over the years.

It is really the only active service, and I say that without any reservation, that we have today that does fulfill the needs of the society that we live in, drug interdiction, navigation, search and rescue, refugee interdiction, oilspill liability, vessel inspection, safety of boats, and I could go on and on.

I know in my State this unit is a unit that provides so much service to the people.

This legislation we are talking about today is less than what the House passed. It is not, I think, adequately funded at the present time, but I would respectfully say we believe this is a bare bones proposition that will still enable the Coast Guard to fulfill their charges as this Congress has placed upon their shoulders.

Mr. FRENZEL. Mr. Speaker, will the gentleman yield?

Mr. YOUNG of Alaska. I yield to the gentleman from Minnesota.

Mr. FRENZEL. Mr. Speaker, I thank the distinguished gentleman for yielding.

There is in the bill, I am told, a relocation of trust fund moneys. Was that in the bill as it left the House, or was that modified in the Senate amendment, or in the gentleman's amendment to the Senate amendment?

Mr. YOUNG of Alaska. It is the House version, to my knowledge through staff, it is the House version. It is not an increase in funding.

Mr. FRENZEL. The question is not increased or decreased funding. The question is, Is it the same language that was in the House bill when it was passed?

Mr. YOUNG of Alaska. Yes.

Mr. JONES of North Carolina. The basic language?

Mr. FRENZEL. The language on the relocation of trust fund moneys for increased boating safety.

Mr. JONES of North Carolina. It is the same.

Mr. FRENZEL. May I inquire further of the Florida property transfer, was that in the House bill?

Mr. YOUNG of Alaska. Yes.

Mr. FRENZEL. Mr. Speaker, I thank the gentleman for yielding.

Mr. DAVIS of Michigan. Mr. Speaker, we have before us today the Coast Guard Authorization Act of 1987, which is substantially the same as the legislation we passed on July 7. The Subcommittee on Coast Guard and Navigation and the Merchant Marine and Fisheries Committee as a whole have always been recognized for their support of the Coast Guard, but I feel that this support has been realistic in its approach to the Coast Guard budget. And, this House of Congress agreed with our assessment when it first passed this bill in July.

The events that have transpired in the last few days on the appropriations for the Coast Guard can only be described as disgraceful. The severe cuts proposed for the Coast Guard's operating expenses this year, after experiencing similar such cuts for the past 5 years, delivers a staggering blow to the agency. It is an insult to a service that has repeatedly shown its resourcefulness and determination to do the finest job possible despite severe budget constraints. Once again, I understand that after a roller coaster ride, the budget is back on track and the Coast Guard will survive the current cycle.

Our committee must make a statement and authorize the funds we feel are necessary for this agency to continue to serve our country as it is intended and I ask you to support our statement by voting for H.R. 2342.

Mr. YOUNG of Alaska. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from North Carolina?

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. JONES of North Carolina. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the legislation just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

ORGANOTIN ANTIFOULING PAINT CONTROL ACT OF 1987

Mr. STUDDS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 2210) to prohibit the use of certain antifouling paints containing organotin and the use of organotin compounds, purchased at retail, used to make such paints, with a Senate amendment thereto, and concur in the Senate amendment with an amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment and the House amendment to the Senate amendment, as follows:

Senate amendment:

Strike out all after the enacting clause and insert:

SHORT TITLE

SECTION 1. This Act may be cited as the "Organotin Antifouling Paint Control Act of 1987".

DEFINITIONS

SEC. 2. As used in this Act, the term—

(1) "Administrator" means the Administrator of the Environmental Protection Agency;

(2) "antifoulant paint" means a coating, paint, or treatment that is applied to or used on a vessel to control fresh water or marine fouling organisms;

(3) "estuary" means a body of water having an unimpaired connection with open sea, where the sea water is measurably diluted with fresh water derived from land drainage, and such term includes estuary-type areas such as the Chesapeake Bay, the Great Lakes, and other bays, shallows, and marshes;

(4) "organotin" means any compound of tin used as a biocide in an antifoulant paint;

(5) "person" means any individual, any partnership, association, corporation, or organized group of persons whether incorporated or not, or any government entity, including military;

(6) "qualified antifoulant paint" means an antifoulant paint containing organotin that—

(A) is allowed to be used under the terms of the final decision referred to in section 12(b); or

(B) until such final decision takes effect, is certified by the Administrator under section 5 as having a release rate of not more than 3.0 micrograms per square centimeter per day;

(7) "release rate" means the rate at which organotin is released from an antifoulant paint over the long term, as determined by the Administrator, using—

(A) the American Society for Testing Materials (ASTM) standard test method which the Environmental Protection Agency required in its July 29, 1986, data call-in notice on tributylin compounds used in antifoulant paints; or

(B) any similar test method specified by the Administrator;

(8) "retail" means the transfer of title to tangible personal property other than for resale, after manufacturing or processing;

(9) "State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, or any territory or possession of the United States; and

(10) "vessel" shall have the same meaning given to such term in section 3 of title 1, United States Code.

FINDINGS AND PURPOSE

SEC. 3. (a) The Congress finds the following:

(1) more than 70 percent of the worldwide commercial shipping fleets and recreational boats are painted with an antifoulant paint known generically as organotin;

(2) antifoulant paints containing organotin biocides are used to prevent the buildup of barnacles and other encrusting organisms on vessels;

(3) the elimination of fouling growths on vessels is highly beneficial for operating capability and leads to lower operating and maintenance costs and substantial fuel consumption reductions;

(4) laboratory and field studies show that organotin is very toxic to marine and freshwater organisms at very low levels;

(5) vessels that are less than 25 met ers in length and are coated with organotin antifoulant paint account for a large amount of the organotin released into the aquatic environment; and

(6) the Environmental Protection Agency has determined that concentrations of organotin currently in the waters of the United States may pose unreasonable risks to oysters, clams, fish, and other marine life.

(b) The purpose of this Act is to protect the aquatic environment by reducing immediatehy the quantities of organotin entering the waters of the Ujited States.

PRKHIBITION

SEC. 4. (a)(1) Except as provided in paragraph (2), no person in any State may apply to a vessel that is 25 meters or less in length an antifoulant paint containing organotin.

(2) Paragraph (1) shall not prohibit the application of a qualified antifoulant paint on—

(A) the aluminum hull of a vessel that is 25 meters or less in length; or

(B) the outboard motor or lower drive unit of a vessel that is 25 meters or less in length.

(b) No person in any State may apply to a vessel greater than 25 meters in length an antifoulant paint containing organotin other than a qualified antifoulant paint.

(c) No person in any State may knowingly sell or deliver to, or purchase or receive from, another person an antifoulant paint containing organotin, unless the antifoulant paint is a qualified antifoulant paint.

(d) No person in any State may knowingly sell or deliver to, or purchase or receive from, another person at retail any substance containing organotin for the purpose of adding such substance to paint to create an antifoulant paint.

CERTIFICATION

SEC. 5. (a) Not later than 90 days after the date of the enactment of this Act, the Administrator shall certify each antifoulant paint containing organotin that the Administrator is able to determine has a release rate of not more than 3.0 micrograms per square centimeter per day.

(b) After the initial period of certification required by subsection (a), the Administrator, not later than 90 days after the receipt of information with regard to an antifoulant paint containing organotin submitted in response to a data call-in or pursuant to any provision of Federal law, shall certify such paint if, on the basis of such information, the Administrator is able to determine that such paint has a release rate of not more than 3.0 micrograms per square centimeter per day.

MONITORING

SEC. 6. (a) The Administrator, in consultation with the Under Secretary of Commerce for Oceans and Atmosphere, shall monitor the concentrations of organotin in the water column sediments, and aquatic organisms of representative estuaries in the United States. This monitoring program shall remain in effect until 7 years after the date of the enactment of this Act. The Administrator shall submit annually to the Speaker of the House of Representatives and to the President pro tempore of the Senate a report detailing the results of this monitoring program for the preceding year.

(b) The Secretary of the Navy shall provide for periodic testing, not less than annually, of any harbors and related waters serving as the home port for any Navy vessel to determine the level of organotin contamination in such harbor or waters, including testing of aquatic organisms. The Secretary shall provide a report and assessment of this monitoring data to the Administrator and to the Governor of the State in which the home port is located. Such report shall be included in the report to Congress required pursuant to subsection (a).

(c) To the extent practicable, the Administrator shall assist States in monitoring waters for the presence of organotins and in laboratory analysis of samples.

CIVIL PENALTIES

SEC. 7. (a) Any person who violates any provision of section 4 shall be liable to the United States for a civil penalty in an amount not to exceed $5,000 for each such violation.

(b) A civil penalty for a violation of any provision of section 4 shall be assessed by the Administrator by an order made on the record after opportunity (provided in accordance with this section) for a hearing in accordance with section 554 of title 5, United States Code. Before issuing such an order, the Administrator shall give written notice to the person to be assessed a civil penalty under such order of the Administrator's proposal to issue such order and provide such person an opportunity to request, within 15 days of the date the notice is received by such person, such a hearing on the order.

(c) In determining the amount of a civil penalty, the Administrator shall take into account the nature, circumstances, extent, and gravity of the violation or violations and, with respect to the violator, ability to pay, effect on ability to continue to do business, economic benefit to violator resulting from such violation, any history of prior violations, the degree of culpability, and such other matters as jsutice may require.

(d) The Administrator may compromise, modify, or remit, with or without conditions, any civil penalty which may be imposed under this section.

(e) Any person who requested in accordance with subsection (b) a hearing respecting the assessment of a civil penalty and who is aggrieved by an order assessing a civil penalty may file a petition for judicial review of such order with the United States Court of Appeals for the District of Columbia Circuit or for any other circuit in which such person resides or transacts business. Such a petition may only be filed within the 30-day period beginning on the date the order making such assessment was issued.

(f) If any person fails to pay an assessment of a civil penalty—

(1) after the order making the assessment has become a final order and if such person does not file a petition for judicial review of the order in accordance with subsection (e), or

(2) after a court in an action brought under subsection (e) has entered a final judgment in favor of the Administrator,

the Attorney General shall recover the amount assessed (plus interest at currently prevailing rates from the date of the expiration of the 30-day period referred to in subsection (e) or the date of such final judgment, as the case may be) in an action brought in any appropriate district court of the United States. In such an action, the validity, amount, and appropriateness of such penalty shall not be subject to review.

AUTHORITY TO SELL EXISTING STOCKS

SEC. 8. Notwithstanding the prohibitions contained in section 4, the Administrator shall provide a reasonable time, not exceed 180 days from the date of the enactment of this Act, for continued sale, delivery, purchase, receipt, application, and use of stocks of organotin antifouling paint and organotin additives that existed before the date of the enactment of this Act.

DISCLAIMER

SEC. 9. Nothing in this Act shall preclude or deny any State or political subdivision thereof the right to adopt or enforce any requirement regarding antifouling paint or any other substance containing organotin. Compliance with the requirements of any State or political subdivision thereof respecting antifouling paint or any other substance containing organotin shall not relieve any person of the obligation to comply with the provisions of this Act.

WATER QUALITY CRITERIA DOCUMENT

SEC. 10. Administrator shall, not later than September 1, 1988, issue a final water quality criteria document, pursuant to section 304(a) of the Federal Water Pollution Control Act, concerning organotin compounds.

RESEARCH

SEC. 11. (a) The Administrator, in cooperation with the Secretary of the Navy, shall conduct research into alternative antifouling chemicals and nonchemical antifouling systems.

(b) The Administrator shall, within 3 years of the date of enactment of this Act, provide a summary assessment of such research in a report to the Speaker of the House of Representatives and the President pro tempore of the Senate.

EFFECTIVE DATES

SEC. 12. (a) Except as provided in subsection (b), this Act shall take effect on the date of its enactment.

((b)(1) Section 4 and section 7 of this Act shall take effect 90 days after the date of the enactment of this Act. Subsections (b) and (c) of section 4 shall remain in effect only until a final decision regarding the release of organotin into the aquatic environment by antifouling paints, pursuant to the process initiated by the Administrator's Position Document 1 dated January 8, 1986—

(A) is issued by the Administrator; and

(B) takes effect.

(2) For purposes of paragraph (1) of this subsection, a final decision shall be considered to have taken effect upon the date of the expiration of the time for making any appeal with respect to such decision or, in the case of any such appeal, the resolution of such appeal.

House amendment to Senate amendment: In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

TITLE I—ORGANOTIN ANTIFOULING PAINT CONTROL

SEC. 101. SHORT TITLE.

This title may be cited as the "Organotin Antifouling Paint Control Act of 1987".

SEC. 102. FINDINGS; PURPOSE.

(a) Findings.—The Congress finds the following:

(1) Antifouling paints containing organotin biocides are used to prevent the build-up of barnacles and other encrusting organisms on vessels.

(2) Laboratory and field studies show that organotin is very toxic to marine and freshwater organisms at very low levels.

(3) Vessels that are less than 25 meters in length and are coated with organotin antifouling paint account for a large amount of the organotin released into the aquatic environment.

(4) The Environmental Protection Agency has determined that concentrations of organotin currently in the waters of the United States may pose unreasonable risks to oysters, clams, fish, and other aquatic life.

(b) Purpose.—The purpose of this title is to protect the aquatic environment by reducing immediately the quantities of organotin entering the waters of the United States.

SEC. 103. DEFINITIONS.

For purposes of this title:

(1) The term "Adminstrator" means the Administrator of the Environmental Protection Agency.

(2) The term "antifouling paint" means a coating, paint, or treatment that is applied to a vessel to control fresh water or marine fouling organisms.

(3) The term "estuary" means a body of water having an unimpaired connection with open sea, where the sea water is measurably diluted with fresh water derived from land drainage, and such term includes the Chesapeake Bay and estuary-type areas of the Great Lakes.

(4) The term "organotin" means any compound of tin used as a biocide in an antifouling paint.

(5) The term "person" means any individual, and partnership, association, corporation, or organized group of persons whether incorporated or not, or any government entity, including the military.

(6) The term "qualified antifouling paint containing organotin" means an antifouling paint containing organotin that—

(A) is allowed to be used under the terms of the final decision referred to in section 111(c); or

(B) until such final decision takes effect, is certified by the Administrator under section 106 as having a release rate of not more than 4.0 micrograms per square centimeter per day.

(7) The term "release rate" means the rate at which organotin is released from an antifouling paint over the long term, as determined by the Administrator, using—

(A) the American Society for Testing Materials (ASTM) standard test method which the Environmental Protection Agency required in its July 29, 1986, data call-in notice on tributyltin compounds used in antifouling paints; or

(B) any similar test method specified by the Administrator.

(8) The term "retail" means the transfer of title to tangible personal property other than for resale, after manufacturing or processing.

(9) The term "Secretary" means the Secretary of the Navy.

(10) The term "State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Marianas Islands, or any territory or possession of the United States.

(11) The term "vessel" includes every description of watercraft or other artificial contrivance used, or capable of being used, as a means of transportation on water.

SEC. 104. PROHIBITION ON THE APPLICATION OF ORGANOTIN ANTIFOULING PAINTS ON CERTAIN VESSELS.

(a) Prohibition.—Subject to section 111(d), and except as provided in subsection (b), no person in any State may apply to a vessel that is less than 25 meters in length an antifouling paint containing organotin.

(b) Exceptions.—Subsection (a) shall not prohibit the application of a qualified antifouling paint containing organotin on—

(1) the aluminum hull of a vessel that is less than 25 meters in length; or

(2) the outboard motor or lower drive unit of a vessel that is less than 25 meters in length.

SEC. 105. INTERIM PROHIBITION OF CERTAIN ORGANOTIN ANTIFOULING PAINTS AND ORGANOTIN ADDITIVES USED TO MAKE SUCH PAINTS.

(a) Prohibition of Certain Organotin Antifouling Paints.—Subject to section 111(d), no person in any State may—

(1) sell or deliver to, or purchase or receive from, another person an antifouling paint containing organotin; or

(2) apply to a vessel an antifouling paint containing organotin;

unless the antifouling paint is certified by the Administrator as being a qualified antifouling paint containing organotin.

(b) Prohibition of Certain Organotin Additives.—Subject to section 111(d), no person in any State may knowingly sell or deliver to, or purchase or receive from, another person at retail any substance containing organotin for the purpose of adding such substance to paint to create an antifouling paint.

SEC. 106. CERTIFICATION.

(a) Initial Certification.—Not later than 90 days after the date of the enactment of this Act, the Administrator shall certify each antifouling paint containing organotin that the Administrator determines has a release rate of not more than 4.0 micrograms per square centimeter per day on the basis of the information submitted to the Environmental Protection Agency before the date of the enactment of this Act in response to its July 29, 1986, data call-in notice on tributyltin or any other data call-in notice.

(b) Subsequent Certification.—After the initial period of certification required by subsection (a), and not later than 90 days after the receipt of information with regard to an antifouling paint containing organotin submitted—

(1) in response to a data call-in referred to in subsection (a); or

(2) under any provision of law:

the Administrator shall certify such paint if, on the basis of such information, the Administrator determines that such paint has a release rate of not more than 4.0 micrograms per square centimeter per day.

SEC. 107. MONITORING.

(a) Estuarine Monitoring.—The Administrator, in consultation with the Under Secretary of Commerce for Oceans and Atmosphere, shall monitor the concentrations of organotin in the water column, sediments, and aquatic organisms of representative estuaries and near-coastal waters in the United States. This monitoring program shall remain in effect until 10 years after the date of the enactment of this Act. The Administrator shall submit a report annually to the Speaker of the House of Representatives and to the President pro tempore of the Senate detailing the results of such monitoring program for the preceding year.

(b) Navy Home Port Monitoring.—(1) The Secretary shall—

(A) provide for periodic monitoring, not less than quarterly, of waters serving as the home port for any Navy vessel coated with antifouling paint containing organotin to determine the concentration of organotin in the water column, sediments, and aquatic organisms of such waters; and

(B) continue existing Navy program evaluating the environmental risks associated with the use of antifouling paints containing organotin.

(2) The Secretary shall submit a report annually to the Administrator and to the Governor of each State in which a home port for the Navy is monitored under paragraph (1) detailing the results of such monitoring in the State. Such reports shall be included in the annual report required to be submitted under subsection (a).

(c) Assistance to States.—To the extent practicable, the Administrator shall assist States in monitoring waters in such States for the presence of organotin and in analyzing samples taken during such monitoring.

(d) Five-Year Report.—At the end of the 5-year period beginning on the date of the enactment of this Act, the Secretary shall submit a report to the Speaker of the House of Representatives and to the President pro tempore of the Senate providing as assessment of—

(1) the effectiveness of existing laws and rules concerning organotin compounds in ensuring protection of human health and the environment; and

(2) recommendations for additional measures to protect human health and the environment.

SEC. 108. RESEARCH.

(a) Alternative Antifoulants.—The Secretary and the Administrator shall conduct research into chemical and nonchemical alternatives to antifouling paints containing organotin.

(b) Report.—At the end of the 4-year period beginning on the date of the enactment of this Act, the Secretary and the Administrator shall submit reports to the Speaker of the House of Representatives and to the President pro tempore of the Senate detailing the results of the research conducted pursuant to subsection (a).

SEC. 109. PENALTIES.

(a) Civil Penalties.—(1) Any person violating sections 104 or 105(a) shall be assessed a civil penalty of not more than $5,000 for each offense.

(2) After notice and an opportunity for a hearing, a person found by the Administrator to have violated sections 104 or 105(a) is

liable to the United States Government for the civil penalty assessed under paragraph (1). The amount of the civil penalty shall be assessed by the Administrator by written notice. In determining the amount of the penalty, the Administrator shall consider the nature, circumstances, extent, and gravity of the prohibited acts committed and, with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and other matters that justice requires.

(3) The Administrator may compromise, modify, or remit, with or without consideration, a civil penalty assessed under this section until the assessment is referred to the Attorney General.

(4) If a person fails to pay an assessment of a civil penalty after it has become final, the Administrator may refer the matter to the Attorney General for collection in the appropriate United States district court.

(b) CRIMINAL PENALTIES.—Any person knowingly violating sections 104 or 105(a) or violating section 105(b) shall be fined not more than $25,000, or imprisoned for not more than one year, or both.

SEC. 110. OTHER AUTHORITIES; STATE LAWS.

(a) OTHER AUTHORITIES OF THE ADMINISTRATOR.—Nothing in this title shall limit or prevent the Administrator from establishing a lower permissible release rate for organotin under authorities other than this title.

(b) STATE LAWS.—Nothing in this title shall preclude or deny any State or political subdivision thereof the right to adopt or enforce any requirement regarding antifouling paint or any other substance containing organotin. Compliance with the requirements of any State or political subdivision thereof respecting antifouling paint or any other substance containing organotin shall not relieve any person of the obligation to comply with the provisions of this title.

SEC. 111. EFFECTIVE DATES; USE OF EXISTING STOCKS.

(a) IN GENERAL.—Except as provided in subsection (b), this title shall take effect on the date of the enactment of this Act.

(b) TERMINATION OF INTERIM PROHIBITION.—Section 105(a) shall remain in effect until a final decision regarding the release of organotin into the aquatic environment by antifouling paints, pursuant to the process initiated by the Administrator's Position Document 1 dated January 8, 1986—

(1) is issued by the Administrator; and

(2) takes effect.

(c) FINAL DECISION DEFINED.—For purposes of subsection (b), a final decision shall be considered to have taken effect upon the date of the expiration of the time for making any appeal with respect to such decision or, in the case of any such appeal, the resolution of such appeal.

(d) USE OF EXISTING STOCKS.—Notwithstanding the prohibitions contained in sections 104 and 105, the Administrator, not later than 90 days after the date of the enactment of this Act, shall provide reasonable times—

(1) not to exceed 180 days after the date of the enactment of this Act, for the continued sale, delivery, purchase, and receipt of any antifouling paints containing organotin and organotin additives that exist before the date of the enactment of this Act; and

(2) not to exceed one year after the date of the enactment of this Act, for the application of any antifouling paints containing organotin and organotin additives that exist before the date of the enactment of this Act.

TITLE II—GRAYS HARBOR NATIONAL WILDLIFE REFUGE

SEC. 201. SHORT TITLE.

This title may be cited as the "Grays Harbor National Wildlife Refuge Act of 1987".

SEC. 202. FINDINGS.

The Congress finds that—

(1) Grays Harbor, a 94-square mile estuary on the coast of the State of Washington—

(A) is of critical importance to certain migratory shorebirds and waterfowl; and

(B) provides important habitat for many types of fish and wildlife, including threatened and endangered species;

(2) the area known as Bowerman Basin is—

(A) a high tidal mudflat within the Grays Harbor estuary; and

(B) attracts hundreds of thousands of migratory shorebirds during the spring and fall migrations as well as peregrine falcons and other birds of prey;

(3) the Bowerman Basin provides extraordinary recreational, research, and educational opportunities for students, scientists, birdwatchers, nature photographers, the physically handicapped, and others;

(4) the Bowerman Basin is an internationally significant environmental resource that is unprotected and may require active management to—

(A) prevent vegetative encroachment; and

(B) protect and enhance its habitat values; and

(5) the Bowerman Basin has been identified in the Grays Harbor Estuary Management Plan, prepared by the Grays Harbor Regional Planning Commission, as an area deserving permanent protection.

SEC. 203. PURPOSES.

The purposes for which the Grays Harbor National Wildlife Refuge is being established, and for which it shall be managed, include—

(1) the conservation of fish and wildlife species within the Refuge, including the western sandpiper, dunlin, red knot, long-billed dowitcher, short-billed dowitcher, and other shorebirds, migratory birds, and birds of prey, and their habitats;

(2) the fulfillment of international treaty obligations of the United States with regard to fish and wildlife and their habitats;

(3) the protection of endangered and threatened fish and wildlife species within the Refuge; and

(4) the provision of opportunities, consistent with paragraphs (1), (2), and (3), for wildlife-oriented recreation, education, and research.

SEC. 204. DEFINITIONS.

For purposes of this title—

(1) the term "Refuge" means the Grays Harbor National Wildlife Refuge;

(2) the term "lands and waters" includes interests in lands and waters; and

(3) the term "Secretary" means the Secretary of the Interior.

SEC. 205. ESTABLISHMENT OF REFUGE.

(a) BOUNDARIES.—Subject to subsection (b), the boundaries of the Grays Harbor National Wildlife Refuge include the approximately 1,800 acres of lands and waters—

(1) located in the State of Washington; and

(2) depicted on the map entitled "Grays Harbor National Wildlife Refuge", dated December 1987, and on file and available for public inspection in—

(A) the office of the Director of the United States Fish and Wildlife Service, Department of the Interior, and

(B) appropriate offices of the United States Fish and Wildlife Service in the State of Washington.

(b) BOUNDARY REVISIONS.—The Secretary of the Interior may make minor revisions in the boundaries of the Refuge if the Secretary determines that such revisions are necessary—

(1) to carry out the purposes specified in section 203; or

(2) to facilitate the acquisition of lands or waters for the Refuge.

(c) ACQUISITION.—(1) Within the 3-year period beginning on the effective date of this Act, the Secretary shall acquire by transfer or purchase, or both, the approximately 1,711 acres of lands and waters owned by the Port of Grays Harbor within the boundaries of the Refuge and identified as Management Unit 12, Area 1, in the Grays Harbor Estuary Management Plan.

(2) The appropriate Federal agencies may treat any lands and waters transferred to the Secretary under paragraph (1) as meeting, in whole or in part, mitigation obligations of the Port of Grays Harbor arising under section 404 of the Federal Water Pollution Control Act (33 U.S.C. 1344); except that the validity of such mitigation is subject to compliance with the guidelines issued under subsection (b)(1) of such section.

(3) The Secretary may—

(A) acquire not to exceed 68 acres of lands and waters owned by the City of Hoquiam, Washington, within the boundaries of the Refuge; and

(B) compensate the lessees on such lands and waters for improvements and relocation costs.

(d) ESTABLISHMENT.—Whenever the Secretary determines that sufficient lands and waters have been acquired under subsection (c) to constitute an area that can be effectively administered as a wildlife refuge, the Secretary shall establish the Refuge as a part of the National Wildlife Refuge System by publication of a notice to that effect in the Federal Register.

SEC. 206. ADMINISTRATION.

(a) GENERAL ADMINISTRATIVE AUTHORITY.—The Secretary shall administer all lands and waters acquired under section 205(c) in accordance with the provisions of the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd-668ee).

(b) OTHER AUTHORITY.—Consistent with subsection (a), the Secretary may utilize such additional statutory authority as may be available to the Secretary for the conservation and development of fish, wildlife, and natural resources, the development of outdoor recreation opportunities, and interpretive education as the Secretary considers appropriate.

(c) MANAGEMENT PLAN.—Not later than 18 months after the date of the enactment of this Act, the Secretary shall prepare a management plan for the development and operation of the Refuge which shall include—

(1) the construction of a visitor center suitable for year-round use with special emphasis on interpretative education and research;

(2) viewpoints, boardwalks, and other means of access in the Refuge;

(3) parking and other necessary facilities; and

(4) a comprehensive plan setting forth management priorities and strategies for the Refuge.

SEC. 207. REFUGE DEVELOPMENT FUND.

The Director of the United States Fish and Wildlife Service shall promptly consult with the National Fish and Wildlife Foundation established by section 2(a) of the National Fish and Wildlife Foundation Establishment Act (16 U.S.C. 3701(a)) to request such Foundation to set up a separate account for the purpose of encouraging, accepting, and administering private gifts of property to carry out this subtitle. The Secretary shall, in preparing the management plan required by section 206, give special consideration to means by which the participation and contributions of local public and private entities in developing and implementing such plan can be encouraged.

SEC. 208. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Department of the Interior—

(1) such sums as may be necessary for the acquisition of lands and waters under section 205(c); and

(2) $2,500,000 to carry out the other provisions of this subtitle.

Mr. STUDDS (during the reading). Mr. Speaker, I ask unanimous consent that the amendments be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Massachusetts?

Mr. FRENZEL. Reserving the right to object, Mr. Speaker, this bill comes back to us from the Senate with a nongermane Senate amendment. I presume that has been printed in the RECORD somewhere, but it has eluded my attention.

I would like to ask the distinguished chairman of the subcommittee something about the nature of that amendment, and also any other changes in the House bill that were made in the Senate.

Mr. Speaker, I yield to the gentleman from Massachusetts, if he cares to explain this legislation.

Mr. STUDDS. I am not quite certain to what the gentleman refers when he mentions a nongermane Senate amendment. Can the gentleman point to the text to which he refers?

Mr. FRENZEL. Pardon?

Mr. STUDDS. I am not clear to what the gentleman refers when he mentions a nongermane Senate amendment. Does the gentleman have a particular portion of that text in mind when he makes that reference?

Mr. FRENZEL. I understand that there is a Wildlife Refuge matter in that. Is that germane?

Mr. STUDDS. Mr. Speaker, if the gentleman will yield, that is the amendment we propose to add to the Senate amendment.

Mr. FRENZEL. Oh, I am sorry.

Well, then, will the gentleman explain the nature of the Senate amendment?

Mr. STUDDS. Certainly, if the gentleman will yield and permit me to briefly explain precisely what we are proposing here.

Mr. FRENZEL. I yield to the gentleman from Massachusetts.

Mr. STUDDS. Mr. Speaker, H.R. 2210 is a bill to control the use of highly toxic organotin chemicals in boat paints. H.R. 2210 was unanimously reported out of the Merchant Marine Committee and passed by voice vote by the House on November 9 of this year. The bill we have taken from the desk is that bill, with a Senate amendment, which I will explain.

This legislation grew out of hearings held by the Merchant Marine Committee in both the 99th and 100th Congresses which led our committee to believe that action should be taken to protect our coastal waters from tributyltin, more commonly referred to as TBT, and similar chemicals.

Antifouling paints are used to keep barnacles, algae and other organisms from attaching themselves to boat bottoms. TBT began to be used for this purpose in the early 1970's. Unfortunately, it may do its job too well. TBT has been shown to kill fish and shellfish at almost infinitesimal doses. Recent studies have shown that in many coastal areas of the United States, TBT is present at concentrations which have been shown in the laboratory to be toxic to a variety of marine life.

The primary action taken by this bill is banning the use of any organotin paints on vessels less than 82 feet in length. Smaller boats tend to spend most of their time in shallow bays and estuaries, and much of that time at their moorings. If they are painted with TBT paints, the TBT is leaching into those waters. And those shallow, protected waters are the areas most susceptible to harm from it.

Banning the use of these paints on smaller vessels duplicates the approach taken by a number of States, including Virginia, Maryland, and Maine.

As a boat owner, I would note that practical, readily available substitutes for organotin paints are available, namely the traditional copper-based boat paints. Where copper-based paints do not constitute an immediately acceptable and practical alternative—on aluminum hulls and on larger vessels—the bill provides an exception. Those vessels would be allowed to use only those which meet a strict standard governing how much organotin they release into the water. Paints not meeting that standard would be banned. The bill sets an interim standard of 5 micrograms per square centimeter per day, and provides for a final standard to be promulgated by the Environmental Protection Agency.

The Senate amendment, a substitute text, differs from the House bill in two major ways. They propose a stricter interim standard for continued use of TBT—a 3-microgram standard, as opposed to a 5-microgram standard. After both the Senate and House versions of this bill were introduced, the EPA issued a proposed rule governing the use of TBT, in which it proposes a 4-microgram standard. That—the administration proposal—is what our amendment to the Senate amendment would adopt.

The second major difference concerns the point at which we ban the use of TBT paints on certain vessels. The House bill bans TBT use on vessels under 65 feet. The Senate bill bans the use of TBT on vessels under 82 feet. We propose agreeing with the other body on this.

In addition to this compromise, our amendment incorporates the text of another measure which was reported unanimously out of the Merchant Marine Committee.

This measure is H.R. 3423, a bill to create a new National Wildlife Refuge at Grays Harbor, WA. It is cosponsored by the entire of that State's delegation, on both sides of the aisle, and was ordered reported favorably by the Merchant Marine Committee on Wednesday of this week. Moving this bill at this time would enable the Secretary of the Interior to take advantage of several unique situations which may make land acquisition for this refuge more feasible and far less expensive than may be the case if we delay action.

I will leave it to the gentlemen from Washington to extol the virtues of this particular area, and its suitability for inclusion in the National Wildlife Refuge System. I will merely say that as a major gathering point for migratory birds on the west coast it clearly is an exemplary candidate for addition to the refuge system.

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Ir. FRENZEL. Mr. Speaker, further reserving the right to object, I thank the gentleman for his explanation.

Further reserving the right to object, I yield to the gentleman from Alaska [Mr. YOUNG].

Mr. YOUNG of Alaska. Mr. Speaker, for one who looks not very often favorably on the creation of parks and refuges, I would say this one is thoroughly justified. It is an authorization, it is strongly supported by the total Washington delegation, both sides of the aisle. There is not an appropriation here, in fact no expenditure of money, if I am correct, exists in this legislation. Consequently we are trying to solve frankly two things at one time. That is the reason I am up here. Let us not lose sight of the first part of this bill which is crucially important to the estuaries of our harbors and oceans. These are supported very strongly by all involved.

Mr. FRENZEL. Mr. Speaker, further reserving the right to object, my problem with this is that what has happened is one entire bill has been folded into another bill under the guise of amending a Senate amendment.

This House is now without the opportunity to examine a committee report, to look at a CBO report on the subject, to offer amendments if it should so desire, or if any of its Members so desire. It is the kind of thing this House often does at this time of year and it is a process and a procedure which I think the House should not be indulging in.

That said, Mr. Speaker, and further reserving the right to object, I am going to yield to the distinguished gentleman from Washington [Mr. LOWRY] to explain to me why it is really all right.

Mr. LOWRY of Washington. Mr. Speaker, I thank my friend for yielding, and I was sitting here thinking of all the things that we have worked together on so closely over the years in this body with total cooperation.

This is an extremely important bird refuge of which there have been extensive hearings on over the years. There have been hearings for 8 years in the other House and in this body. After all those hearings and discussions this bill is unanimously supported by all 10 Members of the Washington delegation, 8 from this side, and 2 from the other body. It really has had an immense amount of hearing. I certainly understand the diligent role the gentleman from Minnesota [Mr. FRENZEL] plays, but in this particular case this House has been made very aware of this legislation.

Mr. Speaker, I rise in strong support of this legislation with the hope that we will be able to send it to the White House for Presidential signature before the end of this year. I strongly support the designation of Grays Harbor as a National Wildlife Refuge. The Grays Harbor estuary provides excellent habitat which is of critical importance for migratory shorebirds and waterfowl.

Mr. Speaker, at this time I would especially like to thank our chairman, Mr. JONES, and the ranking minority member, Mr. DAVIS, for agreeing to move this legislation expeditiously. I would also like to especially thank Chairman STUDDS and his staff for their careful efforts in helping to improve this legislation and for moving as quickly as possible. In addition, Mr. Speaker, I would like to thank and congratulate my two colleagues from the State of Washington on this important legislation, Mr. BONKER, and Mr. MILLER. The three of us were all able to visit the Grays Harbor estuary during the time of the bird migration last spring, which provided a clear demonstration of how important this estuary is in terms of migratory shorebird habitat and why it is critical that it be designated as a national wildlife refuge to ensure the protection of this important stopover point for thousands of migratory birds.

In addition to establishing the actual wildlife refuge which will comprise approximately 1,800 acres, and be managed by the Fish and Wildlife Service, the bill also authorizes the Secretary of the Interior to acquire approximately 68 acres of land owned by the city of Hoquiam within the boundaries of the refuge and to compensate the lessees for any improvements and relocation costs. In addition to the general administrative authority to manage the refuge, this legislation also authorizes the Secretary to establish a year-round visitor center including viewpoints, boardwalks, and other public access facilities in order to enhance the interpretive education and research associated with this important national wildlife refuge.

Mr. Speaker, the legislation authorizes $2.5 million for the general administration of this act including the purchase of the 68 acres from the city of Hoquiam and any compensation for relocation expenses to the existing lessees. The bill also authorizes such sums as may be necessary to implement the provisions of subsection 4(c)(1). The legislation also authorizes a refuge development fund, which is intended to encourage private contributions from local, public, and private entities to assist in the implementation and development of the national wildlife refuge.

Finally, I would like to point out one provision in section 4(c)(2) which was added to ensure that the validity of any "mitigation credits" is predicated on compliance with the guidelines issued under section 404(b)(1) of the Federal Water Pollution Control Act (33 U.S.C. 1344(b)(1)). The intent of this provision is to help to ensure that the Environmental Protection Agency has the final determination with respect to whether or not any proposed mitigation projects or credits meet the requirements of the regulations established under section 404(b)(1) of the Federal Water Pollution Water Control Act, as amended. Mr. Chairman, I believe that this is an extremely important addition to the legislation to ensure that any land transfers associated with this national wildlife refuge must meet the requirements of the Environmental Protection Agency and not just requirements of the U.S. Army Corps of Engineers.

Mr. Speaker, I would again like to express my strong support for this legislation and urge its passage.

Mr. FRENZEL. Mr. Speaker, further reserving the right to object, I came here today fully expecting to object to this bill, but the gentleman from Washington [Mr. LOWRY] has melted my heart, so I will only at this point, further reserving the right to object, yield to the other distinguished gentleman from Washington [Mr. BONKER] with whom I have also worked on a thousand wonderful projects.

Mr. BONKER. Mr. Speaker, with such an expression of magnanimity I am not going to prolong the discussion except to thank the gentleman from Minnesota for his wisdom and for seeing the merits in the pending bill.

Mr. Speaker, I rise in support of the unanimous-consent motion to amend the TBT bill and add provisons which would create a National Wildlife Refuge at Grays Harbor on the coast of Washington State. The legislation was ordered reported by the Merchant Marine and Fisheries Committee on Wednesday.

The entire Washington State delegation in both the House and Senate strongly supports this measure. The legislation is the product of more than a year of negotiations involving Federal, State, and local officials. The measure was introduced with the support of both conservationists and local interests and has been refined by the committee. There is no serious opposition to the establishment of the Grays Harbor National Wildlife Refuge.

The creation of this refuge is critical because of the dependence of a number of species of shore birds on certain coastal wetlands during their annual migrations from the Arctic to wintering areas in South and Central America. Every spring and fall, millions of these shore birds, plovers and sandpipers, turnstones and sanderlings, stop for a few days on their journey at one of only a few "staging" areas, including Grays Harbor, Washington.

About 40 of North America's 49 shore bird species make the annual journey from Arctic breeding grounds to the south and back. These migratory birds are extremely dependent on these refueling spots, and because of this are more vulnerable to extinction than their great numbers might suggest. At one time, there may be more than four-fifths of the entire breeding population of some species in one of these sites. If one of these areas, such as the Bowerman Basin at Grays Harbor were lost to pollution, overfishing, or development, then entire species of birds could be threatened with extinction.

Grays Harbor is the last major estuary many of the shore birds will use before embarking on the final 1,500-mile leg of their migration to Arctic and subarctic breeding grounds. Bowerman Basin is the most critical portion of the estuary, a particularly productive mudflat that is host to nearly half of the spring migrants. The birds arrive thin and exhausted after a flight of thousands of miles with little or no rest, in desperate need of food. Then, in a few days of feasting, they refuel for the next long leg of their journey. In order for them to do this, however, the food must be rich and abundant, as it is in the Bowerman Basin. It is because of the unique fertility of Bowerman Basin that protection of this area is a must.

The legislation we are considering today conserves this vulnerable natural resource and protect the birds and the impressive spectacle of their annual migration. Furthermore, the bill takes a balanced approach to meeting the needs of both the wildlife of the region and the local residents and economy. In the bill, there are provisions which will encourage and assist the economic development of the area in a manner consistent with our conservation objectives.

I will be working with the committee on report language that will clarify the use of "migration credits" which might be used, in whole or in part, to compensate the Port of Grays Harbor for its Bowerman acreage, and to ensure that the establishment of the refuge does not jeopardize contiguous landowners or industry in the area. I will also be working closely with the Fish and Wildlife Service and the appropriations committees to ensure that the city of Hoquiam receives adequate and timely compensation for all of its 68 acres at Bowerman Basin.

In fact, it is my hope that the new wildlife refuge can serve as an economic boon to the Grays Harbor region. Designation as a National Wildlife Refuge will attract an increasing number of visitors. The construction of a year-round interpretive center and related facilities and trails will enhance the experience for visitors and minimize the environmental impact of the hordes of birdwatchers that already descend on the basin during the spring migration.

Mr. FRENZEL. Mr. Speaker, further reserving the right to object, I yield to yet another gentleman from Washington [Mr. MILLER] for his comments.

Mr. MILLER of Washington. Mr. Speaker, as one who has great respect for my distinguished colleague from Minnesota's [Mr. FRENZEL] view of House procedures and policies, and also the substance of bills, I would just like to try to contribute to the melting process that is going on by saying that the words spoken so far are certainly true. This bill has received consideration for years in Washington State and finally has a bipartisan support on both sides of the aisle in both Houses of the Congress and is at a point where in order for acquisition to proceed it would be very helpful if it was not delayed further.

Mr. DAVIS of Michigan. Mr. Speaker, I rise in support of H.R. 2210, a bill to control the use of TBT-based paints in our coastal waters. As an original cosponsor of the bill, I strongly believe that there is an immediate need to regulate the input of toxic chemicals into our marine environment. The EPA is now engaged in a special review of TBT-based paints. Given that such a process might well prove to be a long and tedious one, I believe that H.R. 2210 will provide the necessary interim measure to control the input of TBT and other toxics into the marine environment until the EPA final regulations are promulgated.

Mr. Speaker, the problems of TBT-based paints are not limited solely to saltwater marinas and harbors. The Great Lakes have experienced a growing problem with TBT generated primarily from recreational boats. Given this, my home State of Michigan has announced a summary suspension of registration on TBT-based paints effective June 1, 1987.

Mr. Speaker, the amendment before us today would prohibit the application of TBT-based paints to vessels less than 25 meters in length. This amendment specifically targets recreational vessels which have been shown to be a leading contributor to the TBT leaching problem. The amendment also establishes the Grays Harbor National Wildlife Refuge in the State of Washington.

Mr. Speaker, I strongly urge my colleagues to join with me in supporting this bill.

Mr. BADHAM. Mr. Speaker, since tributyltin-based marine paints [TBT] were first introduced in the 1960's their use has grown dramatically, and the potential effects of this have become a source of serious concern among those who wish to protect the marine environment.

When added to marine paint, tributyltin [TBT] is a very effective antifouling agent, keeping marine organisms from building up on the hull of a vessel. The cleaner hulls keep down fuel costs by decreasing friction and reduce the frequency of repainting. Unfortunately, tributyltin compounds pose great risks for organisms in the marine environment other than those which foul boats.

As the use of TBT has increased, questions about its effects on the marine environment have also increased. The First District of Virginia, which I am proud to represent, includes Newport News Shipbuilding and some of the most productive shellfish beds in the world. Therefore, my concern about TBT is two-fold. I am concerned both about the possible health effects of TBT on the shipyard workers, if in the future, they are forced to use the pesticide, and the effects which TBT has on marine organisms, particularly those in the Chesapeake Bay.

Prompted by the introduction of my bill, the Tributyltin-Based Antifouling Paint Control Act of 1987, the House Merchant Marine and Fisheries Committee has taken swift and decisive action to restrict the use of this pesticide.

The Environmental Protection Agency, under intense pressure from myself and other Members of Congress, has undertaken a special review of the use of tributyltin pesticides. Unfortunately such reviews are extremely time consuming and after a hearing before the Merchant Marine Committee earlier in the year it became clear that interim action needed to be taken while the Environmental Protection Agency completed its special review of the use of organotins. This bill represents that interim action.

After it became clear that Congress would act on this issue, the Agency announced a preliminary determination of what action should be taken, however, it may be some time before preliminary determination becomes final. The chairman's amendment today will bring the release rate for TBT paints in line with the EPA's preliminary determination. The House bill called for a release rate of 5 micrograms per square centimeter per day, and the Senate bill calls for a release rate of 3. The EPA proposed release rate is 4, and the chairman's amendment would bring the legislation in line with that rate. I commend him for this amendment, and for all his efforts on this important issue.

H.R. 2210 would:

Prohibit the sale of marine paints that release TBT into the environment at a rapid rate;

Prohibit the use of organotin paints on vessels that are less than 25 meters in length;

Allow 6 months for the use of existing stocks of paints;

Provide for 7 years of monitoring by the EPA to guarantee that the problems the bill addresses are being solved; and

Encourage the use of new and improved antifoulants.

I am proud to have helped shape this legislation, and it is my hope that the House will approve this bill. I would also like to commend Chairmen JONES and STUDDS for their action on this issue.

Mr. FRENZEL. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. McCURDY). Is there objection to the initial request of the gentleman from Massachusetts?

There was no objection.

A motion to reconsider was laid upon the table.

GENERAL LEAVE

Mr. STUDDS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the legislation just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 1259

Mr. MOAKLEY. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of the bill, H.R. 1259.

The SPEAKER pro tempore (Mr. McCURDY). Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

PROVIDING FOR CONSIDERATION OF H.R. 3674, UNITED STATES-JAPAN FISHERY AGREEMENT APPROVAL ACT OF 1987

Mr. MOAKLEY. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 337 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 337

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 3674) to provide for congressional approval of the Governing International Fishery Agreement between the United States and Japan, and the first reading of the bill shall be dispensed with. All points of order against consideration of the bill are hereby waived. After general debate, which shall be confined to the bill and to the substitute made in order by this resolution and which shall not exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Merchant Marine and Fisheries the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Merchant Marine and Fisheries now printed in the bill, as modified by the amendment printed in section two of this resolution, as an original bill for the purpose of amendment under the five-minute rule, said substitute, as modified, shall be considered by title instead of by section and each title shall be considered as having been read, and all points of order against said substitute, as modified, are hereby waived. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the Committee amendment in the nature of a substitute, as modified, made in order as original text by this resolution. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

SEC. 2. At the end of the bill, add the following new title VI:

§6001. Declaration of disaster

Notwithstanding any other provision of law, rule, or regulation, upon the date of the enactment of this Act, the Administrator of the Small Business Administration shall declare the recent North Carolina coast red tide contamination a disaster for purposes of section 7(b) of the Small Business Act (15 U.S.C. 636(b)).

§6002. Provision of assistance

Notwithstanding any other provision of law, rule, or regulation, for purposes of providing assistance under paragraph (2) of section 7(b) of the Small Business Act (15 U.S.C. 636(b)(2)) for a disaster declared under section 1 of this Act, eligibility of individual applicants for assistance shall not in any way be dependent on—

(1) the number of disaster victims in any county or other political subdivision; or

(2) whether or not an applicant who normally conducts operations in the area of the recent North Carolina coast red tide contamination is otherwise situated or located in such area; or

(3) the type of business or industry in which the applicant is engaged.

§6003. Recent North Carolina Coast Red Tide Contamination Defined

For purposes of this Act, the term "recent North Carolina coast red tide contamination" means contamination of waters under the jurisdiction of the Senate of North Carolina by unusually high concentrations of the algae known as Ptychodiscus brevis (commonly referred to as "red tide"), with respect to which the Director of the Division of Marine Fisheries of the North Carolina Department of Natural Resources issues a shellfishing closure proclamation on or after November 2, 1987.

The SPEAKER pro tempore. The gentleman from Massachusetts [Mr. MOAKLEY] is recognized for 1 hour.

Mr. MOAKLEY. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from Ohio [Mr. LATTA], and pending that, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 337 is an open rule providing for the consideration of the bill H.R. 3674, the Governing International Fishery Agreement With Japan.

Mr. Speaker, the rule provides 1 hour of general debate, equally divided between the chairman and ranking minority member of the Committee on Merchant Marine and Fisheries.

The rule makes in order an amendment in the nature of a substitute recommended by the Committee on Merchant Marine and Fisheries, as modified by the amendment printed in section 2 of this resolution. The modified substitute will be considered as original text, and by title, with each title considered as having been read.

Mr. Speaker, the modification to the substitute provides for the incorporation of an additional title to H.R. 3674, which would direct the Administrator of the Small Business Administration to declare as a disaster area, a portion of the North Carolina coast because of red tide contamination.

In addition, Mr. Speaker, all points of order are waived against the consideration of the bill, and against the modified substitute.

Finally, Mr. Speaker, the rule provides for one motion to recommit with or without instructions.

Mr. Speaker, H.R. 3674, which was reported out of the Merchant Marine and Fisheries Committee on December 16, consists of five titles. Title I implements language which would approve the expiring Governing International Fishery Agreement With Japan. Title II contains the text of H.R. 940, the Plastic Pollution Research and Control Act, which passed the House on October 13, 1987.

Title III reauthorizes the National Sea Grant College Program which is similar to the bill, H.R. 3017, which passed the House September 29. Title IV contains the text of H.R. 3584, the Driftnet Impact Monitoring, Assessment, and Control Act. The fifth title includes the text of H.R. 82, which passed the House on July 27, that deals with the transport of sewer sludge on U.S.-flag barges, and the towing of offshore oil rigs by foreign made U.S.-flag barges.

Mr. Speaker, this bill is not without controversy; there are a few provisions that some Members may have some reservations about. However, as I stated earlier this is an open rule and any Member can offer an amendment that they think could improve the bill. I urge my colleagues to adopt the resolution and allow the House to consider the bill.

Mr. LATTA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this rule actually makes in order the consideration of a package of bills. I might say that the administration opposes the bill unless it is amended to delete two of its titles. The administration wants to delete title III which would amend and extend the National Sea Grant College Program, and title V which amends the Jones Act with respect to sewage sludge barges and certain launch barges. I understand there is some discussion that that matter will be dropped.

The administration points out that the National Sea Grant College Program was proposed for termination in the 1988 budget because State and local governments and industries, the primary beneficiaries of the program, should now assume responsibility for funding of sea grant activities.

Mr. Speaker, as the gentleman from Massachusetts [Mr. MOAKLEY] has pointed out, this is an open rule so if any Member objects to part of the package he may offer an amendment to strike it or change it.

Let me say this rule provides for blanket waiver for all points of order.

The record of the 1st session of the 100th Congress reveals that 24 percent of all rules granted were blanket waivers. This compares with 17 percent in the 99th Congress and only 2 percent in the 98th Congress. Let us hope certainly that the second session of this Congress can establish a better record of staying within its own rules.

Mr. Speaker, I yield 3 minutes to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Speaker, I thank the gentleman from Ohio for yielding me this time.

I, too, want to thank the Committee on Rules for reporting an open rule, but express my concern about that provision of the rule that waives all points of order against consideration of the bill.

As the gentleman from Ohio [Mr. LATTA] has pointed out, this is a pattern which has become very disturbing.

Not only has the Committee on Rules produced a whole series of closed rules, rules that make in order amendments along the way, self-enacting amendments, but we are going through a process now where nearly one-quarter of all the bills that the Committee on Rules brings to the floor waive all points of order against consideration. That is just absolutely wrong.

□ 1540

In this case you are bringing to the floor a bill which is a wholesale package of bills and then waiving all points of order against it, and some of the things you are waiving are pretty serious. For example, the waivers in this bill relate to germaneness so that you allow a whole package of bills to come to the floor whether or not they are germane to the initial legislation before us.

You also are permitting under this waiver an appropriation in a legislative bill. In this case what you are doing is you are going to allow a bypassing of the entire appropriations process in this House with provisions that are down in the bill with this waiver of all points of order.

Then you have also just thrown out the 3-day layover. We have been discussing on the floor here the need for some information about bills that are being brought before us. The 3-day layover is reasonably important in this particular case because you have a bill coming to the floor that has a number of different bills wrapped into it, and this House is not going to be able to reflect on whether or not all of that makes any sense. We have no report before us. As I understand it, there is not even a report in existence, that before this waiver was granted the Rules Committee had not even seen a report. The report is still being written somewhere, sometime, somehow.

We really have a problem if that is the way we are going to operate, particularly as we get toward the end of the session. We cannot expect this House to act intelligently on massive pieces of legislation if we do not know what is in them, if we are going to bypass our entire appropriations process, and we are going to allow nongermane bills to be brought to the floor. Yet that is what we do when we waive all points of order against consideration of this bill.

I would hope the House would vote against this bill. This particular rule is wrong, particularly at the end of a session. It is continuing a process whereby we waive points of order that ought to legitimately be brought on the House floor.

Vote no. Let us kill this.

Mr. LATTA. Mr. Speaker, I have no further requests for time and I yield back the balance of my time.

Mr. MOAKLEY. Mr. Speaker, I have no further requests for time, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore (Mr. McCURDY). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. WALKER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 266, nays 130, not voting 37, as follows:

[Roll No. 497]

YEAS—266

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Aspin
Atkins
AuCoin
Barnard
Barton
Bateman
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Boehlert
Boggs
Bonior
Bonker
Borski
Bosco
Boucher
Boxer
Brennan
Brown (CA)
Bruce
Bryant
Bustamante
Callahan
Campbell
Cardin
Carper
Carr
Chandler
Chapman
Clarke
Coelho
Coleman (TX)
Collins
Conte
Conyers
Cooper
Coughlin
Coyne
Crockett
Darden
Davis (MI)
de la Garza
DeFazio
Dellums
Derrick
Dickinson
Dingell
Dixon
Donnelly
Durbin
Dwyer
Dymally
Dyson
Eckart
Edwards (CA)
English
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Flake
Flippo
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Frank
Frost
Gallo
Garcia
Gaydos
Gejdenson
Gibbons
Gilman
Glickman
Gonzalez
Gordon
Gradison
Grant
Gray (IL)
Gray (PA)
Green
Guarini
Hall (TX)
Hamilton
Harris
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefner
Hertel
Hochbrueckner
Horton
Howard
Hoyer
Hubbard
Hughes
Hutto
Jacobs
Jeffords
Jenkins
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kaptur
Kastenmeier
Kennedy
Kennelly
Kildee
Konnyu
Kostmayer
LaFalce
Lancaster
Lantos
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Lloyd
Lowry (WA)
Luken, Thomas
MacKay
Manton
Markey
Martin (NY)
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McHugh
McMillan (NC)
McMillen (MD)
Mfume
Mica
Miller (CA)
Miller (WA)
Mineta
Moakley
Mollohan
Montgomery
Moody
Morella
Morrison (CT)
Morrison (WA)
Murtha
Myers
Nagle
Natcher
Neal
Nelson
Nichols
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Panetta
Patterson
Pease
Pelosi
Penny
Perkins
Pickett
Pickle
Price (IL)
Price (NC)
Rahall
Rangel
Ravenel
Ray
Richardson
Ridge
Rinaldo
Robinson
Rodino
Roe
Rose
Rostenkowski
Roukema
Rowland (CT)
Rowland (GA)
Roybal
Sabo
Saiki
Savage
Sawyer
Saxton
Scheuer
Schneider
Schroeder
Schulze
Schumer
Sharp
Sikorski
Sisisky
Skaggs
Skelton
Slattery
Slaughter (NY)
Smith (FL)
Smith (IA)
Smith (NJ)
Solarz
Spratt
St Germain
Staggers
Stallings
Stark
Stenholm
Stokes
Stratton
Studds
Swift
Synar
Tallon
Tauzin
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Valentine
Visclosky
Volkmer
Walgren
Watkins
Waxman
Weldon
Wheat
Whitten
Williams
Wise
Wolpe
Wyden
Yates
Yatron
Young (AK)

NAYS—130

Archer
Armey
Baker
Ballenger
Bartlett
Bliley
Boulter
Broomfield
Brown (CO)
Buechner
Bunning
Burton
Cheney
Clinger
Coats
Coble
Coleman (MO)
Combest
Craig
Crane
Dannemeyer
Daub
Davis (IL)
DeLay
DeWine
DioGuardi
Dornan (CA)
Dreier
Duncan
Edwards (OK)
Emerson
Fawell
Fields
Fish
Frenzel
Gallegly
Gekas
Gingrich
Goodling
Grandy
Gunderson
Hammerschmidt
Hansen
Hastert
Hefley
Henry
Herger
Hiler
Holloway
Hopkins
Hunter
Hyde
Inhofe
Ireland
Johnson (CT)
Kasich
Kolbe
Kyl
Lagomarsino
Latta
Leach (IA)
Lewis (CA)
Lewis (FL)
Lightfoot
Livingston
Lott
Lowery (CA)
Lujan
Lukens, Donald
Lungren
Mack
Madigan
Marlenee
Martin (IL)
McCandless
McCollum
McDade
McEwen
McGrath
Meyers
Michel
Miller (OH)
Molinari
Moorhead
Murphy
Nielson
Packard
Parris
Pashayan
Petri
Porter
Pursell
Regula
Rhodes
Ritter
Roberts
Rogers
Roth
Schuette
Sensenbrenner
Shaw
Shays
Shumway
Shuster
Skeen
Slaughter (VA)
Smith (NE)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solomon
Spence
Stangeland
Stump
Sundquist
Sweeney
Swindall
Tauke
Taylor
Thomas (CA)
Upton
Vander Jagt
Vucanovich
Walker
Weber
Whittaker
Wolf
Wylie

NOT VOTING—37

Badham
Bates
Biaggi
Boland
Brooks
Byron
Chappell
Clay
Courter
Daniel
Dicks
Dorgan (ND)
Dowdy
Downey
Early
Gephardt
Gregg
Hall (OH)
Houghton
Huckaby
Kemp
Kleczka
Kolter
Lent
Martinez
Mrazek
Oxley
Pepper
Quillen
Roemer
Russo
Schaefer
Vento
Weiss
Wilson
Wortley
Young (FL)

□ 1555

Mr. COBLE changed his vote from "yea" to "nay."

Mr. COYNE and Mrs. BENTLEY changed their votes from "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

UNITED STATES-JAPAN FISHERY AGREEMENT APPROVAL ACT OF 1987

The SPEAKER pro tempore. Pursuant to House Resolution 337 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 3674.

□ 1605

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 3674) to provide for congressional approval of the Governing International Fishery Agreement between the United States and Japan, with Mr. MOAKLEY in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the first reading of the bill is dispensed with.

Under the rule, the gentleman from Massachusetts [Mr. STUDDS] will be recognized for 30 minutes and the gentleman from Alaska [Mr. YOUNG] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Massachusetts [Mr. STUDDS].

Mr. STUDDS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in strong support of H.R. 3674, a bill which provides congressional approval of the Governing International Fishery Agreement [GIFA] between the United States and Japan, implements the provisions of annex V to the International Convention for the Prevention of Pollution from Ships, reauthorizes the National Sea Grant College Program Act and improves efforts to monitor, assess, and reduce the adverse impacts of driftnets.

Before explaining the text of the amendment, I think it is important that my colleagues understand the work that has gone into putting this bill together. Very briefly, in addition to approving the new Japanese fishery agreement, this bill contains several measures which have already cleared the House. Unfortunately, the prospects for action by the appropriate committees in the other House on these measures were not good. During the past few weeks, committee staff from both sides of the aisle have been working with their appropriate counterparts in the other body to work out agreements on each component of this bill. Mr. Chairman, the changes we have made in the committee bill and the changes we will propose on the floor are necessary in order to amend the text to reflect what we believe to be an agreement between the relevant committees in both House. Our understanding with both the leadership in the House and the other body is that by bringing up the bill today and making these changes, we have crafted a bill which can simply be accepted by the legislators on Constitution Avenue and sent down to Pennsylvania Avenue before Christmas. This is critically important because without approval of the Japanese fishery agreement, our fishermen will lose millions of dollars.

Let me briefly explain the contents of our bill. Title I amends and extends for 2 more years the current Governing International Fishery Agreement [GIFA] between the United States and Japan. The current GIFA, negotiated in 1982 for a period of 5 years, expires on December 31 of this year. Without affirmative congressional action on the new revised GIFA this year, all directed and joint venture activities with Japan will be terminated until some time next year. A break in our fishery relationship with Japan would cause unwarranted financial hardship for many of our fishermen costing in the millions of dollars.

Title II incorporates the major provisions of H.R. 940, the Plastic Pollution Research and Control Act of 1987. As Members will recall, the House overwhelmingly supported this bill and passed it on October 13, 1987. The legislation implements an international agreement that seeks to regulate the disposal of garbage from ships—referred to as annex V to the International Convention for the Prevention of Pollution from Ships [MARPOL]. Enactment of these measures would prohibit all vessels from dumping plastic trash anywhere within 200 miles of our coastline and it would also prohibit the disposal of all garbage within 12 miles. Finally it requires the National Oceanic and Atmospheric Administration to continue its efforts to identify the lethal effects of plastics on the marine environment, and requires EPA to identify land-based sources of plastic pollution and other trash and report on methods to reduce those sources. I will be offering an amendment at the appropriate time that will amend this title to reflect what we believe to be a negotiated settlement between companion bills in the other body and the bill which the House passed.

Title III authorizes the National Sea Grant College Program for an additional 3 years. On October 13, the House passed this reauthorization as part of H.R. 940. Subsequently, our committee reconciled the differences between the House bill and its companion bill in the other body and during our full committee markup this week these changes were made in H.R. 3674 and approved by the committee. Members should know that the changes we made were to the authorization section of the bill. The overall level is the same as the House passed version—for totals of $44 million for fiscal year 1988, $58 million for fiscal year 1989, and $64 million for fiscal year 1990—we simply restructured this section to more closely track the version from the other body. Again, the language contained in the bill is identical to that approved by the committee and reflects an agreement by both Houses.

Title IV of the bill contains the provisions of H.R. 3584, the Driftnet Fishing Control Act of 1987. The Merchant Marine and Fisheries Committee favorably considered H.R. 3584 and included it as part of the GIFA package. Our counterparts in the other body have favorably recommended similar legislation and the provisions in H.R. 3584 represent an agreement between us.

For those Members unfamiliar with the technique of driftnet fishing, let's briefly explain both the method and the problems associated with it. Driftnets are panels of plastic webbing tied together, placed in the water and allowed to drift. While drifting, these nets entangle fish and then they are retrieved in order to empty the catch. This method of fishing is principally used by foreign fishermen outside our 200-mile exclusive economic zone to harvest squid in the north Pacific Ocean. Unfortunately, these nets catch more than squid; they catch seals, porpoise, seabirds, and salmon from our rivers. Moreover, when these nets become lost, abandoned or in some cases discarded, they continue to catch fish, birds, and marine mammals.

Mr. Chairman, this driftnet fishing by foreign fishermen has created enormous problems with our fishermen and our environmental community in the Pacific Northwest. Because this activity is outside our EEZ in the north Pacific Ocean and thus escapes the jurisdiction of the United States, we must negotiate a solution to this problem. The Department of State has been attempting to do just that, with little success. In short this legislation strengthens our State Department's hand. It directs State and Commerce to negotiate with monitoring and enforcement agreements with those nations whose fishermen catch U.S. marine resources in their nets. These agreements are intended to provide us with information on what is being caught in these driftnets as well as to help enforce applicable domestic and international law. If adequate agreements are not reached, the Secretary of Commerce is directed to certify this fact to the President and this certification will allow the President, at his choosing, to invoke fishery trade sanctions against those nations.

Finally, title V contains provisions concerning an outbreak of the dreaded "red tide" in North Carolina and I expect that our committee chairman Mr. JONES will explain this title.

Mr. Chairman, our committee has worked very closely with the administration and the other body to reach agreement on an acceptable driftnet bill. The language in H.R. 3674 is identical to what the committee approved this week and has the support of the administration and the other body.

In closing, I want to reiterate that this bill and all its components represent compromises and agreements reached with the other body. It is our hope, our expectation and our wish that the other body accept this bill as it is and send it to the President so that our fishermen will have a Merry Christmas.

☐ 1610

Mr. Chairman, I yield such time as he may consume to the gentleman from North Carolina [Mr. JONES], the distinguished chairman of the full committee.

Mr. JONES of North Carolina. Mr. Chairman, I think it is very important to emphasize the fact that the Japanese treaty so desired by the administration is the only reason this bill is here this afternoon. That is the basic reason. It must be enacted into law prior to January 1.

Mr. YOUNG of Alaska. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of the bill before us today and urge its adoption by the House.

This bill consists of four titles which have been reported by the House Committee on Merchant Marine and Fisheries. Title I of the bill gives approval to a fisheries agreement between the United States and Japan which is due to expire on December 31, 1987. Failure to approve this agreement will result in a substantial economic loss to United States fishermen who are operating in joint fishing ventures with Japanese companies. At hearings before the House Subcommittee on Fisheries and Wildlife Conservation and the Environment, the administration strongly supported the bill and, in addition, our committee has received letters of support from a number of different commercial fishing organizations. This is a noncontroversial measure which will benefit the U.S. fishing industry.

Title II of this bill consists of the implementing legislation to the International Convention for the Prevention of Pollution at Sea. A similar bill was previously passed by the House as H.R. 940. The language included in this bill today represents agreements that we have worked out with the other body to ensure that the bill will be passed in a timely manner. The administration generally supports this proposal and I believe it is important to have it enacted to help combat the growing problem of ocean dumping of plastics.

Title III of this bill is a reauthorization and a series of amendments to the National Sea Grant Program Act. Again, this bill has already been passed by the House of Representatives and the changes that are included in the legislation here today represent agreements worked out with the other body. The National Sea Grant Program has been in effect since the 1970's and has been responsible for important marine research being conducted in the waters off our shores. In addition, the Sea Grant Program provides a marine advisory service to fishing communities which has helped improve the economic efficiency of commercial fishermen.

Title IV of the bill contains language to assess, monitor, and control impacts of high seas driftnet fishing on marine resources of the United States. The title requires the Secretary of Commerce, acting through the Secretary of State, to enter into negotiations with those nations that allow their vessels to engage in driftnet fishing on the high seas in order to establish agreements on monitoring and enforcement of those fisheries. As the Members know, these driftnet fisheries have been extremely harmful to seabirds, marine mammals, and salmon and need to be strictly controlled in order to prevent further harm to our valuable marine resources. This legislation is widely supported by the environmental community and is not objected to by the administration.

Title V contains language solving a red tide problem on the coast of North Carolina.

In regard to the driftnet bill, I wish to make two particular points. First, in regard to the agreements that are to be negotiated, our bill requires that the negotiations be initiated by the Secretary of Commerce, acting through the Secretary of State, and in consultation with the Coast Guard and the Department of the Interior as appropriate. While we are suggesting a lead role for the Department of Commerce because of their expertise on fisheries matters, this does not indicate that we wish the Department of State to have no role in these negotiations. The Department of State clearly has a role as negotiator of foreign policy and we expect the Department of State to fulfill that function. The participation of the Department of Commerce is necessary because of its fisheries expertise, but we are not seeking via this legislation to disrupt the traditional method of negotiating international agreements.

Second, I wish to make clear that in the minds of many of Alaska's fishermen this bill does not go far enough. I agree with them completely. I believe that more could have been done in developing this legislation. However, we are faced with the fact that we need to get the negotiation process moving which requires us to pass this bill and, in order to pass the bill, we need agreement from diverse interests. It is my personal intent to continue seeking ways to more closely control driftnet fishing on the high seas. I do not consider this bill to be the final chapter, but rather one more step in our effort to stop this tremendous waste of our marine resources.

Mr. Chairman, I believe this bill is a good one. It has the general support of the administration and we expect it to be cleared by the other body in an expedited manner. I, therefore, urge all Members to vote in favor of this legislation today. Thank you.

Mr. Chairman, I yield such time as he may consume to the gentleman from Arkansas [Mr. HAMMERSCHMIDT].

Mr. HAMMERSCHMIDT. Mr. Chairman, I rise in support of H.R. 3674, and in particular, title II of H.R. 3674.

Mr. Chairman, I rise in support of title II of H.R. 3674 which would strengthen protection of our oceans and inland waterways from pollution caused by the disposal of plastics and other forms of refuse.

Mr. Chairman, I would like to commend the leadership of the Committee on Merchant Marine and Fisheries for their attention to these issues. The gentleman from North Carolina [Mr. JONES] and the gentleman from Michigan [Mr. DAVIS], who are the chairman and ranking Republican member of the full committee, deserve much of the credit for bringing this bill to the full House. Also the chairman and ranking Republican member of the Subcommittee on Fisheries and Wildlife Conservation and the Environment, the gentleman from Massachusetts [Mr. STUDDS] and the gentleman from Alaska [Mr. YOUNG] have worked diligently to assure quick action on this bill.

In addition, I want to express my appreciation to the leadership of the Committee on Public Works and Transportation for their hard work and attention to this important legislation. The gentleman from New York [Mr. NOWAK] and the gentleman from Minnesota [Mr. STANGELAND], who serve as the chairman and ranking Republican members of our Subcommittee on Water Resources are to be complimented for their leadership and dedication in fashioning a compromise bill. But especially, I want to commend the chairman of the full Committee on Public Works and Transportation, the gentleman from New Jersey [Mr. HOWARD], for his great interest and support for this measure. Over the years, JIM HOWARD has repeatedly demonstrated his commitment to the protection of the environment, especially our delicate coastal resources.

Title II would implement a comprehensive program of research and the control of pollution of oceans and inland waters caused by the discharge of plastics and other forms of garbage. In particular, title II would implement annex V of the International Convention for the Prevention of Pollution from ships [MARPOL], prohibiting disposal of plastics and other garbage from vessels of U.S. registry or vessels of foreign registry within 200 miles of the U.S. coastline. This is done by amending the act to prevent pollution from ships which currently regulates the discharge of refuse from vessels in marine waters.

Significantly, the protections afforded by this act are not only strengthened but are extended to all navigable waters of the United States. This includes waters which traditionally have been under the jurisdiction of the Committee on Public Works and Transportation. For purposes of these amendments, the term "navigable waters of the United States" means: The territorial seas of the United States; internal waters of the United States that are subject to tidal influence; and other nontidal waters that, first, are or have been used, or are or are susceptible for use, by themselves or in connection with other waters, as highways for substantial interstate or foreign commerce, or second, a governmental or nongovernmental body, having expertise in waterway improvement, determines to be capable of improvement at a reasonable cost to provide, by themselves or in connection with other waters, highways for substantial interstate or foreign commerce.

The bill prohibits the discharge of plastics from cretain publicly owned vessels but allows a period of 5 years to comply with the provisions of annex V. The bill, however, exempts Navy and Coast Guard vessels from the provisions of the bill and annex V during time of war or a declared national emergency.

Mr. Chairman, I believe title II of H.R. 3674 takes a positive step toward addressing the problem of plastics pollution. Therefore, I support expeditious passage of title II of this legislation.

Mr. STUDDS. Mr. Chairman, once again I yield such time as he may consume to the gentleman from North Carolina [Mr. JONES], chairman of the full committee.

Mr. JONES of North Carolina. Mr. Chairman, title V simply directs the Administrator of the Small Business Administration to declare the recent North Carolina coast red tide contamination a disaster for purposes of providing disaster assistance under the Small Business Act. The House Small Business Committee contributed to the drafting of this title and is fully aware and supportive of its purpose and provisions.

North Carolina's coast is experiencing a terrible disaster as a result of an unprecedented red tide—an unusual toxic marine algae that is causing a staggering amount of economic dislocation in my State.

The red tide has closed most of North Carolina's important fisheries for oysters, clams, and scallops since early November. This all follows the worst brown shrimp fishing in history. Other related industries are suffering too. Sales of finfish have plummeted. Restaurants, bait shops, charter boats, fishing piers, and motels are also suffering a very severe impact. The total economic impact is in the millions of dollars.

Thousands of our people are suffering, but the Small Business Administration has callously rejected our request for help. Many of our fishermen have now been without incomes for 2 months, and it is a particularly bleak Christmas for them and their families. Title V will make it clear that the citizens suffering the impact of this disaster are eligible for long-term loans. They must go through the same application procedures as everyone else, and show that they are able to repay the loans. This bill will simply help them survive until the red tide goes away and they are able to pursue their traditional livelihoods once again. They and I will be particularly grateful for your support.

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Mr. YOUNG of Alaska. Mr. Chairman, I yield 8 minutes to the gentleman from New Jersey [Mr. SAXTON].

Mr. SAXTON. Mr. Chairman, I thank the gentleman for yielding this time.

I would like to begin by saying that I rise in strong support of H.R. 3674.

I would like at the same time to commend the gentleman from North Carolina, the chairman of our committee, for doing such a fine job in working through the committee process to put this bill into its final form, as well as the chairman of the subcommittee, the gentleman from Massachusetts [Mr. STUDDS], who has been most cooperative with other members of the committee.

Mr. Chairman, I rise with a certain degree of pleasure, and I would like also to explain that while I support the bill, with a certain degree of disappointment as well.

The provisions of the bill as it stands, I believe, are commendable. We need to expand the GIFFA and extend it for 2 years, as the bill provides.

That relationship with Japan is an important one and one that we should look to preserve and enhance.

Other provisions of the bill I believe are equally important. The gentleman from Massachusetts [Mr. STUDDS] mentioned that the Plastic Pollution and Control Act is a title in this bill. There is the Sea Grant Program, which many of us stood here on this floor and spoke in support of and voted in support of, that is part of this bill.

The gentleman from Alaska [Mr. YOUNG] just spoke about the Drift Net Fishing Control Act, which is equally important, and of a great deal of importance of our chairman and the people of North Carolina is the section of the bill which deals with the red tide problem.

But there is part of a very serious problem that this bill does not deal with. It was the intention of this Member, and I believe I can say the gentleman from New Jersey [Mr. HUGHES], to have added a section of the bill to the bill which would have dealt with sludge dumping. Through the good nature of the gentleman from New Jersey [Mr. HUGHES], and I think myself, we concluded that that portion of the bill would have added sufficient controversy to this package, to this bill, to have rendered its future at least uncertain; so in committee we agreed not to attach or not to try to attach that provision to this bill. That provision would have stopped sludge dumping off the coasts of Maryland, Delaware, and New Jersey, as of December 31, 1991.

We felt and still feel that it is a provision that should be included. One only need look at the summer of 1987 to understand why that is necessary. In August 1987 and in the few months before, we had washups on our shores. We had our red tides. We had our beaches closed. We had hospital waste on our beaches and, yes, that sludge dump, which has now moved from the 12-mile site to 106 miles off shore is a further impediment to the environmental quality.

Yes, the sludge dump at the 106-mile site is an additional impediment to the ecological health of the offshore waters of New Jersey and of Maryland and of Delaware.

The Governor of New Jersey feels so strongly about this that he has committed over the next 5 years to spend $200 million of the State's money to look into and develop alternative means of dealing with various ocean pollution problems.

The sludge problem is something that he intends to address through our State legislature as well. The Governor's program is an important and comprehensive one and the stopping of sludge dumping off the coast is an integral ingredient in that program.

Some will say there is no evidence that sludge dumping in the ocean is detrimental to the ocean, but one need only to look at one the aspects of the ocean environment from this summer to understand how important it is. This summer, the first summer that the 106-mile site was used to dump sludge, 300 dolphins washed up on our shores. Perhaps that was a coincidence. Perhaps it was a coincidence that 300 dolphins died the first year that the 106-mile site was used, but perhaps it was not a coincidence.

Others would claim that there is no danger at all to the ocean environment, but when one looks at the fact that heavy metals are included in that sludge, such metals as lead, cambium, and zinc, one need only to recognize the potential danger posed by those heavy metals.

Just yesterday, Mr. Chairman, we supported unanimously, or close to unanimously, a bill in this House that had to do with endangered species. Today I am not going to offer the amendment and I do not believe my colleague is, either, about sludge dumping in the ocean, but I can tell you that we intend with all our might in the months ahead to push for that amendment as a free standing bill or as an amendment to another bill, because we do not want to add the bottlenosed dolphin to that list of endangered species that we dealt with yesterday.

Mr. STUDDS. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Florida [Mr. BENNETT], who has been a leader in the fight for this legislation.

Mr. BENNETT. Mr. Chairman, I primarily want to congratulate the committee on its vigorous efforts in this Congress to cleanup the sea. We have done a number of things that are very, very important. One measure that is in this bill, title IV, I believe it is, has to do with driftnets. Driftnets are sort of like you start out with a car that has plenty of gasoline in it and not anybody at the wheel; and it just goes through a parking lot and knocks over everything. That is about what a driftnet does. It catches a lot of fish. It catches birds and things like that, which just die. There is never any utilization for these killed fish and killed birds as these driftnets take their uncharted courses across the waves, untended.

So Mr. Chairman, this is a good bill. It has a lot of very fine things in it, and I congratulate the committee on bringing it forth.

Mr. YOUNG of Alaska. Mr. Chairman, will the gentleman yield?

Mr. BENNETT. I yield to the gentleman from Alaska.

Mr. YOUNG of Alaska. Mr. Chairman, I would like to compliment the gentleman, a leading Member in this whole problem of drift net legislation. The gentleman has been the front force in this. The gentleman has led us and worked with us. I want that to be on the record. The gentleman from Florida has been up-front and has worked very well on this issue.

Mr. BENNETT. I thank the gentleman for his kind remarks.

Mr. Speaker, the House overwhelmingly passed H.R. 940, the Plastic Pollution Research and Control Act. This was a good and much needed piece of legislation.

But plastic wastes continue to haunt us, especially plastic driftnets which are lost or discarded at sea, also known as ghost driftnets. They continue to fish and indiscriminately kill fish, seabirds, and marine mammals. Currently the foreign driftnet fishery in the North Pacific loses or discards as much as 1,000 miles of netting each year. Although the total impact of the foreign driftnet fishery is not known, it appears that the killing of marine life is staggering. Driftnets are also an inefficient and wasteful method of harvesting fisheries resources. As much as 50 percent of the fish ensnared in driftnets die and drop out of the net before it is picked.

In the 99th Congress and again in the 100th, I have introduced the Drift net Monitoring, Assessment, and Control Act, H.R. 537, as a companion bill to the Senate version introduced by Senator TED STEVENS. When the plastic pollution bill, H.R. 940, was introduced during the 100th Congress, a portion of the bill addressed the drift net problem. But during subcommittee markup, this portion was dropped. Driftnets pose a very serious problem and need to be addressed immediately.

H.R. 537 has received strong support and currently has 63 cosponsors.

The inshore runs of salmon in Alaska in 1986 have been the lowest in 7 years, and many of the United States fishermen in the area say that the foreign seas driftnet fisheries, mainly those of Japan, Taiwan, and the Republic of Korea, are responsible for this. They claim that, because the runs are lower, tighter restrictions are placed on the taking of salmon in U.S. waters by U.S. fishermen, costing the Alaskan fisheries between $4 and $8 million. While Alaska fishermen purposely allow salmon to escape to the sea so that the fish can then return to the freshwater streams to lay their eggs, these same salmon are being caught with driftnets on the high seas before returning to their spawning grounds.

The International Convention for the High Seas Fisheries of the North Pacific Ocean sets seasonal and area restrictions for the highseas fishery so that impacts on U.S.-origin salmon are minimized. Coast Guard surveillance flights have repeatedly detected numerous violations by the Japanese squid driftnet vessels that have been sighted on salmon fishing grounds. This consistent record by the Japanese demonstrates their disregard for the international agreement. Yet the United States continues to allow the Japanese the privilege to fish within its 200-mile Exclusive Economic Zone [EEZ].

We must remind foreign fleets operating within our EEZ that it is their privilege to fish in this area, not their right. If these foreign fleets refuse to negotiate with us concerning U.S.-origin marine resources on the high seas, then they should be ready to face the consquences.

The unregulated use of driftnets has devastated the marine resources of the North Pacific for too long. This problem will not go away by itself, and I urge my colleagues to join me in support of this legislation.

Mr. BENNETT. Mr. Chairman, I thank the gentleman.

There were 60-some odd Members of the Congress who joined me in that legislation which I introduced and they deserve equal credit.

Mr. STUDDS. Mr. Chairman, I yield 2 minutes to the gentleman from North Carolina [Mr. LANCASTER].

Mr. LANCASTER. Mr. Chairman, I rise today in support of title VI of H.R. 3674, the Japanese giffa bill. This provision focuses on the red tide which has wreaked havoc on an area in which the economy is hostage to the sea. Beginning on November 2, the North Carolina Division of Marine Fisheries, in accordance with the U.S. Food and Drug Administration regulations, closed 170 miles of North Carolina's coast to the harvesting of oysters, clams, scallops, and mussels, due to this unprecedented and sudden infestation of toxic red tide micro-organisms. After a vigrous and well documented attempt to have the area designated an economic injury disaster area by the Small Business Administration, the SBA declined saying that the red tide did not fit the SBA's narrow definition of a "physical disaster."

It is difficult for me to understand, even after reading SBA's regulatory interpretation of the law, how this red tide could be excluded from the category of "physical disaster." It is certainly a human disaster. The effect on small business was immediate and unmistakable—estimated losses during the first week of red tide infestation of over $87,000 for the fishing industry and or twice that for the motel and restaurant industry. Losses to date, have exceeded $3 million.

Can any logical distinction be made between the damage done to shell fish by red tide and not treated as a disaster and the damage done by freezing water, reduced salinity as the result of a flood, or hurricanes? The SBA has said the red tide is a micro-organism naturally occurring in the water and thus is not a "physical disaster." However, this particular micro-organism naturally occurs in tropical waters, not North Carolina waters. It has not previously been noted north of Jacksonville, FL. Subfreezing temperatures are natural in North Carolina, but a disaster in Florida. The same is true of red tide, but reversed.

Claims by the SBA of "hands tied" and "bound by precedent and by statute" have become common hiding places the last few years. Their position is ridiculously restrictive and could reasonably and easily contain more flexibility to help these small businesses in distress.

Mr. Chairman, we have the chance to remedy this misfortune for a number of individuals destined to reach into an empty Christmas stocking this year, otherwise.

Mr. YOUNG of Alaska. Mr. Chairman, I yield 5 minutes to the gentleman from Washington [Mr. MILLER].

Mr. MILLER of Washington. Mr. Speaker, I thank the gentleman from Alaska for yielding this time. I will take only 30 seconds.

I want to commend the chairman of the committee, the gentleman from North Carolina [Mr. JONES]; the subcommittee chairman, the gentleman from Massachusetts [Mr. STUDDS], and my distinguished colleague, the gentleman from Alaska [Mr. YOUNG], the ranking member, for their work on this legislation.

Mr. Chairman, I rise in support of the United States and Japan Fishery Agreement Approval Act of 1987, which is very important to my constituents in Washington State.

Mr. STUDDS. Mr. Chairman, I yield 1 minute to the gentleman from New York [Mr. Nowak].

Mr. NOWAK. Mr. Chairman, I am pleased to speak in support of the bill. H.R. 3674 provides necessary congressional approval of the governing international fishing agreement between the United States and Japan. Without timely congressional approval, these agreements will not be effective.

Mr. Chairman, I am also pleased to speak in support of the committee amendment which includes provisions to aid in our continuing efforts to curtail pollution of our waters from ships. The committee amendment includes language similar to that of H.R. 940, an act to implement the provisions of Annex V to the International Convention for the Prevention of Pollution From Ships, passed by this House on October 13, 1987. This bill would prohibit disposal of various types of garbage from ships; prohibit disposal into the sea of all plastics; require the preparation of a New York Bight Restoration Plan; and, mandate an EPA study of plastic debris in the New York Bight.

Ships have historically been afforded the right to dispose of their garbage in the open sea. In years past, this garbage has dispersed and degraded. Unfortunately the nature of today's garbage has changed significantly with the widespread use of plastics, inlcuding items such as synthetic ropes, synthetic fishing nets, six-pack beverage yokes, and garbage bags.

These plastic items do not degrade easily—they snare marine mammals and wind around the necks of birds causing drowning, suffocation and starvation. It is estimated that as many as 50,000 northern fur seals, 5,000 porpoises and hundreds of thousands of seabirds are killed each year as a result of entanglement in discarded fishing nets alone. The time has come for us to stop this senseless killing. The seas are not an open dumping ground to be fouled for the convenience of ocean travelers.

Along with the important provisions regarding the prohibition of garbage disposal are two sections to address the serious pollution problems in the New York Bight area.

The administrator of EPA is required within 3 years to prepare and submit a New York Bight restoration plan. This plan is to identify and assess the impact of pollutants, including their effect on human health and the marine environment; identify technologies and management practices for controlling pollutants (including their costs and a schedule for implementation); and, comprehensively assess alternatives to dumping municipal sludge in the New York Bight.

The Administrator is also charged with reporting to Congress within 6 months on the problems associated with plastic debris in the New York Bight, with specific attention to the effect of the debris on beaches, marine life, the environment, and coastal waters.

These two New York Bight provisions are necessary to improve the quality of life in the New York Bight area. We can no longer tolerate the death of the marine environment and the health risks posed by the pollution on the beaches such as occurred this past summer.

Mr. Chairman, the need for this legislation is clear and overdue if we are to protect the marine environment from the deadly effects of modern pollution. I urge enactment of the bill.

Mr. YOUNG of Alaska. Mr. Chairman, I yield 5 minutes to the gentleman from Minnesota [Mr. Stangeland].

Mr. STANGELAND. Mr. Chairman, I thank my colleague for yielding me this time.

Mr. Chairman, I rise in support of title II in H.R. 3674, the Plastic Pollution Research and Control Act of 1987. Title II would strengthen protection of our oceans and inland waters against plastic pollution and other garbage.

Much of this legislation is based on H.R. 940 which was reported by the Merchant Marine and Fisheries Committee and sequentially referred to the Public Works and Transportation Committee. The House then passed H.R. 940 on October 13, 1987. Since then, various House and Senate committees have revised the legislation to incorporate provisions from other bills.

Today's action is the result of hard work and extensive study by the Merchant Marine and Fisheries Committee, particularly Chairman Jones, ranking minority member Davis, Chairman Studds of the subcommittee and ranking minority member Young of the subcommittee. It is also very much the result of the leadership and cooperation offered by Chairman Howard, ranking minority member Hammerschmidt and subcommittee Chairman Nowak of the Public Works Committee. I also want to commend the leadership on the Environment and Public Works Committee and the Commerce, Science, and Transportation Committee in the Senate. All of these players deserve our thanks for crafting this important and environmentally protective compromise.

Title II of H.R. 940 addresses a growing concern, highlighted dramatically by recent events along the Atlantic coast, by placing new controls on the disposal of plastic and other garbage from ships. The purpose of the legislation is to implement annex V to the International Convention for the Prevention of Pollution from Ships and to identify and reduce the effects of plastic pollution on the marine environment. The bill not only bans the disposal of plastic materials into the sea anywhere within 200 nautical miles of the U.S. coastline, but also extends all the dumping prohibitions in annex V to U.S. inland waterways—that is, its "navigable waters of the United States" as that term has been interpreted by the courts.

Mr. Chairman, title II extends annex V to the inland waters of the United States. This is an important change, one I am sure the Public Works Committee would like to have looked at in closer detail. As the committee with jurisdiction over pollution of the navigable waters, we would like to analyze further the consistency of this legislation with the Federal Water Pollution Control Act of 1972. In order to expedite this important legislation, however, we have agreed to the inclusion of "navigible waters" without the benefit of hearings. Of course, we will expect to follow the legislation if enacted into law, very closely.

Mr. Chairman, I urge my colleagues to support this important environmental legislation. With its provisions on the New York Bight, plastics pollution, and other refuse, the bill takes a major step forward in controlling water pollution.

Mr. DAVIS of Michigan. Mr. Chairman, the legislation before us includes several provisions besides the waiver of the 60-legislative-day waiting period for our Governing International Fishery Agreement with Japan. These include driftnet legislation that Congressman Young has worked hard for, plastic pollution legislation (H.R. 940), which the House has already adopted, and legislation to reauthorize the National Sea Grant College Program.

We have all visited sea grant before, but title III is an improved version of what we earlier passed overwhelmingly from full committee last July and resoundingly supported in the House in September. It reflects the views of the Merchant Marine and Fisheries Committee and our colleagues in the other body, and I urge my colleagues once again to support reauthorization of a program which has contributed much to our coastal States, as well as those inland.

Section 3012 of the bill, which authorizes a Great Lakes shoreline mapping plan, is personally important to me and to those who live along the Great Lakes shore, recently so devastated from much higher than normal water levels. Coastal erosion and storm damage have so altered the shoreline that Federal, State, and local government entities no longer have an accurate picture of what they need to do to protect existing Great Lakes shore development. This mapping plan would be an important first step in providing important planning tools to the Great Lakes region, so long ignored by Washington bureaucrats as "not sufficiently important" to warrant the updating of shore maps prepared over 50 years ago.

I ask my colleagues to support the adoption of this bill.

Mr. LOWRY of Washington. Mr. Chairman, I would like to briefly explain the sea grant title of this legislation. Title III of this bill is almost identical to H.R. 3017, the sea grant reauthorization bill reported by the Committee on Merchant Marine and Fisheries and passed by the House. The only differences are as follows:

First, although the overall authorization levels are identical to the House-passed version for totals of $44 million for fiscal year 1988, $58 million for fiscal year 1989, and $64 million for fiscal year 1990, in this title there is a further breakdown of the authorization funding structure. This breakdown is as follows:

	1988	1989	1990
The basic Sea Grant Program	41.5M	50.5M	51.0M
Strategic marine research	0.5M	5.0M	10.0M
Marine affairs and resource management	2.0M	2.5M	3.0M

These changes were made because the other body had problems with the single-fund structure in H.R. 3017.

In addition, title III also contains a change in the Sea Grant International Program which broadens the program geographically.

Finally this title III includes language which would place a 2-year limitation on funding under the marine resource management section for any single sea grant institution.

Mr. Chairman, again, these changes are minor, and I believe that we do have agreement with the Senate on this language as contained in title III, which will hopefully enable us to get the bill enacted this year.

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Mr. YOUNG of Alaska. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. STUDDS. Mr. Chairman, we have no further requests for time, and I yield back the balance of my time.

The CHAIRMAN. Pursuant to the rule, the committee amendment in the nature of a substitute, now printed in the reported bill, as modified by the amendment printed in section 2 of House Resolution 337, shall be considered as an original bill for the purpose of amendment, and each title shall be considered as having been read.

The Clerk will designate section 1.

The text of section 1 is as follows:

SECTION 1. SHORT TITLE.

This Act may be cited as the "United States-Japan Fishery Agreement Approval Act of 1987".

The CHAIRMAN. Is there an amendment to section 1?

The Clerk will designate section 2.

The text of section 2 is as follows:

SEC. 2. TABLE OF CONTENTS.

The contents of this Act are as follows:

Sec. 1. Short title.
Sec. 2. Table of contents.

TITLE I—APPROVAL OF GOVERNING INTERNATIONAL FISHERY AGREEMENT WITH JAPAN

Sec. 1001. Approval of agreement.

TITLE II—PLASTIC POLLUTION RESEARCH AND CONTROL

Sec. 2001. Short title.
Sec. 2002. Purposes.
Sec. 2003. Effective date.

Subtitle A—Amendments to Act to Prevent Pollution From Ships

Sec. 2101. Definitions.
Sec. 2102. Application of Act.
Sec. 2103. Pollution reception facilities.
Sec. 2104. Violations.
Sec. 2105. Reference of violation to country of registry or nationality.
Sec. 2106. Proposed amendments to protocol.
Sec. 2107. Legal actions.
Sec. 2108. Refuse record books; waste management plans; notification of crew and passengers.
Sec. 2109. Compliance with international law.
Sec. 2110. Civil penalty under Refuse Act.

Subtitle B—Studies and Report

Sec. 2201. Compliance with Annex V, generally.
Sec. 2202. Compliance by Federal agencies.
Sec. 2203. Land-based sources of plastic materials.
Sec. 2204. Effects of plastic materials on the marine environment.
Sec. 2205. Plastic pollution public education program.
Sec. 2206. New York bight plastics study.

TITLE III—MARINE SCIENCE, TECHNOLOGY, AND POLICY DEVELOPMENT

Sec. 3001. Short title.

Subtitle A—National Sea Grant College Program Authorization

Sec. 3101. Short title.
Sec. 3102. Reference to the National Sea Grant College Program Act.
Sec. 3103. Declaration of policy.
Sec. 3104. Definitions.
Sec. 3105. Contracts and grants.
Sec. 3106. Sea grant strategic research program.
Sec. 3107. Fellowships.
Sec. 3108. Sea grant review panel.
Sec. 3109. Marine affairs and resource management improvement grants.
Sec. 3110. Authorization of appropriations.
Sec. 3111. Sea grant international program.

Subtitle B—Great Lakes Mapping

Sec. 3201. Short title.
Sec. 3202. Great Lakes shoreline mapping plan.
Sec. 3203. Preparation of Great Lakes shoreline maps.
Sec. 3204. Contract authority.
Sec. 3205. Definitions.
Sec. 3206. Authorization of appropriations.

TITLE IV—DRIFTNET IMPACT MONITORING, ASSESSMENT, AND CONTROL

Sec. 4001. Short title.
Sec. 4002. Findings.
Sec. 4003. Definitions.
Sec. 4004. Monitoring agreements.
Sec. 4005. Impact report.
Sec. 4006. Enforcement agreements.
Sec. 4007. Evaluations and recommendations.
Sec. 4008. Construction with other laws.
Sec. 4009. Authorization of appropriations.

TITLE V—MISCELLANEOUS

Sec. 5001. Jones Act modifications.
Sec. 5002. Towing of valueless material by U.S. tug.
Sec. 5003. Transporting valueless material by U.S. barge.
Sec. 5004. Exemption from restriction on subsidized operators.
Sec. 5005. Limitation on documentation.

The CHAIRMAN. Is there an amendment to section 2?

The Clerk will designate title I.

The text of title I is as follows:

TITLE I—APPROVAL OF GOVERNING INTERNATIONAL FISHERY AGREEMENT WITH JAPAN

SEC. 1001. APPROVAL OF AGREEMENT.

Notwithstanding section 203 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1823), the governing international fishery agreement between the Government of the United States of America and the Government of Japan Concerning Fisheries Off the Coasts of the United States, as contained in the message to Congress from the President of the United States, dated November 17, 1987—

(1) is approved by Congress as a governing international fishery agreement for the purpose of such Act; and

(2) shall enter into force and effect with respect to the United States on the date of the enactment of this Act.

The CHAIRMAN. Are there any amendments to title I?

The Clerk will designate title II.

The text of title II is as follows:

TITLE II—PLASTIC POLLUTION RESEARCH AND CONTROL

SEC. 2001. SHORT TITLE.

This title may be cited as the "Plastic Pollution Research and Control Act of 1987".

SEC. 2002. PURPOSES.

The purposes of this title are—

(1) to implement Annex V to the International Convention for the Prevention of Pollution from Ships, 1973 (hereinafter in this title referred to as "Annex V"); and

(2) to identify and reduce the effects of plastic pollution on the marine environment.

SEC. 2003. EFFECTIVE DATE.

(a) In General.—Except as provided in subsections (b) and (c), this title shall be effective on the date on which Annex V to the International Convention for the Prevention of Pollution from Ships, 1973, enters into force for the United States.

(b) Exceptions.—Section 2003, 2108, 2110, 2201, 2203, 2204, 2205, and 2206 of this title shall be effective on the date of the enactment of this title.

(c) Issuance of Regulations.—

(1) In general.—The authority to prescribe regulations pursuant to this title shall be effective on the date of enactment of this title.

(2) Effective date of regulations.—Any regulation prescribed pursuant to this title shall not be effective before the effective date of the provision of this title under which the regulation is prescribed.

Subtitle A—Amendments to Act to Prevent Pollution From Ships

SEC. 2101. DEFINITIONS.

Section 2 of the Act to Prevent Pollution from Ships (33 U.S.C. 1901 et seq.) is amended as follows:

(1) "(a)" is inserted after "Sec. 2.".

(2) Subsection (a)(1) (as redesignated) is amended to read as follows:

"(1) 'MARPOL Protocol' means the Protocol of 1978 relating to the International Convention for the Prevention of Pollution from Ships, 1973, and includes the Convention;".

(32) Subsection (a)(1) (as redesignated) is amended by striking all after "Annexes I"

and inserting ", II, and V thereto, including any modifications or amendments to the Convention, Protocols, or Annexes which have entered into force for the United States;".

(42) Subsection (a)(1) (as redesignated) is amended by inserting "and 'garbage' " after "discharge".

(5) The following is added at the end of section 2:

"(b) For purposes of this Act, as used in Annex V to the Convention, the term 'sea' includes the navigable waters of the United States.".

SEC. 2102. APPLICATION OF ACT.

(a) In General.—Section 3(a) of the Act to Prevent Pollution from Ships is amended to read as follows:

"(a) This Act shall apply—

"(1) to a ship of United States registry or nationality, or one operated under the authority of the United States, wherever located;

"(2) with respect to Annexes I and II to the Convention, to a ship, other than a ship referred to in paragraph (1), while in the navigable waters of the United States;

"(3) with respect to the requirements of Annex V to the Convention, to a ship, other than a ship referred to in paragraph (1), while in the navigable waters or the exclusive economic zone of the United States; and

"(4) with respect to regulations prescribed under section 6 of this Act, any port or terminal in the United States.".

(b) Exclusions.—Section 3(b) of the Act to Prevent Pollution from Ships is amended to read as follows:

"(b)(1) Except as provided in paragraph (2), this Act shall not apply to—

"(A) a warship, naval auxiliary, or other ship owned or operated by the United States when engaged in noncommercial service; or

"(B) any other ship specifically excluded by the MARPOL Protocol.

"(2)(A) Notwithstanding any provision of the MARPOL Protocol, and subject to subparagraph (B) of this paragraph and (Section 202(c) of the Plastic Pollution Research and Control Act of 1987), the requirements of Annex V to the Convention shall apply after 5 years after the effective date of this paragraph to a ship referred to in paragraph (1)(A).

"(B) This paragraph shall not apply during time of war or a declared national emergency.

(c) Regulations.—Section 3(c) of the Act to Prevent Pollution from Ships is amended to read as follows:

"(c) The Secretary shall prescribe regulations applicable to the ships of a country not a party to the MARPOL Protocol, including regulations conforming to and giving effect to the requirements of Annex V as they apply under subsection (a) of section 3, to ensure that their treatment is not more favorable than that accorded ships to parties to the MARPOL Protocol.".

SEC. 2103. POLLUTION RECEPTION FACILITIES.

(a) Determination of Adequacy of Facilities.—Section 6(a) of the Act to Prevent Pollution from Ships is amended—

(1) by inserting "(1)" immediately after "(a)";

(2) in the first sentence of subsection (a)(1) (as redesignated) by inserting "for mixtures containing oil or noxious liquid substances" after "reception facilities"; and;

(3) by adding at the end the following:

"(2) The Secretary, after consulting with appropriate Federal agencies, shall prescribe regulations respecting the adequacy of reception facilities for garbage at ports and terminals which specify the ports and terminals which are required to provide the reception facilities. Persons in charge of a port or terminal shall provide reception facilities, or ensure that the facilities are available, for receiving garbage in accordance with these regulations.".

(b) Consideration of Number and Types of Ships.—Section 6(b) of the Act to Prevent Pollution from Ships is amended—

(1) by inserting ", and in prescribing regulations under subsection (a) of this section," after "reception facilities"; and

(2) by inserting ", or, as appropriate, ships," after "seagoing ships".

(c) Certificate Issuance.—Section 6(c) of the Act to Prevent Pollution from Ships is amended to read as follows:

"(c)(1) If reception facilities of a port or terminal meet the requirements of Annexes I and II to the Convention and the regulations prescribed under subsection (a)(1), the Secretary shall, after consultation with the Administrator of the Environmental Protection Agency, issue a certificate to that effect to the applicant.

"(2) If reception facilities of a port or terminal meet the requirements of the Annex V to the Convention and the regulations prescribed under subsection (a)(2), the Secretary may, after consultation with appropriate Federal agencies, issue a certificate to that effect of the person in charge to the port or terminal.

"(3) A certificate issued under this subsection—

"(A) is valid until suspended or revoked by the Secretary for cause or because of changed conditions; and

"(B) shall be available for inspection upon the request of the master, other person in charge, or agent of a ship using or intending to use the port or terminal.

"(4) The suspension or revocation of a certificate issued under this subsection may be appealed to the Secretary and acted on by the Secretary in the manner prescribed by regulation.".

(d) Entry Denial.—Section 6(e) of the Act to Prevent Pollution from Ships is amended by—

(1) striking "(1)" and inserting "(A)";

(2) striking "(2)" and inserting "(B)";

(3) inserting "(1)" after "(e)";

(4) in paragraph (1)(A) (as redesignated), striking "the MARPOL Protocol" and inserting "Annexes I and II to the Convention"; and

(5) adding at the end the following:

"(2) The Secretary may deny entry to a ship to a port or terminal required by regulations issued under this section to provide reception facilities for garbage if the port or terminal is not in compliance with those regulations.".

SEC. 2104. VIOLATIONS.

(a) Ship Inspections.—Section 8(c) of the Act to Prevent Pollution from Ships is amended by—

(1) striking "(1)" and inserting "(A)";

(2) striking "(2)" and inserting "(B)";

(3) inserting "(2)" immediately after "(c)";

(4) in paragraph (2) (as redesignated), inserting "or otherwise within the navigable waters of the United States" after "jurisdiction of the United States";

(5) in the last sentence of paragraph (2) (as redesignated), striking "If a report made under this subsection involves a ship, other than one of United States registry or nationality or one operated under the authority of the United States, the" and inserting "The"; and

(6) inserting before paragraph (2) (as redesignated) the following: "(1) This subsection applies to inspections relating to possible violations of Annex I or Annex II to the Convention by any seagoing ship referred to in section 3(a)(2) of this Act.".

(b) Ship Inspections Other Than at Port or Terminal.—Section 8 of the Act to Prevent Pollution from Ships is amended by redesignating subsection (d) as subsection (f) and inserting after subsection (c) the following:

"(d)(1) The Secretary may inspect a ship referred to in section 3(a)(3) of this Act to verify whether the ship has disposed of garbage in violation of the requirements of Annex V to the Convention.

"(2) If an inspection under this subsection indicates that a violation has occurred, the Secretary may undertake enforcement action under section 9 of this Act.

"(e)(1) The Secretary may inspect at any time a ship of United States registry or nationality or operating under the authority of the United States to which the MARPOL Protocol applies to verify whether the ship has discharged a harmful substance or disposed of garbage in violation of that Protocol.

"(2) If an inspection under this subsection indicates that a violation of the MARPOL Protocol has occurred the Secretary may undertake enforcement action under section 9 of this act.".

SEC. 2105. REFERENCE OF VIOLATION TO COUNTRY OF REGISTRY OR NATIONALITY.

Section 9(f) of the Act to Prevent Pollution from Ships is amended by striking "to that country" and inserting "to the government of the country of the ship's registry or nationality, or under whose authority the ship is operating".

SEC. 2106. PROPOSED AMENDMENTS TO PROTOCOL.

Section 10 of the Act to Prevent Pollution from Ships is amended—

(1) in subsection (a), by striking "Inter-Governmental Maritime Consultative Organization" and inserting "International Maritime Organization"; and

(2) in subsection (b), by striking "Annex I or II, appendices to the Annexes, or Protocol I of the MARPOL Protocol," and inserting "Annex I, II, or V to the Convention, appendices to those Annexes, or Protocol I of the Convention", and by striking "Inter-Governmental Maritime Consultative Organization" and inserting "International Maritime Organization".

SEC. 2107. LEGAL ACTIONS.

Section 11 of the Act to Prevent Pollution from Ships is amended—

(1) by redesignating subsections (c) through (e) as subsections (d) through (f), respectively; and

(2) by inserting after subsection (b) the following:

"(c) Any person suffering damage or loss from an action of the Secretary taken pursuant to section 8(d) of this Act which is alleged to have been unlawful or to have exceeded that which is reasonably required in the light of available information, may bring an action under this section to recover compensation for that damage or loss.".

SEC. 2108. REFUSE RECORD BOOKS; WASTE MANAGEMENT PLANS; NOTIFICATION OF CREW AND PASSENGERS.

Section 4(b) of the Act to Prevent Pollution from Ships is amended—

(1) inserting "(1)" after "(b)"; and

(2) adding at the end the following:

"(2) The Secretary of the department in which the Coast Guard is operating shall—

"(A) within 1 year after the effective date of this paragraph, prescribe regulations which—

"(i) require certain ships described in section 3(a)(1) to maintain refuse record books and shipboard management plans, and to display placards which notify the crew and passengers of the requirements of Annex V to the Convention; and

"(ii) specify the ships described in section 3(a)(1) to which the regulations apply;

"(B) seek an international agreement or international agreements which apply requirements equivalent to those described in subparagraph (A)(i) to all vessels subject to Annex V to the Convention; and

"(C) within 2 years after the effective date of this paragraph, report to the Congress—

"(i) regarding activities of the Secretary under subparagraph (B); and

"(ii) if the Secretary has not obtained agreements pursuant to subparagraph (B) regarding the desirability of applying the requirements described in subparagraph (A)(i) to all vessels described in section 3(a) which call at United States ports.".

SEC. 2109. COMPLIANCE WITH INTERNATIONAL LAW.

The Act to Prevent Pollution from Ships is amended by adding at the end the following:

"SEC. 17. Any action taken under this Act shall be taken in accordance with international law.".

SEC. 2110. CIVIL PENALTY UNDER REFUSE ACT.

Section 16 of the Act of March 3, 1899 (33 U.S.C. 411) is amended—

(1) by inserting "(a)" after "SEC. 16."; and

(2) by adding at the end the following:

"(b)(1) A person who, after notice and an opportunity for a hearing, is found to have violated section 13 shall be liable to the United States for a civil penalty of not to exceed $25,000 for each violation.

"(2) Each day of a continuing violation of section 13 shall constitute a separate violation.

"(3) The amount of a penalty under this subsection—

"(A) except as provided in paragraph (4) shall be assessed by written notice; and

"(B) shall be determined by taking into account—

"(i) the nature, circumstances, extent, and gravity of the prohibited acts committed; and

"(ii) with respect to the violator, the degree of culpability, history of prior offenses, ability to pay, and other matters as justice may require.

"(4) The amount of a penalty under this subsection may exceed $25,000 only if such penalty is assessed and collected in the same manner, and subject to the same provisions, as in the case of civil penalties assessed and collected after notice and opportunity for a hearing on the record in accordance with section 554 of title 5, United States Code.

"(5) A penalty under this subsection which is subject to assessment or which has been assessed may be compromised, modified, or remitted, with or without conditions.

"(6) If a person fails to pay an assessment of a penalty under this subsection after it has become final, the matter may be referred to the Attorney General for collection in any appropriate district court of the United States.".

Subtitle B—Studies and Report

SEC. 2201. COMPLIANCE WITH ANNEX V, GENERALLY.

Within 2 years after the date of the enactment of this title, and biennially thereafter for a period of 10 years, the Secretary of the department in which the Coast Guard is operating, in consultation with the Secretary of Agriculture and the Secretary of Commerce, shall report to the Congress regarding compliance with Annex V to the International Convention for the Prevention of Pollution from Ships, 1973, in United States waters.

SEC. 2202. COMPLIANCE BY FEDERAL AGENCIES.

(a) REPORT ON EXTENT OF COMPLIANCE.—Within 1 year after the effective date of this title, and each thereafter until the ships are brought into compliance with the refuse disposal requirements of Annex V which applies to commercial vessels, the head of each Federal agency that operates or contracts for the operation of any ship referred to in section 3(b)(1) of the Act to Prevent Pollution from Ships shall report to the Congress on the extent to which their ships are in compliance with the requirements referred to in that section.

(b) REPORT ON INABILITY TO COMPLY.—Within 3 years after the effective date of this title, the head of each Federal agency that operates or contracts for the operation of any ship referred to in section 3(b)(1)(A) of the Act to Prevent Pollution from Ships that may not be able to comply with the requirements of that section shall report to the Congress describing—

(1) the technical and operational impediments to achieving that compliance;

(2) an alternative schedule for achieving that compliance as rapidly as is technologically feasible;

(3) the ships operated or contracted for operation by the agency for which full compliance with section 3(b)(2)(A) is not technologically feasible; and

(4) any other information which the agency head considers relevant and appropriate.

(c) CONGRESSIONAL ACTION.—Upon receipt of the compliance report under subsection (b), the Congress shall modify the applicability of Annex V to ships referred to in section 3(b)(1)(A) of the Act to Prevent Pollution from Ships, as may be appropriate.

SEC. 2203. LAND-BASED SOURCES OF PLASTIC MATERIALS.

Not later than September 30, 1988, the Administrator of the Environmental Protection Agency shall submit to the Congress a report on land-based sources of plastic materials in the marine environment. The report shall include—

(1) description of the types and classes of plastic materials in the marine environment which are from land-based sources, including medical wastes;

(2) description of specific statutory and regulatory authority available to the Adiinistrator, and the steps being taken by the Administrator, to reduce the amount of plastic materials that enter the marine environment from those sources;

(3) analysis of whether the production or sale of particular types or classes of nondegradable plastic materials should be prohibited, taxed, or regulated in any other manner; and

(4) recommendation of legislation which is necessary to prohibit, tax, or regulate land-based sources of plastic materials that enter the marine environment.

SEC. 2204. EFFECTS OF PLASTIC MATERIALS ON THE MARINE ENVIRONMENT.

Not later then September 30, 1988, the Secretary of Commerce shall submit to the Congress a report on the effects of plastic materials on the marine environment. The report shall include—

(1) identification and quantification of the harmful effects of plastic materials on the marine environment;

(2) assessment of the specific effects of plastic materials on living marine resources in the marine environment;

(3) identification of the types and classes of plastic materials that pose the greatest potential hazard to living marine resources;

(4) analysis, carried out in consultation with one Director of the National Bureau of Standards, of plastic materials which are claimed to be capable of reduction to environmentally benign subunits under the action of normal environmental forces (including biological decomposition, photodegradation, and hydrolysis); and

(5) recommendation of legislation which is necessary to prohibit, tax, or regulate sources of plastic materials that enter the marine environment.

SEC. 2205. PLASTIC POLLUTION PUBLIC EDUCATION PROGRAM.

Not later than April 1, 1988, the Secretary of Commerce, in consultation with the Administrator of the Environmental Protection Agency, shall commence a program, to be conducted for a period of at least 3 years, to educate the public (including recreational boaters, fishermen, representatives of the plastics industry, representatives of the beverage industry, representatives of the glass industry, representatives of the paper industry, representatives of the metals industry, and consumer interest groups) regarding the harmfulness of plastic materials (regardless of source) in the marine environment. The program may include workshops, public service announcements, symposia, and any other means to educate the public regarding the harmfulness of plastics in the marine environment and the need to further reduce sources of plastics entering the marine environment.

SEC. 2206. NEW YORK BIGHT PLASTIC STUDY.

The Administrator of the Environmental Protection Agency shall conduct a study of problems associated with plastic debris in the New York Bight, with specific attention to the effect of such debris on beaches, marine life, the environment, and coastal waters, and shall report to the Congress within 6 months after the date of the enactment of this title with recommendations for the elimination of the threats posed by such plastic debris.

The CHAIRMAN. Are there amendments to title II?

AMENDMENT OFFERED BY MR. STUDDS

Mr. STUDDS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. STUDDS:

Amend title II of the bill to read as follows:

TITLE II—PLASTIC POLLUTION RESEARCH AND CONTROL

SEC. 2001. SHORT TITLE.

This title may be cited as the "Marine Plastic Pollution Research and Control Act of 1987".

SEC. 2002. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in subsections (b) and (c), this title shall be effective on the date on which Annex V to the International Convention for the Prevention of Pollution from Ships, 1973, enters into force for the United States.

(b) EXCEPTIONS.—Sections 2001, 2002, 2003, 2108, 2202, 2203, 2204, and subtitle C of this title shall be effective on the date of the enactment of this title.

(c) Issuance of Regulations.—

(1) In general.—The authority to prescribe regulations pursuant to this title shall be effective on the date of enactment of this title.

(2) Effective date of regulations.—Any regulation prescribed pursuant to this title shall not be effective before the effective date of the provision of this title under which the regulation is prescribed.

SEC. 2003. PREEMPTION: ADDITIONAL STATE REQUIREMENTS.

(a) Preemption.—Except as specifically provided in this title, nothing in this title shall be interpreted or construed to supersede or preempt any other provision of Federal or State law, either statutory or common.

(b) Additional State Requirements.—Nothing in this title shall be construed or interpreted as preempting any State from imposing any additional requirements.

Subtitle A—Amendments to Act to Prevent Pollution From Ships

SEC. 2101. DEFINITIONS.

Section 2 of the Act to Prevent Pollution from Ships (33 U.S.C. 1901 et seq.) is amended as follows:

(1) "(a)" is inserted after "Sec. 2.".

(2) Subsection (a)(1) (as redesignated) is amended to read as follows:

"(1) 'MARPOL Protocol' means the Protocol of 1978 relating to the International Convention of Pollution from Ships, 1973, and includes the Convention;".

(3) Subsection (a)(2) (as redesignated) is amended by striking all after "and" the second time it appears and inserting in lieu thereof the following: "Annexes I, II, and V thereto, including any modification or amendments to the Convention, Protocols, or Annexes which have entered into force for the United States;".

(4) Subsection (a)(3) (as redesignated) is amended by inserting "and 'garbage'" and after "discharge".

(5) The following is added at the end of section 2:

"(b) For purposes of this Act, the requirements of Annex V shall apply to the navigable waters of the United States, as well as to all other waters and vessels over which the United States has jurisdiction.".

SEC. 2102. APPLICATION OF ACT.

(a) In General.—Section 3(a) of the Act to Prevent Pollution from Ships is amended to read as follows:

"(a) This Act shall apply—

"(1) to a ship of United States registry or national ity, or one operated under the authority of the United States, wherever located;

"(2) with respect to Annexes I and II to the Convention, to a ship, other than a ship referred to in paragraph (1), while in the navigable waters of the Ujited States;

"(3) with respect to the requirements of Annex V to the Convention, to a ship, other than a ship referred to in paragraph (1), while in the navigable waters or the exclusive economic zone of the United States; and

"(4) with respect to regulations prescribed under section 6 of this Act, any port or terminal in the Ujited States.".

(b) Exclusions.—Section 3(b) of the Act to Prevent Pollution from Ships is amended to read as follows:

"(b)(1) Except as provided in paragraph (2), this Act shall not apply to—

"(A) a warship, naval auxiliary, or other ship owned or operated by the United States when engaged in noncommercial service; or

"(B) any other ship specifically excluded by the MARPOL Protocol.

"(2)(A) Notwithstanding any provision of the MARPOL Protocol, and subject to subparagraph (B) of this paragraph, the requirements of Annex V to the Convention shall apply after 5 years after the effective date of this paragraph to a ship referred to in paragraph (1)(A).

"(B) This paragraph shall not apply during time of war or a declared national emergency.

(c) Regulations.—Section 3(c) of the Act to Prevent Pollution from Ships is amended to read as follows:

"(c) The Secretary shall prescribe regulations applicable to the ships of a country not a party to the MARPOL Protocol, including regulations conforming to and giving effect to the requirements of Annex V as they apply under subsection (a) of section 3, to ensure that their treatment is not more favorable than that accorded ships to parties to the MARPOL Protocol.".

SEC. 2103. POLLUTION RECEPTION FACILITIES.

(a) Determination of Adequacy of Facilities.—Section 6(a) of the Act to Prevent Pollution from Ships is amended—

(1) by inserting "(1)" immediately after "(a)";

(2) in subsection (a)(1), as so redesignated, by striking "reception facilities of a port or terminal" and inserting in lieu thereof the following: "a port's or terminal's reception facilities for mixtures containing oil or noxious liquid substances"; and

(3) by adding at the end the following:

"(2) The Secretary, after consulting with appropriate Federal agencies, shall establish regulations setting criteria for determining the adequacy of reception facilities for garbage at a port or terminal, and stating such additional measures and requirements as are appropriate to ensure such adequacy. Persons in charge of ports and terminals shall provide reception facilities, or ensure that such facilities are available, for receiving garbage in accordance with those regulations.".

(b) Consideration of Number and Types of Ships.—Section 6(b) of the Act to Prevent Pollution from Ships is amended by striking "terminal," the first time it appears and inserting in lieu thereof the following: "terminal, and in establishing regulations under subsection (a) of this section," and by striking "seagoing ships" and inserting in lieu thereof the following: "ships or seagoing ships".

(c) Certificate Issuance.—Section 6(c) of the Act to Prevent Pollution from Ships is amended to read as follows:

"(c)(1) If reception facilities of a port or terminal meet the requirements of Annexes I and II to the Convention and the regulations prescribed under subsection (a)(1), the Secretary shall, after consultation with the Administrator of the Environmental Protection Agency, issue a certificate to that effect to the applicant.

"(2) If reception facilities of a port or terminal meet the requirements of the Annex V to the Convention and the regulations prescribed under subsection (a)(2), the Secretary may, after consultation with appropriate Federal agencies, issue a certificate to that effect to the person in charge of the port or terminal.

"(3) A certificate issued under this subsection—

"(A) is valid until suspended or revoked by the Secretary for cause or because of changed conditions; and

"(B) shall be available for inspection upon the request of the master, other person in charge, or agent of a ship using or intending to use the port or terminal.

"(4) The suspension or revocation of a certificate issued under this subsection may be appealed to the Secretary and acted on by the Secretary in the manner prescribed by regulation.".

(d) Entry Denial.—Section 6(e) of the Act to Prevent Pollution from Ships is amended—

(1) by inserting "(1)" immediately after "(e)";

(2) by striking "(1)" and inserting in lieu thereof "(A)";

(3) by striking "(2)" and inserting in lieu thereof "(B)";

(4) in subparagraph (A), as so redesignated, by striking "the MARPOL Protocol" and inserting in lieu thereof the following: "Annexes I and II of the Convention"; and

(5) by adding at the end the following:

"(2) The Secretary may deny the entry of a ship to a port or terminal required by regulations issued under this section to provide adequate reception facilities for garbage if the port or terminal is not in compliance with those regulations.".

SEC. 2104. VIOLATIONS.

(a) Ship Inspections.—Section 8(c) of the Act to Prevent Pollution from Ships is amended by—

(1) striking "(1)" and inserting "(A)";

(1) striking "(2)" and inserting "(B)";

(3) inserting "(2)" immediately after "(c)";

(4) in the last sentence of paragraph (2) (as redesignated), striking "If a report made under this subsection involves a ship, other than one of United States registry or nationality or o ne operated under the authority of the United States, the" and inserting "The"; and

(5) inserting before paragraph (2) (as redesignated) the following: "(1) This subsection applies to inspections relating to possible violations of Annex I or Annex II to the Convention by any seagoing ship referred to in section 3(a)(2) of this Act.".

(b) Ship Inspections Other Than at Port or Terminal.—Section 8 of the Act to Prevent Pollution from Ships is amended by redesignating subsection (d) as subsection (f) and inserting after subsection (c) the following:

"(d)(1) The Secretary may inspect a ship referred to in section 3(a)(3) of this Act to verify whether the ship has disposed of garbage in violation of Annex V to the Convention or this Act.

"(2) If an inspection under this subsection indicates that a violation has occurred, the Secretary may undertake enforcement action under section 9 of this Act.

"(e)(1) The Secretary may inspect at any time a ship of United States registry or nationality or operating under the authority of the United States to which the MARPOL Protocol applies to verify whether the ship has discharged a harmful substance or disposed of garbage in violation of that Protocol or this Act.

"(2) If an inspection under this subsection indicates that a violation of the MARPOL Protocol has occurred the Secretary may undertake enforcement action under section 9 of this Act.".

SEC. 2105. CIVIL PENALTIES.

(a) Payment for Information.—

(1) INFORMATION LEADING TO CONVICTION.—Section 9(a) of the Act to Prevent Pollution From Ships is amended by inserting after the first sentence the following: "In the discretion of the Court, an amount equal to not more than ½ of such fine may be paid to the person giving information leading to conviction.".

(2) INFORMATION LEADING TO ASSESSMENT OF PENALTY.—Section 9(b) of the Act to Prevent Pollution From Ships is amended by adding at the end the following: "An amount equal to jot more than ½ of such penalties may be paid by the Secretary tk the person giving information leading to the assessment of such penalties.".

(b) REFERENCE OF VIOLATION TO COUNTRY OF REGISTRY OR NATIONALITY.—Section 9(f) of the Act to Prevent Pollution From Ships is amended by striking "to that country" and inserting "to the government of the country of the ship's registry or nationality, or under whose authority the ship is operating".

SEC. 2106. PROPOSED AMENDMENTS TO PROTOCOL.

Section 10 of the Act to Prevent Pollution From Ships is amended—

(1) in subsection (a), by striking "Inter-Governmental Maritime Consultative Organization" and inserting "International Maritime Organization"; and

(2) in subsection (b), by striking "Annex I or II, appendices to the Annexes, or Protocol I of the MARPOL Protocol," and inserting "Annex I, II, or V to the Convention, appendices to those Annexes, or Protocol I of the Convention", and by striking "Inter-Governmental Maritime Consultative Organization" and inserting "International Maritime Organization".

SEC. 2107. ADMINISTRATION AND ENFORCEMENT; REFUSE RECORD BOOKS; WASTE MANAGEMENT PLANS; NOTIFICATION OF CREW AND PASSENGERS.

(a) ADMINISTRATION AND ENFORCEMENT, GENERALLY.—Section 4(a) of the Act to prevent pollution from ships is amended to read as follows:

"(a) Unless otherwise specified in this Act, the Secretary shall administer and enforce the MARPOL Protocol and this Act. In the administration and enforcement of the MARPOL Protocol and this Act, Annexes I and II of the Convention apply only to seagoing ships.".

(b) REFUSE RECORD BOOKS; WASTE MANAGEMENT PLAN; NOTIFICATION OF CREW AND PASSENGERS.—Section 4(b) of the Act to Prevent Pollution from Ships is amended by—

(1) inserting "(1)" after "(b)"; and

(2) adding at the end the following:

"(2) The Secretary of the department in which the Coast Guard is operating shall—

"(A) within 1 year after the effective date of this paragraph, prescribe regulations which—

"(i) require certain ships described in section 3(a)(1) to maintain refuse record books and shipboard management plans, and to display placards which notify the crew and passengers of the requirements of Annex V to the Convention; and

"(ii) specify the ships described in section 3(a)(1) to which the regulations apply;

"(B) seek an international agreement or international agreements which apply requirements equivalent to those desecribed in subparagraph (A)(i) to all vessels subject to Annex V to Convention; and

"(C) within 2 years after the effective date of this paragraph, report to the Congress—

"(i) regarding activities of the Secretary under subparagraph (B); and

"(ii) if the Secretary has not obtained agreements pursuant to subparagraph (B) regarding the desirability of applying the requirements described in subparagraph (A)(i) to all vessels described in section 3(a) which call at United States ports.".

SEC. 2108. COMPLIANCE WITH INTERNATIONAL LAW.

The Act to Prevent Pollution from Ships is amended by adding at the end the following:

"SEC. 17. Any action taken under this Act shall be taken in accordance with international law.".

Subtitle B—Studies and Report

SEC. 2201. COMPLIANCE REPORTS.

(a) IN GENERAL.—Within 1 year after the effective date of this section, and biennially thereafter for a period of 6 years, the Secretary of the department in which the Coast Guard is operating, in consultation with the Secretary of Agriculture and the Secretary of Commerce, shall report to the Congress regarding compliance with Annex V to the International Convention for the Prevention of Pollution from Ships, 1973, in United States waters.

(b) REPORT ON LIABILITY TO COMPLY.—Within 3 years after the effective date of this section, the head of each Federal agency that operates or contracts for the operation of any ship referred to in section 3(b)(1)(A) of the Act to Prevent Pollution from Ships that may not be able to comply with the requirements of that section shall report to the Congress describing—

(1) the technical and operational impediments to achieving that compliance;

(2) an alternative schedule for achieving that compliance as rapidly as is technologically feasible;

(3) the ships operated or contracted for operation by the agency for which full compliance with section 3(b)(2)(A) is not technologically feasible; and

(4) any other information which the agency head considers relevant and appropriate.

(c) CONGRESSIONAL ACTION.—Upon receipt of the compliance report under subsection (b), the Congress shall modify the applicability of Annex V to ships referred to in section 3(b)(1)(A) of the Act to Prevent Pollution from Ships, as may be appropriate with respect to the requirements of Annex V to the Convention.

SEC. 2202. EPA STUDY OF METHODS TO REDUCE PLASTIC POLLUTION.

(a) IN GENERAL.—The Administrator of the Environmental Protection Agency, in consultation with the Secretary of Commerce, shall commence a study of the adverse effects of the improper disposal of plastic articles of the environment and on waste disposal, and the various methods to reduce or eliminate such adverse effects.

(b) SCOPE OF STUDY.—A study under this section shall include the following:

(1) A list of improper disposal practices and associated specific plastic articles that occur in the environment with sufficient frequency to cause death or injury to fish or wildlife, affect adversely the habitat of fish or wildlife, contribute significantly to aesthetic degradation or economic losses in coastal and waterfront areas, endanger human health or safety, or cause other significant adverse impacts.

(2) A description of specific statutory and regulatory authority available to the Administrator of the Environmental Protection Agency, and the steps being taken by the Administrator, to reduce the amount of plastic materials that enter the marine and aquatic environment.

(3) An evaluation of the feasibility and desirability of substitutes for those articles identified under paragraph (1), comparing the environmental and health risks, costs, disposability, durability, and availability of such substitutes.

(4) An evaluation of the impacts of plastics on the solid waste stream relative to other solid wastes, and methods to reduce those impacts, including recycling.

(5) An evaluation of the impact of plastic s on the solid waste stream relative to other solid wastes, and methods to reduce those impacts, including—

(A) the status of a need for public and private research to develop and market recycled plastic articles;

(B) methods to facilitate the recycling of plastic materials by identifying types of plastic articles to aid in their sorting, and by standardizing types of plastic materials, taking into account trade secrets and protection of public health;

(C) incentives, including deposits on plastic containers, to increase the supply of plastic material for recycling and to decrease the amount of plastic debris, especially in the marine environment;

(D) the effect of existing tax laws on the manufacture and distribution of virgin plastic materials as compared with recycled plastic materials; and

(E) recommendations on incentives and other measures to promote new uses for recycled plastic articles and to encourage or require manufacturers of plastic articles to consider re-use and recycling in product design.

(6) An evaluation of the feasibility of making the articles identified under paragraph (1) from degradable plastics materials, taking into account—

(A) the risk to human health and the environment that may be presented by fragments of degradable plastic articles and the properties of the end-products of the degradation, including biotoxicity, bioaccumulation, persistence, and environmental fate;

(B) the efficiency and variability of degradation due to differing environmental and biological conditions; and

(C) the cost and benefits of using degradable articles, including the duration for which such articles were designed to remain intact.

(c) CONSULTATION.—In carrying out the study required by this section, the Administrator shall consult with the heads of other appropriate Federal agencies, representatives of affected industries, consumer and environment interest groups, and the public.

(d) REPORT.—Within 18 months after the date of the enactment of this Act, the Administrator of the Environmental Protection Agency shall report to the Congress the results of the study required by this section, including recommendations in connection therewith.

SEC. 2203. EFFECTS OF PLASTIC MATERIALS ON THE MARINE ENVIRONMENT.

Not later than September 30, 1988, the Secretary of Commerce shall submit to the Congress a report on the effects of plastic materials on the marine environment. The report shall—

(1) identify and quantify the harmful effects of plastic materials on the marine environment;

(2) assess the specific effects of plastic materials on living marine resources in the marine environment;

(3) identify the types and classes of plastic materials that pose the greatest potential hazard to living marine resources;

(4) analyze, in consultation with the Director of the National Bureau of Standards, plastic materials which are claimed to be capable of reduction to environmentally benign submits under the action of normal environmental forces (including biological decomposition, photodegradation, and hydrolysis); and

(5) recommend legislation which is necessary to prohibit, tax, or regulate sources of plastic materials that enter the marine environment.

SEC. 2204. PLASTIC POLLUTION PUBLIC EDUCATION PROGRAM.

(a) OUTREACH PROGRAM.—

(1) IN GENERAL.—Not later than April 1, 1988, the Administrator of the National Oceanic and Atmospheric Administration and the Administrator of the Environmental Protection Agency, in consultation with the Secretary of Transportation, shall jointly commence and thereafter conduct for a period of at least 3 years, a public outreach program to educate the public (including recreational boaters, fishermen, and other users of the marine environment) regarding—

(A) the harmful effects of plastic pollution;

(B) the need to reduce such pollution;

(C) the need to recycle plastic materials; and

(D) the need to reduce the quantity of plastic debris in the marine environment.

(2) AUTHORIZED ACTIVITIES.—A public outreach program under paragraph (1) may include—

(A) workshops with interested groups;

(B) public service announcements;

(C) distribution of leaflets and posters; and

(D) any other means appropriate to educating the public.

(b) CITIZEN POLLUTION PATROLS.—The Secretary of Commerce, along with the Administrator of the Environmental Protection Agency and the Secretary of the Department in which the Coast Guard is operating, shall conduct a program to encourage the formation of volunteer groups, to be designated as "Citizen Pollution Patrols", to assist in monitoring, reporting, cleanup, and prevention of ocean and shoreline pollution.

Subtitle C—New York Bight

SEC. 2301. NEW YORK BIGHT RESTORATION PLAN.

(a) IN GENERAL.—Within 3 years after the effective date of this section, the Administrator, in consultation with the Administrator of the National Oceanic and Atmospheric Administration and other Federal, State, and interstate agencies, shall prepare a New York Bight Restoration Plan. In preparing such plan, the Administrator shall seek the views and comments of interested persons and hold public hearings in States to be affected by the plan. The first such public hearing shall occur not later than 8 months after the effective date of this section.

(b) SCOPE OF PLAN.—The New York Bight Restoration Plan prepared under subsection (a) shall, at a minimum—

(1) identify and assess the impact of pollutant inputs, such as treated and untreated sewage discharge, industrial outfalls, agricultural and urban runoff, storm sewer overflow, upstream contaminant sources, atmospheric fallout, and dumping, that are affecting the water quality and marine resources of the New York Bight;

(2) identify those uses in the New York Bight and other areas that are being adversely affected by such pollutant inputs;

(3) determine the fate of the contaminants from such pollutant inputs and their effect on human health and the marine environment;

(4) identify technologies and management practices necessary for controlling such pollutant inputs;

(5) identify the costs of implementing such technologies and practices and any impediments to such implementation;

(6) devise a schedule of economically feasible projects to implement such technologies and practices and to remove such impediments;

(7) develop recommendations for funding and coordinating the various Federal, State, and local government programs necessary to implement the projects referred to in paragraph (6); and

(8) comprehensively assess alternatives to dumping of municipal sludge and the burning of timber in the New York Bight.

SEC. 2302. NEW YORK BIGHT PLASTIC STUDY.

The Administrator shall conduct a study of problems associated with plastic debris in the New York Bight, with specific attention to the effect of such debris on beaches, marine life, the environment, and coastal waters, and shall report to the Congress within 6 months after the effective date of this section with recommendations for the elimination of the threats posed by such plastic debris.

SEC. 2303. REPORTS.

(a) SCHEDULE FOR PRELIMINARY REPORTS AND RESTORATION PLAN.—Not later than 6 months after the effective date of this section, the Administrator shall submit to the Congress a detailed schedule (including associated funding requirements) for completing preliminary reports and the New York Bight Restoration Plan under this subtitle.

(b) PRELIMINARY REPORT ON ALTERNATIVES.—Not later than the earlier of January 1, 1990, or the date of any decision by the Administrator affecting the redesignation of the 106-mile Ocean Waste Dump site for municipal sludge or the designation of any additional municipal sludge dump site, the Administrator shall submit to the Congress a preliminary report assessing alternatives to the ocean dumping of municipal sludge.

(c) PRELIMINARY REPORT ON POLLUTANT INPUTS.—Not later than 1 year after the effective date of this section, the Administrator shall submit to the Congress a preliminary report on the examinations required under section 2301(b)(1), (b)(2), and (b)(3).

(d) PRELIMINARY REPORT ON CONTROL MEASURES.—Not later than 2 years after the effective date of this section, the Administrator shall submit to the Congress a preliminary report on the examinations required under section 2301(b)(4), (b)(5), (b)(6), and (b)(7).

(e) SUBMISSION OF RESTORATION PLAN TO CONGRESS.—Not later than 3 years after the effective date of this section, the Administrator shall submit to the Congress the New York Bight Restoration Plan prepared under section 2301.

SEC. 2304 DEFINITIONS.

For purposes of this subtitle—

(1) NEW YORK BIGHT.—The term "New York Bight" means an area comprised of the Hudson-Raritan Estuary and waters of the Atlantic Ocean—

(A) west of Montauk, Long Island, New York (71 degrees, 50 minutes west longitude);

(B) north of Cape May, New Jersey; and

(C) extending seaward to the edge of the Continental Shelf.

(2) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Environmental Protection Agency.

SEC. 2305. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Administrator not more than $3,000,000 for carrying out this subtitle during fiscal years 1988, 1989, and 1990.

Amend the table of contents in section 2 accordingly.

Mr. STUDDS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

Mr. STUDDS. Mr. Chairman, this substitute for the title represents a compromise between the House-passed bill, H.R. 940, and the bills that emerged from the two Senate committees of jurisdiction. Very briefly, this compromise contains subtitle I which relates to MARPOL annex 5. There are no major differences in this regard between the various bills. The compromise does contain all the major provisions in the House-passed bill with more minor modifications to reflect different stylistic approaches only.

Subtitle II contains several reporting requirements. The compromise adopts the Senate Environmental and Public Works Committee report on plastics pollution calling on the Environmental Protection Agency to study the impacts of plastics on the environment, the role of plastics in the waste disposal problem facing this country, and methods to recycle and reuse and substitute for plastics in order to alleviate the waste problem.

In adopting this proposal, our committee would like to thank the leadership of the House Committee on Energy and Commerce, particularly the gentleman from Michigan [Mr. DINGELL], the chairman, and at the appropriate time we will have inserted in the RECORD a letter from the chairman of the committee.

The compromise also contains a public education program on the impacts of plastics on the marine environment that was in the House bill and in the Senate committee bill.

Finally subtitle III applies to the New York bight restoration plan. It combines elements from the House bill and the Senate bills. It calls for a 6-month study of plastics in the New York bight, and this was authored by the gentleman from New Jersey [Mr. HUGHES] and the other gentleman from New Jersey [Mr. HOWARD].

It directs the Environmental Protection Agency to undertake a major New York bight restoration plan that will identify the sources of pollution in the bight and methods to reduce those sources, and that was offered by the entire New Jersey delegation with the cooperation of the Senator from New Jersey as well.

Mr. Chairman, in the spirit of this package, this represents our best efforts to obtain a compromise reflecting the views of both sides of the aisle on this committee and of the relevant committees of jurisdiction in the Senate.

ADDITIONAL EXPLANATION OF SECTION 2202, EPA STUDY OF METHODS TO REDUCE PLASTIC POLLUTION

The study of methods to reduce plastic pollution required by section 2202 of the amendment shall focus on two distinct components of the plastic waste problem: plastic in the marine environment, especially as it effects marine life and contributes to the aesthetic degradation or economic losses in beach, coastal and waterfront areas; and plastic in the solid waste stream. Witnesses testifying before congressional committees noted that plastic comprises an increasing percentage of the waste that is filling landfills. Critical shortages of landfill capacity are predicted for several States within the next decade.

EPA, in consultation with NOAA, shall undertake a study describing the adverse effects that the disposal, both proper and improper, of plastics have on the environment, including the effects on fish and wildlife and the habitat of such species and the effects on beaches and other waterfront areas. The study shall identify the various means that are or, due to technological advances, may be available, to control or eliminate such adverse effects.

The study shall also evaluate the relative impact of plastics, as compared to other wastes, on the solid waste stream. The study shall include a compilation of improper disposal practices and associated specific plastic articles that occur in the environment with sufficient frequency to cause death or injury to fish or wildlife, affect adversely the habitat of fish or wildlife, contribute significantly to aesthetic degradation or economic losses in beach, coastal or waterfront areas, endanger human health or safety, or cause other significant impacts. In compiling such a list, it is the intention of Congress that EPA draw on existing studies, such as The Use and Disposal of Non-Biodegradable Plastic in the Marine and Great Lakes Environment, EPA contract number 68-02-4228.

The study shall also evaluate the land-based sources of marine and aquatic plastic pollution, such as landfills and municipal sources, and identify whether improved enforcement of existing laws or regulations is necessary. The study shall evaluate the feasibility and desirability of substitutes for those articles identified in the list under paragraph (1), including comparisons between the article identified and the substitute with regard to relative environmental risks, cost effectiveness, disposability, durability, impact on public health and safety, and the availability of such alternatives.

The study shall include an evaluation of the feasibility, and if feasible, the desirability of using recycling initiatives (including recovery of energy value), to reduce the amount of plastic entering the solid waste stream, including an analysis of the status of and need for public and private research and development to develop and market recycled plastics. The Congress realizes that if recycling of plastics is to become an economically viable alternative, it will be necessary to develop new uses for recycled plastics and analyze methods to facilitate the recycling of plastic materials by identifying different types of plastic material in common use and identifying methods to aid in the sorting of such different materials. Congress realizes that one obstacle to recycling of plastics is the many different plastic materials in common use. The study shall recommend methods for sorting plastic to facilitate recycling, including the desirability and feasibility of standardizing the types of plastic materials, considering protection of public health and trade secrets.

The study shall include an analysis of incentives, including deposits on plastic containers, to increase the supply of plastic material for recycling, and to decrease the amount of plastic debris, especially in the marine environment.

The effect of existing tax laws on the manufacture and distribution of virgin plastic material as compared with recycled material shall be addressed in the study. This part of the analysis should be conducted in consultation with the Secretary of the Treasury and the Secretary of Commerce, and should focus on whether a bias exists to favor virgin over recycled materials. The study shall include recommendations regarding measures, including fees or tax incentives, that can be implemented by the Federal Government or Congress to promote the development of new uses for recycled plastic articles. Recommendations shall be included regarding measures that can be implemented to provide incentives for manufacturers of plastic articles to consider reuse and recycling in product design.

The study shall make recommendations regarding a public education campaign, carried out under another section of this act, to promote any environmental and economic advantages to recycling of plastic materials. The study shall also include a list of recycled plastic products which could be purchased by the Federal Government.

The study shall include an evaluation of the feasibility of making articles identified under paragraph (1) from degradable plastic materials, taking into account the risk to human health and the environment, the properties of the end-products of the degradation of plastic materials, including biotoxicity, potential for bioaccumulation, persistence and fate within the environment under various physical conditions.

The study of degradable plastics should address the efficiency and variability of degradation due to differing environmental and biological conditions, and the relative benefits and purpose of such articles, including the duration for which such article was designed to remain intact, paying particular attention to the protection of human health, technical considerations and cost considerations.

Mr. YOUNG of Alaska. Mr. Chairman, will the gentleman yield?

Mr. STUDDS. Mr. Chairman, I yield to the gentleman from Alaska.

Mr. YOUNG of Alaska. Mr. Chairman, I certainly agree with the explanation of the gentleman from Massachusetts [Mr. STUDDS]. I agree with his assessment of this amendment and I compliment him and of course the gentleman from New York [Mr. LENT] and other people on the Committee on Public Works and Transportation who worked toward this solution. This is an example of what can be done as thinking people get together and solve a problem.

The gentleman from New Jersey [Mr. HOWARD] and everybody else worked very well on this legislation. I want to compliment them.

Mr. STUDDS. Mr. Chairman, may I finally state my appreciation to the gentleman from Alaska [Mr. YOUNG] and to the minority Members as well and to the hard-working staff of the Committee on Merchant Marine and Fisheries who have had very little sleep in the past few days.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Massachusetts [Mr. STUDDS].

The amendment was agreed to.

The CHAIRMAN. The Clerk will designate title III.

The text of title III is as follows:

TITLE III—MARINE SCIENCE, TECHNOLOGY, AND POLICY DEVELOPMENT

SEC. 3001. SHORT TITLE.

This title may be cited as the "Marine Science, Technology, and Policy Development Act of 1987".

Subtitle A—National Sea Grant College Program Authorization

SEC. 3101. SHORT TITLE.

This subtitle may be cited as the "National Sea Grant College Program Authorization Act of 1987".

SEC. 3102. REFERENCE TO THE NATIONAL SEA GRANT COLLEGE PROGRAM ACT.

Unless otherwise provided, whenever in this subtitle an amendment or repeal is expressed in terms of an amendment to, or repeal of, a title, section, subsection, or other provision, the reference shall be considered to be made to a title, section, subsection, or other provision of the National Sea Grant College Program Act (33 U.S.C. 1121 et seq.).

SEC. 3103. DECLARATION OF POLICY.

Section 202 (33 U.S.C. 1121) is amended as follows:

(1) Subsection (a) is amended—

(A) by redesignating paragraphs (1), (2), and (3) as paragraphs (4), (5), and (6), respectively; and

(B) by inserting before paragraph (4) (as redesignated) the following:

"(1) The national interest requires a strategy to—

"(A) provide for the understanding and wise use of ocean, coastal, and Great Lakes resources and the environment;

"(B) foster economic competitiveness;

"(C) promote public stewardship and wise economic development of the coastal ocean and its margins, the Great Lakes, and the exclusive economic zone;

"(D) understand global environmental processes; and

"(E) promote domestic and international cooperative solutions to ocean, coastal, and Great Lakes issues.

"(2) Investment in a strong program of research, education, training, technology transfer, and public service is essential for this strategy.

"(3) The expanding use and development of ocean, coastal, and Great Lakes resources resulting from growing coastal area populations and the increasing pressures on the coastal and Great Lakes environment challenge the ability of the United States to manage such resources wisely.".

(2) Subsection (b) is amended by striking "ocean and coastal resources" and all that follows through the end of such subsection and inserting in lieu thereof the following: "ocean, coastal, and Great Lakes resources by providing assistance to promote a strong educational base, responsive research and training activities, broad and prompt dissemination of knowledge and techniques, and multidisciplinary approaches to environmental problems.".

SEC. 3104. DEFINITIONS.

(a) In General.—Section 203 (33 U.S.C. 1122) is amended—

(1) by striking paragraph (2);

(2) by renumbering paragraph (3) as paragraph (2) and inserting immediately thereafter the following:

"(3) the term 'director of a sea grant college' means a person designated by their university or institution to direct a sea grant college, program, or regional consortium.";

(3) by striking paragraphs (6) and (7) and inserting in lieu thereof the following:

"(6) The term 'ocean, coastal, and Great Lakes resources' means the resources that are located in, derived from, or traceable to, the seabed, subsoil, and waters of—

"(A) the coastal zone, as defined in section 304(1) of the Coastal Zone Management Act (16 U.S.C. 1453(1));

"(B) the great Lakes;

"(C) the territorial sea;

"(D) the exclusive economic zone;

"(E) the Outer Continental Shelf; and

"(F) the high seas.

"(7) The term 'resource' means—

"(A) living resources (including natural and cultured plant life, fish, shellfish, marine mammals, and wildlife);

"(B) nonliving resources (including energy sources, minerals, and chemical substances);

"(C) the habitat of a living resource, the coastal space, the ecosystems, the nutrient-rich areas, and the other components of the marine environment that contribute to or provide (or which are capable of contributing to or providing) recreational scenic, esthetic, biological, habitational, commercial, economic, or conservation values; and

"(D) man-made, tangible, intangible, actual, or potential resources."; and

(4) by adding at the end the following:

"(15) The term 'Under Secretary' means the Under Secretary of Commerce for Oceans and Atmosphere.".

(b) Conforming Amendments Relating to Great Lakes Resources.—

(1) Each of the following provisions of the National Sea Grant College Program Act are amended by striking "ocean and coastal resources" each place it appears and inserting in lieu thereof "ocean, coastal, and Great Lakes resources":

(A) Paragraphs (4) and (5) of section 202(a) (as redesignated by section 3103(a)(A) of this subtitle).

(B) Section 202(c).

(C) Paragraphs (4) and (11) of Section 203.

(D) Sections (b)(1)(A) and (d)(3) of section 204.

(E) Paragraphs (2)(A) and (3) (A) and (B) of section 207(a).

(F) Paragraph (1) of section 209(c).

(G) Section 210.

(2) Paragraph (5) of section 204(c) is amended by striking "ocean and coastal resource" and inserting in lieu thereof "ocean, coastal, and Great Lakes resources".

(c) Conforming Amendments Relating to Under Secretary of Commerce for Oceans and Atmosphere.—Section 204(c) is amended by striking "Administrator" each place it appears and inserting in lieu thereof "Under Secretary".

SEC. 3105. CONTRACTS AND GRANTS.

(a) Minimization of Prior Approval Requirements.—Section 205 (33 U.S.C. 1124) is amended by adding at the end of subsection (d)(1) the following: "Terms, conditions, and requirements imposed by the Secretary under this paragraph shall minimize any requirements of prior Federal approval.".

(b) Acceptance of Funds From Other Federal Agencies.—Section 204(d)(6) is amended by striking "under section 205(a)".

SEC. 3106. SEA GRANT STRATEGIC RESEARCH PROGRAM.

(a) In General.—Section 206 (33 U.S.C. 1125) is amended to read as follows:

"SEC. 206. STRATEGIC MARINE RESEARCH PROGRAM.

"(a) Grant and Contract Authority.—The Under Secretary may make grants and enter into contracts to carry out the strategic research program provided for under this section. A grant or contract may cover up to 100 percent of the cost of the research for which the grant or contract is made or awarded.

"(b) Strategic Research Plan.—Within 1 year after the effective date of the Marine Science, Technology and Policy Development Act of 1987, and every 3 years after that date, the Under Secretary shall develop and publish in the Federal Register, a sea grant strategic research plan for the next 3 years. The plan shall—

"(1) identify and describe a limited number of priority areas for strategic research in fields associated with oceans, coastal, and Great Lakes resources; and

"(2) indicate the goals and timetables for the research in those fields.

"(c) Consultation and Congressional Review.—

"(1) Consultation.—In developing each sea grant strategic research plan, the Under Secretary shall consult with relevant Federal agencies; sea grant directors; other representatives of sea grant colleges, sea grant programs, and sea grant regional consortia; non-governmental marine scientists; and other interested parties, both public and private.

"(2) Submittal to congress.—Upon publication of each sea grant strategic research plan under subsection (b), the Under Secretary shall submit the plan to the Committee on Commerce, Science, and Transportation of the Senate and Committee on Merchant Marine and Fisheries of the House of Representatives.

"(3) Restriction on grants and contracts.—The Under Secretary shall not make a grant or enter into a contract under this section for priority area research under a strategic research plan before the 45th day after the date of receipt of the plan by the Committees referred to in paragraph (2).

"(d) Criteria for Areas to be Included in Plan.—In selecting priority areas for inclusion in the sea grant strategic research plan, the Under Secretary shall concentrate on—

"(1) critical resource and environmental areas that are precluded from adequate funding under other provisions of this Act because of—

"(A) their national, international, or global scope, fundamental nature, or long-range aspects;

"(B) the scale of the needed research effort; or

"(C) the need for the broadest possible university inolvement; and

"(2) areas where the strength and capabilities of the sea grant colleges, sea grant programs, and sea grant regional consortia in mobilizing talent for sustained programmatic research and technology transfer make them particularly qualified to manage strategic marine research under this section.

"(e) Contract and Grant Requirements.—Subsections (c) and (d) of section 205 apply to applications for grants or contracts, and to grants made and contracts entered into, under this section.

(b) Regulations.—Within 1 year after the effective date of this title, the Under Secretary of Commerce for Oceans and Atmosphere shall adopt rules and regulations in accordance with section 553 of title 5, United States Code, to carry out section 206(a), after giving notice and opportunity for full participation by relevant Federal agencies; State agencies; local governments; regional organizations; nongovernmental marine scientists; sea grant directors and other representatives of sea grant colleges, programs, and regional consortia; and other interested parties, both public and private.

SEC. 3107. FELLOWSHIPS.

Section 208 (33 U.S.C. 1127) is amended to read as follows:

"SEC. 208. FELLOWSHIPS.

"(a) In General.—To carry out the educational and training objectives of this Act, the Under Secretary shall support a program of fellowships for qualified individuals at the graduate and post-graduate level. The fellowships shall be related to ocean, coastal, and Great Lakes resources and awarded pursuant to guidelines established by the Under Secretary.

"(b) Dean John A. Knauss Marine Policy Fellowship.—The Under Secretary may award marine policy fellowships to support the placement of individuals at the graduate level of education in fields related to ocean, coastal and Great Lakes resources in positions with the executive and legislative branches of the United States Government. A fellowship awarded under this subsection shall be for a period of not more than 1 year.

"(c) Postdoctoral Fellowship.—The Under Secretary shall establish and administer a program of postdoctoral fellowships to accelerate research in critical subject areas. The fellowship awards—

"(1) shall be for 2 years;

"(2) may be renewed once for not more than 2 years;

"(3) shall be awarded on a nationally competitive basis;

"(4) may be used at any institution of post-secondary education involved in the national sea grant college program;

"(5) shall be for up to 100 percent of the total cost of the fellowship;

"(6) may be made for any of the priority areas of research identified in the sea grant strategic research plan in effect under section 206; and

"(7) may be made to recipients of terminal professional degrees, as well as doctoral degree recipients.".

SEC. 3108. SEA GRANT REVIEW PANEL.

Section 209 (33 U.S.C. 1128) is amended as follows:

(1) Subsection (b) is amended—

(A) by striking the matter preceding paragraph (1) and inserting "The Panel shall advise the Secretary, the Under Secretary, and the Director concerning—"; and

(B) by inserting "and section 3 of the Sea Grant Program Improvement Act of 1976" before the semicolon at the end of subsection (b)(1).

(2) Subsection (c) is amended—

(A) by striking the second sentence of paragraph (1) and inserting in lieu thereof the following: "The Director and a director of a sea grant program who is elected by the various directors of sea grant programs shall serve as nonvoting members of the panel.";

(B) by striking "five" in paragraph (1) and inserting in lieu thereof "8";

(C) by adding at the end of paragraph (2) the following: "At least once each year, the Secretary shall publish a notice in the Federal Register soliciting nominations for membership on the panel."; and

(D) by striking "office, or until 90 days after such date, whichever is earlier." in paragraph (3) and inserting in lieu thereof "office.".

SEC. 3109. MARINE AFFAIRS AND RESOURCE MANAGEMENT IMPROVEMENT GRANTS.

Section 211 (33 U.S.C. 1130) is amended to read as follows:

"SEC. 211. MARINE AFFAIRS AND RESOURCE MANAGEMENT IMPROVEMENT GRANTS.

"(a) In General.—The Under Secretary may provide annual grants during fiscal years 1988 through 1990 to institutions eligible under subsection (b) to assist the institutions in achieving the following objectives:

"(1) Development and improvement of curriculum offering in marine affairs and resource management at the graduate level, and development of related educational materials.

"(2) Fostering support of graduate students, through scholarships and teaching and research fellowships, in marine affairs and resource management.

"(3) Increasing multidisciplinary research in marine resources management.

"(b) Eligibility.—An institution is eligible for grants under this section if it is a sea grant college, sea grant regional consortium, or institution of higher education having a sea grant program that—

"(1) maintains a graduate program in, or institute or center for, marine affairs and resource management;

"(2) has prepared a development plan to improve and strengthen that program, institute, or center; and

"(3) has demonstrated, to the extent consistent with State law, its intention to support such improved and strengthened education and training after financial assistance under this section has ceased.

"(c) Applications.—Applications for grants under this section shall be made in such manner as the Under Secretary shall require.

"(d) Limitations on Grants.—No grant in excess of $400,000 may be made to an eligible institution under this section for any year, and no more than 2 annual grants may be made to any such institution.

"(e) Report by Grant Recipient.—Each institution receiving a grant under this subsection shall report to the Under Secretary, in such manner as the Under Secretary may require annually, and within 90 days following the termination of the grant, regarding the activities conducted with the grant."

SEC. 3110. AUTHORIZATION OF APPROPRIATIONS.

Section 212 (33 U.S.C. 1131) is amended to read as follows:

"SEC. 212. AUTHORIZATION OF APPROPRIATIONS.

"(a) In General.—There is authorized to be appropriated to carry out the provision of this Act other than sections 206 and 211, an amount—

"(1) for fiscal year 1988, not to exceed $41,500,000;

"(2) for fiscal year 1989, not to exceed $50,500,000; and

"(3) for fiscal year 1990, not to exceed $51,000,000.

"(b) Strategic Marine Research.—There is authorized to be appropriated to carry out section 206 and section 208(c), an amount—

"(1) for fiscal year 1988, not to exceed $500,000;

"(2) for fiscal year 1989, not to exceed $5,000,000; and

"(3) for fiscal year 1990, not to exceed $10,000,000.

"(c) Marine Affairs and Resource Management Grants.—There is authorized to be appropriated to carry out section 211, an amount—

"(1) for fiscal year 1988, not to exceed $2,000,000;

"(2) for fiscal year 1989, not to exceed $2,500,000; and

"(3) for fiscal year 1990, not to exceed $3,000,000.

"(d) Availability of Sums.—Sums appropriated pursuant to this section shall remain available until expended.

"(e) Reversion of Unobligated Amounts.—The amount of any grant, or portion of a grant, made to a person under any section of this Act that is not obligated by the person during the first fiscal year for which it was authorized to be obligated or during the next fiscal year thereafter shall revert to the Secretary. The Secretary shall add that reverted amount to the funds available for grants under the section for which the reverted amount was originally made available.".

SEC. 3111. SEA GRANT INTERNATIONAL PROGRAM

Section 3 of the Sea Grant Program Improvement Act of 1976 (33 U.S.C. 1124a) is amended to read as follows:

"SEC. 3. SEA GRANT INTERNATIONAL PROGRAM

"(a) In General.—The under Secretary of Commerce for Oceans and Atmosphere may enter into contracts and make grants under this section to—

"(1) enhance cooperative international research and educational activities on ocean, coastal and Great Lakes resources;

"(2) promote shared marine activities with universities in countries with which the United States has sustained mutual interest in ocean, coastal, and Great Lakes resources;

"(3) encourage technology transfer that enhances wise use of ocean, coastal, and Great Lakes resources in other countries and in the United States;

"(4) promote the exchange among the United States and foreign nations of information and data with respect to the assessment, development, utilization, and conservation of such resources;

"(5) use the national sea grant college program as a resource in other Federal civilian agency international initiatives whose purposes are fundamentally related to research, education, technology transfer and public service programs concerning the understanding and wise use of ocean, coastal, and Great Lakes resources; and

"(6) enhance regional collaboration between foreign nations and the United States with respect to marine scientific research, including activities which improve understanding of global oceanic and atmospheric processes, undersea minerals resources within the exclusive economic zone, and productivity and enhancement of living marine resources in—

"(A) the Caribbean and Latin American regions;

"(B) the Pacific Islands region;

"(C) the Arctic and Antarctic regions;

"(D) the Atlantic and Pacific Oceans; and

"(E) the Great Lakes.

"(b) Eligibility, Procedures, and Requirements.—Any sea grant college, sea grant program, or sea grant regional consortium, and any institution of higher education, laboratory, or institute (if the institution, laboratory, or institute is located within a State, as defined in section 203(14) of the National Sea Grant College Program Act (33 U.S.C. 1122(14)), may apply for and receive financial assistance under this section. The Under Secretary shall prescribe rules and regulations, in consultation with the Secretary of State, to carry out this section. Before approving an application for a grant or contract under this section, the Under Secretary shall consult with the Secretary of State. A grant made, or contract entered into, under this section is subject to section 205(d) (2) and (4) of the National Sea Grant College Program Act (33 U.S.C. 1124(d) (2) and (4)) and to any other requirements that the Under Secretary considers necessary and appropriate.".

Subtitle B—Great Lakes Mapping

SEC. 3201. SHORT TITLE.

This subtitle may be cited as the "Great Lakes Shoreline Mapping Act of 1987".

SEC. 3202. GREAT LAKES SHORELINE MAPPING PLAN.

(a) Preparation of Plan.—Not later than nine months after the date of the enactment of this subtitle, the Director, in consultation with the Director of the United States Geological Survey, shall submit to the Congress a plan for preparing maps of the shoreline of the Great Lakes under section 3203.

(b) Content of Plan.—A plan prepared under paragraph (1) shall include—

(1) a work proposal and a division of responsibilities between the National Oceanic and Atmospheric Administration and the United States Geological Survey;

(2) a time schedule for completion of maps;

(3) recommendation of funding needed for preparing the maps; and

(4) an area mapping schedule, with first priority given to shoreline areas subject to a high risk of erosion or flooding.

SEC. 3203. PREPARATION OF GREAT LAKES SHORELINE MAPS.

(a) In General.—The following completion of a shoreline mapping plan under section 3202 and subject to authorization and appropriation of funds, the Director, in consultation with the Director of the United States Geological Survey, shall prepare maps of the shoreline areas of the Great Lakes.

(b) Content of Maps.—Maps prepared under this section—

(1) shall include—

(A) bathymetry of the nearshore area, to the extent that this area will affect coastal erosion and flooding;

(B) topography of the adjacent shoreline, to the extent that this area will directly affect or be affected by coastal erosion and flooding;

(C) the geological conditions of the nearshore area and shoreline to the extent that these areas will directly affect or be affected by coastal erosion and flooding;

(D) information on the recent geological past of the nearshore area and shoreline areas described in paragraph (3); and

(E) appropriate information for use in predicting and preventing damage caused by erosion and flooding in the Great Lakes;

(2) shall be of appropriate scale and detail and take into account the greater informational needs of areas subject to a high risk or erosion or flooding; and

(3) to the maximum extent practicable, shall be consistent with similar shoreline maps prepared by, or for the used of, the Government of Canada.

(c) CONSULTATION.—In preparing maps under this section, the Director shall consult with, and take into consideration, the information needs of—

(1) the Army Corps of Engineers;

(2) the Federal Emergency Management Agency;

(3) other appropriate Federal agencies;

(4) the States of Illinois, Indiana, Michigan, Minnesota, New York, Ohio, Pennsylvania, and Wisconsin;

(5) appropriate local government units; and

(6) the general public.

(d) AVAILABILITY OF MAPS.—The Director shall make maps prepared under this section available to—

(1) Federal agencies;

(2) State governments;

(3) local government units;

(4) the Government of Canada; and

(5) the general public.

(e) RECOVERY OF COSTS.—The costs of reproducing and distributing maps prepared under this section may be recovered under section 9701 of title 31, United States Code, or another law.

SEC. 3204. CONTRACT AUTHORITY.

The Director may, subject to appropriations, enter into contracts and agreements on a reimbursable or cost-sharing basis with other Federal agencies, State governments, local governments, and private entities, to carry out this subtitle.

SEC. 3205. DEFINITIONS.

For purposes of this subtitle—

(1) The term "Director" means the Director of Charting and Geodetic Services of the National Ocean Service, within the National Oceanic and Atmospheric Administration.

(2) The term "Great Lakes" means Lake Erie, Lake Huron, Lake Michigan, Lake Ontario, Lake St. Clair, Lake Superior, the Saint Mary's River, the Saint Clair River, the Detroit River, the Niagara River, the Saint Lawrence River to the Canadian border, to the extent such lakes and rivers are subject to the jurisdiction of the United States.

(3) The term "high risk of erosion" means subject to erosion at a rate greater than 1 foot per year.

SEC. 3206. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out section 3202 not more than $100,000 for fiscal year 1988. Amounts appropriated pursuant to this section shall remain available until expended.

The CHAIRMAN. Are there any amendments to title III?

The Clerk will designate title IV.

The text of title IV is as follows:

TITLE IV—DRIFTNET IMPACT MONITORING, ASSESSMENT, AND CONTROL

SEC. 4001. SHORT TITLE.

This title may be cited as the "Driftnet Impact Monitoring, Assessment, and Control Act of 1987".

SEC. 4002. FINDINGS.

The Congress finds that—

(2) the use of long plastic driftnets is a fishing technique that may result in the entanglement and death of enormous numbers of target and nontarget marine resources in the waters of the North Pacific Ocean, including the Bearing Sea;

(2) there is a pressing need for detailed and reliable information on the number of marine resources that become entangled and die in actively fished driftnets and in driftnets that are lost, abandoned, or discarded; and

(3) increased efforts are necessary to monitor, assess, and reduce the adverse impacts of driftnets.

SEC. 4003. DEFINITIONS.

As used in this title—

(1) DRIFTNET.—The term "driftnet" means a gillnet composed of a panel of plastic webbing one and one-half miles or more in length.

(2) DRIFTNET FISHING.—The term "driftnet fishing" means a fish-harvesting method in which a driftnet is placed in water and allowed to drift with the currents and winds for the purpose of entangling fish in the webbing.

(3) EXCLUSIVE ECONOMIC ZONE OF THE UNITED STATES.—The term "exclusive economic zone of the United States" means the zone defined in section 3(6) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1802(b)).

(4) MARINE RESOURCES.—The term "marine resources" includes fish, shellfish, marine mammals, seabirds, and other forms of marine life or waterfowl.

(5) MARINE RESOURCES OF THE UNITED STATES.—The term "marine resources of the United States" means—

(A) marine resources found in, or which breed within, areas subject to the jurisdiction of the United States, including the exclusive economic zone of the United States; and

(B) species of fish, wherever found, that spawn in the fresh or estuarine waters of the United States.

(6) SECRETARY.—The term "Secretary" means the Secretary of Commerce.

SEC. 4004. MONITORING AGREEMENTS.

(a) NEGOTIATIONS.—The Secretary, through the Secretary of State and in consultation with the Secretary of Interior, shall immediately initiate, negotiations with each foreign government that conducts, or authorizes its nationals to conduct, driftnet fishing that results in the taking of marine resources of the United States in waters of the North Pacific Ocean outside of the exclusive economic zone and territorial sea of any nation, for the purpose of entering into agreements for statistically reliable cooperative monitoring and assessment of the numbers of marine resources of the United States killed and retrieved, discarded, or lost by the foreign government's driftnet fishing vessels. Such agreements shall provide for—

(1) the use of a sufficient number of vessels from which scientists of the United States and the foreign governments may observe and gather statistically reliable information; and

(2) appropriate methods for sharing equally the costs associated with such activities.

(b) REPORT.—The Secretary, in consultation with the Secretary of State, shall provide to the Congress not later than 1 year after the date of enactment of this Act a full report on the results of negotiations under this section.

SEC. 4005. IMPACT REPORT.

(a) IN GENERAL.—The Secretary shall provide to the Congress within 1 year after the date of the enactment of this Act, and at such other times thereafter as the Secretary considers appropriate, a report identifying the nature, extent, and effects of driftnet fishing in waters of the North Pacific Ocean on marine resources of the United States. The report shall include the best available information on—

(1) the number and flag state of vessels involved;

(2) the areas fished;

(3) the length, width, and mesh size of driftnets used;

(4) the number of marine resources of the United States killed by such fishing;

(5) the effect of seabird mortality, as determined by the Secretary of the Interior, on seabird populations; and

(6) any other information the Secretary considers appropriate.

(b) INFORMATION FROM FOREIGN GOVERNMENTS.—The Secretary, through the Secretary of State, shall—

(1) request relevant foreign governments to provide the information described in subsection (a), and

(2) include in a report under this section the information so provided and an evaluation of the adequacy and reliability of such information.

SEC. 4006. ENFORCEMENT AGREEMENTS.

(a) NEGOTIATIONS.—The Secretary shall immediately initiate, through the Secretary of State and in consultation with the Secretary of the Department in which the Coast Guard is operating negotiations with each foreign government that conducts, or authorizes its nationals to conduct, driftnet fishing that results in the taking of marine resources of the United States in waters of the North Pacific Ocean outside of the exclusive economic zone and territorial sea of any nation, for the purpose of entering into agreements for effective enforcement of laws, regulations, and agreements applicable to the location, season, and other aspects of the operations of the foreign government's driftnet fishing vessels. Such agreements shall include measures for—

(1) the effective monitoring and detection of violations;

(2) the collection and presentation of such evidence of violations as may be necessary for the successful prosecution of such violations by the responsible authorities;

(3) reporting to the United States of penalties imposed by the foreign governments for violations; and

(4) appropriate methods for sharing equally the costs associated with such activities.

(b) CERTIFICATION FOR PURPOSES OF FISHERMEN'S PROTECTIVE ACT OF 1967.—If the Secretary, in consultation with the Secretary of State, determines that a foreign government has failed, within 18 months after the date of the enactment of this Act, to enter into and implement an agreement under subsection (a) or section 4004(a) that is adequate, the Secretary shall certify such fact to the President, which certification shall be deemed to be a certification for the purposes of section 8(a) of the Fishermen's Protective Act of 1967 (22 U.S.C. 1978(a)).

SEC. 4007. EVALUATIONS AND RECOMMENDATIONS.

(a) Marking, Registry, and Identification System.—The Secretary shall evaluate, in consultation with officials of other Federal agencies and such other persons as may be appropriate, the feasibility of and develop recommendations for the establishment of a driftnet marking, registry, and identification system to provide a reliable method for the determination of the origin by vessel, of lost, discarded, or abandoned driftnets and fragments of driftnets. In conducting such evaluation, the Secretary shall consider the adequacy of existing driftnet identification systems of foreign nations and the extent to which these systems achieve the objectives of this title.

(b) Alternative Driftnet Materials.—The Secretary, in consultation with such other persons as may be appropriate, shall evaluate the feasibility of, and develop appropriate recommendations for, the use of alternative materials in driftnets for the purpose of increasing the rate of decomposition of driftnets that are discarded or lost at sea.

(c) Driftnet Bounty System.—The Secretary, in consultation with such other persons as may be appropriate, shall evaluate the feasibility of and develop appropriate recommendations for the implementation of a driftnet bounty system to pay persons who retrieve from the exclusive economic zone and deposit with the Secretary lost, abandoned, and discarded driftnet and other plastic fishing material.

(d) Driftnet Fishing Vessel Tracking System.—The Secretary, in consultation with such other persons as may be appropriate, shall evaluate the feasibility of, and develop appropriate recommendations for, the establishment of a cooperative driftnet fishing vessel tracking system to facilitate efforts to monitor the location of driftnet vessels.

(e) Report.—The Secretary shall transmit to the Congress not later than 18 months after the date of the enactment of this Act a report setting forth—

(1) the evaluations and recommendations developed under subsections (a), (b), (c), and (d);

(2) the most effective and appropriate means of implementing such recommendations;

(3) any need for further research and development efforts and the estimated cost and time required for completion of such efforts; and

(4) any need for legislation to provide authority to carry out such recommendations.

SEC. 4008. CONSTRUCTION WITH OTHER LAWS.

This title shall not serve or be construed to expand or diminish the sovereign rights of the United States, as stated by Presidential Proclamation Numbered 5030, dated March 10, 1983, and reflected in existing law on the date of the enactment of this Act.

SEC. 4009. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Department of Commerce and the Department of State, such sums as may be necessary to carry out the purposes of this title.

The CHAIRMAN. Are there any amendments to title IV?

The Clerk will designate title V.

The text of title V is as follows:

TITLE V—MISCELLANEOUS

SEC. 5001. JONES ACT MODIFICATIONS.

Section 27 of the Merchant Marine Act, 1920 (46 U.S.C. App. 883), is amended—

(1) by inserting "(a)" after "Sec. 27.";

(2) in the first sentence by striking "Treasury" and inserting in lieu thereof "Treasury, or in the case of valueless material the actual cost of transportation"; and

(3) by adding at the end the following:

"(b)(1) For the purpose of this section, the term 'merchandise' includes valueless material.

"(2) This section applies to the transportation of valueless material from a point or place in the United States to a point or place on the high seas within the Exclusive Economic Zone, as defined in the Presidential Proclamation of March 10, 1983.

"(c)(1) The transportation of any platform jacket in or on a launch barge shall not be deemed transportation subject to this section if—

"(A) the launch barge—

"(i) has a carrying capacity of 12,000 long tons or more;

"(ii) was built or under construction as of the date of the enactment of this paragraph; and

"(iii) is documented under the laws of the United States; and

"(B) the platform jacket cannot be transported on and launched from a launch barge of lesser capacity.

"(2) Notwithstanding the provisions of this section, a vessel may transport municipal sewerage to a deep water disposal site designated by the Administrator of the Environmental Protection Agency under the Marine Protection, Research, and Sanctuaries Act of 1973 (33 U.S.C. 1401 et seq.) if that vessel is documented under the laws of the United States and—

"(A) is under construction for use for a municipality for the transportation of sewerage sludge on the date of the enactment of this paragraph; or

"(B) is under contract with a municipality for the transportation of sewerage sludge on the date of the enactment of this paragraph.".

SEC. 5002. TOWING OF VALUELESS MATERIAL BY U.S. TUG.

Section 4370(a) of the Revised Statutes of the United States (46 U.S.C. App. 316(a)) is amended by adding at the end the following: "This section applies to the towing of a vessel transporting valueless material from a point or place in the United States to a point or place on the high seas within the Exclusive Economic Zone, as defined in the Presidential Proclamation of March, 10, 1983.".

SEC. 5003. EXEMPTION FROM RESTRICTION ON SUBSIDIZED OPERATORS.

For the purpose of the first paragraph of section 805(a) of the Merchant Marine Act, 1936 (46 U.S.C. App. 1223(a)), a vessel described in section 5003(2) of this Act is not a vessel engaged in domestic intercoastal or coastwise services, but the prohibitions of the second paragraph of section 805(a) apply to that vessel.

SEC. 5004. LIMITATION ON DOCUMENTATION.

Notwithstanding another law, the Secretary of the Department in which the Coast Guard is operating may issue a certificate of documentation under section 12106 of title 46, United States Code, endorsed to restrict the use of a vessel to which such a certificate is issued to the transportation of valueless material in the coastwise trade, to a vessel that—

(1) is engaged in transporting only valueless material in the coastwise trade;

(2) had a certificate of documentation issued under section 12105 of that title on October 1, 1987;

(3) has been sold foreign or placed under a foreign registry before the certificate was issued; and

(4) was built in the United States.

The CHAIRMAN. Are there amendments to title V?

AMENDMENT OFFERED BY MR. STUDDS

Mr. STUDDS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Studds: Strike title V and amend the table of contents in section 2 accordingly.

Mr. STUDDS. Mr. Chairman, this amendment simply strikes title V. Unfortunately, although we were hoping up to the last moment that this title would qualify under the criteria that we set for ourselves for inclusions of components in this bill; namely, that it meet with unanimity or as close as we could get unanimity among the minority and majority of this body and the other body, we were unfortunately unable to obtain clearance in the other body in places where necessary and consequently in compliance with my commitment to members of the Committee on Merchant Marine and Fisheries not to bring to the floor anything that did not meet those criteria, we are now moving to strike this title.

Mr. YOUNG of Alaska. Mr. Chairman, will the gentleman yield?

Mr. STUDDS. Mr. Chairman, I yield to the gentleman from Alaska.

Mr. YOUNG of Alaska. Mr. Chairman, I agree with the gentleman from Massachusetts [Mr. Studds] on this issue, because we do have that agreement. If something was controversial we have agreed to drop it. That is being done under this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Massachusetts [Mr. Studds].

The amendment was agreed to.

The CHAIRMAN. The Clerk will designate title VI.

The text of title VI is as follows:

TITLE VI

§ 6001. Declaration of Disaster

Notwithstanding any other provision of law, rule, or regulation, upon the date of the enactment of this Act, the Administrator of the Small Business Administration shall declare the recent North Carolina coast red tide contamination a disaster for purposes of section 7(b) of the Small Business Act (15 U.S.C. 636(b)).

§ 6002. Provision of Assistance

Notwithstanding any other provision of law, rule, or regulation, for purposes of providing assistance under paragraph (2) of section 7(b) of the Small Business Act (15 U.S.C. 636(b)(2)) for a disaster declared under section 1 of this Act, eligibility of individual applicants for assistance shall not in any way be dependent on—

(1) the number of disaster victims in any county or other political subdivision; or

(2) whether or not an applicant who normally conducts operations in the area of the recent North Carolina coast red tide contamination is otherwise situated or located in such area; or

(3) the type of business or industry in which the applicant is engaged.

§ 6003. Recent North Carolina Coast Red Tide Contamination, Defined

For purposes of this Act, the term "recent North Carolina coast red tide contamination" means contamination of waters under the jurisdiction of the State of North Carolina by unusually high concentrations of the algae known as Ptychodiscus brevis (commonly referred to as "red tide"), with respect to which the Director of the Division of Marine Fisheries of the North Carolina Department of Natural Resources issues a shellfishing closure proclamation on or after November 2, 1987.

The CHAIRMAN. Are there any amendments to title VI?

Mr. HUGHES. Mr. Chairman, I move to strike the last word.

Mr. HUGHES. Mr. Chairman, I do not have any amendment to the bill, and I strongly support the bill. H.R. 3667, the United States-Japanese Governing International Fishing Agreement is an important piece of legislation. I strongly support the driftnet provisions, the plastics pollution provisions that implement annex 5 of the international convention, and the other provisions that have been tacked on to this bill.

I must say, however, that I am very, very disappointed that we do not have next to this bill a provision that I offered in committee to another bill, offered by myself, the gentleman from New Jersey [Mr. SAXTON], the gentleman from Delaware [Mr. CARPER], and the gentleman from Maryland [Mr. DYSON], which deals with ocean dumping.

Mr. Chairman, there is nothing that has occupied more of my time in the Congress than the problem of ocean dumping off the east coast of the United States.

This past summer in New Jersey as well as other parts along the east coast we had major problems with kinds of things washing up on our beaches, plastics of all kinds, hospital wastes, trash, and garbage. We have been dumping for a number of years 12 miles off our beach sewage sludge which has created a virtual dead sea about 12 miles off of the Jersey coast in an area that we call the New York bight, and now we have moved that sludge dumping out to the 106-mile sight.

I do not want to suggest that much of the material that washed up on the Jersey beaches jeopardizing our multibillion dollar tourist economy comes from the sludge out there but we have some major concerns that the sludge perhaps may be one of the problems we are now experiencing with mammals.

Last summer we have a number of dolphin deaths. Many of our fisheries are concerned that perhaps the sludge dumping at the 106-mile sight is now going to impact another major industry in the New Jersey, the commercial fishing industry. We just do not know what impact it will have and what we would like to do is phase out all harmful ocean dumping. We thought we were doing that back in 1977 when I introduced a bill before the Committee on Merchant Marine and Fisheries. We had a major battle in committee and a major battle on the floor over that matter. We made some progress in moving out of our oceans a whole host of polluters. We had over 200 chemical dumpers, and we are down to two today. We have made major progress with the municipal dumpers. Philadelphia was forced out of the ocean, and they were fined over $300,000. They have now gone to composting. They are reclaiming land outside of the city of Philadelphia. They are creating a useful product and they are not dumping in the ocean as a result of that 1977 ban that was to phase out all harmful ocean dumping by December 31, 1981.

What happened? Well, in 1981 New York City brought suit against the Environmental Protection Agency and under Mrs. Burford's command she basically made a deal with the city of New York and they undercut our legislation basically throttling it so that, in fact, we no longer had the momentum going with us and as a result New York City and a number of northern New Jersey communities now still dump in the ocean.

In fact, north Jersey communities dump as much as New York City into the ocean.

Recently the State of New Jersey made a decision that we will bite the bullet and we are going to say that 1991, which is the new target date, the new phaseout date of the 106-mile site, that 1991 will be that phaseout date. We do that to send a clear signal to those who want to dump in the ocean because it is cheap, we say that 1991 is the new date which is when we want the dumpers out of the ocean.

What I had hoped to do today was to introduce an amendment which would be relevant to this bill that would basically lock in concrete the Environmental Protection Agency's decision to phase out all dumping of municipal sludge by December 31, 1991. My colleague, the gentleman from New Jersey [Mr. HOWARD] is here, and I know that nobody has worked harder to try to phase out harmful ocean dumping than my colleague from New Jersey, the chairman of the Committee on Public Works and Transportation.

He knows what impact it has had on our State. We are scared to death we are going to lose a multibillion dollar tourist economy. We saw what happened last summer in the last 2 weeks in August when people found out that the ocean may not be safe to swim in. We lost tourists in droves. One could get a room in a hotel in mid-August that could not be touched a year before. People are now afraid to swim in our ocean.

(By unanimous consent, Mr. HUGHES was allowed to proceed for 2 additional minutes.)

Mr. HUGHES. Mr. Chairman, I was taught that the ocean had medicinal value, that if one had athlete's foot, for example, one could go into the ocean and that was good for it, it was healthy. Today a lot of parents are afraid to let their kids swim in the ocean along the east coast. It is sad.

I mentioned the commercial fishing industry. People are afraid to eat seafood caught off our beaches. Some of the merchants in our area are advertising that they are not selling New Jersey products, but they are selling products from Massachusetts. I know that makes my colleague, the gentleman from Massachusetts [Mr. STUDDS], happy, but they are bringing in seafood from other parts of the country and it is not products from off our coast. We have a serious problem. I am not going to introduce the amendment today because I know it is controversial and I know that it would perhaps slow down if not perhaps derail this important piece of legislation.

Also, I have an understanding with the chairman of the Committee on Merchant Marine and Fisheries, chaired by the gentleman from North Carolina [Mr. JONES], who understands my problem and agrees that we will give this matter attention after the first of the year. Also, a commitment from the gentleman from Massachusetts [Mr. STUDDS], whom I have worked with over a number of years on the Committee on Merchant Marine and Fisheries that we will hold additional hearings if needed and move some legislation to deal with the problem and also hopefully move the Pacific tuna legislation where I do have a little provision like this tacked on, hopefully after the first of the year to deal with I think one of New Jersey's most serious problems.

Mr. Chairman, I have no amendment, but I hope my colleagues are sensitive to our concerns in New Jersey.

Mr. HOWARD. Mr. Chairman, will the gentleman yield?

Mr. HUGHES. Mr. Chairman, I yield to the gentleman from New Jersey.

Mr. HOWARD. Mr. Chairman, I wish to express my strong support for this legislation. The Marine Plastic Pollution Research and Control Act of 1987 is the first step in an effort to develop a coordinated national strategy to reduce and eliminate the problem of plastic pollution in our waterways. The indiscriminate disposal of plastics is an unnecessary, unjustifiable form of pollution that endangers the environment and wildlife and is made even worse by the fact these materials survive for centuries. We have the technology to protect our environment. It is time to start that effort.

The Committee on Merchant Marine and Fisheries deserves commendation for its work on this bill. Special praise is due to the chairman, the gentleman from North Carolina [Mr. JONES] and the gentleman from Massachusetts [Mr. STUDDS]. This bill has shown how our two committees can work together to move needed legislation.

The issue of plastic pollution has been a major concern to me for several years. The six-pack rings that are manufactured by the thousands and the plastic shopping bags that have become so prevalent in our stores have only magnified the problem of our disposable society. These plastics are disposed of in the ocean and they last for 500 years. The mistakes that we make today will be haunting the planet five centuries from now.

The growing nature of the problem became evident this summer at the New Jersey shore as we attempted to cope with massive garbage slicks that consisted of large amounts of plastics. It is likely that as the number of plastic items increases and the disposal problem continues, there will be more and more plastic pollution in the ocean. This bill will take us on the road to stop the growing trend of plastic pollution.

This legislation directs the Environmental Protection Agency to begin a comprehensive study of the effect of plastics on the environment including the possibility of the substitution of degradable materials, some of which may degrade naturally in the environment within 6 months.

The bill also directs the Secretary of Commerce to review the possibility of prohibiting, taxing, or regulating sources of plastic that enter the marine environment. It also includes an important, 3-year public education program on the harmful effects of plastic pollution.

Of special importance to me is the comprehensive New York Bight Restoration plan which is included in the bill. First, it would require the EPA to report to Congress within 6 months on the problem of plastic pollution in the ocean off the New Jersey shore and to make recommendations for eliminating the problem.

Second, a 3-year, $3 million study and cleanup plan for the New York bight is authorized. The New York bight, which is the corner of the ocean between New Jersey and New York, has been ravaged by pollution for decades. The fouling of our ocean waters has come from sewage discharges, sludge dumping, dredged material disposal, and other sources. We have been successful in recent years in reducing and eliminating these sources of pollution but a comprehensive cleanup plan is needed. This bill authorizes the plan. Special recognition should go to my colleague from New Jersey [BILL HUGHES], who has been working on a comprehensive restoration plan for several years.

Under this plan, EPA is required to assess the sources of pollution in the New York bight, determine methods for controlling them and provide recommendations for implementing economically feasible projects for pollution control.

In addition, the bill requires a report on alternatives to the ocean dumping of sewage sludge in the ocean. There is no question that those of us from the New Jersey shore will strongly oppose the redesignation of any ocean disposal site for sewage sludge after the designation of the 106-mile site expires in 1991. BILL HUGHES has already begun the effort in the Merchant Marine Committee. The 106-mile site is the only site in all the coastal waters of the United States where sewage sludge is legally dumped. Nobody else is forced to endure having tons of sewage sludge dumped off their beaches—the people who live in the area surrounding the New York bight should not be forced to endure it either. It would make good environmental sense to stop all sludge dumping today. However, since there are still a handful of authorities that use the ocean for their legal sludge dumping, that decision will be delayed until 1991.

The legislation indicates a decision on our part to take important steps to protect the marine environment and to clean up the New York bight. It will move us toward stopping the current practices that will leave a legacy of pollution that will require hundreds of years to clean up. A vote for this bill is a vote for cleaner oceans and I urge my colleagues to vote in favor of this.

The CHAIRMAN. Are there further amendments?

The question is on the committee amendment in the nature of a substitute, as modified, as amended.

The committee amendment in the nature of a substitute, as modified, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore [Mr. GRAY of Illinois] having assumed the chair, Mr. MOAKLEY, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 3674) to provide for congressional approval of the Governing International Fishery Agreement between the United States and Japan, pursuant to House Resolution 337, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute, as modified, adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes apeared to have it.

Mr. SHUMWAY. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 382, nays 13, not voting 38, as follows:

[Roll No. 498]

YEAS—382

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Aspin
AuCoin
Baker
Ballenger
Barnard
Bartlett
Barton
Bateman
Bates
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Boggs
Bonior
Bonker
Borski
Boucher
Boulter
Boxer
Brennan
Brown (CA)
Brown (CO)
Bruce
Bryant
Buechner
Bunning
Burton
Bustamante
Callahan
Campbell
Cardin
Carper
Carr
Chandler
Chapman
Clarke
Clinger
Coats
Coble
Coelho
Coleman (MO)
Coleman (TX)
Collins
Combest
Conte
Conyers
Cooper
Coughlin
Courter
Coyne
Crockett
Daniel
Darden
Daub
Davis (IL)
Davis (MI)
de la Garza
DeFazio
Dellums
Derrick
DeWine
Dickinson
Dicks
Dingell
DioGuardi
Dixon
Donnelly
Dorgan (ND)
Dornan (CA)
Downey
Dreier
Duncan
Durbin
Dwyer
Dymally
Dyson
Eckart
Edwards (CA)
Edwards (OK)
Emerson
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Flake
Flippo
Florio
Foglietta
Foley
Ford (MI)
Frank
Frost
Gallegly
Gallo
Garcia
Gaydos
Gejdenson
Gekas
Gibbons
Gilman
Glickman
Gonzalez
Goodling
Gordon
Gradison
Grandy
Grant
Gray (IL)
Gray (PA)
Green
Guarini
Gunderson
Hall (TX)
Hamilton
Hammerschmidt
Hansen
Harris
Hastert
Hatcher
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hiler
Hochbrueckner
Holloway
Horton
Howard
Hoyer
Hubbard
Hughes

Hutto
Hyde
Inhofe
Ireland
Jacobs
Jeffords
Jenkins
Johnson (CT)
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kaptur
Kasich
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Konnyu
Kostmayer
Lagomarsino
Lancaster
Lantos
Latta
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Lott
Lowery (CA)
Lowry (WA)
Lujan
Luken, Thomas
Lukens, Donald
Lungren
Mack
MacKay
Madigan
Manton
Markey
Marlenee
Martin (IL)
Martin (NY)
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCurdy
McDade
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
Meyers
Mfume
Mica
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal
Nichols
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Oxley
Packard
Panetta
Parris
Pashayan
Patterson
Pease
Pelosi
Penny
Perkins
Petri
Pickett
Pickle
Porter
Price (IL)
Price (NC)
Pursell
Rahall
Ravenel
Ray
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rogers
Rose
Roth
Roukema
Rowland (CT)
Rowland (GA)
Roybal
Sabo
Saiki
Savage
Sawyer
Saxton
Scheuer
Schneider
Schroeder
Schuette
Schulze
Schumer
Sensenbrenner
Sharp
Shays
Shumway
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solarz
Solomon
Spence
Spratt
St Germain
Staggers
Stallings
Stangeland
Stark
Stenholm
Stokes
Stratton
Studds
Sundquist
Sweeney
Swift
Swindall
Synar
Tallon
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Upton
Valentine
Vander Jagt
Visclosky
Volkmer
Vucanovich
Walgren
Watkins
Waxman
Weber
Weldon
Wheat
Whittaker
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wyden
Wylie
Yates
Yatron
Young (AK)

NAYS—13

Armey
Cheney
Craig
Crane
Dannemeyer
DeLay
Frenzel
Hopkins
Hunter
Kyl
Nielson
Stump
Walker

NOT VOTING—38

Atkins
Badham
Biaggi
Boland
Bosco
Brooks
Broomfield
Byron
Chappell
Clay
Dowdy
Early
Ford (TN)
Gephardt
Gingrich
Gregg
Hall (OH)
Hawkins
Houghton
Huckaby
Kemp
Kolter
LaFalce
Lent
Martinez
Nelson
Pepper
Quillen
Rangel
Roemer
Rostenkowski
Russo
Schaefer
Shaw
Vento
Weiss
Wortley
Young (FL)

☐ 1705

Mr. WALKER changed his vote from "yea" to "nay."

Messrs. DEFAZIO, DREIER of California, and ALEXANDER changed their votes from "nay" to "yea."

So the bill was passed.

The result of the vote was announced as above recorded.

The title of the bill was amended so as to read "A bill to provide congressional approval of the Governing International Fishery Agreement between the United States and Japan; to implement the provisions of Annex V to the International Convention for the Prevention of Pollution from Ships, 1973; to reauthorize the National Sea Grant College Program Act; to improve efforts to monitor, assess, and reduce the adverse impacts of driftnets; and for other purposes."

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. STUDDS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and include extraneous material, on the bill just passed.

The SPEAKER pro tempore (Mr. GRAY of Illinois). Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

AUTHORIZING THE CLERK TO MAKE TECHNICAL AND CONFORMING CHANGES IN ENROLLMENT OF H.R. 3674

Mr. STUDDS. Mr. Speaker, I ask unanimous consent that the Clerk be authorized to make technical and conforming changes in the enrollment of the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

RAIL SAFETY IMPROVEMENT ACT OF 1987

Mr. THOMAS A. LUKEN. Mr. Speaker, I ask unanimous consent that the Committee on Energy and Commerce be discharged from further consideration of the bill (H.R. 3743) to improve the safety of rail transportation and for other purposes and ask for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

Mr. WALKER. Mr. Speaker, reserving the right to object, as I understand it, the way in which this bill is being brought up would be with an amendment that will then reduce the funding within the bill to a level which meets the original administration request, is that correct?

Mr. THOMAS A. LUKEN. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from Ohio [Mr. LUKEN].

Mr. THOMAS A. LUKEN. I thank the gentleman for yielding.

Mr. Speaker, the gentleman from Pennsylvania is correct.

Mr. WALKER. So that we will have no budget problems of any kind with the bill as it finally emerges from this process?

Mr. THOMAS A. LUKEN. The gentleman is correct. I will introduce an amendment in the nature of a substitute to that effect.

Mrs. SLAUGHTER of New York. Mr. Speaker, I rise in strong support of H.R. 3743, the Rail Safety Improvement Act of 1987. This legislation will improve the safety of Americans who travel on our railroads. I am pleased that the Committee on Energy and Commerce, under the vigorous leadership of Chairman DINGELL, Subcommittee Chairman LUKEN, and the ranking minority members, has acted with diligence and speed to bring this well-crafted measure to the floor today. I am particularly gratified that this bill incorporates several provisions of legislation which I sponsored earlier this year, H.R. 3179.

One of these provisions will mandate installation of automatic train control [ATC] on all trains operating in the heavily traveled Northeast corridor [NEC] which runs from Boston to Washington, DC. The NEC is a high speed corridor serving more than 28,000 intercity railroad passengers daily on 97 trains moving at speeds of up to 125 miles per hour. Approximately 40 freight trains per day also operate on the NEC at speeds up to 50 miles per hour; a significant portion of the freight carried is hazardous material. In addition, commuter rail lines carry over 220,000 passengers every day on more than 750 trains.

The Department of Transportation has concluded that public safety can be enhanced by ensuring that trains obey rail signals and has stated, "The only system now capable of ensuring that a train is operated in conformity with signal indications is the automatic train control system."

The automatic train control system features two hardware elements—a signal transmission system located in the rail, and a receiver unit built into each locomotive. The Northeast corridor already has the transmission system installed in the track. Establishing automatic train control in the Northeast corridor therefore, would only require that each railroad operating on the NEC equip each locomotive with automatic train control receivers.

Automatic train control, or ATC, works when an electrical impluse in the rail is decoded by a receiver in the locomotive, establishing a signal in the cab. If the cab signal is changed to require a reduction in speed, the engineer must act within a certain timeframe—usually 8 seconds—to slow the train down. If the engineer does not respond properly, the brakes will automatically be applied and the train brought safely to a stop. Mr. Speaker, it is widely acknowledged that automatic train control would have prevented the Chase, MD accident.

Mr. Speaker, this is not a controversial proposal. ATC is a technology that has long been used in railroad operations and has been proven to be reliable, as well as reasonable to maintain. It is widely recognized that ATC will make significant safety improvements in rail travel on the Northeast corridor. Yet the potential for a tragic accident similar to that which occurred in Chase, MD, exists in all rail corridors in the Nation which carry passengers, especially those that mix both passengers and freight. It is important that we do all we can to explore methods by which we might reduce the potential for accidents on rail corridors nationwide.

Toward this end, this legislation contains another provision from my original bill which requires DOT to conduct a study to determine the advisability and feasibility of requiring ATC on each rail corridor on which passengers are carried. The DOT would consult with Amtrak, frieight carriers, commuter agencies, employee representatives, railroad passengers, and rail equipment manufacturers in its conduct of the study. The study includes an assessment of the risks of not requiring ATC on each corridor, cost-benefit analyses of requiring ATC on the corridors, as well as an investigation of alternative means of accomplishing the safety objectives envisioned by automatic train control.

Additionally, the legislation provides an additional tool for rail safety enforcement. The maximum penalty for safety violations is increased to $25,000. This would grant the Federal Railroad Administrator, as he has requested, additional discretion to levy a heavy punitive assessment in the case of a flagrant safety violation, or in the case of repeated noncompliance. The intent is that this authority would rarely be used. It would, however, be available for use in exceptional cases where conventional remedies fail to realize their intended effect.

Mr. Speaker, I believe this bill will make travel by rail safer for citizens who travel, not only in the Northeast corridor, but throughout the country. I urge my colleagues to join me in a resounding "yes" vote for passage of H.R. 3743 in the House.

Mr. LENT. Mr. Speaker, I am pleased to support H.R. 3743, the Rail Safety Improvement Act of 1987, a bill prepared through strong bipartisan cooperation and unanimously approved by the Energy and Commerce Committee. Because of this gratifying degree of bipartisan support and the recent passage of similar legislation by the Senate, I am hopeful that we can provide a full reauthorization of Federal rail safety activities for the first time in 4 years.

Early in 1987, 16 passengers traveling our Northeast corridor rail route lost their lives because our safety system failed. A freight locomotive, with its other safety devices disabled, and not equipped with the automatic train control that could have prevented the collision, moved directly into the path of an Amtrak passenger train, with tragic results. Today, we can take an important step to prevent such accidents in the future. The Rail Safety Improvement Act of 1987 requires the installation of automatic train control on all locomotives used on the Northeast corridor within the next 2½ years.

This bill will also cure a serious deficiency in the present safety laws—the complete absence of Federal safety enforcement authority over railroad personnel. Under this legislation, the Department of Transportation will have such jurisdiction, and will be able to impose sanctions on proven safety violators and remove them from safety-sensitive positions.

When we consider rail safety, we need to bear in mind who are the principal victims of safety lapses, including unsafe conduct, on the railroads. In 1985, railroad employees suffered 15 times the number of fatalities among rail passengers. A major part of the hazard to rail workers comes from reckless conduct by a few of their fellow workers, such as the disabling of potentially lifesaving safety devices. H.R. 3743 makes such tampering a specific safety violation. At the same time, it protects workers who diligently report safety violations by giving them specific legal remedies against management retaliation. The bill also maintains the confidentiality of employee safety reports and requires Federal authorities to evaluate in a rulemaking proceeding the need for safety standards to protect employees who maintain railroads' right-of-way. In sum, this bill strikes a fair and reasonable balance between the legitimate concerns of the employee and the public need to protect workers, travelers, and others against the unsafe actions of a few.

This bill also brings up to date the system of fines that the Department of Transportation may impose for safety violations. While the Department would have the usual discretion in seeking to impose fines as under present law, the limit of possible fines would be increased from $2,500 to $10,000, with an exceptional fine of up to $25,000 for grossly negligent or repeated serious violations. These changes will give Federal authorities the sanctions needed to deter safety violations if possible and to punish violators where appropriate.

This bill also strikes the proper balance between broad legislative policy directives and detailed administrative implementation through agency action. In several instances, notably the possible inspection standards for grade crossing equipment, safety standards for maintenance-of-way employees, and fencing standards for railroad yards, the Secretary of Transportation is directed to take action through administrative rulemaking to issue standards "as may be necessary." This scheme properly recognizes that legislators are not omniscient, and that safety measures should be tailored to the specific facts, as brought out in a full and fair hearing. The Secretary will then have the usual broad discretion in deciding whether to adopt rules or standards to address any need that has been demonstrated in the factual record. In this way, we can be confident that any rules and standards ultimately adopted are neither too weak to address a genuine need nor overly restrictive of prudent and efficient railroad operations.

H.R. 3743 also assures adequate qualification of persons in positions vitally affecting rail safety. It directs the establishment of a program of Federal approval of rail carriers' qualification standards for persons operating locomotives. Driving-record data stored in the National Driver Register would be included as a vital factor in this qualification process. The bill also requires an inquiry into the possible need for Federal standards governing the training of dispatchers.

In closing, I wish to commend the distinguished chairman of the Energy and Commerce Committee, the chairman of the Transportation Subcommittee, and the ranking Republican member of the subcommittee for their diligent and constructive efforts to fashion a strong bipartisan safety bill.

Mrs. COLLINS. Mr. Speaker, I want to commend my distinguished colleague from Ohio [Mr. LUKEN] for his leadership in bringing this critical legislation to improve safety procedures on our Nation's railroads to the House floor.

If there is one issue that deeply disturbs those who travel by train, it is the thought that engineers may be "highballing" down the track.

At the beginning of this year, we witnessed the tragic consequences when engineers operate trains under the influence of drugs or alcohol, 16 people were killed, and 170 were injured when an Amtrak train collided with a Conrail locomotive in Maryland.

As chairwoman of the Government Activities and Transportation Subcommittee, I conducted a hearing into the causes of this accident. My hearing confirmed many of the initial theories about the cause of this crash, including the fact that the Conrail engineer and breakman were apparently both under the influence of drugs at the time. Also, it appears certain safety equipment had been disabled on their locomotive.

Perhaps most important, the hearing brought out the need to improve certain railroad operating procedures. Thus, I introduced a bill, H.R. 718, to achieve this objective. First, the bill would require the Federal Railroad Administration to license all engineers. They would be required to demonstrate their knowledge of safety, right-of-way, equipment, and other operational information. The bill also would give the FRA access to the National Driver's Register. The register is maintained by the Department of Transportation and lists all drivers who have had their license suspended or revoked for committing serious driving offenses.

I am pleased that the bill offered by my distinguished colleague "tracks" many of these provisions. The bill establishes a program for licensing engineers and gives the FRA access to the driver's register.

The need for the former requirement is self-evident. Motorists, truckers, airline pilots, and commercial maritimers are all currently subject to licensing procedures. Indeed, rail engineers are the only operators of a mode of public transportation whose skills and knowledge are not tested by a governmental body.

With respect to the latter issue, common sense suggests that a train engineer who drives a car while impaired may be prone to similar irresponsible behavior when he or she is at the throttle of a train, posing a direct threat to the safety of hundreds or thousands of people.

To illustrate this proposition, consider the driving record of the Conrail engineer in the Amtrak crash. He had a longstanding history of committing serious driving offenses and had been arrested shortly before the accident for drunk driving. I question whether Conrail would have hired this individual if they had been aware of his driving record. H.R. 3743 will correct this problem by giving the FRA the authority to look at certain aspects of a person's driving record to determine if they should be licensed as an engineer.

Finally, this bill gives those who have a serious drug or alcohol problem a "second chance." As I learned at another hearing by my subcommittee in February, two of the Nation's largest railroads, with the cooperation of their unions, have established "red block" programs. These programs are used to monitor whether railroad employees are violating company rules on the use of drugs or alcohol. If one employee believes another may be impaired on the job, they are supposed to confront such individuals about their problem. In turn, if this individual wants assistance, the railroad offers drug and alcohol abuse counseling. Where these programs have been implemented, they have provided invaluable services to those with substance abuse problems and improved the company's safety record considerably. H.R. 3743, again, will encourage the development of such programs.

As I have learned in my subcommittee, the Amtrak crash this past January was not an isolated episode. On the contrary, a number of serious railroad accidents over the past several years have involved engineers or other train personnel who were impaired on-the-job or not well versed in operating procedures.

The bill offered by our distinguished colleague is a strong step toward improving safety on our Nation's railroads and I urge my colleagues to support it.

Mr. MADIGAN. Mr. Speaker, the bill H.R. 3743, reported by the Energy and Commerce Committee on December 15, 1987, includes a provision which was subject to no hearings or testimony before the Congress. It would require the Department of Transportation:

> To issue such rules, regulations, orders and standards as may be necessary to require the fencing of rail yards in heavily populated areas so as to prevent or deter injury of persons not employed by the rail carrier.

Since there has been no hearing record on this provision, members are being asked to require railroad yards to be fenced without the benefit of the facts.

While fencing may be an easy response to the problem of trespassers who are injured while on railroad property, the fact is that experience with fencing shows that it is an ineffective, impractical way to keep trespassers off railroad property and causes more serious problems than it purports to resolve. In an attempt to stop trespassing, the railroads have had a longstanding campaign to educate the public, especially school-age children, about its dangers. As an example, Conrail has worked with Ohio State University to prepare an educational film entitled "Trespass," and Association of American Railroads has produced a film on trespassing called David's Run. Since the Conrail film was produced in 1983, police officers have shown this film to 845,807 persons, mainly students at 10,255 locations. Union Pacific managers of safety services regularly speak to schoolchildren about the dangers of entering rail yards. They show the films "David's Run" and "Where did the Children Go," to illustrate these issues. Educating children is a more intelligent and cost-effective alternative to fencing, for several reasons.

First, in areas where fences have been erected, experience has shown that they have either been stolen, cut, dug under, or otherwise penetrated. This has been the experience in Philadelphia, New York, and Chicago, as well as in smaller cities and towns. There is no such thing as child-proofing a rail yard or any other private property.

Second, even if fences were required around railroad yards, there will still be gaps. For example, fences must have openings where public or private roadways cross the yard and where tracks, personnel, and vehicles enter and leave the premises. Rail yards need to be accessible, both in terms of entry and exit. If there were a serious incident in a yard, involving for example a chemical leak or explosion, railroad personnel would need to be able to quickly evacuate the yard area. A fence would trap them. Access is also necessary so that emergency and rescue personnel can reach the yard expeditiously. Fences would frustrate that objective. Thus, the perceived security of the fence is misleading because of the need to permit access. This fencing provision is the worst of both worlds. It could be dangerous to employees should the need arise to evacuate quickly, but at the same time, it will provide false security in a belief that trespassers are being kept out.

Perhaps the proponents of this provision are under the impression that the railroads have ignored injuries to trespassers. In fact, they have an ongoing educational campaign in the schools and in civic associations to educate the public about the danger of entering railroad property. In addition to its film "Trespass," one northeast railroad has prepared and contracted for a short television message to be shown throughout the region warning of the hazard of trespassing. In addition, the railroads post signs, and have their own police forces, some of which have trained dogs, that patrol yards to keep trespassers out. In addition, railroads have asked community police to rigorously enforce trespassing laws. Finally, recognizing that it isn't just unknowing children who trespass, the railroads have been persistent proponents of stiffer penalties for those apprehended for trespassing.

Finally, with regard to cost, the average price of 1 mile of 8-foot fencing is $200,000. Since Members are familiar with Conrail, it may be useful to use that railroad as an example. The cost of fencing Conrail would be several billion dollars—much more than the total value of Conrail itself. The cost of fencing only yards would represent a significant portion of that cost. If fences would stop or curtail trespassing accidents in selected areas, perhaps this cost could be justified. But this has not been demonstrated. Unfortunately, fences require continuous maintenance to repair breaks, cuts or places that have been dug under. In the absence of such maintenance, a railroad could be accused of negligence in a court of law, should a trespasser enter its property and be injured.

In short, the Congress is misleading itself and the public in legislating the fencing of railroad yards in heavily populated areas in the belief that trespassing incidents would be eliminated. It is not consistent with rational public policy to mandate such a large expense for a single industry, unless it can be proven to be cost-effective. The railroads have an excellent public education campaign aimed at youngsters who trespass. It sends the wrong signal when private industry, at its own expense and initiative, attempts to solve a problem only to be to be saddled with new legislated requirements. The provision should be deleted in conference. If Congress wants to deal with the problem of trespasser injuries, it should do so through the means of education and law enforcement.

Mr. RINALDO. Mr. Speaker, I want to associate myself with the remarks of the gentleman from Illinois [Mr. MADIGAN] and express my concerns about the fencing provision in this legislation.

It was included in the bill without the benefit of hearings, nor does it take into account the efforts made by Conrail and other railroads to prevent trespassing.

In 1983, in conjunction with Ohio State University, Conrail produced an educational film called "Trespass" which has been shown to nearly 1 million individuals in over 10,000 locations. Conrail is responding to this problem, but unfortunately the legislation before us mandates an effort which we are not at all certain will succeed.

This fencing provision is an expensive mandate that will significantly effect Conrail and other rail carriers.

The average cost of 8-foot fencing is $200,000 per mile. This means Conrail would have to spend several billion dollars to erect such barriers, even though they would not be permanent.

Again, I commend the gentlemen from Illinois for his work on this matter.

Mr. DINGELL. Mr. Speaker, the bill before the House, H.R. 3743, will reauthorize the Federal Railroad Safety Program for 3 years and enact a number of important improvements into law. This bill is a bipartisan, consensus measure supported by all members of the Energy and Commerce Committee.

Particular credit should be given to the chairman of the subcommittee, Mr. LUKEN, and the ranking Republican member, Mr. WHITTAKER. Their labors have produced a set of highly commendable improvements in the Federal rail safety law.

The substitute before us incorporates the work of the subcommittee and full committee on this matter. It reauthorizes the rail safety program at the level requested by the administration. It provides additional, specific authority to improve grade crossing safety, a leading cause of deaths and rail accidents. The bill gives the Secretary authority to create an engineer licensing program and to penalize individuals for willful safety violations and for tampering with safety devices. It protects whistleblowers from discrimination, and it makes other important improvements.

The Senate passed its rail safety reauthorization bill earlier this fall. With the first anniversary of the tragic accident at Chase, MD, approaching on January 4, 1988, I am pleased that today we will be passing our own version of that measure. I look forward to an early and productive conference on these bills early in the second session.

Mr. **WALKER**. Mr. Speaker, I withdraw my reservation of objection.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read the bill, as follows:

H.R. 3743

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Rail Safety Improvement Act of 1987".

SEC. 2. AUTHORIZATION FOR APPROPRIATIONS.

Section 214 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 444) is amended to read as follows:

"SEC. 214. AUTHORIZATION FOR APPROPRIATIONS.

"(a) There is authorized to be appropriated to carry out this Act not to exceed $40,649,000 for the fiscal year ending September 30, 1988, not to exceed $41,868,470 for the fiscal year ending September 30, 1989, and not to exceed $44,381,000 for the fiscal year ending September 30, 1990.

"(b) Sums appropriated under this section for research and development, automated track inspection, and the State safety grant program are authorized to remain available until expended.".

SEC. 3. GRADE CROSSING DEMONSTRATION PROJECTS.

The Federal Railroad Safety Act of 1970 is amended by adding at the end the following new section:

"SEC. 215. GRADE CROSSING DEMONSTRATION PROJECTS.

"(a) The Federal Railroad Administration shall establish demonstration projects for the purpose of evaluating—

"(1) whether reflective markers installed on the road surface or on a signal post at grade crossings would reduce accidents involving trains;

"(2) whether a stop sign or yield sign installed at grade crossings would reduce such accidents; and

"(3) whether speed bumps or rumble strips installed on the road surface at the approach to grade crossings would reduce such accidents.

"(b) The Federal Railroad Administration shall, within two years after the date of the enactment of the Rail Safety Improvement Act of 1987, report to the Committee on Energy and Commerce of the House of Representatives and to the Committee on Commerce, Science, and Transportation of the Senate on the results of the demonstration projects established under subsection (a).

"(c) There is authorized to be appropriated to the Secretary of Transportation for improvements in grade crossing safety, $1,000,000, to remain available until expended.".

SEC. 4. LICENSING OF ENGINEERS.

Section 202 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 431) is further amended by adding at the end the following new subsection:

"(l)(1) The Secretary shall, within 180 days after the date of the enactment of this subsection, issue such rules, regulations, orders, and standards as may be necessary to establish a program requiring the licensing of any individual operating a train, including train engineers, after the expiration of 2 years following the establishment of such program. This requirement shall be implemented through a program of review and approval of each railroad's operator qualification standards.

"(2) The program established by the Secretary under paragraph (1) shall—

"(A) include minimum training requirements,

"(B) require comprehensive knowledge of railroad operating practices and operating rules;

"(C) prohibit from holding a license any individual who, within the previous 5 years, has been denied a motor vehicle operator's license by a State for cause or whose motor vehicle operator's license has been cancelled, revoked, or suspended by a State for cause; and

"(D) prohibit from holding a license any individual who has been reported to the National Driver Register because of a conviction described under section 205(a)(3) of the National Driver Register Act of 1982 within the past 5 years.

"(3) The Secretary shall, for purposes of implementing paragraph (2) (C) and (D), have access to information contained in the National Driver Register.

"(4) An individual denied a license on the basis of the inclusion of such individual's name on the National Driver Register shall be entitled to an administrative hearing to determine whether such license has been properly denied.

"(5) No individual shall be prohibited from holding a license because of a conviction for operating a motor vehicle while under the influence of, or impaired by, alcohol or a controlled substance, if such individual subsequent to such conviction has successfully completed a rehabilitation program established by a rail carrier or approved by the Secretary.".

SEC. 5. AUTOMATIC TRAIN CONTROL SYSTEMS.

(a) Section 202 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 431) is further amended by adding at the end the following new subsection:

"(m)(1) All trains operating after April 1, 1990, on the main line of the Northeast Corridor between Washington, D.C., and Boston, Massachusetts, or on the feeder line referred to in section 704(a)(1)(B) of the Railroad Revitalization and Regulatory Reform Act of 1976, shall be equipped with automatic train control systems designed to slow or stop a train in response to external signals.

"(2) If the Secretary finds that it is impracticable to equip all trains as required under paragraph (1) before April 1, 1990, the Secretary may extend the deadline for compliance with such requirement, but in no event shall such deadline be extended past July 1, 1990.".

(b) Section 202 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 431), is further amended by adding at the end the following new subsection:

"(n) The Secretary, in consultation with the National Railroad Passenger Corporation, freight carriers, commuter agencies, employee representatives, railroad passengers, and rail equipment manufacturers, shall undertake a study of the advisability and feasibility of requiring automatic train control systems, including systems using advanced technology, such as transponder and satellite relay systems, on each rail corridor on which passengers or hazardous materials are carried. Such study shall include—

"(1) a specific assessment of the dangers of not requiring automatic train control systems on each such corridor, based on analysis of the number of passenger trains, persons, and freight trains traveling on such corridor daily, the frequency of train movements, mileage traveled, and the incident and accident history on such corridor;

"(2) an analysis of the cost of requiring such systems to be installed on each specific corridor; and

"(3) an investigation of alternative means of accomplishing the same safety objectives as would be achieved by requiring automatic train control systems to be installed.".

SEC. 6. INCREASED PENALTIES; LIABILITY OF INDIVIDUALS.

Section 209 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 438) is amended—

(1) in subsection (a) by striking "railroad" and inserting in lieu thereof "person (including a railroad and any manager, supervisor, official, or other employee or agent of a railroad)";

(2) in subsection (b) by striking all after "(45 U.S.C. 39)" and inserting in lieu thereof "in an amount of not less than $250 nor more than $10,000, except that where a grossly negligent violation or a pattern of repeated violations has created an imminent hazard of death or injury to persons, or has caused death or injury, a penalty of not to exceed $25,000 may be assessed.";

(3) in subsection (c)—

(A) by striking the first sentence and inserting in lieu thereof "Any person violating any rule, regulation, order, or standard referred to in subsection (b) shall be assessed by the Secretary the civil penalty applicable to the standard violated. Penalties may be assessed against individuals under this subsection only for willful violations."; and

(B) by inserting ", in which the individual resides," after "such violation occurred"; and

(4) by adding at the end the following new subsection:

"(f) Where an individual's violation of any rule, regulation, order, or standard prescribed by the Secretary under this title is shown to make that individual unfit for the performance of safety-sensitive functions, the Secretary, after notice and opportunity for a hearing, may issue an order prohibiting such individual from performing safety-sensitive functions in the rail industry for a specified period of time or until specified conditions are met. This subsection shall not be construed to affect the Secretary's authority under section 203 to take such action on an emergency basis.".

SEC. 7. TAMPERING WITH SAFETY DEVICES.

Section 202 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 431) is further amended by adding at the end the following new subsection:

"(o)(1) The Secretary shall, within 90 days after the date of the enactment of this subsection, issue such rules, regulations, orders, and standards as may be necessary to prohibit the willful tampering with, or disabling of, specified railroad safety or operational monitoring devices.

"(2)(A) Any railroad company operating a train on which safety or operational monitoring devices are tampered with or disabled in violation of rules, regulations, orders, or standards issued by the Secretary under paragraph (1) shall be liable for a civil penalty under section 209.

"(B) Any individual tampering with or disabling safety or operational monitoring devices in violation of rules, regulations, orders, or standards issued by the Secretary under paragraph (1), or who knowingly operates or permits to be operated a train on which such devices have been tampered with or disabled by another person, shall be liable for such penalties as may be established by the Secretary, which may include fines under section 209, suspension from work, or suspension or less of a license issued under subsection (1).".

SEC. 8. DISPATCHER TRAINING.

Section 202 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 431) is further amended by adding at the end the following subsection:

"(p)(1) The Secretary shall, within 180 days after the date of the enactment of the Rail Safety Improvement Act of 1987, conduct and complete an inquiry into whether training standards are necessary for those involved in dispatching trains.

"(2) Upon the completion of such inquiry, the Secretary shall report the results of such inquiry to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate along with the Secretary's recommendations, and if the Secretary recommends that rules, regulations, orders, or standards are necessary, the Secretary shall promptly initiate appropriate rulemaking proceedings.".

SEC. 9. GRADE CROSSING SIGNAL SYSTEM SAFETY.

Section 202 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 431) is further amended by adding at the end the following new subsection:

"(q) The Secretary shall, within 180 days after the date of the enactment of the Rail Safety Improvement Act of 1987, issue such rules, regulations, orders, and standards as may be necessary to ensure the safe maintenance, inspection, and testing of signal systems and devices at railroad highway grade crossings.".

SEC. 10. EVENT RECORDERS.

Section 202 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 431) is further amended by adding at the end the following new subsection:

"(r)(1) The Secretary shall, within 180 days after the date of the enactment of the Rail Safety Improvement Act of 1987, conduct and complete an inquiry into whether to require that all trains be equipped with event recorders to enhance safety.

"(2) Upon the completion of such inquiry, the Secretary shall report the results of such inquiry to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science and Transportation of the Senate along with the Secretary's recommendations, and if the Secretary recommends that event recorders should be required, the Secretary shall promptly initiate appropriate rulemaking proceedings.

"(3) For the purposes of this subsection, the term 'event recorders' means devices that—

"(A) record train speed, hot box detection, throttle position, brake application, brake operation, and any other function the Secretary considers necessary to record to assist in monitoring the safety of train operation; and

"(B) are designed to resist tampering.".

SEC. 11. PROTECTION OF EMPLOYEES AGAINST DISCRIMINATION.

(a) EXPEDITED PROCEDURES.—Section 212(c)(1) of the Federal Railroad Safety Act of 1970 (45 U.S.C. 441(c)(1)) is amended by inserting ", and any proceeding with respect to such dispute, grievance, or claim shall be expedited by the Adjustment Board (or any division or delegate thereof) or any other board of adjustment created under section 3 of the Railway Labor Act so that such dispute, grievance, or claim is resolved within 180 days after its filing with such Adjustment Board or other board of adjustment" before the period.

(b) COMPENSATION.—Section 212(c)(2) of the Federal Railroad Safety Act of 1970 (45 U.S.C. 441(c)(2)) is amended by adding at the end the following new sentence: "If the violation of subsection (a) or (b) is a form of discrimination other than discharge, suspension, or any other discrimination with respect to pay, and no other remedy is available under this subsection, the Adjustment Board (or any division or delegate thereof) or any other board of adjustment created under section 3 of the Railway Labor Act may award the aggrieved employee appropriate compensation up to the equivalent of 1 year's pay for such employee.".

(c) DISCLOSURE OF NAMES.—Section 212 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 441) is amended by adding at the end the following new subsection:

"(f)(1) Except as provided in paragraph (2), or with the written consent of the employee, the Secretary shall not disclose the name of any employee of a railroad who has provided information with respect to an alleged violation of this title, any other Federal railroad safety law, or any rule, regulation, order, or standard issued under this title or any other Federal railroad safety law.

"(2) The Secretary shall disclose to the Attorney General the name of any employee described in paragraph (1) who has provided information with respect to a matter being referred to the Attorney General for enforcement under this title, any other Federal railroad safety law, or any rule, regulation, order, or standard issued under this title or any other Federal railroad safety law.".

SEC. 12. ACCIDENT REPORTS.

If a railroad, in reporting an accident or incident under the Accident Reports Act (15 U.S.C. 38-43), assigns human error as a cause of the accident or incident, such report shall include, at the option of each employe whose error is alleged a statement by such employee explaining any factors the employee alleges contributed to the accident or incident.

SEC. 13. AMTRAK SAFETY PROVISIONS.

(a) The Federal Railroad Safety Act of 1970 (45 U.S.C. 431 et seq.) is further amended by adding at the end the following new section:

"SEC. 216. UNSAFE FACILITIES.

"(a) The National Railroad Passenger Corporation (hereafter in this section referred to as 'Amtrak'), or the owner of any facility which presents a danger to the employees, passengers, or property of Amtrak, may petition the Secretary for assistance to the owner of such facility for relocation or other remedial measures to minimize or eliminate such danger under this section.

"(b) If the Secretary determines that—

"(1) a facility which is in danger of a petition under subsection (a) presents a danger of death or serious injury to any employee or passenger of Amtrak or serious damage to any property of Amtrak; and

"(2) the owner of such facility should not be expected to bear the cost of relocating or other remedial measures necessary to minimize or eliminate such danger, the Secretary shall recommend to the Congress that the Congress, as a part of its periodic reauthorizations of this Act, authorize funding, by reimbursement or otherwise, for such relocation or other remedial measures.

"(c) Petitions may be submitted under subsection (a) of this section with respect to any relocation or remedial measures undertaken on or after January 1, 1978.".

(b)(1) There is authorized to be appropriated to the Secretary of Transportation for the purposes of this subsection, $1,000,000, to remain available until expended.

(2) The National Railroad Passenger Corporation, or any owner or operator of a rail station used for the operations of such Corporation, may apply to the Secretary of Transportation for funds appropriated under this subsection for payment or reimbursement of expenses, incurred after October 1, 1987, in connection with enabling such station to comply with the requirements of any official notice received before October 1, 1987, from State or local authorities asserting that a violation of building, construction, fire, electric, sanitation, mechanical, or plumbing codes exists or is alleged to exist with respect to such station.

SEC. 14. ENFORCEMENT OF THE SECRETARY'S ACTIONS.

Section 208(a) of the Federal Railroad Safety Act of 1970 (45 U.S.C. 437(a)) is amended by striking "enforce such orders" and inserting in lieu thereof "enforce any subpoena, order, or directive of the Secretary issued under this title".

SEC. 15. MAINTENANCE-OF-WAY OPERATIONS.

(a) Section 202 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 431) is further amended by adding at the end the following new subsection:

"(s) The Secretary shall, within one year after the date of the enactment of this subsection, issue such rules, regulations, orders, and standards as may be necessary for the safety of maintenance-of-way employees, including—

"(1) standards for bridge safety equipment, such as nets, walkways, handrails, and safety lines, and requirements relating to instances when boats shall be used; and

"(2) standards for motor vehicles used by such employees which provide that the employees shall ride in a separate compartment from tools and hazardous materials carried in the vehicle.".

(b) Section 2 of the Act of March 4, 1907, commonly referred to as the Hours of Service Act (45 U.S.C. 62), is amended by adding at the end the following:

"(e) As used in section 2(a)(3) of this Act, the term 'employee' shall include an individual employed for the purpose of maintaining the right-of-way of any railroad.".

(c) The Secretary of Transportation shall, within one year after the date of the enactment of this Act, amend part 218 of title 49, Code of Federal Regulations, to apply blue signal protection to on-track vehicles where rest is provided.

SEC. 16. FENCING OF RAIL YARDS.

The Secretary of Transportation shall, within one year after the date of the enactment of this Act, issue such rules, regulations, orders, and standards as may be necessary to require the fencing of rail yards in heavily populated areas so as to prevent or deter injury of persons not employed by the rail carrier. In carrying out this section, the Secretary shall take into consideration such factors as the number of tracks, the frequency of trains, the proximity of residential areas, the direction and purpose of pedestrian traffic movement, and the local injury and fatality experience.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. THOMAS A. LUKEN

Mr. THOMAS A. LUKEN. Mr. Speaker, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. THOMAS A. LUKEN:

Strike all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Rail Safety Improvement Act of 1987".

SEC. 2. AUTHORIZATION FOR APPROPRIATIONS.

Section 214 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 444) is amended to read as follows:

"SEC. 214. AUTHORIZATION FOR APPROPRIATIONS.

"(a) There is authorized to be appropriated to carry out this Act not to exceed $40,649,000 for the fiscal year ending September 30, 1988, not to exceed $41,868,470 for the fiscal year ending September 30, 1989, and not to exceed $44,381,000 for the fiscal year ending September 30, 1990.

"(b) Sums appropriated under this section for research and development, automated track inspection, and the State safety grant program are authorized to remain available until expended.".

SEC. 3. GRADE CROSSING DEMONSTRATION PROJECTS

The Federal Railroad Safety Act of 1970 is amended by adding at the end the following new section:

"SEC. 215. GRADE CROSSING DEMONSTRATION PROJECTS

"(a) The Federal Railroad Administration shall establish demonstration projects for the purpose of evaluating—

"(1) whether reflective markers installed on the road surface or on a signal post at grade crossings would reduce accidents involving trains;

"(2) whether a stop sign or yield sign installed at grade crossings would reduce such accidents; and

"(3) whether speed bumps or rumble strips installed on the road surface at the approach to grade crossings would reduce such accidents.

"(b) The Federal Railroad Administration shall, within two years after the date of the enactment of the Rail Safety Improvement Act of 1987, report to the Committee on Energy and Commerce of the House of Representatives and to the Committee on Commerce, Science, and Transportation of the Senate on the results of the demonstration projects established under subsection (a).

"(c) From sums authorized under section 214, there is authorized to be appropriated to the Secretary of Transportation for improvements in grade crossing safety, $1,000,000, to remain available until expended.".

SEC. 4. LICENSING OF ENGINEERS.

Section 202 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 431) is further amended by adding at the end the following new subsection:

"(l)(1) The Secretary shall, within 180 days after the date of the enactment of this subsection, issue such rules, regulations, orders, and standards as may be necessary to establish a program requiring the licensing of any individual operating a train, including train engineers, after the expiration of 2 years following the establishment of such program. This requirement shall be implemented through a program of review and approval of each railroad's operator qualification standards.

"(2) The program established by the Secretary under paragraph (1) shall—

"(A) include minimum training requirements,

"(B) require comprehensive knowledge of railroad operating practices and operating rules;

"(C) prohibit from holding a license any individual who, withn the previous 5 years, has been denied a motor vehicle operator's license by a State for cause or whose motor vehicle operator's license has been cancelled, revoked, or suspended by a State for cause; and

"(D) prohibit from holding a license any individual who had been reported to the National Driver Register because of a conviction described under section 205(a)(3) of the National Driver Register Act of 1982 within the past 5 years.

"(3) The Secretary shall, for purposes of implementing paragraph (2) (C) and (D), have access to information contained in the National Driver Register.

"(4) An individual denied a license on the basis of the inclusion of such individual's name on the National Driver Register shall be entitled to an administrative hearing to determine whether such license has been properly denied.

"(5) No individual shall be prohibited from holding a license because of a conviction for operating a motor vehicle while under the influence of, or impaired by, alcohol or a controlled substance, if such individual subsequent to such conviction has successfully completed a rehabilitiation program established by a rail carrier or approved by the Secretary.".

SEC. 5. AUTOMATIC TRAIN CONTROL SYSTEMS.

(a) Section 202 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 431) is further amended by adding at the end the following new subsection:

"(m)(1) All trains operating after April 1, 1990, on the main line of the Northeast Corridor between Washington, D.C., and Boston, Massachusetts, or on the feeder line referred to in section 704(a)(1)(B) of the Railroad Revitalization and Regulatory Reform Act of 1976, shall be equipped with automatic train control systems designed to slow or stop a train in response to external signals.

"(2) If the Secretary finds that it is impracticable to equip all trains as required under paragraph (1) before April 1, 1990, the Secretary may extend the deadline for compliance with such requirement, but in no event shall such deadline be extended past July 1, 1990.".

(b) Section 202 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 431), is further amended by adding at the end the following new subsection:

"(n) The Secretary, in consultation with the National Railroad Passenger Corporation, freight carriers, commuter agencies, employee representatives, railroad passengers, and rail equipment manufacturers, shall undertake a study of the advisability and feasibility of requiring automatic train control systems, including systems using advanced technology, such as transponder and satellite relay systems, on each rail corridor on which passengers or hazardous materials are carried. Such study shall include—

"(1) a specific assessment of the dangers of not requiring automatic train control systems on each such corridor, based on analysis of the number of passenger trains, persons, and freight trains traveling on such corridor daily, the frequency of train movements, mileage traveled, and the incident and accident history on such corridor;

"(2) an analysis of the cost of requiring such systems to be installed on each specific corridor; and

"(3) an investigation of alternative means of accomplishing the same safety objectives as would be achieved by requiring automatic train control systems to be installed.".

SEC. 6. INCREASED PENALTIES; LIABILITY OF INDIVIDUALS.

Section 209 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 438) is amended—

(1) in subsection (a) by striking "railroad" and inserting in lieu thereof "person (including a railroad and any manager, supervisor, official, or other employee or agent of a railroad)";

(2) in subsection (b) by striking all after "(45 U.S.C. 38)" and inserting in lieu thereof "in an amount of not less than $250 nor more than $10,000, except that where a grossly negligent violation or a pattern of repeated violations has created an imminent hazard of death or injury to persons, or has caused death or injury, a penalty of not to exceed $25,000 may be assessed.";

(3) in subsection (c)—

(A) by striking the first sentence and inserting in lieu thereof "Any person violating any rule, regulation, order, or standard referred to in subsection (b) shall be assessed by the Secretary the civil penalty applicable to the standard violated. Penalties may be assessed against individuals under this subsection only for willful violations."; and

(B) by inserting ", in which the individual resides," after "such violation occurred"; and

(4) by adding at the end the following new subsection:

"(f) Where an individual's violation of any rule, regulation, order, or standard prescribed by the Secretary under this title is shown to make that individual unfit for the performance of safety-sensitive functions, the Secretary, after notice and opportunity for a hearing, may issue an order prohibiting such individual from performing safety-sensitive functions in the rail industry for a specified period of time or until specified conditions are met. This subsection shall not be constructed to affect the Secretary's authority under section 203 to take such action on an emergency basis.".

SEC. 7. TAMPERING WITH SAFETY DEVICES.

Section 202 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 431) is further amended by adding at the end the following new subsection:

"(o)(1) The Secretary shall, within 90 days after the date of the enactment of this subsection, issue such rules, regulations, orders, and standards as may be necessary to prohibit the willful tampering with, or disabling of, specified railroad safety or operational monitoring devices.

"(2)(A) Any railroad company operating a train on which safety or operational monitoring devices are tampered with or disabled in violation of rules, regulations, orders, or standards issued by the Secretary under paragraph (1) shall be liable for a civil penalty under section 209.

"(B) Any individual tampering with or disabling safety or operational monitoring devices in violation of rules, regulations, orders, or standards issued by the Secretary under paragraph (1), or who knowingly operates or permits to be operated a train on which such devices have been tampered with or disabled by another person, shall be liable for such penalties as may be established by the Secretary, which may include fines under section 209, suspension from work, or suspension or loss of a license issued under subsection (1).".

SEC. 8. DISPATCHER TRAINING.

Section 202 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 431) is further amended by adding at the end the following new subsection:

"(p)(1) The Secretary shall, within 180 days after the date of the enactment of the Rail Safety Improvement Act of 1987, conduct and complete an inquiry into whether training standards are necessary for those involved in dispatching trains.

"(2) Upon the completion of such inquiry, the Secretary shall report the results of such inquiry to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate along with the Secretary's recommendations, and if the Secretary recommends that rules, regulations, orders, or standards are necessary, the Secretary shall promptly initiate appropriate rulemaking proceedings.".

SEC. 9. GRADE CROSSING SIGNAL SYSTEM SAFETY.

Section 202 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 431) is further amended by adding at the end the following new subsection:

"(q) The Secretary shall, within 180 days after the date of the enactment of the Rail Safety Improvement Act of 1987, issue such rules, regulations, orders, and standards as may be necessary to ensure the safe maintenance, inspection, and testing of signal systems and devices at railroad highway grade crossings.".

SEC. 10. EVENT RECORDERS.

Section 202 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 431) is further amended by adding at the end the following new subsection:

"(r)(1) The Secretary shall, within 180 days after the date of the enactment of the Rail Safety Improvement Act of 1987, conduct and complete an inquiry into whether to require that all trains be equipped with event recorders to enhance safety.

"(2) Upon the completion of such inquiry, the Secretary shall report the results of such inquiry to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate along with the Secretary's recommendations, and if the Secretary recommends that event recorders should be required, the Secretary shall promptly initiate appropriate rulemaking proceedings.

"(3) For the purposes of this subsection, the term 'event recorders' means devices that—

"(A) record train speed, hot box detection, throttle position, brake application, brake operation, and any other function the Secretary considers necessary to record to assist in monitoring the safety of train operation; and

"(B) are designed to resist tampering.".

SEC. 11. PROTECTION OF EMPLOYEES AGAINST DISCRIMINATION.

(a) EXPEDITED PROCEDURES.—Section 212(c)(1) of the Federal Railroad Safety Act of 1970 (45 U.S.C. 441(c)(1)) is amended by inserting ", and any proceeding with respect to such dispute, grievance, or claim shall be expedited by the Adjustment Board (or any division or delegate thereof) or any other board of adjustment created under section 3 of the Railway Labor Act so that such dispute, grievance, or claim is resolved within 180 days after its filing with such Adjustment Board or other board of adjustment" before the period.

(b) COMPENSATION.—Section 212(c)(2) of the Federal Railroad Safety Act of 1970 (45 U.S.C. 441(c)(2)) is amended by adding at the end the following new sentence: "If the violation of subsection (a) or (b) is a form of discrimination other than discharge, suspension, or any other discrimination with respect to pay, and no other remedy is available under this subsection, the Adjustment Board (or any division or delegate thereof) or any other board of adjustment created under section 3 of the Railway Labor Act may award the aggrieved employee appropriate compensation up to the equivalent of 1 year's pay for such employee.".

(c) DISCLOSURE OF NAMES.—Section 212 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 441) is amended by adding at the end the following new subsection:

"(f)(1) Except as provided in paragraph (2), or with the written consent of the employee, the Secretary shall not disclose the name of any employee of a railroad who has provided information with respect to an alleged violation of this title, any other Federal railroad safety law, or any rule, regulation, order, or standard issued under this title or any other Federal railroad safety law.

"(2) The Secretary shall disclose to the Attorney General the name of any employee described in paragraph (1) who has provided information with respect to a matter being referred to the Attorney General for enforcement under this title, any other Federal railroad safety law, or any rule, regulation, order, or standard issued under this title or any other Federal railroad safety law.".

SEC. 12. ACCIDENT REPORTS.

If a railroad, in reporting an accident or incident under the Accident Reports Act (15 U.S.C. 38-43), assigns human error as a cause of the accident or incident, such report shall include, at the option of each employee whose error is alleged, a statement by such employee explaining any factors the employee alleges contributed to the accident or incident.

SEC. 13. AMTRAK SAFETY PROVISIONS.

(a) The Federal Railroad Safety Act of 1970 (45 U.S.C. 431 et seq.) is further amended by adding at the end the following new section:

"SEC. 216. UNSAFE FACILITIES.

"(a) The National Railroad Passenger Corporation (hereafter in this section referred to as "Amtrak"), or the owner of any facility which presents a danger to the employees, passengers, or property of Amtrak, may petition the Secretary for assistance to the owner of such facility for relocation or other remedial measures to minimize or eliminate such danger under this section.

"(b) If the Secretary determines that—

"(1) a facility which is the subject of a petition under subsection (a) presents a danger of death or serious injury to any employee or passenger of Amtrak or serious damage to any property of Amtrak; and

"(2) the owner of such facility should not be expected to bear the cost of relocating or other remedial measures necessary to minimize or eliminate such danger, the Secretary shall recommend to the Congress that the Congress, as a part of its periodic reauthorizations of this Act, authorize funding, by reimbursement or otherwise, for such relocation or other remedial measures.

"(c) Petitions may be submitted under subsection (a) of this section with respect to any relocation or remedial measures undertaken on or after January 1, 1978."

(b)(1) From sums authorized under section 214 of the Federal Railroad Safety Act of 1970, there is authorized to be appropriated to the Secretary of Transportation for the purposes of this subsection, $1,000,000, to remain available until expended.

(2) The National Railroad Passenger Corporation, or any owner or operator of a rail station used for the operations of such Corporation, may apply to the Secretary of Transportation for funds appropriated under this subsection for payment or reimbursement of expenses, incurred after October 1, 1987, in connection with enabling such station to comply with the requirements of any official notice received before October 1, 1987, from State or local authorities asserting that a violation of building, construction, fire, electric, sanitation, mechanical, or plumbing codes exists or is alleged to exist with respect to such station.

(c) Section 402 of the Rail Passenger Service Act (45 U.S.C. 562) is amended by adding at the end the following new subsection:

"(h)(1) If a rail carrier or owner of a rail line which has a contractual obligation—

"(A) to permit the Corporation to operate rail service on its lines; and

"(B) to maintain such line in a condition suitable for such operation,

breaches such obligation, the Corporation may take the actions provided for in paragraph (2).

"(2) In the event of a breach under paragraph (1), the Corporation may take one or both of the following actions:

"(A) The Corporation may withhold from any payments due to such rail carrier or owner under the contract such sums as may be necessary to repair and maintain such line to the standards specified in the contract.

"(B) The Corporation may apply to the Commission for an order under subsection (d) establishing the need of the Corporation for the property at issue and requiring the conveyance thereof.

"(3) If the Corporation elects to withhold any sums under paragraph (2)(A), the Corporation shall apply such sums to the cost of performing the repair and maintenance work necessary to bring the condition of the line into conformity with the standards specified in the contract.

"(4) In ordering a conveyance under paragraph (2)(B), the Commission shall reduce the compensation due to the rail carrier or owner by the amount required to bring the condition of the line into conformity with the standards specified in the contract. The amount of such reduction shall be determined under the dispute resolution provisions of the contract, if any.

"(5) If a line to which a contractual obligation described in paragraph (1) applies is sold to a party other than the Corporation, such sale shall be made subject to the requirement that the acquiring party—

"(4) permit the Corporation to operate rail service on such line; and

"(B) maintain such line in a condition suitable for such operation,

in accordance with the terms of the contract between the Corporation and the original rail carrier or owner, unless the Corporation and the acquiring party otherwise agree.

"(6) The rights and remedies available to the Corporation under this subsection are in addition to any rights and remedies conferred by any other law or by contract.".

SEC. 14. ENFORCEMENT OF THE SECRETARY'S ACTIONS.

Section 208(a) of the Federal Railroad Safety Act of 1970 (45 U.S.C. 437(a)) is amended by striking "enforce such orders" and inserting in lieu thereof "enforce any subpoena, order, or directive of the Secretary issued under this title".

SEC. 15. MAINTENANCE-OF-WAY OPERATIONS.

(a) Section 202 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 431) is further amended by adding at the end the following new subsection:

"(s) The Secretary shall, within one year after the date of the enactment of this subsection, issue such rules, regulations, orders, and standards as may be necessary for the safety of maintenance-of-way employees, including—

"(1) standards for bridge safety equipment, such as nets, walkways, handrails, and safety lines, and requirements relating to instances when boats shall be used; and

"(2) standards for motor vehicles used by such employees which provide that the employees shall ride in a separate compartment from tools and hazardous materials carried in the vehicle.".

(b) Section 2 of the Act of March 4, 1907, commonly referred to as the Hours of Service Act (45 U.S.C. 62), is amended by adding at the end the following:

"(e) As used in section 2(a)(3) of this Act, the term 'employee' shall include an individual employed for the purpose of maintaining the right-of-way of any railroad.".

(c) The Secretary of Transportation shall, within one year after the date of the enactment of this Act, amend part 218 of title 49, Code of Federal Regulations, to apply blue signal protection to on-track vehicles where rest is provided.

SEC. 16. FENCING OF RAIL YARDS.

The Secretary of Transportation shall, within one year after the date of the enactment of this Act, issue such rules, regulations, orders, and standards as may be necessary to require the fencing of rail yards in heavily populated areas so as to prevent or deter injury of persons not employed by the rail carrier. In carrying out this section, the Secretary shall take into consideration such factors as the number of tracks, the frequency of trains, the proximity of residential areas, the direction and purpose of pedestrian traffic movement, and the local injury and fatality experience.

SEC. 17. LOCAL ENFORCEMENT OF SPEED REGULATIONS.

Section 206 of the Federal Railroad Safety Act of 1970 is amended by adding at the end of the following new subsection:

"(h) The Secretary may enforce regulations with respect to any carrier issued under this Act in regard to the speed of trains on the basis of information supplied by duly authorized agents of local governments, as if such information were supplied by Federal agents.".

Mr. THOMAS A. LUKEN (during the reading). Mr. Speaker, I ask unanimous consent that the amendment in the nature of a substitute be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The SPEAKER pro tempore. The question is on the amendment in the nature of a substitute offered by the gentleman from Ohio [Mr. THOMAS A. LUKEN].

The amendment in the nature of a substitute was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

RAIL SAFETY IMPROVEMENT ACT OF 1987

(Mr. THOMAS A. LUKEN asked and was given permission to address the House for 1 minute.)

Mr. THOMAS A. LUKEN. Mr. Speaker, the Rail Safety Improvement Act of 1987 is one of the most important pieces of legislation to come before the House. It represents a bipartisan effort.

I would like to thank the gentleman from Kansas for his participation.

Mr. WHITTAKER. Mr. Speaker, will the gentleman yield?

Mr. THOMAS A. LUKEN. I yield to the gentleman from Kansas.

Mr. WHITTAKER. I thank the gentleman for yielding.

Mr. Speaker, I appreciate the cooperation of the gentleman from Ohio in deliberating on this bill and coming to a compromise. Three weeks ago we did not think we would have the rail safety bill this year. But I am glad to say that we were able to arrive at a consensus.

I would also like to thank the staff who have worked so hard on this bill.

I also add that we will ask unanimous consent that statements may be entered into the RECORD of those colleagues who participated in the negotiation and who are not on the floor at this time.

Mr. Speaker, the improvement and modernization of our Federal rail safety laws is long overdue. Unfortunately, disagreements over safety policies have prevented the reauthorization of Federal railroad safety activities for 4 years. Now, because of a most encouraging degree of bipartisan cooperation among the leadership of our Transportation Subcommittee and the Energy and Commerce Committee, we have before us a rail safety bill that will reauthorize these important safety efforts for the next 3 years and make needed substantive changes in our railroad safety laws. In light of the recent passage of similar legislation in the Senate, we face the best prospects for enactment of new rail safety legislation in several years.

Our rail system is one of the world's safest means of travel. For example, in 1985, our rail system provided some 12 billion revenue passenger-miles of service, with only 3 passenger fatalities. But when there is even a single lapse in the system, as there was last January 4, at Chase, MD, the cost is tragically high. In that case, 16 people died and some 170 were injured. Today's legislation will help to insure the margin of safety in our railroad industry is improved, for passengers, for railroad employees, and for all who come into contact with the railroad industry.

This bill will eliminate the single most serious gap in our rail safety laws—the lack of any direct legal authority by the Department of Transportation over railroad personnel. By curing this deficiency and by modernizing the scale of fines that may be imposed for safety violations, we will be giving our transportation officials the tools they need to deter, detect, and where necessary punish safety violations. As under present law, there must be wide discretion for Federal officials. But this bill will make sure that the available sanctions can actually reach those responsible for reckless or unsafe conduct. Even after last year's Amtrak crash, for example, where safety warning devices had been rendered inoperative, there have been over 50 confirmed instances of such tampering. Today's bill will make such conduct a specific violation of the Federal Railroad Safety Act. It will also give the Department of Transportation the power to remove proven safety violators from safety-sensitive positions on the railroads.

Besides addressing the human factor in accidents, the railroad safety improvement act also makes use of technical means to prevent accidents. Automatic train control is mandated for all trains operating on the northeast corridor by mid-1990. Looking farther ahead, the Department of Transportation is required to evaluate more advanced train-control and collision-avoidance systems for other routes where passengers or hazardous materials are transported.

While railroad transportation is very safe for passengers, the fate of people traversing grade crossings is a different matter. In 1985, for example, over 55 percent of all railroad fatalities resulted from grade-crossing collisions; 537 people were killed at crossings in that year. The Railroad Safety Improvement Act will address this pressing safety problem in two important ways. First, it requires the evaluation of better, cost-effective accident-prevention measures for our uncontrolled and predominantly rural grade crossings. Second, it requires the Department of Transportation to determine in a rulemaking proceeding whether there should be Federal standards for the inspection and maintenance of grade-crossing safety equipment.

This bill will also promote the prompt reporting of safety violations by railroad employees. It provides specific legal protections to "whistleblowers" who may be subjected to retaliation for bringing unsafe conditions to the attention of Federal authorities. At the same time, the bill protects the confidentiality of employee accidents reports. It also directs the Department of Transportation to evaluate in a rulemaking proceeding the possible need for standards of protection for the employees who maintain our railroads' right-of-way. Finally, the bill helps to improve the margin of safety in railroad operations by requiring a program of Federal approval of the engineer qualifications standards used by rail carriers, as well as a study of the possible need for a program of training standards for dispatchers.

I again commend all members of the Energy and Commerce Committee for their constructive efforts in fashioning a bipartisan bill. Because this measure embodies a sound and carefully targeted series of improvements to our safety laws, I urge all Members on this body to support this passage.

Thank you, Mr. Speaker.

GENERAL LEAVE

Mr. THOMAS A. LUKEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

L. RICHARDSON PREYER FEDERAL BUILDING

Mr. LANCASTER. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (H.R. 3327) to designate the Federal building located at 324 West Market St. in Greensboro, NC, as the "L. Richardson Preyer Federal Building."

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina.

Mr. MOLINARI. Mr. Speaker, reserving the right to object, I shall not object but I do so in order to permit the gentleman from North Carolina to explain the bill.

Mr. LANCASTER. Mr. Speaker, H.R. 3327 would designate the Federal building located at 324 West Market St. in Greensboro, NC, as the "L. Richardson Preyer, Jr. Federal Building and United States Courthouse."

Many of the Members of the House will certainly remember Rich from his 12 years of service in the House. He was the archetype of the thoughtful and conscientious legislator during this service, from 1969 to 1981. Rich took the lead on issues involving health care and a clean environment. Equally important, Congressman Preyer championed the cause of ethics and good government.

Congressman Preyer had a reputation while serving in Congress for great integrity and sound judgment, and the House leadership called on him to serve in some difficult and unpleasant assignments. He served, for example, as the number two Democrat on the Committee Investigating Assassinations, and he headed the subcommittee investigating the assassination of John Kennedy.

He also served on the House Ethics Committee. This was a particularly difficult assignment. At a time when there was reluctance to investigate the Koreagate scandal, Mr. Preyer worked with the House leadership and committee counsel Leon Jaworski to insure a wider investigation. Mr. Preyer was also one of the chief advocates of tough financial disclosure for Congressmen. In the process of handling all these matters, he remained active on Paul Rogers' Health Subcommittee, notably in backing clear air legislation against challenges from the automobile companies.

He is a native of Greensboro, who served his city, State, and country for many years before coming to Congress. After graduation from Princeton University and Harvard Law School, he served as State superior court judge and then on the Federal district court bench.

Rich's contributions to the society in which he lives surpass even this political and judicial service. His civic enterprises and contributions cover education, health care, children, and the arts.

As this demonstrates, and as many of you know from personal experience with Rich, his dedication to the highest ideals of political and civic service are an example to all citizens, most especially to contemporary and future legislators. The naming of the Federal Building in Greensboro would be a fitting tribute to such a man.

Mr. MOLINARI. Mr. Speaker, further reserving the right to object, I yield to the gentleman from Indiana [Mr. BURTON].

Mr. BURTON of Indiana. Mr. Speaker, as I understand it, we are waiting on the farm credit bill and we are using time by bringing these unanimous-consent requests to the floor. What I would like to know is are these unanimous-consent requests slowing down the process so that we cannot get to the farm credit bill, or is the farm credit bill just not ready for floor action?

Mr. HOWARD. Mr. Speaker, will the gentleman from New York yield to me?

Mr. MOLINARI. Mr. Speaker, further reserving the right to object, I yield to the gentleman from New Jersey.

Mr. HOWARD. I thank the gentleman for yielding.

Mr. Speaker, we do believe these unanimous-consent requests which at the present time are not slowing down the work of the House, but would be about 2 or 3 minutes each, at the present time as I understand it, the other bill we are waiting for is not here yet.

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Mr. BURTON of Indiana. Mr. Speaker, if the gentleman will yield further and I may continue, as long as this does not slow down the action on the farm credit bill so we can get out of here, I will not object, but I would like to urge the House to bring the farm credit bill to the floor as quickly as possible so we can go home and visit our families.

Mr. HOWARD. Mr. Speaker, will the gentleman yield?

Mr. MOLINARI. I yield to the gentleman from New Jersey.

Mr. HOWARD. Mr. Speaker, the understanding of the leadership is that when the papers on the farm credit bill are ready, they will be brought to the House and it will not wait for any unanimous-consent request.

Mr. BURTON of Indiana. Mr. Speaker, I thank the gentleman.

Mr. HAMMERSCHMIDT. Mr. Speaker, I would like to express my support for H.R. 3327, which would recognize our former colleague, L. Richardson Preyer, Jr., by naming a Federal building in Greensboro, NC, in his honor.

Rich Preyer has dedicated his life to public service, having served as city judge, State superior court judge and finally U.S. district court judge. With his election to the 91st Congress, Rich began a 12-year tenure in the House where he devoted his efforts to such causes as health care and the environment.

In light of his service to his hometown of Greensboro, the State of North Carolina, and the country, I believe it is truly appropriate to name the Federal building on Market Street in Greensboro, NC, the "L. Richardson Preyer, Jr. Federal Building and United States Courthouse."

Mr. HOWARD. Mr. Speaker, I rise in support of H.R. 3327, a bill to designate the Federal building located at 324 West Market Street in Greensboro, NC., as the "L. Richardson Preyer Federal Building," amended.

Congressman Preyer was elected to the 91st Congress in 1968 where he served with distinction the people of the Sixth District of North Carolina for 12 years. He was a member of the House Committees on Government Operations, Interstate and Foreign Commerce, and Standards of Official Conduct. While in Congress, he was an advocate of health care, the environment, and the cause of ethics and good government.

In view of Congressman Preyer's contributions to his hometown of Greensboro, NC, and the country, it is appropriate to honor him by naming the Federal building at 324 West Market Street in Greensboro, NC, the "L. Richardson Preyer Federal Building," amended.

Mr. SUNIA. Mr. Speaker, I rise in support of H.R. 3327, a bill to name a public building in New York after John W. Wydler. Mr. Wydler was elected to this body in 1962 where he served for nine terms representing the Fifth District of New York to the U.S. House of Representatives. During that time, he served as the ranking Republican on the Committee on Science and Technology and the Committee on Government Operations. He was an adamant supporter of legislations that dealt with Federal revenue sharing and he was an active proponent of our national space exploration programs. His legislative efforts include the Stevenson-Wydler Technology Innovation Act which shaped national policy regarding our space programs.

Congressman John W. Wydler is a native of Brooklyn, NY. He went to Brown University and received his law degree from Harvard Law School. He was an assistant U.S. attorney in New York for 6 years. He was also a valuable member of the New York State Commission responsible for investigations on State school construction irregularities.

In tribute to his numerous contributions to the U.S. Congress and the Long Island community, it is appropriate to name the U.S. Post Office at 600 Franklin Avenue, Garden City, NY, as the "John W. Wydler United States Post Office."

Mr. MOLINARI. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. GRAY of Illinois). Is there objection to the request of the gentleman from New York?

There was no objection.

The Clerk read the bill as follows:

H.R. 3327

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION OF BUILDING.

The Federal Building located at 324 West Market Street in Greensboro, North Carolina, shall hereafter be known as the "L. Richardson Preyer Federal Building".

SEC. 2. LEGAL REFERENCES TO BUILDING.

Any reference in any law, regulation, document, record, map, or other paper of the United States to the building referred to in section 1 is deemed to be a reference to the "L. Richardson Preyer Federal Building".

COMMITTEE AMENDMENT IN THE NATURE OF A SUBSTITUTE

The SPEAKER pro tempore. The Clerk will report the committee amendment in the nature of a substitute.

The Clerk read as follows:

Committee amendment in the nature of a substitute: Strike out all after the enacting clause and insert:

H.R. 3327

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION OF BUILDING.

The Federal Building located at 324 West Market Street in Greensboro, North Carolina, shall be known and designated as the "L. Richardson Preyer, Jr. Federal Building and United States Courthouse".

SEC. 2. LEGAL REFERENCES.

Any reference in any law, regulation, document, record, map, or other paper of the United States to the building referred to in section 1 shall be deemed to be a reference to the "L. Richardson Preyer, Jr. Federal Building and United States Courthouse".

The committee amendment in the nature of a substitute was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

The title of the bill was amended so as to read: "A bill to designate the Federal building located at 324 West Market Street in Greensboro, North Carolina, as the 'L. Richardson Preyer, Jr. Federal Building and United States Courthouse'."

A motion to reconsider was laid on the table.

THOMAS D. LAMBROS FEDERAL COURTHOUSE

Mr. LANCASTER. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (H.R. 2927) to designate the Federal courthouse being constructed at 129 Market Street, Youngstown, OH, as the "Thomas D. Lambros Federal Courthouse."

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

Mr. MOLINARI. Mr. Speaker, reserving the right to object, I do so only to give the gentleman from North Carolina an opportunity to explain the bill.

Mr. LANCASTER. Mr. Speaker, H.R. 2927, would designate the Federal courthouse being constructed at 129 Market Street in Youngstown, OH, as the "Thomas D. Lambros United States Courthouse."

Mr. Speaker, Hon. Thomas D. Lambros was nominated as a U.S. district judge for the northern district of Ohio by President Lyndon B. Johnson on June 3, 1967, where he continues to serve today.

He is the founder of the judicial process known as the "summary jury trial," which is a method of resolving cases by settlement rather than court trials. In 1984, the process was endorsed by the Judicial Conference of the United States.

In view of Judge Lambros' distinguished judicial career and dedication to public service, it is most fitting and appropriate to honor him by naming the U.S. courthouse being constructed at the intersection of Front and Market Streets in Youngstown, OH, as the "Thomas D. Lambros United States Courthouse."

Mr. HOWARD. Mr. Speaker, I rise in support of H.R. 2927, a bill to designate the Federal courthouse being constructed in Youngstown, OH, as the "Thomas D. Lambros Federal Building and United States Courthouse."

Mr. Speaker, Hon. Thomas D. Lambros has served the northern district of Ohio with distinction as a U.S. district judge for over 20 years. He continues to serve in this capacity today and deserves much credit for the U.S. courthouse which is under construction in Youngstown, OH, today.

In view of his outstanding career and dedication to the judicial process, it is most fitting to name this facility under construction in his honor.

Mr. HAMMERSCHMIDT. Mr. Speaker, I rise in support of H.R. 2927, a bill to name the courthouse to be constructed in Youngstown, OH, the "Thomas D. Lambros United States Courthouse."

Judge Lambros was admitted to the bar in 1952 and just 8 years later, at the age of 30, was elected judge of the Ashtabula County Court of Common Pleas.

He served in that capacity until nominated and confirmed as a U.S. district judge for the northern district of Ohio in 1967. Judge Lambros is the founder of the "summary jury trial," a method of resolving cases by settlement which was endorsed by the Judicial Conference of the United States, and for which he has been commended by Chief Justice Warren Burger.

Judge Lambros' activities extend beyond the courtroom, as he has been active in civic affairs as well. In recognition of his contributions to our judicial process and the State of Ohio, it is appropriate that this courthouse be named in his honor.

Mr. MOLINARI. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

The Clerk read the bill, as follows:

H.R. 2927

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The Federal courthouse being constructed at 129 Market Street, Youngstown, Ohio, shall be known and designated as the "Thomas D. Lambros Federal Courthouse".

SEC. 2. LEGAL REFERENCES.

Any reference in a law, map, regulation, document, record, or other paper of the United States to the Federal courthouse referred to in section 1 shall be deemed to be a reference to the "Thomas D. Lambros Federal Courthouse".

COMMITTEE AMENDMENT IN THE NATURE OF A SUBSTITUTE

The SPEAKER pro tempore. The Clerk will report the committee amendment in the nature of a substitute.

The Clerk read as follows:

Committee amendment in the nature of a substitute: Strike out all after the enacting clause and insert:

SECTION 1. DESIGNATION.

The Federal courthouse being constructed at the intersection of Front and Market Streets, Youngstown, Ohio, shall be known and designated as the "Thomas D. Lambros United States Courthouse".

SEC. 2. LEGAL REFERENCES.

Any reference in a law, map, regulation, document, record, or other paper of the United States to the Federal courthouse referred to in section 1 shall be deemed to be a reference to the "Thomas D. Lambros United States Courthouse".

The committee amendment in the nature of a substitute was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

The title of the bill was amended so as to read: "A bill to designate the Federal courthouse at the intersection of Front and Market Streets, Youngstown, Ohio, as the Thomas D. Lambros United States Courthouse."

A motion to reconsider was laid on the table.

JOHN W. WYDLER U.S. COURTHOUSE

Mr. LANCASTER. Mr. Speaker, I ask unanimous consent for the immediate consideration of the Senate bill (S. 1642) to designate the U.S. courthouse located at the intersection of Uniondale Avenue and Hampstead Turnpike in Uniondale, NY, as the "John W. Wydler United States Courthouse," amended.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

Mr. MOLINARI. Mr. Speaker, reserving the right to object, I shall not object, but I take this time to give the gentleman from North Carolina an opportunity to explain the bill.

Mr. LANCASTER. Mr. Speaker, S. 1642 would designate the U.S. Post Office at 600 Franklin Avenue in Garden City, NY, as the "John W. Wydler United States Post Office."

Mr. Speaker, the Honorable John Wydler was elected to the 88th Congress in 1962, and served for nine terms representing the Fifth District of New York.

Congressman Wydler was known for his advocacy of Federal revenue sharing and his support for the Nation's space exploration programs.

Following his resignation from the House in 1980, John Wydler remained active in matters affecting Long Island, NY, until his death on August 4, 1987.

In tribute to John Wydler's numerous contributions to the U.S. Congress and the Long Island community, it is fitting and appropriate to name the U.S. Post Office in Garden City, NY, as the "John W. Wydler United States Post Office."

Mr. MOLINARI. Mr. Speaker, further reserving the right to object, I do so in order to give the gentleman from New York [Mr. McGRATH] an opportunity to speak on the bill.

Mr. McGRATH. Mr. Speaker, will the gentleman yield?

Mr. MOLINARI. I yield to the gentleman from New York.

Mr. McGRATH. Mr. Speaker, I rise in support of S. 1642, a bill to name the U.S. Post Office after our late colleague and my predecessor in the House, Jack W. Wydler.

Most of Jack's adult life was spent in Federal service. From his service in the U.S. Air Force during World War II to his nine terms in the House, Jack has exemplified the true meaning of the word public servant.

Jack is probably best known for his advocacy of Federal revenue sharing and his unwavering support of our Nation's space exploration programs.

After his retirement from the House in 1981, Jack continued his dedication and commitment to the Long Island community. He involved himself in numerous community and economic development projects which served to better the quality of life of his neighbors in Long Island and the surrounding communities.

The designation of this post office is a fitting tribute to Congressman Wydler's distinguished career of public service. Garden City was Jack's home for over three decades, and members of his family continue active participation in community affairs there. Hundreds of his friends and neighbors use the post office daily, and by preserving his memory, I know that they will recall the fine tradition of public service that Jack upheld.

I urge my colleagues to support this legislation and the honor it bestows upon our former colleague.

Mr. SUNIA. Mr. Speaker, chairman of the Subcommittee on Public Buildings and Grounds, I rise in support of S. 1642, a bill to name a public building in Greensboro, NC, in honor of a former colleague of this distinguished body, the U.S. House of Representatives, Mr. L. Richardson Preyer, Jr.

Mr. Preyer was elected to the 91st Congress in 1968 where he served with distinction the people of the Sixth District of North Carolina for 12 years. He was a member of the House Committees on Government Operations, Interstate and Foreign Commerce, and standards of Official Conduct. While in Congress, he was an advocate of health care, the environment and the cause of ethics and good government.

Mr. Preyer was born in Greensboro, NC, on January 11, 1919. He received his A.B. from Princeton University and an LL.B. from Harvard University in 1949 after serving the Navy in the North Atlantic and the Pacific during World War II.

To honor this fine gentleman, it is fitting and appropriate to name a Federal building and courthouse in his hometown after L. Richardson Preyer.

Mr. HOWARD. Mr. Speaker, I rise in support of S. 1642, a bill to designate the U.S. Post Office at 600 Franklin Avenue in Garden City, NY, as the "John W. Wydler United States Post Office."

It is fitting and proper that a building which is an essential part of that every day life of the constituents of the Fifth District of New York, a district Congressman Wydler represented ably for 18 years, be named in his honor. During his tenure in the House, he was held in high regard by his colleagues on both sides of the aisle. His knowledge and advocacy of the Nation's space program was most effective with respect to our national policy regarding our space programs today. This Nation lost a great leader when John Wydler passed away in August of this year.

Accordingly, it is most appropriate that the U.S. Post Office in Garden City, NY, be named the "John W. Wydler United States Post Office.

Mr. HAMMERSCHMIDT. Mr. Speaker, I want to express my support for S. 1642, a bill to name the U.S. Post Office in Garden City, NY, in honor of our former colleague, Jack Wydler.

Jack Wydler had a long and distinguished career in the House of Representatives. First elected to the House in 1962, he continued to serve for nine terms until his retirement in 1980. At that time, he was dean of the Long Island congressional delegation and was a senior member of the Committee on Science and Technology and the Government Operations Committee.

After leaving Congress, he remained active in matters affecting his community. Congressman Wydler visited Washington frequently in order to keep well informed on issues concerning Long Island.

Mr. Speaker, it is truly appropriate that we name the U.S. Post Office in Garden City, NY, in honor of our friend and former colleague, Jack Wydler, in recognition of his many years of service to Long Island and the country.

Mr. MOLINARI. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 1642

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION OF BUILDING.

The United States Courthouse located at the intersection of Uniondale Avenue and Hempstead Turnpike in Uniondale, New York, shall be known and designated as the "John W. Wydler United States Courthouse".

SEC. 2. LEGAL REFERENCES.

Any reference to such building in any law, map, regulation, document, record, or other paper of the United States shall be deemed to be a reference to the "John W. Wydler United States Courthouse".

COMMITTEE AMENDMENT IN THE NATURE OF A SUBSTITUTE

The SPEAKER pro tempore. The Clerk will report the committee amendment in the nature of a substitute.

The Clerk read as follows:

Committee amendment in the nature of a substitute: Strike out all after the enacting clause and insert:

SECTION 1. DESIGNATION OF BUILDING.

The United States Post Office located at 600 Franklin Avenue in Garden City, New York, shall be known and designated as the "John W. Wydler United State Post Office".

SEC. 2. LEGAL REFERENCES.

Any reference to the building referred to in section 1 in any law, map, regulation, document, record, or other paper of the United States shall be deemed to be a reference to the "John W. Wydler United States Post Office".

The committee amendment in the nature of a substitute was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title of Senate bill was amended so as to read: "A bill to designate the United States Post Office at 600 Franklin Avenue in Garden City, New York, as the 'John W. Wydler United States Post Office'."

A motion to reconsider was laid on the table

GENERAL LEAVE

Mr. LANCASTER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the three bills just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

NTL-5 GAS ROYALTY ACT OF 1987

Mr. UDALL. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 3479) to provide for adjustments of royalty payments under certain Federal onshore and Indian oil and gas leases, and for other purposes, with Senate amendments thereto, concur in the Senate amendment to the text of the bill with an amendment, and disagree to the Senate amendment to the title.

The Clerk read the title of the bill.

The Clerk read the Senate amendments and the House amendment to the Senate amendments, as follows:

Senate amendments:

Strike out all after the enacting clause and insert:

That this Act may be referred to as the "NTL-5 Gas Royalty Act of 1987".

SEC. 2. DEFINITIONS.

For purposes of this Act:

(1) SECRETARY.—The term "Secretary" means the Secretary of the Interior or his designee.

(2) NT5-5.—The term "NTL-5" means the Notice to Lessees and Operators of Federal and Indian Onshore Oil and Gas Leases published May 4, 1977 (42 Fed. Reg. 22610).

(3) OTHER TERMS.—All other terms carry the same meanings as provided in section 3 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1702).

SEC. 3. VALUATION FOR ROYALTY PURPOSES OF CERTAIN GAS PRODUCTION FROM FEDERAL AND INDIAN LANDS.

(a) APPLICABILITY.—The provisions of this section shall be used in determining the value for royalty purposes of any gas production from Federal onshore or Indian oil and gas leases during the period from January 1, 1982, through July 31, 1986, which is within the coverage of section I.A.2 or section II.A.2 of NTL-5, and for which the lessee or royalty payor provides written documentation, determined to be adequate by the Secretary and existing at or near the time the gas was sold, of receipt of less than the highest applicable price under the Natural Gas Policy Act.

(b) ROYALTY CALCULATION FOR CERTAIN FEDERAL ONSHORE OIL AND GAS LEASES.—If the gas referred to in subsection (a) of this section was produced from a Federal onshore lease, the value shall be determined in accordance with the lease terms and the regulations codified at part 206 of title 30 of the Code of Federal Regulations as in effect at the time of production.

(c) ROYALTY CALCULATION FOR CERTAIN INDIAN LEASES.—If the gas referred to in subsection (a) of this section was produced from an Indian lease, the value shall be determined in accordance with the lease terms and the regulations codified at part 206 of title 30 of the Code of Federal Regulations and sections 211.13 and 212.16 of title 25 of the Code of Federal Regulations as applicable and as in effect at the time of production.

(d) WRITTEN DOCUMENTATION.—The written documentation required under subsection (a) of this section may include, but is not limited to, a gas sales contract, purchase statement, receipt, or other written documentation deemed appropriate by the Secretary existing at or near the time of sale showing the actual price received.

(e) EXCEPTION.—This section shall not apply to any gas for which, in the Secretary's judgment, the lessee or royalty payor received less than the highest applicable price under the Natural Gas Policy Act due to a failure by the lessee or payor to collect amounts which the purchaser would have been required to pay under a gas sales contract providing for that price and not as a result of market conditions or considerations.

SEC. 4. REFUND OF ROYALTIES PREVIOUSLY PAID.

(a) REFUND FOR FEDERAL ONSHORE OIL AND GAS LEASES.—If the Secretary or a court of competent jurisdiction determines that a lessee or royalty payor on a Federal onshore oil and gas lease has paid, prior to October 1, 1987, more than the value determined under subsection 3(b) of this Act for any natural gas within the coverage of subsection 3(a) of this Act, the Secretary shall refund the amount paid in excess of the value determined under subsection 3(b) from monies received under section 35 of the Mineral Lands Leasing Act of 1920, as amended (30 U.S.C. 191), which would otherwise be deposited to miscellaneous receipts in the Treasury. The Secretary shall not recoup any portion of such refund from any State.

(b) REFUND FOR INDIAN LEASES.—If the Secretary or a court of competent jurisdiction determines that a lessee or royalty payor has paid, prior to October 1, 1987, more than the value determined under subsection 3(c) of this Act for any gas within the coverage of subsection 3(a) of this Act and produced from an Indian lease, the Secretary shall refund the amount paid in excess of the value determined under subsection 3(c) from monies received under section 35 of the Mineral Lands Leasing Act of 1920, as amended (30 U.S.C. 191) which would otherwise be deposited to miscellaneous receipts in the Treasury. The Secretary shall not recoup any portion of any such refund from the Indian lessor.

(c) The total amount of refunds made under this section shall not exceed $2,000,000.

SEC. 5. PROCEDURES.

(a) CASE-BY-CASE AUDIT FOR CERTAIN FEDERAL ONSHORE OIL AND GAS LEASES.—The Secretary shall publish in the Federal Register and send to each lessee or royalty payor of record as of July 31, 1986, for any Federal onshore oil and gas lease a notice of enactment of this Act informing such lessees and royalty payors of the provisions of this Act and the terms and conditions for receiving refunds or royalty calculations under this Act. Any lessee that has reason to believe that it is entitled to a refund under this Act shall provide written notice to the Secretary in a form prescribed by the Secretary specifying the Federal onshore oil and gas lease or leases involved. The Secretary, and any State in accordance with delegations of authority under section 205 or cooperative agreements under section 202 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1732, 1735), shall conduct a case-by-case audit of royalties for such leases and any other Federal onshore lease which the Secretary may select for examination under existing law to determine the amount of royalties due and payable under this Act and other applicable law and the amount of any refund due the lessee.

(b) CASE-BY-CASE AUDIT ON INDIAN LEASES.—The Secretary, and any tribe in accordance with cooperative agreements under section 202 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1732), shall conduct a case-by-case audit of royalties for Indian oil and gas leases on which gas was produced at any time during the period from January 1, 1982, through July 31, 1986, which is within the coverage of section I.A.2 or section II.A.2 of NTL-5 to determine the amount of royalties due and payable under this Act and other applicable law and the amount of any refund due the lessee.

(c) MMS NOTICE.—The Secretary shall provide a notice under this section to each lessee under a Federal onshore or Indian oil and gas lease on which an audit was performed in accordance with this section. The notice shall contain each of the following:

(1) A statement of the amount of the royalty payments made in accordance with the provisions of NTL-5.

(2) A statement of the amount of refund, if any, to which the lessee is entitled under this Act and a description of the means by which such refund will be provided.

(c) REPORT TO INDIAN TRIBES.—The Secretary shall provide a report to each Indian tribe holding an Indian oil and gas lease on which gas was produced at any time during the period from January 1, 1982, through

July 31, 1986, which is within the coverage of section I.A.2 or section II.A.2 of NTL–5. The report to each tribe shall contain information for each such lease held by the tribe stating the difference between royalties computed in accordance with NTL–5 and royalties computed in accordance with subsection 3(c) of this Act.

SEC. 6. RECORD KEEPING REQUIREMENTS.

Notwithstanding the requirements of section 103 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1713), and any regulations promulgated pursuant thereto, lessees and other payors are required to maintain records related to the value of gas production to which this Act applies for the period January 1, 1982, through July 31, 1986, until the Secretary gives notice that maintenance of such records no longer is required.

Amend the title so as to read: "An Act to provide clarification regarding the royalty payments owed under certain Federal Onshore and Indian oil and gas leases, and for other purposes.".

House amendment to Senate amendments:

In lieu of the Senate amendment, strike all after the enacting clause and insert the following in lieu thereof:

(a) That this Act may be referred to as the "Notice to Lessees No. 5 Gas Royalty Act of 1987".

(b) FINDINGS.—The Congress finds that—

(1) effective on June 1, 1977, in Notice to Lessees and Operators of Federal and Indian Onshore Oil and Gas Leases Numbered 5 (NTL–5) (42 Fed. Reg. 22,610), the Secretary of the Interior established the method of calculating the amount of royalties to be paid to the United States on natural gas production from Federal and Indian oil and gas leases.

(2) NTL–5 was a duly promulgated rule of the Department of the Interior within the meaning of the Administrative Procedure Act;

(3) under the NTL–5 method of calculation, the base value for royalty purposes of certain gas production was the greater of the price received under the gas sales contract or the highest applicable ceiling rate than established by the Federal Power Commission. The applicable ceiling rate was subsequently interpreted to be the maximum lawful price established under the Natural Gas Policy Act of 1978 (15 U.S.C. 3301 et seq.);

(4) although between 1982 and 1986 gas prices in many areas declined below the maximum lawful prices established under the Natural Gas Policy Act of 1978, the continued application of NTL–5 required some royalties to be paid on the basis of a ceiling rate higher than the market value for the gas;

(5) effective August 1, 1986, the Secretary of the Interior modified the method of calculating certain future Federal and Indian gas royalty payments. This modification, published in the Federal Register on July 25, 1986, (51 Fed. Reg. 26,759) was a duly promulgated regulation of the Department of the Interior. The modification left the original provisions of NTL–5 in effect for gas sales prior to August 1, 1986, since the Secretary found that retroactive modification of NTL–5 would have resulted in inconsistent royalty enforcement and would have undermined the policy of strict compliance with lawful Federal royalty valuation rules and the need to ensure that Federal lessees and other payors rely upon rules until such time as the rules are lawfully changed (51 Fed. Reg. 26,759);

(6) in January 1987, the Department of the Interior proposed to reconsider its position and proposed to modify NTL–5 retroactively;

(7) there is a trust responsibility of the United States for the administration of Indian oil and gas resources as reaffirmed in sections 2 (a)(4) and (b)(4) of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1701 (a)(4) and (b)(4)); and

(8) the failure to adjust the method of calculating royalty payments resulting from changes in the gas market created various problems in valuation, produced inequitable situations for many lessees and payors whose gas market price was well below the NGPA ceiling prices, and created uncertainty associated with the collection of royalty revenues. Uniform application of BGPA ceiling prices was inequitable given market conditions during this period. For these reasons, it is necessary and appropriate for the Congress to provide for certain adjustments through legislation.

SEC. 2. DEFINITIONS.

For purposes of this Act:

(a) SECRETARY.—The term "Secretary" means the Secretary of the Interior or his designee.

(b) NTL–5.—The term "NTL–5" means the Notice to Lessees and Operators of Federal and Indian Onshore Oil and Gas Leases published May 4, 1977 (42 Fed. Reg. 22,610).

(c) OTHER TERMS—All other terms carry the same meanings as provided in section 3 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. Sec. 1702).

SEC. 3. VALUATION FOR ROYALTY PURPOSES OF CERTAIN GAS PRODUCTION FROM FEDERAL AND INDIAN LANDS.

(a) APPLICABILITY.—The provisions of this section shall be used in determining the value for royalty purposes of any gas production from Federal onshore or Indian oil and gas leases during the period from January 1, 1982, through July 31, 1986, which is within the coverage of section I.A.2, section II.A.2 or section VI of NTL–5.

(b) ROYALTY CALCULATION FOR CERTAIN FEDERAL ONSHORE AND INDIAN OIL AND GAS LEASES—If the gas referred to in subsection (a) of this section was produced from a Federal onshore or Indian lease, the value of production, for the purpose of computing royalty, shall be the reasonable value of the product as determined consistent with the lease terms and the regulations codified at part 206 of title 30, Code of Federal Regulations, in effect at the time of production. In establishing the reasonable value, due consideration shall be given to the highest price paid for a part or for a majority of production of like quality in the same field, to the price received by the lessee, to posted prices, and to other relevant matters. Under no circumstances shall the value of production of any of said substances for the purposes of computing royalty be deemed to be less than the gross proceeds accruing to the lessee from the sale thereof or less than the value computed on such reasonable unit value as shall have been determined by the Secretary. In the absence of good reason to the contrary, value computed on the basis of the highest price per thousand cubic feet or gallon paid or offered at the time of production in a fair and open market for the major portion of like-quality gas, or other products produced and sold from the field or area where the leased lands are situated will be considered to be a reasonable value. In addition, if the gas was produced from an Indian lease, the reasonable value shall be determined consistent with the Secretary's trust responsibility, the lease terms, and the regulations codified at section 211.13 or section 212.16 of title 25, Code of Federal Regulations, as applicable, in effect at the time of production.

(c) WRITTEN DOCUMENTATION.—In order for the Secretary to make royalty value determinations under this section, there must be written documentation which (1) has been determined to be adequate by the Secretary, (2) was in existence at or near the time of sale, (3) shows the actual price received, and (4) may include, but is not limited to, a gas sales contract, purchase statement, receipt, minerals management service oil and gas records, or other written documentation.

(d) EXCEPTION.—This section shall not apply to any gas for which, in the Secretary's judgment, the lessee or royalty payor received less than the highest applicable price under the Natural Gas Policy Act due to a failure by the lessee or payor to collect amounts which the purchaser would have been required to pay under a gas sales contract providing for that price and not as a result of market conditions or considerations.

SEC. 4. PROCEDURES.

(a) CASE-BY-CASE AUDIT FOR CERTAIN FEDERAL ONSHORE OIL AND GAS LEASES.—The Secretary shall publish in the Federal Register and send to each lessee or royalty payor of record for any Federal onshore oil and gas lease a notice of enactment of this Act informing such lessees royalty payors of the provisions of this Act. Such notice shall include a description of the process whereby underpayments, if any, by lessees will be sought and the terms and conditions for lessees to obtain refunds, if any, based on royalty calculations under this Act. Any lessee that has reason to believe that it is entitled to a refund under this Act shall provide written notice to the Secretary in a form prescribed by the Secretary specifying the Federal onshore oil and gas lease of leases involved. The Secretary, and any State in accordance with delegations of authority under section 205 or cooperative agreements under section 202 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1732, 1735), shall conduct a case-by-case audit of royalties for such leases and any other Federal onshore lease which is examined under existing law to determine the amount of royalties due and payable under this Act and other applicable law and the amount of any refund due a lessee. In addition to those leases for which the lessee has provided written notice to the Secretary pursuant to this subsection, priority shall be given to auditing those leases for which there is the greatest likelihood of underpayment of royalties.

(b) CASE-BY-CASE AUDIT ON INDIAN LEASES.—The Secretary shall publish in the Federal Register and send to each lessee or royalty payor of record for any Indian oil and gas lease a notice of enactment of this Act informing such lessees and royalty payors of the provisions of this Act. Such notice shall include a description of the process whereby underpayments, if any, by lessees will be sought and the terms and conditions for lessees to obtain refunds, if any, based on royalty calculations under this Act. Any lessee that has reason to believe that it is entitled to a refund under this Act shall provide written notice to the Secretary in a form prescribed by the Secretary specifying the Indian oil and gas lease or leases involved. The Secretary, and any

Tribe in accordance with cooperative agreements under section 202 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1732), shall conduct a case-by-case audit of royalties for such leases and other Indian oil and gas leases on which gas was produced at any time during the period from January 1, 1982, through July 31, 1986, which is within the coverage of section I.A.2, section II.A.2, or section VI of NTL-5 to determine the amount of royalties due and payable under this Act and other applicable law and the amount of any refund due a lessee. In addition to those leases for which the lessee has provided written notice to the Secretary pursuant to this subsection, priority shall be given to auditing those leases for which there is the greatest likelihood of underpayment of royalties.

(c) The Secretary shall demand payment of any underpayment which is determined to be owed to the Federal or Indian lessor as a result of the case-by-case review required in this section.

(d) MMS Notice.—The Secretary shall provide a notice under this section to each lessee under a Federal onshore or Indian oil and gas lease on which an audit was performed in accordance with this section. The notice shall contain each of the following:

(1) A statement of the amount of the royalty payments made in accordance with the provisions of NTL-5.

(2) A statement of additional royalty payment, if any, to be made by a lessee or the amount of refund, if any, to which the lessee is entitled under this Act and a description of the means by which such refund will be provided.

(e) Report to Indian Tribes.—The Secretary shall provide a report to each Indian Tribe holding an Indian oil and gas lease on which gas was produced at any time during the period from January 1, 1982, through July 31, 1986, which is within the coverage of section I.A.2, section II.A.2, or section VI of NTL-5. The report to each Tribe shall contain information for each such lease held by the Tribe stating the difference between royalties computed in accordance with NTL-5 and royalties computed in accordance with subsection 3(b) of this Act.

SEC. 5. REFUND OF ROYALTIES PREVIOUSLY PAID.

(a) Refund for Federal Onshore Oil and Gas Leases.—

(1) If the Secretary or a court of competent jurisdiction determines that a lessee or royalty payor on a Federal onshore lease has paid, prior to October 1, 1987, more than the value determined under subsection 3(b) of this Act for any gas within the coverage of subsection 3(a) of this Act, the Secretary shall refund the Federal share of such overpayment from moneys received under section 35 of the Mineral Lands Leasing Act of 1920, as amended (30 U.S.C. 191), which would otherwise be deposited to miscellaneous receipts in the Treasury, in accordance with procedures established by the Secretary.

(2) The portion of any excess amount, as determined under paragraph (1), previously paid to a State under applicable law from royalties paid under a Federal onshore oil and gas lease or group of leases subject to a unit agreement shall be recouped from the next subsequent disbursements to that State. If the total amount of such recoupments for any month exceeds ten per centum of the total disbursement to that State for that month from mineral lease revenues, the Secretary shall recoup amounts in excess of that level from disbursements to the State in the next month subject to the same limitation. The Secretary shall pay any difference between the amounts required to be paid to a State as a result of this paragraph and the amounts available to be paid to the State from current royalty revenues from moneys received under section 35 of the Mineral Lands Leasing Act of 1920, as amended (30 U.S.C. 191), which would otherwise be deposited to miscellaneous receipts.

(b) Refund for Indian Leases.—If the Secretary or a court of competent jurisdiction determines that a lessee or royalty payor has paid, prior to October 1, 1987, more than the value determined under subsection 3(b) of this Act for any gas within the coverage of subsection 3(a) of this Act and produced from an Indian lease, the Secretary shall refund the amount paid in excess of the value determined under subsection 3(b) from monies received under section 35 of the Mineral Lands Leasing Act of 1920, as amended (30 U.S.C. Sec. 191) which would otherwise be deposited to miscellaneous receipts in the Treasury. The Secretary shall not recoup any portion of any such refund from the Indian lessor.

(c) The total amount of refunds made under this section shall not exceed two million dollars ($2,000,000).

SEC. 6. RECORDKEEPING REQUIREMENTS.

Notwithstanding the requirements of section 103 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. Sec. 1713), and any regulations promulgated pursuant thereto, lessees and other payors are required to maintain records related to the value of gas production to which this Act applies for the period January 1, 1982 through July 31, 1986, until the Secretary gives notice that maintenance of such records no longer is required.

SEC. 7. SAVINGS PROVISION.

Nothing in this Act shall be construed to affect the right of any Indian, Indian Tribe, or lessee to bring any action in a court of competent jurisdiction.

Mr. UDALL (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendments and the House amendment to the Senate amendments be considered as read and printed in the Record.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

Mr. RHODES. Mr. Speaker, reserving the right to object, I would like to ask the chairman of the committee to briefly explain the matter before the House.

Mr. UDALL. Mr. Speaker, will the gentleman yield?

Mr. RHODES. I yield to the gentleman from Arizona.

Mr. UDALL. Mr. Speaker, the amendment which I am offering today to the Senate amendment to H.R. 3479 has bipartisan support within the Committee on Interior and Insular Affairs and represents a compromise that has been worked out with the Senate regarding the differences between the Senate's version of the NTL-5 gas royalty bill and the House bill.

I believe that the compromise is a fair one and one which will straighten out to a large extent an administrative mess that was created over a period of years with respect to Notice to Lessees Number 5 which was a rule promulgated by the Department of the Interior dealing with valuations of various categories of natural gas.

The end product of the House and Senate compromise is, I believe, a fair approach to the various parties at interest and I urge my colleagues to support this amendment.

Regarding the "savings clause" which the House bill had in it, the bill as amended and resubmitted to both Houses of Congress contains a savings clause which differs from that contained in H.R. 3479 as it originally passed the House and as explained in the Interior and Insular Affairs Committee report, with which the Senate was not in accord. The savings clause agreed to emphasizes that Indian lessors and Federal or Indian lessees will have every opportunity to adjudicate claims which they may wish to assert regarding their royalty rights concerning production occurring during the period covered by the bill, but it also does not operate to create any additional rights which Indian lessors as well as Federal or Indian lessees did not otherwise possess.

Regarding the case-by-case review, section 5 of the amendment requires the Secretary of the Interior to conduct a case-by-case review of royalty payments to determine the amount of royalties payable under this act and other applicable laws. We recognize, however, that the volume of production varies by lease. To make sure that audit resources are efficiently used and not applied to unproductive audits, we have included language that priority should be given to auditing those leases for which there is the greatest likelihood of detecting underpayment of royalties. We expect that the Secretary will audit those Federal and Indian leases which produced the majority of gas during the period 1982 to 1986 using normal audit standards including sampling techniques. We understand that as few as 25 percent of the highest paying onshore Federal and Indian lessees account for approximately 90 percent of oil and gas production volume. We do not expect that every monthly payment on every Federal or Indian lease will be reviewed. We do expect that the MMS over its normal audit cycle will audit these highest paying lessees. We further understand from the Department of the Interior that it directs lessees to recalculate and pay royalties when underpayment problems are discovered during audits of royalty payments. This approach will discover most underpayments without spending money auditing payments than will be collected as a result of those audits.

Mr. Speaker, I would like to also insert in the Record a letter which my colleague Chairman Nick Rahall and

I sent to Secretary Hodel earlier this week regarding the subject of oil and gas product value and the oil and gas product value regulations which are currently undergoing review and change. They are relevant to the discussion of NTL-5 in the respect that NTL-5 seeks to grapple with troublesome gas product valuation problems and relies to a great extent on the existing product value regulations and case law surrounding those regulations to guide valuation for NTL-5 purposes.

The proposed regulations would represent a departure from the existing product value approach and this has been cause for concern to Chairman RAHALL and myself and other Members of Congress. A central concern is that if the proposed regulations, however they are eventually changed prior to publishing in final form, result directly in a revenue shortfall for Indian lessors as well as the Federal taxpayer (and the various Western oil and gas producing States indirectly through the mineral leasing laws), then all of this effort to consolidate regulations and perhaps simplify them and make them more workable will have been for naught. Our committee and other interested committees of Congress will be following closely the results of the new proposed regulations at whatever point they are finalized and put into effect. It is our hope that the concerns which we have expressed to Secretary Hodel will be incorporated into the new regulations thereby enhancing to a much greater degree the likelihood that the regulations will operate in a fair and workable manner without jeopardizing the current income which the Indian people and the taxpayers of the Nation have a right to expect from their resources.

At this point I include the following:

COMMITTEE ON INTERIOR
AND INSULAR AFFAIRS,
Washington, DC, December 9, 1987.

Hon. DONALD P. HODEL,
Secretary of the Interior, Washington, DC.

DEAR MR. SECRETARY: This is in follow-up to the comments we transmitted to the Department of the Interior recently regarding the proposed October 23, 1987 oil and gas product value regulations developed by the Minerals Management Service (MMS).

We have been concerned that the proposed shift in direction from the existing regulations could result in substantial revenue losses to Federal and Indian royalty owners. Specifically, deviating very far from the valuation approach in the existing regulations, carries with it a substantial risk for the taxpayers of the United States and the Indian royalty owners, as well as the State governments who share in these revenues under the mineral leasing laws. If the final regulations result in significant Federal and Indian revenue losses, then they will need to be amended in order to ensure that the public and the Indian people of the U.S. receive a fair and reasonable return for their resources.

Our concern with the MMS's previous version of these regulations as addressed in our comments has been based primarily on the following major weaknesses:

1. The regulations proposed an overly broad and insufficient definition of arms-length contract which included only the "own or control" concept and excluded the requirement that the parties also have opposing economic interests. The definition as proposed would have allowed companies with extensive mutual economic interests to be treated as dealing at arms-length for royalty purposes.

2. The regulations provided no flexibility to reject the "arms-length gross proceeds" price as the measure of value for royalty purposes even though there may be a large, unreasonable difference between the contract price and other field prices. Such a difference could indicate among other things collusion, rigged or monopolistic prices, and use of other consideration.

3. The regulations opened the door to potential abuse of transportation and processing allowances as a means to reduce royalty payments.

The October 23, 1987, proposed rules contained some changes based on discussions with staff members of the Interior Committee to remedy these weaknesses. However, the regulations still appear to go too far in reducing judgment and flexibility from the valuation process in favor of a more mechanical valuation approach. That approach seems to be based on assumptions about competition which do not recognize adequately the imperfections in oil and gas markets. Our comments on the proposed regulations sought to obtain more certainty in the proposed regulations while still maintaining an appropriate degree of reliance on the judgment of the MMS Director in product valuation.

For example, we recognize that market prices as reflected in an arms-length contract price will generally represent the "value of production" for royalty purposes. But, there are numerous situations involving millions of dollars where an "arms-length" contract should not be automatically accepted as evidence of the value of production. To contend with such situations, there must be a workable way for auditors to opt of the arms-length gross proceeds approach when the situation warrants it.

Given the administrative and information limitations under which the MMS must operate, it is clear that the MMS needs flexibility to exercise judgment and to place the burden on the payor to justify unreasonable disparities between a contract price and comparable field prices and other benchmarks. The major thrust of the changes proposed in our comments was to provide this flexibility and assure a "regulatory escape" from the gross proceeds straitjacket.

It should be underscored that even though these regulations may change, the statute on which the existing regulations are based, has not changed. Therefore, the body of case law which has developed around the statute should continue to apply.

To aid the Committee on Interior and Insular Affairs in monitoring the effect of the new regulations once they have been implemented, we request that the Department provide the Committee with bi-annual reports on the revenue impacts of the new regulations for two years following the implementation of these regulations.

Finally, we would like to express our appreciation to you for the cooperative way in which the Department of the Interior has worked with the staff of this Committee to modify the earlier proposed regulations and meet some of our concerns. While progress was made through this effort, we believe the few additional steps discussed here and in our comments will do much toward providing greater certainty for all concerned while assuring protection of royalty owners' interests.

Sincerely,

NICK JOE RAHALL III,
Chairman, Subcommittee on Mining and Natural Resources.
MORRIS K. UDALL,
Chairman, Committee on Interior and Insular Affairs.

ADDITIONAL COMMENTS BY THE HONORABLE MORRIS K. UDALL, CHAIRMAN, COMMITTEE ON INTERIOR AND INSULAR AFFAIRS AND THE HONORABLE NICK JOE RAHALL, CHAIRMAN, SUBCOMMITTEE ON MINING AND NATURAL RESOURCES ON PROPOSED DEPARTMENT OF THE INTERIOR PRODUCT VALUE REGULATIONS, NOVEMBER 23, 1987

1. Sec. 206.101 Definitions (oil) and Sec. 206.151 Definitions (gas) Arm's-length contract. The changes made in the definition have addressed the major weakness contained in earlier versions of the regulations. However, we recommend 2 additional changes:

A. Reduce the 20 percent limit to 10 percent. This would make the MMS rule consistent with OSMRE's "own or control" rules, as well as, some producing states such as Texas. A 10 percent figure would also be more appropriate for large corporations where ownership of 10 percent of outstanding common stock could very easily represent control. Most importantly this change would reduce the regulatory burden on MMS since it shifts to the lessee the burden of proving non-control for cases of ownership between 10 and 20 percent.

B. Place information burden on lessee. Include the following sentence after section 206.101(c): "The burden of proving non-affiliation shall rest with the lessee." This would clarify who has the information burden when ownership is between 10 and 50 percent. However, it should be MMS's duty to establish guidelines on how the burden may be met.

2. Section 206.101 Definitions (oil) and Section 206.151 Definitions (gas) "Net-back method". The proposed definition does not clearly provide that the net-back calculation must begin from either the point of the first arms-length transaction or from the point of the first comparable sale. After the word "received" in the second sentence of the definition add "at the point of the first arms-length transaction."

3. Sec. 206.102(b)(1)(iii) and 206.152(b)(1)(iii) and Sec. 206.153(b)(1)(iii) Valuations standards. We are still concerned that the "breach of duty" standard, which allows valuation to be based on criteria other than the lessee's gross proceeds, may be interpreted too narrowly and thus not provide the flexibility necessary to protect Federal and Indian royalty interests. We, therefore, strongly recommend that languge be added to the regulations in order to clarify the meaning of the "breach of duty" standard.

At the end of each paragraph listed above add the following: "The lessee's duty to the lessor to market production for their mutual benefit may be breached by a number of actions including but not limited to the following: collusion between producer/seller and buyer, reliance on prices found by a court or regulatory authority to be fraudulently manipulated, patently imprudent contracts, or unreasonably disparities between the arms-length contract price and other comparable arms-length and other benchmark prices."

We believe this clarification should be added to the regulations and not just to the preamble in order to provide guidance to lessees about the kinds of situations which may constitute a "breach of duty".

4. Sec. 206.102(b)(2) and Sec. 206.152(b)(3) and Sec. 206.153(b)(3) Valuation standards. The proposed regulations do not clearly place the burden on the lessee to explain a large and unreasonable difference between an arms-length contract price and comparable field or area prices. This burden should not be placed on MMS as the preamble currently implies.

It should be a simple matter for lessees to explain and justify differences. Therefore, we recommend that the following be inserted as the first sentence in paragraph 206.102(b)(2) in the oil regulations and paragraphs 206.152(b)(3) and 206.153(b)(3) in the gas regulations: "When MMS determines that a price may be unreasonable, for example by comparing it with comparable contracts and sales, MMS will notify and give the lessee an opportunity to provide written information justifying the contract price."

5. Section 206.104(b)(2) and Section 206.156(c)(3) Transportation allowances-general. In the preamble, MMS rejects the suggestion that allowances in excess of 50 percent of the product's value be permitted only when they are in the "best interests of the lessor." The reason given for rejection is that this standard would be "too objective" when compared with the proposed rule that such costs be "reasonable, actual, and necessary." We believe the opposite conclusion is more correct. In defending the use of the word "reasonable," MMS argues that it will use the dictionary's definition—"moderate and fair". It does not seem logical to us that allowances which are "moderate and fair" would not be too objective to judge, but those which are in the "best interests of the lessor" would be.

We believe that the "best interests of the lessor" standard should be included in these regulations. A producer who chooses to transport the product to a distant refinery, should not be allowed to take an allowance in excess of 50 percent (thereby reducing the price relative to an adjacent producer who sells to a nearby pipeline) unless the price after the allowance reduction is higher and, therefore, in the best interests of the lessor.

There are only two conditions which a lessee would have to meet under the "best interest test." First, the net post-transportation value would have to be increased or, second, there would have to be increased resource recovery (either form processing or production). The terms "reasonable actual, and necessary" are new and undefined and are arguably more subjective than a "best interests of the lessor" standard. The combination of these tests would better protect the lessor's interests.

6. Section 206.105(a)(5) and Section 206.157(a)(5) Determination of transportation allowances. The MMS proposes to eliminate any requirement for reporting transportation-reduced contract prices. Under the proposed regulations "transportation factors" are considered to be "reductions in value" rather than transportation allowances and, as such, would not have to be reported on form MMS-4110. The MMS proposed change appears to be based on a false distinction which would create a loophole and result in potential abuse of the allowance process.

Unless it conducts an audit MMS would not know when a contract price has been reduced by a "transportation factor." The MMS should not treat "transportation factors" and "transportation allowances" differently. It should also require that transportation reduced prices be reported, either on MMS-4110 or some other form.

7. Section 206(b)(3)—Processing allowance-gas. For the reasons already stated in 5 above, we recommend adopting the "best interests of the lessor" as part of the standard for approving processing allowance exceptions above 66⅔ percent. Such a requirement is more precise than the "reasonable, actual and necessary" standard in the proposed regulation.

Mr. Speaker, hopefully with the enactment of H.R. 3479 we will have taken a rather large step in trying to straighten out a very difficult problem which called out for a congressional solution. I believe we have achieved that in the amendment we are offering today and I urge my colleagues to join me in support of the amendment.

Mr. RHODES. Mr. Speaker, further under my reservation of objection, I yield to the gentleman from West Virginia [Mr. RAHALL].

Mr. RAHALL. Mr. Speaker, I thank the gentleman from Arizona for yielding.

Mr. Speaker, the long nightmare is over. The complex, controversial, and confusing issue known as NTL-5 can now be put to rest. H.R. 3479 finally resolves the gas royalty inequities caused by a Department of Interior regulation, NTL-5, and I wish to comment briefly on two very important provisions of this bill: the reasonableness test and the audit cycle.

First, this bill delineates in no uncertain terms that the value of the gas is to be the reasonable value of the product. In order to establish this reasonable value, due consideration shall be given to the highest price paid for the gas as determined by various methods, such as majority portion analysis or posted prices.

For the purpose of establishing some additional legislative intent behind this bill, it should be noted that although the language in section 3(b) states that the value shall be determined consistent with the lease terms and the regulations covered under part 206 of title 30 of the Code of Federal Regulations, let me make it perfectly clear that this reference is not intended to include section 206.103. Section 206.103 is reiterated with modification in section 3 of the bill, and as such, sets forth a slightly different standard.

These modifications include deleting the word "estimated," and tightening the language referring to methods of valuation. This is to ensure that the Department, in doing the case-by-case audits on leases affected by NTL-5, will actually apply these differing criteria so as to definitely determine the most reasonable value for the gas in question, not just estimate the value, as has been past practice.

Second, I also wish to emphasize that this bill ensures that those gas leases most in need of an audit are, in fact, audited first. Applicable to both Federal and Indian leases, priority for a case-by-case review is given to those leases for which there is the greatest likelihood of underpayment of royalties. This language ensures that MMS is instructed to prioritize audits, so that a fair and equitable resolution of this issue, taking into account the public interest, will be attained for the Indians, States, lessees, and the Federal Government.

Mr. Speaker, this bill is a good salve for a wound that has been festering for about 6 years. In H.R. 3479, Congress has provided the prescription to heal the royalty disease caused by the Department of the Interior.

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Mr. RHODES. Further reserving the right to object, Mr. Speaker, I yield to the gentleman from Idaho [Mr. CRAIG].

Mr. CRAIG. Mr. Speaker, I thank my colleague, the gentleman Arizona, for yielding this time.

First of all, I would like to thank the chairman of the full committee, Chairman UDALL, and the chairman of the Subcommittee on Mining and Natural Resources, Chairman RAHALL, for their cooperation, their work and their effort to bring about this final compromise.

Mr. Speaker, it was at times somewhat contentious. We had differences of opinion as to how this process would ultimately work, but that has been arrived at and I think well spoken to by the chairman of the subcommittee.

Mr. Speaker, H.R. 3479, as amended would provide clarification regarding the royalty payments owed under Federal onshore and Indian oil and gas leases for certain gas production. The bill:

First, applies to that gas production from Federal onshore or Indian oil and gas leases during the period from January 1, 1982, through July 31, 1986, which is within the coverage of section I.A.2 or II.A. 2 of Notice to Lessees and Operators of Federal and Indian Onshore Oil and Gas Leases No. 5 (NTL-5) and for which the lessee provides certain documentation of price received;

Second, provides that royalties for such gas production shall be determined in accordance with lease terms and applicable regulations;

Third, provides for refunds not to exceed a set dollar amount from future Federal mineral receipts for royalties previously overpaid;

Fourth, requires a case-by-case determination of royalties payable; and

Fifth, provides for certain procedures to facilitate implementation.

As a result of the controversy associated with the Minerals Management Service [MMS] proposed retroactive modification of MTL-5 the House and Senate passed bills to correct the current problem. The bill before the House is intended to clarify legislatively the royalties due on the natural gas production covered by the bill so as to avoid the inequities resulting from the required application of the Natural Gas Policy Act [NGPA] ceiling prices. required application of NGPA ceiling prices would not have been reasonable given market conditions during the period in question.

Mr. RHODES. Mr. Speaker, I withdraw my reservation of objection.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from Arizona?

Mr. WALKER. Reserving the right to object, Mr. Speaker, this particular bill comes as somewhat of a surprise to this gentleman that we have it on the floor.

Now, I understand there was some information given to floor staff a while back, maybe earlier today, about the bill coming up, but this gentleman is somewhat concerned about the fact that, as I understand the process that we are going through here on this unanimous-consent request, I think I just heard the gentleman from West Virginia say that this particular bill is something that has been festering for 6 years. We have a bill before us that came out of the committee on October 15 and now is being brought to the floor at the very last minute as a compromise on which everything is supposed to be worked out.

I am a little concerned about this process and just why we have to have it out here under a unanimous-consent request, if it has been a reasonably contentious issue for the better part of three Congresses.

Mr. UDALL. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I am very glad to yield to the gentleman from Arizona.

Mr. UDALL. Mr. Speaker, the gentleman is operating under a misapprehension. This bill has passed the House a long time ago, passed the Senate, we are seeking to resolve some minor differences, all with the consent of the minority and the minority staff.

Mr. WALKER. Well, I was under the impression, and again, that is part of the problem of operating out here without any information and having these things comes up at the last minute.

In other words, the bill that we have before us is now coming back to us as essentially a conference report?

Mr. UDALL. Essentially.

Mr. RAHALL. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I am glad to yield to the gentleman from West Virginia.

Mr. RAHALL. The House has passed their version of the bill on November 3 of this year. It went over to the Senate. They passed their version of the bill with another number attached to it.

Mr. UDALL. We informally resolved the differences and sent it back.

Mr. WALKER. So we are resolving the differences between the two bills?

Mr. UDALL. Yes.

Mr. WALKER. How much cost is involved in this particular bill?

Mr. RAHALL. Mr. Speaker, if the gentleman will yield, under the worst case scenario, we would hope that the bill would be revenue neutral—or I am sorry, at the worst it would be revenue neutral. We would hope that there would be revenue generated to the Treasury under this bill; but that, of course, will rely on a case-by-case audit procedure, so we cannot say precisely, but as I said, under the worst case scenario, it would be revenue neutral.

Mr. WALKER. Mr. Speaker, I thank the gentleman.

I yield to the gentleman from Idaho [Mr. CRAIG].

Mr. CRAIG. Mr. Speaker, I appreciate the gentleman yielding.

What we have heard from the two chairmen is correct. It has passed both the House and the Senate.

I will tell the gentleman that this is a compromise that has been worked out with the full cooperation of the administration and their participation in arriving at this solution. We would hope that it would be a revenue generator, and as the chairman of the subcommittee said, in the worst case a neutral proposition.

Mr. WALKER. Further reserving the right to object, Mr. Speaker, the report I have here is for the House-passed bill?

Mr. CRAIG. That is correct.

Mr. WALKER. It does not reflect the bill that we now have before us, but this is a bill that has fully cleared the processes required by the House?

Mr. CRAIG. That is correct.

Mr. WALKER. Mr. Speaker, I withdraw my reservation of objection.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

The **SPEAKER** pro tempore. Is there objection to the initial request of the gentleman from Arizona?

There was no objection.

A motion to reconsider was laid on the table.

REPEALING BROWN-STEVENS ACT CONCERNING CERTAIN INDIAN TRIBES IN NEBRASKA

Mr. UDALL. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 2639) to repeal the Brown-Stevens Act concerning certain Indian tribes in the State of Nebraska, with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Senate amendment: At the end of the bill add the following: Section 7(c) of the White Earth Reservation Land Settlement Act of 1985 (P.L. 99-264; 100 Stat. 61; 25 U.S.C. 331 note) is amended by (1) deleting "not later than five hundred and forty days of the date of publication of the Secretary's first list in the Federal Register" and inserting in lieu thereof "not later than March 12, 1989", and (2) deleting "should be added to" and inserting in lieu thereof "should be corrected or added to".

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from Arizona?

Mr. RHODES. Reserving the right to object, Mr. Speaker, will the chairman please explain what is involved in this legislation.

I yield to the gentleman from Arizona.

Mr. UDALL. Mr. Speaker, H.R. 2639 would repeal a 1916 act of Congress authorizing local taxation of Indian allotments on the Omaha and Winnebago Reservations of Nebraska with Indian consent. This bill passed the House in November with support from all affected parties. This bill would resolve a problem the State of Nebraska is experiencing with the Department of Education over the adverse effect of the 1916 act to the Federal impact aid funding assistance.

This bill, when taken up and passed in the Senate, was further amended to correct an additional problem concerning the White Earth Chippewa Tribe of Minnesota. The Senate's new provision would amend the White Earth Reservation Land Settlement Act of 1985—Public Law 99-264. This act was the result of 6 years of negotiations and deliberations between the State of Minnesota, the tribe, the administration and the Congress. It is a very complex settlement act.

Unfortunately, a key requirement to the full implementation of this act has not yet been accomplished. This act required that the Bureau of Indian Affairs [BIA] compile two lists of individuals who have claims to the settlement agreement. Specific deadlines were also placed into the law for the publishing of these lists. The first list was filed by the date required. The second list of claimants has not been completed and is important since the filing of this list would trigger the final claims' resolution process.

The Senate's amendment would provide a 1-year's extension for the filing of the list of these claimants. I am advised that this would not affect other, ongoing efforts to clear titles for affected non-Indian landowners. I also understand that the administration is in support of this amendment.

Mr. Speaker, I urge the House to support and concur in the Senate-passed version of H.R. 2639.

Mr. RHODES. Mr. Speaker, further reserving the right to object, I will note that H.R. 2639 has already passed the House on the Consent Calendar and the Senate amendment has been requested by the administration.

There is little or no Federal cost associated with the bill, and I urge the House to concur in the Senate amendment to H.R. 2639.

Mr. Speaker, I withdraw my reservation of objection.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

A motion to reconsider was laid on the table.

SEMINOLE INDIAN LAND CLAIMS SETTLEMENT ACT OF 1987

Mr. UDALL. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 1684) to settle Seminole Indian land claims within the State of Florida, and for other purposes and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from Arizona?

Mr. RHODES. Reserving the right to object, Mr. Speaker, will the chairman please explain what is involved in this legislation.

I yield to the gentleman from Arizona.

Mr. UDALL. Mr. Speaker, S. 1684 provides for the congressional ratification of an agreement between the Seminole Tribe of Florida and the State of Florida settling certain land and water rights claims of the tribe. The Committee on Interior and Insular Affairs has already reported H.R. 3290, an almost identical bill.

This settlement arises out of a 1975 dispute between the tribe and the trustee of the Internal Improvement Trust Fund when the fund conveyed a water flowage easement over Seminole lands to the South Florida Water Management District. The easement was conveyed without compensation to the tribe and without the tribe's consent. The tribe sued the State and the water management district in 1978 and the case has continued through years of litigation. In 1985, negotiations for a settlement began among the parties culminating in a final agreement.

This agreement not only settles the pending litigation but also settles and resolves the water rights claims of the tribe and other potential land claims based upon aboriginal use and occupation.

The agreement while very complex may be summarized as follows:

First, the tribe would convey about 14,470 acres within the water conservation area to the State.

Second, the tribe will sell to the State at fair market value the part of the East Big Cypress Reservation which is in Palm Beach County.

Third, the tribe will waive its asserted but never filed claim to a 5 million acre reservation and with the exception of one, any other claims resulting from unextinguished aboriginal title.

Fourth, the tribe would receive about $7 million from the State and another $500,000 from the water management district.

Fifth, the remainder of the East Big Cypress Reservation would be transferred to the United States to be held in trust for the tribe as a part of its reservation.

Finally, as an integral part of the settlement, a separate water rights compact is included. This compact would settle the water rights of the tribe and thereby avoid large-scale litigation involving tribal water rights.

This bill is supported by all concerned parties including the State of Florida, the Seminole Tribe and the United States. It does not call for the authorization of additional appropriation of Federal funds. It represents the conclusion of years of litigation and negotiations and will benefit everyone involved in this dispute. I therefore urge passage of this bill.

Mr. RHODES. Further reserving the right to object, Mr. Speaker, I would like to note that S. 1684 would settle longstanding claims in the State of Florida and assist the tribe in the use of its land and water.

The administration supports the bill. The State and the tribe are in agreement.

The bill has little or no Federal cost, and I urge my colleagues to support the bill.

Mr. Speaker, I withdraw my reservation of objection.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 1684

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Seminole Indian Land Claims Settlement Act of 1987".

FINDINGS AND POLICY

SEC. 2. Congress finds and declares that—

(1) there is pending before the United States District Court for the southern district of Florida a lawsuit by the Seminole Tribe which involves certain lands within the State and there are also claims by the tribe to other areas of Florida by virtue of an 1839 Executive order of the President and by right of nonextinguishment of aboriginal possession which has been asserted but not filed in court;

(2) the pendency of this lawsuit and these claims may result in economic hardships for residents of the State by clouding the titles to lands in the State, including lands not now involved in the lawsuit;

(3) the pendency of this lawsuit and these claims also have clouded the easement rights of the South Florida Water Management District in lands necessary for use as a water flowage and storage area, which is part of a federally authorized project for flood control and water management in central and southern Florida, and which is being used to provide and regulate a water supply for the residents of south Florida;

(4) the State, the district, and the tribe have executed agreements for the purposes of resolving tribal land claims and settling the lawsuit—

(A) which include conveyance of land and payment of consideration to the tribe; and

(B) which require implementing legislation by the Congress of the United States and the Legislature of the State of Florida;

(5) Congress shares with the parties to such agreements a desire to settle these Indian claims in the State of Florida without additional cost to the United States;

(6) there is considerable uncertainty as to the nature and extent of the water rights of the tribe, and that continued controversy over this should be settled by agreement; and

(7) the State, the district, and the tribe have entered into a compact which, if approved by Congress and the Florida Legislature, creates specifically defined water rights in lieu of the undefined water rights claimed by the tribe.

DEFINITIONS

SEC. 3. For purposes of this Act—

(1) The term "tribe" means the Seminole Tribe of Indians of Florida or Seminole Tribe of Florida, a tribe of American Indians recognized by the United States and organized under section 16 of the Indian Reorganization Act of 1934 (25 U.S.C. 476) and recognized by the State of Florida pursuant to chapter 285, Florida Statutes, and its successors.

(2) The term "State" means the State of Florida and its agencies, political subdivisions, constitutional officers, officials of its agencies and subdivisions and their successors.

(3) The term "district" means the South Florida Water Management District, the agency of the State of Florida created by chapter 25270, laws of Florida (1949) to operate pursuant to chapter 373 Florida Statutes, and its successors.

(4) The term "Secretary" means the Secretary of the Interior.

(5) The term "lands or natural resources" means any real property or natural resources, or any interest in or right involving

any real property or natural resources, including minerals and mineral rights, timber and timber rights, water and water rights, and rights to hunt and fish.

(6) The term "Settlement Agreement" means the instrument—

(A) executed by the Seminole Tribe, the State of Florida, and the South Florida Water Management District; and

(B) which will be presented for approval by all three parties to the United States District Court for the southern district of Florida for the purpose of terminating the lawsuit entitled Seiinole Tribe of Indians of Florida v. State of Florida, et al., (Docket No. 78-6116-CIV), and for the extinguishment of rights to all potential or unsettled claims which the tribe may have to lands or natural resources in the State and the purchase of certain tribal interests in real property.

(7) The term "settlement funds" means those funds which the State of Florida and the South Florida Water Management District have agreed to pay to the tribe under the Settlement Agreement.

(8) The term "compact" means the Compact incorporated in the Settlement Agreement between the tribe, the State, and the district, which specifically defines the nature and extent of Seminole water rights and the manner of their use within the confines of the area of the district.

FINDINGS BY THE SECRETARY

SEC. (a) Section 5 shall not take effect until 180 days after the effective date of this Act, or the date the last of the events described in subsection (b) have occurred and the Secretary so finds, whichever date occurs later.

(b) The events referred to in subsection (a) are—

(1) the State and district pay settlement funds pursuant to the terms of the Settlement Agreement for the case captioned Seminole Tribe of Indians of Florida v. State of Florida et al., or equivalent consideration by land exchange to the tribe; and

(2) the State enacts appropriate legislation to carry out the commitments under the Settlement Agreement including the compact between the State, the district and the tribe, and the State and the district have given the waiver specified in paragraph 5c of such agreement.

APPROVAL OF PRIOR TRANSFERS AND EXTINGUISHMENT OF CLAIMS AND ABORIGINAL TITLE INVOLVING FLORIDA INDIANS

SEC. 5. (a)(1) Effective on the date of enactment of this Act, the Congress does hereby approve the Settlement Agreement, including the compact, and any exhibits attached thereto.

(2) Subject to the provisions of section 4, the Secretary shall publish findings required by section 4 and the Settlement Agreement in the Federal Register, and upon such publication—

(A) the transfers, waivers, releases, relinquishments and other commitments made by the tribe in the Settlement Agreement with the State and the district, including the compact provided for in the Settlement Agreement, shall be in full force and effect on the terms and conditions stated in such settlement, and

(B) the transfers, waivers, releases, relinquishments and other commitments validated by subparagraph (A) and the transfers and extinguishments approved and validated by paragraphs (1) and (2) of subsection (b) shall be deemed to have been made in accordance with the Constitution and all laws of the United States that are specifically applicable to transfers of lands or natural resources from, by, or on behalf of any Indian, Indian nation, or tribe of Indians including but not limited to the Trade and Intercourse Act of 1790, Act of July 22, 1790 (25 U.S.C. 177, ch. 33, sec. 4, 1 Stat. 137).

(b)(1)(A) Subject to subparagraph (B), all claims to lands within the State based upon aboriginal title by the tribe or any predecessor or successor in interest, are hereby extinguished. Any transfer of lands or natural resources located anywhere within the State, including transfers pursuant to a statute or treaty with any State or the United States, by, from, or on behalf of the tribe or any predecessor or successor in interest, shall be deemed to be in full force and effect, as provided in subsection (a)(2).

(B) Nothing in this paragraph shall be construed as extinguishing any aboriginal right, title, interest, or claim to lands or natural resources solely to the extent of the rights or interests defined as "excepted interests" in paragraph 4a of the Settlement Agreement between the tribe, State and the district.

(2)(A) By virtue of the approval of a transfer of lands or natural resources effected by this section, or an extinguishment of aboriginal title effected thereby, all claims against the United States, the State or subdivision thereof, or any other person or entity, by the tribe or any predecessor or successor in interest, arising subsequent to the transfer and based upon any interest in or right involving such lands or natural resources, including claims for trespass damages or claims for use and occupancy, shall be extinguished as of the date of the transfer.

(B) The United States shall not be liable directly or indirectly for any claim or cause of action arising from the approval of the Settlement Agreement and compact or exhibits attached thereto.

(3) Nothing in this Act shall be construed as extinguishing any right, title, interest, or claim to lands or natural resources in the State based on use and occupancy or acquired under Federal or State law by any individual Indian which is not derived from or through the tribe, its predecessor or predecessors in interest, or some other American Indian tribe.

(4) Any Indian, Indian nation, or tribe of Indians, other than the Seminole Tribe as defined in section 3(1), or any predecessor or successor in interest, or any member thereof, whose transfer of lands or natural resources is approved or whose aboriginal title or claims is extinguished by paragraph (1) or (2) of this subsection may, within a period of one year after publication of the Secretary's finding pursuant to subsection (a) of this section, bring an action against the State and the United States in the United States District Court for the southern district of Florida. Such action shall be in lieu of a suit against any other person, agency, or political subdivision on a cause of action which may have existed in the absence of this subsection.

(c) Neither subsection (a) of this section nor section 7 of this Act—

(1) enacts present or future laws of the State as Federal law,

(2) grants consent to any future changes in the Settlement Agreement or compact that could impose any obligation or liability on the United States, or

(3) commits the United States to finance any project or activity not otherwise authorized by Federal law.

SPECIAL PROVISIONS FOR SEMINOLE TRIBE

SEC. 6. (a) Notwithstanding any clouds on title, the Secretary is authorized and directed, as soon as practicable after the date of enactment of this Act, to accept the transfer to the United States, to be held in trust and as a reservation for the use and benefit of the Seminole Tribe of Florida, the approximate 15 sections of land being described as follows:

Beginning at the southwest corner of section 31, township 48 south, Range 35 east; thence easterly along the south border of sections 31, 32 and 33, township 48 south, Range 35 east, to the westernmost boundary of the levee 28 works in section 33, township 48 south, Range 35 east; thence continuing north along the westernmost boundary of the levee 28 works to the point at which the westernmost boundary of the levee 28 works intersects the southernmost boundary of the levee 4 works in section 9, township 48 south, Range 35 east; thence continuing westerly along the southernmost boundary of the levee 4 works to the point at which the southernmost boundary of the levee 4 works intersects the dividing line between township 48 south, Range 35 east and township 48 south, Range 34 east at the Broward County and Hendry County line; and thence continuing south along said line to the point of beginning; said lands situate, lying and being in Broward County, Florida.

(b) Before the expiration of the 3-year period beginning on the date of enactment of this Act, the Secretary shall—

(1) conduct a cadastral survey of those portions of the Seminole Federal Reservations in Florida not previously surveyed by the Department of the Interior, including all lands taken into trust as reservations under the authority of this Act;

(2) publish the correct legal descriptions of the Seminole Reservations in the Federal Register within 180 days after the survey is completed.

(c) If, pursuant to paragraph 6 of the Settlement Agreement, there is a subsequent agreement between the tribe, the State, and the district providing that lands exchanged with the tribe or acquired by the tribe may be taken into Federal trust as a reservation for the tribe, the Secretary shall accept the transfer of such lands to the United States, to be held in trust for the use and benefit of the tribe pursuant to the terms and conditions of the subsequent agreement unless—

(1) the total amount of land previously taken in trust under this subsection exceeds the amount of land transferred to the State and Water District by the tribe under the Settlement Agreement;

(2) the Secretary determines in writing that either the size, location, or condition of the land, or the terms and conditions under which it is transferred would place an unreasonable burden on the United States as trustee;

(3) the land is not in Florida; or

(4) the land is not agricultural in nature.

(d)(1) Notwithstanding the acquisition of any land under subsection (a) or (c) of this section by the United States in trust for the tribe, the assumption of jurisdiction in favor of the State contained in section 285.16. Florida Statutes, pursuant to section 7 of the Act of August 15, 1953, (67 Stat. 588; Public Law 280), shall continue in full force and effect on such lands unless the United States accepts a retrocession by the State of such civil or criminal jurisdiction in whole or in part under section 403 of the Act of April 11, 1968 (82 Stat. 79; 25 U.S.C. 1323).

The laws of Florida relating to alcoholic beverages, gambling, sale of cigarettes, and their successor laws, shall have the same force and effect within said transferred lands as they have elsewhere within the State. The State, with respect to the transferred lands, shall also have jurisdiction over offenses committed by or against Indians under said laws to the same extent the State has jurisdiction over said offenses committed elsewhere within the State.

(2) Nothing in this subsection shall be construed as permitting the exercise of the above jurisdiction by the State regarding matters to which section 1162(b) of title 18, United States Code, and section 1360(b) of title 28, United States Code, apply.

(3) The scope of tribal sovereignty over transferred lands, with the specific exceptions of law relating to cigarettes, gambling and alcohol described in this subsection, shall be as required by applicable law with regard to existing tribal lands held in reservation or Federal trust status. Such transfer shall not confer upon the tribe, or upon the lands within the reservation, any additional water rights. Tribal water rights shall be deemed to be defined in the compact.

WATER RIGHTS COMPACT

SEC. 7. The compact defining the scope of Seminole water rights and their utilization by the tribe shall have the force and effect of Federal law for the purposes of enforcement of the rights and obligations of the tribe.

JUDICIAL REVIEW

SEC. 8. (a) Notwithstanding any other provision of law, any action to contest the constitutionality of this Act shall be barred unless the complaint is filed within 180 days after the date of enactment of this Act. Exclusive jurisdiction over any such action is hereby vested in the United States District Court for the southern district of Florida.

(b) Notwithstanding any present immunity from suit enjoyed by any of the parties, jurisdiction regarding any controversy arising under the Settlement Agreement or compact or private agreement between the tribe and any third party entered into under authority of the compact is hereby vested in the United States District Court for the southern district of Florida. Such jurisdiction shall be exclusive except that the court shall not have jurisdiction to award money damages against the State, the district or the tribe. Proceedings in the district court under this section shall be expedited consistent with sound judicial discretion.

REVOCATION OF SETTLEMENT

SEC. 9. In the event the Settlement Agreement or any part thereof is ever invalidated—

(1) the transfers, waivers, releases, relinquishments and any other commitments made by the State, the tribe, or the district in the Settlement Agreement shall no longer be of any force or effect;

(2) section 5 shall be inapplicable as if such section was never enacted with respect to the lands, interests in lands, or natural resources of the tribe and its members; and

(3) the approvals of prior transfers and the extinguishment of claims and aboriginal title of the tribe otherwise effected by section 5 shall be void ab initio.

EFFECTIVE DATE

SEC. 10. This Act shall take effect upon the date of its enactment.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

EL MALPAIS NATIONAL MONUMENT AND MASAU TRAIL

Mr. UDALL. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 403) to establish the El Malpais National Monument and the El Malpais National Conservation Area in the State of New Mexico, to authorize the Masau Trail, and for other purposes, with a Senate amendment thereto and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Senate amendment: Strike all after the enacting clause and insert in lieu thereof, the following:

TITLE I—EL MALPAIS NATIONAL MONUMENT

ESTABLISHMENT OF MONUMENT

SEC. 101. (a) In order to preserve, for the benefit and enjoyment of present and future generations, that area in western New Mexico containing the nationally significant Grants Lava Flow, the Las Ventanas Chacoan Archeological Site, and other significant natural and cultural resources, there is hereby established the El Malpais National Monument (hereinafter referred to as the "monument"). The monument shall consist of approximately 114,000 acres as generally depicted on the map entitled "El Malpais National Monument and National Conservation Area" numbered NM-ELMA-80,001-B and dated May 1987. The map shall be on file and available for public inspection in the offices of the Director of the National Park Service, Department of the Interior.

(b) As soon as practicable after the enactment of this Act, the Secretary of the Interior (hereinafter referred to as the "Secretary") shall file a legal description of the monument with the Committee on Interior and Insular Affairs of the United States House of Representatives and with the Committee on Energy and Natural Resources of the United States Senate. Such legal description shall have the same force and effect as if included in this Act, except that the Secretary may correct clerical and typographical errors in such legal description and in the map referred to in subsection (a). The legal description shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior.

TRANSFER

SEC. 102. Lands and waters and interests therein within the boundaries of the monument, which as of the day prior to the date of enactment of this Act were administered by the Forest Service, United States Department of Agriculture, are hereby transferred to the administrative jurisdiction of the Secretary to be managed as part of the monument in accordance with this Act. The boundaries of the Cibola National Forest shall be adjusted accordingly.

MANAGEMENT

SEC. 103. The Secretary, acting through the Director of the National Park Service, shall manage the monument in accordance with the provisions of this Act, the Act of August 25, 1916 (39 Stat. 535; 16 U.S.C. 1 et seq.), and other provisions of law applicable to units of the National Park System. The Secretary shall protect, manage, and administer the monument for the purposes of preserving the scenery and the natural, historic, and cultural resources of the monument and providing for the public understanding and enjoyment of the same in such a manner as to perpetuate these qualities for future generations.

PERMITS

SEC. 104. Where any lands included within the boundary of the monument on the map referred to in subsection 101(a) are legally occupied or utilized on the date of enactment of this Act for grazing purposes, pursuant to a lease, permit, or license which is—

(a) for a fixed term of years issued or authorized by any department, establishment, or agency of the United States, and

(b) scheduled for termination before December 31, 1997,

the Secretary, notwithstanding any other provision of law, shall allow the persons holding such grazing privileges (or their heirs) to retain such grazing privileges until December 31, 1997, subject to such limitations, conditions, or regulations as the Secretary may prescribe to insure proper range management. No grazing shall be permitted on lands within the boundaries of the monument on or after January 1, 1998.

TITLE II—MASAU TRAIL

DESIGNATION OF TRAIL

SEC. 201. In order to provide for public appreciation, education, understanding, and enjoyment of certain nationally significant sites of antiquity in New Mexico and eastern Arizona which are accessible by public road, the Secretary, acting through the Director of the National Park Service, with the concurrence of the agency having jurisdiction over such roads, is authorized to designate, by publication of a description thereof in the Federal Register, a vehicular tour route along existing public roads linking prehistoric and historic cultural sites in New Mexico and eastern Arizona. Such a route shall be known as the Masau Trail (hereinafter referred to as the "trail").

AREAS INCLUDED

SEC. 202. The trail shall include public roads linking El Malpais National Monument as established pursuant to title I of this Act, El Morro National Monument, Chaco Cultural National Historical Park, Aztec Ruins National Monument, Canyon De Chelly National Monument, Pecos National Monument, and Gila Cliff Dwellings National Monument. The Secretary may, in the manner set forth in section 201, designate additional segments of the trail from time to time as appropriate to link the foregoing sites with other cultural sites or sites of national significance when such sites are designated and protected by Federal, State, or local governments, Indian tribes, or nonprofit entities.

INFORMATION AND INTERPRETATION

SEC. 203. With respect to sites linked by segments of the trail which are administered by other Federal, State, local, tribal, or nonprofit entities, the Secretary may, pursuant to cooperative agreements with such entities, provide technical assistance in the development of interpretive devices and materials in order to contribute to public appreciation of the natural and cultural resources of the sites along the trail. The Secretary, in cooperation with State and local governments, Indian tribes, and nonprofit entities, shall prepare and distribute informational *material for the public appreciation of sites along the trail.*

MARKERS

SEC. 204. The trail shall be marked with appropriate markers to guide the public. With the concurrence and assistance of the State or local entity having jurisdiction over the roads designated as part of the trail, the Secretary may erect thereon and maintain signs and other informational devices displaying the Masau Trail Marker. The Secretary is authorized to accept the donation of suitable signs and other informational devices for placement at appropriate locations.

TITLE III—EL MALPAIS NATIONAL CONSERVATION AREA

ESTABLISHMENT OF AREA

SEC. 301. (a) In order to protect for the benefit and enjoyment of future generations that area in western New Mexico containing the La Ventana Natural Arch and the other unique and nationally important geological, archeological, ecological, cultural, scenic, scientific, and wilderness resources of the public lands surrounding the Grants Lava Flows, there is hereby established the El Malpais National Conservation Area (hereinafter referred to as the "conservation area"). The conservation area shall consist of approximately 262,690 acres of federally owned land as generally depicted on a map entitled "El Malpais National Monument and National Conservation Area" numbered NM-ELMA 80,001-B and dated May 1987. The map shall be on file and available for inspection in the offices of the Director of the Bureau of Land Management of the Department of the Interior.

(b) As soon as practicable after the date of enactment of this Act, the Secretary shall file a legal description of the conservation area designated under this section with the Committee on Energy and Natural Resources of the United States Senate and the Committee on Interior and Insular Affairs of the United States House of Representatives. Such legal description shall have the same force and effect as if included in this Act, except that the Secretary may correct clerical and typographical errors in such legal description. The legal description shall be on file and available for public inspection in the offices of the Director of the Bureau of Land Management, Department of the Interior.

MANAGEMENT

SEC. 302. (a) The Secretary, acting through the Director of the Bureau of Land Management, shall manage the conservation area to protect the resources specified in section 301 and in accordance with this Act, the Federal Land Management and Policy Act of 1976 and other applicable provisions of law, including those provisions relating to grazing on public lands.

(b) The Secretary shall permit hunting and trapping within the conservation area in accordance with applicable laws and regulations of the United States and the State of New Mexico; except that the Secretary, after consultation with the New Mexico Department of Game and Fish, may issue regulations designating zones where and establishing periods when no hunting or trapping shall be permitted for reasons of public safety, administration, or public use and enjoyment.

(c) Collection of green or dead wood for sale or other commercial purposes shall not be permitted in the conservation area.

(d) Except as otherwise provided in section 402(b), within the conservation area the grazing of livestock shall be permitted to continue, pursuant to applicable Federal law, including this Act, and subject to such reasonable regulations, policies, and practices as the Secretary deems necessary.

TITLE IV—WILDERNESS

DESIGNATION OF WILDERNESS

SEC. 401. (a) In furtherance of the purposes of the Wilderness Act (78 Stat. 890; 16 U.S.C. 131), there are hereby designated as wilderness, and, therefore, as components of the National Wilderness Preservation System, the Cebolla Wilderness of approximately 60,450 acres, and the West Malpais Wilderness of approximately 22,426 acres, as each is generally depicted on the map entitled "El Malpais National Monument and National Conservation Area" numbered NM-ELMA 80,001-B and dated May 1987. The map shall be on file and available for inspection in the offices of the Director of the Bureau of Land Management, Department of the Interior.

(b) As soon as practicable after the date of the enactment of this Act, the Secretary shall file a legal description of each wilderness area designated by this Act with the Committee on Interior and Insular Affairs of the United States House of Representatives and with the Committee on Energy and Natural Resources of the United States Senate. Such legal description shall have the same force and effect as if included in this Act, except that the Secretary may correct clerical and typographical errors in such legal description. The legal description shall be on file and available for public inspection in the offices of the Director of the Bureau of Land Management, Department of the Interior.

MANAGEMENT

SEC. 402. (a) Subject to valid existing rights, each wilderness area designated under this Act shall be administered by the Secretary, through the Director of the Bureau of Land Management, in accordance with the provisions of the Wilderness Act governing areas designated by that Act as wilderness, except that any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the date of enactment of this Act.

(b) Within the wilderness areas designated by this Act, the grazing of livestock, where established prior to the enactment of this Act, shall be permitted to continue subject to such reasonable regulations, policies, and practices as the Secretary deems necessary, as long as such regulations, policies, and practices fully conform with and implement the intent of Congress regarding grazing in such areas as such intent is expressed in the Wilderness Act and section 108 of Public Law 96-560 (16 U.S.C. 1133 note).

TITLE V—GENERAL PROVISIONS

MANAGEMENT PLANS

SEC. 501. (a) Within three full fiscal years following the fiscal year of enactment of this Act, the Secretary shall develop and transmit to the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate, separate general management plans for the monument and the conservation areas which shall describe the appropriate uses and development of the monument and the conservation area consistent with the purposes of this Act. The plans shall include but not be limited to each of the following:

(1) implementation plans for a continuing program of interpretation and public education about the resources and values of the monument and the conservation area;

(2) proposals for public facilities to be developed for the conservation area or the monument, including a visitors center in the vicinity of Bandera Crater and a multiagency orientation center, to be located in or near Grants, New Mexico, and adjacent to Interstate 40, to accommodate visitors to western New Mexico;

(3) natural and cultural resources management plans for the monument and the conservation area, with a particular emphasis on the preservation and long-term scientific use of archeological resources, giving high priority to the enforcement of the provisions of the Archeological Resources Protection Act of 1979 and the National Historic Preservation Act within the monument and the conservation area. The natural and cultural resources management plans shall be prepared in close consultation with the Advisory Council on Historic Preservation, the New Mexico State Historic Preservation Office, and the local Indian people and their traditional cultural and religious authorities; and such plans shall provide for long-term scientific use of archaeological resources in the monument and the conservation area, including the wilderness areas designated by this Act; and

(4) wildlife resources management plans for the monument and the conservation area prepared in close consultation with appropriate departments of the State of New Mexico and using previous studies of the area.

(b)(1) The general management plan for the conservation area shall review and recommend the suitability or non-suitability for preservation as wilderness of those lands comprising approximately 17,468 acres, identified as "Wilderness Study Area" (hereafter in this title referred to as the "WSA") on the map referenced in section 101.

(2) Pending submission of a recommendation and until otherwise directed by an Act of Congress, the Secretary, acting through the Director of the Bureau of Land Management, shall manage the lands within the WSA so as to maintain their potential for inclusion within the National Wilderness Preservation System.

(c)(1) The general management plan for the monument shall review and recommend the suitability or non-suitability for preservation as wilderness of all roadless lands within the boundaries of the monument as established by this Act except those lands within the areas identified as "potential development areas" on the map referenced in section 101.

(2) Pending the submission of a recommendation and until otherwise directed by Act of Congress, the Secretary, through the Director of the National Park Service, shall manage all roadless lands within the boundaries of the monument so as to maintain their potential for inclusion in the National Wilderness Preservation System, except those lands within the areas identified as "potential development areas" on the map referenced in section 101.

ACQUISITIONS

SEC. 502. Within the monument and the conservation area, the Secretary is authorized to acquire lands and interests in lands by donation, purchase with donated or appropriated funds, exchange, or transfer from any other Federal agency, except that such lands or interests therein owned by the State of New Mexico or a political subdivision thereof may be acquired only by exchange. It is the sense of Congress that the Secretary is to complete the acquisition of non-Federal *subsurface interests underlying the monument and the conservation area no later than three full fiscal years after the fiscal year of enactment of this Act.*

STATE EXCHANGES

SEC. 503. (a) Upon the request of the State of New Mexico (hereinafter referred to as the "State") and pursuant to the provisions of this section, the Secretary shall exchange public lands or interests in lands elsewhere in the State of New Mexico, of approximately equal value and selected by the State, acting through its Commissioner of Public Lands, for any lands or interests therein owned by the State (hereinafter referred to as "State lands") located within the boundaries of the monument or the conservation area which the State wishes to exchange with the United States.

(b) Within six months after the date of enactment of this Act, the Secretary shall notify the New Mexico Commissioner of Public Lands what State lands are within the monument or the conservation area. The notice shall contain a listing of all public lands or interest therein within the boundaries of the State of New Mexico which have not been withdrawn from entry and which the Secretary, pursuant to the provisions of sections 202 and 206 of the Federal Land Policy and Management Act of 1976, has identified as appropriate for transfer to the State in exchange for State lands. Such listing shall be updated at least annually. If the New Mexico Commissioner of Public Lands gives notice to the Secretary of the State's desire to obtain public lands so listed, the Secretary shall notify the Commissioner in writing as to whether the Department of the Interior considers the State lands within the monument or conservation area to be of approximately equal value to the listed lands or interests in lands the Commissioner has indicated the State desires to obtain. It is the sense of the Congress that the exchange of lands and interests therein with the State pursuant to this section should be completed within two years after the date of enactment of this Act.

MINERAL EXCHANGES

SEC. 504. (a) The Secretary is authorized and directed to exchange the Federal mineral interests in the lands described in subsection (b) for the private mineral interests in the lands described in subsection (c), if—

(1) the owner of such private mineral interests has made available to the Secretary all information requested by the Secretary as to the respective values of the private and Federal mineral interests to be exchanged; and

(2) on the basis of information obtained pursuant to paragraph (1) and any other information available, the Secretary has determined that the mineral interests to be exchanged are of approximately equal value; and

(3) the Secretary has determined—

(A) that except insofar as otherwise provided in this section, the exchange is not inconsistent with the Federal Land Policy and Management Act of 1976; and

(B) that the exchange is in the public interest.

(b) The Federal mineral interests to be exchanged under this section underlie the lands, comprising approximately 15,008 acres, depicted as "Proposed for transfer to Santa Fe Pacific" on the map referenced in subsection (d).

(c) The private mineral interests to be exchanged pursuant to this section underlie the lands, comprising approximately 15,141 acres, depicted as "Proposed for transfer to U.S." on the map referenced in subsection (d).

(d)(1) The mineral interests identified in this section underlie those lands depicted as "Proposed for transfer to Santa Fe Pacific" and as "Proposed for transfer to U.S." on a map entitled "El Malpais Leg. Boundary, HR3684/S56", revised 5-8-87.

(2) As soon as practicable after the date of enactment of this Act, the Secretary shall file a legal description of the mineral interest areas designated under this section with the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate. Such legal description shall have the same force and effect as if included in this Act, except that the Secretary may correct clerical and typographical errors in such legal description. The legal description shall be on file and available for public inspection in the offices of the Director of the Bureau of Land Management, Department of the Interior.

(e) It is the sense of the Congress that all exchanges pursuant to this section shall be completed no later than three years after the date of enactment of this Act.

ACOMA PUEBLO EXCHANGES

SEC. 505. (a)(1) Upon the request of the Pueblo of Acoma, the Secretary shall acquire by exchange any lands held in trust for the Pueblo of Acoma (hereinafter referred to as "trust lands") located within the boundary of the conservation area which the Pueblo wishes to exchange pursuant to this section. Such trust lands shall be exchanged either for—

(A) lands described in subsection (c) (with respect to trust lands west of New Mexico Highway 117); or

(B) public lands of approximately equal value located outside the monument and outside the conservation area but within the boundaries of the State of New Mexico which are selected by the Pueblo of Acoma, so long as such exchange is consistent with applicable law and Bureau of Land Management resource management plans developed pursuant to the Federal Land Policy and Management Act of 1976.

(2) All lands selected by and transferred to the Pueblo of Acoma at its request pursuant to this section shall thereafter be held in trust by the Secretary for the Pueblo of Acoma in the same manner as the lands for which they were exchanged.

(3) Any lands west of New Mexico Highway 117 which are acquired by the Secretary pursuant to this section shall be incorporated into the monument and managed accordingly, and section 104 and all other provisions of this Act and other law applicable to lands designated by this Act as part of the monument shall apply to such incorporated lands.

(b) For purposes of acquiring lands pursuant to subsection (a) of this section, the Secretary, consistent with applicable law and Bureau of Land Management resource management plans described in subsection (a), shall make public lands within the boundaries of the State of New Mexico available for exchange. Nothing in this Act shall be construed as authorizing or requiring revocation of any existing withdrawal or classification of public land except in a manner consistent with applicable law.

(c)(1) The Secretary shall make the lands within the areas identified as "Acoma Potential Exchange Areas" on the map referenced in section 301 available for transfer to the Pueblo of Acoma pursuant to this subsection.

(2) Upon a request of the Pueblo of Acoma submitted to the Secretary no later than one year after the date of enactment of this Act, lands within the areas described in paragraph (1) shall be transferred to the Pueblo of Acoma in exchange for trust lands of approximately equal value within that portion of the conservation area west of New Mexico Highway 117. The Secretary may require exchanges of land under this subsection to be on the basis of compact and contiguous parcels.

(3) Any lands within the areas described in paragraph (1) not proposed for exchange by a request submitted to the Secretary by the Pueblo of Acoma within the period specified in paragraph (2), and any lands in such areas not ultimately transferred pursuant to this subsection, shall be incorporated within the conservation area and managed accordingly. In addition, any lands in that portion of the areas described in paragraph (1) lying in section 1, township 7N, range 9W, New Mexico Principal Meridian, not transferred to the Pueblo of Acoma pursuant to this subsection shall be added to and incorporated within the Cebolla Wilderness and managed accordingly.

EXCHANGES AND ACQUISITIONS GENERALLY; WITHDRAWAL

SEC. 506. (a) All exchanges pursuant to this Act shall be made in a manner consistent with applicable provisions of law, including this Act, and unless otherwise specified in this Act shall be on the basis of equal value; either party to an exchange may pay or accept cash in order to equalize the value of the property exchange, except that if the parties agree to an exchange and the Secretary determines it is in the public interest, such exchange may be made for other than equal value.

(b) For purposes of this Act, the term "public lands" shall have the same meaning as such term has when used in the Federal Land Policy and Management Act of 1976.

(c) Except as otherwise provided in section 505, any lands or interests therein within the boundaries of the monument or conservation area which after the date of enactment of this Act may be acquired by the United States shall be incorporated into the monument or conservation area, as the case may be, and managed accordingly, and all provisions of this Act and other laws applicable to the monument or the conservation area, as the case may be, shall apply to such incorporated lands.

(d)(1) Except as otherwise provided in this Act, no federally-owned lands located within the boundaries of the monument or the conservation area shall be transferred out of Federal ownership, or be placed in trust for any Indian tribe or group, by exchange or otherwise.

(2) Except as otherwise provided in this Act, and subject to valid existing rights, all Federal lands within the monument and the conservation area and all lands and interests therein which are hereafter acquired by the United States are hereby withdrawn from all forms of entry, appropriation, or disposal under the public land laws and from location, entry and patent under the mining laws, and from operation of the mineral leasing and geothermal leasing laws and all amendments thereto.

(e) The acreages cited in this Act are approximate, and in the event of discrepancies between cited acreages and the lands depicted on referenced maps, the maps shall control.

(f) The Secretary is authorized to accept any lands contiguous to the boundaries of the Pecos National Monument (as such boundaries were established on the date of enactment of this Act) which may be proposed for donation to the United States. If acceptance of such lands proposed for donation would be in furtherance of the purposes for which the Pecos National Monument was established, the Secretary shall accept such lands, and upon such acceptance such lands shall be incorporated into such monument and managed accordingly.

(g)(1) Capulin Mountain National Monument is hereby redesignated as Capulin Volcano National Monument.

(2) Any reference in any record, map, or other document of the United States of America to Capulin Mountain National Monument shall hereafter be deemed to be a reference to Capulin Volcano National Monument.

(3) Section 1 of the Act of September 5, 1962 (76 Stat. 436) is hereby amended by striking the remaining portion of section 1 after "boundaries of the monument" and inserting "shall include the lands and interests in lands as generally depicted on the map entitled 'Capulin Volcano National Monument Boundary Map' which is numbered 125-80,014 and dated January 1987.".

(4) Jurisdiction over federally-owned lands within the revised boundaries of the monument is hereby transferred to the National Park Service, without monetary consideration, for administration as part of the monument.

ACCESS

SEC. 507. In recognition of the past use of the monument and the conservation area by Indian people for traditional cultural and religious purposes, the Secretary shall insure nonexclusive access to the monument and the conservation area by Indian people for such traditional cultural and religious purposes, including the harvest of pine nuts. Such access shall be consistent with the purpose and intent of the American Indian Religious Freedom Act of August 11, 1978 (42 U.S.C. 1996). As a part of the plans prepared pursuant to section 501, the Secretary, in consultation with appropriate Indian tribes and their traditional cultural and religious authorities, shall define the past cultural and religious uses of the monument and the conservation area by Indian people.

COOPERATION

SEC. 508. In order to encourage unified and cost effective interpretation of prehistoric and historic civilizations in western New Mexico, the Secretary is authorized and encouraged to enter into cooperative agreements with other Federal, State and local public departments and agencies, Indian tribes, and nonprofit entities providing for the interpretation of prehistoric and historic civilizations in New Mexico and eastern Arizona. The Secretary may, pursuant to such agreements, cooperate in the development and operation of a multiagency orientation center and programs on lands and interests in lands inside and outside of the boundaries of the monument and the conservation area generally, with the concurrence of the owner or administrator thereof, and specifically in or near Grants, New Mexico, adjacent to Interstate 40 in accordance with the plan required pursuant to section 501.

WATER RIGHTS

SEC. 509. (a) Congress expressly reserves to the United States the minimum amount of water required to carry out the purposes for which the national monument, the conservation area, and the wilderness areas are designated under this Act. The priority date of such reserved rights shall be the date of enactment of this Act.

(b) Nothing in this section shall affect any existing valid or vested water right, or applications for water rights which are pending as of the date of enactment of this Act and which are subsequently granted: Provided, That nothing in this subsection shall be construed to require the National Park Service to allow the drilling of ground water wells within the boundaries of the national monument.

(c) Nothing in this section shall be construed as establishing a precedent with regard to any future designations, nor shall it affect the interpretation of any other Act or any designation made pursuant thereto.

AUTHORIZATION

SEC. 510. There is authorized to be appropriated $16,500,000 for the purposes of this Act, of which $10,000,000 shall be available for land acquisition in the national monument; $1 million shall be available for development within the national monument; $4 million shall be available for land acquisition within the conservation area; $1 million shall be available for development within the conservation area; and $500,000 shall be available for planning and development of the Masau Trail.

Mr. UDALL (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

Mr. RHODES. Reserving the right to object, Mr. Speaker, I yield to the gentleman from Arizona to explain the matter before the House.

Mr. UDALL. Mr. Speaker, on June 1, the House passed H.R. 403, a bill which would designate certain public lands in New Mexico as the El Malpais National Monument and El Malpais National Conservation area and would also provide for designating as the Masau Trail existing roads that provide a link among a number of national monuments and other important Anasazi Pueblo sites in New Mexico and Arizona.

On the same day, the House also passed H.R. 401, a bill to slightly enlarge the existing Capulin Mountain National Monument near Raton, NM, and to change its name to Capulin Volcano National Monument.

Now the Senate has passed H.R. 403 with certain amendments. I believe that the amendments deserve acceptance by the House, which will clear the El Malpais bill for signature by the President.

Let me briefly explain some of the main features of the Senate amendments.

First, the Senate combined the two House bills, by including the text of H.R. 401 in the amended El Malpais bill, H.R. 403. Obviously, this is acceptable.

Second, the Senate revised the boundaries and increased the total acreage specified for the two areas which would be designated as wilderness.

The Senate bill includes a specific authorization of $16.5 million for implementation of the bill, with language specifying how that total is to be used. The House bill included a general authorization of necessary amounts. We can accept this.

Also, while the House bill was silent concerning water rights, the Senate bill includes language expressly reserving to the United States the minimum amount of water required to carry out the purposes for which the national monument, the national conservation area, and the wilderness areas are designated. While not really necessary, but as regards the El Malpais lands this is not objectionable.

The House bill included a sentence stating that exercise of valid existing mineral rights would be governed by applicable State and Federal laws. While this is not in the Senate bill, its omission is acceptable, since of course such laws will continue to apply in full.

Finally, the Senate has revised somewhat the language of the House bill dealing with access by Indian people to the El Malpais lands for religious purposes, consistent with the purposes of the American Indian Religious Freedom Act. I believe that these revisions are helpful and deserve the support of the House.

Mr. Speaker, I am glad that the Senate has joined us in acting on this important legislation, and I urge the House to concur in the Senate amendments.

Mr. RICHARDSON. Mr. Speaker, will the gentleman yield?

Mr. RHODES. I yield to the gentleman from New Mexico.

Mr. RICHARDSON. Mr. Speaker, I want to thank the Speaker for the prompt consideration of H.R. 403. This bill is the product of years of work by New Mexico Senators BINGAMAN, DOMENICI, Congressman LUJAN and myself to develop a comprehensive El Malpais proposal that balances community needs and national interests.

The El Malpais bill is designed to protect and interpret the El Malpais volcanic area near Grants, NM, in my congressional district. The El Malpais bill has the support of a broad coalition of citizens, local and State governments, and local and national environmental organizations. For the past 23 years, study after study has supported protection for the El Malpais area. El Malpais has been described as a geological wonder, complete with volcanic craters, lava flows and tubes, ice caves, sandstone bluffs, and natural arches. The area is also rich in prehistoric resources and is believed to contain more than 3,500 archeological sites.

Mr. Speaker, H.R. 403 will establish the El Malpais National Monument of 114,000 acres and an adjacent El Malpais National Conservation Area of 263,000 acres. The bill designates two wilderness areas, the Cebolla Wilderness and the West Malpais Wilderness, totaling 98,000 acres, within the conservation area. It also establishes the Masau Trail—an auto touring route linking Indian historical and cultural sites in New Mexico and Arizona.

In addition, H.R. 403 is sensitive to the cultural and religious traditions of the local Indian people. Section 507 of the bill specifically protects access to the monument and conservation area by Indian people for traditional cultural and religious purposes. It mandates that the Pueblo of Acoma and other Indian tribes be closely consulted during preparation of management plans for these areas. It permits the Secretary to close portions of the monument and conservation area from public access upon the request of appropriate Indian tribes to protect the privacy of religious activities in such areas. Finally, the bill authorizes establishment of an advisory commission, including representatives of the Pueblos of Acoma and Zuni, to advise the Secretary concerning the implementation of this section.

Mr. Speaker, when most everything else in New Mexico's economy seems to be waning—the decline of our domestic mining and oil and natural gas industries—our tourism industry is on the rise. The El Malpais National Monument bill will give a badly needed economic boost to Grants—once the uranium capital of the world—and all of Cibola County by making it a tourist center. The Masau Trail component will help other New Mexico communities by linking together major tourist attractions throughout the State.

Mr. Speaker, the Senate has made some small changes in the House-passed bill and I join with the distinguished chairmen of the Interior Committee and the Water and Power Resources Subcommittee in consenting to the Senate amendments. I am very happy to see that the Senate has incorporated into H.R. 403 the text of H.R. 401, the Capulin Mountain National Monument bill. The House passed H.R. 401 along with H.R. 403 last June. H.R. 401 transfers 17.5 acres of public land to the Capulin Mountain National Monument and changes the name of the monument to Capulin Volcano National Monument to more accurately describe the true nature of the monument which is an extinct volcanic cinder cone.

Mr. Speaker, I support passage of H.R. 403, a bill that will benefit New Mexico and the whole country by adding a unique area to our National Park system.

Mr. RHODES. Further reserving the right to object, Mr. Speaker, I would like to confirm with the chairman of the full committee, the gentleman from Arizona [Mr. UDALL] that this legislation is substantially different from the House-passed version in that this version contains a new section on federally reserved water rights.

Mr. UDALL. The gentleman is correct.

Mr. RHODES. Further reserving the right to object, Mr. Speaker, I yield to my colleague and member of the Interior and Insular Affairs Committee, the gentleman from Idaho [Mr. CRAIG].

Mr. CRAIG. Mr. Speaker, I thank my colleague, the gentleman from Arizona, for yielding.

I would like to join my colleague in noting that the water section of this bill finally breaks the congressional silence on this issue. I too believe that Congress, and not the courts, should decide whether various land designations create a federally reserved water right. I believe it is important to note that in this specific instance the New Mexico delegation, through a bipartisan agreement, has explicitly claimed a federally reserved water right for the primary purpose of the land withdrawal. This in no way creates any kind of generic BLM wilderness water language for future statewide BLM wilderness legislation. It does, however, show that in each and every instance Congress will decide whether a federally reserved water right is necessary for the particular land withdrawal. But as my colleague has pointed out, S. 1675, the Hagerman Fossil Beds National Monument, and S. 1335, the City of Rocks National Reserve, each explicitly specify that there is no Federal water right for the specific land withdrawal from the public domain. Under these bills, if the United States wishes to acquire a water right, it may do so under the substantive and procedural requirements of the laws of the State of Idaho.

And so we begin down the road of reviewing on a case-by-case basis whether each particular land designation requires a Federal water right. Although review will be tedious, it will be no more tedious than drawing boundary lines, reviewing individual timber sales and making other detailed land use decisions. But this is the body to make such decisions.

I thank the gentleman for yielding.

Mr. RHODES. Further reserving the right to object, Mr. Speaker, I yield to the gentleman from Arizona [Mr. KYL].

Mr. KYL. Mr. Speaker, I would like to address a question to my distinguished colleague, the gentleman from New Mexico, whether it is not correct that it is the intent of the Congress in adopting this language that the Congress expressly reserve the minimum amount of water required to carry out the primary purpose for which this national monument and the two areas are designated under the act.

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Mr. RICHARDSON. The gentleman is entirely correct.

Mr. KYL. Mr. Speaker, with that understanding and in concurrence with the gentleman from Utah that this does not establish a precedent with respect to reserve water rights, I have no objection.

Mr. RHODES. Mr. Speaker, further reserving the right to object, I yield to the gentlewoman from Nevada [Mrs. VUCANOVICH].

Mrs. VUCANOVICH. Mr. Speaker, I'd like to speak for just a moment about an issue we are considering right now. I'm not going to object to it, but I do want to say that I am very concerned as my colleagues from Arizona and Idaho have stated about any measure that creates any type of a reserved water right for the Federal Government under any circumstance.

In the West, water is the lifeblood of communities. Without State regulation and control over water, you lose control of your State. I cannot stress enough that the Federal Government, along with every other individual or entity must apply for water rights and go through the same process as any other individual or entity before receiving rights to water.

I strongly urge this body to keep in mind that this is a specific, unique instance and support of it should not at all be construed as setting a precedent—a precedent I believe would be extremely detrimental to Western water law.

Mr. RHODES. Mr. Speaker, further reserving the right to object, notwithstanding subsection (c), I note that this marks a dramatic departure from previous wilderness legislation in that Congress is for the first time explicitly stating that in this particular case there is a Federal reservation of water, and the amount of the right is the minimum amount necessary for the primary purpose of the act. This is an approach with which I do not necessarily agree. However, the Senate has determined in this one specific instance a need for a Federal water right for a particular reservation or withdrawal, and explicitly authorizes that need through a legislative directive for the reservation of a Federal water right rather than allowing the courts to imply a water right by the mere designation of a wilderness area, conservation area, or national monument.

Further reserving the right to object, I would also note that if Congress believes there is no need for a Federal water right, Congress will so state explicitly. Our colleagues in the other body have recently sent us two other land classification bills, S. 1335 and S. 1675, which explicitly state that no express or implied reservation of water exists for the particular lands designated by the legislation.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. GRAY of Illinois). Is there objection to the request of the gentleman from Arizona?

Mr. MILLER of California. Reserving the right to object, Mr. Speaker, under my reservation I yield to the gentleman from Colorado [Mr. CAMPBELL].

Mr. CAMPBELL. Mr. Speaker, I appreciate the gentleman from California [Mr. MILLER] yielding me this time. I would like to engage in a brief colloquy with the gentleman from California [Mr. MILLER], who is the chairman of the Subcommittee on Water and Power Resources.

Mr. MILLER of California. Mr. Speaker, I would be happy to yield to the gentleman from Colorado [Mr. CAMPBELL] for that purpose.

Mr. CAMPBELL. I have a question concerning section 509 of the Senate-passed version of H.R. 403. My question is the following: Is the water rights language included by the Senate applicable to the State of Colorado or any other State?

The gentleman from Arizona addressed a couple of my problems but I would like to make it a little more Western-State specific and ask this question for clarification.

Mr. MILLER of California. I would say to the gentleman from Colorado [Mr. CAMPBELL] that section 509 does not affect in any way the water laws of the State of Colorado or any other State.

Section 509 only impacts water rights questions in the State of New Mexico. Section 509 simply states that there is reserved to the El Malpais Monument such water as may be needed to carry out the purposes of the monument. The National Park Service will have to work with the State of New Mexico to determine how much water that may require.

Mr. CAMPBELL. I would also like to know if the gentleman believes this language sets a precedent for the solution to Federal reserved water rights problems in other Western States?

Mr. MILLER of California. I would reply to my good friend that this legislation does not set a precedent. As I stated earlier, I don't believe section 509 is needed. It is unnecessary.

I am pleased the New Mexico delegation was able to resolve this issue. I further understand similar negotiations are taking place in Colorado. I would like to urge those involved to reach an equitable agreement. However, I want to make it clear that section 509 should not be interpreted by anyone as setting a precedent for solving the water rights problems of any State, including Colorado.

Mr. CAMPBELL. If my colleague would further yield, as he knows, there is a very controversial water rights case currently pending in the Federal courts of Colorado. I have previously stated my opposition to any wilderness legislation until that case is resolved. We recently had the Montana wilderness bill and I could not support that because in a proposed amendment in the committee that would have deleted Federal reserve water rights, that language was not included. So I could not support that* I think that one of the problems we face is that we have to protect the interests of thousands of water users within boundaries of our Western States. Approving more wilderness areas will only compound the problem. We have to try to protect the position of the people that brought judgment in Judge Kane's court. If we introduce more legislation without addressing that, it only compounds the problem. Recently our two Senators in the State of Colorado joined together in forming a bipartisan group of many water users to try to get to the diverse opinions and find some common bipartisan approach to an answer to this problem. So far they have not gotten a consensus, and I worry that further wilderness designation without dealing with the water rights problem is going to compound it and maybe make their consensus moot.

So I cannot support this legislation, but I would not object.

Mr. MILLER of California. Reclaiming my time, I would say that I appreciate the concern of the gentleman from Colorado [Mr. CAMPBELL] over these matters.

Mr. Speaker, I rise in support of the conference report on H.R. 403.

Mr. Speaker, it is with deep reservation that I support approval of the El Malpais Wilderness bill, H.R. 403. I do support the basic purposes of the legislation which include establishment of the El Malpais National Monument and Conservation Area, authorization of the Masau Trail, and designation of wilderness.

I do not support, however, language added to the bill by the Senate concerning water rights. I would like to take this opportunity to discuss the language added by the Senate and the purpose for including it.

The water rights language included in section 509 of H.R. 403 is superfluous. It only preserves the status quo with regard to the availability of water for the area. Because it is superfluous and has no impact, I can reluctantly support approval of the bill as sent back over by the Senate. I would point out, however, that this language cannot and should not be construed as establishing a precedent on affecting water rights—implied or otherwise—for other reservations of Federal land.

In setting aside these new areas in New Mexico, Congress has agreed to explicitly state that it is reserving the water needed to carry out the purposes for which the areas are designated. It should be made quite clear that it is unusual for Congress to make such an explicit statement. Special importance, therefore, should be given to the language of section 509(c). This section states that this method of recognizing the need for water to fulfill the original reservation purposes is not intended to be a statement by Congress that this is the only method for reserving needed water either for future reservations or in interpreting past designations. This is simply the method Congress chose to use with this particular bill.

Specifically, it is important to note that by enacting this legislation Congress does not intend that this legislation should have any impact or relationship to existing litigation on the issue of Federal reserved rights. In addition, it shouldn't be construed as impacting any other legislation which is currently pending, or may be introduced, that would reserve public lands for special Federal purposes.

Congress does not intend that this bill have any effect on lands previously reserved for special Federal purposes. It has been widely understood that when Congress has acted to protect wild areas from activities that would destroy their natural character, it was also protecting the water for the obvious reason that water is an essential part of the wilderness ecosystem.

A long line of judicial decisions—known as the Winters doctrine after the 1908 Supreme Court decision first announcing it—holds that when the United States set aside parcels of land for Indian reservations, national parks, wildlife refuges and the like, it also set aside enough water to carry out those purposes for which the land was reserved. This well-established judicial concept is fully applicable to congressional decisions designating wilderness areas. It is not an extension of or departure from these judicial decisions. On the contrary, it is simply a straightforward application of the Winters doctrine.

In the past, Congress normally has not explicitly spoken to the water rights issue when reserving lands for special purposes. We have implied, and it is assumed, as common sense would dictate, that when we reserve lands for specific purposes the water necessary to fulfill those purposes is reserved as well. The water rights language in H.R. 403 does not undercut the rights associated with previous reservations nor the long line of judicial decisions protecting these rights.

Existence of Federal reserved water rights does not exclude the rights of the States to manage their waters, as some fear. In fact and in practice, Federal reserved rights are important supplements to State law in that Federal purposes for Federal lands can be and often are recognized and protected under the procedures of State water laws.

By enacting H.R. 403, we intend that the relationship that now exists between Federal and State water law, which incorporates the well-settled reserved water doctrine, be continued. This relationship includes, among other things, the opportunity for State courts to qualify Federal reserved water rights in general stream adjudications. Once adjudicated, the Federal water right is on a par with all other water rights adjudicated in the State system with the same priority date.

There seems to be a growing concern in some quarters in Congress about Federal reserved water rights. I would submit that this is an overstated concern. No existing users of water are threatened by water rights for wilderness because of their relatively late priority date and the fact that by definition they involve no diversion or consumption of water.

I recognize that attempts to add water rights language or to quantify water rights for wilderness and other Federal reservations may well continue. I note, for example, the House Interior Committee recently rejected a water rights amendment, similar to the language in this bill, to the Montana Wilderness legislation.

Because of this concern and because of the need to debunk the fears some seem to have about Federal reserved water rights, my Subcommittee on Water and Power Resources will carefully and thoroughly examine the issue. I intend to hold hearings on this matter. Until we have had the opportunity to deal with this issue in the appropriate forum, it is premature for Congress to apply water rights language to other wilderness bills.

Mr. VENTO. Mr. Speaker, on June 1, the House passed H.R. 403, a bill which would designate certain public lands in New Mexico as the El Malpais National Monument and El Malpais National Conservation Area and would also provide for designating as the Masau Trail existing roads that provide a link among a number of national monuments and other important Anasazi pueblo sites in New Mexico and Arizona.

On the same day, the House also passed H.R. 401, a bill to slightly enlarge the existing Capulin Mountain National Monument near Raton, NM, and to change its name to Capulin Volcano National Monument. These measures were sponsored by Representative BILL RICHARDSON, an able member of our Subcommittee on National Parks and Public Lands. He has continued to work on these measures diligently and now successfully as the Senate has finally acted! My commendation and congratulations to my friend and colleague from New Mexico.

Now the Senate has passed H.R. 403 with certain amendments. I believe that the amendments deserve acceptance by the House which will clear the El Malpais bill for signature by the President.

Let me briefly explain some of the main features of the Senate amendments.

First, the Senate combined the two House bills, by including the text of H.R. 401 in the amended El Malpais bill, H.R. 403. Obviously, this is acceptable.

Second, the Senate revised the boundaries and increased the total acreage specified for the two areas which would be designated as wilderness.

The Senate bill includes a specific authorization of $16.5 million for implementation of the bill, with language specifying how that total is to be used. The House bill included a general authorization of necessary amounts. We can accept this.

Also, while the House bill was silent concerning water rights, the Senate bill includes language expressly reserving to the United States the minimum amount of water required to carry out the purposes for which the national monument, the national conservation area, and the wilderness areas are designated. I believe that this language is not really necessary, but as regards the El Malpais lands it is not objectionable.

The House bill included a sentence stating that exercise of valid existing mineral rights would be governed by applicable State and Federal laws. While this is not in the Senate bill, its omission is acceptable, since of course such laws will continue to apply in full.

Finally, the Senate has revised somewhat the language of the House bill dealing with access by Indian people to the El Malpais lands for religious purposes, consistent with the purposes of the American Indian Religious Freedom Act. I believe that these revisions are helpful and deserve the support of the House.

Mr. Speaker, this is the second consecutive Congress in which the House has passed legislation to provide a new level of recognition and sound management for the El Malpais lands. This area has been long recognized as possessing unique and nationally significant natural and cultural values which deserve legislative action of this sort. I am glad that the Senate has joined us in acting on this important legislation, and I urge the House to concur in the Senate amendments.

Mr. MILLER of California. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Arizona?

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. UDALL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bills just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed with an amendment in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 519. An act to direct the Federal Energy Regulatory Commission to issue an order with respect to Docket No. EL-8 5-38-000.

ADJOURNMENT OF THE HOUSE FROM SATURDAY, DECEMBER 19, 1987, TO SUNDAY, DECEMBER 20, 1987

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that when the House adjourns from any session on Saturday, December 19, 1987, that it adjourn to meet at 1 p.m. on Sunday, December 20, 1987.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

CONFERENCE REPORT ON H.R. 3030, AGRICULTURAL CREDIT ACT OF 1987

Mr. DE LA GARZA submitted the following conference report and statement on the bill (H.R. 3030) to provide credit assistance to farmers to strengthen the farm credit system, to facilitate the establishment of secondary markets for agricultural loans and for other purposes:

CONFERENCE REPORT (H. REPT. 100-490)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3030), to provide credit assistance to farmers, to strengthen the Farm Credit System, to facilitate the establishment of secondary markets for agricultural loans, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Agricultural Credit Act of 1987".

(b) TABLE OF CONTENTS.—The table of contents is as follows:

TABLE OF CONTENTS

Sec. 1. Short title; table of contents.
Sec. 2. References tk the Farm Credit Act of 1971.

TITLE I—ASSISTANCE TK FARM CREDIT SYSTEM BORROWERS

Sec. 101. Protection of borrower stock.
Sec. 102. Restructuring distressed loans.
Sec. 103. Disclosure by banks and associations.
Sec. 104. Access to documents and information.
Sec. 105. Notice of action on application for loans or restructuring.
Sec. 106. Reconsideration of actions.
Sec. 107. Protection of borrowers who meet all loan obligations.
Sec. 108. Right of first refusal.
Sec. 109. Differential interest rates.
Sec. 110. Application of uninsured accounts.

TITLE II—ASSISTANCE TO FARM CREDIT SYSTEM

Sec. 201. Assistance to Farm Credit System.

"TITLE VI—ASSISTANCE TO FARM CREDIT SYSTEM

"Subtitle A—Assistance Board

"Sec. 6.0. Establishment of Board.
"Sec. 6.1. Purposes.
"Sec. 6.2. Board of Directors.
"Sec. 6.3. Corporate powers.
"Sec. 6.4. Certification of eligibility to issue preferred stock.
"Sec. 6.5. Assistance.
"Sec. 6.6. Special powers.
"Sec. 6.7. Administration.
"Sec. 6.8. Limitation of powers.
"Sec. 6.9. Succession.
"Sec. 6.10. Effect of regulations; audits.
"Sec. 6.11. Exemption from taxation.
"Sec. 6.12. Termination.
"Sec. 6.13. Transitional provisions.

"Subtitle B—Financial Assistance Corporation

"Sec. 6.20. Establishment of Corporation.
"Sec. 6.21. Purpose.
"Sec. 6.22. Board of Directors.
"Sec. 6.23. Stock.
"Sec. 6.24. Corporate powers.
"Sec. 6.25. Accounts.
"Sec. 6.26. Debt obligations.
"Sec. 6.27. Preferred stock.
"Sec. 6.28. Payments.
"Sec. 6.29. One-time stock purchase.
"Sec. 6.30. Exemption from taxation.
"Sec. 6.31. Termination.
Sec. 202. Revolving fund.
Sec. 203. Unsafe or unsound practices.
Sec. 204. Federal Farm Credit Banks Funding Corporation.
Sec. 205. Regulatory accounting procedures.
Sec. 206. Financial report.
Sec. 207. Conforming amendments.

TITLE III—CAPITALIZATION OF SYSTEM INSTITUTIONS

Sec. 301. Capitalization of System institutions.
Sec. 302. Insurance of obligations of Farm Credit System.

"PART E—FARM CREDIT SYSTEM INSURANCE CORPORATION

"Sec. 5.51. Definitions.
"Sec. 5.52. Establishment of Farm Credit System Insurance Corporation.
"Sec. 5.53. Board of Directors.
"Sec. 5.54. Commencement of insurance.
"Sec. 5.55. Premiums.
"Sec. 5.56. Certification of premiums.
"Sec. 5.57. Overpayment and underpayment of premiums; remedies.
"Sec. 5.58. General corporate powers.
"Sec. 5.59. Conduct of corporate affairs; examination of insured System banks.
"Sec. 5.60. Insurance fund.
"Sec. 5.61. Powers of Corporation with respect to troubled insured System banks.
"Sec. 5.62. Investment of funds.
"Sec. 5.63. Exemption from taxation.
"Sec. 5.64. Reports.
"Sec. 5.65. Prohibitions.
Sec. 303. Joint and several liability of banks.
Sec. 304. Enhancement of capital adequacy of banks.
Sec. 305. Federal intermediate credit bank assessment power.
Sec. 306. Conservators and receivers.

TITLE IV—RESTRUCTURING THE FARM CREDIT SYSTEM

Subtitle A—Creation of Farm Credit Banks

Sec. 401. Farm Credit Banks and associations charters.

"TITLE I—FARM CREDIT BANKS

"Sec. 1.3 Establishment, charters, titles, branches.
"Sec. 1.4. Board of directors.
"Sec. 1.5. General corporate powers.
"Sec. 1.6. Farm credit bank capitalization.
"Sec. 1.7. Lending authority.
"Sec. 1.8. Interest rates and other charges.
"Sec. 1.9. Eligibility.
"Sec. 1.10. Security; terms.
"Sec. 1.11. Purposes for extensions of credit.
"Sec. 1.12. Related services.
"Sec. 1.13. Loans through associations or agents.
"Sec. 1.14. Liens on stock.
"Sec. 1.15. Taxation.

"TITLE II—FARM CREDIT ASSOCIATIONS

"Subtitle A—Production Credit Associations

"Sec. 2.0. Organization and charters.
"Sec. 2.1. Board of directors.
"Sec. 2.2. General corporate powers.
"Sec. 2.3. Production credit association capitalization.
"Sec. 2.4. Short- and intermediate-term loans; participation; other financial assistance; terms; conditions; interest; security.
"Sec. 2.5. Other services.
"Sec. 2.6. Taxation.

"Subtitle B—Federal Land Bank Associations

"Sec. 2.10. Organizations; articles; charters; powers of the Farm Credit Administration.
"Sec. 2.11. Board of directors.
"Sec. 2.12. General corporate powers.
"Sec. 2.13. Federal land bank association capitalization.
"Sec. 2.14. Liquidation.
"Sec. 2.15. Agreements for sharing gains or losses.
"Sec. 2.16. Liens on stock.
"Sec. 2.17. Taxation.

Subtitle B—Merger of System Institutions

Sec. 410. Mandatory merger.
Sec. 411. Merger of production credit associations and Federal land bank associations.
Sec. 412. Consolidation of farm credit system districts.
Sec. 413. Voluntary merger of the banks for cooperatives.
Sec. 414. Bank for cooperatives board of directors.
Sec. 415. Organization and operation of the merged bank for cooperatives.

"PART B—UNITED AND NATIONAL BANKS FOR COOPERATIVES

"Sec. 3.20. Charter, powers, and operation.
"Sec. 3.21. Board of director provisions.
"Sec. 3.22. Credit delivery office.
"Sec. 3.23. Consolidation of functions.
"Sec. 3.24. Exchange of ownership interests.
"Sec. 3.25. Capitalization.
"Sec. 3.26. Patronage pools.
"Sec. 3.27. Transactions to accomplish the merger.
"Sec. 3.28. Lending limits.
Sec. 416. Merger of System institutions.

"TITLE VII—MERGERS OF SYSTEM INSTITUTIONS

"Subtitle A—Merger of Banks Within a District

"Sec. 7.0. Power to merge.
"Sec. 7.1. Board of directors for the district.
"Sec. 7.2. Powers of merged banks.
"Sec. 7.3. Capital stock.
"Sec. 7.4. Earnings, reserves, and distributions.
"Sec. 7.5. Reports by merged banks for cooperatives.

"Chapter 1—Transfers by Federal Land Banks to Federal Land Bank Associations

"Sec. 7.6. Transfer of lending authority.

"Chapter 2—Merger of Like and Unlike Associations

"Sec. 7.7. Mergers of unlike associations.
"Sec. 7.8. Merger of associations.
"Sec. 7.9. Reconsideration.

"Chapter 3—Termination and Dissolution of Institutions

"Sec. 7.10. Termination of System institution status.
"Sec. 7.11. Approval of disclosure information and issuance of charters.

"Subtitle D—Mergers of Like Entities

"Sec. 7.12. Merger of similar banks.
"Sec. 7.13. Merger of similar associations.
Sec. 414. Nondiscrimination.
Sec. 415. Conforming amendments.

SUBTITLE C—OTHER RESTRUCTURING PROVISIONS

Sec. 420. Communications with stockholders.
Sec. 421. Eligibility to borrower from a Bank for Cooperatives.
Sec. 422. Sales of insurance by System institutions.
Sec. 423. Civil money penalties.
Sec. 424. Limitation on FCA authority to require disclosure of information.
Sec. 425. Removal of certain sunset provisions; prohibition against use of signed ballots.
Sec. 426. Federal land bank loan security.
Sec. 427. Affirmative action.
Sec. 428. Encouragement of conservation practices.
Sec. 429. Uniform financial reporting instructions.
Sec. 430. Compensation for directors.
Sec. 431. Farm Credit Administration board.
Sec. 432. Farm Credit Administration organization.
Sec. 433. Reassignment of associations to adjoining districts.
Sec. 434. Conforming amendment.

TITLE V—STATE MEDIATION PROGRAMS

SUBTITLE A—MATCHING GRANTS FOR STATE MEDIATION PROGRAMS

Sec. 501. Qualifying States.
Sec. 502. Matching grants to States.
Sec. 503. Participation of Federal agencies.
Sec. 504. Regulations.
Sec. 505. Report.
Sec. 506. Authorization of appropriations.

SUBTITLE B—WAIVER OF MEDIATION RIGHTS

Sec. 511. Waiver of mediation rights by Farm Credit System borrowers.
Sec. 512. Waiver of mediation rights by FmHA borrowers.

TITLE VI—FARMERS HOME ADMINISTRATION LOANS

Sec. 601. Amendment of Consolidated Farm and Rural Development Act.
Sec. 602. Definitions.
Sec. 603. Security for FmHA real estate loans.
Sec. 604. Additional collateral.
Sec. 605. Notice of loan service programs.
Sec. 606. Planting and production history guidelines.
Sec. 607. County committees.
Sec. 608. Administrative appeals.
Sec. 609. Borrowers' right to information.
Sec. 610. Disposition and leasing of farmland.
Sec. 611. Income release.
Sec. 612. Conservation easements.

Sec. 613. Interest rate reduction program; demonstration project for purchase of System land.
Sec. 614. Homestead protection.
Sec. 615. Debt restructuring and loan servicing.
Sec. 616. Transfer of inventory lands.
Sec. 617. Target participation rates.
Sec. 618. Expedite clearing of title to inventory property.
Sec. 619. Payment of losses on guaranteed loans.
Sec. 620. Lease of certain acquired property.
Sec. 621. Study and report to Congress before issuance of certain final regulations.
Sec. 622. Continuation of limited resource farmers' initiative.
Sec. 623. Farm ownership outreach program to socially disadvantaged individuals.
Sec. 624. Regulations.
Sec. 625. Sense of Congress regarding guaranteed loan program.
Sec. 626. Sense of Congress regarding National Rural Crisis Response Center.

TITLE VII—AGRICULTURAL MORTGAGE SECONDARY MARKETS

SUBTITLE A—THE FEDERAL AGRICULTURAL MORTGAGE CORPORATION

Sec. 701. Statement of purpose.
Sec. 702. Agricultural mortgage secondary market.

"TITLE VIII—AGRICULTURAL MORTGAGE SECONDARY MARKET

"Sec. 8.0. Definitions.
"Sec. 8.1. Federal Agricultural Mortgage Corporation.
"Sec. 8.2. Board of directors.
"Sec. 8.3. Powers and duties of corporation and board.
"Sec. 8.4. Stock issuance.
"Sec. 8.5. Certification of agricultural mortgage marketing facilities.
"Sec. 8.6. Guarantee of qualified loans.
"Sec. 8.7. Reserves and subordinated participation interests of certified facilities.
"Sec. 8.8. Standards for qualified loans.
"Sec. 8.9. Exemption from restructuring and borrowers rights provisions for pooled loans.
"Sec. 8.10. Funding for guarantee; reserves of corporation.
"Sec. 8.11. Supervision, examination, and report of condition.
"Sec. 8.12. Securities in credit enhanced pools.
"Sec. 8.13. Authority to issue obligations to cover guarantee losses of Corporation.
"Sec. 8.14. Federal jurisdiction.
Sec. 703. GAO audit of Federal Agricultural Mortgage Corporation.
Sec. 704. GAO studies.
Sec. 705. Conforming amendments.

SUBTITLE B—FARMERS HOME ADMINISTRATION LOANS

Sec. 711. Improvement of secondary market operations for loans guaranteed by the Farmers Home Administration.

TITLE VIII—MISCELLANEOUS

Sec. 801. Ownership requirement under the conservation reserve program.
Sec. 802. Repeal of preapproval and related authorities.
Sec. 803. Sale of rural development notes.
Sec. 804. Other conforming amendments.
Sec. 805. Technical amendments.

TITLE IX—REGULATIONS

Sec. 901. Effective dates.

SEC. 2. REFERENCES TO THE FARM CREDIT ACT OF 1971.

Except as otherwise specifically provided, whenever in this Act (other than in title VI) an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Farm Credit Act of 1971 (12 U.S.C. 2001 et seq.).

TITLE I—ASSISTANCE TO FARM CREDIT SYSTEM BORROWERS

SEC. 101. PROTECTION OF BORROWER STOCK.

Part A of title IV (12 U.S.C. 2151 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 4.9A. PROTECTION OF BORROWER STOCK.

"(a) RETIREMENT OF STOCK.—Notwithstanding any other section of this Act, each institution of the Farm Credit System, when retiring eligible borrower stock in accordance with this Act, shall retire such stock at par value. Any such institution whose capital stock is impaired (as determined in accordance with generally accepted accounting principles) shall coordinate such retirement of stock under this section with the activities of the Assistance Board and the Financial Assistance Corporation.

"(b) CERTAIN POWERS NOT AFFECTED.—This section does not affect the authority of any institution of the Farm Credit System—

"(1) to retire or cancel borrower stock at par value for application against a loan in default;

"(2) to cancel borrower stock at par value under section 4.14B; or

"(3) to apply, against any outstanding indebtedness to a System association arising out of or in connection with a liquidation referred to in subsection (d)(2), the par value of borrower stock frozen in such liquidation.

"(c) INABILITY TO RETIRE AT PAR VALUE.—If an institution is unable to retire eligible borrower stock at par value due to the freezing of such stock during a liquidation of the institution, the receiver of the institution shall retire such stock at par value as would have been retired in the ordinary course of business of the institution and the Financial Assistance Corporation, on request of the Assistance Board, shall provide the receiver with sufficient funds to enable the receiver to carry out this subsection.

"(d) DEFINITIONS.—For purposes of this section:

"(1) BORROWER STOCK.—The term 'borrower stock' means voting and nonvoting stock, equivalent contributions to a guaranty fund, participation certificates, allocated equities, and other similar equities that are subject to retirement under a revolving cycle issued by any System institution and held by any person other than any System institution.

"(2) ELIGIBLE BORROWER STOCK.—The term 'eligible borrower stock' means borrower stock that—

"(A) is outstanding on the date of the enactment of this section; against any outstanding indebtedness.

"(B) is required to be purchased, and is purchased, as a condition of obtaining a loan made after the date of the enactment of this section, but prior to the earlier of—

"(i) in the case of each bank and association, the date of approval, by the stockholders of such bank or association, of the capitalization requirements of the institution in accordance with section 4.9B; or

"(ii) the date that is 9 months after the date of the enactment of this section;

"(C) was, after January 1, 1983, but before the date of the enactment of this section, frozen by an institution that was placed in liquidation; or

"(D) was retired at less than par value by an institution that was placed in liquidation after January 1, 1983, but before the date of the enactment of this section.

"(3) INSTITUTION.—The term 'institution' means a bank or association chartered under this Act.

"(4) PAR VALUE.—The term 'par value' means—

"(A) in the case of stock, par value;

"(B) in the case of participation certificates and other equities and interests not described in subparagraph (C), face or equivalent value; or

"(C) in the case of participation certificates and allocated equities subject to retirement under a revolving cycle but that a System institution elects to retire out of order for application against a loan in default or otherwise as provided in this Act, par or face value discounted, at a rate determined by the institution, to reflect the present value of the equity or interest as of the date of such retirement.".

SEC. 102. RESTRUCTURING DISTRESSED LOANS.

(a) IN GENERAL.—Part C of title IV is amended by inserting after section 4.14 (12 U.S.C. 2202) the following new sections:

"SEC. 4.14A. RESTRUCTURING DISTRESSED LOANS.

"(a) DEFINITIONS.—As used in this part (other than in sections 4.17 and 4.18):

"(1) APPLICATION FOR RESTRUCTURING.—The term 'application for restructuring' means a written request—

"(A) from a borrower for the restructuring of a distressed loan in accordance with a preliminary restructuring plan proposed by the borrower as a part of the application;

"(B) submitted on the appropriate forms prescribed by the qualified lender; and

"(C) accompanied by sufficient financial information and repayment projections, where appropriate, as required by the qualified lender to support a sound credit decision.

"(2) COST OF FORECLOSURE.—The term 'cost of foreclosure' includes—

"(A) the difference between the outstanding balance due on a loan made by a qualified lender and the liquidation value of the loan, taking into consideration the borrower's repayment capacity and the liquidation value of the collateral used to secure the loan;

"(B) the estimated cost of maintaining a loan as a nonperforming asset;

"(C) the estimated cost of administrative and legal actions necessary to foreclose a loan and dispose of property acquired as the result of the foreclosure, including attorneys' fees and court costs;

"(D) the estimated cost of changes in the value of collateral used to secure a loan during the period beginning on the date of the initiation of an action to foreclose or liquidate the loan and ending on the date of the disposition of the collateral; and

"(E) all other costs incurred as the result of the foreclosure or liquidation of a loan.

"(3) DISTRESSED LOAN.—The term 'distressed loan' means a loan that the borrower does not have the financial capacity to pay according to its terms and that exhibits one or more of the following characteristics:

"(A) The borrower is demonstrating adverse financial and repayment trends.

"(B) The loan is delinquent or past due under the terms of the loan contract.

"(C) One or both of the factors listed in subparagraphs (A) and (B), together with in-

adequate collateralization, present a high probability of loss to the lender.

"(4) Foreclosure proceeding.—The term 'foreclosure proceeding' means—

"(A) a foreclosure or similar legal proceeding to enforce a lien on property, whether real or personal, that secures a nonaccrual or distressed loan; or

"(B) the seizing of and realizing on nonreal property collateral, other than collateral subject to a statutory lien arising under title I or II, to effect collection of a nonaccrual or distressed loan.

"(5) Loan.—The term 'loan' means a loan made to a farmer, rancher, or producer or harvester of aquatic products, for any agricultural or aquatic purpose and other credit needs of the borrower, including financing for basic processing and marketing directly related to the borrower's operations and those of other eligible farmers, ranchers, and producers or harvesters of aquatic products.

"(6) Qualified lender.—The term 'qualified lender' means—

"(A) a System institution that makes loans (as defined in paragraph (5)) except a bank for cooperatives; and

"(B) each bank, institution, corporation, company, union, and association described in section 2.3(a)(2) but only with respect to loans discounted or pledged under section 2.3(a).

"(7) Restructure and restructuring.—The terms 'restructure' and 'restructuring' include rescheduling, reamortization, renewal, deferral of principal or interest, monetary concessions, and the taking of any other action to modify the terms of, or forbear on, a loan in any way that will make it probable that the operations of the borrower will become financially viable.

"(b) Notice.—

"(1) In general.—On a determination by a qualified lender that a loan made by the lender is or has become a distressed loan, the lender shall provide written notice to the borrower that the loan may be suitable for restructuring, and include with such notice—

"(A) a copy of the policy of the lender established under subsection (g) that governs the treatment of distressed loans; and

"(B) all materials necessary to enable the borrower to submit an application for restructuring on the loan.

"(2) Notice before foreclosure.—Not later than 45 days before any qualified lender begins foreclosure proceedings with respect to a loan outstanding to any borrower, the lender shall notify the borrower that the loan may be suitable for restructuring and that the lender will review any such suitable loan for restructuring, and shall include with such notice a copy of the policy and the materials described in paragraph (1).

"(3) Limitation on foreclosure.—No qualified lender may foreclose or continue any foreclosure proceeding with respect to any distressed loan before the lender has completed any pending consideration of the loan for restructuring under this section.

"(c) Meetings.—On determination by a qualified lender that a loan made by the lender is or has become a distressed loan, the lender shall provide a reasonable opportunity for the borrower thereof to personally meet with a representative of the lender—

"(1) to review the status of the loan, the financial condition of the borrower, and the suitability of the loan for restructuring; and

"(2) with respect to a loan that is in nonaccrual status, to develop a plan for restructuring the loan if the loan is suitable for restructuring.

"(d) Consideration of Applications.—

"(1) In general.—When a qualified lender receives an application for restructuring from a borrower, the qualified lender shall determine whether or not to restructure the loan, taking into consideration—

"(A) whether the cost to the lender of restructuring the loan is equal to or less than the cost of foreclosure;

"(B) whether the borrower is applying all income over and above necessary and reasonable living and operating expenses to the payment of primary obligations;

"(C) whether the borrower has the financial capacity and the management skills to protect the collateral from diversion, dissipation, or deterioration;

"(D) whether the borrower is capable of working out existing financial difficulties, reestablishing a viable operation, and repaying the loan on a rescheduled basis; and

"(E) in the case of a distressed loan that is not delinquent, whether restructuring consistent with sound lending practices may be taken to reasonably ensure that the loan will not become a loan that it is necessary to place in nonaccrual status.

"(2) Applications not required for restructuring plans.—This section shall not prevent a qualified lender from proposing a restructuring plan for an individual borrower in the absence of an application for restructuring from the borrower.

"(e) Restructuring.—

"(1) In general.—If a qualified lender determines that the potential cost to a qualified lender of restructuring the loan in accordance with a proposed restructuring plan is less than or equal to the potential cost of foreclosure, the qualified lender shall restructure the loan in accordance with the plan.

"(2) Computation of cost of restructuring.—In determining whether the potential cost to the qualified lender of restructuring a distressed loan is less than or equal to the potential cost of foreclosure, a qualified lender shall consider all relevant factors, including—

"(A) the present value of interest income and principal forgone by the lender in carrying out the restructuring plan;

"(B) reasonable and necessary administrative expenses involved in working with the borrower to finalize and implement the restructuring plan;

"(C) whether the borrower has presented a preliminary restructuring plan and cash-flow analysis taking into account income from all sources to be applied to the debt and all assets to be pledged, showing a reasonable probability that orderly debt retirement will occur as a result of the proposed restructuring; and

"(D) whether the borrower has furnished or is willing to furnish complete and current financial statements in a form acceptable to the institution.

"(f) Least Cost Alternative.—If two or more restructuring alternatives are available to a qualified lender under this section with respect to a distressed loan, the lender shall restructure the loan in conformity with the alternative that results in the least cost to the lender.

"(g) Restructuring Policy.—

"(1) Establishment.—Each farm credit district board of directors shall develop a policy within 60 days after the date of the enactment of this section, that is consistent with this section, to govern the restructuring of distressed loans. Such policy shall constitute the restructuring policy of each qualified lender within the district.

"(2) Contents of policy.—The policy established under paragraph (1) shall include an explanation of—

"(A) the procedure for submitting an application for restructuring; and

"(B) the right of borrowers with distressed loans to seek review by a credit review committee in accordance with section 4.14 of a denial of an application for restructuring.

"(3) Submission of policy to FCA.—Each district board shall submit the policy of the district governing the treatment of distressed loans under this section to the Farm Credit Administration. Notwithstanding the duty imposed by the preceding sentence, the other duties imposed by this section shall take effect on the date of the enactment of this section.

"(h) Reports.—During the 5-year period beginning on the date of the enactment of this section, each qualified lender shall submit semiannual reports to the Farm Credit Administration containing—

"(1) the results of the review of distressed loans of the lender; and

"(2) the financial effect of loan restructurings and liquidations on the lender.

"(i) Compliance.—The Farm Credit Administration may issue a directive requiring compliance with any provision of this section to any qualified lender that fails to comply with such provision.

"(j) Permitted Foreclosures.—This section shall not be construed to prevent any qualified lender from enforcing any contractual provision that allows the lender to foreclose a loan, or from taking such other lawful action as the lender deems appropriate, if the lender has reasonable grounds to believe that the loan collateral will be destroyed, dissipated, consumed, concealed, or permanently removed from the State in which the collateral is located.

"(k) Application of Section.—The time limitation prescribed in subsection (b)(2), and the requirements of subsection (c), shall not apply to a loan that became a distressed loan before the date of the enactment of this section if the borrower and lender of the loan are in the process of negotiating loan restructuring with respect to the loan.

"(l) Assistance in Restructuring.—Each Federal intermediate credit bank, on request of any production credit association, may assist the association in restructuring loans under this section.

"SEC. 4.14B. EFFECT OF RESTRUCTURING ON BORROWER STOCK.

"(a) Federal Land Bank.—If a Federal land bank forgives and writes off, under section 4.14A, any of the principal outstanding on a loan made to any borrower, the Federal land bank association of which the borrower is a member and stockholder shall cancel the same dollar amount of borrower stock held by the borrower in respect of the loan, up to the total amount of such stock, and the Federal land bank shall retire an equal amount of stock owned by the Federal land bank association.

"(b) Production Credit Association.—If a production credit association forgives and writes off, under section 4.14A, any of the principal outstanding on a loan made to any borrower, the association shall cancel the same dollar amount of borrower stock held by the borrower in respect of the loan, up to the total amount of such stock.

"(c) Retention of Stock.—Notwithstanding subsections (a) and (b), the borrower shall be entitled to retain at least one share of stock to maintain the borrower's membership and voting interest in the association.

"SEC. 4.14C. REVIEW OF RESTRUCTURING DENIALS.

"(a) REQUIREMENTS FOR RESTRUCTURING BY SYSTEM INSTITUTIONS.—

"(1) EXISTING NONACCRUAL LOANS.—Within 9 months after a qualified lender is certified under section 6.4, such lender shall review each loan that has not been previously restructured and that is in nonaccrual status on the date the lender is certified, and determine whether to restructure the loan.

"(2) NEW NONACCRUAL LOANS.—Within 6 months after a loan made by a certified lender is placed in nonaccrual status, the lender shall determine whether to restructure the loan.

"(b) SPECIAL ASSET GROUPS.—

"(1) ESTABLISHMENT.—Within 30 days after a qualified lender in a district is certified to issue preferred stock under section 6.27, the district board of such district shall establish a special asset group that shall review each determination by the lender not to restructure a loan.

"(2) RESTRUCTURING PLAN.—If a special asset group determines under paragraph (1) that a loan under review should be restructured, the group shall prescribe a restructuring plan for the loan that the qualified lender shall implement.

"(c) NATIONAL SPECIAL ASSET COUNCIL.—

"(1) ESTABLISHMENT.—A National Special Asset Council shall be established by the Assistance Board to—

"(A) monitor compliance with the restructuring requirements of this section by qualified lenders certified to issue preferred stock under section 6.27, and by special asset groups established under subsection (b); and

"(B) review a sample of determinations made by each special asset group that a loan will not be restructured.

"(2) REVIEW OF DETERMINATION.—The National Special Asset Council shall review a sufficient number of determinations made by each special asset group to foreclose on any loan to assure the Council that such group is complying with this section. With regard to each determination reviewed, the Council shall make an independent judgment on the merits of the decision to foreclose rather than restructure the loan.

"(3) NONCOMPLIANCE.—If the National Special Asset Council determines that any special asset group is not in substantial compliance with this section, the Council shall notify the group of the determination, and may take such other action as the Council considers necessary to ensure that such group complies with this section.

"(d) REPORT.—With respect to determinations by a special asset group that a loan will not be restructured, the special asset group shall submit to the National Special Asset Council a report evaluating the loan and the basis for the determination that the loan should not be restructured.

"(e) RESTRUCTURING FACTORS.—In determining whether a loan is to be restructured, the National Special Asset Council, each special asset group, and each qualified lender certified under section 6.4 shall take into consideration the factors specified in section 4.14A(d)(1).".

(b) SENSE OF CONGRESS.—It is the sense of Congress that the banks and associations (except banks for cooperatives) operating under the Farm Credit Act of 1971 (12 U.S.C. 2001 et seq.) should administer distressed loans to farmers with the objective of using the loan guarantee programs of the Farmers Home Administration and other loan restructuring measures, including participation in interest rate buy-down programs that are Federally or State funded, and other Federal and State sponsored financial assistance programs that offer relief to financially distressed farmers, as alternatives to foreclosure, considering the availability and appropriateness of such programs on a case-by-case basis.

SEC. 103. DISCLOSURE BY BANKS AND ASSOCIATIONS.

Section 4.13 (12 U.S.C. 2199) is amended to read as follows:

"SEC. 4.13. DISCLOSURE.

"In accordance with regulations of the Farm Credit Administration, qualified lenders shall provide to borrowers, for all loans that are not subject to the Truth in Lending Act (15 U.S.C. 1601 et seq.), meaningful and timely disclosure not later than the time of the loan closing, of—

"(1) the current rate of interest on the loan;

"(2) in the case of an adjustable or variable rate loan, the amount and frequency by which the interest rate can be increased during the term of the loan or, if there are no such limitations, a statement to that effect, and the factors (including the cost of funds, operating expenses, and provision for loan losses) that will be taken into account by the qualified lender in determining adjustments to the interest rate;

"(3) the effect, as shown by a representative example or examples, of any loan origination charges or purchases of stock or participation certificates on the effective rate of interest;

"(4) any change in the interest rate applicable to the borrower's loan;

"(5) except with respect to stock guaranteed under section 4.9A, a statement indicating that stock that is purchased is at risk; and

"(6) a statement indicating the various types of loan options available to borrowers, with an explanation of the terms and borrowers' rights that apply to each type of loan.".

SEC. 104. ACCESS TO DOCUMENTS AND INFORMATION.

Section 4.13A (12 U.S.C. 2200) is amended—

(1) by striking out "System institutions" and inserting in lieu thereof "qualified lenders"; and

(2) by striking out the period at the end thereof and inserting in lieu thereof: "and copies of each appraisal of the borrower's assets made or used by the qualified lender.".

SEC. 105. NOTICE OF ACTION ON APPLICATION FOR LOANS OR RESTRUCTURING.

Section 4.13B (12 U.S.C. 2201) is amended to read as follows:

"SEC. 4.13B. NOTICE OF ACTION ON APPLICATION.

"(a) LOAN APPLICATIONS.—Each qualified lender to which a person has applied for a loan shall provide the person with prompt written notice of—

"(1) the action on the application;

"(2) if the loan applied for is reduced or denied, the reasons for such action; and

"(3) the applicant's right to review under section 4.14.

"(b) DISTRESSED LOANS.—Each qualified lender that has a distressed loan outstanding that is subject to restructuring requirements under this Act shall provide, in accordance with regulations prescribed by the Farm Credit Administration, the borrower with prompt written notice of—

"(1) any action taken with respect to restructuring the loan under section 4.14A;

"(2) if restructuring is denied, the reasons for such action; and

"(3) the borrower's right to review under section 4.14.".

SEC. 106. RECONSIDERATION OF ACTIONS.

Section 4.14 (12 U.S.C. 2202) is amended to read as follows:

"SEC. 4.14. RECONSIDERATION OF ACTIONS.

"(a) CREDIT REVIEW COMMITTEES.—

"(1) IN GENERAL.—The board of directors of each qualified lender shall establish one or more credit review committees, which shall include farmer board representation.

"(2) MEMBERSHIP.—In no case shall a loan officer involved in the initial decision on a loan serve on the credit review committee when the committee reviews such loan.

"(b) REVIEW OF DECISIONS.—

"(1) DENIALS OR REDUCTIONS.—Any applicant for a loan from a qualified lender that has received a written notice issued under section 4.13B of a decision to deny or reduce the loan applied for may submit a written request, not later than 30 days after receiving a notice denying or reducing the amount of the loan application, to obtain a review of the decision by a credit review committee.

"(2) DENIALS OF RESTRUCTURING.—A borrower of a loan from a qualified lender that has received notice, under section 4.13B, of a decision to deny loan restructuring with respect to a loan made to the borrower, if the borrower so requests in writing within 7 days after receiving such notice, may obtain a review of such decision in person before the credit review committee.

"(c) PERSONAL APPEARANCE.—An applicant for a loan or for restructuring, who is entitled to and has requested a review under this section, may appear in person before the credit review committee, and may be accompanied by counsel or by any other representative of such person's choice, to seek a reversal of the decision on the application under review.

"(d) INDEPENDENT APPRAISAL.—

"(1) IN GENERAL.—An appeal filed with a credit review committee under this section may include, as a part of the request for a review of the decision filed under subsection (b)(1), a request for an independent appraisal, by an accredited appraiser, of any interests in property securing the loan (other than the stock or participation certificates of the qualified lender held by the borrower).

"(2) ARRANGEMENT AND COST.—Within 30 days after a request for an appraisal under paragraph (1), the credit review committee shall present the borrower with a list of three appraisers approved by the appropriate qualified lender from which the borrower shall select an appraiser to conduct the appraisal the cost of which shall be borne by the borrower, and shall consider the results of such appraisal in any final determination with respect to the loan.

"(3) COPY TO BORROWER.—A copy of any appraisal made under this subsection shall be provided to the borrower.

"(4) ADDITIONAL COLLATERAL.—An independent appraisal shall be permitted if additional collateral for a loan is demanded by the qualified lender when determining whether to restructure the loan.

"(e) NOTIFICATION OF APPLICANT.—Promptly after a review by the credit review committee, the committee shall notify the applicant or borrower, as the case may be, in writing of the decision of the committee and the reasons for the decision.".

SEC. 107. PROTECTION OF BORROWERS WHO MEET ALL LOAN OBLIGATIONS.

Part C of title IV is amended by inserting after the sections added by section 102(a) of this Act the following new section:

"SEC. 4.14D. PROTECTION OF BORROWERS WHO MEET ALL LOAN OBLIGATIONS.

"(a) Foreclosure Prohibited.—A qualified lender may not foreclose on any loan because of the failure of the borrower thereof to post additional collateral, if the borrower has made all accrued payments of principal, interest, and penalties with respect to the loan.

"(b) Prohibition Against Required Principal Reduction.—A qualified lender may not require any borrower to reduce the outstanding principal balance of any loan made to the borrower by any amount that exceeds the regularly scheduled principal installment payment (when due and payable), unless—

"(1) the borrower sells or otherwise disposes of part or all of the collateral; or

"(2) the parties agree otherwise in a written agreement entered into by the parties.

"(c) Nonenforcement.—After a borrower has made all accrued payments of principal, interest, and penalties with respect to a loan made by a qualified lender, the lender shall not enforce acceleration of the borrower's repayment schedule due to the borrower having not timely made one or more principal or interest payments.

"(d) Placing Loans in Nonaccrual Status.—

"(1) Notification.—If a qualified lender places any loan in nonaccrual status, the lender shall document such change of status and promptly notify the borrower thereof in writing of such action and the reasons therefor.

"(2) Review of denial.—If the borrower was not delinquent in any principal or interest payment under the loan at the time of such action and the borrower's request to have the loan placed back into accrual status is denied, the borrower may obtain a review of such denial before the appropriate credit review committee under section 4.14.

"(3) Application.—This subsection shall only apply if a loan being placed in nonaccrual status results in an adverse action being taken against the borrower.".

SEC. 108. RIGHT OF FIRST REFUSAL.

Section 4.36 (12 U.S.C. 2219a) is amended to read as follows:

"SEC. 4.36. RIGHT OF FIRST REFUSAL.

"(a) General Rule.—Agricultural real estate that is acquired by an institution of the System as a result of a loan foreclosure or a voluntary conveyance by a borrower (hereinafter in this section referred to as the 'previous owner') who, as determined by the institution, does not have the financial resources to avoid foreclosure (hereinafter in this section referred to as 'acquired real estate') shall be subject to the right of first refusal of the previous owner to repurchase or lease the property, as provided in this section.

"(b) Application of Right of First Refusal to Sale of Property.—

"(1) Election to sell and notification.—Within 15 days after an institution of the System first elects to sell acquired real estate, or any portion of such real estate, the institution shall notify the previous owner by certified mail of the owner's right—

"(A) to purchase the property at the appraised fair market value of the property, as established by an accredited appraiser; or

"(B) to offer to purchase the property at a price less than the appraised value.

"(2) Eligibility to purchase.—To be eligible to purchase the property under paragraph (1), the previous owner must, within 15 days after receiving the notice required by such paragraph, submit an offer to purchase the property.

"(3) Mandatory sale.—An institution of the System receiving an offer from the previous owner to purchase the property at the appraised value shall, within 30 days after the receipt of such offer, accept such offer and sell the property to the previous owner.

"(4) Permissive sale.—An institution of the System receiving an offer from the previous owner to purchase the property at a price less than the appraised value may accept such offer and sell the property to the previous owner. Notice shall be provided to the previous owner of the acceptance or rejection of such offer within 15 days after the receipt of such offer.

"(5) Rejection of offer of previous owner.—

"(A) Duties of institution.—An institution of the System that rejects an offer from the previous owner to purchase the property at a price less than the appraised value may not sell the property to any other person—

"(i) at a price equal to, or less than, that offered by the previous owner; or

"(ii) on different terms and conditions than those that were extended to the previous owner,

without first affording the previous owner an opportunity to purchase the property at such price or under such terms and conditions.

"(B) Notice.—Notice of the opportunity in subparagraph (A) shall be provided to the previous owner by certified mail, and the previous owner shall have 15 days in which to submit an offer to purchase the property at such price or under such terms and conditions.

"(c) Application of Right of First Refusal to Leasing of Property.—

"(1) Election to lease and notification.—Within 15 days after an institution of the System first elects to lease acquired real estate, or any portion of such real estate, the institution shall notify the previous owner by certified mail of the owner's right—

"(A) to lease the property at a rate equivalent to the appraised rental value of the property, as established by an accredited appraiser; or

"(B) to offer to lease the property at a rate that is less than the appraised rental value of the property.

"(2) Eligibility to lease.—To be eligible to lease the property under paragraph (1), the previous owner must, within 15 days after receiving the notice required by such paragraph, submit an offer to lease the property.

"(3) Mandatory lease.—An institution of the System receiving an offer from the previous owner to lease the property at a rate equivalent to the appraised rental value of the property shall, within 15 days after the receipt of such offer, accept such offer and lease the property to the previous owner unless the institution determines that the previous owner—

"(A) does not have the resources available to conduct a successful farming or ranching operation; or

"(B) cannot meet all of the payments, terms, and conditions of such lease.

"(4) Permissive lease.—An institution of the System receiving an offer from the previous owner to lease the property at a rate that is less than the appraised rental value of the property may accept such offer and lease the property to the previous owner.

"(5) Notice to previous owner.—An institution of the System receiving an offer from the previous owner to lease the property at a rate less than the appraised rental value of the property shall notify the previous owner of its acceptance or rejection of the offer within 15 days after the receipt of such offer.

"(6) Rejection of offer of previous owner.—

"(A) Duties of institution.—An institution of the System rejecting an offer from the previous owner to lease the property at a rate less than the appraised rental value of the property may not lease the property to any other person—

"(i) at a rate equal to or less than that offered by the previous owner; or

"(ii) on different terms and conditions than those that were extended to the previous owner,

without first affording the previous owner an opportunity to lease the property at such rate or under such terms and conditions.

"(B) Notice.—Notice of the opportunity described in subparagraph (A) shall be given to the previous owner by certified mail, and the pr evious owner shall have 15 days after the receipt of such notice in which to agree to lease the property at such rate or under such terms and conditions.

"(d) Public Offerings.—

"(1) Notification of previous owner.—If an institution of the System elects to sell or lease acquired property or a portion thereof through a public auction, competitive bidding process, or other similar public offering, the institution shall notify the previous owner, by certified mail, of the availability of the property. Such notice shall contain the minimum amount, if any, required to qualify a bid as acceptable to the institution and any terms and conditions to which such sale or lease will be subject.

"(2) Priority.—If two or more qualified bids in the same amount are received by the institution under paragraph (1), such bids are the highest received, and one of the qualified bids is offered by the previous owner, the institution shall accept the offer by the previous owner.

"(3) Nondiscrimination.—No institution of the System may discriminate against a previous owner in any public auction, competitive bidding process, or other similar public offering of property acquired by the institution from such person.

"(e) Term or Condition.—For the purposes of this section, financing by a System institution shall not be considered to be a term or condition of a sale of acquired real estate.

"(f) Financing.—Notwithstanding any other provision of this section, a System institution shall not be required to provide financing to the previous owner in connection with the sale of acquired real estate.

"(g) Mailing of Notice.—Notwithstanding any other provision of this section, each certified mail notice requirement in this section shall be fully satisfied by mailing one certified mail notice to the last known address of the former borrower.

"(h) State Laws.—The rights provided in this section shall not diminish any such right of first refusal under the law of the State in which the property is located.

"(i) Applicability.—This section shall not apply to a bank for cooperatives.".

SEC. 109. DIFFERENTIAL INTEREST RATES.

Section 4.13 (12 U.S.C. 2201) (as amended by section 103(a) of this Act) is further amended—

(1) by striking out "In" and inserting in lieu thereof "(a) In General.—In"; and

(2) by adding at the end thereof the following new subsection:

"(b) Differential Interest Rates.—A qualified lender offering more than one rate of interest to borrowers shall, at the request of a borrower of a loan—

"(1) provide a review of the loan to determine if the proper interest rate has been established;

"(2) explain to the borrower in writing the basis for the interest rate charged; and

"(3) explain to the borrower in writing how the credit status of the borrower may be improved to receive a lower interest rate on the loan.".

SEC. 110. APPLICATION OF UNINSURED ACCOUNTS.

Part F of title IV (12 U.S.C. 2219 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 4.37. APPLICATION OF UNINSURED ACCOUNTS.

"(a) In General.—Money of a borrower held by a Farm Credit System institution in an uninsured voluntary or involuntary account as authorized under regulations issued by the Farm Credit Administration (as in effect immediately before the date of the enactment of this section), including all such other accounts known as 'advanced payment accounts' or 'future prepayment accounts' shall, in the event the institution is placed in liquidation, be immediately applied as payment against the indebtedness of any outstanding loans of such borrower.

"(b) Regulations.—The Farm Credit Administration shall promulgate regulations—

"(1) that define the term 'uninsured voluntary or involuntary account'; and

"(2) to otherwise effectively carry out this section.".

TITLE II—ASSISTANCE TO FARM CREDIT SYSTEM

SEC. 201. ASSISTANCE TO FARM CREDIT SYSTEM.

The Farm Credit Act of 1971 (12 U.S.C. 2001 et seq.) is amended by adding at the end thereof the following new title:

"TITLE VI—ASSISTANCE TO FARM CREDIT SYSTEM

"Subtitle A—Assistance Board

"SEC. 6.0. ESTABLISHMENT OF BOARD.

"(a) Charters.—On the date which is 15 days after the date of the enactment of this title, the Farm Credit Administration shall revoke the charter of the Farm Credit System Capital Corporation (hereinafter referred to in this title as the 'Capital Corporation') and shall charter the Farm Credit System Assistance Board (hereinafter referred to in this Act as the 'Assistance Board') that, subject to this subtitle, shall be a Federally chartered instrumentality of the United States.

"(b) Use of Capital Corporation Staff.—During the 90-day period beginning on the date of the revocation of the charter of the Capital Corporation, the Assistance Board may temporarily employ, by contract or otherwise under reasonable and necessary terms and conditions, such staff of the Capital Corporation as is necessary to facilitate and effectuate an orderly transition to, and commencement of, the Assistance Board, and the termination of the affairs of the Capital Corporation.

"SEC. 6.1. PURPOSES.

"The purposes of the Assistance Board shall be to carry out a program to provide assistance to, and protect the stock of borrowers of, the institutions of the Farm Credit System, and to assist in restoring System institutions to economic viability and permitting such institutions to continue to provide credit to farmers, ranchers, and the cooperatives of such, at reasonable and competitive rates.

"SEC. 6.2. BOARD OF DIRECTORS.

"(a) Membership.—The Board of Directors of the Assistance Board (hereinafter referred to in this subtitle as the 'Board of Directors') shall consist of three members—

"(1) one of which shall be the Secretary of the Treasury;

"(2) one of which shall be the Secretary of Agriculture; and

"(3) one of which shall be an agricultural producer experienced in financial matters, and appointed by the President, by and with the advice and consent of the Senate.

"(b) Chairman.—The Board of Directors shall elect annually a Chairman from among the members of the Board.

"(c) Terms of Office, Succession, and Vacancies.—

"(1) Terms of office and succession.—The term of each member of the Board of Directors shall expire when the Assistance Board is terminated.

"(2) Vacancies.—Vacancies on the Board of Directors shall be filled in the same manner as the vacant position was previously filled.

"(d) Compensation of Board Members.—Members of the Board of Directors—

"(1) appointed under paragraphs (1) and (2) of subsection (a) shall receive reasonable allowances for necessary expenses of travel, lodging, and subsistence incurred in attending meetings and other activities of the Assistance Board, as set forth in the bylaws issued by the Board of Directors, except that such level shall not exceed the maximum fixed by subchapter 1 of chapter 57 of title 5, United States Code, for officers and employees of the United States; and

"(2) appointed under paragraph (3) of subsection (a) shall receive compensation for the time devoted to meetings and other activities at a daily rate not to exceed the daily rate of compensation prescribed for Level III of the Executive Schedule under section 5314 of title 5, United States Code, and reasonable allowances for necessary expenses of travel, lodging, and subsistence incurred in attending meetings and other activities of the Assistance Board, as set forth in the bylaws issued by the Board of Directors, except that such level shall not exceed the maximum fixed by subchapter 1 of chapter 57 of title 5, United States Code, for officers and employees of the United States.

"(e) Rules and Records.—The Board of Directors of the Assistance Board shall adopt such rules as it may deem appropriate for the transaction of the business of the Assistance Board, and shall keep permanent and accurate records and minutes of its acts and proceedings.

"(f) Quorum Required.—A quorum shall consist of two members of the Board of Directors. All decisions of the Board shall require an affirmative vote of at least a majority of the members voting.

"(g) Chief Executive Officer.—A chief executive officer of the Assistance Board shall be selected by the Board of Directors of the Assistance Board and shall serve at the pleasure of the Board.

"SEC. 6.3. CORPORATE POWERS.

"(a) In General.—The Assistance Board shall be a body corporate that shall have the power to—

"(1) operate under the direction of its Board of Directors;

"(2) adopt, alter, and use a corporate seal, which shall be judicially noted;

"(3) provide for one or more vice presidents, a secretary, a treasurer, and such other officers, employees, and agents, as may be necessary, define their duties, and require surety bonds or make other provisions against losses occasioned by acts of such persons;

"(4) hire, promote, compensate, and discharge officers and employees of the Assistance Board, without regard to title 5, United States Code, except that no such officer or employee shall receive an annual rate of basic pay in excess of the rate prescribed for Level III of the Executive Schedule under section 5314 of title 5, United States Code;

"(5) prescribe by its Board of Directors its bylaws, that shall be consistent with law, and that shall provide for the manner in which—

"(A) its officers, employees, and agents are selected;

"(B) its property is acquired, held, and transferred;

"(C) its general operations are to be conducted; and

"(D) the privileges granted by law are exercised and enjoyed;

"(6) with the consent of any executive department or independent agency, use the information, services, staff, and facilities of such in carrying out this title;

"(7) enter into contracts and make advance, progress, or other payments with respect to such contracts;

"(8) sue and be sued in its corporate name, and complain and defend in courts of competent jurisdiction;

"(9) acquire, hold, lease, mortgage, or dispose of, at public or private sale, real and personal property, and otherwise exercise all the usual incidents of ownership of property necessary and convenient to its operations;

"(10) obtain insurance against loss;

"(11) modify or consent to the modification of any contract or agreement to which it is a party or in which it has an interest under this title;

"(12) deposit its securities and its current funds with any member bank of the Federal Reserve System or any insured State nonmember bank (as defined in section 3(b) of the Federal Deposit Insurance Act (12 U.S.C. 1813(b)) and pay fees therefor and receive interest thereon as may be agreed; and

"(13) exercise other powers as set forth in this title, and such other incidental powers as are necessary to carry out its powers, duties, and functions in accordance with this title.

"(b) Power to Remove; Jurisdiction.—Notwithstanding any other provision of law, any civil action, suit, or proceeding to which the Assistance Board is a party shall be deemed to arise under the laws of the United States, and the United States District Court for the District of Columbia shall have original jurisdiction over such. The Assistance Board may, without bond or security, remove any such action, suit, or proceeding from a State court to the United States District Court for the District of Columbia.

"SEC. 6.4. CERTIFICATION OF ELIGIBILITY TO ISSUE PREFERRED STOCK.

"(a) Book Value Less Than Par Value of Stock and Equities.—If the book value of the stock, participation certificates, and other similar equities of a System institution, based on generally accepted accounting principles, is less than the par value of the stock or the face value of the certificates or equities—

"(1) the Farm Credit Administration shall notify the Assistance Board of such impairment;

"(2) the Assistance Board shall monitor the financial condition, business plans, and operations of the institution; and

"(3) the institution may request the Assistance Board to grant certification to issue preferred stock under section 6.27(a).

"(b) Book Value Less Than 75 Percent of Par Value of Stock and Equities.—If the

book value of the stock, participation certificates, and other similar equities of a System institution, based on generally accepted accounting principles, is less than 75 percent of the par value of the stock or the face value of the certificates or equities, the institution shall request the Assistance Board to grant certification to issue preferred stock under section 6.27(a).

"(c) MANDATORY DETERMINATION OF ELIGIBILITY.—

"(1) IN GENERAL.—The Assistance Board shall determine whether to certify a System institution as eligible to issue preferred stock under section 6.27, if—

"(A) the institution requests such certification;

"(B) the book value of the stock, participation certificates, and other similar equities of the institution, based on generally accepted accounting principles, has declined to 75 percent of the par value of the stock or the face value of the certificates or equities; and

"(C) the institution agrees to meet the terms and conditions specified by the Assistance Board pursuant to section 6.6.

"(2) EFFECTIVE DATE OF CERTIFICATION.—If the determination of the Assistance Board is to certify the institution under paragraph (1), such certification shall be effective at the time of such determination.

"(c) IMPLEMENTATION.—As soon as practicable after the date of the enactment of this title, the Assistance Board shall take such actions as are necessary to carry out this section.

"(d) DEFINITION.—Except where otherwise provided in this Act, the term 'other similar equities' includes allocated equities.

"SEC. 6.5. ASSISTANCE.

"(a) IN GENERAL.—The Assistance Board shall assist an institution that has been certified under section 6.4 by—

"(1) authorizing the institution to issue preferred stock under the appropriate provision of section 6.27, in amounts necessary to maintain the book value of stock, participation certificates, and other similar equities of the institution, at the level provided for in subsection (c);

"(2) in the case of high-cost debt for which the institution is primarily liable, authorizing the institution to issue preferred stock under the appropriate provision of section 6.27, in an amount equal to the premium that would be required by the holder of the debt for the institution to retire the debt at the then current market value;

"(3) on a request by the institution, authorizing the issuance of preferred stock under the appropriate provision of section 6.27 to facilitate the merger of the requesting institution with one or more other System institutions; or

"(4) providing assistance by such other methods as the Assistance Board determines appropriate.

"(b) DEFINITION OF HIGH-COST DEBT.—For purposes of subsection (a)(2), the term 'high-cost debt' means securities or similar obligations issued before January 1, 1986, that mature on or after December 31, 1987, and bear a rate of interest in excess of the then current market rate for similar securities or obligations.

"(c) MINIMUM EQUITY VALUE.—The Assistance Board shall authorize a certified institution to issue amounts of preferred stock under the appropriate provision of section 6.27 sufficient to—

"(1) maintain the value of stock, participation certificates and other similar equities at no less than 75 percent of the par value of the stock or the face value of the certificates or equities, as determined under generally accepted accounting principles; and

"(2) strengthen the institution to a point where it is economically viable, and capable of delivering credit at reasonable and competitive rates.

"(d) LIMITATION.—No assistance shall be provided in connection with a merger until the stockholders and the institutions involved have approved the merger and the Farm Credit Administration has given final approval to the merger plan.

"SEC. 6.6. SPECIAL POWERS.

"(a) IN GENERAL.—In the case of a System institution that requests certification under section 6.4, the Assistance Board may—

"(1) require the institution to obtain approval from the Assistance Board before implementing business, operating, and investment plans and policies;

"(2) if one or more of the conditions described in section 4.12(b) are met, as determined by the Farm Credit Administration, direct the Farm Credit Administration Board to appoint a conservator for the institution, in accordance with such section, and to instruct the conservator to evaluate the operations of the institution and report to the Farm Credit Administration Board and the Assistance Board on the possibility of restoring the institution to sound financial condition;

"(3) request that the Farm Credit Administration Board or the Farm Credit Administration, as appropriate—

"(A) approve or require a merger or consolidation of the institution to the extent authorized under this Act;

"(B) initiate action to appoint a receiver under section 4.12(b); or

"(C) exercise any enforcement power authorized under this Act;

"(4) require the institution to obtain approval from the Assistance Board before setting the terms and conditions of any debt issuances of the institution;

"(5) require the institution to obtain approval from the Assistance Board before setting the policy on credit standards to be used, and the policy on rates of interest to be charged on loans, by the institution, including requiring that—

"(A) the institution set interest rates at levels necessary to ensure that the cost of money to the institution reflects the marginal cost to the institution of borrowing an additional amount of money at the time a new loan is made; and

"(B) loans primarily secured by real estate mortgages not exceed 85 percent of the appraised agricultural value of the real estate security, or 75 percent of the then current market value of the real estate security, whichever is greater;

"(6) require the institution to obtain approval from the Assistance Board for the design of management information and accounting systems at the institution, and of the continued use by the institution of regulatory accounting practices in accordance with sections 4.8(b) and 5.19(b);

"(7) require that the plans and policies of the institution resulting from the merger of System banks reduce the overhead costs of such institution, to the maximum extent practicable, with respect to the delivery of services to, and performance of duties for, System associations in the district;

"(8) require the institution to obtain approval from the Assistance Board of—

"(A) the hiring policies of the institution;

"(B) the compensation and retirement benefits of the chief executive officer, other managers, and directors of the institution notwithstanding the authority of the Farm Credit Administration to approve such matters under sections 5.5 and 5.17(a)(15);

"(C) any change in the management of the institution; and

"(D) policy decisions regarding continued employment and promotion of the officials referred to in subparagraph (B);

"(9) may suspend for any period of time, or terminate, any certification granted to an institution under section 6.4 if the Farm Credit Administration notifies the Assistance Board that the institution has substantially deviated from the institution's business plan or has failed to comply with a term or condition governing the use of any financial assistance provided to the institution under this title; and

"(10) take such other action as the Assistance Board determines may be necessary to establish prudent operating practices at the institution and to return the institution to a sound financial condition.

"(b) SUSPENSION OF ASSISTANCE.—

"(1) NOTIFICATION.—The Assistance Board shall promptly notify the Farm Credit Administration of any action taken by the Assistance Board under subsection (a)(8).

"(2) ENFORCEMENT.—The Farm Credit Administration may use any of its enforcement powers, with respect to any institution to which the Assistance Board has provided assistance or has certified the institution to issue preferred stock under the appropriate provision of section 6.27, to obtain the compliance of the institution with the terms or conditions governing the use of financial assistance provided under this title.

"(c) UNDATED LETTERS OF RESIGNATION.—The Assistance Board shall not, for any reason, request or require any member of the board of directors of any System institution to submit to the Assistance Board an undated letter of resignation. Immediately after the date of the enactment of this title, the Assistance Board shall destroy all such letters over which it has control.

"(d) REPORTS.—During the 5-year period beginning on the date of the enactment of this title, the Assistance Board, in coordination with the Financial Assistance Corporation, shall report annually to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate on the extent to which System institutions translate the savings in the cost of the operations of such institutions due to the Federal assistance provided to the System under this title into lower interest rates charged to System borrowers or enhanced financial solvency of such institutions.

"SEC. 6.7. ADMINISTRATION.

"(a) EXPENSES.—The Financial Assistance Corporation shall pay the necessary and reasonable administrative expenses of the Assistance Board from funds in the Assistance Fund established in section 6.25.

"(b) INTERIM FUNDING.—Before the availability of funding from the Assistance Fund, the Assistance Board may use the revolving fund established under section 4.0. Such amounts used shall be repaid to the revolving fund out of the Assistance Fund within the same fiscal year that such funds were received by the Assistance Board.

"(c) ASSISTANCE OPERATIONS.—The Farm Credit Administration shall provide such personnel and facilities to the Assistance Board as the Farm Credit Administration considers are necessary to avoid unnecessary duplication and waste.

"(d) ACCESS TO FCA DOCUMENTS.—The Assistance Board shall have access to all reports of examination and supervisory documents of the Farm Credit Administration, and relevant supporting material for the purpose of carrying out the special powers of the Assistance Board under section 6.6, under terms and conditions that are acceptable to the Farm Credit Administration Board, as are necessary and appropriate to protect the confidentiality of the documents and materials.

"SEC. 6.8. LIMITATION OF POWERS.

"(a) PURPOSES.—The powers of the Assistance Board under this title shall be exercised only for the purposes specified in this title and shall not be exercised in a manner that would result in the Assistance Board supplanting the Farm Credit System lending institutions as the primary providers of credit and other financial services to farmers, ranchers, and the cooperatives of such.

"(b) PROHIBITION.—The powers of the Assistance Board under this title shall not include the management, administration, or disposition of any loans or other assets owned by other System institutions, or the providing of technical assistance or other related services to other System institutions in connection with the administration of loans owned by such other institutions.

"SEC. 6.9. SUCCESSION.

"(a) LIABILITIES.—On the issuance by the Farm Credit Administration of the charter for the Assistance Board under this subtitle, the Assistance Board shall succeed to the assets of and assume all debts, obligations, contracts, and other liabilities of the Capital Corporation, matured or unmatured, accrued, absolute, contingent or otherwise, and whether or not reflected or reserved against on balance sheets, books of account, or records of the Capital Corporation.

"(b) CONTRACTS.—The existing contractual obligations, security instruments, and title instruments of the Capital Corporation shall, by operation of law and without any further action by the Farm Credit Administration, the Capital Corporation, or any court, become and be converted into obligations, entitlements, and instruments of the Assistance Board chartered under this subtitle.

"(c) ADJUSTMENT OF ASSESSMENTS.—Not later than 15 days after the issuance of the charter of the Assistance Board, the Board shall retire all debt and equity obligations issued to any System institution under section 4.28G(a)(14) or 4.28H (as in effect immediately before the date of the enactment of this title) at the book value of such obligations (determined as of such date of enactment) and shall pay such amounts to the holders of such debt and equity obligations.

"(d) SURPLUS FUNDS.—To the extent that, on the extinguishing of liabilities assumed by the Assistance Board under this section, and on full performance or other final disposition of contract obligations of the Assistance Board, there remain surplus funds attributable to such obligations or contracts, the Assistance Board shall distribute such surplus funds among the System institutions that contributed funds to the Capital Corporation on the basis of the relative amount of funds so contributed by each institution.

"(e) PRESERVATION AGREEMENTS.—

"(1) TRANSFER OF OBLIGATIONS.—Notwithstanding any other provision of this Act or the terms and conditions of the Thirty-Seven Banks Capital Preservation Agreement, the Federal Land Banks Capital Preservation Agreement, the Federal Intermediate Credit Banks Capital Preservation Agreement, and the Banks for Cooperatives Loss Sharing Agreement—

"(A) at the time the receiving bank receives funds from the Financial Assistance Corporation in an equal and equivalent amount in accordance with this subsection, any amounts received by, or that remain accrued to, any System bank in accordance with the activation of any such agreement for the calendar quarter ending on September 30, 1986, shall be—

(i) repaid to the contributing bank by the bank that received such payments; or

(ii) cancelled;

"(B) on the date the Financial Assistance Corporation is chartered, the accounts payable of each contributing bank under such agreements for the calendar quarter ending on September 30, 1986, shall, by operation of law and without any further action by such contributing bank, any other bank, or any court, become and be converted into accounts payable of the Financial Assistance Corporation to each receiving bank under such agreement for such calendar quarter in the same amounts as previously carried on the books of each such receiving bank; and

"(C) on the date the Financial Assistance Corporation is chartered, the accounts receivable of each receiving bank under such agreements for the calendar quarter ending September 30, 1986, shall, by operation of law and without any further action by such receiving bank or any other bank, or any court, become and be converted into accounts receivable to such receiving bank from the Financial Assistance Corporation, in the same amount as previously carried on the books of such receiving bank and such receivables shall, for all financial reporting purposes, be accounted for as an asset on the books of such receiving bank in accordance with generally accepted accounting practices.

"(2)(A) Not later than 30 days after the first issuance of obligations by the Financial Assistance Corporation in accordance with section 6.26, the Corporation shall pay to each receiving bank such sums as are necessary to permit each receiving bank to repay, in accordance with paragraph (1), the amounts each such receiving bank received under any such agreement.

"(B) The accruals shall be paid by the Corporation to each receiving bank for the actual net loan charge-offs recorded on the books of each such bank before January 1, 1993, not previously paid by the contributing banks.

"(3) DEBT OBLIGATIONS.—

"(A) ISSUANCE.—For the purpose of obtaining funds to carry out this subsection, the Financial Assistance Corporation shall issue debt obligations under section 6.26. Such obligations shall be subject to the terms and conditions of such section, except as provided for in this paragraph.

"(B) PAYMENT OF INTEREST.—During each year of the 15-year period of such obligation issued pursuant to subparagraph (A), the banks operating under this Act shall pay to the Financial Assistance Corporation, at such times as the Corporation shall determine, an amount equal to the entire amount of interest due on such obligation. Each bank shall pay a proportion of such interest equal to—

"(i) the average accruing loan volume of the bank during the year preceding the year of such payment; divided by

"(ii) the average accruing loan volume of all of the banks of the System for the same period.

"(C) PAYMENT OF PRINCIPAL.—After the end of the 15-year period beginning on the date of the issuance of any obligation issued to carry out this subsection, the banks operating under this Act shall pay to the Financial Assistance Corporation, on demand, an amount equal to the outstanding principal of such obligation. Each bank shall pay a proportion of such principal equal to—

"(i) the average accruing loan volume of the bank for the preceding 15 years; divided by

"(ii) the average accruing loan volume of all banks of the System for the same period.

"(D) Until each obligation issued in accordance with this subsection reaches maturity, for all financial reporting purposes, such obligation shall be considered to be the sole obligation of the Financial Assistance Corporation and shall not be considered a liability of any System bank.

"(4) FUNDS NOT CONSIDERED FINANCIAL ASSISTANCE.—The funds made available to each bank, whether through the issuance of stock or otherwise, by the Financial Assistance Corporation to meet obligations under any agreement referred to in paragraph (1) or to meet any obligations of the contributing banks under any such agreement, as required by this subsection, shall not be considered financial assistance under this Act.

"(5) SUSPENSION OF PRESERVATION AGREEMENTS.—During the 5-year period beginning on the date of enactment of this subsection and thereafter whenever funds from the Farm Credit System Insurance Fund are available for use in assisting System institutions to meet their obligations on their debt instruments, the Thirty-Seven Banks Capital Preservation Agreement, the Federal Land Banks Capital Preservation Agreement, the Federal Intermediate Credit Banks Capital Preservation Agreement, and the Banks for Cooperatives Loss Sharing Agreement shall be suspended, in exchange for the benefits flowing to the signatories to such agreements under the Agricultural Credit Act of 1987.".

"SEC. 6.10. EFFECT OF REGULATIONS; AUDITS.

"(a) ISSUANCE.—The Assistance Board may issue such regulations, policies, procedures, guidelines, or statements as the Board considers necessary or appropriate to carry out this title, all of which shall be promulgated and enforced without regard to subchapter II of chapter 5 of title 5, United States Code.

"(b) REGULATION BY FARM CREDIT ADMINISTRATION.—The Assistance Board shall not be subject to regulation by the Farm Credit Administration.

"(c) AUDITS.—The Assistance Board shall not require an audit or examination of a System institution that would be duplicative of an audit or examination that is conducted under other provisions of law.

"SEC. 6.11. EXEMPTION FROM TAXATION.

"The Assistance Board, the capital, reserves, and surplus thereof, and the income derived therefrom, shall be exempt from Federal, State, municipal, and local taxation, except taxes on real estate held by the Assistance Board to the same extent, according to its value, as other similar property held by other persons is taxed.

"SEC. 6.12. TERMINATION.

"The Assistance Board and the authority provided by this subtitle shall terminate on December 31, 1992.

"SEC. 6.13. TRANSITIONAL PROVISIONS.

"(a) EXERCISE OF POWERS.—The powers of the Assistance Board under this title shall be exercised by the Farm Credit Administration Board until the issuance of the charter

of the Assistance Board, or such later date not to exceed 30 days thereafter, as may be requested by the Assistance Board.

"(b) Limitation on Assistance.—Any assistance provided to System institutions by the Farm Credit Administration in accordance with this section shall be provided from, and shall not exceed, the amounts contained in the revolving fund established under section 4.0.

"(c) Issuance of Stock.—Each institution that receives assistance from the Farm Credit Administration during the interim period specified in subsection (a), in consideration thereof, shall issue preferred stock to the Financial Assistance Corporation in an amount equal to the amount of such assistance. Payments by the Financial Assistance Corporation under subsection (d) shall be considered to be payments to each such institution for such stock.

"(d) Repayment.—The Financial Assistance Corporation shall pay to the Farm Credit Administration the full amount of all financial assistance provided by the Farm Credit Administration in accordance with this section, from the proceeds from the sale of the first issue of obligations by the Financial Assistance Corporation in accordance with section 6.26.

"Subtitle B—Financial Assistance Corporation

"SEC. 6.20. ESTABLISHMENT OF CORPORATION.

"Not later than 5 days after the date of the enactment of this title, the Farm Credit Administration shall charter the Farm Credit System Financial Assistance Corporation (hereinafter referred to in this Act as the 'Financial Assistance Corporation') which shall be—

"(1) an institution of the Farm Credit System; and

"(2) a Federally chartered instrumentality of the United States.

"SEC. 6.21. PURPOSE.

"The purpose of the Financial Assistance Corporation shall be to carry out a program to provide capital to institutions of the Farm Credit System that are experiencing financial difficulty.

"SEC. 6.22. BOARD OF DIRECTORS.

"(a) Board of Directors.—

"(1) Composition.—The Board of Directors of the Financial Assistance Corporation (hereinafter referred to in this Act as the 'Board of Directors') shall consist of the Board of Directors of the Federal Farm Credit Banks Funding Corporation.

"(2) Chairman.—The Board of Directors shall elect annually a Chairman from among the members of the Board.

"(3) Compensation.—The members of the Board of Directors shall receive compensation for the time devoted to meetings and other activities of the Board and reasonable allowances for necessary expenses of travel, lodging, and subsistence incurred in attending meetings and other activities of the Board of Directors in amounts not exceeding levels set by the Farm Credit Administration Board.

"(b) Rules and Records.—The Board of Directors shall adopt such rules as it may deem appropriate for the transaction of its business and shall keep permanent and accurate records and minutes of its acts and proceedings.

"(c) Quorum Required.—No business may be conducted at a meeting of the Board of Directors unless a quorum of the members of the Board is present, and a vote to approve an action requires a majority vote of the members voting.

"(d) Chief Executive Officer.—A chief executive officer of the Financial Assistance Corporation shall be selected by the Board of Directors and shall serve at the pleasure of the Board.

"SEC. 6.23. STOCK.

"The Financial Assistance Corporation shall issue stock with a par value of $5 to System institutions, as provided for in this subtitle, and such stock shall not be transferable.

"SEC. 6.24. CORPORATE POWERS.

"(a) In General.—The Financial Assistance Corporation shall have the power to—

"(1) operate under the direction of its Board of Directors;

"(2) adopt, alter, and use a corporate seal, which shall be judicially noted;

"(3) provide for such officers, employees, and agents, including joint employees with the Funding Corporation, as may be necessary, define their duties, and require surety bonds or make other provisions against losses occasioned by acts of such persons;

"(4) adopt a salary scale for officers and employees of the Financial Assistance Corporation, in accordance with the directives of the Board of Directors;

"(5) prescribe by its Board of Directors bylaws, that are not inconsistent with law, and that shall provide for the manner in which—

"(A) its officers, employees, and agents are selected;

"(B) its property is acquired, held, and transferred;

"(C) its general business is conducted; and

"(D) the privileges granted by law are exercised and enjoyed;

"(6) enter into contracts and make advance, progress, or other payments with respect to such contracts;

"(7) sue and be sued in its corporate name and complain and defend in courts of competent jurisdiction;

"(8) acquire, hold, lease, mortgage, or dispose of, at public or private sale, real and personal property, and otherwise exercise all the usual incidents of ownership of property necessary and convenient to its business;

"(9) obtain insurance against loss;

"(10) modify or consent to the modification of any contract or agreement to which it is a party or in which it has an interest under this subtitle;

"(11) borrow from any commercial bank on its own individual responsibility and on such terms and conditions as it may determine with the approval of the Farm Credit Administration;

"(12) deposit its securities and its current funds with any member bank of the Federal Reserve System or any insured State nonmember bank (as defined in section 3(b) of the Federal Deposit Insurance Act (12 U.S.C. 1813(b))) and pay fees therefor and receive interest thereon as may be agreed; and

"(13) exercise such other incidental powers as are necessary to carry out its powers, duties, and functions in accordance with its charter and this subtitle.

"(b) Power to Remove, and Jurisdiction.—Notwithstanding any other provision of law, any civil action, suit, or proceeding to which the Financial Assistance Corporation is a party shall be deemed to arise under the laws of the United States, and the United States District Court for the District of Columbia shall have original jurisdiction over such. The Financial Assistance Corporation may, without bond or security, remove any such action, suit, or proceeding from a State court to the United States District Court for the District of Columbia.

"SEC. 6.25. ACCOUNTS.

"(a) Farm Credit Assistance Fund.—

"(1) Establishment.—The Financial Assistance Corporation shall establish an account called the Farm Credit Assistance Fund (referred to in this Act as the 'Assistance Fund') which shall be available to the Financial Assistance Corporation as a revolving fund to carry out this subtitle. The monies of such Assistance Fund shall be invested in direct obligations of the United States or obligations guaranteed by the United States or an agency thereof.

"(2) Funding.—The Assistance Fund shall be funded through the issuance of debt obligations and payments, as provided in section 6.26, and payments, as provided in section 6.28.

"(b) Financial Assistance Corporation Trust Fund.—The Financial Assistance Corporation shall establish an account called the Financial Assistance Corporation Trust Fund (hereinafter referred to in this Act as the 'Trust Fund') that shall consist of securities of the United States Treasury purchased by the Financial Assistance Corporation with the funds received from the purchase of stock by System institutions from the Financial Assistance Corporation under section 6.29.

"SEC. 6.26. DEBT OBLIGATIONS.

"(a) Issuance.—During the period beginning 61 days after the date of the enactment of this title and ending September 30, 1992, the Financial Assistance Corporation, subject to the approval of the Assistance Board, may issue uncollateralized bonds, notes, debentures, and similar obligations, guaranteed as to the timely payment of principal and interest by the Secretary of the Treasury as set forth in subsection (d), with semiannual interest coupon payments and a maturity period of 15 years—

"(1) in an aggregate amount not to exceed $2,800,000,000; and

"(2) beginning January 1, 1989, in an additional amount, not to exceed $1,200,000,000, if—

"(A) debt obligations have been issued by the Corporation to the full extent authorized under paragraph (1);

"(B) the Assistance Board determines that such additional funds are needed to carry out this title; and

"(C) at least 90 days before the issuance of any debt obligations under this paragraph, the Assistance Board submits a report to Congress that sets forth the determination of the Assistance Board that such additional debt obligations should be issued, and that contains a detailed evaluation supporting the determination.

"(b) Conditions.—The debt obligations shall be in such forms and denominations, bear such rates of interest, be subject to such conditions, be issued in such manner, and be sold at such prices as may be prescribed by the Financial Assistance Corporation.

"(c) Interest Payments.—

"(1) Payment of interest during first 5-year period.—During each year of the first 5-year period of the 10-year period beginning on the date of issuance of each obligation under subsection (a), the Financial Assistance Corporation shall pay, without recourse to System institutions, other than that described in paragraph (5), all of the interest due on such obligation.

"(2) Payment of interest during second 5-year period.—

"(A) In general.—During each year of the second 5-year period of the 10-year period beginning on the date of issuance of each obligation under subsection (a), the Finan-

cial Assistance Corporation shall pay all of the interest due on such obligation.

"(B) PAYMENT BY SYSTEM INSTITUTIONS TO FINANCIAL ASSISTANCE CORPORATION.—During each year of the second 5-year period, System institutions shall pay to the Financial Assistance Corporation 50 percent of the interest due on the obligations, except that System institutions shall pay an additional 10 percent of the interest expense for each 1 percent that the unallocated retained earnings of the System (as determined under generally accepted accounting principles) exceed 5 percent of net assets (total assets less allowance for loan losses) based on a year-end financial statement for the preceding year.

"(C) ALLOCATION.—During each year of the second 5-year period, each System institution shall pay to the Financial Assistance Corporation a proportion of the interest due from System institutions under this paragraph equal to—

"(i) the amount of the performing loan volume of the institution (based on the average loan volume for the preceding year); divided by

"(ii) the total performing loan volume of the System for the preceding year.

"(D) SPECIAL RULE.—For purposes of determining the average loan volume of Federal intermediate credit banks, loan volume shall consist of loans made by such banks with the exception of loans made to production credit associations.

"(3) PAYMENTS BY TREASURY.—The Secretary of the Treasury, in accordance with section 6.28, shall pay to the Financial Assistance Corporation, in a timely manner, the balance of each interest payment not made by the System institutions.

"(4) PAYMENT OF INTEREST AFTER FIRST 10-YEAR PERIOD.—During each year of the third 5-year period of the 15-year period beginning on the date of the issuance of each obligation under subsection (a), the Financial Assistance Corporation shall pay all of the interest due on such obligation. During each year of such 5-year period, System institutions shall pay the entire amount of interest due on the obligation allocated in the same manner as under paragraph (2)(C). Such payments shall be made to the Financial Assistance Corporation at such times as the Financial Assistance Corporation shall determine.

"(5) REPAYMENT BY SYSTEM INSTITUTIONS.—

"(A) IN GENERAL.—Subject to the other provisions of this paragraph, the institutions of the Farm Credit System shall, on a fair and equitable basis, repay to the Secretary of the Treasury the total amount of any annual interest charges on debt obligations issued under subsection (a) that such institutions have not previously paid, and such institutions shall not be required to pay any additional interest charges on such payments.

"(B) TIME OF PAYMENT.—The institutions of the Farm Credit System shall begin making interest payments when the Farm Credit Administration, in consultation with the Secretary of the Treasury, determines that such institutions possess the financial viability to make such payments, except that such institutions shall not be required to begin making such payments until the obligations issued under subsection (d)(1)(C) have been fully repaid.

"(C) TERMS OF PAYMENTS.—

"(i) IN GENERAL.—The institutions of the Farm Credit System shall make interest payments at such levels, and on such dates, as the Farm Credit Administration determines appropriate, except that the Farm Credit Administration shall not set payment levels or dates that would jeopardize the financial viability of any such institution.

"(ii) LIMITATIONS.—The institutions of the Farm Credit System shall not be required to make such repayments in a manner that—

"(I) impairs the stock of such institution; or

"(II) jeopardizes the minimum capital requirements of the institution.

"(iii) UNCOLLATERALIZED OBLIGATION.—Obligations to make repayments under this paragraph shall not be required to be collateralized.

"(d) REFINANCING AND PAYMENT OF PRINCIPAL.—

"(1) IN GENERAL.—

"(A) TIME OF REPAYMENT.—On maturity of an obligation issued under subsection (a), the obligation shall be repaid by the Financial Assistance Corporation.

"(B) PAYMENTS BY INSTITUTIONS.—Except as provided in subparagraph (C), in order to enable the Financial Assistance Corporation to repay the obligation referred to in subparagraph (A), each institution that issued preferred stock under section 6.27(a) with respect to such obligation (or the successor thereto) shall pay to the Financial Assistance Corporation, before the maturity date of such obligation, an amount equal to the par value of such stock outstanding for such institution.

"(C) SYSTEMWIDE REPAYMENT.—In order to enable the Financial Assistance Corporation to repay the obligations referred to in section 410(c) of the Agricultural Credit Act of 1987, each System institution shall pay to the Financial Assistance Corporation a proportion of such principal equal to—

"(I) the average performing loan volume of the bank for the preceding 15 years; divided by

"(II) the average performing loan volume of all of the System banks for the same period.

"(D) SPECIAL RULE.—For purposes of determining the average loan volume of Federal intermediate credit banks, loan volume shall consist of loans made by such banks with the exception of loans made to production credit associations.

"(E) FUNDS FOR PAYMENTS.—Payments under subparagraph (B) shall be made by each such institution from the funds of the institution or from funds raised by the institution through the issuance of debt obligations, which may be issued without a collateral requirement and without any guarantee by the Secretary of the Treasury.

"(2) REFINANCED OBLIGATIONS.—The refinanced obligations issued under paragraph (1) shall be solely the obligations of the institutions refinancing such, and sections 4.3 and 4.4 shall not apply to such obligations.

"(3) DEFAULTS.—

"(A) INTEREST.—

"(i) PAYMENT BY CORPORATION.—If a System institution defaults on the payment of interest due under this subsection during the first 15 years after an obligation is issued under subsection (a), the Financial Assistance Corporation shall pay the amount of the interest due by the System institution out of the Trust Fund, and shall recover the amount of the interest due from the defaulting System institution, and such amount shall be paid to the Trust Fund.

"(ii) PAYMENT BY INSURANCE FUND.—If the Financial Assistance Corporation has not recovered the full amount of interest due from a defaulting institution by the end of the 12-month period beginning on the date of default, such uncollected interest shall be paid to the Trust Fund from the Insurance Fund established under section 5.60, to the full extent of funds available in the Insurance Fund as of the date the Financial Assistance Corporation notified the Farm Credit System Insurance Corporation of amounts due under this section.

"(iii) PAYMENT BY REMAINING INSTITUTIONS.—To the extent that the payment from the Insurance Fund is insufficient to reimburse the Trust Fund, the remaining balance shall be added to the amount of interest due from remaining System institutions, under this subsection, and each remaining System institution, subject to the special rule provided in subsection (c)(2)(D), shall pay to the Trust Fund a proportion of the uncollected interest equal to—

"(I) the amount of the performing loan volume of the institution (based on the average loan volume for the preceding year); divided by

"(II) the total performing loan volume of the System.

"(B) PRINCIPAL.—

"(i) EVALUATION.—Not later than 90 days before the maturity of any obligation issued under subsection (a), the Farm Credit Administration shall complete an evaluation of the general financial condition of each System institution that issued preferred stock under section 6.27(a) with respect to such obligation to determine whether such System institution will be able to redeem such stock at par value on the maturity of the obligation, and remain a viable institution capable of providing credit to eligible borrowers at equitable and competitive interest rates.

"(ii) AVAILABILITY OF EVALUATION.—A copy of the evaluation required under clause (i) shall be furnished to the Secretary of the Treasury and the appropriate committees of Congress.

"(iii) REDEMPTION BY INSTITUTION; PURCHASE BY SECRETARY OF THE TREASURY.—If the Farm Credit Administration determines, in consultation with the Secretary of the Treasury, on the basis of the evaluation required under clause (i), that the redemption of such stock at par value would impair the other stock or equities of such institution or render such institution incapable of meeting its capital adequacy standards, the institution shall be prohibited from redeeming the preferred stock it issued under section 6.27 with respect to the maturing obligation. If the Farm Credit Administration determines, in consultation with the Secretary of the Treasury, on the basis of the evaluation required under clause (i), that such institution will be able to redeem, in a timely manner and at par value, the preferred stock it issued under section 6.27 with respect to the maturing obligation, and remain a viable and competitive institution, such institution shall have the option of redeeming or not redeeming such stock. If such institution elects not to redeem such stock, the Financial Assistance Corporation shall withdraw funds from the Trust Fund in an amount equal to the par value of the preferred stock issued by such institution under section 6.27 so as to enable the Financial Assistance Corporation to pay the principal of the maturing obligation. Simultaneously with such withdrawal of funds from the Trust Fund, the Financial Assistance Corporation shall transfer to the Insurance Fund an equal amount, at par value, of preferred stock of such institution. To the extent that the Trust Fund is insufficient to enable the Financial Assistance Corporation to pay the full principal of the maturing obligation,

the Insurance Fund shall be used by the Farm Credit System Insurance Corporation to purchase, at par value, the preferred stock issued by such institution under section 6.27(a) to enable the Financial Assistance Corporation to pay the principal of the maturing obligation. To the extent that the Insurance Fund is insufficient to enable the Financial Assistance Corporation to pay the full principal of the maturing obligation, the Secretary of the Treasury shall purchase, at par value, the remaining quantity of the preferred stock issued by such institution to enable the Financial Assistance Corporation to make such full payment. For that purpose, the Secretary of the Treasury may use, as a public debt transaction, the proceeds from the sale of any securities issued under chapter 31 of title 31, United States Code. The purposes for which such securities may be issued under such chapter are extended to include such purchases of stock. Any preferred stock transferred to, or purchased by, the Farm Credit System Insurance Corporation under this clause shall be retired by the issuing institution at such times and under such terms and conditions as are agreed to between the Insurance Corporation and such institution.

"(C) Recourse by other System institutions.—A defaulting institution shall be liable to the remaining System institutions for the amount of any interest paid by the remaining institutions under this paragraph.

"(4) Payment by United States.—

"(A) Inability to pay.—Notwithstanding any other provision of this Act, if the Financial Assistance Corporation is unable to pay the principal or interest of any obligation issued under subsection (a), the Secretary of the Treasury shall pay to the Financial Assistance Corporation the amount due which shall be used by the Financial Assistance Corporation to pay the obligation.

"(B) Recovery.—

"(i) Interest payments.—In each instance in which the Secretary of the Treasury is required to make a payment under subparagraph (A) to the Financial Assistance Corporation as a result of a default made by a System institution on interest due from such System institution under subsection (c), the Secretary of the Treasury shall recover the amount of the payments the Secretary made, with respect to each defaulting institution, from such defaulting institution. If the Secretary has not recovered the full amount due from the defaulting institution by the end of the 12-month period beginning on the date of payment by the Secretary, the uncollected amount shall be paid to the Secretary from the Insurance Fund established under section 5.60.

"(ii) Principal payments.—In each instance in which the Secretary of the Treasury is required under paragraph (3)(B)(iii) to purchase preferred stock issued by a System institution under section 6.27(a), the Farm Credit System Insurance Corporation shall use funds deposited in the Insurance Fund to repurchase, at par value, from the Secretary of the Treasury such stock required to be purchased under paragraph (3)(B)(iii) as funds become available for such repurchase.

"(iii) Priority.—Notwithstanding any other provision of this Act except for section 5.60, during any year in which payments are due to the Secretary of the Treasury from the Insurance Fund under clause (i), or preferred stock held by the Secretary is due to be repurchased by the Insurance Fund under clause (ii), the funds in such Fund, and all funds deposited in such Fund during such year, shall be used first for the purposes specified in clauses (i) and (ii).

"SEC. 6.27. PREFERRED STOCK.

"(a) Issuance.—

"(1) In general.—Each System institution that is certified under section 6.4(a) or (b) may issue a special class of preferred stock only in an amount, and subject to such terms and conditions, as authorized by the Assistance Board.

"(2) Dividends.—

"(A) In general.—Except as provided in subparagraph (B), dividends shall not be payable on stock issued under this section.

"(B) Exception.—Stock issued under this section shall be issued under such terms and conditions as to enable the Secretary of the Treasury, with respect to any of such stock the Secretary purchases under section 6.26(d)(3)(B)(iii), and the Reserve Account Board, with respect to any of such stock that the Board purchases or otherwise acquires under section 6.26(d)(3)(B)(iii) or section 6.26(d)(4)(B)(ii), to establish for such stock a stated dividend rate equal to the current market yield on outstanding, marketable obligations of the United States with maturities of 30 years, plus a premium to reflect the cost of capital for institutions in financial distress.

"(3) Voting rights.—A holder of stock issued under this subsection shall have no voting rights with respect to the stock.

"(b) Purchase.—The Financial Assistance Corporation shall purchase shares of stock issued by certified System institutions under subsections (a) and (b) to the extent that the issuance of such stock is approved by the Assistance Board.

"SEC. 6.28. PAYMENTS.

"(a) In General.—Beginning in fiscal year 1989, the Secretary of the Treasury shall reimburse the Financial Assistance Corporation for any amounts such Corporation pays in interest charges under section 6.26(c) during fiscal year 1988, and thereafter the Secretary shall pay the Financial Assistance Corporation any amounts due from the Secretary to such Corporation under section 6.26(c).

"(b) Repayment of Interest Paid by Secretary of Treasury.—

"(1) In general.—Any amounts paid into the Assistance Fund by the Secretary of the Treasury pursuant to subsection (a) exceeding $2,000,000,000 shall be repaid by System institutions in accordance with a schedule to be established by the Farm Credit Administration Board.

"(2) Allocation.—Until such repayment is completed, each System institution shall pay a proportionate share of the amount due under this paragraph to—

"(A) the amount of the performing loan volume of the institution, determined in accordance with subsection (d)(1)(D) (based on the average loan volume for the preceding year); divided by

"(B) the total performing loan volume of the System for the preceding year.

"(c) Authorization of Appropriations.—There is authorized to be appropriated to the Secretary of the Treasury such sums on an annual basis as may be necessary to carry out this subtitle.

"SEC. 6.29. ONE-TIME STOCK PURCHASE.

"(a) Amount of Stock Purchase.—

"(1) In general.—Except as provided in paragraph (2), for the purpose of obtaining funds for the Trust Fund, each System institution shall purchase from the Financial Assistance Corporation stock issued in accordance with section 6.23 in an amount equal to the amount by which the unallocated retained earnings of the institution (after taking into account any funds received by the institution under section 6.9(c)) exceeds—

"(A) in the case of a System bank, 5 percent of assets; or

"(B) in the case of a production credit a ssociation or a Federal land bank association, 13 percent of assets.

"(2) Reallocation.—The district board of a district, subject to the unanimous consent of the bank and associations in the district that would be affected by the reallocation, may reallocate the amount of stock required to be purchased by banks and associations in the district under paragraph (1) to equitably reflect the ability of the banks and associations to pay, except that—

"(A) the total amount of stock purchased by banks and associations in the district under this paragraph shall equal the total amount of stock required to be purchased by the banks and associations under paragraph (1); and

"(B) the board may not impair the stock of an association in carrying out this paragraph; and

"(C) a district board's authority to reallocate stock purchases under this paragraph shall be limited to reallocation among like associations of the amount of stock required to be purchased by such associations; reallocation of the amount of stock required to be purchased by production credit associations among such associations and the district Federal intermediate credit bank; and reallocation of the amount of stock required to be purchased by Federal land bank associations among such associations and the district Federal land bank. Other reallocations than those enumerated above shall not be permitted.

"(b) Computations.—For purposes of subsection (a), the unallocated retained earnings and assets of a System institution shall be computed in accordance with generally accepted accounting principles on the basis of the financial statement of the institution on December 31, 1986.

"(c) Notice.—Within 15 days after the retirement of the obligations of the Capital Corporation under section 6.9—

"(1) the Financial Assistance Corporation shall notify each System institution of the amount of stock such institution is required to purchase under subsection (a); or

"(2) in the case of a district in which the district board has reallocated the stock purchase requirement in accordance with subsection (a)(2), the district board shall notify each System institution in the district of the amount of stock such institution is required to purchase under subsection (a).

"(d) Institution Requirements After Notice.—Within 15 days after a System institution is notified of the amounts due under subsection (c), the institution shall purchase from the Financial Assistance Corporation the amount of stock required to be purchased by the institution under this section. No further stock purchases, obligations, or assessments shall be required beyond that provided in section 6.26 and this section.

"(e) Jurisdiction Over Actions.—Notwithstanding any other provision of law, the United States district court for the District of Columbia shall have exclusive jurisdiction over any action brought under or arising out of this section. No suit or proceeding shall be maintained for the recovery of any amount of stock alleged to have been erroneously or illegally purchased, and no suit or

proceeding shall be maintained to enjoin or otherwise prevent or impede the giving of notice or the purchase of stock required under this section, unless the amount of stock required to be purchased under this section has been purchased and paid for in full.

"SEC. 6.30. EXEMPTION FROM TAXATION.

"(a) Assets.—The Financial Assistance Corporation, and the capital, reserves, and surplus thereof, and the income derived therefrom, shall be exempt from Federal, State, municipal, and local taxation, except taxes on real estate held by the Financial Assistance Corporation to the same extent, according to its value, as other similar property held by other persons is taxed.

"(b) Obligations.—The notes, bonds, debentures, and other obligations issued by the Financial Assistance Corporation shall be accorded the same tax treatment as System-wide obligations.

"SEC. 6.31. TERMINATION.

"(a) Financial Assistance Corporation.—The Financial Assistance Corporation and the authority provided to such Corporation by this subtitle shall terminate on the maturity and full payment of all debt obligations issued under section 6.26(a).

"(b) Accounts.—Simultaneously with the termination of the Financial Assistance Corporation as provided in subsection (a), any funds in the accounts established under section 6.25 shall be transferred to the Insurance Fund established under section 5.60.".

SEC. 202. REVOLVING FUND.

Section 4.0 (12 U.S.C. 2151) is amended to read as follows:

"SEC. 4.0. REVOLVING FUND.

"(a) Revolving Fund.—The revolving fund established by this section (in effect immediately before the date of the enactment of the Agricultural Credit Act of 1987) shall be available to the Farm Credit Administration during the period, and for the purposes provided for, in sections 6.7(b) and 6.13.

"(b) Farm Credit Insurance Fund.—On the date the first premium is due and payable under section 5.56(c), any funds remaining in the revolving fund shall be transferred to the Farm Credit Insurance Fund in accordance with the terms and conditions established by the Farm Credit Administration.".

SEC. 203. UNSAFE OR UNSOUND PRACTICES.

Paragraph (4) of section 5.35 (12 U.S.C. 2271(4)) is amended to read as follows:

"(4) the term 'unsafe or unsound practice' shall—

"(A) have the meaning given to it by the Farm Credit Administration by regulation, rule, or order; and

"(B) during the period beginning on the date of the enactment of this paragraph and ending December 31, 1992, mean any noncompliance by a System institution, as determined by the Farm Credit Administration in consultation with the Assistance Board, with any term or condition imposed on the institution by the Assistance Board under section 6.6.".

SEC. 204. FEDERAL FARM CREDIT BANKS FUNDING CORPORATION.

(a) In General.—Section 4.9 (12 U.S.C. 2160) is amended to read as follows:

"SEC. 4.9. FEDERAL FARM CREDIT BANKS FUNDING CORPORATION.

"(a) Establishment.—There is hereby established the Federal Farm Credit Banks Funding Corporation (hereinafter in this section referred to as the 'Corporation'), which shall be an institution of the Farm Credit System.

"(b) Duties.—The Corporation—

"(1) shall issue, market, and handle the obligations of the banks of the Farm Credit System, and interbank or intersystem flow of funds as may from time to time be required;

"(2) acting for the banks of the Farm Credit System, subject to approval of the Farm Credit Administration, shall determine the amount, maturities, rates of interest, terms, and conditions of participation by the several banks in each issue of joint, consolidated, or System-wide obligations; and

"(3) shall exercise such other powers as were provided to the Funding Corporation in accordance with its charter issued under section 4.25, in effect immediately before the date of the enactment of the Agricultural Credit Act of 1987.

"(c) Officers and Committees.—

"(1) Designation.—The board of directors may designate such officers and committees for such terms and such purposes as may be agreed on by the board.

"(2) Issuance of obligations.—When appropriate to the board's functions under this section, a committee of the board of directors of the Corporation, or representatives thereof, may act on behalf of the board in connection with the issuance of joint, consolidated, and System-wide obligations.

"(d) Board of Directors.—

"(1) Composition.—The board of directors shall be composed of nine voting members and one nonvoting member, as follows:

"(A) Four voting members shall be current or former directors of the System banks elected by the shareholders of the Corporation.

"(B) Three voting members shall be chief executive officers or presidents of System banks elected by the shareholders of the Corporation.

"(C) Two voting members shall be appointed by the members elected under subparagraphs (A) and (B) after the elected members have received recommendations for such appointments from, and consulted with, the Secretary of the Treasury and the Chairman of the Board of Governors of the Federal Reserve System. The appointed members shall be selected from United States citizens—

"(i) who are not borrowers from, shareholders in, or employees or agents of any System institution, who are not affiliated with the Farm Credit Administration, and who are not actively engaged with a bank or investment organization that is a member of the Corporation's selling group for System-wide securities; and

"(ii) who are experienced or knowledgeable in corporate and public finance, agricultural economics, and financial reporting and disclosure.

"(D) The president of the Corporation shall serve as a nonvoting member of the board.

In selecting candidates under subparagraphs (A) and (B), due consideration shall be given to choosing individuals knowledgeable in agricultural economics, public and corporate finance, and financial reporting and disclosure.

"(2) Nonvoting representatives.—

"(A) Assistance board.—During the period in which the Assistance Board is in existence, the board of directors of the Assistance Board shall designate one of its directors to serve as a nonvoting representative to the board of directors of the Corporation.

"(B) Insurance corporation.—After such period, the board of directors of the Farm Credit System Insurance Corporation may designate one of its directors to serve as a nonvoting representative to the board of directors of the Federal Farm Credit Banks Funding Corporation.

"(C) Meetings.—The persons so designated by the Assistance Board and by the Farm Credit System Insurance Corporation may attend and participate in all deliberations of the board of directors of the Federal Farm Credit Banks Funding Corporation.

"(e) Transitional Authority.—Until a quorum of the board of directors of the Corporation is elected or appointed, the finance committee established under section 4.5 in effect before the date of the enactment of this section, and the fiscal agency established under section 4.9 in effect before such date of enactment, shall continue to operate as if this section had not been enacted.".

(b) Conforming Repealer.—Section 4.5 (12 U.S.C. 2156) is repealed.

SEC. 205. REGULATORY ACCOUNTING PROCEDURES.

(a) Dates for Purchase and Sale of Obligations.—Section 4.8(b) (12 U.S.C. 2159(b)) is amended by striking out "1988" each place it appears and inserting in lieu thereof "1992".

(b) Annual Reports.—Section 5.19(b) (12 U.S.C. 2253(b)) is amended—

(1) by inserting "(1)" after the subsection designation; and

(2) by adding at the end thereof the following new paragraphs:

"(2) In accordance with the regulations of the Farm Credit Administration, for the period ending December 31, 1992, System institutions are authorized to use the authorities contained in this section except as otherwise provided in section 6.6.

"(3) Any preferred stock issued under section 6.27 shall be subordinated to, and impaired before, other stock or equities of the institution.".

SEC. 206. FINANCIAL REPORT.

During the period beginning September 30, 2001, and ending December 31, 2001, the Farm Credit Administration shall review and evaluate the financial condition of the Farm Credit System and report to the Secretary of the Treasury and the appropriate committees of Congress on—

(1) the general financial condition of each System institution;

(2) the total outstanding principal of debt obligations issued under section 6.26 of the Farm Credit Act of 1971 (as added by section 201 of this Act); and

(3) the ability of each System institution to retire, at par value, preferred stock issued by the institution in accordance with section 6.27 of the Farm Credit Act of 1971 (as added by section 201 of this Act).

SEC. 207. CONFORMING AMENDMENTS.

(a) Repeal.—The following provisions are hereby repealed:

(1) Section 4.1 (12 U.S.C. 2152).

(2) Section 5.17(a)(8) (12 U.S.C. 2252(a)(8)).

(3) Part D1 of title IV (12 U.S.C. 2216 et seq.).

(b) Effective Date.—The repeals made by subsection (a) shall take effect 15 days after the date of the enactment of this Act.

(c) Definition of Bank.—Section 4.4 (12 U.S.C. 2155) is amended by striking out subsection (c) and by redesignating subsection (d) as subsection (c).

(d) Redesignation.—Section 5.35(3) (12 U.S.C. 2271(3)) is amended by striking out "Capital Corporation" and inserting in lieu thereof "Financial Assistance Corporation.".

TITLE III—CAPITALIZATION OF SYSTEM INSTITUTIONS

SEC. 301. CAPITALIZATION OF SYSTEM INSTITUTIONS.

(a) Minimum Capital Adequacy Standards.—

(1) In general.—

(A) Establishment.—Within 120 days after the date of the enactment of this Act, the Farm Credit Administration shall issue regulations under section 4.3(a) of the Farm Credit Act of 1971 (12 U.S.C. 2154(c)) that establish minimum permanent capital adequacy standards for Farm Credit System institutions.

(B) Basis for establishment.—The standards established under subparagraph (A) shall be based on the financial statements of the institution prepared in accordance with generally accepted accounting principles.

(C) Ratio of capital to assets.—The standards established under subparagraph (A) shall specify fixed percentages representing the ratio of permanent capital of the institution to the assets of the institution, taking into consideration relative risk factors as determined by the Farm Credit Administration.

(D) Phase-in period.—The standards established under subparagraph (A) shall be phased in during the 5-year period beginning on the date of the enactment of this Act.

(2) Emergency power not available.—The Farm Credit Administration shall not invoke the emergency provisions of section 5.17(b)(2) of the Farm Credit Act of 1971 (12 U.S.C. 2251(b)(2)) with respect to the issuance of the proposed regulations required under paragraph (1)(A).

(3) Prohibitions during transition period.—During the 5-year period specified in paragraph (1)(C), the Farm Credit Administration shall not initiate any receivership, conservatorship, liquidation, or enforcement action against any System institution certified to issue preferred stock under section 6.27 of the Farm Credit Act of 1971 (as added by section 201 of this Act), solely because of the failure of such institution to meet minimum permanent capital adequacy standards unless such action is recommended or concurred in by the Farm Credit System Assistance Board established under section 6.0 of such Act (as added by section 201 of this Act).

(4) Permanent capital.—For purposes of this subsection, the term "permanent capital" has the same meaning given that term in section 4.3A(a)(1) of the Farm Credit Act of 1971.

(b) Capitalization Bylaws.—Title IV (12 U.S.C. 2151 et seq.) is amended by inserting after section 4.3 the following new section:

"SEC. 4.3A. CAPITALIZATION OF SYSTEM INSTITUTIONS.

"(a) Definitions.—As used in this section:

"(1) Permanent capital.—The term 'permanent capital' means current year retained earnings, allocated and unallocated earnings, all surplus (less allowances for losses), and stock issued by a System institution, except stock that—

"(A) may be retired by the holder thereof on repayment of the holder's loan, or otherwise at the option or request of the holder; or

"(B) is protected under section 4.9B or is otherwise not at risk.

"(2) Stock.—The term 'stock' means voting and nonvoting stock (including preferred stock), equivalent contributions to a guaranty fund, participation certificates, allocated equities, and other forms and types of equities.

"(b) Adoption of Bylaws.—Subject to approval by shareholders under subsection (c)(2), each bank and association shall adopt bylaws, developed by its board of directors, that provide for the capitalization of the institution in accordance with subsection (c)(1).

"(c) Requirements of Bylaws.—

"(1) In general.—Notwithstanding any other provision of this Act, the bylaws adopted under subsection (b)—

"(A) shall provide for such classes, par value, and amounts of the stock of the institution, the manner in which such stock shall be issued, transferred, and retired, and the payment of dividends and patronage refunds, as determined appropriate by the Board of Directors, subject to this section;

"(B) may provide for the charging of loan origination fees as determined appropriate by the Board of Directors;

"(C) shall enable the institution to meet the capital adequacy standards established under the regulations issued under section 4.3(a);

"(D) shall provide for the issuance of voting stock, which may only be held by—

"(i) borrowers who are farmers, ranchers, or producers, or harvesters of aquatic products, and cooperative associations eligible to borrow from System institutions under this Act;

"(ii) in the case of a Central Bank for Cooperatives, other banks for cooperatives; and

"(iii) in the case of banks other than banks for cooperatives, System associations;

"(E) shall require that—

"(i) as a condition of borrowing from or through the institution, any borrower who is entitled to hold voting stock or participation certificates shall, at the time a loan is made, acquire voting stock or participation certificates in an amount not less than $1,000 or 2 percent of the amount of the loan, whichever is less; and

"(ii) within 2 years after the loan of a borrower is repaid in full, any voting stock held by the borrower be converted to nonvoting stock;

"(F) may provide that persons who are not borrowers from the institution may hold nonvoting stock of the institution;

"(G) shall require that any holder of stock issued before the adoption of bylaws under this section exchange a portion of such stock for new voting stock;

"(H) do not need to provide for maximum or minimum standards of borrower stock ownership based on a percentage of the loan of the borrower;

"(I) shall permit the retirement of stock at the discretion of the institution if the institution meets the capital adequacy standards established under standards issued under section 4.3(a); and

"(J) shall permit stock to be transferable.

"(2) Effective date.—The bylaws adopted by the board of directors of a System institution under subsection (b) shall take effect only on approval of a majority of the stockholders of such institution present and voting, or voting by written proxy, at a duly authorized stockholders' meeting.

"(d) Reduction of Capital.—

"(1) General rule.—Except as provided in paragraph (2) and in section 4.9A, the board of directors of a System institution may not reduce the permanent capital of the institution through the payment of patronage refunds or dividends, or the retirement of stock or allocated equities if, after or due to such action, the permanent capital of the institution would thereafter fail to meet the minimum capital adequacy standards established under section 4.3(a).

"(2) Exceptions.—Paragraph (1) shall not apply to the payment of noncash patronage refunds by any institution exempt from Federal income tax if the entire refund paid qualifies as permanent capital. Notwithstanding paragraph (1), any System institution subject to Federal income tax may pay patronage refunds partially in cash as long as the cash portion of the refund is the minimum amount required to qualify the refund as a deductible patronage distribution for Federal income tax purposes and the remaining portion of the refund paid qualifies as permanent capital.

"(e) Compliance.—The Farm Credit Administration may issue a directive that requires compliance with subsection (d), to the board of directors of any System institution that fails to comply therewith.

"(f) Construction.—This section shall not be construed to affect the provisions of this Act that confer on System institutions a lien on borrower stock or other equities and the privilege to retire or cancel such stock or other equities for application against the indebtedness on a defaulted or restructured loan.

"(g) Controlling Authority.—To the extent that any provision of this section is inconsistent with any other provision of this Act (other than section 4.9A), the provision of this section shall control.".

SEC. 302. INSURANCE OF OBLIGATIONS OF FARM CREDIT SYSTEM.

Title V (12 U.S.C. 2221 et seq.) is amended by adding at the end thereof the following new part:

"PART E—FARM CREDIT SYSTEM INSURANCE CORPORATION

"SEC. 5.51. DEFINITIONS.

"As used in this part:

"(1) Board of directors.—The term 'Board of Directors' means the Board of Directors of the Corporation.

"(2) Corporation.—The term 'Corporation' means the Farm Credit System Insurance Corporation established in section 5.52.

"(3) Insured obligation.—The term 'insured obligation' means any note, bond, debenture, or other obligation issued under subsection (c) or (d) of section 4.2—

"(A) on or before the date of the enactment of this part, on behalf of any System bank; and

"(B) after such date, on behalf of any insured System bank.

"(4) Insured system bank.—The term 'insured System bank' means any System bank whose participation in notes, bonds, debentures, and other obligations issued under subsection (c) or (d) of section 4.2 is insured under this part.

"(5) Receiver.—The term 'receiver' means a receiver or conservator appointed by the Farm Credit Administration to liquidate a System institution.

"(6) State.—The term 'State' means any of the 50 States, the District of Columbia, any Territory of the United States, Puerto Rico, Guam, American Samoa, the Trust Territory of the Pacific Islands, or the Virgin Islands.

"SEC. 5.52. ESTABLISHMENT OF FARM CREDIT SYSTEM INSURANCE CORPORATION.

There is hereby established the Farm Credit System Insurance Corporation which shall insure, in accordance with this part, the timely payment of principal and interest on notes, bonds, debentures, and other obligations issued under subsection (c) or (d) of section 4.2 on behalf of one or more System banks all of which are entitled to the benefits of insurance under this part.

"SEC. 5.53. BOARD OF DIRECTORS.

"(a) Establishment.—The Corporation shall be managed by a Board of Directors that shall consist of the members of the Farm Credit Administration Board.

"(b) Chairman.—The Board of Directors shall be chaired by any Board member other than the Chairman of the Farm Credit Administration Board.

"SEC. 5.54. COMMENCEMENT OF INSURANCE.

"Effective beginning on January 1, 1989, or 12 months after the date of the enactment of this part, whichever is later, each System bank shall be an insured System bank and shall be subject to this part. Each System bank that is authorized to commence or resume operations under a title of this Act shall be an insured System bank from the time of such authorization. A bank resulting from the merger or consolidation of insured System banks shall be an insured System bank.

"SEC. 5.55. PREMIUMS.

"(a) Amount in Fund Not Exceeding Secure Base Amount.—Until the aggregate of amounts in the Farm Credit Insurance Fund exceeds the secure base amount, the annual premium due from any insured System bank for any calendar year shall be equal to the sum of—

"(1) the annual average principal outstanding for such year on loans made by the bank that are in accrual status, multiplied by 0.0015; and

"(2) the annual average principal outstanding for such year on loans made by the bank that are in nonaccrual status, multiplied by 0.0025.

"(b) Amount in Fund Exceeding Secure Base Amount.—At any time the aggregate of amounts in the Insurance Fund exceeds the secure base amount, the Corporation shall reduce the annual premium due from each insured System bank for the following calendar year by a percentage determined by the Corporation so that the aggregate of the premiums payable by all System banks is sufficient to ensure that the aggregate of amounts in the Insurance Fund after such premiums are paid is not less than the secure base amount at such time.

"(c) Secure Base Amount.—For purposes of this part, the term 'secure base amount' means, with respect to any point in time, 2 percent of the aggregate outstanding insured obligations of all insured System banks at such time, or such other percentage of the aggregate amount as the Corporation in its sole discretion determines is actuarially sound to maintain in the Insurance Fund taking into account the risk of insuring outstanding insured obligations.

"(d) Determination of Principal Outstanding.—For the purpose of subsection (a), the principal outstanding on all loans made by a Federal intermediate credit bank shall be determined based on all loans made—

"(1) by the production credit associations in the district in which such bank is located;

"(2) by any bank, company, institution, corporation, union, or association described in section 2.3(a)(2), that is able to make such loans because such entity is receiving, or has received, funds provided through the Federal intermediate credit bank; and

"(3) by such Federal intermediate credit bank (other than loans made to any party described in paragraph (1) or (2)).

"SEC. 5.56. CERTIFICATION OF PREMIUMS.

"(a) Filing Certified Statement.—Annually, on a date to be determined in the sole discretion of the Board of Directors, each insured System bank that became insured before the beginning of such year shall file with the Corporation a certified statement showing the annual average principal outstanding on loans made by the bank that are in accrual status, the annual average principal outstanding on loans that are in nonaccrual status, and the amount of the premium due the Corporation from the bank for such year.

"(b) Contents and Form of Statement.—The certified statement required to be filed with the Corporation under subsection (a) shall be in such form and set forth such supporting information as the Board of Directors shall prescribe, and shall be certified by the president of the bank or any other officer designated by its board of directors that to the best of the person's knowledge and belief the statement is true, correct, complete, and has been prepared in accordance with this part and all regulations issued thereunder.

"(c) Initial Premium Payment.—Each System bank shall pay to the Corporation the amount of the initial premium it is required to certify under subsection (a) as soon as practicable after January 1, 1990, based on the application of section 5.55 to the accruing loan volume of the bank for calendar year 1989.

"(d) Subsequent Premium Payments.—The premium payments required from insured System banks under subsection (a) shall be made not less frequently than annually in such manner and at such time or times as the Board of Directors shall prescribe, except that the amount of the premium shall be established not later than 60 days after filing the certified statement setting forth the amount of the premium.

"(e) Regulations.—The Board of Directors shall prescribe all rules and regulations necessary for the enforcement of this section. The Board of Directors may limit the retroactive effect, if any, of any of its rules or regulations.

"SEC. 5.57. OVERPAYMENT AND UNDERPAYMENT OF PREMIUMS; REMEDIES.

"(a) Overpayments.—The Corporation may refund to any insured System bank any premium payment made by the bank exceeding the amount due the Corporation.

"(b) Underpayments.—

"(1) Recovery.—The Corporation, in a suit brought at law or in equity in any court of competent jurisdiction, may recover from any insured System bank the amount of any unpaid premium lawfully payable by the bank to the Corporation, whether or not the bank has made any report of condition required under section 5.55 or filed any certified statement under section 5.56, and whether or not suit has been brought to compel the bank to make any such report or file any such statement.

"(2) Limitation.—Any action or proceeding for the recovery of any premium due the Corporation under paragraph (1), or for the recovery of any amount paid to the Corporation exceeding the amount due the Corporation, shall be brought within 5 years after the right accrued for which the claim is made. If an insured System bank has made or filed with the Corporation a false or fraudulent certified statement with the intent to evade, in whole or in part, the payment of a premium, the claim shall not be deemed to have accrued until the Corporation discovers that the certified statement is false or fraudulent.

"(c) Failure to File Statement or Pay Premium.—

"(1) Forfeiture of rights.—If any insured System bank fails to file any certified statement required to be filed by such bank under section 5.56 or fails to pay any premium required to be paid by such bank under any provision of this part, and if the bank does not correct such failure within 30 days after the Corporation gives written notice to an officer of the bank, citing this subsection and stating that the bank has failed to so file or pay as required by law, all the rights, privileges, and franchises of the bank granted to it under this Act shall be thereby forfeited.

"(2) Enforcement.—The Corporation may bring an action to enforce this subsection against any such bank in any court of competent jurisdiction for the judicial district in which the bank is located.

"(3) Liability of directors.—Every director who participated in or assented to a failure (described in paragraph (1)) shall be held personally liable for all consequential damages.

"(d) Effect on Other Remedies.—The remedies provided in subsections (b) and (c) shall not be construed as limiting any other remedies against any insured System bank, but shall be in addition thereto.

"SEC. 5.58. GENERAL CORPORATE POWERS.

"On the date of the enactment of this part, the Corporation shall become a body corporate and as such shall have the following powers:

"(1) Seal.—The Corporation may adopt and use a corporate seal.

"(2) Succession.—The Corporation may have succession until dissolved by an Act of Congress.

"(3) Contracts.—The Corporation may make contracts.

"(4) Legal actions.—

"(A) In general.—The Corporation may sue and be sued, complain and defend, in any court of law or equity, State or Federal.

"(B) Jurisdiction.—All suits of a civil nature at common law or in equity to which the Corporation shall be a party shall be deemed to arise under the laws of the United States, and the United States district courts shall have original jurisdiction thereof, without regard to the amount in controversy, and the Corporation, without bond or security, may remove any such action, suit, or proceeding from a State court to the United States district court for the district or division embracing the place where the same is pending by following any procedure for removal then in effect.

"(C) Attachment and execution.—No attachment or execution may be issued against the Corporation or its property before final judgment in any suit, action, or proceeding in any State, county, municipal, or United States court.

"(D) Agent for service of process.—The Board of Directors shall designate an agent on whom service of process may be made in any State or jurisdiction in which any insured System bank is located.

"(5) Officers and employees.—

"(A) In general.—The Corporation may appoint by its Board of Directors such officers and employees as are not otherwise provided for in this part, to define their duties, fix their compensation, and require bonds of them and fix the penalty thereof, and to dismiss at pleasure such officers or employees.

"(B) Employees of the united states.—Nothing in this or any other Act shall be construed to prevent the appointment and compensation, as an officer or employee of the Corporation, of any officer or employee of the United States in any board, commission, independent establishment, or executive department thereof.

"(6) BYLAWS.—The Corporation may prescribe, by its Board of Directors, bylaws not inconsistent with law, regulating the manner in which its general business may be conducted, and the privileges granted to it by law may be exercised and enjoyed.

"(7) INCIDENTAL POWERS.—The Corporation may exercise by its Board of Directors, or duly authorized officers or agents, all powers specifically granted by the provisions of this part, and such incidental powers as shall be necessary to carry out the powers so granted.

"(8) INFORMATION.—The Corporation may, when necessary, make examinations of, and require information and reports from, System institutions, as provided in this part.

"(9) RECEIVER.—The Corporation may act as receiver.

"(10) RULES AND REGULATIONS.—The Corporation may prescribe by its Board of Directors such rules and regulations as it considers necessary to carry out this part (except to the extent that authority to issue such rules and regulations has been expressly and exclusively granted to any other regulatory agency).

"SEC. 5.59. CONDUCT OF CORPORATE AFFAIRS; EXAMINATION OF INSURED SYSTEM BANKS.

"(a) CONDUCT OF CORPORATE AFFAIRS.—

"(1) FAIR ADMINISTRATION.—The Board of Directors shall administer the affairs of the Corporation fairly and impartially and without discrimination.

"(2) OBLIGATIONS AND EXPENSES.—The Board of Directors shall determine and prescribe the manner in which the obligations of the Corporation may be incurred and the expenses of the Corporation may be allowed and paid.

"(3) USE OF MAILS.—The Corporation may use the United States mails in the same manner and under the same conditions as the executive departments of the Federal Government.

"(4) USE OF INFORMATION.—The Corporation, with the consent of any board, commission, independent establishment, or executive department of the Federal Government, including any field service thereof, may avail itself of the use of information, services, and facilities thereof in carrying out this part.

"(b) EXAMINATION OF INSURED SYSTEM BANKS.—

"(1) APPOINTMENT OF EXAMINERS.—The Board of Directors may appoint examiners who may, on behalf of the Corporation, examine any insured System bank, any production credit association, and any System institution in receivership, if in the judgment of the Board of Directors an examination of the institution is necessary.

"(2) POWERS AND REPORT.—Each examiner may make a thorough examination of all affairs of the institution, and shall make a full and detailed report of the condition of the institution to the Corporation.

"(3) APPOINTMENT OF CLAIM AGENTS.—The Board of Directors, in like manner, shall appoint claim agents who may investigate and examine all claims for insured obligations.

"(c) OATH, AFFIRMATIONS, AND TESTIMONY.—In connection with examinations under this section, the Corporation or its designated representatives may administer oaths and affirmations, and may examine, take, and preserve testimony under oath, as to any matter with respect to the affairs of any such institution.

"(d) COOPERATION WITH FCA EXAMINERS.—The examiners appointed by the Board of Directors shall cooperate to the maximum extent possible with examiners of the Farm Credit Administration to minimize duplication of effort and minimize costs.

"SEC. 5.60. INSURANCE FUND.

"(a) ESTABLISHMENT.—There is hereby established a Farm Credit Insurance Fund (hereinafter referred to in this section as the 'Insurance Fund') for insuring the timely payment of principal and interest on insured obligations. The assets in the Fund shall be held by the Corporation for the uses and purposes of the Corporation.

"(b) AMOUNTS IN FUND.—

"(1) REVOLVING FUND.—All amounts in the revolving fund established by section 4.0 (in effect immediately before the date of the enactment of this part) shall be transferred into the Farm Credit Insurance Fund on January 1, 1989, or 12 months after the date of the enactment of this part, whichever is later, except that the obligations to, and rights of, any person in such revolving fund arising out of any event or transaction before the date of the enactment of this part shall remain unimpaired.

"(2) DEPOSIT OF PREMIUMS.—Beginning 5 years after the date of the enactment of this part, the Corporation shall deposit in the Insurance Fund all premium payments received by the Corporation under this part.

"(c) USES OF FUND.—

"(1) MANDATORY USE.—Beginning 5 years after the date of the enactment of this part, the Corporation shall expend amounts in the Insurance Fund to the extent necessary to insure the timely payment of interest and principal on insured obligations.

"(2) OTHER MANDATORY USES.—Beginning 5 years after the date of enactment of this part, the Corporation shall use amounts in the Insurance Fund to—

"(A) satisfy System institution defaults through the purchase of preferred stock or other payments as provided for in section 6.26(d)(3); and

"(B) ensure the retirement of borrower stock at par value and participation certificates or other similar equities at face value as provided for under section 4.9A(c)(2).

"(3) PERMISSIVE USES.—The Corporation may expend amounts in the Insurance Fund to carry out section 5.61 and to cover the operating costs of the Corporation.

"(4) CORPORATE PAYMENT OR REFUNDS.—The Corporation shall make all payments and refunds required to be made by the Corporation under this part from amounts in the Insurance Fund.

"SEC. 5.61. POWERS OF CORPORATION WITH RESPECT TO TROUBLED INSURED SYSTEM BANKS.

"(a) AUTHORITY TO PROVIDE ASSISTANCE.—

"(1) IN GENERAL.—The Corporation, in its sole discretion and on such terms and conditions as the Board of Directors may prescribe, may make loans to, purchase the assets or securities of, assume the liabilities of, or make contributions to, any insured System bank if such action is taken—

"(A) to prevent the placing of the bank in receivership;

"(B) to restore the bank to normal operation; or

"(C) to reduce the risk to the Corporation posed by the bank when severe financial conditions threaten the stability of a significant number of insured System banks or of insured System banks possessing significant financial resources.

"(2) ENUMERATED POWERS.—

"(A) FACILITATION OF MERGERS OR CONSOLIDATION.—To facilitate a merger or consolidation of a qualifying insured System bank, the sale of assets of such insured System bank to another insured System bank, the assumption of such insured System bank's liabilities by such other insured System bank, or the acquisition of the stock of such insured System bank by such other insured System bank, the Corporation, in its sole discretion and on such terms and conditions as the Board of Directors may prescribe, may—

"(i) purchase any such assets or assume any such liabilities;

"(ii) make loans or contributions to, or purchase debt securities of, such other insured System bank;

"(iii) guarantee such other insured System bank against loss by reason of such other insured System bank's merging or consolidating with, or assuming the liabilities and purchasing the assets of, such insured System bank; or

"(iv) take any combination of the actions referred to in the preceding clauses.

"(B) QUALIFYING INSURED SYSTEM BANK.—For purposes of subparagraph (A), the term 'qualifying insured System bank' means any insured System bank that—

"(i) is in receivership;

"(ii) is, in the judgment of the Board of Directors, in danger of being placed in receivership; or

"(iii) is, in the sole discretion of the Corporation, an insured System bank that, when severe financial conditions exist that threaten the stability of a significant number of insured System banks or of insured System banks possessing significant financial resources, requires assistance under subparagraph (A) to lessen the risk to the Corporation posed by such insured System bank under such threat of instability.

"(3) LIMITATION.—

"(A) COST OF LIQUIDATION.—Assistance shall not be provided to an insured System bank under this subsection if the amount of such assistance exceeds an amount determined by the Corporation to be the cost of liquidating the bank (including paying the insured obligations issued on behalf of the bank). This subparagraph shall not apply to the provision of assistance to a bank if the Corporation determines that the continued operation of the bank is essential to provide adequate agricultural credit services in the area of operations of the bank.

"(B) PURCHASE OF STOCK.—The Corporation may not use its authority under this subsection to purchase any stock of an insured System bank. The preceding sentence shall not be construed to limit the ability of the Corporation to enter into and enforce covenants and agreements that it determines to be necessary to protect the financial interests of the Corporation.

"(4) SUBORDINATION.—Any assistance provided under this subsection may be in subordination to the rights of owners of obligations and other creditors.

"(5) REPORTS.—The Corporation, in its annual report to Congress, shall report the total amount saved, or it estimates to be saved, by the Corporation exercising the authority provided to the Corporation in this subsection.

"(b) AUTHORITY TO PLEDGE OR SELL ASSETS.—The Corporation, in its discretion, may make loans on the security of, or may purchase, and liquidate or sell, any part of the assets of, any insured System bank that is placed in receivership because of the inability of the bank to pay principal or interest on any of its notes, bonds, debentures, or other obligations in a timely manner.

"(c) SUBROGATION.—

"(1) In general.—On the payment to an owner of an insured obligation issued on behalf of an insured System bank in receivership, the Corporation shall be subrogated to all rights of the owner against the bank to the extent of the payment.

"(2) Receipt of dividends.—Subrogation under paragraph (1) shall include the right on the part of the Corporation to receive the same dividends from the proceeds of the assets of the bank as would have been payable to the owner on a claim for the insured obligation.

"(d) Right to Assets.—Any agreement that shall diminish or defeat the right, title, or interest of the Corporation in any asset acquired by such Corporation under this section, either as security for a loan or by purchase, shall not be valid against the Corporation unless the agreement—

"(1) is in writing;

"(2) is executed by the bank and the person or persons claiming an adverse interest thereunder, including the obligor, contemporaneously with the acquisition of the asset by the bank;

"(3) has been approved by the board of directors of the bank or its loan committee, which approval shall be reflected in the minutes of the board or committee; and

"(4) has been, continuously, from the time of its execution, an official record of the bank.

"(e) Insured System Bank.—As used in this section, the terms 'insured System bank' and 'bank' include each production credit association.

"(f) Effective Date.—The Corporation shall not exercise any authority under this section during the 5-year period beginning on the date of the enactment of this part.

"SEC. 5.62. INVESTMENT OF FUNDS.

"Money of the Corporation not otherwise employed shall be invested in obligations of the United States or in obligations guaranteed as to principal and interest by the United States.

"SEC. 5.63. EXEMPTION FROM TAXATION.

"Notwithstanding any other provision of law, the Corporation, including its franchise, and its capital, reserves, surplus, and income, shall be exempt from all taxation imposed by the United States, or by any State, county, municipality, or local taxing authority, except that any real property of the Corporation shall be subject to State, county, municipal, and local taxation to the same extent according to its value as other real property is taxed.

"SEC. 5.64. REPORTS.

"(a) In General.—The Corporation annually shall prepare and submit to Congress a report of the operations of the Corporation, as soon as practicable after the first day of January in each calendar year.

"(b) Contents.—Reports submitted under subsection (a) shall include information concerning the—

"(1) aggregate amount in the Insurance Fund at the close of the preceding calendar year;

"(2) projections of the costs to be incurred by the Corporation during the calendar year; and

"(3) estimates of the aggregate amount to be collected as premiums during the calendar year.

"SEC. 5.65. PROHIBITIONS.

"(a) Corporate Name.—

"(1) Use of corporate name.—It shall be unlawful for any person or entity to use the words 'Farm Credit System Insurance Corporation' or any combination of such words that would have the effect of leading the public to believe that there is any connection between such person or entity and the Corporation, by virtue of the name under which such person or entity does business.

"(2) False representation.—

"(A) By outside person or entities.—It shall be unlawful for any person or entity to falsely represent by any device, that the notes, bonds, debentures, or other obligations of the person or entity are insured or in any way guaranteed by the Corporation.

"(B) System banks.—It shall be unlawful for any insured System bank or person that markets insured obligations to falsely represent the extent to which or the manner in which such obligations are insured by the Corporation.

"(3) Penalty.—Any person or entity that willfully violates any provision of this subsection shall be fined not more than $1,000, imprisoned for not more than 1 year, or both.

"(b) Payments or Distributions While in Default.—

"(1) In general.—It shall be unlawful for any insured System bank to pay any dividends on bank stock or participation certificates or interest on the capital notes or debentures of such bank (if such interest is required to be paid only out of net profits) or distribute any of the capital assets of such bank while the bank remains in default in the payment of any premium due to the Corporation.

"(2) Liability of directors.—Each director or officer of any insured System bank who willfully participates in the declaration or payment of any dividend or interest or in any distribution in violation of this subsection shall be fined not more than $1,000, imprisoned not more than 1 year, or both.

"(3) Applicability.—This subsection shall not apply to any default that is due to a dispute between the insured System bank and the Corporation over the amount of such premium if such bank deposits security satisfactory to the Corporation for payment on final determination of the issue.

"(c) Failure to File Statement or Pay Premium.—

"(1) In general.—Any insured System bank that willfully fails or refuses to file any certified statement or pay any premium required under this part shall be subject to a penalty of not more than $100 for each day that such violations continue, which penalty the Corporation may recover for its use.

"(2) Applicability.—This subsection shall not apply to conduct with respect to any default that is due to a dispute between the insured System bank and the Corporation over the amount of such premium if such bank deposits security satisfactory to the Corporation for payment on final determination of the issue.

"(d) Employment of Persons Convicted of Criminal Offenses.—

"(1) In general.—Except with the prior written consent of the Farm Credit Administration, it shall be unlawful for any person convicted of any criminal offense involving dishonesty or a breach of trust to serve as a director, officer, or employee of any insured System bank.

"(2) Penalty.—For each willful violation of paragraph (1), the bank involved shall be subject to a penalty of not more than $100 for each day during which the violation continues, which the Corporation may recover for its use.".

SEC. 303. JOINT AND SEVERAL LIABILITY OF BANKS.

(a) Clarification of Joint and Several Liability.—Subsection (a) of section 4.4 (12 U.S.C. 2155(a)) is amended to read as follows:

"(a)(1) Each bank of the System shall be fully liable on notes, bonds, debentures, or other obligations issued by it individually, and shall be liable for the interest payments on long-term notes, bonds, debentures, or other obligations issued by other banks operating under the same title of this Act.

"(2)(A) Each bank shall also be primarily liable for the portion of any issue of consolidated or System-wide obligations made on its behalf and be jointly and severally liable for the payment of any additional sums as called upon by the Farm Credit Administration in order to make payments of interest or principal which any bank primarily liable therefor shall be unable to make.

"(B) Such calls first shall be made on all nondefaulting banks in proportion to each such bank's proportionate share of the aggregate available collateral held by all such banks.

"(C) For purposes of this paragraph, the term 'available collateral' means the amount (determined at the close of the last calendar quarter ending before such call) by which a bank's collateral as described in section 4.3 exceeds the collateral required to support the bank's outstanding notes, bonds, debentures, and other similar obligations.

"(D) If the Farm Credit Administration makes any such call and the available collateral of all such banks does not fully satisfy the liability necessitating such calls, such calls shall be made on all nondefaulting banks in proportion to each such bank's remaining assets.

"(E) Any System bank that, pursuant to a call by the Farm Credit Administration, makes a payment of principal or interest to the holder of any consolidated or System-wide obligation issued on behalf of another System bank shall be subrogated to all rights of the holder against such other bank to the extent of such payment.

"(F) On making such a call with respect to obligations issued on behalf of a System bank, the Farm Credit Administration shall appoint a receiver for the bank, which shall expeditiously liquidate or otherwise wind up the affairs of the bank.".

(b) Insurance Fund Called on Before Invoking Joint and Several Liability.—Section 4.4 (12 U.S.C. 2155) is amended by adding at the end thereof the following new subsection:

"(e) Beginning 5 years after the date of the enactment of this subsection, the Farm Credit Administration shall not call on any System institution to satisfy the liability of the institution on any joint, consolidated, or System-wide obligation participated in by the institution or with respect to which the institution is primarily, or jointly and severally, liable, before the Farm Credit Insurance Fund is exhausted, even if the Fund is only able to make a partial payment because of insufficient amounts in the Fund.".

SEC. 304. ENHANCEMENT OF CAPITAL ADEQUACY OF BANKS.

Subsection (c) of section 4.3 (12 U.S.C. 2154(c)) is amended to read as follows:

"(c) Each bank shall have on hand at the time of issuance of any note, bond, debenture, or other similar obligation and at all times thereafter maintain, free from any lien or other pledge, notes and other obligations representing loans made under this Act or real or personal property acquired in connection with loans made under this Act, obligations of the United States or any agency thereof direct or fully guaranteed, *other bank assets (including marketable securities) approved by the Farm Credit Administration, or cash, in an aggregate value equal to the total amount of notes, bonds, debentures, or other similar obligations outstanding for which the bank is primarily liable.".*

SEC. 305. FEDERAL INTERMEDIATE CREDIT BANK ASSESSMENT POWER.

Section 2.5 (12 U.S.C. 2076) is amended—

(1) in the title, by inserting "; Authority to Pass Along Cost of Insurance Premiums" before the period;

(2) by inserting "(a)" before "The Federal"; and

(3) by adding at the end thereof the following new subsection:

"(b) Each Federal intermediate credit bank may assess each production credit association and other financing institution described in section 2.3(a)(2) in the district in which the bank is located to cover the costs of making premium payments under part E of title V. The assessment on any such association or other financing institution for any calendar year shall not exceed the sum of—

"(1) the annual average principal outstanding for such year on loans made by the association, or on loans made by the other financing institution and discounted with the Federal intermediate credit bank, that are in accrual status, multiplied by 0.0015; and

"(2) the annual average principal outstanding for such year on loans made by the association, or on loans made by the other financing institution and discounted with the Federal intermediate credit bank, that are in nonaccrual status, multiplied by 0.0025.".

SEC. 306. CONSERVATORS AND RECEIVERS.

Section 4.12(b) (12 U.S.C. 2183(b)) is amended—

(1) by striking out the period at the end of paragraph (5) and inserting in lieu thereof a semicolon;

(2) by inserting after paragraph (5) the following new paragraph: "(6) the institution is unable to timely pay principal or interest on any insured obligation (as defined in section 5.51(3)) issued by the institution."; and

(3) in the second sentence by inserting before the period at the end thereof the following: ", and such receiver or conservator, after the 5-year period beginning on the date of the enactment of the Agricultural Credit Act of 1987, shall be the Farm Credit System Insurance Corporation".

TITLE IV—RESTRUCTURING THE FARM CREDIT SYSTEM

Subtitle A—Creation of Farm Credit Banks

SEC. 401. FARM CREDIT BANKS AND ASSOCIATIONS CHARTERS.

Effective 6 months after the date of enactment of this Act, titles I and II of the Farm Credit Act of 1971 (12 U.S.C. 2000 et seq.) are amended to read as follows:

"TITLE I—FARM CREDIT BANKS

"SEC. 1.3. ESTABLISHMENT, CHARTERS, TITLES, BRANCHES.

"(a) Establishment.—The banks established pursuant to the merger of each District Federal Intermediate Credit Bank and Federal Land Bank (hereinafter referred to in this title as 'Farm Credit Banks') shall be federally chartered instrumentalities of the United States.

"(b) Charters.—The charters or organization certificates of Farm Credit Banks may be modified from time to time by the Farm Credit Administration Board, not inconsistent with the provisions of this title, as may be necessary or expedient to implement this Act.

"(c) Title.—Each Farm Credit Bank may include in its title the name of the city in which it is located or other geographical designation.

"(d) Branches.—Each Farm Credit Bank may establish such branches or other offices as may be appropriate for the effective operation of its business.

"SEC. 1.4. BOARD OF DIRECTORS.

"Each Farm Credit Bank shall elect from its voting stockholders a board of directors of such number, for such term, in such manner, and with such qualifications, as may be required in its bylaws, except that, at least one member shall be elected by the other directors, which member shall not be a director, officer, employee, or stockholder of a System institution.

"SEC. 1.5. GENERAL CORPORATE POWERS.

"Each Farm Credit Bank shall be a body corporate and, subject to regulation by the Farm Credit Administration, shall have power to—

"(1) adopt and use a corporate seal;

"(2) have succession until dissolved under the provisions of this Act or other Act of Congress;

"(3) make contracts;

"(4) sue and be sued;

"(5) acquire, hold, dispose, and otherwise exercise all the usual incidents of ownership of real and personal property necessary or convenient to its business;

"(6) make, participate in, and discount loans, make commitments for credit, accept advance payments, and provide services as authorized in this Act, and charge fees for such;

"(7) operate under the direction of its board of directors;

"(8) provide by its board of directors for a president, one or more vice presidents, a secretary, a treasurer, and provide for such other officers, employees, and agents as may be necessary, as provided in this Act, define their duties, and require surety bonds or make other provision against losses occasioned by employees;

"(9) prescribe by its board of directors—

"(A) the bylaws of such bank that shall not be inconsistent with law, providing for the classes of the stock of the bank and the manner in which such stock shall be issued, transferred, and retired;

"(B) the officers, employees, and agents of the bank as provided for;

"(C) the property of the bank acquired, held, and transferred;

"(D) the loans and discounts made by the bank;

"(E) the general business conducted by the bank; and

"(F) the privileges granted to the bank by law exercised and enjoyed;

"(10) borrow money and issue notes, bonds, debentures, or other obligations individually, or in concert with one or more other banks of the System, of such character, terms, conditions, and rates of interest as may be determined as provided for in this Act;

"(11) purchase nonvoting stock in, or pay in surplus to, and accept deposits or securities of funds from associations in its district, and pay interest on such funds;

"(12) participate with—

"(A) one or more other Farm Credit Banks in loans under this title on such terms as may be agreed on among such banks;

"(B) participate with one or more other Farm Credit System institutions in loans made under this title or other titles on the basis prescribed in section 4.18; and

"(C) participate with lenders that are not Farm Credit System institutions in loans that the bank is authorized to make under this title;

"(13) approve the salary scale of the officers and employees of the associations in its district, and the appointment and compensation of the chief executive officer thereof, and supervise the exercise by such associations of the functions vested in or delegated to them;

"(14) deposit the securities and current funds of the bank with any member bank of the Federal Reserve System or any insured State nonmember bank as defined in section 3 of the Federal Deposit Insurance Act and pay fees and receive interest on such as may be agreed, and when designated for that purpose by the Secretary of the Treasury, such bank—

"(A) shall be a depository of public money, except receipts from customs, under such regulations as may be prescribed by the Secretary;

"(B) may be employed as a fiscal agent of the Government; and

"(C) shall perform all such reasonable duties as a depository of public money or financial agent of the Government as may be required of such bank;

except that no Government funds deposited under the provisions of this paragraph shall be invested in loans or bonds or other obligations of the bank;

"(15) buy and sell obligations of, or insured by, the United States or any agency thereof, or securities backed by the full faith and credit of any such agency, and make other investments as may be authorized under regulations issued by the Farm Credit Administration;

"(16) sell to lenders that are not Farm Credit System institutions interests in loans, and buy from and sell to Farm Credit System institutions interests in loans and other extensions of credit, and nonvoting stock as may be authorized under regulations issued by the Farm Credit Administration;

"(17) conduct studies and make and adopt standards for lending;

"(18) delegate to Federal land bank associations such functions as the bank determines appropriate;

"(19) amend and modify loan contracts, documents, and payment schedules, and release, subordinate, or substitute security for any of such items;

"(20) for loans made by the bank, require associations to endorse notes and other obligations of borrowers from the bank;

"(21) exercise through the board of directors or authorized officers, employees, or agents of the bank, all such incidental powers as may be necessary or expedient to carry on the business of the bank;

"(22) accept contributions to the capital of the bank from associations and account for such as authorized by the Farm Credit Administration; and

"(23) as may be authorized by the board of directors of the bank and approved by the Farm Credit Administration Board, agree with other Farm Credit System institutions to share loan and other losses, whether to protect against capital impairment or for any other purpose.

"SEC. 1.6. FARM CREDIT BANK CAPITALIZATION.

"In accordance with section 4.3A, the Farm Credit Banks shall provide, through bylaws and subject to Farm Credit Administration regulations, for the capitalization of the bank and the manner in which bank

stock shall be issued, held, transferred, and retired and bank earnings distributed.

"SEC. 1.7. LENDING AUTHORITY.

"(a) Real Estate Loans.—The Farm Credit Banks are authorized to make or participate with other lenders in long-term real estate mortgage loans in rural areas, as defined by the Farm Credit Administration, or to producers or harvesters of aquatic products, and make continuing commitments to make such loans under specified circumstances, for a term of not less than 5 not more than 40 years.

"(b) Intermediate Credit.—

"(1) In general.—The Farm Credit Banks are authorized to make loans and extend other similar financial assistance to and to discount for or purchase from—

"(A) any production credit association, or

"(B) any national bank, State bank, trust company, agricultural credit corporation, incorporated livestock loan company, savings institution, credit union, or any association of agricultural producers engaged in the making of loans to farmers and ranchers, and any corporation engaged in the making of loans to producers or harvesters of aquatic products,

any note, draft, or other obligation with the institution's endorsement or guarantee, the proceeds of which note, draft, or other obligation have been advanced to persons and for purposes eligible for financing by production credit associations as authorized by this Act.

"(2) Participation with other entities.—The Farm Credit Banks may participate with one or more production credit associations or other Farm Credit Banks in the making of loans to eligible borrowers and may participate with one or more other Farm Credit System institutions in loans made under this title or other titles of this Act on the basis prescribed in section 4.18 of this Act. The banks may own and lease or lease with option to purchase to persons eligible for assistance under this title, equipment needed in the operations of such persons.

"(3) Limitations on extension of financial assistance.—

"(A) General rule.—No paper shall be purchased from or discounted for, and no loans shall be made or other similar financial assistance extended by a Farm Credit Bank to any entity identified in paragraph (1)(B) of this subsection if the amount of such paper added to the aggregate liabilities of such entity, whether direct or contingent (other than bona fide deposit liabilities), exceeds ten times the paid-in and unimpaired capital and surplus of such entity or the amount of such liabilities permitted under the laws of the jurisdiction creating such institution, whichever is the lesser.

"(B) Limitation on national bank.—It shall be unlawful for any national bank which is indebted to any Farm Credit Bank, on paper discounted or purchased under paragraph (1), to incur any additional indebtedness, if by virtue of such additional indebtedness its aggregate liabilities direct or contingent, will exceed the limitation herein contained.

"(4) FCA regulations.—

"(A) In general.—All of the loans, financial assistance, discounts and purchases authorized by this section shall be subject to regulations of the Farm Credit Administration and shall be secured by collateral, if any, as may be required in such regulations.

"(B) Requirement of regulations.—The regulations shall assure that such loans, financial assistance, discounts, and purchases are available on a reasonable basis to any financing institution authorized to receive such services under paragraph (1)(B) of this subsection, and that—

"(i) is significantly involved in lending for agricultural or aquatic purposes;

"(ii) demonstrates a continuing need for supplementary sources of funds to meet the credit requirements of its agricultural or aquatic borrowers;

"(iii) has limited access to national or regional capital markets; and

"(iv) does not use such services to expand its financing activities to persons and for purposes other than those authorized under title II.

"(C) Fees.—The regulations may authorize a Farm Credit Bank to charge reasonable fees for any commitment to extend service under this section to such a financing institution.

"(D) Subsidiaries and affiliates.—For purposes of this subsection, a financing institution together with the subsidiaries and affiliates of such may be considered as one, but such determination to consider such institution together with the subsidiaries and affiliates of such as one shall be made in the first instance by the bank and in the event of a denial by the bank of its services to a financial institution, then by the Farm Credit Administration on a case-by-case basis with due regard to the total relationship of the financing institution, its subsidiaries, and affiliates.

"(5) Effective date.—Nothing in this section shall require termination of discount relationships in existence on the effective date of the Farm Credit Act Amendments of 1980.

"SEC. 1.8. INTEREST RATES AND OTHER CHARGES.

"(a) In General.—Loans and discounts made by a Farm Credit Bank shall bear interest at a rate or rates, and on such terms and conditions, as may be determined by the board of directors of the bank from time to time.

"(b) Setting Rates and Charges.—In setting rates and charges, it shall be the objective to provide the types of credit needed by eligible borrowers at the lowest reasonable costs on a sound business basis taking into consideration the cost of money to the bank, necessary reserve and expenses of the bank and associations, and providing services to members. The loan documents or discounting and financing agreements, may provide for the interest rate or rates to vary from time to time during the repayment period of the loan or agreement.

"SEC. 1.9. ELIGIBILITY.

"The credit and financial services authorized in this title may be made available to persons who are or become stockholders or members of the bank or associations in the district, and who are—

"(1) bona fide farmers, ranchers, or producers or harvesters of aquatic products;

"(2) persons furnishing to farmers and ranchers farm-related services directly related to their on-farm operating needs; or

"(3) owners of rural homes.

"SEC. 1.10. SECURITY; TERMS.

"(a) Real Estate Loans.—

"(1) Maximum Level of Loans.—

"(A) In general.—Real estate mortgage loans originated by a Farm Credit Bank, or in which a Farm Credit Bank participates in with a lender that is not a System institution, shall not exceed 85 percent of the appraised value of the real estate security, except as provided for in paragraphs (2) and (3).

"(B) Regulation.—The Farm Credit Administration may, by regulation, require that loans not exceed 75 percent of the appraised value of the real estate security.

"(C) Guaranteed loans.—If the loan is guaranteed by Federal, State, or other governmental agencies, the loan may not exceed 97 percent of the appraised value of the real estate security, as may be authorized under regulations of the Farm Credit Administration.

"(2) Security.—All loans originated or participated in by a bank under this section shall be secured by first liens on interests in real estate of such classes as may be approved by the Farm Credit Administration.

"(3) Value of security.—To adequately secure the loan, the value of security shall be determined by appraisal under appraisal standards prescribed by the bank and approved by the Farm Credit Administration.

"(4) Additional security.—Additional security for any loan may be required by the bank to supplement real estate security. Credit factors, other than the ratio between the amount of the loan and the security value, shall be given due consideration.

"(5) Financial statement.—Each Farm Credit Bank shall require a financial statement from each borrower at least once every 3 years, or during such shorter period of time as may be required under regulations of the Farm Credit Administration.

"(b) Intermediate Credit.—Loans, other than real estate loans, and discounts made under the provisions of this title shall be repayable in not more than 7 years (15 years if made to producers or harvester of aquatic products) from the time that such are made or discounted by the Farm Credit Bank, except that the Board of Directors, under regulations of the Farm Credit Administration, may approve policies permitting loans, advances, or discounts (other than those made to producers or harvesters of aquatic products) to be repayable in not more than 10 years from the time that such are made or discounted by such bank.

"SEC. 1.11. PURPOSES FOR EXTENSIONS OF CREDIT.

"(a) Agricultural or Aquatic Purposes.—Loans made by a Farm Credit Bank to farmers, ranchers, and producers or harvesters of aquatic products may be for any agricultural or aquatic purpose and other credit needs of the applicant, including financing for basic processing and marketing directly related to the applicant's operations and those of other eligible farmers, ranchers, and producers or harvesters of aquatic products, except that the operations of the applicant shall supply at least 20 percent, or such larger percent as may be required by the board of directors of the bank under regulations of the Farm Credit Administration, of the total processing or marketing for which financing is extended.

"(b) Rural Housing Financing.—

"(1) In general.—Loans and discounts may be made to rural residents for rural housing financing under regulations of the Farm Credit Administration.

"(2) Limitations.—Rural housing financed under this title shall be for single-family, moderate-priced dwellings and their appurtenances not inconsistent with the general quality and standards of housing existing in, or planned or recommended for, the rural area where it is located, except that a Farm Credit Bank may not at any one time have a total amount of loans outstanding for such rural housing to persons other than farmers or ranchers in amounts exceeding 15 percent of the total of all loans outstanding in such bank.

"(3) RURAL AREAS.—For rural housing purposes under this section the term 'rural areas' shall not be defined to include any city or village having a population in excess of 2,500 inhabitants.

"(c) FARM-RELATED SERVICES.—

"(1) IN GENERAL.—Loans to persons furnishing farm-related services to farmers and ranchers directly related to their on-farm operating needs may be made for the necessary capital structures and equipment and initial working capital for such services.

"(2) FACILITIES.—The banks may own and lease, or lease with option to purchase, to persons eligible for credit under this title, facilities needed in the operations of such persons.

"SEC. 1.12. RELATED SERVICES.

"The Farm Credit Banks may provide technical assistance to borrowers, members, and applicants from the bank and associations in the district, including persons obligated on paper discounted by the bank, and may make available to them at their option such financial related services appropriate to their on-farm and aquatic operations as determined to be feasible by the board of directors of each district bank, under regulations of the Farm Credit Administration.

"SEC. 1.13. LOANS THROUGH ASSOCIATIONS OR AGENTS.

"(a) IN GENERAL.—The Farm Credit Banks shall, except as otherwise herein provided, make loans of the type authorized under section 1.7(a) through a Federal land bank association chartered to serve the territory in which the real estate of the borrower is located.

"(b) NO ACTIVE ASSOCIATION.—If there is no active association chartered to serve territory where the real estate is located, the bank may make the loan directly or through such bank or trust company or savings or other financial institution as such bank may designate.

"(c) PURCHASE OF STOCK REQUIRED.—When the loan is not made through a Federal land bank association, the applicant shall purchase stock in the bank in accordance with the capitailization requirements provided for in the by-laws of the bank.

"SEC. 1.14. LIENS ON STOCK.

"The Farm Credit Banks shall have a first lien on the stock or participation certificates it issues for the payment of any liability of the stockholders to the bank.

"SEC. 1.15. TAXATION.

"The Farm Credit Banks and the capital, reserves, and surplus thereof, and the income derived therefrom shall be exempt from Federal, State, municipal, and local taxation, except taxes on real estate held by a Farm Credit Bank to the same extent, according to its value, as other similar property held by other persons is taxed. The mortgages held by the Farm Credit Banks and the notes, bonds, debentures, and other obligations issued by the banks shall be considered and held to be instrumentalities of the United States and, as such, they and the income therefrom shall be exempt from all Federal, State, municipal, and local taxation, other than Federal income tax liability of the holder thereof under the Public Debt Act of 1941 (31 U.S.C. 742(a)).

"TITLE II—FARM CREDIT ASSOCIATIONS

"SUBTITLE A—PRODUCTION CREDIT ASSOCIATIONS

"SEC. 2.0. ORGANIZATION AND CHARTERS.

"(a) CHARTER.—Each production credit association shall continue as a Federally chartered instrumentality of the United States.

"(b) ORGANIZATION.—

"(1) IN GENERAL.—Production credit associatiojs may be organized by 10 or more farmers or ranchers or producers or harvesters of aquatic products desiring to borrow money ujder the provisions of this title.

"(2) ARTICLES OF ASSOCIATION.—The proposed articles of association shall be forwarded to the Farm Credit Bank for the district accompanied by an agreement to subscribe on behalf of the association for stock in the bank in such amounts as may be required by the bank.

"(3) CONTENTS OF ARTICLES.—The articles shall specify in general terms the—

"(A) objects for which the association is formed;

"(B) the powers to be exercised by the association in carrying out the functions authorized by this part; and

"(C) the territory the associations' proposes to serve.

"(4) SIGNATURES.—The articles shall be signed by persons desiring to form such an association and shall be accompanied by a statement signed by each such person establishing eligibility to borrow from the association in which such person will become a stockholder.

"(5) COPY TO FCA.—A copy of the articles of association shall be forwarded to the Farm Credit Administration with the recommendations of the bank concerning the need for such an association in order to adequately serve the credit needs of eligible persons in the proposed territory and whether that territory includes any area described in the charter of another production credit association.

"(6) DENIAL OF CHARTER.—The Farm Credit Administration for good cause shown may deny the charter.

"(7) APPROVAL OF ARTICLES.—On approval of the proposed articles by the Farm Credit Administration, and on the issuance of a charter, the association shall become as of such date a federally chartered body corporate and an instrumentality of the United States.

"(8) POWERS OF FCA.—The Farm Credit Administration shall have the power, under rules and regulations prescribed by Farm Credit Administration or by prescribing in the terms of the charter or by approval of bylaws of the association to—

"(A) provide for the organization of the association;

"(B) provide for the initial amount of stock of the association;

"(C) provide for the territory within which the associations operations may be carried on; and

"(D) direct at any time such changes in the charter as Farm Credit Administration finds necessary for the accomplishment of the purposes of this Act.

"SEC. 2.1. BOARD OF DIRECTORS.

"Each production credit association shall elect from the voting members of such association, a board of directors of such number, for such terms, with such qualifications, and in such manner as may be required by the bylaws of the association, except that, at least one member shall be elected by the other directors, which member shall not be a director, officer, employee, or stockholder of a System institution.

"SEC. 2.2. GENERAL CORPORATE POWERS.

"Each production credit association shall be a body corporate and, subject to supervision by the Farm Credit Bank for the district and regulation by the Farm Credit Administration, shall have the power to—

"(1) have succession until terminated in accordance with this Act or any other Act of Congress;

"(2) adopt and use a corporate seal;

"(3) make contracts;

"(4) sue and be sued;

"(5) acquire, hold, dispose, and otherwise exercise all of the usual incidents of ownership of real and personal property necessary or convenient to the business of the association;

"(6) operate under the direction of the board of directors of the association in accordance with the provisions of this Act;

"(7) subscribe to stock of the bank;

"(8) purchase stock of the bank held by other production credit associations and stock of other production credit association;

"(9) contribute to the capital of the bank or other production credit associations;

"(10) invest funds of the association as may be approved by the Farm Credit Bank under regulations of the Farm Credit Administration and deposit the current funds and securities of such with the Farm Credit Bank, a member bank of the Federal Reserve System, or any bank insured under the Federal Deposit Insurance Corporation, and may pay fees therefor and receive interest thereon as may be agreed;

"(11) buy and sell obligations of or insured by the United States or of any agency thereof or of any banks of the Farm Credit System and buy from and sell to such banks, interests in loans and in other financial assistance extended and nonvoting stock, as may be authorized by the Farm Credit Bank in accordance with regulations of the Farm Credit Administration;

"(12) borrow money from the Farm Credit Bank, and with the approval of such bank, borrow from and issue notes or other obligations to any commercial bank or other financial institution;

"(13) make and participate in loans, accept advance payments, and provide services and other assistance as authorized in this subtitle and charge fees therefor, and when authorized by the bank participate with one or more other Farm Credit System institutions in loans made under this title or other titles of this Act on the basis prescribed in section 4.18 of this Act;

"(14) endorse and become liable on loans discounted or pledged to the Farm Credit Bank;

"(15) as may be authorized by the Farm Credit Bank in accordance with regulations of the Farm Credit Administration, agree with other Farm Credit System institutions to share loan or other losses, whether to protect against capital impairment or for any other purpose;

"(16) prescribe by the board of directors of the association the bylaws not inconsistent with law providing for—

"(A) the classes of association stock and the manner in which the stock shall be issued, transferred, and retired;

"(B) the officers and employees elected or provided for;

"(C) the property acquired, held, and transferred by the association; and

"(D) the general business conducted, and the privileges granted to the associations by law exercised and enjoyed;

"(17) elect by the board of directors of the association a manager or other chief executive officer, and provide for such other officers or employees as may be necessary, including joint employees as provided in this Act, define their duties, and require surety bonds or make other provisions against losses occasioned by employees, but no director shall, within one year after the date when such director ceases to be a member of the board, be elected or designated a salaried

employee of the association on the board of which he served;

"(18) elect by the board of directors of the association a loan committee with power to approve applications for membership in the association and loans or participations or, with the approval of the bank, delegate the approval of applications for membership and loans or participations within specified limits to other committees or to authorized officers and employees of the association;

"(19) perform any functions delegated to the association by the bank; and

"(20) exercise by the board of directors or authorized officers or employees of the association, all such incidental powers as may be necessary or expedient to carry on the business of the association.

"SEC. 2.3. PRODUCTION CREDIT ASSOCIATION CAPITALIZATION.

"(a) In General.—In accordance with section 4.3A, each production credit association shall provide, through its bylaws and subject to Farm Credit Administration regulations, for its capitalization and the manner in which its stock shall be issued, held, transferred, and retired and, except as provided in subsection (b), its earnings distributed.

"(b) Application of Earnings.—Each production credit association at the end of each fiscal year shall apply the amount of the earnings of the association for such year in excess of the operating expenses of the association (including provision for valuation reserves against loan assets in an amount equal to one-half of 1 percent of the loans outstanding at the end of the fiscal year to the extent that such earnings in such year in excess of other operating expenses permit, or in such greater amounts as are deemed necessary under generally accepted accounting principles, until such reserves equal or exceed 3½ percent of the loans outstanding at the end of the fiscal year, beyond which 3½ percent further additions to such reserves may be made, if deemed necessary under generally accepted accounting principles) first to the restoration of the impairment, if any, of capital, and second, to the establishment and maintenance of the surplus accounts, the minimum aggregate amount of which shall be prescribed by the Farm Credit Bank.

"(c) Patronage.—When the bylaws of an association so provide and subject to the general directions of the Farm Credit Administration, available net earnings at the end of any fiscal year may be distributed on a patronage basis in stock, participation certificates, or in cash. Any part of the earnings of the fiscal year in excess of the operating expenses for such year held in the surplus account may be allocated to patrons on a patronage basis.

"SEC. 2.4. SHORT- AND INTERMEDIATE-TERM LOANS; PARTICIPATION; OTHER FINANCIAL ASSISTANCE; TERMS; CONDITIONS; INTEREST; SECURITY.

"(a) Short- and Intermediate-Term Loan.—Each production credit association, under standards prescribed by the board of directors of the Farm Credit Bank of the district, may make, guarantee, or participate with other lenders in short- and intermediate-term loans and other similar financial assistance to—

"(1) bona fide farmers and ranchers and the producers or harvesters of aquatic products, for agricultural or aquatic purposes and other requirements of such borrowers, including financing for basic processing and marketing directly related to the operations of the borrower and those of other eligible farmers, ranchers, and producers or harvesters of aquatic products, except that the operations of the borrower shall supply at least 20 percent, or such larger percent as is required by the supervising bank under regulations of the Farm Credit Administration, of the total processing or marketing for which financing is extended;

"(2) rural residents for housing financing in rural areas, under regulations of the Farm Credit Administration; and

"(3) persons furnishing to farmers and ranchers farm-related services directly related to their on-farm operating needs.

"(b) Rural Housing.—

"(1) In general.—Rural housing financed under this title shall be for single-family, moderate-priced dwellings and the appurtenances of such not inconsistent with the general quality and standards of housing existing in, planned or recommended for, the rural area where it is located.

"(2) Limitation.—The aggregate of such housing loans in an association to persons other than farmers or ranchers shall not exceed 15 percent of the outstanding loans at the end of its preceding fiscal year except on prior approval by the Farm Credit Bank of the district. The aggregate of such housing loans in any farm credit district shall not exceed 15 percent of the outstanding loans of all associations in the district at the end of the preceding fiscal year.

"(3) Rural areas.—For rural housing purposes under this section the term 'rural areas' shall not be defined to include any city or village having a population in excess of 2,500 inhabitants.

"(4) Equipment.—Each association may own and lease, or lease with option to purchase, to stockholders of the association equipment needed in the operations of the stockholder.

"(c) Interest rates and charges.—

"(1) In general.—Loans authorized in subsection (a) hereof shall bear such rate or rates of interest as are determined under standards prescribed by the board of the bank subject to the provisions of section 4.17 of this Act, and shall be made upon such terms, conditions, and upon such security, if any, as shall be authorized in such standards.

"(2) Setting of rates.—In setting rates and charges, it shall be the objective to provide the types of credit needed by eligible borrowers, at the lowest reasonable cost on a sound business basis, taking into account the cost of money to the association, necessary reserves and expenses of the association, and services provided to borrowers and members.

"(3) Varying rates.—The loan documents may provide for the interest rate or rates to vary from time to time during the repayment period of the loan in accordance with the rate or rates currently being charged by the association.

"(4) Prior approval.—Such standards may require prior approval of the bank on certain classes of loans, and may authorize a continuing commitment to a borrower of a line of credit.

"SEC. 2.5. OTHER SERVICES.

"Each production credit association may provide technical assistance to borrowers, applicants, and members and may make available to them at their option such financial related services appropriate to their on-farm and aquatic operations as is determined feasible by the board of directors of each Farm Credit Bank, under regulations prescribed by the Farm Credit Administration.

"SEC. 2.6. TAXATION.

"Each production credit association and its obligations are instrumentalities of the United States and as such any and all notes, debentures, and other obligations issued by such associations shall be exempt, both as to principal and interest from all taxation (except surtaxes, estate, inheritance, and gift taxes) now or hereafter imposed by the United States or any State, territorial, or local taxing authority.

"Subtitle B—Federal Land Bank Associations

"SEC. 2.10. ORGANIZATIONS; ARTICLES; CHARTERS; POWERS OF THE FARM CREDIT ADMINISTRATION.

"(a) Charter.—Each Federal land bank association shall continue as a federally chartered instrumentality of the United States.

"(b) Organization.—

"(1) In general.—A Federal land bank association may be organized by any group of 10 or more persons desiring to borrow money from a Farm Credit Bank, including persons to whom the Farm Credit Bank has made a loan directly or through an agent and has taken as security real estate located in the territory proposed to be served by the association.

"(2) Articles of association.—

"(A) Description of territory.—The articles of association shall describe the territory within which the association proposes to carry on its operations.

"(B) Submission to FCA.—Proposed articles shall be forwarded to the Farm Credit Bank for the district, accompanied by an agreement to subscribe on behalf of the association for stock in accordance with the bylaws of the Farm Credit Bank.

"(C) Stock purchase.—Association stock may be paid for by surrendering for cancellation stock in the bank held by a borrower and the issuance of an equivalent amount of stock to such borrower in the association.

"(D) Statement.—The articles shall be accompanied by a statement signed by each of the members of the proposed association establishing—

"(i) the individuals eligibility for, and request or need of the individual of a Farm Credit Bank loan;

"(ii) that the real estate with respect to which the individual desires the loan for is not being served by another Federal land bank association; and

"(iii) that the individual is or will become a stockholder in the proposed association.

"(E) Submission to fca.—A copy of the articles of association shall be forwarded to the Farm Credit Administration with the recommendations of the bank concerning the need for the proposed association in order to adequately serve the credit needs of eligible persons in the proposed territory and a statement as to whether or not the territory includes any territory described in the charter of another Federal land bank association.

"(3) Denials of charters.—The Farm Credit Administration for good cause shown may deny the charter applied for.

"(4) Approval of articles.—On the approval of the proposed articles by the Farm Credit Administration and the issuance of such charter, the association shall become as of such date a federally chartered body corporate and an instrumentality of the United States.

"(c) FCA Authority on Organization.—The Farm Credit Administration shall have power, in the terms of the charter, under rules and regulations prescribed by the

Farm Credit Administration or by approving the bylaws of the association, to provide for the—

"(1) organization of the association;

"(2) the initial amount of stock of such association;

"(3) the territory within which the operations of the association may be carried on; and

"(4) to direct at any time changes in the charter of such association as the Farm Credit Administration finds necessary in accomplishing the purposes of this Act.

"SEC. 2.11. BOARD OF DIRECTORS.

"Each Federal land bank association shall elect from its voting shareholders a board of directors of such number, for such terms, in such manner, and with such qualifications as may be required by its bylaws except that, at least one member shall be elected by the other directors, which member shall not be a director, officer, employee, or stockholder of a System institution.

"SEC. 2.12. GENERAL CORPORATE POWERS.

"Each Federal land bank association shall be a body corporate and, subject to supervision of the Farm Credit Bank for the district and the regulation of the Farm Credit Administration, shall have the power to—

"(1) adopt and use a corporate seal;

"(2) have succession until dissolved under the provisions of this Act or other Act of Congress;

"(3) make contracts;

"(4) sue and be sued;

"(5) acquire, hold, dispose, and otherwise exercise all of the usual incidents of ownership of real estate and personal property necessary or convenient to the business of the association;

"(6) operate under the direction of the board of directors of the association in accordance with this Act;

"(7) elect by its board of directors a manager or other chief executive officer, and provide for such other officers or employees as may be necessary, including joint employees as provided in this Act, define the duties of such, and require surety bonds or make other provision against losses occasioned by employees, except that no director shall, within one year after the date when such director ceases to be a member of the board, be elected or designated a salaried employee of the association on the board of which such director served;

"(8) prescribe by its board of directors, association bylaws, not inconsistent with law, providing for the classes of association stock and the manner in which such stock shall be issued, transferred, and retired; the officers and employees of the association elected or provided for, the property of the association that is acquired, held, and transferred, the general business of the association conducted, and the privileges granted to the association by law exercised and enjoyed;

"(9) accept applications for Farm Credit Bank loans and receive from such bank and disburse to the borrowers the proceeds of such loans;

"(10) subscribe to stock of the Farm Credit Bank of the district;

"(11) elect by its board of directors a loan committee with power to elect applicants for membership in the association and recommend loans to the Farm Credit Bank, or with the approval of the Farm Credit Bank, delegate the election of applicants for membership and the approval of loans within specified limits to other committees or to authorized employees of the association;

"(12) on agreement with the bank, take such additional actions with respect to applications and loans and perform such functions as are vested by law in the Farm Credit Banks as may be agreed to or delegated to the association;

"(13) endorse and become liable to the bank on loans it makes to association members;

"(14) receive such compensation and deduct such sums from loan proceeds with respect to each loan as may be agreed between the association and the bank and make such other charges for services as may be approved by the bank;

"(15) provide technical assistance to members, borrowers, applicants, and other eligible persons and make available to them, at their option, such financial related services appropriate to their operations as it determines, with Farm Credit Bank approval, are feasible, under regulations of the Farm Credit Administration;

"(16) borrow money from the bank and, with the approval of such bank, borrow from and issue association notes or other obligations to any commercial bank or other financial institution;

"(17) buy and sell obligations of or insured by the United States or any agency thereof or of any banks of the Farm Credit System;

"(18) invest association funds in such obligations as may be authorized in regulations of the Farm Credit Administration and approved by the bank and deposit securities and current funds of the association with any member bank of the Federal Reserve System, with the Farm Credit Bank, or with any bank insured by the Federal Deposit Insurance Corporation, and pay fees therefor and receive interest thereon as may be agreed;

"(19) perform such other function delegated to the association by the Farm Credit Bank of the district;

"(20) exercise by its board of directors or authorized officers or agents all such incidental powers as may be necessary or expedient in the conduct of its business; and

"(21) contribute to the capital of the bank.

"SEC. 2.13. FEDERAL LAND BANK ASSOCIATION CAPITALIZATION.

"In accordance with section 4.3A, the Federal land bank association shall provide, through its by-laws and subject to Farm Credit Administration regulations, for its capitalization and the manner in which its stock shall be issued, held, transferred, and retired and its earning distributed.

"SEC. 2.14. LIQUIDATION.

"Whenever any Federal land bank association is liquidated, a sum equal to its reserve account as required in this Act shall be paid and become the property of the bank in which such association is a shareholder.

"SEC. 2.15. AGREEMENTS FOR SHARING GAINS OR LOSSES.

"Each Farm Credit Bank may enter into agreements with Federal land bank associations in its district for sharing the gain or losses on loans or on security held therefor or acquired in liquidation thereof, and associations are authorized to enter into any such agreements and also, subject to bank approval, agreements with other associations in the district for sharing the risk of loss on loans endorsed by each such association. As may be authorized by the bank in accordance with regulations of the Farm Credit Administration, associations also may enter into agreements with other Farm Credit System institutions to share loans and other losses, whether to protect against capital impairment or for any other purpose.

"SEC. 2.16. LIENS ON STOCK.

"Each Federal land bank association shall have a first lien on the stock and participation certificates it issues, except on stock or participation certificates, held by or other Farm Credit System institutions, for the payment of any liability of the stockholder to the association or to the bank, or to both of them.

"SEC. 2.17. TAXATION.

"Each Federal land bank association and the capital, reserves, and surplus thereof, and the income derived therefrom shall be exempt from Federal, State, municipal, and local taxation, except taxes on real estate held by a Federal land bank association to the same extent, according to its value, as other similar property held by other persons is taxed. The mortgages held by the Federal land bank associations and the notes, bonds, debentures, and other obligations issued by the banks shall be considered and held to be instrumentalities of the United States and, as such, they and the income therefrom shall be exempt from all Federal, State, municipal, and local taxation, other than Federal income tax liability of the holder thereof under the Public Debt Act of 1941 (31 U.S.C. 742(a)).".

Subtitle B—Merger of System Institutions

SEC. 410. MANDATORY MERGER.

(a) In General.—Not later than 6 months after the date of the enactment of this section, the Federal land bank and the Federal intermediate credit bank of each district shall merge into a Farm Credit Bank in such district pursuant to a plan of merger agreed on by the Boards of Directors of such banks and approved by the Farm Credit Administration, or if such banks fail to agree, a plan of merger prescribed by the Farm Credit Administration.

(b) Capital Stock.—The number of shares of capital stock issued by a Farm Credit Bank to stockholders and other owners of the institution involved in the merger, and the rights and privileges of such shares (including voting power, redemption rights, preferences on liquidation, and the right to dividends) shall be determined by the plan of merger adopted by the merging banks, and shall be consistent with section 4.3A and the regulations issued by the Farm Credit Administration.

(c) Assistance.—The Assistance Board shall direct the Financial Assistance Corporation to provide any Farm Credit Bank with that amount of financial assistance as is necessary to ensure that the stock of the Farm Credit Bank, upon implementation of the merger, has a book value equal to 75 percent of par, and such Farm Credit Bank shall be subject to all of the requirements of title VI of the Farm Credit Act of 1971.

(d) Initial Board.—The initial board of each Farm Credit Bank shall be composed of the members of the district board (which is dissolved upon the creation of such bank) elected by the production credit associations, Federal land bank associations, and stockholders at large. Such initial board shall operate for such term as is agreed to by the members of the board, except that such period shall not exceed two years. Thereafter the board shall be elected and serve in accordance with the provisions of section 1.4 of the Farm Credit Act of 1971.

SEC. 411. MERGER OF PRODUCTION CREDIT ASSOCIATIONS AND FEDERAL LAND BANK ASSOCIATIONS.

(a) Submission of Proposal.—Not later than 6 months after the date of the merger of the Federal land bank and the Federal inter-

mediate credit bank in a district, the Boards of Directors of each Federal land bank association and each production credit association in such district, that share substantially the same geographical territory with each other, shall submit to the voting stockholders of each such association for their approval, a plan, approved by the supervising bank and the Farm Credit Administration, for merging such associations.

(b) Prerequisites to Merger.—

(1) Stockholder vote.—The stockholder vote required for approval of a merger under subsection (a) shall be a majority of the voting stockholders of each association voting, in person or by written proxy, at a duly authorized stockholders meeting.

(2) Submission to FCA.—Not later than 60 days prior to the end of the 6-month period beginning on the date of the enactment of this section, the plan of merger under subsection (a), together with all information to be presented to the stockholders, shall be submitted to the Farm Credit Administration .

(3) Expedited consideration by FCA.—The Farm Credit Administration shall expedite its consideration of the plan and accompanying information submitted under paragraph (2) so that review and approval of such plan and information shall be completed by the Administration so as to enable a stockholder vote to occur within the 6-month period referred to in paragraph (2).

(c) Direct Lenders.—On approval of a merger under this subsection, the resulting association shall be a direct lender in the same manner as applies to production credit associations.

SEC. 412. CONSOLIDATION OF FARM CREDIT SYSTEM DISTRICTS.

(a) Submission of Proposal.—

(1) Special committee.—

(A) In general.—Not later than 6 months after the date of the enactment of this section, a special committee shall be selected pursuant to regulations of the Farm Credit Administration for the purpose of developing a proposal for the consolidation of Farm Credit System districts.

(B) Composition.—The special committee selected under subparagraph (A) shall be composed of one representative from each Farm Credit Bank board and the members of the Board of Directors of the Assistance Board.

(2) Development of proposal.—Not later than 6 months after the formation of the special committee, the committee shall develop, a proposal to consolidate the Farm Credit System banks into no less than six financially viable farm credit banks through inter-district mergers.

(3) Report.—Not later than the end of each calendar quarter beginning at least 6 months after the selection of the special committee, such committee shall prepare and submit, to the Committee on Agriculture of the House of Representatives, and the Committee on Agriculture, Nutrition, and Forestry of the Senate, a report on the progress of the committee in developing a proposal under this subsection.

(b) Prerequisites to Consolidation.—

(1) FCA review of proposal.—Prior to the submission of the proposal developed under subsection (b)(2) to the stockholders under paragraph (2), the proposal together with all information to be presented to the stockholders, shall be submitted to the Farm Credit Administration for approval.

(2) Prerequisites.—Proposals developed under subsection (a)(2) shall not be submitted to stockholders under paragraph (3) unless the proposal is approved by—

(A) a majority of the members of the Board of Directors of the Assistance Board; and

(B) the members of the special committee that represent the districts affected by the terms of the proposal.

(3) Submission to stockholders.—Not later than the end of the 18-month period after the date of enactment of this Act, each Farm Credit Bank involved, in consultation with the special committee, shall submit the proposed merger affecting such bank to the voting stockholders of each such bank.

(4) Stockholder vote.—Each association shall be entitled to cast a number of votes equal to the number of voting stockholders of such association.

SEC. 413. VOLUNTARY MERGER OF THE BANKS FOR COOPERATIVES.

(a) Submission of Proposal.—

(1) Special committee.—

(A) In general.—Not later than 15 days after the date of the enactment of this section, a special committee shall be selected pursuant to subparagraph (B), for the purpose of developing a proposal for the voluntary merger of the banks for cooperatives.

(B) Composition.—The special committee selected under subparagraph (A) shall be composed of—

(i) one member of each district board elected by the voting stockholders of the bank for cooperatives in the district; and

(ii) one member chosen from the board of directors of the Central Bank for Cooperatives by the board of such Bank.

(C) Development of plan.—Not later than 75 days after the date of the enactment of this section, the special committee shall develop a plan of merger for all such banks and the Central Bank for Cooperatives into a National Bank for Cooperatives.

(2) Prerequisites to merger.—

(A) Submission to FCA.—On completion of the plan of merger pursuant to subparagraph (C), the special committee shall submit the proposed plan, together with all information that is to be distributed to the stockholders concerning such plan, to the Farm Credit Administration for approval.

(B) Expedited review.—Not later than 30 days after the Farm Credit Administration receives the plan of merger, the Administration shall promptly review such plan and advise the special committee concerning any required changes that are necessary to the plan.

"(3) Submission to stockholders.—On approval of the plan by the Farm Credit Administration, the special committee shall, under such procedures as may be established by the committee, submit the plan and recommendations to all voting stockholders and subscribers to the guaranty funds of the district banks and the Central Bank for Cooperatives.

(b) Voting Requirements.—

(1) Majority vote required.—An approval of the plan of merger developed and submitted under subsection (a) shall—

(A) require a majority vote of the stockholders of each district bank for cooperatives voting, in person or by proxy, at a duly authorized stockholders' meeting, computed both—

(i) in accordance with the requirement that, except as provided in section 3.3(d), each cooperative that is the holder of voting stock in, or a subscriber to the guaranty fund of the bank for cooperatives shall be entitled to cast one vote; and

(ii) on the basis of the total equity interests in the bank (including allocated, but not unallocated, surplus and reserves) held by such stockholders;

(B) require a majority vote of the voting stockholders of the Central Bank for Cooperatives voting on a one bank-one vote basis;

(C) take place not later than 180 days after the date of the enactment of this section; and

(D) take place prior to any other merger vote involving a bank for cooperatives.

"(2) Approval by all banks for cooperatives.—If the stockholders of all of the banks for cooperatives approve the merger, the merger shall take place.

(3) Effect of lesser vote.—If the stockholders of more than one but fewer than all of the banks approve the plan, each such bank whose stockholders voted to approve the merger shall be merged into a single bank for cooperatives, as provided in paragraphs (4) or (5).

(4) National Bank for Cooperatives.—

(A) Creation.—If the stockholders of eight or more of the district banks approve the merger, such banks, and the Central Bank for Cooperatives, shall be merged into a single bank, which shall be referred to as the "National Bank for Cooperatives".

(B) Services provided.—The National Bank for Cooperatives may offer credit and related services to eligible borrowers located within any territory that may be served by Farm Credit System institutions under section 5.0, or to any borrower otherwise eligible under section 3.7(b).

(5) United Bank for Cooperatives.—

(A) Creation.—If the stockholders of more than one but fewer than eight of the district banks approve the plan, each such bank, and the Central Bank for Cooperatives (if approved by a numerical majority of its stockholders), shall be merged into a single bank, which shall be referred to as the "United Bank for Cooperatives".

(B) Services provided.—The United Bank for Cooperatives shall offer credit and related services only in the territory included, as of the date of the enactment of this section, within the boundaries of the districts that had been served by the constituent banks of the United Bank for Cooperatives, and to any borrower otherwise eligible under section 3.7(b).

(6) Nonconsenting banks.—

(A) In general.—

(i) National Bank for Cooperatives.—Any of the district banks whose stockholders did not approve the plan of merger may offer credit and related services to any eligible borrowers within any territory or area that may be served by the National Bank.

(ii) United Bank for Cooperatives.—Any of the district banks whose stockholders did not approve the plan of merger, shall continue as district banks for cooperatives and shall continue to serve only the territory within the boundaries of the district that such banks served as of the date of the enactment of this section.

(B) Nondiscrimination.—Any district bank whose stockholders did not approve the plan of merger, shall be entitled to the availability, from the National Bank for Cooperatives or the United Bank for Cooperatives, as the case may be, of the same credit and related services now provided by the Central Bank for Cooperatives as of the date of the enactment of this section, regardless of the decision not to merge.

(D) Subsequent mergers.—Any district bank referred to in subparagraph (A) may subsequently merge with the National Bank for Cooperatives or the United Bank for Cooperatives, as the case may be, on the approval of the voting stockholders of both

banks proposing to merge based on the voting requirement of subsection (a).

(c) References.—References in this section to voting stockholders shall include subscribers to the guaranty fund.

SEC. 414. BANK FOR COOPERATIVES BOARD OF DIRECTORS.

(a) Initial Board.—The initial board of each district bank for cooperatives shall be composed of the members of the district board (which is dissolved upon the creation of the district Farm Credit Bank) elected by the stockholders of the bank for cooperatives and one member elected by the other two members, which member shall not be a director, officer, employee, or stockholder of a System institution. The initial board shall operate for such term as is agreed to by the members of the board, except that such period shall not exceed two years. Thereafter, the board shall be elected and serve in accordance with section 3.0 of the Farm Credit Act of 1971.

(b) Permanent Board.—Section 3.0 of the Act shall be amended—

(1) by inserting "(a)" after the section designation; and

(2) by adding at the end thereof the following new subsection:

"(b) Each bank for cooperatives shall elect from its voting stockholders a board of directors of such number, for such term, in such manner, and with such qualifications as may be required in its bylaws, except that, at least one member shall be elected by the other directors, which member shall not be a director, officer, employee, or stockholder of a System institution.

SEC. 415. ORGANIZATION AND OPERATION OF THE MERGED BANK FOR COOPERATIVES.

Title III (12 U.S.C. 2121 et seq.) is amended—

(1) by inserting after the title designation the following:

"Part A—Banks for Cooperatives"; and

(2) by adding at the end thereof the following new part:

"PART B—UNITED AND NATIONAL BANKS FOR COOPERATIVES

"SEC. 3.20. CHARTER, POWERS, AND OPERATION.

"(a) Charter.—The National Bank for Cooperatives or the United Bank for Cooperatives, as the case may be (hereinafter in this part referred to in this section as the 'consolidated bank') shall be a federally chartered instrumentality of the United States and an institution of the Farm Credit System.

"(b) Powers.—The consolidated bank and the board of directors of such bank shall have all of the powers, rights, responsibilities, and obligations of the district banks for cooperatives and the Central Bank for Cooperatives and the boards of directors of such banks, as otherwise provided for in this Act.

"(c) Operation.—The consolidated bank shall be organized and operated on a cooperative basis.

"SEC. 3.21. BOARD OF DIRECTOR PROVISIONS.

"(a) Initial Board of Directors.—The initial board of directors of a consolidated bank shall include the members of the boards of directors of the farm credit districts who were elected by voting stockholders of the constituent district banks for cooperatives (as such banks existed on the date of the enactment of this section) and who shall serve out the terms for which they were elected.

"(b) Permanent Board of Directors.—

"(1) Composition.—The permanent board of directors of a consolidated bank shall consist of—

"(A) three members, elected by the voting stockholders of the consolidated bank, from each of the farm credit districts that had been served by constituent banks, as such districts existed on the date of the enactment of this section, at least one of whom, from each such district, shall be a farmer;

"(B) one member elected by the voting stockholders of each district bank for cooperatives that is not a constituent of the consolidated bank; and

"(C) one member appointed by the members chosen under subparagraphs (A) and (B) who shall not be a stockholder or borrower of System institution or an officer or director of any such stockholder or borrower.

"(2) Nomination and election.—For purposes of nominating and electing members of the board of directors under paragraph (1)(A):

"(A) First member.—The nomination and election of the first member from each district shall be carried out on the basis provided for in section 3.3(d),

"(B) Second member.—

"(i) In general.—The nomination and election of the second member from each district shall be carried out with each voting stockholder of the consolidated bank located in the district having one vote, plus a number of votes (or fractional part thereof) equal to the number of stockholders eligible to vote in that district multiplied by the percentage (or fractional part thereof) of the total equity interest (including allocated, but not unallocated, surplus and reserves) in the consolidated bank of all such stockholders located in that district held by the individual voting stockholder—

"(I) as of the final date of the fiscal year of the consolidated bank; or

"(II) with respect to the first election held under this subsection, as of such date as the Farm Credit Administration shall prescribe.

"(ii) Total number of votes.—The total number of votes for each district under this subparagraph shall be the number of voting stockholders of the consolidated bank located in the district multiplied by two.

"(3) Terms.—

"(A) In general.—The members of the board of directors of the consolidated bank shall serve for a term of 3 years.

"(B) Timing of elections.—Procedures for electing members of the board of directors of the consolidated bank under this subsection shall ensure that the beginning of the terms of such members coincide with the expiration of the terms of members of the interim board of directors of the bank under subsection (a).

"(4) FCA regulations.—The nomination and election of the members of the board of directors of the consolidated bank under this subsection shall be carried out in accordance with regulations issued by the Farm Credit Administration.

"(c) Modification of Board of Director Provisions.—The provisions of subsection (b) relating to the board of directors of the consolidated bank, other than the provisions relating to the initial composition, nomination, and election of the members of the board, may be modified on an affirmative vote of at least two-thirds of the voting stockholders of the bank, with each such stockholder to have, for such purposes, only one vote. Any proposals for modifying such provisions shall be submitted for a vote by such stockholders in accordance with procedures prescribed by the Farm Credit Administration.

"SEC. 3.22. CREDIT DELIVERY OFFICE.

"On a determination by the board of directors of the United Bank for Cooperatives or the National Bank for Cooperatives that the bank's loan portfolio is concentrated in any one district or districts (according to the district boundaries in effect immediately prior to the effective date of the merger), the bank may consider the creation of regional service centers to accommodate such loan concentrations.

"SEC. 3.23. CONSOLIDATION OF FUNCTIONS.

"Subject to section 3.22, to the greatest extent practicable, the functions of the consolidated bank shall be consolidated in the central office of the bank.

"SEC. 3.24. EXCHANGE OF OWNERSHIP INTERESTS.

"On the establishment of the consolidated bank, ownership interests of the stockholders and subscribers to the guaranty funds of the constituent district banks for cooperatives (including stock, participation certificates, and allocated equities) shall be exchanged for like ownership interests in the consolidated bank on a book value basis.

"SEC. 3.25. CAPITALIZATION.

The board of directors of the consolidated bank shall provide for the capitalization of such bank in accordance with the provisions of section 4.3A.

"SEC. 3.26. PATRONAGE POOLS.

Under such terms and conditions as may be determined by its board of directors, the consolidated bank may—

"(1) for a period of at least 3 years following the date of the enactment of this section, establish separate patronage pools consisting of loans to eligible borrowers located in each constituent farm credit district (as such district existed on the date of the enactment of this section); and

"(2) allocate revenues, expenses, and net savings among such pools on an equitable basis.

"SEC. 3.27. TRANSACTIONS TO ACCOMPLISH THE MERGER.

"The receipt of assets or assumption of liabilities by the consolidated bank, the exchange of stock, equities, or other ownership interests, and any other transaction carried out in accomplishing the merger of the banks for cooperatives shall not be treated as a taxable event under the laws of the United States or of any State or political subdivision thereof. The preceding sentence shall also apply to the receipt of assets and liabilities by a taxable institution to the extent that the net amount of the distribution is immediately reinvested in stock of a consolidated bank (and in such case the basis of such stock shall be appropriately reduced by the amount of gain not recognized by reason of this sentence).

"SEC. 3.28. LENDING LIMITS.

"The Farm Credit Administration may not establish lending limits for the consolidated bank with respect to any loans or borrowers that are more restrictive than the combined lending limits that were previously established by the Farm Credit Administration for a district bank for cooperatives and the Central Bank for Cooperatives with respect to such loans or borrowers.".

SEC. 416. MERGER OF SYSTEM INSTITUTIONS.

The Act (12 U.S.C. 2001 et seq.) (as amended by section 201 of this Act) is further amended by adding at the end thereof the following new title:

"TITLE VII—MERGERS OF SYSTEM INSTITUTIONS

Subtitle A—Merger of Banks Within a District

"SEC. 7.0. POWER TO MERGE.

"Two or more banks within a district may merge into a single entity (hereinafter in this title referred to as a 'merged bank') if the plan of merger is approved by—

"(1) the Farm Credit Administration Board;

"(2) the respective boards of directors of the banks involved;

"(3) a majority of the stockholders of each bank voting, in person or by proxy, at a duly authorized stockholders' meeting in accordance with the provisions of section 5.2(c) relating to the casting of votes by stockholders; and

"(4) in the case of a bank for cooperatives, a majority of the total equity interests in such merging bank for cooperatives (including allocated, but not unallocated, surplus and reserves) held by those stockholders or subscribers to the guaranty fund of the bank voting.

"SEC. 7.1. BOARD OF DIRECTORS FOR THE DISTRICT.

"(a) COMPOSITION.—

"(1) IN GENERAL.—Following a merger pursuant to section 7.1, the district Board of Directors shall continue to be composed of seven members as provided in section 5.1.

"(2) REGULATIONS.—The Farm Credit Administration shall issue regulations to ensure the fair and equitable representation of the associations of each of the merging banks on the initial Board of Directors of the merged bank.

"(b) ELECTION.—Following a merger pursuant to section 7.8, the members of the district board shall be elected pursuant to regulations issued by the Farm Credit Administration prescribing procedures that are as consistent as practicable with those set forth in section 5.2.

"SEC. 7.2. POWERS OF MERGED BANKS.

"(a) IN GENERAL.—Except as otherwise provided in this title, a merged bank shall have all of the powers granted to, and shall be subject to all of the obligations imposed on, any of the constituent entities of the merged bank.

"(b) REGULATIONS.—The Farm Credit Administration shall issue regulations that establish the manner in which the powers and obligations of the banks that form the merged bank are consolidated, and to the extent necessary, reconciled in the merged bank.

"SEC. 7.3. CAPITAL STOCK.

"(a) PLAN OF MERGER.—Subject to subsection (c), the number of shares of capital stock issued by a merged bank to stockholders and other owners of any institution involved in the merger, and the rights and privileges of such shares (including voting power, redemption rights, preferences on liquidation, and the right to dividends) shall be determined by the plan of merger adopted by the banks involved, and shall be consistent with section 4.3A and the regulations issued by the Farm Credit Administration.

"(b) BOARD OF DIRECTORS.—Subject to subsection (a), the number of shares of capital stock issued by a merged bank, and the rights and privileges thereof, shall be determined by the Board of Directors of the merged bank established under this subtitle.

"(c) VOTING STOCK.—Voting stock of a merged bank shall be held only—

"(1) by associations or cooperatives that were, immediately prior to the merger, entitled to hold voting stock of one of the banks that merged; or

"(2) by farmers, ranchers, or producers or harvesters of aquatic products that are or were, immediately prior to the merger, direct borrowers from the merged bank or one of the banks that comprise the merged bank.

"SEC. 7.4. EARNINGS, RESERVES, AND DISTRIBUTIONS.

"(a) USE OF NET EARNINGS.—The Board of Directors of a merged bank shall determine the use or other application of net earnings after payment of operating expenses.

"(b) RESTORATION OF VALUE OF IMPAIRED CAPITAL STOCK.—Net earnings shall first be applied to restore the value of impaired capital stock.

"(c) OTHER USES.—After restoration, the application of net earnings may include (but not necessarily in the following order)—

"(1) additions to an allocated reserve account;

"(2) additions to an unallocated reserve account;

"(3) payment of a dividend on capital stock; and

"(4) payment of patronage refunds in cash or in stock or other notices of allocation.

"(d) USE OF CAPITAL AND RETAINED EARNINGS.—All capital and retained earnings of a merged bank shall be available for use in the activities of the merged bank as the Board of Directors shall determine, without regard to the activities giving rise to such earnings.

"SEC. 7.5. REPORTS BY MERGED BANKS FOR COOPERATIVES.

"(a) IN GENERAL.—When two or more banks for cooperatives merge, the resulting bank shall, not later than December 31 of each year of the succeeding 5 years following the date of the merger, file an annual report with the Farm Credit Administration that—

"(1) analyzes the effect of the merger;

"(2) includes a breakdown of loans outstanding according to the size of the cooperative stockholders of the bank; and

"(3) describes the adequacy of credit and other assistance services provided to smaller cooperatives.

"(b) AVAILABILITY.—A copy of the report required in subsection (a) shall be made available to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

SUBTITLE B—MERGERS, TRANSFERS OF ASSETS, AND POWERS OF ASSOCIATIONS WITHIN A DISTRICT

"Chapter 1—Transfers by Federal Land Banks to Federal Land Bank Associations

"SEC. 7.6. TRANSFER OF LENDING AUTHORITY.

"(a) ASSIGNMENTS.—A Federal land bank or a merged bank having a Federal land bank as one of its constituents, may assign to a Federal land bank association, and the association may assume, the authority of the transferring bank in the territorial area served by the association, to make and participate in long-term real estate mortgage loans under sections 1.6 through 1.9 if the assignment is approved by—

"(1) the Farm Credit Administration Board;

"(2) the Board of Directors of both institutions; and

"(3) a majority of the stockholders of the bank and of the association, in accordance with the voting provisions of sections 7.0 and 7.6.

"(b) DIRECT LOANS AND FINANCIAL ASSISTANCE.—After an assignment described in subsection (a)—

"(1) the Federal land bank association shall possess all of the direct long-term real estate mortgage loan authority, formerly possessed by the transferring bank, in the territory served by the association; and

"(2) the Federal land bank may provide and extend financial assistance to, and discount for, or purchase from, the transferee Federal land bank association any note, draft, or other obligation with the endorsement or guarantee of the association, the proceeds of which have been advanced to persons eligible and for purposes of financing by the association under subsection (a).

"(c) REGULATIONS.—The Farm Credit Administration shall issue regulations that establish the manner in which the powers and obligations of the banks that make assignments or transfers are consolidated and, to the extent necessary, reconciled in the association referred to in subsection (a). Following a transfer or assignment under subsection (a), the provisions of section 4.3A shall be applicable to the association.

"Chapter 2—Merger of Like and Unlike Associations

"SEC. 7.7. MERGERS OF UNLIKE ASSOCIATIONS.

"On the merger of one or more production credit associations with one or more Federal land bank associations, the bank supervising the Federal land bank association shall transfer all of its direct lending authority of the bank to such association under section 7.8.

"SEC. 7.8. MERGER OF ASSOCIATIONS.

"(a) IN GENERAL.—Two or more associations within the same district, whether or not organized under the same title of this Act, may merge into a single entity (hereinafter in this title referred to as a "merged association") if the plan of merger is approved by—

"(1) the Farm Credit Administration Board;

"(2) the boards of directors of the associations;

"(3) a majority of the shareholders of each association voting, in person or by proxy, at a duly authorized stockholders' meeting; and

"(4) the Farm Credit Bank.

"(b) POWERS, OBLIGATIONS, AND CONSOLIDATION.—

"(1) POWERS AND OBLIGATIONS.—Except as otherwise provided by this title, a merged association shall—

"(A) possess all powers granted under this Act to the associations forming the merged association; and

"(B) be subject to all of the obligations imposed under this Act on the associations forming the merged association.

"(2) CONSOLIDATION.—The Farm Credit Administration shall issue regulations that establish the manner in which the powers and obligations of the associations that form the merged association are consolidated and, to the extent necessary, reconciled in the merged association. Following a merger under subsection (a), the provisions of section 4.3A shall be applicable to the merged association.

"(c) STOCK ISSUANCE.—

"(1) PLAN OF MERGER.—Subject to section 4.3A, the number of shares of capital stock issued by a merged association to the stockholders of any association forming such merged association, and the rights and privileges of such shares (including voting power, preferences on liquidation, and the right to dividends), shall be determined by the plan of merger adopted by the merged associations.

"(2) PLAN OF CAPITALIZATION.—The number of shares of capital stock, and the rights and

privileges thereof, issued by a merged association after a merger shall be determined by the Board of Directors of the merged association, with the approval of the supervising bank, and shall be consistent with section 4.3A and the regulations issued by the Farm Credit Administration.

"(3) Voting stock.—Voting stock of a merged association shall be issued to and held by farmers, ranchers, or producers or harvesters of aquatic products who are or were, immediately prior to the merger, direct borrowers from one of the associations forming the merged association or the supervising bank of such merged association.

"(d) Capitalization.—The plan of merger shall provide for the issuance, transfer, and retirement of stock and the distribution of earnings in accordance with the provisions of section 4.3A.

"SEC. 7.9. RECONSIDERATION.

"(a) Period.—A stockholder vote in favor of—

"(1) the merger of districts under section 5.17(a)(2);

"(2) the merger of banks within a district under section 7.0;

"(3) the transfer of the lending authority of a Federal land bank or a merged bank having a Federal land bank as one of its constituents, under section 7.6;

"(5) the merger of two or more associations under section 7.8;

"(6) the termination of the status of an institution as a System institution under section 7.10; and

"(7) the merger of similar banks under section 7.13;

shall not take effect except in accordance with subsection (b).

"(b) Reconsideration.—

"(1) Notice.—Not later than 30 days after a stockholder vote in favor of any of the actions described in subsection (a), the officer or employee that records such vote shall ensure that all stockholders of the voting entity receive notice of the final results of the vote.

"(2) Effective date.—A voluntary merger, transfer, or termination that is approved by a vote of the stockholders of two or more banks or associations, shall not take effect until the expiration of 30 days after the date on which the stockholders of such associations are notified of the final result of the vote in accordance with paragraph (1).

"(3) Petition filed.—If a petition for reconsideration of a merger, transfer, or termination vote, signed by at least 15 percent of the stockholders of one or more of the affected banks or associations, is presented to the Farm Credit Administration within 30 days after the date of the notification required under paragraph (1)—

"(A) a voluntary merger, transfer, or termination shall not take effect until the expiration of 60 days after the date on which the stockholders were notified of the final result of the vote; and

"(B) a special meeting of the stockholders of the affected banks or associations shall be held during the period referred to in subparagraph (A) to reconsider the vote.

"(4) Vote on reconsideration.—If a majority of stockholders of any one of the affected banks or associations voting, in person or by written proxy, at a duly authorized stockholders' meeting, vote against the proposed merger, transfer, or termination, such action shall not take place.

"(5) Failure to file petition.—If a petition for reconsideration of such vote is either not filed prior to the 60th day after the vote or, if timely filed, is not signed by at least 15 percent of the stockholders, the merger, transfer, or termination shall become effective in accordance with the plan of merger, transfer, or termination.

"(c) Special Reconsideration.—

"(1) Issuance of regulations.—Notwithstanding any other provision of this Act, the Farm Credit Administration shall issue regulations under which the stockholders of any association that voluntarily merged with one or more associations after December 23, 1985, and before the date of the enactment of this section, may petition for the opportunity to organize as a separate association.

"(2) Requirements.—The regulations issued by the Farm Credit Administration shall require that—

"(A) the petition be filed within 1 year after the date of the implementation of such regulations;

"(B) the petition be signed by at least 15 percent of the stockholders of any one of the associations that merged during the period;

"(C) the petition describe the territory in which the proposed separate association will operate;

"(D) if the petition is approved—

"(i) the loans of the members of the new association will be transferred from the current association to such new association;

"(ii) the stock, participation certificates, and other similar equities of the current association held by members of the new association will be retired at book value and the proceeds of such will be transferred to the new association, and an equivalent amount of stock, participation certificates, and other similar equities will be issued to the members by the new association; and

"(iii) the other assets of the current association will be distributed equitably among the current association and any resulting new association.

"(3) Notification.—

"(A) In general.—Not later than 30 days after the filing of the petition for organization, the current association shall notify its stockholders that a petition to establish the separate association has been filed.

"(B) Contents.—The notification required under this paragraph shall contain—

"(i) the date of a special stockholders' meeting to consider the petition for organization; and

"(ii) an enumerated statement of the anticipated benefits and the potential disadvantages to such stockholders if the new association is established.

"(C) FCA approval.—

"(1) In general.—All notifications under this paragraph shall be submitted to the Farm Credit Administration Board for approval prior to being distributed to the stockholders.

"(ii) Amending notification.—The Farm Credit Administration Board shall require that, prior to the distribution of the notification to the stockholders, the notification be amended as determined necessary by the Board to provide accurate information to the stockholders that will enable such stockholders to make an informed decision as to the advisability of establishing a new association.

"(D) Special stockholders' meeting.—

"(i) Timing of meeting.—The special stockholders' meeting to consider the petition shall be held within 60 days after the filing of the petition.

"(ii) Approval.—If, at the special stockholders' meeting, a majority of the stockholders of the current association who would be served by the new association approve, by voting in person or by proxy, the establishment of the separate association, the Farm Credit Administration shall, within 30 days of such vote, issue a charter to the new association and amend the charter of the current association to reflect the territory to be served by the new association.

"Chapter 3—Termination and Dissolution of Institutions

"SEC. 7.10. TERMINATION OF SYSTEM INSTITUTION STATUS.

"(a) Conditions.—A System institution may terminate the status of the institution as a System institution if—

"(1) the institution provides written notice to the Farm Credit Administration Board not later than 90 days prior to the proposed termination date;

"(2) the termination is approved by the Farm Credit Administration Board;

"(3) the appropriate Federal or State authority grants approval to charter the institution as a bank, savings and loan association, or other financial institution;

"(4) the institution pays to the Farm Credit Assistance Fund, as created under section 6.25, if the termination is prior to January 1, 1992, or pays to the Farm Credit Insurance Fund, if the termination is after such date, the amount by which the total capital of the institution exceeds, 6 percent of the assets;

"(5) the institution pays or makes adequate provision for payment of all outstanding debt obligations of the institution;

"(6) the termination is approved by a majority of the stockholders of the institution voting, in person or by written proxy, at a duly authorized stockholders' meeting, held prior to giving notice to the Farm Credit Administration Board; and

"(7) the institution meets such other conditions as the Farm Credit Administration Board by regulation considers appropriate.

"(b) Effect.—On termination of its status as a System institution—

"(1) the Farm Credit Administration Board shall revoke the charter of the institution; and

"(2) the institution shall no longer be an instrumentality of the United States under this Act.

"Subtitle C—Approval of Disclosure Information and Issuance of Charters by the Farm Credit Administration Board

"SEC. 7.11. APPROVAL OF DISCLOSURE INFORMATION AND ISSUANCE OF CHARTERS.

"(a) Disclosure of Information.—

"(1) Approval of plan.—With respect to any plan of merger, transfer or assignment of lending authority, dissolution, or termination, prior to submission to the voters (voting stockholders and, where required, contributors to guaranty funds) of such institutions, such plan shall be submitted to the Farm Credit Administration Board, together with all information that is to be distributed to the voters with respect to the contemplated action, including an enumerated statement of the anticipated benefits and potential disadvantages of such action.

"(2) Notice of approval.—On notification that the Farm Credit Administration Board has approved such plan for submission to the stockholders, or after 30 days of no action on the plan by the Board, the submitting institutions may submit the plan, together with the disclosure information, to the voters for the prescribed vote.

"(b) Notice of Reasons for Disapproval.—If the Farm Credit Administration Board disapproves the plan for submission to the

stockholders, notification to the submitting institutions shall specify the reasons for the determination by the Board. If such plan is determined to be inadequate, it shall not be submitted to the voters for a vote.

"(c) FEDERAL CHARTER.—Each plan of merger or transfer of lending authority may include a proposed new or revised Federal charter for the merged or transferee entity. The Farm Credit Administration Board shall issue such charter on the approval of the plan, as prescribed in this title, unless the Board determines that the charter submitted is not consistent with this Act.

"Subtitle D—Mergers of Like Entities

"SEC. 7.12. MERGER OF SIMILAR BANKS.

"(a) IN GENERAL.—Banks organized or operating under this Act may merge with banks in other districts operating under the same title if the plan of merger is approved by—

"(1) the Farm Credit Administration Board;

"(2) the respective Boards of Directors of the banks involved;

"(3) a majority vote of the stockholders of each bank voting, in person or by proxy, at a duly authorized stockholders' meeting, with each association having a number of votes equal to the number of such associations voting stockholders; and

"(4) in the case of a bank for cooperatives, a majority of the total equity interests in such merging bank for cooperatives (including allocated, but not unallocated, surplus and reserves) held by those stockholders or subscribers to the guaranty fund of the bank voting.

"(b) PROCEDURES.—The provisions of sections 7.2 through 7.4 shall apply to banks merged under this section.

"(c) BOARD OF DIRECTORS.—

"(1) IN GENERAL.—After a merger under subsection (a), a board of directors shall be created for the resulting bank.

"(2) COMPOSITION.—The board shall be composed of—

"(A) two directors elected by each of the bank boards, with at least one such director from each bank being elected by the eligible stockholders of, or subscribers to, the guaranty fund of the merging banks; and

"(B) one outside director elected by the members elected under subparagraph (A).

"(3) OUTSIDE DIRECTOR.—

"(A) QUALIFICATIONS.—The outside director elected under paragraph (2)(B) shall be experienced in financial services and credit, and within the 2-year period prior to such election, shall not have been a borrower from, shareholder in, or director, officer, employee, or agent of any institution of the Farm Credit System.

"(B) FAILURE TO ELECT.—If the other members of the board fail to elect an outside director, the Farm Credit Administration Board shall appoint a qualified person to serve on the board of directors until such member is so elected.

"(4) BYLAWS.—Notwithstanding paragraph (2), the bylaws of the merged bank may, with the approval of the Farm Credit Administration, provide for a different number of directors to be selected in a different manner, except that the bylaws shall provide for at least one outside director.

"SEC. 7.13. MERGER OF SIMILAR ASSOCIATIONS.

"(a) IN GENERAL.—Associations may voluntarily merge with other like associations if the plan of merger is approved by—

"(1) the Farm Credit Administration Board;

"(2) the respective Boards of Directors of the associations involved;

"(3) a majority vote of the stockholders of each association voting, in person or by proxy, at a duly authorized stockholders' meeting; and

"(4) the Farm Credit Bank.

"(b) PROCEDURES.—The provisions of subsections (b), (c), and (d) of section 7.8 shall apply to associations merged under this section.".

SEC. 414. NONDISCRIMINATION.

The second sentence of section 5.17(a)(2) (12 U.S.C. 2251(a)(2)) is amended by striking out "; and the Farm Credit Administration shall ensure" and all that follows through "discriminated against in the provision of any financial service and assistance" and inserting in lieu thereof ". The Farm Credit Administration Board shall ensure that disapproving associations (A) shall not be charged any assessment under this Act at a rate higher than that charged other like associations in the district, and (B) shall be provided with financial services and assistance on the same basis as other like associations in the district".

SEC. 415. CONFORMING AMENDMENTS.

(a) DISSOLUTION AND MERGER.—

(1) PART HEADING.—The part heading of part B of title IV (12 U.S.C. 2181 et seq.) is amended by striking out "AND MERGER".

(2) MERGER.—Section 4.10 (12 U.S.C. 2181) is repealed.

(3) BOARDS OF DIRECTORS.—Section 4.11 (12 U.S.C. 2182) is repealed.

(4) DISSOLUTION.—Section 4.12(a) (12 U.S.C. 2183(a)) is amended—

(A) by striking out the third sentence; and

(B) in the fourth sentence, by striking out "may require such merger" and inserting in lieu thereof "Board may require an association to merge with another association".

(b) ISSUANCE OF OBLIGATIONS.—Section 4.2(d) (12 U.S.C. 2174(d)) is amended by striking out "each of the 12 districts and the Central Bank for Cooperatives" and inserting in lieu thereof "each bank".

(c) DISTRICT AND FARM CREDIT ADMINISTRATION ORGANIZATION.—Sections 5.1 through 5.6 (12 U.S.C. 2222-2227) are repealed.

(d) FARM CREDIT ADMINISTRATION POWERS.—Section 5.17(a)(2) (12 U.S.C. 2252(a)(2)) is amended—

(1) by striking out "; approve mergers of banks" and all that follows through "territories" and inserting in lieu thereof "approve mergers and any related activities as provided for in title VII; and the consolidation or division of the territories"; and

(2) by striking out "4.10" and inserting in lieu thereof "7.0".

Subtitle C—Other Restructuring Provisions

SEC. 420. COMMUNICATIONS WITH STOCKHOLDERS.

Part B of title IV (12 U.S.C. 2181 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 4.12A. COMMUNICATIONS WITH STOCKHOLDERS.

"(a) PROVISION OF STOCKHOLDER LISTS.—

"(1) IN GENERAL.—Within 7 days after receipt of a written request by a stockholder, a bank for cooperatives, Federal land bank association, or production credit association shall provide a current list of its stockholders to such requesting stockholder.

"(2) CONDITIONS.—As a condition of providing a stockholder list under paragraph (1), the bank or association may require that the stockholder agree and certify in writing that the stockholder will—

"(A) use the list exclusively for communicating with stockholders for permissible purposes; and

"(B) not make the list available to any person, other than the stockholder's attorney or accountant, without first obtaining the written consent of the institution.

"(b) ALTERNATIVE COMMUNICATIONS.—

"(1) REQUEST TO ISSUE.—As an alternative to receiving a list of stockholders, a stockholder may request the institution to mail or otherwise furnish to each stockholder a communication for a permissible purpose on behalf of the requesting stockholder.

"(2) WHEN PERMISSIBLE.—Alternative communications may be used, at the discretion of the requesting stockholder, if the requester agrees to defray the reasonable costs of the communication. If the requester decides to exercise this option, the institution shall provide the requester with a written estimate of the costs of handling and mailing the communication as soon as is practicable after receipt of the stockholder's request to furnish the communication.".

SEC. 421. ELIGIBILITY TO BORROW FROM A BANK FOR COOPERATIVES.

Section 3.8 (12 U.S.C. 2129) is amended by striking out subsection (2) and inserting in lieu thereof the following new subsection:

"(b) Notwithstanding any other provision of this section:

"(1) The following entities shall also be eligible to borrow from a bank for cooperatives:

"(A) Cooperatives and other entities that have received a loan, loan commitment, or loan guarantee from the Rural Electrification Administration, or a loan or loan commitment from the Rural Telephone Ba nk, or that have been certified by the Administrator of the Rural Electrification Adiinistration to be eligible for such a loan, loan commitment, or loan guarantee, and subsidiaries of such cooperatives or other entities.

"(B) Ajy legal entity more than 50 percent of the voting control of which is held by one or more associations or other entities that are eligible tk borrow from a bank for cooperatives under subsection (a) or subparagraph (A) of this paragraph, except that any such legal entity, when considered together with one or more such associations or other entities that hold such control, meet the requirement of subsection (a)(3).

"(C) Any legal entity that (i) holds more than 50 percent of the voting control of an association or other entity that is ehigible to borrow from a bank for cooperatives under subsection (a) or subparagraph (A) of this paragraph, and (ii) borrows for the purpose of making funds available to that association or entity, and make funds available to that association or entity under the same terms and conditions that the funds are borrowed from a bank for cooperatives.

"(2) Notwithstanding the provisions of section 3.9, the board of directors of a bank for cooperatives may determine that, with respect to a loan to any borrower eligible to borrow from a bank under paragraph (1)(A) that is fully guaranteed by the United States, no stock purchase requirement shall apply, other than the requirement that a borrower eligible to own voting stock shall purchase one share of such stock.

"(3) Each association and other entity eligible to borrow from a bank for cooperatives under this subsection, for purposes of section 3.7(a), shall be treated as an eligible cooperative association and a stockholder eligible to borrow from the bank.

"(4) Nothing in this subsection shall be construed to adversely affect the eligibility, as it existed on the date of the enactment of this subsection, of cooperatives and other entities for any other credit assistance under Federal law.".

SEC. 422. SALES OF INSURANCE BY SYSTEM INSTITUTIONS.

(a) In General.—Section 4.29 (12 U.S.C. 2218) is amended—

(1) in subsection (a)—

(A) by inserting "(1)" after the subsection designation;

(B) by striking out "of this Act";

(C) by inserting "or borrower from" before "any such bank";

(D) by adding at the end thereof the following new sentence: "A member or borrower shall have the option, without coercion from the bank or association of such member or borrower, to accept or reject such insurance."; and

(E) by adding at the end thereof the following new paragraph:

"(2) In making insurance available through private insurers, the banks shall approve the programs of more than two insurers for each type of insurance offered in the district. The banks may provide comparative information relating to costs and quality of approved programs and the financial conditions of approved companies. Associations shall offer at least two insurers for each program from among those approved by the Federal intermediate credit banks."; and

(2) in paragraph (2) of subsection (b)—

(A) by redesignating clauses (i), (ii), and (iii), as subparagraphs (A), (B), and (C), respectively;

(B) by striking out "and" in subparagraph (B) as so redesignated;

(C) by striking out "and" in subparagraph (C) as so redesignated; and

(D) by adding at the end thereof the following new subparagraphs:

"(D) the insurance program has been approved by the bank or association from among specific programs made available to it by insurers—

"(i) meeting reasonable financial and quality of service standards; and

"(ii) licensed under State law to do business in the State; and

"(E) in making insurance available through approved insurers, the board of directors of the association or bank selects and offers at least two approved insurers for each type of insurance made available to the members and borrowers; and".

(b) Continuation of Program.—Notwithstanding the amendments made to section 4.29 by subsection (a), any insurance program offered by any bank or association of the Farm Credit System on the date of the enactment of this Act that does not meet the requirements of section 4.29, as so amended, may be continued until July 1, 1988.

SEC. 423. CIVIL MONEY PENALTIES.

(a) Assessment Authority.—Section 5.32(a) (12 U.S.C. 2268(a)) is amended by striking out "continues, but" and inserting in lieu thereof the following: "continues. Any such institution or person who violates any provision of this Act or any regulation issued under this Act shall forfeit and pay a civil penalty of not more than $500 per day for each day during which such violation continues. Notwithstanding the preceding sentences,".

(b) Notification of Alleged Violators.—Section 5.32(b) (12 U.S.C. 2268(b)) is amended by inserting after the subsection designation the following new sentence: "Before determining whether to assess a civil money penalty and determining the amount of such penalty, the Farm Credit Administration shall notify the institution or person to be assessed of the violation or violations alleged to have occurred or to be occurring, and shall solicit the views of the institution or person regarding the imposition of such penalty.".

(c) Review of Final Orders.—Section 5.32(d) (12 U.S.C. 2268(d)) is amended by striking out the last sentence and inserting in lieu thereof the following new sentence: "Final orders of the Farm Credit Administration issued under subsection (c) shall be reviewable under chapter 7 of title 5, United States Code.".

SEC. 424. LIMITATION ON FCA AUTHORITY TO REQUIRE DISCLOSURE OF INFORMATION.

(a) In General.—Section 5.17(a)(9) (12 U.S.C. 2252(a)(9)) is amended by inserting before the period the following: ", except that the Farm Credit Administration may not require any System institution to disclose in any report to stockholders information concerning the condition or classification of a loan—

"(A) to a director of the institution—

"(i) who has resigned before the time for filing the applicable report with the Farm Credit Administration; or

"(ii) whose term of office will expire no later than the date of the meeting of stockholders to which the report relates; or

"(B) to a member of the immediate family of a director of the institution unless—

"(i) the family member resides in the same household as the director; or

"(ii) the director has a material financial or legal interest in the loan or business operation of the family member.".

(b) Regulations.—Within 30 days after the date of the enactment of this Act, the Farm Credit Administration shall amend its regulations as necessary to implement the amendment made by subsection (a).

SEC. 425. REMOVAL OF CERTAIN SUNSET PROVISIONS; PROHIBITION AGAINST USE OF SIGNED BALLOTS.

Section 4.20 (12 U.S.C. 2208) is amended to read as follows:

"SEC. 4.20. PROHIBITION AGAINST USE OF SIGNED BALLOTS.

"In any election or merger vote, or other proceeding subject to a vote of the stockholders (or subscribers to the guaranty fund of a bank for cooperatives), conducted by a lending institution of the Farm Credit System, the institution—

"(1) may not use signed ballots; and

"(2) shall implement measures to safeguard the voting process for the protection of the right of stockholders (or subscribers) to a secret ballot.".

SEC. 426. FEDERAL LAND BANK LOAN SECURITY.

Section 1.9 (12 U.S.C. 2017) is amended to read as follows:

"SEC. 1.9. FEDERAL LAND BANK LOAN SECURITY.

"(a) Maximum Level of Loans.—

"(1) In general.—Loans originated by a Federal land bank, or in which a Federal land bank participates in with a lender that is not a System institution, shall not exceed 85 percent of the appraised value of the real estate security, except as provided for in paragraphs (2) and (3).

"(2) Regulation.—The Farm Credit Administration may, by regulation, require that loans not exceed 75 percent of the appraised value of the real estate security.

"(3) Guaranteed loans.—If the loan is guaranteed by Federal, State, or other governmental agencies, the loan may not exceed 97 percent of the appraised value of the real estate security, as may be authorized under regulations of the Farm Credit Administration.

"(b) Security.—All loans originated or participated in by a bank under this section shall be secured by first liens on interests in real estate of such classes as may be approved by the Farm Credit Administration.

"(c) Value of Security.—To adequately secure the loan, the value of security shall be determined by appraisal under appraisal standards prescribed by the bank and approved by the Farm Credit Administration.

"(d) Additional Security.—Additional security for any loan may be required by the bank to supplement real estate security. Credit factors, other than the ratio between the amount of the loan and the security value, shall be given due consideration.

"(e) Financial Statement.—Each Federal land bank shall require a financial statement from each borrower at least once every 3 years, or during such shorter period of time as may be required under regulations of the Farm Credit Administration.".

SEC. 427. AFFIRMATIVE ACTION.

Part F of title IV (12 U.S.C. 2219 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 4.37. AFFIRMATIVE ACTION.

The Assistance Board established under section 6.0 and all institutions of the Farm Credit System with more than 20 employees shall establish and maintain an affirmative action program plan that applies the affirmative action standards otherwise applied to contractors of the Federal government.".

SEC. 428. ENCOURAGEMENT OF CONSERVATION PRACTICES.

Part F of title IV (12 U.S.C. 2219 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 4.38. ENCOURAGEMENT OF CONSERVATION PRACTICES.

"At the time a System institution or an agricultural mortgage loan originator (as defined in section 8.0(7)) approves a loan made to a borrower that, in the opinion of the institution or originator, would be ineligible for a loan made, insured, or guaranteed under the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.) by reason of subtitle B or C of title XII of the Food Security Act of 1985 (16 U.S.C. 3811 et seq.), the institution or originator, as the case may be, shall encourage the borrower to contact the Department of Agriculture Soil Conservation Service to obtain information about soil conservation methods and practices.".

SEC. 429. UNIFORM FINANCIAL REPORTING INSTRUCTIONS.

Part B of title V is amended by inserting after section 5.22 (12 U.S.C. 2257) the following new section:

"SEC. 5.22A. UNIFORM FINANCIAL REPORTING INSTRUCTIONS.

"(a) In General.—Each System institution shall comply with uniform financial reporting instructions required by the Farm Credit Administration, to standardize and facilitate the reporting of System data.

"(b) Computerized System.—If the financial reports are maintained by a computer system, each System institution may develop an internal computer system or it may contract out to a vendor under open competitive bidding any or all aspects of the computerized system.

"(c) Submission of Proposal.—Within 6 months of the date of the enactment of this section, each System institution shall submit to the Farm Credit Administration a report on the plan of that institution to bring the operations of the institution into compliance with the uniform financial reporting instructions required by the Farm Credit Administration.".

SEC. 430. COMPENSATION FOR DIRECTORS.

Section 5.5 (12 U.S.C. 2226) is amended by inserting before the period at the end thereof the following: "No director may receive compensation under this section during any year in a total amount exceeding $15,000.".

SEC. 431. FARM CREDIT ADMINISTRATION BOARD.

(a) RULES AND RECORDS.—Section 5.8(c) (12 U.S.C. 2242) is amended by striking out the last sentence and inserting in lieu thereof the following new sentence: "The Board shall adopt such rules as it deems appropriate for the transaction of business by the Board, and shall keep permanent and accurate records and minutes of the actions and proceedings of the Board.".

(b) CHAIRMAN.—Subsection (a) of section 5.10 (12 U.S.C. 2244(a)) is amended to read as follows:

"(a)(1) The Chairman of the Board shall be the chief executive officer of the Farm Credit Administration.

"(2) In carrying out the responsibilities of the chief executive officer, the Chairman shall be responsible for directing the implementation of policies and regulations adopted by the Board and, after consultation with the Board, the execution of the administrative functions and duties of the Farm Credit Administration.

"(3) In carrying out policies as directed by the Board, the Chairman shall act as spokesperson for the Board and represent the Board and the Farm Credit Administration in their official relations within the Federal government.

"(4) Under policies adopted by the Board, the Chairman shall consult on a regular basis with—

"(A) the Secretary of the Treasury concerning the exercise, by the System, of the powers conferred under section 4.2;

"(B) the Board of Governors of the Federal Reserve System concerning the effect of System lending activities on national monetary policy; and

"(C) the Secretary of Agriculture concerning the effect of System policies on farmers, ranchers, and the agricultural economy.".

(c) FUNCTIONS AND APPOINTMENTS.—Section 5.11 (12 U.S.C. 2245) is amended to read as follows:

"SEC. 5.11. ORGANIZATION OF THE FARM CREDIT ADMINISTRATION.

"(a) POLICIES OF THE BOARD.—The Chairman of the Farm Credit Administration Board, in carrying out the powers and duties vested in the Chairman by this Act, and Acts supplementary thereto, shall be governed by policies of the Board and by such regulatory decisions, findings, and determinations as the Board may by law be authorized to make.

"(b) APPOINTMENTS.—The Chairman of the Board shall appoint such personnel as may be necessary to carry out the functions of the Farm Credit Administration. The appointment by the Chairman of the heads of major administrative divisions under the Board shall be subject to the approval of the Board.

"(c) PERSONNEL.—

"(1) APPOINTMENTS BY BOARD MEMBERS.—Personnel employed regularly and full-time in the immediate offices of Board members shall be appointed by each such Board member.

"(2) OFFICERS AND EMPLOYEES.—The officers and employees of the agency shall be—

"(A) subject to the Ethics in Government Act of 1978 (2 U.S.C. 701 et seq.);

"(B) considered officers or employees of the United States for the purposes of sections 201 through 203, and sections 205 through 209, of title 18, United States Code; and

"(C) subject to section 5315 of title 5, United States Code.

"(3) DELEGATION.—The powers of the Chairman as chief executive officer necessary for day to day management may be exercised and performed by the Chairman through such other officers and employees of the Administration as the Chairman shall designate, except that the Chairman may not delegate powers specifically reserved to the Chairman by this Act without Board approval.

"(d) FUNDING.—The operations of the Farm Credit Administration, and the salaries of members of the Board and employees of the Administration, shall be funded and paid for from the fund created under section 5.15.".

(d) ADVISORY COMMITTEES.—Section 5.12 (12 U.S.C. 2246) is amended by inserting ", subject to the approval of the Board," after "Chairman of the Board".

(e) POWERS.—Section 5.17(a) (12 U.S.C. 2251(a)) is amended—

(1) in paragraph (2), by striking out the last sentence and inserting in lieu thereof the following new sentence: "The Farm Credit Administration Board, after consultation with the respective boards of directors of the affected banks, may require two or more banks operating under the same or different titles to merge if the Board determines that one of such banks has failed to meet its outstanding obligations."; and

(2) in paragraph (15)—

(A) by inserting "by the Board" after "determined"; and

(B) by adding at the end thereof the following new sentence: "The Board may not delegate its responsibilities under this paragraph.".

(f) SPECIAL DISTRICT RULE.—Section 2.15 (12 U.S.C. 2096) is amended by adding at the end thereof the following new subsection:

"(c)(1) On request, the Farm Credit Administration Board may permit a production credit association, located in a district in which there are no more than three such associations, notwithstanding any territorial limitation in the charter of such association, to provide credit and technical assistance to any borrower who is denied credit by a production credit association that—

"(A) has an adjoining service territory; and

"(B) is located in the same district,

if the Board determines that one of the production credit associations in the district is unduly restrictive in the application of credit standards.

"(2) If the Farm Credit Administration Board approves the extension of credit and technical assistance under paragraph (1), the association shall approve or deny the application for credit within 90 days after the receipt of the application from the borrower.".

(g) CONFORMING AMENDMENT.—Section 4.12 (12 U.S.C. 2183) is amended by inserting "Board" after "Farm Credit Administration" each place it appears in subsection (b) other than in clause (5) of the first sentence.

SEC. 432. FARM CREDIT ADMINISTRATION ORGANIZATION.

(a) OPERATING EXPENSES FUND.—Section 5.15 (12 U.S.C. 2249) is amended to read as follows:

"SEC. 5.15. FARM CREDIT ADMINISTRATION OPERATING EXPENSES FUND.

"(a) DETERMINATIONS REQUIRED.—

"(1) GENERALLY.—Prior to the first day of each fiscal year, the Farm Credit Administration shall determine—

"(A) the cost of administering this Act for the subsequent fiscal year, including expenses for official functions;

"(B) the amount of assessments that will be required to pay such administrative expenses, taking into consideration the funds contained in the Administrative Expense Account, and maintain a necessary reserve; and

"(C) the amount of assessments that will be required to pay the costs of supervising and examining the Mortgage Corporation established under title VIII.

"(2) APPORTIONMENTS.—On the basis of the determinations made under paragraph (1), the Farm Credit Administration shall—

"(A) apportion the amount of such assessment among the System institutions on a basis that is determined to be equitable by the Farm Credit Administration;

"(B) assess and collect such apportioned amounts from time to time during the fiscal year as determined necessary by the Farm Credit Administration; and

"(C) assess and collect from the Mortgage Corporation, from time to time during the fiscal year, the amount specified in paragraph (1)(C).

"(b) DEPOSITS INTO FUND.—

"(1) TREASURY FUND.—The amounts collected under subsection (a) shall be deposited in the Farm Credit Administration Administrative Expense Account. The Expense Account shall be maintained in the Treasury of the United States and shall be available, without regard to the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901 note) or any other law, to pay the expenses of the Farm Credit Administration.

"(2) NONGOVERNMENT FUNDS.—The funds contained in the Expense Account shall not be construed to be Federal government funds or appropriated monies.

"(3) INVESTMENT.—

"(A) AUTHORITY.—On request of the Farm Credit Administration, the Secretary of the Treasury shall invest and reinvest such amounts contained in the Expense Account as, in the determination of the Farm Credit Administration, are in excess of the amounts necessary for current expenses of the Farm Credit Administration.

"(B) RETURNS.—All income earned from such investments and reinvestments shall be deposited in the Expense Account.

"(C) TYPE.—Such investments shall be made in public debt securities with maturities suitable to the needs of the Expense Account, as determined by the Farm Credit Administration, and bearing interest at rates determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding marketable obligations of the United States of comparable maturities.".

(b) EXAMINATION OF FEDERAL LAND BANK ASSOCIATIONS.—Section 5.19(a) (12 U.S.C. 2253(a)) is amended—

(1) in the first sentence, by striking out "Each" and inserting in lieu thereof "Except for Federal land bank associations, each";

(2) by inserting after the first sentence the following new sentence: "Each Federal land bank association shall be examined by Farm Credit Administration examiners at such times as the Farm Credit Administration Board may determine, except that each such association shall be examined at least once every 5 years."; and

(3) by striking out "the Chairman of" each place it appears in such subsection.

(c) POWER TO REMOVE DIRECTORS AND OFFICERS.—Part C of title V (12 U.S.C. 2260) is amended by adding at the end thereof the following new section:

"SEC. 5.38. POWER TO REMOVE DIRECTORS AND OFFICERS.

"Notwithstanding any other provision of this Act, a farm credit district board, bank board, or bank officer or employee shall not remove any director or officer of any production credit association or Federal land bank association.".

SEC. 433. REASSIGNMENT OF ASSOCIATIONS TO ADJOINING DISTRICTS.

(a) PETITION OF BANK.—Notwithstanding any other provision of this Act, effective for the 12-month period beginning on the date of enactment of the Agricultural Credit Act of 1987, each Federal land bank association or production credit association, whose chartered territory adjoins the territory of another district, may petition the Farm Credit Administration to amend the charters of the association and the adjoining district bank to provide that the territory of the association is part of the adjoining district.

(b) REQUIREMENTS OF PETITION.—To be considered under this section, the petition must be signed by not less than 15 percent of the stockholders of the association. Only one such petition may be filed by an association under this subsection.

(c) FCA ACTION.—The Farm Credit Administration shall take any action necessary—

(1) to amend the charters of the association and the district bank; and

(2) to incorporate the petitioning association into the adjoining district if the reassignment is approved by—

(A) a majority of the stockholders of the association voting, in person or by proxy, at a duly authorized stockholders' meeting held for such purpose;

(B) the board of directors of such adjoining district;

(C) the Assistance Board; and

(D) the Farm Credit Administration Board.

SEC. 434. CONFORMING AMENDMENT.

Effective 6 months after the date of the enactment of this Act, section 1.2 (12 U.S.C. 2002) is amended to read as follows:

"SEC. 1.2. THE FARM CREDIT SYSTEM.

"The Farm Credit System shall include the Farm Credit Banks, the Federal land bank associations, the production credit associations, the banks for cooperatives, and such other institutions as may be made a part of the System, all of which shall be chartered by and subject to the regulation by the Farm Credit Administration.".

TITLE V—STATE MEDIATION PROGRAMS

Subtitle A—Matching Grants for State Mediation Programs

SEC. 501. QUALIFYING STATES.

(a) IN GENERAL.—A State is a qualifying State if the Secretary of Agriculture (hereinafter in this subtitle referred to as the "Secretary") determines that the State has in effect an agricultural loan mediation program that meets the requirements of subsection (c).

(b) DETERMINATION BY SECRETARY.—Within 15 days after the Secretary receives from the Governor of a State, a description of the agricultural loan mediation program of the State and a statement certifying that the State has met all of the requirements of subsection (c), the Secretary shall determine whether the State is a qualifying State.

(c) REQUIREMENTS OF STATE PROGRAMS.—Within 15 days after the Secretary receives a description of a State agricultural loan mediation program, the Secretary shall certify the State as a qualifying State if the State program—

(1) provides for mediation services to be provided to producers, and their creditors, that, if decisions are reached, result in mediated, mutually agreeable decisions between parties under an agricultural loan mediation program;

(2) is authorized or administered by an agency of the State government or by the Governor of the State;

(3) provides for the training of mediators;

(4) provides that the mediation sessions shall be confidential; and

(5) ensures that all lenders and borrowers of agricultural loans receive adequate notification of the mediation program.

SEC. 502. MATCHING GRANTS TO STATES.

(a) MATCHING GRANTS.—Within 60 days after the Secretary certifies the State as a qualifying State under section 501(b), the Secretary shall provide financial assistance to the State, in accordance with subsection (b), for the operation and administration of the agricultural loan mediation program.

(b) AMOUNT OF GRANT.—

(1) IN GENERAL.—Subject to paragraph (2), the Secretary shall pay to a State under subsection (a) not more than 50 percent of the cost of the operation and administration of the agricultural loan mediation program within the State.

(2) MAXIMUM AMOUNT.—The Secretary shall not pay more than $500,000 per year to a single State under subsection (a).

(c) USE OF GRANT.—Each State that receives an amount paid under subsection (a) shall use that amount only for the operation and administration of the agricultural loan mediation program of the State.

(d) PENALTY.—If the Secretary determines that a State has not complied with subsection (c), such State shall not be eligible for additional financial assistance under this subtitle.

SEC. 503. PARTICIPATION OF FEDERAL AGENCIES.

(a) DUTIES OF THE SECRETARY OF AGRICULTURE.—

(1) IN GENERAL.—The Secretary, with respect to each program under the jurisdiction of the Secretary that makes, guarantees, or insures agricultural loans—

(A) shall prescribe rules requiring each such program to participate in good faith in any State agricultural loan mediation program;

(B) shall, on the date of the enactment of this Act, participate in agricultural loan mediation programs; and

(C) shall—

(i) cooperate in good faith with requests for information or analysis of information made in the course of mediation under any agricultural loan mediation program described in section 501; and

(ii) present and explore debt restructuring proposals advanced in the course of such mediation.

(2) NONBINDING ON SECRETARY.—The Secretary shall not be bound by any determination made in a program described in paragraph (1) if the Secretary has not agreed to such determination.

(b) DUTIES OF THE FARM CREDIT ADMINISTRATION.—The Farm Credit Administration shall prescribe rules requiring the institutions of the Farm Credit System—

(1) to cooperate in good faith with requests for information or analysis of information made in the course of mediation under any agricultural loan mediation program described in section 501; and

(2) to present and explore debt restructuring proposals advanced in the course of such mediation.

SEC. 504. REGULATIONS.

Within 150 days after the date of the enactment of this Act, the Secretary and the Farm Credit Administration shall prescribe such regulations as may be necessary to carry out this subtitle.

SEC. 505. REPORT.

Not later than January 1, 1990, the Secretary of Agriculture shall report to Congress on—

(1) the effectiveness of the State agricultural loan mediation programs receiving matching grants under this subtitle;

(2) recommendations for improving the delivery of mediation services to producers; and

(3) the savings to the States as a result of having an agricultural loan mediation program.

SEC. 506. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this subtitle $7,500,000 for each of the fiscal years 1988 through 1991.

Subtitle B—Waiver of Mediation Rights

SEC. 511. WAIVER OF MEDIATION RIGHTS BY FARM CREDIT SYSTEM BORROWERS.

Part C of Title IV (12 U.S.C. 2151 et seq.) is amended by inserting after the section added by section 107 the following new section:

"SEC. 4.14E. WAIVER OF MEDIATION RIGHTS BY BORROWERS.

"No System institution may make a loan secured by a mortgage or lien on agricultural property to a borrower on the condition that the borrower waive any right under the agricultural loan mediation program of any State.".

SEC. 512. WAIVER OF MEDIATION RIGHTS BY FmHA BORROWERS.

Subtitle D of the Consolidated Farm and Rural Development Act (7 U.S.C. 1981 et seq.) is amended by adding after the section added by section 619 of this Act the following new section:

"SEC. 358. WAIVER OF MEDIATION RIGHTS BY BORROWERS.

"The Secretary may not make, insure, or guarantee any farmer program loan to a farm borrower on the condition that the borrower waive any right under the agricultural loan mediation program of any State.".

TITLE VI—FARMERS HOME ADMINISTRATION LOANS

SEC. 601. AMENDMENT OF CONSOLIDATED FARM AND RURAL DEVELOPMENT ACT.

Except as otherwise specifically provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.).

SEC. 602. DEFINITIONS.

Section 343 (7 U.S.C. 1991) is amended—

(1) by inserting "(a)" after the section designation; and

(2) by adding at the end thereof the following new subsection:

"(b) As used in sections 307(e), 331D, 335(e) and (f), 338(f), 351(h), 352(b) and (c), 353, and 357:

"(1) The term 'borrower' means any farm borrower who has outstanding obligations to the Secretary under any farmer program loan, without regard to whether the loan has been accelerated, but does not include any farm borrower all of whose loans and accounts have been foreclosed on or liquidated, voluntarily or otherwise.

"(2) The term 'loan service program' means, with respect to a farmer program borrower, a primary loan service program or a preservation loan service program.

"(3) The term 'primary loan service program' means—

"(A) loan consolidation, rescheduling, or reamortization;

"(B) interest rate reduction, including the use of the limited resource program;

"(C) loan restructuring, including deferral, set aside, or writing down of the principal or accumulated interest charges, or both, of the loan; or

"(D) any combination of actions described in subparagraphs (A), (B), and (C).

"(4) The term 'preservation loan service program' means—

"(A) homestead retention as authorized under section 352; and

"(B) a leaseback or buyback of farmland authorized under section 335.".

SEC. 603. SECURITY FOR FMHA REAL ESTATE LOANS.

Section 307(c) (7 U.S.C. 1927(c)) is amended by adding at the end thereof the following new sentence: "A borrower may use the same collateral to secure two or more loans made, insured, or guaranteed under this subtitle, except that the outstanding amount of such loans may not exceed the total value of the collateral so used.".

SEC. 604. ADDITIONAL COLLATERAL.

Section 307 (7 U.S.C. 1927) is amended by adding at the end thereof the following new subsection:

"(e) The Secretary may not—

"(1) require any borrower to provide additional collateral to secure a farmer program loan made or insured under this title, if the borrower is current in the payment of principal and interest on the loan; or

"(2) bring any action to foreclose, or otherwise liquidate, any such loan as a result of the failure of a borrower to provide additional collateral to secure a loan, if the borrower was current in the payment of principal and interest on the loan at the time the additional collateral was requested.".

SEC. 605. NOTICE OF LOAN SERVICE PROGRAMS.

Subtitle D (7 U.S.C. 1981 et seq.) is amended by inserting after section 331C the following new section:

"SEC. 331D. NOTICE OF LOAN SERVICE PROGRAMS.

"(a) REQUIREMENT.—The Secretary shall provide notice by certified mail to each borrower who is at least 180 days delinquent in the payment of principal or interest on a loan made or insured under this title.

"(b) CONTENTS.—The notice required under subsection (a) shall—

"(1) include a summary of all primary loan service programs, preservation loan service programs, and appeal procedures, including the eligibility criteria, and terms and conditions of such programs and procedures;

"(2) include a summary of the manner in which the borrower may apply, and be considered, for all such programs, except that the Secretary shall not require the borrower to select among such programs or waive any right in order to be considered for any program carried out by the Secretary;

"(3) advise the borrower regarding all filing requirements and any deadlines that must be met for requesting loan servicing;

"(4) provide any relevant forms, including applicable response forms;

"(5) advise the borrower that a copy of regulations is available on request; and

"(6) be designed to be readable and understandable by the borrower.

"(c) CONTAINED IN REGULATIONS.—All notices required by this section shall be contained in the regulations implementing this title.

"(d) TIMING.—The notice described in subsection (b) shall be provided—

"(1) at the time an application is made for participation in a loan service program;

"(2) on written request of the borrower; and

"(3) before the earliest of—

"(A) initiating any liquidation;

"(B) requesting the conveyance of security property;

"(C) accelerating the loan;

"(D) repossessing property;

"(E) foreclosing on property; or

"(F) taking any other collection action.

"(e) CONSIDERATION OF BORROWERS FOR LOAN SERVICE PROGRAMS.—The Secretary shall consider a farmer program borrower for all loan service programs if, within 45 days after receipt of the notice required in this section, the borrower requests such consideration in writing. In considering a borrower for loan service programs, the Secretary shall place the highest priority on the preservation of the borrower's farming operations.".

SEC. 606. PLANTING AND PRODUCTION HISTORY GUIDELINES.

Subtitle D (7 U.S.C. 1981 et seq.) is amended by inserting after the section added by section 605 of this Act the following new section:

"SEC. 331E. PLANTING AND PRODUCTION HISTORY GUIDELINES.

"The Secretary shall ensure that appropriate procedures, including to the extent practicable onsite inspections, or use of county or State yield averages, are used in calculating future yields for an applicant for a loan, when an accurate projection cannot be made because the applicant's past production history has been affected by natural disasters declared under the Disaster Relief Act of 1974.".

SEC. 607. COUNTY COMMITTEES.

Section 332(a) (7 U.S.C. 1982(a)) is amended—

(1) by inserting "(1)" after the subsection designation;

(2) in the second sentence, by striking out "deriving the principal part of their income from farming";

(3) by inserting before the period at the end thereof the following: "before conducting any county committee election. The Secretary shall publish any regulation promulgated under this subsection"; and

(4) by adding at the end thereof the following new paragraphs:

"(2) The Secretary shall ensure that farmers have—

"(A) at least 45 days to submit nominations following general public notice of any procedure by which to submit nominations for county committee elections in each county; and

"(B) at least 30 days after general public notice of an election in each county, before the election is held.

"(3) Any farmer eligible for a loan made or insured under subtitle A shall be eligible to serve as an elected or appointed county committee member, subject to section 336(c).

"(4) Not more than one farmer eligible for a loan made or insured under subtitle A may serve on a county committee at the same time.

"(5) For purposes of this subsection, the term 'farmer' shall include the spouse of a farmer otherwise eligible under this section.".

SEC. 608. ADMINISTRATIVE APPEALS.

Section 333B (7 U.S.C. 1983b) is amended by adding at the end thereof the following new subsections:

"(d) The Secretary shall establish and maintain within the Farmers Home Administration a national appeals division, which shall consist of a director, hearing officers, and such other personnel necessary to the administration of the division, all of whom shall be employees of the Farmers Home Administration who shall have no duties other than hearing and determining formal appeals arising under this section.

"(e)(1) Hearing officers within the appeals division in a State shall hear and determine all formal appeals of decisions which are subject to this section and are made by county supervisors, county committees, district directors, State directors, or other employees of the Secretary working in the State. Such hearings shall be held in the State of residence of the appellant. The decisions of hearing officers shall, on the request and election of the borrower, be reviewed by the State director of the State of residence of the appellant or shall be referred directly to the director of the national appeals division. If the borrower elects review by the State director, the decisions of the State director shall, on request of the borrower, be subject to further review by the director of the national appeals division.

"(2) Each hearing before a hearing officer in the appeals division shall be recorded verbatim by voice recorder, stenographer, or other method, and a transcript of the hearing, together with all documents and evidence submitted, shall be made available to the appellant, on request, if the decision of the hearing officer is appealed. The record of the hearing shall consist of copies of all documents and other evidence presented to the hearing officer and the transcript of the hearing.

"(3) If a decision of a hearing officer is appealed, the hearing officer shall certify the record and deliver or otherwise provide the certified record to the director of the national appeals division and the Secretary. The national appeals division shall base its review of the hearing on the transcript of the hearing and the evidence presented to the hearing officer.

"(f) All hearing officers within the national appeals division shall report to the principal officers of the division, and shall not be under the direction or control of, or receive administrative support (except on a reimbursable basis) from, offices other than the national appeals division.

"(g) The Secretary shall ensure that the national appeals division has resources and personnel adequate to hear and determine all initial appeals in the State of residence of the appellant on a timely basis, and that hearing officers receive training and retraining adequate for their duties on initial employment and at regular intervals thereafter. The Secretary may expend sums available in the Farmers Home Administration's various revolving insurance funds for the purposes of this subsection in the event that necessary appropriations sufficient to fund the division are not available.".

SEC. 609. BORROWERS' RIGHT TO INFORMATION.

Subtitle D (7 U.S.C. 1981 et seq.) is amended by inserting after section 333B the following new section:

"SEC. 333C. PROVISION OF INFORMATION TO BORROWERS.

"(a) IN GENERAL.—On request of a farm borrower of a farmer program loan, the Sec-

retary shall make available to the borrower the following:

"(1) One copy of each document signed by the borrower.

"(2) One copy of each appraisal performed with respect to the loan.

"(3) All documents that the Secretary otherwise is required to provide to the borrower under any law or rule of law in effect on the date of such request.

"(b) Construction of Section.—Subsection (a) shall not be construed to supersede any duty imposed on the Secretary by any law or rule of law in effect immediately before the date of the enactment of this section, unless such duty is in direct conflict with any duty imposed by subsection (a).".

SEC. 610. DISPOSITION AND LEASING OF FARMLAND.

(a) Classification of Property.—Section 335(c) (7 U.S.C. 1985(c)) is amended—

(1) by inserting "(1)" after the subsection designation;

(2) by inserting after the first sentence the following new sentence: "The County Committee shall classify or reclassify real property (including real property administered by the Sec retary on the date of the enactment of this sentence) that is farmland, as being suitable for farming operation for such disposition unless the property, including property subdivided in accordance with subsection (e)(5), cannot be used to meet any of the purposes of section 303 (including being used as a start-up or add-on parcel of farmland)."; and

(3) by adding at the end thereof the following new paragraph:

"(2) Notwithstanding any other provision of law, the Secretary shall sell suitable farmland administered under this subtitle to operators (as of the time immediately after such contract for sale or lease is entered into) of not larger than family sized farms, as determined by the county committee. In selling such land, the county committee shall—

"(A) grant a priority to persons eligible for loans under subtitle A, including individuals approved for, but who, as of the date of the enactment of this paragraph, have not yet received, such loans;

"(B) offer suitable land at a price not greater than that which reflects the appraised market value of such land;

"(C) select from among qualified applicants the applicant who has the greatest need for farm income and best meets the criteria for eligibility to receive loans under subtitle A; and

"(D) publish or caused to be published three consecutive weekly announcements at least twice annually of the availability of such farmland, in at least one newspaper that is widely circulated in the county in which the land is located until the property is sold.".

(b) Disposition and Leasing.—Section 335(e) (7 U.S.C. 1985(e)) is amended—

(1) by striking out paragraph (1) and inserting in lieu thereof the following new paragraph:

"(1)(A)(i) During the 180-day period beginning on the date of acquisition, or during the applicable period under State law, the Secretary shall allow the borrower from whom the Secretary acquired real property used to secure any loan made to the borrower under this title (hereinafter referred to in this paragraph as the 'borrower-owner') to purchase or lease such property.

"(ii) The period for the purchase or lease of real property described under clause (i), by a person described in clauses (i) or (ii) of subparagraph (C), shall expire 190 days after the date of acquisition, or after the applicable period under State law.

"(iii) The rights regarding the purchase or lease of real property provided by this paragraph and accorded a person described in subparagraph (C) may be freely and knowingly waived by such person.

"(B) Any purchase or lease under subparagraph (A) shall be on such terms and conditions as are established in regulations promulgated by the Secretary.

"(C) The Secretary shall give preference in the sale or lease, with option to purchase, of property that has been foreclosed, purchased, redeemed, or otherwise acquired by the Secretary to persons in the following order:

"(i) The immediate previous borrower-owner of the acquired property.

"(ii) If actively engaged in farming—

"(I) the spouse or child of the previous borrower-owner; or

"(II) a stockholder in the corporation, if the borrower-owner is a corporation held exclusively by members of the same family.

"(iii) The immediate previous family size farm operator of such acquired property.

"(iv) Operators (as of the time immediately after such sale or lease is entered into) of not larger than family-size farms.

"(D)(i) If—

"(I) the real property described in subparagraph (A)(i) is located within an Indian reservation,

"(II) the borrower-owner is the Indian tribe that has jurisdiction over the reservation in which the real property is located or the borrower-owner is a member of such Indian tribe, and

"(III) the period in which the right to purchase or lease such real property provided in clauses (i) and (ii) of subparagraph (A) has expired,

the Secretary shall dispose of or administer the property only as provided for in this subparagraph.

"(ii) For purposes of this subparagraph, the term 'Indian reservation' means all land located within the limits of any Indian reservation under the jurisdiction of the United States, notwithstanding the issuance of any patent, and, including rights-of-way running through the reservation; trust or restricted land located within the boundaries of a former reservation of a federally recognized Indian tribe in the State of Oklahoma; or all Indian allotments the Indian titles to which have not been extinguished if such allotments are subject to the jurisdiction of a federally recognized Indian tribe.

"(iii) The Secretary shall, within 90 days after the expiration of the period for which the right to purchase or lease real property described in clause (i) is provided in clauses (i) and (ii) of subparagraph (A), afford an opportunity to purchase or lease the real property in accordance with the order of priority established under clause (iv) by the Indian tribe having jurisdiction over the Indian reservation within which the real property is located or, if no order of priority is established by such Indian tribe under clause (iv), in the following order:

"(I) to an Indian member of the Indian tribe that has jurisdiction over the reservation within which the real property is located;

"(II) to an Indian corporate entity;

"(III) to such Indian tribe.

"(iv) The governing body of any Indian tribe having jurisdiction over an Indian reservation may revise the order of priority provided in clause (iii) under which lands located within such reservation shall be offered for purchase or lease by the Secretary under clause (iii) and may restrict the eligibility for such purchase or lease to—

"(I) persons who are members of such Indian tribe,

"(II) Indian corporate entities that are authorized by such Indian tribe to lease or purchase lands within the boundaries of such reservation, or

"(III) such Indian tribe itself.

"(v) If real property described in clause (i) is not purchased or leased under clause (iii) and the Indian tribe having jurisdiction over the reservation within which the real property is located is unable to purchase or lease the real property, the Secretary shall transfer the real property to the Secretary of the Interior who shall administer the real property as if the real property were held in trust by the United States for the benefit of such Indian tribe. From the rental income derived from the lease of the transferred real property, and all other income generated from the transferred real property, the Secretary of the Interior shall pay those State, county, municipal, or other local taxes to which the transferred real property was subject at the time of acquisition by the Secretary, until the earlier of—

"(I) the expiration of the 4-year period beginning on the date on which the real property is so transferred, or

"(II) such time as the lands are transferred into trust pursuant to clause (viii).

"(vi) At any time any real property is transferred to the Secretary of the Interior under clause (v), the Secretary of Agriculture shall be deemed to have no further responsibility under this Act for collection of any amounts with regard to the farm program loan which had been secured by such real property, nor with regard to any lien arising out of such loan transaction, nor for repayments of any amount with regard to such loan transactions or liens to the Treasury of the United States, and the Secretary of the Interior shall be deemed to have succeeded to all right, title and interest of the Secretary of Agriculture in such real estate arising from the farm program loan transaction, including the obligation to remit to the Treasury of the United States, in repayment of the original loan, those amounts provided in clause (vii).

"(vii) After the payment of any taxes which are required to be paid under clause (v), all remaining rental income derived from the lease of the real property transferred to the Secretary of the Interior under clause (v), and all other income generated from the real property transferred to the Secretary of the Interior under clause (v), shall be deposited as miscellaneous receipts in the Treasury of the United States until the amount deposited is equal to the lesser of—

"(I) the amount of the outstanding lien of the United States against such real property, as of the date the real property was acquired by the Secretary;

"(II) the fair market value of the real property, as of the date of the transfer to the Secretary of the Interior; or

"(III) the capitalized value of the real property, as of the date of the transfer to the Secretary of the Interior.

"(viii) When the total amount that is required to be deposited under clause (vii) with respect to any real property has been deposited into the Treasury of the United States, title to the real property shall be held in trust by the United States for the benefit of the Indian tribe having jurisdiction over the Indian reservation within which the real property is located.

"(ix) Notwithstanding any other clause of this subparagraph, the Indian tribe having jurisdiction over the Indian reservation within which the real property described in clause (i) is located may, at any time after the real property has been transferred to the Secretary of the Interior under clause (v), offer to pay the remaining amount on the lien, or the fair market value of the real property, whichever is less. Upon payment of such amount, title to such real property shall be held by the United States in trust for the tribe and such trust or restricted lands that have been acquired by the Secretary under foreclosure or voluntary transfer under a loan made or insured under this title and transferred to an Indian person, entity, or tribe under the provisions of this subparagraph shall be deemed to have never lost trust or restricted status.

"(E) The rights provided in this subsection shall be in addition to any such right of first refusal under the law of the State in which the property is located.";

(2) in paragraph (3)—

(A) by striking out subparagraph (A);

(B) by redesignating subparagraphs (B), (C), and (D), as subparagraphs (A), (B), and (C), respectively;

(C) in subparagraph (B) (as so redesignated), by striking out "give special consideration to a previous owner or operator of such land if such owner or operator" and inserting in lieu thereof "determine if the lessee"; and

(D) by adding at the end thereof the following new subparagraph:

"(D) The Secretary may enter into a contract with a borrower of a farmer program loan made or insured under this title, to provide for the subsequent sale or lease of land that will be acquired from the borrower in the future, before the Secretary takes possession of such land.";

(3) by amending subparagraph (A) of paragraph (5) to read as follows:

"(A) If the Secretary determines that farmland administered under this chapter is not suitable for sale or lease to persons eligible for a loan made or insured under subtitle A because such farmland is in a tract or tracts that the Secretary determines to be larger than that necessary for such eligible persons, the Secretary shall, to the greatest extent practicable, subdivide such land into tracts suitable for sale under subsection (c). Such land shall be subdivided into parcels of land the shape and size of which are suitable for farming, the value of which shall not exceed the individual loan limits as prescribed under section 305.";

(4) in paragraph (6)—

(A) by striking out "and" at the end of subparagraph (A);

(B) by striking out the period at the end of subparagraph (B) and inserting in lieu thereof "; and"; and

(C) by adding at the end thereof the following new subparagraph:

"(C) provide written notice reasonably calculated to inform the immediate previous owner or immediate previous family-size farm operator of such farmland, of the availability of such farmland."; and

(5) by adding at the end thereof the following new paragraphs:

"(9) Denials of applications for or disputes over terms and conditions of a lease or purchase agreement under this section are appealable under section 333B.

"(10) In the event of any conflict between any provision of this subsection and any provision of the law of any State providing a right of first refusal to the owner of farmland or the operator of a farm before the sale or lease of land to any other person, such provision of State law shall prevail.".

SEC. 611. INCOME RELEASE.

Subsection (f) of section 335 (7 U.S.C. 1985(f)) is amended to read as follows:

"(f)(1) As used in this subsection, the term 'normal income security' means all security not considered basic security, including crops, livestock, poultry products, Agricultural Stabilization and Conservation Service payments and Commodity Credit Corporation payments, and other property covered by Farmers Home Administration liens that is sold in conjunction with the operation of a farm or other business, but shall not include any equipment (including fixtures in States that have adopted the Uniform Commercial Code), or foundation herd or flock, that is the basis of the farming or other operation, and is the basic security for a Farmers Home Administration farmer program loan.

"(2) The Secretary shall release from the normal income security provided for such loan an amount sufficient to pay for the essential household and farm operating expenses of the borrower, until such time as the Secretary accelerates such loan.

"(3) A borrower whose account was accelerated on or after November 1, 1985, and on or before May 7, 1987, but not thereafter foreclosed on or liquidated, shall be entitled to the release of security income for a period of 12 months, to pay the essential household and farm operating expenses of such borrower in an amount not to exceed $18,000 over 12 months, if such borrower—

"(A) as of October 30, 1987, continued to be actively engaged in the farming operations for which the Secretary had made the farmer program loan; and

"(B) as of the deadline for responding to the notice provided for under paragraph (5), requests restructuring of such loans pursuant to section 353.

"(4) The county committee in the county in which borrower's land is located shall determine whether the borrower has complied with the requirements of paragraph (3)(A).

"(5)(A) Within 45 days after the date of the enactment of this subsection, the Secretary shall provide to the borrowers described in paragraph (3) notice by certified mail of the right of such borrowers to apply for the benefits under such paragraph.

"(B) Releases under such paragraph shall be made to qualified borrowers who have responded to the notice within 30 days after receipt.

"(C) Within 12 months after a borrower has requested restructuring under section 353, the Secretary shall make a final determination on the request. Notwithstanding the 12-month limitation provided for in paragraph (3), releases shall continue to be made to the borrower until a denial or dismissal of the application of the borrower for restructuring under section 353 is made. The amount of essential household and farm operating expenses which may be released to any borrower eligible for such releases after 12 months may exceed $18,000, by an amount proportionate to the period of time beyond 12 months before a final determination is made by the Secretary.

"(6) If a borrower is required to plan for or to report on how proceeds from the sale of collateral property will be used, the Secretary shall—

"(A) notify the borrower of such requirement; and

"(B) notify the borrower of the right to the release of funds under this section and the means by which a request for the funds may be made.

"(7) The Secretary shall issue regulations consistent with this section that—

"(A) ensure the release of funds to each borrower; and

"(B) establish guidelines for releases under paragraph (3), including a list of expenditures for which funds will normally be released.".

SEC. 612. CONSERVATION EASEMENTS.

Section 349 (7 U.S.C. 1997) is amended—

(1) in subsection (c)(4), by inserting "and other wildlife habitat" after "wetland"; and

(2) in subsection (e), by striking out the last period and inserting in lieu thereof the following: "or the difference between the amount of the outstanding loan secured by the land and the current value of the land, whichever is greater.".

SEC. 613. INTEREST RATE REDUCTION PROGRAM; DEMONSTRATION PROJECT FOR PURCHASE OF SYSTEM LAND.

(a) EXTENSION OF PROGRAM FOR 5 YEARS.—Section 1320 of the Food Security Act of 1985 (99 Stat. 1532) is amended by striking out "1988" and inserting in lieu thereof "1993".

(b) AMENDMENTS TO PROGRAM.—Section 351 (7 U.S.C. 1999) is amended—

(1) in subsection (b)(1)(C), by striking out "12-month" and inserting in lieu thereof "24-month"; and

(2) by adding at the end thereof the following new subsections:

"(f) Each Farmers Home Administration county supervisor shall make available to farmers, on request, a list of approved lenders in the area that participate in the Farmers Home Administration guaranteed farm loan programs and other lenders in the area that express a desire to participate in such programs and that request inclusion in the list.

"(g) Notwithstanding any other provision of law, each contract of guarantee on a farm loan entered into under this title after the date of the enactment of this subsection shall contain a condition that the lender of the guaranteed loan may not initiate foreclosure action on the loan until 60 days after a determination is made with respect to the eligibility of the borrower thereof to participate in the program under this section.".

(c) DEMONSTRATION PROJECT FOR PURCHASE OF SYSTEM LAND.—Section 351 (7 U.S.C. 1999) is amended by adding after the subsection added by subsection (b) of this section the following new subsection:

"(h)(1) During the 3-year period beginning on the date of the enactment of this subsection, the Secretary shall establish and carry out a demonstration project in accordance with this subsection under which the Secretary may issue certificates of eligibility to Farmers Home Administration eligible borrowers to reduce the interest rate paid by the borrowers on loans obtained from legally organized lending institutions and Farm Credit System institutions to purchase acquired properties owned by institutions of the Farm Credit System certified to issue preferred stock under section 6.27 of the Farm Credit Act of 1971.

"(2) To be eligible to participate in the project, a borrower must—

"(A) meet the requirements of subsection (b)(1);

"(B) provide a down payment to purchase the land, using personal funds of the borrower, equal to at least 15 percent of the purchase price of the land; and

"(C) meet all conservation requirements for the land that are imposed on borrowers of guaranteed farm ownership loans under this title.

"(3) A certificate of eligibility issued under this subsection may be used to reduce the interest rate payable by an eligible borrower on a guaranteed loan by not more than 4 percent.

"(4) A certificate of eligibility issued under this subsection shall reduce the interest rate on a guaranteed loan for a term equal to the outstanding term of such loan, or 5 years, whichever is less.

"(5) Notwithstanding any other provision of law, if the lender of a guaranteed loan assisted under this subsection reduces the interest rate payable on the loan by at least 1 full percentage point, the Secretary may guarantee the repayment of 95 percent of the principal and interest due on the loan.

"(6) In carrying out this subsection, the Secretary may—

"(A) certify the eligibility of borrowers to participate in the demonstration project;

"(B) process applications for participation in the project;

"(C) provide certificate of eligibility to eligible borrowers on a timely basis consistent with the availability of acquired property owned by institutions of the Farm Credit System certified to issue preferred stock under section 6.27 of the Farm Credit Act of 1971; and

"(D) set aside the largest practicable portion of funds made available to guarantee farm ownership loans under this title (including unobligated funds) to carry out this subsection.

"(7) To carry out this subsection, the Secretary may transfer such amounts as may be necessary from farm operating guaranteed loans to farm ownership guaranteed loans.

"(8) In carrying out this subsection, Farm Credit System institutions shall—

"(A) sell land to eligible borrowers under this subsection at fair market value;

"(B) to the extent practicable, set aside each fiscal year land acquired or owned by such institutions of the Farm Credit System in an aggregate amount not to exceed $250,000,000 at fair market value, for purchase by eligible borrowers in accordance with this subsection; and

"(C) if necessary, subdivide tracts of land made available under this subsection into parcels that permit eligible borrowers to purchase the parcels consistent with limits placed on the size of loans made, insured, or guaranteed under this title.

"(9) Not later than 60 days after the date of the enactment of this subsection, the Secretary and the Farm Credit Administration shall develop a joint memorandum of understanding governing the implementation of this subsection.".

SEC. 614. HOMESTEAD PROTECTION.

Section 352 (7 U.S.C. 2000) is amended—

(1) in subsection (a)(3), by inserting before the period ", including a reasonable number of farm outbuildings located on the adjoining land that are useful to the occupants of the homestead, and no more than 10 acres of adjoining land that is used to maintain the family of the individual";

(2) in subsection (b), by striking out paragraph (1) and inserting in lieu thereof the following new paragraph:

"(1) The Secretary or the Administrator shall, on application by a borrower who meets the eligibility requirements of subsection (c)(1), permit the borrower to retain possession and occupancy of homestead property under the terms set forth, and until the action described in this section has been completed, if—

"(A) the Secretary forecloses, holds in inventory on the date of the enactment of this paragraph, or takes into inventory, property securing a loan made or insured under this title;

"(B) the Administrator forecloses, holds in inventory on the date of the enactment of this paragraph, or takes into inventory, property securing a farm program loan made under the Small Business Act (15 U.S.C. 631 et seq.); or

"(C) the borrower of a loan made or insured by the Secretary or the Administrator files a petition in bankruptcy that results in the conveyance of the homestead property to the Secretary or the Administrator, or agrees to voluntarily liquidate or convey such property in whole or in part.";

(3) by striking out subsection (c) and inserting in lieu thereof the following new subsection:

"(c)(1) To be eligible to occupy homestead property, a borrower of a loan made or insured by the Secretary or the Administrator shall—

"(A) apply for such occupancy not later than 90 days after the property is acquired by the Secretary or Administrator, or for property in inventory on the date of the enactment of this subsection, the borrower shall apply for occupancy not later than 90 days after such date;

"(B) have received from farming or ranching operations gross farm income reasonably commensurate with—

"(i) the size and location of the farming unit of the borrower; and

"(ii) local agricultural conditions (including natural and economic conditions), in at least 2 calendar years during the 6-year period preceding the calendar year in which the application is made;

"(C) have received from farming or ranching operations at least 60 percent of the gross annual income of the borrower and any spouse of the borrower in at least 2 calendar years during any 6-year period described in subparagraph (B);

"(D) have continuously occupied the homestead property during the 6-year period described in subparagraph (B), except that such requirement may be waived if a borrower has, due to circumstances beyond the control of the borrower, had to leave the homestead property for a period of time not to exceed 12 months during the 6-year period;

"(E) during the period of the occupancy of the homestead property, pay a reasonable sum as rent for such property to the Secretary or the Administrator in an amount substantially equivalent to rents charged for similar residential properties in the area in which the homestead property is located;

"(F) during the period of the occupancy of the homestead property, maintain the property in good condition; and

"(G) meet such other reasonable and necessary terms and conditions as the Secretary may require consistent with this section.

"(2) For purposes of subparagraphs (B) and (C) of paragraph (1), the term 'farming or ranching operations' shall include rent paid by lessees of agricultural land during any period in which the borrower, due to circumstances beyond the control of the borrower, is unable to actively farm such land.

"(3) For the purposes of paragraph (1)(E), the failure of the borrower to make timely rental payments shall constitute cause for the termination of all rights of such borrower to possession and occupancy of the homestead property under this section. In effecting any such termination, the Secretary shall afford the borrower or lessee the notice and hearing procedural rights described in section 333B and shall comply with all applicable State and local laws governing eviction from residential property.

"(4)(A) The period of occupancy allowed the prior owner of homestead property under this section shall be the period requested in writing by the prior owner, except that such period shall not exceed 5 years.

"(B) At any time during the period of occupancy, the borrower shall have a right of first refusal to reacquire the homestead property on such terms and conditions as the Secretary shall determine, except that the Secretary may not demand a payment for the homestead property that is in excess of the current market value of the homestead property as established by an independent appraisal. The independent appraisal shall be conducted by an appraiser selected by the borrower from a list of three appraisers approved by the county supervisor.

"(5) No rights of a borrower under this section, and no agreement entered into between the borrower and the Secretary for occupancy of the homestead property, shall be transferable or assignable by the borrower or by operation of any law, except that in the case of death or incompetency of such borrower, such rights and agreements shall be transferable to the spouse of the borrower if the spouse agrees to comply with the terms and conditions thereof.

"(6) Within 30 days of the acquisition of the homestead property securing a loan made or insured under this title, the Secretary shall notify the borrower from whom the property was acquired of the availability of homestead protection rights under this section. For property in inventory on the date of the enactment of this subsection, the Secretary shall make a good faith effort to notify the borrower of the availability of homestead protection rights under this section within 60 days after such date.";

(3) in subsection (d), by adding at the end thereof the following new sentence: "Such terms and conditions shall not be less favorable than those intended to be offered to any other buyer."; and

(4) by adding at the end thereof the following new subsections:

"(f) The Secretary may enter into contracts authorized by this section before the Secretary acquires title to the homestead property.

"(g) In the event of any conflict between this section and any provision of the law of any State relating to the right of a borrower to designate for separate sale or redeem part or all of the real property securing a loan foreclosed on by the lender thereof, such provision of State law shall prevail.".

SEC. 615. DEBT RESTRUCTURING AND LOAN SERVICING.

(a) IN GENERAL.—Subtitle D (7 U.S.C. 1981 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 353. DEBT RESTRUCTURING AND LOAN SERVICING.

"(a) IN GENERAL.—The Secretary shall modify delinquent farmer program loans made or insured under this title, or purchased from the lender or the Federal Deposit Insurance Corporation under section 309B, to the maximum extent possible—

"(1) to avoid losses to the Secretary on such loans, with priority consideration being placed on writing-down the loan prin-

cipal and interest (subject to subsections (d) and (e)), and debt set-aside (subject to subsection (e)), whenever these procedures would facilitate keeping the borrower on the farm or ranch, or otherwise through the use of primary loan service programs as provided in this section; and

"(2) to ensure that borrowers are able to continue farming or ranching operations.

"(b) Eligibility.—To be eligible to obtain assistance under subsection (a)—

"(1) the delinquency must be due to circumstances beyond the control of the borrower, as defined in regulations issued by the Secretary;

"(2) the borrower must have acted in good faith with the Secretary in connection with the loan as defined in regulations issued by the Secretary;

"(3) the borrower must present a preliminary plan to the Secretary that contains reasonable assumptions that demonstrate that the borrower will be able to—

"(A) meet the necessary family living and farm operating expenses; and

"(B) service all debts, including those of the loans restructured; and

"(4) the loan, if restructured, must result in a net recovery to the Federal government, during the term of the loan as restructured, that would be more than or equal to the net recovery to the Federal government from an involuntary liquidation or foreclosure on the property securing the loan.

"(c) Restructuring Determinations.—

"(1) Determination of net recovery.—In determining the net recovery from the involuntary liquidation of a loan under this section, the Secretary shall calculate—

"(A) the recovery value of the collateral securing the loan, in accordance with paragraph (2); and

"(B) the value of the restructured loan, in accordance with paragraph (3).

"(2) Recovery value.—For the purpose of paragraph (1), the recovery value of the collateral securing the loan shall be based on—

"(A) the amount of the current appraised value of the property securing the loan; less

"(B) the estimated administrative, legal, and other expenses associated with the liquidation and disposition of the loan and collateral, including—

"(i) the payment of prior liens;

"(ii) taxes and assessments, depreciation, management costs, the yearly percentage decrease or increase in the value of the property, and lost interest income, each calculated for the average holding period for the type of property involved;

"(iii) resale expenses, such as repairs, commissions, and advertising; and

"(iv) other administrative and attorney's costs.

"(3) Value of the restructured loan.—

"(A) In general.—For the purpose of paragraph (1), the value of the restructured loan shall be based on the present value of payments that the borrower would make to the Federal government if the terms of such loan were modified under any combination of primary loan service programs to ensure that the borrower is able to meet such obligations and continue farming operations.

"(B) Present value.—For the purpose of calculating the present value referred to in subparagraph (A), the Secretary shall use a discount rate of not more than the current rate on 90-day Treasury bills.

"(4) Notification.—Within 60 days after receipt of a written request for restructuring from the borrower, the Secretary shall—

"(A) make the calculations specified in paragraphs (2) and (3);

"(B) notify the borrower in writing of the results of such calculations; and

"(C) provide documentation for the calculations.

"(5) Restructuring of loans.—If the value of the restructured loan is greater than or equal to the recovery value, the Secretary shall, within 45 days after notifying the borrower of such calculations, offer to restructure the loan obligations of the borrower under this title through primary loan service programs that would enable the borrower to meet the obligations (as modified) under the loan and to continue the farming operations of the borrower. If the borrower accepts such offer, within 45 days after receipt of notice of acceptance, the Secretary shall restructure the loan accordingly.

"(6) Termination of loan obligations.—If the value of the restructured loan is less than the recovery value and if, within 45 days after receipt of the notification described in paragraph (4)(B), the borrower pays (or obtains third-party financing to pay) the Secretary an amount equal to the recovery value, the obligations of the borrower to the Secretary under the loan shall terminate, except that the Secretary may require, as a condition of such termination of loan obligations, that the borrower enter into an agreement with the Secretary if the borrower sells or otherwise conveys the real property used to secure such loan within 2 years after the date of such agreement. Any such agreement shall provide for the recapture of part or all of the difference between the recovery value of the loan and the fair market value (on the date of such agreement) of the property securing the loan if the borrower realizes a gain on the sale or conveyance over the amount of the recovery value of the loan. In no event shall any such agreement provide for recapture of an amount that exceeds the difference between such recovery value and the fair market value of the property securing the loan on the date of such agreement.

"(d) Principal and Interest Write-down.—

"(1) In general.—

"(A) Priority consideration.—In selecting the restructuring alternatives to be used in the case of a borrower who has requested restructuring under this section, the Secretary shall give priority consideration to the use of principal and interest write-down, except that this procedure shall not be given first priority in the case of a borrower unless other creditors of such borrower (other than those creditors who are fully collateralized) representing a substantial portion of the total debt of the borrower held by such creditors, agree to participate in the development of the restructuring plan or agree to participate in a State mediation program.

"(B) Failure of creditors to agree.—Failure of creditors to agree to participate in the restructuring plan or mediation program shall not preclude the use of principal and interest write-down by the Secretary if the Secretary determines that this restructuring alternative results in the least cost to the Secretary.

"(2) Participation of creditors.—Before eliminating the option to use debt write-down in the case of a borrower, the Secretary shall make a reasonable effort to contact the creditors of such borrower, either directly or through the borrower, and encourage such creditors to participate with the Secretary in the development of a restructuring plan for the borrower.

"(e) Shared Appreciation Arrangements.—

"(1) In general.—As a condition of restructuring a loan in accordance with this section, the borrower of the loan may be required to enter into a shared appreciation arrangement that requires the repayment of amounts written off or set aside.

"(2) Terms.—Shared appreciation agreements shall have a term not to exceed 10 years, and shall provide for recapture based on the difference between the appraised values of the real security property at the time of restructuring and at the time of recapture.

"(3) Percentage of recapture.—The amount of the appreciation to be recaptured by the Secretary shall be 75 percent of the appreciation in the value of such real security property if the recapture occurs within 4 years of the restructuring, and 50 percent if the recapture occurs during the remainder of the term of the agreement.

"(4) Time of recapture.—Recapture shall take place at the end of the term of the agreement, or sooner—

"(A) on the conveyance of the real security property;

"(B) on the repayment of the loans; or

"(C) if the borrower ceases farming operations.

"(5) Transfer of title.—Transfer of title to the spouse of a borrower on the death of such borrower shall not be treated as a conveyance for the purpose of paragraph (4).

"(f) Determination To Restructure.—If the appeal process results in a determination that a loan is eligible for restructuring, the Secretary shall restructure the loan in the manner consistent with this section, taking into consideration the restructuring recommendations, if any, of the appeals officer.

"(g) Prerequisites to Foreclosure or Liquidation.—No foreclosure or other similar actions shall be taken to liquidate any loan determined to be ineligible for restructuring by the Secretary under this section—

"(1) until the borrower has been given the opportunity to appeal such decision; and

"(2) if the borrower appeals, the appeals process has been completed, and a determination has been made that the loan is ineligible for restructuring.

"(h) Time Limits for Restructuring.—Once an appeal has been filed under section 333B, a decision shall be made at each level in the appeals process within 45 days after the receipt of the appeal or request for further review.

"(i) Notice of Ineligibility for Restructuring.—

"(1) In general.—A notice of ineligibility for restructuring shall be sent to the borrower by registered or certified mail within 15 days after such determination.

"(2) Contents.—The notice required under paragraph (1) shall contain—

"(A) the determination and the reasons for the determination;

"(B) the computations used to make the determination, including the calculation of the recovery value of the collateral securing the loan; and

"(C) a statement of the right of the borrower to appeal the decision to the appeals division, and to appear before a hearing officer.

"(j) Independent Appraisals.—An appeal filed with the appeals division under section 333B may include a request by the borrower for an independent appraisal of any property securing the loan. On such request, the appeals division shall present the borrower with a list of three appraisers approved by the county supervisor, from which the borrower shall select an appraiser to conduct the appraisal, the cost of which shall be borne by the borrower. The results of such

appraisal shall be considered in any final determination concerning the loan. A copy of any appraisal made under this paragraph shall be provided to the borrower.

"(k) Future Creditworthiness of Borrower Determined Without Regard to Restructuring.—The creditworthiness of, or the adequacy of collateral offered by, any borrower whose loan obligations are restructured under this section shall be determined without regard to such restructuring.".

(b) Other Restructuring Provisions.—

(1) Option to restructure interest rates for certain water and waste disposal and community facility borrowers.—

(A) In general.—The item designated "Loan Programs" under the subheading "Farmers Home Administration" in chapter I of title I of the Supplemental Appropriations Act, 1985 (7 U.S.C. 1927a; 99 Stat. 296) is amended—

(i) by striking out "Effective November 12, 1983, and thereafter," and inserting in lieu thereof "Effective October 1, 1981, and thereafter, in the case of water and waste disposal and community facility borrowers, and effective November 12, 1983, and thereafter, in the case of housing and farm borrowers,"; and

(ii) by striking out "housing, farm, water and waste disposal, and community facility" and inserting in lieu thereof "such".

(B) Certain obligations excepted.—The amendment made by subparagraph (A) shall not apply to any note or other obligation sold under section 1001 of the Omnibus Reconciliation Act of 1986 on or before the date of the enactment of this paragraph.

(2) Interest rate restructuring for certain other borrowers.—Effective July 29, 1987, the interest rate charged on any loan of $2,000,000 or more made on such date under section 306 to any nonprofit corporation shall be the interest rate quoted to such nonprofit corporation by the Farmers Home Administration on June 22, 1987, in the request for obligation of funds made with respect to the loan.

(c) Liquidation Not Required as Prerequisite to Debt Restructuring and Loan Servicing.—Subsection (d) of section 331 (7 U.S.C. 1981(d)) is amended—

(1) by inserting "debts or" before "claims"; and

(2) by adding at the end of the first sentence the following: "The Secretary may not require liquidation of property securing any farmer program loan or acceleration of any payment required under any farmer program loan as a prerequisite to initiating an action authorized under this subsection.".

(d) Suspension of Collection Activities During Transition Period.—The Secretary of Agriculture shall not initiate any acceleration, foreclosure, or liquidation in connection with any delinquent farmer program loan before the date the Secretary has issued final regulations to carry out the amendments made by this section. The preceding sentence shall not prohibit the Secretary from taking any action with respect to waste, fraud, or abuse by the borrower.

SEC. 616. TRANSFER OF INVENTORY LANDS.

Subtitle D (7 U.S.C. 1981 et seq.) is amended by adding after the section added by section 615(a) of this Act the following new section:

"SEC. 354. TRANSFER OF INVENTORY LANDS.

"The Secretary, without reimbursement, may transfer to any Federal or State agency, for conservation purposes any real property, or interest therein, administered by the Secretary under this Act—

"(1) with respect to which the rights of all prior owners and operators have expired;

"(2) that is determined by the Secretary to be suitable or surplus; and

"(3) that—

"(A) has marginal value for agricultural production;

"(B) is environmentally sensitive; or

"(C) has special management importance.".

SEC. 617. TARGET PARTICIPATION RATES.

Subtitle D (7 U.S.C. 1981 et seq.) is amended by adding after the section added by section 616 of this Act the following new section:

"SEC. 355. TARGET PARTICIPATION RATES.

"(a) Establishment.—

"(1) In general.—The Secretary shall establish annual target participation rates, on a county wide basis, that shall ensure that members of socially disadvantaged groups will receive loans made or insured under subtitle A and will have the opportunity to purchase or lease inventory farmland.

"(2) Group population.—In establishing such target rates the Secretary shall take into consideration the portion of the population of the county made up of such groups, and the availability of inventory farmland in such county.

"(b) Reservation and Allocation.—

"(1) Reservation.—The Secretary shall, to the greatest extent practicable, reserve sufficient loan funds made available under subtitle A, for use by members of socially disadvantaged groups identified under target participation rates established under subsection (a).

"(2) Allocation.—The Secretary shall allocate such loans on the basis of the proportion of members of socially disadvantaged groups in a county and the availability of inventory farmland, with the greatest amount of loan funds being distributed in the county with the greatest proportion of socially disadvantaged group members and the greatest amount of available inventory farmland.

"(c) Report.—The Secretary shall prepare and submit, to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, a report that describes the annual target participation rates and the success in meeting such rates.

"(d) Definition.—As used in this section, the term 'socially disadvantaged group' means a group whose members have been subjected to racial or ethnic prejudice because of their identity as members of a group without regard to their individual qualities.".

SEC. 618. EXPEDITED CLEARING OF TITLE TO INVENTORY PROPERTY.

Subtitle D (7 U.S.C. 1981 et seq.) is amended by adding after the section added by section 617 of this Act the following:

"SEC. 356. EXPEDITE CLEARING OF TITLE TO INVENTORY PROPERTY.

"The Farmers Home Administration may employ local attorneys, on a case-by-case basis, to process all legal procedures necessary to clear the title to foreclosed properties in the inventory of the Farmers Home Administration. Such attorneys shall be compensated at not more than their usual and customary charges for such work.".

SEC. 619. PAYMENT OF LOSSES ON GUARANTEED LOANS.

Subtitle D (7 U.S.C. 1981 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 357. PAYMENT OF LOSSES ON GUARANTEED LOANS.

"(a) Payments to Lenders.—

"(1) Requirement.—Within 3 months after a court of competent jurisdiction confirms a plan of reorganization under chapter 12 of title 11, United States Code, for any borrower to whom a lender has made a loan guaranteed under this title, the Secretary shall pay the lender an amount estimated by the Secretary to be equal to the loss incurred by the lender for purposes of the guarantee.

"(2) Payment toward loan guarantee.—Any amount paid to a lender under this subsection with respect to a loan guaranteed under this title shall be treated as payment towards satisfaction of the loan guarantee.

"(b) Administration.—

"(1) Loss by lender.—If the lender of a guaranteed farmer program loan takes any action described in section 331(d) with respect to the loan and the Secretary approves such action, then, for purposes of the guarantee, the lender shall be treated as having sustained a loss equal to the amount by which—

"(A) the outstanding balance of the loan immediately before such action, exceeds

"(B) the outstanding balance of the loan immediately after such action.

"(2) Net present value of loan.—The Secretary shall approve the taking of an action described in section 331(d) by the lender of a guaranteed farmer program loan with respect to the loan if such action reduces the net present value of the loan to an amount equal to not less than the greater of—

"(A) the greatest net present value of a loan the borrower could reasonably be expected to repay; and

"(B) the greatest amount that the lender of the loan could reasonably expect to recover from the borrower through bankruptcy, or liquidation of the property securing the loan, less all reasonable and necessary costs and expenses that the lender of the loan could reasonably expect to incur to preserve or dispose of such property (including all associated legal and property management costs) in the course of such a bankruptcy or liquidation.

"(3) Construction of subsection.—This subsection shall not be construed to limit the authority of the Secretary to enter into a shared appreciation arrangement with a borrower, or the terms and conditions which shall be required of a borrower, under section 353(e).".

SEC. 620. LEASE OF CERTAIN ACQUIRED PROPERTY.

Notwithstanding any other provision of law, the Secretary of Agriculture may lease to public or private nonprofit organizations, for a nominal rent, any facilities acquired in connection with the disposition of a loan made by the Secretary under section 306. Any such lease shall be for such reasonable period of time as the Secretary determines is appropriate.

SEC. 621. STUDY AND REPORT TO CONGRESS BEFORE ISSUANCE OF CERTAIN FINAL REGULATIONS.

Not later than 60 days before the Secretary of Agriculture issues final regulations providing for the use of ratios and standards as part of loan applications or preapplications, for determining the degree of potential loan risk on loans insured or guaranteed under the Consolidated Farm and Rural Development Act, the Secretary shall complete a study and report to the Committee on Agriculture, Nutrition, and Forestry of the Senate and the Committee on Agriculture of the House of Representatives on the effects of such regulations on a representative sample of persons who, as of the date of the enactment of this Act, are borrowers or potential borrowers of such loans, and shall demonstrate in such study that the implementation of such final regulations will not result in a portfolio of borrowers that is inconsistent with the purposes of the Consolidated Farm and Rural Development Act.

SEC. 622. CONTINUATION OF LIMITED RESOURCE FARMERS' INITIATIVE.

The Secretary of Agriculture shall maintain substantially at the levels in effect on the date of the enactment of this title, the limited resource farmers' initiative in the office of the Director of the Office of Advocacy and Enterprise.

SEC. 623. FARM OWNERSHIP OUTREACH PROGRAM TO SOCIALLY DISADVANTAGED INDIVIDUALS.

The Secretary of Agriculture, in coordination with the limited resource farmers' initiative in the office of the Director of the Office of Advocacy and Enterprise, shall establish a farm ownership outreach program for persons who are members of any group with respect to which an individual may be identified as a socially disadvantaged individual under section 8(a)(5) of the Small Business Act (15 U.S.C. 637(a)(5)) to encourage the acquisition of inventory farmland of the Farmers Home Administration by—

(1) informing persons eligible for assistance under any other provision of this Act of—

(A) the possibility of acquiring such inventory farmland; and

(B) various farm ownership loan programs; and

(2) providing technical assistance to such persons in the acquisition of such inventory farmland.

SEC. 624. REGULATIONS.

Within 150 days after the date of the enactment of this title, and after considering public comment obtained under section 553 of title 5, United States Code, the Secretary shall issue final regulations to carry out the amendments made by this title.

SEC. 625. SENSE OF CONGRESS REGARDING GUARANTEED LOAN PROGRAM.

It is the sense of Congress that the Secretary of Agriculture should issue guarantees for loans under the Consolidated Farm and Rural Development Act, to the maximum extent practicable, to assist eligible borrowers whose loans are restructured by institutions of the Farm Credit System, commercial banks, insurance companies, and other lending institutions.

SEC. 626. SENSE OF CONGRESS REGARDING NATIONAL RURAL CRISIS RESPONSE CENTER.

It is the sense of Congress that efforts by various State and local public agencies, citizens' groups, church and civic organizations, and individuals to focus attention on and respond to rural problems throughout the Nation are deserving of the recognition, encouragement, and support of Congress and the American people for the valuable services they provide.

TITLE VII—AGRICULTURAL MORTGAGE SECONDARY MARKETS

Subtitle A—The Federal Agricultural Mortgage Corporation

SEC. 701. STATEMENT OF PURPOSE.

It is the purpose of this subtitle—

(1) to establish a corporation chartered by the Federal Government;

(2) to authorize the certification of agricultural mortgage marketing facilities by the corporation;

(3) to provide for a secondary marketing arrangement for agricultural real estate mortgages that meet the underwriting standards of the corporation—

(A) to increase the availability of long-term credit to farmers and ranchers at stable interest rates;

(B) to provide greater liquidity and lending capacity in extending credit to farmers and ranchers; and

(C) to provide an arrangement for new lending to facilitate capital market investments in providing long-term agricultural funding, including funds at fixed rates of interest; and

(4) to enhance the ability of individuals in small rural communities to obtain financing for moderate-priced homes.

SEC. 702. AGRICULTURAL MORTGAGE SECONDARY MARKET.

The Farm Credit Act of 1971 (12 U.S.C. 2001 et seq.) is amended by adding after title VII (as added by section 401 of this Act) the following new title:

"TITLE VIII—AGRICULTURAL MORTGAGE SECONDARY MARKET

"SEC. 8.0. DEFINITIONS.

"For purposes of this title:

"(1) AGRICULTURAL REAL ESTATE.—The term 'agricultural real estate' means—

"(A) a parcel or parcels of land, or a building or structure affixed to the parcel or parcels, that—

"(i) is used for the production of one or more agricultural commodities or products; and

"(ii) consists of a minimum acreage or is used in producing minimum annual receipts, as determined by the Corporation; or

"(B) a principal residence that is a single family, moderate-priced residential dwelling located in a rural area, excluding—

"(i) any community having a population in excess of 2,500 inhabitants; and

"(ii) any dwelling with a purchase price exceeding $100,000 (as adjusted for inflation).

"(2) BOARD.—The term 'Board' means—

"(A) the interim board of directors established in section 8.2(a); and

"(B) the permanent board of directors established in section 8.2(b);

as the case may be.

"(3) CERTIFIED FACILITY.—The term 'certified facility' means a secondary marketing agricultural loan facility that is certified under section 8.5.

"(4) CORPORATION.—The term 'Corporation' means the Federal Agricultural Mortgage Corporation established in section 8.1.

"(5) GUARANTEE.—The term 'guarantee' means the guarantee of timely payment of the principal and interest on securities representing interests in, or obligations backed by, pools of qualified loans, in accordance with this title.

"(6) INTERIM BOARD.—The term 'interim board' means the interim board of directors established in section 8.2(a).

"(7) ORIGINATOR.—The term 'originator' means any Farm Credit System institution, bank, insurance company, business and industrial development company, savings and loan association, association of agricultural producers, agricultural cooperative, commercial finance company, trust company, credit union, or other entity that originates and services agricultural mortgage loans.

"(8) PERMANENT BOARD.—The term 'permanent board' means the permanent board of directors established in section 8.2(b).

"(9) QUALIFIED LOAN.—The term 'qualified loan' means an obligation that—

"(A) is secured by a fee-simple or leasehold mortgage with status as a first lien on agricultural real estate located in the United States that is not subject to any legal or equitable claims deriving from a preceding fee-simple or leasehold mortgage;

"(B) is an obligation of—

"(i) a citizen or national of the United States or an alien lawfully admitted for permanent residence in the United States; or

"(ii) a private corporation or partnership whose members, stockholders, or partners hold a majority interest in the corporation or partnership and are individuals described in clause (i); and

"(C) is an obligation of a person, corporation, or partnership that has training or farming experience that, under criteria established by the Corporation, is sufficient to ensure a reasonable likelihood that the loan will be repaid according to its terms.

"(10) STATE.—The term 'State' has the meaning given such term in section 5.51.

"SEC. 8.1. FEDERAL AGRICULTURAL MORTGAGE CORPORATION.

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—There is hereby established a corporation to be known as the Federal Agricultural Mortgage Corporation, which shall be a federally chartered instrumentality of the United States.

"(2) INSTITUTION WITHIN FARM CREDIT SYSTEM.—The Corporation shall be an institution of the Farm Credit System.

"(3) LIABILITY.—

"(A) CORPORATION.—The Corporation shall not be liable for any debt or obligation of any other institution of the Farm Credit System.

"(B) SYSTEM INSTITUTIONS.—The Farm Credit System and System institutions (other than the Corporation) shall not be liable for any debt or obligation of the Corporation.

"(b) DUTIES.—The Corporation shall—

"(1) in consultation with originators, develop uniform underwriting, security appraisal, and repayment standards for qualified loans;

"(2) determine the eligibility of agricultural mortgage marketing facilities to contract with the Corporation for the provision of guarantees for specific mortgage pools; and

"(3) provide guarantees for the timely repayment of principal and interest on securities representing interests in, or obligations backed by, pools of qualified loans.

"SEC. 8.2. BOARD OF DIRECTORS.

"(a) INTERIM BOARD.—

"(1) NUMBER AND APPOINTMENT.—Until the permanent board of directors established in subsection (b) first meets with a quorum of its members present, the Corporation shall be under the management of an interim board of directors composed of 9 members appointed by the President within 90 days after the effective date of this title as follows:

"(A) 3 members appointed from among persons who are representatives of banks, other financial institutions or entities, and insurance companies.

"(B) 3 members appointed from among persons who are representatives of the Farm Credit System institutions.

"(C) 2 members appointed from among persons who are farmers or ranchers who are not serving, and have not served, as directors or officers of any financial institution or entity, of which not more than 1 may be a stockholder of any Farm Credit System institution.

"(D) 1 member appointed from among persons who represent the interests of the general public and are not serving, and have not served, as directors or officers of any financial institution or entity.

"(2) POLITICAL AFFILIATION.—Not more than 5 members of the interim board shall be of the same political party.

"(3) VACANCY.—A vacancy in the interim board shall be filled in the manner in which the original appointment was made.

"(4) CONTINUATION OF MEMBERSHIP.—If—

"(A) any member of the interim board who was appointed to such board from among persons who are representatives of banks, other financial institutions or entities, insurance companies, or Farm Credit System institutions ceases to be such a representative; or

"(B) any member who was appointed from among persons who are not or have not been directors or officers of any financial institution or entity becomes a director or an officer of any financial institution or entity;

such member may continue as a member for not longer than the 45-day period beginning on the date such member ceases to be such a representative or becomes such a director or officer, as the case may be.

"(5) TERMS.—The members of the interim board shall be appointed for the life of such board.

"(6) QUORUM.—5 members of the interim board shall constitute a quorum.

"(7) CHAIRPERSON.—The President shall designate 1 of the members of the interim board as the chairperson of the interim board.

"(8) MEETINGS.—The interim board shall meet at the call of the chairperson or a majority of its members.

"(9) VOTING COMMON STOCK.—

"(A) INITIAL OFFERING.—Upon the appointment of sufficient members of the interim board to convene a meeting with a quorum present, the interim board shall arrange for an initial offering of common stock and shall take whatever other actions are necessary tk proceed with the operations of the Corporation.

"(B) PURCHASERS.—Subject to subparagraph (C), the voting common stock shall be offered to banks, other financial entities, insurance companies, and System institutions under such terms and conditions as the interim board may adopt.

"(C) DISTRIBUTION.—The voting stock shall be fairly and broadly offered to ensure that no institution or institutions acquire a disproportionate amount of the total amount of voting common stock outstanding of a class and that capital contributions and issuances of voting common stock for the contributions are fairly distributed between entities eligible to hold class A and class B stock, as provided under section 8.4.

"(10) TERMINATION.—The interim board shall terminate when the permanent board of directors established in subsection (b) first meets with a quorum present.

"(b) PERMANENT BOARD.—

"(1) ESTABLISHMENT.—Immediatehy after the date that banks, other financial institutions or entities, insurance companies, and System institutions have subscribed and fully paid for at least $20,000,000 of common stock of the Corporation, the Corporation shall arrange for the election and appointment of a permanent board of directors. After the termination of the interim board, the Corporation shall be under the management of the permanent board.

"(2) COMPOSITION.—The permanent board shall consist of 15 members, of which—

"(A) 5 members shall be elected by holders of common stock that are insurance companies, banks, or other financial institutions or entities;

"(B) 5 members shall be elected by holders of common stock that are Farm Credit System institutions; and

"(C) 5 members shall be appointed by the President, by and with the advice and consent of the Senate—

"(i) which members shall not be, or have been, officers or directors of any financial institutions or entities;

"(ii) which members shall be representatives of the general public;

"(iii) of which members not more than 3 shall be members of the same political party; and

"(iv) of which members at least 2 shall be experienced in farming or ranching.

"(3) PRESIDENTIAL APPOINTEES.—The President shall appoint the members of the permanent board referred to in paragraph (2)(C) not later than the later of—

"(A) the date referred to in paragraph (1); or

"(B) the expiration of the 270-day period beginning on the effective date of this title.

"(4) VACANCY.—

"(A) ELECTED MEMBERS.—Subject to paragraph (6), a vacancy among the members elected to the permanent board in the manner described in subparagraph (A) or (B) of paragraph (2) shall be filled by the permanent board from among persons eligible for election to the position for which the vacancy exists.

"(B) APPOINTED MEMBERS.—A vacancy among the members appointed to the permanent board under paragraph (2)(C) shall be filled in the manner in which the original appointment was made.

"(5) CONTINUATION OF MEMBERSHIP.—If—

"(A) any member of the permanent board who was appointed or elected to the permanent board from among persons who are representatives of banks, other financial institutions or entities, insurance companies, or Farm Credit System institutions ceases to be such a representative; or

"(B) any member who was appointed from persons who are not or have not been directors or officers of any financial institution or entity becomes a director or an officer of any financial institution or entity;

such member may continue as a member for not longer than the 45-day period beginning on the date such member ceases to be such a representative, officer, or employee or becomes such a director or officer, as the case may be.

"(6) TERMS.—

"(A) APPOINTED MEMBERS.—The members appointed by the President shall serve at the pleasure of the President.

"(B) ELECTED MEMBERS.—The members elected under subparagraphs (A) and (B) of subsection (b)(2) shall each be elected annually for a term ending on the date of the next annual meeting of the common stockholders of the Corporation and shall serve until their successors are elected and qualified. Any seat on the permanent board that becomes vacant after the annual election of the directors shall be filled by the members of the permanent board from the same category of directors, but only for the unexpired portion of the term.

"(C) VACANCY APPOINTMENT.—Any member appointed to fill a vacancy occurring before the expiration of the term for which the predecessor of the member was appointed shall be appointed only for the remainder of such term.

"(D) SERVICE AFTER EXPIRATION OF TERM.—A member may serve after the expiration of the term of the member until the successor of the member has taken office.

"(7) QUORUM.—8 members of the permanent board shall constitute a quorum.

"(8) NO ADDITIONAL PAY FOR FEDERAL OFFICERS OR EMPLOYEES.—Members of the permanent board who are fulltime officers or employees of the United States shall receive no additional pay by reason of service on the permanent board.

"(9) CHAIRPERSON.—The President shall designate 1 of the members of the permanent board who are appointed by the President as the chairperson of the permanent board.

"(10) MEETINGS.—The permanent board shall meet at the call of the chairperson or a majority of its members.

"(c) OFFICERS AND STAFF.—The Board may appoint, employ, fix the pay of, and provide other allowances and benefits for such officers and employees of the Corporation as the Board determines to be appropriate.

"SEC. 8.3. POWERS AND DUTIES OF CORPORATION AND BOARD.

"(a) GUARANTEES.—After the Board has been duly constituted, subject to the other provisions of this title and other commitments and requirements established pursuant to law, the Corporation may provide guarantees on terms and conditions determined by the Corporation of securities issued on the security of, or in participation in, pooled interests in qualified loans.

"(b) DUTIES OF THE BOARD.—

"(1) IN GENERAL.—The Board shall—

"(A) determine the general policies that shall govern the operations of the Corporation;

"(B) select, appoint, and determine the compensation of qualified persons to fill such offices as may be provided for in the bylaws of the Corporation; and

"(C) assign to such persons such executive functions, powers, and duties as may be prescribed by the bylaws of the Corporation or by the Board.

"(2) EXECUTIVE OFFICERS AND FUNCTIONS.—The persons elected or appointed under paragraph (1)(B) shall be the executive officers of the Corporation and shall discharge the executive functions, powers, and duties of the Corporation.

"(c) POWERS OF THE CORPORATION.—The Corporation shall be a body corporate and shall have the following powers:

"(1) To operate under the direction of its Board.

"(2) To issue stock in the manner provided in section 8.4.

"(3) To adopt, alter, and use a corporate seal, which shall be judicially noted.

"(4) To provide for a president, 1 or more vice presidents, secretary, treasurer, and such other officers, employees, and agents, as may be necessary, define their duties and compensation levels, all without regard to title 5, United States Code, and require surety bonds or make other provisions against losses occasioned by acts of the persons.

"(5) To provide guarantees in the manner provided under section 8.6.

"(6) To have succession until dissolved by a law enacted by the Congress.

"(7) To prescribe bylaws, through the Board, not inconsistent with law, that shall provide for—

"(A) the classes of the stock of the Corporation; and

"(B) the manner in which—

"(i) the stock shall be issued, transferred, and retired;

"(ii) the officers, employees, and agents of the Corporation are selected;

"(iii) the property of the Corporation is acquired, held, and transferred;

"(iv) the commitments and other financial assistance of the Corporation are made;

"(v) the general business of the Corporation is conducted; and

"(vi) the privileges granted by law to the Corporation are exercised and enjoyed;

"(8) To prescribe such standards as may be necessary to carry out this title.

"(9) To enter into contracts and make payments with respect to the contracts.

"(10) To sue and be sued in its corporate capacity and to complain and defend in any action brought by or against the Corporation in any State or Federal court of competent jurisdiction.

"(11) To make and perform contracts, agreements, and commitments with persons and entities both inside and outside of the Farm Credit System.

"(12) To acquire, hold, lease, mortgage or dispose of, at public or private sale, real and personal property, purchase or sell any securities or obligations, and otherwise exercise all the usual incidents of ownership of property necessary and convenient to the business of the Corporation.

"(13) To exercise such other incidental powers as are necessary to carry out the powers, duties, and functions of the Corporation in accordance with this title.

"(d) FEDERAL RESERVE BANKS AS DEPOSITARIES AND FISCAL AGENTS.—The Federal Reserve banks may act as depositaries for, or as fiscal agents or custodians of, the Corporation.

"(e) ACCESS TO BOOK-ENTRY SYSTEM.—The Secretary of the Treasury may authorize the Corporation to use the book-entry system of the Federal Reserve System.

"SEC. 8.4. STOCK ISSUANCE.

"(a) VOTING COMMON STOCK.—

"(1) ISSUE.—The Corporation shall issue voting common stock having such par value as may be fixed by the Board from time to time. Each share of voting common stock shall be entitled to one vote with rights of cumulative voting at all elections of directors. Voting shall be by classes as described in section 8.2(a)(9). The stock shall be divided into two classes with the same par value per share. Class A stock may be held only by entities that are not Farm Credit System institutions that are entitled to vote for directors specified in section 8.2(b)(2)(A). Class B stock may be held only by Farm Credit System institutions that are entitled to vote for directors specified in section 8.2(b)(2)(B).

"(2) LIMITATION ON ISSUE.—After the date the permanent board first meets with a quorum of its members present, voting common stock of the Corporation may be issued only to originators and certified facilities.

"(3) AUTHORITY OF BOARD TO ESTABLISH TERMS AND PROCEDURES.—The Board shall adopt such terms, conditions, and procedures with regard to the issue of stock under this section as may be necessary, including the establishment of a maximum amount limitation on the number of shares of voting common stock that may be outstanding at any time.

"(4) TRANSFERABILITY.—Subject to such limitations as the Board may impose, any share of any class of voting common stock issued under this section shall be transferable among the institutions or entities to which shares of such class of common stock may be offered under paragraph (1), except that, as to the Corporation, such shares shall be transferable only on the books of the Corporation.

"(5) MAXIMUM NUMBER OF SHARES.—No stockholder, other than a holder of class B stock, may own, directly or indirectly, more than 33 percent of the outstanding shares of such class of the voting common stock of the Corporation.

"(b) REQUIRED CAPITAL CONTRIBUTIONS.—

"(1) IN GENERAL.—The Corporation may require each originator and each certified facility to make, or commit to make, such nonrefundable capital contributions to the Corporation as are reasonable and necessary to meet the administrative expenses of the Corporation.

"(2) STOCK ISSUED AS CONSIDERATION FOR CONTRIBUTION.—The Corporation, from time to time, shall issue to each originator or certified facility voting common stock evidencing any capital contributions made pursuant to this subsection.

"(c) DIVIDENDS.—

"(1) IN GENERAL.—Such dividends as may be declared by the Board, in the discretion of the Board, shall be paid by the Corporation to the holders of the voting common stock of the Corporation pro rata based on the total number of shares of both classes of stock outstanding.

"(2) RESERVES REQUIREMENT.—No dividend may be declared or paid by the Board under this section unless the Board determines that adequate provision has been made for the reserve required under section 8.10(c)(1).

"(3) DIVIDENDS PROHIBITED WHILE OBLIGATIONS ARE OUTSTANDING.—No dividend may be declared or paid by the Board under this section while any obligation issued by the Corporation to the Secretary of the Treasury under section 8.13 remains outstanding.

"(d) NONVOTING COMMON STOCK.—The Corporation is authorized to issue nonvoting common stock having such par value as may be fixed by the Board from time to time. Such nonvoting common stock shall be freely transferable, except that, as to the Corporation, such stock shall be transferable only on the books of the Corporation. Such dividends as may be declared by the Board, in the discretion of the Board, may be paid by the Corporation to the holders of the nonvoting common stock of the Corporation, subject to paragraphs (2) and (3) of subsection (c).

"(e) PREFERRED STOCK.—

"(1) AUTHORITY OF BOARD.—The Corporation is authorized to issue nonvoting preferred stock having such par value as may be fixed by the Board from time to time. Such preferred stock issued shall be freely transferable, except that, as to the Corporation, such stock shall be transferred only on the books of the Association.

"(2) RIGHTS OF PREFERRED STOCK.—Subject to paragraphs (2) and (3) of subsection (c), the holders of the preferred stock shall be entitled to such rate of cumulative dividends, and such holders shall be subject to such redemption or other conversion provisions, as may be provided for at the time of issuance. No dividends shall be payable on any share of common stock at any time when any dividend is due on any share of preferred stock and has not been paid.

"(3) PREFERENCE ON TERMINATION OF BUSINESS.—In the event of any liquidation, dissolution, or winding up of the business of the Corporation, the holders of the preferred shares of stock shall be paid in full at the par value thereof, plus all accrued dividends, before the holders of the common shares receive any payment.

"SEC. 8.5. CERTIFICATION OF AGRICULTURAL MORTGAGE MARKETING FACILITIES.

"(a) ELIGIBILITY STANDARDS.—

"(1) ESTABLISHMENT REQUIRED.—Within 120 days after the date on which the permanent board first meets with a quorum present, the Corporation shall issue standards for the certification of agricultural mortgage marketing facilities, including eligibility standards in accordance with paragraph (2).

"(2) MINIMUM REQUIREMENTS.—To be eligible to be certified under the standards referred to in paragraph (1), an agricultural mortgage marketing facility shall—

"(A) be an institution of the Farm Credit System or a corporation, association, or trust organized under the laws of the United States or of any State;

"(B) meet or exceed capital standards established by the Board;

"(C) have as one of the purposes of the facility, the sale or resale of securities representing interests in, or obligations backed by, pools of qualified loans that have been provided guarantees by the Corporation;

"(D) demonstrate managerial ability with respect to agricultural mortgage loan underwriting, servicing, and marketing that is acceptable to the Corporation;

"(E) adopt appropriate agricultural mortgage loan underwriting, appraisal, and servicing standards and procedures that meet or exceed the standards established by the Board;

"(F) for purposes of enabling the Corporation to examine the facility, agree to allow officers or employees of the Corporation to have access to all books, accounts, financial records, reports, files, and all other papers, things, or property, of any type whatsoever, belonging to or used by the Corporation that are necessary to facilitate an examination of the operations of the facility in connection with securities, and the pools of qualified loans that back securities, for which the Corporation has provided guarantees; and

"(G) adopt appropriate minimum standards and procedures relating to loan administration and disclosure to borrowers concerning the terms and rights applicable to loans for which guarantee is provided, in conformity with uniform standards established by the Corporation.

"(3) NONDISCRIMINATION REQUIREMENT.—The standards established under this subsection shall not discriminate between or against Farm Credit System and non-Farm Credit System applicants.

"(b) CERTIFICATION BY CORPORATION.—Within 60 days after receiving an application for certification under this section, the Corporation shall certify the facility if the facility meets the standards established by the Corporation under subsection (a)(1).

"(c) MAXIMUM TIME PERIOD FOR CERTIFICATION.—Any certification by the Corporation of an agricultural mortgage marketing facility shall be effective for a period determined by the Corporation of not to exceed 5 years.

"(d) REVOCATION.—

"(1) IN GENERAL.— After notice and an opportunity for a hearing, the Corporation may revoke the certification of an agricultural mortgage marketing facility if the Corporation determines that the facility no longer meets the standards referred to in subsection (a).

"(2) EFFECT OF REVOCATION.—Revocation of a certification shall not affect any pool guarantee that has been issued by the Corporation.

"(e) AFFILIATION OF FCS INSTITUTIONS WITH FACILITY.—

"(1) ESTABLISHMENT OF AFFILIATE AUTHORIZED.—Notwithstanding any other provision of this Act, any Farm Credit System institution (other than the Corporation), acting for *such institution alone or in conjunction with one or more other such institutions, may establish and operate, as an affiliate, an agricultural mortgage marketing facility if, within a reasonable time after such establishment, such facility obtains and thereafter retains certification under subsection (b) as a certified facility.*

"(2) EXCLUSIVE AGENCY AGREEMENT AUTHORIZED.—Any number of Farm Credit System institutions (other than the Corporation) may enter into an agreement with any certified facility (including an affiliate established under paragraph (1) to sell the qualified loans of such institutions exclusively to or through the facility.

"SEC. 8.6. GUARANTEE OF QUALIFIED LOANS.

"(a) GUARANTEE AUTHORIZED FOR CERTIFIED FACILITIES.—

"(1) IN GENERAL.—Subject to the requirements of this section and on such other terms and conditions as the Corporation shall consider appropriate, the Corporation shall guarantee the timely payment of principal and interest on the securities issued by a certified facility that represents interests in, or obligations backed by, any pool of qualified loans held by such facility.

"(2) INABILITY OF FACILITY TO PAY.—If the facility is unable to make any payment of principal or interest on any security for which a guarantee has been provided by the Corporation under paragraph (1), subject to the provisions of subsection (b) the Corporation shall make such payment as and when due in cash, and on such payment shall be subrogated fully to the rights satisfied by such payment.

"(3) POWER OF CORPORATION.—Notwithstanding any other provision of law, the Corporation is empowered, in connection with any guarantee under this subsection, whether before or after any default, to provide by contract with the facility for the extinguishment, on default by the facility, of any redemption, equitable, legal, or other right, title, or interest of the facility in any mortgage or mortgages constituting the pool against which the guaranteed securities are issued. With respect to any issue of guaranteed securities, in the event of default and pursuant otherwise to the terms of the contract, the mortgages that constitute such pool shall become the absolute property of the Corporation subject only to the unsatisfied rights of the holders of the securities based on and backed by such pool.

"(b) RESERVE OR SUBORDINATED PARTICIPATION REQUIREMENTS.—In the case of any pool referred to in subsection (a), the Corporation shall—

"(1) provide a guarantee only with respect to an individual pool of qualified loans on application of a certified facility;

"(2) provide a guarantee only if a reserve, or retained subordinated participating interests, in an amount equal to at least 10 percent of the outstanding principal amount of the loans constituting the pool has been established in accordance with this title;

"(3) require that full recourse be taken against reserves and retained subordinated participating interests before any demand be made by the certified facility with respect to the guarantee of the Corporation; and

"(4) ensure the timely receipt of principal and interest due to security or obligation holders only after full recourse has been taken against such reserves and retained subordinated participating interests.

"(c) STANDARDS REQUIRING DIVERSIFIED POOLS.—

"(1) IN GENERAL.—To reduce the risks incurred by the Corporation in providing guarantees under this section and to further the purposes of this title, the Board shall establish standards governing the composition of each pool of qualified loans (in connection with which such guarantees are provided) over the period during which the commitment to provide guarantees is effective.

"(2) MINIMUM CRITERIA.—The standards established by the Board pursuant to paragraph (1) for pools of qualified loans shall, at a minimum—

"(A) require that each pool consist of loans that—

"(i) are secured by agricultural real estate that is widely distributed geographically;

"(ii) vary widely in terms of amounts of principal; and

"(iii) in the case of land used in the production of agricultural commodities, are secured by agricultural real estate that, in the aggregate, is used to produce a wide range of agricultural commodities;

"(B) prohibit the inclusion in any such pool of—

"(i) any loan the principal amount of which exceeds 3.5 percent of the aggregate amount of principal of all loans in such pool; and

"(ii) 2 or more loans to related borrowers; and

"(C) require that each pool consist of not less than 50 loans.

"(3) SMALL FARMS AND FAMILY FARMERS.—In establishing the standards described in paragraph (2)(A)(ii), the Board shall include provisions that promote and encourage the inclusion of loans for small farms and family farmers in pools of qualified loans.

"(4) CONGRESSIONAL REVIEW.—No standard prescribed under this subsection shall take effect before the later of—

"(A) the end of a period consisting of 30 legislative days and beginning on the date such standards are submitted to Congress; or

"(B) the end of a period consisting of 90 calendar days and beginning on such date.

"(d) OTHER RESPONSIBILITIES OF AND LIMITATIONS ON CERTIFIED FACILITIES.—As a condition for providing any guarantees under this section for securities issued by a certified facility that represent interests in, or obligations backed by, any pool of qualified loans, the Corporation shall require such facility to agree to comply with the following requirements:

"(1) LOAN DEFAULT RESOLUTION.—The facility shall act in accordance with the standards of a prudent institutional lender to resolve loan defaults.

"(2) SUBROGATION OF UNITED STATES AND CORPORATION TO INTERESTS OF FACILITY.—The proceeds of any collateral, judgments, settlements, or guarantees received by the facility with respect to any loan in such pool, shall be applied, after payment of costs of collection—.

"(A) first, to reduce the amount of any principal outstanding on any obligation of the Corporation that was purchased by the Secretary of the Treasury under section 8.13 to the extent the proceeds of such obligation were used to make guarantees in connection with such securities; and

"(B) second, to reimburse the Corporation for any such guarantee payments.

"(3) LOAN SERVICING.—The originator of any loan in such pool shall be permitted to retain the right to service the loan.

"(4) LOANS WITH RECOURSE TO ORIGINATOR PROHIBITED.—Each loan in the pool shall have been sold to the certified facility without recourse to the originator of such loan (other than recourse to any interest of such originator in a reserve established in connection with such loan or any subordinated participation interest of such originator in such loan).

"(5) COMPLIANCE WITH DIVERSIFIED POOL STANDARDS.—The facility shall comply with the standards adopted by the Board under subsection (c) in establishing and maintaining the pool.

"(6) MINORITY PARTICIPATION IN PUBLIC OFFERINGS.—The facility shall take such steps as may be necessary to ensure that minority owned or controlled investment banking firms, underwriters, and bond counsels throughout the United States have an opportunity to participate to a significant degree in any public offering of securities.

"(7) NO DISCRIMINATION AGAINST STATES WITH BORROWERS RIGHTS.—The facility may not refuse to purchase qualified loans originating in States that have established borrowers rights laws either by statute or under the constitution of such States, except that the facility may require discounts or charge fees reasonably related to costs and expenses arising from such statutes or constitutional provisions.

"(e) ADDITIONAL AUTHORITY OF THE BOARD.—To ensure the liquidity of securities for which guarantees have been provided under this section, the Board shall adopt appropriate standards regarding—

"(1) the characteristics of any pool of qualified loans serving as collateral for such securities;

"(2) registration requirements (if any) with respect to such securities; and

"(3) transfer requirements.

"(f) AGGREGATE PRINCIPAL AMOUNTS OF QUALIFIED LOANS.—

"(1) INITIAL YEAR.—During the first year after the effective date of this title, the Corporation may not provide guarantees for securities representing interests in, or obligations backed by, qualified loans (other than loans which back securities issued by Farm Credit System institutions for which the Corporation provides a guarantee) in an aggregate principal amount in excess of 2 percent of the total agricultural real estate debt outstanding at the close of the prior calendar year (as published by the Board of Governors of the Federal Reserve System), less all Farmers Home Administration agricultural real estate debt.

"(2) SECOND YEAR.—During the year following the year referred to in paragraph (1), the Corporation may not provide guarantees for securities representing interests in, or obligations backed by, qualified loans (other than loans which back securities issued by Farm Credit System institutions for which the Corporation provides a guarantee) in an additional principal amount in excess of 4 percent of the total agricultural real estate debt outstanding at the close of the prior calendar year, less all Farmers Home Administration agricultural real estate debt.

"(3) THIRD YEAR.—During the year following the year referred to in paragraph (2), the Corporation may not provide guarantees for securities representing interests in, or obligations backed by, qualified loans (other than loans which back securities issued by Farm Credit System institutions for which the Corporation provides a guarantee) in an additional principal amount in excess of 8 percent of the total agricultural real estate debt outstanding at the close of the prior calendar year, less all Farmers Home Administration agricultural real estate debt.

"(4) SUBSEQUENT YEARS.—In years subsequent to the year referred to in paragraph

(3), the Corporation may provide guarantees without regard to the principal amount of the qualified loans guaranteed.

"SEC. 8.7. RESERVES AND SUBORDINATED PARTICIPATION INTERESTS OF CERTIFIED FACILITIES.

"(a) CASH CONTRIBUTIONS.—

"(1) CONTRIBUTIONS BY ORIGINATORS.—For each pool of loans, a certified facility and the participating originators may each contribute a share of the minimum reserve required under section 8.6(b)(2).

"(2) COMPOSITION OF RESERVES.—The reserves required under this section, other than retained subordinated participation interests, shall be held in the form of United States Treasury securities or other securities issued, guaranteed, or insured by an agency or instrumentality of the United States Government.

"(3) USE AND DISPOSITION OF ASSETS IN RESERVE.—Subject to the requirements of subsection (c), any certified facility that establishes a reserve pursuant to this subsection shall be required by the Corporation to maintain such reserve as a segregated account consisting of the amounts contributed (but not the earnings accruing on such amounts) to ensure the repayment of principal of, and the payment of interest on, the securities representing an interest in, or obligations backed by, the pool of qualified loans with respect to which such reserve is established.

"(b) RETENTION OF SUBORDINATED PARTICIPATION INTERESTS.—

"(1) IN GENERAL.—A certified facility may meet the requirements of section 8.6(b)(2) with respect to any pool of qualified loans by retaining a subordinated participation interest in each loan included in each such pool in an amount not less than the amount that is equal to 10 percent of the principal amount of such loan.

"(2) RETENTION OF SUCH INTERESTS BY LOAN ORIGINATORS.—Under the terms of the sale of any qualified loan by the originator of such loan to a certified facility, the originator of such loan may agree to retain a subordinated participation interest in such loan and the amount of the subordinated interest so retained by such loan originator shall be attributed to the facility for purposes of determining whether the requirements of paragraph (1) have been met.

"(3) DISTRIBUTION RIGHTS OF HOLDERS OF SUBORDINATED INTERESTS.—The rights of the holders of the subordinated participation interests to receive distributions with respect to the loans constituting the pool shall be subordinated as prescribed by the Corporation to enhance the likelihood of regular receipt by the other holders of interests in such pool of the full amount of scheduled payments of principal and interest on loans constituting the pool.

"(c) ADDITIONAL REQUIREMENTS RELATING TO SECTION 8.6(b)(2) RESERVES.—

"(1) DISTRIBUTION OF EARNINGS ACCRUING IN SECTION 8.6(b)(2) RESERVES.—In the case of each applicable loan pool, a certified facility shall distribute to originators, at least semiannually, any earnings on the contributions of the originators to the reserve.

"(2) EXCEPTION FOR WITHDRAWALS THAT WOULD DECREASE RESERVE LEVELS BELOW RESERVE REQUIREMENT.—No withdrawal and distribution authorized under paragraph (1) may be made to the extent such withdrawal would cause the reserve to fall below the amount required to be held in such reserve under section 8.6(b)(2).

"(3) SEPARATE LOAN LOSS ACCOUNTING.—Any certified facility that maintains a reserve (pursuant to section 8.6(b)(2)) to which any originator has contributed shall maintain separate loan loss accounting for each loan for which a contribution was made by such originator to such reserve.

"(4) LOAN LOSS ATTRIBUTION RULE.—Except for that portion of losses absorbed by a contribution of a certified facility to the reserve as provided in subsection (a)(1), each originator participating in the pool shall absorb any losses on loans originated up to the total amount the originator has contributed to the reserve before the losses are absorbed by the contributions of other originators who are participating in the pool.

"(d) AUTHORITY OF BOARD TO ESTABLISH OTHER POLICIES AND PROCEDURES.—The Board may establish such other policies and procedures with respect to—

"(1) the establishment of reserves and the retention of subordinated participation interests under this section; and

"(2) the manner in which such reserves or interests shall be available to make payments of interest on, and repayments of principal of, securities for which the Corporation has provided guarantees, as the Board determines to be necessary or appropriate to carry out the purposes of this title.

"SEC. 8.8. STANDARDS FOR QUALIFIED LOANS.

"(a) STANDARDS.—Not later than 120 days after the appointment and election of the Board, the Corporation, in consultation with originators, shall establish uniform underwriting, security appraisal, and repayment standards for qualified loans. In establishing standards for qualified loans, the Corporation shall confine corporate operations, so far as practicable, to mortgage loans that are deemed by the Board to be of such quality so as to meet, substantially and generally, the purchase standards imposed by private institutional mortgage investors.

"(b) MINIMUM CRITERIA.—To further the purpose of this title to provide a new source of long-term fixed rate financing to assist farmers and ranchers to purchase agricultural real estate, the standards established by the Board pursuant to subsection (a) shall, at a minimum—

"(1) provide that no agricultural mortgage loan with a loan-to-value ratio in excess of 80 percent may be treated as a qualified loan;

"(2) require each borrower to demonstrate sufficient cash-flow to adequately service the agricultural mortgage loan;

"(3) contain sufficient documentation standards;

"(4) contain adequate standards to protect the integrity of the appraisal process with respect to any agricultural mortgage loans;

"(5) contain adequate standards to ensure that the borrower is or will be actively engaged in agricultural production, and require the borrower to certify to the originator that the borrower intends to continue agricultural production on the site involved;

"(6) minimize speculation in agricultural real estate for nonagricultural purposes; and

"(7) in establishing the value of agricultural real estate, consider the purpose for which the real estate is taxed.

"(c) LOAN AMOUNT LIMITATION.—

"(1) IN GENERAL.—A loan may not be treated as a qualified loan if the principal amount of such loan exceeds $2,500,000, adjusted for inflation, except as provided in paragraph (2).

"(2) ACREAGE EXCEPTION.—Paragraph (1) shall not apply with respect to any agricultural mortgage loan described in such paragraph if such loan is secured by agricultural real estate that, in the aggregate, comprises not more than 1,000 acres.

"(d) CONGRESSIONAL REVIEW.—No standard prescribed under subsection (a) shall take effect before the later of—

"(1) the end of a period consisting of 30 legislative days and beginning on the date such standards are submitted to the Congress; or

"(2) the end of a period consisting of 90 calendar days and beginning on such date.

"(e) NONDISCRIMINATION REQUIREMENT.—The standards established under subsection (a) shall not discriminate against small originators or small agricultural mortgage loans that are at least $50,000.

"SEC. 8.9. EXEMPTION FROM RESTRUCTURING AND BORROWERS RIGHTS PROVISIONS FOR POOLED LOANS.

"(a) RESTRUCTURING.—Notwithstanding any other provision of law, sections 4.14, 4.14A, 4.14B, 4.14C, and 4.37 shall not apply to ajy loan included in a pool of qualified loans backing securities or obligations for which the Corporation provides guarantee. The loan servicing standards established by the Corporation shall be patterned after similar standards adopted by other federally sponsored secondary market facilities.

"(b) BORROWERS RIGHTS.—At the time of application for a loan, originators that are Farm Credit System institutions shall give written notice to each applicant of the terms and conditions of the loan, setting forth separately terms and conditions for pooled loans and loans that are not pooled. This notice shall include a statement, if applicable, that the loan may be pooled and that, if pooled, sections 4.14, 4.14A, 4.14B, 4.14C, and 4.37 shall not apply. This notice also shall inform the applicant that he or she has the right not to have the loan pooled. Within 3 days from the time of commitment, an applicant has the right to refuse to allow the loan to be pooled, thereby retaining rights under sections 4.14, 4.14A, 4.14B, 4.14C, and 4.37, if applicable.

"SEC. 8.10. FUNDING FOR GUARANTEE; RESERVES OF CORPORATION.

"(a) GUARANTEE.—The Corporation shall provide guarantees for securities representing interests in, or obligations backed by, pools of qualified loans through commitments issued by the Corporation providing for guarantees.

"(b) GUARANTEE FEES.—

"(1) INITIAL FEE.—At the time a guarantee is issued by the Corporation, the Corporation shall assess the certified facility a fee of not more than 1/2 of 1 percent of the initial principal amount of each pool of qualified loans.

"(2) ANNUAL FEES.—Beginning in the second year after the date the guarantee is issued under paragraph (1), the Corporation may, at the end of each year, assess the certified facility an annual fee of not more than 1/2 of 1 percent of the principal amount of the loans then constituting the pool.

"(3) DETERMINATION OF AMOUNT.—The Corporation shall establish such fees on the amount of risk incurred by the Corporation in providing the guarantees with respect to which such fee is assessed, as determined by the Corporation. Fees assessed under paragraphs (1) and (2) shall be established on an actuarially sound basis.

"(4) ANNUAL REVIEW BY GAO.—The Comptroller General of the United States shall annually review, and submit to the Congress a report regarding, the actuarial soundness and reasonableness of the fees established by the Corporation under this subsection.

"(c) Corporation Reserve Against Guarantees Losses Required.—

"(1) In general.—So much of the fees assessed under this section as the Board determines to be necessary shall be set aside by the Corporation in a segregated account as a reserve against losses arising out of the guarantee activities of the Corporation.

"(2) Exhaustion of reserve required.—The Corporation may not issue obligations to the Secretary of the Treasury under section 8.13 in order to meet the obligations of the Corporation with respect to any guarantees provided under this title until the reserve established under paragraph (1) has been exhausted.

"(d) Fees to Cover Administrative Costs Authorized.—The Corporation may impose charges or fees in reasonable amounts in connection with the administration of its activities under this title to recover its costs for performing such administration.

"SEC. 8.11. SUPERVISION, EXAMINATION, AND REPORT OF CONDITION.

"(a) Regulation.—

"(1) Authority.—Notwithstanding any other provision of this Act, the regulatory authority of the Farm Credit Administration with respect to the Corporation shall be confined to—

"(A) providing for the examination of the condition of the Corporation; and

"(B) providing for the general supervision of the safe and sound performance of the powers, functions, and duties vested in the Corporation by this title, including through the use of the enforcement powers of the Farm Credit Administration under part C of title V.

"(2) Considerations.—In exercising its authority pursuant to this section, the Farm Credit Administration shall consider—

"(A) the purposes for which the Corporation was created;

"(B) the practices appropriate to the conduct of secondary markets in agricultural loans; and

"(C) the reduced levels of risk associated with appropriately structured secondary market transactions.

"(b) Examinations and Audits.—

"(1) In general.—The financial transactions of the Corporation shall be examined by examiners of the Farm Credit Administration in accordance with the principles and procedures applicable to commercial corporate transactions under such rules and regulations as may be prescribed by the Administration.

"(2) Frequency.—The examinations shall occur at such times as the Farm Credit Administration Board may determine, but in no event less than once each year.

"(3) Access.—The examiners shall—

"(A) have access to all books, accounts, financial records, reports, files, and all other papers, things, or property belonging to or in use by the Corporation and necessary to facilitate the audit; and

"(B) be afforded full access for verifying transactions with certified facilities and other entities with whom the Corporation conducts transactions.

"(c) Annual Report of Condition.—The Corporation shall make and publish an annual report of condition as prescribed by the Farm Credit Administration. Each report shall contain financial statements prepared in accordance with generally accepted accounting principles and contain such additional information as the Farm Credit Administration may by regulation prescribe. The financial statements of the Corporation shall be audited by an independent public accountant.

"(d) FCA Assessments to Cover Costs.—The Farm Credit Administration shall assess the Corporation for the cost to the Administration of any regulatory activities conducted under this section, including the cost of any examination.

"SEC. 8.12. SECURITIES IN CREDIT ENHANCED POOLS.

"(a) Federal Laws.—

"(1) Applicability of certain federal securities laws.—For purposes of section 3(a)(2) of the Securities Act of 1933, no security representing an interest in a pool of qualified loans for which guarantees have been provided by the Corporation shall be deemed to be a security issued or guaranteed by a person controlled or supervised by, or acting as an instrumentality of, the Government of the United States. No such security shall be deemed to be a 'government security' for purposes of the Securities Exchange Act of 1934 or for purposes of the Investment Company Act of 1940.

"(2) No full faith and credit of the United States.—Each security for which credit enhancement has been provided by the Corporation shall clearly indicate that the security is not an obligation of, and is not guaranteed as to principal or interest by, the Farm Credit Administration, the United States, or any other agency or instrumentality of the United States (other than the Corporation).

"(b) State Securities Laws.—

"(1) General exemption.—Any security or obligation that has been provided a guarantee by the Corporation shall be exempt from any law of any State with respect to or requiring registration or qualification of securities or real estate to the same extent as any obligation issued by, or guaranteed as to principal and interest by, the United States or any agency or instrumentality of the United States.

"(2) State override.—The provisions of paragraph (1) shall not be applicable to any State that, during the 8-year period beginning on the effective date of this title, enacts a law that—

"(A) specifically refers to this subsection; and

"(B) expressly provides that paragraph (1) shall not apply to the State.

"(c) Authorized Investments.—

"(1) In general.—Securities representing an interest in, or obligations backed by, pools of qualified loans with respect to which the Corporation has provided a guarantee shall be authorized investments of any person, trust, corporation, partnership, association, business trust, or business entity created pursuant to or existing under the laws of the United States or any State to the same extent that the person, trust, corporation, partnership, association, business trust, or business entity is authorized under any applicable law to purchase, hold, or invest in obligations issued by or guaranteed as to principal and interest by the United States or any agency or instrumentality of the United States. Such securities or obligations may be accepted as security for all fiduciary, trust, and public funds, the investment or deposits of which shall be under the authority and control of the United States or any State or any officers of either.

"(2) State limitations on purchase, holding, or investment.—If State law limits the purchase, holding, or investment in obligations issued by the United States by the person, trust, corporation, partnership, association, business trust, corporation, partnership, association, business trust, or business entity, securities or obligations of a certified facility issued on which the Corporation has provided a guarantee shall be considered to be obligations issued by the United States for purposes of the limitation.

"(3) Nonapplicability of provisions.—

"(A) Subsequent state law.—Paragraphs (1) and (2) shall not apply with respect to a particular person, trust, corporation, partnership, association, business trust, or business entity, or class thereof, in any State that, prior to the expiration of the 8-year period beginning on the date of the enactment of this title, enacts a law that specifically refers to this section and either prohibits or provides for a more limited authority to purchase, hold, or invest in the securities by any person, trust, corporation, partnership, association, business trust, or business entity, or class thereof, than is provided in paragraphs (1) and (2).

"(B) Effect of subsequent state law.—The enactment by any State of a law of the type described in subparagraph (A) shall not affect the validity of any contractual commitment to purchase, hold, or invest that was made prior to the effective date of the law and shall not require the sale or other disposition of any securities acquired prior to the effective date of the law.

"(d) State Usury Laws Superseded.—Any provision of the constitution or law of any State which expressly limits the rate or amount of interest, discount points, finance charges, or other charges that may be charged, taken, received, or reserved by agricultural lenders or certified facilities shall not apply to any agricultural loan made by an originator or a certified facility in accordance with this title that is included in a pool for which the Corporation has provided a guarantee.

"SEC. 8.13. AUTHORITY TO ISSUE OBLIGATIONS TO COVER GUARANTEE LOSSES OF CORPORATION.

"(a) Sale of Obligations to Treasury.—

"(1) In general.—Subject to the limitations contained in sections 8.6(b) and 8.10(c) and the requirement of paragraph (2), the Corporation may issue obligations to the Secretary of the Treasury the proceeds of which may be used by the Corporation solely for the purpose of fulfilling the obligations of the Corporation under any guarantee provided by the Corporation under this title.

"(2) Certification.—The Secretary of the Treasury may purchase obligations of the Corporation under paragraph (1) only if the Corporation certifies to the Secretary that—

"(A) the requirements of sections 8.6(b) and 8.10(c) have been fulfilled; and

"(B) the proceeds of the sale of such obligations are needed to fulfill the obligations of the Corporation under any guarantee provided by the Corporation under this title.

"(b) Expeditious Transaction Required.—Not later than 10 business days after receipt by the Secretary of the Treasury of any certification by the Corporation under subsection (a)(2), the Secretary of the Treasury shall purchase obligations issued by the Corporation in an amount determined by the Corporation to be sufficient to meet the guarantee liabilities of the Corporation.

"(c) Limitation on Amount of Outstanding Obligations.—The aggregate amount of obligations issued by the Corporation under subsection (a)(1) which may be held by the Secretary of the Treasury at any time (as determined by the Secretary) shall not exceed $1,500,000,000.

"(d) Terms of Obligation.—

"(1) Interest.—Each obligation purchased by the Secretary of the Treasury shall bear *interest at a rate determined by the Secretary, taking into consideration the average rate on outstanding marketable obligations of the United States as of the last day of the last calendar month ending before the date of the purchase of such obligation.*

"(2) Redemption.—The Secretary of the Treasury shall require that such obligations be repurchased by the Corporation within a reasonable time.

"(e) Coordination With Title 31, United States Code.—

"(1) Authority to use proceeds from sale of treasury securities.—For the purpose of purchasing obligations of the Corporation, the Secretary of the Treasury may use as a public debt transaction the proceeds from the sale by the Secretary of any securities issued under chapter 31, of title 31, United States Code, and the purposes for which securities may be issued under such chapter are extended to include such purchases.

"(2) Treatment of transactions.—All purchases and sales by the Secretary of the Treasury of obligations issued by the Corporation under this section shall be treated as public debt transactions of the United States.

"(f) Authorization of Appropriations.—There is authorized to be appropriated to the Secretary of the Treasury $1,500,000,000, without fiscal year limitation, to carry out the purposes of this title.

"SEC. 8.14. FEDERAL JURISDICTION.

"Notwithstanding section 1349 of title 28, United States Code, or any other provision of law:

"(1) The Corporation shall be considered an agency under sections 1345 and 1442 of such title.

"(2) All civil actions to which the Corporation is a party shall be deemed to arise under the laws of the United States and, to the extent applicable, shall be deemed to be governed by Federal common law. The district courts of the United States shall have original jurisdiction of all such actions, without regard to amount of value.

"(3) Any civil or other action, case, or controversy in a court of a State or any court, other than a district court of the United States, to which the Corporation is a party may at any time before trial be removed by the Corporation, without the giving of any bond or security—

"(A) to the District Court of the United States for the district and division embracing the place where the same is pending; or

"(B) if there is no such district court, to the District Court of the United States for the district in which the principal office of the Corporation is located;

by following any procedure for removal for causes in effect at the time of such removal.

"(4) No attachment or execution shall be issued against the Corporation or any of the property of the Corporation before final judgment in any Federal, State, or other court.".

SEC. 703. GAO AUDIT OF FEDERAL AGRICULTURAL MORTGAGE CORPORATION.

Section 9105(a) of title 31, United States Code, is amended by adding at the end thereof the following new paragraph:

"(4) Federal agricultural mortgage corporation.—

"(A) Audits authorized.—Notwithstanding any other provision of law and under such regulations as the Comptroller General may prescribe, the Comptroller General shall perform a financial audit of the Federal Agricultural Mortgage Corporation on whatever basis the Comptroller General determines to be necessary.

"(B) Cooperation of corporation required.—The Federal Agricultural Mortgage Corporation shall—

"(i) make available to the Comptroller General for audit all records and property of, or used or managed by, the Association which may be necessary for the audit; and

"(ii) provide the Comptroller General with facilities for verifying transactions with the balances or securities held by any depositary, fiscal agent, or custodian.".

SEC. 704. GAO STUDIES.

(a) Studies Required.—The Comptroller General of the United States shall conduct studies of the following:

(1) The implementation of the amendments made by this title by the Federal Agricultural Mortgage Corporation and the effect of the operations of the Corporation on producers, the Farm Credit System, and other lenders, and the capital markets.

(2) The feasibility and appropriateness of promoting the establishment of a secondary market for securities representing interests in, or obligations backed by, pools of agricultural real estate loans for which a guarantee has not been provided by the Federal Agricultural Mortgage Corporation.

(3) The feasibility of expanding the authority granted under the amendments made by this title to authorize the sale of securities based on or backed by a trust or pool consisting of loans made to farm-related and rural small businesses. For purposes of the preceding sentence, the term "farm-related businesses" means businesses 90 percent or more of the annual dollar volume of the sales of which are made to agricultural producers.

(b) Submission of Report.—Not later than 2 years after the date of enactment of this Act, the Comptroller General of the United States shall transmit to the Congress a report on the studies required by subsection (a), including therein such recommendations for administrative action and legislation as may be appropriate.

SEC. 705. CONFORMING AMENDMENTS.

(a) Federal Land Banks.—Section 1.4 (12 U.S.C. 2012) is amended by adding at the end thereof the following new paragraph:

"(23) Operate as an originator and to become certified as a certified facility under title VIII.".

(b) Federal Land Bank Associations.—Section 1.15 (12 U.S.C. 2033) is amended by adding at the end thereof the following new paragraph:

"(22) Operate as an originator and to become certified as a certified facility under title VIII.".

(c) Federal Intermediate Credit Banks.—Section 2.1 (12 U.S.C. 2072) is amended by adding at the end thereof the following new paragraph:

"(21) Operate as an originator and to become certified as a certified facility under title VIII.".

(d) Production Credit Associations.—Section 2.12 (12 U.S.C. 2093) is amended by adding at the end thereof the following new paragraph:

"(21) Operate as an originator and to become certified as a certified facility under title VIII.".

Subtitle B—Farmers Home Administration Loans

SEC. 711. IMPROVEMENT OF SECONDARY MARKET OPERATIONS FOR LOANS GUARANTEED BY THE FARMERS HOME ADMINISTRATION.

(a) In General.—Section 338 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1988) is amended by adding at the end thereof the following:

"(f)(1)(A) The guaranteed portion of any loan made under this title may be sold by the lender, and by any subsequent holder, in accordance with regulations governing such sales as the Secretary shall establish, subject to the following limitations:

"(i) All fees due the Secretary with respect to a guaranteed loan are to be paid in full before any sale.

"(ii) The loan is to have been fully disbursed to the borrower before the sale.

"(B) After a loan is sold in the secondary market, the lender shall remain obligated under its guarantee agreement with the Secretary, and shall continue to service the loan in accordance with the terms and conditions of such agreement.

"(C) The Secretary shall develop such procedures as are necessary for the facilitation, administration, and promotion of secondary market operations, and for determining the increase of farmers' access to capital at reasonable rates and terms as a result of secondary market operations.

"(D) This subsection shall not be interpreted to impede or extinguish the right of the borrower or the successor in interest to such borrower to prepay (in whole or in part) any loan made under this title, or to impede or extinguish the rights of any party under any provision of this title.

"(2)(A) The Secretary may, directly or through a market maker approved by the Secretary, issue pool certificates representing ownership of part or all of the guaranteed portion of any loan guaranteed by the Secretary under this title. Such certificates shall be based on and backed by a pool established or approved by the Secretary and composed solely of the entire guaranteed portion of such loans.

"(B) The Secretary may, on such terms and conditions as the Secretary deems appropriate, guarantee the timely payment of the principal and interest on pool certificates issued on behalf of the Secretary by approved market makers for purposes of this subsection. Such guarantee shall be limited to the extent of principal and interest on the guaranteed portions of loans that compose the pool. If a loan in such pool is prepaid, either voluntarily or by reason of default, the guarantee of timely payment of principal and interest on the pool certificates shall be reduced in proportion to the amount of principal and interest such prepaid loan represents in the pool. Interest on prepaid or defaulted loans shall accrue and be guaranteed by the Secretary only through the date of payment on the guarantee. During the term of the pool certificate, the certificate may be called for redemption due to prepayment or default of all loans constituting the pool.

"(C) The full faith and credit of the United States is pledged to the payment of all amounts that may be required to be paid under any guarantee of such pool certificates issued by approved market makers under this subsection. The Secretary may expend amounts in the Agricultural Credit Insurance Fund to make payments on such guarantees.

"(D) The Secretary shall not collect any fee for any guarantee under this subsection. The preceding sentence shall not preclude the Secretary from collecting a fee for the functions described in paragraph (3).

"(E) Within 30 days after a borrower of a guaranteed loan is in default of any principal or interest payment due for 60 days or more, the Secretary shall—

"(i) purchase the pool certificates representing ownership of the guaranteed portion of the loan; and

"(ii) pay the registered holder of the certificates an amount equal to the guaranteed portion of the loan represented by the certificate.

"(F)(i) If the Secretary pays a claim under a guarantee issued under this subsection, the claim shall be subrogated fully to the rights satisfied by such payment, as may be provided by the Secretary.

"(ii) No State or local law, and no Federal law, shall preclude or limit the exercise by the Secretary of the Secretary's ownership rights in the portions of loans constituting the pool against which the certificates are issued.

"(3) On the adoption of final rules and regulations, the Secretary shall do the following:

"(A) Provide for the central collection of registration information from all participating market makers for all loans and pool certificates sold under paragraphs (1) and (2). Such information shall include, with respect to each original sale and any subsequent sale, identification of the interest rate paid by the borrower to the lender, the lender's servicing fee, whether interest on the loan is at a fixed or variable rate, identification of each purchaser of a pool certificate, the interest rate paid on the certificate, and such other information as the Secretary deems appropriate.

"(B) Before any sale, require the seller to disclose to each prospective purchaser of the portion of a loan guaranteed under this title and to each prospective purchaser of a pool certificate issued under paragraph (2), information on the terms, conditions, and yield of such instrument. As used in this subparagraph, if the instrument being sold is a loan, the term 'seller' does not include (i) the person who made the loan or (ii) any person who sells three or fewer guaranteed loans per year.

"(C) Provide for adequate custody of any pooled guaranteed loans.

"(D) Take such actions as are necessary, in restructuring pools of the guaranteed portion of loans, to minimize the estimated costs of paying claims under guarantees issued under this subsection.

"(E) Require each market maker—

"(i) to service all pools formed, and participations sold, by the market maker; and

"(ii) to provide the Secretary with information relating to the collection and disbursement of all periodic payments, prepayments, and default funds from lenders, to or from the reserve fund that the Secretary shall establish to enable the timely payment guarantee to be self-funding, and from all beneficial holders.

"(E) Regulate market makers in pool certificates sold under this subsection.

"(4)(A) Not later than March 31 of each year, the Secretary shall transmit to the Committee on Agriculture, Nutrition, and Forestry of the Senate and the Committee on Agriculture of the House of Representatives a report on the secondary market operations under this subsection during the preceding calendar year.

"(B) Each report under subparagraph (A) shall include—

"(i) the number and the total dollar amount of loans sold in the secondary market and the distribution of such loans by size of loan, size of lender, geographic location of lender, interest rate, maturity, lender servicing fees, whether the interest rate is fixed or variable, and premium paid;

"(ii) the number and dollar amount of loans resold in the secondary market and the distribution of such loans by size of loan, interest rate, and premiums;

"(iii) the number and total dollar amount of pools formed;

"(iv) the number and total dollar amount of loans in each pool;

"(v) the dollar amount, interest rate, and terms on each loan in each pool, and whether the interest rate is fixed or variable;

"(vi) the number, face value, interest rate, and terms of the pool certificates issued for each pool;

"(vii) to the maximum extent possible, the use by the lender of the proceeds of sales of loans in the secondary market for additional lending to farmers; and

"(viii) an analysis of the information reported in clauses (i) through (vii) to assess farmers' access to capital at reasonable rates and terms as a result of secondary market operations.".

(b) Regulations.—Within 180 days after the date of the enactment of this Act, the Secretary shall develop and promulgate final regulations to implement this section and the amendment made by this section.

(c) Pool Certificates Not To Be Issued Until Final Regulations Take Effect.—The Secretary of Agriculture shall not implement paragraph (2) of section 338(f) of the Consolidated Farm and Rural Development Act, as added by subsection (a), until the final regulations governing the administration of such paragraph take effect.

TITLE VIII—MISCELLANEOUS

SEC. 801. OWNERSHIP REQUIREMENT UNDER THE CONSERVATION RESERVE PROGRAM.

Section 1235(a)(1) of the Food Security Act of 1985 (16 U.S.C. 3835(a)(1)) is amended—

(1) by striking out "or" at the end of subparagraph (B);

(2) by striking out the period at the end of subparagraph (C) and inserting in lieu thereof "; or" and

(3) by adding at the end thereof the following new subparagraph:

"(D) the ownership change occurred due to foreclosure on the land and the owner of the land immediately before the foreclosure exercises a right of redemption from the mortgage holder in accordance with State law.".

SEC. 802. REPEAL OF PREAPPROVAL AND RELATED AUTHORITIES.

(a) Approval of Amendments to Federal Land Bank Charters.—Section 1.3 (12 U.S.C. 2011) is amended by striking out the second sentence and inserting in lieu thereof "The Farm Credit Administration shall approve amendments consistent with this Act to charters of Federal land banks.".

(b) Federal Land Bank Powers.—Section 1.4 (12 U.S.C. 2012) is amended—

(1) in paragraph (15), by striking out "and approved by" and inserting in lieu thereof "in accordance with regulations of";

(2) in paragraph (21), by striking out "as" and by inserting in lieu thereof "in accordance with generally accepted accounting principles, except as may be"; and

(3) in paragraph (22), by striking out "and approved by the Farm Credit Administration".

(c) Land Bank Stock.—Section 1.5 (12 U.S.C. 2013) is amended—

(1) in subsection (a), by striking out "with the approval of the Farm Credit Administration";

(2) in subsection (d), by striking out "and approved by the Farm Credit Administration"; and

(3) in subsection (f), by striking out "the Farm Credit Administration may approve" and inserting in lieu thereof "may be approved by the board of directors of the bank".

(d) Security for Federal Land Bank Loans.—Section 1.9 (12 U.S.C. 2017) is amended—

(1) in the first sentence, by striking out "approved by" and inserting in lieu thereof "prescribed by regulations of"; and

(2) in the second sentence, by striking out "and approved by" and inserting in lieu thereof "in accordance with regulations of".

(e) FCA Authority Over Federal Land Bank Associations.—The last sentence of section 1.13 (12 U.S.C. 2031) is amended—

(1) by striking out "or by approving bylaws of the association,";

(2) by striking out "direct at any time changes in" and inserting in lieu thereof "approve amendments to"; and

(3) by striking out "as" and all that follows through "Act".

(f) Land Bank Reserves.—Section 1.17 (12 U.S.C. 2051) is amended—

(1) in subsection (a), by inserting "regulations of" before "the Farm Credit Administration"; and

(2) in subsection (b)—

(A) by striking out "(1)"; and

(B) by striking out "hereof, and (2) the approval of the Farm Credit Administration".

(g) Association Reserves.—Section 1.18(a) (12 U.S.C. 2052(a)) is amended by inserting "regulations of" before "the Farm Credit Administration".

(h) Federal Intermediate Credit Bank, Establishment.—Section 2.0 (12 U.S.C. 2017) is amended by striking out the second sentence and inserting in lieu thereof "The Farm Credit Administration shall approve amendments consistent with this Act to charters of Federal intermediate credit banks.".

(i) Federal Intermediate Credit Bank, Corporate Powers.—Section 2.1 (12 U.S.C. 2018) is amended—

(1) in paragraph (13), by striking out "and approved by" and inserting in lieu thereof "in accordance with regulations of"; and

(2) in paragraph (18), by striking out "and approved by the Farm Credit Administration".

(j) Federal Intermediate Credit Bank, Stock.—Section 2.2 (12 U.S.C. 2019) is amended—

(1) in subsection (a), by striking out "with the approval of the Farm Credit Administration";

(2) in subsection (d), by striking out "and approved by the Farm Credit Administration"; and

(3) in subsection (g)—

(A) in the first paragraph, by striking out ", with the approval of the Farm Credit Administration,";

(B) in the second paragraph, by striking out ", with approval of the Farm Credit Administration,"; and

(C) in the first sentence of the fourth paragraph, by striking out "under" and inserting in lieu thereof "in accordance with".

(k) Net Earnings.—The second sentence of section 2.6(c) (12 U.S.C. 2077(a)) is amended—

(1) by striking out "approved" and inserting in lieu thereof "established"; and

(2) by inserting after "Administration" the following "in regulations".

(l) Production Credit Associations, Charter.—The last sentence of section 2.10 (12 U.S.C. 2019) is amended—

(1) by striking out "or by approval of bylaws of the association,"; and

(2) by striking out "direct" and all that follows through the period and inserting in lieu thereof "approve amendments to the charter of such association.".

(m) BANKS FOR COOPERATIVES, ESTABLISHMENT.—Section 3.0 (12 U.S.C. 2121) is amended by striking out the second sentence and inserting in lieu thereof "The Farm Credit Administration shall approve amendments consistent with this Act to charters and organizational certificates of banks for cooperatives.".

(n) BANKS FOR COOPERATIVES, CORPORATION.—Section 3.1 (12 U.S.C. 2122) is amended by striking out "and approved by the Farm Credit Administration" each place it appears.

(o) BANKS FOR COOPERATIVES, STOCK.—Section 3.3 (12 U.S.C. 2124) is amended—

(1) in subsection (a), by striking out ", with the approval of the Farm Credit Administration,";

(2) in subsection (b), by striking out "with the approval of the Farm Credit Administration"; and

(3) in subsection (e), by striking out "and approved by the Farm Credit Administration".

(p) BANKS FOR COOPERATIVES, RETIREMENT OF STOCK.—Section 3.5 (12 U.S.C. 2125) is amended by striking out "with approval of the Farm Credit Administration".

(q) OWNERSHIP OF STOCK.—Section 3.9(a) (12 U.S.C. 2130(a)) is amended—

(1) in the first sentence, by striking out "with the approval of the Farm Credit Administration";

(2) in the second sentence, by striking out ", with the approval of the Farm Credit Administration,"; and

(3) in the third sentence, by striking out "as may be approved by the Farm Credit Administration".

(r) EARNINGS AND RESERVES.—Section 3.11 (12 U.S.C. 2131) is amended—

(1) in subsection (b), by striking out "as may be approved by the Farm Credit Administration";

(2) in subsection (c), by striking out "the Farm Credit Administration may approve" and inserting in lieu thereof "may be approved by the board of directors"; and

(3) in subsection (d), by striking out "the Farm Credit Administration may approve" and inserting in lieu thereof "may be approved by the board of directors".

(s) POWERS OF THE FARM CREDIT ADMINISTRATION.—Section 4.26 (12 U.S.C. 2212) is amended—

(1) by striking out "or by prescribing in the terms of the charter or by approval of the bylaws of the corporation";

(2) by striking out "direct at any time" and all that follows through the period at the end of the first sentence and inserting in lieu thereof "approve amendments consistent with this Act to charters or articles of service corporations."; and

(3) by striking out the second sentence.

(t) SUPERVISION.—The heading of section 4.27 (12 U.S.C. 2213) is amended by striking out "SUPERVISION" and inserting in lieu thereof "REGULATION".

(u) DISTRICT ELECTIONS.—Section 5.2 (12 U.S.C. 2223) is amended—

(1) in subsection (b)—

(A) by striking out "Farm Credit Administration" the first place it appears and inserting in lieu thereof "district election committee of the district where the election will be held"; and

(B) by striking out "Farm Credit Administration" each place it appears thereafter and inserting in lieu thereof "district election committee";

(2) in subsection (c)—

(A) by striking out "Farm Credit Administration" the first place it appears and inserting in lieu thereof "district election committee of the district where the election will be held";

(B) by striking out "Farm Credit Administration" each place it appears thereafter and inserting in lieu thereof "district election committee"; and

(C) by striking out "(b)" and inserting in lieu thereof "(c)"; and

(3) by redesignating subsections (b), (c), and (d), as subsections (c), (d), and (e), respectively, and inserting after subsection (a) the following:

"(b) Each district board shall designate a district election committee. No member of such district election committee shall be a candidate for election to the district board. The responsibilities and authorities of the district election committee, delegated by the district board, shall be those set forth in this section.".

(v) FARM CREDIT ADMINISTRATION, POWERS.—Section 5.17 (12 U.S.C. 2251) is amended—

(1) in subsection (a)—

(A) in paragraph (2), by striking out "amend or modify" and inserting in lieu thereof "approve amendments to"; and

(B) in paragraph (5), by striking out "that meet standards and criteria" and all that follows through "refunds by Farm Credit System institutions"; and

(2) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively, and by inserting after subsection (a) the following:

"(b) The Farm Credit Administration shall not have authority, either direct or indirect, to approve bylaws, or any amendments or modifications or changes to bylaws, of System institutions.".

(w) TRANSITION RULES RELATING TO AMENDMENT OF CERTAIN FCA APPROVAL AUTHORITIES.—Part D of title V (12 U.S.C. 2001 note, et seq.) is amended by adding at the end thereof the following new section:

"SEC. 5.45. TRANSITION RULES RELATING TO AMENDMENT OF CERTAIN FCA APPROVAL AUTHORITIES.

"(a) IN GENERAL.—Any approvals granted by the Farm Credit Administration before the date of the enactment of this section shall remain in effect on and after such date.

"(b) AUTHORITY TO ISSUE REGULATIONS.—

"(1) IN GENERAL.—Any approval authority of the Farm Credit Administration that, under the amendments made by section 802 of the Agricultural Credit Act of 1987, became an authority to issue regulations may be exercised only until the earlier of the date the Farm Credit Administration issues final regulations under such authority, or 1 year after the date of the enactment of this section.

"(2) ENFORCEMENT ACTIONS.—At the close of the 1-year period referred to in paragraph (1), the Farm Credit Administration shall not take any enforcement action against any System institution with respect to any provision so amended, until the Farm Credit Administration issues final regulations under such provision.

"(c) EFFECT OF SECTION.—This section shall not affect the authority of the Farm Credit Administration to exercise any other approval authority either on a case-by-case basis or through regulation, as provided in section 5.17(a)(5).".

SEC. 803. SALE OF RURAL DEVELOPMENT NOTES.

Section 1001 of the Omnibus Budget Reconciliation Act of 1986 (7 U.S.C. 1929a note) is amended by adding at the end thereof the following new subsections:

"(f) RIGHT OF FIRST REFUSAL.—

"(1) IN GENERAL.—Before conducting a sale of a portfolio of notes or other obligations under this section, the Secretary of Agriculture shall—

"(A) determine whether the issuer of any unsold note or other obligation desires to purchase the note or other obligation; and

"(B) if so, hold open for 30 days, an offer to sell the note or other obligation to the issuer at a price to be determined under paragraph (2).

"(2) DETERMINATION OF OFFERING PRICE.—

"(A) AUTHORITY.—The Secretary of Agriculture shall determine, in accordance with subparagraph (B), the price at which a note or other obligation shall be offered for sale under this subsection.

"(B) PRICE.—Such price shall be determined by discounting the payment stream of such note or other obligation at the yield on the then most recent sale of the portfolio, adjusted for changes in market interest rates, servicing and sales expenses, and the maturity and interest rate of such note.

"(3) PROHIBITIONS.—

"(A) PURCHASE OF OBLIGATION NOT TIED TO PURCHASE OF OTHER OBLIGATIONS.—The Secretary of Agriculture shall not require the issuer of any unsold note or other obligation to be offered for sale under this subsection to purchase any other such note or other obligation as a condition of the sale of any such note or other obligation to the issuer.

"(B) OFFER TO BE MADE WITHOUT REGARD TO FINANCING.—The Secretary shall offer notes or other obligations for sale to the issuers thereof under this subsection without regard to the manner in which such issuers intend to finance the purchase of such notes or other obligations. However, the price of sale to any issuer using tax exempt financing shall be determined using a yield reflective of the Schedule of Certified Interest Rates as published monthly by the Secretary of the Treasury.

"(g) APPLICABILITY OF PROHIBITION ON CURTAILMENT OR LIMITATION OF SERVICE.—Section 306(b) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(b)) shall be applicable to all notes or other obligations sold or intended to be sold under this section.".

SEC. 804. OTHER CONFORMING AMENDMENTS.

(a) JURISDICTION AND ENFORCEMENT; PENALTIES.—

(1) JURISDICTION AND ENFORCEMENT.—Section 5.31 (12 U.S.C. 2267) is amended by adding at the end thereof the following: "For purposes of this section, any directive issued under section 4.3(b)(2), 4.3A(e), or 4.14A(i) shall be treated as an effective and outstanding order issued under section 5.25 that has become final.".

(2) PENALTIES.—Section 5.32 (12 U.S.C. 2268) is amended by adding at the end thereof the following:

"(h) For purposes of this section, any directive issued under section 4.3(b)(2), 4.3A(e), or 4.14A(i) shall be treated as an order that has become final and was issued under section 5.25.".

(3) CONFORMING AMENDMENT.—Paragraph (2) of section 4.3(b) (12 U.S.C. 2154(b)(2)) is amended—

(1) by striking out "(A)"; and

(2) by striking out subparagraph (B).

(b) AMENDMENT TO PART HEADING.—The part heading of part C of title IV is amended to read as follows:

"Part C—Rights of Borrowers; Loan Restructuring".

SEC. 805. TECHNICAL AMENDMENTS.

(a) Section 1.2 is amended by striking out "the regulation" and inserting in lieu thereof "regulation".

(b) Section 1.15(12) is amended by striking out "or delegated to".

(c) Section 1.20 is amended by striking out "by or other" and inserting in lieu thereof "by other".

(d) Section 2.1(18) is amended by striking out the comma at the end and inserting in lieu thereof a period.

(e) Section 2.2 is amended—

(1) in subsection (d), by striking out "be issued to" the first place it appears;

(2) in subsection (f)—

(A) by striking out "other"; and

(B) by inserting "of" after "with regard to the payment";

(3) in the second sentence of the fourth undesignated paragraph of subsection (g)—

(A) by striking out "other" the first place it appears; and

(B) by inserting "the" before "Farm Credit Administration"; and

(4) in subsection (h), by striking out "the Farm Credit Administration or".

(f) Section 2.6 is amended—

(1) in subsection (c), by striking out the last sentence; and

(2) by redesignating subsections (c) and (d), as subsections (a) and (b), respectively.

(g) The last sentence of section 2.10 is amended by inserting "the" before "Farm Credit Administration" the second place it appears.

(h) Section 2.13 is amended—

(1) in subsection (c), by striking out "to other"; and

(2) in subsection (d)—

(A) by striking out "other" the first place it appears; and

(B) by inserting a comma after "noncumulative)".

(i) The section heading for section 2.15 is amended by striking out the comma and inserting in lieu thereof a semicolon.

(j) Section 2.17 is amended by inserting ", except that interest on such obligations shall be subject to Federal income taxation in the hands of the holder" before the period at the end.

(k) Section 3.3(d) is amended by striking out "by" the first place it appears.

(l) Section 3.4 is amended by striking out "other than stock held by the Farm Credit Administration,".

(m) Section 3.8 is amended—

(1) by redesignating subsection (1) as subsection (a);

(2) by redesignating paragraphs (a), (b), (c), and (d) of the subsection redesignated by paragraph (1) of this subsection, as paragraphs (1), (2), (3), and (4), respectively;

(3) by redesignating clauses (1), (2), and (3) of the paragraph redesignated as paragraph (4) by paragraph (2) of this subsection, as clauses (A), (B), and (C), respectively;

(4) in the clause redesignated as clause (C) by paragraph (4), by striking out "(2)" and inserting in lieu thereof "(B)".

(n) Section 3.11 is amended—

(1) in subsection (b)—

(A) by striking out "(c) and (d)" and inserting in lieu thereof "(b) and (c)"; and

(B) by striking out the last sentence;

(2) in subsection (c)—

(A) by striking out "(b) of this section, whichever is applicable," and inserting in lieu thereof "(a)"; and

(B) by striking out "(d)" and inserting in lieu thereof "(c)";

(3) in subsection (d), by striking out "(b) whichever is applicable," and inserting in lieu thereof "(a)";

(4) in subsection (g)—

(A) by striking out "or (b)"; and

(B) by striking out "For any year that a bank for cooperatives is subject to Federal income tax, it" and inserting in lieu thereof "A bank for cooperatives"; and

(5) by redesignating subsections (b), (c), (d), (e), (f), and (g), as subsections (a), (b), (c), (d), (e), and (f), respectively.

(o) Section 3.12 is amended by inserting "the" before "Farm Credit Administration".

(p) Section 3.13 is amended by inserting ", except that interest on such obligations shall be subject to Federal income taxation in the hands of the holder" before the period at the end.

(q) Section 4.3(c) is amended by striking out "direct of fully guaranteed" and inserting in lieu thereof "direct or fully guaranteed".

(r) Section 4.12(b) is amended by striking out "court, shall" and inserting in lieu thereof "court shall,".

(s) Section 4.14 is amended—

(1) by striking out "committee(s)" and inserting in lieu thereof "committees";

(2) by striking out "4.13" and inserting in lieu thereof "4.13B"; and

(3) by striking out "reviews" and inserting in lieu thereof "review".

(t) Title IV is amended—

(1) by inserting above and before section 4.15 the following:

"Part D—Activities of Institutions of the System"; and

(2) by redesignating part D as part E.

(u) Title IV is amended by redesignating parts E and F, as parts G and H, respectively.

(v) Section 5.0 is amended by striking out "5.17(2)" and inserting in lieu thereof "5.17(a)(2)".

(w) The section heading of section 5.9 is amended by striking out "; Civil Proceedings".

(x) Section 5.11 is amended by striking out the last sentence.

(y) Section 5.16 is amended by transferring the 4 sentences immediately following paragraph (4) to just before the last sentence of such section.

(z) Section 5.17(a) is amended—

(1) by striking out paragraph (13); and

(2) by redesignating paragraphs (14) and (15), as paragraphs (13) and (14), respectively.

(aa) Section 5.28 is amended—

(1) by inserting "(a)" before "Whenever" the first place it appears; and

(2) in subsection (e), by striking out "(d)(3)" and inserting in lieu thereof "(c)".

(bb) Section 5.29 is amended—

(1) in subsection (a)—

(A) by striking out "interest" and inserting in lieu thereof "interests";

(B) by striking out "the investors in the" and inserting in lieu thereof "investors in"; and

(C) by inserting "the" before "Farm Credit System" the third place it appears.

(2) in subsection (b), by striking out "in Farm Credit System obligations" and inserting in lieu thereof "of the institution's shareholders or the investors in Farm Credit System obligations or may threaten to impair public confidence in the institution or the Farm Credit System".

(cc) Section 5.30 is amended by striking out "subsection (g)" and inserting in lieu thereof "section".

(dd) Section 5.32(f) is amended by striking out "sections 5.31 and 5.32" and inserting in lieu thereof "section 5.31 and this section".

(ee) Section 5.37 is amended by striking out "claims,".

(ff) Section 5.41 is amended—

(1) by striking out subsection (a); and

(2) by striking out "(b)".

TITLE IX—REGULATIONS

SEC. 901. EFFECTIVE DATES.

(a) Issuance of Regulations.—

(1) Authority.—The Farm Credit Administration Board shall issue such regulations as the Board considers necessary for the orderly and efficient implementation of the provisions of, and the amendments made by, this Act relating to the Farm Credit Act of 1971 (12 U.S.C. 2001 et seq.).

(2) Timing.—To the extent the Farm Credit Administration is required to issue regulations to implement this Act and the amendments made by this Act, the Farm Credit Administration shall issue such regulations as expeditiously as possible, and, except as otherwise provided in this Act, not later than 180 days after the date of the enactment of this Act.

(b) Temporary Retention of Certain Regulations.—

(1) In general.—Except as otherwise provided in this subsection, the regulations issued by the Farm Credit Administration before the date of the enactment of this Act under provisions amended by this Act shall remain in effect, notwithstanding such amendments, until the Farm Credit Administration issues regulations to implement such amendments, but in no event later than 180 days after such date of enactment.

(2) Certain regulations relating to borrowers' rights.—The regulations implementing, interpreting, or applying part C of title IV (12 U.S.C. 2201) (other than section 4.13(a)) (in effect immediately before the date of the enactment of this Act), to the extent that such regulations are not contrary to this title, and the amendments made by this title, shall remain in effect until January 1, 1989.

(3) Regulations relating to disclosure by banks and associations.—Any regulation issued or approved by the Farm Credit Administration that implements, interprets, or applies section 4.13(a) (12 U.S.C. 2201(a)) (in effect immediately before the date of the enactment of this Act) shall remain in effect for 120 days after such date of enactment.

And the Senate agree to the same.

From the Committee on Agriculture, for consideration of title I of the House bill, and titles I-IV, and VIII (except section 801) of the Senate amendment, and modifications committed to conference:

De la Garza,
Ed Jones,
Robin Tallon,
Lane Evans,
Richard H. Stallings,
Glenn English,
Timothy J. Penny,
Dave Nagle,
Charlie Stenholm,
Jim Jontz,
Tim Johnson,
Ed Madigan,
Tom Coleman,
Steve Gunderson,
Jim Jeffords,
Sid Morrison,
Clyde C. Holloway,

For consideration of title I (except sections 103-105) of the House bill, and titles II, III, and VIII (except section 801) and section 101 of the Senate amendment:

Fred Grandy,

For consideration of section 103 of the House bill, and section 402 of the Senate amendment:

RON MARLENEE,

For consideration of section 104 of the House bill, and title IV (except section 402) of the Senate amendment:

BILL SCHUETTE,

For consideration of section 105 of the House bill and title I of the Senate amendment:

LARRY COMBEST,

From the Committee on Agriculture, for consideration of title II of the House bill, and titles V and VI (except section 611) and section 801 of the Senate amendment, and modifications committed to conference:

DE LA GARZA,
ED JONES,
ROBIN TALLON,
LANE EVANS,
RICHARD H. STALLINGS,
GLENN ENGLISH,
TIMOTHY J. PENNY,
DAVE NAGLE,
CHARLIE STENHOLM,
JIM JONTZ,
TIM JOHNSON,
ED MADIGAN,
TOM COLEMAN,
RON MARLENEE,
JIM JEFFORDS,
SID MORRISON,
STEVE GUNDERSON,
CLYDE C. HOLLOWAY,

From the Committee on Agriculture, for consideration of title III of the House bill (except insofar as section 301 would add a new section 5.90 (a)-(c) to the Farm Credit Act of 1971), and title VII (except insofar as section 702 would add a new section 8.12 (a), (b), (c) (1) and (4) to the Farm Credit Act of 1971), and section 611 of the Senate amendment, and modifications committed to conference:

DE LA GARZA,
ED JONES,
ROBIN TALLON,
LANE EVANS,
RICHARD H. STALLINGS,
GLENN ENGLISH,
TIMOTHY J. PENNY,
DAVE NAGLE,
CHARLIE STENHOLM,
JIM JONTZ,
TIM JOHNSON,
ED MADIGAN,
TOM COLEMAN,
JIM JEFFORDS,
SID MORRISON,
STEVE GUNDERSON,
BILL SCHUETTE,
CLYDE C. HOLLOWAY,

From the Committee on Agriculture, for consideration of title IV of the House bill, and modifications committed to conference:

DE LA GARZA,
ED JONES,
ROBIN TALLON,
LANE EVANS,
RICHARD H. STALLINGS,
GLENN ENGLISH,
TIMOTHY J. PENNY,
DAVE NAGLE,
CHARLIE STENHOLM,
JIM JONTZ,
TIM JOHNSON,
ED MADIGAN,
TOM COLEMAN,
STEVE GUNDERSON,
BILL SCHUETTE,
LARRY COMBEST,
FRED GRANDY,
JIM JEFFORDS,

As additional conferees from the Committee on Banking, Finance and Urban Affairs, for consideration of section 301 (except insofar as that section would add a new section 5.90 (a)-(c) to the Farm Credit Act of 1971) of the House bill, and title VII (except insofar as section 702 would add a new section 8.12 (a), (b), (c) (1) and (4) to the Farm Credit Act of 1971) of the Senate amendment, and modifications committed to conference:

FERNAND J. ST GERMAIN,
HENRY B. GONZALEZ,
CARROLL HUBBARD,
MARY ROSE OAKAR,
BRUCE F. VENTO,
DOUG BARNARD, JR.,
RICHARD LEHMAN,
BRUCE A. MORRISON,
MARCY KAPTUR,
CHALMERS WYLIE,
JIM LEACH,
DAVID DREIER,
DOUG BEREUTER,
TOBY ROTH,
ALEX MCMILLAN,

From the Committee on Energy and Commerce, solely for consideration of section 301 of the House bill (insofar as it would add a new section 5.90 (a)-(c) to the Farm Credit Act of 1971), and for section 702 of the Senate amendment (insofar as it would add a new section 8.12 (a), (b), (c) (1) and (4) to the Farm Credit Act of 1971), and modifications committed to conference:

JOHN D. DINGELL,
ED MARKEY,
TERRY L. BRUCE,
NORMAN F. LENT,
MATT RINALDO,
Managers on the Part of the House.

PATRICK J. LEAHY,
DAVID L. BOREN,
TOM HARKIN,
TOM DASCHLE,
JOHN BREAUX,
JOHN MELCHER,
RICHARD S. LUGAR,
RUDY BOSCHWITZ,
JESSE HELMS,
THAD COCHRAN,
DAVE KARNES,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

ASSISTANCE TO FCS BORROWERS

(1) Five-year guarantee of borrower stock

The *House* bill provides that, during the five-year period beginning on the date of enactment of the bill, each institution of the Farm Credit System, when retiring eligible borrower stock in accordance with the Farm Credit Act of 1971, must retire the stock at par value. (Sec. 102.)

The *Senate* amendment contains a similar provision, except that—

(i) it applies specifically to stock *that is security for a loan that is repaid in full;*

(ii) The guarantee will apply to (A) certain frozen stock described in item (4)(a) below, (B) stock outstanding on the date of the enactment of the bill, and (C) stock required to be purchased as a condition of obtaining a loan made after enactment of the bill, but prior to the earlier of—

(I) the date of the approval, by an institution's stockholders, of the institution's capitalization requirement in accordance with section 4.9B, or

(II) nine months after the enactment of the bill. (Sec. 204.)

The *Conference* substitute adopts the *Senate* provision.

(2) Stock guarantee—coordination with FCS assistance program

The *House* bill provides that—

(i) for any FCS institution whose *capital* stock is impaired under generally accepted accounting principles, the retirement of stock at par, as required under the bill, must be coordinated with the activities of the Temporary Assistance Corporation (which has a five-year term concurrent to the length of the stock guarantee) (sec. 102); and

(ii) an institution whose *borrower* stock is so impaired must apply to the Temporary Assistance Corporation for assistance (sec. 105).

The *Senate* amendment provides that, during the five-year period following enactment of the bill, if an FCS institution is unable to retire eligible stock at par, the institution must apply to the assistance Board *for certification of eligibility to issue stock under section 6.4* (described in the section of this Statement dealing with assistance to FCS institutions). The Assistance Board will certify the issuance of stock by the institution in an amount sufficient to ensure redemption of the stock. The *Senate* amendment provides that, if the institution is unable to retire stock at par during that five-year period, the FCS Central Reserve Account must provide financial assistance sufficient to ensure redemption at par. (Sec. 204.)

The *Conference* substitute adopts the *Senate* provision.

(3) Stock guarantee—associations with "frozen" stock

The *Senate* amendment requires the Assistance Board to develop and implement procedures under which the Financial Assistance Corporation must provide funds to stockholders or receivers of Federal land bank associations or production credit associations whose stock is "frozen," to carry out the stock guarantee. Such funds must be made available not later than 30 days after the first issuance of obligations by the Financial Assistance Corporation under section 6.26 (described in the section of this Statement dealing with assistance to FCS institutions). (Sec. 204.)

The *House* bill contains no comparable provision.

The *Conference* substitute deletes the *Senate* provision.

(4) Stock guarantee—technical provisions

(a) The *House* bill provides that the stock guarantee provisions do not affect the authority of an FCS institution to (i) cancel borrower stock for application against a loan in default, (ii) cancel borrower stock as provided with respect to restructuring of loans, or (iii) apply—against an outstanding indebtedness to a production credit association in the Spokane or Omaha district arising out of or in connection with a liquidation of the association—the par value of the stock frozen in the liquidation. (Sec. 102.)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision with a modification to make it applicable to any FCS institution that was liquidated or whose stock was frozen any time after January 1, 1983, through the date of enactment.

(b) The *House* bill provides that, if an FCS institution cannot retire stock at par due to the freezing of the stock during a liquidation of the institution, the receiver of the institution will be required to honor the guarantee. (Sec. 102.)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision.

(c) The *House* bill provides that the stock guarantee will apply to borrower stock "that was frozen by the Spokane, Washington, or Omaha, Nebraska, district after January 1, 1983, in connection with the liquidation of certain Farm Credit System institutions". (Sec. 102).

The *Senate* amendment provides that the guarantee will apply to borrower stock "that was frozen, or retired at less than par value, by an association after January 1, 1983, in connection with the liquidation of the association". (Sec. 204.)

The *Conference* substitute adopts the *Senate* provision with a modification to make it applicable to any FCS institution that was liquidated or whose stock was frozen any time after January 1, 1983, through the date of enactment.

(d) In defining the term "borrower stock," the *House* bill specifically includes voting and nonvoting stock (including preferred stock), equivalent contributions to a guarantee fund, participation certificates, and equities that are subject to retirement under a revolving cycle. (Sec. 102.)

The *Senate* amendment specifically refers to borrower stock, participation certificates, or other similar equities. (Sec. 204.)

The *Conference* substitute adopts the *House* provision with an amendment adding allocated equities in the definition of "borrower stock," and a modification clarifying that "preferred stock" issued in conjunction with Federal assistance is not included in the definition for purposes of defining stock that is guaranteed.

(5) Restructuring under section 4.14A

Both the *House* bill (in section 103(a)) and the *Senate* amendment (in section 402(d)) will add a new section 4.14A to the Farm Credit Act of 1971 providing for restructuring of distressed loans held by FCS borrowers. The *Senate* amendment (in section 101) also will provide for the establishment of special asset groups to review, for restructuring, all nonaccrual loans in districts receiving financial assistance under the bill.

The *House* bill, in new section 4.14A, will require *all* FCS farm lenders to review *all* distressed loans for restructuring. (Sec. 103(a).)

The *Senate* amendment, in new section 4.14A, will require *all* Federal land banks and production credit associations to review loans for restructuring *on application*. (Sec. 402(d).) *All* nonaccrual loans would be reviewed only in districts receiving financial assistance under the bill. (Sec. 101.)

The *Conference* substitute adopts the *Senate* provision with amendments in the section describing the "application for restructuring". The reference to nonaccrual is deleted, and the term "restructuring plan" is modified to read "preliminary restructuring plan".

(6) Restructuring—definitions

(a) The *House* bill defines the term "restructuring" to mean an action to modify the terms of, or forbear on, a loan in any way that will make it probable that the operations of the borrower will become financially viable. (Sec. 4.14A(a)(1).)[1]

The *Senate* amendment provides a definition that does not contain the "financially viable" standard, but does—

(i) include "refraining from exercising a right with respect to a loan that is granted by the loan agreement or law", and

(ii) specifically exclude normal servicing actions (such as reschedulings, renewals, extensions, partial releases of collateral, or changes in interest rate pricing) on loans that are nonaccrual or distressed loans. (Sec. 4.14A(e)(5).)

The *Conference* substitute adopts the *House* provision. The Managers emphasize that debt write-off is only one of several restructuring alternatives.

(b) The *House* bill defines the term "distressed loan" to mean high risk loans and loans in nonaccrual status.

The *House* bill defines "high risk loan" to mean a loan—

(i) that borrower probably will not be able to fully repay due to adverse financial and repayment trends, as determined by the institution, or

(ii) the value of the security for which is less than the amount required under the loan. (Secs. 4.14A(a)(2) and 4.14A(a)(3).)

The *Senate* amendment does not specifically include nonaccrual loans in its definition of "distressed loans". It defines the term to mean a loan that the borrower does not have the financial capacity to pay according to its terms, but that is not yet subject to a foreclosure or bankruptcy proceeding, and that exhibits one or more of the following characteristics:

(i) The borrower is demonstrating adverse financial and repayment trends.

(ii) The loan is delinquent or past due under the terms of the loan contract.

(iii) One or both of such factors, together with inadequate collateralization, present a high probability of loss to the institution. (Sec. 4.14A(e)(3).)

The *Conference* substitute adopts the *Senate* provision

(c) The *House* bill, in defining "qualified lender", for purposes of applying the provisions of new section 4.14A, makes the Temporary Assistance Corporation and "other financing institutions" (OFIs) subject to the section 4.14A restructuring requirements. (Sec. 4.14A(a)(4).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision with an amendment deleting the reference to the Temporary Assistance Corporation.

(d) The *House* bill specifically defines the term "loan" to restrict it to farm, ranch, or aquaculture loans. (Sec. 4.14A(a)(5).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision.

(e) The *Senate* amendment defines the term "application for restructuring" to mean a written request—

(i) from a borrower for the restructuring of a nonaccrual distressed loan in accordance with a restructuring plan proposed by the borrower as a part of the application;

(ii) submitted on the appropriate forms prescribed by the bank or association; and

(iii) accompanied by sufficient financial information and repayment projections, where appropriate, required by the institution to support a sound credit decision. (Sec. 4.14A(e)(1).)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision with an amendment deleting the word "nonaccual" before "distressed loan", and an amendment adding the word "preliminary" before "restructuring plan".

(f) The *Senate* amendment defines the term "cost of foreclosure" to include—

(i) the difference between the outstanding amount of principal due on a loan and the value of the collateral used to secure the loan;

(ii) the estimated cost of maintaining a loan as a nonperforming asset;

(iii) the estimated cost of administrative and legal actions necessary to foreclose a loan and dispose of property acquired as the result of the foreclosure;

(iv) the estimated cost of changes in the value of collateral used to secure a loan during the period beginning on the date of the initiation of an action to forecose or liquidate the loan and ending on the date of the disposition of the collateral; and

(v) all other costs incurred as the result of the foreclosure or liquidation of a loan. (Sec. 4.14A(e)(2).)

The *House* bill contains no comparable provision.

(NOTE.—See also the criteria used under the *House* bill in determining whether to restructure a loan, as described in item (8) below.)

The *Conference* substitute adopts the *Senate* provision with an amendment clarifying that all sources of a borrower's income and all assets may be considered in determining the "cost of foreclosure".

(g) The *Senate* amendment defines the term "foreclosure proceeding" to mean—

(i) a foreclosure or similar legal proceeding to enforce a lien on property, whether real or personal, that secures a nonaccrual or distressed loan; or

(ii) the seizing of and realizing on nonreal property collateral, other than collateral subject to a statutory lien arising under the Farm Credit Act of 1971, to effect collection of a nonaccrual or distressed loan. (Sec. 4.14A(e)(4).)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

(7) Section 4.14A restructuring—preliminary procedure

(a) The *House* bill provides that, on determination by a qualified lender that a loan is a distressed loan, the lender must provide written notice to the borrower that the loan may be suitable for restructuring or preventive action, and include with the notice—

(i) a copy of the lender's restructuring policy, and

(ii) all materials necessary to enable the borrower to submit a proposal for restructuring or preventive action. (Sec. 4.14(b)(1).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision.

(b) Under the *House* bill, at least 75 days prior to foreclosure on a loan, the lender must notify the borrower as described in item (a) above. The *House* bill also specifically will prohibit a qualified lender from foreclosing on a distressed loan before the lender has completed consideration of the loan for restructuring or preventive action. (Secs. 4.14A(b)(2) and 4.14A(g).)

The *Senate* amendment requires FCS institutions, at least 14 days before accelerating a distressed loan of a borrower who is a family farmer (or otherwise commencing foreclosure on the loan), to notify the borrower in writing of the borrower's right to submit an application for restructuring. (Sec. 402(b).)

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[1] The section references in this and following items are to section 4.14A of the Farm Credit Act of 1971, to be added by section 103(a) of the *House* bill or section 402(d) of the *Senate* amendment.

The *Conference* substitute adopts the *House* provision with an amendment changing the notification time-frame from 75 to 45 days prior to foreclosure. The *Conference* substitute also adopts an amendment to clarify that no adverse action may be taken while restructuring is still a pending consideration, and an amendment deleting the refernece to "preventive action".

(c) Under the *House* bill, a qualified lender must provide the borrower of a distressed loan a reasonable opportunity to personally meet with a representative of the lender to—

(i) review the status of the loan, the financial condition of the borrower, and the suitability of the loan for restructuring or preventive action, and

(ii) with respect to a nonaccrual loan, develop a plan for restructuring the loan if the loan is suitable for restructuring. (Sec. 4.14A(c)(1)(A).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision.

(d) Under the *House* bill, as soon as practicable after a qualified lender has offered to meet with the borrower on any distressed loan, the lender must review the loan to determine—

(i) in the case of a *nonaccrual loan*, whether it is suitable for restructuring, and

(ii) in the case of a *high risk loan*, whether steps (including restructuring) consistent with sound lending practices may be taken to reasonably ensure that the loan will not become a loan that it is necessary to place in nonaccrual status. (Sec. 4.14A(c)(2).)

The *Senate* amendment provides that when a Federal land bank or production credit association receives an application for restructuring from a borrower, the institution must determine whether the loan is to be restructured, taking into consideration—

(i) whether the cost to the institution of restructuring the loan is equal to or less than the cost of foreclosure;

(ii) whether the borrower is applying all income over and above necessary and reasonable living and operating expenses to the payment of primary obligations;

(iii) whether the borrower has the financial capacity and the management skills to protect the collateral from diversion, dissipation, or deterioration; and

(iv) whether the borrower is capable of working out existing financial difficulties, reestablishing a viable operation, and repaying the loan on a rescheduled basis.

The *Senate* amendment since states that nothing in this provision is to prevent a bank or association from proposing a restructuring plan for a borrower in the absence of an application for restructuring from the borrower. (Secs. 4.14A(b)(1) and 4.14A(a)(4).)

The *Conference* substitute adopts the *Senate* provision with an amendment adding the requirement that "distressed loans" be reviewed to determine if, consistent with sound lending practices, they can be kept from becoming nonaccrual.

(8) Required restructuring under section 4.14A

(a) The *House* bill will require a qualified lender to restructure a *nonaccrual* loan if, after review—

(i) the lender determines that the present value of the restructured loan exceeds the liquidation value of the loan, and

(ii) the borrower has acted responsibly in the management of the borrower's business affairs, has pledged or agreed to pledge all available assets of more than nominal value to the extent required to increase the value of the collateral for the loan to the amount required under the loan, and has acted in good faith with the lender. (Sec. 4.14A(c)(3).)

The *Senate* amendment will require the FCS lender to restructure a loan, in accordance with the restructuring plan submitted by the borrower, if the institution determines that the potential cost of restructuring is less than or equal to the potential cost of foreclosure. (Sec. 4.14A(b)(2).)

The *Conference* substitute adopts the *Senate* provision.

(b) The *House* bill provides that, in making the determination described in item (a) above, the qualified lender is to take into consideration the borrower's repayment capacity and the liquidation value of any interests in property securing the loan less the reasonable and necessary costs and expenses (including attorneys' fees, court costs, collateral asset depreciation, and other commonly incurred costs) that would be incurred by the lender to obtain payment on the loan of title to such interests, to preserve the value of any interests that may depreciate, and to dispose of such interests in the course of a liquidation. (Sec. 4.14A(c)(3)(A).)

The *Senate* amendment contains no comparable provision, but prescribes similar criteria in the definition of "cost of foreclosure" described in item (6)(a) above.

The *Conference* substitute adopts the *Senate* provision with an amendment to include "attorneys' fees and court costs" to the definition of "cost of foreclosure".

(c) The *Senate* amendment provides that, in making the determination described in item (a) above, the institution must consider all relevant factors, including—

(i) the present value of interest income and principal forgone by the institution in carrying out the restructuring plan;

(ii) reasonable and necessary administrative expenses involved in working with the borrower to finalize and implement the restructuring plan;

(iii) whether the borrower has presented a restructuring plan and cash-flow analysis taking into account income from all sources proposed to be applied to the debt and all assets intended to be pledged, showing a reasonable probability that orderly debt retirement will occur as a result of the proposed structuring; and

(iv) whether the borrower has furnished or is willing to furnish complete and current financial statements in a form acceptable to the institution. (Sec. 4.14A(c).)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision. The Managers note that included in the definition of "cost of foreclosure" is the difference between the balance due on a loan and the value of the collateral securing the loan. In determining this amount it is intended that System lenders would fully take into account the borrower's repayment capacity, including income from every source and other unencumbered assets. Only by taking into consideration all of the borrower's sources of repayment can a true comparison be made of the potential cost of restructuring and the potential cost of foreclosure.

(9) High-risk loans under section 4.14A

The *House* bill provides that, after review of a *high-risk* distressed loan and after consideration of the proposals, if any, put forth by the borrower of the loan to reasonably ensure that the loan will not become a loan necessary to place a nonaccrual status, a qualified lender must take steps (including restructuring) consistent with sound lending practices the lender deems necessary to reasonably ensure that the loan is not placed in nonaccrual status, if the borrower has acted responsibly in the management of the borrower's business affairs and has acted in good faith with the lender. (Sec. 4.14A(c)(4).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute deletes the *House* provision.

(10) Section 4.14A—least cost alternatives

The *House* bill provides that, if two or more restructuring or preventive action (as that action is described in item (9) above) alternatives are available to a qualified lender with respect to to a distressed loan, the lender must restructure or take preventive action in conformity with the alternative that results in the least cost to the lender. (Sec. 4.14A(d).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision with amendments deleting all references to "preventive action."

(11) Restructuring policy under section 4.14A

(a) The *House* bill will require each qualified lender to develop a written policy governing the treatment of distressed loans under section 4.14A. (Sec. 4.14A(e).)

The *Senate* amendment will require each farm credit district board of directors—within 60 days after enactment of the bill—to develop such a policy. The *Senate* amendment states that the policy is to constitute the restructuring policy of each Federal land bank and production credit association in the district. (Sec. 4.14A(a)(1).)

The *Conference* substitute adopts the *Senate* provision.

(b) Both the *House* bill and the *Senate* amendment will require that the policy include provisions addressing appeal rights of farmers denied restructuring.

The *House* bill contains provisions, not in the *Senate* amendment, requiring the policy to address—

(i) The criteria used by the lender to place a loan in nonaccrual status, classify a loan as high risk, and determine whether a loan is suitable for restructuring or preventive action;

(ii) The nature and timing of communications that the lender will provide to any borrower with respect to—

(A) consideration of the borrower's proposal for restructuring or preventive action;

(B) the decision to accept or reject such proposal, the decision whether to restructure or take preventive action with respect to the loan, and the reasons for such decisions;

(C) the nature and duration of the restructuring or preventive action alternative selected by the lender; and

(D) any change in the decision to restructure or take preventive action, or in the selection of a restructuring or preventive action alternative. (Sec. 4.14A(e).)

The *Senate* amendment contains a provision, not in the *House* bill, requiring that the policy include an explanation of the procedure for submitting an application for restructuring. (Sec. 4.14A(a)(2).)

The *Conference* substitute adopts the *Senate* provision. The Managers encourage FCS lenders to include, in the restructuring policies, criteria similar to that which is contained in clauses (i) and (ii) in the description of the *House* provision.

(c) The *House* bill will require each qualified lender to submit its restructuring policy to the Farm Credit Administration for approval. (Sec. 4.14A(f).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision with an amendment deleting the authority for Farm Credit Administration approval, and instead provide that the policy must be submitted to the FCA. The *Conference* substitute also changes the entity that submits the policy to FCA from the qualified lender to the district board.

(d) The *House* bill will require each qualified lender to make a copy of the restructuring policy available to borrowers of loans that become distressed loans. (Sec. 4.14A(h).)

The *Senate* amendment will require that each Federal land bank and production credit association—

(i) post the restructuring policy in each loan office; and

(ii) provide a copy of the policy to each borrower at the time of loan closing and (unless previously furnished) at the time the borrower applies for restructuring. (Sec. 4.14A(a)(3).)

The *Conference* substitute deletes both *House* and *Senate* provisions.

(12) Section 4.14A reports to the Farm Credit Administration

The *House* bill will require each qualified lender to submit quarterly reports to the Farm Credit Administration containing—

(a) the results of the review of distressed loans of the lender;

(b) the results of monitoring restructured loans to assess the success of restructuring; and

(c) the financial effect of loan restructurings and liquidations on the lender. (Sec. 4.14A(i).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision with amendments deleting the requirement that the report contain the results described in item (b) above, changing the reporting cycle from quarterly to semiannual, and sunsetting the reporting requirement at five years from date of enactment.

(13) Section 4.14A—compliance

The *House* bill will authorize the Farm Credit Administration to issue directives and assess penalties against qualified lenders that fail to comply with section 4.14A. (Sec. 4.14A(j). See also sec. 103(b)(3).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision.

(14) Nonapplicability of section 4.14A

The *House* bill provides that the restructuring procedure under section 4.14A is not to apply to a loan that became a distressed loan prior to enactment of the bill if the borrower and FCS lender are in the process of negotiating loan restructuring or the taking of preventive action on the loan. (Sec. 4.14A(k).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision with amendments deleting the words "or the taking of preventive action", and clarifying that this provision only applies to the requirements regarding the timeframe for notice of restructuring availability and the requirements for a personal meeting between the lender and the borrower.

(15) Sense of Congress

The *Senate* amendment contains a sense of Congress that Federal land banks and production credit associations should administer distressed loans to family farmers with the objection of using the loan guarantee programs of the Farmers Home Administration and other loan restructuring measures, including participation in interest rate buy-down programs that are federally or State funded, and other Federal and State sponsored financial assistance programs that offer relief to financially distressed family farmers, as alternatives to foreclosure, considering the availability and appropriateness of such programs on a case-by-case basis. (Sec. 402(a).)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

(16) Required restructuring review under the Senate amendment

(a) The *Senate* amendment, in section 101, will require each FCS institution that is certified to issue preferred stock as a form of financial assistance under the bill (as described in the section of this Statement dealing with financial assistance to the Farm Credit System) to review each non-restructured loan that is in nonaccrual status on the certification date and determine whether the loan will be restructured. The *Senate* amendment also provides that, whenever an FCS institution's loan is placed in nonaccrual status after the institution's certification date, the institution must determine, within six months, whether the loan will be restructured. (Sec. 6.7(d).) [2]

The *House* bill contains no comparable provision, but see the House restructuring review requirements in the context of section 4.14A, described in item (5) above.

The *Conference* substitute adopts the *Senate* provision.

(b) The *Senate* amendment will require the establishment of a special asset group by the FCS district board in a district in which an FCS institution is certified to issue preferred stock as a form of financial assistance under the bill, within 30 days after such certification. The special asset group would review each determination by the institution that a loan will not be restructured. If the special asset group determines that a loan under its review should be restructured, the group will prescribe a restructuring plan for the loan, and the FCS institution involved will be required to implement it. (Secs. 6.7(b)(1) and 6.7(b)(2).)

The *House* bill will require each FCS district board to appoint one officer to supervise all loan restructuring activity under section 4.14A in the district, and to establish a special credit unit to provide expert assistance to FCS institutions in the district to implement the restructuring. (Sec. 103(b).)

The *Conference* substitute adopts the *Senate* provision.

(c) The *Senate* amendment provides for the establishment, by the Assistance Board, of a National Special Asset Council to monitor compliance with restructuring requirements under this provision by FCS institutions certified to receive financial assistance under the bill and by special asset groups. The National Council would review a sufficient number of foreclosure decisions by special asset groups, to assure the Council of such compliance. If, with respect to a particular loan, the Council is more advantageous to the FCS institution involved than foreclosure, the Council is to prepare a restructuring plan that the institution would be required to implement. If the Council determines that a special asset group is not in substantial compliance with its obligations, the Council would notify the group of its determination and take such other action as the Council considered necessary. (Sec. 6.7(a).)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision with a modification of the role of the National Special Assets Council to remove its authority to take direct actions involving individual loans.

(d) If a special asset group determines that a loan is ineligible for restructuring, the group must submit a report to the National Council evaluating the loan and the basis for the determination against restructuring. If, within 30 days, the group has not received notification from the National Council that the loan must be restructured, the determination of the group will be considered affirmed. (Sec. 6.7(b)(3).)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision with an amendment deleting the language regarding the impact of failure of the National Council to respond.

(e) In determining whether a loan should be restructured under section 6.7, FCS institutions, special assets groups, and the National Council must take into consideration the restructuring standards specified in proposed new section 4.14A. (Sec. 6.7(c).)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

(17) House restructuring management provisions

(a) The *House* bill will require each FCS district board to develop a system to monitor loans restructured under section 4.14A and determine whether the restructuring has been successful. (Sec. 103(b).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute deletes the *House* provision.

(b) The *House* bill will permit each Federal intermediate credit bank, on request of a production credit association, to assist the association in restructuring loans under section 4.14A. (Sec. 103 (b).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision.

(18) Effect of restructuring on borrower stock

The *House* bill provides that if a Federal land bank or production credit association forgives and writes off principal on a loan under section 4.14a, the association of which the loan borrower is a member and stockholder must cancel the same dollar amount of stock held by the borrower with respect to the loan, up to the total amount of the stock. (Sec. 103 (a).)

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[2] The section citations following the description of the *Senate* provisions in this item are to sections in title VI of the Farm Credit Act of 1971, to be added by section 101 of the *Senate* amendment.

The *Senate* amendment also provides for cancellation of stock on restructuring of any land bank or PCA loan and forgiveness of principal on the loan. However, the *Senate* provision differs in that—

(1) the cancellation would be done pro rata, that is, by cancelling the same percentage of the borrower stock on the loan by the same percentage as loan principal is reduced; and

(2) in any case, the borrower would be entitled to retain one share of stock in order to maintain membership and a voting interest in the association. (Sec. 6.7(e) of the Farm Credit Act of 1971, to be added by sec. 101.)

The *Conference* substitute adopts the *House* provision with an amendment to ensure that the borrower is entitled to retain one share of stock in order to maintain membership and voting interest in the institution.

(19) Borrower rights—disclosure by FCS institutions

The *Senate* amendment will amend section 4.13 of the Farm Credit Act of 1971, relating to disclosure by FCS institutions. The changes to be made in section 4.13 are as follows:

(a) The banks for cooperatives specifically are exempted from the disclosure requirements;

(b) language is added to require the disclosure of interest rates and other loan terms required of FCS institutions under section 4.13 "not later than the time of the loan closing"; and

(c) new disclosure will be required—

(i) regarding the effect of any loan origination charges on the effective rate of interest;

(ii) (except with respect to borrower stock guaranteed under the bill) in the form of a statement that stock is purchased at risk; and

(iii) in the form of a statement indicating the various types of loan options available to borrowers, with an explanation of the terms and rights that apply to each type of loan.

The *Senate* amendment also provides that FCA regulations currently in effect regarding FCS institution forbearance under subsection (b) of section 4.13 (which both the *House* bill and the *Senate* amendment repeal in favor of the restructuring program described above) will remain in effect for 120 days after enactment of the bill. (Secs. 401(a) and 401(b).)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

(20) Borrower rights—access to documents

The *Senate* amendment will exempt banks for cooperatives from the access to documents provisions of section 4.13A of the Farm Credit Act of 1971. (Secs. 401(c) and 406.)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

(21) Borrower rights—notice of action on applications

(a) The *House* bill will add new provisions to section 4.13B of the Farm Credit Act of 1971 (which currently requires FCS institutions to give notice to loan applicants of the institution's action on the application). The new provisions will require that similar notice be given by institutions to farm borrowers of distressed loans as to actions taken with respect to restructuring or preventive action under section 4.14A. (Sec. 104(b)(1).)

The *Senate* amendment will add similar new provisions to section 4.13B, except that—

(i) the notice requirement applies only to family farmers who submit an application for restructuring; and

(ii) there is no reference to decisions made with respect to taking preventive action. (Sec. 402(b).)

The *Conference* substitute adopts the *House* provision with an amendment deleting the words "or preventive action".

(b) The *Senate* amendment generally will exempt banks for cooperatives from the notice requirements of section 4.13B. (Sec. 402(b).)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

(22) Borrowers rights—reconsideration of action

(a) The *House* bill will add new provisions to section 4.14 of the Farm Credit Act of 1971 (which currently requires FCS institutions to establish credit review committees, which include farmer board representations, to review denials by FCS institutions of applications for loans). The new provisions will give, to farmer borrowers of distressed loans, the right to review of denials of loan restructuring or preventive action. To obtain such review, the borrower must request it in writing within seven days after receiving notice of the denial. (Sec. 104(b)(2).)

The *Senate* amendment will add similar new provisions to section 4.14, except that—

(i) the review requirement applies only to family farmers who submit an application for restructuring; and

(ii) there is no reference to decisions made with respect to taking preventive action. (Sec. 402(c).)

The *Conference* substitute adopts the *House* provision with an amendment deleting the words "or preventive action".

(b) The *Senate* amendment generally will exempt banks for cooperatives from the review requirements of section 4.14. (Sec. 402(c).)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

(c) The *Senate* amendment, in lieu of the requirement of current law that there be farmer representation on the review committee, will require that there be at least one representative of producers in the area served by the bank or association on the committee. The producer representation requirement will be satisfied if—

(i) as to associations, a member of the committee is a stockholder-member of an advisory or similar board of the association who is elected by stockholders of the association; and

(ii) as to banks, at the option of the bank, a member of the committee is also a board member of the appropriate Federal land bank or intermediate credit bank. (Sec. 402(c).)

The *House* bill contains no comparable provision.

The *Conference* substitute deletes the *Senate* provision.

(d) The *Senate* amendment (in lieu of the current law requirement that a majority of the persons on the review committee must be persons who were not involved in making the adverse decision against the borrower) will prohibit a loan officer involved in the initial decision on a loan from serving on the committee reviewing the loan. (Sec. 402(c).)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

(e) The *Senate* amendment will add a new provision to section 4.14 to provide that an FCS borrower entitled to review under section 4.14 will be allowed to appear before the review committee in person, and accompanied by a representative, to seek a reversal of the decision being reviewed. (Sec. 402(c).)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

(f) The *Senate* amendment will add a new provision to section 4.14 to permit a person seeking review of a decision to deny or reduce a loan to request an independent appraisal, by an accredited appraiser, of property securing the loan. The FCS institution involved would present the borrower with a list of three appraisers to choose from and the borrower would bear the cost of the appraisal. The institution would be required to consider the results of the appraisal in any final determination with respect to the loan and provide a copy to the borrower. (Sec. 402(c).)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision with an amendment adding to the instances when a borrower may seek an independent appraisal the case of dispute over collateral value when additional collateral is demanded to secure the loan.

(23) Borrowers rights—acceleration and related action

(a) The *House* bill will add a new provision to the Farm Credit Act of 1971 to prohibit an FCS institution holding a farm loan to foreclose the loan on the failure of the borrower to post additional collateral, if the borrower has made all principal, interest, and penalty payments on the loan. (Sec. 104(c).)

The *Senate* amendment contains a similar provision except that—

(i) the provision applies to all loans of all FCS institutions and to liquidations of loans other than foreclosure;

(ii) it also will prohibit the institution from requiring a borrower to provide additional collateral on a loan if the borrower is current on the loan; and

(iii) it makes no reference to payments of penalties. (Sec. 405.)

The *Conference* substitute adopts the *House* provision.

(b) The *House* bill will permit a borrower of a farm loan held by an FCS institution who has received notice that he must post additional collateral on his loan to obtain an appraisal of the market value of the collateral securing the loan. The borrower could obtain the appraisal if he notifies the FCS institution involved that he disputes a value placed on the loan collateral by the institution that is not based on an appraisal. If the borrower obtains the appraisal, the institution could not enforce any additional collateral requirement using a value for the loan collateral not based on the appraisal, and would be required to reconsider any decision made based on the value of the collateral. (Sec. 104(c).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute deletes the *House* provision.

(c) The *House* bill will prohibit an FCS institution from requiring a farm loan borrower to reduce the principal on the loan beyond that required under the agreed-on payment schedule except when the borrower sells or otherwise disposes of all or part of the loan collateral. (Sec. 104(c).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision.

(d) The *House* bill will prohibit the enforcement of any contract provision that results in acceleration by an FCS institution of a borrower's repayment schedule under a farm loan on account of missed loan payments, once the borrower has made all accrued principal, interest, and penalty payments without regard to acceleration. (Sec. 104(c).)

The *Senate* amendment contains no comparable provision.

The *Conference* report adopts the *House* provision with an amendment deleting the provisions authority to affect the enforcement of contract provisions.

(24) Nonaccrual status

The *House* bill will add a new provision to the Farm Credit Act of 1971 to require any FCS institution holding a farm loan to take certain action if the institution places the loan in nonaccrual status. The institution will be required to document the change in status and notify the borrower in writing of the actions and the reasons for it. If the borrower's account is not delinquent at the time of the action and his request to have the loan placed back in accrual status is denied, the borrower can obtain a review of the decision before the institution's credit review committee under section 4.14 of the Act. (Sec. 104(c).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision with an amendment clarifying that this provision is effective only in cases where a loan being placed in nonaccrual status results in an adverse action being taken against the borrower.

(25) Homestead protection

The *House* bill will add a new provision to the Farm Credit Act of 1971 to require each FCS institution to allow an agricultural borrower it forecloses on (or who files chapter II bankruptcy and conveys property to the institution, or who liquidates property to avoid foreclosure or bankruptcy) to purchase or lease homestead property to maintain the borrower's family. Homestead property would consist of the borrower's home and up to 10 acres of adjoining land, and homestead conveyances would be on terms that offer reasonable protection to the lender. In the event a State homestead law offers greater protection to the borrower, the State law will prevail over this provision. (Sec. 104(d).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute deletes the *House* provision.

(26) Right of first refusal

Both the *House* bill and the *Senate* amendment will add provisions to the Farm Credit Act of 1971 to establish a right of first refusal for foreclosed FCS borrowers, under which the borrower would have the first option to reacquire the foreclosed property when the FCS institution disposes of it.

(a) Under the *House* bill, the new first refusal provision would—

(i) apply to each FCS institution *holding a farm loan;*

(ii) apply to any real property acquired by the institution as the result of foreclosure, bankruptcy, or liquidation of a borrower of an agricultural loan;

(iii) permit lease-back of the land for a lease period of not to exceed ten years; and

(iv) apply for up to 60 days after the institution acquires the property. (Sec. 104(d).)

Under the *Senate* amendment, the provision would—

(i) apply to any FCS institution;

(ii) apply to *agricultural* real estate acquired by the institution as the result of loan foreclosure or voluntary conveyance by a borrower who, as determined by the institution, does not have the financial resources to avoid foreclosure;

(iii) no maximum lease-back period is specified; and

(iv) is triggered at the time the institution first elects to sell or lease the property.

The *Conference* substitute adopts the *Senate* provision with an amendment to provide that the right of first refusal is also triggered when the institution first elects to sell or lease any portion of the real estate property.

(b) Under the *House* bill, the right of first refusal would be available, first, to the person from whom the FCS institution acquired title, second, to members of that person's immediate family, and, third, to family farm operators in the community in which the property is located. (Sec. 104(d).)

Under the *Senate* amendment, the right of first refusal would be available only to the previous owner. (Sec. 404.)

The *Conference* substitute adopts the *Senate* provision.

(c) The *House* bill specifies the following procedure for implementing the right of first refusal: The FCS institution, before offering the property to another person, must—

(i) ascertain, if possible, whether the person from whom it acquired the property, or the immediate family of that person, desired to purchase or lease the property; and

(ii) hold open (for at least 60 days beginning on the date the institution acquires the property) an offer to sell or lease the property to the eligible persons (in the priority order described in item (b) above), at a price equal to the market value of the property (as determined by an independent appraisal) or at fair rental value, as the case may be, after the foreclosure, bankruptcy, or liquidation. (Sec. 104 (d).)

The *Senate* amendment specifies a more detailed procedure for implementing the right of first refusal, which is summarized as follows:

(i) When the FCS institution elects to sell or lease the property, it must (within 15 days) notify the previous owner of that person's right to buy or rent the property at the market value or at less than market value.

(ii) To exercise his first refusal right, the previous owner must submit a purchase or rent offer within 15 days after receiving notice.

(iii) If the institution receives an offer that is at the market value, within 15 days the institution must accept the offer and convey the property, except that the institution does not have to *lease* the property if the previous owner—

(A) does not have the resources to conduct a successful farming or ranching operation, or

(B) cannot meet the terms of the lease.

(iv) If the offer from the previous owner is at less than market value, the institution can, but is not required to, accept the offer. Notice of the institution's decision must be given to the previous owner within 15 days.

(v) If the institution rejects an offer at less than market value, it cannot sell or lease the property to another person—

(A) at the same or a lower price offered by the previous owner; or

(B) on different terms than those extended to the previous owner,

without first offering the property to the previous owner at that price or under those terms. The previous owner will have 15 days in which to accept the offer.

(vi) If the institution elects to sell or lease the property through public auction or a similar public offering, the institution must notify the previous owner by certified mail, stating the minimum bid and the terms to which the sale or lease will be subject. If the previous owner is one or two or more who submit the highest bid, the institution must accept the bid of the previous owner.

The *Senate* amendment also states that no FCS institution could discriminate against a previous owner in any auction or public offering of the person's former property. (Sec. 404.)

The *Conference* substitute adopts the *Senate* provision with an amendment increasing the length of time during which the previous owner may submit an offer to purchase the property from 15 days to 30 days.

(d) The *House* bill will require each FCS institution holding farm loans, under FCA regulations, to establish a policy governing the disposition of real property under the right of the first refusal provisions described above. (Sec. 104(d).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute deletes the *House* provision.

(e) The *House* bill provides that, in the event of a conflict between the right of first refusal provisions described above and any State or local law relating to corporate ownership of farmland, the State law will prevail. (Sec. 104(d).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute deletes the *House* provision.

The Managers intend that FCS institutions develop and implement a "right of first refusal" policy that encompasses not only agricultural real estate generally, but portions thereof as well. As soon as practicable before or after acquisition, the Farm Credit System should decide whether to offer property for sale or lease, or to hold such property for some interim period. If an FCS institution decides to hold the property in its inventory for an interim period, the institution should offer to lease the residence and outbuildings necessary for family maintenance, to the previous owner for the interim period at fair market rent. If, upon a decision to lease or sell the property, the lender decides to separate the residence from the other property, the institution should offer to lease or sell the residence and outbuildings necessary for family maintenance, to the previous owner for fair market value. The Managers clearly intend that "right of first refusal" programs implemented by FCS institutions embody the spirit generally expressed in the term "homestead protection".

(27) Borrower's right to sue

The *House* bill will add a new provision to the Farm Credit Act of 1971 to give to borrowers the right to sue any FCS institution for violation of any duty, standard, or limitation prescribed under the Act and owing to the borrower, or of any FCA order issued with respect to such duty, standard, or limitation. A borrower will have standing to sue if the borrower suffers a legal wrong or is adversely affected by the institution's violation. The U.S. district courts will have jurisdiction over suits under this provision, without regard to the amount in controversy. (Sec. 104(g).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute deletes the *House* provision.

(28) Differential interest rates

The *Senate* amendment will add a provision to the Farm Credit Act of 1971 to prohibit Federal land banks from implementing a differential interest rate program for members of a Federal land bank association unless the association's board of directors approve the program. Also, any Federal land bank or production credit association offering more than one rate of interest to borrowers must, at a borrower's request—

(a) review the loan to determine if the proper interest rate has been established; and

(b) explain to the borrower, in writing (i) the basis for the interest rate change and (ii) how the credit status of the borrower can be improved so he can get a lower interest rate on his loan. (Sec. 403.)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision with an amendment deleting the authority for FLBA boards of directors to exercise approval authority over the decision about whether a differential interest rate program is implemented.

(29) Application of uninsured accounts

The *Senate* amendment will add a new provision to the Farm Credit Act of 1971, to provide as follows: A borrower's money held by an FCS institution in an uninsured voluntary or involuntary account (including accounts known as "advance payment accounts" or "future prepayment accounts"), immediately prior to the capital depletion or insolvency of the institution, must be applied as payment against the indebtedness of any outstanding loans of the borrower. The FCA must promulgate regulations to define the term "uninsured voluntary or involuntary account" and otherwise effectively to carry out the above-described provision. (Sec. 407.)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

(30) Borrower rights—transitional authority

The *Senate* amendment provides that, between the date of enactment of the bill and January 1, 1989, current FCA regulations implementing the borrower rights and restructuring provisions of title IV of the Farm Credit Act of 1971 will remain in effect, to the extent they are not contrary to the borrower rights and restructuring provisions of the bill. (Sec. 408.)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

ASSISTANCE TO THE FARM CREDIT SYSTEM

(1) Application for assistance

The *House* bill provides that Farm Credit System institutions with impaired borrower stock, based on generally accepted accounting principals (GAAP), must apply to the Temporary Assistance Corporation for financial assistance during the five-year period beginning on the date of the enactment of the bill. Other institutions could apply during the five-year period. (NOTE: in both the *House* bill and the *Senate* amendment, the term stock, for purposes of the guarantee, also includes participation certifications and other similar equities.) (Sec. 105(a).)

The *Senate* amendment provides that, when the book value of stock of an FCS institution is less than face value, the institution can apply for assistance (which would be provided through approval by the Assistance Board for the institution to issue preferred stock to the Financial Assistance Corporation). The Assistance Board is to consider the request taking into account the purposes of title VI, and would be authorized to grant the request. (Sec. 6.4.)[3]

The *Conference* substitute adopts the *Senate* provision with an amendment clarifying that when an institution applies for assistance from the Assistance Board—including a request for funds to retire borrower stock at par—the institution will be subject to the Assistance Board's special powers under section .

(2) Purpose of assistance provisions

The *House* bill states that the purpose of the FCS assistance provisions is to carry out a program of financial and technical assistance to FCS institutions experiencing financial difficulties and to ensure that borrower stock (if retired within five years after enactment of the bill) will be retired at par value, in an efficient and cost-effective manner that ensures the long-term financial health of the Farm Credit System and the ability of FCS institutions to provide efficient credit services to borrowers at competitive interest rates. (Sec. 105(b)(1).)

The *Senate* amendment states that the purpose of the Assistance Board is to carry out a program to provide assistance to, and protect the stock of, borrowers of FCS institutions, and to assist in restoring the institutions to economic viability and permitting the institutions to continue to provide credit to farmers, ranchers, and cooperatives at reasonable and competitive rates. (Sec. 6.1.)

The *Conference* substitute adopts the *Senate* provision.

(3) Conforming amendments

The *Senate* amendment will repeal section 4.36 of the Farm Credit Act of 1971, which provides that no FCS institution can sell any real property that previously had served as security for a loan in a tract larger than a family farm for less than it can receive from the Capital Corporation (Sec. 106(a)(2).)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

(4) Establishment of assistance entity

The *House* bill will create the FCS Temporary Assistance Corporation and, in connection with that, will require the Farm Credit Administration to revoke the Charter of the FCS Capital Corporation not later than 60 days after the enactment of the bill. (See. 4.28A.)[4] All Temporary Assistance Corporation authorities will expire five years after enactment. (Sec. 4.28A.)

The *Senate* amendment will require the Farm Credit System, on the fifteenth day after enactment of the bill, to revoke the charter of the Capital Corporation and charter of the FCS Assistance Board. (Sec. 6.0.) The Assistance Board and the authority provided by title I would terminate on December 31, 1992. (Sec. 6.12.)

The *Conference* substitute adopts the *Senate* provision with an amendment providing that the Assistance Board may employ Capital Corporation employees for 90 days to effectuate the transition after revoking the Capital Corporation's charter.

(5) Board of directors

(a) The *House* bill will create a five-member board of directors of the Temporary Assistance Corporation. Three members are to be appointed by the Secretary of Agriculture—

(i) one of whom is a farm credit district board member;

(ii) one of whom is a director of an FCS association;

(iii) one of whom is a U.S. citizen not a borrower from, shareholder in, or a director, officer, employee, or agent of, any FCS institution, and also not an officer or employee of the Federal Government or a member of the board of, the FCS Capital Corporation, but who is experienced in financial services and credit.

The *House* bill also includes one appointee of the Secretary of the Treasury and one appointee of the Farm Credit System Board, both of whom must meet the requirements set forth in clause (c) above. (Secs. 4.28B(a)(a) and 4.28(a)(2).)

The *Senate* amendment will create a five-person board of directors of the Assistance Board, composed of the Secretary of Treasury, the Secretary of Agriculture, the Federal Reserve Chairman, and two persons experienced in financial matters appointed by the President, by and with the advice and consent of the Senate, who could not be members of the same political party. (Sec. 6.2(a).)

The *Conference* substitute adopts the *Senate* provision with an amendment providing for a three-member Assistance Board composed of the Secretary of Agriculture, the Secretary of the Treasury, and an agricultural producer with experience in financial matters appointed by the President.

(b) The *House* bill provides that the members of the board of directors of the Temporary Assistance Board are to be appointed within 60 days after enactment of the bill. (Sec. 4.28B(a)(3).)

The *Senate* amendment contains no comparable provision.

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[3] Certain section references in this and following descriptions of the *Senate* provisions are to sections 601 to 6.30 of title VI of the Farm Credit Act of 1971, to be added by section 101 of the *Senate* amendment.

[4] Certain section references in this and following descriptions of the House provisions are to sections 4.28A to 4.28M of the Farm Credit Act of 1971, to be added by section 105 of the *House* bill.

The *Conference* substitute adopts the *Senate* provision. It is the intent of the conferees that the President should appoint the public member of the Assistance Board as soon as possible after enactment of the legislation. This will help to ensure that the Assistance Board will be able to assist certified Farm Credit System institutions in a timely fashion, thus forestalling future financial problems and minimizing the costs of the assistance package.

(c) The *House* bill provides that the appointee of the Secretary of Agriculture meeting the requirements listed in item (a)(ii) above, and the appointee of the Secretary of Treasury, are to serve for a term of three years beginning on the date of enactment of the bill. Thereafter, they would serve for a term of two years. The *House* bill provides that the other appointees of the Secretary of Agriculture would serve an initial term of two years, and thereafter, three years. (Sec. 4.28B(b).)

The *Senate* amendment provides that each member of the board of directors is to serve until such time as the Assistance Board is terminated. (Sec. 6.2(c)(1).)

The *Conference* substitute adopts the *Senate* provision. The conferees anticipate that there will be no disruption in the activities and operation of the Assistance Board during a change in administration since it is clear that those who hold the office of Secretary of the Treasury and Secretary of Agriculture would serve on this board.

(d) The *House* bill provides that, once three or more members have been appointed to the board of directors, a majority of members then appointed would constitute a quorum. (Sec. 4.28B(f)(1).)

The *Senate* amendment provides that a quorum would consist of three members of the board of directors. All decisions of the board would require an affirmative vote of at least a majority of the members voting. (Sec. 6.2(f).)

The *Conference* substitute adopts the *Senate* provision with an amendment providing that a quorum would consist of two members of the board.

(e) The *House* bill provides that the members of the board of directors could elect a member to serve as temporary chairman until five members have been appointed to the board and a permanent chairman has been elected. The five members of the board would elect from among themselves a permanent chairman of the board of directors who would serve as chairman until the expiration of the term for which the member so elected is appointed to the board. (Secs. 4.28B(f)(2) and 4.28B(g).)

The *Senate* amendment provides that the board of directors are to elect, on an annual basis, a chairman from among the members of the board. (Sec. 6.2(b).)

The *Conference* substitute adopts the *Senate* provision.

(f) The *House* bill provides that each member of the board of directors is to receive compensation at a level not in excess of the level set by the Farm Credit Administration. (Sec. 4.28C(a).)

The *Senate* amendment provides that members of the board of directors are to receive reasonable allowances for necessary expenses of travel, lodging, and subsistence incurred in attending meetings and other activities of the Assistance Board, as set forth in the bylaws issued by the board of directors, except that such levels could not be in excess of the maximum fixed for officers and employees of the United States. (Sec. 6.2(d).)

The *Conference* substitute adopts the *Senate* provision.

(6) Transition provisions

(a) The *House* bill provides that, until three or more members of the Temporary Assistance Corporation Board have been appointed, the Secretary of the Treasury could take any action authorized by the FCS assistance provisions of the bill. (Sec. 4.28B(d).)

The *Senate* amendment states that the powers of the Assistance Board will be exercised by the Farm Credit Administration Board until the issuance of the charter of the Assistance Board, or such later date not to exceed 30 days thereafter, as may be requested by the Assistance Board. Any interim assistance provided to FCS institutions by the Farm Credit Administration would be provided from, and could not be in excess of, the amounts contained in the revolving fund established under section 4.0. (Sec. 6.13(a).)

The *Conference* substitute adopts the *Senate* provision.

(b) The *Senate* amendment provides that each institution that receives interim assistance from the Farm Credit Administration described in item (a) above would issue preferred stock to the Financial Assistance Corporation in an amount equal to such assistance. The Financial Assistance Corporation would pay the Farm Credit Administration the full amount of such financial assistance provided by the Farm Credit Administration from the proceeds from the sale of the first issue of debt obligations by the Financial Assistance Corporation. Payments by the Financial Assistance Corporation to the Farm Credit Administration would be considered to be payments to each such institution for such stock. (Sec. 6.13.)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

(7) Procedure for provision of assistance to FCS institutions

The *House* bill provides that, as soon as is practicable after an FCS institution applies for financial assistance, the Temporary Assistance Corporation must complete a review of the institution's business plan.

The Temporary Assistance Corporation is to require any institution seeking financial assistance to revise the institution's business plan, as the Corporation in its sole discretion deems necessary, before providing or making a commitment to provide financial assistance to the institution. Whenever an institution is receiving assistance from the Corporation, the Corporation must review the institution's business plan on an annual basis, and could require revisions in the business plan (based on such annual review) as a condition of providing further assistance. (Secs. 4.28E(a)(1) and 4.28E(a)(2).)

The *Senate* amendment provides that the Assistance Board must determine whether to certify an FCS instititution as eligible to issue preferred stock to the Financial Assistance Corporation (in order to obtain financial aid) if the institution requests such certification, the book value of the stock of the institution (based on generally accepted accounting principles) has declined to 75 percent of the par value of the stock, and the institution agrees to meet the terms and conditions specified by the Assistance Board. However, institutions may request certification when the book value of the stock (based on generally accepted accounting principles) is less than par value.

The *Senate* amendment also provides that, in the case of an FCS institution that requests certification, the Assistance Board could require approval of the business, operating, and investment plans and policies for the institution. (Secs. 6.4(a)(2) and 6.4(b).)

The *Conference* substitute adopts the *Senate* provision with the following amendment: When an institution's stock is impaired (based on generally accepted accounting principles), the FCA must notify the Assistance Board, and the Board must begin monitoring the institution's financial condition and business and operating plans. The institution may apply for assistance when the book value of stock is below par value (based on generally accepted accounting principles). When the institution's book value of stock has declined to 75 percent (based on generally accepted accounting principles) of par value, the institution must apply for assistance, and the board must make a decision whether or not to provide assistance. The board must act promptly to assist those institutions that may need assistance immediately after enactment of this bill. To ensure that the preferred stock can be classified as equity for financial reporting purposes, there would be no mandatory redemption requirement for the preferred stock. However, to provide an incentive for the institutions to redeem the preferred stock at par value, institutions electing not to redeem stock would be required to pay dividends on such stock until it is retired.

(8) Terms of assistance

The *House* bill provides that the Temporary Assistance Corporation is to provide (or make a commitment to provide) financial assistance to any FCS institution under the institution's approved business plan, on such terms and subject to conditions that the Corporation in its sole discretion deems necessary to ensure that such assistance is provided and used in an efficient and cost-effective manner. After the establishment of Farm Credit System Service Banks (as described in the section of this Statement dealing with FCS reorganization), the Corporation could coordinate assistance to each institution through the Service Bank serving the region in which the System institution is located.

The Corporation could provide (or make a commitment to provide) financial assistance to any institution to address, among other types of problems, one or more of the following types of financial problems facing the institution:

(i) The impairment of the institution's stock, as determined in accordance with generally accepted accounting principles.

(ii) The inability of the institution to maintain capital at or above the minimum permanent capital adequacy level established for the institution by the Farm Credit Administration.

(iii) The danger that the institution will default on its obligations.

(iv) The financial burden placed on the institution due to high interest rates payable on obligations of the institution.

The Corporation is to provide (or make a commitment to provide) financial assistance to any System institution for which the Farm Credit Administration has appointed a receiver or conservator to the extent necessary to enable the institution to meet its insured oblig ations in a timely manner and retire borrower stock at par value. (Sec. 4.28E(a)(3).)

The *Senate* amendment provides that when an institution has been certified to issue preferred stock, the Assistance Board may provide assistance by one or more of the following:

(a) authorizing the institution to issue preferred stock in amounts necessary to maintain the book value of stock at the 75 percent level;

(b) in the case of high-cost debt for which the institution is primarily liable, authorizing the institution tk issue preferred stock in an amount equal to the premium that would be required by the holder of the debt for the institution to retire the debt at current market value;

(c) at the request of the institution, authorizing the issuance of preferred stock to facilitate the merger of the requesting institution with one or more other System institutions if such merger is approved by the stockholders of the merging institutions; and

(d) providing assistance by such other methods as the Assistance Board determines appropriate.

The *Senate* amendment defines "high-cost debt" as securities or similar obligations issued prior to January 1, 1986, that have a maturity date of December 31, 1987, or later and bear a rate of interest in excess of the current market rate for similar securities or obligations.

The *Senate* amendment provides that the Assistance Board is to authorize the issuance (by institutions approved to issue preferred stock) of amounts of preferred stock sufficient to—

(a) maintain the value of stock at not less than 75 percent of the par value, as determined under generally accepted accounting principles; and

(b) strengthen the institution to a point where it is economically viable, and capable of delivering credit at reasonable and competitive rates. (Sec. 6.5.)

The *Conference* substitute adopts the *Senate* provision.

The conferees are concerned that the language of this provision could be read to mean that the certified institution is obligated to issue preferred stock to the Financial Assistance Corporation as soon as it is certified to do so by the Assistance Board and thus would incur the responsibility for repayment of the principal of the bonds issued in connection with the funds received from the Corporation. In other words, some have interpreted the provision as providing solely for "cash assistance" to a certified institution.

It is not the intent of the conferees that this provision be given such a narrow interpretation. The conferees read the provision to allow the certified institution to apply for assistance and to be certified by the Assistance Board under such terms and conditions as it may specify, but not to require the institution to then immediately, or for that matter to ever, issue preferred stock. That is, it could be agreed between the Assistance Board and the institution that the institution be certified to issue a certain amount of stock, but not required to do so unless certain events—for instance, a deterioration of its financial condition beyond a specified level—take place. In such a case the certification could take on the character of a "letter of credit," since the institution could at any time convert it to cash by issuing the preferred stock, which the Assistance Corporation is required to buy. This approach might be appropriate in the case of an institution that is facing a short-term financial crisis, such as a minor collateral deficiency, which could be corrected simply by having the certification but not actually issuing the preferred stock. In such a case, the certification would itself tend to represent an improvement in the equity position of the institution. The conferees urge the Assistance Board to work with the institutions seeking assistance to make available this "noncash assistance" as well as the cash assistance that is provided for in the bill. However, it is also the intent of the conferees that the Assistance Board may provide cash financial assistance to certified institutions whose stock is between 100 percent and 75 percent of par value (based on generally accepted accounting principles), while still allowing for mechanisms to minimize the draw on cash assistance at the option of the certified institution.

The need for noncash-type assistance was raised by the Treasury Department and is generally recognized to be a good tool for the Assistance Board and troubled institutions to have at their disposal.

However, the conferees intend that the decision for "cash" or "nor-cash" assistance rests with the institution, except when stock has fallen below 75 percent par value (based on generally accepted accounting principles) and the Assistance Board has decided to facilitate a merger or to recommend liquidation. In no event, however, should stock be allowed to be impaired below 75 percent of GAAP par value.

This approach will allow the Assistance Board to help certain institutions without actually necessitating the issuance of additional Government-guaranteed bonds. This will hold down the total amount of bonds that are issued and correspondingly the cost of the assistance package to the taxpayers and the system as a whole. It is the further intent of the conferees that cash financial assistance to institutions of the Farm Credit System shall be provided no later than when stock falls to 75 percent of par value (based on generally accepted accounting principles), unless that Assistance Board has decided to facilitate a merger or that it is less costly to liquidate the institution and has recommended such litigation to the FCA.

(9) Interim assistance

(a) The *House* bill provides that, during the 180-day period beginning on the date of the enactment of the bill, the Temporary Assistance Corporation could provide financial assistance to an FCS institution before approving the institution's business plan if the Temporary Assistance Corporation determines such assistance is necessary to ensure the continued operation of the institution and the continued provision of farm credit services to borrowers in the institution's territory, or to enable the institution to retire eligible borrower stock at par value. (Sec. 6.28E(c).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

(b) The *House* bill provides that the Temporary Assistance Corporation, as soon as is practicable within 180 days after the date of the enactment of the bill, is to—

(i) make financial assistance available to FCS institutions (whether or not the institution's business plan has been approved) in amounts adequate to ensure the implementation of the cancellation and refund of the Capital Corporation assessments, and to enable such institutions to return third-quarter 1986 loss-sharing agreement contributions; and

(ii) issue the Secretary of the Treasury an amount of stock or other obligation sufficient to enable the Corporation to provide the financial assistance, described above. (Sec. 4.28E(d).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

(10) Special powers

The *Senate* amendment provides that in the case of an FCS institution that requests certification of eligibility to issue preferred stock, the Assistance Board could—

(a) require approval of the business, operating, and investment plans and policies for the institution;

(b) direct the FCA Board to liquidate the institution or appoint a conservator for the institution, acceptable to the Assistance Board, to evaluate the operations of the institution and report back to the FCA and the Assistance Board on the possibility of restoring the institution to sound financial condition;

(c) request that the FCA Board or the FCA, as appropriate:

(i) require a merger or consolidation of the institution;

(ii) initiate action to liquidate the institution or to appoint a receiver; or

(iii) exercise an enforcement power authorized under the Farm Credit Act of 1971;

(d) require approval of the terms and conditions of any debt issuances of the institution;

(e) require approval of the policies on credit standards and interest rates (including requiring that the institution set interest rates at levels that will ensure that the cost of money to the institution reflects the marginal cost to the institution of borrowing an additional amount of money at the time a new loan is made, and requiring that loans primarily secured by real estate mortgages not exceed 85 percent of the appraised agricultural value of the real estate security, or 75 percent of the current market value of the real estate security, whichever is greater);

(f) require approval of the design of management information and accounting systems, and the continued use of regulatory accounting procedures (RAP);

(g) require approval of the hiring policies of the institution; the salary scale for the chief executive officer, other managers, and directors of the institution (except where this overlaps FCA's authority); any change in the management of the institution; and policy decisions regarding continued employment and promotion of management officials; and

(h) take such other action as the Assistance Board determines necessary to establish prudent operating practices at the institution and to put the institution in a sound financial condition. (Sec. 6.6(a).)

The *House* bill contains no comparable provisions.

The *Conference* substitute adopts the *Senate* provision with an amendment. The Assistance Board would be allowed to authorize the issuance of preferred stock by an institution to facilitate a merger between a financially sound and a financially insecure institution. The Assistance Board would also be allowed to require approval of the compensation and retirement benefits of the chief executive officer and other managers and directors of the institution.

(11) Liquidation of System institutions

The *Senate* amendment provides that, if the Assistance Board determines that the cost of making assistance available to an FCS institution exceeds the costs of liquidating such institution, the Assistance Board could deny certification to issue preferred stock and ask the Farm Credit Administration to liquidate the institution. In the event an institution is to be liquidated, the Farm Credit Administration would (through the expansion of the territory of an existing FCS institution, the chartering of a new institution, or through some combination thereof) ensure that the credits needs of eligible persons in the territory formerly served by the liquidated institution are met.

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

(b) The *Senate* amendment further provides that the cost of liquidating an FCS institution would include the following:

(a) the amount by which the par value of borrower stock exceeds its book or face value, under generally accepted accounting principles, at the time of liquidation;

(b) the difference between the outstanding amount of principal due on loans made by the institution (less the allowance for loan losses) and the amount at which such loans can be sold to third parties at the time of liquidation;

(c) the difference between the carrying values for financial reporting purposes, as defined under generally accepted accounting principles, of all other assets of the institution and the amount at which such assets can be sold to third parties at the time of liquidation;

(d) the amount in excess of the carrying values of liabilities of the institution for financial reporting purposes, as defined under generally accepted accounting principles, required to be paid to third parties at the time of liquidation for their agreement to pay or assume such liabilities;

(e) the estimated costs of holding assets and liabilities of the institution until they are disposed of;

(f) the estimated costs of terminating employees of the institution, including the costs of severance pay and benefit programs that are available to employees on termination;

(g) the estimated costs of terminating employee benefit plans of the institution;

(h) the estimated costs of terminating leases and other contractual obligations entered into by the institution;

(i) the estimated costs of administrative, legal, and all other actions necessary to dispose of all assets and liabilities of the institution; and

(j) all other costs reasonably expected to be incurred by the liquidated institution or by other System institutions as a result of the liquidation (Sec. 6.6(b).)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *House* provision.

(12) FCA monitoring

(a) The *House* bill provides that the Temporary Assistance Corporation is to keep the Farm Credit Administration fully informed with respect to financial assistance provided (or committed to be provided) to any FCS institution under this provision. (Sec. 4.28E(e).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

(b) The *House* bill provides that the Farm Credit Administration is to monitor the operations of each institution to which the Temporary Assistance Corporation provides (or makes a commitment to provide) financial assistance to ensure compliance with the business plan and any terms and conditions under which such assistance or commitment is provided. The Farm Credit Administration is to keep the Temporary Assistance Corporation fully informed of the progress made by the institution in implementing the institution's business plan. (Sec. 4.28E(f).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

(13) Suspension of aid

The *House* bill provides that the Temporary Assistance Corporation could suspend for any period of time, or terminate, any commitment to provide financial assistance to an FCS institution if the Farm Credit Administration notifies the Corporation that the institution has substantially deviated from the institution's approved business plan or has failed to comply with any term or condition governing the use of financial assistance. The Corporation is to promptly notify the Farm Credit Administration of any such action it takes (Sec. 4.28E(g)(1).)

The *Senate* amendment contains no provision.

The *Conference* substitute adopts the *House* provision, which will be included as a special power of the Assistance Board under section .

(14) Farm Credit Administration enforcement

The *House* bill provides that the Farm Credit Administration could use its enforcement powers, with respect to any institution to which the Temporary Assistance Corporation has provided (or has made a commitment to provide) financial assistance, to obtain compliance with the institution's business plan. (Sec. 4.28E.)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision.

(15) Assistance operations—resources

(a) The *House* bill provides that the Farm Credit Administration is to provide such personnel and facilities to the Temporary assistance Corporation as the Farm Credit Administration deems necessary to avoid unnecessary duplication and waste. (Sec. 4.28E.)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision.

(b) The *Senate* amendment will provide the Assistance Board authority to use information, services, staff, and facilities made available by any executive department or independent agency in carrying out FCS assistance operations. (Sec. 6.3(a)(6).)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

(16) Access to FCA documents

The *House* bill provides that the Farm Credit Administration must provide copies of reports of examinations of FCS institutions to the Temporary Assistance Corporation on request of the Corporation. (Sec. 4.28H(h).)

The *Senate* amendment provides that the Assistance Board is to have access to all reports of examination *and supervisory documents* of the Farm Credit Administration, as well as *relevant supporting material,* for the purpose of carrying out the special powers of the Assistance Board under terms and conditions (acceptable to the Farm Credit Administration board) necessary and appropriate to protect the confidentiality of the documents and materials. (Sec. 6.8(c).)

The *Conference* substitute adopts the *Senate* provision.

(17) General corporate powers

The *House* bill and the *Senate* amendment contain similar provisions specifying the general corporate powers of the assistance corporations. The differences between the two bills are described below.

(a) The *House* bill, but not the *Senate* amendment, provides that the bylaws of the Temporary Assistance Corporation are to provide for the manner in which the Corporation's loans, commitments, and other financial assistance are to be made. (Sec. 4.26F(a)(4)(B).)

The *Senate* amendment, but not the *House* bill, provides that the bylaws of the Assistance Board are to provide for the manner in which the Board's officers, employees, and agents are selected. (Sec. 6.3(a)(5)(A).)

The *Conference* substitute adopts the *Senate* provision.

(b) The *House* bill will authorize the Temporary Assistance Corporation to contract with FCS institutions for local administration, servicing, and restructuring of loan and loan-related assets and management of acquired properties of the Corporation. (Sec. 4.28(a)(6).)

The *Senate* amendment contains no provision.

The *Conference* substitute adopts the *Senate* provision.

(c) The *House* bill will authorize the Temporary Assistance Corporation to guarantee, sell, or exchange securities and obligations, and will require the Corporation (to the maximum extent practicable) to use the services of appropriate FCS institutions to dispose of noncash property acquired by the Corporation. (Sec. 4.28F(a)(8).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

(d) The *House* bill will authorize the Temporary Assistance Corporation to modify or consent to modification—*with respect to the rate of interest, time of payment of any installment of principal or interest, security, or any other term*—of a contract or agreement to which it is a party or in which it has an interest. (Sec. 4.28F(a)(11).)

The *Senate* amendment will authorize the Assistance Board to modify or consent to the modification of any contract or agreement to which it is a party or in which it has an interest. (Sec. 6.3(a)(11).)

The *Conference* substitute adopts the *Senate* provision.

(e) The *House* bill will authorize the Temporary Assistance Corporation to provide, at the request of an FCS institution, technical assistance and related services to the institution in connection with the administration of the institution's loan portfolio. (Sec. 6.28F(a)(13).)

The *Senate* amendment contains no provision.

The *Conference* substitute adopts the *Senate* provision.

(f) The *House* bill will authorize the Temporary Assistance Corporation to purchase at fair market value from any FCS institution, on the request of the institution, loans (or interests in loans) that are in nonaccrual status and assets (or interest in assets) in the account for acquired properties. (Sec. 4.28F(a)(13).)

The *Senate* amendment contains no provision.

The *Conference* substitute adopts the *Senate* provision.

(g) The *House* bill will authorize the Temporary Assistance Corporation to require any institution to which it has provided (or made a commitment to provide) financial assistance to sell to it nonaccrual loans and acquired properties the value of which exceeds $500,000. (Sec. 4.28F(a)(14).)

The *Senate* amendment contains no provision.

The *Conference* substitute adopts the *Senate* provision.

(h) The *House* bill will authorize the Temporary Assistance Corporation to purchase, from FCS institutions undergoing liquidation, assets that are performing loans not purchased by other such institutions. (Sec. 4.28F(a)(16).)

The *Senate* amendment contains no provision.

The *Conference* substitute adopts the *Senate* provision.

(i) The *House* bill will authorize the Temporary Assistance Corporation to assume debt or other liabilities of FCS institutions in connection with the acquisition of loans or interests therein or of other assets of such institutions. (Sec. 4.28F(a)(16).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

(j) The *House* bill will authorize the Temporary Assistance Corporation to exercise all rights and privileges, and meet all obligations, of any institution with respect to any loan acquired from the institution or in which the Corporation has participated. (Sec. 4.28F(a)(17).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

(k) The *House* bill will authorize the Temporary Assistance Corporation to hire, promote, compensate, and discharge officers and employees of the Corporation without regard to title 5 of the U.S. Code. (Sec. 4.28F(a)(18).)

The *Senate* amendment will authorize the Assistance Board to adopt a salary scale for officers and employees, in accordance with title 5 of the U.S. Code for officers and employees of the United States. (Sec. 6.3(a)(4).)

The *Conference* substitute adopts the *Senate* provision with an amendment providing that no officer or employee of the Assistance Board may be paid a salary above that provided by Executive Level III.

(18) Status of TAC officials

The *House* bill provides that officers or employees of the Temporary Assistance Corporation will not be considered officers or employees of the Federal Government. (Sec. 4.28F(b).)

The *Senate* amendment contains no provision.

The *Conference* substitute adopts the *Senate* provision.

(19) Administrative Procedure Act

The *House* bill provides that the Administrative Procedure Act will not apply to the Temporary Assistance Corporation. (Sec. 4.28F(d).)

The *Senate* amendment contains no provision.

The *Conference* substitute adopts the *Senate* provision.

(20) Powers to remove, and jurisdiction

The *Senate* amendment provides that any civil action, suit, or proceeding to which the Assistance Board is a party, will be deemed to arise under the laws of the United States, and the U.S. District Court for the District of Columbia will have original jurisdiction over such. The Assistance Board could, without bond or security, remove any such action, suit, or proceeding from a State court to the U.S. District Court for the District of Columbia. (Sec. 6.2(d).)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

(21) Administrative funding—Assistance Board

(a) The *Senate* amendment provides that the administrative expenses of the Assistance Board, including the expenses of the National Special Asset Council, are to be paid for by the Financial Assistance Corporation from funds in the Assistance Fund, except that the total administrative expenses of the Assistance Board could not exceed—

(i) $2 million in fiscal year 1988, and

(ii) in each subsequent fiscal year, an amount equal to the ceiling for the prior fiscal year, increased by 5 percent. (Sec. 6.8(a).)

The *House* bill contains no comparable provision, but provides for the use of funds obtained from Treasury for operating expenses of the Temporary Assistance Corporation.

The *Conference* substitute adopts the *Senate* provision with an amendment which provides that (1) the "necessary and reasonable" expenses of the Assistance Board are to be paid for by the FAC, and (2) removing reference to a ceiling on the Board's total administrative expenses.

(b) The *Senate* amendment provides that, prior to the availability of funding from the Assistance Fund, the Assistance Board could use the revolving fund established under section 4.0 of the Farm Credit Act of 1971. Such amounts would be repaid to the revolving fund out of the Assistance Fund within the same fiscal year that the funds are received by the Assistance Board. This assumes that no Fiscal year 1988 cost will be attributed to the use of the revolving fun. (Sec. 6.8(b).)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

(22) Limitation of powers

(a) The *Senate* amendment provides that the powers of; the Assistance Board are to be exercised only for the purposes specified in the bill and are not to be exercised in a manner that would result in the Assistance Board supplanting the Farm Credit System lending institutions as the primary providers of credit and other financial services to farmers, ranchers, and cooperatives. (Sec. 6.9(a).)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

(b) The *Senate* amendment provides that the powers of the Assistance Board will not include the management, administration, or disposition of any loans or other assets owned by other FCS institutions, or the providing of technical assistance or other related services to other institutions in connection with the administration of loans owned by the other institutions, except as otherwise specifically provided for in the special power provisions. (Sec. 6.9(b).)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

(23) Succession to the Capital Corporation

(a) The *House* bill provides that the Temporary Assistance Corporation will succeed to the facilities and resources, and absorb the personnel, of the Capital Corporation. (Sec. 4.28G.)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

(b) The *House* bill provides that the Temporary Assistance Corporation will not succeed to the management contracts of the Capital Corporation. (Sec. 4.28G.)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

(24) Rules, regulations, policy statements, and guidelines

Both the *House* bill (sec. 4.28(b)) and the *Senate* amendment will require the board of directors of the FCS assistance entity to aodpt appropriate rules for the conduct of its business.

The *Senate* amendment also will authorize the Assistance Board to issue regulations, policies, procedures, guidelines, or statements necessary to carry out the FCS assistance program. The materials will not be subject to the Administrative Procedure Act. (Sec. 6.11(a).)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

(25) Regulation by the Farm Credit Administration

The *Senate* amendment specifically provides that the Assistance Board will not be subject to regulation by the Farm Credit Administration. (Sec. 6.11(b).)

The *House* bill provides that the regulatory authority of the Farm Credit Administration with respect to the Temporary Assistance Corporation will be confined to providing for the examination of the condition of the Corporation. (Sec. 105(h).)

The *Conference* substitute adopts the *Senate* provision.

(26) Audits

The *Senate* amendment will prohibit the Assistance Board from requiring an audit or examination of an FCS institution that would be duplicative of an audit or examination conducted under other provisions of law. (Sec. 6.11(c).)

The *House* bill contians no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

(27) Assistance funding under the House bill

Treasury purchase.—The *House* bill will require the Secretary of the Treasury, during fiscal years 1988 through 1992, to purchase the amount of stock or obligations issued by the Temporary Assistance Corporation that the board of directors of the

Corporation requests to be purchased. For such purpose, the Secretary of the Treasury could use as a public debt transaction the proceeds of the sale of securities issued under chapter 31 of title 31, United States Code, and the purposes for which securities could be issued under such chapter would be extended to include such purchases. All redemptions, purchases, and sales by the Secretary of the Treasury of such stock or obligations would be treated as public debt transactions. (Sec. 4.28(a).)

In connection with this requirement, the board of directors of the Temporary Assistance Corporation would be authorized to issue TAC stock or obligations in amounts sufficient to provide financial assistance to the Farm Credit System and to cover reasonable and necessary operating expejses. (Sec. 4*28(a)(9).)

Payment.—The *House* bill provides that, not later than five years after the enactment of the bill or one year after the Insurance Fund is initially funded at the secure base amount (whichever is earlier), and annually thereafter, each FCS bank is to pay to the Federal Farm Credit Banks Funding Corporation an amount equal to one-fifth of 1 percent of the average principal outstanding during the preceding year on loans made by the institution (except, in the case of a Federal intermediate credit bank, the aggregate of loans made by the production credit associations of the district in which the bank is located) that are in accrual status. Payments would cease immediately after the aggregate of the amounts provided by the Secretary of the Treasury to the Temporary Assistance Corporation for FCS financial assistance. Any institution could pay any amount required to be paid before the date such payment is required. (Sec. 105(f).) The Temporary Assistance Corporation could not require any FCS institution to repay financial assistance provided to the institution under the bill, except as described above. Nor could the Temporary Assistance Corporation receive funds from the Insurance Corporation. (Sec. 4.28H.)

The *House* bill also provides that the stock or obligations acquired by the Secretary of the Treasury are to be retired and canceled in amounts equal to the amounts paid to the Secretary by the Federal Farm Credit Banks Funding Corporation at the time of such payment. (Sec 4.28I(a).)

Availability of funds.—The *House* bill will require the Secretary of the Treasury, in fiscal year 1988, to make $2.5 billion available to the Temporary Assistance Corporation through the purchase of stock or obligations as described above. (Sec. 4.28I(b).) The *House* bill also will authorize appropriations, in each of the 1989 through 1992 fiscal years, of such sums as are certified necessary by the Corporation (Sec. 4.28I(c).) The *House* bill also specifically will authorize the appropriation of such sums as are necessary to (a) provide the Corporation funds sufficient to ensure that each FCS institution will retire borrower stock at 100 percent of par value, as required under the bill, and (b) fund Treasury purchases of stock and obligations. (Sec. 4.28I.)

Offsetting receipts.—The *House* bill will authorize the Secretary of Agriculture, under terms prescribed by the Secretary, to sell notes and other obligations held in the Rural Development Insurance Fund in such amounts as to realize net proceeds to the Government of $2.5 billion. (Sec. 4.281(b).)

The *Senate* amendment provides for a different mechanism to fund FCS financial assistance by adding provisions to the Farm Credit Act of 1971 (subtitle B of title VI) to establish the Farm Credit System Financial Assistance Corporation to carry out a program to provide capital to FCS institutions that are experiencing financial difficulty. The program will be coordinated with the activities of the Assistance Board to be established under subtitle A of title VI.

ESTABLISHMENT.—Not later than five days after enactment of the bill, the Farm Credit Administration must charter the Financial Assistance Corporation, which is to be an institution of the Farm Credit System and a federally chartered instrumentality of the United States. (Sec. 6.20.)

Board of directors.—The board of directors of the Financial Assistance Corporation will consist of the board of directors of the FCS Funding Corporation. The Board would elect, on an annual basis, a Chairman from among the members of the Board.

FAC stock.—To provide for the ownership of the Financial Assistance Corporation, stock with a par value of $5.00 would be issued to System institutions. (Sec. 6.23.)

Corporate powers.—The Financial Assistance Corporation would be given the standard corporate powers needed to conduct business as a corporate entity, including the powers to—

(1) provide for staff and salaries, establish bylaws, enter into contracts, and sue and be sued;

(2) borrow on its own individual responsibility and on terms and conditions approved by the Farm Credit Administriaton; and

(3) deposit its securities and its current funds with any member bank of the Federal Reserve System or any insured State nonmember bank and pay fees therefor and receive interest thereon.

Accounts.—To facilitate the assistance flowing to ailing System institutions, the Financial Assistance Corporation would establish an account called the Farm Credit Assistance Fund to be available the Corporation as a revolving fund. The Assistance Fund would be funded through the issuance of 15-year debt obligations, through payments of interest from the Secretary of the Treasury, and through payments of interest by FCS institutions. Moneys in the Assistance Fund not needed for current operations would be invested in direct obligations of the United States or obligations guaranteed by the United States. The Financial Assistance Corporation also would establish an account called the Financial Assistance Corporation Trust Fund, which will be capitalized by funds received from the one-time assessments (the one-time stock purchase) made against System institutions under section 6.25.) These funds will be held for use in paying the defaults of System institutions repayments to the FAC.

Debt obligations.—During the period beginning 61 days after the enactment of the bill and ending September 30, 1992, the Financial Assistance Corporation could issue uncollateralized bonds and similar obligations guaranteed by the Secretary of the Treasury, with annual coupon payments and a maturity period of 15 years.

The aggregate amount of obligations that could be issued is $4 billion to be issued in two phases: The first phase is $2.8 billion. Then, after December 31, 1988, an *additional* amount, not to exceed $1.2 billion, could be issued if the intial $2.8 billion in obligations has been issued and if the Assistance Board determines additional funds are needed. A report must be sent to Congress at least 90 days prior to the issuance of any of those additional debt obligations, explaining the need for the additional issuance. The Corporation would establish the forms and denominations, the interest rates, the terms and conditions, the manner of issuance, and sales prices for the 15-year obligations. (Secs. 6.26(a) and 6.26(b).)

Interest payments.—During the fifteen years after the date of is suance of an obligation, the Financial Assistance Corporation would be responsible for the payment of the annual interest charges on debt obligations as follows:

—During the first five years, the Corporation would receive from Treasury, subject to appropriation, the full interest payment due.

—During the second five years, the Corporation would receive 50 percent of the interest due from the Treasury, with FCS institutions paying the other 50 percent. However, FCS institutions would pay an additional 10 percent of the interest expense for each 1 percent that the unallocated retained earnings of the System, under generally accepted accounting principles, exceed 5 percent of net assets for the preceding year.

—Each institution would pay a proportionate share of the interest due from the System according to the amount of the performing loan volume of the institution in relation to the total performing loan volume of the System.

—During the third five-year period, FCS institutions would pay to the FAC the entire amount of interest due on the obligations, based on the performing loan volume in the proportion described above.

Treasury recoupment.—FCS institutions would be required to repay Treasury, on a fair and equitable basis, any annual interest charges on the 15-year debt obligations that the institutions have not previouly paid (and the institutions will not be required to pay interest charges on those amounts). Such repayments would be as follows:

(1) Each institution would begin making payments when the Farm Credit Administration, in consultation with the Secretary of the Treasury, determines that the institution possesses the financial viability to do so, except that the payments would not begin until the institution's debt liability with respect to refinancing the guaranteed bonds has been fully repaid.

(2) The Farm Credit Administration would establish the payment schedule and payment levels so as to not jeopardize the financial viability of the institution.

(3) An institution would not be required to make repayments in a manner that would impair the capital stock of the institution or jeopardize the minimum capital requirements of the institution.

(4) Payment obligations would not require to be collateralized. (Sec. 6.26(c).)

Refinancing the guaranteed bonds.—When a 15-year debt obligation matures, it will be repaid by the Financial Assistance Corporation. So that the Corporation can repay those obligations, each FCS institution that issued preferred stock to the Corporation (to obtain financial assistance under the bill) would pay the Corporation, prior to the maturity of the obligation, the dollar value of such outstanding preferred stock at par value. To make these payments, institutions would be authorized to refinance the obligations without a collateral requirement and without any guarantee.

The payment of the principal and interest on the refinanced obligations would be solely assumed by each FCS institution issuing the debt and would not be paid, in any manner, by institutions not certified to issue preferred stock. Each institution would be liable only for its own debt. (Secs. 6.26(d)(1) and 6.26(d)(2).)

Defaults on interest obligations.—If an FCS institution defaults on the payment of interest due during the first 15 years after obligations are issued, the Financial Assistance Corporation would be required to pay the amount of the interest due by the institution out of the Trust Fund, and would be required to recover the amount of interest due from the defaulting institution to repay the Trust Fund. If the Corporation has not recovered the full amount of interest due from the defaulting institution by the end of the 12-month period beginning on the date of the default, all uncollected interest due from the defaulting institution would be paid to the Trust Fund out of the Reserve Account set up in section 4.9A. If the Reserve Account is insufficient, the amount still due would be added to the amount of interest otherwise due by remaining FCS institutions. Each remaining System institution would pay a proportionate share of this uncollected interest based on the amount of performing loan volume of the institution in relation to the total performing loan volume of the System. Such amounts would be paid to the Trust Fund. A defaulting institution would be liable to the remaining FCS institutions for the amount of any interest paid by the other institutions. (Sec. 6.26(d) (3).)

Inability to repay preferred stock.—Not later than 90 days prior to the maturity of any of the 15-year obligations, the Financial Assistance Corporation would be required to evaluate the general financial condition of each FCS institution that issued preferred stock to the Corporation (to obtain financial assistance under the bill) to determine whether the institution will be able to redeem such stock at par value on the maturity of the obligation and continue to remain a viable institution capable of providing credit to eligible borrowers at equitable and competitive interest rates. A copy of the evaluation would be furnished to the Secretary of the Treasury and Congress. If the Corporation determines that an institution will be unable to redeem the preferred stock at par value in a timely manner (either directly or through the use of funds obtained by the institution through the issuance of uncollateralized and nonguaranteed obligations) and remain a viable and competitive institution, the Corporation would be required to withdraw funds from the Trust Fund in an amount equal to the par value of the preferred stock to enable the institution to repay the stock. At the same time, the Corporation would transfer to the Reserve Account an equal amount of preferred stock of the institution. To the extent the Trust Fund is insufficient to enable the Corporation to pay the full principal of the maturing obligation, the Reserve Account would be used by the Reserve Account Board to purchase the preferred stock issued by such institution to enable the Corporation to pay the principal of the maturing obligation. Any preferred stock transferred to, or purchased by, the Reserve Account would be retired by the issuing institution at such times and under such conditions as are agreed to between the Reserve Account and the institution. (Sec. 6.26(d)(3).)

Treasury assistance.—If the Reserve Account is insufficient for this purpose, the Secretary of the Treasury would be required to make up the difference by purchasing preferred stock issued by the institution. The Secretary of the Treasury could use, as a public debt transaction, the proceeds from the sale of any securities issued under chapter 31 of the title 31, United States Code. In each instance in which Treasury is required to purchase preferred stock because of a default on principal payments, the Reserve Account Board is to use funds deposited in the Reserve Account to repurchase, at par value, such stock from the Secretary of the Treasury as funds become available for such repurchase. (Secs. 6.26(d)(3) and 6.26(d)(4).)

However, in any case, if the Financial Assistance Corporation is unable to pay principal or interest on a 15-year debt obligation, the Secretary of the Treasury would be required to pay the amount due. Whenever Treasury is required to make a payment of interest (because of an interest default) to the Corporation, the Secretary is to recover the amount of such payments from such defaulting institution. If the full amount is not recovered in 12 months, the uncollected amount would be paid to the Secretary out of the Reserve Account. (Sec. 6.26(d)(3).)

Issuance of preferred stock.—The *Senate* amendment contains a provision in subtitle B, section 6.27, that is directly tied into the financial assistance program under subtitle A. Section 6.27 provides that each FCS institution that is certified as eligible to receive financial assistance under the bill could issue preferred stock to the Financial Assistance Corporation in return for the assistance. The stock would be a special class of preferred stock for which dividends will not be payable (except as described below) and no voting rights will exist. The stock may be retired at the time the debt obligation it is associated with is retired if the institution pays off the FAC in full. However, preferred stock which is acquired by either the Reserve Account or the Treasury will be retired on such terms or conditions as are set by the holders. In addition, the Secretary of the Treasury (with respect to any such stock the Secretary purchases) will be allowed to establish, for such stock, a stated dividend rate equal to the current market yield on outstanding marketable obligations of the United States with maturity of 30 years, and a premium to reflect the cost of capital for institutions in financial distress. The Financial Assistance Corporation must purchase shares of the stock issued by certified FCS institutions to the extent that the issuance of such stock is approved by the Assistance Board. (Sec. 6.27) The *Senate* amendment, in section 105(e), also provides that preferred stock will be subordinated to, and impaired prior to, other stock or equities of the institution.

Treasury responsibility (subject to appropriations).—The Secretary of the Treasury will be required to reimburse the Financial Assistance Corporation for any amounts that the Corporation has paid in interest charges subject to the provisions described earlier relating to servicing the 15-year obligations. (Sec. 6.28.)

One-time assessment.—For the purpose of obtaining funds to capitalize the Trust Fund, each FCS institution would be required to purchase, from the Financial Assistance Corporation, stock issued by that corporation in an amount equal to the amount by which the unallocated retained earnings of the institution (after taking into account any funds received from reversing the assessments of the Capital Corporation) exceeds, in the case of an FCS bank, 5 percent of assets, or in the case of a production credit association or a Federal land bank association, 13 percent of assets. These unallocated retained earnings and assets would be computed in accordance with generally accepted accounting principles on the basis of the financial statement of the institution on December 31, 1986. (Secs. 6.29(a)(1) and 6.29(b).)

Reallocation.—An FCS district board, subject to the unanimous consent of the institutions within the district that would be affected by a reallocation, could reallocate the amount of stock to be purchased by institutions in the district to equitably reflect the institutions' ability to pay. However, the total amount of stock purchased by institutions in the district must equal the total amount of stock required to be purchased in the district, and the district board could not impair the stock of an association in doing so. A district board's authority to reallocate stock purchases would be limited to (a) reallocation among like associations of the amount of stock required to be purchased by such associations; (b) reallocation of the amount of stock required to be purchased by production credit associations among such associations and the district Federal intermediate credit bank; and (c) reallocation of the amount of stock required to be purchased by Federal land bank associations among such associations and the district Federal land bank. Other reallocations would not be permitted. (Sec. 6.29(a)(2).)

Not later than 15 days after notifying FCS institutions of the amounts to be provided by the Capital Corporation assessment reversals (described in item (29) below), the Financial Assistance Corporation would notify each institution of the amount of the one-time stock purchase. Likewise, in districts in which the stock purchase obligation has been reallocated as described above, the district would notify each institution in the district of the amount of the purchase that will be required. Not later than 15 days after notification, each institution would have to buy such stock. (Secs. 6.29(c) and 6.29(d).)

Jurisdictions.—The U.S. district court for the District of Columbia will have exclusive jurisdiction over any action brought under or arising out of the stock purchase provisions of section 6.29. No suit could be filed challenging required stock purchases unless and until the stock has been purchased and paid for in full. (Sec. 6.29(e).)

(29a) Financial report

The *Senate* amendment will require the Farm Credit Administration to review and evaluate the financial condition of the Farm Credit System, during the period beginning September 30, 2001, and ending December 31, 2001, and to submit a report to the Secretary of the Treasury and to the appropriate committees of the Congress on: (1) the general financial condition of each FCS institution; (2) the total outstanding principal of the 15-year guaranteed financial assistance bonds issued by the Financial Assistance Corporation; and (3) the ability of each FCS institution to retire at par value the preferred stock it issued to the Financial Assistance Corporation in connection with the assistance provisions of the bill. (Sec. 104.)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

(a) The *House* provision requires the Capital Corporation to cancel all assessments against FCS institutions and to return any funds collected under the assessments. These funds are to be returned effective December 31, 1987. During the period between the date of enactment of the bill and December 31, 1987, the Temporary Assistance Corporation could use Capital Corporation funds to carry out the financial assistance program. (Sec. 4.28L.)

The *Senate* amendment also cancels all the Capital Corporation assessments, but does so 15 days after the date of enactment and does not allow the funds to be used for any other purpose.

The *Conference* substitute adopts the *Senate* provision.

(b) The *Senate* amendment provides that, if after the assessments are refunded, there remains surplus funds in the Capital Corporation, the Assistance Board will be required to distribute the surplus among the FCS institutions that contributed funds to the Capital Corporation on the basis of the relative percentages contributed. (Sec. 6.10(d).)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

(30) FCS Loss-Sharing Capital Preservation Agreements

The *House* bill will provide for the return to contributing FCS institutions of amounts provided or obligated under capital preservation agreements entered into by the institutions, and to provide for the suspension of such agreements in the future.

Specifically, the *House* bill provides that any amounts received, or that remain accrued, by the institution in accordance with the activation of any bank capital preservation agreement for the calendar quarter ending on September 30, 1986 (the so-called "third-quarter assessment"), must be repaid (or reversed) to the contributing institution by the institution that received or accrued such assistance at such time as the receiving institution is provided with an equivalent amount of assistance or a commitment for such amount of assistance by the Temporary Assistance Corporation.

During the five-year period beginning on the date of the enactment of the bill and thereafter whenever funds from the Insurance Fund are available for use in assisting FCS institutions to meet their obligations on their debt instruments, the Thirty-Seven Banks Capital Preservation Agreement, the Federal Land Banks Capital Preservation Agreement, the Federal Intermediate Credit Banks Capital Preservation Agreement, and the Banks for Cooperatives Loss Sharing Agreement will be suspended in exchange for the benefits flowing to the signatories to such agreements under the bill. (Sec. 4.28M.)

The *Senate* amendment provides that in consideration of the benefits, both direct and indirect, received by each FCS bank and association, individually and collectively, under the Farm Credit Act of 1971, any amount paid by an FCS bank to another FCS bank under the Federal Land Bank Capital Preservation Agreement and the Thirty-Seven Banks Capital Preservation Agreement will be retained by the recipient bank. Also, any obligation accrued by an FCS bank under such agreements on or before September 30, 1986, but not paid on or before the date of enactment of the bill, must be paid in accordance with such agreements by such contributing bank in the amount as stated in the 1986 audited financial reports of such banks, notwithstanding any reservation, qualification, or condition expressed by the bank accruing or reporting the obligation. (Sec. 6.10(e).)

The *Conference* substitute adopts the *House* provision with an amendment that provides that the accounts payable under the third quarter 1986 Capital Preservation Agreement will be transferred to the Financial Assistance Corporation 5 days after the date of enactment, and institutions which are to receive funds under the third quarter agreements shall continue to carry the receivables on their books as an asset until such time as they are cashed out.

The conferees are confident that passing the Agricultural Credit Act of 1987 will alleviate any uncertainty the System auditors or the financial community may have had concerning the integrity of the third quarter 1986 accruals. In particular, the mechanism established in section ——, whereby the responsibility for third quarter 1986 accruals is transferred from the contributing banks to the Financial Assistance Corporation, assures timely payment to the receiving banks. The conferees further intend that the Financial Assistance Corporation will pay in cash to receiving banks their actual net loan charge-offs reported on the books of those institutions before January 1, 1993, in a timely fashion, after the first qualifying payments to the receiving banks to be made as soon as funds are available, and quarterly thereafter.

The Farm Credit System institution's management, boards of directors, and their independent auditor may take comfort in the legislative resolution of these issues in preparing and certifying the System's year-end 1987 financial statements without the necessity of subjecting the third quarter 1986 accruals to valuation allowance. This legislation will also eliminate any uncertainty that the third quarter accruals of the receiving banks continue to serve as eligible collateral for regulatory purposes.

Moreover, the conferees, by the passage of this legislation, have provided a resolution, not only of the issues which underlie the complex litigation concerning the third quarter 1986 accruals, but also assured that this matter is resolved without additional future litigation.

(31) TAC exemption from taxation

The *House* bill provides that the Temporary Assistance Corporation and its capital, reserves, and surplus (and income derived therefrom) will, except as described below, be exempt from Federal, State, municipal, and local taxation. Real estate held by the Corporation will be taxable to the extent other similar property held by others is taxed.

Also, the obligations issued by the Corporation will be deemed to be instrumentalities of the United States; and they (and the income therefrom) will be exempt from all State, municipal, and local taxation. (Sec. 4.28J.)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision with an amendment providing that bonds issued by the Financial Assistance Corporation receive the same tax treatment as current System-wide obligations.

(32) TAC restructuring reveiw committee

The *House* bill will require the Temporary Assistance Corporation to establish a committee to review decisions of the Corporation with respect to restructuring or preventive action under the bill. (Sec. 4.28K.)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

(33) Unsafe and unsound practices

Both the *House* bill and the *Senate* amendment will add language to the definition of "unsafe and unsound practice" (provided for the purposes of the enforcement provisions of the Farm Credit Act of 1971), to include within the definition noncompliance with terms or conditions governing financial assistance provided under the bill.

(a) The *Senate* amendment specifies that noncompliance referred to in the provision is that *by an FCS institution*, and that noncompliance is to be determined *by the Assistance Board in consultation with the Farm Credit Administration*. (Sec. 103.)

The *House* bill does not specify the entities to which "noncompliance" applies, nor the entity that determines noncompliance. (Sec. 105(c).)

The *Conference* substitute adopts the *Senate* provision.

(b) The *House* bill will add language to the definition of "unsafe or unsound practice", to include within the definition the following: a substantial deviation (as determined by the Farm Credit Administration) by an FCS institution from the business plan under which the Temporary Assistance Corporation is providing financial assistance to the institution. (Sec. 105(c).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

(34) Funding Corporation under the House bill

The *House* bill will combine the provisions of section 4.5 (finance committee for FCS banks) and section 4.9 (fiscal agency for FCS banks) of the Farm Credit Act of 1971 into section 4.9. It also will add new provisions establishing the combined fiscal agency and finance committee as the Farm Credit Banks Funding Corporation and providing for the handling of the repayments of Temporary Assistance Corporation financial assistance by the Funding Corporation. (Sec. 105(g).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision with an amendment to change the references to the Temporary Assistance Corporation to the Assistance Board.

Board of directors.—The board of directors of the Funding Corporation will be composed of nine voting members and one nonvoting member, as follows:

(a) Four voting members will be current or former directors of the FCS banks elected by the shareholders of the Funding Corporation.

(b) Three voting members will be chief executive officers or presidents of FCS banks elected by the shareholders of the Corporation.

(c) Two voting members will be appointed by the members described in clauses (1) and (2) after they have received recommendations for such appointments from, and consulted with, the Secretary of the Treasury and the Federal Reserve Chairman. The appointed members would be selected from U.S. citizens—

(i) who are not borrowers from shareholders in, or employees or agents, of any FCS institution, not affiliated with the Farm Credit Administration, and not actively engaged with a bank or investment organization that is a member of the Corporation's selling group for System-wide securities; and

(ii) who are experienced or knowledgeable in corporate and public finance, agricultural economics, and financial reporting and disclosure.

(d) The president of the Corporation would serve as a nonvoting member of the board.

In selecting candidates for positions described in clauses (a) and (b) above, due consideration would have to be given to choosing individuals knowledgeable in agricultural economics, public and corporate finance, and financial reporting and disclosure.

During the period in which the Temporary Assistance Corporation is in existence, the board of directors of the Temporary Assistance Corporation would designate one of its directors to serve as nonvoting representative to the board of directors of the Corporation. After such period, the board of directors of the Insurance Corporation (to be established under section 106 of the bill) could designate one of its directors to serve as a nonvoting representative to the board of directors of the Corporation. The persons so designated by the Temporary Assistance Corporation and by the Insurance Corporation could attend and participate in all deliberations of the board of directors of the Corporation.

Until a quorum of the board of directors of the Funding Corporation is elected or appointed, the finance committee established under section 4.5 in effect before the date of the enactment of the bill, and the fiscal agency established under section 4.9 in effect before such date of enactment, will continue to operate as if this section had not been enacted. (Secs. 4.9(d) and 4.9(e).)

Duties of the Funding Corporation.—The *House* bill will require the Funding Corporation to—

(1) issue, market, and handle the obligations of FCS banks, and interbank or intersystem flow of funds;

(2) acting for FCS banks and subject to approval of the Farm Credit Administration, determine the amount, maturities, rates of interest, terms, and conditions of participation by the several banks in each issue of joint, consolidated, or System-wide obligations (NOTE.—similar to current provisions of section 4.5); and

(3) pay to the Secretary of the Treasury all amounts received from any FCS bank in repayment of the FCS financial assistance provided under the bill, until the aggregate of t he amounts so paid (plus the amounts, if any, paid by the Farm Credit Administration in liquidating the assets and liabilities of the Temporary Assistance Corporation) equals the aggregate of the amounts paid by the Secretary of the Treasury to the Temporary Assistance Corporation. (Sec. 4.9(b).)

Administrative provisions.—The *House* bill will authorize the board of directors of the Funding Corporation to designate officers and committees for terms and purposes that are agreed on by the board. Also, when appropriate to the board's functions, a committee of the board, or representatives thereof, could act on behalf of the board in connection with the issuance of joint, consolidated, and System-wide obligations.

The *Conference* substitute adopts the *House* provision and, as noted, changes all the references to the Temporary Assistance Corporation to Assistance Board.

(35) Finance Committee under the Senate amendment

The *Senate* amendment will delete a provision currently in the Farm Credit Act of 1971. The deleted language provides that, when appropriate to the performance of their functions, subcommittees of FCS banks (or representatives thereof) constitute the subcommittees of the Finance Committee in connection with System-wide issues of obligations. (Sec. 210(b).)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *House* provision.

(36) Winding up the assistance entities

The *House* bill will provide the Farm Credit Administration, beginning five years after enactment of the bill, all powers tk liquidate commitments and obligations of the Teiporary Assistance Corpkration. Any fujds remaining after the expejses of hiquidation would be paid into the U.S. Treasury. (Sec* 105(h)(2)*)

The *Senate* amejdiejt provides that the Financial Assistance Corporation is to terminate kn the maturity and full payment of the 15-year guaranteed bonds issued to fund financial assistance under the bill. Any funds in the Corporation's accounts would be transferred to the Reserve Account. (Sec. 6.30.)

The *Conference* substitute adopts the *Senate* provision.

(37) Regulatory accounting procedures

The *House* bill will sunset authority for the use of regulatory accounting procedures (RAP) under the Farm Credit Act of 1971 (including both the authority for capitalizing and amortizing interest costs on certain obligations and capitalizing and amortizing loan loss reserves) at the earlier of: (1) the time that an FCS institution first receives financial assistance under the bill; or (2) 180 days after enactment of the bill. (Sec. 105(i).)

The *Senate* amendment will extend the authority for the use of RAP through 1992. With respect to capitalizing loan loss reserves, the continued use of RAP would be in accordance with FCA regulations and the special powers of the Assistance Board. (Sec. 105.)

The *Conference* substitute adopts the *Senate* provision.

(38) Undated letters of resignation

The *House* bill will prohibit the Temporary Assistance Corporation from requesting or requiring a member of the board of directors of an FCS institution to submit to the Temporary Assistance Corporation an undated letter of resignation. The Corporation also would be required to destroy all such letters that already exist and are in its control. (Sec. 105(j).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision.

(39) Reports

Both the *House* bill and the *Senate* amendment require the FCS financial assistance entity to report to the agriculture committees of Congress on how FCS financial assistance under the bill results in lower interest charges to FCS borrowers and restored financial solvency of FCS institutions.

The *House* bill will require annual reports. (Sec. 105(k).)

The *Senate* amendment will require semiannual reports. (Sec. 6.6(c).)

THE FEDERAL AGRICULTURAL MORTGAGE CORPORATION

(1) Purposes

(a) The *House* bill provides that it is a purpose of section 301 to provide a secondary marketing arrangement for farm real estate mortgages which meet the corporation's underwriting standards. (Sec. 301(a)(3).)

The *Senate* amendment provides that it is a purpose of title VII to provide a secondary marketing arrangement for qualified agricultural mortgage loans. (Sec. 701(3).)

The *Conference* substitute adopts the *House* provision with an amendment that substitutes "agricultural real estate" for "farm real estate." (Sec. 701.)

(b) The *House* bill states that the secondary marketing arrangement is provided in order to increase the availability of long-term credit to farmers at stable interest rates. (Sec. 301(a).)

The *Senate* amendment states that the secondary marketing arrangement is provided to increase the availability of long-term credit for producers at stable interest rates. (Sec. 701(3).)

The *Conference* substitute adopts the *House* provision with an amendment to refer to ranchers as well as farmers. (Sec. 701.)

(c) The *House* bill states that the secondary marketing arrangement is provided in order to provide greater liquidity and lending capacity in extending credit to farmers.

The *Senate* amendment states that the secondary marketing arrangement is provided to provide greater liquidity and lending capacity for agricultural lenders in extending credit to producers. (Sec. 701(3).)

The *Conference* substitute adopts the *House* provision with an amendment to refer to ranchers as well as farmers. (Sec. 701.)

(d) The *House* bill states that the secondary marketing arrangement is provided in order to provide an arrangement for new lending to facilitate capital market investments in providing long-term agricultural funding. (Sec. 201(a).)

The *Senate* amendment provides that the secondary marketing arrangement is provided to provide an arrangement to facilitate long and intermediate-term agricultural funding. (Sec. 701(3).)

The *Conference* substitute adopts the *House* provision. (Sec. 701.)

(2) Definitions

(a) The *House* bill provides a definition for the term "agricultural mortgage loan originator" as used in new part F. (Sec. 5.81(1).)[5]

The *Senate* bill is the same except the definition would apply to the term "originator". (Sec. 8.0(7).)[5]

The *Conference* substitute adopts the *Senate* provision. (Sec. 8.0.)

(b) The *Senate* amendment provides that the term "agricultural property" means an agricultural commodity or product, or personal property used in the production, storage, processing, marketing, or distrubution of an agricultural commodity or product. (Sec. 8.0(1).)[5]

The *House* bill contains no comparable provision.

The *Conference* substitute deletes the *Senate* provision. (Sec. 8.0.)[5]

(c) The *Senate* amendment provides that the term "agricultural real estate" means a building or structure affixed to a parcel of land that is used for the storage, processing, marketing, or distribution of one or more agricultural commodities or products. (Sec. 8.0(2).)[5]

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[5] (Note.—Section references are to sections to be added to the Farm Credit Act of 1971.)

The *House* bill contains no comparable provision.

The *Conference* substitute deletes the *Senate* provision.

(d) The *Senate* amendment provides that the term "agricultural real estate" means a principal residence that is a single family, moderate-priced residential dwelling located in a rural area, excluding any community having a population in excess of 2,500 inhabitants. (Sec. 8.0(2).)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision with an amendment. The amendment provides that, in addition to land or buildings used in the production of agricultural products, the term "agricultural real estate" also means a principal residence that is a single family, moderately priced residential dwelling, with a purchase price no greater than $100,000, as adjusted for inflation, located in a rural area excluding any community for more than 2,500 persons.

The conferees permitted the inclusion of residential mortgages in pools guaranteed by the Corporation in order to provide rural residents greater access to residential mortgages. The conferees intend that the Corporation increase the availability of residential mortgage financing in those areas not adequately served by other residential secondary markets.

The conferees intend, that in establishing standards for the residential mortgages that can be placed in pools guaranteed by the Corporation, the standards be similar to current regulations of the Farm Credit System regarding loans to rural residents. The conferees intend that the residence be used as a permanent, year-round home by the borrower, and not for rental or immediate resale. The conferees intend that a moderately priced home is one that provides adequate housing not in excess of living standards of persons in the middle range of income, and not inconsistent with the general quality and standards of housing in that area. In addition, the conferees do not intend that the Corporation guarantee pools which contain mortgages on residences in congested, high density, residential areas or villages which are part of an urbanizing area surrounding or immediately adjoining an urban area of a larger population center. The conferees expect that the Corporation will establish standards that minimize the potential for real estate speculation by persons obtaining mortgages placed in pools guaranteed by the Corporation.

(e) The *House* bill provides that the term "board" means the interim board of directors or the permanent board of directors, as the case may be. (Sec. 5.81(3).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision. (Sec. 8.0.)

(f) The *House* bill provides a definition for the term "certified agricultural mortgage marketing facility." (Sec. 5.81(4).)

The *Senate* amendment is the same except the definition would apply to the term "certified facility." (Sec. 8.0(4).)

The *Conference* substitute adopts the *Senate* provision. (Sec. 8.0.)

(g) The *House* bill provides a definition for the term "Corporation." (Sec. 5.81(5).)

The *Senate* amendment is the same except the definition would apply to the term "Mortgage Corporation." (Sec. 8.0(6).)

The *Conference* substitute adopts the *House* provision. (Sec. 8.0.)

(h) The *House* bill provides a definition for the term "credit enhancement." (Sec. 5.81.6).

The *Senate* amendment is the same except the definition would apply to the term "guarantee." (Sec. 8.0(5).)

The *Conference* substitute adopts the *Senate* provision. (Sec. 8.0.)

(i) The *House* bill provides that the term "interim board" means the interim board of directors established under section 5.82(c). (Sec. 5.81(7).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision. (Sec. 8.0.).

(j) The *House* bill provides that the term "permanent board" means the permanent board of directors established under section 5.82(d). (Sec. 5.81(8).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision.

(k) The *Senate* bill provides that an obligation will not meet the requirement of the definition provided for the term "qualified loan" unless the obligation is—

(i) secured by a fee-simple or leasehold mortgage with status as a first lien or agricultural real estate located in the United States that is not subject to any legal or equitable claims deriving from a preceding fee-simple or leasehold mortgage;

(ii) secured by a first lien on agricultural property located in the United States; or

(C) a loan made by a bank for cooperatives. (Sec. 8.0(8).)

The *House* bill provides that an obligation will not meet the requirements of the definition provided for the term "qualified agricultural mortgage loan" unless the obligation is—

(i) secured by a fee-simple or leasehold mortgage with status as a first lien on agricultural real estate located in the United States; and

(ii) approved by a certified facility as meeting the standards established by the corporation under section 5.87. (Sec. 5.81(9).)

The *Conference* substitute adopts the *House* provision with an amendment to provide that loans made by cooperatives (pursuant to Section 3.7(a) of the Farm Credit Act) may not be considered a "qualified loan" for purposes of the Act.

(1) The *House* bill provides that, to be considered a qualified loan, an obligation must be an obligation of a citizen of the United States, or a private corporation or partnership whose members, stockholders, or partners hold a majority interest in the corporation or partnership and are citizens of the United States. (Sec. 5.81(9).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision with an amendment to provide that in requiring that a qualified loan be an obligation of a citizen of the United States, such loans may also be an obligation of a U.S. national or an alien lawfully admitted for permanent residence in the U.S.

(m) The *Senate* amendment provides that, to be considered a qualified loan, an obligation must be an obligation of a person, corporation, or partnership that has training or farming experience that, under criteria established by the Corporation, is sufficient to assure a reasonable likelihood that the loan will be repaid according to its terms, or is a cooperative meeting the eligibility standards in section 3.7(a) of the Farm Credit Act. (Sec. 8.0(8).)

The *House* bill provides that, to be considered to be a qualified loan, an obligation must be an obligation of a person, corporation, or partnership that has training or farming experience, and meets the criteria established by the Corporation under proposed section 5.87, including underwriting standards. (Sec. 5.81(9).)

(NOTE.—The criteria under section 5.87 includes a standard, to be established by the Board, that would require each borrower to demonstrate sufficient cash-flow to adequately service the agricultural mortgage loan.)

The *Conference* substitute adopts the *Senate* provision with an amendment. (Sec. 8.0.)

(n) The *House* bill provides that the term "State" has the same meaning as given the term in section 5.51(1) of the Act. (Sec. 5.81(10).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision. (Sec. 8.0.)

(3) Establishment and purposes of the corporation

(a) The *House* bill provides that there is hereby established a corporation to be known as the Federal Agricultural Mortgage Corporation. (Sec. 5.82(a).)

The *Senate* amendment provides that there is created the Federal Agricultural Mortgage Corporation. The Corporation will be a body corporate under the direction of a Board of Directors.

The *Senate* amenn. (Sec. 8.1.(a).)

(c) The *House* bill provides that the Corporation will be the only institution of the Farm Credit System liable for the credit enhancement provided under section 5.85. (Sec. 5.82(a).)

The *Senate* amendment provides that the Farm Credit System and System institutions (other than the Mortgage Corporation) will not be liable for any debts or obligations of the Corporation. (Sec. 8.1(a).)

The *Conference* substitute adopts the *Senate* provision. (Sec. 8.1(a).)

(d) The *House* bill provides that the Corporation must, in consultation with originators, develop uniform underwriting and other necessary standards for qualified agricultural mortgage loans. (Sec. 5.82(b).)

The *Senate* amendment provides that the corporation must, in consultation with originators, develop uniform underwriting, security appraisal, and repayment standards for qualified loans. (Sec. 8.1(b).)

The *Conference* substitute adopts the *Senate* provision. (Sec. 8.1(b).)

(e) The *House* bill provides that the Corporation must provide credit enhancement for the timely repayment of principal and interest on securities representing interests in, or obligations backed by, pools of qualified agricultural mortgage loans. (Sec. 5.82(b).)

The *Senate* amendment provides that the Corporation must provide guarantee for the repayment of principal and interest due on pools of qualified loans. (Sec. 8.1(b).)

The *Conference* substitute adopts the *House* provision with an amendment to require that the Corporation provide guarantees for timely repayment. The Corporation may refuse such guarantees if underwriting standards are not met or for other reasons where in its judgement, an unreasonable risk exists.

(4) Interim board of directors

(a) The *House* bill provides that until the permanent board of directors first meets with a quorum of its members present, the Corporation will be under the management of an interim board of directors. (Sec. 5.82(c).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision. (Sec. 8.2(a).)

(b) The *House* bill provides that the interim board of directors will be composed of 9 members. (Sec. 5.82(c).)

The *Senate* amendment provides that the interim Board will consist of 15 members.

The *Conference* substitute adopts the *House* provision. (Sec. 8.2(a).)

(c) The *House* bill provides that the members of the interim board are to be appointed by the President within 60 days after enactment of the bill. (Sec. 5.82(c).)

The *Senate* amendment provides that not later than 90 days after the date of enactment of the bill, the interim Board of Directors must be appointed by the President. (Sec. 8.2(a).)

The *Conference* substitute adopts the *Senate* provision. (Sec. 8.2(a).)

(d) The *House* bill provides that the members of the interim board must be appointed by the President by and with the advise and consent of the Senate. (Sec. 5.82(c).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute deletes the *House* provision. (Sec. 8.2(a).)

(e) The *House* bill provides that 3 of the 9 members of the interim board are to be appointed from among persons who are representatives of banks, other financial institutions, and insurance companies. (Sec. 5.82(c).)

The *Senate* amendment provides that 5 of the 15 members of the interim Board must be representatives of banks, other financial institutions, and insurance companies. (Sec. 8.2(a).)

The *Conference* substitute adopts the *House* provision with an amendment to change the reference from financial institutions to financial entities so as to cover all of the type of entities that can be originators or qualified facilities. (Sec. 8.2(a).)

(f) The *House* bill provides that 3 of the 9 members of the interim board are to be appointed from among persons who are representatives of Farm Credit System institutions. (Sec. 5.82(c).)

The *Senate* amendment provides that 5 of the 15 members of the interim Board must be representatives of System institutions. (Sec. 8.2(a).)

The *Conference* substitute adopts the *House* provision. (Sec. 8.2(a).)

(g) The *House* bill provides that 2 members of the interim board must be appointed from among persons who are farmers and have not served as directors or officers of any financial institution. (Sec. 5.92(c).)

The *Senate* amendment provides that 5 of the 15 members of the interim Board must be farmers or ranchers, who are not presently, and who have not been, officers or directors of any financial institution. (Sec. 8.2(a).)

The *Conference* substitute adopts the *House* provision with an amendment to refer to ranchers and farmers, and to restrict service on the interim board by persons who are not presently, and who have not been directors or officers of any financial institution. There are no time limits on the application of the prior service prohibition. (Sec. 8.2(a).)

(h) The *Senate* amendment provides that the 5 members of the interim Board that are farmers or ranchers must be experienced in financial matters. (Sec. 8.2(a).)

The *House* bill contains no comparable provision.

The *Conference* substitute deletes the *Senate* provision.

(i) The *Senate* amendment provides that no more than 3 of the 5 members of the interim Board that are farmers or ranchers may be members of the same political party. (Sec. 8.2(a).)

The *House* bill provides that not more than 5 of the 9 members of the interim board may be of the same political party. (Sec. 5.82(c).)

The *Conference* substitute adopts the *House* provision. (Sec. 8.2(a).)

(j) The *Senate* amendment provides that not more than 2 of the 5 members of the interim Board who are farmers or ranchers may be stockholders of any System institution. (Sec. 8.2(a).)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision with an amendment to apply the proscription to not more than one of the two members of the interim Board who are farmers or ranchers. This is consistent with the reduction of the number of public members of the interim board to three from five. (Sec. 8.2(a).)

(k) The *House* bill provides that a vacancy in the interim board will be filled in the manner in which the original appointment was made. (Sec. 5.82(c).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision. (Sec. 8.2(a).)

(l) The *House* bill provides that if any member of the interim board appointed from among person who are representatives of banks, other financial institutions, insurance companies or Farm Credit System institutions ceases to be such a representative; or if any member appointed from among persons who are not or have not been directors or officers of any financial institution becomes a director or an officer of any institution, then the member may continue as a member for not longer than 45-days after the member ceases to be a representative or becomes a director or officer, as the case be. (Sec. 5.82(c).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision. (Sec. 8.2(a).)

(m) The *House* bill provides that—

(i) The members of the interim board will be appointed for the life of the board;

(ii) 5 members of the interim board will constitute a quorum; and

(iii) The interim board will meet at the call of the chairperson or a majority of its members. (Sec. 5.82(c).)

The *Senate* amendment contains not comparable provisions.

The *Conference* substitute adopts the *House* provision. (Sec. 8.2(a).)

(n) The *House* bill provides that on the appointment of sufficient members of the interim board to convene a meeting with a quorum present, the interim board must arrange for an initial offering of common stock and take whatever other actions are necessary to proceed with the operations of the Corporation. (Sec. 5.82(c).)

The *Senate* amendment provides that the interim Board must arrange for an initial offering of voting common stock and take whatever other actions are necessary to proceed with the operations of the Mortgage Corporation. (Sec. 8.2(a).)

The *Conference* substitute adopts the *House* provision. The Conferees intend that the interim board perform only a basic role analogous to incorporators under State business corporation laws. (Sec. 8.2(a).)

(o) The *Senate* amendment provides that—

(i) the voting common stock must be offered to banks, other financial entities, insurance companies, and System institutions under such terms and conditions as the interim Board may adopt; and

(ii) the voting stock must be fairly and broadly offered to assure that no institution or institutions acquire a disproportionate amount of the total amount of voting common stock outstanding of a class, and that capital contributions and issuances of voting common stock for the contributions are fairly and broadly distributed between entities eligible to hold class A and class B stock. (Sec. 8.2(a).)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision. (Sec. 8.2(a).)

(p) The *House* bill provides that the interim board will terminate when the permanent board of directors first meets with a quorum present. (Sec. 5.82(c).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision. (Sec. 8.2(a).)

(5) Permanent board of directors.

(a) The *House* bill will provide that when banks, other financial institutions, insurance companies, and Farm Credit System institutions have fully paid in $20,000,000 in capital contributions in return for common stock of the Corporation, the interim board must arrange for the organization of a permanent board of directors. (Sec. 5.82(d).)

The *Senate* amendment provides that immediately after the date that banks, other financial institutions, insurance companies, and System institutions have subscribed and fully paid for at least $20,000,000 of common stock, the Corporation must arrange for the election and appointment of a board of directors. (Sec. 8.2(d).)

The *Conference* substitute adopts the *Senate* provision. (Sec. 8.2(b).)

(b) The *House* bill provides that after the termination of the interim board the Corporation will be under the management of the permanent board of directors. (Sec. 8.2(d).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision. (Sec. 8.2(b).)

(c) The *House* bill provides that the permanent board of directors will be composed of 13 members. (Sec. 5.82(d).)

The *Senate* amendment provides that the board will consist of 15 members. (Sec. 8.2(d).)

The *Conference* substitute adopts the *Senate* provision. (Sec. 8.2(b).)

(d) The *House* bill provides that 3 of the 13 members of the board are to be elected by the holders of the class of common stock issued to insurance companies, banks, and other financial institutions. At least 1 of the members must be actively engaged in the production of 1 or more agricultural commodities at the time of appointment. (Sec. 5.82(d).)

The *Senate* amendment provides that 5 of the 15 members of the board must be elected by holders of common stock that are insurance companies, banks, or other financial entities. (Sec. 8.2(b).)

The *Conference* substitute adopts the *Senate* provision. (Sec. 8.2(b).)

(e) The *House* bill provides that 3 of the 13 members of the board are to be elected by the holders of the class of common stock issued to Farm Credit System institutions. At least 1 of these members must be actively engaged in the production of one or more agricultural commodities at the time of appointment. (Sec. 5.82(d).)

The *Senate* amendment provides that 5 of the 15 members of the board must be elected by holders of common stock that are System institutions. (Sec. 8.2(b).)

The *Conference* substitute adopts the *Senate* provision. (Sec. 8.2(b).)

(f) The *House* bill provides that 6 of the 13 members of the board must be appointed by the President. (Sec. 5.82(d).)

The *Senate* amendment provides that 5 of the 15 members of the board must be appointed by the President. (Sec. 8.2(b).)

The *Conference* substitute adopts the *Senate* provision with an amendment to require that the President's appointments to the permanent board be with the advice and consent of the Senate. (Sec. 8.2(b).)

(g) The *House* bill provides that the 6 members of the Board appointed by the President are to be appointed with the advise and consent of the Senate. (Sec. 5.82(d).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision with an amendment. (Sec. 8.2(b).)

(h) The *House* bill provides that, of the 6 members of the board appointed by the President, 2 members must be farmers who have not served as a director or an officer of any financial institution. (Sec. 5.82(d).)

The *Senate* amendment provides that, of the 5 members of the board appointed by the President, at least 2 must be experienced in farming or ranching, and are not, and have not been, officers or directors of any financial institutions. (Sec. 8.2(b).)

The *Conference* substitute adopts the *Senate* provision. (Sec. 8.2(b).)

(i) The *House* bill provides that 1 of the 6 members of the board appointed by the President must represent the interests of the general public and not have served as a director or officer of any financial institution. (Sec. 5.82(d).)

The *Senate* amendment provides that the 5 members appointed by the President must be representatives of the general public, and not, and not have been, officers or directors of any financial institutions. (Sec. 8.2(b).)

The *Conference* substitute adopts the *Senate* provision.

(j) The *House* bill provides that 1 of the 6 members of the board appointed by the President must be appointed from among persons that represent the interests of the general public; are specially qualified to serve on the Board by virtue of their education, training or experience in secondary financial markets; and are not directors or officers of any financial institution. (Sec. 5.82(d).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision. (Sec. 8.2(b).)

(k) The *Senate* amendment provides that the 5 members of the board appointed by the President must be experienced in financial matters. (Sec. 8.2(b).)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *House* provision. (Sec. 8.2(b).)

(l) The *House* bill provides that the board will include the Secretary of Treasury or the Secretary's designee. (Sec. 5.82(d).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute deletes the *House* provision. (Sec. 8.2(b).)

(m) The *House* bill provides that not more than 4 of the 6 members of the board appointed by the President including the Secretary of the Treasury or the Secretary's designee, may be of the same political party. (Sec. 5.82(d).)

The *Senate* amendment provides that no more than 3 of the 5 members of the board appointed by the President may be members of the same political party. (Sec. 8.2(b).)

The *Conference* substitute adopts the *Senate* provision. (Sec. 8.2(b).)

(n) The *Senate* amendment provides that the President must appoint the 5 appointed members of the board not later than the later of the date—

(i) that banks, other financial institutions, insurance companies, and System institutions have subscribed and fully paid for at least $20,000,000 of common stock of the Mortgage Corporation; or

(ii) 270 days after the date of enactment of the amendment. (Sec. 8.2(b).)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision. (Sec. 8.2.)

(o) The *House* bill provides a vacancy among the members elected to the board must be filled by the Board from among persons eligible for election to the position. (Sec. 5.82(d).)

The *Senate* amendment provides that any seat on the board that becomes vacant after the annual election of the directors must be filled by members of the board from the same category of directors. (Sec. 8.2(c).)

The *Conference* substitute adopts the *House* provision. (Sec. 8.2(b).)

(p) The *House* bill provides that a vacancy in the board among members appointed by the President must be filled in the manner in which the original appointment was made. (Sec. 5.82(d).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision. (Sec. 8.2(b).)

(q) The *House* bill provides that if—

(1) any member of the board who is appointed or elected to the board from among persons who are representative of banks, other financial institutions, insurance companies or Farm Credit System institutions, or are officers or employees of the United States, ceases to be such a representative, officer, or employee, or

(2) any member who was appointed from persons who are not or have not been directors or officers of any financial institution becomes a director or an officer of any financial institution.

the member may continue for not longer than the 45-day period beginning on the date the member ceases to be a representative, officer, or employee or becomes a director or officer, as the case may be. (Sec. 5.82(d).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision with an amendment to include financial entities, and to delete the language "or are officers or employees of the United States". (Sec. 8.2(b).)

(r) The *House* bill provides that members of the board appointed by the President will serve at the pleasure of the President. (Sec. 5.82(d).)

The *Senate* amendment provides that the term of office of members appointed by the President will be 3 years and until their successors have been appointed and qualified. With regard to the initial appointments of members, the terms of two of the members will expire 2 years after the date of appointment and the term of one of the members will expire 1 year after the date of appointment. (Sec. 8.2(c).)

The *Conference* substitute adopts the *House* provision. (Sec. 8.2(b).)

(s) The *House* bill provides that the stockholder-elected members of the board will be elected for a term ending on the date of the first annual meeting of the common stockholders of the Corporation which convenes after the member is elected. (Sec. 5.82(d).)

The *Senate* amendment provides that the stockholder-elected members will each be elected annually for a term ending on the date of the next annual meeting of the common stockholders of the Corporation and will serve until their successors are elected and qualified. (Sec. 8.2(c).)

The *Conference* substitute adopts the *House* provision. (Sec. 8.2(b).)

(t) The *House* bill provides that any member appointed to fill a vacancy before the expiration of the term for which the new member's predecessor was appointed will be appointed only for the remainder of the term. (Sec. 5.82(d).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision. (Sec. 8.2(b).)

(u) The *House* bill provides that a member may serve after the expiration of the member's term until the member's successor has taken office. (Sec. 5.82(d).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision. (Sec. 8.2(b).)

(v) The *House* bill provides that members of the board who are full-time officers or employees of the United States will receive no additional pay by reason of the member's service on the board. (Sec. 5.82(d).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision. (Sec. 8.2(b).)

(w) The *House* bill provides that the President will designate one of the members of the board, from among those members appointed by the President, as the Chairperson of the board. (Sec. 5.82(d).)

The *Senate* amendment provides that the board of directors will elect, on an annual basis, a chairman from among the members of the board. (Sec. 8.2(c).)

The *Conference* substitute adopts the *House* provision. (Sec. 8.2(b).)

(x) The *House* bill provides that the board will meet at the call of the chairperson or a majority of its members. (Sec. 5.82(d).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision. (Sec. 8.2(b).)

(y) The *House* bill provides that the board may appoint, employ, fix the pay of, and provide other allowances and benefits for such officers and employees of the Corporation as the board determines to be appropriate. (Sec. 5.82(e).)

The *Senate* amendment provides that the Board will select, appoint, and determine the compensation of qualified persons to fill such offices as may be provided for in the bylaws of the Corporation. (Sec. 8.3(b).)

The *Conference* substitute adopts the *House* provision. (8.2(c).)

(z) The *House* bill provides that the board may establish and enforce such bylaws, and prescribe such other policies, as the board determines to be necessary or appropriate to carry out the provisions of the part F. (Sec. 5.82(d).)

The *Senate* amendment provides that the Mortgage Corporation will be a body corporate and will have power to prescribe bylaws, through the board of directors, not inconsistent with law, that provide for the classes of the stock of the Corporation, and the manner in which (i) the stock will be issued, transferred, and retired; (ii) the officers, employees, and agents of the Corporation are selected; (iii) the property of the Corporation is acquired, held, and transferred; (iv) the commitments and other financial assistance of the Corporation are made; (v) the general business of the Corporation is conducted; and (vi) the privileges granted by law to the Corporation are exercised and enjoyed. (Sec. 8.3(b).)

The *Conference* substitute adopts the *Senate* provision. (Sec. 8.3(c).)

(6) Powers and duties of the Mortgage Corporation and Board

(a) The *Senate* amendment provides that after the board has been duly constituted, subject to the other provisions of title VII and other commitments and requirements established pursuant to law, the Corporation may provide guarantees on terms and conditions determined by the Corporation to securities issued on the security of, or in participation in, pooled interests in qualified loans. (Sec. 8.3(a).)

The *House* bill provides that the Corporation will have the power to provide credit enhancement in the manner provided under section 5.85. (Sec. 5.82(g).)

The *Conference* substitute adopts the *Senate* provision. (Sec. 8.3(a).)

(b) The *Senate* amendment provides that the board must—

(i) determine the general policies that will govern the operations of the Corporation; and

(ii) assign to persons filling offices of the Corporation executive functions, powers, and duties as may be prescribed by the bylaws of the Corporation or the Board.

The *Senate* amendment also provides that the persons so elected or appointed will be the executive officers of the Corporation and must discharge the executive functions, power, and duties of the Corporation. (Sec. 8.3(b).)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision. (Sec. 8.3(b).)

(c) The *House* bill provides that the Corporation will have the power to issue common stock in the manner provided in section 5.83. (Sec. 5.82(g).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision. (Sec. 8.2(c).)

(d) The *Senate* amendment provides that the Corporation will be a body corporate with the power to operate under the direction of its Board. (Sec. 8.3(c).)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision. (Sec. 8.3(c).)

(e) The *Senate* amendment provides that the Corporation will have the power to provide for a president, one or more vice presidents, secretary, treasurer, and such other officers, employees, and agents, as may be necessary, define their duties and compensation levels, all without regard to title 5, United States Code, and require surety bonds or make other provisions against losses occasioned by acts of the persons. (Sec. 8.3(c).)

The *House* bill provides that the Corporation will have the power to require surety bonds or make other provisions against losses occasioned by acts of officers or employees of the Corporation. (Sec. 5.82(g).)

(NOTE: Also see Sec. 5.82(e) regarding the board's authority to appoint officers and staff. Sec. 5.82.(e) is compared with Sec. 8.3(b) on page).

The *Conference* substitute adopts the *Senate* provision.

(f) The *House* bill provides that the Corporation will have the power to have succession until dissolved by Act of Congress. (Sec. 5.82(g).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision. (Sec. 8.3(c).)

(g) The *Senate* amendment provides that the Corporation will have the power to—

(i) prescribe the standards as may be necessary to carry out title VII; and

(ii) make and perform contracts, agreements and commitments with persons and entities both inside and outside the Farm Credit System. (Sec. 8.3(c).)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision. (Sec. 8.3(c).)

(h) The *House* bill provides that the Corporation will have power to enter into contracts. (Sec. 5.82(g).)

The *Senate* amendment provides that the Corporation will have the power to enter into contracts and make payments with respect to contracts. (Sec. 8.3(c).)

The *Conference* substitute adopts the *Senate* provision. (Sec. 8.3(c).)

(i) The *House* bill provides that the Corporation will have power to sue and be sued in its corporate capacity and to complain and defend in any action brought by or against the Corporation in any State or Federal court of competent jurisdiction. (Sec. 5.82(g).)

The *Senate* amendment provides that the Corporation will have power to sue and be sued in its corporate name and complain and defend in a court of competent jurisdiction. (Sec. 8.3(c).)

The *Conference* substitute adopts the *House* provision. (Sec. 8.3(c).)

(j) The *Senate* amendment provides that the Corporation will have power to sell or exchange any securities or obligations. (Sec. 8.3(c).).

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision with an amendment. The Senate amendment provided that the Corporation has power to "sell or exchange" any securities or obligations. The conferees adopted an amendment that modified this language to "purchase or sell" any securities or obligations. The Corporation's powers to purchase or sell securities or obligations are limited to doing so on its own account for investment purposes and will not include the power to set up a securities exchange for the purpose of obtaining commissions or consideration of any kind.

(k) The *Senate* amendment provides that the Corporation will have power to exercise such other incidental powers as necessary to carry out the duties of the Corporation in accordance with title VII. (Sec. 8.3(c).)

The *House* bill provides that the Corporation will have power to exercise such other incidental powers as are necessary to carry out the Corporation's purpose in accordance with part F. (Sec. 5 .82(g).)

The *Conference* substitute adopts the *House* provision. (Sec. 8.3(c).)

(l) The *House* bill provides that the Federal Reserve banks may act as depositaries for, or as fiscal agents or custodians of, the Corporation. (Sec. 5.82.)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision. (Sec. 8.3(d).)

(m) The *House* bill provides that the Secretary of the Treasury may authorize the Corporation to use the book-entry system of the Federal Reserve System. (Sec. 5.82.)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision. (Sec. 8.3(e).)

(7) Voting common stock of the Corporation

(a) The *House* bill provides that the Corporation may issue common stock with par value in an amount to be determined by the Board. (Sec. 5.83(a).)

The *Senate* amendment provides that the Corporation must issue voting common stock having such par value as may be fixed by the Board from time to time* (Sec. 8.4(a).)

(NOTE.—The *House* bill provides that each share of common stock will entitle the holder to 1 vote. (Sec. 5.83(a).)

The *Conference* substitute adopts the *Senate* provision. (Sec. 8.4(a).)

(b) The *House* bill provides that after the date the permanent board first meets with a quorum present, the common stock may be issued only to lone originators and certified facilities. (Sec. 5*83(a).)

The *Senate* amendment provides that *voting* common stock may only be issued to originators and certified facilities. (Sec. 8.4(a).)

The *Conference* substitute adopts the *House* provision. The Conferees intend that entities which, prima facie, meet the eligibility standards for originators and facilities will be entitled to participate in the initial subscription and sale of Class A and Class B stock, subject to adjustment of ownership when qualification standards are adopted by the permanent board. This will facilitate the election of two classes of members of the permanent board which can then develop underwriting, servicing, appraisal, and qualification standards. (Sec. 8.4(a).)

(c) The *Senate* amendment designates the two classes of stock as "Class A" and "Class B". (Sec. 8.4(a).)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision. (Sec. 8.4(a).)

(d) The *House* bill provides that the Board must adopt such terms, conditions, and procedures with regard to the issue of stock under section 5.83 as may be necessary. (Sec. 5.83(a).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision. (Sec. 8.4(a).)

(e) The *House* bill provides that subject to such limitations as the Board may impose, any share of any class of common stock issued under 5.83 will be transferable among the institutions to which shares of the class of common stock may be offered. (Sec. 5.83(a).)

The *Senate* amendment provides that a common share issued will be fully transferable except as the Corporation may restrict in its bylaws. (Sec. 8.4(b).)

The *Conference* substitute adopts the *House* provision with an amendment to refer to institutions and entities. (Sec. 8.4(a).)

(f) The *Senate* amendment provides that no stockholder, other than a holder of class B stock (stock issued to System institutions), may own, directly or indirectly, more than 10 percent of the outstanding shares of class B voting common stock of the Corporation. (Sec. 8.4(b).)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision with an amendment to increase the maximum permitted ownership from 10 to 33 percent of the outstanding shares of the Class A stock. (Sec. 8.4(a).)

(g) The *House* bill provides that the corporation may require capital contributions to meet the administrative expenses of the corporation. (Sec. 5.83(b).)

The *Senate* amendment provides for capital contributions to carry out title VII of the amendment. (Sec. 8.4(c).)

The *Conference* substitute adopts the *House* provision. (Sec. 8.4(b).)

(h) The *House* bill provides that the Corporation must issue common stock commensurate with any required capital contribution. (Sec. 5.83(b).)

The *Senate* amendment provides that the Corporation must issue voting common stock evidencing any required capital contribution. (Sec. 8.4(c).)

The *Conference* substitute adopts the *Senate* provision. (Sec. 8.4(b).)

(i) The *House* bill provides that the Corporation may pay to the holders of common stock such reasonable dividends as the Board may declare from time to time. (Sec. 5.83(b).)

The *Senate* amendment provides that such dividends as may be declared by the board, in the discretion of the board, must be paid by the Corporation to the holders of the voting common stock pro rata based on the total number of shares of both classes of stock outstanding. (Sec. 8.4(c).)

The *Conference* substitute adopts the *Senate* provision. (Sec. 8.4(c).)

(j) The *House* bill provides that no dividend may be declared or paid by the board unless the board determines the adequate provision has been made for the Corporation's reserve against losses required under section 5.88(b)(1).

The *House* bill also provides that no dividend may be declared or paid by the board while any obligation issued by the Corporation to the Secretary of the Treasury under section 5.91 remains outstanding. (Sec. 5.83(b).)

The *Senate* amendment contains no comparable provisions.

The *Conference* substitute adopts the *House* provision. (Sec. 8.4(c).)

(k) The *Senate* amendment provides that the Corporation is authorized to issue nonvoting common stock having such par value as may be fixed by the board from time to time. The nonvoting common stock will be freely transferable, except that, as to the Corporation, the stock will be transferable only on the books of the Corporation. (Sec. 8.4(e).)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision with an amendment to permit the board to declare dividends on nonvoting stock subject to the determination that must be made in order for dividends to be paid to voting stock. (Sec. 8.4(d).)

(1) The *Senate* amendment provides that the Corporation is authorized to issue nonvoting preferred stock having such par value as may be fixed by the Board from time to time. Preferred stock will be freely transferable, except that, as to the Corporation, the stock will be transferred only on the books of the Corporation.

Holders of preferred stock will be entitled to a rate of cumulative dividends and redemption or other conversion provisions as may be provided for at the time of issuance. No dividends will be payable on any share of common stock at any time when any dividend is due on any share of preferred stock.

In the event of any liquidation, dissolution, or winding up of the business of the Corporation, the holders of the preferred shares of stock will be paid in full at par value, plus all accrued dividends, before the holders of the common shares receive any payment. (Sec. 8.4(f).)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision with amendment to provide that with regard to dividends for the holders of preferred stock, it is within the discretion of the Board of Directors of the Corporation to declare dividends. The amendment also provides that no dividend may be declared or paid to preferred stockholders unless the Board determines that adequate reserved required under section 8.10 have been made, or while any of the Corporation's obligations or those of the U.S. Treasury under section 8.13 remain outstanding. This is similar to the treatment of dividends to the holders of voting common stock as well.

(8) Certification of facilities

(a) The *House* bill provides that within 120 days after the permanent board first meets with a quorum present, the Corporation must issue standards for the certification of agricultural mortgage marketing facilities. (Sec. 5.84.)

The *Senate* amendment provides that no later than 120 days after the appointment and election of the board, the Corporation must issue standards for certification of agricultural mortgage marketing facilities.

The *Conference* substitute adopts the *House* provision. (Sec. 8.5(a).)

(b) The *House* bill provides that to be eligible to be certified, the facility must be an institution of the Farm Credit System or a corporation, association, or trust organized under the laws of the United States or of any State. (Sec. 5.84(a).)

The *Senate* amendment provides that to be eligible, the facility must be an institution of the Farm Credit System or a corporation, association, or trust organized under the laws of any State or the District of Columbia. (Sec. 8.5(a).)

The *Conference* substitute adopts the *House* provision. (Sec. 8.5(a).)

(c) The *House* bill will require the facility to meet or exceed capital standards established by the Board. (Sec. 5*84(a).)

The *Senate* amendment will require the facility to have adequate capitalization. (Sec. 8.5(a).)

The *Conference* substitute adopts the *House* provision. (Sec. 8.5(a).)

(d) The *House* bill will require the facility to demonstrate managerial ability that is acceptable to the Corporation. (Sec. 5.84(a).)

The *Senate* amendment is the same except the facility must demonstrate acceptable managerial ability. (Sec. 8.5(a).)

The *Conference* substitute adopts the *House* provision. (Sec. 8.5(a).)

(e) The *House* bill will require the facility to adopt appropriate loan underwriting, appraisal, and servicing standards and procedures that meet or exceed the standards established by the board. (Sec. 5.84(a).)

The *Senate* amendment is the same except the standards and procedures must be in conformity with uniform standards established by the Corporation. (Sec. 8.5(a).)

The *Conference* substitute adopts the *House* provision. (Sec. 8.5(a).)

(f) The *House* bill will require that for purposes of enabling the Corporation to examine the facility, the facility must allow officers or employees of the Corporation to have access to all books, accounts, financial records, reports, files, and all other papers, things, or property, of any type whatsoever, belonging to or used by the Corporation which are necessary to facilitate an examination of the facility's operations in connection with securities, and the pools of qualified agricultural mortgage loans which back securities for which the Corporation has provided credit enhancement. (Sec. 5.84(a).)

The *Senate* amendment requires that the facility must permit the Corporation to examine the books, records, and loan files of the facility with respect to the operations of the facility and enhancement of pools of the facility. (Sec. 8.5(a).)

The *Conference* substitute adopts the *House* provision. (Sec. 8.5(a).)

(g) The *Senate* amendment requires the facility to adopt appropriate minimum standards and procedures relating to loan administration and disclosure to borrowers concerning the terms and rights applicable to loans for which guarantee is provided, in conformity with uniform standards established by the Corporation. (Sec. 8.5(a).)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *House* provision. (Sec. 8.5(a).)

(b) The *House* bill provides that the facility must be certified if the facility meets the standards established by the Corporation. (Sec. 5.84(b).)

The *Senate* amendment is the same except the application of the facility must meet the standards established by the Corporation. (Sec. 8.5(b).)

The *Conference* substitute adopts the *House* provision. (Sec. 8.5(b).)

(i) The *House* bill provides that any certification of a facility will be effective for a period determined by the Corporation at the time of certification but in no event for any period greater than 5 years. (Sec. 5.84(c).)

The *Senate* amendment is the same except the Corporation is not required to make the determination of the period at the time of certification. (Sec. 8.5(c).)

The *Conference* substitute adopts the *Senate* provision. (Sec. 8.5(c).)

(j) The *House* bill provides that revocation of a facility's certification will not affect any commitment issued by the Corporation providing credit enhancement for securities representing interests in, or obligations backed by, any pool of qualified loans. (Sec. 5.84(d).)

The *Senate* amendment provides that revocation of a certification will not affect any pool guarantee that has been issued by the Corporation. (Sec. 8.5(c).).

The *Conference* substitute adopts the *Senate* provision (Sec. 8.5(d).)

(9) Affiliation of FCS institutions

(a) The *House* bill provides that notwithstanding any other provision of the Farm Credit Act of 1971, any Farm Credit System institution (other than the Corporation), acting for such institution alone or in conjunction with 1 or more other such institutions, may establish and operate, as an affiliate, an agricultural mortgage facility if, within a reasonable time after establishment, the facility obtains and thereafter retains certification. (Sec. 5.84(e).)

The *Senate* amendment would amend the Farm Credit Act of 1971 to allow system institutions to operate as an originator and to become a certified facility. (Sec. 703.)

The *Conference* substitute adopts both the *House* and *Senate* provisions. (Sec. 8.5(e).)

(b) The *House* bill provides that any number of Farm Credit System institutions (other than the Corporation) may enter into an agreement with any certified facility (including an affiliate) to sell the qualified agricultural mortgage loans of such institutions exclusively to or through the facility. (Sec. 5.84(e).)

The *Senate* bill contains no comparable provision.

The *Conference* substitute adopts the *House* provision. The Conferees intend that associations will be free to contract exclusively with other FCS institutions notwithstanding any other relationship between the parties or among FCS institutions. (Sec. 8.5(e).)

(10) Credit enhancement (guarantee) for securities backed by pools of qualified loans.

(a) The *House* bill provides that subject to the requirements of section 5.85 and section 5.86, the Corporation must carry out a program of credit enhancement and may provide such credit enhancement only for securities issued by a certified facility which represent interests in, or obligations backed by, any pool of qualified loans which is held by the facility. (Sec. 5.85(a).)

The *Senate* amendment provides that on such terms and conditions as the Corporation may consider appropriate, the Corporation must guaranty the timely payment of principal and interest on the securities issued by a certified facility that represents interests in, or obligations backed by, any pool of qualified loans held by such facility. (Sec. 8.6(a).)

The *Conference* substitute adopts the *Senate* provision. The section provides that Corporation guarantee is subject to certain conditions and only where appropriate. It is intended that the Corporation be given flexibility to refuse such guarantees where underwriting standards are not met or for other reasons where in its judgment, an unreasonable risk exists.

(b) The *Senate* amendment provides that if the facility is unable to make any payment of principal or interest on any security for which a guaranty has been provided, the Corporation must make such payment as and when due in cash, and on payment will be subrogated fully to the rights satisfied by such payment.

The *Senate* amendment also provides that notwithstanding any other provision of law, the Corporation is empowered, in connection with any guaranty under section 8.6(a), whether before or after any default, to provide by contract with the facility for the extinguishment, on default by the facility, of any redemption, equitable, legal, or other right, title, or interest of the facility in any mortgage or mortgaged constituting the pool against which the guaranteed securities are issued. With respect to any issue of guaranteed securities, in the event of default and pursuant otherwise to the terms of the contract, the mortgages that constitute the pool will become the absolute property of the Corporation subject only to the unsatisfied rights of the holders of the securities based on and backed by the pool. (Sec. 8.6(a).)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision. (Sec. 8.67(a).)

(c) The *House* bill provides that the Corporation may not provide credit enhancement under section 5.85 with respect to securities which represent interests in, or obligations backed by, any pool of qualified agricultural mortgages loans unless—

(i) a reserve which meets the requirements of section 5.86(a) has been established, with respect to the loans constituting the pool, in the manner and in an amount described in the section; or

(ii) subordinated participation interests in the loans which meet the requirements of section 5.86(b) have been retained in the manner and in amounts described in the section (Sec. 5.85(b).)

The *Senate* amendment provides that the Corporation may provide guarantee only if a reserve in an amount equal to at least 10 percent of the principal amount of the loans constituting the pool has been established in accordance with title VII. (Sec. 8.6(b).)

The *Conference* substitute adopts the *Senate* provision. (Sec. 8.6(b).)

(d) The *Senate* amendment provides that the Corporation must provide guarantee only with respect to an individual pool of qualified loans on application of a certified facility. (Sec. 8.6(b).)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision with an amendment to include guidelines conditioning the guarantees for securities that represent interest in a pool of qualified loans issued by certified facilities. Consistent with the Act, it is intended that the Corporation be given flexibility to refuse such guarantees, where appropriate.

(d) The *House* bill provides that the Corporation will not be liable for any payment of any amount of the principal of, or interest on, any security for which credit enhance-ment has been provided under section 5.85 until—

(i) all amounts in the reserve established with respect to the pool of qualified loans in connection with which the security was issued have been exhausted; and

(ii) the aggregate amount of subordinated participations in such loans which have been retained by the facility or the originator of any such loan (and the amount in any reserve established by the facility with respect to any such interest have been surrendered or otherwise transferred to the Corporation. (Sec. 5.85(b).)

The *Senate* amendment provides that the Corporation must—

(i) require that reserves and retained subordinated interests must be first exhausted before any demand be made by the certified facility with respect to the guarantee of the Corporation;

(ii) assure the timely receipt of principal and interest due to security or obligation holders only after exhaustion of the reserves and retained subordinated participating interests; (Sec. 8.6(b).)

The *Conference* substitute adopts the *Senate* provision with an amendment. In authorizing the establishment of subordinated participation interests to back the securities, the Managers intend to provide facilities with flexibility in the design of those subordinated participation interests rather than restrict the facilities to a particular design. The Managers further intend to allow reserves, and including subordinated interests to be reduced over time in a reasonable manner to reflect reduction in risk to the senior security holders and to reflect unreimbursed payments by the subordinated interest to the senior security holders.

(e) The *House* bill provides that to reduce the risks incurred by the Corporation in providing credit enhancement, and to further the purposes of Part F, the Board must establish standards governing the composition of each pool of qualified agricultural mortgage loans (in connection with which such credit enhancement is provided) over the period during which the commitment to provide credit enhancement is effective.

The standards established by the Board must, at a minimum, require that each pool consist of loans which are secured by agricultural real estate which is widely distributed geographically; vary widely in terms of amounts of principal; and are secured by agricultural real estate which, in the aggregate, is used to produce a wide range of agricultural commodities. (Sec. 5.85(c).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision. Pools composed solely of residential real estate mortgages would not be required to meet the commodity diversity standard. The conferees do intend that these pools be secured by residential real estate which is widely distributed geographically and vary widely in the amount of principal.

(f) The *House* bill provides that the standards established by the Board for pools of qualified loans must, at a minimum, prohibit the inclusion in any pool of any loan the principal amount of which exceeds 2 percent of the aggregate amount of principal of all loans in the pool; and prohibit 2 or more loans to related borrowers. (Sec. 5.85(c).)

The *Senate* amendment provides that the Corporation may not provide guarantee with respect to a pool if the pool contains any single loan the principal amount of which exceeds 5 percent of the total principal amount of the pool at the time the application for guarantee is submitted. (Sec. 8.6.(b).)

The *Conference* substitute adopts the *House* provision with an amendment to increase the maximum aggregate principal amount of any single loan in a pool from 2.0% to 3.5% of the aggregate principal of all loans in the pool. The amendment would prohibit the Corporation from providing guarantees any pool if it contains less than 50 loans.

The amendment also prohibits the inclusion in any pool of loans to two or more related borrowers. The intent of this provision is to provide the authority to the Corporation to enforce the loan size limitations contained in this and other sections of the legislation. The conferees intend that the Corporation adopt standards and procedures which will prevent persons or Corporations from evading the loan limits by having two or more loans in the same pools which individually do not exceed the limitations but, taken together, would exceed the limitation. The purpose of this provision is to reduce the pool risk by mandating that no more than 3.5% of the principal amount of any pool would be tied to one entity's ability to service the loan. For example, the pool could contain loans from two brothers or other relatives if the borrowers who did not have a common interest in the property securing the loan, or a common interest in the sources of income which provide debt service for the loan. However, the provisions would prohibit inclusion in a pool of loans made to subsidiaries or affiliates of a corporation or partnership or of loans to entities which share common control.

(g) The *House* bill provides that in establishing the standards for pools of qualified loans, the Board must include provisions that promote and encourage the inclusion of loans for small farms and family farmers in pools of qualified agricultural mortgage loans.

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision. (Sec. 8.6(c).)

(h) The *House* bill provides that the standards established by the board for pools of qualified loans will not take effect before the later of—

(i) the end of a period consisting of 30 legislative days and beginning on the date the standards are submitted to the Congress; or

(ii) the end of a period consisting of 90 calendar days and beginning after submission to Congress. (Sec. 8.6(b).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision. (Sec. 8.6(c).)

(i) The *House* bill provides that the Corporation must require a facility to agree to act in accordance with the standards of a prudent institutional lender to resolve any default on any loan in a pool. (Sec. 5.85 (d).)

The *Senate* amendment provides that the Corporation must require that a certified facility act in accordance with the standards of a prudent institutional lender to resolve loan defaults. (Sec. 8.6(b).)

The *Conference* substitute adopts the *Senate* provision. (Sec. 8.6(d).)

(j) The *House* bill provides that the Corporation must require a facility to agree that the originator of any loan in a pool will be permitted to retain the right to service the loan. (Sec. 5.85(d).)

The *Senate* amendment provides that the Corporation must, in the case of each loan originated for a pool, provide guarantee only if the originator may retain the servicing of the mortgage in connection with the borrower. (Sec. 8.6(b).)

The *Conference* substitute adopts the *Senate* provision. (Sec. 8.6(d).)

(k) The *House* bill provides that the Corporation must require a facility to agree that each loan in the pool must have been sold to the certified facility without recourse to the originator of the loan (other than recourse to any interest of the originator in a reserve established in connection with the loan or any subordinated participation interest of the originator.) (Sec. 5.85(d).)

The *Senate* amendment provides that the Corporation must provide guarantee only if each qualified loan has been sold to the certified facility without recourse to the originator. (Sec. 8.6(b).)

The *Conference* substitute adopts the *House* provision. (Sec. 8.6(d).)

(l) The *House* bill provides that the Corporation must require a facility to agree that—

(i) the facility will comply with the standards adopted by the Board in establishing and maintaining a pool;

(ii) the facility will take such steps as may be necessary to ensure that minority owned or controlled investment banking firms, underwriters, and bond counsels throughout the United States have an opportunity to participate to a significant degree in any public offering of securities; and

(iii) the facility may not refuse to purchase qualified agricultural mortgage loans originating in States' which have established borrowers' rights laws either by statute or under the constitution of the State. (Sec. 5.85(d).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision with an amendment to provide that facilities may not refuse to purchase qualified loans originating in States that have established borrowers' rights laws either by statute or under the constitution of the State. However, the facility may require discounts or charge fees reasonably related to the costs and expenses occuring from the statutes or constitutional provisions.

The conferees understand that in some cases a facility or originator may require reasonable fees or discounts for loans secured by agricultural real estate in States with borrowers' rights. These fees should not be permitted if they are set at such a level as to unfairly penalize borrowers in such States. The Corporation should review the incidence of such fees or discounts and determine whether originators or poolers are requiring discounts or fees in exceeds of what is actuarily sound.

The conference-reported bill contains a provision that requires the facility to take such steps as necessary to ensure that minority owned or controlled investment banking firms, underwriters, and bond counsels throughout the United States have an opportunity to participate to a significant degree in any public offering of securities.

(m) The *House* bill provides that to ensure the liquidity of securities for which credit enhancement has been provided, the Board must adopt appropriate standards regarding—

(i) the characteristics of any pool of qualified agricultural mortgage loans serving as collateral for the securities;

(ii) registration requirements with respect to the securities; and

(iii) transfer requirements. (Sec. 5.85(e).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision. (Sec. 8.6(e).)

(11) Reserve and retained subordinated participation interest requirements

(a) The *House* bill provides that under the terms of the sale of any qualified loan by the originator to a facility, the originator may agree to contribute to an amount to a reserve established by the facility for the pool in which the loan is included. (Sec. 5.86(a).)

The *Senate* amendment provides that for each pool of loans, a certified facility and the participating originators may each contribute a share of the 10 percent minimum reserve. (Sec. 8.7(a).)

The *Conference* substitute adopts the *Senate* provision. (Sec. 8.7(a).)

(b) The *House* bill provides that any facility which establishes a cash contribution reserve for a pool of qualified loans must maintain the reserve as a segregated account consisting of the amounts contributed (but not the earnings accruing on the amounts) to assure the repayment of principal and interest on securities backed by the pool of qualified loans. (Sec. 5.86(a).)

The *Senate* amendment provides that the Corporation must require that a facility must cause the reserves, exclusive of the earnings on the reserve, to be held for the benefit of the holders of securities to assure the timely receipt of principal and interest. (Sec. 8.7(a).)

The *Conference* substitute adopts the *House* provision. (Sec. 8.7(a).)

(c) The *House* bill provides that under the terms of the sale of any loan by the originator to a certified facility, the originator may agree to retain a subordinated participation interest that will be attributed to the facility for purposes of determining whether reserve requirements have been met. (Sec. 5.86(b).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision. the Conferees intend that a subordinated participation interest may be retained by any originator or qualified facility, at its option, subject to safety and soundness considerations and satisfaction of the relevant requirements set out in the section. (Sec. 8.7(a).)

(d) The *House* bill provides that in order for any interest in a qualified loan to be treated as a subordinated participation interest, the instrument creating the subordination of the interest to other interests in the loan must provide that the right of the holder of the subordinated interest to receive any distribution of principal of, or interest on, the loan will be subordinate to the rights of any holder of any other participation interest (other than another subordinated participation interest) in the loan (including any holder of any security representing an interest in, or an obligation backed by, a pool which includes the loan) to receive full and timely payments of principal and interest with respect to the loan (or the security). (Sec. 5.86(b).)

The *Senate* amendment provides that the rights of the holders of the subordinated participation interests to receive distributions with respect to the loans constituting the pool will be subordinated as prescribed by the Corporation to enhance the likelihood of regular receipt by the other holders of interests in the pool of the full amount of scheduled payments of principal and interest on loans constituting the pool. (Sec. 8.7(d).)

The *Conference* substitute adopts the *Senate* provision. (Sec. 8.7(c).)

(e) The *House* bill provides that certified facilities may withdraw, from a cash contribution reserve, the amounts accruing on the amount held in the reserve and distribute the accrued amounts to each contributor to the reserve (including the facility) in an amount which bears the same proportion to the total amount of such distribution as the amount each contributor's to the reserve bears to the total amount of the contributions. (Sec. 5.86(c).)

The *Senate* amendment provides that in the case of each applicable loan pool, a certified facility must distribute to originators any earnings on the contributions of the originators to the reserve. (Sec. 8.76(b).)

The *Conference* substitute adopts the *Senate* provision. (Sec. 8.7(c).)

(f) The *House* bill provides that in the case of any loan with respect to which the originator has contributed to a reserve maintained by a certified facility that holds the loan, any loss on the loan will be counted against the originator's contribution before the contribution of any other originator may be withdrawn to cover the loss. (Sec. 5.86(c).)

The *Senate* amendment provides that except for that portion of losses absorbed by a contribution of a certified facility to the reserve, each orignator participating in the pool will absorb any losses on loans originated up to the total amount the originator has contributed to the reserve before the losses are absorbed by the contributions of other originators who are participating in the pool. (Sec. 8.7(c).)

The *Conference* substitute adopts the *Senate* provision.

(g) The *House* bill provides that the Board may establish any other policies and procedures with respect to—

(i) the establishment of reserves and the retention of subordinated participation interests; and

(ii) the manner in which reserves or interests will be available to make payments of interest on and repayments of principal of, securities for which the Corporation has provided credit enhancement,

as the Board determines to be necessary or appropriate to carry out the purposes of part F. (Sec. 5.86(d).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision.

(h) The *Senate* amendment provides that the reserves required, other than retained subordinated participation interests, must be held in the form of United States Treasury securities or other securities issued, guaranteed, or insured by an agency of the United States Government. (Sec. 8.7(e).)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision with an amendment to allow reserves to be held in securities of instrumentalities of the United States Government.

(i) The *House* bill provides that any certified agricultural mortgage marketing facility that maintains a cash contribution reserve may withdraw from the reserve the amounts accruing on the amount held in the reserve and distribute the accrued amounts to each contributor to the reserve (including the facility) in an amount that bears the same proportion to the total amount of the distribution as the amount of each contributor's contribution to the reserve bears to the total amount of the contributions. (Sec. 5.86(c).)

The *Senate* amendment provides that in the case of each applicable loan pool, a certified facility must distribute to originators any earnings on the contributions of the originators to the reserve. (Sec. 8.7(b).)

The *Conference* substitute adopts the *Senate* provision.

(12) Aggregate principal amounts of qualified loans

The *Senate* amendment provides that during the first year after the date of enactment of the amendment the Corporation may provide guarantee for securities representing interest in, or obligations backed by, qualified loans with an aggregate principal amount not in excess of 2 percent of the total agricultural real estate debt outstanding at the close of the prior calendar year (as published by the Board of Governors of the Federal Reserve System), less all FmHA agricultural real estate debt.

During the year following the first year after the date of enactment of the amendment, the Corporation may provide guarantee for securities representing interests in, or obligations backed by, qualified loans with an additional principal amount not in excess of 4 percent of the total agricultural real estate debt outstanding at the close of the prior calendar year, less all FmHA agricultural real estate debt.

The *Senate* amendment provides that during the year following the second year after the date of enactment of the amendment, the Corporation may provide guarantees for securities representing interests in, or obligations backed by, qualified loans with an additional principal amount not in excess of 8 percent of the total agricultural real estate debt outstanding at the close of the prior calendar year, less all FmHA agricultural real estate debt.

In years subsequent to the third year following the date of enactment of the amendment, the Corporation may provide guarantee without regard to the principal amount of the qualified loans so enhanced. (Sec. 8.6(c).)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision with an amendment that would exclude Farm Credit System loans from the percentage limitations imposed by this section. It is the intention of the conferees that any percentage limitations for the first three years will only apply to the qualified real estate loans originating from commercial banks, insurance companies and other non-Farm Credit System institutions. The base on which the percentage limitation will be computed will include outstanding agricultural mortgage debt held by FCS institutions, private lenders and farmers.

The amendment was offered to eliminate the possibility that the Farm Credit System may acquire a disproportionate share of the aggregate amount of qualified loans in the first three years of the Mortgage Corporation, thereby displacing or disadvantaging other loan originators and preventing them from fully participating in the secondary market. By excluding all qualified real estate loans originated by the Farm Credit System from the percentage limitations, the aggregate amount of such loans for purposes of the limitations shall include only those qualified real estate loans originated by non-Farm Credit System institutions.

Finally, it is also the understanding of the conferees that any unused guarantee authorization of qualified loans by the Mortgage Corporation in the first and second years after enactment of this legislation shall be cumulative, and shall be available for use in the second and third years of the Corporation.

(13) Standards for qualified loans

(a) The *House* bill provides that within 120 days after the permanent board first meets with a quorum present, the board, in consultation with originators, must establish uniform underwriting and other necessary standards applicable to qualified loans. (Sec. 5.87(a).)

The *Senate* amendment provides that not later than 120 days after the appointment and election of the board, the Corporation, in consultation with originators, must establish uniform underwriting, security appraisal, and repayment standards for qualified loans. (Sec. 8.8(a).)

The *Conference* substitute adopts the *Senate* provision.

(b) The *House* bill provides that the Board must coordinate the establishment of underwriting and standards applicable to qualified loans with the regulations to be issued by the Farm Credit Administration under section 4.2B(c), as proposed to be added by the bill. (Sec. 5.87(a).)

(NOTE: Section 4.2B would authorize System banks to form trusts or pools consisting of certain loans originated by System banks. This provision is described on page 61.)

The *Senate* bill contains no comparable provision.

The *Conference* substitute deletes the *House* provision.

(c) The *Senate* amendment provides that in establishing standards for qualified loans, the Corporation must confine corporate operations, as far as practicable, to mortgage loans which are deemed by the Board to be of such quality so as to meet, substantially and generally, the purchase standards imposed by private institutional mortgage investors. (Sec. 8.8(a).)

The *House* bill provides no comparable provision.

The *Conference* substitute adopts the *Senate* provision. The conferees wish to stress that the intention of this section is to require that the Corporation institute standards for loans, especially residential loans, which are comparable to the standards established by the Federal National Mortgage Association (FNMA), the Federal Home Loan Mortgage Corporation (FHLMC), and other residential secondary market. FNMA and FHLMC standards are well understood and have come to be expected by private institutional mortgage investors. The conferees intend that the Corporation establish standards for loans and the property securing these loans that are reflected in FNMA and FHLMC standards.

(d) The *House* bill provides that the loan standards established by the Board must, at a minimum—

(i) provide that no agricultural mortgage loan with a loan-to-value ratio in excess of 80 percent may be treated as a qualified loan;

(ii) require that any real estate appraisal which is made to determine the loan-to-value ratio be based on the agricultural use of the land at the time such appraisal is made.

(iii) require each borrower to demonstrate sufficient cash-flow to adequately service the agricultural mortgage loan;

(iv) contain sufficient documentation standards; and

(v) contain adequate standards to protect the integrity of the appraisal process with respect to any agricultural mortgage loans.

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision with an amendment to clarify that the purpose of the loan standards is to increase the availability of long-term fixed rate credit to farmers and ranchers. The provision also requires that the standards ensure that the borrower is actively engaged in agricultural production. The conferees believe that the current Farm Credit System's criteria for a bona fide farmer are reasonable. The provision requires him to certify that he intends to continue agricultural production on the land involved. The conferees understand that in some parts of the country it is common practice to lease parcels of land, and to conduct ranching or farming operations on leased land. This requirement is not intended to preclude loans on lands that are leased as part of a normal farming or ranching operation. However, land which is primarily leased to other persons could not secure loans placed in a pool guaranteed by the Corporation.

The provision takes steps to minimize speculation in agricultural real estate for nonagricultural purposes. The conferees intend to provide long-term financing for farmers and ranchers, and not to provide financing for land speculation in agricultural areas. With a new secondary market for agricultural loans, the opportunity to engage in speculation, assisted by the favorable financing resulting from a secondary market, is great unless the Corporation imposes certain safeguards.

One of the primary responsibilities of the Board should be to ensure that no loans are approved in instances where the borrower's intent is to hold land for speculation purposes. The Board shall adopt standards to protect against land speculation, including but not limited to some form of certification by originating lenders regarding the intended use of the land.

The provision also requires that the Corporation consider the purposes for which the land is taxed in establishing appraisal standards. The conferees believe that in appraising property for the purpose of determining loan to value ratios, the Board shall require that consideration be given to the purposes for which the property is taxed.

(e) The *House* bill provides that a loan may not be treated as a qualified loan if the principal amount of the loan exceeds $1,500,000, adjusted for inflation, except if the loan is secured by agricultural real estate which, in the aggregate, comprises, not more than 1,000 acres.

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision with an amendment to raise the allowable principal loan amount to $2.5 million from $1.5 million.

(f) The *House* bill provides that loan standards will not take effect before the later of—

(i) the end of a period consisting of 30 legislative days and beginning on the date the standards are submitted to Congress; or

(ii) the end of a period consisting of 90 calendar days and beginning on the date of submission to Congress.

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision.

(14) Exemption from restructuring and borrowers' rights provisions for pooled loans

(a) The *Senate* amendment provides that notwithstanding any other provision of law, sections 4.13(b), 4.14, 4.14A, 4.37, and 6.7 will not apply to any loan included in a pool of qualified loans backing securities or obligations for which the Mortgage Corporation provides guarantee. (Sec. 8.9(a).)

(a) The *House* bill provides no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

(b) The *Senate* amendment will provide that the loan servicing standards established by the Mortgage Corporation must be patterned after similar standards adopted by other Federally sponsored secondary market facilities. (Sec. 8.9(a).)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

(c) The *Senate* amendment provides that at the time of application for a loan, originators must give written notice to each applicant of the terms and conditions of the loan, setting forth separately terms and conditions for pooled loans and loans that are not pooled. This notice must include a statement, if applicable, that the loan may be pooled and that, if pooled, sections 4.13(b), 4.14, 4.14A, 4.37, and 6.7 will not apply. This notice also must inform the applicant that he or she has the right not to have the loan pooled. Within 10 days of the notice, an applicant has the right to refuse to allow the loan to be pooled, and thereby retaining those rights given persons under applicable State laws and under sections 4.13(b), 4.14, 4.14A, 4.37, and 6.7, if applicable. (Sec. 8.9(b).)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision with an amendment to allow a borrower to refuse to allow the pooling of his loan and to give FCS borrowers who meet qualifications standards a three-day period after commitment to decide whether to have their loan placed into the secondary market or the FCS portfolio. The provision applies only to FCS institutions and borrowers.

(15) Guarantee commitments

The *Senate* amendment provides that the Corporation must provide guarantee for securities representing interests in, or obligations backed by, pools of qualified loans through commitments issued by the Corporation providing for guarantee. (Sec. 8.10(a).)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

(16) Fees assessed by the Corporation

(a) The *Senate* amendment provides that the fee that must be assessed at the time of guarantee may not be more than ½ of 1 percent of the initial principal amount of each pool.

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision. The conferees intend that this fee build reserves and thereby minimize the possibility of using the Treasury line of credit.

(b) the *Senate* amendment provides that beginning in the second year after the date the guarantee is issued, the Corporation may assess the certified facility an annual fee, at the end of each year, to be established by the Board of no more than ¼ of 1 percent of the principal amount of the loans then constituting the pool. (Sec. 8.10(b).)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

(c) The *Senate* amendment provides that the Corporation, when establishing the fee, must take into account the reserves maintained by certified facilities and loan originators, and the level of capital and reserves of the Corporation. (Sec. 8.10(b).)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

(d) The *House* bill provides that in accordance with policies that the board may establish, any fee assessed with respect to any credit enhancement may be paid in periodic installments over the period to maturity of the securities for which the credit enhancement has been provided. (Sec. 5.88(a).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute deletes the *House* provision.

(17) Corporation reserve against losses

(a) The *House* bill provides that so much of the fees collected for credit enhancement as the board determines to be necessary must be set aside by the Corporation in a segregated account as a reserve against losses arising out of the credit enhancement activities of the Corporation. (Sec. 5.58(b).)

The *Senate* amendment provides that as much of the fees collected for guarantees as are necessary must be set aside by the Corporation to establish an adequately funded reserve against losses arising out of its guarantee activities. (Sec. 8.10(d).)

The *Conference* substitute adopts the *House* provision.

(b) The *House* bill provides that the Corporation may not issue obligations to the Secretary of the Treasury in order to meet the obligations of the Corporation with respect to any credit enhancement provided under this part until the reserve has been exhausted. (Sec. 5.88(b).)

The *Senate* amendment provides that the reserve must be used to fulfill the guarantee assurances of the Corporation before the Mortgage Corporation borrows from the Secretary of the Treasury. (Sec. 8.10(d).)

The *Conference* substitute adopts the *House* provision.

(18) Regulation, examination, and report of condition

(a) The *House* bill provides that the Farm Credit Administration must regulate the safe and sound performance of the powers, functions, and duties vested in the Corporation by part F. (Sec. 5.89(a).)

The *Senate* amendment provides that notwithstanding any other provision of the Act, the regulatory authority of the Farm Credit Administration with respect to the Corporation will be confined to—

(i) providing for the examination of the condition of the Corporation; and

(ii) providing for the general supervision of the safe and sound performance of the powers, functions, and duties vested in the Corporation by title VII. (Sec. 811(a).)

The *Conference* substitute adopts the *Senate* provision with an amendment to clarify that the regulation by the Farm Credit Administration of the safe and sound performance of powers, functions, and duties vested in the Corporation is to be pursuant to the enforcement authorities conferred on the agency under Part C of Title V of the Farm Credit Act of 1971, as amended.

(b) The *House* bill provides that the financial transactions of the Corporation must be examined by Farm Credit Administration examiners. (Sec. 5.89(a).)

The *Senate* amendment provides that the financial transactions of the Corporation must be examined by examiners of the Farm Credit Administration under such rule and regulations as may be prescribed by the Farm Credit Administration. (Sec. 811(b).)

The *Conference* substitute adopts the *Senate* provision. The rules and regulations of the agency referred to are those concerning the manner and procedures under which examination is performed.

(c) The *House* bill provides that examinations will take place at such times as the Chairman of the board of the Farm Credit Administration may determine. (Sec. 5.89(b).)

The *Senate* amendment provides that the examination will occur at such times as the Farm Credit Administration Board may determine. (Sec. 8.11(b).)

The *Conference* substitute adopts the *Senate* provision.

(d) The *House* bill provides that the examiners must be afforded full facilities for verifying transactions with certified facilities and other entities with whom the Corporation conducts transactions. (Sec. 5.89(b).)

The *Senate* amendment provides that the examiners must be afforded full access for verifying transactions with certified facilities and other entities with whom the Corporation conducts transactions.

The *Conference* substitute adopts the *Senate* provision.

(e) The *House* bill provides that the Farm Credit Administration must assess the Corporation for the cost of any regulatory activities conducted under section 8.11, including the cost of any examination. (Sec. 5.89(d).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision. Cost assess for supervision and examination must be directly related to the supervision and examination of the operations of the Corporation.

(f) The *House* bill provides that the Corporation must hire an independent public accountant to audit the financial statements of the Corporation. (Sec. 5.89(e).)

The *Senate* amendment provides that the financial statements of the Corporation must be audited by an independent public accountant. (Sec. 8.19(c).)

The *Conference* substitute adopts the *Senate* provision.

(19) Securities

(a) The *House* bill provides that for purposes of section 3(a)(2) of the Securities Act of 1933, no security representing an interest in a pool of qualified loans for which credit enhancement has been provided by the Corporation will be deemed to be a security issued or guaranteed by a person controlled or supervised by, or acting as an instrumentality of, the Government of the United States. No security will be deemed to be a "government security" for purposes of the Securities Exchange Act of 1934, or for purposes of the Investment Company Act of 1940. (Sec. 5.90(a).)

The *Senate* amendment provides that notwithstanding any other provision of law, securities representing an interest in, or obligations backed by, pools of qualified loans for which guarantee has been provided by the Corporation will be exempt from the laws administered by the Securities and Exchange Commission to the same extent as securities that are direct obligations of, or obligations guaranteed as to principal or interest by, the United States. (Sec. 8.12(a).)

The *Conference* substitute adopts the *House* provision.

The *Conference* substitute deletes the language in the *Senate* amendment that exempts from laws administered by the Securities and Exchange Commission, securities representing an interest in, or obligations backed by, pools of qualified loans for which guarantee has been provided by the Corporation. The Conferees were presented with conflicting information concerning the spread in interest rates between government securities and AAA rated corporate securities. The Conferees expect that the Secretary of the Treasury, in consultation with the Securities and Exchange Commission and the Board of Governors of the Federal Reserve System, shall report to the Senate Committee on Agriculture, Nutrition, and Forestry and the House Committee on Energy and Commerce within one hundred and eighty days of the first sale of securities guaranteed by the Corporation on the secondary trading market created under this title. The report shall include an analysis of basis point spreads, including whether the spread between such securities and other securities issued or guaranteed by a person controlled or supervised by, or acting as an instrumentality of, the Government of the United States exceeds 25 basis points or in otherwise significant. Such report should include an analysis of the impact of not treating these securities as government securities for purposes of the federal securities laws relative to other government securities as defined by section (3)(a)(42) of the Securities and Exchange Act of 1934.

(b) The *Senate* amendment provides that notwithstanding section 1349 of title 28, United States Code, or any other provision of law:

(i) The Corporation will be considered an agency under sections 1345 and 1442 of title 28.

(ii) All civil actions to which the Corporation is a party will be deemed to arise under the laws of the United States and, to the extent applicable, will be deemed to be governed by Federal common law. The district courts of the United States will have original jurisdiction of all such actions, without regard to amount of value.

(iii) Any civil or other action, case, or controversy in a court of a State or any court, other than a district court of the United States, to which the Corporation is a party, may at any time before trial be removed by the Corporation, without the giving of any bond or security to the District Court for the district and division embracing the place where the same is pending, or if there is no such district court for the district in which the principal office of the Corporation is located, by following any procedure for removal for causes in effect at the time of such removal.

The *Senate* amendment provides that no attachment or execution may be issued against the Corporation or any of the property of the Corporation before final judgment in any Federal, State, or other court. (Sec. 8.12(b).)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the Senate provision.

(c) The *Senate* amendment provides that nothing in title VII is intended to expand the authority of a national bank, State bank, or bank holding company, or an affiliate, to deal in or underwrite securities. (Sec. 8.12(a).)

The *House* bill contains no comparable provision.

The *Conference* substitute deletes the Senate provision.

Expanded bank powers

The *Conference* substitute deletes those sections in the *Senate* amendment empowering depository institutions to underwrite, purchase, and sell securities and obligations backed by credit enhanced pools under this title.

(d) The *Senate* amendment provides that any security or obligation that has been provided guarantee by the Mortgage Corporation will be exempt from any law of any State with respect to or requiring registration or qualification of securities or real estate to the same extent as any obligation issued by, or guaranteed as to principal and interest by, the United States or any agency or instrumentality of the United States. (See 8.12(b).)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the Senate provision with an amendment.

(e) The *Senate* amendment provides that the securities or obligations may be accepted as a security for all fiduciary, trust, and public funds, the investment or deposits of which will be under the authority and control of the United States or any State or any officers of either, and will be eligible for unlimited purchase, sale and underwriting by national banks.

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision with an amendment to delete the authority of banks to underwrite these securities.

Preemption of State Law

The sale of securities in credit enhanced pools under this title will be greatly facilitated by the *conference* substitute through the preemption of two categories of State laws: (1) laws designating authorized investments for State-regulated institutions and funds, and (2) laws requiring State registration of securities. However, the purpose of this preemption is not to prevent the States from providing investor protections. Rather, it is in recognition that many, and likely most, State Laws in this area were enacted before these instruments came into being, and that current law may thus unintentionally encumber the market. Accordingly, the *conference* substitute provides that with respect to both categories of laws preempted, the States may reinstate or establish new requirements to override this Federal preemption.

As originally introduced, the *Senate* amendment provided that States may override Federal preemption provided that they do so within three years. However, it was agreed that such a brief period was inadequate, given the anticipated amount of time needed to develop and gain experience with these securities, and especially in light of the fact that many State legislatures do not meet annually, and others have very short legislative sessions. Accordingly, the *conference* substitute provides that States have 8 years to override the Federal preemption.

(f) The *House* bill provides that the enactment by a State of a law that limits the authority to purchase, hold, or invest, in the securities will not affect the validity of any contractual commitment to purchase, hold, or invest that was entered into before the date of the enactment of the law; and will not require the sale or other disposition of any securities acquired before the date of enactment. (Sec. 5.90(c).)

The *Senate* amendment provides that the enactment by a State of a law that limits the authority to purchase, hold, or invest in the securities will not affect the validity of any contractual commitment to purchase, hold, or lease that was made prior to the effective date of the law and may not require the sale or other disposition of any securities acquired prior to the effective date of the law. (Sec. 8.12(c).)

The *Conference* substitute adopts the *Senate* provision.

(g) The *House* bill provides that any provision of the constitution or law of any State that expressly limits the rate or amount of interest, discount points, finance charges, or other charges that may be charged, taken, received, or reserved by agricultural lenders or certified facilities, will not apply to any agricultural loan made by an originator or certified facility in accordance with part F. (Sec. 5.90(c).)

The *Senate* amendment provides that to facilitate the orderly and necessary flow of long-term loans and funds from agricultural lenders and certified facilities for agricultural loans, the same provisions of law will not apply to qualified loans made by an originator or certified facility pursuant to title VII. (Sec. 8.12(c).)

The *Conference* substitute adopts the *House* provision.

(h) The *House* bill provides that if, during the 3-year period beginning on the date of the enactment of part F, any State enacts a law that specifically refers to section 8.12(c), and expressly limits the rate or amount of interest, discount points, finance charges, or other charges referred to, the State law will be applicable as of the date of the enactment of the law. (Sec. 8.12(c).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute deletes the *House* provision.

(i) The *Senate* amendment provides that notwithstanding any Federal, State, or local law (other than title 11 of the United States Code), an originator may provide by contract with the borrower whether before or after default, for the settlement or extinguishment, on default, of any redemption, equitable, legal, or other right, title, or interest of the borrower in, any agricultural and real estate or agricultural property that constitutes the security for an agricultural mortgage loan that is included in a pool of qualified loans for which a guarantee is provided, and concerning the terms of repayment of the loan on the sale of collateral securing the loan. (Sec. 8.12(c).)

The *House* bill contains no comparable provision.

The *Conference* substitute deletes the *Senate* provision.

(20) Authority of the Corporation to issue obligations to the Secretary of the Treasury

(a) The *House* bill provides that the Corporation may issue obligations to the Secretary of the Treasury the proceeds of which may be used by the Corporation. (Sec. 5.91(a).)

The *Senate* amendment provides that the Secretary of the Treasury is authorized to loan to the Mortgage Corporation, on such terms and conditions as may be prescribed by an agreement between the Corporation and the Secretary of the Treasury, funds that, in the judgment of the Board of the Corporation, are from time to time necessary to carry out title VII. (Sec. 8.1(c).)

The *Conference* substitute adopts the *House* provision.

(b) The *House* bill provides that the proceeds of the obligations may be used by the Corporation solely for the purpose of fulfilling the Corporation's obligations under any credit enhancement provided by the Corporation under Part F. (Sec. 5.91(a).)

The *Senate* amendment provides that the loan must be used by the Corporation solely in carrying out functions of the Mortgage Corporation as prescribed in title VII. (Sec. 8.1(c).)

The *Conference* substitute adopts the *House* provision with an amendment.

(c) The *Senate* amendment provides that in no event may the loans exceed in the aggregate $1,500,000,000 at any one time. (Sec. 8.1(c).)

The *House* bill provides that the aggregate amount of obligations issued by the Corporation that may be held by the Secretary of the Treasury at any time (as determined by the Secretary) may not exceed $1,500,000,000. (Sec. 5.91(c).)

The *Conference* substitute adopts the *House* provision.

(d) The *House* bill provides that the Secretary of Treasury may purchase obligations of the Corporation only if the Corporation certifies to the Secretary that the reserves held by loan originators and certified facilities have been exhausted; the reserve established by the Corporation is exhausted; and the proceeds of the sale of the obligations are needed to fulfill the Corporation's obligations under any credit enhancement provided by the Corporation under part F. (Sec. 5.91(a).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision.

(e) The *House* bill requires that not later than 10 business days after receipt by the Secretary of the Treasury of a certification by the Corporation, the Secretary of the Treasury must purchase obligations issued by the Corporation in an amount determined by the Corporation to be sufficient to meet the Corporation's credit enhancement liabilities. (Sec. 5.91(b).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision.

(f) The *House* bill provides that each obligation purchased by the Secretary of the Treasury must bear interest. (Sec. 5.91(d).)

The *Senate* amendment provides that notwithstanding any other provision of law, interest must accrue to the Department of the Treasury on the amount of any outstanding loans made to the Corporation on the basis of the average daily amount of the outstanding loans to be determined at the close of each fiscal year. (Sec. 8.1(c).)

The *Conference* substitute adopts the *House* provision.

(g) The *House* bill provides that the rate of interest will be determined by the Secretary, taking into consideration the average rate on outstanding marketable obligations of the United States as of the last day of the last calendar month ending before the date of purchase of the obligation. (Sec. 5.191(d).)

The *Senate* amendment provides that the rate of interest to be charged in connection with a loan will be determined by the Secretary of Treasury but may not be less than the current average rate on outstanding marketable obligations of the United States as of the last day of the month preceding the making of the loan. (Sec. 8.1(c).)

The *Conference* substitute adopts the *Senate* provision.

(h) The *House* bill provides that the Secretary of the Treasury must require that the obligations be repurchased by the Corporation within a reasonable time. (Sec. 5.91(d).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision.

(i) The *Senate* amendment provides that as long as any loans are outstanding, the Corporation must devote the new earnings of the Corporation to the repayment of the principal and accrued interest on the loan. (Sec. 8.1(c).)

The *House* bill contains no comparable provision.

The *Conference* substitute deletes the *Senate* provision.

(j) The *Senate* amendment provides that the Corporation must pay the interest accrued on loans made by the Secretary of the Treasury annually as miscellaneous receipts. (Sec. 8.1(c).)

The *House* bill contains no comparable provision.

The *Conference* substitute deletes the *Senate* provision.

(k) The *Senate* amendment states that the authority provided to the Secretary of the Treasury to purchase obligations of the Corporation will be effective for any fiscal year only to such extent and in such amounts as are provided in advance in appropriation Acts. (Sec. 8.1(c).)

The *House* bill provides an authorization for appropriations for the Secretary of the Treasury the sum of $1,500,000,000, without fiscal year limitation, to carry out the purposes of part F. (Sec. 5.91(f).)

The *Conference* substitute adopts the *House* provision.

(l) The *Senate* amendment provides that if any loans to the Corporation are outstanding, the Secretary of the Treasury must provide to the Corporation, at least once each fiscal year, information that will be necessary for the Corporation to determine whether the balance of the loan is in excess of the amount that is needed to meet the requirements of the Corporation. The Corporation must pay the excess to the Secretary of the Treasury to be credited against the loans to the fund. (Sec. 8.1(c).)

The *House* bill contains no comparable provision.

The *Conference* substitute deletes the *Senate* provision.

(21) GAO audit of Corporation

The *House* bill provides that, notwithstanding any other provision of law, and under such regulations as the Comptroller General may prescribe, the Comptroller General must perform a financial audit of the Corporation on whatever basis the Comptroller General determines to be necessary.

The Corporation must—

(i) make available to the Comptroller General for audit all records and property of, or used or managed by, the Association which may be necessary for the audit; and

(ii) provide the Comptroller General with facilities for verifying transactions with the balances or securities held by any depository, fiscal agent, or custodian. (Sec. 5.91(g).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision. This provision, while requiring the Comptroller General to perform a financial audit of the Corporation, provides flexibility in allowing such audit to be performed in accordance with whatever standards the Comptroller General deems appropriate. Pursuant to Section 9105 of title 31 of the United States Code, the audit will occur at least once every three years.

(22) Authority of System banks to issue loan-backed and related securities

(a) The *House* bill will authorize each System bank, individually or with other System banks, to form trusts or pools consisting of loans originated by any of the bands under the Act. The bank may sell or otherwise dispose of the loans, or trust or pools consisting of the loans, with or without recourse, on terms and conditions relating to resale, repurchase, guaranty, substitution, replacement, or otherwise as the bank may prescribe, with the prior approval of the Farm Credit Administration. (Sec. 301(d).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute deletes the *House* provision.

(b) The *House* bill will specify that any System bank may join with any other System banks, to issue notes, bonds, debentures, or other obligations or securities based on or backed by a trust or pool consisting of loans (other than long term loans made for the purchase of agricultural real estate and loans made to purchase rural housing) originated by the banks under the Act, in such sums, with such maturities, at such rates of interest, and on such other terms and conditions as the bank may determine with the prior approval of the Farm Credit Administration. (Sec. 5.91(g).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute deletes the *House* provision.

(c) The *House* bill will provide that the Farm Credit Administration must issue regulations to implement this authority within 120 days after the date of the enactment of the bill and at the same time the Corporation establishes underwriting standards under subsection (a) of section 5.87. Final regulations to implement this section will take effect 60 days after transmittal of the regulations to Congress. (Sec. 301(d).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute deletes the *House* provision.

(d) The *House* bill provides that within one year after the date of the enactment of the bill, the Farm Credit Administration must complete a study reviewing the potential effects of expanding the authority granted to authorize the sale of loans backed or related securities based on or backed by a trust or pool of loans consisting of long term loans made for the purchase of agricultural real estate. (Sec. 302(d).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute deletes the *House* provision.

(23) GAO report on implementation of authority by the Corporation

The *Senate* amendment provides that not later than 2 years after the date of enactment of the amendment, the Comptroller General must conduct a study, and submit to appropriate committees of Congress a report, on the implementation of title VII by the Corporation and the effect of the operations of the Corporation on producers, the Farm Credit System, and the capital markets. (Sec. 8.3(d).)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision with an amendment.

(24) Study of establishment a private secondary market for certain agricultural loans

The *House* bill provides that the Secretary of the Treasury must conduct a study of the feasibility and appropriatness of promoting the establishment of a secondary market for securities representing interests in, or obligations backed by, pools of agricultural real estate loans for which credit enhancement has not been provided by the Corporation. Before the end of the 90-day period beginning on the date of the enactment of the bill, the Secretary of the Treasury must prepare a report containing the findings and conclusions of the Secretary with respect to the study and, if appropriate, the Secretary's recommendations for administrative and legislative action necessary to promote the market. The Secretary must submit copies of the report to Congress, and the Farm Credit Administration. (Sec. 301(e).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision with an amendment.

(25) Study on the effects of expanding the Corporation's authority

The *House* bill provides that within 1 year after the permanent board of Directors of the Corporation is duly constituted, the Board of Directors must complete a study of the feasibility of expanding the authority granted under section 301(b) of the bill to authorize the sale of securities based on or backed by a trust or pool consisting of loans made to farm-related and rural small businesses, and report the results of the study to the President, the Speaker of the House, and the President pro tempore of the Senate. The term "farm-related businesses" means businesses 90 percent or more of the annual dollar volume of the sales of which are made to agricultural producers. (Sec. 301(f).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision with an amendment.

(25) Conforming amendments

(a) The *House* bill will provide that the term "institution in the System", "System institution," and "institution" will include the Federal Agricultural Mortgage Corporation. (Sec. 105(h)(1)(B).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision.

(b) The *Senate* bill will provide specific authorization for the following System institutions to operate as originator and certified facilities:

(i) Federal land banks
(ii) Federal land bank associations
(iii) Federal intermediate credit banks
(iv) Production credit associations
(v) Banks for cooperatives

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision with an amendment.

MARKETING OF LOANS GUARANTEED BY THE FARMERS HOME ADMINISTRATION

(1) Right to prepay and duty to repay

The *House* bill provides that subsection (f) may not be interpreted to impede or extinguish the right of the borrower or the successor in interest to the borrower to prepay (in whole or in part) any loan made under title I, or to impede or extinguish the rights of any party under any provision of title I. (Sec. 302(a).)

The *Senate* amendment provides that subsection (f) may not impede or extinguish the duty of the borrower, or the successor in interest to the borrower, to repay (in whole or in part) any loan made under the title I. (Sec. 611(a).)

The *Conference* substitute adopts the *House* provision.

(2) Interest on prepaid or defaulted loans

The *House* bill provides that interest on prepaid or defaulted loans will accrue and be guaranteed by the Secretary only through the date of payment on guarantee. (Sec. 302(a).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision.

(3) Use of the Agricultural Credit Insurance Fund

The *Senate* amendment provides that the Secretary may use the Agricultural Credit Insurance Fund for payments on guarantees of pool certificates. (Sec. 302(a).)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* language.

(4) Authority of the Secretary

The *House* bill provides that if the Secretary pays a claim under a guarantee issued under subsection (f), the claim will be subrogated fully to the rights satisfied by the payment. (Sec. 302(a).)

The *Senate* amendment provides that if the Secretary pays a claim under a guarantee under subsection (f), the claim will be subrogated fully to the rights satisfied by the payment, as may be provided by the Secretary. (Sec. 611(a).)

The *Conference* substitute adopts the *Senate* provision.

(5) Recovery of costs

The *Senate* amendment provides that on the adoption of final rules and regulations, the Secretary must provide credit enhancement, through private sources or otherwise, as is reasonably necessary to recover estimated costs of paying claims under guarantees issued under section 338. (Sec. 611(a).)

The *House* bill contains no comparable provision.

The *Conference* substitute deletes the *Senate* provision with an amendment.

(6) Custody of pooled loans

The *Senate* amendment provides that on the adoption of final rules and regulations, the Secretary must provide for adequate custody of any pooled guaranteed loans. (Sec. 611(a).)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

(7) Regulations

The *House* bill provides that the Secretary must develop and promulgate final regulations to implement the central registration provisions provided in subsection (f) within 90 days after the date of enactment of the bill. (Sec. 302(a).)

The *Senate* amendment provides that within 180 days after the date of enactment of the amendment, the Secretary must develop and promulgate final regulations to implement the section and the amendment made by the section. (Sec. 611(a).)

The *Conference* substitute adopts the *Senate* provision.

CAPITALIZATION OF FCS INSTITUTIONS; REORGANIZATION OF THE FARM CREDIT SYSTEM; MERGER AUTHORITIES

(1) Minimum capital adequacy standards

The *House* bill and the *Senate* amendment contain similar provisions to require the Farm Credit Administration, within 120 days after the date of the enactment of the bill, to issue regulations under section 4.3(a) of the Farm Credit Act of 1971 to establish for all FCS institutions minimum permanent capital adequacy standards, based on financial statements prepared in accordance with generally accepted accounting principles, to be phased in within five years after the date of enactment.

(a) The *House* bill also provides that the standards must *specify fixed percentages representing the ratio of permanent capital of the institution to the assets of the institution* taking into consideration relative risk factors as determined by the Farm Credit Administration. (Sec. 107(a)(1).)

The *Senate* amendment contains no comparable provision regarding fixed percentages, but will require that the standards generally take into consideration such relative risk factors. (Sec. 301(a)(1)(D).)

The *Conference* substitute adopts the *House* provision.

(b) The *House* bill will prohibit the Farm Credit Administration from initiating receivership, conservationship, liquidation, or enforcement action against *any* FCS institution for failure to meet the standards unless the action is recommended or concurred in by the Temporary Assistance Corporation (described in the section of this Statement dealing with financial assistance to the Farm Credit System). (Sec. 107(a)(3).)

The *Senate* amendment contains a similar provision, except that the prohibition applies only to FCS institutions eligible to issue preferred stock as a form of financial assistance (see the Statement section referred to above). (Sec. 301(a)(3).)

The *Conference* substitute adopts the *Senate* provision.

(2) Bylaws on capitalization

The *House* bill (in sec. 107(b)) and the *Senate* amendment (in sec. 301(b)) contain similar provisions add a new section 4.3A to the Farm Credit Act of 1971, to require each FCS bank and association to develop bylaws on capitalization that meet the specifications on stock ownership and related provisions set out in new section 4.3A. The capitalization bylaws must meet the objective of enabling the institution to meet the permanent capital adequacy standards described in item (1) above. Following are descriptions of the differences between the two versions of section 4.3A.

(a) The *House* bill will define the term "stock" to include allocated equities and other forms of equities (Sec. 4.3A(a)(1).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision.

(b) The *House* bill will define the term "permanent capital" to include *all allocated surplus.* (Sec. 4.3A(a)(2).)

The *Senate* amendment will define the term to include *allocated and unallocated earnings and all surplus (less allowances for losses).* (Sec. 4.3A(a)(1).)

The *Conference* substitute adopts the *Senate* provision.

(c) The *Senate* amendment will define the term "permanent capital" to include *Stock.* (Sec. 4.3A(a)(1).)

The *House* bill will define the term to include *stock, except for stock that—*

(i) can be retired by the holder on repayment of the holder's loan, or otherwise at the option or request of the holder; or

(ii) is protected under the borrower stock guarantee provisions of the bill (see the section of this Statement dealing with assistance for FCS borrowers) or is otherwise not at risk. (Sec. 4.3A(a)(2).)

The *Conference* substitute adopts the *House* provision.

(d) The *House* bill and the *Senate* amendment contain similar provisions specifying what must be included in the new bylaws, except as follows:

(i) The *Senate* amendment will prohibit, after the adoption of the new bylaws, the issuance by FCS institutions of stock that can be retired by the holder when he repays his loan, or otherwise at the option or request of the holder. (Sec. 4.3A(c)(1)(A).)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

(ii) The *Senate* amendments provides that the bylaws could provide for the charging of loan origination fees. (Sec. 4.3(c)(1)(B).)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

(iii) The *House* bill provides that the new bylaws are to provide that voting stock in an FCS institution could be held by "other FCS institutions". (Sec. 4.3A(c)(1)(D)(i)(II).)

The *Senate* amendment provides that the bylaws are to provide that voting stock can be held by—

(A) in the case of the Central Bank for Cooperatives, other banks for cooperatives; and

(B) in the case of banks other than banks for cooperatives, FCS associations. (Sec. 4.3A(c) (1) (D) (ii) and 4.3A(c)(1)(D)(iii).)

The *Conference* substitute adopts the *Senate* provision.

(iv) The *House* bill provides that the new bylaws are to provide that, as a condition of borrowing from or through an FCS institution, a borrower must acquire at least one share of voting stock. (Sec. 4.3A) (c)(1)(D) (ii).)

The *Senate* amendment provides that the bylaws must provide that the borrower, as a condition of borrowing, has to acquire stock in an amount equal to $1,000 or 2 percent of the loan, whichever is less. (Sec. 4.3A(c)(1)(E)(ii).)

The *Conference* substitute adopts the *Senate* provision.

(v) The *House* bill provides that the new bylaws *must permit, but could not require,* a holder of stock issued before the adoption of the bylaws to—

(I) apply the stock at par or face value against the amount due and purchase new stock, or

(II) exchange the stock for new stock. (Sec. 4.3(A)(c)(1)(F).)

The *Senate* amendment provides that the bylaws must *require* that holders of any such stock exchange a portion of the stock for new voting stock. (Sec. 4.3A(c)(1)(G).)

The *Conference* substitute adopts the *Senate* provision.

(vi) The *House* provides that the new bylaws need not provide for retirement of stock or repayment of the loan. (Sec. 4.3A(c)(1)(G)(ii).)

The *Senate* amendment provides that the bylaws must permit the retirement of the stock at the discretion of the institution meets the capital adequacy standards under section 4.3A of the Farm Credit Act of 1971 (see item (1) above). (Sec. 4.3A(c)(1)(I).)

The *Conference* substitute adopts the *Senate* provision.

(vii) The *Senate* amendment provides that the new bylaws must permit stock to be transferable. (Sec. 4.3A(c)(1)(J).)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

(e) The *House* bill and the *Senate* amendment contain similar provisions to prohibit the board of directors of an FCS institution from reducing the institution's permanent capital through the payment of patronage refunds or dividends, or the retirement of stock, if such action would result in the institution failing to meet the minimum permanent capital adequacy standards described in item (1) above.

The *House* bill also provides that the prohibition will not apply to the payment of noncash patronage refunds by an institution except from Federal income tax of the entire refund paid qualifies as permanent capital. (Sec. 4.3A(d).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision.

(f) The *Senate* amendment provides that new section 4.3A will not affect the provisions of the Farm Credit Act of 1971 that permit an FCS institution to cancel stock for application against the indebtedness on a restructured loan. (Sec. 4.3A(f).)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

(g) The *House* bill in sec. 103(b)(3), will extend the enforcement and penalty authorities of the Farm Credit Administration to violations of FCA directives issued under section 4.3A.

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision.

(3) Section 401 of the House bill—FCS reorganization plan

The *House* bill will add a new title VI to the Farm Credit Act of 1971 to establish a reorganized structure of the Farm Credit System (Sec. 401.)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute deletes the text of the *House* provisions and adopts a new provision to become the new title IV of the Act, which in brief would provide:

(a) *Mandatory mergers of FLBs and FICBs:*

(i) The land bank the intermediate credit bank in each district must merge within six months after the enactment of the bill.

(ii) The Assistance Board would direct the Financial Assistance Corporation to provide such financial assistance to merged banks to assure that the stock of the bank has a book value of 75 percent of par value on implementation of the merger. A new created bank in which any merged entity has received or will receive such Federal assistance will be subject to the jurisdiction of the Assistance Board.

(b) *Required vote on FLBA/PCA mergers:*

(i) Within six months after the Federal land bank and the Federal intermediate credit bank in a district merge, the stockholders of each production credit association and Federal land bank association in the district serving substantially the same geographic area must vote on whether to merge those associations.

(ii) On approval of a merger of a production credit association and a Federal land bank association the resulting association shall be a direct lender in the same manner as production credit association.

(c) *Required vote on consolidation of districts:*

(i) The voting stockholders in the current twelve districts would vote on reorganizing the System district structure down to no fewer than six districts.

(ii) A special committee composed of one representative from each district and selected within six months of enactment would develop the plan.

(ii) The special committee shall develop the plan within 6 months after its selection and shall report on its progress in developing its proposal to the agriculture committees of Congress on a quarterly basis.

(iii) Prior to the stockholder vote the proposal shall be reviewed by the Farm Credit Administration and approved by both the special committee and the Assistance Board.

(iv) Each association shall be entitled to cast a number of votes equal to its number of voting stockholders.

(d) *Required vote on a merger of banks for cooperatives:*

(i) Stockholders of the banks for cooperatives and the Central Bank for Cooperatives would vote not later than 180 days after enactment on a plan of merger into a National Bank for Cooperatives.

(ii) The plan shall be developed by a special committee composed of one representative of each bank.

(iii) This vote would be a two-tier vote, requiring approval by both—

(A) a majority of the cooperatives voting, weighted by loan volume; and

(B) a majority of banks for cooperatives voting, on a one bank-one vote basis.

(iv) For banks for cooperatives only, there would be an exception to current territorial service limitations *if* eight or more (but not all) BCs vote to merge into a National Bank. Each bank would be allowed to do business outside its district.

(v) Smaller BCs would be permited financial dealings with the National Bank for Cooperatives as they have now with the Central Bank for Cooperatives.

(4) New merger authorities under the Farm Credit Act

The *House* bill will authorize the merger and reorganization of the Federal land bank, the Federal intermediate credit bank, the Federal land bank associations, and the production credit associations in a farm credit district. The resulting bank and associations would adopt either the land bank or production credit association mechanism of providing real estate and operating credit to farmers. (Secs. 108(a), 198(c), and 108(d).)

The *Senate* amendment will provide—

(a) new authority for the merger of two or all of the Federal Land bank, Federal intermediate credit bank, and the bank for cooperatives in a district into a single bank;

(b) new authority for the merger of a Federal land bank association or production credit association into its supervising bank;

(c) provide new authority for the merger of unlike associations in a district;

(d) provide new authority for the merger of like associations; and

(e) revise the authority for the interdistrict merger of like banks. (Sec. 205(a).)

(NOTE.—While there are a number of similarities between the *House* bill and the *Senate* amendment in the method in which they provide the new authority, none of the new authorities are substantially comparable* Therefore, each of the above-described merger authorities is treated separately in items (4A) through (4F), with no comparable *Senate* or *House* provision.)

(4A) House bill: Merger and reorganization of unlike banks and associations operating in the same district

Authorization.—The *House* bill will require the Farm Credit Administration, within 180 days after the date of enactment of the bill, to prescribe regulations to allow the Federal land bank, the Federal intermediate credit bank, all the Federal land bank associations, and all the production credit associations of any farm credit district to merge and reorganize. A merger could be made only after (a) the Farm Credit Administration has approved such merger, and (b) a favorable vote of a majority of the stockholders of *each* bank and association to be merged and reorganized, and a favorable vote of 60 percent of the aggregate of the stockholders of the banks and associations, present and voting or voting by written proxy at duly authorized meetings. (Sec. 108(a)(1).)

Conditions.—No merge could be made under the *House* provision unless the merge agreement provides that—

(a) all banks and associations to be merged and reorganized are merged and reorganized into one bank and the number of associations as is specified in the agreement;

(b)(i) the resulting merged and reorganized bank and associations are a land bank and land bank associations, or an intermediate credit bank and production credit associations, to which the provisions of the Farm Credit Act of 1971 are to apply in the same manner as to other such banks and associations.

(c) the resulting merged and reorganized bank and association will succeed to the assets of the banks and associations to be merged and reorganized;

(d) all of the capital stock, participation certificates, and undistributed equity in the banks and associations to be merged and reorganized is converted fairly and equitably into stock, participation certificates, and undistributed equity of the resulting merged and reorganized bank and associations;

(e) capital stock and participation certificates in the resulting merged and reorganized bank and associations are issued to, and distributed fairly and equitably among, the stockholders thereof;

(f) the resulting merged and reorganized bank and associations will be liable for and assume all debts, obligations, contracts, and liabilities of the banks and associations to be merged and reorganized;

(g) the debts, obligations, and contracts of the resulting merged bank and associations shall be distributed fairly and equitably between and among such bank and associations consistent with the relationship (the FLB/FLBA or FICA/PCA structure) between and among such bank and associations, except that, for purposes of applying the current tiered liability rules under section 4.4 of the Act to an obligation originally issued by a bank before the merger and reorganization, the resulting merged and reorganized bank would be treated as operating under the same title of the Act as the bank that originally issued the obligation was operating at the time of such issue; and

(h) all authority of the banks and associations to be merged and reorganized will be transferred to the resulting merged and reorganized bank and associations, consistent with the relationship between and among such merged bank and associations. (Sec. 108(a)(1).)

District boards.—Under the *House* bill, in any district in which a merger and reorganization takes place, all authority of the district board—

(a) with respect to the land bank and the intermediate credit bank so merged and reorganized, will be transferred to the board of directors of the bank resulting from such merger and reorganization; and

(b) with respect to the district bank for cooperatives, will be transferred to the board of directors of the district bank for cooperatives. (Sec. 108(a)(2).)

FCA power.—The *House* bill will give the Farm Credit Administration the power to approve any merger and reorganization described above, under an agreement that meets the requirements of the bill specified above. (Sec. 108(a)(3).)

Reversal of the merger.—The *House* bill will give the Farm Credit Administration the power to prescribe regulations to permit the entities resulting from a merger described above, on a vote of a majority of the stockholders thereof present and voting or voting by written proxy at duly authorized meetings, to reverse and undo the merger and reorganize into the entities that were originally to be merged, with the same distribution of assets, liabilities, powers, and duties as existed before the merger. (Sec. 108(a)(2).)

(NOTE.—See item (10) below describing provisions in the *Senate* amendment relating to reconsideration of merger and related actions.)

Loan authority.—Under the *House* bill, if a merger and reorganization as described above occurs, the following entities that remain after the merger would be given new authority to make the following types of loans (if provided for in the merger agreement):

(a) land banks—intermediate credit bank loans to associations, and short-term loans to FCS borrowers:

(b) intermediate credit banks—long-term real estate loans to FCS borrowers; and

(c) production credit associations—long-term real estate loans to FCS borrowers. (Sec. 108(a)(3).)

Board of directors.—Under the *House* bill, whenever a merger and reorganization as described above is completed, the farm credit district board will be dissolved. In the case of the bank in the district that results from the merger (whether it be a land bank or intermediate credit bank), the board of directors of the bank (instead of it being the district board as under current law) will be elected by a majority vote of the stockholders voting in person, or by proxy, at a duly authorized meeting. The board of directors for the bank for cooperatives in the district, after the merger, will be the persons who were the members of the district board before the merger. There is no provisions in the bill for electing persons to succeed those individuals. (Sec. 108(a)(4).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute deletes the *House* provision.

(4B) Senate amendment—mergers of banks within a district

The *Senate* amendment, in section 205(a), will add a new title VII, subtitle A, to the Farm Credit Act of 1971, to authorize the merger of FCS banks within a district, as follows:

Power to merge.—The *Senate* amendment will authorize the merger of two or more banks within a farm credit district if the plan of a merger is approved by—

(a) the FCA Board:

(b) the respective boards of directors of the banks involved;

(c) a majority of the stockholders of each bank voting, in person or by proxy, at a duly authorized stockholders' meeting in accordance with the provisions of the Farm Credit Act of 1971 relating to the casting of votes by stockholders for the members of a district board; and

(d) in the case of a bank for cooperatives, a majority of the total equity interests in such merging bank for cooperatives (including allocated, but not unallocated, surplus and reserves) held by those stockholders or subscribers to the guaranty fund of the bank voting. (Sec. 7.0)

Board of directors.—The *Senate* amendment provides that, following a merger as described above, the district board of directors will continue to be composed of the seven members as provided in the Farm Credit Act of 1971. The Farm Credit Administration is to issue regulations to ensure the fair and equitable representation of the associations of each of the merging banks on the initial board of directors of the merged bank. Also, following a merger, the members of the district board are to be elected under FCA regulations prescribing procedures that are as consistent as practicable with those set forth in the Act. (Sec. 7.1)

Powers.— Under the *Senate* amendment, a merged bank will have all the powers and obligations of any of the constituent entities of the merged bank. The Farm Credit Administration is to issue regulations that establish the manner in which the powers and obligations of the banks that form the merged bank are consolidated, and to the extent necessary, reconciled in the merged bank. (Sec. 7.2.)

Capital stock.—The *Senate* amendment provides that, except as described below, the number of shares of capital stock issued by a merged bank to stockholders and other owners of any institution involved in the merger, and the rights and privileges of such shares (including voting powers, redemption rights, preferences on liquidation, and the right to dividends), are to be determined by the plan of merger adopted by the banks involved, and must be consistent with new capitalization provisions under the bill (see item (2) above), and the regulations issued by the Farm Credit Administration. However, the number of shares of capital stock issued by a merged bank, and the rights and privileges thereof, are to be determined by the board of directors of the merged bank.

Voting stock of a merged bank can be held only by—

(a) associations or cooperatives that were, immediately prior to the merger, entitled to hold voting stock of one of the banks that merged; or

(b) by farmers, ranchers, or producers of aquatic products that are or were, immediately prior to the merger, direct borrowers from the merged bank or one of the banks that comprise the merged bank. (Sec. 7.3.)

Earnings, reserves, and distributions.—The *Senate* amendment provides that the board of directors of a merged bank is to determine the use or other application of net earnings after payment of operating expenses, except that net earnings first are to be applied to restore the value of impaired capital stock. After restoration, the application of net earnings could include—

(a) additions to an allocated reserve account or to an unallocated reserve account, and payment of a dividend on capital stock or patronage refunds in cash or in stock or other notices of allocation.

All capital and retained earnings of a merged bank would be available for use in the activities of the merged bank as the board of directors determines, without regard to the activities giving rise to such earnings. (Sec. 7.4.)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* amendment with language making it conform to the new title IV of the Act.

(4C) Senate amendment—merger of associations into banks

The *Senate* amendment, in section 205(a), will add a new provision to the Farm Credit Act of 1971 to authorize the merger of Federal land bank associations or production credit associations into their supervising bank. Under the *Senate* amendment, such a merger could take place if (a) the FCA Board approves the plan of merger, (b) approved by the boards of directors of the merging institutions, and (c) a majority vote in favor cast by the stockholders of the bank and the association (in person or by proxy) at a duly authorized stockholders' meeting using the rules for stockholder voting on members of a district board in the Act.

The Farm Credit Administration is to issue regulations that establish the manner in which the powers and obligations of the bank and association that form the merged bank are consolidated and, to the extent necessary, reconciled in the merged bank. Following a merger under subsection (a), the capitalization of provisions of the bill (see item (2) above) will be applicable to the merged bank. (Sec. 7.8.)

The *House* bill contains no comparable provision.

The *Conference* substitute deletes the *Senate* provision.

(4D) Senate amendment—mergers of associations in a district

The *Senate* amendment, in section 205(a), will add new provisions to the Farm Credit Act of 1971 to authorize two or more associations within the same farm credit district (whether or not all are Federal land banks associations or all are production credit associations) to merge into a single entity. Such a merger could occur if—

(a) there is compliance with the prerequisites described below;

(b) the plan of merger is approved by (i) the Farm Credit Administration, (ii) the boards of directors of the associations, (iii) a majority of the shareholders of each association voting, in person or by proxy, at a duly authorized stockholder's meeting, and (iv) the supervising bank.

The following are the prerequisites to the merger of production credit associations with land bank associations:

(a) Either the direct lending authority of each of the merging production credit associations has been vested in the supervising bank of the association, or the bank supervising the land bank associations has transferred all of its direct lending authority to such associations.

(b) A plan of merger is developed that designates one of the supervising banks of the associations being merged as the bank responsible for the merged association.

(Note.—See also item (5) below.)

Under the *Senate* amendment, a merged association will possess all powers granted to the associations forming the merged association, and will be subject to all of the obligations imposed on such associations. The Farm Credit Administration is to issue regulations that establish the manner in which the powers and obligations of the associations that form the merged association are consolidated and, to the extent necessary, reconciled in the merged association. Following a merger, the capitalization provisions of the bill (see item (2) above) will be applicable to the merged association.

Subject to the capitalization provisions of the bill, the number of shares of capital stock issued by the merged association to the stockholders of any association forming such merged association, and the rights and privileges of such shares (including voting power, preferences on liquidation, and the right to dividends) would be determined by the plan of merger adopted by the merged associations.

The number of shares of capital stock, and the rights and privileges thereof, issued by a merged association after a merger would be determined by the board of directors of the merged association (with the approval of the supervising bank) and be consistent with the capitalization provisions of the bill and FCA regulations. Voting stock of a merged association would be issued to and held by farmers, ranchers, or producers of aquatic products who are or were, immediately prior to the merger, direct borrowers from one of the associations forming the merged association or the supervising bank of the merged association.

Under the *Senate* amendment, the board of directors of a merged association will determine the use or other application of net earnings after the payment of operating expenses, in accordance with standards established by the Farm Credit Administration and subject to the approval of the supervising bank.

Net earnings of a merged bank would first be applied to restore the value of any impaired capital stock. After restoration, the application of net earnings could include—

(a) additions to an allocated reserve account, or to an unallocated reserve account; or

(b) payment of patronage refunds in cash or in stock or other notices of allocation.

All capital and retained earnings of a merged association would be available for the uses described above and for use in the activities of the merged association that the board of directors determines, without regard to the activities giving rise to such earnings. (Secs. 7.9 and 7.10.)

The *House* bill contains no comparable provision (but see the provisions of the *House* bill described in item (3) above, relating to the merger of unlike associations in a reorganized Farm Credit System).

The *Conference* substitute adopts the *Senate* amendment with language making it conform to the new title IV.

(4E) Senate amendment—merger of like banks

The *Senate* amendment, in section 205(a), will add a new provision to the Farm Credit Act of 1971 to revise the provisions of the Act relating to mergers of like banks. In connection with that, the Senate amendment, in section 210(b)(2), will repeal sections 4.10 and 4.11 of the Act, which provide the current authority for such mergers.

The new authority under the *Senate* amendment provides that Federal land banks, Federal intermediate credit banks, and production credit associations could merge with similar banks in other districts if (a) the plan of merger is approved by—

(a) the Farm Credit Administration Board;

(b) the respective boards of directors of the bank involved;

(c) a majority vote of the stockholders of each bank voting, in person or by proxy, at a duly authorized stockholders' meeting in accordance with the provisions of the Act relating to stockholder voting; and

(d) in the case of a bank for cooperatives, a majority of the total equity interests in such merging bank for cooperatives (including allocated, but not unallocated, surplus and reserves) held by those stockholders or subscribers to the guaranty fund of the bank voting.

The provisions (described above in item (4B)) relating to the power, capitalization, and earnings of merged unlike banks would apply to banks merged under this provision.

After a merge of like banks, a board of directors will be created for the resulting bank, which will be composed of—

(a) two directors elected by each of the district boards, with at least one such director from each district being elected by the eligible stockholders of, or subscribers to, the guaranty fund of the merging banks; and

(b) one *outside* director elected by the other members. The outside director must be experienced in financial services and credit, and within the 2-year period prior to such election, not have been a borrower from, shareholder in, or director, officer, employee, or agent of any institution of the Farm Credit System. If the other members of the board fail to elect an outside director, the Farm Credit Administration Board will appoint a qualified person to serve on the board of directors until such member is so elected. The bylaws of the merged bank, with FCA approval, could provide for a different number of directors to be selected in a different manner, except that the bylaws must provide for at least one outside director.

(NOTE.—See also item (13) below.)

The board of the merged bank will have such separate and distinct powers, functions, and duties as are normally exercised by a district board related to the operations and policies of the banks that merged. (Sec. 7.15.)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

(4F) Senate amendment—mergers of associations

The *Senate* amendment, in section 205(a), will revise the authority in the Farm Credit Act of 1971 for the merger of like associations. In that regard, the *Senate* amendment, in section 2.10(b)(2), will repeal the provisions of the Act currently providing such authority.

The new authority under the *Senate* amendment provides that Federal land bank associations or production credit associations could voluntarily merge with each other if the plan of merger is approved by—

(a) the FCA Board,

(b) the respective boards of directors of the associations involved,

(c) a majority vote of the stockholders of each association voting, in person or by proxy, at a duly authorized stockholder's meeting, and

(d) the supervising bank.

The provisions of the amendment (as described in item (4E) above) relating to the powers, capitalization, and earnings of merged like banks would apply to associations merged under this provision.

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision with an amendment relating to the treatment of FCS institutions under State transfer tax law.

(4) Nondiscrimination

The *Senate* amendment, in section 205(b), will revise the current provisions of the Act requiring the Farm Credit Administration to ensure that no district board, in exercising its supervisory power, discriminates against associations in the district that do not approve merger of associations. The revised provision states that the Farm Credit Administration Board is to ensure that disapproving associations (a) will not be charged any assessment at a rate higher than that charged other like associations in the district, and (b) will be provided with financial services and assistance on the same basis as other like associations in the district.

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision with language making it conform to the new title IV.

(5) Transfer of loan-related assets and lending authority

The *Senate* amendment, in section 205(a), will add new provisions to the Farm Credit Act of 1971, to authorize the transfer among certain banks and associations of lending authority under the Act and, in connection with that, of loan assets.

Specifically, the *Senate* amendment provides as follows:

Transfers of lending authority from PCAs to banks.—A production credit association could assign the authority conferred on the association to make participate in loans and related authorities, to the Federal intermediate credit bank in the district, or to a merged bank having the Federal intermediate credit bank as one of its constituents (see items (4B) and (4E) above), if the assignment is approved by—

(a) the FCA Board;

(b) the board of directors of both institutions; and

(c) a majority of the stockholders of each association voting, in person or by proxy, at a duly authorized stockholders' meeting.

The production credit association would transfer *all* of the association's loan portfolio or other assetss, or both, to the bank for such consideration as may be agreed on by the boards of directors of the association and the bank.

After a transfer of lending authority, the Federal intermediate credit bank or the merged bank will possess the direct loan authority under the Act formerly possessed by the transferring production credit association in the territory served by the association.

After a transfer, the provisions of current law relating to borrower stock, and the provisions of the bill relating to capitalization (see item (2) above), previously applicable to the association with respect to the direct loans of the association to borrowers in the territory served by the production credit association, would be applicable to the bank. The Farm Credit Administration is to issue regulations that establish the manner in which the powers and obligations of associations that make assignments or transfers are consolidated, and to the extent necessary, reconciled in the bank involved. (Sec. 7.6.)

Transfers of lending authority from land banks to FLBAs.—A Federal land bank or a merged bank having a Federal land bank as one of its constituents (see items (4B) and (4E) above) could assign to a Federal land bank association (and the association could assume) the authority of the transferring bank in the territorial area served by the association, to make and participate in long-term real estate mortgage loans under the Act, if the assignment is approved by—

(a) the FCA Board;

(b) the board of directors of both institutions; and

(c) a majority of the stockholders of the bank and of the association, voting (in person or by proxy) at a duly authorized meeting in accordance with the stockholder voting provisions of the Act relating to election of district board members.

After an assignment, the land bank association will possess all of the direct long-term real estate mortgage loan authority, formerly possessed by the transferring bank, in the territory served by the association; and the land bank could provide and extend financial assistance to, and discount for, or purchase from, the transferee Federal land bank association any note, draft, or other obligation with the endorsement or guarantee of the association, the proceeds of which have been advanced to persons eligible and for purposes of long-term real estate loan financing by the association.

The Farm Credit Administration is to issue regulations that establish the manner in which the powers and obligations of the banks that make assignments or transfers are consolidated and, to the extent necessary, reconciled in the land bank association. Following a transfer or assignment, the capitalization provisions of the bill (see item (2) above) will be applicable to the association (Sec. 7.7.)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *House* provision with an amendment to retain the *Senate* provision relating to transfer of lending authority from land banks to FLBA's as conformed to the compromise and system structure.

(6) Termination and dissolution of FCS institution status

The *Senate* amendment, in section 205(a), will add a new provision to the Farm Credit Act of 1971 to permit an FCS institution to terminate its status as an FCS institution. Under the *Senate* amendment, the institution could terminate its status if—

(i) it provides written notice to the FCA Board not later than 90 days prior to the proposed termination date;

(ii) the termination is approved by the FCA Board;

(iii) the appropriate Federal or State authority grants approval to charter the institution as a bank, savings and loan association, or other financial institution;

(iv) the institution pays to the Farm Credit Assistance Fund (if the termination is prior to January 1, 1992) or pays to the Reserve Account (if the termination is after such date) the amount by which the total capital of the institution exceeds 6 percent of the assets (*NOTE:* see the section of this Statement dealing with financial assistance to the Farm Credit System for a fuller description of the Assistance Fund and Reserve Account);

(v) it pays or makes adequate provision for payment of all its outstanding debt obligations;

(vi) the termination is approved by a majority of its stockholders voting, in person or by written proxy, at a duly authorized stockholders' meeting, held prior to giving notice to the FCA Board; and

(vii) the institution meets other conditions the FCA Board by regulation considers appropriate.

On termination of its status as an FCS institution, the FCS Board will revoke the charter of the institution, and the institution will no longer be an instrumentality of the United States under the Act. (See. 7.12.)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

The *Senate* amendment, in section 205(a), will add a new provision to the Farm Credit Act of 1971 to allow the Federal land bank associations in a district to have their Federal land bank dissolved and liquidated, and, similarly allow the production credit associations in a district to have their Federal intermedite credit bank dissolved and liquidated.

Under the *Senate* amendment, the associations could cause dissolution and liquidation of the bank if—

(i) not later than 90 days prior to the proposed dissolution date, the associations submit to the FCA Board written notice of the proposed dissolution and a plan of dissolution that provides for—

(A) the distribution of the assets of the bank in accordance with the regulations of the FCA Board; and

(B) payment, discharge, or adequate provision for all debts, obligations, and liabilities of the bank;

(ii) the plan of dissolution is approved by the FCA Board (and in the case of an intermediate credit bank, the FCA Board consents to the dissolution);

(iii) the plan of dissolution is approved by a majority vote of the stockholders of the bank present and voting, or voting by written proxy, at a duly authorized stockholders meeting (in the case of an intermediate credit bank stockholders meeting, the vote would have to conform to the district board election voting provisions of the Act); and

(iv) the associations comply with other requirements provided in regulations of the FCA Board.

Also, with respect to the dissolution of a land bank, the lending authority would have to have been assigned to and assumed by the land bank associations (as described in item (5) above). (Sec. 7.13.)

(f) The *House* bill contains no comparable provision.

The *Conference* substitute deletes the *Senate* provision.

(7) Disclosure of information to stockholders

Both the *House* bill and the Senate amendment will require that detailed information on proposed mergers be sent to the stockholders of the FCS institution involved, prior to the vote on the mergers. (*NOTE:* See also item (3), which contains similar disclosure provisions with respect to mergers of unlike associations in the reorganized Farm Credit System.) The two bills differ as follows:

(a) The *House* bill will apply the provision to *information* or proposed *mergers.* (Sec. 109(a).)

The *Senate* amendment will apply the provision to plans on proposed *mergers, transfers or assignments of lending authority, dissolution, or termination.* Sec. 7.14, as added by sec. 205(a).)

The *Conference* substitute adopts the *Senate* provision.

(b) Under the *House* bill, no merger could take place until 60 days after the disclosure material is sent to the stockholders. (Sec. 109(a).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute deletes the *House* provision.

The *Senate* amendment provides that the institutions could submit a proposed plan to voters after 60 days of no action on the plan by the Board. (Sec. 7.14(a)(2), as added by sec. 205(a).)

The *House* bill has no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

(d) The *House* bill provides that, before an FCS institution provides the disclosure information to stockholders, it must revise the material, as the Farm Credit Administration determines necessary, to ensure its accuracy, so that stockholders could make an informed decision on the advisability of the proposed merger. (Sec. 109(a).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision.

(8) Reconsideration of votes

The *Senate* amendment, in sec. 205(a), will add a new provision to the Farm Credit Act of 1971, to provide for the reconsideration of favorable votes on mergers and related actions.

The *Senate* amendment will cover favorable stockholder votes on mergers of farm credit districts, mergers of banks within a district, the transfer of lending authority, mergers of associations into banks, mergers of associations, mergers of banks, and the termination of the status of institutions as FCS institutions.

Under the *Senate* amendment, not later than 30 days after a stockholder vote in favor of any of the actions described above, the official that records the vote must ensure that all stockholders of the voting entity receive notice of the final results of the vote. An action that is approved by a vote of the stockholders of two or more banks or associations would not take effect until the expiration of 30 days after the date on which the stockholders of such associations are notified of the final result of the vote.

If a petition for reconsideration of a merger, transfer, or termination vote, signed by at least 15 percent of the stockholders of one or more of the affected banks or associations, is presented to the Farm Credit Administration within 30 days after the date of notification—

(i) the voluntary merger, transfer, or termination will not take effect until the expiration of 60 days after the date on which the stockholders were notified of the final result of the vote; and

(ii) a special meeting of the stockholders of the affected banks or associations must be held during the 60-day period to reconsider the vote.

If a majority of stockholders of any one of the affected banks or associations voting, in person or by written proxy, at a duly authorized stockholders' meeting, vote *against* the proposed merger, transfer, or termination, such action will *not* take place.

If a petition for reconsideration of a vote is either not filed prior to the sixtieth day after the vote or, if timely filed, is not signed by at least 15 percent of the stockholders, the merger, transfer, or termination will become effective in accordance with the plan of merger, transfer, or termination.

The *Senate* amendment also contains provisions for *special reconsiderations,* as follows: The Farm Credit Administration must issue regulations under which the stockholders of any association that voluntarily merged with one or more associations after December 23, 1985, and before the date of enactment of the bill, could petition for the opportunity to organize as a separate association. The FCA regulations are to require that—

(i) the petition be filed within one year after the date of the implementation of such regulations;

(ii) the petition be signed by at least 15 percent of the stockholders of any one of the associations that merged during the period;

(iii) the petition describe the territory in which the proposed separate association will operate;

(iv) if the petition is approved—

(A) the loans of the members of the new association will be transferred from the current association to such new associations;

(B) the stock and other equities of the current association held by members of the new association will be retired at book value and the proceeds will be transferred to the new association, and an equivalent amount of stock and other equities will be issued to the members by the new association; and

(C) the other assets of the current association will be distributed equally among the current association and any resulting new association.

Not later than 30 days after the filing of the petition for reorganization, the current association must notify its stockholders that a petition to establish the separate association has been filed. The notification is to contain the date of a special stockholders' meeting to consider the petition for organization and an enumerated statement of the anticipated benefits and the potential disadvantages to such stockholders if the new association is established. All notifications must be submitted to the FCA Board for approval prior to being distributed to the stockholders. The FCA Board will require that, prior to the distribution of the notification of the stockholders, the notification be amended as necessary to provide accurate information to the stockholders that will enable such stockholders to make an informed decision as to the advisability of establishing a new association. The special stockholders meeting to consider the petition must be held within 60 days after the filing of the petition. If, at the special stockholders meeting, a majority of the stockholders of the current association who would be served by the new association approve, by voting in person or by proxy, the establishment of the separate association, the Farm Credit Administration, within 30 days after such vote, must issue a charter to the new association and amend the charter of the current association to reflect the territory to be served by the new association. (Sec. 7.11.)

The *House* bill will give the Farm Credit Administration the power to prescribe regulations to permit entities resulting from a merger of unlike banks and associations (as described in item (4A) above), on a vote of a majority of the stockholders voting (in person or by proxy) at a duly authorized meeting, to reverse and undo the merger and reorganize into the entities that were originally to be merged with the same distribution of assets, liabilities, powers, and duties as existed before the merger. (Sec. 108(a).)

The *Conference* substitute adopts the *Senate* provision.

(9) Reports by merged banks for cooperatives

The *Senate* amendment, in section 205(a), will add a new provision to the Farm Credit Act of 1971 requiring annual reports by merged banks for cooperatives.

Under the *Senate* amendment, when two or more banks for cooperatives merge, the resulting bank, not later than December 31 of each year of the succeeding five years following the date of the merger, must file an annual report with the Farm Credit Administration that—

(a) analyzes the effect of the merger;

(b) includes a breakdown of loans outstanding according to the size of the cooperative stockholders of the bank; and

(c) describes the adequacy of credit and other assistance services provided to smaller cooperations.

A copy of each report would be made available to the agriculture committees of Congress. (Sec. 7.5.)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

(10) Taxation of merged associations

The *House* bill provides that, in the case of any entity resulting from a merger in which one or more of the constituents is a production credit association, for purposes of the Internal Revenue Code of 1986, the gross income of such an entity will include—

(a) income from any loan held by such entity (other than any loan made under section 1.6 of the Farm Credit Act of 1971, as in effect on the date of the enactment of this section); and

(b) amounts required to be included in gross income by reason of paragraph (2) of section 805(d) of the Tax Reform Act of 1986. (Sec. 108(d).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute deletes the *House* provision.

(11) Certain technical and conforming amendments

(a) The *Senate* amendment, in section 205(a), will add a new provision to the Farm Credit Act of 1971 that provides as follows: Each plan of merger or transfer of lending authority under the bill could include a proposed new Federal charter for the merged or transferee entity. The FCA Board must issue the charter on the approval of the merger or transfer plan, unless the Board determines that the charter submitted is not consistent with the Act. (Sec. 7.14(c).)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

(b) The *Senate* amendment provides that, whenever a production credit association merges with, or assigns lending authority to, its Federal intermediate credit bank, the association's rural housing loans will be subject to limitations imposed by the board of the intermediate credit bank and FCA regulations. (Sec. 210(a)(3).)

The *House* bill amendment contains no comparable provision.

The *Conference* substitute deletes the *House* provision.

(c)(i) The *Senate* amendment will revise the provisions of current law (sec. 5.2(c) of the Farm Credit Act of 1971), which provides procedures for voting for district boards. Under current law, each production credit association is entitled to cast one vote for each voting stockholder of the association, and each Federal land bank association is entitled to cast one vote for each borrower from the association.

Under the *Senate* amendment, voting by a merged association consisting of production credit associations and land bank associations will use the land bank association method—one vote per borrower. (Sec. 210(c)(2)(A).)

(ii) Also, the *Senate* amendment will add new provisions to section 5.2 of the Act, providing as follows: In any case in which an association has merged into the supervising bank under the *Senate* amendment, the voting strength provisions and voting procedures described in section 5.2 will be applied under FCA regulations that are designed to give appropriate weight to the votes of voting stockholders of banks other than associations. (Sec. 210(c)(2)(B).)

The *House* bill amendment contains no comparable provision.

The *Conference* substitute deletes the *Senate* provision.

(12) Outside members of district boards

The *House* bill will expand the board of directors of each farm credit district from seven to nine. The eighth and ninth members would be elected by the seven other members and would have to meet the following qualifications:

(a) the person must be experienced in financial services and credit; and

(b) the person could not be a borrower, shareholder, official, or agent of any FCS institution. (Sec. 108(b)(1).)

The *Senate* amendment contains a similar provision, except that—

(a) instead of adding two members to each board, it would require that the seventh member (currently elected at large by voters from all institutions in the district) be the outside director elected by the other members;

(b) the qualifications for the outside director specify that he could not have been a borrower, stockholder, official, or agent of an FCS institution *within the two years preceding his election;* and

(c) the *Senate* amendment contains an additional provision, not in the *House* bill, stating that, if the six members fail to elect an outside member, the FCA Board is to appoint a qualified person to serve on the Board of Directors until a member is so elected. (Sec. 802 (c).)

The *Conference* substitute adopts the *House* provision with an amendment retaining the *Senate* provision that the outside director could not be associated with an FCS institution within two years preceding his election.

(13) Referendum to have separate boards of directors

The *House* bill will establish new authority to have separate boards of directors for FCS banks within a district. (Under current law, in sec. 5.3 of the Farm Credit Act of 1971, the district board serves as the board of the Federal land bank, Federal intermediate credit bank, and bank for cooperatives in the district.)

Under the *House* bill, within 30 days after receipt by the Farm Credit Administration of a petition from stockholders of any bank (or borrowers from or subscribers to the guaranty fund of a bank for cooperatives) representing at least 25 percent of the total number of votes that may be cast by the bank's stockholders in the election of directors, a referendum must be held to determine whether to elect a separate board of directors for the bank. The Farm Credit Administration is to issue a notice to all stockholders of the bank explaining that such a referendum is to be held. The notice is to state the time and place of a special stockholders meeting to hold the referendum. the notice to associations is to state the number of votes tht the board of the association is entitled to cast in the referendum, based on the number of voting stockholders of that association on the date of such notice, as determined by the Farm Credit Administration. The meeting must be held not less than 30 nor more than 60 days after the date the notice is mailed.

If at the special meeting of stockholders a majority of the votes represented at such meeting are cast in favor of the election of a separate board of directors for the bank, the Farm Credit Administration must hold elections for a separate board of directors for the bank.

A separate board of directors for a bank would be composed of five members. Two members of the original separate board would be the two district board members already elected by the bank's stockholders, who no longer would be members of the district board. The other three original members, and all succeeding members, would be elected and serve in accordance with provisions of the Act governing the election of members to district boards. If separate boards are established for two or more banks in a district, the district board for that district would be terminated. Coordination between boards of directors in a district on matters such as joint property, functions, or policy would be by a committee composed of representatives from each board in the district.

A separate board of directors would continue until abolished. If the Farm Credit Administration receives a petition similar to that to have separate boards (as described above) requesting a referendum to determine whether to retain the separate board of directors for the bank, a referendum would be held as described above. If a majority of the votes represented at the special shareholders meeting called for this purpose are cast in favor of abolishing the separate board of directors of the bank, the board would be abolished, and the two most senior members would join the district board, which then would act for the bank. If the district board has been terminated, it would take the concurrent abolition referendums of two district banks to reestablish it.

The creation of a separate board, or its abolition, would last at least five years. The separate board of directors of a district bank would have the power to exercise all of the powers granted to the bank in section 1.4, 2.1, or 3.1 of the Act, whichever is applicable. The district board is not to act for the bank or exercise authority otherwise granted it under the Act. (Sec. 108(b)(2).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute deletes the *House* provision.

MISCELLANEOUS FCA PROVISIONS AND CONSERVATION

(1) Eligibility to borrow from a bank for cooperatives

The *House* bill provides that notwithstanding any other provisions of law, the following entities shall be eligible to borrow from the banks for cooperatives: (1) any cooperative or other entity that has completed a loan or loan commitment from the Rural Electrification Administration or the Rural Telephone Bank, or a loan guarantee from the REA, or has been certified by the Administrator of the REA as eligible for the loan, loan commitment, or loan guarantee, and subsidiaries of such cooperative or other entities; (2) any legal entity at least 50 percent of the voting control of which is owned by one of more entities eligible to borrow from the banks for cooperatives; and (3) any legal entity that holds at least 50 percent of the voting control of an entity that is eligible to borrow from the BCs and that borrows for the purpose of making funds available to such entity.

The *House* bill further provides that any legal entity eligible to borrow from the BCs under this provision shall be treated as an eligible cooperative association and a stockholder eligible to borrow from the BC; and that nothing in this provision is intended to adversely affect the existing eligiblity (prior to enactment of the bill) of cooperatives and other entities for any other credit assistance under Federal law. (Sec. 109(b).)

The *Senate* amendment is similar, except that with respect to a legal entity, more than 50 percent of the voting control of which is held by one or more associations or other entities that are eligible to borrow from the BCs, the eligiblity to borrow is subject to the limitation that it must not conduct business in farm or aquatic products or services with nonmembers in a greater value than with members. (Sec. 206.)

The *Conference* substitute adopts the *House* provision with three modifications. The first modification limits the eligiblity of subsidiaries of eligible associations to borrow from BCs to those subsidiaries which, when combined with the "parent" eligible associations, otherwise meet the general eligibility requirements of the Act. The second modification provides that "parent" associations eligible to borrow under the general eligiblity requirements of the Act may borrow for a subsidiary solely for the purpose of financing eligible subsidiaries and must make those funds available to the subsidiary under the same terms and conditions as applied to the "parent" association. The third modification authorizes the board of a BC to adopt capitalization plans which allow for loans that do not require a stock purchase (other than one share of voting stock) in cases where loan funds are backed by a Federal guarantee.

(2) Sales of certain kinds of insurance by System institutions

The *House* bill provides that banks and associations may sell insurance to borrowers and that the borrowers will have the option, without coercion, to accept or reject such insurance. Insurance services may only be offered if the insurance program has been approved by the bank or association from among specific programs made available to it from insurers that meet reasonable standards of service and are licensed to sell insurance in the State. In addition, the provision requires that the board of the bank or association must select and offer at least three insurers for each type of insurance made available to the borrowers.

The *House* bill further provides that System institutions or the FCA may not own, control, manage, underwrite, direct, or supervise any insurance company or agency, underwrite insurance, adjust or pay claims or supervise such activity, or train, school, or service insurance adjustors or agents. (Sec. 109(c).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute requires banks, when making insurance available through private insurers, to approve programs of two or more insurers for each type of insurance offered in the district. The substitute also authorizes the banks to provide comparative information relative to the costs and quality of approved programs and the financial conditions of the approved companies. In addition, the substitute requires associations to offer at least two insurers for each program from among those approved by the banks.

(3) Civil money penalties

The *House* bill provides that any institution or person who violates any provision of the Act or the regulations thereunder will be subject to a civil penalty of not more than $500 per day for each day the violation continues. Before assessing a civil penalty, the FCA must notify and solicit the views of the institution or person to be assessed of the alleged violation and the penalty proposed to be assessed. Finally, orders of the FCA regarding assessment of civil penalties are made reviewable under chapter 7 of title 5 of the U.S. Code, which provides generally for judicial review of agency actions. (Sec. 109(d).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision.

(4) Authority for land banks to make loans for recreational purposes

The *House* bill authorizes Federal land banks to make loans to farmers and ranchers for the acquisition of equipment necessary to conduct commercial recreation or related activities on the farm or ranch, if the equipment is used on the farm or ranch property and is used by the farmer or rancher and his/her family. (Sec. 109(e).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute deletes the House provision.

(5) Limitation on the authority of FCA to require disclosure of information relating to loans made to directors

The *House* bill prohibits the FCA from requiring that an institution disclose in any stockholders' report information concerning the condition of classification of a loan to: (1) a director of the institution who has resigned before such report is required to be filed with the FCA or whose term of office will expire no later than the date of the stockholders meeting to which the report relates; and (2) an immediate family member of a director unless the member lives in the same house as the director, or unless the director has a material financial or legal interest in the loan or the business operation of the family member. This provision further directs the FCA to make necessary changes in its regulations, within 30 days after enactment of the bill, to implement the provision. (Sec. 109(f).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision with the understanding that the exceptions to the disclosure requirements in the amendment apply to all those who are required to disclose, including senior officers, and to all relatives defined as immediate family members. The prohibition against disclosing loan information is prohibited in any stockholders' report or supplemental statements that are available to stockholders for inspection.

(6) Enhance protection of stockholder voting rights

The *House* bill provides that System institutions may not require the use of signed ballots and shall implement measures to protect voters' rights to a secret ballot process in connection with any election or merger vote, or other proceeding subject to stockholder vote. (Sec. 109(g).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision.

(7) Security for land bank loans

The *House* bill limits, effective only for loans applied for and made after the date of enactment of the bill, the loan to value ratio on land bank loans to 80 percent of the appraised value of real estate security instead of 85 percent as provided in current law. (Sec. 109(h).)

The *Senate* amendment maintains the current 85 percent loan to value ratio on land bank loans, but authorizes the FCA to require, by regulation, that loans not exceed 75 percent of the appraised value of the real estate security. In addition, this provision requires that land bank to require that borrowers provide a financial statement to it at least once every 3 years or more often as may be required by FCA regulations. (Sec. 208.) [NOTE: In this section the *Senate* amendment also completely replaces the current law provision and restructures it but makes no other substantive changes than those described above.]

The *Conference* substitute adopts the *Senate* provision.

(8) Offers of sale by local real estate agents

The *House* bill establishes a new section 4.37 which provides that in connection with the sale of acquired properties by a System lender, such lender shall, to the extent practicable, only offer the property for sale through real estate agents located in the county in which the property is located, and that the lender shall select such agents on a competitive basis. (Sec. 109(i).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute deletes the *House* provision.

(9) Affirmative action

The *House* bill establishes a new section 4.36 which requires the TAC and each System institution with more than 20 employees to establish and maintain an affirmative action program plan for hiring, placement, and advancement of socially disadvantaged individuals (as defined in the Small Business Act) in the same manner as Federal agencies are required to do under the Civil Rights Act of 1964. (Sec. 109(k).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision with a modification to provide that the affirmative action standards applied to each Farm Credit System institution and the Assistance Board would be the same standards otherwise applied to government contractors.

(10) Encouragement of conservation practices

The *House* bill will require a System institution or an agricultural loan originator (as defined in sec. 5.81(1)) to encourage a borrower to contact the Soil Conservation Service of the Department of Agriculture to obtain information about soil conservation methods and practices, at the time the institution or originator, as the case may be, approved a loan made to the borrower that, in the opinion of the institution or originator, would be ineligible for a loan made, insured, or guaranteed under the Consolidated Farm and Rural Development Act by reason of subtitle B (Highly Erodible Land Conservation) or subtitle C (Wetland Conservation) of title XII of the Food Security Act of 1985. (Sec. 4.38 as added by sec. 109(j) of the bill.)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision.

(11) Eligibility of cropland to be placed in the Conservation Reserve

The *Senate* amendment will require that land must be considered planted to an agricultural commodity during a crop year for purposes of determining the eligibility of land to be placed in the conservation reserve program established under subtitle D of title XII of the Food Security Act of 1985, if an action of the Secretary prevented the land from being planted to the commodity during the crop year (sec. 1231(g) of the Food Security Act of 1985 as added by sec. 303 of the bill.)

The *House* bill contains no comparable provision.

The *Conference* substitute deletes the *Senate* provision.

(12) Ownership requirement under the conservation reserve program

The *Senate* amendment will provide that land in which a change in ownership occurred due to foreclosure on the land and the owner of the land immediately prior to the foreclosure exercises a right of redemption from the mortgage holder in accordance with State law will be exempted from the provision that prohibits the Secretary from entering into contracts, with owners and operators of farms and ranches containing highly erodible cropland, to place in the conservation reserve under subtitle D of title XII of the Food Security Act of 1985, land the ownership of which has changed in the 3-year period preceding the first year of the contract period. (Sec. 1235(a)(1)(D) of the Food Security Act of 1985 as added by sec. 804 of the bill.)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

(13) Placement of inventoried property in conservation reserve

(a) The *Senate* amendment will provide that section 1235(a)(1) of the Food Security Act of 1985 will not apply to highly erodible cropland that is administered on the date of enactment of the bill by—

(i) an institution of the Farm Credit System under the Farm Credit of 1971;

(ii) The Secretary under the Consolidated Farm and Rural Development Act; or

(iii) a private lender. (Sec. 1235(a)(3)(A) of the Food Security Act of 1985 is added by sec. 805 of the bill.)

The *House* bill contains no comparable provision.

The *Conference* substitute deletes the *Senate* provision.

(b) The *Senate* amendment will require the Secretary, notwithstanding any other provision of law, in the case of highly erodible cropland that is placed in the conservation reserve as a result of section 1235(a)(3) of the Food Security Act of 1985, to make payments under subtitle D of such Act only to family farmers who purchase or lease such cropland and who enter into a contract under subtitle D. (Sec. 1235(a)(3)(B) of the Food Security Act of 1985 as added by sec. 805 of the bill.)

The *House* bill contains no comparable provision.

The *Conference* substitute deletes the *Senate* provision.

(c) The *Senate* amendment will require the Secretary to give priority to the offers submitted by owners or operators who satisfy the requirements of section 1235(a)(1) of the Food Security Act of 1985, if the Secretary receives contract offers for participation in the program established by subtitle D of such Act from owners of operators who satisfy the requirements of section 1235(a)(1) and family farmers who satisfy the requirements of section 1235(a)(3). (Sec. 1234(a)(3)C) of the Food Security Act of 1985 as added by sec. 805.)

The *House* bill contains no comparable provision.

The *Conference* substitute deletes the *Senate* provision.

(d) The *Senate* amendment will define the term "family farmer" for section 1235(a)(3) of the Food Security Act of 1985 to mean an owner or operator (as of the time immediately before such sale or lease) of not larger than a family-size farm located in a State, as defined by the Secretary for farmers under the Consolidated Farm and Rural Development Act. (Sec. 1234(a)(3)(D) of the Food Security Act of 1985 as added by sec. 805.)

The *House* bill contains no comparable provision.

The *Conference* substitute deletes the *Senate* provision.

(14) Repeal of preapproval and related authorities

The *House* bill makes numerous technical changes to the Farm Credit Act of 1971 to eliminate from the Act obsolete references to FCA approval of actions by System institutions. The approval authorities of the FCA were deleted from the Act as part of the 1985 amendments; however, all conforming changes related thereto were not made at that time. (Sec. 110.)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision.

(15) Uniform chart of accounts

The *Senate* amendment establishes a new section 5.22A which requires each System institution to comply with a uniform chart of accounts, approved by the FCA, to standardize and facilitate the reporting of System data and to report to the FCA, within 6 months after enactment of the bill, on the plan of the institution to bring its operations into compliance with the uniform chart of accounts. If the accounts are maintained on a computer system, each institution may maintain its own internal computer system or contract out to a vendor under open competitive bidding procedures. (Sec. 209.)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision with an amendment deleting the phrase "chart of accounts" wherever it appears and inserting instead the phrase "financial reporting instructions required by the Farm Credit Administration".

(16) Compensation of directors

The *Senate* amendment limits the compensation that System district directors can receive for serving on the district board to no more than $15,000 annually. (Sec. 806.)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision. In adopting the *Senate* provision, the Conferees note that the provision applies only to compensation received for serving on the district board and does not affect compensation from concurrent board memberships at the association or other level within the Farm Credit System.

TITLE II—RESTRUCTURING THE FARM CREDIT SYSTEM

(18) Farm Credit Administration Board

(a) The *Senate* amendment requires the Farm Credit Administration Board to adopt such rules as it deems appropriate for the transaction of business by the Board. Also, the Board is required to keep permanent and accurate records and minutes of its actions and proceedings. (Sec. 201(a).)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

(b) The *Senate* amendment provides that:

(1) the Chairman of the Board shall be the chief executive officer of the Farm Credit Administration;

(2) the Chairman, as chief executive officer, shall be responsible for directing the implementation of policies and regulations adopted by the Board and, after consultation with the Board, the execution of the administrative functions and duties of the FCA;

(3) the Chairman, in carrying out the policies of the Board shall act as spokesperson for the Board and represent the Board and the FCA in their official relations within the Federal government; and

(4) the Chairman shall also (under policies adopted by the Board) consult with—(a) the Secretary of the Treasury regarding the exercise, by the System, of the powers conferred by the section; (b) the Board of Governors of the Federal Reserve System concerning the effect of System lending activities on national monetary policy; and (c) the Secretary of Agriculture concerning the effect of System policies on farmers, ranchers, and the agricultural economy. (Sec. 201(b).)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

(19) Organization of Farm Credit Administration

(a) The *Senate* amendment provides that—

(1) the Chairman of the FCA Board in carrying out his duties under the Farm Credit Act shall be governed by the policies of the Board and such regulatory decisions and determinations as it is authorized by law to make;

(2) the Chairman is authorized to appoint such personnel as may be necessary to carry out the general functions of the FCA, and the Chairman is authorized to appoint heads of major administrative divisions of

the Board subject to the approval of the Board;

(3)(A) personnel employed regularly and full-time in the immediate offices of Board members are authorized to be appointed by each Board member; and

(B) the officers and employees of the FCA are made subject to the Ethics in Government Act of 1978; are considered officers and employees of the United States for purposes of sections 201 through 203, and sections 205 through 209, of title 18, the U.S. Code (criminal matters concerning bribery, graft, and conflict of interest exemption thereto of certain Federal officials); and section 5315 of title 5, U.S. Code (salary scale for Level IV of the Federal schedule); (c) the powers of the Chairman necessary for day-to-day management may be delegated to designated officers and employees of the FCA except those powers specifically reserved for the Chairman by the Farm Credit Act without Board approval; and

(4) funding the operation of the FCA, and the salaries of the members of the Board and FCA employees shall be funded and paid for from the Farm Credit Administration Operation Expenses Fund. (Sec. 201(c).)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

(b) The *Senate* amendment provides for the authority of the Chairman relating to the appointment of advisory committees subject to the approval of the Board. (Sec. 201(d).)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

(c) The *Senate* amendment strikes out the last sentence of paragraph (2) and provides in lieu thereof that the Board, after consultation with the respective boards of directors of the affected banks, may require two or more district banks operating under the same or different titles to merge if the Board determines that one of such banks has failed to meet outstanding obligations. Also, the *Senate* amendment provides that, except for associations, the Board has authority to fix salary scales for employees that are fair and reasonable, and it further provides that the Board may not delegate this authority. (Sec. 5.17(a) (2) and (15) of the Farm Credit Act; Sec. 210(e) of the *Senate* amendment.)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

(d) The *Senate* amendment provides new authority that—

(1) the FCA Board may permit a PCA that is located in a district in which there are no more than three such associations (notwithstanding any territorial limitation in the charter of such association), to provide credit and technical assistance to any borrower who is denied such assistance by a PCA that has an adjoining service territory and is located in the same district, if the Board determines that one of the production credit associations in the district is unduly restrictive in the application of credit standards; and,

(2) if the FCA Board approves the extension of credit and technical assistance under this new authority, the association must approve or deny the application for credit within 90 days after the receipt of the application from the borrower. (Sec. 201(f).)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision with an amendment which would limit the applicability of the provision to production credit associations located in a district in which there are no more than two production credit associations. The Conferees intend that the Farm Credit Administration Board, in exercising its approval authority under this provision, limit its approval to production credit associations located in the 12th Farm Credit district.

(e) The *Senate* amendment amends section 4.12(b) of the Act by vesting in the Farm Credit Administration Board all power with respect to appointments of conservators or receivers for any System institution. (Sec. 201(g).)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

(20) Farm Credit Operating Expense Fund

The *Senate* amendment provides that—

(a)(1) prior to the first day of each fiscal year, the FCA shall determine (a) the cost of administering the Farm Credit Act for the subsequent fiscal year; (b) the amount of assessments that will be required to pay such administrative expenses (taking into consideration the funds contained in the Administrative Expense Account) and maintain a necessary reserve; and (c) the amount of assessments required to pay the costs of supervising and examining the Mortgage Corporation established under the Act;

(2) the FCA shall on the basis of the determinations made under paragraph (1),—(A) apportion the amount of such assessment among the System institutions on a basis that is determined to be equitable by the FCA; (B) assess and collect such apportioned amounts from time to time during the fiscal year; and (C) assess and collect amounts from the Mortgage Corporation;

(b)(1) the amounts collected and shall be deposited in the Farm Credit Administration Administrative Expense Account. (The Expense Account to be maintained in the Treasury of the United States and available, without regard to the Balanced Budget and Emergency Deficit Control Act of 1985 or any other law, to pay the expenses of the Farm Credit Administration); (B) the funds contained in the Expense Account must not be construed to be Federal government funds or appropriated monies; and (C)(i) the Secretary of the Treasury, on request of the FCA, shall invest and reinvest such amounts contained in the Expense Account as, in the determination of the FCA are in excess of the amounts necessary for current expenses of the FCA; (ii) deposit all income earned from such investments and reinvestments in the Expense Account; and (iii) invest such funds in public debt securities with maturities suitable to the needs of the Expense Account, as determined by the FCA, and bearing interest at rates determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding marketable obligations of the United States of comparable maturities. (Sec. 202(a).)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

(21) Examination of Federal Land Bank Associations

The *Senate* amendment provides:

(a) for an exemption of FLBAs from one or more examinations a year; (b) that the FLBAs shall be examined at such times as determined by the FCA Board but at least once every 5 years; and (c) that the authority to conduct examinations of System institutions would rest with the Board rather than only with the Chairman of the Board. (Sec. 202(b).)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision with two modifications. The first modification would limit the applicability of the *Senate* provision to associations which do not possess direct lending authority. The second modification would require such associations to be examined at least once every three years instead of every five years as provided in the *Senate* amendment. The Conferees emphasize that the authorities in the Farm Credit Act providing for Farm Credit Administration or bank supervision and examination of associations must be used solely for those purposes and under no condition are they to be used as the basis for harassing farmer/borrowers and their local associations.

(22) Power to remove directors and officers

The *Senate* amendment amends part C of title VI by adding at the end thereof a new section that provides that notwithstanding any other provision of the Farm Credit Act, a farm credit district board, bank board, or bank officer or employee shall not remove any director or officer of any production credit association or Federal land bank association. (Sec. 202(c).)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

(23) Conforming amendments

(a) The *Senate* amendment requires that when one or more PCA's merge with a FICB, loans made shall be subject to the limitations imposed by the FICB board and FCA regulations. (Sec. 210(a)(1).)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

(b) The *Senate* amendment requires that when an association has merged into the district bank, voting procedures for the nomination and election of the district board issued by the FCA shall be designed to give appropriate weight to the votes of voting stockholders of banks other than associations. (Sec. 210(c)(2).)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

(c) The *Senate* amendment requires that the FCA Board, rather than the FCA, as under current law, approve mergers as provided for in the bill. (Sec. 210(c)(3).)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

(24) Outside Directors on Association Boards of Directors

The *Senate* amendment requires that each production credit association and Federal land bank association board shall include one member who is not a borrower from, a shareholder in, or any officer or employee of any institution of the Farm Credit System. (Sec. 802(b).)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

(25) Transitional Authorities

(a) The *Senate* amendment provides that the Farm Credit Administration Board shall issue the necessary regulations to implement this Act. (Sec. 807(a).)

The *House* bill has no comparable provision.

The *Conference* substitute provides that the Farm Credit Administration Board, the Farm Credit System Assistance Board, and the Secretary of Agriculture issue the regulations necessary to implement the provisions of the bill.

(b) The *Senate* amendment provides that current FCA regulations shall remain effective until revoked, superseded, amended, or modified by regulations pursuant to the bill. (Sec. 807(b).)

The *House* bill has no comparable provision.

The *Conference* substitute adopts the *Senate* provision with a modification providing that current regulations will remain effective until revoked, superseded, amended, or modified by regulations pursuant to the bill, except as otherwise specifically provided for in the bill.

(c) The *Senate* amendment requires that FCA shall issue regulations to implement the bill within one year, unless otherwise specifically provided for in the bill. (Sec. 807(c).)

The *House* bill has no comparable provision.

The *Conference* substitute requires the regulations to be issued as expeditiously as possible, and, except as otherwise specifically provided for in the bill, not later than 180 days after the date of enactment.

FmHA and Related Provisions

(a) Amendment of Consolidated Farm and Rural Development Act

The *House* bill will provide that any amendment or repeal of a section or other provisions in title II of the bill will be considered to be made to a section or provision of the Consolidated Farm and Rural Development Act, except as otherwise provided. (Sec. 201).

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision. (Sec. 601.)

(2) Liquidation not required a condition of debt restructuring; loan servicing

The *House* bill will—

(a) authorize the Secretary to compromise, adjust, reduce, or charge off debts or claims, as circumstances may require, to carry out the various provisions of the Consolidated Farm and Rural Development Act; and

(b) will prohibit the Secretary from requiring liquidation of property securing any farmer program loan or acceleration of payments as a condition of compromising, adjusting, reducing, or charging off debts or claims and adjusting, modifying, subordinating, or releasing the terms of security instruments, leases, contracts, and agreements. (Sec. 331(d) of the Consolidated Farm and Rural Development Act as added by sec. 202(a) of the bill.)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision with an amendment prohibiting the Secretary from requiring liquidation of property securing any former program loan or acceleration of payments as a prerequisite to initiating any action authorized under section 331(d) of the Consolidated Farm and Rural Development Act. Actions authorized under section 331(d) include compromising, adjusting, reducing, or charging off debts or claims and adjusting, modifying, subordinating, or releasing the terms of security instruments, leases, contracts, and agreements.

(3) Debt restructuring and loan servicing options

(a) The *Senate* amendment will require the Secretary to modify, to the maximum extent practicable, delinquent loans or loans purchased from the lender under section 309B to—

(i) avoid losses to the Secretary, with priority given to writing down the principal and interest, and debt set-aside whenever these procedures would facilitate in keeping the borrower on the farm, or otherwise through the use of primary loan service programs; and

(ii) to ensure that borrowers are able to continue farming or ranching operations. (Sec. 353(a).)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

(b) The *House* bill will require that in order for a farm borrower to be eligible for restructuring he must—

(i) be 180 days delinquent in any payment under any farmer program loan; and

(ii) be unable to meet his loan obligations under any primary loan service program which includes loan consolidation, rescheduling, or remortization, interest rate reduction and deferral of principal or interest. (Sec. 353(a)(1).)

The *Senate* amendment contains a similar provision, except that in order for a borrower to be eligible for restructuring, he must—

(i) be delinquent because of circumstances beyond his control, as defined in regulations;

(ii) have acted in good faith with the Secretary in connection with the loan, as defined in regulations;

(iii) present a plan that contains reasonable assumptions that demonstrate that the borrower will be able to meet the necessary family living and farm operating expenses, and service all debts, including those of loans restructured; and

(iv) have a loan that if restructured will result in a net recovery to the Government that would be more than or equal to the net recovery to the Government from an involuntary liquidation or foreclosure. (Sec. 353(b).)

The *Conference* substitute adopts the *Senate* provision with an amendment requiring the borrower to present a preliminary plan to the Secretary that contains reasonable assumptions that demonstrate that the borrower will be able to meet the necessary family living and farm operating expenses, and service all debts, including those of loans restructured.

(c) Both the *House* bill (in sec. 353(a)(1)) and the *Senate* amendment (in sec. 353(c)) will require the Secretary to calculate—

(i) the present value of payments that the borrower would make to the Government if the loans were modified (restructured loan value); and

(ii) the greatest amount the Secretary could recover through bankruptcy or liquidation (recovery value).

The *Conference* substitute adopts the *Senate* provision.

(d) The *House* bill will require the Secretary to base the restructured loan value estimate on the present value of the payments that the borrower would make to the Secretary if the terms of the loan were modified by compromising, adjusting, reducing, or charging off debts or claims (Sec. 353(a)((1)(A)(ii).).

The *Senate* amendment will require the Secretary to base the restructured loan value calculations on the present value of payments, using a discount rate of not more than the current rate on 90-day Treasury bills, that the borrower would make to the Government if the terms of the loan were modified by loan consolidation, rescheduling, or reamortization, interest rate reduction, deferral, set-aside, or writing down of principal or interest. (Sec. 353(c) (1) and (3).)

The *Conference* substitute adopts the *Senate* provision.

(e) The *House* bill will require the Secretary to base the recovery value estimate on the greatest amount the Secretary could reasonably expect to recover through bankruptcy of liquidation, less all reasonable and necessary costs and expenses that the Secretary could reasonably expect to incur to preserve or dispose of the property (including all associated legal and property management costs.). (Sec. 353(a)(1)(A)(ii).)

The *Senate* amendment will require the Secretary to base the recovery value calculations on the amount of the current appraised value of the property, less the estimated administrative, legal, and other expenses associated with the liquidation and disposition, including—

(i) the payment of liens;

(ii) taxes and assessments, depreciation, management costs, the yearly percentage decrease or increase of property value, and lost interest income, each calculated for the average holding period for the type of property involved; and

(iii) resale expenses, and other administrative and attorneys cost. (Sec. 353(c)(1) and (2).)

The *Conference* substitute adopts the *Senate* provision.

(f) The *House* bill will require the Secretary to notify the borrower in writing of the restructed loan value and the recovery value, and provide a factual basis for the recovery value if it exceeds 70 percent of the outstanding loan balance plus accrued interest and penalties. (Sec. 353(a)(1)(B).)

The *Senate* amendment will require the Secretary, within 60 days of a written restructuring request, to make the recovery value and restructured loan value calculations, to notify the borrower in writing of the results, and to provide documentation for the calculations. (Sec. 353(c)(4).)

The *Conference* substitute adopts the *Senate* provision.

(g) The *House* bill will require the Secretary to terminate the obligations of the borrower if the restructed loan value is less than the recovery value and the borrower pays (or obtains third-party financing to pay) the Secretary an amount equal to the recovery value within 45 days after receipt of the recovery value estimate. (Sec. 353(a)(3).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision with an amendment that will authorize the Secretary to require the borrower to enter into an agreement providing for the recapture of any portion of the difference between the recovery value and the fair market value (at the time of the agreement) in the event the borrower sells or otherwise conveys the property within two years and realizes as gain such portion of the difference between the two values. However, any increase in the fair market value of the property will accrue solely to the borrower.

The Conferees intend that the original *House* provision will only be used if the value of the restructured loan (the amount the Secretary determines the borrower is able to repay) were *less* than the recovery value. In such a case, the Secretary would be allowed to proceed with foreclosure, but only after allowing the borrower an opportunity to pay the Secretary the recovery value of the loan.

If the Secretary determines that the value of a restructured loan is higher than the recovery value, the Secretary will offer to restructure the loan and this option to pay off the loan at the recovery value would not be available to the borrower, even if the borrower declines the restructuring offer.

(h) The *Senate* amendment will require the Secretary, in selecting the restructuring alternatives, to give priority consideration to the use of principal and interest write-down. However, the priority consideration for the use of principal and interest write-down will not be required, unless other creditors of the borrower (other than those who are fully collateralized) representing a substantial portion of the total debt of the borrower, agree to participate in the development of the restructuring plan or a State mediation program. Before eliminating the option to use debt write-down, the Secretary must make a reasonable effort to contact the creditors of the borrower, either directly or through the borrower, and encourage the creditors to participate with the Secretary in the development of a restructuring plan for the borrower. (Sec. 353(d).)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision with an amendment providing that the failure of creditors to agree to participate in the restructuring plan or mediation program will not preclude the use of principal and interest write-down by the Secretary, if the Secretary determines that these restructuring alternatives are the least cost alternative to the Secretary. (Sec. 353(d)(1)(B).)

(i) The *House* bill will reaffirm the authority of the Secretary to enter into an agreement to modify the loan obligations of a borrower to consider during the life of the loan—

(i) any amount received or considered received by the borrower on conveyance of the security property through a shared appreciation arrangement, or

(ii) in the event the borrower experiences a substantial improvement in financial condition and income, an agreement whereby the borrower agrees to repay a portion of any amounts set aside or written off. (Sec. 353(a)(4).)

The *Senate* amendment contains a provision that authorizes the use of shared appreciation arrangements for the repayment of amounts written off or set aside, as a condition of restructuring a loan. (Sec. 353(e)(1).)

The *Conference* substitute adopts the *Senate* provision.

(j) The *Senate* amendment will provide the following terms for shared appreciation agreements—

(i) the shared appreciation agreements must not exceed 10 years;

(ii) the shared appreciation agreements must provide for recapture based on the difference between the appraised values of the real property at the time of restructuring and time of recapture;

(iii) the amount of appreciation to be recaptured must be 75 percent of the appreciation if the recapture occurs within 4 years of restructuring and 50 percent if the recapture occurs during the remainder of the term of the agreement; and,

(iv) recapture must take place at the end of the agreement, or sooner on the conveyance of the property (not to include a transfer of property to the spouse of a borrower upon death), on the repayment of loans, or if the borrower ceases farming operations. (Sec. 353(e)(2).)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

(k) The *House* bill will require that, at the election of the borrower, any adverse estimate or determination is appealable under section 333B. (Sec. 353(b).)

The *Senate* contains no comparable provision.

The *Conference* substitute deletes the *House* provision.

(l) The *Senate* amendment will prohibit foreclosure or liquidation action on any loan determined to be ineligible for restructuring—

(i) until the borrower has been given the opportunity to appeal; and

(ii) if the borrower appeals, the appeals process must be completed and a determination made that the loan is ineligible for restructuring. (Sec. 353(g).)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

(m) The *Senate* amendment will provide that once an appeal has been filed under section 333B, a decision must be made at each level in the process within 45 days after the receipt of the appeal or request for further review. (Sec. 353(h).)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

(n) The *Senate* amendment will require that a notice of ineligibility for restructuring be sent to the borrower by registered or certified mail, within 15 days after the determination the borrower is ineligible for restructuring, that contains—

(i) the determination and the reasons for the determination;

(ii) the computations used to make the determination, including the calculation of the recovery value of the collateral securing the loan; and

(iii) a statement of the right of the borrower to appeal the decision to the appeal division, and to appear before a hearing officer. (Sec. 353(f).)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

(o) The *Senate* amendment will specifically require the Secretary to restructure the loan, if the appeals process results in a determination that a loan is eligible for restructuring, taking into consideration the restructuring recommendations, if any of the appeals officer. (Sec. 353(f).)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

(p) The *House* bill will provide that the creditworthiness of, or the adequacy by collateral offered by, any borrower whose loan obligations are modified by restructuring must be determined without regard to the modification. (Sec. 353(c).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision. The Conferees intend that, for the purposes of future loan consideration, the creditworthiness of, or the adequacy of collateral offered by, any borrower whose loan obligations have been modified by restructuring shall be determined on the basis of the obligations as modified, without regard to any amounts written off, or any amounts set aside or otherwise held in abeyance. Neither the fact nor the amount of principal or interest write-downs or debt set-aside shall be considered as an adverse factor in determining eligibility or approval of such loan considerations.

(q) The *House* bill will define the term "borrower" for purposes of the Consolidated Farm and Rural Development Act to mean any farm borrower who has outstanding debt obligations to the Secretary under any farmer program loans without regard to whether the loan has been accelerated, but does not include a borrower all of whose loans and accounts have been foreclosed or liquidated, voluntarily or otherwide. (Sec. 353(d).)

The *Senate* amendment contains a similar provision, except that the definition—

(i) applies only to section 307(e), 309(i), and (j), 331D, 335(e), 335(f), 338(f), 352(b) and (c), and 353; and

(ii) includes all FmHA borrowers. (Sec. 343(b)(1).)

The *Conference* substitute adopts the *Senate* provision with a clarifying amendment to limit the term "borrower" to any farm borrower who has outstanding debt obligations to the Secretary under any farmer program loan.

(r) The *Senate* amendment will authorize a borrower to include a request for an independent appraisal when an appeal is filed. On such request, the appeals division must present the borrower with a list of three appraisers approved by the county supervisor, from which the borrower must select an appraiser. The borrower must pay for the appraisal, the results of which must be considered in any final determination concerning the loan. A copy of any appraisal made under this paragraph must be provided to the borrower. (Sec. 353(j).)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* povision.

(s) The *Senate* amendment will require the Secretary to give notice to the borrower of the intention to accelerate the loan and foreclose and to terminate all additional assistance to the borrower, if, at any time after the end of 18 months after the obligations of a farmer program borrower has been restructured, the borrower is delinquent and has remained delinquent for a period of at least 180 days in the repayment of the restructured loan. The Secretary must terminate all further assistance to the borrower and proceed to acceleration, foreclosure, or liquidation, unless, within 60 days after issuance of the notice, the borrower becomes current with respect to all obligations as restructured. The Secretary may waive this provision at his discretion in exceptional circumstances. (Sec. 353(k).)

The *House* bill contains no comparable provision.

The *Conference* substitute deletes the *Senate* provision. The Conferees wish to emphasize that the debt restructuring program is not intended to become a program for successive restructurings for any individual borrower. The Committee expects that FmHA will restructure delinquent loans at levels that the borrowers can reasonably be expected to be able to repay, if the restructuring is the least cost alternative for the Government. However, if for some reason a borrower is unable to meet the payments on the restructured loan, the Managers intend that the borrower's loan be restructured again only if the borrower meets the criteria provided for restructuring, namely that the proposed new restructured loan value (based on the Secretary's determination of how much the borrower can be expected to be able to repay) is greater than or equal to the recovery value of the loan.

(t) The *House* bill will require the Farmers Home Administration, effective October 1, 1981 for water and waste disposal and community facility borrowers and effective November 12, 1983 for housing and farm borrowers, upon request, to charge the lower of the interest rates either at time of loan approval or loan closing, and any Farmers Home Administration grant funds associated with the loans must be set in amount based on the interest rate at the time of loan approval. This provision does not apply to any note or obligation sold under section 1001 of the Omnibus Reconciliation Act of 1986 on or before the date of enactment of the bill. (Sec. 202(a)(3).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision.

(u) The *House* bill will require Farmers Home Administration to charge the interest rate quoted on June 23, 1987 in the request for obligation of funds, to any loan of $2,000,000 or more made on July 29, 1987 under section 306 of the Consolidated Farm and Rural Development Act to any nonprofit corporation. (Sec. 202(a)(3).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision.

(4) Payment of Losses on Guaranteed Loans

(a) The *House* bill will require the Secretary to treat a lender of a guaranteed farmer program loan who compromises, adjusts, reduces, or charges off debts or claims with the approval of the Secretary, as having sustained a loss equal to the amount by which the outstanding balance of the loan immediately before the action exceeds the outstanding balance of the loan immediately after the action (Sec. 354(b)(1).)

The *Senate* amendment contains a similar provision, except that—

(i) the lender may take any action to cancel part of the loan and restructure the remainder; and

(ii) the Secretary determines the requirements and conditions of cancelling part of the loan and restructuring the remainder. (Sec. 309(j)(2).)

The *Conference* substitute adopts the *House* provision.

(b) The *House* bill will require the Secretary to approve the compromising, adjusting, reducing, or charging off debts or claims by the lender if the action taken reduces the net present value of the loan to an amount equal to not less than the greater of—

(i) the greatest net present value of a loan the borrower could reasonably be expected to repay; and

(ii) the greatest amount the lender of the loan could reasonably expect to recover from the borrower through bankruptcy, or liquidation of the property securing the loan, less all reasonable and necessary costs and expenses which the lender of the loan could reasonably expect to incur to preserve or dispose of the property (including all associated legal and property management costs) in the course of bankruptcy or liquidation. (Proposed sec. 354(b)(2).)

The *Senate* amendment contains a similar provision except that—

(i) the Secretary determines the requirements; and conditions of any action taken by the lender to cancel part of the loan and restructure the remainder; and

(ii) it specifically requires the Secretary to pay the lender the guaranteed portion of the amount of the loss within 90 days of approval. (Sec. 309(j)(3).)

The *Conference* substitute adopts the *House* provision.

(c) The *House* bill will reaffirm the authority of the Secretary to enter into an agreement with the borrower to consider during the life of the loan—

(i) any amount received or considered received by the borrower on conveyance of the security property through a shared appreciation arrangement; or

(ii) in the event the borrower experiences a substantial improvement in financial condition and income, and agreement whereby the borrower agrees to repay a portion of any amounts set aside or written off. (Proposed sec. 354(b)(3).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision with an amendment that authorizes the use of shared appreciation arrangements for the repayment of amounts written off or set aside, as a condition of restructuring a loan.

The shared appreciation agreements will provide the following terms:

(i) the shared appreciation agreements must not exceed 10 years;

(ii) the shared appreciation agreements must provide for recapture based on the difference between the appraised values of the real property at the time of restructuring and time of recapture;

(iii) the amount of appreciation to be recaptured must be 75 percent of the appreciation if the recapture occurs within 4 years of restructuring and 50 percent if the recapture occurs during the remainder of the term of the agreement; and

(iv) recapture must take place at the end of the agreement, or sooner on the conveyance of the property (not to include a transfer of property to the spouse of a borrower upon death), on the repayment of loans, or if the borrower ceases farming operations.

(d) The *Senate* amendment will authorize the Secretary to negotiate the settlement of a guaranteed loan with a lending institution to enable the Secretary to honor a portion of a guarantee and avoid foreclosure of the loan. (Proposed sec. 309(i).)

The *House* bill contains no comparable provision.

The *Conference* substitute deletes the *Senate* provision.

(5) Provision and Notice of Loan Services

(a) The *House* bill will require the Secretary to provide a written notice that—

(i) describes all loan service programs; and

(ii) describes the manner in which borrowers may apply for loan service programs. (Proposed sec. 331D(a).)

The *Senate* amendment contains a similar provision, except that the notice must also—

(i) in the summary of the manner in which the borrower may apply for loan service programs, not require the borrower to select among the programs or waive the borrower's right to appeal, or waive any rights to be considered for any other programs carried out by the Secretary;

(ii) advise the borrower regarding all filing requirements and any deadlines that must be met for requesting loan servicing;

(iii) provide any relevant forms, including applicable response forms;

(iv) advise the borrower that a copy of regulations is available on request; and

(v) be designed to be readable and understandable by the borrower. (Proposed sec. 331D(b).)

The *Conference* substitute adopts the *Senate* provision.

(b) The *Senate* amendment will require that all notices be contained in the regulations. (Proposed sec. 331(c).)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

(c) The *House* bill will require the Secretary to provide the notice—

(i) within 60 days after the date of enactment, to all farmer program borrowers who are at least 180 days delinquent in the payment of principal or interest on a loan;

(ii) at the time any application is made for a loan service program under the Consolidated Farm and Rural Development Act;

(iii) at the time a borrower is delinquent in the payment of principal or interest on a loan; and

(iv) on request of the borrower. (Sec. 331D(a).)

The *Senate* amendment contains a similar provision, except that—

(i) it does not require the notice to be provided to delinquent borrowers within 60 days after the date of enactment.

(ii) it requires notice by certified mail;

(iii) it requires a written request by the borrower;

(iv) it requires notice prior to the earliest of initiating any liquidation, requesting the conveyance of security property, accelerating the loan, repossessing property, foreclosing on property, or taking any other collection action. (Sec. 331D(a) and (d).)

The *Conference* substitute adopts the *Senate* provision.

(d) Both the *House* bill and the *Senate* amendment will require the Secretary to consider for all loan service programs farmer program borrowers. The *House* bill will require the borrower to request consideration or to be delinquent in the payment of interest or principal on the loan. (Sec. 331D(e).)

The *Senate* amendment will require the borrower to make a written request within 45 days of receipt of notice required under section 331D. (Sec. 331D(e).)

The *Conference* substitute adopts the *Senate* provision.

(e) The *House* bill will require the Secretary to consider a borrower for all loan service programs before initiating liquidation, requesting conveyance of security property, accelerating a loan, repossessing property, foreclosing on property, or taking any other collection action with respect to any farmer program loan. (Sec. 331D(b)(2).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

(f) The *House* bill will require the Secretary to place the highest priority on the preservation of the borrower's farming operations in considering a borrower for loan service programs. (Sec. 331D(b)(3).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision.

(g) The *House* bill will make the definitions applicable to the entire Consolidated Farm and Rural Development Act.

The *Senate* amendment will make the definitions applicable only to sections 307(e), 309(i), and (j), 331D, 335(e), 335(f), 338(f), 351(f), 352 (b) and (c) and 353 of the Consolidated Farm and Rural Development Act.

The *Conference* substitute adopts the *Senate* provision.

(h) Both the *House* bill (sec. 331D(d)) and the *Senate* amendment (sec. 343(b)(4)) include in their definition of "primary loan service program"—

(i) loan consolidation, rescheduling, or reamortization;

(ii) interest rate reduction; and

(iii) deferral of principal or interest.

The *Senate* amendment also includes in its definition—

(i) specifically, the use of the limited resource program in interest rate reduction;

(ii) loan restructuring, including set-aside or write-down of the principal or interest or both; and

(iii) any combination of the actions authorized.

The *Conference* substitute adopts the *Senate* provision.

(i) The *House* bill will define the term "secondary loan service program" to mean any action authorized under section 331.(d). (Sec. 331D(e).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute deletes the *House* provision.

(j) The *House* bill (sec. 331D(f) and the *Senate* amendment (sec. 343(b)(4)) both define the term "preservation loan service program" to mean homestead retention and leaseback of farmland.

The *Senate* amendment also includes in its definition a buy-back of farmland under section 335.

The *Conference* substitute adopts the *Senate* provision.

(k) The *House* bill will require the Secretary to provide written notice of the regulations promulgated under subsection 331(d) and section 353 to any farmer borrower—

(i) who is delinquent on any farmer program loan;

(ii) who requests such information from the Secretary; or

(iii) whose loans the Secretary intends to liquidate, accelerate, or foreclose. (Sec. 331D(g).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute deletes the *House* provision.

(l) The *House* bill will require the Secretary of Agriculture to issue regulations to carry out the amendments made by sections 202(a)(Debt Restructuring and Loan Servicing Options), 202(b) (Payment of Losses on Guaranteed Loans), and 202(c) (Provision and Notice of Loan Services) within 60 days after the date of the enactment of the bill. (Sec. 202(d).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute deletes the *House* provision.

(m) The *House* bill will prohibit the Secretary from initiating any acceleration, foreclosure, or liquidation actions in connection with any farmer program loan before the date the Secretary has issued final regulations to carry out the amendments made by section 202(a) (Debt Restructuring and Loan Servicing Options). (Sec. 202(e).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision with an amendment providing that the Secretary is not prohibited from initiating any acceleration, foreclosure, or liquidation action in the case of fraud or abuse. The Conferees intend that the Secretary may take adverse action in cases of proven fraud, proven waste, or proven conversion. It is not the intent of the Conferees to protect borrowers who willfully violate the terms of their loan agreement.

Further, the Conferees intend that allegations of fraud, waste, and conversion not be used liberally by the Secretary in order to deny borrowers consideration for debt restructuring. In the case of any borrower who, at any time, may be eligible for restructuring, FmHA will be expected to substantiate, with a written legal opinion from the Office of General Counsel, any allegations of fraud, waste, or conversion before denying the borrower consideration for restructuring. In addition, the Secretary shall afford the borrower adequate opportunity to fully exhaust the borrower's rights tk appeal under section 333B of the Consolidated Farm and Rural Development Act before the Secretary initiates any acceleration, liquidation, or foreclosure.

(6) Homestead protection

(a) The *House* bill and *Senate* amendment both expand the definition of homestead property.

The *House* bill will include adjoining improved and unimproved property. (Sec. 352(a)(3).)

The *Senate* amendment will specifically include a reasonable number of farm outbuildings located on the adjoining land that are useful to the occupants of the homestead, and no more than 10 acres of adjoining land that is used to maintain the family of the individual. (Sec. 352(a)(3).)

The *Conference* substitute adopts the *Senate* provision.

(b) The *House* bill will require a borrower to apply for homestead occupancy not later than 3 years after the date of the enactment of the bill. (Sec. 352(c)(1).)

The *Senate* amendment will require a borrower to apply for homestead occupancy—

(i) not later than 90 days after the property is acquired by the Secretary or Administrator;

(ii) not later than 90 days after the date of enactment of the bill for property in inventory on the date of enactment of the bill.

The *Conference* substitute adopts the *Senate* provision.

(c) The *House* bill will require the borrower to have made gross annual farm sales reasonably commensurate with the size and location of the borrower's farming unit and local agricultural conditions (including natural and economic conditions) in at least 2 calendar years during any 6 consecutive years during the period beginning January 1, 1981, and ending December 31, 1990 (or the equivalent crop or fiscal years). The term gross annual farm sales includes rent received by a borrower from lessees of agricultural land during any period in which the borrower, due to circumstances beyond his control, is unable to actively farm such land. (Sec. 352(c)(2).)

The *Senate* amendment is similar, except that the 6 consecutive years—

(i) must occur during the period preceding the calendar year in which the application is made; and

(iii) are not specifically authorized to be equivalent crop or fiscal years. (Sec. 352(c)(1)(B) and sec. 352(c)(2).)

The *Conference* substitute adopts the *Senate* provision.

(d) The *House* bill will require the borrower to have received from farming operations at least 60 percent of the gross annual income of the borrower and any spouse of the borrower in at least 2 calendar years during any 6 consecutive years during the period beginning January 1, 1981, and ending December 31, 1990 (or the equivalent crop or fiscal years). (Sec. 352(c)(3).)

The *Senate* amendment is similar, except that the 6 consecutive years—

(i) must occur during the period preceding the calendar year in which the application is made; and

(ii) are not specifically authorized to be equivalent crop or fiscal years. (Sec. 352(c)(1)(B).)

The *Conference* substitute adopts the *Senate* provision.

(e) The *House* bill will require the borrower to have continuously occupied the homestead property and engaged in farming or ranching operations on adjoining land, or other land owned, rented, or otherwise controlled by the borrower, during any 6 consecutive years during the period beginning January 1, 1981, and ending December 31, 1990 (or the equivalent crop or fiscal years). This requirement does not apply to any borrower who, due to circumstances beyond the borrower's control, has not engaged in farming or ranching operations during the 6-year period. (Sec. 352(c)(4).)

The *Senate* amendment is similar, except that—

(i) it deletes the provision that the borrower must have engaged in farming or ranching operations on adjoining land, or other land owned, rented, or otherwise controlled by the borrower;

((ii) it requires the 6 consecutive years to occur during the period preceding the calendar year in which the application is made, and does not specifically authorize them to be equivalent crop or fiscal years; and

(iii) it allows a waiver of the provision, if the borrower had to leave the homestead for a period of time not to exceed 12 months due to circumstances beyond the borrower's control. (Sec. 352(c)(1)(D).)

The *Conference* substitute adopts the *Senate* provision.

(f) The *House* bill will require the Secretary, in effecting termination of all rights of a borrower to possession and occupancy of the homstead property, to afford the borrower or lessee the notice and hearing procedural rights described in section 333B of the Consolidated Farm and Rural Development Act and to comply with all applicable State and local laws governing eviction from residential property. (See. 352(c)(5).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision.

(g) The *Senate* amendment will require that the period of occupancy allowed the prior owner of homestead property be the period requested in writing by the prior owner. The period must not exceed 6 years, and at any time during the period, the borrower must have a right of first refusal to reacquire the homestead property on terms and conditions the Secretary will determine. The Secretary may not demand a payment for the homestead property that is in excess of the current market valaue of the homestead property as established by an independent appraisal. The independent appraisal must be conducted by an appraiser selected by the borrower from a list of three appraisers approved by the county supervisor. (Sec. 352(c)(4).)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

(h) The *Senate* amendment will provide that no rights of a borrower, and no agreement entered into between the borrower and the Secretary for occupancy of the homestead property, will be transferable or assignable by the borrower or by operation of any law. In the case of death or incompetency of the borrower, the rights and agreements will be transferable to the spouse of the borrower if the spouse agrees to comply with their terms and conditions. (Sec. 352(c)(5).)

The *House* bill contains no comparable provision

The *Conference* substitute adopts the *Senate* provision.

(i) The *Senate* amendment will require the Secretary, within 30 days of the acquistion of the homestead property securing a loan, to notify the borrower from whom the property was acquired of the availability of homestead protection rights. For property already in inventory on the date of enactment of the bill, the Secretary must make a good faith effort to notify the borrower of the availability of homestead protection rights within 60 days of such dates. (Sec. 352(c)(6).)

The *House* bill contains no comparable provision

The *Conference* substitute adopts the *Senate* provision.

(j) The *House* bill will authorize the Secretary or Administrator, on application of the borrower, to permit the borrower to retain possession and occupancy of the homestead property if—

(i) the Secretary forecloses, holds in inventory on the date of enactment of the bill, or takes into inventory property securing a loan made or insured under the Consolidated Farm and Rural Development Act;

(ii) the administrator forecloses, holds in inventory on the date of enactment of the bill, or takes into inventory property securing a farm program loan made under the Small Business Act; or

(iii) a borrower of a loan made or insured by either agency files a petition in bankruptcy that results on the borrower's homestead property being conveyed to the Secretary or Administrator or agrees to voluntarily liquidate or convey the property in whole or in part. (Sec. 352(b)(1).)

The *Senate* amendment contains a similar provision, except that—

(i) the Secretary is *required* to permit possession and occupancy of homestead property if the eligibility requirements are satisfied;

(ii) the borrower is permitted to retain possession and occupancy of homestead property under the Secretary's terms and until the action described in section 352 is completed;

(iii) it deletes from the eligibility requirement the provision that the borrower's bankruptcy petition results in the conveyance of the homestead property to the Secretary or Administrator; and

(iv) it specifies that the borrower must meet the eligibility requirements of section 352(c)(1). (Sec. 352(b)(1).)

The *Conference* substitute adopts the *Senate* provision with an amendment providing that a borrower may retain possession and occupancy of the homestead property if the borrower of a loan made or insured by either agency files a petition in bankruptcy that results in the borrower's homestead property being conveyed to the Secretary or Administrator.

(k) The *Senate* amendment will authorize the Secretary to enter into contracts authorized by section 352 before the Secretary acquires title to the homestead property. (Sec. 352(f).)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

(l) The *House* bill will require State law to prevail in the event of a conflict between section 352 provisions and comparable State law provisions. (Sec. 352(b)(1).)

The *Senate* amendment will also require State law to prevail in the event of a conflict, except if the provisions in sec. 352 afford greater protection than State law. (Sec. 352(g).)

The *Conference* substitute adopts the *House* provision.

(7) Right of First Refusal/Disposition and Leasing

(a) The *Senate* amendment will require the Secretary, during the 180-day period beginning on the date of acquisition, or during the applicable period under State law, whichever is longer, to allow a borrower-owner to purchase or lease real property that has been used to secure any loan made to the borrower-owner, and foreclosed, purchased, redeemed, or otherwise acquired by the Secretary. The period for the purchase or lease of real property will expire 190 days after the date of acquisition, or after the applicable period under State law, whichever is longer. These rights may be waived, if the waiver is freely and knowingly given. Any purchase or lease will be on such terms and conditions as are established in regulations by the Secretary. (Sec. 335(e)(1)(A).)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

(b) The *House* bill will require the Secretary, to the extent practicable, to sell or lease farmland in the following order;

(i) sale of the farmland to the previous owner of the farmland and the immediate family of the owner;

(ii) lease with an option to purchase the farmland to the previous owner of the farmland and the immediate family of the owner;

(iii) sale of the farmland to the previous operator of the farmland;

(iv) lease with an option to purchase the farmland to the previous operator of the farmland;

(v) sale of the farmland to operators (as of the time immediately before the sale) of not larger than family-size farms;

(vi) lease of the farmland to operators (as of the time immediately before the sale) of not larger than family-size farms. (Sec. 335(e)(1).)

The *Senate* amendment contains a similar provision, except that—

(i) it deletes the preference of sale over lease;

(ii) it requires that the previous owner's spouse or child be actively engaged in farming to be given preference in the sale or lease of the property;

(iii) it specifies that a stockholder in a corporation be given the same preference as the family of the previous owner, if actively engaged in farming and if the previous owner is a family corporation;

(iv) it deletes the preference in the sale or lease given to previous operators of the farmland;

(v) it requires the lease to operators of family-size farms to contain an option to purchase. (Sec. 335(e)(1)(C).)

The *Conference* substitute adopts the *Senate* provision with an amendment including the immediate previous operator of a family-size farm in the priority of the sale or lease of farmland.

(d) The *Senate* amendment will require property located within an Indian reservation as defined under section 335(e)(1)(D)(ii)(II), when the right of purchase has expired, to be disposed of or administered as follows—

(i) require the Secretary to allow purchase or lease of the land in the order of: Indian member of any Indian tribe, an Indian corporate entity, or the Indian tribe with jurisdiction over the reservation within which the lands are located;

(ii) authorize the Indian tribe having jurisdiction to revise the order of priority and restrict the eligibility of purchasers;

(iii) require the Secretary to transfer such land to the Secretary of the Interior, if the Indian tribe is unable to purchase or lease the lands, to administer the lands as if held in trust for the benefit of the tribe;

(iv) require that income generated from the land be deposited in the Treasury until an amount is paid that is equal to the lesser of the outstanding lien as of the date the land was acquired, the fair market value of the land as of the date or transfer, or the capitalized value of the land as of the date of transfer. Once such amount has been deposited, title to the land will be held in trust for the benefit of the tribe; and

(v) authorize the Indian tribe, at any time after the lands have been transferred to the Secretary of the Interior, to pay the remaining amount on the lien or the fair market value of the land, whichever is less. (Sec. 335(e)(1)(D).)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision with an amendment that will—

(i) limit the preferential right of acquisition accorded Indians to only those lands within the reservation that are owned by an Indian, who is a member of the tribe that has jurisdiction over the reservation in which the real property is located, or the Indian tribe itself;

(ii) revise the definition of "Indian reservation" with respect to Oklahoma to read "trust or restricted lands within the boundaries of a former reservation in that State";

(iii) revise the provision regarding transfer of land to the Secretary of the Interior to provide that State, county, municipal, or other local taxes will be paid by the Secretary of the Interior from the revenues generated from the transferred lands for a limited period of four years following the date of transfer;

(iv) delete the provision that extends State, county, municipal, or other local taxes to lands acquired by the tribes or individual Indians, even after those lands have been taken into trust;

(v) clarify that trust or restricted lands that have been acquired in inventory by the Secretary of Agriculture under foreclosure or voluntary transfer under a Farmers Home Administration loan that is transferred to an Indian person, entity, or tribe under the provisions of this paragraph will be deemed to have never lost trust or restricted status. On return to trust, such lands will be as free of encumbrances or other legal incidences as if it had never lost its trust or restricted status at all, and any legal rights attaching to the land by virtue of its trust or restricted status prior to foreclosure or transfer will remain in effect; and

(vi) provide that when the Secretary of Agriculture transfers the land to the Secretary of the Interior, the underlying debt or obligation to repay the Treasury will also be transferred to Interior.

At the conference concern was expressed for the potential impact posed by the Indian preference provisions in section 609(B) on the tax base of State and local governments.

Farmers Home foreclosures of farm or ranch operations on Indian reservations may result in a decrease of tax base within those counties *if such lands had been otherwise taxable under existing law.* The sale of the property after foreclosure by the Federal government in some cases may be to Indians or Indian tribes who then place the land in trust with the United States, and thus the property becomes exempt from State, county, and other local taxes. Likewise, if foreclosure property subject to taxation is subsequently transferred to the Secretary of the Interior and qualifies for permanent Indian trust status, a similar reduction in tax base occurs.

The conferees request a study by the General Accounting Office to determine the potential deterioration of the local tax base. Further, the conferees request the GAO to determine the potential impact (from the loss of local tax base) as to the delivery of services such as schools, roads, law enforcement, health facilities, fire protection, and the like in counties and communities affected. *The study should consider the existing costs in services provided to Reservation residents by the State, county, and local governments.*

The conferees request that this study be completed within one year.

(d) The *Senate* amendment will provide that the rights provided in subsection 331(e) will be in addition to any such right of first refusal under the law of the State in which the property is located. (Sec. 331(e)(1)(E).)

The *Conference* substitute adopts the *Senate* provision.

(e) The *Senate* amendment will delete a provision in current law that requires the Secretary to consider and authorizes him to grant to a family farm operator a lease with an option to purchase. (Sec. 609(b)(2).)

The *House* bill contains no comparable provision. (See item 7(b) of the Statement of Differences.)

The *Conference* substitute adopts the *Senate* provision.

(f) The *Senate* amendment will amend sec. 335(e)(3)(C) to require the Secretary, in leasing the land, to determine if the lessee has financial resources, and farm management and skills and experience, that the Secretary determines are sufficient to assure a reasonable prospect of success in the proposed farming operation. (Sec. 335(e)(3)(B).)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

(g) The *Senate* amendment will require that, notwithstanding any other provisions of law, Indian reservation land, which is subject to State, county, municipal, or other local taxation on the day before it is purchased by an Indian member of any Federally recognized Indian tribe, by an Indian corporation, or by the Indian tribe, or is transferred to the Secretary of the Interior under section 335(e), will not be exempt from any such taxation by operation or implementation of section 335. (Sec. 335(e)(3)(D).)

The *House* contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision with an amendment limiting the period of taxation to four years or upon return to trust status, whichever occurs first.

(h) The *Senate* amendment will authorize the Secretary to enter into a contract with a borrower of a farmer program loan to provide for the subsequent sale or lease of land that will be acquired from the borrower in the future, before the Secretary actually legally acquires the land. (Sec. 335(d)(3)(E).)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

(i) The *Senate* amendment will amend section 335(e)(5)(A) to provide that if the Secretary determines that farmland administered under this chapter is not suitable for sale or lease to persons eligible for a loan made or insured under subtitle A of the Consolidated Farm and Rural Development Act because the farmland is in a tract or tracts that the Secretary determines to be larger than that necessary for eligible persons, the Secretary must, to the greatest extent practicable, subdivide the land into tracts suitable for sale under section 335(c). The land must be subdivided into logical parcels of land, the value of which must not exceed the individual loan limits prescribed under section 305.

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

(j) The *House* bill will require the Secretary to provide written notice reasonably calculated to inform the previous owner or operator of the farmland of the availability when suitable farmland is available for disposition. (Sec. 335(e)(6)(C).)

The *Senate* amendment contains a similar provision, except that—

(i) it deletes the previous operator from receiving notification; and

(ii) it requires notice within 30 days of acquisition of the property. (Sec. 335(e)(6)(C).)

The *Conference* substitute adopts the *House* provision with an amendment requiring notice to the immediate previous operator of a family-size farm.

(k) The *Senate* amendment will provide that denials of applications for or disputes over terms and conditions of a lease or purchase agreement under section 335 are appealable under section 33B. (Sec. 335(e)(9).)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

(l) The *House* bill will require State law to prevail in the event of a conflict between section 352 and any State law providing a right of first refusal to the owner or operator before the sale or lease of the land to any other person, except if section 335(e) affords greater protection than State law. (Sec. 335(e).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision with an amendment deleting the exception that requires section 352 to prevail in the event of a conflict with State law if it affords greater protection.

(8) Classification of property

The *Senate* amendment will amend sec. 335(c) to require the county committee to classify or reclassify real property (including real property adminstered by the Secretary on the date of enactment of the bill) that is farmland, as being suitable for meaningful farming operation for disposition to persons eligible for assistance under any provision of law administered by the Farmers Home Administration unless the property, including property subdivided in accordance with section 335(e)(5), cannot be used to meet any of the purposes of section 303 (including being used as a start-up or add-on parcel of farmland).

In addition, notwithstanding any other provision of law, the Secretary must sell suitable farmland administered under subtitle D of the Consolidated Farm and Rural Development Act to operators of not larger than family-sized farms, as determined by the county committee. In selling the land the county committee must—

(i) grant a priority to persons eligible for loans under subtitle A, including individuals approved for loans but who did not yet receive such on the date of enactment of the bill;

(ii) offer suitable land at a price no higher than that which reflects the appraised market value of such land;

(iii) select from among qualified applicants the applicant who has the greatest need for farm income and best meets the criteria for eligibility to receive loans under subtitle A; and

(iv) publish or cause to be published three consecutive weekly announcements at least twice annually of the availability of such farmland in at least one newspaper that is widely circulated in a county in which the land is located until the property is sold. (Sec. 335 (c).)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision with an amendment requiring the county committee to classify or reclassify real property that is farmland, as being suitable for farming operation for disposition.

(9) Borrowers' right to information

The *House* bill will require the Secretary, on request of a farm borrower of a farmer program loan, to make available to the borrower—

(i) 1 copy of each document signed by the borrower,

(ii) copies of the forbearance and restructuring regulations or policies applicable to the loan at the time of the request, including appeal procedures,

(iii) 1 copy of each appraisal performed with respect to the loan, and

(iv) all documents which the Secretary is otherwise required to provide to the borrower under any law or rule of law in effect on the date of the request.

In addition, it will prohibit section 333C(a) from being construed to supercede duties imposed on the Secretary by any law or rule of law in effect before the date of the enactment of section 333C, unless the duty is in direct conflict with section 333C(a). (Sec. 333C.)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision.

(10) Sense of Congress regarding guaranteed loan program

The *House* bill will express the sense of Congress that the Secretary of Agriculture should issue guarantees for loans under the Consolidated Farm and Rural Development Act, to the maximum extent practicable, to assist eligible borrowers whose loans are restructured by institutions of the Farm Credit System, commercial banks, insurance companies, and other lending institutions. (Sec. 206.)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision.

(11) Agricultural mediation programs

(a) The *Senate* amendment will provide that a State is eligible for Federal financial assistance if the Secretary of Agriculture determines that the State has in effect a farm loan mediation program that meets the following requirements:

(i) the head of the mediation program must select and train mediators for each county (or other local region);

(ii) on receipt of an application for mediation, the mediation program must notify each financial counterpart and appoint a mediator to facilitate negotiations between the individual and each financial counterpart;

(iii) the mediator appointed must arrange for an initial meeting to be held within 21 days after receipt of the mediation application;

(iv) the program must require mediators to facilitate negotiations by listening to each individual desiring to be heard, to advise each individual as to the existence of available assistance programs, to attempt to mediate, to encourage each individual to refinance or provide for the payment of the debts involved, and to assist in reaching settlement agreement; and

(v) the program must contain reasonable guidelines to ensure that each borrower and each financial counterpart participates in good faith in efforts to restructure the loans by attending all mediation meetings and providing all relevant financial information.

In addition, in order to receive Federal funding, the Secretary must make certain determinations regarding the law of the State. State law must require that not less than 21 days before the creditor of a farm borrower engages in foreclosure proceedings, the creditor so notify the individual and explain that the individual may apply within 21 days to the farm loan mediation program of the State to obtain mediation services.

State law must provide that foreclosure actions of the creditor shall be suspended during the pendency of State mediation. The 21-day advance notice shall also include an address and telephone number where information and assistance may be obtained about the farm loan mediation program of the State.

The law of the State must further require the State to make farm management counseling and technical support available to any individual with a farm loan who faces substantial financial difficulties, or to creditors who request such support, and to provide financial advice regarding the restructuring proposals (at no more than a reasonable fee). The law must also require the State to give priority regarding who provides these services to community-based organizations and educational institutions with an established history of service to family farming enterprises.

Within 15 days after the Secretary receives from the Governor of a State a description of the farm loan mediation program of the State and a statement certifying that the State has met the above requirements, the Secretary must determine whether the State is a qualifying State.

In the event that the Secretary denies certification of a State as a qualifying State, the Secretary will so notify the Governor and explain the reasons for such denial.

Any State that has a farm loan mediation program in effect on January 1, 1988, may apply for consideration as a qualifying State under waiver provisions. Not later than 15 days after the Secretary receives a request for a waiver, the Secretary will waive the definition of qualifying State if the State program:

(i) provides for a dispute resolution process by an impartial third party who will assist the farmer, and the creditors of the farmer, in negotiating a settlement of the dispute over the farm-related debts of the farmer;

(ii) is authorized or administered by an agency of the State government or by the Governor of the State;

(iii) provides for the training of mediators;

(iv) provides that the mediation sessions will be confidential; and

(v) ensures that all lenders and borrowers of agricultural loans receive adequate notification of the mediation program. (Secs. 501, 502, and 503.)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision with an amendment deleting all of the provisions except the provision requiring the Secretary, within 15 days after the receipt of a description of a State agricultural loan mediation program, to approve the State as a State qualifying for matching funds, if the State program—

(i) provides for mediation services to be provided to farmers and their creditors that result in mediated, mutually agreeable decisions between parties under an agricultural loan mediation program;

(ii) is authorized or administered by an agency of the State government or by the Governor of the State;

(iii) provides for the training of mediators;

(iv) provides that the mediation sessions will be confidential; and

(v) ensures that all lenders and borrowers of agricultural loans receive adequate notification of the mediation program.

(b) The *House* bill will require the Secretary of Agriculture to pay 50 percent of the cost to States for their agricultural loan mediation program that provides mediation services to farmers and their creditors that result in nonbinding decisions. The maximum amount a State may receive is $500,000 per year. (Sec. 207(a).)

The *Senate* amendment contains a similar provision, except that—

(i) the Secretary must provide financial assistance within 60 days after the Secretary certifies the State as a qualifying State or grants a waiver to a State under section 502;

(ii) it deletes the requirement that the mediation program provide services that result in nonbinding decisions; and

(iii) it increases to $750,000 the amount a State may receive per year. (Sec. 504 (a) and (b).)

The *Conference* substitute adopts the *House* provision with an amendment to clarify that the Secretary may be bound by a mutually agreeable decision between the Secretary and a farmer under an agricultural loan mediation program.

(c) The *Senate* amendment will provide that if the Secretary determines that a State has not used funds received only for the operation and administration of the mediation program, then the State will not be eligible for additional financial assistance. (Sec. 504(d).)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

(d) The *House* bill will require the Secretary to prescribe rules requiring each program under the jurisdiction of the Secretary that makes, guarantees, or insures farm loans to participate in good faith in any State agricultural loan mediation program, except that the Secretary will not be bound by any determination made under State agricutural loan mediation programs. (Sec. 207(b).)

The *Senate* amendment contains a similar provision, except that—

(i) the rules prescribed by the Secretary must require each program to cooperate in good faith with requests for information or analysis of information made, and present and explore debt restructuring proposals advanced, in the course of mediation under any farm loan mediation program described in section 503, or any farm loan mediation program in a State for which the Secretary has granted a waiver under section 502(c); and

(ii) it deletes the requirement that the Secretary will not be bound by any determination made under State agricultural loan mediation programs. (Sec. 505(a).)

The *Conference* substitute adopts the *Senate* provision with an amendment to clarify that the Secretary may be bound by a mutually agreeable decision between the Secretary and a farmer under an agricultural loan mediation program.

(e) The *House* bill will require each Farm Credit System institution to participate in good faith in any State agricultural loan mediation program. (Sec. 4.21 as added by section 104(f) of the bill.)

The *Senate* amendment will require the Farm Credit Administration to prescribe rules requiring the institutions of the Farm Credit System to cooperate in good faith with requests for information or analysis of information, and present and explore debt restructuring proposals advanced, in the course of mediation under any farm loan mediation program described in section 503, or any farm loan mediation program in a State for which the Secretary has granted a waiver under section 502(c). (Sec. 515(b).)

The *Conference* substitute adopts the *Senate* provision.

(f) The *House* bill will require the Secretary of Agriculture to prescribe such regulations as are necessary to carry out section 207.

The *Senate* amendment contains a similar provision, except that—

(i) the regulations must be prescribed within 60 days after the date of enactment; and

(ii) the Farm Credit Administration must also prescribe rules. (Sec. 507.)

The *Conference* substitute adopts the *Senate* provision with an amendment to require that the regulations must be prescribed within 150 days after the date of enactment of the bill.

(g) The *House* bill will require the Secretary, not later than January 1, 1990, to report to Congress on—

(i) the effectiveness of the State agricultural loan mediation programs receiving matching grants;

(ii) recommendations for improving the delivery of mediation services to farmers; and

(iii) the savings to the States as a result of having an agricultural mediation program. (Sec. 207(e).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision.

(h) The *House* bill will authorize an appropriation of $5,000,000 for each fiscal year beginning in 1988 and ending in 1992. (Sec. 207(f).)

The *Senate* amendment contains the same provision, except that—

(i) the amount of the appropriation is increased to $7,500,000; and

(ii) it authorizes the appropriation through fiscal year 1991. (Sec. 506.)

The *Conference* substitute adopts the *Senate* provision.

(i) The *House* bill will prohibit any Farm Credit institution from making a loan secured by a mortgage or lien on farm property to a borrower on the condition that the borrower waive any right under a State agricultural loan mediation program. (Sec. 4.14F as added by section 104(e) of the bill.)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision.

(j) The *House* bill will prohibit the Secretary from making, guaranteeing, or insuring a farm loan to a borrower on the condition that the borrower waive any right under the agricultural loan mediation program of any State. (Sec. 355.)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision.

(12) Income release

(a) The *House* bill will require the Secretary to release from the normal income security, after the Secretary accelerates a loan and before the Secretary takes title to and possession of the property, an amount sufficient to pay for the essential household expenses of the borrower, as determined by the Secretary. (Sec. 335(f)(2).)

The *Senate* amendment contains a similar provision, except that—

(i) the Secretary is required to release income only until the Secretary accelerates the loan; and

(ii) it deletes the provision that specifically requires the Secretary to determine the amount sufficient to pay for the essential household expenses. (Sec. 335(f)(2).)

The *Conference* substitute adopts the *Senate* provision.

(b) The *House* bill will require the Secretary to issue regulations to ensure the expeditious release of funds and to establish guidelines for release of funds under section 335(f). (Sec. 335(f)(3).)

The *Senate* amendment contains a similar provision, except that—

(i) it does not specifically require that the funds be released expeditiously; and

(ii) the guidelines established for releases pertain only to section 335(f)(3). (Sec. 335(f)(7).)

The *Conference* substitute adopts the *Senate* provision.

(c) The *House* bill will define normal income security as all security not considered basic security, including crops, livestock, poultry products, other property that is sold in operating the farm, and any other chattel or personal property which would be received by the borrower except for the action of the Secretary. Basic security is defined as all equipment and foundation herds and flocks that serve as a basis for the farming operation. (Sec. 335(f)(1).)

The *Senate* amendment contains a similar provision, except that—

(i) it specifically includes Agricultural Stabilization and Conservation Service payments and Commodity Credit Corporation payments in the definition of normal income security;

(ii) it limits other property that is sold in operating the farm to property that is covered by FmHA liens that are sold in conjunction with the operation of a farm or other business;

(iii) it specifies that equipment not included in the definition of normal income security includes fixtures in States that have adopted the Uniform Commercial Code; and

(iv) it specifies that equipment or foundation herds and flocks not included in the definition of normal income are equipment or foundation herds and flocks that are the basis of the farming or other operation, and are the basic security for a FmHA farmer program loan. (Sec. 335(f)(1).)

The *Conference* substitute adopts the *Senate* provision.

(d) The *House* bill will require the Secretary to notify borrowers of their right to have funds released and the manner in which the funds are released under section 335(f) within 90 days after the date of enactment of the bill. (Sec. 335(f)(3).)

The *Senate* amendment contains a similar provision, except that—

(i) the Secretary must provide notice by certified mail;

(ii) notice must be provided within 45 days of the date of enactment;

(iii) notice must be sent only to borrowers under section 335(f)(3);

(iv) it deletes the requirement that the notice contain the manner in which funds are released. (Sec. 335(f)(5)(A).)

The *Conference* substitute adopts the *Senate* provision.

(e) The *Senate* amendment will require releases under section 335(f)(3) to be made to qualified borrowers who have responded to the notice within 30 days of receipt. (Sec. 335(f)(5)(B).)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

(f) The *Senate* amendment will require the Secretary to make a final determination on the request for restructuring under section 353 within 12 months. Notwithstanding the 12-month limitation provided for in section 335(f)(3), releases will continue to be made to each borrower until a denial or dismissal of the application of the borrower for restructuring is made. The amount of essential household and farm operating expenses may exceed $18,000, by an amount proportionate to the period of time beyond 12 months before a final determination is made by the Secretary, for any borrower eligible for such releases after 12 months. (Sec. 335(f)(5)(C).)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

(g) The *Senate* amendment will require the Secretary, if a borrower is required to plan for or to report on how proceeds from the sale of collateral property will be used, to notify the borrower of such requirements, and to notify the borrower of the right to the release of funds under section 335 and the means by which a request for the funds may be made.

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

(h) The *House* bill will require the Secretary to issue regulations to carry out section 335(f). (Sec. 335(f)(4).)

The *Senate* amendment contains a similar provision, except that regulations must be issued 150 days after the date of enactment. (Sec. 617.)

The *Conference* substitute adopts the *Senate* provision.

(i) The *Senate* amendment will provide that certain borrowers will be entitled to the release of security income for a period of 12 months, to pay the essential household and farm operating expenses in an amount not to exceed $18,000 over 12 months, if the borrower—

(i) is one whose account was accelerated between November 1, 1985, and May 7, 1987, but not thereafter foreclosed or liquidated;

(ii) as of October 30, 1987, continues to be actively engaged in the farming operations for which the Secretary made the farmer program loan; and

(iii) as of the deadline for responding to the notice provided for under section 335(f)(5), requests restructuring of such loans pursuant to section 353.

The county committee in the county in which the borrower's land is located will determine whether the borrower has continued to be actively engaged in farming operations for which the Secretary had made the loan. (Sec. 335(f) (3) and (4).)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

(13) Transfer of inventory lands

The *House* bill will permit the Secretary to transfer, without reimbursement, to Federal and State agencies for conservation purposes any real property acquired under the Consolidated Farm and Rural Development Act—

(i) on which the rights of the prior owners and operators have expired; and

(ii) which has marginal value for agricultural production, or which is environmentally sensitive, or which has special management importance. (Sec. 356.)

The *Senate* amendment is the same, except that—

(i) it adds a provision that allows the Secretary to transfer any interest in real property; and

(ii) it adds a requirement that the Secretary, before transfer, determines that the land be suitable for surplus. (Sec. 354.)

The *Conference* substitute adopts the *Senate* provision.

(14) County committees

(a) The *Senate* amendment will require the Secretary to publish any regulation promulgated under section 332(a), and complete elections consistent with section 332. (Sec. 332(a).)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

(b) The *House* bill will provide the following:

(i) authorize FmHA borrowers or their families to serve as an elected or appointed county committee member for one position on the three-member county committee, subject to conflict-of-interest limitations;

(ii) permit farmers to submit nominations for county committee elections for 45 days after public notice of procedures to submit nominations;

(iii) prohibit the Secretary from holding a county committee election for 30 days from the date of public notice of the election; and

(iv) define the term farmer for subsection 332(a) to include the spouse of any eligible farmer. (Sec. 332(a) (2), (3), and (4).)

The *Senate* amendment is similar, except that—

(i) it prohibits more than one farmer eligible for an FmHA loan from serving on a county committee at the same time;

(ii) it authorizes any farmer eligible for an FmHA loan to serve as an elected or appointed county committee member;

(iii) it requires the Secretary to assure that farmers have at least 45 days to submit nominations; and

(iv) it requires the Secretary to assure that farmers have at least 30 days following the general public notice before an election is held.

The *Conference* substitute adopts the *Senate* provision.

(15) Interest Rate Reduction Program

(a) The *House* bill will amend section 1320 of the Food Security Act of 1985 to require the General Accounting Office to evaluate the interest rate reduction program and report the results to Congress no later than March 31, 1988. The General Accounting Office, in performing the evaluation, is required to—

(i) conduct a survey of commercial banks to determine why their participation in the program has not been greater;

(ii) evaluate program eligibility criteria established by the Farmers Home Administration;

(iii) evaluate the administrative procedures of the Farmers Home Administration under its farm loan programs (including its guaranteed loan programs); and

(iv) evaluate the extent to which its guaranteed farm loan programs have been revised for improvement since December 23, 1985.

The General Accounting Office is required to include in its report recommendations on—

(i) revisions of the program eligibility criteria established by the Farmers Home Administration to encourage greater participation and debt restructuring;

(ii) steps that may be taken to improve coordination with State mediation programs, debt restructuring programs, and preceedings under the bankruptcy laws; and

(iii) improvements in the administrative procedures of the FmHA farm loan programs (including its guaranteed loan programs), in terms of timeliness and efficiency, as are needed based on its evaluation. (Sec. 1320(b) of the Food Security Act of 1985.)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute deletes the *House* provision.

(b) The *House* bill will amend section 351 of the Consolidated Farm and Rural Development Act to—

(i) authorize lenders to participate in the interest rate reduction program if their borrowers cannot obtain credit elsewhere, cannot make timely loan payments, and have a total estimated cash income during the 24 months that begin on the date the contract is entered into that will equal or exceed the total estimated cash expenses during the same period;

(ii) require the FmHA county supervisor to make available to farmers, on request, a list of approved lenders in the area that participate in the FmHA guaranteed loan programs and other lenders in the area that express a desire to participate in the FmHA guaranteed farm loan programs and request inclusion in the list; and

(iii) require that contracts of guarantees entered into after the date of enactment of the subsection contain a provision that the lender of the guaranteed loan may not initiate foreclosure action until 60 days after he determines whether the borrower is eligible to participate in the interest rate reduction program. (Sec. 351(b)(1)(C) and sec. 351(f).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision.

(16) Expedite clearing of title to inventory property

The *House* bill will authorize the Farmers Home Administration to employ local attorneys, on a case-by-case basis, to process legal procedures necessary to clear the title to foreclosed properties in FmHA inventory. The attorneys will be paid their usual and customary fees. (Sec. 357.)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision.

(17) Right of first refusal of certain issuers of notes or other obligations to be sold under section 1001 of the Omnibus Budget Reconciliation Act of 1986

(a) The *House* bill will require the Secretary after each sale of notes or obligations under section 1001 of the Omnibus Budget Reconciliation Act of 1986 to contact issuers of unsold notes and obligations to determine if they desire to purchase their notes or obligations, and if they do, then he must hold open for 30 days an offer to sell at a price determined under section 214(b). (Sec. 214(a).)

The *Senate* amendment contains a similar provision, except that the Secretary is required to make his determination *prior* to the conduct of a sale of a portfolio of notes or obligations. (Sec. 1001(f)(1).)

The *Conference* substitute adopts the *Senate* provision.

(b) The *House* bill will require the Secretary to determine the price of unsold notes or obligations after a sale of a portfolio by discounting the payment stream of the note or obligation at the yield on the sale of the portfolio. (Sec. 214(b).)

The *Senate* amendment contains a similar provision, except that the price determined by discounting the payment stream of the note or other obligation at the yield on the most recent sale of the portfolio must be adjusted for changes in market interest rates, servicing and sales expenses, and the maturity and interest rate of the note. (Sec. 1001(f)(2)(B).)

The *Conference* substitute adopts the *Senate* provision. The Conferees intend that issuers of notes and obligations being sold under the requirement of the Budget Reconciliation Act of 1986 be given an opportunity to purchase any unsold obligations and notes for 30 days prior to the announcement of any public offering. The price of the sale will be determined by discounting the payment stream of such note or other obligations at the yield on the most recent sale of loans from the portfolio with appropriate adjustment. The criteria for setting the yield for the market interest rate shall be the same as was used in the prior sale. The calculation for establishing the sales expenses of such sale must not exceed 1 percent of the sale price.

(c) The *House* bill will require the Secretary to offer notes or other obligations for sale to the issuers thereof without regard to the manner in which the issuers intend to finance the purchase of the notes or other obligations. (Sec. 214(c)(2).)

The *Senate* amendment contains the same provision, except that the price of sale to any issuer using tax exempt financing must be determined using a yield reflective of the Schedule of Certified Interest Rates as published monthly by the Secretary of the Treasury. (Sec. 1001(f)(3)(B).)

The *Conference* substitute adopts the *Senate* provision. The Conferees intend that this section prohibit the Secretary from requiring the issuer to purchase all of his outstanding notes and obligations and from requiring any specific method of financing the purchase, except as specified provided for in the bill.

(d) The *Senate* amendment will provide that section 306(b) of the Consolidated Farm and Rural Development Act must be applicable to all notes or other obligations sold or intended to be sold under section 1001. (Sec. 1001(g).)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

(18) Collateral adjustment decisions based on appraisal made by certified appraiser where collateral value in dispute

The *House* bill will permit a borrower to obtain an appraisal made by a certified appraiser of the market value of collateral, that the borrower disputes the value placed on by the Secretary that is not based on an appraisal made by a certified appraiser, if the borrower notifies the Secretary that the borrower disputes the value placed on the collateral by the Secretary within 30 days after a borrower receives from the Secretary notice that the borrower must post additional collateral with respect to a loan. If the borrower obtains an appraisal, the Secretary may not enforce the additional collateral requirement based on a value of the collateral determined by the Secretary that is not based on the appraisal. After receiving such an appraisal, the Secretary must reconsider any decision with respect to or based on the value of the collateral taking into account the appraisal. (Sec. 358.)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision.

(19) Lease of certain acquired property

The *House* bill will authorize the Secretary, notwithstanding any other provision of law, to lease to public or private nonprofit organizations, for a nominal rent, any facilities acquired in connection with the disposition of a loan made by the Secretary under section 306. Any such lease must be for such period of time as the Secretary determines is appropriate. (Sec. 216.)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision.

(20) Study and report to Congress before issuance of certain final regulations

The *House* bill will require the Secretary, not later than 60 days before the Secretary issues final regulations providing for the use of ratios and standards as part of loan applications or preapplications for determining the degree of potential loan risk on FmHA loans, to complete a study and report to the committees on agriculture of Congress on the effects of such regulations on a representative sample of persons who are borrowers or potential borrowers of such loans, and demonstrate in the study that the implementation of the final regulations will not result in a portfolio of borrowers that is inconsistent with the purposes of the Consolidated Farm and Rural Development Act. (Sec. 217.)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision.

(21) Continuation of limited resource farmers' initiative

The *House* bill will require the Secretary to maintain substantially at the levels in effect on the date of the enactment the limited resource farmers' initiative in the office of the Director of the Office of Advocacy and Enterprise. (Sec. 218.)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision.

(22) Farm ownership outreach program to socially disadvantaged individuals

The *House* bill will require the Secretary, in coordination with the limited resource farmers' initiative in the office of the Director of the Office of Advocacy and Enterprise, to establish a farm ownership outreach program for persons who are members of any group with respect to which an individual may be identified as a socially disadvantaged individual under section 8(a)(5) of the Small Business Act to encourage the acquisition of inventory farmland of the Farmers Home Administration by—

(i) informing persons eligible for assistance under any other provision of this Act of the possibility of acquiring such inventory farmland and various farm ownership loan programs; and

(ii) providing technical assistance to such persons in the acquisition of inventory farmland. (Sec. 219.)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision.

(23) Security for FmHA real estate loans

The *Senate* amendment will authorize a borrower to use the same collateral to secure two or more loans made, insured, or guaranteed under subtitle A of the Consolidated Farm and Rural Development Act, except that the outstanding amount of the loans due may not exceed the total value of the collateral used. (Sec. 307(c).)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

(24) Additional collateral

The *Senate* amendment will prohibit the Secretary from—

(i) requiring any borrower to provide additional collateral to secure a farmer program loan made or insured under this title, if the borrower is current in the payment of principal and interest on the loan; or

(ii) bringing any action to foreclose, or otherwise liquidate, any farmer program loan as a result of the failure of a borrower to provide additional collateral to secure a loan, if the borrower was current in the payment of principal and interest on the loan at the time the additional collateral was requested. (Sec. 307(e).)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

(25) Planting and production history guidelines

The *Senate* amendment will require the Administrator of the Farmers Home Administration to ensure that appropriate procedures, including to the extent practicable on-site inspections, or use of county or State yield averages, are used in calculating future yields for an applicant for a loan, when an accurate projection cannot be made because the applicant's past production history has been affected by declared natural disasters. (Sec. 331E.)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

(26) Conservation easements

The *Senate* amendment will add a provision to except other wildlife habitat from the requirement that property must be row cropped each year of the 3-year period ending on December 23, 1985, to be eligible for acquisition of an easement. (Sec. 349(c).)

The *House* bill contains no comparable provision.

The *Senate* amendment will limit the amount of the part of the borrower's outstanding loans that the Secretary may cancel in acquiring an easement for conservation, recreational, and wildlife purposes to an amount that is the difference between the amount of the outstanding loan secured by the land and the current value of the land. (Sec. 349(e).)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision with an amendment that provides that in no case will the amount cancelled exceed the value of the lands on which the easement is acquired or the difference between the amount of the outstanding loan secured by the land and the current value of the land, whichever is greater.

(27) Demonstration project for purchase of System land

The *Senate* amendment will require the Secretary to establish and carry out, during the 3-year period beginning on the date of enactment of the Farm Credit Act Amendments of 1987, a demonstration project under which the Secretary may issue certificates of eligibility to Farmers Home Administration eligible borrowers to reduce the interest rate paid by the borrowers on loans obtained from legally organized lending institutions and FCS institutions to purchase acquired properties owned by institutions of the Farm Credit System that are certified to issue preferred stock under section 6.27 of the bill. To be eligible to participate in the project, a borrower must—

(i) meet the requirements of section 351(b)(1);

(ii) provide a down payment to purchase the land, using personal funds of the borrower, equal to at least 15 percent of the purchase price of the land; and

(iii) meet all conservation requirements for the land that are imposed on borrowers of guaranteed farm ownership loans under the Consolidated Farm and Rural Development Act. (Sec. 351(f) (1) and (2).)

The *Senate* amendment will authorize the Secretary to—

(i) notwithstanding any other provision of law, guarantee the repayment of 95 percent of the principal and interest due on the loan, if the lender of a guaranteed loan assisted under section 351(f) reduces the interest rate payable on the loan by at least 1 percent;

(ii) certify the eligibility of borrowers to participate in the demonstration project, process applications for participation in the project, provide certificates of eligibility to eligible borrowers on a timely basis consistent with the availability of acquired property owned by institutions of the Farm Credit System that are certified to issue preferred stock under section 6.27 of the Farm Credit Act Amendments of 1987, and set aside the largest practicable portion of funds made available to guarantee farm ownership loans under the Consolidated Farm and Rural Development Act (including unobligated funds) to carry out section 351(f); and

(iii) transfer such amounts as may be necessary from farm operating guaranteed loans to farm ownership guaranteed loans.

The *Senate* amendment will require the Farm Credit System institutions to—

(i) sell land to eligible borrowers under section 351(f) at fair market value;

(ii) to the extent practicable, set aside each fiscal year for purchase by eligible borrowers, in accordance with this subsection, land acquired or owned by such institutions of the Farm Credit System in an aggregate amount not to exceed $250,000,000 at fair market value; and

(iii) if necessary, subdivide tracts of land made available under section 351(f) into parcels that permit eligible borrowers to purchase the parcels consistent with limits placed on the size of loans made, insured, or guaranteed under the Consolidated Farm and Rural Development Act.

In addition, the *Senate* amendment will require the Secretary and the Farm Credit Administration to develop a joint memorandum of understanding governing the implementation of section 351(f) not later than 60 days after the date of enactment of the bill. (Sec. 351(f) (8) and (9).)

The *House* bill contains no comparable provisions.

The *Conference* substitute adopts the *Senate* provision.

(28) Target Participation Rates

The *Senate* amendment will require the Secretary to establish annual target participation rates, on a county wide basis, that will ensure that members of socially disadvantaged groups will receive loans made or insured under subtitle A and will have the opportunity to purchase or lease inventory farmland. In establishing the target rates the Secretary must take into consideration the portion of the population of the county made up of such groups, and the availability of inventory farmland in the county. Socially disadvantaged groups means a group whose members have been subjected to racial or ethnic prejudice because of their identity as members of a group without regard to their individual qualities. (Sec. 354(a).)

The *Senate* amendment will require the Secretary, to the greatest extent practicable, to reserve sufficient loan funds made available under subtitle A, for use by members of socially disadvantaged groups identified under target participation rates. The Secretary must allocate the loans on the basis of the proportion of members of socially disadvantaged groups in a county and the availability of inventory farmland. The greatest amount of loan funds will be distributed in the county with the greatest proportion of socially disadvantaged group members and the greatest amount of available inventory farmland. (Sec. 354(b).)

The *House* bill contains no comparable provision.

The *Senate* amendment will require the Secretary to prepare and submit to the agriculture committees of Congress a report that describes the annual target participation rates and the success in meeting the rates. (Sec. 354(c).)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

(29) Regulations

The *Senate* amendment will require the Secretary not later than 150 days after the date of enactment of this Act, to issue final regulations, after considering public comment obtained under section 553 of title 5, United States Code, to carry out the amendments made by title VI of the bill.

The *House* bill contains no comparable provision. (NOTE: Section 202(d) of the bill and section 335(f)(4) of the Consolidated Farm and Rural Development Act require the Secretary to issue regulations.

The *Conference* substitute adopts the *Senate* provision.

(30) National Rural Crisis Response Center

The *House* bill will express the sense of Congress that efforts by various State and local public agencies, citizens' groups, church and civic organizations, and individuals to focus attention on and respond to rural problems throughout the Nation are deserving of the recognition, encouragement, and support of Congress and the American people for the valuable services they provide. (Sec. 501.)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

(31) Revised Procedures for Appeal of Adverse Loan Servicing Decisions of Secretary of Agriculture

The *House* bill will require the Secretary to provide to any farmer program borrower the opportunity for a hearing on the record in accordance with regulations if the borrower has—

(i) exhausted the appeals procedure authorized under section 333B(a);

(ii) applied for any primary or secondary loan service programs; and

(iii) been directly and adversely affected by a decision of the Secretary with respect to such application.

The Secretary will appoint administrative law judges under section 3105 of title 5, United States Code, to preside at the hearings and will conduct the hearings in accordance with sections 556 and 557 of title 5, United States Code.

The Secretary will provide the appeal procedures without regard to participation or agreement of any lender. (Sec. 333B(d).)

The amendments made by section 502 will take effect 120 days after the date of enactment of title V. (Sec. 502 of the bill)

The *Senate* amendment will require the Secretary to establish and maintain within the Farmers Home Administration a national appeals division, which will consist of a director, hearing officers, and other personnel necessary to the administration of the division, all of whom will be employees of the Farmers Home Administration who will have no duties other than hearing and determining formal appeals arising under section 333B.

Hearing officers within the appeals division will hear and determine all formal appeals from decisions subject to section 333B made by county supervisors, county committees, district directors, State directors, or other employees of the Secretary working within a State. The hearings will be held within the State of the appellant.

Upon the request of the appellant—

(i) The decisions of hearing officers will be reviewed by the State director in the appellant's State; and

(ii) the decisions of the State director on review will be subject to further review by the director of the national appeals division.

The State director is authorized to decline review and transmit the matter to the director of the national appeals division for immediate review, if the appeal presents particularly important administrative, policy, or legal questions that require decision.

Hearing officers within the national appeals division will report to the principal officers of the division, and will not be under the direction and control of, or receive administrative support (except on a reimbursable basis) from offices other than the national appeals division.

The Secretary will ensure that the national appeals division has resources and personnel adequate to hear and determine all initial appeals within the State of the appellant on a timely basis, and that hearing officers receive training and retraining adequate for their duties upon initial employment and at regular intervals thereafter—

The Secretary is authorized to spend sums available in the Farmers Home Administration's various revolving insurance funds for the purposes of section 333B(d) in the event that necessary appropriations sufficient to fund the division are not available.

The *Conference* substitute adopts the *Senate* provision with an amendment—

(i) requiring the hearing to be recorded verbatim and a transcript to be provided to the appellant and for use in further appeal procedures; and

(ii) requiring the decisions of the hearing officers, upon the request and election of the borrower, to be reviewed by the State director, or to be referred and reviewed directly by the director of the National Appeals Division. If the borrower elects a review by the State director, the decisions of the State director, upon request of the borrower, will be subject to further review by the director of the National Appeals Division.

INSURANCE FUND/RESERVE ACCOUNT

(1) Establishment of insurance mechanism

Both the *House* bill and the *Senate* amendment will establish a mechanism for ensuring that FCS banks can meet their obligations on their debts in a timely fashion (and under the *Senate* amendment, the insurance mechanism will be used for additional purposes, as described in item (12) below).

The *House* bill, in section 106, will establish the *Farm Credit Insurance Corporation* to insure the timely payment of notes, bonds, and other obligations issued on behalf of one or more banks all of which are entitled to benefits of insurance under these provisions. (See. 5.52.) [6]

The *Senate* amendment, in section 203, provides that effective January 1, 1992, the Farm Credit Administration Board is to establish and maintain the *Farm Credit System Central Reserve Account* (also referred to as the Reserve Account). (Sec. 4.9A(a).) [6]

The *Conference* substitute adopts the *House* provision.

(NOTE.—The *House* bill and *Senate* amendment contain several technical differences that are not listed as differences.)

(2) Definitions

The *House* bill contains definitions of terms used in the insurance provisions of the bill. These include definitions of "United States", "insured System bank", "receiver", and "Board of Directors". It also defines "insured obligation" to mean any FCS obligation (issued under the authority of The Farm Credit Act of 1971 that permits FCS bank to issue bonds and other obligations, including System-wide bonds) issued—

(a) on or before the date of enactment of the bill by any FCS bank; and

(b) after such date, on behalf of any *insured* FCS bank. (Sec. 5.51.)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision.

(3) Form of Reserve Account

The *House* bill provides that money of the Insurance Corporation not otherwise employed must be invested in obligations of the United States or in obligations guaranteed as to principal and interest by the United States. (Sec. 5.63.)

The *Senate* amendment provides that the Reserve Account is to be held in the form of securities with maturities determined by the Reserve Account Board appropriate to carry out the obligations of the Board. (Sec. 4.9A(b).)

The *Conference* substitute adopts the *House* provision.

(4) Management

(a) The *House* bill provides that the Corporation is to be administered by a three member Board of Directors appointed by the President, with the advice and consent of the Senate, not more than two of which members could be from the same political party. One Board member must be a member (other than the Chairman) of the

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[6] Certain section references in this and following descriptions of the *House* provisions are to sections 5.51 to 5.62 of the Farm Credit Act of 1971, to be added by section 106 of the *House* bill; and certain references in the descriptions of the *Senate* amendment are to section 4.9A of the Act, to be added by section 203 of the *Senate* amendment.

Farm Credit Administration Board. (Sec. 5.53(a).)

The *Senate* amendment provides that the Reserve Account is to be managed by the Reserve Account Board of Directors consisting of the members of the Farm Credit Administration Board. (Sec. 4.9(c)(1).)

The *Conference* substitute adopts the *Senate* provision.

(b) The *House* bill provides that each director shall hold office for a term of six years, except that the member of the FCA Board would hold office only while a member of the FCA Board. (Sec. 5.53(b).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute deletes the *House* provision.

(c) The *House* bill provides that one of the directors who is not a member of the FCA Board is to be appointed by the President, by and with the advice and consent of the Senate, as Chairman of the Board of Directors. (Sec. 5.53(c).)

The *Senate* amendment provides that the Reserve Account Board is to be chaired by any Board member other than the Chairman of the FCA Board. (Sec. 4.9A(c)(2).)

The *Conference* substitute adopts the *Senate* provision.

(d) The *House* bill provides that, in the event of a vacancy in the office of Chairman, and pending the appointment of a successor, the other director who is not a member of the FCA Board is to act as Chairman of the Board. (Sec. 5.53(d).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute deletes the *House* provision.

(e) The *House* bill provides that each director will be ineligible, while holding office and for two years thereafter, to hold any office, position, or employment in any insured System bank, except that this provision will not apply to a member who serves a full term. (Sec. 5.53(e).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute deletes the *House* provision.

(f) The *House* bill provides that each director (other than the director from the FCA Board) will receive compensation, including travel, subsistence, and other expenses in the discharge of the director's official duties without regard to any other law relating to allowance for such expenses for officers and employees of the United States. The compensation cannot be in excess of the level set by the Farm Credit Administration. (Sec. 5.53(f).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute deletes the *House* provision.

(5) Insured banks

(a) The *House* bill provides that every FCS bank will be an insured System bank on enactment of the bill (the term "insured System bank" includes a production credit association) and subject to the insurance provisions of the bill. Every FCS bank that is authorized to commence or resume operations under the Farm Credit Act of 1971 will be an insured System bank. Banks resulting from mergers or consolidations also will be insured. (Sec. 5.54). See also the description of the definition of "insured obligation" in item (2) above.

The *Senate* amendment contains no comparable provision, but section 4.9A(d)(1) (described in item (7) below) provides for assessment and collection of premiums from "System banks as necessary" and section 4.9A(g) (described in item (9) below) provides that the FCA is to issue regulations to carry out section 4.9A *not later than October 1, 1990.*

The *Conference* substitute adopts the *House* provision.

(6) Reports of condition

The *House* bill provides that, on request, the Farm Credit Administration is to provide to the Insurance Corporation any report of condition submitted to the Farm Credit Administration by any FCS institution. The Corporation Board could direct any FCS institution to provide additional reports of condition on fixed dates and request such other reports as it requires. The Corporation Board could require the additional reports to be published. Any institution that fails to provide a report within ten days after a request by the Board would be subject to a fine of $100 for each day of noncompliance, and the funds recovered would be for the Corporation's use. (sec. 5.55.)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute deletes the *House* provision.

(7) Premiums

(a) The *House* bill provides that, until the amount in the Farm Credit Insurance Fund exceeds a "secure base amount", a premium must be paid, by each insured System bank, annually in an amount equal to 15 basis points per dollar of the average principal outstanding on loans in an accrual status and 25 basis points per dollar of the average principal outstanding on loans in a nonaccrual status. (Sec. 5.56(a).)

The *Senate* amendment provides that the Reserve Account Board is to assess and collect premiums from FCS banks necessary to carry out the Reserve Account program. The annual premium for a bank *could not exceed* the sum of 15 basis points per dollar on the average principal of loans outstanding in the *prior* calendar year that are in an accrued status and 25 basis points per dollar on the average principal of loans outstanding in the *prior* calendar year that are in a nonaccrual status. (Sec. 4.9A(d)(1).)

The *Conference* substitute adopts the *House* provision.

(b) The *House* bill provides that, at any time the aggregate amount in the Insurance Fund exceeds the secure base amount, the Insurance Corporation must reduce the annual premium due from each insured System bank for the following year by a percentage determined by the Corporation so that the aggregate amount of premiums paid in will remain at not less than the secure base amount. (Sec. 5.56(b).)

The *Senate* amendment contains no comparable provision, but section 4.9A(g) (described in item (9) below) provides that the Farm Credit Administration is to issue regulations concerning the basis on which FCS institutions are to be assessed premiums and the maximum amount of funds that could be held in the Reserve Account at any time.

The *Conference* substitute adopts the *House* provision.

The *House* bill defines the term "secure base amount" to mean, with respect to any point in time, 2 percent of the aggregate outstanding insured obligations of all insured System banks at such time, or such other percentage of the aggregate amount as the Insurance Corporation in its discretion determines actuarially sound to maintain the Insurance Fund given the risk of outstanding obligations. (Sec. 5.56(c).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision.

(d) The *House* bill provides that the principal outstanding on loans *in an accrual status* made by a Federal intermediate credit bank includes the principal outstanding on loans in an accrual status made (i) by production credit associations in the district; (ii) by any other financing institution (OFI) on account of amounts provided through the intermediate credit bank; and (iii) by the intermediate credit bank (other than loans described in (i) and (ii)). (Sec. 5.56(d).)

The *Senate* amendment contains substantially the same description of principal outstanding on loans, except that it applies both to *accrual and nonaccrual* loans. (Sec. 4.9A(2).)

The *Conference* substitute adopts the *Senate* provision.

(e) The *House* bill provides that each insured System bank that became insured before the beginning of the year is to file with the Insurance Corporation (on a date the Corporation Board specifies) a certified statement showing its annual average principal outstanding on loans that are made in accrual and nonaccrual status and the amount of premium due. Payment of premiums will be made to the Corporation in the amount required to be certified.

Under the *House* bill, the certified statement is to be filed in such form and with contents as prescribed by the Insurance Board and certified by the president of the bank (or other officer specified by the bank's board of directors) that the statement is true and correct and in accordance with the insurance provisions of the bill.

Under the *House* bill, premium payments from insured System banks are to be made at least annually in such manner and at such time as the Corporation Board prescribes, except the amount of premium due is to be established not later than 60 days after the filing of the certified statement.

The *House* bill also requires the Corporation Board to prescribe all rules and regulations necessary for the enforcement of this provision. The Board could limit the retroactive effect of its regulations. (Sec. 5.57.)

The *Senate* amendment contains no comparable provision, but states in section 4.9A(g) that the FCA regulations will provide the method by which premiums are to be collected from FCS institutions for the Reserve Account.

The *Conference* substitute adopts the *House* provision.

(f) The *House* bill will authorize the Corporation Board to refund to any insured System bank any excess premium payment made by the bank. (Sec. 5.58 (a).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision.

(g) The *House* bill will authorize the Insurance Corporation to file a court action within five years after the right accrues (with certain exceptions for false or fraudulent certified statements filed by an insured System Bank) to recover any unpaid premiums lawfully due whether or not the bank has filed a report of condition or certified statement. It also provides for actions by insured System banks for recovery of overpayments within such time period.

The *House* bill also provides that, if any insured System bank fails to file any certified statement (as described in item (e) above) or fails to pay required premium and if the bank does not correct such failure within 30 days after notice from the Insurance Corporation of such failure, all rights, privileges, and franchises of the bank granted to it under the Farm Credit Act of 1971 will be forfeited. The Corporation could bring an action to enforce this provision against any bank and any director of the bank who assented to such failure to file or pay a premium (the latter may be liable in his individual capacity). (Sec. 5.58(b) and sec. 5.58(c).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision.

F(8) Corporate powers—House bill

The *House* bill will provide the Insurance Corporation with the general corporate powers it needs to operate as a corporation. In addition to the usual and standard powers (such as the power to contract, and sue and be sued) the Insurance Corporation will be given the power to—

(a) make examinations of and require information and reports from FCS institutions; and

(b) act as receiver.

Legal action by or against the Corporation would be provided original jurisdiction in U.S. district courts; and no attachment or execution could be issued against the Corporation before final judgment in any local, State, or U.S. court. The Corporation Board could designate agents for service of process within certain jurisdictions. (Sec. 5.59.)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision.

(9) Regulations

The *House* bill will authorize the Insurance Corporation to prescribe by its Board rules and regulations to carry out the insurance provisions of the bill (except to the extent that such authority to issue regulations expressly is granted to another regulatory agency). (Sec. 5.59 (10).)

(NOTE.—The *House* bill contains several provisions specifically providing for premiums, the amount of the Insurance Fund, and the uses of monies from the Fund that are to be provided for by FCA regulation. (See items (7) and (12).

The *Senate* amendment will require the Farm Credit Administration to issue regulations necessary to carry out the Reserve Account provisions of the amendment, including regulations concerning—

(a) the basis on which FCS institutions are to be assessed premiums to be paid to the Reserve Account;

(b) the method by which premiums are to be collected from institutions for the Reserve Account;

(c) the maximum amount of funds that could be held in Reserve Account; and

(d) the circumstances and methods under which payments will be made from the Reserve Account consistent with authorized uses.

The Farm Credit Administration must issue the proposed regulations by October 1, 1990, and the final regulations not later than July 1, 1991. Final regulations are to be presented to Congress not later than 30 days prior to publication as final. (Sec. 4.9A(g).)

The *Conference* substitute adopts the *House* provision.

(10) Conduct of corporate affairs—House bill

The *House* bill provides that the Board of the Insurance Corporation is to administer the affairs of the Corporation fairly, impartially, and without discrimination. The Board is to determine and prescribe the manner in which its obligations are to be incurred and its expenses allowed and paid. The Corporation will be authorized to use the U.S. mails the same as executive departments of the Government. The Corporation could use the information, services, and facilities of the executive departments or any of their agencies (with their consent). (Sec. 5.60(a).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision.

(11) Examinations—House bill

The *House* bill will authorize the Board of the Insurance Corporation to appoint examiners who will have power, on behalf of the Corporation, to examine any insured System bank, production credit association, or FCS institution in receivership if the Board deems it is necessary. Examiners will have the power to make thorough examinations and must make detailed reports to the Corporation. The Corporation also could appoint claim agents to investigate and examine claims on the Insurance Fund for insured obligations. The Corporation or its designated representative, in connection with examinations, could administer oaths and take testimony under oath as it relates to matters with respect to the FCS institution involved. The examiners appointed by the Board are to cooperate, to the maximum extent possible, with examiners of the Farm Credit Administration to minimize duplcation of effort and costs. (Sec. 5.60(b) and sec. 5.60(d).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision with a modification to conform the bill language with the provision in the *Senate* amendment, providing for the membership of the Corporation Board, included in the *Conference* substitute (See item 4(a) above.)

(12) Insurance Fund/Reserve Account

Section 4.0 Fund.—The House bill will establish the Farm Credit Insurance Fund for insuring the timely payment of principal and interest on insured obligations, and the assets therein will be held by the Insurance Corporation for the uses and purposes of the Corporation. All amounts in the revolving fund established under section 4.0 will be transferred into the Farm Credit Insurance Fund, except that the obligations to and rights of any person in the revolving fund arising out of any event or transaction before the date of the enactment of the bill will remain unimpaired. (Sec. 5.61.)

Premium deposits.—The *House* bill provides that the Corporation is to deposit into the Insurance Fund all premium payments received from insured System banks.

Use of Insurance Fund.—Beginning five years after the date of enactment of the bill, the Corporation must expend amounts in the Insurance Fund to the extent necessary to insure timely payment due on the insured obligations of FCS institutions. The Insurance Corporation also could expend amounts in the Insurance Fund to provide assistance to troubled banks and to cover operating costs. The Corporation is to make all payments and refunds required to be made by the Corporation from amounts in the Fund. (Sec. 5.61.)

Repeal.—The *House* bill, in section 106(c)(4), will repeal section 4.0 of the Farm Credit Act of 1971.

(NOTE.—Section 4.0 of the Farm Credit Act of 1971 currently provides that the revolving fund established by Public Law 87-343, as amended, and the revolving fund established by Public Law 87-494, as amended, and continued by Public Law 96-592, are merged and available to the Farm Credit Administration for the purchase, on behalf of the United States, of capital stock of the Capital Corporation. The Farm Credit Administration may make such purchases of stock as it determines are necessary to achieve the purposes of the Act.)

The *Senate* amendment provides that the Reserve Account is to be used by the Reserve Account Board to provide assistance to FCS institutions as needed—

(a) to satisfy notes, bonds, and other individually issued obligations that issuing FCS institutions are unable to satisfy independently;

(b) to satisfy consolidated or System-wide obligations to the extent that a participating FCS institution cannot satisfy its payments that are due;

(c) to satisfy FCS institution defaults through the purchase of preferred stock or other payments as provided in the provisions of the bill related to the servicing and repayment of 15-year guaranteed bonds issued to provide FCS financial assistance (described in the section of this Statement dealing with assistance to the Farm Credit System); and

(d) to ensure retirement of borrower stock at par value (as described in the section of this Statement dealing with assistance to FCS (borrowers). (Sec. 4.9A(e).)

The *Senate* amendment also provides that the revolving fund established by section 4.0 of the Farm Credit Act of 1971 is to be available to the Farm Credit Administration and to the Assistance Board to provide interim FCS financial assistance during the transition period between enactment of the bill and the availability of funds raised through the issuance of government guaranteed bonds. Any funds advanced from the revolving fund under this provision would have to be repaid, within the same fiscal year, from funds raised through the issuance of the guaranteed bonds. (See the section of this Statement dealing with assistance to the Farm Credit System.)

During the period beginning January 1, 1993, the revolving fund will be available to advance funds to the Reserve Account established under section 4.9A if the Reserve Account does not have sufficient funds to carry out the purposes of the Reserve Account. Any such funds advanced from the revolving fund would have to be repaid from the Reserve Account under the terms established by the Farm Credit Administration. (Sec. 102.)

(NOTE.—See also the description of the *Senate* provisions relating to the provision of funds for FCS financial assistance in the section of this Statement dealing with assistance to the Farm Credit System.)

The *Conference* substitute adopts the *House* provision with three modifications. The first modification provides that the Insurance Fund could be utilized to (1) satisfy FCS institution defaults through the purchase of preferred stock or other payments related to the servicing and repayment of 15-year guaranteed bonds issued to provide financial assistance, and (2) ensure the retirement of borrower stock and participation certificates or other equities at par value. The second modification provides that the revolving fund established by section 4.0 of the Act would be transferred to the Insurance Fund on the date that insurance premiums begin. The third modification provides that the first premium will be due and payable as soon as practicable after January 1, 1990, and such premium will be based on accruing loan volume for calendar year 1989.

(13) Assistance to troubled banks—House bill

Authority.—The *House* bill will authorize the Insurance Corporation, at the discretion of its Board, to make loans to, purchase the assets or securities of, assume the liabilities of, or make contributions to any insured System bank if such action is taken: (a) to prevent receivership; (b) to restore the bank to normal operations; or (c) to reduce risk to the Corporation posed by the weakened financial conditions of a significant number of FCS banks. (Sec. 5.62(a)(1).)

The Corporation could not use this authority to purchase any stock of an insured System bank, except that such limitation could not be construed to limit the ability of the Corporation to enforce covenants and agreements to protect its interest. (Sec. 5.62(a)(3)(B).)

(NOTE.—The *Senate* amendment would authorize the Reserve Account, in a different context, to purchase certain preferred stock of FCS institutions. See item (12) above.)

Enumerated powers.—The *House* bill also provides that to facilitate: (a) a merger or consolidation of a *qualifying insured System bank,* (b) the sale of assets of the insured System bank to another insured System bank, (c) the assumption of the insured System bank's liabilities by the other bank, or (d) the acquisition of the stock of the insured System bank by the other bank. The Insurance Corporation, in its role discretion, and on terms and conditions its Board prescribes, could—

(i) purchase any of such assets or assume any of such liabilities;

(ii) make loans or contributions to, or purchase the securities of, the other insured System bank;

(iii) guarantee the other insured System bank against loss by reason of the bank's merging or consolidating with, or assuming the liabilities and purchasing the assets of, the insured System bank; or

(iv) take any combination of the actions referred to above. (Sec. 5.62(a)(2)(A).)

Qualifying bank.—The *House* bill provides that the term *qualifying insured System bank* means any insured System bank that—

(a) is in receivership;

(b) is, in the judgment of the Insurance Corporation Board, in danger of being placed in receivership; or

(c) is, in the sole discretion of the Corporation, a bank that, when severe financial conditions exist that threaten the stability of a significant number of insured System banks or of insured System banks possessing significant financial resources, requires assistance to lessen the risk to the Corporation posed by the insured System bank under threat of instability. (Sec. 5.62(a)(2)(B).)

Limitation.—The *House* bill will prohibit the Insurance Corporation from using its authority as described above if the amount of the assistance exceeds an amount determined by the Corporation to be the cost of liquidation (including paying the insured obligations issued on behalf of the bank). The prohibition would not apply to the provision of assistance to a bank if the Corporation determines that the continued operation of the bank is essential to provide adequate agricultural credit services in its area of operation. (Sec. 5.62(a)(3)(A).)

Subordination.—The *House* bill provides that any assistance provided under this provision could be in subordination to the rights of owners of obligations and other creditors (Sec. 5.62(a)(4).)

Annual reports.—The *House* bill would require the Insurance Corporation, in its annual report to Congress, to report the total amount it has saved, or estimates it has saved, by exercising the authority provided under this provision. (Sec. 5.62(a)(5).)

Authority to pledge or sell assets.—The *House* bill will authorize the Insurance Corporation, in its discretion, to make loans on the security of, or purchase and liquidate or sell any part of the assets of, any insured System bank that is placed in receivership on account of inability to pay principal or interest on any of its notes, bonds, debentures, or other obligations in a timely manner. (Sec. 5.62(b).)

Subrogation.—The *House* bill provides that, on the payment to an owner of an insured obligation issued on behalf of an insured System bank in receivership, the Insurance Corporation will be subrogated to all rights of the owner against the bank to the extent of the payment. The subrogation must include the right on the part of the Corporation to receive the same dividends from the proceeds of the assets of the bank as would have been payable to the owner on a claim for the insured obligation. (Sec. 5.62(c).)

Rights to assets.—The *House* bill provides that any agreement that tends to diminish or defeat the right, title, or interest of the Insurance Corporation in any asset acquired by it under this provision will not be valid against the Corporation unless the agreement—

(a) is in writing;

(b) is executed by the bank and the persons claiming an adverse interest thereunder, including the obligator, contemporaneously with the acquisition of the asset by the bank;

(c) has been approved by the board of directors of the bank or its loan committee, which approval is reflected in the minutes of the board or committee; and

(d) has been, continuously, from the time of its execution, an official record of the bank. (Sec. 5.62(d).)

PCAs.—The *House* bill provides that this provision will apply to production credit associations. (Sec. 5.62(e).)

Effective date.—The *House* bill will prohibit the Insurance Corporation from exercising any authority under this provision during the five-year period beginning on the date of the enactment of the bill. (Sec. 5.62(f).)

The *Conference* substitute adopts the *House* provision.

(14) Exemption from taxation—House bill

The *House* bill provides that the Insurance Corporation, including its franchise, and its capital, reserves, surplus, and income, will be exempt from all Federal, State and local taxes, except that real property of the Corporation will be subject to State, county, and local taxation to the same extent according to its value as other real property is taxed. (Sec. 5.64.)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision.

(15) Reports to Congress

(a) The *House* will require that the Insurance Corporation make reports of its operations to Congress as soon as practicable after the first day of January in each calendar year. The report must include—

(i) the aggregate amount in the Insurance Fund at the close of the preceding calendar year;

(ii) projections of the costs to be incurred by the Corporation during the calendar year; and

(iii) Estimates of the aggregate amount to be collected as premiums during the calendary year. (Sec. 5.65(a).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision.

(b) The *House* bill will require that within 12 months after a working majority of the Board is appointed, the Corporation report to Congress an estimate of the aggregate amount that will be in the Insurance Fund five years after the date of the enactment of the bill. If the Corporation estimates that, at that time, the aggregate amount will be less than the secure base amount (defined as described in item (7)(c)), the Corporation must recommend alternative methods to increase the aggregate amount to the secure base amount. (Sec. 5.65(b).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute deletes the *House* provision.

(c) The *House* bill provides that the financial transactions of the Corporation be audited by the General Accounting Office in accordance with the principles and procedures applicable to commercial corporate transactions and under rules and regulations prescribed by the Comptroller General. (Sec. 5.65(c).)

The *Senate* amendment contains no comparable provisions.

The *Conference* substitute deletes the *House* provision.

(16) Certain prohibitions—House bill

The *House* bill—

(a)(i) will make it unlawful for the use by any person or entity of the words "Farm Credit System Insurance Corporation" or any combination of the words that would have the effect of leading the public to believe that there is any connection between the person or entity;

(ii) provides that it will be unlawful for any person or entity to falsely represent by any device that its obligations are insured or in ajy way guaranteed by the Insurance Corporation. It also will be unlawful fkr any insured Systei bank or person that markets insured obligations to falsely represent the extent to which or the manner in which the obligations are insured by the Corporation; and

(iii) provides that any person or entity that willfully violates these provisions will be fined not more than $1,000, imprisoned for not more than one year, or both;

(b) make it unlawful for any insured System bank to pay any dividends on its stock or interest on its capital notes or debentures (if interest is required to be paid only out of net profits) or distribute any of its capital assets while it remains in default in the payment of any premium due the Corporation. Each director or officer of any insured System bank who willfully participates would be subject to fine and imprisonment;

(c) provides that any insured System bank that willfully fails or refuses to file any certified statement or pay any premium required will be subject to a penalty of not more than $100 for each day that the violations continue, which penalty the Corporation could recover for its use; and

(d) provides that, except with the prior written consent of the Farm Credit Administration, it will be unlawful for any person convicted of any criminal offense involving dishonesty or a breach of trust to serve as a director, officer, or employee of any insured System bank. For each willful violation of this provision, the bank involved will be subject to a penalty of not more than $100 for each day the violation continues (which penalty the Corporation could recover for its own use. (Sec. 5.66.)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision.

(17) Joint and several liability of banks

Both the *House* bill and the *Senate* amendment will revise section 4.3(a) of the Farm Credit Act of 1971 (which deals with joint and several liability of FCS banks) to—

(a) eliminate the so-called "tiered liability" provisions; and

(b) add (i) a definition of "available collateral", (ii) subrogation rights, and (iii) a requirement that defaulting banks be placed in receivership.

(a) The *House* bill provides that, when a call is made on FCS banks, such calls—

(i) first will be made on all nondefaulting banks, in proportion to each bank's proportionate share of the aggregate available collateral held by all such banks; and

(ii) then, as necessary, on all nondefaulting banks in proportion to each such bank's remaining assets. (Sec. 106(b).)

The *Senate* amendment provides that calls will be made only as stated in clause (i) in the description of the *House* bill—in accordance with the proportionate share of available collateral. (Sec. 207(b).)

The *Conference* substitute adopts the *House* provision.

(b) In defining "available collateral", the *Senate* amendment states that it means a bank's excess collateral *as of the close of the last calendar quarter ending before the call.* (Sec. 207(b).)

The *House* bill contains no comparable provision.

The *Conference* substitute deletes the *Senate* provision.

(18) Enhancement of Capital Adequacy of Banks

The *House* bill provides that collateral adequacy provision of section 4.3(c) of the Farm Credit Act of 1971 will apply to all consolidated and System-wide debt obligations, not just long-term obligations as provided currently. In addition, the *House* bill adds acquired real and personal property to the category of eligible collateral to secure such obligations. (Sec. 106(b)(2).)

The *Senate* amendment is comparable, except that it makes the collateral adequacy provisions applicable to all debt obligations issued by System institutions. (Sec. 207(a).)

(NOTE.—Under another provision of the *Senate* amendment (Sec. 101) debt obligations issued by System institutions to refinance the principal of the guaranteed assistance bonds are exempted from the collateral adequacy provision of the Act.)

The *Conference* substitute adopts the *House* provision.

(19) Insurance Fund/Reserve Account called on before invoking joint and several liability of banks

The *House* bill provides that, beginning five years after the date of enactment of the bill, the Farm Credit Administration could not call on any FCS institution to satisfy the liability of the institution on any joint, consolidated, or System-wide obligation participated in by the institution or with respect to which the institution is primarily, or jointly and severally, liable before the Farm Credit Insurance Fund is exhausted. (Sec. 106(b)(3).)

The *Senate* amendment provides that (if the Reserve Account Board is called on to make payment of principal or interest to satisfy consolidated or System-wide obligations to the extent that a participating institution is unable to make payments of principal or interest for which the institution is primarily liable, and if the amount due exceeds the funds available in the Reserve Account), the Reserve Account Board is to make a partial payment on the obligation to the extent of the funds available in the Reserve Account and each FCS bank will be jointly and severally liable for the payment of the additional amounts necessary to retire that obligation. (Sec. 4.9A(f).)

The *Conference* substitute adopts the *House* provision with a modification making it clear that all of the available funds in the Insurance Fund must be exhausted before invoking joint and several liability, even if the Insurance Corporation Board can only make a partial payment due to insufficient funds.

(20) FICB assessment power

The *House* bill will authorize each Federal intermediate credit bank to assess each production credit association and other financing institution (OFI) in the district in which the bank is located to cover the costs of making premium payments to the Insurance Corporation, using the same premium formula as described in item (7)(a) above. (Sec. 106(c)(1).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision.

(21) Conservators and receivers

The *House* bill will authorize the Farm Credit Administration to appoint a conservator or receiver for any FCS institution on the determination that the institution is unable to timely pay principal or interest on any note, bond, debenture, or other insured obligation issued by the institution. The *House* bill also provides that any conservator or rec eiver under the Farm Credit Act of 1971, after the five-year period beginning on the date of enactment of the bill, will be the Insurance Corporation. (Sec. 106(c)(2).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision.

From the Committee on Agriculture, for consideration of title I of the House bill, and titles I-IV, and VIII (except section 801) of the Senate amendment, and modifications committed to conference:

de la Garza,
Ed Jones,
Robin Tallon,
Lane Evans,
Richard H. Stallings,
Glenn English,
Timothy J. Penny,
Dave Nagler,
Charlie Stenholm,
Jim Jontz,
Tim Johnson,
Ed Madigan,
Tom Coleman,
Steve Gunderson,
Jim Jeffords,
Sid Morrison,
Clyde C. Holloway,

For consideration of title I (except sections 103-105) of the House bill, and titles II, III, and VIII (except section 801) and section 101 of the Senate amendment:

Fred Grandy,

For consideration of section 103 of the House bill, and section 402 of the Senate amendment:

Ron Marlenee,

For consideration of section 104 of the House bill, and title IV (except section 402) of the Senate amendment:

Bill Schuette,

For consideration of section 105 of the House bill and title I of the Senate amendment:

Larry Combest,

From the Committee on Agriculture, for consideration of title II of the House bill, and titles V and VI (except section 611) and section 801 of the Sejate amendment, and modifications committed to conference:

de la Garza,
Ed Jones,
Robin Tallon,
Hane Evans,
Richard H. Stallings,
Glenn English,
Timothy J. Penny,
Dave Nagler,
Charlie Stenholm,
Jim Jontz,
Tim Johnson,
Ed Madigan,
Tom Coleman,
Ron Marlenee,
Jim Jeffords,
Sid Morrison,
Steve Gunderson,
Clyde C. Holloway,

From the Committee on Agriculture, fkr consideration of title III of the House bill (except insofar as section 301 would add a new section 5.90 (a)-(c) to the Farm Credit Act of 1971), and title VII (except insofar as section 702 would add a new section 8.12 (a), (b), (c) (1) and (4) to the Farm Credit Act of 1971), and section 611 of the Senate amendment, and modifications committed to conference:

de la Garza,
Ed Jones,
Robin Tallon,
Lane Evans,
Richard H. Stallings,
Glenn English,
Timothy J. Penny,
Dave Nagler,
Charlie Stenholm,
Jim Jontz,
Tim Johnson,
Ed Madigan,
Tom Coleman,
Jim Jeffords,
Sid Morrison,
Steve Gunderson,
Bill Schuette,
Clyde C. Holloway,

From the Committee on Agriculture, for consideration of title IV of the House bill, and modifications committed to conference:

de la Garza,
Ed Jones,
Robin Tallon,
Lane Evans,
Richard H. Stallings,

Glenn English,
Timothy J. Penny,
Dave Nagler,
Charlie Stenholm,
Jim Jontz,
Tim Johnson,
Ed Madigan,
Tom Coleman,
Steve Gunderson,
Bill Schuette,
Larry Combest,
Fred Grandy,
Jim Jeffords,

As additional conferees from the Committee on Banking, Finance and Urban Affairs, for consideration of section 301 (except insofar as that section would add a new section 5.90 (a)-(c) to the Farm Credit Act of 1971) of the House bill, and title VII (except insofar as section 702 would add a new section 8.12 (a), (b), (c) (1) and (4) to the Farm Credit Act of 1971) of the Senate amendment, and modifications committed to conference:

Fernand J. St Germain,
Henry B. Gonzalez,
Carroll Hubbard,
Mary Rose Oakar,
Bruce F. Vento,
Doug Barnard, Jr.,
Richard Lehman,
Bruce A. Morrison,
Marcy Kaptur,
Chalmers Wylie,
Jim Leach,
David Dreier,
Doug Bereuter,
Toby Roth,
Alex McMillan,

From the Committee on Energy and Commerce, solely for consideration of section 301 of the House bill (insofar as it would add a new section 5.90 (a)-(c) to the Farm Credit Act of 1971), and for section 702 of the Senate amendment (insofar as it would add a new section 8.12 (a), (b), (c) (1) and (4) to the Farm Credit Act of 1971), and modifications committed to conference:

John D. Dingell,
Ed Markey,
Terry L. Bruce,
Norman F. Lent,
Matt Rinaldo,
Managers on the Part of the House.

Patrick J. Leahy,
David L. Boren,
Tom Harkin,
Tom Daschle,
John Breaux,
John Melcher,
Richard S. Lugar,
Rudy Boschwitz,
Jesse Helms,
Thad Cochran,
Dave Karnes,
Managers on the Part of the Senate.

Mr. de la GARZA. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the conference report on the bill, H.R. 3030, and ask for its immediate consideration.

The Clerk read the title of the bill.

The **SPEAKER** pro tempore (Mr. Gray of Illinois). Is there objection to the request of the gentleman from Texas?

Mr. WALKER. Mr. Speaker, reserving the right to object, it is my understanding that we are using this unanimous consent process in order to bring the bill to the floor in such a way as to prevent us from having to utilize a rule, is that correct?

Mr. de la GARZA. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from Texas.

Mr. de la GARZA. The gentleman is correct. The Committee on Rules has granted us a rule but the press of time is such that we are taking this avenue not to have to consider the rule.

Mr. WALKER. Further reserving the right to object, it is my understanding in that rule we waive points of order against consideration of the bill. There was some concern that in waiving those points of order that we were waiving provisions of the Budget Act and possibly provisions relating to appropriations. I have heard more recently that that was not a problem.

Can the gentleman give us some assurance that that indeed is not a problem as it relates to 1988 and the budget for 1988?

Mr. de la GARZA. I would tell the gentleman that the reason for the all-encompassing waiver was that at the time the bill had not been fully drafted so we did not know the question of the scope of it, we still do not know questions of scope here and there, a word here or there and so on.

The other reason was that not having to wait the 3 days with the report.

With regard to the budget, I would tell the gentleman that two of the budget waivers that would be waived are technical in nature, one is that we have within the legislation authorization for spending in 1989 and since there is no resolution in place, no budget resolution in place for 1989, we have to have the waiver.

Then I have been informed that the budget outlay for the committee and the current level of spending will be exceeded in 1988 by $70 million of which $50 million in 1989 will be the savings. So we are now having to do the waiver for the $20 million that will not be saved in 1989. The outlays for the budget for the House passage of this bill, we were spending $2.5 billion, and that was encompassed within the budget then, but now since we have to deal with the reconciliation we must have a waiver for that reason.

Mr. WALKER. Mr. Speaker, further reserving the right to object, do I understand the gentleman to say that insofar as the 1988 budget is concerned, that this bill is $70 million under the committee's allocation?

Mr. de la GARZA. No, above.

Mr. WALKER. We are $70 million over the committee's allocation for this budget year?

Mr. de la GARZA. On the expenditures for the Farmers Home Administration to protect borrowers who will be given allowances to restructure their bills, but it will be under the legislation where we save in 1989 $50 million under the Farmers Home legislation as we have it in the bill.

Mr. WALKER. Further reserving the right to object, that is the portion of the budget that we cannot get to because we do not have a budget for 1989 so that we are waiving that part of the Budget Act as well?

Mr. de la GARZA. We have money coming in but the reason is that we are paying the interest on the loans, the Government will pay the interest on the loans until the system can pick it up on its own and then all of that will be repaid in the end. But the budget forces us to go this route.

Mr. WALKER. Further reserving the right to object, Mr. Speaker, I understand that we are in the process of waiving the Budget Act in a real sense to the tune of about $70 million, is that correct?

Mr. MADIGAN. Mr. Speaker, will the gentleman yield to me?

Mr. WALKER. I will be glad to yield to the gentleman from Illinois.

Mr. MADIGAN. Mr. Speaker, we concluded last night the agriculture portion of the reconciliation bill. Aside from this bill, it has savings for the next fiscal year of $50 million more than we were required to save under the budget resolution. So we are talking here about a difference of only $20 million in the next fiscal year which I believe is more than picked up in 1989 by the savings that then occur as the gentleman from Texas [Mr. de la Garza] has attempted to explain.

We are now talking about $70 million although that is the item at issue here, but we have in the overall agriculture reconciliation function a savings of $50 million so we are talking about waiving $20 million.

Mr. WALKER. Mr. Speaker, I withdraw my reservation of objection.

The **SPEAKER** pro tempore (Mr. Gray of Illinois). Is there objection to the request of the gentleman from Texas?

Mr. MADIGAN. Mr. Speaker, reserving the right to object, we are taking this bill up under what procedures?

The **SPEAKER** pro tempore. The Chair will announce that this bill is being considered under a unanimous-consent request for immediate consideration of the conference report.

If there is no objection, the gentleman from Texas [Mr. de la Garza] will be recognized for 1 hour, and I am sure it would be his intention, the customary procedure to yield 30 minutes of that 1 hour to the gentleman from Illinois [Mr. Madigan].

Mr. MADIGAN. Mr. Speaker, I withdraw my reservation of objection.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

□ 1800

Mr. DE LA GARZA. Mr. Speaker, I ask unanimous consent that the statement of the managers be read in lieu of the report.

The SPEAKER pro tempore (Mr. GRAY of Illinois.) Is there objection to the request of the gentleman from Texas?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of today.)

Mr. DE LA GARZA (during the reading). Mr. Speaker, I ask unanimous consent that the statement be considered as read.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The SPEAKER pro tempore. The gentleman from Texas [Mr. DE LA GARZA] is recognized for 1 hour.

Mr. DE LA GARZA. Mr. Speaker, I yield 30 minutes to the distinguished gentleman from Illinois [Mr. MADIGAN], pending which I yield myself such time as I may consume.

Mr. Speaker, this legislation has been drafted by the Committee on Agriculture of the House and the Committee on Agriculture in the Senate, passed by both the Senate and the House. Now we have arrived at a consensus and an agreement in the conference.

Explanations of the legislation have been at both cloakrooms for more than 2 hours, which explain better than I could at this point.

Let me just say that the situation in rural America is such that we need to act. The situation is getting slightly better. The 1985 act is falling in place properly. We are hopefully having a turnaround in the terrible problem that our farmers and ranchers in rural America have experienced during the past several years.

Mr. Speaker, I hope that my colleagues will join with us to send the message at this point that we care, that we would like for them to have another tool at their disposal, which is credit of an acceptable nature so that they could continue providing us with the excellent food and fiber that they have done in the past.

Mr. Speaker, I yield 1 minute to the gentleman from Kansas [Mr. GLICKMAN].

Mr. GLICKMAN. Mr. Speaker, I rise in support of this bill.

I want to ask the chairman a question. One part of the bill deals with the reorganization of the system, and I just want to make sure that nowhere in this bill is there any forced reorganization of systemwide districts. I realize there is some reorganization of land banks into intermediate credit banks in each district, but nowhere are we in Congress mandating that the district banks merge with each other, is that correct?

Mr. DE LA GARZA. The gentleman is correct.

Mr. GLICKMAN. I think it is important to recognize because there were great fears that some of the banks would be merged out of existence through an act of Congress. All of that is to be determined by the decision of the banks and the stockholders themselves, and given that I rise in support of this bill.

Mr. MADIGAN. Mr. Speaker, I yield 1 minute to the gentleman from Missouri [Mr. COLEMAN].

Mr. COLEMAN of Missouri. Mr. Speaker, the Agricultural Credit Act of 1987 is legislation that should be sent to the President and signed into law. This conference report before us today is the result of months of work on the part of the 100th Congress, and the House-Senate conference committee has arrived at a compromise that is both responsible and, I believe, workable.

It might have done more in the area of reforming the Farm Credit System. The Congress might have adopted a more stringent reorganization package, but I must agree with the conferees that the solution in this conference report gives the System the tools to reform itself. Because of the economic situation the System currently faces—I believe the law provides the impetus to reorganize. I would rather have taken the House Agriculture Committee's version of how to reorganize the System; it would have provided more efficiencies, more effectively, than the compromise that is before us today. But, the Congress has decided that the borrowers of the System should decide precisely the reorganization plan and vote on it—and it is difficult to debate that issue.

I wholeheartedly endorse the funding mechanism that the conference committee adopted. Essentially, it backed away from the direct appropriation adopted by the House when it passed H.R. 3030 and decided that the System would sell bonds to fund the necessary financial assistance. By using this device the assistance may be provided with a Federal guarantee that takes the funding off-budget. The Federal Government ultimately is responsible only for 95 percent of any default on the assistance package, with the other 5 percent paid for with the surpluses of the healthy institutions. This gives the buyers of the bonds the assurances they require, and it retains the cooperative nature of the System in that the healthier institutions still pledge their support to the ailing institutions.

This legislation also provides borrowers of the Farmers Home Administration a greater chance to restructure debt and to make certain they know and understand the rules under which they receive loans from the Federal Government. It will give them the chance to remain on the farm.

Finally, Mr. Speaker, this legislation also provides lenders a secondary market for agricultural loans. By using this facility, lenders to farmers will be able to provide more liquidity to the farm sector, thus assuring a healthier, more productive American agriculture.

Mr. Speaker, in conclusion let me say that this is not a perfect piece of legislation. I think it will do the job that Congress intends it to do, but I must say that the Congress, especially the Agriculture Committees, must continue adequate oversight as this legislation is implemented. We have pledged a great deal of Federal support to these lending institutions, a great deal of taxpayers' support obviously, and we have given the institutions many authorities and much latitude in my view to make themselves whole. The Congress must remain vigilant during this process.

Mr. MADIGAN. Mr. Speaker, I yield 1 minute to the gentleman from Vermont [Mr. JEFFORDS].

Mr. JEFFORDS. Mr. Speaker, I was the sole member of the committee that voted against this bill upon final passage. I have actively participated in the conference and believe now that I have a bill that I can enthusiastically support, and I urge the adoption of the conference report.

Mr. Speaker, for the third consecutive year, the Congress has considered legislation to help the financially troubled Farm Credit System. Two years ago, I would remind my colleagues that we established the Farm Credit System Capital Corporation to be the mechanism to coordinate System self-help, and, once the System had done all that it could, it would be the vehicle for Federal assistance.

Today, we are considering the conference report to H.R. 3030. I want to applaud the conferees on this bill, and particularly single out the distinguished chairman of the Agriculture Committee, Mr. DE LA GARZA, for diligence and thoroughness in resolving very complex issues.

Mr. Speaker, while H.R. 3030 is often referred to as a bill to rescue the Farm Credit System, we must not lose sight of the fact that in providing assistance to the System we are looking through the System to the farmers and ranchers of this country.

One of the guiding principles followed during the development of the System rescue plan was that it must subtantially benefit farmers and not just the System. I am pleased to say that the conference report on H.R. 3030 does that.

First, we protect our farmers' investment in the System by ensuring that their stock will be redeemed at par value. Since the producers who borrow from the System also own and help capitalize the System, their stock investment is sometimes a substantial sum of money.

Second, in H.R. 3030, we stress that the policy of the System regarding troubled debt is that whenever possible the System should strive to keep the borrower on the land. Restructuring of a loan will always be required when it si the least-cost alternative.

Third, we have created in H.R. 3030 a secondary mortgage market for agricultural loans. This will provide producers with access to long-term fixed-rate loans for the purchase of agricultural property.

Fourth, by providing financial assistance to the System, we are confident that in the long term our producrs will continue to have access to credit from people who understand their credit needs, and, as important, this credit will be available at reasonable rates and terms.

Fifth, I am pleased to see that the right of self-determination by our bank for cooperative members was restored. I supported this provision both in committee and on the floor.

Sixth, this compromise bill provides for an FDIC type insurance fund to be financed by the Farm Credit System. It should provide a means by which the System will be able to protect itself in future years. I am happy that this provision contains major portions of a study which I requested from the Congressional Research Service in March of 1987.

Finally, we provide board authorities for the System's stockholder-borrowers to restructure the System to better meet the changing credit needs of American agriculture. The restructuring provisions of the bill will allow its produce/owners to achieve efficiencies in delivery of credit which will reduce the overhead costs of the System. The savings recognized from these efforts should also help ensure that credit provided through the Farm Credit System is at a competitive rate to our farmers.

Mr. Speaker, I am pleased to be able to rise in support of the conference report on H.R. 3030 because it truly does provide substantial benefits to the farmers and ranchers who borrow from the Farm Credit System.

Mr. DE LA GARZA. Mr. Speaker, I yield 2 minutes to our distinguished colleague, the gentleman from Massachusetts [Mr. MARKEY].

Mr. MARKEY. Mr. Speaker, I thank the gentleman for yielding me this time. I congratulate him and the minority and all who have worked on this piece of legislation.

The gentleman from Michigan [Mr. DINGELL], chairman of the Committee on Energy and Commerce, and I have worked on this bill, and our involvement has been focused upon the securities-law aspects in the secondary market, and that is where I wish to direct my remarks.

Mr. Speaker, I rise in support of the conference report on H.R. 3030 and ask unanimous consent for 5 additional days to revise and extend my remarks.

The Agricultural Credit Act of 1987 has gone through an extraordinary journey to get to where it is today. I want to commend the Members and staff who have worked tirelessly on this legislation, in particular the chairman of the Energy and Commerce Committee, Mr. DINGELL, the chairman of the Banking Committee, Mr. ST GERMAIN, the chairman of the Agriculture Committee, Mr. DE LA GARZA, as well as the ranking minority members of the relevant committees. In addition, I want to commend the Members of the other body who helped fashion this bill. As the chairman of the Subcommittee on Telecommunications and Finance, my involvement has been focused on the securities law aspects in the secondary market provision, and that is where I wish to direct my remarks.

Mr. Speaker, Members have several reasons to be pleased with the bill's new secondary market for agricultural loans. We have addressed the concerns of many in the farming community by spreading the risk of long-term farm mortgages and increasing liquidity for commercial agricultural lenders.

While infusing the farm economy with needed long-term capital, we have also upheld our equally important mission of protecting the investors in these new securities. No action in the securities area takes place in a vacuum, and the startup of Farmer Mac occurs in the midst of the most heightened public focus on our securities markets in the last 50 years. In the last year, insider trading, market manipulation, municipal securities fraud, and a shocking stock market crash have filled the media and gravely threatened the integrity of the public confidence in our financial markets. We must take pains to help restore that integrity and confidence.

The new Farmer Mac securities will be issued subject to the full range of investor protections provided in the Securities Act of 1933 and the Securities Exchange Act of 1934. The registration requirements for securities and the disclosure, reporting, and capital requirements for securities brokers and dealers are the pillars of Federal efforts to endure an informed investing public. The availability of material information and vigilant enforcement by the SEC are critical to the continued participation of the public in our financial markets.

In summary, Mr. Speaker, I am confident that the creation of the new Farmer Mac secondary market has been suitably crafted to meet its dual missions of aiding our farm community and ensuring integrity in our securities markets. I urge my colleagues to support the conference report.

Mr. Speaker, I want to once again congratulate the gentleman from Texas [Mr. DE LA GARZA], chairman of the committee, as well as the gentleman from Tennessee [Mr. JONES], and of course, I compliment my own chairman, the gentleman from Michigan [Mr. DINGELL], for their work in this effort.rticipation of the public in our financial markets.

In summary, Mr. Speaker, I am confident that the creation of the new Farmer Mac secondary market has been suitably crafted to meet its dual missions of aiding our farm community and ensuring integrity in our securities markets. I urge my colleagues to support the conference report.

Mr. Speaker, I want to once again congratulate the gentleman from Texas [Mr. DE LA GARZA], chairman of the committee, as well as the gentleman from Tennessee [Mr. JONES], and of course, I compliment my own chairman, the gentleman from Michigan [Mr. DINGELL], for their work in this effort.

Mr. MADIGAN. Mr. Speaker, I yield 5 seconds to the gentleman from Washington [Mr. MORRISON].

Mr. MORRISON of Washington. Mr. Speaker, I thank the gentleman for yielding me these 5 seconds just to say that this is a marvelous combination of efforts on behalf of agriculture.

Mr. Speaker, I rise in support of the conference agreement on H.R. 3030, the Agricultural Credit Act of 1987. As one of the conferees on this legislation, I've seen the step-by-step progress on a farm credit package. And, after many months of review, I'm pleased with the final product, crafted by the House and Senate Agriculture Committees, in concert with the House Committees on Banking, Finance and Urban Affairs and on Energy and Commerce. The conference agreement to H.R. 3030 represents a comprehensive plan to boost our ailing Farm Credit System as well as allow it to restore its longer term financial health.

Built into this conference agreement is an incentive for the Farm Credit System to downsize itself to achieve lower operating costs and efficiencies in servicing borrowers. The mergers of like and unlike entities will be based on stockholder votes, giving borrowers an opportunity to help reshape existing entities into new institutions which are tailored to fit the needs of the local borrowers. I was a strong supporter of the House version, which mandated mergers of the existing 12 districts into no less than 6. However, the approach set forth in the conference agreement is a positive alternative, combining an immediate mandate for a merger of the Federal land banks and Federal intermediate credit banks with interdistrict mergers and association mergers dependent upon stockholder votes. Borrowers will benefit from the one-stop shopping opportunity this creates for long- and short-to-intermediate-term loans.

The conference agreement also provides Federal assistance to Farm Credit System entities to guarantee borrower stock, a critical element of the package necessary to maintain confidence in the System. Government assistance, in the form of 15-year guaranteed bonds, will be repaid by the System within 15 years. This form of assistance should be the least costly to the Federal Government, and should serve the purpose of helping the System get back on its feet. It will be metered by the Federal Assistance Corporation, which is initially capitalized by the System. Districts like Spokane will have assessments returned from past Capital Corporation and loss-sharing assessments before being evaluated for Federal assistance. This should offer some immediate relief to 12th District borrowers.

Borrowers are protected by this agreement. We included several provisions to protect borrowers rights and encourage Farm Credit System lending entities to work with borrowers to find the least-cost alternatives in troubled times. I'm particularly pleased that this opens up communication between the Farm Credit System entities and their borrowers.

I did have some concerns about the inclusion of provisions affecting Farmers Home Administration lending. The conference agreement modifies many of the provisions contained in the House version and, while it does not eliminate the constraints I'm worried about, does make the requirements less costly. I recognize the need in some areas for the creation of parallels between Farmers Home and the Farm Credit System.

Finally, I strongly support the secondary market created for farm real estate loans in this package. I'm an enthusiastic believer that this is an avenue to give increased access of farm lenders to capital markets, which will in turn step up competition in agricultural lending. Ultimately, I think that the net effect will be lower interest rates to the benefit of borrowers and farm lending in general.

Mr. Speaker, my point is that this package does not represent a quick-fix solution to the Farm Credit System's problems. It is a long-term plan laying out real changes in structure and practice in exchange for Federal assistance. We need to recognize that timely passage of this legislation is crucial to the Farm Credit System's financial health and long-term viability. The Farm Credit System is ready to begin putting its financial house in order. Let us today show our support for and commitment to working with them to achieve this goal.

Mr. DE LA GARZA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, at this point I want to thank the chairman and the members of the Committee on Energy and Commerce and the chairman and the members of the Committee on Banking, Finance and Urban Affairs for their cooperation, their understanding of the plight that we and rural America face, and their willingness to work with us.

Mr. Speaker, I yield 1 minute to the gentleman from Michigan [Mr. DINGELL], our distinguished chairman of the Committee on Energy and Commerce.

Mr. DINGELL. Mr. Speaker, I rise in support of the conference report on H.R. 3030.

I would like to commend the leadership and conferees of the Senate Committee on Agriculture, and the House Committees on Agriculture and Banking for their hard work and the spirit of compromise which enabled us to come forward with this historic piece of legislation on behalf of America's farmers. I also want to commend the gentleman from Massachusetts, Mr. MARKEY, who chairs the Telecommunications and Finance Subcommittee of the Energy and Commerce Committee, for his fine work on this measure. In particular, I would like to commend my colleagues in the Senate for agreeing to strong investor protection provisions. The secondary trading market will no doubt benefit in liquidity and viability because of the provisions of the conference substitute.

The conference substitute provides that the securities for which Farmer Mac provides credit enhancement will not be deemed to be securities issued or guaranteed by an instrumentality of the United States for purposes of section 3(a)(2) of the Securities Act of 1933. As a result, offerings of these securities will be required to be registered under the act with the Commission, unless another exemption from registration, such as the exemption found in section 4(2) of the act for private placements of securities, applies.

By stating that the securities will not be Government securities under the Securites Exchange Act of 1934, we ensure that brokers and dealers in these securities will be regulated as conventional broker-dealers and not as Government securities dealers and that issuers of these securities must comply with the periodic reporting and other provisions of the Exchange Act.

Finally, we delete provisions implicitly and explicitly authorizing banks to underwrite, purchase, and sell securities and obligations backed by credit-enhanced pools in title III of the bill.

An issue of significant importance during the conference debate was whether or not to treat these securities as "Government securities" for purposes of the Securities Exchange Act of 1934. The conferees decided against this for a number of important reasons.

The administration, Treasury Secretary Baker, and the SEC opposed designation of the Farmer Mac-guaranteed securities as "Governemnt securities" for purposes of the Securities Exchange Act of 1934.

INVESTOR PROTECTION REASONS

The scheme of regulation under the Government Securities Act is inappropriate and insufficient for Farmer Mac-guaranteed securities.

First, there is no Securities Investor Protection Corporation insurance fund protection for investors' accounts with Government securities dealers. In the event of failure of a Government securities dealer, investors' moneys and securities are not protected from loss by an insurance fund. FDIC insurance does not cover securities left with a bank.

Second, Government securities dealers are not covered by SRO sales practice rules or suitability requirements. There is only general antifraud authority under rule 10b-5 which is narrower, requires proof of scienter, and is after the fact.

Third, the Government Securities Act specifically insulates banks from SEC oversight except for fraud. This compromise was based on the lack of risk associated with Government securities and the good track record of banks on sales practice abuse with these virtually risk-free securities. Here banks have no track record, the securities are complicated, and this could lead to sales practice abuses. Therefore, SEC oversight is essential.

GLASS-STEAGALL REASONS

While on the one hand the Senate staff proposal recedes to the House on Glass-Steagall issues by deleting language in the Senate amendment authorizing banks to deal in and underwrite securities, designating these securities as "Government securities" would authorize underwriting through the back door, since banks are currently authorized to underwrite Government securities. The banks have indicated this is the real reason why they want the Senate proposal.

It is imperative that new bank securities powers be granted only where there is an appropriate regulatory system in place for them—that is, the system currently applicable to broker dealers with additional conflict-of-interest protections to account for special problems arising out of bank underwriting of securitized bank loans.

FINANCING COSTS

The argument that the Senate staff proposal would help farmers by lowering financing costs is a canard. The investment bankers who make markets in similar securities assure us that Farmer Mac-guaranteed securities will be traded like agency securities and thus that their financing costs will be approximately the same. Since there are several investment banks that would be competitors in this market, the saving that additional competitors would bring do not offset the risk to investors. Nonetheless, the conference substitute requires the Secretary of the Treasury, in consultation with the SEC and the Fed, to report back to Congress, once the market is operating, on any problems relative to the basis point spread. The Committee on Energy and Commerce will hold careful hearings on this report and, in general, on the operation of this new secondary trading market.

Mr. MADIGAN. Mr. Speaker, I yield a full 20 seconds to the gentleman from New Jersey [Mr. RINALDO].

Mr. RINALDO. Mr. Speaker, I am pleased to add my support to title III of H.R. 3030, the farm credit bill. Title III of the bill creates the Federal Agricultural Mortgage Corporation, which will facilitate the development of a secondary market for securitized agricultural loans. This title will improve farmers' access to capital, will provide good investment opportunities, and will not jeopardize the taxpayer.

I wish to commend the members of the House and Senate Conference Committees, for their fine work. Because of this excellent cooperation, I am confident that Farmer Mac is built on a solid foundation.

The structure of Farmer Mac has been designed to work effectively in the agricultural loan market. Title III will improve the ability of private lenders to make agricultural loans that can be pooled and resold as Farmer Mac-guaranteed securities. It includes practical underwriting standards to ensure the financial integrity of the loans composing the pools, yet these standards are not set so high as to defeat the purposes of the title.

I particularly wish to emphasize the securities law aspects of title III. The Farmer Mac market is expected to develop into a billion dollar securities market. The regulatory requirements included in the title will provide for initial SEC registration of the securities, periodic SEC reporting regarding those securities, and SEC registration of underwriters as broker-dealers. These provisions will make certain that investors can receive adequate information about the Farmer Mac bonds that they are buying. Customer accounts at SEC-registered broker-dealers will be insured by the securities investor protection corporation. In addition, title III includes provisions for book-entry transfer and safekeeping of the securities.

Only a few years ago, this Nation learned a hard lesson about the problems that can develop in an unregulated Government securities market. Lack of regulation caused losses of billions of dollars in investors' funds and the failure of many savings and loan institutions in two States. I believe that title III demonstrates that Congress has learned from that debacle and has taken strong steps to avoid a repeat.

There are many who worry that we are imposing unnecessary regulatory burdens and costs on Farmer Mac that will put it at a competitive disadvantage to other, comparable securities. I am loath to impose any unnecessary regulatory costs on our capital markets, or indeed, on any sector of the economy. But these regulatory requirements are tailored to the special structure of Farmer Mac. Moreover, the experts I have consulted on this issue assure me that if Farmer Mac bonds have higher interest rates as a result of these regulations, the additional cost will be very small indeed—perhaps 10 to 25 basis points. We should also remember that when investors have confidence in an investment, they demand a lower risk premium, which will mitigate the higher costs of regulation.

For these and other reasons, I believe that title III is a carefully balanced piece of legislation and I urge my colleagues to support it.

Mr. de la GARZA. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Tennessee [Mr. Jones], chairman of the subcommittee that initiated the effort and handled in his subcommittee the major work on this legislation.

Mr. JONES of Tennessee. Mr. Speaker, we have worked for 1 solid year in bringing together this blueprint that in my opinion is historical as far as legislation goes. I feel we have done the very best job that could possibly be done. I do want to congratulate everybody for what they did and the contributions they made, both in the Committee on Agriculture in the House and in the Senate and in the Banking, Finance and Urban Affairs Committee and in the Committee on Energy and Commerce.

This bill provides a blueprint for rebuilding the Farm Credit System to serve the next generation of America's farmers and their cooperatives. It strikes the appropriate balance by mandating certain initial actions and by requiring the system to continue the restructuring process.

The bill will mandate the mergers of Federal Land Banks and Federal Intermediate Credit Banks. This action will accomplish certain management and financial efficiencies that will minimize the amount of Federal assistance that is required. It will also guide future structural changes to facilitate one-stop lending for the system's borrowers. Some years after the creation of the Federal Land Banks, the system's long-term agricultural lenders, the Federal Intermediate Credit Banks were formed as separate entities to facilitate short- and intermediate-term loans. Today, there is no sound reason why farmers should be forced to deal with separate institutions to meet their short- and long-term credit needs. For many years these institutions have been tied together on the funding side through the issuance of joint and several obligations. Operationally, almost all of the districts are now governed through joint management. This bill will close the loop by joining the Federal Land Banks and the Federal Intermediate Credit Banks into a single corporation whose mission will be to provide premier lending services to local associations and their farmer/borrowers. It is critical that the assistance board provide whatever funds are necessary to ensure that the stock investments of associations in healthy banks which are required to merge with distressed banks are not impaired as the result of these required mergers and that the resulting institution has the resources to be a viable bank going forward. I believe the agriculture board should use cash assistance to restore stock to par value.

However, the merger of the FLB's and FICB's is merely the first step. It is expected that the system will move expeditiously to reduce the number of districts and to consolidate the operations of the local lending associations into efficient, well-managed, one-stop credit facilities for their farmer-borrowers. I believe those responsible for designing the voluntary merger plan of PCA's and FLBA's should give serious consideration to establishing single statewide associations. I believe a merger of PCA's and FLBA's in my State into the Tennessee Farm Credit Association would maximize efficiency and give Tennessee farm borrowers a close identification with it. It is expected that the banks for cooperatives will promptly present to their stockholders a concrete proposal for a new, national bank for cooperatives that will be in a position to better serve the growing credit needs of their cooperative borrowers.

The Members of Congress who spent months deliberating on the future of the system have high expectations that the new authorities will be utilized in a timely and businesslike manner. We expect the Farm Credit Administration, as the system's arms-length regulator, to: First, expedite shareholder consideration of restructuring proposals; second, ensure that the business decisions made by system institutions concerning strucure are in compliance with the law; and third, ensure that the disclosures provided to the stockholders are accurate and complete. We do not, however, want the FCA to utilize its approval authority to second-guess the business decisions of the system's directors and stockholders or to attempt to manipulate or otherwise interfere with those decisions through administrative actions.

In certain instances the FCA is directed to issue regulations that will reconcile the powers and authorities of unlike system institutions that are authorized to merge and otherwise guide the operations of such merged entities. We expect the FCA to promptly comply with that mandate and to pay particular attention to the ideas and comments provided during the regulations process by system institutions. These institutions have the firsthand knowledge of day-to-day business requirements that must be satisfactorily addressed in the regulations in order for the new entities to carry out their statutory functions.

In summary, I want to let the system and FCA know that together they destroyed the integrity of the 1985 Farm Credit Act and necessitated this year's legislation. The Congress cannot tolerate such irresponsible action again and we expect the system and its regulator to diligently undertake their respective responsibilities and to cooperate in those matters that are necessary to ensure that full advantage is taken of the provisions of the new law.

Mr. MADIGAN. Mr. Speaker, I yield such time as he may consume to the gentleman from Ohio [Mr. Wylie], the ranking member of the Committee on Banking, Finance and Urban Affairs.

Mr. WYLIE. Mr. Speaker, I rise in strong support of the conference report on H.R. 3030, the Agricultural Credit Act of 1987.

This bill, among other things, would create the Federal Agricultural Mortgage Corporation whose job would be to facilitate establishing a secondary market for farm real estate mortgages.

We are all familiar with the highly developed secondary market for home mortgages made possible in large part by the creation of Ginnie Mae, Fannie Mae, and Freddie Mac. The Agricultural Mortgage Corporation—or "Farmer Mac"—is patterned after those organizational and hopefully Farmer Mac will have the same success in ensuring a long-term stable source of funds to agricultural real estate borrowers.

Mr. Speaker, the conference agreement on the agricultural secondary market provisions preserves all of the important safeguards and prudential provisions included in the bill passed by the House on October 6. We did agree to accept the Senate provisions on the composition of the Farmer Mac board—five directors elected by Farm Credit System institutions, five directors elected by banks and insurance companies, and five directors, including the Chairman, appointed by the President. However, the prudential loan underwriting and pooling standards contained in the House-passed bill have been retained.

In short, Mr. Speaker, the secondary market provisions are good and I urge my colleagues to support the conference report.

Mr. MADIGAN. Mr. Speaker, I yield such time as he may consume to the gentleman from Michigan [Mr. SCHUETTE].

Mr. SCHUETTE. Mr. Speaker, as a House conferee on the Agricultural Credit Act of 1987, I would like to point out the most important components of this legislation and note the impact it will have on the Farm Credit System and the heartland of our Nation.

My primary objective as a member of the Agriculture Committee from the beginning has been to make the Farm Credit System a more competitively priced and fair place for farmers to do business. To achieve these objectives, I have worked hard on the conference committee to provide assurance that merging district banks will lower the costs of services and money provided to local associations. I successfully added a requirement that merging banks must first reduce administrative costs and remove duplicative functions at the district level when receiving money from the Assistance Board. This will cut waste and lower overhead costs making more low-cost funds available to farmers. It is important that everyone involved with the system understand that the Farm Credit Service will only regain its financial health by becoming more efficient in loaning money.

The conferees have reported a bill that will increase the efficiency of the system in other ways by mandating each district office to consolidate their respective Federal Land Bank Association and Federal Intermediate Credit Bank. This required streamlining will have the direct effect in our rural communities of lowering the cost of funds provided by the FCS and will therefore ease the demands on the borrowers of the system. Additional mergers, whether at the district level or amongst local associations, are all subject to informed borrowers' approval by a majority vote. While I agree this certainly gives the owners of the system a voice in the direction of their future, I want you to know that the final form of this bill does not provide the degree of local control that I had fought for in the committee bill. If we truly want an effective and efficient FCS, the capital of the system should be in the hands of the people where they farm, not several hundred miles away.

The Agricultural Credit Act will provide immediate relief to the areas of our country hardest hit by these painful times in two ways. First by repaying those who last sent help to faltering banks during the third-quarter assessment, and second, by allowing the FCS access to $4 billion of Government-backed bonds over the next 5 years to stabilize these weaker banks. This is not a Federal giveway, because the system shares in the cost of this assistance, and in when the system begins to profit, Federal dollars will be repayed.

Beyond the improvements provided to the system's structure and the infusion of this needed capital, this bill will create a secondary market for agricultural real estate and rural housing loans. This is very important because many rural agricultural banks are experiencing the same portfolio pressures as the FCS. With this secondary market, and its $1.5 billion Government endorsement, farmers will have access to lower cost moneys and rural communities benefit additionally because the new market will be used to build rural homes.

It has been my clear intention and that of both Houses of Congress, to guarantee the farmers investment in the system's borrowers' stock from the first day of this bill and throughout my involvement on the conference committee. This has successfully been done. I am also grateful for the support and input of the farmers in Michigan on the important issue of the farmer's rights in dealing with the FCS. Their position will be substantially improved by this legislation. Included in these rights will be two amendments I authored to improve the relationship between lenders and borrowers. The first will require the system to give advance notice to farmers when the system intends to foreclose. My second amendment will require that the farmer be notified of any adverse action contemplated by the FCS upon changing a farmer's loan from accrual to a nonaccrual status.

The bill as it now stands, is on the whole, an even better will than the one this House passed overwhelmingly on October 6. It will make definite improvements to our Nation's agricultural lending industry. It is vital to both agriculture and rural America that we pass this important bill today. I ask my colleagues to support H.R. 3030, America's heartland depends on it.

Mr. MADIGAN. Mr. Speaker, I yield such time as he may consume to the gentleman from Idaho [Mr. CRAIG].

Mr. CRAIG. Mr. Speaker, I stand in support of this critically important legislation to the agricultural community of our Nation, and I would like to thank both the majority and the minority on the Committee on Agriculture and the subcommittees for their great work.

Mr. DE LA GARZA. Mr. Speaker, I yield such time as he may consume to the gentleman from South Carolina [Mr. TALLON], a distinguished member of our committee.

Mr. TALLON. Mr. Speaker, I rise in support of the conference report to accompany H.R. 3030, the Agriculture Credit Act of 1987.

This legislation is the result of many hours of subcommittee hearings, committee markup, and negotiations between the conferees. Its passage is vital to the economic survival of the Farm Credit System [FCS] and, therefore, the ability of our Nation's farmers to have access to affordable and available credit.

The Farm Credit System nationwide serves over 600,000 borrowers through a $50 billion loan portfolio. In South Carolina, there are 13,853 borrowers of the FCS banks, which include the Federal Land Bank, the Production Credit Association and the Bank for Cooperatives. Loans outstanding in the State currently total $551.9 million.

These figures show the major economic importance of the Farm Credit System in South Carolina. But we have to further realize the FCS dollars for agricultural real estate and production loans are like the stone thrown in a pond. They create a ripple effect that goes through every part of the community.

The conference committee has crafted a compromise bill that will provide for Federal assistance to the Farm Credit System; new FCS and Farmers Home Administration [FmHA] borrowers' rights; a mandatory merger of the Federal Land Bank and Federal Intermediate Credit Bank at the district level, with association mergers permitted with stockholder approval; and a secondary agricultural real estate market.

I strongly support a secondary market for agricultural real estate loans because access to more capital will result in lower interest rates.

While the Farm Credit Bank of Columbia is not one of the financially stressed institutions in the system, the legislation would provide, through the sale of up to $4 billion in bonds, funds to assist those ailing institutions in the country. All funding will be repaid by System banks.

I am particularly pleased the conference committee adopted the House language providing for the return of the Columbia banks' assessments to the Capital Corporation, roughly $20 million, plus the reversal of third quarter 1986 system loss-sharing payables, amounting to $94.5 million.

This will further strengthen the position of the Farm Credit Banks in South Carolina, and hopefully lead to a downward trend in interest rates to its borrowers.

The extensive rights and protections for both FCS and FmHA borrowers include specific collections procedures and options available for high risk and delinquent borrowers and should assist those with a chance of economic survival the opportunity to continue farming.

Mr. Speaker, I urge the House to overwhelmingly agree to the conference report and therefore, send a strong message to the White House that this legislation must be signed into law.

Mr. MADIGAN. Mr. Speaker, I yield such time as he may consume to the gentleman from Minnesota [Mr. STANGELAND].

Mr. STANGELAND. Mr. Speaker, I commend the gentleman from Texas [Mr. DE LA GARZA], chairman of the full committee, the gentleman from

Tennessee [Mr. JONES], chairman of the subcommittee, the gentleman from Illinois [Mr. MADIGAN], the ranking member of the full committee, and the gentleman from Missouri [Mr. COLEMAN], the ranking member of the subcommittee, for doing this excellent piece of work, not perfect, but certainly in the spirit of compromise and it ought to help the Farm Credit System along the way.

Mr. Speaker, the conference committee has completed its work on H.R. 3030, which would provide much needed help for the Farm Credit System.

This very complex and important piece of legislation is designed to bring affordable credit to America's farmers and to save a system that has fallen on hard times.

Even though I am not a member of the Subcommittee on Conservation, Credit, and Rural Development, I was present at most the hearings on the problems and issues facing the Farm Credit System and was able to incorporate some of my concerns into the House passed farm credit bill, which I supported. Now that the conference has completed its work and a compromise bill has been created I am pleased to see that my ideas regarding protection of borrower stock as well as some of my interests in reorganizing the Farm Credit System and creating a secondary market have been addressed.

This is not a perfect bill. We all know that the final product was developed in the spirit of compromise, and in that spirit, some changes have occurred. However, I believe the final bill goes a long way in creating a stable and efficient Farm Credit System. A system, which after given the necessary help, should be able to be sympathetic and directly responsive to the credit needs of America's farmers. I urge my colleagues to support the bill.

Mr. MADIGAN. Mr. Speaker, I yield such time as he may consume to the gentleman from Oregon [Mr. ROBERT F. SMITH].

Mr. ROBERT F. SMITH. Mr. Speaker, I rise in support of H.R. 3030, the Agriculture Credit Act of 1987 as it has been refashioned and reworked by the conferees. And I urge my colleagues here to act quickly to pass this critical bill into law before the close of this day.

Today's issue is critical to American agriculture. In order to feed America and much of the world, affordable, available credit resources are as important to American agriculture as investment is to our industry and business.

The system which fuels the financial needs of agriculture has walked along the edge of total collapse for far too long. America's shift from an inflation-cautious economic base to a noninflationary one, cost the Farm Credit System fully 50 percent of its equity base, leaving some $60 to $80 billion worth of this Nation's banking power in danger of total ruin.

If we don't solve it before the close of 1987, no bank in this Nation will be truly safe.

No one disagrees about the fact that America's farmers, ranchers, and cooperatives must have a viable farm credit system to meet the Nation's needs now and for the future.

H.R. 3030 answers these needs, in part, by guaranteeing "B" stock, opening the door to restructuring of the system, and by pursuing an ambitious secondary market involvement.

This bill offers working capital to the system, to assure that it will remain available and viable while it rights itself. I think it is particularly notable that the funds being offered are not, as in previous bills, made available as direct treasury transfusions. They will be provided through a bonding process, in keeping with good investment practices commonly used to support all aspects of American business.

By guaranteeing borrower stock for 5 years and providing the necessary funds for failing institutions, we can create a stable climate to allow the system to build on its past success.

That this bill recognizes that we can't go on with "business as usual." Streamlining the system may become absolutely essential as the system faces today's rapidly changing credit and financial services market, and this bill opens the door to voluntary streamlining, as well as retaining the right to insist on changes if they're needed.

The conference committee's bill makes possible a reduction of the district banks from 12 to 6 and gives production credit associations and Federal land banks the opportunity to merge if approved by stockholders.

In effect, these provisions can lead to a decentralization of the system if that's needed, moving it toward local control and additional independence from regional institutions.

At the same time, secondary market provisions have been added to the bill to allow the system to replenish needed capital reserves and be more competitive in the long run. These are necessary changes that will bring the farm credit system back to life.

Congress has been very certain to ensure that the member-borrower basis on which the farm credit system was founded can meet the future needs of our agricultural community.

On that basis, I urge you to join me in supporting this bill. Without it, America stands to lose fully one-third of it's agricultural production capacity, a loss which would be felt in every home and every market in this Nation.

Without the timely passage of this bill, the Congress' historic dedication to a cheap food policy for American families will be effectively killed.

Be assured that the farm credit system is not asking for a bailout, they're asking for help. The bonding process, by definition, demands repayment and exposes our Treasury only to the extent of assuming a small portion of interest, and that for only a limited time. But in return for this minimal help, every American will reap the rewards of a continued, affordable food supply.

One other thing. We'll also enjoy a renewed opportunity to aggressively pursue world food markets.

Through most of the recent history of this country, we've fed far more people than occupy our own 50 States. American agriculture has stocked the shelves of much of the world's markets. Their productivity kept America out of the foreign trade basement for generations, and it can pull us out of this one. But if we lose producers because of a loss of credit, our last best hope for world trade supremacy will have been lost.

There are many reasons for voting, with me, in favor of H.R. 3030: affordable food for Americans: World trade opportunities; stability in the Nation's economic system.

We have seen to it, as a Congress, that America is adequately defended. We have attempted to see to it that adequate housing is available and, through S&L help, that the crusade for shelter is answered.

Now it's time to attend to our needs for nourishment.

Since the beginning of our Nation, the independent, hard working farmers have been the backbone of our country's economy. The farm credit system has an historical importance to a thriving national agricultural economy, and Oregon is no exception. Our help and support is desperately needed in order for the family farmer to survive these troubled times.

I urge my fellow colleagues to vote for H.R. 3030.

Mr. MADIGAN. Mr. Speaker, I yield such time as he may consume to the gentleman from Wisconsin [Mr. GUNDERSON].

Mr. GUNDERSON. Mr. Speaker, I like everyone else rise in support of H.R. 3030 and commend all of the great chairmen and subcommittee chairmen for a job well done.

Mr. MADIGAN. Mr. Speaker, I yield such time as he may consume to the gentleman from Nebraska [Mr. DAUB].

Mr. DAUB. Mr. Speaker, I thank the gentleman for yielding and rise in strong support of the farm credit assistance legislation which is needed. It is amazing what a snip or sprig of holly in the air can do. I am surprised and pleased, and it is a great job, well done, and commendations to the subcommittee, the committee and the staff for its terrific bill which ought to be passed.

Mr. Speaker, I rise in support of the farm credit assistance legislation that is needed to keep agriculture's largest lender in business.

I am surprised and pleased that the conferees could reach this agreement before we adjourn. It's incredible what kind of work incentive a little wiff of holly can be.

System borrowers need lower and more competitive interest rates. With a number of system banks on the verge of collapse, not only might these interest rates stay uncompetitive, they could shoot up dramatically if banks start to go under.

I'm one farm State member who admits that many of the system's wounds are self-inflicted. The Government Accounting Office said that in 1985 and 1986 the system mismatched the maturities of assets and liabilities so badly that it cost the system, and that means it cost the farmer-borrower, $3.4 billion.

But if we let this system go under the results would be disastrous for the farmer-borrower, disastrous for rural America and disastrous for the Federal Treasury.

This bill guarantees farmer stock, imposes a more streamlined, less bureaucratic structure, expands borrower rights and provides the necessary financial aid.

The bill also provides for the reimbursement of borrow stock lost by farmers when lending institutions in the past failed. Borrowers in the O'Neill and Valentine, Nebraska areas have already suffered this fate. This bill would reimburse them for their losses.

The farm credit bill contains the necessary ingredients we need for financial help, borrower rights, stock guarantees, a secondary mortgage market and the reorganizing directions that makes sense. I support it and I hope my colleagues do as well.

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Mr. MADIGAN. Mr. Speaker, I yield such time as he may consume to the gentleman from Iowa [Mr. GRANDY].

Mr. GRANDY. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, like all the other Members, I rise in strong support of this legislation. I would just point out that this conference convened on December 10 and finished its business on December 16.

Mr. Speaker, if this was the budget conference, we would be home by now.

Mr. DE LA GARZA. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from Minnesota [Mr. SIKORSKI].

Mr. SIKORSKI. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I thank the chairman of the committee and the gentleman from Illinois [Mr. MADIGAN] for their efforts on this bill, especially regarding the provisions on affirmative action.

Mr. DE LA GARZA. Mr. Speaker, I yield such time as he may consume to our distinguished colleague, the gentleman from Alabama [Mr. FLIPPO].

Mr. FLIPPO. Mr. Speaker, if I may I wish to discuss this legislation with the chairman of the Agriculture Committee.

When the House of Representatives considered this legislation DAN ROSTENKOWSKI wrote to you on September 23, 1987, regarding jurisdictional concerns of the Committee on Ways and Means with respect to the legislation. We worked together to alleviate these concerns, and you made revisions to the legislation to respond to these jurisdictional concerns. The modifications made to the legislation are described in my statement in the CONGRESSIONAL RECORD of October 6, 1987 (Pages H8195-H8196).

When the Senate version of the bill was passed, he had further jurisdictional concerns with that version of the legislation. Mr. ROSTENKOWSKI wrote you about those in a letter dated December 14, 1987, a copy of which is attached.

I understand that because of the extreme time pressure the staff has operated under in preparing this compromise legislation, my staff has been unable to review the final language of the statute. Am I correct in my presumption that the conference report before us maintains the tax treatment which was provided in the House-passed bill?

Mr. DE LA GARZA. Mr. Speaker, if the gentleman will yield, let me state that the gentleman is correct.

Mr. FLIPPO. I thank the chairman for his consideration of the concerns of the Committee on Ways and Means.

COMMITTEE ON WAYS AND MEANS,
Washington, DC, December 14, 1987.

Hon. E (KIKA) DE LA GARZA,
Chairman, Committee on Agriculture, House of Representatives, Longworth House Office Building, Washington, DC.

DEAR MR. CHAIRMAN: I wish to thank you again for your efforts in modifying the House version of H.R. 3030, the Agricultural Credit Act of 1987, to respond to the jurisdictional concerns of the Committee on Ways and Means. Since I understand that the House-Senate conference on H.R. 3030 will convene this week, I would like to express my strong concerns regarding provisions in the Senate version of that legislation which raise issues properly within the jurisdiction of the Committee on Ways and Means. These provisions are similar to those in the House bill which you modified prior to floor action on H.R. 3030. I would hope that the Senate provision could be modified in conference.

Unless the tax provisions contained in the Senate amendment are revised to address my jurisdictional concerns, I will be constrained to make a point of order to the conference agreement under House Rule XXI Clause 5(b), which provides that no bill or joint resolution carrying a tax or tariff measure shall be reported by any Committee not having jurisdiction to report tax and tariff measures, nor shall an amendment in the House or proposal by the Senate carrying a tax or tariff measure be in order during consideration of a bill or joint resolution reported by a Committee not having jurisdiction.

Specifically, section 7.2 (page 78), section 7.6 (pages 81-82), section 7.8 (page 85) and section 7.10 (page 87) of the Senate amendment provide for the merger of unlike institutions in the farm credit system. These sections would allow certain organizations which are currently tax exempt to merge in fact or effect with organizations which may be currently taxable, such as certain production credit associations (and presumedly continue the business of the former organizations). Sections 7.2 and 7.10 of the bill contain language which may be interpreted as allowing the new organization to have the attributes of all the constituent parts of the organization, possibly including a tax exemption. As a result, in certain circumstances an organization currently taxable will effectively become tax exempt.

These provisions raise serious jurisdictional and policy issues regarding the appropriate taxation of certain taxable entities in the farm credit system. Last year, during deliberations on the Tax Reform Act of 1986, the House and Senate conferees decided that taxable production credit associations and banks for cooperatives should be treated consistently with all other finance companies (as opposed to banks or savings and loan institutions) for purposes of the repeal of the deduction for bad debt reserves. It is possible that these provisions in the Senate amendment to H.R. 3030 could override the rules, enacted into law by the Tax Reform Act of 1986.

This provision could result in a substantial revenue loss for the Federal Government. I believe it is important to revise the Senate bill to clarify that the continued status of taxable institutions within the farm credit system will follow normal tax rules. In addition to my concerns that it is appropriate under the Rules of the House for the Committee on Ways and Means to consider changes to the tax treatment of these organizations, you should be aware that the Congressional and Administration negotiators on deficit reduction agreed that there will be no revenue losing legislation enacted this year.

In addition, as I'm sure you realize, I would expect that any conference agreement accepting House bill provisions would continue to contain our agreed-upon revisions and clarifications.

Thank you for your consideration of these issues. I hope that this is a comprehensive list of our concerns regarding the Senate version of the bill, but our review of the bill has begun only very recently. It is my expectation that our staffs can work together to suggest revisions in the Senate version of the bill to respond to these jurisdictional concerns so that I will not be constrained to take further action regarding this legislation.

Sincerely,

DAN ROSTENKOWSKI,
Chairman.

Mr. DE LA GARZA. Mr. Speaker, I yield such time as he may consume to our distinguished colleague, the gentleman from California [Mr. BROWN] a member of our committee.

Mr. BROWN of California. Mr. Speaker, we have now heard from 25 States and 12 committees, and I want to put us over the top by weighing in for California and the Committee on Science, Space, and Technology and indicate my support for this great conference committee report and urge all the Members to vote for it.

(Mr. BROWN of California asked and was given permission to revise and extend his remarks.)

Mr. MADIGAN. Mr. Speaker, I yield 1 minute to the gentleman from Missouri [Mr. EMERSON].

Mr. EMERSON. Mr. Speaker, I rise in support of the conference report on H.R. 3030. This bill is clearly the most important piece of farm legislation considered in the 100th Congress, and I want to commend the leadership of the Agriculture Committee for moving forward with this legislation prior to our adjournment.

This legislation should not be construed as "all things to all people." It's not everything I'd ask for. It is, however, good compromise legislation which will go a long way toward improving credit conditions in my district in southeast Missouri and in other rural districts across the nation.

For potential budgetary critics of a farm credit rescue package, this legislation should soothe some of your fears. We all recognize the need to reduce the Treasury's exposure to deal with the current budget deficit. Every effort has been made in this compromise to ensure that assistance to the system will eventually be paid back.

From the farmer's viewpoint, I think we've made considerable progress through the inclusion of loan restructuring requirements, guarantees on borrower stock, a secondary mortgage market for new farm credit funds, and more stockholder input on the system's organization.

In sum, this package is good for the farmer and good for the taxpayer. I urge my colleagues to support what is undoubtedly a very historic and innovative farm credit assistance legislation.

Mr. DE LA GARZA. Mr. Speaker, I yield such time as he may consume to the gentleman from Minnesota [Mr. PENNY], a member of our committee, who did yeoman work on this legislation in relation to the Farmer's Home Administration part of the bill.

Mr. PENNY. Mr. Speaker, I rise in strong support of H.R. 3030, the Agricultural Credit Act of 1987. During the last week the conferees and their staff have worked very hard to put together this comprehensive credit bill for farmers.

This compromise version is designed to shore up the Farm Credit System's finances and require debt restructuring by both the FCS and the Farmers Home Administration.

This legislation will keep the System afloat and farmers in business. This bailout is only a guaranteed loan to FCS that they will have to pay back over time.

I am particularly pleased with the package of borrower rights that I helped author, which includes debt restructuring as well as specific criteria to deal with right of first refusal, mediation, right of review of a denial of restructuring and borrower access to loan documents. Debt restructuring will be an option for troubled borrowers if it is less than the cost of foreclosure. This benefits not only the farmer in trouble, but all borrowers in the System. If FCS losses are lower, they won't have to charge higher interest rates to cover higher losses.

In addition to protecting borrower stock and shoring up FCS finances, the compromise package also reorganizes the System to cut down on overhead costs and make it more efficient. We should be able to save about $130 million per year by requiring FCS district offices to merge. The bill retains some stockholder control by allowing the Members to vote for the merger of a district bank.

Finally, I feel that the secondary mortgage market provides another credit opportunity for farmers. This concept has worked well in the housing industry, it should make more capital available to farm borrowers at lower interest rates.

I believe that this conference report is a good compromise between the many concerns and wishes of the different groups that are involved in the farm credit issue. I believe this bill provides the most protection to the farmers at the least cost to the taxpayer. I urge my colleagues to support the conference report.

STOCK PROTECTION

Mr. Speaker, the conference report on H.R. 3030 contains many provisions designed to benefit the borrowers of Farm Credit System institutions. Among the most important are provisions protecting the stock in those institutions held by their borrower-members. To achieve the purpose of stemming the flight of borrowers from the System, and enhancing their confidence in their lender, the report protects, at par or face value, a wide range of ownership interests in System banks and associations. Protection is afforded to all kinds of stock and participation certificates, as well as equity in System institutions that have, under cooperative principles, been allocated to borrowers.

Equitable treatment of borrowers' interest compels this result. For example, financially sound borrowers, if they anticipate possible impairment of the value of stock, have the option of repaying their loans and thereupon retiring their stock at full value. However, allocated equities are customarily retired under revolving cycles utilized by cooperatives that may be of several years' duration. The opportunity to "pay off" the loan and simultaneously retire their ownership interests is not an option to holders of allocated equities.

Mr. Speaker, in a uniform and fair manner, the conference report affords protection to borrowers for their ownership interests, including allocated equities, in System institutions.

Mr. MADIGAN. Mr. Speaker, I yield 1 minute to the gentleman from Nebraska [Mr. BEREUTER].

Mr. BEREUTER. Mr. Speaker, I thank the gentleman from Illinois for yielding this time to me.

Mr. Speaker, I rise today in strong support of the conference report on H.R. 3030, the Farm Credit Act of 1987.

Mr. Speaker, I want to commend the members of the Agriculture Committee of the House and my colleagues and the leadership, the majority and minority, on the Committee on Banking, Finance and Urban Affairs for their effort.

I am particularly interested and pleased with the secondary market title. I believe we have combined the best from the House and the Senate. I believe also that for the first time some of the inequities that have existed as far as the securitization of home loan mortgages for small communities have been corrected or will be corrected. This should provide a competitive source of long-term agriculture real estate credit through commercial bankers, the insurance sector, and the Farm Credit System.

Mr. Speaker, I commend my colleagues for their excellent work, and I am pleased to have been a part of that effort.

I want to thank my colleagues on the Banking Committee and Agriculture Committee for their earnest and sincere commitment to passing this legislation before the end of this year. For the farmers and ranchers of this country, this is an appropriate action before the holidays as it holds improved promise for the new year, and the future of agriculture.

H.R. 3030 assists not just the Farm Credit System, but most importantly the current and future borrowers from the System and the Farmers Home Administration and the private sector. The members of the Agriculture and Banking Committees of the House and the Senate have together labored long hours. The result is a product which is fair and favorable to both agricultural borrowers and their lenders.

An important provision of this legislation, which I want to address today, is the creation of a secondary market for fixed-rate, long-term agricultural real estate loans. As an original sponsor with my colleague from California [Mr. LEHMAN] of secondary market legislation in the 99th Congress and also in this one, I am especially pleased that we have included Farmer Mac in this comprehensive farm credit package. Farmer Mac is a progressive approach to farm and rural credit that will contribute significantly to the future of agriculture and rural America.

It is said that good ideas sell themselves. That wasn't the case here, but Farmer Mac is one of those good ideas whose time has finally arrived. I believe that Farmer Mac will prove to be the most positive, forward-thinking agriculture legislation which Congress has passed in many years.

The concept of a secondary market for agricultural loans is supported by literally every farm and banking organization. This support is uniquely unprecedented in the history of either farm, or banking legislation.

Farmer Mac will enable farmers and ranchers to secure loans for real estate long-term, fixed-rates of interest from commercial financial institutions. Farmer Mac fills an existing gap in the rural housing market by providing a source of home mortgage credit for individuals who want to buy or build homes in rural communities.

Commercial lenders, especially rural agricultural commercial banks, will be able to expand and diversify their loan portfolios. The Farm Credit System will be able to more closely match and stabilize the interest which it pays on its bonds with the long-term real estate loans made to Farm Credit System borrowers.

During the House-Senate conference, the best secondary market provisions of both bills were combined and included in this report.

To protect the interests of both the Farm Credit System and commercial lenders, the permanent Farmer Mac Board provides for equal representation on the Board by the Farm Credit System, commercial lenders and the public sector. The Board will consist of 15 members; 5 appointed by the President, 5 elected by the commercial lenders, and 5 from the Farm Credit System.

To insure and protect the public's interest in the Board, the President will be permitted to appoint the Chairman of the Board from among the public members on the Board.

The structure of the secondary market has also been streamlined to insure the sound and successful sale of the Farmer Mac securities. In conference, we agreed to one secondary market that will securitize agricultural real estate loans, and home mortgages in rural communities of 2,500 or less. Future GAO studies will determine the feasibility of securitizing agricultural production and equipment loans, co-op loans, and rural community development loans.

To insure that the market serves farmers, ranchers, and rural communities, loans securitized through Farmer Mac will be limited to loans no larger than 1,000 acres or $2.5 million. Important restrictions are also included to prevent Farmer Mac from being used as a tool for real estate and development speculation by nonfarmers.

Farmer Mac is also structured to serve agricultural interests nationwide, not just regional interests. Specific pooling standards will require pools to consist of loans which are widely distributed geographically, vary in principal amount, and are secured by agricultural real estate producing a range of commodities.

Again, I thank my chairman and colleagues on the Banking Committee, and the chairman and members of the Agriculture Committee for their support of Farmer Mac.

Mr. Chairman, I urge all my colleagues to support the adoption of the conference report on H.R. 3030.

Mr. DE LA GARZA. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Idaho [Mr. STALLINGS].

Mr. STALLINGS. Mr. Speaker, I rise in strong support of this legislation. I am particularly pleased with the unified response the committee has given to this legislation. The chairman, as well as the entire committee, have done a tremendous job. This means a lot to my district and to my State of Idaho.

Mr. Speaker, I think this is a tremendously important piece of legislation.

It is important because it represents months of effort on a bipartisan basis to address the concerns of farmers and ranchers regarding agriculture credit. This legislation addresses the immediate needs of the Farm Credit System and its borrowers; but it also speaks to reforms for the Farmers Home Administration on behalf of its borrowers, and it enables the creation of a secondary market for agriculture real estate—a major step forward for farm financing.

Since the beginning of the current agriculture depression in the 1980's, I have heard repeatedly from farmers and ranchers that because of the collapse of foreign markets, fallen commodity prices, and plunging collateral values of their farms, credit became increasingly difficult to obtain and retain. Thousands upon thousands of borrowers have been placed in the credit squeeze and many have been unable to survive the outcome. As much as 20 percent of the farmers and ranchers in my State of Idaho are in such a tight position that they may be unable to continue for another year. Another 40 percent are on the border line, depending on crop prices and interest rates. That leaves less than half of the current farm borrowers in a viable financial condition—and that is why we need this legislation.

Farmers and ranchers have been at the mercy of lenders as prices fell and collateral values plummeted. Lenders signed loans on the same assumptions as borrowers taking the money. In retrospect, an overextension of optimism was evident on the part of both parties. Unfortunately, some lenders have been quick to enforce debt obligations at times when doing so was actually imprudent, costing the institution more through foreclosure and court proceedings than would have been the case if the lender had worked through the crisis with the borrower.

I have witnessed a change by some lenders which reflects the intent of the legislation we are now considering. But because the application of the concept of restructuring, when doing so is the least-cost alternative, is still not being applied in some areas, this bill mandates that lenders of the Farm Credit System and the Farmers Home Administration take this approach from here on in assessing distressed loans.

This legislation also outlines the reorganization of the Farm Credit System to streamline its operations and remove duplicative services. It also creates a mechanism for assistance which, coupled with the reorganization, should bring about lower interest rates to farm borrowers. In fact, I stress to the System that this is indeed the intent of this member in this legislation—lower interest rates for borrowers. This legislation contains the incentive and tools for the System to become more competitive and at lower administrative costs. It establishes an insurance fund similar to FDIC institutions in the event of future financial need. And, it does all this with the least impact on the taxpayer.

As the author of the amendment which included the secondary market for agriculture real estate, I am especially pleased to see the inclusion of this provision in the legislation. Not only does this market enable a qualifying borrower to have his loan resold in packages or "pools" with other agriculture loans to investors, bringing about lower interest and dispersed risk, it also enables lenders to obtain additional liquidity and competitive markets similar to those in home real estate.

A properly administered secondary market for agriculture real estate will bring about increased competition in agriculture mortgages, which will mean better services and lower interest rates. It will mean stabilizing agriculture real estate markets, limiting speculative investing, and spreading the regional risks across investment pools of agriculture loans.

Mr. Speaker, this legislation is monumental; it will shape the nature of agriculture lending for the next decade, maybe beyond. It represents a good compromise of interests and concerns. I am happy to support it and again encourage lenders and borrowers alike to take advantage of the tools provided in this package to work together through the current situation—we still have a long way to go to work out of this dilemma.

Mr. OXLEY. Mr. Speaker, I wish to express my support for H.R. 3030, the Agricultural Farm Credit Act of 1987.

This bill provides credit assistance to farmers, strengthens and reorganizes the Farm Credit System, establishes a secondary market for agricultural loans, and provides additional protection for farmer-borrowers under financial stress in the Farm Credit System (FCS) and Farmers Home Administration (FmHA).

The FCS is the major source of credit for Ohio farmers. The system, with a bonded debt of $50 billion, is in jeopardy. This will restore financial stability and will be a major contributor to maintaining the most productive agricultural the world has ever seen.

I wish to stress that the FCS exists only to serve farmers and that Congress is responding through this bill to the need to help this institution serve their members better and more efficiently.

Under this measure, up to $4 billion of financial assistance of government-guaranteed bonds will be sold to farm system banks. A secondary market for both farm mortgages and rural housing loans will be backed by a $1.5 billion loan of credit from the U.S. Treasury. This will allow commercial farm lenders and FCS institutions to gain new access to capital markets and to finance farm borrowers at competitive interest rates.

Of particular concern to me as a member of the Energy & Commerce Committee, with jurisdiction relating to the underwriting of securities and their registration, was the pooling of these loans and the resale to mortgage marketing facilities. I feel it is imperative that investor protection be provided by requiring securities to be registered as conventional securities and that underwriters and dealers in the secondary bond market be required to be registered. I am now satisfied that adequate safeguards for investors have been incorporated into the bill.

I also fully support the bill's provisions to restructure the FCS and FmHA loan programs to help financially stressed farmers, to guarantee par value stock, and to assure grassroots reorganization of the FCS by voting members of each local association.

In sum, this bill provides needed Federal help to borrower-members of the FCS while limiting costs to the taxpayer—essential to providing quality food at affordable prices to all Americans.

Mr. DE LA GARZA. Mr. Speaker, I yield such time as he may consume to the gentleman from Mississippi [Mr. Espy], a member of our committee, who has done tremendous work on this legislation.

Mr. ESPY. Mr. Speaker, I rise in support of the conference report on H.R. 3030, the Agricultural Credit Act of 1987. I wish to commend the leadership of Agriculture Committees of both the House and Senate for their efforts to bring final farm credit assistance legislation to the floor before adjournment. I also know that this required extraordinary efforts by numerous Members and their staffs during the waning, hectic days of this session. I think it is important for all the Members to know why it was so critical that this legislation be enacted this year.

As the Members know, Congress has enacted emergency farm credit legislation during each of the past 2 years. Unfortunately, in neither case did the legislation result in any financial assistance to the System. The System, which has incurred extraordinary losses over the last several years, has been held together by regulatory accounting practices and internal self-help measures. The limits of regulatory accounting have been reached and there are simply not enough resources available within System banks to justify further Band-Aid remedies to the very serious problems facing several of those banks. The System knows this and we know this.

Last week, the Federal Land Bank of Jackson announced that it faced imminent insolvency and temporarily suspended the retirement of borrower stock. This reminded all of us just how critical this legislation is to the borrowers who depend on the Farm Credit System. Borrowers need the assurance provided by this bill that their investments in System institutions will not be lost. It is critical that the assistance board created by this bill be chartered within the 15-day period prescribed in the bill and that it promptly be staffed with qualified personnel. In the meantime, we have provided transition authority for the Farm Credit Administration [FCA] to utilize the System's revolving fund to ensure that borrowers will continue to be served in all districts pending implementation of this legislation. The purpose of this specific transition authority is to avoid a financial crisis during the period it will take the assistance board to become operative. We trust that this authority will be used by the FCA in appropriate cases.

We also trust that FCA will devote all the resources that may be required to issuing the regulations necessary to implement other provisions of the act. As evidenced by the resources committed by Members of Congress and their staffs, it is essential that this task be handled in a professional and expeditious fashion. The American farmer cannot afford further delays in the implementation of the efforts that have been made to date. The bill places a unique responsibility on the Farm Credit Administration to ensure the prompt implementation of this legislation.

Mr. MADIGAN. Mr. Speaker, I yield 30 seconds to the gentleman from Missouri [Mr. Taylor].

Mr. TAYLOR. Mr. Speaker, I strongly support this conference report and urge it to be approved in order to recapitalize and reorganize the vast and intricate system that holds about one-third of the Nation's farm debts, the Farm Credit System.

I want to commend the gentleman from Texas [Mr. de la Garza] and the gentleman from Illinois [Mr. Madigan] for their unique abilities to bring this conference report to the floor under a unanimous-consent request.

The conference report is a comprehensive revision and a major overhaul of the Farm Credit System, and I believe it deserves the overwhelming approval of this House.

The Committee on Rules was prepared to go forward with House Resolution 336, but that will not now be required.

The conference report was still being prepared when the Committee on Rules met Thursday afternoon to consider a rule, and I am informed that work on the report and the bill language continued through the night.

Mr. Speaker, the managers on the part of the House had initially hoped to file the conference report by midnight last night, but they were unable to do so. I am informed that they filed it only moments ago.

Mr. Speaker, the chairman of the Committee on Agriculture, the gentleman from Texas [Mr. de la Garza], and the ranking Republican member, the gentleman from Illinois [Mr. Madigan], specifically requested the rule which the committee reported.

The rule waived all points of order because the gentleman from Texas [Mr. de la Garza] could not specifically identify the provisions of the conference report that may be in violation of Rules of the House or of the Budget Act.

Since the bill language was not finished, the Parliamentarian could not provide any guidance to the Committee on Rules on what specific waivers would be required.

All of us prefer to know ahead of time what rule or what provision of the Budget Act is being waived, but in this situation it was simply impossible for us to know.

Mr. Speaker, the Committee on Rules did have a detailed outline of the conference agreement before us when we granted this rule. It is my understanding the methods by which the Farm Credit System will be allowed to finance new capital closely resemble the provisions of the Senate bill.

The conference agreement reorganizes the Farm Credit System along the lines of the bill the House passed in early October. The conference agreement incorporates numerous provisions from the House bill to protect and assist farm borrowers who are under financial stress without adversely affecting creditor rights.

Mr. Speaker, one of the most important protections for those who produce the Nation's food and fiber is the requirement that Farm Credit System institutions redeem at par value all farmer-held stock. This guarantee will ensure that the value of stock held by farmers, who are required to invest in the System in order to borrow from it, will be preserved.

The agreement specifies a complete range of new farmer-borrower rights. It prohibits farm foreclosures by lenders due to declining collateral value or previous delinquency, if the farmer-borrower has made or brings current all accrued payments of loan principal, interest, and penalties.

Under the agreement, creditors will have an obligation to restructure delinquent loans and to help family farm borrowers repurchase or lease foreclosed property they previously owned.

According to the managers from the Committee on Agriculture, the landmark reforms contained in the conference report will provide up to $5 billion in financial assistance through the sale of 15-year bonds. The capital raised from the sale of these bonds, which will be guaranteed by the Government, will be private capital.

Mr. Speaker, I suppose most Members know that our Farm Credit

System is in financial trouble. It is important for all of us to recognize how and why this has happened.

During the 1970's, farmland values were increasing at such a pace, that farmers were able, and in many cases encouraged to take out large loans. Like a roller coaster, however, land values began a down-the-hill slide, and many of our Nation's most productive and hardest-working citizens—our farmers—found themselves facing huge debt payments and having insufficient income to meet their obligations.

When land values and crop prices began falling in 1982, the difficulty faced by creditors was almost unavoidable. By the end of 1985, the Farm Credit System held $10.2 billion in bad assets; and by the end of 1986, the amount was $13.9 billion, mostly in bad loans and overvalued, foreclosed-on land.

The Farm Credit System is both a farmer-owned banking system and a Government-sponsored corporation, with assets of more than $5.5 billion. If it were a commercial bank, it would be one of this country's five largest.

The Farm Credit System has a debt of about $53 billion, and about one-fourth of its loan portfolio is in serious trouble. Almost 7 billion dollars' worth of FCS loans are on a nonaccrual basis, they are not accruing interest.

It is little wonder then that the system has posted losses of over $4.6 billion over the past 2 years.

Mr. Speaker, the House-passed version of H.R. 3030 would have provided $2.5 billion in taxpayer funds into the Farm Credit System in fiscal 1988, and a total of $5.4 billion over the next 5 years. The Federal costs were to be offset in the first year by selling government loan assets.

The conference report adopts the bond financing approach, and I am informed that the Congressional Budget Office estimates that this financing mechanism will not cost the U.S. Treasury one red cent in fiscal 1988, and will probably only run about $190 million in fiscal 1989.

Mr. Speaker, the capital raised through the sale of bonds will be provided to troubled Farm System banks by a Federal Assistance Board created specifically for that purpose.

In return for assistance, system banks must follow strict Federal requirements as mandated by the Financial Assistance Corporation, which is also created by the conference agreement.

Mr. Speaker, the conference report is a comprehensive revision of our Farm Credit System. It is a major overhaul of the way Farmers Home Administration and the Farm Credit System does business. It is truly landmark reform legislation.

The report will help revitalize and strengthen the Nation's primary source of agriculture credit.

Agreement on this conference report will move the House one step closer to a resolution of several longstanding and difficult issues facing farm borrowers and farm lenders, and I urge adoption of the report.

Mr. MADIGAN. Mr. Speaker, I yield 30 seconds to the gentleman from Montana [Mr. MARLENEE].

Mr. MARLENEE. Mr. Speaker, I rise in strong support of the conference report on H.R. 3030, the Agriculture Credit Act of 1987. After many hours of work by the members of the House and Senate Agriculture Committees and their very hard-working staffs, we have finally delivered a bill that should end the uncertainty that the Farm Credit System and their agricultural borrowers have been facing.

I want to congratulate the chairman of the Agriculture Committee, the gentleman from Texas [Mr. DE LA GARZA], and also our ranking member, the gentleman from Illinois [Mr. MADIGAN], for their tireless efforts in securing passage of this most important piece of Farm Credit legislation. I also want to call attention to the dedicated efforts of the other Agriculture Committee members, and especially the long and arduous hours which our professional staff devoted to this task.

The concerns of the Farm Credit System and their borrowers have been with us for a long time. In January of this year, I held a public forum in Great Falls, MT, to help identify the most important issues relating to Farm Credit Service lending activities, and also those of the Farmers Home Administration.

At that time, it was obvious that if we were going to ensure the availability of affordable credit to America's farm and ranch producers, then Congress would have to take bold, innovative action during this session.

Among the more prominent issues which were discussed at that forum were the actual and perceived abuses of borrowers' rights to access their loan documents and the denial of any right to a reasonable appeal of adverse lending decisions. Also identified was the need to provide not only future availability of credit, but also to ensure that somehow interest rates would be reduced across the board in order to make agricultural production profitable again.

Borrowers and lenders both want to retain as much local input and control over the Farm Credit System as possible, while also guaranteeing that the local institutions would managed and run in an orderly and businesslike manner.

At my Farm Credit forum last January, I heard from more than 25 witnesses representing every sector of agricultural production, as well as those from the Farm Credit System and commercial agricultural lenders. I am most pleased to say that the conference report on H.R. 3030 represents a vital piece of legislation which actually addresses and resolves in a positive manner each and every area of concern which was raised at that forum.

And now it's December, Mr. Speaker, 1 week before Christmas. And I'd like to give those farm borrowers some good news. The best I can think of would be passage of H.R. 3030 by this body and the Senate, and the President's signature on this bill.

H.R. 3030 does many things. It grants a mechanism to raise up to $6 billion in assistance for the System, which is to be repaid. It establishes a Financial Assistance Corporation to guarantee borrower stock and provide System assistance.

The bill establishes an FDIC-type insurance entity funded by Farm Credit System lenders to underwrite bonds and borrower stock after the Financial Assistance Corporation dissolves in 5 years. It also abolishes the Capitol Corporation, which is scorned by many farm borrower because of their hard-hearted policies and heavy-handed foreclosure tactics.

H.R. 3030 includes a guarantee of borrower stock for 5 years and returns borrowers stock that was previously lost by many farm borrowers due to the insolvency of their local PCA's. This part of the bill was one of the major issues that farm borrowers in Montana were concerned about.

Our bill requires the restructuring of nonaccrual and high-risk loans if it would ultimately result in a greater recovery for the System than foreclosure would. This provision also applies to the Farmers Home Administration, which is the lender of last resort for many of our farm borrowers.

Another provision of the bill gives borrowers the right to have negative decisions reconsidered by a creditor's review board and establishes the "right of first refusal" for disposition of property, which gives priority to the prior owner, the family of the prior owner, and family-owned and operated farms, in that order.

By creating a secondary market for agricultural loans and allowing commercial lenders to compete on an equal footing with the Farm Credit System, this bill will increase the availability of affordable credit to producers and should result in lower interest rates for all farm and ranch borrowers.

H.R. 3030 will also reorganize the Farm Credit System, which should result in lower overhead expenses and a greater voice in day-to-day operating policy by individual borrowers.

By approving this final action on the measure as reported to us by the committee of House and Senate conferees, we will provide new hope and new opportunity to the hard-working men and women of American agriculture.

Mr. Speaker, this issue is important not only to America's farmers and ranchers, but to the 235 million Americans who depend upon our producers for an ample supply of high-quality, nutritious commodities and food products. American consumers spend far less money than any other country in the world when they go to the local grocery store.

It's 1 week until Christmas. Let's let our farmer constituents get this very essential and long overdue Christmas present.

Mr. ALEXANDER Mr. Speaker, I rise in support of the conference report on the Farm Credit Act, and I commend the Agriculture Committee and its dedicated staff for bringing us this vitally important legislation.

An editorial in today's Washington Post states that "the bailout bill is the other shoe in the farm crisis. For several years now farm support costs have been high. They have now begun to recede. But a great deal of financial wreckage remains in the Farm Belt."

The Post is correct. One of the fundamental problems in the farm economy is the massive debt.

Beginning in 1981, the Reagan administration adopted a policy of deflation that produced dramatic asset devaluation, thus causing an economic depression in the Farm Belt.

Commercial banks suddenly didn't want to make farm loans, because with land and equipment values falling through the floor farm loans were by definition undercollateralized.

Within the same period, the Farm Credit System shifted its credit decisions away from the local level and to the regional banks. The Farm Credit System became a bureaucracy, rather than a credit system.

The result was depression in rural America, an economic crisis fully as severe as the depression that ruined American agriculture in the 1920's and 1930's.

In 1984, as the depression deepened, I had a conversation with W.R. Stephens, founder of the Stephens, Inc. investment firm of Little Rock, AR.

We discussed the similarities between the farm depression of the 1980's and the farm depression of the 1930's.

Mr. Stephens recalled that through the Reconstruction Finance Corporation and other means, the Federal Government reduced the burden of debt on farmers that was a product of that earlier depression.

And finally, we came to the conclusion that family farmers needed a political solution to their current economic problem.

It was the conscious policy of the Federal Government under the Reagan administration's management that caused the farm depression. It is that same Government that has the power to solve the farm depression.

This bill is an important initial step toward providing a solution to the heavy burden of debt that hangs over the farm country.

It does so by providing direction for the Farm Credit System and Farmers Home Administration borrowers, and by providing debt relief for farmers through restructuring of farm debt when that costs less than foreclosure—and this is the most frequent case.

Another point Mr. Stephens discussed with me was the concept of a secondary market for farm debt.

For the family farmer, perhaps the most important provision of this bill is the secondary market treatment of farm mortgages in much the same fashion as home mortgages are already treated.

Farmer Mac will increase the supply of farm mortgage credit, and will decrease its cost.

However, the new secondary market will not revitalize and renew farm credit without additional action.

We need to create a larger warehouse where we can store the current farm debt until the economy turns around and the farmer can pay it off. The creation of a warehouse for farm debt would involve restructuring the debt over the long term at lower rates of interest.

A comprehensive warehouse for farm debt should include solving the debt crisis not simply for the farmers, but also for all businesses that serve the farmers. When the farmer is encumbered by debt, the bank, the equipment dealers and the Main Street merchants in the Farm Belt also suffer.

The Reagan administration's policy of deflation led to devaluation, which caused the depression; the depression, in turn, created the cumulative debt. During the Reagan era, the agricultural sector of the economy has suffered vastly more than any other sector of the economy. While the service sectors on the east and west coasts flourished, the farmers in America's heartland were ravaged by an economic holocaust the likes of which we have not seen since the 1930s. Despite their prodigious achievements in the realm of productivity, the farmers have been saddled with an unfair burden of debt. In order to revitalize the farm economy, that debt must be removed from the Farm Belt's economy. A secondary market is a first step toward removing the debt, but a comprehensive warehouse for the entire farm debt—along the lines of President Franklin Delano Roosevelt's farm credit policies—will be needed to finish the quest that we begin now by passing the Agricultural Credit Act.

Since Witt Stephens suggested in 1984 that the Roosevelt administration's example provides a model that is relevant for the farm dilemma today, I've sought various approaches to bring about recovery and remove the agricultural debt burden. I will continue to do so. People of the Farm Belt owe Mr. Stephens a debt of gratitude for giving us the benefit of his wise counsel on finding solutions for the farm crisis.

While the fundamental immediate problem in the farm economy is debt, a vital question over the long term is the creation of new markets for farmers. I have supported a variety of policies designed to expand markets for farmers, such as the adoption of a national alcohol fuels policy, the opening of agricultural trade to Cuba, and other measures designed to expand agricultural exports.

I will continue my efforts to create new markets for farmers; but the immediate goal we must address is the debt crisis, and the Agricultural Credit Act is an important first step in attacking the farm credit dilemma.

For now, this bill provides some measure of immediate relief to the family farmer. I urge its adoption.

Mr. TALLON. Mr. Speaker, for the third consecutive year, the Congress has considered legislation to help the financially troubled Farm Credit System. Two years ago, I would remind my colleagues that we established the Farm Credit System Capital Corporation to be the mechanism to coordinate system self-help, and, once the system had done all that it could, it would be the vehicle for Federal assistance.

Today, we are considering the conference report to H.R. 3030. I want to applaud the conferees on this bill, and particularly single out the distinguished chairman of the Agriculture Committee, Mr. DE LA GARZA, for diligence and thoroughness in resolving very complex issues.

I also want to take this opportunity to talk about a very important aspect of this legislation, the Federal Assistance Board. This board is, without question, central to the success of this legislation. Due to the ability of this board to dispense Federal assistance, I believe that it is the intent of Congress that the Assistance Board have sufficient powers to be effective. This means that the traditional regulator of the Farm Credit System, the Farm Credit Administration, will have a secondary role during the time when the Assistance Board is functioning. There can be no question that, except for purposes of safety and soundness, the authorities of the Assistance Board shall supersede those of FCA.

I am particularly concerned about this, Mr. Speaker, because there was no question that the Farm Credit Administration thwarted the efforts of the Capital Corporation to work with the institutions of the Farm Credit System. We cannot allow such confusion about direction or who has what authority to exist this year. Time is of the essence and the Assistance Board must be able to facilitate the intent of Congress and operate unfettered and unchallenged by the Farm Credit Administration.

Mr. ST GERMAIN. Mr. Speaker, I rise in support of the conference report on H.R. 3030. Your committee on Banking, Finance and Urban Affairs was represented on the conference committee for the consideration of the establishment of the secondary market for agricultural loans. As the Members know, H.R. 3030 was sequentially referred to the Banking Committee as a result of amendments to the original text of H.R. 3030. Our committee worked with the Agriculture and Energy and Commerce Committees to develop an amendment offered by Chairman DE LA GARZA to substantially improve the legislation.

I am pleased to report to the House that your conferees have upheld the House position. We have brought back a conference report which includes provisions which were of the greatest concern for our Members and which has broad based bipartisan support.

Mr. Speaker, I want to briefly describe the major provisions of the conference report. The conference report retains the safeguards and underwriting standards of the House bill. The conference report requires—

An 80-percent loan-to-value ratio;

Sufficient cash flow for the borrower to service the debt;

That the borrower be actively engaged in farming; and

That there be regulations to prevent speculative uses of these loans.

The conference report maintains the concern, evident in the House bill, that a major purpose of this entity be to provide long-term fixed-rate credit to small and family farms.

To accomplish this we have placed a $2.5 million cap on any loan, required that no loan exceed 3.5 percent of the entire pool and that each pool must have at least 50 loans.

The conference report requires that the pools consist of loans which vary widely in terms of geographic location, size of the loan and commodity produced. We have also strengthened the provision in the Senate's bill which requires that private sector poolers pay an annual fee to the secondary market based upon the risk represented in these pools. By requiring these risk based fees, a reserve of at least 10 percent and the restriction on dividend payments, I feel confident that sound management of the corporation will preclude drawing upon the $1.5 billion line of credit.

Mr. Chairman, I want to commend the chairman and members of the other committees in this Congress. I realize how significant this bill is for them. The Banking Committee made every effort humanly possible to complete this conference report today. Without the cooperative effort between our committees, I fear this legislation would have been held over until next year.

I wish to emphasize that nothing in this legislation is intended to authorize the preemption of State-granted borrowers' rights provisions. Such rights, be they granted pursuant to State statute or State constitutional provision, shall remain in effect regardless of a loan's placement in secondary market pools, subject only to other provisions of State law. For example, where State law permits waiver of these borrowers' rights, a borrower may waive such rights and obtain those benefits perceived to accrue to loans without borrowers' rights attached, that is lower interest rates. However, where State law prohibits the waiver of these rights, a borrower may not contractually waiver such rights and will therefore retain these borrower protections provided under State law.

The conferees understand that in some cases a facility or originator may require reasonable fees or discounts for loans secured by agricultural real estate in States with borrowers' rights. The conferees stress that these fees or discounts must be reasonable and related to the cost and expenses arising from such statutes or constitutional provisions. These fees should not be permitted if they are set at such a level as to unfairly penalize borrowers in such States. The conferees intend that the corporation review the incidence of such fees or discounts and determine whether originators or poolers are requiring discounts or fees in excess of what is actuarially sound. If the corporation finds a pattern of an originator or pooler requiring unreasonable fees or discounts, the Board should exercise the authority it possesses, including decertification, if appropriate, to discipline the imposition of the fee or discounts.

In requiring the corporation to establish a cash reserve or subordinated participation interest in an amount equal to "at least" 10 percent of the principal amount of the loans constituting the pool, the conferees intend to ensure that the corporation possess the maximum degree of flexibility in maintaining the financial integrity of these pools. The conferees envision that there could be circumstances where the corporation, in order to protect potential investors and the Treasury from unreasonable risk of loss, would not guarantee a pool unless the cash reserve or subordinated participation interest exceeded the minimum percentage required under this statute. The adoption of the "at least 10 percent" language in this legislation would clearly allow the corporation to adopt such an approach should it consider it necessary to carry out the purposes of this act.

The amendment provides that the Corporation compensate officers, employees, and agents without regard to title 5 of the U.S. Code which covers employment in the U.S. Government, including pay rates and systems. The conferees are aware of the necessity to attract expertise and to pay competitive salaries and benefits to adequately compensate qualified individuals to the Corporation. However, the conferees are also aware of the extremely high salary levels being paid at similar Government-type corporations, and would encourage a careful balancing between the need to attract competent personnel versus the concerns of the conferees and the public at large regarding inordinately high salary levels. The conferees would hope that the corporation, as an instrumentality of the Farm Credit System, will be aware of concerns and take them into consideration in its hiring practices.

Mr. Speaker, the secondary market cannot promise to save hard pressed family farmers. It does, however, hold promise for a solution to one of the most serious problems facing the American farmer. In the years to come, I hope we can look back and see that the provision of long-term fixed-rate financing through the secondary market will have dramatically improved the competitiveness of American agriculture.

Mr. FRENZEL. Mr. Speaker, when this bill passed the House, I voted against it for the several reasons noted at that time. Age and travel to the other side of the Capitol have mellowed H.R. 3030, and I intend to support this conference committee report.

I am still not supportive of the secondary market features. In my own State, our law granting borrowers rights will make lenders unwilling to accept our paper in the secondary markets. Even if my State should see the light, I would prefer the regular lending market without the secondary, taxpaper-guaranteed, secondary market.

Even so, I shall support the bill as a necessary repair on an essential credit system.

Mrs. SMITH of Nebraska. Mr. Speaker, I wish to commend the diligence and determination of the conferees to bring this legislation to the floor before we recess for the Christmas holidays.

I know the Members and staff have worked long, long hours overtime to reach agreements on the important differences between the versions of both Houses so we could vote on this important measure today.

This legislative issue—of saving and strengthening the Farm Credit System—has been at the top of my agenda for more than 2 years.

Major legislation like this bill, H.R. 3030, cannot possibly be perfect. As these many new provisions go into effect, Congress will be called upon to make many adjustments to make the new law work as we intended.

For now, I am pleased that this legislation includes nearly all of the essential items on my checklist of 17 elements published in the RECORD on August 6, 1987.

The Farm Credit System is still one of the most important sources of credit for farmers and ranchers. This bill seeks to make sure the System primarily serves the interests of its borrowers while preserving those of the bond holders.

This bill provides for restructuring of farm loans of financially stressed farmer-borrowers to help keep producers on the land. Restructuring will be required if it is the least-cost alternative to foreclosure. The bill also imposes similar requirements on the Farmers Home Administration with respect to its farm loans.

The bill will require Farm Credit System lending institutions to retire farmer-held stock, known widely as "B" stock, at par value to ensure farmer-borrowers that their investment in the System will be preserved.

Farmers holding such B stock in bankrupt production credit associations, such as in Valentine and O'Neill, NE, will be paid off by the receivers under this bill.

This sounds good and will benefit hundreds of producers in Nebraska and elsewhere who are still in liquidation proceedings. But the bill unfortunately does nothing for farmers whose loans have already been liquidated and who have been forced to make good on loans that included the value of the B stock.

It is not a fair world, of course, but this particular injustice will always rankle me and is one of the bill's major shortcomings. The impact and loss growing out of assets sold off and farm families changing their lives as the result of these liquidations is incalculable and irreversible.

The bill also includes a number of provisions designed to give the Farm Credit System and the Farmers Home Administration borrowers under financial stress a fair opportunity to overcome their credit problems without adversely affecting creditor rights.

These provisions include a review of adverse credit decisions, rights of first-refusal so family farmers can repurchase foreclosed property, borrower access to information concerning his or her loan case, and an improved Farmers Home Administration interest rate buy-down program.

The bill authorizes up to $7.5 million annually for matching grants to States for the operation of farm loan mediation programs.

As for the Farm Credit System itself, this legislation authorizes the sale of up to $4 billion in federally guaranteed 15-year bonds to provide assistance to the financially troubled districts.

Land banks and other FCS institutions may apply for assistance from a newly created Farm Credit Assistance Board, designated for administering the Federal bailout money.

These troubled FCS units may apply for the help when the value of stock held by farmers and ranchers falls below its par value. The new Board may require the System institutions to change their credit and interest-rate policies, replace management, and reduce salaries in order to achieve solvency.

The bill requires that most of the assistance provided will be paid back by the System after it is financially healthy. The U.S. Treasury will pay the interest on guaranteed bonds for 5 years. During the subsequent 5 years, interest payments will be paid equally by System institutions and the Treasury. After that, the System must take over repaying both interest and prinicipal on the bonds.

The bill establishes an insurance program for System institutions similar to the FDIC program for commercial banks. Regulatory powers of the Farm Credit Administration will be strengthened by requiring new capital adequacy requirements and new enforcement authority.

A new secondary market for agricultural loans would be established under which commercial farm lenders and system lenders will gain new access to capital markets.

With this access, farm lenders supposedly can obtain funds to finance their farm borrowers at more reasonable interest rates. The bill provides also for the mandatory merging of the Federal Land Banks and the Federal Intermediate Credit Banks in each of the twelve Farm Credit Districts.

The objective is to reduce overhead costs and eliminate duplication of administrative functions, and, of course, we are all for that.

Nevertheless, I hereby go on record as withholding my approval of these mergers until their impact on service to farmers and ranchers becomes more certain.

If it is proposed, for example, that our Omaha District is combined with, say, the Minnesota District, I am serving notice that I will study any such plan carefully and that I will oppose any arrangements that will adversely affect borrowers in Nebraska.

I pledge that I will do all in my power to remedy any proposed merger tot the mutual satisfaction of both borrowers and system managers.

The debate surrounding Federal assistance to the Farm Credit System has touched upon the most basic social and economic issues facing agriculture today.

The Farm Credit System has always been more than simply a financial institution, it has been a partner to just about anyone who turns the soil for a living.

Chances are that a career in farming begins with a visit to the Federal Land Bank and Production Credit Association. For over 70 years, the Farm Credit System has served agriculture as the link from generation to generation. The Farm Credit System still remains one of the more important elements of this Nation's most important industry, agriculture.

The recent agricultural crisis has taken its toll on borrower and lender alike. But this bill represents a great deal of hope and I urge my colleagues to support it.

Already, too many good farmers and ranchers who might have otherwise made it through recent hard times have seen a lifetime of work evaporate because agriculture's largest lender is operating in an atmosphere of shotgun economics.

Without swift action to save the Farm Credit System, we will face an even wider crisis when we return next year.

I urge my colleagues to approve this conference report so that our farmers and ranchers can more efficiently get on with their incomparable efforts that provide food and fiber for our country and for a significant part of the rest of the world as well.

Mr. JOHNSON of South Dakota. Mr. Speaker, I rise to congratulate the chairman of the Agriculture Committee for his leadership during this difficult time for the Farm Credit System. I would also like to single out the distinguished chairman of the Subcommittee on Conservation, Credit and Rural Development, the gentleman from Tennessee [Mr. JONES] for his thoughtful deliberations on Farm Credit.

Today, we are acknowledging the need to compromise with the other body on this vital legislation. It is particularly important that we remember why this legislation was necessary. The Farm Credit System is facing a desperate financial crisis among many of its individual institutions. For some, these next few weeks could be even more treacherous than the past year because of their financial condition.

Yes, this legislation is for the most stressed, but I would remind my colleagues that it is also to provide financial assistance to those institutions which are less troubled so that they can survive without additional assistance later. This conference report provides for realism to be injected into the process of providing help to entities. In some cases, the additional use of regulatory accounting practices as a form of noncash assistance may be all that is needed to help an institution work through its short-term financial problem. We wish that were the case with all institutions.

However, I believe it is our intent that cash financial assistance to System entities shall be provided no later than when stock falls to 75 percent GAAP par value. I share the concern of many conferees that such a statement may provide little or no flexibility to the Assistance Board. Therefore, it is logical that the Assistance Board also have the opportunity to facilitate a merger, or if it is less costly to liquidate the institution, recommend such an alternative to FCA.

In no event, however, is it Congress intent that stock be allowed to be impaired below 75 percent of GAAP par value. While the Assistance Board has flexibility between 75 and 100 percent, the flexibility and the options to both the receiving entity and the Assistance Board will become self-limiting when the 75-percent stock level is reached. At that time, a decision must be made to either provide cash assistance, merge, or liquidate the entity needing help.

Mr. BRUCE. Mr. Speaker, I am very pleased that we are here today to vote on the conference report for this bill to strengthen the Farm Credit System. Many people have worked many long hours to bring this much-needed legislation to the floor.

On behalf of my constituents, to whom the passage of this legislation means so much, I would like to express my appreciation for the hard work and persistence of the distinguished chairman of the Agriculture Committee; of my colleague from Illinois, the ranking minority member; and of the distinguished chairman of the Agricultural Credit Subcommittee, without whose efforts this legislation would never have come this far.

I especially want to commend the chairman of the Energy and Commerce Committee for his concern and his diligence in the matter of this specific title, by which we establish a secondary market for farm mortgages. His efforts in ensuring the design of the best possible system will be to the benefit of all this Nation's farmers and ranchers by ensuring agriculture's access to national capital markets. With this access, farm lenders will be able to obtain funds to finance their farm borrowers at reasonable interest rates.

To that end, I would also like to commend the distinguished chairman of the Finance Subcommittee; our colleagues on the other side of the aisle, including the ranking minority member; as well as our esteemed colleagues on the Banking Committee for their part in developing this title of the legislation.

I am pleased to have been a part of these negotiations, and I thank the chairman for yielding me this time.

Mr. GEPHARDT. Mr. Speaker, I support H.R. 3030 and encourage my colleagues to do the same. I am proud to have helped push this legislation, and I want to congratulate the House leadership, the Agriculture Committee and the many Members who have worked so hard on this bill. It addresses many difficult problems fairly and intelligently.

This legislation is a victory for all farmers. Besides strengthening the agricultural credit sector as a whole, it contains important borrowers rights and debt restructuring reforms—including some from the Harkin-Gephardt bill—that will help farmers get a fair chance to obtain meaningful debt restructuring.

The fact that this legislation contains important reforms for farmers, that it is fairly comprehensive, is testimony to how far we have come in the last year.

We have always had legislation to provide aid to the System in the 1985 farm credit bill. The real problem was the need for a more comprehensive approach, for reforms to the procedures of the Farm Credit System and the Farmers Home Administration so that all farmers have a fair chance to restructure their debts and keep their farms.

This bill is important now because it makes those reforms. It contains important provisions and concepts from Harkin-Gephardt bill including matching grants to help States fund farmer-creditor mediation; explicit instructions requiring FmHA and the Farm Credit System to participate in State mediation programs; and reforms to require debt restructuring by the System.

Support for State mediation programs is an important component of this legislation. A growing number of States are using farmer-creditor mediation programs to bring farmers and lenders together to restructure debt and avoid foreclosures. This legislation will help

States adequately train and pay their mediators and to make those services more widely available.

And it will also require Farmers Home to participate in those programs. The current policy of nonparticipation doesn't make any sense to me, and it has hurt farmers, other lenders, and ultimately taxpayers. It is time for Federal agencies to start being part of the solution to the farm debt problem.

Explicit instructions requiring debt restructuring in certain cases for both FmHA and the Farm Credit System are important. I want to congratulate BYRON DORGAN, DAVE NAGLE, and all others for working so hard in this area. Congress has long expressed its support for least-cost debt restructuring; this language will ensure that we get it.

Of course, there are many other provisions to protect borrower rights that other Members added such as giving borrowers the right of first refusal to repurchase foreclosed properties when they are put up for sale, and improved review procedures of borrower appeals within Farmers Home.

Of course, this legislation is only part of the change that is needed in farm policy. We can enhance demand for farm products by opening foreign markets and discovering new uses. We should improve supply management in our farm programs. Better prices for farmers will reduce the need for subsidies and bailouts in the future and allow our farm communities to flourish.

Mr. LIGHTFOOT. Mr. Speaker, I am pleased that Congress has finally addressed the issue of how to restructure and shore up the ailing Farm Credit System [FCS]. While many of my colleagues and I had reservations about providing Federal funds to the System in view of the frustrations many of the System's borrowers have encountered during the past few years, I believe this legislation carries with it a firm package of borrowers' protections.

Clearly, a system which provides such a large percentage of farm loans nationwide is important to maintain, in one form or another. Rather than starting from scratch, it makes economic sense to build from the FCS existing structure. Linking borrowers' protections to taxpayer aid to the System was a crucial factor in my support for this package.

It is important, as well, that we do not allow Farm Credit System officials to become lax in their concern for their borrowers. The System cannot lose sight of the fact that it was created to serve its borrowers. Many of the borrowers' protection provisions in this legislation were similar to amendments I had advocated earlier.

In addition to providing protection for Farm Credit System borrowers, this legislation addresses the protection of Farmers Home Administration borrowers as well.

On a final point, I am pleased the conference committee accepted a key provision I secured in the House version of the bill to protect rural communities receiving Farmers Home Administration loans. I also was pleased the final agreement contained provisions creating a secondary market for farm mortgages, similar to legislation I introduced—H.R. 575—early in the year. The secondary market will provide a long-term, stable source of farm real estate loan funds.

This legislation has been several years in the making, but the details, I believe, have been carefully worked out. The measure will help build on the positive actions rural communities and individuals are taking in rural America to reinvigorate the economic climate.

I'd like to thank the members of the House Agriculture Committee for their diligence in completing this legislation before the close of the legislative session, and for their support for my borrowers' protection amendments.

Mr. LEHMAN of California. Mr. Speaker, as a member of the House Banking Committee and a conferee to H.R. 3030, the Agricultural Credit Act of 1987, I would like to indicate my support for the conference report.

As we all now know, in addition to providing borrowers' rights, restructuring the Farm Credit System, and making additional capital available to the system, H.R. 3030 would establish a new secondary market for agricultural real estate loans. Farmer Mac, would allow both the Farm Credit System and commercial lenders, such as banks and insurance companies, to package or pool their agricultural real estate loans for resale to the investment community.

Farmer Mac will ensure that adequate funds remain available to meet the long term needs of agriculture by providing greater access to the capital markets. It will help eliminate some of the regionalized problems currently facing agricultural lenders by allowing for diversification of lenders' loan portfolios and it will help stabilize both interest rates and land values.

While the secondary market which would be created for agricultural real estate loans is fundamentally sound, I have some reservations about the authority the bill grants to create a secondary market for residential mortgages in communities with less than 2,500 people. Existing secondary markets for residential mortgages such as Freddie Mac and Fannie Mae utilize very sound and prudent loan underwriting standards. In order for this new small community, residential mortgage secondary market to succeed with private investors, it, too, must adopt similar, safe and prudent loan underwriting standards. It is incumbent upon the Board of Directors of Farmer Mac and this body to ensure that comparable underwriting standards be implemented.

Finally, as one of those who first introduced Farmer Mac legislation in the previous 99th Congress, I would like to congratulate all of the participants who contributed to shaping this legislation. I would like to especially acknowledge the cooperation of the chairmen of the House Agriculture and House Banking Committees and their staffs for working so diligently during the past month to craft this compromise.

Mr. Speaker, as I have indicated on other occasions, Farmer Mac is not a bail out for bad farm debt. It is a means of providing stable and competitive interest rates for long term agricultural real estate investments. It is time to put aside the rhetoric about creating long range solutions for America's farmers and do something about it. Farmer Mac is such a solution. It has broad, bipartisan support and I urge my colleagues to support the conference report.

Mr. VENTO. Mr. Speaker, I rise in support of the Conference Committee report on H.R. 3030, the Agricultural Credit Act of 1987. Over the course of the last week or so, the conferees have worked to rapidly resolve the differences between the House and Senate bills. Thankfully, we have produced an acceptable bill to all parties that will provide the necessary assistance this year to the Farm Credit System.

As a conferee on the secondary market portion of this legislation, I would like to express my support for the work of the conference. Although the House Banking Committee members had some reservations about opening up Farmer Mac to rural housing loans and the weakening of some of the guidelines for underwriting standards, this legislation should set the foundation for a secure and sound secondary market for agricultural mortgages.

I am especially pleased that conferees approved of the deletion of the section of the Senate-passed bill that would allow the contractual preemption of States' borrowers' rights laws in order for a loan to be pooled in the secondary market. The lifting of that language, in combination with Banking Committee provision which mandates that the certified mortgage marketing facility may not refuse to purchase loans originating in States with borrowers' rights laws, will allow States to maintain the laws that they have seen fit to create.

Another matter of importance relates to the composition of the Board of Directors of Farmer Mac. It is important that in setting up the guidelines for the Board, that Congress indicate its intent to encourage the participation of smaller, regional financial entities. These regional firms have invaluable experience in rural America and will understand and respond to its unique needs.

I urge my colleagues to support the conference report and the work of the members from these several fine House and Senate committees. A favorable vote will help to alleviate the pressing needs of the Nation's agricultural communities.

Mr. ENGLISH. Mr. Speaker, as a conferee to H.R. 3030, the Agricultural Credit Act of 1987, I rise today in support of the conference report before the House. I hope my colleagues will move swiftly to accept the report, which will provide needed recapitalization to the Farm Credit System.

The spirit of the Christmas season has been alluded to in recent weeks as the Congress finalizes its legislative calendar in anticipation of adjournment for the holiday recess. H.R. 3030 is one such piece of legislation that will be received in the agricultural communities, not as a Christmas gift, but as an opportunity to deter a greater financial crisis in an already besieged economic sector—American agriculture and the financial institutions that serve the family farmer.

The pressures on the Farm Credit System are well known—declining land values, accelerated production costs and depressed food prices. These pressures against the family farm have caused more agriculture borrowers to be driven into bankruptcy and financial collapse. The demand on the farming community has placed a strain on the financial institutions of the Farm Credit System to the point that insolvency threatens many districts. The conference report before us today will begin to return solvency to those districts.

The conference report on H.R. 3030 will shore up the banking networks that farmers depend on for their livelihood, with a minimum impact on the Federal budget deficit. Protection for borrowers rights will be assured under H.R. 3030 but not at the expense of sound business practices. And I was especially pleased that the conferees accepted my amendment to give local associations the opportunity to join other associations in the same geographical area. This provision will guarantee more flexibility at the local level by allowing producers to consolidate their common commodity interests.

Although I strongly support the conference report, I do so with certain reservations. I would have preferred the House-approved provision mandating organizational changes that would have reduced duplicative functions. I am also concerned about the establishment of the secondary market. Given the fragility of the Farm Credit System, I am not certain the secondary market will not destablize the network further.

But, in spite of these misgivings, I strongly encourage my colleagues to accept the conference report on the Agricultural Credit Act of 1987. This legislation is not a panacea and it does not contain all that I would have wanted. But, this conference report represents highly complex legislative efforts which were carefully scrutinized in conference. This final product is truly a bipartisan effort in the spirit of consensus.

The final approval of the Agricultural Credit Act of 1987 is essential to restoring confidence in the lending institutions that serve the farming community. To do nothing would send ripples throughout the commercial banking sector and the U.S. economy as a whole. This is not the message we wish to send, especially at a time when economic indicators suggest that our farmers are slowly recovering.

I urge my colleagues to approve quickly the conference report on H.R. 3030 and send it to the President for this signature before Christmas.

Mr. DORGAN of North Dakota. Mr. Speaker, I rise today to support approval of the conference report on H.R. 3030, the Agricultural Credit Act of 1987, and to urge my colleagues to do the same.

Since early this year, the Agriculture Committees of both Houses have been debating and contemplating how to address the very serious problems in the agricultural credit sector. After countless days of hearings, markups that went into the wee hours of the morning, and a speedy but exhausting conference, we have emerged with what I must say is a very good bill.

Early this past spring, I asked some of my House colleagues to join me in drafting legislation to address problems with the Farmers Home Administration. In April, Congressmen TIM PENNY of Minnesota, RON MARLENEE of Montana, and TIM JOHNSON of South Dakota joined me in sponsoring H.R. 2340, the FmHA Amendments of 1987.

Our package of FmHA reforms has as its centerpiece the requirement that the Farmers Home Administration restructure delinquent loans, by writing off debt if necessary, when doing so is cheaper than foreclosing the loan and forcing the borrower off the land. We in Congress gave FmHA the authority to do this in the 1985 farm bill, and encouraged them to restructure loans to help farmers. But FmHA has steadfastly refused to use this authority, they have refused to do what other lenders are doing to try to cope with falling land values and a depressed rural economy.

The St. Paul district of the Farm Credit System has probably been the leader in restructuring delinquent loans, and has found that their restructuring program has improved their financial position by restoring many nonpaying loans to accrual status.

In August, the House Agriculture Committee adopted the major provisions of H.R. 2340 as title II of its farm credit package, H.R. 3030. I must say that I was gratified that the committee recognized the problems we had identified and adopted the solution that we recommended. The committee also approved provisions that will require FCS institutions to also restructure loans when doing so is cheaper than foreclosure.

The conference committee has now approved these reforms of the way FmHA and FCS handle distressed loans, and we have the bill before us here today.

Mr. Speaker, I am somewhat concerned about provisions in the bill which would force some mergers of FCS institutions and provide strong incentives for others. FCS borrowers in North Dakota will probably be faced with a vote on whether to merge the St. Paul district with the Omaha district.

If the St. Paul district votes not to merge, its borrowers would be required to fully repay any Federal assistance the district might receive. On the other hand, the entire system would help to repay Federal assistance to any district that merges with another. Since savings could be achieved by mergers, borrowers might be forced to choose between lower interest rates and local control.

While I appreciate that the conferees gave the FCS borrowers a choice, it's not really much of a choice if you're a borrower who needs lower interest rates to survive. I'm afraid that this legislation will take the Farm Credit System even further away from the cooperative principles upon which it was founded. But, given a choice between a Farm Credit System with little local control, and no Farm Credit System at all, I guess we'll take an FCS that will at least continue to provide credit to family farmers in America. But I must say I'm sorry to see the trends toward centralization and impersonalization continue.

I would also like to note the conferees retained two amendments I attached to the bill on the floor of the House. The first requires FCS to report annually on how it is using any savings from Federal assistance in order to reduce interest rates charged to borrowers or to enhance the financial stability of FCS institutions. This amendment will provide an important check on the system to make sure that the bailout really helps farmers, and doesn't just provide comfort to bondholders.

My second amendment, also adopted by the conferees, requires FmHA to report to Congress, before implementing regulations to use risk assessment ratios to screen borrowers, on the effect the regulations would have on current and potential borrowers.

In sum, Mr. Speaker, this bill provides important protections for both FmHA and FCS borrowers, and it guarantees the stock of farmer-borrowers of the FCS. All of us would like to change a word here or a paragraph there, but this is in total a good bill, and it deserves our support. We have a credit crisis out there in rural America, even if it hasn't made the front page of your newspaper lately, and this bill will provide some essential relief none too soon.

I urge my colleagues to adopt the conference report.

Mr. MARKEY. Mr. Speaker, I rise in support of the conference report on H.R. 3030 and ask unanimous consent to revise and extend my remarks.

The Agricultural Credit Act of 1987 has gone through an extraordinary journey to get to where it is today. I want to commend the Members and staff who have worked tirelessly on this legislation, in particular the chairman of the Energy and Commerce Committee, Mr. DINGELL, the chairman of the Banking Committee, Mr. ST GERMAIN, the chairman of the Agriculture Committee, Mr. DE LA GARZA, as well as the ranking minority members of the relevant committees. In addition, I want to commend the Members of the other body who helped fashion this bill. As the chairman of the Subcommittee on Telecommunications and Finance, my involvement has been focused on the securities law aspects in the secondary market provision, and that is where I wish to direct my remarks.

Mr. Speaker, Members have several reasons to be pleased with the bill's new secondary market for agricultural loans. We have addressed the concerns of many in the farming community by spreading the risk of long-term farm mortgages and increasing liquidity for commercial agricultural lenders.

While infusing the farm economy with needed long-term capital, we have also upheld our equally important mission of protecting the investors in these new securities. No action in the securities area takes place in a vacuum, and the startup of Farmer Mac occurs in the midst of the most heightened public focus on our securities markets in the last 50 years. In the last year, insider trading, market manipulation, municipal securities fraud, and a shocking stock market crash have filled the media and gravely threatened the integrity of and public confidence in our financial markets. We must take pains to help restore that integrity and confidence.

The new Farmer Mac securities will be issued subject to the full range of investor protections provided in the Securities Act of 1933 and the Securities Exchange Act of 1934. The registration requirements for securities and the disclosure, reporting and capital requirements for securities brokers and dealers are the pillars of Federal efforts to ensure an informed investing public. The availability of material information and vigilant enforcement by the SEC are critical to the continued participation of the public in our financial markets.

The secondary market proposal has gone through substantial changes since its initial adoption by the House Agriculture Committee in August. The original provision creating Farmer Mac was significantly deficient with respect to the soundness of the newly issued securities and protections for investors. These problems included sweeping exemptions from the Federal and State securities laws in the areas of registration, disclosure, and perhaps even fraud enforcement; a complete absence of lending and underwriting standards; a questionable Federal guarantee; and an explicit expansion of bank powers in contravention of the congressionally mandated moratorium on such expansion.

After the intervention of the Committee on Banking, Finance and Urban Affairs and the Committee on Energy and Commerce, along with the cooperation of the administration, the secondary market proposal was strengthened substantially. The Banking and Agriculture Committees added underwriting guidelines for Farmer Mac, limits on the size of loans eligible for the securitized loan pools, firmer Federal credit support for the securities and other measures to bolster the structure of the secondary market. The securities law provisions were amended to bring the Farmer Mac securities within the registration and disclosure requirements of the Securities Act of 1933 and the broker and dealer regulatory provisions in the 1934 Securities Exchange Act.

Upon the completion of the amended secondary market proposal, the House passed H.R. 3030 on October 6, 1987. The Senate passed its version of the Agricultural Credit Act, with its own secondary market proposal, on December 4, 1987, and proceeded to conference with the House.

The House and Senate provisions on the secondary market proposal differed markedly, particularly in the treatment of Farmer Mac securities under Federal and State securities laws. I would like to outline these distinctions, and the reasons for the final conference substitute, a product that provides the strong investor protection provisions I have sought as chairman of the Telecommunitcations and Finance Subcommittee, along with Chairman DINGELL and other members of the Energy and Commerce Committee who served on the conference. All references below are to section 702 of H.R. 3030, which adds a new title VIII to the Farm Credit Act of 1971.

The single most significant difference in the securities area is that the Senate would have exempted Farmer Mac securities from the Federal securities laws to the same extent as currently exempted Government securities, while the House bill afforded full coverage under the securities laws. The conference substitute adopts the House provision.

The decision by conferees to adopt the House language on the Federal securities laws, including the language stating that no Farmer Mac security will be deemed a "Government security" for purposes of the Securities Exchange Act of 1934, or for purposes of the Investment Company Act of 1940, is important for several reasons. First, the issuers of these securities must now comply with the dictates of the 1933 Securities Act. These include the mandatory disclosure to the public of detailed information in registration statements and civil liability for misstatements or omissions in registration statements or for offers or sales of securities not registered properly under section 5 of that act.

The inclusion under the Federal securities laws also brings the brokers and dealers for Farmer Mac securities within the 1934 act regulations for brokers and dealers. These requirements include the net capital rules to assure the financial health for brokers and dealers, rules on the segregation of customers' funds and securities, and procedures for handling the claims of customers whose brokers become insolvent. These regulations of brokers and dealers in conventional securities go beyond those for Government brokers and dealers by imposing ongoing reporting requirements not required of Government dealers.

The conference substitute's acceptance of the House provision on Federal securities laws is a recognition of the differences between Farmer Mac securities and Government agency securities.

First, agricultural loans are inherently riskier than the residential mortgages which back the loan pools securitized through Ginnie Mae and other similar Government agencies. The borrowers of these agricultural loans all derive their income through the farm economy, unlike borrowers of conventional mortgages, whose income sources are from diverse sectors of the economy. Second, unlike Ginnie Mae, the loans in the Farmer Mac securitized loan pools are not themselves guaranteed and the securities are not backed by the full faith and credit of the United States. Furthermore, unlike Freddie Mac, the Farmer Mac loan pools will be pooled by private third parties, not by the agency itself. Under the Freddie Mac statute, the agency is permitted to authorize private third-party pooling, but such pooled securities are not exempt from securities registration requirements. Finally, the guarantee under Farmer Mac is a more limited one than for other Government securities. Farmer Mac is liable for 90 rather than 100 percent of the loan amount, while the investor must first look to a 10-percent loan reserve or retained subordinated interest by the third party. For all these reasons, Farmer Mac securities will not be designated "Government" securities and will require a more stringent level of SEC oversight.

There was a considerable discussion among conferees about the potential additional costs of Farmer Mac securities due to the enhanced regulatory powers given to the SEC under the House provision. However, conferees noted the letter of December 16, 1987, from Secretary of the Treasury James A. Baker III to conference member Senator LUGAR, which stated that in the Treasury Department's "seriously considered view . . . any resulting increased cost would be insubstantial and would certainly not jeopardize the overall viability of the secondary market." This letter was a persuasive factor for conferees, who chose to accept the House approach, while at the same time seek a future report from the Treasury on the price differential between Farmer Mac securities and Government agency securities.

At this point, I would like to include a copy of Secretary Baker's letter:

THE SECRETARY OF THE TREASURY,
Washington, DC, December 16, 1987.
Hon. RICHARD G. LUGAR,
U.S. Senate,
Washington, DC.

DEAR DICK: I understand that Chairman Dingell and the other Energy and Commerce conferees have issued or are about to issue a counteroffer to the "staff compromise" on those portions of the secondary market title of the farm credit legislation within the Energy and Commerce conferees' jurisdiction. I am writing to urge in strongest terms that you vote to accept the House conferees' offer.

Before discussing the reasons why the Department is so insistent in its support of the House offer, I want to point out and express my appreciation for how far both the Congress and the Administration have come in fashioning a workable secondary market for securitized farm mortgages. As you know, the Department opposes the creation of a federally subsidized secondary market for a variety of reasons; nonetheless, we pledged to you and others in Congress developing this legislation to work constructively to attain a viable provision. I am convinced not only that we in the Department have lived up to our pledge, but also that the resulting secondary market language is a vast improvement.

There remains, however, one very significant problem which arose in the "staff compromise" developed in the early hours of Tuesday, December 15: the designation of the securities as "government securities" for purposes of certain federal securities laws. This designation would be seriously detrimental not only to the interests of investor protection, but also to what I believe is our shared interest in minimizing federal budgetary exposure and liability. I have been informed that official of the SEC have begun to communicate their concerns on the issue of investor protection, and that an SEC representative will be present when the Conference resumes. For our part, Assistant Secretary Sethness will attend the Conference and be available to explain the Department's very grave concerns. We are well aware of the opposing arguments about reducing the cost of the securities and thereby ensuring a viable secondary market; let me respond simply by asserting that it is the Department's seriously considered view that any resulting increased cost would be insubstantial and would certainly not jeopardize the overall viability of the secondary market.

I will close by emphasizing that I understand very well that the essence of any House-Senate Conference, as well as of Congressional-Administration relations, is compromise. Our request here is very mindful of that essential characteristic; in fact, of the six points at issue within their jurisdiction, the House conferees' offer would recede outright to the Senate on two points, and would recede with amendment on two others.

Because we, but especially you, have come so close to attaining a positive and workable provision, and in that spirit of compromise, I urge you most strongly to vote to accept the House offer.

Sincerely,

JAMES A. BAKER III.

On another important issue, the conferees agreed to eliminate all language in the Senate amendment which would have either implicitly or explicitly expanded the powers of banks by permitting them to underwrite, purchase, and sell these Farmer Mac securities. In March 1987, in the Competitive Equality Banking Act of 1987, Congress enacted a 1-year moratorium on any expansion of bank powers by Federal regulators. That moratorium expires on March 1, 1988. The conferees agreed that any change in the Glass-Steagall status quo regarding bank powers would be inconsistent with the moratorium. The most effective means of maintaining this status quo was to remain silent in the statutory language.

Another of the key issues in the House-Senate conference was the application of State securities laws to Farmer Mac issues. The House would have treated these securities as any other conventional securities, while the Senate would have preempted any State securities registration requirements unless States acted affirmatively within 3 years after the date of enactment of this act. The conferees agreed to permit the States to act affirmatively within an 8-year period. This conference substitute was enacted to give the States the additional time they need to evaluate these new Farmer Mac securities and make the informed decisions they need to with regard to their own regulatory treatment of these securities. As the conference report indicates, the purpose of this provision is "not to prevent the States from providing investor protections." Indeed, such investor protections would be expected and encouraged in light of the Federal regulatory treatment of these securities under this act.

The conferees reached agreement in several other areas, all of which are accurately reflected in the conference report: These include the provisions of Federal court jurisdiction and the dictate that State laws that limit the ability of the public to purchase or invest in Farmer Mac securities may not affect contractual commitments to purchase or invest in securities made prior to the date of enactment of this legislation.

In summary, Mr. Speaker, the conference substitute on the securities law elements of the secondary market, as well as the entire secondary market proposal itself, marked a solid accomplishment which benefits our farm economy while ensuring the maximum regulatory protection for the investing public. I urge my colleagues to adopt the conference report on H.R. 3030.

Mr. MADIGAN. Mr. Speaker, I yield myself 30 seconds.

Mr. Speaker, I rise in support of the bill, and I would say to the House that I think the funding mechanism in this bill is much better than in the House-passed bill. The safeguards against throwing good money after bad are much better in this bill than in the House-passed bill. I think this is a good bill for the Farm Credit System and for the farmers of America.

Mr. Speaker, I urge all the Members to support the conference report.

Mr. DE LA GARZA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I yield to all those who have labored on this legislation, and I would hope that we will send a message to rural America and those who supply the food and fiber for all of us that we care. This is a modest step but nonetheless a very positive step that we take so that we may assist our farmers in their plight.

Mr. Speaker, with that I ask the Members to support the conference report.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the conference report.

There was no objection.

The SPEAKER pro tempore. The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. FRENZEL. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 365, nays 18, not voting 50, as follows:

[Roll No. 499]

YEAS—365

Akaka
Alexander
Andrews
Annunzio
Anthony
Applegate
Atkins
AuCoin
Baker
Ballenger
Barnard
Bartlett
Barton
Bateman
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bliley
Boggs
Boland
Bonior
Bonker
Borski
Boucher
Boulter
Boxer
Brennan
Brown (CA)
Brown (CO)
Bruce
Bryant
Buechner
Bunning
Burton
Bustamante
Callahan
Campbell
Cardin
Carper
Carr
Chandler
Chapman
Cheney
Clarke
Clinger
Coats
Coble
Coelho
Coleman (MO)
Coleman (TX)
Collins
Combest
Conte
Conyers
Cooper
Coughlin
Courter
Coyne
Craig
Daniel
Darden
Daub
Davis (IL)
Davis (MI)
de la Garza
DeFazio
Dellums
Derrick
DeWine
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dorgan (ND)
Dornan (CA)
Downey
Dreier
Duncan
Durbin
Dwyer
Dymally
Dyson
Eckart
Edwards (CA)
Edwards (OK)
Emerson
English
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Fields
Fish
Flake
Flippo
Foglietta
Foley
Ford (MI)
Ford (TN)
Frenzel
Frost
Gallegly
Gallo
Garcia
Gaydos
Gejdenson
Gekas
Gibbons
Gilman
Glickman
Gonzalez
Goodling
Gordon
Gradison
Grandy
Grant
Gray (IL)
Gray (PA)
Green
Guarini
Gunderson
Hall (TX)
Hamilton
Hammerschmidt
Hansen
Harris
Hastert
Hatcher
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hiler
Hochbrueckner
Holloway
Hopkins
Horton
Howard
Hoyer
Hubbard
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
Jeffords
Jenkins
Johnson (CT)
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kaptur
Kasich
Kastenmeier
Kennelly
Kildee
Kleczka
Kolbe
Konnyu
Kostmayer
Kyl
Lagomarsino
Lancaster
Lantos
Latta
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lott
Lowery (CA)
Lowry (WA)
Lujan
Luken, Thomas
Lukens, Donald
Lungren
Mack
Madigan
Markey
Marlenee
Martin (IL)
Martin (NY)
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCurdy
McDade
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
Meyers
Mfume
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Morella
Morrison (WA)
Mrazek
Murphy
Myers
Nagle
Natcher
Neal
Nelson
Nichols
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Oxley
Packard
Panetta
Parris
Pashayan
Patterson
Pease
Pelosi
Penny
Pepper
Perkins
Petri
Pickett
Pickle
Porter
Price (IL)
Price (NC)
Pursell
Rahall
Ravenel
Ray
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rogers
Rose
Roukema
Rowland (CT)
Rowland (GA)
Roybal
Sabo
Saiki
Savage
Saxton
Scheuer
Schneider
Schroeder
Schuette
Schulze
Sensenbrenner
Sharp
Shays
Shumway
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (OR)
Snowe
Solarz
Solomon
Spence
Spratt
St Germain
Staggers
Stallings
Stangeland
Stark
Stenholm
Stokes
Stratton
Studds
Stump
Sundquist
Sweeney
Swift
Synar
Tallon
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Torres
Towns
Traxler
Udall
Upton
Valentine
Visclosky
Volkmer
Vucanovich
Walgren
Watkins
Waxman
Weber
Weldon
Wheat
Whittaker
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wyden
Wylie
Yatron
Young (AK)

NAYS—18

Anderson
Archer
Armey
Bates
Beilenson
Crane
Dannemeyer
DeLay
DioGuardi
Fawell
Frank
Kennedy
Nielson
Schumer
Smith, Robert (NH)
Swindall
Walker
Yates

NOT VOTING—50

Ackerman
Aspin
Badham
Biaggi
Boehlert
Bosco
Brooks
Broomfield
Byron
Chappell
Clay
Crockett
Dowdy
Early
Florio
Gephardt
Gingrich
Gregg
Hall (OH)
Hawkins
Houghton
Huckaby
Kemp
Kolter
LaFalce
Lent
Lloyd
MacKay
Manton
Martinez
Matsui
Mica
Morrison (CT)
Murtha
Quillen
Rangel
Roemer
Rostenkowski
Roth
Russo
Sawyer
Schaefer
Shaw
Torricelli
Traficant
Vander Jagt
Vento
Weiss
Wortley
Young (FL)

□ 1830

Mr. SWINDALL changed his vote from "yea" to "nay."

Mr. CHENEY changed his vote from "nay" to "yea."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. DE LA GARZA. Mr. Speaker, I ask unanimous consent that all Members may have 5 days in which to revise and extend their remarks on the conference report just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

□ 1845

DIRECTING THE FEDERAL ENERGY REGULATORY COMMISSION TO ISSUE AN ORDER WITH RESPECT TO DOCKET NO. EL-85-38-000

Mr. SHARP. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 519) to direct the Federal Energy Regulatory Commission to issue an order with respect to Docket No. EL-85-38-000, with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

> Senate amendment:
>
> Page 6, line 16, after "law." insert: "Nothing contained in this Act requires the Commission to take any action pursuant to such consideration, or authorizes or grants the Commission any authority to take any action, based upon the findings, recommendations, results, or conclusions of the study required by this section.".

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

Mr. MOORHEAD. Mr. Speaker, reserving the right to object, and I do not intend to object, I wish to give the gentleman from Indiana an opportunity to explain the Senate amendment.

Mr. SHARP. Mr. Speaker, this is a piece of legislation that has the unanimous concurrence of Members on both sides of the aisle. It derives from the skillful work of the gentleman from Idaho [Mr. STALLINGS] and the other gentleman from Idaho [Mr. CRAIG], Senator MCCLURE, and our committee.

Basically, this resolves a petition that has been pending for 3 years at FERC relative to a settlement agreement aimed at enhancing the resolution or adjudication of water rights in the Snake River in Idaho. In addition it calls for a broad fish and wildlife study of the issues involved.

The amendment adds a one sentence disclaimer to the House-passed bill that was agreed to through discussion with Senator MCCLURE and Congressman STALLINGS and Chairman DINGELL, and myself. The disclaimer which the Senate adopted is consistent with the House-passed bill. While it makes it clear that this bill does not require FERC action upon consideration of the results of the study, but, of course, it does not preclude FERC action under the Federal Power Act and other applicable law. This bill provides no new authority. I have no problem with the Senate addition and I urge its adoption.

Mr. MOORHEAD. Mr. Speaker, further reserving the right to object, I rise in support of H.R. 519 as amended by the Senate amendment. This bill was approved by unanimous voice vote of both the Subcommittee on Energy and Power and the full Committee on Energy and Commerce.

The purposes of the legislation are narrow and affect only certain hydroelectric facilities on the Snake River in Idaho. Under H.R. 519 the Federal Energy Regulatory Commission would be required to issue an order, pursuant to the Federal Power Act, providing that a water rights settlement entered into in 1984 by the State of Idaho and the Idaho Power Co. shall not be considered to be consistent with the terms and conditions of the licenses relating to the retention of project properties.

H.R. 519 would also direct the licensee and interested agencies to negotiate an agreement to protect fish and wildlife resources located in and around the Snake River. Of particular concern is maintaining adequate river flows for the Deer Flat National Wildlife Refuge.

I am not aware of any opposition to this bill, and I urge its speedy enactment by this House.

Further reserving the right to object, Mr. Speaker, I yield to the gentleman from Idaho [Mr. CRAIG].

Mr. CRAIG. Mr. Speaker, I rise today to voice my support for the amended version of H.R. 519, a bill known as the Swan Falls Water Rights Agreement. Enactment of this bill will resolve major issues concerning existing and future uses of resources on the Snake River. I would like to take this opportunity to thank the chairman of the Committee on Energy and Commerce, Mr. DINGELL, and Senator MCCLURE, on amending H.R. 519 to see that all parties concerned with this legislation are satisfied. Mr. Speaker, when this bill came to the floor under suspensions on November 9, I voiced my concern that there could exist interpretive differences between the bill and the House report, which had not had wide discussion and understanding at that time.

With the assistance or Mr. DINGELL and Senator MCCLURE, an amendment was added that clarified the intent of the bill; I quote:

> Nothing contained in this act requires the Federal Energy Regulatory Commission to take any action pursuant to such consideration, or authorizes or grants the Commission any authority to take any action, based upon the findings, recommendations, results, or conclusion off the study required by this section.

Mr. Speaker, it was the understanding of all parties associated with the bill, the State of Idaho, private interests, environmental groups, and Federal agencies, that the bill would remain neutral regarding FERC's jurisdiction over water rights issues. The agreement was that no one was to obtain an advantage through this legislation regarding FERC jurisdiction. This amendment clarifies that intent. The adjudication of water in the Snake River must remain a right of the State of Idaho and not the Federal Government.

Mr. MOORHEAD. Mr. Speaker, further reserving the right to object, I yield to the gentleman from Idaho [Mr. STALLINGS].

Mr. STALLINGS. Mr. Speaker, I appreciate the gentleman from California [Mr. MOORHEAD] yielding to me at this time.

As the chief sponsor of this legislation, I agree completely with the amendment. I appreciate the work of the gentleman from Michigan [Mr. DINGELL], the chairman of the Committee on Energy and Commerce. He has been a great help to me in this legislation. I also appreciate the work of Senator MCCLURE in working up this amendment with me that seems to satisfy the various parties. This is an important piece of legislation for the State of Idaho and I appreciate the expedited effort that has been undertaken by Subcommittee Chairman SHARP and Congressman MOORHEAD.

Mr. Speaker, I include for the RECORD a letter dated December 18, 1987, addressed to Hon. JOHN D. DINGELL, from Senator MCCLURE and myself urging the amendment we are now adopting. The letter follows:

> CONGRESS OF THE UNITED STATES,
> *Washington, DC, December 18, 1987.*
>
> Hon. JOHN D. DINGELL,
> *Chairman, Committee on Energy and Commerce, House of Representatives, Washington, DC.*
>
> DEAR JOHN: We appreciate your recent letter responding to several questions about H.R. 519 as it passed the House. The answers were very helpful in resolving Idaho's concerns.
>
> We think the enclosed disclaimer is consistent with your responses. As you have indicated in discussions with us, no one can predict what will result from the study and thus you are not interested in making it binding on anyone. We agree. The enclosed provision, to be added by the Senate, helps to make that clear, while not limiting the study in any way.

We hope you will agree so we can gain enactment this year.

Sincerely,

JAMES A. MCCLURE,
Ranking Minority Member,
RICHARD H. STALLINGS,
Member of Congress, House of Representatives.

Mr. STALLINGS. I urge adoption of the amendment and the bill.

Mr. MOORHEAD. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SHARP. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

PERMISSION TO LAY HOUSE RESOLUTION 336 ON THE TABLE

Mr. MOAKLEY. Mr. Speaker, I ask unanimous consent to lay House Resolution 336 on the table.

The SPEAKER pro tempore (Mr GRAY of Illinois). Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

AUTHORIZING THE SPEAKER TO EXTEND AND REVISE HIS REMARKS

Mr. PEASE. Mr. Speaker, I ask unanimous consent that the Speaker be permitted to extend his own remarks in the body of the RECORD immediately following the vote on the Journal today.

The SPEAKER pro tempore (Mr. GRAY of Illinois). Is there objection to the request of the gentleman from Ohio?

There was no objection.

FADA'S PERFORMANCE AT VERNON SAVINGS—A DISAPPOINTING AND EXPENSIVE NINE MONTHS

(Mr. ST GERMAIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ST GERMAIN. Mr. Speaker, for the past 5 months the Banking, Finance and Urban Affairs Committee has been actively looking at the performance of the Federal Asset Disposition Association [FADA] and the $5.3 billion of assets under its control. Two criteria for grading FADA's overall performance seem clear—the cost and quality of FADA's asset management services.

We are becoming increasingly concerned that FADA is failing in its mission to recover the maximum from troubled and failed institutions. In fact evidence is mounting that FADA is wasting rather than saving resources for the Federal Savings and Loan Insurance Corporation [FSLIC].

The latest case history—a very big case history—involves Vernon Savings and Loan in Texas. Only one entity—FADA, itself—seems satisfied with FADA's performance. The list of those unhappy with the cost and performance of FADA's operations at Vernon includes:

Members of Vernon's Board of Directors under the Management Consignment Program [MCP].

FSLIC officials.

Federal Home Loan Bank of Dallas [Dallas Bank] officials.

Officers of Vernon and the San Antonio Savings Association which were responsible for the overall operation of Vernon in the MCP program.

Outside legal counsel and consultants.

From the evidence amassed by the committee's investigators, there is ample reason for the unhappiness. Among the complaints have been charges that, first, FADA was awarded an exclusive contract to manage Vernon's assets without proper consideration of the cost or quality of FADA's services, second, FADA's compensation was excessive, eventually reaching $5.3 million for asset management services alone, third, FADA was not timely in preparing for key decision points, fourth, FADA attempted to circumvent established reporting channels, and fifth, FADA refused to support Vernon litigation efforts.

Mr. Speaker, an internal memorandum from the Dallas Bank reflects the sentiments of the Vernon Board of Directors—a Board installed by the Dallas Bank and approved by the Federal Home Loan Bank Board [FHLBB]. I quote:

"Vernon management is not satisfied with FADA's performance to date and characterized management's frustrations in this regard as: Paranoia by FADA personnel, lack of accountability for costs, insufficient reporting, poor client relations, questionable quality and organizational dysfunction."

Several members of the Vernon Board talked with committee investigators, reiterating the sentiment expressed in the Dallas Bank's internal memo. They told the committee that firing FADA had been considered. One told the committee staff:

> It is a real strange kind of a situation that we are working with, having an asset manager operating as a contractor for us even though we are unable to contract with FADA for services we want. In the private sector if the contractor doesn't perform we fire them, except in this situation we can't.

FADA'S SELECTION AS ASSET MANAGER FOR VERNON

On March 20, 1987, the Texas State Commissioner closed Vernon and the Bank Board placed Vernon in the MCP Program. Shortly before designating Vernon an MCP case, the Dallas bank and the Bank Board contacted San Antonio Savings Association on behalf of Vernon and eventually a contract was awarded to provide a management team to guide daily operations. At this time, the Bank Board and the Dallas Home Loan Bank also awarded FADA a contract to manage Vernon's assets.

It is important to note that neither the newly appointed Board of Directors of Vernon or Vernon's president and the chief operating officer had any input into the selection of FADA. Committee investigators were informed that the selection of FADA was made by the president of the Dallas Bank in conjunction with the chairman of the FHLLB. It is well known that FADA lobbied for a significant role in the MCP Program. Apparently, no other input was sought from the Dallas bank staff overseeing Vernon.

As a result, an exclusive contract to manage Vernon's $1.3 billion portfolio was awarded without any effort to solicit bids (or even consider bids) from other asset management entities. If other Government agencies are criticized for awarding contracts without going out to bid, why should the bank board go unquestioned? FADA has now been the primary asset manager for Vernon for over 9 months.

FADA'S CONTRACT WAS EXCESSIVE

As part of its broad inquiry into FADA's operations and performance, committee investigators made a limited review of FADA's activities under its contract with Vernon. The scope of the committee's inquiry included interviewing the key personnel involved from all sides of this contract. This included officials of the Dallas Bank; two members of Vernon's board of directors; several past and present officials of Vernon and San Antonio Savings Association, the association with overall responsibility for Vernon in the MCP Program.

Committee staff also interviewed the Deputy Commissioner of the Texas Savings and Loan Department, a member of FADA's Board of Directors, several FADA officials, and outside legal counsel and consultants.

One comment repeated time and time again to committee investigators was that FADA's compensation was excessive. Vernon Board members quickly cautioned that they were not responsible for establishing the compensation scale, noting again that the contract with FADA was negotiated by the FHLBB without the input of the newly selected Vernon management team. Other interviewees advised committee staff to compare FADA's compensation with that of other asset management entities.

As of September 30, 1987, FADA had billed Vernon a total of $5.3 million for asset management services, and the current monthly billing was $1.3 million. Of this amount, over $1.5 million (over a half million monthly) was directly related to subcontractors, even though FADA maintains a staff of 88 employees at Vernon. These costs were passed on directly to Vernon under FADA's contract in addition to its standard cut of all assets managed.

Legal costs, under the direction of FADA added another $5.4 million to the loss that FSLIC will experience. In total, through September 30, 1987, FADA had directed billings to Vernon of over $10.7 million.

With the amount of money being spent at FADA's direction, one would expect that the quality of professional services being provided to Vernon were truly superb. Unfortunately, the evidence indicates this is not the case.

FADA'S PERFORMANCE AT VERNON

In summary, the officials we interviewed, other than FADA officials, were not satisfied with the services being performed by FADA. Vernon board members and officials were asked by committee investigators if they had ever considered firing FADA. Several of the interviewees confided in committee staff that firing FADA was considered, and that if a receivership action for Vernon was not in the works, removing FADA would have received far greater discussion.

FADA'S PERFORMANCE IN THE PREPARATION OF BUSINESS PLANS

As an asset management contractor for a large portfolio of nonperforming assets, one of FADA's primary responsibilities is to prepare timely preliminary and final business plans. The timely preparation of business plans is essential because these documents provide essential information on the assets' valuation and recommended strategies on the management, marketing and disposition of assets. According to a September 20, 1987 FADA report entitled "Significant Accomplishments at Vernon," FADA has submitted 15 asset business plans to Vernon for review. In contrast, the Vernon board of directors minutes dated September 24, 1987 revealed that "no final business plans have yet been delivered."

One Vernon board member interviewed by staff questioned if 15 asset business plans had actually been presented. But he said even if FADA had presented all 15 business plans, ultimately he was not satisfied and "would like to have recommendations faster than that." He was concerned enough to address the issue to FADA president Roslyn Payne as late as September 30, 1987. He told her to pick up the pace and provide the necessary data to the board on a timely basis.

He emphasized that given the severity of the situation at Vernon, the board needed information from FADA in order to make timely critical decisions on assets. However, according to a Dallas bank document "FADA asset managers indicated that they prefer to have more information available than may reasonably be necessary in order to assure that all the bases are covered and the risk of criticism and liability is lessened." This sounds like a Government bureaucrat speaking, not the private sector real estate experts [FADA] hired to replace them.

FADA's September 20 report on its accomplishments at Vernon also stated that they had "delivered all 672 preliminary business plans within 90 days." This statement is in direct conflict with a FADA official's statement at a Vernon board meeting on July 22, 1987, 122 days after the institution was closed. One of FADA's own portfolio managers stated that "FADA has delivered approximately one-third of the preliminary business plans to the association."

At the same time the portfolio manager also stated that "FADA would begin delivering asset business plans toward the end of 6 months." In fact it wasn't until August 27, 1987, 157 days after FADA's services were engaged that Vernon's board minutes reflect that "all preliminary business plans have been delivered by FADA." It should be noted that this timeframe does not include the 1½ months that FADA was involved in Vernon as asset advisor prior to Vernon's first closing.

COOPERATION AND COMMUNICATION BETWEEN FADA AND VERNON

Committee staff was consistently told that FADA was less than cooperative and communicated poorly, if at all, to Vernon management. In fact, one official said that FADA was even "* * * unable to communicate with itself." One board member made the following observation:

"Communication and cooperation could be improved. There has been some reluctance on FADA's part to cooperate, possibly stemming from FADA's desire to operate autonomously at Vernon."

Another example, resulting in great waste and inefficiency, was FADA's refusal to sign legal documents regarding the management of assets. Despite legal opinions provided by the Bank Board, FSLIC, and Dallas Bank, since May 1987, FADA has asserted that it does not have legal signature authority under their asset management contract.

Instead of cooperating in the best interests of Vernon and the FSLIC insurance fund, FADA resorted to gamesmanship. It proposed numerous amendments to its contract over 6 months to overcome the signature authority problem, but in each new draft attempted to win new authority and concessions for itself. The result was a costly standoff. As of October 29, 1987, 8 months into their engagement, FADA has still refused to cooperate with Vernon and its counsel in prosecuting or defending all litigation or threatened litigation regarding asset management. According to one Vernon board member, FADA has to "start participating now in litigation * * * FADA people are the only ones with detailed knowledge of what is going on. They have to sign depositions and make themselves available for testimony, but they refuse to do it."

THE BANK BOARD FACES A CRITICAL DECISION

Mr. Speaker, reviewing FADA's performance at Vernon is critical now in light of the bank board's long overdue action placing Vernon in a liquidating receivership on November 20, 1987. This action was necessary to reduce the huge operating losses being incurred—estimated at $15-$20 million per week—and to block the ever-increasing exposure to the FSLIC insurance fund. Vernon is the third largest institution to be placed in a liquidating receivership by FSLIC and the projected loss to FSLIC is the largest to date. Vernon's $1.3 billion in total assets is 25 percent of the assets under FADA's control.

A decision is pending at the bank board on whether FADA should remain as asset manager under contract with the Vernon receivership. It is essential that the guiding criteria for this decision be maximizing the recovery for FSLIC. If FADA is not the vehicle to carry out this assignment, it is incumbent on the Bank Board to so state. The public interest demands no less.

BECAUSE OF THEM, I AM FREE

(Mr. CARPER asked and was given permission to address the House for 1 minute.)

Mr. CARPER. Mr. Speaker, recently the noncommissioned officer leadership school at Tyndall Air Force Base graduated a young man from my State, the city of Wilmington in Delaware. That young man has won the Americanism Essay Award contest. His name is Sgt. Troy Watkins, who is associated with the 325th Transportation Squadron at Tyndall Air Force Base.

His essay is entitled "Because of Them, I am Free." I think in that essay he has articulated what it means to be a citizen in this country, and not only his own thoughts but the thoughts of those who served there with him and thoughts I think that all of us would take to heart and share as well.

Mr. Speaker, I include for the RECORD a copy of the essay written by Sergeant Watkins entitled "Because of Them, I am Free."

Because of Them, I am Free

This is my country * * *
These words I state with pride.
It's a feeling of knowing God's blessings
are glowing in this land where freedom rides.

Its journey has been continuous,
throughout the test of time.
Its streaming light reserves the right,
for all to speak their mind.

Many have died to keep alive,
this freedom of our nation.
Their unselfish acts are documented facts,
of gallantry and dedication.

They've crossed the sea,
for you and me,
to prevent her deprivation.
I'd like to express,
to those who rest,
my respect and admiration.

My thoughts of them intensify,
each time our flag is praised;
because I know, I too may go to fight,
where "Old Glory" isn't raised.

These feelings I express right now,
are just too hard for some.
But as a man, I must understand,
many have died for freedom.

Through history, I've come to know them;
they all seem so very proud.
They believed in taking the lead,
although death was calling loud.

America is my homeland,
her ways instilled in me.
My feelings of sharing, and feelings of caring,
stem from her history.

She has my devotion,
for she has shown to me,
the meaning of love, the meaning of life * * *
and why she still stands free.

WHAT IS HAPPENING IN HAITI?

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York [Mr. OWENS] is recognized for 5 minutes.

Mr. OWENS of New York. Mr. Speaker, by the time the 2d session of this 100th Congress convenes in January, the fate of the Haitian people will have been decided. Events are moving rapidly in Haiti despite the fact that they are not now on our front pages. The four leading Haitian Presidential candidates, Sylvio Claude, Gerard Gourgue, Louise Dejoie, and Marc Bazin, on Wednesday issued a joint statement calling for the military junta to step down in favor of a civilian government that would steer the country to free elections. Our State Department has stated that they want to know what the Haitian people want to do. I think these leaders reflect 90 percent of the Haitian people who voted for the constitution and for a course which would lead them into free elections. In this statement which was read over Haiti's radio stations, the four candidates said "We no longer recognize the present governing national council as a moral and political authority capable of defending the country, organizing elections and guaranteeing security. We ask that it resign to permit the country to get back on the path to democracy and progress."

In an interview Wednesday with the Associated Press, Dejoie said the proposed civilian government would be assisted by a cabinet comprised of prominent Haitians nominated by the nine groups the constitution authorized to appoint the original electoral council.

This same electoral council was the one which the military government illegally dissolved on November 29.

Dejoie also calls for foreign nations to withdraw diplomatic recognition of the ruling military government. He told the Associated Press that it is up to foreign governments to decide not to recognize a regime which is not recognized by more than 8 percent of the Haitian people.

The military government continues along its way uninterrupted, of course.

The junta on Wednesday issued a decree saying that the government-appointed supreme court, not the provisional electoral council, will be the highest authority on election issues. General Namphy, the leader of the military government, also accused Haiti's Catholic Church, the same church which has encouraged broad participation in the election, of meddling. He accused them of meddling with politics. Namphy added that although he is a Catholic, "I no longer respect priests."

One can take that remark as a signal to a new terror campaign against the Catholic Church.

□ 1900

Mr. Speaker, I include this article which appeared in the New York Times which quotes Mr. Namphy, and also one from the Washington Times.

The articles referred to follow:

[From The New York Times, Dec. 16, 1987]

Haitian General Lashes Out Widely

POLITICIANS, CHURCH AND U.S. AMONG LEADER'S TARGETS

(By Joseph B. Treaster)

PORT-AU-PRINCE, HAITI, December 15.—Lieut. Gen. Henri Namphy, the head of the provisional Government, has disavowed all responsibility for the massacre that disrupted Haiti's presidential elections two weeks ago and disparaged the Roman Catholic Church, Haitian political leaders and the civilians who organized the election.

In an interview published in a French newspaper today, General Namphy referred to the competing political forces in Haiti as a "basket of crabs" and charged that "foreign countries" had "financed the disorder here."

Except for a formal communiqué, the remarks in the left-of-center French daily Libération were the first by the 55-year-old general on the aborted election in which thugs in civilian clothes and soldiers attacked polling places and at least 34 people were killed.

In the interview, which was conducted last Friday at the general's walled home a few miles north of the capital, General Namphy seemed to confirm the widespread suspicion that regardless of who wins the second attempt at elections, which the general has scheduled for Jan. 17, the army will remain dominant.

NAMES HIMSELF COMMANDER

"The armed forces will guarantee in the future the setting up of the pedestal for democracy," General Namphy said. "That is why for three years we will assume the position of Commander in Chief of the armed forces as the Constitution provides."

General Namphy, who was already de facto commander of the armed forces, gave no explanation when he convened a ceremony last month to formally name himself Commander in Chief.

Many Haitians said they believed the intent of the Constitution was to give a newly elected civilian President the authority to choose his chief army officer and that by taking action as head of the provisional Government General Namphy was presenting an insuperable challenge to the next chief of state.

General Namphy charged the nine-member civilian council that organized the elections with responsibility for the violence that forced the halting of the elections, partly because, in keeping with the Constitution, the council had rejected the presidential candidacies of 12 former associates of the Duvalier dictators.

These candidates "reacted," he said, "and everyone pretends to be astonished and blames the army."

"It is too easy."

"FOREIGN COUNTRIES" ACCUSED

He said that "foreign countries financed and supported electoral tricks and schemes" by the council and that "foreign countries" had tried through the council "to designate the President of Haiti."

At one point he asked rhetorically, "What did Haiti do to the United States to deserve this?"

The United States took the lead, among several countries including Canada and France, in supporting the elections and provided more than $10 million in financial help.

A United States official denied General Namphy's charges, adding: "The disorder seems to have been caused by persons opposed to the electoral process. We supported the electoral process."

General Namphy accused the Catholic Church in Haiti, which had encouraged broad participation in the election, "of meddling with politics" and said that although "I am a Catholic, I no longer respect priests."

[From the Washington Times, Dec. 18, 1987]

Haiti's Try for Democracy Given Slim Chance by U.S.

(By James M. Dorsey)

Presidential and legislative balloting set for next month by Haiti's military-dominated government will not constitute free and fair elections, according to administration officials.

The officials cautioned, however, that the State Department may refrain from exerting too much pressure on the head of Haiti's Council of National Government, Lt. Gen. Henri A. Namphy, in order to maintain relations with the military and any new president elected under military auspices.

Officials of the Agency for International Development told a Senate Foreign Relations subcommittee this week they believe the Reagan administration should not legitimize the Jan. 17 elections by sending observers.

AID provided much of the funds for the original Provisional Electoral Council's budget. The council—established under a constitution adopted by referendum in March—was disbanded last month hours after gunmen and soldiers suppressed Haiti's first democratic elections ended in an orgy of violence that left 34 persons dead.

Dwight A. Ink, AID's assistant administrator for Latin America and the Caribbean, said the United States would resume economic and military aid to Haiti only if free and credible elections are held. U.S. aid amounting to $59 million was suspended in the wake of the Nov. 29 violence.

Humanitarian aid through private and non-governmental organizations would continue, Mr. Ink said.

"Our actions in suspending assistance to the government of Haiti is a strong signal of the U.S. government's desire to pursue democratization in Haiti," Mr. Ink said. "We believe the question of whether aid to the government can be resumed in the future depends on whether Haiti proceeds with elections which are credible to the Haitian people."

Asked by Sen. Christopher Dodd, Democrat of Connecticut, if the newly scheduled elections could be free and fair, Marilyn Zak, deputy director of AID's Caribbean Bureau, said: "In my opinion, no."

Officials said the State Department was attempting to keep its options open in Haiti by "striking a balance between the government and the [original] electoral council."

They said the State Department was distributing the blame for last month's foiled election equally between the government and the electoral council and deliberately maintaining a low posture in monitoring preparations for next month's poll.

State Department officials declined to express an opinion on the constitutionality or legality of the new Haitian election plan. Whatever arrangements are made must be acceptable to the Haitian people, they said.

The officials said the administration is watching what the Haitian people say and do. No decision has been made on whether the United States will support or send observers to any new elections, they said.

The Haitian government appointed a new electoral council a week ago whose nine members include at least three government employees, a retired government worker, two teachers and two lawyers.

The four leading presidential candidates in last month's aborted election have demanded that the original council be reinstated or they will boycott next month's elections.

On Wednesday, the four again urged Haitians to boycott the polls, with one predicting the action would be 90 percent effective.

"The new electoral board, handpicked by the government, won't be fair. We won't vote. We'll have to think of some other way," declared candidate Louis Dejoie.

Richard Beeston contributed to this article, which is based in part on wire service reports.

Mr. Speaker, I represent the largest Haitian-American population in the United States and many Haitian-Americans in the 12th Congressional District felt the shock of the November 29 violence. Many still have relatives and friends on the Island. Several of my Haitian-American constituents informed my congressional district office of those people they knew of or heard about who were victims of that violence. Among the victims were: Arbain Bernard, a 60-year-old man who lived in St. Marc outside of Port-au-Prince. He and 14 other people were in a van, and were riding to their polling place when they were all shot to death.

We have heard quotes about 34 people being killed. There were 34 people killed at one polling place within the city. Here is another example of 14 people shot in a van on their way.

Another victim was a Ms. Fougere of Port-au-Prince. She and her fiance, Fritz Michel, were attacked with machetes and killed. Ms. Fougere was also shot twice. Another Haitian-American constituent, a Mrs. Charlotin, had a sister in Port-au-Prince whose arms were sliced off by her attackers. There was also a report of a 90-year-old Haitian woman, Tina Brierre, who was attacked and killed with machetes as she was praying at the altar of a Catholic Church called Sacred Heart. A political activist, Brierre had appeared on Haitian television prior to the attack. She left two sons who were also known as anti-Duvalierists activists. It is clear that this Port-au-Prince woman was targetted for assassination by the Duvalierist thugs.

And yet, despite the violence and intimidation of the Haitian people, an article in today's Washington Times reports that "the State Department," meaning our State Department, "may refrain from exerting too much pressure on the head of Haiti's Council of National Government, Lt. Gen. Henri A. Namphy, in order to maintain relations with the military and any new president elected under military auspices." The article further says the State Department "was distributing the blame for last month's foiled election equally between the Government and the electoral council.

Mr. Speaker, I think this is shameful behavior on the part of our State Department, and I hope all of us will pray over the holiday season that some new insight will come to our Government and our State Department, and that our Government will take a firmer stand on democracy in Haiti on the side of Haiti.

MIKHAIL GORBACHEV—A DIFFERENT TYPE OF COMMUNIST?

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. DORNAN] is recognized for 5 minutes.

Mr. DORNAN of California. Mr. Speaker, there were some controversies over our great President and his beliefs about the current General Secretary, Mikhail Sergeyevich Gorbachev, and whether or not he was a different type of Communist, the first leader in 70 years to not say publicly, according to our President, that communism was no longer interested in world domination.

I do not think any American who is fair can really begin to comprehend the enormity of the workload on the President of the United States. What we in the news media often and in rhetorical flourishes refer to as the leader of the free world, which he truly is, can we ever begin to understand the enormity of his job or the tremendous responsibility he feels to the cause of world freedom? The President must rely on the scholarship provided to him by staff, and one of the greatest shortcomings that came about and came to pass because of the whole Iran-Contragate circus was that the President was not apprised after he had made this statement once that Gorbachev had never spoken publicly of communism seeking world domination, he was not apprised of Mr. Gorbachev's most important speech in this year of 1987, his third year of power as the General Secretary of the world's largest Communist Party.

On November 2, 1987, that is 35 days before Gorbachev came to the United States and arrived at Andrews Air Force Base on November 2, kicking off a 5-day celebration in the Soviet Union of the 70th anniversary of the success of world communism, General Secretary Gorbachev stood before a massive audience. In that audience was Daniel Ortega, the dictator of Nicaragua. There was Gus Hall, head of the Communist Party of the United States, that draws most of its funds through a Swiss bank account that is filled with Soviet rubles converted into dollars, as the Soviet Union supports most of the Communist Parties around the world. There also were all of the world Communist leaders from Angola, from Mozambique, from Cambodia, from Vietnam, North and conquered South, from all over the world and Mr. Gorbachev made a long speech. I would not be allowed to put it in the RECORD because of the expense. So I ask all of my colleagues to simply avail themselves of the privilege as a Congressman to call up FBFS, the Foreign Broadcast Information Service, and have them deliver to your office, as they did to mine today within hours, the entire massive text of Gorbachev's speech before his Communist comrades from the world on November 2.

Here is how Mr. Gorbachev ended that speech, and it is a shame that this was not put before the eyes of Ronald Reagan, or Mrs. Reagan, or anybody in the White House. His excellent new National Security Adviser told me in his office in the White House yesterday that he was not necessarily aware of this speech.

Here is the way it closes:

> Only a little over 13 (as heard) years remain before the beginning of the 21st century, and in 2017 our people and all progressive mankind will be ushering in the centerary of the great October revolution. What kind of world will it be when it steps over the 100 years' mark of our revolution? What kind of socialism—the Communist word for communism—will it be, and what degree of maturity will have been achieved by the world community of states and peoples? Let us not speculate, but we should remember that it is at the present time that the foundations of the future are being laid.

As an aside, as they are trying to lay them in Nicaragua right now.

> It is our duty to preserve our unrepeatable civilization and life itself on Earth, to achieve the triumph of reason over nuclear madness, and to create every condition for the free and all-round development of man and mankind. [Applause.]

Those are beautiful words, that last sentence, that every decent man and woman of conscience would ascribe to.

Here is his closing:

> We see the possibility for endless progress. We realize that it is not easy to achieve it, but this does not intimidate us. On the contrary, it inspires us, since it fills life with a lofty humane purpose and profound meaning.
>
> In October 1917 we departed the Old World and irreversibly rejected it. We are traveling to a new world, the world of communism. We shall never deviate from this faith. [Prolonged and stormy applause.]

Mr. Speaker, I close by saying that the President, until this morning, did not know of those words where Gorbachev calls for a world of communism. He did it also at the 27th Congress, and he will do it again.

I hope that the President in his radio address informs the world that he was mistaken, it was not his fault, and that Mr. Gorbachev, like all of the leaders before him, Lenin through Stalin, through Khrushchev, through Andropov, Chernenko, Brezhnev before him right down to now has never deviated from the Communist plan for world domination, because the truth is they cannot exist side by side with us. We can with them, but the comparison is so odious, unless they have universal control of every government of the world, they will always have to build Berlin walls and shoot people, which they have suspended temporarily in East Germany. They shoot people who try to escape toward freedom as they do in Afghanistan, Nicaragua, Angola, East Germany, Hungary, Poland, and every country that suffers under communism in this generation.

AMALGAMATED BANK: SUCCESS IN SPITE OF GOOD SERVICE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. ANNUNZIO] is recognized for 5 minutes.

Mr. ANNUNZIO. Mr. Speaker, the fees charged by many banks for simple checking privileges defy responsibility and fairness. Why must the little guy fund the banking services used by corporations and the very wealthy? All to often, banks cater to those with large sums of money, neglecting those of more moderate means who also require banking services.

I would like to call to the attention of my colleagues an institution which is working for and with middle-class consumers to ensure that their banking needs are met in an equitable and efficient manner. Amalgamated Bank of New York is dedicated to serving middle-class customers and the labor community. With the sound backing of the Amalgamated Clothing and Textile Workers, Amalgamated Bank has provided reliable and cost-efficient banking services for almost 65 years.

In spite of its emphasis on consumer needs, Amalgamated bank has managed to make a profit for 44 consecutive years. While foregoing some more common banking services such as issuing credit cards, Amalgamated Bank has met the peculiar needs of its customers in innovative ways. This is a shining example of the kind of performance that all banking institutions should strive to achieve.

With this statement, I am inserting into the CONGRESSIONAL RECORD an article from the Wall Street Journal of December 14, 1987, which aptly describes the success of this bank. I encourage my colleagues to read this article and to keep in mind the services provided by Amalgamated Bank of New York when considering legislation affecting banking customers.

[From the Wall Street Journal, Dec. 14, 1987]

HOW A UNION SURVIVES IN BANKING BY PUSHING SERVICES OVER PROFITS

(By Robert L. Rose)

NEW YORK.—When Amalgamated Bank of New York introduced a free checking account last fall, it wasn't content to quietly inform its customers. The bank bought an ad opposite the editorial page in the New York Times and asked: "Why is free checking only for those who can afford to pay for it?"

The bank's inclination to tweak its big corporate rivals isn't surprising. Amalgamated is a union bank, founded in 1923 by the Amalgamated Clothing Workers and still owned by the 284,000 members of its successor, the Amalgamated Clothing and Textile Workers.

Heralded as the wave of the future by labor leaders earlier in the century, labor banking was a flop. Out of some 38 labor banks founded in the 1920s, only Amalgamated in New York and Brotherhood Bank & Trust in Kansas City, Kan., survived as labor-owned institutions.

Now, with some labor experts predicting a comeback in union membership and influence, Amalgamated provides one of the oldest examples of a kind of labor-owned business that may multiply. In the past several years, about half a dozen new labor banks have opened, and more are on the way. Like the clothing workers who started Amalgamated, other unions see a chance to own a bank friendly to their members' needs and find new investment outlets for their growing assets.

A ROGUE BANK

Amalgamated survived largely because its union owner insisted on conservative banking and professional management. In contrast, the Brotherhood of Locomotive Engineers set up banks across the country during the 1920s and quickly branched into securities and even Florida land development. Losses piled up, and the union eventually charged four of its officers with mishandling funds. By 1931, the engineers were out of the banking business.

Amalgamated has also benefited from being something of a rogue bank, loudly touting a consumer ethic and often de-emphasizing profits in favor of services. Its free checking account is only the latest evidence: Amalgamated claims to have pioneered the unsecured installment loan in the 1920s, lending money to borrowers with no collateral but a steady job. Three times a survey has named it the top bank for consumers in New York City. "They give me the best treatment," says Mike Garcia, an officer of the Leather Goods, Plastic and Novelty Workers' Union, who says he banks at Amalgamated because of its labor roots.

OVERLAPPING CONSTITUENCIES

Amalgamated has reported 44 consecutive years of profit and has grown to $1.47 billion in assets by serving two overlapping constituencies: middle-class consumers and organized labor. Now, the union-owned bank is exploring other ways to use its labor ties and financial muscle to expand in new areas.

Earlier this year, Amalgamated teamed up with Metropolitan Life Insurance Co. in a proposal to offer a comprehensive money-management program for the AFL-CIO's 14.5 million members. On a smaller but no less innovative scale, Amalgamated is helping three New York locals of the Bridge, Structural and Ornamental Iron Workers union use some of their pension money to finance below-market, no-points home mortgages for their members. The bank is considering expanding the service to other unions, many of which have retirement trust funds under Amalgamated's care.

The recent mini-resurgence of labor banking is led by unions in the construction trades. Massachusetts members of the carpenters' union opened a Boston bank in September, and California carpenters plan to open a separate institution next year. Two-year-old Union Savings Bank in Albuquerque, N.M., another construction-trades bank, uses its $10 million in assets for loans to small businesses and other customers.

"I think there's been a realization that we should be generating jobs with our own money wherever possible," says Anthony Ramos, the retired former leader of the California State Council of Carpenters.

Amalgamated's loud voice on consumer issues is partly a marketing ploy to set itself apart from the pack. As other banks cater to big depositors and raise fees for small accounts, Amalgamated promotes treats for the little guy, such as its free checking and low-interest personal loans.

Highly conscious of its labor roots, Amalgamated also likes to take shots at the establishment banks. In one of its radio commercials, a stuffy banker tells a customer he needs a password to sit down. "The name of any Ivy League school will do," says the banker. "P.S. 188?" asks the customer, naming the public school he attended. In other ads, comedians Jerry Stiller and Anne Meara imitate rank-and-filers with names like Rocco and Blanche, and pitch "America's Labor Bank."

"If we give [the industry] an uncomfortable feeling for a couple of hours, it will be worth it," concludes Edward M. Katz, Amalgamated's president and chief executive.

The bank's five-story brick headquarters, which it shares with its union owner, overlooks New York's Union Square, the site of labor and political rallies earlier in the century. Back in the old days, Amalgamated's services even included a travel agency and foreign-exchange desk for the immigrant population that dominated the clothing workers' union. Today, customers in open shirts and work boots outnumber those in business suits. Proclaims a plaque on the lobby wall: "New York's First Labor Bank, dedicated to the service and advancement of the labor movement."

Mr. Katz, too, is quick to prove his allegiance. After ushering a visitor into his office, he flips open his suit jacket and proudly shows the union label. A soft-spoken man of 66 who started as a part-timer at the bank in 1946, Mr. Katz raises his voice when he talks about how small depositors have fared under banking deregulation. Not too well, he believes. "When you have a special industry using Uncle Sam as an umbrella in times of difficulty, don't you owe something to the public?" he asks. "What would be so wrong with having an account on which you don't make money?"

Amalgamated, though, is bucking a strong trend. A national survey conducted by the Consumer Federation of America and others found that fees for routine banking services are rising sharply for most depositors.

In some ways, Amalgamated has a lot less to offer those customers than its competitors. Small by big-bank standards, it doesn't generally offer credit cards or home mortgages. With only three branches and two newly opened automated teller machines, it lacks what many consumers want most: convenience. And in the ranks of big-league banks, Amalgamated is an also-ran, shunning such trends as interstate expansion and the hot competition for corporate loans.

"I'm not conscious of their presence" as a competitor, says Richard Ravitch, the chairman and chief executive of Bowery Savings Bank, which has about four times the assets and eight times the branches of Amalgamated. Contends another New York banking official: "If they were the best, they'd be bigger."

But what Amalgamated does have, it pushes hard, especially its reputation as a low-cost consumer bank. Last year, when an annual survey by New York State Sen. Franz S. Leichter dropped Amalgamated to No. 11 from No. 1 as the least expensive bank for New York City consumers, Amalgamated officials phoned the legislator and angrily complained. (The bank is back up to No. 2 this year.) In 1985, the Better Business Bureau of Metropolitan New York challenged Amalgamated's boast of having the lowest auto-loan rates of any bank in the city. But the bank quickly backed up the claim, the bureau says.

Amalgamated says its current 9.2% interest rate on new auto loans is still the best in the city. According to the Bank Rate Monitor, seven of the largest bank and thrift institutions in the New York City area charge an average of nearly 12.5%. On the deposit side, the bank's 6.25% annual yield on money-market accounts is a third of a point higher than the average paid by 10 big institutions tracked by the monitor.

Amalgamated also pays interest and charges no fees on savings accounts with a $5 minimum. And it is not unusual for the bank to get thank-you notes from longtime customers surprised to find the bank honored their checks—and charged no penalty—on their overdrawn accounts.

Customers' main complaint centers on what bank employees call "the conga line" that often slowly snakes its way to 23 tellers in the lobby of the main office. Still, other factors outweigh the long waits, depositors say. Edward Soorko, for example, says he moved his account to Amalgamated after Citibank bounced a check for his son's tuition—even though he covered the check with a deposit the same day.

Charles Nabelle, a dapper 82-year-old customer in a white hat and sports coat, walks 13 blocks to get to Amalgamated's Union Square office. There are plenty of closer banks, but he says he chose Amalgamated because he likes the personal attention he gets there. After cashing a $40 check, Mr. Nabelle offers a short lecture on the importance of shopping for bank services. "A poor sucker will go for Chase Manhattan as opposed to Amalgamated because Chase or Citibank is an *important* bank," he says. "That is unfortunate."

And perhaps costly. Sen. Leichter's latest survey found that a typical bank customer with $600 in checking and $1,000 in savings would earn $105 in a year at Amalgamated and lose $100 at Manufacturers Hanover Trust Co. Amalgamated, says Glenn von Nostitz, the legislative aide who oversees the survey, shows "you can give people a break and still make money."

Not surprisingly, Amalgamated has kept a close relationship with organized labor. Unions account for up to two-thirds of its $1.1 billion in deposits, and its trust department holds an additional $3.2 billion in pension and health-and-welfare funds. Amalgamated manages $1.6 billion of the trust funds, shunning stocks and corporate bonds in favor of safer government securities.

In 1973, Amalgamated officials worked over a weekend to fill out hundreds of bail checks to keep striking Philadelphia teachers out of jail. Nine years later, when the National Football League Players Association ran out of money during its strike, it turned to Amalgamated for a $200,000 loan. The players' union didn't have an account with the bank at the time, but "we did after that," says Ed Garvey.

Although neither the Amalgamated Clothing and Textile Workers union nor the bank likes to admit it, the goal of giving consumers and unions a break often conflicts with the goal of making money. But Mr. Katz has the luxury of working for owners who aren't constantly pressing for higher profits. "You make a little less," concedes Jack Sheinkman, the President of the union and chairman of the bank. "Despite that, we've done very well in terms of our return on equity and on capital," which exceed the average for banks Amalgamated's size.

That attitude makes it easier for the bankers to concentrate on another priority of the union—financial safety. The bank has few corporate customers and, as a matter of policy, turns down offers to participate with other banks in corporate lending. "I don't want to rely on my big brothers" to determine if a loan is safe, says Mr. Katz. Nor does he like to gamble on investments. Mr. Katz prefers buying U.S. government securities, and the shorter the maturity the better. "All the money's tied up in cash," jokes Howard Lee, the executive vice president and cashier.

The result is steady, if not spectacular, profits. Last year, Amalgamated earned $12.2 million, sending $7 million of that in dividends to its union owners. Government bank examiners often do double takes when they pore over Amalgamated's books. Bad loans charged off in 1986: $195,000 out of $313.5 million, far below the average for banks its size. Auto loans delinquent 30 days or more at the end of November: 11 out of 13,044.

Says William A. Goldberg, who runs the bank's personal-loan department: "We're here for the average guy—so long as we are reasonably assured he'll pay us back."

A TRIBUTE TO SHIRLEY NOVOTNY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Minnesota [Mr. OBERSTAR] is recognized for 5 minutes.

Mr. OBERSTAR. Mr. Speaker, I rise today to pay tribute to a long-time employee of this body and of the Committee on Public Works and Transportation, Mrs. Shirley Novotny. For 26 years she has been an extraordinary professional staff member of the Committee on Public Works and Transportation, and for most of those years a very dear personal friend of mine, both in my earlier capacity as a member of the staff and in my current capacity during the earlier years that I have served as a Member of this body.

Shirley retires at the end of this year and carries with her in that retirement the undying gratitude of the members of the Committee on Public Works and Transportation, and particularly members of the Subcommittee on Investigations and Oversight, and as well carries with her the everlasting friendship and respect of her staff colleagues on the full committee and on the subcommittee.

Shirley was born and raised in Mount Morris, MI, population 3,500. She was recruited by the FBI after graduation from high school to work in Washington, DC, where she served from October 1944 until 1946, at which time she married and took leave from work to raise a family: five children, three boys, two girls, followed by five grandchildren, again three boys and two girls.

She resumed her professional career in October 1961 when she came to work for the Subcommittee on Investigations and Oversight under the leadership of my predecessor, a former boss, a Member of this body, John Blatnik, and continued in the service of that subcommittee for all of the years since then.

The first hearing of the subcommittee that Shirley participated in, performing staff and clerical work in preparing for the very complicated series of hearings that the subcommittee was engaged in heavily in those early years was a hearing on right-of-way acquisition practices in Massachusetts. Since that time, her professionalism has grown and deepened and her service has become more dedicated. She is one of those unsung heroes of this body and of the committee whose work does not get great publicity, does not get great attention on a day-to-day basis, as Members do and as committees and subcommittees do, but without whose work the job of this body and of its committees cannot be effectively accomplished.

Shirley Novotny is one of the most thoroughly professional staff members I have known in my nearly 25 years' service in Washington, DC, and in this Congress. The last hearing which she staffed was just barely 10 days ago, at which time I interrupted the subcommittee hearing at the very outset to pay tribute to her.

She carries with her into retirement an enormous storehouse of knowledge about this body, about the work of the full committee, but especially the Subcommittee on Investigations and Oversight. She has been an integral part of the progress we have made in professionalizing the Federal Highway Program and taking graft and greed and corruption out of highway and bridge construction practices and right-of-way acquisition practices throughout the years that the subcommittee focused specifically on the Federal Highway Program. She has done yeoman service day in and day out on the myriad of details that are necessary to make a hearing successful and to keep a committee professional and above reproach.

Shirley's career has been distinguished by a unique quality of dedication and commitment to service, never a murmur, never a complaint about long hours, about detailed work, about extraordinary deadlines that had to be met, that perhaps now in retrospect we could ask: "Was it really important?" It was important then and she did the work because it was necessary to be done.

□ 1915

Her work has always been of the highest quality, unquestioned and deeply appreciated by all the members of the committee and especially by her coworkers on the staff. Shirley and her family will relocate to Las Vegas, NV, where certainly I know my colleagues on the committee and her colleagues on the staff wish her all the very best of everything good, bountiful, and enjoyable in the well-deserved retirement years ahead.

THE 1985 FARM BILL IS WORKING

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas [Mr. DE LA GARZA] is recognized for 30 minutes.

Mr. DE LA GARZA. Mr. Speaker, I rise today to tell you and the Nation that, in spite of difficulties and setbacks, the American farmer is still the most productive farmer in the world, and that the farm bill which this body fashioned in 1985 has proven to be a good one that has worked to the benefit of the farmers and the consumers of this Nation.

Recently we had a visit from several Soviet Union officials from their agriculture sector. If you ever had any doubt about the abundance produced by the American farmer, you only had to watch these Soviet agricultural officials as they viewed the amazing breadth of choices available in any American grocery store.

Just as these Soviet officials were amazed, I believe every American consumer should be amazed that such quality and variety is available at such reasonable prices. Certainly, food prices have gone up, but as a percentage of take-home income, food prices have been by far the most stable portion of the American family's budget. The next time someone complains to you about high food prices, remind them that even if American food prices were doubled, Americans would still spend a smaller percentage of take-home pay on food than the average resident of most nations of the world.

While I wanted to remind our consumers of just how lucky we all are, I rise today principally to provide you with a report on the status of American agriculture.

Five recent trends favorable to American farmers demonstrate that the 1985 farm bill is having a positive effect on U.S. agriculture:

First. The farm financial crisis is abating.

Second. Producer income has increased.

Third. U.S. grain surpluses are moderating.

Fourth. Demand—both domestic and foreign—is responding favorably.

Fifth. The farm bill is affecting global production and trading trends.

In addition, the legislation may be having other beneficial side effects.

Recent data show that the farm financial crisis that attracted national media attention in 1984 and 1985 is beginning to ease. Overall farm debt has fallen from a high of $190 billion in 1982 to about $141 billion in 1987, a decline of about 26 percent. The fact that farmers are paying off their loans may also be seen in declining debt-to-asset ratios. According to USDA, that number now stands at 19 to 21 percent. That is still too high, but it is down 3 percentage points since 1985.

Improving farm income is another sign of the favorable impact of the farm bill. Net cash income in 1987 is forecast to reach a recordbreaking range of $53 to $57 billions of dollars. Because of lower commodity prices, farm receipts are expected to drop $12 billion below their 1985 level. However, the effect of that decline will be more than compensated by lower production expenses and modest assistance from the Government.

One of the most important goals of the 1985 farm bill was to bring down the huge commodity surpluses which have overhung the international markets. Through very few people believed us at the time the bill was passed, the bill is working and commodity surpluses are coming down to more manageable levels. This can be seen in production trends and in carryover stocks. Participation in farm programs under the 1985 farm bill has been quite high—from 69 percent in 1985 to 84 percent in 1987. The acreage reduction program and conservation reserve programs have resulted this year in approximately 70 million acres being taken out of production. Because farmers tend to idle their least productive acres and can increase their yields on remaining acres, this does not translate directly—percent for percent—into cuts in actual output. Still, the most recent USDA estimates show that corn production is down 19 percent and wheat production is down 13 percent from their 1985 levels. In addition, ending stocks have fallen in virtually all of the major traded commodities. This represents a very considerable and very favorable change from only a year-and-a-half ago, when grain bins were bulging and corn was being dumped beside filled elevators. These reductions should continue to translate into higher marketplace prices for farmers and in lower Government storage costs.

A third key measure of success of the 1985 farm bill is demand. Again, the farm bill seems to be hitting the mark. Both domestic consumption and export sales have risen in response to provisions of the omnibus legislation. U.S. grain use has gone up as livestock producers take advantage of rock-bottom prices. Domestic corn utilization is predicted to rise by nearly 15 percent over its 1985 level.

It is distressing to us all that virtually every month brings a new record-level trade deficit. We all recognize this as a national problem which requires the attention of both the Congress and the administration. Yet, when those disturbing trade deficit figures come out, no one remembers to point out that, without the contribution of increased agricultural exports, the figures would be much worse.

It may require a few more years for the United States to reach the record high of 1981, in which we exported some $43.8 billion in farm commodities, but now, after a 6-year slump, real progress is being made as a result of the 1985 farm bill. Our 1986 farm commodity exports were about $26.3 billion and USDA estimates that figure will reach $28 billion in 1987. The export recovery is also evident in volume increases: Exports should be approximately 129 million metric tons in 1987, relieving a steady downward trend. USDA forecasts that both the volume and value of farm exports will rise further in the current fiscal year.

These encouraging export numbers have also helped the agricultural trade balance. Net exports are expected to reach nearly $8 billion in 1987. That is still a far cry from the $26.6 billion farm trade surplus we enjoyed in 1981, but it is a definite improvement over 1986, when a strong dollar was pushing our farm trade surplus toward the vanishing point.

Although some of the improved export performance may be attributed to an overall increase in world trade, the United States is making progress in recapturing some of the market share lost in the 1980's. In 1981, the United States sold 48 percent of all grain traded internationally. U.S. grain sales plummeted to 31 percent of the world market in 1985, but have now rebounded to an extimated 48 percent in 1987, a remarkable recovery by any standard.

A closer look at agricultural exports show progress being made on all major commodities, not just grains. Wheat exports will rise about 450 million bushels for fiscal year 1987-88, and corn exports will increase about 200 million bushels over last fiscal year. But also cotton exports are expected to take a marked upswing, with about 500,000 more bales than last fiscal year.

Also, one of our traditionally most controversial programs, the dairy price support program, appears to have been stabilized. The changes mandated by the 1985 farm bill have helped lower dairy program outlays from more than $2.53 billion in 1983 to $1.24 billion this year.

We have made immense progress in dealing with one of the most troubling problems in our dairy program, that of excessively large stocks and the costs of maintaining those stocks. In the last year, butter inventories have dropped by 58 percent, cheese inventories have dropped by 82 percent and nonfat dry milk inventories have dropped by 91 percent. In fact, Mr. Speaker, USDA has informed the committee that, at current rates of usage, we may find ourselves short of dairy product for feeding programs by next March.

Another point in favor of the farm bill is that global agricultural trends are beginning to respond to program changes. In 1987, world grain production decreased and consumption increased; for the first time in this decade, world consumption of all grains and cotton should exceed production. U.S. farm programs are a major contributing factor here; the price-moderating influence of the farm bill has helped to put a brake on runaway world grain production, and has made food more affordable for millions of people.

The five trends discussed above can be seen simply by examining raw data. However, the farm bill is likely to have other effects on both the domestic and international agricultural scenes. Such effects cannot always be measured by numbers, but may nonetheless have far-reaching implications for American farmers.

Many observers have noted that the gradual lowering of price and income supports mandated by the 1985 farm bill will eventually provide greater market orientation to American agriculture. That movement was strengthened by the introduction of the generic PIK certificate program. Under this program, farmers receive a portion of their direct income support payments in the form of certificates that entitle them to take possession of USDA-held commodities. However, these commodities may also be used—and have in fact been widely used—by farmers to redeem price support loans at more favorable rates (a strategy commonly known as "PIK and roll"); they may be sold or they may be turned in for cash. The latter two represent the simplest two options for the farmer; the PIK-and-roll technique, however, requires the farmer to pay closer attention to the market in order to maximize his profits. Through the creation of this program, the farm bill will improve the marketing skills of thousands of American farmers.

In the area of farm trade, we in the Congress in the 1985 farm bill provided the administration with the necessary tools to respond to unfair trading practices of competing grain producers—especially the European Community [EC]. The EC's common agricultural policy supports farmers mainly through providing high internal prices to farmers and using export subsidies to dispose of surplus production. In so doing, the EC has lured away traditional U.S. grain customers. To respond to this practice, the Congress has mandated both lower price supports and the Export Enhancement Program [EEP], aimed specifically at recapturing former export markets. Both of these policy tools, along with the cheaper dollar, have made it much more expensive for the EC to dump its surplus grain on world markets. Eurocrats are now reportedly examining a number of proposed measures aimed at bringing down the high cost of the common agricultural policy. Such options include reducing price supports, implementing a supply management program, and even destroying surplus stocks. The farm bill thus shows the U.S. determination to fight back against unfair trading practices, and should strengthen the American position at the bargaining table during the current round of negotiations on the General Agreement on Tariffs and Trade [GATT].

Mr. Speaker, I will be the first to admit that the 1985 farm bill has had some disappointing features. The most obvious one is on the Government cost side. From a $3 billion annual average cost in the 1970's, Federal outlays on farm programs soared to nearly $26 billion last year. However, there should be some consolation in the fact that even that trend has turned around. The most recent estimates by both the Office of Management and Budget and the Congressional Budget Office show farm program expenditures to be dropping more swiftly than anticipated earlier this year. Even with the higher expenditures this year, all of the money spent on agricultural programs amounts to only about 3 percent of our total national budget of over $1 trillion. Mr. Speaker, 3 percent of our national budget seems like an extremely small price to pay to keep America the best fed nation in the world and for our farmers to at least remain solvent.

And we must also admit, Mr. Speaker, that not all of the favorable movements mentioned may be attributed solely to programs of the 1985 farm bill. Traditional factors such as GNP growth, interest rates, inflation, and exchange rates play a decisive role in the international trade climate, and are all far beyond the control of those of us in this body. The 1985 farm bill provided a framework for the long-range recovery of American farmers and, with a bit of luck and a lot of hard work, we will continue to make progress on the overall agricultural economy.

INTELLIGENCE OVERSIGHT ACT OF 1987

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio [Mr. STOKES] is recognized for 60 minutes.

Mr. STOKES. Mr. Speaker, today, joined by Mr. McHUGH, chairman of the Subcommittee on Legislation of the Permanent Select Committee on Intelligence, and Mr. BOLAND, a former chairman of the committee, I am introducing the Intelligence Oversight

Act of 1987. This legislation is the culmination of an effort, begun in February of this year, to clarify and revise the important provisions of the National Security Act dealing with congressional oversight of intelligence activities in general and covert actions in particular. At that time, I, the gentleman from Massachusetts [Mr. BOLAND], the gentleman from New York [Mr. McHUGH], and others, introduced H.R. 1013. The central feature of that bill was a provision explicitly requiring prior notice to the Intelligence Committee of all covert actions, except in extraordinary circumstances where time was of the essence. In such cases notice could be delayed for no more than 48 hours.

This past spring, the Subcommittee on Legislation held 3 days of hearings on H.R. 1013. The subcommittee heard from 12 witnesses, including the Speaker and the minority leader, and received statements or letters from several constitutional scholars and former intelligence officials.

On December 11, Mr. McHUGH and I appeared before the Senate Select Committee on Intelligence to testify on H.R. 1013 and on oversight provisions proposed by Senators BOREN and COHEN and other members of the Senate Intelligence Committee in Senate bill S. 1721. Both sets of hearings, much discussion at both the member and staff level, and the recommendations of the Iran-Contra Committee have caused Mr. BOLAND, Mr. McHUGH and I to revise and expand H.R. 1013. These revisions are contained in the bill we introduce today, which, we hope, can be sent to the floor very early next year.

The intelligence oversight legislation we propose today retains the most important element of H.R. 1013—the provision dealing with prior notice of covert action. Recent events demonstrate beyond doubt that existing law in this area will not serve this body well when confronted by an administration willing to evade congressional oversight. Recent events also quite clearly demonstrate that covert actions carried out without prior notice to the Congress and without the advice of the Congress can have devastating results for the Nation and particularly for intrabranch comity.

The history of covert actions is mixed. Many question their utility or wisdom, especially when para-military activities are involved, or when major foreign policy changes are effected. Congress, through its surrogates, the Intelligence committees, must be fully advised of covert action, and it must be advised sufficiently prior to the planned advent of a covert action to permit full consultation. The simple reason for this is that consultation per force replaces the normal public and congressional debate on foreign policy issues. Therefore, the proposed legislation requires prior notice of covert actions in all cases, except in rare instances where the President determines that the press of fast-moving and important events requires immediate action. In such cases, notice to the committee is required no later than 48 hours after the approval of the covert action finding.

My reading of the legislative history of the 1980 Intelligence Oversight Act indicates that when Congress wrote its timely notice provision in section 501(b), in effect recognizing that prior notice may not be provided in all cases, it was thinking only of situations where time would be of the essence and the press of events would not permit the President to notify the intelligence committees of a covert action which he felt it imperative to launch immediately. The Department of Justice, on the other hand, has read that legislative history to mean that the President may withhold notice of covert actions or other intelligence in his discretion for as long as he feels appropriate.

I believe the Iran/Contra Committees rightly judged that these assertions would play havoc with congressional oversight.

When time is of the essence and the President must act, he should act, but 48 hours is certainly a reasonable time within which to subsequently notify Congress in the rare cases where prior action, rather than prior notice, is necessary. This approach, in my view, pays all due deference to the President's constitutional prerogatives by recognizing his duty to respond swiftly in times of crisis. That is why the 48-hour rule was proposed.

As we all know, much of the impetus for this bill comes from the Iran/Contra affair. During the joint committees' investigations, a number of disturbing events were exposed. The most egregious event involved the 10-month delay in notifying Congress of the January 17, 1986 finding on Iran. What the President did in this case was interpret the timely notification language of section 501(b) of the National Security Act to mean that he could delay indefinitely any notice to the Congress of a significant intelligence activity. Subsequent statements by the Department of Justice make clear that, in the view of the President's lawyers, the President was wholly within his rights under the constitution as well as under the oversight statute to act as he did. To let such a view stand uncontradicted, in my view, would mark the beginning of the end of effective congressional oversight of intelligence activities.

Recent events also have re-emphasized the vital importance of the covert action approval process within the executive branch. Therefore, the legislation sets out exactly what must be contained in a covert action finding, requires the finding to be in writing, and prohibits retroactive findings.

Finally, the proposed legislation restructures the general intelligence oversight requirements now contained in the National Security Act and in the Foreign Assistance Act of 1961. What is required and expected of the executive branch and the Congress will be clearly set out in one piece of legislation, and it is made clear that findings are required for all special activities conducted by any element of the U.S. Government or at the request of the U.S. Government and that such findings must be reported to Congress.

Mr. Speaker, I note that very similar legislation is being fashioned this week by a bipartisan majority of the Intelligence Committee of the other body. I hope that the House Intelligence Committee can proceed in the same manner. In the final analysis, the intelligence committees can serve the people and the Congress will only if they are provided the tools with which to conduct effective oversight. The tools are contained in the legislation we propose today. I trust that Members will understand that the ability of the intelligence committees to conduct meaningful oversight may well hinge on the enactment of this bill.

Mr. McHUGH. Mr. Speaker, I am pleased to join today with Mr. STOKES and Mr. BOLAND in introducing the Intelligence Oversight Act of 1987. This legislation is a crucial step in restoring the bond of comity and confidence between the Congress and the executive branch concerning intelligence matters, and in ensuring that this Nation's vital intelligence activities are conducted wisely, efficiently, and legally—and are supported by the American people.

The comity and confidence to which I refer—and which the drafters of the 1980 Oversight Act knew would be so important in implementing the provisions of that statute—have been largely dissipated by actions of the current administration. Many of these actions were related to the Iran-Contra affair, but others preceded it and it has been clear to the intelligence committees for several years that the administration did not wish, as the law requires, to keep the intelligence committees "fully and currently informed" of intelligence activities.

The legislation which I cosponsor today will make it clear that there is no legal underpinning for such a position. It will rebut a tortured and facile interpretation of existing statutory and constitutional law recently promulgated by the Department of Justice. It makes clear:

That Presidential findings, which in almost all cases must be in writing, must precede any covert action;

That such findings apply to all covert actions, whether conducted by the CIA or any other U.S. Government entity;

That such findings cannot retroactively ratify previously conducted covert actions;

That requests to other governments or third parties to engage in covert activities on behalf of the United States are to be treated as if the United States was directly involved; and

That the Intelligence Committees, or the "gang of eight" leadership group in rare cases, must be given prior notice of all covert actions—with an exception of not more than 48 hours after a finding is approved in rare circumstances when the President determines the national security requires that he take action before the committees or "gang of eight" can be notified.

Unfortunately, the administration opposes the prior notice provision. In hearings conducted by my Subcommittee on Legislation, the State Department, the CIA, and some former intelligence officials prophesized disaster if the Intelligence Committees had to be given prior notice of covert actions. Yet, that enactment of the Oversight Act of 1980, prior notice has been afforded of all covert actions, except for the one that did result in disaster, the arms sales to Iran.

The administration also claims that the prior notice provision is unconstitutional. In my opinion, the administration is wrong. The Congress, through its powers of the purse, can condition its appropriations in any manner it sees fit—unless such a condition directly interferes with the exercise of a power textually committed solely to the President by the Constitution. This bill contains no such interference, and, by permitting up to a 48-hour delay in notice to Congress when time is of the essence, it insures that the President can sufficiently exercise his constitutional duty to defend the Nation. I would note that others who study these matters more often than I also believe this legislation to be clearly constitutional. In its deliberation on this bill's predecessor, H.R. 1013, the Intelligence Subcommittee heard from Prof. Lawrence Tribe of Harvard Law School, Prof. Louis Henken of Columbia Law School, and Prof. William Van Allstyne of Duke Law School. Each of these constitutional scholars saw no constitutional problem with the prior notice provision.

The proposed legislation permits the President, in "extraordinary circumstances affecting vital interests of the United States," to give the required prior notice to the limited "gang of eight" leadership group rather than to the two intelligence committees. Yet, Mr. Speaker, this is not enough for the administration. It contends that some activities of the U.S. Government are too sensitive to report even to the leaders of the two parties in the House and Senate. If the Congress is to play its legitimate constitutional role in the areas of intelligence oversight and foreign policy formulation, it cannot accept this argument. The Congress does have a need to know—a need demonstratively more crucial than that possessed by the dozens of foreign officials, arms dealers, and NSC staffers who were privy to the Iran-Contra covert action.

Congress needs to know about covert action for oversight purposes, and it needs to know prior to their initiation for consultation purposes, especially in cases such as the Iran covert action where significant foreign policy issues are involved and where consultation with the intelligence committees takes the place of public and congressional debate. Clark Clifford noted this week in testifying on similar legislation before the Intelligence Committee of the other body:

> One of the principal shortcomings of the Iran-Contra affair was the failure of the President to notify the intelligence committees of the Government's activities. The oversight process could have served a significant, salutary purpose: giving the President the benefit of the wisdom of those who are not beholden to him, but beholden like him directly to the people, and prepared to speak frankly to him based on their wide, varied experience. Had the President taken advantage of notifying Congress, he and the country may well have avoided tremendous embarrassment and loss of credibility.

Mr. Speaker, I fully agree with Mr. Clifford. This legislation is needed to insure a healthy oversight process and to insure that this Nation's intelligence activities promote rather than hinder the Nation's foreign policy objectives. I urge my colleagues to support it and trust that it can be enacted early in the next session.

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GENERAL LEAVE

Mr. STOKES. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of my special order.

The SPEAKER pro tempore (Mr. PENNY). Is there objection to the request of the gentleman from Ohio?

There was no objection.

THE PROPOSED UNITED STATES-CANADA FREE TRADE PACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio [Mr. PEASE] is recognized for 60 minutes.

GENERAL LEAVE

Mr. PEASE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of my special order.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. PEASE. Mr. Speaker, let me say to my colleagues that I will take only a couple of minutes. I would like to discuss in these few days as we wind up our session for the year an issue that will be very high on our agenda next year, and that is the proposed United States-Canada Free Trade Pact which has been negotiated and which is due to be submitted by the administration to the Congress on January 1.

It seems to me that some miscalculations have been made and are in the process of being made regarding congressional approval of this United States-Canada Free Trade Pact. Most of us adhere and support free trade as a general principle. Canada has long been one of the great allies of the United States, certainly a great friend of the United States. We share the world's longest unguarded border. Canada also has been a major trading partner of the United States, and we have had a long and mutually advantageous trading relationship with Canada.

Thus it made sense a couple of years ago when Mr. Mulroney, the Prime Minister of Canada, made the suggestion that we ought to try to negotiate the removal of all barriers to trade or at least almost all barriers to trade between the United States and Canada. That provision has been worked out. As I say, the administration is due to submit it to Congress in just a few weeks.

Mr. Speaker, my concern is that the agreement which has been negotiated between the United States and Canada does not adequately address American concerns about one of the key elements, indeed the largest element of trade between the United States and Canada, and I refer to the automobile trade. We have had an auto pact with Canada for a number of years which treats automobiles as items that can go back and forth across the border, along with parts, without being subject to tariffs.

Many people in the United States feel that the original pact negotiated with Canada regarding automobiles was unduly favorable to the Canadians. That must be also the opinion of Canadians because during the negotiations last year the Canadians were adamant about not wanting to revise or revisit that Canadian-United States-North American Auto Pact. That is all well and good. I think that was a mistake. We should really have negotiated it. But certainly considering the fact that we are going to establish free trade on a broad range of products with Canada, we ought to revisit one particular issue, and that is the standard of preference, if you will, the North American content requirement of automobiles that gain free access to the U.S. market. Currently that standard is 50 percent. U.S. negotiators attempted to make that 60 percent so that automobiles ostensibly assembled in Canada and coming to the United States would have at least half of their content coming from North America rather than from the Far East.

There is great concern, let me say, among those of us who have large concentrations of automobile workers and auto factories with the possibility that this new United States-Canada Free Trade Pact will result in automobile products coming into the United States which essentially are used by the Far Eastern nations, Japan, Korea, Taiwan, Singapore, Hong Kong, and other countries, to get into our market. The Canadians dug in their heels.

I must say that U.S. negotiators made, I think, a genuine effort not only over the months leading up to

September 30, the first deadline, but in the months since to try to change the opinion of the Canadians about this preference provision. The Canadians dug in their heels and would not consider a change. That is very puzzling, considering that about everybody involved in the American automobile industry is in favor of it and indeed many elements in Canada relating to the auto industry are in favor of it also. As I understand it, the UAW affiliates in Canada are in favor of it, auto parts manufacturers in Canada are in favor of it, and yet the Canadian Government has essentially refused to negotiate or compromise on this point and has raised to a very high level their demands for offsetting provisions if they were to consider this change. That must reflect on the part of the Canadians an assumption that Congress will approve this United States-Canada Free Trade Pact without that change.

I would like to alert our Canadian friends that this may be a major miscalculation on their part. The automobile industry is the single largest manufacturing industry in the United States. There are automobile plants, major automobile company facilities, spread around the United States, and there are automobile parts factories and parts plants in dozens of cities and tens of thousands of small plants around the United States, stretching into many, many of our congressional districts.

I for one live in Ohio, a very important state in the auto industry. Generally I support trade with Canada. Generally I support the freer trade. I believe that freer trade is a good idea, but I want to say that I do not represent at all that I will be able to vote to approve that United States-Canada Free Trade Pact if the Canadian Government maintains its present position on the preference provision. And I know a number of other Members particularly the gentleman from Michigan [Mr. Levin], who has worked hard on this issue over the last couple of months, and the gentlewoman from Ohio [Ms. Kaptur], who has also worked not only with the Canadians but with our trading partners around the world on the issue of auto parts entry from foreign countries into the United States, may not be able to vote their approval. It may just well be that those of us who have large concentrations of automobile facilities in our districts will find it impossible to vote for the United States-Canada Free Trade Pact, notwithstanding the general advantages which it might offer to our two countries.

I want to issue that as a warning which I hope will be taken soberly and seriously by our Canadian friends. My belief, as I mentioned before, is that our own Trade Representative has made an effort to get the Canadians to come around to a reasonable position on this point. But it may well be that our own Trade Representative is also miscalculating to a degree the intensity of opposition which may well develop in the House of Representatives if this issue is not resolved.

We have about 2 weeks before January 1, when the administration is supposed to formulate and present this United States-Canada Free Trade Pact to the Congress. My understanding is that one more last effort will be made during these next 10 days or 2 weeks to get an accommodation from the Canadians on this point. I hope that that will be successful. I hope that our Canadian friends will not make a miscalculation and will not take for granted approval by the House of Representatives and the Senate of the Free Trade Pact which means so much to them. I hope our Canadian friends will listen not only to us in the United States but also to their own auto workers and to their own parts manufacturers and will find that they can compromise with us and reach an understanding which guarantees that the North American auto pact really will reserve the primary benefits of automobile trade between the United States and Canada to North Americans and not to those from other nations.

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With that, Mr. Speaker, I say I look forward to the new session and consideration of this United States-Canada Free Trade Pact. I hope very much that when we do take it up we will find that our administration and the Canadians have reached that agreement which will be more satisfactory than the current one is to Members like myself and many dozens of others who represent districts where automobile manufacturing and automobile parts manufacturing is important.

Mrs. Bentley, for 60 minutes, on December 20 and 21.

(The following Members (at the request of Mr. Pease) to revise and extend their remarks and include extraneous material:)

Mr. Murphy, for 5 minutes, today.

Mr. Annunzio, for 5 minutes, today.

Mr. Oberstar, for 5 minutes, today.

Mr. Pease, for 60 minutes, today.

Mr. Levin of Michigan, for 60 minutes, today.

Ms. Kaptur, for 60 minutes, today.

Mr. Gonzalez, for 60 minutes, on December 19.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. Hammerschmidt, to revise and extend his remarks on House Joint Resolution 376 immediately after Mr. Fascell in the House today.

(The following Members (at the request of Mr. Slaughter of Virginia) and to include extraneous matter:)

Mr. Solomon.

Mr. Green.

Mr. Schuette.

Mr. Lowery of California.

Mr. Gekas.

Mr. Porter

Mr. Vander Jagt.

Mr. Dannemeyer.

Mr. Dreier of California.

Mr. Bereuter.

Mr. Leach of Iowa.

Mr. Dornan of California in two instances.

Mr. Fish.

Mr. Archer in two instances.

Mr. Broomfield.

Mr. Young of Alaska.

Mr. Bateman.

Mr. Lightfoot in two instances.

Mr. Gilman.

Mr. Packard in two instances.

Mr. Kyl.

(The following Members (at the request of Mr. Pease) and to include extraneous matter:)

Mr. Clarke.

Mr. Kolter.

Mr. Pickett.

Mr. Vento.

Mr. Guarini.

Mr. Dellums.

Mr. Garcia.

Mr. Matsui.

Mr. Wolpe.

Mr. Tallon.

Mr. Hawkins in two instances.

Mr. Bonker in two instances.

Mr. Williams.

Mr. Dwyer of New Jersey.

Mr. Mineta.

Mr. Rangel.

Mr. Markey in two instances.

Mr. Murtha in two instances.

Mr. Lipinski.

Mr. Towns.

Mr. Edwards of California.

Mr. Dowdy of Mississippi.

Mr. Hamilton.

Mr. Hertel in two instances.

Mr. Torres.

Mr. Flippo.

Mr. Oberstar.

Mr. Coleman of Texas.

Mr. Yatron.

Mr. Slattery.

Mr. Sawyer.

Mr. Jones of North Carolina.

Mr. Dymally.

Mr. Miller of California.

Mr. Dorgan of North Dakota.

Mr. Derrick.

Mr. Chappell.

Mr. Nelson of Florida in two instances.

Ms. Kaptur.

Mr. Sharp.

Mr. Fazio.

Mr. Mazzoli.

Mrs. Kennelly.

Mr. Feighan in two instances.

Mr. Lehman of California.

Mr. ORTIZ.
Mr. WYDEN.
Mr. WATKINS.

SENATE BILL AND CONCURRENT RESOLUTION REFERRED

A bill and concurrent resolution of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 1519. An act to authorize the President of the United States to award a congressional gold medal to Lawrence Eugene Doby and posthumously to Jack Roosevelt Robinson in recognition of their accomplishments in sport and in the advancement of civil rights, and to authorize the Secretary of the Treasury to sell bronze duplicates of that medal; to the Committee on Banking, Finance and Urban Affairs.

S. Con. Res. 93. Concurrent resolution to express the sense of the Congress that Dr. Frank G. Burke is recognized for his faithful service to the National Archives of the United States of America; to the Committee on Post Office and Civil Service.

ENROLLED BILLS AND JOINT RESOLUTION SIGNED

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills and a joint resolution of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 2310. An act to amend the Airport and Airway Improvement Act of 1982 for the purpose of extending the authorization of appropriations for airport and airway improvements, and for other purposes;

H.R. 3427. An act to allow the obsolete submarine U.S.S. *Blenny* to be transferred to the State of Maryland before the expiration of the otherwise applicable 60-day congressional review period;

H.R. 3734. An act to recognize the significance of the administration of the Federal-aid highway system and to express appreciation to Ray A. Barnhart for his dedicated efforts in improving the Federal-aid highway system; and

H.J. Res. 426. Joint resolution authorizing the hand enrollment of the budget reconciliation bill and of the full year continuing for fiscal year 1988.

ADJOURNMENT

Mr. PEASE. Mr. Speaker, I move the House do now adjourn.

The motion was agreed to; accordingly (at 7 o'clock and 41 minutes p.m.), the House adjourned until Saturday, December 19, 1987, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2586. A communication from the President of the United States, transmitting amendments to the request for appropriations for fiscal year 1988 for the Department of Defense-Military and the Veterans Administration, pursuant to 31 U.S.C. 1107 (H. Doc. No. 100-150); to the Committee on Appropriations and ordered to be printed.

2587. A letter from the Comptroller General of the United States, transmitting a review of the President's second special impoundment message for fiscal year 1988, pursuant to 2 U.S.C. 685 (H. Doc. No. 100-149); to the Committee on Appropriations and ordered to be printed.

2588. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the Department of the Navy's proposed letter(s) of offer to Israel for defense articles and services estimated to cost $62 million (Transmittal No. 88-08), pursuant to 22 U.S.C. 2776(b); to the Committee on Foreigj Affairs.

2589. A letter from the Secretary of Education, transmitting a report concerning the surplus Federal real property disposed of to educational institutions in fiscal year 1987, pursuant to 40 U.S.C. 484(o); to the Committee on Government Operations.

2590. A letter from the Associate Director for Management, United States Information Agency, transmitting a report on compliance with the requirements of the internal accounting and administrative control system, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Operations.

2591. A letter from the Secretary of the Interior and Secretary of Commerce, transmitting the sixth report on activities of the Department of Interior and the Department of Commerce with respect to the emergency striped bass research study, pursuant to 16 U.S.C. 757g(b); to the Committee on Merchant Marine and Fisheries.

2592. A letter from the Acting Assistant Secretary (Civil Works), Department of the Army, transmitting a report from the Chief of Engineers, Department of the Army, on Sheyenne River, ND, together with other pertinent reports, pursuant to Public Law 91-611, sections 216, 217, (84 Stat. 1830); to the Committee on Public Works and Transportation.

2593. A letter from the Program Manager, Office of Technology Assessment, transmitting a corrected copy of OTA's "Third Report on the Prospective Payment Assessment Commission (ProPac)", pursuant to 42 U.S.C. 1395ww(d)(4)(D); to the Committee on Ways and Means.

2594. A letter from the Program Manager, Office of Technology Assessment, transmitting a corrected copy of OTA's "First Report on the Physician Payment Review Commission (PPRC)", pursuant to 42 U.S.C. 1395w-1(c)(1)(D) (100 Stat. 192); to the Committee on Ways and Means.

2595. A letter from the Chairman, Nuclear Regulatory Commission, transmitting the Commission's report on abnormal occurrences at licensed nuclear facilities for the second calendar quarter of 1987, pursuant to 42 U.S.C. 5848; jointly, to the Committees on Energy and Commerce and Interior and Insular Affairs.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. DE LA GARZA: Committee of conference. Conference report on H.R. 3030 (Rept. 100-490). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ARCHER:

H.R. 3794. A bill to amend title II of the Social Security Act to phase out the retirement earnings test at ages above retirement age, to increase accordingly the delayed retirement credit rate, to exclude accordingly certain earnings in postretirement years from benefit computations, to prohibit retroactive entitlement to reduced benefits before retirement age and to authorize for 5 years appropriations of resulting revenue increases to the Federal Old-Age and survivors Insurance Trust Fund; to the Committee on Ways and Means.

By Mr. ARCHER (for himself and Mr. JENKINS):

H.R. 3795. A bill to extend until October 1, 1989 the International Coffee Agreement Act of 1980; to the Committee on Ways and Means.

By Mr. BONKER:

H.R. 3796. A bill establishing certain requirements for the transportation of plutonium by air pursuant to the agreements for nuclear cooperation between the United States and Japan; jointly, to the Committees on Interior and Insular Affairs and Public Works and Transportation.

By Mr. BONKER (for himself and Mr. ROTH) (both by request):

H.R. 3797. A bill to amend the Foreign Assistance Act of 1961 with respect to the activities of the Overseas Private Investment Corporation; to the Committee on Foreign Affairs.

By Mrs. BYRON:

H.R. 3798. A bill to direct the Secretary of Defense to conduct a 2-year test program under which female members of the Army, Navy, Marine Corps, and Air Force are assigned to combat support units, vessels, and aircraft; to the Committee on Armed Services.

By Mr. BARNARD.

H.R. 3799. A bill to enhance competition in the financial services sector, and for other purposes; jointly, to the Committees on Banking, Finance and Urban Affairs, Energy and Commerce, and the Judiciary.

By Mr. NEAL (for himself, Mr. BARNARD, Mr. FRANK, Mr. HILER, Mr. HUBBARD, Mrs. PATTERSON, Mr. PRICE of North Carolina, and Mr. WORTLEY):

H.R. 3800. A bill to modernize and reform the regulation of financial services, and for other purposes; jointly, to the Committees on Banking, Finance and Urban Affairs and Energy and Commerce.

By Mr. CARPER:

H.R. 3801. A bill to provide that political candidates meet certain requirements in advertising; to the Committee on Energy and Commerce.

By Mr. DORGAN of North Dakota:

H.R. 3802. A bill to amend title XVIII of the Social Security Act to improve access of Medicare beneficiaries to extended care services and home health services after hospitalization; to the Committee on Ways and Means.

By Mr. EDWARDS of Oklahoma (for himself, Mr. INHOFE, Mr. ENGLISH, Mr. MCCURDY, Mr. SYNAR, and Mr. WATKINS):

H.R. 3803. A bill to provide for the establishment of the Tallgrass Prairie National Preserve in the State of Oklahoma, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. EVANS (for himself, Mr. Annunzio, Mr. Bruce, Mrs. Collins, Mr. Davis of Illinois, Mr. Durbin, Mr. Fawell, Mr. Gray of Illinois, Mr. Hayes of Illinois, Mr. Lipinski, Mrs. Martin of Illinois, Mr. Madigan, Mr. Porter, Mr. Price of Illinois, Mr. Rostenkowski, Mr. Russo, Mr. Savage, and Mr. Yates):

H.R. 3804. A bill to establish the Hennepin Canal National Heritage Corridor in the State of Illinois, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. FEIGHAN (for himself and Mr. Sawyer):

H.R. 3805. A bill to require the consent of Congress for the United States to terminate, withdraw from, or suspend the operation of a treaty; to the Committee on Foreign Affairs.

By Mr. GUARINI (for himself, Mr. Fuster, Mr. Gibbons, Mr. Frenzel, Mr. Gilman, Mr. Schulze, Mr. Crockett, and Mr. Scheuer):

H.R. 3806. A bill to establish a scholarship program to strengthen and develop the work forces of the countries of the Caribbean Basin, to establish the Caribbean Basin Scholarship Fund, and for other purposes; to the Committee on Education and Labor.

By Mr. HOWARD (for himself, Mr. Hammerschmidt, Mr. Oberstar, Mr. Clinger, Mr. Anderson, Mr. Roe, Mr. Mineta, Mr. Nowak, Mr. Rahall, Mr. de Lugo, Mr. Savage, Mr. Sunia, Mr. Valentine, Mr. Towns, Mr. Lipinski, Mr. Rowland of Georgia, Mr. Gray of Illinois, Mr. Visclosky, Mr. Lancaster, Ms. Slaughter of New York, Mr. Lewis of Georgia, Mr. DeFazio, Mr. Perkins, Mr. Shuster, Mr. Stangeland, Mr. Molinari, Mr. Shaw, Mr. McEwen, Mr. Sundquist, Mr. Packard, Mr. Gallo, Mrs. Bentley, Mr. Lightfoot, Mr. Inhofe, and Mr. Upton):

H.R. 3807. A bill to require the Secretary of Commerce to study local financing practices for public work projects, and to provide more lenient treatment for small issuers of tax-exempt bonds with respect to the arbitrage rebate rules and the private activity bond rules; jointly, to the Committees on Public Works and Transportation and Ways and Means.

By Mr. JONES of North Carolina (for himself) (by request), Mr. Biaggi, Mr. Anderson, Mr. Davis of Michigan, and Mr. Lent):

H.R. 3808. A bill to amend the Merchant Marine Act, 1936; to the Committee on Merchant Marine and Fisheries.

By Mr. KENNEDY:

H.R. 3809. A bill to authorize a national program to reduce the threat to human health posed by exposure to contaminants in the air indoors; jointly, to the Committee on Energy and Commerce and Science, Space and Technology.

By Mrs. KENNELLY:

H.R. 3810. A bill to provide financial assistance to projects which provide maternal and infant health care services to high-risk populations in order to reduce infant mortality; to the Committee on Energy and Commerce.

By Mr. LEWIS of Georgia (for himself, Mr. , Gray of Pennsylvania, Mr. Owens of New York, Mr. Espy, Mr. Mfume, Mr. Towns, Mr. Crockett, Mr. Conyers, Mr. Dixon, Mr. Hawkins, Mr. Stokes, Mr. Ford of Tennessee, Mr. Dellums, Mr. Rangel, Mr. Clay, Mr. Savage, Mr. Hayes of Illinois, Mr. Wheat, Mrs. Collins, Mr. Flake, Mr. Dymally, Mr. Leland, Mr. Fauntroy, and Mr. Sunia):

H.R. 3811. A bill to designate the Federal building located at 50 Spring Street, Southwest, Atlanta, GA, as the "Martin Luther King, Jr. Federal Building"; to the Committee on Public Works and Transportation.

By Mr. OBERSTAR:

H.R. 3812. A bill to amend the Federal Aviation Act of 1958 to protect employees and promote aircraft safety; to the Committee on Public Works and Transportation.

By Mr. OWENS of Utah (for himself, Mr. Kolter, Mr. Lipinski, Mr. Skeen, Mr. Lewis of Georgia, Mr. Bilirakis, Mr. Weiss and Mr. Lancaster):

H.R. 3813. A bill to provide that former Presidents shall be nonvoting members-at-large of the House of Representatives; to the Committee on the Judiciary.

By Mr. RIDGE (for himself, Mrs. Kennelly, Mr. Goodling, Mr. Murtha, Mr. Petri, Mr. Clay, Mr. Gejdenson, Mr. Montgomery, Mr. Howard, Mr. Rowland of Connecticut, Mr. Walker, Mr. Kanjorski, Mr. Yatron, Mr. Schulze, Mr. Clinger, Mr. Callahan, Mr. Applegate, Mr. Emerson, Mr. Murphy, Mr. Denny Smith, Mr. Davis of Michigan, Mr. Slattery, Mr. Gunderson, Mr. Erdreich, Mr. McDade, Mr. Tauke, Mr. Hefner, Mr. Roberts, Mr. Ballenger, Mr. Neal, Mr. Valentine, Mr. Shuster, Mr. Shays, Mr. Coyne, Mr. Bliley, Mr. Fawell, Mr. Sharp, Mr. Gekas, and Mr. Bilirakis):

H.R. 3814. A bill relating to decennial censuses of population; to the Committee on Post Office and Civil Service.

By Mr. RIDGE (for himself, Mr. Coyne, Mr. Lightfoot, Mr. Watkins, Mr. Dornan of California, Mr. Frank, Mr. Wortley, Mr. Bereuter, Mr. Whittaker, Mr. Goodling, Mr. Boehlert, Mr. McDade, Mr. Schulze, Mr. Lewis of Georgia, Mr. Chapman, Mr. Upton, Mr. Oxley, Mr. DeWine, Mr. Bustamante, Mr. DeLay, Mr. Lancaster, Mr. DioGuardi, Mr. Kolter, Mrs. Collins, Mrs. Meyers of Kansas, and Mr. Madigan):

H.R. 3815. A bill relating to decennial censuses of population; to the Committee on Post Office and Civil Service.

By Mr. SCHUMER (for himself, Mr. Fish, Mr. Berman, Mr. Frank, Mr. Morrison of Connecticut, Mr. Garcia, Mr. Brown of California, Mr. Bustamante, Mr. de Lugo, Mr. Fauntroy, Mr. Fuster, Mr. Kennedy, Mr. Konnyu, Mr. Leland, Mr. Moakley, Mr. Torres, and Mr. Weiss):

H.R. 3816. A bill to amend the Immigration and Nationality Act to extend for 1 year the application period under the legalization program; to the Committee on the Judiciary.

By Mr. SHAW (for himself, Mr. Howard, Mr. Hammerschmidt, Mr. Anderson, Mr. Applegate, Mr. Ballenger, Mrs. Bentley, Mr. Boehlert, Mr. Borski, Mr. Bosco, Mr. Buechner, Mr. Cardin, Mr. Chapman, Mr. Clinger, Mr. DeFazio, Mr. de Lugo, Mr. Emerson, Mr. Gallo, Mr. Gephardt, Mr. Gingrich, Mr. Grant, Mr. Gray of Illinois, Mr. Hastert, Mr. Hayes of Louisiana, Mr. Inhofe, Mrs. Johnson of Connecticut, Mr. Kolter, Mr. Lancaster, Mr. Lewis of Georgia, Mr. Lightfoot, Mr. Lipinski, Mr. McEwen, Mr. Mineta, Mr. Molinari, Mr. Nowak, Mr. Oberstar, Mr. Packard, Mr. Perkins, Mr. Petri, Mr. Rahall, Mr. Roe, Mr. Rowland of Connecticut, Mr. Rowland of Georgia, Mr. Savage, Mr. Shuster, Mr. Skaggs, Mr. Skelton, Ms. Slaughter of New York, Mr. Stangeland, Mr. Sundquist, Mr. Sunia, Mr. Taylor, Mr. Towns, Mr. Upton, Mr. Valentine, Mr. Visclosky, Mr. Volkmer, Mr. Wheat, and Mr. Wise):

H.R. 3817. A bill to designate the Federal building located at 405 South Tucker Boulevard, St. Louis, MO, as the "Robert A. Young Federal Building"; to the Committee on Public Works and Transportation.

By Mr. SLATTERY:

H.R. 3818. A bill to amend the Higher Education Act of 1965 to permit certain additional depository institutions to serve as eligible lenders under the Guaranteed Student Loan Program; to the Committee on Education and Labor.

By Mr. SWEENEY:

H.R. 3819. A bill to prohibit additional appropriations for the analysis and study for the Shaws Bend site of the Colorado Coastal Plains project; to the Committee on Interior and Insular Affairs.

H.R. 3820.

By Mr. WYDEN (for himself, Miss Schneider, Mr. Glickman, and Mr. Lujan): A bill to amend and enhance existing renewable energy programs and Federal trade and export promotion programs in order to promote the United States renewable energy industry, improve the trade balance of the United States, and maintain the competitive and technical leadership of the United States in renewable energy development and trade; jointly, to the Committees on Ways and Means, Foreign Affairs, Banking, Finance and Urban Affairs, Small Business, and Energy Commerce.

H.R. 3821.

By Mr. YOUNG of Alaska: A bill to amend the Land and Water Conservation Fund Act of 1965, as amended, and for other purposes; to the Committee on Interior and Insular Affairs.

H.R. 3822.

By Mr. STOKES (for himself, Mr. Boland, and Mr. McHugh): A bill to strengthen the system of congressional oversight of the intelligence activities of the United States; to the Committee on the Permanent Select Committee on Intelligence and Foreign Affairs.

H.J. Res. 430.

By Mr. FASCELL: Joint resolution calling upon the Soviet Union to immediately grant permission to emigrate to all those who wish to join spouses or finances in the United States; considered and passed.

By Mr. BAKER:

H. Con. Res. 232. Concurrent resolution expressing the sense of the Congress that Project Impact of the combined accident reduction effort should receive the support of every State in the Nation and should be recognized as a model project for education of the Nation's youth; to the Committee on Education and Labor.

By Mr. DANNEMEYER:

H. Con. Res. 233. Concurrent resolution expressing the sense of the Congress that the President should award the Presidential Medal of Freedom to Martha Raye; to the Committee on Post Office and Civil Service.

By Mr. APPLEGATE:

H. Res. 338. Resolution expressing the sense of the House of Representatives that the inmates involved in the uprisings at the U.S. Penitentiary in Atlanta, GA, and the Federal Detention Center in Oakdale, LA, should pay for or repair the property damage done during the uprisings; to the Committee on the Judiciary.

By Mr. SMITH of New Hampshire:

H. Res. 339. Resolution requesting the President to furnish a certain document to the House of Representatives; to the Committee on the Permanent Select Committee on Intelligence.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

Mr. SLAUGHTER of Virginia (by request) introduced a bill (H.R. 3823) for the relief of Willard Wright; which was referred to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 43: Mr. Slaughter of Virginia.

H.R. 169: Mr. de Lugo.

H.R. 303: Mr. Hall of Texas, Mr. Howard, Mr. Lowery of California, Mr. Pursell, Mr. Gilman, Mr. Dellums, Mr. Ridge, Mr. Hansen, and Mrs. Boxer.

H.R. 306: Mr. Herger.

H.R. 592: Mr. McCollum.

H.R. 925: Mr. Brennan, Mr. Durbin, Mr. Walgren, and Mr. Feighan.

H.R. 1005: Mr. Gilman, Mr. Hochbrueckner, and Mr. Lowry of Washington.

H.R. 1064: Mr. Martinez, Mr. Lott, Mr. Clinger, and Mr. Dowdy of Mississippi.

H.R. 1437: Mr. Stump.

H.R. 1531: Mr. Downey of New York, and Mr. Akaka.

H.R. 1580: Mr. Fazio, Mr. Feighan, Ms. Oakar, and Mr. Waxman.

H.R. 1638: Mr. Traficant, Mr. Gonzalez, and Mr. Bustamante.

H.R. 1786: Mr. Gallegly.

H.R. 1810: Mr. Manton.

H.R. 1842: Mr. Markey and Mr. Lewis of Georgia.

H.R. 1902: Mr. Foglietta.

H.R. 1932: Mr. Mavroules.

H.R. 1986: Mr. Nelson of Florida.

H.R. 2039: Mr. Lagomarsino and Mr. Roth.

H.R. 2134: Mr. Jones of North Carolina, Mr. Tallon, and Mr. Gekas.

H.R. 2260: Mr. Yatron, Mr. Richardson, and Mr. Packard.

H.R. 2537: Mr. Flake.

H.R. 2570: Mr. Mineta.

H.R. 2621: Mr. Anderson, Mr. Dellums, Mr. Durbin, Mr. Beilenson, Mr. Hawkins, and Mr. Bonior of Michigan.

H.R. 2624: Mr. Herger.

H.R. 2911: Mr. de Lugo.

H.R. 2926: Mr. Edwards of Oklahoma.

H.R. 2943: Mr. Downey of New York, Mr. Berman, Mr. St Germain, Mr. Wilson, Mr. Derrick, Mr. Mineta, Ms. Pelosi, Mr. Traficant, Mr. Weiss, Mr. Torres, Mr. Hawkins, Mr. DeFazio, Mrs. Byron, Mr. Bosco, Mr. McGrath, Mr. Moakley, Mr. Dellums, Mr. Slaughter of Virginia, Mr. Conyers, Mr. Jones of North Carolina, Mr. Wise, and Mr. Lewis of Georgia.

H.R. 2944: Mr. Downey of New York, Mr. Berman, Mr. St Germain, Mr. Wilson, Mr. Derrick, Mr. Mineta, Ms. Pelosi, Mr. Udall, Mr. Marlenee, Mr. Traficant, Mr. Weiss, Mr. Torres, Mr. Hawkins, Mr. DeFazio, Mrs. Byron, Mr. Bosco, Mr. McGrath, Mr. Moakley, Mr. Dellums, Mr. Slaughter of Virginia, Mr. Solomon, Mr. Conyers, Mr. Jones of North Carolina, Mr. Wise, Mr. Lewis of Georgia, and Mr. Schumer.

H.R. 2955: Mr. Fazio, Mr. Kolbe, Mrs. Collins, and Mr. de Lugo.

H.R. 3009: Mr. Solarz.

H.R. 3019: Mr. Vento and Mr. de Lugo.

H.R. 3065: Mr. Sundquist, Mr. Carr, Mrs. Saiki, Mr. Owens of New York, Mr. Lightfoot, Mr. Martinez, Mr. Bryant, and Mr. McCloskey.

H.R. 3075: Mr. Denny Smith.

H.R. 3144: Mr. Brooks.

H.R. 3174: Mr. Shays.

H.R. 3233: Mr. Frank and Mr. Torres.

H.R. 3286: Mr. Vento, Mr. Waxman, Mr. Konnyu, Mr. Conte, Mr. Hochbrueckner, Mrs. Martin of Illinois, Mr. Florio, Mr. Kennedy, Mr. Towns, Mr. Swift, and Mr. Lantos.

H.R. 3314: Mr. Dowdy of Mississippi and Mr. Courter.

H.R. 3321: Mr. Leland.

H.R. 3332: Mr. Skelton and Mr. Torres.

H.R. 3335: Mr. Manton, Mr. Hubbard, Mr. Jones of North Carolina, Mr. Bennett, Mr. Hughes, Mr. Foglietta, Mr. Bateman, and Mr. DioGuardi.

H.R. 3359: Mr. Rangel and Mr. Solarz.

H.R. 3454: Mr. Bryant, Mr. Dyson, Mr. Gunderson, Mr. Lantos, Mr. Leland, Mr. Packard, and Mrs. Roukema.

H.R. 3485: Mr. Miller of Washington.

H.R. 3517: Mr. Daniel, Mr. Chapman, Mr. Gonzalez, Mr. McCloskey, Mr. LaFalce, and Mr. DioGuardi.

H.R. 3543: Mr. Lipinski, Mr. Evans, Mr. Mfume, Mr. Owens of New York, and Ms. Kaptur.

H.R. 3580: Mr. Vento and Mr. de Lugo.

H.R. 3581: Mr. Kennedy and Mr. Towns.

H.R. 3582: Mr. Kennedy, Mr. Towns, AND Mr. Ackerman.

H.R. 3585: Mr. Hoyer, Mr. Pashayan, and Mr. Watkins.

H.R. 3593: Mr. Rahall, Mr. Miller of California, Mr. Murphy, Mr. Morrison of Connecticut, Mr. Fazio, Mr. Lowry of Washington, Mr. Durbin, Mr. Dellums, Mr. Dixon, Ms. Kaptur, and Mr. Evans.

H.R. 3602: Mr. Mavroules, Mr. Akaka, Mr. Traficant, Ms. Pelosi, Mr. Fuster, Mr. Perkins, Mr. Wheat, Mr. Savage, Mr. Fauntroy, and Mr. de Lugo.

H.R. 3619: Mr. Hyde, Mr. Levin of Michigan, and Mr. Wilson.

H.R. 3663: Mr. de Lugo, Mr. Gray of Illinois, Mr. Howard, Mr. Garcia, Mr. Schumer, Mr. Clay, and Mr. Neal.

H.R. 3675: Mr. Flake.

H.R. 3690: Mr. Kolbe.

H.R. 3692: Mr. McCurdy, Mr. Henry, Mr. Shays, Mr. Hyde, Mr. Grandy, Mr. Ballenger, and Mr. Bereuter.

H.R. 3699: Mr. Fauntroy.

H.R. 3710: Mr. Coleman of Missouri.

H.R. 3725: Mr. Upton.

H.J. Res. 50: Mr. Pickle, Mr. Coleman of Texas, Mr. Evans, Mr. de Lugo, and Mr. Conte.

H.J. Res. 139: Mr. Martinez and Mr. Nielson of Utah.

H.J. Res. 148: Ms. Pelosi.

H.J. Res. 232: Mr. Tauzin.

H.J. Res. 349: Mr. Dixon and Ms. Oakar.

H.J. Res. 371: Mr. Conte, Mr. Spence, and Mr. Vento.

H.J. Res. 382: Mr. Florio, Mr. Hoyer, Mr. Coyne, Mr. Gejdenson, Mr. Roe, Mr. Morrison of Connecticut, Mr. Torres, Mr. Biaggi, Mr. Pepper, Mr. Schumer, Mr. Carper, Ms. Kaptur, Mr. Garcia, Mr. Akaka, Mr. Bosco, and Mr. Donnelly.

H.J. Res. 383: Mr. Miller of California, Mr. Olin, Mr. Dowdy of Mississippi, Mr. Pursell, Mr. Oberstar, Mr. Montgomery, Mr. Gregg, and Mr. Roybal.

H.J. Res. 386: Mr. Akaka, Mr. Derrick, Mr. Gray of Pennsylvania, Mr. Hayes of Louisiana, Mrs. Johnson of Connecticut, Mr. Lagomarsino, Mr. Lowry of Washington, Mr. Mazzoli, Mr. Shumway.

H.J. Res. 396: Mr. de Lugo.

H.J. Res. 399: Ms. Slaughter of New York, Mr. Owens of Utah, Mr. AuCoin, Mr. Dowdy of Mississippi, Mr. Campbell, Mr. Rose, Mr. Bennett, Mr. Henry, Mr. Schaefer, Mr. Vento, Mr. Volkmer, Mr. Bunning, Mr. Bosco, Mr. Berman, Mr. Espy, and Mr. Gephardt.

H.J. Res. 403: Mr. Ackerman, Mr. Badham, Mr. Boucher, Mr. Bustamante, Mr. Clarke, Mr. Daub, Mr. DeFazio, Mr. Fawell, Mr. Fields, Mr. Hayes of Illinois, Mr. Hochbrueckner, Mr. Hoyer, Mr. Hunter, Mr. LaFalce, Mr. Lagomarsino, Mr. Lipinski, Mr. MacKay, Mr. McDade, Mr. Mfume, Mr. Nelson of Florida, Mr. Rangel, Mr. Saxton, Mr. Skaggs, Ms. Slaughter of New York, Mr. Stokes, and Mr. Yatron.

H.J. Res. 405: Mr. Jontz, Mr. Young of Florida, Mr. Thomas A. Luken, Mr. Robinson, and Mr. de Lugo.

H. Con. Res. 30: Mr. Smith of New Jersey.

H. Con. Res. 84: Mr. Lowry of Washington.

H. Con. Res. 126: Mr. Bates, Mr. Daub, Mr. Lipinski, Mr. Annunzio, Mrs. Patterson, Mr. Frenzel, Mrs. Bentley, Mr. Brown of Colorado, Mr. McDade, Mr. Hayes of Illinois, Mr. Bevill, Mr. Tallon, Mr. Sunia, Mr. Lantos, and Mr. Porter.

H. Con. Res. 216: Mr. Lagomarsino, Mr. Hughes, Mr. Fauntroy, Mr. Denny Smith, Mrs. Boxer, Mr. Carper, and Mr. Bonior of Michigan.

H. Con. Res. 227: Mr. Tallon, Mr. Davis of Michigan, Mr. Ackerman, Mr. Slattery, Mr. Rahall, Mr. Kanjorski, Mr. Lipinski, Mr. Madigan, Mr. Oxley, Mr. Rinaldo, Mr. Saxton, Mr. Boehlert, Mr. Traficant, Mr. Fazio, Mr. Mollohan, Mr. Wyden, Mr. Bliley, Mr. Towns, Mr. Borski, Mr. Gray of Illinois, Mr. Staggers, Mr. Applegate, Mr. Morrison of Washington, Mr. Bevill, Mr. Morrison of Connecticut, Mr. Coleman of Texas, Mrs. BENTLEY, Mr. CHAPPELL, Mr. WOLPE, Mr. DOWDY of Mississippi, Mr. DAUB, Ms. KAPTUR, Mr. WALGREN, Mr. COATS, and Mrs. VUCANOVICH.

H. Con. Res. 229: Mr. BADHAM, Mr. REGULA, Mrs. BYRON, Mr. BUSTAMANTE, Mr. SKELTON, Mr. KONNYU, and Mr. HENRY.

H. Con. Res. 230: Mr. SKAGGS, Mr. WOLPE, and Mr. MILLER of Washington.

H. Res. 188: Mr. GORDON.

H. Res. 246: Mr. EVANS, Mr. ACKERMAN, Mr. DELLUMS, Mr. BERMAN, Mr. MCHUGH, Mr. SCHUMER, Mr. FRANK, Mr. HAWKINS, Mr. FORD of Tennessee, Mr. TOWNS, Mr. GARCIA, Mr. DE LUGO, Mr. CLAY, Mr. BIAGGI, Mr. HOWARD, and Mr. WEISS.

H. Res. 271: Mr. MICHEL, Mr. HANSEN, Mr. PASHAYAN, and Mr. DAUB.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 1259: Mr. MOAKLEY and Mr. DONNELLY.

H.R. 2859: Mr. NIELSON of Utah.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. YOUNG of Florida (at the request of Mr. MICHEL), for today, on account of illness in the family.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Ms. SLAUGHTER of New York) to revise and extend their remarks and include extraneous material:)

Mr. DANNEMEYER, for 60 minutes, today.

EXTENSIONS OF REMARKS

JOHN HUNT—BRAVE AMERICAN, HONORED MARINER

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 17, 1987

Mr. BIAGGI. Mr. Speaker, I am very pleased to pay tribute to an outstanding American who responded to the call of duty and became one of the first American civilians to suffer the burden of U.S. policy in the Persian Gulf.

John Hunt is the captain of the reflagged Kuwaiti tanker, *Sea Isle City.* My colleagues will recall that, on October 16, the *Sea Isle City* was attacked by a silkworm missile fired from an Iranian ship. During that attack, 12 crewmembers were seriously injured. Captain Hunt received the most serious injuries and, as a result of that attack, will probably be permanently blind. While loss of sight is a tremendous burden for anyone, for a seaman it is almost totally debilitating. Lawyers, teachers, even Congressmen can somehow compensate for the loss of vision and still go on with their professions; sadly, that opportunity is not available to John Hunt.

Andy Warhol once said, "Everyone will be famous for 15 minutes." The statements made in the CONGRESSIONAL RECORD by numerous Members of Congress recognize Captain Hunt's 15 minutes in the Sun. I say this not in any way to demean Captain Hunt's sacrifice or bravery, but rather out of a recognition of the short memory of the American people—especially when it comes to unpopular military adventurism and the merchant marine.

I have on numerous occasions expressed my serious concern with the wisdom of U.S. policy in that area of the world. However, regardless of the position any American may have on our gulf policy, it is only right that we separate our political views on the administration's policy from our attitudes toward those who are risking their lives because they answered their Nation's call.

Captain Hunt was in the Persian Gulf because he, like merchant mariners throughout our history, answered his Nation's call. Further, Captain Hunt knew that, if history was in any way indicative, the leadership of America would soon forget his role in the Persian Gulf. Since World War II, this Nation has systematically ignored the importance of the merchant marine. We have dismantled the support programs necessary to compete with low-cost foreign operators and shipyards. We have accepted the flawed theory that our Nation can rely solely on planes to transport troops to an overseas battlefield.

Perhaps more shockingly, we have treated the merchant mariners who courageously fought in World War II as if they did not exist. While other veterans were justifiably recognized for their service, the merchant mariner had none of the benefits and received little tangible recognition from our Government. Now, almost 50 years after the war, the Department of Defense will not even provide a flag to drape the coffins of the merchant marine veterans of the war.

Captain Hunt, ignore those who do not recognize the importance of what you have done. Remember that when your Nation called your response was immediate. Know that your bravery will inspire those who follow you in the merchant marine. I salute you, and pray that the Lord will grant you courage to face the difficult days ahead.

AUXILIARY POLICE OFFICERS HONORED

HON. TED WEISS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 17, 1987

Mr. WEISS. Mr. Speaker, it is with great pride and appreciation that I draw the attention of my colleagues in the House of Representatives to the achievements of the sixth precinct auxiliary police. The sixth police precinct ecompasses Greenwich Village, a vital neighborhood rich with diversity, and is located within my congressional district.

Five of the sixth precinct auxiliary police officers are being recognized tonight for their outstanding contributions to our community. Auxiliary police officers play an important role in assisting the New York Police Department with keeping our streets safe. These volunteer police officers go through an extensive training program to become qualified for their positions. All of those being honored tonight have full-time professions which range for fashion designer to bank manager. Their participation in the auxiliary police program is an extraordinary demonstration of their commitment to improving the quality of life in their neighborhood.

The five auxiliary police officers being honored this year, Nellie Crescio, Samuel Lubin, Stephanie Phelan, Gene Sentell, and Morgan Van Taunay, have all contributed a great deal of their time. I believe their efforts exemplify the true meaning of community spirit. Also deserving of recognition are the auxiliary commanding officer, Auxiliary Deputy Inspector Gerard Jansen, police officer Ralph Sicuranza who coordinates the auxiliary police program, and the commanding officer of the sixth precinct, Deputy Inspector Julia Thompson.

Mr. President, I ask my colleagues in the House of Representatives to join me in offering congratulations and best wishes to these fine citizens.

THE AMALGAMATED BANK: MORE THAN HALF A CENTURY OF SERVICE

HON. THOMAS J. MANTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 17, 1987

Mr. MANTON. Mr. Speaker, I highly commend to my colleagues the following article which appeared in the Wall Street Journal on December 14, 1987, regarding the Amalgamated Bank of New York. Amalgamated Bank is owned and operated by the members of the Amalgamated Clothing and Textile Workers Union. Amalgamated is one of only two surviving union-owned financial institutions established during the 1920's. However, Amalgamated's success in remaining profitable while offering low-cost sevices to union members is paving the way for new union-owned banks.

Mr. Speaker, I ask that the article be inserted in the RECORD at this point.

[From the Wall Street Journal, Dec. 14, 1987]

LABOR LENDING: AS A UNION BANK, AMALGAMATED PROSPERS BY PUSHING SERVICE FIRST AND SHUNNING RISK

(By Robert L. Rose)

NEW YORK.—When Amalgamated Bank of New York introduced a free checking account last fall, it wasn't content to quietly inform its customers. The bank bought an ad opposite the editorial page in the New York Times and asked: "Why is free checking only for those who can afford to pay for it?"

The bank's inclination to tweak its big corporate rivals isn't surprising. Amalgamated is a union bank, founded in 1923 by the Amalgamated Clothing Workers and still owned by the 284,000 members of its successor, the Amalgamated Clothing and Textile Workers.

Heralded as the wave of the future by labor leaders earlier in the century, labor banking was a flop. Out of some 36 labor banks founded in the 1920s, only Amalgamated in New York and Brotherhood Bank & Trust in Kansas City, Kan., survive as labor-owned institutions.

Now, with some labor experts predicting a comeback in union membership and influence, Amalgamated provides one of the oldest examples of a kind of labor-owned business that may multiply. In the past several years, about half a dozen new labor banks have opened, and more are on the way. Like the clothing workers who started Amalgamated, other unions see a chance to own a bank friendly to their members' needs and find new investment outlets for their growing assets.

A ROUGE BANK

Amalgamated survived largely because its union owner insisted on conservative banking and professional management. In contrast, the Brotherhood of Locomotive Engineers set up banks across the country

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

during the 1920s and quickly branched into securities and even Florida land development. Losses piled up, and the union eventually charged four of its officer with mishandling funds. By 1931, the engineers were out of the banking business.

Amalgamated has also benefited from being something of a rogue bank, loudly touting a consumer ethic and often de-emphasing profits in favor of services. Its free checking account is only the latest evidence: Amalgamated claims to have pioneered the unsecured installment loan in the 1920s, lending money to borrowers with no collateral but a steady job. Three times a survey has named it the top bank for consumers in New York City. "They give me the best treatment," says Mike Garcia, an officer of the Leather Goods, Plastic and Novelty Workers' Union, who says he banks at Amalgamated because of its labor roots.

OVERLAPPING CONSTITUENCIES

Amalgamated has reported 44 consecutive years of profit and has grown to $1.47 billion in assets by serving two overlapping constituencies: middle-class consumers and organized labor. Now, the union-owned bank is exploring other ways to use its labor ties and financial muscle to expand in new areas.

Earlier this year, Amalgamated teamed up with Metropolitan Life Insurance Co. in a proposal to offer a comprehensive money-management program for the AFL-CIO's 14.5 million members. On a smaller but no less innovative scale, Amalgamated is helping three New York locals of the Bridge, Structural and Ornamental Iron Workers union use some of their pension money to finance below-market, no-points home mortgages for their members. The bank is considering expanding the service to other unions, many of which have retirement trust funds under Amalgamated's care.

The recent mini-resurgence of labor banking is led by unions in the construction trades. Massachusetts members of the carpenters' union opened a Boston bank in September, and California carpenters plan to open a separate institution next year. Two-year-old Union Savings Bank in Albuquerque, N.M., another construction-trades bank, uses its $10 million in assets for loans to small businesses and other customers.

"I think there's been a realization that we should be generating jobs with our own money wherever possible," says Anthony Ramos, the retired former leader of the California State Council of Carpenters.

Amalgamated's loud voice on consumer issues is partly a marketing ploy to set itself apart from the pack. As other banks cater to big depositors and raise fees for small accounts, Amalgamated promotes treats for the little guy, such as its free checking and low-interest personal loans.

Highly conscious of its labor roots, Amalagamated also likes to take shots at the establishment banks. In one of its radio commercials, a stuffy banker tells a customer he needs a password to sit down. "The name of any Ivy League school will do," says the banker. "P.S. 188?" asks the customer naming the public school he attended. In other ads, comedians Jerry Stiller and Anne Meara imitate rank-and-filers with names like Rocco and Blanche, and pitch "America's Labor Bank."

If we give [the industry] an uncomfortable feeling for a couple of hours, it will be worth it," concludes Edward M. Katz, Amalgamated's president and chief executive.

The bank's five-story brick headquarters, which it shares with its union owner, overlooks New York's Union Square, the site of labor and political rallies earlier in the century. Back in the old days, Amalgamated's service even included a travel agency and foreign-exchange desk for the immigrant population that dominated the clothing workers' union. Today, customers in open shirts and work boots outnumber those in business suits. Proclaims a plaque on the lobby wall: "New York's First Labor Bank, dedicated to the service and advancement of the labor movement."

Mr. Katz, too, is quick to prove his allegiance. After ushering a vistor into his office, he flips open his suit jacket and proudly shows the union label. A soft-spoken man of 66 who started as a part-timer at the bank in 1946, Mr. Katz raises his voice when he talks about how small depositors have fared under banking deregulation. Not too well, he believes. "When you have a special industry using Uncle Sam as an umbrella in times of difficulty, don't you owe something to the public?" he asks. "What would be so wrong with having an account on which you don't make money?"

Amalgamated, though, is bucking a strong trend. A national survey conducted by the Consumer Federation of America and others found that fees for routine banking services are rising sharpy for most depositors.

In some ways, Amalgamated has a lot less to offer those customers than its competitors. Small by big-bank standards, it doesn't generally offer credit cards or home mortgages. With only three branches and two newly opened automated teller machines, it lacks what many consumers want most: convenience. And in the ranks of big-league banks, Amalgamated is an also-ran, shunning such trends as interstate expansion and the hot competition for corporate loans.

"I'm not conscious of their presence" as a competitor, says Richard Ravitch, the chairman and chief executive of Bowery Savings Bank, which has about four times the assets and eight times the branches of Amalgamated. Contends another New York banking official: "If they were the best, they'd be bigger."

But what Amalgamated does have, it pushes hard, especially its reputation as a low-cost consumer bank. Last year, when an annual survey by New York State Sen. Franz S. Leichter dropped Amalgamated to No. 11 from No. 1 as the least expensive bank for New York City consumers, Amalgamated officials phoned the legislator and angrily complained. (The bank is back up to No. 2 this year.) In 1985, the Better Business Bureau of Metropolitan New York challenged Amalgamated's boast of having the lowest auto-loan rates of any bank in the city. But the bank quickly backed up the claim, the bureau says.

Amalgamated says its current 9.2% interest rate on new auto loans is still the best in the city. According to the Bank Rate Monitor, seven of the largest bank and thrift institutions in the New York City area charge an average of nearly 12.5%. On the deposit side, the bank's 6.25% annual yield on money-market accounts is a third of a point higher than the average paid by 10 big institutions tracked by the monitor.

Amalgamated also pays interest and charges no fees on savings accounts with a $5 minimum. And it is not unusual for the bank to get thank-you notes from longtime customers surprised to find the bank honored their checks—and charged no penalty—on their overdrawn accounts.

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And perhaps costly. Sen. Leichter's latest survey found that a typical bank Customer with $600 in checking and $1,000 in savings would earn $105 a year at Amalgamated and lose $100 at Manufacturers Hanover Trust Co. Amalgamated, says Glenn von Nostitz, the legislative aide who oversees the survey, shows "you can give people a break and still make money."

Not surprisingly, Amalgamated has kept a close relationship with organized labor. Unions account for up to two-thirds of its $1.1 billion in deposits, and its trust department holds an additional $3.2 billion in pension and health-and-welfare funds. Amalgamated manages $1.6 billion of the trust funds, shunning stocks and corporate bonds in favor of safer government securities.

In 1973, Amalgamated officials worked over a weekend to fill out hundreds of bail checks to keep striking Philadelphia teachers out of jail. Nine years later, when the National Football League Players Association ran out of money during its strike, it turned to Amalgamated for a $200,000 loan. The players' union didn't have an account with the bank at the time, but "we did after that," says Ed Garvey, then the union's executive director.

Although neither the Amalgamated Clothing and Textile Workers union nor the bank likes to admit it, the goal of giving consumers and unions a break often conflicts with the goal of making money. But Mr. Katz has the luxury of working for owners who aren't constantly pressing for higher profits. "You make a little less," concedes Jack Sheinkman, the president of the union and chairman of the bank. "Despite that, we've done very well in terms of our return on equity and on capital," which exceed the average for banks Amalgamated's size.

That attitude makes it easier for the bankers to concentrate on another priority of the union—financial safety. The bank has few corporate customers and, as a matter of policy, turns down offers to participate with other banks in corporate lending. "I don't want to rely on my big brothers" to determine if a loan is safe, says Mr. Katz. Nor does he like to gamble on investments. Mr. Katz prefers buying U.S. government securities, and the shorter the maturity the better. "All the money's tied up in cash," jokes Howard Lee, the executive vice president and cashier.

The result is steady, if not spectacular, profits. Last year, Amalgamated earned $12.2 million, sending $7 million of that in dividends to its union owners. Government bank examiners often do double takes when they pore over Amalgamated's books. Bad loans charged off in 1986: $195,000 out of $313.5 million, far below the average for banks its size. Auto loans delinquent 30 days or more at the end of November: 11 out of 13,044.

Says William A. Goldberg, who runs the bank's personal-loan department: "We're here for the average guy—so long as we are reasonably assured he'll pay us back."

IN HONOR OF JACK SHINE

HON. MEL LEVINE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 17, 1987

Mr. LEVINE of California. Mr. Speaker, I rise today to recognize a fine man and good friend, Jack Shine. Jack will be honored as the recipient of the 1988 San Fernando Valley Achievement and Community Service Award of the Anti-Defamation League. The award will be presented at a testimonial dinner-dance on January 20 in tribute to his leadership advancing the causes of human rights in the community and corporate world.

Jack Shine is committed to serve his community and the industry to which his firm makes such an important contribution. Jack is the president and founder of First Financial Group of Companies. For more than three decades, he has been one of Los Angeles' leading real estate developers. His interests range from residential to commerical to industrial projects. Some of the company's operations include the First Financial Plaza office building in Encino, and American Beauty Homes in the Santa Clarita Valley.

Jack Shine is a past president of the Building Industry Association of Southern California and is a trustee for the National Association of Home Builders PAC in Washington, DC.

In addition to his building industry activities, Jack Shine is active in a multitude of community serivces, including being a trustee of the Society of Fellows of the Anti-Defamation League.

Jack Shine supports and is a honorary member of the Board of directors of the Henry Mayer New hall Memorial Hospital. He is active as a supporter of the Santa Clarita Valley Boys and Girls Club and the Y.M.C.A. He currently serves as vice president of the Los Angeles County Music and Performing Arts Commission; a member of the Fraternity of Friends of the Music Center; and a member of the Board of the San Fernando Valley Cultural Foundation. Jack Shine is also active with the Museum of Contemporary Art and the Los Angeles County Museum of Art as a member of it's American Art Council.

A native of Los Angeles, Jack graduated with a BS degree in Finance from the University of Southern California. He lives with his wife, Loretta, in Encino. The Shines enjoy four children and one grandchild.

I ask that my colleagues in the U.S. House of Representatives join me in paying tribute to Jack Shine an exemplary American who embodies the aims for which ADL was founded and the ideals towards which it aspires.

AMALGAMATED BANK PUSHES SERVICES OVER PROFITS

HON. ROBERT GARCIA

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 17, 1987

Mr. GARCIA. Mr. Speaker, approximately 2 weeks ago an article appeared in the American Banker in which Chemical Bank announced the inception of their new low-cost account for low-income customers. Most banks in New York do offer some sort of low-cost account, but in reality the services offered are insufficient. Not only are low-income customers relegated to least preferred status, small and minority businesses have difficulties obtaining necessary loans, and many of the city's low-income areas are still redlined in spirit if not intent.

One bright spot in this gloomy scenario is the Amalgamated Bank of New York. The bank was founded in 1923 by the Amalgamated Clothing Workers and its successor, the Amalgamated Clothing & Textile Workers Union still owns the bank today. Amalgamated not only offers low-cost checking and savings accounts, it pays interest on them. This is something nearly unheard of at other banks. What is more, the bank makes a profit, maintains courteous and personal service for all clients, not just the upscale ones, and still finds time to innovatively provide low-cost mortgages to members.

I recommend the attached article from Monday's Wall Street Journal to my colleagues. It is not only interesting and heart warming, but a refreshing change from the usual bank stories of failures and requests for more and more powers. Here is a bank that asks for no more than to serve its customers well.

The article follows:

LABOR LENDING: HOW A UNION SURVIVES IN BANKING BY PUSHING SERVICES OVER PROFITS

(By Robert L. Rose)

NEW YORK.—When Amalgamated Bank of New York introduced a free checking account last fall, it wasn't content to quietly inform its customers. The bank bought an ad opposite the editorial page in the New York Times and asked: "Why is free checking only for those who can afford to pay for it?"

The bank's inclination to tweak its big corporate rivals isn't surprising. Amalgamated is a union bank, founded in 1923 by the Amalgamated Clothing Workers and still owned by the 284,000 members of its successor, the Amalgamated Clothing and Textile Workers.

Heralded as the wave of the future by labor leaders earlier in the century, labor banking was a flop. Out of some 36 labor banks founded in the 1920s, only Amalgamated in New York and Brotherhood Bank & Trust in Kansas City, Kan., survive as labor-owned institutions.

Now, with some labor experts predicting a comeback in union membership and influence, Amalgamated provides one of the oldest examples of a kind of labor-owned business that may multiply. In the past several years, about half a dozen new labor banks have opened, and more are on the way. Like the clothing workers who started Amalgamated, other unions see a chance to own a bank friendly to their members' needs and find new investment outlets for their growing assets.

A ROGUE BANK

Amalgamated survived largely because its union owner insisted on conservative banking and professional management. In contrast, the Brotherhood of Locomotive Engineers set up banks across the country during the 1920s and quickly branched into securities and even Florida land development. Losses piled up, and the union eventually charged four of its officers with mishandling funds. By 1931, the engineers were out of the banking business.

Amalgamated has also benefited from being something of a rogue bank, loudly touting a consumer ethic and often de-emphasizing profits in favor of services. Its free checking account is only the latest evidence: Amalgamated claims to have pioneered the unsecured installment loan in the 1920s, lending money to borrowers with no collateral but a steady job. Three times a survey has named it the top bank for consumers in New York City. "They give me the best treatment," says Mike Garcia, an officer of the Leather Goods, Plastic and Novelty Workers' Union, who says he banks at Amalgamated because of its labor roots.

OVERLAPPING CONSTITUENCIES

Amalgamated has reported 44 consecutive years of profit and has grown to $1.47 billion in assets by serving two overlapping constituencies: middle-class consumers and organized labor. Now, the union-owned bank is exploring other ways to use its labor ties and financial muscle to expand in new areas.

Earlier this year, Amalgamated teamed up with Metropolitan Life Insurance Co. in a proposal to offer a comprehensive money-management program for the AFL-CIO's 14.5 million members. On a smaller but no less innovative scale, Amalgamated is helping three New York locals of the Bridge, Structural and Ornamental Iron Workers union use some of their pension money to finance below-market, no-points home mortgages for their members. The bank is considering expanding the service to other unions, many of which have retirement trust funds under Amalgamated's care.

The recent mini-resurgence of labor banking is led by unions in the construction trades. Massachusetts members of the carpenters' union opened a Boston bank in September, and California carpenters plan to open a separate institution next year. Two-year-old Union Savings Bank in Albuquerque, N.M., another construction-trades bank, uses its $10 million in assets for loans to small businesses and other customers.

"I think there's been a realization that we should be generating jobs with our own money wherever possible," says Anthony Ramos, the retired former leader of the California State Council of Carpenters.

Amalgamated's loud voice on consumer issues is partly a marketing ploy to set itself apart from the pack. As other banks cater to big depositors and raise fees for small accounts, Amalgamated promotes treats for the little guy, such as its free checking and low-interest personal loans.

Highly conscious of its labor roots, Amalgamated also likes to take shots at the establishment banks. In one of its radio commercials, a stuffy banker tells a customer he needs a password to sit down. "The name of any Ivy League school will do," says the banker. "P.S. 188?" asks the customer, naming the public school he attended. In other ads, comedians Jerry Stiller and Ann

Meara imitate rank-and-filers with names like Rocco and Blanche, and pitch "America's Labor Bank."

"If we give [the industry] an uncomfortable feeling for a couple of hours, it will be worth it," concludes Edward M. Katz, Amalgamated's president and chief executive.

The bank's five-story brick headquarters, which it shares with its union owner, overlooks New York's Union Square, the site of labor and political rallies earlier in the century. Back in the old days, Amalgamated's services even included a travel agency and foreign-exchange desk for the immigrant population that dominated the clothing workers' union. Today, customers in open shirts and work boots outnumber those in business suits. Proclaims a plaque on the lobby wall: "New York's First Labor Bank, dedicated to the service and advancement of the labor movement."

Mr. Katz, too, is quick to prove his allegiance. After ushering a visitor into his office, he flips open his suit jacket and proudly shows the union label. A soft-spoken man of 66 who started as a part-timer at the bank in 1946, Mr. Katz raises his voice when he talks about how small depositors have fared under banking deregulation. Not too well, he believes. "When you have a special industry using Uncle Sam as an umbrella in times of difficulty, don't you owe something to the public?" he asks. "What would be so wrong with having an account on which you don't make money?"

Amalgamated, though, is bucking a strong trend. A national survey conducted by the Consumer Federation of America and others found that fees for routine banking services are rising sharply for most depositors.

In some ways, Amalgamated has a lot less to offer those customers than its competitors. Small by big-bank standards, it doesn't generally offer credit cards or home mortgages. With only three branches and two newly opened automated teller machines, it lacks what many consumers want most: convenience. And in the ranks of big-league banks, Amalgamated is an also-ran, shunning such trends as interstate expansion and the hot competition for corporate loans.

"I'm not conscious of their presence" as a competitor, says Richard Ravitch, the chairman and chief executive of Bowery Savings Bank, which has about four times the assets and eight times the branches of Amalgamated. Contends another New York banking official: "If they were the best, they'd be bigger."

But what Amalgamated does have, it pushes hard, especially its reputation as a low-cost consumer bank. Last year, when an annual survey by New York State Sen. Franz S. Leichter dropped Amalgamated to No. 11 from No. 1 as the least expensive bank for New York City consumers, Amalgamated officials phoned the legislator and angrily complained. (The bank is back up to No. 2 this year.) In 1985, the Better Business Bureau of Metropolitan New York challenged Amalgamated's boast of having the lowest auto-loan rates of any bank in the city. But the bank quickly backed up the claim, the bureau says.

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CONTRA AID

HON. SAM GEJDENSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 17, 1987

Mr. GEJDENSON. Mr. Speaker, I am extremely pleased by today's vote in the Democratic caucus to instruct the House conferees to the continuing resolution to stand firm against the Senate's demands for assistance to the Nicaraguan Contras.

The $16 million allocated in the Senate continuing resolution for the Contras would perpetuate this unconscionable war and undermine the Arias Peace Plan. After 6 years of secret and open war in Nicaragua, the administration and its Contras have failed to demonstrate any military gains. In my view, they have only shown a willingness to maim and slaughter civilians and to take Nicaraguans and foreigners hostage.

It would be unfortunate if the conferees rejected the entreaties of the House Democratic caucus and allowed aid for the Nicaraguan Contras to stay in the continuing resolution. The continuing resolution, in general, is a fine-tuned spending bill which meets domestic program and national security needs while reducing the Federal budget deficit at the same time.

This budget year was one of the toughest Congress has ever faced. I believe, however, that the conferees on the continuing resolution acted to preserve the integrity of Federal programs which help those Americans most in need of assistance. By ensuring that Federal housing, job training, homeless assistance, and compensatory education programs are not gutted in the rush to reduce the budget deficit, the continuing resolution moves our Nation forward. This compromise will also allow our Nation to get a better handle on the prevention and treatment of the AIDS—which has already claimed too many young lives in Connecticut and around the Nation.

A key means by which the continuing resolution also meets national security needs is by providing full funding for the Trident submarine, as well as for the 688-class and SSN-21 class submarines. While the Trident submarine is the cornerstone of our Nation's nuclear defense, the 688-class submarine is essential to our ability to carry out our global commitments. The contributions of these two weapon systems to our Nation's defense will be augmented in the near future by the SSN-21 submarine, which makes dramatic improvements in attack submarine technology.

While I hail the conferees for crafting a delicate compromise which preserves our domestic and national security needs, I would again urge them to preserve the integrity of the continuing resolution by rejecting Senate demands for Contra funding. The House must be allowed to decide the issue of aid to the Nicaraguan Contras in a straight up-or-down fashion. Including Contra funding in the continuing resolution denies the House that opportunity and funds the Contras through the back door.

MERCHANT SEAMEN CITIZENSHIP REQUIREMENTS

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 17, 1987

Mr. BIAGGI. Mr. Speaker, one of the most important tenets of U.S.maritime policy is the concept that America needs ships owned and manned by U.S. citizens. While we continue to struggle with maintaining our fleet size, today we can move one step closer to insuring that those vessels we do have are crewed by Americans.

In June of this year, I introduced legislation that clarifies merchant seamen citizenship requirements. The essentials of this legislation were folded into the Coast Guard authorization bill, which was passed by the House on June 8. Except for some clarifying noncontroversial changes, the manning provision in the bill before us is essentially the same as the earlier version.

With certain exceptions, my amendment requires that all officers and unlicensed seamen on a U.S.-flag vessel be U.S. citizens—whatever the port of departure. It will affect certain types of fishing vessel operations and the operation of larger commercial freighters and tankers. The amendment makes no changes to the existing citizenship requirements for crewmembers of yachts, offshore supply vessels, and mobile offshore drilling units operating in foreign waters, and certain fishing vessel operations.

A U.S. citizen replacement is mandated as soon as the vessel returns to a port at which, in the most expeditious manner, a U.S. citizen can be obtained. Simply put, whenever a vacancy occurs on a U.S. ship on a foreign voyage because of illness, death, dismissal, or other similar emergency, a foreign seaman can fill that vacancy—temporarily. The amendment continues the Secretary's existing authority to reduce the complement of merchant seamen—except the master—when, after an investigation, it is determined that citizen crews are unavailable.

With regard to the Coast Guard, I feel privileged to once again rise in support of this dedicated, professional group of men and women. My affection and respect for this fine agency began long before I became chairman of the Coast Guard Subcommittee. Holding that position only served to cement my admiration for the Coast Guard.

I have long believed that we continually underfund the service. The Coast Guard has traditionally operated on a lean budget; yet, whatever its resources, the job gets done—and well. About all we give the Coast Guard in abundance is broader missions. Unfortunately, the budgetary climate prevents us from expanding its financial resources in a directly proportional manner.

Most Americans benefit in one fashion or another from the myriad activities in which the Coast Guard is engaged. I wish we could do more for the service. Maybe someday we'll be able to give the Coast Guard the funding it needs. Until that day, deep respect and admiration will have to fill the gap.

I urge passage of H.R. 2342.

PROBLEMS IN THE RSA

HON. BUTLER DERRICK

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 17, 1987

Mr. DERRICK. Mr. Speaker, I rise today to address a problem that has been brought to my attention by the commissioner of vocational rehabilitation in my State of South Carolina regarding the Office of Special Education and Rehabilitation Services [OSERS].

The Rehabilitation Act of 1973

> Established in the Office of the Secretary a Rehabilitation Services Administration, which shall be headed by a Commissioner * * * and the Commissioner shall be the principal officer of such Department for carrying out this Act.

In spite of this stated intent, I fear that there has been an administrative effort to usurp the responsibility and the authority of the Rehabilitation Services Administration [RSA] by the Department of Education.

With the appointment of Justin Dart, Jr., a distinguished American, as Commissioner of RSA, there was widespread enthusiasm within the rehabilitation community. His personal experience with disability, coupled with his years of dedicated leadership regarding advocacy and basic civil rights of persons with disabilities, made him an outstanding Presidential appointee for this important position. Rehabilitation leaders rejoiced over the appointment and looked forward to a new and exciting era for RSA.

Unfortunately, Mr. Dart was not permitted to select his own staff. Individuals were selected by the Assistant Secretary of OSERS for all key vacancies within RSA. None of those persons had experience in the administration or service delivery of vocational rehabilitation services. Furthermore, Commissioner Dart's recommendations for vacancies or for consultant services were systematically rejected by the Assistant Secretary of OSERS.

Circumstances within RSA continued to deteriorate when most vacancies within the central office and within the regional offices of RSA were left unfilled for months over the objection of Commissioner Dart. Dozens of critical vacancies remained unfilled throughout the country.

Eighty of the Nation's directors of vocational rehabilitation agencies informed the Secretary of Education of the serious management problems within OSERS. On November 18, 1987, Commissioner Dart confirmed before the House Subcommittee on Select Education that

> OSERS-RSA has been for many years, and is today, afflicted, particularly in its central office, by profound problems in areas such as management, personnel, and resource utilization . . . These problems are negatively impacting services to citizens with disabilities.

Thus, it is apparent that we have a real problem in the Rehabilitation Services Administration. However, Secretary Bennett's response was that he saw no problem and supported the Assistant Secretary of OSERS. After Commissioner Dart's testimony became widely circulated, he was forced to resign, effective December 15, 1987.

This situation would be devastating enough if it were only a management issue. As evidence of congressional support, the U.S. House of Representatives and Senate have a long history of supporting vocational rehabilitation programs, designed to assist persons with disabilities to become independent, employed, taxpaying citizens. Rather than a financial expense to our economy, rehabilitation is an investment in our working force. However, the real tragedy of this deplorable situation at OSERS is that, as Commissioner Dart expressed, these problems are negatively impacting services to citizens with disabilities.

Given these circumstances, I am calling for a thorough and objective investigation of OSERS, to be carried out by the General Accounting Office. I would also request that the GAO interview senior staff of the RSA who have resigned, retired, or otherwise departed within the past 6 years, in order that the GAO have the opportunity to learn of the long pattern of neglect and mismanagement.

I would also recommend that the Rehabilitation Services Administration be elevated to an assistant secretary level position within the Department of Education, or be removed from the Department and administered through some different organizational structure. This could be an independent council or through another department with greater interest and support for the important programs of RSA.

Mr. Speaker, swift action is needed to correct the problems in the RSA so that we can revitalize our services to the disabled citizens of America.

FAMINE THREAT IN ETHIOPIA

HON. MICKEY LELAND

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 17, 1987

Mr. LELAND. Mr. Speaker, the Select Committee on Hunger, which I have the honor to chair, has closely monitored the emerging food crisis which threatens several million people in the desperately poor nation of Ethiopia. Severe drought has brought about a crop failure approaching 100 percent in several Ethiopian provinces. Intensifying civil strife complicates the already difficult logistics of emergency relief operations in a nation hampered with a poor infrastructure which is required to move massive amounts of food aid over rugged terrain.

The December 21 issue of Time magazine contains a lengthy article outlining the scope of the crisis facing the people of Ethiopia. In light of today's announcement by Alan Woods, Administrator of the Agency for International Development of an additional 105,000 metric tons of United States food aid to the Ethiopian people, I commend the following excerpted article from Time to my colleagues:

FAMINE THREAT IN ETHIOPIA

They look like the scrawny camp followers of a medieval army as they gather under a huge bluff called Dongordo. The earth is boiled beige, with hardly a blade of green. There are nearly 7,000 of them, and they began assembling here long before dawn. Dressed in ragged homespun cotton and wrapped in long shawls called netela, they come in entire families, grandfathers and grandchildren. The men hold herding sticks; the women carry babies bound to their backs with cloth. And then there are the youngsters, some of them naked and with their heads shaved except for a single tuft in front. They are strangely silent.

The multitude comes from two Ethiopian villages, Asbi and Habes, in the dusty, barren hills to the north. Some walked all day and all night across 31 miles of craggy terrain to reach this scorched patch just outside Wukro, a district capital in the province of Tigre. Once again a drought has cursed Tigre, and once again the hungry have come to receive food from relief workers. Family after family moves past the rough wood table to register for the donations. Each supplicant dips a finger in purple dye to ensure that there is no cheating for seconds. "It is worse this year than it was in 1984 and 1985," laments Chief Elder Muboulle Osman, a tall, worried-looking man of about 50. "There are 72,000 people in this area, and we have no food, not even grazing for our animals. Without this," he gestures toward a long, green tarpaulin piled high with wheat flour, beans and grain, "we would starve and die."

Before the families receive their ration of food, the children are examined by health workers. Their eyes are peered at, their skin is checked. The aides take measurements of each child. If he or she is too small, it can be a sign of chronic malnourishment. Danish Nutritionist Birthe Pedersen, who works for the International Committee of the Red Cross, is measuring an eight-year-old boy. The upper part of his sticklike arm is 9.8 cm around; a normal child's arm is about 15 cm. After the boy walks away, Pedersen looks grim. "He will not live very long," she says.

Three years ago, a famine began to strike Ethiopia with apocalyptic force. Westerners watched in horror as the images of death filled their TV screens: the rows of fly-haunted corpses, the skeletal orphans crouched in pain, the villagers desperately scrambling for bags of grain dropped from the sky. What started out as a trickle of aid turned into a billion-dollar flood. The U.S., the largest donor, sent $500 million, and that does not include millions in private contributions. Irish Rocker Bob Geldof enlisted the help of his fellow musicians, dubbed his crusade Band Aid and raised $140 million. The rescue effort was plagued by delays and controversy, and some 1 million Ethiopians eventually died. But more would have perished if the world had not responded so generously.

Today Ethiopia is in the midst of another drought, and thousands of peasants are again on the move, trekking across the parched landscape in search of that bag of flour or handful of beans that will keep them going for a few more days or weeks. Ethiopia, which has earned the unhappy honor of being rated the globe's poorest country by the World Bank (average annual per capita income: $110; infant mortality rate 16.8%), is on the brink of disaster again. At least 6 million of its 46 million people face starvation, and only a relief effort on the scale of the one launched three years ago will save them. Some of Ethiopia's needs have already been met, but the grain still required could be the difference between hunger and death for millions. As the cry goes out once more for food and money, the sympathetic cannot be faulted for wondering why this is happening all over again. Is the latest famine wholly the result of cruel nature, or are other, man-made forces at work that worsen the catastrophe?

Elsewhere in Africa, conditions are only slightly less precarious. Millions of people up and down in the continent face spending Christmas Eve on empty stomachs. Many will surely die unless food shipments arrive early in 1988. The United Nations' World Food Program puts relief requirements for 15 needy countries at 2.7 million metric tons (the 15: Angola, Botswana, Chad, Ethiopia, Malawi, Mozambique, Niger, Somalia, Sudan, Swaziland, Tanzania, Uganda, Zaire, Zambia and Zimbabwe). Only half of this goal has been met so far by donors.

The situation in Ethiopia is not yet as bad as it was two years ago, when hundreds died daily of hunger and disease in mass feeding camps. As of last week there was enough food to last for a month and enough promised in the international aid pipeline to nourish the country through April. While thousands of peasants have been temporarily uprooted from their villages, they have learned the lesson of 1984-85 and have gone in search of food before they are too weak to travel. U.N. officials say that for the moment there are no permanent feeding camps, where more died from rampant infectious disease than of hunger the last time around. Those who gather at Wukro go back to their villages after receiving a month's supply of food, then return in a month or so.

But things could rapidly deteriorate if the available food cannot be distributed quickly enough. "The next few weeks are crucial," said Dr. Goran Hanson, a Swedish Red Cross worker in Addis Ababa. "If food and transport do not arrive in time to keep people in their villages and prevent them from gathering in famine camps, it will simply be disaster. We desperately need food, trucks and planes. We are now short of all three."

The response from the West has again been generous. Last week BBC Correspondent Michael Buerk, whose reporting first alerted the world to the scope of the last famine, led an appeal that raised $650,000 in five days. Weeks before the latest drought attracted publicity, the major private food-aid agencies—the Red Cross, Oxfam, Caritas, Care and Catholic Relief Services—were shipping food by sea and air and distributing it to the needy.

Why, after two short years, do hundreds of thousands, even millions, again face starvation? While Western experts primarily blame the lack of rain, many place much of the responsibility on the shoulders of Ethiopian President Mengistu Haile Mariam, whose rigid and secretive Communist regime has done little to avert another tragedy. Not only does the Addis Ababa government seem more concerned with putting down various insurgencies than with feeding the hungry, but it has also continued policies that seem designed to aggravate rather than resolve problems of poverty.

Those policies include a population-resettlement program, the opening of Soviet-style collective farms and a "villagization" effort that moves farmers off their isolated homesteads and into government-built settlements. The collective farms are such a doctrinaire Stalinist scheme that even the Soviet Union has urged officials in Addis Ababa to scale back their ambitious plans.

Geldof, who received an honorary knighthood from Queen Elizabeth II for his Band Aid efforts, was back in Ethiopia last week, and his indictment of Mengistu's role in the new famine was harsh and to the point: "I would say that the cardinal responsibility of any government is to feed its own people and any government refusing to do that is irresponsible."

In 1984 hundreds of thousands had already starved to death before the government admitted to a famine. And Mengistu, a former army major with tendency toward the grandiose, was widely denounced for spending an estimated $100 million to commemorate the tenth anniversary of the revolution that deposed Emperor Haile Selassie. There are signs he may be curbing his spendthrift ways: in September, when the country was renamed the People's Democratic Republic of Ethiopia, Mengistu opted for a cocktail party instead of a banquet.

Like much of Africa, Ethiopia has always been subject to ecological disaster. Droughts and famines were reported as early as 253 B.C. In the great drought of 1888, a third of the population is said to have died from malnourishment and disease. This latest calamity is part of a 30-year pattern that has seen the rains repeatedly fail along the Sahel, the wide swath of land that cuts Africa in half just below the Sahara. After the 1984-85 drought, which killed an estimated 2 million people in Africa, there was a brief period of uncommon optimism in Addis Ababa. In 1985 and 1986 the rains were good for the first time since 1981. Though hunger persisted, no one was starving. When the rains came on schedule last June, it looked as if the nation would have a third year of good luck. But July was bone dry—not a drop of water the entire month. Stubbornly hopeful, farmers replanted. In August the rain sputtered, then, late in the month, stopped. the crops withered and died.

Worst hit was the far northern province of Eritrea along the Red Sea, where the crop failure exceeded 80%. More than 40% of the harvest was lost in Tigre, 44% in Wollo and 35% in Harar, the Ogaden desert region that juts into Somalia. Altogether, nine of Ethiopia's 14 provinces are suffering food shortages.

In this age of the green revolution, with crop yields skyrocketing, drought no longer automatically means famine. India, for example, is now in the midst of its worst drought in decades, but because it has a food surplus and a relatively organized system for feeding the hungry, few are expected to starve. Usually it is the combination of drought, mismanagement and civil war that brings famine. Ethiopia is afflicted with all three.

Getting the food to the hungry is made more difficult by inadequate port facilities, poor or nonexistent roads and insufficient planes and trucks to transport food to rural areas. But the biggest block in the pipeline is civil strife. The government is battling 23 rebel groups and factions in every part of the country. The two strongest insurgent armies are in Tigre and Eritrea, the provinces hit hardest by the drought. Eritrea has been in rebellion against the government ever since it was annexed by Ethiopia in 1962, and a guerrilla movement began building in Tigre in 1977.

During the last famine the rebels and international agencies had a policy of live and let live. But in late October, Eritrean People's Liberation Front guerrillas attacked an unguarded convoy of 23 trucks on its way from Asmara, capital of Eritrea, to Mekele, capital of Tigre. One driver was killed, and the trucks—loaded with 674 tons of food, enough to feed 30,000 people for a month—were destroyed by grenades. The E.P.L.F. claimed that some of the trucks contained military equipment, a charge that U.N. officials deny. Since then, the E.P.L.F. has attacked two Ethiopian military-civilian convoys that reportedly included food trucks.

The rebel sabotage brought the entire operation for Tigre and Eritrea to a halt for more than a month. Not only were the convoys under threat from Eritrean and Tigrean rebels, but even those agencies willing to risk assault could not move their trucks because the government closed the roads. "If many people die this year and next, it will not be due to drought but the politico-military situation," said one relief worker.

Convoys are moving again during daylight hours in Eritrea, with agency staffers driving the perilous roads at their own risk. But much of Tigre remains cut off; the Tigrean People's Liberation Front has demanded that the Mengistu government rescind its resettlement policy before it guarantees the safety of the food trucks.

Resettlement is an ambitious government scheme to move 1.5 million peasants from the overcrowded and barren north to the more fertile south. While international agricultural officials acknowledge that the program is a legitimate effort to solve some of the country's long-term social and economic problems, they charge that in past years the Mengistu government carried it out with unnecessary cruelty. According to some Western diplomats, the regime broke up families and forced villagers to move to camps that had no housing, no water, no health facilities and often no food. Of the 600,000 northerners who were resettled during the last famine, 100,000 died, according to Doctors Without Borders, a Paris-based relief group. The government ejected the group from the country at the end of 1985 after labeling its charges "preposterous." Nonetheless, Mengistu suspended the resettlement program in early 1986, only to restart it last month. So far, 7,000 "volunteers" have been moved south, and the government plans to transfer up to 300,000 next year.

The rebels assert that the real motive behind the program is to persecute Eritreans and Tigreans and drain the rebel fronts of potential recruits. Dr. Frederick Machmer, head of the U.S. relief team in Addis Ababa, believes the rebels are disrupting the aid effort so the international community will accept "that they are a force to be reckoned with and that they control areas of the north." Geldof, whose organization owned some of the trucks blown up in October, finds the tactics of both sides despicable. Said he last week: "To attack food trucks and seal off roads in these conditions is tantamount to mass murder."

The convoy attacks are all the more tragic because the international agencies were well prepared to cope with the famine this time around. The U.N. and the Ethiopian government kept abreast of agricultural conditions through an "early warning system" that included satellite surveillance of farming areas. Months ago, at the first sign that the rains might fail, the agencies acted. One of the first nations to dispatch aid was the U.S., whose Agency for International Development is still bitter over charges that it did not do enough during the last crisis.

AID dispatch 10,000 tons of food to Ethiopia on May 7, when crops failed in Harar. When the rains failed in the highlands in July, 10,000 tons were sent to bolster the country's reserves. And when it was certain that a new drought had begun in August, the U.S. approved the delivery of 115,000 tons, valued at $43 million. The first 30,000 tons are scheduled to arrive this month.

In Washington, Reagan Administration officials speak proudly of the U.S. contribution two years ago and now. Said one: "The last time around we got criticized for not doing enough, but we spent half a billion dollars trying to help starving people. What did the Russians do? They gave Ethiopia two planes." The Soviets insist they gave much more, including food, medicine, blankets and tents, and they are pouring in humanitarian aid now. Western experts say these claims are overstated.

Despite a continuing flow of arms from Moscow, Western diplomats suspect that the Soviets are not happy with their ally. When Mengistu visited Moscow in April, Soviet Leader Mikhail Gorbachev cautioned him to "proceed from realities and not outrun stages of development." Politburo Member Lev Zaikov was reportedly blunter when he visited Addis Ababa in September.

Last Saturday the U.N.'s Food and Agriculture Organization (FAO), which has been monitoring the drought situation from the start, issued a new report that increased the projected food need for 1988 from 950,000 tons to 1.3 million tons. So far, 550,000 tons have been promised by aid groups, or 42% of what will be needed. Michael Priestley, the U.N. official who coordinates the overall relief program in Ethiopia, stresses that more aid must be committed immediately. "It will take five months for a food shipment to get here if it is pledged this week," he said, "If we don't get the pledges now, there will be a break in the pipeline."

Forty-two thousand tons of food are currently in Ethiopia, with shipments arriving daily. By the end of this month, an additional 90,000 tons are expected, thus ensuring Ethiopia enough food through Christmas if some of the hungry are put on three-quarter rations. Relief workers are racing to distribute food. Rebel attacks and logistical problems have cost valuable time, however, and in the past few days the pace has quickened. Last week three transport planes left Europe for Ethiopia and are now airlifting food from Asmara, near the Red Sea port of Assab, to Mekele. The European Community, which organized the operation, eventually hopes, to deploy ten planes, "The airlift is vital," says Priestley. "But 700,000 people in Tigre need food immediately, and the aircraft must be backed up by trucks. If we don't start widespread distribution, there will be famine camps."

FAO officials are also sounding the alarm. "In terms of organization, we are better equipped this time," says Peter Newhouse, a senior FAO economist. "But if donation decisions are not made immediately, and it's not raining in Ethiopia by March, then we are in trouble. We will move from a disaster to a catastrophe."

THE NATIONAL BONE MARROW DONOR REGISTRY RECORDS ITS FIRST SUCCESS

HON. C.W. BILL YOUNG

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 17, 1987

Mr. YOUNG of Florida. Mr. Speaker, this is a historic week for the recently established National Bone Marrow Donor Registry because early Wednesday morning, in a Seattle, WA, hospital, 6-year-old Brooke Ward, who is suffering from leukemia, received the first bone marrow transplant from a nonsibling donor after being matched through the national registry.

The entire procedure, starting with the initial search for the donor through this morning's successful transplantation, took less than 3 weeks. Without the registry, this same process would have taken a minimum of 3 to 6 months. Reducing the time necessary to find a bone marrow donor is one of the most important reasons the national registry was established by the Congress last year.

Locating an unrelated bone marrow donor requires a complex array of blood and tissue typings and is virtually impossible without a computerized network of potential bone marrow donors. For this reason, all but a few of the 1,200 to 1,500 bone marrow transplants performed each year are of the matched sibling type where bone marrow is donated by a family member.

Prior to the establishment of the national registry, locating a nonsibling donor was a difficult and time-consuming procedure that required hundreds of calls by doctors and hospitals, usually in a futile effort to locate a suitable match. Unfortunately, matched donors are successfully found in only about 10 percent of these cases. The other patients often die without a bone marrow transplant.

Bone marrow transplantation is an increaseingly successful medical procedure that annually saves the lives of thousands of children and adults suffering from a number of blood disorders and cancer. The most common bone marrow transplants are of the matched-sibling type where marrow is donated by one family member to another. It is estimated, however, that as many as 70 percent of the potential bone marrow transplant patients do not have a sibling donor.

Medical experts I've discussed this matter with say the National Bone Marrow Donor Registry will save thousands of lives per year because they say the quicker a donor is identified and the transplantation is completed, the better the chance is for a patient's recovery.

I became aware of the need for a national registry last year when a 10-year-old, Pinellas County girl named Brandy Bly needed a bone marrow transplant just as Brooke Ward did this week. Unfortunately for Brandy, the National Bone Marrow Donor Registry was not operational at the time of her transplant and doctors were unable to find a matched donor. Brandy also had no sibling donor available so doctors were required to perform a very painful and high-risk procedure where they extracted Brandy's own bone marrow, treated it with powerful antibiotics and high doses of radiation, and reintroduced it into her body.

Brandy put up a brave struggle for her life, but died several weeks after her transplant. The transplant succeeded, but Brandy died from complications associated with the medication and radiation treatments. Her family and doctors have told me that had the national registry been in place at the time her transplant was needed, Brandy might still be alive today.

Brandy's experience prompted my efforts to see that the national registry becomes fully operational as scheduled. In this regard, I'm pleased that the House and Senate conference committee on the Defense appropriations bill this week approved my request for $2.1 million to continue funding the work of the National Bone Marrow Donor Registry through fiscal year 1988.

The Navy Medical Research Institute in 1986 contracted with the American Red Cross, the American Association of Blood Banks, and the Council of Community Blood Centers to work with more than 50 blood banks and blood centers to establish a computerized base that one day will instantly have access to more than 100,000 potential unrelated bone marrow donors. In the first year of this project, more than 17,000 donors have registered to be part of this network. With bone marrow transplant now considered an acceptable medical practice and being studied as a treatment for a wide variety of diseases, the registry could help save thousands of lives each year.

Mr. Speaker, it is most appropriate in this season of giving that through the National Bone Marrow Donor Registry, volunteers throughout our Nation can give their bone marrow to adults and children, such as Brooke Ward, so that they can survive what were previously fatal diseases.

Although I've never met Brooke, I know that like children throughout our Nation, she is looking forward to the holidays with excitement and anticipation. Knowing this brings back my memories of sitting by Brandy Bly's bedside when she would tell me how eagerly she awaited Christmas. This is the first Christmas we will celebrate without Brandy, but her family can be proud to know Brandy has inspired a strong national commitment to support the Bone Marrow Donor Registry and that in this way Brandy has given the ultimate gift of life to thousands of men, women, and children in the years ahead.

UNITED STATES LAST IN VOTER TURNOUT

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 17, 1987

Mr. BIAGGI. Mr. Speaker, since 1980, I have been pushing for legislative reforms aimed at increasing voter turnout in the United States. A study just conducted by the Congressional Research Service at my request strongly supports the need for those reforms.

The study focused on 143 elections held in 28 different nations between 1969 and 1986. The United States ranked the lowest among all nations surveyed with a 53.58-percent average voter turnout rate during Presidential elections, and a 38.54-percent turnout during non-Presidential elections.

I have long stated that one of the best ways to increase voter participation in our country is to change election day to Sunday. The study's findings support this view. According to the study, countries holding non-work-day elections have an average voter turnout rate that is more than 11 percentage points higher than countries holding elections on a work day (88.28 to 77.07 percent). Among those countries that conduct elections on Sunday are: Austria, Belgium, Colombia, Finland, France, Greece, Iceland, Italy, Japan, Luxembourg, Norway, Portugal, Spain, Sweden, Switzerland, Turkey, and West Germany.

But, the very serious voter turnout problem our Nation faces requires more than one solution. Changing elections to Sunday will improve voter turnout, but workday voting is not the only obstacle standing between voters and the polling place. Easing confusing and overly restrictive voter registration laws is also an important change whose time has come, particularly considering that three-fourths of all registered U.S. voters do vote. President Carter first proposed the idea of same-day registration in 1977, and it has proven to be very successful in the three States—Minnesota, Maine, and Wisconsin—that have already tried it. Those States ranked first, second, and fourth, respectively, in voter turnout during the 1984 election.

Mr. Speaker, I fully support a recent House-passed bill to establish a uniform poll closing time for Presidential general elections, because as the New York Times has said, we need "election projection protection." But, that is only a partial cure to a very widespread illness. We need to do more, and I believe Sunday voting and election day registration deserve our very serious consideration.

H.R. 3100

HON. JOHN MILLER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 17, 1987

Mr. MILLER of Washington. Mr. Speaker, recently I authored and the House passed three amendments to H.R. 3100 "The International Security and Development Cooperation Act of 1987." As the leader of the free world, the United States must have a foreign policy which encourages the spread of freedom and democracy. We must let people living under the thumb of oppressive governments know that we will work for policies which will bring them freedom. H.R. 3100 tries to do this. In my three amendments I have also tried to address this issue in three such countries of the world—Chile, Haiti, and South Africa.

The most important geopolitical event in the Western Hemisphere today is the democratic tide now washing over the Americas. Nation after nation has resisted or thrown off dictatorships of the left and the right and embraced democratic forms of government. For strategic and moral reasons we have supported these democratic movements. Our support is most important in the early fragile stages of these movements, when a nation reaches a turning point, a moment in its history when it can regress to tyranny and oppression or progress to freedom and democracy. Chile is now at this moment in her history.

General Pinochet, however, appears to be standing against the tide of democracy in the Americas. His government continues to deny the Chilean people the basic right to choose their leaders. While the people call for free multiparty elections, the Government offers only an up or down vote in a beauty contest plebiscite. The only contestant in this beauty contest will undoubtedly be General Pinochet.

Restrictive by its very nature, the plebiscite will also be governed by registration laws which place Pinochet supporters on the local electoral registration board. There will be no oversight by members of opposition parties. This does not represent a step on the road to democracy. This beauty contest plebiscite is a public relations gambit to further entrench Pinochet's regime.

It doesn't have to be this way. To his credit, General Pinochet has allowed the opening of two opposition newspapers as well as some opposition magazines. And that is good because as the primary source of information for an informed electorate, a free and independent news media is crucial to a functioning democracy.

Despite some progress, however, freedom of the press, is still a some time thing in Pinochet's Chile. Journalists have received anonymous death threats, editors and reporters have been jailed, foreign correspondents have been arrested and intimidated.

Over the years, the Chilean Government has oppressed its people in ways both violently obvious and insidiously subtle. Amnesty International and other human rights organizations have documented the arbitrary arrests, torture, and human rights violations by groups linked to the Chilean security forces. The AFL-CIO has publicly condemned the Government's suppression of labor union activities.

My amendment is straightforward in its assertions and uncomplicated in its solutions. It calls upon the Government of Chile to "end its oppression of trade unions, opposition political parties, and freedom of expression." It recognizes the obvious fact that free speech is essential for democratization. It calls upon Chile to embark on a program of democratization.

Again, let me stress that change is still possible in Chile. That nation is at a turning point. I believe that sooner or later General Pinochet must realize he can no longer resist the democratic tide sweeping over the Americas. Until that realization sinks in, however, our Government must be firm in its condemnation of the general's abuses and even firmer in our support of those in Chile who seek a peaceful democratic transition in that country.

In Haiti we also have a situation where the tyranny of a few is attempting to subvert the will of the majority. Recent events have dimmed but not snuffed out the bright promise of a democratic Haiti. Despite the incompetence of the General Namphy's governing council, despite the corruption of some elements of the military, despite the malign influence of the duvalierists, and despite the wave of terror and murder wrought by the Ton-Ton Macoutes and other armed thugs, despite all of this, the Haitian people continue to petition their government for freedom and democracy.

As the leader of the free world and as a friend and neighbor of the Haitian people, we have a duty to condemn in the strongest possible manner, the brutal disruption of the Haitian elections.

General Namphy is now promising new elections by November 10. This amendment speaks loud and clear to those who would again use terror and violence to subvert the democratic process. This amendment recognizes that an effective response to the thugs in Haiti must go beyond a hemispheric block watch.

We have already cut off military and most other types of aid to the Haitian Government. We must also enlist the support of the international community of free nations to similarly cut off aid to that government. An effective response to the thugs in and out of government, who terrorize the Haitian people must include a cooperative program of diplomatic and economic pressure by the community of free nations.

At the same time we must take positive, constructive steps to encourage, strengthen, and support those in Haiti who want a genuine and lasting transition to democracy. This amendment urges the President, for example, to provide assistance to the independent Haitian news media. It would also aid private, nongovernmental voluntary organizations seeking a peaceful, democratic transition.

This amendment also recognizes that should peacekeeping activities become necessary, any such effort must be an international cooperative activity and must have the support of the Haitian people. Our efforts to encourage the peaceful emergence of a democratic Haiti, must focus at this time not on intervention but on interaction—interaction with our fellow democratic nations and most of all with the Haitian people who despite overwhelming odds, continue to cry freedom.

As we debate what to do in countries such as Chile and Haiti, in South Africa we already have a policy in place. However, since their enactment, the efficacy of our economic sanctions against the South African Government has been the center of an ongoing debate. Enacting and enforcing these sanctions set a United States policy of economic pressure to induce the South African Government to end the moral outrage of apartheid.

Will this policy work? Is the question asked, and usually answered by those on both sides of the sanction issue. Those who oppose the sanctions, point to the continued existence of apartheid as evidence of a failed policy. Many who support sanctions doubt the sincerity of the U.S. Government. They say the lack of progress in South Africa has nothing to do with our policy, which, in any case, only served to put us on the right side of history.

Mr. Speaker, after only 1 year of applying economic pressure to a firmly entrenched and independently prosperous government, I say the jury is still out on the efficacy of this policy. Further, the question we must ask ourselves is: Will sanctions work compared to what?

If the choice is sanctions or constructive engagement, I'll stick with sanctions. Six years of constructive engagement did nothing for the suffering black South African majority, but yielded a bounty of favorable propaganda for Soviet expansionist schemes in the Third World.

If the choice is sanctions or inaction, again, I'll stick with sanctions. We had decades of doing nothing while the boot of apartheid crushed the bodies and spirit of black South Africans. The result is a diminished commitment to peaceful democratic change among many opposition leaders in South Africa.

So, again, Mr. Speaker, I believe the jury is still out on this policy of economic pressure. But even more important, Mr. Speaker, I believe we can and must do more to increase the prospects for its success and for peaceful democratic transition in South Africa.

My amendment will help make our policy of economic pressure more effective. For economic pressure to be effective, it must come in a concerted effort by the free nations of the world. This amendment only restates what was outlined in the Anti-Apartheid Act of 1986—"The President should make every effort to encourage and influence our European and other allies to join in applying sanctions * * * against South Africa." Further, this amendment would require the President to report on his progress in gaining this cooperation. The administration in interpreting this section of the Anti-Apartheid Act as hortatory rather than mandatory is missing the point. It was clearly the intent of Congress for the President to work to gain cooperation from the industrialized democracies on sanctions. This amendment once again makes it clear that we expect the President to actively work for this policy.

The Anti-Apartheid Act was predicated on united pressure against the South African Government—pressure which over time, would isolate that government from the world community. A concerted, coordinated effort by our allies, is crucial to the success of our policy. To their credit many nations have imposed economic sanctions. But we still fall far short of a united front against the South African Government.

CONCERNED ABOUT PROPOSED TAX INCREASES

HON. PATRICK L. SWINDALL

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 17, 1987

Mr. SWINDALL. Mr. Speaker, I have received numerous letters from constituents who are concerned about proposed tax increases, and the need to reduce wasteful Government spending. Recently, I received a letter from a constituent which reflects these concerns. I want to include this letter in the CONGRESSIONAL RECORD so Members of the House and the Senate could read the comments expressed by this constituent which reflect the concerns of many people in the Fourth District of Georgia.

DEAR CONGRESSMAN SWINDALL: I have not had time to write since attending your meeting in Decatur on taxes.

I discussed with you at that time some of my concerns regarding tendencies in our legislative processes which I stated appear heading toward communist ideals. I cited examples.

You stated that if I would write you about it you would have it printed in the Congressional Record so all Congress, and Senate could read it.

I will give you here the major concerns. These concerns begin with legislation on Social Security where younger persons will not be able to draw full Social Security until past age 65. This must be done away with. I cited how legislation on taxation is twisted around in the form of tax relief, yet it causes tax increase by taking away investment incentives, and further government spending and controls. We had discussed spending to aid the fight against communist aggression and money spent in contra aid. I stated that if we are to continue spending to fight communist aggression then we must look at what has and is being done in our legislative processes in Washington which takes away more and more from American business, and individuals constitutional rights which is in my opinion a tendency toward communist ideals. I said a need to start fighting communist aggression in Washington!

I received the letter of invitation to attend your meeting at Dunwoody High School. I was not able to attend. You stated you would like my input and thoughts regarding creating more jobs, enhance American economic competitiveness, yet you said you and others in Washington tended not to favor trade sanction bills. You stated also Congressional consideration of passage of an 18 billion tax increase, yet in the last 20 or more years not any revenue derived from tax increases has been used to pay off deficit which continues to grow larger.

Here are my thoughts on your requested input from me.

1. More jobs depend upon what government intends to do to bring down our national debts, lower interest rates, lower inflation, less government spending, stiffer trade sanctions to stop flow of imports, raise American productivity yet keeping manufacting costs lower than present to enable products to be manufactured reasonable and sold at reasonable profits at home and abroad. Government must stop jockeying tax burdens. Government must quit using the guise of tax relief yet taking away investment, retirement, and personal gain incentive.

2. Trade barriers must be enacted to stop flow of flooding American markets. America must quit spending to rebuild foreign nations and then letting them outproduce us. America must offer quality, dependable, as low manufacture cost goods to American and foreign nations as possible, stop heavy taxation, and stop taking away business and personal incentives for business, retirement, savings, and prudent investing.

3. Unwise, wasteful spending by government in all areas must stop. Social Security should be made stronger to protect American investment dollars to give a better return. Legislation denying younger persons

to draw full Social Security at age 65 is wrong and must be changed to give equal opportunity, for to me it is age discrimination, and tends to be communistic. I tend to favor what I read recently in a news article on trade import rights. That is to permit possible high bid sale of import right to foreign business and to use all the income derived to pay our national debts down to zero balance and put America in cash reserve business. Then do not repeat past unwise spending, and unwise legislation.

4. American taxpayers should pressure Congress, Senate, President and all government to not pass any additional tax increase or additional taking away of incentives unless positive action is proven to be taken on the national debts and unwise spending ended. The American people must stand against Congress, Senate, President, and Government and demand that their best interests be carried forward!

5. Our Agricultural and farmers must be restored to a profitable productivity with incentive of profit. Agricultural business is big business and can employ thousands of Americans from farm to cannery to retail merchandising stores. Example: The taking away of incentives to American business and it's people, yet government giving incentives and aid to foreign importing and foreign cheap labor flooding American markets with goods and labor which America's need to be involved in themselves. Whose interests are Congress, Senate, and all elected to serve? American's or foreign nation's?

6. President Reagan in my opinion has accomplished and performed well, even tho I disagree on some of his actions. There is much needed reform in Congressional, Senate, government squabbling and in thinking among elected and appointed officials and in all areas of government management while running the people's business of government!

For those who cannot serve the American people's best interests then we need to vote them out, clean house, and put persons there who will serve the American people to put America and it's people in strong job and financial security. I mean also to put American Government in strong financial security, and we will be able to cope with our own problems first and foremost before foreign spending! Another example: Look at the oil energy industry. Once again we are relying on imports, yet taking away incentive for exploration, and development of national interests in energy! Where may this also lead us?

I sincerely appreciate this opportunity to academically discuss and share my imput in thoughts to forward America, it's government and it's people. When we speak of being poor, and realizing also other nations poverty and problems, yet we have poverty, illness, joblessness, and stricken business failures in the United States, we cannot ignore our responsibilities to our own charity first and foremost! Charity begins first at home, for if we are not strong in our own then we are doomed to fail and cannot help anyone else! My sincere best wishes to you in your efforts to serve. If I may assist you please call upon me. I myself am a poor, struggling working father and cannot make ends meets or further my own condition for heavy taxation!

H.R. 3783, FEDERAL FACILITY HAZARDOUS WASTE BILLS

HON. RON WYDEN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 17, 1987

Mr. WYDEN. Mr. Speaker, today, I and four of my colleagues on the Energy and Commerce Committee, Mr. ECKART, Mr. THOMAS LUKEN, Mr. SWIFT, and Mr. SYNAR, are each introducing bills aimed to improve compliance with hazardous waste laws at Federal facilities.

Congress has always demanded that the Federal Government play by the same rules as private industry when it handles hazardous waste. That only stands to reason: the waste is no less dangerous just because it is in Government hands.

Unfortunately, the Federal Government has an awful record of compliance with hazardous waste laws. A recent GAO report declared that Federal agencies "have been slow in developing awareness and understanding of their responsibilities" under the law. Few Federal agency waste handlers have been inspected. Of those inspected, almost half have been in violation. And the problems take forever to be cleaned up.

The Department of Energy has been a particularly bad actor in the hazardous waste field. The Hanford facility upstream of my district, for example, is only beginning to fully assess its hazardous waste problems. In the last couple of years, we have discovered over 1,000 hazardous waste sites and spills there. Hanford has a contaminated ground-water plume measured in tens of square miles. And Hanford is not alone. DOE actively has polluted ground water at facilities around the country.

The bill I introduce today will amend the Resource Conservation and Recovery Act to give the Environmental Protection Agency new muscle to enforce existing hazardous waste laws. It will not put special obligations on Federal facilities. It will not create any new programs. But it will encourage Federal facilities to abide by the law like everyone else.

Specifically, my bill will improve EPA's leverage over the contractors the Government often hires to run its programs. The Department of Energy in particular often relies on contractors to run its facilities. As GAO has noted, "DOE relies virtually exclusively on the operating contractor for environmental oversight." Yet DOE has some of the worst hazardous waste problems in the country, perhaps because it jealously shelters its contractors from environmental enforcement.

My bill will do three things that will encourage contractors at Federal facilities to follow the law. It will let EPA enforce hazardous waste permits directly against contractors who operate Federal facilities, as well as against the agencies owning the sites. That way, EPA will have leverage against the parties who most often have the power to make sure the site stays within the law.

Second, my bill will give EPA authoritly to put criminal or chronic violators of the hazardous waste laws on a list preventing them from landing new Federal contracts or grants. EPA has had this power for years under the Clean Air and Clean Water Acts, and it has proved to be a powerful inducement for compliance. And it makes good sense—after all, why should we let bad actors or scofflaws enjoy the benefit of the Government's business?

Third, my bill will prevent the Government from paying the environmental fines or defense costs of its contractors. This is just another way of reaffirming that contractors will be held individually accountable for their actions, no matter who they work for.

My bill, along with the four others introduced by my colleagues today, will help address some of the worst hazardous waste problems in the country. I urge other Members to examine and cosponsor these bills.

NAMIBIA

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 17, 1987

Mr. CRANE. Mr. Speaker, if the United States expects to play a useful role in the independence process in SWA/Namibia, Congress must reevaluate its contradictory and counterproductive policies toward that country.

Perhaps the most blatant contradiction in our overall Namibia policy lies in the Comprehensive Anti-Apartheid Act of 1986. Despite the fact that Namibia had already complied with the five provisions necessary to authorize the President to suspend the South African sanctions, it was included in the act under a provision that the term "South Africa" should include "any territory under the administration, legal or illegal, of South Africa." This was done without any hearings, debates, briefings or discussions.

As if this was not bad enough, although Namibia was included in the punitive measures of the Anti-Apartheid Act, its population has received none of the benefits prescribed in the act for the "victims of apartheid." In fact, of the $20 million spent for this purpose, not $1 has reached the people of Namibia.

It seems that the people of Namibia are in a no-win situation. Why should they be punished for doing precisely what we are asking South Africa to do? If the Anti-Apartheid Act, as its proponents assert, was intended to register our opposition to the policy of apartheid in South Africa, what kind of a signal are we trying to send to the people of Namibia?

Jariretundu Kozonguizi, Minister of Justice, Information, Posts and Telecommunications in Namibia's Transitional Government of National Unity recently stated:

> Can Namibians do more at this stage to comply with the political standards suggested by the Congress? . . . How does the Congress justify the extraordinary step it took last year in defining Namibia as part of South Africa for the purposes of the Anti-Apartheid Act? We are heartened by the fact that the European Communities took a completely different approach: the president of the Council of Ministers having made clear that the Namibian question was completely distinct from that of South Africa and required a different approach.

During questioning before the Senate Committee on Foreign Relations on October 22, 1987, Assistant Secretary of State for African Affairs, Chester Crocker, also acknowledged that the situation in Namibia requires a different approach. He stated that it was the administration's position that Namibia should have never been included in the act.

Mr. Speaker, we must be willing to support the democratic process that is unfolding in Namibia. Support for this process does not require supplying arms, spending millions of dollars, or engaging in covert operations. Support for this process simply requires that we recognize the differences that exist between Namibia and South Africa, and give Namibians credit for what they have accomplished.

Last month, a letter signed by 13 Congressmen was sent to President Reagan urging him to give immediate consideration to suspending the application of the Anti-Apartheid Act to Namibia. The text of the letter is set forth below.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, October 28, 1987.

HON. RONALD REAGAN,
President of the United States, Washington, DC.

DEAR MR. PRESIDENT: On October 2, 1986, the United States Congress passed the Comprehensive Anti-Apartheid Act of 1986 (P.L. 99-440). This Act contained punitive and economic sanctions directed at the Republic of South Africa.

Apparently, through a lack of knowledge and in response to an amendment proposed during debate with little notice, the Senate included in the Act a provision that the term "South Africa" should include "any territory under the administration, legal or illegal, of South Africa" (Sec. 3(6)(b)). This section was intended to, and in effect did, ultimately apply sanctions to Namibia.

There are compelling arguments why this definition should not have been included in the legislation in the first place: Namibia is not a part of The Republic of South Africa geographically or politically, over 90% of its people are of different ethnic origin from the people of South Africa, the political situation is totally different from that in South Africa, the 92% of its people that are black are being severely punished for South Africa's problems that do not apply in Namibia, etc.

Congress did, however, include a clause in the legislation in Section 311(a) and (b) which authorizes the President to "suspend or modify any of the measures required" by the title if he finds that South Africa has met the five provisions laid down in the section, and has "made substantial progress" towards dismantling apartheid.

The five provisions authorizing suspension are:

The Government of South Africa must—

(1) release from prison Nelson Mandela and all persons "persecuted for their political beliefs" or held unduly without trial;

(2) repeal the state of emergency and release all detainees held under this authority;

(3) unban "democratic political parties" as a matter of right and allow all persons to engage in the political process;

(4) repeal the Group Areas Act and the Population Registration Act;

(5) enter into "good faith" negotiations with the "black majority."

These five provisions have been fully met in the country of Namibia (see Incl. 1 for a more detailed discussion). In addition, all laws imposing apartheid were repealed by the Namibian National Assembly on July 11, 1979 ("Abolishment of Racial Discrimination Act of 1979", P.L. No. 3, "Official Gazette of South West Africa"). Also included in this Act (Sec. 4(1)) are criminal sanctions for acts of discrimination of any kind.

Namibia's interim Transitional Government of National Unity, established by Proclamation No. R101 on June 17, 1985, contains a "Bill of Rights" very similar to that of the United States. In establishing this interim government, Proclamation R101 (Part I, 3.) delegates to the National Assembly of Namibia the power to "make laws for the territory" including the power to repeal "any Act of the Parliament of South Africa" insofar as it relates to the Territory.

In addition, a Constitutional Council has recently completed and presented to the Namibian government and people a newly drafted Constitution containing all of the rights and protections of a modern, pro-Western democracy.

In further pursuance of democratic principles, the National Assembly on April 8, 1986, by unanimous vote, declared that any remaining manifestations of institutionalized ethnic and racial discrimination and segregation should be abolished. A Select Committee on National Unity on the National Assembly is charged with giving full effect to this resolution.

Namibia is governed by a multi-racial, black majority Transitional Government of National Unity (TGNU), pending implementation of U.N. Res. 435. Only 2 of 8 Ministers, 1 of 8 Deputy Ministers, 11 of 62 members of the National Assembly, and 2 of 16 members of the Constitutional Council are white.

The time has come for the United States to demonstrate consistency in its policy towards Namibia. The pro-democratic, pro-western people of Namibia have gone the last mile in trying to adopt these principles espoused so loudly by the "Western-Five Nations" and especially the United States. It is morally and legally unjust to hold them in bondage any longer as a means of punishing South Africa.

If the United States Government wishes to act credibly and consistently in southern Africa and expects the South African Government and other South Africans to focus seriously on the agenda which the President has defined, it must give credit in Namibia for what has been achieved there.

The South African Government has taken all possible steps to give Namibia political freedom to establish its own government. Any further grants of authority would contravene United Nations' prohibitions against allowing Namibians to exercise constitutional change and external defense.

There is support in the Congress for moves by the United States to promote the end of apartheid and the building of democracy in southern Africa. If the white government of South Africa is to be encouraged to move in this direction, and if the black peoples are to be moved towards accommodation, this Administration and Congress must show that they are willing to support the democratic process that is unfolding in Namibia. Unless there is tangible evidence of the recognition of democratic evolvement in Namibia, the United States will become irrelevant to the democratic process in the area.

On July 22, 1987, before an audience of the World Affairs Council and the Foreign Policy Association, Mr. President, you identified six "necessary components of progress toward political peace" in southern Africa. These six components are very similar to the five provisions laid down in the Anti-Apartheid Act of 1986. These six components have also been met by Namibia with the exception of the release of Nelson Mandela, a case beyond the jurisdiction of Namibia.

The United States desperately needs at this time to take some action to restore relevance and regain a bargaining position in the area. In the case of Namibia, the "provisions" and the "components" have all been complied with. The facts are there, the opportunity to demonstrate consistency in upholding a higher moral position will never be more compelling.

We urge that you give immediate consideration to suspending the application of the Anti-Apartheid Act of 1986 to Namibia.

DAN BURTON,
——— ———,
PHIL CRANE,
RICHARD SCHULZE,
BILL DANNEMEYER,
LARRY E. CRAIG,
BEN BLAZ,
D.E. LUKENS,
NORMAN D. SHUMWAY,
RON PACKARD,
DENNY SMITH,
BARBARA VUCANOVICH,
CARLOS J. MOORHEAD.

IN HONOR OF PETE RUCKER

HON. RICHARD RAY

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 17, 1987

Mr. RAY. Mr. Speaker, I rise today to honor Mr. Pete Rucker, who will retire at the end of this month as the executive assistant to the commander of the Warner Robins Air Logistics Center at Robins Air Force Base, in Georgia.

As executive assistant to the commander, Pete's responsibility touched every aspect of the base's operation ranging from firefighting and gunnery to the most sophisticated communications and electronics. Warner Robins Air Logistics Center is the largest industrial facility in the State of Georgia employing over 16,000 people.

Pete's career at Robins has been one of solid achievements. After serving in the U.S. Air Force during the Korean conflict, Mr. Rucker began his career as a civilian employee with the Air Force at Brookley Air Force Base in management and procedures work. He transferred to Robins in 1966, and has held planning positions including chief, plans and programs division and deputy director of plans and programs. He assumed his current position on August 11, 1981.

Pete has received numerous awards for work, including two civilian meritorious service awards, and an Air Force logistic command significant achievement award. He has been presented the outstanding performance rating 15 times during his career.

In his technical responsibility, Pete was highly instrumental in developing the retrofit installation of redesigned C-130 outer wings.

He showed a great degree of ingenuity in the planning of the $354.5 million Pacer Center C141 Center Wing Repair Program.

Pete is deeply involved in the process of reviewing all electronic warfare issues presented to the command section. His guidance and advice have been invaluable in the establishment of a special project to centralize management responsibilities of all B-52 electronic warfare systems in one logistics management office in the electronic warfare management division.

Pete recognized that Robins had a problem in getting skilled workers needed to perform the high-technology mission. He began working with State and local vocational education executives in setting up a vocational-technical cooperative education program.

He also saw a need for an engineering program in Middle Georgia. He worked with officials from the Robins Resident Center, Macon Chamber of Commerce, and Mercer University to create an engineering training program. Mercer University, Macon, GA, is currently offering engineering courses at Robins Resident Center leading to a degree in engineering. Another major education program in which he played a vital part was the new logistics education center at Robins. This program administered by Georgia college offers a bachelor of science in logistics systems. The program was so successful that in the fall of 1986 a masters program began. At the Robins Education Center, there are five colleges and universities offering programs to base employees and dependents. Over a thousand students are currently enrolled in classes.

Mr. Rucker has demonstrated that he is a firm believer in community involvement. As a result of Mr. Rucker's enthusiastic support and active involvement, the middle Georgia Military Affairs Committee has continued to be a vital link between the base and local communities. This committee has played a pivotal role in sharing the story of the Warner Robins Air Logistics Center with the business community across the Nation.

Under his guidance, the committee cosponsored the Middle Georgia Military Ball, now an institutional event beginning its sixth year. From this ball over $75,000 has been raised to benefit the museum of aviation at Robins Air Force Base. He was instrumental in getting the museum established at the base and personally involved in the selection of the board of directors, serving as an adviser to the board.

Mr. Rucker has served as the base's liaison with congressional leaders. He has been able to keep the Members of Congress briefed and knowledgeable of the mission of the base, as well as the command.

Calvin Coolidge once remarked, "no person was ever honored for what he received. Honor has been the reward for what he gave."

Mr. Speaker, I don't believe that it is possible to confer upon Mr. Rucker the gratitude of the Nation for his years of hard work. I simply would like to thank him for his hard work and efforts over the years, and wish him the best in all of his future endeavors.

IRS POSITION REVERSAL BURDENS SEAFOOD PROCESSORS

HON. W.J. (BILLY) TAUZIN

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 17, 1987

Mr. TAUZIN. Mr. Speaker, I rise today to introduce legislation to ensure that the U.S. seafood processing industry will not be burdened with unwarranted and unnecessary administrative costs. The seafood processing industry is vital to the economy of Louisiana and other coastal States, and that vitality is threatened by a policy recently announced by the Internal Revenue Service.

Specifically, Mr. Speaker, the IRS for many years has issued official determination letters stating that individuals who process seafood—who bone fish, remove seafood from its shell, or head shrimp—are not "employees" for Federal income tax purposes. Now the IRS has reversed that position, has notified Louisiana seafood processing companies that it now views these individuals as employees, and has threatened severe penalties against companies that do not treat these individuals as employees. This new policy, which directly contradicts previous IRS rulings and is contrary to standard industry practice, would result in the imposition of completely unreasonable administrative costs and burdens on the seafood processing industry.

The individuals who perform seafood processing activities simply do not resemble the typical "employee." These individuals do not receive a fixed wage, but instead are paid on the basis of the quantity of seafood they process. By habit and temperament, these individuals, also are highly mobile, and frequently will move around a State or even the country as they perceive more desirable employment opportunities. They are free to come and go at will and exercise their own discretion as to number of hours worked.

In short, these individuals are self-employed. Because of their mobile and flexible work habits, even a very small processing plant may well use the services of over 100 such individuals in the course of a year. Obviously, it would be difficult and impractical for a processing plant to keep the necessary records to calculate its tax obligations as an employer and equally difficult for it to withhold appropriate taxes for payment. Yet the IRS policy would impose just such a burden, a burden that may well force our smaller processing companies out of business.

We have long recognized that mobile individuals compensated on the basis of goods produced should not be treated as employees under our Tax Code. The legislation I propose today would ensure the continued application of this policy in the seafood processing industry so that the industry is not saddled with impossible administrative burdens.

Mr. Speaker, The bill follows:

H.R. —

A bill to amend the Internal Revenue Code of 1986 and the Social Security Act to provide that individuals who process fish or shellfish are not treated as employees for Federal tax purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FEDERAL TAX TREATMENT OF SEAFOOD PROCESSORS.

(a) EXEMPTION FROM TAXES IMPOSED BY FEDERAL INSURANCE CONTRIBUTIONS ACT.—Section 3121(b) of the Internal Revenue Code of 1986 (defining employment) is amended—

(1) by striking "or" at the end of paragraph (19),

(2) by striking the period at the end of paragraph (20) and inserting in lieu thereof "; or", and

(3) by adding at the end the following new paragraph:

"(21) service performed by an individual under an arrangement pursuant to which—

"(A) such individual undertakes the peeling, picking, heading, shucking, filleting, or other processing of fish or shellfish, and

"(B) any remuneration such individual receives for such service is based on the quantity of fish or shellfish such individual peels, picks, heads, shucks, fillets, or otherwise processes."

(b) EXEMPTION FROM TAXES IMPOSED BY FEDERAL UNEMPLOYMENT TAX ACT.—Section 3306(c) of such Code (defining employment) is amended—

(1) by striking "or" at the end of paragraph (19),

(2) by striking the period at the end of paragraph (20) and inserting in lieu thereof "; or", and

(3) by adding at the end the following new paragraph:

"(21) service described in section 3121(b)(21)."

(c) WAGES ATTRIBUTABLE TO SEAFOOD PROCESSING SUBJECT TO TAX ON SELF-EMPLOYMENT INCOME.—Section 1402(c)(2) of such Code (defining trade or business) is amended—

(1) by striking "and" at the end of subparagraph (F),

(2) by striking the semicolon at the end of subparagraph (G) and inserting in lieu thereof ", and", and

(3) by adding at the end the following new subparagraph:

"(H) service described in section 3121(b)(21);".

(d) WAGES PAID SEAFOOD PROCESSORS EXEMPT FROM REQUIREMENT OF WITHHOLDING.—Section 3401(a) of such Code (defining wages) is amended—

(1) by striking "or" at the end of paragraph (19),

(2) by striking the period at the end of paragraph (20) and inserting in lieu thereof "; or", and

(3) by adding at the end the following new paragraph:

"(21) for service described in section 3121(b)(21)."

(e) AMENDMENTS TO SOCIAL SECURITY ACT.—

(1) SEAFOOD PROCESSING NOT TREATED AS EMPLOYMENT.—Section 210(a) of the Social Security Act (42 U.S.C. 410(a)) (defining employment) is amended—

(A) by striking "or" at the end of paragraph (19),

(B) by striking the period at the end of paragraph (20) and inserting in lieu thereof "; or", and

(C) by adding at the end the following new paragraph:

"(21) service performed by an individual under an arrangement pursuant to which—

"(A) such individual undertakes the peeling, picking, heading, shucking, filleting, or other processing of fish or shellfish, and

"(B) any remuneration such individual receives for such service is based on the quantity of fish or shellfish such individual peels, picks, heads, shucks, fillets, or otherwise processes."

(2) SEAFOOD PROCESSING NOT TREATED AS TRADE OR BUSINESS.—Section 211(c)(2) of such Act (42 U.S.C. 411(c)(2)) (defining trade or business) is amended—

(A) by striking "and" at the end of subparagraph (F),

(B) by striking the semicolon at the end of subparagraph (G) and inserting in lieu thereof and", and

(C) by adding at the end the following new subparagraph:

"(H) service described in section 210(a)(21);"

(f) EFFECTIVE DATES.—

(1) The amendments made by subsections (a), (b), and (e)(1) shall apply to services performed after December 31, 1987.

(2) The amendments made by subsections (c), shall apply to services performed in taxable years ending after December 31, 1987.

(3) The amendments made by subsection (d), shall apply to wages paid in taxable years ending after December 31, 1987.

(4) The amendments made by subsection (e)(2), shall apply to services performed in taxable years ending after December 31, 1987.

H.R. 3785—FEDERAL FACILITY HAZARDOUS WASTE

HON. DENNIS E. ECKART

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 17, 1987

Mr. ECKART. Mr. Speaker, my colleagues and I are here today to outline for you the results of more than 7 months of hard work. The package of bills we are introducing is exceedingly straightforward and simple. Our aim is to bring to an end the double standard that exists with respect to the application of our Nation's hazardous waste laws to Federal facilities.

The environmental record of Federal agencies, particularly the Departments of Energy and Defense, is a national disgrace. From the Rocky Mountain Arsenal where deep well injection of huge quantities of hazardous wastes led to earthquakes—to Hanford, WA, where the underground lake of radioactive waste occupies an area as large as Manhattan—to my own State of Ohio, where the 1984 response to uranium escaping into the air at a DOE facility in Miamisburg was to recalibrate the alarm so that it would no longer sound when uranium releases occurred. We have witnessed a pattern and practice of flagrant violation of the law.

It is indeed unfortunate that we need to be here at all. Congress has already made its will known quite clearly—in both the RCRA and Superfund reauthorizations—that the Federal Government is, without qualification, subject to the requirements of the Nation's hazardous waste laws to the same extent as any private party. But this obligation to safely manage and dispose of hazardous wastes is more than a legal mandate—it is a moral obligation as well.

As the attorney general of the State of Ohio, Anthony J. Celebrezze, Jr., has testified before committees in both the House and the Senate, it is the "ultimate hypocrisy" for the Federal Government to beat private industry over the head for noncompliance with environmental laws while its own track record is so abysmal.

Mr. Celebrezze went on to say that, "In fact, DOE's record of noncompliance and its attitude toward compliance has been as bad as the worst private sector violators I have encountered during my tenure as Attorney General of Ohio."

Unfortunately, our own U.S. Department of Justice has in recent months made it continually more difficult for Attorney General Celebrezze and his colleagues in States like Washington, California, and North Carolina to carry out the Federal law.

The legal posture being taken by the Department of Justice and the President is to avoid the imposition of legal sanctions that other branches of the Federal Government routinely use to force compliance—the imposition of civil penalties, for example, on other parties. In fact, the Justice Department argues that the failure of Federal facilities to comply with environmental standards is merely an intra-executive branch dispute immune from legal action to force that compliance.

This argument flies in the face of already enunciated congressional intent—and the bill I am introducing today will once and for all clarify that RCRA, our foremost hazardous waste disposal law, allows Federal facilities to be sued and to be held accountable for their actions.

There is simply no room for Federal agencies that put themselves above the law. My bill—in tandem with the other bills in this package—will put an end to guilty Federal agencies avoiding blame for willfully and recklessly polluting this country's environment.

EXPLANATION OF H.R. 3785, ECKART BILL AMENDING SOLID WASTE DISPOSAL ACT TO CLARIFY THE APPLICATION OF CERTAIN REQUIREMENTS AND SANCTIONS TO FEDERAL FACILITIES

This legislation clarifies the existing statutory waiver of sovereign immunity (found in section 6001 of the Solid Waste Disposal Act) to permit the imposition of penalties and other sanctions for hazardous waste violations at federal facilities.

BACKGROUND

Almost all states have state administrative order authorities which are used to obtain compliance with hazardous waste laws. The Environmental Protection Agency strategy for federal facility enforcement relies heavily on enforcement actions brought by the states against federal agencies.

However, when states such as California, North Carolina, Washington and Ohio have attempted to use state statutory authorities to pursue hazardous waste violations committed by Department of Energy and Department of Defense facilities, the Department of Justice has successfully opposed state actions to impose penalties and other sanctions, on the ground that the congressional waiver of sovereign immunity contained in section 6001 was not clear or unambiguous.

Section 6001 of the Solid Waste Disposal Act (also commonly referred to as the Resource Conservation and Recovery Act, or "RCRA") currently provides that "Each department, agency, and instrumentality of the executive, legislative, and judicial branches of the Federal Government" that is involved in the management or disposal of hazardous or solid waste "shall be subject to, and comply with, all Federal, State, interstate, and local requirements, both substantive and procedural * * * respecting control and abatement of solid waste or hazardous waste disposal *in the same manner, and to the same extent, as any person is subject to such requirements* * * *." (Emphasis added.)

This new legislation simply clarifies that such "Federal, State, interstate and local substantive and procedural requirements" do, in fact, include all administrative orders and all civil, criminal, and administrative penalties and other sanctions, including fines and imprisonment. The bill expressly waives sovereign immunity in this area, thus immeasurably strengthening the hands of the states in enforcing against violations of our nation's hazardous waste laws by recalcitrant federal facilities.

VIEWS OF THE STATES

Several states attorneys general have commented favorably on the need for this legislation. Following are some relevant quotations from testimony presented this year before the House Energy and Commerce Committee's Oversight and Investigations Subcommittee.

ANTHONY J. CELEBREZZE, JR., ATTORNEY GENERAL, STATE OF OHIO

"Those [state, local and private entities] that don't comply with our environmental laws are faced with the prospect of strong enforcement action by the regulatory agency, including the assessment of fines and/or penalties. This reality and the overall principle of checks and balances are now accepted facts of life in every segment of our society but one. That exception to the rule is facilities owned and operated by the Federal Government, particularly by the Department of Energy."

"[The Justice Department's] testimony, on surface, only too clearly illustrates the Department's willingness to engage in tortuous and strained analysis of the language which this Congress uses in order to defeat your mandate that Federal facilities should be treated as any other entity which must comply with the environmental laws."

"I urge you to actively press for more comprehensive and specific waivers of sovereign immunity in the environmental statutes."

KATHLEEN D. MIX, ASSISTANT ATTORNEY GENERAL, STATE OF WASHINGTON (REPRESENTING KEN EIKENBERRY, ATTORNEY GENERAL, STATE OF WASHINGTON)

"DOE continues to assert immunity from all forms of civil penalties. * * * Unfortunately, courts have lent some support to Energy's arguments on this issue. It is very important that Congress makes its intention on the waiver of sovereign immunity indisputable to ensure that the Department of Energy cannot circumvent your wishes in this fashion."

"The legal analysis employed by the Department of Justice, who has advised Energy on this matter, is questionable at best and, in our view, legally clearly erroneous given the clear and mandatory responsibilities that Congress has placed on Federal facilities under RCRA."

HIGHWAYS AND AMERICA'S FUTURE

HON. WAYNE OWENS

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 17, 1987

Mr. OWENS of Utah. Mr. Speaker, I am inserting into the RECORD an address by the former U.S. Commissioner of Public Roads, Mr. Ellis Armstrong, who later served as Commissioner of the U.S. Bureau of Reclamation. He is a wise man of genuine distinction whose intellectual and practical credentials qualify him to debate current highway issues with anyone. His address is cogent, thoughtful, and very important, and I recommend it to my colleagues for their reading.

HIGHWAYS AND AMERICA'S FUTURE

(By Dr. Ellis L. Armstrong)[1]

(Keynote Address at the Annual Conference of the Southwestern States Highway Users Federation, Salt Lake City, UT, Sept. 17, 1987)

Many of you may have seen last week's U.S. News with the sardonic front cover "HONK! Why You'll Be Wasting More Time In Traffic," followed with eight pages of nightmarish "traffic mess examples," complete with repellent traffic jam pictures. Charts and figures are used to illustrate the tremendous cost of not keeping our highway system in balance with our trillion dollar investment in automobiles. The question arises "How did we get into this mess?"

I think the explanation is rather clear. In our comfortable, affluent, self-centered society, we forgot that there are two items that make up highway transportation: the vehicle and the road. They must be in reasonable balance for the highway transportation system to meet our requirements, for the system to be effective.

The cost of the vehicle and its operation and the cost of the highway and its maintenance make up the cost of highway transportation. Back in the early 1960's when I was United States Commissioner of Public Roads, I continually pointed out that of the highway transportation dollar cost, we were spending 88 cents on our vehicles and only 12 cents on our roads; we were spending more on automatic shifts and air conditioning than on highways. Then we wondered why we were not catching up on our needs. Today we are spending 93 or 94 cents on our vehicles and only about 6 cents on our highways. How far out of focus and out of balance can we get? We're spending our money but we are not getting the highway transportation we should have.

I guess we, collectively as highway users, in focusing on our beautiful, comfortable, efficient computerized engined, and luxuriously upholstered automobiles, overlooked the slowly deteriorating pavements and the increasing traffic and changing travel patterns. We didn't focus on the overall system, nor did we pay adequate attention to our changing society.

We seem to lack the discipline necessary to follow a well planned, long range course of action to meet the problems of our society, the problems of growth in a changing world. We seem to progress only from crisis to crisis, which is costly and frustrating, and ultimately could destroy us.

Back in 1974-76, I hibernated for two years putting together the 200-year History of Public Works in the United States for America's Bicentennial. From this, and spending 55 years in the action arena of designing and building public works, I've developed a deep appreciation of how our democratic system works. Despite all our faults, our fumbling and bungling and narrowly focused, special interest zealotry activities, given time enough we generally have come up with the right answers and have moved ahead. However, it does seem to me, that about the last couple of decades, our society has been badly buffeted and mislead by the narrow, self-centered, special interest emotional fervor of an extremist minority, disregarding or opposing the genuine interest and needs of the majority.

Well, what are the facts? I have a nostalgic memory of the dynamic enthusiasm 30 years ago when, as Utah's Director of Highways, along with engineers and builders throughout our state and all across America, we launched full speed ahead into the design and construction of America's Interstate Highway System, the world's greatest public works undertaking. Over 15 years of analysis and study, along with growing traffic jam crisis in our urban areas, resulted in all the diverse interests uniting in support of federal legislation establishing the highway user-fee trust fund to finance and build the 42,000-mile Interstate, adequate for 1975 traffic, the year it was to be completed. That was an exciting, challenging, stimulating time as all across our nation, we shaped the landscape, built the bridges and overpasses, and laid the smooth riding pavements, tying all America together in one big social and economic neighborhood, loosening the bonds of inadequate roadways and creating individual freedom of movement all across our land.

With Utah's Interstate launched and well underway, I was persuaded to go to Washington, D.C. as U.S. Commissioner of Public Roads, to get all the lagging states into high. And in 1960 we had resolved most problems and every day we were excavating over 20 million cubic yards of earth and rock and compacting it to support the smooth pavements, providing easy access to the vitality and excellence of our great cities, to our farmlands, and to the beauty and magic of scenic America. Along with the Interstate was a stepped-up program on the rest of the Federal aid highway system. We were off to a great start.

Then in the late 1960's and the 1970's, for the reasons mentioned, we steadily decreased the amount of our highway transportation dollar spent on highways and the programs designed to meet our needs fell further and further behind. Maintenance was neglected, badly needed adjustments for increasing traffic were postponed. The 65 million vehicles on our highways in 1956, have now increased to over 177 million automobiles, trucks and busses. Highway travel since 1956 has increased over 300 percent to a yearly total approaching 3 trillion passenger miles, at a cost of nearly a trillion dollars. We have 107 vehicles for every 100 licensed drivers. But our highways have been falling further and further behind, even though it is estimated we will spend $60 billion on highways this year; $29 billion in capital construction, and $31 billion in operation and maintenance.

The present total of 43,593 miles of our Interstate is about 98 percent in operation, although some sections are only partially complete, and it will be three or four more years before the full system will be completed. This will be 15 years behind schedule. The early sections completed have reached the end of their useful life. About half of the Interstate now needs rehabilitation or reconstruction as it is wearing out, or needs improvement to meet the changed and increasing travel patterns. The time in service, lagging maintenance, and increased travel, now including 30 percent trucks with heavier loads, compared to the 12 percent originally anticipated, have taken their toll.

The federal aid primary system is now 50 percent inadequate for the traffic it is carrying. Our farm to market roads, our secondary systems, has been neglected and in some areas we are heading the farmer back into the mud. An example of problems is the increasing heavy truck travel resulting from the steady abandonment of uneconomical branch railroad lines serving mainly the needs of agriculture.

But our most pressing problems are now in our urban areas where over half of automobile travel occurs. Our whole travel pattern is changing. With decreasing smokestack type industry and increasing white collar and service industries, and with our increased standard of living, our centers of origin and destination of travel are becoming more widely disbursed, so our mass transit facilities are becoming less and less effective. Multiple breadwinners make two or more cars per family unit necessary because of the required flexibility. For example, the number of married women in the work force is steadily increasing. In the last 15 years the number of married women in the 15-45 age bracket has increased 58 percent, and now totals nearly 70 percent. So most family units have two cars and over 15 percent have three or more cars. This has dramatically affected both direction and timing of highway travel.

The federal aid highway system was never intended, and is not intended, to solve all the automobile transportation problems. It is only part of the overall system, and the rest of the system, provided by state and local governments, has lagged far behind. So we have a crisis situation in many urban areas, not from travel to the city center, but interurban travel and the widely disbursing of employment and retail facilities.

A recent AASHTO detailed study indicates replacing and rehabilitation of all types of highway pavements will require an expenditure of over $400 billion by the year 2000. These are just costs of replacing and rehabilitation of pavements; other costs of maintaining and improving the highway system are in addition. This year we'll spend about $3 billion in rehabilitation, so you can see there are tremendous problems looming ahead. Delaying needed pavement rehabilitation a year or two beyond the critical time can mean complete reconstruction with costs drastically increased by two or three or more times.

Lagging highway maintenance in Utah is somewhat typical of many other states, although nationally we have begun to improve. Ten years ago, roads in the state, other than the Interstate, had 33 percent of the mileage classified as poor or very poor; now 53 percent is in that classification. We do have a sound sophisticated methodology of measuring pavement conditions related to traffic, and with adequate funds, could do an excellent job of assigning priorities to most economically meet maintenance requirements. But shortsighted politics continually enters into the program. Just this year, with a deficit looming by the end of the fiscal year as a result of over optimistic legislator expectation of revenues, the expected deficit was turned into a surplus, largely by eliminating scheduled maintenance. Too often our political system, especially when competent professional administration is limited, fails to consider substance, and focuses mainly in superficial immediate appearances producing false savings and passing drastically increased costs on to the next administration. But a day of reckoning always comes, and in highway maintenance, is about here.

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[1] Consulting Engineer, Salt Lake City, Utah (Utah Director of Highways, 1957-58; U.S. Commissioner of Public Roads, 1958-61; Commissioner of U.S. Bureau of Reclamation, 1968-72); President, Better Highways Information Foundation, 1961-62.

Nationally we have 575,000 major bridges on our highways and a detailed inventory shows 42 percent are deficient, and the number is increasing. Last year we spent $2 billion replacing and repairing 11,300 bridges, but 16,000 more were added to the deficient list so we are losing ground.

With increasing population, which results in more and more complex interdependence, our highways are becoming increasingly politicized in the worst sense. We finally got our 1986 Federal Highway Bill passed, at least eight months late, but with the Highway User Trust Fund threatened and loaded down with special interest Christmas-tree type "demonstration" projects. Without discussing the merits of the program, the irresponsible, almost sinister maneuvering to get the Bill passed, in effect by holding 700,000 jobs hostage, is a sad commentary on our Congress, who again seemed to forget national interests, and focused on their individual next election. Thus, the concept of John Q. Public is that this was just another Washington $88 billion pork barrel boondoggle, rather than a badly needed effort to meet the needs of highway transportation.

But as I mentioned, we agree this is not a perfect world. Even with a reduced program scale as related to the needs, at least we now have a program for the next four years from the federal funding standpoint, and most states have substantially increased their gas taxes the last two years to enable them to start catching up with badly neglected maintenance. If we get with it, this gives us a little time to focus on where we go from here.

As the era of Interstate construction comes to an end, we must agree on what comes next. And only 6 or 7 cents of the highway transportation dollar will not provide adequate highways to meet our needs. Keep in mind that we highway users pay for good highways whether we have them or not, and if we don't have them, we pay much more in increased costs of vehicle operation, in additional accidents, and in lost time. Study after study has demonstrated the additional costs of poor roads are the equivalent of 15 to 20 cents or more of hidden tax on every gallon of gasoline used. Our highway system, and the freedom and flexibility it provides is a major underlying support of our whole society—economically, socially, politically and all the rest. Don't ever forget that the health of our economy depends upon a good, safe, efficient and mobile highway system. If you doubt this, imagine what your life would be like if tomorrow morning all highways disappeared.

Here is what must now be done, and you as the highway users who pay for and use highways, must be the motivators to see that it is done. First, determine and agree upon what the highway needs will likely be for the next 20 years or so; then determine how the needs can reasonably and practically be met. Careful analysis should be made to determine what construction, reconstruction, and rehabilitation is practicable and reasonable to meet these needs, and with what priorities. Then from an examination of the benefits and responsibilities at the national, state, local and private levels, determine how the costs can be most fairly allocated and collected. Legislators and the general public must be involved in this examination process so the full highway system program will be understood and supported. Then required legislation can be enacted. Then responsible and broad-gaged oversight must be provided to insure the program is economically, competently and effectively accomplished.

A number of effective studies and analysis have been completed and are underway. I mentioned the studies of AASHTO; there are many others at national, state, and local level. One that I am heavily involved with is now well underway; the American Public Works Historical Society, under contract with AASHTO, is making a retrospective analysis of the Interstate program to document how the program came to be, where it now is, and what lessons can be applied to programs ahead. This will include an analysis of availability of records of the past programs for use in improving performance. Organizational and institutional memories are ephemeral without well organized, available, and usable records of the past. It shouldn't be necessary to continually reinvent the wheel, which often seems to occur with administration changes.

The study includes extensive interviews of those who were directly involved in the analysis and maneuvering leading to the 1956 Interstate Act, and who launched the detailed design and construction and got it well underway. Then extensive research of records and data available is being made. From these analysis we hope in about a year to have an objective historical overall appraisal of where we are and how we got here, and hopefully will identify lessons that can apply to future programs.

The study team, organized by the Public Works Historical Society, includes Bill Garrison, who many of you know as head of the Institute of Transportation Studies at the University of California-Berkeley, and myself as the engineers, and we'll be working with several scholarly historians.

An example of an excellent statewide program is the one underway in Virginia with the "Commission on Transportation in the Twenty-first Century." This 30-member commission, made up of legislators, business leaders, and administrators, carefully analyzed the transportation problems, got them understood, and were able to have the legislature pass a statewide $12 billion 12-year transportation program, fully financed, and which is now moving responsibly ahead. Such a full, carefully formulated, comprehensive program should be underway in every state.

An example of local comprehensive planning is the $5.5 billion controlled access belt route and connecter system in the Phoenix, Arizona area. Various interests focusing on controlling growth prevented adoption of a belt-route program 30 years ago; so now realities must face and this high cost program is being financed with a local sales tax increase.

Other programs, privately instigated, financed, and supported, should be considered. This is especially applicable to expanding urban areas where new facilities are needed. An example is the billion dollar 48-mile E-470 route east and north of Denver, planned, promoted, and being financed by private funds, and which will be constructed, owned, and operated by intergovernment-financiers agreements. Bonds for financing will be retired from a combination of tolls, special assessments on the increased value of adjacent properties, and taxes related to proven general area benefits. The initial phase $770 million is already in hand. The imaginative financing innovations warrant careful review and study. In some special instances, toll roads can provide solutions.

The Congressional mandated National Council on Public Works Improvement last month issued the first report on "Highways, Streets, Roads, and Bridges." This is an excellent starting point on understating our highway system and its function.

The activities of the Advisory Committee on Highway Policy of the 2020 Consensus Transportation Program got underway last month with the first public forum held at the University of Nebraska. This will be followed by at least one such forum in every state. Les Lamm, Chairman of the Committee, will be on the program tomorrow. Nearly 100 national organizations are participating with State Transportation Departments, Universities, and your Users Conference, in reaching a consensus on what must be done. Organizations participating include the American Public Works Association, the American Society of Civil Engineers, the American Farm Bureau, the U.S. Chamber of Commerce, the National League of Cities, the National Safety Council, and similar groups, representing tens of millions of members. Your job is to participate and contribute to these forums and the resulting program.

From studies underway and those continuing forums, I'm sure will come a well conceived, balanced, affordable, practical solution to an optimum highway system that will meet the future needs of America. We can do it if we can keep the overall in focus, which is the welfare of all of us, because we have the required competence, knowledge, capability, technology, and integrity.

Here are my ideas of the highlights of such a program:

(1) Generally we have the basic main framework in place for our highway system, the national federal-aid system. However, much of it has reached its design life, and we need to insure fully adequate maintenance, reconditioning, and reconstruction as required. Some enlargements, additions, and adjustments will be needed to meet the changing patterns of travel, keeping the basic concepts of the federal aid system intact.

(2) We must insure stable continuation of the Federal Highway Trust Fund based on the user charge concept of at least the present level, keeping in mind that reconditioning and reconstruction will become increasingly complex and costly. The methodology of apportionment to the various states should be carefully fitted to our consensus program, keeping the present concepts, which have worked well, as basic, but with adjustments that we can agree are needed with changing conditions.

(3) States, and their local entities, must face up to the need for adequate funding of their responsibilities, based mainly on the

highway user pay-as-you-go concept, but with other means considered, as I've discussed, when benefits indicate. The gasoline tax should be renamed the "Highway Use Fee" and be fully dedicated to highways. This "Highway Use Fee" should apply to all highway transportation, including travel by all governmental entities. Exempting them from the gas tax, as is now done, subsidizes other programs by highway users.

(4) Innovative improvements, adjustments, concepts, and designs that will improve traffic handling with minimum cost, must be continually developed. This requires continual research, training, technology transfer, and direct and effective involvement of the resources we have in America's universities, especially the engineering capabilities. Universities must do a better job of assisting with the solution of these real world problems.

(5) Research must be better coordinated and greatly increased. And we must insure the highway departments fully utilize the information available. The SHRP program is a good beginning but it must be stepped up.

(6) Competent, objective overview of the national, state, and local highway programs, similar to Transportation 2020 Advisory Committee on Highway Policy, should be provided consistent with each level of government, to insure fully adequate administration, and as advisory to the various legislative bodies. The impact of highway transportation is pervasive, complex, and basic to our full society. Three or four levels of decision makers before getting to professional levels can be counterproductive. Governor staffs, Legislative committees, Transportation Commissions, and Highway Administrators when not fully qualified with understanding and technical background, must have competent, professional advice and assistance that is non-partisan and objective. Confidence of John Q. Public in the program must be earned and maintained.

(7) We must especially focus on reducing highway accidents and death, which is a national black mark and disgrace to our society. Deaths on our highways are not deaths by natural causes, but can be prevented. Reconstruction of routes under traffic presents special hazards that require special considerations.

We must concentrate on keeping drunk drivers off our highways. About half of the accidents and deaths are alcohol-related. For instance, 23,500 deaths and 700,000 injuries in 1984 were caused by highway alcohol-related accidents.

(8) We must have a responsible, continuing, truthful, objective and effective program to provide John Q. Public with an understanding of our highway problems and how they can be solved. You as highway users cannot sit on your hands and expect someone else to do it. You have an obligation and you must become fully involved.

We must get away from defensive and somewhat antagonistic policies toward highways and highway use. As has been demonstrated time and again, here in America and all around the world, the freedoms provided by automobiles and adequate highways are wonderful. Expecting "those others" to change is not realistic. We must positively focus on highways that will continue to provide this freedom. And it can reasonably be done.

An adequate optimum highway system will reduce the number, cost, and severity of accidents; highways cost less to build and maintain than neglecting them, they pay for themselves; they accelerate economic development; they improve the way of life for all of us. A well balanced highway system saves lives, saves time, saves money.

As the TRANSPORTATION 2020 masthead emphasizes: "America's Future Depends on Transportation." Engineers built the highways and the highways built America. Don't ever forget it, and keep in mind that results are up to you, the Highway Users of America. The time has come to get with it!!

H.R. 3782

HON. AL SWIFT

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 17, 1987

Mr. SWIFT. Mr. Speaker, today I am introducing legislation which will help assure that Federal agencies comply with our Nation's key hazardous waste law, the Resource Conservation and Recovery Act [RCRA].

I am also pleased to join my colleagues, the gentleman from Ohio [Mr. LUKEN], the gentleman from Oklahoma [Mr. SYNAR], the gentleman from Oregon [Mr. WYDEN], and the gentleman from Ohio [Mr. ECKART] in cosponsoring legislation which they are introducing today, which complements my legislation. Over the last several months, we have worked together to develop a package of legislation that we feel will take substantial strides toward protecting the health and environment of American citizens from hazardous waste generated at Federal facilities.

At issue are Federal agencies' compliance—or lack of compliance—with our environmental laws. At a hearing in the Energy and Commerce Committee earlier this year, I was extremely disturbed by a statement made by Ms. Kathleen Mix, the assistant attorney general for the State of Washington. Ms. Mix testified that "it is [Washington State's] experience that both private industry and local governmental agencies tend to be far more responsive to the demands of [State and Federal environmental laws] than the Federal Government." What disturbs me about this statement is that the evidence is overwhelming that it is true.

Executive Order 12088 requires that every Federal agency ensure that "all necessary actions are taken for the prevention, control, and abatement of environmental pollution" from its facilities and activities. It further requires that each agency comply with "applicable pollution control standards," including, but not limited to those established under RCRA.

According to President Carter, who issued the Executive order, its purpose was to "ensure that Federal facilities and Federal activities live up to the spirit and letter of the Nation's environmental protection laws." President Carter declared that "[f]rom now on, all Federal facilities must comply with the same Federal, State, and local environmental standards, procedural requirements, and schedules for cleanup that apply to individual citizens and corporations."

Now it turns out that no one, inside or outside the administration, seems to disagree with these policies established by Executive Order 12088. Witnesses from the administration have told the Energy and Commerce Committee that they support the goal of Federal compliance with environmental laws. However, the Justice Department has also told us that they don't believe that the Environmental Protection Agency, or State environmental agencies, should be able to enforce those laws against Federal agencies which are violating the laws.

According to a senior EPA official, some of the worst hazardous waste compliance problems in the nation are found at Federal facilities. While Federal agencies should be examples of good environmental stewards for private industry to follow, they have all too often been the most recalcitrant violators of the law. A major cause of this unacceptable situation is that the EPA is, in the words of a former Chief of the Environmental Defense Section of the Justice Department under President Reagan, "essentially limited to arm twisting and cajolery with respect to its sister agencies."

As Ms. Mix observes in the testimony,

> Given [DOE's] history of resistance it is inconceivable that Federal DOE facilities will, of their own accord, comply with environmental laws to the same extent as any other person. EPA and the States must have all tools necessary to protect the public and environment.

Congress has spoken on this point repeatedly, and it has spoken clearly. The key is that both EPA and the States must have the ability to full and effectively enforce environmental laws against noncomplying Federal agencies. OMB has no business making decisions about whether to enforce the law, and the noncomplying agency certainly cannot make these decisions. How often does Congress have to express its will? If we write it into the law one more time, will the administration adhere to it?

I don't believe that we can count on things changing if all we do is restate congressional intent on this matter. Instead, we must put some teeth into that intent. The bill I am introducing today does that. Simply stated, it establishes a new official known as the Special Environmental Counsel, who is appointed by the EPA Administrator. The Special Environmental Counsel has one function: to enforce the RCRA at Federal facilities.

Under my bill, if a Federal agency does not comply with RCRA, the Special Environmental Counsel is given explicit authority to issue civil orders—including orders for civil penalties which may be judicially enforced—and commence civil enforcement actions in Federal court. Federal agencies are given an opportunity to negotiate a consent order with EPA before any such action is taken. The Special Environmental Counsel may only be removed by the administrator for cause, and is therefore insulated from inappropriate political pressure.

Mr. Speaker, we have witnessed too many examples of Federal agencies failing to adhere to RCRA. As long as we permit them to be completely self-regulating, which is the effect of the Justice Department's policy, we will continue to see the health and environment of American citizens placed at risk by agencies of their own government. That is intolerable. This bill will change that.

At this point, Mr. Speaker, I would like to include in the RECORD a section-by-section analysis of this bill:

SECTION-BY-SECTION ANALYSIS OF THE SWIFT "SPECIAL ENVIRONMENTAL COUNSEL" BILL

Section 1 amends Subtitle F of the Resource Conservation and Recovery Act (RCRA) by adding a new Part 2 entitled "Federal Facility Enforcement", and consisting of new sections 6011 through 6015.

New RCRA Section 6011 establishes the Special Environmental Counsel.

Subsection (a) requires the Administrator of the Environmental Protection Agency (EPA) to appoint a Special Environmental Counsel, who shall be an independent instrumentality within the EPA. The Special Environmental Counsel shall serve for a term of 5 years, and may be removed from office only for cause. Vacancies in office shall be filled only for the period of the unexpired term.

Subsection (b) authorizes the Special Environmental Counsel and his attorneys to appear in civil actions brought under the authority of this Act (except with regard to litigation before the U.S. Supreme Court).

Subsection (c) provides for the salary of the Special Environmental Counsel.

Subsection (d) authorizes the Special Environmental Counsel to hire staff.

Subsection (e) authorizes the Special Environmental Counsel to retain experts and consultants.

Subsection (f) authorizes Federal agencies to detail staff to the Special Environmental Counsel, on a reimbursable basis.

Subsection (g) requires that Federal agencies provide the Special Environmental Counsel with information which the Counsel determines to be necessary in order to carry out his functions.

Subsection (h) requires the Administrator of the General Services Administration to provide administrative support services to the Special Environmental Counsel, on a reimbursable basis. The Special Environmental Counsel is also authorized to use the United States mails in the same manner as other Federal agencies.

Subsection (i) authorizes the Special Environmental Counsel to issue subpoenas, which are enforceable in Federal Court.

Subsection (j) authorizes the Special Environmental Counsel to provide immunity under sections 6002 and 6004 of title 18, United States Code.

New RCRA Section 6012 describes the functions of the Special Environmental Counsel.

Subsection (a) requires the EPA Administrator, if he receives information that any violation of RCRA has occurred at any Federal facility, to issue a written notice of the violation to the head of the department or agency concerned within 45 days of receipt of the information. A copy of the notice is required to be simultaneously submitted to the Special Environmental Counsel. The Administrator's notice is considered *prima facie* evidence of the violation.

Subsection (b) requires that the Special Environmental Counsel, upon receiving a copy of the Administrator's notice, investigate the noncompliance of the Federal facility concerned.

Subsection (c) provides that if EPA and the concerned Federal agency have not executed a consent order under section 3008 of RCRA within 90 days of the Administrator's notice, or if the Special Environmental Counsel has not consented to the order, the Special Environmental Counsel is authorized to take any or all of the following actions:

(1) Assess a civil penalty against the department or agency concerned of not more than $25,000 per day for each violation.

(2) Issue a civil order requiring the department or agency concerned to comply within a specified time period.

(3) Commence a civil action against the department or agency concerned in the U.S. District Court for the District of Columbia to assess and collect a civil penalty under section 3008(g) of RCRA.

(4) Commence a civil action against the department or agency concerned in the U.S. Distict Court for the District of Columbia for injunctive or other appropriate relief.

Subsection (d) authorizes the Special Environmental Counsel to bring suit in the U.S. District Court for the District of Columbia whenever he receives evidence that past or present hazardous waste practices at a Federal facility may present an imminent and substantial endangerment to health or the environment.

Subsection (e) provides that if EPA is notified of a release of hazardous waste from a Federal facility authorized to operate under a interim status permit issued under section 3005(e) of RCRA, and if EPA and the concerned Federal agency have not executed a consent order section 3008(h) of RCRA with respect to such release within 120 days, or if the Special Environmental Counsel has not consented to the order, the Special Environmental Counsel is authorized to take either of the following actions:

(1) Issue a civil order requiring corrective action order or such other response measure as he deems necessary to protect human health or the environment.

(2) Commence a civil action against the department or agency concerned in the U.S. District Court for injunctive or other appropriate relief.

Subsection (f) requires the Special Environmental Counsel, before issuing any order or commencing any action, to consult with the EPA Administrator and to provide the concerned department or agency with an opportunity to confer with the Special Environmental Counsel. The concerned department or agency may, within 30 days of issuance of any such order, obtain *de novo* review of such order in the U.S. District Court for the District of Columbia. If the concerned department or agency fails to comply with any such order, the Special Environmental Counsel may, after consulting with such department or agency, take either or both of the following actions:

(1) Assess a civil penalty against the department or agency concerned of not more than $25,000 per day for each day of continued violation.

(2) Suspend or revoke any RCRA permit issued to such department or agency.

Subsection (g) authorizes the Special Environmental Counsel to bring an action in the U.S. District Court to collect any civil penalty which has not been paid within 10 days after the it has become final and unappeal-able. In any such action, the validity and appropriateness of the order shall not be subject to review.

Subsection (h) requires that within 12 months after enactment of this Act, each Federal agency shall perform an assessment of hazardous waste releases from facilities which it operated after November 19, 1980.

Subsection (i) requires the EPA to perform an annual inspection of each Federal facility to enforce its compliance with RCRA, including an annual comprehensive groundwater evaluation, and requires that the records of such inspections be made available to the public.

Subsection (j) requires the Special Environmental Counsel to submit an annual report to Congress.

New RCRA section 6013 requires that if compliance with any administrative or judicial order which becomes final under RCRA requires the head of a Federal agency to expend funds and if such funds are not available at the time the order becomes final, the President shall include a request for such funds in his annual budget submission to Congress.

New RCRA section 6014 provides that RCRA requirements or prohibitions applicable to mixed wastes shall be effective on the date of enactment in each State which has not been authorized to enforce such requirements or prohibitions, and the EPA Administrator shall enforce such requirements or prohibitions until the State has been so authorized.

New RCRA section 6015 clarifies that the term "person," as used in RCRA, includes each department, agency, and instrumentality of the United States.

Section 2 authorizes to be appropriated such sums as may be necessary to carry out this Act.

MOTOR VEHICLE EMISSION CONTROL ACT OF 1987

HON. DAVID E. SKAGGS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 17, 1987

Mr. SKAGGS. Mr. Speaker, I am introducing today the toughest legislation yet to control air pollution from cars, trucks, buses, and motorcycles.

The Motor Vehicle Emission Control Act of 1987 contains the requirements we need to meet our national health-based air quality standards in the Denver metropolitan area and the scores of other areas where the air is still dangerously dirty.

Our experience in Colorado this month demonstrates how necessary this bill is. A full 17 years after the enactment of the original Clean Air Act, the Denver metropolitan area has experienced 7 high pollution alert days this winter. And Colorado will not meet the federally mandated December 31 deadline for reducing carbon monoxide and ozone to safe levels. We can't wait any longer for some magical solution to cleanup Colorado's air. The health of the people can't wait.

And Colorado's economy can't wait. Air pollution directly affects our quality of life and our ability to bring more businesses—and therefore more jobs—to Colorado. What I have introduced is a bill that directly addresses the major cause of our air pollution problem—auto, truck, and bus emissions.

Tougher car and truck controls are necessary to make it possible for the country to meet the national health-based air quality standards for carbon monoxide, ozone, and particulates. Each of these pollutants is particularly a problem in Colorado.

The latest EPA estimate is that 38 to 54 areas in the country will fail to meet the December 31, 1987, deadline for attaining the national health-based standard for carbon monoxide. The Denver metropolitan area not only won't meet the standard, but has the worst carbon monoxide problem in the country. Motor vehicles produce 70 percent of the carbon monoxide emitted into the air.

EPA also estimates that 88 areas are likely to miss the deadline for meeting the air quality standard for ozone, which is caused by atmospheric reactions involving hydrocarbons and nitrogen oxides, both of which are emitted from motor vehicles. The Denver metropolitan area also exceeds the ozone standard. Motor vehicles produce 34 percent of the hydrocarbons and 45 of the nitrogen oxides emitted from all sources.

Between 70 and 160 counties in the Nation, including the Denver metro area, also fail to meet the particulate air quality standard. Particulate emissions from diesel vehicles also are a significant cause of the Brown Cloud in the Denver area. Diesel-fueled motor vehicles emit 18 percent of the particulates in the air.

The Federal Government should be providing the leadership to clean up our air, not saying we can ease up on our efforts. A partnership is required among Federal, State, and local governments, and the private sector. In Colorado, we've seen the gradual success that can be made through a State and local effort, like the Better Air Campaign. But Federal action is most important—especially in dealing with pollution from motor vehicles, where only the Federal Government can set emission standards.

This bill goes beyond simply addressing the air pollution problem—it will force the tough actions necessary to clean up our air.

Mr. Speaker, at this point I am inserting in the Record a summary of this legislation.

SUMMARY OF THE MOTOR VEHICLE EMISSION CONTROL ACT OF 1987

The Motor Vehicle Emission Control Act of 1987 includes comprehensive amendments to title II of the Federal Clean Air Act, to strengthen pollution control requirements for cars, trucks, and other motor vehicles.

The bill includes all of the motor vehicle provisions of the clean air bill reported last month by the Senate Committee on Environment and Public Works, with the addition of four major new proposals—a tougher carbon monoxide standard for cars, a tougher carbon monoxide standard for heavy-duty trucks, provisions which would effectively eliminate new diesel-fueled buses, and the addition of high altitude standards for all motor vehicles.

EMISSION STANDARDS

The bill would tighten virtually every federal standard for emissions from motor vehicles. It would strengthen seventeen separate standards, most of them by over 50 percent. It also would establish two new standards.

Unlike any other currently pending congressional proposal, the bill would strengthen carbon monoxide standards for both light-duty vehicles (cars) and heavy-duty trucks.

Also unlike any other congressional proposal, the bill would prohibit soot (particulate) emissions from buses. EPA would be required to write new regulations providing that, beginning in 1994, emissions of particulate matter from diesel buses could not exceed the level of particulate emissions from gasoline-powered buses, which emit virtually no particulate matter. This would be substantially tougher than the standard (0.10 gram per brake horsepower-hour) now scheduled to take effect in 1991, which might itself have the effect of getting manufacturers to shift entirely to the production of methanol-fueled buses rather than diesel-fueled buses.

The following table compares the emission standards currently in force with those that would be established under the Motor Vehicle Emission Control Act of 1987.

	Current law	Skaggs bill	Change (percent)
Light-duty vehicles (autos) (grams per mile):			
Carbon monoxide	3.4	1.7 (in 1992)	−50
Hydrocarbons	0.41	0.25 (in 1992)	−39
Oxides of nitrogen	1.0	0.4 (in 1990)	−60
Particulates	0.2	0.08 (in 1990)	−60
Light-duty trucks (pickups and vans) (grams per mile):			
Carbon monoxide	10.0	5.0 (in 1990)	−50
Hydrocarbons	0.8	0.5 (in 1990)	−37.5
Oxides of nitrogren			
Smaller LDT's	1.2	0.5 (in 1990)	−58
Larger LDT's	1.7 (in 1990)	0.5 (in 1990)	−71
Particulates	0.26 (in 1991)	0.08 (in 1990)	−69
Heavy-duty trucks (grams per brake horsepower-hour):			
Carbon monoxide: Gas-powered.	14.4 to 37.1	14.4 for all (in 1992).	[2] −61
Diesel	15.5	Same	
Hydrocarbons:			
Gas-powered	1.1 or 1.9	do	
Diesel	1.3	do	
Oxides of nitrogen	6.0 (in 1990)	4.0 (in 1991)	−33
Do	5.0 (in 1991)	1.7 (in 1995)	−66
Particulates:			
Other than buses.	0.25 (in 1991)	0.10 (in 1994)	−60
Buses	0.10 (in 1991)	0.00 [1] (in 1994)	
Motorcycles (grams per mile):			
Carbon monoxide	19.3	17.6 (in 1992)	−9
Hydrocarbons:			
Over 700 cc	8.0	3.6 (in 1992)	−55
Under 700 cc	8.0	2.0 (in 1992)	−75
Evaporative hydrocarbons (grams per test)			
Over 700 cc	No standard	4.0 (in 1992)	
Under 700 cc	do	2.0 (in 1992)	

[1] The particulate standard for diesel-fueled buses in 1994 would be set by EPA to allow only the level of particulates emitted by gasoline-powered buses. This would be virtually zero, and presumably would have the effect of eliminating new diesel-fueled buses and leading manufacturers to produce instead methanol-fueled buses.

[2] Up to.

COLD WEATHER COMPLIANCE

The bill would require EPA to ensure that cars meet carbon monoxide emissions standards at cold temperates—20 to 68 degrees—instead of just at warm temperatures. Currently, cars are tested only at 75 degrees, and if they meet the standards at that temperature they can be certified. Those cars then emit much more carbon monoxide at lower temperatures. As a result, the average temperature during violations of the carbon monoxide air quality standards is 45 degrees, with no violations occuring at temperatures higher than 65 degrees.

HIGH ALTITUDE COMPLIANCE

The bill would require all types of vehicles to meet national emission standards at high altitudes as well as at sea level. Currently, only light-duty vehicles (cars)—not light-duty trucks, heavy-duty trucks, or motorcycles—are required to meet the emission standards at high altitudes.

EPA would be required to establish a high altitude testing facility, at approximately 5,300 feet in elevation, to demonstrate that vehicles meet the national emission standards at high altitude.

MANUFACTURER'S WARRANTIES

The bill would extend to ten years or 100,000 miles (whichever comes first) the period for which a properly-maintained car must meet the national emission standards. If a car fails to meet the standards during this period, the manufacturer would be liable for the costs of fixing the car so it does. Currently, this manufacturer warranty only lasts for five years or 50,000 miles. Extending the warranty period will require manufacturers to make cleaner cars to begin with, and would make manufacturers, not motorists, liable for more of the costs of cleaning up cars found by inspection/maintenance programs to not meet emission standards.

OXYGENATED FUELS

The bill would require that, beginning next winter, gasoline sold between October 1 and April 1 of each year in all areas exceeding the carbon monoxide air quality standard must have an oxygen content of at least two percent. This would apply nationwide the same type of regulation of oxygen content of fuels being undertaken this winter in Colorado. According to various studies, this use of oxygenated fuels could reduce the carbon monoxide emitted from pre-1981 vehicles by 20 percent or more.

SULFUR CONTENT OF DIESEL FUELS

The bill would require EPA to establish standards to reduce the sulfur content of diesel fuels to no more than 0.05 percent by 1990. This would be an 81% reduction in the sulfur content of diesel fuel, and would be the most cost-effective way to remove particulates from diesel exhaust. A study done for the Denver Metropolitan Air Quality Council estimates that setting standards reducing the sulfur content of diesel fuel could reduce particulate emissions by 33% or more, and the Brown Cloud by 7%.

EVAPORATIVE GASOLINE EMISSIONS

The bill would require EPA to establish a standard providing that the volatility of gasoline sold during summer months (when ozone problems are most severe) not exceed nine pounds per square inch. The bill also would require that all motor vehicles, beginning in 1991, be designed to capture gasoline vapors emitted during fueling. Both of these provisions would reduce the escape of gasoline vapors during vehicle fueling, and thereby reduce a major cause of ozone.

FORMALDEHYDE EMISSIONS

The bill would require EPA to establish standards for alcohol-based fuels to ensure they produce no more emissions of formaldehydes (which are known carcinogens) than traditional gasoline fuels do.

LEADED GASOLINE

To ensure lead pollution from gasoline continues to decline, the bill would prohibit the manufacture of any vehicle that could use leaded gasoline.

ENFORCEMENT

The bill would strengthen the recall and penalty provisions of the Clean Air Act to improve the enforcement of all motor vehicle control requirements.

THE TREASURES OF THE NEWARK PUBLIC LIBRARY

HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 17, 1987

Mr. RODINO. Mr. Speaker, one of the cultural treasures of my hometown of Nawark, NJ, is the Newark Public Library. This important institution of learning and knowledge boasts over 1.3 million volumes, 12 branches throughout Newark and a bookmobile that travels regularly throughout the city's neighborhoods.

The hallmark of the Newark Public Library is that it has always adapted itself to meet the needs of the public and the challenges of the future. Beginning as a city library, the Newark Public Library quickly became the keystone of New Jersey's statewide network of libraries. Most important, the Newark Public Library has made a valuable contribution to the national emergence of the concept of public library service.

With the visionary guidance of John Cotton Dana, who became director in 1902, the Newark Public Library received national fame as the most-effective institution of its kind. Dana believed "the worth of a book is in its use" and he was the first head of a major library to open the bookstacks to the public. He also expanded the library's circulation, opened branch libraries and began a school library at Barringer High School. In 1904, the business financial district, opened. As the first business library in the country created to assist the business community, the business branch was called upon to serve users throughout the United States.

Today, the Newark Public Library continues to carry on this tradition of meeting the needs of the public. Under the able leadership of the board of trustees and Acting Director Thomas Banker, the library has embarked on a major renovation of its main building on Washington Street. The beautiful Italian Renaissance decor of the main library will be returned to its original spendor in time for the 100th anniversary of the library in 1988. Work has already begun on restoring the main reading room with its fireplace, oak flooring, and vaulted ceiling.

Recently, workers rediscovered three magnificent wall panels that were hidden for the past 35 years. These oils on canvas were commissioned by the Friends of the Library in 1927 and were painted by R.H. Ives Gammell, a member of the Boston Painters Group. The murals in vivid pastels and 20-feet high, once again adorn the wall of the second floor gallery leading to the main reading room.

This renovation is only part of an overall reorganization program that will change every department of the library to make the extensive collections more easily accessible to the public. Plans include transferring the card catalog to microfiche and the microfilming of the invaluable Newark News Collection. In addition, the library is rehabilitating its Springfield Avenue Branch which will serve as a model for renovating the entire branch system.

Almost 100 years after its founding, the Newark Public Library remains a cherished institution of learning committed to fulfilling its mission of serving the public. By building on the traditions of the past and adapting to new challenges, the Newark Public Library has ensured that all the citizens of Newark will continue to enjoy and benefit from its many treasures.

H.R. 3784

HON. THOMAS A. LUKEN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 17, 1987

Mr. THOMAS A. LUKEN. Mr. Speaker, I am pleased to join with my colleagues to introduce this critical legislation today that will help to assure that the Department of Energy will comply with the Nation's environmental laws.

One would expect that the Federal Government would serve as a model for the private sector and high standards for protection of the environment. But the sad fact is that the Department of Energy's record of self-regulation has led to the creation of vast cesspools of hazardous and nuclear wastes that have leaked into our ground water and fouled the environment. We have left Dracula to guard the blood bank, with disastrous results.

In my own district, the Feed Material Production Center at Fernald, OH, has been in the public eye since it was discovered in the fall of 1984 that hundreds of pounds of uranium has leaked into the air through equipment that DOE itself has said was bordering on obsolete. Since that incident, investigations by the Department itself and the Energy and Commerce Committee have revealed the incredible pollution that has accumulated under DOE's lax environmental controls.

Millions of tons of nuclear waste that is mixed with unknown quantities of hazardous waste remain on site at Fernald. No records have been kept to even assist us in determining what is in those waste pits. The ground water has been contaminated in the area, and 3 offsite wells show uranium levels well above the anticipated EPA standard for drinking water. DOE was so concerned about the public's health that it failed to inform a family that the well they depended on for drinking water was contaminated with high levels of uranium. The only way that family found out was when I discussed the contamination of the wells at a public meeting.

The Department of Energy is in the business of making weapons. It should not be surprising to find out that the agency does not put health, safety, and environmental protection first. A DOE task force report on the facility concluded that—

> The first priority at the FMPC [Feed Materials Production Center] has been production * * * This attitude of production first still permeates the organization.

We need to put the responsibility for enforcing environmental protection in the hands of those agencies whose mission is to protect the public, whose first priority is not production. I believe the bills we are introducing today will provide the tools necessary to assure that the U.S. EPA and responsible State authorities will be able to enforce the law. DOE's record certainly shows that we cannot leave matters in its hands.

We've been looking into the DOE performance for about 3 years now. We're constantly told by DOE that there is a new order, and that environmental protection is now a major concern of DOE. We're told that the problems at Fernald happened on someone else's watch and won't be repeated by current management at Fernald or other DOE facilities. But I remain convinced that the public will be better served by oversight by EPA and the States.

Today I am introducing a bill that will make it clear that all hazardous waste at DOE facilities, even if mixed with nuclear materials, must be regulated under the Resource Conservation Recovery Act as enforced by EPA. DOE over the past several years has attempted to avoid regulation under RCRA, and fought efforts in the courts to make the Department comply with RCRA requirements. As late as 1986, DOE was still attempting to exclude certain mixed wastes from regulation by EPA by redefining byproduct material. Although that effort has been abandoned, I believe we need to make it clear that all such waste should be regulated by the people who are in the business of protecting the public from hazardous materials, the EPA. Similar legislation that I sponsored last Congress passed the House, but was not agreed to by the Senate.

I am pleased to be joined in this effort by my distinguished colleagues, Mr. ECKART, Mr. SWIFT, Mr. SYNAR, and Mr. WYDEN, each of whom is also introducing legislation that will result in great improvements in environmental compliance at Federal facilities.

Mr. ECKART's bill clarifies the existing statutory waiver of sovereign immunity in RCRA and would enable EPA and States to impose penalties for hazardous waste violations at Federal facilities. Mr. SWIFT's bill would create a special environmental counsel at EPA whose sole purpose would be to enforce RCRA at Federal facilities. Mr. SYNAR is introducing legislation to create separate accounting and budgeting for hazardous waste management and cleanup within DOE. And Mr. WYDEN's bill gives EPA enforcement powers against private contractors at Federal facilities, including the ability to bar criminal or chronic violators from contracts with the Federal Government.

As chairman of the Subcommittee on Transportation and Hazardous Materials, I am also announcing today that we will hold hearings on these bills in early February, soon after Congress returns. This legislation will receive a high priority in the second session of Congress.

CELEBRATING 100 YEARS IN THE CITY OF BALDWIN PARK, CA

HON. ESTEBAN EDWARD TORRES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 17, 1987

Mr. TORRES. Mr. Speaker, I rise to inform my colleagues of the centennial celebration of the city of Baldwin Park, CA during 1987.

I wish to acknowledge the following information which I recently read in an article in our local newspaper, the San Gabriel Tribune:

> Area historians tell us that the land once occupied by Gabrielino Indians and a handful of homesteaders, began to emerge as an identifiable community 100 years ago. Though the roots are found in the lands belonging to the San Gabriel Mission and later the Rancho Azusa de Dalton and Ranchol La Puente, the birth of Baldwin Park is traced back to the recording of the Vineland townsite on September 29, 1887.
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> The beginnings of this city were humble. Local legend has it that the land north of what is known today as Ramona Boulevard was occupied by "squatters" on the Rancho Azusa de Dalton. However, local historians disagree. The official record of tho Baldwin Park Historical Society, "The Heritage of Baldwin Park," states that they were legitimate settlers.
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> Englishman Henry Dalton lost his lands after California was admitted to the Union and he refused to become an American citizen. In 1851, a year after California became a State, a U.S. Government commission cleared the titles of California lands. Surveys took most of that which is now Baldwin Park away from the Rancho Azusa de Dalton and it became public land, open to settlers.
>
> The area south of Ramona Boulevard was more interesting. As part of the extensive Rancho La Puente, which was owned by pioneers William Workman and his son-in-law Francis P.F. Temple, was eventually lost in 1877 to E.J. "Lucky" Baldwin in a business deal. Baldwin took possession of the Workman portion of the Rancho La Puente.
>
> The following year, Baldwin Park's first settlers, Austin Brown, Alex Stevens, Sam Sullivan, and A.J. Cobb staked out their homesteads in a village they called Pleasant View. Pleasant View's four homesteads grew in to a village of 12 families. Their village, community was then established as Vineland of the Azusa and developed and recorded as the town of Vineland on September 29, 1887, which it remained until 1906, when, it was renamed Baldwin Park, after millionaire E.J. "Lucky" Baldwin.
>
> The community began to flourish in the 1890's with the construction of the Southern Pacific Railroad and the Pacific Electric Railway. At its peak, 60 trains daily stopped in Baldwin Park on their way to, and from, the heart of the Los Angeles business district. The city's motto: "A city in motion," acknowledges the role played by the railroad in the city's development.
>
> Today, Baldwin Park is a community of nearly 60,000 residents and is concluding its centennial celebration with the preparation of a time capsule to be placed in the floor of the Historical Museum on January 23, 1988. This capsule will share with future generations what life was like in the city in 1987.

Therefore, Mr. Speaker, I ask my colleagues to join me in congratulating the Baldwin Park Historical Society and the members of the community for their yearlong project in recognizing the history and accomplishments of their city during its first 100 years. I salute the citizens of Baldwin Park for their progress during the past century.

OUR FUTURE LIES IN SPACE

HON. CARL C. PERKINS

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 17, 1987

Mr. PERKINS. Mr. Speaker, I want to take this opportunity to share with my fellow Members of the House of Representatives some of my views and perceptions concerning the future of this Nation's space program and the part I feel the United States should play in the exploration of space.

As a people, we have experienced quite a turbulent couple of years in our civil efforts to expand our earthbound limitations and to increase our presence in space. During our brief, but exhilarating time in space, we have been witness to a wonderful collage of discoveries and experiences that would not have taken place without the superior leadership and vision from the Presidents who have served us and the Congresses who excitedly shared the dream of space exploration. We have been required to pay for these efforts from our pocketbooks and sometimes with the very lives of some of our brave astronauts. But at the same time our Nation has decided that our mission in space is not yet completed and we in Congress should heed this sentiment.

We are at a true watershed in our further development as a spacefaring nation and I feel that it is imperative that we make the necessary commitment today or we will become the equivalent of the seafaring country of Portugal from an earlier age. We face the possible consequence of seeing other nations pass us by in the needed technologies to explore space. It has already been almost 10 years since we last launched a planetary exploratory mission and as each year passes we fall farther behind the rest of the countries that are taking an active part in space exploration. We missed the opportunity of observing with our own instruments the visit of Halley's Comet. We have postponed the Mars Observer mission once again and many other missions are endangered because of the delays in launches. We will be missing windows of opportunity if we don't invest in launch vehicles to take over this load from the shuttle that will be providing limited service once it returns to flight.

We have new programs on the board that show promise for the future if only we will choose to follow through with them. One of the latest to capture the President's and the public's attention is the space plane. The expectations are high for this program and I hope that we can see these expectations come to fruition in a form that will only enhance our capabilities to utilize the vast potential of space and space technologies.

We hear over and over the same old story about how we can't afford to pay for a space plane this year or to commit to a exploratory mission for next year. We can't support a program as immense as the space station or we should never even consider a mission to Mars because it's too far, too expensive, too difficult or some other excuse is thought of.

This is the type of attitude that can undermine a nation's confidence very quickly and we are seeing this happen today. I feel that we have allowed this country's space program to slip far enough into the doldrums. We must be willing to reach out and embrace our dreams and be willing to take the abstract chances that are inherent in missions such as going to Mars. There is no one around to give us the fiscal or moral guarantees which our leaders seem to be searching for. These missions will cost us dollars today but I am confident that the returns to society will more than make up for this initial investment. We have seen the evidence of the return of benefits through technological improvements from the investments in the Apollo and shuttle programs.

Dedication is the true issue in question. At this point I am not sure whether we still have the national inner drive and commitment to live up to the required level of dedication that an ambitious space program demands. But I feel that without at least attempting to support our space program we will be cheating our selves and our children in the years to come. We ushered in the space age in an effort to pursue our own dreams and I feel that we cannot afford to abandon this cause at this point in our history. What greater way is there to interest students in the sciences than by a successful and growing space program. The distant lands of our universe, and beyond, are beckoning to us to come and explore. I hope that we choose to answer this call with action. I feel that the very basis of our Nation's vitality in the future will be determined by the concerted effort that is decided upon at this juncture in our history.

The immediate challenge that is before us today exists in the form of a proposed space station. The word that we are receiving from our budget conferees is that our station is not on the priority list for funding in the latest series of preferred programs. The latest agreement has the House and Senate agreeing to a $425 million funding level for the coming year, the initial year of the station's development. This is a cut from the already low figure of $767 million that was included and signed into law by the authorizing legislation for NASA. This cut signals another undermining of our commitment to the program and if we allow the pattern to fully develop we will see the same cost cutting and constant reassessing of the program that occurred during the development of the shuttle. We should be wise enough to learn from our mistakes of the past to ensure that we do not repeat them. Here is a chance to return to the enlightened programming of the previous missions handled by NASA and produce a station that can capably support our future needs in space.

There is one vital leadership component that must be included in the process and this component will be crucial when the next budget year rolls around and the second phase of space station development calls for a $1.8 billion funding level. The missing link in this process is a President that is willing to move to the forefront on this issue and crystallize the Nation's support for the station and the space program as a whole. The polls all show that the public support exists but it remains untapped. As was shown in the sixties with our effort to reach to the moon, a national leader can generate the support that is needed to back such a program. I feel that this is a critical element in our space effort if we are to eventually push on to our as yet unofficial goal of reaching Mars.

NASA is still vacillating as to what direction it should take as a followup to the hoped for eventual completion of the station. Rather than simply being satisfied with the station being a goal unto itself we should see it as the stepping stone to further travel into space that it is. It will allow us to peer deeper into space on a continuous basis and this new perception of our universe should only be seen as a presentation of new avenues for exploration and learning. A Mars mission provides the diplomatic opportunity of a lifetime if we choose to seek out working relationships with other space-faring nations such as the Soviet Union, France, Japan, and the many others that are interested in participating. Because of our own fiscal limitations and the expense of a Mars mission it would serve us best if our leadership took the opportunity of the summits and made legitimate proposals to move in this direction.

I feel that it is time for our national leaders to present a challenge to the American people. A challenge that will demand only the best from all of us, a challenge that will require a great commitment of dollars, time, and effort. Exploration of our universe is that challenge and it lies before us waiting for America's acceptance of it. I feel confident that the people of this country are willing to seize the moment and embrace this adventure.

I hope that we will be able to join together in a constructive effort to promote and expand our involvement in the exploration of the universe we exist in. We will be the beneficiaries of this effort for years to come. This challenge is one that can be accomplished but it is incumbent on us to help lead the way for the coming generations.

CORPORATE-OWNED LIFE INSURANCE—THE "COLI" BILL

HON. HAL DAUB

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 17, 1987

Mr. DAUB. Mr. Speaker, today I am introducing "The COLI Bill," H.R. 3778, which stands for corporate-owned life insurance. This bill provides and removes a disincentive to the private sector to fund retiree health benefits, and does so at virtually no cost to the Government.

The Tax Reform Act of 1986 provided that a deduction for interest on policyholder loans of corporate-owned life insurance is not allowed in the case of loans aggregating more than $50,000 per employee. This provision imposes unnecessary limitations where such loans are used to fund retiree health benefits. The proposed amendment removes the $50,000 cap on the deductibility of policyholder loan interest where indebtedness is incurred solely to fund medical benefits for retired workers.

It is appropriate to improve incentives for employers to fund postretirement medical benefits over an employee's working career. The current pay-as-you-go funding scheme often results in less benefit protection and is erroneously based on an assumption that future medical costs will not exceed current costs. This proposal offers a small step, albeit piecemeal toward encouraging the adequate prefunding of postretirement medical benefits promised by employers.

The amendment provides that, to qualify for this treatment, retiree health coverage under a welfare benefit plan must not discriminate in favor of highly paid employees. Under these rules each class of benefits under the plan must be provided under a classification of employees set forth in the plan and found by IRS not to be discriminatory in favor of highly compensated individuals. In addition, each class of benefits may not discriminate in favor of highly compensated individuals. This will ensure that the program will benefit a broad range of employees.

The term "highly compensated" individual generally includes any person who was at any time a 5-percent owner; or who received compensation from the employer in excess of $75,000; or who received compensation in excess of $50,000 and was in the top-paid 20-percent of all employees; or who was at any time an officer of the company and received compensation in excess of $45,000. This is the new uniform definition adopted by the 1986 act for all of the employee benefits plan rules.

Finally, it should be noted that a "medical benefit" as currently defined by the Internal Revenue Code, means a benefit consisting of providing, either directly or through insurance, medical care. Medical care, in turn, means amounts paid for diagnosis, cure, mitigation, treatment, or prevention of disease, or to affect any structure or function of the body. This term also includes premiums paid for medical care insurance. However, the treatment of long-term care services is unclear. Depending upon the specific circumstances, not all costs are considered medical care expenses. If long-term care is to be adequately provided for through employer-sponsored postretirement medical benefits, all costs associated with long-term care should be included as a medical benefit. This should be clarified in separate and more comprehensive legislation.

SIGMUND AND MARY PIEKUNKA CELEBRATE 55TH CONSECUTIVE YEAR OF THEIR CLEANING BUSINESS

HON. FRANK HORTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 17, 1987

Mr. HORTON. Mr. Speaker, I rise today to commend Sigmund (Ernie) and Mary Piekunka, two constituents of mine who own Piekunka Cleaners in Sodus, NY. Ernie and Mary this week are celebrating the 55th consecutive year of operation for Piekunka Cleaners.

The original owner of this business, Joseph Gaudino, is Ernie's father-in-law. Mr. Gaudino had been a tailor for several years with a manufacturer of fine men's clothing in Rochester, NY. He moved to Sodus and began his tailoring business on October 4, 1932, He later expanded his tailoring work into a full-scale dry cleaning establishment.

The hard work and diligence of Mr. Gaudino, and later Ernie and Mary Piekunka, is shown by the perseverance of Piekunka Cleaners, which has expanded to the neighboring villages of Williamson and Wolcott. Additional dry cleaning work of laundromats in nearby Ontario and Walworth is also handled by Piekunka Cleaners.

Mr. Speaker, it is a real privilege to honor these hard-working business owners. Their efforts represents much of what is great about our country. By giving customers an honest deal at a fair price, a business can sustain itself even through the bad times. Piekunka Cleaners represents that ideal.

I hope the rest of my colleagues in the House of Representatives will join with me today in congratulating and paying tribute to Ernie and Mary Piekunka.

COMMITMENT TO LIFE CELEBRATION

HON. JOEL HEFLEY

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 17, 1987

Mr. HEFLEY. Mr. Speaker, I rise before my colleagues today to recognize the outstanding student body of Wasson High School in Colorado Springs, CO.

For the past several weeks, these students have been working together on a project that may not only change some lives, but save them. The project I am referring to is the Wasson High School "Commitment to Life Celebration."

Realizing the severe, often life-threatening consequences of alcohol and other substance abuse, the students of Wasson challenged one another to make a difference in the lives of others and combat this problem that is increasingly prevalent among their peers.

The weeklong celebration at Wasson included activities and fundraisers of all types. The cheerleaders held a bake sale to benefit the Wasson chapters of SADD and MADD while the National Honor Society raised money through a schoolwide paper drive. The Band Against Drunk Driving [BADD] performed in the cafeteria during lunch while teachers read material concerning drinking and driving between numbers.

Plays and skits also played a major role in the celebration as all the health classes traveled to district 11 elementary schools presenting the musical "Oh, No, Pinocchio," which addresses substance abuse. A play was performed by the Multi-Cultural Club during an all-school assembly dealing with teenagers who had died driving while intoxicated. A popular former Denver Bronco linebacker spoke at the assembly.

These are just a few of the many activities performed at Wasson during their "Commitment to Life" celebration in an attempt to successfully accept the challenge of life.

Accepting the challenge was easy. Following through with the challenge is indicative of the true respect they have for life, and the sincerity and perseverence with which they live it. For them, no life is worth sacrificing, particularly not to alcohol or drugs.

It was truly heartwarming to be a part of their celebration, and I am proud that students in my district are commiting themselves to resolving this problem. Never before have I seen students, teachers, and community, band together in such a spirit of enthusiastic cooperation to work toward a common goal. They are all to be commended for a job well done.

RECOGNITION OF ST. MARY'S COLLEGE

HON. ROY DYSON

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 17, 1987

Mr. DYSON. Mr. Speaker, I rise today in recognition of St. Marys College, located in my home county of St. Mary's, MD, which was recently recognized in U.S. News & World Report as the sixth best Eastern liberal-arts college in the United States.

This ranking was based on a questionnaire sent by U.S. News & World Report to the presidents of 1,329 colleges and universities, requesting them to choose the best and most innovative institutions of higher learning in the Nation.

I would like to take this opportunity to commend President Ted Lewis and his faculty for doing an outstanding job of educating the students who attend St. Mary's College.

In a time of rising tuition costs and reductions in financial aid, it is nice to know that there are still institutions of higher learning, such as St. Mary's, which provide a quality education at an affordable cost.

Not only does a student entering St. Mary's receive an education from a faculty which contains the highest percentage of Fulbright fellowship winners in the United States, but also small class size and accessibility to the faculty. This makes St. Mary's a bargain for both students and parents alike.

I believe that St. Mary's College will serve as a model to other schools throughout the country, that bigger does not mean better and that high tuition does not guarantee a good education.

Let me once again extend my congratulations to President Lewis, the faculty and the students of St. Mary's College for being ranked as one of the best colleges in the Nation.

H.R. 1580

HON. RONALD V. DELLUMS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 17, 1987

Mr. DELLUMS. Mr. Speaker, in response to numerous requests, I insert the text of H.R. 1580, an act to end apartheid in South Africa.

H.R. 1580

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PROHIBITION ON INVESTMENTS IN SOUTH AFRICA.

A United States person may not, directly or through a foreign affiliate of that United States person, make or hold an investment in South Africa.

SEC. 2. PROHIBITION ON IMPORTS AND EXPORTS FROM SOUTH AFRICA.

(a) IMPORTS.—Notwithstanding any other provision of law, no article which is the growth, produce, or manufacture of South Africa may be imported into the United States, except for any strategic mineral with respect to which the President certifies to the Congress that the quantities of such mineral which are essential for military uses exceed reasonably secure domestic supplies and that substitutes for such mineral are not available.

(b) EXPORTS.—

(1) GENERAL RULE.—No goods, technology, or other information subject to the jurisdiction of the United States may be exported to South Africa, and no goods, technology, or other information may be exported to South Africa by any person subject to the jurisdiction of the United States. The prohibition contained in this paragraph shall apply to goods, technology, or other information of any kind, which is subject to controls under the Export Administration Act of 1979, the Arms Export Control Act, the Atomic Energy Act of 1954, or any other provision of law.

(2) EXCEPTION.—The prohibition contained in paragraph (1) shall not apply to exports described in section 6(g) of the Export Administration Act of 1979.

SEC. 3. PROHIBITION ON LANDING RIGHTS OF SOUTH AFRICAN AIRCRAFT.

(a) PROHIBITION.—The Secretary of Transportation shall prohibit the takeoff and landing of any aircraft by a foreign air carrier owned, directly or indirectly, by the Government of South Africa or by South African nationals.

(b) EXCEPTIONS FOR EMERGENCIES.— The Secretary of Transportation may provide for such exceptions from the prohibition set forth in subsection (a) as the Secretary considers necessary to provide for emergencies in which the safety of an aircraft or its crew or passengers is threatened.

(c) DEFINITIONS.— For purposes of this section, the terms "aircraft" and "foreign air carrier" have the meanings given those terms in section 101 of the Federal Aviation Act of 1958.

SEC. 4. PROHIBITION ON IMPORTATION OF KRUGERRANDS.

No person may import into the United States any South African krugerrand or any other gold coin minted in South Africa or offered for sale by the Government of South Africa.

SEC. 5. GOVERNMENT OF SOUTH AFRICA BANK ACCOUNTS.

No United States depository institution may accept, receive, or hold a deposit account from the Government of South Africa or from any agency or entity owned or controlled by the Government of South Africa except for such accounts which may be authorized by the President for diplomatic or consular purposes. For purposes of the preceding sentence, the term "depository institution" has the same meaning as in section 19(b)(1) of the Federal Reserve Act.

SEC. 6. PROHIBITION ON UNITED STATES MILITARY OR INTELLIGENCE COOPERATION WITH GOVERNMENT OF SOUTH AFRICA.

(a) MILITARY COOPERATION.—No agency or entity of the United States may engage in any form of cooperation, direct or indirect, with the armed forces of the Government of South Africa.

(b) INTELLIGENCE COOPERATION.—No agency or entity of the United States involved in intelligence activities may engage in any form of cooperation, direct or indirect, with the Government of South Africa.

SEC. 7. LIMITATION ON IMPORTS FROM OTHER COUNTRIES.

The President is authorized to limit the importation into the United States of any product or service of a foreign country to the extent to which such foreign country benefits from, or otherwise takes commercial advantage of, any prohibition imposed by or under this Act.

SEC. 8. ENFORCEMENT; PENALTIES.

(a) AUTHORITIES OF THE PRESIDENT.—The President shall take the necessary steps to ensure compliance with the provisions of this Act and any regulations, licenses, and orders issued to carry out this Act, including establishing mechanisms to monitor compliance with such provisions, regulations, licenses, and orders. In ensuring such compliance, the President may conduct investigations, hold hearings, administer oaths, examine witnesses, receive evidence, take depositions, and require by subpoena the attendance and testimony of witnesses and production of all books, papers, and documents relating to any matter under investigation.

(b) VIOLATIONS.—Any person that knowingly violates the provisions of this Act or any regulation, license, or order issued to carry out this Act shall—

(1) if other than an individual, be fined not more than $500,000; and

(2) if an individual, be fined not more than $250,000, or imprisoned not more than 5 years, or both.

(c) ADDITIONAL PENALTIES FOR CERTAIN INDIVIDUALS.—

(1) IN GENERAL.—Whenever a person commits a violation under subsection (b)—

(A) any officer, director, or employee of such person, or any natural person in control of such person who willfully ordered, authorized, acquiesced in, or carried out the act or practice constituting the violation, and

(B) any agent of such person who willfully carried out such act or practice, shall, upon conviction, be fined not more than $250,000, or imprisoned not more than 5 years, or both.

(2) Restriction of payment of fines.—A fine imposed under paragraph (1) on an individual for an act or practice constituting a violation may not be paid, directly or indirectly, by the person committing the violation itself.

(d) Seizure and Forfeiture of Aircraft.—Any aircraft used in connection with a violation of section 3 or any regulation, license, or order issued to carry out that section shall be subject to seizure by and forfeiture to the United States. All provisions of law relating to the seizure, forfeiture, and condemnation of articles for violations of the customs laws, the disposition of such articles or the proceeds from the sale thereof, and the remission or mitigation of such forfeitures shall apply to the seizures and forfeitures incurred, or alleged to have been incurred, under the provisions of this subsection, insofar as such provisions of law are applicable and not inconsistent with the provisions of this Act; except that all powers, rights, and duties conferred or imposed by the customs laws upon any officer or employee of the Department of the Treasury shall, for purposes of this subsection, be exercised or performed by the Secretary of Transportation or by such persons as the Secretary may designate.

SEC. 9. REGULATORY AUTHORITY.

The President may issue such regulations, licenses, and orders as are necessary to carry out this Act.

SEC. 10. DEFINITIONS.

For purposes of this Act—

(1) United states.—The term "United States" includes the States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States.

(2) United states person.—The term "United States person" means—

(A) any United States resident or national; and

(B) any partnership, corporation, or other entity organized under the laws of the United States or of any of the several States, of the District of Columbia, or of any commonwealth, territory, or possession of the United States.

(3) Investment in south africa.—The term "investment in South Africa" means—

(A) a commitment of funds or other assets (in order to earn a financial return) to the Government of South Africa or to a business enterprise located in South Africa or owned or controlled by South African nationals, including—

(i) a loan or other extension of credit made to the Government of South Africa or to such a business enterprise, or security given for the debts of the Government of South Africa or such a business enterprise;

(ii) the beneficial ownership or control of a share or interest in such a business enterprise, or of a bond or other debt instrument issued by the Government of South Africa or such a business enterprise; or

(iii) capital contributions in money or other assets to such a business enterprise; or

(B) the control of a business enterprise located in South Africa or owned or controlled by South African nationals, in cases in which subparagraph (A) does not apply.

(4) South Africa.—The term "South Africa includes—

(A) the Republic of South Africa;

(B) Namibia and any other territory under the administration, legal or illegal, of South Africa; and

(C) the "bantustans" or "homelands", to which South African blacks are assigned on the basis of ethnic origin, including the Transkei, Bophuthatswana, Ciskei, and Venda.

(5) Business enterprise.—The term "business enterprise" means any organization, association, branch, or venture which exists for profitmaking purposes or to otherwise secure economic advantage, and any corporation, partnership, or other organization which is owned or controlled by the Government of South Afria.

(6) Branch.—The term "branch" means the operations or activities conducted by a person in a different location in its own name rather than through a separate incorporated entity.

(7) Foreign affiliate.—A "foreign affiliate" of a United States person is a business enterprise located in a foreign country, including a branch, which is controlled by that United States person.

(8) South african national.—The term "South African national" means—

(A) a citizen of South Africa; and

(B) any partnership, corporation, or other entity organized under the laws of South Africa.

(9) Control by south african nationals.—For purposes of paragraphs (3) and (7), a business enterprise shall be presumed to be controlled by a United States person or by South African nationals (as the case may be) if—

(A) the United States person or South African nationals beneficially own or control (whether directly or indirectly) more than 50 percent of the outstanding voting securities of the business enterprise;

(B) the United States person or South African nationals beneficially own or control (whether directly or indirectly) 25 percent or more of the voting securities of the business enterprise, if no other person owns or controls (whether directly or indirectly) an equal or large percentage;

(C) the business enterprise is operated by the United States person or South African nationals pursuant to the provisions of an exclusive management contract;

(D) a majority of the members of the board of directors of the business enterprise are also members of the comparable governing body of the United States person or a South African national;

(E) the United States person or South African nationals have the authority to appoint a majority of the members of the board of directors of the business enterprise; or

(F) the United States person or South African nationals have the authority to appoint the chief operating officer of the business enterprise.

SEC. 11. APPLICABILITY TO EVASIONS OF ACT.

This Act shall apply to any person who undertakes or causes to be undertaken any transaction or activity with the intent to evade the provisions of this Act or any regulation, license, or order issued to carry out this Act.

SEC. 12. REPEAL OF COMPREHENSIVE ANTI-APARTHEID ACT OF 1986.

(a) Repeal of Act.—The Comprehensive Anti-Apartheid Act of 1986 (Public Law 99-440), and all regulations, licenses, and orders issued to carry out that Act, are hereby repealed.

(b) Repeal of Amendments Made by That Act.—

(1) Section 105(b) of the Foreign Assistance Act of 1961 is amended—

(A) by striking out "(1)" after "(b)"; and

(B) by striking out paragraph (2).

(2) Chapter 1 of part I of the Foreign Assistance Act of 1961 is amended—

(A) in section 116—

(i) in subsection (e)(2)(A) by striking out "1984," and inserting in lieu thereof "1984 and";

(ii) in subsection (e)(2)(A) by striking out ", and $1,500,000 for fiscal year 1986 and for each fiscal year thereafter"; and

(iii) by striking out subsection (f); and

(B) by striking out section 117.

(3) Chapter 4 of part II of the Foreign Assistance Act of 1961 is amended by striking out section 535.

(4) Section 2(b)(9) of the Export-Import Bank Act of 1945 is amended—

(A) by striking out "(9)(A) Except as provided in subparagraph (B), in" and inserting in lieu thereof "(9) In"; and

(B) by striking out subparagraph (b).

(c) Transition Provision.—The repeal contained in subsection (a) shall not affect any proceeding to impose a penalty under section 603 of the Comprehensive Anti-Apartheid Act of 1986 for violations of that Act (or any regulation, license or order issued to carry out that Act) occurring before the date on which this Act takes effect.

SEC. 13. EFFECTIVE DATE.

This Act and the amendments made by this Act take effect 180 days after the date of the enactment of this Act.

GAO REPORT SHOWS ADMINISTRATION'S MISPLACED PRIORITIES IN EDUCATION R&D

HON. MAJOR R. OWENS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, December 18, 1987

Mr. OWENS of New York. Mr. Speaker, in 1987 1 million young people will leave the Nation's public schools without graduating. The annual cost of this astronomical dropout rate is $240 billion in lost earnings and foregone taxes. These are some of the alarming statistics listed in "Children in Need," the latest report of the Committee for Economic Development, a national consortium of over 200 businessmen and educators. The threat to our national security posed by this crisis was emphasized in a 1983 report, "Nation at Risk," issued by former Education Secretary Terrel Bell: "If an unfriendly foreign power had attempted to impose on America the mediocre educational performance that exists today, we might well have viewed it as an act of war * * *. We have, in effect, been committing an act of unthinking, unilateral educational disarmament."

Unfortunately the Reagan administration has not heeded this warning. A newly released GAO report: Education Information: Changes in Funds and Priorities Have affected Production and Quality, indicates that the Federal Government's role in sponsoring educational research and development and monitoring academic achievement was seriously neglected between 1980 and 1985, and that leadership in this critical aspect of education was entirely lacking.

During that period awards and contracts for the three primary aspects of education R&D—

research, statistics and program evaluation—were dramatically reduced as reflected in the principal findings of the GAO report:

Funds for the National Institute of Education [NIE] were cut by half between 1980 and 1984, while overall funding for education R&D declined more than 60 percent since the mid-seventies;

New data collection on women and minorities and issues of concern to the education reform movement was virtually nil;

The number of research grants awarded by the NIE decreased 65 percent between 1980 and 1985;

The number of evaluation contracts awarded by the Office of Planning, Budget, and Evaluation [OPBE] declined by 79 percent—a decline which reflected in part the substitution of block grants for categorical grants;

Statistical surveys on education declined by 31 percent between 1980 and 1983.

While education R&D suffered dramatic cutbacks in the eighties, the military R&D budget mushroomed. In 1980, for example, 50 percent of Federal R&D expenditures went to defense, while 50 percent went to all other budget functions. By 1986 it was estimated that 72 percent of Federal R&D expenditures went to defense, while 28 percent went to all other functions. In 1980 alone the Defense Department spent 45 percent of the Federal R&D budget, while the Department of Education spent only 0.4 percent.

The quality of education R&D has suffered also. GAO found that the Common Core of Data [CCD], an information reporting system maintained by NCES, deteriorated markedly. For example, the Digest of Education Statistics published by NCES and based upon data from the CCD, is out-of-date and inaccurate. Within CCD external reviewers found: estimates of dropout rates that differed by 50 percent; estimates of school discipline problems that differed by a factor of 10 depending on the source; vocational education enrollments in some States that exceeded their entire high school populations; and estimates of the size of the population of students with limited proficiency in English that differed by as much as 200 percent. In 1986 there was a 13-month lag between preparation and publication of the Digest, as compared to only a 3-month lag in 1964.

It is evident from the GAO report that much of what was funded was already mandated by legislation, while studies that were not specifically required by law, such as a long-term evaluation of the impact of the Education for the Handicapped Act, were terminated.

In responding to GAO's criticism, the Department of Education blamed Congress for appropriating insufficient funds for education R&D. Yet the administration's own budget data reveal that the annual Reagan administration request for education R&D averaged $62 million, as compared to the $93 million averaged by the Carter administration during its last 3 years in office.

Another reason cited by the GAO for the precipitous decline in education R&D was a dramatic turnover in leadership and professional staff. For example, NIE had a total of 7 directors between 1980 and 1986, and at least 16 persons served in only 5 other top management positions during that period.

The defunding of education R&D within the Federal Government underscores the need for a redefinition of the Government's role in education in general, as well as a new agenda for action. Clearly there is something wrong with the priorities of an administration that places the education and future employability of 30 percent of its children at risk while increasing military R&D by 130 percent. If the Federal Government cannot or will not appropriate the funds to fulfill its mandate to monitor student achievement and sponsor education R&D nationwide, then I propose that we explore alternative funding options. Public/private partnerships, foundation sponsored research, nonprofit corporations—all of these vehicles have been utilized successfully in the past to facilitate the Government's role in developing quality education programs, particularly for the disadvantaged. Now is the time to explore these options. I commend the GAO report, requested by the former chairman of the Select Education Subcommittee, Mr. AUSTIN MURPHY, to the attention of my colleagues. I am further submitting for the record a copy of the report's executive summary.

EXECUTIVE SUMMARY

PURPOSE

Although education in this country is a responsibility of the states, the federal government spends nearly $20 billion annually to support all levels of education. Further, since the Congress first authorized a noncabinet department of education in 1867, the federal government has maintained a strong interest in who is getting educated and what they are learning. The Congress and the education community have, however, expressed concern about how well the department is carrying out its information-gathering function. In light of these concerns, the House Subcommittee on Select Education asked GAO to study the condition of information on education in the United States. This report addresses three questions: (1) What federally sponsored information on education is being produced and how has it changed? (2) What is the quality of the information and how has the quality changed? (3) What factors influence the production and quality of information?

BACKGROUND

GAO examined information production by reviewing the information-gathering activities of the three principal units in the Department of Education responsible for education information during the time of our review: the National Institute of Education (NIE), the National Center for Education Statistics (NCES), and the Office of Planning, Budget, and Evaluation (OPBE). GAO examined the quality of information through analyses of three statistical programs: the National Assessment of Educational Progress, the Common Core of Data for elementary and secondary education, and the Fast Response Survey System. GAO assessed performance in terms of four indicators of quality: relevance, timeliness, technical adequacy, and impact. From the results of these reviews, together with an examination of relevant documents and interviews, GAO identified factors influencing information production and quality. GAO's review covers selected years between 1973 and 1986.

RESULTS IN BRIEF

During the past decade, the production of federally sponsored research, statistical, and evaluative information on education has declined notably. Research and evaluation activities were hardest hit in terms of reductions in number of awards between 1980 and 1985. Research activities shifted away from the collection of new data to service-oriented activities such as dissemination, so much so that the availability of up-to-date information to disseminate to teachers and other practitioners may be threatened. Further, the new data collection efforts that were undertaken during the period of this review increasingly became more narrowly focused and the scope of investigation was also restricted by increased use of contracts awarded to institutions rather than field-initiated grants. While some high-quality statistical information was being produced, the quality was variable. In two programs, quality was maintained or improved on some dimensions but in the Common Core of Data, data quality problems have persisted for several decades. The major influence on information production was severe reductions in funding levels. Activities that did not carry congressional mandates were most vulnerable to funding declines and changes in priorities, which also were linked to rapid changes in leadership. Expert review of specific information-gathering activities had a positive influence on quality in some instances. Results were clearest when several of these factors coexisted and worked in the same direction.

PRINCIPAL FINDINGS

Information production

The number of grants and contracts awarded for research decreased 65 percent from 476 in 1980 to 168 in 1985. The number of evaluation contracts peaked at 119 in 1980 and progressively dropped 79 percent to 25 in 1985. Statistical surveys, planned or conducted, fell 31 percent between 1980 and 1983 from 55 to 38. The intervals between data collections increased and technical support to the states for data collection was sharply reduced.

The information that was produced by awards also changed. Sixty-five percent of NIE's 1980 awards but only 11 percent of the 1985 awards were for new data collection. Awards for service activities such as disseminating information and providing expert testimony in civil rights cases increased from 35 percent to 89 percent of all awards. Fewer educational areas were investigated in 1985 than in 1980 through research grants. In 1980, for example, 56 of 293 awards for new data collection went toward studies of special populations such as minorities and women. In 1985, there were five such studies. Some areas such as learning in nonschool settings and areas identified as "school problems" (including such issues as dropouts and delinquency) received no new data collection funds at all in 1985; in 1980, there were 33 awards.

Further, those who carried out the work shifted. The proportion of research awards made to department-sponsored institutions (for example, laboratories and national centers) increased substantially from 1980 to 1985. In 1980, institutions received 25 percent of the awards in three major program areas, compared to 56 percent in 1985. In 1980, 23 percent of NIE's awards were made through contracts; in 1985, 86 percent. OPBE funded nearly all 1985 evaluations through competitively awarded contracts; in 1980, the award process was more diverse.

Thus information-gathering was increasingly more likely to be prescribed by the agency than to have been proposed from the field.

Quality of statistical programs

A review of relevance, timeliness, technical adequacy, and impact shows that quality varied. The National Assessment of Educational Progress received generally high marks, although efforts to optimize one aspect of quality were associated with losses in other dimensions. The Fast Response Survey System received relatively high marks on relevance and medium ratings on technical adequacy and timeliness. However, the Common Core of Data, adequate in some respects, was generally poor in its quality of information. Many problems—some of which had been identified by others several decades earlier—remain.

Influences on information production and quality

Support for research has decreased since the early 1970's by more than 70 percent in constant dollars, despite the fact that the federal investment in education increased by 38 percent and federal support for research in general increased by about 4 percent in constant dollars between 1980 and 1984. Funding for statistics and evaluation also declined more than in these areas for the government in general. The patterns of fiscal declines in research, evaluation, and statistical activity corresponded to reductions in information production.

Although all information-gathering activities were affected by budget constraints, congressionally mandated activities received smaller reductions and thereby consumed an increasing share of available resources. Activities that were not required by law were vulnerable to changes in priorities, funding, and policies. Rapid turnover of top leadership, especially in NIE, was associated with decisions not to fund areas of research initiated under other directors.

In the three statistical programs, relevance was increased by adding data elements, tailoring data collection to the needs of specific requesters, and making dissemination flexible. Timeliness was improved by releasing data early and diversifying their formats. Technical adequacy was higher for surveys than for data from state administrative records. Some information-gathering activities reviewed comprehensively by technical experts improved in quality.

RECOMMENDATIONS

GAO does not present recommendations in this report.

AGENCY COMMENTS

The Department of Education generally agreed with GAO's findings, stating that the report will perform a valuable function in documenting a long-term decline in resources for educational information. However, the department expressed three concerns about the report. First, citing the many organizational changes initiated since 1985, the department believed GAO's analyses did not reflect the current situation. Second, it questioned GAO's assessment of shifts in priorities, stating that greater emphasis on dissemination represented a positive step, changes in leadership did not affect research priorities, and almost all important areas were being investigated through a variety of strategies. Third, the department took issue with GAO's anaylsis of the implications of changes in who is producing information and how it is funded. Department officials also provided detailed descriptions of recent organizational changes, documentation on budgets and activities not covered in GAO's review, and further specific comments.

GAO acknowledges the numerous changes since fiscal year 1986. However, it is too early to determined whether these changes will adequately address the problems identified in this report or the new problems that the changes themselves might create. Empirical assessment of the production and quality of information will be necessary.

With regard to shifts in priorities, GAO maintains that dissemination can remain a critical part of the research process only if the data that are being disseminated are relevant and timely. GAO continues to conclude that changes in leadership did affect priorities and notes that while information is being collected on contemporary problems the department seems to lack formal mechanisms for identifying emerging issues.

GAO continues to believe that while contracts provided a needed basis for accountability, widespread use of contracts has other, less positive consequences. For example, requests for proposals often specify the scope of work, leaving little flexibility for the imaginative researcher. While GAO commends the department's efforts to restore some of the avenues for new data collection—such as the unsolicited-grants program—current levels of support are dramatically lower than in 1980.

CEDAR LAKE SALUTE TO THE ARMED FORCES

HON. JIM JONTZ

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 18, 1987

Mr. JONTZ. Mr. Speaker, our Nation's airpower is an integral part of our national defense. And the backbone of that airpower, as I am sure all of my colleagues would agree, are the dedicated pilots whose skill and courage can be matched by no other pilots in the world.

Mr. Speaker, I want to take a moment today to recognize a group of those outstanding pilots who shared of their time and talents to participate in the Cedar Lake Salute to the Armed Forces in Cedar Lake, IN, earlier this year.

The citizens of northwest Indiana who attended this event in May of this year were given an impressive demonstration of the skill of the pilots who are assigned to the Indiana National Guard, U.S. Air Force, Illinois Army National Guard, 928th Tactical Airlift Squadron, Michigan Air National Guard, and the U.S. Navy.

As one of the public officials participating in the salute, and on behalf of the town of Cedar Lake and all of the area residents who were present, I would like to offer my appreciation to the following pilots:

INDIANA NATIONAL GUARD

Col. Robert B. Franke.
Lt. Col. Henry A. Gallmeyer, Flight Leader.
Maj. James M. Parsons.
Maj. David A. Brubaker.
Capt. Robert M. Kimmel.
Capt. Brent E. Mutton.
Maj. Richard L. Matthews.
Lt. Col. Tom L. DeLong.
1Lt. Michael S. Corkwell.

U.S. AIR FORCE

Major Mark Pozycki.
Lt. Col. Arlan Anderson.
Maj. Kurt Girton.
Lt. Bill Smolinski.

ILLINOIS ARMY NATIONAL GUARD

CW(4) Arthur J. Patek, Jr.
CW(4) John A. Bercaw.
WO(1) Timothy A. Curless.
CW(2) Gregory D. Bradley.
CW(4) Richard J. Erickson.
WO(1) Robert D. Sargus.
Capt. Casey Marland.
Sgt. Tom Zickus.
Sgt. Jose Jiminez.
Sgt. Wesley Moses.

928TH TACTICAL AIRLIFT SQUADRON GROUP/CC

Col. Neal Schultz.
Maj. Charles Schencke.
Maj. Larry Hill.
Capt. Stan Gibson.
Lt. Jim Ross.
Sgt. Wallace Long.
Sgt. Bruce Krizmatic.

MICHIGAN AIR NATIONAL GUARD

Major Sid Everest.
Lt. Sam Martin.

U.S. NAVY

Lt. Commander John Matlock.
Commander John Sandknop.
Squadron Commander J. Ronnie.

Mr. Speaker, we salute these brave men and their crews, for their performance on May 9 at Cedar Lake, and for their continual vigilance in protecting our Nation.

HAPPY BIRTHDAY ED McGLINCHEY

HON. DENNIS M. HERTEL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, December 18, 1987

Mr. HERTEL. Mr. Speaker, December 10 marked the 90th birthday of a very dear friend, Mr. Edward McGlinchey.

Although Ed McGlinchey now resides in Oklawaha, FL, he had lived in Michigan for many years. Ed was employed at Chrysler for 33 years and was a long-time UAW member. After retiring from Chrysler, Ed McGlinchey continued to work at a variety of part time jobs.

Ed has always enjoyed keeping busy. He loves to spend time working in his garden, playing cards, and rooting for the Detroit Tigers. During the last 10 years, Ed has taken up bowling as yet another hobby.

Ed McGlinchey's kindness and willingness to give is well known to everyone. He looks forward to helping other people with any task or problem that might come up, from laying floors to doing wiring. He puts his whole heart into living life and enjoying the world around him.

Mr. McGlinchey is a devout Catholic and a member of Saint Joseph's of the Forest Church. He is active in the Knights of Columbus, and a member of the Holy Name Society.

Ed and his wife Margaret raised their family in Centerline, MI. They had 8 lovely children and now enjoy spending time with their 14 grandchildren, the youngest of which was born only a few months ago.

A true Irishman, Ed McGlinchey always enjoys a good Irish sing-along. He loves to dance, particularly to Irish music, and has passed on his love for Irish traditions to his children.

I ask my colleagues to join me in wishing Ed McGlinchey a happy birthday. May he enjoy many more.

THE SALE OF STINGER MISSILES—ADDITIONAL SECURITY PRECAUTIONS REQUIRED BY THE UNITED STATES

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 18, 1987

Mr. HAMILTON. Mr. Speaker, I would like to draw the attention of my colleagues to an information paper provided by the Department of State and Department of Defense indicating the security precautions the United States has required with respect to the sale of the Stinger missile systems to Saudi Arabia, and which the U.S. will require with respect to the provision of any of these missile systems to Bahrain. The paper follows:

SECURITY PRECAUTIONS—BASIC STINGER MAN-PORTABLE AIR DEFENSE SYSTEM

Purchaser agrees to adhere to the following additional security requirements associated with the Basic Stinger Man-Portable Air Defense System. Modification of specified requirements to meet indigenous conditions may be approved by the Office of the Deputy Chief of Staff for Personnel (DAPE-HRE), U.S. Army.

a. *Physical security:* The Basic Stinger will be stored in magazines that are at least equivalent to U.S. Army requirements as specified in subparagraph 1 below. The purchaser also agrees to comply with U.S. Army specified requirements for lighting, doors, locks, keys, fencing, and surveillance and guard systems. Specific requirements will be agreed upon and installed prior to delivery of the missile system. U.S. Army representatives will be allowed to verify security measures and procedures for implementation of these requirements.

(1) *Magazines:* Reinforced concrete, arch type, earth covered whose construction is at least equivalent in strength to the requirements of Chapter 5, Department of Defense Manual 6055.9—STD, Ammunition and Explosive Safety Standards, July 1984, will be used for storage (standards of which will be provided to the purchaser).

(2) *Lighting:* Lighting will be provided for exterior doors and along perimeter barriers. Security lighting requirements will conform to the ammunition and safety requirements of appendix C, U.S. Army Technical Manual 9-1300-206 (standards of which will be provided to the purchaser).

(3) *Doors, locks, and keys:* Exterior doors will be Class 5 steel vault doors secured by two key operated high security padlocks and a high security shrouded hasp. Keys will be secured separately to ensure effective two-man control of access (i.e., two authorized persons must be present to enter). Use of a master or multiple key system is prohibited.

(4) *Fencing:* Fencing will be six foot (minimum) steel chain link with a one foot overhang mounted on steel or reinforced concrete posts over firm base. Clear zones will be established 30 feet inside and 12 feet outside the perimeter fence (provided there is adequate space).

(5) *Surveillance and guard:* A full time guard force or combination guard force and intrusion detection system (IDS) will be provided. When the IDS is not operational, 24 hour guard surveillance is required.

(6) *Access to storage facilities:* Two authorized persons will be required to be present during any activity which affords access to storage facilities containing Basic Stinger. Lock and key procedures will be developed to ensure that no single individual can obtain unescorted or unobserved access to Basic Stinger storage facilities.

b. *Accountability:*

(1) A 100 percent physical inventory of weapons and gripstocks, when applicable, will be taken monthly by the purchaser. A 100 percent inventory by serial number shall be taken quarterly of weapons issued at the operational unit level. A 100 percent physical inventory by serial number shall be taken semiannually of weapons stored or retained at installation, depot, post, or base level. All inventories must be conducted by two authorized persons to ensure verification. Weapons expended during peacetime will be accounted for by serial number.

(2) The Office of Military Cooperation will be permitted to conduct a U.S. inspection and inventory by serial number annually. Inventory and accountability records maintained by the purchaser will be made available for review.

c. *Transportation:* Movements of Basic Stinger will meet U.S. standards for safeguarding classified materiel in transit as specified by the U.S. Government in DoD 5100.76-M, Physical Security of Sensitive Conventional Arms, Munitions, and Explosives (standards of which will be provided to the purchaser), and paragraph h below.

d. *Access to hardware and classified information:*

(1) Access to hardware and related classified information will be limited to military and civilian personnel of the purchasing government (except for authorized U.S. personnel as specified herein) who have the proper security clearance and who have an established need to know the information in order to perform their duties. Information released will be limited to that necessary to perform assigned functions/operational responsbility and, where possible, will be oral/visual only.

(2) Maintenance which requires access to the interior of the operational system, beyond that required of the operator, will be performed under U.S. control.

e. *Compromise, loss, theft and unauthorized use:* The purchaser will report to the U.S. Army by the most expeditious means any instances of compromise, unauthorized use, loss or theft of any Basic Stinger materiel or related information. This will be followed by prompt investigation and the results of the investigation will be provided to the U.S. Army.

f. *Third-party access:* The recipient will agree that no information on Basic Stinger will be released to a third-country entity without U.S. approval.

g. *Damaged/expended materials:* Damaged systems, launchers, and/or gripstocks will be returned to the U.S. Army for repair or demilitarization.

h. *Conditions of shipment and storage for Stinger and Stinger variants:* The two principal components of the Basic Stinger system, the gripstock and the missile in its disposable launch tube, will be stored in separate locations and will be shipped in separate containers. The two storage locations will be physically separated sufficiently so that a penetration of the security at one site will not place the second at risk.

i. *Conditions of use:*

(1) The two principal components of the Basic Stinger system, the gripstock and missile launch tube, may be brought together and assembled under the following circumstances:

(a) In the event of hostilities or imminent hostilities.

(b) For firing as part of regularly scheduled training; however, only those rounds intended to be fired will be withdrawn from storage and assembled.

(c) For lot testing; however, only rounds to be tested will be withdrawn from storage and assembled.

(d) When systems are deployed as part of the point defenses of high priority installations or activities (e.g., key government buildings, military headquarters, essential utilities, air defense facilities).

(2) The purchaser will advise the Office of Military Cooperation in advance of any assembly of the various missiles and gripstocks for the Stinger and its variants for training or testing.

(3) The U.S. Government will be notified of deployments through the Office of Military Cooperation.

SETTING THE RECORD STRAIGHT: BLACK EMPLOYMENT STATISTICS

HON. AUGUSTUS F. HAWKINS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 18, 1987

Mr. HAWKINS. Mr. Speaker, recent references and interpretations of the supposedly good news characterizing the labor market performance of black Americans is misleading, and in certain cases, incorrect.

Just this week, an article in the Wall Street Journal by Mr. Murray Friedman, Vice Chairman of the U.S. Civil Rights Commission, gave the overwhelming indication that while problems still exist, conditions are really dramatically advanced for black Americans and that in his words, "* * * the most significant for the civil rights movement may well be whether the recent economic advances can be maintained."

He cites drops in black unemployment levels, rises in black employment since the end of the recession, and recent median income increases. While mentioning that the black unemployment rate remains double that of whites, and that "many of the teenagers probably are working in low-paying fields such as fast-food restaurants," he still evidently feels that the good news outweighs the bad.

He fails, however to note that while the number of whites in poverty is more than two times the number of blacks, that number has decreased, at the same time the number of blacks—9 million in 1986—has increased. In fact, 3 out of every 10 blacks were living under the official poverty level, while 1 out of every 10 whites did in 1986. Blacks are disproportionately represented among the almost 7 million workers who earned the minimum wage or less in 1986, and black children are three and one-half times more likely than white children to live in female-headed households, an overwhelming number of whose mothers are either unemployed or in low-paying jobs because they lack the education and training needed to move up the employment ladder.

Another case in point is at the end of October, at the Economic Recovery Forum held at the U.S. Department of Labor, President Reagan stated that "this August the percentage of blacks employed was the highest on record." While in a strict sense, this statement is true, the President failed to mention that employment data for blacks as a distinct group goes back only as far as 1972. It is not surprising that since 1972, one could make that statement, because since that time, we have had three recessions: from 1973 to 1975, in 1980, and from 1981 to 1982. The latest recession was the longest and the most severe since the Great Depression of the 1930's.

A statistical analysis by a staff economist for the Joint Economic Committee has estimated the black employment-population ratio for the years from 1954 through 1971. This analysis shows that the President's statement is erroneous. The analysis concludes that the estimated black employment-population ratio exceeded the August 1987 level in at least 11, possibly 13 of the 18 years from 1954 through 1971.

The percentage of blacks with jobs peaked at approximately 60 percent, in 1956. If the rate were 60 percent today, instead of the 56.7 percent recorded in November, nearly 700,000 additional blacks would have been at work.

The estimated peak of 60 percent of blacks at work exceeded the 1982 low of 49.4 percent by approximately 10 percentage points—in today's terms this corresponds to more than 2 million blacks without a job.

I have included this short analysis for the record, because I believe a great deal of harm can be caused when misinformation and narrow selection of statistics are used to sway public perceptions in order to achieve a certain end result of policy determination. If people think all is well with the economic status quo, then there will be great opposition to proposals that seek to address the weaknesses and inequalities which genuinely exist in our economic system. This is unfair to the millions of Americans who continue to suffer from unemployment and underemployment; and it is inequitable to all Americans because it serves to foster a sense of economic security that is unwarranted in fact.

"The Black Employment-Population Ratio" analysis follows.

THE BLACK EMPLOYMENT-POPULATION RATIO

(By Paul B. Manchester [1])

At the Economic Recovery Forum held at the Labor Department on October 23, President Reagan stated that "This August, the percentage of blacks employed was the highest on record." This statement is true in a strict sense, but what the President failed to mention is that the data on employment for blacks as a distinct group goes back only as far as 1972. There is, however, a closely related series which started in 1954, and a simple statistical analysis based on this series makes it clear beyond any reasonable doubt that in fact the percentage of blacks with jobs was significantly higher in earlier years.

At the Forum the President also failed to mention that the employment-population ratio for blacks reached a record low of 49.4 percent in his term, at the depth of the recession in 1982. He also failed to note that even in August of this year, the percentage of blacks with jobs (56.7 percent) was well below the percentage of whites at work (62.6 percent).

The broader series which the Labor Department initiated in 1954 includes labor market data for "Black and other workers." The "other" category includes American Indians, Asian-Americans, Pacific Islanders, and Alaskan natives. But blacks comprise nearly 80 percent of the "Black and other" population. As a result, for the years 1972 to 1986 the black employment-population ratio follows the ratio for "Blacks and others" very closely, as shown in Table 1. Using basic statistical methods, it is possible to estimate the specific relationship between the percentage of blacks with jobs and the percentage of "Blacks and others" with jobs for the years 1972 through 1986. This statistical relationship can then be used to estimate the employment-population ratio for blacks for the years 1954 through 1971.

TABLE 1.—EMPLOYMENT-POPULATION RATIO

[In percent]

	Blacks and others [1]	Blacks
Period:		
August 1987	57.3	56.7
1986	55.4	54.1
1985	54.7	53.4
1984	53.6	52.3
1983	51.0	49.5
1982	50.9	49.4
1981	52.6	51.3
1980	53.6	52.3
1979	55.2	53.8
1978	54.7	53.6
1977	52.5	51.4
1976	52.0	50.8
1975	51.4	50.1
1974	54.3	53.5
1973	55.0	54.5
1972	54.1	53.7

[1] Blacks, American Indians, Asian-Americans, Pacific Islanders, and Alaskan Natives.

Source: Department of Labor, Bureau of Labor Statistics.

Specifically, two sets of estimates have been obtained:

(1) The first estimates have been derived from a simple linear regression of the black employment-population ratio as a function of the "Black and other" employment-population ratio for the years 1972 through 1986. The resulting estimates are shown as "Estimate 1" in Table 2. According to this methodology, the black employment-population ratio peaked in 1956, at 58.9 percent, well above the August 1987 figure of 56.7 percent—the difference corresponds to nearly half a million jobs for blacks in today's economy. It is also noteworthy that relative to August 1987, the estimated percentage of blacks at work was higher in all of the years from 1965 through 1969, and also, with the exception of the recession year 1958, higher in all of the years from 1954 through 1960. In short, according to this method, the estimated black employment-population ratio exceeded the August 1987 level in 11 of the 18 years from 1954 through 1971.

(2) The second set of estimates has been obtained from a multiple linear regression of the black employment-population ratio as a function of the "Black and other" employment-population ratio and a linear time trend for the years from 1972 through 1986. This relationship has been used to derive the estimates for 1954 through 1971 denoted as "Estimate 2" in Table 2. This yields somewhat higher estimates of the percentage of the black population with jobs in those years. The peak year is again 1956, with an estimated black employment-population ratio of 60.2 percent. And for *all* of the 13 years from 1954 through 1960 and 1964 through 1969, the estimated percentage of blacks with jobs exceeds the percentage for August 1987.

Statistically, the second set of estimates are superior to the first set, because they take into account the moderate increase in the gap between the employment-population ratios for blacks and "Blacks and others" which is apparent in Table 1. However, the second set of estimates yields a higher employment-population ratio for blacks than for "Blacks and others" for the years from 1954 through 1962, which is contrary to the pattern shown in Table 1. Thus the "best" estimate of the percentage of blacks with jobs for the years from 1954 through 1971 probably lies between "Estimate 1" and "Estimate 2."

Whichever estimates are used, the following conclusions can be drawn:

(1) There is a very close statistical relationship between the employment-population ratios for blacks and "Blacks and others" for the years from 1972 through 1986. This relationship can be used to estimate the black employment-population ratio for the years from 1954 through 1971 with a high degree of statistical accuracy.

(2) The percentage of blacks with jobs did not reach a record level in August 1987. The black employment-population ratio in the late 1950s and in the late 1960s exceeded the ratio for August 1987.

(3) The record low black employment-population ratio of 49.4 percent reached in 1982 was approximately 10 percentage points below the estimated peak attained in 1956.

TABLE 2.—EMPLOYMENT-POPULATION RATIO

[In percent]

	Blacks and others [1]	Blacks	
		Estimate 1 [2]	Estimate 2 [3]
Period:			
1971	54.9	53.9	54.3
1970	56.8	56.0	56.5
1969	58.1	57.4	57.9
1968	58.0	57.3	57.9
1967	58.2	57.5	58.1
1966	58.4	57.7	58.4
1965	57.8	57.0	57.8
1964	57.0	56.2	57.0
1963	56.2	55.3	56.2
1962	56.3	55.4	56.4
1961	56.2	55.3	56.3
1960	57.9	57.2	58.2
1959	57.5	56.7	57.8
1958	56.7	55.8	57.0
1957	59.3	58.7	59.9
1956	59.5	58.9	60.2
1955	58.7	58.0	59.4
1954	58.0	57.3	58.7

[1] Blacks, American Indians, Asian-Americans, Pacific Islanders, and Alaskan Natives.

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[1] Paul Manchester is an economist with the Joint Economic Committee.

[2] Based on a simple linear regression model, with the black employment-population ratio expressed as a function of the black and other employment-population ratio, estimated for the years 1972–86. The coefficient of determination for this model is 0.97, indicating a highly significant statistical relationship.

[3] Based on a multiple linear regression model, with the black employment-population ratio expressed as a function of the black and other employment ratio and a linear trend variable, estimated for the years 1972–86. The coefficient of determination for this model is 0.99, indicating a highly significant statistical relationship.

Source: Department of Labor, Bureau of Labor Statistics, and author's estimates.

A MOMENT TO REFLECT ON SECRETARY WEINBERGER

HON. JOHN P. MURTHA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 18, 1987

Mr. MURTHA. Mr. Speaker, I would not want this session to end without making a few remarks about the outstanding job done by former Secretary of Defense Caspar Weinberger.

First, a personal observation: though there were many reports that Congress had difficulty working with Secretary Weinberger, I always found him to be willing to listen. Of course, he was dedicated to his position, but was willing to work something out. I always found him to be forthright, honest, and with a full, professional understanding of the system. I enjoyed the chance to work with him on defense programs and defense spending.

Second, a slightly broader observation: Whether you agreed (as I did in most cases) or disagreed with the positions taken by Secretary Weinberger, I think everyone had to admire his dedication, his adherence to principle, his competence, his concern for America, and his loyalty to President Reagan.

Secretary Weinberger served his Nation in the highest tradition of American public service. He served his Nation with dignity, honor, and compassion. He was a dedicated public servant.

I believe I join with all Americans in thanking Secretary Weinberger for his career of public service. We are a better Nation for his service. We have a better military for his dedication. And those of us who had the chance to know and work with him are better for the experience and opportunity.

H.R. 3795, INTERNATIONAL COFFEE AGREEMENT ENFORCEMENT

HON. BILL ARCHER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, December 18, 1987

Mr. ARCHER. Mr. Speaker, today I am introducing a bill to extend the authority of the U.S. Customs Service to monitor coffee imports to ensure compliance with the International Coffee Agreement. This agreement was signed by the United States in March 1983 and expires on September 30, 1989.

The difficulty lies in the fact that enforcement authority, implemented by statute, expired on October 1, 1986. The Customs Service is currently administering a system of voluntary compliance, but it is questionable how long Customs can continue these efforts without legislative authority. Importers of coffee, who roast or blend coffee in this country, are facing a great deal of uncertainty and are having difficulty making long-term management decisions in the current environment.

Authority to enforce the coffee agreement through the life of the commitment—until October 1, 1989—was passed separately by both the House and Senate in the two versions of the comprehensive trade bill. However, the trade bill has been delayed on a number of occasions, and the current forecast of enactment by spring 1988 remains doubtful.

It is very important for the stability of U.S. coffee roasters and blenders to have some predictability with respect to coffee imports, world supply and price. Without effective enforcement of the coffee agreement we are losing the advantages of being signatories to such an agreement. I believe that independent legislation needs to be pursued in case the omnibus trade bill is further delayed, as expected.

Therefore, I have introduced today H.R. 3795 to extend until October 1, 1989, the International Coffee Agreement Act of 1980. I urge my colleagues to review this important piece of legislation.

"THE STRANGER"

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 18, 1987

Mr. DORNAN of California. Mr. Speaker, this past weekend I saw a movie that restored my faith in the film industry's ability to produce a good mystery. "The Stranger" is the story of a woman, played by Bonnie Bedelia, who develops amnesia after a car wreck. The only thing she remembers is witnessing a brutal murder. Though the police can find no trace of any such murder being committed, it quickly becomes obvious that she must have seen something because someone is trying to have her killed. So together with her psychiatrist, portrayed by Peter Riegert, our heroine plumbs the deep recesses of her mind, searching for clues to the mystery of who she is and why certain people want her dead. While not revealing too much of the ending for those of my colleagues wishing to view this thriller, suffice to say that it is a movie within a movie.

The plot has more twist and turns than the Pasadena freeway and moves at a breathtaking pace as the pieces of the puzzle gradually fall into place. With "The Stranger," writer Dan Gurskis has crafted a mystery that evokes memories of classics such as "The Maltese Falcon" and "The Third Man." It is clearly one of the year's 10 best and I would heartily recommend "The Stranger" to my colleagues, especially those who enjoy a good mystery as much as I do.

BILL INTRODUCED TO MAKE FORMER U.S. PRESIDENTS EX-OFFICIO MEMBERS OF THE HOUSE OF REPRESENTATIVES

HON. WAYNE OWENS

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Friday, December 18, 1987

Mr. OWENS of Utah. Mr. Speaker, in order that our country might more effectively utilize the wisdom and unique experiences of our former Chief Executives in determining public issues of the day, I am introducing today a bill to make former U.S. Presidents ex-officio members of the House of Representatives.

This bill would grant former Presidents all the rights and privileges of the House of Representatives except salary and the power to vote.

Due to the nature of their jobs, American Presidents gain special insights and experience in office. Senator CLAIBORNE PELL in introducing a similar bill years ago, stated,

> At this time in our Nation's history when we find ourselves exercising the leadership of the free world, adoption of this resolution would be of special value because the wisdom and experience of those who have occupied our Presidency is unique to those few men who had this awesome responsibility.

After a President's term is over, we do not have an adequate mechanism to utilize their unique expertise. Some have gone off to the speakers circuit, while others have returned to the practice of law. Presidents Theodore Roosevelt and Calvin Coolidge, for example, became syndicated newspaper columnists.

I have discussed this proposal with Presidents Nixon, Ford, and Carter, and they have expressed support for it. When a somewhat similar bill was introduced in 1963, it had the support of then former Presidents Hoover and Truman, as well as noted presidential scholars. In letters to Senator PELL, President Hoover wrote, "I think it would be an invaluable aid to legislation to utilize the services of our younger former Presidents," and President Truman wrote, "I had always hoped that some sort of an approach could be made to the situation set out in your bill."

Since 1789, there have been a number of bills and constitutional amendments in Congress to make former American Presidents ex-officio members of the Senate. I have consulted a number of well known constitutional authorities, including Laurence Tribe, Lloyd Cutler, and Philip Kurland, and they have been favorable to the proposal. In addition, they have offered their opinions that a statute is adequate; a constitutional amendment is not necessary since the former Presidents would have no power to vote.

A memorandum from CRS indicated that many other nations provide an official position for former heads of government. For example, in Great Britain prime ministers, upon leaving from office, return to the House of Commons or go to the House of Lords. A recent study comparing former Presidents and Prime Ministers notes,

> The outgoing president has ordinarily concluded his political career while the typi-

cal prime minister continues in active involvement in the affairs of state, often for many years. The president does not, and is not expected to, aspire to further public office, while the prime minister is highly likely to have a seat in the House of Commons or to accept a peerage.

Since the House of Representatives is the place of the people, as Thomas Jefferson noted, it is only appropriate that we give former Presidents a forum to participate in ongoing consideration of major issues, to counsel with us, and to give the country the benefit of their extraordinary experiences.

H.R. 3813

A bill to provide that former Presidents shall be nonvoting members-at-large of the House of Representatives

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FORMER PRESIDENTS TO BE NONVOTING MEMBERS-AT-LARGE OF THE HOUSE OF REPRESENTATIVES.

Each former President of the United States (other than a President who is removed from office under section 4 of Article II of the Constitution) shall be a member-at-large of the House of Representatives, with the same rights (other than the right to vote), powers, and privileges provided by law, rule, or other authority for delegates to the Congress.

SEC. 2. LIMITATIONS RELATING TO MEMBER-AT-LARGE SERVICE.

A former President may not receive additional compensation by reason of service as a member-at-large under section 1 and may not hold any elective or appointive office of the United States while so serving.

COSPONSORS OF FORMER PRESIDENTS BILL

Joe Kolter, William Lipinski, Joe Skeen, John Lewis, Michael Bilirakis, Ted Weiss, and Martin Lancaster.

UNITED STATES-JAPAN NUCLEAR COOPERATION AND PLUTONIUM TRANSFERS

HON. DON BONKER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Friday, December 18, 1987

Mr. BONKER. Mr. Speaker, today I am introducing legislation to tighten United States environmental controls and safety standards over air shipments across the United States of separated plutonium pursuant to the administration's proposed Nuclear Cooperation Agreement with Japan.

On November 9, 1987, the President submitted to Congress the proposed new Nuclear Cooperation Agreement with Japan, which will supersede the 1968 agreement. The Foreign Affairs Committee, which has jurisdiction over such agreements, met on December 16, 1987, to consult with the executive branch on the proposed agreement. Section 123 of the Atomic Energy Act, as amended, provides for 30 days of continuous session for the Congress and executive branch to consult on whether the agreement meets all the statutory criteria. If the President, as he has done, determines the agreement meets all the statutory criteria, then the agreement will take effect after an additional 60 days of continuous session. If the Congress determines during this consultative process that the agreement does not meet all the statutory requirements, then the President may resubmit the agreement with a waiver. Under that scenario, the agreement would not enter into force unless the Congress were to enact a joint resolution of approval under fast-track procedures.

As chairman of the International Trade Subcommittee which has worked on a number of contentious nuclear nonproliferation issues in the past, I can attest to the fact that this agreement is extremely complex. The executive branch has submitted to Congress not just a simple agreement, artfully drafted by attorneys, but more than 400 additional pages of documents, including an implementing agreement, and dozens of letters and notes verbales that are considered an integral part of the text.

During the committee's preliminary review of the agreement this week, we examined the more controversial items. Some of these were highlighted by the Nuclear Regulatory Commission in its July 27, 1987 letter to the President recommending that he not approve the agreement. Based on information received during the committee's hearing, I am particularly concerned about the provisions granting Japan 30-year advance, programmatic approval for the transfer and reprocessing of nuclear material; approving safeguards concepts rather than actual safeguards criteria and procedures; allowing for suspension of cooperation under the agreement; emphasizing economic rather than nonproliferation matters; and requiring return of separated plutonium from Europe to Japan via air without specific prior U.S. approval required. The benefits of air versus sea transport are obvious from an antiterrorism perspective, but air transport poses some unique environmental and safety hazards.

This last point is of special interest to the people of Washington State, and is the subject of the bill I am introducing. Without specifically requiring prior U.S. approval before each shipment, the agreement would permit aircraft carrying anywhere from 50 to 150 kilos of plutonium—and the most toxic substance in the world—to fly over the northern United States and possibly refuel in Washington State enroute from Europe to Japan. Over the 30-year life of the agreement, this adds up to about 25 tons of plutonium.

The Energy Department, which has a dubious environmental safety record in my State, determined in its environmental assessment that "the radiological risk from a major transport accident involving a crash of the plane followed by a fire is very small." If the risks are indeed as small as DOE claims, there should be no objection to a requirement that prior to U.S. approval of any such shipments an inter-agency group must prepare a full-scale Environmental Impact Statement pursuant to the National Environmental Policy Act. The EIS would evaluate the environmental, health and safety risks of the route, and any landing sites and refueling points on such route. The EIS would also include an evaluation of the environmental, health, and safety risks of a crash or mid-air collision of the aircraft, and a free-fall of the plutonium container from the aircraft in flight. This is the minimum the administration should do to satisfy a public which is skeptical about its environmental record.

The administration envisions transporting the plutonium in containers or casks which the Nuclear Regulatory Commission has certified or would certify to be safe solely on the basis of computer and simulated laboratory tests. Again, prior to U.S. approval of any such shipments, we should insist on more convincing and reliable evidence of the casks' safety. My legislation would prohibit the NRC from certifying the safety and integrity of the casks unless it had conducted either an actual crash test of casks filled with sample material, or a series of actual drop tests of casks filled with sample material. Under worst-case conditions of high-velocity impact—at speeds far exceeding the NRC's present testing speed of 288 mph—the casks must maintain their integrity against punctures, ripping, tearing, fire, deep submersion, and similar severe stress. Such tests are obviously expensive, and my bill would require that the recipient or licensee of the plutonium (Japan, in this case) would reimburse the NRC for its test work.

My legislation would not affect the entry into force of the agreement; it would simply require that the steps outlined above be taken before the U.S. Government could provide its approval of, and cooperation and appropriate assistance in, air retransfers across the United States of plutonium to Japan from Europe. Moreover, should Japan decide to seek special approval for air shipments of plutonium outside the scope of the agreement, which our nonproliferation laws would permit it to do as a subsequent arrangement, the conditions of the bill would also apply.

Although I have reservations about several other provisions of the proposed agreement, international plutonium traffic poses especially severe risks. Without the straightforward and basic health and safety assurances my bill would provide, I do not believe we should permit such plutonium retransfers.

Mr. Speaker, I ask that the full text of the bill be printed in the RECORD at this point.

H.R. 3796

Be it enacted by the Senate and House of Representatives of the United State of America in Congress assembled,

SECTION 1. SHORT TITLE.

This act may be cited as the "Implementation of Agreements for Cooperation Act".

SEC. 2. CONDITIONS FOR TRANSPORATION OF PLUTONIUM BY AIRCRAFT UNDER AGREEMENTS WITH JAPAN.

(a) CONDITIONS.—Notwithstanding any other provision of law, the President may not approve, cooperate, or assist in any transportation plan relating to the shipment of plutonium by aircraft under the proposed agreement for cooperation transmitted to the Congress by the President on November 9, 1987, and the transportation of plutonium in any form by aircraft may not be approved by the United States under the Agreement for Cooperation between the Government of the United States of America and the Government of Japan Concerning Civil Uses of Atomic Energy, signed on February 26, 1968, unless—

(1) a detailed statement on the effects on the environment of transporting the plutonium has been prepared in accordance with section 102, (2)(C) of the National Environ-

mental Policy Act of 1969 (42 U.S.C. 4332 (2)(C)), including an evaluation of the route followed by the aircraft in transporting the plutonium and any landing sites and refueling points on such route;

(2) the Nuclear Regulatory Commission has determined in accordance with subsection (b), and has certified to the Congress, that the container in which the plutonium is transported is safe for the transportation of plutonium by aircraft; and

(3) the Nuclear Regulatory Commission has been reimbursed for all costs incurred in carrying out the tests referred to in subsection (b), including administrative costs related to such tests, by the person or entity to which the plutonium is transported by aircraft.

(b) Tests Required For Determination of Safety.—The Nuclear Regulatory Commission may determine under subsection (a)(2) that a container is safe only if—

(1) the Commission has conducted—

(A) an acutal crash test of a cargo aircraft fully loaded with full-scale samples of such container loaded with test material; or

(B) a series of actual drop tests from maxium cruising altitude of a full-scale sample of such container loaded with test material; and

(2) the container did not rupture or release its contents into the environment during the tests conducted under paragraph (1).

(c) Contents of Certification—A certification referred to in subsection (a)(2) with respect to a container shall include—

(1) the determination of the Nuclear Regulatory Commission as to the safety of such container; and

(2) a statement that the container did not rupture or release its contents into the environment during the tests conducted under subsection (b)(1).

(d) Design of Testing Procedures.—The tests required by subsection (b) shall be designed by the Nuclear Regulatory Commission to replicate, to the maximum extent practicable, actual worst case transportation conditions. In designing such tests, the Commission shall provide notice to the public of the proposed test procedures, shall provide a reasonable opportunity for public comment on such procedures, and shall consider such comments, if any.

(e) Testing Results; Reports and Public Disclosure.—The Nuclear Regulatory Commission shall transmit to the Congress a report on the results of each test conducted under subsection (b) and shall make such results available to the public.

(f) Inapplicability to Medical Devices.—Subsections (a) through (e) shall not apply with respect to plutonium in any form contained in a medical device designed for individual human application.

(g) Inapplicability to Previously Certified Containers.—This section shall not apply to any container for the shipment of plutonium which, before the enactment of this Act, was certified as safe by the Nuclear Regulatory Commission under section 201 of Public Law 94-79 (89 Stat. 413; 42 U.S.C. 5841 note), and which is used for a shipment of plutonium under the Agreement for Cooperation between the Government of the United States of America and the Government of Japan Concerning Civil Uses of Atomic Energy, signed on February 26, 1968.

HOUSE OF REPRESENTATIVES—*Saturday, December 19, 1987*

The House met at 10 a.m. and was called to order by the Speaker pro tempore [Mr. FOLEY].

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

Washington, DC, December 18, 1987.

I hereby designate the Honorable THOMAS S. FOLEY to act as Speaker pro tempore on Saturday, December 19, 1987.

JIM WRIGHT,
Speaker of the House of Representatives.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

At this time of festival and the giving and receiving of gifts we are grateful, O God, for the encouraging words and songs and spirit of the season, even as we remember those whose circumstances do not allow them the joy of these days. May each person find a measure of happiness and hope that is freely given and may all people open their hearts and souls to Your loving and comforting spirit. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

CONGRESSIONAL SOAP OPERA

(Mr. GEKAS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GEKAS. Mr. Speaker, the Congress is engaged in its regular soap opera, to be continued, to be continued, to be continued. The continuing resolution is nothing more than a grand soap opera.

All the days of our lives were in the floor of the House determining what next to delay. As the world turns, we are stuck in a budget process that needs reform. All the world knows that we need to do something about preventing this kind of delay any longer.

All my children and yours will be stuck the rest of the century and beyond in a budget process that does not work.

It is time to quit this soap opera and return to sanity in the budget process.

SHAME ON THE DEMOCRATIC PARTY

(Mr. SENSENBRENNER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SENSENBRENNER. Mr. Speaker, in the 1986 election the Democratic Party asked the American people to give them control of both Houses of Congress so that they could deal with the public business with dispatch. Well here we are the Saturday before Christmas and the Democrats, who control both Houses of Congress, have yet to pass an appropriation bill, and their conferees have yet to agree on a continuing resolution to keep the Government operating for the next fiscal year.

Shame on the majority party for keeping us here this day. Shame on the majority party for not knowing what we are going to be doing today or tomorrow. Shame on the majority party for not dealing with the budget crisis, and shame on all of us for not adjourning sine die.

LEGISLATIVE PROGRAM

(Mr. SOLOMON asked and was given permission to address the House for 1 minute.)

Mr. SOLOMON. Mr. Speaker, I take this time for the purpose of asking the minority leader or you, Mr. Speaker, if there is any word on what is going to happen for the continuation of today and tomorrow and Monday. If someone would like to respond and let the membership back in their offices patiently waiting to find out what is going to go on here this week, I will be happy to yield.

Mr. MICHEL. Mr. Speaker, will the gentleman yield?

Mr. SOLOMON. I yield to the gentleman from Illinois.

Mr. MICHEL. Mr. Speaker, the gentleman may recall last evening we did have an exchange between the majority leader and the minority side with respect to today, and it was agreed, of course, we would come in at 10 o'clock, and there would not be any business or rollcalls. Members were free to do whatever they wanted.

We will probably recess for the balance of the day or subject to the call of the Chair, and then we would be adjourning later in the day over until Sunday, whereupon we would reconvene at 1 p.m. and hopefully by that time tomorrow afternoon all of the necessary papers for the continuing resolution and the reconciliation bill would be in such order that the House and the Senate could both act, and obviously that is either with or without the President's approval. And of course, there will be that timelag in getting a determination from the President as to whether or not he approves of either one of these. We all know that there is always some uncertainty and anxiety about that. It could very well be that if the President chooses to veto it, then obviously it comes back up here on the Hill, and we will have to strip it back to what he would accept, and hopefully get adjourned by this weekend.

The gentleman is well aware that the continuing resolution expired at midnight last night. We did not think that was all that tragic for this weekend because there is very little that happens on Saturday and Sunday. But of course, if we spill over into Monday, then we have a problem on our hands in shutting down the Government.

Mr. SOLOMON. Is the minority leader saying that things have progressed so far that we will have a bill before us on Sunday?

Mr. MICHEL. As far as I can determine, there has been pretty well agreement on most issues except the two outstanding ones with respect to aid to the Contras and the fairness doctrine. I know that the REA was a problem, but that has apparently been scaled back.

The distinguished majority leader who now is in the chair was quite instrumental last evening in helping to move things off dead center and get agreement among the appropriators there. I have not had the very latest update, but from my understanding progress has been made, and now we are just waiting for those two committees to reconvene, finalize their work one way or another, or at least to scale down to what the President will accept.

Mr. SOLOMON. So the rumor running around the Capitol that we are going to come back here tomorrow and pass a 1-day continuing resolution extension for 1 day is not true? We probably, in your estimation, are going to have a bill to vote on?

Mr. MICHEL. The gentleman is correct, and of course that was part of the discussion when we had the lead-

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ership meeting with the President, and in my judgment it was going to be very difficult to get an extension of the continuing resolution and we ought to be prepared if this thing spills over into Monday that these things would have to take place. The Director of OMB has of course already issued his order to the agencies of the Government that would have to comply with that kind of a situation. I hope it does not come about, but we are flying in a sense by the seat of our pants here, I must confess, but that is not abnormal, other than the fact that we can all have our own objections to the fact that as the gentleman from Wisconsin pointed out, and the gentleman from Pennsylvania, why the whole year and no resolution until practically Christmas Eve? It is disconcerting.

Mr. SOLOMON. I am glad to hear that the minority leader with his wonderful voice will not be leading us in Christmas carols on December 24 as we did in 1983, I believe.

Mr. MICHEL. I really cannot say. We do not know that for sure. I am hoping that is not the case. As much as I enjoy singing with the Members, we would hope maybe that would take place sometime tomorrow while we are kind of killing some time for the final little dots and dashes to be put on whatever our work might be.

Mr. SOLOMON. I guess the word to the membership then is that they had better come back to Washington and be prepared to vote on the CR tomorrow?

Mr. MICHEL. We are hoping so.

Mr. SENSENBRENNER. Mr. Speaker, will the gentleman yield?

Mr. SOLOMON. I am glad to yield to the gentleman from Wisconsin.

Mr. SENSENBRENNER. I thank the gentleman for yielding.

Mr. Speaker, I am more concerned about today than tomorrow because I have learned after 9 years in this body you live 1 day at a time and not make too many advance plans. The information I have is that the CR conference has reached agreement as was outlined by the minority leader. However, it is bogged down over the two points which he mentioned, and there are not any meetings scheduled for today.

The question I have is why keep the House in session, albeit in recess for today when we could give everybody the assurance that we would be out of here, with permission for late filing of a conference report and any necessary resolutions from the Rules Committee? I do not see anybody handling the desk over on the majority side.

Mr. SOLOMON. I wonder if the Speaker might be able to respond.

Mr. SENSENBRENNER. To me that might be a way to provide a little more certainty, at least for the next 72 hours as to what the membership can and cannot do, and when we meet at 1 o'clock tomorrow we will cross that bridge when we get to it.

Mr. SOLOMON. I wonder if the majority leader sitting in the chair would respond to that inquiry.

The SPEAKER pro tempore. In response to the gentleman from New York, it was the Chair's intention to declare a recess subject to the call of the Chair with the understanding that the House would not convene before 4 o'clock this afternoon, and only after an hour's notice.

The purpose of today's session was in part to offer opportunities for the filing of reports. The suggestion of the gentleman from Wisconsin [Mr. SENSENBRENNER] that the House stand adjourned until tomorrow is being considered. For the moment, however, our intention was to place the House in recess subject to the call of the Chair.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed without amendment a bill and joint resolution of the House of the following titles:

H.R. 3289. An act to amend the Export-Import Bank Act of 1945; and

H.J. Res. 255. Joint resolution designating the third week in May 1988 as "National Tourism Week."

The message also announced that the Senate had passed with an amendment in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 526. An act for the relief of Kumari Rajlakshmi Bais.

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 1382. An act to amend the National Energy Conservation Policy Act to improve the Federal Energy Management program and for other purposes;

S. 1389. An act to amend the National Fish and Wildlife Foundation Establishment Act with respect to management requisition, and disposition of real property, reauthorization, and participation of foreign governments; and

S. 1901. An act to designate the Federal Building located at 600 Las Vegas Boulevard in Las Vegas, Nevada, as the "Alan Bible Federal Building."

RECESS

The SPEAKER pro tempore. The House will stand in recess for one-half hour and the House will resume its sitting in 30 minutes.

Accordingly (at 10 o'clock and 12 minutes a.m.), the House stood in recess for 30 minutes.

□ 1041

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore [Mr. FOLEY] at 10 o'clock and 41 minutes a.m.

RECESS

The SPEAKER pro tempore. The House will stand in recess, to meet at 5 p.m.

Accordingly (at 10 o'clock and 42 minutes a.m.) the House stood in recess until 5 p.m.

□ 1702

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore [Mr. COELHO] at 5 o'clock and 2 minutes p.m.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3030) "An act to provide credit assistance to farmers, to strengthen the Farm Credit System, to facilitate the establishment of secondary markets for agricultural loans, and for other purposes."

LEGISLATIVE PROGRAM

(Mr. MICHEL asked and was given permission to address the House for 1 minute.)

Mr. MICHEL. Mr. Speaker, I ask to proceed for 1 minute so I might inquire of the distinguished majority leader the program as he envisions it.

Mr. FOLEY. Mr. Speaker, will the distinguished Republican leader yield?

Mr. MICHEL. I am happy to yield to the gentleman from Washington.

Mr. FOLEY. Mr. Speaker, it would be our purpose to offer a unanimous-consent request regarding the filing of privileged reports and two conference reports that are the major legislative matters before us, and pending approval for that to move to adjourn until tomorrow at 1 p.m. That would be with the understanding that Members would be able and expected to call the respective cloakrooms and learn of any changing developments or changes of plans between now and then, but that would be our intention.

Mr. MICHEL. Under our previous agreement, if we find that 1 o'clock is far too early to transact any significant business, at that time I suspect the majority would like to make a request that the Chair be given recess authority, and we discussed that earlier on. Rather than having that given prematurely, why this gentleman will be here at that particular hour. I suspect the gentleman from Washington will be here, and then we will negotiate that hurdle at that moment. I do not anticipate any problem, but I think that is probably the orderly way to do it. As the gentleman suggests, I think we ought to keep our membership advised through our electronic system here of roughly where we are, and maybe in view of the meeting that the Speaker and the majority leader and this gentleman and some others will be holding in the next half hour, maybe after that is concluded, in another couple of hours we can make some more definitive announcement over the system to alert the Members more acutely of where we are or where we might go.

PERMISSION FOR COMMITTEE ON RULES TO HAVE UNTIL NOON TOMORROW, SUNDAY, DECEMBER 20, 1987, TO FILE PRIVILEGED REPORTS AND FOR MANAGERS TO FILE CONFERENCE REPORTS ON H.R. 3545 AND H.J. RES. 395

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that the Committee on Rules may have until noon tomorrow to file privileged reports, that any privileged report so filed be considered to have laid over for 1 legislative day, and that the managers on the part of the House may have until noon tomorrow to file conference reports on H.R. 3545 and House Joint Resolution 395.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

There was no objection.

LOSING CENTRAL AMERICA

The SPEAKER. Under a previous order of the House, the gentleman from Texas [Mr. GONZALEZ] is recognized for 60 minutes.

Mr. GONZALEZ. Mr. Speaker, the message of this season is peace and reconciliation. That should be our hope today. Yet the administration seeks to perpetuate war in Central America, because it fears the uncertainty of reform more than the certainly limited presence of corrupt dictatorships, and has less faith in our ideas and ideals than do our own people.

II

The administration has never supported the peace process in Central America. It has never called for or supported reform in Guatemala or Honduras, and has only grudgingly sought to give El Salvador a modest hope of a government that controls its own army, much less one that reforms its own oligarchy. It's true response has been to try and hold onto the dead past of the banana dictator, a past that neither our citizens want nor Central Americans will tolerate.

III

The President threatened today to veto all funding for our Government if the House does not provide $9 million to the Contras of Nicaragua.

The tragedy of this situation and the ironic nightmare is that Americans and Nicaraguans, alike see the future as something Nicaraguans must determine. The Contras are the symbol and essence of the past, not the hope of the future. But while—and this is the irony—the Contras are made in the United States of America. They are sustained by the Sandinistas' own grandiose military ambitions. Maybe Ortega needs an outside enemy. Maybe that is why he so clearly feeds the fears that drive Reagan to sustain the Contras and their war. Maybe he, as much as Reagan, is trapped by the past.

IV

But the future is in the realm of ideas. Our people want the same thing Central Americans want—a future of peace and decency, governments that serve and do not enslave, a chance in life. The past of the Somozas and the other dictators denied that. Nicaraguans know they want no return to the past. The Contras represent the threat of such a return, and so they cannot prevail. They have the support of neither Nicaraguans nor our own people.

The Sandinistas right now offer no real hope, but at least they are not Somozas, and to Nicaraguans, that is something to consider. The future, however tenuous, the hope, however slender, is for them—not us, to control.

The hope we have should be in this:

If we support peace, we can demand justice.

If we obtain justice, there will be freedom.

But justice will not be easy to obtain, unless we believe in the power of our own ideas. If we believe in that, we will support reform and justice in the forgotten places of El Salvador, Guatemala, and Honduras, and we will forget the Contras and listen to Nicaraguans. Just listen. And then work for what ordinary Central Americans want—peace, reconciliation, and elemental justice.

I offer at this point my special report "Central America: How We Got There, and What We Should Do," sent to over 186,000 of the households in the 20th Congressional District I represent. Also a report from the Washington Post, September 4, 1987.

[A Newsletter From U.S. Rep. Henry B. Gonzalez, 20th District, Texas]

CENTRAL AMERICA: HOW WE GOT THERE, AND WHAT WE SHOULD DO

During the last nine years the United States has spent $5.3 billion in aid to Central American countries. In addition, vast amounts of money have been invested to build new military bases in the area, principally in Honduras. Most of the aid has gone into two tiny countries: El Salvador, which is in the midst of a brutal, bloody civil war, and Honduras, which serves as a base for United States armed forces and U.S.-sponsored rebels against the government of Nicaragua. Our government is spending more in these impoverished countries than it is in all of vast, strategic and mineral rich sub-Saharan Africa. How did this come about, and what should we really be doing?

SOME QUICK HISTORY

The five countries of Central America put together would fit into Texas. Historically, the United States has virtually ignored the region. For example, when Henry Kissinger wrote a 1500-page book detailing his life as national security adviser, not a word mentioned Central America.

United States interest in the poor and tiny countries of Central America has almost exclusively centered on the Panama Canal and keeping other great powers out. U.S. history in the 1800's is in great part the story of extending control over North America, and hegemony over South America. To this day, our government's primary interest in Central America is to keep the Panama Canal secure, and to keep the governments of the area docile.

On the way to becoming the dominant power of the western hemisphere, the United States took Florida from Spain in 1818 and at about the same time settled with Britain the northwest boundaries of the Louisiana Purchase. Our government watched with alarm as Latin American colonies of Spain established a tenuous independence, for European powers aimed either to put Spain back in control or take over for themselves. Faced with that threat, President Monroe in 1823 declared the United States would oppose any new European colonies in Latin America. The same year Monroe announced his doctrine, Mexico confirmed Austin's grant in Texas; just 23 years later, Texas and the whole Southwest were part of the United States.

Consolidating control in North America, the United States acquired British and Russian claims in the Oregon country and bought Alaska from the Russian Empire. In Latin America, we prevented European powers from taking over the colonies of the dying Spanish Empire, wrested Cuba from Spain, finagled the establishment of Panama, bought out French rights to build a canal there, and finished the great Panama Canal. European influence in the form of tiny colonies throughout the Caribbean remained, but these withered on the vine and most are now independent countries. With the creation of Panama and the completion of the Panama Canal, our policy in Central America became firm: the United States would dominate the area peacefully if possible, forcefully if necessary.

A CLOSER LOOK AT CENTRAL AMERICA

Crowded and poor, all of Central America would easily fit into Texas.

	Population (million)	Area square miles	Population per square mile	Income per capita
Country:				
Guatemala	7.9	42,000	188	1,120
Honduras	4.0	43,277	92	670
Nicaragua	3.0	45,698	66	900
El Salvador	5.2	8,260	630	710
Costa Rica	2.4	19,575	122	1,150
Totals	22.5	158,810	142	
Texas	14.2	266,807	53	9,443

CENTRAL AMERICA'S PRESENT SITUATION CAN BE SUMMED UP THIS WAY

Guatemala: endured 30 years of military dictatorship after a 1954 U.S.-sponsored overthrow of the reform-minded Arbenz government. Though there is an elected president, the armed forces remain very much in control of Guatemala. U.S. military aid, cut off for years because of the murderous brutality of the military, is resuming.

Honduras: serves as the principal U.S. military base in the region and also the sanctuary and training site for U.S.-funded contras fighting against the government of

Nicaragua. U.S. military forces routinely carry out large scale maneuvers there. Honduras has long been notable for its corrupt military rule. Our domination of the country has become heavy-handed enough to be embarrassing to the Honduran government.

Costa Rica: is the only real democracy in the region, and not coincidentally the only Central American country with no significant military force. Some contra forces have been based in Costa Rica, and the country has accepted some U.S. military aid. Costa Rica has worked for years to bring about peace in the region, and President Oscar Arias has just won the Nobel Peace Prize for his efforts.

El Salvador: has since a reformist coup in 1979 received $2.5 billion in U.S. aid. El Salvador has for decades been ruled by a handful of families. Despite elections, El Salvador remains a country caught between right-wing force and terror opposed by armed guerillas. At least a fourth of the population has been displaced by the civil war; a half million Salvadorans, one-tenth of the total population, have fled to the United States.

Nicaragua: was for 40 years ruled by the corrupt and brutal Somoza family. The Somozas, installed and supported by the United States, were deposed in a wildly popular 1979 revolution. After the Marxist-minded Sandinista faction won control, the United States immediately set up a counter-revolutionary military group known as the contras. Though Nicaragua's economy has gone downhill, the revolutionary government remains in firm control.

U.S. AID HAS INCREASED TENFOLD SINCE 1979.

	1979	1982	1986	1988
Military aid (millions):				
Guatemala			4.89	7.6
Honduras	2.3	31.3	59.7	81.5
Nicaragua	.01			
El Salvador		82.0	126.8	120.0
Costa Rica		2.6	31.7	2.4
Total	2.28	115.902	222.97	211.4
Economic aid (millions):				
Guatemala	24.4	23.2	104.7	139
Honduras	27.4	86.8	128.1	157
Nicaragua	23.0	7.5		
El Salvador	10.2	222.9	308.9	319
Costa Rica	17.2	53.4	128.5	118
Total	102.1	393.1	670.2	733

Note.—Figures exclude U.S. military operations and classified spending.

WE'VE SPENT $2.5 BILLION IN EL SALVADOR

El Salvador is not even as big as South Texas, just 160 miles long and 60 miles wide. Yet the United States plans to send $450 million in aid to El Salvador in the next twelve months. Our government has spent vastly more in this tiny country than anywhere else in Central America, twice as much in El Salvador as in runner-up Honduras. Worldwide, only Israel gets more.

El Salvador has a history of poverty and wretched government. The vast bulk of Salvadoran wealth has for generations been in the hands of a few families, known as "la catorce." At least 40 percent of the rural, peasant population has no land, not even land to sharecrop. Laborers in El Salvador do well to earn $175 a month; rural farm workers earn $3 a day, when they can find work.

In 1931, a U.S. Army observer reported that in El Salvador, "There is practically no middle class . . . Thirty or forty families own practically everything in the country." The next year a rebellion led by Farabundo Marti broke out; it lasted less than a month and Marti was summarily executed. The rebels killed perhaps 100 people, but the Salvadoran Army killed off between 30,000 and 40,000 Indian peasants, a crime Salvadorans refer to as 'la matanza,' the massacre. The general responsible, and who ran the government for the next twelve years said, "It is a greater crime to kill an ant than a man, for when a man dies he becomes reincarnated, while an ant dies forever." That brutal attitude is deeply ingrained in El Salvador's powerful right wing.

The Salvadoran government has many times been denounced for crimes against its own people. Abduction, murder and torture have been routinely used against anyone who called for reform. Archbishop Oscar Romero was murdered in his own cathedral; nuns, teachers, labor organizers, newspaper reporters have been brutalized, terrorized or killed. President Napoleon Duarte himself was in 1972 arrested by the Army and beaten to a pulp, his nose and cheeks smashed. His offense was running against the Army-backed candidate. Nor has much changed; violence, arbitrary arrest and murder remain common.

El Salvador's ruling families have been unwilling to tolerate any kind of democratic movement, let alone economic reform. Anybody or anything threatening their power has been denounced as communist. President Duarte explains the cause of the current rebellion this way:

"Fifty years of lies, fifty years of injustice, fifty years of frustration . . . for fifty years the same people had all the power, all the money, all the jobs, all the education, all the opportunities."

United States efforts toward reform in El Salvador have been fitful. Each year Congress demands and the President promises reforms to clean up pervasive corruption, do something about human rights, and to discourage death squads. Each year, nothing really changes. By now, at least 60,000 Salvadorans have been killed. A quarter of the population has been forced out of their homes, and a tenth of the population has fled to the United States.

The U.S. goal is to democratize and reform El Salvador enough to undercut support for the rebels. At the same time, the aim is to get civilian control of the army and to keep the right wing oligarchs from taking over. Almost the whole effort rests on the shoulders of President Duarte. The CIA invested an overwhelming $10 million in his 1984 election campaign, wanting a moderate reformer in power. The question is whether Salvadorans see him as independent and working for them, rather than for the United States.

NICARAGUA, AN ENEMY WE MADE OURSELVES

Nicaragua has been an area of special interest because it offers a feasible canal route across the Isthmus. Until very recently, our government occasionally talked of building a sea-level canal across Nicaragua. The United States virtually ran Nicaragua from 1902 until 1925, courtesy of the U.S. Marines. After a brief interval, 2,000 Marines landed again in 1927. They stayed long enough to create, equip and train the Nicaraguan National Guard, whose leader Anastasio Somoza killed the rebellious Augusto Sandino and took control of Nicaragua. The Somozas stayed in power until the revolution of 1979. Through all those years, the Somozas enjoyed the generous support of the United States. By all accounts, the Somozas ran one of the most corrupt, repressive regimes in the world. It could not last forever, and did not.

Nicaragua's 1979 revolution unquestionably enjoyed massive popular support. However, the United States could neither bring itself to support the revolution nor to abandon the Somozas, so the revolution took place largely without Uncle Sam. Once the revolution succeeded, a coalition government took power. By summer 1981, the Sandinista faction dominated and the United States promptly set about getting rid of the Sandinistas by force. President Reagan immediately demanded and Congress secretly provided $19 million to start a counter-revolution headed up by ex-Somoza henchmen. It would have been hard to find a group Nicaraguans hated more.

Congress had little enthusiasm for the secret project against the Sandinistas. Clearly, few Nicaraguans trusted the United States. After all, our government had helped the detested Somozas for decades. The revolution, Marxist or not, had great popular support. This augured ill for a quick fix like a secret war. On the other hand, the Sandinistas were Marxists, certain to make changes inimical to American economic interests. Too, President Reagan wanted a victory over Marxism and reflexively relied on the old formula of a quick military coup. But Congressional fears proved accurate: a U.S.-backed coup simply could not be pulled off. The counter-revolution became an expensive war of attrition.

When the initial $19 million secret investment in the counter-revolutionary "contras" failed to produce results, President Reagan upped the ante. Congress came across with another secret $19 million in 1982, and the next year openly voted $24 million. All this did was to undermine Nicaraguans who openly opposed the Sandinistas. With the contra aid program thus backfiring, Congress tried to cut its losses. The $14 million voted for contra aid in 1984 was put in escrow. The next year Congress reversed itself and approved $27 million in "humanitarian" aid. The Administration promptly ignored all restrictions. By selling arms to Iran, the Administration raised money for contra military equipment. And by refusing to account for what happened to the "humanitarian" aid, the Administration was able to use the funds to help supply arms. Though the contras remained ineffective, the conflict hardened the Sandinistas. Congress in 1986 relented and provided $100 million in military aid to the contras.

President Reagan now wants to send another $300 million to the contras. However, the Sandinistas are pursuing a peace settlement. The President seeks to derail any settlement and blame the train wreck on the Sandinistas. His original goal remains intact: get rid of them by force.

Ultimately what happens in Nicaragua is up to Nicaraguans. Somoza's fall and the contra failure proved we can no longer prop up governments or impose revolutions that nobody supports. Since Nicaraguans remember our role in their country during the Somoza years, it would be foolish to think that the U.S.-created contras are a popular movement. The contras aren't a home grown political force and so have no chance of governing Nicaragua even if by some miracle they pulled off a military victory.

WHAT SHOULD WE DO?

Central Americans know all too well the U.S.-backed "free" governments have for decades been anything but free. Our policy of supporting corrupt dictators and ignoring human misery has fostered bitter anti-American feelings, and I have for years argued that fundamental changes are needed if those feelings are going to be changed.

In Guatemala, we should vigorously support development of a true civilian government. It was a terrible mistake to finance the ouster of the Arbenz government and foster 30 years of bloody military rule. Any United States support of the Guatemalan military ought to depend strictly on its adherence to law, respect for civilian authority and above all, respect for basic human rights.

In Honduras, we must stop underwriting government corruption, encourage the development of civilian government, and replace our expensive military progam with economic development projects. Hondurans may welcome our easy dollars today, but they will soon see the United States as an occupation force. We should help them develop decent government, build a decent economy, and let them stand on their own feet.

In El Salvador, we should encourage democracy and reform. The Farabundo Marti rebels draw their strength from fifty years worth of desperation, and they aren't afraid to die. But President Duarte can't do much unless our government makes it clear that El Salvadors ruling elite must accept reform and support such basic things as land reform, health facilities and schools.

In *Nicaragua*, we ought to encourage the forces of democracy and reason. I have always opposed support of the contras. Not only has the contra effort failed to work, it has reinforced Nicaraguan resentment against our constant interference in their affairs. The contras have provided the excuse and opportunity for the government to undercut any and all political opposition, as well as blame their own mistakes on the United States. The contras can't win militarily and couldn't govern if they did.

In Costa Rica, our policy should support the democratic government and genuine leadership provided by President Oscar Arias.

Overall, our expensive and pervasive use of force has undercut whatever moral position our country might ever have claimed in Central America. Taking the high ground, President Oscar Arias of Costa Rica has proposed a plan to end fighting in El Salvador, Guatemala and Nicaragua, to promote a free political process, and to eliminate foreign interference. Following his lead, talks to establish peace are going on in El Salvador, Nicaragua is allowing opposition groups to air their views, and Guatemala is pursuing a peaceful settlement with guerillas. This astonishing movement has left the United States wholly unprepared; leadership in the area has passed perhaps, decisively, into other hands.

The United States cannot succeed anywhere unless we stick to our own values. It is morally bankrupt and politically blind to support military dictatorships just because it is convenient and easy to do so. Throughout the world, our leadership is meaningless unless it stands for our own principles of law, decency and liberty. With peace and patience, our influence might grow. With bombs and bullets, we are buying only fear and hatred. In the long run, our choice is between being an army of occupation, or helping Central Americans achieve what we would want for ourselves; decent government and a decent chance in life. A policy that helps Central Americans obtain decent government and a decent opportunity is the only thing that will work in the long run. Equally important, such a policy is the only kind that can win the sustained support of our own people.

HIGH SCHOOL DEBATE TOPIC, 1987-88—WHAT CHANGES ARE NEEDED IN U.S. FOREIGN POLICY TOWARD LATIN AMERICA?

The Library of Congress Congressional Research Service has compiled a 712-page document of bibliographical material on the 1987-88 national debate topic for high schools, "What Changes Are Needed in U.S. Foreign Policy Toward Latin America?" I have supplied copies of the volume for reference at the San Antonio Public Library and all high school libraries within the boundaries of the 20th Congressional District.

[From the Washington Post, Sept. 4, 1987]

HONDURAN OFFICIAL SAYS REBELS WOULD BE CURBED

(By Wilson Ring)

TEGUCIGALPA, HONDURAS, September 3.—The Honduran foreign minister today acknowledge the presence of anti-Sandinista rebels in Honduras and said his government would comply with a section of the Guatemala peace accord that would forbid Nicaraguan insurgent operations in Honduras.

But while the rebels, or contras, are being more discreet in their Honduran operations, they show no signs of moving their rear bases out of Honduras.

Speaking at a press conference, Honduran Foreign Minister Carlos Lopez Contreras contradicted his statements of two weeks ago in San Salvador when he flatly denied any contra presence in Honduras.

Today he called it "a reality of life" that the contras use Honduran territory, but he maintained that the rebel presence was not authorized by the Honduran government.

The previous Honduran administration had denied the presence of the rebels, but after President Jose Azcona Hoyo took office the government admitted that the rebels use Honduran territory. However, the current government has emphasized that the contras do so without Honduran authority and that Honduras does not have the resources to police the long border with Nicaragua.

Part of the Guatemala peace accord, signed by the region's five presidents Aug. 7, prohibits governments from allowing their territory to be used by groups attempting to destabilize neighboring countries.

The accord, scheduled to take effect Nov. 7, also calls for the region's governments to allow democratic freedoms, for dialogue between governments and their opponents and for cease-fires.

Lopez Contreras said that Honduras would permit an international verification commission formed as part of the agreement to inspect Honduran territory and that the verification procedures would be worked out at a meeting scheduled for Sept. 17 and 18 in Managua.

In an effort to lower their profile in Honduras, the rebels have almost finished moving their strategic headquarters from the Las Vegas salient in south-central Honduras to a more remote location on the Honduran side of the Coco River, which forms the border between Honduras and Nicaragua, near San Andres de Bocay, Nicaragua, according to rebel and diplomatic sources.

The same sources say the rebels are in the process of moving their logistical operations from Aguacate in central Honduras to the Swan Islands, a Honduran archipelago in the Caribbean, about 200 miles north of the Honduran mainland.

In a related matter, a meeting of Central American vice presidents scheduled to discuss the formation of a Central American parliament, as called for by the Guatemala accord, was postponed until Sept. 11. A spokesman for Azcona said the postponement was requested by Guatemala because not all representatives of the five countries could attend.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 1901. An act to designate the Federal Building located at 600 Las Vegas Boulevard in Las Vegas, NV, as the "Alan Bible Federal Building"; to the Committee on Public Works and Transportation.

ADJOURNMENT

Mr. FOLEY. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 6 minutes p.m.), under its previous order, the House adjourned until tomorrow, Sunday, December 20, 1987, at 1 p.m.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 3719: Mr. MATSUI.

H.R. 3742: Mr. YOUNG of Florida, Mr. FLORIO, Mr. DEFAZIO, Mr. NIELSON of Utah, and Mr. DE LUGO.

H.R. 3754: Mr. BARTON of Texas and Mr. LAGOMARSINO.

SENATE—*Saturday, December 19, 1987*

(Legislative day of Tuesday, December 15, 1987)

The Senate met at 9:30 a.m., on the expiration of the recess, and was called to order by the Honorable WILLIAM PROXMIRE, a Senator from the State of Wisconsin.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

* * * *Behold, I bring you good tidings of great joy which shall be to all people, for unto you is born this day in the city of David a Saviour which is Christ the Lord.*—Luke 2:10-11.

"Joy to the world, the Lord is come."

God of might and God of glory, we celebrate joy! We celebrate peace! We celebrate justice! We celebrate love! You know, Lord, the thousands whose anticipation of celebration depends on this body: spouses and children of Senators and staffs—grandparents, uncles and aunts, nephews and nieces. Dear God, whatever force threatens their joy, let it be removed. Whatever it takes, Gracious Father, for Senate business to be completed and adjournment sine die to happen, let it be done. Meanwhile, in spite of obstruction and delay, let joy infuse this place. Let hearts be filled with the promise and the hope of Hanukkah and Christmas, the season of light and freedom, peace and love. In the name of Him who makes it all possible. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The **PRESIDING OFFICER**. The clerk will please read a communication to the Senate from the President pro tempore [Mr. STENNIS].

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, December 19, 1987.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable WILLIAM PROXMIRE, a Senator from the State of Wisconsin, to perform the duties of the Chair.

JOHN C. STENNIS,
President pro tempore.

Mr. **PROXMIRE** thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The **ACTING PRESIDENT** pro tempore. The majority leader is recognized.

THE CHAPLAIN'S PRAYER

Mr. **BYRD**. Mr. President, I listened to the Chaplain's prayer very carefully. While his words with respect to obstruction and delay are welcome, for those of us who have been around here a long time, we are not overly concerned about these things. We have seen them happen time and time again.

I am not sure I would call on the Lord to intervene in this business. I think it is up to us mortals to come to our senses and reach agreements and resolve our differences. We have done it always before and we will do it again.

But I was touched by his references to the Christmas spirit in this season, which is especially a season of peace and love.

I said to my wife only yesterday, I believe—someone had sent us a couple of little decorations for our Christmas tree—I said to Erma, "There are many children, many families in this land who will not even have as much as decorations for a tree or perhaps even a tree or food for a table. And how thankful we should be for the plenty that we and our children and grandchildren can enjoy."

I hope that Senators and others will read the book "Holiday Tales, Christmas in the Adirondacks," by William Henry Harrison Murray, written just before the turn of the century. That book speaks of "John Norton's Christmas" and "John Norton's Vagabond." It is a beautiful scene in both. I will just take time to quote the epilogue to John Norton's "Vagabond." I hope that Senators will think with me and get the picture, realizing that those of us who sit here today may not all be here on another Christmas:

Ah, friends, dear friends, as years go on and heads get gray, how fast the guests do go!
Touch hands, touch hands, with those that stay.
Strong hands to weak, old hands to young, around the Christmas board, touch hands.
The false forget, the foe forgive, for every guest will go and every fire burn low and cabin empty stand.
Forget, forgive, for who may say that Christmas day may ever come to host or guest again.
Touch hands!

RECOGNITION OF THE MINORITY LEADER

The **PRESIDING OFFICER** (Mr. FORD). Under the standing order, the Republican leader is recognized.

SCHEDULE

Mr. **DOLE**. Mr. President, I wonder if the majority leader might be able to indicate, after we do two or three items—farm credit, there is a nomination, and the committee resolution—what would be the plans of the leader for the rest of the day? I know the House, as I understand, may go out until tomorrow at 1 o'clock. I have had a couple of requests from this side, if we have done all we can today—some who are not on committees, conference committees—they would like to be free to do other things, like Christmas shopping and things of that nature.

Mr. **BYRD**. Yes, I am happy to answer that very appropriate question.

Mr. President, the Senate will be acting on the farm credit conference report the first thing. There may be a request for the yeas and nays on that conference report. Following that, I would like to do the Agriculture Committee funding resolution. I am told that will be a rollcall vote. And then there is the nomination on which a Senator has requested the yeas and nays. So I would suggest that we anticipate one, two, or three rollcall votes and that they be early.

I hope that the time limitation on the agriculture funding resolution can be shortened and that Senators might yield back their time. In this way, we could get the rollcall votes over early. I hope we can do them close together so as not to interfere with the conferees and so that Senators who are not involved in the conferences then may take leave.

On tomorrow, we will come back in the late afternoon. I say "late afternoon" because the House is not expected to take up the conference reports on the continuing resolution and on the reconciliation measure until in the afternoon. Because, if the conferees were able to complete their work today it would take over night, I understand, for the papers to be fully prepared and then the House acts on both conference reports first—the Senate can come in well into the afternoon. Senators can go to church and

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

then, hopefully, we can wind up our work tomorrow evening.

I do not anticipate anything today beyond the three items that I have mentioned.

Mr. DOLE. I thank the majority leader.

Mr. BYRD. I thank the distinguished Republican leader and I note that he is advancing in the polls, I understand.

Mr. DOLE. A little bit.

MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order there will now be a period for the transaction of morning business not to extend beyond the hour of 10 a.m. with Senators permitted to speak therein for not to exceed 5 minutes.

The Senator from Wisconsin.

WHY THE SENATE SHOULD RATIFY THE INF TREATY

Mr. PROXMIRE. Mr. President, two of this country's outstanding experts on nuclear weapons have written a brief but excellent article in support of the proposed Intermediate Nuclear Forces [INF] Treaty. Early the next year the Senate will act on ratification. The debate may be vigorous. Unless the Senate ratifies this INF Treaty overwhelmingly arms control may be in trouble. Graham Allison and Albert Carnesale persuasively support the treaty in an article that appeared in the Sunday New York Times on November 15. Who are Allison and Carnesale? They are respectively the dean and the academic dean of the Kennedy School of Government at Harvard University. They are also among the coauthors of a remarkable book on living with nuclear weapons. In the judgment of this Senator their book is the most realistic and sensible on the nuclear weapons dilemma written since the first nuclear weapon was exploded in Hiroshima more than 42 years ago.

These Harvard scholars offer six critical reasons why the Senate should ratify the INF Treaty. All members of the Senate should consider these reasons carefully in determining our vote on the treaty. Here they are:

First, the treaty sets a series of precedents that can advance arms control in the future.

Second, and among these precedents is the elimination of an entire category of devastating nuclear weapons which have cost both sides money and political support.

Third, the treaty sanctions a greater reduction in weapons on one side. In this case the Soviet Union will give up 1,500 intermediate and short range nuclear weapons. The United States will give up only about 457. Here's a precedent which should help both super powers in the future to give up more on one side than the other to achieve parity. Future negotiators and future Senators in connection with a future treaty can recall that in 1987 in the INF agreement the Soviet Union gave up more than three times as many nuclear weapons as the United States. They will also recognize that in the INF, the United States allies—British and French—were not required to reduce nulcear weapons that could strike the Soviet homeland.

Fourth, the treaty establishes verification provisions that are both strict and intrusive. This precedent is critical because verification is quintessential to successful arms control. And there has been strong resistance within both super powers to verification provisions that are intrusive.

Fifth, the treaty is possible because the United States persuaded the Soviet Union to consider the agreement after pressuring our European allies to permit us to locate in Europe American nuclear warheads on Pershing 2 ballistic missiles and on ground launch cruise missiles. In other words we armed to parley. And it worked. As Allison and Carnesale contend this shows that "arming to parley can be a successful strategy."

Sixth, and most important the treaty can provide the basis for moving ahead to correct the imbalance of conventional forces in Europe. The fact is that in the INF Treaty the super powers agree on a much greater reduction on one side than the other in intermediate nuclear weapons. The fact is that in the INF Treaty both sides agree to intrusive verification. The fact is that the INF Treaty succeeded because the United States was willing to build up in order to negotiate ultimate reductions. All this process in the INF Treaty makes an ultimate agreement to reduce conventional forces: Tanks, planes, helicopters, ships and personnel to parity—these developments all reflected in the INF personnel to parity—these developments all reflected in the INF Treaty should enable both the United States and the Soviet Union to agree to begin to lift a big part of this enormous arms burden from both sides. Consider what this could do for the standard of living of those living in both the free world and the Communist world. And think what it can contribute to the prospect of peace on Earth.

Mr. President, I ask unanimous consent that the article to which I referred by Allison and Carnesale in the November 15, 1987, New York Times be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, Nov. 15, 1987]

WHY SAY NO TO 1,500 WARHEADS?

(By Graham Allison and Albert Carnesale)

CAMBRIDGE, MASS.—The centerpiece of next month's superpower summit meeting is to be the signing of a treaty eliminating intermediate-range nuclear forces. The public and Congressional debate about ratifying the treaty will greatly influence future arms controls efforts and our relations with Europe and the Soviet Union. While informed opinions on the merits of the treaty differ, a few basic considerations can help guide the debate.

Any assessment that considers only the effects on American forces and ignores the effects on Soviet forces will conclude that the agreement is not in our interest.

Critics of the agreement typically focus on its elimination of about 350 American nuclear warheads on Pershing 2 ballistic missiles and on ground-launched cruise missiles. But they gloss over the required dismantling of more than 1,500 Soviet warheads, and generally forget that British and French nuclear weapons that can strike the Soviet homeland are not affected by the accord.

Imagine that the terms were reversed—that America was trading away more than 1,500 warheads for about 350 on the Soviet side, while permitting Moscow's allies to keep and even expand their own nuclear arsenals, which threaten our territory. No President could expect this deal to be acceptable to the Senate, American people and our allies.

We will have to measure the benefits and costs of the treaty in different ways. There will be implications for the military balance, cohesion of the Atlantic alliance, arms control, American-Soviet relations and domestic politics.

Dismantling our intermediate-range nuclear forces in Europe would have little military effect. The West would retain more than 4,000 nuclear weapons on the Continent. All targets vulnerable to attack by intermediate-range missiles would also remain vulnerable to attack by other North Atlantic Treaty Organization arms.

Indeed, because the more than 500 Soviet missiles eliminated by the accord need no longer be targeted by NATO, the pact effectively "destroys" more Soviet targets than could possibly have been attacked by the 350 warheads offered in trade.

As for alliance cohesion, claims that the treaty would decouple America from its European allies are exaggerations. Many ties bind us; Pershing 2's and ground-launched cruise missiles are only two threads in this complex web. At the heart of the alliance lie common values, interests, commitments and trust. The Administration's careless diplomacy in dealing with arms control negotiations has had significant negative consequences in Europe, but the ratification process can repair that damage.

The treaty sets significant arms control precedents. These include eliminating an entire category of modern weapons in which both sides have made major economic and political investments, imposing asymmetric reductions to achieve an equitable end result, establishing strict and intrusive verification provisions, and demonstrating that "arming to parley" can be a successful strategy.

Concluding this agreement would demonstrate to both governments that they can deal productively with each other. This could set the stage for further cooperation. America's credibility can only be strengthened by our demonstrated willingness to take "da" for an answer to our own proposal to eliminate intermediate-range weapons.

President Reagan's signing of the deal would go a long way in again legitimizing arms control as a means of enhancing national security. Proponents of arms control should applaud his apparent conversion.

The elimination of intermediate-range forces carries important implications for conventional forces, battlefield nuclear weapons and some strategic forces. Concluding the accord would focus attention on short-comings in these other segments of the military balance. Thus, the treaty may provide an opportunity for movement on such pressing problems as the imbalance of conventional forces in Europe.

While the deal amounts to less than many advocates claim, it would remove the threat posed by more than 1,500 Soviet nuclear warheads. That seems clearly worth doing.

A TRIBUTE TO AMERICANS FROM WISCONSIN

Mr. PROXMIRE. Mr. President, the holiday season is upon us. During this time of year, we try to take time out of our rushed life styles to concentrate more on the needs of others. That is what a truly unselfish and caring woman exemplified a few days ago. She graciously gave of herself as she donated bone marrow so that a 6-year-old child might live. I stand before you today to proclaim a tribute to Ms. Diane Walters of Milwaukee, WI. She voluntarily donated her bone marrow to a little girl, who was suffering from leukemia.

There are others in this heart-warming story that also deserve recognition. In the midst of a blizzard, Mr. William O'Donnell, the Milwaukee County executive ordered crews to clear a runway for the jet to deliver the marrow. Citizens worked together to free the plane, carrying the precious gift, so that it could make its way to Seattle, WA. This is an example of unselfish love of the American people. I am proud to serve as Senator from the same State that people such as Ms. Walters and Mr. O'Donnell reside in.

Mr. President, I ask unanimous consent that this article from the New York Times be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

GIRL, 6, UNDERGOES BONE MARROW TRANSPLANT

SEATTLE.—A 6-year-old girl was listed in good condition today after receiving an emergency transplant of bone marrow made possible by an official who ordered special snow plowing so the marrow could be flown out of blizzard-bound Wisconsin.

The transplant for the girl, Brooke Ward of Raleigh, N.C., was the first from a match made by the National Bone Marrow Registry, which was established in September and lists 10,000 potential donors. The registry finds volunteers who will donate their marrow to patients of the same tissue type. Marrow transplants require near-perfect matching of tissues.

"She's fine," said Susan Edmonds, spokeswoman for the Fred Hutchinson Cancer Research Center. "There were no complications at all."

Brooke has suffered from acute leukemia for three years and recently suffered her third and most serious relapse. Doctors said she had little chance of survival without a marrow transplant.

PERFECT MATCH FOUND

Infection has been a serious threat, since treatments to destroy the diseased bone marrow left her immune system virtually defenseless.

The girl's relatives' marrow did not match perfectly, but that of a donor, Diane Walters, 49, of Milwaukee, was a good match.

Like most of the other donors on the registry, Ms. Walters was asked by a local center where she regularly donates blood whether she would be listed.

Officials said Ms. Walters did not hesitate to undergo general anesthesia and needle punctures into her hip bone to donate the marrow. Her husband died of cancer 10 years ago, and she has a 6-year-old granddaughter.

"It's just something I wanted to do," she said in explaining why she donated her marrow. "It can't be purchased or manufactured, and if a person can give it to another," adding, "well, that's the reason I did it."

The marrow originally was to be flown Tuesday afternoon to Seattle, but heavy snow in Milwaukee canceled commercial flights.

William O'Donnell, the Milwaukee County Executive, learned of Brooke's plight from his daughter, Bridget, a spokeswoman for the blood center. He ordered crews to clear a runway for a jet to deliver the marrow. It arrived at 9:06 P.M. Tuesday.

In addition, Brooke's brother, Jeff, 24, was a backup donor, Ms. Edmonds said. His marrow had four of the six major factors needed for a match. But it would have given Brooke only half the 15 percent to 30 percent survival chance that Ms. Walter's perfectly matched marrow gives her.

Mr. PROXMIRE. Mr. President, I yield the floor.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

LEAVE OF ABSENCE

Mr. GRASSLEY. Mr. President, under rule VI, I ask permission to be absent from the Senate for this afternoon and tomorrow, if we are in session. In my family we have our family Christmas on the Sunday before Christmas and I am going to be gone for that reason.

The ACTING PRESIDENT pro tempore. Without objection it is so ordered.

Mr. HOLLINGS addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from South Carolina.

Mr. BYRD. Mr. President, will the Senator yield to me?

Mr. HOLLINGS. I yield.

Mr. BYRD. Mr. President, I want to thank and congratulate the distinguished Senator from Iowa [Mr. GRASSLEY]. He has sought, under the rule, to be excused for whatever number of days it was. That is the way it is supposed to be done. If Senators seek to be absent from the Senate, it is done by the rule. The Senator from Iowa has observed that rule, has followed it. I think the public would be pleased if all of us would do likewise if we have to be away.

I thank the distinguished Senator from South Carolina for yielding.

BILATERAL TEXTILE AND APPAREL AGREEMENT NEGOTIATIONS BETWEEN THE UNITED STATES AND THE PEOPLE'S REPUBLIC OF CHINA

Mr. HOLLINGS. Mr. President, we are now about to embark on the next great adventure in Reaganomics, another example of this administration's special knack for putting the cart before the horse. On the fiscal front, Mr. Reagan slashed taxes before he cut spending, thereby creating record deficits. In arms control, he has given up our INF nuclear deterrent in Europe before eliminating the Soviet conventional superiority, thereby exposing NATO to Soviet intimidation. And now, I have learned, Mr. Reagan is about to give the People's Republic of China free reign to inundate the United States market with textiles, at a time when there is no access whatsoever for United States textiles to the Chinese market.

Mr. President, the current bilateral textile and apparel agreement with the People's Republic of China expires at the end of this month. Negotiations are now underway to reach agreement on replacing the expiring bilateral. Indeed, Mr. President, the negotiators are now in at least the sixth round of talks. Yet despite the contrived appearance of drawn-out negotiations, I have ample reason to believe—based on extensive conversations with textile executives—that the end-product has long-since been agreed to and that it is a sweetheart deal for the Chinese.

Mr. President, the American people have a right to expect good-faith, tough-minded bargaining from our negotiators and from the Office of the Special Trade Representative. Regrettably, however, it is now clear that their alleged bargaining with the Chinese has been nothing more than a charade. The negotiation process has been conducted so as to create the perception of hard bargaining, but in reality these negotiations have been a sham.

Mr. President, the fault does not lie entirely with the negotiators themselves. They are simply following instructions handed down from on high within the administration. The fix is in, and I fear that we are being set up for yet another outrageous give-away at great cost to our domestic textile and apparel industry.

The simple fact is that our negotiators have been pursuing a duplicitous, double-track negotiating strategy. Their ostensible objective—so, at least, the American public has been told—is to negotiate an agreement that sets the lowest possible growth in import quotas for the People's Republic of China. But it is abundantly clear to this Senator that our negotiators in fact are working from predetermined figures for import quotas for the various textile and apparel categories. From the outset, the administration has sought to satisfy the People's Republic of China's clamoring for still larger markets, and to that end the base levels—the levels from which the percentage growth in imports is figured—are to be substantially increased in many categories.

It now appears that the total agreement will result in an aggregate growth rate of something below 4 percent—most likely in the 3.5 to 3.9 percent range. This would enable the administration and the United States Special Trade Representative, Clayton Yeutter, to argue before Congress their diligence in carrying out our wishes and hammering out a balanced, fair agreement with the People's Republic of China. Additionally, when the textile and apparel bill, S. 549, comes before the Senate for consideration, Mr. Yeutter will be before us arguing against it and citing the new bilateral agreement with the People's Republic of China as proof positive that the industry is getting all the help that could be reasonably expected.

Clearly a growth rate below the multifiber agreement level of 6 percent per annum would appear to be appealing to Congress. In addition, there would be group limits on apparel, nonapparel, uncontrolled categories and categories consisting of products made from new fibers covered under the MFA, for example, ramie and silk.

To the uninitiated, Mr. President, all of this appears superficially attractive. However, as usually is the case with accords negotiated by the USTR, this agreement begs the real issue, namely the base levels upon which growth in the textile and apparel categories would occur.

By way of background, I would note that as recently as the beginning of 1987, there was no United States position on what to seek from negotiations with the People's Republic of China. Apparently, however, this changed abruptly when Secretary of State George Shultz visited China last April. Obviously, he did not specify to the People's Republic of China the details of a category-by-category agreement. But developments in the bilateral discussions since that visit indicate a clear pattern of preemptive concessions by the American negotiators.

As the negotiations continued in May in Guangzhou, in September in San Francisco, in Beijing in November, and in Washington in December—December 7-12, December 15, and again on December 17—the ease with which United States negotiators conceded to People's Republic of China on base levels and growth rates suggests a premeditated concessionary attitude. The speed with which our negotiators approached People's Republic of China base figures, plus the growth rates our negotiators were prepared to accept, points to the unavoidable conclusion that our side was prepared to meet the People's Republic of China much more than half way. The marching orders were in place, and our negotiators have followed them in lock-step.

Perhaps the most blatant example is the case of categories 845/846, which were initially linked. These categories represent sweaters made of ramie/cotton blends. The People's Republic of China, it should be recalled, objected to the inclusion of ramie and other new fibers as yarns covered by Multi-Fiber Agreement IV. The People's Republic of China was the only country which refused to sign the new MFA protocol negotiated at the end of July 1986. It was only after considerable exchanges between the People's Republic of China and our country that they agreed to negotiate on these yarns in a new bilateral.

The Chinese apparently have planted too much ramie in the last 3 years. The blended fiber—with slightly more ramie than cotton, which was up until now an uncovered yarn, has been used to circumvent the quota.

In ancient history, Mr. President, ramie was apparently first used by the Egyptians to wrap their sarcophagi. It later fell into disuse, but was revived following World War II in the Philippines, a nation whose cotton output was devastated during the war. Ramie became more widely used as quotas began to restrict exporting countries' ability to ship cotton, wool, and manmade fiber knitwear, particularly sweaters. In recent years, the Chinese have begun extensive cultivation of ramie for use in textile and apparel exports.

Evidence of this extensive cultivation and production is the fact that the United States issued a call to the People's Republic of China on ramie-blend sweaters at 991,000 dozen. The call required consultation between the two countries.

As the negotiations began, the Chinese were seeking a quota of approximately 3.5 million dozen. The U.S. counteroffers rapidly escalated from 1.2 million dozen to 1.4 million dozen to 1.7 million dozen, and finally to 2.1 million dozen, the figure at which category 845 was settled. Category 846 started at 100,000 dozen and was settled at 140,000. The total for category 845/846 is 2,240,000 dozen. But, Mr. President, this is not the end of the story.

With the higher base and the higher annual growth rates over the 4 years of the bilateral agreement, the People's Republic of China will end up with growth rates in all categories even greater than Hong Kong, Korea, and Taiwan combined. Bear in mind, Mr. President, that the Hong Kong, Korea, and Taiwan agreements were all negotiated last year as part of the effort to defeat the override of the President's veto of the textile bill.

Returning, now, to the 845/846 categories: in 1986 the total sweater imports of the new fiber blends—from all countries—totaled 11.5 million dozen. This exceeded total domestic production of all sweaters—11.4 million dozen. By way of comparison, total imports were about 27 million in all fibers.

A large sweater mill turns out about 250,000 dozen sweaters. The implications of this extraordinary concession to the People's Republic of China are obvious in terms of the ability of United States sweater companies to stay in business and clearly will result in substantial American job losses.

The United States' rationale for giving the People's Republic of China so much in this category was that we had given even larger aggregate totals to two other countries. In other words, the justification for the China sellout was that, well, we had already given huge quotas to two other countries so we had to give China even more. This says nothing about the growth rate, of course. With logic like this governing the U.S. Trade Representative, is it any wonder why this Nation is literally losing its shirt to foreign competition?

All this comes on the heels of last year's bilateral agreements with Hong Kong, Taiwan, and Korea, which kept their growth last year to less than 1 percent. It also follows the statement of Michael B. Smith, Deputy United States Trade Representative, to the House Ways and Means Committee in February that China would be treated no more favorably than the big three.

Mr. President, there are other horror-story categories as well. I will briefly outline them:

First. Category 340, cotton shirts, and category 640, manmade fiber shirts. The U.S. offer in February for 340 was 680,000 dozen and a 0.5 percent rate of growth. The category was settled at 718,000 dozen and a 2.3 percent rate of growth. For category 640 the U.S. offer in February was 1,210,000 dozen and a 0.5 percent rate of growth. The category was settled at 1,240,000 dozen and a 2.8 percent rate of growth. Both of these categories, 340 and 640, suffer from heavy import penetration—there are twice as many imports as there is domestic production. The agreement allows for a 10 percent swing from 640 to 340, thereby permitting 20 percent growth in 340 in the second year of the agreement.

Second. Category 442, wool skirts. The U.S. offer in February for 442 was 21,000 dozen and the agreement is for 39,000 dozen.

Third. Category 369, handbags. the U.S. offer in February was 5,420,000 and the agreement is for 8,500,000.

Fourth. Category 369, cotton dish towels. The U.S. offer in February was for 7.5 million pounds and the agreement is for 8.6 million pounds.

Fifth. Category 338 and 339, knit shirts. The U.S. offer in February was 1,950,000 dozen and a 0.5-percent rate of growth. The category was settled at 1,976,000 dozen and a 3.5-percent rate of growth in this very heavily impacted category.

Sixth. Category 315, print cloth. The U.S. offer in February was 172,000,000 SYE and a growth rate of 0.5 percent. The category was settled at 177,250,000 SYE and a 1-percent rate of growth.

Seventh. Category 435, women's wool coats. The U.S. offer in February was 9,000 dozen and a 1-percent rate of growth. The category was settled at 22,500 dozen.

Eighth. Category 833, new fiber dresses. The U.S. offer in February was 11,500 dozen and a rate of growth of 2.5 percent. The category was settled at 20,700 dozen and a 3.5-percent rate of growth.

Ninth. Category 835, new fiber women's coats. The U.S. offer in February was 50,000 dozen. The category was settled at 95,000 dozen and a rate of growth of 4.1 percent.

These categories, Mr. President, are just a few of the categories in which growth rates, along with base rates, are up. They are representative of the nature of the agreement and, in my view, indicate that we don't have a negotiated agreement, we have a unilateral giveaway. To make my point clearer, let me state it in comparative terms: the percentage growth rates, in addition to starting from higher base rates, are greater than those permitted to Taiwan, Hong Kong, and Korea. This is directly contrary to Mr. Smith's pledge in testimony before the House last February that China would be treated no more favorably than the big three. In the 12 months ending September 1987, the People's Republic of China accounted for 14 percent of all textile and apparel imports—of all fibers—and was the No. 1 exporter to the United States.

The People's Republic of China's growth rate was already astonishing in the period leading up to the agreement now under negotiation. Now, with the giveaway strategy being aggressively pursued by the Office of United States Trade Representative, we face yet another extraordinary surge in People's Republic of China exports to the United States, at the cost of untold thousands of American jobs.

Bear in mind, too, Mr. President, that the bilateral agreement under negotiation with the People's Republic of China pertains strictly to the United States market. There is no reciprocity because there is no People's Republic of China market for our textiles. A fair and balanced increase in import penetration of our market is one thing, but the increases permitted in this prospective agreement are one more giant step toward the liquidation of domestic U.S. textile and apparel manufacturing. This accelerating trend carries grave economic consequences for the United States. It also has serious national security implications, and calls into question our future as an independent, self-sustaining world power.

Mr. President, I pray that the sellout I have described today does not actually materialize. Nonetheless, my sources in the textile industry are reliable, and I fear that we are indeed headed for a disastrous agreement with the People's Republic of China. I am obliged to alert my colleagues to the shape of the emerging agreement with the People's Republic of China. The hour is late, but I hope there is yet time for reason and common sense to intervene.

Mr. President, I certainly do not want to hear in February and March when we discuss the trade agreement that, "Here comes the textile industry, a bunch of crybabies. They are all whining and crying. You can never satisfy them."

On the contrary, I am whining and crying for the economy of this country. Our focus at the moment is on the fiscal or budget deficit. But we have an equal dilemma in our trade deficit.

The bottom line is that our negotiators seem to view the United States as a fat, happy, generous country that can give up its markets willy-nilly without any type of reciprocity whatever.

This is grossly unfair to American workers. We have good, hardworking, productive people. I emphasize that. The Department of Labor will confirm that the most productive industrial worker in the world is the U.S. industrial worker. No one disputes these statistics. West Germany is ranked third and Japan is ranked eighth.

Yet, Mr. President, too often we listen to this talk in the Senate that somehow American workers are all out playing golf or taking naps. Anyone who has traveled the country as I have knows that this is total nonsense. Our shortcomings are not for any lack of productivity, lack of research, lack of modern machinery, lack of modernization, lack of competitors. Our problem is the lack of assertive Government. It is the lack of enforcement of our bilateral agreements.

Mr. President, I repeat, my purpose today is to put Ambassador Yeutter on notice that we know what he is up to. We can give him the facts and figures and show exactly the charade he has been engaged in.

Mr. BUMPERS addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Arkansas.

Mr. BUMPERS. Mr. President, what is the parliamentary situation?

The ACTING PRESIDENT pro tempore. The Senate is in morning business and will be for the next 3 minutes.

Mr. BUMPERS. Mr. President, I will just take a couple of minutes to make an observation.

OZONE HOLE AFFECTING CLIMATE

Mr. BUMPERS. Mr. President, this morning, I picked up the paper and I see that there is an increasing concern about the possible thawing at the South Pole of the glaciers, there, that the ozone layer, which protects man, animal, and plant life, is probably getting bigger. That is, the hole of the ozone layer at the South Pole is getting bigger and that climatic changes, according to Dr. Sherwood Roland, who was the original scientist at the University of California at Irvine, and who brought this whole ozone problem to our attention back in the mid-1970's, have already begun to occur as a result of the depletion of the ozone layer.

Mr. President, I am not above saying, "I told you so," but that would not really solve any problems. But Congress has a penchant for delaying things that do not have a lot of appeal to the public at a given moment and absolutely refuse, as does the press, to hone in on what seems to me like obvious future disastrous problems for the country.

Mr. President, when I came to the Senate in 1975, we had a committee called the Space Committee. It was a really spacey committee, too. There really was not much to do there.

In an effort to keep myself occupied and do something, I enlisted the help of my colleague from New Mexico, who is still here, Senator DOMENICI, who was also on the Space Committee, and we decided to hold hearings on this thing that I had just read a little bit about in a science magazine, plus a few little two- or three-paragraph stories on page 18 of the newspapers. These two professors at the University of California had concluded that these little simple aerosol cans that you use to spray your hair in the morning and that you use to spray lather on you, that you use for a host of other things, were actually what they call chlorofluorocarbons. They had a theory that these things over a period of 10 to 20 years, being fairly inert, drifted into the stratosphere and over a period of time, and literally through a chemical reaction, destroyed what was a three molecule called ozone.

I thought ozone was a town in Johnson County, AR, until I came to the Senate. As a matter of fact, it is a town in Johnson County, AR. But Senator DOMENICI and I held nine hearings and we had the best atmospheric scientists in the United States come and testify in these nine hearings, and the conclusion was inescapable that the ozone layer was in fact being destroyed. Then we offered legislation to ban the manufacture of those chlorofluorocarbons in this country, but I want you to know during the hearings and during the debate on the floor of the Senate neither the press nor the Congress ever gave it the time of day. But when we finally got ready to vote on the amendment offered by Senator PACKWOOD and me, that hallway just off the Senate floor was loaded with lobbyists from the chemical industry and we got 32 votes.

Now, 12 years later, the problem has grown to the point that it is not just acute; it is terrifying.

Mr. President, I only make those comments to point out that you simply cannot seem to get the attention of this body on any long-range problem. Everybody runs for the first red light on the television camera that they think is going to make evening news, but when you get into these long-range problems which really confront this Nation—indeed, the planet—with disaster, it is very difficult to get anybody's attention. Nobody quite knows how we are going to recruit the rest of the world to join us in banning the manufacture of these things.

At that time I believe there were 2 billion pounds of chlorofluorocarbons produced in the United States, and we produce 50 percent of the total usage of it in the world. While we have, indeed, passed some regulations since then banning the use of those things, they are still used as a refrigerant; that is the biggest use in the world. Freon gas causes your freezer to make ice and makes your car air-conditioner work. We are still using freons, which are one of the biggest, most devastating contributors to the depletion of the ozone layer.

I bring that to the attention of my colleagues for whatever it may be worth. The problem grows more acute, and that means we do not have much time to solve it, even though the ozone is going to continue to be depleted for the next 12 to 20 years because of what we have already put into the stratosphere.

Mr. President, I yield the floor.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the time set aside for morning business has expired.

AGRICULTURAL CREDIT ACT—CONFERENCE REPORT

The ACTING PRESIDENT pro tempore. The conference report on H.R. 3030, the farm credit bill, is before the Senate. The clerk will report.

Mr. BYRD. Mr. President, there are Senators who are expecting the yeas and nays on both this matter and on the Agriculture Committee funding. The distinguished Senator who is the chairman of the Agriculture Committee is here. I wonder if he has any information that would be contrary to what I have said.

Mr. LEAHY. Mr. President, I would tell the distinguished majority leader that his understanding is absolutely correct; we will be requesting a rollcall vote on farm credit. Even though it is unusual on committee budgets, I understand that a Member on the other side is going to request a rollcall vote on the budget of the Agriculture Committee. Thus, there are two rollcall votes of which I am aware, Mr. Leader.

I might say, Mr. President, that I am certainly willing to move as expeditiously as possible on farm credit. In fact, I do not intend to use all the time that may be reserved on the funding resolution of the Senate Agriculture Committee.

The farm credit bill is an extremely important bill. Without this legislation we face the possibility of a financial disaster through the Farm Belt. It is not a bad idea to send it down to the President with what I think is going to be a solid majority.

Mr. BYRD. Very well. Then I ask for the yeas and nays on the conference report on the Farm Credit System.

The ACTING PRESIDENT pro tempore. The yeas and nays are requested. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. BYRD. Mr. President, I ask unanimous consent that it be in order to order at this time the yeas and nays—does the Senator feel that there will be a request for yeas and nays on the agriculture funding resolution?

Mr. LEAHY. I am not the one who is going to request that, I might say to the distinguished leader.

Mr. BYRD. Very well. Then I withdraw the request.

The ACTING PRESIDENT pro tempore. The clerk will report.

The legislative clerk read as follows:

> The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3030) to provide credit assistance to farmers, to strengthen the Farm Credit System, to facilitate the establishment of secondary markets for agricultural loans, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER (Mr. BREAUX). Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the Record of December 18, 1987.)

Mr. BYRD. Mr. President, there will be a 30-minute rollcall vote, it being the first rollcall vote on a Saturday.

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER. Who yields time on the conference report? The Senator from Vermont.

Mr. LEAHY. Mr. President, I yield myself such time as I may need. I ask a parliamentary inquiry. How is the time divided?

The PRESIDING OFFICER. There will be 40 minutes to be equally divided between the two managers.

Mr. LEAHY. Mr. President, together with my good friend and colleague, Senator LUGAR, and my good friend and colleague, Senator BOREN, I present the conference report on the Farm Credit Act Amendments of 1987, H.R. 3030.

Mr. President, the legislation we are now asking the Senate to approve in a Saturday session is vitally important to the Nation, to the American farmer and rancher. This legislation is critical also to the economic stability of our Nation. If this legislation is not passed and signed by the President, the financial integrity of $50 billion in Farm Credit System bonds is going to be at risk. This could be devastating to confidence in our economy at what we all know is a critical time. Rural America's stake in this bill is enormous. The Farm Credit System supplies one-third of the credit to American farmers. Without credit, rural America will collapse. A farmer cannot buy his farm or plant his crops without credit. That is why, Mr. President, we are here on a Saturday, to get vitally important legislation, vitally important to the Nation and the American farmer and rancher, passed by the Senate, as it has already passed the other body, and sent on to the President for his signature.

This vital legislation is also balanced and bipartisan, Mr. President. It balances the credit needs of the American farmer with the budgetary concerns of the American taxpayer. By providing Government guaranteed bonds and other funds to the Farm Credit System, its financial stability will return. This stability will lower interest rates to farm borrowers. It will assure that their most important source of credit will be available into the next century. Farm credit institutions will be required to repay all of the Federal assistance provided. That is going to minimize the impact on the budget. It is also going to give those troubled institutions a real chance to survive.

This bill is also a blue ribbon example of bipartisan legislation. We talk about that a lot, Mr. President, but it really does happen. When rural America faces a crisis, party politics are put on hold in this body and we pull together to get the job done. It is an outstanding example of cooperation between the leadership of the House and the Senate. It was only because of the statesmanship of the House committee chairman, KIKA DE LA GARZA, that we are here today. His spirit and his initiative after breaking roadblock after roadblock bring us here today.

The Senate Agriculture Committee ranking member, RICHARD LUGAR, set the bipartisan tone that made this legislation possible. It is such a pleasure to work with a colleague who is not only a brilliant legislator but also a gentlemen in the true sense of the word. And within our committee the contributions of the chairman of the Credit Subcommittee, DAVID BOREN, a man who carries a heavy burden and a heavy legislative load as chairman of the Senate Intelligence Committee, took the time to bring that subcommittee together time and time again, and the staff time and time again, along with the ranking member, RUDY BOSCHWITZ. The distinguished Senator from Montana, Senator MELCHER, worked extensively on this legislation. He introduced S. 1665 which was the Senate farm credit bill that the Senate Agriculture Committee used in its deliberations. Throughout this lengthy process he made important contributions. And these gentlemen should be mentioned because without their perseverance, we would not be here. Their hours and hours of work in the Credit Subcommittee forged a broad consensus of support for this legislation. It went across the entire political spectrum. The legislation was improved immeasurably by their efforts.

Finally, the contribution of the staff to this legislation must be recognized. They have worked night after night, weekend after weekend, week after week on this legislation. In fact, at times, Mr. President, I have worried about the effect on their health of the hours they have worked. I came down to meet with staff last Sunday. They had worked until late Saturday night. They were working Sunday afternoon when I came in, and worked until 5 o'clock the next morning. But with the very small staff which the committee is permitted, there was little choice if the crisis of farm credit was to be avoided.

So I want to mention the contribution of Mike Dunn, Ed Barron, and Chuck Riemenschneider, the principal majority staff members of the Agriculture Committee who worked on this legislation.

John Podesta, Christine Sarcone, Jim Cubie, Cris Coffin, Mary Dunbar, Pat Collins, Mary Kinzer, Laura Madden, Cynthia Molina, Sue Nehring, Betsy Paul, Sharon Shinn, and Bob Sturm also worked countless hours.

The bipartisan spirit of Senator LUGAR's staff on the committee, especially Chuck Conner, Tom Clark, and Debbie Schwertner made the completion of this legislation possible this year.

Many others outside the committee were instrumental in completing this bill this year. Bill Baird and Gary Endicott of Senate legislative counsel worked side by side with the committee at every stage in the process and contributed greatly to the final product. David Freshwater, now with the Joint Economic Committee, Kellye Eversole of Senator BOREN's staff, Julie Hasbargan of Senator BOND's staff, and Terri Nintemann of Senator BOSCHWITZ's staff all can take great pride for their contribution to this important legislation.

Briefly, Mr. President, the agreed upon conference committee compromise has the following provisions:

ASSISTANCE TO FARM CREDIT SYSTEM BORROWERS

Farmers and ranchers that own and borrow from the Farm Credit System will have their current stock in the System guaranteed to protect their investment and prevent borrower flight. Farmers in trouble will be given a second chance—loans to distressed borrowers will be restructured when it is expensive than foreclosure. Disclosure requirements, homestead protection, right of first refusal, and other borrower rights of FCS borrowers will be greatly strengthened.

AID TO FINANCIALLY TROUBLED FARM CREDIT INSTITUTIONS THROUGH THE SALE OF SPECIAL PURPOSE 15-YEAR BONDS

Farm credit institutions are required to repay both the principal and interest on these obligations, significantly minimizing the impact on the Federal budget. These bonds are backed initially by $200 million raised by a one time special assessment of System institutions. In order to clear up past litigation, all assessments by the Capital Corporation as well as the third quarter 1986 voluntary contribution accruals will be returned or reversed prior to such assessment.

RIGOROUS FEDERAL OVERSIGHT OF THOSE FARM CREDIT SYSTEM INSTITUTIONS THAT RECEIVE ASSISTANCE

The conferees were adamant that this should occur, and such oversight will be provided by a special board consisting of the Secretary of the Treasury, Secretary of Agriculture, and one outside agricultural producer appointed by the President. This board can begin working immediately upon chartering to oversee financial assistance to troubled institutions.

Mr. President, Congress created a special Federal Oversight Board when assistance was provided to Lockheed, Chrysler, and the city of New York, and it is fitting that we do so here. Farm Credit System institutions receiving assistance will have the incentive to become financially viable in order to escape potentially burdensome Federal oversight.

REORGANIZATION OF THE FARM CREDIT SYSTEM SO THAT IT IS NOW MORE EFFICIENT

This bill will both require and encourage institutions of the Farm Credit System to reorganize in order to better serve their farmer and cooperative members and cut costs. I might add, Mr. President, that farmers and farmer cooperatives members in each region of the country are given the opportunity, under this legislation, to create a Farm Credit System structure that best serves their business needs.

CREATION OF A SECONDARY MARKET FOR AGRICULTURE REAL ESTATE LENDING

Farmers will benefit from this provision as it will allow greater competition without unnecessarily jeopardizing the current financial condition of the Farm Credit System. Interest rates to farmers and rural residents should come down and fixed rate loans will be more readily available.

Mr. President, the secondary market provisions in this bill are important for rural America.

NEW CAPITALIZATION TECHNIQUES FOR FARM CREDIT SYSTEM INSTITUTIONS

This bill ensures that Congress will never again be plagued by the concern over the impairment of farmer stock in these institutions. In the future, Farm Credit System institutions will be required to properly capitalize these lending institutions with truly at-risk capital, and not the phantom farmer stock capital of the past.

During a transitional phase, the conferees unanimously agreed that farmer stock will be protected in order to provide the necessary confidence to farmer and cooperative borrower owners.

AN FDIC TYPE INSURANCE FUND

All system banks are required to participate in an insurance fund beginning in 1990. Both the House and Senate bills established such a fund, and the conferees believe that such a fund will provide further assurance to investors, as well as farmers, that Congress will never again have to consider a bail out of the Farm Credit System.

CLARITY ON THE IMPLEMENTATION OF FARMERS' HOME ADMINISTRATION PROGRAMS

We must not forget these often disadvantaged farmers. Borrower rights such as notification, homestead redemption, loan restructuring, income release, and right of first refusal will all be strengthened in this bill.

Mr. President, this is a very quick review of the major provisions in the conference report which I am submitting as part of my statement. I do want to make it clear to my colleagues that this bill is written to help farmers, and not to bail out the Farm Credit System.

I admonish the Farm Credit System to recognize that it only exists to serve farmers and their cooperatives, and that we in Congress have only acted in recognition of this need. As the chairman of the Senate Agriculture Committee I will not tolerate any further disregard for the basic rights of owners of the Farm Credit System as displayed by some institutions in the past. This bill clearly is intended to help the Farm Credit System institutions serve their members better, and more efficiently as responsible business organizations.

Mr. President, I ask my colleagues to support this conference report.

Mr. LEAHY. Mr. President, I yield to the Senator from Indiana.

The PRESIDING OFFICER. The Senator from Indiana is recognized.

Mr. LUGAR. Mr. President, I yield myself as much time as I may require.

Mr. President, we have been fortunate to have the gifted leadership of our chairman, Senator LEAHY. Throughout this process he has brought a spirit of good will and conciliation to each endeavor which has been critical. It has been a special pleasure to work with him, and all members of the committee on this legislation. I will also like to make specific mention of Senator BOREN, chairman of the Farm Credit Subcommittee which met indefatigably throughout the period of 3 months to try to make certain that we did the right thing with regard to farm credit, and produced a bill that would work for farmers and bring stability to agricultural credit in America.

I thank especially Senator BOSCHWITZ, the subcommittee's ranking member, who worked with Senator BOREN, Senator LEAHY, and myself. I would like to mention specifically, because they are on the floor here today to take part in this debate, Senator COCHRAN and Senator KARNES who added special points of interest because they represent constituencies, that are deeply involved with and affected by the outcome of this legislation. These distinguished Senators have given great service to make certain their constituents are well served.

Mr. President, the conference report came about, as Senator LEAHY has pointed out, because we had excellent work by House conferees in the spirit of good will and conciliation. What could have been tedious process was expedited by extraordinary work by the staff as well as by the work of members.

I point out, Mr. President, that H.R. 3030, the vehicle we are working on today, was unanimously approved by the conference committee. It is indeed comprehensive legislation that deserves the strong support of the Senate and signature by the President.

As was the case with the Senate-approved measure, the conference bill calls for the establishment of an Assistance Board consisting of the Secretary of Treasury, the Secretary of Agriculture, and one farmer appointed by the President. This entity will be responsible for the issuance of all financial assistance which is generated through the sale of up to $4 billion in guaranteed bonds.

The Assistance Board will have the authority to approve an insolvent Bank's business plan, authority to require the setting of interest rates based upon marginal cost pricing, authority to remove bank managers or employees who refuse to take aggressive action toward self-help measures, and finally, authority to require mergers of banks and associations whose financial condition has deteriorated beyond repair. These powers are in large measure the reason this legislation can be characterized as a reform bill and not simply a bank bailout.

The Assistance Board will ensure that public funds will not be given to those institutions that refuse to take responsible measures to help themselves. The Board is similar in structure and power to the Chrysler Board that I proposed in 1979 which helped lead that troubled entity back to profitability.

The Assistance Board will attempt to correct three basic problems that have resulted in approximately $4.2 billion in System losses during the last 2 years:

First, excessive overhead expenses due to an obsolete structure and considerable duplication among System institutions amounting to about $800 to $900 million in overhead expenses annually. These expenses have helped to make the System's interest rates less competitive than the rates available from commercial banks and other lenders, and that situation is going to be reformed.

Second, management who have refused or failed to make tough decisions to eliminate the root causes of the financial problems facing some institutions. Legislative attempts at that problem are very substantial. In many instances the System can improve their financial position by simply restructuring their nonaccrual loan portfolio into interest-bearing loan accounts. With the exception of the St. Paul District, significant effort in this area has not been taken throughout the System.

Third, the failure of System banks to respond to obvious merger situations needed to bring about cost savings measures will be reformed. Contrary to popular belief, the System has large financial reserves in excess of $1.2 billion and many problems can be solved by simply merging a trouble bank with a healthy one. The conference bill addresses this problem by merging the troubled Federal Land Banks with the healthier Federal Intermediate Credit Banks. Under the provisions of the bill, the Assistance Board may also require a merger as a condition for receiving financial assistance. Poorly managed and inefficient banks and associations should be merged with other entities that have a better track record.

Many aspects of the present Farm Credit System will be brought to a close by the Assistance Board. Banks and associations will be merged, and bad management removed. This was clearly our objective—a tough-minded, fast-acting Assistance Board whose purpose will not simply be to protect every vestige of current Farm Credit System.

Mr. President, while this legislation is tough on the Farm Credit System, by all measures it is a particularly generous bill for the System's present borrowers, and other debt-ridden farmers.

The conference bill requires the Farm Credit System banks receiving assistance from the Assistance Board to restructure and write down delinquent farm loans to the net present value of each particular loan. A delinquent borrower whose net equity has fallen due to declines in land values will have the opportunity to reduce his or her outstanding indebtedness to the current liquidation value of the collateral property. For many farmers, this debt write down requirement will enable them to remain in farming.

These mandatory restructuring provisions are further strengthened by the fact that decisions not to restructure are monitored and reviewed at both the district and national levels—first by the applicable district special asset group and then by a National Special Asset Council on a sample basis. This two-tiered review will help to ensure that farmers are receiving fair treatment through the loan restructuring process.

The bill contains an extensive borrower's bill of rights section that provides further protections and benefits to distressed farmers. Borrowers who lose their land would have first option to rent or purchase the property back from their lenders at current market rates. The system is required to allow foreclosed borrowers to remain an occupant of the homestead while the bank attempts to sell the property.

Borrowers are guaranteed complete access to their loan files so that they will better understand the credit policies of the lender and the reasons behind adverse credit decisions. The bill requires System institutions to fully disclose their real rates of interest including provisions for the purchase of stock and they are required to notify borrowers of any changes in the rates of interest.

Finally, the borrowers' rights section allows borrowers to obtain copies of stockholders' mailing lists in order to promote open communications and oversight by the member/borrowers. Access to these lists will be particularly important prior to membership votes on mergers and consolidations of banks and associations.

Some may argue that the benefits of this bill are not broad-based enough to help all farmers and this is obviously the case. We have just been through difficult deficit reduction negotiations and we simply do not have the means to fund any across-the-board schemes to assist all farmers. But we have, with these very targeted benefits, done our best to make certain that every conscientious farm in this country has an opportunity to benefit fully through the restructuring provisions and through the preservation of a system of farms credit that makes that credit available not only to those in distress but also to the agricultural community in general.

MAJOR CHANGES FROM SENATE PROVISIONS

THIRD QUARTER LOSS SHARING AGREEMENTS

Mr. President, let me make these further comments on some changes in the conference from Senate provisions.

The major change was in the third quarter loss sharing agreements. In the third quarter of 1986, healthy districts agreed to contribute $415 million to help troubled banks but later sued to retrieve these funds. The Senate bill ratified these agreements in order to eliminate the litigation that had prevented the actual transfer of funds. The House bill, on the other hand returned these third quarter assessments to the healthy banks and replaced the funds with money from the Treasury.

The conference compromise returns these third quarter assessments to the banks but replaces them with money obtained from bonds sold through the Assistance Corporation. Unlike the other guaranteed bonds, where the Treasury pays all the interest for 5 years and half the interest for the second 5 years, the entire Farm Credit System would be responsible for paying all interest of the $415 million third quarter fund bonds. Hence, reversal of this assessment does not increase the cost of the Senate bill. This compromise should also address concerns expressed by Senators GRAMM and BENTSEN of Texas, during Senate debate.

MERGERS

Both bills called for the creation of an Assistance Board with powers to govern receiving institutions. The Senate's bill gave the Board broader authority to liquidate or merge troubled banks, remove inept management, and other actions.

The House provisions were tougher in other areas with the so-called Stenholm amendment, which called for mandatory mergers of district Federal land banks and Federal intermediate credit banks.

The conference bill, in effect, takes the best of both bills and indeed strengthens the reforms of the Senate bill. Clearly, the Assistance Board had to be given broad reform and merger powers in order to minimize the need for Federal assistance.

But, in addition, the conference report adopted the House merger language to require immediate merger of each district Federal land bank and Federal intermediate credit bank. These mergers will reduce overhead costs and streamline management. In addition, other mergers among district banks are encouraged by offering financial incentives to those banks who agree to merge.

SECONDARY MARKETS

Both bills called for the creation of a secondary market for farm mortgages. The conference approved the stronger House language that calls for greater State regulation of these securities. These provisions were strongly endorsed by the U.S. Department of Treasury and represented one of their major concerns with the Senate-passed bill.

FARMERS HOME ADMINISTRATION

The conference committee struggled with this title. Both bills contained significant FmHA reform provisions. The House bill provided open-ended provisions for income release to farmers prior to foreclosure. The cost of these provisions exceeded $500 million. The Senate bill on the other hand, which had been developed in close consultation with the administration, contained a more targeted income release section with caps of $18,000. The cost of the Senate income release section was $47 million in fiscal years 1988 and 1989.

Both bills mandated the FmHA to restructure delinquent loans that had been cheaper than foreclosure, but the Senate language enabled the FmHA to recapture a certain percentage of any loan writedown for a period of 10 years if that particular farmer's financial situation improved. The House had failed to include such a provision despite serious objections by the administration.

The House agreed to recede to the Senate on both of these provisions which helped to preserve the lower cost of the Senate bill.

As a tradeoff for this action, the Senate conferees agreed to delete the so-called drop dead provisions of the Senate bill which authorized the FmHA to expedite foreclosure proceedings against any restructured loan that became delinquent again. Admittedly, the administration objects to this deletion, but the tradeoff was necessary in order to reduce the enormous cost of the House bill for this title.

COST ARGUMENTS

A formal estimate is not available for the conference bill at this time. However, the cost provisions should track very close to the original Senate bill which cost about $96 million in fiscal year 1988 and about $1.3 billion in fiscal years 1988-92.

The costs were influenced by: first, FCS funding mechanism; second, State mediation program; and third, FmHA provision.

The House receded to the Senate on the funding mechanism and the State mediation programs. They also receded to the Senate's FmHA income release caps which accounted for most of the cost of the FmHA provisions.

Mr. President, I believe that this fairly summarizes those changes that occurred in conference, as can be seen from my recitation of them. We are deeply pleased with the conference. We believe the basic Senate bill and the integrity of the provisions was retained. We receded to the House and strengthened our original language.

I commend the conference report to the Senate, and I hope it will receive overwhelming support.

The PRESIDING OFFICER. The Senator has 6 minutes remaining.

Who yields time?

Mr. LEAHY. Mr. President, I yield to the Senator from Oklahoma such time as he may need.

Mr. BOREN. I thank my colleague, the distinguished chairman of the Agriculture Committee, for yielding to me. It has been a pleasure to work with him and with the ranking member, Senator LUGAR, in the full committee, on this legislation.

Mr. President, as has already been said, without their leadership, without their support, without their constant encouragement, we would not be at the point today where we are able to offer this bill now to the Senate with conference action finalized and send it to the President for his signature.

Without their efforts, without the efforts of Senator BOSCHWITZ, the ranking member of the subcommittee which I chair on farm credit, without the cooperation of every member of the subcommittee and the full committee, we would not be at the point at which we find ourselves this morning.

At this frustrating period, as we come to the end of a long session of Congress this year, with some items still to be resolved, with budget problems still looming, it is refreshing to see that we could take a complicated piece of legislation like this, one that was very controversial in the beginning, and bring it to this point.

When the legislation was first considered, the committee appeared to be split down the middle. The administration was sending signals that they did not believe Congress could produce a farm credit bill they would find acceptable. Time and time again during the process, the word "veto" was mentioned as a real possibility. So we began the year with a critical situation, a crisis for farm credit.

As Chairman LEAHY has said, over $50 billion of farm credit is involved in the Farm Credit System. In many States there is a real need, with agriculture already in trouble, to return a degree of stability and confidence by dealing with the problems of the Farm Credit System. As we faced that crisis, we were able to come together on a bipartisan basis on both sides of the Capitol.

Both committees, the House and the Senate committee, were able to reach consensus legislation.

We had the cooperation of virtually all the farm groups in this country who put aside individual differences among the organizations to come out in support of the consensus bill. We had involvement by the administration to an unprecedented level. Representatives of the Treasury Department, of course, the Agriculture Department, Farm Credit Administration, the Farmers Home Administration, the Office of Management and Budget, and others participated in our deliberations.

After visiting with members from the administration yesterday, I received welcome news that it is very likely that the President will approve this legislation and sign it into law. While we understand that the administration still has some reservations about portions of the bill, this is certainly good news, and, speaking as the chairman of the Subcommittee on Farm Credit, I look forward to working with the administration and others next year in areas in which there is a feeling that there is a need to perfect the provisions which are contained in the legislation.

The members of the subcommittee and the members of the full committee attended virtually all of the meetings and participated fully.

I have never been involved in a process in which a bill was written since I have been in the Senate in which the members of the subcommittee themselves spent so much time in the actual writing of the legislation. We considered over 200 amendments. We did so without a single rollcall. We were able to reach a consensus among members of the subcommittee on every one of these 200 items. Attendance at subcommittee meetings, as I mentioned, usually exceeded the membership number of the subcommittee because we not only had virtually 100 percent attendance on both sides of the aisle of members of the subcommittee, we had participation by the distinguished ranking member of the full committee, Senator LUGAR, who was at virtually every single meeting and a meaningful participant. We had the participation of the chairman, Senator LEAHY, of the full committee, who, in spite of his heavy responsibilities at the same time in the Judiciary Committee, constantly met with us, came to give his encouragement, and continued to help us work out a solution to the difficult problems that we face so that we could have a consensus. We had participation by Senator CONRAD on our side of the aisle from the full committee, who was also not a member of the subcommittee but who contributed immeasurably to the writing of this bill. Senator MELCHER is to be commended for his leadership in this effort. As the author of S. 1665, his ideas and knowledge were invaluable.

So at a time of frustration for the Congress when we are having trouble completing the business of the country on time, I think this is an example of what can be accomplished when both ends of Pennsylvania Avenue work together, when an entire community of private citizens work together, when farm organizations get together, and when you have a true bipartisan spirit prevailing on both sides of the Capitol. We have seen an example of what can be accomplished.

What we have done here will be of great help to the farmers of this country. It will provide a level of certainty and stability that we have not had in the Farm Credit System for a number of years and at the same time, while it provides true help for the farmers of this country, it also is not a blank check. We have carefully protected the rights and interests of the taxpayers of this country by putting people of substance, the Secretary of the Treasury and the Secretary of Agriculture, on the Assistance Board and by giving the Assistance Board adequate powers to insist upon reforms and efficient management in the Farm Credit System, especially from those institutions that will be receiving assistance. We have gone a long way to making sure we will not have the same kind of problems in the future, that reforms will be made, that the taxpayers money will be efficiently and wisely used and that the amount of the taxpayers money that is used will be kept to the absolute minimum necessary to accomplish the job.

We created a secondary market that promises a new source of capital for agriculture in the future but done so in a way of phasing it in a manner that will enable the Farm Credit System to be in a position of reforming itself to compete and to retain its own market share.

We have also provided very important new rights for the borrowers and for the farmers, and we have clarified the relationship of the farmers and borrowers to the system in a way that is beneficial to all the farmers of this country.

So, Mr. President, I simply want to say more than anything else today a word of thanks to all of those who have participated in this process, especially to our chairman and ranking member of the committee and ranking member of my subcommittee, Senator BOSCHWITZ; the administration; representatives of the administration who worked with us; those from the farm groups that have worked with us. Members of the staff, as has already been mentioned by Chairman LEAHY, put in literally thousands of hours in work on this particular legislation. And also I say a word of thanks to our colleagues on the other side of the Capitol, Chairman DE LA GARZA, and chairman of the subcommittee ED JONES, who have been of immeasurable help, and we all agree that the staff on the House side also was of great assistance to us as we worked in the conference committee to reach the final product.

So I say to all of those who helped us in this effort thank you for a job well done, thank you for a consensus effort that will be of real benefit to the farmers of this country.

The PRESIDING OFFICER. The Senator from Vermont has 6½ minutes. The Senator from Indiana has 6 minutes.

Mr. LUGAR. I yield 2 minutes to the distinguished Senator from Mississippi.

The PRESIDING OFFICER. The Senator from Mississippi is recognized.

Mr. COCHRAN. Mr. President, I thank the distinguished ranking member of our full committee, DICK LUGAR.

I think that the quality of the statements that have already been made by the chairman of the committee, Senator LEAHY, and by Senator LUGAR, and also by the chairman of our subcommittee, Senator BOREN, have adequately explained the content of this legislation and why it is important for the Senate to approve this conference report so that the administration can sign this bill as soon as it gets to the White House.

I especially want to compliment and thank the managers who worked so hard and with a sense of true determination and commitment to get this bill put together and to get the conference to act on it in a timely fashion.

We are confronted with an emergency situation in the Southeast. The Jackson land bank faces a situation which could be very devastating to many borrowers, many investors, those who depend upon the Farm Credit System for farm credit at this very crucial time in our agricultural sector.

Without that kind of commitment, I do not think we would have any hope that the system could have been saved to be what we have come to expect from it and that is a reliable supplier of credit at reasonable rates for farmers and landowners.

I think the bill before us now does meet the goals that we set when we started to work in the committee on the legislation, and that is that farmers will have a better chance to get competitive rates of interest on their loans from the Farm Credit System.

Mr. President, I thank the Senator for yielding to me, and I hope the Senate will approve this and the administration will sign the conference report quickly.

The PRESIDING OFFICER. Who yields time?

Mr. LEAHY. Mr. President, I yield to the Senator from Kansas, the distinguished minority leader.

Mr. DOLE. Mr. President, I am pleased that the conferees on farm credit have finished their work. This was not an easy chore given the complexity and scope of the Farm Credit System's [FCS] problems and I commend my colleagues for their perseverance in completing the task. With the technical insolvency of the Jackson district and the potential for serious problems in several other districts, it is extremely important we act this week to keep the system sound and functional.

FINANCIAL ASSISTANCE

I am pleased the conferees accepted the Senate's funding mechanism which provides up to $4 billion in Government-guaranteed bonds and requires the System to repay the Treasury for any interest subsidies. This will limit the exposure of the Treasury and U.S. taxpayers while providing the financial assistance necessary to keep the System afloat.

RESTRUCTURING THE SYSTEM

One issue that has received conciderable attention is whether the System should be consolidated to reduce its high overhead costs. The conferees agreed to allow stockholders of a district to vote on whether they will merge with another district. If a district that receives financial assistance votes not to merge they will be held solely liable to pay back the principal amount of the assistance. However, if the receiving district agrees to merge, then the obligation to repay the principal amount would be shared by the System as a whole. The systemwide merger process would result in no fewer than six districts.

AN ACCEPTABLE PACKAGE

Mr. President, this is an acceptable package. It will not solve every credit problem of every farmer. But it does provide stability to the System and ensures farmers will have a dependable source of credit. It should stem borrower flight by fully guaranteeing borrower stock. It requires the System to restructure distressed loans when it is less expensive than foreclosure. It provides a process of notification and appeals to insure that borrower's rights are fully protected.

It also provides for a secondary market that would allow commercial lenders to provide long-term fixed-rate real estate loans to farmers. The added competition in the real estate market should help lower borrower interest rates.

CONCLUSION

This may not be a perfect bill. But it does succeed in passing the benefits of Federal aid to a large and troubled lender through to its borrower-members while limiting the bill's costs to American taxpayers. I want to again commend my colleagues on the Agriculture Committee for their hard work. This package is important to farmers and needs to be passed this week and signed by the President.

Mr. LEAHY. Mr. President, I will now yield to the Senator from Montana.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. MELCHER. Mr. President, this bill is highly needed by agriculture throughout our country. The borrowers who are farmers and ranchers operating out across the countryside produce the food and fiber necessary for the country and have to have a better farm credit situation. The bill does key things: lowers the interest rates for farm and ranch borrowers in the Farm Credit System.

Second, it restructures all those loans for borrowers that need more time and lower interest rates in order to make their operation successful to the necessary credit that is called for. This bill is going to provide an opportunity for them.

Third, it does provide for an aggressive program of borrowers' rights to protect the individual borrowers.

I might say here in this regard the Farmers Home Administration is also involved and those borrowers who are now operating with Farmers Home Administration loans are going to have their rights protected, going to have their chance for restructured loans so their credit line can become a good sound operational potential and their operations can be viable and can recover.

Fourth, the guarantees on the face value of borrowers stocks in the Farm Credit System is required in this bill, and it is on this point I would like to ask the chairman of the committee, Senator LEAHY, and the ranking member of the committee, Senator LUGAR, to assure me that the "B" stock that has been frozen in those PCA's that have been liquidated will be promptly repaid under the terms and conditions of this bill.

Mr. LEAHY. Mr. President, I will assure the distinguished Senator from Montana that is the intent. I have never heard otherwise and certainly I would expect that that would be done.

Mr. LUGAR. I would like to respond to the distinguised Senator that on our side we believe the payments should be promptly made.

Mr. MELCHER. By that I interpret it to be no more than 30 or 60 or 90 days after the passage of the act; is that correct?

Mr. LUGAR. It will get prompt consideration.

Mr. LEAHY. I understand 30 days.

Mr. MELCHER. Thirty days.

All right.

I thank my chairman and I thank the distinguished chairman from Indiana, Senator LUGAR.

I thank the chairman Senator LEAHY, the Credit Subcommittee chairman, Senator BOREN, the ranking member, Senator LUGAR, and ranking subcommittee member Senator BOSCHWITZ, for honoring me by using my farm credit bill, S. 1665, as the bill to develop this final resolution of the problems of providing reasonable interest rates and adequate credit for America's farmers and ranchers.

Each year, for the last 3 years, one of the last acts of Congress has been to pass legislation designed to help the Farm Credit System. The last two times we provided assistance, we were not in a position to do so in a comprehensive, thorough manner.

This year we have gone through a long and painful but fruitful process to overhaul the farm credit laws that will not only stabilize and save the Farm Credit System but also to do so in a manner that will provide farmers and ranchers with good credit assistance as well.

The litany of problems that have afflicted agricultural America over the past 7 years should be familiar. Land prices, commodity prices, and net farm income all suffered disastrous declines. The costs of production, particularly interest rates, however, skyrocketed in the opposite direction.

Some have said that this situation has reversed. Perhaps, in some few areas that may be true. But I know that hard working Montana farmers and ranchers are still hard pressed. I still receive daily calls from individuals, many of whom represent the third or fourth generation of farmers or ranchers, who face immediate loss of the land over which they have had the stewardship for many years.

These are not bad managers. These are not people who are frivolous or spendthrifts. Many are people that I have known personally from the days when I practiced veterinary medicine in the Yellowstone Valley of Montana.

These are people who deserve the opportunity to continue in their profession—the very honorable profession of feeding the people of the United States and the world.

And this is not something that just affects the people who work the land. When farmers and ranchers go down, their communities shrink and sink, their suppliers go down, and much of America's rural business community with them. To paint this picture just slightly larger, surely we must recognize that we cannot have a prosperous America if we are faced with a rural depression.

To send a powerful and positive signal to the people of agricultural America, we cannot allow the Farm Credit System to collapse. We must assure that the means of maintaining the most productive agriculture that the world has ever seen will stay in place. This year we have crafted legislation that holds the promise of seeing that the credit essential to agricultural economics can be available on a reliable and affordable basis.

In particular, this bill would:

Lower interest rates to borrowers by infusing the Farm Credit System with new capital. It authorizes the issuance of bonds that will be repaid by the Farm Credit System after 15 years. This new capital will take the pressure off the System by relieving the burden of existing high cost bonds and enable rates to come down for borrowers.

Restructure all loans that show promise with a stretch out in time and at lower rates of interest.

Provide that both an aggressive restructuring policy be accompanied with protection of individual borrower rights. System banks must write down loans and reschedule payments when that is cheaper than foreclosure. Borrowers will have the right to more information concerning their loan and will have the right to recover foreclosed property on the best terms that would be otherwise offered to other potential buyers.

Guarantee the face value of all outstanding borrower stock. This means that borrowers who pay off their loans will have their stock returned with no impairment. Borrowers who lost stock value in Montana, Nebraska, and most recently in the entire Jackson district will be protected. This will greatly enhance borrower confidence in the entire System.

Provide that Farmers Home Administration lending to farmers and ranchers is broadened by strong borrowers' rights, and debt restructuring that means farmers and ranchers will have a longer time to work out their debt problems.

Establish a secondary market for the Farm Credit System and commercial lenders which will give borrowers another lending option and provide the lenders with improved liquidity.

The bill takes on the credit problems facing our farmers and ranchers in a comprehensive way. We do not want to have to come back here a fourth year in a row. This bill is designed to restore the Farm Credit System to the health it enjoyed for the most of the last 50 years.

Earlier in my remarks, I said that this was a long and painful process. I would like to say that in my years in Congress this bill was developed through a process that was more careful and more comprehensive than had been the case in most bills passed by Congress. Every possible interest was consulted. Numerous hearings and markup sessions were held. All of the people who were involved worked hard with the objective of preparing a bill that would be meaningfully helpful. I think that objective has been achieved. I would like to thank all the people who spent so much hard work on this effort. There are simply too many for me to name them one by one.

I am proud that this bill will bear my name and I am optimistic that it will be part of the steps necessary to begin recovery in rural America. I urge the adoption of the conference report.

Mr. LEAHY. Mr. President, what is the time left?

The PRESIDING OFFICER. The Senator from Vermont controls 2 minutes and 15 seconds and the Senator from Indiana has 3 minutes 45 seconds.

Mr. LUGAR. Mr. President, I yield 1 minute and 45 seconds to the distinguished Senator from Nebraska and 1 minute and 45 seconds to the distinguished Senator from Minnesota [Mr. BOSCHWITZ].

The PRESIDING OFFICER. The Senator from Nebraska is recognized.

Mr. KARNES. Thank you, Mr. President.

I would like to recognize the able leadership of Chairman LEAHY and the ranking minority member, Senator LUGAR, for doing an extraordinary job in moving this measure through the mine fields of the legislative process.

Also, I would like to compliment Subcommittee Chairman BOREN and ranking minority member BOSCHWITZ for their extraordinary commitment to moving this legislation along. It was truly a bipartisan effort and a spirit of compromise prevailed throughout the discussions.

What we have today is an innovative, fiscally responsible solution for a troubled Farm Credit System. This is, in my opinion, the most important agricultural legislation of the 100th Congress. We have addressed the financial crisis facing the Farm Credit System. American agriculture now has a strong partner for hopefully another 70 years into the future, much as the Farm Credit System has served the American farmer in rural communities for the past 70 years.

There is no question about it; we are helping farmers with this bill.

And, as we help farmers to prosper, the Farm Credit System, which provides farmers credit, will also prosper. We have reestablished once again the credibility stock in the Farm Credit System. We have accommodated loan restructuring which will allow farmers to stay on the farm.

We have also provided a reorganizational base for the Farm Credit System that will allow the farmer borrowers, who are the shareholders and owners of the System, to have a say in what should be done in the future. We are addressing the needs of the Farmers Home Administration borrowers by encouraging loan restructuring.

Of great importance to me and to all of rural America is the establishment of a secondary market for agricultural mortgages and rural housing loans in the farm credit legislation. This will provide an opportunity to capture the innovative that we are seeing occur in the financial markets and provide new credit options to the rural borrowers of America and to lenders. The establishment of a secondary market will serve American agriculture right into the 21st century.

The secondary market will provide, for the first time in many years, the opportunity for farm borrowers to secure long-term credit at fixed, competitive rates.

This legislation restores confidence and stability to the Farm Credit System and, more importantly, it will facilitate many farmers staying on the farms and prospering. It will place all lenders who serve agriculture on an equal footing so they can compete aggressively in serving agriculture. To this Senator, Congress is providing to farmers and rural communities a great Christmas gift in the form of a revitalized agricultural credit system.

Mr. President, now that Congress has completed its work, we now send this legislation to the President. I ask President Reagan to act affirmatively and quickly because time is of the essence.

And, finally, Mr. President, I would like to mention a technical item which has come up as we prepare to the vote. This deals with the secondary market, and it deals with merged Farm Credit System institutions. Where a Federal land bank and a Federal intermediate credit bank are merged under the provisions of this legislation, the merged bank will be authorized to act as an originator and to become qualified as a facility for the purposes of title VII of the bill.

With those remarks, I applaud my colleagues for the leadership that they have exhibited in the consideration of this legislation, and ask once again that the President move quickly to sign this legislation into law.

I yield the floor.

The PRESIDING OFFICER. The time of the Senator from Nebraska has expired.

The Senator from Minnesota is recognized.

Mr. BOSCHWITZ. Mr. President, I rise to speak in support of the conference committee agreement on the Farm Credit Act Amendments of 1987.

I am pleased that the conference committee was able to act so quickly. And, really, that was because of the enormous efforts by the staff negotiating most of the problems out in advance. I agree that everyone should be complimented for their hard work.

I also join with my colleagues in giving accolades to the chairman, Senator LEAHY; to the ranking minority member, Senator LUGAR; and Senator BOREN. I congratulate all involved.

As I've said before, we simply cannot allow the Farm Credit System [FCS] to fail. FCS is the largest provider of credit to rural America and its failure could have a devastating effect on the entire agricultural economy. A strong agricultural sector needs access to financial resources. Congress has passed legislation in each of the past 2 years to address some of the financial difficulties facing FCS and its borrowers. However, this time around it was evident that FCS would need financial assistance and that a broader piece of legislation was imperative.

The conference committee has arrived at a good compromise bill. Earlier this year I identified four important goals for farm credit legislation and I believe this bill achieves those goals. First, in providing financial assistance to FCS we must minimize taxpayer and treasury exposure. This bill retains the Senate bill's funding mechanism which uses the proceeds from the issuance of up to $4 billion in Government-backed bonds to raise the funds needed to assist FCS institutions. FCS will be required to repay both the principal and interest on these bonds. Under the Senate bill, institutions that received assistance were solely responsible for repaying the principal; however, under the conference bill all FCS institutions will be required to join in the repayment of the principal. Like the Senate bill, the conference bill creates an Assistance Board. This Board would be composed of three members—the Secretary of Agriculture, Secretary of the Treasury, and an agricultural producer with experience in financial matters—which will oversee assistance to FCS institutions and ensure that assistance provided is used wisely. This Board will have special powers over FCS institutions receiving assistance, including approval of the institution's business and operating plans.

Second, this legislation must retain the cooperative structure of the Farm Credit System and preserve local control. This is evident in the provisions regarding the reorganization and restructuring of FCS. The conference committee arrived at a good compromise between the House and Senate provisions. The House bill mandated a number of specific changes while the Senate bill provided more flexibility in allowing FCS and its borrowers to determine how FCS districts and associations should be organized. This bill incorporates a bit of each approach.

Both the Senate and House bills recognized the importance of striving for improved System efficiency and reducing FCS overhead expenses to keep the interest rates charged to borrowers at equitable and competitive interest rates. Under this conference bill each Federal Land Bank and Federal Intermediate Credit Bank in each district would be required to merge. We have maintained the fundamental cooperative principal of stockholder participation in FCS by requiring that farmer/borrowers vote on all other proposed mergers whether at the district or association levels.

Third, we must restore borrower confidence in FCS and stem borrower flight from FCS institutions. By providing financial assistance to FCS, we are sending a signal to borrowers that the Farm Credit System will continue serving the credit needs of rural America. We've all heard about borrowers leaving FCS because they fear that the stock they have invested in FCS as a condition of making a loan may not be returned to them. This bill also protects borrower stock.

Fourth, we also must look ahead and plan for the future. We have given FCS and its borrowers more options in reorganizing the Farm Credit System to best serve the needs of its borrowers. In addition, this bill addresses the need for adequate capitalization of banks and associations. The bill requires the Farm Credit Administration to set capital adequacy standards for FCS institutions and requires the stockholders of each bank or association to approve bylaws about how it will meet these capitalization standards. Furthermore, the bill also creates an insurance corporation which will be used to back FCS bonds.

There are several other provisions of the bill that are of particular importance that I will just briefly mention. A secondary market for agricultural real estate loans is established. This will be open to commercial lenders as well as FCS. This secondary market will help agriculture over the long run by providing farmers with fixed-rate long-term mortgages and by reducing lenders' risks in providing these loans to farmers. This bill also requires outside directors to serve on FCS bank and association boards. The bill also provides for some reforms of the Farmers Home Administration [FmHA] addressing many of the problems facing FmHA and its borrowers. For example, the bill creates a new appeals process, revises notice requirements, requires loan restructuring and revises the procedures relating to the sale of inventory property.

It is also important at this time to recognize the many hours of hard work completed by the staff as this bill went through the Senate and now through the conference committee. In particular I want to thank several staffers who have put in some long hours quite recently: Chuck Connor, Tom Clark, Chuck Riemenschneider, Mike Dunn, and Ed Barron of the Senate Agriculture Committee staff, Julie Hasbargen of Senator BOND's staff, Kelleye Eversole of Senator BOREN's staff, Bill Baird and Gary Endicott of Senate Legislative Counsel, and Terri Ninetemann of my staff.

Again, I believe that this bill provides the necessary assistance to FCS to ensure that it remains a viable lender to agriculture and will enable it to charge competitive and equitable interest rates to its borrowers. I urge my colleagues to support this bill.

Mr. LEAHY. Mr. President, I yield to the Senator from North Dakota.

Mr. CONRAD. Mr. President, very briefly, I just want to thank, on behalf of the farmers of my State, the chairman of the committee, Senator LEAHY, and the ranking member, Senator LUGAR, for establishing a bipartisan tone of problem-solving in getting this legislation to the floor.

I also want to thank, on behalf of the people of my State, Senator BOREN, as chairman of the Credit Subcommittee, and Sentor BOSCHWITZ, as ranking member, for an absolutely exceptional effort. No bill took more time or more effort than this one, and they deserve our thanks, as well as other members of the subcommittee and the full committee.

Mr. LEAHY. Mr. President, I yield to the Senator from Iowa.

Mr. HARKIN. Mr. President, I, too, want to rise in support of this conference report on H.R. 3030. I just want to again add my accolades to all of those who were involved on both the minority and majority side, especially Senator BOREN, from Oklahoma, who spent days, weeks, months working on this piece of legislation.

I also want to join with all of my colleagues in thanking the staffs of both the majority and minority side for all of their hard work through many long hours, sometimes all night long, in getting this report done for us by this time.

Mr. President, it is a great piece of legislation, one that is going to help rural America immensely.

I would not want to let the moment pass without also saying there are important provisions dealing with the Farmers Home Administration in ensuring that we have a mediation program in Farmers Home so we can try to avoid the severe cost of litigation of going through bankruptcy. It is a good piece of legislation, Mr. President, and I hope it will receive unanimous support by this body.

As a member of the conference committee I commend all those who have been involved in developing this conference agreement in such an efficient manner. I would remind my colleagues that this large and complicated piece of legislation passed the Senate on December 4, just 13 days ago. Yet here we are today with an excellent conference agreement. I believe this is a real tribute to the leadership and staff of this committee.

This legislation achieves several important goals. It will bring financial stability to the much troubled Farm Credit System. It will provide assistance to the System's farmer borrowers by providing a full guarantee to presently owned stock, the establishment of a loan restructuring program in each FCS district, and the strengthening of borrower rights. To improve System efficiency, the bill provides for a reorganization of System institutions through a series of voluntary mergers based on stockholder approval; however, each land bank and intermediate credit bank in each of the 12 districts must merge within 6 months after the date of enactment. To facilitate the financing of long-term agricultural debt, this bill creates a secondary mortgage market open to all agricultural lenders. Finally, the bill requires that the Farmers Home Administration of the USDA must renegotiate and restructure loans where it is less costly to the taxpayer than foreclosure as well as other improvements to the administration and operation of the Farmers Home Administration.

As one who was directly involved with the administration in the negotiation of the FmHA provisions, I am pleased with the outcome. I believe that in the long run, these amendments will save the taxpayer large sums of money while assisting in keeping thousands of family farmers in business. In addition these provisions will alleviate the legal quagmire which has ensnarled FmHA for the last several years.

Another provision of this bill which I authored will establish a nationwide farmer-lender mediation program based upon the highly successful Iowa mediation program. The Iowa program has enabled many financially troubled farmers to achieve a negotiated settlement of their debt, avoiding costly litigation. I look forward to overseeing the implementation of this important program.

In conclusion, Mr. President, I am proud of this legislation, and urge the adoption of the conference report.

RESOLUTION OF THIRD QUARTER CAPITAL PRESERVATION LITIGATION

Mr. LEAHY. Mr. President, this bill provides a fair and equitable way to resolve at no expense to the Federal Government the costly and divisive litigation concerning the amounts received or that remain accrued by Farm Credit System institutions for the third quarter of 1986 under the System's capital preservation—or loss-sharing—agreements.

The mechanism designed to accomplish this is straightforward and understandable—third quarter payables on the books of the contributing institutions will be transferred to the Financial Assistance Corporation. As moneys are needed to honor third quarter receivables based on total loan charge-offs net of any recoveries, the Financial Assistance Corporation will issue 15-year debt obligations and utilize the proceeds to cash out the accruals. All System banks will be responsible for the payment of interest and the repayment of principal on these debt obligations.

The transfer of the accruals to the Financial Assistance Corporation and any funds raised by that Corporation through the issuance of debt obligations to cash out the accruals will not be considered financial assistance under the bill. In this regard, the Financial Assistance Corporation serves merely as an alternative vehicle for handling the disposition of the third quarter accruals under the capital preservation agreements.

The capital preservation agreements have served a useful purpose in reinforcing to the investment community the joint and several liability of the System banks on system-wide obligations and offering some measure of protection to System borrowers against the impairment of their stock in certain System institutions. These voluntary agreements have helped the Farm Credit System to weather the greatest financial crisis it has experienced since it was founded over 70 years ago. In particular, they have helped the System bridge the gap between the 1985 and 1987 amendments to the Farm Credit Act. However, the unprecedented magnitude of the losses experienced by the System during the past several years has created a situation where further reliance upon the System's voluntary capital preservation agreements is clearly no longer possible or appropriate.

The bill contains a number of key elements that bear directly on purposes heretofore served by the capital preservation agreements. The bill creates a new Assistance Board to provide and oversee Federal assistance to the System. It also provides protection for borrower stock during the period when new approaches to capitalizing System institutions are developed and implemented. The bill also provides for the creation of an insurance fund to protect investors in System obligations. In light of all the significant changes in System operations resulting from this legislation, further activation of the System's capital preservation—or loss-sharing—agreements is being suspended for a 5-year period beginning on the date of enactment and thereafter whenever funds are available from the Farm Credit System Insurance Corporation to assist System institutions to meet their obligations on their debt instruments.

During the period in which further activations are suspended, the agreements will remain effective with respect to contributions accrued prior to the third quarter of 1986, thus permitting the System to deal with ongoing issues relative to the cashing out of the remaining accruals and to the treatment of any recoveries realized by the banks that received loss sharing contributions during periods prior to the third quarter of 1986. Disposition of the third quarter accruals themselves, however, are governed by the provisions of this bill.

Mr. BENTSEN. Mr. President, I commend the members of the Senate Agriculture Committee for their work in producing this conference report. This bill will go a long way towards solving the problems of the Farm Credit System, and it will allow this important job to be done in a way that is fair to all concerned. Through such key provisions as the guarantee of borrowers' stock it will help to provide the stability that has been lacking so far. It will provide badly needed financial assistance to the struggling parts of the System, and it now contains key provisions to protect the healthier, contributing, districts.

I particularly appreciate the work of the conferees in including changes dealing with the third quarter 1986 assessment. I and other Senators had suggested these changes here on the floor. I discussed this and other problems with the distinguished chairman of the Agriculture Committee [Mr. LEAHY] and others on the floor. With their assurances that these issues would be addressed in conference, I did not delay the bill by pressing them to a vote.

I note that those changes which we suggested then have been made, and I am pleased to join in support of this legislation.

When this bill passed the Senate I voted against it. Even though this assistance was badly needed, there were substantial flaws in that version of the bill. In particular, it left Texas and the other contributing districts holding the bag on the 1986 third quarter assessment. It was our understanding that that assessment would be reversed when the Farm Credit Act Amendments of 1986 was enacted into law. However, the Farm Credit Administration stepped in and would not allow that. This problem has now been taken care of in a manner which makes the contributing banks whole without harming the receiving banks.

Texas farmers and ranchers were concerned that this help not be structured in a way that breaks their institutions. The 1986 third quarter assessment took $72 million from the balance sheet of the Texas Federal Land Bank, and if paid out in cash it would have added about 65 basis points to the interest cost of each of the 33,102 Federal Land Bank loans in the Texas district. This threat has now been removed.

In addition, I appreciate the inclusion in this conference report of my amendment to give districts some flexibility with regard to the one-time assessment in this bill. That amendment will provide an important safety valve. It would allow the district board, with the unanimous consent of the affected institutions, to reallocate the one-time assessment. If no agreement could be reached, then the assessment would be collected as provided for in the committee bill.

This one-time assessment formula is based on unallocated retained earnings. However, when applied all the way down to local associations it has unacceptable results. It is simply not fair to assess some local associations into bankruptcy while other, stronger, associations in the same district are not required to pay a dime under this assessment.

For example, in the Texas district assessments will be levied against 11 of the 28 Production Credit Associations. Five of those eleven are already officially in financial difficulty according to standards set by the Federal Intermediate Credit Bank of Texas and/or the Farm Credit Administration.

This change will allow local associations and district banks to get together and agree to help each other in order to make this bill work better. Allowing this flexibility is in keeping with the strong tradition of local control of the Federal Credit System, a tradition which I strongly support.

Mr. President, I commend my distinguished colleague the chairman of the Senate Agriculture Committee [Mr. LEAHY] and the distinguished Senator from Montana [Mr. MELCHER] who is the sponsor of this bill and who has played a lead role in the committee on the third quarter assessment issue. I also commend my distinguished colleague from Oklahoma, Senator BOREN, who serves so ably with me on the Finance Committee and who is chairman of the subcommittee which produced this bill. I also want to recognize the key role played in this legislation by three distinguished Texans on the House side, House Agriculture Committee Chairman KIKA DE LA GARZA and Congressmen CHARLIE STENHOLM and LARRY COMBEST. The conference report which they and others have produced is indeed worthy of our support.

Mr. DASCHLE. Mr. President, the Agricultural Credit Act of 1987 is the product of months of hard work by the House and Senate Agriculture committees. I am proud to have contributed to the product, and in particular, to have been a member of the conference committee. The conference report is a good compromise, and I recommend that my colleagues support it.

Today, I want to focus on one provision that is particularly important to me and many citizens in my State. That is the provision granting preferences to Indians and Indian tribes for the purchase of reservation land acquired by Farmers Home Administration through foreclosure or voluntary conveyance. The preferences would apply primarily to trust land, but also would apply to other land within the reservation boundaries that is owned in fee status by Indians and tribes. The individual Indian owners must be members of the tribe that has jurisdiction over the reservation in which the property is located.

The bill also would require that if eligible Indians and tribes do not exercise their option to purchase such property, the land is transferred from FmHA to the Department of Interior to be administered as if it were trust land until the debt to the government is satisfied. After the conditions for debt satisfaction are met, the land will convert to trust.

The provision is designed to stop the loss of trust land through foreclosure. The General Accounting Office recently completed a study of the situation in the 14 reservations in Montana, North Dakota, and South Dakota, where the problem is greatest. As of July 1986, 370 borrowers on 12 of the 14 reservations had pledged 315,166 acres to FmHA as loan security. Between October 1, 1981 and May 1986, 8 Indian borrowers on 5 of the 14 reservations lost 13,382 acres of trust land pledged as security for FmHA farm program loans. More than 7,500 acres of that total was trust land lost in South Dakota, most at the Cheyenne River reservation.

Of the 370 borrowers, 39 percent (144) were either in the process of, or were predicted to be a risk of, foreclosure or voluntary conveyance. These borrowers could lose 132,068 acres of reservation land.

In South Dakota, the percentage of reservation land at risk is 49 percent, 1.76 percent is trust land. The amount of reservation land in South Dakota that is in the process of foreclosure or conveyance, or predicted to enter that status this year, is 65,241 acres. At one reservation, Cheyenne River, the percentage of land at risk is 71 percent, 3.72 percent is trust land.

During consideration of this provision in the Senate, concern was expressed regarding the impact of this provision on local and State tax bases. To address these concerns, a compromise was reached that substantially reduced the amount of land that would be covered by the preferences. Furthermore, during the time in which land might be administered by Interior and payments are being applied to the debt, State and local taxes would continue to be paid for 4 years on land that was subject to State and local taxes before it was acquired by FmHA. GAO is asked to conduct a study of the impact of this preference provision on State and local tax bases, including consideration of whether reservations use State and county services. On the other side of the equation, the longstanding principle of trust land being exempt from State and local taxation would be preserved. A provision in the Senate bill that was considered by many people in my State to be a violation of that principle has been deleted.

Mr. HEFLIN. Mr. President, it appears that the Congress will pass a Farm Credit System assistance package before it adjourns—if in fact it does adjourn—for the year. I believe that the Congress has tried to do its job in this matter, and has at least attempted to provide assistance to the Farm Credit System in an expeditious manner. Whether this bill will provide adequate assistance to the Farm Credit System remains to be seen. Had I been a member of the conference committee considering this legislation, I would have insisted on the retention or exclusion of certain provisions which have either been stripped from or added to the bill in conference. However, as with most legislation passed by Congress, this package is a compromise and has some good and some bad.

I was pleased that the Farm Credit System assistance package contains provisions protecting Federal Land Bank and PCA member-borrower stock. I was pleased to see that Farmers Home Administration borrower restructuring provisions and secondary market provisions for agricultural real estate loans were not stricken from the bill by the conference committee. I was pleased that the conference committee retained the amendment I offered during Senate consideration of the bill that would protect the uninsured voluntary or involuntary advanced payment or prepayment accounts of member-borrowers should a System institution become insolvent or declare bankruptcy. Finally, I was pleased that my amendment, which would provide municipal water and sewer authorities the first right of refusal to buy their loans with the Farmers Home Administration, was retained in conference.

However, I question the Farm Credit System restructuring provisions mandated by the conference committee bill. Although I understand that, under the provisions of the conference committee bill, it is the intent of Congress that, upon the merger of Federal Land Bank and Federal intermediate bank institutions, the assistance board would provide assistance adequate to strengthen the new institution to a point where it is economically viable, and capable of delivering credit at reasonable and competitive rates; while I understand it is the intent of Congress with respect to this bill that no liquidations should occur as the result of the mandated mergers of the Federal intermediate bank institutions, and the Federal land banks in each district; and, further, while I understand that the mandatory merger provisions of this bill are not intended to precipitate the financial collapse of any Farm Credit System institution; nevertheless, it is my belief that any mergers of Farm Credit System institutions should be instituted only when deemed necessary by institution administrators and stockholders, on a wholly voluntary basis.

Mr. President, I have repeatedly urged my colleagues to act with all haste while endeavoring to formulate a good bill and an adequate bill during the consideration of this legislation by the Subcommittee on Agricultural Credit, and by the full Agriculture Committee, while the bill was under consideration by the full Senate, and when the bill was in conference. I urged such haste because of the tremendous economic uncertainty faced by the Farm Credit System as a whole, and especially by the Jackson district, of which Alabama is a part. Yet, I must mention that this tremendous economic uncertainty, the potential danger, and the urgency could have been forestalled or averted by the Farm Credit Administration and the Secretary of the Treasury.

Simply put, in the Farm Credit Act Amendments of 1985 and 1986, Congress gave the Farm Credit Administration and the Secretary of the Treasury the authority and the tools to take remedial action and infuse capital into the Farm Credit System, thereby allowing them to forestall any immediate economic uncertainty, avert any danger of collapse of Farm Credit System institutions, and relieve the immediate urgency. During the last several months I have called upon them to exercise this authority, and to make use of these tools. They have done nothing.

In my judgment, this inaction by both the Farm Credit Administration and the Secretary of Treasury has contributed to the economic uncertainty faced by the Farm Credit System, at the least, and could have resulted in the collapse of the System, at the worst. Although the Farm Credit Administration and the Secretary of Treasury knew of the problems facing the Farm Credit System, and were for some time aware of the capital deficiencies and collateral problems experienced by the System banks, through their inaction they allowed the problem to deteriorate to the point where congressional action was an urgent necessity. Congress passes laws for a purpose. Our purpose in passing the Farm Credit Act Amendments of 1985 and 1986 was to avoid this threat of impending disaster. The inaction by the FCA and the administration and their failure to implement emergency provisions authorized by Congress could have jeopardized the well-being of thousands of farmers in Alabama and throughout the Nation. This, in my opinion, is inexcusable.

Had the Farm Credit Administration and the Secretary of the Treasury come to the assistance of the Farm Credit System when the now critical troubles were first apparent or even while the Congress was working on this assistance package, System institutions would not have experienced the losses they have suffered over the last 2 years, System institutions would not face the danger they now face, and System institutions would not need the level of assistance that is urgently necessary, today. The refusal of the Farm Credit Administration and the Secretary of the Treasury to provide available assistance to the Farm Credit System is just like the refusal of a doctor to treat a growing cancer. If recognized, the cancer can be effectively treated by available methods, eliminating any threat posed to the patient. However, if detected and left untreated, the cancer spreads and ultimately results in the patient's death. In this case, the doctor who refused to implement all possible remedies in treating the cancer holds substantial blame for the patient's death. Because the Farm Credit Administration and the Secretary of the Treasury stood by and did nothing, while remedies to many of the troubles of the Farm Credit System—the provisions of the Farm Credit Act Amendments of 1985 and 1986—were at their disposal, and while the troubles, losses, and dangers of the Farm Credit System multiplied, they share the blame for the System's advanced ailments.

Would the Farm Credit Administration and the Secretary of the Treasury have been content to stand by and watch the complete failure of the Farm Credit System, as well? I hope that we will never know the answer to that question. But I would like to reiterate my belief that the inaction of the Farm Credit Administration and the Secretary of the Treasury is inexcusable.

Prior to the remedies provided to the Farm Credit System at the disposal of the Farm Credit Administration and the Secretary of Treasury in the Farm Credit Act Amendments of 1985 and 1986, both the Senate and the House passed a bill which addressed many of the problems that could conceivably plague the financial stability of rural America—including potential problems that were seen in the Farm Credit System. However, the President and the administration failed to heed these early warnings, and vetoed this measure, turning their backs on rural America and on the farmers of our country. It appears that this is a recurring theme in the agricultural policy of the present administration. I am hopeful that the President will not repeat these errors of the past, and will sign this legislation into law.

Mr. President, I am delighted that Congress has responded to the needs of the Farm Credit System and the farmers of America by moving forward with this legislation in such an expeditious manner. While this bill is neither all good nor all bad, I am hopeful that it will provide adequate assistance to the Farm Credit System. I am hopeful that this bill will enable the Farm Credit System to continue to assist the farmers of America in fulfilling their role as the providers of the world.

Thank you Mr. President.

Mr. CRANSTON. Mr. President, last January I reintroduced S. 234, a bill I first introduced in 1986 along with Congressman LEHMAN, that authorize the creation of a secondary market agency for agricultural loans designed to improve the availability of credit for our Nation's farmers, provide liquidity for agricultural lenders, and enhance access to the capital markets by American agriculture. S. 234 embodied the concept of a secondary market for farm loans to provide farmers with the same type of fixed-rate, long-term financing that has been available to homebuyers for years. In 1986 S. 234 was a new idea and provided the stimulus for numerous industry leaders and Congress to come together to create the Farmer Mac embodied in title III in H.R. 3030. I strongly support the conference report on H.R. 3030.

As my colleagues know, I have had a strong interest in the current effort in Congress to enact legislation which returns the troubled Farm Credit System as well as other agricultural lenders to long-term financial health.

The creation of a properly structured secondary market Farmer Mac for agricultural loans will both increase the availability of affordable long term credit to farmers and strengthen the primary lenders to the agricultural sector. It will give lenders needed liquidity to continue agricultural lending at competitive rates to qualified borrowers in the same manner as the other secondary market facilities as the Government National Mortgage Association [GNMA] and the Federal National Market Association [FNMA]. The agricultural sector can benefit in much the same ways as the housing sector through the creation of a viable and efficient secondary market for farm loans. The diversification of the risk in farm mortgages and loans will reduce the possibility of future government bailouts of the farm system because local farm banks will not have to depend on local funds for loans and new investors will be attracted to farm lending such as pension funds and international lenders. Access to new funds for lending regardless of local or national conditions should produce lower interest rates for borrowers.

The Federal Agricultural Mortgage Corporation established under H.R. 3030 is similar to S. 234 in that it improves the attractiveness of the Farmers Home Guarantee Program by permitting the pooling of those loans guaranteed under that program as well as commercial bank loans, creates a commission to oversee these activities and subject the new securities to regulation by the Securities and Exchange Commission.

I want to commend the chairmen of both the Senate and House Agricultural Committees along with the banking, Wall Street, and insurance industry leaders whose cooperation, consensus, and draftsmanship were needed to produce a sound secondary market bill as evidenced in title III of H.R. 3030. Additionally, I would like to thank Congressman RICK LEHMAN for raising my awareness to this issue.

Mr. LUGAR. Mr. President, I would like to ask my distinguished colleague from Vermont whether consideration has been given to the possibility that constitutional challenges might be brought against the assessment or mandatory restructuring or other provisions of the pending farm credit legislation and, if so, what risk do we face of repeating the experience we have had with the 1985 Farm Credit Amendments. I ask this question because I believe it is essential that this legislation be promptly implemented in order that the thousands of farmer and cooperative borrowers who rely upon the System will not be deprived of this critical source of agricultural credit.

Mr. LEAHY. Mr. President, I appreciate the question and I want to assure him that those involved in developing the pending bill have been particularly sensitive to his concerns about possible litigation. It is true that implementation of the 1985 Farm Credit Amendments has been plagued with litigation. However, to my knowledge no court has held the 1985 amendments to be unconstitutional. What has happened is that numerous courts have found the regulations issued by the Farm Credit Administration in order to implement that legislation to be invalid. We have no reason to expect the regulations implementing the current bill will suffer from the same infirmities. These regulations will be based upon clear statutory requirements and are essential to implement this comprehensive remedial legislation. In that connection, we encourage the farm credit administration to carefully consider and give due regard to public comments on the new regulations. If the FCA makes a bona fide effort to take those comments into account in finalizing its regulations, we should not see a repetition of successful court challenges that thwarted the 1985 amendments. We trust that the assistance board will also solicit, and give consideration to, public comments on the regulations which it is authorized to issue.

I would also like to address your specific concerns about possible constitutional challenges to the pending bill. You correctly observe that the bill does contain assessment provisions designed to assure repayment of the federally backed securities authorized by the legislation and certain mandatory System restructuring provisions designed to streamline the System and ensure that it will continue to be a viable national credit system for agriculture into the future. We believe that these and other provisions of the bill are clearly within the authority of the Congress and are fully consistent with the U.S. Constitution. We do not believe that any provision of the bill constitutes an improper taking of property under the fifth amendment. In light of the Federal assistance provided to the System under the bill, which is in part designed to ensure that all System institutions will continue to enjoy access to the public debt markets at favorable rates, we do not believe that any provisions of the bill could be said to interfere with the reasonable expectations of System institutions or borrowers in a manner that would violate constitutional protections.

Mr. KARNES. Mr. President, I would like to bring up two points on section 8.6(b) of title VII of the Farm Credit Amendments Act of 1987. The section sets a requirement that reserves be established at the pool level. The language states that the reserve must be at least 10 percent of the outstanding principal amount of the loans in the pool.

It is my understanding that the amount of reserve for a pool may decline as the principal amount of the loans in the pool decreases. It is also my understanding the language "at least 10 percent" is not intended to empower the Corporation to require a reserve above 10 percent, but to allow the Corporation and certified facilities to agree to a higher reserve for purposes such as negotiating a contractual arrangement.

Mr. LEAHY. I thank the Senator for raising these issues.

On the first point, the reserve required at the loan pool level may fluctuate proportionate to the outstanding principal balance of the loans in the pool. This will enable originators and qualified facilities to have a constant relative reserve commitment in reserves.

The subject of the second point has been clarified in the Senate committee report. I understand that in the course of the conference the House deferred to the Senate on the section of title VII relating to the establishment of pool reserves. Therefore, the Senate report is to be looked to for guidance. It is quite clear that the reserve must be at least 10 percent of the outstanding principal amount of the loans in the pool. However, the words "at least" was included specifically to provide flexibility to qualified facilities and not to empower the Corporation to set a higher reserve requirement to qualify for guaranty. The enumerated powers of the Corporation do not include such a power. A facility and the Corporation will have the ability to agree on a higher level as part of a contractual arrangement such as where the facility is willing to establish a larger reserve and take additional loss exposure in order to get a lower guaranty fee. I believe the Senate report makes this clear.

Mr. BOREN. Mr. President, H.R. 3030 establishes a sound mechanism for getting Federal assistance to the banks and associations of the Farm Credit System without unduly burdening the taxpayers of this Nation with the cost of that assistance.

In that connection, Mr. President, I would like to ask the distinguished chairman of the Agriculture Committee whether he agrees with me that the debt obligations issued by the Financial Assistance Corporation—which is established by the bill—would, in general, bear all of the characteristics of regular System debt obligations issued by the banks of the Farm Credit System. I am aware, of course, that the obligations issued by the Financial Assistance Corporation need not be collateralized and will be guaranteed as to principal and interest by the United States.

Mr. LEAHY. Mr. President, I am pleased to respond that the distinguished Senator is correct. The obligations to be issued by the Financial Assistance Corporation share many of the characteristics of the securities regularly issued by the banks of the Farm Credit System.

The regular obligations of System banks enjoy certain attributes of agency status. For example, interest on the obligations is exempt from State and local taxation; the obligations are eligible for Federal Reserve open market operations and may be purchased without limitation by national banks. And they are legal investments for federally supervised financial institutions. Also, the issuers may utilize the Federal Reserve as fiscal agent and may employ its book entry system to facilitate issuance and minimize cost.

Mr. President, the obligations of the Financial Assistance Corporation are, in these circumstances, to enjoy those same attributes. I would note that the conference substitute specifically provides that the Financial Assistance Corporation and its capital, reserves, and surplus are to be exempt from all taxation, except taxes on any real estate held by the Corporation. Too, the conference substitute provides that all obligations issued by the Corporation are to be accorded the same tax treatment as regular systemwide obligations.

Mr. BOREN. Mr. President, I thank the distinguished chairman and would like to pose an additional question. Inasmuch as the obligations issued by the Financial Assistance Corporation will be guaranteed as to principal and interest by the United States, am I correct in my understanding that the obligations would be exempt securities within the meaning of statutes administered by the Securities and Exchange Commission?

Mr. LEAHY. Mr. President, again I am pleased to respond in the affirmative to the distinguished Senator and chairman of the Credit Subcommittee. The obligations of the Financial Assistance Corporation are guaranteed by the United States, as he states. In this respect they differ from regular System obligations.

But, since such regular obligations are exempt securities, within the meaning of laws administered by the Securities and Exchange Commission, and in view of the Federal guarantee of the Financial Assistance Corporation obligations, it is clear that the latter obligations are also to have the status of exempt securities.

Mr. McCLURE. Mr. President, I am very glad to see this bill returned for final passage by the Senate. I have been very concerned over the past several years that changes be made to the Farm Credit Act which will make the Farm Credit System more responsive to the problems facing System farmer-borrowers. I believe that this bill will go a long way toward making the Farm Credit System more responsive to farmer-borrowers.

This bill makes changes which I hope will aid the Farm Credit System in its attempts to return to financial health. For the past several years, because of the recession experienced in our rural areas, farmers have had great difficulty in paying their debts. Because the Farm Credit System is a major lender to agriculture, it has suffered huge losses. These losses have led to the deterioration of the financial underpinnings of the Farm Credit System.

The most important part of this legislation, one which I have often stated must be a part of any legislation dealing with the Farm Credit System, is the restructuring of farm loans of financially stressed farmer-borrowers of the System. In order to keep these farmers on the land it is necessary for System banks and associations to change their attitude toward debt restructuring. In the past if a farmer was delinquent or late in payment, it was almost automatic that the bank or association began foreclosure or liquidation action. The banks and associations were not focused on helping the farmer through restructuring. With mounting losses, it became clear that doing business as usual would not suffice. A more lenient attitude was needed. Because this was not forthcoming from the System, Congress made restructuring an integral part of the financial assistance package. If the System banks were to receive assistance from the Congress, they must restructure farmer loans where it is cheaper. This legislation requires restructuring of farmer loans if it is the least cost alternative.

The second important issue is the guarantee of farmer-borrower stock. This was a part of the legislation which I introduced earlier this year. I believe that this is critical if borrowers are to have any faith in the System. Farmers were leaving the System in droves during the time when borrower stock was at risk. Congress has now provided the guarantee which will keep farmers in the System. This will help keep the healthy borrowers in the System, thus requiring less Federal help to save the rest of the Farm Credit System.

Third, I am glad to see that the committee of conference has maintained the secondary market. I believe that this is critical to the long-term delivery of credit to agriculture. By establishing a secondary market for agriculture mortgages any lender who wants to enter the long-term land markets will be able to do so. Commercial lenders which in the past have not had the credit facilities to do so will now be able to make loans which will be salable on the secondary market. This will provide farmers with more access to capital markets. I hope that this will moderate the past excesses of the System and keep interest rates to farmers down.

I am also very pleased to see that the committee of conference has taken suggestions made by myself and other Senators from the 12th district in reversing the third quarter assessments. In 1986, the 12th district gave $97.6 million to aid ailing sister banks in the Midwest. They did this under capital preservation agreements previously signed. They also did this under the understanding that the 12th district banks would have this returned in early 1987. The Farm Credit Administrator decided that it was impossible to return this assessment to the 12th district because it would cause other banks to default. This caused the 12th district to become weaker and weaker as losses mounted.

Under this bill, the third quarter assessments will be reversed and the funds returned to the districts which previously provided assistance to other ailing banks. This was critical to my support of this legislation. I commend the committees of the Senate and House for agreeing with this reversal.

This bill is unique in another respect. It provides funding for the System banks in a way which does not create massive Federal outlays. The banks will receive assistance in the form of guaranteed bond sales by the System itself. The Federal Government will guarantee the sale of up to $4 billion in bonds. The bonds will be 15 year bonds. The Federal Government will pay the interest on these bonds the first 5 years, the second 5 years the Federal Government will share the interest payments with the System. The final 5 years of interest payments will be made by the System itself. The principal will all be paid by the System banks. Thus the Federal Government is limited in its outlays, while still aiding farmers in need.

I believe that this is a good compromise. It meets goals set earlier this year—to aid farmers at the least cost to the Government. I want to express my thanks to the many Senators who worked so long on this bill. Especially to the distinguished Senator from Oklahoma [Mr. BOREN] who assisted me in working on two amendments to the bill, one in subcommittee markup and the other in full committee markup. I appreciated his help and the help of his staff in allowing me access to the committee even though I am not a member of this committee. I also would like to thank Mr. Melcher for his assistance in working on a particular provision dealing with Farmers Home Administration inventory property.

I believe that this bill should be passed. It is a fair way to deal with a very difficult problem. I urge the Senate to pass this bill and I urge the President to sign it.

Thank you Mr. President.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the conference report. The yeas and nays have been ordered and the clerk will please call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Delaware [Mr. Biden], the Senator from Illinois [Mr. Dixon], the Senator from Connecticut [Mr. Dodd], the Senator from Tennessee [Mr. Gore], the Senator from Massachusetts [Mr. Kennedy], the Senator from Maryland [Ms. Mikulski], the Senator from Nevada [Mr. Reid], the Senator from West Virginia [Mr. Rockefeller], and the Senator from Illinois [Mr. Simon] are necessarily absent.

I further announce that, if present and voting, the Senator from Illinois [Mr. Dixon] and the Senator from Maryland [Ms. Mikulski] would each vote yea.

Mr. SIMPSON. I announce that the Senator from Utah [Mr. Hatch], the Senator from New Hampshire [Mr. Humphrey], the Senator from Arizona [Mr. McCain], and the Senator from Delaware [Mr. Roth] are necessarily absent.

The PRESIDING OFFICER (Mr. Wirth). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 85, nays 2, as follows:

[Rollcall Vote No. 415 Leg.]

YEAS—85

Adams
Armstrong
Baucus
Bentsen
Bingaman
Bond
Boren
Boschwitz
Bradley
Breaux
Bumpers
Burdick
Byrd
Chafee
Chiles
Cochran
Cohen
Conrad
Cranston
D'Amato
Danforth
Daschle
DeConcini
Dole
Domenici
Durenberger
Evans
Exon
Ford
Fowler
Glenn
Graham
Gramm
Grassley
Harkin
Hatfield
Hecht
Heflin
Heinz
Helms
Hollings
Inouye
Johnston
Karnes
Kassebaum
Kasten
Kerry
Lautenberg
Leahy
Levin
Lugar
Matsunaga
McClure
McConnell
Melcher
Metzenbaum
Mitchell
Moynihan
Murkowski
Nickles
Nunn
Packwood
Pell
Pressler
Pryor
Quayle
Riegle
Rudman
Sanford
Sarbanes
Sasser
Shelby
Simpson
Specter
Stafford
Stennis
Stevens
Symms
Thurmond
Trible
Wallop
Warner
Weicker
Wilson
Wirth

NAYS—2

Garn
Proxmire

NOT VOTING—13

Biden
Dixon
Dodd
Gore
Hatch
Humphrey
Kennedy
McCain
Mikulski
Reid
Rockefeller
Roth
Simon

So the conference report was agreed to.

The PRESIDING OFFICER. Senators wishing to converse, please retire to the cloakroom.

The Senator from Vermont.

Mr. FORD. Mr. President, I make a point of order that the Senate is not in order. The Chair is doing the best he can. The Senators are not cooperating.

The PRESIDING OFFICER. The Senator will please suspend.

The Senate is not in order.

Senators wishing to converse, please retire to the cloakroom.

The Senator from Vermont.

Mr. LEAHY. Mr. President, I just note that this vote is a strong affirmation by the Senate of what we have done after a year of very, very hard work on farm credit. I think it should send a signal to the Farm Credit System that the Congress is concerned, that we are taking steps to ensure their continued economic vitality, and that there are some areas of reform that must be carried out.

Again, I commend the Senator from Indiana, Mr. Lugar, and the Senator from Oklahoma, Mr. Boren—

The PRESIDING OFFICER. If the Senator will suspend.

Senators, please retire to the Cloakroom.

Staff in the back, would you please recognize the appropriate behavior?

Senators in the well, please retire to the back of the Chamber.

The Chair recognizes the Senator from Vermont.

Mr. LEAHY [continuing]. The Senator from Minnesota [Mr. Boschwitz], all other Senators on the committee, and the tremendous round-the-clock work the staff gave us.

I yield the floor.

Mr. LUGAR addressed the Chair.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. LUGAR. I thank again the distinguished chairman of our committee for great work.

Mr. BYRD. Mr. President, I ask unanimous consent that if the order is granted that upon the expiration of the time, and the Senator yields the floor—that he is recognized for 3 minutes—that the Senate then proceed to the consideration of Calendar Order No. 451.

This is the resolution that provides supplemental funding for the Agriculture Committee. There is a time agreement on this measure. I have good reason to believe—at least I hope—that all of the time will not be taken up. I anticipate that there will be a rollcall vote. And so I thank all Senators. I hope the Chair will put the request.

The PRESIDING OFFICER. Without objection, the unanimous-consent request is agreed to.

Mr. BYRD. Mr. President, I ask for the regular order.

INCREASE IN COMMITTEE FUNDING FOR THE COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

The PRESIDING OFFICER. The majority leader has asked for regular order.

Under a previous order, the legislation, Senate Resolution 304, will be reported by the clerk.

The legislative clerk read as follows:

A resolution (S. Res. 304) to increase the amount allocated to the Committee on Agriculture, Nutrition, and Forestry by Senate Resolution 80 relating to committee funding for fiscal year 1988.

The Senate proceeded to the immediate consideration of the resolution.

The PRESIDING OFFICER. The time for debate under the previous order is to be 90 minutes, evenly divided.

Who seeks recognition?

Mr. FORD. Mr. President, I yield the time of the chairman of the Rules Committee to the chairman of the Agriculture Committee.

The PRESIDING OFFICER. The Senate will be in order.

The 90 minutes is equally divided with the time available for the Rules Committee yielded to the chairman of the Agriculture Committee.

Mr. HELMS. Who is in charge of time?

The PRESIDING OFFICER. The Senator from Alaska.

Who yields time?

Mr. STEVENS. Mr. President, I yield time in my control on this measure to the Senator from North Carolina.

Mr. HELMS. I thank the Senator.

The PRESIDING OFFICER. Who yields time?

The Chair would note that if neither side is yielding time, the 90 minutes is now being charged equally to both sides.

Mr. HELMS. That will not be necessary, Mr. President.

The PRESIDING OFFICER. Who yields time?

Mr. HELMS. I yield myself such time as I may require.

The PRESIDING OFFICER. The Chair recognizes the Senator from North Carolina.

Mr. HELMS. I thank the Chair.

Mr. President, it gives me no pleasure to be in the position that I am in this morning. All of us like to accommodate other Senators. In this case I wish I could. But it is a matter of principle to me. Let me explain why.

I was elected to the Senate in 1972, I took office, and was sworn in right there January 3, 1973, as I recall. I was immediately assigned to the Agriculture Committee. It pleased me greatly for two reasons, one being that my State is a major agricultural State.

The second reason is that a longtime friend of mine was chairman of the committee at that time, the distinguished Herman Talmadge, of Georgia. I had known Herman before I ran for the Senate, and I must say that I enjoyed every minute that I served in this Senate with him.

As the Chair may recall, as the result of the elections of 1980, the majority of the Senate shifted to the Republican side, and I became the first Senator from North Carolina to be named chairman of the Senate Agriculture Committee in 149 years. I enjoyed the 6 years I served in that capacity, and I appreciated the fact that I was in a position to work with the distinguished Senator from Vermont [Mr. LEAHY], the distinguished Senator from Indiana [Mr. LUGAR], BOB DOLE, and all the rest. But let me get back to my relationship with Senator Talmadge.

Senator Talmadge had the philosophy, with which I totally agreed, that all committees of the Senate, and particularly the ones on which he served, should be operated as prudently as possible and at the least possible cost to the taxpayers.

I believe the record is clear that Herman Talmadge and I kept the committee's budget at a minimum. Year after year, while he was chairman and for the entire 6 years while I was chairman, we would go before the Rules Committee with our proposed budgets; and every year, without exception, the Rules Committee commended the Agriculture Committee for its prudent operation. Each year, we requested only those funds absolutely necessary to fulfill the committee's legislative responsibility in an efficient and responsible manner.

I might add, Mr. President, that at no time during my serving on the Agriculture Committee while Herman Talmadge was chairman was the staff increased by one person—not one—and I continued that. We got along fine, and I will discuss that. We handled an enormous volume of legislation.

The pending resolution, S. Res. 304, would authorize an additional $130,443 to be spent by the Committee on Agriculture, Nutrition, and Forestry for the remainder of the 1987 committee year.

I might point out that that committee year ends on February 29. For all practical purposes, we are finished with the committee fiscal year. We will not be back here until very late in January, and there are only 29 days in February. So we are talking about something like 35 or 36 days.

I did a little computation a week or so ago, and this request for an additional $130,443 figures out to be an increase of $1,739 a day; and that counts Saturdays and Sundays and that counts the adjournment period, taking us to February 29, which, as I say, is far less in terms of working time than the 2½ months remaining in the committee year. That figures out to be equivalent to an annualized 53 percent increase over the committee's 1986 budget.

Bear in mind, Mr. President, that this comes at a time when we are telling the American people—we are exhorting them—that we have to tighten our belts. We will act, presumably tomorrow, maybe the next day, on one of the most enormous spending bills ever presented to Congress. Taxes will be increased in these bills.

I think that if there ever was a time for the Congress of the United States—however small the example may be—if there ever was a time for Congress to say "we are going to tighten our belts," this is it. That is the reason why I am on my feet. It would have been mighty easy for me to have backed off and said, "Senator LEAHY, I love you; I'll just let this thing go." I am very fond of PAT LEAHY, and he knows it. But I cannot let this thing go.

The report on Senate Resolution 304—if Senators have looked at it—assumed that the money will be made available for 4 months. Even based on that 4-month assumption, which is long past, the proposed supplemental annualized will be equivalent to a 34-percent increase over the committee's 1986 budget. It is simple arithmetic.

These increases are reflected in the chart to my right and are compared to the increases and decreases in the committee budget since 1980. Senators do not have time to study it, but look here. In 1980, we cut spending. During the next 6 years, small variations can be seen ranging from a 6-percent decrease to a 4-percent increase in the committee budget. Those increases were due primarily to the automatic increases in pay for personnel of the Senate.

Then, if you look at 1987, we are talking about an annualized increase of 53 percent over 1986.

Mr. President, these additional funds will be used, as we have been informed, to add 11 new staff positions on the Agriculture Committee, at salaries ranging from $19,500 up to $46,000 per year. I think of the people who will be paying for this, the taxpayers back home, and I wonder how many of them make $46,000 a year.

According to the committee report, the committee will add two new majority staffers—that is, Democrats—at a salary of $46,000 a year; one new majority staffer at a salary of $42,000, two new majority staffers at $36,000, and two majority staff assistants at $19,500.

For the minority staff, there will be one new staffer at a salary of $41,000, two new staffers at salaries of $31,000, one staff assistant at a salary of $19,500. And in addition to the staff expenses, the report identifies $7,943 for administrative expenses; $3,750 for hearings; $1,250 for communications, $1,250 for newspapers, magazines, and documents; $1,000 for travel; and $693 for "other."

I know exactly what the distinguished Senator from Vermont and others who support this resolution have in mind. They want to establish a baseline for the budget to be approved next year.

My suggestion is that they hold off on this and present their budget request free and clean, for the next year rather than for the remaining 36 working days, if that many, of the current committee year.

Now, Mr. President, I think that I am going to reserve the remainder of my time because I want to hear what the Senator from Vermont has to say and then I have some further comments.

Mr. SYMMS. Mr. President, will the Senator yield for a question first?

Mr. HELMS. I am delighted to yield.

Mr. SYMMS. Before the Senator yields the floor, I want to compliment the Senator on the point he is making here and say this is symptomatic of what I think is the problem with the Senate.

I know much to the concern of the Senator, the distinguished chairman of the Rules Committee, when he offered some of these resolutions earlier this year, I offered a resolution to reduce all committees by a small percentage.

Mr. HELMS. Indeed, the Senator did.

Mr. SYMMS. That was based on the principle that one of the complications here, even though some of our young staff people are excellent and very highly motivated and very capable, is they are one of the reasons legislation goes on and goes on. It is because of their imagination and they think up new amendments, and so forth, and it just keeps the process stirred up.

I think that it is also symptomatic that I come from a farming family and my dad is still active in our family farming business at 88 years old, but when he started farming about half of the people in this country were farmers.

Mr. HELMS. That is correct.

Mr. SYMMS. We are losing farmers every year. I have no idea how many farmers or how many Members there were on the Senate Agriculture Committee staff in 1913 when he started farming, but I would venture to guess that is was a lot less than it is today, and as we have lost farmers, we have expanded the Agriculture Committee staff, and I think it is symptomatic of the problem around here.

What we should do here is get this Senate down to the size where Senators can work with each other and simplify the process, rather than making it more complicated.

All you have to do is go over to the continuing resolution, CR conference, and it is so complicated it is no wonder this legislation becomes a quagmire of 199 different things brought up in each little subsection. The House has been riddled with fiefdoms. I was in the House when the House used to actually operate pretty well. I would say to the Senator, when they had the election in 1974, the so-called Watergate babies took over and they threw out some of the conservative committee chairmen and established fiefdoms for each subcommittee chairman, so each subcommittee chairman in the House has his own staff and empire. It is like Parkinson's law of just growing this empire in each area.

I would share with the Senator's point of view that I would appeal to our colleagues on the Agriculture Committee who are asking for this to rethink this. I just do not believe that there is any important pressing legislation.

The question I got up to ask the Senator is how many people are left on the farm now? Two percent?

Mr. HELMS. Something like that.

Mr. SYMMS. It is going down and it will continue to go down as technology and genetics improve and there is the scientific ability to farm, because it will take less people to produce the same amount of agricultural commodities. That is what happened through the process. So there has been a constant wringing out of people from the agriculture sector. It is not anything wrong with farming. It is just that less people can get it done now. And yet, we are talking about expanding the bureaucracy, if you will, in the Senate and all that will mean will be more laws to further interfere with the farming process. What we need to do is disengage the Government from this instead of engaging it further, and we are making headway.

As a matter of fact, I want to ask another question. Is this correct that the Senate actually had lower staff in 1985?

Mr. HELMS. Correct.

Mr. SYMMS. And that is the year the 1985 Farm Act was written?

Mr. HELMS. That is right.

Mr. SYMMS. The 1985 Farm Act is actually starting to work.

Mr. HELMS. I would say that this chart relates to authorization, though, in dollars.

Mr. SYMMS. To authorization?

Mr. HELMS. Yes.

Mr. SYMMS. OK.

Anyway, I compliment the Senator. I want to say I think he is right on target.

Mr. President, I do not know whether this "Dear Colleague" letter the Senator wrote has been in the RECORD, but with the Senator's permission I ask unanimous consent to print this letter in the RECORD.

There being on objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, December 15, 1987.

Hon. STEVE SYMMS,
U.S. Senate, S-509, Washington, DC.

DEAR STEVE: This week, perhaps on Wednesday, the Senate will consider S. Res. 304, which would authorize an additional $130,443 to be spent by the Committee on Agriculture, Nutrition, and Forestry for the remainder of the 1987 Committee year. That figures out to be an increase of $1739 a day for the remaining 2½ months of the Committee year and is equivalent to a 53 percent increase over the Committee's 1986 budget.

While I don't want to offend anybody, I just don't understand how the Congress, or any entity thereof, can propose such an increase at a time when we are telling the American people that they must tighten their belts, and while we are piling on new taxes for them to pay. In short, I can't in good conscience support this Resolution.

I shared a philosophy with Senator Herman Talmadge, whom I succeeded in 1981 as Chairman of the Agriculture Committee. He and I agreed absolutely about operating the Committee as prudently as possible, and at the least possible cost to the taxpayers. I believe the record will show that Herman and I kept the Committee's budget at a minimum. Each year we requested only funds absolutely necessary to fulfill the Committee's legislative responsibility in an efficient and responsible manner.

Based on the fact that there are only 2½ months left in the Committee year, which ends February 29, the increase proposed in S. Res. 304, annualized, is equivalent to the 53 percent increase over the 1986 Committee budget, to which I alluded above.

The Report on S. Res. 304 assumes that this money will be made available for 4 months. Even based on that 4-month assumption, the proposed supplemental, annualized, is equivalent to a 34 percent increase over the Committee's 1986 budget. These increases are reflected in the attached chart and are compared to the increases and decreases in the Committee budget since 1980.

These additional funds will be used to add 11 new staff to the Committee ranging in salary from $19,500 to $46,000 per year. In comparison, the Committee on Armed Services requested an annualized supplemental authorization of 12.9 percent over its current budget to maintain its current staff level.

The Committee on Appropriations is operating with 7 fewer staff members than last year. Yet the Appropriations Committee requested an annualized supplemental increase of only 2.2 percent over its current budget to cover unforeseen expenses—not for the purpose of increasing staff.

The Committee on Finance, which has jurisdiction over trade law reform, catastrophic health insurance, welfare reform, technical corrections to the tax bill, and a majority of provisions under reconciliation, is requesting an annualized supplemental of 10.6 percent over its current budget—again solely to maintain its current staff level.

During the Rules Committee mark-up, Senator Hatfield vigorously opposed this increase because of the message it would send to the American people. We are on the verge of implementing drastic across-the-board cuts in almost every federal program. Yet, here we are, considering increasing one Senate Committee by 34 percent.

Members of Congress should be setting an example by holding the line, if not reducing, regarding spending the taxpayers' money. How can we expect the taxpayers to tighten their belts, and sacrifice to reduce the budget deficit, when we continue to add to the baseline costs for ourselves?

I leave this question up to your good judgment. For myself, I am obliged to oppose S. Res. 304.

Sincerely,

JESSE.

Mr. HELMS. I thank the Senator for his comments and I thank him for putting the "Dear Colleague" letter in the RECORD.

Mr. President, I say to the distinguished Senator from Idaho [Mr. SYMMS] what I said at the outset of my remarks. It gives me no pleasure to be here today discussing this. The easiest thing for me to have done would have been not raise a question and let it go through.

I suppose that the Senator from Vermont will say again what he has said previously, that on the Foreign Relations Committee, and I happen to be the ranking Republican on the Foreign Relations Committee, the minority staff is greater than his staff. That is true. And the request, of course, for all the other committees in dollars is greater. That is true. But that is not the point.

The point is that we ought to hold the line and keep that faith with the people. When we are telling them to tighten their belts, to sacrifice, the least we can do is to keep steady the expenditures of and by Congress.

I am not the chairman of the Foreign Relations Committee. I did not prepare this budget.

We do not have the full complement that we could have on the Foreign Relations Committee, which means that I have not increased the staff and do not intend to for the minority.

But if the Senator wants to compare apples with oranges I will be glad to do that with respect to any other committee, and I am prepared to do it.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. MELCHER. Mr. President, in the absence of the chairman of the committee, Senator LEAHY, might I inquire whether Senator LEAHY controls time?

The PRESIDING OFFICER. Senator LEAHY controls the time on the majority side. Senator HELMS controls the time for the Republicans.

Mr. MELCHER. Mr. President, in that case then I will yield myself, acting through Senator LEAHY, as much time as I shall use.

The PRESIDING OFFICER. The Senator is recognized.

Mr. MELCHER. Mr. President, I have listened to the very astute remarks of my friend from North Carolina, the former chairman of the committee, and from my friend from Idaho, Senator SYMMS.

I would like to respond from my own viewpoint as a member of the Senate Agriculture Committee where I serve with my very able and delightful friend, Senator HELMS, and also as a former member of the House Agriculture Committee, where I had the pleasure of serving with my friend from Idaho, Senator SYMMS.

I have never observed these two Senators operating without staff. To the contrary, I have found these two Senators very adroit, very capable of using staff.

On this particular committee, when Senator Talmadge was chairman, the payroll for the committee was fairly low compared to all other major committees.

Under the chairmanship of Senator HELMS, the Senate Agriculture Committe payroll was fairly low compared to all other major committees.

Let me point out that Senator LEAHY, now is the third chairman of this committee in—what, 8 years? Is that correct? I believe it is. After Senator HELMS took over the committee, there was a complete reshuffling. Now, with Senator LEAHY, there is another reshuffling of the staff.

What is being proposed here in this resolution is no more in dollars than what it would have been if we just continued through these past 8 years with Senator Talmadge's staff. This is a question of rebuilding, reshuffling this staff, putting it back together again.

Neither Senator Talmadge, as chairman, or Senator HELMS, as chairman, was accused of spending too much money for staff, nor should Senator LEAHY be accused of spending too much money. It is about time that we recognize the practical effects of what has to take place for agriculture in this country.

We just passed the final step with completion of the farm credit bill. All of us that serve on that committee worked very hard in putting that package together. It is a very meaningful restructuring bill and we did it with the assistance of staff, as we should. And it would not have been done without members themselves of the committee pitching in and spending a tremendous amount of time, individually and collectively, in making that bill possible. And it would not have been done without staff of the Senate Agriculture Committee on both sides, whether Republican or Democrat, working long hours putting it together.

So when the public views what Congress does, quite often they are unaware that members in committee frequently work in the committee until 6, 7, sometimes 8 o'clock in the evening and sometimes start very early in the morning.

But I can tell you what the public cannot visualize at all is that committee staff is working ahead of time and overtime, sometimes as late as 10 or 11 o'clock or midnight, putting a bill such as the Farm Credit bill in order and getting the work done.

If we are going to do a good job for American agriculture, we are going to do it through a combination of a lot of input by individual members of the committee and by individual effort of committee staff.

Senator LEAHY has put together a staff. They have done a good job including the Republican members of the staff that Senator LUGAR has assembled. They are hard competent, knowledgeable workers and they have to be paid. It is as simple as that.

This resolution does not make this committee an expensive committee. To the contrary, it is a much less expensive committee than the Budget, Armed Services, and Environment and Public Works Committees that my friend from Idaho, Senator SYMMS, serves on.

In addition the Foreign Relations Committee on which Senator HELMS is the ranking Republican receives much more than the Agriculture Committee. We all have those figures before us. The committees my friend from Idaho serves on draws a tremendous amount more than the Agriculture Committee draws even with this addition. And it is also obvious that the Foreign Relations Committee with Senator HELMS as ranking Member receives much more than the Agriculture Committee.

It is a foolish thing to come to this floor and say that the Agriculture Committee should not have adequate pay for its staff in order to do the job. And it is much below the rest of the major committees of the Senate and every bit as important.

Mr. LEAHY. Will the Senator yield?

Mr. MELCHER. Mr. President, I yield to the chairman. I am glad to have him back and appreciate the opportunity to discuss this matter.

Mr. LEAHY. Mr. President, I thank the Senator from Montana, who has made a strong and compelling case. I appreciate him also taking over for me for a few minutes while I stepped off the floor to confer with the chairman of the House Agriculture Committee on the major matters that we have gotten through in the last 2 weeks.

I just think there are a couple of things we ought to have factual in the RECORD in this debate. Senators can vote any way they want, but we want them to vote on the facts. We are not asking for a 50-percent increase. We are asking for a 10-percent increase over our 1987 authorization. The 1986 authorization was $1,263,379. The 1987 authorization is $1,304,430. The 1987 supplemental is $130,443. That is a 10-percent increase almost to the dot.

Let me tell you what is going on here. The distinguished Senator from North Carolina, who has a right, of course, to object to anything he wants here, as any Senator does, says he is concerned about this amount. But it is passing strange to this Senator that while he is concerned about this increase in agriculture, he had no concern in Armed Services of a much greater increase, $279,307; in fact, he voted for that. He had no concern about the increase for the committee that the distinguished Senator from Idaho serves on, Finance, and voted for a $235,000 increase. He had no concern about the increase in Indian Affairs and voted for a $300,000 increase.

Now each Senator has to determine where they are going to spend money if they are chairman or ranking member on a committee.

It has been said by some here they take pride in the fact that the Senate Agriculture Committee has always kept the lowest budget. Believe me, Mr. President, they can still stand proud because, if this budget goes through, of all the eight committees, we will be by far the lowest.

Let me give you one example. We cover $50 billion of oversight and we will be doing it with $1.3 million. One other committee, with $49 billion oversight—I took that as the nearest to us—will do that with $3.3 million; and I think be strapped to do just that.

Now we can do one of two things. We can be a rubber-stamp committee. And if we do that, we do not need any staff at all. We can tell the administration, "Spend what you want." Boom, out it goes.

But, you know, Mr. President, in the last 7 years, farm programs have grown from around $3 billion to around $26 billion. Staff certainly has not grown. But I have to wonder, was that enormous increase necessary? Who knows? We did not have the staff to do the kind of objective oversight to find out.

We could only rely on the administration's figures. Maybe they are right; maybe they are not. But I would like to think that the Congress is an equal branch of Government and ought to have some way to look at that.

This past year, this year, for the first time, cuts have been made in the farm programs. We have been bringing it down. We have done it in reconciliation. We cut $2.5 billion out. This is the first time I have seen in 7 years that we are actually cutting.

But let me tell you what this meant to do that. We just passed the farm credit bill. We have had two staffers to work on that, Mike Dunn and Ed Barron.

Now, I like to think that we are also human beings here. Everybody talks about their commitment to family and home life. Well, I am one that actually tries to carry it out. I would like to be able to carry it out for the staff.

We can give great speeches, all of us as Senators, on how committed we are to family life. And once we leave in the evening to go back home to our families, we are leaving the staff here to do the work we directed them to do.

Let me refer to Mike Dunn and Ed Barron, as an example. During work on the farm credit bill after it passed the Senate they worked day and night for at least 2 weeks. The earliest they were getting out was 2 in the morning. Four times in the last week they worked all night. For the last 3 months in working on the bill before it passed the Senate they rarely got home by 10 o'clock at night.

One of them, Mike, has three children at home. Ed has a 7-month-old infant, James William, who is going to grow up before Ed even knows what his child looks like.

I know, because I came over on Sunday and Ed and Mike both were working. They had worked until 3 or 4 o'clock that morning; and worked until 5 a.m. the next.

You know, these are dedicated people, as are the others on the committee staff, and I am delighted with them. I just hope we never apply the minimum wage around here, because we may have a little trouble on that.

The fact of the matter is, Mr. President, we each have to determine where we are going to spend money. Now, when the distinguished Senator from North Carolina was chairman of the Agriculture Committee, we kept within the budget he speaks of, and that is fine. His agenda was his agenda, as chairman, and we could vote for or against his agenda. Mine is different and he, like any other member of that committee, Republican or Democrat, can vote for or against the matters that I want to bring up there. But I expect some consideration where that budget is going to be.

Now, I make no objections to the budget of the Senator from North Carolina he controls as the ranking minority member of the Foreign Relations Committee. That is more money than is in the budget for me as chairman of the Senate Agriculture Committee, and twice what the ranking member has on the Agriculture Committee. Each person has to make his concerns felt. In my own State, how we handle programs dealing with farmers is more important than how we handle programs dealing with foreigners. But that is a consideration each person has to make.

The fact is that of all the eight committees, the Agriculture Committee will still come out by far the least. The other factor is we are asking for a 10-percent increase over our budget; not a 50-percent increase.

I reserve the balance of my time.

The PRESIDING OFFICER. Who yields time? The Chair would note if no one yields time, the time is charged equally to both sides.

The Senator from North Carolina.

Mr. HELMS. Would the Chair advise both the distinguished Senator from Vermont and me as to the time remaining for each side?

The PRESIDING OFFICER. The Senator from North Carolina has remaining 24 minutes, and the Senator from Vermont has remaining 30 minutes and 30 seconds.

Mr. HELMS. I thank the Chair.

Mr. President, the distinguished chairman of the Agriculture Committee, as I anticipated he would, introduced his own arithmetic into this. But I have already stated the precise numbers from the committee report, the Rules Committee report. Those figures speak for themselves.

I say again that I am not chairman of the Foreign Relations Committee. I did not prepare the budget. It was not even checked with me—but that is fine. But I will say again that I have not added one staff member to the minority, compared to the previous minority leader on the Foreign Relations Committee. I have not added any staff.

The Senator from Montana, Senator MELCHER—and he is a delightful man, and I enjoy serving in the Senate with him—he was comparing apples and oranges. If I heard him correctly, he said something to the effect that we were trying to cut the dollars for the Agriculture Committee. Not so. The issue here is added personnel; the addition of 11 new staff members of salaries ranging from $19,500 up to $46,000 a year. But the Senator from Vermont, in fact, wishes to staff the subcommittees. That is the issue. Since he brought up the other committees, I will respond, intending to be entirely friendly about it, with what the RECORD shows. The Committee on Armed Services requested an annualized supplemental authorization of 12.9 percent over their authorized budget to maintain its current staff level. They are not increasing the number of employees. They seek only to maintain their current staff level. The proposal for the Agriculture Committee is to add 11 staff members.

In its initial budget request for 1987, the Committee on Appropriations reduced its authorized staff level by one and is, in fact, at this moment operating with seven fewer staff members than the committee was using last year. Yet, the Appropriations Committee requested an annualized supplemental increase of only 2.2 percent over its current budget to cover unforeseen expenses. Not for the purpose of increasing staff.

The Committee on Finance, which has jurisdiction over trade law reform, catastrophic health care, welfare reform, technical corrections to the tax bill, and the majority of provisions under reconciliation, is requesting an annualized supplemental of 10.6 percent over its current budget—again, solely to maintain its current staff level. They do not propose to add 11 staff members.

During consideration of this resolution in the Rules Committee, of which I am a member, I recall that the able and distinguished Senator from Oregon, Mr. HATFIELD, vigorously opposed this increase because, as he put it, of the message it would send to the American people. And that is precisely the point I made at the outset of my remarks. If we cannot be good guardians of the trust in small things, no wonder this Congress has such a sloppy record in terms of the big things. I am appalled at the reconciliation bill. I am appalled at the continuing resolution. I do not intend to support either one of them. Just for the record, I have not voted to waive section 311 of the Budget Act once this year.

We are in the process of implementing drastic, across-the-board cuts in every Federal program. I have heard more complaints on this floor by Senators about that. Yet, here we are, considering increasing one Senate committee by 34 percent. That is the best possible face you can put on it because actually it is way above 50 percent annualized. I say again that clearly what is afoot here is to establish a baseline so that next year they can lock in the additional new employees, making up to $46,000 a year, and make permanent the increased cost. Sure, it costs less to operate the Agriculture Committee than other committees, but that is thanks to Herman Talmadge, who held the line; and I can tell you I did the best I could during the 6 years I was chairman of the Agriculture Committee. So it did not come to pass by accident.

What we have done in the Congress down through the years is just say, well, we want to do this and do that to the American people, raise their taxes, increase spending. But we are going to fatten ourselves up. We are going to have all the staff members we need and all the other perquisites. We are going to look after Congress and we are going to pretend that we have solutions for farm problems. I do not care if they put 5,000 people on the Agriculture Commiteee staff, it is not going to be a substitute for increasing exports and getting back into the sale of farm commodities. Neither staff members nor Senators are going to do that. It is the free enterprise system that is going to do it.

The justification given for the 11 additional staff positions and additional expenses requested by the Ag Committee, of which I am proud to be a member, is that the distinguished chairman of the committee, Mr. LEAHY, says it faces a significantly broader legislative agenda than in the past. He says that it will not be able to meet its legislative goals without additional personnel to staff the subcommittees.

(Mr. GRAHAM assumed the chair.)

Mr. HELMS. As respectfully as I know how to do it, Mr. President, I must take exception to that assertion. The Agriculture Committee has operated with 34 staff positions since 1978. It has indeed been one of the smallest of the major legislative committees of the Senate, yet it has had an enormous legislative agenda throughout the years, if you want to call them the Helms Years, 1981 through 1986.

Since the subject was raised by my distinguished friend, perhaps we ought to take a moment to recap some of the legislation the committee produced during the past 6 years.

In 1984, the committee faced reauthorization of countless nutritional programs, including WIC, the National School Lunch Act, and the Child Nutrition Act. It reported out the sodbuster bill, and that was a lulu to get through the committee. We established new lending levels for the Farmers Home Administration, farm operating loans, farm ownership loans, emergency disaster loans.

And all during that time, the committee was making preparation for considering a massive new farm bill.

Yes, the committee staffs, bless their hearts, worked late at night and they worked on Sundays during that period, too. But I will tell you one thing, Mr. President: Staff members throughout the Senate have more days off than anybody in the private sector. You check the schedules for the next 2 or 3 weeks. You check it during August. You check it on July 4.

I did not hear one staff member, while I was chairman of the Agriculture Committee, complain about the workload. They were dedicated. And they knew and acknowledged that there were compensating factors in terms of time off. That is the way it ought to be.

Let us go to 1985.

Incidentally, I am doing this because Senator LEAHY implied that more work lies ahead for the Agriculture Committee than has been the case in the past. Well, I do not think that statement can be justified.

In 1985, the committee produced a farm bill that weighed 13 pounds. The young people who handled all the massive paperwork said that up to that time, the farm bill was the biggest piece of legislation that they had encountered. Somebody jestingly said that a couple of guys got a hernia carrying the farm bill to the desk.

There were 26 days of hearings on that farm bill, 38 days of markup, 12 days of floor debate right here, 8 marathon conference sessions. We met during eight marathon sessions. It was a pretty strenuous year. I seriously doubt that that is going to be exceeded. I have seen no evidence of it.

In that year of 1985, the committee requested a 6-percent increase in the committee budget so it could handle all that. We were commended by the Rules Committee. As a matter of fact, one of the Rules Committee members said, "Can you really get by on this?" Senator Huddleston, time and time again, sat with me as the ranking minority member at that time, and the distinguished Senator from Nebraska, the late Ed Zorinsky, sat beside me, and both said, "Yes." And we did.

In fact, the committee received a 6-percent decrease for 1985 even though we had requested a 6-percent increase. Because agency contributions were removed as a committee expenditure, the resulting authorization was equivalent to approximately a 3-percent increase over the previous year. After enactment of the bill, the staff of the Agriculture Committee received the highest praise by Senators on both the Agriculture Committee and the Rules Committee.

So I cannot sit back silently while it is implied, let alone stated, that we have a greater workload coming than we have had in the past.

Let us move on to 1986. That year we worked on FIFRA. I see the distinguished Senator from Indiana [Mr. LUGAR] on the floor. He did such a marvelous job on that. We got the bill out. We did not get it passed, but it was not DICK LUGAR's fault. It should have been passed. I hope the Senate will wake up and do that bill one of these days.

In 1986 we did FIFRA, we did the Futures Trading Act, the Food Security Act Amendments, the Food Security Act Improvements Act, the Rural Industrial Assistance Act, and the Wilderness and National Forest legislation, to name a few of them. On every one of them, time was consumed, and, yes, the staff worked at night, many nights and on Sundays. We thanked them. We were proud of them, and I am still proud of them. I think that is the way it should be.

I think the American people kind of have a right to expect that of them.

Mr. President, in the May-June 1987 issue of the Tax Foundation newsletter, there were some comparisons which highlighted the escalating cost of Congress. Trying to read these statistical figures, Mr. President, would be meaningless. I ask unanimous consent that these statistics be printed in the RECORD at this point.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

[Cost in thousands of dollars]

	1966	1976	1986	1987
Senate	35,388	123,851	273,223	331,713
House	68,095	197,525	470,741	574,722
Joint	8,382	52,746	105,970	114,041
Total	111,865	374,122	849,934	1,020,476

Mr. HELMS. Let me say again, Mr. President, and then I shall wind up, here we are just before Christmas, 1987, facing one of the largest budget deficits in history. We are on the threshold of implementing a drastic tax increase. Yet here we are considering increasing one Senate committee by 34 percent at a minimum, annualized.

Some will say, "Well, that is a small amount of money. Not more than a half million dollars."

But that is a lot of money to the guy who is paying the bill out there in Americaland.

The figures I have just inserted in the RECORD, Mr. President, make clear that the total cost for operating the Congress of the United States increased 21 percent from 1986 to 1987. It now costs $1,021 billion to operate this place, the Congress of the United States.

I respect all Senators who disagree with me, and I want them to know that.

I am absolutely persuaded that Congress should be setting the example by reducing expenditures, even if it is only a relatively small thing. I do not mean to offend anybody, but I simply don't understand how the Congress, or any entity thereof, can propose increases. With less than 2½ months remaining, I just do not think it is appropriate to be making significant increases in the cost of operating committees. I do not think it is appropriate to propose to add 11 new staff members.

On February 2 and 3 and 4 of 1988, the leadership from each committee will appear before the Rules Committee to make budget requests for the coming committee year. It has been my hope that we would wait and consider this request at that time. I do not think now is the time to do it.

Whether I win or lose is not important. It is important that Senators take a position on this even though they may consider it to be a small matter.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. The yeas and nays have been requested. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. MELCHER. Mr. President, will the Senator from North Carolina yield for a question?

Mr. HELMS. I will be delighted to yield. I may not be able to answer it, but I will do my best.

Mr. MELCHER. Do the figures that were cited as the increase in cost of Congress include the Library of Congress and the General Accounting Office?

Mr. HELMS. Sure.

Mr. MELCHER. So the $1 billion also covers the cost of printing the RECORD?

Mr. HELMS. Sure.

Mr. MELCHER. And distributing that?

Mr. HELMS. Sure.

Mr. MELCHER. And by taking up an additional page or two of the RECORD that we are now doing by this debate, we are adding to that total?

Mr. HELMS. I do not know what the Senator's point is, but the Senator is right, of course.

Mr. MELCHER. I just wonder if the Senator knows if two or three pages more of the CONGRESSIONAL RECORD mailing distribution and cost associated with all of that might cost more than the $130,000 about which we are debating.

Mr. HELMS. I tell the Senator one thing, I am not going to talk long enough to run up a $100,000 bill, and I hope the Senator will not.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. LEAHY. Mr. President, I yield to the distinguished Senator from Indiana such time as he needs.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. LUGAR. Mr. President, it has been my privilege to serve as a member of the Committee on Agriculture under the distinguished chairmanships of Senator Herman Talmadge, the distinguished Senator from North Carolina, JESSE HELMS, and my current chairman, PAT LEAHY. They have all given strong leadership to the committee, and it has been a pleasure to be a member of the committee during the tenure of each of these three outstanding leaders. I think it is fair to say, Mr. President, that each leader had different perspectives, different goals, different styles, and that ought to be recognized. In many ways, although the debate is obviously before us; it is one in which Members wanted to enter freely, it is a debate that I regret has occurred. There are times in which the Members of the body as a whole have to give some latitude to new leadership, to the new perspectives that come into a committee, and that I believe should have been the case on this occasion.

The distinguished Senator from North Carolina has mentioned that on approximately February 2, 3, and 4, the chairman and ranking member of each of the committees will come once again before the Rules Committee to make a plea for funds for those committees. That is true, Mr. President, but it is also a fact that one of the reasons we are in this debate today is that Senator LEAHY and I went to the Rules Committee last February, a long time ago, 9 months ago, and we made a request. Largely, I think it is fair to say, through the intercession of the distinguished Senator from North Carolina, this debate has been prolonged for 9 months. It is fair enough to say we are almost to the end of the year and ready to try it again and use that as an argument as to why we should not be debating today, but my point, Mr. President, is the thing should have been resolved in February, at worst in March. By October we had to have a formal meeting of the Committee on Agriculture simply to ratify the budget the chairman and I had offered a long time ago and which was appropriately pared down as we tore pages of the calender for each day and month that passed since our original submission. At that time by a strong vote in the Committee on Agriculture with only four dissenting votes we once again reaffirmed what the chairman and I had originally requested.

That was in October. Two months have passed and we are now, as is pointed out, almost on Christmas Eve attempting to resolve a question of last February.

Now, Members have every right to be persistent, and it is clear in this case at least one Member has. I would say that it is an unusual twist to go after one committee hammer and tong this long, this hard, but that is the privilege of any Member if he feels strongly about it.

My point I suppose, Mr. President, is that it does give us a perspective, to take a look at the year. The distinguished Senator from North Carolina has taken a look at several years of work in the Agriculture Committee and discussed the role of Members and staff.

Having been a part of that procedure, I can affirm that Members and staff worked diligently and productively in each of those years, but we come now to this particular year with which we are well acquainted, having witnessed earlier this morning, by a vote of 85 to 2, passage of the conference report on the Farm Credit System, and that offers, it seems to me, a good vantage point for the work of Members and the work of staff and the work of this body.

A point can be made, I am certain, Mr. President, that we surely ought not to spend another $130,000 more or less if we could avoid it. Many Members have strong records in terms of economic spending on their personal staffs, quite apart from those of committee staff, but I think probably the broader question has to be surveyed by the body now that we have this issue in front of us.

It has been mentioned by our distinguished chairman, Mr. LEAHY, that we have now oversight of $50 billion of expenditures. That is true. And they have grown largely. The distinguished Senator from Idaho pointed out earlier that while the Agriculture Committee expenditures have increased, the number of American farmers has decreased. That is sadly the case also.

We have before us today, Mr. President, an opportunity to take a look at the poignancy of both situations. The Farm Credit System, however else one might try to define it, is complex to the ultimate. The number of entities, the number of rules, the degree of local control, and the tenuous relationships of the system are almost beyond the comprehension I think of most students who have looked at this system for a very long time, clearly well beyond the initial comprehension of members on the Agriculture Committee or their staffs.

Yet we were asked this year to try to bring about some justice and mercy and efficiency and, even more importantly, Mr. President, to try to repair, while there was still time, part of the credit fabric of this country.

The failure to do that, in my judgment, would have led to a great deal of instability in the rest of the credit functions of this country. This was not trivial material. I would simply suggest, Mr. President, that if the Farm Credit System succeeds at this point, or in fact, if it saves hundreds of millions and billions of dollars, as I believe those of us who have worked on this legislation can assure in terms of sheer efficiencies, cut of overhead in the system, a very tight control of how money gets to those who need it, they will have come about because someone had the expertise and the time to draft legislation, to argue it with many constituent groups, to move it through two Houses, and to persuade the administration. Those things do not occur by chance. That is what we are paid for as legislators, as staff members to do that kind of job well.

Mr. President, you can argue, I think clearly, that two persons in a back room can write the whole thing. And it might come out about as well as it has before but it did not come out very well before as a matter of fact. That is one reason we are back doing it again. Because in fact the farm credit legislation last time was really written very rapidly, almost on the backs of envelopes and with a fling and a prayer, the Farm Credit System lost a lot of money, and the taxpayers of the country lost a lot of money.

Sometimes you get the staff work that you pay for. That is true of legal assistants, it is true of accounting assistants, and it is true of professionals generally. Sometimes when something needs to be artfully and craftfully done in which you have some confidence in the product you need to have adequate staff with adequate legal background, adequate agricultural and credit background to do that job. And you pray that Members of the Senate will comprehend that extraordinary professional effort to be able to use their common sense and general judgment to say either aye or nay at the appropriate time to mark up on the floor and in conference.

That I think is the question, Mr. President. And as the distinguished chairman of the Agriculture Committee took a look at the complexity of legislation that we are required to look at, took a look at the resources we had, he made a judgment in which I concurrred. And I would simply say that it is well and good to say that as the Agriculture Committee budget rises the number of farmers decrease, but, Mr. President, the point of the farm credit legislation today was to save farmers, to make it possible for people to repay their debts, to have some new hope. The point of most agricultural legislation presently is to try to repair the fabric of agricultural America, and bring some new hope to that. And I think the distinguished Senator from Montana was correct when he said on occasion we have to determine in the expenditures we make on the Congress and on the staff some priorities.

I make no apology for asking for an additional $130,000 for the staff of the Agriculture Committee to serve farmers in this country. I cannot imagine a Senator who has agriculture as a priority who would not see some value in making certain the oversight, the crafting of legislation, and the ability to handle complex matters more adeptly was honored in this request.

Mr. President, I initially stated I wished the argument had not come. But now that it has come, Senators must make judgments. This is not a question of economizing. If there ever was a time for the cliche pennywise and pound foolish, this is it. What is required is the employment of persons on the agriculture staff who have some comprehension of these programs, some ability to survey what we are doing, some ability to rein in the waste that is almost bound to occur with $50 billion of expenditures. The American people want a decline in that figure, and I suspect the American people, when push comes to shove, are willing to pay when they have confidence that there is expertise to bring about that oversight and to bring about sufficient and wise agricultural policies.

So for these reasons, Mr. President, I am hopeful the Senate today will support the request made by the distinguished chairman of the committee, one in which I concur, and I have accompanied him to many sessions with the distinguished colleagues on the Rules Committee. I plan to do that again. As painful as these intramural arguments are, Mr. President, I could not remain silent when it is clear to me that the wisdom of the case allies with the distinguished Senator from Vermont.

I thank the Chair.

Mr. LEAHY and Mr. FORD addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. FORD. Mr. President, will the distinguished chairman of the Agriculture Committee yield a couple of minutes?

Mr. LEAHY. I will after just 30 seconds. I want to comment, Mr. President, on how much I appreciate the statement of the distinguished Senator from Indiana. I said at the time the farm credit bill came up this morning what a joy it was to work with not only one of the most distinguished legislators I have ever served with, the Senator from Indiana, but a man who is a consummate and thorough gentleman. If I felt that way before, I feel even more strongly now.

I yield such time as the Senator from Kentucky, the distinguished chairman of the Rules Committee, requires.

Mr. FORD. Mr. President, I do not like to get into the discussions of differences of opinion. It is very difficult not to when you have to have the responsibility of accomplishing an end purpose.

The Rules Committee has basically heard the arguments that you hear here today. The chairman and the ranking member of the Agriculture Committee have presented their case now on three occasions. The distinguished Senator from North Carolina is a member of the Rules Committee. And on three occasions the Rules Committee has forwarded to the Senate their recommendations for the Agriculture Committee.

On figures, it depends on which calculator you put them in, I guess, or what procedure you use. But in the report to the Senate as it related to the Senate Resolution 304, these are the figures that we based our decision on. And this is the percentage that the Rules Committee figured in presenting this budget.

Let me read, then, from the report from the Rules Committee. The 1987 budget authorized by Senate Resolution 80, 100th Congress, is $1,304,430. With the revised budget for 1987 with the proposed supplemental of 130,443, it is $1,434,873. The $1,434,873 represents a 14-percent increase over the 1986 committee funding. That was the decision that we approved by the Rules Committee.

The second paragraph is the baseline budget of 1988, and with the proposed supplemental will be $1,695,759 because the proposed supplemental for 1987 is pro rated. The increase in 1988 will be 34 percent over 1986 but will only be 18 percent above 1987.

Mr. President, I ask unanimous consent that the table for the increase of percentages as it relates to the committees under this supplemental be included in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

1987 SUPPLEMENTAL REQUESTS

Committee	1986 authorization	1986 supplemental	987 authorization	1987 supplemental	Percent (+ −)
Agriculture	1,263,379	0	1,304,430	130,443	10.00
Appropriations	3,999,860	....	4,119,856	90,000	2.18
Armed Services	2,097,190	100,000	2,167,877	279,307	12.90
Finance	2,153,790	235,000	2,223,333	235,000	10.60
Indian Affairs	790,797	5,000	842,335	300,000	35.61
Rules	1,194,353	....	1,231,058	12,500	1.02
Veterans'	861,749	....	907,901	41,500	4.57

Mr. FORD. Mr. President, I might say that we are not authorizing new money, we are not appropriating new money. This money is already there. This Senate has already voted for it. This Senate has already said that money is available. We did this last year. This is not anything new. We hit two committees that had a different type of year, and they are in this one. And they deserve it. And the Senator from North Carolina has already admitted that they need it.

So we listened to the arguments in the Rules Committee. And we felt that this was adequate, that it was the right thing to do, and that we agreed with the chairman and the ranking member of the Agriculture Committee.

We attempt to stay within the guidelines that are given to the Rules Committee as it relates to the funding and we have had on occasions the bitter pill of cutting. We cut 10 percent in 1981. Several committees ought to have been cut a lot more than that. We have committees sitting over here with 1½ staff members per room and they have almost 70 rooms. They are budgets in $5 million or $6 million. We cannot get to them. It is a little hard to get through some of those.

We are not appropriating any new money. This does authorize this spending from the appropriated funds that we now have. Since I am chairman and the committee approved it, I will support my committee.

Mr. President, I appreciate this position of everyone I understand the sensitivity of this. It takes a lot of courage sometimes to stand up and object. You just do not like to do that. It takes courage sometimes to stand up and support something that very few people are supporting. But I hope that we will be supported in this effort.

We are authorizing an expenditure from appropriated funds. The argument is that if you do not spend it, it goes back to the general funds. That is true, but I do not want the impression left that we are digging into general funds and pulling out more money. It is already budgeted; it is already there. The Rules Committee authorized the funding for all the committees.

Mr. HELMS. Mr. President, will the Senator yield for a question, on my time?

Mr. FORD. I will do my best.

Mr. HELMS. What was it that I admitted to?

Mr. FORD. I understood that when you named some of the other committees, the supplemental——

Mr. HELMS. I thought you were talking about the Agriculture Committee.

Mr. FORD. No. I said the supplemental for the Finance Committee and the Appropriations Committee. You started enumerating various items and you thought their supplementals were in order.

Mr. HELMS. I also gave percentages for those committees.

Mr. FORD. I submitted that for the Record.

Mr. HELMS. I appreciate the Senator doing that.

Mr. FORD. There is a little difference between your figures and the committee figures and the way you are showing the annualizing.

If you take 1988 over 1986, it is a big boost, but if we grant the supplemental, the increase for 1988 will be somewhat less.

Mr. HELMS. Thirty-four percent.

Mr. LEAHY. Mr. President, a number of Senators have desired to have lunch with their families. Others are working on the continuing resolution conference and appropriations. I am supposed to be there, too.

I am perfectly willing to yield back the remainder of my time, if the Senator from North Carolina is willing to do so, so that we can get these matters to a vote, so that Senators can get to other business or their families.

The PRESIDING OFFICER. The Senator from Vermont yields back his time, subject to the Senator from North Carolina doing so.

Mr. HELMS. Mr. President, I am willing to do that, if the Senator will let me apologize to the distinguished Senator from Montana. I think I misheard his question and therefore gave him the wrong answer.

The cost of operating Congress is not $1.02 billion. If you include all the agencies that the distinguished Senator specified, the total cost of operating Congress is way over $2 billion.

If you want to know exactly what it costs for legislative activities, it is $1,020,476,000 for 1987, 10 times what it was in 1966. In 1976, it was $374,122,000. In 1986, the cost of operating just the legislative side was $849,931,000. For 1987, it is $1,020,476,000.

Mr. President, I ask unanimous consent to have printed in the Record the statistics which appeared in the Tax Foundation's "Tax Features" of May-June 1987. The headline on that newsletter is, "Cost of Congress Tops $2 Billion As Legislators Raise Their Pay 16 Percent."

There being no objection, the material was ordered to be printed in the Record, as follows:

OUTLAYS FOR THE LEGISLATIVE BRANCH OF THE FEDERAL GOVERNMENT BY UNIT SELECTED FISCAL YEARS 1966–87 [1]

[Thousands]

Unit	1966	1976	1986	1987
Total	$231,505	$775,366	$1,664,516	$2,131,457
Congress, total	111,865	374,122	849,931	1,020,476
Senate	35,388	123,851	273,223	331,713
House of Representatives	68,095	197,525	470,741	574,722
Joint activities	8,382	52,746	105,970	114,041
Legislative agencies, total	119,640	401,244	814,582	1,110,981
Architect of the Capitol	26,158	57,281	94,696	188,893
Botanic Garden	497	1,235	2,107	2,267
Congressional Budget Office		2,763	15,678	17,853
General Accouting Office	46,136	131,778	288,533	307,546
Government Printing Office	21,662	93,391	56,423	114,676
Library of Congress	25,187	117,193	334,335	442,668
Office of Technology Assessment		5,035	14,309	16,474
U.S. Tax Court		6,919	22,147	26,387
Other		1,447	1,984	3,082
Deductions for offsetting receipts		−15,798	−15,630	−8,865

[1] Data for 1987 are estimates from the Budget presented in February 1987.

Source: Office of Management and Budget.

Mr. HELMS. Mr. President, I yield back my time.

Mr. LEAHY. I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back.

The question is on agreeing to the resolution. On this question, the yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Delaware [Mr. Biden], the Senator from New Jersey [Mr. Bradley], the Senator from Illinois [Mr. Dixon], the Senator from Connecticut [Mr. Dodd], the Senator from Tennessee [Mr. Gore], the Senator from Massachusetts [Mr. Kennedy], the Senator from Maryland [Ms. Mikulski], the Senator from Nevada [Mr. Reid], the Senator from West Virginia [Mr. Rockefeller], and the Senator from Illinois [Mr. Simon] are necessarily absent.

I further announce that , if present and voting, the Senator from Maryland [Ms. Mikulski] would vote "yea."

Mr. SIMPSON. I announce that the Senator from Utah [Mr. Hatch], the Senator from New Hampshire [Mr. Humphrey], and the Senator from Arizona [Mr. McCain] are necessarily absent.

The PRESIDING OFFICER (Mr. Fowler). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 52, nays 35, as follows:

[Rollcall Vote No. 416 Leg.]

YEAS—52

Adams
Baucus
Bentsen
Bingaman
Boren
Boschwitz
Breaux
Bumpers
Burdick
Byrd
Chiles
Cochran
Conrad
Cranston
Daschle
DeConcini
Domenici
Exon
Ford
Fowler
Glenn
Graham
Harkin
Heflin
Hollings
Inouye
Johnston
Kassebaum
Kerry
Lautenberg
Leahy
Levin
Lugar
Matsunaga
Melcher
Mitchell
Moynihan
Nunn
Pell
Pryor
Quayle
Riegle
Sanford
Sarbanes
Sasser
Shelby
Stafford
Stennis
Trible
Warner
Weicker
Wirth

NAYS—35

Armstrong
Bond
Chafee
Cohen
D'Amato
Danforth
Dole
Durenberger
Evans
Garn
Gramm
Grassley
Hatfield
Hecht
Heinz
Helms
Karnes
Kasten
McClure
McConnell
Metzenbaum
Murkowski
Nickles
Packwood
Pressler
Proxmire
Roth
Rudman
Simpson
Specter
Stevens
Symms
Thurmond
Wallop
Wilson

NOT VOTING—13

Biden
Bradley
Dixon
Dodd
Gore
Hatch
Humphrey
Kennedy
McCain
Mikulski
Reid
Rockefeller
Simon

So the resolution (S. Res. 304) was agreed to, as follows:

S. Res. 304

Resolved, That section 3(b) of the Omnibus Committee Funding Resolution of 1987 (S. Res. 80; 100th Congress) is amended by striking out "$1,304,430" and inserting in lieu thereof "$1,434,873".

Mr. LEAHY. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. LEVIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BYRD. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order for consideration of further business.

COMMITTEE FUNDING RESOLUTIONS

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the en bloc consideration of committee funding resolutions numbered 306, 311, 319, 321, 322, and 325.

Is there debate? If not, the question is on agreeing to the resolutions en bloc.

Mr. METZENBAUM. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. METZENBAUM. Mr. President, I inquire of the majority leader whether or not it would not be possible for us to have a rollcall vote. I would have no objection to the all six being considered en bloc, but I think some of us would like the opportunity to cast a nay vote on the issue of supplemental funding for committees. I am not trying to create a problem for the leader, nor do I want to delay my colleagues unnecessarily. But if it could be put to a vote as a group, then it would not delay anybody, because we have just voted and we are all here, and we would all have a chance to cast a vote on the issue.

Mr. BYRD. Mr. President, if I might have the attention of all Senators.

The PRESIDING OFFICER. The Senate will be in order. The staff will retire and cease conversation. Senators will take their seats.

The majority leader.

Mr. BYRD. I thank the Chair.

Mr. President, if Senators will look on page 2 of the Calendar of Business, at the top of the page they will see the agreement. If they will look at the penultimate paragraph, it reads as follows:

> *Provided further,* That action on each of these resolutions appear separately in the Record and that one motion to reconsider and lay on the table be in order.

This means, if we have a rollcall vote, that the action on each of the six committee requests will appear separately in the Record, which means also that that one rollcall vote will appear as six rollcall votes.

It is all right with me. But there are Senators on both sides of the aisle who are absent. I would hesitate for us to have what would appear to be six rollcall votes so Senators would appear as being absent and, thus, would have missed the rollcall votes.

By unanimous consent now, we could change that. I will ask unanimous consent that if the distinguished Senator wishes a rollcall vote—he is entitled to ask for that—I ask unanimous consent that if a rollcall vote is ordered on the resolutions en bloc that it appear only as one rollcall vote en bloc, just as one voice vote en bloc would complete action on all six of the resolutions.

Does the Senator intend to ask for a rollcall vote?

Mr. METZENBAUM. I intend to ask for a rollcall vote, but I would be perfectly happy to have one vote for all six. It makes the same point. So I would be very happy with that. I do not want to delay my colleagues in being able to get away.

Mr. BYRD. Mr. President, I ask unanimous consent that if a rollcall vote is ordered on the resolutions en bloc, that it be charged as only one rollcall vote en bloc and not as six, even though the resolutions be spread separately in the Record.

The PRESIDING OFFICER. Is there an objection? Hearing none, the unanimous-consent agreement is concurred in.

The Senator from Ohio.

Mr. METZENBAUM. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Nebraska.

SCHEDULE

Mr. EXON. Before the yeas and nays are requested, I am wondering, since the majority leader and the minority leader are both on the floor and I just heard something about Senators being able to get away, I wonder if we might all be informed as to how long the getaway period will be? The latest intelligence this Senator had from the House side, from a Member of the Nebraska delegation, is that the present plans on the House side are not to have rollcall votes in the House of Representatives tomorrow.

I am wondering if that is a irresponsible rumor? If it is a true rumor, I take it it would have some bearing on the plans of some Senators. Not this one. I have given up, I have surrendered. I am just going to stay here. Others have different ideas.

Is there a getaway period after the rollcall vote? And, if so, how long will the getaway period be as far as we know now?

Mr. BYRD. Mr. President, of course we all know that Capitol Hill is a rumor mill just as is the rest of the capital, c-a-p-i-t-a-l. I do not wish to give credence to that rumor.

I ask unanimous consent to proceed for 2 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Based on the information I have at this point the Senators may be informed as follows: Upon the disposition of the six resolutions I shall proceed to call up the nomination of Marvin T. Runyon, of Tennessee, to be a member of the Board of Directors of the Tennessee Valley Authority. That will be a rollcall vote. There are Senators who want a rollcall vote on that. I am informed that those Senators who will oppose this nomination are willing to enter into a time agreement of 20 minutes to the side.

Mr. DOLE. Equally divided, 20 minutes?

Mr. BYRD. Twenty minutes, equally divided.

Mr. STAFFORD. That would be agreeable to us.

Mr. BREAUX. Ten minutes. I do not know if anybody else is going to speak in opposition. I certainly will not take more than 10 minutes.

Mr. BYRD. I thank the able Senator. Twenty minutes to be equally divided between Mr. Stafford and Mr. Breaux; that upon the expiration of the 20 minutes or the yielding back thereof, the vote occur on the nomination and that upon the disposition of the nomination, the Senate return to legislative session.

That will be the last rollcall vote in the Senate today.

There are some problems in conference but this is not unusual. We all have seen problems in these conferences before. They are difficult. But I am optimistic and hopeful that we will be able to resolve them and vote on these two conference reports tomorrow. If we do not complete action on these two conference reports tomorrow, it means the Senate and the House will have to be here Monday because I will not agree to an adjournment of either body over Christmas simply for the sake of delaying the action until after Christmas. It means we will be in session Monday, or Tuesday, or Wednesday. So, with this as a driving engine, I think we all understand that we need to get out of here.

The CR expiration date was last night as of midnight, and I know that we are getting all the stories about the monument closing down and all that. I do not think anybody is going to suffer over the weekend, but we need to get this business completed. I would hope that we would all maintain a bit of equanimity and avoid, from downtown, the threat to veto.

I said to our President yesterday that I am in favor of keeping our agreements and I also said I hope that OMB will also not shift its position too much when it comes to scoring. I understand there is some of that going on. The President says, "Well, I will check on that." I said, "I also hope, Mr. President, it won't be too—that the talk about vetoes, threats of vetoes, will not be too loud." I said, "I have a feeling that we will find a way to work these things out." And there will be a meeting at 2:30 with some of the principals on both sides of the Hill here.

So I hope, in answer to Mr. EXON, that we will be able to complete our work tomorrow, which means that we have to agree today, hopefully this evening; the papers have to be prepared, the House has to act first on the two conferences, and my guess is that, looking at it as of right now, I would say we probably will come in in the Senate about 3 o'clock tomorrow and await the action of the House on the conference reports. We will finish up at some point, depending on how long the Senators insist on talking once the conference reports get over here.

There has to, obviously, be some give and take and I think we can all work on this together. It will come out all right in the end.

As I learn more during the afternoon, if I learn more which would indicate that such a rumor has more basis than I think we should give it credence at this point, I will certainly inform my colleagues.

Mr. EXON. I thank the majority leader.

Mr. BYRD. I thank the distinguished Senator.

I want to thank all Senators, too, for their understanding and cooperation. It has just been excellent. We are all hoping to get out, certainly in time to have at least next week, that is Christmas week for ourselves and our families and Senators can be assured that as far as the Senate is concerned, I think we are working hard toward that end.

Mr. President, I yield the floor unless another Senator wishes to ask a question.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. FORD. Mr. President, as chairman of the Rules Committee and in charge of the supplementals, I think the debate is there, the information is out for everybody to see. I do not intend to take any time; I am ready for them to go to vote. I understand my distinguished colleague, the Senator from Alaska, the ranking member on the committee does not wish to make any statements.

We are ready to go to a vote, Mr. President.

Mr. STEVENS. Mr. President, the Senator from Kentucky is correct. We recommend approval of these in one vote.

The PRESIDING OFFICER. The yeas and nays having been ordered——

Mr. BYRD. Mr. President, I did get consent or did I ask consent that, upon the disposition of the pending business the Senate proceed to executive session and to the nomination of Mr. Marvin T. Runyon, Calendar Order No. 476 on the executive calendar?

The PRESIDING OFFICER. The Chair believes that no such consent was obtained.

Mr. BYRD. I thank the Chair. I make such request.

The PRESIDING OFFICER. Is there objection to the majority leader's request? No objection; it is concurred in.

The clerk will call the roll on the committee funding resolutions en bloc.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Delaware [Mr. BIDEN], the Senator from Oklahoma [Mr. BOREN], the Senator from New Jersey [Mr. BRADLEY], the Senator from Illinois [Mr. DIXON], the Senator from Connecticut [Mr. DODD], the Senator from Tennessee [Mr. GORE], the Senator from Massachusetts [Mr. KENNEDY], the Senator from Maryland [Ms. MIKULSKI], the Senator from Nevada [Mr. REID], the Senator from West Virginia [Mr. ROCKEFELLER], and the Senator from Illinois [Mr. SIMON] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from Utah [Mr. HATCH], the Senator from New Hampshire [Mr. HUMPHREY], and the Senator from Arizona [Mr. MCCAIN] are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 64, nays 22, as follows:

[Rollcall Vote No. 417 Leg.]

YEAS—64

Adams
Baucus
Bentsen
Bingaman
Boschwitz
Breaux
Bumpers
Burdick
Byrd
Chafee
Chiles
Cochran
Cohen
Conrad
Cranston
Danforth
Daschle
DeConcini
Dole
Domenici
Evans
Exon
Ford
Fowler
Garn
Glenn
Graham
Grassley
Harkin
Hatfield
Heinz
Hollings
Inouye
Johnston
Kassebaum
Kerry
Lautenberg
Leahy
Levin
Lugar
Matsunaga
McClure
Melcher
Mitchell
Moynihan
Murkowski
Nunn
Packwood
Pell
Pressler
Pryor
Riegle
Rudman
Sanford
Sarbanes
Shelby
Specter
Stafford
Stennis
Stevens
Trible
Warner
Weicker
Wirth

NAYS—22

Armstrong
Bond
D'Amato
Durenberger
Gramm
Hecht
Heflin
Helms
Karnes
Kasten
McConnell
Metzenbaum
Nickles
Proxmire
Quayle
Roth
Sasser
Simpson
Symms
Thurmond
Wallop
Wilson

NOT VOTING—14

Biden
Boren
Bradley
Dixon
Dodd
Gore
Hatch
Humphrey
Kennedy
McCain
Mikulski
Reid
Rockefeller
Simon

So the resolutions (S. Res. 306, 311, 319, 321, 322, and 325) were agreed to en bloc, as follows:

S. RES. 306

(Authorizing supplemental expenditures for the Committee on Armed Services)

Resolved, That section 5 of Senate Resolution 80, 100th Congress, agreed to January 28, 1987, is amended by striking out $2,167,877" and inserting in lieu thereof "$2,447,184".

S. RES. 311

(Authorizing supplemental expenditures by the Committee on Finance)

Resolved, That section 11(b) of S. Res. 80, One Hundredth Congress, agreed to January 28, 1987, is amended by striking out "$2,223,333" and inserting in lieu thereof "$2,458,333".

S. RES. 319

(Authorizing supplemental expenditures by the Committee on Veterans' Affairs)

Resolved, That section 18(b) of Senate Resolution 80, 100th Congress, agreed to January 28, 1987, is amended by striking out "$907,901" and inserting in lieu thereof "$949,401".

S. RES. 321

(Consolidating and authorizing supplemental expenditures by the Select Committee on Indian Affairs)

Resolved, That Senate Resolution 353, section 21, paragraph (b), 99th Congress, as amended, be amended by striking out "$790,797" and inserting in lieu thereof "$795,797"; and be it further

Resolved, That Senate Resolution 80, section 21, paragraph (b), 100th Congress, be amended by striking out "$842,335" and inserting in lieu thereof "$1,142.335".

S. RES. 322

(Authorizing supplemental expenditures for the Committee on Appropriations)

Resolved, That (a) section 4(b) of S. Res. 80, One Hundredth Congress, agreed to January 28, 1987, is amended by striking out "$4,119,856" and inserting in lieu thereof "$4,209,856".

(b) That section 4(b)(1) of such resolution is amended by striking out "$135,000" and inserting in lieu thereof "$180,000".

S. RES. 325

(Authorizing supplemental expenditures for the Committee on Rules and Administration)

Resolved, That section 16(b) of Senate Resolution 80 (One Hundredth Congress), agreed to January 28, 1987, is amended by striking out "$1,231,058" and inserting in lieu thereof "$1,243,558".

Mr. FORD. Mr. President, I move to reconsider the vote by which the resolutions were agreed to.

Mr. STAFFORD. I move to table the motion to reconsider.

The motion to lay on the table was agreed to.

EXECUTIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now go into executive session to consider the nomination of Mr. Marvin T. Runyon, of Tennessee, to be a Member of the Board of Directors of the Tennessee Valley Authority.

The clerk will report the nomination.

TENNESSEE VALLEY AUTHORITY

The legislative clerk read the nomination of Marvin T. Runyon of Tennessee, to be a Member of the Board of Directors of the Tennessee Valley Authority.

Mr. STAFFORD addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. STAFFORD. Mr. President, the Senator from Vermont understands there is 20 minutes for this nomination equally divided. Am I correct?

The PRESIDING OFFICER. The Chair must advise the Senator from Vermont that, although it was suggested, no such order has been entered. The Chair will be glad to entertain such a request.

Mr. STAFFORD. Mr. President, I ask unanimous consent that debate on this nomination be limited to 20 minutes to be equally divided between the proponents and opponents. I think the arrangement intended that the Senator from Vermont and the Senator from Louisiana, Mr. BREAUX, be the managers of the respective sides.

The PRESIDING OFFICER. Is there an objection to the request of the Senator from Vermont? Hearing none, it is so ordered.

Mr. STAFFORD. Mr. President, I support the nomination of Marvin T. Runyon to be a Member of the Tennessee Valley Authority Board of Directors. These days it is so commonly recognized there are major problems at TVA that it should be unnecessary to say it again.

Mr. President, it is true TVA has serious and well publicized problems with their nuclear program, they have employee morale problems, and they have a badly tarnished reputation.

The root of these problems is not really about machinery or reactors, nor is it necessarily about the way TVA is structured. The real root of these problems is lack of leadership and poor management—be that existing management and leadership, or the residue of failures from the past.

There is no reason to expect that TVA's problems cannot be addressed and cured by strong and consistent leadership and management—and it is an unimpeachable record of strong and consistent management that Marvin Runyon would bring to TVA.

It has been argued that what TVA needs is a person who has extensive experience in utility management of nuclear power. Those arguments will be made, I believe, by Mr. BREAUX. We are asked to answer the question "How can we possibly expect a person with no utility experience to lift TVA out of its multifaceted problems?"

But Mr. President, we do not expect the President of the United States to be an expert in, or to necessarily even have personal experience in arms control, energy policy, space exploration, Social Security benefits, or any of the other multitude of complex, technical issues in which he must lead.

Rather, we expect that person to have leadership abilities and the good sense to surround himself with the type of experts he needs to make good decisions.

This same principle is true with respect to TVA. Mr. Runyon has repeatedly demonstrated excellence in leadership and management. He has won awards and he has won the acclaim of his employees over the years for his abilities. There is every reason to expect he will carry on this tradition while at TVA.

I would also like to add that it is indeed true that many of the problems with TVA's power program are technical and mechanical in nature. But the ability to handle technical and mechanical problems is Marvin Runyon's stock-in-trade. As I have said and many Members are aware, Mr. Runyon made his career in automobile manufacturing—a very technically demanding business.

At Ford he managed 120,000 employees. At Nissan he started their American plant. I daresay that Mr. Runyon is not totally cognizant of all of the details of manufacturing tires, batteries, air conditioners, engines, transmissions, drive trains, radiators, or the other components that go into making up an automobile.

So, I have no doubt that Mr. Runyon has the ability to ask the right questions and to quickly learn whatever technical details he needs to know.

Mr. President, I would like to emphasize the hope that my colleagues will note that after conducting a hearing on Mr. Runyon and examining his record, the Committee on Environment and Public Works voted 13 to 1 to favorably recommend his nomination to the Senate.

Mr. President, Marvin Runyon will prove to be an important asset for the Tennessee Valley Authority and I urge my colleagues to vote to approve his nomination.

Mr. President, finally, I ask unanimous consent that a copy of Mr. Runyon's testimony before the Committee on Environment and Public Works along with his résumé be placed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

TESTIMONY BY MARVIN T. RUNYON BEFORE THE COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

I am honored to be here today. I appreciate the confidence of the President in nominating me for a position on TVA's Board of Directors. I have spent 44 rewarding and successful years in the private sector, and I am excited and challenged by the opportunity to enter public service and to serve the Tennessee Valley Authority and my country.

As you know, my entire career to date has been spent in the automotive industry. In a moment, I would like to share with you some of the philosophies and practices I have developed over the years that I think will be helpful in addressing the challenges that TVA faces today and in the future.

But first, let me spend a few minutes talking about TVA. At TVA, I will have to lead and learn at the same time. As a leader, I will work hard to earn your confidence and support, as well as the confidence and support of TVA employees and the public. As a learner, I will be thorough. I will be doing a lot of listening as I become familiar with the many facets of the TVA organization. I will listen to you, as elected officials, to TVA people, and to the public. I assure you I will not be making judgments on complicated issues until I have studied them thoroughly.

Already I have heard a variety of opinions about where TVA is and where it should go. The one point of consensus in everyone's mind is that TVA is a critical resource and tremendous asset for our region and our country. TVA has developed one of America's major waterways, controlled its floods, made it navigable, and harnesses its force for hydroelectricity. TVA has brought electricity to millions of people. TVA leads the nation and world in developing new fertilizers. Very few lives in the region have not been touched by TVA; and through its power systems, its economic development programs, and its environmental efforts, the nation has become a better place to live.

Some people would say TVA has accomplished its mission, that it has completed its job of building an electric system for the region, that it has developed the river sufficiently. But the work of TVA is far from being over. It can now demonstrate for the nation how a federal corporation can operate effectively and competitively; and the nation, as well as the region, will benefit from this. TVA can also serve as the nation's testing ground in addressing such current national issues as managing solid waste, protecting groundwater resources, demonstrating new energy technologies, and increasing agricultural productivity.

The challenges TVA faces today, such as improving water quality in the Tennessee River or restarting the agency's idled nuclear program, must be addressed effectively. These are very complex and difficult problems, but TVA has tackled and solved problems of immense dimensions before. I am confident that TVA can do it again.

The term I am being nominated for will take TVA to the doorstep of the 21st Century. Although many people view TVA as an agency of tradition and past accomplishments, I want to look at it as an agency of the future—an agency that can be a model of government quality and productivity, an agency that develops and demonstrates technologies for the nation, and an agency that blends the best of private enterprise and public service.

I have met with Mr. Dean and Mr. Waters, who now serve on TVA's Board, and look forward to working diligently with them in bringing a new era of management to TVA. With their help, and your support, I think we can create in TVA that model of government quality and productivity.

Through effective management, TVA can better accomplish the basic mission set for it by Congress. It can keep its rates as low as feasible, and it can continue to balance the need for economic development with the need to conserve the region's magnificent natural resources.

I also believe that through effective management, TVA can bring its nuclear program back into operation and take a leadership role in identifying and developing new power sources for the future.

A clear, purposeful, and positive management system can play a decisive role in enabling TVA to meet these objectives, and I believe that is what I can bring to this position.

My career of 44 years in the automotive industry has given me the opportunity to work in and help manage one of our country's most important and turbulent industries. I started my career at Ford as an hourly employee on the assembly line in Texas where I was born. When I retired in 1980 as Vice President of Body and Assembly Operations, I had the responsibility for managing 120,000 people in 29 plants.

I then went to work for Nissan to create and launch Nissan's first manufacturing operation in this county. The Nissan parent company had some reservations about whether Americans could build quality as well as their Japanese counterparts do. Today, the Nissan operation in Tennessee is building the highest quality vehicles sold in this country and often surpasses the quality of the same Nissan vehicles built in Japan.

My lifelong experiences have brought me to the conclusion that the organizations who are prepared for the future are those that commit to a participative style of management. This is a "bottom-up" style that requires the people at the top to give up some control of the process, and concentrate instead on managing people.

The employees are the real experts at making the process work, especially in high-technology operations such as the automotive and utilities industries. In a participative system, the manager pushes responsibility down to the employees so that they can make the process work. Of course, a lot of other factors go into making such a system work.

If I had to choose my first principle of participative management, it would be that everyone share a common goal for the organization and a common sense of what the organization is all about.

The second principle would be the establishment of good communications throughout the organization and with external audiences.

The third important factor in a participative management system is training. We cannot ask people to take responsibility for the process if they do not have the knowledge and skills to handle it.

The fourth important aspect is a commitment from management to the health and well being of employees.

Finally, participative management must have an atmosphere of trust. For any system to work, management must trust the employees enough to give them responsibility. In my experience, when managers concentrate on managing and trusting employees, they find themselves spending less time solving problems.

If I am confirmed for the TVA Board of Directors, you will see me bringing these same philosophies and practices to my job there. TVA is a unique agency. Its challenges are complex and diverse but its opportunities are great. No one person can make TVA realize that greatness.

But with your help and counsel, with the TVA Board, management, and employees working together, and with the confidence and support of our public, we can focus TVA on its true mission: to improve the quality of life in the region, and to serve the entire nation successfully in the years ahead.

I know you have questions, and I will be glad to try to answer them.

RESUME: MARVIN T. RUNYON, JR.

Birth date: September 16, 1924.

Marital status: Married. Spouse: Frances E., birth date, December 19, 1926. Children: Marvin T. III, birth date, March 17, 1945; Elizabeth Anne, birth date, January 22, 1952; Paul Raymond, birth date, February 3, 1957; James Andrew, birth date, January 17, 1956.

EDUCATION

December 1941–June 1943, Management Engineering, Texas A&M College, College Station, Texas.

April 1946–January 1948, Bachelor of Science Degree in Management Engineering, Texas A&M College.

April 1964, Kepner-Trego Seminar, University of Michigan.

October 1966, Managerial Grid Seminar, St. Clair, Michigan.

January 1967, University of Michigan Seminar, Ann Arbor, Michigan.

June 1967, Communications Seminar, Stratford, Ontario.

June 1967, Management by Objectives Seminar, Kitchener, Ontario.

Febuary 1968, Management Development Seminar, Toronto, Ontario.

June 1968, Quantitative Decision Making Seminar, Port Huron, Michigan.

March 1971, Xicom Confrontation-Search Workshop, Detroit, Michigan.

June 1971, Telemetrics, Hillsdale, Michigan.

November 1971, Telemetrics, Ann Arbor, Michigan.

OUTSIDE ASSOCIATIONS

Society of Automotive Engineers, Inc.; Engineering Society of Detroit.

COMPANY COMMITTEE MEMBERSHIP

Advanced Review Committee, Engineering and Research Subcommittee, Manufacturing and Supply Subcommittee, Durability, Quality and Reliability Subcommittee, Political Contributions Committee.

FORD EXPERIENCE

July 1943–October 1943, Hourly Employe, Dallas Assembly Plant.

October 1943–December 1945, Military Service, Second Lieutenant, Air Corps.

December 1945–April 1946, Hourly Employe, Dallas Assembly Plant.

April 1946–January 1948, Student, Texas A&M College.

January 1948–August 1953, Atlanta Assembly Plant, Hourly, Work Standards Engineer, Methods Engineer, Tool Engineer, Quality Control Engineer, Production General Foreman.

August 1953–August 1957, Technical Assistant to Production Manager, Ford Division General Office. This assignment consisted of traveling to fourteen assembly plants in the United States for the purpose of assisting them in problem situations concerning production techniques, tooling, material problems and other problems associated with the operation of the assembly plants. During this period worked on the launch team for planning and launching three car and truck assembly plants.

September 1957–April 1959, Planning and Engineering Manager, Lorain Assembly Plant. This assignment consisted of construction of a $45 million assembly plant; staffing and launching the traffic, production control, purchasing, process engineering and plant engineering departments during the construction, start up and operation of the assembly plant.

April 1959–October 1960, Operations Manager, Lorain Assembly Plant. This assignment consisted of performing the duties of the Planning and Engineering Manager listed above plus the responsibility for staffing, start up and management of the addition of a night shift production operation equivalent to the day shift operations. During this period the Falcon and Comet vehicles were launched. These were the first unitized cars built in the Ford Motor Company. Also, the Econoline truck, which was the first unitized truck built by Ford Motor Company, was launched at this plant.

October 1960–March 1964, Assistant Plant Manager, Mahwah Assembly Plant. Responsible to the Plant Manager for the operation of all facets of the assembly plant. The primary objective of this assignment was to reorganize the existing operation, improve cost, quality and general operation of the plant. The plant employed 4500 hourly employes and 500 salaried employes and produced Ford cars, Mercury cars and Trucks F100 through F600. During this assignment the Mahwah operation was changed from a loss position to a profit and the quality was improved to a position above the division average from last place.

March 1964–February 1965, Assistant Plant Manager, Metuchen Assembly Plant. Responsible to the Plant Manager for the operation of all facets of the assembly plant. The primary objective of this assignment was to reorganize the existing operation, improve cost, quality and general operation of the plant. This plant employed 3500 hourly employes and 400 salaried employes and produced Falcon and Comet vehicles. An additional assignment during this period was to discontinue the Falcon production and start up the Mustang, a new car line. Both of these assignments were successful as cost and quality were brought to the above average levels and the launch of the Mustang was very successful.

February 1965–May 1966, Plant Manager, Norfolk Assembly Plant. The primary objective was completion of the modernization of the Norfolk Assembly Plant and reorganize the concepts of operation from a small plant 600,000 sq. ft. to a large operation, 1,000,000 sg. ft. This plant employed 1400 hourly employes and 275 salaried employes and produced Ford cars and trucks, F100 through F600, including buses. Introduced a Zero Defects philosophy which was successful in making Norfolk achieve the best quality level of any plant in the division.

May 1966–June 1969, *Plant Manager, St. Thomas Assembly Plant.* Responsible for the planning, constructing and staffing of the St. Thomas plant starting with the corn-field. The plant was 1.5 million sq. ft. and was constructed at a cost of $65 million. The objective of this plant was to introduce new operating facilities which were different than any other plant as a pilot installation for new plant concepts in the division. As a result of this installation, all new plants at Ford will follow the St. Thomas design. The plant employed 2,300 hourly and 400 salaried employes on a two-shift basis and produced 52 units per hour. The new Maverick was launched at the St. Thomas plant during this period. This plant was the Company's best performer in quality and cost at the end of three years from the start of construction.

June 1969–July 1970, *Regional Operations Manager, Automotive Assembly Division, General Office.* Responsible to the Division General Manager for the operation of nine assembly plants. These plants employed approximately 4,000 salaried employes and approximately 25,000 hourly employes. The majority of these plants were two-shift mixed car line plants. Units built at these plants were Thunderbird, Ford, Mercury, Torino, Mustang, Pinto, Maverick and Truck.

July 1970–November 1972, *Assembly Engineering Manager, Automotive Assembly Division, General Office.* Responsible to the Division General Manager for all engineering components of the division. This included the maintenance, upkeep and equipping of 17 assembly plants. Also responsible for the changeover from one model year to another of all equipment in the assembly plant and the design and purchase of all tooling required for assembly of all cars produced by the Ford Motor Company in the 17 assembly plants. Responsible for the approval of product design for production feasibility and for the functioning and approval of all new parts for production. Responsible for the incoming quality of all parts purchased from supplies and also maintained a surveillance over Company supplying divisions to the Automotive Assembly Division. Directed the activity of the industrial engineering, plant engineering, facilities engineering, systems engineering and forward products engineering and special studies engineering. Approximately 1,000 persons were engaged in this activity. During this period initiated the "back-to-back" launching concept whereby the assembly plants were not shut down for model changeover. By accomplishing this, it was possible to increase the capacity of the Company by the equivalent of two new assembly plants as downtime historically required from 3 to 8 weeks for changeover.

November 1972–April 1973, *General Manager, Automotive Assembly Division, General Office.* Responsible to the vice president, Body and Assembly Operations. The Automotive Assembly Division consisted of 60,000 hourly and 12,000 salaried employes who were employed in 21 assembly plants and the Division General Office. The Division was responsible for manufacture of all cars and trucks for the United States, Canada and Export. The Division was responsible for the purchase of parts and components from outside suppliers in the amount of $6 billion. It also had the responsibility of coordination of the other divisions in the Ford Motor Company who also supply parts for the manufacture of vehicles. The design and purchasing of tooling, construction and equipment of plants, sourcing of product lines to the plants considering all factors of incoming and outgoing freight, other locations, etc. were all included as part of the responsibility of this Division.

April 1973–July 1977, *Vice President, Body and Assembly Operations.* Body and Assembly Operations consisted of Automotive Assembly Division, Metal Stamping Division, Body Engineering Office, General Products Division and Purchasing and was responsible for the assembly of cars and trucks for the United States, Canada and Mexico. Body and Assembly Operations was responsible for the manufacture of sheet metal parts, paint and vinyl, electrical and mechanical parts produced by the Company with the exception of powertrain components, the body engineering portion of the vehicle, and purchasing of all parts which are not manufactured by Ford Motor Company. During this period Body and Assembly Operations was responsible for the purchase of an existing plant and installation of 8 press lines to increase stamping capacity. This job varied during the four year assignment in content regarding the divisions and components reporting to it, but the responsibility for the assembling of vehicles did not change.

July 1977–January 1979, *Vice President, Powertrain and Chassis Operations.* Powertrain and Chassis Operations consisted of the Transmission and Chassis Division which manufactured transmissions, rear axles, all suspension components, steering gears, etc., and the Engine Division which was responsible for assembly of all engines used in North American products. The purpose of this assignment was to broaden my experience as this was the only phase of manufacturing in which I had not been previously engaged. During this period it was necessary to start up a new transaxle plant and a new engine plant to meet the changing market demands. Searching for the sites, negotiating with the states, and arriving at a conclusion on location of the plants was part of the responsibility during this period.

January 1979, *Vice President, Body and Assembly Operations.* The manufacturing operations were restructured to include engineering and purchasing along with manufacturing. At this time the Automotive Assembly Division, Metal Stamping Division, Body and Electrical Engineering, Purchasing and General Services Division report to this position. At the present time there are 98,000 hourly and 22,000 salaried employees reporting to this position. There are 21 assembly and trim plants reporting to the Automotive Assembly Division. There are 8 stamping, wheel, frame, and tool and die plants reporting to the Metal Stamping Division. The Purchasing office is responsible for a $9 billion buy per year. The Body and Electrical Engineering office is responsible for design of all body and electrical components used in both cars and trucks. General Services Division is responsible for maintenance of all facilities in the Dearborn area, running of all computer facilities, reprographics, photographics and printing in the Dearborn area, running of the railroad in the Rouge, running of the Rouge trucking operations, security, fire protection, and medical facilities in the Rouge. During this past year, Body and Assembly Operations successfully completed a major launch of 12 of its assembly plants, which was the largest in Company history. This was done while maitaining high quality levels and achieving $118 million performance to budgeted cost levels.

HONORS

1985: "President" on 1985 All-Star Team, Automotive News.

1985: Manager-of-the-Year, Avco Aerostructures Chapter of National Management Association, Nashville, TN.

1985: CEO-of-the-Year, Advantage Magazine, Nashville, TN.

1986: Distinguished Service Citation, Automotive Hall of Fame.

1986: 1985 Salesman-of-the-Year, Sales and Marketing Executive Club, Nashville, TN.

1986: Honorary Chairman, Clinic Bowl, Nashville, TN.

1986–88: Honorary General Committee for the International Federation of Automotive Engineering Societies' 1988 Congress.

ATTACHMENT NO. 3—MARVIN T. RUNYON

Name	Address	Type	From	To	Office held
Southeast United States/Japan Association	Dept. of Economic and Community Development, 320 6th Ave. North, Nashville, TN 37219–5308.	Civic	1981		Governor's advisory board.
Tennessee Technology Foundation	One Energy Center, P.O. Box 23184, Knoxville, TN 37933	Professional	1982		Board of directors.
Tennessee Minority Purchasing Council	Bldg. No. 3, Suite 235, Maryland Farms, Brentwood, TN 37027	Civic	1982	1983	Chairman of corporate advisory committee.
Leadership Nashville	P.O. Box 2682, Nashville, TN 37219–0682	do	1982	1983	Participant.
INROADS/Nashville, Inc	Box 3111, Nashville, TN 37219	do	1983		Advisory board.
Nashville Area Chamber Chamber of Commerce	161 Fourth Ave., North, Nashville, TN 37219	Professional	1983	1985	Board of governors.
United Way of Nashville and Middle Tennessee	250 Venture Circle, P.O. Box 24667, Nashville, TN 37202	Civic	1984	1986	Board of trustees.
Tennessee Association of Business	226 Capitol Boulevard, Suite 800, Nashville, TN 37219	Professional	1984	1987	Board of governors.
College of Business Administration, Texas A&M University	College Station, TX 77843–1112	Professional	1984	1987	Development council member.
Automotive Hall of Fame	P.O. Box 1727, Midland, MI 48641–1727	do	1985		Board of trustees.
United Way of Nashville and Middle Tennessee	250 Venture Circle, P.O. Box 24667, Nashville, TN 37202	Civic	1985	1986	General campaign chairman.
National Conference of Christians and Jews, Inc	100 Oaks Office Tower, Suite 332, Nashville, TN 37204	do	1985	1988	Board of directors.
Rotary Club of Nashville	One Nashville Place, Box 88, Nashville, TN 37219	Fraternal	1986	1988	Do.
Nashville/Davidson County Unit of American Cancer Society	2008 Charlotte Ave., Nashville, TN 37203	Civic	1986	1988	Do.
International Federation of Automotive Engineering Societies' 1988 Congress.	400 Commonwealth Dr., Warrendale, PA 15096–0001	Professional	1986	1988	Honorary general committee member.
United Way of Rutherford County	102½ E. Vine Street, Room 204 A, Mid-State Bldg., P.O. Box 37, Murfreesboro, TN 37130.	Civic	1986	1989	Board of directors.
Cumberland Museum	800 Ridley Blvd., Nashville, TN 37203–4899	do	1986		Do.
Leadership Nashville Alumni Association	4440 Tyne Blvd., Nashville, TN 37205	do.	1986		President.

ATTACHMENT NO. 3—MARVIN T. RUNYON—Continued

Name	Address	Type	From	To	Office held
Nashville State Technical Institute	120 White Bridge Road, P.O. Box 90285, Nashville, TN 37209-4515	Professional	1987		Development advisory board.
Center for International Business Studies, Texas A&M University	College Station, TX 77843-1112	do	1987		Advisory board.
Society of Automotive Engineers, Inc	400 Commonwealth Dr., Warrendale, PA 15096-0001	do	1972		Member.
Engineering Society of Detroit	100 Farnsworth, Detroit, MI 48202	do	1972		Do.

Mr. STAFFORD. Mr. President, I reserve the balance of my time and yield the floor.

Mr. BREAUX addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. BREAUX. Mr. President, I yield myself such time as I may consume.

Mr. President, Members of the Senate, let me say very clearly up front that I strongly oppose the nomination, at least the confirmation of the nomination of Marvin Runyon to be Chairman of the TVA. I do that in no way to slight the personal credibility or honesty or integrity of the nominee. He is a good man. He is a good person. He is a knowledgeable man but he is not knowledgeable in the area that we are asking him to become chairman of.

Mr. President, the TVA is an organization that receives over $100 million a year from the Congress to run. It operates the largest power system in America. It has service being provided to over 7 million people. It employs over 35,000 people. I would say, Mr. President, to my colleagues that TVA has some very serious problems. TVA has five nuclear plants that are currently shut down, four others that are under construction that are not finished and they have eight that have been canceled. TVA despite a $15 billion investment is not able to generate one single kilowatt of electric power. We cannot light a light bulb with the power from the nuclear reactors that TVA is in charge of operating despite a $15 billion investment.

Mr. President, I take the confirmation process of this body very seriously. That is the one thing that distinguishes us from the House in which I served for 14 years. We should not rubberstamp the President's nominations. What you know should be at least as important as who you know. I happen to think that what you know is more important than who you know in determining who gets what jobs in our Federal Government. I am very concerned, Mr. President, that, despite the President's nomination, for us to rubberstamp would be a very serious mistake. We should have the authority to say, Mr. President, send us someone who has some experience, some background, some training, some formal education, something, show me an article that this man has written about the TVA, tell me that he has spent some time working with TVA, tell me that he has some training in nuclear power or in hydroelectric power, tell me that he is experienced in flood control planning, tell me he has experience in building watershed projects or knows something about ground water problems.

Mr. President, the record is completely and totally devoid of any such evidence. He has 44 years of experience in building automobiles and he has done a tremendous job building automobiles. I commend him for it. But, Mr. President, TVA does not build automobiles. TVA serves 7 million people the power that is vital to this particular part of America.

Mr. President, some say this man has tremendous management capabilities. I would say that is great if we were looking at an organization that had only management problems. TVA has some structural problems that need to be looked into. TVA has some problems in the nuclear power generation facilities that need an expert to consider whether the advice from below is proper and correct advice that needs to be implemented.

I find that this man's record has none of that evidence at all in order to establish him as a credible candidate to become the Chairman of the Board of a very important institution. I certainly am delighted to do everything that I can working with Senator SASSER and Senator GORE in this Senate, who are deeply concerned and have expressed their concerns to me to make sure that we do what is right to improve TVA. I am committed to doing that.

But I think the first thing that we could do is to send a message that we want a TVA Chairman who is going to make the people of the Tennessee Valley proud, to say that this man was the right man at the right time to address the very serious problems, and not just being given a political reward. For 8 years, Mr. President, until 1996, the TVA should not be a place where people get on-the-job training so that one day he can say, "Well, I learned the job while I was at TVA."

I would like for us to be able to say he knows what the problems are now; that he does not have to become Chairman of the Board at TVA in order to learn what the problems are and suggest some answers to those particular problems.

So I say, Mr. President, to my colleagues I have nothing personal about this nominee. I find him a charming person, a man of impeccable credentials, an honest man who has built a reputation in 44 years in the automobile business which is totally beyond reproach. But I would say as an example that when Nissan picked Mr. Runyon to be the head of Nissan in the United States of America they did so because he had 37 years of experience in the automobile business. This man has zero years of experience in the subject matters that TVA has under its jurisdiction. In fact, I think the record indicates that his record is totally devoid of any experience in any of these areas.

I just think it is not too much for us to say as Members of the Senate that this person does not deserve the confirmation of the U.S. Senate. We can do better. I think we owe it to the people of this proud institution, which has served over 50 years, a better choice to be the head of that body than the President's nominee. I expect he will, in fact, be confirmed.

As chairman of the Nuclear Regulatory Subcommittee of the Environment and Public Works Committee I pledge to work with him. Some have said "Are you going to try to frustrate him after he is there?" Of course not. That is not the function of this chairman in this position. It is to help. I wish that he will get the help that I fear he is going to need. I am committed to helping him make that position a stronger and a better position.

I hope that all Members will give real consideration to his lack of professional qualifications in this particular area. I think we owe that to the Senate and to the people of the Tennessee Valley and to the people of this country.

Mr. STAFFORD. Mr. President, I yield the remainder of the time allotted to this side to the able Senator from Tennessee [Mr. SASSER].

The PRESIDING OFFICER. The Senator from Tennessee is recognized.

Mr. SASSER. I thank my distinguished friend from Vermont.

Mr. President, I rise in strong support of the nomination of Marvin Runyon to the chairmanship of the Tennessee Valley Authority Board of Directors, and I urge that we move quickly to confirm him.

I appreciate the remarks of my distinguished friend from Louisiana. I believe that his arguments are sincerely offered, and they deserve to be seriously considered.

I think the fact that the Senator from Louisiana, who will chair the subcommittee which has primary jurisdiction over the Tennessee Valley Authority, is taking this nomination so seriously bodes well for his stewardship of the Tennessee Valley Authority over the next few years. I look forward to working very closely with him.

The Senator is correct in his astute comments about TVA's current difficulties. I believe he has accurately stated the issue. TVA has had serious and very well publicized problems with its nuclear program. Billions of dollars are at stake and the welfare of millions of people could weigh in the balance.

The truth is that TVA has been in a state of continuing crisis for 2 years—a crisis environment that threatens the very existence of an institution that has served the citizens of seven States for over half a century.

I do not disagree at all with the assessment of the distinguished Senator from Louisiana that this is an absolutely crucial time for TVA.

But Mr. President, I would argue that precisely because there is a crisis atmosphere at TVA, precisely because this nomination is crucial, we need to confirm Marvin Runyon forthwith and send him to Knoxville, TN, where he can begin to solve TVA's many problems.

No one's interests are served by continued delay, and I think we all know that today.

The sad truth is that the situation might not have reached this desperate pass had the administration acted more decisively in filling the position on the TVA board that has been vacant for over 2 years.

That open seat has only served to intensify the real problem at TVA. I think that problem can be stated simply: TVA has a serious crisis of need for determined and experienced management expertise.

TVA has an abundance of first-rate nuclear engineers. In recent months, it has even had an infusion of outside nuclear talent from the premier nuclear engineering firms in the country.

The technical skill is there. What TVA desperately lacks is a firm guiding hand on the tiller. In short, TVA needs a skilled, experienced, and hard-nosed manager.

That is precisely the area in which Marvin Runyon excels.

Mr. Runyon's experience is not in nuclear power. We will concede that. But he has been responsible for bringing an enormous automotive manufacturing facility up from ground zero to a point where it is now producing 30,000 automobiles per day—automobiles that are lauded worldwide, certainly in this country, for their high quality. Indeed, the Nissan automobiles produced in the factory that was the brainchild of Marvin Runyon are of higher quality than like automobiles produced in the Japanese home islands. That is an indication of what American labor can do with proper management and proper direction.

The quality assurance operations at that plant are up to the standards of any in the world—and I would observe that quality assurance has been a central point of controversy at TVA's nuclear plants.

Mr. Runyon knows how to get a plant on line. He knows how to make a plant run efficiently. TVA needs someone who knows something about efficient operation.

I see the distinguished Senator from Mississippi [Mr. STENNIS] in the Chamber. Of course, Senator STENNIS brings to this question almost a half century of experience with respect to the needs of the Tennessee Valley Authority.

The bottom line is this, and I would say to my colleagues that I am speaking from more than a decade of experience in dealing with TVA issues: TVA needs a hands-on, inspirational, decisive leader. I believe that Marvin Runyon can be that leader. And I believe that we must give him a chance to get down there and make a difference.

That, in my judgment, is our only course with this nomination. But I would feel remiss if I did not address some of the points made by my friend from Lousiana on the question of how we assess the qualifications of Presidential nominees to high Government office.

Mr. President, I ask unanimous consent that I be allowed to proceed for 1½ minutes.

The PRESIDING OFFICER. Is there objection?

Mr. DANFORTH. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. SASSER. Mr. President, I ask unanimous consent that the remainder of my statement be printed in the RECORD as if read.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The remainder of Mr. SASSER's statement is as follows:)

Mr. SASSER. I submit to my colleagues that we do not, as a rule, ask for direct technical background in a given field before we confirm a nominee to head a major Government agency.

Just to take a few examples, the current Secretary of State is not a career diplomat. Nor have a large number of his predecessors been.

The current Secretary of Energy is neither a geologist, nor a petroleum engineer nor a nuclear engineer.

I would have to suspect that a number of the most accomplished Cabinet officials in our history came to their jobs without previous backgrounds in the fields for which they were assuming responsibility.

If we are perfectly willing to entrust the Nation's defense, its energy policy, its diplomacy in the hands of distinguished generalists, we should certainly feel comfortable with a distinguished generalist at the helm of the Tennessee Valley Authority.

I might make one last observation about the particular position we are considering. In the course of 54 years of continuing success and controversy, TVA has had numerous chairmen. To my knowledge, only one has had any direct prior experience as a utility manager.

TVA has had agricultural specialists, numerous lawyers, construction engineers and former elected officials on the Board. Virtually all of them have had to educate themselves in many aspects of TVA's projects and programs.

Some have gone through that education process, and then moved forward to become truly fine directors in areas with which they had no familiarity when they came to the Board.

I believe that Marvin Runyon deserves the same opportunity. He has all the skill and all the qualities necessary to become a truly fine Board member.

TVA needs those qualities and it needs them right now. I urge my colleagues to vote to confirm Marvin Runyon to the TVA Chairmanship. Further delay can only jeopardize an institution that has served millions of people for more than 50 years.

The PRESIDING OFFICER. Does the Senator from Louisiana yield back the remainder of his time?

Mr. BREAUX. How much time do I have remaining?

The PRESIDING OFFICER. Three minutes and twenty seven seconds.

Mr. BREAUX. I will take 60 seconds.

Mr. President, if the question were, "Would you buy a used car from this man?" the answer is "Yes." That is what he makes.

But if the question is should we be buying nuclear power and electricity from this person as head of the company, I would suggest the answer should be, "No." His business, his background, and his training is automobiles. It is not nuclear power, hydroelectric power, or anything TVA does. My only suggestion is we ought to have a person in charge of an agency of this size, that has these type of very severe problems, who knows something about the functions of TVA to head TVA.

Mr. STENNIS. Mr. President, will the Senator yield to me 1 minute?

Mr. BREAUX. I am proud to yield to the Senator from Mississippi.

Mr. STENNIS. I thank the Senator. I commend the Senator from Tennessee highly for a very fine and realistic presentation here talking about the facts and the problems of life particularly as they apply to the kind of work that this gentleman will do and the opportunity he is going to have.

I was well impressed with him when I saw him briefly. But you could not tell so much after all, but when you get into his record you find this is a man of exceptional outstanding ability.

We are entering a new era and are already well into it that is somewhat new to me It is a scientific era with the outlook for creation of quality products of all kinds, not only electricity but others. For this man with his past record and future prospects now, this is a great opportunity.

I think he is a fine selection, and I highly commend the President and his helpers for finding this talented man.

For my point he is certainly going to have my backing in every way I can.

I thank the Senator.

Mr. BREAUX. I yield back my time.

The PRESIDING OFFICER. The Senator yields back his time.

The time of the Senator from Vermont has expired.

Mr. BREAUX. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of Marvin T. Runyon, of Tennessee, to be a member of the Board of Directors of the Tennessee Valley Authority? On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The bill clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Delaware [Mr. Biden], the Senator from Oklahoma [Mr. Boren], the Senator from New Jersey [Mr. Bradley], the Senator from Illinois [Mr. Dixon], the Senator from Connecticut [Mr. Dodd], the Senator from Tennessee [Mr. Gore], the Senator from Massachusetts [Mr. Kennedy], the Senator from Maryland [Ms. Mikulski], the Senator from Nevada [Mr. Reid], and the Senator from Illinois [Mr. Simon] are necessarily absent.

I further announced that, if present and voting, the Senator from Tennessee [Mr. Gore] would vote "yea."

Mr. SIMPSON. I announce that the Senator from Utah [Mr. Hatch], the Senator from New Hampshire [Mr. Humphrey], the Senator from Iowa [Mr. Grassley], and the Senator from Arizona [Mr. McCain] are necessarily absent.

The PRESIDING OFFICER (Mr. Adams). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 81, nays 5, as follows:

[Rollcall Vote No. 418 Ex.]

YEAS—81

Armstrong
Baucus
Bentsen
Bingaman
Bond
Boschwitz
Bumpers
Burdick
Chafee
Chiles
Cochran
Cohen
Conrad
Cranston
D'Amato
Danforth
Daschle
DeConcini
Dole
Domenici
Durenberger
Evans
Exon
Ford
Fowler
Garn
Glenn
Graham
Gramm
Hatfield
Hecht
Heflin
Heinz
Helms
Hollings
Inouye
Johnston
Karnes
Kassebaum
Kasten
Kerry
Lautenberg
Leahy
Levin
Lugar
Matsunaga
McClure
McConnell
Melcher
Metzenbaum
Mitchell
Moynihan
Murkowski
Nickles
Nunn
Packwood
Pell
Pressler
Pryor
Quayle
Riegle
Rockefeller
Roth
Rudman
Sanford
Sarbanes
Sasser
Shelby
Simpson
Specter
Stafford
Stennis
Stevens
Symms
Thurmond
Trible
Wallop
Warner
Weicker
Wilson
Wirth

NAYS—5

Adams
Breaux
Byrd
Harkin
Proxmire

NOT VOTING—14

Biden
Boren
Bradley
Dixon
Dodd
Gore
Grassley
Hatch
Humphrey
Kennedy
McCain
Mikulski
Reid
Simon

So the nomination was confirmed.

Mr. STAFFORD. Mr. President, I move to reconsider the vote by which the nominee was confirmed.

Mr. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BYRD. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of the nominee.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that there be a period for morning business not to extend beyond 20 minutes and that Senators may speak therein up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

The minority leader.

Mr. DOLE. Mr. President, let me first yield to the distinguished Senator from Wyoming.

THE IMPENDING INF RATIFICATION DEBATE

Mr. WALLOP. Mr. President, we have heard several colleagues praising the INF Treaty that was recently signed by the United States and the Soviet Union. Some have given unqualified support to that agreement—an agreement that was still being negotiated by the U.S. Ambassador Mike Glitman and his Soviet counterpart only hours before the treaty was signed, and to which a memorandum of understanding was attached that has only recently been unclassified.

I am concerned lest this unqualified support, given at a juncture when Senators can only know and understand the broadest outline of the INF agreement, will lead this body to skirt its constitutional responsibility and not to delve systematically into the details of the agreement.

We have essentially two models to follow here, Mr. President. In 1972, after the signing of the ABM Treaty, the focus of attention of both the Armed Services Committee and the Senate Foreign Relations Committee was the interim offensive agreement, which was submitted along with the ABM Treaty as part of the SALT I package. The ABM Treaty was by far overshadowed in those hearings by an agreement that was not a treaty, but an executive agreement lasting 5 years. Virtually no debate took place on the floor over the ratification of the ABM Treaty. The floor manager of the debate, Senator Mansfield, literally begged Senators to come down and let their individual views be known on this treaty. Few did.

Need I remind my colleagues that we have recently undergone a tortuous debate over that same arms control agreement that only a handful of Senators went to the floor to debate 15 years ago. If we treat the INF Treaty in the same manner—and this is a much more complex agreement, particularly its verification provisions—we risk putting a future Senate in the same position we were in this year. While we cannot rule out future misinterpretation, it is our responsibility to do all we can to prevent it.

The other model, Mr. President, is the SALT II Treaty. Like this agreement, it was immediately hailed as a perfect arms control agreement. Some called it, by virtue of its size and detail, the most technically perfect achievement of American negotiators thus far. Many Senators, in the aftermath of the June Vienna summit, gave their support for the agreement before having had an opportunity to see it. Even so, by June 1979, when the SALT II Treaty was signed, much more was known about the details of the agreement than were known about the INF Treaty last week. The INF Treaty—if length is any standard—will take far longer than the SALT II Treaty to examine thoroughly. Then, as now, some Senators were calling for the Senate to provide its advice and consent quickly.

Fortunately for the disposition of the Senate's responsibilities, and for the security of our Nation, Senator Henry Jackson, who we so recently honored by placing his bust in the Russell Building, did not see it that way. Senator Jackson did not come out for or against the treaty immediately after its signature, much less before it was signed. He took the constitutional responsibility of the Senate—to provide its advice and consent to an agreement, not just a rubber stamp—seriously. Deadly seriously. He knew that the Founding Fathers were especially wary of international commitments for good reason, and based on that concern gave the Senate of the United States special powers with respect to the disposition of treaties.

Mr. President, in no area save perhaps the forming of alliances is there greater cause for concern than in the signing of arms control agreements. That is because these agreements cut to the very core of our security. I know that my colleagues who have spoken on the floor this week and last did not wish to put forward the view that all arms control agreements, by definition, are good. Surely we are not going to slip into a simplistic mode of thinking that the details of these agreements—details that Senator Jackson believed in SALT II were especially important because of the obvious weaknesses in the SALT I agreement—are so unimportant that they do not need careful, deliberate consideration.

Mr. President, I believe that it is the duty of each Senator to scrutinize this agreement closely. I know that Senators PELL, HELMS, NUNN, WARNER, BOREN, and COHEN, whose committees will be holding hearings on the INF agreement, share the view that a rush to judgment on an INF agreement is neither in the interests of the national security of the United States, nor in the interests of the arms control process. Indeed, Senator NUNN has wisely asked, and I understand that the administration is considering his request, that the entire negotiating record be made available to Senators and selected staff. This will greatly aid our deliberations, Mr. President, if and only if we are determined to take the time to study these documents. Senator SHELBY, my good friend from Alabama, recently had an opinion article in Defense News on this question of whether the Senate will take a long hard look at the INF Treaty. He enumerated many of the questions that frankly trouble me about this agreement; questions that need answers before the Senate can vote. In summation, Senator SHELBY asked, "Will the 'World's Greatest Deliberative Body' live up to its name?" Working with my colleagues, I hope to ensure that we will. Mr. President, I ask unanimous consent that the article by the Senator from Alabama appear in the RECORD following the completion of my statement.

Mr. President, I can already see that the debate over the INF Treaty is being waged over symbols. These symbols are clearly meant to keep us from focusing on the strategic effect of the treaty. Let me give three examples of these symbols.

We are told that the Soviet Union has to give up four times as many warheads as the United States in this deal. This is true. But, of course, it is largely irrelevant. The Soviet Union built and deployed all these warheads in the first place. A more pertinent question is, "What will be the balance of forces after the agreement and is that balance more favorable for the West?" Here the answer is less clear.

The Soviet Union is in the process of deploying a mobile ICBM, the SS-25, that can be targeted on Europe as well as the United States. It has only been tested with one warhead, but the intelligence community believes it will have three warheads like the SS-20 it replaces some time in the next decade. The Soviet Union is also deploying the SS-24 rail mobile ICBM. A highly accurate version of this missile will also replace the six warhead SS-19 in silos. The SS-24 has 10 warheads.

What does this mean? Well if in the course of the next 5 years the Soviet Union merely replaces all its SS-19 missiles with SS-24's in silos—not counting the SS-25 or the rail mobile SS-24's—they will make up the entire reduction in warheads required by the INF Treaty. The United States has no planned compensation for the destruction of the Pershing II and Ground Launched Cruise Missile. Indeed, U.S. warheads available for NATO use are predicted to decline over the next 5 years, as is the total U.S. stockpile.

Another symbol, Mr. President, is that an entire class of missiles has been eliminated. The notion of missile class is merely an intellectual concept, but clearly not a strategic concept. Before the Soviet Union began deployment of its SS-20 in the mid-1970's, they relied primarily on a combination of SS-4 and SS-5 intermediate-range missiles and variable-range ICBM's, such as the SS-11 and SS-19. The Soviet Union has never recognized the distinction between IRBM's and strategic forces. That is a uniquely Western concept. Even the SS-20 is and has always been a part of the Soviet strategic rocket forces. The Soviet SS-20 troops train with the SRF and they will make up the personnel for the growing numbers of SS-25's.

What we see is the replacement of the SS-20 by the SS-25. This missile has all the operational characteristics of the SS-20, but with increased range, throw-weight, and accuracy. For the Soviet Union then, an "entire class of missiles" has not been eliminated, because the SS-20 was of a class indistinguishable from Soviet central strategic forces. The Soviet Union has merely superbly modernized a capability they have had for years: the ability to target Western Europe and the United States with an ICBM that is largely invulnerable to attack from either Europe or the United States. The United States, on the other hand, has lost a unique capability. We once had IRBM's the Thor and Jupiter, capable of targeting the Soviet Union from Western Europe. These weapons were retired in the aftermath of the Cuban missile crisis.

In 1979, NATO decided to deploy the Pershing II and GLCM in Europe not just to counterbalance the SS-20—although that became the political symbol—but to restore confidence in the NATO strategy of "flexible response." As Senator SHELBY stated, NATO decided that its doctrine of flexible response required an intermediate link between tactical and strategic weapons. Of primary importance, if Senators will inquire, was the deteriorating strategic nuclear balance. That balance is certainly no better today than it was in 1979; it is worse. It may well be that NATO has decided that flexible response no longer needs such a link, but we in the Senate would be foolish not to ask the question of United States and NATO military experts. After the U.S. LRINF are withdrawn, we will no longer have such a capability.

Finally, Mr. President, we are told that this agreement provides for the most intrusive verification ever negotiated. Let me concede this point, but it is largely irrelevant. The real questions Senators should ask is, "Is this verification scheme up to its task?" While the provisions are more intrusive, can anyone dispute that the job of verifying mobile missiles and cruise missiles is not more difficult? Since the SS-25 is made up of SS-20 components and since it is not limited by any part of the agreement, can anyone doubt that this complicates verification beyond anything we have ever faced?

There is yet another consideration, Mr. President, and that is the entire question of compliance. When SALT I and SALT II were negotiated, we did not have the benefit of five reports to the Congress on Soviet noncompliance. Now that we have those reports, and our Government has found the Soviet Union is in violation of every major arms control commitment it ever made, including a new violation of the ABM Treaty announced but a few days before signing the INF Treaty, should we not place a higher standard on verification because of Soviet cheating? More importantly, what do we do when we detect a Soviet violation? The administration has yet to respond to a single reported violation. Can we in the Senate presume that they, or some future administration, will respond to any new violations? If the Senate has no concerns if we respond to these violations, that, at least, should be made clear by our deliberations on this treaty.

Mr. President, despite the intrusive inspection provisions said to be contained in the INF Treaty, should we in the Senate not ask officials of the administration how much confidence they have in these provisions? I have yet to have an administration official give it better than a 3 on a scale of 1 to 10. Is a three good enough for this Senate given the past Soviet record of violation?

Mr. President, the Senate must at least seriously consider these questions before being caught up by the symbolism of the summit and the INF Treaty.

Mr. President, clearly some want this agreement considered quickly. Indeed, the Secretary of State has been speaking and acting as though this is a perfect agreement. He has put himself on record that no reason could exist why anyone could oppose this agreement. Some in the administration regard any amendment or reservation that this body might attach to the INF Treaty as a so-called killer amendment. The obvious implications of this view, Mr. President, is that we in the Senate should reject our constitutional duties hastily and without due deliberation. To them, our views do not matter. To them, no one in this body is capable of improving this agreement. We must reject that view both on its merits and for its obvious arrogance.

The President of the United States has even suggested that if any Senators oppose this agreement, or even any particular provisions of it, that opposition will be an indication that they believe war between the superpowers is inevitable. It is a sad commentary when a lack of response seems to reduce it to accusation. Let me suggest that the opposite obtains. If any should show opposition to this agreement, or even express concerns about its effect on our national security and our relationship with the Soviet Union, it indicates a passionate desire to avoid, not induce, war. We believe that the details of such agreements can have a strong effect on the likelihood of war and we want the United States to enter agreements certain to provide for more stable international relations and a reduced risk of war.

Mr. President, I have not made up my mind on the INF Treaty. I have not made up my mind because I have not fully studied all its implications. No Senator can have fully studied them in this short period of time. I have not made up my mind because I have not listened to the hearings that will take place over February and March. I frankly cannot see how any Senator in this body could have made up his or her mind on the treaty at this juncture except that they do not care about its consequences.

Mr. President, I believe that prudence dictates that this Senate spend not just a few days but show a serious devotion to the time necessary to explore the implications of this new INF Treaty on the United States-Soviet strategic relationship, the Atlantic Alliance, United States national security generally, to say nothing of the President's announced prospects and plans for future follow-on arms control agreements. If we do, it is my hope that no matter what the outcome of the vote, we as Senators can be confident that we have discharged our constitutional responsibilities and our responsibility to the American people in good faith. If we do not, we seek a repeat of the ABM Treaty experience or worse. Let's live up to the claim that we are indeed the "world's greatest deliberative body."

Mr. President, I ask unanimous consent that a statement by the Senator from Alabama [Mr. SHELBY] be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

TOUGH INF QUESTIONS CONFRONT SENATE: WILL "WORLD'S GREATEST DELIBERATIVE BODY" LIVE UP TO ITS NAME?

(By Richard Shelby)

The signing of the INF (intermediate-range nuclear forces) agreement has been hailed by the administration as a foreign policy victory. However, numerous members of the U.S. Senate, the body charged by the Constitution to ratify treaties, have expressed grave concerns over the possible effects of such an agreement.

In a television interview before the summit, President Reagan said he believes that those who oppose the treaty ". . . have accepted that war is inevitable and that there must come to be a war between superpowers." However, it is perhaps more accurately thought that war with the Soviet Union is not inevitable, but rather there must be a strategic equilibrium to keep the peace.

With this second line of reasoning in mind, the Senate should thoroughly and exhaustively investigate this agreement. Although the Foreign Relations Committee is charged with reporting the treaty to the full Senate, Majority Leader Robert Byrd requested both the Armed Services and Intelligence Committees to hold hearings and report their findings.

These committee members must grapple with some tough questions regarding the effect of this treaty on NATO's conventional force structure, on NATO's nuclear capabilities and on verification. Further, the appointed committee members should painstakingly examine he entire INF U.S.-Soviet negotiating record, given the recent controversy over the broad vs. narrow interpretation of the ABM Treaty. Obviously, this process is too important to be treated as a rubber stamp approval.

Basically, the INF treaty eliminates all U.S. and Soviet nuclear missiles with ranges of 300 to 3,000 miles, namely the U.S. Pershing IIs and ground-launched cruise missiles (GLCMs), and the Soviet SS-4s, SS-12s, SS-20s and SS-23s.

In 1979, NATO decided to support a dual-track policy of deploying Pershing IIs and GLCMs while simultaneously negotiating to eliminate them and the Soviet SS-20s. NATO made this decision for several reasons. First, there existed no comparable NATO counterpart to the Soviet SS-20. Second, the NATO doctrine of "flexible response" required an intermediate link between tactical and strategic weapons. Third, the deployment was a means to politically share the burden of the responsibility of nuclear war with five other nations, rather than just the United States. It took considerable courage for European governments to support this deployment in the face of an effective Soviet propaganda attack. Now these missiles may be removed.

With the removal of INF weapons from Europe, and subsequently their destruction, NATO still is confronted with the same threat it faced in 1979. The Warsaw Pact holds a tremendous advantage in conventional forces over NATO. Other than the F-111, the NATO commander would only have battlefield tactical nuclear weapons at his disposal. Thus, the concern exists among some Europeans that by removing INF weapons, we have made Europe safe for a conventional war.

How capable are we of bolstering our conventional forces to the point where NATO could compete with the Warsaw Pact? U.S. defense budgets and those of our allies are shrinking, not growing. The Army, our prime resource for conventional defense, may be forced to cut its fiscal 1989 budget by 10 percent. Will our European allies, who have historically spent much less on defense than the United States, now spend more? Not likely. Obviously, the possibility of linking the INF treaty and Soviet conventional force reductions is an issue that must be debated by the Senate.

Looking ahead, the post-INF nuclear options available for NATO must be explored. One alternative would be a retargeting of other systems, such as sea-launched cruise missiles. This concept was rejected in the late 1970s because such action did not reflect the political resolve of land-based missiles. It is apparent this policy should be reconsidered. Another option of NATO is to increase their dependence on land-based aircraft, such as B-52s and F-111s equipped with air-to-surface missiles. However, the question remains of European governments basing these aircraft on their soil, while successfully fighting the public relations battles.

Finally, Soviet history points to several ominous and realistic questions demanding consideration during the Senate ratification hearings. Why are we entering into a treaty when it has been undeniably confirmed that the Soviets repeatedly, and even recently, violated the ABM Treaty? Will the monitoring of just one Soviet missile plant in Votkinsk be enough to ensure compliance? What assurances do we have that the Soviet delay in specifying the location of all their SS-20s was not a ploy to hide the quantity of these mobile missiles?

The administration will be working overtime to bring the INF Treaty to a vote swiftly on the Senate floor with the goal of moving quickly to a START agreement.

The Senate should carefully inspect the treaty, examine the full negotiating record and consider any and all ramifications to our national security before reaching a conclusion. The Senate has been called the world's greatest deliberative body. It is the hope of many that it lives up to its name.

The **PRESIDING OFFICER**. Who seeks recognition?

Mr. **D'AMATO** addressed the Chair.

The **PRESIDING OFFICER**. The Senator from New York.

ENFORCEABLE ARMS REDUCTION

Mr. **D'AMATO**. Mr. President, while Washington, Moscow, and the world bask in the afterglow of the recently concluded summit, the Senate must now prepare to do the hard work of fashioning workable results from this great opportunity.

After more than a quarter century of United States-Soviet arms control efforts, the sad fact is that we have been unable to make the Soviet Union abide by the terms of the treaties it has signed or to respond effectively to Soviet violations.

President Reagan has taken a bold and promising risk for peace. He and General Secretary Gorbachev have just signed a treaty eliminating certain intermediate and short-range nuclear weapons. This treaty, which I will support in the Senate, and the accelerated prospects for even broader negotiations in 1988, have raised hopes worldwide for a safer and more lasting peace.

This INF Treaty should be what the President intends it to be—a historic step forward, reducing nuclear arsenals, lowering tensions, and promising further progress in arms reduction. There is serious danger, though, that unless we in the Senate do our work properly in the ratification process, it could be yet another Trojan horse, delivered with false promises and filled with hidden danger to our security.

Mr. President, I plan to address a very basic issue during the ratification debate: How will this treaty—and the pospective Strategic Arms Reduction Treaty—be enforced? If this new treaty cannot be enforced, neither can a START Treaty, and ratification could be a dangerous act of self-deception without enforcement. The Senate must endeavor to put the seal of assured enforcement on the INF deal.

The Soviet Union has a very poor record of treaty compliance. Beginning with the President's January 23, 1984, report to Congress on Soviet noncompliance with arms control agreements, the United States has charged the Soviets with specific violations of: the SALT I ABM Treaty and Interim Agreement; the Geneva Protocol on Chemical Weapons; the Biological and Toxin Weapons Convention; the Limited Test Ban Treaty; and the Helsinki Final Act.

More to the point, the United States has concluded that—

> Through its noncompliance, the Soviet Union has made military gains in the areas of strategic offensive arms as well as chemical, biological, and toxin weapons.

The Arms Control and Disarmament Agency has stated that—

> Over the past several years, the Soviet Union has neither provided satisfactory explanations nor undertaken corrective actions which would bring them into full compliance with their solemn arms control obligations.

Our enforcement record is just as bad as the Soviet compliance record. Indeed, it may be said that our enforcement failures allowed and even encouraged Soviet violations.

Since the issues associated with treaty compliance are highly technical and usually hotly disputed, it has been difficult for our democratic political system to respond effectively to Soviet noncompliance. People with partisan purposes, differing views, and reputations to protect have helped negate efforts to respond to Soviet violations.

Much attention is now focused on the verification provisions of the INF Treaty. But even if we are sure we can verify and detect cheating, how will the United States respond if it discovers Soviet violations or if the Soviets block effective verification? Frankly, even the most reliable verification procedures do not do any good if the United States cannot—or will not—do anything about it.

Without a formal treaty enforcement structure, with mandatory, clearly established steps, past experience clearly shows that such factors as Soviet disinformation, United States public opinion polls, the budget deficit, and timing of the next election can paralyze our ability to respond effectively to Soviet treaty violations. And without effective enforcement, any treaty would be but a hollow promise of peace.

Unlike past arms control agreements, the INF Treaty and any future START agreement will make real and substantial reductions in nuclear arms. They go to the heart of our national security. Accordingly, we cannot afford a lack of enforcement.

Mr. President, I believe that the Congress can create an assured enforcement structure for this treaty, and the potential START agreement.

To work, it would have to provide a clear, progressive enforcement mechanism, including the opportunity to resolve compliance questions amicably through diplomatic procedures. It would proceed from there in graduated steps according to an established schedule, giving the President the options and flexibility he needs, but within a mandatory enforcement.

It would link Soviet compliance to all aspects of our mutual relations, including trade, exchanges, and other bilateral matters. It would also provide countervailing defense and intelligence measures to deny the Soviets any benefit from their violations; and finally, if the Soviets fail to respond positively to these steps, for withdrawal from the violated treaty.

Mr. President, I plan to propose appropriate legislation to this effect in the near future.

If the Soviet Union faithfully keeps its arms reduction promises, such an enforcement mechanism would never be activated. In fact, the existence of a clear enforcement mechanism should answer questions and ease fears otherwise likely to be raised in the ratification process.

If, however, the Soviets again show bad faith—if they exploit and violate the INF Treaty and other future treaties as they have past accords, then this enforcement mechanism will be a vital shield for our national security.

The President must have the power to respond effectively to Soviet violations. Assured enforcement is the key. We cannot again tolerate Soviet arms control violations without an effective response, or we will endanger our security and doom our hopes of lasting world peace.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who seeks recognition?

APPOINTMENTS BY THE VICE PRESIDENT

The PRESIDING OFFICER. The Chair on behalf of the Vice President pursuant to Public Law 93-642 appoints the Senator from Missouri, Mr. DANFORTH, to be a member of the Harry S Truman Scholarship Foundation Board of Trustees.

The Chair, pursuant to Executive Order 12131, signed by the President on May 4, 1979, and extended by Executive Order 12258, signed December 30, 1980, appoints the Senator from Missouri, Mr. DANFORTH, and the Senator from California, Mr. WILSON, to the President's Export Council.

The Chair, on behalf of the Vice President, pursuant to Public Law 84-944, appoints the following Senators to the Senate Office Building Commission: The Senator from Alaska, Mr. STEVENS; the Senator from North Carolina, Mr. HELMS; and the Senator from Mississippi, Mr. COCHRAN.

The Chair, on behalf of the Vice President, pursuant to Public Law 86-380, appoints the Senator from Minnesota, Mr. DURENBERGER, to the Advisory Commission on Intergovernmental Relations.

EXECUTIVE CALENDAR

Mr. BYRD. Mr. President, I inquire of the distinguished assistant Republican leader if the following calendar orders have been cleared on the Executive Calendar on his side of the aisle: Under the Judiciary, on page 2, Calendar Orders numbered 470 through 472; on page 3, under Mississippi River Commission, Federal Emergency Management Agency, and the Environmental Protection Agency, Calendar Orders numbered 473 through 475, inclusive, and Calendar Order No. 478 at the bottom of page 3, Executive Office of the President; all calendar orders on page 4 under Board for International Broadcasting and U.S. Arms Control and Disarmament Agency; all on page 5 under U.S. Arms Control and Disarmament Agency, all on page 5 under New Reports including Department of Defense and Department of Commerce; and on page 6 the Coast Guard nominations placed on the Secretary's desk.

Mr. SYMMS. Mr. President, all of those items have been cleared on this side of the aisle, I advise the majority leader.

Mr. BYRD. I thank my friend.

EXECUTIVE SESSION

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate go into executive session to proceed en bloc with the consideration of the aforementioned nominations, that the Senate confirm the nominations en bloc, that the motion to reconsider be laid on the table, that the President be immediately notified of the confirmation of the nominees, that the nominations be spread severally on the record, that statements of Senators be appropriately placed in the RECORD, and that the Senate return to legislative session.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The nominations considered and confirmed are as follows:

THE JUDICIARY

Jerry E. Smith, of Texas, to be U.S. circuit judge for the fifth circuit vice a new position created by Public Law 98-353, approved July 10, 1984.

Rodney W. Webb, of North Dakota, to be U.S. district judge for the district of North Dakota.

Kenneth Conboy, of New York, to be U.S. district judge for the southern district of New York.

MISSISSIPPI RIVER COMMISSION

Rear Admiral Wesley V. Hull, National Oceanic and Atmospheric Administration, to be a member of the Mississippi River Commission.

FEDERAL EMERGENCY MANAGEMENT AGENCY

Grant C. Peterson, of Washington, to be an associate director of the Federal Emergency Management Agency.

ENVIRONMENTAL PROTECTION AGENCY

Linda J. Fisher, of Ohio, to be an assistant administrator of the Environmental Protection Agency.

EXECUTIVE OFFICE OF THE PRESIDENT

Marjorie B. Kampelman, of the District of Columbia, to be a member of the Advisory Board for Radio Broadcasting to Cuba for a term of 1 year.

BOARD FOR INTERNATIONAL BROADCASTING

Malcolm Forbes Jr., of New Jersey, to be a member of the Board for International Broadcasting for a term expiring April 28, 1989.

Kenneth Y. Tomlinson, of New York, to be a member of the Board for International Broadcasting for a term expiring April 28, 1990.

U.S. ARMS CONTROL AND DISARMAMENT AGENCY

Peter H. Dailey, of California, to be a member of the General Advisory Committee of the U.S. Arms Control and Disarmament Agency.

Martin Anderson, of California, to be a member of the General Advisory Committee of the U.S. Arms Control and Disarmament Agency.

James T. Hackett, of Virginia, to be a member of the General Advisory Committee of the U.S. Arms Control and Disarmament Agency.

Richard Salisbury Williamson, of Illinois, to be a member of the General Advisory Committee of the U.S. Arms Control and Disarmament Agency.

Jack R. Lousma, of Michigan, to be a member of the General Advisory Committee of the U.S. Arms Control and Disarmament Agency.

Marjorie S. Holt, of Maryland, to be a member of the General Advisory Committee of the U.S. Arms Control and Disarmament Agency.

William Schneider, Jr., of New York, to be a member of the General Advisory Committee of the U.S. Arms Control and Disarmament Agency.

Kathleen C. Bailey, of California, to be an assistant director of the U.S. Arms Control and Disarmament Agency.

DEPARTMENT OF DEFENSE

Thomas F. Fautht, Jr., of Pennsylvania, to be an Assistant Secretary of the Navy.

T. Burton Smith, Jr., of California, to be a member of the Board of Regents of the Uniformed Services University of the Health Sciences for a term expiring May 1, 1993.

DEPARTMENT OF COMMERCE

Melvin N. A. Peterson, of California, to be chief scientist of the National Oceanic and Atmospheric Administration.

NOMINATIONS PLACED ON THE SECRETARY'S DESK IN THE COAST GUARD, FOREIGN SERVICE

Coast Guard nominations beginning Merrill J. Schweitzer, Jr., and ending Robert P. O'Connor, which nominations were received by the Senate on November 24, 1987, and appeared in the CONGRESSIONAL RECORD of November 30, 1987.

Coast Guard nominations beginning Thomas J. Coe, and ending Robert C. Parker, which nominations were received by the Senate on November 24, 1987, and appeared in the CONGRESSIONAL RECORD of November 30, 1987.

Coast Guard nominations beginning Donald P. Wills, and ending Robert P. Sheaves, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of December 17, 1987.

Coast Guard nominations beginning Arnold D. Abe, and ending George M. Zeitler, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of December 17, 1987.

IN SUPPORT OF KENNETH CONBOY TO BE A U.S. DISTRICT COURT JUDGE

● Mr. BIDEN. Mr. President, Kenneth Conboy has been nominated to the U.S. District Court for the Southern District of New York. He was born in Manhattan on June 3, 1938, and graduated from Fordham College and the University of Virginia Law School. He also holds a masters degree in history from Columbia University. The nominee is currently the commissioner of the New York City Department of Investigations, having held that position since February 24, 1986. From 1966 to 1977, he was an assistant district attorney in Manhattan and also headed the rackets bureau. Mr. Conboy was a deputy police commissioner for legal matters and counsel to the police department from 1977 to 1983 when Mayor Edward Koch named him criminal justice coordinator. In his present position as investigations commissioner, Mr. Conboy is in charge of investigations into alleged corrupt activities by city officials.

At the hearing on his nomination on December 9, Mr. Conboy was introduced by Senator D'AMATO. Senator MOYNIHAN, although unable to attend the hearing, has submitted a statement in support of the nominee. Mr. Conboy responded satisfactorily to questions posed by me on the extent of criminal activity in New York City, his experiences as criminal justice coordinator, and his duties and activities as commissioner of investigations. Testimony was received from one opposition witness, Mr. Fred Carfora about the department of investigation's handling of allegations which resulted in a finding by Mr. Conboy that Mr. Carfora had retaliated against a "whistle blower." Mr. Conboy stated that he remained confident and satisfied with its handling of that investigation and the conclusions. The majority of the members of the ABA standing Committee on the Federal Judiciary found Mr. Conboy to be qualified for this position. A minority rated him as as well qualified.●

LEGISLATIVE SESSION

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

ARMS CONTROL TREATY REVIEW SUPPORT OFFICE

Mr. BYRD. Mr. President, on behalf of Mr. DOLE, I send to the desk a Senate resolution, and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A resolution (S. Res. 348) establishing an Arms Control Treaty Review Support Office.

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of the resolution.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senate proceeded to the immediate consideration of the resolution.

Mr. BYRD. Mr. President, the resolution I am submitting today with the distinguished minority leader establishes a support office in the Senate to provide the necessary administrative and logistical work to organize and make usable the negotiating record of the treaty.

As Senators are well aware, as a result of the debate over the interpretation of the ABM Treaty which has consumed much of the time of the Senate, it is important that it be absolutely clear what it is that the Senate is approving, if and when it approves the ratification of the INF Treaty recently signed by President Reagan and Mr. Gorbachev.

Mr. President, treaties are the supreme law of the land, and as they are the exclusive prerogative of the Senate, the responsibility of the Senate is especially heavy, heavier than it is for a normal piece of legislation which must be approved, as well, by the other body. It is for this reason that approval of the resolution of ratification must be achieved by a supermajority. It is a wise compensating mechanism when the Senate acts alone. The obligations entered into under the provisions of the treaty bind the Nation, and bind future Presidents. Thus, if any President decides to reinterpret a treaty differently from the interpretation given by the Senate, in its approval by the Senate, then the Senate must approve any future change in that interpretation. No unilateral reinterpretation by the executive branch should be permissible, for to permit this would demean and cheapen the role and authority of the Senate in this process to an almost meaningless one.

In order to correct the confusion surrounding this question of the proper interpretation of a treaty, when it is approved by the Senate, I and the chairmen of the relevant committees have been meeting with the Secretary of State and other representatives of the executive branch to arrange for the transmission of the negotiating record of the INF Treaty to the Senate, so that no future reinterpretation can be promoted by reference to documents which are suddenly discovered to give the terms of the treaty a new meaning not understood by the Senate when it approved the treaty.

In order to provide for the orderly storage, organization, and systems of access and security for the negotiating record, this resolution provides for the creation of the necessary logistical support staff to do the job as expeditiously as possible. It is a bare bones staff, just as much as will be needed, and my staff will work closely with that of the minority leaders and the committee chairmen to make it happen.

The **PRESIDING OFFICER.** Is there further debate on the resolution? If not, the question is on agreeing to the resolution.

The resolution (S. Res. 348) was agreed to.

The resolution is as follows:

S. Res. 348

Resolved, That there is established within the Senate an Arms Control Treaty Review Support Office (hereafter in this resolution referred to as the "Office"), which shall be under the policy direction of the Majority Leader and the Minority Leader and which shall be under the administrative direction and supervision of the Secretary of the Senate (hereafter in this resolution referred to as the "Secretary").

Sec. 2. (a) The Office shall provide to the Senate such administrative support as the Majority and Minority Leaders may direct, with respect to Senate consideration of the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Elimination of their Intermediate-Range and Shorter-Range Missiles, done at Washington on December 8, 1987, and of any other arms control treaties submitted, during the One Hundredth Congress, by the President to the Senate for its advice and consent to ratification. Such support shall include—

(1) the temporary storage and organization, system of access to, and security of, documents related to the negotiating records of such treaties; and

(2) such other assistance to the Committee on Foreign Relations, the Committee on Armed Services, and the Select Committee on Intelligence of the Senate, as may be deemed necessary to their consideration of such treaties.

(b) The Office shall maintain an active liaison on behalf of the Senate, or any committee listed under subsection (a)(2), with all departments and agencies of the United States on matters relating to the functions of the Office described in subsection (a).

(c) Nothing in this resolution shall be construed to alter the jurisdiction of any committee of the Senate.

Sec. 3. (a) The Office is authorized, from funds made available under section 5 of this resolution, to employ such staff (including consultants at a daily rate of pay) in the manner and at a rate not to exceed that allowed for employees of a standing committee of the Senate under paragraph (3) of section 105(e) of the Legislative Branch Appropriations Act, 1968 (2 U.S.C. 61-1(e)), and to incur such expenses as may be necessary and appropriate to carry out its duties and functions.

(b) The Secretary, upon the recommendation of the Majority and Minority Leaders, shall appoint and fix the compensation of such personnel, including clerical staff, as may be necessary to carry out the provisions of this resolution.

Sec. 4. (a)(1) The Majority and Minority Leaders shall make arrangements with the Executive Branch to provide for the transmission, organization, and system of access to, the negotiating record relating to arms control treaties submitted during the One Hundredth Congress by the President to the Senate for its advice and consent to ratification.

(2)(A) Access by staff personnel and consultants employed by the Committee on Foreign Relations, the Committee on Armed Services, and the Select Committee on Intelligence of the Senate to any document in the possession of the Office or to the premises of the Office shall be limited to individuals who are designated jointly by the chairman of the respective committee and by the Majority Leader, in consultation with the Minority Leader.

(B) Access by staff personnel and consultants employed by any office of the Senate (other than the Office or any of the committees specified in subparagraph (A)) to any document in the possession of the Office or to the premises of the Office shall be limited to individuals who are designated jointly by the Majority Leader and the Minority Leader.

(C) The Majority Leader and the Minority Leader shall jointly determine which staff members and consultants of the Office shall be required to have security clearances.

(D) No person described in subparagraph (A), (B), or (C) may be given access to classified information held by the Office unless such person has an appropriate security clearance and a need to know such information.

(3) All staff members and consultants shall, as a condition of employment, agree in writing to abide by the conditions of an appropriate nondisclosure agreement promulgated by the Office of Senate Security.

(4) The Office shall employ a security officer qualified to administer appropriate security procedures to ensure the protection of confidential and classified information in the possession of the Office.

(5) The case of any Senator who violates the security procedures of the Office may be referred to the Select Committee on Ethics of the Senate for the imposition of sanctions in accordance with the rules of the Senate. Any staff member or consultant who violates the security procedures of the Office shall immediately be subject to dismissal or such other sanction as the Majority and Minority Leaders may direct.

(b)(1) The Office shall make suitable arrangements, in consultation with the Office of Senate Security, for the physical protection and storage of classified information in its possession.

(2) Upon termination of the Office pursuant to section 6 of this resolution, all records, files, documents, and other materials in the possession, custody, or control of the Office, under appropriate conditions established by the Office, shall be transferred to the Office of Senate Security.

Sec. 5. (a) Such sums as are necessary to carry out the provisions of this resolution, shall be made available from the contingent fund of the Senate, out of the Account of Miscellaneous Items, to pay the expenses of the Office, upon vouchers approved by the Secretary (except that vouchers shall not be required for the disbursement of salaries of employees who are paid at an annual rate).

(b)(1) Such sums as are necessary to carry out the provisions of this resolution may be expended by the Office, with the prior approval of the Committee on Rules and Administration, to procure the temporary (not in excess of one year) or intermittent services, including related and necessary expenses, of individual consultants, or organizations thereof, to make studies or advise the Office,

(2) Such services in the cases of individuals or organizations may be procured by contract as independent contractors or, in the case of individuals, by employment at daily rates of compensation not in excess of the per diem equivalent to the highest gross rate of compensation which may be paid to the regular employee of a standing committee of the Senate. Such contracts shall not be subject to the provisions of section 3709 of the Revised Statutes (41 U.S.C. 5) or any other provisions of law requiring advertising.

(3) Any such consultant shall be selected by the Majority and Minority Leaders acting jointly. The Office shall submit to

the Committee on Rules and Administration of the Senate information bearing on the qualifications of each consultant whose services are procured pursuant to this subsection, including organizations, and such information shall be retained by the Office and shall be made available for public inspection upon request.

SEC. 6. The Office shall terminate not later than thirty days after the sine die adjournment of the One Hundredth Congress.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. SIMPSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

INTERNATIONAL FISHERY AGREEMENT BETWEEN THE UNITED STATES AND JAPAN

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of H.R. 3674 just received from the House.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 3674) to provide congressional approval of the Governing International Fishery Agreement between the United States and Japan; to implement the provisions of Annex V to the International Convention for the Prevention of Pollution from Ships, 1973; to reauthorize the National Sea Grant College Program Act; to improve efforts to monitor, assess, and reduce the adverse impacts of driftnets; and for other purposes.

There being no objection, the Senate proceeded to the immediate consideration of the bill.

Mr. LAUTENBERG. Mr. President, this piece of legislation includes three bills that are very important to New Jersey—legislation to control the harmful disposal of plastics into our waters, implementing legislation for annex V of the Marpol Treaty and my Bight Restoration Program.

Each of these programs is an essential part of my program to clean up our oceans and restore our shorelines to an unsullied state. I strongly support this legislation and I urge my fellow Senators to approve this bill.

This bill, H.R. 3674, is the product of substantial negotiations including the Environment and Public Works and Commerce Committees and the House Merchant Marine and Fisheries and Public Works and Transportation Committees.

It incorporates the plastics legislation that Senator CHAFEE and I have worked with other members of the Environment and Public Works Committee so long to pass. It also includes my legislation, the Bight restoration plan, to abate the steady stream of pollution that pours into the badly polluted coastal waters off the coast of New Jersey.

The bill represent a broad consensus from both Democrats and Republicans, as well as from Members of both the House and Senate.

The National Academy of Science estimates that commercial fishing fleets dump more than 52 million pounds of plastic packing material into the sea each year. Another 298 million pounds of plastic fishing gear are also lost annually. All too often, this garbage ends up on our beaches, spoiling the public's enjoyment of our natural resources and depressing the tourism industry that is so important to New Jersey.

The plastics legislation will not only result in significant environmental improvements but will also prevent the death of many marine animals. Many people do not realize the tremendous hazards plastic debris presents to marine life. Every year plastic debris is responsible for the death of 30,000 fur seals, more than 200,000 birds and many other marine animals including sea turtles and great whales.

Not only are we restoring the environment along our shorelines but we will be adopting a humane measure that will prevent the slow death of many sea and shore creatures.

This legislation will put an end to careless disposal of plastic debris in our oceans. It will significantly reduce the debris which litters our beaches every summer. It will curb the number of senseless animal deaths that occur every year.

The plastic bill also mandates a comprehensive public awareness program about plastic pollution. And it provides an international approach to the problem. Once annex V is ratified and in force, the bill would implement its international restrictions on disposal of plastic products and other garbage. The domestic regulations of the bill, however, take effect even before annex V enters into force.

It is the combination of the plastic legislation and the implementing language for annex V, both included in this bill, that are needed to make this initiative work.

Once we have passed this bill, I hope the President will move swiftly to complete the ratification process for annex V. Congress will have done its part to solve the problem of plastic debris. If the administration moves swiftly U.S. ratification can trigger actual implementation of the treaty.

Mr. CHAFEE. Mr. President, I am pleased that the Senate is considering today legislation, in part based on bills I introduced in the Senate, to implement the provisions of the Internatinal Convention for the Prevention of Pollution from Ships, commonly known as Marpol, annex V, and also to require EPA to undertake a major study of how to reduce plastics in the environment. Not inclosed is legislation requiring EPA to regulate the use of nondegradable six-pack holders. However, I am confident that this legislation will receive prompt attention by both Houses of Congress early next year.

S. 3674, the Governing International Fisheries Agreement, is important for the State of Rhode Island. It establishes the framework for our international fish trade with Japan, and benefits the fishing industry in both out nations. I urge my colleagues to support this bill which will continue the useful trading agreement on fish and fish products between the United States and Japan.

Over the last decade, there has been growing concern among conservationists and scientists over discarded plastic in our Nation's waters and on land. Entrapment in plastic debris such as six-pack holders, packing bands, lost or discarded fishing nets, and ingestion of plastic materials is known to kill thousands of birds, seals, turtles, sea lions, and fish each year.

This legislation will require that EPA provide Congress with recommendations on how to reduce the harmful effects of plastic pollution on the environment and will implement the terms of an international treaty which makes it illegal for ships to intentionally dump plastic garbage in U.S. waters.

The Environmental Protection Agency recently commissioned a study entitled "Use and Disposal of Nonbiodegradable Plastics in the Marine and Great Lakes Environment," which points to a growing body of evidence that plastic, when improperly disposed of, harms the oceans and its inhabitants in a multitude of ways.

After World War II, plastic materials displayed a hundredfold growth in the marketplace. Metal, glass, paper, and cloth have rapidly replaced plastic in thousands of products. In 1985, about 50 billion pounds of plastics were used.

Of the total, over 10 billion pounds were used in packaging applications, a substantial portion of which makes its way into our marine environment. Lightweight plastic products discarded in the water neither sink nor disintegrate. This debris is virtually invisible to many types of marine life, and can float for years, causing entrapment and killing marine animals before eventually washing ashore.

Plastic debris also poses a hazard to fish and wildlife through ingestion. Raw plastic particles, from which plastic products are manufactured, enter the waters from manufacturing plants or are lost from ships. Fish and wildlife eat these particles and plastic bags because of their resemblance to natural food. Autopsies of sea turtles, seals, and sea birds have revealed, in some cases, several pounds of ingested plastic.

Another major problem tied to plastic debris is "ghost fishing," or the tendency of lost or discarded nets to continue to catch fish indefinitely. Because these nets are made from durable plastics, they trap and kill sealife for decades.

The plastic pollution problem has grown to such a point that we cannot walk to our Nation's beaches and parks without encountering plastic litter. Beach cleanup efforts in some coastal States, including Rhode Island, have resulted in the collection of many thousands of discarded plastic products including six-pack holders, packing bands, pieces of fishing nets, and containers.

It is also reported that marine debris poses hazards to seagoing vessels. Propellers, shafts, and intakes of marine vessels have been fouled by floating nets and other plastic debris. Plastic debris also poses a threat to divers.

We cannot continue to ignore the adverse environmental impacts of these materials. Congress needs to carefully examine the environmental pollution of discarded plastics on land and in waters and take appropriate steps to correct the problem.

This legislation will tackle the plastics pollution problem in the following ways:

First, the EPA Administrator will be required to build upon the aforementioned study documenting the extent of plastic pollution in the environment, and recommend to Congress methods available to eliminate or lessen the adverse effects of the pollution. Specifically EPA will be required to look at the feasibility of using degradable plastics in fishnets, packing bands and other plastic products which pose a threat to the environment. EPA will also evaluate the use of incentives to reduce improper plastics disposal, such as recycling, bounties, and rewards.

In undertaking this study, the Administrator will consult with the National Oceanic and Atmospheric Administration other Government departments or agencies doing research in this area, as well as the affected industries.

The bill addresses a major source of plastic pollution: plastic garbage intentionally dumped from oceangoing vessels. It creates domestic legislation which implements the provisions of annex V of the International Convention for the Prevention of Pollution from Ships, commonly known as Marpol. This approach, endorsed by the Coast Guard, would make it illegal for ships operating in U.S. waters to intentionally dump plastic garbage.

According to the EPA study, most of the plastic debris in the marine environment comes from ocean sources. That amount is estimated at 6.4 million metric tons per year. While accidental loss of plastic items from ocean sources contributes to the problem of debris, deliberate disposal at sea is a greater problem.

This legislation takes a giant step toward eliminating plastic waste from our ocean and coastal environment.

I hope my colleagues in the Senate will join me in this effort to reduce the plastic pollution of our land and waters.

Mr. President, I ask unanimous consent that the balance of my text be included in the RECORD, and be considered legislative history for the bill we are now considering.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STUDY OF METHODS TO REDUCE PLASTIC POLLUTION

General statement: The study of methods to reduce plastic pollution shall focus on two related yet distinct components of the plastic waste problem: plastic in the marine environment, especially as it effects marine life and contributes to the aesthetic degradation or economic losses in beach, coastal and waterfront areas; and plastic in the solid waste stream. Witnesses testifying before congressional committees noted that plastic comprises an increasing percentage of the waste that is filling landfills. Critical shortages of landfill capacity are predicted for several states within the next decade.

EPA, in consultation with NOAA, shall undertake a study describing the adverse effects that the disposal, both proper and improper, of plastics have on the environment, including the effects on fish and wildlife and the habitat of such species and the effects on beaches and other waterfront areas. The study shall identify the various means that are, or due to technological advances, may be available, to control or eliminate such adverse effects.

The study shall also evaluate the relative impact of plastics, as compared to other wastes, on the solid waste stream. The study shall include a compilation of improper disposal practices and associated specific plastic articles that occur in the environment with sufficient frequency to cause death or injury to fish or wildlife, affect adversely the habitat of fish or wildlife, contribute significantly to aesthetic degradation or economic losses in beach, coastal or waterfront areas, endanger human health or safety, or cause other significant impacts. In compiling such a list, it is the intention of Congress that EPA draw on existing studies, such as *The Use and Disposal of Non-Biodegradable Plastic in the Marine and Great Lakes Environment,* EPA contract number 68-02-4228.

The study shall also evaluate the land-based sources of aquatic pollution, such as landfills and municipal sources, and identify whether improved enforcement of existing laws or regulations is necessary. The study shall evaluate the feasibility and desirability of substitutes for those articles identified in the list under paragraph (1), including comparisons between the article identified and the substitute with regard to relative environmental risks, cost effectiveness, disposability, durability, impact on public health and safety, and the availability of such alternatives.

The study shall include an evaluation of the feasibility, and if feasible, the desirability of using recycling initiatives (including recovery of energy value), to reduce the amount of plastic entering the solid waste stream, including an analysis of the status of and need for public and private research and development to develop and market recycled plastics. The committee realizes that if recycling of plastics is to become an economically viable alternative, it will be necessary to develop new uses for recycled plastics and analyze methods to facilitate the recycling of plastic materials by identifying different types of plastic material in common use and identifying methods to aid in the sorting of such different materials. Congress realizes that one obstacle to recycling of plastics is the many different plastic materials in common use. The study shall recommend methods for sorting plastic to facilitate recycling, including the desirability and feasibility of standardizing the types of plastic materials, considering protection of public health and trade secrets.

The study shall include an analysis of incentives, including deposits on plastic containers, to increase the supply of plastic material for recycling, and to decrease the amount of plastic debris, especially in the marine environment.

The effect of existing tax laws on the manufacture and distribution of virgin plastic material as compared with recycled material shall be addressed in the study. This part of the analysis should be conducted in consultation with the Secretary of the Treasury and the Secretary of Commerce, and should focus on whether a bias exists to favor virgin over recycled materials. The study shall include recommendations regarding measures, including fees or tax incentives, that can be implemented by the federal government, measures that can be implemented to encourage manufacturers of plastic articles to consider re-use and recycling in product design.

The study shall make recommendations regarding a public education campaign, carried out under another section of this act, to promote any environmental and economic advantages to recycling of plastic materials. The study shall also include a list of recycled plastic products which could be purchased by the federal government.

The study shall include an evaluation of the feasibility of making articles identified under paragraph (1) from degradable plastic materials, taking into account the risk to human health and the environment, the properties of the end-products of the degredation of plastic materials, including biotoxicity, potential for bioaccumulation, persistence and fate within the environment under various physical conditions.

The study of degradable plastics should address the effeciency and variability of degredation due to differing environmental and biological conditions, and the relative benefits and purpose of such article and its materials of construction, including the duration for which such article was designed to remain intact, paying particular attention to the protection of human health, technical considerations and cost considerations.

Report to Congress: The list compiled under paragraph (1) of this section shall be submitted to Congress within six months after the date of enactment of this act, and the balance of the study shall be submitted within eighteen months after the date of enactment of this act.

Mr. MITCHELL. Mr. President, I am pleased to add my support for title II of H.R. 3674, the Marine Plastic Pollution Research and Control Act.

The Subcommittee on Environmental Protection of the Committee on Environment and Public Works conducted three hearings earlier this year to examine problems caused by plastic debris in the environment and methods to reduce this form of pollution.

These hearings led to the development of legislation by the committee which, as Senator BURDICK has noted, has now largely been incorporated in H.R. 3674. I want to thank Senators LAUTENBERG and CHAFEE for the role they have played in the consideration and development of this important legislation.

A walk along the Maine coast reveals just how pervasive plastic products have become in our environment. In one 30-mile stretch of the State's magnificent shoreline, volunteers collected more than 1,500 pounds of debris. A third of the litter removed was composed of plastic materials which would otherwise have become an enduring eyesore.

Aside from marring the beauty of one of Maine's greatest natural assets, the plastic bags and bottles and other debris that wash ashore also are a threat to the State's tourism industry. Tourism is one of Maine's most important industries, and its continued contribution to the State's economy depends on health and attractive natural areas.

Most of the plastic waste and other garbage that fouls the coast of Maine and other States comes from ocean, rather than land, sources. Dumping of garbage at sea is still a standard operating procedure for the majority of commercial and military vessels. Worldwide, this everyday, sea-going practice introduces to the marine environment an estimated 6.4 million metric tons of plastic debris per year.

The aesthetic and concomitant economic problems caused by plastic litter accumulating on our coasts are easily seen and comprehended. Less well understood, however, are impacts to fish and wildlife that may result from the persistence of plastic products in the environment.

Individual birds, seals, fish, or sea turtles are known to be injured or killed by ingesting or becoming entangled in various plastic items. These are unfortunate occurrences, which probably all of us have seen at least in photographs.

More troubling, though, is that each individual victim suggests the possibility of larger, more serious consequences for populations of marine species, particularly those, such as the Kemp's ridley sea turtle, which are already at dangerously low levels.

The legislation before us today takes an important first step in stemming the damage caused by plastic debris by implementing annex V to the International Convention for the Prevention of Pollution from Ships. Incorporating this global agreement in U.S. law will bring a long overdue end to the routine, institutionalized dumping of plastic garbage into the world's oceans.

The bill also will expand our efforts to address the problem beyond shipboard sources of debris in marine waters and explore broader mechanisms to reduce pollution from plastic waste material more generally.

H.R. 3674 incorporates provisions from the Enviromment and Public Works Committee legislation to examine methods other than prohibitions on diposal for reducing plastic debris in the environment, including: using degradable plastics in certain products; encouraging recycling; using alternative materials for current plastic products; using labels to encourage proper disposal; and increasing public awareness of the problem and its solutions.

Mr. President, I urge my colleagues to support this effort to control one of the most pervasive problems in aquatic environments.

Mr. BURDICK. Mr. President, I strongly support title II of H.R. 3674, the Marine Plastic Pollution Research and Control Act. This legislation will reduce the pollution of our inland and ocean waters and waterfront areas that is caused by plastic debris.

The legislation is the result of the combined efforts of the Committees on Environment and Public Works and Commerce, Science, and Transportation in the Senate and several committees in the House of Representatives.

On November 10, 1987, the Committee on Environment and Public Works approved legislation to implement annex V to the International Convention for the Prevention of Pollution from Ships. The measure applied annex V's prohibition on disposal of plastic waste from ships to all waters and vessels under the jurisdiction of the United States.

The Environment and Public Works Committee's bill went further, however, to reduce the environmental and economic damage caused by plastic debris.

Specifically, the bill required the Administrator of the Environmental Protection Agency: First, to conduct a study to determine and control the adverse effects on the environment that result from improper disposal of plastic articles and to evaluate the relative impact of plastics on the solid waste stream and the desirability and methods of reducing this impact; second, to conduct a public awareness program with other Federal agencies, which consists of public outreach, public service announcements, and "Citizen Pollution Patrols"; third, to prohibit nondegradable plastic ring carries within 36 months of the date of the bill's enactment unless such a prohibition is not feasible; and fourth, to develop a plan for the restoration of the New York Bight.

The committee's legislation was developed principally by Senators LAUTENBERG and CHAFEE, and I want to recognize them for their leadership on this issue.

Mr. President, I am pleased that, with the exception of the provision relating to plastic ring carriers, all of the provisions approved earlier by the Environment and Public Works Committee have been included in title II of H.R. 3674.

Finally, Mr. President, I want to thank the distinguished chairman and ranking minority member of the Committee on Commerce, Science, and Transportation, Senator HOLLINGS and Senator DANFORTH, for their cooperation in the development of this legislation.

Mr. HOLLINGS. Mr. President, I rise today to urge support for H.R. 3674, critically important ocean legislation. Contained within this bill are provisions to approve the United States-Japan fishery agreement; reauthorize the National Sea Grant College Program; implement annex V to the International Convention for the Prevention of Pollution from Ships; and initiate actions needed to monitor, assess, and control the impacts of driftnets. The bill would also facilitate disaster assistance to North Carolina fishermen who have suffered losses from shellfish contamination as a result of a red tide event in the waters off the coasts of that State. This bill addresses several important marine issues which have been discussed and acted upon by the Commerce Committee during this session and the provisions of this bill which address those issues are in substantive agreement with committee recommendations. Consequently, I feel comfortable in requesting immediate consideration and adoption of this measure, and at this time would like to provide a more detailed background of the bill's provisions.

Title I approves an agreement negotiated between the governments of the United States and Japan to modify conditions for Japanese fishing activities within the U.S. exclusive economic zone [EEZ]. The agreement amends the current Governing International Fishery Agreement [GIFA] with Japan, making it conform to domestic laws and extending it for 2 years until December 31, 1989. Under the Magnuson Fishery Conservation and Management Act, to foreign fishing is permitted in the U.S. EEZ in the absence of such an agreement; the current GIFA with Japan expires on December 31, 1987. Thus, without affirmative congressional action before the end of this year, all fishing activity involving Japanese nationals within our EEZ will cease.

I understand that such an interruption would be extremely costly to the U.S. fishing industry. Over the past decade, although Japan has benefited from the opportunity to harvest the fish within U.S. waters, U.S. fishermen have also profited from cooperative ventures with that nation. In 1987, United States-Japan joint venture fisheries will yield about 700,000 metric tons of fish with an estimated value to U.S. fishermen of about $100 million. In addition, joint efforts are underway for the construction of serveral fish processing plants in Alaska. Such cooperative international ventures represent an effective and responsive method for developing and wisely using our Nation's fishery resources.

Title II addresses the problem of plastic and other types of debris which are accumulating at alarming rates in the ocean and coastal waters of the world. Discarded fishing gear, plastic strapping and wrapping materials, bottles, food bags and personal hygiene products litter our beaches and foul our surface waters. Millions of birds, fish, whales, seals and sea turtles die each year from ingesting or becoming entangled in marine debris. Plastic trash represents a serious pollution problem because it does not degrade readily and may persist in the marine environment for decades.

This title represents the best efforts of the Commerce Committee and others to come to an agreement concerning the most effective approach to the plastic problem. Provisions of title II are substantively similar to the language of H.R. 940 as reported by Commerce Committee. The purpose of those provisions is to provide domestic implementation for annex V of the MARPOL Convention, the International Convention for the Prevention of Pollution from Ships. As you will recall, annex V, Regulations for the Prevention of Pollution by Garbage from Ships, was submitted to the Senate for advice and consent at the beginning of the year and was approved unanimously by the Senate on November 5. Despite current international uncertainty about which nations have ratified annex V, I understand that prompt action by the United States in implementing this agreement will ensure that it gains the force of international law in the coming year.

Annex V implementation addresses a longstanding and ubiquitous pollution practice, the disposal of garbage at sea. About 6.6 million tons of trash are dumped overboard by merchant ships annually. An estimated 1 million tons of plastic wastes are thrown from ships into the sea each year. Entry into force of annex V will change those practices by prohibiting the vessels of signatories from discharging plastic garbage anywhere in the ocean. The agreement also requires that disposal of other types of garbage be limited within specified distances from the nearest land. The regulations would apply to all vessels, down to the smallest dinghy. In addition, ports and terminals would be required to provide adequate garbage reception facilities.

Title II takes a two-pronged approach to preventing garbage pollution by regulating both disposal at sea and reception facilities in ports. With respect to disposal at sea, regulations apply to U.S. vessels wherever they are located, and to foreign vessels in the navigable waters and exclusive economic zone of the United States. Under current international and domestic law, public vessels—principally the Navy and Coast Guard—are exempt from MARPOL restrictions. These vessels do generate a significant amount of garbage, however, and the legislation directs all Federal agencies to bring their vessels into full compliance with annex V regulations. The Coast Guard and the Navy have indicated that they anticipate compliance within the specified 5-year period.

Enforcement and assessment of penalties for illegal garbage disposal would be carried out under the provisions of existing law. Enforcement difficulties are anticipated due to the large area in which violations may occur and the wide range of individuals, from merchant ship crewmen to recreational boaters, required to comply. A public education program would be initiated to improve understanding of the need for compliance. Finally, title II contains some additional provisions to those recommended by our committee. Those sections would initiate studies to examine the sources and effects of plastic pollution. Overall, I feel that the provisions of H.R. 3674 represent a responsible compromise and major progress toward controlling the marine plastic problem.

Title III reauthorizes the National Sea Grant College Program. This title is very similar to S. 1196, legislation which I introduced last May and which was passed by the Senate in August. Twenty years ago, Congress created Sea Grant to foster the understanding, use, and conservation of ocean and coastal resources through university-based research, education, and advisory services. Today, that program stands as a model for partnership among university, government, and private sectors dealing with critical resource issues. The Sea Grant network has grown to include 22 Sea Grant Colleges and 7 institutional programs. This network draws upon the academic facilities and personnel of more than 300 universities and affiliated institutions in 39 States.

Our job now is to begin to focus the network which we have developed over the last two decades on the future. For example, I am particularly interested in using that network to address increasing concerns regarding the overall health of our coastal marine environment. Last month, my good friend from Connecticut, Senator WEICKER, and I held a hearing concerning the unexplained and widespread bleaching of coral reefs throughout the Caribbean. Last summer, hundreds of dolphins washed up on the beaches on the east coast of the United States. Although researchers are still studying the cause of that dolphin epidemic, initial findings indicate that one contributor may have been poor coastal water conditions. Closures of beaches to swimming and shellfish beds to harvesting also become common occurrances in recent years. The need for such actions provides a grim reminder that if we do not understand and protect our marine resources, we almost certainly will lose them.

A national commitment to a strong marine research program is an essential step toward such understanding and protection. To that end, I sponsored and worked for the passage of a new strategic research initiative as part of the National Sea Grant Program reauthorization. This initiative is included in H.R. 3674 in addition to the 5 year reauthorization for the core program. I anticipate that the new program will permit Sea Grant to identify and focus on national research priorities such as coastal pollution, estuarine processes, and fisheries oceanography, bringing a unique expertise to bear on pressing environmental problems in coastal and marine areas. The bill also strengthens the International Sea Grant Program and broadens the fellowship program to include postdoctoral researchers.

Title IV addresses another pressing environmental and fishery issue, the impact of driftnet fisheries on marine resources. In recent years, my good friend from Alaska, Senator STEVENS, and others have become very concerned by the growth of the high seas driftnet fisheries in the North Pacific. Such concern is well taken. The fishing fleets of Japan, Korea, and Taiwan set thousands of miles of driftnets each night during the fishing season. I recently learned that over 20,000 miles of driftnets may be fished in a single evening. To get an idea of the enormous effort, that length of netting would stretch from the Senate to my home in Charleston about 35 times. It is not difficult to believe scientific estimates that these fisheries unintentionally kill many thousands of seabirds and marine mammals each year. Questions have also arisen concerning the capture of North American salmon. In addition, lost and abandoned nets continued to capture marine animals long after the fishermen have returned to shore.

Title IV is almost identical to Senator STEVENS' bill, S. 62, as it was reported out of the Commerce Committee last month. The purpose of title IV is to assess the effects of driftnets on the marine environment and to minimize their adverse impacts. To provide scientific assessment, the Secretary of Commerce is directed to arrange for cooperative international monitoring and research programs. An impact report is also required. Mitigation of the impacts would be addressed through international agreements for enforcement of existing laws and regulations. In addition, the bill would establish net bounty, tracking, and identification systems.

Finally, title V would facilitate red tide disaster assistance to North Carolina shellfish fishermen. This action is necessary to aid the industry's recovery from the setbacks suffered as a consequence of red tide event off the coasts of that State.

In summary, the provisions of H.R. 3674 will enhance the stewardship of our Nation's fragile and valuable marine resources and I urge the bill's speedy consideration and passage.

Mr. ADAMS. Mr. President, I would like to express my support for this legislation. This bill is in reality four individual bills dealing with fishing and oceans issues. All of these provisions are of importance to my State, and I am pleased that the Senate has apparently found a way to pass all these measures before we go home for Christmas.

The first title of this bill authorizes the new GIFA with Japan. This agreement allows the Japanese to continue those fishing activities inside our exclusive economic zone that are permitted under the Magnuson Act. Without passage of this agreement, these fishing activities would have to cease very soon. Because many of my constituents depend for their livelihoods on joint venture fishing with the Japanese, I am very pleased that this measure is now before the Senate; and I urge its swift approval.

The second and fourth titles of this bill are environmental protection measures designed to help keep our oceans from becoming the world's civic dump, especially in regards to plastic waste.

Title 2 provides for domestic implementation of annex V to the International Convention for the Prevention of Pollution from Ships. This annex, which was approved by the Senate in November, sets up regulations for disposal of garbage from ships. Disposal of plastic is forbidden, and disposal of other wastes is forbidden within certain distances from shore. The implementation legislation applies these regulations to all U.S. boats, and to all boats within U.S. waters. It also requires that ports and terminals establish regulations for garbage reception facilities.

Title 4 provides for initial steps toward assessment and control of the negative environmental effects of driftnets. It requires the United States to negotiate with the governments of the driftnet fleets agreements for assessment of the driftnet problem, and for enforcement of regulations designed to control the problem. Failure of these governments to negotiate these agreements would trigger Pelly amendment certification, and discretionary Presidential fish embargo authority. In addition, the United States would begin to develop a net bounty system to encourage retrieval of abandoned nets, and a net marking, registry, and identification system for easier enforcement.

Both provisions represent significant steps toward control of marine pollution. First, both bills target plastics pollution as a problem demanding special standards of control. Plastic debris is a particularly dangerous environmental hazard. It doesn't decompose or disintegrate, and seemingly innocuous debris can become a murderous trap for birds or marine mammals. Both bills take strong measures to control and prevent the further spread of this deadly hazard.

Second, both bills deal with this problem as an international problem demanding international solutions. This is the only realistic way to deal with a global issue like marine pollution. Recent Senate approval of annex V of MARPOL, together with domestic implementation of this agreement, means that 12 months after final U.S. ratification, this important annex will go into force around the world. The driftnet bill represents an attempt to negotiate with foreign governments regulation of activities outside our territorial waters that affects our resources within those waters. I view both of these efforts as important example of the type of international cooperation that is absolutely necessary if we, the people who live together on this Earth, are to prevent further poisoning of our home.

Finally, the third title of this bill authorizes continuation of the Sea Grant Program. This program has made enormous contributions to our ability to understand and manage the complex issues involved in ocean policy. Just from my State alone, individuals who have participated in Sea Grant-funded programs through their universities or law schools have put that training to use in the Federal Government, congressional staffs, and State and local programs across the Nation. I was a cosponsor of this title when it was considered in the Commerce Committee, I am a strong supporter of this program, and I encourage my colleagues to support this entire package of valuable legislation.

Mr. KERRY. Mr. President, I rise to support passage of the pending legislative package which incorporates several initiatives essential to the future welfare of America's ocean resources. The legislation before us includes the Plastic Pollution Research and Control Act of 1987, the Marine, Science, Technology, and Policy Development Act of 1987 and the Driftnet Impact Monitoring, Assessment, and Control Act of 1987.

Mr. President, early in November the Senate ratified annex V of the Marpol Convention. The legislation before us today provides the domestic implementation of that critical treaty. For centuries our oceans have served as a dumping ground for ships at sea and our Nation's coastal cities. Today such dumping has reached epidemic proportions and literally caused America's oceans to be swamped with garbage, particuarly plastic debris. According to the National Academy of Science, it is estimated that several hundred million pounds of plastic products end up in the sea each year. Plastic trash includes discarded fishing gear, plastic bottles, styrofoam packing material, six pack holders, plastic bags, and a variety of other plastic objects. Plastic pollution is littering our beaches and killing our marine life. Millions of birds, whales, fish, seals, and sea turtles die each year from ingesting or becoming entangled in plastic debris. More alarming than the thought of a bird with a six pack holder yoked around its neck, is the fact that it takes 450 years for plastic material to be consumed by the environment.

The bill before us today directs the Coast Guard to develop regulations to establish garbage reception facilities in ports and to ensure that ships are using such facilities. Mr. President, the legislation also includes a provision which I am quite pleased about. It initiates a 3-year public outreach program to educate the public on the harmful effects of plastic pollution in our marine environment. Through workshops, public service announcements, posters, and distribution of information, the program will target recreational boaters, fishermen, and other users of the marine environment, to educate them on the need to reduce the amount of plastic pollution in our seas. It also will focus on educating citizens on the damaging effect of plastic debris when it is thoughtlessly discarded into the ocean. It is estimated that the program will cost about $500,000 and that the money will be in addition to any funds currently being spent in this area.

Mr. President, I would like to point out that a real commitment already exists at the Federal, State, and local levels to clean up our marine environment. Billions of tax dollars are currently being leveraged to clean up polluted waterways and estuaries, such as, Chesapeake Bay, Boston Harbor, and Buzzards Bay to name a few. It would be criminal to pour money into cleaning up our oceans, rivers, and lakes and at the same time ignore one of the major irritants, plastic debris. In that regard, it is even more important to pass this provision designed to rid our waters of fouling plastic pollution.

Mr. President, discarded driftnets, particularly in the North Pacific, entangle and drown an alarming number of our Nations living marine resources each year, including; sea lions, harbor and Dall's porpoises, Northern Fur Seals, and over 21 different species of sea birds. In fact, most of the sea birds killed are included in the list of birds facing the danger of extinction. I might add, that such a list has been agreed to and signed by the United States, Japan, and three other nations. I encourage the passage of the Driftnet Impact Monitoring, Assessment and Control Act of 1987 which will improve our international efforts to monitor, assess, and reduce the adverse impacts of these driftnets. The detailed and reliable information which we will obtain in cooperation with a variety of foreign nations as a result of this legislation will allow us to be decisive. Our Nation, as steward of these resources will be able to determine the nature, extent and impact upon living marine resources of all driftnet fisheries in the North Pacific both within and beyond the exclusive economic zone. This is a positive step toward the responsibility that we all must share in controlling the adverse effects of human activity on our Earth's environment.

Mr. President, also included in this legislative package is the reauthorization of the National Sea Grant College Program. Sea Grant is a program that effectively works for further understanding of our Nations ocean and coastal resources. It was established in 1966 as a counterpart to Land Grant Colleges and has grown to include 22 Sea Grant Colleges. These colleges and an additional seven institutional programs form a Nationwide network carrying out research, education and advisory programs. They emphasize applied research and carry out cooperative programs involving university, private industry, and government partnerships. I am particularly proud of the leadersip in Sea Grant, in my home State of Massachusetts at the Massachusetts Institute of Technology [MIT] and Woods Hole Oceanographic Institution [WHOI].

I strongly support the provisions in this bill and urge my colleagues to do likewise. This legislation reauthorizes the National Sea Grant College Program for 3 years and provides an initiative to restructure the National Projects Program into a Strategic Marine Research Program. This program would allow the Sea Grant network to focus research on national or global issues that are not currently being addressed. Mr. President, I am particularly pleased to endorse the provision for Marine Affairs and Resource Management Improvement Grants. This is important to continuation of nationally recognized programs at MIT and WHOI and I am pleased to say will assist in the, development of a Sea Grant Program at the University of Massachusetts at Boston.

This legislative package before us is critical in working toward cleaning up our beaches and shores, saving millions of marine animals, and continuing valuable research on our marine resources. Mr. President, I urge my colleagues to adopt this legislation.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be offered, the question is on the third reading and passage of the bill.

The bill (H.R. 3674) was ordered to a third reading, was read the third time, and passed.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. SIMPSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

WATER RIGHTS CLAIMS OF THE LA JOLLA, RINCON, SAN PASQUAL, PAUMA, AND PALA BANDS OF MISSION INDIANS IN SAN DIEGO COUNTY, CA

Mr. BYRD. Mr. President, I ask unanimous consent that the Energy Committee be discharged from further consideration of S. 795, and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 795), to provide for the settlement of water rights claims of the La Jolla, Rincon, San Pasqual, Pauma, and Pala Bands of Mission Indians in San Diego County, California, and for other purposes.

The Senate proceeded to the immediate consideration of the bill.

The PRESIDING OFFICER. The question is on agreeing to the committee perfecting amendments en bloc.

The committee perfecting amendments en bloc were agreed to.

Mr. McCLURE. I have a few questions which I would like to ask the sponsors of this legislation about the preemption of California State law contained in this measure. My understanding is that the State Water Resources Control Board in a letter which is printed in the committee report, and the State Department of Water Resources have indicated that they support the preemption contained in this legislation in order to effect this settlement, and that this view is based on the "preeminent Federal trust responsibility and authority to protect the interests of the Indian tribes". It appears that the State is apparently willing to have its procedural laws preempted, not with respect to water appurtenant to the reservation, but to deliver water from the Central Valley project in excess of the total flow of the local river. This is close to saying that whenever the Federal Government asserts a federal trust or other interest, State law should be preempted. It seems to me that this would be an unusual position for a State to take. I would like some assurances that the sponsors are not taking that position.

Mr. CRANSTON. No, and further, that is not my interpretation of the State's position.

Mr. WILSON. Neither is it mine.

Mr. McCLURE. Do I understand these responses to be an affirmation of the statement by the Water Resources Control Board that "To be very frank, I can think of no other circumstances in which we would not oppose preemptive legislation?"

Mr. CRANSTON. Absolutely.

Mr. WILSON. That is correct.

Mr. McCLURE. I further understand that the view of the State of California is that it is agreeing only because it already has administrative and judicial procedures to consider the permit changes which would be preempted and that those procedures could result in additional litigation which could frustrate the purpose of the settlement. Is it correct then that the purpose for the exemption is therefore to avoid exchanging one set of litigation for another?

Mr. WILSON. The Senator is correct.

Mr. CRANSTON. I agree.

Mr. McCLURE. So it is the view of the sponsors that the State supports the limited exemption and simply wishes to expedite the process.

Mr. CRANSTON. The Senator is correct.

Mr. WILSON. I agree.

Mr. McCLURE. Can I assume that the State's reference to "trust responsibility" in their letter is simply an indication of the Federal Government's reason for participation in the settlement rather than a recognition in any way of a Federal trust interest in the CVP water?

Mr. WILSON. I would fully agree with such an interpretation.

Mr. CRANSTON. I concur.

Mr. McCLURE. I am pleased to know that my colleagues share my interpretation of the State's position, as I thought the phrasing of the State's letter regarding the "preeminent Federal trust responsibility" was ambiguous.

Do we agree that the State's position is that it recognizes the need for this legislation to resolve only the San Luis Rey River dispute and that the State cannot envision any other circumstance where it would "not oppose preemptive legislation."

Mr. WILSON. The Senator has stated my interpretation of the State's position accurately.

Mr. CRANSTON. I agree.

Mr. McCLURE. So the reason for the State agreeing to this limited preemption is that the Federal Government has a trust responsibility to the Bands and that California is willing to cooperate in this instance by not objecting to delivery of a limited amount of CVP water sold in the area of Escondido, Vista and the Mission Indian Bands' reservations to meet local and Indian needs.

Mr. CRANSTON. That is my understanding.

Mr. WILSON. I agree.

Mr. McCLURE. With that understanding, I will not oppose movement of this legislation.

The PRESIDING OFFICER. The question is on agreeing to the committee substitute.

The committee substitute was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 795

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

This Act may be cited as the "San Luis Rey Indian Water Rights Settlement Act".

SEC. 2. DEFINITIONS.

For purposes of this Act—

(1) BANDS.—The term "Bands" means the La Jolla, Rincon, San Pasqual, Pauma, and Pala Bands of Mission Indians which are recognized by the Secretary of the Interior as the governing bodies of their respective Reservations in San Diego County, California.

(2) CENTRAL VALLEY PROJECT.—The term "Central Valley Project" means the Federal reclamation project located in California which was reauthorized by section 2 of the Rivers and Harbors Act of August 26, 1937 (50 Stat. 850) and the Rivers and Harbors Act of October 17, 1940 (54 Stat. 1199) as amended and supplemented.

(3) FIRM PROJECT WATER.—The term "firm project water" means water developed by the Central Valley Project, the availability of which is subject to proportionately shared shortages.

(4) INDIAN WATER AUTHORITY.—The term "Indian Water Authority" means the San Luis Rey River Indian Water Authority, an inter-tribal Indian entity established by the Bands.

(5) LOCAL ENTITIES.—The term "local entities" means the City of Escondido, California; the Escondido Mutual Water Company; and the Vista Irrigation District.

(6) PROJECT USE POWER.—For the purpose of this Act only, the term "project use power" means Central Valley Project hydroelectric power and power from other sources used in the operation of the Central Valley Project irrigation facilities and for other purposes specifically authorized by Congress.

(7) SAN DIEGO AQUEDUCT.—The term "San Diego Aqueduct" means the water conveyance facilities operated and maintained by the San Diego County Water Authority and used to convey imported water into San Diego County.

(8) SETTLEMENT AGREEMENT.—The term "settlement agreement" means the agreement to be entered into by the United States, the Bands, and the local entities which will resolve all claims, controversies, and issues involved in all the pending proceedings among the parties.

SEC. 3. CONGRESSIONAL FINDINGS; LOCAL CONTRIBUTIONS; PURPOSE.

(a) CONGRESSIONAL FINDINGS.—The Congress finds the following:

(1) The Reservations established by the United States for the La Jolla, Rincon, San Pasqual, Pauma, and Pala Bands of Mission Indians on or near the San Luis Rey River in San Diego County, California, need a reliable source of water.

(2) Diversions of water from the San Luis Rey River for the benefit of the local entities commenced in the early 1890s and continue to be an important source of supply to those communities.

(3) The inadequacy of the San Luis Rey River to supply the needs of both the Bands and the local entities has given rise to litigation to determine the rights of various parties to water from the San Luis Rey River.

(4) The pendency of the litigation has—

(A) severely impaired the Bands' efforts to achieve economic development on their respective Reservations,

(B) contributed to the continuation of high rates of unemployment among the members of the Bands,

(C) increased the extent to which the Bands are financially dependent on the Federal Government, and

(D) impeded the Bands and the local entities from taking effective action to develop and conserve scarce water resources and to preserve those resources for their highest and best uses.

(5) In the absence of a negotiated settlement—

(A) the litigation, which was initiated almost 20 years ago, is likely to continue for many more years,

(B) the economy of the region and the development of the Reservations will continue to be adversely affected by the water rights dispute, and

(C) the implementation of a plan for improved water management and conservation will continue to be delayed.

(6) An agreement in principle has been reached under which a comprehensive settlement of the litigation would be achieved, the Bands' claims would be fairly and justly resolved, the Federal Government's trust responsibility to the Bands would be fulfilled, and the local entities and the Bands would make fair and reasonable contributions.

(7) The Bands and the local entities have agreed that the settlement agreement shall include the following provisions:

(A) The right to the use of the waters of the San Luis Rey River Basin which originate above the intake to the Escondido Canal and which are now or in the future developed by the Bands or the local entities shall be shared equally between the local entities and the Bands.

(B) The local entities shall guarantee that a minimum of 7,000 acre-feet of such developed water shall be available to the Bands annually to the extent needed for use on their Reservations.

(C) In satisfying the provisions of subparagraphs (A) and (B)—

(i) the local entities shall contribute the water development, conveyance, and storage benefits made possible by the following facilities, all of which they have developed, financed, and constructed and shall maintain and, if necessary, replace—

(I) the Henshaw Dam and Reservoir,

(II) the Escondido Canal, and

(III) the Wohlford Dam and Reservoir;

(ii) the local entities shall also contribute the water development benefits of the existing Warner Ranch wellfield and related facilities, which are wholly owned and have been developed, financed, and constructed by the local entities; and

(iii) the Bands and the local entities shall share the costs of operating, maintaining, and, if necessary, replacing and further developing the Warner Ranch wellfield and related facilities.

(D) In partial settlement of the claims of the Bands in the pending litigation and in consideration of the use of the lands of the Bands for project facilities, the local entities shall make payments to the Indian Water Authority based on the local entities' diversions of the Bands' share of local water that is surplus to the needs of the Bands. The local entities shall be obligated to pay the equivalent of 90 percent of the local entities' cost of purchasing water from their alternative source for the first 7,000 acre-feet per year and 80 percent of such cost for the remainder. The local entities shall pay to the Indian Water Authority all economic benefits derived by obtaining more than 6,000 acre-feet per year of firm project water as compared to the cost of their alternative source of supply.

(E) The Bands shall be responsible for providing the funding for covering the Escondido Canal where it traverses portions of the San Pasqual Indian Reservation or placing such Canal underground.

(b) PURPOSE.—It is the purpose of this Act to provide for the settlement of the reserved water rights claims of the La Jolla, Rincon, San Pasqual, Pauma, and Pala Bands of Mission Indians in San Diego County, California, in a fair and just manner which—

(1) provides the Bands with a reliable water supply sufficient to meet their present and future needs;

(2) promotes conservation and the wise use of scarce water resources in the upper San Luis Rey River System;

(3) establishes the basis for a mutually beneficial, lasting, and cooperative partnership among the Bands and the local entities to replace the adversary relationships that have existed for several decades; and

(4) fosters the development of an independent economic base for the Bands.

SEC. 4. SETTLEMENT OF WATER RIGHTS DISPUTE.

Sections 5, 6, 7, 8, and 10 of this Act shall take effect only when—

(1) the United States; the City of Escondido, California; the Escondido Mutual Water Company; the Vista Irrigation District; and the La Jolla, Rincon, San Pasqual, Pauma, and Pala Bands of Mission Indians have entered into a settlement agreement providing for the complete resolution of all claims, controversies, and issues involved in all of the pending proceedings among the parties;

(2) the Secretary of the Interior determines that all legal requirements necessary to implement or fulfill the provisions of the settlement agreement have been satisfied, including—

(A) the enactment of any legislation which is required in order for any party to fulfill its obligations under the settlement agreement or this Act, and

(B) the execution of any contracts necessary to fulfill the provisions of the settlement agreement or this Act; and

(3) stipulated judgments or other appropriate final dispositions have been entered in all pending proceedings by all parties.

SEC. 5. DUTIES OF THE UNITED STATES, THE INDIAN WATER AUTHORITY, AND THE LOCAL ENTITIES WITH RESPECT TO DELIVERY OF WATER.

(a) Delivery of Water.—

(1) In general.—Notwithstanding any other provision of law, subject to the provisions of the settlement agreement, the Secretary of the Interior shall deliver to the Indian Water Authority and the local entities, through Federal and non-Federal facilities, annually and in perpetuity, 22,700 acre-feet of firm project water. The Secretary of the Interior shall deliver 16,700 acre-feet per year of such water to the Indian Water Authority in the San Diego Aqueduct in the vicinity of the Bands' Reservations, except for so much of such water as the Bands may not require for use on their reservations. The remainder shall be delivered to the local entities in the San Diego Aqueduct in the vicinity of their service areas. Such water shall be delivered on a schedule to be agreed upon by the Secretary of the Interior, the Indian Water Authority, and the local entities, and may be rejected by the Indian Water Authority or the local entities in whole or in part. The use of such water shall be subject to State law pursuant to the provisions of section 8 of the Act approved on June 18, 1902 (43 U.S.C. 383) (commonly known as the "Reclamation Act of 1902"), except that nothing in this Act or any other law shall require compliance with the State laws governing changes in the places of use, purposes of use, or points of diversion of the water described in this subsection in the water rights permits for the Central Valley Project.

(2) Obligations of the Indian Water Authority and the local entities.—

(A) Costs.—

(i) 6,000 acre-feet per year.—The local entities shall reimburse the United States at the rate charged for Central Valley Project irrigation water for all costs incurred in the delivery to them of 6,000 acre-feet per year which they receive of the water referred to in paragraph (1).

(ii) Remaining water.—The Indian Water Authority and the local entities shall reimburse the United States for the operation and maintenance costs incurred in the delivery of all the remaining water referred to in paragraph (1). The construction costs associated with providing such water shall be a nonreimbursable cost of the Central Valley Project. Such operation and maintenance costs shall be based on the project use rate for irrigation water.

(B) Conveyance.—The Indian Water Authority and the local entities shall pay all costs associated with conveying the water described in paragraph (1) to them through non-Federal facilities, and all costs, including construction costs, associated with conveying the water from the point of delivery in the San Diego Aqueduct to the Bands' Reservations and the local entities' service areas.

(3) Limitations on water delivery obligation.—The Secretary of the Interior shall not be obligated to deliver the water described in paragraph (1) or water from any alternative sources provided pursuant to sections 6 or 7 if—

(A) such delivery would require the construction of new Federal facilities,

(B) consent to the use of non-Federal facilities cannot be obtained from the owners and operators of such facilities, or

(C) necessary contracts have not been executed or amended.

(4) Limitation on additional water costs.—The Secretary of the Interior shall take such steps as may be necessary to ensure that the delivery of water under subsection (a)(1) will not result in any added water costs for any Central Valley Project contractors.

(b) Use of Project Use Power for Pumping.—

(1) In general.—Notwithstanding any other provision of law, the Secretary of the Interior shall use project use power from the Central Valley Project to deliver the water referred to in subsection (a)(1) from the Sacramento-San Joaquin Delta to the Indian Water Authority and to the local entities. If the Central Valley Project hydroelectric resources are inadequate to meet this obligation, the Secretary of Energy is authorized to obtain or acquire such additional power as may be needed to accomplish the delivery of the water referred to in subsection (a)(1) until such time as adequate amounts of project use power can be made available from the Central Valley Project.

(2) Obligations of the Indian Water Authority and the local entities.—

(A) Cost of power used for delivery of 6,000 acre-feet per year of water.—The local entities shall reimburse the United States at the irrigation project use rate for the costs incurred in providing that portion of the power referred to in paragraph (1) that is used for the delivery of 6,000 acre-feet per year of the water referred to in paragraph (a)(1).

(B) Cost of power used for delivery of remaining water.—The Indian Water Authority and the local entities shall reimburse the United States for the operation and maintenance costs incurred in providing the power referred to in paragraph (1) that is used for the delivery to them of all of the remaining water referred to in paragraph (a)(1). The construction costs associated with providing such power shall be a nonreimbursable cost of the Central Valley Project. Such operation and maintenance costs shall be based on the project use rate for irrigation water pumping.

(3) Limitation on use of certain power.—In fulfilling the requirements of paragraph (1), the Secretary of Energy shall—

(A) make such power available for pumping only at State or Federal facilities;

(B) not utilize any power that is needed for other project use purposes or for Federal installations; and

(C) take such steps as necessary to ensure that, until December 31, 2004, or for such additional period as may be covered by any contract or obligation for Central Valley Project preference power in existence on the date of the enactment of this Act, the quantity of power made available for sale to preference customers under such contracts or obligations shall be the same as it would have been without this Act.

(4) Limitation on additional power costs.—The Secretary of the Interior and the Secretary of Energy shall take such steps as may be necessary to ensure that the provision of power under paragraph (1) will not result in any added power costs—

(A) for project use purposes, or

(B) until after December 31, 2004, to Central Valley Project preference power customers to the extent of any contract or obligation in existence on the date of the enactment of this Act or for such additional period as may be covered by any such existing contract or obligation, nor shall any added power costs incurred during the term of any existing contract or obligation be accrued or passed on to Central Valley Project firm power customers following the expiration of such contract or obligation.

(c) Delegation of Authority.—The Secretary of the Interior and the Secretary of Energy are authorized to enter into such agreements and to take such measures as each Secretary may deem necessary and appropriate to fulfill any obligation of each Secretary under this Act.

SEC. 6. PROTECTION OF WATER USERS WITHIN THE CENTRAL VALLEY PROJECT.

(a) Obligation of the United States.—Nothing in this Act shall diminish the amount of firm project water that is available for eventual contracting within the service area of the Central Valley Project as it existed on January 1, 1987. In the event that the full amount of firm project water becomes, or is about to become, fully contracted for, the Secretary of the Interior is authorized and directed to take and implement measures that are deemed necessary and appropriate to insure that the implementation of this Act does not result in the diminishment of the amount of firm project water that is available for contracting within the service area of the Central Valley Project as it existed on January 1, 1987. These measures may include augmenting the amount of firm project water through conservation measures, financial participation in projects undertaken by the State of California or the United States Army Corps of Engineers to increase the firm project water yield of the Central Valley Project, or providing an alternative supply of water from another source through conservation measures, purchase or exchange in lieu of the firm project water described in section 5(a). The measures undertaken by the Secretary of the Interior pursuant to this section shall only utilize water to which the State of California is entitled, shall not diminish the benefits provided to the Bands, the Indian Water Authority and the local entities under this Act, and shall not adversely affect the rights or interests of other water or power users.

(b) Duty To Prepare Report.—The Secretary of the Interior is prohibited from implementing any measures under the authority of subsection (a) until a report describing the proposed measures, estimated costs and possible alternatives has been submitted to the Committee on Interior and Insular Affairs of the House of Representatives and to the Committee on Energy and Natural Resources and the Select Committee on

Indian Affairs of the Senate, ninety calendar days have elapsed, and appropriations have been authorized and made available.

(c) Enforcement of the United States' Obligations.—Notwithstanding any other provision of law, any aggrieved person may enforce the obligations described in subsection (a) in an action filed in an appropriate United States District Court. In any such action, the Court may grant declaratory or injunctive relief or may order specific performance of the obligation described in subsection (a). As a last resort, if all other remedies fail to achieve the purposes of subsection (a), the Court may award damages in an amount sufficient to acquire an alternative supply of water from another source in order to insure that the implementation of this Act does not result in the diminishment of the amount of firm project water that is available for contracting within the service area of the Central Valley Project as it existed on January 1, 1987.

(d) Limitation of the Authority of the Secretary of the Interior.—Nothing in this section or in any other provision of this Act shall authorize the construction of any new dams, reservoirs or water storage facilities.

SEC. 7. ALTERNATIVE SOURCES OF WATER AND POWER.

(a) Identification of Sources.—Notwithstanding any other provision of this Act, the Secretary of the Interior and the Secretary of Energy may obtain water and power for the Bands, the Indian Water Authority, and the local entities from any authorized alternative source or sources other than those referred to in subsections (a)(1) and (b)(1) of section 5. Such alternative sources shall only utilize water to which the State of California is entitled, shall not diminish the benefits provided to the Bands, the Indian Water Authority and the local entities under section 5 of this Act, and shall not adversely affect the rights or interests of other water or power users.

(b) Duty To Prepare Report.—The Secretary of the Interior and the Secretary of Energy are prohibited from implementing any measures under the authority of subsection (a) until a report describing the proposed measures, estimated costs and possible alternatives has been submitted to the Committee on Interior and Insular Affairs of the House of Representatives and to the Committee on Energy and Natural Resources and the Select Committee on Indian Affairs of the Senate, ninety calendar days have elapsed, and appropriations have been authorized and made available.

SEC. 8. ESTABLISHMENT, STATUS, AND GENERAL POWERS OF SAN LUIS REY RIVER INDIAN WATER AUTHORITY.

(a) Establishment of Indian Water Authority Approved and Recognized.—

(1) In general.—The establishment by the Bands of the San Luis Rey *River* Indian Water Authority as a permanent inter-tribal entity pursuant to duly adopted ordinances and the power of the Indian Water Authority to act for the Bands are hereby recognized and approved.

(2) Limitation on power to repeal or revoke ordinances.—The ordinances referred to in paragraph (1) may not be revoked or repealed, and the power described in such paragraph may not be surrendered, except by Act of Congress.

(3) Limitation on power to amend or modify ordinances.—Any proposed modification of any ordinance referred to in paragraph (1) must be approved by the Secretary of the Interior and no such approval may be granted unless the Secretary finds that the proposed modification will not interfere with or impair the ability of the Indian Water Authority to carry out its responsibilities and obligations pursuant to this Act and the settlement agreement.

(b) Status and General Powers of Indian Water Authority.—

(1) Status as indian organization.—To the extent provided in the ordinances of the Bands which established the Indian Water Authority, such Authority shall be treated as an Indian entity under Federal law with which the United States has a trust relationship.

(2) Power to enter into agreements.—The Indian Water Authority may enter into such agreements as it may deem necessary to implement the provisions of this Act and the settlement agreement.

(3) Investment power.—Notwithstanding paragraph (1) or any other provision of law, the Indian Water Authority shall have complete discretion to invest and manage its own funds.

(4) Limitation on spending authority.—All funds of the Indian Water Authority which are not required for administrative or operational expenses of the Authority or to fulfill obligations of the Authority under this Act, the settlement agreement, or any other agreement entered into by the Indian Water Authority shall be invested or used for economic development of the Bands, the Bands' Reservation lands, and their members. Such funds may not be used for per capita payments to members of any Band.

(c) Indian Water Authority Treated as Tribal Government for Certain Purposes.—The Indian Water Authority shall be considered to be an Indian tribal government for purposes of section 7871(a)(4) of the Internal Revenue Code of 1986.

SEC. 9. AUTHORITY TO EXECUTE SETTLEMENT AGREEMENT.

Notwithstanding any other provision of law, the Secretary of the Interior and the Attorney General of the United States, acting on behalf of the United States, and the Bands, acting through their duly authorized governing bodies, are authorized to enter into the settlement agreement to implement the terms and conditions described in section 3(a)(7) and the provisions of this Act. The execution of the settlement agreement and other necessary contracts shall not be subject to consideration by the Secretary of the Interior or the Secretary of Energy pursuant to section 7 regarding the availability of alternative sources of water or power.

SEC. 10. AUTHORITY OF THE FEDERAL ENERGY REGULATORY COMMISSION AND THE SECRETARY OF THE INTERIOR OVER POWER FACILITIES AND GOVERNMENT AND INDIAN LANDS.

(a) Power Facilities.—Any license issued under the Act of June 10, 1920 (16 U.S.C. 791a et seq.) (commonly referred to as Part I of the Federal Power Act) for any part of the system that diverts the waters of the San Luis Rey River originating above the intake to the Escondido Canal—

(1) shall be subject to all of the terms, conditions, and provisions of the settlement agreement; and

(2) shall not in any way interfere with, impair or affect the ability of the Bands, the local entities and the United States to implement, perform and comply fully with all of the terms, conditions and provisions of the settlement agreement.

(b) Indian and Government Lands.—Notwithstanding any other provision of law, the Secretary of the Interior is exclusively authorized, subject to subsection (c), to lease, grant rights-of-way across, or transfer title to, any Indian tribal or allotted land, or any other land subject to the authority of such Secretary, which is used, or may be useful, in connection with the operation, maintenance, repair or replacement of the system to divert, convey and store the waters of the San Luis Rey River originating above the intake to the Escondido Canal.

(c) Approval by Indian Bands; Compensation to Indian Owners.—Any disposition of Indian tribal or allotted land by the Secretary of the Interior under subsection (a) shall be subject to the approval of the governing Indian Band. Any individual Indian owner or allottee whose land is disposed of by any action of the Secretary of the Interior under subsection (b) shall be entitled to receive just compensation.

SEC. 11. RULES OF CONSTRUCTION.

(a) Reserved Water Rights.—No provision of this Act shall be construed as altering or affecting the determination of the question of whether reserved water may be put to use, or sold for use, off of any Indian Reservation to which reserved water rights may attach.

(b) Limitation on Sales or Dispositions of Power.—No provision of this Act shall be construed as authorizing the Indian Water Authority or any other entity to sell electric power to any retail customer or to dispose of any electric power provided pursuant to this Act separately from the water described in section 5(a)(1).

(c) Eminent Domain and Application of Federal Laws.—No provision of this Act shall be construed as authorizing the acquisition by the Federal Government of any water or power supply or any water conveyance or power transmission facility through the power of eminent domain or any other nonconsensual arrangement, nor shall the transportation of the water provided pursuant to this Act through non-Federal facilities subject those facilities or other water transported through those facilities to any Federal law to which they would not otherwise be subject.

(d) Status and Authority of Indian Water Authority.—No provision of this Act shall be construed as creating any implication with respect to the status or authority which the Indian Water Authority would have under any other law or rule of law in the absence of this Act or if section 8 does not take effect.

SEC. 12. COMPLIANCE WITH BUDGET ACT.

To the extent any provision of this Act provides new spending authority described in section 401(c)(2)(A) of the Congressional Budget Act of 1974, such authority shall be effective for any fiscal year only to such extent or in such amounts as are provided in advance in appropriation Acts.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. SIMPSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

EXTENSION OF AUTHORIZATION OF RENEWABLE RESOURCES EXTENSION ACT OF 1978

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry be discharged from further consideration of H.R. 2401, and I ask unanimous consent for its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 2401) to extend authorization of the Renewable Resources Extension Act of 1978, and for other purposes.

The Senate proceeded to consider the bill.

AMENDMENT NO. 1369

(Purpose: To extend the authorization of the Renewable Resources Extension Act)

Mr. BYRD. Mr. President, I send to the desk an amendment by Senators LEAHY and HATFIELD.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD], for Mr. LEAHY (for himself and Mr. HATFIELD), proposes an amendment numbered 1369.

Mr. BYRD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Beginning on page 1, line 6, strike all through page 2, line 9, and insert in lieu thereof the following:

Sec. 2. Extension.

The Renewable Resources Extension Act of 1978 (16 U.S.C. 1600 note) is amended—

(1) in Section 6 (16 U.S.C. 1675) by striking out the first sentence and inserting in lieu thereof the following: "There are authorized to be appropriated to implement this Act $15,000,000 for the fiscal year ending September 30, 1988, and $15,000,000 for each of the next twelve fiscal years."; and

(2) in Section 8 (16 U.S.C. 1671 note) by striking out "1988" and inserting in lieu thereof "2000".

Mr. LEAHY. Mr. President, the bill before us today is a simple reauthorization of the Renewable Resources Extension Act [RREA], an act that has expanded and fostered natural resources extension programs within the cooperative extension system.

H.R. 2401 is very similar to S. 1279 introduced earlier this year by myself and my distinguished colleague from Oregon, Senator HATFIELD, with whom I worked in authoring the original RREA legislation in 1978. The differences are small, and it is my hope that, with the amendment I am about to offer, we will have resolved those differences in a way that is satisfactory to the House so that no conference will be necessary.

The Renewable Resources Extension Act will expire in September 1988. H.R. 2401 would reauthorize the act for a 7-year period, ending in 1995, for the purpose of improving the integration of the RREA program with the Forest Service's Resources Planning Act Program. S. 1279 is a 10-year reauthorization, consistent with the original authorization period. The amendment would address the concerns of the House by extending the authorization for a 12-year period, to 2000.

The RREA currently has an annual authorized funding level of $15 million. The Senate bill retains that level of funding. H.R. 2401, however, would reduce the authorization level to $12 million yearly. While annual appropriations for RREA have not approached the $15 million funding level in any fiscal year, the need for that program funding level is as important now as it was in 1978, and I am reticent at this time to reduce in any way our commitment to the goals of this valuable program. My amendment would therefore restore the annual authorized funding level to its current $15-million level.

I am pleased with the two minor changes the House bill makes to the current law. H.R. 2401 would require the Department of Agriculture, in doing its 5-year Renewable Resources Extension Program plan, to evaluate the progress made toward accomplishing the goals and objectives set forth in the preceding plan, both for each State and for the country as a whole. An evaluation of this type will provide Congress with an important benchmark halfway through the program's authorization, by identifying continuing needs, highlighting successes, and improving accountability.

Mr. President, we need to renew the commitment we made in 1978 in promoting sound resource management practices among private landowners and users. As the demands on America's public lands grow, we must focus our attention on the potential of this country's private lands to provide many of the resources we have depended on our public lands to provide. It is time that we recognize that our privately-owned forests and rangelands represent the greatest potential source of renewable resources in this country. They also represent a tremendous potential source of income for rural Americans. Yet their potential to provide both resources and income has been limited by the lack of knowledge among private landowners on sound land management practices and options.

The Renewable Resources Extension Act has been a highly successful program in educating landowners in resource management. RREA funds have been used in all 50 States for such things as forest and rangeland management training, environmental education, and development of forest products marketing skills. In addition, every dollar of Federal investment through the RREA has generated at least three times that in State and local investment in renewable resources extension activities.

Mr. President, I believe it is time to not just renew our commitment to this program, but to increase our commitment to it as well. Appropriations for this program have not exceeded $3 million in any fiscal year. Yet this program has proven its ability to generate State and local investment. I hope that our commitment to this program will extend to an increase in the funding level for the program in the years ahead.

Mr. President, in reauthorizing this program, we will not only be expanding the economic opportunities of rural Americans, we will also be ensuring that our private forests and rangelands will contribute to the future wealth and needs of Americans well into the next century. I urge my colleagues to give their support to this valuable legislation.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1369) was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendment and the third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time and passed.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. SIMPSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

EXTENSION OF TERM OF THE DELTA REGION PRESERVATION COMMISSION

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 480.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 2566) to amend the National Parks and Recreation Act of 1978, as amended, to extend the term of the Delta Region Preservation Commission, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 1370

Mr. BYRD. Mr. President, I send an amendment to the desk on behalf of Mr. JOHNSTON.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from West Virginia [Mr. Byrd], for Mr. Johnston, proposes an amendment numbered 1370.

Mr. BYRD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike all after the enacting clause and insert:

"That Title IX of the National Parks and Recreation Act of 1978, as amended (16 U.S.C. 230), is further amended as follows:

(a) In section 901 by adding the following new phrase and renumbering subsequent phrases accordingly:

'(4) folk life centers to be established in the Acadian region;';

(b) In section 902 by adding the following new subsection:

'(g) The Secretary is authorized to acquire lands or interests in lands by donation, purchase with donated or appropriated funds or exchange, not to exceed approximately 20 acres, in Acadian villages and towns. Any lands so acquired shall be developed, maintained and operated as part of the Jean Lafitte National Historical Park.'; and

(c) In Section 907(e) by striking out 'ten years' and inserting in lieu thereof 'twenty years'.".

Mr. JOHNSTON. Mr. President, in 1978 the Congress established the Jean Lafitte National Historical Park in Louisiana. One of the key elements of this legislation was the authority of the Secretary to enter into cooperative agreements with various entities in the Acadian region for the purpose of establishing Acadian Folklife Centers. These centers are to serve as a focal point in the park for the preservation, interpretation, and display of this region's rich and varied cajun culture.

After many years of planning, site selection, design work, and other effort on the part of the National Park Service, local government agencies, towns, and villages we are finally ready to move ahead with construction of these such facilities. In fact, funds have been included in the conference report accompanying the fiscal year 1988 Interior appropriation bill for this purpose.

However, before construction can begin, one problem must be resolved. In November of this year, the Solicitor's Office of the Department of the Interior informed my office that the cooperative agreements authorized in the Jean Lafitte Park legislation did not provide sufficient legal authority for the Department to obligate funds for construction of these centers and for related activities. It is the Department's view that additional authorization is necessary before the Department can begin construction of these facilities on lands covered by these cooperative agreements.

While I am not certain that I agree with this opinion, one fact is clear: Unless we provide such authorization, it will be months before this matter can be resolved administratively within the Department. In the meantime, the funds appropriated by the Congress for these purposes will not be utilized.

Therefore, I am offering an amendment to H.R. 2566 to provide this authority. I am hopeful that the Senate can enact this provision today and that the House will concur expeditiously so that the Department can spend these funds in the manner intended by the Congress.

Mr. President, I ask unanimous consent that a copy of the letter from the Solicitor's Office, referred to in my statement, be printed in the Record.

There being no objection, the letter was ordered to be printed in the Record, as follows:

U.S. Department of the Interior,
Office of the Solicitor,
Santa Fe, NM, November 17, 1987.

Memorandum

Reference No. NPS.SA.0410.

To: Regional Director, Southwest Region, National Park Service; Attention: Chief, Division of Land Resources.

From: Gayle E. Manges, Field Solicitor, Southwest Region.

Subject: Proposed Acadian Folklife Centers—Jean Lafitte National Historical Park, Louisiana.

As requested October 28, 1987, the proposed construction of three Folklife Centers at Jean Lafitte has been reviewed. The construction cost for each center will be over 1 million dollars with the total expenditure exceeding 5 million. The questions concern the estate in land required to be acquired by the Park Service in order to construct each center.

Initially, as noted in your memorandum, the centers are proposed to be constructed on lands outside the area presently included within the Park as defined in 16 U.S.C. §§ 230 and 230a. Therefore, amendatory legislation or appropriations will be required to authorize the centers if the lands or interests therein for the centers are acquired by the Park Service.

Considering the proposal to acquire less than fee estates for the centers, it is the general rule that appropriated funds may not be used for the permanent improvement of privately owned property by any agency of the United States unless specifically authorized by law. 29 Comp. Gen. 279 (1949). An exception to that rule not strictly applicable to this acquisition is provided by the Economy Act, 40 U.S.C. § 278a.

This office has authorized the use of private fee subject to federal real property interests within Park Service areas where leasehold, easement or less than a fee title was acquired from local governmental bodies or cooperating nonprofit corporations or associations. These approvals were only so long as fixtures or improvements placed on the property with appropriated funds were movable or temporary low cost structures which were quickly amortized and, in addition, authorized to be removed by the Park Service upon expiration of the lease term or easement interest. However, these are exceptions applicable only in specific circumstances. Generally, the acquisition of less than fee title is not acceptable for placing improvements on private or non-federal lands where such improvements are of a permanent nature such as the proposed structures and buildings for the three centers. Title to less than fee acquisitions in the subject instance to support the construction cannot be approved pursuant to 40 U.S.C. § 255.

Gayle E. Manges.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1370) was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendment and the third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time and passed.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. SIMPSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

SAN FRANCISCO BAY NATIONAL WILDLIFE REFUGE APPROPRIATIONS

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be discharged from further consideration of H.R. 2583 and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 2583) to authorize additional appropriations for the San Francisco Bay National Wildlife Refuge.

The bill was considered, ordered to a third reading, read the third time, and passed.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. SIMPSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

RURAL CRISIS RECOVERY PROGRAM ACT OF 1987

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry be discharged from further consideration of H.R. 3492 and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 3492) entitled Rural Crisis Recovery Program Act of 1987.

The Senate proceeded to consider the bill.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be offered, the question is on the third reading and passage of the bill.

The bill (H.R. 3492) was ordered to a third reading, was read the third time, and passed.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. SIMPSON. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

KNIPLING-BUSHLAND RESEARCH LABORATORY

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry be discharged from further consideration of H.R. 3712 and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 3712) to designate the United States Livestock Insects Laboratory in Kerrville, Texas, as the "'Knipling-Bushland Research Laboratory".

The Senate proceeded to consider the bill.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be offered, the question is on the third reading and passage of the bill.

The bill (H.R. 3712) was ordered to a third reading, was read the third time, and passed.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. SIMPSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ACCEPTANCE OF GIFTS FOR PURCHASE OF FINE ART FOR CAPITOL

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar Order No. 331.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 60) to permit the Architect of the Capitol, under the direction of the Joint Committee on the Library, to accept gifts of money for the purpose of works of fine art for the Capitol, and for other purposes.

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Rules and Administration, with an amendment:

On page 2, line 4, strike "Treasurer of the United States", and insert "Department of the Treasury"

So as to make the bill read:

H.R. 60

Be it enacted by the Senate and House of Representatives of the United States of America in Congress asssembled,

SECTION 1. ACCEPTANCE OF GIFTS OF MONEY FOR PURCHASE OF WORKS OF FINE ART FOR THE CAPITOL.

The Architect of the Capitol is authorized to accept, on behalf of the Congress and with prior approval of the Joint Committee on the Library, gifts of money for the purchase of works of fine art for the Capitol. Any gift so accepted shall be in the form of a check or similar instrument made payable to the Department of the Treasury. Such acceptance shall be carried out in the manner prescribed by the Joint Committee on the Library, which shall supervise the works of fine art in accordance with section 1831 of the Revised Statutes of the United States (40 U.S.C. 188).

SEC. 2. ESTABLISHMENT OF FUND FOR WORKS OF FINE ART FOR THE CAPITOL.

There is established in the Treasury a fund for purchase of works of fine art for the Capitol. Amounts accepted under section 1 shall be deposited in the fund, which, subject to appropriation, shall be available to the Architect of the Capitol for such purchases as may be approved by the Joint Committee on the Library, the Speaker and the minority leader of the House of Representatives, and the majority leader and the minority leader of the Senate.

SEC. 3. DISBURSEMENTS FROM THE FUND.

Disbursements from the funds shall be made on vouchers signed by the Architect of the Capitol and approved by the Joint Committee on the Library, the Speaker and the minority leader of the House of Reperesentatives, and the majority leader and the minority leader of the Senate.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment.

The committee amendent was agreed to.

AMENDMENT NO. 1371

(Purpose: To provide a substitute amendment)

Mr. BYRD. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD] proposes an amendment numbered 1371.

Mr. BYRD. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. PURCHASE OF WORKS OF FINE ART FOR THE CAPITOL.

(a) ACCEPTANCE OF GIFTS OF MONEY.—

(1) AUTHORITY.—The Architect of the Capitol is authorized to accept, on behalf of the Congress and with prior approval of the Joint Committee on the Library, gifts of money for the purchase of works of fine art for the Capitol.

(2) FORM OF GIFT.—Any gift accepted under paragraph (1) shall be in the form of a check or similar instrument made payable to the Department of the Treasury.

(3) MANNER OF ACCEPTANCE.—An acceptance under paragraph (1) shall be carried out in the manner prescribed by the Joint Committee on the Library, which shall supervise the works of fine art in accordance with section 1831 of the Revised Statutes of the United States (40 U.S.C. 188).

(b) ESTABLISHMENT OF FUND.—

(1) IN GENERAL.—There is established in the Treasury a fund for purchase of works of fine art for the Capitol.

(2) DEPOSITS AND AVAILABILITY.—Amounts accepted under subsection (a) shall be deposited in the fund, which, subject to appropriation, shall be available to the Architect of the Capitol for such purchases as may be approved by the Joint Committee on the Library, the Speaker and the minority leader of the House of Representatives, and the majority leader and the minority leader of the Senate.

(c) DISBURSEMENTS FROM THE FUND.—Disbursements from the fund established under subsection (b) shall be made on vouchers signed by the Architect of the Capitol and approved by the Joint Committee on the Library, the Speaker and the minority leader of the House of Representatives, and the majority leader and the minority leader of the Senate.

SEC. 2. GIFTS AND PURCHASES FOR THE SENATE AND THE CAPITOL.

(a) ACCEPTANCE OF GIFTS.—The Commission on Art and Antiquities of the United States Senate (hereinafter "Commission") is authorized to—

(1) accept gifts and bequests of money and other property of whatever character for the purpose of aiding, benefiting, or facilitating the work of the Commission, including the purchase of works of fine art for the Senate wing of the Capitol and any Senate office buildings, and rooms, spaces, or corridors thereof;

(2) hold, administer, use, invest, reinvest and sell gifts and bequests of propery received under this section for the purpose stated in paragraph (1); and

(3) apply any income produced from the use of such gifts and bequests of property for the purpose stated in paragraph (1).

(b) ESTABLISHMENT OF FUND.—

(1) IN GENERAL.—There is established in the Treasury a fund for use in accordance with the provisions of this section.

(2) DEPOSITS AND AVAILABILITY.—Gifts and bequests of money and the proceeds from sales of other property accepted under subsection (a) may be deposited in the fund, which shall be available to the Executive Secretary of the Commission for the work

of the Commission and the administration of property received under this section. Such funds shall be held in trust by the Secretary of the Treasury.

(c) Disbursements From the Fund.—Disbursements from the fund established under subsection (b) shall be made on vouchers signed by the Executive Secretary of the Commission and approved by the Chairman of the Commission.

(d) Taxes.—For the purpose of Federal income, estate, and gift tax laws, property accepted under this section shall be considered a contribution to or for the use of the United States.

(e) Investments.—The Executive Secretary of the Commission may request the Secretary of the Treasury to invest such portion of the fund established under subsection (b) as is not in the judgment of the Commission required to meet current withdrawals. Such investments shall be in public debt securities with maturities suitable to the needs of the fund as determined by the Commission and bearing interest at rates determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding marketable obligations of the United States of comparable maturity. The income from such investments shall be credited to and form a part of the fund.

(f) Public Disclosure.—At least once each year, the Executive Secretary of the Commission shall make a public disclosure of the amount and source of each gift and bequest received under this section, and any investment thereof, and the purposes for which any amounts are expended under this section.

(g) Commission on Art and Antiquities of the United States Senate.—

(1) Incorporation.—The provisions of Senate Resolution 382 (Ninetieth Congress; agreed to October 1, 1968) (as amended by this Section) and Senate Resolution 95 (Ninety Second Congress; agreed to April 1, 1971) are hereby incorporated by reference.

(2) Technical changes.—Senate Resolution 382 (Ninetieth Congress; agreed to October 1, 1968) is amended—

(A) in section 1(b) by adding at the end thereof "The Secretary of the Senate shall be the Executive Secretary of the Commission"; and

(B) in section 2(a)—

(i) by striking out "and protect" and inserting in lieu thereof "protect, and make known"; and

(ii) by striking out "within the Senate wing of the Capitol", and inserting in lieu thereof "within the Senate wing of the Capitol, any Senate Office Building".

(h) Advisory Board.—

(1) Establishment.—

(A) In general.—The Commission is authorized to establish an Advisory Board (hereinafter "Board").

(B) Composition.—The Board shall be headed by a Chairman and composed of six members (including the Chairman). The membership of the Board may be expanded by Act of the Commission, consistent with the pattern established in paragraph (3)(B) of this section. The Board, with the approval of the Commission, may establish and maintain additional entities to further the purpose stated in subparagraph (C).

(C) Purpose.—The purpose of the Board shall be to encouarge the acquisition of fine arts, furnishings, and historical documents and to foster activities relating to the preservation and enhancement of the history and traditions of the United States Senate.

(2) Compensation.—The Chairman and Board members shall be from public and private life, and shall serve without compensation. The Chairman and Board members may be reimbursed for actual and necessary expenses incurred in the performance of the duties of the Board at the discretion of the Commission.

(3) Terms.—

(A) Chairman.—The Chairman of the Board shall be appointed by the Chairman of the Commission, and shall serve at the pleasure of the Commission for a 4-year term.

(B) Other members.—The other members of the Board shall be appointed by the President pro tempore of the Senate, and shall serve staggered 4-year terms at the pleasure of the Commission. The term of the initial appointments of two Board members shall be for four years. The term of the initial appointment of the remaining three Board members shall be for two years.

(C) Vacancies.—Any vacancies on the Board shall be filled in same manner as the appointment to such position was made.

(i) Senate Rulemaking Power.—The provisions of this section (except subsections (b), (d), and (e)) are enacted by the Congress—

(1) as an exercise of the rulemaking power of the Senate, and as such they shall be considered as part of the rules of the Senate, and such rules shall supersede other rules only to the extent that they are inconsistent therewith; and

(2) with full recognition of the constitutional right of the Senate to change such rules at any time, in the same manner, and to the same extent as in the case of any other rule of the Senate.

SEC. 3 OLD EXECUTIVE OFFICE BUILDING.

(a) Acceptance of Gifts of Money and Property.—The Director of the Office of Administration is authorized to—

(1) accept, hold, administer, utilize and sell gifts and bequests of property, both real and personal, and loans of personal property other than money; and

(2) accept and utilize voluntary and uncompensated services; for the purpose of aiding, benefiting, or facilitating the work of preservation, restoration, renovation, rehabilitation, or historic furnishing of the Old Executive Office Building and the grounds thereof.

(b) Establishment of Fund.—

(1) In general.—There is established in the Treasury a fund for use in accordance with the provisions of this section.

(2) Deposits and availability.—Amounts of money and proceeds from the sale of property accepted under subsection (a) shall be deposited in the fund, which shall be available to the Director of the Office of Administration. Such funds shall be held in trust by the Secretary of the Treasury.

(c) Use of Fund.—Property accepted pursuant to this section or the proceeds from the sale thereof, shall be used as nearly as possible in accordance with the terms of gift or bequest. The Director of the Office of Administration shall not accept any gift under this section that is expressly conditioned on any expenditure not to be met from the gift itself unless such expenditure has been approved by an Act of Congress.

(d) Taxes.—For the purpose of the Federal income, estate, and gift tax laws, property accepted under this section shall be considered as a contribution to or for the use of the United States.

(e) Public Disclosure.—At least once each year, the Director of the Office of Administration shall make a public disclosure of the amount and source of each gift and bequest received under this section, and the purpose for which amounts in the fund established under subsection (b) are expended.

Mr. BYRD. Mr. President, I have a strong interest in the history of the U.S. Capitol Building and I would very much like to ensure the continued improvement of this most impressive structure and its contents. I am sure my colleagues share my concern with preserving this great building and its treasures for generations of Americans and millions of visitors from around the world.

Within these walls of what is known as the "Shrine of Democracy" I have worked for over 30 years of my life as a Member of the U.S. Senate and the House of Representatives. From the very first day my admiration and appreciation for this building and its contents has only grown deeper.

However, during this same time I have seen the wonderful acquisitions exhibited at the White House, State Department, and the Library of Congress as a result of the generosity of many of our public-spirited citizens, and I commend them for their successful endeavors.

I would also like to see a collection of American furnishings and art of equal quality acquired for this building.

The purpose of this legislation is to put us in the position to accept bequests of fine art and furnishings for the Capitol and the funds with which to acquire them, and I urge its passage.

Mr. STEVENS. Mr. President, the substitute amendment would in part authorize the Office of Administration to receive gifts from the public to help renovate and refurbish the Old Executive Office Building. The need for this amendment came to our attention after the Rules and Administration Committee had already unanimously reported out H.R. 60. Had we known about the need for this amendment, I am quite sure it would have been included in our committee reported bill.

Next year we will be celebrating the 100th anniversary of the completion of the Old Executive Office Building. This building, when completed in 1888, housed the Department of State, Department of War, and Department of the Navy, and at that time was the largest office building in the world. It is still considered one of the best examples of French Second Empire architecture in the country.

Mr. President, I ask unanimous consent to have printed a letter from the Director of the Office of Administration requesting this amendment and the text of H.R. 60 including the amendment just offered.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE WHITE HOUSE,
Washington, September 24, 1987.

Hon. TED STEVENS,
Committee on Rules, U.S. Senate, Hart Senate Building, Washington, DC.

DEAR SENATOR STEVENS: We would appreciate your help in providing the authority for this and future Administrations to receive gifts from the public in order to renovate and refurbish the Old Executive Office Building (OEOB). Several parties have expressed an interest in donating both cash and furniture. Attached is proposed legislation for the Office of Administration to receive gift authority for the preservation of the OEOB. We think that it would be most appropriate to make this a companion piece to the legislation now pending in the Senate to permit gifts for restoration of the Capitol, another great national monument.

The language in the attached proposal is patterned after existing gift authorities including those at the Departments of Treasury and State. The only new section, which we tailored to our needs, states that the gifts will benefit preservation and renovation. Our statement of purpose is more limited than other gift authorities that we have reviewed.

Constructed for the State, War and Navy Departments from 1871 to 1888, the OEOB is one of the most important buildings in Washington. As one of nation's finest examples of the Second Empire style it is also one of its few survivors and stands in contrast to the Neo-Classical architectural style that characterizes the majority of government buildings.

The OEOB's architectural importance is matched only by the prominent position it occupies in our national history. Many of our country's most celebrated statesmen have worked in this building, including 25 Secretaries of State, 15 Secretaries of the Navy, and 21 Secretaries of War. Theodore and Franklin D. Roosevelt, William Howard Taft and Dwight D. Eisenhower occupied offices there early in their careers. Since 1949, after the departure of the last department from the building, the OEOB has housed the Executive Office making it truly a vital part of the Presidency.

We believe that the preservation of the OEOB and an awareness of its value as an historical site is important for the American people. The public has demonstrated its interest in the building by participating in tours which are conducted weekly; these are presently oversubscribed and reservations must be made three months in advance. Since 1984, this program has been an overwhelming success.

As we celebrate the centennial anniversary of the OEOB in 1988, the passage of the attached proposed legislation will enable private sponsorship of the restoration of this historically and aesthetically important building.

I understand that in some preliminary discussions between our respective staffs there was some question raised whether custody of the gifts should reside with the Director of the Office of Administration. Since the Director of the Office of Administration has the responsibility for proper maintenance of the building, I think it is important that we not separate the management responsibility from the authority to accept gifts. We believe it would be efficient to have the maintenance and restoration functions reside with one individual. Moreover, we think it will prove beneficial to the people and to the Congress to be able to identify one individual who will be responsible for this important project. I will be very pleased to have an opportunity to discuss this particular matter with you further and any other matters on which you may want additional information, at your convenience.

Sincerely,

GORDON G. RIGGLE,
Deputy Assistant to the President, Director of the Office of Administration.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from West Virginia.

The amendment (No. 1371) was agreed to.

The PRESIDING OFFICER. If there be no further amendment to be proposed, the question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read a third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

So the bill (H.R. 60) was passed.

The title is amended so as to read:

To permit the Architect of the Capitol, under the direction of the Joint Committee on the Library, to accept gifts of money for the purchase of works of fine art for the Capitol, and for other purposes.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. SIMPSON. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

THE VETERANS' EMPLOYMENT AND TRAINING AMENDMENTS OF 1987

Mr. BYRD. Mr. President, I ask unanimous consent that the action by which the Senate on August 4, 1987, indefinitely postponed S. 999, the Veterans' Employment and Training Amendments of 1987, be vitiated and that the Senate proceed to the consideration of S. 999, as reported; that it be read for the third time, passed, the motion to reconsider laid on the table.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The bill (S. 999), as passed, is as follows:

S. 999

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; REFERENCE TO TITLE 38, UNITED STATES CODE.

(a) SHORT TITLE.—This Act may be cited as the "Veterans' Employment, Training, and Counseling Amendments of 1987".

(b) REFERENCES TO TITLE 38.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

SEC. 2. ADMINISTRATION OF EMPLOYMENT AND TRAINING PROGRAMS.

(a) Section 2002A is amended—

(1) by inserting "(a)" before "There"; and

(2) by adding at the end the following new subsections:

"(b) The Secretary shall—

"(1) carry out all provisions of this chapter through the Assistant Secretary of Labor for Veterans' Employment and Training and administer through such Assistant Secretary all programs under the jurisdiction of the Secretary for the provision of employment and training services designed to meet the needs of disabled veterans, veterans of the Vietnam era, and all other eligible veterans and eligible persons;

"(2) in order to make maximum use of available resources, encourage all such programs and all grantees under such programs to enter into cooperative arrangements with private industry and business concerns (including small business concerns), educational institutions, trade associations, and labor unions;

"(3) ensure that maximum effectiveness and efficiency are achieved in providing services and assistance to eligible veterans under all such programs by coordinating and consulting with the Administrator with respect to (A) programs conducted under other provisions of this title, with particular emphasis on coordination of such programs with readjustment counseling activities carried out under section 612A of this title, apprenticeship or other on-job training programs carried out under section 1787 of this title, and rehabilitation and training activities carried out under chapter 31 of this title, and (B) the Veterans' Job Training Act (Public Law 98-77, 29 U.S.C. 1721 note);

"(4) ensure that job placement activities are carried out in coordination and cooperation with appropriate State public employment service officials;

"(5) subject to subsection (c)(2) of this section, make available for use in each State, directly or by grant or contract, such funds as may be necessary (A) to support (i) disabled veterans' outreach program specialists appointed under paragraph (1) of section 2003A(a) of this title, and (ii) local veterans' employment representatives assigned under section 2004(b) of this title, and (B) to support the reasonable expenses of such specialists and representatives for training, travel, supplies, and fringe benefits, including travel expenses and per diem for attendance at the National Veterans' Employment and Training Service Institute established under section 2010A of this title;

"(6) monitor and supervise on a continuing basis the distribution and use of funds provided for use in the States under this paragraph (5) of this subsection; and

"(7) monitor the appointment of disabled veterans' outreach specialists and the assignment of local veterans' employment representatives in order to ensure compliance with the provisions of section 2003A(a)(1) and 2004(a)(4), respectively.

"(c)(1) The distribution and use of funds under subsection (b)(5) of this section in order to carry out sections 2003A(a) and 2004(a) of this title shall be subject to the continuing supervision and monitoring of the Secretary and shall not be governed by the provisions of any other law, or any regulations prescribed thereunder, that are inconsistent with this section or section 2003A or 2004 of this title.

"(2) In determining the terms and conditions of a grant or contract under which funds are made available in a State under subsection (b)(5) of this section in order to carry out section 2003A(a) or 2004 (a) and (b) of this title, the Secretary shall take into account (A) the evaluations, carried out pursuant to section 2003(c)(13) of this title, of the performance of local employment offices in the State, and (B) the results of the monitoring, carried out pursuant to paragraph (1) of this subsection, of the use of funds under subsection (b)(5) of this section.

"(d) The Secretary shall assign to each region for which the Secretary operates a regional office a representative of the Veterans' Employment and Training Service to serve as the Regional Director for Veterans' Employment and Training.".

(b) Conforming and Clerical Amendments.—(1) Section 2003A is amended—

(A) in subsection (a)—

(i) by striking out paragraphs (1), (3), and (5) and redesignating paragraphs (2) and (4) as paragraphs (1) and (2), respectively;

(ii) in paragraph (1) (as so redesignated)—

(I) by amending the first sentence to read as follows: "The amount of funds made available for use in a State under section 2002A(b)(5)(A)(i) of this title shall be sufficient to support the appointment of one disabled veterans' outreach program specialist for each 5,300 veterans of the Vietnam era and disabled veterans residing in such State";

(II) in the third, fourth, and fifth sentences, by inserting "qualified" before "disabled" each place it appears; and

(III) in the fifth sentence, by inserting "qualified" after "any"; and

(iii) in paragraph (2) (as so redesignated), by striking our "paragraph (2) of"; and

(B) by striking out subsection (d).

(2) Section 2006 is amended—

(A) in subsection (a), by striking out the last sentence; and

(B) in subsection (d), by striking out "of Labor, upon the recommendation of the Assistant Secretary of Labor for Veterans' Employment,".

(3)(A) Section 2009 is repealed.

(B) The table of sections at the beginning of chapter 41 is amended by striking out the item relating to section 2009.

SEC. 3. LOCAL VETERANS' EMPLOYMENT REPRESENTATIVES.

(a) In General.—(1) Section 2004 is amended to read as follows:

"§ 2004. Local veterans' employment representatives

"(a)(1) The total of the amount of funds made available for use in the States under section 2002A(b)(5)(A)(ii) of this title shall be sufficient to support the assignment of 1,600 full-time local veterans' employment representatives and the States' administrative expenses associated with the assignment of that number of such representatives and shall be allocated to the several States so that each State receives funding sufficient to support—

"(A) the number of such representatives who were assigned in such State on January 1, 1987, plus one additional such representative;

"(B) the percentage of the 1,600 such representatives for which funding is not provided under clause (A) of this paragraph which is equal to the average of (i) the percentage of all veterans residing in the United States who reside in such State, (ii) the percentage of the total of all eligible veterans and eligible persons registered for assistance with local employment offices in the United States who are registered for assistance with local employment offices in such State, and (iii) the percentage of all full-service local employment offices in the United States which are located in such State; and

"(C) the State's administrative expenses associated with the assignment of the number of such representatives for which funding is allocated to the State under clauses (A) and (B) of this paragraph.

"(2)(A) The local veterans' employment representatives allocated to a State pursuant to paragraph (1) of this subsection shall be assigned by the administrative head of the employment service in the State, with the concurrence of the State Director for Veterans' Employment and Training, so that as nearly as practical (i) one full-time such representative is assigned to each local employment office at which a total of at least 1,100 eligible veterans and eligible persons is registered for assistance, (ii) one additional full-time such representative is assigned to each such local employment office for each 1,500 such individuals above 1,100 such individuals who are so registered at such office, and (ii) one half-time such representative is assigned to each local employment office at which at least 350 but less than 1,100 such individuals are so registered.

"(B) In the case of a local employment office at which less than 350 such individuals are so registered, the head of such office (or the designee of the head of such office) shall be responsible for ensuring compliance with the provisions of this title providing for priority services for veterans and priority referral of veterans to Federal contractors.

"(3) For the purposes of this subsection, an individual shall be considered to be registered for assistance with a local employment office during a program year if the individual—

"(A) registered, or renewed such individual's registration, for assistance with the office during that program year; or

"(B) so registered or renewed such individual's registration during a previous program year and, in accordance with regulations which the Secretary shall prescribe, is counted as still being registered for administrative purposes.

"(4) Each local veterans' employment representative shall be a veteran. Preference shall be given in the assignment of such representatives to qualified disabled veterans. If the Secretary finds that no qualified disabled veteran is available for any such assignment, such assignment may be given to a qualified veteran who is not a disabled veteran.

"(b) Local veterans' employment representatives shall be assigned, in accordance with this section, by the administrative head of the employment service in each State.

"(c)(1) The services provided by local veterans' employment representatives shall be subject to the functional supervision specified in section 2003(c)(1)(A) of this title.

"(2)(A) Except as provided in subparagraph (B) of this paragraph, the work of local veterans' employment representatives shall be fully devoted to discharging at the local level the duties and functions specified in section 2003 (c)(1)(B) and (c)(2) through (12) of this title.

"(B) The duties of local veterans' employment representatives shall include providing, or facilitating the provision of, counseling services to veterans who, pursuant to section 5(b)(3) of the Veterans' Job Training Act (Public Law 98-77; 29 U.S.C. 1721 note), are certified as eligible for participation under such Act.".

(2) The item relating to such section in the table of sections at the beginning of chapter 41 is amended to read as follows:

"2004. Local veterans' employment representatives.".

(b) Budgeting.—Section 2006(a) is amended—

(1) in the fifth sentence—

(A) by striking out "to fund the disabled veterans' outreach program under section 2003A" and inserting in lieu thereof "in all of the States for the purposes specified in paragraph (5) of section 2002A(b) of this title and to fund the National Veterans' Employment and Training Service Institute under section 2010A"; and

(B) by striking out "such section" and inserting in lieu thereof "such sections"; and

(2) by amending the sixth sentence to read as follows: "Each budget submission with respect to such funds shall include separate listings of the proposed numbers, by State, of disabled veterans' outreach program specialists appointed under section 2003A(a)(1) of this title and local veterans' employment representatives assigned under section 2004(b) of this title, together with information demonstrating the compliance of such budget submission with the funding requirements specified in the preceding sentence.".

(c) Reporting Requirements.—Subsection (c) of section 2007 is amended to read as follows:

"(c) Not later than February 1 of each year, the Secretary shall report annually to the appropriate committees of the Congress on the success during the preceding fiscal year of the Department of Labor and its affiliated State employment service agencies in carrying out the provisions of this chapter and programs for the provision of employment and training services to meet the needs of veterans. The report shall include—

"(1) specification, by State, of the numbers of eligible veterans, veterans of the Vietnam era, disabled veterans, special disabled veterans, and eligible persons who registered for assistance with the public employment service system and, of each such categories, the numbers referred to and placed in jobs, the numbers referred to and placed in jobs and job training programs supported by the Federal Government, the number counseled, and the number who received some reportable service;

"(2) any determination made by the Secretary during the preceding fiscal year under section 2006 of this title or subsection (a)(2) of this section and a statement of the reasons for such determination;

"(3) a report on activities carried out during the preceding fiscal year under sections 2003A and 2004 of this title; and

"(4) a report on the operation during the preceding fiscal year of programs for the provision of employment and training services designed to meet the needs of veterans, including an evaluation of the effectiveness of such programs during such fiscal year in meeting the requirements of section 2002A(b) of this title, the efficiency with which services were provided under such programs during such year, and such recommendations for further legislative action (including the need for any changes in the formulas governing the appointment of disabled veterans' outreach program specialists under section 2003A(a)(2) of this title and the assignment of local veterans' employment representatives under section 2004(b) of this title and the allocation of funds for the support of such specialists and representatives) relating to veterans' employment as the Secretary considers appropriate.".

SEC. 4. PERFORMANCE OF DISABLED VETERANS' OUTREACH PROGRAM SPECIALISTS AND LOCAL VETERANS' EMPLOYMENT REPRESENTATIVES.

(a) IN GENERAL.—Chapter 41 is amended by inserting after section 2004 the following new section:

"§ 2004A. Performance of disabled veterans' outreach program specialists and local veterans' employment representatives

"(a)(1) After consultation with State employment agencies or their representatives, or both, the Secretary shall prescribe, and provide for the implementation and application of, standards for the performance of disabled veterans' outreach program specialists appointed under section 2003A(a) of this title and local veterans' employment representatives assigned under section 2004(b) of this title and shall monitor the activities of such specialists and representatives.

"(2) Such standards shall be designed to provide for—

"(A) in the case of such specialists, the effective performance at the local level of the duties and functions of such specialists specified in section 2003A (b) and (c) of this title,

"(B) in the case of such representatives, the effective implementation at the local level of the duties and functions specified in paragraphs (1)(B) and (2) through (12) of section 2003(c) of this title, and

"(C) the monitoring and rating activities prescribed by subsection (b) of this section.

"(3) Such standards shall include as one of the measures of the performance of such a specialist the extent to which the specialist, in serving as a case manager under section 14(b)(1)(A) of the Veterans' Job Training Act (Public Law 98-77; 29 U.S.C. 1721 note), facilitates rates of successful completion of training by veterans participating in programs of job training under that Act.

"(4) In entering into an agreement with a State for the provision of funding under section 2002A(b)(5) of this title, the Assistant Secretary of Labor for Veterans' Employment and Training personally may make exceptions to such standards to take into account local conditions and circumstances, including the employment, counseling, and training needs of the eligible veterans and eligible persons served by the office or offices to which the exception would apply.

"(b)(1) State Directors for Veterans' Employment and Training and Assistant State Directors for Veterans' Employment and Training shall regularly monitor the performance of the specialists and representatives referred to in subsection (a)(1) of this section through the application of the standards required to be prescribed by such subsection (a)(1).

"(2) A State Director for Veterans' Employment and Training, or a designee of such Director, shall submit to the head of the employment service in the State recommendations and comments in connection with each annual performance rating of a disabled veterans' outreach program specialist or local veterans' employment representative in the State.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 41 is amended by adding at the end the following:

"2004A. Performance of disabled veterans' outreach program specialists and local veterans' employment representatives.".

SEC. 5. WAIVER OF RESIDENCY REQUIREMENT FOR CERTAIN STATE DIRECTORS FOR VETERANS' EMPLOYMENT AND TRAINING.

Section 2003(b)(1) is amended—

(1) by inserting "(A)" after "(1)";

(2) by redesignating clauses (A) and (B) as clauses (i) and (ii), respectively;

(3) by inserting in clause (i), as redesignated by clause (2), ", except as provided in subparagraph (B) of this paragraph," after "shall"; and

(4) by adding at the end the following new subparagraph:

"(B) The Secretary, where the Secretary determines that it is necessary to consider for appointment as a State Director for Veterans' Employment and Training an eligible veteran who is an Assistant State Director for Veterans' Employment and Training and has served in that capacity for at least 2 years, may waive the requirement in subparagraph (A)(i) of this paragraph that an eligible veteran be a bona fide resident of a State for at least 2 years in order to be eligible to be assigned as a State Director for Veterans' Employment and Training. In the event of such a waiver, preference shall be given to a veteran who meets such residency requirement and is equally as qualified for the position of State Director as such Assistant State Director.".

SEC. 6. SHARING OF INFORMATION REGARDING POTENTIAL EMPLOYERS.

(a) BETWEEN THE DEPARTMENTS OF DEFENSE AND LABOR.—Section 2005 is amended—

(1) by inserting "(a)" before "All"; and

(2) by adding at the end the following new subsection:

"(b) For the purpose of assisting the Secretary and the Administrator in identifying employers with potential job training opportunities under the Veterans' Job Training Act (Public Law 98-77; 29 U.S.C. 1721 note) and otherwise in order to carry out this chapter, the Secretary of Defense shall provide to the Secretary and to the Administrator (1) not more than 30 days after the date of the enactment of this subsection, the then-current list of employers participating in the National Committee for Employer Support of the Guard and Reserve, and (2) thereafter, on the fifteenth day of each month, updated information regarding the list.".

(b) BETWEEN THE VETERANS' ADMINISTRATION AND THE DEPARTMENT OF LABOR.—(1) Section 2008 is amended—

(A) by inserting "(a)" before "In"; and

(B) by adding at the end the following new subsection:

"(b) The Administrator shall require each regional office of the Veterans' Administration to provide to appropriate employment service offices and Department of Labor offices, as designated by the Secretary, on a monthly or more frequent basis, the name and address of each employer located in the area served by such regional office that offers a program of job training which has been approved by the Administrator under section 7 of the Veterans' Job Training Act (Public Law 98-77; 29 U.S.C. 1721 note).".

(2)(A) The heading of section 2008 is amended to read as follows:

"§ 2008. Cooperation and coordination".

(B) The item relating to such section in the table of sections at the beginning of chapter 41 is amended to read as follows:

"2008. Cooperation and coordination.".

SEC. 7. RESPONSIBILITIES OF PERSONNEL.

(a) STATE AND ASSISTANT STATE DIRECTORS FOR VETERANS' EMPLOYMENT AND TRAINING.—Section 2003(c) is amended—

(1) in clause (1)—

(A) by inserting "(A) functionally supervise the provision of services to eligible veterans and eligible persons by such system and such program and their staffs, and (B)" after "(1)"; and

(B) by inserting ", including the program conducted under the Veterans' Job Training Act (Public Law 98-77; 29 U.S.C. 1721 note)" after "programs";

(2) in clause (2), by inserting "and otherwise to promote the employment of eligible veterans and eligible persons" after "opportunities";

(3) in clause (11), by striking out "and" at the end;

(4) in clause (12), by striking out the period and inserting in lieu thereof "; and"; and

(5) by adding at the end the following new clause:

"(13) not less frequently than annually, conduct an evaluation at each local employment office of the services provided to eligible veterans and eligible persons and make recommendations for corrective action as appropriate.".

(b) DISABLED VETERANS' OUTREACH PROGRAM SPECIALISTS.—Section 2003A(c) is amended—

(1) in clause (4), by inserting "(including part C of title IV of the Job Training Partnership Act (29 U.S.C. 1501 et seq.))" after "programs";

(2) in clause (6), by inserting "(including the program conducted under the Veterans' Job Training Act (Public Law 98-77; 29 U.S.C. 1721 note))" after "programs"; and

(3) by adding at the end the following new clauses:

"(9) Provision of counseling services to veterans with respect to veterans' selection of and changes in vocations and veterans' vocational adjustment.

"(10) Provision of services as a case manager under section 14(b)(1)(A) of the Veterans' Job Training Act (Public Law 98-77; 29 U.S.C. 1721 note).".

SEC. 8. NATIONAL VETERANS' EMPLOYMENT AND TRAINING SERVICE INSTITUTE.

(a) ESTABLISHMENT OF INSTITUTE.—Chapter 41 is further amended by adding at the end the following new section:

"§ 2010A. National Veterans' Employment and Training Service Institute

"In order to provide for such training as the Secretary considers necessary and appropriate for the efficient and effective provision of employment, job-training, placement, and related services to veterans, the Secretary shall establish and make available such funds as may be necessary to operate a National Veterans' Employment and Training Service Institute for the training of disabled veterans' outreach program specialists, local veterans' employment representatives, State Directors for Veterans' Employment and Training, and Assistant State Directors for Veterans' Employment and Training, and such other personnel involved in the provision of employment, job-training, counseling, placement, or related services to veterans as the Secretary considers appropriate.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 41 is further amended by adding at the end the following new item:

"2010A. National Veterans' Employment and Training Service Institute.".

SEC. 9. STUDY OF UNEMPLOYMENT AMONG CERTAIN DISABLED VETERANS AND VIETNAM THEATER VETERANS.

(a) IN GENERAL.—Chapter 41 is further amended by adding at the end the following new section:

"§ 2010B. Special unemployment study

"(a) The Secretary, through the Bureau of Labor Statistics, shall conduct, on a biennial basis, studies of unemployment among special disabled veterans and among veterans who served in the Vietnam Theater of Operations during the Vietnam era and promptly report to the Congress on the results of such studies.

"(b) The first study under this section shall be completed not later than July 1, 1988.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 41 is amended by adding at the end the following new item:

"2010B. Special unemployment study.".

SEC. 10. SECRETARY'S COMMITTEE ON VETERANS' EMPLOYMENT.

Clause (1) of section 2010(b) is amended—

(1) by redesignating subclauses (D), (E), and (F) as subclauses (E), (F), and (G), respectively;

(2) by inserting after subclause (C) a subclause, as follows:

"(D) the Secretary of Education;"

(3) by striking out "and" at the end of subclause (F) (as so redesignated);

(4) by adding at the end the following new subclause:

"(H) the Postmaster General; and".

SEC. 11. VETERANS' JOB TRAINING ACT AMENDMENTS.

(a) EXPANSION OF ELIGIBILITY.—(1) Paragraph (1) of section 5(a) of the Veterans' Job Training Act (Public Law 98-77; 29 U.S.C. 1721 note) is amended to read as follows:

"(1) To be eligible for participation in a job training program under this Act, a veteran must—

"(A) be unemployed at the time of applying for participation in a program under this Act;

"(B)(i) have been unemployed for at least 10 of the 15 weeks immediately preceding the date of such veteran's application for participation in a program under this Act; or

"(ii)(I) have been terminated or laid off from employment as the result of a plant closing or major reduction in the number of persons employed by the veteran's prior employer, and (II) have no realistic opportunity to return to employment in the same or similar occupation in the geographical area where the veteran previously held employment; and

"(C)(i) have served in the active military, naval, or air service for a period of more than 180 days; or

"(ii)(I) have been discharged or released from the active military, naval, or air service for a service-connected disability; or (II) be entitled to compensation (or but for the receipt of retirement pay be entitled to compensation).".

(2) Section 3(3) of such Act is amended—

(A) by striking out "'Korean conflict'" and "(9)"; and

(B) by striking out "'State', and 'Vietnam era'," and "(24), and (29)" and inserting in lieu thereof "and 'State'" and "and (24)", respectively.

(b) COUNSELING.—(1) Section 14 of such Act is amended by striking out subsection (b) and inserting in lieu thereof the following:

"(b)(1) The Administrator and the Secretary shall jointly provide for—

"(A) a program under which, except as provided in paragraph (2), a disabled veteran's outreach program specialist appointed under section 2003A(a) of title 38, United States Code, is assigned as a case manager for each veteran participating in a program of job training under this Act, the veteran has an in-person interview with the case manager not later than 60 days after entering into a program of training under this Act, and periodic (not less frequent than monthly) contact is maintained with each such veteran for the purpose of (i) avoiding unnecessary termination of employment, (ii) referring the veteran to appropriate counseling, if necessary, (iii) facilitating the veteran's successful completion of such program, and (iv) following up with the employer and the veteran in order to determine the veteran's progress in the program and the outcome regarding the veteran's participation in and successful completion of the program;

"(B) a program of counseling services (to be provided pursuant to subchapter IV of chapter 3 of such title and sections 612A, 2003A, and 2204 of such title) designed to resolve difficulties that may be encountered by veterans during their training under this Act; and

"(C) a program of information services under which (i) each veteran who enters into a program of job training under this Act and each employer participating under this Act is informed of the supportive services and resources available to the veteran (I) under subparagraphs (A) and (B), (II) through Veterans' Administration counseling and career-development activities (especially, in the case of a Vietnam-era veteran, readjustment counseling services under section 612A of such title) and under part C of title IV of the Job Training Partnership Act (29 U.S.C. 1501 et seq.), and (III) through other appropriate agencies in the community, and (ii) veterans and employers are encouraged to request such services whenever appropriate.

"(2) No case manager still be assigned pursuant to paragraph (1)(A) in the case of the employees of an employer if the Secretary determines that—

"(A) the employer has an appropriate and effective employee assistance program that is available to all veterans participating in the employer's programs of job training under this Act; or

"(B) the rate of veterans' successful completion of the employer's programs of job training under this Act, either cummulatively or during the previous program year, is 60 percent or higher.

"(c) Before a veteran who voluntarily terminates from a program of job training under this Act or is involuntarily terminated from such program by the employer may be eligible to be provided with a further certificate, or renewal of certification, of eligibility for participation under this Act, such veteran must be provided by the Administrator with appropriate vocational counseling in light of the veteran's termination.".

(2) Section 7(d) of such Act is amended—

(A) by redesignating paragraph (12) as paragraph (13); and

(B) inserting after paragraph (11) the following new paragraph:

"(12) That, as applicable, the employer will provide each participating veteran with the full opportunity to participate in a personal interview pursuant to section 14(b)(1)(A) during the veteran's normal workday.".

(c) DISCONTINUANCE OF APPROVAL OF PARTICIPATION IN PROGRAMS OF EMPLOYERS WITH UNSATISFACTORY COMPLETION RATES.—Section 11 of such Act is amended—

(1) by inserting "(a)" after "SEC. 11."; and

(2) by adding at the end the following new subsection:

"(b)(1) If the Secretary, after consultation with the Administrator and in accordance with regulations which the Administrator and the Secretary shall jointly prescribe to carry out this subsection, determines that the rates of veterans' successful completion of an employer's programs of job training previously approved by the Administrator for the purposes of this Act is disproportionately low, the Administrator shall disapprove participation in such programs on the part of veterans who had not begun such participation on the date that the employer is notified of the disapproval.

"(2)(A) A disapproval under paragraph (1) shall remain in effect until such time as the Administrator determines that adequate remedial action has been taken. In determining whether the remedial actions taken by the employer are adequate to ensure future avoidance of a disproportionately low rate of successful completion, the Administrator may, except in the case of an employer which the Secretary determines meets the criteria specified in clause (A) or (B) of section 14(b)(2), consider the likely effects of such actions in combination with the likely effects of using the payment formula described in subparagraph (B) of this paragraph. If the Administrator finds that the combined effects of such actions and such use are adequate to ensure future avoidance of such a rate, the Administrator may revoke the disapproval with the revocation conditioned upon such use for a period of time that the Administrator considers appropriate under the circumstances.

"(B) The payment formula referred to in subparagraph (A) is a formula under which, subject to sections 5(c) and 8(a)(2), the amount paid to the employer on behalf of a veteran shall be—

"(i) in the case of a program of job training of 4 or more months duration—

"(I) for the first 4 months of such program, 30 percent of the product of the starting hourly rate of wages paid to the veteran by the employer (without regard to overtime or premium pay) and the number of hours worked by the veteran during such months;

"(II) for any period after the first 4 months, 50 percent of the product of the starting hourly rate of wages paid to the veteran by the employer (without regard to overtime or premium pay) and the number of hours worked by the veteran during that period; and

"(III) upon the veteran's successful completion of the program, the amount that would have been paid, above the amount that was paid, for such first 4 months pursuant to subclause (I) if the percentage specified in subclause (I) were 50 percent rather than 30 percent; and "(ii) in the case of a program of job training of less than 4 months duration—

"(I) for the months prior to the final scheduled month of the program, 30 percent of the product of the starting hourly rate of wages paid to the veteran by the employer (without regard to overtime or premium pay) and the number of hours worked by the veteran during the months prior to such final scheduled month;

"(II) for the final scheduled month of the program, 50 percent of the product of the actual hourly rate of wages paid to the veteran by the employer (without regard to overtime or premium pay) and the number of hours worked by the veteran during that month; and

"(III) upon the veteran's successful completion of the program, the amount that would have been paid, above the amount that was paid, for the months prior to the final scheduled month of the program pursuant to subclause (I) if the percentage specified in subclause (I) were 50 percent rather than 30 percent.".

(d) AUTHORIZATION OF APPROPRIATIONS.—Section 16 of such Act is amended—

(1) by inserting "(a)" before "There";

(2) in subsection (a) (as so designated)—

(A) by inserting after the first sentence the following new sentence: "There is also authorized to be appropriated, in addition to the appropriations authorized by the preceding sentence, $60,000,000 for each of the fiscal years 1988 and 1989 for the purpose of making payments to employers under this Act."; and

(B) in the final sentence, by striking out "1989" and inserting in lieu thereof "1991"; and

(3) by adding at the end the following new subsection:

"(b) Notwithstanding any other provision of law, any funds appropriated under subsection (a) for any fiscal year which are obligated for the purpose of making payments under section 8 on behalf of a veteran (including funds so obligated which previously had been obligated for such purpose on behalf of another veteran and were thereafter deobligated) and are later deobligated shall immediately upon deobligation become available to the Administrator for obligation for such purpose. The further obligation of such funds by the Administrator for such purpose shall not be required, directly or indirectly, to be delayed in any manner by any officer or employee in the executive branch.".

(e) DEADLINES FOR VETERANS' APPLICATIONS AND ENTRY INTO TRAINING.—Section 17 of such Act is amended to read as follows:

"SEC. 17. Assistance may not be paid to an employer under this Act—

"(1) on behalf of a veteran who initially applies for a program of job training under this Act after June 30, 1989; or

"(2) for any such program which begins after December 31, 1989.".

(f) CONFORMING AMENDMENT.—Section 5(b)(3)(A) of such Act is amended by striking out "The" at the beginning of the first sentence and inserting in lieu thereof "Subject to section 14(c), the".

(g) DATA ON PARTICIPATION.—Section 15 of such Act is amended by adding at the end the following new subsection:

"(f) The Secretary shall, on a not less frequent than quarterly basis, collect from the heads of State employment services and State Directors for Veterans' Employment and Training information available to such heads and Directors, and derived from programs carried out in their respective States, with respect to the numbers of veterans who receive counseling services pursuant to section 14, who are referred to employers participating under this Act, who participate in programs of job training under this Act, and who complete such programs, and the reasons for veterans' noncompletion.".

SEC. 12. REVISIONS OF NOMENCLATURE.

(a) SECRETARY OF LABOR.—(1) Section 2001 is amended by adding at the end the following new paragraph:

"(7) The term 'Secretary' means the Secretary of Labor.".

(2) Sections 2002A, 2003 (a) and (b)(2), 2005(a) (as redesignated by the amendment made by section 6(a)(1)), 2006(a), 2007, 2008(a) (as redesignated by the amendment made by section 6(b)(1)), and 2010(b) are amended by striking out "Secretary of Labor" each place it appears except where preceded by "Assistant" and inserting in lieu thereof "Secretary".

(3) The first sentence of section 2010(b) is amended by striking out "The" and inserting in lieu thereof "Notwithstanding section 2002A(b)(1) of this title, the".

(b) ASSISTANT SECRETARY OF LABOR FOR VETERANS' EMPLOYMENT AND TRAINING.—(1) Sections 2000(2), 2002, 2002A(a) (as redesignated by section 2(a)) and 2010(b) are amended by inserting "and Training" after "Assistant Secretary of Labor for Veterans' Employment" each place it appears.

(2)(A) The heading of section 2002A is amended to read as follows:

"§ 2002A. Assistant Secretary of Labor for Veterans' Employment and Training; national programs".

(B) The item relating to such section in the table of sections at the beginning of chapter 41 is amended to read as follows:

"2002A. Assistant Secretary of Labor for Veterans' Employment and Training; national programs.".

(c) STATE AND ASSISTANT STATE DIRECTORS FOR VETERANS' EMPLOYMENT AND TRAINING.—(1) Sections 2003 and 2003A(b)(2) are amended by inserting "and Training" after "State Directors for Veterans' Employment" and "Assistant State Director for Veterans' Employment" each place those terms appear.

(2)(A) The heading of section 2003 is amended to read as follows:

"§ 2003. State and Assistant State Directors for Veterans' Employment and Training".

(B) The item relating to such section in the table of sections at the beginning of chapter 41 is amended to read as follows:

"2003. State and Assistant State Directors for Veterans' Employment and Training.".

SEC. 13. EFFECTIVE DATE.

The provisions of and amendments made by this Act shall take effect on October 1, 1987.

AMENDING TITLE 28, UNITED STATES CODE, TO PROVIDE FOR THE SELECTION OF THE COURT OF APPEALS TO DECIDE MULTIPLE APPEALS FILED WITH RESPECT TO THE SAME AGENCY ORDER

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on the Judiciary be discharged from further consideration of H.R. 1162, that the Senate proceed to its immediate consideration, third reading, passed, and a motion to reconsider laid on the table.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

JOHN W. WYDLER UNITED STATES COURTHOUSE

Mr. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 1642.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 1642) entitled "An Act to designate the United States Courthouse located at the intersection of Uniondale Avenue and Hempstead Turnpike in Uniondale, New York, as the 'John W. Wydler United States Courthouse' ", do pass with the following amendments:

Strike out all after the enacting clause, and insert:

SECTION 1. DESIGNATION OF BUILDING.

The United States Post Office located at 600 Franklin Avenue in Garden City, New York, shall be known and designated as the "John W. Wydler United States Post Office".

SEC. 2. LEGAL REFERENCES.

Any reference to the building referred to in section 1 in any law, map, regulation, document, record, or other paper of the United States shall be deemed to be a reference to the "John W. Wydler United States Post Office".

Amend the title so as to read: An ACT to designate the United States Post Office at 600 Franklin Avenue in Garden City, New York, as the 'John W. Wydler United States Post Office'.".

Mr. BYRD. Mr. President, I move that the Senate concur in the House amendments.

The PRESIDING OFFICER. Is there objection? Without objection, the motion is agreed to.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. SIMPSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

EMIGRATION OF CERTAIN SOVIET CITIZENS TO THE UNITED STATES

Mr. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on House Joint Resolution 376.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House agree to the amendment of the Senate to the resolution (H.J. Res. 376) entitled "Joint resolution calling upon the Soviet Union to immediately grant permission to emigrate to all those who wish to join spouses in the United States", with the following amendments:

(1) Page 1, line 1, strike out all after "3,", down through "In", in line 2, and insert: strike out all that follows the resolving clause, and insert "That in".

(2) At the end of the amendment, insert: Strike out the preamble.

Amend the title so as to read: "Joint resolution to designate the Clarks Hill Dam, Reservoir, and Highway transversing the Dam on the Savannah River, Georgia and South Carolina, as the J. Strom Thurmond Dam, Reservoir, and Highway.".

Mr. BYRD. Mr. President, I move that the Senate concur in the House amendments.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. SIMPSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

THE CALENDAR

Mr. BYRD. Mr. President, I inquire of my distinguished friend, the acting Republican leader, the assistant Republican leader, who is both assistant and acting, whether or not Calendar Order No. 498 has been cleared for indefinite postponement, and whether or not Calendar Orders Nos. 470, 491, 500, and 508 have been cleared for action.

Mr. SIMPSON. Mr. President, I submit to the majority leader that those have been cleared on this side of the aisle.

Mr. BYRD. I thank my friend.

S. 62 INDEFINITELY POSTPONED

Mr. BYRD. I ask unanimous consent, Mr. President, that Calendar Order No. 498 be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE CALENDAR

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to Calendar Orders Nos. 470, 491, 500, and 508 seriatim.

ABANDONED SHIPWRECK ACT

The PRESIDING OFFICER. The clerk will report the first measure.

The assistant legislative clerk read as follows:

A bill (S. 858) to establish the title of States in certain abandoned shipwrecks, and for other purposes.

The Senate proceeded to consider the bill, which had been reported from the Committee on Energy and Natural Resources, with an amendment to strike all after the enacting clause and insert in lieu thereof, the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Abandoned Shipwreck Act of 1987".

SEC. 2. FINDINGS.

The Congress finds that—

(a) States have the responsibility for management of a broad range of living and nonliving resources in State waters and submerged lands; and

(b) included in the range of resources are certain abandoned shipwrecks, which have been deserted and to which the owner has relinquished ownership rights with no retention.

SEC. 3. DEFINITIONS.

For purposes of this Act—

(a) the term "embedded" means firmly affixed in the submerged lands or in coralline formations such that the use of tools of excavation is required in order to move the bottom sediments to gain access to the shipwreck, its cargo, and any part thereof;

(b) the term "National Register" means the National Register of Historic Places maintained by the Secretary of the Interior under section 101 of the National Historic Preservation Act (16 U.S.C. 470a);

(c) the terms "public lands," "Indian lands" and "Indian tribe" have the same meaning given the terms in the Archaeological Resource Protection Act of 1979 (16 U.S.C. 470aa-47011);

(d) the term "shipwreck" means a vessel or wreck, its cargo, and other contents;

(e) the term "State" means a State of the United States, the District of Columbia, Puerto Rico, Guam, the Virgin Islands, American Samoa, and the Northern Mariana Islands; and

(f) the term "submerged lands" means the lands—

(1) that are "lands beneath navigable waters," as defined in section 2 of the Submerged Lands Act (43 U.S.C. 1301);

(2) of Puerto Rico, as described in section 8 of the Act of March 2, 1917, as amended (48 U.S.C. 749);

(3) of Guam, the Virgin Islands and American Samoa, as described in section 1 of Public Law 93-435 (48 U.S.C. 1705); and

(4) of the Commonwealth of the Northern Mariana Islands, as described in section 801 of Public Law 94-241 (48 U.S.C. 1681).

SEC. 4. RIGHTS OF ACCESS.

(a) ACCESS RIGHTS.—In order to—

(1) clarify that State waters and shipwrecks offer recreational and educational opportunities to sport divers and other interested groups, as well as irreplaceable State resources for tourism, biological sanctuaries, and historical research; and

(2) provide that reasonable access by the public to such abandoned shipwrecks be permitted by the State holding title to such shipwrecks pursuant to section 6 of this Act,

it is the declared policy of the Congress that States carry out their responsibilities under this Act to develop appropriate and consistent policies so as to—

(A) protect natural resources and habitat areas;

(B) guarantee recreational exploration of shipwreck sites; and

(C) allow for appropriate public and private sector recovery of shipwrecks consistent with the protection of historical values and environmental integrity of the shipwrecks and the sites.

(b) PARKS AND PROTECTED AREAS.—In managing the resources subject to the provisions of this Act, States are encouraged to create underwater parks or areas to provided additional protection for such resources. Funds available to States from grants from the Historic Preservation Fund shall be available, in accordance with the provisions of title I of the National Historic Preservation Act, for the study, interpretation, protection, and preservation of historic shipwrecks and properties.

SEC. 5. PREPARATION OF GUIDELINES.

(a) In order to encourage the development of underwater parks and the administrative cooperation necessary for the comprehensive management of underwater resources related to historic shipwrecks, the Secretary of the Interior, acting through the Director of the National Park Service, shall within nine months after the date of enactment of this Act prepare and publish guidelines in the Federal Register which shall seek to:

(1) maximize the enhancement of cultural resources;

(2) foster a partnership among sportdivers, fishermen, archeologists, salvors, and others interests to manage shipwreck resources of the States and the United States;

(3) facilitate access and utilization by recreational interests;

(4) recognize the interests of individuals and groups engaged in shipwreck discovery and salvage.

(b) Such guidelines shall be developed after consultation with appropriate public and private sector interests (including the Secretary of Commerce, the Advisory Council on Historic Preservation, sportdivers, State Historic Preservation Officers, professional dive operators, salvors, archeologists, historic preservationists, and fishermen).

(c) Such guidelines shall be available to assist States and the appropriate Federal agencies in developing legislation and regulations to carry out their responsibilities under this Act.

SEC. 6. RIGHTS OF OWNERSHIP.

(a) UNITED STATES TITLE.—The United States asserts title to any abandoned shipwreck that is—

(1) embedded in submerged lands of a State;

(2) embedded in coralline formations protected by a State on submerged lands of a State; or

(3) on submerged lands of a State and is included in or determined eligible for inclusion in the National Register.

(b) The public shall be given adequate notice of the location of any shipwreck to which title is asserted under this section. The Secretary of the Interior, after consultation with the appropriate State Historic Preservation Officer, shall make a written determination that an abandoned shipwreck meets the criteria for eligibility for inclusion in the National Register of Historic Places under clause (a)(3).

(c) TRANSFER OF TITLE TO STATES.—The title of the United States to any abandoned shipwreck asserted under subsection (a) of this section is transferred to the State in or on whose submerged lands the shipwreck is located.

(d) EXCEPTION.—Any abandoned shipwreck in or on the public lands of the United States is the property of the United States Government. Any abandoned shipwreck in or on any Indian lands is the property of the Indian tribe owning such lands.

(e) RESERVATION OF RIGHTS.—This section does not affect any right reserved by the United States or by any State (including any right reserved with respect to Indian lands) under—

(1) section 3, 5, or 6 of the Submerged Lands Act (43 U.S.C. 1311, 1313, and 1314); or

(2) section 19 or 20 of the Act of March 3, 1899 (33 U.S.C. 414 and 415).

SEC. 7. RELATIONSHIP TO OTHER LAWS.

(a) Law of Salvage and the Law of Finds.—The law of salvage and the law of finds shall not apply to abandoned shipwrecks to which section 6 of this Act applies.

(b) Laws of the United States.—This Act shall not change the laws of the United States relating to shipwrecks, other than those to which this Act applies.

(c) Effective Date.—This Act shall not affect any legal proceeding brought prior to the date of enactment of this Act.

Mr. BRADLEY. Mr. President, the Senate is now to considering S.858, the Abandoned Shipwreck Act of 1987. This bill provides for state management of historically valuable shipwrecks found in State waters. Recent Court decisions have left these irreplaceable cultural and recreational resources prey to commercial treasure salvors. These rulings foreclosed State supervision and leave oversight to the Federal admiralty courts which are ill-equipped for the job. This bill allows States to oversee excavation and ensure access to sport divers—at no cost to the Federal Government.

In hearings before the Energy Committee, we heard much about the conflicts—perceived and real—between salvors, archeologists, the States and sport divers. Too often, this debate seems to consider shipwrecks as a zero sum proposition, a "who gets the wreck" feud. Because this legislation tries to preserve and manage these finite and fragile resources, most opponents of the legislation characterize it as a way to lock them up for one group—archeologists—to the detriment of others. Mr. President, the Energy Committee listened to these arguments and, by a 19-to-0 vote, unanimously rejected them.

The diving community is growing by leaps and bounds. Since 1970, nearly 5 million divers have been certified in the United States. In 1986, nearly 500,000 divers were certified. This represents a 10-percent increase over 1985 and is more than four times the number certified in 1970.

Technology adds to this interest and growth. On the one hand, there is the recent exploration of the *Titanic,* which is an irrefutable demonstration of old barriers to man falling away. On the other hand, lower cost and improved equipment have made diving more comfortable and accessible to the average person. For example, dry suits are now widely available and allow for expanded diving seasons in cold water areas such as in New England or off the New Jersey shore.

At current rates of growth, the sport diving community will double again in size in less than 10 years. From my perspective, this is good news. The New Jersey shore has an abundance of many things, an estimated 3,000 shipwrecks among them. Sport diving provides excellent recreational opportunities and much needed tourist revenue for the shore communities.

Yet such growth cannot be haphazard. Conflicts are emerging and not just with salvors, as in the case of the *China* wreck, a popular dive spot in the Delaware Bay that was lost to salvors. Fishermen also lay claim to shipwrecks, which serve as artificial reefs. And local communities have sometimes erected barriers or prevented divers from using beaches and other facilities. Without planning, these conflicts can only increase to the detriment of the sport and the shipwreck heritage. The legislation considered today would provide for that planning. My bill gives the States the tools and incentive to take charge of the coastal waters, create new recreational opportunities such as undersea parks, designate historic shipwreck sites with the appropriate protections, and resolve the inevitable conflicts that could threaten the sport of diving and the divers themselves.

Mr. President, I have visited great ruins in the West that have been preserved—Chaco Canyon, Mera Verde, Canyon de Chelly. Because of the Antiquities Act of 1906, these sites and others are protected for all generations. This legislation can lead to the same preservation and enhancement for underwater sites that is so obvious in the parks of New Mexico, Colorado, and Arizona.

The history of diving itself encourages the imagination. So much is possible today that was inconceivable even a few years ago. In 1906, the Congress showed true wisdom and vision in its actions to protect our national heritage. It's our turn today. I urge my colleagues in the Senate to follow the lead of the Energy Committee, and to vote unanimously for the approval of this crucial legislation.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute.

The committee amendment in the nature of a substitute was agreed to.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

So the bill (S. 858), as amended, was passed.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. SIMPSON. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

PREPAYMENT OF LOANS MADE TO STATE AND LOCAL DEVELOPMENT COMPANIES

The PRESIDING OFFICER. The clerk will report the next bill.

The assistant legislative clerk read as follows:

A bill (S. 437) to amend the Small Business Investment Act of 1958 to permit prepayment of loans made to State and local development companies.

The Senate proceeded to consider the bill which had been reported from the Committee on Small Business, with an amendment to strike all after the enacting clause and insert in lieu thereof, the following:

"In title V of the Small Business Investment Act of 1958, insert the following new section:

Sec. 506. (a) Definitions. (1) As used in this section, "issuer" means the issuer of a debenture which has been purchased by the Federal Financing Bank pursuant to section 503 of this Act.

(2) "Borrower" means the small business concern whose loan secures a debenture issued pursuant to section 503 of this Act.

(b) The issuer of a debenture purchased by the Federal Financing Bank and guaranteed under section 503 of this Act may at the election of the borrower prepay such debenture by paying to the Federal Financing Bank the outstanding principal balance and accrued interest due on the debenture at the coupon rate on the debenture, provided that:

(1) the loan that secures the debenture is not in default on the date the prepayment is made;

(2) private capital, with or without the existing debenture guarantee, is used to prepay the debenture, *and provided further,* That if private capital with the existing debenture guarantee is used, such refinancing may be done solely pursuant to sections 504 and 505 of this Act;

(3) the issuer of the debenture certifies that the benefits associated with prepayment of the debenture are entirely passed through to the borrower.

(c) No fees other than those specified in this section may be imposed as a condition on such prepayment against the issuer of the debentures, or the borrower, or the Small Business Administration or any fund or account administered by the Small Business Administration. If a debenture is refinanced without the existing debenture guarantee, the borrower may be required to pay a fee to the issuer of the debenture in the amount of one percent of the outstanding principal amount of the loan which secures the debenture. If a debenture is refinanced with the existing guarantee pursuant to section 504 of this Act, the borrower shall be subject to imposition of a fee by the issuer of the debenture in the amount of one-half of one percent of the outstanding principal amount of the loan which secures the debenture. Debentures refinanced under section 504 otherwise shall be subject to all of the provisions of such section and section 505 of this Act and the rules and regulations of the Administration promulgated thereunder, including but not limited to payment of authorized expenses and commissions, fees or discounts to brokers and dealers in trust certificates issued pursuant to section 505, provided, however, that the issuer shall be deemed to have waived any origination fee on the new debenture to which it would have otherwise been entitled under 13 C.F.R. section 108.503-6(a)(1).

(d) Any debenture refinanced under section 504 pursuant to this section shall have a term of either 10 or 20 years, as determined by the Administration.

(e) In the event of default by a borrower, the Administration's guarantee shall be extinguished by payment by the Administration of the remaining principal balance plus accrued interest.

(f) Notwithstanding any other law, rule or regulations, the guarantee by the Administration under section 503 of this Act of existing debentures purchased by the Federal Financing Bank which are refinanced pursuant to this section under section 504 of this Act shall continue in full force and effect and the full faith and credit of the United States shall continue to be pledged to the payment of all amounts which may be required to be paid under any guarantee of debentures or trust certificates. (representing ownership of all or a fractional part of such debentures) issued by the Administration or its agent pursuant to Section 505 of this Act.

(g) The Administration shall issue regulations to implement this section and to facilitate the prepayment of debentures and loans made with the proceeds of such debentures within 60 days of the date of enactment of this section."

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute.

The committee amendment was agreed to.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

So the bill (S. 437) as amended, was passed.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. SIMPSON. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

VITIATION OF SENATE ACTION ON S. 437

(Later the following occurred:)

Mr. BYRD. Mr. President, I ask unanimous consent that action on Calendar 491, S. 437, be vitiated and that the bill be returned to the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

DECISIONS ON MULTIPLE APPEALS WITH RESPECT TO THE SAME AGENCY ORDER

The PRESIDING OFFICER. The clerk will report the next bill.

The assistant legislative clerk read as follows:

A bill (S. 1134) to amend title 28, United States Code, to provide for the selection of the court of appeals to decide multiple appeals filed with respect to the same agency order.

The Senate proceeded to consider the bill.

Mr. THURMOND. Mr. President, as an original cosponsor, I strongly support S. 1134. This legislation is designed to resolve the "race to the courthouse" dilemma arising when multiple appellants seek review of the same Federal administrative order.

Under current law, when multiple petitions for appellate review are filed in different judicial circuits with regard to the same Federal agency order, proper venue is decided by determining which party was the "first to file." This "race to the courthouse" has led to some absurd results and a tremendous waste of private and judicial resources. Such races are sometimes decided by seconds or fractions of seconds. This irrational, unworkable procedure discredits the notion of fair play and substantial justice in the judicial process.

If enacted, S. 1134 will give each petitioner 10 days to appeal an agency order, and if multiple appeals are filed, the Judicial Panel on Multi-District Litigation will designate the circuit with proper jurisdiction. The Judicial Panel on Multi-District Litigation has the authority to transfer venue to a more convenient forum if good cause for such transfer can be shown.

This bill has widespread support and should solve the "race to the courthouse" dilemma. Therefore, I support S. 1134 and urge its passage.

Mr. GRASSLEY. Mr. President, I am delighted that the Senate has made this long-overdue correction of a quirk in Federal law regarding venue in administrative agency appeals.

This legislation, which has passed the House of Representatives in identical form, now moves on to the President for signature. Once in place, this legislation will end the unseemly and expensive contest that has come to be known as the "race to the court house."

I am referring, of course, to the so-called first to file rule now in effect when parties appeal Federal agency orders. Everyone who has studied this issue agrees that the human-chain, open-phone-line races and the subsequent proceedings to determine who was fractions of a second ahead of whom are wasteful of private and judicial resources, and are a sufficiently common spectacle to bring the legal process into public disrepute, if not ridicule.

This bill provides that whenever petitions for review of an agency order are filed in multiple appeals courts within 10 days after the issuance of a final order, the Judicial Panel on Multi-District Litigation will assign the case by lottery to one of the circuits. In all other cases, the first-to-file rule will continue to apply. Thus, while parties still have the right to file in the forum of their choice, "Races" would be reduced or eliminated. At the same time, the bill retains the court's ability to transfer cases based on the convenience of the parties and in the interests of justice.

I would like to thank a number of individuals who have supported this commonsense solution, such as Chairman BIDEN and Senator THURMOND, who agreed to clear this bill quickly, and Senator HEFLIN, who agreed to report the bill despite some reservations over random selection. I would also like to thank the Administative Conference of the United States for their tireless efforts on this issue, as well as the Administrative Office of the U.S. courts.

The PRESIDING OFFICER. The bill is open to amendment. If there be no amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill (S. 1134) was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SELECTION OF COURT FOR MULTIPLE APPEALS.

Section 2112(a) of title 28, United States Code, is amended by striking out the last three sentences and inserting in lieu thereof the following: "If proceedings are instituted in two or more courts of appeals with respect to the same order, the following shall apply:

"(1) If within ten days after issuance of the order the agency, board, commission, or officer concerned receives, from the persons instituting the proceedings, the petition for review with respect to proceedings in at least two courts of appeals, the agency, board, commission, or officer shall proceed in accordance with (3) of this subsection. If within ten days after the issuance of the order the agency, board, commission, or officer concerned receives, from the persons instituting the proceedings, the petition for review with respect to proceedings in only one court of appeals, the agency, board, commission, or officer shall file the record in that court notwithstanding the institution in any other court of appeals of proceedings for review of that order. In all other cases in which proceedings have been instituted in two or more courts of appeals with respect to the same order, the agency, board, commission, or officer concerned shall file the record in the court in which proceedings with respect to the order were first instituted.

"(2) For purposes of (1) of this subsection, a copy of the petition or other pleading which institutes proceedings in a court of appeals and which is stamped by the court with the date of filing shall constitute the petition for review. Each agency, board, commission, or officer, as the case may be, shall designate by rule the office and the officer who must receive petitions for review under paragraph (1).

"(3) If an agency, board, commission, or officer receives two or more petitions for review of an order in accordance with the first sentence of paragraph (1) of this subsection, the agency, board, commission, or officer shall, promptly after the expiration of the ten-day period specified in that sentence, so notify the judicial panel on multidistrict litigation authorized by section 1407 of this title, in such form as that panel shall prescribe. The judicial panel on multidistrict litigation shall, by means of random selection, designate one court of appeals, from among the courts of appeals in which petitions for review have been filed and received within the ten-day period specified in the first sentence of paragraph (1), in which the record is to be filed, and shall issue an order consolidating the petitions for review in that court of appeals. The judicial panel on multidistrict litigation shall, after providing notice to the public and an opportunity for the submission of comments, prescribe rules with respect to the consolidation of proceedings under this paragraph. The agency, board, commission, or officer concerned shall file the record in the court of appeals designated pursuant to this paragraph.

"(4) Any court of appeals in which proceedings with respect to an order of an agency, board commission, or officer have been instituted may, to the extent authorized by law, stay the effective date of the order. Any such stay may thereafter be modified, revoked, or extended by a court of appeals designated pursuant to paragraph (3) with respect to that order or by any other court of appeals to which the proceedings are transferred.

"(5) All courts in which proceedings are instituted with respect to the same order, other than the court in which the record is filed pursuant to this subsection, shall transfer those proceedings to the court in which the record is so filed. For the convenience of the parties in the interest of justice, the court in which the record is filed may thereafter transfer all the proceedings with respect to that order to any other court of appeals.".

SEC. 2. CONFORMING AMENDMENT.

Section 509(b) of the Federal Water Pollution Control Act (33 U.S.C. 1369(b)) is amended by striking out paragraph (3) and redesignating paragraph (4) as paragraph (3).

SEC. 3. EFFECTIVE DATE.

The amendments made by this Act take effect 180 days after the date of the enactment of this Act, except that the judicial panel on multidistrict litigation may issue rules pursuant to subsection (a)(3) of section 2112 of title 28, United States Code (as added by section 1) on or after such date of enactment.

Mr. BYRD. Mr. President, I move to reconsider the vote by which S. 1134 was passed.

Mr. SIMPSON. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

EMIGRATION OF CERTAIN SOVIET CITIZENS TO THE UNITED STATES

The PRESIDING OFFICER. The clerk will report the next measure.

The assistant legislative clerk read as follows:

A joint resolution (H.J. Res. 430) calling upon the Soviet Union to immediately grant permission to emigrate to all those who wish to join spouses or fiancees in the United States.

The Senate proceeded to consider the joint resolution.

The PRESIDING OFFICER. The joint resolution is before the Senate and open to amendment. If there be no amendment to be proposed, the question is on third reading of the joint resolution.

The joint resolution was read a third time.

The PRESIDING OFFICER. The joint resolution having been read the third time, the question is, Shall the joint resolution pass?

So the joint resolution (H.J. Res. 430) was passed.

The preamble was agreed to.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. SIMPSON. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BYRD. Mr. President, I compliment the Chair for his proficiency in presiding. I compliment the Parliamentarian. I thank my good friend [Mr. SIMPSON], who is the acting Republican leader.

INGREDIENT LABELING

Mr. CHAFEE. Mr. President, I would like to report to my colleagues on the response of the restaurant industry to legislation I introduced requiring ingredient labeling for fast food.

When I first introduced the Fast Food Ingredient Information Act in May 1986, I was concerned about reports that individuals who need to know what is in the food they eat—those, for example, on a medically-imposed diet or who have a sensitivity to certain food constituents—were not getting the information they needed when they dined in fast food restaurants.

As I said then, roughly one-fifth of the American population daily eats in fast food restaurants and it is critical that they know what they are eating. Yet, there were complaints that many restaurant chains were not forthcoming in providing basic ingredient information to consumers. I felt that legislation was needed to require these operators to provide this information to their patrons through labeling on wrappers or on signs posted in their establishments.

At the same time, I held out hope that the restaurant industry would move on its own to provide customers with ingredient information, and I encouraged industry leaders to voluntarily disclose this information.

I am pleased to inform my colleagues that fast food operators have made positive steps in this area. Segments of the industry have moved to make the public more aware of the ingredients in their foods and to feature more nutritious and wholesome foods in their entrees.

Most of the large fast food companies have developed programs to disseminate ingredient information. McDonald's, Burger King, Denny's, Arby's, Roy Rogers, and Jack in the Box all have published informational brochures that are available to interested customers. Some are also looking into ways of providing ingredient information over a toll-free telephone line. Employee training and menu descriptions of ingredients are also being used to convey ingredient information to customers.

I might add that the National Restaurant Association has encouraged its members, which include not only most of the Nation's fast food corporations but many independent full-service, cafeteria-style and limited-service restaurants, to provide ingredient information to concerned patrons. Earlier this year, with the help of the American College of Allergists' Food Allergy Committee, the association published "Guidelines for Providing Facts to Foodservice Patrons." This booklet is designed to help foodservice operators develop both ingredient and nutrition information programs. The booklet recommends that restaurateurs pay close attention to their customers' dietary needs and be prepared to provide information about the ingredient or nutritional content of their menu offerings.

Mr. President, scientific evidence confirms that the leading causes of death in the United States—heart disease and cancer—can be diet related. As a result, many people view their eating habits as a controllable variable in the prevention of illness. For these individuals, knowledge of select ingredients, nutrients and cooking methods is crucial. Restaurant patrons need to be able to make informed choices about the foods they eat. They need to know, among other items, whether their meals are heavy in sodium or fat, whether they contain eggs or shellfish or whether MSG or sulfites have been added. In short, they have a right to know what they are eating.

When I first addressed this issue 18 months ago, I said that our economic system is based on the ideal of an informed consumer making informed choices among competing products. At the time, I believed that as far as fast food is concerned, we were a long way from that ideal. Today, the foodservice industry has begun to meet the challenge of my legislation and is taking positive steps on the ingredient labeling. Operators have found that disclosing ingredients and offering the public a greater choice of foods can be a competitive advantage.

Mr. President, I commend those restaurateurs who have acted to serve better the American consumer. I encourage those who have not yet taken steps to provide ingredient and nutritional information, to do so. I hope that the fast food industry will continue the good work it has started.

BICENTENNIAL MINUTE

DECEMBER 20, 1860: SENATE ESTABLISHES COMMITTEE OF THIRTEEN

Mr. DOLE. Mr. President, 127 years ago on December 20, 1860, the Senate established its so-called Committee of Thirteen, in a last-ditch effort to prevent the breakup of the Union. This action occurred on the same day that South Carolina voted for secession. Unlike its unwieldly House counterpart—the Committee of Thirty-Three, with one member from each State—the Senate panel contained a more balanced and illustrious group of members. They included Kentucky's John Crittenden, New York's William Seward, Illinois' Stephen Douglas, and Mississippi's Jefferson Davis.

From its inception, however, the committee faced insurmountable odds against success. With four States virtually out of the Union, it had to focus on reconstruction rather than on simply stopping secession. The committee's doom was sealed when members adopted Jefferson Davis' proposal that no action would be taken except by a dual majority of the five Republicans and eight other committee members. This came in recognition that no compromise proposals, particularly requiring amendment of the Constitution, could succeed without strong bipartisan and bisectional support.

The committee met four times between December 22 and 28. John Crittenden, following in Henry Clay's conciliatory tradition, presented a package of constitutional amendments. Acceptance of these compromise plans would require the Republican Party to abandon its intention to prohibit slavery in the territories—the basis on which it had been founded and had just won its first Presidential election. Taking their cue from President-elect Lincoln, Republican Senators rejected all proposals.

On New Years' Eve, the committee reported to the full Senate that it had been unable to agree on any general plan of adjustment. Louisiana's Senator Judah Benjamin sounded the panel's death knell in the final hours of 1860. "The day for the adjustment has passed," he declared. "If you would give it now, you are too late. We desire, we beseech you, to let our parting be in peace."

SOUTH KOREA

Mr. McCONNELL. Mr. President, as we look forward to the beginning of a new year, the people of South Korea look toward a new beginning under the leadership of the recently elected President Roh Tae Woo. The transition from the Presidency of Chun Doo Hwan is certainly noteworthy, and the significance to the people of Wednesday's elections is evidenced by the remarkably high voter turnout. President-elect Roh is, no doubt, weighing many issues which he must confront. I would like to take this opportunity to add one issue to his agenda.

The euphoria surrounding South Korea's achievement should not obscure the reality that we continue to have many serious concerns with the trade relationship between our two nations. Thursday's Washington Post, in discussing a recent speech by U.S. Trade Representative Clayton Yeutter, gave voice to the frustration many of us feel in confronting the issue of trade with South Korea. The matter is simply that, as Ambassador Yeutter noted, South Korea remains essentially closed to many important United States commodities.

Our concerns cover a broad range of products, but one issue of paramount interest to my State of Kentucky is that of access to the South Korean cigarette market. Since June, negotiators from the Republic of Korea and our administration have been working toward agreements on improving our access. Progress to date has been less than encouraging. Next week they will be taking up what will be the final round of talks before a mutually agreed upon deadline of the end of the year is reached. At that point, we will be compelled to reevaluate our options, and take more serious actions should an agreement not be reached. I continue to be hopeful for a less confrontational resolution of this issue.

South Korea is an important ally and a valued friend to this country. They profit much from our trade relationship, and I hope that new leadership rejuvenates efforts to resolve these difficult problems between us. It is clearly in the interest of our longstanding friendship and alliance to bridge our differences.

FOREIGN OPERATIONS—CONTRIBUTION TO THE INTERNATIONAL FUND FOR IRELAND

Mr. PELL. Mr. President, November 15, 1987, marked the second anniversary of the Anglo-Irish agreement which received the strong support of the Congress when it was adopted and continues to receive our strong support today.

An essential part of the Anglo-Irish agreement is the creation of the International Fund for Ireland, which is designed to promote the economic and social reconstruction of Northern Ireland and the border counties. As a manifestation of our support for the Anglo-Irish agreement and the International Fund for Ireland, the Congress enacted the Anglo-Irish Agreement Support Act of 1986, Public Law 99-415 which provides for contributions to the International Fund for Ireland in the amount of $50 million for fiscal year 1986 and $35 million for fiscal years 1987 and 1988. In enacting that legislation, the Congress said:

> The purpose of these United States contributions shall be to support the Anglo-Irish Agreement in promoting reconciliation in Northern Ireland and the establishment of a society in Northern Ireland in which all may live in peace, free from discrimination, terrorism, and intolerance, and with the opportunity for both communities to participate fully in the structures and processes of government.

The committee's decision to fully fund the third contribution to the International Fund for Ireland should be regarded as the strongest possible endorsement of the Anglo-Irish, agreement and the International Fund for Ireland and to the efforts of the British and Irish Governments and of those reasonable men and women within Northern Ireland who are working as diligently as possible to make that agreement work.

SUPERCONDUCTING SUPER COLLIDER

Mr. CRANSTON. Mr. President, I would like to express the support of Californians for the superconducting super collider [SSC].

In late November of this year, I was delighted to see representatives from Californians for the Collider-Central Valley Site along with representatives from Super Collider for America, visit Washington to express the magnitude of local SSC support for construction of the project in the Golden State. The groups represent a cross section of Californians who support California's proposal for the SSC including farmers, businessmen, local representatives, civic organizations and homeowners among others. These constituents of mine are convinced that the SSC needs to be built and needs to be built in California.

As my colleagues probably know by now, with a 53 mile-long circumference, the SSC is by far the largest and most expensive scientific instrument ever contemplated. The collider would be 20 times more powerful than the largest like machine available in the United States. When completed, it will be able to simulate the big bang, which scientists believe was the event that marked the start of the universe, and illuminate such critical questions as the origin of mass and unification of the fundamental forces.

The SSC's construction will reverse the trend that in recent years has led many outstanding American physicists to seek research opportunities abroad. From 1950 through the end of the last decade, nearly every major discovery in the field of particle physics was made in the United States and nearly every Nobel Prize in the particle physics field went to an American.

However, the last three major particle discoveries have been made by Europeans at what is now the world's largest accelerator in Geneva. Many question America's role in particle physics research when the number of U.S. particle physics labs will shrink from eight labs in 1965 to maybe one or two by the 1990's. Moreover, by 1993, the Soviet's will have completed the world's largest atom smasher—more than three times the size of the largest United States machine.

Many refer to the collider as America's bid to regain the lead in high-energy physics research and, in high-energy physics, compare the development of the super collider to putting a man on the Moon. Similar research has yielded significant benefits in nuclear medicine, computer development, and other high technology fields.

Though not inexpensive, wherever the project is located it would be a great asset to basic research and the Nation in general. Without it, we would essentially relinquish America's role in high-energy physics and force many top American researchers to study abroad.

Mr. President, the main feature of this project is the oval-shaped, concrete lined tunnel 53 miles around and at least 50 feet underground. The SSC is placed underground to help ensure the structures integrity in the event of an earthquake. Tunnels are found to be highly resistant to earthquakes. For example, Mexico City's underground subway was left virtually unaffected by that city's big quake.

Some people have expressed concerns about citing the SSC in a region like California where geological movements are found more frequently. However, a recent study released by the U.S. Geological Service confirms the findings presented in California's proposal for the SSC. It has been demonstrated by experts that the SSC tunnel would, in all probability, be protected from the ground forces associated with an earthquake.

California's sincerity in gaining the SSC project has been demonstrated by the fact that California is willing to put up $1.2 billion as State costs for this $4.4 billion project. In times when the Federal deficit has reached an unprecedented level, California should be rewarded for taking a step forward to reduce the price tag of this project. In addition, many groups such as farmers, civic organizations, city councils, universities, and chambers of commerce have shown support for California's proposal. In fact, in a recent poll, over 69 percent of northern Californians support locating the SSC in their State.

The many economic and scientific benefits of buiding the SSC are obvious no matter which State ends up as home for the atom smasher. However, when considering the enormous cost associated with this project, we need to limit our criterion regarding the site proposals to reflect the best possible State for the construction of the super collider.

I believe the best State is California.

MESSAGES FROM THE PRESIDENT RECEIVED DURING RECESS

Under the authority of the order of the Senate of February 3, 1987, the Secretary of the Senate, on December 18, 1987, during the recess of the Senate, received a message from the President of the United States transmitting sundry nominations which were referred to the appropriate committees.

(The nominations received on December 18, 1987, are printed at the end of the Senate proceedings.)

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Chirdon, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 9:41 a.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the House has passed the following bill, without amendment:

S. 1684. An act to settle Seminole Indian land claims within the State of Florida, and for other purposes.

The message also announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3030) to provide credit assistance to farmers, to strengthen the Farm Credit System, to facilitate the establishment of secondary markets for agricultural loans, and for other purposes.

The message further announced that the House agrees to the amendment of the Senate to each of the following bills:

H.R. 403. An act to establish the El Malpais National Monument and the El Malpais National Conservation Area in the State of New Mexico, to authorize the Masau Trail, and for other purposes;

H.R. 519. An act to direct the Federal Energy Regulatory Commission to issue an order with respect to Docket No. EL-85-38-000; and

H.R. 2639. An act to repeal the Brown-Stevens Act concerning certain Indian tribes in the State of Nebraska.

The message also announced that the House has passed the following bill, with amendments, in which it requests the concurrence of the Senate:

S. 1642. An act to designate the United States Courthouse located at the intersection of Uniondale Avenue and Hempstead Turnpike in Uniondale, New York, as the "John W. Wydler United States Courthouse.

The message further announced that the House agrees to the amendment of the Senate to the text of the bill (H.R. 3479) to provide for adjustments of royalty payments under certain Federal onshore and Indian oil and gas leases, and for other purposes; with an amendment, in which it requests the concurrence of the Senate, and that the House disagrees to the amendment of the Senate to the title of the bill.

The message also announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 2927. An act to designate the Federal courthouse being constructed at 129 Market Street, Youngstown, Ohio, as the "Thomas D. Lambros Federal Courthouse";

H.R. 3327. An act to designate the Federal building located at 324 West Market Street in Greensboro, North Carolina, as the "L. Richardson Preyer Federal Building";

H.R. 3674. An act to provide for Congressional approval of the Governing International Fishery Agreement between the United States and Japan; and

H.R. 3743. An act to improve the safety of rail transportation, and for other purposes.

ENROLLED BILLS AND JOINT RESOLUTION SIGNED

The message further announced that the Speaker has signed the following enrolled bills and joint resolution:

H.R. 2310. An act to amend the Airport and Airway Improvement Act of 1982 for the purpose of extending the authorization of appropriations for airport and airway improvements, and for other purposes;

H.R. 3427. An act to allow the obsolete submarine United States ship *Blenny* to be transferred to the State of Maryland before the expiration of the otherwise applicable 60-day congressional review period;

H.R. 3734. An act to recognize the significance of the administration of the Federal-Aid Highway System and to express appreciation to Ray A. Barnhart for his dedicated efforts in improving the Federal-Aid Highway System; and

H.J. Res. 426. Joint resolution authorizing the hand enrollment of the budget reconciliation bill and of the full-year continuing resolution for fiscal year 1988.

The enrolled bills and joint resolution were subsequently signed by the

Acting President pro tempore [Mr. PROXMIRE].

MEASURES REFERRED

The following bills were read the first and second times by unanimous consent, and referred as indicated:

H.R. 2927. An act to designate the Federal courthouse being constructed at 129 Market Street, Youngstown, Ohio, as the "Thomas D. Lambros Federal Courthouse"; to the Committee on Environment and Public Works.

H.R. 3327. An act to designate the Federal building located at 324 West Market Street in Greensboro, North Carolina, as the "L. Richardson Preyer Federal Building"; to the Committee on Environment and Public Works.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-367. A joint resolution adopted by the Legislature of the State of California; to the Committee on Energy and Natural Resources.

"ASSEMBLY JOINT RESOLUTION No. 32

"Whereas, The State of California, with its long Pacific coastline, has been a maritime power since its earliest settlement; and

"Whereas, The vessels which have sailed the Pacific Ocean to and from California over the course of the state's history have been, in great measure, responsible for the development of the entire west coast of the United States and the growth and prosperity of California; and

"Whereas, It is fitting and proper for a representative collection of the vessels that made this history be preserved and exhibited in San Francisco so that generations to come may better understand our maritime history; and

"Whereas, It was one of the legislative goals of the late Representative Sala Burton of San Francisco to make a maritime museum in San Francisco a reality; and

"Whereas, Representative Burton's cause has been taken up by Representative Udall, Chairperson of the House Interior and Insular Affairs Committee, who has introduced legislation with the cosponsorship of 27 members of the California congressional delegation to establish a national maritime museum in San Francisco for the preservation and presentation of maritime artifacts and historic vessels including the sailing ship Balclutha, the steam schooner Wapama, the steamship SS Jeremiah O'Brien, the ferry Eureka, the schooner C. A. Thayer, the tug Eppleton Hall, the tug Hercules, and the scow schooner Alma presently located at the Golden Gate National Recreation Area; and

"Whereas, The preservation of these important elements of our maritime history is in the best interests of California and the nation; now, therefore, be it

"Resolved by the Assembly and Senate of the State of California, jointly, That the President and Congress are respectfully memorialized to support and enact legislation establishing a national maritime museum in San Francisco; and be it further

"Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, and to the Chairperson of the House Interior and Insular Affairs Committee."

POM-368. A concurrent resolution adopted by the Legislature of the State of Michigan; to the Committee on Energy and Natural Resources:

"SENATE CONCURRENT RESOLUTION No. 314

"Whereas, The amount of low level radioactive waste projected to be generated in 1990 will be approximately one-third of the amount generated in 1980; and

"Whereas, Serious questions have been raised regarding the Low Level Radioactive Waste Policy Act (42 U.S.C. 2021b et seq.). This statute places no limit on the number of low level waste disposal sites or compacts that can be created under the act, and as many as thirteen facilities are currently under consideration by compacts and "go-it-alone" states. In addition, differing safe construction costs from one region of the country to another may create substantial economic inequities in utility costs and rates; and

"Whereas, There are also serious liability questions regarding these sites. The act makes no provision for liability coverage for sites constructed under the act, and private liability coverage is not currently available; and

"Whereas, The law also does not address the complex issue of the disposal of mixed wastes, and the Nuclear Regulatory Commission and the Environmental Protection Agency have been unable to reconcile their regulatory schemes; and

"Whereas, The act actually discourages source and volume reduction of low level radioactive wastes by generators; and

"Whereas, The act provides no funding mechanism for the construction of low level waste sites nor for the long-term care or maintenance of the sites, thus placing host state taxpayers at substantial economic risk; and

"Whereas, In light of these many concerns, it would be in the public interest to make a thorough review of this law and recommend appropriate changes: Now, therefore, be it

"Resolved by the Senate (the House of Representatives concurring), That we hereby memorialize the United States Congress to review the Low Level Radioactive Waste Policy Act of 1980 to reduce the number of proposed sites; and be it further

"Resolved, That the United States Congress be urged to:

"(1) Consider the inclusion of the environmental impact of a low level radioactive waste facility as a critical factor in its siting.

"(2) Review the liability problems and the availability of liability insurance coverage.

"(3) Address the issue of the disposal of mixed wastes.

"(4) Develop a standard national approach to the management of naturally occurring or accelerator produced radioactive material, known as NARM waste.

"(5) Explore ways to assure long-term financial support and stability of each host state disposal facility, in the event of future changes in federal law or policy, or compact changes.

"(6) Consider providing a funding mechanism for the construction and long-term maintenance of low level radioactive waste facilities: And be it further

"Resolved, That we urge the United States Congress to review the current classification of Class C wastes and amend federal law to restrict the classification and relieve the states of responsibility for disposing of Class C wastes by January 1, 1989.

"Resolved, That a copy of this resolution be transmitted to the President of the United States Senate, the Speaker of the United States House of Representatives, and the Michigan congressional delegation."

POM-369. A petition from the President of the Board of County Commissioners of the County of Hamilton, Ohio urging the continuation of the funding request for flood control studies in the metropolitan region of Cincinnati; to the Committee on Environment and Public Works.

POM-370. A resolution adopted by the Florida League of Cities, opposing the extension of individual and corporate alternative minimum tax to general obligations and revenue bonds issued by the State, Cities, and Counties of Florida; to the Committee on Finance.

POM-371. A resolution adopted by the Senate of the State of Michigan; to the Committee on Labor and Human Resources.

"SENATE RESOLUTION No. 336

"Whereas, The United States of America has recently celebrated the 200th anniversary of the Constitution; and

"Whereas, The United States Constitution guarantees all citizens of this great republic the rights of freedom of speech and freedom of association; and

"Whereas, A substantial number of citizens have exercised their right to speak out freely and to associate with others for the common good to form free trade unions to advance their eocnomic, social, and political well-being; and

"Whereas, The free trade union movement has improved the working and living conditions for all Americans; and

"Whereas, The free trade union movement has provided working people a forum for expressing their views and effectively petitioning the government at all levels; and

"Whereas, History has demonstrated that the elimination of free trade unions would be the first step toward the elimination of democracy and the institution of authoritarian rule in these United States; now, therefore, be it

"Resolved by the Senate, That this legislative body hereby opposes any effort by any level or agency of government to subvert the rights fo working men and women by interfering with and/or taking over any labor organization that is a part of this country's free trade union movement; and be it further

"Resolved, That a copy of this resolution be transmitted to the President of the Untied States Senate, the Speaker of the United States House of Representatives, the members of the Michigan congressional delegation, the United States Justice Department, and the National Labor Relations Board.

"The question being on the adoption of the resolution,

"The resolution was adopted.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation, with an amendment in the nature of a substitute:

H.R. 940. A bill to provide for the regulation of the disposal of plastic materials and other garbage at sea; to provide for negotiation, regulation, and research regarding fishing with plastic driftnets; and for other purposes (Rept. No. 100-266).

S. 861. A bill to require certain actions by the Secretary of Transportation regarding certain drivers of motor vehicles and motor carriers (Rept. No. 100-267).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. PROXMIRE (for himself and Mr. GARN) (by request):

S. 1974. A bill to enhance the enforcement authority of depository institution regulating agencies; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. DECONCINI (for himself, Mr. DOMENICI, Mr. D'AMATO, and Mr. MOYNIHAN):

S. 1975. A bill to better enable Federal law enforcement officers to accomplish their missions, to assist Federal law enforcement agencies in attracting and retaining the most qualified personnel, and for other purposes; to the Committee on Governmental Affairs.

By Mr. EVANS (for himself, Mr. INOUYE, Mr. MCCAIN, Mr. HARKIN, Mr. DECONCINI, Mr. DASCHLE, Mr. BINGAMAN, Mr. PRESSLER, Mr. BURDICK, and Mr. WIRTH):

S. 1976. A bill to amend the Indian Child Welfare Act, and for other purposes; to the Select Committee on Indian Affairs.

By Mr. MELCHER:

S. 1977. A bill to establish a demonstration project under which special magistrates with jurisdiction over Federal offenses within Indian country are to be appointed, and for other purposes; to the Select Committee on Indian Affairs.

By Mr. EVANS:

S. 1978. A bill to amend the Internal Revenue Code of 1986 to retain a capital gains tax differential, and for other purposes; to the Committee on Finance.

By Mr. ADAMS (for himself and Mr. EVANS):

S. 1979. A bill to establish the Grays Harbor National Wildlife Refuge; to the Committee on Environment and Public Works.

By Mr. HECHT:

S. 1980. A bill entitled the "Nuclear Waste Policy Review Commission Act of 1987"; to the Committee on Energy and Natural Resources.

By Mr. DOLE:

S. 1981. A bill to provide civil penalties for the manufacturing or entering into commerce of imitation firearms which do not have markings to make them readily identifiable; to the Committee on Commerce, Science, and Transportation.

By Mr. HEINZ:

S. 1982. A bill to require the Secretary of the Treasury to mint and issue one-dollar coins in commemoration of the 100th anniversary of the birth of Dwight David Eisenhower; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. STEVENS (for himself and Mr. MURKOWSKI):

S. 1983. A bill to amend title 28, United States Code; to the Committee on the Judiciary.

By Mr. STEVENS (for himself and Mr. MURKOWSKI):

S. 1984. A bill for the relief of Leroy W. Shebal of North Pole, Alaska; to the Committee on Energy and Natural Resources.

By Mr. DOLE:

S.J. Res. 237. Joint resolution to designate May 1988, as "Neurofibromatosis Awareness Month"; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. BYRD (for himself and Mr. DOLE):

S. Res. 348. Resolution establishing an Arms Control Treaty Review Support Office; considered and agreed to.

STATEMENTS OF INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. PROXMIRE (for himself and Mr. GARN) (by request):

S. 1974. A bill to enhance the enforcement authority of depository institution regulating agencies; to the Committee on Banking, Housing, and Urban Affairs.

ENHANCED ENFORCEMENT POWERS ACT

Mr. PROXMIRE. Mr. President, today Senator GARN and I are introducing, by request of the Federal agencies supervising depository institutions, the Enhanced Enforcement Powers Act of 1987. This comprehensive measure represents the collective effort of the staffs of all of the agencies having supervisory jurisdiction over our depository institutions and is designed to beef up their enforcement authority. As the Congress considers new proposals to reform our banking laws, consideration of enhanced enforcement authority for our regulators is quite appropriate. I am therefore pleased to introduce this bill at the request of the regulators of our financial institutions. Let me give some background explaining why the regulators believe this legislation is needed.

All of the Federal financial institution supervisory agencies, the Board of Governors of the Federal Reserve System (the Board), the Federal Deposit Insurance Corporation (the FDIC), the Office of the Comptroller of the Currency (the OCC), the Federal Home Loan Bank Board (the FHLBB) and the National Credit Union Association (the NCUA), generally have been granted the same administrative enforcement powers by Congress. These powers were originally set forth in the Financial Institutions Supervisory Act of 1966 (FISA) and were later codified for each of the respective agencies in the Federal Deposit Insurance Act, as amended (FDIA), the Bank Holding Company Act of 1956, as amended (BHCA), the National Housing Act (NHA), the Homeowners Loan Act of 1933 (HOLA) and the Federal Credit Union Act of 1934, as amended (FCUA).

The agencies' enforcement powers enable them to address situations involving unsafe and unsound practices and violations of banking laws and regulations. The laws allow the agencies to issue cease-and-desist orders, suspension, removal and prohibition orders, civil money penalty assessments and other administrative remedies aimed, inter alia, at stopping abusive activities and returning the financial institutions that they regulate to healthier conditions. Under the existing statutory framework governing the Board, FDIC, OCC, FHLBB and NCUA, each of the agencies has the same legal powers to issue a cease and desist order or remove an individual from a bank, savings and loan association, bank or savings and loan holding company, or credit union. Due to the general similarity of statutory powers, an officer or director of a national bank could be subjected to the same enforcement orders as an officer or director of a savings and loan association if he or she violated a banking law or regulation; and a credit union that engaged in an unsafe and unsound practice could be subjected to the same administrative remedies as if it were a state member bank.

The last time that the Federal financial institutions supervisory agencies' enforcement powers were revised in a major way was in 1978. In that year, Congress passed the Financial Institutions Regulatory and Interest Rate Control Act of 1978 (FIRA) and granted the agencies some important new powers and strengthened others. Most notable among the powers was the authority to assess civil money penalties for violations of final cease and desist orders and for certain law and regulation violations, including insider lending limitations, and to review and block, where necessary, transactions involving the change in control of a financial institution.

Since the adoption of FISA and its amendments, the Federal financial institutions supervisory agencies have initiated over two thousand enforcement actions against the financial institutions that they regulate and individuals associated with them. Based on their extensive experiences, the agencies have determined that their current enforcement powers are for the most part adequate and that they generally have been able to address a wide variety of situations that warranted supervisory attention. But, they also believe that some of their powers need clarification or enhancement in order to permit them to continue to better protect our nation's financial institutions and that the only way to achieve this goal is to amend the current statutory scheme that was first developed for the agencies in FISA and strengthened by FIRA.

With this purpose, the legal staffs of the Federal financial institutions supervisory agencies who conduct their agencies' enforcement activities developed, through a cooperative effort, a series of proposed statutory amendments to their respective agency's enforcement laws. They also again reviewed the provisions of the Right to Financial Privacy Act (RFPA), especially as it relates to the criminal referral process, together with the other members of the Interagency Bank Fraud Enforcement Working Group (which includes Federal Bureau of Investigation and the Department of Justice). Based on this review, they developed proposed statutory amendments to RFPA.

All of these proposals have been included in the attached Enhanced Enforcement Powers Act of 1987 (EEPA). EEPA was reviewed and approved by the respective boards or heads of the Board, FDIC, NCUA, and FHLBB, and by the OCC, which has submitted the proposed amendments to the Office of Management and Budget and the Department of the Treasury.[1] By letter dated November 17, 1987, the Board, FHLBB and FDIC requested consideration of EEPA by the Senate Committee on Banking, Housing, and Urban Affairs.

The regulators tell us that they have developed the EEPA for several reasons. First, they claim some of its provisions address problems caused by recent Federal court decisions that have hindered or could in the future hinder the agencies' abilities to take enforcement actions when faced with situations involving insider abuse and misconduct by officers and directors of financial institutions and wrongdoing by the institutions themselves. Second, they tell us EEPA is needed because it will clarify several areas of the agencies' enforcement powers and will codify certain administrative enforcement interpretations and procedures already in use at the agencies. Last, they claim the provisions of EEPA ensure that the enforcement powers of the Board, FDIC, OCC, FHLBB and NCUA are as identical and complementary as possible and that the wide variety of financial institutions supervised by these agencies and the individuals who work for them are subjected to the same laws and penalties for any transgressions.

EEPA is designed to enchance and clarify the existing enforcement powers of the Federal financial institution supervisory agencies. It contains provisions relating to the cease and desist, temporary cease and desist, removal, suspension, and civil money penalty action powers of the bank, thrift and credit union supervisory agencies and provisions that modify the Change in Control Acts of 1978 (CBCA), the notice and exchange of information provisions of RFPA, the regulatory reporting requirements of FDIA, BHCA, NHA, HOLA, FCUA, the convicted criminal approval provisions of those same statutes, and the Bank Protection Act of 1968 (BPA). In brief outline, the provisions of EEPA are as follows:

(1) With respect to the agencies' cease and desist powers, EEPA (a) introduces the new term "institution-related party" to replace the terms "director, officer, employee, agent, or person participating in the conduct of the affairs of" a financial institution wherever they appear in the agencies' enforcement statutes in order to simplify the references to the broad category of individuals subject to the cease and desist authorities of the agencies; (b) expands the definition of the term "institution-related party" to include persons who have filed or are required to file notices of changes of control of financial institutions under CBCA in order to provide the agencies with enforcement powers over those individuals who are in control of financial institutions but who have not yet been officially appointed to the institutions' boards of directors or been employed by the institutions or who purposely avoid such positions; (c) clarifies the powers of the agencies to order, inter alia, reimbursement, restitution or rescission in the cease and desist orders they issue and, would the agencies believe overturns the ruling of the U.S. Court of Appeals for the 7th Circuit in the *Larimore* case, 789 F.2d 1244 (7th Cir. 1986)—a Federal court decision they believe was contrary to several other U.S. Court of Appeals' decisions that addressed the authority of the banking agencies to order such affirmative action as was necessary to correct the practices or violations of wrongdoers; (d) clarifies the powers of the agencies to limit, with specificity, the functions and activities of individuals or financial institutions who are subjected to final cease and desist orders—a clarification that is necessary to define further the meaning of the term "affirmative action" in the agencies' enforcement statutes and to permit explicitly the targeting of the provisions of enforcement orders on the activities that are giving rise to the institutions' problems; and (e) adds a new subsection to the enforcement statutes in order to make it clear that the agencies' administrative enforcement authority to address incidences of wrongdoing is in addition to, and not limited by, any other statutory grant of authority provided to the agencies under Federal or State law and, the regulators believe, modifies in part the ruling to the Court in the Larimore case.

(2) With regard to the authority of the agencies to issue emergency relief in the form of a temporary cease and desist order, EEPA (a) provides that the agencies can issue a temporary cease and desist order against any "institution-related party" and thus simplifies the agencies' current statutes and expands the coverage of this power to those who have filed or are required to file CBCA notices; (b) in the same manner described for the agencies' cease and desist powers, clarifies the authority of the agencies to issue temporary cease and desist orders that limit, with specificity, the activities and functions of those who are subjected to their provisions; and (c) establishes a new legal basis for the issuance of a temporary cease and desist order by providing that the agencies can issue such an order when they find that the books or records of a financial institution that they are examining are in such disarray that the examiners cannot determine the financial condition of the institution or the nature of its transactions.

(3) Concerning the removal and suspension powers of the agencies over individuals, EEPA (a) amends the Board's, OCC's, FDIC's and FHLBB's authority to suspend or remove an individual from a Federally supervised financial institution subject to its jurisdiction by providing, in a manner consistent with the already existing statutory powers of the NCUA, that the suspended or removed individual is barred, by operation of law, from all such financial institutions, including insured banks and savings and loan associations and bank holding companies—this so called "universal" removal provision will clarify the agencies' powers to remove wrongdoers from all Federally supervised financial institutions through one agency's actions and will make it clear that an individual who is prohibited from serving as an officer or director of a commercial bank may not serve in such a capacity at a savings and loan association or credit union or vice versa without appropriate approvals; (b) provides that the agencies can use their suspension and removal powers to address misconduct and abuse by any "institution-related party" and not just the limited category of officers, directors and participants in the conduct of the affairs of financial institutions as under the current law; (c) makes the grounds for removing an individual based on his or her activities at the individual's current place of employment or former place of employment consistent; and (d) recodifies the criminal sanctions for violations of outstanding suspension or removal orders in order to simplify the statutory language and in

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[1] The legal staff of the Farm Credit Administration also participated in the development of statutory amendments, and it is now in the process of presenting its agency's amendments to the Board of the Farm Credit Administration for consideration.

order to make it clear that an individual subject to such an order can become an officer or director or participate in the conduct of the affairs of a financial institution only upon receiving the approval of the appropriate Federal financial institution supervisory agency.

(4) With respect to the agencies' cease and desist, temporary cease and desist, civil money penalty and removal powers, EEPA clarifies the agencies' powers over individuals who resign or are, for whatever reason, no longer associated with a financial institution at the time one of the agencies initiates its enforcement action. EEPA makes clear that the agencies' authority to proceed with enforcement action against an "institution-related party" is not affected by the individual's resignation, termination of employment or separation from a financial institution or the institution's failure.

(5) EEPA addresses the agencies authority to assess civil money penalties by (a) providing that each of the agencies can assess such penalties for violations of conditions imposed on financial institutions in writing in connection with applications submitted to the agencies; and (b) granting the FHLBB the same civil money penalty assessment powers over the institutions that it supervises for violations of HOLA, NHA and its implementing regulations as the OCC has over national banks for violations of the National Bank Act and the OCC's implementing regulations.

(6) EEPA contains provisions that amend the civil money penalty assessment provisions of CBCA. CBCA would be modified (a) to eliminate the requirement that the agencies demonstrate that an individual or institution "willfully" violated the law in order to assess a civil money penalty and, in this manner, make the agencies' authority to assess fines for this type of law violation consistent with their authority to address all other law and regulation violations which do not require a showing of a willful violation; and (b) consistent with the agencies' other existing enforcement powers, to permit the agencies to assess civil money penalties for violations of CBCA through the use of administrative procedures rather than actions in U.S. district courts.

(7) EEPA amends FDIA, FCUA, HOLA and NHA to permit the FDIC, NCUA and FHLBB to assess a civil money penalty of up to $1,000 per day against any individual or insured bank, credit union, or savings and loan association that, without the prior approval of the FDIC, NCUA, or FHLBB, hires the individual after he or she has been convicted of a crime involving dishonesty or breach of trust. Current law authorizes the FDIC's, NCUA's and FHLBB's assessment of only $100 per day against the bank, credit union, and savings and loan association for such violations.

(8) The provisions relating to the submission of reports of condition and income and bank holding company financial reports to the responsible agencies have been modified by EEPA. The proposed amendments (a) provide that, in addition to the submission of untimely reports, the submission of false or misleading reports to the agencies will subject the financial institutions who make such submissions to civil money fines; and (b) increases the amount of the potential fine to $1,000 per day from $100 per day. EEPA also grants the FHLBB new authority to request such reports and to fine for the submission of false or misleading reports.

(9) EEPA amends BPA by eliminating the requirement that banks file periodic reports relating to the installation, maintenance, and operation of security devices and procedures.

(10) With respect to RFPA, EEPA (a) would make it clear that the provisions of RFPA apply to the records of bank and savings and loan holding companies and their officers, directors, employees, agents, and persons participating in their affairs as well as to banks and thrift associations; (b) permits the disclosure of information and records covered by RFPA by a financial institution or one of its employees to any agency of the United States so long as such information is relevant to a possible violation of any law relating to crimes by or against a financial institution or an agency or any drug control or money laundering statute; and (c) provides that the provisions of RFPA will not apply when financial records in the possession of a supervisory agency or department of the United States are lawfully obtained in the first instance and are transferred by the agency or department to another agency or department of the United States in connection with a matter within the lawful jurisdiction of the receiving agency or department.

The Federal financial institutions supervisory agencies believe the adoption of EEPA's enforcement statute amendments is important to the overall effectiveness of their enforcement activities. Therefore I am pleased to introduce this act at their request.

I am also including in the RECORD with this bill a detailed section-by-section summary of it and an analysis of title I, both of which have been prepared by the staff of the banking agencies. And I ask unanimous consent that this material be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1974

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Enhanced Enforcement Powers Act of 1987".

TITLE I—REGULATION OF BANKS

SEC. 101. AMENDMENTS TO THE FEDERAL DEPOSIT INSURANCE ACT.

(a) AMENDMENTS TO SECTION 8.—Section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818) is amended—

(1) by striking out the phrases "director, officer, employee, agent, or other person participating in the conduct of the affairs of such bank"; "director, officer or other person" and "director, officer, employee, agent or other person" each place they appear and inserting in lieu thereof "institution-related party";

(2) by striking out the period at the end of paragraph (1) of subsection (b) and inserting: "including, without limitation, reimbursement, restitution, indemnification, rescission, the disposal of loans or assets, guarantees against loss, or other action the appropriate Federal banking agency deems appropriate. Such order may place limitations on the activities or functions of the bank or any institution-related party necessary to correct the conditions resulting from any such violation or practice.";

(3) by inserting the following sentence after the first sentence of paragraph (1) of subsection (c): "Such order may place limitations on the activities or functions of the bank or any institution-related party.";

(4) by adding at the end of subsection (c) the following new paragraph:

"(3) Whenever a notice of charges specifies that an insured bank's books and records are so incomplete or inaccurate that the appropriate Federal banking agency is unable with reasonable effort to determine the financial condition of that bank or the details or purpose of any transaction or transactions that may have a substantial effect on the financial condition of that bank, the agency may issue a temporary order requiring cessation of any activities the agency deems appropriate until completion of proceedings conducted under paragraph (1) of subsection (b) of this section. Such order shall become effective upon service, and unless set aside, limited, or suspended by a court in proceedings authorized by paragraph (2) of this subsection, shall remain effective and enforceable pending completion of the administrative proceeding initiated under such notice or until the agency determines by examination or otherwise that the bank's books and records are accurate and capable of reflecting the financial condition of the bank.";

(5) by striking out paragraph (2) and amending paragraph (1) of subsection (e) to read as follows:

"(1) Whenever the appropriate Federal banking agency determines that—

"(A) any institution-related party, directly or indirectly, has violated any law, rule, regulation, or cease-and-desist order which has become final, or has engaged or participated in any unsafe or unsound practice in connection with any insured bank or business institution, or has committed or engaged in any act, omission, or practice which constitutes a breach of his fiduciary duty;

"(B) such insured bank or business institution has suffered or will probably suffer substantial financial loss or other damage, or the interests of its depositors have been or could be seriously prejudiced by reason of such violation, practice, or breach, or the institution-related party has received financial gain by reason of such violation, practice or breach; and

"(C) such violation, practice, or breach involves personal dishonesty on the part of such institution-related party or demonstrates willful or continuing disregard for the safety or soundness of such insured bank or business institution,

the agency may serve upon such institution-related party a written notice of its intention to remove such party from office or to prohibit his further participation in any manner in the conduct of the affairs of any insured bank.";

(6) by redesignating paragraphs (3) through (6) of subsection (e) as paragraphs (2) through (5), respectively, and by amending paragraph (3) of subsection (e), as redesignated, to read as follows:

"(3) In respect to any institution-related party referred to in paragraph (1) or (2) of this subsection, the appropriate Federal banking agency may, if it deems it necessary for the protection of the bank or the interests of its depositors, by written order to such effect served upon such party, suspend him from office or prohibit him from further participation in any manner in the conduct of the affairs of the bank. Such suspension or prohibition shall become effective upon service of such order on the institution-related party and, unless stayed by a court in proceedings authorized by subsection (f) of this section, shall remain in effect pending the completion of the administrative proceedings pursuant to the notice served under paragraph (1) or (2) of this subsection and until such time as the agency shall dismiss the charges specified in such notice, or, if an order of removal or prohibition is issued against such party, until the effective date of any such order. Copies of any order issued pursuant to this paragraph shall also be served upon any bank where the party involved is presently associated.";

(7) by inserting after paragraph (5) of subsection (e) as redesignated, the following new paragraph:

"(6) Any person who, pursuant to this subsection or subsection (g), is removed, suspended, or prohibited from participation in the conduct of the affairs of an insured bank, a banking holding company, a subsidiary of a bank or bank holding company, or an organization organized and operated under section 25(a) of the Federal Reserve Act or operating under section 25 of the Federal Reserve Act, shall also be removed, suspended, or prohibited from participation in the conduct of the affairs of any insured institution, any bank holding company or subsidiary of a bank holding company, any organization organized and operated under section 25(a) of the Federal Reserve Act or operating under section 25 of the Federal Reserve Act, any savings and loan company (as those terms are defined in the National Housing Act), and any institution chartered under the Farm Credit Act of 1971, as amended, unless the party involved has received the prior written approval of the appropriate Federal regulatory agency to continue such affiliation or to continue participating in the affairs of such institution.";

(8) by striking out "(e)(4)" in subsection (f) and inserting in lieu thereof "(e)(3)", and by striking out "(e)(1), (e)(2), or (e)(3)" in subsection (f) and inserting in lieu thereof "(e)(1) or (e)(2)";

(9) by redesignating paragraphs (1) and (2) of subsection (i) as paragraphs (2) and (3), respectively, and by inserting after "(i)" the following new paragraph:

"(1) The jurisdiction and authority of the appropriate Federal banking agency to proceed under this section against any institution-related party shall not be affected by the resignation, termination of employment, or other separation of such person from an insured bank.";

(10) by inserting after "this section" in the first sentence of subsection (i)(3)(i), as redesignated, the following: "or any condition imposed in writing by the agency in connection with the granting of any application or other request by the bank";

(11) by amending subsection (j) to read as follows:

"(j) PENALTY.—Any person against whom there is outstanding and effective any order served upon such person under paragraph (3) or (4) of subsection (e) or under subsection (g) who, directly or indirectly, without the prior written approval of the appropriate Federal regulatory agency—

"(1) participates in any manner in the conduct of the affairs of any insured institution, any bank holding company or subsidiary of a bank holding company (as those terms are defined in the Bank Holding Company Act of 1956), any organization organized and operated under section 25(a) of the Federal Reserve Act or operating under section 25 of the Federal Reserve Act, any savings and loan holding company (as those terms are defined in the National Housing Act), or any institution chartered under the Farm Credit Act of 1971, from which he has been suspended, removed, or prohibited, or solicits or procures, or transfers or attempts to transfer, or votes or attempts to vote any proxies, consents, or authorization in respect to any voting rights in such institution; or

"(2) votes for a director, or serves or acts as a director, officer, employee, or agent, or otherwise participates in any manner in the conduct of the affairs of any insured institution, any bank holding company or subsidiary thereof or any other institution described in paragraph (i) of this subsection;

shall be guilty of a misdemeanor and, upon conviction, shall be fined not more than $5,000 or imprisoned for not more than one year, or both. Any order issued under subsection (e) of this section may prohibit any act that would violate this subsection.";

(12) by amending subsection (k) to read as follows:

"(k) DEFINITIONS.—As used in this section:

"(1) The term 'appropriate Federal regulatory agency' means—

"(A) the appropriate Federal banking agency, as provided in subsection (q) of section 3 (12 U.S.C. 1813);

"(B) the Federal Home Loan Bank Board, acting either in its own name or as operating head of the Federal Savings and Loan Insurance Corporation, in the case of a depository institution whose accounts are insured by the Federal Savings and Loan Insurance Corporation, or the subsidiary of such an institution, a Federal savings bank or a subsidiary of such a savings bank, a savings and loan holding company, or a subsidiary of a savings and loan holding company;

"(C) the National Credit Union Administration Board in the case of a depository institution whose accounts are insured by the National Credit Union Share Insurance Fund, and

"(D) the Farm Credit Administration in the case of an institution chartered under the Farm Credit Act of 1971, as amended.

"(2) The terms 'cease-and-desist order which has become final' and 'order which has become final' mean a cease-and-desist order or other order issued by the appropriate Federal Banking agency: (i) with the consent of the bank or the institution-related party concerned; (ii) with respect to which no petition for review of the action of the agency has been filed and perfected in a court of appeals as specified in paragraph (2) of subsection (h) of this section; (iii) with respect to which the action of the court in which such a petition is so filed is not subject to further review by the Supreme Court of the United States in proceedings provided for in that paragraph; or (iv) an order issued under paragraph (1) or (3) of subsection (g) of this section.

"(3) The term 'institution-related party' means a director, officer, employee, agent, or other person participating in the conduct of the affairs of an insured bank or a subsidiary of an insured bank; and any person who has filed or is required to file a change-in-control notice with the appropriate Federal banking agency under the Change in Bank Control Act of 1978.

"(4) The term 'insured institution' means an insured bank or a depository institution whose accounts are insured by the Federal Savings and Loan Insurance Corporation or the National Credit Union Share Insurance Fund.

"(5) The term 'or' is not exclusive.

"(6) The term 'violation' includes without limitation any action (alone or with another or others) for or toward causing, bringing about, participating in, counseling, or aiding or abetting a violation."; and

(13) by adding at the end thereof the following new subsection:

"(t) EFFECT ON OTHER AUTHORITY.—The authority granted to the Federal banking agencies under this section shall be in addition to, and not restricted by, any other authority provided by Federal or State law.".

(b) INCREASED PENALTY FOR PARTICIPATION BY CONVICTED INDIVIDUAL.—Section 19 of the Federal Deposit Insurance Act (12 U.S.C. 1829) is amended to read as follows:

"PENALTY FOR PARTICIPATION

"SEC. 19. Except with the written consent of the Corporation, no person shall serve as the director, officer, or employee of an insured bank or shall participate in the conduct of the affairs of such bank who has been convicted, or who is hereafter convicted of any criminal offense involving dishonesty or a breach of trust. For each knowing violation of this section, the bank or the individual involved shall each be subject to a penalty of not more than $1,000 for each day such prohibition is violated, which the Corporation may recover for its use.".

SEC. 102. PENALTY FOR VIOLATION OF "CHANGE IN BANK CONTROL ACT".

Section 7(j)(16) of the Federal Deposit Insurance Act (12 U.S.C. 1817(j)(16)) is amended to read as follows:

"(16)(A) Any person who violates any provision of this subsection, or any regulation or order issued by the appropriate Federal banking agency pursuant thereto, shall forfeit and pay a civil money penalty of not more than $10,000 per day for each day during which such violation continues. The agency having authority to impose a civil money penalty may, in its discretion, compromise, modify, or remit any civil money penalty which is subject to imposition or has been imposed under such authority. The penalty may be assessed and collected by the appropriate Federal banking agency by written notice. As used in this section, the term "violates" includes without any limitation any action (alone or with another or others) for or toward causing, bringing about, participating in, counseling, or aiding or abetting a violation.

"(B) In determining the amount of the penalty the appropriate Federal banking agency shall take into account the appropriateness of the penalty with respect to the size of financial resources and good faith of the person charged, the gravity of the violation, the history of previous violations, and such other matters as justice may require.

"(C) The person assessed shall be afforded an opportunity for agency hearing upon request made within 10 days after receipt of the notice of assessment. In such hearing all issues shall be determined on the record pursuant to section 554 of title 5, United States Code. The agency determination shall be made by final order which may be reviewed only as provided in subparagraph (D). If no hearing is requested as herein provided, the assessment shall constitute a final and unappealable order.

"(D) Any bank or person against whom an order imposing a civil money penalty has been entered after agency hearing under this section may obtain review by the United States court of appeals for the circuit in which the home office of the insured bank is located, or the United States Court of Appeals for the District of Columbia Circuit, by filing a notice of appeal in such court within 20 days from the service of such notice by registered or certified mail to the appropriate Federal banking agency. The agency shall promptly certify and file in such court the record upon which the penalty was imposed, as provided in section 2112 of title 28, United States Code. The findings of the agency shall be set aside if found to be unsupported by substantial evidence as provided by section 706(2)(E) of title 5, United States Code.

"(E) If any person fails to pay an assessment after it has become a final and unappealable order, or after the court of appeals has entered final judgment in favor of the agency, the agency shall refer the matter to the Attorney General, who shall recover the amount assessed by action in the appropriate United States district court. In such action, the validity and appropriateness of the final order imposing the penalty shall not be subject to review.

"(F) All penalties collected under authority of this section shall be covered into the Treasury of the United States.".

SEC. 103. REPORTS.

(a) Amendment to the Bank Protection Act of 1968.—Section (3) of the Bank Protection Act of 1968 (12 U.S.C. 1882) is amended by striking out in the first sentence of subsection (b) the phrase "and shall require the submission of periodic reports with respect to the installation, maintenance, and operation of security devices and procedures".

(b) Reports of Condition; Form; Content; Date of Making Publication; Penalty for Failure To Make Reports; Penalties for False or Misleading Reports.—Section 5211 of the Revised Statutes (12 U.S.C. 161) is amended—

(1) by striking out, in the fifth sentence of subsection (a), "within ten days after the receipt of a request thereof from him;" and inserting in lieu thereof "within the period of time specified by him;";

(2) by striking out "; penalties" in the heading of subsection (c); and

(3) by striking out the last sentence of subsection (c).

(c) National Banks.—Section 5213 of the Revised Statutes (12 U.S.C. 164) is amended by striking out the first sentence and inserting in lieu thereof "Every association which fails to make, obtain, transmit or publish any report or information required by the Comptroller under section 161 of this title or which submits any false or misleading report or information shall be subject to a penalty of $1,000 for each day during which such failure continues or such false or misleading information is not corrected.".

(d) State Nonmember Banks.—Section 7(a)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1817(a)(1)) is amended by striking out the last sentence and inserting in lieu thereof "Every such bank which fails to make or publish any such report within the period of time specified by the Corporation or which submits or publishes any false or misleading report or information shall be subject to a penalty of not more than $1,000 for each day during which such failure continues or such false or misleading information is not corrected. Such penalty shall be recoverable by the Corporation for its use, and may be collected by the Corporation by suit or otherwise.".

(e) Federal Reserve Members.—Section 9 of the Federal Reserve Act (12 U.S.C. 324) is amended by striking out the fourth sentence and inserting in lieu thereof "Every bank which fails to make such reports within the period of time specified by the Board or which submits or publishes any false or misleading report or information shall be subject to a penalty of $1,000 for each day during which such failure continues or such false or misleading information is not corrected; such penalty to be assessed and collected in the same manner as prescribed by section 8(i)(3) of the Federal Deposit Insurance Act.".

(f) Bank Holding Companies.—Section 8(b)(1) of the Bank Holding Company Act of 1956 (12 U.S.C. 1847(b)(1)), is amended by inserting after the word "thereto" in the first sentence "or any company which fails to make such reports as are required by this chapter or any regulation or order issued pursuant thereto within the period of time specified by the Board or which submits or publishes any false or misleading report or information,".

SEC. 104. AMENDMENTS TO THE RIGHT TO FINANCIAL PRIVACY ACT.

(a) Definitions.—Section 1101 of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3401) is amended—

(1) by redesignating paragraphs (6) and (7) as paragraphs (7) and (8), respectively,

(2) by inserting after paragraph (5) the following new paragraph:

"(6) 'holding company' means any 'bank holding company' as that term is defined in section 2 of the Bank Holding Company Act of 1956 (12 U.S.C. 1841), any company described in section 4(f)(1) of the Bank Holding Company Act, or any 'savings and loan holding company' as defined in the National Housing Act (12 U.S.C. 1730(a))."; and

(3) by striking out all of paragraph (7), as redesignated, up to subparagraph (A) and inserting in lieu thereof:

"(7) 'supervisory agency' means, with respect to any particular financial institution, holding company or any subsidiary of a financial institution or holding company, any of the following which has statutory authority to examine the financial condition or business operations of that institution, holding company or subsidiary—".

(b) Clarification of Disclosure Exemptions for Supervisory Agencies.—Section 1113(b) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3413(b)) is amended to read as follows:

"(b) Nothing in this title applies to the examination by or disclosure to any supervisory agency of financial records or information, in the exercise of its supervisory, regulatory or monetary functions with respect to any financial institution, holding company or any subsidiary of a financial institution or holding company or any officer, director, employee, agent or other person participating in the affairs thereof.".

(c) Transfer of Records Relating to Possible Violations of Law.—Section 1113 of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3413) is amended by adding at the end thereof the following new subsection:

"(l) Nothing in this title shall apply when a financial institution or supervisory agency, or any officer, director, employee, or agent of a financial institution or a supervisory agency, provides to an agency of the United States financial records which such financial institution or supervisory agency has reason to believe may be relevant to—

"(1) a possible violation of any law relating to crimes by or against financial institutions or supervisory agencies,

"(2) a possible violation of the Controlled Substances Act (21 U.S.C. 801 et seq.), the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), or the Maritime Drug Law Enforcement Act (46 U.S.C. 1903 et seq.), or

"(3) a possible violation of a provision contained in subchapter II of chapter 53 of title 31, United States Code, or of section 1956 or 1957 of title 18, United States Code.".

(d) Transfer of Financial Records to Other Agencies or Departments.—Section 1112(a) of the Right To Financial Privacy Act of 1978 (12 U.S.C. 3412(a)) is amended to read as follows:

"(a) Nothing in this title shall apply when financial records obtained by an agency, including a supervisory agency or department of the United States, are transferred to another agency or department if there is reason to believe that the records may be relevant to a matter within the jurisdiction of the receiving agency or department.".

TITLE II—REGULATION OF SAVINGS AND LOAN ASSOCIATIONS

SEC. 201. SHORT TITLE.

This title may be cited as the "Savings Institutions Supervisory Amendments of 1987".

SEC. 202. DEFINITION OF "INSTITUTION-RELATED PARTY".

(a) National Housing Act.—Section 407, of the National Housing Act (12 U.S.C. 1730) is amended—

(1) by striking out the following phrases:

(A) "director, officer, employee, agent or other person participating in the conduct of the affairs of such institution";

(B) "director or officer";

(C) "director, officer, employee, agent, or other person";

(D) "directors, officers, employees, agents, and other persons participating in the conduct of the affairs of such institution";

(E) "director, or other person";

(F) "director or officer of an insured institution, or other person participating in the conduct of the affairs of such institution"; and

(G) "director or officer or other person";

(H) "director or officer thereof or other person participating in the conduct of its affairs";

(I) "director or officer or other person participating in the conduct of its affairs", each place that such phrases appear, and

(2) by inserting in lieu of each such phrase the phrase "institution-related party".

(b) HOME OWNERS' LOAN ACT OF 1933.—Section 5(d) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(f), is amended—

(1) by striking out the following phrases:

(A) "director, officer, employee, agent or other person participating in the conduct of the affairs of such association"

(B) "director or officer";

(C) "director, officer, employee, agent, or other person";

(D) "its directors, officers, employees, agents, and other persons participating in the conduct of the affairs of such association";

(E) "director, officer, or other person";

(F) "director or officer of an association, or other person participating in the conduct of the affairs of such association"; and

(G) "director or officer or other person" each place that such phrases appear, and

(2) by inserting in lieu thereof the phrase "association-related party".

SEC. 203. CEASE AND DESIST ORDERS.

(a) NATIONAL HOUSING ACT.—Section 407(e)(1) of the National Housing Act (12 U.S.C. 1730(e)(1)) is amended by striking out the period at the end of paragraph (1) and inserting in lieu thereof ", including, without limitation, reimbursement, restitution, indemnification, rescission, the disposal of loans or assets, guarantees against loss, or other action the Corporation deems appropriate. Such order may place limitations on the activities or functions of the institution or any institution-related party necessary to correct the conditions resulting from any such violation or practice. The authority granted to the Corporation under this section shall be in addition to, and not restricted by, any other authority provided by Federal or State law".

(b) HOME OWNER'S LOAN ACT OF 1933.—Section 5(d)(2)(A) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(d)(2)(A)) is amended by striking out the period at the end of paragraph (2)(A) and inserting in lieu thereof ", including, without limitation, reimbursement, restitution, indemnification, rescission, the disposal of loans or assets, guarantees against loss, or other action the Board deems appropriate. Such order may place limitations on the activities or functions of the association or any association-related party necessary to correct the conditions resulting from any such violation or practice. The authority granted to the Board under this subsection shall be in addition to, and not restricted by, any other authority provided by Federal or State law".

SEC. 204. SERVICE CORPORATIONS.

Section 407(e)(3) of the National Housing Act (12 U.S.C. 1730(e)(3)) and section 5(d)(2)(C) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(d)(2)(C)) both are amended by striking out the phrase "affiliate service corporation" and inserting in lieu thereof the phrase "service corporation or any subsidiary of a service corporation, whether wholly or partly owned,".

SEC. 205. TEMPORARY ORDERS.

(a) NATIONAL HOUSING ACT.—Section 407(f) of the National Housing Act (12 U.S.C. 1730(f)) is amended—

(1) by striking out the phrase "or any institution any of the accounts of which are insured" in the first sentence of paragraph (1) and inserting in lieu thereof the phrase "with respect to the served institution";

(2) by inserting the following sentence after the first sentence of paragraph (1) of subsection (f): "Such order may place limitations on the activities or functions of the institution or any institution-related party.";

(3) by redesignating paragraph (3) as paragraph (4); and

(4) by inserting after paragraph (2) the following:

"(3) Whenever a notice of charges specifies that an institution's books and records are so incomplete or inaccurate that the Corporation is unable with reasonable efforts to determine the financial condition of that institution or the details or purpose of any transaction or transactions that may have a substantial effect on the financial condition of that institution, the Corporation may issue a temporary order requiring cessation of any activities the Corporation deems appropriate until completion of proceedings conducted under subsection (e) of this section. Such order shall become effective upon service, and unless set aside, limited, or suspended by a court in proceedings authorized by paragraph (2) of this subsection, shall remain effective and enforceable pending completion of the administrative proceeding initiated under such notice or until the Corporation determines by examination or otherwise that the institution's books and records are accurate and capable of reflecting the financial condition of the institution.".

(b) HOME OWNERS' LOAN ACT OF 1933.—Section 5(d)(3) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(d)(3)) is amended—

(1) by inserting the following sentence after the first sentence of subparagraph (A) of subsection (d)(3): "Such order may place limitations on the activities or functions of the association or any association-related party.".

(2) by redesignating subparagraph (C) as subparagraph (D).

(3) by inserting after subparagraph (B) the following:

"(C) Whenever a notice of charges specifies that an association's books and records are so incomplete or inaccurate that the Board is unable with reasonable effort to determine the financial condition of that association or the details or purpose of any transaction or transactions that may have a substantial effect on the financial condition of that association, the Board may issue a temporary order requiring cessation of any activities the Board deems appropriate until completion of proceedings conducted under subsection (d)(2) of this section. Such order shall become effective upon service, and unless set aside, limited, or suspended by a court in proceedings authorized by paragraph (B) of this subsection, shall remain effective and enforceable pending completion of the administrative proceeding initiated under such notice or until the Board determines by examination or otherwise that the association's books and records are accurate and capable of reflecting the financial condition of the association.".

SEC. 206. REMOVAL AND SUSPENSION.

(a) NATIONAL HOUSING ACT.—Section 407(g) of the National Housing Act (12 U.S.C. 1730(g)) is amended—

(1) by striking out paragraph (2) and amending paragraph (1) to read as follows:

"(1) Whenever, in the opinion of the Corporation—

"(A) any institution-related party, directly or indirectly, has committed any violation of law, rule, or regulation, or of a cease-and-desist order, which has become final, or has engaged or participated in any unsafe or unsound practice in connection with any insured institution or other business institution, or has committed or engaged in any act, omission or practice which constitutes a breach of its fiduciary duty;

"(B) such insured institution or other business institution has suffered or will probably suffer substantial financial loss or other damage or that the interests of savings account holders have been or could be seriously prejudiced by reason of such violation, practice, or breach or the institution-related party has received financial gain by reason of such violation, practice, or breach; and

"(C) such violation, practice, or breach involves personal dishonesty on the part of the institution-related party or demonstrates willful or continuing disregard for the safety or soundness of the insured institution or other business institution, the Corporation may serve on such institution-related party a written notice of its intention to remove such party from office or to prohibit the party's further participation in any manner in the conduct of the affairs of any insured institution.";

(2) by redesignating paragraphs (3) through (5) as paragraphs (2) through (4) respectively, and by amending paragraph (3) of subsection (g) (as so redesignated) to read as follows:

"(3) In respect to any institution-related party or any other person referred to in paragraph (1) or (2) of this subsection, the Corporation may if it deems it necessary for the protection of the institution or the interest of its savings account holders or of the Corporation, by written order to such effect served upon such party, suspend that party from office or prohibit that party from further participation in any manner in the conduct of the affairs of the institution. Such suspension or prohibition shall become effective upon service of such order upon the institution-related party and, unless stayed by a court in proceedings authorized by paragraph (6) of this subsection, shall remain in effect pending the completion of the administrative proceeding pursuant to the notice served under paragraph (1) or (2) of this subsection and until such time as the Corporation shall dismiss the charges specified in such notice, or, if an order of removal or prohibition is issued against such party, until the effective date of any such order. Copies of any order issued pursuant to this paragraph shall also be served upon the institution with which the party involved is presently associated."; and

(3) by inserting after paragraph (4) of subsection (g) (as so redesignated) the following:

"(5) Any person who, pursuant to this subsection or subsection (h), is removed, suspended, or prohibited from participation in the conduct of the affairs of an insured institution or a service corporation or a subsidiary of a service corporation of an insured institution, whether wholly or partly owned, shall also be removed, suspended, or prohibited from participation in the conduct of the affairs of any insured bank (as that term is defined in the Federal Deposit Insurance Act), any bank holding company or subsidiary of a bank holding company (as those terms are defined in the Bank Holding Company Act of 1956), any organization organized and operated under section 25 of the Federal Reserve Act, any insured institution, any service corporation or subsidiary of a service corporation of an insured institution, whether wholly or partly owned, any savings and loan holding company or subsidiary of a savings and loan holding company,

any depository institution whose accounts are insured by the National Credit Union Share Insurance Fund, and any institution chartered under the Farm Credit Act of 1971, as amended, without the prior written approval of the appropriate Federal regulatory agency, as that term is defined in the Federal Deposit Insurance Act, to continue participation in the affairs of such institution.".

(b) Home Owners' Loan Act of 1933.—Section 5(d)(4) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(d)(4)) is amended—

(1) by deleting subparagraph (B) and amending subparagraph (A) to read as follows:

"(4)(A) Whenever, in the opinion of the Board—

"(i) any association-related party, directly or indirectly, has committed any violation of law, rule, or regulation, or of a cease-and-desist order which has become final, or has engaged or participated in any unsafe or unsound practice in connection with any association or other business institution, or has committed or engaged in any act, omission, or practice which constitutes a breach of its fiduciary duty;

"(ii) such association or other business institution has suffered or will probably suffer substantial financial loss or other damage or the interests of savings account holders have been or could be seriously prejudiced by reason of such violation, practice, or breach, or the association-related party has received financial gain by reason of such violation, practice, or breach; and

"(iii) such violation, practice, or breach involves personal dishonesty on the part of the association-related party, or demonstrates willful or continuing disregard for the safety or soundness of the association or other business institution,

the Board may serve upon such association-related party a written notice of its intention to remove such party from office or to prohibit the party's further participation in any manner in the conduct of the affairs of any institution.";

(2) by redesignating subparagraphs (C) through (E) as subparagraphs (B) through (D) respectively, and by amending subparagraph (C) (as so redesignated) to read as follows:

"(C) In respect to any association-related party or any other person referred to in subparagraph (A) or (B) of this paragraph, the Board may, if it deems it necessary for the protection of the association or the interests of its savings account holders, by written order to such effect served upon such party, suspend that party from office or prohibit that party from further participation in any manner in the conduct of the affairs of the association. Such suspension or prohibition shall become effective upon service of such order upon the association-related party and, unless stayed by a court in proceedings authorized by subparagraph (F) of this paragraph, shall remain in effect, pending the completion of the administrative proceedings pursuant to the notice served under subparagraph (A) or (B) of this paragraph and until such time as the Board shall dismiss the charges specified in such notice, or, if an order of removal or prohibition is issued against such party, until the effective date of any such order. Copies of any order issued pursuant to this subparagraph shall also be served upon the association with which the party involved is presently associated."; and

(3) by inserting after subparagraph (D) of subsection (d)(4) (as so redesignated) the following:

"(E) Any person who, pursuant to this subsection or subsection (d)(5), is removed, suspended, or prohibited from participation in the conduct of the affairs of an association or a service corporation or a subsidiary of a service corporation of an association, whether partly or wholly owned, shall also be removed, suspended, or prohibited from participation in the conduct of the affairs of any insured bank (as that term is defined in the Federal Deposit Insurance Act), any bank holding company or subsidiary of a bank holding company (as those terms are defined in the Bank Holding Company Act of 1956), any organization organized and operated under section 25(a) of the Federal Reserve Act or operating under Section 25 of the Federal Reserve Act, any association or any institution insured by the Federal Savings and Loan Insurance Corporation, any service corporation or subsidiary of a service corporation of an association or an institution insured by the Federal Savings and Loan Insurance Corporation, any savings and loan holding company or subsidiary of a savings and loan holding company, any depository institution whose accounts are insured by the National Credit Union Share Insurance Fund, and any institution chartered under the Farm Credit Act of 1971, as amended, without the prior written approval of the appropriate Federal regulatory agency, as that term is defined in the Federal Deposit Insurance Act, as amended, to continue participation in the affairs of such institution.".

SEC. 207. RETENTION OF JURISDICTION.

(a) NATIONAL HOUSING ACT.—Section 407(k) of the National Housing Act (12 U.S.C. 1730(k)) is amended—

(1) by redesignating paragraphs (1) through (3) as paragraphs (2) through (4), respectively, and by adding the following at the beginning of subsection (k):

"(1) The jurisdiction and authority of the Corporation to proceed under this section against any institution-related party shall not be affected by the resignation, termination of employment, or other separation of such person from an institution."; and

(2) by inserting after "this section" in the first sentence of paragraph (4)(A) of subsection (k) (as redesignated) the following: "or any of the provisions of this subchapter, or any regulation issued pursuant thereto,".

(b) HOME OWNERS' LOAN ACT OF 1933.—Section 5(d)(8) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(d)(8)) is amended—

(1) by redesignating subparagraph (A) as subparagraph (B) and subparagraph (B) as subparagraph (C), and by inserting the following at the beginning of subsection (d)(8):

"(A) The jurisdiction and authority of the Board to proceed under this section against any association-related party shall not be affected by resignation, termination of employment, or other separation of such person from an association."; and

(2) by inserting after "this subsection" in the first sentence of the redesignated paragraph (8)(C)(i) of subsection (d) the following: "or any of the provisions of this chapter, or any regulation issued pursuant thereto,".

SEC. 208. PENALTIES.

(a) NATIONAL HOUSING ACT.—Section 407(p) of the National Housing Act (12 U.S.C. 1730(p)) is amended to read as follows:

"(p) PENALTIES.—(1) Any person against whom there is outstanding and effective any order served upon such person under paragraph (3) or (4) of subsection (g) or under subsection (h) who, directly or indirectly, without the prior written approval of the appropriate Federal regulatory agency, as that term is defined in the Federal Deposit Insurance Act—

"(A) participates in any manner in the conduct of the affairs of any insured institution, any insured bank (as that term is defined in the Federal Deposit Insurance Act), any service corporation of an insured institution or subsidiary of a service corporation, any bank holding company or subsidiary of a bank holding company (as those terms are defined in the Bank Holding Company Act of 1956), any organization organized and operated under section 25(a) of the Federal Reserve Act or operating under section 25 of the Federal Reserve Act, any savings and loan holding company or subsidiary of a savings and loan holding company (as these terms are defined in the National Housing Act), any depositary institution whose accounts are insured by the National Credit Union Share Insurance Fund, or any institution chartered under the Farm Credit Act of 1971, from which that person has been suspended, removed, or prohibited, or solicits or procures, or transfers or attempts to transfer, or votes or attempts to vote any proxies, consents, or authorizations in respect to any voting rights in such institutions; or

"(B) votes for a director, or serves or acts as a director, officer, employee, or agent, or otherwise participates in any manner in the conduct of the affairs of any insured institution, any insured bank or any other institution described in paragraph (i) of this subsection,

shall be guilty of a misdemeanor and, upon conviction, shall be fined not more than $5,000 or imprisoned for not more than one year, or both. Any order issued under subsection (g) of this section may prohibit any act that would violate this subsection.

"(2) Except with the prior written consent of the Corporation, no person shall serve as a director, officer, or employee of an insured institution or shall participate in the conduct of the affairs of such institution who has been convicted, or who is hereafter convicted of any criminal offense involving dishonesty or a breach of trust. For each knowing violation of this prohibition, the institution or the individual involved shall each be subject to a penalty of not more than $1,000 for each day this prohibition is violated, which the Corporation may recover by suit or otherwise for its own use.".

(b) Home Owners' Loan Act of 1933.—Section 5(d)(12) of the Home Owner's Loan Act of 1933 (12 U.S.C. 1464(d)(12)) is amended by striking out paragraphs (A) and (B) and inserting in lieu thereof the following:

"(12) PENALTIES.—(A) Any person against whom there is outstanding and effective any order served upon such person under subparagraph (C) or (D) of paragraph (4) or under (5) who, directly or indirectly, without the prior written approval of the appropriate Federal regulatory agency (as that term is defined in the Federal Deposit Insurance Act, as amended)—

"(i) participates in any manner in the conduct of any association or institution insured by the Federal Savings and Loan Insurance Corporation, any insured bank (as that term is defined in the Federal Deposit Insurance Act), any bank holding company or subsidiary of a bank holding company (as those terms are defined in the Bank Holding Company Act of 1956), any organization organized and operated under section 25(a) of the Federal Reserve Act or operating under section 25 of the Federal Reserve Act, any savings and loan holding company or subsidiary of a savings and loan holding company (as those terms are defined in the National Housing Act), any depositary institution whose accounts are insured by the National Credit Union Share Insurance Fund, any association or other institution insured by the Federal Savings and Loan Insurance Corporation, any service corporation of an association or institution insured by the Federal Savings and Loan Insurance Corporation or subsidiary of a service corporation, or any institution chartered under the Farm Credit Act of 1971, from which he has been suspended, removed, or prohibited, or solicits or procures, or transfers or attempts to transfer, or votes or attempts to vote any proxies, consents or authorizations in respect to any voting rights in such institutions; or

"(ii) votes for a director, or serves or acts as a director, officer, employee, or agent, or otherwise participates in any manner in the conduct of the affairs of any insured institution, any insured bank, or any other institution described in subparagraph (A)(i) of this subsection;

shall be guilty of a misdemeanor and, upon conviction, shall be fined not more than $5,000 or imprisoned for not more than one year, or both. Any order issued under subsection (d)(4) of this section may prohibit any act that would violate this subsection.

"(B) Except with the prior written consent of the Board, no person shall serve as a director, officer, or employee of an association or shall participate in the conduct of the affairs of such association who has been convicted, or who is hereafter convicted of any criminal offense involving dishonesty or a breach of trust. For each knowing violation of this prohibition, the association or the individual involved shall be subject to a penalty of not more than $1,000 for each day this prohibition is violated, which the Board may recover by suit or otherwise for its own use.".

SEC. 209. CIVIL PENALTY.

Section 407(q)(17) of the National Housing Act (12 U.S.C. 1730(q)(17)) is amended to read as follows:

"(17)(A) Any person who violates any provision of this subsection, or any regulation or order issued by the Corporation pursuant thereto, shall forfeit and pay a civil money penalty of not more than $10,000 per day for each day during which such violation continues. The Corporation may, in its discretion, compromise, modify, or remit any civil money penalty which is subject to imposition or has been imposed. The penalty may be assessed and collected by the Corporation by written notice. As used in this section, the term 'violates' includes without any limitation any action (alone or with another or others) for or toward causing, bringing about, participating in, counseling, or aiding or abetting a violation.

"(B) In determining the amount of the penalty the Corporation shall take into account the appropriateness of the penalty with respect to the size of financial resources and good faith of the person charged, the gravity of the violation, the history of previous violations, and such other matters as justice may require.

"(C) The person assessed shall be afforded an opportunity for agency hearing, upon request made within ten days after issuance of the notice of assessment. In such hearing all issues shall be determined on the record pursuant to section 554 of title 5. The Corporation's determination shall be made by final order which may be reviewed only as provided in subparagraph (D). If no hearing is requested as herein provided, the assessment shall constitute a final and unappealable order.

"(D) Any insured institution or person against whom an order imposing a civil money penalty has been entered after agency hearing under this section may obtain review by the United States court of appeals for the circuit in which the home office of the insured institution is located, or the United States Court of Appeals for the District of Columbia Circuit, by filing a notice of appeal in such court within twenty days from the service of such order, and simultaneously sending a copy of such notice by registered or certified mail to the Corporation. The Corporation shall promptly certify and file in such Court the record upon which the penalty was imposed, as provided in section 2112 of title 28. The findings of the Corporation shall be set aside if found to be unsupported by substantial evidence as provided by section 706(2)(E) of title 5, United States Code.

"(E) If any person fails to pay an assessment after it has become a final and unappealable order, or after the court of appeals has entered final judgment in favor of the agency, the agency shall refer the matter to the Attorney General, who shall recover the amount assessed by action in the appropriate United States district court. In such action, the validity and appropriateness of the final order imposing the penalty shall not be subject to review.

"(F) All penalties collected under authority of this section shall be paid into the Treasury of the United States.".

SEC. 210. DEFINITIONS.

(a) NATIONAL HOUSING ACT.—Section 407(r) of the National Housing Act (12 U.S.C. 1730(r)) is amended—

(1) by redesignating subparagraphs (B) through (D) of paragraph (1) as subparagraphs (D) through (F); respectively;

(2) by striking out subparagraph (A) of paragraph (1) and inserting in lieu thereof the following:

"(A) The term 'cease-and-desist order which has become final' and 'order which has become final' mean a cease-and-desist order or other order issued by the Corporation (i) with the consent of the institution or the institution-related party concerned; (ii) with respect to which no petition for review of the action of the Corporation has been filed and perfected in a court of appeals as specified in paragraph (2) of subsection (j) of this section; (iii) with respect to which the action of the court in which such a petition is so filed is not subject to further review by the Supreme Court of the United States in proceedings provided for in subsection (j); or (v) an order issued under subsection (h) of this section.

"(B) The term 'institution-related party' means a director, officer, controlling person, employee, agent, or other person participating in the conduct of the affairs of an insured institution or of any service corporation or any subsidiary of a service corporation or an insured institution, whether partly or wholly owned, or of any savings and loan holding company or any subsidiary of a savings and loan holding company as those terms are defined in section 408 of this title; and any person who has filed or is required to file a change-in-control notice with the Corporation under subsection (q) of this section. For the purpose of enforcing any law, rule, regulation, or cease-and-desist order in connection with an interlocking relationship, 'institution-related party' includes an employee or officer with management functions, an advisory or honorary director, a trustee of an association under the control of trustees, or any person who has a representative or nominee serving in any such capacity.

"(C) The term 'or' is not exclusive."; and

(3) by striking out paragraph (4) and inserting in lieu thereof the following:

"(4) As used in subsections (e), (f), (g), (h), and (p) of this section, the term 'insured institution' means any institution the deposits of which are insured by the Corporation, any institution that retains deposits insured by the Corporation notwithstanding termination of its status as an insured institution, a Federal savings bank the deposits of which are insured by the Federal Deposit Insurance Corporation, and any former Federal savings bank that retains deposits insured by the Federal Deposit Insurance Corporation notwithstanding termination of its status as an insured bank.".

(b) HOME OWNERS' LOAN ACT OF 1933.—Section 5(d) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(d)) is amended—

(1) by redesignating paragraphs (2) through (4) of paragraph (13)(A) as paragraphs (4) through (6) respectively; and

(2) by striking out paragraph (1) of paragraph (13)(A) and inserting in lieu thereof the following:

"(1) The terms 'cease-and-desist order which has become final' and 'order which has become final' mean a cease-and-desist order or other order issued by the Board (i) with the consent of the association or the association-related party concerned; (ii) with respect to which no petition for review of the action of the Board has been filed and perfected in a court of appeals as specified in paragraph (7)(B) of this subsection; (iii) with respect to which the action of the court in which such a petition is filed is not subject to further review by the Supreme Court of the United States in proceedings provided for in paragraph (7)(B); or (iv) an order issued under paragraph (5) (A) or (C) of this subsection.

"(2) The term 'association-related party' means a director, officer, controlling person, employee, agent, or other person participating in the conduct of affairs of an association or of any service corporation or of any subsidiary of a service corporation of an association, whether partly or wholly owned, or of any savings and loan holding company or any subsidiary of a savings and loan holding company, as those terms are defined in section 408 of this title, or of any association with respect to which the Federal Loan Bank Board now or hereafter has any statutory power of examination or supervision under any Act or joint resolution of Congress other than this Act, the Federal Home Loan Bank Act and the National Housing Act; or any person who has filed or is required to file a change-in-control notice with the Federal Savings and Loan Insurance Corporation under subsection (q) of section 407 of this title. For the purpose of enforcing any law, rule, regulation, or cease-and-desist order in connection with an interlocking relationship, 'association-related party' includes an employee or officer with management functions, an advisory or honorary director, a trustee of an association under the control of trustees, or any person who has a representative or nominee serving in any such capacity.

"(3) The term 'or' is not exclusive."; and

(3) by striking paragraph (14) and inserting the following:

"(14)(A) As used in paragraphs (2), (3), (4), (5), and (12) of this subsection, the term 'association' includes any former association that retains deposits insured by the Federal Savings and Loan Insurance Corporation notwithstanding termination of its status as an institution insured by such Corporation, and any Federal savings bank whose deposits are insured by the Federal Deposit Insurance Corporation, and any former Federal savings bank that retains deposits insured by the Federal Deposit Insurance Corporation notwithstanding termination of its status as an insured bank.

"(B) As used in this subsection, the terms 'Federal savings and loan association' and 'association' include any institution with respect to which the Federal Home Loan Bank Board now or hereafter has any statutory power of examination or supervision under any Act or joint resolution of Congress other than this Act, the Federal Home Loan Bank Act, and the National Housing Act.

"(C) References in this subsection to savings account holders and to members of associations shall be deemed to be references to holders of withdrawable accounts in institutions over which the Board has any statutory power of examination or supervision as provided in this paragraph, and references therein to boards of directors of associations shall be deemed to be references to boards of directors or other governing boards of such institutions. The Board shall have power by regulation to define, for the purposes of this paragraph, terms used or referred to in the preceding sentence and other terms used in this subsection.".

SEC. 211. REPORTS OF CONDITION.

Section 407 of the National Housing Act (12 U.S.C. 1730) is amended by adding at the end thereof the following:

"(u) REPORTS OF CONDITION; PENALTIES.—

"(1) Each insured institution or Federal saving bank shall make reports of condition to the Corporation which shall be in such form and shall contain such information as the Corporation may require. The Corporation may require reports of condition to be published in such manner, not inconsistent with any applicable law, as it may direct.

"(2) Any insured institution or Federal saving bank which fails to obtain and furnish any report or information required by the Corporation under this section within the period of time the Corporation specifies or which submits any false or misleading report or information shall be subject to a penalty of $1,000 each day during which such failure continues or is not corrected. Such penalty shall be assessed and collected in the manner as prescribed by section 407(q)(17) of this title.".

SEC. 212. TECHNICAL AMENDMENTS.

(a) NATIONAL HOUSING ACT.—Section 407(h) of the National Housing Act (12 U.S.C. 1730(h)) is amended by striking out "(1), (2), (3), or (4)" from the fifth sentence of paragraph (1) and inserting in lieu thereof "(1), (2), or (3)".

(b) HOME OWNERS' LOAN ACT OF 1933.—Section 5(d) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(d)) is amended by striking out "(A), (B), (C) or (D)" from the fifth sentence of subparagraph (5)(A) and inserting "(A), (B) or (C)".

SEC. 213. PENALTY FOR FAILURE TO REPORT.

Section 408 of the National Housing Act (12 U.S.C. 1730a) is amended by adding at the end of subsection (b)(2) thereof the following: "Every savings and loan holding company which fails to make such reports within the period of time specified by the Corporation or which submits or publishes any false or misleading report or information shall be subject to a penalty of $1,000 for each day during which such failure continues or such information is not corrected; such penalty to be assessed and collected in the same manner as prescribed by subsection (j)(4) of this section.".

SEC. 214. REPEALER.

Section 5(d)(15) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(d)(15)) is deleted, and section 5(d)(16) (12 U.S.C. 1464(d)(16)) is redesignated as section 5(d)(15) (12 U.S.C. 1464(d)(15)).

TITLE III—CREDIT UNIONS

SEC. 301. AMENDMENTS TO SECTION 206.

(a) Section 206 of the Federal Credit Union Act (12 U.S.C. 1786) is amended—

(1) by striking out the phrases "director, officer, committee member, employee, agent, and other persons participating in the conduct of the affairs of such credit union"; "director, officer, committee member, employee, agent or other person"; "director, officer, committee member or employee"; "director, officer, or committee member"; "director, committee member, or officer"; "director, committee member, officer, or other person"; "officer, director, committee member, employee, agent, or other person participating in the conduct of the affairs of such a credit union"; and "officer, director, committee member, employee, agent, or other person participating in the conduct of the affairs of such credit union"; each place they appear and inserting in lieu thereof "institution-related party.";

(2) by striking out the period at the end of paragraph (1) of subsection (e) and inserting in lieu thereof: "including, without limitation, reimbursement, restitution, indemnification, rescission, the disposal of loans or assets, guarantees against loss, or other action the Board deems appropriate. Such order may place limitations on the activities or functions of the credit union or any institution-related party necessary to correct the conditions resulting from any such violation or practice";

(3) by inserting the following sentence after the first sentence of paragraph (1) of subsection (f): "Such order may place limitations on the activities or functions of the credit union or any institution-related party.";

(4) by redesignating paragraphs (2) and (3) of subsection (f) as paragraphs (3) and (4), respectively, and by adding after paragraph (1) the following new paragraph:

"(2) Whenever a notice of charges specifies that any insured credit union's books and records are so incomplete or inaccurate that the Board is unable with reasonable effort to determine the financial condition of that credit union or the details or purpose of any transactions that may have a substantial effect on the financial condition of that credit union, the Board may issue a temporary order requiring cessation of any activities the Board deems appropriate until completion of proceedings conducted under paragraph (1) of subsection (e) of this section. Such order shall become effective upon service, and, unless set aside, limited, or suspended by a court in proceedings authorized by paragraph (3) of this subsection, shall remain effective and enforceable pending completion of the administrative proceeding initiated under such notice or until the Board determines by examination or otherwise that the credit union's books and records are accurate and capable of reflecting the financial condition of the credit union.";

(5) by striking out paragraph (2) and amending paragraph (1) of subsection (g) to read as follows:

"(1) Whenever the Board determines that—

"(A) any institution-related party, directly or indirectly, has violated any law, rule, regulation, or cease-and-desist order which has become final, or has engaged or participated in any unsafe or unsound practice in connection with any insured credit union or other business institution, or has committed or engaged in any act, omission, or practice which constitutes a breach of his fiduciary duty, or by conduct or practice has evidenced his personal dishonesty or unfitness to continue as an institution related party; and

"(B) such insured credit union or other business institution has suffered or will probably suffer substantial financial loss or other damage, or the interests of its insured members have been or could be seriously prejudiced by reason of such violation, practice, or breach, or the institution-related party has received financial gain by reason of such violation, practice, or breach,

the Board may serve upon such institution-related party a written notice of its intention to remove such party from office or to prohibit his further participation in any manner in the conduct of the affairs of any insured credit union.";

(6) by striking out "(A)" and striking out subparagraph (B) of subsection (g)(7), and by redesignating paragraphs (3) through (7) of subsection (g)(7) as paragraphs (2) through (6), respectively, and by amending paragraph (3) of subsection (g) (as so redesignated) to read as follows:

"(3) In respect to any institution-related party referred to in paragraph (1) or (2) of this subsection, the Board may, if it deems necessary for the protection of the credit union or the interests of its members, by written order to such effect served upon such party, suspend that party from office or prohibit that party from further participation in any manner in the conduct of the affairs of the credit union. Such suspension or prohibition shall become effective upon service of such order on the institution-related party and, unless stayed by a court in proceedings authorized by paragraph (5) of this subsection, shall remain in effect pending the completion of the administrative proceedings pursuant to the notice served under paragraphs (1) and (2) of this subsection and until such time as the Board shall dismiss the charges specified in such notice, or, if an order of removal or prohibition is issued against such party, until the effective date of any such order. Copies of any order issued pursuant to this paragraph shall also be served upon any institution where the party involved is presently associated.";

(7) by striking out all language after "National Housing Act)," in paragraph (6)(A) of subsection (g) (as redesignated) and inserting in lieu thereof: "and any institution chartered under the Farm Credit Act of 1971, unless the party involved has received the prior written approval of the appropriate Federal regulatory agency to continue

such affiliation or to continue participating in the affairs of such institution.";

(8) by striking out "(4)" in paragraph (5) of subsection (g) (as redesignated) and inserting in lieu thereof "(3)", and by striking out "(1), (2), or (3)" in paragraph (5) and inserting in lieu thereof "(1) or (2)";

(9) by redesignating paragraph (1) of subsection (k) as paragraph (2), by redesignating paragraph (2) of subsection (k) as paragraph (3), and by inserting after "(k)" the following:

"(1) The jurisdiction and authority of the Board to proceed under this section against any institution-related party shall not be affected by the resignation, termination of employment, or other separation of such person from an insured credit union.";

(10) by inserting after "this section" in the first sentence of paragraph (3)(A) of subsection (k) (as redesignated) the following: "or any condition imposed in writing by the Board in connection with the granting of any application or other request by the credit union", by deleting "subsection (e), (f), or (q)" in the same sentence of redesignated paragraph (3)(A) of subsection (k) and inserting in lieu thereof "subsection (e), (f), or (p)";

(11) by amending subsection (l) to read as follows:

"(l) Any person against whom there is outstanding and effective any order served upon such person under paragraph (3) or (4) of subsection (g) or under subsection (i) who, directly or indirectly, without the prior written approval of the Board—

"(1) participates in any manner in the conduct of the affairs of any insured institution, any bank holding company or subsidiary of a bank holding company (as those terms are defined in the Bank Holding Company Act of 1956), any organization organized and operated under section 25(a) of the Federal Reserve Act or operating under section 25 of the Federal Reserve Act, any savings and loan holding company or subsidiary of a savings and loan holding company (as those terms are defined in the National Housing Act), or any institution chartered under the Farm Credit Act of 1971, from which he has been suspended, removed, or prohibited, or solicits or procures, or transfers or attempts to transfer, or votes or attempts to vote any proxies, consents, or authorization in respect to any voting rights in such institution"; or

"(2) votes for a director, or serves or acts as a director, officer, committee member, employee, or agent, or otherwise participates in any manner in the conduct of the affairs of any insured institution, any bank holding company or subsidiary thereof, or any other institution described in paragraph (1) of this subsection,

shall be guilty of a misdemeanor and, upon conviction, shall be fined not more than $5,000 or imprisoned for not more than one year, or both. Any order issued under subsection (g) of this section may prohibit any act that would violate this subsection.";

(12) by striking out subsection (m) and redesignating subsections (n), (o), (p) and (q) of this section as subsections (m), (n), (o) and (p) respectively; and

(13) by adding at the end thereof the following:

"(q) DEFINITIONS.—As used in this section:

"(1) The term 'appropriate Federal regulatory agency' means—

"(A) the Federal Reserve Board;

"(B) the Office of Comptroller of the Currency;

"(C) the Federal Deposit Insurance Corporation;

"(D) the Federal Home Loan Bank Board, acting either in its own name or as operating head of the Federal Savings and Loan Insurance Corporation, in the case of a depository institution whose accounts are insured by the Federal Savings and Loan Insurance Corporation, or the subsidiary of such an institution, a Federal savings bank or a subsidiary of such a savings bank, a savings and loan holding company, or a subsidiary of a savings and loan holding company;

"(E) the National Credit Union Administration Board in the case of a credit union whose accounts are insured by the National Credit Union Share Insurance Fund, and

"(F) the Farm Credit Administration in the case of an institution chartered under the Farm Credit Act of 1971, as amended.

"(2) The terms 'cease-and-desist order which has become final' and 'order which has become final' mean a cease-and-desist order or other order issued by the Board: (i) with the consent of the credit union or the institution-related party concerned; (ii) with respect to which no petition for review of the action of the agency has been filed and perfected in a court of appeals as specified in paragraph (2) of subsection (j) of this section; (iii) with respect to which the action of the court in which such a petition is so filed is not subject to further review by the Supreme Court of the United States in proceedings provided for in that paragraph; or (iv) an order issued under paragraphs (1) or (3) of subsection (i) of this section.

"(3) The term 'institution-related party' means a director, officer, or committee member, employee, agent, or other person participating in the conduct of the affairs of an insured credit union.

"(4) The term 'insured institution' means an insured credit union, as defined in section 101, or a depository institution whose accounts are insured by the Federal Savings and Loan Insurance Corporation or the Federal Deposit Insurance Corporation.

"(5) The term 'or' is not exclusive.

"(6) The term 'violation' includes without limitation any action (alone or with another or others) for or toward causing, bringing about, participating in, counseling, or aiding or abetting a violation.

"(r) EFFECT OF OTHER LAW.—The authority granted to the Board under this section shall be in addition to, and not restricted by, any other authority provided by Federal or State law.".

SEC. 302 AMENDMENTS TO SECTION 205.

Section 205 of the Federal Credit Union Act (12 U.S.C. 1785) is amended—

(1) by inserting after the phrase "insured credit union" in the first sentence of subsection (d) "or shall participate in the conduct of the affairs of such insured credit union";

(2) by striking out the second sentence of subsection (d) and inserting in lieu thereof "For each knowing violation of this subsection, the credit union or the individual involved shall each be subject to a penalty of not more than $1,000 for each day this prohibition is violated, which the Board may recover for its use."; and

(3) in the first sentence of paragraph (2) of subsection (e), by inserting a period after the word "standards" in the first sentence and striking out the phrase "and shall require the submission of periodic reports with respect to the installation, maintenance, and operation of security devices and procedures".

ANALYSIS OF TITLE I OF THE ENHANCED ENFORCEMENT POWERS ACT OF 1987

1. Section 101(a)(1) of the proposal amends section 8 of the Federal Deposit Insurance Act, as amended (the "FDI Act") (12 U.S.C. 1818) by introducing the new definitional phrase "institution-related party". This new phase will be substituted for the terms "director, officer, employee, agent, or other person participating in the conduct of the affairs" of a bank throughout the enforcement statute. Rather than continually referring to the long list of persons in the statute, this new phrase will permit a simpler reference. The definition of this new phrase is described in paragraph 12 hereof.

2. Section 101(a)(2) of the proposal amends section 8(b)(1) of the FDI Act to address a problem caused by a decision of the U.S. Court of Appears for the 7th Circuit in the Larimore matter. In that case, the court ruled that the cease and desist powers granted to the banking agencies under section 8(b) did not authorize the OCC to seek reimbursement from a director of a national bank who participated in a violation of the overline prohibitions of the National Bank Act. In a case that did not involve unjust enrichment or insider abuse, the court held that another section of the National Bank Act (12 U.S.C. 93) required that the OCC use its authority to seek civil remedies against the director in U.S. district court, rather than the administrative remedies set forth in the FDI Act.

The Larimore decision has caused some confusion at the banking agencies and in the banking legal community. When faced with enforcement actions involving reimbursements or repayments for insider abuse, individuals and their attorneys raise the matters described in the Larimore case as a defense to the banking agencies' actions. Since the Larimore case only involved a director who did not profit or benefit in any manner from his malfeasance, the legal staffs of the banking agencies do not believe that the decision is applicable to cases involving individuals who engage in abusive insider transactions, unjustly enrich themselves, and harm their financial institutions in the process.

In order to clarify the agencies' enforcement powers, this section, inter alia, proposes to list explicitly the types of remedial relief that the agencies can require in a cease and desist order in addition to the current general statutory phrase relating to "affirmative action".

This section of the amendments also clarifies the enforcement powers granted to the banking agencies in another way. Currently, the agencies can order such affirmative actions as are necessary to correct the conditions resulting from violations and unsafe or unsound practices. Remedial relief ordered by the banking agencies is structured to fit the offense. Often that relief involves limitations on the functions or activities of an institution. If there are problems in the management of a bank's lending operations, an order issued by the agencies addresses the problem by requiring, for example, new loan policies and procedures and limitations on the powers of loan officers, such as reductions in lending limits, senior officer reviews and board oversight.

The last part of this proposed amendment codifies a clarification to the current law. It simply provides that the agencies can order, in the context of a cease and desist order, certain limitations on the functions and activities of individuals and institutions. This proposal will permit the agencies to address limited problems caused by individuals without the necessity of seeking their complete removal or suspension from the institutions. Each of the banking agencies currently interprets its powers to include the ability to order this type of relief.

3. Section 101(a)(3) of the amendments modifies the statute that grants the banking agencies the authority to issue temporary cease and desist orders. This modification clarifies the agencies' authority to issue temporary orders that limit the activities or functions of institutions or persons associated with them in the same manner and for the same reason described in paragraph 2 hereof. This change is made in order to make the agencies' remedial powers identical for both final cease and desist orders and temprorary cease and desist orders.

4. Section 101(a)(4) of the proposal adds a new basis for the issuance of a temporary cease and desist order by the banking agencies. If examiners discover during the course of a bank examination or bank holding company inspection that the institution's records are so incomplete or inaccurate that they cannot determine the condition of the institution or the nature of one of its transactions that may have a substantial effect on the institution's condition, the agencies would be authorized to issue a temporary order. This proposal is made in light of recent experiences by the OCC in the Golden Pacific National Bank matter and the FHLBB in the Empire Savings and Loan Association matter.

The current law relating to the issuance of temporary orders does not appear to cover the situation described above. Now, the agencies have to be able to prove that the law violation or unsafe or unsound practice committed by a bank, for example, is likely to cause its insolvency, cause the substantial dissipation of the bank's earnings or assets, seriously weaken the bank's condition or seriously prejudice the interests of the bank's depositors. In order to substantiate a case under the current law, examiners have to be able to uncover facts from an institution's records sufficient to fit these statutory bases. This amendment allows the agencies to act quickly when a serious problem such as the lack of records is first uncovered, rather than wait until the damage is done.

5. Section 101(a)(5) of the proposed amendments tries to accomplish several goals relating to the agencies' authority to remove an individual from a financial institution. The proposal makes the several grounds for removing individuals consistent. Currently, there are separate (and somewhat inconsistent) bases for removal depending on whether the agenices are removing an individual because of conduct he or she engaged in at the institution where the individual is currently employed or on account of conduct at the individual's former employer. There is no logical reason for having two separate legal bases for such removal actions; however, current law provides that the agencies have to meet separate and different tests depending on the current place of employment of the targeted individual. This part of the amendments deletes that section of current law which authorizes removal actions against an individual based on conduct at his or her former employer (section 8(e)(2) of the FDI Act) and makes the legal bases the same for all removal actions—regardless of whether the improper or illegal conduct was committed at the current or former place of employment.

The last reason for the aforementioned amendments to the agencies' removal statute is clarity of language. This proposal seeks to rewrite the current law into easily readable form.

6. Section 101(a)(6) of the proposal makes a substantive as well as a technical change to the statute granting the banking agencies the power to suspend temporarily as individual from an institution. Current law describes in section 8(e)(4) of the FDI Act the bases for the temporary suspension of an officer or director of a bank, and it speaks in terms of a suspension "notice" rather than a suspension "order". The proposal expands the coverage of the agencies' suspension powers by deleting the term "officers and directors" from the current law and substituting the term "institution-related party". With this change, the agencies will be able to remove, as well as temporarily suspend, all institution-related parties who engage in the types of practices, breaches or violations proscribed in the law. Also, since there is no such legal document titled a suspension "notice", this part of the amendment corrects the statute by making reference to a suspension "order".

7. Section 101(a)(7) of the proposed amendments clarifies a very important aspect of the agencies' powers relating to removals, suspension and permanent prohibitions. Under current law, an individual is suspended, removed or permanently prohibited from participating in the conduct of the affairs of a financial institution by the provisions of sections 8(e) (1) through (5) of the FDI Act. Once an individual is so removed, suspended or prohibited, the criminal sanction provisions of section 8(j) of the FDI Act come into play, and the individual cannot be, for example, an office or director of another insured bank or vote for an officer or director at another insured bank without the prior approval of the FDIC, FHLBB, and NCUA. The language of section 8(j) of the FDI Act is not a model of clarity; and, moreover, it does not relate to savings and loan associations and other financial institutions regulated by other supervisory agencies. Notwithstanding the problems associated with section 8(j) of the FDI Act, the agencies have consistently argued that an individual removed from one insured bank cannot serve at another without prior approval.

This amendment clarifies the current positions of the agencies. It is a cross removal provision. It states simply that in the event an individual is removed, suspended or prohibited from one bank or holding company, he or she is removed, suspended or prohibited from all insured banks, bank holding companies, savings and loan associations, savings and loan associations' holding companies, Edge Act corporations, insured credit unions and Farm Credit Administration regulated institutions.

8. Section 101(a)(8) of the proposal is merely a technical renumbering provision.

9. Section 101(a)(9) of the proposed amendments adds a new part to subsection 8(i) of the FDI Act. This amendment clarifies the positions of the banking agencies regarding their authority to take enforcement actions against individuals who resign or otherwise leave a financial institution prior to the initiation of an action. This new statutory provision declares that the termination of employment does not bar an enforcement action, such as a prohibition or cease and desist action.

10. Section 101(a)(10) of the amendments adds a new basis for the assessment of civil money penalties by amending section 8(i) of the FDI Act. Under current law, civil money penalties can be assessed pursuant to this section for violations of final cease and desist orders. The amendment proposes to expand the agencies' authority for such assessments to include violations of conditions imposed in writing by the agency in connection with the granting of any application. This is currently a ground for the issuance of a cease and desist order under section 8(b) of the FDI Act.

11. Section 101(a)(11) of the amendments modifies section 8(j) of the FDI Act. This section of the agencies' enforcement statute provides the criminal penalties for violations of removal, suspension and prohibition orders. The amendment attempts to clarify the language of the current law to make it internally consistent and to provide that, with the prior approval of the appropriate agency, an individual who is the subject of a suspension, removal or prohibition order can be an officer or director of a bank or holding company, for example, or vote for an officer or director of an insured bank or holding company.

Under the law as currently written, there is an absolute prohibition on an individual's ability to "participate in the conduct of the affairs" of a bank after his or her removal. An agency cannot provide its approval for such participation; however, it can approve of an individual's position as an officer or director of a bank. Since it is virtually impossible to be an officer or director of a bank or bank holding company and not participate in the institution's affairs, an individual who is subjected to a removal order, for example, can arguably never reenter the banking industry. This is not the intended result. Accordingly, the language of section 8(j) of the FDI Act was modified to clarify its meaning.

12. Section 101(a)(12) of the proposal includes the definitional modifications to the agencies' enforcement statute. First, the FHLBB (and FSLIC), the NCUA and the Farm Credit Administration are not included as appropriate Federal banking agencies for purposes of the enforcement laws. Since the proposed amendments provide for cross removals and the like, the FHLBB, NCUA and FCA needed to be added as approving agencies.

Second, the definitions relating to when a cease and desist order is "final" are modified to include the new phrase "institution-related party".

Third, the term "institution-related party" is defined to include all of the positions originally set forth in the law (e.g., officer, director, etc.) and is expanded to include a person who has filed or is required to file a notice under the Change in Bank Control Act of 1978. The inclusion of the authority to take supervisory actions against individuals who filed or are supposed to file change in control notices provides the agencies with powers over those who otherwise can circumvent the banking laws merely because they have not yet finalized, in the strictest legal sense, their control over a financial institution. Also, by failing to file a change in bank control notice, an individual, who carefully does not participate in the conduct of the affairs of a bank, for example, can avoid remedial sanctions for his or her wrongdoing.

Fourth, the term "insured institution" is expanded to include a depository institution whose accounts are insured by the FSLIC or NCUSIF in addition to FDIC.

Last, the definitional provisions of section 8(k) of the FDI Act are expanded to include the concept that the word "or" is not exclusive in the statute.

13. Section 101(a)(13) of the amendments adds a new subsection to the agencies' enforcement statutes. This part of the proposal addresses another problem resulting from the U.S. Court of Appeals' decision in the Larimore matter. In part, the court held that the OCC would not use its administrative enforcement authority (e.g., a cease and desist order issued under section 8(b) of the FDI Act) to seek from a director of a national bank because there was a civil statute that authorized the OCC to seek such relief in a U.S. district court action (12 U.S.C. 93). This amendment provides that, notwithstanding any other statutory authority, a banking agency can use its administrative supervisory powers to address problem situations in the most efficient and prompt manner—that is, it can take cease and desist action.

14. Section 101(b) of the proposed amendments modifies the statutory authority of the FDIC set forth in section 19 of the FDI Act. Under this law, the FDIC must grant its approval before a convicted felon is employed by an insured bank; and, in the event that no approval is granted and the individual still continues to work at the insured bank, the bank can be fined up to $100 a day.

This amendment does two things. First, it raises the civil fine to $1,000 in order to be consistent with other penalty provisions. Second, it permits the FDIC to fine the individual as well as the bank.

15. Section 102 of the proposal modifies the civil money penalty assessment portions of the Change in Bank Control Act of 1978. Under current law, an individual subject to assessment of a civil money penalty for a violation of this statute is entitled to a de novo trial in U.S. district court—even after the individual has completed full proceedings before an administrative law judge and the agency bringing the charges. Under the law, this is the only provision relating to civil money penalties that provides for such extraordinary review.

One part of this amendment deletes the requirement for complete de novo U.S. district court review and makes an assessment under the Change in Bank Control Act of 1978 reviewable under the provisions of the Administrative Procedure Act, which entitles an individual to a full administrative hearing and agency review.

The second part of this amendment is the deletion of the term "willfully" as a modifier of the term "violates". As presently written, this law requires the agencies to determine that an individual willfully violated the change in control law before any assessment can be made. Under current banking laws, the banking agencies do not have to demonstrate a "willful" violation for any other civil money penalty assessment. This part of the amendments corrects this anomaly.

16. Section 103(a) of the proposed amendments deletes a requirement set forth in the Bank Protection Act of 1968 relating to the submission of periodic reports by banks and savings and loans concerning the installation, maintenance and operations of security devices and procedures. The agencies are now required to have regulations mandating the submissions of these reports; however, it has been determined by the banking agencies that no useful supervisory or regulatory purposes are served by the continuation of these reports. Accordingly, the statute would be modified to delete the requirements.

17. Section 103(b) of the proposal deals with technical changes to the OCC's Call Report reporting requirements. Since Call Reports are now required to be filed at regular intervals, the portion of the National Bank Act requiring their submission within 10 days of a "call" would be deleted. In section 1(g) of the amendments, an identical change is made with respect to Call Reports required to be filed with the Federal Reserve by state member banks.

18. Sections 103 (c), (d), (e) and (f) of the amendments modify the civil money penalty assessment powers of the agencies with respect to inaccurate Call Reports and bank holding company reports required by the respective statutes of the agencies. Currently, penalties can only be assessed for late reports—there is no clear authority for assessments for reports that are filed in a timely manner but are grossly inaccurate or that contain false or misleading information—and there is no explicit authority for the assessment of penalties for late or inaccurate bank holding company reports. This situation needed clarification and expansion, and the proposed amendment addresses the problem.

The amendments modify the respective laws covering the reporting activities of the agencies. The submission or publication of false or misleading or inaccurate Call Reports or bank holding reports, such as the F.R. Form Y-6, will subject the offender to the possible assessment of a civil fine. The amendment also increases the amount of the possible fine from $100 to $1,000 a day.

19. Sections 104 (a) and (b) of the proposal relate to the Right to Financial Privacy Act (the "RFPA"). These sections clarify the RFPA's existing exemptions for supervisory agencies. A supervisory agency, such as the Board of Governors, with statutory authority to examine the records of a financial institution, is exempt from the RFPA where the agency is exercising its supervisory, regulatory or monetary functions with respect to any financial institution. These amendments make it clear that (1) the Federal Reserve has the same exemptions applicable to its bank holding company and nonbank subsidiary supervisory and regulatory functions as it has with respect to its bank supervisory and regulatory functions; and (2) the exercise of supervisory and regulatory functions includes the exercise of such functions with respect to the officers and directors of financial institutions as well as the institutions themselves.

20. Sections 104 (c) and (d) of the proposal also relate to the RFPA. In order to clarify this most complicated statute, two simple amendments are proposed. The first makes it clear that a financial institution or an individual employed by a financial institution can provide law enforcement authorities with pertinent bank records relating to criminal activities, drug control laws and money laundering statutes without having to go through the notice requirements of the RFPA.

The second part of the proposal provides that once financial records are lawfully in the hands of an agency of the United States, such as the OCC or another bank regulatory agency, that agency can lawfully provide the records to another agency so long as they are relevant to a matter within the jurisdiction of the receiving agency.

SECTION-BY-SECTION ANALYSIS

TITLE II—REGULATION OF SAVINGS AND LOAN ASSOCIATIONS

Section 201. Section 201 provides that this title may be cited as the "Savings Institutions Supervisory Amendments of 1987."

Section 202(a). This section amends all references in the FSLIC's enforcement authority that presently relate to officers, director, employees and agents, to replace them with the phrase "institution-related party", which covers a wider range of individuals including a person who has filed or is required to file a notice under the Change in Savings and Loan Control Act. This new term is defined in Section 209(a).

Section 202(b). This section makes parallel amendments regarding the Bank Board's authority over federally chartered institutions contained in the Home Owners' Loan Act and substitutes the new phrase "association-related party", as defined in Section 209(b).

Section 203(a). This section amends the National Housing Act to address a problem caused by a court decision against the Office of the Comptroller of the Currency in *Larimore* v. *Conover*, 789 F.2d 1244 (7th Cir. 1986). It allows the FSLIC to order restitution or reimbursement from their institution-related parties to recover losses resulting from violations of law or other improper conduct. The *Larimore* decision determined that reimbursement was not a remedy available to the Office of the Comptroller of the Currency in an administrative cease-and-desist proceeding under its parallel statute.

This section also allows the FSLIC to use a cease-and-desist order to limit the activities or functions of an institution-related individual or insured institution, thus enabling the FSLIC to prevent specific practices or conduct by thrift officials where the circumstances may not be serious enough to warrant issuance of an order of removal or prohibition under Section 407(g).

Section 203(b). This section makes amendments regarding the Bank Board's authority in the Home Owners' Loan Act that are parallel to those in Section 203(a).

Section 204. This section clarifies that the agency's enforcement authority under the National Housing Act and the Home Onwers' Loan Act reaches all service corporations, including second-tier and partly owned service corporations of federal associations and insured institutions.

Section 205(a). This section clarifies that a temporary cease-and-desist order may place limits on the activities or functions of an institution-related party or insured institution, similar to those set out in section 203 above. It also expands the FSLIC's authority to issue a temporary cease-and-desist order to halt an institution's business activities when the FSLIC is unable to determine the financial condition of such institution or the nature of any transaction because of the disarray or lack of adequate books and records at the institution.

Section 205(b). This section makes the same amendments to the Board's authority to issue temporary cease-and-desist orders against federal associations and association-related parties.

Section 206(a). This section provides that if an institution-related party is removed, suspended, or prohibited from an insured institution, service corporation or subsidiary, or a savings and loan holding company or subsidiary, he is also removed, suspended, or prohibited from all federally insured depository institutions, all bank holding companies, and institutions chartered under the Farm Credit Act of 1971 (unless he is allowed to return by the appropriate Federal regulatory agency, as defined in the Federal Deposit Insurance Act). No longer is it necessary for the Corporation to initiate a separate enforcement proceeding in order to remove from an FSLIC-insured institution or savings and loan holding company a person whom the OCC, FDIC, Federal Reserve Board, NCUA, or Farm Credit Administration has already removed from a national or state bank, a bank holding company, a credit union, or an institution chartered under the Farm Credit Act of 1971.

The section also provides that an institution-related individual may be removed or prohibited based on unsafe or unsound conduct causing financial loss or other damage to an insured institution or another business institution. In addition, paragraph (1) of amended section 407(g), which sets out the three grounds required for initiation of a removal action, is broken into subparagraphs to make it easier to understand. Furthermore, former paragraph (1), which applied to any director or officer of an insured institution with respect to his conduct regarding that institution, and former paragraph (2), which applied to such individual's conduct with respect to another insured institution or business entity, have been combined so that paragraph (1) now applies with respect to the individual's conduct regarding any insured institution or other business institution, as defined in the National Housing Act. Former paragraph (5) of section 407(g) is revised to use the terms "notice" and "order" consistently throughout the section.

Section 206(b). This section makes parallel amendments to the Bank Board's authority under the Home Owners' Loan Act to remove or prohibit individuals from financial institutions.

Section 207(a). This section clarifies the FSLIC's authority to pursue sanctions, including removal, against an institution-related individual despite his resignation or other separation from an institution. This will prevent such an individual from trying to thwart a removal action by resigning. It also redesignates the paragraph numbers in paragraph (k) of Section 407 in order to conform with other changes made in the bill.

This section also amends the provisions of the National Housing Act to provide the FSLIC with the same authority to impose monetary penalties for violations of law or regulation that the Comptroller of the Currency has long held.

Section 207(b). This section makes amendments with respect to the Board's removal and prohibition powers under the Home Owner's Loan Act that are parallel to those made in section 207(a) for the National Housing Act.

Section 208(a). The first sentence of paragraph 1 of section 407(p) makes technical amendments in accordance with changes made in section 206. It also clarifies that only with the prior written approval of the appropriate federal banking agency may an individual who is the subject of a removal, prohibition, or a suspension order under Section 407 of the National Housing Act, become an officer or participate in the affairs of another depository institution or holding company. The second sentence of this section would make it clear that the FSLIC, when issuing a suspension, removal or prohibition order, has authority to prohibit any of the acts that would be illegal under subsection (g) of section 407.

The second paragraph of this section changes the existing standard of proof for proceedings against individuals (who have been convicted of criminal offenses involving dishonesty or breach of trust and who violate the prohibition against participation in the conduct of the affairs of insured institutions) from a "willful" to a "knowing" violation. It prohibits such individuals from participating in the conduct of the affairs of an insured institution and would increase the penalty from $100 per day to $1,000 per day for any violation, which penalty could be imposed against individuals or insured institutions.

Section 208(b). This section makes parallel amendments with respect to the Home Owners' Loan Act.

Section 209. This section conforms the FSLIC's civil money penalty authority under the Change in Savings and Loan Control Act (12 U.S.C. § 1730(q)), to the same procedure applicable to other civil money penalty authority of the FSLIC. This means that such penalties may be assessed following a hearing before the agency conducted pursuant to the Administrative Procedure Act instead of the prior requirement for an abbreviated agency procedure, followed by de novo review in a U.S. district court.

This section also eliminates the requirement that the FSLIC demonstrate that a violation of the Change in Savings and Loan Control Act is "willful" in order to assess a civil money penalty, thus conforming this Act to other banking law provisions which provide for civil money penalties.

Section 210(a). This section revises the definitional subsection (r) as follows:

Paragraph (A) clarifies the definition of "cease-and-desist order that has become final" and "order which has become final." Paragraph (B) adds a definition of "institution-related party", as discussed in the comment on proposed section 102 above, while incorporating pertinent language from a former definition in Section 407(r)(4). Paragraph (C) eliminates any implication that "or" means "one or the other but not both", making it unnecessary to substitute "and/or" for "or." Paragraph (4) defines the term "insured institution" for enforcement purposes to include institutions whose insured status is terminated and Federal savings banks the deposits of which are insured by the Federal Deposit Insurance Corporation.

Section 210(b). This section makes amendments with respect to the Home Owners' Loan Act that are parallel to those in Section 210(a), except that language defining the terms officer, director, employee and agent has been transferred from Section 5(d)(14) of the HOLA to the definition of "association-related party" in Section 5(d)(13). This section also makes amendments to the definitions contained in the Home Owners' Loan Act that parallels those made in paragraph (4) of Section 210(a).

Section 211. This section creates a new paragraph (u) of Section 407 of the National Housing Act that requires insured institutions and Federal savings banks to make reports of condition to the FSLIC, and subjects those that either fail to furnish such information or furnish false or misleading information to the assessment of civil penalties. These powers, except for assessment of penalties for submission of a false or misleading information for which statutory authority is now being sought, are the same as those already held by the OCC, the FDIC, and the Federal Reserve Board.

Section 212. This section is a technical amendment to conform to the renumbering of certain paragraphs in Section 206.

Section 213. This section amends the provisions applicable to savings and loan holding companies to make the requirements for reports of condition parallel to those provided by Section 211.

Section 214. This section deletes paragraph (15) of Section 5(d), which is incorporated in Section 5(d)(13) by Section 118 of this Act, and redesignates paragraph (16) as paragraph (15).

TITLE III—CREDIT UNIONS

Section 301(a)(1). A new phrase—"institution-related party"—will replace the terms officer, director, committee member, employee, agent, or other person. This is a simple reference and will assure consistency throughout Section 206.

Section 301(a)(2), (3). This change will specifically set forth various types of relief NCUA can require as part of a cease-and-desist order, in addition to its present authority to order affirmative action. This change will also explicitly state that NCUA may place limitations on the activities of individuals or institutions. These modifications would apply to both temporary and final C&D orders.

Section 301(a)(4). An additional basis for a cease-and-desist order is added for cases in which the credit unions' records are so incomplete or inaccurate that NCUA cannot determine the institutions' condition.

Section 301(a)(5). This change makes the legal standard for removal of individuals the same regardless of whether the objectionable conduct occurred at the current employer or a previous credit union. Presently, the standard differs based on where the conduct occurred. This amendment differs somewhat from that of the other bank regulatory agencies because the statutory elements for removal/prohibition under NCUA's statute are different from those of the other agencies. Specifically, NCUA's statute does not require a showing of personal dishonesty or willful or continuing disregard for the safety or soundness of the credit union. This change maintains that distinction.

Section 301(a)(6). This section clarifies that temporary suspension power reaches any institution-related party.

Section 301(a)(7). This section gives other financial regulatory agencies the industry-wide removal authority which NCUA received last summer. It also clarifies our statutory language and makes the language consistent for all of the agencies.

Section 301(a)(8). This is a technical renumbering provision.

Section 301(a)(9). This provision declares that termination of employment does not bar an enforcement action such as a prohibition.

Section 301(a)(10). This adds violation of certain written agreements as an additional basis for assessment of civil money penalties.

Section 301(a)(11). This clarifies NCUA's ability to allow an individual who has been administratively removed to re-enter the industry.

Section 301(a)(12). This is a technical relettering provision.

Section 301(a)(13). This section provides definitions for various terms used in the amendments. This section also explicitly states that NCUA can use its administrative enforcement power to address a problem regardless of whether it has other statutory authority as well.

Section 302. This change is to Section 205 of the Act and provides that if a person convicted of a crime involving dishonesty or breach of trust is employed at an insured institution, and NCUA has not given its written approval to allow the person to continue, a civil fine of up to $1,000 a day may be imposed on both the individual and the credit union. Presently the fine is only $100 and it may only be assessed against the credit union. This section also deletes the requirement that credit unions submit periodic reports concerning security devices and procedures.

Mr. GARN. Mr. President, Senator Proxmire and I, at the request of the Federal Reserve Board, the Federal Deposit Insurance Corporation, the Federal Home Loan Bank Board, and the National Credit Union Administration, are introducing the Enhanced Enforcement Powers Act of 1987. This bill represents the collective effort of the staffs of all of the Federal agencies involved with supervising depository institutions, and thus deserves our careful consideration.

It is particularly important that we consider this bill during the 100th Congress. The Senate Banking Committee recently completed an extensive series of hearings on banking reform legislation, and in particular on proposals which would permit banks to enter and compete in new fields. At these hearings, both Comptroller of the Currency Robert Clark and FDIC Chairman William Seidman specifically requested that Congress give serious consideration to this proposal, either independently or as an adjunct to the expanded powers measure. In light of these requests, and the obvious need to modernize our enforcement laws, I believe that this bill should be given careful attention.

By Mr. DeConcini (for himself, Mr. Domenici, Mr. D'Amato, and Mr. Moynihan):

S. 1975. A bill to better enable Federal law enforcement officers to accomplish their missions, to assist Federal law enforcement agencies in attracting and retaining the most qualified personnel, and for other purposes; to the Committee on Governmental Affairs.

COMPREHENSIVE FEDERAL LAW ENFORCEMENT IMPROVEMENTS ACT

Mr. DeCONCINI. Mr. President, today, I am introducing, along with my colleagues Senators Domenici, D'Amato, and Moynihan, the Comprehensive Federal Law Enforcement Improvements Act of 1987—legislation which will better enable the Nation's Federal law enforcement officers to accomplish their critically important missions.

All of us in the Congress share a strong commitment to fighting crime, as evidenced by the broad bipartisan support which has produced important legislative initiatives in recent years, including the Comprehensive Crime Control Act of 1984 and the Anti-Drug Abuse Act of 1986. Such legislation has been indispensable in galvanizing our society for the assault on illegal drug trafficking, organized crime, terrorism, and other serious criminal activity. It has also greatly intensified the demands made on over 83,000 Federal law enforcement officers.

Unfortunately, such legislation has largely overlooked the needs of those officers—the men and women on the front lines—those people charged with carrying out the "war on crime." In fact, their needs are rarely addressed at all in the legislative process, which accounts for the woefully inadequate state of Federal law with respect to issues that directly affect our law enforcement personnel. Historically, such issues have been addressed only piecemeal, with the resulting fragmentation that is all too well documented in the U.S. Code: A change is made in one area of the criminal justice system without considering its impact on other parts of the system, creating uncontrollable workloads for some agencies; a much-needed benefit is provided to officers in one agency, while ignoring others having the same—or greater—need; a statute is enacted which purports to benefit the entire civil service, but operates to the unique detriment of law enforcement officers.

As a result, serious inconsistencies exist among Federal law enforcement agencies ranging from inequities in pay and other benefits to basic law enforcement authority. This inevitably causes friction among agencies which impedes their cooperation in important crime-fighting efforts. It has also made it increasingly difficult for Federal law enforcement agencies to recruit and retain qualified personnel—especially in parts of the country where Federal officers' salaries are less than half that of their State and local counterparts.

I would imagine that most of my colleagues would be as shocked and amazed as I was to learn that the vast majority of our Federal law enforcement officers—men and women who are called upon each day to risk injury or death in agencies such as the Border Patrol, the U.S. Marshals Service, the Bureau of Alcohol and Firearms, and the Customs Service, to mention only a few—are paid a starting salary of only $14,822 a year! I ask my colleagues to consider how these young officers must struggle just to subsist on such wages, particularly in high cost-of-living areas. Adding insult to injury, these same new recruits are required to pay their own travel expenses to their first duty stations—which may be across the country from where they are living at the time of appointment. Such factors can take an incalculable toll on the morale of these Federal officers, and often results in their leaving Federal service for more profitable employment by State and local law enforcement agencies and the private sector.

I believe that the need for the legislation I am introducing today is critical and very well documented. The bill includes the following provisions.

Title I of the Comprehensive Federal Law Enforcement Improvements Act of 1987 would provide specific relief on several issues which are in need of immediate attention. First, it would amend an existing provision in the Federal Employees Retirement System [FERS] which disqualifies law enforcement officers from retiring at age 50 after 20 years' service—the longstanding "hazardous duty" early retirement option—if they are promoted to a management or supervisory position after less than 10 years of primary service. This provision penalizes the most talented young officers and acts as a disincentive to seeking advancement, ultimately impairing the ability of Federal law enforcement agencies to recruit and retain the most capable personnel. Under section 101 of the bill, the 10-year primary service requirement would be reduced to a more reasonable 3-year requirement.

Section 102 of the bill authorizes payment of the moving expenses of newly appointed law enforcement officers to their first duty station. As I mentioned previously, the vast majority of these young officers begin their service at the GS-5 level, which is presently $14,822 a year. It can be an overwhelming hardship when a new recruit must move across the country for his first assignment and it takes a good portion of his first year's salary just to move.

Section 103 of the bill would provide much-needed law enforcement authority to criminal investigators of the Offices of Inspector General in various executive branch agencies. These investigators routinely perform a wide variety of law enforcement functions—investigating serious Federal crimes and confronting dangerous criminals. Yet, they must do so without the most basic authority to carry firearms, make arrests, and serve warrants. When they develop a case to the point that an arrest or execution of a warrant is appropriate, they must call in another Federal law enforcement agency to make the arrest or serve the warrant, even though the IG criminal investigators have the necessary qualifications and training to perform those functions. The involvement of personnel from a second agency is unnecessarily costly and may involve delay and other factors which reduce the effectiveness of a criminal investigation.

Moreover, in the course of their work, fully trained IG criminal investigators must regularly expose themselves to extreme danger without the authority to protect themselves and others by carrying firearms. This section would provide IG criminal investigators with the necessary authority, under guidelines issued by the Attorney General, to carry firearms, make arrests, and obtain and serve warrants, subpoenas, and summonses. The bill would also include limited law enforcement authority for the special investigators who work in the special investigations unit at the General Accounting Office.

Section 104 of the bill amends the Omnibus Crime Control and Safe Streets Act of 1968 to increase from $50,000 to $100,000 the benefits paid to survivors of public safety officers who died as a result of injury sustained in the line of duty. The section also eliminates the requirement that a parent, or parents, be a dependent, or dependents, of such officer in order to be an alternate beneficiary.

Title II of the bill would establish a National Advisory Commission on Law Enforcement to systematically address the issues which probably have the greatest impact on the ability of Federal agencies to attract and retain the most capable law enforcement officers: Inequities in compensation and other benefits among officers having similar qualifications, training, and responsibilities. The fact that such inequities exist is a testimony to the piecemeal and fragmented manner in which legislation related to law enforcement has been enacted over the years. The establishment of the National Advisory Commission on Law Enforcement would be an important first step toward filling that void.

With a membership drawn from the Congress, Federal law enforcement agencies, and other executive branch agencies, the Commission will be required to study the methods and rates of compensation of law enforcement officers in every Federal agency. The Commission would also examine how Federal law enforcement salaries compare to those of State and local officers in the same geographical areas. It would be authorized to use the existing staff and resources of Federal agencies, so that no appropriations would be required for the Commission to conduct its business.

The Commission would study the feasibility of a uniform system of overtime compensation for Federal law enforcement officers. The multiple systems currently in use by the various agencies breed their own inequities and reduce the overall cost effectiveness of providing overtime compensation.

Within 6 months after the act becomes law, the Commission would be required to submit its findings to the President and the Congress. These findings must include specific recommendations for legislation to rectify inequities in compensation and to otherwise address the issues within the Commission's mandate. While providing us with concrete legislative solutions on compensation issues, the Commission would also provide a model for addressing law enforcement issues in a comprehensive manner in the future.

Mr. President, I believe that the Comprehensive Federal Law Enforcement Improvements Act of 1987 would represent a significant advance toward dealing more effectively with the needs of our Federal law enforcement officers—the men and women from whom we expect to much. I urge my colleagues to join me in supporting prompt passage of this legislation, recognizing that the ultimate effectiveness of our criminal laws depends largely on the capability and morale of our Nation's law enforcement officers.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1975

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Comprehensive Federal Law Enforcement Improvements Act of 1987".

TITLE I—SPECIAL IMPROVEMENTS

SEC. 101. RESTORATION OF HAZARDOUS DUTY EARLY RETIREMENT OPTION UNDER FEDERAL EMPLOYEES' RETIREMENT SYSTEM.

Section 8401(17)(B) of title 5, United States Code, is amended by striking out "for at least 10 years" and inserting in lieu thereof "for at least three years.".

SEC. 102. TRAVEL AND TRANSPORTATION EXPENSES TO FIRST DUTY STATIONS.

(a) The head of an agency may provide travel and transportation expenses to a newly appointed law enforcement officer, including the transportation expenses of his or her immediate family, household goods, and personal effects, from place of residence at the time of appointment to the first duty station, to the extent that payment of such expenses is authorized by section 5723 of title 5, United States Code, for a new appointee who may receive payments under that section.

(b) For purposes of this section—

(1) The term "agency" shall have the same meaning as provided in section 5721(1) of title 5, United States Code.

(2) The term "law enforcement officer" shall have the same meaning as provided in section 8401(17) of title 5, United States Code.

SEC. 103. LAW ENFORCEMENT AUTHORITY FOR CRIMINAL INVESTIGATORS OF OFFICERS OF INSPECTOR GENERAL.

Section 6 of the Inspector General Act of 1978 (5 U.S.C. App. 3) is amended by inserting immediately after subsection (c) the following new subsection:

"(d) Subject to guidelines promulgated by the Attorney General of the United States, and under such regulations as the Inspector General may prescribe, investigators of the Office of Inspector General may—

"(1) conduct investigations concerning any violations of United States law related to the programs, personnel, or operations of the establishments;

"(2) for the purpose of conducting such investigations—

"(A) obtain and serve subpoenas and summonses issued under the authority of the United States; and

"(B) obtain and execute search and arrest warrants;

"(3) if designated by the Inspector General, and qualified under approved regulations governing the use of firearms, carry firearms for the purpose of performing the duties authorized by this Act; and

"(4) arrest without warrant any person for any violation of United States law related to the programs, personnel, or operations of the establishments—

"(A) in the case of a felony violation; and

"(B) in the case of a felony or misdemeanor violation, if the violation is committed in the presence of the investigator.".

SEC. 104. AMENDMENTS TO THE OMNIBUS CRIME CONTROL AND SAFE STREETS ACT OF 1968.

(a) BASIC LEVEL OF DEATH BENEFIT PAYABLE.—Section 1201(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796(a)) is amended by striking out "$50,000" and inserting in lieu thereof "$100,000, adjusted in accordance with subsection (g),".

(b) PARENTS AS BENEFICIARIES.—Section 1201(a)(4) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796(a)(4)) is amended by striking out "dependent".

SEC. 105. INVESTIGATIVE AUTHORITY OF THE COMPTROLLER GENERAL.

Section 712 of title 31, United States Code, is amended by—

(1) inserting "(a)" before "The Comptroller General"; and

(2) adding at the end thereof the following:

"(b)(1) The Comptroller General may assign employees of the General Accounting Office to carry out special investigations related to Federal programs or activities carried out under the laws of the United States, and potential criminal violations thereof.

"(2) In connection with any investigation conducted by employees referred to in paragraph (1), the Comptroller General may require by subpoena the attendance and testimony of any person and the production of any records or other evidence, except that the Comptroller General may only demand production of agency records pursuant to the provisions of section 716. The Comptroller General may subpoena the attendance and testimony of an agency officer or employee, except that the Comptroller General may not compel the testimony of an agency officer or employee concerning the contents of an agency record to which the Comptroller General does not have access pursuant to the provisions of section 716.

"(3) The attendance of any person to give testimony and the production of any records or other evidence may be required from any place in the United States or its territories at such reasonable places as may be designated. In case of disobedience to a subpoena for the testimony of an agency officer or employee, the Comptroller General may bring a civil action in the United States District Court for the District of Columbia to compel the testimony. In case of disobedience to a subpoena for the records or testimony of a person not in the United States Government, the Comptroller General may bring a civil action in the United States district court for the judicial district or territory where the person resides, is found, or carries on business, or where the records or other evidence are located, to require the attendance and testimony of any person and the production of any records or other evidence. Failure to obey an order requiring the production of testimony, records, or other evidence, may be punished as a contempt of court.

"(4) Except with respect to an employee as defined in section 2105 of title 5, United States Code, any person subpoenaed or deposed under this subsection shall be paid the same fees and mileage that are paid witnesses in the district courts of the United States.

"(5) The Comptroller General may authorize employees of the General Accounting Office referred to in paragraph (1), qualified for the use of firearms, to carry firearms.

"(6) Any department or agency of the United States, including any law enforcement agency of the United States, may cooperate with, and provide assistance, on a reimbursable or nonreimbursable basis, in connection with any investigation, audit, or evaluation.".

SEC. 106. ASSAULTS ON PERSONNEL OF THE GENERAL ACCOUNTING OFFICE.

Section 1114 of title 18, United States Code, is amended by inserting after "National Credit Union Administration," the following: "or any officer or employee of the General Accounting Office assigned to perform audits, investigations, or evaluations,".

SEC. 107. OBSTRUCTION OF AUDITS AND INVESTIGATIONS OF THE GENERAL ACCOUNTING OFFICE.

Section 1505 of title 18, United States Code, is amended by striking "Congress" and the dash and inserting "Congress or any officer or employee of the General Accounting Office assigned to perform audits, investigations or evaluations—".

SEC. 108. INCLUSION OF INVESTIGATORS OF THE GENERAL ACCOUNTING OFFICE UNDER THE FEDERAL TORTS CLAIM ACT.

The last sentence of section 2680(h), of title 28, United States Code, is amended by—

(1) striking out "or" after "seize evidence,"; and

(2) striking the period at the end thereof and inserting ", or to conduct investigations pursuant to section 712(b)(1) of title 31.".

SEC. 109. OATHS AND AFFIRMATION.

Section 711(4) of title 31, United States Code, is amended to read as follows:

"(4) administer oaths and affirmations when conducting an investigation, audit, or evaluation.".

TITLE II—NATIONAL ADVISORY COMMISSION ON LAW ENFORCEMENT

SEC. 201. DEFINITIONS.

As used in this title—

(1) the term "Commission" means the National Advisory Commission on Law Enforcement;

(2) the term "Commissioner" means a member of the National Advisory Commission on Law Enforcement; and

(3) the term "law enforcement officer" has the same meaning as provided in section 8401(17) of title 5, United States Code.

SEC. 202. ESTABLISHMENT AND PURPOSES OF THE NATIONAL ADVISORY COMMISSION ON LAW ENFORCEMENT.

(a) ESTABLISHMENT.—There is established as an independent commission in the legislative branch of the United States a National Advisory Commission on Law Enforcement, which shall consist of the following members:

(1) four members of the United States Senate, two of whom shall be selected by the Majority Leader and two of whom shall be selected by the Minority Leader;

(2) four members of the United States House of Representatives, two of whom shall be selected by the Majority Leader and two of whom shall be selected by the Minority Leader;

(3) the Comptroller General of the United States, who shall also serve as Chairman of the Commission;

(4) the Director of the Office of Personnel Management;

(5) the Attorney General of the United States and three other officials of the Department of Justice who shall be designated by the Attorney General;

(6) the Secretary of the Treasury and two other officials of the Department of the Treasury who shall be designated by the Secretary of the Treasury;

(7) the Inspector Generals of three departments or agencies of the executive branch of the United States who shall be designated by the President of the United States; and

(8) three representatives from Federal employee groups.

(b) PURPOSES OF THE COMMISSION.—The Commission shall study the methods and rates of compensation including salary, overtime pay, and other benefits of law enforcement officers in all Federal agencies, as well as the methods and rates of compensation of State and local law enforcement officers in a representative number of areas where Federal law enforcement officers are assigned, in order to determine—

(1) the differences which exist among Federal agencies with regard to the methods and rates of compensation for law enforcement officers;

(2) the rational basis, if any, for such differences, considering the nature of the responsibilities of the law enforcement officers in each agency; the qualifications and training required to perform such responsibilities; the degree of personal risk to which the law enforcement officers in each agency are normally exposed in the performance of their duties; and such other factors as the Commission deems relevant in evaluating the differences in compensation among the various agencies;

(3) the extent to which inequities appear to exist among Federal agencies with regard to the methods and rates of compensation of law enforcement officers, based on consideration of the factors mentioned in paragraph (2) of this subsection;

(4) the feasibility of devising a uniform system of overtime compensation for law enforcement officers in all or most Federal agencies, with due regard for both the special needs of law enforcement officers and the relative cost effectiveness to the Government of such a system compared to those currently in use;

(5) how the salaries paid to Federal law enforcement officers compare to those of State and local officers in the same geographical area, especially those in "high cost-of-living" areas;

(6) the impact of the rates of compensation paid by various Federal agencies on the lifestyle, morale, and general well-being of law enforcement officers, including their ability to subsist;

(7) the recruiting and retention problems experienced by Federal agencies due to: inequities in compensation among such agencies; the differences between rates of compensation paid to Federal law enforcement officers and State and local officers in the same geographical areas; and other factors related to compensation; and

(8) the extent to which Federal legislation and administrative regulations may be necessary or appropriate to rectify inequities among Federal agencies in the methods and rates of compensation for law enforcement officers; to address the lack of uniformity among agencies with regard to overtime pay; to provide premiums or special rates of pay for Federal law enforcement officers in high cost-of-living areas; to ensure that the levels of compensation paid to Federal law enforcement officers will be competitive with those paid to State and local officers in the same geographical areas; and to address such other matters related to the determinations made under this subsection as the Commission deems appropriate in the interests of enhancing the ability of Federal agencies to recruit and retain the most qualified and capable law enforcement officers.

SEC. 203. POWERS OF THE COMMISSION.

(a) SPECIFIC POWERS.—The Commission shall have the power to—

(1) utilize, with their consent, the services, equipment, personnel, information, and facilities of other Federal, State, local, and private agencies and instrumentalities with or without reimbursement therefor;

(2) enter into and perform, without regard to 31 United States Code, section 3324, such contracts, leases, cooperative agreements, and other transactions as may be necessary in the conduct of the functions of the Commission, with any public agency, or with any person, firm, association, corporation, educational institution, or nonprofit organization;

(3) request such information, data, and reports from any Federal agency or instrumentality as the Commission may from time to time require and as may be produced consistent with other law; and

(4) hold hearings and call witnesses that might assist the Commission in the exercise of its powers or duties.

(b) OTHER NECESSARY POWERS.—The Commission shall have such other powers as may be necessary to carry out its functions under this Act and may delegate to any member or designated person such powers as may be appropriate in the conduct of its functions.

(c) RESOURCES FROM OTHER FEDERAL AGENCIES.—Upon the request of the Commission, each Federal agency is authorized and directed to make its resources, services, equipment, personnel, facilities, and information available to the greatest practicable extent to the Commission in the execution of its functions.

(d) RESOURCES OF INDIVIDUAL COMMISSIONERS.—Each Commissioner may utilize the resources, services, equipment, personnel, information, and facilities of his or her Federal agency or, in the case of the Commissioners who are members of Congress, his or her congressional office, as may be necessary in the conduct of the Commissioner's respective functions as a member of the Commission.

(e) QUORUM AND VOTING.—A simple majority of the Commissioners then serving shall constitute a quorum for the conduct of business by the Commission, and the Commission may exercise its powers and fulfill its duties by the vote of a simple majority of the Commissioners present.

(f) DUTIES OF CHAIRMAN.—The Chairman of the Commission shall call and preside at meetings of the Commission; provided, however, that the Chairman may delegate to any other Commissioner the authority to preside at meetings of the Commission.

SEC. 204. REPORT AND DISSOLUTION OF COMMISSION.

(a) REPORT.—Within six months following the date of enactment of this Act, the Commission shall prepare and deliver to the President of the United States, the President of the Senate, and the Speaker of the House of Representatives, a written report setting forth—

(1) the findings and determinations made by the Commission pursuant to section 201(b); and

(2) specific proposals for such legislation and administrative regulations as the Commission has determined to be necessary or appropriate pursuant to section 201(b)(8).

(b) TERMINATION OF COMMISSION.—The Commission shall be terminated upon the adjournment, sine die, of the 100th Congress.

● Mr. D'AMATO. Mr. President, I am proud to be an original cosponsor of this legislation providing a "fair deal" for our brave Federal law enforcement officers. I commend Senator DECONCINI for introducing this bill, and for calling attention to the increasingly serious plight of these brave men and women who risk their lives, and their families' security, on our behalf every day.

Over the years, many inequities have crept into the system governing pay, benefits, and promotion for Federal law enforcement officers. In his statement, Senator DECONCINI has reviewed these at length. I shall restrict most of my remarks to one area, that of salaries.

According to information compiled by the FBI Agents Association, and printed in the fall 1987 issue of FBI Agent, annual starting salaries for patrolmen in Nassau County, NY, and in New York City exceed those of FBI agents by approximately $1,000. FBI agents start at $24,732; New York City policemen at $25,977; and Nassau County Police at $25,677. After a year, this pay gap widens dramatically, with FBI agents earning an average of $25,556; New York City Policemen $30,298; and Nassau County Police $28,421.

The pay gap is even wider for new DEA agents, who start at $18,358, and for those starting with the Border Patrol, Marshals Service, BATF, and Customs Service, where the starting salary can be as low as $14,822.

The problems these low pay scales and many other inequities create for the recruiting and retaining of qualified personnel are truly enormous. It is time we address them.

Title I of this bill solves three problems for Federal officers immediately by:

First. Eliminating a major disincentive to talented young officers by reducing the so-called primary service requirement from 10 to 3 years. Under this provision, promotion to a management or supervisory position after less than 10 years of primary service would no longer disqualify an officer from retiring after 20 years of service at age 50;

Second. Authorizing payment of moving expenses for newly appointed law enforcement officers to their first duty stations; and

Third. Providing law enforcement authority to criminal investigators in the offices of executive branch agency inspectors general. This gives them the authority they need to do their job: Carry firearms, make arrests, and serve warrants.

To address the more complex issues of differences in pay and benefits among Federal agencies, title II of this bill creates a Commission to study those differences, the extent to which they are justified by differences in the respective duties of the various agencies, and the feasibility of a uniform system of overtime compensation for Federal law enforcement officers. The Commission would also compare Federal law enforcement salaries to those of State and local law enforcement agencies.

Six months after this bill becomes law, the Commission must submit its findings, and recommendations for corrective legislation, to the President and the Congress.

I urge my colleagues to give this bill their full support, so that we may begin to give our Federal law enforcement officers more of the careful attention they deserve.●

● Mr. MOYNIHAN. Mr. President, I rise today to join Senator DECONCINI in introducing the Comprehensive Federal Law Enforcement Improvements Act of 1987. This bill is a vitally important step in examining and improving our Nation's law enforcement operations.

Adequate compensation for law enforcement personnel at the Federal, State, and local level is essential to improving our law enforcement system Nowhere is the need more evident than in my own city of New York, where the high cost of living has made it difficult for the FBI to attract new agents and retain experienced professionals. In New York City, the Citizens' Crime Commission, headed by Mr. Thomas A. Reppetto, is studying this issue and plans to release its findings early next year.

This bill establishes a National Advisory Commission on Law Enforcement to study the compensation of law enforcement officers in all Federal agencies, as well as State and local law enforcement officers in areas where Federal law enforcement officers are assigned.

This Commission would be comprised of members of the Senate, the House of Representatives, the Office of the Comptroller General, the Office of the Attorney General, the Department of Treasury and other Federal employee organizations.

Specifically, this Commission would address the differences among Federal agencies in compensation and whether those differences are based on the personnel risk and responsibilities associated with the position. In addition, the Commission will address the salary differences between Federal officers and State and local officers assigned to the same area. Oftentimes, as in the case of the FBI in New York City, the responsibilities of the Federal officers parallel those of the local officers but the compensation does not.

Within 6 months after enactment of this bill, the Commission will have to report back to Congress and the President on its findings and recommend specific remedies for any unacceptable discrepancies in salary.

This Commission is a start. With it we may finally compensate our Federal law enforcement officers in a fair and reasonable manner.

This bill also makes some substantive changes in our current Criminal Code. It will raise the level of death benefits provided for in current law from $50,000 to $100,000. It will also allow criminal investigators in the Office of the Inspector General to serve subpoenas, obtain search warrants and carry firearms if necessary. This provision will enable these officers to proceed in a criminal investigation without having to wait for other law enforcement officials to intercede.

I would urge all my colleagues to support this bill.●

● Mr. DOMENICI. Mr. President, I am pleased to join my good friend from Arizona [Mr. DECONCINI] in introducing this important bill.

The American people often identify crime as the most important problem facing our Nation. Few of us can say we are "safe" from crime. The sad fact is that crime seems to be everywhere.

While the front line of fighting crime is at the State and local level of government, Congress has passed a variety of major crime-fighting bills. Behind solid Presidential leadership, Congress has passed the Comprehensive Crime Control Act of 1984 and the Anti-Drug Abuse Act of 1986.

These two acts focused attention on the war against crime, providing law enforcement agencies and the courts with many of the tools they need to get the criminals off the streets. Yet the demands on law enforcement agencies continue to mount.

This holds particularly true for Federal law enforcement agencies and officers. Frankly, Congress has not done a very good job providing for these men and women. This is not because of a lack of concern. It is simply that there is no single congressional forum to address these needs. Thus, the issues failed to receive the attention they deserve.

This bill addresses the problems facing Federal law enforcement agencies. These difficulties fall into two broad categories: Recruiting and retention efforts, plus the issue of basic law enforcement authorities.

A key issue involves benefits provided to Federal law enforcement personnel. It may surprise many of my colleagues to learn that most of the men and women who enter the various Federal law agencies enter at the GS-5 level at a starting salary below $15,000 annually.

That salary level makes it difficult to attract top quality personnel, particularly when State, local, and private law enforcement agencies can offer higher pay.

Making Federal recruiting more difficult is the fact that most of the recruits must pay their moving expenses when reporting for their first duty station. While this bill does not address the pay situation directly, it does provide some help by authorizing the Federal Government to pay those moving expenses.

Another provision complicating our efforts to retain good people involves the Federal Employees Retirement System [FERS]. The retirement system disqualifies certain law enforcement officers from the early retirement option available to most Federal law enforcement personnel.

These officers are prohibited from the hazardous duty early retirement if they have been promoted to a management or supervisory position after fewer than 10 years of service. Thus, young officers are encouraged from seeking advancement.

This bill reduces the 10-year requirement to a 3-year requirement.

The bill also increases the death benefits paid to the survivors of a slain officer from $50,000 to $100,000. This amount has not been increased since the Public Safety Officers' Death Benefits Act became law 11 years ago.

In the pursuit of criminals, Federal agents often face great personal danger. Yet, many of these agents also lack authority to carry firearms, make arrests, and execute warrants.

Section 103 of this bill grants to Federal inspectors general and certain General Accounting Officer personnel full law enforcement authority. This authority would be carried out under guidelines issued by the Attorney General.

Mr. President, I am confident that my colleagues agree with me that we should do everything possible to make the job of our Federal enforcement officers a little bit easier. We have passed major crime-fighting laws in recent years, but we have failed to give those who administer these laws the resources they need to implement these laws.

This new bill starts in the right direction. It will not solve all the problems I have mentioned. But it will start to correct some of the inequities facing today's law enforcement officials.

Preliminary estimates provided by the Congressional Budget Office calculate that this bill will increase Federal outlays by $20 to $30 million annually.

I think my colleagues will agree that this is a relatively modest cost for improvements to our Federal law enforcement efforts. I urge my colleagues to study this bill and to support it.●

By Mr. EVANS (for himself, Mr. INOUYE, Mr. MCCAIN, Mr. HARKIN, Mr. DECONCINI, Mr. DASCHLE, Mr. BINGAMAN, Mr. PRESSLER, Mr. BURDICK, and Mr. WIRTH):

S. 1976. A bill to amend the Indian Child Welfare Act which establishes standards for the placement of Indian children in foster or adoptive homes, to prevent the breakup of Indian families, and for other purposes; to the Select Committee on Indian Affairs.

INDIAN CHILD WELFARE ACT AMENDMENTS

Mr. EVANS. Mr. President, I rise today to introduce the Indian Child Welfare Act Amendments of 1987. The Indian Child Welfare Act was signed into law on November 8, 1978, and serves to protect one of the most vital resources in Indian country: the children.

Congress passed this law in response to the alarmingly high percentage of Indian children who were separated from their families and tribal heritage by the interference, often unwarranted, of nontribal public and private agencies. With regularity these children were placed in non-Indian foster and adoptive homes and institutions. Furthermore, many States, exercising jurisdiction over Indian child custody proceedings often have failed to recognize the essential tribal relations of Indian people and the cultural and social standards prevailing in Indian communities and families.

Mr. President, it is the policy of this Nation to protect the best interests of Indian children and to promote the stability and security of Indian tribes and families. The Indian Child Welfare Act was to further this policy through the establishment of minimum Federal standards for the removal of Indian children from their families and by requiring the placement of such children in foster or adoptive homes which are reflective of the unique values of Indian culture. In addition, the act provides for assistance to Indian tribes in the operation of child and family service programs.

This policy to protect the best interest of the child has served as the operating philosophy of the tribes, child welfare programs, and courts. The Indian Child Welfare Act is recognized as being consistent with the modern trend in child custody and child welfare. Unfortunately, the implementation of this act has been resisted by some who believe it places too much emphasis on the interests of Indian tribes. The recent Halloway decision in the Utah Supreme Court and the Navajo tribal court system is indicative of this controversy surrounding the act.

The Halloway case was a powerful test of application of the Indian Child Welfare Act. The case was settled in the Navajo Nation courtroom of Window Rock, AZ. In spite of considerable public outcry over the operation of the Indian Child Welfare Act, the Utah Supreme Court overturned an adoption of a Navajo child by a non-Indian couple after the child had been in their home for 6 years while custody was being contested in the court system.

Mr. President, during a recent hearing before the Senate Select Committee on Indian Affairs, legal counsel in the Halloway case, Mr. Craig Dorsay, stated that:

> While the outcry was based on the injustice that would befall the child if he were removed from the home he had known for such a long time, the debate ignored whether the Navajo Tribal Court could operate to protect the child's best interest to the same extent as a state court. The recent settlement of the *Halloway* case in a manner which protected the Navajo child's emotional ties to his non-Indian parents and at the same time protected his cultural and tribal ties with his natural family and the Navajo Nation shows that the initial outcry from Utah Supreme Court reversal was unwarranted and that the Indian Child Welfare Act indeed can operate to reach a result that was most consistent with protecting all facets of the child's emotional and physical well being.

Mr. President, I agree with Mr. Dorsay and believe this decision was the best that could be considered and ultimately one which will uphold tribal sovereignty.

It is extremely unfortunate that this young Indian boy and his family were subjected to such a long and trying court battle. This unreasonable delay stems from conflicting views over interpretation of the Indian Child Welfare Act. Lack of clarity in the act has resulted in many court disputes over jurisdiction and agency responsibility. Furthermore, ambiguities inherent in the language of the act have helped to sustain these problems.

Mr. President, for nearly a decade, the Indian Child Welfare Act has served admirably to prevent Indian children from being placed in adoptive and foster-care settings with non-Indian families. This act has served to raise the consciousness of non-Indian courts and State agencies about the existence of Indian tribes and the legitimate interests that Indian tribes have in their children. Unfortunately, however, lack of adequate funding and Federal commitment to implementation of the act have made it necessary for us to seek amendments.

The Senate Select Committee on Indian Affairs has conducted extensive hearings on the implementation of the Indian Child Welfare Act and we have heard many excellent recommendations for improvement of the act. This bill is a synthesis of those recommendations and is designed to respond to the concerns expressed by Indian tribes, child welfare programs, and court systems. These amendments, however, are only a first step toward rectifying the problems experienced by the limitations of the current act. I look forward to working with my colleagues to develop further improvements to the Indian Child Welfare Act and making the resources available to truly help the Indian tribes' and State child welfare and court sytems fulfill the true intent of this act: That of protecting the best interest of the Indian child.

Mr. President, I ask unanimous consent that the Indian Child Welfare Act of 1987 and a summary of the goals of the bill, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1976

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION. 1. SHORT TITLE.

That this Act may be cited as the "Indian Child Welfare Act Amendments of 1987".

SEC. 2. REVISION OF INDIAN CHILD WELFARE ACT.

The Indian Child Welfare Act of 1978 (25 U.S.C. 1901, *et seq.*) is amended to read as follows:

"SHORT TITLE AND TABLE OF CONTENTS

"SECTION. 1. This Act may be cited as the 'Indian Child Welfare Act of 1978'.

"TABLE OF CONTENTS

"Sec. 1. Short Title and Table of Contents
"Sec. 2. Congressional Findings
"Sec. 3. Declaration of Policy
"Sec. 4. Definitions

"TITLE I—CHILD CUSTODY PROCEEDINGS

"Sec. 101. Jurisdiction over Indian child custody proceedings
"Sec. 102. State court standards and procedures
"Sec. 103. Voluntary proceedings
"Sec. 104. Challenges based on violations of Act
"Sec. 105. Placement goals in State court proceedings
"Sec. 106. Subsequent placements or proceedings
"Sec. 107. Tribal and family affiliation; Disclosure by court
"Sec. 108. Reassumption of exclusive tribal jurisdiction
"Sec. 109. Agreements between States and Indian tribes
"Sec. 110. Improper removal of child from custody
"Sec. 111. Higher State or Federal standards to apply
"Sec. 112. Emergency removal and placement of child
"Sec. 113. Effective date
"Sec. 114. Indian Child Welfare Committees
"Sec. 115. Compliance by private child placement agencies
"Sec. 116. Aboriginal peoples of Canada

"TITLE II—INDIAN CHILD AND FAMILY PROGRAMS

"Sec. 201. Grants for preventive programs on or near reservations
"Sec. 202. Grants for off-reservation programs
"Sec. 203. Funds for implementation of Act
"Sec. 204. 'Indian' defined for certain purposes

"TITLE III—RECORDKEEPING, INFORMATION AVAILABILITY, AND TIMETABLES

"Sec. 301. State reports

"CONGRESSIONAL FINDINGS

"SEC. 2. Recognizing the special relationship between the United States and the Indian tribes and their members and the Federal responsibility to Indian people, the Congress finds—

"(1) that clause 3, section 8, article I of the United States Constitution provides that 'The Congress shall have Power * * * To regulate Commerce * * * with Indian tribes' and, through this and other constitutional authority, Congress has plenary power over Indian Affairs;

"(2) that Congress, through statutes, treaties, and the general course of dealing with Indian tribes, has assumed the responsibility for the protection and preservation of Indian tribes and their resources;

"(3) that there is no resource that is more vital to the continued existence and integrity of Indian tribes than their children and that the United States has a direct interest, as trustee, in protecting Indian children who are members of or are eligible for membership in an Indian tribe;

"(4) that an alarmingly high percentage of Indian children are separated from their families and tribal heritage by the interference, often unwarranted, of their children from them by non-tribal public and private agencies, and individuals, and that an alarmingly high percentage of such children are placed in non-Indian foster and adoptive homes and institutions; and

"(5) that the States, exercising their recognized jurisdiction over Indian child custody proceedings through administrative and judicial bodies, have often failed to recognize the essential tribal relations of Indian people and the cultural and social standards prevailing in Indian communities and families;

"(6) that the Bureau of Indian Affairs, exercising federal authority over Indian affairs, has often failed to fulfill its trust responsibility to Indian tribes by failing to advocate rigorously the position of tribes with States and non-tribal public and private agencies and by failing to seek funding and planning necessary for tribes to effectively fulfill their responsibilities to Indian children; and

"DECLARATION OF POLICY

"SEC. 3. The Congress hereby declares that it is this Nation's Policy to protect the best interests of Indian children and to promote the stability and security of Indian tribes and families by the establishment of minimum Federal standards governing any interference with Indian children's relationships with their parents, family or tribe; also by providing for the placement of Indian children in foster or adoptive homes reflecting the unique values of Indian culture, and by providing for assistance to Indian tribes in the operation of child and family service programs. Furthermore, the Congress hereby declares its intent to protect the right of Indian children to develop a tribal identity and to maintain ties to the Indian community within a family where their Indian identity will be nurtured.

"DEFINITIONS

"SEC. 4. For the purposes of this Act, except as may be specifically provided otherwise, the term—

"(1) 'child custody proceeding' shall mean and include any proceeding referred to in this subsection involving an Indian child regardless of whether the child has previously lived in Indian Country, in an Indian cultural environment or with an Indian parent—

"(i) 'foster care placement' means any administrative, adjudicatory or dispositional action, including a voluntary proceeding under section 103 of this Act, which may result in the placement of an Indian child in a foster home or institution, group home or the home of a guardian or conservator;

"(ii) 'termination of parental rights' means any adjudicatory or dispositional action, including a voluntary proceeding under section 103 of this Act, which may result in the termination of the parent child relationship or the permanent removal of the child from the parent's custody;

"(iii) 'preadoptive placement' means the temporary placement of an Indian child in a foster home or institution after the termination of parental rights, but prior to or in lieu of adoptive placement; and

"(iv) 'adoptive placement' means the permanent placement of an Indian child for adoption, including any administrative, adjudicatory or dispositional action or any voluntary proceeding under section 103 of this Act, whether the placement is made by a public or private agency or by individuals, which may result in a final decree of adoption.

"The term 'child custody proceeding' shall not include a placement based upon an act which, if committed by an adult, would be deemed a crime. Such term shall also not include a placement based upon an award of custody to one of the parents in any proceeding involving a custody contest between the parents. All other child custody proceedings involving family members are covered by this Act.

"(2) 'domicile' shall be defined by the tribal law or custom of the Indian child's tribe, or in the absence of such law or custom by Federal common law applied in a manner which recognizes that (1) many Indian people consider their reservation to be their domicile even when absent for extended periods and (2) the intent of the Act is to defer to tribal jurisdiction whenever possible;

"(3) 'family' includes extended family members and shall be as defined by the law or custom of the Indian child's tribe or, in the absence of such law or custom, includes any person who has reached the age of eighteen and who, by blood or marriage, is the Indian child's grandparent, aunt or uncle, brother or sister, brother-in-law or sister-in-law, niece or nephew, first or second cousin, or stepparent;

"(4) 'Indian' means any person who is a member of an Indian or Alaska Native tribe (including any Alaska Native village), or who is an Alaska Native and a member of a Regional Corporation as defined in Section 7 of the Alaska Native Claims Settlement Act (85 Stat. 688,689), any person of Indian or Alaska Native descent who is considered by an Indian or Alaska Native tribe to be a part of its community, or for purposes of section 107, any person who is seeking to determine eligibility for tribal membership;

"(5) 'Indian child' means any unmarried person who is under age eighteen and is—

"(a) a member of an Indian tribe, or

"(b) is eligible for membership in an Indian tribe, or

"(c) is of Indian descent and is considered by an Indian tribe to be part of its community, or, for purposes of section 107, any person who is seeking to determine eligibility for tribal membership; if a child is an infant he or she is considered to be part of a tribal community if either parent is so considered;

"(6) 'Indian child's tribe' means—

"(a) the Indian tribe in which an Indian child is a member or eligible for membership, or

"(b) in the case of an Indian child who is a member of or eligible for membership in more than one tribe, the Indian tribe with which the Indian child has the more significant contacts. For any of the purposes of this Act, the tribe with the more significant contacts may designate as the Indian child's tribe another tribe in which the child is a member or eligible for membership with the consent of that tribe;

"(7) 'Indian custodian' means any Indian person who has custody of an Indian child under tribal law or custom or legal custody under State law or to whom physical care, custody, and control has been voluntarily transferred by the parent of such child;

"(8) 'Indian organization' means any group, association, partnership, corporation, or other legal entity owned or controlled by Indians, or a majority of whose members are Indians;

"(9) 'Indian Tribe' means any Indian or Alaska Native tribe, band, nation, village or other organized group or community of Indians recognized as eligible for the services provided to Indians or Alaska Natives by the Secretary because of their status as Indians or Alaska Natives, including any Alaska Native village as defined in section 3(c) of the Alaska Native Claims Settlement Act (85 Stat. 688,689), as amended, those tribes, bands, nations, or groups terminated since 1940 who maintain a representative organization, and for the purposes of sections 101(c), 102, 103, 104, 105, 106, 107, 110, 111 and 112 of this Act, those tribes, bands, nations or other organized groups that are recognized by the Government of Canada or any province or territory thereof;

"(10) 'parent' means any biological parent or parents of an Indian child or any Indian person who has lawfully adopted an Indian child, including adoptions under tribal law or custom. Except for the purposes of sections 103 (c) and (d), 104, 105(f), 106 (a) and (b), 107, 301, the term parent shall not include any person whose parental rights have been terminated. It includes the unwed father where paternity has been established under tribal or state law, or recognized in accordance with tribal custom, or openly proclaimed to the court, the child's family, or a child placement or adoption agency. For the purpose of section 102(a), it also includes an unwed father whose paternity has not been so established, recognized or proclaimed.

"(11) 'qualified expert witness' means—

"(a) a member of the Indian child's tribe who is recognized by the tribal community as knowledgeable in tribal customs as they pertain to family organization and childrearing practices; or

"(b) a person having substantial experience in the delivery of child and family services to Indians, and extensive knowledge of prevailing social and cultural standards and childrearing practices within the Indian child's tribe; or

"(c) a professional person having substantial education and experience in the area of his or her specialty and who has general knowledge of prevailing Indian social and cultural standards and childrearing practices;

"(12) 'reservation' means Indian country as defined in section 1151 or title 18, United States Code and any lands, not covered under such section, title to which is either held by the United States in trust for the benefit of any Indian tribe or individual or held by any Indian tribe or individual subject to a restriction by the United States against alienation;

"(13) 'residence' shall be defined by the tribal law or custom of the Indian child's tribe, or in the absence of such law or custom, shall be defined as a place of general abode or a principal, actual dwelling place of a continuing or lasting nature;

"(14) 'Secretary' means the Secretary of the Interior; and

"(15) 'tribal court' means a court with jurisdiction over child custody proceedings and which is either a Court of Indian Offenses, a court established and operated under the code or custom of an Indian tribe, or any other administrative body of a tribe which is vested with authority over child custody proceedings.

"TITLE I—CHILD CUSTODY PROCEEDINGS

"JURISDICTION OVER INDIAN CHILD CUSTODY PROCEEDINGS

"SEC. 101. (a) Notwithstanding any other Federal law to the contrary, an Indian tribe shall have exclusive jurisdiction over any child custody proceeding involving an Indian child who resides or is domiciled within the reservation of such tribe, except where concurrent jurisdiction over voluntary child custody proceedings may be otherwise vested in the State by existing Federal law. Where an Indian child is a ward of a tribal court, the Indian tribe shall retain exclusive jurisdiction, notwithstanding the residence or domicile of the child.

"(b) In any State court child custody proceeding involving an Indian child not subject to the exclusive jurisdiction of a tribe, the court, shall transfer such proceeding to the jurisdiction of the Indian child's tribe absent an unrevoked objection by either parent determined to be consistent with the best interests of the child as an Indian, upon the oral or written request of either parent or the Indian custodian or the Indian child's tribe: Provided, That the court may deny such transfer of jurisdiction where the request to transfer was not made within a reasonable time after receiving notice of the hearing and the proceeding is at an advanced adjudicatory stage: Provided further, That such transfer shall be subject to declination by the tribal court of such tribe and that an oral or written request to transfer must be expressly revoked for such request to be deemed abandoned: Provided further, That a parent whose rights have been terminated or who has consented to an adoption may not object to transfer.

"(c) In any State child custody proceeding involving an Indian child, and any State administrative or judicial proceeding to review the foster care, preadoptive or adoptive placement of the child, the Indian custodian of the child, the parent of the child, and the Indian child's tribe shall have a right to intervene at any point in the proceeding. The Indian custodian, the parent, except as provided above, an the Indian child's tribe shall also have a right to intervene in any administrative or judicial proceeding under State law to review the foster care, preadoptive or adoptive placement of an Indian child. The Indian child's tribe may authorize an Indian organization or other Indian tribe to intervene on its behalf.

"(d) Whenever a non-tribal social services agency determines that an Indian child is in any situation that could lead to a foster care placement, preadoptive placement or adoptive placement and which requires the continued involvement of the agency with the child for a period in excess of 30 days, the agency shall send written notice of the condition and of the initial steps taken to remedy it to the Indian child's tribe within seven days of the determination. The tribe shall have the right to examine and copy all reports or other documents involving the child. The State agency shall not be liable for any harm resulting from its release of information to the tribe.

"(e) The United States, every State, every territory or possession of the United States, and every Indian tribe shall give full faith and credit to the public acts, records, and judicial proceedings of any Indian tribe applicable to Indian child custody proceedings to the same extent that such entities give full faith and credit to the public acts, records, and judicial proceedings of any other entity. Differences in tribal practice and procedure that do not affect the fundamental fairness of the proceeding shall not be cause to deny full faith and credit to a tribal judicial proceeding. Full faith and credit may not be denied to a tribal proceeding without first providing an opportunity for the tribe to cure any alleged defect in practice or procedure.

"(f) Nothing in this section shall be construed to authorize a State to refuse to offer social services to Indians whether resident or domiciled on or off the reservation to the same extent that such State makes services available to all of its citizens.

"STATE COURT STANDARDS AND PROCEDURES

"SEC. 102. (a) In any involuntary child custody proceedings in a State court, where the court or the petitioner knows or has reason to know that an Indian child is involved, the party seeking the foster care, preadoptive or adoptive placement of, or termination of parental rights to, an Indian child, or who otherwise has initiated a child custody proceeding, shall notify the parent, Indian custodian, if any, and the Indian child's tribe, by registered mail with return receipt requested, of the pending proceedings, of their right of intervention, and of their right to petition or request the court to transfer the case to tribal court. Whenever an Indian child is eligible for membership in more than one tribe, each such tribe shall receive notice of the pending proceeding. If the identity or location of the parent or Indian custodian and the tribe cannot be determined after reasonable inquiry of the parent, custodian and child, such notice shall be given to the Secretary in like manner, who shall have fifteen days after receipt to provide the requisite notice to the parent or Indian custodian and the tribe. No involuntary child custody proceeding shall be held until at least fifteen days after receipt of notice by the parent or Indian custodian and the tribe or until at least thirty days after receipt of notice by the Secretary: Provided, That the parent or Indian custodian or the tribe shall, upon request, be granted up to twenty additional days to prepare for such proceeding, and adequate time to obtain counsel.

"(b) In any case in which the court or, in the case of an administrative proceeding, the administrator of the State agency determines indigency, the parent or Indian custodian shall have the right to court-appointed counsel in any involuntary child custody proceeding. The court may, in its discretion, appoint counsel for the child upon a finding that such appointment is in the best interest of the child. Where State law makes no provision for appointment of counsel in such proceedings, the court or State agency shall promptly notify the Secretary upon appointment of counsel, and the Secretary, upon certification of the presiding judge or, where applicable, the administrator of the State agency, shall pay reasonable fees and expenses out of funds which may be appropriated pursuant to the Act of November 2, 1921 (42 Stat. 208; 25 U.S.C. 13). The Secretary shall also pay the reasonable fees and expenses of qualified expert witnesses retained on behalf of an indigent parent or Indian custodian.

"(c) Each party in any child custody proceeding under State law involving an Indian child shall have the right to examine and copy all reports or other documents involving the child who is the subject of the proceeding. The State agency shall not be liable to a party for any harm resulting from its release of information to the tribe.

"(d) Any party seeking to effect a foster care, preadoptive or adoptive placement of, or termination of parental rights to, an Indian child under State law shall satisfy the court that active, culturally appropriate efforts, including efforts to involve the Indian child's tribe, extended family and off-reservation Indian organizations, where applicable, have been made to provide remedial services and rehabilitative programs designed to prevent such placement or termination of parental rights and that these efforts have proved unsuccessful. Except for emergency placements pursuant to section 112 of this Act, in any case involving a non-tribal social services agency, no foster care, preadoptive or adoptive placement proceeding shall be commenced until the requirements of section 101(d) of this Act have been satisfied.

"(e) No foster care placement may be ordered in such proceeding in the absence of a determination, supported by clear and convincing evidence, including testimony of qualified expert witnesses, that custody of the child by the parent or Indian custodian is likely to result in serious emotional or physical damage to the child. The clear and convincing evidence and qualified expert witnesses requirements shall apply to any and all findings which the court makes which are relevant to its determination as to the need for foster care, including the finding required by subsection (d) of this section.

"(f) No termination of parental rights may be ordered in such proceeding in the absence of a determination, supported by evidence beyond a reasonable doubt, including testimony of qualified expert witnesses, that custody of the child by the parent or Indian custodian is likely to result in serious emotional or physical damage to the child. The beyond a reasonable doubt and qualified expert witnesses requirements shall apply to any and all findings which the court makes which are relevant to its determination as to the need to terminate parental rights, including the finding required by subsection (d) of this section.

"(g) Evidence that only shows the existence of community or family poverty, crowded or inadequate housing, alcohol abuse, or non-conforming social behavior does not constitute clear and convincing evidence or evidence beyond a reasonable doubt that custody by the parent or Indian custodian is likely to result in serious emotional or physical damage to the child. To meet the burden of proof, the evidence must show the direct causal relationship between particular conditions and the serious emotional or physical damage to the child that is likely to result from the conduct of the parent or Indian custodian.

"(h) Any order for the foster care placement, termination of parental rights, preadoptive placement or adoptive placement shall protect the children's future opportunity to learn their tribal identity and heritage, and to take advantage of their tribe's cultural resources, including, to the extent possible and appropriate, provision for continued contacts between the children and their parents, family, and tribe.

"VOLUNTARY PROCEEDINGS

"SEC. 103. (a)(1) Where any parent or Indian custodian voluntarily consents to a foster care placement, termination of parental rights, or adoption under state law, such consent shall not be valid unless executed in writing and recorded before a judge of a court with jurisdiction and accompanied by the presiding judge's certificate that the terms and consequences of the consent and the relevant provisions of this Act were fully explained in detail and were fully understood by the parent or Indian custodian. The court shall also certify that the parent and Indian custodian, if any, fully understood the explanation in English or that it was interpreted into a language that the parent or Indian custodian understood. Any consent given prior to, or within ten days after birth of the Indian child shall not be valid.

"(2) At least ten days prior to any State court proceeding to validate a voluntary consent where the state has jurisdiction to validate the consent, the court shall notify the Indian child's tribe, and the non-consenting parent, if any, by registered mail, return receipt requested, of the pending-consent validation proceeding, of their right to intervention in the validation and any subsequent child custody proceeding, and of their right to petition or request the court to transfer the case to tribal court. A request for confidentiality shall not be reason to withhold notice from the tribe. The court shall also certify that active, culturally appropriate efforts, including efforts to involve the Indian child's tribe, extended family and off-reservation Indian organizations, where applicable have been offered remedial services and rehabilitation programs designed to prevent the break-up of the Indian family and that these efforts have proved unsuccessful.

"(3) Consent to a foster care placement, termination of parental rights, preadoptive placement or adoptive placement shall not be deemed abandonment of the child by the parent or Indian custodian. Such consent by a parent or Indian custodian shall not affect the rights of other Indian relatives to custody under tribal law or custom or this Act. Any voluntary consent pursuant to this section shall not be admissible as evidence in any proceeding under section 102 of this Act.

"(4) The Secretary of Health and Human Services shall take appropriate action to ensure that all Indian Health Service personnel are informed of and comply with the provisions of this section.

"(b) Any parent or Indian custodian may withdraw consent to a foster care placement under State law at any time and, upon such withdrawal, the child shall be returned immediately to the parent or Indian custodian unless returning the child to his or her parent or custodian would subject the child to a substantial and immediate danger of serious physical harm or threat of such harm by such parent or Indian custodian. The pendency of an involuntary child custody proceeding shall not be grounds to refuse to return the child to the parent or Indian custodian.

"(c) In any voluntary proceeding for termination of parental rights to, or adoptive placement of, an Indian child, the consent of the parent or Indian custodian may be withdrawn for any reason at any time prior to the entry of a final decree of adoption, and the child shall be immediately returned to the parent or Indian custodian would subject the child to a substantial and immediate danger of serious physical harm or threat of such harm by such parent or Indian custodian. The pendency of an involuntary child custody proceeding shall not be grounds to refuse to return the child to the parent or Indian custodian.

"(d) After the entry of a final decree of adoption of an Indian child in any State court, the parent may withdraw consent thereto upon the grounds that consent was obtained through fraud or duress and may petition the court to vacate such decree. Upon a finding based upon a preponderance of the evidence that such consent was obtained through fraud or duress, the court shall vacate such decree of adoption and return the child to the parent. Unless otherwise permitted under State law, no adoption may be invalidated under the provisions of this subsection unless the parent or Indian custodian has petitioned the court within two years of the entry of the final decree of adoption.

"CHALLENGES BASED ON VIOLATIONS OF ACT

"SEC. 104. (a) In any child custody proceeding under State law, the Indian child, any parent, any Indian custodian from whose custody the child was removed, or the Indian child's tribe may (i) move to vacate or set aside any aspect of the proceeding which may have violated this Act, or (ii) bring an independent action to invalidate the proceeding in any court which has jurisdiction over the parties. Any member of the Indian child's family shall have the right to intervene in a proceeding pursuant to this section. In case of an alleged violation of section 105 of this Act, any member of the child's family shall have standing under this section to bring an independent action to challenge the placement.

"(b) Notwithstanding any law to the contrary, federal courts shall have jurisdiction to review any final decree of a State court which is alleged to be in violation of this Act, upon a petition for writ of habeas corpus brought under 28 U.S.C. 2254 or an independent action brought by any party withstanding to pursue such an action pursuant to section (a).

"(c) The court shall, upon request, hear any motion or action brought under this section or any appeal from a decision in a child custody proceeding on an expedited basis.

"PLACEMENT GOALS IN STATE COURT PROCEEDINGS

"SEC. 105. (a) All placements of Indian children shall seek to protect the rights of Indian children as Indians and the rights of the Indian community and tribe in having its children in its society.

"(b) Any adoptive placement of an Indian child under State law shall be made in accordance with the order of placement established by the child's tribe by resolution, or in the absence of such resolution, with the following order of placement: (1) a member of the child's family; (2) other members of the Indian child's tribe; or (3) other Indian families, except as provided in subsections (d) and (e).

"(c) Any child accepted for foster care or preadoptive placement shall be placed (1) in the least restrictive setting which most approximates a family and (2) within reasonable proximity to his or her home. Except as provided in subsections (d) and (e) below, any foster care or preadoptive placement shall be made in accordance with the following order of placement unless the child's tribe has established a different order of placement by resolution:

"(i) a member of the Indian child's family;

"(ii) a foster home licensed, approved, or specified by the Indian child's tribe;

"(iii) an Indian foster home licensed or approved by an authorized non-Indian licensing authority; or

"(iv) an institution for children approved by an Indian tribe or operated by an Indian organization which has a program suitable to meet the Indian child's needs.

"(d) Any placement established under subsection (b) or (c) of this section may be varied, so long as it remains consistent with subsection (a) of this section, where (1) the child is at least age 12 and of sufficient maturity and requests a different placement; or (2) the child has extraordinary physical or emotional needs, as established by the testimony of expert witnesses, that cannot be met through a placement within the order of placement, or (3) families within such order of placement are unavailable after diligent search has been completed, as provided for in subsections (f) and (g), for a family within the order of placement.

"(e) A placement preference expressed by the Indian child's parent or Indian custodian, or a request that the consenting parent's identity remain confidential, shall be considered so long as the placement is made with one of the persons or institutions listed in subsections (b) or (c), or one of the exceptions contained in subsection (d) applies. A request for confidentiality shall not be grounds for withholding notice from the Indian child's tribe, provided that notice of the proceeding shall include a reference to the request.

"(f) Notwithstanding any State law to the contrary, the standards to be applied in meeting the placement requirements of this section shall be the prevailing social and cultural standards of the Indian community in which the parent or family resides or with which the parent or family members maintain social and cultural ties. If necessary to comply with this section, a State shall promulgate, in consultation with the affected tribes, separate state licensing standards for foster homes servicing Indian children and shall place Indian children in homes licensed or approved by the Indian child's tribe or an Indian organization.

"(g) A record of each such placement, under State law, of an Indian child shall be maintained by the State in which the placement was made, evidencing the efforts to comply with the order of placement specified in this section. Such efforts must include, at a minimum, contacting the tribe prior to placement to determine if it can identify placements within the order of placement, notice to all family members that can be located through reasonable inquiry of the parent, custodian, child and Indian child's tribe, a search of all county or state listings of available Indian homes and contact with local Indian organizations, the Department of Interior's Bureau of Indian Affairs and nationally known Indian programs with available placement resources. The record of the State's compliance efforts shall be made available at any time upon the request of the Secretary or the Indian child's tribe.

"SUBSEQUENT PLACEMENTS OR PROCEEDINGS

"SEC. 106. (a) Notwithstanding State law to the contrary, whenever a final decree of adoption of an Indian child has been vacated or set aside or the adoptive parent's parental rights to the child have been terminated, the public or private agency or individual seeking to place the child, in accordance with the provisions of section 102(a), shall notify the biological parents; prior Indian custodians and the Indian child's tribe of the pending placement proceedings, their right of intervention, and their right to petition for return of custody. The court shall grant the petition for return of custody of the parent or Indian custodian, as the case may be, unless there is a showing, in a proceeding subject to subsections (e) and (f) of Section 102 of this Act, that such return of custody is not in the best interests of the child. Whenever an Indian child who has been adopted is later placed in foster care, the Indian child's tribe shall be notified and have the right to intervene in the proceeding.

"(b) In the event that the court finds that the child should not be returned to the biological parents or prior Indian custodian, placement shall be made in accordance with the order of placement in section 105. For the purposes of this section family shall include the family of the biological parents or prior Indian custodian.

"(c) Whenever an Indian child is removed from a foster care home or institution for the purpose of further foster care, preadoptive, or adoptive placement, or when review of any such placement is scheduled, such placement shall be in accordance with the provisions of this Act, including prior notice to the child's biological parents and prior Indian custodian, and the Indian child's tribe, except in the case where an Indian child is being returned to the parent or Indian custodian from whose custody the child was originally removed.

"TRIBAL AND FAMILY AFFILIATION; DISCLOSURE BY COURT

"SEC. 107. An adopted Indian individual who has reached the age of eighteen, the Indian child's tribe or the Indian child's adoptive parents, may apply to the court which entered the final decree of adoption for the release of information regarding the individual's biological parents and family and their tribal affiliation, if any. Based upon court records or records subject to court order, the court shall inform the individual of the names and tribal affiliation of his or her biological parents. The court shall also provide any other information as may be necessary to protect the rights flowing from the individual's tribal relationship.

"REASSUMPTION OF EXCLUSIVE TRIBAL JURISDICTION

"SEC. 108. (a) Any Indian tribe which became subject to State concurrent jurisdiction over voluntary child custody proceedings pursuant to the provisions of the Act of August 15, 1953 (67 Stat. 588), as amended by title IV of the Act of April 11, 1968 (82 Stat. 73, 78), or pursuant to any other Federal law, may reassume exclusive jurisdiction over all voluntary child custody proceedings. Before any Indian tribe may reassume jurisdiction over voluntary Indian child custody proceedings, such tribe shall present to the Secretary for approval a petition to reassume such jurisdiction which includes a suitable plan to exercise such jurisdiction.

"(b)(1) In considering the petition and feasibility of the plan of a tribe under subsection (a), the Secretary may consider, among other things:

"(i) whether or not the tribe maintains a membership roll or alternative provision for clearly identifying the persons who will be affected by the reassumption of jurisdiction by the tribe;

"(ii) the size of the reservation or former reservation area which will be affected by retrocession or reassumption of jurisdiction by the tribe;

"(iii) the population base of the tribe, or distribution of the population in homogeneous communities or geographic areas; and

"(iv) the feasibility of the plan in cases of multitribal occupation of a single reservation or geographic area.

"(2) In those cases where the Secretary determines that full jurisdiction is not feasible, he is authorized to accept partial retrocession which will enable tribes to exercise exclusive jurisdiction over voluntary placements in limited community or geographic areas without regard for the reservation status of the area affected.

"(c) If the Secretary approves any petition under subsection (a), the Secretary shall publish notice of such approval in the Federal Register and shall notify the affected State or States of such approval. If the Secretary disapproves any petition under subsection (a), the Secretary shall provide such technical assistance as may be necessary to enable the tribe to correct any deficiency which the Secretary identified as a cause for disapproval. The Indian tribe concerned shall reassume exclusive jurisdiction over all voluntary placements of all Indian children residing or domiciled on the reservation sixty days after publication in the Federal Register of notice of approval.

"(d) Assumption of jurisdiction under this section shall not affect any action or proceeding over which a court has already assumed jurisdiction, except as may be provided pursuant to any agreement under section 109 of this Act or as otherwise provided in the notice of the Secretary.

"AGREEMENTS BETWEEN STATES AND INDIAN TRIBES

"SEC. 109. (a) States and Indian tribes are authorized to enter into agreements with each other respecting care and custody of Indian children and jurisdiction over child custody proceedings, including agreements which may provide for orderly transfer of jurisdiction on a case-by-case basis and agreements which provide for concurrent jurisdiction between States and Indian tribes. Nothing in this section or in section 108 of this Act shall be construed as in any way diminishing or altering the inherent powers of Indian tribes over children's proceedings.

"(b) Such agreements may be revoked by either party upon one hundred and eighty days' written notice to the other party. Such revocation shall not affect any action or proceeding over which a court has already assumed jurisdiction, unless the agreement provides otherwise.

"IMPROPER REMOVAL OF CHILD FROM CUSTODY

"SEC. 110. (a) Where any petitioner in an Indian child custody proceeding before a State court has improperly removed the child from custody of the parent or Indian custodian or has improperly retained custody after a visit or other temporary relinquishment of custody, the court shall decline jurisdiction over such petition and shall forthwith return the child to his parent or Indian custodian unless returning the child to his parent or custodian would subject the child to a substantial and immediate danger or threat of such danger.

"(b) In any instance where a child has been improperly removed or retained by an individual or entity, the parent or Indian custodian from whose custody the child was removed and the child's tribe may petition any court with jurisdiction for return of the child in accordance with this section.

"HIGHER STATE OR FEDERAL STANDARDS TO APPLY

"SEC. 111. (a) An Indian parent or custodian may not waive any of the provisions of this Act.

"(b) In any case where State or Federal law applicable to a child custody proceeding under State or Federal law provides a higher standard of protection to the rights of the parent or Indian custodian of an Indian child than the rights provided under this title, the State or Federal court shall apply the State or Federal standard.

"EMERGENCY REMOVAL AND PLACEMENT OF CHILD

"SEC. 112. (a) Regardless of whether a child is subject to the exclusive jurisdiction of an Indian tribe, when a child is located off the tribe's reservation nothing in this title shall be construed to prevent the emergency removal of an Indian child from his parent or Indian custodian or the emergency placement of such child in a foster home or institution, under applicable State law, in order to prevent imminent physical damage or harm to the child. The State authority, official, or agency involved shall insure that the emergency removal or placement terminates immediately when such removal or placement is no longer necessary to prevent imminent physical damage or harm to the child. Wherever possible, the child shall be placed within the order of placement provided for in section 105 of this Act.

"(b) No later than the time permitted by State law, and in no event later than three days (excluding Saturday, Sunday and legal holidays) following the emergency removal, the State authority, agency or official must obtain a court order authorizing continued emergency physical custody. If the Indian child has not been restored to its parent or Indian custodian within 10 days following the emergency removal, the State authority, agency or official, shall—

"(1) commence a State court proceeding for foster care placement if the child is not resident or domiciled on an Indian reservation and is not a ward of the tribal court, or

"(2) transfer the child to the jurisdiction of the appropriate Indian tribe if the child is resident or domiciled on an Indian reservation or ward of the tribal court.

"Notwithstanding the filing of a petition for a foster care placement of the child, the State agency, authority or official shall continue active efforts to prevent the continued out-of-home placement of the child. No emergency custody order shall remain in force or in effect for more than thirty (30) days without determination by the appropriate court, in accordance with section 102(e) of this Act in the case of a State court, that foster care placement of the child is appropriate: Provided, That in any case where the time requirements in section 102(a) do not permit a child custody proceeding to be held within 30 days, the emergency custody order may remain in force for a period not to exceed three days after the first possible date on which the proceeding may be held pursuant to section 102(a).

"(c) Emergency removal under this section shall not impair the exclusive jurisdiction of the tribe.

"EFFECTIVE DATE

"SEC. 113. None of the provisions of this title, except section 101(a), 108, and 109 shall affect a proceeding under State law for foster care placement, termination of parental rights, preadoptive placement, or adoptive placement which was initiated or completed prior to one hundred and eighty days after the enactment of this Act, but shall apply to any subsequent proceeding in the same matter or subsequent proceedings affecting the custody or placement of the same child.

"INDIAN CHILD WELFARE COMMITTEES

"SEC. 114. The Secretary shall establish Indian Child Welfare committees consisting of not less than three persons for each area office. The committees shall monitor compliance with this Act on an on-going basis. Appointments to the committees shall be made for a period of three years and shall be chosen from a list of nominees furnished, from time to time, by Indian tribes and organizations. Each committee shall be broadly representative of the diverse tribes located in its area.

"COMPLIANCE BY PRIVATE CHILD PLACEMENT AGENCIES

"SEC. 115. In licensing any private child placement agency, any state in which either (1) a Federally-recognized Indian tribe is located or (2) there is an Indian population of more than 10,000, shall include compliance with this Act by the private agency as a condition of continued licensure and shall annually audit such agencies to ensure that they are in compliance. The audit report shall be made available upon the request of the Secretary or any tribe.

"ABORIGINAL PEOPLES OF CANADA

"SEC. 116. (a) Except as provided by this section, the provisions of sections 101(c), 102, 103, 104, 105, 106, 107, 110, 111 and 112 of this Act shall also apply to the aboriginal peoples of Canada and their children.

"(b) The 'Indian child's tribe,' in the case of aboriginal peoples of Canada, shall be the child's Indian Act band or, if neither the child nor its parents are members of any band, the aboriginal government or most appropriate regional aboriginal organization with which the child's parents are connected by their origins or residence.

"(c) Indian Act bands, other aboriginal governments, and regional aboriginal organizations may by resolution designate aboriginal organizations in Canada, or Indian tribes or Indian organizations in the United States, as agents for the purposes of this Act. Resolutions to this effect shall be delivered to, and promptly acknowledged by the Secretary, who shall publish a list of such designations annually in the Federal Register.

"(d) For the purposes of section 102(a) of this Act, notice shall also be given to the Minister of the Government of Canada who is responsible for Indians and lands reserved for Indians.

"(e) In any State court child custody proceeding involving an aboriginal Canadian child, the court shall permit the removal of such case to the aboriginal, provincial, or territorial court in Canada which exercises primary jurisdiction over the territory of the child's tribe, upon a petition, and absent unrevoked parental objections, as is provided for in other cases by section 101(b) of this Act.

"TITLE II—INDIAN CHILD AND FAMILY PROGRAMS

"GRANTS FOR PREVENTIVE PROGRAMS ON OR NEAR RESERVATIONS

"SEC. 201. (a) The Secretary shall make grants to Indian tribes and organizations in the establishment and operation of Indian child and family service programs on or near reservations and in the preparation and implementation of child welfare codes. The objective of every Indian child and family service program shall be to prevent the breakup of Indian families and, in particular, to insure that the permanent removal of an Indian child from the custody of his parent or Indian custodian shall be a last resort. Such child and family service programs, in accordance with priorities established by the tribe, may include, but are not limited to—

"(1) a system for licensing or otherwise regulating Indian foster and adoptive homes;

"(2) the operation and maintenance of facilities for the counseling and treatment of Indian families and for the temporary custody of Indian children;

"(3) family assistance, including homemaker and home counselors, day care, afterschool care, and employment, recreational activities, cultural and family-enriching activities and respite care;

"(4) home improvement programs;

"(5) the employment of professional and other trained personnel to assist the tribal court in the disposition of domestic relations and child welfare matters;

"(6) education and training of Indians, including tribal court judges and staff, in skills relating to child and family assistance and service programs;

"(7) a subsidy program under which Indian adoptive child may be provided support comparable to that for which they would be eligible as foster children, taking into account the appropriate State standards of support for maintenance and medical needs; and

"(8) guidance, legal representation, and advice to Indian families and tribes involved in tribal, State, or Federal child custody proceedings.

"(b) Funds appropriated for use by the Secretary in accordance with this section may be utilized as non-Federal matching share in connection with funds provided under titles IV-B and XX of the Social Security Act or under any other Federal financial assistance programs which contribute to the purpose for which such funds are authorized to be appropriated for use under this Act. The provision or possibility of assistance under this Act shall not be a basis for the denial or reduction of any assistance otherwise authorized under titles IV-B and XX of the Social Security Act of any other federally assisted program. Placement in foster or adoptive homes or institutions licensed or approved by an Indian tribe, whether the homes are located on or off the reservation, shall qualify for assistance under federally assisted programs, including the foster care and adoption assistance program provided in title IV-E of the Social Security Act (42 U.S.C. 670 et seq.).

"(c) In lieu of the requirements of subsections 10, 14 and 16 of section 471 of the Social Security Act (42 U.S.C. 671 (10), (14) and (16)), Indian tribes may develop their own systems for foster care licensing, development of case plans and case plan reviews consistent with tribal standards.

"GRANTS FOR OFF-RESERVATION PROGRAMS

"Sec. 202. The Secretary shall also make grants to Indian organizations to establish and operate off-reservation Indian child and family service programs which, in accordance with priorities set by the Indian organizations may include, but are not limited to—

"(1) a system for regulating, maintaining, and supporting Indian foster and adoptive homes, including a subsidy program under which Indian adoptive children may be provided support comparable to that for which they would be eligible as Indian foster children, taking into account the appropriate State standards of support for maintenance and medical needs;

"(2) the operation and maintenance of facilities and services for counseling and treatment of Indian families and Indian foster and adoptive children;

"(3) family assistance, including homemaker and home counselors, day care, afterschool care, and employment, recreational activities, and respite care; and

"(4) guidance, legal representation, and advice to Indian families involved in child custody proceedings.

"FUNDS FOR IMPLEMENTATION OF ACT

"Sec. 203. (a) In the establishment, operation, and funding of Indian child and family service programs, both on and off reservation, the Secretary shall enter into agreements with the Secretary of Health and Human Services, and the latter Secretary is hereby authorized and directed to use funds appropriated for similar programs of the Department of Health and Human Services for such purpose.

"(b) Funds for the purposes of this Act may be appropriated pursuant to the provisions of the Act of November 2, 1921 (42 Stat. 208), as amended. In addition, Congress may appropriate such sums as may be necessary to provide Indian child welfare training to Federal, State and Tribal judges, court personnel, social workers and child welfare workers, including those employed by agencies licensed by a State.

"(c) Indirect and administrative costs relating to a grant awarded pursuant to this Title shall be paid out of Indian Contract Support funds. One hundred per centum (100%) of the sums appropriated by Congress to carry out the provisions and purposes of this Act shall be awarded to tribes or Indian organizations.

"'INDIAN' DEFINED FOR CERTAIN PURPOSES

"Sec. 204. For the purposes of sections 202 and 203 of this title, the term 'Indian' shall include persons defined in section 4(c) of this Indian Health Care Improvement Act of 1976 (90 Stat. 1400, 1402).

"TITLE III—RECORDKEEPING, INFORMATION AVAILABILITY, AND TIMETABLES

"STATE REPORTS

"Sec. 301. (a) Any State court entering a final decree or order in any Indian child adoptive placement after the date of enactment of this Act shall provide the Secretary and the Indian child's tribe with a copy of such decree or order together with such other information as may be necessary to show—

"(1) the name and tribal affiliation of the child;

"(2) the names and addresses of the biological parents;

"(3) the names and addresses of the adoptive parents; and

"(4) the identity of any agency having files or information relating to such adoptive placement.

"No later than 120 days after enactment of this bill, the administrative body for each State court system shall designate an individual or individuals who will be responsible for ensuring State court compliance with this Act. All information required by this subsection relating to decrees of adoption entered after May 8, 1979, shall be complied and forwarded to the Secretary and Indian child's tribe no later than January 1, 1989. Where the court records contain an affidavit of the biological parent or parents that their identity remain confidential, the court shall include such affidavit with the other information. The Secretary shall insure that the confidentiality of such information is maintained and such information shall be not subject to the Freedom of Information Act (5 U.S.C. 552), as amended.

"(b) Upon the request of the adopted Indian child over the age of eighteen, the adoptive or foster parents of an Indian child, or any Indian tribe, the Secretary shall disclose such information as may be held by the Secretary pursuant to subsection (a) of this section. Where the documents relating to such child contain an affidavit from the biological parent or parents requesting that their identity remain confidential and the affidavit has not been revoked, the Secretary shall provide to the Indian child's tribe, where such information about the child's parentage and other circumstances of birth as required by such tribe to determine the child's eligibility for membership under the criteria established by such tribe.

"(c) No later than February 15 of each year, the Secretary shall obtain from each State a list of all Indian children in foster care, preadoptive or adoptive placement as of December 31 of the previous year. The list shall include the name of the Indian child's tribe, the name and address, if known, of the child's biological parents and prior Indian custodian, if any, the names and addresses of the parties having legal and/or physical custody of the child and the current legal status of the child, biological parents and prior Indian custodian. Within 10 days of the submission of the list to the Secretary, the state shall provide to each tribe all information on the list pertaining to the children of such tribe.

"RULES AND REGULATIONS

"Sec. 302. Within one hundred and eighty days after the enactment of this Act, the Secretary shall promulgate such rules and regulations as may be necessary to carry out the provisions of this Act. In promulgating such rules and regulations, the Secretary shall consult with national and regional Indian organizations and with Indian tribes.".

SEC. 3. CONFORMING AMENDMENTS TO RELATED ACTS.

(a) Section 408(a) of Title IV of the Social Security Act (42 U.S.C. 608(a)) is amended—

(1) by striking out at the end of subsection (2)(A) the word "or"

(2) by adding after subsection (2)(B) the following clause "or (C) in the case of an Indian child, as defined by subsection (4) of the Indian Child Welfare Act (25 U.S.C. 1903(4)), the Indian child's tribe as defined in subsections 4(5) and (8) of that Act (25 U.S.C. 1903(5) and (8)),".

(b) Section 422 of Title IV of the Social Security Act (42 U.S.C. 622) is amended by adding after and below clause (8) the following new clause:

"(9) include a comprehensive plan, developed in consultation with all tribes within the State and in-state Indian organizations (with social services programs), as defined by section 4(7) of the Indian Child Welfare Act (25 U.S.C. 1903(7)), to ensure that the State fully complies with the provisions of the Indian Child Welfare Act."

(c) Section 471 of Title IV of the Social Security Act (42 U.S.C. 671) is amended by adding after and below clause (17) the following new clause:

"(18) provides for a comprehensive plan, developed in consultation with all tribes within the State and in-state Indian organizations (with social services programs), as defined by section 4(7) of the Indian Child Welfare Act (25 U.S.C. 1903(7)), to ensure full compliance with the provisions of the Indian Child Welfare Act. As part of the plan, the State shall make active efforts to recruit and license Indian foster homes and, in accordance with section 201 of the Indian Child Welfare Act (25 U.S.C. 1931), and provide for the placement of and reimbursement for Indian children in tribally licensed or approved facilities."

SEC. 4. EFFECTIVE DATE.

The amendments made by this Act shall take effect 90 days after enactment.

SEC. 5. NOTICE.

Within 45 days after enactment of these amendments, the Secretary shall send to the Governor, chief justice of the highest court of appeal, the attorney general, and the director of the Social Service agency of each State and tribe a copy of these amendments, together with committee reports and an explanation of the amendments.

SEC. 6. SEVERABILITY.

If any of these amendments or the applicability thereof is held invalid, the remaining provisions of this Act shall not be affected thereby.

PURPOSE OF INDIAN CHILD WELFARE ACT AMENDMENTS

1. Clarify and expand coverage of the Act. All children enrolled or eligible for enrollment are covered by the Act; previous residency in an Indian environment is not a requirement of the Act; putative fathers need not take formal legal action to acknowledge paternity; and, amendments expand the Act to provide coverage to Canadian Indian chil-

dren for the purpose of notice, burdens of proof and placements, but not for purposes of jurisdiction.

2. Increase tribal involvement and control. The amendments clarify transfer provisions by defining what constitutes good cause not to transfer; clarify that all tribes have exclusive jurisdiction over children domiciled or resident on the reservation; clarify that tribally-licensed foster care homes are eligible for Title IV-E foster care payments; and, expand requirements for involvement of tribal social services programs in any case where continued state involvement with an Indian child is expected, including a requirement that such services and other tribal resources be brought to bear before removal of a child, except in emergency circumstances.

3. Keep families intact whenever possible. Proposed changes require that tribal services be utilized; allow for appointed counsel for families in administrative proceedings; testimony from culturally sensitive expert witnesses as a prerequisite to removal of a child; pose additional safeguards to ensure that all consents to out-of-home placements are truly voluntary; and, make explicit the requirement that the natural family receives notice if an adoptive placement fails.

4. Placement of children who must be placed with the extended family, other tribal members or other Indian families whenever possible. Makes placement preferences mandatory, except for explicit instances where alternative placements would be permitted; and, extended family is provided with greater rights to intervene in proceedings and to challenge prior placements not in accordance with placement preferences.

5. More fair and expeditious proceedings. Proposes limited but increased accesss to federal courts and requirements that proceedings be expedited in a timely fashion.

6. Compliance monitoring mechanisms. By creation of area-based Indian child welfare committees; requires that private agencies be required to comply with the ICWA as a condition of continued licensure; and, inclusion of ICWA compliance in Title II audits of state programs.

7. Improvements in Title II grant process. Programs would be developed and managed in accordance with tribal priorities; and allow for fair review by non-Federal employees chosen in consultation with tribes.

● Mr. INOUYE. Mr. President, I am very pleased to join as a cosponsor of this legislation to amend the Indian Child Welfare Act. This bill would improve a very important policy which affects nearly 60,000 Indian children in the Nation.

It has been nearly 10 years since the Indian Child Welfare Act was enacted. An ample period of time has now passed to determine whether this act, and the courts and agencies that administer it, are meeting the expectations of the Congress when the act was originally passed.

The act is premised on the concept that the primary authority in matters involving the relationship of an Indian child to its parents or extended family should be the tribe, not the State or the Federal Government. This is particularly true in cases where the child resides or is domiciled within the reservation or jurisdiction of the tribe. The act is not limited to reservation-based tribes. It extends to tribes in Oklahoma occupying lands within former reservation areas, and it extends to tribes and Native villages in Alaska whose lands are not held in trust and are not within former reservation areas.

Mr. President, the Indian Child Welfare Act recognizes the importance of the tribe and its primary authority in matters affecting the welfare of the Indian children and their families residing or domiciled on their reservations. The act does not, however, operate to deny the States of jurisdiction in appropriate cases. Instead, the act recognizes the traditional role played by State agencies and courts where an Indian child or his family does not reside or is not domiciled on a reservation. Thus the act makes specific provisions for transfers of cases from State to tribal courts and it requires that States give full recognition to the public acts of an Indian tribe. With respect to cases over which the State retains jurisdiction, it authorizes tribes to intervene in the proceedings and participate in the litigation; it imposes certain evidentiary burdens in State court proceedings; and it establishes placement preferences to guide State placements.

The fundamental premise of the act is that the interests of the child will best be served by recognizing and strengthening the capacity of the tribe to be involved in any legal matters dealing with the parent-child relationship. The clear conclusion of the Congress when this act was enacted was that failure to give due regard to the cultural and social standards of the Indian people and failure to recognize essential tribal relations is detrimental to best interests of Indian children. The high rate of placement of Indian children in foster care or adoptive situations reflects that the system existing prior to enactment of this act was not serving the best interests of Indian children. The act is founded on the proposition that there is a trust responsibility on the part of the United States to provide protection and assistance to Indian children and their families, and that the most productive means of providing such protection is through the institution of the tribe itself.

The Committee on Indian Affairs held a hearing on November 10, 1987, during which it heard excellent recommendations for changes in the law from five panels of tribal officials, child welfare experts, trial lawyers, State social service administrators, and administration witnesses. The committee has worked closely with a broad spectrum of tribal and State experts who have had years of experience in child welfare services and court systems to develop the amendments we are introducing today.

These amendments would strengthen the Indian child welfare roles and responsibilities of tribal and State social service agencies, as well as, that of the Federal Government.

I believe this legislation is necessary to achieve the original intent of the Congress when it adopted the Indian Child Welfare Act in 1978.

Mr. President, I am pleased to note that several of my colleagues in the Senate leadership and members of the Committee on Indian Affairs have chosen to join us as cosponsors of this legislation. I urge Members of the Senate, and our colleagues in the House of Representatives, to join us in what should truly be seen as an important initiative.●

By Mr. MELCHER:

S. 1977. A bill to establish a demonstration project under which special magistrates with jurisdiction over Federal offenses within Indian country are to be appointed, and for other purposes; to the Select Committee on Indian Affairs.

INDIAN RESERVATION SPECIAL MAGISTRATE DEMONSTRATION PROJECT AND LAW ENFORCEMENT ACT

● Mr. MELCHER. Mr. President, today I am introducing the Indian Reservation Special Magistrate and Law Enforcement Act. This legislation will establish a demonstration project to test the use of Federal magistrates to handle major and misdemeanor crimes committed on Indian reservations.

The use of Federal magistrates will close a very serious gap in the law enforcement system on Indian reservations. It will help stem the huge number of crimes committed on Indian reservations that are not investigated or prosecuted.

This bill will direct the President to appoint special magistrates with jurisdiction over all crimes committed on Indian reservations for the tribes that choose to participate in the demonstration project. The special magistrates would be empowered with all of the normal authorities, including the authority to conduct trials, issue warrants and subpoenas, summon juries, issue indictments, administer oaths, and take affidavits. The bill would localize the administration of justice in reservations by utilizing local law enforcement personnel, including tribal police. Juries would be comprised of residents of the reservations where the crimes are committed. In addition, lay advocates would be permitted to work in the magistrates court to overcome cultural and language barriers that exist for many Indian people.

Surprisingly, none of this occurs under the present system. The law enforcement system on Indian reservations now is a checkerboarded mess.

Major crimes such as murder, rape, and assault are referred to Federal authorities—the FBI—for investigation and to Federal courts for prosecution. Unfortunately, because of the rural isolation of most Indian reservations, many crimes never are handled in the first place because Federal authorities are located too far from the reservations to be effective. Days often pass before Federal authorities arrive on reservations to investigate. FBI agents frequently have trouble finding witnesses who will testify because the low rate of indictments and prosecutions has caused Indians to doubt that the justice system will work for them.

Misdemeanors, on the other hand, fall under the jurisdiction of tribal courts, which have two major limitations. First, tribal courts only handle crimes committed by Indians. As a result of the Oliphant decision in the State of Washington a few years ago, tribal police cannot arrest non-Indians who commit crimes on Indian reservations. Consequently, most crimes committed by non-Indians on reservations go unpunished. The second limitation is that tribal courts are limited in their sentencing authority to 1 year in jail or a $1,000 fine.

Under the current system, often called no man's land by both Indian people and Federal authorities, justice frequently breaks down. For example, between June 1983 and October 1985, a total of 99 major crimes were committed on the Blackfeet Indian Reservation in Montana. But FBI statistics show that only three of these crimes resulted in convictions. And the statistics are similar on other reservations.

This system was created by Congress. And it can be changed only by Federal law. My bill addresses this situation by utilizing Federal magistrates to create a more effective localized system of justice, one of the most basic elements of any society.

The Congress has a responsibility to ensure that Indian people on reservations are protected by a solid judicial system. The process of using special Federal magistrates on reservations is one method of insuring this protection. My bill will test the concept and let us know whether Federal magistrates should be a permanent part of law-and-order systems on Indian reservations.

This bill was first introduced in 1980 and hearings were held on the bill in Billings, MT, later that year. Additionally, the Select Committee on Indian Affairs held a 3-day hearing in 1980 on Indian jurisdiction issues and the concept of an Indian magistrate system. Unfortunately, the Senate took no action on the bill during the 96th Congress.

This legislation has been reintroduced since then and, through the hearing process, been refined to the point where it is ready for action by the Congress.

I'm optimistic that we can see this bill through the 100th Congress. This bill broadens the powers of the Federal court system by establishing special jurisdiction to utilize county, State, Federal, and tribal law enforcement officers in warrants, summonses, arrests, and trial procedures on Indian reservations.

Mr. President, it should be obvious that something of this nature is necessary to establish a system of law and order on Indian reservations. This bill will help both Indians and non-Indians living on and off reservations. I hope the Select Committee on Indian Affairs will conduct hearings on this bill as soon as possible to prepare it for action by the full Senate.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1977

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Indian Reservation Special Magistrate Demonstration Project and Law Enforcement Act of 1987".

SEC. 2. (a) Part III of title 28 of the United States Code is amended by adding immediately after chapter 43 the following new chapter:

"CHAPTER 44—INDIAN RESERVATION SPECIAL MAGISTRATES

"Sec.
"651. Appointment and tenure.
"652. Jurisdiction and powers.
"653. Remand of custody.
"654. Practice and procedure.
"655. Contempt.
"656. Training.
"657. Authorization of appropriations.

"§ 651. Appointment and tenure

"(a)(1) The President, by and with the advice and consent of the Senate, shall appoint special magistrates to serve the Indian reservations designated by the Secretary of the Interior under paragraph (2).

"(2) The Indian reservations that are to be served by special magistrates appointed under this chapter shall be designated by the Secretary of the Interior from among those Indian reservations—

"(A) over which the Federal Government exercises criminal jurisdiction under the provisions of chapter 53 of title 18, and

"(B) on which reside an Indian tribe whose governing body has requested the appointment of a special magistrate under this chapter.

"(3) No more than one of the special magistrates appointed under this chapter may serve one of the Indian reservations designated under paragraph (2).

"(b) No person may be appointed to serve as a special magistrate under this chapter unless such person is and has been for at least 5 years a member in good standing of the bar of the highest court of the State (or one of the States) in which he or she is to serve.

"(c) In any case in which the President finds that a United States magistrate who meets the qualifications of this Act is already reasonably available, the President shall give preferential consideration to such sitting magistrate for appointment as special magistrate under this section.

"(d) Upon appointment and confirmation under this chapter, the special magistrate shall reside within the exterior boundaries of the reservation to be served or at some place reasonably adjacent thereto.

"(e)(1) Except as provided in paragraph (2), persons appointed as special magistrates under this chapter shall be appointed as full-time magistrates and shall receive compensation at the rates fixed for full-time magistrates under section 634.

"(2) Whenever, in the discretion of the President, it is determined that the position to which the special magistrate is being appointed will not have a sufficient caseload to warrant appointment as a full-time magistrate, then such special magistrate shall be appointed as a part-time magistrate and shall receive compensation at the rates fixed for part-time magistrates under section 634, the level of compensation to be determined by the President.

"(f) Except as otherwise provided in this chapter, the provisions of subsections (c), (g), (h), (i), and (k) of section 631, relating to limitations on employment, oaths of office, recordation of appointment, removal from office, and leaves of absence shall apply to special magistrates appointed under this chapter.

"(g) Expenses of special magistrates appointed under this chapter shall be paid in the same manner as provided in section 635 for payment of expenses for magistrates.

"(h) The provisions of section 632 describing the character of service to be performed by full-time and part-time magistrates shall apply to any person appointed as a special magistrate under this chapter.

"§ 652. Jurisdiction and powers

"(a) Each special magistrate appointed under this chapter shall have, within the territorial jurisdiction prescribed by his appointment—

"(1) all powers and duties conferred or imposed upon United States magistrates by law or by the Rules of Criminal Procedure for the United States District Court;

"(2) the power to administer oaths and affirmations, impose conditions of release under section 3146, of title 18, and take acknowledgments, affidavits, and depositions; and

"(3) the power to conduct trials under section 3401 of title 18, in conformity with and subject to the limitations of that section except that the special designation provided for in subsection 3401(a) of title 18, shall not be required, and the provisions of section 3401(b) of title 18, extending to a defendant the right to refuse trial before a magistrate and elect to be tried before a judge of the district court for the district in which the offense was committed, shall not be applicable to trials before the special magistrate.

"(b) Each such magistrate appointed under this chapter shall have any other duty or power which may be exercised by a United States magistrate in a civil or criminal case (including any tort action), to the extent authorized by the court for the district in which he serves.

"§ 653. Remand of custody

"If the special magistrate appointed under this chapter determines there is no Federal jurisdiction over an offense brought within his court, he may direct that custody of the defendant be remanded to the appropriate law enforcement officials.

"§ 654. Practice and procedure

"(a) Except as otherwise provided in this section, the practice and procedure for the trial of cases before magistrates appointed under this chapter, and the taking and hearing of appeals to the district courts, shall conform to that set forth in section 3401 of title 18, and in rules promulgated by the Supreme Court pursuant to section 3402 of title 18, and section 636(c) of this title.

"(b) Any defendant appearing before a special magistrate appointed under this chapter may be assisted by a lay spokesman of his or her choice, and assistance by such spokesman, whether paid or voluntary, shall not be considered the practice of law. Assistance by such counsel shall not waive the right of the defendant to appointed counsel in any case in which he or she is entitled to such appointed counsel.

"(c)(1) In any case in which the defendant requests a trial by jury before a special magistrate appointed under this chapter, only persons who actually reside within the reservation in which the offense is alleged to have been committed shall be eligible to serve on the jury panel.

"(2) A special magistrate appointed under this chapter, in consultation with tribal authorities and county and municipal officials, shall develop and maintain for purposes of jury selection a list of persons residing within the reservation over which the special magistrate has jurisdiction. Such list shall be developed or compiled from lists of persons eligible or registered to vote in State, county, municipal, or tribal elections. In developing such list, the special magistrate shall take care that such list fairly elects a cross section of the population within the reservation.

"(3) In any case in which the defendant requests a trial by jury before a special magistrate appointed under this chapter, such jury shall be composed of 6 persons whose names appear on the jury selection list prepared by the special magistrate.

"(4) Except as provided in this section, the rules of the district court pertaining to the selection of jurors and juror eligibility for trial before magistrates shall be applicable to cases before a special magistrate appointed under this chapter.

"(d) Tribal police officers, Bureau of Indian Affairs police officers, and Federal, State, and local law enforcement officers, acting within the geographic areas in which they have jurisdiction under the laws of their respective governments, are authorized to execute any warrant for arrest, or warrant for search and seizure, or any other summons, subpoena, or order which a special magistrate appointed under this chapter is authorized to issue in criminal cases arising within the Indian country, or under the general rules of Federal Criminal Procedure or the Federal Rules of Procedure for the Trial of Minor Offenses before the United States Magistrates.

"(e) The provisions of the Court Interpreters Act of 1978 (Public Law 95-539; 92 Stat. 2040) shall apply to trials before a special magistrate appointed under this chapter.

"§ 655. Contempt

"(a) In a proceeding before a special magistrate appointed under this chapter, any of the acts or conduct described in section 636(e) as constituting a contempt of the district court when committed before the magistrate shall constitute a contempt of court when committed before a special magistrate, and the procedures provided in section 636(e) for prosecution of such contempt shall govern prosecutions for contemptuous conduct when committed before the special magistrate.

"(b) All property furnished to any special magistrate appointed under this chapter shall remain the property of the United States and, upon the termination of his or her term of office, shall be transmitted to the successor in office or otherwise disposed of as the Director orders.

"(c) The Director shall furnish to each United States special magistrate appointed under this chapter an official impression seal in a form prescribed by the conference. Each such officer shall affix his seal to every jurat or certificate of his official acts without fee.

"§ 656. Training

"The periodic training programs and seminars conducted by the Federal Judicial Center for full-time and part-time magistrates as provided in section 637, shall also be made available to special magistrates appointed under this chapter. This shall include the introductory training program offered new magistrates which must be held within one year after their initial appointment. The cost of attending such programs shall be borne by the United States.

"§ 657. Authorization of appropriations

"There are hereby authorized to be appropriated for each of the 4 fiscal years beginning after the date of enactment of the Indian Reservation Special Demonstration Project and Law Enforcement Act of 1987, such sums as may be necessary to carry out the purposes of this chapter for such fiscal year.".

(b) The table of chapters for part III of title 28 of the United States Code is amended by inserting after the item for chapter 43 the following:

"44. Indian Reservation Special Magistrates .... 651.".

SEC. 3. Section 542 of title 28, United States Code, is amended by adding at the end thereof the following new subsection:

"(c)(1) The Attorney General shall appoint such additional assistant United States attorneys in each judicial district as may be necessary to prosecute all crimes and offenses committed within—

"(A) any Indian Reservation, or

"(B) any portion of Indian country (within the meaning of section 1151 of title 18, United States Code),

located in such district over which the United States exercises criminal jurisdiction. All assistant United States attorneys appointed under the preceding sentence shall be specifically designated as responsible for such prosecutions.

"(2) For each special magistrate appointed under section 651, the Attorney General shall appoint at least 1 assistant United States attorney under paragraph (1) whose primary responsibility shall be the prosecution of crimes and offenses before such magistrate.".

SEC. 4. By no later than the date that is 4 years after the date of enactment of this Act, the Secretary of the Interior shall submit to the Congress a report on the demonstration project carried out under the amendment made by section 2 of this Act. The report shall include recommendations regarding the continuation of the project.●

By Mr. ADAMS (for himself and Mr. EVANS):

S. 1979. A bill to establish the Grays Harbor National Wildlife Refuge; to the Committee on Environment and Public Works.

GRAYS HARBOR NATIONAL WILDLIFE REFUGE

● Mr. ADAMS. Mr. President, I rise today and join my colleague Senator EVANS in introducing legislation which will create a national wildlife refuge at Bowerman Basin in Grays Harbor, WA. In doing so, I would like to commend my colleagues, Senator EVANS and Representative BONKER, for their cooperation in reaching the agreement reflected in this bill. I am pleased that I was able to help bring the two sides together and create a compromise to protect the shorebirds and wildlife dependent on Bowerman Basin.

Bowerman Basin is a 500-acre mudflat in Grays Harbor. It is a prime feeding area for the millions of shorebirds who migrate up and down the Pacific Coast each year. This marathon migration typically begins in the Arctic, where most shorebirds breed and hatch their young. They winter in the warmth of Central or South America before flying back north in the spring. For many, this journey will be more than 15,000 miles.

To successfully complete this journey, shorebirds are dependent upon a few key staging areas, where they concentrate in enormous numbers to feed and gain strength for the remaining flight. There are four such staging areas in North America which each support more than a million shorebirds every year. Grays Harbor is one of these areas, serving as the last major estuary stop for these birds before they embark upon their final 1,500 mile leg to the Arctic breeding grounds.

This bill is similar in many respects to S. 1755, which I introduced on October 6. It authorizes creation of the refuge from lands acquired from the city of Hoquiam and the Port of Grays Harbor. It directs the Secretary of the Interior to prepare a management plan which will provide for construction of a year-round visitor center, viewpoints, boardwalks, and other necessary facilities. Establishment of the refuge will provide the basin area with necessary protection against threatened commercial development.

There are a few specific provisions in this compromise bill that I would like to bring to the Senate's attention. First, the bill authorizes an appropriation of $2.5 million to carry out its provisions. This would include the costs of acquiring Hoquiam's property, construction of facilities, and relocation expenses of businesses located on city land. The bill provides that the Port of Grays Harbor may consider the lands transferred to the refuge as meeting mitigation obligations arising under section 404 of the Federal Water Pollution Control Act. It specifically requires, however, that the validity of such credits depends upon compliance with section 404(b)(1) guidelines. Alternatively, the port may opt for the cash value of its land. This bill authorizes an appropriation of such sums as are necessary to carry out this purchase.

Second, the bill authorizes the acquisition of up to 68 acres from the city of Hoquiam. It is expected that the Fish and Wildlife Service will perform an expedited appraisal of the property's fair market value. A preliminary appraisal by the Fish and Wildlife Service indicated that the rough fair market value of the 68 acres is $500,000. Further, it is recognized that the lands and waters constituting the 68 acres are necessary to the integrity of the refuge. We understand that the land would be purchased at fair market value, but final determination of the amount and cost of purchase shall await the results of the FWS expedited appraisal.

Studies by the Fish and Wildlife Service suggest that several species of shorebirds have suffered major declines in recent years. A major factor in this decline has been the alteration of staging area environments, such as that found at Bowerman Basin. The dependence of shorebirds on these vital staging areas makes them more vulnerable than their great numbers might suggest. The loss of Grays Harbor to pollution, overfishing, or development could threaten the existence of entire species. Its importance to the survival of millions of shorebirds, and to the well-being of numerous other waterfowl and wildlife, requires that we enact this legislation. I urge my colleagues to grant it a swift passage.

Mr. President, I ask unanimous consent that this bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 1979

SECTION 1. FINDINGS.

The Congress finds that—

(1) Grays Harbor, a 94-square mile estuary on the coast of the State of Washington, is of critical importance to certain migratory shorebirds and waterfowl and provides important habitat for many types of fish and wildlife, including threatened and endangered species;

(2) the area known as Bowerman Basin is a tidal mudflat within the Grays Harbor estuary which attracts hundreds of thousands of migratory shorebirds during spring and fall migrations as well as peregrine falcons and other raptors;

(3) the Bowerman Basin provides extraordinary recreational, research, and educational opportunities for students, scientists, birdwatches, nature photographers, the physically handicapped, and others;

(4) the Bowerman Basin is an internationally significant environmental resource that is unprotected and may require active management to prevent vegetative encroachment and to otherwise protect and enhance its habitat values; and

(5) the Bowerman Basin has been identified in the Grays Harbor Estuary Management Plan, prepared by Grays Harbor Regional Planning Commission, as an area deserving permanent protection.

SECTION 2. PURPOSES.

The purposes for which the Grays Harbor National Wildlife Refuge is established and shall be managed for include—

(1) to conserve fish and wildlife populations and their habitats, including but not limited to those of western sandpiper, dunlin, red knot, long-billed dowitcher, short-billed dowitcher, other shorebirds, and other migratory birds, including birds of prey;

(2) to fulfill international treaty obligations of the United States with regard to fish and wildlife and their habitats;

(3) to conserve those species known to be threatened with extinction; and

(4) to provide an opportunity, consistent with the purposes set forth in paragraphs (1), (2), and (3), for wildlife-oriented recreation, education, and research.

SECTION 3. DEFINITIONS.

For purposes of this Act—

(1) The term "refuge" means the Grays Harbor National Wildlife Refuge.

(2) The term "lands and waters" includes interests in lands and waters.

(3) The term "Secretary" means the Secretary of the Interior, acting through the Director of the U.S. Fish and Wildlife Service.

SECTION 4. ESTABLISHMENT OF REFUGE.

(a)(1) The Secretary is authorized and directed to establish, as herein provided, a national wildlife refuge to be known as the Grays Harbor National Wildlife Refuge.

(2) There shall be included within the boundaries of the refuge those lands, marshes, tidal flats, submerged lands, and open waters in the State of Washington generally depicted on a map entitled "Grays Harbor National Wildlife Refuge", dated December 1987, which comprise approximately 1,800 acres.

(3) Said boundary map shall be on file and available for public inspection in the office of the Director of the Fish and Wildlife Service, Department of the Interior, and in appropriate offices of the Fish and Wildlife Service in the State of Washington.

(b) Boundary Revisions.—The Secretary may make such minor revisions in the boundaries designated under subsection (a) as may be necessary to carry out the purposes of the refuge and to facilitate the acquisition of property within the refuge.

(c) Acquisition.—(1) The Secretary shall, not later than the 3rd anniversary of the effective date of this Act, acquire by transfer or purchase, or both, the approximately 1,711 acres of lands and waters owned by the Port of Grays Harbor within the refuge and identified as Management Unit 12, Area 1, in the Grays Harbor Estuary Management Plan.

(2) The appropriate Federal agencies may treat any lands and waters transferred to the Secretary under paragraph (c)(1) as meeting, in whole or in part, mitigation obligation of the Port of Grays Harbor arising under section 404 of the Federal Water Pollution Control Act (33 U.S.C. 1344).

Provided: That the validity of such mitigation credits is predicated on compliance with the guidelines issued under section 404(b)(1) of the Federal Water Pollution Control Act (33 U.S.C. 1344(b)(1)).

(3) The Secretary is authorized to acquire up to 68 acres of lands and waters owned by the City of Hoquiam within the boundaries of the Refuge, and to compensate the lessees on such lands and waters for improvements and relocation costs.

SECTION 5. ADMINISTRATION.

(a) General Administrative Authority.—The Secretary shall administer all lands, waters, and interests therein, acquired under section 4 in accordance with the provisions of the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd-668ee).

(b) Other Authority.—Consistent with the provisions of section 5(a) of this Act, the Secretary may utilize such additional statutory authority as may be available to him for the conservation and development of fish, wildlife, and natural resources, the development of outdoor recreation opportunities, and interpretative education as he considers appropriate to carry out the purposes of the refuge.

(c) Management Plan.—Within 18 months after the effective date of this Act, the Secretary shall prepare a management plan for the development and operation of the refuge which shall include—

(1) the construction of a visitor center suitable for year-round use with special emphasis in interpretative education and research;

(2) viewpoints, boardwalks, and access;

(3) parking and other necessary facilities; and

(4) a comprehensive plan setting forth refuge management priorities and strategies.

The Secretary shall provide opportunity for public participation in developing the management plan.

SECTION 6. AUTHORIZATION OF APPROPRIATION.

There are authorized to be appropriated to the Department of the Interior—

(1) such sums as may be necessary for the acquisition of the lands and waters referred to in section 4(c)(1).

(2) not to exceed $2,500,000 to carry out other provisions of this Act.

SECTION 7. REFUGE DEVELOPMENT FUND.

The Director of the Fish and Wildlife Service shall, upon enactment of this Act, promptly consult with the Fish and Wildlife Foundation created by P.L. 98-244 to request the foundation set up a separate account for the purpose of encouraging, accepting, and administering private gifts of property for the purposes of this Act. The Director shall, in preparing the management plan required by section 5 of this Act, give special consideration to means by which he may encourage the participation and contributions of local public and private entities in the development and management of the refuge.

SECTION 8. EFFECTIVE DATE.

This Act shall take effect on the date of enactment of this Act, or January 1, 1988, whichever date occurs later.●

● Mr. EVANS. Mr. President, today I rise to cosponsor legislation along with my colleague from Washington State [Mr. Adams] to establish the Grays Harbor National Wildlife Refuge in the State of Washington. The bill that we are introducing today represents a carefully crafted compromise that the Washington delegation has negotiated for the last several months. Importantly, the entire delegation in both

Houses supports this legislation and is anxious to move it to enactment.

For many years the Bowerman basin mudflats in Grays Harbor have been recognized as internationally significant wildlife habitat for migratory shorebirds. These mudflats of Bowerman basin constitute a major feeding and stop-over for shorebirds migrating every spring and fall between points as far as South America and Alaska. As well as the shorebirds, the Grays Harbor Area supports populations of bald eagles, peregrine falcon, dunlin, geese, plovers, owls, and many other species of waterfowl. All who have experienced the biannual migration agree this is an area worthy of national recognition and protection.

For many years the destiny of Bowerman basin has been an issue of discussion during the development of the Grays Harbor estuary management plan. The development of this regional planning effort was made at the urging of Senator Henry Jackson, who was instrumental in establishing the Grays Harbor Regional Planning Commission to determine which areas of Grays Harbor should be protected and which should be left for development. The commission coordinated the development of the Grays Harbor estuary management plan. This planning effort was remarkable in combining the efforts of local, State, and Federal agencies. For the last several years, the commission, as well as the cities of Aberdeen, Hoquiam, Ocean Shores, Westport, and Cosmopolis, the Port of Grays Harbor, the Washington State Departments of Ecology, Game, Fisheries and Natural Resources, the Environmental Protection Agency, the U.S. Fish and Wildlife Service, and the National Marine Fisheries Service, have worked to develop a management plan for the estuary that will balance the ecosystem and conversation goals with the social and economic interests of the community. The estuary management plan is now in its final stages of adoption.

This legislation is an attempt to complement and enhance the goals set forth in the Grays Harbor estuary management plan. The Bowerman basin mudflats are protected under the plan in a natural conservancy designation. This legislation will formally designate the basin as a National Wildlife Refuge to be protected and managed so that it may continue as an important resting stop for the annual shorebird migrations.

Mr. President, there are a few specific points about this legislation that I would like to take a moment to discuss. Recognizing that this deficit-burdened Government has difficulty finding the funds it needs to acquire wildlife habitat, we have incorporated a mechanism to allow the Federal Government to acquire the primary parcel of land without the need to expend limited Government funds. As an acquisition option, this legislation allows the Fish and Wildlife Service to use the privately-owned basin to be acquired as mitigation for the Port's development plans, if the relevant Federal agencies deem it appropriate.

Additionally, the legislation would establish the Bowerman basin economic development fund. This fund would allow contributions, in cash, or real or personal property from any non-Federal entity for development of the refuge. Through the Fish and Wildlife Foundation, these funds would be available for matching grants by the Federal Government. This will provide a way to build on the community support for enhancing the area, as well as the support from the many outside of the Grays Harbor Area who will visit this area.

By allowing contributions in kind, the authorization for the construction of visitors facilities authorized in the legislation can be further enhanced. Potential donations of lumber could provide view points and boardwalks, or funds could be spent in an effort to attract outside interests to the Grays Harbor Area for the viewing of the shorebird migration. This combination of private and Federal interests is consistent with previous efforts to forge partnerships in educating, appreciating, and managing this estuary.

Bowerman Basin is one of the more spectacular wetlands on the Washington Coast. A Grays Harbor National Wildlife Refuge is critical to the welfare of migratory waterfowl and shorebirds as well as providing important habitat for many other types of fish and wildlife. I would encourage my colleagues to visit this site should they journey to Washington State, and hope that they will join me in the eventual passage of legislation establishing the Grays Harbor National Wildlife Refuge.●

By Mr. HECHT:

S. 1980. A bill entitled the "Nuclear Waste Policy Review Commission Act of 1987"; to the Committee on Energy and Natural Resources.

NUCLEAR WASTE POLICY REVIEW COMMISSION ACT

Mr. HECHT. Mr. President, the conferees on the budget reconciliation have caved in on the nuclear waste issue to pressure from the House conferees, and the Yucca Mountain site in Nevada is being targeted without any pretense whatsoever of a scientific basis for the decision. The House Democratic leadership decided to pull a blatant political power play, and unfortunately it worked.

The House conferees have discarded science. They have ignored safety. They have decided to waste large amounts of the American people's money, and it is clear that the House leadership has decided to discard fairness. All the House Democratic leadership is interesting in doing is turning their nuclear waste problem into Nevada's nuclear waste problem.

Mr. President, this decision is as wrong for the country as it is for Nevada. I will fight it as long as I am in the U.S. Senate. Deep geologic disposal of nuclear waste is wrong. It has never, ever, anywhere in the world been proven safe. It will cost many tens of billions of dollars. In the last few days, the House Democratic leadership has made it very clear to the entire country that they do not care about safety, or cost. But I do care about safety. I do care about cost, and I will continue to fight this shortsighted decision.

Mr. President, today I am introducing a bill that would establish a Nuclear Waste Policy Review Commission to reexamine our Nation's course on the management of high-level nuclear waste. This legislation would impose an 18-month moratorium on the current nuclear waste program, in order to give the Commission time to do its work, and time for the Congress to act on the Commission's recommendations.

I want to restate now what I have said many times before here on the floor of the Senate: Deep geologic disposal of unreprocessed spent fuel is wrong. Reprocessing and recycling of nuclear waste is the right approach. It is the proper alternative to burying hot nuclear waste thousands of feet under the Earth and hoping that nothing happens to it. In effect, we are asking our Nation to bury hot nuclear waste thousands of feet beneath the ground and then keep our fingers crossed.

The Commission to be established by my bill would study the advantages of reprocessing and recycling spent nuclear fuel, and would study the value of long-term storage of spent fuel either at a reactor, or at a monitored retrievable storage facility prior to reprocessing.

Reprocessing is not new to this country. We have always done it for our military waste and we had strated to do it for our commercial waste until 1877 when President Jimmy Carter stopped it. It is certainly not new to the nuclear power industry. We are the only major nation in the world using nuclear power that does not either already reprocess nuclear waste, or plan to reprocess it. Mr. President, no one in this distinguished body can deny that reducing the volume of high-level nuclear waste by almost 70 percent, simply by burning it up in nuclear powerplants, does not make good, sensible, management policy. It is ironic that we live in a nation that recycles bottles and cans in an effort to keep our streets clear of litter, but we are willing to bury hot nuclear fuels rod, the world's most dangerous material, deep in the ground without recycling. This just does not make sense. It is time to call a halt to this misdirected policy, put politics aside, and create a complete nuclear fuel cycle that is safe and sensible.

Mr. President, this is actually the second moratorium bill I have introduced on the nuclear waste issue. The first bill, S. 1211, which I introduced on May 15, would have imposed a moratorium on the nuclear waste program so that the National Academy of Sciences could study the advantages and disadvantages of reprocessing nuclear waste.

My colleagues will be hearing much more from me on the nuclear waste issue in the months ahead. Unfortunately, the prevailing view in Washington, DC, on nuclear waste reminds me of a man storing a stick of dynamite in his closet because he thinks if he cannot see it, then he will not have to worry about it. We are doing the same thing on nuclear waste. It is time for my colleagues to recognize we are not going to get rid of nuclear waste by burying it. The only way we can get rid of it is to reprocess it.

By Mr. DOLE:

S. 1981. A bill to provide civil penalties for the manufacturing or entering into commerce of imitation firearms which do not have markings to make them readily identifiable; to the Committee on Commerce, Science, and Transportation.

REGULATION OF IMITATION FIREARMS

Mr. DOLE. Mr. President, today I am introducing a bill to regulate commerce of toy and other imitation firearms. The purpose of the bill is quite simple: It would impose a Federal requirement that all toy or other imitation firearms entered into commerce have a blaze orange plug permanently fixed in the barrels of these items. The requirement would make look-alike firearms easily distinguishable from real firearms, thus reducing the possibility that toy guns might be misused for criminal purposes.

This legislation is similar to a bill introduced in the House of Representatives by Congressman LEVINE of California. However, there are some important differences between the two bills.

The legislation is also similar to a number of local ordinances recently adopted in California, and proposed elsewhere.

It follows a practice already being adopted by some manufacturers voluntarily, and is consistent with national legislation in several European countries.

I have been working with interested groups in the development of this proposal. The Hobby Institute, a national trade organization of thousands of companies, has formally endorsed this language by a resolution of its board of directors.

In addition, the bill has been made available to the National Rifle Association. Although no formal position has been adopted by that group, I understand the NRA will not actively oppose this bill, but has opposed the House bill, H.R. 3433, in its present form.

Staff has also talked informally with representatives of Handgun Control, Inc. I would expect that organization to support this bill when it is formally requested to do so.

Discussions have also been held with the House Democratic leadership, specifically Congressmen DINGELL and COELHO, both of whom have indicated their support after certain technical changes were made to clarify jurisdictional concerns.

This legislation should be relatively noncontroversial and I would hope that Congress can act in short order. Although only a handful of criminal incidents involving toy guns and look-alikes have come to the attention of our police agencies so far, there is a significant potential for abuse. Under these circumstances, and if a simple solution is at hand, Congress should act as soon as it can.

I ask unanimous consent that the text of this bill be printed in the RECORD at the conclusion of my remarks, along with other supporting articles.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1981

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That it shall be unlawful for any person to manufacture, enter into commerce, or receive any toy, look-alike, or imitation firearm unless such firearm contains, or has affixed to it, a marking approved by the Secretary of Commerce, as provided in section 2.

SEC. 2. (a) Except as provided in subsection (b), each toy, look-alike, or imitation firearm shall have as an integral part, permanently affixed, a blaze orange plug inserted in the barrel of such toy, look-alike, or imitation firearm. Such plug shall be recessed no more than 6 millimeters from the muzzle end of the barrel of such firearm.

(b) The Secretary of Commerce may provide for an alternate marking or device for any toy, look-alike, or imitation firearm not capable of being marked as provided in subsection (a).

SEC. 3. For purposes of this Act, the term "look-alike firearm" means any imitation of any original firearm which was manufactured, designed, and produced since 1898, including and limited to toy guns, water guns, replica nonguns, and air-soft guns firing nonmetallic projectiles. Such term does not include any look-alike, nonfiring, collector replica of an antique firearm developed prior to 1898, or traditional B-B or pellet-firing air guns that expel a metallic projectile through the force of air pressure.

SEC. 4. (a) Any person who violates any provision of this Act shall be subject to a civil penalty of not more than $1,000 for the first such violation.

(b)(1) Any person who violates the provisions of this Act a second or subsequent time shall be quilty of a misdemeanor and upon conviction shall be fined not more than $5,000 or imprisoned for not more than one year, or both.

(2) Any individual director, officer, or agent of a corporation who authorizes, orders, or performs any act which constitutes in whole or in part, a violation of the provisions of this Act, shall be subject to penalties under this section without regard to any penalties to which such corporation may be subject under subsection (a).

SEC. 5. This Act shall become effective on the date one year after the date of its enactment and shall apply to toy, look-alike, and imitation firearms manufactured or entered into commerce after such date of enactment.

SEC. 6. The provisions of this Act shall supersede any State or local laws or ordinances which provide for markings or identification inconsistent with provisions of this Act.

TOY GUNS PROVING TO BE TOO REALISTIC

(By Matt Lait)

LOS ANGELES.—The nation's largest toy retailer has announced that it is no longer acquiring realistic toy guns, which have been brandished in a number of recent crimes and blamed in several accidental deaths.

Toys "R" Us Inc., which controls more than 15 percent of the domestic toy market and has 19 stores in Maryland and Virginia, has told manufacturers that it will not carry their products unless "they changed the designs of the guns to make them look less realistic," said Angela Bourdon, a spokeswoman for Toys "R" Us in Rochelle, N.J.

Current inventories of the replica guns are being sold, but those sales will stop next year.

The action follows a flurry of activism against toy guns in California after a police officer accidentally shot a youth carrying a toy "laser" gun and a man pointing a replica gun forced a television reporter to read an incoherent statement on the air. They have been used by bank robbers, burglars and hostage takers.

Three California cities have banned replica guns at least tentatively. And brandishing such toys will be illegal in California next year. A toy gun ban proposed for the District of Columbia by City Council Member Nadine Winder (D-Ward 6) died in committee last year.

The toy and replica gun industry is a $200 million business with 70 percent of the guns made to look like military weapons.

Toy gun manufacturers already have started submitting designs to Toys "R" Us to see if the changes are acceptable. "When Toys "R" Us talks, everybody listens" said Jodi Levin, speaking for the Toy Manufacturers of America, a trade association.

The Imperial Toy Corp. here now produces guns in bright fluorescent colors. Levin said Daisy Manufacturing Co. has put orange tips on its guns to make it clear they are toys.

But colored guns do not ease the minds of some police officers, who argue that if an officer waits to identify the color of the gun pointed at him, it may be too late to react.

"I can see some dirt bag painting his barrel and stock flourescent orange . . . or a kid with one of those guns and getting shot anyway. There's no way we can make that determination especially at night," Sgt. Bill Hetherington of Palos Verdes, Calif., police department said.

The Alliance for Survival, a group that advocates elimination of toy guns, has declared the replica gun problem an "emergency." Aside from potential physical harm, the group believes children's emotional safety" is in jeopardy because the guns "desensitize people to the real horrors and violence of war," said Jerry Rubin, Los Angeles director for the Alliance for Survival.

KNBC-TV consumer reporter David Horowitz had been trying to ban toy guns even before a man walked onto the station's set in Burbank during the evening news and held a toy gun to his head. "If you point one of these at someone and they don't know the difference, then you're pointing a real gun at them," he said.

Burbank was the first city in the nation to ban sale of toy guns. The Los Angeles and Santa Monica city councils have tentatively approved similar ordinances. It will be a misdeameanor to exhibit a toy gun threateningly in the state starting in January.

"There have been a number of individuals who have lost their lives because they have brandished toy weapons," said Los Angeles City Councilman Nate Holden, who introduced the bill to prohibit their sale and manufacture. "So if it's against the law to brandish [a toy gun], then it ought to be [against the law] to make it or sell it."

State Sen. Pro Tem David Roberti (D-Burbank) and Horowitz have drafted a bill to ban sale, manufacture and distribution of toy gun replicas. The bill also makes it a felony in California to use one in the commission of a crime or to brandish one.

On the national level, Rep. Mel Levine (D-Calif.) has proposed a bill that would require identifying markings on all toy guns.

Levine said that if confusion still occurred, he would not be opposed to banning the guns. But he said such legislation would be harder to pass because of interest groups.

PROJECTILE-SHOOTING GUNS ESCAPE TOY SAFETY STANDARDS

(By Barbara Bradley)

WASHINGTON.—Before finishing your toy shopping for Christmas, take this quiz:

Which type of toy does not have to meet minimum safety standards before it can be sold in the store: (1) baby rattlers; (2) sleeping bags; (3) kites; (4) guns that shoot pellets?

No. 4 is the correct answer. And some parents and activists say the regulatory void is creating a new waive of dangerous toys—toys that can cause serious eye injury to children and other unsuspecting victims.

To sell a toy gun, "all a manufacturer has to do is drop it on the market," says James Lacy, general counsel for the Consumer Product Safety Commission. A company may choose to follow voluntary standards about the maximum impact the projectile should have.

If the CPSC gets complaints that the toy has caused accidents or is defective in any way, it may investigate, and possibly issue a recall or ban. But critics say that with only one toy tester and a more hands-off attitude during Reagan administration, the commission can be slow to act, "We shouldn't need a body count to tell a toy is dangerous," says Edward Swartz, a product-liability lawyer in Boston.

Consider the case of Scott, a 14-year-old high-school football player who lives just north of Chicago. A year ago on Halloween, Scott was driving with friends when another car with three teen-age boys caught up with them and "gunned" Scott down with their Splatmasters, guns that shoot marble-sized pellets of ink. A pellet accidentally hit him in the eye.

One year and several operations later, Scott has just started playing football again. No one really blames the boys. "These are the kinds of things that any irresponsible but not delinquent kid would do," says a lawyer representing Scott's family in a lawsuit against the store that sold the gun to the boys.

Although labels on products like Splatmaster; which is for adult outdoor survival games, contain warnings that they are meant for adults, stores are not required to ask for proof of the buyer's age.

And an increasing number of other guns marketed for children can be found on toystore shelves. "It's the worst year I've seen in 20 years," says Mr. Swartz, who compiles an annual "Top 10 list" of dangerous toys. This time, seven shoot projectiles. The hot armament is Gotcha, which shoots ink pellets.

The projectile-gun controversy is less publicized than the one over realistic-looking guns: Several legislatures have banned or are considering banning realistic-looking guns, which have been used to hold up people and stores and have been responsible for one death last spring.

But the CPSC and Congress have no plans to change the laws concerning projectile-flinging toys. "From a safety standpoint, we would recommend avoiding toys that shoot projectiles," says Elaine Tyrrell, project manager for the children's team at the CPSC. "But that's a decision for consumers to make." And since there haven't been many injuries reported, she says, "I don't see anything to make us rethink the issue."

Several cities, including Chicago and Milwaukee, are considering ordinances to ban projectile-shooters. Chicago Alderman William Krystynik says he has received several complaints from people who were shot as kids with Gotcha guns passed by in their cars.

Toymakers say they do extensive testing of their guns before they sell them. "It makes business sense: Lawsuits and recalls are very expensive," says Diane Cardinale at the Toy Manufacturers of America.

Indeed, at least two manufacturers have raised a small furor with their testing. According to one source at the CPSC, LJN Toys tested Gotcha by shooting the pellets into the eyes of rabbits. (LJN refuses to discuss its testing practices.) The president of Ray Plastics says the firm tested its Super Shot Jr. Sportsman repeating rifle the same way.

As for toys in general, the CPSC is getting credit for winnowing out a big chunk of potentially dangerous toys. Its "Operation Toyland" has been cracking down on imports that don't meet US safety standards. Between July and October, the commission and Customs Service seized 2 million defective toys.

HOBBY INDUSTRY OF AMERICA,
Elmwood Park, NJ, October 23, 1987.

Senator ROBERT DOLE,
Hart Senate Office Building, Washington, DC.

DEAR SENATOR DOLE: It is our understanding you have consideration proposed legislation to require manufacturers and importers of toy and non-firing look-alike firearms to distinctively mark these pieces to be recognizable and distinguishable from real firearms.

The Board of Directors of the Hobby Industries of America, at its meeting last week, voted unanimously to support this proposal, particularly the language which we understand now exists.

We urge you and your staff to find an appropriate vehicle to secure early enactment of this legislation. We feel strongly that the legislation would do much to prevent possible misuse of these items which are enjoyed by so many hobbyists.

We are also concerned that absent of Federal legislation many localities would enact conflicting and confusing ordinances to the detriment of the industry. We wholeheartedly support your action and urge favorable consideration.

Respectfully yours,
FREDERIO P. POLK, CAE,
Executive Director.

By Mr. HEINZ:

S. 1982. A bill to require the Secretary of the Treasury to mint and issue one-dollar coins in commemoration of the 100th anniversary of the birth of Dwight David Eisenhower; referred to the Committee on Banking, Housing, and Urban Affairs.

DWIGHT DAVID EISENHOWER COMMEMORATIVE COINS

● Mr. HEINZ. Mr. President, 1990 will mark the 100th anniversary of the birth of one of our Nation's greatest and most popular military and civilian leaders—President Dwight D. Eisenhower. The centennial birthday of this great American will undoubtedly generate tremendous interest among Americans of all ages. Many groups and organizations, particularly those in Pennsylvania where he spent his retirement years, are already planning events to honor our 34th President on that date.

It is only fitting that the country pay tribute to him as well. In light of the significance of this upcoming event, I am introducing today legislation authorizing the U.S. Treasury to mint a commemorative silver dollar, bearing the likeness of the late President.

The bill is the companion to H.R. 3654, introduced by my colleague and fellow Pennsylvanian, Congressman GOODLING. The coin would recognize and honor the legacy of Dwight David Eisenhower, a man who earned his place in American history. As a general, he led the greatest army to victory in World War II, and as a President, he dedicated all of his time and labors to peace and reconciliation. Throughout his lifetime, Ike's humility, honesty, and sincerity won him the respect of both friends and foes. He is recognized as one of the truly great historical figures of the twentieth century.

Mr. President, I want to assure my colleagues that this legislation is consistent with the intent and purpose of using commemorative coins to celebrate and honor American people, places, events, and institutions that have patriotic value for the people of the United States. More importantly, the production of this coin would involve no net cost to the Federal Government, and the proceeds generated by a surcharge would go for the sole purpose of reducing the national debt.

Mr. President, I urge my colleagues to join me in cosponsoring this legislation. I also ask unanimous consent that the legislation be included in its entirety in the RECORD following my statement.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1982

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Dwight David Eisenhower Commemorative Coin Act of 1987".

SEC. 2. DWIGHT DAVID EISENHOWER COMMEMORATIVE COINS

(a) AUTHORIZATION.—Subject to subsection (b), the Secretary of the Treasury (hereinafter in this Act referred to as the "Secretary") shall mint and issue one-dollar coins in commemoration of the 100th anniversary of the birth of Dwight David Eisenhower.

(b) LIMITATION ON THE NUMBER OF COINS.—The Secretary may not mint more than 10,000,000 of the coins referred to in subsection (a).

(c) SPECIFICATIONS AND DESIGN OF COINS.—Each coin referred to in subsection (a) shall—

(1) weigh 26.73 grams;

(2) have a diameter of 1.500 inches;

(3) contain 90 percent silver and 10 percent copper;

(4) designate the value of such coin;

(5) have an inscription of—

(A) the year "1990"; and

(B) the words "Liberty", "In God We Trust", "United States of America", and "E Pluribus Unum";

(6) have the likeness of Dwight David Eisenhower on the obverse side of such coin; and

(7) have an illustration of the home of Dwight David Eisenhower located in the Gettysburg National Historic Site on the reverse side of such coin.

(d) NUMISMATIC ITEMS.—For purposes of section 5132(a)(1) of title 31, United States Code, the coins referred to in subsection (a) shall be considered to be numismatic items.

(e) LEGAL TENDER.—The coins referred to in subsection (a) shall be legal tender as provided in section 5103 of title 31, United States Code.

SEC. 3. SOURCES OF BULLION.

The Secretary shall obtain silver for the coins referred to in section 1(a) only from stockpiles established under the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98 et seq.).

SEC. 4. MINTING AND ISSUANCE OF COINS.

(a) UNCIRCULATED AND PROOF QUALITIES.—The Secretary may mint and issue the coins referred to in section 1(a) in uncirculated and proof qualities.

(b) USE OF THE UNITED STATES MINT.—The Secretary may not use more than 1 facility of the United States Mint to strike the coins referred to in section 1(a).

(c) COMMENCEMENT OF AUTHORITY TO SELL COINS.—The Secretary may begin selling the coins referred to in section 1(a) on January 1, 1990.

(d) TERMINATION OF AUTHORITY TO MINT COINS.—The Secretary may not mint the coins referred to in section 1(a) after December 31, 1990.

SEC. 5. SALE OF COINS.

(a) IN GENERAL.—Subject to subsections (b) and (c), and notwithstanding any other provision of law, the Secretary shall sell the coins referred to in section 1(a) at a price equal to—

(1) the face value of such coins; and

(2) the cost of designing, minting, dies, use of machinery, and overhead expenses.

(b) BULK SALES.—The Secretary shall make any bulk sales of the coins referred to in section 1(a) at a reasonable discount to reflect the lower costs of such sales.

(c) PREPAID ORDERS.—Before January 1, 1990, the Secretary shall accept prepaid orders for the coins, referred to in section 1(a). The Secretary shall make sales with respect to such prepaid orders at a reasonable discount to reflect the benefit to the Federal Government of prepayment.

(d) SURCHARGES.—The Secretary shall include a surcharge of $9 per coin on all sales of the coins referred to in section 1(a).

SEC. 6. FINANCIAL ASSURANCES.

(a) NO NET COST TO THE GOVERNMENT.—The Secretary shall take such actions as may be necessary to ensure that the minting and issuance of the coins referred to in section 1(a) shall result in no net costs to the Federal Government.

(b) PAYMENT FOR THE COINS.—The Secretary may not sell a coin referred to in section 1(a) unless the Secretary has received—

(1) full payment for such coin;

(2) security satisfactory to the Secretary to indemnify the Federal Government for full payment; or

(3) a guarantee of full payment satisfactory to the Secretary from a depository institution whose deposits are insured by the Federal Deposit Insurance Corporation, the Federal Savings and Loan Insurance Corporation, or the National Credit Union Administration Board.

SEC. 7. PROCUREMENT OF GOODS AND SERVICES.

(a) IN GENERAL—Except as provided in subsection (b), no provision of law governing procurement or public contracts shall be applicable to the procurement of goods or services necessary for carrying out the provisions of this Act.

(b) EQUAL EMPLOYMENT OPPORTUNITY.—Subsection (a) shall not apply with respect to any law relating to equal employment opportunity.

SEC. 8. REDUCTION OF FEDERAL DEBT.

The Secretary shall deposit in the general fund of the Treasury for the purpose of reducing the Federal debt an amount equal to the amount of all surcharges that are received by the Secretary from the sale of the coins referred to in section 1(a).●

By Mr. STEVENS:

S. 1983. A bill to amend title 28, United States Code; to the Committee on the Judiciary

ADDITIONAL BANKRUPTCY JUDGE FOR THE JUDICIAL DISTRICT OF ALASKA

● Mr. STEVENS. Mr. President, today I introduce legislation to authorize an additional bankruptcy judgeship for the judicial district of Alaska. Alaska currently has only one bankruptcy judge to serve the entire State.

As a result of the collapse of the oil industry, a long shadow has been cast on the Alaskan economy. The reduction in State oil revenues has forced State and local governments to cinch up their belts. Oil companies, related support industries, and State government have had to lay off workers to adjust to the reduction in revenues. This has led to an increase in business failures which in turn has had a rippling effect on personal finances. Together all of these factors had a reverberating impact on all segments of the Alaskan economy.

According to statistics provided by the Administrative Office of the U.S. Courts, Alaska has experienced a 360-percent increase in bankruptcy filings over the past 5 years. In the year ending June 1987, 1,351 bankruptcy cases were filed in the judicial district of Alaska. Many of those cases were time consuming chapter 11's. Although the average bankruptcy judge handling only 80 chapter 11's last year, Alaska's lone judge handled 206 such cases.

And while the average bankruptcy judge hears only 212 adversarial proceedings per year, Alaska's solitary judge handled 773 such hearings in the year ending June 1987. In addition, a greater proportion of Alaska's bankruptcy cases are filed by businesses than in the rest of the country. That is significant because business cases consume much more of a judge's time than personal bankruptcies. While only 16 percent of bankruptcy cases filed by businesses in the Nation as a whole, 31 percent of Alaska's bankruptcies are filed by businesses.

Alaska's heavy caseload problem is exacerbated by the fact that our single judge must travel extensively around the State to hold court. He spends 3½ days a month traveling from Anchorage to Nome, Fairbanks, and Juneau. During those days, he is not free to sit on the bench to hear casees. The only benches he sits on are the ones in the airport terminals. The Administrative Office of the U.S. Courts has recommended expanding court sites to include Cordova, Kodiak, Valdez, and Sitka. That will mean even more nonproductive time must be spent travelling.

Mr. President, the situation in Alaska has reached crisis proportions. The ninth circuit has had to pull a judge out of other districts for a week each month to send up to Alaska along with a law clerk and a court reporter. Even with this extra help, we still aren't able to keep up with the workload. The situation will only get worse if the price of oil plummets still further. In light of the crisis situation facing my State, it is my hope that the Judiciary Committee will consider this legislation at its earliest convenience.●

By Mr. STEVENS (for himself and Mr. MURKOWSKI):

S. 1984. A bill for the relief of Leroy W. Shebal, of North Pole, Alaska; to the Committee on Energy and Natural Resources.

RELIEF OF LEROY W. SHEBAL

● Mr. STEVENS. Mr. President, this bill would direct the Secretary of the Interior to sell a parcel of Federal land along Beaver Creek to Leroy Shebal of North Pole, AK.

Leroy filed on this land under the Small Tract Act in 1958. He was given a lease on the land in 1960. Five years later, the Bureau of Land Management offered to sell the land to Leroy for $650. Leroy was unable to accept the offer at the time because of an illness in his family. He was given assurances that the offer to sell would remain open until his financial situation improved.

In September 1971, Leroy accepted the BLM's offer to sell the land. The BLM failed to process Leroy's acceptance in a timely fashion. As a result, before the BLM took an action to reclassify the land and sell it to Leroy, a public land order prohibiting land sales in the Beaver Creek area was promulgated. A year and one-half later after he had written to BLM to accept their offer, Leroy received a letter from the agency rejecting his acceptance.

The public land order that prevented the BLM from selling the Beaver Creek parcel is no longer in effect. The Alaska National Interest Lands Conservation Act of 1980, however, included Beaver Creek in the National Wild and Scenic Rivers System. The Wild and Scenic Rivers Act prohibits the sale of any land within the System.

Mr. President, for more than two decades, Leroy Shebal has operated an environmentally sound guiding operation on Beaver Creek. He has made substantial improvements to the property he leased from the Federal Government in reliance on the assurance of the Bureau of Land Management that he would eventually be able to purchase the property. He has done everything possible to meet the terms of the BLM's offer of sale. It would be a grave injustice if Congress did not act to authorize the sale of the Beaver Creek property to him.●

By Mr. DOLE:

S.J. Res. 237. Joint resolution to designate May 1988, as "Neurofibromatosis Awareness Month"; to the Committee on the Judiciary.

NEUROFIBROMATOSIS AWARENESS MONTH

Mr. DOLE. Mr. President, today I am intoducing a joint resolution to designate May 1988 as "Neurofibromatosis Awareness Month" and I ask my colleagues to join with me in drawing national attention to this disfiguring and often progressive disorder.

Neurofibromatosis [NF] is a neurological, genetic condition that can cause tumors to form on the nerves anywhere in the body at any time. It affects people of all races and both sexes with varying manifestations and degrees of severity.

Health statistics indicate that roughly 100,000 people in the United States have the condition and that 1 in every 4,000 children born today has NF. Though there is evidence that it is genetic, 50 percent of the people with NF have no family history of the condition. There seems to be two forms of the disorder. The first affects the peripheral nervous system and shows up at birth. The second attacks the central nervous system and manifests itself later in life. The latter often causes deafness.

A cure for NF has not yet been found and the only treatment available is to surgically remove the tumors when they appear and correct any resulting bone abnormalities. There is no known method of stopping the tumors from growing.

The Neurofibromatosis Foundation has worked hard over the years to bring this condition to the attention of the general public and to seek support for further research and education. Declaring May 1988 as "Neurofibromatosis Awareness Month" can only help the foundation in its efforts.

I know you share my concern for the many individuals with NF and their families and sympathize with their continuous struggle to overcome the psychological impact of disfigurement and the resulting isolation. Therefore I ask you to support this joint resolution.

ADDITIONAL COSPONSORS

S. 1896

At the request of Mr. CRANSTON, the name of the Senator from Kentucky [Mr. FORD] was added as a cosponsor of S. 1896, a bill to authorize the Vietnam Women's Memorial Project, Inc., to construct a statue in honor and recognition of the women of the United States who served in the Vietnam conflict.

SENATE RESOLUTION 348—ESTABLISHING AN ARMS CONTROL TREATY REVIEW SUPPORT OFFICE

Mr. BYRD (for himself and Mr. DOLE) submitted the following resolution; which was considered and agreed to:

S. RES. 348

Resolved, That there is established within the Senate an Arms Control Treaty Review Support Office (hereafter in this resolution referred to as the "Office"), which shall be under the policy direction of the Majority Leader and the Minority Leader and which shall be under the administrative direction and supervision of the Secretary of the Senate (hereafter in this resolution referred to as the "Secretary").

SEC. 2. (a) The Office shall provide to the Senate such administrative support as the Majority and Minority Leaders may direct, with respect to Senate consideration of the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Elimination of their Intermediate-Range and Shorter-Range Missiles, done at Washington on December 8, 1987, and of any other arms control treaties submitted, during the One Hundredth Congress, by the President to the Senate for its advice and consent to ratification. Such support shall include—

(1) the temporary storage and organization, system of access to, and security of, documents related to the negotiating records of such treaties; and

(2) such other assistance to the Committee on Foreign Relations, the Committee on Armed Services, and the Select Committee on Intelligence of the Senate, as may be deemed necessary to their consideration of such treaties.

(b) The Office shall maintain an active liaison on behalf of the Senate, or any committee listed under subsection (a)(2), with all departments and agencies of the United States on matters relating to the functions of the Office described in subsection (a).

(c) Nothing in this resolution shall be construed to alter the jurisdiction of any committee of the Senate.

SEC. 3. (a) The Office is authorized, from funds made available under section 5 of this resolution, to employ such staff (including consultants at a daily rate of pay) in the manner and at a rate not to exceed that allowed for employees of a standing committee of the Senate under paragraph (3) of section 105(e) of the Legislative Branch Appropriations Act, 1968 (2 U.S.C. 61-1(e)), and to incur such expenses as may be necessary and appropriate to carry out its duties and functions.

(b) The Secretary, upon the recommendation of the Majority and Minority Leaders, shall appoint and fix the compensation of such personnel, including clerical staff, as may be necessary to carry out the provisions of this resolution.

SEC. 4. (a)(1) The Majority and Minority Leaders shall make arrangements with the Executive Branch to provide for the transmission, organization, and system of access to the negotiating record relating to arms control treaties submitted during the One Hundredth Congress by the President to the Senate for its advice and consent to ratification.

(2)(A) Access by staff personnel and consultants employed by the Committee on Foreign Relations, the Committee on Armed Services, and the Select Committee on Intelligence of the Senate to any document in the possession of the Office or to the premises of the Office shall be limited to individuals who are designated jointly by the chairman of the respective committee and by the Majority Leader, in consultation with the Minority Leader.

(B) Access by staff personnel and consultants employed by any office of the Senate (other than the Office or any of the committees specified in subparagraph (A)) to any document in the possession of the Office or to the premises of the Office shall be limited to individuals who are designated jointly by the Majority Leader and the Minority Leader.

(C) The Majority Leader and the Minority Leader shall jointly determine which staff members and consultants of the Office shall be required to have security clearances.

(D) No person described in subparagraph (A), (B), or (C) may be given access to classified information held by the Office unless such person has an appropriate security clearance and a need to know such information.

(3) All staff members and consultants shall, as a condition of employment, agree in writing to abide by the conditions of an appropriate nondisclosure agreement promulgated by the Office of Senate Security.

(4) The Office shall employ a security officer qualified to administer appropriate security procedures to ensure the protection of confidential and classified information in the possession of the Office.

(5) The case of any Senator who violates the security procedures of the Office may be referred to the Select Committee on Ethics of the Senate for the imposition of sanctions in accordance with the rules of the Senate. Any staff member or consultant who violates the security procedures of the Office shall immediately be subject to dismissal or such other sanction as the Majority and Minority Leaders may direct.

(b)(1) The Office shall make suitable arrangements, in consultation with the Office of Senate Security, for the physical protection and storage of classified information in its possession.

(2) Upon termination of the Office pursuant to section 6 of this resolution, all records, files, documents, and other materials in the possession, custody, or control of the Office, under appropriate conditions established by the Office, shall be transferred to the Office of Senate Security.

Sec. 5. (a) Such sums as are necessary to carry out the provisions of this resolution, shall be made available from the contingent fund of the Senate, out of the Account of Miscellaneous Items, to pay the expenses of the Office, upon vouchers approved by the Secretary (except that vouchers shall not be required for the disbursement of salaries of employees who are paid at an annual rate).

(b)(1) Such sums as are necessary to carry out the provisions of this resolution may be expended by the Office, with the prior approval of the Committee on Rules and Administration, to procure the temporary (not in excess of one year) or intermittent services, including related and necessary expenses, of individual consultants, or organizations thereof, to make studies or advise the Office.

(2) Such services in the cases of individuals or organizations may be procured by contract as independent contractors or, in the case of individuals, by employment at daily rates of compensation not in excess of the per diem equivalent to the highest gross rate of compensation which may be paid to the regular employee of a standing committee of the Senate. Such contracts shall not be subject to the provisions of section 3709 of the Revised Statutes (41 U.S.C. 5) or any other provisions of law requiring advertising.

(3) Any such consultant shall be selected by the Majority and Minority Leaders acting jointly. The Office shall submit to the Committee on Rules and Administration of the Senate information bearing on the qualifications of each consultant whose services are procured pursuant to this subsection, including organizations, and such information shall be retained by the Office and shall be made available for public inspection upon request.

Sec. 6. The Office shall terminate not later than thirty days after the sine die adjournment of the One Hundredth Congress.

AMENDMENTS SUBMITTED

RENEWABLE RESOURCES EXTENSION ACT AUTHORIZATION

LEAHY (AND HATFIELD) AMENDMENT NO. 1369

Mr. BYRD (for Mr. Leahy, for himself and Mr. Hatfield) proposed an amendment to the bill (H.R. 2401) to extend the authorization of the Renewable Resources Extension Act of 1978, and for other purposes; as follows:

Beginning on page 1, line 6, strike all through page 2, line 9, and insert in lieu thereof the following:

SEC. 2. EXTENSION.

The Renewable Resources Extension Act of 1978 (16 U.S.C. 1600 note) is amended—

(1) in Section 6 (16 U.S.C. 1675) by striking out the first sentence and inserting in lieu thereof the following: "There are authorized to be appropriated to implement this Act $15,000,000 for the fiscal year ending September 30, 1988, and $15,000,000 for each of the next twelve fiscal years."; and

(2) in Section 8 (16 US.C. 1671 note) by striking out "1988" and inserting in lieu thereof "2000".

NATIONAL PARKS AND RECREATION ACT AMENDMENTS

JOHNSTON AMENDMENT NO. 1370

Mr. BYRD (for Mr. Johnston) proposed an amendment to the bill (H.R. 2566) to amend the National Parks and Recreation Act of 1978, as amended, to extend the term of the Delta Region Preservation Commission, and for other purposes; as follows:

Strike all after the enacting clause and insert:

"That Title IX of the National Parks and Recreation Act of 1978, as amended (16 U.S.C. 230), is further amended as follows:

(a) In section 901 by adding the following new phrase and renumbering subsequent phrases accordingly:

"(4) folk life centers to be established in the Acadian region;";

(b) In section 902 by adding the following new subsection:

"(g) The secretary is authorized to acquire lands or interests in lands by donation, purchase with donated or appropriated funds or exchange, not to exceed approximately 20 acres, in Acadian villages and towns. Any lands so acquired shall be developed, maintained and operated as part of the Jean Lafitte National Historical Park."; and

(c) In section 907(e) by striking out 'ten years" and inserting in lieu thereof 'twenty years'.".

ACCEPTANCE OF GIFTS OF FINE ART FOR THE CAPITOL

BYRD AMENDMENT NO. 1371

Mr. BYRD proposed an amendment to the bill (H.R. 60) to permit the Architect of the Capitol, under the direction of the Joint Committee on the Library, to accept gifts of money for the purpose of works of fine art for the Capitol, and for other purposes; as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. PURCHASE OF WORKS OF FINE ART FOR THE CAPITOL.

(a) Acceptance of Gifts of Money.—

(1) Authority.—The Architect of the Capitol is authorized to accept, on behalf of the Congress and with prior approval of the Joint Committee on the Library, gifts of money for the purchase of works of fine art for the Capitol.

(2) Form of gift.—Any gift accepted under paragraph (1) shall be in the form of a check or similar instrument made payable to the Department of the Treasury.

(3) Manner of acceptance.—An acceptance under paragraph (1) shall be carried out in the manner prescribed by the Joint Committee on the Library, which shall supervise the works of fine art in accordance with section 1831 of the Revised Statutes of the United States (40 U.S.C. 188).

(b) Establishment of Fund.—

(1) In general.—There is established in the Treasury a fund for purchase of works of fine art for the Capitol.

(2) Deposits and availability.—Amounts accepted under subsection (a) shall be deposited in the fund, which, subject to appropriation, shall be available to the Architect of the Capitol for such purchases as may be approved by the Joint Committee on the Library, the Speaker and the minority leader of the House of Representatives, and the majority leader and the minority leader of the Senate.

(c) Disbursements From the Fund.—Disbursements from the fund established under subsection (b) shall be made on vouchers signed by the Architect of the Capitol and approved by the Joint Committee on the Library, the Speaker and the minority leader of the House of Representatives, and the majority leader and the minority leader of the Senate.

SEC. 2. GIFTS AND PURCHASES FOR THE SENATE AND THE CAPITOL.

(a) Acceptance of Gifts.—The Commission on Art and Antiquities of the United States Senate (hereinafter "Commission") is authorized to—

(1) accept gifts and bequests of money and other property of whatever character for the purpose of aiding, benefiting, or facilitating the work of the Commission, including the purchase of works of fine art for the Senate wing of the Capitol and any Senate office buildings, and rooms, spaces, or corridors thereof;

(2) hold, administer, use, invest, reinvest and sell gifts and bequests of propery received under this section for the purpose stated in paragraph (1); and

(3) apply any income produced from the use of such gifts and bequests of property for the purpose stated in paragraph (1).

(b) Establishment of Fund.—

(1) In General.—There is established in the Treasury a fund for use in accordance with the provisions of this section.

(2) Deposits and availability.—Gifts and bequests of money and the proceeds from sales of other property accepted under subsection (a) may be deposited in the fund, which shall be available to the Executive Secretary of the Commission for the work of the Commission and the administration of property received under this section. Such funds shall be held in trust by the Secretary of the Treasury.

(c) Disbursements From the Fund.—Disbursements from the fund established under subsection (b) shall be made on vouchers signed by the Executive Secretary of the Commission and approved by the Chairman of the Commission.

(d) Taxes.—For the purpose of Federal income, estate, and gift tax laws, property accepted under this section shall be considered a contribution to or for the use of the United States.

(e) Investments.—The Executive Secretary of the Commission may request the Secretary of the Treasury to invest such portion of the fund established under subsection (b) as is not in the judgment of the Commission required to meet current withdrawals. Such investments shall be in public debt securities with maturities suitable to the needs of the fund as determined by the Commission and bearing interest at rates determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding marketable obligations of the United States of comparable maturity. The income from such investments shall be credited to and form a part of the fund.

(f) Public Disclosure.—At least once each year, the Executive Secretary of the Commission shall make a public disclosure of the amount and source of each gift and bequest received under this section, and any investment thereof, and the purposes for which any amounts are expended under this section.

(g) Commission on Art and Antiquities of the United States Senate.—

(1) Incorporation.—The provisions of Senate Resolution 382 (Ninetieth Congress; agreed to October 1, 1968) (as amended by this Section) and Senate Resolution 95 (Ninety Second Congress; agreed to April 1, 1971) are hereby incorporated by reference.

(2) Technical changes.—Senate Resolution 382 (Ninetieth Congress; agreed to October 1, 1968) is amended—

(A) in section 1(b) by adding at the end thereof "The Secretary of the Senate shall be the Executive Secretary of the Commission"; and

(B) in section 2(a)—

(i) by striking out "and protect" and inserting in lieu thereof "protect, and make known"; and

(ii) by striking out "within the Senate wing of the Capitol", and inserting in lieu thereof "within the Senate wing of the Capitol, any Senate Office Building".

(h) Advisory Board.—

(1) Establishment.—

(A) In general.—The Commission is authorized to establish an Advisory Board (hereinafter "Board").

(B) Composition.—The Board shall be headed by a Chairman and composed of six members (including the Chairman). The membership of the Board may be expanded by Act of the Commission, consistent with the pattern established in paragraph (3)(B) of this section. The Board, with the approval of the Commission, may establish and maintain additional entities to further the purpose stated in subparagraph (C).

(C) Purpose.—The purpose of the Board shall be to encouarge the acquisition of fine arts, furnishings, and historical documents and to foster activities relating to the preservation and enhancement of the history and traditions of the United States Senate.

(2) Compensation.—The Chairman and Board members shall be from public and private life, and shall serve without compensation. The Chairman and Board members may be reimbursed for actual and necessary expenses incurred in the performance of the duties of the Board at the discretion of the Commission.

(3) Terms.—

(A) Chairman.—The Chairman of the Board shall be appointed by the Chairman of the Commission, and shall serve at the pleasure of the Commission for a 4-year term.

(B) Other members.—The other members of the Board shall be appointed by the President pro tempore of the Senate, and shall serve staggered 4-year terms at the pleasure of the Commission. The term of the initial appointments of two Board members shall be for four years. The term of the initial appointment of the remaining three Board members shall be for two years.

(C) Vacancies.—Any vacancies on the Board shall be filled in same manner as the appointment to such position was made.

(i) Senate Rulemaking Power.—The provisions of this section (except subsections (b), (d), and (e)) are enacted by the Congress—

(1) as an exercise of the rulemaking power of the Senate, and as such they shall be considered as part of the rules of the Senate, and such rules shall supersede other rules only to the extent that they are inconsistent therewith; and

(2) with full recognition of the constitutional right of the Senate to change such rules at any time, in the same manner, and to the same extent as in the case of any other rule of the Senate.

SEC. 3 OLD EXECUTIVE OFFICE BUILDING.

(a) Acceptance of Gifts of Money and Property.—The Director of the Office of Administration is authorized to—

(1) accept, hold, administer, utilize and sell gifts and bequests of property, both real and personal, and loans of personal property other than money; and

(2) accept and utilize voluntary and uncompensated services; for the purpose of aiding, benefiting, or facilitating the work of preservation, restoration, renovation, rehabilitation, or historic furnishing of the Old Executive Office Building and the grounds thereof.

(b) Establishment of Fund.—

(1) In general.—There is established in the Treasury a fund for use in accordance with the provisions of this section.

(2) Deposits and availability.—Amounts of money and proceeds from the sale of property accepted under subsection (a) shall be deposited in the fund, which shall be available to the Director of the Office of Administration. Such funds shall be held in trust by the Secretary of the Treasury.

(c) Use of Fund.—Property accepted pursuant to this section or the proceeds from the sale thereof, shall be used as nearly as possible in accordance with the terms of gift or bequest. The Director of the Office of Administration shall not accept any gift under this section that is expressly conditioned on any expenditure not to be met from the gift itself unless such expenditure has been approved by an Act of Congress.

(d) Taxes.—For the purpose of the Federal income, estate, and gift tax laws, property accepted under this section shall be considered as a contribution to or for the use of the United States.

(e) Public Disclosure.—At least once each year, the Director of the Office of Administration shall make a public disclosure of the amount and source of each gift and bequest received under this section, and the purpose for which amounts in the fund established under subsection (b) are expended.

TECHNICAL AMENDMENTS TO FEDERAL EMPLOYEES' RETIREMENT SYSTEM

PRYOR (AND STEVENS) AMENDMENT NO. 1372

Mr. BYRD (for Mr. Pryor, for himself and Mr. Stevens) proposed an amendment to the bill (H.R. 3395) making technical corrections relating to the Federal Employees' Retirement System, and for other purposes; as follows:

On page 4, line 7, insert "for at least 3 years" after "(B)".

On page 4, line 9, insert before the period "and insert in lieu thereof 'for at least 3 years'".

On page 16, line 2, strike out "or".

On page 16, line 4, strike out the period and insert in lieu thereof a semicolon.

On page 16, insert between lines 4 and 5 the following:

(C) a contract under which the services of an individual may be terminated by a person other than the individual or the Government; or

(D) a contract for a single transaction or a contract under which services are paid for in a single payment.

On page 29, beginning with line 12, strike out all through line 18.

On page 35, strike line 18 and all that follows through page 36, line 10, and insert in lieu thereof the following:

(c) Applicability.—This section applies with respect to—

(1) any individual participating in the Civil Service Retirement System or the Federal Employees' Retirement System as—

(A) an individual who has entered on approved leave without pay to serve as a full-time officer or employee of an organization composed primarily of employees (as defined by section 8331(1) or 8401(11) of title 5, United States Code);

(B) an individual assigned from a Federal agency to a State or local government under subchapter VI of chapter 33 of title 5, United States Code; or

(C) an individual appointed or otherwise assigned to one of the cooperative extension services, as defined by section 1404(5) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3105(5)); and

(2) any individual who is participating in the Civil Service Retirement System as a result of a provision of law described in section 8347(o).

On page 36, line 18, strike "subsection (c)(3)," and insert "subsection (c)(1)(C),".

On page 38, line 4, strike out the period and insert in lieu thereof a semicolon and "and".

On page 38, insert between lines 4 and 5 the following:

(3) by amending clause (v) by striking out "at the time of filing such application" and inserting in lieu thereof "on May 7, 1987".

SEC. 128. REFUNDS OF CERTAIN EXCESS DEDUCTIONS TAKEN AFTER 1983 TO OFFSET EMPLOYEES UNDER THE CIVIL SERVICE RETIREMENT SYSTEM.

(a) Refund Eligibility.—An individual shall upon written application to the Office of Personnel Management, receive a refund under subsection (b), if such individual—

(1) was subject to section 8334(a)(1) of title 5, United States Code, for any period of service after December 31, 1983, because of an election under section 208(a)(1)(B) of the Federal Employees' Retirement Contribution Temporary Adjustment Act of 1983 (97 Stat. 1107; 5 U.S.C. 8331 note);

(2) is not eligible to make an election under section 301(b) of the Federal Employees' Retirement System Act of 1986 (Pub. Law 99-335; 100 Stat. 599); and

(3) becomes subject to section 8334(k) of title 5, United States Code.

(b) Refund Computation.—An individual eligible for a refund under subsection (a) shall receive a refund—

(1) for the period beginning on January 1, 1984, and ending on December 31, 1986, for the amount by which—

(A) the total amount deducted from such individual's basic pay under section 8334(a)(1) of title 5, United States Code, for service described in subsection (a)(1) of this section, exceeds

(B) 1.3 percent of such individual's total basic pay for such period; and

(2) for the period beginning on January 1, 1987, and ending on the day before such individual becomes subject to section 8334(k) of title 5, United States Code, for the amount by which—

(A) the total amount deducted from such individual's basic pay under section 8334(a)(1) of title 5, United States Code, for service described in subsection (a)(1) of this section, exceeds

(B) the total amount which would have been deducted if such individual's basic pay had instead been subject to section 8334(k) of title 5, United States Code, during such period.

(c) Interest Computation.—A refund under this section shall be computed with interest in accordance with section 8334(e) of title 5, United States Code, and regulations prescribed by the Office of Personnel Management.

SEC. 129. ADJUSTMENTS IN METHODS OF ANNUITY PAYMENTS FOR YEARS WITH ZERO OR NEGATIVE INFLATION.

Section 8434(a)(2)(C) and (D) of title 5, United States Code, is amended to read as follows:

"(C) a method described in subparagraph (A) which provides for automatic adjustments in the amount of the annuity payable so long as the amount of the annuity payable in any one year shall not be less than the amount payable in the previous year;

"(D) a method described in subparagraph (B) which provides for automatic adjustments in the amount of the annuity payable so long as the amount of the annuity payable in any one year shall not be less than the amount payable in the previous year; and".

SEC. 130. COVERAGE UNDER THE FEDERAL EMPLOYEES' RETIREMENT SYSTEM FOR INDIVIDUALS SUBJECT TO THE FOREIGN SERVICE PENSION SYSTEM WHO ENTER FEDERAL EMPLOYMENT OTHER THAN THE FOREIGN SERVICE.

Section 8402 of title 5, United States Code, is amended—

(1) in the matter following subparagraph (B) of paragraph (2) of subsection (b) by inserting "subsection (d) of this section or" before "title III"; and

(2) by inserting after subsection (c) the following new subsection (d):

"(d) Paragraph (2) of subsection (b) shall not apply to an individual who becomes subject to subchapter II of chapter 8 of title I of the Foreign Service Act of 1980 (relating to the Foreign Service Pension System) pursuant to an election and who subsequently enters a position in which, but for such paragraph (2), he would be subject to this chapter.".

SEC. 131. ANNUITY COMPUTATIONS FOR THE FEDERAL EMPLOYEES' RETIREMENT SYSTEM.

(a) Survivor Reduction Computation.—Section 8419(a) of title 5, United States Code, is amended—

(1) in paragraph (1) by striking out ", shall be reduced" and inserting in lieu thereof "or one-half of the annuity, if jointly designated for this purpose by the employee or Member and the spouse of the employee or Member under procedures prescribed by the Office of Personnel Management, shall be reduced"; and

(2) in paragraph (2)(A) by striking out ", shall be reduced" and inserting in lieu thereof "or one-half of the annuity, if jointly designated for this purpose by the employee or Member and the spouse of the employee or Member under procedures prescribed by the Office of Personnel Management, shall be reduced".

(b) Survivor Benefits.—Section 8442 of title 5, United States Code, is amended—

(1) in subsection (a)(1) by inserting after "with respect to the annuitant," the following: "(or one-half thereof, if designated for this purpose under section 8419 of this title),"; and

(2) in subsection (g)(1) by inserting after "paragraph (2)" the following: "(or one-half thereof if designated for this purpose under section 8419 of this title)".

SEC. 132. LOANS FROM EMPLOYEES' CONTRIBUTION TO THE THRIFT SAVINGS FUND.

Section 8433(i)(3) of title 5, United States Code, is amended to read as follows:

"(3) Loans under this subsection shall be available to all employees and Members on a reasonably equivalent basis, and shall be subject to such other conditions as the Board may by regulation prescribe. The restrictions of section 8477(c)(1) of this title shall not apply to loans made under this subsection.".

SEC. 133. FIDUCIARY RESPONSIBILITIES AND LIABILITIES IN MANAGEMENT OF THRIFT SAVINGS FUND.

(a) Fiduciary Responsibilities and Liabilities.—Section 8477(e) of title 5, United States Code, is amended—

(1) in paragraph (1)(A) by inserting before the period at the end of the first sentence a comma and "except as provided in paragraphs (3) and (4) of this subsection";

(2) in paragraph (1)(B) by striking out "Internal Revenue Code of 1954" and inserting in lieu thereof "Internal Revenue Code of 1986";

(3) in paragraph (1)(D) by inserting "only" before "if" in the matter preceding clause (i);

(4) by redesignating paragraphs (4) and (5) as paragraphs (7) and (8), respectively; and

(5) by striking out paragraphs (2) and (3) and inserting in lieu thereof:

"(2) No civil action may be maintained against any fiduciary with respect to the responsibilities, liabilities, and penalties authorized or provided for in this section except in accordance with paragraphs (3) and (4).

"(3) A civil action may be brought in the district courts of the United States—

"(A) by the Secretary of Labor against any fiduciary other than a Member of the Board or the Executive Director of the Board—

"(i) to determine and enforce a liability under paragraph (1)(A);

"(ii) to collect any civil penalty under paragraph (1)(B);

"(iii) to enjoin any act or practice which violates any provision of subsection (b) or (c);

"(iv) to obtain any other appropriate equitable relief to redress a violation of any such provision; or

"(v) to enjoin any act or practice which violates subsection (g)(2) or (h) of section 8472 of this title;

"(B) by any participant, beneficiary, or fiduciary against any fiduciary—

"(i) to enjoin any act or practice which violates any provision of subsection (b) or (c);

"(ii) to obtain any other appropriate equitable relief to redress a violation of any such provision; or

"(iii) to enjoin any act or practice which violates subsection (g)(2) or (h) of section 8472 of this title;

"(C) by any participant or beneficiary—

"(i) to recover benefits of such participant or beneficiary under the provisions of subchapter III of this chapter, to enforce any right of such participant or beneficiary under such provisions, or to clarify any such right to future benefits under such provisions; or

"(ii) to enforce any claim otherwise cognizable under sections 1346(b) and 2671 through 2680 of title 28, if the remedy against the United States provided by sections 1346(b) and 2672 of title 28 for damages for injury or loss of property caused by the negligent or wrongful act or omission of any fiduciary while acting within the scope of his duties or employment is exclusive of any other civil action or proceeding by the participant or beneficiary for recovery of money by reason of the same subject matter against the fiduciary (or the estate of such fiduciary) whose act or omission gave rise to such action or proceeding, whether or not such action or proceeding is based on an alleged violation of subsection (b) or (c).

"(4)(A) In all civil actions under paragraph (3)(A), attorneys appointed by the Secretary may represent the Secretary (except as provided in section 518(a) of title 28), however all such litigation shall be subject to the direction and control of the Attorney General.

"(B) The Attorney General shall defend any civil action or proceeding brought in any court against any fiduciary referred to in paragraph (3)(C)(ii) (or the estate of such fiduciary) for any such injury. Any fiduciary against whom such a civil action or proceeding is brought shall deliver, within such time after date of service or knowledge of service as determined by the Attorney General, all process served upon such fiduciary (or an attested copy thereof) to the Executive Director of the Board, who shall promptly furnish copies of the pleading and process to the Attorney General and the United States Attorney for the district wherein the action or proceeding is brought.

"(C) Upon certification by the Attorney General that a fiduciary described in paragraph (3)(C)(ii) was acting in the scope of such fiduciary's duties or employment as a fiduciary at the time of the occurrence or omission out of which the action arose, any such civil action or proceeding commenced in a State court shall be—

"(i) removed without bond at any time before trial by the Attorney General to the district court of the United States for the district and division in which it is pending; and

"(ii) deemed a tort action brought against the United States under the provisions of title 28 and all references thereto.

"(D) The Attorney General may compromise or settle any claim asserted in such civil action or proceeding in the manner provided in section 2677 of title 28, and with the same effect. To the extent section 2672 of title 28 provides that persons other than the Attorney General or his designee may compromise and settle claims, and that payment of such claims may be made from agency appropriations, such provisions shall not apply to claims based upon an alleged violation of subsections (b) or (c).

"(E) For the purposes of paragraph (3)(C)(ii) the provisions of sections 2680(h) of title 28 shall not apply to any claim based upon an alleged violation of subsection (b) or (c).

"(F) Notwithstanding sections 1346(b) and 2671 through 2680 of title 28, whenever an award, compromise, or settlement is made under such sections upon any claim based upon an alleged violation of subsection (b) or (c), payment of such award, compromise, or settlement shall be made to the appropriate account within the Thrift Savings Fund, or where there is no such appropriate account, to the participant or beneficiary bringing the claim.

"(G) For purposes of paragraph (3)(C)(ii), fiduciary includes only the Members of the Board and the Board's Executive Director.

"(5) Any relief awarded against a Member of the Board or the Executive Director of the Board in a civil action authorized by paragraphs (3) and (4) may not include any monetary damages or any other recovery of money.

"(6) An action may not be commenced under paragraph (3) (A) or (B) with respect to a fiduciary's breach of any responsibility, duty, or obligation under subsection (b) or a violation of subsection (c) after the earlier of—

"(A) 6 years after (i) the date of the last action which constituted a part of the breach or violation, or (ii) in the case of an omission, the latest date on which the fiduciary could have cured the breach or violation; or

"(B) 3 years after the earliest date on which the plaintiff had actual knowledge of the breach or violation, except that, in the case of fraud or concealment, such action may be commenced not later than 6 years after the date of discovery of such breach or violation.".

(b) EFFECTIVE DATE.—The provisions of section 8477(e) (1), (2), (3), (4), (5), and (6) of title 5, United States Code, (as amended by subsection (a) of this section) shall apply to any civil action or proceeding arising from any act or omission occurring on or after October 1, 1986.

(c) REPEAL.—The provisions of subsection (a) (and the amendments to section 8477(e) of title 5, United States Code, contained therein) and subsection (b) of this section are repealed effective on December 31, 1990. On and after December 31, 1990 the provisions of section 8477(e) of title 5, United States Code, shall be in effect as such provisions were in effect on the date immediately preceding the date of enactment of this section.

SEC. 134. AMENDMENTS CONCERNING REEMPLOYED ANNUITANTS.

(a) AMENDMENT TO CHAPTER 84 OF TITLE 5, UNITED STATES CODE.—Section 8468 is amended to read as follows:

"§ 8468. Annuities and pay on reemployment

"(a) If an annuitant, except a disability annuitant whose annuity is terminated because of the annuitant's recovery or restoration of earning capacity, becomes employed in an appointive or elective position, an amount equal to the annuity allocable to the period of actual employment shall be deducted from the annuitant's pay, except for lump-sum leave payment purposes under section 5551. Unless the annuitant's appointment is on an intermittent basis or is to a position as a justice or judge (as defined by section 451 of title 28) or as an employee subject to another retirement system for Government employees, or unless the annuitant is serving as President, deductions for the Fund shall be withheld from the annuitant's pay under section 8422(a) and contributions under section 8423 shall be made. The deductions and contributions referred to in the preceding provisions of this subsection shall be deposited in the Treasury of the United States to the credit of the Fund. The annuitant's lump-sum credit may not be reduced by annuity paid during the reemployment.

"(b)(1)(A) If an annuitant subject to deductions under the second sentence of subsection (a) serves on a full-time basis for at least 1 year, or on a part-time basis for periods equivalent to at least 1 year of full-time service, the annuitant's annuity on termination of reemployment shall be increased by an annuity computed under section 8415(a) through (f) as may apply based on the period of reemployment and the basic pay, before deduction, averaged during the reemployment.

"(B)(i) If the annuitant is receiving a reduced annuity as provided in section 8419, the increase in annuity payable under subparagraph (A) is reduced by 10 percent and the survivor annuity or combination of survivor annuities payable under section 8442 or 8445 (or both) is increased by 50 percent of the increase in annuity payable under subparagraph (A), unless, at the time of claiming the increase payable under subparagraph (A), the annuitant notifies the Office in writing that the annuitant does not desire the survivor annuity to be increased.

"(ii) If an annuitant who is subject to the deductions referred to in subparagraph (A) dies while still reemployed, after having been reemployed for not less than 1 year of full-time service (or the equivalent thereof, in the case of full-time employment), the survivor annuity payable is increased as though the reemployment had otherwise terminated.

"(2)(A) If an annuitant subject to deductions under the second sentence of subsection (a) serves on a full-time basis for at least 5 years, or on a part-time basis for periods equivalent to at least 5 years of full-time service, the annuitant may elect, instead of the benefit provided by paragraph (1), to have such annuitant's rights redetermined under this chapter.

"(B) If an annuitant who is subject to the deductions referred to in subparagraph (A) dies while still reemployed, after having been reemployed for at least 5 years of full-time service (or the equivalent thereof in the case of part-time employment), any person entitled to a survivor annuity under section 8442 or 8445 based on the service of such annuitant shall be permitted to elect, in accordance with regulations prescribed by the Office of Personnel Management, to have such person's rights under subchapter IV redetermined. A redetermined survivor annuity elected under this subparagraph shall be in lieu of an increased annuity which would otherwise be payable in accordance with paragraph (1)(B)(ii).

"(3) If an annuitant subject to deductions under the second sentence of subsection (a) serves on a full-time basis for a period of less than 1 year, or on a part-time basis for periods equivalent to less than 1 year of full-time service, the total amount withheld under section 8422(a) from the annuitant's basic pay for the period or periods involved shall, upon written application to the Office, be payable to the annuitant (or the appropriate survivor or survivors, determined in the order set forth in section 8424(d)).

"(c) This section does not apply to an individual appointed to serve as a Governor of the Board of Governors of the United States Postal Service.

"(d) If an annuitant becomes employed as a justice or judge of the United States, as defined by section 451 of title 28, the annuitant may, at any time prior to resignation or retirement from regular active service as such a justice or judge, apply for and be paid, in accordance with section 8424(a), the amount (if any) by which the lump-sum credit exceeds the total annuity paid, notwithstanding the time limitation contained in such section for filing an application for payment.

"(e) A reference in this section to an 'annuity' shall not be considered to include any amount payable from a source other than the Fund.".

(b) AMENDMENT TO FERSA.—Section 302(a)(12) of the Federal Employees' Retirement System Act of 1986 is amended to read as follows:

"(12)(A)(i) If the electing individual is a reemployed annuitant under section 8344 of title 5, United States Code, under conditions allowing the annuity to continue during reemployment, payment of the annuitant's annuity shall continue after the effective date of the election, and an amount equal to the annuity allocable to the period of actual employment shall continue to be deducted from the annuitant's pay and deposited as provided in subsection (a) of such section. Deductions from pay under section 8422(a) of such title and contributions under section 8423 of such title shall begin effective on the effective date of the election.

"(ii) Notwithstanding any provision of section 301, an election under such section shall not be available to any reemployed annuitant who would be excluded from the operation of chapter 84 of title 5, United States Code, under section 8402(c) of such title (relating to exclusions based on the temporary or intermittent nature of one's employment).

"(B) If the annuitant serves on a full-time basis for at least 1 year, or on a part-time basis for periods equivalent to at least 1 year of full-time service, such annuitant's annuity, on termination of reemployment, shall be increased by a annuity computed—

"(i) with respect to reemployment service before the effective date of the election, under section 8339 (a), (b), (d), (e), (h), (i), and (n) of title 5, United States Code, as may apply based on the reemployment in which such annuitant was engaged before such effective date; and

"(ii) with respect to reemployment service on or after the effective date of the election, under section 8415(a) through (f) of such title, as may apply based on the reemployment in which such annuitant was engaged on or after such effective date;

with the 'average pay' used in any computation under clause (i) or (ii) being determined (based on rates of pay in effect during the period of reemployment, whether before, on, or after the effective date of the election) in the same way as provided for in paragraph (6). If the annuitant is receiving a reduced annuity as provided in section 8339(j) or section 8339(k)(2) of title 5, United States Code, the increase in annuity payable under this subparagraph is reduced by 10 percent and the survivor annuity payable under section 8341(b) of such title is increased by 55 percent of the increase in annuity payable under this subparagraph, unless, at the time of claiming the increase payable under this subparagraph, the annuitant notifies the Office of Personnel Management in writing that such annuitant does not desire the survivor annuity to be increased. If the annuitant dies while still reemployed, after having been reemployed for at least 1 full year (or the equivalent thereof, in the case of part-time employment), any survivor annuity payable under section 8341(b) of such title based on the service of such annuitant is increased as though the reemployment had otherwise terminated. In applying paragraph (7) to an amount under this subparagraph, any portion of such amount attributable to clause (i) shall be adjusted under subparagraph (A) of such paragraph, and any portion of such amount attributable to clause (ii) shall be adjusted under subparagraph (B) of such paragraph.

"(C)(i) If the annuitant serves on a full-time basis for at least 5 years, or on a part-time basis for periods equivalent to at least 5 years of full-time service, such annuitant may elect, instead of the benefit provided by subparagraph (B), to have such annuitant's rights redetermined, effective upon separation from employment. If the annuitant so elects, the redetermined annuity will become payable as if such annuitant were retiring for the first time based on the separation from reemployment service, and the provisions of this section concerning computation of annuity (other than any provision of this paragraph) shall apply.

"(ii) If the annuitant dies while still reemployed, after having been reemployed for at least 5 full years (or the equivalent thereof, in the case of part-time employment), any person entitled to a survivor annuity under section 8341(b) of title 5, United States Code, based on the service of such annuitant shall be permitted to elect to have such person's rights redetermined in accordance with regulations which the Office shall prescribe. Redetermined benefits elected under this clause shall be in lieu of any increased benefits which would otherwise be payable in accordance with the next to last sentence of subparagraph (B).

"(D) If the annuitant serves on a full-time basis for less than 1 year (or the equivalent thereof, in the case of part-time employment), any amounts withheld under section 8422(a) of title 5, United States Code, from such annuitant's pay for the period (or periods) involved shall, upon written application to the Office, be payable to such annuitant (or the appropriate survivor or survivors, determined in the order set forth in section 8342(c) of such title).

"(E) For purposes of determining the period of an annuitant's reemployment service under this paragraph, a period of reemployment service shall not be taken into account unless—

"(i) with respect to service performed before the effective date of the election under section 301, it is service which, if performed for at least 1 full year, would have allowed such annuitant to elect under section 8344(a) of title 5, United States Code, to have deductions withheld from pay; or

"(ii) with respect to service performed on or after the effective date of the election under section 301, it is service with respect to which deductions from pay would be required to be withheld under the second sentence of section 8468(a) of title 5, United States Code.".

(c) TECHNICAL AMENDMENT.—Section 302(a)(4) of the Federal Employees' Retirement System Act of 1986 is amended by striking out all before "benefits" and inserting "Accrued".

(d) EFFECTIVE DATE.—

(1) GENERALLY.—The amendments made by this section shall take effect on the date of the enactment of this Act, and as provided in paragraph (2), shall apply with respect to any individual who becomes a reemployed annuitant on or after such date.

(2) EXCEPTION.—The amendment made by subsection (b) shall apply with respect to any election made by a reemployed annuitant on or after the date of the enactment of this Act.

SEC. 135. DESIGNATION OF UNITED STATES POST OFFICE BUILDING.

The United States Post Office Building located at 809 Nueces Bay Boulevard, Corpus Christi, Texas, shall be designated and hereafter known as the "Dr. Hector Perez Garcia Post Office Building". Any reference in any law, map, regulation, document, record, or other paper of the United States to that building shall be deemed to be a reference to the "Dr. Hector Perez Garcia Post Office Building".

SEC. 136. CONTINUED COVERAGE FOR CERTAIN EMPLOYEES AND ANNUITANTS OF THE ALASKA RAILROAD IN FEDERAL HEALTH BENEFITS PLANS AND LIFE INSURANCE PLANS.

(a) AMENDMENT TO ALASKA RAILROAD TRANSFER ACT OF 1982.—Section 607 of the Alaska Railroad Transfer Act of 1982 (45 U.S.C. 1206) is amended by adding at the end thereof the following new subsection:

"(e)(1) Any person described under the provisions of paragraph (2) may elect life insurance coverage under chapter 87 of title 5, United States Code, and enroll in a health benefits plan under chapter 89 of title 5, United States Code, in accordance with the provisions of this subsection.

"(2) The provisions of paragraph (1) shall apply to any person who—

"(A)(i) retired from the State-owned railroad during the period beginning on or after January 4, 1985 through the date of enactment of this subsection; and

"(ii)(I) was covered under a life insurance policy pursuant to chapter 87 of title 5, United States Code, on January 4, 1985, for the purpose of electing life insurance coverage under the provisions of paragraph (1); or

"(II) was enrolled in a health benefits plan pursuant to chapter 89 of title 5, United States Code, on January 4, 1985, for the purpose of enrolling in a health benefits plan under the provisions of paragraph (1); or

"(B)(i) on the date of enactment of this subsection is an employee of the State-owned railroad; and

"(ii)(I) has 26 years or more of service (in the civil service as a Federal employee or as an employee of the State-owned railroad, combined) on the date of retirement from the State-owned railroad; and

"(II)(aa) was covered under a life insurance policy pursuant to chapter 87 of title 5, United States Code, on January 4, 1985, for the purpose of electing life insurance coverage under the provisions of paragraph (1); or

"(bb) was enrolled in a health benefits plan pursuant to chapter 89 of title 5, United States Code, on January 4, 1985, for the purpose of enrolling in a health benefits plan under the provisions of paragraph (1).

"(3) For purposes of this section, any person described under the provisions of paragraph (2) shall be deemed to have been covered under a life insurance policy under chapter 87 of title 5, United States Code, and to have been enrolled in a health benefits plan under chapter 89 of title 5, United States Code, during the period beginning on January 5, 1985 through the date of retirement of any such person.

"(4) The provisions of paragraph (1) shall not apply to any person described under paragraph (2)(B), until the date such person retires from the State-owned railroad.".

(b) ADMINISTRATIVE PROVISIONS.—Within 180 days after the date of enactment of this section, the Director of the Office of Personnel Management shall notify any person described under the provisions of section 607(e)(2)(A) of such Act, for the purpose of the election of a life insurance policy or the enrollment in a health benefits plan pursuant to the provisions of section 607(e)(1) of the Alaska Railroad Transfer Act of 1982 (as amended by subsection (a) of this section).

SEC. 137. Section 5402 of title 39, United States Code, is amended—

(1) in subsection (f) by striking out "January 1, 1989" and inserting in lieu thereof "January 1, 1999"; and

(2) by adding at the end thereof the following new subsection:

"(g)(1) The Postal Service, in selecting carriers of non-priority bypass mail to any point served by more than one carrier in the State of Alaska, shall, at a minimum, require that any such carrier shall—

"(A) hold a certificate of public convenience and necessity issued under section 401 of the Federal Aviation Act of 1958 (49 U.S.C. 1371);

"(B) operate at least 3 scheduled flights each week to such point;

"(C) exhibit an adherence to such scheduled flights to the best of the abilities of such carrier; and

"(D) have provided scheduled service within the State of Alaska for at least 12 months before being selected as a carrier of non-priority bypass mail.

"(2) The Postal Service—

"(A) may provide direct mainline non-priority bypass mail service to any bush point in the State of Alaska, without regard to paragraph (1)(B), if such service is equal to or better than interline service in cost and quality; and

"(B) shall deduct the non-priority bypass mail poundage flown on direct mainline flights to bush points within the State of Alaska by any carrier, from such carrier's allocation of the total poundage of non-priority bypass mail transported to the nearest appropriate Postal Service hub point in any month.

"(3)(A) The Postal Service shall determine the bypass mail bush points and hub points described under paragraph (2)(B) after consultation with the State of Alaska and the affected local communities and air carriers.

"(B) Any changes in the determinations of the Postal Service under subparagraph (A) shall be made—

"(i) after consultation with the State of Alaska and the affected local communities and air carriers; and

"(ii) after giving 12 months public notice before any such change takes effect.

On page 40, line 7, insert after "Representatives" the following: "and the Committee on Governmental Affairs".

PREPAYMENT OF CERTAIN SMALL BUSINESS LOANS

BUMPERS AMENDMENT NO. 1373

Mr. BYRD (for Mr. BUMPERS) proposed an amendment to the bill (S. 437) to amend the Small Business Investment Act of 1958 to permit prepayment of loans made to State and local development companies; as follows:

At line 9, on page 3 of the Committee Amendment, strike the comma after the word "debenture" and insert the following: "plus a prepayment penalty as described in subparagraph (c),".

On page 3, line 21, of the Committee Amendment insert the following new subparagraph (c) and renumber the existing subparagraphs accordingly:

(c) The Federal Financing Bank may impose a prepayment penalty on issuers of debentures who elect to pay those debentures before maturity according to the following schedule:

(1) For debentures with ten years or less remaining before maturity, a penalty not to exceed 40 percent of an amount equal to the annual interest on the outstanding principal balance of the debenture at the coupon rate;

(2) For debentures with more than ten years but less than 15 years remaining before maturity, a penalty not to exceed fifty per cent of an amount equal to the annual interest on the outstanding principal balance of the debenture at the coupon rate;

(3) For debentures with more than fifteen years but less than 20 years before maturity, a penalty not to exceed sixty percent of an amount equal to the annual interest on the outstanding principal balance of the debenture at the coupon rate;

(4) For debentures with more than twenty years remaining before maturity, a penalty not to exceed seventy per cent of an amount equal to the annual interest on the outstanding balance of the debenture at the coupon rate.

EXCLUSION OF CERTAIN CHARITABLE DONATIONS AND PAYMENTS FROM GROSS INCOME

LEAHY (AND LUGAR) AMENDMENT NO. 1374

Mr. BYRD (for Mr. LEAHY, for himself and Mr. LUGAR) proposed an amendment to the bill (H.R. 3435) to provide that certain charitable donations, and payments for blood contributed, shall be excluded from income for purposes of the Food Stamp Program and the AFDC Program; as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SEC. 1. That this Act may be cited as the "Charitable Assistance and Food Bank Act of 1987".

SEC. 2. FOOD STAMP PROGRAM.

(a) Section 5(d) of the Food Stamp Act of 1977 (7 U.S.C. 2014(d) is amended—

(1) in clause (8) by inserting "cash donations based on need that are received from one or more private nonprofit charitable organizations, but not in excess of $300 in the aggregate in a quarter," after "or credits,";

(b)(1) Effective Date.—Except as provided in paragraph (2), the amendment made by this section shall become effective upon the date of enactment of this Act.

(2) Application of Amendment.—The amendment made by this section shall not apply with respect to allotments issued under the Food Stamp Act of 1977 to any household for any month beginning before the date of enactment of this Act.

SEC. 3. FOOD BANK DEMONSTRATION PROJECT.

(a) The Secretary of Agriculture shall carry out no less than one demonstration project to provide and redistribute agricultural commodities and food products thereof as authorized under section 32 of the Act entitled "An Act to amend the Agricultural Adjustment Act, and for other purposes", approved August 24, 1935, as amended (7 U.S.C. 612c), to needy individuals and families through community food banks. The Secretary may use a State agency or any other food distribution system for such provision or redistribution of section 32 agricultural commodities and food products through community food banks under a demonstration project.

(b) Each food bank participating in the demonstration projects under this section shall establish a recordkeeping system and internal procedures to monitor the use of agricultural commodities and food products provided under this section. The Secretary shall develop standards by which the feasibility and effectiveness of the project shall be measured, and shall conduct an ongoing review of the effectiveness of the projects.

(c) The Secretary shall determine the quantities, varieties, and types of agricultural commodities and food products to be made available under this section.

(d) This section shall be effective for the period beginning on the date of enactment of this Act and ending on December 31, 1990.

(e) The Secretary shall submit annual progress reports to Congress beginning on July 1, 1988, and a final report on July 1, 1990, regarding each demonstration project carried out under this section. Such reports shall include analyses and evaluations of the provision and redistribution of agricultural commodities and food products under the demonstration projects. In addition, the Secretary shall include in the final report any recommendations regarding improvements in the provision and redistribution of agricultural commodities and food products to community food banks and the feasibility of expanding such method of provisions and redistribution of agricultural commodities and food products to other community food banks.

ADDITIONAL STATEMENTS

SCHOOLS WITHOUT DRUGS

● Mr. DECONCINI. Mr. President, in September 1986, the U.S. Department of Education released "Schools Without Drugs," a handbook that provides practical information for parents, teachers, principals, and community leaders in combating the problem of drugs among our young people. "Schools Without Drugs" is one of the most popular books in Federal publishing history, and many of its recommendations have been adopted by schools throughout the country. One particular program cited in this publication, "The Greenway Experience," is of special interest to me and I believe it is worthy of additional attention and circulation.

"The Greenway Experience" is based on a very successful, comprehensive drug and alcohol education program that began at Greenway Middle School in Phoenix, AZ, during the 1979-80 school year. Greenway Middle School, located in a rapidly growing area of Phoenix, has a highly transient student population of approximately 950. Prior to the arrival of Principal Don Skawski, the school was plagued by low-test scores, and major discipline and vandalism problems. Mr. Skawski decided to implement a drug eduction program and the results have been remarkable. Since the program's implementation there has been a 75-percent reduction in classroom disturbances, 80-percent reduction in drug and alcohol problems, a reduction of 25 percent in student absenteeism, and major reductions in almost every other area of student negative behavior at the Greenway school. Principal Skawski traveled to Washington December 2 to testify at a hearing of the Senate Caucus on International Narcotics Control on his involvement with drug education at the local level.

The caucus hearing attempted to assess the effectiveness and implementation of the 1986 Anti-Drug Abuse Act—legislation that finally provided the Department of Education with the necessary funds, $200 million over each of the next 3 years, to provide school districts across the country with the resources to initiate drug education progams. However, because of the complex nature of the drug abuse problem and a lack of research in the area of drug education, many school districts around the country are still in the early stages of developing a successful and comprehensive program.

I believe the Greenway Drug Education Program is unique in this respect because of its flexibility and diversity. The program is constructed in a manner that would allow an individual school to develop programs that coincide with the particular needs of that school and community. I think "The Greenway Experience" approach could be widely replicated around the country. At a time when schools all over the country are struggling to develop a drug education program of their own, "The Greenway Experience" might be the answer they have been searching for.

Mr. President, I ask that a copy of "What Works? Schools Without Drugs: The Greenway Program," be printed in the RECORD.

The material follows:

WHAT WORKS?—SCHOOLS WITHOUT DRUGS

(Don Skawski, Principal, Greenway Middle School)

"The foremost responsibility of society is to nurture and protect its children. In America today, the most serious threat to the health and well being of our children is drug use . . ."—William J. Bennett.

INTRODUCTION

Teachers and parents are concerned, as is the entire nation, about the drug abuse problem among today's youth. Schools are being called upon to take an aggressive role in helping the nation solve the drug problem. This is not the first time nor will this be the last time the nation's schools will be called upon to solve a social problem. There are some important reasons the nation's schools should become involved in developing a solution to the drug problem. First drug and alcohol use is a major cause of death among teenagers. Second, learning is impaired when minds are altered by chemicals. Third, the schools are becoming places where students can purchase and sell drugs. Finally, schools can become victims of drug problems with increased vandalism, increased truancy, increased violence, and lower student academic performance being the result.

There is a need for school-based drug prevention programs. Twenty years ago, most drug programs in the United States were limited to one-time programs where scare tactics were used. These kinds of programs raised awareness but failed to reduce drug problems. Today, the methodology needs to change if the drug problem is going to be dealt with. The new programs need to be comprehensive, have teachers involved, and be based on lifelong skills.

OVERVIEW

This manual is designed to take you through a step-by-step process for establishing a comprehensive drug and alcohol prevention program. The School Team approach, that this model supports has proven to be one of the most successful prevention models in the United States today. The staff and students at Greenway Middle School have received numerous awards and recognitions: Arizona Science Teacher of the Year, U.S. Counsellor of the Year, ranked Number One Middle Level School in Arizona, one of five schools listed in the U.S. Department of Education's publication, "What Works: Schools Without Drugs." In the last three years over one hundred articles about the accomplishments at Greenway Middle School have appeared in local, state and national publications. Statistics show a significant change in the behavior of the students at the school and the attitude of parents about the school, i.e., 75% reduction in classroom disturbances, 80% reduction in drug and alcohol problems, 25% reduction in student absenteeism problems, and, major reductions in almost every area of student negative behavior on campus.

If you follow the process you can establish an affective prevention model. The model is unique because it is flexible and allows you to develop programs that meet the unique needs of your school and community. The task is not simple; however, if you are serious about your task this model will pave the way.

THE DEVELOPMENT PROCESS

The establishment of a successful prevention program involves a four-step process. It is recommended that the four steps be undertaken in the sequence presented. The amount of time necessary to complete each step will depend upon the enthusiasm level and the number of people involved. It is important to understand that it takes time to develop a successful program and taking short cuts could well doom the prevention program to failure. The four necessary steps in developing a successful drug prevention program are as follows: (1) Research, (2) Education, (3) Planning, (4) Prevention Team.

RESEARCH

A necessary first step in the prevention process is to conduct research into the scope of the problem. The research will provide the data so the problem can be defined. Also, the research will establish baseline data for future evaluation to determine if the drug prevention program is meeting with success. The following are the areas and groups for which data should be accumulated:

1. Conduct a basic review of the literature related to drugs, drug prevention, and drug cultures.

2. Carefully review the school's discipline records to establish a baseline for negative behaviors: possession of drugs or alcohol, possession or use of cigarettes, fighting, vandalism, truancy, student absentee rate, etc.

3. Survey parents to determine if they believe there is a drug problem on campus. Conduct the survey on a yearly basis to determine if parent perceptions about the school's drug problems are changing.

4. Survey students to determine to what extent they believe there is a drug problem on campus.

5. Survey staff to determine if they believe there is a drug problem on campus.

EDUCATION

The second phase of the organizational part of the prevention program is the education of the staff, students, and parents. Each of these groups need to be provided with the necessary information relating to the drug problem on campus. Only through an informed student body, staff, and community can successful plans for prevention be developed. The following are key areas to consider when providing in-service to each group:

1. What literature tells about the scope of the drug problem nationwide.
2. The scope of the school's drug problem.
3. How to identify the signs of drug use.
4. What drugs are available in the community and school.
5. The language of drug culture.
6. The legal issues relating to drug use.
7. The effects on people who use drugs.

PLANNING

Now that the research and education phases of the prevention program are complete, it is time to start planning. Meetings should be scheduled with parents, staff members, and students to discuss the research findings and begin planning the prevention program. From these meetings should come the information and ideas for the establishment of a prevention philosophy and the development of prevention goals.

PREVENTION TEAM

There is no one drug prevention program on the market today that will seriously impact chemical abuse problems on a school campus. Drug use is not a single issue problem and can't be dealt with using single issue solutions. Each school and community are unique and it will take a comprehensive effort to bring the drug abuse problem under control. Tackling a problem as massive and complex as drug abuse requires the pooling of resources, ideas, and energy. The most successful method available today for dealing with school drug problems is the school-team approach. At each school a trained group of people assume responsibility for coordination of the school's prevention program. The team approach to problem-solving is a more coordinated, systematic, and effective model for prevention than any other on the market. It allows each school to utilize the resources available within the community to combat drug abuse. The team approach provides a flexible prevention program that adjusts to the unique needs of the school.

Each school should establish a prevention team consisting of an administrator, teachers, counsellor, support staff, and parents. This team will assume responsibility for developing and coordinating the school's prevention program. Also every effort should be made to provide training for the prevention team by the United States Department of Education's Alcohol and Drug Division or one of the private groups that conduct such training.

"Drug and alcohol abuse touches all Americans in one form or another, but it is our children who are most vulnerable to its influence. As parents and teachers, we need to educate ourselves about the dangers of drugs so that we can then teach our children. And we must go further still convincing them that drugs are morally wrong".—Nancy Reagan.

SUBSTANCE ABUSE PREVENTION PHILOSOPHY

One of the first tasks of the School Prevention Team should be to write a philosophy for the program. The existence of a written philosophy will provide meaning for the program. A philosophy should provide the purpose and direction for the prevention program.

A prevention program should include a variety of activities that promote mental, social, and physical health. The activities within the program should be positive in nature and should provide for non-users, experimenters, and recreational users. Prevention programs should not deal with teenage addicts and alcoholics; these people need intervention and professional medical help.

Prevention is a complex process that must be woven into the fabric of the total school program. It is important to enhance basic life skills, improve opportunities for academic success, develop decision-making skills, and provide students with a feeling of self-worth. Prevention, then, is the total school effort to improve the health and wellness of students by eliminating destructive behavior.

PREVENTION GOALS

The next task for the School Prevention Team is to establish a set of goals for the school's prevention program. The goals should be based on the prevention program's philosophy and should utilize the data gathered during the first phase of research and from the planning phase. The following are some sample goals taken from successful prevention programs:

1. A prevention program must help each student develop a sense of self-worth.
2. A prevention program must help students become self-actualized.
3. A prevention program must provide sound intellectual training resulting in positive learning.
4. A prevention program must provide the students with positive role models and examples of drug-free life styles.
5. A prevention program must provide the students with factual and specific drug information.

THE GREENWAY MODEL

The Greenway Middle School Prevention Model is divided into three specific parts: curriculum, student management, and prevention. The three divisions of the model are for organizational and planning purposes. Each part has a definite purpose; however, all parts relate to each other.

The Greenway Model brings together all aspects of the school's educational program to deal with student negative behavior on campus. The drug problems at Greenway have been greatly reduced and there is a corresponding reduction in classroom behavior problems, vandalism, bus problems, fights, and lunchroom problems. The success of the Greenway Middle School prevention efforts is due to the scope of its efforts, a consistent year-to-year effort, and the flexible nature of the model. The model allows each school to deal with its specific problems by utilizing the unique resources of the school and community.

SCIENCE CLASSES

Each student attending Greenway Middle School takes science as part of the general curriculum. It is through the science classes that the students are exposed to the research and other drugs specific information. The following are the areas of drug and alcohol information provided for the students.

1. The fact that drugs cause physical and emotional dependence is studied. The harmful side effects are also studied.
2. The students learn the chemical properties of many of the street drugs.
3. The effects of drugs on the circulatory, digestive, nervous, reproductive and respiratory systems are included.
4. Information provided also includes patterns of substance abuse: the progressive effects of drugs on the body and mind.
5. All illegal substances are studied; however, major emphasis is placed upon tobacco, marijuana, and alcohol.

T-SHIRT AWARDS

Using a silk screening process and a T-shirt press that we purchased for about $1,000, we have been able to design T-shirts for various clubs and activities. We can produce a T-shirt for approximately $3.00 so they are available with a limited investment. On our campus you can find the following T-shirt slogans and student-designed logos: Greenway Trash Busters, French Club, Greenway Basketball, Greenway Yacht Club, I Quit Smoking, Say No to Drugs, Greenway Athletes Against Drugs, Spanish Club, Greenway Jazz Band, etc. The students love the shirts and they are an excellent source of revenue.

MINI-UNITS

If a student is going to be able to "Just Say No" it is the belief of the Greenway Middle School staff that the student will need to possess certain technical skills and have a sense of self-worth. Student self-esteem is often lowered or destroyed when certain disruptions enter their lives. The mini-units are taught before school and during lunch periods. Instructors and students are volunteers. The length and number of sessions are dependent upon the topic and needs of the group. Topics of the mini-units vary each year depending on the needs of the students. The following are some of the most frequently requested topics:

1. How to cope when your parents divorce.
2. How to lose weight.
3. How to quit smoking.
4. How to improve your grades.
5. How to make friends.
6. How to improve communications at home.

ACADEMIC PEP FEST

One of the most interesting attention-getting activities we have worked with is, "The Academic Pep Fest." The Friday prior to the start of our State testing program, we schedule a pep test to promote doing your best on the tests. Cheerleaders, pep band, motivational speaking, etc., stress the importance of representing the school in the best possible manner on these tests. I believe it is important to keep an emphasis on the academics and this is one of the more interesting and enjoyable ways to do just that.

STUDY SKILLS

Each student should receive basic instruction in study skills. If success and self-esteem are treated, it is important that students develop those skills that will improve their success in school.

At Greenway Middle School a formal nine-week class in study skills and self-improvement is provided for each student. The following are the areas covered in the Study Skills classes:

1. How to organize a notebook.
2. How to develop an assignment calendar.
3. How to manage time.
4. How to do research.
5. Charting strategies.
6. Questioning strategies.
7. Test-taking strategies.
8. Decision-making strategies.

APPLE PIE DAY

In an effort to increase the students' understanding of the American way of life, once per year a special meal is prepared in the lunchroom. Hot dogs, apple pie and cheese are served; and, all during the day patriotic music is played over the P.A. system.

PEER TUTORS

It is difficult for a student to have high self-esteem if he/she is not successful in the classroom. If self-esteem is high in students who are drug free then it becomes important to help the students become successful academically. One of the programs that is designed to improve students' academic progress is the Peer Tutoring program.

The Peer Tutoring program is under the direct control of the school's counsellors. Peer Tutoring programs are no longer described as a fad in education. Research has shown that students helping students to improve their academic skills works. In fact, not only does the student being tutored improve academically, but the student providing the help improves in academic understanding.

The students who serve as peer tutors are selected by the counselling staff and trained by the counsellors. The tutors must have teacher recommendation and they must be proficient in the subject they tutor. A student needing help can receive up to two hours of help each week. The counsellors check with teachers of the students receiving help to ensure progress is being made.

BIRTHDAY CLUB

An important part of establishing a positive school climate is to create a comfortable working climate for staff. One of the easy ways to get started is a staff birthday club. At Greenway, the principal sends staff members cards on their birthdays with a pencil that has a special message printed on it, and a letter of appreciation for their efforts to improve the school.

PROJECT LEARN

There are studies that show that students who are not successful in school also have a low sense of self-worth. Often students who turn to drugs are students who are not successful in school. Project Learn was developed to deal with non-Special Education students who were two or more years behind in reading or math. Utilizing computer-assisted and small-group instruction, this program has had enormous success in improving student reading levels and math skills.

Students are recommended by classroom teachers due to poor performance. The students' records are reviewed and additional testing is conducted. If a student qualifies and parent permission is received, instruction starts. There is a full-time teacher and three paraprofessionals in the room and the student load never exceeds twenty-three students per period. The Project Learn lab contains sixteen Apple Computers and an extensive reading and math disc library.

VIDEO MESSAGES

At Greenway, we are in the process of producing short video productions about the school. With a highly transient population and 90% of our parents working during the day these videos should help parents learn about the school. In a survey about 47% of our homes had VCR's so the market is large enough to warrant such a production. We plan to check the tapes out to parents so they can learn more about the school. Some of the topics we plan to cover are: discipline, homework, and student activities.

ACADEMIC TEAMS

Several years ago the staff decided to form academic teams to deliver the subjects of history, science, and language arts. The teams were developed to meet a void that had developed in the instructional process. Middle school students, moving from one class to the next, seemed lost and often suffered from lack of identity. Teachers were frustrated by the lack of cooperation and poor communication among the staff.

By dividing students into academic teams and assigning names to those teams much improvement was noted. The students would see the same three teachers of the same subject. There was an immediate improvement in communication, student attitudes, and academic performance. Although not originally developed as a drug prevention tool, the Academic Teams have become the backbone of the self-esteem programs relating to curriculum. When functioning properly the teams are superior to a homeroom or an advisor/advisee program.

STAFF BREAKFAST

Building unity and cooperation among staff is a key to having a school with a positive learning environment. One activity that can help build unity is the staff breakfast. We divide the staff (certified and classified) into four groups. Each group meets and plans a breakfast for the staff. One breakfast is sponsored each quarter and has proven to be excellent in promoting staff spirit.

CAREER DAY

There are frightening statistics about school dropouts and drug use. Students who quit school move quickly from the experimental stage to the abuse stage in the drug use spectrum.

Career Day at Greenway Middle School is actually two days. Both days are coordinated by the school's counselling staff. The first day is traditional in nature; members of the business community visit the school and review their careers with students. The second day is the one that directly becomes involved with the school's prevention effort. On this day successful members of the community come to school to share with students; however, their message is quite different. Each of these business people dropped out of high school and failed in business. They returned to school and earned their high school diploma and went on to be a success. The message is clear—stay in school.

BALLOON AND DONUT DAY

An easy way for the Student Council, or other student groups, to show their appreciation for teachers is the Balloon and Donut Day. One morning per year when the teacher arrives in his/her classroom there is a helium-filled balloon with Super Teacher written on it and a donut in a small bag attached. Telling someone how much you appreciate that person can never be overdone. Balloon and Donut Day is one way to make that statement.

STUDENT MANAGEMENT—ASSERTIVE DISCIPLINE

Assertive Discipline is a competency-based discipline program designed to provide teachers the skills necessary to deal with students in the modern classroom. In Greenway Middle School's Assertive Discipline program we have identified specific competencies a teacher must possess in order to deal effectively with students.

The Assertive Discipline program is schoolwide and every teacher uses the system. This program provides the necessary consistency needed at a school with a high transient rate. In this system the main emphasis is on "catching the students doing good." However, if the student chooses to violate a school rule the system is designed to deal with the student in a fair and consistent manner.

The result of this discipline program is that staff conducts their classes with far fewer discipline problems; and, discipline becomes a businesslike act, not an emotional act on the part of the teacher. Students clearly understand what is expected of them and tend to operate within the system.

BUTTON REWARDS

We purchased a button-making machine and utilizing students, work and a silk screening process, buttons with a variety of school slogans are produced. Students love these buttons and the buttons are also a small source of revenue. The buttons are worn with pride. One idea is to produce a "Top Gun Student" button and allow each teacher to give their top ten students these buttons each quarter.

DISCIPLINE CODE

The Paradise Valley School District places a high priority on providing each student with the opportunity to learn within a safe and stimulating environment. For this reason, the Governor Board accepts the responsibility for identifying those behaviors which, if allowed to exist without restrictions and appropriate disciplinary action, would interfere with the orderly conduct of our public schools. Furthermore, the Governing Board charges are professional staff with the responsibility for enforcing the rules of conduct, establishing consistency in their enforcement, and maintaining an appropriate learning and behavioral environment.

According to Arizona law (ARS 15-341), the Governing Board also has the authority to "discipline students for disorderly conduct on their way to and from school." The Governing Board gives this responsibility to local school administrators.

The above information is the introduction to a comprehensive districtwide discipline code that provides minimums and maximums for each offense. This strict discipline code supports the school administrators in their efforts and provides consistency in enforcement. Also, clear-cut procedures are established for suspensions and expulsions.

TELEPHONE CONFERENCES

Keeping lines of communication open between the school and community is extremely important. One technique that has proven to be successful is to let parents know the principal will be in his/her office the first Tuesday of every month from 7:00-8:30 p.m. to answer telephone calls about school concerns. Five minutes would be the maximum of time per call. This provides an excellent opportunity for parents to ask questions and provide input into the operation of the school.

B.M.C.

There is a need on every campus to deal with students who can't be dealt with through traditional student management procedures. At Greenway the typical reaction was to suspend these students off campus. The School Discipline Committee felt an alternative to off-campus suspensions needed to be developed. There was a belief that suspending students from school generally resulted in little, if any, improvement in student attitudes toward school. Off-campus suspension sometimes contributes to increased family anxieties and hostilities. It seldom involves any effort to help the student understand his/her actions in relation to the infraction.

At Greenway, the Behavior Modification Center (B.M.C.) is a response to the need to help students understand the error of their ways and develop skills to change their negative behaviors. The B.M.C. Coordinator is a full-time professional who has had training in working with problem students. The Behavior Modification Center at Greenway Middle School is a three-track program which is both punitive and corrective: short-term referrals, three to ten-day referrals, and long-term referrals. The B.M.C. has proven to be one of the most successful tools in the school's prevention program.

EXIT CONFERENCES

In an effort to maintain lines of communication with staff, the principal conducts an exit conference with every employee during the Spring. They discuss: how the year went, what the future holds, and what the principal can do to help them reach personal and professional goals. This conference is an ideal time for the principal to get to know his/her employees and try to help them improve their support of the school.

PREVENTION—ALL STAR

ALL STAR is a positive, peer leadership program. It's name is an acronym for Activity Leadership Laboratories—Students Teaming Around Responsibility. ALL STAR joins students, staff, school administrators, and parents in the concept that young people develop standards of behavior which positively affect their environment. At the heart of the ALL STAR program is the proven theory that young people can take responsibility for their own behavior.

Utilizing professional athletes and counsellors the students are put through a series of workshops at weekend retreats. The students work on developing self-control, learning how to make decisions, how to write goals, and how to like themselves. The ALL STAR program is designed to deal with self-defeating behaviors.

After retreats ALL STAR teams are formed. Each team consists of one staff member and ten students. The teams meet a minimum of twice per month. Each student develops a goal to improve his/her academic performance, a goal to improve his/her relationships at home, and a goal to improve the quality of life on campus.

At Greenway there has been a noticeable improvement in student attitudes since the school's involvement with the ALL STAR program. There has been a reduction in vandalism, drug-related problems, and, in fact, there has been a reduction in all areas of negative behavior.

The ALL STAR program has become an important part of Greenway Middle School's prevention program.

PENCIL AWARDS

Two thousand pencils imprinted with various slogans are used mainly for student rewards; they also are nice PR gifts for parents and others who visit the school. Greenway Middle School is Number 1, and Greenway Middle School, the Best in the West, are examples of what is printed on the pencils. The principal keeps a supply of pencils with him as he walks about campus. When he sees students or staff doing something special he gives them a pencil and thanks them.

P.O.P.S.

The goal of the Power of Positive Students program is to assist every individual within the school to learn to believe in themselves, to acquire self-confidence, to have high expectations, to set and attain goals, and to acquire the feeling of positive self-worth. Also, part of the goal is to assist each individual to acquire specific skills of communication and human relations so that each person can acquire competencies that will lead to self-worth and pride.

At Greenway, the P.O.P.S. program is used to project a theme of "people feeling good about themselves." Programs are conducted, articles written, and activities scheduled to build upon the self-esteem concept. It is belief of the Greenway Middle School staff that students who feel good about themselves and are in control of their lives won't need to use drugs or consume alcohol.

WRITING CONTEST

During American Education Week we sponsor a student-writing contest. Students must write in fifty words or less, "Why I like Greenway Middle School." Every day a winner is selected; the student receives a soft drink and reads his/her theme over the P.A. system, thus combining an academic process with a school spirit activity and reward system.

PREVENTION FAIR

The Prevention Fair is an activity modeled after the traditional Career Day concept. Rather than have people from various areas of employment we have people from the community who work with prevention programs. We have people from the Police Department Alcoholics Anonymous. Ala Teen, Juvenile Detention Center, half-way homes, child abuse clinics, suicide prevention experts, runaway centers, etc. who make small group presentations during the day. There is also a luncheon where staff can meet with the presenters. A festive atmosphere is created with posters, signs, poems, etc. relating to prevention. A Prevention Fair can prove to be an excellent starting or concluding activity to your prevention efforts.

RECOGNITION FLAG

At Greenway, we have made a flag which is flown above the school on special occasions. When a team wins a conference title; when a student wins recognition in a district or state writing contest; if a teacher receives special recognition, etc., the flag is raised and an announcement is made over the P.A. system as to why.

"JUST SAY NO"

This is one of the many "canned" programs that is used at Greenway Middle School. The prepackaged programs alone can't create a drug-free school, but used as parts of a comprehensive prevention program they can be very effective.

The "Just Say No" clubs are groups of children, 7-14, years of age, united in their commitment not to drink or use drugs. Through a variety of educational, recreational, and service activities and with adult guidance, the club seek to strengthen the non-use norm that exists among young children.

For information on "Just Say No" clubs or "The Just Say No Foundation", write or phone the Foundation at 1777 North California Blvd, Suite 200, Walnut Creek, California 94596.

STUDENT REWARDS

It is important for students who follow the rules to know they are appreciated. A special activity is scheduled at the end of each nine-week period for those students who have not been sent to the office or had more than one lunch detention. Some of the activities are: ice cream parties, roller skating, and special assemblies.

RED RIBBON DAY

This is a tradition that started two years ago and is a good example of an awareness program. On the first Monday of each month a small red ribbon about the size of a quarter is distributed to each student and staff member. The ribbon is worn that day as a symbol of our concern for every student in the United States who is being held captive by drug or alcohol addiction. We have pledged to wear these ribbons until every student is free from addictive drug and alcohol use.

PREP PERIOD IN-SERVICE

The Prep Period In-service has proven to be a successful tool and communication device. It's a welcome change of pace from the traditional staff meeting or in-service. Teachers are asked to report to the principal's office during their prep period at which time in-depth discussion of an issue can take place. At Greenway this is done two times a year and the topics are carefully selected. The drawback in making the same presentation seven times a day is outweighed by the degree of interaction due to the small numbers involved each period.

PEER COUNSELING

The school counselors carefully select and train peer counselors. The selected students receive six weeks of training and once they begin working with other students they are closely supervised. There are three specific goals for the Greenway Middle School Peer Counseling Program:

1. To facilitate personal growth within the peer counselor—Through extensive training and actual experience, the peer counselors will learn how to deal more effectively with their peers and they will learn how to strengthen themselves in the areas of leadership and responsibility.

2. To increase guidance effectiveness on campus—Peer counselors can handle much of the routine work such as answering countless questions about school, class schedules, etc. The peer counselors can assist at student-parent functions such as Orientation and Open House. By screening student problems, they can help ensure that those students who really need to see the school counselors do so.

3. To increase the amount of guidance service done on the Greenway campus—By increasing the number of people actively involved through the use of trained peer counselors a large increase in students receiving guidance services is made possible.

STAFF MEETING AWARDS

Principals need to model and stress the importance of being on time to meetings. In an effort to encourage staff members to be on time, the principal presents a small gift to a staff member who is on time to a staff meeting. When staff members arrive on time to a meeting, their names are placed in a hat and at the end of the meeting a name or two is drawn. Some of the awards are: lunch with the principal, principal covers a class period, six pack of pop, etc.

"YOU MISS SCHOOL—YOU MISS OUT"

Research tells us that students who are out of school and not under direct supervision of an adult have a greater chance to get involved with drugs or alcohol. Also, students who are not in school won't benefit from the formal instructional process. Efforts in this area have provided dramatic results in the school's attendance program. At Greenway Middle School the "You Miss School—You Miss Out" is an attendance program designed to reduce absenteeism and truancy. The following are the key points in this attendance program:

1. Community businesses are asked to contribute prizes and money to reward students who demonstrate positive attendance patterns.

2. A strict written attendance policy that deals severely with truants.

3. A comprehensive counseling program to work with students who have erratic attendance patterns.

4. Daily communications with parents of students absent from school.

TRASH BUSTERS

As part of our ALL STAR program, one team formed a Trash Busters' Unit. Twelve boys formed a team and committed their entire efforts to help keep the campus clean. We had Trash Buster T-shirts made and the students took their task most seriously. In addition to picking up trash they conducted a "clean campus poster contest" and rewarded students they saw who helped keep the campus clean.

GAAD (GREENWAY ATHLETES AGAINST DRUGS)

Realizing the use of drugs and alcohol by students is a serious problem, the staff and parents of Greenway Middle School have developed a comprehensive substance abuse program. On any secondary campus student athletes have great potential for good; and, by serving as positive role models they can have a major impact on the campus. In an effort to develop the potentiality of the school's athletes the Greenway Athletes Against Drugs (GAAD) has come about. This program involves coaches and athletes working together to reduce student self-defeating behaviors.

The coach is a teacher; and, the coach's Number One concern is the welfare of the students on the team. Therefore, each coach should be concerned about the seriousness of drug use among young people. A coach need not be an expert in treating drug problems; however, each coach should be able to recognize the signs of alcohol or drug use. If a coach identifies an athlete with a substance abuse problem there is a responsibility to report the student so that help can be given. There are things a coach can do to help the total prevention effort on campus. They are as follows:

1. Call a meeting of team members and talk about the problems of drug and alcohol use.

A. Ask athletes to make a commitment to keep training rules during the season.

B. Review the consequences that students face if they violate training rules.

2. The coach should set a good example for the athletes.

3. Conduct a ninety-minute goal-setting and decision-making practice for team members. This session will help the team members define their goals and plan for the season.

SPIRIT DOOR CONTEST

Each year we have a "Spirit Door" contest. The fifth-period classes are challenged to decorate their room doors around a theme of school spirit of pride. The doors are judged by the office staff and prizes awarded for the best entry.

PROJECT MOVING UP

The staff at Greenway Middle School places a great deal of importance on grade-to-grade articulation. There are five elementary schools in Northeast Phoenix that send all or part of their sixth grade graduates to Greenway. It is difficult to establish a feeling of school pride and a sense of school spirit in a two-year school—we start in the sixth grade by going into the elementary feeder schools and working with the students.

During the first half of the school year we schedule our Drama Department, school band and choirs into the elementary schools so that they will begin to see and hear about life on the Greenway campus. During the second half of the school year we take a three-track approach to articulation. First, we bring the parents and students to the school so that they can see firsthand how a middle school operates. Second, we send teachers, counsellors, and administrators to the elementary schools to talk with students about registration and how to best make the transition to middle school. Third, we take the sixth-grade student on a mini-retreat. While there the students learn decision making, goal setting, and middle school expectations.

PLEDGE BOARD

One way to encourage teachers to call students' parents about positive things the students are doing is to develop a pledge board. At a staff meeting distribute pledge cards and ask teachers to pledge the amount of positive telephone calls they will make during the first semester. Have a goal—as your teachers turn in their call log books the staff will be able to see how successful the results are. This has proven to be an excellent way to call attention to the importance of teachers establishing positive communications with parents.

STUDENT REWARDS

Success is one of the most important factors in improving students' self-esteem. At Greenway, an extensive and comprehensive system of rewarding students who make an effort to be all they can be is utilized. The following are some of the reward systems that are in place:

1. Classroom teachers use verbal praise, notes to students, telephone calls to parents, and classwide rewards.

2. Academic student-of-the-month, most improved student-of-the-month, and quarterly outstanding student awards are some of the schoolwide rewards for academics and effort.

3. At the end of each quarter students who have not caused any discipline problems on campus are rewarded. The following are some of the activities used over the years: movie, special assembly, roller skating party, ice cream party, and swimming parties.

4. Special assemblies are held to recognize those students who earned honor role status or played on the school's athletic teams.

PRINCIPAL'S BULLETIN

One of the common communication tools used by a principal with his/her staff is the weekly bulletin. As this is a valuable means of communication, it is important that it does not become a "gripe sheet." Start with a thanks for a job well done on the part of a staff member. Always be specific as to what the staff member accomplished. There also is value in including a short in-service item about student management or instruction.

SUMMARY

After seven years of prevention efforts there are certain conclusions that can be drawn. These are truisms that have surfaced and are supported by the data, and from hundreds of discussions and conversations with students. They are as follows:

1. The school staff and administration must hold high expectations for students in the area of self-defeating behaviors. There needs to be a system of strict rules; and, the rules need to be enforced.

2. The school staff has the responsibility of developing a positive peer influence on campus. Peers modeling positive behavior have enormous potential for influencing the behavior of other students on campus.

3. All school activities must be supervised by responsible adults.

4. The school has the responsibility of providing the students with social skills, such as decision-making, goal-setting, problem-solving, and communication.

5. School must help students understand the importance of education, develop a faith in the future, and develop the strength to resist immediate gratification from self-destructive behaviors. The value of taking control of one's own life must be at the center of all prevention efforts.

CLEAN LUNCHROOM

One good way to involve the students in keeping the lunchroom clean is to have a large score board or card made on which you record each day the lunchroom is kept clean. The custodians should judge the condition of the lunchroom. The school year might be started by informing students that they can schedule their first dance as soon as 15 clean lunchroom days have been earned. There are a variety of incentives that are age-appropriate for all age levels.

CONCLUSION

If drug-free schools are ever to become a reality, school staffs and communities will need to work together to establish positive school climates. Each school will need effective leadership, a hardworking staff, realistic and defined goals, a comprehensive plan of action, and cooperation among students, staff and parents.

The climate of a drug-free school is one that has activities, practices, and policies that improve the feeling of self-worth among the students and staff. Working to attain a positive climate and a drug-free school is a continuing process requiring a concerted effort by the school staff, parents, and students.

As Principal of Greenway Middle School, I know that the entire gamut of negative behaviors, including the use of drugs and alcohol by our teenagers can be brought under control. With hard work and faith in our young people, we can once and for all eliminate drugs and alcohol from our nation's schools.●

SUPERCONDUCTING SUPER COLLIDER

● **Mr. WILSON.** Mr. President, today I rise in support of locating the proposed superconducting super collider [SSC] in California. There has been much discussion on what this super collider would represent to respective States. Unfortunately, because of widespread unfamiliarity regarding what will be the world's largest scientific instrument, there are also widespread misperceptions concerning the super collider. I would like to clarify what the super collider is and is not.

The super collider is a Federal project to build the world's largest particle accelerator to increase our understanding of the fundamental particles and forces of nature. The device would be oval-shaped and consist of 10,000 super magnets 53 miles in circumference. This project is considered one of world's most historic and potentially the most valuable scientific projects.

Of course, a project of this magnitude means jobs and dollars to the State in which the project is sited. The people of the State of California believe that the same features that make the Golden State a great place to live—climate, environment, educational facilities—also make the California proposal for the SSC more compelling. The seriousness of California in acquiring the SSC project is underscored by the $1.2 billion in State costs which it is willing to incur.

The State of California has submitted two proposals to the Department of Energy for siting the superconducting super collider. These sites were selected carefully by a team of scientists familiar with the requirements of this machine which will be the largest particle accelerator ever built.

Two sites in my State have been identified which would be perfectly suited geologically for this project. The sites are relatively flat, allow for tunneling within 50 feet of the surface, and are not crossed by active earthquake faults.

Let me now depart from a discussion of the merits of the super collider and briefly mention two points concerning what the super collider is not.

First, as I mentioned, the super collider is not a device which will be threatened by earthquakes. The publication of the U.S. Geological Service has confirmed information presented in California's proposal for the SSC. The findings of an early draft of the USGS report and information from the USGS report author, Jerry Eaton, were available and used as California prepared its proposal. The SSC's proposed alignment in Davis does not cross any known fault lines so the potential for surface rupture or any shearing of the SSC tunnel is essentially nonexistant. Also, the ability of the SSC's magnet system to withstand earthquakes was studied. The group conducting the study recommended an easy redesign of magnet supports that would increase the durability of 0.64 g. At present, the design of the SSC allows for ground acceleration of 0.37 g.

We are all familiar with the surface damage which can be caused by a large quake, having seen newsreels and reports from around the world of the death and destruction which can result when nature sees fit to shift around a bit. In California, a recent quake in Los Angeles, measuring 6.5 on the Richter scale, caused some damage, but nowhere near as much damage occurred as one might have anticipated from a quake of that magnitude. The reason is superior earthquake engineering techniques, pioneered in California, which withstand the structural stress caused by ground motion. The Jet Propulsion Laboratory of NASA, located at Cal Tech, was not far from the epicenter, but suffered only books off their shelves and little else. Their research continued. The techniques applicable for sound stress engineering, by the way, are also applicable to areas prone to tornadoes and hurricanes.

Second, the super collider is not opposed by Californians—quite the contrary. Farmers have become vocal and ardent supporters of the project even though they would stand to lose some land. In the words of Malcolm Leizer, representing farmers for the collider at the Yolo and Solano site, "The agriculture community overwhelmingly supports the project." Farmers have been joined by government entities, educators, scientists, politicians, realtors, and other citizens by a group called Californians for the Collider. I support the efforts of this group and am personally committed to doing my utmost to ensure that the super collider is given the best location in the State of California.

Mr. President, I appreciate this opportunity to bring these thoughts to my colleagues' attention, and I look forward to continuing our discussion on this vitally important project in the New Year.●

THE RETAIL COMPETITION ENFORCEMENT ACT OF 1987

● Mr. METZENBAUM. Mr. President, on Wednesday, December 16, the Wall Street Journal published an editorial opposing an antitrust bill introduced by me and cosponsored by Senators DeConcini, Grassley, and 21 other Senators from both sides of the aisle. A bipartisan Judiciary Committee approved the bill this summer by voice vote after lengthy discussions with and endorsements from members of the business community. A companion measure recently passed the House of Representatives on the Suspension Calendar—with no dissenting views to the committee report or opposition to passage on the House floor.

I will defend to the end the Journal's right to state its opinion on any piece of legislation—including its right to oppose any bill I am sponsoring. I am also realistic enough, and have been around too long, to expect the Journal to support strengthening the antitrust laws. As a matter of fact, I don't remember the last time the Journal supported a proconsumer antitrust measure in Congress.

The Journal's right to express its view, it seems to me, does not excuse it from stating the facts correctly when doing so. The Journal's recent editorial concerning S. 430 was filled with so many inaccuracies that I barely recognized the bill it was describing. If everything the Journal said about the bill were correct, I might not even support it.

For example, the Journal states:

> Under the bill, the fact that a manufacturer cut off shipments to a discounter would be sufficient evidence to warrant a jury trial on charges that antitrust laws against price fixing have been violated.

This isn't even close.

The bill states, in brief, that if a plaintiff presents sufficient evidence of a discounter being eliminated from selling a product because of a competitor's desire to curtail price competition, then the court shall permit the jury to consider whether the law against price fixing was violated.

It's one thing for the Journal to believe that a jury should not be able to view evidence of a conspiracy to put a discounter out of business and restrict price competition in a case claiming illegal price fixing. If that is the paper's position, so be it. I disagree. So does the Senate Judiciary Committee and the House of Representatives. I would also venture to guess that parents looking for toys, clothes, and gifts for their children this holiday season would also disagree.

But it's quite another thing for the Journal to mislead its readers about the substance of such an important piece of legislation. There is absolutely no excuse for such sloppiness.

The Journal didn't even get a basic legal definition right. It defines "resale price maintenance" as occurring when a "manufacturer sets a minimum retail price below which its products should not be sold." Such a definition would earn an "F" in any basic antitrust course: It fails to point out that only collusive, or conspiratorial, behavior is condemned by the antitrust laws—and by the compromise bill. By misstating even such a basic fact, the editorial allows its readers to jump to an incorrect conclusion: That the bill restricts a company's freedom to deal with whomever it chooses, and that manufacturers' suggested retail prices are prohibited by the legislation. It would be no wonder if a reader of the editorial were to conclude that the bill would change the whole course of supplier-distributor relationships. Such a conclusion, however, would be flat wrong.

I will not continue to point out the serious factual flaws in this piece—either of the ones I have already mentioned is inexcusable for any respectable newspaper.

What I suggest the Journal do now is get the facts straight, set them out clearly, and then let its readers decide whether this bipartisan measure will benefit consumers or not. In 1983, a Harris poll asked some 600 officials of the major companies that make up Business Week's corporate scoreboard their view of the following statement: Competition on advertised products in a free market should allow retailers to sell at whatever price they choose above the wholesale price; 88 percent of those polled agreed, only 7 percent disagreed. I am not surprised—after all, this statement describes our free market and the American dream.

It's time for the self-proclaimed "daily diary of the American dream" to get in tune with the American dream of free and open competition.

The editorial follows:

[From the Wall Street Journal, Dec. 16, 1987]

DISCOUNTING THE MARKET

Say you want to buy a sophisticated stereo system for Christmas. You have a choice. You can go to a full-stereo store, where a "sound technician" will answer all your questions, arrange for free delivery and provide full service on repairs. Or you can visit "Discount City," where there are harried salespeople and minimal servicing, but prices are one-third less. Where you shop depends on what you value more—service or price. A bill introduced by Senator Howard Metzenbaum would narrow a consumer's opportunity to make such choices. It would penalize the store providing the expensive services by making a manufacturer who tries to pull his products out of Discount City liable to a treble-damages antitrust suit.

The legislation is designed to curb a practice called resale-price maintenance, in which a manufacturer sets a minimum retail price below which its products should not be sold. A typical dispute involves two retailers that carry a manufacturer's product. One begins to sell at a deep discount. The non-discounter suffers a drop in sales and asks the manufacturer to stop supplies to the discounter. Under the bill, the fact that a manufacturer cut off shipments to a discounter would be sufficient evidence to warrant a jury trial on charges that antitrust laws against price fixing have been violated. A Senate floor vote on the Metzenbaum bill is expected soon; similar legislation already has passed the House.

Under current case law, manufacturers have been able to withdraw products from discounters, the purpose of which usually is to encourage dealer services and a more sophisticated sales effort. In effect, the Metzenbaum legislation would overturn a 1984 Supreme Court decision, *Monsanto Co.* v. *Spray-Rite Service Corp.*, which ruled that an antitrust plaintiff must produce evidence that there was a price-fixing agreement between the manufacturer and one or more dealers. Senator Metzenbaum believes that any practice that limits discounting should be illegal and that his bill will force lower prices.

Discounters usually lose their contracts because consumers have complained to manufacturers of shoddy service and hostile return policies or because other stores complain that the discounter is "free-riding" on their service (typically, the consumer elicits lengthy product information from a store that provides it, then leaves to buy the product at the no-frills discounter).

While some consumers might instinctively support Mr. Metzenbaum's effort, it's unlikely that reality would match the theory. Some manufacturers, for instance, would avoid dealing at all with discounters, rather than risk a treble-damages antitrust lawsuit. In any event, no such law exists now, and the consumer market is flush with both kinds of retailers and a large universe of manufacturers designing products for all tastes. Bear in mind also that the Metzenbaum bill comes from one of Congress' leading protectionists; the anti-import trade bill is the one thing that could hurt the people the senator is trying to protect.

A mini-revolution has taken place in the past decade as the Supreme Court has recognized that many anti-trust laws harm rather than help consumers. By removing the important distinction made in the Monsanto case between price fixing and legitimate price setting, the Metzenbaum bill ultimately would deliver consumers less choice than they have now.●

TRADE DEFICIT

● Mr. METZENBAUM. Mr. President, when Prime Minister Takeshita of Japan visits the United States next month I hope he comes ready to announce actions to relieve the unacceptable trade imbalance between our two countries. He could start by addressing the automotive imbalance. Japanese automotive exports account for more than 50 percent of our trade deficit with Japan.

The simple truth is that Japanese auto manufacturers have not adhered to the terms set forth in Japan's voluntary restraint agreement limiting automotive exports to the United States. Japanese manufacturers continue to import multipurpose vehicles—jeep-like cars—in numbers much greater than those levels established in this agreement. Japanese manufacturers are exporting multipurpose vehicles without rear seats, classifying them as trucks which are not subject to restraint agreement limits, and installing rear seats in the United States once the vehicles clear customs.

As a result of this unfair scheme, more than twice as many Japanese multipurpose vehicles will be sold in the United States than are allowed for in the restraint agreement. Such continued circumvention will result in the loss of more U.S. auto jobs. Workers in my State of Ohio, where Chrysler Jeep is located, could be especially hard-hit.

The Japanese Ministry for International Trade and Industry will very shortly reevaluate the voluntary restraint agreement for 1988. I have written to Minister Tamura to urge that Japan commit to a restraint agreement in 1988 which eliminates the circumvention of United States customs while providing Japanese manufacturers a reasonable share of the market on multipurpose vehicles. I hope that when Prime Minister Takeshita visits the United States that he will be able to bring us good news.

I ask that my letter to the Honorable Hajime Tamura, Minister for International Trade and Industry in Japan, be printed in the RECORD.

The letter follows:

U.S. SENATE,
Washington, DC, December 18, 1987.

Hon. HAJIME TAMURA,
Ministry for International Trade and Industry, 1-3-1, Kasumigaseki, Chiyoda-ku, Tokyo 100, Japan.

DEAR MINISTER TAMURA: There is a great deal of concern in Congress about the current overall U.S. trade deficit and, in particular, dismay over our nation's continued trade imbalance with Japan. As you well know, a disproportionate share of this imbalance involves the automotive sector. The 80 percent strengthening of the yen versus the dollar over the past two years has not brought this trade equation into balance. Pressures on the U.S. auto market continue to grow.

Your government responded to the automotive imbalance between our two nations by agreeing to limit car exports to the U.S. Unfortunately, Japan has not adhered to the voluntary restraint agreement as originally set forth. Japanese multi-purpose vehicles have entered the U.S. in numbers much greater than those established by the secondary "van" quota in the agreement. In order to avoid the 1987 quota of 112,000 on such vehicles, Japanese manufacturers are shipping jeep-like cars without rear seats and installing the seats once the vehicles arrives in the U.S. At the present rate of import, approximately 200,000 such units will enter the U.S. as trucks in 1987 and avoid the Japanese quota. This will result in 2.6 times as many multi-purpose vehicles being exported than are allowed for in the agreement.

While these "trucks" are subject to a higher U.S. import tariff, Japanese manufacturers are recovering that cost in their pricing and capturing a larger share of the multi-purpose vehicle market in the U.S. The total U.S. car market for 1988 is being projected by some to be as low as 9 million units as compared to a 1987 volume in excess of 10 million units. Continued circumvention of the voluntary restraints on multi-purpose vehicles will result in the loss of more U.S. auto jobs and will be particularly damaging to workers in my state of Ohio.

The Ministry of International Trade and Industry will soon reevaluate the automotive restraint agreement for 1988. A firm commitment to the agreement must be established in 1988 which preserves U.S. auto employment and provides Japanese manufacturers a reasonable share of the future U.S. multi-purpose vehicle market.

I look forward to hearing from you shortly about this important matter.

Very sincerely yours,
HOWARD M. METZENBAUM,
U.S. Senator.●

CHARTER OF U.S. VESSELS TO KUWAIT

● Mr. MURKOWSKI. Mr. President, this week I received disappointing news from the Maritime Administration that the contract for the lease of the *Maryland* to the Kuwait Oil Tanker Co. has fallen through.

It appears that in soliciting bids for charter of the vessel, MarAd underestimated the cost of repairs necessary to make the vessels seaworthy by approximately $1.5 million.

After extensive negotiations with MarAd, Kuwait indicated that it was unwilling to pay the additional repair costs or to extend the terms of contract to amortize added repair costs.

MarAD is now faced with the decision whether or not to absorb the additional $3.5 million of the repair costs in order to to put the vessel up for bid again.

This news is disappointing because it represents a lost opportunity for the U.S. maritime industry to benefit from our willingness to protect the oil trade of Kuwait.

MarAd has done a commendable job in seeking to lease the *Maryland* and recoup losses incurred when the vessel's original owners defaulted on their CDS loans.

It is possible that Kuwait may rebid on the *Maryland* when it is put up again, but I am disappointed at their initial response to absorbing additional repair costs in light of tremendous economic benefits they receive from our decision to reflag 11 of their vessels.

Mr. President, on July 21, we passed an amendment to the trade bill calling on the President to pursue alternatives to reflagging of Kuwait vessels, including the leasing or chartering to Kuwait of vessels of the U.S. domestic tanker fleet.

I feel that elements of administration responsible for the implementation of our policy in the gulf have been less than diligent in persuading the Kuwaitis on this issue despite the clear support of Congress. Absent this type of pressure, it is clear Kuwait is not willing to charter U.S. vessels, and why should they? They are now reaping the double benefits of utilizing their vessels and receiving the protection of the U.S. Navy.

I remain opposed to our current reflagging policy. I believe it is not a well developed policy. I have noted with some concern recent pressure from the Soviets calling on the U.S. and our Western allies to support the concept of a U.N. naval force in the gulf.

I am not confident that this is a good precedent, and believe that such action would require serious study.

However, it is not too late for the administration to encourage the Kuwaitis: the *Maryland* will be rebid, there are also private owned vessels such as the *Williamsburg* whose owners have expressed strong interest in chartering their vessels to Kuwait.

Mr. President, charity begins at home, this month's trade figures reached a record high of $17.6 million. Part of our trade problem can be attributed to our unwillingness to use leverage in seeking opportunities for trade of our goods and services. I strongly encourage the administration to pursue with the Government of Kuwait charter of these vessels; insuring some of the direct benefits of carrying out policy in gulf accrue to the U.S. economy.●

THE PHILIPPINES

● Mr. MURKOWSKI. Mr. President, the Reagan administration and the Congress have strongly supported the strengthening of constitutional democracy in the Philippines. As chairman of the East Asian and Pacific Affairs Subcommittee of the Foreign Relations Committee, I visited the Philippines to observe the last presidential elections. There is no doubt that a majority of the Philippine electorate supported the Aquino-Laurel ticket. Since then the Congress and the administration have applauded the steps President Aquino has taken to put in place a new democratic constitution and to elect a new legislature. The cornerstones of Philippines democracy are in place.

Nevertheless, these are difficult times in the Philippines. The Communist insurgency continues unabated, the economy is staggering under a huge burden of external debt, corruption remains a serious concern, and there is ample evidence of unrest in the Armed Forces. For the first time, Communist NPA assassination teams have announced they will target Americans in the Philippines. Already, three American servicemen have died. Most recently, Jimmy Ongpin, the widely respected former Finance Minister, died tragically of an apparent suicide.

We are all aware of the chorus of news reports predicting a short life for the Aquino government. If we are not careful, there is a real danger that these prophecies will become self-fulfilling, leaving the Philippines with an impossible choice between Communist rule, a military dictatorship, or chaos.

There is no reason to believe a military regime will be effective or stable. It will alienate large numbers of formerly disaffected Filipinos who have rallied to Mrs. Aquino's support. It will send a tragic signal that the Philippines is apparently incapable of democracy. The recent capture of Colonel Honason, the leader of the last coup attempt, is a helpful development.

Now is the time for those who wish the Philippines well to reaffirm their support for the Aquino government and the elected legislature. The United States must make it clear that it will not be intimidated by NPA threats. It is time for the Reagan administration, the Congress, and the Philippines Government to sit down and think creatively about how we can work together to solve the most serious problems facing the Philippines, including the economy and the insurgency. Discussions should include economic and military assistance, debt issues, and the bases. Many of the challenges facing the Philippines can be met only by Filipinos. But the United States can help—as it has in the past.

This is not the time for handwringing, panic, or opportunistic bids for power. It is a time for patience, steady nerves, and hard work.●

CLEAN AIR ACT AMENDMENTS

(By request of Mr. BYRD, the following statement was ordered to be printed in the RECORD:)

● Mr. GORE. Mr. President, 1 month ago I joined Senator MITCHELL and 20 of our colleagues in introducing the Clean Air Standards Attainment Act of 1987, amendments to the Clean Air Act.

The legislation addresses a variety of critical air pollution issues that I believe we must address. My support for the bill represents my desire to see these issues debated, to be a part of those deliberations, and to see a conclusion reached. My support does not mean I endorse everything the bill tries to do. I don't. But frankly it is time for all the interested parties to sit down at the table and work this out.

I care deeply about the environment and the public health. I currently serve as Senate chairman of the Environmental and Energy Study Conference, the largest environmental protection group in the Congress. But I also care deeply about economic conditions in the South and Midwest. And there lies the heart of the debate, balancing protecting the public health and environment versus the dollar cost of achieving any one part of that goal. How much should America spend to clean up the air, when there are so many other priorities that demand our resources as well?

I don't dispute the South's substantial contribution to the overall burden of acid rain, or that we have a responsibility to play a major role in the solution. But more Southern dollars spent cleaning up sulfur dioxide and NO_x emissions means less will be available for problems such as infant mortality and improving the overall economic status of the region. Yet the five States with the highest infant mortality rates in the Nation are Southern States. In fact the 14 Southern States can all be found among the bottom 24 States in this category. It is not a coincidence that these same 14 States also rank among the bottom in AFDC payment levels, Medicaid coverage, and only one, Virginia, has a per capita income above the national average.

Clearly these economic problems must not be ignored or worsened as a result of well meaning but heavy handed legislation. These tradeoffs are realities we must face.

We must also not forget that a great deal of progress has already been made. We have been fighting against air pollution for two decades. America will spend $30 billion this year complying with existing regulations. And we have made substantial progress, for example by reducing the threat to human health.

Still the remaining costs of acid rain, not only in the Northeast but in the South as well, are so high that they should not be set aside or ignored.

The bill we have introduced provides many good starting points for solving these problems. I am not satisifed that we have found the best solutions. I remain vitally interested in how we will affect the coal industry, which is so important to the South, and concerned about what will happen to utility rates. But I am convinced this bill is the correct vehicle for raising the issue and for finding the appropriate middle ground.

I want to commend the members of the Environment and Public Works Committee for their tenacity in bringing this issue before the entire Senate. I urge my colleagues with remaining concerns about this bill to come forward and join the debate. The issues are too important to delay any longer.●

RECESS SUBJECT TO THE CALL OF THE CHAIR

Mr. BYRD. Mr. President, the majority leader is not in a position at this time to set the time for convening the Senate tomorrow. This will depend upon meetings that are going forward this afternoon and will depend upon the time of convening of the other body tomorrow to act, hopefully, on the conference reports, which, hopefully, will be ready for action by the House. It is not my intention to bring the Senate in prior to the time that the House convenes. As a matter of fact, I should think that the Senate should come in later than the hour at which the House convenes on tomorrow because the House has to act first on the conference reports.

Mr. President, I therefore ask unanimous consent that the Senate stand in recess subject to the call of the Chair. Later today I will be in a position to recess over until tomorrow at a given hour.

There being no objection, the Senate, at 3:11 p.m. recessed subject to the call of the Chair.

Whereupon, at 11:22 p.m. the Senate reassembled when called to order by the Presiding Officer [Mr. GLENN].

ORDER OF PROCEDURE

Mr. BYRD. Mr. President, there have been various conferences that have been meeting all through the later afternoon and into the late evening. Considerable progress has been made in many areas with respect to reconciliation and the continuing resolution. But the work is not done.

The conferences will continue on tomorrow at 11 o'clock and there will be rooms made available by the majority and minority leaders for those conferences to go forward. There will be no rollcall votes in the Senate tomorrow.

The Senate will come in at 6 o'clock and will pass the short-term CR by voice vote hopefully and then go over until Monday.

In the meantime, the House will have passed the short-term CR and hopefully will have passed a long-term CR. But the Senate has to operate so far behind the House since both the reconciliation and CR will have to pass the House before the House sends either of those packages over to the Senate, as I understand their plans, so there will be no need for the Senate to expect to do any rollcall votes tomorrow.

Rollcall votes then would occur on Monday as we take up the reconciliation and the long-term CR.

Mr. President, I apologize to all of the officers of the Senate and Senators and employees for keeping them in so late, but it was felt that we had no alternative. We did not know what time to put the Senate over to tomorrow until we had a better understanding as to what the overall situation would be and what the House plans would be in light of the progress that had been made.

ORDERS FOR SUNDAY, DECEMBER 20, 1987

RECESS UNTIL 6 P.M.

Mr. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until the hour of 6 p.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. BYRD. Mr. President, I am authorized by the distinguished Republican leader to proceed with the following items which have been cleared for action by unanimous consent.

TECHNICAL CORRECTIONS RELATING TO THE FEDERAL EMPLOYEES' RETIREMENT SYSTEM

Mr. BYRD. Mr. President, I ask unanimous consent to proceed to the consideration of Calendar Order No. 390.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 3395) making technical corrections relating to the Federal Employees' Retirement System, and for other purposes.

The Senate proceeded to consider the bill.

AMENDMENT NO. 1372

(Purpose: To amend chapters 83 and 84 of title 5, United States Code, to provide for the participation of certain employees under the Federal Employees' Retirement System to provide for a refund of certain excess deductions, to amend provisions relating to retirement credit for employees, government contributions to Thrift Savings Plans, adjustments in methods of annuity payments, and for other purposes)

Mr. BYRD. Mr. President, on behalf of Senators PRYOR and STEVENS I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from West Virginia (Mr. BYRD), for Mr. PRYOR (for himself and Mr. STEVENS), proposes an amendment numbered 1372.

Mr. BYRD. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 4, line 7, insert "for at least 3 years" after "(B)".

On page 4, line 9, insert before the period "and insert in lieu thereof 'for at least 3 years' ".

On page 16, line 2, strike out "or".

On page 16, line 4, strike out the period and insert in lieu thereof a semicolon.

On page 16, insert between lines 4 and 5 the following:

(C) a contract under which the services of an individual may be terminated by a person other than the individual or the Government; or

(D) a contract for a single transaction or a contract under which services are paid for in a single payment.

On page 29, beginning with line 12, strike out all through line 18.

On page 35, strike line 18 and all that follows through page 36, line 10, and insert in lieu thereof the following:

(c) APPLICABILITY.—This section applies with respect to—

(1) any individual participating in the Civil Service Retirement System or the Federal Employees' Retirement System as—

(A) an individual who has entered on approved leave without pay to serve as a full-time officer or employee of an organization composed primarily of employees (as defined by section 8331(1) or 8401(11) of title 5, United States Code);

(B) an individual assigned from a Federal agency to a State or local government under subchapter VI of chapter 33 of title 5, United States Code; or

(C) an individual appointed or otherwise assigned to one of the cooperative extension services, as defined by section 1404(5) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3105(5)); and

(2) any individual who is participating in the Civil Service Retirement System as a result of a provision of law described in section 8347(o).

On page 36, line 18, strike "subsection (c)(3)," and insert "subsection (c)(1)(C),".

On page 38, line 4, strike out the period and insert in lieu thereof a semicolon and "and".

On page 38, insert between lines 4 and 5 the following:

(3) by amending clause (v) by striking out "at the time of filing such application" and inserting in lieu thereof "on May 7, 1987".

SEC. 128. REFUNDS OF CERTAIN EXCESS DEDUCTIONS TAKEN AFTER 1983 TO OFFSET EMPLOYEES UNDER THE CIVIL SERVICE RETIREMENT SYSTEM.

(a) REFUND ELIGIBILITY.—An individual shall upon written application to the Office of Personnel Management, receive a refund under subsection (b), if such individual—

(1) was subject to section 8334(a)(1) of title 5, United States Code, for any period of service after December 31, 1983, because of an election under section 208(a)(1)(B) of the Federal Employees' Retirement Contribution Temporary Adjustment Act of 1983 (97 Stat. 1107; 5 U.S.C. 8331 note);

(2) is not eligible to make an election under section 301(b) of the Federal Employees' Retirement System Act of 1986 (Pub. Law 99-335; 100 Stat. 599); and

(3) becomes subject to section 8334(k) of title 5, United States Code.

(b) REFUND COMPUTATION.—An individual eligible for a refund under subsection (a) shall receive a refund—

(1) for the period beginning on January 1, 1984, and ending on December 31, 1986, for the amount by which—

(A) the total amount deducted from such individual's basic pay under section 8334(a)(1) of title 5, United States Code, for service described in subsection (a)(1) of this section, exceeds

(B) 1.3 percent of such individual's total basic pay for such period; and

(2) for the period beginning on January 1, 1987, and ending on the day before such individual becomes subject to section 8334(k) of title 5, United States Code, for the amount by which—

(A) the total amount deducted from such individual's basic pay under section 8334(a)(1) of title 5, United States Code, for service described in subsection (a)(1) of this section, exceeds

(B) the total amount which would have been deducted if such individual's basic pay had instead been subject to section 8334(k) of title 5, United States Code, during such period.

(c) INTEREST COMPUTATION.—A refund under this section shall be computed with interest in accordance with section 8334(e) of title 5, United States Code, and regulations prescribed by the Office of Personnel Management.

SEC. 129. ADJUSTMENTS IN METHODS OF ANNUITY PAYMENTS FOR YEARS WITH ZERO OR NEGATIVE INFLATION.

Section 8434(a)(2)(C) and (D) of title 5, United States Code, is amended to read as follows:

"(C) a method described in subparagraph (A) which provides for automatic adjustments in the amount of the annuity payable so long as the amount of the annuity payable in any one year shall not be less than the amount payable in the previous year;

"(D) a method described in subparagraph (B) which provides for automatic adjustments in the amount of the annuity payable so long as the amount of the annuity payable in any one year shall not be less than the amount payable in the previous year; and".

SEC. 130. COVERAGE UNDER THE FEDERAL EMPLOYEES' RETIREMENT SYSTEM FOR INDIVIDUALS SUBJECT TO THE FOREIGN SERVICE PENSION SYSTEM WHO ENTER FEDERAL EMPLOYMENT OTHER THAN THE FOREIGN SERVICE.

Section 8402 of title 5, United States Code, is amended—

(1) in the matter following subparagraph (B) of paragraph (2) of subsection (b) by inserting "subsection (d) of this section or" before "title III"; and

(2) by inserting after subsection (c) the following new subsection (d):

"(d) Paragraph (2) of subsection (b) shall not apply to an individual who becomes subject to subchapter II of chapter 8 of title I of the Foreign Service Act of 1980 (relating to the Foreign Service Pension System) pursuant to an election and who subsequently enters a position in which, but for such paragraph (2), he would be subject to this chapter.".

SEC. 131. ANNUITY COMPUTATIONS FOR THE FEDERAL EMPLOYEES' RETIREMENT SYSTEM.

(a) SURVIVOR REDUCTION COMPUTATION.—Section 8419(a) of title 5, United States Code, is amended—

(1) in paragraph (1) by striking out ", shall be reduced" and inserting in lieu thereof "or one-half of the annuity, if jointly designated for this purpose by the employee or Member and the spouse of the employee or Member under procedures prescribed by the Office of Personnel Management, shall be reduced"; and

(2) in paragraph (2)(A) by striking out ", shall be reduced" and inserting in lieu thereof "or one-half of the annuity, if jointly designated for this purpose by the employee or Member and the spouse of the employee or Member under procedures prescribed by the Office of Personnel Management, shall be reduced".

(b) SURVIVOR BENEFITS.—Section 8442 of title 5, United States Code, is amended—

(1) in subsection (a)(1) by inserting after "with respect to the annuitant," the following: "(or one-half thereof, if designated for this purpose under section 8419 of this title),"; and

(2) in subsection (g)(1) by inserting after "paragraph (2)" the following: "(or one-half thereof if designated for this purpose under section 8419 of this title)".

SEC. 132. LOANS FROM EMPLOYEES' CONTRIBUTION TO THE THRIFT SAVINGS FUND.

Section 8433(i)(3) of title 5, United States Code, is amended to read as follows:

"(3) Loans under this subsection shall be available to all employees and Members on a reasonably equivalent basis, and shall be subject to such other conditions as the Board may by regulation prescribe. The restrictions of section 8477(c)(1) of this title shall not apply to loans made under this subsection.".

SEC. 133. FIDUCIARY RESPONSIBILITIES AND LIABILITIES IN MANAGEMENT OF THRIFT SAVINGS FUND.

(a) FIDUCIARY RESPONSIBILITIES AND LIABILITIES.—Section 8477(e) of title 5, United States Code, is amended—

(1) in paragraph (1)(A) by inserting before the period at the end of the first sentence a comma and "except as provided in paragraphs (3) and (4) of this subsection";

(2) in paragraph (1)(B) by striking out "Internal Revenue Code of 1954" and inserting in lieu thereof "Internal Revenue Code of 1986";

(3) in paragraph (1)(D) by inserting "only" before "if" in the matter preceding clause (i);

(4) by redesignating paragraphs (4) and (5) as paragraphs (7) and (8), respectively; and

(5) by striking out paragraphs (2) and (3) and inserting in lieu thereof:

"(2) No civil action may be maintained against any fiduciary with respect to the responsibilities, liabilities, and penalties authorized or provided for in this section except in accordance with paragraphs (3) and (4).

"(3) A civil action may be brought in the district courts of the United States—

"(A) by the Secretary of Labor against any fiduciary other than a Member of the Board or the Executive Director of the Board—

"(i) to determine and enforce a liability under paragraph (1)(A);

"(ii) to collect any civil penalty under paragraph (1)(B);

"(iii) to enjoin any act or practice which violates any provision of subsection (b) or (c);

"(iv) to obtain any other appropriate equitable relief to redress a violation of any such provision; or

"(v) to enjoin any act or practice which violates subsection (g)(2) or (h) of section 8472 of this title;

"(B) by any participant, beneficiary, or fiduciary against any fiduciary—

"(i) to enjoin any act or practice which violates any provision of subsection (b) or (c);

"(ii) to obtain any other appropriate equitable relief to redress a violation of any such provision;

"(iii) to enjoin any act or practice which violates subsection (g)(2) or (h) of section 8472 of this title; or

"(C) by any participant or beneficiary—

"(i) to recover benefits of such participant or beneficiary under the provisions of subchapter III of this chapter, to enforce any right of such participant or beneficiary under such provisions, or to clarify any such right to future benefits under such provisions; or

"(ii) to enforce any claim otherwise cognizable under sections 1346(b) and 2671 through 2680 of title 28, if the remedy against the United States provided by sections 1346(b) and 2672 of title 28 for damages for injury or loss of property caused by the negligent or wrongful act or omission of any fiduciary while acting within the scope of his duties or employment is exclusive of any other civil action or proceeding by the participant or beneficiary for recovery of money by reason of the same subject matter against the fiduciary (or the estate of such fiduciary) whose act or omission gave rise to such action or proceeding, whether or not such action or proceeding is based on an alleged violation of subsection (b) or (c).

"(4)(A) In all civil actions under paragraph (3)(A), attorneys appointed by the Secretary may represent the Secretary (except as provided in section 518(a) of title 28), however all such litigation shall be subject to the direction and control of the Attorney General.

"(B) The Attorney General shall defend any civil action or proceeding brought in any court against any fiduciary referred to in paragraph (3)(C)(ii) (or the estate of such fiduciary) for any such injury. Any fiduciary against whom such a civil action or proceeding is brought shall deliver, within such time after date of service or knowledge of service as determined by the Attorney General, all process served upon such fiduciary (or an attested copy thereof) to the Executive Director of the Board, who shall promptly furnish copies of the pleading and process to the Attorney General and the United States Attorney for the district wherein the action or proceeding is brought.

"(C) Upon certification by the Attorney General that a fiduciary described in paragraph (3)(C)(ii) was acting in the scope of such fiduciary's duties or employment as a fiduciary at the time of the occurrence or omission out of which the action arose, any such civil action or proceeding commenced in a State court shall be—

"(i) removed without bond at any time before trial by the Attorney General to the district court of the United States for the district and division in which it is pending; and

"(ii) deemed a tort action brought against the United States under the provisions of title 28 and all references thereto.

"(D) The Attorney General may compromise or settle any claim asserted in such civil action or proceeding in the manner provided in section 2677 of title 28, and with the same effect. To the extent section 2672 of title 28 provides that persons other than the Attorney General or his designee may compromise and settle claims, and that payment of such claims may be made from agency appropriations, such provisions shall not apply to claims based upon an alleged violation of subsections (b) or (c).

"(E) For the purposes of paragraph (3)(C)(ii) the provisions of sections 2680(h) of title 28 shall not apply to any claim based upon an alleged violation of subsection (b) or (c).

"(F) Notwithstanding sections 1346(b) and 2671 through 2680 of title 28, whenever an award, compromise, or settlement is made under such sections upon any claim based upon an alleged violation of subsection (b) or (c), payment of such award, compromise, or settlement shall be made to the appropriate account within the Thrift Savings Fund, or where there is no such appropriate account, to the participant or beneficiary bringing the claim.

"(G) For purposes of paragraph (3)(C)(ii), fiduciary includes only the Members of the Board and the Board's Executive Director.

"(5) Any relief awarded against a Member of the Board or the Executive Director of the Board in a civil action authorized by paragraphs (3) and (4) may not include any monetary damages or any other recovery of money.

"(6) An action may not be commenced under paragraph (3) (A) or (B) with respect to a fiduciary's breach of any responsibility, duty, or obligation under subsection (b) or a violation of subsection (c) after the earlier of—

"(A) 6 years after (i) the date of the last action which constituted a part of the breach or violation, or (ii) in the case of an omission, the latest date on which the fiduciary could have cured the breach or violation; or

"(B) 3 years after the earliest date on which the plaintiff had actual knowledge of the breach or violation, except that, in the case of fraud or concealment, such action may be commenced not later than 6 years after the date of discovery of such breach or violation.".

(b) EFFECTIVE DATE.—The provisions of section 8477(e) (1), (2), (3), (4), (5), and (6) of title 5, United States Code, (as amended by subsection (a) of this section) shall apply to any civil action or proceeding arising from any act or omission occurring on or after October 1, 1986.

(c) REPEAL.—The provisions of subsection (a) (and the amendments to section 8477(e) of title 5, United States Code, contained therein) and subsection (b) of this section are repealed effective on December 31, 1990. On and after December 31, 1990 the provisions of section 8477(e) of title 5, United States Code, shall be in effect as such provisions were in effect on the date immediately preceding the date of enactment of this section.

SEC. 134. AMENDMENTS CONCERNING REEMPLOYED ANNUITANTS.

(a) AMENDMENT TO CHAPTER 84 OF TITLE 5, UNITED STATES CODE.—Section 8468 is amended to read as follows:

"§ 8468. Annuities and pay on reemployment

"(a) If an annuitant, except a disability annuitant whose annuity is terminated because of the annuitant's recovery or restoration of earning capacity, becomes employed in an appointive or elective position, an amount equal to the annuity allocable to the period of actual employment shall be deducted from the annuitant's pay, except for lump-sum leave payment purposes under section 5551. Unless the annuitant's appointment is on an intermittent basis or is to a position as a justice or judge (as defined by section 451 of title 28) or as an employee subject to another retirement system for Government employees, or unless the annuitant is serving as President, deductions for the Fund shall be withheld from the annuitant's pay under section 8422(a) and contributions under section 8423 shall be made. The deductions and contributions referred to in the preceding provisions of this subsection shall be deposited in the Treasury of the United States to the credit of the Fund. The annuitant's lump-sum credit may not be reduced by annuity paid during the reemployment.

"(b)(1)(A) If an annuitant subject to deductions under the second sentence of subsection (a) serves on a full-time basis for at least 1 year, or on a part-time basis for periods equivalent to at least 1 year of full-time service, the annuitant's annuity on termination of reemployment shall be increased by an annuity computed under section 8415(a) through (f) as may apply based on the period of reemployment and the basic pay, before deduction, averaged during the reemployment.

"(B)(i) If the annuitant is receiving a reduced annuity as provided in section 8419, the increase in annuity payable under subparagraph (A) is reduced by 10 percent and the survivor annuity or combination of survivor annuities payable under section 8442 or 8445 (or both) is increased by 50 percent of the increase in annuity payable under subparagraph (A), unless, at the time of claiming the increase payable under subparagraph (A), the annuitant notifies the Office in writing that the annuitant does not desire the survivor annuity to be increased.

"(ii) If an annuitant who is subject to the deductions referred to in subparagraph (A) dies while still reemployed, after having been reemployed for not less than 1 year of full-time service (or the equivalent thereof, in the case of full-time employment), the survivor annuity payable is increased as though the reemployment had otherwise terminated.

"(2)(A) If an annuitant subject to deductions under the second sentence of subsection (a) serves on a full-time basis for at least 5 years, or on a part-time basis for periods equivalent to at least 5 years of full-time service, the annuitant may elect, instead of the benefit provided by paragraph (1), to have such annuitant's rights redetermined under this chapter.

"(B) If an annuitant who is subject to the deductions referred to in subparagraph (A) dies while still reemployed, after having been reemployed for at least 5 years of full-time service (or the equivalent thereof in the case of part-time employment), any person entitled to a survivor annuity under section 8442 or 8445 based on the service of such annuitant shall be permitted to elect, in accordance with regulations prescribed by the Office of Personnel Management, to have such person's rights under subchapter IV redetermined. A redetermined survivor annuity elected under this subparagraph shall be in lieu of an increased annuity which would otherwise be payable in accordance with paragraph (1)(B)(ii).

"(3) If an annuitant subject to deductions under the second sentence of subsection (a) serves on a full-time basis for a period of less than 1 year, or on a part-time basis for periods equivalent to less than 1 year of full-time service, the total amount withheld under section 8422(a) from the annuitant's basic pay for the period or periods involved shall, upon written application to the Office, be payable to the annuitant (or the appropriate survivor or survivors, determined in the order set forth in section 8424(d)).

"(c) This section does not apply to an individual appointed to serve as a Governor of the Board of Governors of the United States Postal Service.

"(d) If an annuitant becomes employed as a justice or judge of the United States, as defined by section 451 of title 28, the annuitant may, at any time prior to resignation or retirement from regular active service as such a justice or judge, apply for and be paid, in accordance with section 8424(a), the amount (if any) by which the lump-sum credit exceeds the total annuity paid, notwithstanding the time limitation contained in such section for filing an application for payment.

"(e) A reference in this section to an 'annuity' shall not be considered to include any amount payable from a source other than the Fund.".

(b) AMENDMENT TO FERSA.—Section 302(a)(12) of the Federal Employees' Retirement System Act of 1986 is amended to read as follows:

"(12)(A)(i) If the electing individual is a reemployed annuitant under section 8344 of title 5, United States Code, under conditions allowing the annuity to continue during reemployment, payment of the annuitant's annuity shall continue after the effective date of the election, and an amount equal to the annuity allocable to the period of actual employment shall continue to be deducted from the annuitant's pay and deposited as provided in subsection (a) of such section. Deductions from pay under section 8422(a) of such title and contributions under section 8423 of such title shall begin effective on the effective date of the election.

"(ii) Notwithstanding any provision of section 301, an election under such section shall not be available to any reemployed annuitant who would be excluded from the operation of chapter 84 of title 5, United States Code, under section 8402(c) of such title (relating to exclusions based on the temporary or intermittent nature of one's employment).

"(B) If the annuitant serves on a full-time basis for at least 1 year, or on a part-time basis for periods equivalent to at least 1 year of full-time service, such annuitant's annuity, on termination of reemployment, shall be increased by a annuity computed—

"(i) with respect to reemployment service before the effective date of the election, under section 8339 (a), (b), (d), (e), (h), (i), and (n) of title 5, United States Code, as may apply based on the reemployment in which such annuitant was engaged before such effective date; and

"(ii) with respect to reemployment service on or after the effective date of the election, under section 8415(a) through (f) of such title, as may apply based on the reemployment in which such annuitant was engaged on or after such effective date;

with the 'average pay' used in any computation under clause (i) or (ii) being determined (based on rates of pay in effect during the period of reemployment, whether before, on, or after the effective date of the election) in the same way as provided for in paragraph (6). If the annuitant is receiving a reduced annuity as provided in section 8339(j) or section 8339(k)(2) of title 5, United States Code, the increase in annuity payable under this subparagraph is reduced by 10 percent and the survivor annuity payable under section 8341(b) of such title is increased by 55 percent of the increase in annuity payable under this subparagraph, unless, at the time of claiming the increase payable under this subparagraph, the annuitant notifies the Office of Personnel Management in writing that such annuitant does not desire the survivor annuity to be increased. If the annuitant dies while still reemployed, after having been reemployed for at least 1 full year (or the equivalent thereof, in the case of part-time employment), any survivor annuity payable under section 8341(b) of such title based on the service of such annuitant is increased as though the reemployment had otherwise terminated. In applying paragraph (7) to an amount under this subparagraph, any portion of such amount attributable to clause (i) shall be adjusted under subparagraph (A) of such paragraph, and any portion of such amount attributable to clause (ii) shall be adjusted under subparagraph (B) of such paragraph.

"(C)(i) If the annuitant serves on a full-time basis for at least 5 years, or on a part-time basis for periods equivalent to at least 5 years of full-time service, such annuitant may elect, instead of the benefit provided by subparagraph (B), to have such annuitant's rights redetermined, effective upon separation from employment. If the annuitant so elects, the redetermined annuity will become payable as if such annuitant were retiring for the first time based on the separation from reemployment service, and the provisions of this section concerning computation of annuity (other than any provision of this paragraph) shall apply.

"(ii) If the annuitant dies while still reemployed, after having been reemployed for at least 5 full years (or the equivalent thereof, in the case of part-time employment), any person entitled to a survivor annuity under section 8341(b) of title 5, United States Code, based on the service of such annuitant shall be permitted to elect to have such person's rights redetermined in accordance with regulations which the Office shall prescribe. Redetermined benefits elected under this clause shall be in lieu of any increased benefits which would otherwise be payable in accordance with the next to last sentence of subparagraph (B).

"(D) If the annuitant serves on a full-time basis for less than 1 year (or the equivalent thereof, in the case of part-time employment), any amounts withheld under section 8422(a) of title 5, United States Code, from such annuitant's pay for the period (or periods) involved shall, upon written application to the Office, be payable to such annuitant (or the appropriate survivor or survivors, determined in the order set forth in section 8342(c) of such title).

"(E) For purposes of determining the period of an annuitant's reemployment service under this paragraph, a period of reemployment service shall not be taken into account unless—

"(i) with respect to service performed before the effective date of the election under section 301, it is service which, if performed for at least 1 full year, would have allowed such annuitant to elect under section 8344(a) of title 5, United States Code, to have deductions withheld from pay; or

"(ii) with respect to service performed on or after the effective date of the election under section 301, it is service with respect to which deductions from pay would be required to be withheld under the second sentence of section 8468(a) of title 5, United States Code.".

(c) Technical Amendment.—Section 302(a)(4) of the Federal Employees' Retirement System Act of 1986 is amended by striking out all before "benefits" and inserting "Accrued".

(d) Effective Date.—

(1) Generally.—The amendments made by this section shall take effect on the date of the enactment of this Act, and as provided in paragraph (2), shall apply with respect to any individual who becomes a reemployed annuitant on or after such date.

(2) Exception.—The amendment made by subsection (b) shall apply with respect to any election made by a reemployed annuitant on or after the date of the enactment of this Act.

SEC. 135. DESIGNATION OF UNITED STATES POST OFFICE BUILDING.

The United States Post Office Building located at 809 Nueces Bay Boulevard, Corpus Christi, Texas, shall be designated and hereafter known as the "Dr. Hector Perez Garcia Post Office Building". Any reference in any law, map, regulation, document, record, or other paper of the United States to that building shall be deemed to be a reference to the "Dr. Hector Perez Garcia Post Office Building".

SEC. 136. CONTINUED COVERAGE FOR CERTAIN EMPLOYEES AND ANNUITANTS OF THE ALASKA RAILROAD IN FEDERAL HEALTH BENEFITS PLANS AND LIFE INSURANCE PLANS.

(a) Amendment to Alaska Railroad Transfer Act of 1982.—Section 607 of the Alaska Railroad Transfer Act of 1982 (45 U.S.C. 1206) is amended by adding at the end thereof the following new subsection:

"(e)(1) Any person described under the provisions of paragraph (2) may elect life insurance coverage under chapter 87 of title 5, United States Code, and enroll in a health benefits plan under chapter 89 of title 5, United States Code, in accordance with the provisions of this subsection.

"(2) The provisions of paragraph (1) shall apply to any person who—

"(A)(i) retired from the State-owned railroad during the period beginning on or after January 4, 1985 through the date of enactment of this subsection; and

"(ii)(I) was covered under a life insurance policy pursuant to chapter 87 of title 5, United States Code, on January 4, 1985, for the purpose of electing life insurance coverage under the provisions of paragraph (1); or

"(II) was enrolled in a health benefits plan pursuant to chapter 89 of title 5, United States Code, on January 4, 1985, for the purpose of enrolling in a health benefits plan under the provisions of paragraph (1); or

"(B)(i) on the date of enactment of this subsection is an employee of the State-owned railroad; and

"(ii)(I) has 26 years or more of service (in the civil service as a Federal employee or as an employee of the State-owned railroad, combined) on the date of retirement from the State-owned railroad; and

"(II)(aa) was covered under a life insurance policy pursuant to chapter 87 of title 5, United States Code, on January 4, 1985, for the purpose of electing life insurance coverage under the provisions of paragraph (1); or

"(bb) was enrolled in a health benefits plan pursuant to chapter 89 of title 5, United States Code, on January 4, 1985, for the purpose of enrolling in a health benefits plan under the provisions of paragraph (1).

"(3) For purposes of this section, any person described under the provisions of paragraph (2) shall be deemed to have been covered under a life insurance policy under chapter 87 of title 5, United States Code, and to have been enrolled in a health benefits plan under chapter 89 of title 5, United States Code, during the period beginning on January 5, 1985 through the date of retirement of any such person.

"(4) The provisions of paragraph (1) shall not apply to any person described under paragraph (2)(B), until the date such person retires from the State-owned railroad.".

(b) Administrative Provisions.—Within 180 days after the date of enactment of this section, the Director of the Office of Personnel Management shall notify any person described under the provisions of section 607(e)(2)(A) of such Act, for the purpose of the election of a life insurance policy or the enrollment in a health benefits plan pursuant to the provisions of section 607(e)(1) of the Alaska Railroad Transfer Act of 1982 (as amended by subsection (a) of this section).

Sec. 137. Section 5402 of title 39, United States Code, is amended—

(1) in subsection (f) by striking out "January 1, 1989" and inserting in lieu thereof "January 1, 1999"; and

(2) by adding at the end thereof the following new subsection:

"(g)(1) The Postal Service, in selecting carriers of non-priority bypass mail to any point served by more than one carrier in the State of Alaska, shall, at a minimum, require that any such carrier shall—

"(A) hold a certificate of public convenience and necessity issued under section 401 of the Federal Aviation Act of 1958 (49 U.S.C. 1371);

"(B) operate at least 3 scheduled flights each week to such point;

"(C) exhibit an adherence to such scheduled flights to the best of the abilities of such carrier; and

"(D) have provided scheduled service within the State of Alaska for at least 12 months before being selected as a carrier of non-priority bypass mail.

"(2) The Postal Service—

"(A) may provide direct mainline non-priority bypass mail service to any bush point in the State of Alaska, without regard to paragraph (1)(B), if such service is equal to or better than interline service in cost and quality; and

"(B) shall deduct the non-priority bypass mail poundage flown on direct mainline flights to bush points within the State of Alaska by any carrier, from such carrier's allocation of the total poundage of non-priority bypass mail transported to the nearest appropriate Postal Service hub point in any month.

"(3)(A) The Postal Service shall determine the bypass mail bush points and hub points described under paragraph (2)(B) after consultation with the State of Alaska and the affected local communities and air carriers.

"(B) Any changes in the determinations of the Postal Service under subparagraph (A) shall be made—

"(i) after consultation with the State of Alaska and the affected local communities and air carriers; and

"(ii) after giving 12 months public notice before any such change takes effect.

On page 40, line 7, insert after "Representatives" the following: "and the Committee on Governmental Affairs".

Mr. PRYOR. Mr. President, I am joined today by Senator Stevens in offering a package of amendments to H.R. 3395, a bill making technical corrections relating to various Federal retirement systems.

Last July, we passed the Federal Employees Retirement System Act of 1986 [FERSA]. This legislation created an entirely new retirement system, the Federal Employees Retirement System [FERS]. This was a sweeping change in the Federal retirement system and took years to develop. Senator Stevens was instrumental in leading the effort to develop FERS and I am pleased to be working with him on this legislation.

As with many complicated pieces of legislation, FERSA overlooked some issues and in other areas, clarifications are necessary. The House Post Office and Civil Service Committee developed a comprehensive set of technical amendments to FERS, the Civil Service Retirement System, the Foreign Service Retirement System, and the Foreign Service Pension System.

Senator Stevens and I have reviewed H.R. 3395 and have put together a package of 14 amendments to the House-passed bill. Many of these were suggested by executive branch agencies as further improvements. The package includes:

An amendment to section 103 to require law enforcement officers and firefighters to spend at least 3 years "on the street" in order to be eligible for the early retirement provision. FERSA contained a requirement that law enforcement officers and firefighters be "on the street" for at least 10 years. Law enforcement and firefighter officials were concerned that this requirement would create severe hardship in recruiting and retaining these individuals. H.R. 3395 would strike the provision in its entirety. Our amendment would ensure that the early retirement benefit was not abused while not adversely affecting law enforcement officers and firefighters.

An amendment to section 110 to clarify that retirement credit will not be extended to employees of contracts that could be terminated by a party other than the individual or the Government, or to employees of contracts let for a specific transaction. This addresses the concerns of the Office of Personnel Management [OPM] that this section would give unintended benefits to contractor employees.

An amendment to section 125 to clarify that the class of employees referenced in section 108 of H.R. 3395 can participate in the thrift savings plan [TSP]. Because these individuals do not receive a Federal paycheck, there may be a question as to whether they are eligible to participate in the plan. However, we feel that they, like any other CSRS employee, should be able to participate in the thrift savings plan.

An amendment to section 127 to insure that H.R. 3395, while extending the deadline for applications for benefits under the Spouse Equity Act, does not inadvertently enlarge the class of individuals eligible for such benefits.

An addition of section 128 to refund excess CSRS contributions to employees who become subject to the CSRS offset provision by statute, rather than by choice. Current law only allows such refunds if the individual chooses to participate in the CSRS offset provision.

An addition of section 129 to allow the Thrift Investment Board to tie its annuity distribution to an index similar to the Consumer Price Index but not to decrease amounts paid under such annuities in those years where there is negative inflation. Current statutory language does not satisfy tax regulations and may inadvertently create problems for participating employees.

An addition of section 130 to ensure that a participant in the Foreign Service Pension System who enters the civil service will be covered by FERS, not CSRS. This ensures that CSRS is a closed system and prevents the anomalous situation of a person moving from a "new" retirement system into the "old" retirement system.

An addition of section 131 to provide for a variable base survivors annuity. An employee would be able to select from the options of providing no survivor annuity, a survivor annuity based on one-half of the employee's annuity or a survivor annuity based on all of the employee's annuity. This addresses Senator STEVENS' concern that FERS retirees be granted some flexibility in providing a survivors annuity, so that retirees can assure their survivors continued coverage under the Federal Employees Health Benefit [FEHB] Program.

An addition of section 132 to clarify that the Thrift Investment Board has the sole authority to determine the appropriate interest rate for loans made from the TSP. Under FERSA, the Thrift Investment Board has the authority to determine an appropriate interest rate for loans made under section 8433(i), title 5, United States Code. However, under certain circumstances, the rate determined by the Board under FERSA may not be appropriate for employee benefit plans subject to the Employee Retirement Income Security Act of 1974 [ERISA]. Therefore, the specific reference to ERISA is deleted in this amendment, while the reference to the requirement that these loans be made on a reasonably equivalent basis is retained from the language of section 408(b)(1) of ERISA. In addition, section 8477(c)(1) of FERSA relating to adequate consideration is made inapplicable to loans made under this subsection to eliminate any ambiguity with respect to the interpretation and application of this section.

An addition of section 133 to provide for the indemnification of the fiduciaries of the Thrift Investment Board. The fiduciaries are defined as the Board members and the executive director. Any other fiduciaries would be private, and therefore are not indemnified by this provision. This addresses the concerns of the fiduciaries that, given the inadequacy of available insurance, they are personally liable for their actions as fiduciaries of the fund.

An addition of section 134 to clarify provisions regarding reemployed annuitants. Current law does not provide clear guidelines for the treatment of reemployed annuitants.

An addition of section 135 naming the Dr. Hector Perez Garcia Post Office Building in Corpus Christi, TX.

An addition of section 136 extending to certain employees and retirees of the Alaska Railroad coverage under the FEHB Program and the Federal Employees Group Life Insurance Program. This ensures that these individuals do not lose health or life insurance benefits due to the transfer of the Alaska Railroad from the Federal Government to the State of Alaska.

An addition of section 137 to guarantee uninterrupted mail service to rural areas in Alaska.

An amendment to section 202 to include Senate Governmental Affairs as an additional recipient of regulations to be issued by the Secretary of State regarding retirement benefits for former spouses.

Mr. President, this package of amendments contains simple clarifications or technical changes and will rectify various oversights in FERSA. I urge its speedy adoption.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from West Virginia.

The amendment (No. 1372) was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read the third time.

The bill was read a third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

So the bill (H.R. 3395) was passed.

Mr. BYRD. Mr. President, I ask unanimous consent that the motion to reconsider be laid on the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDING THE SMALL BUSINESS INVESTMENT ACT OF 1958

Mr. BYRD. Mr. President, I ask unanimous consent to proceed to the consideration of Calendar Order No. 491.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 437) to amend the Small Business Investment Act of 1958 to permit prepayment of loans made to State and local development companies.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which was reported from the Committee on Small Business, with an amendment in the nature of a substitute.

(The amendment in the nature of a substitute was printed earlier in today's RECORD.)

AMENDMENT NO. 1373

Mr. BYRD. Mr. President, I call up an amendment by Mr. BUMPERS to the committee substitute.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD] on behalf of Mr. BUMPERS proposes an amendment numbered 1373.

Mr. BYRD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At line 9, on page 3 of the Committee Amendment, strike the comma after the word "debenture" and insert the following: "plus a prepayment penalty as described in subparagraph (c),".

On page 3, line 21, of the Committee Amendment insert the following new subparagraph (c) and renumber the existing subparagraphs accordingly:

(c) The Federal Financing Bank may impose a prepayment penalty on issuers of debentures who elect to pay those debentures before maturity according to the following schedule:

(1) For debentures with ten years or less remaining before maturity, a penalty not to exceed 40 percent of an amount equal to the annual interest on the outstanding principal balance of the debenture at the coupon rate;

(2) For debentures with more than ten years but less than 15 years remaining before maturity, a penalty not to exceed fifty percent of an amount equal to the annual interest on the outstanding principal balance of the debenture at the coupon rate;

(3) For debentures with more than fifteen years but less than 20 years before maturity, a penalty not to exceed sixty percent of an amount equal to the annual interest on the outstanding principal balance of the debenture at the coupon rate;

(4) For debentures with more than twenty years remaining before maturity, a penalty not to exceed seventy percent of an amount equal to the annual interest on the outstanding balance of the debenture at the coupon rate:

The **PRESIDING OFFICER**. If there is no further debate, the question is on agreeing to the amendment.

The amendment (No. 1373) was agreed to.

The **PRESIDING OFFICER**. If there are no further amendments, the question is on agreeing to the committee substitute.

The committee substitute was agreed to.

The **PRESIDING OFFICER**. If there is no further debate, the bill is deemed read the third time.

The bill having been deemed read the third time, the question is on the passage of the bill.

The bill (S. 437) was passed as follows:

S. 437

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

In title V of the Small Business Investment Act of 1958, insert the following new section:

SEC. 506. (a) DEFINITIONS.—(1) As used in this section, "issuer" means the issuer of a debenture which has been purchased by the Federal Financing Bank pursuant to section 503 of this Act.

(2) "Borrower" means the small business concern whose loan secures a debenture issued pursuant to section 503 of this Act.

(b) The issuer of a debenture purchased by the Federal Financing Bank and guaranteed under section 503 of this Act may at the election of the borrower prepay such debenture by paying to the Federal Financing Bank the outstanding principal balance and accrued interest due on the debenture at the coupon rate on the debenture plus a prepayment penalty as described in subparagraph: *Provided*, That:

(1) the loan that secures the debenture is not in default on the date the prepayment is made;

(2) private capital, with or without the existing debenture guarantee, is used to prepay the debenture, and provided further that if private capital with the existing debenture guarantee is used, such refinancing may be done solely pursuant to sections 504 and 505 of this Act;

(3) the issuer of the debenture certifies that the benefits associated with prepayment of the debenture are entirely passed through to the borrower.

(c) The Federal Financing Bank may impose a prepayment penalty on issuers of debentures who elect to pay those debentures before maturity according to the following schedule:

(1) For debentures with ten years or less remaining before maturity, a penalty not to exceed 40 per cent of an amount equal to the annual interest on the outstanding principal balance of the debenture at the coupon rate;

(2) For debentures with more than ten years but less than 15 years remaining before maturity, a penalty not to exceed fifty per cent of an amount equal to the annual interest on the outstanding principal balance of the debenture at the coupon rate;

(3) For debentures with more than fifteen years but less than 20 years before maturity, a penalty not to exceed sixty percent of an amount equal to the annual interest on the outstanding principal balance of the debenture at the coupon rate;

(4) For debentures with more than twenty years remaining before maturity, a penalty not to exceed seventy per cent of an amount equal to the annual interest on the outstanding balance of the debenture at the coupon rate;

(d) No fees other than those specified in this section may be imposed as a condition on such prepayment against the issuer of the debentures, or the borrower, or the Small Business Administration or any fund or account administered by the Small Business Administration. If a debenture is refinanced without the existing debenture guarantee, the borrower may be required to pay a fee to the issuer of the debenture in the amount of one percent of the outstanding principal amount of the loan which secures the debenture. If a debenture is refinanced with the existing guarantee pursuant to section 504 of this Act, the borrower shall be subject to imposition of a fee by the issuer of the debenture in the amount of one-half of one percent of the outstanding principal amount of the loan which secures the debenture. Debentures refinanced under section 504 otherwise shall be subject to all of the provisions of such section and section 505 of this Act and the rules and regulations of the Administration promulgated thereunder, including but not limited to payment of authorized expenses and commissions, fees or discounts to brokers and dealers in trust certificates issued pursuant to section 505: Provided, however, That the issuer shall be deemed to have waived any origination fee on the new debenture to which it would have otherwise been entitled under 13 Code of Federal Regulations section 108.503-6(a)(1)

(e) Any debenture refinanced under section 504 pursuant to this section shall have a term of either 10 or 20 years, as determined by the Administration.

(f) In the event of default by a borrower, the Administration's guarantee shall be extinguished by payment by the Administration of the remaining principal balance plus accrued interest.

(g) Notwithstanding any other law, rule or regulations, the guarantee by the Administration under section 503 of this Act of existing debentures purchased by the Federal Financing Bank which are refinanced pursuant to this section under section 504 of this Act shall continue in full force and effect and the full faith and credit of the United States shall continue to be pledged to the payment of all amounts which may be required to be paid under any guarantee of debentures or trust certificates (representing ownership of all or a fractional part of such debentures) issued by the Administration or its agency pursuant to section 505 of this Act.

(h) The Administration shall issue regulations to implement this section and to facilitate the prepayment of debentures and loans made with the proceeds of such debentures within 60 days of the date of enactment of this section.

Mr. BYRD. Mr. President, I ask unanimous consent that the motion to reconsider be laid on the table.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

COMMODITY DISTRIBUTION REFORM ACT AND WIC AMENDMENTS.

Mr. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 1340.

The **PRESIDING OFFICER** laid before the Senate the following message from the House of Representatives:

Resolved, That the House agree to the amendment of the Senate to the bill (H.R. 1340) entitled "An Act to improve the distribution procedures for agricultural commodities and their products donated for the purposes of assistance through the Department of Agriculture, and for other purposes", with the following amendment:

In lieu of the matter inserted by the amendment of the Senate, insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Commodity Distribution Reform Act and WIC Amendments of 1987".

SEC. 2. STATEMENT OF PURPOSE; SENSE OF CONGRESS.

(a) STATEMENT OF PURPOSE.—It is the purpose of this Act to improve the manner in which agricultural commodities acquired by the Department of Agriculture are distributed to recipient agencies, the quality of the commodities that are distributed, and the degree to which such distribution responds to the needs of the recipient agencies.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the distribution of commodities and products—

(1) should be improved as an effective means of removing agricultural surpluses from the market and providing nutritious high-quality foods to recipient agencies;

(2) is inextricably linked to the agricultural support and surplus removal programs; and

(3) is an important mission of the Secretary of Agriculture.

SEC. 3. COMMODITY DISTRIBUTION PROGRAM REFORMS.

(a) COMMODITIES SPECIFICATIONS.—

(1) DEVELOPMENT.—In developing specifications for commodities acquired through price support, surplus removal, and direct

purchase programs of the Department of Agriculture that are donated for use for programs or institutions described in paragraph (2) the Secretary shall—

(A) consult with the advisory council established under paragraph (3);

(B) consider both the results of the information received from recipient agencies under subsection (f)(2) and the results of an ongoing field testing program under subsection (g) in determining which commodities and products, and in which form the commodities and products, should be provided to recipient agencies; and

(C) give significant weight to the recommendations of the advisory council established under paragraph (3) in ensuring that commodities and products are—

(i) of the quality, size, and form most usable by recipient agencies; and

(ii) to the maximum extent practicable, consistent with the Dietary Guidelines for Americans published by the Secretary of Agriculture and the Secretary of Health and Human Services.

(2) Applicability.—Paragraph (1) shall apply to—

(A) the commodity distribution and commodity supplemental food programs established under sections 4(a) and 5 of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c note);

(B) the program established under section 4(b) of the Food Stamp Act of 1977 (7 U.S.C. 2013(b));

(C) the school lunch, commodity distribution, and child care food programs established under sections 6, 14, and 17 of the National School Lunch Act (42 U.S.C. 1755, 1762a, and 1766);

(D) the school breakfast program established under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773);

(E) the donation of surplus commodities to provide nutrition services under section 311 of the Older Americans Act of 1965 (42 U.S.C. 3030a); and

(F) to the extent practicable—

(i) the temporary emergency food assistance program established under the Temporary Emergency Food Assistance Act of 1983 (7 U.S.C. 612c note); and

(ii) programs under which food is donated to charitable institutions.

(3) Advisory Council.—(A) The Secretary shall establish an advisory council on the distribution of donated commodities to recipient agencies. The Secretary shall appoint not less than 9 and not more than 15 members to the council, including—

(i) representatives of recipient agencies;

(ii) representatives of food processors and food distributors;

(iii) representatives of agricultural organizations;

(iv) representatives of State distribution agency directors; and

(v) representatives of State advisory committees.

(B) The council shall meet not less than semiannually with appropriate officials of the Department of Agriculture and shall provide guidance to the Secretary on regulations and policy development with respect to specifications for commodities.

(C) Members of the council shall serve without compensation but shall receive reimbursement for necessary travel and subsistence expenses incurred by them in the performance of the duties of the committee.

(D) The council shall report annually to the Secretary of Agriculture, the Committee on Education and Labor and the Committee on Agriculture of the House of Representatives, and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

(E) The council shall expire on September 30, 1992.

(b) Duties of Secretary With Respect to Provision of Commodities.—With respect to the provision of commodities to recipient agencies, the Secretary shall—

(1) before the end of the 270-day period beginning on the date of the enactment of this Act—

(A) implement a system to provide recipient agencies with options with respect to package sizes and forms of such commodities, based on information received from such agencies under subsection (f)(2), taking into account the duty of the Secretary—

(i) to remove surplus stocks of agricultural commodities through the Commodity Credit Corporation;

(ii) to purchase surplus agriculture commodities through section 32 of the Agricultural Adjustment Act (7 U.S.C. 601 et seq.); and

(iii) to make direct purchases of agricultural commodities and other foods for distribution to recipient agencies under—

(I) the commodity distribution and commodity supplemental food programs established under sections 4(a) and 5 of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c note);

(II) the program established under section 4(b) of the Food Stamp Act of 1977 (7 U.S.C. 2013(b));

(III) the school lunch, commodity distribution, and child care food programs established under sections 6, 14, and 17 of the National School Lunch Act (42 U.S.C. 1755, 1762a, and 1766);

(IV) the school breakfast program established under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773); and

(V) the donation of surplus commodities to provide nutrition services under section 311 of the Older Americans Act of 1965 (42 U.S.C. 3030a); and

(B) implement procedures to monitor the manner in which State distribution agencies carry out their responsibilities;

(2) provide technical assistance to recipient agencies on the use of such commodities, including handling, storage, and menu planning and shall distribute to all recipient agencies suggested recipes for the use of donated commodities and products (the recipe cards shall be distributed as soon as practicable after the date of enactment of this Act and updated on a regular basis taking into consideration the Dietary Guidelines for Americans published by the Secretary of Agriculture and the Secretary of Health and Human Services, as in effect at the time of the update of the recipe files);

(3) before the end of the 120-day period beginning on the date of the enactment of this Act, implement a system under which the Secretary shall—

(A) make available to State agencies summaries of the specifications with respect to such commodities and products; and

(B) require State agencies to make such summaries available to recipient agencies on request;

(4) implement a system for the dissemination to recipient agencies and to State distribution agencies—

(A) not less than 60 days before each distribution of commodities by the Secretary is scheduled to begin, of information relating to the types and quantities of such commodities that are to be distributed; or

(B) in the case of emergency purchases and purchases of perishable fruits and vegetables, of as much advance notification as is consistent with the need to ensure that high-quality commodities are distributed;

(5) before the expiration of the 90-day period beginning on the date of the enactment of this Act, establish procedures for the replacement of commodities received by recipient agencies that are stale, spoiled, out of condition, or not in compliance with the specifications developed under subsection (a)(1), including a requirement that the appropriate State distribution agency be notified promptly of the receipt of commodities that are stale, spoiled, out of condition, or not in compliance with the specifications developed under subsection (a)(1);

(6) monitor the condition of commodities designated for donation to recipient agencies that are being stored by or for the Secretary to ensure that high quality is maintained;

(7) establish a value for donated commodities and products to be used by State agencies in the allocation or charging of commodities against entitlements; and

(8) require that each State distribution agency shall receive donated commodities not more than 90 days after such commodities are ordered by such agency, unless such agency specifies a longer delivery period.

(c) Qualifications for Purchase of Commodities.—

(1) Offers for equal or less poundage.—Subject to compliance by the Secretary with surplus removal responsibilities under other provisions of law, the Secretary may not refuse any offer in response to an invitation to bid with respect to a contract for the purchase of entitlement commodities (provided in standard order sizes) solely on the basis that such offer provides less than the total amount of poundage for a destination specified in such invitation.

(2) Other qualifications.—The Secretary may not enter into a contract for the purchase of entitlement commodities unless the Secretary considers the previous history and current patterns of the bidding party with respect to compliance with applicable meat inspection laws and with other appropriate standards relating to the wholesomeness of food for human consumption.

(d) Duties of State Distribution Agencies.—Before the expiration of the 270-day period beginning on the date of the enactment of this Act, the Secretary shall by regulation require each State distribution agency to—

(1) evaluate its warehousing and distribution systems for donated commodities;

(2) implement the most cost-effective and efficient system for providing warehousing and distribution services to recipient agencies;

(3) use commercial facilities for providing warehousing and distribution services to recipient agencies unless the State applies to the Secretary for approval to use other facilities, showing that other facilities are more cost effective and efficient;

(4) consider the preparation and storage capabilities of recipient agencies when ordering donated commodities, including capabilities of such agencies to handle commodity product forms, quality, packaging, and quantities; and

(5) in the case of any such agency that enters into a contract with respect to processing of agricultural commodities and their products for recipient agencies—

(A) test the product of such processing with the recipient agencies before entering into a contract for such processing; and

(B) develop a system for monitoring product acceptability.

(e) REGULATIONS.—

(1) IN GENERAL.—The Secretary shall provide by regulation for—

(A) whenever fees are charged to local recipient agencies, the establishment of mandatory criteria for such fees based on national standards and industry charges (taking into account regional differences in such charges) to be used by State distribution agencies for storage and deliveries of commodities;

(B) minimum performance standards to be followed by State agencies responsible for intrastate distribution of donated commodities and products;

(C) procedures for allocating donated commodities among the States;

(D) delivery schedules for the distribution of commodities and products that are consistent with the needs of eligible recipient agencies, taking into account the duty of the Secretary—

(i) to remove surplus stocks of agricultural commodities through the Commodity Credit Corporation;

(ii) to purchase surplus agricultural commodities through section 32 of the Act entitled "An Act to amend the Agricultural Adjustment Act, and for other purposes," approved August 24, 1935 (7 U.S.C. 612c); and

(iii) to make direct purchases of agricultural commodities and other foods for distribution to recipient agencies under—

(I) the commodity distribution and commodity supplemental food programs established under sections 4(a) and 5 of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c note);

(II) the program established under section 4(b) of the Food Stamp Act of 1977 (7 U.S.C. 2013(b)); and

(III) the school lunch, commodity distribution, and child care food programs established under sections 6, 14, and 17 of the National School Lunch Act (42 U.S.C. 1755, 1762a, and 1766);

(IV) the school breakfast program established under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773);

(V) the donation of surplus commodities to provide nutrition services under section 311 of the Older Americans Act of 1965 (42 U.S.C. 3030a).

(2) TIME FOR PROMULGATION OF REGULATIONS.—The Secretary shall promulgate—

(A) regulations as required by paragraph (1) (D) before the end of the 90-day period beginning on the date of enactment of this Act; and

(B) regulations as required by subparagraphs (A), (B), and (C) of paragraph (1) before the end of the 270-day period beginning on such date.

(f) REVIEW OF PROVISION OF COMMODITIES.—

(1) IN GENERAL.—Before the expiration of the 270-day period beginning on the date of the enactment of this Act, the Secretary shall establish procedures to provide for systematic review of the costs and benefits of providing commodities of the kind and quantity that are suitable to the needs of recipient agencies.

(2) INFORMATION FROM RECIPIENT AGENCIES.—Before the expiration of the 120-day period beginning on the date of the enactment of this Act, the Secretary shall establish procedures to ensure that information is received from recipient agencies at least semiannually with respect to the types and forms of commodities that are most useful to persons participating in programs operated by recipient agencies.

(g) TESTING FOR ACCEPTABILITY.—The Secretary shall establish an ongoing field testing program for present and anticipated commodity and product purchases to test product acceptability with program participants. Test results shall be taken into consideration in deciding which commodities and products, and in what form the commodities and products, should be provided to recipient agencies.

(h) BUY AMERICAN PROVISION.—

(1) IN GENERAL.—The Secretary shall require that recipient agencies purchase, whenever possible, only food products that are produced in the United States.

(2) WAIVER.—The Secretary may waive the requirement established in paragraph (1)—

(A) in the case of recipient agencies that have unusual or ethnic preferences in food products; or

(B) for such other circumstances as the Secretary considers appropriate.

(3) EXCEPTION.—The requirement established in paragraph (1) shall not apply to recipient agencies in Alaska, Hawaii, Guam, American Samoa, Puerto Rico, the Virgin Islands, or the Commonwealth of the Northern Mariana Islands.

(i) UNIFORM INTERPRETATION.—The Secretary shall take such actions as are necessary to ensure that regional offices of the Department of Agriculture interpret uniformly across the United States policies and regulations issued to implement this section.

(j) PER MEAL VALUE OF DONATED FOODS.—Section 6(e) of the National School Lunch Act (42 U.S.C. 1755(e)) is amended by—

(1) inserting "(1)" after the subsection designation; and

(2) adding at the end the following new paragraph:

"(2) Each State agency shall offer to each school food authority under its jurisdiction that participates in the school lunch program and receives commodities, agricultural commodities and their products, the per meal value of which is not less than the national average value of donated foods established under paragraph (1). Each such offer shall include the full range of such commodities and products that are available from the Secretary to the extent that quantities requested are sufficient to allow efficient delivery to and within the State.".

(k) REPORT.—Not later than January 1, 1989, the Secretary shall submit to the Committee on Education and Labor and the Committee on Agriculture of the House of Representatives and to the Committee on Agriculture, Nutrition, and Forestry of the Senate a report on the implementation and operation of this section.

SEC. 4. FOOD BANK DEMONSTRATION PROJECT.

(a) DEMONSTRATION PROJECT.—The Secretary shall carry out not less than one demonstration project to provide and redistribute agricultural commodities and food products thereof as authorized under section 32 of the Act entitled "An Act to amend the Agricultural Adjustment Act, and for other purposes", approved August 24, 1935 (7 U.S.C. 612c), to needy individuals and families through community food banks. The Secretary may use a State agency or any other food distribution system for such provision or redistribution of section 32 agricultural commodities and food products through community food banks under a demonstration project.

(b) RECORDKEEPING AND MONITORING.—Each food bank participating in the demonstration projects under this section shall establish a recordkeeping system and internal procedures to monitor the use of agricultural commodities and food products provided under this section. The Secretary shall develop standards by which the feasibility and effectiveness of the projects shall be measured, and shall conduct an ongoing review of the effectiveness of the projects.

(c) DETERMINATION OF QUANTITIES, VARIETIES, AND TYPES OF COMMODITIES.—The Secretary shall determine the quantities, varieties, and types of agricultural commodities and food products to be made available under this section.

(d) EFFECTIVE PERIOD.—This section shall be effective for the period beginning on the date of the enactment of this Act and ending on December 31, 1990.

(e) PROGRESS REPORTS.—The Secretary shall submit annual progress reports to Congress beginning on July 1, 1988, and a final report on July 1, 1990, regarding each demonstration project carried out under this section. Such reports shall include analyses and evaluations of the provision and redistribution of agricultural commodities and food products under the demonstration projects. In addition, the Secretary shall include in the final report any recommendations regarding improvements in the provision and redistribution of agricultural commodities and food products to community food banks and the feasibility of expanding such method of provisions and redistribution of agricultural commodities and food products to other community food banks.

SEC. 5. EXTENSION OF ELIGIBILITY OF CERTAIN SCHOOL DISTRICTS TO RECEIVE CASH OR COMMODITY LETTERS OF CREDIT ASSISTANCE FOR SCHOOL LUNCH PROGRAMS.

Section 18 of the National School Lunch Act (42 U.S.C. 1769) is amended by adding at the end the following new subsection:

"(e)(1) Upon request to the Secretary, any school district that on January 1, 1987, was receiving all cash payments or all commodity letters of credit in lieu of entitlement commodities for its school lunch program shall receive all cash payments or all commodity letters of credit in lieu of entitlement commodities for its school lunch program for the duration beginning July 1, 1987, and ending December 31, 1990.

"(2) Any school district that elects under paragraph (1) to receive all cash payments or all commodity letters of credit in lieu of entitlement commodities for its school lunch program shall receive bonus commodities in the same manner as if such school district was receiving all entitlement commodities for its school lunch program.".

SEC. 6. EXTENSION OF NATIONAL DONATED COMMODITY PROCESSING PROGRAMS.

Section 1114(a)(2)(A) of the Agriculture and Food Act of 1981 (7 U.S.C. 1431e(a)(2)(A)) is amended by striking out "June 30, 1987," and inserting in lieu thereof "September 30, 1990,".

SEC. 7. ASSESSMENT AND REPORT TO CONGRESS.

(a) ASSESSMENT.—The Comptroller General of the United States shall monitor and assess the implementation by the Secretary of the provisions of this Act.

(b) REPORT.—Before the expiration of the 18-month period beginning on the date of the enactment of this Act, the Comptroller General shall submit to the Committee on Education and Labor and the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report of the findings of the assessment conducted as required by subsection (a).

SEC. 8. FUNDS FOR NUTRITION SERVICES AND ADMINISTRATION.

(a) In General.—Section 17(h) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(h)) is amended by adding at the end thereof the following new paragraph:

"(5)(A) In addition to the amounts otherwise made available under paragraphs (1) and (2), each State agency may convert funds intially allocated to the State agency for program food purchases to nutrition services and administration funds for the cost of the State agency and local agencies associated with increases in the number of persons served, if the State agency has implemented a competitive bidding, rebate, direct distribution, or home delivery system as described in its approved Plan of Operation and Administration.

"(B) The Secretary shall—

"(i) project each such State agency's level of participation for the fiscal year, excluding anticipated increases due to use during the fiscal year of any of the cost-saving strategies identified in subparagraph (A) of this paragraph; and

"(ii) compute, with an adjustment for the anticipated effects of inflation, each such State agency's average administrative grant per participant for the preceding fiscal year.

"(C) Each such State agency may convert funds at a rate equal to the amount established by the Secretary under subparagraph (B)(ii) of this paragraph for each food package distributed to each additional participant above the participation level projected by the Secretary under subparagraph (B)(i) of this paragraph, up to the level of increased participation estimated in its approved Plan of Operation and Administration.".

(b) State Plan or Plan Amendment.—Section 17(f) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(f)) is amended by, in paragraph (1)(C)—

(1) striking out "and" at the end of clause (vii);

(2) redesignating clause (viii) as clause (ix); and

(3) adding the following new clause:

"(viii) if the State agency chooses to request the funds conversion authority established in clause (h)(5) of this section, an estimate of the increased participation which will result from its cost-saving initiative, including an explanation of how the estimate was developed; and".

(c) Study of Nutrition Services and Administration Funding.—The Secretary shall conduct a study of the appropriateness of the percentage of the annual appropriation for the program required by paragraph (h)(1) of this section to be made available for State and local agency costs for nutrition services and administration, and shall report the results of this study to the Congress not later than March 1, 1989. Such study shall include an analysis of the impact in future years on per participant administrative costs if a substantial number of States implement competitive bidding, rebate, direct distribution, or home delivery systems and shall examine the impact of the percentage provided for nutrition services and administration on the quality of such services.

(d) Effective Date.—The amendment made by subsections (a), (b), and (c) shall take effect October 1, 1987.

SEC. 9. COORDINATION OF WIC PROGRAM WITH MEDICAID COUNSELING.

Section 17(f)(1)(C)(iii) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(f)(1)(C)(iii)) is amended by striking out "and maternal and child health care programs" and inserting in lieu thereof "maternal and child health care, and medicaid programs".

SEC. 10. STUDY OF MEDICAID SAVINGS FOR NEWBORNS FOR WIC PROGRAM.

(a) Study.—The Secretary of Agriculture, in consultation with the Secretary of Health and Human Services, shall conduct a national study of savings in the amount of assistance provided to families with newborns under State plans for medical assistance approved under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) and State indigent health care programs, during the first 60-day period after birth, as the result of the participation of mothers of newborns before birth in the special supplemental food program authorized under section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786).

(b) Report.—Not later than February 1, 1990, the Secretary shall submit to Congress a report that describes the results of the study conducted under subsection (a).

(c) Funding.—This section shall be carried out using funds made available under section 17(g)(3) of the Child Nutrition Act of 1966.

SEC. 11. SUPPLYING INFANT FORMULA FOR THE WIC PROGRAM.

Section 17(f) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(f)) is amended by adding at the end thereof the following new paragraph:

"(16) To be eligible to participate in the program authorized by this section, a manufacturer of infant formula that supplies formula for the program shall—

"(A) register with the Secretary of Health and Human Services under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321 et seq.); and

"(B) before bidding for a State contract to supply infant formula for the program, certify with the State health department that the formula complies with such Act and regulations issued pursuant to such act.".

SEC. 12. OVERSPENDING AND UNDERSPENDING UNDER THE WIC PROGRAM.

Section 17(i)(3) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(i)(3) is amended—

in subparagraph (A)—

(A) by inserting "and subject to subparagraphs (B) and (C)" after "paragraph (2)"; and

(B) by striking out "or" at the end of clause (i) and inserting in lieu thereof "and"; and

(2) by adding at the end thereof the following new subparagraph:

"(C) The total amount of funds transferred from any fiscal year under clauses (i) and (ii) of subparagraph (A) shall not exceed 1 percent of the amount of the funds allocated to a State agency for such fiscal year.".

SEC. 13. DEFINITIONS.

For purposes of this Act:

(1) The term "donated commodities" means agricultural commodities and their products that are donated by the Secretary to recipient agencies.

(2) The term "entitlement commodities" means agricultural commodities and their products that are donated and charged by the Secretary against entitlements established under programs authorized by statute to receive such commodities.

(3) The term "recipient agency" means—

(A) a school, school food service authority, or other agency authorized under the National School Lunch Act or the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.) to operate breakfast programs, lunch programs, child care food programs, summer food service programs, or similar programs and to receive donations of agricultural commodities and their products acquired by the Secretary through price support, surplus removal, or direct purchase;

(B) a nutrition program for the elderly authorized under title III of the Older Americans Act of 1965 (42 U.S.C. 3021 et seq.) to receive donations of agricultural commodities and their products acquired by the Secretary through price support, surplus removal, or direct purchase;

(C) an agency or organization distributing commodities under the commodity supplemental food program established in section 4 of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c note);

(D) any charitable institution, summer camp, or assistance agency for the food distribution program on Indian reservations authorized under section 4 of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c note) to receive donations of agricultural commodities and their products acquired by the Secretary through price support, surplus removal, or direct purchase; or

(E) an agency or organization distributing commodities under a program established in section 202 of the Temporary Emergency Food Assistance Act of 1983 (7 U.S.C. 612c note).

(4) The term "State distribution agency" means a State agency responsible for the intrastate distribution of donated commodities.

(5) The term "Secretary" means Secretary of Agriculture, unless the context specifies otherwise.

SEC. 14. GENERAL EFFECTIVE DATE.

Except as otherwise provided in this Act, this Act and the amendments made be this Act shall take effect on the date of the enactment of this Act.

Mr. LEAHY. Mr. President, I am delighted that we are able to see final congressional consideration of H.R. 1340, the Commodity Distribution Reform and WIC Amendment Act of 1987. This bill will improve the current Commodity Distribution Program so that it better serves our schools and other feeding programs. It will also provide for an extension of the Commodity Letter of Credit Program [CLOC], as well as making the Special Supplemental Feeding Program for Women, Infants and Children [WIC] more effective in serving the needs of pregnant women and young children.

The Senate and the House both worked very hard on this bill. I especially congratulate the House Agriculture and House Education and Labor Committees for their fine effort at reaching a compromise on the detailed issues involved in this bill.

Mr. President, this bill is bipartisan. It was supported by all the members of the Senate Agriculture Committee. It also has benefited from the active involvement of the American School Service Association, as well as a host of commodity groups, including the Grange, the National Milk Producers Federations, among others.

The Commodity Distribution Reform Act of 1987 will improve the operation of the U.S. Department of Agriculture's Food Donation Program by making it more responsive to the needs of local operators.

The Commodity Distribution Programs in this country have a unique blend of goals: to support our agricultural price support programs and to serve the nutritional needs of America's children and recipients of our other feeding programs. I expect the Department to continue to work with recipient agencies to improve the operation of all programs and to run these programs in a manner which will deliver the greatest amount of food at the least possible cost to the Government.

The Department has made great strides in the right direction. This bill will encourage even greater efficiency and responsiveness in the years to come.

America has the largest stockpiles of agricultural surpluses of any nation in history. We should use those surpluses to feed the hungry and to feed our school children. The agricultural support programs, so important to our farmers, have for years provided vital foods to America's needy and hungry.

Mr. President, aside from the reforms to the commodity distribution system, this bill also makes major improvements in the WIC Program.

This bill will mean that thousands of needy infants and pregnant women, determined to be at nutritional risk by health professionals, can receive special nutritional foods at no additional cost to the taxpayer.

Indeed, it is possible that several hundred thousand pregnant women, newborns, infants, and children under age 5 who are poor will be able to receive infant formula, milk, cheese, fortified cereals, and other nutritious foods selected by health professionals without 1 penny of Federal or State money being used.

The need to help these needy women and children is clear. Assistant Secretary of Agriculture John Bode testified this year that only 40 percent of the women, infants, and children eligible for the WIC Program can participate because of Federal budget restrictions. Indeed, President Reagan's proposed budget would have thrown more than 50,000 eligible women, infants, and children off this program this fiscal year.

This bill will provide for increased participation without increasing the cost to the American taxpayer.

The bill borrows an idea that has been used in Vermont for years. Vermonters are very frugal and it shows in the way they run the WIC Program. Vermont, buys the commodities which it distributes through the WIC Program at volume discounts. Because of these procedures Vermont serves more eligible WIC recipients than any other State. Vermont serves over 70 percent of those eligible whereas the national average is only 40 percent.

On the other hand most States pay a lot more—they buy these same commodities at retail prices. This bill provides incentives for States to adopt Vermont's approach and use competitive bidding to obtain the same healthy and fortified foods at discount—volume buying—pieces.

Under these procedures, for example, the assistant commissioner of the Tennessee Health Department testified that $4 million could be saved, per year, in Tennessee alone.

The problem is that the Department of Agriculture, following Office of Management and Budget directives, has ruled that State could not use any of the saved taxpayer money to process additional eligible pregnant women and infants. Tennessee would be able to serve 8,000 to 10,000 more people, but would be given no extra money to process those applicants and health screen them.

To be eligible for WIC the applicant must not only be poor but also be at nutritional risk as determined by a physician, nurse or nutritionist, Under the USDA ruling, the cost of that eligibility processing, especially the nutritional health assessments, prevented States from using this cost-saving approach.

This bill takes down that roadblock.

When you also consider other taxpayers savings involved in the WIC Program this bill will actually save money while serving more pregnant women, new mothers, infants, and children under 5.

Recent studies published in the American Journal of Public Health have shown that participation by pregnant women in WIC reduces Federal Medicaid costs regarding newborn infants. Babies born to WIC participants were less likely to be seriously ill at birth as measured by lower neonatal intensive care unit admission rates and shorter stays in intensive care.

This act also extends around 60 School Lunch Program CLOC pilot projects for 2 years. These pilot projects, two of which are in Vermont, are designed to test two alternatives to the regular Commodity Delivery Program for schools that participate in the School Lunch Program.

Mr. President. Since this bill has been modified from the House, and since there is no traditional "Statement of Managers" as there was no formal conference, I would offer the following clarifications and explanations of the bill.

Section 3(j)(2) establishes that each school authority should be offered the national average value of donated foods. In passing this bill, it is understood that the language in this section is intended neither to cause States to operate their distribution systems inefficiently nor to increase USDA's expenditures for commodities. This provision is intended to ensure that States make every effort to equitably provide foods to all school districts within practical constraints.

First, commodity entitlements must be computed based on the current year's meal counts. Therefore, it is not possible to determine these entitlements at the local level with absolute precision until the school year is over. Second, some of the current differences in the value of foods provided to school food authorities are the result of practical considerations in ordering and shipping commodities. Schools receive slightly more or slightly less than the national average payment because commodities are in discrete units and they have to be provided in sufficient quantities for efficient use by individual schools. This provision would not force States to abandon these practices. In allocating commodities among school districts, States should minimize the differences in per meal reimbursement rates to the extent that it does not result in inefficient splitting of shipments or delivery of commodities in quantities that are impractical for school district use. States are expected to make every effort to ensure that this provision does not cause assessments to school districts to increase.

Section 3(B)(1)(A) requires the offering of optional forms and package sizes.

It is not expected that the Department to incur additional costs to provide optional forms and sizes of commodity items that are provided as bonus items to schools, the Temporary Emergency Food Assistance Program, charitable institutions or any other outlet. To do so would necessarily increase the Department's costs to operating the Commodity Program and diminish the agricultural impact. The optional forms and sizes are mandatory only for programs where a specific funding source is available to purchase food for use in that program and where a significant portion of the recipient agencies have expressed a desire for an alternative form or package size.

Regarding section 3(F)(1), it is recognized that the Department currently assess the costs and benefits of commodity purchases, but anticipates that the system for doing so will be improved by the added semiannual data collection from recipient agencies that is also required by the bill.

Section 3(b)(4)(A) requires that the Department provide 60 days' notice before distribution of commodities is scheduled to begin. The Senate does not expect the Department to incur additional costs of storage in meeting the 60-day advance notice provisions. Where additional storage costs would be necessary or the amount of product removed from the market would have to be reduced to meet the requirement is one type of emergency situation the legislation is intended to provide exceptions for. In these instances the Secretary shall provide as much advance notice as possible.

It is intended under section 3(b)(8) that the Secretary take appropriate steps to improve the predictability of the receipt of donated commodities to State distribution agencies. In taking any such action, however, the Secretary shall ensure that it is consistent with, and not disruptive of, normal commercial activity in the processing and transportation industries.

Section 3 extends the Department's authority to offer cash or commodity letters of credit to sites previously participating in a Congressionally mandated pilot study through December 31, 1990.

H.R. 1340 contains a series of important provisions to improve the operations of the Special Supplemental Food Program for Women, Infants, and Children [WIC]. Perhaps the most significant of these is a provision which would encourage States to institute systems to obtain WIC foods more economically, so that WIC funds can be stretched to serve more people.

Under current law, if a State institutes a rebate, competitive bidding, home delivery, or direct distribution system to procure WIC food at lower-than-retail prices, the State lowers the per-person cost of providing WIC foods. This ought to enable the State to serve additional participants. However, the State receives no more administrative money to administer blood tests, determine eligibility, or provide nutrition education to these additional recipients. As a result, current law effectively discourages States from instituting major cost-saving changes to obtain WIC foods at reduced prices.

H.R. 1340 would remedy this problem. It would enable States to use, for administrative costs, a modest portion of the savings from instituting systems to obtain food at a reduced cost. Under the provision, USDA would project a State's WIC participation for the coming fiscal year, based on the State's average food cost per person and the State's funding allocation for the coming fiscal year. The State would, as part of its State plan, describe the new cost-saving system it planned to institute and the maximum additional number of participants it could serve as a result of the new system. Once the department approved the State plan, the State would, for each participant actually served above the Department's projected participation level and up to the maximum number of new participants specified in the State plan be allowed automatically to convert a specific amount of the State's WIC food funds to administrative funds. The specific per-participant amount the State would be allowed to convert would be based on the State's average WIC administrative cost per participant. At the beginning of each fiscal year, this process would be repeated until such time as the increase in participation, due to the cost-saving system, had been fully achieved and fully reflected in the projected participation level for the State for the coming fiscal year. After that time, the State would still receive administrative funds to cover the costs of the added participants but these funds would be provided through the Department's administrative allocation formula.

The result would be that if a State operated a rebate, competitive bidding, home delivery, or direct distribution system, the State could cover the administrative as well as the food costs of serving additional participants. This should provide incentives for States to institute major efficiency measures in their programs.

The provision would cover States instituting a rebate, competitive bidding, home delivery, or direct distribution systems in the future, as well as States that instituted such systems earlier in fiscal year 1988 or in the latter part of fiscal year 1987 in anticipation of enactment of this legislation. In addition, States that instituted such a system at an earlier point could also participate—if such States made significant changes in their systems that produced savings and resulted in additional participation, these States would be eligible to convert food to administrative dollars to cover the added participation resulting from these changes.

It is expected that in making the participation projection required by this provision, the Department will divide the State's prior fiscal year's average food cost per participant, with an allowance for inflation, into the State's food grant for the new fiscal year. This method will ensure that the projected participation level takes into account normal increases in WIC funding levels. It is further expected that this projection will take into account significant and reliably quantifiable participation expected to result from causes other than planned cost-saving initiatives, such as the participation increase resulting this year—in some States—from elimination of State sales tax charges on WIC food purchases. In implementing this provision for fiscal year 1988, it is expected that the Department will make the participation projections in the same manner as it would have done if the projections were being made at the start of the fiscal year.

In addition to this provision, H.R. 1340 includes a provision for a study of several issues related to WIC administrative funding levels. This study is needed to assess the impact on administrative funding allocations if substantial numbers of States institute cost-saving systems to lower WIC food costs.

H.R. 1340 also includes several other WIC provisions included in the bill as it passed the Senate last summer. The House accepted these provisions without modification. In implementing these provisions, we expect the Department to be guided by the Senate committee report and Senate floor debate accompanying the approval of these provisions.

I would like to add some emphasis to one such provision, a provision requiring coordination between State and local WIC programs and State and local Medicaid programs. Unpublished census data recently analyzed by the Center on Budget and Policy Priorities show that only one of every three low-income children below the age of 5 who participates in Medicaid is enrolled in WIC. Similarly, only half of those in WIC are covered by Medicaid. There is reason to fear that some of the pregnant women and young children who are at greatest risk are among those remaining outside one of these programs. Since we do not have the resources to serve all persons eligible for WIC, it has long been the intention of Congress that those at greatest risk be served first. Similarly, Congress has, on a bipartisan basis, passed legislation in recent years extending Medicaid to more pregnant women and children who are not on welfare but nevertheless are poor. Accordingly, we hope that, in enacting this provision to bring closer coordination between WIC and Medicaid, the Department will work closely with State WIC agencies to bring about greater emphasis on referral, both by the WIC and the Medicaid programs, of women and children who may be eligible for the other program.

Mr. LUGAR. Mr. President, I rise today along with Senator LEAHY and others to offer support for the final passage of H.R. 1340, the Commodity Distribution Reform Act of 1987. I believe we have before us a measure that will make needed changes in our commodity distribution system, but also changes in the WIC Program which provides a much needed program to so many needy individuals.

As stated earlier when this bill first came before the Senate, these changes will allow for more pregnant women, children, and infants who have been determined to be at nutritional risk to receive the extra nutritional needs they require. I believe it is important to note that these changes will allow the WIC Program to serve a much larger percentage of eligible participants without adding to program costs.

It has been proven time and time again that enrolling pregnant women in the WIC Program will reduce Federal Government outlays on newborn infants through Medicaid programs. Increasing participation levels without increasing money spent on the WIC Program actually saves taxpayer's money in the long run. At a time when we are all looking to save money this is a program we should all support.

Another section in this bill provides for commodity distribution reforms that will improve the operation of the Department of Agriculture's Food Donation Program by making it more responsive to local needs. One of the areas affected by this section is the time period allowed to get commodities to State distribution agencies.

In specifying that the period will be no more than 90 days—unless a longer period is specified by the State agency—it is not intended that the cost of providing the commodities be increased. Therefore, we expect the Secretary will administer this requirement in a way that is budget neutral. The Secretary and his staff are to be commended for their aggressive actions to reassess their own policies in order to become more responsive to local concerns. As a result, the Department is already in compliance with most provisions of this legislation.

Mr. President, I urge my colleagues to join with me in giving final passage of this bill our fullest support.

Mr. HARKIN. Mr. President, I rise in support of H.R. 1340, the Commodity Distribution Improvement Act. The Subcommittee on Nutrition and Investigation, which I chair, held several hearings on the issues addressed in this bill. I feel strongly about this bill which has been introduced by Senator LEAHY and enjoys strong bipartisan support.

Before I begin my statement, I want to thank my good friend and the chairman of the Agriculture Committe, Senator LEAHY, for his support and commitment to resolving the problems this bill seeks to address and for his leadership in guiding this bill through the legislative process. I know it has required a lot of his personal time and attention. I also want to thank the minority leader, Senator LUGAR, and Senator BOSCHWITZ. Without their support and active participation in our hearings, this bill would not be a reality.

This bill addresses three very important programs. First, it mandates improvements in the Commodity Distribution Program. It is important to recognize the dual objectives of this program: First, to remove domestically produced surplus commodities from the marketplace and second, to provide commodities to recipient agencies. It also calls for compliance with the Dietary Guidelines for Americans. This is an issue that I feel strongly about. If the USDA does not follow its own dietary guidelines, it is hard to believe Americans will take them seriously. The bill also calls for distribution of recipe cards to school districts. My incoming mail tells me these recipe cards are very important to our school lunch programs.

The second program this bill addresses is the cash-in-lieu-of-commodity [CASH] and commodity letters of credit [CLOC] Programs. These pilot project alternatives to the Commodity Distribution Program are extended for another couple of years. It is my personal hope that this bill will facilitate improvements in the Commodity Distribution Program so that the 64 participating school districts will be anxious to get back into the Commodity Distribution Program in 1990.

The third program this bill addresses, and one that I feel very strongly about, is the Women, Infants, and Children [WIC] Program. I have been a supporter of the WIC Program because of its objectives, its economy, and efficency. These amendments which I was pleased to develop in my subcommittee, allow States to use competitive bidding or congressional pricing and rebate programs. This will reduce the commodity costs of WIC and thereby expand WIC participation at no additional cost to the Federal Government. I have attached a letter from the General Accounting Office which says that these changes will result in expanding WIC participation by over 630,000 more women, infants, and children.

Mr. President, I support this bill and congratulate my colleague, Senator LEAHY, on his legislation and his leadership. I urge my colleague to support this bill as amended.

I ask unanimous consent that a letter from the General Accounting Office estimating the savings achieved by the WIC amendments be included at the end of my statement.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

GENERAL ACCOUNTING OFFICE,
Washington, DC, October 9, 1987.

B-176994.

Hon. TOM HARKIN,
Chairman, Subcommittee on Nutrition and Investigations, Committee on Agriculture, Nutrition, and Forestry, U.S. Senate.

DEAR MR. CHAIRMAN: Pursuant to your July 9, 1987, letter and subsequent meetings with your office, we agreed to estimate the number of additional participants—any eligible women, infants, or children—who might be added to the Special Supplemental Food Program for Women, Infants, and Children (WIC) by applying any savings that might be achieved by states purchasing infant formula at less than retail cost.

Generally, states, through their local agencies, provide eligible WIC participants with vouchers or checks that are redeemable for food at local retail stores. U.S. Department of Agriculture (USDA) regulations require that any savings achieved through cost saving practices under the WIC program must be used solely to purchase food for additional eligible WIC participants. (USDA estimated that only 40 to 50 percent of the people eligible are participating in the WIC program.) One food item—infant formula—has been purchased by some states through competitive bids for less than retail cost. However, according to state WIC officials, purchasing food under cost saving methods presents a disincentive to increasing program participation because states are not allowed to use any of the savings to cover increases in administrative costs incurred as a result of increased participation. As a result of these states' concerns, the Congress is currently debating this issue and legislation has been proposed to allow states to use 10 to 20 percent of any savings achieved to cover increases in administrative costs of adding WIC participants.

In summary, based on cost savings methods used by six states to purchase infant formula at less than the retail cost, we estimated that for fiscal year 1988 between 221,400 and 630,200 additional eligible WIC participants [1] might be served nationwide with savings achieved if all states purchased infant formula at reduced rates similar to those of the six states. These estimated numbers are based on current regulations requiring that all savings be used to purchase food for additional eligible WIC participants. In addition, we estimated that the number of additional eligible WIC participants that might be served by states using 10 to 20 percent of the estimated savings to cover administrative costs is between 200,500 and 567,700 at the 10-percent level and between 177,100 and 505,200 at the 20-percent level. The wide range in the number of eligible WIC participants that might be added to the program reflects the different estimated savings experienced by each of the six states. In using this information, it is important to understand that there are limitations to our nationwide projections. (Section 2 provides a detailed description of our methodology, assumptions, and limitations of the estimates.)

Six states—Maryland, Mississippi, Ohio, Oregon, Tennessee, and Vermont—have contracts to purchase infant formula for less than the average retail during fiscal year 1988. Using data from these states and USDA, we provide nationwide estimates of savings and, by using those savings, the number of additional eligible WIC participants that might be added to the program in fiscal year 1988. Although we cannot provide a precise assessment of nationwide savings, we have attempted to provide an indication of possible savings if the experiences of the six states were duplicated nationwide. Actual savings nationwide are likely to be different because all states may not be able to purchase infant formula for savings rates within the range achieved by the six states. As requested by your office, we did not obtain official agency comments on a draft of this report. However, we did discuss the contents of this report with USDA Food and Nutrition Service program officials.

Section 1 of this briefing report contains more detailed information on the WIC program's background and an overview of our methodology to calculate nationwide savings that could be achieved by purchasing infant formula for less than retail cost and the estimated number of eligible WIC participants that might be added to the program with the savings. Section 2 provides a detailed description of our methodology, information on the data used in our calculations, and the resulting estimates. Section 3 illustrates the steps we took to calculate one state's savings and the estimated number of additional participants that might be added nationwide assuming all states could achieve the same percent of savings.

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[1] The term "participant," as used in this report, refers to "participant slots" rather than individuals.

As arranged with your office, unless you publicly announce its contents earlier, we plan no further distribution of this report until 15 days after its issue date. At that time, we will send copies of this report to appropriate congresssional committees; the Secretary of Agriculture; and the Director, Office of Management and Budget. Copies will also be made available to other interested parties upon request. If you have any questions regarding this information, please call me at 275-5138.

Major contributors to this briefing report are listed in appendix I.

Sincerely yours,

BRIAN P. CROWLEY,
Senior Associate Director.

Mr. BOSCHWITZ. Mr. President, I rise today in support of this legislation to improve the commodity distribution programs. I had cosponsored similar legislation which was passed by the Senate in August. I am pleased that we will be able to complete work on this bill before the close of this year's session.

The purpose of this bill is to improve the distribution of commodities to schools for the School Lunch Program as well as improving the distribution of commodities for other nutrition programs. Basically, the Commodity Distribution Program has been run to maximize the agricultural purposes of the program without enough focus on the needs of the schools and other recipient agencies. Commodities arrive in huge quantities with very little notice, commodities arrive spoiled, and commodities arrive late in the school year that have to be stored all summer. This bill requires the Secretary of Agriculture to develop specifications to assure products of the quality, size, and form most useful to recipients. Commodities distributed not in good condition would be replaced.

This bill also provides for several improvements in the Special Supplemental Food Program for Women, Infants, and Children, commonly known as WIC. These provisions will allow States to serve more needy participants. I wholeheartedly commend these efforts to make the Federal benefit dollar go further.

One other provision regarding the WIC Program is of particular importance to me. Some States are accepting bids from formula companies to supply the infant formula for the entire WIC Program in the State. The problem brought to my attention was that of infant formula companies bidding for a statewide contract that do not have FDA product approval. Last summer I offered an amendment to the Senate bill specifying that infant formula companies competing for statewide bids be in compliance with the Infant Formula Act including registration and filings with the FDA. I am pleased to see that this provision was retained in H.R. 1340 as passed by the House of Representatives this week.

Again, I support this legislation improving the distribution of commodities and providing for improvements in the WIC Program and urge my colleagues to support this measure.

Mr. BYRD. Mr. President, I move that the Senate concur in the House amendment.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

Mr. BYRD. Mr. President, I ask unanimous consent that the motion to reconsider be laid on the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXCLUSIONS FROM INCOME UNDER FOOD STAMP PROGRAM AND AFDC PROGRAM

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry be discharged from further consideration of H.R. 3435; that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will read the report.

The legislative clerk read as follows:

> A bill (H.R. 3435) to provide that certain charitable donations, and payments for blood contributed, shall be excluded from income for purposes of the Food Stamp Program and the AFDC Program.

Mr. LEAHY. Mr. President, on behalf of myself and my distinguished ranking member, Senator LUGAR, I ask for immediate consideration of H.R. 3435, which has been discharged from our committee by unanimous consent.

This bill, the Charitable Assistance and Food Bank Support Act of 1987, has bipartisan support in the House and Senate. This bill was introduced in the House by Mr. EMERSON and Mr. PANETTA and was passed out of committee by unanimous vote. The bill enjoys bipartisan support, and the support of the Department of Agriculture.

A number of charities have also been supportive of this legislation. The U.S. Catholic Conference has commended the bill as "a way to help low-income people maintain their dignity in their need to secure the financial resources necessary to ensure a healthy and adequate diet."

The basic notion behind this bill reflects the true Christmas spirit. At this special time of giving and caring, it is fitting that we make this small change in the Food Stamp Act to allow small charitable contributions which are given to poor people, particularly at holidays, not result in a reduction in food stamp benefits for those needy individuals and families.

Currently, section 5(d)(1) of the Food Stamp Act allows for the receipt of food and other like kind donations from charities, but requires that cash donations be counted as income and thus could reduce a needy family's or individual's food stamp benefits.

To address this problem, this legislation allows up to $300 in a 3-month period to be excluded from income calculations in the Food Stamp Program, if this amount represents cash donations based on need that are received from one or more charitable organizations. CBO estimates the cost of the charity disregard to be less than $500,000. The administration, I might add, has no objection to this bill.

This bill also includes a provision, supported by Congressman BILL EMERSON, which would authorize the Department of Agriculture to carry out at least one food bank demonstration project using section 32 commodities. A similar provision is found in H.R. 1340, which has recently been agreed to by the House.

Mr. President, Senator LUGAR and I offered an amendment to H.R. 3435, which strikes out one small provision of the House passed bill. This provision related to the sale of blood and its consideration under the Food Stamp Act.

Mr. President, I support H.R. 3435. This bill is in the holiday spirit. We are a generous people. This bill will allow and encourage the spirit of giving. It will also help, at least in one small way, the burden of the poor and the hungry of this country.

Thank you, Mr. President.

Mr. LUGAR. Mr. President, I rise today to offer support for the Charitable Assistance and Food Bank Act of 1987, H.R. 3435. This legislation makes changes in the Food Stamp Program as well as providing new opportunities for food bank demonstration projects.

The first provision would amend the Food Stamp Act so that small cash contributions from nonprofit organizations received by food stamp participants would not be counted as income in determining food stamp benefits. Many communities have nonprofit organizations which provide small cash contributions to needy families to purchase food, gifts, or other needed items.

This provision would allow low income families participating in the Food Stamp Program to receive up to $300 in nonrecurring cash contributions in a 3-month period from one or more nonprofit charitable organizations without decreasing their food stamp allotment.

Mr. President, I believe this bill is especially appropriate as we approach the holiday season when many traditionally offer assistance to the less fortunate in their communities. Current provisions in part penalize us for offering assistance to needy families at a time when they may need these small donations the most.

The other provision in the bill would provide for food bank demonstration projects using section 32 commodities. The House Agriculture Subcommittee on Domestic Marketing, Nutrition, and Consumer Relations held hearings earlier this year on food banks, and found that we should look for new ways to increase the impact and reach of our food bank programs.

This provision would provide the Department of Agriculture with a testing opportunity to find better ways to meet local needs in distributing surplus commodities already on hand. I believe the implementation of this provision will allow us to better serve local communities, while distributing surplus commodities more efficiently.

Mr. President, I urge my colleagues to join me and the distinguished chairman, Mr. **Leahy**, in supporting this legislation.

AMENDMENT NO. 1374

(Purpose: To provide that certain charitable donations to persons in need shall be excluded from income for purposes of the Food Stamp Program)

Mr. BYRD. Mr. President, I send an amendment to the desk on behalf of Senators **Leahy** and **Lugar** and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from West Virginia (Mr. **Byrd**) for Mr. **Leahy** and Mr. **Lugar**, proposes an amendment numbered 1374.

Mr. BYRD. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1.

That this Act may be cited as the "Charitable Assistance and Food Bank Act of 1987".

SEC. 2. FOOD STAMP PROGRAM.

(a) Section 5(d) of the Food Stamp Act of 1977 (7 U.S.C. 2014(d)) is amended—

(1) in clause (8) by inserting "cash donations based on need that are received from one or more private nonprofit charitable organizations, but not in excess of $300 in the aggregate in a quarter," after "or credits,";

(b)(1) Effective Date.—Except as provided in paragraph (2), the amendment made by this section shall become effective upon the date of enactment of this Act.

(2) Application of Amendment.—The amendment made by this section shall not apply with respect to allotments issued under the Food Stamp Act of 1977 to any household for any month beginning before the date of enactment of this Act.

SEC. 3. FOOD BANK DEMONSTRATION PROJECT.

(a) The Secretary of Agriculture shall carry out no less than one demonstration project to provide and redistribute agricultural commodities and food products thereof as authorized under section 32 of the Act entitled "An Act to amend the Agricultural Adjustment Act, and for other purposes", approved August 24, 1935, as amended (7 U.S.C. 612c), to needy individuals and families through community food banks. The Secretary may use a State agency or any other food distribution system for such provision or redistribution of section 32 agricultural commodities and food products through community food banks under a demonstration project.

(b) Each food bank participating in the demonstration projects under this section shall establish a recordkeeping system and internal procedures to monitor the use of agricultural commodities and food products provided under this section. The Secretary shall develop standards by which the feasibility and effectiveness of the project shall be measured, and shall conduct an ongoing review of the effectiveness of the projects.

(c) The Secretary shall determine the quantities, varieties, and types of agricultural commodities and food products to be made available under this section.

(d) This section shall be effective for the period beginning on the date of enactment of this Act and ending on December 31, 1990.

(e) The Secretary shall submit annual progress reports to Congress beginning on July 1, 1988, and a final report on July 1, 1990, regarding each demonstration project carried out under this section. Such reports shall include analyses and evaluations of the provision and redistribution of agricultural commodities and food products under the demonstration projects. In addition, the Secretary shall include in the final report any recommendations regarding improvements in the provision and redistribution of agricultural commodities and food products to community food banks and the feasibility of expanding such method of provisions and redistribution of agricultural commodities and food products to other community food banks.

The PRESIDING OFFICER. The question is on agreeing to the amendment in the nature of a substitute.

The amendment (No. 1374) was agreed to.

The PRESIDING OFFICER. If there be no further amendment to be proposed, the question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed, and the bill to be read a third time.

The bill (H.R. 3435), as amended, was passed.

Mr. BYRD. Mr. President, I ask unanimous consent that a motion to reconsider be laid on the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I thank the distinguished Presiding Officer (Mr. **Glenn**), who traveled a long way at my request from his home this evening to come in and perform the duties of the Chair, which he has done in a splendid way.

The PRESIDING OFFICER. The Chair thanks the distinguished majority leader.

RECESS UNTIL TOMORROW AT 6 P.M.

Mr. BYRD. Mr. President, if there be no further business, I move, in accordance with the order previously entered, that the Senate stand in recess until 6 p.m., tomorrow.

The motion was agreed to, and the Senate, at 11:30 p.m., recessed until Sunday, December 20, 1987, at 6 p.m.

NOMINATIONS

Executive nominations received by the Secretary of the Senate after the recess of the Senate on December 18, 1987, under authority of the order of the Senate of February 3, 1987:

THE JUDICIARY

DAVID M. EBEL, OF COLORADO, TO BE U.S. CIRCUIT JUDGE FOR THE 10TH CIRCUIT, VICE WILLIAM E. DOYLE, RETIRED.

VAUGHN R. WALKER, OF CALIFORNIA, TO BE U.S. DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF CALIFORNIA, VICE SPENCER M. WILLIAMS, RETIRED.

JACK T. CAMP, JR., OF GEORGIA, TO BE U.S. DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF GEORGIA, VICE CHARLES A. MOYE, JR., RETIRING.

KIMBA M. WOOD, OF NEW YORK, TO BE U.S. DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF NEW YORK, VICE CONSTANCE BAKER MOTLEY, RETIRED.

LOWELL A. REED, OF PENNSYLVANIA, TO BE U.S. DISTRICT JUDGE FOR THE EASTERN DISTRICT OF PENNSYLVANIA, VICE ANTHONY J. SCIRICA, ELEVATED.

ALFRED C. SCHMUTZER, JR., OF TENNESSEE, TO BE U.S. DISTRICT JUDGE FOR THE EASTERN DISTRICT OF TENNESSEE, VICE ROBERT L. TAYLOR, RETIRED.

IN THE COAST GUARD

THE FOLLOWING OFFICERS OF THE U.S. COAST GUARD FOR APPOINTMENT TO THE GRADE OF REAR ADMIRAL:

THOMAS T. MATTESON
RICHARD I. RYBACKI
MARTIN H. DANIELL, JR.
ROBERT T. NELSON
MARSHALL E. GILBERT

THE FOLLOWING OFFICERS OF THE U.S. COAST GUARD FOR APPOINTMENT TO THE GRADE OF REAR ADMIRAL (LOWER HALF):

RONALD M. POLANT
WILLIAM P. LEAHY, JR.
JOEL D. SIPES
RICHARD A. APPELBAUM
ARTHUR E. HENN

IN THE AIR FORCE

THE FOLLOWING-NAMED OFFICERS FOR APPOINTMENT IN THE RESERVE OF THE AIR FORCE TO THE GRADE INDICATED, UNDER THE PROVISIONS OF SECTIONS 593, 8218, 8373, AND 8374, TITLE 10, UNITED STATES CODE:

To be major general

BRIG. GEN. THOMAS R. ELLIOTT, JR., [redacted]FG, AIR NATIONAL GUARD OF THE UNITED STATES.

BRIG. GEN. TIMOTHY T. FLAHERTY, [redacted]FG, AIR NATIONAL GUARD OF THE UNITED STATES.

BRIG. GEN. JOHN R. LAYMAN, [redacted]FG, AIR NATIONAL GUARD OF THE UNITED STATES.

To be brigadier general

COL. PAUL L. CARROLL, JR., [redacted]FG, AIR NATIONAL GUARD OF THE UNITED STATES.

COL. EDWARD R. CLARK, [redacted]FG, AIR NATIONAL GUARD OF THE UNITED STATES.

COL. JOE H. ENGLE, [redacted]FG, AIR NATIONAL GUARD OF THE UNITED STATES.

COL. MICHAEL S. HALL, [redacted]FG, AIR NATIONAL GUARD OF THE UNITED STATES.

COL. WALLACE D. HEGG, [redacted]FG, AIR NATIONAL GUARD OF THE UNITED STATES.

COL. RICHARD J. IDZKOWSKI, [redacted]FG, AIR NATIONAL GUARD OF THE UNITED STATES.

COL. PHILIP G. KILLEY, [redacted]FG, AIR NATIONAL GUARD OF THE UNITED STATES.

COL. STEPHEN M. KORCHECK, [redacted]FG, AIR NATIONAL GUARD OF THE UNITED STATES.

COL. CHARLES R. LINZ, [redacted]FG, AIR NATIONAL GUARD OF THE UNITED STATES.

COL. RALPH J. MELANCON, SR., [redacted]FG, AIR NATIONAL GUARD OF THE UNITED STATES.

COL. WILLIAM D. NEVILLE, [redacted]FG, AIR NATIONAL GUARD OF THE UNITED STATES.

COL. DONALD J. RYAN, [redacted]FG, AIR NATIONAL GUARD.

COL. JAMES H. TUTEN, [redacted]FG, AIR NATIONAL GUARD.

COL. THOMAS R. WEBB, [redacted]FG, AIR NATIONAL GUARD.

COL. JAMES T. WHITEHEAD, JR., [redacted]FG, AIR NATIONAL GUARD.

Executive nominations received by the Senate December 19, 1987:

DEPARTMENT OF DEFENSE

J. DANIEL HOWARD, OF TENNESSEE, TO BE AN ASSISTANT SECRETARY OF DEFENSE, VICE ROBERT B. SIMS, RESIGNED.

DEPARTMENT OF ENERGY

C. ANSON FRANKLIN, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF ENERGY (CONGRESSIONAL, INTERGOVERNMENTAL AND PUBLIC AFFAIRS), VICE A. DAVID ROSSIN, RESIGNED.

THE JUDICIARY

EMMETT RIPLEY COX, OF ALABAMA, TO BE UNITED STATES CIRCUIT JUDGE FOR THE 11TH CIRCUIT, VICE JOHN C. GODBOLD, RETIRED.

PAUL R. MICHEL, OF VIRGINIA, TO BE U.S. CIRCUIT JUDGE FOR THE FEDERAL CIRCUIT VICE PHILLIP B. BALDWIN, RETIRED.

STEPHEN M. REASONER, OF ARKANSAS, TO BE U.S. DISTRICT JUDGE FOR THE EASTERN DISTRICT OF ARKANSAS, VICE WILLIAM RAY OVERTON, DECEASED.

CONFIRMATIONS

Executive nominations confirmed by the Senate December 19, 1987:

TENNESSEE VALLEY AUTHORITY

MARVIN T. RUNYON, OF TENNESSEE, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE TENNESSEE VALLEY AUTHORITY FOR THE TERM EXPIRING MAY 18, 1996.

MISSISSIPPI RIVER COMMISSION

REAR ADMIRAL WESLEY V. HULL, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, TO BE A MEMBER OF THE MISSISSIPPI RIVER COMMISSION.

FEDERAL EMERGENCY MANAGEMENT AGENCY

GRANT C. PETERSON, OF WASHINGTON, TO BE AN ASSOCIATE DIRECTOR OF THE FEDERAL EMERGENCY MANAGEMENT AGENCY.

ENVIRONMENTAL PROTECTION AGENCY

LINDA J. FISHER, OF OHIO, TO BE AN ASSISTANT ADMINISTRATOR OF THE ENVIRONMENTAL PROTECTION AGENCY.

EXECUTIVE OFFICE OF THE PRESIDENT

MARJORIE B. KAMPELMAN, OF THE DISTRICT OF COLUMBIA, TO BE A MEMBER OF THE ADVISORY BOARD FOR RADIO BROADCASTING TO CUBA FOR A TERM OF 1 YEAR.

BOARD FOR INTERNATIONAL BROADCASTING

MALCOLM FORBES, JR., OF NEW JERSEY, TO BE A MEMBER OF THE BOARD FOR INTERNATIONAL BROADCASTING FOR A TERM EXPIRING APRIL 28, 1989.

KENNETH Y. TOMLINSON, OF NEW YORK, TO BE A MEMBER OF THE BOARD FOR INTERNATIONAL BROADCASTING FOR A TERM EXPIRING APRIL 28, 1990.

U.S. ARMS CONTROL AND DISARMAMENT AGENCY

PETER H. DAILEY, OF CALIFORNIA, TO BE A MEMBER OF THE GENERAL ADVISORY COMMITTEE OF THE U.S. ARMS CONTROL AND DISARMAMENT AGENCY.

MARTIN ANDERSON, OF CALIFORNIA, TO BE A MEMBER OF THE GENERAL ADVISORY COMMITTEE OF THE U.S. ARMS CONTROL AND DISARMAMENT AGENCY.

JAMES T. HACKETT, OF VIRGINIA, TO BE A MEMBER OF THE GENERAL ADVISORY COMMITTEE OF THE U.S. ARMS CONTROL AND DISARMAMENT AGENCY.

RICHARD SALISBURY WILLIAMSON, OF ILLINOIS, TO BE A MEMBER OF THE GENERAL ADVISORY COMMITTEE OF THE U.S. ARMS CONTROL AND DISARMAMENT AGENCY.

JACK R. LOUSMA, OF MICHIGAN, TO BE A MEMBER OF THE GENERAL ADVISORY COMMITTEE OF THE U.S. ARMS CONTROL AND DISARMAMENT AGENCY.

MARJORIE S. HOLT, OF MARYLAND, TO BE A MEMBER OF THE GENERAL ADVISORY COMMITTEE OF THE U.S. ARMS CONTROL AND DISARMAMENT AGENCY.

WILLIAM SCHNEIDER, JR., OF NEW YORK, TO BE A MEMBER OF THE GENERAL ADVISORY COMMITTEE OF THE U.S. ARMS CONTROL AND DISARMAMENT AGENCY.

KATHLEEN C. BAILEY, OF CALIFORNIA, TO BE AN ASSISTANT DIRECTOR OF THE U.S. ARMS CONTROL AND DISARMAMENT AGENCY.

DEPARTMENT OF DEFENSE

THOMAS F. FAUGHT, JR., OF PENNSYLVANIA, TO BE AN ASSISTANT SECRETARY OF THE NAVY.

T. BURTON SMITH, JR., OF CALIFORNIA, TO BE A MEMBER OF THE BOARD OF REGENTS OF THE UNIFORMED SERVICES UNIVERSITY OF THE HEALTH SCIENCES FOR A TERM EXPIRING MAY 1, 1993.

DEPARTMENT OF COMMERCE

MELVIN N.A. PETERSON, OF CALIFORNIA, TO BE CHIEF SCIENTIST OF THE NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

THE JUDICIARY

JERRY E. SMITH, OF TEXAS, TO BE U.S. CIRCUIT JUDGE FOR THE FIFTH CIRCUIT.

RODNEY S. WEBB, OF NORTH DAKOTA, TO BE U.S. DISTRICT JUDGE FOR THE DISTRICT OF NORTH DAKOTA.

KENNETH CONBOY, OF NEW YORK, TO BE U.S. DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF NEW YORK.

IN THE COAST GUARD

COAST GUARD NOMINATIONS BEGINNING MERRILL J. SCHWEITZER, JR., AND ENDING ROBERT P. O'CONNOR, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON NOVEMBER 30, 1987.

COAST GUARD NOMINATIONS BEGINNING THOMAS J. COE, AND ENDING ROBERT C. PARKER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON NOVEMBER 30, 1987.

COAST GUARD NOMINATIONS BEGINNING DONALD P. WILLS, AND ENDING ROBERT P. SHEAVES, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON DECEMBER 17, 1987.

COAST GUARD NOMINATIONS BEGINNING ARNOLD D. ABE, AND ENDING GEORGE M. ZEITLER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON DECEMBER 17, 1987.

EXTENSIONS OF REMARKS

THE TREATY TERMINATION PROCEDURE ACT OF 1987

HON. EDWARD F. FEIGHAN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, December 18, 1987

Mr. FEIGHAN. Mr. Speaker, for almost two centuries, cooperation between the executive and legislative branches has been a cornerstone of American foreign policy. This cooperation has helped contribute to our standing as a leader among nations. Indeed, it has set an example for other constitutional democracies around the world.

However, recent administrations have failed to continue this tradition of cooperation, particularly with respect to the termination of treaties. If this disturbing trend is allowed to continue, it would be possible for an unreasonable President to withdraw us from a crucial international commitment without the constitutional balance of legislative advice, and with potentially tragic consequences. Today, we are introducing legislation to ensure congressional participation—and mandate presidential accountability—in the treaty termination process.

Congress has a long and well-established role in foreign policy decision making. Yet current practice allows a treaty that is painstakingly negotiated by the executive branch and ratified by Congress to be unilaterally terminated by the stroke of a President's pen. This practice, because it circumvents Congress, may undermine the integrity of the entire ratification process. The proposed legislation would correct this imbalance.

Although the Constitution does not explicitly provide for the termination of treaties, the writings of the Founding Fathers evidence a clear belief that Congress would play an active role. Jefferson stated in his manual that, "Treaties being declared, equally with the laws of the United States, to be the supreme law of the land, it is understood that an act of the legislature alone can declare them infringed and rescinded." Madison concurred, explaining "That the contracting powers can annul the Treaty cannot, I presume, be questioned, the same authority, precisely, being exercised in annulling as in making a treaty." Indeed, Congress' function in the treaty termination process derives from an additional basis: its power to make all laws "necessary and proper."

Recognizing this constitutional underpinning for Congress' role, the President has traditionally worked with Congress in terminating treaties. The vast majority of treaty terminations has included some form of mutual action.

But for the past several years, administrations have attempted to short-circuit congressional involvement in the treaty termination process. In 1978, President Carter unilaterally abrogated our mutual defense treaty with Taiwan, in order to recognize the People's Republic of China. In 1984, the Reagan administration unilaterally withdrew the United States from the International Court of Justice, attempting to avoid an impending Court decision that the United States' mining of Nicaraguan harbors violated international law.

Yet despite these recent executive attempts to monopolize the treaty termination power, the courts have nevertheless strongly endorsed a legislative role. In Goldwater versus Carter (1979), the Supreme Court reviewed a suit by Members of Congress challenging the exclusion of the legislative branch from the decision to terminate the treaty with Taiwan. The Court dismissed the case without reaching the merits. Nevertheless, a plurality concluded that the issue was a nonjusticiable political question better left for Congress and the President to settle themselves.

With this legislation, Congress takes the appropriate formal action necessary to preserve its constitutional role in the treaty termination process. The bill would simply require congressional approval to terminate any treaty or treaty provision approved by Congress. It would not affect routine, nonpolitical executive agreements. Nor would it affect treaties that may be abrogated by their own terms, or treaties that are superseded by subsequent, inconsistent statutes. Finally, by requiring a congressional rather than only a Senate role in treaty termination, it would avoid running afoul of the constitutional prohibition on one-House legislative vetoes.

Recent American history underscores the importance of cooperation between the Congress and the President in the conduct of foreign policy. The War Powers Resolution, which balances these executive and legislative powers, is a product of that history.

Like the War Powers Resolution, this bill would help guarantee Congress' role in the formulation of foreign policy. It would prevent unilateral Presidential treaty terminations and ensure that decisions affecting foreign policy would be accountable to the people.

Mr. Speaker, although the task of formulating the appropriate role of Congress with regard to treaty terminations is extraordinarily complex, we cannot afford to ignore it. If we allow this sweeping broad assertion of executive authority to go unchallenged, the treaty termination power will become a citadel of Presidential authority.

I look forward to working with fellow Members of Congress to enact this crucial legislation.

TRIBUTE TO F. JOSEPH RIGNEY

HON. RON PACKARD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 18, 1987

Mr. PACKARD. Mr. Speaker, today I rise on the occasion of the upcoming retirement of Mr. F. Joseph Rigney, a dedicated husband, father, and educator, from the Fallbrook Union High School District. Mr. Rigney has served his country with both an honorable military career as well as a successful civilian career in education.

In November 1942, Mr. Rigney answered the call of his country and enlisted in the U.S. Marine Corps. He joined the 1st Marine Parachute Battalion, seeing action in the Valla Lavella and Bougainvillia campaigns. After an honorable discharge in January 1946, Mr. Rigney rejoined the Marines in September 1948 and participated in the Inchon and Wonsan landings of the Korean conflict. Several Pacific assignments later, Joe Rigney retired from his post in Hawaii as a gunnery sergeant.

His relationship with education began in 1965 when the Fallbrook Union High School District named him as their business manager. Showing much dedication and commitment to his school district, Mr. Rigney was promoted in 1977 to be assistant superintendent for business services. It was not long before his reputation for keen foresight and personal involvement in school financing planning spread throughtout California.

For his school district of Fallbrook, Mr. Joe Rigney's accomplishments are numerous. He played a vital role when the Fallbrook district was selected to pilot the planning, programming and budgeting system, which is currently used by Fallbrook and many other districts. He has played a significant part in the development of the Fallbrook campus and has carefully monitored the costs and qualities of the campus which has more than doubled its facilities since his initial employment.

The Federal Government honored Fallbrook with a designation as exemplary school in 1984 and a visit by then Secretary of Education Terrell Bell—a major accomplishment for the district and a personal highpoint of Rigney's tenure. He was recently presented with a plaque in gratitude for his outstanding service to the California Impact Aid Association and the National Association for Federally Impacted Schools.

Mr. Rigney and his wife Audrey have three children—each of whom have graduated from Fallbrook Union High School and later from California Universities.

When Joe Rigney retires at the end of this year, he will leave behind a legacy that is the thriving Fallbrook Union High School campus. We may rest assured however, that his efforts

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● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

over the years will continue to touch the daily lives of the students on whose behalf he has worked so hard. It is truly a pleasure to highlight the achievements of F. Joseph Rigney. His dedication and loyalty to a cause may be admired by each of us.

UNEMPLOYMENT COMPENSATION

HON. HOWARD WOLPE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, December 18, 1987

Mr. WOLPE. Mr. Speaker, in testimony before the House Ways and Means' Subcommittee on Public Assistance and Unemployment Compensation on Monday, December 14, Representative WILLIAM F. CLINGER, a colleague from Pennsylvania, urged that we turn our unemployment insurance [UI] system from a passive income maintenance program to a positive strategy for worker adjustment assistance. He spoke on behalf of the Pease-Clinger bill, which would update a system designed to respond to conditions in the workforce a half century ago. Representatives CLINGER and DONALD PEASE cochair the Northeast-Midwest Congressional Coalition Task Force on Unemployment Insurance. Their thoughtful proposals for turning unemployment insurance into a flexible, responsive safety net for today's workers—whose jobs or industries have disappeared—should be considered by us all. I commend Representative CLINGER's testimony to your attention.

TESTIMONY OF CONGRESSMAN WILLIAM F. CLINGER, JR.

Mr. Chairman and members of the Subcommittee, I am pleased to have the opportunity to testify before you this morning.

On June 11, 1987 you[1] and I, Mr. Chairman, introduced the Extended Unemployment Insurance Reform Act of 1987, H.R. 2676. This legislation is designed to turn the Unemployment Insurance (UI) system from a passive income maintenance program into a positive strategy for worker adjustment assistance with training, entreprenurial opportunities, and improved counseling, testing and job research services.

I know some will say why be concerned about making changes in the UI program when the nation's civilian unemployment rate is a decade-low 5.9 percent. However, I submit that this is exactly the right time to make UI more reliable, more responsive, and more effective. We should take advantage of this opportunity to make the kind of thorough and thoughtful revision of the extended compensation system which will leave us prepared for whatever economic eventuality we might face in future years, instead of patching up the system whenever an emergency presents itself.

The Pease/Clinger bill makes specific reforms in the unemployment insurance system that would:

Restructure the Extended Benefits (EB) program's current 13-week "all or nothing" approach into a flexible support for UI exhaustees, with benefits varying from 10 to 30 weeks depending on the state's unemployment rate. Federal financial participation would be on a sliding scale, replacing the current 50-50 rate. The bill would allow a state to use its total unemployment rate (TUR) to determine EB eligibility and benefits. It also provides for a demonstration of the feasibility of using substate triggers in place of the current whole-state trigger to activate the EB program in areas of high and prolonged unemployment.

Provide for a demonstration of financial incentives for the State to enroll more UI recipients in training, so that the unemployed can use idle time productively to learn new skills for new jobs.

Provide for a demonstration of the feasibility of allowing the unemployed to start their own businesses using their UI entitlement as an up-front lump sum investment or as a weekly income supplement while the business gets on its feet.

Increase the amount of Federal Unemployment Tax Act (FUTA) revenues devoted to Employment Service testing, assessment and counseling to guide the unemployed to appropriate jobs or retraining opportunities.

Clearly, the present unemployment insurance system penalizes the long term unemployed, and we do not know—nor can we predict—what the next economic cycle will bring. What we do know is that unemployment and outmoded worker skills are problems not solely confined to the Rust Belt, but are national in scope.

The Pease-Clinger bill adds flexibility to the Extended Benefits program, allowing it to target compensation and to adapt to the reality of unemployment.

I'm especially pleased that the legislation would establish a demonstration project providing for substate areas of "pockets of unemployment" to qualify independently for extended unemployment benefits and special consideration in worker retraining programs.

My state of Pennsylvania is a good example of the need for this flexibility. While the state employment rate is below the national average, areas in the western portion have been extremely hard hit by the decline in steel, coal and related industries. We simply cannot go by state averages and say all is well. We must give those distressed communities a fighting chance by retraining our work force to meet the demand of a changing industrial base. If it sounds daunting—it is. But I feel our legislation offers some real alternatives and I look forward to input from those like yourselves who take the time to reflect on this serious problem.

In closing, I would like to recognize and thank those at the Northeast-Midwest Institute who have worked diligently to provide recommendations to battle unemployment in our region and the nation. And finally, I would like to recognize my colleague, Don Pease, who has been a champion of ideas in this and many other areas.

Again, thank you for the opportunity to be here today.

PROTECTING AIRLINE SAFETY WHISTLEBLOWERS

HON. JAMES L. OBERSTAR

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 18, 1987

Mr. OBERSTAR. Mr. Speaker, today I am introducing legislation urgently needed to protect airline employees who report unsafe conditions to the Federal Aviation Administration or to Congress.

This bill amends the Federal Aviation Act of 1958 to prohibit employers from retaliating against employees who provide Congress or Federal agencies with information concerning aircraft safety. The bill protects persons who operate or assist in the operation of aircraft, mechanics and other maintenance personnel, and air traffic controllers and assistants.

The legislation requires the FAA Administrator to investigate and rule on employee complaints. Public hearing may be held, with all parties afforded the opportunity to present evidence on the record. Following an investigation, the Administrator may rule for the employee and require remedial action by the employer or fund that no violation of the act occurred and deny the complaint. The Agency should be able to accommodate the investigation and hearing process using existing FAA regulations governing administrative hearings.

Although this legislation seeks to protect employees in the private sector, it is not without precedent. Both the Clean Water Act and the Superfund law contain provisions which protect private sector employees who report violations of environmental statutes to the appropriate agencies. I believe, and I am certain the traveling public would agree, that employees in the airline industry who report unsafe conditions deserve the same kind of protection afforded their counterparts in the environmental law arena.

The need of this legislation has been well documented. In 1979, a pilot for Bard-Air Corp. was fired after he reported to the FAA a company airplane was in violation of safety regulations. As a result of the pilot's report, the FAA grounded the aircraft after an inspection disclosed numerous safety violations. Despite this potentially-lifesaving information, the FAA could do nothing to protect the pilot's job. Nor, did the pilot succeed when he tried to recoup damages in Federal court. However, it is important to review the decision handed down by the U.S. Court of Appeals. The Court said:

> We certainly have no desire to encourage retaliation by employers against their employees who, having failed to obtain voluntary compliance, turn to the appropriate federal agency charged with ensuring safety in an effort to prevent injury or death. But we are mindful that we do not sit as a legislature. Congress has in the past acted to protect against retaliation of federal employees who blow the whistle on violators of the law, or those who are perfoming an important federal function like serving on a jury. In view of what has occurred here, Congress may well wish to consider protecting in an appropriate way those who help prevent the loss of life from improper operation or maintenance of aircraft.—*Pavolini* v. *Bard-Air Corp.*, 645 F.2d 144, 148 (2d Cir. 1981).

In another case involving a mechanic fired by Evergreen International Airlines, the Federal court once again suggested the need for congressional action. In its opinion the court said:

> While it is perhaps lamentable that one who "whistle blows" regarding such important matters as air safety should be discharged from his employment without a

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[1] Rep. Donald H. Pease (D-OH), chaired the December 14, 1987 Hearing on Reform of the Federal-State Unemployment Compensation System.

remedy under the Federal Aviation Act, Congress has not seen fit to protect employees from such retaliation. Until that time, a federal court can provide no recourse to an employee discharged for reporting violations of federal safety regulations.—*Rachford* v. *Evergreen International Airlines Inc.*, 596 F.Supp. 384, 386 (N.D. Ill. 1984).

I have seen in my own experience as chairman of the Subcommittee on Investigations and Oversight of the House Public Works and Transportation Committee the need for such legislation. We have had airline employees, who feared losing their jobs, afraid to provide even background material to subcommittee staff. We have had personnel who after appearing as witnesses before the subcommittee, received reprimands from management officials. And finally, I should mention, the subcommittee is now reviewing the circumstances surrounding the firing of two mechanics from a major airline. These mechanics worked on aircraft which were later the subject of FAA hotline calls and subsequent inspections.

Mr. Speaker, we know that the FAA simply does not have enough inspectors to be looking at every airline on a round-the-clock basis. We know the best source of information, and our best line of defense are those who work daily on the aircraft. We know these workers can provide the FAA and the Congress with another set of ears and eyes. By calling the hotline or offering vital testimony before Congress, we know these employees can play a critical role in ensuring air safety.

Mr. Speaker, we also know that these employees are hesitant to report unsafe conditions because they are justifiably afraid they will lose their jobs. However, by enacting this legislation, we can remove that fear. It is something that not only these employees deserve, but the air traveling public deserves as well.

UNITED NATIONS DEVELOPMENT PROGRAM

HON. GUS YATRON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 18, 1987

Mr. YATRON. Mr. Speaker, during the joint United Nations pledging conference held in New York last month, Mr. William H. Draper III, Administrator of the United Nations Development Program, indicated "that at a time when nations the world over are tightening their belts, the outcome for UNDP's core resources can only be called exceptional."

During the past 10 years, Congress has increased resources for the United Nation's largest programs. In so doing, it has indicated to the world that the American leaders at UNDP were exercising innovative, important programs for economic and social development. During these same years, major donors continued to increase their contribution to UNDP, and even recipient nations increased their contributions. Therefore, in 1988, the total core resources to UNDP and its associated funds will exceed $1 billion—an increase of almost 7 percent from all nations.

UNDP received a strong vote of confidence from all nations that its country programs and respect for the views of the recipient nations in planning and implementing their own projects, with UNDP assistance, created a third record-breaking pledging total for the program.

I would like to commend to the attention of my colleagues a statement by Administrator Draper before the Second Committee of the U.N. General Assembly on November 6, 1987. This presentation clearly outlines the present and future goals of UNDP to assist the developing nations around the globe.

The statement follows:

STATEMENT BY WILLIAM H. DRAPER III

Mr. Chairman, Distinguished Delegates, Colleagues in the United Nations: Congratulations Mr. Chairman on your election and for the way you are conducting the proceedings.

The year 1987 has marked a turning point for the world and for UNDP. In the past 12 months, in every region, nations have seen the need for bold and imaginative change. Today, development as usual means less development for all.

It is time for nations to press forward with the fundamental policy and institutional changes needed. It is time for donors to take far-sighted and realistic decisions on their investment in the developing world. It is time to find new ways of supporting developing countries which are pursuing unprecedented policies and economic reforms.

My statement today will focus on how UNDP is helping countries at this decisive moment to foster a more appropriate economic and physical environment for development.

Development begins and ends with people. But leaders of nations steeped in debt and mired in poverty now find it increasingly hard to maintain this focus. For a large number of developing countries, rigorous restructuring programmes have become virtually mandatory in order to address deep-seated dislocations, attract external finance and restore economic momentum. In Africa alone, some 28 nations have moved, in varying degrees, to adopt such measures as more realistic exchange rates, wider fiscal reforms and greater price incentives for farmers. Many are also reducing the numbers of civil servants and putting defcit-ridden public enterprises on the auction block. UNDP is aggressively supporting these unprecedented policy shifts. Ghana, Guinea and Senegal are good examples of gains achieved with visible improvements in productivity and exports.

UNDP knows that, across Africa and in other regions as well, adjustments are being attempted under difficult conditions. Success will hinge on several factors. Adjustments must be adopted early enough to intercept a worsening balance-of-payments situation. They must be sustained at a pace consistent with local political realities. They must be oriented to improve public institutions by introducing effective and appropriate management systems. They must be designed to cushion people against cuts in services which support health, nutrition and education. And, of course, they must demonstrate their value by leading to greater economic efficiency and growth.

At UNDP, we have given careful thought to how we can support these sensitive restructuring efforts. We are currently involved in four areas of critical importance in helping governments meet this challenge.

First, our experience shows that many governments could act more speedily to forestall reverses in their economics. With the World Bank, we are therefore helping countries to improve their statistical coverage of leading economic indicators. This, in turn, will enable them to set up a type of early warning system which they can use to take corrective action well before their financial problems get out of hand.

Second, we are helping countries to monitor the impact of their adjustment packages and evaluate their social consequences. As a first step, we have just approved a 16-nation regional project for Africa, co-funded by the World Bank and the Africa Development Bank. It will help these countries to reduce some of the social costs of their adjustment programmes.

Third, we are helping countries to use their technical assistance more efficiently. UNDP has a pilot "capacity appraisal" programme we call NATCAP to help countries achieve precisely that. Technical assistance, closely integrated with capital investment and used to build self-reliance, makes a greater impact on economic performance. This programme is linked with the series of aid review meetings known as Round Tables. Here, UNDP takes the lead in bringing donors and the least developed nations together to co-ordinate policies and resources. We want to power up the Round Table process to meet the mounting demand for UNDP's co-ordinating role. Next year, therefore, we plan to expand their number and frequency. We will work even more closely with the World Bank and governments in order to give these consultations more technical substance, greater financial leverage and more sophisticated macro-economic analyses.

Finally, in a major new policy thrust, we are helping countries to foster the right environment for private sector growth. We have already chalked up a good record here. We have helped such countries as Argentina, Bangladesh, Ghana and Sri Lanka to develop more effective tax policies. We have helped to devise macro-economic policies for stimulating greater private sector activity. We have supported the streamlining of licensing procedures in order to bolster new and existing industry. And we have helped to shape policies for encouraging private investment and exports. Through our field network, lessons learned can be transferred to other countries for rapid adaptation.

Last month, in New York, we held the first in a series of seminars which put bankers, industrialists and management experts from four industrialized countries together with appropriate government ministers and private sector businessmen from Bolivia, Ghana, Jordan and Thailand. Their task was to take a good look at what does and does not work in stimulating private sector growth in those four developing countries.

I wish all of you had been there to experience the chemistry on that occasion.

Bolivia explained how vigorous tax reforms had encouraged its private sector and placed it on a new growth path. Ghana described problems encountered and benefits reaped in liquidating a good number of inefficient public corporations. Jordan explained how it had adopted market mechanisms in its public sector to make it more competitive.

Participants listened intently as the Thai representatives recounted their experience. How, thanks to private sector development and better public-private sector consultations, per capita income increased fourfold, the economy was diversified and a sound balance-of-payments position was achieved.

It was one of the most stimulating meetings I have ever attended. We have a series of these experience exchange sessions programmed in all parts of the world, always including both private and public sector participants.

I have talked about UNDP and the adjustment issue in terms of what we can do to help countries within their own economies because that is where fundamental changes will yield immediate and major benefits. But we are well aware that such national adjustments, if effectively carried out, call for an answering international response.

That is why, speaking in Washington in June on the 40th anniversary of the Marshall Plan, I asked all the developed countries to do more. I emphasized what the global economy stood to gain from softening the debts of the poorest developing countries and recycling some of the excess funds of surplus nations. And I asked for an immediate 50 per cent increase in official development assistance. But I wasn't talking exclusively of capital assistance which the Marshall Plan was all about 40 years ago. Today, the developing world needs much more than capital alone. Throwing money at the problem is not enough. Human, technical and managerial systems are all sorely needed to make effective use of new capital.

Turning now to a related theme, we have had confirmation that the environment and world development are tightly bound together in one common destiny, one common future. We have heard this from none other than the guiding force behind the World Commission on Environment and Development, the Prime Minister of Norway. And developing country leaders such as the Prime Ministers of India and Zimbabwe have expressed their own views on this vital linkage.

Addressing this committee last year, I drew attention to the triple challenge of environment, population and development and outlined UNDP's position on these urgent matters. Our experience with over 1,800 environmental projects confirms that most environmental problems in the developing world spring from unmet human needs—lack of food, lack of fuel and lack of shelter—and from poor resource management. The search for firewood and farm land which makes some 1.5 billion people each year strip the earth of vegetation, exposing topsoils to the elements and ruining future crops begins—and ends—in poverty and neglect. Economic, social and environmental issues touch at every point and must be integrated. Better prices for farmers, more efficient agricultural practices, more balanced land tenure systems, adequate water supply and sanitation, increased primary health care, grass-roots education and family planning services—these are integral parts of any good resource management strategy in the developing world. These are activities widely supported by UNDP. We are longstanding promoters of the Water Decade. We play an active role under the Global Action Plan for Tropical Forests. We work through UNSO to help combat drought and desertification in the Sahel. We integrate family planning with primary health care programmes through our links with UNFPA. And we are incorporating environmental dimensions into new projects wherever possible and whenever appropriate.

Decisive, sustained and co-ordinated action by nations is required to deal with the entwined trends we see today in the economic and physical environment for development. UNDP will respond with equally decisive, sustained and co-ordinated support. And this brings me to the matter of UNDP's co-ordinating role. I have already referred to that role in the context of our Roundtables. Let me say here that we are also working to make country programmes more effective co-ordination frameworks. All 45 new country programmes submitted to our Governing Council in June took into account resources available from the associated funds under UNDP management. As a mark of leverage, 32 per cent of the resources in these new programmes came from government cost-sharing and from other UN funding agencies—proof that UNDP's inputs can and do help to co-ordinate an appreciable volume of funds from other sources. In the case of Chad, for example, funds from the World Food Programme, UNICEF and other funding sources helped double the Indicative Planning Figure to a $179 million country programme. In the case of Argentina, a modest IPF of $6.6 million drew sizeable government funds which helped to bring the country programme up to nearly $84 million. We will work with our development partners to see that more country programmes attract a broader mix of resources.

On the management side, our Action Committee, which brings senior staff together in order to approve projects worth $400,000 or more, meets every week come rain or shine. The Action Committee has proven to be an invaluable in-house co-ordination mechanism, bringing different minds, different backgrounds and different regional experience to bear on a wide range of projects. It's only a year old but is a proven success. It clears between 60 and 70 new projects a month. Projects which stand up under the Committee's scrutiny or which are strengthened as a result, have a better chance of being carried out on schedule and of delivering results as planned. That can only be good for development action on the ground. Central policies are now better understood in the field so we now intend to nearly double the approval authority delegated to the field from $400,000 to $700,000. And in addition, the Action Committee will see at least one new project from every country each year.

At UNDP, action for world development never stops. This year, a billion dollar package of new country programmes was put before the Governing Council. UNDP acted to help make them cost-effective and relevant.

This year, the fight against aids went international. We know that unless the threat is dispelled in every country, it will not be dispelled in any country. UNDP acted to help the World Health Organization (WHO) attack that dread disease with an early commitment of $3 million.

This year, the world saw its first International Safe Motherhood Fund. UNDP acted to help launch that effort with an early commitment of $1 million.

This year, technical co-operation among developing countries received a 500-project boost thanks to two more TCDC project exchanges in Ankara and Tunis. UNDP was glad to help the action on that.

This year saw the culmination of a five-year effort to efficiently deliver clean water to villages around the world. UNDP and the World Bank acted together on that.

This year, UNDP's Capital Development Fund won the Year of Shelter for the Homeless Award for a housing project in Malawi.

This year, the UN Development Fund for Women celebrated its 10th anniversary and signed new guidelines on closer operational ties with UNDP.

This year, UNDP's Revolving fund struck gold! High in the Andes, they uncovered a contained deposit worth more than $400 million.

This year, the UN Volunteers set new records in every part of the world with more and better service.

This year, the way was cleared for Bhutan to launch its first and only national newspaper; for the Caribbean to receive a new hurricane warning system; for five Asian countries to come to grips with toxic pollution; for Peru to house shanty town traders in a new industrial park; and for Rwanda to mount an intensive food production campaign.

Just a sample of more than 700 new projects acted on by UNDP.

Thanks to the generosity of donors; thanks to new policies now firmly in place; thanks to the hard work of its dedicated staff, UNDP is ready to make its contribution to world development in today's demanding circumstances. Our resource position reflects the confidence—and high expectations—of the donor community. At the Joint United Nations Pledging Conference which ended on Wednesday, total contributions to UNDP and associated funds climbed above last year's record high by over 10 per cent and are expected to reach a new peak of over $1 billion. The position of the dollar played a part in this result but most of the increase came from higher national currency contributions—up close to 7 per cent. I want to repeat my profound thanks to all the donor countries, to all the taxpayers in those countries and to all the people who give to UNDP in different ways and who help us to make a difference.

There is a strong role in world development for a UNDP which goes on giving value for money. Better co-ordination at the country level offers donors and recipients higher returns on their development funds. UNDP will go on working to improve this crucial service. The world's largest multilateral field office network operating on a lean budget in relation to the important job we do is our greatest asset.

There is a strong role in world development for a UNDP which draws ever closer to its beneficiaries. Closer co-operation with non-governmental organizations and greater efforts to bring more women into mainstream development will give us greater outreach. It will ensure that UNDP helps countries to mobilize all resources available for their development.

There's a strong role in world development for a UNDP which supports private sector growth. This will help to unleash the dynamism, creativity and talent of the people around the world. Give these men and women a firm stake in their own development and a free hand to manage that development as they see fit—and they will work miracles for themselves, their communities and their countries.

Let us—donors, recipients and international organizations alike—work together in a new generation of development co-operation. Let us re-dedicate ourselves to the task of building national capabilities for true self-reliance. Let us all create a better environment for world development.

SSC SUPPORT

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 18, 1987

Mr. EDWARDS of California. Mr. Speaker, when the Department of Energy (DOE) makes its final siting decision for the superconducting super collider [SSC], I am sure it will consider the level of local support for the project in the recipient State. The cost of the SSC and the technical difficulties in construction are problems enough for the Department; it does not need overwhelming local opposition as well. In other words, the Department should site the SSC where it finds local support.

This support should come from the residents of any State. The Department should not rely solely on public statements of enthusiasm from statewide elected officials. Instead, the Department should go further and assess true local feelings.

The California Collider Commission has conducted such a study. the Sievers Research Co. of South Pasadena, CA, an independent survey firm, conducted a random telephone survey of 600 northern Californians from October 27 to November 14, 1987. This survey demonstrated conclusively that the residents of northern California widely support the SSC. The survey found that 68 percent of the respondents who said they were familiar with the DOE's proposal to build the SSC favored California as its home. Fifty-five percent of the respondents said they knew "alot" or "something" about the SSC. Of this group, 30 percent said they definately approved of the project, 38 percent probably approved, 10 percent probably disapproved, and 7 percent definately disapproved. Fourteen percent said they were undecided.

These statistics paint a clear picture. The great majority of Californians support locating the SSC in their State. There have been some reports in the media of opposition to the SSC in California. As the survey demonstrates, those opposing the SSC represent only a small fraction of the residents of the State. I suspect that a larger percentage of opposition would appear in any other State if a similar independent survey was conducted. I certainly believe the Department should request other States to conduct such studies.

In California, agriculture and rural life have coexisted with high-tech industries for decades. The economic growth and development of the State have been dependent on both sectors, and the residents of California appreciate the importance of both. Given this history, it is not surprising to see the residents of Yolo and Solano counties as well as the area around Stockton, the proposed two sites in California, embrace the future and support the SSC.

I am sure the Department will consider the magnitude of local support indicated by the survey when it chooses its final site for the SSC.

What follows is a list of support in California.

SSC SUPPORT

Statewide support:

California Chamber of Commerce and Western Growers Association.

COMMUNITY SUPPORT—DAVIS SITE

Formal resolutions of support:

Group/Organization

Solano County Board of Supervisors,
Yolo County Board of Supervisors,
Fairfield City Council,
Suisun City Council,
Vacaville City Council,
Vallejo City Council,
West Sacramento City Council,
Woodland City Council,
Benecia City Council,
Napa-Solano Building Trades Council,
Solano County Economic Development Corporation,
Vacaville Local Development Corporation,
Sacramento Metropolitan Chamber of Commerce,
Benicia Chamber of Commerce,
Davis Chamber of Commerce,
Vacaville Chamber of Commerce,
West Sacramento Chamber of Commerce,
Fairfield/Suisun Chamber of Commerce,
Vallejo Chamber of Commerce,
Yolo County Chamber of Commerce,
Private Industry Council,
Dixon Republican Assembly,
Solano County Taxpayers Association,
California Council for Environmental and Economic Balance,
Academic Senate, University of California at Davis,
Davis Enterprise,
Dixon Republican,
Fairfield Daily Republican,
Vacaville Reporter, and
Winters Express.

COMMUNITY SUPPORT—STOCKTON SITE

Formal resolutions of support:

Group/Organization

Calaveras County Board of Supervisors;
San Joaquin County Supervisors;
Stanislaus County Supervisors;
Hughson City Council;
Modesto City Council;
Oakdale City Council;
Riverbank City Council;
Sonora City Council;
Stockton City Council;
Stanislaus Area Association of Governments—Stanislaus County; Cities of: Ceres, Hughson, Modesto, Newman, Oakdale, Patterson, Riverbank, Turlock, and Waterford;
Stockton Building Trades Council;
California Council for Environmental and Economic Balance;
Escalon Chamber of Commerce;
Oakdale District Chamber of Commerce;
Manteca Chamber of Commerce;
Stockton Chamber of Commerce;
Stockton Mexican American Chamber of Commerce;
Stockton Black Chamber of Commerce;
Modesto Board of Realtors;
Stockton Board of Realtors;
University of the Pacific Board of Regents;
Citizens Committee for the Super Collider in San Joaquin County;
Stockton Record; and
Tracy Press.

DEAF HERITAGE MONTH

HON. MAJOR R. OWENS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, December 18, 1987

Mr. OWENS of New York. Mr. Speaker, I recently introduced House Concurrent Resolution 231, a measure which recognizes December 1987 as Deaf Heritage Month across the United States.

Deafness may be invisible but it need not present a communication barrier. Deaf Americans have a rich heritage and have made vast contributions to American life. Through Deaf Heritage Month, Americans can recognize and appreciate the accomplishments of their fellow citizens.

Deaf Heritage Month is a time to commemorate the history of deaf Americans as an integral part of the history of America. From the beginning of deaf education with the founding of the first permanent school for the deaf in America by Thomas Hopkins Gallaudet, to the emergence of sign language in the deaf and hearing worlds and the prevailing use of closed captioning, deaf people are proud of their history and want to share it with the rest of the country during this month of celebration.

For deaf people in this country, Deaf Heritage Month has special meaning this year for it coincides with the 200th birthday of Thomas Hopkins Gallaudet whose dedication to the education of deaf individuals resulted in his founding of Gallaudet University.

Mr. Speaker, when Congress reconvenes in 1988 I intend to reintroduce this bill to establish permanently the month of December as Deaf Awareness Month and to work with the Senate to pass a joint resolution which will be signed by the President. With this measure we give deserved attention to a segment of our population that generally is not recognized for their many accomplishments and contributions to our Nation.

H. CON. RES. —

Resolution expressing the sense of the House of Representatives that the month of December 1987 should be observed by the people of the United States as a month to commemorate the contributions of deaf individuals and to increase public awareness of deafness and deaf individuals

Whereas there are approximately 21,200,000 hearing impaired individuals in the United States;

Whereas the number of hearing impaired individuals in the United States is expected to increase because of illness, noise pollution, accidents, heredity, greater longevity, and improved medical procedures that decrease the death rate among newborn children but that can also cause hearing loss;

Whereas deafness is an invisible disability and one of the most misunderstood handicaps;

Whereas, as Helen Keller stated, deafness separates people from people;

Whereas deaf individuals have a rich heritage and have made important contributions to the culture of the United States;

Whereas deaf individuals are responsible for the baseball handcount, the football huddle, and important contributions to the growth of industry, theater, film, literature, and science in the United States;

Whereas the birthdays of the Reverend Thomas Hopkins Gallaudet, the founder of the first permanent school for deaf students in the United States, and of Laurent Clerc, the first deaf teacher of deaf students in the United States, are celebrated during the month of December;

Whereas many public libraries have contributed to greater public awareness and understanding of deafness and of the accomplishments of deaf individuals through the establishment and coordination of Deaf Heritage Week programs; and

Whereas public recognition of the contributions of deaf individuals will serve to further increase public awareness and understanding of deafness and deaf individuals and will assist the efforts of public libraries and the deaf community: Now, therefore, be it

Resolved, That it is the sense of the House of Representatives that the people of the United States should observe the month of December 1987 as Deaf Heritage Month and should engage in appropriate ceremonies and activities—

(1) to commemorate the accomplishments and contributions of deaf individuals; and

(2) to further increase public awareness and understanding of deafness and deaf individuals.

A CABINET POSITION FOR VETERANS

HON. JIM JONTZ

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 18, 1987

Mr. JONTZ. Mr. Speaker, the House recently approved H.R. 3471, to elevate the Veterans Administration to a cabinet-level position. As a member of the House Veterans' Affairs Committee I was in strong support of this legislation.

Recently a letter on behalf of H.R. 3471 from Robert W. Spanogle, national adjuntant for the American Legion, appeared in the Indianapolis Star. I am inserting this letter in the RECORD because I believe that it argues very persuasively why it is so important that this legislation be enacted.

A CABINET POSITION FOR VETERANS

Within hours of President Reagan's proposal to elevate the Veterans Administration to Cabinet level a floodtide of opposition washed over the nation's editorial pages. I was sorry to see *The Star* that chorus.

In emotionally charged moments many eloquent phrases have been written and uttered on behalf of the men and women who served our nation with honor and valor in time of war.

"A veteran is the epitome of patriotism," "a veteran exemplifies the fulfillment of the highest obligation of citizenship," "a veteran is a person who understands the awesome price of life's intangibles of freedom, justice and democracy," and so on.

But the great writers and thinkers avoid the one definition of a veteran that really tells it as it is:

"A veteran is the result of a nation's failure at diplomacy."

The nation's wars, the result of diplomatic failure, were fought by citizen soldiers. They responded to the call of the elected government to defend the national interest and, in the process, risked life and limb. Many suffered and many more were prepared to suffer if necessary. And today, those who survived face the grim prospect of eroded benefits, loss of prestige—and the very real possibility that public policy may transform their sons and daughters into the next generation of veterans.

Given that, what segment of society more deserves to be represented in the highest council of government—the president's Cabinet—than American veterans? When matters of war and peace, as well as such routine matters as allocation of available resources are decided, veterans want—and deserve—to be heard.

Acknowledging the service and sacrifice of the nation's veterans, the House of Representatives by an overwhelming 399 to 145 vote passed H.R. 3471, which would elevate the Veterans Administration from its current status as an independent agency to that of an executive department.

Because the V.A. is already a fully established federal agency its elevation would require only minimal additional funding. From the principal officers now managing the agency to the personnel staffing its functions at every level, the changeover would be made without fundamentally altering the organization or funding of the federal government.

Since 1978 the 2.9 million member American Legion, the nation's largest and fastest growing organization of wartime veterans, has advocated a Cabinet-level department of veterans affairs. This is not an idea whose time has come—its adoption is long overdue.

The nation's veterans represent incalculable service and sacrifice as the result of diplomatic failure. They are entitled to participate—directly—in the nation's decision-making process. With a secretary of veterans' affairs the millions of men and women who have served this country with honor will be able to continue their service as participants in the most serious decisions affecting the national welfare.—Robert W. Spanogle, National Adjutant, the American Legion, Indianapolis.

ON THE RETIREMENT OF MR. FRED H. BECK

HON. DENNIS M. HERTEL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, December 18, 1987

Mr. HERTEL. Mr. Speaker, I rise today to honor the retirement of Mr. Fred H. Beck, mayor of the city of Utica, MI.

Fred Beck graduated from East Detroit high school and attended Detroit Business Institute. He moved to Utica in 1938 and soon opened his own business, which is now run by his son. After serving as city assessor for Utica, Mr. Beck ran for the office of mayor.

Mr. Beck has led the city of Utica through many changes and improvements since he was elected in 1961. The population has grown to over 5,000 people, the sewer and water systems have improved and many public works have thrived. There has been a new city hall building, a new library, better street lights and better recreation centers. Better retirement programs for city workers and improved senior services are only some of the additional programs offered to Utica citizens.

Mayor Beck has encouraged the citizens to take pride in their city. Every year, during the "Michigan Week" celebration, Utica hosts a heritage luncheon, celebrating the city of Utica and those who live there. The city's own volunteer fire and emergency ambulance services are top notch, and have recently received an upgraded fire insurance classification.

Outside of this duties as mayor, Mr. Beck, or Fred as he is called by his friends, is an avid sportsman and community leader. He is a charter member of the Utica Lions Club and an active member of Trinity Lutheran Church. He has served on the board of commissioners and is a member of the Macomb County Traffic Safety Committee and the Macomb County Mayors Association.

Fred Beck, a devoted family man, and his wife Nora have raised two wounderful children and are enjoying 10 grandchildren.

I ask my colleagues to join me in honoring Mayor Beck. I hope his retirement is as enjoyable and successful as his tenure as mayor.

U.S. ARMS SALES DURING FISCAL YEAR 1987

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 18, 1987

Mr. HAMILTON. Mr. Speaker, I would like to bring to my colleagues' attention two tables listing the total value of United States arms sales abroad from October 1, 1986 to September 30, 1987.

These tables show a grand total of $21.7 billion in commercial arms sales and in foreign military sales [FMS] or government-to-government sales. Commercial sales totalled over $14.8 billion and FMS sales were at a level of $6.9 billion. The grand total of arms sales in both categories was $14.7 billion in fiscal year 1985 and $9.1 billion in fiscal year 1986.

The tables on commercial arms sales and FMS arms sales agreements for fiscal year 1987 follow:

Total value of defense articles and services sold to each country/purchaser as of Sept. 30, 1987 under foreign military sales

[In millions of dollars]

Algeria	1.8
Antigua and Barbuda	1.1
Argentina	3.0
Australia	275.1
Austria	2.2
Bahrain (a)	384.2
Barbados	0.6
Belgium	47.1
Belize	0.3
Bolivia	1.6
Botswana	0.4
Brazil	18.4
Burma	0.3
Cameroon	1.9
Canada	166.9
Chad	5.4
Chile	0.7
China	551.0
Colombia	43.2
Costa Rica	0.9
Denmark	42.0
Djibouti	0.4
Dominica	0.4

Dominican Republic	4.9
Ecuador	0.8
Egypt (b)	378.0
El Salvador (c)	104.9
Equatorial Guinea	1.0
Finland	(1)
France	17.7
Gambia (d)	(1)
Germany	511.0
Ghana (e)	(1)
Greece	312.4
Grenada (f)	0.4
Guatemala	4.1
Guinea	2.5
Guinea-Bissau	0.2
Haiti	1.7
Honduras (g)	101.0
Indonesia	2.7
Ireland	(1)
Israel	137.5
Italy	49.8
Ivory Coast (h)	0.4
Jamaica	1.9
Japan	294.9
Jordan	32.2
Kenya	14.3
Korea	165.8
Kuwait	62.9
Lebanon	4.9
Liberia	4.3
Luxembourg	1.0
Madagascar	2.5
Malaysia	4.8
Mauritania (i)	0.4
Mexico	21.0
Morocco	34.3
Netherlands	385.6
New Zealand	18.9
Niger (j)	2.7
Nigeria	1.2
Norway	52.4
Oman	0.6
Pakistan	138.0
Panama	1.7
Peru	4.3
Philippines	107.7
Portugal	87.4
Rwanda (k)	0.2
Saudi Arabia	636.6
Senegal (l)	3.1
Sierra Leone	1.2
Singapore	19.2
Somalia (m)	18.3
Spain	108.2
Sri Lanka	2.0
St. Christopher-Nevis	0.4
St. Lucia	0.3
St. Vincent and Grenadines	0.3
Sudan	8.8
Sweden	54.0
Switzerland	31.2
Taiwan	509.6
Thailand	198.2
Trinidad-Tobago	(1)
Tunisia	73.4
Turkey	214.9
United Arab Emirates	101.5
United Kingdom	179.5
Uruguay	.6
Venezuela	13.7
Yemen	6.9
Yugoslavia	(1)
Zaire	4.4
International Orgs	126.4
Total	6,938.5

(1) Less than $50,000.

Note.—Details may not add due to rounding. Construction values are excluded as follows: (a) $0.6 million, (b) $125.1 million, (c) $9.3 million, (d) $40 thousand, (e) $0.3 million, (f) $0.1 million, (g) $2.4 million, (h) $0.1 million, (i) $0.1 million, (j) $0.2 million, (k) $0.1 million, (l) $0.6 million, (m) $0.2 million.

LICENSES/APPROVALS FOR THE EXPORT OF COMMERCIALLY SOLD DEFENSE ARTICLES/SERVICES—AS OF SEPTEMBER 30, 1987

[In thousands of dollars]

Country	Oct. to Dec.	Jan. to Mar.	Apr. to Jun.	July to Sept.	Cumulative
Algeria	1,881	983	150	1,234	4,248
Andorra	4	2	0	0	6
Anguilla	(1)	0	0	0	(1)
Antigua and Barbuda	(1)	0	1	2	3
Argentina	17,121	8,432	3,158	1,502	30,213
Australia	215,478	62,917	79,755	208,138	566,288
Austria	3,159	39,855	8,054	4,261	55,329
Bahamas	25	55	174	31	285
Bahrain	590	4,485	425	120	5,620
Bangladesh	484	(1)	21	132	637
Barbados	53	3	18	35	109
Belgium	22,415	43,037	13,117	15,379	93,948
Belize	1	1	0	0	2
Bermuda	0	4	16	19	39
Bhutan	0	4	0	0	4
Bolivia	144	564	132	542	1,382
Botswana	0	344	1,796	14,866	17,006
Brazil	2,995	108,426	21,617	9,314	142,352
British Virgin Islands	0	152	274	0	426
Brunei	26,887	3,468	746	10	31,111
Bulgaria	0	18	0	0	18
Burma	244	0	302	763	1,309
Burundi	3	0	0	0	3
Cameroon	747	454	359	4,732	6,292
Canada	34,416	95,288	11,574	33,564	171,842
Cayman Islands	2	102	8	5	117
Central African Emp	7	0	0	0	7
Chad	0	7	3	4	14
Chile	272	106	1,673	1,302	3,353
China	48,489	17,018	21,531	5,851	92,889
Colombia	1,239	2,037	4,780	2,740	10,796
Costa Rica	22	78	101	179	380
Cyprus	9	30	0	314	353
Denmark	23,419	38,413	16,547	11,419	89,798
Djibouti	0	3	0	0	3
Dominica	1	(1)	0	2	3
Dominican Republic	56	417	263	72	808
Ecuador	6,039	3,166	7,020	556	16,781
Egypt	56,420	56,398	247,210	90,964	450,992
Ethiopia	0	0	0	(1)	(1)
El Salvador	181	450	2,429	16	3,076
Fiji	0	0	43	0	43
Finland	5,218	1,266	7,044	1,847	15,375
France	139,282	34,611	57,256	546,614	777,763
French Guiana	56,555	44,269	38,305	40,020	179,149
French Polynesia	0	5	151	2	158
Gabon	473	77	27	51	628
Gambia	0	1	193	0	194
Germany	298,991	297,955	138,678	145,103	880,727
Ghana	4	4	0	(1)	8
Greece	16,109	58,595	3,715	39,760	118,179
Grenada	0	0	1	0	1
Guadeloupe	0	0	5	0	5
Guatemala	250	51	284	265	850
Guinea	0	1	3	74	78
Guyana	1	162	27	3	193
Haiti	0	0	21	1	22
Honduras	457	834	1,914	349	3,554
Hong Kong	2,727	4,702	2,793	29,381	39,603
Iceland	11	3	9	15	38
India	27,774	29,002	78,982	8,672	144,430
Indonesia	3,252	9,867	8,942	4,707	26,768
Iraq	0	0	0	350	350
Ireland	259	425	209	363	1,256
Israel	287,839	597,148	303,824	688,049	1,876,860
Italy	91,992	70,573	146,551	175,286	484,402
Ivory Coast	15	7	17	274	313
Jamaica	340	49	207	373	969
Japan	316,227	335,684	457,100	236,819	1,345,830
Jordan	40,999	20,156	3,119	6,777	71,051
Kenya	18	7,949	23	0	7,990
Korea	353,734	85,159	134,478	444,447	1,017,818
Kuwait	3,780	74	82	2,689	6,625
Lebanon	0	0	15	0	15
Liechtenstein	0	0	(1)	0	0
Liberia	1	4	0	37	42
Luxembourg	2,538	5,470	457	2,037	10,502
Macau	23	63	12	2	100
Malawi	0	3	0	0	3
Malaysia	774	27,414	2,420	22,786	53,394
Mali	0	(1)	0	(1)	0
Malta	2	2	0	2	6
Maldives	0	2	0	0	2
Martinique	0	5	0	0	5
Mauritius	0	0	2	0	2
Mexico	9,126	27,431	7,763	52,868	97,188
Monaco	52	0	9	2	63
Morocco	537	2,962	8,391	1,297	13,187
Mozambique	0	(1)	2	0	2
Nepal	1	0	(1)	1	2
Netherlands	62,731	61,019	85,297	154,214	363,261
Netherlands Antilles	15	72	24	1	112
New Caledonia	1	4	17	12	34
New Zealand	5,548	3,166	21,958	9,411	40,083
Nicaragua	2	0	0	0	2
Niger	0	108	0	842	950
Nigeria	964	2,167	930	4,724	8,785
Norway	91,292	28,644	89,353	91,519	300,808
Oman	1,171	1,430	11,371	685	14,657
Pakistan	29,911	6,980	23,130	5,153	65,174
Panama	677	5,391	768	13,900	20,736
Papua-New Guinea	20	0	1	10	31
Paraguay	(1)	58	5	21,550	21,613
Peru	2,611	3,050	3,000	7,653	16,314
Philippines	940	7,726	2,305	3,395	14,366
Portugal	14,002	7,843	20,307	24,941	67,093
Qatar	211	193	340	29	773
Romania	(1)	3	0	0	3
Saudi Arabia	39,821	125,524	7,809	41,427	214,581
Senegal	0	5	0	0	5
Seychelles	(1)	0	0	0	(1)
Sierra Leone	(1)	0	0	0	(1)
Singapore	14,973	106,884	130,838	81,005	333,750
Somalia	13	0	166	0	179
Spain	39,147	38,246	57,611	56,039	181,043
Sri Lanka	1,472	82	414	412	2,380
St. Lucia	0	2	2,300	7	2,309
Sudan	(1)	184	132	49	365
Svalbard and Jan Mayen	1,020	1,247	0	4	2,271
Sweden	23,916	12,520	8,321	16,179	60,936
Switzerland	15,874	50,280	44,764	44,315	155,233
Taiwan	143,630	91,295	175,278	49,850	460,053
Tanzania	2	54	2	313	371
Thailand	9,756	54,335	2,818	8,342	75,251
Togo	66	764	0	410	1,240
Tonga	4	0	0	0	4
Trinidad and Tobago	248	1	328	8	585
Tunisia	551	1,462	1	84	2,098
Turkey	11,954	26,710	40,232	45,618	124,514
Uganda	0	6	4	39	49
U.S.S.R	0	11	0	0	11
United Arab Emirates	197,177	21,162	46,483	6,741	271,563
United Kingdom	202,479	351,506	1,644,187	217,299	2,415,471
Upper Volta	0	0	0	13	13
Uruguay	66	305	34	208	613
Venezuela	12,881	108,630	69,924	81,662	273,097
Western Samoa	0	0	(1)	0	(1)
Western Sahar	0	0	1,590	0	1,590
Yemen	3	3	0	(1)	6
Yugoslavia	19,381	6,129	1,721	2,685	29,916
Zaire	0	0	132	526	658
Zambia	128	56	1	127	312
Zimbabwe	222	143	114	464	943
International orgs	25,206	122,531	47,857	88,929	284,523
Worldwide total	3,089,250	3,386,631	4,388,195	3,940,235	14,804,313

(1) Less than $500.

Note.—Details may not add due to rounding. This information was prepared and submitted by the Office of Munitions Control, State Department.

PROGRAM TO IMPROVE POSTSECONDARY EDUCATION

HON. AUGUSTUS F. HAWKINS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 18, 1987

Mr. HAWKINS. Mr. Speaker, I would like to insert in the RECORD a very valuable program developed by the American Council on Education to improve postsecondary education in the United States. This program has been set out by a commission headed by William Friday, president emeritus of the University of North Carolina, in the form of a memorandum to the next President of the United States.

I urge my colleagues and the American public to read this memorandum, and to urge the candidates for President to adopt it. American education will be greatly improved if this program were to be implemented by the new administration.

[Memorandum of the American Council on Education]

U.S. EDUCATORS RELEASE "MEMORANDUM TO THE NEXT PRESIDENT"

WASHINGTON.—A commission composed of some of the nation's most prominent educators and other influential Americans today set out an agenda detailing the steps colleges, universities and the federal government must take to assure America's future success, and called on the twelve 1988 Presidential candidates to adopt it as part of their campaign platforms.

In releasing its "Memorandum to the 41st President," the Commission on National Challenges in Higher Education—set up by the American Council on Education—vowed to press the agenda actively with Congress, voters and other educators.

"Our greatest Presidents have understood that America's progress falters without a fully engaged community of learning," said Commission Chairman William Friday, President Emeritus of the University of North Carolina.

"This message to the next President attempts to determine how and where our system of higher education fits into our national priorities. We urge the next President to accept it and we will be its active advocates," Friday said.

The message will be sent to all Presidential candidates and they will be asked to respond.

It sets out five major challenges facing the next President and details steps the federal government and higher education should take to make sure the challenges are met.

Highlights of the five sections follow:

EDUCATE AMERICANS FOR AN INCREASINGLY INTERDEPENDENT WORLD

"Many Americans are uninformed about other people and countries, and poorly prepared for an increasingly interdependent world," the Commission said.

The report called on colleges and universities to strengthen all fields of international study, to improve teaching of foreign languages and culture, and to provide more opportunity for educational exchanges for both students and scholars.

It recommended the next President provide federal support to bolster such programs and to support development on joint international research and educational programs at the university level.

HELP REVITALIZE THE ECONOMY

"As major sources of discovery, innovation and invention, colleges and universities are already significant contributors to our advanced, technology-based economy," the report said.

But, it pointed out, institutions of higher learning can do much more to develop working relationships with industry, to secure private funding for research and to take initiatives far beyond research activities to help the nation become more competitive.

These initiatives would include: improving management training in business schools; strengthening programs in industrial engineering; increasing international emphasis in law, business and public administration schools; and upgrading teacher preparation and attracting more mathematics and science teachers.

The educators recommended that the next Administration initiate programs to increase the supply of teachers at all levels, provide tuition assistance for dislocated workers and make education benefits received from an employer tax exempt.

Addressing the link between a vital economy and "America's pre-eminence in research," the Commission recommended that the next President expand federal support for graduate research assistantships and support construction and renovation on research and teaching facilities operated by the National Science Foundation and the National Institutes of Health.

EXPAND EDUCATIONAL OPPORTUNITY

"Over the last decade, we have seen the re-emergences of barriers that threaten the progress made in equalizing opportunity," the report said.

Disagreements about federal support levels for student assistance have presented the greatest difficulty, but rising tuition, growing student debt, declining minority participation, and increased dropout rates have also diminished accessibility and equity in education, it said.

The educators called upon the next President to intensify federal efforts to encourage disadvantaged students to seek higher education through expansion of such successful programs as Head Start and Upward Bound, increase need-based education grants funding and other student assistance programs, and reduce excessive reliance on student loans by increasing grant support.

The Commission said colleges and universities should "share responsibility" for assuring repayment of student loans.

The message also said the new Administration should consider an "educational savings account" concept to provide parents with an incentive to save for their childrens' education, and to increase graduate fellowships for minorities.

ADDRESS HUMAN NEEDS AND THE QUALITY OF LIFE

"In recent years, higher education and the federal government have not performed as effectively as they should in helping America to maintain a high standard of living," the report said.

To restore the close partnership between government and higher education aimed at attacking social problems, the Commission called on the new President to provide increased support for applied social science research, initiate programs to study and improve the quality of public and preventive health care, increase support for preserving our scholarly resources and develop new computerized information storage and retrieval systems.

RESTORE RESPECT FOR FUNDAMENTAL VALUES AND ETHICAL BEHAVIOR

The Commission pointed to the pervasive sense in America today that "we have lost touch with fundamental values and standards of ethical behavior," as evidenced by widely publicized scandals in the public and private sectors.

It noted the effort to strengthen values is less a task for government than for the family, schools and religious institutions, but said higher education can make a contribution by improving curriculum offerings in traditional courses as philosophy, religion, literature, and political science, as well as inaugurate new courses in moral reasoning and professional ethics. It called for institutions to set the highest possible standards for students and faculty in making decisions on such issues as recruitment of minorities and women, investment of endowment, and relations with their local community.

The Commission urged the new President to expand federal programs for community service at home and abroad and to create incentives for students to enter public service careers in teaching, public health and social welfare.

"The agenda we set is ambitious, and the responsibility for carrying it does not fall to you solely or the government you lead," Friday said.

"We ask no more of you than we ask of ourselves. America's place in the world depends in many ways on the quality of our institutions and their graduates. That quality is our obligation; we pledge to you the will and self-discipline to maintain it," he added.

In closing, Friday said, "We pledge to become advocates of this agenda—with our colleagues and with the American people. The American people are entering a new century and a new world. Challenged as never before, will our people be prepared? We believe the answer is yes."

HONORING SHERON WATSON

HON. JOHN P. MURTHA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 18, 1987

Mr. MURTHA. Mr. Speaker, on January 2, 1988, a special commemoration will be held of a truly outstanding record accomplished by Ms. Sheron Watson, volleyball coach at Norwin High School. I am glad to add my recognition to this event.

Ms. Watson has been volleyball coach for 15 years. In those 15 years, her teams have won 15 section titles, 14 WPIAL titles, and 11 PIAA titles as State champions. Over those years, her teams have accomplished an overall winning record of 587 wins and only 10 losses.

As outstanding as that accomplishment is, we also need to look behind the numbers. Over those years, there have been literally hundreds of young lives affected by her leadership, dedication, and commitment.

In sports competition we learn about the will to win, the dedication to reach a goal, and the willingness to work for a common goal. It is clear from the victory total that Sheron Watson has developed these characteristics in her teams. I am sure it is also clear from their lives, that these young people have gone on to use these skills and characteristics in their own lives, and to benefit the community.

It's a pleasure to join in the recognition of Coach Watson—both for her wins in competition, and for her dedication of helping our young people.

WORKER'S OPTION ACT OF 1988, H.R. 3794

HON. BILL ARCHER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, December 18, 1987

Mr. ARCHER. Mr. Speaker, today I am introducing the "Worker's Option Act of 1988." The purpose of this bill is to phase out the earnings/retirement test in the Social Security program over a period of time. For the past 17 years I have sponsored and strongly advocated legislation which would repeal this provision of law.

At the outset, I would like to acknowledge the leading role that Senator Barry Goldwater played in pioneering the effort to repeal this provision. We worked together on the project in several Congresses, introducing related legislation, and I learned a great deal from our joint enterprise.

Earlier in this session I introduced H.R. 42, a bill which would repeal the retirement test immediately for all beneficiaries. In an effort to achieve this ultimate goal I have developed a second bill with the technical assistance of the Social Security Administration. H.R. 3794 gradually phases out the retirement test for workers who have reached the "normal retirement age." Currently the normal retirement age is 65, but over time it phases up to 67.

The Worker's Option Act of 1988 phases out the retirement test for workers age 69 and over in the first year, 68 and over in the second, and so forth. When fully effective, the bill would give the worker who had attained the normal retirement age a choice—file for Social Security and take the benefits in hand, whether or not he or she had retired—or defer filing and continue to build up the amount of future benefits by 8 percent a year or more. It is, in my view, a balanced option, which will encourage those senior citizens who wish to work to continue to do so.

Specifically, the bill would: First, phase out the retirement earnings test for workers who have attained the normal retirement age; second, accelerate the scheduled increase in the "delayed retirement credit" from 2008 to 1989. The delayed retirement credit currently increases benefits by 3 percent for each year a worker between 65 and 69 delays retiring. That 3 percent phases up to 8 percent by 2008; third, exclude from the computation of the benefit any earnings acquired after the year of entitlement to retirement benefits. This provision is intended to give those older workers, who at their peak earnings, an incentive to delay filing for benefits so that the earnings can be used in the computation; fourth, eliminate an exception in current law which permits limited retroactivity to reduced benefits to offset earnings under the retirement test.

When Social Security was enacted in 1935, the earnings test was designed to serve two immediate aims: Bolstering the basic social insurance premise that benefits would replace earnings lost through retirement, and offering an incentive for older workers to make way for younger unemployed workers.

We must recognize that the demographics of the workplace have changed drastically. Back in World War II days, there were 50 workers for every Social Security beneficiary. Today there are just over three, and actuaries project the ratio will be 2 to 1 within another 50 years. Our economy needs the experience and skills of senior workers who have the desire and health to remain productive members of the work force.

The earnings test amounts to a barrier—especially to middle income workers—because it imposes a 50-percent tax on earnings over $8,160 a year for workers aged 65-69. When income and payroll taxes are calculated, the marginal rate can be much higher than 50 percent. It's a barrier to middle income workers because that $8,160 base lessens the impact on poorer workers, and because more affluent workers can afford to forgo benefits.

The first year costs are a modest $300 million; modest, that is, considering there are 38 million beneficiaries. Costs over 3 years equal $2.3 billion, and over 10 years, $28.2 billion, or less than $3 billion a year in the short range.

In viewing revenue losses associated with the legislation, I think it is important to bear in mind that they affect only the Social Security trust funds. Trust fund reserves, which are so critical to the Social Security system are projected to grow steadily until well into the 21st century. Nothing in this bill jeopardizes that growth. On the contrary, to the extent this bill encourages older workers to continue as productive members on the labor force, I am confident that both the trust funds and the general funds will gain.

I believe this bill is good public policy for not only Social Security, but also in the long term as an investment in the national economy. The time has come to remove from the law the last vestige of age discrimination embodied in Federal policy. I commend this bill all to my colleagues, especially those on the Ways and Means Committee.

SOUTHERN CONNECTICUT STATE UNIVERSITY SOCCER CHAMPS

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 18, 1987

Mr. DORNAN of California. Mr. Speaker, I rise today to congratulate the Southern Connecticut State University soccer team on its recent national championship. After years of near misses, Coach Bob Dikranian's team finally captured the Division II crown with a 2–0 victory over the California State University at Northridge.

The SCSU Owls finished the season with a 17–1–3 record, and in the final handed Cal. St. Northridge—which finished the season at 19–2–3—its first shutout of the season. After drawing a bye for the first round, the Owls reached the finals by defeating C.W. Post 3–2 in the regional finals, and Missouri-St. Louis 1–0 in the semifinals. They were led in the final game by their fine defender, John DeBrito, who scored two goals, and their goalkeeper, Mike Cashman, who stopped a penalty kick in the first half that would have tied the game. All in all, it was the type of team effort that Southern Connecticut soccer fans have come to expect. The fine coaching staff, led by the extremely capable Mr. Dikranian, deserves a lot of the credit.

So once again I salute the Owls on their fine season. The championship has been a long time in coming. But I predict that there will be more soccer championships in SCSU's future.

RECOVERY OF THE NORTHERN ROCKY MOUNTAIN WOLF

HON. WAYNE OWENS

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Friday, December 18, 1987

Mr. OWENS of Utah. Mr. Speaker, I was troubled recently to read a statement made by Mr. Frank Dunkle, Director of the U.S. Fish and Wildlife Service regarding recovery of the northern rocky mountain wolf. The Casper Star Tribune reported a meeting with Mr. Dunkle and the Wyoming Woolgrowers Association in which the director indicated that if the Congress were to pass legislation requiring the reintroduction of the wolf into Yellowstone, he would subject it to a full range of bureaucratic roadblocks.

Independent of the issue of wolf reintroduction, Mr. Dunkle's statement is a distressing indication that Fish and Wildlife might, under certain circumstances, be willing to frustrate the will of Congress, and to violate the law as set out in the Endangered Species Act, in order to placate special interest groups.

I am increasingly concerned about the intervention of political considerations in our natural resource management policy. The northern rocky mountain wolf recovery plan, which was developed under the Endangered Species Act and agreed to by both the National Park Service and the Fish and Wildlife Service, is a good example of how the efforts of biologists and resource management professionals can be frustrated by the maneuverings of political appointees who, with a lack of scientific expertise, set out to fulfill their own political agenda.

I am inserting in the RECORD today an editorial by Andrew Melnykovych which appeared in the Casper Star Tribune on November 23, 1987. This editorial presents the possible motivations for Mr. Dunkle's statements and sets the record straight on some of the evidence which demonstrates the biological benefits of wolf recovery.

[From the Casper Star Tribune, Nov. 23, 1987]

WILDLIFE DIRECTOR ROLLS OVER FOR SHEEP

WASHINGTON.—You have to admire the courage of a man like U.S. Fish and Wildlife Service Director Frank Dunkle.

There he was, the head of the agency charged with protecting and restoring populations of endangered predators like the wolf and the grizzly bears.

There was his audience, the Wyoming Woolgrowers Association—a group which has little or no use for predators and the people who seek to protect them.

And there was his topic—the proposed reintroduction of wolves into Yellowstone National Park. Bringing wolves back to Yellowstone is the wildlife agency's responsibility and the one idea, above all others, that the woolgrowers oppose.

What did Frank Dunkle tell them?

Referring to his neckwear, Dunkle said "the only wolves that I will bring to Wyoming, or that I will sponsor to Wyoming . . . are on this tie."

Dunkle said he believes that wolves will migrate south from Canada to Yellowstone National Park within 10 years.

"When that happens . . . (we) will have a much better understanding of wolf populations, their needs and control measures which will be necessary to protect nearby domestic animals and private property," Dunkle said.

Wolf reintroduction into Yellowstone is an idea cooked up by the National Park Service in order to "undo the disastrous conditions" it has created in the park by years of mismanagement of the elk and bison herds, he said.

And Dunkle said he is not about to allow wolves to be reintroduced into Yellowstone unless the park service proves it can manage wildlife to his satisfaction.

If Dunkle were a wolf, he would have licked the woolgrowers' noses, rolled over onto his back, and peed on himself. Any wolf would recognize that as submissive behavior.

But Dunkle went beyond simply telling the woolgrowers he wouldn't help bring wolves back to Yellowstone. He promised to defy Congress on their behalf.

If Congress passes a bill that forces wolf reintroduction, Dunkle said he will use every bureaucratic means at his disposal to delay implementation of the law. Hearings, environmental analyses, permits—you name it. I'll use it—Dunkle said.

"If you've seen bureaucracy in action, you know the Glacier (National Park) wolves are likely to reach Yellowstone before the paperwork is done." Dunkle said.

Of course, disdain for the law and contempt for Congress are not exactly new concepts in the Reagan administration.

Perhaps Dunkle has taken classes at the Ollie North School of Constitutional Law, or maybe he's attended the Elliot Abrams Seminar on How to Win the Trust of Congress.

Dunkle's lecture on the short-comings of the National Park Service was as arrogant and presumptuous as his dismissal of the will of Congress.

The Park Service wants wolves in Yellowstone because the wolves do the job that Dunkle said hunters should be doing—reducing the park's elk and bison herds.

While conceding that hunting probably will remain taboo in Yellowstone, Dunkle said the park's no-hunting policy (which is set by Congress) is "inconsistent" because fishing is allowed.

The herds of elk and bison are overgrazing their habitat and slowly ruining it, he said.

It is surprising that Dunkle, who formerly headed Montana's wildlife agency, could be so ill informed about the details of wildlife management in the Yellowstone ecosystem.

It is appalling that Dunkle, now the nation's top wildlife official; could be so blind to the history and philosophy of American wildlife management.

Research conducted by both the National Park Service and independent investigators indicates that the claim that elk and bison are ruining Yellowstone is probably incorrect.

It is true that elk and bison numbers have increased in the 20 years since the NPS discontinued efforts to control the herds, but there is precious little support for the idea that the result has been ecological disaster. The evidence points to fire suppression as the culprit in cases where habitat deterioration has occurred.

To suggest, as Dunkle did, that the Park Service wants wolves in order to make up for a lack of hunters is to pervert the history and basis of modern wildlife management.

The first wildlife biologists, Aldo Leopold foremost among them, believed hunting was a way to restore some balance to ecosystems disrupted by the relentless extermination of predators—extermination conducted by and at the behest of the livestock industry

Hunters could serve in the role of wolves, mountain lions, and bears to control big game herds suddenly left without natural enemies, Leopold believed.

But Leopold never forgot, as Dunkle seems to have forgotten, that the predators preceded hunters, not the other way around.

Wildlife ecologists now know that the relationship between habitat, prey, and predators is more complex than Leopold realized. Wildlife management has improved dramatically since his day.

But nobody has been able to improve on Leopold's philosophy, on his "land ethic" that taught that we are the stewards of this Earth and that we ignore that responsibility only at our peril.

In the United States, the land ethic is epitomized by our magnificant system of national parks. Places like Yellowstone are meant to serve as living reminders of how our land appeared before human hands fell heavily upon it.

It is outrageous that Frank Dunkle, this country's top wildlife bureaucrat, seems to have such a limited understanding of his official responsibilities.

It is disturbing that Frank Dunkle, wildlife manager, seems to have such a limited understanding of the profession he represents.

It is sad that Frank Dunkle, American citizen, seems to have such a limited appreciated of the priceless natural heritage that belongs to all of us.

THE ADMINISTRATION'S PROPOSED REAUTHORIZATION OF THE OVERSEAS PRIVATE INVESTMENT CORPORATION

HON. DON BONKER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Friday, December 18, 1987

Mr. BONKER. Mr. Speaker, as the chairman of the Foreign Affairs Subcommittee on International Economic Policy and Trade, which has jurisdiction over the Overseas Private Investment Corporation, I am today introducing by request, with the subcommittee's ranking member, Mr. ROTH, the executive branch's proposed reauthorization legislation for OPIC. OPICs present authority, enacted in 1985, expires on September 30, 1988.

The Overseas Private Investment Corporation, created in 1969 through an amendment to the Foreign Assistance Act, seeks to promote economic development in the Third World by encouraging U.S. private investment in those nations. OPIC offers both political risk insurance and financial assistance through direct loans and guaranties. Even though OPIC has been completely self-sustaining since 1981, Congress still has a role to play in its reauthorization. In recent years, Congress has sought to place restrictions on OPIC activities in order to protect foreign workers rights, safeguard the international environment, preserve U.S. jobs, enhance foreign investments by U.S. small businesses, and guarantee that OPIC targets the poorest of the developing countries for U.S. Government-backed investment.

Given the range of recommended changes in OPIC's mandate and programs proposed by the legislation I am introducing today, I believe it will be useful for Members to study the administration's bill. Highlights of the legislation include:

An increase in the per capita income figures governing the countries in which OPIC may operate to reflect 1985 dollars;

An expansion of OPIC's mandate to make the Corporation a vehicle for encouraging liberalization in the investment policies of developing nations in which OPIC operates;

Authority to allow OPIC to insure existing, rather than only new, investments if the Secretary of State recommends and the OPIC Board approves such insurance as a means of maintaining economic stability in a particular country;

Creation of a new, 5-year pilot program of equity investment for sub-Saharan Africa and the Caribbean;

A reorientation of the Reinsurance Program which the Foreign Affairs Committee established in the 1985 legislation; and

Amending the definition of an eligible investor to enable companies which continue to be at least 45 percent U.S.-owned to be eligible for OPIC programs, rather than requiring that their OPIC insurance or investment guaranties be terminated if they are acquired by a foreign company.

The Subcommittee on International Economic Policy and Trade expects to begin consideration of the OPIC reauthorization early next year, and would look forward to receiving the views of Members on the current program and the administration's proposed changes for OPIC.

HOME CARE UNDER MEDICARE NEEDS TO BE EXPANDED, NOT CUT

HON. DOUG WALGREN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 18, 1987

Mr. WALGREN. Mr. Speaker, providing long-term health care for the growing number of elderly people in our society is a major challenge facing this country. With the development of the Medicare Catastrophic Protection Act, H.R. 2470, the 100th Congress is taking a significant step in that direction and I am pleased to have played a part in developing what is the only major addition to Medicare benefits since the program's inception in the 1960's.

Simiarly, in the 1987 budget reconciliation bill, the Congress has acted to address several problems associated with the Medicare home health benefit. The last 2 years has seen a deluge of questions and complaints from Medicare beneficiaries, home health agencies, and other about the refusal of Medicare to pay for home health care. Payment denials jumped 133 percent in 2 years.

The problem is that HCFA has given vague and varying interpretations of Medicare requirements—sometimes only "informal guidance" over the telephone. There have been inconsistent definitions of the terms "homebound," "medical necessity," "intermittent," and "skilled nursing care"—all requirements for receiving home care under Medicare.

Just consider a few examples of denials of benefits because people were not "homebound":

One gentleman could only walk outside his home with help and up and down stairs with the assistance of two railings was not considered to be "Homebound."

A 78-year-old man with two broken hips could only leave home to go to the doctor or get a haircut was not considered "Homebound."

A 70-year-old man with bone marrow cancer and dependent on an oxygen tank was able to walk down 10 steps to a restaurant for meals, so he was not considered "homebound."

One elderly lady went to church once a week, so she was not considered "homebound."

Examples abound around the country. I have tried to take a number of approaches to this problem. In July 1986, I wrote Administrator Roper requesting clearer, more consistent administration of these benefits. In February 1987, I joined Congressmen STAGGERS and PEPPER as a plaintiff in a suit seeking formal promulgation of regulations regarding the requirement that care be a "medical necessity." In October 1987, I met with HCFA officials along with a number of Pennsylvania home health providers to seek a clarification of HCFA's policies. And I have cosponsored Congressman PELLER's bill, H.R. 3451, to require that all denials based medical necessity.

Along with others on the Health Subcommittee, we made several changes in H.R. 3545 that I hope will end some of these problems. We have tried to clarify the terms "intermittent" and "homebound," conditions for receiving the home health benefit. We are putting into place clear deadlines for processing appeals of denials. We are requiring that HCFA publicly invite and respond to comments on all major policy changes so that policy will not be made over the phone or vary from region to region. We are requiring a toll-free hot line to receive and investigate complaints about the home health benefit.

Mr. Speaker, we are talking about 3.2 million elderly people who earned this benefit from years of hard work and need it desperately to recover their health. We are talking about molding a health care system that helps people stay in their own homes and stay out of institutions. Home care has proven time and time again to be better in every way than institutional care when the individual has the right kinds of support.

This society should be finding ways to expand home care benefits—not cut them back. I hope these steps will just be the beginning of a movement to provide an adequate home health care system in this country. Otherwise, the administration has created a truly "catastrophic health care policy" for millions of elderly and sick Americans.

FEIGHAN DENOUNCES SYRIAN ACTION IN NORTHERN LEBANON

HON. EDWARD F. FEIGHAN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, December 18, 1987

Mr. FEIGHAN. Mr. Speaker, there are reports that for five consecutive days Syrian troops in northern Lebanon have harrassed innocent Lebanese citizens in the privacy of their homes and in the streets. About 10,000 Syrian troops patrol northern Lebanon, including some predominant Christian sectors.

According to reports, 350 homes have been ransacked or destroyed and hundreds of people have been arrested and detained without charge. Some accounts indicate that Syrian troops have killed 20 people. To protest this action, elements opposed to the Syrian occupation of Lebanon have called for a nationwide general strike on Saturday, December 19.

Mr. Speaker, if these reports are true, and evidence indicates that Syria is committing these brutal acts, I call upon the administration to use its recently reopened diplomatic channels to Syria, and condemn Syrian behavior in northern Lebanon in the strongest possible terms.

SUPERCONDUCTING SUPER COLLIDER

HON. RON PACKARD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 18, 1987

Mr. PACKARD. Mr. Speaker, today I would like to refute reports seen in the news media that the National Academies of Science and Engineering have prepared a list of States qualified as a site for the superconducting super collider. The Department of Energy has adamantly denied that such a list exists. Further, the Department has stated that the States listed on the reported list have not, in fact, received early approval.

I am pleased that the Department moved quickly and decisively to deny the existence of such a list. As the Secretary of Energy is well aware, if such a list exists it would dramatically erode support for the project. It would be nearly impossible to convince representatives of other States that the process was not rigged from the beginning. With the site selection process in question, it would not be possible to proceed with the project. Congress would neither authorize the project nor appropriate the moneys to fund it.

Fortunately, I believe the Department will ultimately put all questions to rest by publishing a different list of States on the best qualified list [BQL]. I believe this because I am convinced California will appear on the BQL. California's academic and educational resources are unique in the world. These academic assets will provide an essential foundation for the largest scientific project in the history of the world. In addition, scientists in California have been working on high energy physics projects since the inception of the field and have been responsible for many theoretical and experimental breakthroughs in the area. Equally significant, California leads the world in the areas of computer science, chemistry, mathematics, and engineering. Each of these disciplines are integral to the success of the SSC.

It is inconceivable to me that the National Academies of Science and Engineering and the Department of Energy would fail to take advantage of these resources. There are many locations that are suitable to house the SSC physically. But for the SSC to be a success, the Department and the Academies must also consider the educational and academic infrastructure. DOE could not explain how it could ignore California's unique scientific contributions in determining the BQL.

In summary, I am pleased that the Department denied the reports of an existing BQL. I am convinced the Department is doing a good job and is doing all it can to keep the process fair. I look forward to seeing the BQL in January to justify my beliefs.

INFANT MORTALITY REDUCTION ACT

HON. BARBARA B. KENNELLY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Friday, December 18, 1987

Mrs. KENNELLY. Mr. Speaker, today I am introducing the Infant Mortality Reduction Act, a bill to provide financial assistance to projects which provide comprehensive maternal and infant health care services to high-risk populations in order to reduce infant mortality.

This bill is necessary because the United States has an unacceptably high infant mortality rate—the highest rate of 20 industrialized countries. As high as the U.S. rate is, it conceals an even higher rate for certain subgroups of our population. The infant mortality rate in some rural and inner-city areas is double the national rate.

Numerous studies have documented that early, continuous, high quality prenatal care can contribute to a significant reduction in infant mortality. They have also indicated that prenatal care is cost effective. The cost savings that would result from assuring access to prenatal care for every pregnant woman are tremendous. Currently, the Federal Government is spending $638 million under Medicaid to pay for neonatal intensive care and rehospitalization of low birth weight infants during the first year of life. This figure could be reduced to only $90 million if comprehensive prenatal care were available to all low income women.

In 1979, the Surgeon General established a national goal that by 1990, 90 percent of all pregnant women would begin prenatal care in the first 3 months of pregnancy. A GAO report released last month stated that as of 1985, no progress has been made toward meeting that goal. The report further stated that despite existing Federal, State, and local efforts to improve access to prenatal care, 63 percent of Medicaid recipients and uninsured women who participated in the GAO study did not receive sufficient care.

Research has identified several barriers to prenatal care. For some women, lack of education regarding the importance of prenatal care is a major factor affecting utilization. However, even when women are knowledgeable there are additional barriers present in virtually all communities.

In some cases, appropriate and comprehensive services are simply not available, or are available on a limited basis. More usual though is low utilization of existing services either because women lack the financial resources to utilize the services, or lack transportation to reach the services.

It is clear that much more needs to be done to ensure that all pregnant women receive early and continuous prenatal care. Communities must identify existing barriers to care, develop programs to overcome those barriers and evaluate their effectiveness in improving access to prenatal care.

This bill will provide $100 million in the form of matching grants for community projects which increase access to and utilization of comprehensive prenatal and postnatal care services by high risk women and their infants, with the express purpose of reducing infant mortality. Additionally, these projects will provide complementary educational, counseling and social services.

Mr. Speaker, this legislation will allow us to demonstrate our commitment not only to reducing infant mortality, but also to reducing the number of low birth weight infants who survive only to suffer multiple physical and mental handicaps. I urge my colleagues to join us in supporting early passage of this legislation.

LAND AND WATER CONSERVATION FUND AMENDMENTS

HON. DON YOUNG

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 18, 1987

Mr. YOUNG of Alaska. Mr. Speaker, pursuant to an executive communication referred to the Committee on Interior and Insular Affairs, and at the request of the Department of Agriculture, I am introducing a bill to amend the Land and Water Conservation Fund Act of 1965, as amended, and for other purposes.

Mr. Speaker, this draft legislation was submitted and recommended by the Department of Agriculture and I insert a section-by-section analysis of the bill, and the executive correspondence which accompanied the proposal from the Acting Secretary, be printed in the RECORD.

I wish to emphasize that I am introducing this legislation at the request of the administration to initiate hearings on the merits of the proposal. This proposal would first, expand the Forest Service fee authority so charges could be made at more sites; second, allow the Forest Service to charge at heavily used areas where services are provided; third, return 75 percent of the collected fees to a special fund for immediate use by the Forest Service for recreation facilities and services; fourth, allow collection of fees by volunteers; fifth, authorize depositing fees collected from recreation special uses in the special fund; and sixth, return the withholding of 25 percent of receipts for payments to States and counties.

This proposal would result in fees being charged at approximately 1,000 to 1,200 additional recreation sites. Receipts are expected to increase to $52 million. Most importantly, the overall quality of outdoor recreation experienced by national forest visitors would be improved.

This proposal would not authorize charging fees for: first, hunting and fishing permits; second, use of areas without facilities or significant services; third, to enter or drive through the national forests; fourth, use of a wilderness area or wild and scenic river.

In addition this proposal is not without precedence. H.R. 3545, the Omnibus Budget Reconciliation Act of 1987, also contains amendments to the Land and Water Conservation Fund Act. Although primarily affecting the National Park Service, these amendments would establish a similar fund for recreation fees and authorize volunteers to collect fees.

There is no doubt that, because of increased use and reduced budgets as a result of budget deficit reduction efforts, national forest recreation facilities and services have been severely impacted.

National forest managers have been unable to keep pace with problems such as facility deterioration, vandalism, and the overall effect of more people recreating on the national forest. The result has been a $300 million backlog in deferred maintenance of recreation facilities and a significant reduction in the quality of recreation experience available to the American public.

Given these facts, I think it is worthwhile for Congress to hold a hearing on this legislation.

The material follows:

SECTION-BY-SECTION ANALYSIS

TITLE I

Section 101 would amend section 4 of the Land and Water Conservation Fund Act of 1965, as amended, by adding a new subsection (i). This new subsection would authorize the Secretary of Agriculture to designate recreation sites, areas, facilities, equipment and services for the purpose of charging a recreation use fee within the National Forest System. However, no such fee would be authorized where services are not provided and fees would not be authorized singly for the use of drinking water, wayside exhibits, general purpose roads, overlook sites, general visitor information, toilet facilities, or unimproved boat ramps (not constructed). Persons with a Golden Age Passport would be required to pay only 50 percent of the established user fee.

The Secretary of Agriculture would use the authority in the new Subsection 4(i), rather than subsection 4(b), as a basis of establishing recreation use fees within the National Forest System. Except as provided in Title II, all other provisions of the Land and Water Conservation Fund Act of 1965, as amended, would continue to apply to the National Forest System. These provisions include the requirement that all fees be fair and equitable and economically efficient to collect (subsection 4(d)) and the prohibition against the issuance of Federal hunting and fishing license (subsection 4(g)). Section 4(b) would not be amended, and thus the recreation use fee charges of other Federal agencies would not be affected.

Currently, section 4(b) of the Land and Water Conservation Fund Act of 1965, as amended, authorizes the collection of daily recreation use fees for the use of specialized outdoor recreation sites, facilities, equipment, and services. However, fees may not be collected under section 4(b) for the use of facilities such as campgrounds that do not have specific components such as potable water, picnic grounds, boat launches except those with hydraulic or mechanized lifts, and visitor centers. Section 4(b) also prohibits fees from being charged in areas which do not contain highly developed facilities but require expenditures to ensure the safety of visitors or to protect natural resources.

The proposed legislation would expand the scope of National Forest System recreation sites, areas, facilities, equipment and services for which use fees could be collected. However, the authorities for charging for recreation special uses (such as ski areas and guiding and outfitting operations) would not change. These authorities include the Act of June 4, 1897 (30 Stat. 11, as amended) and the Act of March 4, 1915 (38 Stat. 1086, as amended).

TITLE II

Under present law, the National Forest System recreation fees collected pursuant to the Land and Water Conservation Fund Act (about $11 million annually) are paid into the Land and Water Conservation Fund and are available for appropriation for any Land and Water Conservation Fund purpose.

Section 201 would provide that all recreation receipts would be deposited into a special Treasury fund and would be available to the Secretary of Agriculture, without further appropriation, for operation, maintenance, rehabilitation, replacement, reconstruction, and management of recreation facilities, equipment sites, trails, and areas within the National Forest System. Recreation receipts as defined in Section 201(c), include collections from fees for use of National Forest System lands and facilities collected pursuant to the Land and Water Conservation Fund Act as amended by Title I, and all fees collected for recreation special uses of the National Forest System. Recreation special uses, as defined in Section 201(b), include, but are not limited to, resorts, marinas, winter sports sites, recreation residences, organization camps, and outfitter and guide activities authorized under the Acts of June 4, 1897, March 4, 1915, and any other statutory authority providing for recreational use of National Forest System lands. The fees collected would not be used for major new construction such as visitor centers, roads, or development of new areas.

The required receipt-sharing payments to States and counties under permanent statutes would continue (currently 25 percent). However, recreation receipts would not be subject to the law requiring that 10 percent of moneys received from the National Forests be used for construction and maintenance of forest roads and trails. The monies received from the recreation receipts would be used in part for construction and maintenance of forest trails. Thus, there is no need to put it into a separate fund for the same use.

Since the recreation receipts would be deposited into a special Treasury fund, for the purposes of Section 256(a)(2) of the Balanced Budget and Emergency Deficit Control Act of 1985 (P.L. 99-177, 99 Stat. 1037), any funds sequestered during any fiscal year would not lapse but would be available for obligation on October 1 of the following fiscal year.

Section 202 would allow the Secretary to enter into agreements with individuals, organizations and businesses to sell permits and collect fees for recreation uses and other payments including, but not limited to, the sale of maps, firewood, books, and other interpretive materials of National Forest System lands. A reasonable commission for providing this service could be deducted from the fees collected.

Section 203 would allow volunteers to sell permits and collect fees subject to terms and conditions prescribed by the Secretary. It also would authorize the Secretary to cover the cost of surety bonds for volunteers if the Secretary determined that doing so was in the best interest of the Government.

Section 204 would allow the Secretary to accept donations to help defray the costs of carrying out the recreation program within the National Forest System. This would provide the opportunity for users to voluntarily help pay for the facilities and services that they enjoy. The funds collected would be available as provided in Section 201 except such donations would not be subject to receipt-sharing with the States and counties.

NOVEMBER 16, 1987.

BRIEFING PAPER—FOREST SERVICE RECREATION FEES LEGISLATION

Topic: Fee Legislation to amend the Land and Water Conservation Fund Act of 1965.

Issue: Expanding National Forest Fee Authority.

Background: The Forest Service currently only has authority to charge fees for campgrounds and swimming sites that meet specific criteria. Of 9,000 sites, only 2,100 are fee sites.

Recreation expenditures were $99.0 million in 1986. Total receipts were $30.3 million, or 30% of the costs.

National Forest recreation facilities and services have been severely impacted by increased use. Efforts to reduce the Federal budget have resulted in funding levels that have not allowed managers to keep pace with problems such as facility deterioration, vandalism, and the overall effect of more people. The result has been a $300 million backlog in deferred maintenance and a significant reduction in the quality of recreation experience available to the American public.

Administration Proposal: Acting Secretary Myers signed the Forest Service proposal March 11, 1987. It was then transmitted to the Congress. Senator McClure, by request, introduced the proposal (S. 1038) in the Senate. No hearings have been held.

This proposal would: 1) Expand the Forest Service fee authority so charges could be made at more sites; 2) Allow the Forest Service to charge at heavily used areas where services are provided; 3) Return 75% of the collected fees to a special fund for immediate use by the Forest Service for recreation facilities and services; 4) Allow collection of fees by volunteers; 5) Authorize depositing fees collected from recreation special uses in the special fund; and 6) Retain the withholding of 25% of receipts for payments to States and counties.

This proposal would result in fees being charged at approximately 1000-1200 additional recreation sites. Receipts are expected to increase to $52 million. Most importantly, the overall quality of outdoor recreation experienced by National Forest visitors would be improved.

This proposal would not authorize charging fees for: 1) Hunting and fishing permits; 2) Use of areas without facilities or significant services; 3) To enter or drive through the National Forest; 4) Use of a Wilderness Area or Wild and Scenic River.

In addition: H.R. 3545, the Omnibus Budget Reconciliation Act of 1987, contains amendments to the Land and Water Conservation Fund Act. Although primarily affecting the National Park Service, these amendments would establish the special fund for recreation fees and authorize volunteers to collect fees.

Contact: Gene Zimmerman, Forest Service. Telephone 382-8215.

LETTER TO PRESIDENT ARIAS

HON. JON L. KYL

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 18, 1987

Mr. KYL. Mr. Speaker, today, a letter to President Oscar Arias, of Costa Rica, signed by 98 of my colleagues, was delivered to the Costa Rican Embassy. President Arias, as everyone knows, plays a critical role in the Central American peace process. Therefore, what he says with regard to that process—and the parties involved—carries much weight. Recently, President Arias made several statements that we found disturbing. Of particular concern was his call for a cutoff of all aid, including nonlethal assistance, to the Democratic Resistance, a complete reversal of his earlier support for such aid.

Our letter asks President Arias, in light of his statements—both recent and those made earlier in the year on a television interview program—the lack of appreciable progress on the peace plan to date, and recent revelations by Sandinista defector, Maj. Roger Miranda, confirming Sandinista plans for a huge military force, what he is prepared to do in the event that his peace plan fails, and whether he is still committed to the twin goals of the Guatemala accords—his plan—of peace and freedom.

Attached is our letter to President Arias. We eagerly await his response.

CONGRESS OF THE UNITED STATES,
Washington, DC, December 18, 1987.

His Excellency OSCAR ARIAS SANCHEZ,
President of the Republic of Costa Rica.

DEAR MR. PRESIDENT: It is with great concern for the future of Central America and peace and democracy for the people of Nicaragua that we address this letter to you.

In September, you received a letter signed by 76 Members of Congress, asking what actions you were prepared to take if the peace plan you authored was not implemented by November 7, 1987. Our letter was prompted in part by our own skepticism and by your observations on John McLaughlin's One-on-One T.V. interview program. For example, you said, "I think that they [Sandinistas] are going to try to make some cosmetic changes just to show the world that they are trying to comply with the Guatemala Accord," that "it is incompatible with the Marxist government to re-establish all individual freedoms . . . because this will be the beginning of the end of the Marxist regime in Nicaragua," and, "It is true that they [the Sandinistas] are Marxists, it is true that if they consolidate themselves they are going to try to export their revolution, to undermine Costa Rica, to try to create subversion in this country."

Unfortunately, November 7 has come and gone and the truth of your predictions vindicated. Unfortunately, the peace process has not moved forward appreciably in Nicaragua. In fact, over a month after the provisions of the Guatemala Accord were to be implemented (November 5), there has been no amnesty as is required by the agreement and despite requests by you and others for a general amnesty. There has been no ceasefire negotiated with the democratic resistance, directly or indirectly, despite efforts of Cardinal Obando and despite offers by the Contras. Daniel Ortega has said the state of emergency will not be lifted. And, the Sandinistas are still providing assistance to the communist guerillas in El Salvador. Yet, Ortega has said that his government is already in 100 percent compliance of the accords.

In a speech before the National Press Club earlier this year, you were quoted as saying, "There can be no peace, even if the Nicaraguans throw all their artillery and helicopter gunships into Lake Nicaragua, if there is no democratic opening in Nicaragua." Yet, Daniel Ortega proclaimed on December 14, that "This country [Nicaragua] will never vote for any party other than the Sandinista National Liberation Front, but in the hypothetical case that the Sandinista Front lost an election, the Sandinista Front would hand over government, not power."

Indeed, the Sandinistas have not hidden their intent to consolidate and keep their power. The recent defection of Major Roger Miranda has prompted General Humberto Ortega to confirm plans for a huge military force in Nicaragua, plans to continue support for guerrillas in El Salvador and even contingency plans against Costa Rica. Given the lack of progress toward democratization and given these circumstances, and given your leadership role and obvious concern for the security of all of the other Central American countries, we think it would be very helpful to know your position on the questions we posed in the letter of September 18.

There is another reason we write you now. When in Norway to receive the Nobel Peace Prize, you called for the complete cut-off of all U.S. aid to the Contras, including nonlethal assistance. This was a reversal of your earlier support for such non-lethal aid.

It was reported that you also said, "I honestly find that it is not easy for the Cardinal, who is not an expert on cease-fires, to be very helpful," (referring to Cardinal Obando's efforts as intermediary between the Sandinistas and the Democratic Resistance in cease-fire negotiations.) Yet, you advocated Cardinal Obando for the role of intermediary.

What is most disturbing, however, is your insistence that the Contras are the problem in Nicaragua, and that Daniel Ortega's refusal to lift the state of emergency is understandable because, "You cannot lift a state of emergency if you are fighting every day."

Mr. President, you yourself have acknowledged that El Salvador had been able to function as a democracy, without a state of emergency, while still fighting every day.

Despite conducting a difficult war with communist guerrillas, the democratically-elected government of President Jose Napoleon Duarte has granted a general amnesty. Unlike the Sandinistas, he has allowed exiles to return to El Salvador. Unlike the situation in Nicaragua, there is a vibrant free press in El Salvador. And, he is holding direct negotiations with the FMLN, which he is fighting every day.

Mr. President, you put forth a bold plan for peace and democracy for Central America which was signed this past summer and, for which you have been recognized internationally with the Nobel Peace Prize. Your plan calls for the democratization of Nicaragua. This is what the people of Nicaragua want. This is what the Democratic Resistance is fighting for. This is what the Sandinistas promised in 1979.

Recently you said Daniel Ortega has "committed himself to democratize his country." You also stated that you have "no right to question the good faith" of Mr. Ortega. Isn't it time that Mr. Ortega demonstrate his good faith, his commitment to democratization of Nicaragua? He has it in his power to democratize with the stroke of a pen—today. With the same stroke, he could eliminate the need for the Democratic Resistance. And, you know there would be no support in the U.S. Congress for additional aid of any kind to the Democratic Resistance if it were to happen.

The Guatemala Accords—your peace plan—contemplates more than peace; it has twin goals: peace and freedom. Because, without freedom in Nicaragua, there can be no peace for Central America, as you have so often stated. Because, peace without freedom would be no peace at all for those who would continue to suffer from totalitarian oppression. If "peace" were the only goal, it would be relatively easily achieved. One need only remove all opposition to the totalitarian government. This is what you have called for by expressing yourself against all aid to the Democratic Resistance.

There are at least two things wrong with that. First, that would not be supporting your peace plan, which calls for the Sandinistas to democratize Nicaragua. Second, experience shows us that just sitting back and asking totalitarian governments to do what is right does nothing to help repressed people.

In our last letter to you, we concluded by asking you questions based on your statements. We do so again. President Arias, have you abandoned the twin goals of the Guatemala Accord of peace *and* freedom? Have you now adopted a policy of containment, prepared to concede Nicaragua to the Communists in exchange for an end to fighting by the Democratic Resistance? Are you prepared to render a final verdict on compliance with the peace plan on January 16, 1988 when the five Central American leaders meet next? If it is clear that the Sandinistas have not complied, will you request that they be given additional time? Do you contemplate any final action at any point in the future, given that the international pressure (in which you put such great faith) has failed so far to cause the Sandinistas to comply?

We support peace. We support freedom. We support the attempt to achieve *both* by the Guatemala accords and any other measures that will help achieve these twin goals. We hope these are your twin priorities and await your response to our questions.

Sincerely,

Mickey Edwards, Chairman, Republican Research Committee; Dick Cheney, Chairman, Republican Conference; Dick Armey, Texas; Steven Gunderson, Wisconsin; Hank Brown, Colorado; Steve Bartlett, Texas; Dan Schaefer, Colorado; Vin Weber, Minnesota; Tom Coleman, Missouri; Arlan Stangeland, Minnesota; Joe Skeen, New Mexico; James H. Quillen, Tennessee; Bill Emerson, Missouri; John Edward Porter, Illinois; Tom Bliley, Virginia; George Gekas, Pennsylvania.

Bob Whittaker, Kansas; John Hiler, Indiana; Jerry Lewis, California; Richard H. Baker, Louisiana; Toby Roth, Wisconsin; Alex McMillan, North Carolina; Don Sundquist, Tennessee; Bill McCollum, Florida; Trent Lott, Republican Whip; Fred Upton, Michigan; Hal Rogers, Kentucky; Lynn Martin, Illinois; Connie Mack, Florida; Denny Smith, Oregon.

Clyde Holloway, Louisiana; J. Dennis Hastert, Illinois; James M. Inhofe, Oklahoma; Duncan Hunter, California; Larry E. Craig, Idaho; Bob Michel, Republican Leader; Jim Lightfoot, Iowa; D. French Slaughter, Jr., Virginia; Robert C. Smith, New Hampshire; Barbara Vucanovich, Nevada; Bill Clinger, Pennsylvania; Don Ritter, Pennsylvania; Herbert H. Bateman, Virginia; Jack Davis, Illinois.

Robert J. Lagomarsino, California; John Miller, Washington; Bob Stump, Arizona; Philip M. Crane, Illinois; Ron Marlenee, Montana; Robert K. Dornan, California; David Dreier, California; Ray McGrath, New York; Lamar Smith, Texas; Amory Houghton, Jr., New York; Hal Daub, Nebraska; Norman D. Shumway, California; Virginia Smith, Nebraska; Dan Lungren, California.

Bill Broomfield, Michigan; Howard Coble, North Carolina; Bob McEwen, Ohio; Newt Gingrich, Georgia; Bob Walker, Pennsylvania; Dan Coats, Indiana; Bill Dannemeyer, California; Guy Vander Jagt, Chairman, Republican Congressional Committee; John G. Rowland, Connecticut; Chris Smith, New Jersey; Stan Parris, Virginia; Helen Delich Bentley, Maryland; Tom DeLay, Texas; Wally Herger, California.

Cass Ballenger, North Carolina; John J. Rhodes III, Arizona; Frank R. Wolf, Virginia; John R. Kasich, Ohio; Jim Bunning, Kentucky; Rod Chandler, Washington; Henry J. Hyde, Illinois; Andy Ireland, Florida; Elton Gallegly, California; H.J. Saxton, New Jersey; Michael G. Oxley, Ohio; Guy V. Molinari, New York; Fred Grandy, Iowa; Tom Tauke, Iowa.

Don Young, Alaska; Arthur Ravenel, Jr., South Carolina; Joseph J. DioGuardi, New York; Jim Courter, New Jersey; Dan Burton, Indiana; Howard C. Nielson, Utah; Jon Kyl, Arizona; Jack Kemp, New York; Jack Buechner, Missouri; Ernie Konnyu, California; Judd Gregg, New Hampshire; William L. Dickinson, Alaska.

IN MEMORY OF GOV. "BIG JIM" FOLSOM

HON. RONNIE G. FLIPPO

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 18, 1987

Mr. FLIPPO. Mr. Speaker, in sadness I rise today to commemorate the life of a great man. The man I pay tribute to, James Elisha Folsom, known to all as "Big Jim," was a two-term Governor of Alabama. He died November 21 in Cullman, AL, but his legend lives on in the hearts of the many who knew him. He will long be remembered in the State of Alabama as a politician dedicated to the common people and a man ahead of his time.

His devotion to his beloved home State and its people was as enormous as his own stature. Standing 6-foot-8, he always cut an impressive figure and soon became a legend and a symbol of populist politics. His tremendous influence on the lives of those he championed is incalculable, the roads he paved, the pensions he awarded the elderly, his genuine hospitality to all people will remain a testimony of his concern for the common folk.

He believed the little people needed a big friend to represent them in government.

He was a racial moderate at a time when such a stance could cost one's career. He was not afraid to take an unpopular stand on civil rights and recognized long before most others that Alabama was destined to change on that issue.

It is impossible with mere words to do justice to the life of "Big Jim" Folsom, but certainly the written memorial by his longtime friend, Joe Azbell, gives rare insight into the spirit of a colorful and unique individual. Therefore, if there is no objection, I submit this article, which was first published in the November 26 issue of the Montgomery Independent, for publication in the CONGRESSIONAL RECORD.

[From the Montgomery Independent, Nov. 26, 1987]

IN MEMORY OF GOV. "BIG JIM" FOLSOM

(By Joe Azbell)

Two local men—Frank Long, attorney, and Bill Lyerly, Montgomery County tax collector—proudly display signed photographs of Big Jim Folsom on the walls of their offices.

I had his picture on the walls of my office for many years. His sister, Ruby Folsom Ellis Austin, begged me for the big photograph because she wanted a centerpiece for her home. I gave it to her. She called it the most beautiful picture of "James" ever. It was taken on the porch at the South Hull Street home of Cornelia Ellis Snively Wallace many years ago when Folsom was running for governor.

The first time I ever saw James Elisha Folsom was in Clanton. I was the 19-year-old editor and publisher of a weekly Selma newspaper, The Central Alabama News, strongly pro-Folsom in the blisteringly anti-Folsom blackbelt.

About the only people for Folsom in those days in Selma were Tax Assessor Sadie Gardner, appointed by Folsom; my father-in-law, John Mumford Jackson, appointed chairman of the Dallas County Board of Equalization by Folsom; and my wife's cousins, Mr. and Mrs. Jimmy Vance. Vance was chairman for Folsom in Dallas County and always close to the Folsoms.

Folsom was sitting on a wooden box in the back of the Chilton County News printing office talking with a linotype operator, a pressman, a bum in from the streets, and Ben Tucker, editor and publisher. The Clanton newspaper printed my newspaper for me.

Tucker shop also printed The Folsom Forum for Big Jim and The Old Age Pension News. Chilton County was divided into two parts: Republicans who were for anyone but Folsom and Democrats, mostly for Folsom.

Folsom stood up in front of me, dressed in my army khakis, and leaned over and asked, "What's your name boy?" I told him. "Yeh, you're my paper over in Selma." I talked with him about The Folsom Forum and The Old Age Pension News, both of which I had written articles for, and he asked, "You know what you are doing, boy?" I told him I was learning.

We lunched at a local cafe, a crowd of about eight, and men in faded overalls and women with babies in their arms, came up and wanted to meet their hero, Big Jim. Every once in a while, a pretty girl would come by and Folsom would reach down and kiss her.

Long close

I met Jim Folsom many times after that. We became real friends. For several years, I was president of the Emergency Air Minority Stockholders Assn. and voted 48 percent of the stock mostly owned by the Folsom family, in the Emergency Life Insurance Co. of Elba. Later the company was merged into a Birmingham company. Big Jim could have been a millionaire if he had sold his stock but he wanted to hold onto it.

Folsom's brother, Fred, was a very close friend. So was Ross Clark, his brother-in-law, who had married Thelma Folsom, a delightful Elba woman whom Sister Ruby called her "teetotaling, Bible-thumping sister." Ross Clark Circle in Dothan is named for Clark, the first Alabamian to talk about keeping "the green" in the state and not sending it to Yankee companies. He had dozens of placards in his office in Elba proclaiming the virtues of home-grown dollars.

Ross Clark was president of the Emergency Aid Life Insurance Co. and affilated companies. These included a finance company with a lot of paper on financing sewing machines and vacuum cleaners.

Once when a Mobile operator, a used car dealer, moved to get control of Emergency Aid, all hell broke loose in Elba. Gov. Folsom called out the Alabama Highway Patrol to encircle the block across the street from the Coffee County courthouse. He stopped the directors named by the Cherry Investment Co. of Memphis from holding a directors' meeting. It was like World War II all over again. The patrolmen stood rigid and no directors' meeting was held.

Across the street, a relative of Folsom's, Judge Fleetwood Carnley, had before him an injunction to prevent the Cherry Investment Co. from taking any action that was not in the best interest of the minority stockholders.

My children went to school with the Folsom children at Bellinger High School. Those Folsom kids were the friendliest in the school. Their mother, Jamelle, would have the children over to the mansion a few blocks away on any occasion possible. There were birthday parties, Easter Egg hunts, Christmas parties, and sometimes just a party for the Folsom children's friends.

Some of the school's children were from downright poverty-stricken homes. But Mrs. Folsom and Big Jim and the Folsom family made all of them feel right at home in the big mansion.

When Folsom said, "Y'all come," he truly meant it. He loved company. "Y'all stay the night, hear," he would tell folks from Cullman or Elba or anywhere else. Newspaper headlines screamed about the high grocery bills at the mansion. But they didn't bother Big Jim or Jamelle.

A "widow man"

When he was governor for the first time in the 1940's he was a widower, or as his friends would say, a "widow man." He asked sister Ruby to come and live with him and bring her daughter, Cornelia. He appointed Ruby first lady of Alabama. Ruby and Cornelia are the only mother-daughter team to be first ladies. Cornelia came back as Wallace's wife and told how she had gotten Big Jim to buy the beautiful Ligon home.

Many laughed when Shorty Price ran against Big Jim and compared statures. He could joke about Folsom with no worry of retaliation.

One of Folsom's closest friends in the newspaper business, Grover C. Hall, Jr., editor of The Advertiser, jabbed him constantly. But Hall truly loved Folsom. He told me once that he had written an entire book on Folsom and was looking for a publisher. It was based on many interviews with Folsom.

After Hall's death, I told Nimrod Frazer about the manuscript but it could never be found. It would be priceless today.

On many occasions. Folsom would call me on the telephone and talk for a time. He liked to talk about Jacksonian politics and rail against lawyers. He believed firmly that lawyers were the damnation of good government and that the defeat of every lawyer politician made politics a little sweeter. To his dying day, Folsom played a role as a staunch foe of lawyers in government but that's what it was, an act. Some of his closest friends, John Harris and John Blue Hill and Frank Long Sr. and Supreme Court Justice J. Ed Livingstone, were lawyers.

Those who have written of Folsom's death, for the most part, didn't know the man. Bob Ingram, who did know him, says Folsom in his heyday could defeat any candidate on the scene today but Ingram is wrong. Folsom came from a different era, the courthouse square era, when the crowds in the many thousands gathered to hear the Strawberry Pickers, his country band, and hear him give the Gotrocks down-the-country and talk about how when you pull a pig from the trough you are going to hear squealling and "I'm pulling them pigs from the trough and you can hear 'em squealling."

All in one

I saw Folsom hundreds of times up there doing his thing as only he could do it. He was Huey Long, W. Lee O'Daniel, Alfala Bill Murray, Eugene Talmadge, and FDR wrapped up in one package. He begged, borrowed and stole from all of them. He drank whiskey with the best of 'em, even with "that northern black Congressman, Rep. Adam Clayton Powell", in the Governor's Mansion, and the segregationists and the United Daughters of the Confederacy and the pure ancestors of the old South have not forgiven him to this hour.

Folsom was a political maverick. He liked history—oh, how he liked history—and he loved presidential years because he could talk Jacksonian politics and argue about the electoral college and populism and brag on FDR and Harry Truman. He was a hardshell Democrat of his own brand.

In his time, he would clown it up for the press. His public relations motto, "I don't care what you say about me so long as you spell my name right, F-o-l-s-o-m." He even befriended a transplanted Englishman, Geoffrey Birt, whom he made his publicity director. Birt had worked for *The Advertiser-Journal,* which was as diehard anti-Folsom as they come. The Hudson family felt Birt had drifted too close to Folsom to report news fairly and pulled him off the campaign trail. Birt ended up joining the Folsom campaign and became a big Folsom officeholder.

Hugh Sparrow of *The Birmingham News* cut at Folsom with a serrated knife. Seldom did a Sunday pass that Sparrow didn't sprinkle blood on Big Jim and his "henchmen." Sparrow's stuff even was featured in the *Reader's Digest* and other publications.

But the man who wounded Folsom the very deepest of any writer was William Bradford Huie, who wrote the infamous "Politics and Pregnancy in Alabama," the alleged truth about a child born out of wedlock to the governor. The boy mentioned in the article has recently published his own book. This was a troubled time for Folsom and his family. He never forgave Huie, bestselling author of "Mamie Stover" and "Private Slovik." Folsom once told me while we were cruising on the "Jamelle," the state yacht named for his wife, that "this article hurt me personally more than anything ever written." He said his family suffered and that upset him.

With all Folsom's colorful career, many remember only the final scenes of his political days, the disastrous episode at WCOV here.

Nobody to this day knows what really happened. Big Jim ended up on a statewide hookup with what he called a sabotaged show. To his dying day, he would swear he was drugged. He might have been. He was tripping over cables, staggering and speaking with a slur. I cried for this old friend the night I saw the show. It was really that terrible.

Not all was good

A lot of other bad press happened to Big Jim. There was the Pardon and the Parole Board scandal where hardened criminals were paroled or pardoned. Folsom said he didn't know any of this was happening and there's much evidence to believe him.

Grand juries investigated him and tried to jail some of his appointees but little came of it.

I remember so well when he ran for his second term what he told the people out there in those courthouse squares: "Sure I stole. I had to steal to get those bridges, mail-box roads, those schools, those old-age pensions away from those Got Rocks. And if you send me down there again, I'll steal some more for you and you and you. 'Cause that's the only way you are getting anything for yourself and your family is by me stealing it for you."

Folsom died a happy man although at the end he was bony and weak, blind, not too responsive. His son, Jim Folsom Jr., had made him button-busting proud because a grateful Alabama had elected young Jim lieutenant governor out of respect for the old man.

Folsom, the giant, wouldn't make it today on TV because it's where his son, Jim Jr., comes on strong with his handsome face, strong voice and easy demeanor. Political gyrations of yesteryear, kissing of girls, lying down barefoot on the courthouse grass, the swishing of corn whiskey, the punch-back sayings, are cut from the cloth of a more colorful time. What great times they were and Jim Folsom was center stage winning big with the people.

A lot of us loved that big giant because he was Teddy-bear lovable, never really hurting anyone but himself, caring about all, a big, unabashed kid playing political hop-scotch. His most glorious saying was when "they" started to throw mud at him. He sallied back, "When you throw mud on a white suit, if you try to wipe it off, you just smear it. But if you wait for the sunlight of truth to hit it, then it hardens and you can just flick it off. That's the way I feel about all that mud."

Gould Beech probably wrote the best speeches of anyone for Jim Folsom. Beech, an old friend, often visited his family on Clubview when I lived on Mulberry and we talked about Folsom and the rarity of men like him.

It was Gould Beech, once editor of *The Advertiser*, and controversial in his time, who wrote the mailbox road speeches and other populist speeches for Folsom. They are, in my opinion, masterpieces of those times.

Somebody asked me how they could have found an appropriate casket for Folsom's big long frame. I replied, "If they were to bury by the measurement of what he did and what he changed they would have a hard time getting him in the ground."

George Wallace learned from Folsom and married his niece and then divorced her. Ruby Folsom Ellis Austin is probably Wallace's strongest critic today.

But I remember the oratory of Wallace at Garrett Coliseum as he spoke for Folsom and it was magnificent. Monday every time Folsom's funeral was mentioned, somebody asked, "How is George Wallace?" as if they were inseparable in life.

Folsom is gone and average men and women across Alabama, just plain folks, feel a little poorer because he is gone. He may not have been big on the canvas in recent years but he was always there as a symbol of a state coming alive, out of an old shell, shedding the old ways and creeping toward a new era.

When you drive down one of our paved highways, cross a paved country road, go over a concrete bridge, see an old person living a good life, or hear the country music wafting down from the piney woods, you can't help but think about Big Jim and all he meant to all of us.

If I were writing what ought to go on his gravestone, I would put it very simple. "Here lies Governor James Elisha Folsom. Y'all come." He would like that.

THE SALE OF STINGER MISSILES—ADDITIONAL SECURITY PRECAUTIONS REQUIRED BY THE UNITED STATES

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 18, 1987

Mr. HAMILTON. Mr. Speaker, I would like to draw the attention of my colleagues to an information paper provided by the Department of State and Department of Defense indicating the security precautions the United States has required with respect to the sale of the Stinger missile systems to Saudi Arabia, and which the United States will require with respect to the provision of any of these missile systems to Bahrain.

The paper follows:

SECURITY PRECAUTIONS

BASIC STINGER MAN-PORTABLE AIR DEFENSE SYSTEM

Purchaser agrees to adhere to the following additional security requirements associated with the Basic STINGER Man-Portable Air Defense System. Modification of specified requirements to meet indigenous conditions may be approved by the Office of the Deputy Chief of Staff for Personnel (DAPE-HRE), U.S. Army.

a. *Physical security:* The Basic STINGER will be stored in magazines that are at least equivalent to U.S. Army requirements as specified in subparagraph 1 below. The purchaser also agrees to comply with U.S. Army specified requirements for lighting, doors, locks, keys, fencing, and surveillance and guard systems. Specific requirements will be agreed upon and installed prior to delivery of the missile system. U.S. Army representatives will be allowed to verify security measures and procedures for implementation of these requirements.

(1) *Magazines:* Reinforced concrete, arch type, earth covered whose construction is at least equivalent in strength to the requirements of Chapter 5, Department of Defense Manual 6055.9-STD, Ammunition and Explosive Safety Standards, July 1984, will be used for storage (standards of which will be provided to the purchaser).

(2) *Lighting.* Lighting will be provided for exterior doors and along perimeter barriers. Security lighting requirements will conform to the ammunition and safety requirements of appendix C, U.S. Army Technical Manual 9-1300-206 (standards of which will be provided to the purchaser).

(3) *Doors, locks, and keys:* Exterior doors will be Class 5 steel vault doors secured by two key operated high security padlocks and a high security shrouded hasp. Keys will be secured separately to ensure effective two-man control of access (i.e., two authorized persons must be present to enter). Use of a master or multiple key system is prohibited.

(4) *Fencing:* Fencing will be six foot (minimum) steel chain link with a one foot overhang mounted on steel or reinforced concrete posts over firm base. Clear zones will be established 30 feet inside and 12 feet outside the perimeter fence (provided there is adequate space).

(5) *Surveillance and guard:* A full time guard force or combination guard force and intrusion detection system (IDS) will be provided. When the IDS is not operational, 24 hour guard surveillance is required.

(6) *Access to storage facilities:* Two authorized persons will be required to be present during any activity which affords access to storage facilities containing Basic STINGER. Lock and key procedures will be developed to ensure that no single individual can obtain unescorted or unobserved access to Basic STINGER storage facilities.

b. *Accountability:*

(1) A 100 percent physical inventory of weapons and gripstocks, when applicable, will be taken monthly by the purchaser. A 100 percent inventory by serial number shall be taken quarterly of weapons issued at the operational unit level. A 100 percent physical inventory by serial number shall be taken semiannually of weapons stored or retained at installation, depot, post, or base level. All inventories must be conducted by two authorized persons to ensure verification. Weapons expended during peacetime will be accounted for by serial number.

(2) The Office of Military Cooperation will be permitted to conduct a U.S. inspection and inventory by serial number annually. Inventory and accountability records maintained by the purchaser will be made available for review.

c. *Transportation:* Movements of Basic STINGER will meet U.S. standards for safeguarding classified materiel in transit as specified by the U.S. Government in DOD 5100.76-M, Physical Security of Sensitive Conventional Arms, Munitions, and Explosives (standards of which will be provided to the purchaser), and paragraph h below.

d. *Access to hardware and classified information:*

(1) Access to hardware and related classified information will be limited to military and civilian personnel of the purchasing government (except for authorized U.S. personnel as specified herein) who have the proper security clearance and who have an established need to know the information in order to perform their duties. Information released will be limited to that necessary to perform assigned functions/operational responsibility and, where possible, will be oral/visual only.

(2) Maintenance which requires access to the interior of the operational system, beyond that required of the operator, will be performed under U.S. control.

e. *Compromise, loss, theft and unauthorized use:* The purchaser will report to the U.S. Army by the most expeditious means any instances of compromise, unauthorized use, loss or theft of any Basic STINGER materiel or related information. This will be followed by prompt investigation and the results of the investigation will be provided to the U.S. Army.

f. *Third-party access:* The recipient will agree that no information on Basic STINGER will be released to a third-country entity without U.S. approval.

g. *Damaged/expended materials:* Damaged systems, launchers, and/or gripstocks will be returned to the U.S. Army for repair or demilitarization.

h. *Conditions of shipment and storage for STINGER and STINGER variants:* The two principal components of the Basic STINGER system, the gripstock and the missile in its disposable launch tube, will be stored in separate locations and will be shipped in separate containers. The two storage locations will be physically separated sufficiently so that a penetration of the security at one site will not place the second at risk.

i. *Conditions of use:*

(1) The two principle components of the Basic STINGER system, the gripstock and missile launch tube, may be brought together and assembled under the following circumstances:

(a) In the event of hostilities or imminent hostilities.

(b) For firing as part of regularly scheduled training; however, only those rounds intended to be fired will be withdrawn from storage and assembled.

(c) For lot testing; however, only rounds to be tested will be withdrawn from storage and assembled.

(d) When systems are deployed as part of the point defenses of high priority installations or activities (e.g., key government buildings, military headquarters, essential utilities, air defense facilities).

(2) The purchaser will advise the Office of Military Cooperation in advance of any assembly of the various missile and gripstock for the STINGER and its variants for training or lot testing.

(3) The U.S. Government will be notified of deployments through the Office of Military Cooperation.

NEED FOR CHANGES IN RSA

HON. BUTLER DERRICK

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 18, 1987

Mr. DERRICK. Mr. Speaker, I rise today to address a problem that has been brought to my attention by the Commissioner of Vocational Rehabilitation in my State of South Carolina regarding the Office of Special Education and Rehabilitation Services [OSERS].

The Rehabilitation Act of 1973 "established in the Office of the Secretary a Rehabilitation Services Administration, which shall be headed by a Commissioner * * * and the Commissioner shall be the principal officer of such Department for carrying out this Act." In spite of this stated intent, I fear that there has been an administrative effort to usurp the responsibility and the authority of the Rehabilitation Services Administration [RSA] by the Department of Education.

With the appointment of Justin Dart, Jr., a distinguished American, as Commissioner of RSA, there was widespread enthusiasm within the rehabilitation community. His personal experience with disability, coupled with his years of dedicated leadership regarding advocacy and basic civil rights of persons with disabilities, made him an outstanding Presidential appointee for this important position. Rehabilitation leaders rejoiced over the appointment and looked forward to a new and exciting era for RSA.

Unfortunately, Mr. Dart was not permitted to select his own staff. Individuals were selected by the Assistant Secretary of OSERS for all key vacancies within RSA. None of those persons had experience in the administration or service delivery of vocational rehabilitation services. Furthermore, Commissioner Dart's recommendations for vacancies or for consultant services were systematically rejected by the Assistant Secretary of OSERS.

Circumstances within RSA continued to deteriorate when most vacancies within the Central Office and within the Regional Offices of RSA were left unfilled for months over the objection of Commissioner Dart. Dozens of critical vacancies remained unfilled throughout the country.

Eighty of the Nation's directors of vocational rehabilitation agencies informed the Secretary of Education of the serious management problems within OSERS. On November 18, 1987, Commissioner Dart confirmed before the House Subcommittee on Select Education that "OSERS-RSA has been for many years, and is today, afflicted, particularly in its central office, by profound problems in areas such as management, personnel, and resource utilization. * * * These problems are negatively impacting services to citizens with disabilities."

Thus, it is apparent that we have a real problem in the Rehabilitation Services Administration. However, Secretary Bennett's response was that he saw no problem and supported the Assistant Secretary of OSERS. After Commissioner Dart's testimony became widely circulated, he was forced to resign, effective December 15, 1987.

This situation would be devastating enough if it were only a management issue. As evidence of congressional support, the U.S. House of Representatives and Senate have a long history of supporting vocational rehabilitation programs, designed to assist persons with disabilities to become independent, employed, taxpaying citizens. Rather than a financial expense to our economy, rehabilitation is an investment in our working force. However, the real tragedy of this deplorable situation at OSERS is that, as Commissioner Dart expressed, these problems are negatively impacting services to citizens with disabilities.

Given these circumstances, I am calling for a thorough and objective investigation of OSERS, to be carried out by the General Accounting Office. I would also request that the GAO interview senior staff of the RSA who have resigned, retired, or otherwise departed within the past 6 years, in order that the GAO have the opportunity to learn of the long pattern of neglect and mismanagement.

I would also recommended that the Rehabilitation Services Administration be elevated to an assistant secretary level position within the Department of Education, or be removed from the Department and administered through some different organizational structure. This could be an independent council or through another department with greater interest and support for the important programs of RSA.

Mr. Speaker, swift action is needed to correct the problems in the RSA so that we can revitalize our services to the disabled citizens of America.

THE CUTTING EDGE

HON. WILLIAM E. DANNEMEYER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 18, 1987

Mr. DANNEMEYER. Mr. Speaker, there is a crucial ingredient of U.S. economic capacity: technology. No single factor can be isolated which is solely responsible for the fate—positive or negative—of American business; competition, quality control, output, management-labor relations, trade compacts and opportunities, Government policies, interest rates and production costs all contribute to the health and well-being of our economy. But it is technology which is essential for continued growth for change is an irreversible force in all things. To be strong is not so important as to remain strong. And to remain strong we need to be on the cutting edge of technology.

Fred L. Hartley, CEO of Unocal Corp., recently spoke on the technology crisis facing us before the Department of Chemical Engineering at Massachusetts Institute of Technology. I believe his remarks are both valid and timely.

AMERICAN TECHNOLOGICAL LEADERSHIP IN CRISIS

Good afternoon, everyone. As a chemical engineer myself, it is a privilege to speak to the Department of Chemical Engineering at MIT.

Your department has provided national leadership in engineering education for many decades. I understand that more than 10 percent of the nation's teachers of chemical engineering earned at least one degree from MIT, and that more than 10 percent of your department's alumni are senior executives with Industrial companies.

That is an impressive record. We certainly recognize the high caliber of MIT graduates at Unocal. Several chemical engineering graduates from MIT work at our Research Center in Brea, California, and others have risen through the ranks to important managerial positions. In fact, 25 percent of Unocal's MIT alumni are upper level managers. Our Vice President of Corporate Human Resources, for example, has a doctorate from this department. And our Director of Envronmental Sciences earned his doctorate in chemistry from MIT.

My topic this afternoon is "American Technological Leadership in Crisis." Crisis is certainly a strong word to use, but in this case I believe its use is fully justified. For several years now, I have seen disturbing signs that this nation's preeminence in technological innovation has been slipping. Let me give you a few examples.

Item Number one: Foreign inventors are winning an ever greater share of U.S. patents. From 1965 to 1986, in fact, the share of U.S. patents awarded to foreign inventors rose from about 20 percent to 45 percent. Last year for the first time, investors at a Japanese company—Hitachi—were awarded more U.S. patents than inventors from any American firm. And seven Japanese companies were among the top 20 companies receiving U.S. patents in 1986.

Item number two: Between 1971 and 1984, the number of doctorates granted by U.S. universities in mathematics dropped 42 percent, the number in the physical sciences fell 25 percent, and the number in engineering declined 18 percent. Furthermore, more than half of those engineering degrees and nearly two-fifths of the doctorates in math were actually awarded to foreign students studying in this country. In both cases, that is roughly double the share of doctorates earned by foreign students 15 years ago. These foreign students certainly deserve credit for their ambition and ability, but we have to ask ourselves, where are the American graduate students?

Item number three: Our space program, once the marvel of the world, is in disarray. While NASA attempts to get the space shuttle flying again, the European Space Agency is back in business with its own rocket. Meanwhile, the Soviets are running an aggressive sales campaign to sell launch services, communication satellites, and space photographs to other nations—including the United States!

Item number four: America's balance of payments for high-technology products has been in rapid decline since 1980. This includes critical products like semiconductors and computers.

These are a few of the more visible warning signals that America is losing its technological edge. It is a worrisome development, because technological innovation is critical to the economic strength of the nation. From 1900 to 1970, a steady stream of inventions in science, engineering and management practice led to vast improvements in U.S. economic productivity and, in turn, to America's standard of living. The generally rapid growth in worker productivity came to an abrupt halt in the early 1970s. From 1948 to 1973, output per worker grew at 2.5 percent per year. From 1973 to 1984, output per worker grew just 0.5 percent per year.

For the past eleven years, the nation's merchandise balance of trade has run in the red, hitting a record $156 billion in 1986. As our trade deficit has soared, America has increasingly relied on foreign investment to finance our national consumption. In 1985, the United States became a debtor nation for the first time in this century. At the end of 1986, this country's public and private debts to foreigners exceeded what foreigners owed to us by over $260 billion. That exceeds the total public debt of Mexico and Brazil combined. The United States is now the world's largest debtor nation, a kind of banana republic. And, sad to say, because of our climate, we can't grow bananas. The Japanese, in addition to buying up our real estate, have now become America's banker by buying up U.S. treasury bills, in effect financing the federal budget deficit.

Obviously, a slowdown in technological innovation is not the only factor behind these economic setbacks, but I believe it is an important one. And it has grown increasingly important during the past decade, as the U.S. economy has had to face stiff competition in a world marketplace. Business scholar Peter Drucker puts it this way: ". . . . The developed world has become one in terms of technology. All developed countries are equally capable of doing everything, doing it equally well and doing it equally fast. All developed countries also share instant information. Companies [and countries] can therefore compete just about everywhere the moment economic conditions give them a substantial price advantage."

The recent developments in superconductivity are a case in point. It is not science fiction to suggest that these new superconducting materials could form the basis for a multibillion dollar market in a decade or two. At the moment, the United States is racing with Japan and several European countries to develop the manufacturing technology needed for commercial applications of these new superconducting ceramics. (By the way, I will describe Unocal's research effort with these materials a little later in my talk.)

My point is that technological innovation is not just a matter of professional achievement and national prestige. In the final analysis, lagging technology leads to a less competitive economy, and that means fewer jobs and lower pay for many Americans.

Analysts have put forward a number of explanations for America's crisis in technological leadership. Some point to the deplorable state of scientific and technical education in this country, especially on the precollege level. Others suggest that government regulations and tax policies tend to inhibit technological innovation or that the nation's investment in nonmilitary research and development has tapered off.

No doubt, these are part of the problem, but I also see a deeper, more disturbing factor involved. In my view, America has become a *shortsighted society*, committed to making the quick buck and taking the easy path. Too many people want to live off the productive achievements of the past—consuming but not creating, spending but not saving, winning without working.

We see this in our federal government, which runs up mind-boggling budget deficits year after year. We see this every day on Wall Street, where the so-called whiz kids play the stock market like a national casino rather than invest in the nation's future. And we see this in industry, where many business executives must focus on financial manipulations and marketing gimmicks in an effort to show a quick profit and ward off corporate raiders. They seem unwilling or unable to do the hard work and take the prudent financial risks necessary for long-term growth. In other words, the shortsighted view is forced on the managers of wealth creation by financial leeches who seek to dominate corporate destinies.

Over the long term, technology-based companies must obey a simple law: Innovate for growth and continuity, or stagnate, decline and ultimately disappear. That is why at my company—Unocal—technological innovation has been a top priority for nearly a century. Every year, we reinvest a significant share of our earnings in an ongoing research program, led by a talented team of scientists, engineers and support personnel. Some 800 of them work at our modern research facility in Brea, California, about 30 miles southeast of Los Angeles. This investment strategy—with its emphasis on research and development—helped us grow into one of the world's major industrial companies. In recent years, we have continued to follow this strategy despite an increasingly difficult business environment.

In 1985, for example, we were forced to defend the company against a hostile takeover attempt, launched by a corporate raider. To win the battle, we took on more than $4 billion of new debt—debt that we must service and gradually pay off. In 1986, OPEC's price war led to a collapse in crude oil prices, further squeezing the company's cash flow. Prices are higher now but still significantly below their 1985 levels.

Despite these financial challenges, we continue to support a strong research program, and we continue to get results. Let me give you a few examples. In particular, I would like to review some of our recent work in geothermal energy and oil shale development, graphite production, petroleum exploration and refinery process technology. I will also touch on two longer term research projects—superconductivity and biotechnology. I realize that these are very active fields of research here at MIT, but you my find it interesting to see how a major industrial company approaches them.

Unocal is an acknowledged leader in the development of innovative technologies for the petroleum refining industry. As a matter of fact, Unocal technology is now being used in hundreds of facilities around the world, including Europe, the Middle East, the Far East, South America, Canada and the United States.

It is often said that necessity is the mother of invention, and that is certainly true of Unocal's refinery process technology. At first, we needed to develop effective techniques for processing California's heavy, high-sulfur crude oils. Later, we also needed to invent processes to meet increasingly stringent state and federal environmental regulations.

One of our most successful developments is Unocal's patented Unicracking technology. This process uses hydrogen and special catalysts to convent heavy, sulfur-laden crude oil components into clean, high-grade transportation fuels. It took a 10-year research and development effort before our first Unicracker was operational in 1964. Since then, we have continued to improve and expand this technology, modifying it to refine heavier and heavier feedstocks into an ever broader array of products.

We operate two Unicrackers in our own refineries, while 56 more have been installed—or are being installed—in refineries of other companies under process licenses from Unocal. The specific reasons for installing Unicrackers vary widely. Three Unicrackers, for example, are now operating in the People's Republic of China, and a fourth is under construction. Two of these facilities are designed to emphasize production of diesel fuel for China's growing truck fleet. The others are designed to produce feedstocks for petrochemical plants. These plants will produce synthetic fibers, enabling the Chinese to reduce their reliance on cotton fabrics. This, in turn, will allow them to convert more of their limited farmland to the production of food.

The Chinese decided to install Unicrackers after evaluating competing technologies offered by several other companies. We won the deal in part because of the credibility our technology had established among many other licensees.

In the early 1970s, Unocal researchers developed Unicracking/HDS, an innovative process to remove sulfur and a substantial portion of metallic contaminants from heavy residual fuel oils. Currently, eight large commercial plants are licensed. During the past two decades, the company has also developed or shared in the development of half a dozen gas desulfurization processes, including the Beavon Sulfur Recovery Process, Selectox, and Unisulf.

In 1984, the Environmental Protection Agency recognized our Recycle Selectox Process as "the best available demonstrated technology" for controlling emissions of sulfur oxides from small, onshore sulfur plants. Incidentally, we have installed this system on one of our own platforms, offshore California. When combined with our BSR Selectox Process, this technology can recover more than 99 percent of the sulfur impurities in natural gas.

The success of Unocal's refinery process technologies is in part due to our large family of catalysts. Over the years, we have significantly improved the activity and stability characteristics of these materials. Our new HCK and HCH catalysts are a good example. Because they are about three times as active as the older catalysts they replace, HCK and HCH will last longer and remove more nitrogen from the same volume of feedstock. In fact, such catalyst are removing about 10 million pounds of nitrogen per year at our San Francisco Unicracker alone.

In addition to refinery process technologies, Unocal is also a world leader in the development of two important alternative energies—oil shale and geothermal power.

During the past 25 years, Unocal has pioneered the development of geothermal energy in this country. Today, we are the world's largest producer of geothermal power, harnessing enough hot steam or water from beneath the earth's surface to generate 24 million kilowatt-hours of electricity a day. That is enough electricity to meet the needs of about 1.2 million people, roughly half the population of the Boston metropolitan area. It is also the energy equivalent of nearly 13 million barrels of crude oil per year. And it is a clean, efficient energy alternative for America.

Beneath the Salton Sea in Southern California lies one of the largest geothermal hot water fields in the world. Until recently, we could not harness this energy because of serious scaling and corrosion problems caused by the highly saline geothermal fluids in this field. After some ten years of research, we have solved both of these problems, and we are now moving ahead to fully develop this resource.

The scaling problem was primarily caused by silica precipitation. We have played a major role in developing a crystalizer/clarifier technology to control it and Unocal now stands at the forefront of the industry in the use of this specialized technology. We successfully tested this system in a 10,000-kilowatt pilot plant that has been in operation at the Salton Sea since 1982. Two years later, we successfully tested a second production technology method that keeps the silica in solution. We are currently evaluating these two technologies.

Solving the scaling problem was only half the battle. Corrosion was affecting all of the piping from the production well to the power plant to the reinjection well. To solve the corrosion problem, we obviously needed to upgrade the piping. We proceeded to test more than 120 alloys and other materials before finding a combination that did the job.

We are now expanding our geothermal operations at the Salton Sea. A company subsidiary is currently operating a 10,000-kilowatt pilot power plant, and a second subsidiary is constructing a 47,500-kilowatt plant in the same area. These represent our first ventures into the electrical generating side of the geothermal energy business.

Shifting to another alternative energy source, Unocal has been searching for an efficient way to unlock the energy of oil shale for more than 40 years. During the past 15 months, we passed a major milestone in this quest. In December 1986, we began shipping high-quality synthetic crude oil from our Parachute Shale Project in western Colorado to our Chicago Refinery.

The Parachute facility—designed to produce 10,000 barrels of raw shale oil per day—is the first commercial scale shale oil venture in the nation. The plant has been running at about half rate while we conduct further experiments and design modifications to obtain full capacity. To date, we have shipped about 375,000 barrels of high-quality syncrude. We plan to operate the plant continuously in 1988.

The Parachute Shale Project incorporates innovative technology that could be very important to the nation's energy future. It consists of an underground room-and-pillar mine, an upflow retort and an upgrading plant. The shale ore is mined and crushed, then fed into a large pump that pushes rock upward through the Unocal retort, counterflow to hot recycle gases. The 1,000 °F heat decomposes the kerogen in the rock to produce raw shale oil, gas and spent shale rock.

We began construction of this plant in January 1981. During startup operations in 1983, we ran into problems with the scraper system, which was supposed to convey the hot, spent shale smoothly and uniformly from the top of the retort to the cooling system. The original scraper design simply did not work well. Although we solved the basic scraper problem through a series of design changes, we are continuing to improve the system.

Unocal's engineers also had to overcome problems with cooling the retorted shale, which is very fragile. As the hot, spent shale is scraped off the retort pile and fed by gravity into the cooling system, it "decrepitates" or breaks up. This generated an excessive amount of fines, whose consist is relatively impermeable. As a result, the original design for contact-cooling with water proved inadequate.

In response, we developed a new cooler design that, together with operational changes, has enabled us to achieve adequate contact-cooling at design shale throughput. We still have a big job ahead of us to get the plant operating at full capacity, but we think we are now well on the way. The potential rewards are enormous. Unocal's landholdings alone contain over 3 billion barrels of synthetic crude oil, all told, the western United States contains approximately 600 billion barrels of recoverable shale reserves. That exceeds the proven crude oil reserves of all of OPEC!

As we successfully demonstrate our oil shale technology on a commercial scale—10,000 barrels per day—it will make a tremendous difference to the energy reserves of Unocal and of our country.

As you know, Unocal is a major producer of conventional crude oil and natural gas, here in the United States and in several countries around the world. Lower prices and competing suppliers, both foreign and domestic, have increased our need to discover more cost-efficient ways to find and develop these resources.

In Thailand, for example, we produce enough natural gas and condensate to meet more than 30 percent of that nation's commercial energy demand. The reserves are located in fields composed of many faulted reservoirs in the Gulf of Thailand. In order to map this highly complex geology in greater detail, we are using powerful computers to process huge seismic data bases and generate 3-dimensional models of underground structures. Our geophysicists then use interactive computer systems to interpret these models and select the most promising drill sites.

Unocal's drilling engineers have also been busy. During the past few years, five major improvements in drilling technology came to the marketplace, including top-drive drilling systems, new drilling fluids, improved drill bits, and special equipment to monitor and control the direction of the well in near real time. By combining all of these innovations in our drilling operation—and we were one of the first companies to do so—we have cut drilling costs in the Gulf of Thailand from over $4 million to about $2 million per well.

On the chemicals side, a Unocal subsidiary produces the best specialty graphites in the world. These materials, made from petroleum coke, have important uses in biomedical implants, semiconductors, electrical discharge machining and advanced manufacturing processes. This year, we have introduced a new product we call Glassmate. We took a premium graphite and further treated it to make it resistant to oxidation at elevated temperatures as a result, it is very useful in handling molten glass.

I am sure everyone in this room is aware of the recent, remarkable advances that have been made in developing ceramic compounds that exhibit superconductivity at temperatures. exceeding 90 °K (−183 °C). And you probably know that these superconducting ceramic compounds include yttrium or lanthanum (and possibly other lanthanides) as a key ingredient. What you may not realize is that Unocal is the world's largest producer of lanthanides. At Mountain Pass, California (about 60 miles southwest of Las Vegas), we are mining one of the largest known deposits of lanthanides on the globe. It is, in fact, the only resource in North America developed solely for the production of these elements. Through a partnership with a Canadian company, we are also a leading producer of yttrium.

Obviously, commercial development of these superconducting ceramic compounds could provide revolutionary improvements in machine design, transportation systems and energy utilization. At Unocal, we plan to be part of this developing new industry. We want to develop and market our own oxide mixtures, not just sell the raw materials to the ceramic makers.

Recently, we acquired special equipment for our research facility in Brea, California, and have begun making and testing our own superconducting materials. To date, we have produced materials that show superconducting properties at 90 °K. In support of this effort, we have established a multidisciplinary team to study the role of lanthanides in these superconductive ceramics.

Unocal also has a research program in biotechnology. As a matter of fact, it is headed up by a 1984 graduate of MIT's Chemical Engineering Department. Not coincidentally, we started our biotech effort that same year—he helped convince us to do it!

This research program seeks to use microbes as live catalysts in controlled reactors. Our initial goal was to use microbes to remove nitrogen, sulfur and other impurities from heavy crude oil. A major advantage of this method is that the process can occur at ambient conditions, while conventional techniques require very high temperatures and pressures.

Recently, we demonstrated this process on a bench scale, achieving sulfur and nitrogen removal rates about one-tenth those of conventional hydrotreating techniques. It also requires at least ten times the reactor volume of conventional catalytic hydrotreating. One of our key challenges is to reduce this volume requirement through creative engineering.

One very promising application of biotechnology is in solving certain environmental problems that currently confront our industry and the nation. Landfills are a good example. A landfill is basically a large, complicated anaerobic bioreactor that releases methane. The microbial events within this "reactor" could be controlled so that the released methane can be harnessed as an energy source. The potential benefits are significant. Six landfills in the Los Angeles area alone could produce enough methane to equal 34 million barrels of crude oil, on an energy-equivalent basis.

I hope this brief review has convinced you that we have no shortage of exciting and important technological challenges in the earth resources industry—challenges to satisfy the most enthusiastic and creative engineer. As you can see, by continuing to invest in innovative projects with the potential for long-term growth, Unocal (along with many other American companies) has managed to maintain its technological edge over the years. But it is not easy in our shortsighted society, which, as I noted earlier, emphasizes the quick buck at the expense of long-term, innovative projects. And the fact remains that, for the nation as a whole, other countries are rapidly catching up with us and, in certain areas, surpassing us in technological capabilities.

What can America do to recapture technological leadership? I believe that government, industry and the educational sector all have a role to pay.

Government must create a tax and regulatory environment conducive to technological innovation. The National Cooperative Research Act of 1984, which provides limited antitrust protection for certain kinds of joint R&D ventures, was a step in the right direction.

Unocal, in fact, was one of the first companies to file under this act as a founding member of PERF—the Petroleum Environmental Research Forum. PERF, formed in 1986, is made up of 22 oil companies. These firms have joined together to pool their funds, ideas, and technical expertise in order to expedite the study and solution of environmental problems facing the industry.

The Technology Competitiveness Act, now before Congress, would significantly expand the role of the Commerce Department in supporting technological innovation in this country. Key provisions include the establishment of centers for the transfer of manufacturing technology and a special program to encourage private-sector ventures in advanced technology. This would also be a step in the right direction. The Tax Reform Act of 1986, on the other hand, reduced the tax credit for research and experimentation by 20 percent. That was a step backwards! To help nurture technological innovation, government should expand tax incentives for privately sponsored R&D, not reduce them.

Government, however, can only do so much. Industry and the universities must continue to open lines of communication and cooperation. More university researchers, for example, could make a special effort to bring promising research results with potential commercial applications to the attention of industry. And industry should increase its financial sponsorship of university research projects of potential value to its activities.

Earlier in my talk, I mentioned the large number of foreign graduate students studying math, science and engineering in the United States. Now America is an open society, and we certainly welcome bright, hardworking students from other lands to study in this country. But perhaps it is time, as some have suggested, that we begin charging foreign students who have adequate sources of funds at least full cost—if not a premium—for obtaining science and engineering degrees in the United States. So far, this has been a very cheap way for foreign nations to import U.S. technological expertise.

We also need to get a lot smarter about when and how we share research results with foreign companies. We should certainly demand the same access to their research that we—particularly through our universities and through licensing agreements—routinely give to them. And those of us in industry and government must learn to better manage R&D programs to bring out world-class creativity. We must move more quickly to exploit emerging technologies. It is especially important that we do a better job of turning basic research into commercial products—exactly what the Japanese seem to do best.

In particular, this means that we must focus a lot more attention on the basics of manufacturing and a lot less on marketing campaigns, leveraged buyouts, and other quick buck schemes. Andf we have to emphasize to young scientists and engineers that manufacturing is an important career path. As Paul Gray, the President of MIT, said in a recent speech: ". . . Despite its obvious importance, the manufacturing function is not highly valued in American industrial organizations. We have not—at least in the last three decades—drawn our industrial leaders from engineers. . . . We must turn ourselves around. We must teach engineering students and their employers to value people who are expert in how things are made and how well things are made."

To accomplish this, we need strong leadership from educators, government officials, and business executives. Let me assure you—we will try to do our part at Unocal. Indeed, the top two executives of the company are engineers who have spent a good portion of their careers in the production and manufacturing sides of our business. So I think we realize the importance of how things are made and how well things are made.

America can no longer rest on its technological laurels, working in its economic comfort zone. We have got to get back to the hard, vital work of developing and making the best products we possibly can.

In closing, let me say—corny as it might sound in this cynical age—that you should be proud to be engineers. In my view, engineers are the builders and inventors of modern industrial society. They are the problem solvers who make things work and get things done. It isn't easy but, given time and opportunity, we generally succeed. And as we succeed, we create products and processes that make human life richer, safer and more satisfying.

WRONG POLICY

HON. JIM SLATTERY

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Friday, December 18, 1987

Mr. SLATTERY. Mr. Speaker, an open, forward-looking and procompetitive telecommunications policy is of critical importance to this country. In providing high-quality services to consumers, and winning in international trade, economic development, and job creation, the quality of that policy will determine the level of success in all these areas.

Unfortunately, Federal telecommunications policy has run amok in this country. Federal District Court Judge Harold Greene, who oversees the consent decree that broke up AT&T, is publicly squabbling with the Chairman of the Federal Communications Commission; some of the decree court's decisions conflict with the FCC's; and foreign competitors continue to laugh at our apparently confused policy, while gladly increasing their market share in the United States.

The only thing that is clear today is that the American consumer is the big loser and foreign competitors are the big winners.

My hope is that when Congress convenes early next year, we can work diligently to modify the AT&T consent decree to allow the Bell companies to provide information services and manufacture telephone equipment. Only through a clear and coherent policy established by Congress can consumers and the U.S. economy finally receive the full benefits of the AT&T breakup.

Mr. Speaker, the following article from the December 28, 1987, issue of Forbes makes a succinct and compelling case for congressional action to set telecommunications policy and lift these anticompetitive restrictions:

SORRY, WRONG POLICY

HOW NOT TO COMPETE IN TELECOMMUNICATIONS MARKETS TODAY

Technological change and tough international competition are rapidly outdating the consent agreement that broke up AT&T and created independent Bell operating companies (BOCs).

U.S. District Court Judge Harold Greene, who oversaw the breakup, continues to wield autocratic power in three key areas. The BOCs are banned from providing long distance service, from making telephone equipment and, mostly, from providing information services.

The long distance ban is, for the foreseeable future, not contested. But the other two, says Dennis Patrick, chairman of the FCC, are rapidly becoming "enormous anomalies."

These two restrictions block the BOCs—among the world's largest telephone companies—from developing businesses they know best.

SMALL WONDER THERE'S A MOUNTING TRADE DEFICIT IN TELECOMS

Judge Greene substantially tightened the ban on manufacturing in early December. Under it, he now includes basic research and development and any kind of design work, however rudimentary.

That blanket restriction prevents the BOCs from tailoring even the highest technology switching equipment to customers' needs.

One effect will be to hand even more U.S. business to overseas suppliers like Siemens or Northern Telecom. Trade in this area has swung from a surplus $253 million in prebreakup 1981 to a deficit $907 million this year, according to a BellSouth estimate.

(For a different reason, there's also a rising trade deficit in low-tech items like telephone handsets and answering machines. Nobody can afford to make these labor-intensive items in the U.S.).

Judge Green's block on manufacture also prevents the BOCs helping small U.S. companies develop ideas for new electronics or software which also sends abroad U.S. business (40% of world demand).

THE REMEDY IS IN THE COURTS AND IN CONGRESS

The near total ban on development of information services by the BOCs is even more risky, since this is the wave of the future.

It's also uneconomic. Most switching is now by minicomputers, which are underused for plain telephone service. Until their costs are shared with data services, all this cost is carried by ordinary phone charges.

Where there has been competition since the AT&T breakup, it's all been good for consumers. Long distance rates are down by 35%, new telephones have all sorts of gadgets (like auto redial) and the deregulated cellular and car-phone markets have boomed.

Getting round the judge's roadblocks, will, however, require the BOCs to take strong action—in the courts and in Congress—to get new rules. So far they have shown no stomach for such an attack.

Until they make a move, a federal judge, rather than market forces, will make U.S. telecommunications policy. Recent history suggests this will leave the country sadly ill-equipped to cope with an information-based economy.

GREECE IMPROVES TIES WITH ISRAEL

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, December 18, 1987

Mr. BROOMFIELD. Mr. Speaker, I commend the Government of Greece for its ongoing efforts to improve its relations with the State of Israel, to include the possible de jure recognition by the Greek Government of that nearby Mediterranean neighbor. This is a prudent course to follow and the Greek Foreign Minister deserves our praise for his laudable efforts.

Although Greece granted de facto recognition of Israel in 1948, the Government of Greece has not yet granted de jure recognition of that country. Greece is the only member of the European Community that does not have full diplomatic ties with Israel, although both nations have resident representation offices in their respective capitals. These offices are one level below having regular diplomatic relations. Greek officials have always said that they withheld full diplomatic recognition of Israel because there was a large Greek community in Egypt, which at that time was in a state of war with Israel.

Earlier this month, Greek Foreign Minister Karolos Papoulias visited Israel. His was the first visit by a Greek Foreign Minister since the establishment of the State of Israel. I understand that the Foreign Minister will recommend to the Greek Cabinet the de jure recognition of that country so that a formal decision may be taken.

While the Greek Government is still considering this significant diplomatic decision, the de jure recognition of Israel would enhance Greece's ability to play a positive and more active role in efforts to bring about a successful resolution of the problems in the Middle East given Greece's traditional ties with the Arab world.

Recent Greek-Israeli discussions also included the possible improvement in bilateral relations in the economic, cultural, scientific and tourism areas. I also understand that the Israeli Foreign Minister has accepted an invitation to visit Greece next year.

While the Government of Greece has not yet formally announced its decision to give de jure recognition of the State of Israel, I encourage the Greek Government to move in that direction. I believe that such a decision would be both diplomatically proper, truly historic, and well received by this Congress. Those two nations are neighbors in the strategic Eastern Meditterranean and share a common interest in both the stability and peace of that region. The compassionate treatment of Greek Jews by the Greek people during the dark days of Nazi occupation during the Second World War is a memorable experience which binds together the people of both countries.

I trust that Greece's plans to improve relations with Israel and to upgrade existing diplomatic relations with that country become a reality.

SAFE CHILD CARE CURBS CHILD ABUSE

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 18, 1987

Mr. MILLER of California. Mr. Speaker, this week, the House passed a landmark welfare reform bill that, for the first time, guarantees that child care will be made available to participants of Federal-State employment and training programs. The availability of adequate and affordable child care is an essential feature of welfare to work initiatives. Under H.R. 1720, the Family Welfare Reform Act of 1987, child care providers must be licensed and the quality of care must conform to state standards.

In a recent letter to me, the National Child Abuse Coalition indicated the importance of child care standards in welfare reform. Safe and regulated child care can effectively curb child abuse and neglect. In hearings before the Select Committee on Children, Youth, and Families, which I chair, child abuse advocates have testified on the importance of safe child care in preventing child abuse.

For the record, I would like to submit the following correspondence from the National Child Abuse Coalition:

NATIONAL CHILD ABUSE COALITION,
Washington, DC, December 9, 1987.

HON. GEORGE MILLER,
2228 Rayburn Building, U.S. House of Representatives, Washington, DC.

DEAR REPRESENTATIVE MILLER: As the House of Representatives moves to consider H.R. 1720, the Family Welfare Report Act of 1987. I write to emphasize the need for standards to protect children in child care as guaranteed by this legislation.

Advocates for the prevention of child abuse see child care as a significant effort to help prevent the abuse of children. That is why citizens across the country are working to make sure that children in care are not in danger. The appropriate standards can help ensure that children are safe.

In addition to specialized kinds of child care, such as crisis care or therapeutic care aimed specifically at preventing or treating abuse, good child care services fill many of the goals of a child abuse prevention program: enhancing ties and communication between parents and children, increasing parents' skills in coping with the stresses of caring for their children, reducing family isolation, increasing peer support and improving access to social and health services for the family. Without optional child care—and that means with the appropriate standards enforced—the risk of child abuse increases.

On behalf of the National Child Abuse Coalition I want to express our appreciation for your leadership in working to secure the best services for children with adequate provisions to protect children from harm.

Sincerely,

THOMAS L. BIRCH,
Legislative Counsel.

Please add the following additional cosponsors to House Joint Resolution 192: HAL DAUB, and MICHAEL DEWINE.

THE TREATY TERMINATION PROCEDURE ACT OF 1987

HON. TOM SAWYER

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, December 18, 1987

Mr. SAWYER. Mr. Speaker, for almost two centuries, cooperation between the executive and legislative branches has been a cornerstone of American foreign policy. This cooperation has helped contribute to our standing as a leader among nations. Indeed, it has set an example for other constitutional democracies around the world.

However, recent administrations have failed to continue this tradition of cooperation, particularly with respect to the termination of treaties. If this disturbing trend is allowed to continue, it would be possible for an unreasonable President to someday withdraw us from a crucial international commitment without the constitutional balance of legislative advice, and with tragic consequences. Today, we are introducing legislation to ensure congressional participation—and mandate presidential accountability—in the treaty termination process.

Congress has a long and well-established role in foreign policy decisionmaking. Yet current practice allows a treaty that is painstakingly negotiated by the executive branch and ratified by Congress to be unilaterally terminated by the stroke of the President's pen. This policy may undermine the integrity of the entire treaty ratification process. Such a policy, because it circumvents Congress, does not have the consent of the governed. The proposed legislation would correct this imbalance.

Although the Constitution does not explicitly provide for the termination of treaties, the writings of the Founding Fathers evidence a clear belief that Congress would play an active role. Jefferson stated in his manual that, "Treaties being declared, equally with the laws of the United States, to be the supreme law of the land, it is understood that an act of the legislature alone can declare them infringed and rescinded." Madison concurred, explaining, "That the contracting powers can annul the Treaty cannot, I presume, be questioned, the same authority, precisely, being exercised in annulling as in making a treaty." Indeed, Congress' function in the treaty termination process derives from an additional basis: Its power to make all laws "necessary and proper."

Recognizing this constitutional underpinning for Congress' role, the President has traditionally worked with Congress in terminating treaties. The vast majority of treaty terminations has included some form of mutual action.

But for the past several years, administrations have attempted to short-circuit congressional involvement in the treaty termination process. In 1978, President Carter unilaterally abrogated our Mutual Defense Treaty with Taiwan in order to recognize the People's Republic of China. In 1984, the Reagan administration unilaterally withdrew the United States from the International Court of Justice, attempting to avoid an impending Court decision that the United States' mining of Nicaraguan harbors violated international law.

Yet despite these recent executive attempts to monopolize the treaty termination power, the courts have nevertheless strongly endorsed a legislative role. In *Goldwater* versus *Carter*, 1979, the Supreme Court reviewed a suit by Members of Congress challenging the exclusion of the legislative branch from the decision to terminate the treaty with Taiwan. The Court dismissed the case without reaching the merits. Nevertheless, a plurality of the Court concluded that the issue was a nonjusticiable political question better left for Congress and the President to settle themselves.

With this legislation, Congress takes the appropriate formal action necessary to preserve its constitutional role in the treaty termination process. The bill would simply require congressional approval to terminate any treaty or treaty provisions approved by Congress. It would not affect routine, nonpolitical executive agreements. Nor would it affect treaties that may be abrogated by their own terms, or treaties that are superseded by subsequent, inconsistent statutes. Finally, by requiring a congressional rather than only a Senate role in treaty termination, it would avoid running afoul of the constitutional prohibition on one-House legislative vetoes.

Recent American history underscores the importance of cooperation between the Congress and the President in the conduct of foreign policy. The War Powers Resolution, which balances these executive and legislative powers, is a product of that history.

Like the War Powers Resolution, this bill would help guarantee the formulation of foreign policy. It would prevent unilateral Presidential treaty terminations and ensure that decisions affecting foreign policy would be accountable to the people.

Mr. Speaker, although the task of formulating the appropriate role of Congress with regard to treaty terminations is extraordinarily complex, we cannot afford to ignore it. If we allow this sweepingly broad assertion of executive authority to go unchallenged, the treaty termination power will become a citadel of Presidential authority.

I look forward to working with fellow Members of Congress to enact this crucial legislation.

ARE LOW- AND MODERATE-INCOME AMERICANS BEING DENIED FULL ACCESS TO FHA?

HON. DAVID DREIER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 18, 1987

Mr. DREIER of California. Mr. Speaker, when the Housing Subcommittee considered the Housing and Community Development Act earlier this year, I raised several questions regarding the scope and mandate of the FHA Mortgage Insurance Program. Of particular concern is whether low- and moderate-income Americans are being denied full access to FHA, and whether there is unnecessary overlap in FHA programs with services already available in the private sector.

A recent independent analysis, commissioned by the Mortgage Insurance Companies of America [MICA], of the markets served by FHA and private insurers helped to shed some light on these concerns. MICA prepared a summary of the results of that study, which I would like to submit for the RECORD. Hopefully, Mr. Speaker, this study will lead to a substantive review of the FHA Mortgage Insurance Program to ensure that it is meeting its objectives of expanding home ownership opportunities for low- and moderate-income Americans.

COMPARISON OF THE MARKETS SERVED BY PRIVATE INSURERS AND FHA

The Mortgage Insurance Companies of America (MICA) commissioned the Boston-based consulting firm Temple, Barker and Sloane (TBS) to do an independent analysis of the markets served by FHA and private insurers. The purpose of the study was to provide a comprehensive and objective analysis of the mortgage insurance market that could be useful to policy makers and not to suggest specific changes to present policies or programs.

The study consisted of two major phases. In the first phase, TBS did a statistical analysis based on loan origination historical data of both FHA and MICA, covering the most recent five-year period (1982-1986). The FHA data represented the most complete random sample of loan originations FHA has available. FHA does not keep detailed information on all the loans it insures. MICA's data represented all private mortgage insurance experience for the period. The statistical analysis compared the loans insured by FHA and those insured by private insurers in areas such as borrower income, loans within FHA limits, downpayments, and loans for investment and refinance purposes.

TBS centered its comparisons on borrower income as a percentage of median income and absolute borrower income. Throughout the study, 120 percent and 140 percent of median household income are used to compare the two programs. The benchmarks are used because they illustrate the extent to which FHA is serving higher income people. Six out of ten households have incomes less than 120 percent of the median and two-thirds of all households have incomes less than 140 percent of the median. The study also compares the mortgage insurance markets by borrowers with incomes over $40,000 a year and over $60,000 a year. Approximately 140 percent of the U.S. median household income is $40,000 and $60,000 exceeds 200 percent of the U.S. median income.

The statistical analysis was done on a nationwide basis and in twelve metropolitan statistical areas (MSAs). These twelve MSAs are diverse enough to identify and verify significant patterns and variations with respect to markets served by FHA and private insurers from 1982 to 1986.

In phase two of the study, TBS did a series of one-on-one and group interviews in selected MSAs and a comprehensive nationwide mail survey. The purpose here was to identify lenders, borrowers and real estate agents' perceptions of how one type of insurance program is chosen over another.

The key conclusions from phase I of the study are as follows:

For the period 1982 to 1986, 60 percent of FHA originations were to borrowers earning over 120 percent of the national median income, while 44 percent have been to borrowers earning over 140 percent of the national median income. In some MSAs, two-thirds of FHA originations are to borrowers earning over 140 percent of MSA median income;

On an absolute dollar basis, 35 percent of FHA originations for the period 1982 to 1986 were to borrowers earning over $40,000, while 9 percent have been to borrowers earning over $60,000. In some MSAs, as many as half of FHA originations are to borrowers earning over $40,000;

Nonhomebuyer borrowers (refinances and investors) account for a significant portion of FHA originations. For the period 1982 to 1986, 13 percent of FHA originations were refinances, and 7 percent were investor loans. These nonhomebuyer borrowers also have significantly higher incomes than homebuyers. For example for the period 1982 to 1986, 86 percent of FHA investor loans were to borrowers earning over $40,000, while 55 percent were to borrowers earning over $60,000;

Many higher-income homebuyers use FHA financing for minimum downpayment loans. Since 1982, 21 percent of FHA originations to owner-occupant homebuyers were to borrowers earning over $40,000 and putting down less than 10 percent. In 1986, 27 percent of FHA owner-occupant homebuyers earned over $40,000 and put down less than 10 percent;

FHA experience suggests that claim rates are determined more by the amount of downpayment than by borrower income. Borrowers with downpayments under 10 percent show claim rates five times that of other borrowers;

On a national level and in most MSA markets, FHA and private mortgage insurers are serving all income segments;

While the loan sizes of FHA and private mortgage insurers are broadly distributed, private insurers appear to insure more loans below $60,000 than FHA. From 1982 to 1986, 69 percent of the privately insured loans were below $60,000, compared with 57 percent for FHA.

The key conclusions from phase II of the study are as follows:

Key market participants—lenders, borrowers, and sales agents—all benefit from larger loans;

The cost of financing is no longer substantially lower for government programs. Recent yields of mortgage-backed securities show negligible spreads, and lenders report that borrowers are no longer selecting FHA financing based on cost savings.

The study dispels a number of the common perceptions about FHA and the private mortgage insurance industry. For example, it is generally believed that FHA primarily serves lower income borrowers. The facts show, however, that 60 percent of FHA loans go to home borrowers with incomes over 120 percent of the national median income. Another common perception is that FHA helps people buy homes who would not be served by the private sector. However, the TBS study indicates that when examining loans within FHA loan limits, the FHA and the private sector are basically serving the same market. This is true when measured by borrower income and when measured by loan amount, private insurers proportionately insure more smaller loans than FHA.

It also generally is believed that FHA's low downpayment helps primarily lower-income borrowers. The facts show, however, that in 1986, of all FHA loans with less than a 10 percent downpayment, 42 percent went to borrowers with incomes over $40,000 while only 4 percent went to borrowers with incomes less than $20,000. In addition a common perception is that FHA's overriding purpose is to help people buy their own home. In 1986, one-third of FHA's volume was used to finance nonhomebuyers (refinancings or investor houses).

At this time, MICA is not making any specific recommendations to Congress as a result of the study. Instead we hope the study will act as a spring board for discussion among policy makers and the members of the real estate finance community on ways to increase homeownership. MICA believes that a redirection (not contraction) of FHA and the Government National Mortgage Association is merited by these facts. Redirection of FHA benefits should target the lower-income homebuyer and thus increase the opportunity for home ownership.

PRESS CLUB GLASNOST HUMAN RIGHTS SEMINAR

HON. JAMES J. HOWARD

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, December 18, 1987

Mr. HOWARD. Mr. Speaker, during the ongoing Conference on Security and Cooperation in Europe [CSCE] meetings being held in Vienna, Soviet Foreign Minister Eduard Shevarnadze formally proposed to hold a human rights conference in Moscow. This proposal is currently being discussed at the CSCE meetings.

Recently, the Press Club Glasnost, an independent Soviet citizen's group active in promoting human rights, planned to conduct an informal human rights seminar in Moscow in light of "glasnost," "perestroika" and mindful of Foreign Minister Shevarnadze's statement.

On December 9, 1987, as General Secretary Gorbachev was meeting with President Reagan in Washington, DC, Soviet authorities were preventing Soviet citizens from participating in the Press Club Glasnost seminar. While attempting to go to Moscow to attend this seminar, three Ukrainian rights activists, Viacheslav Chornovil, Ivan Hel, and Mykhailo Horyn, and a leading Armenian human rights activist, Baruir Hairikian, were arrested on drug charges. All four were later released and forbidden to go to Moscow. Other would-be seminar participants in Moscow, Leningrad, Kiev, Odessa, Riga, and Vilnius were threatened with prosecution for participation in the event and still others were harassed. Also, several would-be Western participants, including U.S. citizens were denied visas to enter the Soviet Union to attend the conference. Eventually, the seminar was indeed conducted in private rooms and apartments despite the very trying circumstances posed by Soviet officials.

Congressman STENY HOYER and I are currently circulating a letter addressed to General Secretary Gorbachev in order to express our knowledge and deep concern about the aforementioned events. We ask that our fellow members join us in cosigning this letter which is printed below. Thank you in advance for your attention to this matter. Please contact Joe Boghossian, 5-4671, or Orest Deychak, 5-1910, by Monday, December 21.

DECEMBER 21, 1987.

His Excellency MIKHAIL GORBACHEV,
General Secretary of the Central Committee, CPSU, Staraya Ploschad, Moscow, USSR.

DEAR GENERAL SECRETARY GORBACHEV: As members of the United States House of Representatives, we are writing to express our deep concern about recent actions by Soviet authorities to restrict individuals from attending an informal human rights seminar in Moscow.

On December 9, 1987, while you were conducting the summit in Washington, Ukrainian human rights activists Viacheslav Chornovil, Ivan Hel and Mykhailo Horyn, and Armenian rights activists Baruir Hairikian were prevented from attending the unofficial human rights seminar scheduled to begin on December 10, 1987. The three Ukrainian activists were told they could not leave the city of Lvov and Mr. Hairikian was put on a plane to Armenia.

In addition, we understand that certain Soviet citizens were threatened with prosecution for participation in the event and several foreign individuals, including some U.S. citizens, were denied visas to enter the Soviet Union. We have also learned that the organizers of the seminar have been harassed and the hall they had reserved for the meeting was inaccessible. These actions, on the part of Soviet authorities, raise questions in the minds of many Americans concerning your proposal, tabled at the ongoing Vienna CSCE Meetings, to hold a human rights conference in Moscow. With the historically significant results achieved and future hopes engendered by your recently concluded summit with President Reagan, we cannot understand why the Soviet government would act in a way that could weaken trust and confidence between our two nations.

We appreciate such efforts to date as your granting a visa this summer to Mr. Wolodymyr Sokol, a Ukrainian citizen, so that he might visit his sister in the United States. Many people were greatly pleased by this action. Therefore, we respectfully request that you review this current matter in light of such past actions and your Vienna proposal for a future Moscow human rights conference.

JAMES J. HOWARD,
Member of Congress.
STENY H. HOYER,
Member of Congress.

JOHNNY OTIS: STILL CREATING AFTER ALL THESE YEARS

HON. MERVYN M. DYMALLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 18, 1987

Mr. DYMALLY. Mr. Speaker, in the late 1950's there existed in southern California a political action group with the somewhat intimidating name ATTACK. It was founded by a man named John Veliotis. That name probably is not generally familiar to my colleagues. I suspect many of you will hear the name Veliotis and think immediately of our much respected former Ambassador to Egypt Nicholas Veliotis. If you do, your thoughts are heading in the right direction. Nicholas and John are brothers. But I digress. I owe much to John Veliotis and his political action group because without its support I would not have won my first election to the State assembly. Mayor Tom Bradley's initial election to the Los Angeles City Council also, incidentally, owes in no small part to John's political action group.

Of course, those of you who have an interest in the development of music in this country in the past half-century are smiling to yourselves because you know that John Veliotis is one of the immortals of the music world. You know that John Veliotis is none other than the great rhythm 'n' blues artist Johnny Otis. Now, usually when people start talking of a person as being immortal they mean he is dead. I am pleased to say that Johnny is as alive as they come.

Today the San Jose Museum of Art opens an exhibit of Johnny Otis' sculptures. Yes, that's what I said, sculpture. It's a little something he took up at Redd Foxx's suggestion. First he sculpted in wood. More recently he has been working with plaster and acrylics. In the forties Johnny expressed himself in the visual arts as a cartoonist. Then he turned to "serious" art with oil painting. Now after 40 years of preparation, so to speak, he is beginning to make waves in the visual arts as he has made them for decades in the musical arts.

In the age of lowered expectations where the tendency is toward specialization, Johnny is marvelously expansive. His exuberance crackles in the air. You feel it at his concerts. You see it in his sculpture. It may, then, come as no surprise that Johnny is also a minister. The man can preach a sermon. No doubt about it. I want people to know, though, that the Reverend Johnny Otis's Landmark Community Church is known in our part of California for its charitable work. Every Saturday morning if you go to downtown Los Angeles, you will see the members of his congregation distributing food to the needy. Johnny is a man with heart and soul.

The attention a great artist receives is seductive, I think. It tends to make the artist hunger after more, sometimes to the exclusion of the needs of others. Johnny Otis is known as much in the music business for the chances he has given others as for his own considerable accomplishments. His backup vocals used to be done by the group known as the Robins. You know them as the Coasters. Little Esther Phillips, and Mel Walker also got their start singing with Johnny. As a radio deejay, Johnny has been giving new R&B artists a chance to be heard for 35 years. For 7 years the Johnny Otis Show played also on KTTV in Los Angeles featuring such artists as Ray Charles, Sam Cooke, Little Richard, Fats Domino, the Moonglows, the Drifters and the Everly Brothers.

At the moment, Johnny and his group is under contract to the Fairmont Hotel chain. He can be seen for the next few months at the new Fairmont Hotel in San Jose, CA. You can also catch his radio show over KPFA in San Francisco or KPFK in Los Angeles. If you want to treat your ears right, catch his show. I may have lost a deputy chief of staff when he went back on the road, but everyone who appreciates good music regained a friend that will never let them down. That's Johnny, still creating great music after all these years.

REPRIMAND OF REPRESENTATIVE AUSTIN MURPHY

HON. ROBERT GARCIA

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, December 18, 1987

Mr. GARCIA. Mr. Speaker, I want to clarify my vote on the House Resolution 333, a resolution to reprimand Representative AUSTIN MURPHY. I voted "no" because all four charges were considered under one vote. If the charges had been considered individually, I might have voted differently on one or more of the counts.

AMALGAMATED BANK OF NEW YORK

HON. MARCY KAPTUR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, December 18, 1987

Ms. KAPTUR. Mr. Speaker, I would like to enter into the RECORD a recent Wall Street Journal article regarding the Amalgamated Bank of New York. The story of this 65-year-old banking institution is an interesting and significant part of the financial history of this country:

[From the Wall Street Journal, Dec. 14, 1987]

LABOR LENDING: AS A UNION BANK, AMALGAMATED PROSPERS BY PUSHING SERVICE FIRST AND SHUNNING RISK

(By Robert L. Rose)

NEW YORK.—When Amalgamated Bank of New York introduced a free checking account last fall, it wasn't content to quietly inform its customers. The bank bought an ad opposite the editorial page in the New York Times and asked: "Why is free checking only for those who can afford to pay for it?"

The bank's inclination to tweak its big corporate rivals isn't surprising. Amalgamated is a union bank, founded in 1923 by the Amalgamated Clothing Workers and still owned by the 284,000 members of its successor, the Amalgamated Clothing and Textile Workers.

Heralded as the wave of the future by labor leaders earlier in the century, labor banking was a flop. Out of some 36 labor banks founded in the 1920s, only Amalgamated in New York and Brotherhood Bank & Trust in Kansas City, Kan., survive as labor-owned institutions.

Now, with some labor experts predicting a comeback in union membership and influence, Amalgamated provides one of the oldest examples of a kind of labor-owned business that may multiply. In the past several years, about half a dozen new labor banks have opened, and more are on the way. Like the clothing workers who started Amalgamated, other unions see a chance to own a bank friendly to their members' needs and find new investment outlets for their growing assets.

A ROGUE BANK

Amalgamated survived largely because its union owner insisted on conservative banking and professional management. In contrast, the Brotherhood of Locomotive Engineers set up banks across the country during the 1920s and quickly branched into securities and even Florida land development. Losses piled up, and the union eventually charged four of its officers with mishandling funds. By 1931, the engineers were out of the banking business.

Amalgamated has also benefited from being something of a rogue bank, loudly touting a consumer ethic and often de-emphasizing profits in favor of services. Its free checking account is only the latest evidence: Amalgamated claims to have pioneered the unsecured installment loan in the 1920s, lending money to borrowers with no collateral but a steady job. Three times a survey has named it the top bank for consumers in New York City. "They give me the best treatment," says Mike Garcia, an officer of the Leather Goods, Plastic and Novelty Workers' Union, who says he banks at Amalgamated because of its labor roots.

OVERLAPPING CONSTITUENCIES

Amalgamated has reported 44 consecutive years of profit and has grown to $1.47 billion in assets by serving two overlapping constituencies: middle-class consumers and organized labor. Now, the union-owned bank is exploring other ways to use its labor ties and financial muscle to expand in new areas.

Earlier this year, Amalgamated teamed up with Metropolitan Life Insurance Co. in a proposal to offer a comprehensive money-management program for the AFL-CIO's 14.5 million members. On a smaller but no less innovative scale, Amalgamated is helping three New York locals of the Bridge, Structural and Ornamental Iron Workers' Union use some of their pension money to finance below-market, no-points home mortgages for their members. The bank is considering expanding the service to other unions, many of which have retirement trust funds under Amalgamated's care.

The recent mini-resurgence of labor banking is led by unions in the construction trades. Massachusetts members of the carpenters' union opened a Boston bank in September, and California carpenters plan to open a separate institution next year. Two-year-old Union Savings Bank in Albuquerque, N.M., another construction-trades bank, uses its $10 million in assets for loans to small businesses and other customers.

"I think there's been a realization that we should be generating jobs with our own money wherever possible," says Anthony Ramos, the retired former leader of the California State Council of Carpenters. Amalgamated's loud voice on consumer issues is partly a marketing ploy to set itself apart from the pack. As other banks cater to big depositors and raise fees for small accounts, Amalgamated promotes treats for the little guy, such as its free checking and low-interest personal loans.

Highly conscious of its labor roots, Amalgamated also likes to take shots at the establishment banks. In one of its radio commercials, a stuffy banker tells a customer he needs a password to sit down. "The name of any Ivy League school will do," says the banker. "P.S. 188?" asks the customer, naming the public school he attended. In other ads, comedians Jerry Stiller and Anne Meara imitate rank-and-filers with names like Rocco and Blanche, and pitch "America's Labor Bank."

"If we give [the industry] an uncomfortable feeling for a couple of hours, it will be worth it," concludes Edward M. Katz, Amalgamated's president and chief executive.

The bank's five-story brick headquarters, which it shares with its union owner, overlooks New York's Union Square, the site of labor and political rallies earlier in the century. Back in the older days, Amalgamated's services even included a travel agency and foreign-exchange desk for the immigrant population that dominated the clothing workers' union. Today, customers in open shirts and work boots outnumber those in business suits. Proclaims a plaque on the lobby wall: "New York's First Labor Bank, dedicated to the service and advancement of the labor movement."

Mr. Katz, too, is quick to prove his allegiance. After ushering a visitor into his office, he flips open his suit jacket and proudly shows the union label. A soft-spoken man of 66 who started as a part-timer at the bank in 1946, Mr. Katz raises his voice when he talks about how small depositors have fared under banking deregulation. Not too well, he believes. "When you have a special industry using Uncle Sam as an umbrella in times of difficulty, don't you owe something to the public?" he asks. "What would be so wrong with having an account on which you don't make money?"

Amalgamated, though, is bucking a strong trend. A national survey conducted by the Consumer Federation of America and others found that fees for routine banking services are rising sharply for most depositors.

In some ways, Amalgamated has a lot less to offer those customers than its competitors. Small by big-bank standards, it doesn't generally offer credit cards or home mortgages. With only three branches and two newly opened automated teller machines, it lacks what many consumers want most: convenience. And in the ranks of big-league banks, Amalgamated is an also-ran, shunning such trends as interstate expansion and the hot competition for corporate loans.

"I'm not conscious of their presence as a competitor, says Richard Ravitch, the chairman and chief executive of Bowery Savings Bank, which has about four times the assets and eight times the branches of Amalgamated. Contends another New York banking official: "If they were the best, they'd be bigger."

But what Amalgamated does have, it pushes hard, especially its reputation as a low-cost consumer bank. Last year, when an annual survey by New York State Sen. Franz S. Leichter dropped Amalgamated to No. 11 from 1 as the least expensive bank for New York City consumers, Amalgamated officials phoned the legislator and angrily complained. (the bank is back up to No. 2 this year). In 1985, the Better Business Bureau of Metropolitan New York challenged Amalgamated's boast of having the lowest auto-loan rates of any bank in the city. But the bank quickly backed up the claim, the bureau says.

Amalgamated says its current 9.2% interest rate on new auto loans is still the best in the city. According to the Bank Rate Monitor, seven of the largest bank and thrift institutions in the New York City area charge an average of nearly 12.5%. On the deposit side, the bank's 6.25% annual yield on money-making accounts is a third of a point higher than the average paid by 10 big institutions tracked by the monitor.

Amalgamated also pays interest and charges no fees on savings accounts with a $5 minimum. And it is not unusual for the bank to get thank-you notes from longtime customers surprised to find the bank honored their checks—and charged no penalty—on their overdrawn accounts.

Customers' main complaint centers on what bank employees call "the conga line" that often slowly snakes its way to 23 tellers in the lobby in the main office. Still, other factors outweigh the long waits, depositors say. Edward Soorko, for example, says he moved his account to Amalgamated after Citibank bounced a check for his son's tuition—even though he covered the check with a deposit the same day.

Charles Nabelle, a dapper 82-year old customer in a white hat and sports coat, walks 13 blocks to get to Amalgamated's Union Square office. There are plenty of closer banks, but he says he chose Amalgamated because he likes the personal attention he gets there. After cashing a $40 check, Mr. Nabelle offers a short lecture on the importance of shopping for bank services. "A poor sucker will go for Chase Manhattan as opposed to Amalgamated because Chase or Citibank is an *important* bank," he says. "That is unfortunate."

And perhaps costly. Sen. Leichter's latest survey found that a typical bank customer with $600 in checking and $1,000 in savings would earn $105 in a year at Amalgamated and lose $100 at Manufacturers Hanover Trust Co. Amalgamated, says Glenn von Nostitz, the legislative aide who oversees the survey, shows "you can give people a break and still make money."

Not surprisingly, Amalgamated has kept a close relationship with organized labor. Unions account for up to two-thirds of its $1.1 billion in deposits, and its trust department holds an additional $3.2 billion in pension and health-and-welfare funds. Amalgamated manages $1.6 billion of the trust funds, shunning stocks and corporate bonds in favor of safer government securities.

In 1973, Amalgamated officials worked over a weekend to fill out hundreds of bail checks to keep striking Philadelphia teachers out of jail. Nine years later, when the National Football League Players Association ran out of money during its strike, it turned to Amalgamated for a $200,000 loan. The players' union didn't have an account with the bank at the time, but "we did after that," says Ed Garvey, then the union's executive director.

Although neither the Amalgamated Clothing and Textile Workers union nor the bank likes to admit it, the goal of giving consumers and unions a break often conflicts with the goal of making money. But Mr. Katz has the luxury of working for owners who aren't constantly pressing for higher profits. "You make a little less," concedes Jack Sheinkman, the president of the union and chairman of the bank. "Despite that, we've done very well in terms of our return on equity and on capital," which exceed the average for banks Amalgamated's size.

That attitude makes it easier for the bankers to concentrate on another priority of the union—financial safety. The bank has few corporate customers and, as a matter of policy, turns down offers to participate with other banks in corporate lending. "I don't want to rely on my big brothers" to determine if a loan is safe, says Mr. Katz. Nor does he like to gamble on investments. Mr. Katz prefers buying U.S. government securities, and the shorter the maturity the better. "All the money's tied up in cash," jokes Howard Lee, the executive vice president and cashier.

The result is steady, if not spectacular, profits. Last year, Amalgamated earned $12.2 million, sending $7 million of that in dividends to its union owners. Government bank examiners often do double takes when they pore over Amalgamated's books. Bad loans charged off in 1986: $195,000 out of $313.5 million, far below the average for banks its size. Auto loans delinquent 30 days or more at the end of November: 11 out of 13,044.

Says William A. Goldberg, who runs the bank's personal-loan department: "We're here for the average guy—so long as we are reasonably assured he'll pay us back."

INDIANA'S SECOND CONGRESSIONAL DISTRICT CELEBRATES THE CONSTITUTION

HON. PHILIP R. SHARP

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 18, 1987

Mr. SHARP. Mr. Speaker, as you know, this year we have been celebrating the Bicentennial of the Constitution. Many exciting activities have been taking place in Indiana's Second Congressional District and I would like to take this opportunity to share some of them with my colleagues.

Earlier this month, 95 students from New Castle Chrysler and Perry Meridian High Schools competed in a mock congressional hearing. The hearing was part of a nationwide competition. The Perry Meridian students, who won the competition, will now represent the second district at the State finals in February of 1988 and possibly get to compete at the national finals in April of 1988. All of these students, and their teachers, are to be commended for their hard work. The curriculum they studied will help to foster an understanding within the community of the rights and responsibilities embodied in the Constitution.

In October, Franklin Central High School, in Indianapolis, held a 2-day celebration. As part of the event, the students signed a replica of the Constitution, thereby pledging their support for the principles of the document. Other schools are holding pageants, role playing and essay contests to commemorate these historic events.

This is just a sample of the activities that are helping to revitalize an interest in as well as a better understanding of the Constitution. The Commission on the Bicentennial of the U.S. Constitution has a broad variety of projects planned through 1991, when the anniversary of the Bill of Rights is marked, and I hope that these events will help to increase public knowledge of our Constitution.

CARIBBEAN BASIN SCHOLARSHIP PROGRAM

HON. FRANK J. GUARINI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, December 18, 1987

Mr. GUARINI. Mr. Speaker, Central America and the Caribbean have become an increasingly visible part of the world. Political crises in the basin have made countries like Nicaragua, El Salvador, Grenada, and Haiti household words. In many countries of the Caribbean Basin civil unrest and internal instability prevail. Because peace in the region remains tenuous, our efforts are more important now than ever.

There is a growing recognition that the well-being and the future economic security of the countries in the Caribbean Basin translate into the military and national security of the entire Western Hemisphere. Although many of the basin countries are small, collectively they possess a population of more than 40 million. Their standard of living places them among the poorer of Third World nations. Without economic development these countries will never achieve lasting peace.

For this reason, I believe it is crucial that we have a comprehensive program to help foster economic development in the region. One vital component of that program is providing assistance to strengthen the potential skills of the regional work force through education and training in areas that will promote the social, economic and political development of these countries.

With this in mind, I am introducing legislation to establish a scholarship program for students from Caribbean Basin to attend vocational schools or institutions of higher education in the Commonwealth of Puerto Rico.

The benefits of offering aid in the form of scholarships have been widely acknowledged. Increasing scholarship assistance was one of the major recommendations of the Kissinger Commission Report on Central America. Providing scholarship assistance to youth in the Caribbean Basin is in our mutual interest. It will counter the strong influence of Soviet and Cuban scholarship efforts and reaffirm our ties to the basin. Furthermore, by strengthening the skills of the regional work force it will ensure that the basin countries have the capabilities to benefit from other forms of development assistance that the United States and other nations may provide. It will also enable the people of the basin region to take an active role and have a direct stake in regional development efforts.

There are a number of areas in which the skills of the Caribbean Basin workforce are deficient and education and training opportunities are lacking. Many students with strong academic potential do not have the financial resources or the opportunity to further their education and training. To address this problem, my bill establishes a program to identify skill shortages in basin countries and provide training and education in those areas which will best promote the economic and political development.

This program would provide up to 1,000 scholarships per year for students from countries which have been designated as eligible countries by the President pursuant to the Caribbean Basin Economic Recovery Act and the awards would be apportioned according to population. In order to be eligible to participate, students would have to demonstrate academic potential, financial need and a desire to return to their country of origin upon completion of their program of study. Scholarship recipients would be selected by a nine-member Caribbean Basin Scholarship Commission which would consist of persons who by training and education are knowledgeable about the economic development of eligible countries. The Commission would give consideration to underserved and underdeveloped areas and students with financial need to pursue an education. In order to encourage the students to return to their home country upon completion of their study, the bill provides that repayment of loans would be forgiven upon the student's prompt return to his or her country of origin for a period that is at least 1 year longer than the period spent studying in the Commonwealth of Puerto Rico.

Funding for the scholarship program would be provided through the establishment of a Caribbean Basin Scholarship Fund in the Department of the Treasury. An amount equal to 5 percent of the money collected from the duties imposed on articles that are imported from eligible countries would be appropriated to the fund. This amount, which was approximately $10 million in 1986, would be matched equally by the Commonwealth of Puerto Rico.

Senator BOB GRAHAM and Congressman DANTE FASCELL have also introduced legislation providing scholarships for Caribbean Basin students. Their legislation would bring basin students to study at institutions within the United States. I am very supportive of this legislation and I hope that my bill will complement their efforts.

In bringing students to the Commonwealth of Puerto Rico, my program seeks to capitalize on the high quality of the existing resources and facilities at the institutions of higher education and vocational schools which is available at lower costs in Puerto Rico than in the United States. In Puerto Rico, there are more than 43 accredited higher education, technical, and vocational institutions which offer excellent programs in areas such as agriculture, engineering, community development, labor relations, public administration, industrial and economic development, health, housing, public safety, and social work. The estimated cost of undergraduate tutition at the University of Puerto Rico is between $2,000 and $3,000. Since 1950, over 36,000 men and women from 186 nations and territories have taken advantage of the excellent educational opportunities afforded at low-cost institutions in Puerto Rico.

In addition to benefiting from the high quality and low cost of the education and training available in Puerto Rico, I believe that educating students there is advantageous because, in many cases, students share a common language, and a common culture.

This Caribbean Basin Scholarship Program would greatly aid our efforts to foster economic development in the basin. It would also strengthen the mutual ties of friendship and understanding among the basin countries, the Commonwealth of Puerto Rico and the United States. It could be one of the most effective tools which we can offer to promote economic development, peace and democracy in the Western Hemisphere. For all of these reasons, I urge your strong support for this legislation.

INTRODUCTION OF A BILL TO AMEND THE MERCHANT MARINE ACT, 1936

HON. WALTER B. JONES

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 18, 1987

Mr. JONES of North Carolina. Mr. Speaker, I am introducing today the 1987 Amendments to the Merchant Marine Act, 1936.

The Committee on Merchant Marine and Fisheries has for a number of years been greatly concerned about the reduction in size and competitiveness of the U.S.-flag merchant fleet. Foreign fleets have taken an increasing share of the business between U.S. ports and ports abroad. We have tried to keep up with the foreign fleets through a variety of support programs, but we have been unable to match their combination of subsidies and regulatory advantages.

The recent report of the Commission on Merchant Marine and Defense finds that the near-collapse of the U.S. merchant fleet has created a real danger for our national defense.

The U.S. liner industry is not declining because it is old or inefficient. Its major companies are modern, innovative and well run. But, in part, they are hamstrung by old Federal regulations that were designed for an earlier time when competition was among U.S. vessels, not between U.S. and foreign fleets.

Although there is general agreement that a crisis is at hand, there is no agreement among the industry, the administration or the Congress on any comprehensive makeover of the liner promotion programs. But there does appear to be general agreement on at least several elements of a program.

There elements of agreement are the focus of the bill I introduce today. It has the support of the companies that constitute some 85 per cent of the U.S.-flag, foreign-trades liner capacity. Nearly all of those elements also are found in similar form in the administration's proposal.

If we are to move promptly in this area, we will need general consensus. This bill may give us a consensus starting point. To those who believe we should give full consideration to the administration's proposal, I must candidly note that some of the elements in that bill are destructively controversial. I also have previously introduced by own liner reform legislation, the provisions of which we also will strongly consider.

In order to get some help now to this industry, it may be necessary for us to forego the symmetry provided by a single piece of legislation addressing all the legitimate concerns of the maritime enterprise.

For example, I have pledged to find a way to assist our shipbuilding industry, whose decline is also having a negative impact on defense preparedness. But I think it best to attack that problem separate from liner promotion reform, and I will do so in a way that doesn't leave one sector hanging out in the cold while we accommodate the other.

For now, this bill suggests two things that can be done without doing violence to the issue we must address later. First, we can give liner companies the authority to acquire ships in the world market. And second, we can give liner companies the authority to react quickly to changing world markets and competition by removing cumbersome route and frequency regulations. This bill includes two other provisions and, if they should prove controversial, they may have to be set aside so that key reforms can be advanced.

Please note, Mr. Speaker, that this bill doesn't commit one more dime of Federal money to maritime subsidies. In fact, its complete implementation will save Federal money by improving liner flexibility and competitiveness.

Most important, however, these steps will help improve our national defense.

Mr. Speaker, we talk often about the maritime industry and national defense relationship. Sometimes, perhaps, the arguments seem too theoretical, or not closely enough related to what we can see and touch right now.

A current best-selling novel, "Red Storm Rising" by Tom Clancy, makes the argument for a strong merchant marine through a compelling story line that probably has more impact than all the charts and graphs we could put together.

Let me share with you the observations of a central figure in the novel, a Navy frigate commander escorting merchant ships carrying military cargo:

> The Military Airlift Commands' huge aircraft could ferry the troops across to Germany where they would be mated with their pre-positioned equipment, but when their unit loads of munitions ran out, the resupply would have to be ferried across the way it had always been, in ugly, fat, slow merchant ships—targets. Maybe the merchies weren't so slow anymore, and were larger than before, but there were fewer of them. During his naval career, the American merchant fleet had fallen sharply, even supplemented by these federally funded [National Reserve Defense Fleet] vessels. Now a submarine could sink one ship and get the benefit it would have achieved in World War II by sinking four or five. * * *
>
> He had seen the figures only a year ago; the total number of privately owned cargo ships in operation under the American flag was 170 and averaged about eighteen thousand tons apiece. Of those, a mere 103 were routinely engaged in overseas trade. The supplemental National Defense Reserve Fleet consisted of only 172 cargo ships.

"Red Storm Rising" is entertaining. But it also has an important message for national policy makers. I commend it to Members for their reading during our break between sessions.

I think you'll find it offers ample reason to support legislation such as that we've introduced today.

EXTENDED MEDICARE BENEFITS

HON. BYRON L. DORGAN

OF NORTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 18, 1987

Mr. DORGAN of North Dakota. Mr. Speaker, recently I had the opportunity to visit with senior citizens across my home State of North Dakota regarding their concerns about health care. At almost every meeting, questions were raised about the type of care that would be covered under the proposed catastrophic health insurance legislation. Time and time again, I had to explain to my constituents that in terms of nursing care, the catastrophic health insurance bill covers "more of the same" rather than an additional benefit.

With the reform of the Medicare reimbursement system, the average length of stay for Medicare beneficiaries has declined significantly.

Many senior citizens believe that Medicare will cover the additional care they need and therefore, when they are released from the hospital, they assume that Medicare will cover their nursing home expenses. In most instances, Medicare only pays when the patient requires skilled, daily care. Similarly, Medicare will provide reimbursement for home health care only when the patient requires skilled, intermittent care.

The catastrophic health insurance legislation increases the number of skilled nursing and home health days Medicare will cover. This increase may sound good, but the facts show that Medicare currently covers an average of only 22 days in a nursing home. Thus, expanding the number of covered days from 100 to 150 will benefit very few people.

Today I am introducing legislation to address the specific needs of Medicare beneficiaries. This bill states that post hospital nursing care, prescribed by a physician—whether provided in a nursing home or by a home health nurse—will be covered by Medicare. Clearly there is a need for additional care. Allowing reimbursement for nursing care without the skilled and daily requirements will offer seniors the coverage they need without additional, costly hospital stays.

To further clarify coverage of nursing services, the bill requires the Secretary of Health and Human Services to ensure that services are based on uniform criteria. In addition, to assist beneficiaries and providers, the criteria for covered services will be available to them on a regular basis, thereby reducing the number of retroactive denials and out-of-pocket expenses.

This legislation will make important strides toward filling in the gaps of Medicare coverage. DRG's are effective at encouraging cost efficiency; but that is only part of the total picture. Our constituents deserve quality and, most importantly, complete care.

A copy of the bill appears below:

H.R. —

A bill to amend title XVIII of the Social Security Act to improve access of medicare beneficiaries to extended care services and home health services after hospitalization

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. IMPROVED MEDICARE BENEFICIARY ACCESS TO POST-HOSPITAL SERVICES.

(a) EXTENDED CARE SERVICES.—

(1) DROPPING DAY LIMITATION ON EXTENDED CARE SERVICES.—Section 1812 of the Social Security Act (42 U.S.C. 1395d)) is amended—

(A) in subsection (a)(2)(A), by striking "for up to 100 days during any spell of illness", and

(B) in subsection (c)—

(i) by adding "or" at the end of paragraph (1),

(ii) by striking paragraph (2), and

(iii) by redesignating paragraph (3) as paragraph (2).

(2) COINSURANCE RATE OF 20 PERCENT OF NATIONAL AVERAGE PER DIEM COST FOR SERVICES FURNISHED DURING FIRST 7 DAYS OF EACH CALENDAR YEAR.—Paragraph (3) of section 1813(a) of such Act (42 U.S.C. 1395e(a)) is amended to read as follows:

"(3)(A) The amount payable for post-hospital extended care services furnished an individual in any calendar year shall be reduced by the coinsurance amount (promulgated under subparagraph (C) for that year) for each day (before the 8th day) on which he is furnished such services during the year.

"(B) Before September 1 of each year (beginning with 1987), the Secretary shall estimate the national average per diem reasonable cost recognized under this title for post-hospital extended care services which will be furnished in the succeeding calendar year.

"(C) The Secretary shall, in September of each year (beginning with 1987) promulgate the coinsurance amount which shall apply to post-hospital extended care services furnished in the succeeding year. Such amount shall be equal to 20 percent of the national average per diem cost estimated under subparagraph (B) in that year. If the coinsurance amount determined under the preceding sentence is not a multiple of 50 cents, it shall be rounded to the nearest multiple of 50 cents (or, if it is a multiple of 25 cents but not a multiple of 50 cents, to the next higher multiple of 50 cents).".

(3) Section 1814(a)(2)(B) of the Social Security Act (42 U.S.C. 1395f(a)(2)(B)) is amended by striking "on a daily basis skilled".

(b) POST-HOSPITAL HOME HEALTH SERVICES.—

(1) COVERAGE OF SERVICES.—Section 1812(a)(3) of such Act (42 U.S.C. 1395d(a)(3)) is amended by inserting "and post-hospital home health services" before the semicolon.

(2) BASIS FOR CERTIFICATION OF NEED.—Section 1814(a)(2)(C) of such Act (42 U.S.C. 1395f(a)(2)(C)) is amended by inserting "(i)" after "(C)" and by adding at the end the following new clause:

"(ii) in the case of post-hospital home health services, such services are or were required because the individual needs or needed nursing care or physical or speech therapy on an intermittent basis or, in the case of an individual who has been furnished post-hospital home health services based on such a need and who no longer has such a need for such care or therapy, continues or continued to need occupational therapy, for any of the conditions with respect to which the individual was receiving inpatient hospital services (or services which would constitute inpatient hospital services if the institution met the requirements of pargraphs (6) and (9) of section 1861(e), or post-hospital extended care services); a plan for furnishing such services to such individual has been established and is periodically reviewed by a physician; and such services are or were furnished while the individual as under the care of a physician; or".

(3) POST-HOSPITAL HOME HEALTH SERVICES DEFINED.—Section 1861(m) of such Act (42 U.S.C. 1395x(m)) is amended by adding at the end the following: "The term 'post-hospital home health services' means home health services furnished an individual within one year after the individual's most recent discharge from a hospital of which the individual was an inpatient or (if later) within one year after the individual's most recent discharge from a skilled nursing facility of which the individual was an inpatient entitled to payment under part A for post-hospital extened care services, but only if the plan covering the home health services is established within 14 days after the individual's discharge from the hospital or skilled nursing facility.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished on or after January 1, 1989.

SEC. 2. GUIDELINES FOR COVERAGE DETERMINATIONS FOR HOME HEALTH SERVICES AND POST-HOSPITAL EXTENDED CARE SERVICES.

(a) IN GENERAL.—Title XVIII of the Social Security Act is amended by adding at the end the following new section:

"GUIDELINES FOR CERTAIN COVERAGE DETERMINATIONS

"SEC. 1891. The Secretary shall take such steps as may be necessary to ensure that determinations made under this title by fiscal intermediaries and carriers with respect to coverage of home health services and post-hospital extended care services are based upon uniform criteria of nation-wide application. Such steps shall include—

"(1) issuing and periodically revising uniform guidelines for making such determinations;

"(2) requiring each intermediary or carrier to issue, and periodically to review and revise, a written statement setting forth, in clear and unambiguous language and in conformity with guidelines issued under paragraph (1), the criteria that the intermediary or carrier will apply in making such determinations; and

"(3) making statements issued under paragraph (2) available on a timely basis to skilled nursing facilities, home health agencies, and individuals entitled to benefits under this title.".

(b) IMPLEMENTATION.—The Secretary of Health and Human Services shall take such steps as are necessary to provide for the issuance of guidelines under section 1891(1) of the Social Security Act, and to require the issuance of the statements under section 1891(2) of such Act, by not later than 180 days after the date of the enactment of this Act.

THE EUROPEAN PARLIAMENT REJECTS LE PEN'S POLITICS OF HATE

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, December 18, 1987

Mr. GILMAN. Mr. Speaker, the American people have, over and over again, rejected the revisionist history that questions the existence of the Holocaust or the importance of the destruction of European Jewry by Hitler as a central event of modern times. The tendency to deny or minimize the Holocaust not only trivializes the death of 6 million Jews but denies the lesson of the Holocaust—that humanity is capable of such deliberate destruction and that such unbridled hate must be resisted, or a holocaust may happen again.

I regret that in Europe, racist politics, including a denigration of the Holocaust, has taken root in the form of Jean-Marie Le Pen's National Front. Fortunately, a broad front has arisen to denounce his ideology and statements. Thus, when Le Pen suggested that the Holocaust was "merely one of the small details of the Second World War," he was denounced by politicians of all persuasions.

Le Pen represents a constituency in the European Parliament, but the Parliament has, in an extraordinary move, rejected his statement and the revisionist history of the Second World War in a special resolution that mentions him by name.

Mr. Speaker, I ask that the written declaration of the European Parliament, signed by 268 of the 518 members of the Parliament, be included in the RECORD at this point.

WRITTTEN DECLARATION ON THE HOLOCAUST, THE EUROPEAN PARLIAMENT AND LE PEN

The European Parliament,

A. Aware of the misery and destruction of the Holocaust,

B. Recalling the Communities Solemn Declaration against Racism and Xenophobia,

C. Recalling the recommendations of the EVRIGENI's report on the rise of racism and fascism in Europe,

D. Determined that the lessons of the Holocaust should never be forgotten,

1. Rejects the pseudo-scientific theories of so-called revisionist historians.

2. Rejects totally the views of Jean-Marie Le Pen as expressed on Sunday 13 September 1987 in an interview with 'Grand Jury RTL-Le Monde' that the Holocaust and the gas chambers "c'est un point de detail de l'historie de la deuxieme guerre mondiale" ["were merely one of the small details of the Second World War."]

3. Instructs its President to forward this written declaration to the Commission, the Council of the European Communities and to the Government of the State of Israel.

WRITTEN DECLARATION B 2-828/87

Abens, Adam, van Aerssen, Alavanos, Alexandre, Alvarez De Paz, Amadei, Amberg, Anastassopoulos, d'Ancona, Andenna, Andrews, Arbeloa, Muru, Arndt, Avgerinos, Bachy, Balfe, Banotti, Barbarella, Baron Crespo, Barzanti, Battersby, Beazley Christopher, Beazley Peter, Bersani, Besse, Bethell, Bird, Bloch von Blottnitz, Boesmans, Bombard, Bonde, Bonino, Braun-Moser, Brok, Brookes, Bru Puron, Buchan, Bueno Vicente, Caamano Bernal, Cabezon Alonso, Cabrera Bazam, Calvo Ortega, Campinos, Cano Pinto, Carossino, Cassanmagnago Cerretti, Cassidy, Castle, Catherwood, Cervera Cardona, Cervetti, Chanterie, Charzat, Christensen, Christiansen, Cicciomessere, Coderch Planas, Cohen, Coimbra Martins, Colino Salamanca, Collins, Colom I Naval, Cot, Cottrell, Crawley, Croux, Cryer, Daly, Dankert, De Pasquale, De Vries, Dido', Diez De Rivera Icaza, Donnez, Duhrkop Duhrkop, Dury, Ebel, Elles James, Elliot, Ephremidis, Ewing, Eiraud, Falconer, Fellermaier, Fich, Filinis, Fitzgerald, Fitzsimons, Focke, Ford, Fuillet, Gadioux, Garcia Arias, Garcia Raya, Gatti, Gazis, Glinne, Graefe Zu Baringdorf, Graziani, Gredal, Griffiths, Gutierrez Diaz, Habsburg, Hansch, Happart, Heinrich, van den Heuvel, Hindley, Hitzigrath, Hoff, Hoon, Howell, Huckfield, Hughes, Hume, Hutton, Jackson Caroline, Jackson Christopher, Kilby, Klinkenborg, Kolokotronis, Kuijpers, Lagakos, Larive, van der Lek Lemass, Linkohr, Lizin, Lomas, Loo, Lucas Pires, McCartin, McGowan, McMahon, McMillan-Scott, Madeira, Maher, Marinaro, Marshall, Martin David, Mattina, Medeiros Ferreira, Medina Ortega, Megahy, Metten, Mihr, Miranda Da Silva, Miranda Da Lage, Mizzau, Moran Lopez, Moravia, Morris, Motchane, Muntingh, Neugebauer, Newens, Newman, Newton-Dunn, Normanton, von Mostitz, Novelli, O'Hagan, Oliva Garcia, O'Malley, Pajetta, Pannella, Pantazi, Papakyriazis, Papapietro, Papoutsis, Pearce, Pelikan, Penders, Perez Royo, Pery, Peters, Peus, Pintasilgo, Plannas Puchades, Plaskovitis, Poettering, Pons Grau, Prag, Price, Prout, Provan, Puerta Gutierrez, Punset I Casals, Quin, Raggio, Ramirez Heredia, Remacle, Rigo, Rinsche, Roberts, Robles Piquer, Roelants du Vivier, Rogalla, Romeos, Rossetti, Rossi, Rothe, Rothley, Saby, Sakellariou, Sanz Fernandez, Sapena Granell, Saridakis, Schimzel, Schmid Gerhard, Schmidbauer, Schmit Lydie, Schreiber, Scott-Hopkins, Seal, Seeler, Seligman, Selva, Sherlock, Sierra Bardaji, Simmonds, Simpson, Smith, Squarcialupi, Staes, Stauffenberg, Stevenson, Stewart, Stewart-Clark, Sutra De Germa, Telkaemper, Thareau, Toksvig, Tolman, Tomlinson, Tongue, Topmann, Tridente, Trupia, Tuckman, Turner, Ulburghs, Valenzi, Vandemeulebroucke, Van Hemeldonck, Vayssade, Vazquez Fouz, Verde I Aldea, Vernimmen, Vetter, Viehoff, Visser, Vittinghoff, von der Vring, Van Der Waal, Wagner, Walter, Weber, Welsh, West, Woltjer, Zagari, Zahorka, Zarges, Harlin.

SUPERFUND 1987: PUBLIC HEALTH REMAINS AT RISK

HON. ALBERT G. BUSTAMANTE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, December 18, 1987

Mr. BUSTAMANTE. Mr. Speaker, I would like to share with my colleagues a report by the Clean Water Action Project and the U.S. Public Interest Research Group detailing the Environmental Protection Agency's failure to properly carry out the mandates of the Superfund Amendment and Reauthorization Act. As the report's Executive Summary states; the "EPA has failed to implement provisions of the law requiring (1) the use of health based standards, (2) a preference toward permanent treatment and (3) the issuance of technical assistance grants to 'Superfund Committees.' "

A glaring example of these failures exists in Crystal City, TX, where citizen groups have been forced to take legal action to ensure that the EPA abide by the requirements of the law in cleaning up a local Superfund site. I hope the following portions of the Superfund report will convince my colleagues of the need for serious and timely attention to this matter.

SUPERFUND 1987: PUBLIC HEALTH REMAINS AT RISK—A ONE-YEAR REPORT ON EPA'S CLEANUP PROGRAM UNDER THE NEW SUPERFUND LAW

EXECUTIVE SUMMARY

First Anniversary of the New Superfund Law

The first Superfund program, established in 1980 to clean up uncontrolled hazardous waste sites, was a dismal failure. After five years, EPA could list only a handful of sites that had been completely cleaned up. Moreover, the overwhelming majority of cleanups planned involved onsite containment of hazardous wastes or removal and disposal to a second site; both alternatives leave massive quantities of hazardous waste in the ground and communities vulnerable to exposure to toxic chemicals for generations to come. The Agency repeatedly neglected commercially available methods that provide permanent solutions by treating the wastes. Repeatedly, EPA decisions left "Superfund communities" angry and frustrated.

Congress responded to widespread public outcry by passing the Superfund Amendment and Reauthorization Act (SARA); despite the Administration's opposition to many new provisions, President Reagan signed the legislation a year ago on October 17, 1986. The new law not only contains a much larger ($9 billion-5 year) cleanup fund, but also requires EPA to follow very strict standards of cleanup. For example, permanent solutions are to be employed to the maximum extent possible. Congress also provided measures to promote effective citizen participation in the Superfund decision making process.

An Evaluation of EPA's Cleanup Program After One Year

This report demonstrates that the Reagan Administration is systematically ignoring the most important provisions of the new law—those which concern permanent treatment alternatives, cleanup standards and public participation. Specifically, the report, based on case studies and a survey of cleanup decisions (Records of Decision), finds that:

While there are notable exceptions, EPA is violating the permanent treatment provisions in most of its cleanup decisions. An EPA internal survey acknowledges that of 74 decisions made during FY 1987 (most after the passage of SARA), only 25 are employing treatment. Most of the decisions are similar to those made before the new law—massive amounts of hazardous waste are left at the site and readily available treatment technologies are neglected. Such decisions are especially imprudent where the sites lie in sensitive environmental settings, e.g. floodplains, wetlands, and in close proximity to major water supplies.

EPA has chosen, as a matter of national policy, to use weaker cleanup standards for groundwater than are required by the new Superfund Law.

EPA databases used to make cleanup decisions are often inadequate to diagnose the full extent of problems at Superfund sites and are insufficient to determine cleanups which provide permanent solutions to the "maximum extent practicable" as required by Superfund.

EPA is foot dragging in implementing the Technical Assistance Grant program of the new Superfund Law; this program entitles community groups affected by Superfund sites to receive up to $50,000 to hire their own experts to interpret data and cleanup alternatives; these funds are essential to help citizens understand complex and large databases and to participate meaningfully in the cleanup selection process. Despite the passage of more than a year, not a single grant has been issued, there are no application forms, and their are no regulations. As a result, citizens at scores of the nation's worst sites won't be able to use the funds in time for the cleanup selection.

Summary

EPA's implementation of major requirements of the new Superfund is not acceptable. EPA has failed to implement provisions of the law requiring (1) the use of health based standards (2) a preference toward permanent treatment and (3) the issuance of technical assistance grants to "Superfund Communities." EPA with few exceptions has neglected these provisions despite widespread public and Congressional criticism. We conclude that the Administration has simply decided not to enforce parts of the new law which it actively opposed during the reauthorization debate. The policies and decisions which we have reviewed appear more responsive to the concerns of the polluter, i.e. to hold down costs, then they are to concerns related to public health, the environment and fidelity to the law.

Citizens at a number of sites are beginning to fight back. For example, citizens living in the immediate vicinity of the Crystal City Site announced their intent to file a citizens suit under Superfund. The suit will argue that EPA has failed to carry out non-discretionary duties under Superfund (e.g. failure to use permanent treatment technologies to the maximum extent practicable, failure to apply relevant standards of environmental laws, and failure to make available technical assistance funds to communities).

Crystal City Airport, (Crystal City, TX)

EPA's cleanup plan rejects treatment options; pesticides and contaminated soils to remain onsite.

Note: based in part on a legal analysis of the selected remedy performed by the Hazardous Waste Treatment Council.

Background

Parts of the Crystal City Municipal Airport are heavily contaminated with pesticide wastes including DDT, toxaphene arsenic and many others. Contamination is associated with former crop dusting operations. Pesticides were spilled and dumped. In 1983, testing revealed high levels of pesticides in surface soils. EPA contractors "temporarily buried the most contaminated soils and drums" in 1983 and 1984. The site was determined to present a significant health risk to the public and/or environment in 1984. The site was proposed for the NPL in 1984 and finally listed in June of 1986.

The persons most likely to be exposed are passengers and workers at the airport, and people living immediately around the airport. Elementary, pre-school and high schools are located within 2 to 3 blocks of the site.

Potentially Responsible Parties (PRPs).—A number of crop dusters which created the problem, the municipality, Crystal City, and the owner of the airport, have been sent letters from EPA identifying them as PRPs.

EPA's Cleanup Plan

EPA's proposed cleanup plan is limited to excavating the most highly contaminated soils, drums and a building and placing these in a large hole in the ground that will be covered with a synthetic cap. No treatment of any kind will be used prior to burial.

Analysis

EPA Region VI's preferred option clearly violates the cleanup requirements of the new SARA. The option does not utilize treatment to reduce the toxicity, volume or mobility to the maximum extent practicable as required by Section 121(b)(1). Nor does EPA use any of the justifications which the section provides for selecting an alternative which doesn't meet this criteria. The Agency could have selected one or more available treatment options including mobile incineration.

In addition, the preferred remedy would violate Section 121(d) of SARA stating that the remedy must attain a degree of cleanup that complies with "applicable or relevant and appropriate requirements" (ARARs) of other environmental laws. The ARAR for land disposal is the RCRA requirement that landfills must have double liners, leachate detection, and a leachate collection system. The hole in the ground would not meet any of these requirements for disposal of wastes which are hazardous.

Moreover, the remedy would leave in place (would not remove) soils with a total pesticide concentration which is less than 100 mg/kg. This means that some of the soils remaining will have substantial concentrations of pesticides and the potential for continued public exposure.

In explaining its decision (letter to Representative Bustamante, Sept. 29, 1987), EPA states that SARA does not mandate the use of permanent treatment alternatives but "to prefer" (sic, the law says "utilize" and "select") alternative treatment technologies" to the maximum extent practicable. The letter goes on to say that "the proposed remedy meets the preferences of the law to a greater degree than any other option evaluated and is practicable." In rejecting incineration EPA argues that incineration would destroy organics but not arsenic; however, EPA's option leaves all arsenic and all organics at the site. Moreover, EPA could have selected stabilization for arsenic bearing soils following incineration, or other available treatment methods.

EPA's answer to the charge that the cleanup would not meet RCRA provisions is creative: for RCRA requirements for landfills to be applicable, ". . . disposal or management of waste must occur. The proposed remedy is not considered a disposal action since the contaminated material will be consolidated in the unit, or area of contamination from which they originated." As an attorney for citizens has pointed out, the euphemism "consolidation" in this precedent setting case could be used to escape RCRA regulations in dozens of cases where the Agency could select onsite disposal.

Groundwater lies about 700 feet below the surface; the strata between the surface and the water table include low permeability layers. Nevertheless, many of the toxic substances at the site will resist breakdown for indefinitely long periods under the ground and residents are concerned that contamination from the unlined pit may filter through fissures and cracks in the clay; one of the city's four municipal wells is located within 200 feet of the site boundary. Moreover, contaminants may move horizontally through upper, more permeable soils and contaminate nearby surface waters.

Public Participation.—EPA's handling of community relations in this largely Mexican-American agricultural town is also a bad precedent. When Region VI came to the public for comment, it had already made its decision. According to the City Manager, EPA's first public discussion of the options was held in July of this year; a fact sheet with 8 options (some were treatment alternatives) was passed out at a meeting. However, the fact sheet announced that EPA's preferred option was onsite burial. It is required and essential that the community get to comment on the final proposal before a ROD is issued—but the community must also get a chance to state its preference before EPA makes up its mind.

EPA Ignores Widespread Criticism.—EPA announced its preference for the reburial in July, 1987. The proposal immediately met with widespread criticism from citizens, from the municipal government, from the Hazardous Waste Treatment Council, from a number of national environmental groups including the National Campaign Against Toxic Hazards, Clean Water Action, U.S. PIRG, and the Natural Resources Defense Council (NRDC). U.S. Congressman Bustamante, whose district includes Crystal City wrote to EPA stating his belief that the cleanup "is not a lawful alternative."

Despite the public and congressional commentary that the preferred option would be unlawful, EPA stayed its course. On September 29, just in time for EPA's annual "bean counting," Region VI finalized the reburial option for the site.

Citizens Answer—File Citizen Suit.—On November 6, 1987 several critizens living in the immediate vicinity of the site sent a letter (via attorney) to President Reagan announcing their intent to file a citizen's suit under Superfund. The suit will argue that EPA has failed to carry out non-discretionary duties under Superfund (e.g. failure to use permanent treatment technologies to the maximum extent practicable, failure to apply ARAR's, and failure to make available technical assistance funds to communities).

THE SUPERCONDUCTING SUPER COLLIDER

HON. RICHARD H. LEHMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 18, 1987

Mr. LEHMAN of California. Mr. Speaker, there has been much attention and discussion lately on the superconducting super collider [SSC] which will be built somewhere in the United States and will be the world's largest particle accelerator. As you know the SSC will be the world's largest proton smasher. A descendent of the 1930 cyclotron which is about the size of a breadbox, the SSC's dimensions will approximate the circumference of the Capitol Beltway. The purpose of the collider remains as important today as it was when high level physics was in its infancy—the discovery of the structure of matter. High energy particle accelerators help us discover smaller and smaller particles which are the essence of all nature.

Why should we continue our never ending search for subatomic particles? As Members of the House we all face the very difficult task of balancing the immediate needs of the Government with the long-term needs of our world for knowledge and scientific advancement. It is much, much easier to get dollars for applied scientific research than it is to secure funds for what is referred to as pure science. Yet pure science is the foundation for all other research. We must not defer to Hamburg, to Geneva, to Japan or to the Soviet Union for the future of high level physics. The strength of America is that we look to the future rather than rely on the past. The practical, technological adaptations of scientific research of the SSC are not completely known, but will undoubtedly be forthcoming; just as earlier colliders led to advances in medicine, electronics, and efficient energy development.

The Department of Energy is proposing to build the SSC at a cost currently estimated to be $4.4 billion. The project will take 6 years to construct and some 36 States are vying for the honor and prestige of locating it in their State. Such competition is certainly understandable. For my State, it is estimated that during the construction, the SSC will create approximately 10,200 construction and related jobs. After its completion the SSC will have a work force of about 2,500 which may increase to 3,500 by the year 2000. Clearly, private sales and local government revenues for the SSC's host State will increase.

Although I am in favor of the collider regardless of its final location, it is no surprise that I believe that California is the State that is best suited to meet the needs of the superconducting super collider. To show the extent to which California is willing to go to meet this challenge, my State has agreed to put up over $1 billion to help cover the costs estimated for the project. At this time of concern about the drain such large projects put on the Federal budget, the willingness of California to put up nearly one-quarter of the cost associated with the project should be commended. In addition, California offers the physical, educational, and cultural resources and diversity that no other State can match for the SSC.

Mr. Speaker, the citizens of the Nation rely on Congress to lead then with science policy that will serve this country well into the 21st century. I believe that the fundamental search to understand our universe and its part must continue for the sake of knowledge itself and for all that portends for our future. I also believe the decision to go forward with the superconducting super collider will be a legacy that this Nation will never regret.

ON THE OCCASION OF BOB BERRY'S RETIREMENT

HON. BILL CHAPPELL, JR.

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 17, 1987

Mr. CHAPPELL. Mr. Speaker, I add my sincere appreciation to Bob Berry, our outstanding reading clerk, for his many years of faithful service to the House of Representatives. Bob has helped so faithfully to keep things on track and on schedule around here in good times and tough times. The process of legislating is confusing at best, but Bob Berry has employed his calm, considerate, and helpful personality to ease the pain of tension along the road of meaningful lawmaking.

I wish Bob every success in his new position with the American Gas Association. A most exceptional, highly principled individual as Bob will succeed wherever he goes and be loved in the process.

We will sorely miss him. All of us wish him the best of life always.

HOME AND COMMUNITY CARE FOR THE DISABLED LONG OVERDUE

HON. DOUG WALGREN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 18, 1987

Mr. WALGREN. Mr. Speaker, I am pleased to cosponsor and urge my colleagues to support H.R. 3454, "Medicaid Home and Community Quality Services Act of 1987," introduced by Congressman FLORIO and Senator CHAFFEE.

Our country provides very little support for persons with long-term illnesses or disabilities. The closest we come to a national program is Medicaid, which is essentially a welfare program created to pay for medical care for the indigent.

Currently, a mentally or physically disabled child can only receive help from Medicaid if they are in an institution—and that help is largely limited to medical services. But if parents choose to keep a child at home with the family, Medicaid will not pay anything. An individual can get Medicaid to pay for home care by applying for waivers—but this is a cumbersome process and some States exclude even that. Decent coverage is the exception—not the rule—in our society.

The premise of H.R. 3454 is that Medicaid should support a wide range of services in a wide range of settings. The best setting for a child might be with their family, a small group home with supervision, a small institution, or a large institution. It is important that options be available.

The Medicaid Home and Community Quality Services Act provides the mechanism to allow those with disabilities to live in their home communities with the security and support they need to grow and develop as individuals. This legislation would remove the institutional bias from the current Medicaid Program and allow States more flexibility to serve patients with developmental disabilities who live with their families, in their own homes, or in other community-based situations.

To respond to the varied needs of the disabled, States would be required to expand services beyond the purely medical and provide five mandated services: case management, individual, and family supports—including respite and attendant care—specialized vocational services; protection and advocacy services; and protection intervention.

We have for too long tolerated a system that is skewed toward institutional care for the mentally retarded and the disabled. While institutions offer some advantages, the awareness that community and home settings help individuals gain greater self-respect and esteem and become more productive has steadily developed.

An important feature of this bill is the encouragement of a wide array of services. While individuals with Down's syndrome, cerebral palsy or spina bifida have medical needs, the quality of life for these individuals is equally important to encourage growth and productivity. This bill would help provide the kinds of support services, like attendants and vocational training, so that individuals could develop skills to become independent and active participants in community life.

This legislation has been carefully developed over a long period of time, taking into account the needs and concerns of the developmentally disabled and their families. Unlike previous versions of this bill which mandated the elimination of any funds for institutions, H.R. 3454 would continue the current funding level for institutions with more than 16 beds. We should recognize that institutional care as well has its place.

There are 26 citizen organizations working in the field of the developmentally disabled who support this legislation, including the Association for Retarded Citizens of the United States, United Cerebral Palsy, the National Association of Directors of State Mental Retardation Facilities, the American Association of Mental Deficiency, the Association for Persons with Severe Handicaps, the National Association of Developmental Disabilities Councils, and the National Association of Protection and Advocacy Systems.

H.R. 3454 is an important step in restructuring the Medicaid Program to encourage self-sufficiency and productivity. This bill includes strong quality and monitoring requirements to ensure high quality services. I urge my colleagues to support this bill to achieve prompt passage.

MAYOR JERRY ABRAMSON OF LOUISVILLE

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Friday, December 18, 1987

Mr. MAZZOLI. Mr. Speaker, I would like to bring to the attention of my colleagues a recent honor bestowed on my friend and fellow Louisvillian, Mayor Jerry Abramson.

Jerry has joined very select company in being named by U.S. News & World Report as one of "The Best of City Hall" in the magazine's annual survey of America's top-performing mayors.

This accolade, after only 2 years at city hall, comes as no surprise to the people of Louisville who know Jerry well and have witnessed his intelligence, enthusiasm and energetic approach to the kinds of complex responsibilities facing today's big city mayors.

In fact, these attributes have accompanied him throughout his already distinguished career and previous stints in public service as a member of the city of Louisville's board of aldermen, and assistant to the Governor of Kentucky.

Mayor Abramson has been a very active participant in the U.S. Conference of Mayors, which has sought the benefit of his insight and advice in instructing new, incoming mayors from around the country. And, he has been an articulate spokesman and advocate for maintaining the Federal-local partnership in important community programs for homeless and low to moderate income American families.

Louisville has been rated regularly by the experts as one of America's most livable cities. I believe that such distinctions are a credit to the strength, diversity, and creativity of our people and the kind of leadership which drives a community to meet the needs of its citizens and the future.

Our city is proud to have such outstanding leadership in Mayor Jerry Abramson. I commend him for earning this very deserved personal recognition which also brings honor and pride to our hometown and all the people of Louisville. And, I look forward to working together closely with Jerry in the days ahead.

RENEWABLE ENERGY TRADE EQUITY AND PROMOTION ACT OF 1987

HON. RON WYDEN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Friday, December 18, 1987

Mr. WYDEN. Mr. Speaker, today, with Miss SCHNEIDER, Mr. GLICKMAN, and Mr. LUJAN, I am introducing the Renewable Energy Trade Equity and Promotion Act of 1987. The act will use existing Federal export programs to promote American export to the huge overseas renewable energy market.

According to a recent Commerce Department report, the potential market for renewable energy capacity in the world exceeds the current electrical power system capacity in the United States. The market in the next 15 years is forecast to be in the billions of dollars.

Not so long ago, the United States was poised to reap the lion's share of this opportunity. But our commitment to renewable energy has lagged, and foreign competitors are salivating at the prospect of taking over our share. Japan, for example, is aggressively promoting its photovoltaic technology and the Netherlands, Denmark, and India hope to capture the wind energy market.

In the 98th Congress, I introduced and we passed a bill (Public Law 98-370) creating an interagency board, the Committee on Renewable Energy Commerce and Trade [CORECT], to coordinate Federal export programs and establish a unified approach on renewable energy exports. Last year, in an oversight hearing on the board's work in the Energy Conservation and Power Subcommittee of the Energy and Commerce Committee, we learned that despite the successes of the CORECT board, we still had a long way to go to ensure that U.S. industries stay competitive in the international market.

The bill I introduce today is designed to encourage the Government to work in concert with U.S. industry to boost exports of American renewable energy products. In brief, it does the following:

First, it requires the U.S. Trade Representative to report to Congress on the extent other countries impose protective tariffs or other restrictions on U.S. energy products or services.

Second, it reestablishes the feasibility program of the Overseas Private Investment Corporation allowing incentives, grants, and studies for small renewable energy businesses to help them market overseas.

Third, it directs both the Export/Import Bank and the Small Business Administration to set goals of awarding at least five percent of their energy industry export funding to renewable energy projects, and asks the agencies to report annually on their renewable expenditures.

Fourth, it calls for information exchanges to help link U.S. producers with assistance programs and potential foreign customers.

Fifth, it authorizes $2.5 million for the CORECT group for fiscal year 1989 to encourage renewable energy marketing overseas.

Sixth, it has us instruct international financing agencies receiving U.S. support, such as the World Bank, to promote renewable energy projects.

Seventh, it allows the Department of Defense to use renewable energy equipment in its overseas facilities.

The Renewable Energy Trade Equity and Promotion Act of 1987 is an important legislative step toward maintaining our edge in the world renewable energy market. I am proud of the accomplishments of the CORECT group and of Public Law 98-370 in promoting American products through special trade meetings, overseas sales missions, and other activities. We must aim to build upon the success of this initial effort. We have much to gain. Our past investments in the renewable energy industry have come back to us many times over in increased exports and reduced energy imports as our domestic use of renewables is indirectly increased. In boosting our renewable energy industry we have a unique opportunity to help ourselves and help the world meet its energy needs.

CELEBRATING OUR CONSTITUTION

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Friday, December 18, 1987

Mr. MARKEY. Mr. Speaker, the 200th anniversary of the U.S. Constitution is nearing its completion and the Nation is now looking forward to the bicentennial of its ratification in 1989. As we celebrate this historic document we need also to look closely at its history and present significance. The daily use of the Constitution by Americans to advance a more just society in the cities, towns, villages, and rural areas of our land is perhaps the most authentic and lasting way we have of celebrating our Constitution.

I commend to my colleagues' attention an article published last January in the Christian Science Monitor by Shafeek Nader, the founder of the Northwestern Connecticut Community College in Winsted, CT, and a long time advocate of civic learning at community colleges around the Nation. The article follows:

A GRASS-ROOTS CELEBRATION

(By Shafeek Nader)

In 1987 the United States will celebrate a very significant anniversary—the bicentennial of its Constitution. In the process it should reach for a people's celebration, rather than a commercialized one of decals, sonorous phrases, and self-flattery.

Imagine gatherings of neighbors in city, town, and village squares to discuss and debate and, above all, to apply constitutional principles, such as freedom of speech, due process, and the right to petition, to daily life in our communities.

Such a people's celebration would stand in sharp contrast to the Statue of Liberty centennial celebration, which defined patriotism largely as show business and commerce. It could have been an occasion to celebrate the meaning of genuine patriotism. Rather, we lost another opportunity to expand our collective awareness of how powerful rules throughout history have used and misused patriotic feeling.

More than one president has waved the red, white, and blue to avoid confronting real problems and responsibilities. Our political leaders have whipped up nationalistic fervor, using symbols to stifle dissent and hide serious abuses. Fortunately, there have also been times when an appeal to patriotic spirit has nourished a commitment to justice, as in the civil rights movement.

On the highly visible occasion of the Statue of Liberty's centennial, however, we squandered the opportunity to educate our children in the deeper meaning of patriotism and love of country—the meaning that separates fulfilled from manipulative patriotism. Alas, from the beginning, schoolchildren were asked to contribute their quarters, not their minds.

Adults, too, lost. They could have been participants in a centennial that prompted reflection and resolution regarding their role in building community, region, and nation. We are left wondering how many innovative initiatives and projects these citizens could have launched in their communities. The statue's centennial was in fact planned by a few in the corporate world, with governmental consent. It was a media event sold like toothpaste to a mass society.

The media, with few exceptions, treated the anniversary as pageantry. That pleased most politicians, sharing as they did in the publicity hoopla culminating on Independence Day in New York Harbor.

Certainly there is a place for pomp and ceremony and for a general good time, together with bands and regalia, on the Fourth of July. But what of the days before the Fourth? Did the schoolchildren learn much about what the statue stood and stands for? Did we ponder quietly the connections between civil liberties and community responsibility and the contributions of both to justice and well-being? No, we did not. The tone was set by many political and business leaders who defined patriotism as pageantry, with as few questions raised as possible.

Such unthinking patriotism can be dangerous in the hands of the few who govern the many. A true love for the community of human beings that is our country is expressed when each one of us helps define that patriotism by our deeds and thoughts working together.

It is that kind of thoughtful commemoration that should mark the US Constitution's bicentennial. Living and using our Constitution is the best way to honor and defend it.

ON THE RETIREMENT OF BARBARA BAILAR FROM THE CENSUS BUREAU

HON. MERVYN M. DYMALLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 18, 1987

Mr. DYMALLY. Mr. Speaker, yesterday the Associate Director of the Census Bureau for Statistical Standards and Methodology, Barbara A. Bailar, resigned from her position after 30 years of distinguished service with the agency.

Dr. Bailar, who is also the current president on the American Statistical Association, is widely and highly respected for her work on survey methodology and her research on the accuracy of statistical activities.

While statistical science may sound like an esoteric field to some, we should remember that nearly every decision we make to authorize, reauthorize, and fund Federal programs is based on whether the need for such programs is borne out by the statistics. And nearly all Federal statistics are generated either directly or indirectly by the Bureau of the Census.

In addition to her public service career, Dr. Bailar's many accomplishments and activities include the publishing of 45 professional papers, membership in eight professional associations, and receipt of the silver medal for meritorious Federal service from the Census Bureau in 1980.

Most recently, as a Census Bureau Associate Director, Dr. Bailar has responsibility for overseeing research and development of methodologies to evaluate coverage in the decennial census and correct known undercounts and overcounts of the population.

After years of painstaking work, Dr. Bailar stated this past summer that she believed a consensus had been reached in the statistical community on the validity and feasibility of a methodology which would allow calculation of the census undercount and an adjustment of the census figures to correct the errors.

Unfortunately, despite the plans of the Statistical Standards Division to proceed with further development of adjustment-related techniques for use in 1990, the Department of Commerce announced in October that a correction of the census figures would not be done for the 1990 census.

While I do not know what prompted Dr. Bailar's resignation, I fear that decisions made recently with regard to the question of an adjustment were based on political, rather than scientific, considerations. I suspect this approach to decisionmaking on a program of such critical importance must have been frustrating for a professional of Dr. Bailar's caliber.

I have no doubt that Dr. Bailar will continue to make significant contributions in her chosen field and will continue to command the respect of her peers and colleagues.

I commend Dr. Bailar for her many years of loyal service to our Government. I sincerely hope that her efforts to improve the accuracy of the census figures, upon which important constitutional and civil rights rest, will not be in vain.

LEO J. TROMBATORE WILL RETIRE ON JANUARY 1, 1988

HON. VIC FAZIO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 18, 1987

Mr. FAZIO. Mr. Speaker, I rise today to pay tribute to a native Californian, colleague and friend, Leo J. Trombatore, who will retire from his position as director of the State Department of Transportation—Caltrans—on January 1, 1988. For over 40 years, the State of California has benefited from Leo's knowledge and dedication to public service.

As director of Caltrans, Leo has almost 17,000 employees working for him. His organization is responsibile for the planning, design, construction, operation, and maintenance of California's 16,000-mile highway system and toll bridges.

Leo began his career with the department in 1947 when he served as the district director at the Marysville office, which covers 11 counties, including Sacramento. After 7 years, he moved on to become the deputy district director for planning and design in the department's San Francisco district office where he served for 8 years. Southern California then benefited from his expertise when he became the assistant district director in the Los Angeles district office.

His work for the State has not gone unnoticed. In 1983 he received the Government Professional Award from both the National and California Societies of Professional Engineers. The following year, the American Public Works Association honored him as 1 of the top 10 public works officials for his commitment and effectiveness in his position as director of Caltrans.

Leo has not limited himself to being director of Caltrans. He has served as president of the Western Association of State Highway and Transportation Officials and as chairman of the prestigious standing committee on highways of the American Association of State Highway and Transportation Officials. He also serves on the executive and policy committees of the American Association of State Highway and Transportation Officials and on the board of directors of the California Engineering Foundation. He is a fellow in the American Society of Civil Engineers and a member of the Institute of Transportation Engineers, the American Public Works Association, and the International Right of Way Association, and the Rotary Club of Marysville, CA.

To give ones self to the call of public service is admirable. To have done this for 40 years is extraordinary. Leo Trombatore is a shinning example to all the generations to come of a man willing to work for the good of the people. I am proud to know Leo both professionally and personally and know that my colleagues join me in wishing him, his wife, Shirley, and his three children, the best of luck in the future.

TURKEY: A STRATEGIC PARTNER IN NATO

HON. SOLOMON P. ORTIZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, December 18, 1987

Mr. ORTIZ. Mr. Speaker, during this past week we have debated and passed the bill, H.R. 3100, the International Security and Development Cooperation Act of 1987. This bill, while authorizing and allocating funding of foreign assistance programs, also places restrictions on funds and assistance provided two of our North Atlantic Treaty Organization [NATO] allies. These restrictions, particularly as they apply to the Republic of Turkey, maintain the traditional ratio in relation to aid provided Greece. A seemingly more appropriate allocation of funds should be based on these countries contribution to the security of the United States and to NATO.

Many of you recall that our friend and ally, the Republic of Turkey, has long shared the same common values, mutual interest, and visions, as regards democratic values, as we in the United States do. Located at the crossroads of continents, no country in the eastern Mediterranean is of greater strategic importance to the United States than Turkey. Turkey is but one of two NATO countries which has contiguous borders with the Union of Soviet Socialist Republics. As such, it has the longest border with the Soviet Union, approximately 33 percent of NATO's frontier with the Warsaw Pact, and dominates Soviet air, land, and sea access routes into the Mediterranean and the Middle East. As a founding member of NATO, Turkey has long played a vital and crtitical role in defending NATO's southeastern flank. Turkey, by straddling the Bosporus and the Dardanelles, which separate the European and Asian land masses, controls maritime traffic from the Black Sea—where approximately one-third of the Soviet Navy's surface combat vessels are based—to the Mediterranean Sea. In addition to the Soviet Union and Bulgaria, Turkey is adjacent to the turbulent Middle East. It shares common borders with revolutionary Iran, as well as with Iraq and Syria.

In discussing the successful defense of NATO's central and southern flanks, most experts agree that under current circumstance such a defense would be impossible without the military resources of Turkey. The recent signing of the treaty between the United States of America and the Soviet Union on the elimination of their intermediate-range and shorter-range missiles, increases the dependence placed on Turkey's contribution to conventional deterrence in this region of the world. In keeping with these responsibilities, especially its NATO-assigned missions, Turkey requires maintenance of the second largest Armed Forces in NATO, totally approximately 820,000 active duty servicemen and national police. The ground elements of these forces face some 45 Warsaw Pact dvisions.

Mr. Speaker, our investments in the Republic of Turkey and its Armed Forces are investments in the security of the United States, NATO, and the free world. We must continue to demonstrate our willingness to provide those resources so necessary to preserve these liberties. I urge my colleagues to continue pledging our political and financial support to Turkey, our friend and NATO ally, as we consider the upcoming conference report on the International Security and Development Cooperation Act of 1987. Such financial investment should be predicated on Turkey's contribution to our security.

PERSONAL EXPLANATION

HON. BILL NELSON

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 18, 1987

Mr. NELSON of Florida. Mr. Speaker, I was unable to be present and voting for rollcall No. 498, today, on H.R. 3674, the United States-Japan Governing International Fishing Agreement. Had I been present, I would have voted "aye."

BENDIX TCAS II IS CHOSEN SYSTEM

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, December 18, 1987

Mr. PORTER. Mr. Speaker, air safety is one of the most important issues that Congress will address this session. And collision avoidance is one of the most critical responsibilities of pilots and controllers.

Traffic alert collision avoidance system [TCAS] II is an airborne collision avoidance system that provides a signal in the cockpit to warn a pilot that there is other air traffic in the area. If there is danger of a midair collision, TCAS issues an urgent advisory instructing the pilot to climb or descend in order to avoid a collision. If both aircraft are equipped with TCAS II, the two units will act in coordination with specific recommendations for vertical avoidance maneuvers.

I want to take this time to commend Bendix/King for being chosen to install their TCAS II design on Piedmont Airline's B-737-300, B-737-400, and B-767 fleet. Piedmont will soon begin using the new system in regular service and, if FAA rules are adopted, TCAS II would be required on all large airplanes within 3 years.

TCAS is another step in new technology that will help keep our skies safe for the traveling public.

OPERATING DIFFERENTIAL SUBSIDY LEGISLATION

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 18, 1987

Mr. ANDERSON. Mr. Speaker. Today, Congressmen WALTER JONES, BOB DAVIS, MARIO BIAGGI, NORMAN LENT, and I, are introducing legislation by request that would provide for a limited reform of the Operating Differential Subsidy [ODS] Program, a program that has been in existence for over 50 years. The purpose of this program is to enable the U.S. merchant fleet to compete with foreign vessels whose labor and other operating costs are much lower than U.S. vessels.

We have been asked to introduce this bill that has four goals in mind. First, it would phase out after 3 years present requirements which confine subsidized U.S. liner vessels to service along specified trade routes or areas. Second, it would eliminate a requirement for hearings and investigations—with respect to subsidy applications—to examine the extent of foreign-flag competition facing U.S. liner operators. Third, the bill would amend current law regarding the conditions under which subsidized U.S. carriers calling foreign ports can also provide service between domestic ports. Finally, this bill would allow U.S. liner companies to build ships abroad which of course is a substantial departure from the 50-year ODS Program.

Although I desire ODS reform, let me caution that the legislation my colleagues and I are introducing today is only a discussion piece. It is among a number of other bills, one of which I am cosponsor, that deal with the issue of ODS reform. Two qualifying points need to be made with respect to this important issue. First, ODS hearings are necessary before there can be serious consideration given to ODS legislation in any form. The ODS issue undoubtedly needs this careful scrutiny. Second, as we proceed on the course of reforming the ODS system, we must not abandon our shipbuilding industry. This industry, just like the liner industry, is a critical economic and national security asset that needs the assistance of both the Congress and the executive branch.

I look forward to working on ODS reform in the coming months. With the necessary political will, I am certain that the Merchant Marine and Fisheries Committee, as well as the House in general, can come up with some innovative proposals that will address this critical issue.

SUPPORT H.R. 2026, THE RURAL DEVELOPMENT INITIATIVE

HON. BILL SCHUETTE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, December 18, 1987

Mr. SCHUETTE. Mr. Speaker, I rise today to bring to the attention of my colleagues the important work of a special group of Members of this Chamber who are concerned about the economic health, quality of life, and the future of rural America. These Members, with whom I am proud to be associated, have formed a unique bipartisan coalition called the Rural Communities Task Force. The task force is making an important contribution to both understanding and solving the many problems facing our Nation's rural communities.

Most of us are very aware of the problems that have occured on far too many of our Nation's farms. We have seen stories in newspapers and on the evening news of the economic and human tragedy of farm forclosures.

At the same time, those of us from rural communities also know that the difficulties of rural America have not just been confined to the farm. Boarded-up store fronts and closed plants show that the economic problems in agriculture have overtaken the infrastructure of entire rural communities. As the rest of America grows, America's heartland deserves the opportunity to earn its fair share of this prosperity. While we have made some progress down the road of recovery to date, much more needs to be done.

While I want to commend the Rural Communities Task Force for their work on developing innovative and comprehensive solutions to these problems, I also want to take this opportunity to reiterate my support for an important legislative initiative, H.R. 2026. This bill, called the Rural Development Initiative," is presently pending before the 100th Congress.

Mr. Speaker, H.R. 2026 has the support of 56 Members of this body, and contains many important provisions for rural America. H.R. 2026 is a proposal which establishes both emergency assistance or safety net programs for farmers and displaced rural families, and lays the groundwork for rebuilding the economy and infrastructure of rural communities. This plan is a comprehensive, forward-looking package of legislation, and I encourage all my colleagues, from urban rural areas alike, to support this package.

The Rural Development Initiative is a cohesive collection of three legislative proposals which call for specific and concerted action by the administration, the U.S. Department of Agriculture, and the Congress to make rural development a priority. Among the more important provisions in this initiative, H.R. 2026 would establish informational and job training services, immediate counseling for the disadvantaged, and new approaches to economic development and job creation in rural communities.

More specifically, the RDI hopes to accomplish these goals by providing for rural priority in Government contracting, procurement, and the location of public facilities. It includes provisions providing for critical seed capital, encouraging private sector investment, and educational assistance for rural youth. The RDI also calls for the establishment of an Office on Agriculture and Rural Development within the U.S. Department of Agriculture which would be charged with the responsibility of overseeing the overall rural development programs.

The RDI also includes an important provision calling for the General Accounting Office to undertake a comprehensive study of the collection of Federal programs which affect rural America. Presently, these programs cross many different agency lines in the Federal Government, and this has contributed to ineffective rural assistance and development policies. A comprehensive study of the Government's inventory of rural programs would be a positive first step in the successful reorganization and redirection of our Nation's rural policies.

The time has come for this body to act to positively shape the future of rural America. The RDI is a comprehensive approach which will allow the people of rural communities the opportunity to put their many talents to work for the good of the Nation.

When this happens, both urban and rural America win. I again urge all my colleagues to support H.R. 2026, the Rural Development Initiative.

NAVAL HOSPITAL SAN DIEGO COMPLETED AHEAD OF TIME AND UNDER BUDGET

HON. BILL LOWERY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 18, 1987

Mr. LOWERY of California. Mr. Speaker, Capt. William J. (Joe) O'Donnell, Civil Engineer Corps, U.S. Navy, arrived in San Diego in early 1982 to find a graded site and empty construction trailers that would eventually become the largest naval health care complex in the world—Naval Hospital San Diego.

Plans for the hospital were begun in May 1971, and in September 1980, Congress authorized $293 million for the construction project. Captain O'Donnell assembled a small group of 4 officers and 20 civilians to manage one of the Navy's largest, most complex and expensive undertakings. The result—a base with its own utility plant, a major military school, a fire station, student berthing facilities, a research lab, maintenance facilities, a chapel, officers quarters and parking for thousands of vehicles.

And when this regional medical complex is dedicated in January 1988, Captain O'Donnell will have brought in this gigantic undertaking 9 months ahead of time and at about $36 million under the authorized budget. Congress and the American taxpayers owe Captain O'Donnell a debt of thanks.

The project did not just involve construction, it included continuing sensitive negotiations with the city, environmental documentation for park road improvements, and historical documentation.

But the actual construction resulted in a completed facility of 1.2 million square feet. The largest building, the main hospital complex, is about the length of three football fields and will have 560 beds for acute care and 200 for light care.

O'Donnell's organization became a model for the rest of the Navy and other agencies which sent teams to visit and study their success. Several awards have been received including the 1984 "Moreell Medal for Construction and Engineering Excellence" for Captain O'Donnell.

The award-winning O'Donnell was born and reared on a farm in Colorado. He graduated from Colorado State University with a degree in civil engineering. He is a registered professional engineer in Colorado, Nebraska and South Dakota, and also a registered land surveyor in Colorado and South Dakota.

From 1950 to 1962 he was employed in various construction and design engineering positions by the U.S. Bureau of Reclamation. His last assignment for them was resident construction engineer for the construction of Merritt Dam in Nebraska.

While with the Bureau of Reclamation, he took military leave to serve in the U.S. Army during the Korean war. From 1950 to 1953, he served as a field artillery officer and Army aviator and flew 140 combat missions in an L-19 Birddog aircraft in the Korean war. He left the Army with the rank of first lieutenant and went back to work for the Bureau of Reclamation. In 1962 he founded an engineering/construction business, which he sold in 1967.

He entered the Navy in January 1968, and was assigned to the Philadelphia Naval Hospital. His naval career between then and the task in San Diego included:

Deputy Chief of Staff for the Deputy Commander Pacific Division, Naval Facilities Engineering Command, Southeast Asia; resident officer in charge of construction, Don Tam, Vietnam, then Pensacola; Director of Interagency Construction, and Director of Construction Engineering for the Commander of Naval Facilities Engineering Command; deputy officer in charge of construction, and officer in charge of construction, Bethesda, Keesler Air Force Base, MS, and the Marianas.

Captain O'Donnell's personal decorations include: The Legion of Merit; the Bronze Star with Combat V; Meritorious Service Medal; four Air Medals; the Combat Action Ribbon, the Humanitarian Service Medal; United Nations Service Medal; Vietnam Campaign Medal; National Defense Service Medal with one bronze star; Meritorious Unit Citation with one bronze star; Civic Action Ribbon; and Vietnamese Technical Services Honor Medal.

There is no doubt the new San Diego Naval Hospital is an unqualified success due to the leadership and abilities of Captain O'Donnell. He doesn't fill anyone's mold, but rather creates models others will follow. The facility itself will be a monument to him—to that we can only add our gratitude.

PERSONAL EXPLANATION

HON. PAT WILLIAMS

OF MONTANA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 18, 1987

Mr. WILLIAMS. Mr. Speaker, I am required to return to Montana on Saturday, December 19 because of my mother's illness and family responsibilities. I will thus be absent for the votes on reconciliation and the continuing appropriation.

It is my intention, had I been present, to vote yes on reconciliation. It is also my intention to have voted yes on the continuing appropriation providing the bill does not contain military assistance to the Contras.

VERDIGRE, NEBRASKA: NEW STRENGTH FROM ADVERSITY

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 18, 1987

Mr. BEREUTER. Mr. Speaker, for the last year this body heard frequent reports of the serious crisis that was causing havoc on rural life throughout the Grain Belt as farm and ranch families and families in communities largely dependent on agriculture saw their very livelihood threatened.

For a number of reasons, some related to the actions taken by this body, conditions have improved. As we approach this holiday season, signs of recovery are evident. Hopes, prayers, persistence, and hard work have paid off. I am reminded of a specific example in one of the first small communities in my congressional district to be hit hard by the results of great problems in the agricultural sector and affected small businesses and financial institutions.

In northeast Nebraska, the 600-plus citizens of Verdigre celebrated more than just a centennial in 1987; they celebrated a new beginning filled with a sense of renewed spirit and optimism. Three years ago, Verdigre felt the devastating effects of the farm crisis when its bank was declared insolvent and closed along with a number of other businesses dependent on the agricultural economy. At that time, many residents thought they may not have much of a community left to celebrate the centennial anniversary.

Verdigre was one of the first communities to take action against the effects of a bank closing and set an example for other small farming communities to follow that were experiencing similar difficulties. The residents organized the Verdigre Development Corp. and established three goals they hoped would revitalize the community.

The first goal was to examine the needs of existing businesses, and through the development corporation adopted a weatherization plan which assisted in lowering the businesses' overhead costs. The second goal was to encourage local farmers to grow alternative crops and to establish a farmers' market. A number of farmers grew turnips and onions as well as other produce to be offered for sale. On Saturday mornings, the development corporation sponsors a farmers' market which has become so successful that it has branched out to other surrounding communities.

The third goal the development corporation was to examine the feasibility of the construction of a dam southwest of Verdigre on Verdigris Creek and to proceed to implementation if feasible. Besides providing flood control, the Timber Lake Dam could provide jobs, tourism, a stable irrigation source, wildlife habitat, and possibly a hydroelectric plant.

These events required not only the efforts of the citizens of Verdigre and surrounding rural area but also those of seven local groups, five departments of State government, four Federal funding agencies, and six private organizations. While my office was of some assistance to the people of Verdigre in facilitating meetings between the various agencies, it is through the continued determination of the community leaders and development corporation that Verdigre has refused to become a victim of the volatile agricultural economy. I commend the achievements of Verdigre and their citizens, continued resolve to build a better future for their community and themselves.

JAMES BALDWIN: A WRITER

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, December 18, 1987

Mr. RANGEL. Mr. Speaker, I would like to share with you and my distinguished colleagues an impressive article on the late James Arthur Baldwin, whose writings on America became a standard of literary realism.

Springing from Harlem, Baldwin was a product of black America. His ability to describe the world he saw was truly awesome. With resounding accuracy, Baldwin's work captured the anger of black Americans so long denied a role in American life. In addition, for many of the whites who read Mr. Baldwin, his works evoked a sense of guilt, and a sense of truth about the lives of black people, and the sins of racism.

It is in dedication to James Baldwin's passion and accuracy that I read to you the following:

[From the New York Daily News, Dec. 4, 1987]

JAMES BALDWIN: A WRITER

(By Earl Caldwell)

In the life of James Baldwin, writing was everything. Even as a kid growing up in Harlem, he wrote. "I began plotting novels about the time I learned to read."

But he was not a writer looking to tell pretty stories of a world that never was. Baldwin referred to himself as ugly, but his writing was beautiful.

"One writes out of one thing only—one's own experience," he said. "Everything depends on how relentlessly one forces from this experience the last drop, sweet or bitter, it can possibly give."

And that was Baldwin. He took the experience of his life, a black man born in Harlem, and his writing drew from that experience every drop it could possibly give. He saw the sweet side—the music, the people, the talent—and he wrote movingly of that. But his greatness (and he was great) was in the way he wrote of the bitter.

In the 1950s, Baldwin was the writer America needed. The civil rights movement was just taking shape. Again, America was coming face to face with the problem of race. "What does the Negro want?" white America asked. "Why is the Negro not satisfied?"

The leadership in the gathering movement was mostly in the hands of young ministers. Many of those leaders were articulate and made their arguments against racism well. But they spoke mostly from the pulpits of churches, so they were preaching primarily to black America. The movement needed more. The movement needed a writer, a poet; a person eloquent enough to tell the story of race in America the way the whole country would listen.

But how do you tell Americans who are white what it is like to grow up black? How do you tell people who could never know, exactly the way it feels to be black and grow up in a Harlem? How do you tell of the frustration, the violence and the anger? How do you tell of the way lives are ruined and dreams denied?

James Baldwin was a product of black America. This was his experience. He knew the story well. He also had the talent and ability to put it on paper. And he did. He became the poet laureate of the civil rights movement. In his books of essays—"Nobody Knows My Name," "The Fire Next Time," "Notes of a Native Son"—Baldwin took white America to places of the mind where they had never been. After Baldwin, nobody could ever look at the problem of race and say, "But we didn't know." He laid it all out and to white America, he said, "You have no right not to know."

Through all of his life, Baldwin wrote. He wrote plays, novels and poems. He was a prolific writer of articles published in magazines. He earned the reputation as being one of America's greatest writers, black or white. But with Baldwin, it comes back to his essays—the powerful, searing pieces that illuminated for a generation of white Americans the plight of black America. America heard the ministers of the movement. But nobody had ever put on paper the agony and the irony of the plight of black America in the eloquent way James Baldwin did.

He died in the south of France, but America was home. "I love America," Baldwin said. But he so despised the racism that he left his native land at an early age and never came home again to live. He would visit and lecture, but when the purpose of his trip was done, he went back to Europe.

"I consider I have many responsibilities," he said, "but none is greater than this: to last, as Hemingway says, and get my work done."

Of Baldwin, critics said he stayed away too long, that he missed the change that had taken place in America. Baldwin did not measure gradations. He looked at the whole and he died still asking, how long America? Tell me, how long?

NONAGRICULTURAL FARM ANIMAL PROTECTION ACT

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, December 18, 1987

Mr. TOWNS. Mr. Speaker, I recently introduced the Non-Agricultural Farm Animal Protection Act (H.R. 3233), which seeks to ensure that farm animals are given the same level of humane protections extended to other animals used in scientific research or public entertainment. This amendment to the Animal Welfare Act clarifies which animals are covered by the act and reasserts Congress' intention in 1970 that humane standards prevail not for a selected few, but for all laboratory and entertainment animals.

My bill addresses two problems. The first is the current exclusion from protection by the USDA of some species of warm-blooded animals. Today, any and all kinds of animals can be used in the laboratories, but only some of those animals are included in the protections which were designed for all lab animals. APHIS regulations presently state that the term animal "excludes birds, rats, and mice, horses, and other farm animals * * *" The lack of protection for these specific animals is unjustified. Any animal used in laboratory research or public entertainment deserves basic humane protections. The legislative history of the 1970 amendments, which expand the coverage of the act, clearly shows Congress' intention to protect all warmblooded animals where those animals are used or intended to be used for research or exhibition. The House committee report (H. Rept. No. 91-1651) says: This bill includes within its definition all warmblooded animals designated by the Secretary with only limited and specifically defined exceptions.

Because the Animal Welfare Act is a law which requires that certain minimum standards of care and treatment be given animals used in "research, testing, experimentation, and exhibition," it makes no sense to exempt some species of warmblooded animals from humane treatment while other similarly used animals are protected. In short, my amendment would remove the loophole which has allowed some warmblooded animals used in research to be excluded from the definition of "animal."

This is particularly important today because of the increasingly common use of such animals as pigs (particularly the micro-pig), sheep, turkeys, cows, ducks, and chickens in the laboratory as research tools. Although such animals may also be found wandering in barnyards, when found in the laboratory, they clearly are research animals and deserve the protection of the law. Presently no requirements affect their care, handling, housing or caging. No government inspections insure humane treatment. In fact, no statistics or reporting mechanisms are required by APHIS for these "farm" animals, even though the Office of Technology Assessment estimates that as many as 200,000 farm animals are used in research experiments yearly.

At the same time my amendment leaves in place the exemption from the act of all farm animals used for food and fiber production, or for improving animals nutrition, breeding, management or production efficiency, or for improving the quality of food or fiber. Farmers raising animals to feed or clothe this would not be affected on their farms, ranches, or processing plants by this amendment or the law. Researchers doing testing or experimentation on these farm or warmblooded animals, or entertainers reaching the public through these animals would, however, be required by law to observe the minimum humane care and treatment standards.

Although Congress recently amended the Animal Welfare Act, the 1985 provisions did not address the confusion over coverage. As a result, the newer humane provisions do not reach many animals that Congress originally intended to protect.

A second provision of my bill would halt the appearance of circus spectacle and sideshows consisting of animals which have been surgically altered in order to use the animals as entertainment or an exhibition. In my own State and across the country, such circus drawing cards as the "unicorn" goat or other surgically created living wonders will no longer be featured attractions.

Mr. Speaker, I urge my colleagues to join me in supporting this legislation and calling for hearings to examine this and other initiatives which would act to protect the rights of animals wherever they are found.

THE DISMISSAL OF JUSTIN DART, JR.

HON. OWEN B. PICKETT

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 18, 1987

Mr. PICKETT. Mr. Speaker, with the recent dismissal of Commissioner Justin Dart, Jr., from the Rehabilitation Services Administration, members and friends of the disabled community received a disturbing message from the Department of Education. It is a message of a confused and ineffective policy in the agency of Government that most affects disabled Americans.

The principal issue surrounding the dismissal of Commissioner Dart is a simple one. Is this House going to remain silent when senior administration officials are discharged because they disagree with official policy, or worse, because they testify candidly about serious problems within our Government?

The answer to that question should be no.

I have seen no evidence to indicate that Justin Dart is not a conscientious and industrious administrator. Nor does it appear that he is the kind of man who would put his own view of good policy above that which is established by Congress and required to be administered by the executive branch.

What I do know about Justin Dart is based largely on what social service professionals in my own State have told me. He is an able and dedicated public servant who has worked hard—and with notable success—to unify and to strengthen programs for disabled Americans.

There is always strong competition among social service professionals about how best to allocate resources to programs for disabled Americans. No one denies that. But competition for resources need not lead to the decline in morale and performance that we have witnessed at the Rehabilitation Services Administration.

It is probably no surprise that the question before us today is first and foremost one of leadership. Why were problems at the RSA allowed to fester so long without Secretary Bennett, Assistant Secretary Will or someone else in authority taking corrective action? Why should Commissioner Dart be fired for testifying candidly about problems within the RSA? And what steps is Secretary Bennett taking to address the problems of management, personnel, and resource utilization that were the subject of Commissioner Dart's recent testimony?

Mr. Speaker, finding answers to these questions should be one of our first priorities in 1988. Millions of disabled Americans depend on the programs administered by the RSA, and we can do no less than ensure that the agency is free from internal strife.

THE DANCE THEATER OF HARLEM

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, December 18, 1987

Mr. RANGEL. Mr. Speaker, on the wings of the Reagan-Gorbachev summit, the Dance Theater of Harlem continues to promote understanding between the United States and the Soviet Union. Led by its founder and artistic director Arthur Mitchell, it is the first and only ballet company to represent the United States in Russia since 1985.

As part of President Reagan's United States-Soviet exchange initiative, the company will begin a 5-week tour of Russia in May 1988. Beginning their journey in Moscow, they will travel farther than any other American dance company has ever done. The dance tour will include visits to Tbilisi, Georgia and to the Kirov Theater in Leningrad.

The Dance Theater of Harlem is an excellent choice to act as a cultural ambassador in the Soviet Union. For 18 years, this classical dance company has forged an appreciation for black contribution in the dance arena. As the first black star in a major American ballet company Arthur Mitchell shaped his company as an instrument of overcoming racial barriers in the performing arts. Moreover, as one of America's foremost companies, it represented the United States in the gala final ceremonies of the 1984 Olympics. With this history, the Dance Theater of Harlem will surely be successful in fostering cultural exchange and mutual understanding through the world-renowned choreographed pieces when it visits the Soviet Union. The company will perform 14 works spanning its 19-year history and offer open rehearsal to leading Soviet dance teachers and dancers.

I am certain that all my colleagues will join me in offering congratulations to the Dance Theater of Harlem on this monumental achievement.

TRIBUTE TO EMERT "BUCK" TRIMBLE

HON. GUY VANDER JAGT

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, December 18, 1987

Mr. VANDER JAGT. Mr. Speaker, today I rise to pay tribute to a very special man, Emert "Buck" Trimble, who will be retiring on December 31 after 19 years of outstanding service to Spring Lake Township, MI. Buck has been the township's supervisor for 17 years and he can proudly look back upon a history of important accomplishments and achievements. It is my privilege to have this opportunity to honor Buck by bringing some of these accomplishments to the attention of my colleagues in the U.S. Congress.

Buck and his wife, Bennie, moved to Michigan in 1948. He worked as a cabinet finisher for the Story & Clark Piano Factory in Grand Haven until 1970. He was elected to the Spring Lake Township government as a trustee 19 years ago and 2 years later was appointed supervisor. Under his astute leadership, the township's assessed valuation has grown dramatically from $28 million, 17 years ago, to its current $133.081 million. To ensure the economic growth of his community, Buck has worked hard to attract new businesses through township industrial parks. He was also instrumental in extending water lines in the township and putting together a water program for 80 percent of the township's residents. Buck has also served on many civic boards in the last 17 years including the Ottawa County Economic Development Corporation, Ottawa County Assessor's Association, Grand Haven-Spring Lake Sewer Authority, and Regional Housing Committee.

To put it simply, Buck Trimble is one of those special people who, through commitment and dedication, have made our country stronger. His determination to better his community has been constant and his perseverance steady. Buck epitomizes the qualities we all strive to achieve. His helping hands have touched the lives of many in his community and his outstanding work will continue to enhance their quality of life for many years to come.

I am proud to call Buck Trimble a friend. Over the years we have had an especially fine relationship. It has been very rewarding for me, as a Congressman, to work with Buck Trimble on projects and issues of mutual interest and concern for the people of Spring Lake Township. In his elective role as supervisor, buck serves closest to the people—that's what really makes him so very, very special. I know you will join with me in saluting his accomplishments and wishing him success in all his future endeavors.

HUMAN RIGHTS AT THE SUMMIT: NO BREAKTHROUGHS

HON. JAMES McCLURE CLARKE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 18, 1987

Mr. CLARKE. Mr. Speaker, there has been a certain amount of euphoria over the recent summit, but we need to take a level-headed look at the results. In the area of human rights, no dramatic progress was expected, and none was achieved. Americans were watching, however, especially the more than 200,000 people who demonstrated on the Mall in Washington December 6 on behalf of Soviet Jews. On the same day, ironically, a tiny counterpart demonstration in Moscow was broken up by the KGB. The December 6 Mall demonstrators enjoyed the presence of several refusenik leaders recently allowed to emigrate. In fact, the level of Jewish emigration from the Soviet Union has been much higher this year than in the middle 1980's, though much lower than in the peak years of détente. This could be the beginning of a more liberal emigration policy. Any improvement in Soviet human rights practices will likely be gradual and de facto rather than abrupt and officially announced. But I am not convinced that their recent moves prove the Soviets have changed their policy. They retain rules tightly restricting emigration, and still refuse to admit that anyone has a right to leave his homeland—even though they signed an agreement to that effect.

At least we can say that summit meetings seem to produce benefits for those individuals who are released in a calculated effort to buy American goodwill.

We can also say that the Soviets have now clearly accepted human rights as an item on our bilateral agenda. They are not saying the right things yet, but they are no longer refusing even to discuss the subject as they did only a few years ago.

Mr. Speaker, the Soviets have moved in the right direction, but not nearly enough. About 400,000 Soviet Jews have taken the first step toward emigrating but remain in the U.S.S.R. Our policy should be to keep up the pressure until they are all free to leave. Human rights must remain high on the agenda at all future summit meetings.

MAYOR STEPHEN J. LUCASI TO BE HONORED

HON. GEORGE W. GEKAS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 18, 1987

Mr. GEKAS. Mr. Speaker, Stephen J. Lucasi, the mayor of Williamsport, PA, in every word and deed throughout his incumbency, demonstrated a love for his community that transcended his accomplishments. Whatever project he propelled or supported, it was with the people of the area in heart and mind.

Williamsport is his home and the home of his family and friends. Thus, every traffic signal, every building, every street, every shop—all of the bricks and mortar were his responsibility and his undertaking to preserve them for the community.

Mr. Speaker, on Monday, December 28, 1987, family and friends will gather to honor Mayor Stephen J. Lucasi for his 8 years of dedicated service to the city of Williamsport. Among some of his accomplishments recently noted in the Williamsport Sun-Gazette, Lucasi has "participated in and helped foster the public-private sector approach to economic development, acquired new fire equipment and turned the ambulance service over to the people in the health business, overseen paving throughout the city, and held the line on taxes."

Public officials of the entire region will look to him for a long time to come, not just for the resource he is and will remain, but also for that moment of friendly discussion of the times and of the issues that will benefit us all.

ECONOMICS ON THE RISE

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, December 18, 1987

Mr. SOLOMON. Mr. Speaker, great news for the American people, even though it's not so good for the majority party in this body.

The GNP has increased 4.3 percent in the third quarter, putting an extra $40 billion in the Federal coffers.

I'm sorry, but I can't help rubbing it in the noses of the prophets of doom who rushed down to the well after the so-called "Crash of 1987" last October like so many Chicken Littles. That drop in the Dow Jones, which still left the market 800 points healthier than when Jimmy Carter left the White House, was supposed to be the first proof that our economic sky was falling.

Now, whether it's good news or bad news, the big spenders in this body always respond the same way. They raise taxes! They just can't seem to summon the courage to cut another $10 billion from a $2 trillion budget.

Well, it seems as though the American people are more impressed with the fruits of Reaganomics than the big spenders in this body and their friends in the media.

Mr. Speaker, there doesn't seem to be any end in sight to this longest peacetime economic prosperity in U.S. history. That's too bad, because a recession would have made a nice campaign issue. Now it looks as though the voters next November are going to look at the party of Ronald Reagan as the party of arms reductions and economic prosperity. Sounds like a real winning combination to me.

COMMENDATION FOR THREE KENTUCKY SCHOOLS

HON. LARRY J. HOPKINS

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Friday, December 18, 1987

Mr. HOPKINS. Mr. Speaker, I rise today with special pride and sincere commendations for the administrations, staffs, students, and alumni of three institutions of higher learning located in Kentucky's Sixth Congressional District.

Centre College of Kentucky, Berea College and Transylvania University were each recognized as among America's best colleges in this week's U.S. News & World Report.

These three institutions differ greatly in fields of concentration, size of enrollment, and academic orientation, yet there are two elements they share: one, a commitment to the highest educational tenants and a dedication to training and expanding the minds of their students and the communities in which they are located.

With a total enrollment of 876, Centre College of Kentucky in Danville puts much emphasis on personal attention and achievement, student-teacher interaction and well-rounded college education. Centre was ranked among the top 25 liberal arts colleges nationwide.

The strongest testament to the quality of an institution often comes from the degree of alumni involvement. Centre College's alumni donations totaled the highest among all colleges, enabling the fine quality of instruction to be unaffected when many other institutions have been forced to trim budgets.

Berea College has long been recognized for its unique work-study approach and founding principal that economic circumstances should not dictate educational opportunities or impede someone from attaining a degree.

Students who attend Berea College pay no tuition, but work 10 hours a week on campus-based jobs. Some create handicrafts, some work in agricultural fields and some man the nationally renowned Boone Tavern Hotel and Restaurant owned by the college.

Berea College was ranked No. 1 of the smaller comprehensive colleges category, richly deserved praised for this exceptional institution and recognition of the noble concept which gives needy students an opportunity to attend college they might otherwise not have had.

The oldest university west of the Allegheny Mountains, Transylvania University in Lexington, continues its dedication to the same principles that made Thomas Jefferson recommend it to a friend nearly 200 years ago.

Transylvania initiated one of the first merit scholarship programs in the Nation. The Thomas Jefferson Scholars Program provides 100 4-year scholarships, worth $38,000, totally funded by private individuals and corporations. Each year 25 complete scholarships are awarded to high school seniors from across the Nation.

Transylvania University ranked in the top 10 under the category titled "Southern Liberal-Arts Colleges."

Within a 60-mile radius in the heart of central Kentucky's bluegrass country, three of our Nations finest educational institutions are training the leaders of tomorrow.

To them, and to all the universities and colleges recognized in the U.S. News & World Report survey, I extend my sincere congratulations.

A TRIBUTE TO FRANCES STELOFF

HON. BILL GREEN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, December 18, 1987

Mr. GREEN. Mr. Speaker, I rise today to honor a woman whose work and dedication to the literary field is truly an inspiration to us all.

In 1920, Frances Steloff, a daughter of Russian-born immigrants, opened a small basement bookshop in the center of New York City. Starting as a young woman with a storehouse of determination and very little money, she dedicated herself to nurturing and encouraging creative people. The Gotham Book Mart soon became a headquarters for New York City's writers and artists.

Gathering in the tiny shop during the early years were George and Ira Gershwin, Eugene O'Neill, and Rudolph Valentino. As customers and friends, they were soon followed by T.S. Eliot and James Joyce.

Frances Steloff championed the experimental and challenged the censors. Purchasing shipments of the banned "Lady Chatterly's Lover" directly from Italy and ordering copies of "Tropic of Cancer" from Henry Miller in Paris, Steloff's courage led to lawsuits and victorious landmark court decisions on censorship.

The 1930's and 1940's brought new avant-garde and expatriate writers such as Edmund Wilson, Nathanael West, Kay Boyle, and E.E. Cummings.

The store survived the rigors of World War II, and a whole new generation of writers appeared. Among them were Arthur Miller, Randall Farrell, James Agee, and Tennessee Williams. Jean Cocteau arrived at his Gotham Book Mart reception with Charlie Chaplin.

Now in her 80th year of bookselling, Frances Steloff continues as an active consultant in the Gotham Book Mart's operation. In honor of her lifetime of dedication, Ms. Steloff has received many awards, including the National Institute of Arts and Letters Distinguished Service to the Arts Award, and an honorary doctorate from Skidmore College. Today's writers, including John Updike, Norman Mailer, Samuel Beckett, Susan Sontag, and Allen Ginsberg, maintain the tradition of the bookshop as a sanctuary for creative people.

On the 31st of December this remarkable woman will celebrate her 100th birthday. I would like to ask my colleagues to join with me in wishing her all the best and continued success with the Gotham Book Mart, to which she has dedicated her life.

TRIBUTE TO DICK THOMAS

HON. JAMES H. BILBRAY

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 18, 1987

Mr. BILBRAY. Mr. Speaker, I rise today with deep respect and a profound sense of admiration to pay tribute to one of Nevada's most outstanding labor leaders, Mr. Dick Thomas. Through hard work and dedication, Mr. Thomas has devoted countless hours to bring the voices of the working men and women of Nevada to the forefront of various issues.

Mr. Thomas began his 30-year career as a worker's advocate by serving as a business representative for Labor Local No. 631. He rapidly became engrossed in his quest for an enhanced quality of life for workers in the State of Nevada, as well as for this Nation. He joined the Labor Local No. 881 and proceeded to become secretary/treasurer for Labor Local No. 995. A vital element in achieving improved working conditions is to have the support of the community. Recognizing this, Dick Thomas has actively and diligently urged participation of members from all elements of the community. He is a strong proponent of the vital contribution of community service organizations.

In addition to these endeavors, Mr. Thomas is a member of the board of directors for the Nathan Adelson Hospice, and a member of the western counseling and the State industrial insurance system. He is actively involved in bettering the lives of the citizens of Nevada and is a leader for strong and active participation in the United Way.

Mr. Speaker, on behalf of Nevada, I wish to commend Mr. Thomas for his dedication. His effort is something we can all admire.

ONE HUNDRED YEARS OF SERVICE

HON. JOE KOLTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 18, 1987

Mr. KOLTER. Mr. Speaker, I rise today to pay deserved tribute to the First Federal Savings & Loan Association of New Castle, a financial agency located in the Fourth Congressional District of Pennsylvania that has met the needs of its community for 100 years.

Founded originally as the New Castle Building & Loan Association in 1887 to meet the housing needs of New Castle, PA, they were first located in the basement of the First Christian Church in downtown New Castle.

The founders and first officers were John W. Taylor, president; W.T. Daugherty, secretary; and Charles A. McCready, treasurer.

The association made its first loan in the amount of $200. By the turn of the century, the association had grown to such an extent that assets totaled $175,145.

In 1895, the association's first permanent home was opened in the Guardian Building, Neshannock Avenue. They moved to larger quarters in 1903 at Croton Avenue, and relocated again in 1924 to East Washington Street.

In 1925 with assets of $699,914, First Federal remained strong throughout the Great Depression and stock market crash of 1929, and outgrew its offices. As a result, another move was necessary to a larger office on East Street.

Throughout the ensuing years, First Federal's assets have continued to multiply. FSLIC insurance was obtained in 1936 and First Federal acquired the Equitable Building and Loan Association in 1940. A new building was built at North Mill Street in 1941, but was razed for the current building in 1957.

Today assets total $224,430,098.

Mr. Speaker, I would like to congratulate the board of directors, officers and its outstanding staff of the First Federal Savings & Loan Association for the service they have provided the residents of Lawrence County.

I commend the strength, vitality and public service of First Federal upon its 100th anniversary and extend best wishes as First Federal moves forward into its second century of service.

EAGLE SCOUTS

HON. BERNARD J. DWYER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, December 18, 1987

Mr. DWYER of New Jersey. Mr. Speaker, it gives me great pleasure to bring to the attention of my colleagues three outstanding young men from my district who have completed a major goal in their scouting careers. Steven Fuchs, James Sabo, and Andrew Perlin, all of Troop 318 in Edison, NJ, will be honored January 8, 1988, at an Eagle Scout Court of Honor.

Less than 1 percent of all boys in America attain the rank of Eagle Scout. This high honor can only be attained if a Scout demonstrates strong leadership abilities. These three young men have demonstrated this ability through their community service.

Steven Fuchs organized his fellow scouts to clean a park across from J.P. Stevens High School for his Eagle project. The park had been neglected for many years and was in a state of disrepair. Steven and the other scouts cleaned up the park and made the basketball and baseball facilities usable again.

James Sabo chose a newer area of Edison in which to perform his Eagle project. He and the scouts he organized painted street numbers on the curbing for easier identification of house numbers by police, fire and rescue workers.

Andrew Perlin in his Eagle project sought to make the lives of elderly persons who were confined to hospitals and nursing homes more interesting. He organized the distribution and collection of flyers asking for books to be donated for the elderly. Through this project, he and his fellow scouts collected over 3,800 books which were distributed to area hospitals and nursing homes.

I ask my colleagues to join with me in commending these exceptional young men as they are honored upon becoming Eagle Scouts.

CELEBRATING THE 25TH ANNIVERSARY OF THE CALVARY COMMUNITY DEAF CHURCH, NORWALK, CA

HON. ESTEBAN EDWARD TORRES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 18, 1987

Mr. TORRES. Mr. Speaker, I want to call to the attention of my colleagues the special celebration of a unique congregation in my district. On January 10, 1988, the Calvary Community Deaf Church will celebrate 25 years of ministry and service to members of the hearing-impaired community.

Since its beginning, Rev. Betty Sovern has been the pastor of this unique congregation in Norwalk. In addition to her duties as a pastor for the congregation, Reverend Sovern works as a teacher in a school for the hearing impaired and volunteers many hours every week assisting the deaf community.

Therefore, Mr. Speaker, I ask that my colleagues join me in recognizing the outstanding contributions of Rev. Betty Sovern and congratulating the Calvary Community Deaf Church for 25 years of ministry and service to the hearing-impaired community in my district.

IN SUPPORT OF THE SUPERCONDUCTING SUPER COLLIDER

HON. NORMAN Y. MINETA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 18, 1987

Mr. MINETA. Mr. Speaker, California has long been a leader in innovative technological advancement. The Superconducting Super Collider Program is consistent with that tradition and will provide the Nation and the world with a giant leap forward in the areas of subatomic particle physics, education, telecommunications, and numerous other related fields. It is fitting, therefore, that the site of the SSC should be in the State from which so much of our technological development has originated during the last several decades. The intellectual climate, the scientific know-how and the pioneering spirit of California cannot help but to enhance the opportunities for maximizing the potential of the SSC.

I rise today to urge that serious consideration be given to the two California sites—Stockton and Davis. Both enjoy widespread community support from such diverse groups as local chambers of commerce, city councils, the California Council for Environmental and Economic Balance, the local press, the Academic Senate of the University of California and others. This broad-based support was recently confirmed by an independent survey which found that 68 percent of northern Californians familiar with the project favor it being located in California.

It should also be known that in this historic endeavor, the State of California is committed to sharing the cost. More than $1 billion has been dedicated for the development of the SSC in California.

Finally, concerns over problems arising from potential natural phenomenon need to be dispelled. Neither of California's proposed sites cross any known fault lines making the possibility of earthquake damage to the SSC tunnel practically zero. It has been demonstrated that tunnels are highly resistant to earthquake damage. For example, the Mexico City subway system was virtually unaffected by the big Mexican quake and was in operation almost immediately afterward.

For these reasons and others, I stand in support of having the SSC sited in California. Not only will the State provide tremendous public and financial support for the program, it also offers a rich history and tradition of advanced scientific achievement that could only serve to benefit the interests of the program and this country.

EAGLE SCOUTS

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, December 18, 1987

Mr. LIPINSKI. Mr. Speaker, it gives me great pleasure to bring to the attention of my colleagues an outstanding young man from my district who has completed a major goal of his scouting career, Mark Atwood, of Troop 326 in Cicero, IL.

Mark will be awarded the rank of Eagle Scout at the Court of Honor to be held Sunday, January 10, 1988, at the Wesley Methodist Church in Cicero.

The Boy Scouts of America represent some of the finest youth in our country and the training and values that they receive and develop during their years of Scouting are invaluable to them and to their country in all the years later.

I am sure that my colleagues join me in intending heartfelt congratulations to Mark on this outstanding achievement.

CONGRATULATIONS ROH, GOODBYE KIMS

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, December 18, 1987

Mr. PORTER. Mr. Speaker, the Korean election is over and democracy has won. For the first time in 16 years there has been an election for the Korean Presidency and for the first time ever the results of the balloting will, we hope, result in a peaceable transfer of power.

While there have been some allegations of fraud, most observers tell us that the election was essentially honest and that Roh Tae Woo, the current government's candidate, did, in fact, receive the plurality of the vote.

He did not, however, receive the majority of the vote; 54 percent of Korean electors chose one of the two principal opposition leaders, Kim Young Sam and Kim Dae Jung. Each polled around 27 percent to Roh's 36 percent and each Kim lost.

When we visited Korea last January and met separately with each of the Kims, they assured us—responding to our concern that what just did happen, might happen—that there would be only one candidate between them. They would work out their differences and decide which of the two of them would run. Obviously, they failed, and in failing both have lost not only the election, but their credibility with their friends.

Up to now, the governing party in Korea, holding power with the support of the army, has been repressive and has denied to the Korean people not only the right to elect their own government, but the right of fair trial, free speech, and freedom from torture.

Perhaps, under Roh Tae Woo, this will now change. We fervently hope so, and we will watch very carefully as this new leader assumes power.

Korea is a wonderful country with an intelligent, hard-working, resourceful people who have wrought an economic miracle the likes of which the world has never seen. The Korean people have earned democracy—even though democracy does not need to be earned. Their rights under the rule of law now need to be fully defined and fully implemented.

We congratulate the choice of the electorate and wait and watch in optimism to see the implementation of the principles and program that he has promised to the people of his country.

CHARLES J. HUNTER CELEBRATES HIS 90TH BIRTHDAY

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Friday, December 18, 1987

Mr. MARKEY. Mr. Speaker, this is a season of both commemoration and celebration. It is in these contexts that I wish to commend one of my constituents, Mr. Charles J. Hunter, who recently reached his 90th birthday.

Mr. Hunter's life has been, in many respects, a microcosm of our Nation's history in this century. Born in 1897, on the eve of the Spanish-American War, Charles J. Hunter left his civilian job to join the Navy when duty called in World War I. Following valiant service on the high seas, he joined the Boston Police Department in 1922. He served with distinction and valor for 40 years, retiring in 1962 with the rank of lieutenant.

Throughout the years Mr. Hunter has also been a devoted family man. The proud father of three sons, Charles, Edward—who died unexpectedly at the young age 41—and Paul, he also has 11 grandchildren and two great grandchildren.

During his retirement years in Winthrop Mr. Hunter has remained active in service to the community, neighborhood, church, and family. In his public life he has been a true Democrat to all, and for all. In his personal life he has been a loving father and staunch friend—a good and decent man who is respected, admired, and appreciated by all who know him.

On this occasion I join with his many friends and admirers in wishing Mr. Charles J. Hunter continued good health and a long life. May we all be around to help him celebrate the 100th anniversary of his birth in 1997.

NATCHEZ AND NATCHEZ-ADAMS COUNTY SENIOR CITIZENS CENTER RECIPIENTS OF NATIONAL COMMUNITY ACHIEVEMENT AWARD

HON. WAYNE DOWDY

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Friday, December 18, 1987

Mr. DOWDY of Mississippi. Mr. Speaker and distinguished colleagues, I would like to offer my congratulations to the city of Natchez and the Natchez-Adams County Senior Citizens Multi-Purpose Center for their recognition by the Department of Health and Human Services as one of the premier senior citizen service programs in the Nation. They were 1 of only 13 cities in the country to receive the National Community Achievement Award, which includes a $30,000 grant to be used for further development of community programs for older adults.

I would also like to commend the director of the Natchez Senior Citizens Center, Mrs. Frances Trosclair, for her leadership and dedication to senior citizen services in Natchez. Through her guidance, as well as support from the entire community, this service program for seniors is one in which the State of Mississippi, and the Nation, can take great pride.

CORNELL MAIER RETIRES WITH A BENEFIT FOR THE MARCUS A. FOSTER EDUCATIONAL INSTITUTE

HON. RONALD V. DELLUMS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 18, 1987

Mr. DELLUMS. Mr. Speaker, on January 12, 1988 an event will be held in the 8th California Congressional District that will have a double significance. On the one hand, the event will be held to honor Mr. Cornell Maier, who will be retiring from his position as vice-chairman, president, and director of Kaiser-Tech Limited and director of Kaiser Aluminum and Chemical Corp. of Oakland, CA, at the end of 1987. Cornell has been with Kaiser since his graduation from the University of California in 1949. During his extraordinary career, he held almost every conceivable position of significance in the company and distinguished himself as an executive of extraordinary brilliance and vision.

Moreover, Cornell distinguished himself as a member of the Oakland Civic community with a unique sensitivity to the role that business institutions could play in making the city a more livable environment for all of its citizens. He has had an especially strong interest in the education of inner-city youths, and has given prodigiously of his time, energy, and personal and corporate resources to the end of melding a better and more fruitful relationship between the business community and the schools.

It is for this reason that the January 12 event bears its second significance, as the event will be held for the benefit of the Marcus A. Foster Educational Institute, an organization that is the brainchild and dream of one of America's most outstanding educators, Marcus A. Foster, the late former superintendent of the Oakland schools. Dr. Foster's vision was to overcome the traditional isolation of the public schools and to create a new partnership between the city's business, civic and religious communities, and its schools by building an awareness and involvement in the schools through the linkage of the community's in-kind and financial resources with the needs of the school system.

As with Cornell Maier's career with Kaiser-Tech, the Marcus A. Foster Institute has been amazingly successful, and stands as a role model for urban institutes. The January 12 event, therefore, is a remarkably appropriate event which salutes the success of two of the most important of the City of Oakland's institutions. That one is an individual, Cornell Maier, is an appropriate tribute to a wonderful career in business and in the service of the public. We appreciate the Congress of the United States for accepting this tribute and in joining us in congratulating these outstanding achievements.

TESTIMONIAL TO GEORGE W. BULLEN OF SACRAMENTO

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 18, 1987

Mr. MATSUI. Mr. Speaker, it is with great sadness that I rise today to advise you that a close friend of mine, George W. Bullen of Sacramento recently passed away. George was a truly distinguished member of our community, and we will miss him a great deal.

George W. Bullen, born May 9, 1926, attended Albion College and later Stanford University, where he earned his A.B. in 1950 and his LL.B in 1953. George practiced law from 1954 until his death, and he was a humanitarian, a civic leader, and an honored professional.

It is difficult to find the words to describe just how much George contributed to his neighborhood and to our community. George was one of those special individuals who give so freely of themselves, who was always willing to offer his assistance, and who was a role model for a great many of us.

As an attorney, George was active in civil litigation, and he devoted much of his expertise to cases in the defense of professional liability and product liability. George was a diplomat of the American Board of Trial Advocates, as well as a Fellow of the American College of Trial Lawyers. In addition, George was very active in community legal affairs, serving on numerous State Bar committees, as well as a Supreme Court Judge (pro tem). George could also be proud of his contributions to the Lawyer's Alliance for World Peace.

Among the civic activities that George dedicated his wisdom and experience to were the Mental Health Association, the Non-Smokers Rights Group, and, as chairman, the Sacramento Sister Cities Organization which fostered relations with the People's Republic of China.

George and his wife Dorothy were blessed with four wonderful children, Tod, Russell, Amanda, and Douglas. Perhaps more than anyone I know, George Bullen made a difference in the lives that he touched. Our community was most fortunate indeed to have been George's home. Yeats wrote, "Think where man's glory most begins and ends. And say my glory was I had such friends." I count myself among the great many people who have been able to say that they were honored to have George Bullen as a friend, and who have mourned his death.

SENATE—*Sunday, December 20, 1987*

(Legislative day of Tuesday, December 15, 1987)

The Senate met at 6 p.m., on the expiration of the recess, and was called to order by the Honorable TIMOTHY E. WIRTH, a Senator from the State of Colorado.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray.

Make a joyful noise unto the Lord, all ye lands. Serve the Lord with gladness: Come before His presence with singing. Know ye that the Lord He is God: It is He that hath made us, and not we ourselves: We are His people, and the sheep of His pasture. Enter into His gates with thanksgiving, and into His courts with praise: Be thankful unto Him, and bless His name, For the Lord is good; His mercy is everlasting; and His truth endureth all generations.—Psalm 100.

O the depth of the riches both of the wisdom and knowledge of God! How unsearchable are His judgments, and His ways past finding out. For who hath known the mind of the Lord? Or who hath been His counsellor? Or who hath first given to Him, and it shall be recompensed unto Him again? For of Him, and through Him, and to Him, are all things: to whom be glory forever.—Amen. Romans 11:33-36.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. STENNIS].

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, December 20, 1987.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable TIMOTHY E. WIRTH, a Senator from the State of Colorado, to perform the duties of the Chair.

JOHN C. STENNIS,
President pro tempore.

Mr. WIRTH thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the standing order, the majority leader is recognized.

COMMENTS ON THE CHAPLAIN'S PRAYER

Mr. BYRD. Mr. President, only to comment briefly on the Lord's servant and his prayer. There may be those who wonder why I, from time to time, comment on the message of the Chaplain. To me, this is the supreme moment of the day, and it carries with it a profound meaning, something that goes to this very system of representative democracy that we have.

It was during that Constitutional Convention in 1787 that Benjamin Franklin stood to his feet at a time when things seemed to be falling apart at the seams, as they seem from time to time here to do, and he proposed that they have prayer.

Think of that august gathering! George Washington was in the Chair, the future first President of the United States, the Commander in Chief of the army at Valley Forge; James Madison, Gouveneur Morris, Benjamin Franklin—the oldest man in the gathering—who stood to his feet and said, "Sir, I have lived a long time and the longer I live the more convincing proofs I see that God still governs in the affairs of men, and if a sparrow cannot fall to the ground without Our Father's notice, is it possible that we can build an empire without Our Father's aid?"

He said, "I believe the sacred writings which say: 'Except the Lord build the house, they labor in vain that build it.' I move you, sir, that henceforth, we begin our daily meetings with prayer; else we shall succeed no better than did the builders of Babel."

They took that wise man's advice and, henceforth, things began to fall in place. And they gave to the world the greatest document of its kind that was ever written: The Constitution of the United States. We are celebrating the 200th anniversary of that event and of that document, this year.

So the Senate opens its daily meetings with prayer. The House opens its meetings with prayer. The Supreme Court opens its meetings with prayer. We see the evidence of that strong spiritual awareness in the great buildings of this capital city, the greatest city in the world. We see them in this Chamber. "In God We Trust." That inscription is right over here, over the south door of the Chamber.

So we are still following Franklin's admonition and the practice of our forefathers.

As I say to our Senators who daily escort the Chaplain into the Chamber, "Let him have his moment up there on that highest platform alone. Stand on the step below him while the prayer is being made. Let God have his servant there alone. That is God's moment."

I feel that the prayer is an extremely important part of our deliberations, an extremely important part of this U.S. Senate and its unique place in the constitutional system.

The Chaplain's prayer today was a prayer of praise to the Almighty Creator of us all.

This is why, from time to time, I like to comment on the prayer. Not that I am uniquely qualified to do so. I am not a minister, not worthy to stand in the place of a minister. But I have a profound belief in God's place in our constitutional system and in the universal order of things celestial and mortal.

So I thank the Chaplain at this time of Christmas for praising the Creator of the universe. In his prayer, he said that God has made us all, not we ourselves, which leads me to a poem, which I did not write, but which may be a fitting postscript.

All things bright and beautiful,
All creatures great and small,
All things wise and wonderful,
The Lord God made them all.

Each little flower that opens,
Each little bird that sings,
He made their glowing colors,
He made their tiny wings.

The rich man in his castle,
The poor man at his gate,
He made them, high or lowly,
And ordered their estate.

The purple-headed mountains,
The river running by;
The morning and the sunset
That lighteth up the sky.

The cold wind in the winter,
The pleasant summer sun,
The ripe fruits in the garden,
He made them, every one.

The tall trees in the green wood,
The meadows where we play,
The rushes by the water
That we gather every day.

He gave us eyes to see them,
And lips that we might tell
How great is God Almighty,
Who hath made all things well.

RECOGNITION OF THE REPUBLICAN LEADER

The ACTING PRESIDENT pro tempore. Under the standing order, the Republican leader is recognized.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

PROGRESS ON THE CONFERENCES

Mr. DOLE. Mr. President, just let me indicate, as I think the majority leader would concur, there have been a number of Senators who were here up until about midnight last night, been here since about 11 o'clock this morning.

The number of areas of disagreement are shrinking, I think we can say with some pleasure, and hopefully all the other issues can be resolved. It is the opinion of this Senator that the Contra aid matter is near resolution. There are still some problems with the REA provision and with the Medicaid-Medicare provisions, I guess the provision on Post Office, Government operations. It may have been nearly resolved. The leader may have some other information.

But it just seems from what I have picked up from Republicans who have been attending those meetings that there is some hope that there can be some agreement. We have been in touch with the Chief of Staff at the White House, Howard Baker, and also the Treasury Secretary, Jim Baker, and then the OMB Director has been here throughout the afternoon. So I would hope when the House sends us the 1 day extension we can do that without any difficulty very quickly, in a second or two, without a vote. I hope there will not be any request for a vote because a lot of our colleagues on both sides are in the city or they are tied up in conferences or they are not a part of the conferences and it would really cause them some discomforture, I guess to say the least. But I would indicate on this side that we are hopeful, and I want to commend the distinguished majority leader for calling us together yesterday and keeping us here all day until about midnight last night. I think a lot was accomplished. As far as I know, everyone is in good spirits and hopefully we can reach some resolution of the outstanding issues soon.

I reserve the remainder of my time. I will be happy to yield to the majority leader.

Mr. BYRD. If the Senator will yield, on yesterday afternoon we began meeting and we met until about 11:30 last night. The distinguished Republican leader and various Senators on both sides of the aisle, the Speaker, the majority leader in the House, Republicans and Democrats, we met and discussed Contra aid for around 4 hours in my office. Then when the suggestion was made that we quit and go home and come back to it today, I urged that we not do that, but that we continue to meet, that we break up into two conferences. The Contra aid conference moved into another room and participants continued to have discussions for a couple of hours or more and almost reached an agreement. They made tremendous progress. They decided they would put things on paper, and come back today. Beginning at 11 o'clock today we have had four conferences going on in the building. The majority leader and the minority leader of the Senate, the majority leader and the minority leader of the House, the Speaker of the House, and our colleagues who were appointed to the summit have been here all day long, all day without any respite. They have had sandwiches brought in, coffee brought in, and progress has been made. Just before I came onto the floor, I was told that the matters involving the Postal Service had practically been resolved. As I understand it, the Medicaid problems have practically been resolved. Conferees think they are about there on Contra aid. We are now waiting on the short-term CR to come over from the House.

Once I find out what the House schedule is with respect to the reconciliation and the CR on the other side for tomorrow, I will know more about the convening hour. Then I will discuss this with the Republican leader and we will put the Senate out to that convening hour so that we will not inconvenience Senators any more than we have to.

But the prospects are right now that on tomorrow afternoon the Senate will meet and, hopefully, will receive at some point both the CR and the reconciliation measure from the House. All the little loose ends have not yet been tied up, but things are moving well in that direction. The momentum is there.

So I fully expect, may I say to the Republican leader and to my colleagues on both sides of the aisle, that by tomorrow late evening perhaps we will have done our work.

One thing I have to say about this Senate. We said we will send our colleagues to the summit. We want the President to go there. And they worked out an agreement. As far as I am concerned, as far as the Republican leader is concerned and our colleagues on both sides are concerned, we passed that package in here with a voice vote, and we passed the reconciliation package with a voice vote. If that is not self-discipline, I have not seen it. It makes me proud of my colleagues.

I told Senators last night that there would not be any rollcall votes today, and so the CR is coming along and I hope that all of my colleagues will help me to keep my word. I did not think that we ought to bring in our colleagues on a Sunday evening just to pass a 24-hour CR. But we will expect them in tomorrow. That is all we are going to do this evening, and as soon as we get the CR, I hope we can take it up and adopt it quickly.

Mr. DOLE. If the majority leader will yield.

Mr. BYRD. Yes. The Senator has the floor.

Mr. DOLE. I think it is fair to indicate there has been a request on this side for a record vote on the big CR and reconciliation. That indication has been given so it gives us time to notify our colleagues.

Mr. BYRD. Yes.

Mr. DOLE. Some may want to return for that vote.

Mr. BYRD. Yes, absolutely.

Mr. DOLE. They are important measures and I certainly have no quarrel with a record vote.

Mr. BYRD. No. We will inform our colleagues to that effect and that will be on tomorrow afternoon or evening. The time is running out.

Let me express my appreciation to the Republican leader for the shoulder-to-shoulder support that he has given to these various conferences throughout the day and through last evening.

Mr. DOLE. I thank the majority leader.

Mr. BYRD. I thank the Senator for yielding.

MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that there be a period for morning business, that Senators may speak therein for not to exceed 5 minutes each and that the period extend for 30 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. EXON. Would the Senator yield for a question on the subject?

Mr. BYRD. Yes, I would be happy to if the distinguished Senator——

Mr. PROXMIRE. Of course.

Mr. EXON. As I understand it, the latest plan then is to hopefully come to an agreement which we have been seeking to come to for the past week with intensive negotiations. I thank the negotiators. I know they have been working hard. But the best hope now as I understand it is to pass a 1-day extension so the Government can continue to operate and there is a chance but no assurance that we could wind things up by tomorrow night. Is that a proper paraphrase of what the leader said?

Mr. BYRD. I would be a little more optimistic then to say there is a chance but no assurance. I would say, the likelihood is—but I cannot give absolute assurance that it will happen—but the strong likelihood is that we will wind this thing up tomorrow evening late. But we have to wait on the House. The plan of the House as they stated it last night was to pass both the CR and the reconciliation measure over there before sending either of the two over here. I do not know whether we can get the House to agree to let us go with the reconciliation if we had the papers first. So we could be working on one while they are working on the other. There are problems in the House which I do not need to go into here but they may want to do both reports over there before they release either to us.

Mr. EXON. This Senator certainly has no desire to press for a rollcall vote on these matters because I think we all pretty well understand that in the end we will rubberstamp whatever is worked out. We have no other option it seems to me at this late juncture. But we will have a rollcall vote this evening under the current plans. Is that correct?

Mr. BYRD. No. There will be no rollcall vote this evening.

Mr. EXON. No rollcall votes on Sunday. All right. Let me ask just as a constructive suggestion rather than to extend the Government a day at a time, might it be a good idea to give the conferees 5 days so that if they cannot get together they can stay here and work through Christmas Day if necessary to get this job done?

We have run up against timeframes after timeframes after timeframes. I am just wondering if it might be an accommodation to the other Members if we would give them more time than what they have asked for in the spirit of compromise to accommodate the largest number of the body.

Mr. BYRD. What does the Senator propose?

Mr. EXON. I am wondering if it might not be a good idea to give them 5 days to complete their work, and then if necessary, they can stay here, work through Christmas, the rest of us may go home, and then come back to dispose of the matter at the proper time. I mean, it seems to me we do not want to rush into this decision. I just want them to have all the possible time that they need to come to a conclusion that all could agree with.

Mr. BYRD. Mr. President, this Senator was here all day yesterday, was here until 11:30 last night and was here at 10:30 this morning, this being the Sabbath day and I am still here. It is not a matter of accommodating Members. It is a matter of passing the continuing resolution so that everybody knows the Government is operating and still stands, and it is a matter of getting this done at the earliest possible moment. If we had a CR that was extended beyond 24 hours, then that gives everybody more time to argue, more time to delay, and as a consequence, we might need another 5 days.

So the idea is to keep the pressure on all of us to have a 24-hour CR and to see if we cannot get this work done, all of us get out to be with families, and accommodate all Members within that time.

Mr. LEAHY. Mr. President, would the Senator——

Mr. EXON. I will withdraw, if I may finish, the suggestion then. I was just making it in an effort to try to be helpful.

I thank the leader.

Mr. LEAHY. Mr. President, would the leader yield to me?

Mr. BYRD. Yes.

Mr. LEAHY. Mr. President, I concur with the Senator from West Virginia. I have also been here all day yesterday, the day before, and in fact all week long on the agricultural parts of this legislation. We were there all day today, the distinguished Senator from Indiana, the distinguished Senator from Mississippi, Congressman DE LA GARZA, Congressman PANETTA, and others working on this.

I mentioned, I believe yesterday, to the distinguished Senator from West Virginia that we have done a great deal of agricultural legislation, but we were able to do it because we were not interrupted by rollcall votes. Eventually this body will either accept or reject what we did. It accepted yesterday our farm credit bill. The farm credit bill is extraordinarily important, but had we been interrupted throughout the work with a lot of rollcalls, and the leadership, Republican, Democratic leadership, had not been able to get some short-term CR's and just pass them through by voice vote and let us go, we would not have gotten that bill.

Today we worked all day long. I report to the distinguished majority leader that we have finally reached a conclusion on REA, which was the one thing holding us up on the final agricultural part of the packet. We did this having negotiated at the leader's call from 11 o'clock this morning until literally 5 minutes ago. We have done that. Had we been interrupted with debates on the CR or something like that, we never would have finished it. We knew the CR was going to be there. We had faith in the leadership it was going to be there but it also kept the pressure on but pressure that was felt in our negotiating room, not here.

I would note though in that regard, Mr. Leader, I do hope that we will eventually get out of here. I just reported to my friend a telephone call I received this afternoon. One of my children called me from Vermont and said, "Dad, the snow is on the ground, it is wonderful skiing, we are wondering if you would mind, just so we could earn a little money for Christmastime, if we rented out all of our ski equipment because by the time you get back it is probably going to be obsolete anyway?" I said, "You want to rent out my room too?" They said, "No, mom is using that." So I told them rent it, rent the equipment, but only on a day-by-day basis because someday before spring thaw or before the ski equipment turns obsolete, we will leave.

I fervently pray we will leave. I hope that was a nodding yes I saw from the leader.

Mr. BYRD. Mr. President, I thank the distinguished Senator. He was here all the time in the conference. The distinguished Senator from Wisconsin is also here.

Mr. LEAHY. We walked in the door together.

Mr. BYRD. Mr. PROXMIRE is here at the beginning of every day. He was here at the stroke of 9 today and before to attend his conference, and the distinguished Senator from New Mexico, Mr. DOMENICI, was here late into the evening yesterday, was here early today, and has been here all day today. And through the efforts of these Senators we are approaching the end of the session.

I have to say to my colleague if this were a unicameral legislature and this were the only body, we would have been out already. But this is not a unicameral legislature. We do have to deal with the other body. They have manifold problems. We cannot entirely write our schedules here as we would like. We have to work together with the House. In this instance we have also had to deal with the White House, because we all sat down in the so-called summit and worked out an agreement. I think everything is going to work out well in the end.

I profusely apologize, without so many words, but profoundly, from the depths of my heart, to the distinguished Senator from Wisconsin, who patiently waits until he can be recognized.

I yield the floor.

Mr. PROXMIRE addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Wisconsin is recognized.

THE REAL COST OF SDI

Mr. PROXMIRE. Mr. President, it is time we in the Congress wake up and recognize the cost imposed by SDI on the progress of arms control. The most immediate arms control victim of full speed ahead with SDI is, of course, the ABM Arms Control Treaty of 1972. That Arms Control Treaty was designed for a simple, single purpose. The purpose was to stop the production by either side of a nationwide antiballistic missile system or SDI. We in the Senate ratified that Arms Control Treaty by a smashing 88-to-2 vote. The United States conceived that treaty. We drafted it. We sold it to an objecting, hesitating Soviet Union.

Throughout Russian history, for centuries, Russia had consistently stressed defensive military forces. And why not? Russia occupied the largest land mass on Earth. It had abundant natural resources. The last thing it needed was more territory. In fact, for $7 million it sold us Alaska—that vast State that constitutes one-fiftieth of our country's entire land area. So an antimissile system [ABM] fitted the Russian historical commitment to military defense. And yet our Democratic and Republican Presidents talked them out of it. Democratic and Republican administrations in the 1960's and early 1970's pushed the Soviets to agree to a treaty limiting ballistic missile defensive systems. Why did administrations representing both political parties insist so vigorously that the Soviet Union agree to negotiate an Arms Control Treaty to prevent both superpowers from constructing an ADI defense against the nuclear missiles of the other side?

Answer: Because it was very clear that any such defense would surely provoke an all out effort by the other superpower to build the offensive missiles to penetrate and overwhelm the missile defense. Such a response the construction of a Soviet missiles defense or SDI would have been an absolutely top priority for this country. Why? Because the credibility of our deterrent would have been at stake. It is the deterrent, the capacity of both superpowers to retaliate with a devastating counter strike that has kept the superpower peace for 40 years. It is certainly obvious that the Soviet Union will be doing absolutely everything in its power to maintain the credibility of their deterrent. What does "everything within their power" mean? It means that there is no way they can agree to a limit on their strategic offensive nuclear missiles. It means that rather than reducing their strategic offensive missiles to 6,000 as the proposed agreement might do, the Soviets would increase their ICBM's from their present 11,000 to 20,000 or 30,000 or 40,000. They would also diversify their deterrent to deploy far more of their nuclear missiles in submarines and bombers. The ability of SDI to stop cruise missiles launched at tree top level from a few miles off our shores or even from the skies directly over our country is very limited. The cost of such a conversion by the Soviet Union would be far less than the cost of our deploying SDI.

So the ABM arms control treaty is one obvious and certain victim of SDI. A second obvious victim is any attempt to revive the SALT II Treaty that limited offensive nuclear missiles on both sides. A third victim is the START Treaty, the proposed mutual cutback of strategic missiles by both sides to roughly 5,000. A fourth victim is the arms control commitment made by both superpowers in 1963 at the signing of the Limited Test Ban Treaty. In that treaty both the United States and the Soviet Union agreed to negotiate a comprehensive, verifiable end to nuclear weapon testing. The administration has walked away from that agreement. The President has repeatedly made it clear that there is no way his administration will agree to end nuclear weapon testing. One prime reason for the administration scuttling of a superpower agreement to end nuclear weapons testing is that the treaty would kill the testing of nuclear powered elements of SDI.

So, Mr. President, SDI will cost this country far more than the billions of dollars already spent on research and the trillion dollars plus that will be required for testing, for deployment, for maintenance, for operation, and for modernizing the system. It will cost this country and mankind its best prospects of progress toward peace through a whole series of arms control agreements past and future. Until 1980 nuclear weapon arms control had made hesitant but critical progress. We had in place arms control agreements to stop a nuclear weapons defensive arms race in the ABM Treaty. We had negotiated but not ratified a SALT II Treaty that went a long way to stop the nuclear weapons offensive arms race. And we had pledged to negotiate with the Soviet Union a comprehensive nuclear weapons test ban treaty that would stop the technological nuclear arms race.

With the arrival of SDI, every one of those treaties is in shambles. Arms control has effectively collapsed. We are left with the removal of intermediate nuclear weapons from Europe. That still leaves the strategic nuclear arms race—offensive, defensive, and technological—rushing ahead like the sound of doom.

Mr. GRAHAM addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Florida is recognized.

Mr. GRAHAM. Mr. President, at this time, while we all look forward to the opportunity to complete our business, return to our homes and celebrate this great season and prepare for the excitement of the new year, I would like to reflect upon an issue which has taken on an exaggerated importance this year and to which I suggest next year we could direct some of our attention, now that many of the fiscal issues are being dealt with in a 2-year cycle. We heard earlier this year a number of claims that the reason that the budget deficit effort stalled at a level below that that many of us had hoped was because we were unable to reach a political agreement to include a capping of Social Security benefits, particularly relating to increases in cost of living; and that that failure restricted our capacity to respond more adequately to the budget deficit.

Mr. President, I would like to include immediately after my remarks an article which appeared in the December 16, 1987, Washington Post, by two economists from the Brookings Institute, Henry Aaron and Robert Reischauer.

Mr. President, to quote from a portion of this article:

> The Social Security program is big (some 20 percent of the budget), and it has been growing rapidly (144 percent over the last decade). But it has not contributed to the deficit problem. Financed by a dedicated tax that is yielding far more than benefits and program administration cost, the Social Security system is an island of budgetary surplus in the midst of an ocean of red ink. During fiscal year 1987 the surplus in the Social Security system was $19 billion. The surplus will jump to $38 billion in 1988 and $69 billion in 1992.
>
> The surpluses exist largely because of payroll tax increases enacted by Congress in 1983 and signed into law by President Reagan. And these pluses are being accumulated for a reason: to pay the anticipated costs of the pensions due when the baby-boom generation retires. But to suggest that Social Security is part of the current deficit problem is lunacy.
>
> In fact, the surpluses being accumulated by the Social Security system are already a big part of the apparent "solution." They offset a portion of the deficit in the rest of the budget and, therefore, reduce the deficit estimates widely cited in the press. Without the increases in the Social Security surpluses, the deficit anticipated for 1992 would be $50 billion larger.

Mr. President, I ask unanimous consent that the full article be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. GRAHAM. Mr. President, the issue raised by the consideration of Social Security in arriving at a true picture of both our financial position and our financial options goes beyond Social Security. Social Security is one of several programs for which the Federal Government has written a contract between itself and individual Americans. In the area of Social Security it is a contract which has been written for over half a century and for which we have provided a specific fund to assure that that contract could be met.

In other areas it is less clear. I believe, Mr. President, that we should devote a substantial amount of our time in 1988, freed as we will be from many of the budget detail reconciliation decisions that have occupied us so much this year, including now late on a Sunday evening before Christmas, that we should devote a substantial amount of our time to looking at the way in which we are presenting our Federal deficit and the decisions which we must make in terms of our national economic interest and the specific interest of Americans who are affected by targeted Federal programs.

Let me suggest that our current system, which consolidates all of these into a single Federal budget presentation, has a number of deficits; deficits beyond those that we focus on in terms of the Federal deficit of expenditures over receipts. And let me suggest four of those deficits.

First is the manner in which we present the budget masks the true extent of the structural Federal deficit. As indicated in the article from which I have just quoted, Social Security itself by 1992 will be masking the extent of the Federal deficit by over $50 billion.

I ask unanimous consent to have printed in the RECORD also, Mr. President, the final monthly Treasury statement of Receipts and outlays of the U.S. Government by the Department of the Treasury for the fiscal year ended September 30, 1987.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(See exhibit 2.)

Mr. GRAHAM. Mr. President, this report indicates that the total Federal fund receipts and outlays, the total Federal fund deficit for the fiscal year that ended last September was not the number that we frequently hear, a figure of $148 billion, as enormous as that is; but was actually $221 billion. What accounts for the difference? The difference is that we had surpluses in a variety of Federal funds of $73.4 billion, which were offset against that Federal funds deficit to give the widely reported deficit of $148 billion.

Included in that set of surpluses was the $23.3 billion currently in the Social Security account. So, by consolidating the actual structural Federal deficit with the surplus accumulations, we mask the extent of our deficit.

Mr. President, I ask unanimous consent to have printed in the RECORD a special survey conducted by the Senate Budget Committee.

The ACTING PRESIDENT pro tempore. Without objection, the report will be printed in the RECORD.

(See exhibit 3.)

Mr. GRAHAM. This report attempts to project into 1988 and 1989 and even with some omissions into 1990, what this policy will be. There is some discrepancy between this report and the report of the Department of the Treasury due to the treatment of interfund transactions. Mr. President, I would say parenthetically one of our tasks for 1988 ought to be to try to arrive at some greater consistency among the various congressional and executive agencies that are involved in Federal fiscal affairs so that we may disagree, but we will not be disagreeing over how to present the information or the fundamental facts.

I might say I agree with the statement made by Mr. Alan Greenspan when he opened the Social Security Review Commission which led to that 1983 congressional action, in which he said: "Everyone here is entitled to their opinion. No one here is entitled to their facts."

One of the things that makes process so cumbersome is that people are disagreeing and assuming a proprietary interest, both in the facts and the opinions. These two reports illustrate that discrepancy.

But having said that, even with a somewhat lower estimate of Federal funds surplus, this report from the Senate Budget Committee indicates that our Federal funds deficit will actually increase over the next 2 years from the current $90 billion to $239.8 billion in fiscal year 1988 and $253 billion in 1989. If we adopt the measures that will be presented to us shortly there will be some improvement in those figures, but even at that over a 3-year period, in the best-case scenario, assuming we adopt the budget deficit recommendation we will still have a $16 billion higher Federal funds deficit. The structural Federal deficit will be $16 billion higher in 1989 than it was in 1987.

A second criticism is that it masks our contractual obligations; that we are not providing on an actuarially sound basis for the future commitments of the Federal Government. To mention just one example, our veterans' population is now entering the most expensive period in the life of this Nation. A World War II veteran who enlisted at the beginning of the war, 20 years of age, is now past 65. They are entering the period in which they are going to have the most expensive health care of their lives. Persons over 65 generally are two to three times more likely to incur health care costs than those under 65.

Mr. President, I anticipate that my time has expired and I would ask unanimous consent for an additional 5 minutes to complete my remarks.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. GRAHAM. We are not making adequate provision to assure that the same level of health care benefits will be reliably funded for this expensive period which we are about to enter, as veterans have come to expect in previous years.

So this consideration not only masked our structural deficit; it also masked our specific contractual obligations to segment our American population who have come to believe that they can rely upon a level quality and quantity of services from our Government.

Third is that this process has encouraged distorted decisionmaking. I anticipate that in the budget we will be voting on in the next few hours, for instance, we are going to see some of our regulatory agencies, such as the Securities and Exchanges Commission, which have a specific source of funding through a regulatory tax against those segements of the industry that they regulate. We are going to see that the actual level of appropriated funds to those agencies will be substantially below what this Senate earlier this year considered to be an absolute minimum required in order to fund their new regulatory demand.

The reason that we are going to be doing this is because decisionmaking has been distorted by lumping a specific regulatory function which has a discrete source of funding to assure its adequacy in with the total general budget.

We have seen in the area of public safety, aviation, the unwillingness to spend out accumulated, limited, targeted trust funds for aviation safety for the very same reason, that it would give the appearance of contributing to the Federal deficit.

So, a third serious flaw in our current system is to encourage distorted decisionmaking, particularly to the detriment of important safety and regulatory activities.

Let me suggest one final detriment of the current system which concerns me as we may be moving into a period of economic slowdown. It has been for half a century the policy of Federal economic decisionmakers to attempt to provide a stimulation through public sector spending when the private sector moved into a period of economic stagnation.

I suggest, Mr. President, that we have been practicing neo-Keynesian economics by running tremendous deficits during a period of economic well-being, placing us into a position where we will be constrained in our capacity to respond when we move, as we certainly will at some point in our economic future, into a time of economic slowdown when we need to be able to use the capacity of Federal spending.

An example of this is in the Federal Highway Trust Fund, an area that has tremendous potential. It has, in the past, served to stimulate not only the public sector activities, but also, through a ripple effect, private sector employment and activity.

As long as we continue to view the dedicated highway trust fund in a sea of red ink of the general Federal budget, we are going to be constrained in our ability to perform a very important economic task, obligation and opportunity for our Nation.

So, Mr. President, starting from the misstatement as to the role of Social Security in the Federal deficit, and changing the construction of Social Security from what it truly is, and that is a contract between the people of America and their Government, we see that we have fallen into a series of unfortunate economic facades and distortions of appropriate decisionmaking because of the way in which we have consolidated disparate functions into a single, consolidated Federal budget.

I suggest that we give ourselves a national present for 1988, and that is to apply the energy that will be available because of the decisions that we are making for a 2-year period in 1987 toward beginning to unravel this unnecessary and scary consolidation.

Mr. President, I have previously received unanimous consent to submit for the RECORD the various items which I have been quoting. I know of the chair's personal interest in these issues. I look forward to 1988, to having an opportunity to work with the Chair and others of our colleagues in hopes that we can bring some greater clarity, order, rationality, and enhance the public understanding of the reality of our Federal financial options.

EXHIBIT No. 1

[From The Washington Post, Dec. 16, 1987]

BITE THE DEFICIT, NOT SOCIAL SECURITY

(By Henry J. Aaron and Robert D. Reischauer)

Having observed Congress and the president labor mightily to bring forth a deficit-reduction mouse, some commentators, self-designated wise men, and a few elected officials have concluded that real progress in cutting the deficit cannot be made until Congress cuts Social Security benefits. A little bit off the cost-of-living adjustments, commentators like Peter Peterson and Martin Feldstein speculate, wouldn't hurt anyone.

But a case for singling out Social Security can be made only if this program has contributed significantly to the budget deficit, if benefits are excessively generous or if recipients are economically privileged. The facts clearly do not support any of these conditions.

The Social Security program is big (some 20 percent of the budget), and it has been growing rapidly (144 percent over the last decade). But it has not contributed to the deficit problem. Financed by a dedicated tax that is yielding far more than benefits and program administration cost, the Social Security system is an island of budgetary surplus in the midst of an ocean of red ink. During fiscal year 1987 the surplus in the Social Security system was $19 billion. The surplus will jump to $38 billion in 1988 and $69 billion by 1992.

The surpluses exist largely because of payroll tax increases enacted by Congress in 1983 and signed into law by President Reagan. And these surpluses are being accumulated for a reason: to pay the anticipated costs of the pensions due when the baby-boom generation retires. But to suggest that Social Security is part of the current deficit problem is lunacy.

In fact, the surpluses being accumulated by the Social Security system are already a big part of the apparent "solution." They offset a portion of the deficit in the rest of the budget and, therefore, reduce the deficit estimates widely cited in the press. Without the increases in the Social Security surpluses, the defict anticipated for 1992 would be $50 billion larger.

What about the possibility that benefits may, in some sense, be unneeded or too generous? While much has been made of the recent improvement in the economic position of the elderly, it is important to realize that this has only brought the aged into approximate economic parity with the rest of the American population. This major accomplishment should not be confused with economic privilege. The average Social Security benefit in September 1987 was $491 per month for retirees, $449 for aged widows and widowers.

Although average benefits are modest, no one should doubt that the economic status of the aged hinges critically on these payments. Social Security benefits make up 38 percent of the income of the elderly. Social Security constitutes more than half of the income for 53 percent of the elderly. Any large cuts in benefits would push some of them below the poverty threshold and return many to the position of economic inferiority from which they only recently emerged. Fully 8.1 percent of the elderly have incomes less than 25 percent over official poverty thresholds, compared with 4.7 percent of the nonelderly.

While the case for cutting Social Security benefits is weak, it is only responsible to expect that all segments of American society will have to sacrifice something if significant deficit reduction is to be achieved. In this spirit, Social Security recipients should make some contribution.

But across-the-board reductions are not the way to impose them, and cutting the annual COLA is just about the worst. To understand why, consider the proposal advocated by Martin Feldstein and some others to provide cost-of-living adjustments only for inflation in excess of 2 percent per year. In time, this formula would ensure that the oldest and most vulnerable in society would suffer the greatest income loss. An 85-year-old retiree, who probably has used up most of her savings and faces high medical bills, would receive benefits nearly one-third smaller than she received at age 65. A totally disabled 25-year-old could rest assured that his benefit would be cut in half by the time he turned 60. Such a grotesque proposal deserves not serious debate, but derision.

Another proposal, to grant cost-of-living adjustments only on the first 2 percent of inflation, is equally nonsensical. This formula would protect beneficiaries from small adversities, but leave them unprotected against the calamity of rapid inflation.

If Congress and the President decide to take a real bite out of the deficit, not the $30 billion nibble announced Nov. 20, the most sensible way to curtail net Social Security is to subject an increased portion of the benefits to the income tax. Currently, a couple must include in its taxable income the lesser of 1) half of its Social Security or 2) the amount by which its adjusted income exceeds $32,000 if its regular income plus half of its Social Security income and all of its tax-free interest income exceed $32,000. The comparable threshold for single individuals is $25,000. These thresholds could be lowered or eliminated, or the fraction subject to tax could be increased to 60 or 70 percent.

Such changes would make the tax treatment of Social Security more comparable to that of private pensions. They could contribute to a grand deficit-reduction compromise that included other spending cuts and significant tax increases. Moreover, they could do so without reducing the incomes of that large portion of the retired population that is clinging precariously to its modest, but not sumptuous, standard of living.

EXHIBIT NO. 2.—TRUST FUND IMPACT ON BUDGET RESULTS AND INVESTMENT HOLDINGS (IN MILLIONS) AS OF SEPTEMBER 30, 1987

Classification	Current month			Fiscal year to date			Securities held as investments, current fiscal year		
							Beginning of		
	Receipts	Outlays	Excess	Receipts	Outlays	Excess	This year	This month	Close of this month
Trust receipts, outlays, and investments held: [1]									
Airport	$215	324	−$108	$3,940	$2,602	$1,339	$8,596	$10,030	$9,937
Black lung disability	57	57	(**)	642	643	(**)			
FDIC		63	−63		[3] −1,438	1,438	15,856	17,242	17,040
Federal disability, insurance	1,686	1,823	−137	20,172	21,290	−1,119	8,335	7,342	7,193
Federal employees life and health		−17	17		−495	495	8,823	9,300	9,287
Federal employees retirement	18,243	2,296	15,947	44,078	26,046	18,032	157,272	164,529	180,516
Federal hospital insurance	5,024	4,098	926	62,735	50,803	11,932	38,340	49,635	50,779
Federal old-age and survivors insurance	17,547	15,398	2,148	210,082	186,780	23,303	36,948	56,208	58,356
Federal supplementary medical insurance	2,212	2,680	−467	27,797	30,837	−3,039	9,424	6,892	6,166
Revenue sharing		(**)	(**)		76	−76			
Highways	1,166	1,374	−208	14,310	12,642	1,669	11,499	13,798	12,691
Military advances	779	757	22	8,504	9,910	−1,407			
Railroad retirement	335	519	−183	4,104	6,203	−2,099	5,998	6,711	6,688
Military retirement	1,541	1,521	19	[2] 32,031	18,078	13,953	20,870	30,597	30,637
Unemployment	1,289	2,868	−1,580	27,613	20,527	7,086	21,240	28,920	27,917
Thrift savings	120	1	119	737	1	736		627	707
Veterans life insurance	40	86	−46	1,408	996	412	11,027	11,493	11,440
All other trust	504	377	127	[2] 3,666	2,904	762	1,547	2,203	2,429
Total trust fund receipts and outlays and investments held from Table 6–D	50,758	34,224	16,535	461,820	388,404	73,415	355,776	415,528	431,784
Interfund transactions	−22,066	−22,066		−123,407	−123,407				

EXHIBIT NO. 2.—TRUST FUND IMPACT ON BUDGET RESULTS AND INVESTMENT HOLDINGS (IN MILLIONS) AS OF SEPTEMBER 30, 1987—Continued

Classification	Current month			Fiscal year to date			Securities held as investments, current fiscal year		
							Beginning of		
	Receipts	Outlays	Excess	Receipts	Outlays	Excess	This year	This month	Close of this month
Trust fund receipts and outlays on the basis of tables 4 and 5	28,693	12,158	16,535	338,413	264,998	73,415			
Total Federal fund receipts and outlays	66,957	68,221	−1,264	535,397	756,817	−221,420			
Interfund transactions	−1,644	−1,644		−2,629	−2,629				
Federal fund receipts and outlays on the basis of table 4 and 5	65,313	66,577	−1,264	532,768	754,188	−221,420			
Offsetting proprietary receipts	−1,596	−1,596		−17,038	−17,038				
Net budget receipts and outlays	92,410	77,140	15,270	854,143	1,002,147	−148,005			

[1] Trust fund interfund receipts are now included in the individual trust fund receipt lines, not as offsets to individual trust fund outlay lines as presented previously.

[2] Unamortized premium/discount on public debt securities purchased by the Education Benefits Fund and the Military Retirement Fund were previously recorded as negative interest expense and negative interest earned. These entries of $4,189 million have been reversed and will be amortized monthly.

[3] The outlays for Federal Deposit Insurance Corporation have been adjusted by $159 million to reflect Federal Deposit Insurance Corporation debentures issued in lieu of cash and not reported previously as outlays.

......No transactions.

(**) Less than $500,000.

Note: Interfund receipts and outlays are transactions between Federal funds and trust funds such as Federal payments and contributions, and interest and profits on investments in Federal securities. They have no net effect on overall budget receipts and outlays since the receipt side of such transactions is offset against budget outlays. In this table, interfund receipts are shown as an adjustment to arrive at total receipts and outlays of trust funds respectively.

Note: Details may not add to totals because of rounding.

Source: Financial Management Service, Department of the Treasury.

EXHIBIT NO. 3.—FEDERAL FUNDS DEFICIT WITH AND WITHOUT SUMMIT AGREEMENT

[Excluding trust fund surpluses]

	1987	1988	1989	1990
No change in current policy:				
CBO baseline deficit	−148.0	−183.0	−191.9	−175.8
Trust fund surplus[1]	42.0	54.8	58.4	68.1
Federal funds deficit	−190.0	−237.8	−250.3	−243.9
Implementation of budget summit agreement:				
CBO baseline deficit	−148.0	−183.0	−191.9	−175.8
Trust fund surplus[1]	42.0	54.8	58.4	68.1
Impact of budget agreement on trust funds		2.0	3.5	NA
New trust fund surplus	42.0	56.8	61.9	NA
Federal funds deficit	−190.0	−239.8	−253.8	NA
Impact of budget agreement on Federal funds deficit		31.9	47.8	NA
New Federal funds deficit	−190.0	−207.9	−206.0	NA

[1] Trust funds include: Social Security, Medicare hospital insurance, highway, airport and unemployment insurance. Excludes interfund transactions that have no effect on deficit.

THE OMNIBUS TRADE BILL

Mr. HEFLIN. Mr. President, almost 6 months ago, the Senate overwhelmingly approved omnibus trade legislation which would overhaul our Nation's outdated and ineffective trade policies. Three months prior to the Senate's consideration of this vitally important piece of legislation, our colleagues in the House of Representatives also had the wisdom to pass an omnibus trade bill.

For the past few months, a conference committee has been meeting to work out the differences between these two bills. Given the voluminous nature of these omnibus bills and given the size of this conference committee, I realize that conferees have been presented with a tremendous task and I respect the magnitude of that task. However, I find it deplorable that the Congress has not been able to speed up action on such an important matter which is vital to the economic future of our Nation.

Unfortunately, threats of a Presidential veto and the stock market collapse of mid-October have brought action on this important legislation to a grinding halt. We must not, however, allow political winds to blind us from the economic hurricane into which our Nation has been swept. Our Nation's monthly trade deficits, far from improving, continue to horrify and amaze economists worldwide. Earlier this week, just days after the Department of Commerce announced that the U.S. trade deficit for October had reached a record level of $17.6 billion, the Institute for International Economics issued a report which warned that the global economy faces a major collapse unless immediate action is taken to cut the U.S. trade deficit.

I find this inaction to be an act of the grossest irresponsibility. To further neglect this problem by additional delays in resolving, in conference, the House and Senate differences, compounds our Nation's trade problems. I strongly urge my colleagues on the conference committee to complete action on this legislation as expeditiously as possible.

WALKER COLLEGE'S 50TH ANNIVERSARY

Mr. HEFLIN. Mr. President, I am delighted to rise, today, to congratulate the faculty, the students, and the alumni of Walker College on the 50th anniversary of the their great school. In 1938, Walker College opened its doors with the primary goal of providing bright students who live in the region with the opportunity to earn a higher education, and in the coming year, it will celebrate its founding. The professors, students, and alumni of Walker College will be able to reflect upon the rich history and many accomplishments and contributions they and their school have made. During this year, I know that everyone who has been connected with the college in any way will feel only the deepest pride, and the greatest satisfaction. These feelings are well-deserved.

The contributions, dedicated service, and guidance of people like David Rowland, the president of Walker College as an educator there for 32 years, and the extended, consistent support of each of the citizens of Jasper, AL and Walker County, the community where Walker College is located, cannot be overlooked, for it is through their work that the college has developed into the fine institution of higher education that it now is.

Walker College has grown much in the last 50 years. As recently as 1956 the college was located in one single building. Now, Walker College is comprised of 13 buildings, stretching out over 45 acres of land. It has added an excellent nursing school, which is housed in the recently completed Bevill Hall, and has developed a fine Continuing Education Program for local business. But with this expansion, the college has never lost sight of its original purpose—the education of the people of Alabama and America.

In its 50-year history, Walker College has dedicated itself to the improvement of education, knowledge, and the appreciation of life among all people. By providing an environment conducive to excellence in education, and encouraging students to learn by thier own initiative in addition to learning under the tutelage of instructors, Walker College is developing not only fine students, but responsible citizens and leaders who will usher Alabama into the future.

The academic emphasis of Walker College is not designed to force a student to choose an area of study. Rather, the college offers classes in a wide variety of different areas, exposing the student to different courses of study, and allowing students to determine for themselves, under the guidance of caring professors, what they like to study, while also providing them with the basics in education that will enhance, not only their college studies, but will encourage and enable them to continue learning throughout their lives.

Mr. President, one of the few constants in our ever-changing society is the value of an education. Education is the key to employment, and to economic progress. It is the key to the preservation of individual liberties. It is the key to understanding the vast world around us, and to the appreciation of all which is encompassed by that world. Walker College has greatly contributed to education in Alabama and in America. It has allowed for an opening of doors of opportunity, and an enhanced appreciation of life of the citizens of my State.

On behalf of the people of Alabama and America, I wish to express gratitude and admiration for the many successes and contributions made by Walker College since its founding. I am, indeed, proud to congratulate Walker College on its 50th anniversary, and for all it has done since its founding. I know that in the next 50 years, Walker College will continue to expand, and that its instruction will continue to benefit citizens throughout Alabama and America.

Mr. President, I ask unanimous consent that a newspaper article which describes Walker College's 50th anniversary be printed in the CONGRESSIONAL RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Birmingham News, Dec. 10, 1987]

WALKER COLLEGE AT HALF-CENTURY—SCHOOL STILL FOSTERS SOLID TIES TO PEOPLE, BUSINESSES IN COMMUNITY

(By Allison Bishop)

JASPER.—Walker College opened its doors in 1938 to provide a private school of higher education for rural Walker County and surrounding areas.

Now, 50 years later, the two-year college remains community-oriented with strong ties to area people and businesses.

David Rowland, president of Walker College and an educator there for 32 years, remembers his early days at the school.

"When I and a couple of faculty members came, the rural schools were tiny—they had no laboratories, no libraries," Rowland said. "And yet the youngsters were very bright. Our intent was to key the curriculum to their shortcomings and have them competitive by the time they went on to their third and fourth years at larger colleges."

Walker College remains a school that basically provides the equivalent education of the first and second years of a four-year college, Rowland said.

Rowland said the school doesn't have defined majors, except for a registered nurse program, because students want to keep their options open.

"Youngsters don't know what they want to do," Rowland said. "Sometimes they change majors two or three times. We try to help a student find himself. We like for them to make a commitment as to where they are going after Walker and what they will want to be."

The student population of 782—very close to its peak enrollment of 799 in 1971—lends itself to a personal kind of treatment.

"We just can't take any more students," Rowland said. "I enjoy the closeness of a small school. I feel if we get too large, we may lose that."

Walker's first president, Carl Jesse, taught classes in a music conservatory. When Rowland became president in 1956, there was still only one building, and the school didn't even own the land it was sitting on.

Now the college owns 45 acres and has 13 buildings including the recently completed Bevill Hall which houses the nursing division.

Rowland Hall, which will be the center for the continuing education department, will be complete after Christmas, Rowland said.

Bevill Hall and Rowland Hall were paid for by grants from the Appalachian Regional Commission. However, the other 11 buildings were paid for with fund drives, Rowland said.

"We have a very supportive community," Rowland said. "And we feel we contribute to the economy of the area."

College officials have spent much time developing the school's new continuing education program, Rowland said.

"You have so many professions—real estate, insurance, accounting—that require continuing education for re-licensing," Rowland said. "So we intend to do that.

"I feel like Walker College doesn't need to be in Walker County," Rowland said. "It needs to be a working part of Walker County."

One of the most successful programs the school has developed is its associate degree program in nursing.

"Twenty-five years ago, People's Hospital was having a hard time getting nurses," said Jack Mott, college vice president. "They wanted a nursing program in the area."

Walker College developed a program, which continues today even though People's Hospital has since closed.

The academic portion of the two-year degree program is taught at Walker College, and practical training is provided at Walker Regional Medical Center, Mott said.

The program has a near 100 percent passing rate on the state nursing board exams, Mott said.

Walker is now aiming to assist Walker and Winston counties in an equally vital way—by helping rural communities attract industry and business.

"We're opening an office for industrial development that will provide statistics and brochures to help attract industry to these rural areas," Rowland said.

He hopes the progarm will be under way by summer 1988.

"We can have a real impact on industry and jobs for some of these rural areas," he said.

These type of programs are important to Walker College, Rowland said.

"We can't just sit here like a parasite and let the community do everything for us," he said.

So as the college celebrates its 100th year, the community has reason to take note, too.

HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1987

Mr. HEFLIN. Mr. President, every citizen in this great country deserves adequate housing. Yet for the last 7 years, this administration has been unwilling to pass a freestanding housing bill. This is a disservice to the American people. Earlier this week, the conference committee report of the Housing and Community Development Act of 1987 was virtually killed because the President threatened to veto the bill. I am greatly troubled by the fact that the Senate would let a threat from the President and a threatened filibuster from his supporters stop approval of this vitally important legislation.

Mr. President, we have had no freestanding housing legislation for the last 7 years. During that time, we have seen the Federal budget increase by more than 60 percent while the housing portion of the Federal budget has decreased by 70 percent. In 1980, housing programs accounted for 5.3 percent of the Federal Budget. Today, they make up just 1.3 percent of the Federal budget. If one accepts the premise that every American citizen deserves adequate housing, these cuts are unacceptable; these cuts are disastrous.

The House voted overwhelmingly for passage of the Conference Report. Because of this administration's continued opposition, the Senate did not even have a chance to vote for final passage. I've been waiting a long time for the opportunity to vote on the conference report for this Housing bill. What I don't understand is the unwillingness to even vote on this issue. I ask only that we bring this legislation to the floor for a vote.

Our inaction for the last 7 years on this issue reminds me of a theory discovered by a meteorologist, Edward Lorenz, of the Massachusetts Institute of Technology, called the butterfly effect. His theory goes something like this: If a butterfly flapped its wings in Washington, DC, it would cause tiny air currents to affect breezes across hundreds of miles, so that by the time those winds got to my home State of Alabama, they would have whipped up a mighty tornado. In effect, a small butterfly could eventually change the weather.

The story seems farfetched, but the point is clear; our actions today may seem small, but these actions will have a profound effect on our lives in the future. Problems we don't deal with today will only become worse, until they are so big, and so uncontrollable, that we will be unable to deal with them later. Look where we are today; we have a huge trade deficit, the stock market recently crashed; I could go on and on. The economic weather has already changed for the worse; what will happen if we ignore this piece of legislation? Are we going to change the weather of the future? We cannot put off this legislation until tomorrow.

When this legislation originally came before the Senate, I voted against passage of this bill. But I did not hope to stop any housing legislation; I have always been a supporter of the housing industry. No, I felt that after 7 years of total inaction, we should have come up with something stronger. As I said before, housing programs today account for just 1.3 percent of the Federal budget.

The Democrats are in the majority now, and I believe that they should have come up with a stronger bill. S. 825, the Housing and Community Development Act of 1987, freezes authorizations for housing and community development programs for fiscal year 1988 and fiscal year 1989 at current fiscal year 1987 levels—levels which are 70 percent less than those we had at the time this adminstration took office in 1981.

I want to ask you about the Federal deficit. What is the cause of this? Probably many things come to mind, but one cause you would never mention would be our commitment to housing and urban development. That is because we have ignored the housing problems.

I voted nay when this bill originally came before the Senate as a protest vote. I felt we could do better. The conference committee's bill is a much better bill than the Senate bill was. It is now a good, sound bill, overall, and I will support final passage if I am given the chance. I voted to waive the budget when this legislation was considered on November 17, 1987. I believe strongly in the need for a housing bill, and I ask for a chance to vote on this housing bill.

Mr. President, let us ask ourselves how many years will pass before we will find the courage to see beyond today and realize that as time goes by our mistakes will produce bigger problems for tomorrow. We must act wisely or we will suffer the consequences of our inaction.

DEVASTATION BY RED TIDE OF NORTH CAROLINA SHELLFISHING

Mr. SANFORD. Mr. President, I rise today to thank my colleagues on behalf of thousands of eastern North Carolinians who have suffered devastating economic losses because of the natural phenomenon known as the red tide.

Because of sudden and unprecedented variations in Gulf Stream currents, the red tide, a natural toxic algae usually found in tropical waters, appeared in the coastal waters of North Carolina in late October. Over the last 6 weeks, shellfishing has been banned along two-thirds of the North Carolina coastline. That put some 9,000 fishermen out of work.

The North Carolina Division of Marine Fisheries estimates that losses to the fishing industry alone have reached $3.5 million, and that millions more will be lost before the red tide subsides.

Of course, seafood dealers, restaurateurs, charter boat operators, and pier owners—indeed, all of the North Carolina coast—also have felt the effects. Although figures are not yet available, it appears that total economic losses will exceed $10 million.

The legislation that we passed yesterday includes a provision that will require the Small Business Administration to declare the event a natural disaster. Natural disaster status will allow the SBA to provide low-interest loans to affected businesses, including fishermen, who are having trouble meeting current obligations because of the red tide. That assistance won't solve all their problems, or totally erase the damage that the red tide has caused, but it is a good step in the right direction.

The SBA would like to help out, but has thus far not declared disaster status because their legal authority to do so has been in doubt. This legislation clarifies that authority, and ensures that disaster status will be declared. On behalf of the citizens of North Carolina's coastal counties, I would like to express my deep appreciation to my colleagues—and particularly, the leadership of the Senate Commerce and Small Business Committees—for their support of this measure.

LOW INCOME ENERGY ASSISTANCE

Mr. HEINZ. Mr. President, shortly, we will adjourn for the year and head home for the holidays. For those of us who live in colder climates, our houses will be comfortably warm. But the houses or apartments of many of our constituents will be cold or dark or both. Their holiday season promises to be a bitter one.

The Conference Committee Report on the Continuing Resolution for fiscal year 1988 [H.J. Res. 395] cuts funding for the Low-Income Home Energy Assistance Program [LIHEAP] by some 16 percent.

The House funded LIHEAP at its fiscal year 1987 level of $1.823 billion. The Senate proposed to eviscerate the program, reducing funding by 32 percent, to $1.237 billion—the largest, single-year percentage reduction in any low-income program since 1982. The conferees, from what I gather, split the difference. So the program will be funded at about $1.53 billion in fiscal year 1988.

This program, vitally important to over 6 million low income families, has been singled out unfairly for spending cuts. We haven't cut it to the bone; we've cut it through the bone. As a result of our action, 1 million households will lose benefits entirely or the average benefit may be reduced by $30 to $35. My State of Pennsylvania stands to lose $20 million. Sixty-five thousand households may lose their benefits entirely. The overwhelming majority of these households have an average annual income under $7,000. Many have children, or elderly or handicapped persons. We're relegating millions of these people—nationwide—with the choice of heating or lighting, hot water or cooking. It's not a choice anyone in America should have to make.

Last June, I solicited 37 signatures on a letter to Lawton Chiles, chairman of the Appropriations Subcommittee on Labor, Health and Human Services, Education, and related agencies, and to the ranking minority member, Senator Lowell Weicker. The letter urged that the Appropriations Committee fund LIHEAP at the full amount authorized for the program, or $2.132 billion.

Mr. President, I ask unanimous consent that a copy of the letter be printed in the Record following my remarks.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(See exhibit 1.)

Mr. HEINZ. When the Labor/HHS bill came to the floor, Senator Weicker offered an amendment to waive the Budget Act and restore the $600 million cut by the Appropriations Committee. His amendment garnered

47 votes—a respectable effort considering the fiscal constraints we face. Another amendment, offered by Senator WARREN RUDMAN would have restored some of the funds by implementing an across-the-board percentage cut in other programs. About a dozen Members who did not vote for the Weicker amendment voted for the Rudman amendment.

When the Labor/HHS bill went to conference, we solicited 52 signatures on a letter to the conferees, urging them to recede to the House funding allowance for LIHEAP. I don't know of too many other letters disavowing the Senate's position on a matter eliciting such support.

Mr. President, I ask unanimous consent that this letter, too, be placed in the RECORD following my remarks.

The ACTING PRESIDENT pro tempore. Without objection, it is ordered.

(See exhibit 2.)

Mr. HEINZ. Some will say, "Offer an amendment to a supplemental appropriations bill." And we will. But I would point out to my colleagues that the worst winter months will have come and gone by the time Congress passes a supplemental appropriations bill for fiscal year 1988. And administrative capacity to add new LIHEAP-eligible households to the program will be lost.

Some will say, "Oil prices will be lower." And this is true. But lower oil prices offer little consolation to those struggling to pay their utility bills. Most analysts predict the price of a barrel of crude oil will drop from $18 to about $16. Such a drop has an enormous cumulative effect on the economy, but reduces refiners' costs by just 3 cents to 5 cents per gallon for items such as gasoline and home heating oil. So while we're all grateful oil prices are softening a bit, the impact on the Nation's poor will be relatively insignificant, and certainly won't offset the funding cuts we've made in LIHEAP. Next year, we must rededicate our efforts to providing for America's poor, a population so at risk.

EXHIBIT 1

U.S. SENATE,
Washington, DC, June 30, 1987.

Hon. LAWTON CHILES,
U.S. Senate,
Washington, DC.

DEAR LAWTON: When the Appropriations Subcommittee on Labor, Health and Human Services, Education, and Related Agencies considers its fiscal year 1988 measure, we urge you to support full funding—$2.132 billion—for the Low Income Home Energy Assistance Program (LIHEAP). This program is critically important to low income Americans.

A June 1986 study prepared for the National Association for State Community Services Programs (NASCSP study) demonstrated the persistent needs of LIHEAP recipients:

LIHEAP households had an average income of $7,373 in 1984—$847 below the official poverty line for a family of three.

LIHEAP provides modest but meaningful assistance to 6.8 million American households, 39% of which contain an elderly person.

14% of LIHEAP households contain a handicapped person.

LIHEAP households spend 14–15% of their income on energy costs, nearly four times the national average. In 1984, these costs totalled $942; the average LIHEAP benefit was $213.

LIHEAP funds reach only 34% of federally-eligible households.

In recent years LIHEAP funding has been reduced. This resulted from a decline in energy prices rather than a decline in demand for the program. In 1985, Congress appropriated $2.100 billion. In 1986, the appropriation was reduced to $2.009 billion as a result of the 4.3 percent across-the-board cut mandated under Gramm-Rudman. Last year, Congress further reduced funding to $1.825 billion (some $25 million less than the 1981 appropriation). Addressing this funding reduction, House and Senate conferees to the Labor/HHS bill made clear that:

> . . . the amount agreed to for LIHEAP should not be construed as a decline either in support for the program or in the need for such assistance. Rather, it is reflective of the unusual circumstances which exist this year: lower energy prices in general and the availability of substantial oil overcharge funds to the states. (House Report 99–960, page 20)

Conditions of lower energy prices and substantial oil overcharge funds no longer exist. Most of the oil overcharge funds were allocated to the states last year; additional allocations are likely to be small and spread over several years. More importantly, residential energy prices are on the rebound, with the cost of fuel oil, natural gas, and electricity all expected to increase this year and next.

Given the recent increase in energy prices and continued need for LIHEAP, a full appropriation for LIHEAP is justifiable.

The Northeast-Midwest Institute recently published a report (which is enclosed) indicating that a gap of $3.6 billion exists between eligible household energy costs and available government funding. (The Institute study assumes that LIHEAP recipients spend 10% of their income—more than twice the national average—on energy costs.) The continued requirement to reduce the federal budget deficit prevents us from bridging this gap in its entirety. But given the urgent need for this program, surely we can appropriate the full $2.132 billion authorized for the program. Please do no less.

Sincerely,

JOHN HEINZ,
(With 36 cosponsors).

EXHIBIT 2

U.S. SENATE,
Washington, DC, October 29, 1987.

Hon. LAWTON CHILES,
Chairman, Subcommittee on Labor, Health, and Human Services, U.S. Senate Appropriations Committee, Washington, DC.

DEAR LAWTON: When the Senate-House Committee of Conference meets on the FY 1988 Labor, Health, and Human Services appropriations bill, we urge you and fellow conferees to recede to the House funding allowance for the Low Income Home Energy Assistance Program (LIHEAP). We offer several reasons for this request.

LIHEAP is a needs-based income supplement program serving only the very needy—the average annual income of a recipient household is less than $6,500. Almost 40 percent of these recipients are low income senior citizens. Many others are the working poor. Fifty-two percent of federally-eligible LIHEAP households include children under the age of eighteen. These households pay on average almost 16 percent of their income on home energy costs—about four times the national average. The average annual LIHEAP income supplement of about $208 means a great deal to these people, who too often must make the choice between heating and eating.

Let us put the proposed 32 percent cut in the context of state distribution of federal funds. If all states decide to deal with the reduction by proportionately eliminating recipients from the program, 2.1 million households nationwide lose benefits. If a state decides to reduce the benefit level instead, the average annual benefit goes down $67 from $208 to $141.

In practice, some states will cut benefits, and others will reduce the number of recipient households. Both approaches will be very painful for millions of poor people.

If the reduction approved by the Senate passes the Conference, LIHEAP would suffer the largest annual percentage cut of any low income support program since 1982. This is particularly onerous in view of the 5% rise in heating cost the Department of Energy is projecting for this winter.

Even at its endangered 1987 funding level, LIHEAP serves only about one-third of the households that are federally eligible for benefits. And, as Diane DeVaul of the Northeast-Midwest Institute pointed out in a report in 1984—the last year for which exact figures are available—a $3.6 billion gap existed between the actual energy expenses of LIHEAP-eligible households and the federal appropriation for the program (assuming that the households spent the equivalent of 10 percent of their annual incomes on energy costs).

The various states aren't in a position to make up for the LIHEAP cut. It is a myth that funds from oil overcharge settlement cases are universally available to fill the gap. Oil overcharge funds were clearly intended by the Court to supplement, not supplant, existing federal fuel assistance monies. The Department of Energy has encouraged the states to use the funds in a balanced way, for a variety of purposes aside from fuel assistance, and they are doing so.

It would be unreasonable and unfair to threaten the health and scarce financial resources of the needy, as the Congress and the states debate the oil overcharge settlement issue. Oil overcharge money is not a solution.

Please consider strongly the position of the 65 Senators who voted on October 14 to restore LIHEAP funding, 47 of whom voted to waive the Budget Act to achieve full funding. We urge you, once again, to recede to the House's reasonable funding allowance for this important program.

Sincerely,

PATRICK J. LEAHY,
(With 51 cosponsors).

APPOINTMENT BY THE VICE PRESIDENT

The ACTING PRESIDENT pro tempore. The Chair, on behalf of the Vice President, pursuant to Public Law 84-372, appoints the Senator from New

York [Mr. D'AMATO] to the Franklin Delano Roosevelt Memorial Commission.

APPOINTMENTS BY THE PRESIDENT PRO TEMPORE

The ACTING PRESIDENT pro tempore. The Chair, on behalf of the President pro tempore, pursuant to Public Law 96-388, as amended by Public Law 97-84, appoints the following Senators to the U.S. Holocaust Memorial Council: The Senator from Connecticut [Mr. WEICKER] and the Senator from Alaska [Mr. MURKOWSKI].

The ACTING PRESIDENT pro tempore. The Chair, on behalf of the President pro tempore, pursuant to Public Law 99-498, appoints the Senator from Wyoming [Mr. WALLOP] to the board of trustees of the Institute of American Indian and Alaska Native Culture and Arts Development.

The ACTING PRESIDENT pro tempore. The Chair, on behalf of the President pro tempore, pursuant to Public Law 94-118, appoints the Senator from Delaware [Mr. ROTH] to the Japan-United States Friendship Commission.

MESSAGE FROM THE HOUSE

At 6:36 p.m., a message from the House of Representatives delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following joint resolution, in which it requests the concurrence of the Senate:

H.J. Res. 431. Joint resolution making further continuing appropriations for the fiscal year ending September 30, 1988, and for other purposes.

Mr. GRAHAM. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

FURTHER CONTINUING APPROPRIATIONS, FISCAL YEAR 1988

Mr. BYRD. Mr. President, while the distinguished acting Republican leader, Mr. DOMENICI, is on the floor, I have the Republican leader's approval to proceed with the following request. I ask, Mr. President, that the Chair lay before the Senate and the Senate proceed to the consideration of House Joint Resolution 431.

The ACTING PRESIDENT pro tempore. The clerk will report.

The assistant legislative clerk read as follows:

Joint resolution (H.J. Res. 431) making further continuing appropriations for the fiscal year ending September 30, 1988, and for other purposes.

The ACTING PRESIDENT pro tempore. Is there objection to the immediate consideration of the joint resolution?

There being no objection, the Senate proceeded to consider the joint resolution.

The ACTING PRESIDENT pro tempore. The Senator from New Mexico.

Mr. DOMENICI. Will the distinguished majority leader yield?

Mr. BYRD. Yes.

Mr. DOMENICI. Mr. President, I am here in behalf of Senator DOLE, the Republican leader, who asked me to indicate that he concurred with the request of the distinguished majority leader. I understand he just arrived, and since he has not said to the contrary, I assume he concurs with what I have just said.

The ACTING PRESIDENT pro tempore. The joint resolution is before the Senate and open to amendment. If there be no amendment to be offered, the question is on the third reading and passage of the joint resolution.

The resolution (H.J. Res. 431) was ordered to a third reading, was read the third time, and passed.

Mr. BYRD. Mr. President, I ask unanimous consent that the motion to reconsider be laid on the table.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

RECESS SUBJECT TO THE CALL OF THE CHAIR

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess awaiting the call of the Chair.

There being no objection, at 6:59 p.m., the Senate took a recess, subject to the call of the Chair.

Whereupon, the Senate reassembled at 8:13 p.m. when called to order by the Presiding Officer (Mr. SANFORD).

MESSAGES FROM THE HOUSE

ENROLLED BILLS AND JOINT RESOLUTION SIGNED

At 7:05 p.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the Speaker has signed the following enrolled bills and joint resolution:

H.R. 390. An act to provide that a special gold medal be presented to Mary Lasker for her humanitarian contributions in the areas of medical research and education, urban beautification and the fine arts, and for other purposes;

H.R. 519. An act to direct the Federal Energy Regulatory Commission to issue an order with respect to Docket No. EL-85-38-000;

H.R. 2639. An act to repeal the Brown-Stevens Act concerning Indian tribes in the State of Nebraska;

H.R. 2974. An act to amend title 10, United States Code, to make technical corrections in provisions of law enacted by the Military Retirement Reform Act of 1986;

H.R. 3289. An act to amend the Export-Import Act of 1945;

H.R. 3492. An act entitled the "Rural Crisis Recovery Program Act of 1987";

H.R. 3712. An act to designate the United States Livestock Insects Laboratory in Kerrville, Texas, as the "Knipling-Bushland Research Laboratory"; and

H.J. Res. 255. Joint resolution designating the third week in May 1988 as "National Tourism Week."

The enrolled bills and joint resolution were subsequently signed by the Acting President pro tempore (Mr. WIRTH).

ENROLLED JOINT RESOLUTION SIGNED

At 7:23 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the Speaker has signed the following enrolled joint resolution:

H.J. Res. 431. Joint resolution making further continuing appropriations for the fiscal year ending September 30, 1988, and for other purposes.

The enrolled joint resolution was subsequently signed by the Deputy President pro tempore (Mr. MITCHELL).

ORDER OF PROCEDURE

READING OF CONFERENCE REPORTS ON THE CONTINUING RESOLUTION AND RECONCILIATION WAIVED

The PRESIDING OFFICER. The majority leader is recognized.

Mr. BYRD. Mr. President, anticipating that the conference reports on reconciliation and the continuing resolution will be forthcoming from the House at some point, I ask unanimous consent that the reading of the conference reports on either the continuing resolution or the reconciliation be waived.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I ask unanimous consent that the requirement that conference reports be available on Senators' desks be waived with respect to the CR and the reconciliation bill.

The PRESIDING OFFICER. Is there objection?

Mr. DOLE. Mr. President, reserving the right to object, and I shall not object, I have already spoken to the majority leader. We will, of course, try to have a couple of copies on each side for Members who have, obviously, a right to take a look at it. But I think this is not an unusual requirement at this stage in the session, knowing the length of both conference reports. It would be a tremendous task and probably could not be completed.

Mr. BYRD. It would probably require another short-term CR.

Mr. DOLE. We will make every effort for Members on each side, who obviously may want to look at a certain section or all of it, to try to have a few copies available on each side.

Mr. BYRD. Yes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I have been talking with the distinguished Republican leader following a meeting with the Speaker, the majority leader, and the chairman of the House Committee on Appropriations. Based on those conversations, the House intends to send over the reconciliation measure, hopefully with everything worked out prior thereto, by around 5 o'clock tomorrow afternoon. They are going to act on the reconciliation measure first and then the continuing resolution so that this House, the Senate, can proceed to work on the reconciliation conference report tomorrow while the House continues to work on the continuing resolution conference report. Therefore, I see no need to bring the Senate in before 4 o'clock tomorrow afternoon. That would be my intention, to recess over until 4 o'clock tomorrow afternoon.

The Senate will act upon any other measures that have been cleared by unanimous consent, or conference reports if there be such. Then we will be ready, once the House message comes over carrying the conference report on the reconciliation measure, to proceed to take that up.

There will be rollcall votes, I fully expect, on the adoption of both conference reports. Senators should therefore be prepared to do that. Our respective cloakrooms will be notifying Senators to that effect.

Mr. DOLE. Will the majority leader yield?

Mr. BYRD. Yes.

Mr. DOLE. I think one other thing that might help expedite the final disposition of both conference reports is if we can have some agreement where a representative or representatives of the press might be given an opportunity to look at the text of both the reconciliation bill and the CR, maybe sometime starting early tomorrow so they can look through 800, 900 or 1,000 pages. Otherwise, it is probably likely that these bills will not get to the President until late, late tomorrow evening. In the case of the CR, I doubt that we can get another 1-day extension. The Chief of Staff, Howard Baker, said it would certainly be helpful to give them the chance to look at the text. The distinguished Senator from Alaska, Senator STEVENS, said he would make that request of the chairman of the House Committee, Congressman WHITTEN, tomorrow morning at 10 o'clock when the entire appropriations group meets.

Mr. BYRD. Mr. President, I do not know what the mechanical problems might be. I know the figures involved, the numbers, have all been supplied to the White House or are in the process of being supplied, or will be supplied. The representative of the White House, Mr. Baker, Howard Baker; Mr. Jim Baker, of the Treasury, and Jim Miller of the OMB, the Director, have been kept pretty much aware as to developments that have been going on in the several conferences.

So I hope that when our work is done, we might have some reasonable assurance by the President that the measures will not be vetoed. But that remains to be seen. I cannot, of course, presume to anticipate what might be the President's position.

I do want to take these last few seconds to thank our colleagues, the Republican leader, and the chairman and ranking members of the Senate who have been meeting throughout the day beginning at 11 o'clock with our House counterparts, and I want to thank the staffs that have been here right along with us. Most all of us have been meeting in those conferences since yesterday afternoon, and a good many, not including myself, of course, were meeting for days prior to that. I feel deeply indebted to all of our colleagues for the efforts that have been put forth in this respect.

I take this occasion also to thank Howard Baker and Jim Baker. They have been available at all times during these last several hours, and it has taken this to bring us to the point where we are at the moment. A good many issues have been pretty much resolved. I do not feel good about having to come in on Sunday, but sometimes we have to get the ox out of the ditch.

Mr. President, if the distinguished Republican leader has anything further, I would be glad to yield.

Mr. DOLE. No, except to thank the distinguished majority leader for keeping our noses to the grindstone. It is very difficult to do sometimes. But we are not there. We are close, much closer than we were had we gone home last night at 5 o'clock or 6, and there are still meetings going on. I do not want to leave the impression that Members disappeared. And they may be meeting into the late hours, and then tomorrow morning it starts again. But I do believe that there is a real possibility that we can complete action tomorrow night. That is the hope of the majority leader, and I want to cooperate in every way that I can.

Mr. BYRD. Mr. President, I thank the Republican leader. He has done just that.

Mr. President, just a final reminder that the Appropriations Committee members will be meeting tomorrow morning at 10 o'clock and other Members who are involved in other conferences should be on hand early tomorrow so that we get a good running start on tomorrow's work.

For those who are still around engaged in conferences, the fact that the Senate is going out should not indicate that they need to necessarily stop their work, and I am sure they will not.

ORDERS FOR MONDAY, DECEMBER 21

RECESS UNTIL 4 P.M.

Mr. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 4 o'clock tomorrow afternoon.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that on tomorrow afternoon, at the conclusion of the two orders for the recognition of Mr. DOLE and myself, there be a period for morning business not to extend beyond 30 minutes, and that Senators may speak during that period for not to exceed 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL TOMORROW AT 4 P.M.

Mr. BYRD. Mr. President, if the distinguished Republican leader has nothing further, I move, in accordance with the order entered, that the Senate stand in recess until the hour of 4 o'clock p.m. tomorrow.

The motion was agreed to, and the Senate, at 8:28 p.m., recessed until Monday, December 21, 1987, at 4 p.m.

HOUSE OF REPRESENTATIVES—*Sunday, December 20, 1987*

The House met at 1 p.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Let us pray. You have given us, O God, the gift of faith and the joy of this season and we are free to believe that which is good and true. We pray this day that we will learn to translate that faith and that belief into the actions of everyday life for we know from Your Word that a faith without good works is dead. May we take the good works and the good words that we say with our lips and all that we believe in our hearts and practice those words and beliefs in deeds of love and mercy this day and every day. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. RAVENEL. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. RAVENEL. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. The gentleman objects to the vote on the ground that a quorum is not present and makes a point of order that a quorum is not present. Pursuant to clause 5 of rule I the Chair will put that question at a later time. The gentleman's right to vote will be protected and that question will be put at a later time today.

The point of order is considered withdrawn.

PERMISSION FOR COMMITTEE ON RULES TO PRIVILEGED REPORTS AND MANAGERS TO FILE CONFERENCE REPORTS ON H.R. 3545 AND HOUSE JOINT RESOLUTION 395

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that the Committee on Rules may have until 10 a.m. tomorrow to file privileged reports, that any privileged report so filed be considered to have laid over for 1 legislative day, and that the managers on the part of the House may have until midnight tonight to file conference reports on H.R. 3545 and House Joint Resolution 395.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

There was no objection.

AUTHORIZING THE SPEAKER TO DECLARE RECESSES AT ANY TIME ON TODAY

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that it be in order for the Speaker to declare recesses today subject to the call of the Chair.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed without amendment bills and a joint resolution of the House of the following titles:

H.R. 1162. An act to amend title 28, United States Code, to provide for the selection of the court of appeals to decide multiple appeals filed with respect to the same agency order;

H.R. 2583. An act to authorize additional appropriations for the San Francisco Bay National Wildlife Refuge;

H.R. 3492. An act entitled the "Rural Crisis Recovery Program Act of 1987";

H.R. 3674. An act to provide congressional approval of the Governing International Fishery Agreement between the United States and Japan; to implement the provisions of Annex V to the International Convention for the Prevention of Pollution from Ships, 1973; to reauthorize the National Sea Grant College Program Act; to improve efforts to monitor, assess, and reduce the adverse impacts of driftnets; and for other purposes;

H.R. 3712. An act to designate the United States Livestock Insects Laboratory in Kerrville, Texas, as the "Knipling-Bushland Research Laboratory"; and

H.J. Res. 430. Joint resolution calling upon the the Soviet Union to immediately grant permission to emigrate to all those who wish to join spouses or fiances in the United States.

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 60. An act to permit the Architect of the Capitol, under the direction of the Joint Committee on the Library, to accept gifts of money for the purpose of works of fine art for the Capitol, and for other purposes;

H.R. 2401. An act to extend the authorization of the Renewable Resources Extension Act of 1978, and for other purposes;

H.R. 2566. An act to amend the National Parks and Recreation Act of 1978, as amended, to extend the term of the Delta Region Preservation Commission, and for other purposes;

H.R. 3395. An act making technical corrections relating to the Federal Employees' Retirement System, and for other purposes; and

H.R. 3435. An act to provide that certain charitable donations, and payments for blood contributed, shall be excluded from income for purposes of the Food Stamp Program.

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 437. An act to amend the Small Business Investment Act of 1958 to permit prepayment of loans made to State and local development companies;

S. 795. An act to provide for the settlement of water rights claims of the La Jolla, Rincon, San Pasqual, Pauma, and Pala Bands of Mission Indians in San Diego County, California, and for other purposes;

S. 858. An act to establish the title of States in certain abandoned shipwrecks, and for other purposes;

S. 999. An act to amend title 38, United States Code, and the Veterans' Job Training Act to improve veterans employment, counseling, and job-training services and programs; and

S. 1134. An act to amend title 28, United States Code, to provide for the selection of the court of appeals to decide multiple appeals filed with respect to the same agency order.

The message also announced that the Senate agrees to the amendment of the House to the amendment of the Senate to the bill (H.R. 1340) "An act to improve the distribution procedures for agricultural commodities and their products donated for the purposes of assistance through the Department of Agriculture, and for other purposes."

The message also announced that the Senate agrees to the amendments of the House to the amendment of the Senate to the bill (H.J. Res. 376) "Joint resolution calling upon the Soviet Union to immediately grant permission to emigrate to all those who wish to join spouses in the United States."

The message also announced that the Senate agrees to the amendments of the House to the bill (S. 1642) "An act to designate the United States Courthouse located at the intersection of Uniondale Avenue and Hempstead Turnpike in Uniondale, New York, as the 'John W. Wydler United States Courthouse'."

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

The message also announced that pursuant to Public Law 93-642 the Chair on behalf of the Vice President, appoints Mr. Danforth, as a member of the Board of Trustees of the Harry S. Truman Scholarship Foundation.

The message also announced that pursuant to Public Law 84-944 the Chair on behalf of the Vice President, appoints Mr. Stevens, Mr. Helms, and Mr. Cochran, to the Senate Office Building Commission.

The message also announced that pursuant to Public Law 86-380 the Chair on behalf of the Vice President, appoints Mr. Durenberger, to the Advisory Commission on Intergovernmental Relations.

The message also announced that pursuant to Executive Order 12131, signed by the President on May 4, 1979, and extended by Executive Order 12258, signed December 30, 1980, the Chair appoints Mr. Danforth and Mr. Wilson to the President's Export Council.

EXPLANATION OF SPEAKER'S RULING ON APPROVAL OF THE JOURNAL VOTE

(Mr. MICHEL asked and was given permission to address the House for 1 minute.)

Mr. MICHEL. Mr. Speaker, I only take this time that I might clarify for the gentleman from South Carolina [Mr. Ravenel] that the Speaker's delaying the vote on the Journal is, I think, very much in order, because both sides had agreed by our announcement to all our Members that we would meet at 1 but that there would be no rollcall until 5 p.m.

Now we have got to have some measure of confidence in one another as we get in the closing days, that those of us who are in leadership positions do know what we are doing and have Members on both sides to protect.

As the Speaker has indicated, the gentleman's request is going to be honored at that hour when we advised all Members that that is when there would be a rollcall.

So let there be no misunderstanding on that score.

The SPEAKER. The distinguished minority leader is absolutely correct and the request of the gentleman from South Carolina will indeed be honored.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair will announce that it is the intention of the Chair to declare a recess until 5 p.m. so Members may feel free that they do not need to be present in the Chamber until 5 p.m. That message will be broadcast on the telephone systems in both Cloakrooms.

At 5 p.m., the House will reconvene and after that time will take up the question de novo on the approval of the Journal.

PARLIAMENTARY INQUIRY

Mr. RAVENEL. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. RAVENEL. Mr. Speaker, I listened very closely to what the majority leader had to say the other day and a great many of us could have gone home Friday evening and could have returned today. But it was not in my opinion categorically stated that there would be no votes until 5 p.m. this afternoon.

So this Congressman feels like he was unnecessarily held hostage here. It is only an hour for me to go home down there to South Carolina. I could have gone home and come back, but because it was not absolutely stated that there would be no votes until 5 this afternoon, I did not do so.

So I feel sorely used.

CLARIFICATION OF PENDING SITUATION WITH RESPECT TO LEGISLATION

(Mr. FOLEY asked and was given permission to address the House for 1 minute.)

Mr. FOLEY. I hope all Members realize that in attempts to reach a conclusion on the continuing resolution and on the reconciliation bill, the joint leadership is trying to accommodate Members as much as possible. We had hoped that these bills might be ready today. When it was clear at 11 p.m. last night that we would not be able to have them ready before this evening at the earliest and probably not until tomorrow, we instructed both Cloakrooms to advise Members that the House would convene at 1 p.m. today and would not be expected to vote until after 5 p.m., and that the vote would be on the question of an extension of the continuing resolution for 1 day, that the House would meet at noon tomorrow and would consider the conference reports on these two bills. That decision was taken last night by both the distinguished Republican leader and myself with the Speaker's concurrence for the purpose of giving Members an idea of what was going to happen. Now we are not gifted with a crystal ball that can tell us precisely when these conference committees will conclude and I am sympathetic with the gentleman from South Carolina, but if we knew precisely when the conferences would conclude, we would be able to decide exactly when the House is expected to act. We have no such prescience in this matter. We are trying to keep the Members advised as best we can for their convenience.

Mr. BURTON of Indiana. Mr. Speaker, will the gentleman yield?

Mr. FOLEY. I yield to the gentleman from Indiana.

Mr. BURTON of Indiana. I thank the gentleman for yielding.

Mr. Speaker, we are going to be asked this evening at 5 p.m. to vote on a 1-day CR so that the Government would not have to shut down. What I would like to advise the leadership now is that this gentleman intends to object unless we have some idea at that time whether or not agreement has been reached between not only the Republican and Democratic sides of both Houses, but also the White House.

If there is no agreement on that. I think we are—

Mr. FOLEY. We have been advised by the representatives of the President that if he receives before tomorrow morning an action of the Congress extending for 24 hours until midnight tomorrow night the temporary continuing resolution, the President will sign it.

Mr. BURTON of Indiana. I am not talking about that, if the gentleman will yield further.

I am talking about the big CR and the budget reconciliation act. If agreement has not been reached between both Houses and the White House and we have some pretty concrete evidence that the President is going to sign it, I intend to object this evening.

Mr. FOLEY. I do not think we intend to bring the matter by unanimous consent. The gentleman may vote against the bill if he wishes to.

Mr. BURTON of Indiana. Unanimous consent is not required?

Mr. FOLEY. No.

The SPEAKER. The Chair will advise the gentleman that unanimous consent would not be required.

The Chair wishes to express along with the majority leader and the minority leader a regret for any inconvenience that has been caused to Members and their schedules, but as the majority leader has explained, and the minority leader as well, the leadership has been attempting to try to create a situation in which we can work the will of the House and conclude the session of the Congress at a minimum of inconvenience to the membership.

In that regard, the Chair wants to thank the membership for their understanding.

PARLIAMENTARY INQUIRIES

Mr. BURTON of Indiana. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. BURTON of Indiana. Mr. Speaker, I would like to know when this rule was requested and granted. The Members when we left on Friday were not aware, to my knowledge, that there was going to be a rule requested for a 1-day CR. It seems like that is kind of something that was sneaked in on us, at least as far as I am concerned.

The SPEAKER. The Chair will advise the gentleman that the Rules Committee was granted permission by this House, by unanimous consent, a request offered by the majority leader and understood by the minority leadership, they being present, that the Rules Committee should have—until noon today, to file privileged reports. And the Rules Committee has done so with respect to the short-term continuing resolution.

Mr. BURTON of Indiana. If I might further inquire of the Chair, when did this take place, when did the leadership of both the majority and minority, or when were they informed about this requested rule?

The SPEAKER. If the gentleman will be patient, the Chair will examine the notes in the Journal and try to give the gentleman a response as to when. It was sometime yesterday, approximately 5 p.m. yesterday afternoon.

Mr. BURTON of Indiana. Five p.m. on Saturday after everybody had gone home?

The SPEAKER. Well, the Chair will advise the gentleman that it is the responsibility of the majority and the minority leadership to try as best they can to accommodate the schedule of the membership.

Mr. BURTON of Indiana. Mr. Speaker, where a unanimous consent is required or requested, it is my understanding that it is the entire body, not just the leadership that is supposed to be involved. And to go ahead——

The SPEAKER. If the gentleman will permit the Chair to respond, it is a long-standing rule that unanimous consent requests—not by the rules of the House, but by the comity and the courtesy that exists between both sides—are cleared in advance of their being requested, usually, with the minority leadership, and that they are not propounded unless someone representing the minority is present in the Chamber. That is a matter of precedent.

Mr. BURTON of Indiana. I have a further parliamentary inquiry.

The SPEAKER. Permit the Chair, please, to respond and the gentleman will be recognized.

□ 1315

There is no requirement that all Members be present. If there were, the House might never achieve a unanimous consent request, and I think the gentleman recognizes, as will all Members, that the minority and majority have tried very earnestly to work together in a harmonious fashion.

Mr. BURTON of Indiana. Mr. Speaker, I have a further parliamentary inquiry.

It was this gentleman's understanding, Mr. Speaker, when we adjourned Friday that there was not going to be any business conducted prior to the resumption of the House meeting today, and I was not aware yesterday, and I do not know whether any of my colleagues were, that there were going to be issues like this raised. If I had known that, I would have been here to object, because I think the entire body should have been aware that there was going to be a 1-day CR, and that they were going to ask unanimous consent to go the the Rules Committee to get a rule on that. It was our understanding that this was not going to take place, and that issues of this kind were not going to be raised in our absence yesterday.

The SPEAKER. The Chair would just simply state to the gentleman that there have to be certain decisions made by the Chamber on the spur of the moment more or less, because it was not possible——

Mr. BURTON of Indiana. I have a further parliamentary inquiry.

The SPEAKER. Permit the Chair, please, to respond to the gentleman.

It was not possible obviously for the majority leader or the minority leader to know that a 1-day extension would be required, and surely the gentleman is not seeking some inalienable right for the Government to close down.

Mr. BURTON of Indiana. I have a further parliamentary inquiry.

Mr. Speaker, there was some discussion privately of a 1-day CR on Friday, and, Mr. Speaker, when we left, it was the understanding of this gentleman, and, I think, most Members on our side of the aisle that no legislative action was going to take place that would preclude our right to object to a unanimous consent request to go to the Rules Committee or to pass a 1-day CR. Now, it did take place in our absence, and I submit, Mr. Speaker, that at least as far as I was concerned, I was misled. I do not know whether it was inadvertent or not, but I feel like I was misled because had I known that you were going to ask unanimous consent to go the Rules Committee to get a special rule for a 1-day CR, a 1-day extension, I would have been here to object.

Mr. GONZALEZ. A point of order, Mr. Speaker.

The SPEAKER. The gentleman's point of order is well taken. The gentleman was not stating a parliamentary inquiry, but the Chair indulged him to make such statement as he desired to make.

CLARIFICATION OF PROCEDURAL MATTERS FROM THE REPUBLICAN SIDE

(Mr. SOLOMON asked and was given permission to address the House for 1 minute.)

Mr. SOLOMON. Mr. Speaker, if I might just address this subject, I stayed here this whole weekend just for the purpose of making sure that if unanimous consent requests should come up, some of us on this side of the aisle would know what is going on. I do not think it is anybody's obligation on this side of the aisle to impede the progress of the Congress. We want to get out of here, we want to get home, but we want to make sure the business of the House is done.

I for one was here at 5 p.m. on Saturday afternoon. I for one did not object to that unanimous consent request because it was progressing the business of this House, which is what we want to do.

Mr. Speaker, we ought to get on with it right now and let us get home for Christmas.

FURTHER CLARIFICATION OF PROCEDURAL MATTERS BY THE MAJORITY SIDE

(Without objection, Mr. FOLEY was given permission to address the House for 1 minute.)

Mr. FOLEY. Mr. Speaker, I hope it is clear to all Members that when we undertook in a colloquy to suggest to Members that there would be no legislative business done on Saturday by unanimous consent or other means, I specifically exempted procedural unanimous consent requests. That was in the understanding between the distinguished Republican leader and myself, that no Member would be absent for legislative enactment by unanimous consent on Saturday, but that we would make such necessary procedural unanimous consent requests that obviously had been cleared with and had the support of the Republican leadership. The distinguished Republican leader agreed to that, and the unanimous consent request the gentleman from Indiana refers to was made under that understanding.

RECESS

The SPEAKER. The House will stand in recess until 5 p.m. this afternoon.

Accordingly (at 1 o'clock and 19 minutes p.m.), the House stood in recess until 5 p.m.

□ 1708

AFTER RECESS

The recess having expired, the House was called to order by the

Speaker at 5 o'clock and 8 minutes p.m.

FURTHER CONTINUING APPROPRIATIONS, 1988

Mr. PEPPER. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 340 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 340

Resolved, That upon of this resolution it shall be in order to consider in the House, section 302(f) of the Congressional Budget Act of 1974, as amended (Public Law 93-344, as amended by Public Law 99-177), to the contrary notwithstanding, a joint resolution making further continuing appropriations for the fiscal year 1988, and for other purposes, if offered by the chairman of the Committee on Appropriations, or his designee. Debate on the joint resolution shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Appropriations. The previous question shall be considered as ordered on the joint resolution to final passage without intervening motion except one motion to recommit.

The SPEAKER. The gentleman from Florida [Mr. PEPPER] is recognized for 1 hour.

Mr. PEPPER. Mr. Speaker, I yield the customary 30 minutes to the gentleman from Ohio [Mr. LATTA] for the purpose of debate only, pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 340 provides for the consideration of a joint resolution making further continuing appropriations for the fiscal year ending September 30, 1988, in the House, if offered by the chairman of the Appropriations Committee or his designee. The 1 hour of debate is equally divided and controlled by the chairman and ranking minority member of the Committee on Appropriations. Section 302(f) of the Congressional Budget Act is waived against the consideration of the joint resolution. The waiver is required because on an annualized basis, this short-term extension of the continuing resolution contains budget authority exceeding the defense subcommittee's allocation for fiscal year 1988. The rule also provides one motion to recommit.

Mr. Speaker, the joint resolution extends the current continuing resolution through December 21, 1987. It is necessary to pass this joint resolution because the funding resolution in place expired on midnight December 18, 1987. It is clear that the conference committees will need additional time to wrap up the remaining few issues that are unresolved. This short-term continuing resolution will allow the conferees to resolve those differences and give the Congress time to act on a conference report on the full-year continuing resolution.

The joint resolution merely extends the current continuing resolution at the same rates and terms through December 21, 1987, and should be supported.

Mr. LATTA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I think everybody in the Chamber realizes that this continuing resolution is needed if the Government is not going to shut down tomorrow. It provides only for the consideration of a joint resolution which will continue expenditures through tomorrow night, midnight. It will be considered in the House for 1 hour, and since it is being considered in the House there will be no amendments permitted. There will be one motion to recommit.

There is a waiver of section 302(f) of the Budget Act. The waiver is included because defense spending is continued at last year's level, which is above the amount provided in the current budget resolution. This same waiver was included in previous short-term continuing appropriations this year.

Mr. Speaker, none of us like this procedure. Appropriations bills should be passed separately and sent to the President one at a time. Having all the Government spending for the whole year lumped together in one package is the wrong way to go.

But now that we are in this situation where not a single general appropriation has been enacted into law, we will have to pass this extension of the continuing appropriation in order to keep the Government operating tomorrow.

Mr. Speaker, I yield 2 minutes to the gentleman from Illinois [Mr. PORTER].

□ 1715

Mr. PORTER. Well, here we are. Mr. Speaker, on the fourth short-term CR of fiscal year 1988, almost 3 months behind schedule, with the final deals still not cut, and with Christmas fast upon us.

In other societies, you would be held in disgrace for mismanagement and expected to resign. In ours, it's just politics as usual.

Sometimes, as all deadlines pass without the work being done, I wonder if it's even beyond attempting to roll the President and preventing him from effectively wielding his veto power. Sometimes I wonder whether the senior Members are worried they might run out of excuses for not going home to see their constituents.

In any case, the work is still not done, 85 percent of the Members will have had no input into 60 percent of the spending in the omnibus CR when it finally arrives here and the President, for a few crumbs, will have been bought off once again.

Let's remember how the process has gone this year. Let's remember this mismanagement. And if the Speaker can't do a better job or won't, let's be sure that next year the President tells the Congress early, in his State of the Union Address, that he won't tolerate this insanity any longer, that any CR that is sent to him for fiscal year 1989 will be vetoed and that he insists that we do our appropriations work on time, in 13 separate bills, within a budget that truly reduces the deficit.

Without the President insisting on this kind of responsibility, we can be assured we will have more of this fiscal insanity and mismanagement next year.

Mr. LATTA. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. PEPPER. Mr. Speaker, I have no further requests for time, and I move the previous question on the resolution.

The SPEAKER. The question is on ordering the previous question.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. RUSSO. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 268, nays 115, not voting 50, as follows:

[Roll No. 500]

YEAS—268

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Atkins
Barnard
Bartlett
Bateman
Bates
Beilenson
Bennett
Berman
Bevill
Bilbray
Bliley
Boggs
Boland
Bonior
Bonker
Borski
Boucher
Boxer
Brennan
Brooks
Brown (CA)
Bruce
Bryant
Buechner
Bustamante
Byron
Campbell
Cardin
Carper
Carr
Chandler
Chapman
Chappell
Cheney
Clarke
Clinger
Coelho
Coleman (TX)
Collins
Combest
Conte
Conyers
Cooper
Coughlin
Coyne
Darden
de la Garza
Dellums
Derrick
DeWine
Dicks
Dingell
Dixon
Donnelly
Dorgan (ND)
Downey
Duncan
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
English
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Fish
Flippo
Foley
Ford (MI)
Ford (TN)
Frank
Frost
Garcia
Gejdenson
Gibbons
Glickman
Gonzalez
Goodling
Gordon
Gradison
Grant
Gray (IL)
Gray (PA)
Guarini
Hall (OH)
Hamilton
Harris
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefner
Hertel
Horton
Howard
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Hyde
Jacobs
Jeffords
Jenkins
Johnson (CT)
Johnson (SD)
Jones (TN)
Jontz
Kanjorski
Kaptur
Kasich
Kastenmeier
Kennedy

Kennelly
Kildee
Kleczka
Kolbe
Lancaster
Lantos
Latta
Lehman (CA)
Lehman (FL)
Leland
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Lujan
Luken, Thomas
MacKay
Madigan
Manton
Markey
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McDade
McGrath
McHugh
McMillen (MD)
Mfume
Mica
Michel
Miller (CA)
Miller (OH)
Mineta
Moakley
Mollohan
Montgomery
Moody
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Murtha
Nagle
Natcher
Neal
Nelson
Nichols
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Panetta
Parris
Pashayan
Patterson
Pease
Pelosi
Penny
Pepper
Perkins
Pickett
Pickle
Price (IL)
Price (NC)
Pursell
Rahall
Rangel
Ray
Regula
Richardson
Rinaldo
Rodino
Roe
Roukema
Rowland (GA)
Roybal
Russo
Sabo
Savage
Sawyer
Scheuer
Schneider
Schulze
Schumer
Sharp
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Solarz
Spratt
St Germain
Staggers
Stallings
Stark
Stokes
Stratton
Studds
Sundquist
Swift
Synar
Tallon
Tauzin
Thomas (GA)
Torres
Towns
Traficant
Traxler
Udall
Valentine
Vento
Visclosky
Volkmer
Walgren
Watkins
Waxman
Weiss
Wheat
Whitten
Wilson
Wolf
Wortley
Wyden
Wylie
Yates
Yatron
Young (AK)

NAYS—115

Archer
Armey
Baker
Ballenger
Barton
Bentley
Bereuter
Bilirakis
Boulter
Broomfield
Brown (CO)
Bunning
Burton
Clay
Coats
Coble
Coleman (MO)
Courter
Craig
Crane
Dannemeyer
Daub
Davis (IL)
DeFazio
DeLay
Dornan (CA)
Dreier
Edwards (OK)
Emerson
Fawell
Fields
Frenzel
Gallegly
Gekas
Gilman
Gingrich
Grandy
Gregg
Gunderson
Hall (TX)
Hammerschmidt
Hansen
Hastert
Hefley
Henry
Herger
Holloway
Hopkins
Houghton
Hunter
Inhofe
Ireland
Konnyu
Kyl
Lagomarsino
Leach (IA)
Lewis (CA)
Lewis (FL)
Lightfoot
Lott
Lowery (CA)
Lowry (WA)
Lukens, Donald
Mack
Marlenee
McCandless
McCollum
McEwen
McMillan (NC)
Meyers
Miller (WA)
Molinari
Moorhead
Nielson
Oxley
Packard
Petri
Porter
Ravenel
Rhodes
Ridge
Ritter
Roberts
Robinson
Rogers
Roth
Saiki
Saxton
Schaefer
Schroeder
Schuette
Sensenbrenner
Shays
Shumway
Shuster
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solomon
Spence
Stangeland
Stenholm
Stump
Sweeney
Swindall
Tauke
Taylor
Thomas (CA)
Upton
Vucanovich
Walker
Weber
Weldon
Whittaker

NOT VOTING—50

Aspin
AuCoin
Badham
Biaggi
Boehlert
Bosco
Callahan
Crockett
Daniel
Davis (MI)
Dickinson
DioGuardi
Dowdy
Edwards (CA)
Flake
Florio
Foglietta
Gallo
Gaydos
Gephardt
Green
Hiler
Hochbrueckner
Jones (NC)
Kemp
Kolter
Kostmayer
LaFalce
Leath (TX)
Lent
Livingston
Lloyd
Lungren
Martin (IL)
Murphy
Myers
Nowak
Quillen
Roemer
Rose
Rostenkowski
Rowland (CT)
Shaw
Smith (FL)
Torricelli
Vander Jagt
Williams
Wise
Wolpe
Young (FL)

Mrs. COLLINS changed her vote from "nay" to "yea."

□ 1730

So the previous question was ordered.

The result of the vote was announced as above recorded.

The SPEAKER. The question is on the resolution.

The question was taken; and the Speaker announced that the ayes appeared to have it.

RECORDED VOTE

Mr. LOWRY of Washington. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 257, noes 126, not voting 50, as follows:

[Roll No. 501]

AYES—257

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Atkins
Barnard
Bartlett
Bateman
Bates
Beilenson
Bennett
Berman
Bevill
Bilbray
Bliley
Boggs
Boland
Bonior
Bonker
Borski
Boucher
Boxer
Brennan
Brooks
Brown (CA)
Bruce
Bryant
Bustamante
Byron
Campbell
Cardin
Carper
Carr
Chandler
Chapman
Chappell
Cheney
Clarke
Clinger
Coelho
Coleman (TX)
Collins
Conte
Conyers
Cooper
Coughlin
Coyne
Darden
de la Garza
DeFazio
Dellums
Derrick
DeWine
Dicks
Dingell
Dixon
Donnelly
Downey
Dwyer
Dymally
Dyson
Early
Eckart
English
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Fish
Flippo
Foley
Ford (MI)
Ford (TN)
Frank
Frost
Garcia
Gejdenson
Gibbons
Glickman
Goodling
Gordon
Gradison
Grant
Gray (IL)
Gray (PA)
Guarini
Hall (OH)
Hamilton
Harris
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefner
Hertel
Horton
Houghton
Howard
Hoyer
Hubbard
Huckaby
Hutto
Hyde
Jacobs
Jeffords
Jenkins
Johnson (CT)
Johnson (SD)
Jones (TN)
Jontz
Kanjorski
Kaptur
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Lancaster
Lantos
Latta
Lehman (CA)
Lehman (FL)
Leland
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Lujan
Luken, Thomas
Lukens, Donald
MacKay
Madigan
Manton
Markey
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McDade
McGrath
McHugh
McMillen (MD)
Mfume
Mica
Michel
Miller (OH)
Mineta
Moakley
Mollohan
Montgomery
Moody
Morella
Morrison (CT)
Morrison (WA)
Murtha
Nagle
Natcher
Neal
Nelson
Nichols
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Panetta
Parris
Pashayan
Patterson
Pease
Pelosi
Penny
Pepper
Pickett
Pickle
Price (IL)
Price (NC)
Rahall
Rangel
Ray
Regula
Richardson
Rinaldo
Rodino
Roe
Roukema
Rowland (GA)
Roybal
Russo
Sabo
Savage
Sawyer
Scheuer
Schneider
Schumer
Sharp
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (IA)
Smith (NE)
Smith (NJ)
Solarz
Spratt
St Germain
Staggers
Stallings
Stark
Stokes
Stratton
Studds
Sundquist
Swift
Synar
Tallon
Tauzin
Taylor
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Valentine
Vento
Visclosky
Volkmer
Walgren
Watkins
Weiss
Wheat
Whitten
Wilson
Wolf
Wortley
Wyden
Wylie
Yates
Yatron
Young (AK)

NOES—126

Archer
Armey
Baker
Ballenger
Barton
Bereuter
Bilirakis
Boulter
Broomfield
Brown (CO)
Buechner
Bunning
Burton
Clay
Coats
Coble
Coleman (MO)
Combest
Courter
Craig
Crane
Dannemeyer
Daub
Davis (IL)
DeLay
Dickinson
Dorgan (ND)
Dornan (CA)
Dreier
Duncan
Durbin
Edwards (OK)
Emerson
Fawell
Fields
Frenzel
Gallegly
Gekas
Gilman
Gingrich
Gonzalez
Grandy
Gregg
Gunderson
Hall (TX)
Hammerschmidt
Hansen
Hastert
Hefley
Henry
Herger
Holloway
Hopkins
Hughes
Hunter
Inhofe
Ireland
Kasich
Kolbe
Konnyu
Kyl
Lagomarsino
Leach (IA)
Lewis (CA)
Lewis (FL)
Lightfoot
Lott
Lowery (CA)
Lowry (WA)
Mack
Marlenee
McCandless
McCollum
McEwen
McMillan (NC)
Meyers
Miller (CA)
Miller (WA)
Molinari
Moorhead
Mrazek
Nielson
Oxley
Packard
Perkins
Petri
Porter
Pursell
Ravenel
Rhodes
Ridge
Ritter
Roberts
Robinson
Rogers
Roth
Saiki
Saxton
Schaefer
Schroeder
Schuette
Schulze
Sensenbrenner
Shays
Shumway
Shuster
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solomon
Spence
Stangeland
Stenholm
Stump
Sweeney
Swindall
Tauke
Thomas (CA)
Upton
Vucanovich
Walker
Weber
Weldon
Whittaker

NOT VOTING—50

Aspin
AuCoin
Badham
Bentley
Biaggi
Boehlert
Bosco
Callahan
Crockett
Daniel
Davis (MI)
DioGuardi
Dowdy
Edwards (CA)
Flake
Florio
Foglietta
Gallo
Gaydos
Gephardt
Green
Hiler
Hochbrueckner
Jones (NC)
Kemp
Kolter
Kostmayer
LaFalce
Leath (TX)
Lent
Livingston
Lloyd
Lungren
Martin (IL)
Murphy
Myers
Nowak
Quillen
Roemer
Rose
Rostenkowski
Rowland (CT)
Shaw
Smith (FL)
Vander Jagt
Waxman
Williams
Wise
Wolpe
Young (FL)

□ 1745

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. WHITTEN. Mr. Speaker, pursuant to House Resolution 340, I offer a joint resolution (H.J. Res. 431) making further continuing appropriations for the fiscal year ending September 30, 1988, and for other purposes and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

The SPEAKER. Pursuant to House Resolution 340, the gentleman from Mississippi [Mr. WHITTEN] will be recognized for 30 minutes and the gentleman from Massachusetts [Mr. CONTE] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Mississippi [Mr. WHITTEN].

GENERAL LEAVE

Mr. WHITTEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on House Joint Resolution 431.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

Mr. WHITTEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want my colleagues to know this is not our fault. I hear these speeches about our Committee on Appropriations and it always occurs to me that "He who tries to make peace is the one who gets shot."

We are trying to bail you out as well as ourselves. I want to say here and now that your Committee on Appropriations and the House have handled our business last year and this year. The reason we end up with continuing resolutions is on the other side of the Capitol and for other reasons.

I want to take time now to point out the facts this year.

Mr. Speaker, this year our Committee on Appropriations, and its 13 subcommittees held regular hearings for 221 days where they heard 4,188 witnesses and produced, 94,220 pages of hearings printed in 90 volumes.

The Commerce, Justice, State, and Judiciary bill passed the House on July 1, 1987; the District of Columbia bill passed on June 26, 1987; the Energy and Water bill passed on June 24, 1987; the Foreign Operations, Export Financing, and related programs bill was reported on August 6 of this year; the HUD-Independent Agencies bill passed the House on September 22, 1987; the Interior and related agencies bill passed on June 25, 1987; the Labor-Health and Human Services-Education bill passed on August 5, 1987; the legislative branch bill passed June 29, 1987; the military construction bill passed on July 14; the Rural Development, Agriculture, and related agencies bill was reported October 20, 1987; the Defense bill was reported October 28; the Transportation and related agencies passed July 13, 1987; and the Treasury-Postal Service, and general Government bill passed July 15, 1987.

The bills for Defense and Foreign Operations were not passed because of delays in authorization. Agriculture has been delayed; waiting, hopefully, for legislative action to put the Farm Credit System on a sound basis, which, I understand, passed the Senate yesterday and thus clearing the bill for the President.

Now your Committee on Appropriations held these bills below the President's total recommendation by $6 billion. Notwithstanding that, you had your summit agreement and directed us to cut it $2.6 billion more, which we did.

It went to the other side and it simply did not get back in time for us to deal with it. That is the reason you are here.

Now what we have today is 1 day's extension trying to get all that has to be settled in conferences together.

I just want to say that you need not be afraid of what our record is. We have these continuations and we missed our target, but unless we get together tomorrow night by midnight or extend it again, we will have the Government come to a stop. I have jokingly said I do not want that to happen, they might like it.

In all seriousness, we have to have action. Now I cannot speak for the arguments that we have. We also have the reconciliation bill, the purpose of which is to get more revenue and to hold down spending. I do not know what the facts are, but what I hear is they are changing the law and doing all sorts of things. So in this next 24 hours, I hope we can get together and solve these things.

I was asked publicly this morning what I thought. I said, "Well, I can tell you what I think, The differences are so slight it is inexcusable to stop the government because of the difference between the two sides in this thing."

But we do need to go ahead and get together on this Contra business. There is not a wide difference between the two sides. And, we need to solve the others.

But I do say I do not see how we can get the full year continuing resolution passed timely until we see what is in the reconciliation bill.

We have a splendid record of holding appropriations down.

I think I should say this, after we had the summit, we held the line down. It went to the Senate and I do not believe they have been reading the newspapers, because they certainly have not settled on what was agreed in the Senate and what was discussed in the Senate. I just want to say this here that this is a must, but do not let them lay it on you or me or the Appropriations Committee in the House or the House itself. We have done our job.

Mr. Speaker, this resolution extends the existing continuing resolution until midnight tomorrow night. The conferees have not been able to resolve the matter of assistance to the Contras. Negotiations to resolve that issue are underway. In addition, the conference on reconciliation has not been completed.

Adoption of this extension will permit continued operation of the Government until such agreement is reached on these matters.

Once agreement is reached and approved, we will be able to proceed toward processing of the conference report and the Statement of the Managers.

Mr. Speaker, I urge the adoption of the resolution.

□ 1800

Mr. CONTE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I reluctantly support the joint resolution, and my remarks will be short, if not sweet.

We have been in conference with the Senate now for a week. We have met the targets of the budget economic summit. We have resolved all of the significant issues except the Contra aid and the fairness doctrine, which are being negotiated between our leadership and the administration. When these two issues are resolved, and not before, we can bring that conference report back to the House. Until then, like you, we must wait.

The vote on this extension will have no effect on the conference. The issues are intractable, and the interests of both sides will simply not be pressured into an unacceptable agreement. However, the vote on this extension could hurt a lot of innocent people. The current CR expired at midnight on Friday, and unless it is extended, OMB is legally obligated to initiate a Government shutdown tomorrow morning. Our constituents will be denied essential functions and services, Federal workers will lose pay and benefits at noon tomorrow, and I believe that would be unfair and would not serve a good purpose.

I understand everyone's frustration here, but a vote against the extension is not the solution. As I have said on this floor many, many times, the solution is this: The system is broken down, and we should repeal the Budget Act of 1974. They only met their deadline once since 1974. No deadlines have been met, and when we are in the process of repealing the Budget Act of 1974, we should go one step further and repeal the Gramm-Rudman-Hollings Act.

Let me tell the Members why we should do that. We can accomplish the same purpose as Gramm-Rudman-Hollings if at the beginning of the year in January we set a target of what we estimate the revenues are going to be in this country, and then we sit down for 2 weeks in the Congress here, bring out the 13 appropriation bills in a 2-week period and make sure they meet that target that we set at the beginning of the year. And if they do not, then we cut them down, and then we go back and work those budgets over and over again here on the floor of the House. Then we would have the discipline needed in order to come to a balanced budget. And if we do not do that, we go ahead and cut them or go ahead and increase revenues. This would be done here on the floor of the House, and in the Senate, and you do not need a budget committee. That is just another layer of Government here, and that is why we are here doing this the week before Christmas.

Mr. Speaker, I just hope that all the Members will vote for this CR, and maybe tomorrow night we can reach an agreement. We can go on back into conference after this CR is adopted and try to resolve the differences on the Contra aid and the fairness doctrine, and then maybe we can all get home with our families and spend a couple of days with them before Christmas.

Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. DANNEMEYER].

Mr. DANNEMEYER. Mr. Speaker, I want to share with my colleagues something of what is going on in this process. This Member from California is one of the conferees on the reconciliation package dealing with Medicaid and Medicare, Part B.

Let me tell the Members what the thinking is on Medicaid. Our distinguished Senate conferees claim that under the budget summit we can add to the existing level of Medicaid expenditures nationally some $800 million over 3 years. Our House conferees are taking the position that the budget reconciliation process gives them the authority to add $2.1 billion additional expenditures over the next 3 years.

This is just the Federal share. The States, of course, have to match this 50-50. In my State of California, if the Senate conferees prevail, the cost over three years adds $80 million a year to the existing expenditures for medical, which is what we call Medicaid in that State.

My point is very simply this: The sooner we shut down this process, the better chance we have of stopping those in our midst who historically have prevailed in terms of increasing the level of the spending of the Federal Government, because these conferees are working diligently in a time-honored practice we all know so well, preying on the tendency of all of us in this Chamber to do almost anything on the verge of a holiday in order to get home with our families. That is the psychology.

I get paid by the year. If Members want to stay here everyday for the rest of the year, I am here, and I will vote. If we in this body want to do something for the overburdened taxpayers, the smartest thing we can do is stop these negotiations going on around this Capitol right now, bring this process to a stop, cut off this discussions, and reject this CR just for one day, because I can assure the Members that my suspicion is that if the House turns down this one-day extension, these conferees will then realize the jig is up and we are going to demand a reconciliation process on the CR. So perhaps then we can bring all this to a stop.

Mr. CONTE. Mr. Speaker, I yield 2 minutes to the gentleman from Arizona [Mr. KOLBE].

Mr. KOLBE. Mr. Speaker, the time has come to end this charade. A few days ago I voted for the last continuing resolution when it was brought before this body. I believed then that we were making a good faith effort to try resolve this issue, and on Friday, just 2 days ago, 48 hours ago, we were assured that work was going on to continue through the weekend, that we could expect to be here this weekend, and that we could expect to have this thing resolved today or, at the very least, have the resolution in hand so we could finish the paperwork and have it done tomorrow.

Mr. Speaker, I am a member of that conference committee on the continuing resolution, and I have waited patiently all week in my office, and with staff waiting there, for a call. We have not had one meeting of the full conference committee on the continuing resolution. Those meetings that were scheduled were postponed.

It is obvious to everyone that no progress has been made, not only on the continuing resolution but on the reconciliation. The time has come to reject this.

I disagree with my distinguished colleague when he says that nothing will happen as a result of a vote against this. I say that we can light one heck of a big bonfire under those conferees and under the negotiators if we reject this, and we can still come back here by midnight tonight and have a continuing resolution to give us time to get the paperwork done so that tomorrow we can vote on the final bill. If we do not do that, we are going to be back here tomorrow night, mark my words, for another continuing resolution for another 24 or 48 hours.

Mr. Speaker, the time has come to reject this, to tell the conferees, and to tell the summit people and our leadership in this body to get the job done so we can go home for Christmas.

Mr. WHITTEN. Mr. Speaker, I yield 2 minutes to the gentleman from Washington [Mr. LOWRY].

Mr. LOWRY of Washington. Mr. Speaker, I appreciate the gentleman yielding this time to me, especially after I told him that I am going to be speaking against and voting against the short-term CR.

We have been told for days that all the other work on all the other items is going on, and that all we really had to settle is the Contra aid issue and the fairness doctrine. What has really happened to us, especially on this side, is that now there has been a deal put together for funding Contra aid, including transportation of lethal weapons and it is put together in this way so it can be passed tomorrow.

That is exactly against the position that the vast majority of us have had, that is against the position this House has taken, and it is against the position the Democratic caucus took by a vote of 156 to 25.

Mr. Speaker, I am voting against a short-term CR. I agree with those who have said that it can be done tonight. We ought to vote it down.

Mr. CONTE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I have a very short observation to make with regard to the gentleman's remarks. There has been no agreement as of yet in regard to those issues, and certainly they are going to meet right after this CR is voted on and try to work out those things.

Mr. LOWRY of Washington. Mr. Speaker, will the distinguished gentleman, who does such a tremendous job, yield to me?

Mr. CONTE. I yield to the gentleman from Washington.

Mr. LOWRY of Washington. Mr. Speaker, we have from now until midnight. Why do we not just go back? We know it is going to come down on those two issues. Let us get it done, and let us have the vote here. Let us have it.

Mr. CONTE. Mr. Speaker, I certainly could not agree more with the gentleman. But we have a position downtown on the Contra aid, and we have a position here in the House on Contra aid and the twains are never meeting. We are caught right in the middle over this issue.

What are we going to do by voting against this CR tonight? We are going to hurt the Social Security recipient, we are going to shut down this Government at 12 tomorrow noon, and it is going to cost millions of dollars, and we are going to pay these guys to go home.

Mr. WHITTEN. Mr. Speaker, I yield 1 minute to the gentleman from Wisconsin [Mr. OBEY], a member of the conference committee.

Mr. OBEY. Mr Speaker, I would simply say that I do not think it is correct to say that at this point there has been an "agreement" on the Contras. There have been some very honestly fought differences. We are a whole lot closer to reaching agreement today than we were 2 days ago, but we are certainly not there yet, and I expect we have a far piece to go.

I think it would be the ultimate in foolishness for us to vote down this CR. The question, very simply, is this: Does the House of Representatives want to unilaterally take unto itself the blame for bringing the Government to a halt when we have three branches of Government involved in the dispute, the House, the Senate, and the White House? It seems to me it would be ludicrous for us to take on to our own shoulders the responsibility for throwing Government in chaos, because we have three branches of Government, not one, that have legitimate differences which we are still trying to resolve.

Mr. WHITTEN. Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. MILLER].

Mr. MILLER of California. Mr. Speaker, I think it is obvious to everyone sitting here tonight that the system under which we are operating is broken. I am not sure we can straighten it out tonight or tomorrow, but I would hope that when Members come back here at the beginning of next year, they will think about getting rid of this incredible reliance on the CR to solve all of our problems.

I do not believe that this is a partisan issue. I think that not only does this disenfranchise Members of Congress, it disenfranchises the authorizing committees, and now we have gotten to such a state that in these negotiations the entire Appropriations Committee of this House is held hostage to a Senate that can no longer function and do the people's business.

I think the House had better stand up and redesign this system so we can get on and have our legislative battles. Not everybody is entitled to win every fight.

In regard to the short-term CR, Mr. Speaker, I am going to have to disagree with my party, because I am afraid that if I vote for this, I will never see my wife and family, and I want to say to my wife Cynthia and my youngest son Stephen, "Merry Christmas," because I am afraid this will pass and I will never be home.

Mr. CONTE. Mr. Speaker, I yield 1 minute to the gentleman from Indiana [Mr. BURTON].

Mr. BURTON of Indiana. Mr. Speaker, I just have one question. When we adjourned Friday, I was convinced, Mr. Speaker, that nothing was going to happen Saturday that would preclude the possibility of objecting to a short-term CR, and the reason I was concerned about that is the very reason I am concerned right now.

Really no agreement apparently has been reached, although rumors have been flying around this Chamber. So what is the purpose of extending this CR one more day? Are we going to come back tomorrow and face the same problem?

I think we should vote this thing down and force the conferees to act, keep their feet to the fire and force them to get this thing done so we can go home.

Mr. WHITTEN. Mr. Speaker, I yield back the balance of my time.

Mr. CONTE. Mr. Speaker, I yield back the balance of my time.

The text of the joint resolution is as follows:

H.J. RES. 431

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That section 102(c) of Public Law 110-120, as amended by Public Law 100-162 and Public Law 100-193 is further amended by striking out "December 18, 1987" and inserting in lieu thereof "December 21, 1987".

The **SPEAKER.** Under the rule, the previous question is ordered.

The question is on the engrossment and third reading of the joint resolution.

The joint resolution was ordered to be engrossed and read a third time, and was read the third time.

The **SPEAKER.** The question is on passage of the joint resolution.

The question was taken; and the Speaker announced that the ayes appeared to have it.

RECORDED VOTE

Mr. WALKER. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 207, noes 173, not voting 48, as follows:

[Roll No. 502]

AYES—207

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Applegate
Bateman
Beilenson
Bennett
Berman
Bevill
Bilbray
Bliley
Boggs
Boland
Bonior
Bonker
Borski
Boucher
Brooks
Bryant
Bustamante
Cardin
Carper
Carr
Chapman
Chappell
Cheney
Clarke
Clinger
Coelho
Coleman (TX)
Collins
Combest
Conte
Conyers
Cooper
Coughlin
Coyne
Darden
Davis (MI)
de la Garza
Derrick
DeWine
Dicks
Dingell
Dixon
Donnelly
Dwyer
Dyson
Early
Eckart
English
Erdreich
Espy
Fascell
Fazio
Feighan
Fish
Flippo
Foley
Ford (MI)
Ford (TN)
Frost
Garcia
Gejdenson
Gibbons
Glickman
Gonzalez
Goodling
Gordon
Gradison
Grant
Gray (IL)
Gray (PA)
Hall (OH)
Hamilton
Harris
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefner
Hertel
Horton
Houghton
Howard
Hoyer
Hubbard
Huckaby
Hutto
Jacobs
Jeffords
Jenkins
Johnson (CT)
Johnson (SD)
Jones (TN)
Kanjorski
Kastenmeier
Kennelly
Kildee
Lancaster
Lantos
Lehman (CA)
Lehman (FL)
Leland
Levin (MI)
Levine (CA)
Luken, Thomas
MacKay
Madigan
Manton
Markey
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McDade
McGrath
McHugh
McMillen (MD)
Mica
Michel
Miller (OH)
Moakley
Mollohan
Montgomery
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Murtha
Nagle
Natcher
Neal
Nelson
Nichols
Oakar
Oberstar
Obey
Olin
Panetta
Parris
Patterson
Penny
Pepper
Pickle
Price (IL)
Price (NC)
Rangel
Regula
Richardson
Rinaldo
Rodino
Roe
Roukema
Rowland (GA)
Roybal
Sabo
Saiki
Savage
Sawyer
Scheuer
Schneider
Schumer
Sharp
Sikorski
Sisisky
Skeen
Skelton
Slattery
Slaughter (VA)
Smith (IA)
Smith (NE)
Smith (NJ)
Solarz
Spratt
St Germain
Staggers
Stallings
Stokes
Stratton
Swift
Synar
Tauzin
Thomas (GA)
Towns
Traxler
Udall
Vento
Volkmer
Walgren
Watkins
Waxman
Whitten
Wilson
Wise
Wolf
Wortley
Wylie
Yates
Yatron
Young (AK)

NOES—178

Anthony
Archer
Armey
Atkins
Baker
Ballenger
Barnard
Bartlett
Barton
Bates
Bentley
Bereuter
Bilirakis
Boulter
Boxer
Brennan
Broomfield
Brown (CA)
Brown (CO)
Bruce
Buechner
Bunning
Burton
Byron
Campbell
Chandler
Coats
Coble
Coleman (MO)
Courter
Craig
Crane
Dannemeyer
Daub
Davis (IL)
DeFazio
DeLay
Dellums
Dickinson
Dorgan (ND)
Dornan (CA)
Downey
Dreier
Duncan
Durbin
Dymally
Edwards (OK)
Emerson
Evans
Fawell
Fields
Frank
Frenzel
Gallegly
Gekas
Gilman
Gingrich
Grandy
Gregg
Guarini
Gunderson
Hall (TX)
Hammerschmidt
Hansen
Hastert
Hefley
Henry
Herger
Holloway
Hopkins
Hughes
Hunter
Hyde
Inhofe
Ireland
Jontz
Kaptur
Kasich
Kennedy
Kleczka
Kolbe
Konnyu
Kyl
Lagomarsino
Latta
Leach (IA)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lott
Lowery (CA)
Lowry (WA)
Lujan
Lukens, Donald
Mack
Marlenee
McCandless
McCollum
McEwen
McMillan (NC)
Meyers
Mfume
Miller (CA)
Miller (WA)
Mineta
Molinari
Moody
Moorhead
Nielson
Ortiz
Owens (NY)
Owens (UT)
Oxley
Packard
Pashayan
Pease
Pelosi
Perkins
Petri
Pickett
Porter
Pursell
Rahall
Ravenel
Ray
Rhodes
Ridge
Ritter
Roberts
Robinson
Rogers
Roth
Russo
Saxton
Schaefer
Schroeder
Schuette
Schulze
Sensenbrenner
Shays
Shumway
Shuster
Skaggs

Slaughter (NY)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solomon
Spence
Stangeland
Stark
Stenholm
Studds
Stump
Sundquist
Sweeney
Swindall
Tallon
Tauke
Taylor
Thomas (CA)
Torres
Torricelli
Traficant
Upton
Valentine
Visclosky
Vucanovich
Walker
Weber
Weiss
Weldon
Wheat
Whittaker
Wyden

NOT VOTING—48

Aspin
AuCoin
Badham
Biaggi
Boehlert
Bosco
Callahan
Clay
Crockett
Daniel
DioGuardi
Dowdy
Edwards (CA)
Flake
Florio
Foglietta
Gallo
Gaydos
Gephardt
Green
Hiler
Hochbrueckner
Jones (NC)
Kemp
Kolter
Kostmayer
LaFalce
Leath (TX)
Lent
Lipinski
Livingston
Lloyd
Lungren
Martin (IL)
Murphy
Myers
Nowak
Quillen
Roemer
Rose
Rostenkowski
Rowland (CT)
Shaw
Smith (FL)
Vander Jagt
Williams
Wolpe
Young (FL)

☐ 1830

The Clerk announced the following pair:

On this vote:

Mr. Quillen for, with Mr. Shaw against.

So the joint resolution was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

THE JOURNAL

The SPEAKER. The pending business is the question of agreeing to the Speaker's approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

RECORDED VOTE

Mr. RAVENEL. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 238, noes 145, answered "present" 1, not voting 49, as follows:

[Roll No. 503]

AYES—238

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Atkins
Bates
Beilenson
Bennett
Berman
Bevill
Bilbray
Boggs
Boland
Bonior
Bonker
Borski
Boucher
Boxer
Brennan
Brooks
Bruce
Bryant
Bustamante
Byron
Campbell
Cardin
Carper
Carr
Chapman
Chappell
Clarke
Coelho
Coleman (TX)
Collins
Combest
Conte
Conyers
Cooper
Coyne
Darden
de la Garza
DeFazio
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dorgan (ND)
Downey
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
English
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Fish
Flippo
Foley
Ford (MI)
Ford (TN)
Frank
Frost
Garcia
Gejdenson
Gibbons
Glickman
Gonzalez
Gordon
Grant
Gray (IL)
Gray (PA)
Guarini
Hall (OH)
Hall (TX)
Hamilton
Harris
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefner
Hertel
Horton
Houghton
Howard
Hoyer
Hubbard
Hughes
Hutto
Jacobs
Jeffords
Jenkins
Johnson (CT)
Johnson (SD)
Jones (TN)
Jontz
Kanjorski
Kaptur
Kasich
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Lancaster
Lantos
Lehman (CA)
Lehman (FL)
Leland
Levin (MI)
Levine (CA)
Lewis (GA)
Luken, Thomas
MacKay
Manton
Markey
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McHugh
McMillen (MD)
Mfume
Mica
Miller (CA)
Miller (WA)
Mineta
Moakley
Mollohan
Montgomery
Moody
Morella
Morrison (CT)
Mrazek
Murtha
Nagle
Natcher
Neal
Nelson
Nichols
Nielson
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Panetta
Patterson
Pease
Pelosi
Penny
Pepper
Perkins
Pickett
Pickle
Price (IL)
Price (NC)
Rahall
Rangel
Ray
Richardson
Rinaldo
Ritter
Robinson
Rodino
Roe
Rowland (GA)
Roybal
Sabo
Savage
Sawyer
Scheuer
Schneider
Schulze
Schumer
Sharp
Shumway
Sisisky
Skaggs
Skelton
Slattery
Slaughter (NY)
Smith (IA)
Smith (NE)
Smith (NJ)
Solarz
Spratt
St Germain
Stallings
Stark
Stokes
Stratton
Studds
Swift
Synar
Tallon
Taylor
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Valentine
Vento
Visclosky
Volkmer
Walgren
Watkins
Waxman
Weiss
Whitten
Wilson
Wise
Wortley
Wyden
Wylie
Yates
Yatron

NOES—145

Armey
Baker
Ballenger
Barnard
Bartlett
Barton
Bentley
Bereuter
Bilirakis
Bliley
Boehlert
Boulter
Broomfield
Brown (CA)
Brown (CO)
Buechner
Bunning
Burton
Chandler
Cheney
Coats
Coble
Coleman (MO)
Coughlin
Courter
Craig
Crane
Dannemeyer
Daub
Davis (IL)
Davis (MI)
DeLay
DeWine
Dickinson
Dornan (CA)
Dreier
Duncan
Edwards (OK)
Emerson
Fawell
Fields
Frenzel
Gallegly
Gekas
Gilman
Gingrich
Goodling
Gradison
Grandy
Gregg
Gunderson
Hammerschmidt
Hansen
Hastert
Hefley
Henry
Herger
Holloway
Hopkins
Hunter
Hyde
Inhofe
Ireland
Kolbe
Konnyu
Kyl
Lagomarsino
Latta
Leach (IA)
Lewis (CA)
Lewis (FL)
Lightfoot
Lott
Lowery (CA)
Lowry (WA)
Lujan
Lukens, Donald
Mack
Madigan
Marlenee
McCandless
McCollum
McDade
McEwen
McGrath
McMillan (NC)
Meyers
Michel
Miller (OH)
Molinari
Moorhead
Morrison (WA)
Oxley
Packard
Parris
Pashayan
Petri
Porter
Pursell
Ravenel
Regula
Rhodes
Ridge
Roberts
Rogers
Roth
Roukema
Russo
Saiki
Saxton
Schaefer
Schroeder
Schuette
Sensenbrenner
Shays
Shuster
Sikorski
Skeen
Slaughter (VA)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solomon
Spence
Staggers
Stangeland
Stenholm
Stump
Sundquist
Sweeney
Swindall
Tauke
Tauzin
Thomas (CA)
Upton
Vucanovich
Walker
Weber
Weldon
Wheat
Whittaker
Wolf
Young (AK)

ANSWERED "PRESENT"—1

Bateman

NOT VOTING—49

Aspin
AuCoin
Badham
Biaggi
Bosco
Callahan
Clay
Clinger
Crockett
Daniel
DioGuardi
Dowdy
Edwards (CA)
Flake
Florio
Foglietta
Gallo
Gaydos
Gephardt
Green
Hiler
Hochbrueckner
Huckaby
Jones (NC)
Kemp
Kolter
Kostmayer
LaFalce
Leath (TX)
Lent
Lipinski
Livingston
Lloyd
Lungren
Martin (IL)
Murphy
Myers
Nowak
Quillen
Roemer
Rose
Rostenkowski
Rowland (CT)
Shaw
Smith (FL)
Vander Jagt
Williams
Wolpe
Young (FL)

☐ 1845

Mr. WHEAT changed his vote from "aye" to "no."

So the Journal was approved.

The result of the vote was announced as above recorded.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair will make a statement as to the business of the day and then will recognize the gentleman from Indiana [Mr. Burton].

The Chair will state that it had been the Chair's intention at this point to declare a recess pending the passage in the other body of the continuing resolution just passed by the House. That, under ordinary circumstances, would seem to be the responsible thing to do under the possibility that the other body could adopt an amendment which would require action on the part of the House. The Chair, under normal circumstances, could do exactly that, and if permitted to do so, will do that, and would call the Members back with no expectation of any further legislative business tonight so that then we could conclude the day. That would be the normal intention of the Chair.

PARLIAMENTARY INQUIRY

Mr. BURTON of Indiana. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER. The gentleman will state his parliamentary inquiry.

Mr. BURTON of Indiana. Mr. Speaker, I was reading the Congressional Record from yesterday and the Speaker indicated earlier that the gentleman from Washington [Mr. Foley], the majority floor leader, had indicated or requested unanimous consent for the short-term, 1-day CR to be referred to the Rules Committee to get a rule for that 1-day extension, and in my reading of the CONGRESSIONAL RECORD his request was for not a 1-day short-term CR, but for H.R. 3545 and House Joint Resolution 395. I refer to page 36516 and I would like to have the Chair look at that and make a ruling.

The **SPEAKER**. What is the gentleman's parliamentary inquiry?

Mr. **BURTON** of Indiana. The inquiry is did we legally pass the 1-day CR or was it passed in error because the Rules Committee did not have permission to sit to bring a rule down on the 1-day CR, because they did not get unanimous consent, the way I read the CONGRESSIONAL RECORD.

The **SPEAKER**. If the gentleman will permit the Chair, the majority leader yesterday afternoon made two requests. The gentleman from Indiana has reference to one of those two requests, and the numbers he cited were for the privilege of conference reports on the continuing resolution and reconciliation. We had intended and had earnestly hoped to have conference reports ready for the consideration of the House today. As the gentleman is aware, that has not occurred.

The majority leader, however, in a separate request gained permission for the short-term continuing resolution that we have just acted upon, and the Chair, citing page 36516 of the CONGRESSIONAL RECORD of yesterday, recites for the gentleman the request on the part of the gentleman from Washington, the majority leader.

Mr. **BURTON** of Indiana. Can the Chair tell me where on page 36516 the request was made, because I surely do not see it, Mr. Speaker.

The **SPEAKER**. If the gentleman will refer to the permission for Committee on Rules to have until noon tomorrow, Sunday, December 20, 1987, to file privileged reports, and for managers to file conference reports on H.R. 3545 and House Joint Resolution 395.

Mr. **FOLEY**. Mr. Speaker, will the gentleman yield?

The **SPEAKER**. The Chair recognizes the distinguished majority leader.

Mr. **FOLEY**. Mr. Speaker, the request for a privileged report is a report from the Committee on Rules, which is privileged.

Mr. **BURTON** of Indiana. I thank the Speaker.

MOTION TO ADJOURN

Mr. **CRANE**. Mr. Speaker, I offer a highly privileged motion which is at the desk.

The **SPEAKER**. The Clerk will report the motion.

The Clerk read as follows:

Mr. CRANE moves that the House do now adjourn.

The **SPEAKER**. The question is on the motion offered by the gentleman from Illinois [Mr. CRANE].

The question was taken; and the Speaker announced that the noes appeared to have it.

Mr. **CRANE**. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 59, nays 294, not voting 80, as follows:

[Roll No. 504]

YEAS—59

Baker
Bartlett
Bliley
Burton
Coleman (MO)
Conyers
Crane
Daub
DeLay
DeWine
Dickinson
Dornan (CA)
Duncan
Fields
Frenzel
Gallegly
Gekas
Gingrich
Gradison
Gregg
Gunderson
Hansen
Hefley
Herger
Holloway
Houghton
Kolbe
Lagomarsino
Lightfoot
Lott
Lukens, Donald
Marlenee
Matsui
McCandless
Murtha
Nichols
Nielson
Packard
Petri
Porter
Pursell
Schneider
Schulze
Sensenbrenner
Shumway
Shuster
Slaughter (VA)
Smith (NE)
Smith (TX)
Smith, Denny (OR)
Sweeney
Tauke
Thomas (CA)
Upton
Vucanovich
Walker
Weber
Wortley
Young (AK)

NAYS—294

Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Armey
Atkins
Ballenger
Barnard
Barton
Bateman
Bates
Bennett
Bentley
Bereuter
Bevill
Bilbray
Bilirakis
Boehlert
Boggs
Boland
Bonior
Bonker
Borski
Boucher
Boulter
Boxer
Brennan
Brooks
Broomfield
Brown (CA)
Brown (CO)
Bruce
Bryant
Buechner
Bunning
Bustamante
Byron
Campbell
Cardin
Carper
Carr
Chapman
Chappell
Cheney
Clarke
Coats
Coble
Coelho
Coleman (TX)
Collins
Combest
Conte
Cooper
Coughlin
Courter
Coyne
Craig
Dannemeyer
Darden
Davis (IL)
de la Garza
DeFazio
Dellums
Derrick
Dingell
Dixon
Donnelly
Dreier
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (OK)
Emerson
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Flippo
Foley
Ford (MI)
Frost
Garcia
Gejdenson
Gibbons
Gilman
Glickman
Gonzalez
Goodling
Gordon
Grandy
Grant
Gray (IL)
Gray (PA)
Guarini
Hall (TX)
Hamilton
Hammerschmidt
Harris
Hastert
Hatcher
Hayes (IL)
Hayes (LA)
Hefner
Henry
Hertel
Hopkins
Horton
Howard
Hoyer
Hubbard
Hughes
Hunter
Hutto
Hyde
Inhofe
Jacobs
Jeffords
Jenkins
Johnson (CT)
Johnson (SD)
Jones (TN)
Jontz
Kanjorski
Kaptur
Kasich
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kyl
Lancaster
Lantos
Latta
Leach (IA)
Lehman (CA)
Leland
Levin (MI)
Lewis (FL)
Lewis (GA)
Lowery (CA)
Lowry (WA)
Lujan
Luken, Thomas
Mack
MacKay
Madigan
Markey
Martin (NY)
Mavroules
Mazzoli
McCloskey
McCollum
McDade
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
Meyers
Mfume
Mica
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Morella
Morrison (CT)
Mrazek
Nagle
Natcher
Neal
Nelson
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Oxley
Panetta
Parris
Pashayan
Patterson
Pease
Pelosi
Penny
Pepper
Perkins
Pickett
Pickle
Price (IL)
Price (NC)
Rahall
Rangel
Ravenel
Ray
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rogers
Roth
Roukema
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schroeder
Schuette
Schumer
Sharp
Shays
Sikorski
Sisisky
Skeen
Slattery
Slaughter (NY)
Smith (NJ)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solarz
Solomon
Spence
Spratt
St Germain
Staggers
Stallings
Stangeland
Stark
Stenholm
Stokes
Stratton
Studds
Stump
Sundquist
Swindall
Synar
Tallon
Tauzin
Taylor
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Udall
Valentine
Vento
Visclosky
Volkmer
Walgren
Watkins
Weiss
Wheat
Whittaker
Whitten
Wilson
Wise
Wolf
Wyden
Wylie
Yates
Yatron

NOT VOTING—80

Ackerman
Archer
Aspin
AuCoin
Badham
Beilenson
Berman
Biaggi
Bosco
Callahan
Chandler
Clay
Clinger
Crockett
Daniel
Davis (MI)
Dicks
DioGuardi
Dorgan (ND)
Dowdy
Downey
Edwards (CA)
Feighan
Fish
Flake
Florio
Foglietta
Ford (TN)
Frank
Gallo
Gaydos
Gephardt
Green
Hall (OH)
Hawkins
Hiler
Hochbrueckner
Huckaby
Ireland
Jones (NC)
Kemp
Kolter
Konnyu
Kostmayer
LaFalce
Leath (TX)
Lehman (FL)
Lent
Levine (CA)
Lewis (CA)
Lipinski
Livingston
Lloyd
Lungren
Manton
Martin (IL)
Martinez
McCurdy
Morrison (WA)
Murphy
Myers
Nowak
Quillen
Roemer
Rose
Rostenkowski
Rowland (CT)
Shaw
Skaggs
Skelton
Smith (FL)
Smith (IA)
Swift
Traxler
Vander Jagt
Waxman
Weldon
Williams
Wolpe
Young (FL)

☐ 1900

Messrs. SAVAGE, MOODY, LEHMAN of California, and SLATTERY changed their votes from "yea" to "nay."

So the motion was rejected.

The result of the vote was announced as above recorded.

□ 1915

PERMISSION TO POSTPONE SPECIAL ORDERS SCHEDULED FOR TODAY UNTIL AFTER LEGISLATIVE BUSINESS TOMORROW

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that all special orders scheduled for this day be postponed until after the legislative business tomorrow.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

There was no objection.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed without amendment a joint resolution of the House of the following title:

H.J. Res. 431. Joint resolution making further continuing appropriations for the fiscal year ending September 30, 1988, and for other purposes.

SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 437. An act to amend the Small Business Investment Act of 1958 to permit prepayment of loans made to State and local development companies; to the Committee on Small Business.

S. 795. An act to provide for the settlement of water rights claims of the La Jolla, Rincon, San Pasqual, Pauma, and Pala Bands of Mission Indians in San Diego County, CA, and for other purposes; to the Committee on Interior and Insular Affairs.

S. 858. An act to establish the title of States in certain abandoned shipwrecks, and for other purposes; to the Committees on Merchant Marine and Fisheries and Interior and Insular Affairs.

S. 1134. An act to amend title 28, United States Code, to provide for the selection of the court of appeals to decide multiple appeals filed with respect to the same agency order; to the Committee on the Judiciary.

ENROLLED BILLS AND JOINT RESOLUTIONS SIGNED

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills and joint resolutions of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 390. An act to provide that a special gold medal be presented to Mary Lasker for her humanitarian contributions in the areas of medical research and education, urban beautification and the fine arts, and for other purposes;

H.R. 519. An act to direct the Federal Energy Regulatory Commission to issue an order with respect to Docket No. EL-85-38-000;

H.R. 2639. An act to repeal the Brown Stevens Act concerning certain Indian tribes in the State of Nebraska;

H.R. 2974. An act to amend title 10, United States Code, to make technical corrections in provisions of law enacted by the Military Retirement Reform Act of 1986;

H.R. 3289. An act to amend the Export-Import Act of 1945;

H.R. 3492. An act entitled the "Rural Crisis Recovery Program Act of 1987";

H.R. 3712. An act to designate the U.S. Livestock Insects Laboratory in Kerrville, TX, as the "Knipling-Bushland Research Laboratory";

H.J. Res. 255. Joint resolution designating the third week in May 1988 as "National Tourism Week"; and

H.J. Res. 431. Joint resolution making further continuing appropriations for the fiscal year ending September 30, 1988, and for other purposes.

BILLS AND JOINT RESOLUTIONS PRESENTED TO THE PRESIDENT

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee did December 18, 1987, present to the President, for his approval, bills and a joint resolution of the House of the following titles:

H.R. 1994. An act to amend the boundaries of Stones River National Battlefield, TN, and for other purposes;

H.R. 3700. An act to designate the Federal building located at 600 West Madison, Chicago, IL, as the "Harold Washington Social Security Center"; and

H.J. Res. 427. Joint resolution to provide for the temporary extension of certain programs relating to housing and community development, and for other purposes.

ADJOURNMENT

Mr. FOLEY. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 7 o'clock and 16 minutes p.m.), the House adjourned until tomorrow, Monday, December 21, 1987, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2596. A letter from the Administrator, Agency for International Development, transmitting the semiannual report on the activities of the Agency's Inspector General covering the period April 1, 1987, through September 30, 1987, pursuant to 5 U.S.C. app. (Inspector General Act of 1978) 5(b); to the Committee on Government Operations.

2597. A letter from the Secretary, The Commission on Fine Arts, transmitting the Commission's report on its evaluation of the system of internal accounting and administrative control in effect during the year ended September 30, 1987, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Operations..

2598. A letter from the Secretary to the Board, U.S. Railroad Retirement Board, transmitting a report concerning the Board's adoption of regulations to implement the provisions of the Program Fraud Civil Remedies Act, pursuant to 31 U.S.C. 3810; to the Committee on Government Operations.

2599. A letter from the Director, Office of Technology Assessment, transmitting the agency's third report on the Prospective Payment Assessment Commission [ProPac] and first report on the Physician Payment Review Commission [PPRC] pursuant to 42 U.S.C. 1395ww(e)(6)(G)(i); to the Committee on Ways and Means.

2600. A letter from the Comptroller General, transmitting a report on the effectiveness of the Inspector General Cash Award Program for cost Saving Disclosures, pursuant to 5 U.S.C. 4514(b)(1); jointly, to the Committee on Government Operations and Armed Services.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. PEPPER: Committee on Rules. House Resolution 340, providing for the consideration of House Joint Resolution 431, making further continuing appropriations for the fiscal year ending September 30, 1988, and for other purposes (Rept. 100-491). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BRYANT:

H.R. 3824. A bill entitled the "Truth in Mileage Amendments Act of 1987"; to the Committee on Energy and Commerce.

By Mr. WAXMAN:

H.R. 3825. A bill to amend the Public Health Service Act with respect to research programs relating to acquired immune deficiency syndrome; to the Committee on Energy and Commerce.

By Mr. WHITTEN:

H.J. Res. 431. Joint resolution making further continuing appropriations for the fiscal year ending September 30, 1988, and for other purposes; considered and passed.

By Mr. JONES of North Carolina (for himself and Mr. DAVIS of Michigan):

H.J. Res. 432. Joint resolution to authorize and request the President to issue a proclamation designating June 6 through 12, 1988 as "National Fishing Week"; to the Committee on Post Office and Civil Service.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 155: Mr. Miller of Washington.

H.R. 1957: Mr. Ravenel, Mr. Miller of Washington, Mr. Bartlett, Mrs. Johnson of Connecticut, Mr. Davis of Illinois, Mr. Gekas, and Mr. Price of North Carolina.

H.R. 2328: Mr. DeWine.

H.R. 2378: Mr. Chapman.

H.R. 2640: Mr. de Lugo and Mr. Edwards of California.

H.R. 2647: Mr. Bustamante, Mr. Pepper, and Mr. Atkins.

H.R. 3523: Mr. Dornan of California, Mr. Hastert, and Mr. Gallegly.

H.R. 3562: Mr. Fields, Mr. Moakley, Mr. DeWine, and Mr. Anderson.

H.R. 3694: Mr. Bilbray.

H.R. 3767: Mr. Blaz and Mr. Lagomarsino.

H.J. Res. 321: Mr. Brennan.

PETITION, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

109. The SPEAKER presented a petition of the Vermont Democratic State Committee, Montpelier, VT, relative to the acid rain problem, which was referred to the Committee on Energy and Commerce.

EXTENSIONS OF REMARKS

A CONTEXT FOR DEMOCRACY

HON. TONY COELHO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Sunday, December 20, 1987

Mr. COELHO. Mr. Speaker, the Armenian Genocide of 1915-23 was a tragic event. It was devastating to the Armenian people and their culture, and to all people it serves as a reminder of the pain and atrocities which a people are forced to bear at the hands of another. The year of 1982 was a turning point in the official position of the U.S. Government when the State Department in a department bulletin noted the ambiguities of the facts surrounding the Armenian Genocide thereby bringing into question whether the genocide actually took place. Previously, there had never been any doubt.

Since that time, many of my colleagues in the House and in the Senate have tried to prevent any efforts to rewrite history by introducing and supporting legislation to commemorate the Armenian Genocide. Despite several attempts to get this legislation approved, we have yet to succeed. However, throughout this time we have tried to educate people about the issue and if we have made more people aware of this tragic event and its result, then we have succeeded. Similarly in California recently, the State Board of Education approved a Model Curriculum for Human Rights and Genocide, which includes a section on the Armenian Genocide. This is very important as it will ensure that the history of this genocide is shared with our young.

Legislation introduced by California Assemblymen Mike Roos and Charles Calderon in March 1985 called for the State Department of Education to integrate the study of genocide into the State curriculum. The bill was approved by both chambers and signed into law in September of that year. The law became a reality when the California State Board of Education approved the curriculum earlier this month.

The following article from the Christian Science Monitor further explains the importance of this change in curriculum in California and the importance of educating our young about the Armenian Genocide.

A CONTEXT FOR DEMOCRACY—CALIFORNIA REQUIRES PUBLIC SCHOOL STUDY OF ONE OF HISTORIES HARDER LESSONS: ARMENIAN GENOCIDE

(By Robert Marquand)

When Phil Depoian went to public school in California, his teachers never mentioned the Armenian genocide he heard of so often at home—resulting in cruel diaspora that brought his grandparents to the United States.

But as a result of California legislation passed this fall, Mr. Depoian's daughter Katherine will hear about it.

The killing of some 800,000 to 1.5 million Armenians by Turkish nationalists between 1890 and 1920 (the first modern genocide) will be included in a comprehensive new human rights guide to be sent to all California social studies teachers this year. The guide views three other 20th-century genocides—the Nazi Holocaust, the Ukrainian famine in Russia, and the Cambodia of Pol Pot—in the light of democratic rights and responsibilities.

"We didn't want to shy away from unpleasantness, and we didn't want to teach democracy in a vacuum," says California Superintendent of Education Bill Honig, who handled what had become a curricular and political hot potato. "We wanted to be tough—to really examine why democracy is important, what's at stake."

The guide, a response to a 1985 law requiring a model human rights and genocide curriculum in California, was designed by several panels of historians and teachers, and is being commended by educators for its in-depth approach.

Armenian leaders are especially happy. Efforts to include in schools what for them is a central historic tragedy has been thwarted for decades. Theirs has been called "the forgotten genocide" (a title the California guide adopted). The brutal deportation, killing, and forced assimilation of an entire people (the first Christian nation) by nationalist-Muslim Turks was soon overshadowed by the millions of bodies piling up in the trenches of World War I, and the need after that war to smooth over tense diplomatic relations.

Indeed, so quickly had the Armenian genocide been forgotten that in 1939, Adolf Hitler, his armies poised on the Polish border, said the deaths of Polish men, women, and children were justified in order "to gain the US and the living space that we need. Who, after all, speaks today of the annihilation of the Armenians?"

The systematic annihilation of 6.5 million Jews in Hitler's camps caused the Armenian genocide to fade even further. The Holocaust, combined with a formidable Turkish lobby in the US that denies the severity of the Armenian tragedy, has kept it out of US schools.

But the Armenians have never forgotten. And now, with a new generation of Armenians coming to prominence in the US (California Gov. George Deukmejian is one), the Armenians have, in the past several years, been able to include their story in mandated school materials in New York, Connecticut, and New Jersey. (Mention of the genocide also appears in "Facing History," Holocaust curriculum that is in high schools throughout the US and in Canada.)

"It's taken us several generations to establish ourselves," says Kurken Alaynak, who owns a construction company in Marina Del Rey, Calif. The first Armenian-American generation was penniless, having fled its homeland—and it focused on jobs. The next generation focused on education. But now, says Mr. Alaynak, "We have time to set the record straight."

Turkish groups campaigned hard against the new teachers' guide. Newspaper ads said the curriculum, which will include a short film, was "hate provoking" and unscholarly, and urged fellow Californians not to make the schools a "place to settle the scores of the Old World." Many California legislators were sympathetic to the argument that the human rights angle ironically ignored the possibility of Turkish-American children being ostracized in schools.

But the state did not back down. The issue became one of historical truth: No records were kept of the harassment of Armenian villages before 1915. But when Turkey entered the war, the Armenian intellectual, political, and religious leaders in Istanbul were put to death in one evening and the deportation of all Armenians set in motion—events widely reported at the time, especially by US Ambassador Henry Morgenthau Sr.

Historian Arnold Toynbee, an eyewitness, reported that Armenian villagers being herded toward deportation centers were butchered by local gendarmerie, killed by peasants and Kurdish tribesmen, left to die by roadsides, drowned, or abandoned in the desert.

Wives and daughters were often spared if they agreed to marry Turks and accept Muslim teachings.

The amassed evidence, including internal Turkish documents, is overwhelming, California officals say. Said one, "A million people don't just vanish."

Mr. Honig made certain, however, that the human rights guide places blame on the Ottoman Empire, distinct from the current Turkish government. As for Turkish children in California schools, officials say that attention to events such as the Holocaust is not avoided on account of German-American children.

"All countries—including this one—have events that need to be rectified," Honig states. The idea is not to wring hands over atrocities, he says, but to learn how to avoid them by understanding how they fit into a democratic context—of laws, values, history.

Honig agrees with Czelaw Milosz's assessment that a refusal to remember is a primary characteristic of this age—leading to an inadequate reading of the subtle dangers to a democracy.

Seizing power and authority is often achieved by distorting or erasing the past, historians say. Whether it is liquidation of the intelligentsia in Stalin's Russia, or the "reeducation camps" of Pol Pot's Cambodia—the will to power is accompanied by a rewriting of history in accord with present ambitions.

The California guide will have students examine how that process takes place.

Historian Paul Gagnon, whose recent study of democracy in high school world books is receiving serious attention, says the focus on specific human rights and genocide materials, including the Armenian, is warranted, since California schools require three years of world history. Otherwise, he wouldn't recommend it. "There's too much else to cover in one year."

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

TRIBUTE TO PROJECT CHRISTMAS TREE OF THE MINISTERIAL AND LAY FELLOWSHIP OF CORTLAND, OH

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Sunday, December 20, 1987

Mr. TRAFICANT. Mr. Speaker, I rise today to pay tribute to a remarkable group of young people from my congressional district who have joined together during this holiday season to bring some joy and happiness to some needy people in the Cortland area of Ohio. I am talking about Project Christmas Tree which is being run by a group of thoughtful and caring young people from the local congregation of the Church of God, Cortland United Methodist, Bazetta Christian, Prince of Peace Lutheran, and Cortland Christian Churches.

What is Project Christmas Tree? Very simple, Mr. Speaker: It is a group of young people divided into small units who will go around to those homes to people who are no longer able to put up, decorate, or take down a Christmas tree. This project began when some of the young people mentioned that they knew of or had some friends who wanted to have a Christmas tree but just were not able to put one up.

These young people will not only be putting up and decorating donated Christmas trees, they will also be brightening up the season by singing carols and visiting with the needy families. On December 29, the young people will revisit the families to dismantle the tree and visit with the family to further brighten up the holiday season.

Mr. Speaker, I want to point out that Project Christmas Tree is not an organized group—just a group of concerned young people who have joined together to give of themselves to those in need. They are a beautiful group of people and I am proud to represent them. Project Christmas Tree symbolizes the true meaning of the holiday season.

I want to also pay tribute to and thank the untiring work of Rev. Al Sprague who is assisting with the project. Reverend Sprague hopes to continue working with this group and make it grow in future years. I wish him and the kids the best of luck and I tip my hat to them. They are doing great work and they are helping the community.

THE HOWARD BEACH INCIDENT ANNIVERSARY

HON. MAJOR R. OWENS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Sunday, December 20, 1987

Mr. OWENS of New York. Mr. Speaker, a year ago today, a group of white teenagers in Howard Beach, NY, attacked three black men. They chased one of the men, Michael Griffith, to the edge of the Belt Parkway. Griffith was struck and killed by a car as he attempted to cross the parkway and escape his attackers, who were shouting racial epithets and wielding baseball bats.

The four white teenagers accused of perpetuating the attack that resulted in the tragic death of Michael Griffith have stood trial, and the jury is deliberating. A memorial service for Michael Griffith is scheduled to be held in Brooklyn, NY, this afternoon.

It is especially tragic that this incident of racist violence occurred 5 days before Christmas, and a few days into the Hanukkah season. Both holidays emphasize love, peace, brotherhood, and understanding between all peoples. Cedric Sandiford, one of the black men attacked by the white gang, noted that irony when he recently told New York Newsday:

> The anniversary of the attack is very important to me, more important than Christmas this year. There will be no holiday this year. When the veredict comes, there will be nothing to celebrate. It's still a loss.

Michael Griffith's mother, Jean Griffith, told New York Newsday that she would pray for a just verdict.

Such prayers may be needed. For in other recent cases of racially motivated violence in New York, such as the Bernhard Goetz "subway vigilante" case, and the shooting of a black grandmother Eleanor Bumpers by a white policeman, the perpetrators of the violence received little more than a wrist slap.

In this season of peace on Earth, good will toward men, we should all pray that the jury in the Howard Beach trial will have the moral strength and the courage to find for victims, to issue a verdict which not only signals to one and all that racism and racially motivated violence is wrong and must be punished, but that the taking of a black life is just as unlawful as the taking of a white life.

THE TRUTH IN MILEAGE AMENDMENTS ACT

HON. JOHN BRYANT

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Sunday, December 20, 1987

Mr. BRYANT. Mr. Speaker, 15 years ago, Congress enacted major legislation to help the American consumer. The new law was the Motor Vehicle Information and Cost Savings Act of 1972, a key purpose of which was to protect used car buyers from rip-off artists who roll back or "clock" odometers.

The Cost Savings Act has served the American consumer well. It made clocking a Federal offense and required written disclosure of odometer readings every time someone buys a car. Nevertheless, odometer fraud is still an immensely lucrative industry. According to the National Highway Traffic Safety Administration, the Federal agency responsible for administering the act, over 3 million cars continue to be clocked every year. By passing cars off as having an average of 30,000 fewer miles on them, clockers boost the price of used cars by an average of $1,050. NHTSA has estimated that odometer fraud costs American consumers as much as $3 billion every year.

Where illegal profits are so great, criminals have a knack for staying one step ahead of the law. In an effort to outrun legislation I sponsored last year with Mr. TAUKE to improve the "paper trail" of odometer readings, some highly sophisticated odometer tampering experts have already become expert at tampering with titles. Congress cannot anticipate every scheme to defraud American car buyers, but we must wage a continuing battle to maximize enforcement and minimize the damage inflicted on consumers. Toward that objective, today I am introducing legislation to establish a backup paper trail for the cars most likely to be clocked.

The lack of periodic mileage readings has always been and continues to be the weakest link in the enforcement mechanism. The legislation I sponsored last year, and that President Reagan signed into law 13 months ago, the Truth in Mileage Act, will help turn the tide by blocking one of the schemes rollback artists have always used to wash away odometer information that could give them away. The amendments I am introducing today would make odometer fraud even more difficult. It focuses on vehicles primarily for business use because they are the major target of the criminal element. These vehicles typically accumulate high mileage in their first year or two of use and are likely to be transferred to dealers through mass sales techniques. Innocent parties cannot easily tell that a 30-month-old car has 70,000 miles on it when the odometer has been rolled back to 40,000 and the vehicle title, through sophisticated alteration, shows a consistent figure.

Under my amendments, the States would obtain annual mileage information updates for these cars until they are 5 years old. State authorities would have wide discretion to implement the requirement. This provision is similar to requirements the Senate passed as part of the NHTSA reauthorization bill in April, but would also make it possible to determine which State issued a vehicle's original title, thereby greatly facilitating consumer access to any odometer information in State records.

The bill is endorsed by the 12,000-member National Independent Automobile Dealers Association, based in Irving, TX.

I urge quick action by the committee and early passage by the House.

SUPERCONDUCTING SUPER COLLIDER

HON. TONY COELHO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Sunday, December 20, 1987

Mr. COELHO. Mr. Speaker, the power to innovate, unlock nature's mysteries, and convert laboratory science into jobs and an improved quality of life has always been native to the American character. Throughout our history, we've understood that targeted public investment is the key to maintaining and expanding that power to create. And so we have directed public resources to land grant colleges, to the Nation's infrastructure, to education, science, the GI bill, and other programs that have enlarged our ability to meet new challenges.

Until recently, America had always conquered her challenges through such new investments. But now, as other economic powers have become ascendent, as competing centers of technology and manufacturing have arisen in Asia, South America and Europe, America must again invest to gather and enhance our technological strength, or our ability to create better lives for our families and communities will erode.

For this reason, I want to speak in favor of a project which is vitally important to revitalizing the American economy—the superconducting super collider [SSC]—and to commend the State of California for efforts it has undertaken to make this program welcome in our State.

California has already taken several steps to form a partnership with the Federal Government and assure the success of the SSC project. The State has committed more than $1 billion in cost-sharing funds to the SSC. We are offering the research facilities of the University of California, which made so many of the pathbreaking discoveries in this field. The State has proposed two sites, one of which is near my district, that offer ample power, water, roads, access to airports, an excellent climate, education and recreation facilities. In sum Californians believe we should share both the benefits and the costs of operating this important high technology program in our State; we intend to do our share to see that it succeeds.

And succeed it will. Some have raised concerns about the fact that California, like many other States, experiences periodic seismic activity. However, this activity has never proved problematic for important Federal research facilities such as the Lawrence Livermore Laboratory, the Stanford Linear Accelerator Center, and the Jet Propulsion Laboratory. They have always maintained research production levels in spite of periodic seismic activity. Moreover, California is the site of major research in the area of seismic activity—by the Departments of Energy and Defense, in particular. So this issue should not be a barrier to the SSC.

I have been contacted by many Californians who support the SSC program. They understand SSC will create at least 3,000 jobs, increase business activity, and help us conquer the economic challenges of the 21st century.

The California Journal recently engaged in an exhaustive study of the SSC program and declared it be "the ultimate pay-off: undreamed of knowledge of the behavior of the tiniest sub-atomic particles and laboratory replicas of the basic forces that created the universe—a new window on nature in its smallest and largest forms."

This window to a new scientific world will be opened by placing the superconducting super collider in California, the gateway to a more productive and prosperous future for the entire Nation.

TRIBUTE TO REV. ROBERT GIBAS

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Sunday, December 20, 1987

Mr. TRAFICANT. Mr. Speaker, I am honored today to pay tribute to a remarkable man, the Reverend Robert G. Gibas, pastor of St. Ann Church in Youngstown, OH. Reverend Gibas will be celebrating the 25th anniversary of his ordination to the priesthood in a special liturgy Mass at 11 a.m., Sunday, December 27, at St. Ann's.

Reverend Gibas is the first pastor in St. Ann's 75-year history to celebrate his silver jubilee as a priest. St. Ann's was his first full pastorate—having become pastor in 1979 after a distinguished life as a priest at St. Joseph Church in Canton, a member of the faculty at Cardinal Mooney High School in Youngstown (my alma mater) and assistant pastor at St. Christine Church in Youngstown.

Everywhere Reverend Gibas has served he has been active in the local community. He has dedicated a large portion of his life to educating our young people. He has undoubtedly had an impact on countless young students. During his 25 years in the priesthood, Reverend Gibas has served on several committees, including the Commission for Catholic Education, the Diocesan Committee for the Liturgy, a panel for the continuing education of priests and Diocesan Marriage Tribunal. Reverend Gibas currently serves on the tribunal and continues to serve his parish and his community with the enthusiasm and sense of purpose that he had when he was ordained on December 30, 1962.

Reverend Gibas has been an important member of the Youngstown community and we are all grateful for the many contributions he has made and continues to make. Mr. Speaker, it gives me great pleasure to pay tribute and honor to such an outstanding priest. I would like to extend my sincere congratulations to Reverend Gibas and his family on his 25th anniversary. Thank you, Reverend Gibas, for giving of yourself to serve our community.

U.S. RESPONSE TO HUMANITARIAN NEEDS OF REFUGEES MUST BE UNFLAGGING

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Sunday, December 20, 1987

Mr. SOLARZ. Mr. Speaker, recently Deputy Secretary of State John C. Whitehead addressed a conference of State Department personnel and voluntary agency representatives involved in our Indochinese Refugee Program. The Indochinese Refugee Program has been one of the most successful refugee assistance resettlement efforts in modern history.

Prior to joining the State Department, Deputy Secretary Whitehead had a distinguished record of humanitarian service to refugees the world over. Indeed, over 30 years ago he began his longstanding involvement with people fleeing persecution, war, and famine when he joined the Board of the International Rescue Committee in response to the Hungarian refugee crisis.

Mr. Whitehead, then as now, had a unique sensitivity to international refugee issues and to the need for quick action to protect lives and preserve regional stability. He believes not only in condemning persecution, but in aiding the victims of persecution. As his remarks to the State Department conference demonstrate, Mr. Whitehead understands what the basic humanitarian principles and democratic values which underscore why American foreign policy must require: "a renewed commitment to assist refugees, because they are fellow human beings in need, and because refugee assistance speaks to the heart of America's humanitarian values."

Mr. Speaker, this unflagging, continuing humanitarian commitment to our fellow man represents the crux of our refugee policy because it reflects the ideals and values for which America stands, and is truly in our national interest. We, like other responsible nations, must be ready to do our part in providing refuge for the repressed, help for the downtrodden, and food and shelter for the hungry and homeless, wherever they are. As the leading advocate of human rights and freedom, the United States must not waiver in condemning oppressive regimes or in supporting the human rights of thousands of refugees who seek not only safety, shelter, and security but a chance to live in freedom.

Mr. Whitehead's remarks capture the critical importance of the U.S. role in seeking to preserve first asylum for those forced by repressive governments to flee their homelands. He articulates why the United States and the international community must continue to provide steady multiyear commitments of political support, economic assistance and, where necessary, resettlement assistance to the developing nations now sheltering refugees, so that the resources of these countries of first asylum are not unduly strapped by the strains of sheltering these desperate people.

Mr. Speaker, because of the importance of an effective, humane U.S. refugee program and its contribution to our foreign policy and the promotion of regional stability, particularly in Southeast Asia, I ask that Deputy Secretary Whitehead's timely remarks on this subject be included in today's CONGRESSIONAL RECORD. I hope that his leadership and interest in this program will help to reassure our friends and allies that the United States will continue to press every responsible nation to play its role in providing for the protection and care of refugees throughout the world. The adoption of the State Department and processing authorization by the Congress this week which provides through the Migration and Refugee Account for refugees also contains language indicating the strong support of the Congress for the continuation of a humane and generous refugee assistance and aid program, particularly in Southeast Asia where countries of first asylum continue to receive new influxes of those fleeing persecution in Vietnam, Laos and Cambodia.

The material follows:

REMARKS BY DEPUTY SECRETARY JOHN C. WHITEHEAD TO THE INDOCHINESE REFUGEE PROGRAM CONFERENCE

I would like to welcome all of you to the Department of State and to thank Ambassador Moore for planning an event which brings together the many groups and individuals—from government and the private sector—who contribute to America's efforts on behalf of Indochinese refugees.

My own longstanding interest in worldwide refugee assistance dates back to the Hungarian crisis over 30 years ago when my involvement with the International Rescue Committee began. My personal association with the IRC has been a deeply satisfying experience over the years. I am therefore especially pleased to be serving in a government capacity that permits me to participate in setting our national refugee policy. I can assure you that I have found in government an equally strong commitment to the care of refugees to that I have found in the community of voluntary agencies. The outstanding, activist leadership of Ambassador Moore, who has just completed his first year with us, exemplifies our government's steadfast commitment to providing protection and assistance to refugees in all regions of the world.

This ethic of humanity and public service inspires the daily work of the dedicated, professional staff of the State Department, the Immigration and Naturalization Service, and the Department of Health Services' Office of Refugee Resettlement, both in Washington and in the field.

The theme of my brief remarks tonight is also the inherent theme of the meetings you have just concluded—the renewal of commitments—and I have in mind two:

First, a renewed commitment to assist refugees because they are fellow human beings in need and because refugee assistance speaks to the heart of America's humanitarian values, and

Second a renewed commitment to work together, because the American system works best when government and the private sector join in a common endeavor.

To the first point—the needs of the refugees: The overriding principle of our national policy is to protect the lives of those who seek safety. The United States plays a leadership role in the international community, helping to shape the continuing response of the international refugee assistance organizations and of individual donor and resettlement countries.

We applaud the policies of the nations which continue to offer humane first asylum to thousands. We strongly support those countries of first asylum by multilateral financial assistance and sustained, multi-year resettlement programs.

Our leadership and our diplomacy successfully sustain the international effort to share the burden of the first asylum countries. At the same time, we devote equal energy and concern to the actions of those countries which immediately affect the personal safety of the individual refugee. In 1979, for example, not only did we act to relieve refugee first asylum populations by resettlement, we also acted to ensure that refugees would not be pushed back to sea or left to drown. Today, we are just as determined that asylum seekers not be forcibly turned away. They must be given access to identification and screening procedures which are conducted with the supervision of international organizations.

In June, Secretary Shultz made a particular point of reassuring the ASEAN Foreign Ministers of our steadfast support. He assured them that the commitment of the United States to resolving the Indochinese refugee problem is as strong today as it has ever been. He urged the ASEAN nations to reaffirm their own commitment to that same goal.

As an element of the firm U.S. commitment, Secretary Shultz promised to "continue to resettle refugees in substantial numbers." Put into concrete terms, the President has just determined, on the basis of the consensus recommendation of all elements of the Executive Branch, to set the world-wide regional refugee admissions ceiling for FY 88 at 68,500, with the Indochinese refugee admissions ceiling for first asylum at 29,500. That we have set a level for this program some 10 percent higher than the figure in the President's budget request is a clear statement of the importance this Administration attaches to refugee programs—even in an era of a large federal budget deficit and drastic cuts to foreign affairs programs across-the-board.

In conclusion, I would like to return to our second renewed commitment—working together. Working together does not preclude disagreement, and it certainly does not preclude impatience and frustration. But working together requires mutual respect and a basic level of mutual trust. I am now in the government, but I do not feel that I am exclusively of the government. I have brought to my task in the State Department a history of personal and private beliefs which are incorporated into my concept of public service, and the same is true of Ambassador Moore, Commissioner Nelson, Mr. Gee, and the other leaders of the federal government's refugee programs. We are endeavoring to carry out policies which embody our humanitarian purpose, policies which are forged in a process of open debate involving Congress, the press, voluntary agencies, refugee community leaders, and other interested parties. Indeed, I can think of almost no area of our national policy on which there is any more thorough debate and consultation—but also collaboration and cooperation—than that of refugee policy.

Speaking on behalf of the entire administration, as I had the privilege to do during the recent Congressional consultations on refugee admissions, let me again affirm: Our commitment to respond to the humanitarian needs of refugees is unflagging, and it goes to the very heart of America's national purpose—the defense and promotion of our deepest democratic principles.

MANAGEMENT REFORM NEEDED AT RSA

HON. MAJOR R. OWENS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Sunday, December 20, 1987

Mr. OWENS of New York. Mr. Speaker, the forced resignation of administration whistleblower Justin Dart from his post as Commissioner of the Department of Education's Rehabilitation Services Administration has attracted national media attention.

Unfortunately, an article on this matter which appeared in the Washington Post on Monday, December 14, 1987 left with readers several misconceptions. I am submitting for the RECORD a copy of a "Letter to the Editors" of the Post which clarifies the circumstances surrounding this regrettable episode.

I am also submitting a copy of a letter I am sending to President Reagan expressing my profound sense of dismay and disbelief that the administration would fire a great advocate for people with disabilities such as Justin Dart.

The letter follows:

DECEMBER 17, 1987.

Letters to the Editor,
The Washington Post, Washington, DC.

To the Editor:

I was disturbed by the story on the Federal Page related to the Department of Education and the "fight among advocates for the disabled," that appeared in the December 14, 1987 Washington Post. That story leaves the reader with four impressions. First, Madeleine Will (Assistant Secretary for Special Education and Rehabilitative Services in the Department of Education) supports increased vocational rehabilitation services for persons with severe disabilities, especially persons with severe mental retardation, and Justin Dart (the recently resigned Commissioner of the Rehabilitation Services Administration) does not. Second, state vocational rehabilitation agencies do not want to provide employment opportunities to persons with severe disabilities. Third, some persons with severe disabilities are more deserving of vocational rehabilitation services than others. Fourth, Justin Dart's candid remarks to the Subcommittee I chair, and his subsequent firing, arose from differences in the above three areas rather than from his stated concern over "profound problems" in management.

I would like to offer some facts which may appropriately correct readers' impressions. First, Justin Dart, before his dismissal, initiated and planned 10 regional forums to be held in 1988 on supported employment, yet following his departure, only one employee was working full time on the supported employment program. he also strongly supported the use of the 10 regional offices of the Rehabilitation Services Administration to assist states with supported employment, but this did not occur. Why, one might ask, were Mr. Dart's suggestions not heeded? How could his efforts be construed as unsympathetic to the needs of supported employment participants?

Second, 27 states have ongoing supported employment projects, and by the end of 1988, all will have supported employment programs. However, states did not receive their share of the new $25 million in 1987 funds for the program until the last day of the fiscal year. Why? The Department of Education has not required states to keep or to report detailed information on the persons served through supported employment efforts. Why? The limited technical assistance states receive in supported employment comes not from the Department, but from a federal contractor. Why? In order to expand their efforts in supported employment, states need ensured sources of long-term support for supported employment participants. The Department has not addressed this issue. Why? Given the less than all-out effort by the Department, I think it is inappropriate to imply that the level of effort to serve persons with severe disabilities by the states is deficient.

Third, state vocational rehabilitation agencies have sufficient funds to serve only one in twenty potentially eligible persons. If a state vocational rehabilitation agency cannot serve all the eligible persons who seek services within a year, under law, the state must institute procedures to serve those with severe disabilities first. Such procedures do not require a state to weight one severe disability as more worthy of service than another severe disability. These procedures may not be perfect, but they have worked for some time. Federal policy which would arbitrarily either assign more value to one severe disability over another or judge a person's disability as severe or not severe solely on the basis of the category of disability they are placed into would raise serious ethical and moral issues that would be contrary to our belief in the worth and dignity of each individual.

Fourth, many of the management problems Mr. Dart has brought to our attention predate his tenure at the Department and were evident prior to discussions of new ways to serve people with severe disabilities. His appointment was greeted with hope that he could solve those problems. His inability to take the necessary actions to do so brought widespread frustration and, eventually, his willingness to express his concerns publicly.

Finally, if the Administration thinks more is necessary for persons with severe disabilities, it should hire additional, qualified staff, advocate for more trained personnel, systematically monitor and report on state efforts, provide quality technical assistance to states, and request additional funds. Justin Dart would, I am sure, enthusiastically support such actions, but unfortunately he is now a private citizen.

Sincerely yours,

MAJOR R. OWENS,
Chairman.

DECEMBER 15, 1987.

President RONALD REAGAN,
The White House, Washington, DC.

DEAR MR. PRESIDENT: I write to express my dismay and disbelief at your decision to ask Rehabilitation Services Administration Commissioner Justin Dart for his resignation. I know that although Secretary of Education William Bennett sought the same result, the final decision was not his.

Commissioner Dart was appointed by you in October 1986 with a proven commitment to promoting the self-sufficiency of America's citizens with disabilities. Statements by Administration officials both before and during Commissioner Dart's tenure expressed a commitment to the provision of quality services for persons with disabilities and sound stewardship of the Rehabilitation Services Administration.

In establishing the National Decade of Disabled Persons on November 28, 1983, you indicated that with respect to federal disability programs:

"We can help replace chaos with order in federal programs, and we can promote opportunity and offer the promise of sharing the joys and responsibilities of community life . . . we must encourage the provision of rehabilitation and other comprehensive services oriented toward independence within the contex of family and community. For only through opportunities to use the full range of their potential will our disabled citizens attain the independence and dignity that are their due."

Further, Secretary of Education William Bennett indicated in testimony before the Senate earlier this year ". . . you would not appoint a man of Justin Dart's reputation and ability if you meant to downgrade an area. We think everybody applauded that appointment. I guess you should ask Justin Dart whether he thinks we take his work seriously, whether he thinks we have been paying attention."

Now, fourteen months later, his dismissal represents a wasted opportunity for unity and progress and is symptomatic of the state of disrepair into which the Office of Special Education and Rehabilitative Services (OSERS) and RSA has been allowed to fall.

On November 18, before the Subcommittee on Select Education's oversight hearing on RSA, Justin Dart did indeed indicate his assessment of the situation at RSA. He further stated that he had repeatedly attempted to make known and correct these serious concerns through the appropriate channels for a period of over eight months, without success. It is my understanding that Secretary Bennett's office knew that Mr. Dart believed there to be grave problems within the agency that urgently needed correcting, at the same time as the Assistant Secretary Madeleine Will was giving no indication that she believed there to be any serious problems within the agency.

Why was such a situation, involving two Presidential appointees, allowed to smolder for over one year without any effort by Secretary Bennett's office to resolve it? Instead of attending to the situation and assessing the validity of Mr. Dart's claims, the Secretary's office refused to take responsibility for the proper execution of this $1.5 billion program.

Not surprisingly, the situation did not resolve itself and the federal government has lost the services of an outstanding advocate for disabled persons.

The Rehabilitation Services Administration's grave problems in the areas of management and personnel will continue to worsen. I write in search of any indication or commitment that the long-term deterioration and degration of RSA will be reversed through actions taken to equip the agency to function effectively.

I look forward to your response.

Sincerely yours,

MAJOR R. OWENS,
Chairman.

LET'S SALUTE OUR NATION'S FISHERMEN

HON. WALTER B. JONES

OF NORTH CAROLINA
IN THE HOUSE OF REPRESENTATIVES
Sunday, December 20, 1987

Mr. JONES of North Carolina. Mr. Speaker, today I am introducing a House joint resolution requesting and authorizing the President to proclaim June 6-12, 1988, as National Fishing Week.

Fishing is an integral part of our country's heritage. Native Americans and the early settlers relied on fishing as a readily available, high quality, source of food. In additon to its nutritional value, fishing has provided millions of Americans with a relaxing form of recreation and needed employment. Finally, fishing promotes a healthy respect for the natural resources and environment of our country.

Today fishing represents a significant and ever increasing source of food for the American diet. Recent statistics show that U.S. consumption of fish has reached unprecedented heights. This is due to a health conscious public responding to the news that eating fish regularly can reduce the risk of coronary heart disease.

In addition to the nutritional benefits provided by fishing, there are some very obvious financial benefits. Commercial fishing provides employment for over 300,000 Americans and is often the only industry in small coastal towns. Sports fishing is the second most popular recreational activity in the United States with over 54 million participants. The industry encompassing sports fishing includes tackle manufacturers, boat and motor producers, and service industries such as motels and bait shops. This translates into an annual economic benefit of $25 billion and 600,000 jobs.

Aside from the health and economic benefits, fishing promotes respect for the natural resources of our country. Recreational and commercial fishermen realize that without a clean and healthy environment they would be unable to ply their occupation or sport. Therefore, it is fishermen who often lead the fight to protect critical wetland and estuarine habitat from development and pollution.

For the past 2 years, State Governors, Congress, and the President have recognized a national fishing week. This year we anticipate that almost every State will participate by sponsoring fishing clinics, fishing tournaments, and environmental seminars for people of all ages.

The National Wildlife Federation, Optimists International, civic clubs, and various manufacturers sponsored "Take a Kid" fishing activities. Over half of the Nation's Governors issued free fishing day proclamations, which provided an avenue for nonfishermen to try the sport and reminded the people who have not fished in a while of the joys of fishing. The U.S. Fish and Wildlife Service held open houses, tournaments, and special exhibits.

Fishing, whether a family orientated form of outdoor recreation or a much needed source of employment in small coastal towns, is helping to make a stronger and healthier America. I urge all Members to salute the sport and commercial fisherman of this country by joining me as a sponsor of this House joint resolution which calls for the President to proclaim June 6-12 as National Fishing Week.

TRIBUTE TO FISH SAMARITAN HOUSE OF YOUNGSTOWN, OH

HON. JAMES A. TRAFICANT, JR.

OF OHIO
IN THE HOUSE OF REPRESENTATIVES
Sunday, December 20, 1987

Mr. TRAFICANT. Mr. Speaker, in this holiday season, it gives me pleasure to rise today to pay a short tribute to a fine organization in my district that is working to make this season a little brighter for the needy and underprivileged.

Fish Samaritan House has been distributing toys to children for 3 years now. Their director, Patricia Gent is a credit to her community. She personifies the spirit of giving that is the essence of Christmas. Fish Samaritan House is dedicated to serving and meeting the needs of those children and families who do not have much and who have not been as lucky as some of us. The entire focus of Fish Samaritan House is on making underprivileged children happy. What a worthy and admirable goal.

The gifts collected and distributed by Fish Samaritan House range from new or used toys, to mittens and gloves, to used clothing, to nonperishable foods. It is amazing what a little gift and a little kindness can do to brighten a child's Christmas.

Mr. Speaker, I want to close this tribute by saying that I am honored to recognize the truly exemplary work done by Fish Samaritan House and to thank them on behalf of the Youngstown community for the fine work they have done and continue to do.